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PROCEEDINGS AND DEBATES OF THE 97th CONGRESS, FIRST SESSION

SENATE—*Tuesday, June 16, 1981*

(Legislative day of Monday, June 1, 1981)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Reverend Robert S. Strain, pastor, Western Presbyterian Church, Washington, D.C., offered the following prayer:

Let us pray.

Receive our praise, great and sovereign God, and hear our morning prayer. All honor, glory, and power are Yours, and we acknowledge that Your will is to be done on Earth as it is in heaven.

Weigh all our motives, sort out all our proposals, and give good success to that which truly honors You and helps people. And grant that as our ways please You, even our enemies will be at peace with us.

We wish to serve our country well, O Lord, so we ask You to direct our steps. Make us quick to detest wrongdoing, and quicker still to determine that the authority of this Senate shall be established by righteousness for Your name's sake. For the well-being of our staffs and officers we make special request; may their personal and family need have Your kind attention.

Give Your counsel to the President of our United States, and surround him with people who speak the truth.

Put reverential fear upon all within our borders.

Grant wisdom for our deliberations today.

Guide our thoughts and words to each other.

We remember the counsel that it is better to be a patient person than to be a warrior, and so we now proceed as servants who share a common bond in our responsibility.

Thank You for the sense of providence we have about being here together. Cause each decision we make to agree with Your holy spirit, in Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. BAKER. Mr. President, I thank the Chair.

I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that after the time allocated to the two leaders under the standing order has expired or been yielded back, there be a period for the transaction of routine morning business to extend not beyond the hour of 11:30 a.m. in which Senators may speak for not more than 5 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, might I inquire of the distinguished minority leader in respect to a scheduling matter, at 12 noon today there will be two amendments voted on back to back, the Cranston amendment for 15 minutes, the Chafee amendment for 10 minutes, and final passage for 10 minutes.

It is my intention at that time to ask the Senate to go into recess until 2 p.m. so that the caucus meetings may be held off the floor of the Senate.

My inquiry to the minority leader is whether or not there will be any objection on his side to proceeding, after the disposition of these amendments to the bill, the bill itself, and to the recess period, to the consideration of the Department of Justice authorization bill? Before he answers may I say what I hope we might be able to do is to go to the Department of Justice authorization bill this afternoon, but provide that, after consulting with the minority leader, on tomorrow that the majority leader be authorized at any time to proceed to the consideration of the Department of State authorization bill, with the proviso that after the Department of State authorization bill is disposed of, the Senate would resume immediately, and without intervening debate, motion or other measure, to the consideration of the Department of Justice authorization bill.

Mr. ROBERT C. BYRD. Mr. President, I think I should say that I feel there will be no objection to proceeding to the Department of Justice authorization bill today following the hour of 2 o'clock.

I do wish to discuss both of these matters, the Department of Justice and the Department of State authorization bills, in conference today, and following that conference I will be in touch with the distinguished majority leader and, hopefully, the response will be in the affirmative insofar as unanimous consent to proceed is concerned.

Mr. BAKER. Mr. President, I thank the minority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. President, in view of that statement, I will make this additional request, I ask unanimous consent that after the disposition of the two amendments and the measure identified by me, that is to say, the Cranston amendment, the Chafee amendment, and final passage of S. 921 or any variation thereof, that the Senate stand in recess until the hour of 2 p.m.; that at 2 p.m. the Senate reconvene, and that there be a period of not to exceed 5 minutes for the transaction of routine morning business in which Senators may speak.

I may say, before the Chair acts, that I hope then the minority leader and I might have an opportunity to make an effort to arrange the schedule of the Senate for the remainder of this week during that period.

The PRESIDENT pro tempore. As I understand, this will not prejudice the right of Senator PROXMIRE to offer an amendment.

Mr. BAKER. Mr. President, is it not true that under a previous order when the Senate resumes consideration of S. 921 that it is already ordered that the Senator from Wisconsin (Mr. PROXMIRE) will be recognized to offer an amendment?

The PRESIDENT pro tempore. That is correct.

Mr. BAKER. It is not my intention by any means nor did the request suggest that we have limited the right of the

Senator from Wisconsin to offer his amendment or have a vote on his amendment, for that matter. The only thing is it was not sequenced in the request that I made.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair.

Mr. President. I have no further use for my time under the standing order, and I have no request for time. I am prepared to yield it back or yield it to the minority leader if he has a need for it.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I thank the majority leader. I may have use for it.

Mr. BAKER. I yield my time remaining to the minority leader.

Mr. ROBERT C. BYRD. I thank the distinguished majority leader. I yield such time as he may require to Mr. HART and then, following him, to Mr. BOREN.

INTERNATIONAL NONPROLIFERATION OF NUCLEAR WEAPONS

Mr. HART. Mr. President, I thank the distinguished minority leader.

As we are all aware, Mr. President, last week, Israeli planes destroyed Iraq's Osirak reactor. Whether or not we agree with Israel that this preemptive strike was necessary, we cannot ignore two more fundamental and disturbing questions raised by the attack. First, what does the Israeli strike say about the world's current efforts to prevent the proliferation of nuclear weapons? And, second, what effect will further nuclear proliferation have on U.S. national security interests, particularly in the Middle East?

Justifiable or not, the Israeli raid indicates a profound—and warranted—mistrust of the nonproliferation policy adopted by the United States and the four other members of the so-called nuclear club.

Israel's lack of confidence in the international nonproliferation program probably has two sources. First, she doubted that the International Atomic Energy Agency (IAEA) safeguards system, as applied to the Iraqi reactor, would give timely warning if weapons-grade nuclear material were diverted to nonpeaceful purposes. Second, she doubted that other nations, even with sufficient warning, would risk their oil shipments from Iraq to take a strong stand on diversion or theft of nuclear materials by Iraq, which would give Iraq the capability to build a bomb.

Beyond this, Iraq's actions gave cause for alarm. She closed her nuclear facilities to IAEA inspectors during the early days of the Iran-Iraq war. She refused to let France replace the Osirak reactor's weapons-usable, highly enriched uranium fuel with nonweapons-usable "caramel" fuel. And President Hussein has been quoted as saying Iraq's new nuclear capability would be used to build an atomic bomb for use against the "common Zionist enemy."

Mr. President, we must wonder whether the United States would rely on international nonproliferation efforts if Cuba signed the Nonproliferation Treaty (NPT), accepted international safeguards, and built nuclear facilities such as those in Iraq. I think not. Any country would be reluctant to rely exclusively on international safeguards—while its hostile neighbors denied its very right to exist and maintained a technical state of war.

Beyond focusing attention on the inadequacy of the international safeguards system, the Israeli strike forces us to reexamine the basis of our current nonproliferation policy. And this might be the most important outcome of last week's event. Since President Eisenhower's Atoms for Peace program, we have in the United States distinguished between peaceful and military uses of atomic energy. We have maintained that we can encourage the former without encouraging the latter. And we and the other nuclear countries believed we could manage and control the proliferation of nuclear weapons through diplomacy and international agreements, while only rarely imposing sanctions to discourage misuse of so-called peaceful nuclear materials and equipment for military purposes.

But now nuclear reactors, even when dedicated to peaceful purposes and safeguarded by international organizations, are strategic military targets. Nations awash in oil insist they need nuclear capability for peaceful purposes. Highly enriched uranium and plutonium produced under the guise of a civilian nuclear power program can be used to make nuclear weapons.

In short, it appears that the only difference between the so-called atoms for peace and atoms for war is the intent of the user. Our nonproliferation policy is built on a distinction that does not exist.

The Israeli strike was an inevitable consequence of the policies of the nuclear exporting nations. We have overlooked the extent to which even peaceful nuclear capability creates regional instability. We have promoted the early use of plutonium as a reactor fuel on the mistaken assumption that uranium is scarce—rather than encouraging the use of uranium-efficient technologies that decrease the risk that weapons-usable material will be diverted. And we have not acted to prevent the spread of technology and materials that could be used in nuclear weapons.

The Israeli raid does more than indict the world's current nonproliferation policies. It also raises questions about the implication of proliferation, particularly in the Middle East, for the U.S. national security and the defense posture of this country.

Could the United States effectively protect its oil supplies if a regional nuclear conflict broke out in the Middle East?

Should the United States continue to subordinate its defense interests in preventing nuclear proliferation to foreign policy expediency?

Will countries with close ties to terrorist organizations—Iraq, for example—supply those groups with nuclear devices or weapons-grade material?

Can the United States defend itself if a terrorist organization threatens to detonate a nuclear device in one of our cities?

How should we respond to evidence indicating a nation has developed or intends to develop a nuclear weapons program from civilian nuclear facilities?

And, now that Israel has set a precedent of preemptive strikes against potential adversaries, how should we respond to other such attacks by other nations in other parts of the world in the future?

These are issues that demand the attention of Congress and the administration. In light of those and other issues raised by the Israeli raid, the United States must thoroughly reexamine its policies for preventing the spread of nuclear weapons.

The United States must decide whether it can depend on the Nonproliferation Treaty and, if not, what international agreement should supplement or take its place.

We and other nuclear suppliers should insist—as an absolute condition of further nuclear trade—that international safeguards apply to all nuclear facilities in a recipient country.

We and other nuclear suppliers should agree to stop exporting technologies, such as spent fuel reprocessing plants, or nuclear materials, such as highly enriched uranium, that contribute directly to a country's ability to build nuclear weapons.

We should develop and promote those nuclear technologies that will present the least risk of nuclear proliferation. For example, timely warning systems, such as remote control cameras and tamper proof seals installed by IAEA, could enhance the current safeguard system of periodic inspection and physical inventories of nuclear material. And uranium-efficient, proliferation-resistant technologies like advanced light water reactors, would decrease the need for spent fuel reprocessing, breeder reactors, and separated, weapons-usable plutonium.

We and other supplier nations should agree to store all commercial spent fuel in unaltered form, in international facilities until we resolve questions about spent fuel reprocessing and the breeder reactor.

We should indefinitely defer commercialization of spent fuel reprocessing and breeder reactors—both to discourage use and export by other supplier countries, and to demonstrate to recipient nations the unfavorable economics of these technologies.

We and other nations should contribute more to IAEA so its safeguard activities can be expanded.

We should reconsider the appropriateness of the Nonproliferation Treaty's insistence that all prospective importers of nuclear materials be treated equally. It may be we can prevent the spread of nuclear weapons only by denying some countries those technologies that would bring them closer to developing nuclear

weapons. For example, the United States should try to persuade France not to resupply Iraq with a research reactor or, at least, not to supply highly enriched uranium fuel.

We should set an example for other countries by establishing a more responsible, balanced energy policy that relies less on nuclear power, and more on economically justified alternative energy uses. And, by providing necessary technical energy assistance, we should encourage other countries to adopt such technologies. This approach would demonstrate that nuclear power is not the sole alternative for reducing world dependence on oil. And because one cannot unambiguously separate civilian from military uses of nuclear materials and technology, this approach would promote world stability.

We should demonstrate our commitment not only to preventing the spread of nuclear weapons—"horizontal" proliferation—but also to reducing the nuclear arsenals of the superpowers—"vertical" proliferation. We should reopen the SALT negotiations as a first step to achieve this end.

Finally, we should develop the capability and a policy for responding to potential nuclear terrorism in the United States and abroad.

The Reagan administration does not bear responsibility for the Israeli strike. But it does bear responsibility for sending the wrong signals to the world about the U.S. commitment to nonproliferation.

During his campaign, for example, President Reagan said, "I don't think nuclear proliferation is any of our business." Since his election, he has:

Failed to articulate any portion of a nonproliferation policy;

Shown little enthusiasm for reopening the SALT negotiations;

Supported the construction of the Clinch River Breeder Reactor to demonstrate the commercial possibilities of breeder technology;

Proposed drastic cuts in Federal support for alternative energy technologies—leaving them to be whims of an imperfect free market—and increased the budget for development of nuclear energy.

The Reagan administration must now work with Congress to produce a comprehensive nuclear nonproliferation policy which will serve the security interests of the United States and the world in the difficult decades ahead.

No one doubts nuclear weapons are the most destructive and most frightening man has ever developed. And no one can doubt their spread must have grave consequences for the future of the United States, and indeed, the world.

Fifteen nations stand poised to join the nuclear club. Others will follow—unless we act now to end the spread of nuclear technology.

If we fail to recognize the serious threat of nuclear proliferation, we place the security, if not the survival of the United States and the rest of the world in jeopardy. Preemptive strikes like that of last week, nuclear terrorism, regional nuclear conflict, or even the unthinkable—worldwide nuclear conflagration—each event is made more likely by the spread of nuclear technology. The United States and the other supplier nations will be taking a fearsome risk if we fail to establish an effective world nonproliferation regime. And we have no one to blame but ourselves for the consequences.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. COCHRAN). The Senator from Oklahoma is recognized.

Mr. BOREN. I thank the Chair.

HIGH INTEREST RATES

Mr. BOREN. Mr. President, I rise to call attention to my colleagues again about a very serious problem facing our Nation and it is one thing that we ignore only at our own peril. I am talking about the danger facing the thrift institutions of this country caused by the short-term increase in interest rates—high interest rates which have brought homebuilding and other key segments of our economy to a screeching halt; high interest rates that threaten the basic health of the agricultural community in this country causing many small farmers, particularly younger farmers, to be faced with a situation that is desperate indeed, some of them facing bankruptcy, some of them facing an inability to make payments on land that they are trying to purchase.

I think we would have to be blind not to see the potential danger the entire economy of this country would face if we were to have massive bankruptcies in agricultural and the forced sale of large amounts of land which are held as assets by many financial institutions across this country.

In addition, the rate of interest is putting a terrible squeeze on small businesses across the country. Most small businesses in this Nation must finance their inventories by borrowing. Small businesses simply cannot make a profit at interest rates ranging up into the 20 percent range.

Not only will we see some failures in agriculture, we run the risk of seeing the failure of many small businesses, as well, if action is not taken. Perhaps the most alarming short term danger to our economy exists in the housing area as it is impacting the thrift institutions.

In the first quarter of this year we saw the largest withdrawals from thrift institutions, the largest reduction in reserves in the history of this country. Very soon, in less than a month, Mr. President, the figures for the second quarter of this year will be made public. And, mark my word, those figures will be even more alarming than they were in the first quarter.

I think we must face the fact that while mergers in the savings and loan industry affecting thrift institutions have brought about a short-term help to that particular industry, the Congress must act to provide a longer solution, a more permanent solution, and we must act in the very near future.

If we allow the continued withdrawal rate, the continued rate of reductions in reserves, to continue unabated, we will face a very unhealthy situation with many of the basic financial institutions of this country.

I do not want to be overly alarming, but I think it would be impossible for me to overestimate the nature of the threat to the overall economic health of this country if we allow this situation to continue.

In addition to the problems posed to agriculture, to small businesses, to the basic financial institutions, the savings and loans and thrift institutions, and the credit unions of this country by short term, high rates of interest, of course, has had a devastating effect on people all across this country who have dreamed of owning a home of their own and now find those dreams dashed, who now find it impossible to think of ever owning a home, at least within the next few years, while interest rates stays so high.

I would like to illustrate the nature of the problem, Mr. President. According to the latest figures, the median new home in this country costs approximately $70,000. The average size new home being constructed in this country costs approximately $70,000, and the average mortgage now being entered into in this country is for $65,000.

Based upon the current national mortgage rate of 15.5 percent, the monthly principle and interest payment is $848 on that median home. Coupled with taxes and insurance this total monthly housing payment is nearly $1,000 per month for an average new home in this country—$1,000 per month—requiring a gross family income of at least $36,000 a year to qualify for a loan to buy that new home.

The end result is that less than one family in five can qualify to purchase the average home in this country. Over four-fifths of all the people in this country are foreclosed from the opportunity to buy a home in this country.

What has happened? As a result of these facts, as a result of the high interest rates and the impact they have had on housing in this country, the number of new housing starts has declined drastically, by almost 2 million housing starts this year on an annualized rate. It is estimated that we will fall to a rate of only a little over 1 million new housing starts in this country this year.

Mr. President, I have no doubt that the long-range economic cure proposed by the new administration is a sound one. I realize that the only way to bring down interest rates in the long run is to bring Federal spending under control and to move us toward a balanced budget. All of us in this body know that it is Government borrowing which has forced interest rates to such a high level.

Approximately 15 years ago, only 3 percent of the money being borrowed in this country every week was being borrowed by the Government of the United States. Five years ago we reached the point that over 10 percent of the money being borrowed in this country every week was being borrowed by our Government. This year, approximately one-third, almost 35 percent, of the money being borrowed in this country, the available credit of this country, is being borrowed and consumed by the Federal

Government. That has been necessary because the debt of this Government has reached almost $1 trillion. It will take a miracle to keep us from reaching the $1 trillion figure in terms of our national debt by the first of October of this year.

So the rate of interest has been bid up. Our own Government has been in the marketplace bidding against the farmer, bidding against the small businessman, bidding against the young couple who want to borrow to buy a home, bidding up the rate of interest and consuming the available credit in this country.

I realize that no artificial measure, no short-time measure, passed by this Congress can affect the long-range cure for that problem. The long-range cure includes living within our means. It includes getting Federal spending under control. It includes balancing the budget. It includes beginning to reduce the size of the national debt so that we can reduce the size of that Government interest payment.

But while the long-range cure being proposed by the administration may be basically sound, Mr. President, and I believe it is, what are we going to do with the patient in the short run? We might have the right answer for a long-range cure but the patient may die in the emergency room in the meantime if we do not do something.

If we sit by and do not act and allow the thrift institutions of this country to get in dangerous shape, if we sit back and allow basic financial institutions in this country to collapse in the short run, if we allow massive unemployment and a total shutdown of the homebuilding industry and related industries in this country, we could so shake the confidence of our people in the ability to restore health to our total economy that we could not recover in the long run from this short range disaster.

So, Mr. President, I would urge the President of the United States and members of his administration to seriously consider short-term action aimed at giving emergency treatment to the patient while we work on the long-range cure.

Mr. President, I would also serve notice that until the administration acts and until the Congress acts, I intend to come to the floor each day that we are meeting to again call the attention of the Members of this body to the dire threat posed to our economy by the short-term high interest rates and our inaction in doing anything to meet this crisis.

Let us not wait, Mr. President, until we have financial institutions facing the closing of their doors. Let us not wait until we have an entire industry devastated. Let us not wait until we have foreclosures on farm mortgages or we have liquidation of small business before we act.

We are not talking about several years of grace period. We are not talking about even several months of grace period. We are talking about the need to act within a period of weeks if we are to avert these kinds of problems in our country.

There are things that we can do. We should seriously consider the various bills that have been introduced to provide tax exempt savings accounts and certificates of deposits, tax exempt accounts which can be offered by the local financial institutions with the proceeds reinvested in housing loans and in loans in other critical areas of our economy.

Mr. President, I close by again asking my colleagues to take the time to look at the nature of this problem, take the time to seriously consider the need for an urgent solution, and join with me in urging our President and the administration to devise immediately a short-term program to meet the emerging crisis which we face.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 11:30 a.m.

TRIBUTE TO SENATOR TOWER

Mr. ARMSTRONG. Mr. President, 20 years ago on this date, Senator JOHN TOWER was sworn in as the junior Senator from Texas. The occasion was noteworthy, not simply because it provided the Senate with one of is most able and effective Members, but because Senator TOWER was the first Republican ever to be elected to the Senate from a former Confederate State since the days of Reconstruction in the post-Civil War period.

Senator TOWER's election against the formidable odds was not merely a great personal triumph; it marked a historic turning point in the history of our country. The election of this Republican Senator opened a crack in what had been the solidly Democratic South, and paved the way for the Republican Party to become, for the first time in its history, a truly national party.

Since June 15, 1961, the crack that Senator TOWER opened in the solid Democratic South has become a fissure; there is now a Republican Governor, or a Republican Senator representing each and every State of the Old South. Indeed, if recent opinion polls are to be believed, Republicans, once as rare as snow in Dixie, are on their way to becoming the majority party in the South, as well as in the other regions of our great country.

Much of the recent Republican success in the South has been due to a change of attitude—a maturing, if you will—in both the Republican Party and in the Southern electorate. But much of it is due also to the example of Senator TOWER, who has demonstrated time and time again that effective, compassionate leadership on issues of greatest concern to the South and to the country comes from Republican Senators, and from Republicans at all levels of government.

I enthusiastically join my colleagues today in paying tribute to Senator TOWER for the growth of our party to which he, in so many ways, has contributed so much.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business?

There being no further business, under the previous order, morning business is closed.

VETERANS' PROGRAMS EXTENSION AND IMPROVEMENT ACT OF 1981

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, S. 921, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 921) to amend title 38, United States Code, to extend authority to provide contract hospital care and medical services in Puerto Rico and the United States Virgin Islands.

AMENDMENT NO. 53

Mr. PROXMIRE. Mr. President, I call up amendment No. 53, which is at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an amendment numbered 53. At the appropriate place in the bill insert the following new section:

SERVICEMEN'S GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE

SEC. . (a) Section 767 of title 38, United States Code, relating to the Servicemen's Group Life Insurance program, is amended—

(1) in the first sentence of subsection (a)—

(A) by striking out "$20,000" and inserting in lieu thereof "$35,000"; and

(B) by inserting "$30,000, $25,000, $20,000," after "(B) to be insured in the amount of";

(2) in the first sentence of subsection (c)—

(A) by inserting "$30,000, $25,000, $20,000," before "$15,000, $10,000 or $5,000"; and

(B) by inserting "$35,000, $30,000, $25,000," before "$20,000, $15,000 or $10,000"; and

(3) by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of this section, any member who, on the effective date of this subsection, is assigned to, or who upon application would be eligible for assignment to, the Retired Reserve of a uniformed service, may obtain increased insurance coverage under this subchapter up to a maximum of $35,000 in increments of $5,000, if the member (1) is insured under this subchapter on such effective date or, within one year after such effective date, reinstates insurance which lapsed before such date for nonpayment of premiums, and (2) submits, within one year after such effective date, a written application for increased coverage to the office established pursuant to section 766(b) of this title.".

(b) Section 777(a) of such title, relating to Veterans' Group Life Insurance, is amended—

(1) by striking out "or $20,000 only" in the first sentence and inserting in lieu thereof a comma and "$20,000, $25,000, $30,000, or $35,000 only";

(2) by striking out "$20,000" in the second sentence and inserting in lieu thereof "$35,000"; and

(3) by striking out "$20,000" each place it

appears in the fourth sentence and inserting in lieu thereof "$35,000".

(c) The amendments made by subsections (a) and (b) shall become effective on the first day of the first month which begins at least sixty days after the date of the enactment of this Act.

The PRESIDING OFFICER. The Chair advises the Senate that, under a previous order, the Senator from Wisconsin (Mr. PROXMIRE) was to be recognized at this time to call up his amendment No. 53, on which there was to have been 30 minutes allowed for debate.

Mr. SIMPSON. Mr. President, it is my understanding that the Senator from Wisconsin is on his way to the Chamber. Until he arrives, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, first I ask unanimous consent that two members of my staff, Ron Tammen and Doug Waller, be granted the privilege of the floor while this amendment is under consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, this amendment will raise the ceiling on the amount of term insurance available to active duty military personnel, the ready reserves and retired reserves, and veterans. The current ceiling is $20,000 per person. My amendment would increase this ceiling to $35,000 under the servicemen's group life insurance program (SGLI) and the veteran's group life insurance program (VGLI).

Since this is an optional insurance program financed by the military member alone, this amendment will have no budgetary impact and will not force any individual to purchase more insurance.

What this amendment does is bring the insurance programs more in line with the higher cost of living our men and women in uniform face today. The increase in coverage will help the Armed Forces in their vitally important recruiting and retention efforts.

This is the same amendment which was unanimously agreed to during the Senate's consideration of the fiscal year 1982 defense authorization bill. But because of potential jurisdictional problems in the House—the fact is, this amendment might very well be knocked out on a point of order on the defense authorization bill—this amendment will likely be dropped in conference on the defense authorization bill on a point of order.

Therefore, at the suggestion of the chairman of the Veterans Affairs Committee and the ranking minority member, I offer the amendment to this title 38 veterans bill, S. 921.

Currently, the most insurance a serviceman on active duty can buy is $20,000 under SGLI. When a soldier leaves active duty, he can convert this insurance to a 5-year policy worth $20,000 under the veterans' group life insurance program. After that, the person can elect to convert the insurance to a commercial policy offered by one of the participating companies.

SGLI is a bargain for the serviceman on active duty. He only pays $3 a month now for the $20,000 maximum coverage.

The problem is, that $20,000 coverage is not nearly enough.

The $20,000 ceiling was established in 1974—seven years ago.

Since then, the Consumer Price Index has jumped more than 67 percent. So the value of that ceiling is only about $13,000 today.

To the GI out in the field considering wheher he should reenlist, to the applicant in the recruiting station deciding whether he should sign up, this devaluation of the coverage ceiling does not add to the attractiveness of military benefits.

The Defense Department believes that the coverage ceiling for SGLI and VGLI should reflect today's prices. The Department, therefore, has proposed that the coverage be increased to $35,000.

The Veterans' Administration, which runs the insurance program, also favors increasing the ceiling to $35,000.

And I am informed by the House Veterans' Affairs Committee staff that its chairman wants the coverage increased to $35,000.

Increasing the ceiling to $35,000 is the least we can do for our men and women in the military—seeing how Congress just voted a big insurance increase for itself and civilian Federal employees.

A person entering the civil service is now offered a life insurance ceiling that is about four times higher than what he would get in the military. For example, a new GS-3 clerk making about as much as a new private in the Army can buy up to $84,000 in Federal Employee Group Life Insurance. The private can now buy only $20,000.

In the past, Congress has increased the insurance ceiling about every 5 or 6 years.

I think it is time we increased it again.

Remember, servicemen's group life insurance and veteran's group life insurance programs are designed and operated to be self-sustaining. That way, an increase in the ceiling does not increase the cost to the taxpayer. Service men and women electing to take the higher level of insurance would simply pay more in premiums. Also, they would still have the option of buying coverage that is less than $35,000. Or, they can choose to buy no coverage at all.

This amendment merely brings the military's insurance ceiling into the 1980's.

A host of military associations support increasing the insurance ceiling. They include the:

National Guard Association of the United States.

Association of the United States Army.

Retired Officers Association.

National Association of Uniformed Services.

Veterans of Foreign Wars.

Navy League of the United States.

Fleet Reserve Association.

Air Force Association.

The Marine Corps League.

American Legion.

Why do they support it? Because it is a good deal for the GI. And it is a good deal for the taxpayer.

Mr. President, I ask unanimous consent that a question and answer memorandum on this amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUESTIONS AND ANSWERS ON INCREASING SGLI AND VGLI COVERAGE OF $35,000

Q. Who would be covered by this increased coverage to $35,000?

A. All active duty personnel in all branches of the armed services are covered. Also covered are members of the Ready Reserves and the Retired Reserves. Veterans are covered under the VGLI program.

Q. How many people currently participate in this program?

A. As of June 1980, the Veterans' Administration reports that SGLI covers about 2.3 million active duty personnel; 862,500 Ready Reservists (7,300 of whom are classified as part-time reservists; and 34,211 Retired Reservists. VGLI covers about 500,000 veterans.

Q. How did you arrive at the $35,000 figure?

A. The Department of Defense has recommended increasing the coverage to $35,000. DoD applied the percentage increase in the CPI from 1974 to 1980 (which it figured to be about 65 percent) to the present $20,000 ceiling. That gives us a figure of $33,000 (1.65 x $20,000). Since SGLI and VGLI normally come in $5,000 increments, the Defense Department rounded the figure up to $35,000.

Q. Who supports increasing the SGLI and VGLI coverage ceiling?

A. While many support an even higher ceiling than the Defense Department proposes, the list of military associations that support increasing the coverage include:

National Guard Association of the United States.

Association of the United States Army.

Retired Officers Association.

National Association of Uniformed Services.

Veterans of Foreign Wars.

Navy League of the U.S.

Fleet Reserve Association.

Air Force Association.

The Marine Corps League.

American Legion.

Q. While increasing the coverage won't cost the government any money, will the government face administration costs, such as new forms and notification expenses, if the ceiling is raised?

A. No. The administrative costs of the entire program are paid by the people being insured.

Q. The increased coverage wouldn't cost the government any money during peacetime. What about during wartime?

A. There would be increased costs to the government if the nation becomes involved in an armed conflict and the mortality rate exceeds the mortality rate under peacetime conditions. This is because the government is responsible for costs resulting from the extra hazards of military duty. But if the balloon goes up, paying increased death benefits will probably be the least of the government's worries.

Q. Does increasing the coverage result in a higher cost for the serviceman?

A. The $20,000 coverage now costs the serviceman $3.00 a month. The serviceman will pay a higher premium if he elects to take the $35,000 coverage. But the cost of coverage per $1,000 or per $5,000 stays the same. The cost per $5,000 coverage, for example, is 75¢ a

month. That rate wouldn't change under the $35,000 ceiling. A serviceman electing to take the $35,000 coverage, therefore, would have to pay $2.25 more a month for a total of $5.25 a month. If he elected to remain at the $20,000 ceiling, he would still pay $3.00 a month.

Q. How is it that SGLI and VGLI can be provided at the low premiums and still not cost the government money?

A. Prudential Life Insurance Company actually provides the SGLI and VGLI coverage. This is term insurance, the least expensive kind. Also, the pool of insurees is made up mainly of 18-, 19-, and 20-year-olds, whose mortality rate is low. They are also generally in good health, since they all had to pass physical fitness tests to get into the service.

Q. Why does the amendment contain a provision that makes the new ceiling effective 60 days after enactment?

A. This gives the Veterans' Administration time to implement the change—redrafting forms, sending out notices, reprograming the computers, etc. The VA has asked that the 60-day extension be included in any legislative proposal to increase the ceiling.

Q. Why does the amendment contain a provision that members of the Retired Reserve be required to submit an application for the increased coverage within one year following the date of enactment of this amendment?

A. This is another provision the VA asked be included in any legislative proposal to increase the ceiling. Military personnel on active duty have the monthly premium automatically deducted from their monthly paycheck. If the coverage ceiling is increased to $35,000, a serviceman on active duty would automatically have $5.25 deducted from his monthly paycheck, unless he elects in writing to have a lesser coverage or no coverage at all. Retired Reservists, however, are in a different situation. They have no paycheck from which the military can deduct. Retired Reservists have to mail in their premium payments. The one-year period gives the VA time to contact Retired Reservists and find out whether they want the increased coverage.

Mr. PROXMIRE. Mr. President, as I say, this amendment is supported by every major veterans' organization, by the Defense Department, by the Veterans' Administration. There is no opposition, obviously, from the Office of Management and Budget, because there is no budgetary impact. I know of no opposition whatever to the amendment. I am very hopeful that the amendment will be supported by the distinguished chairman of the Veterans' Affairs Committee.

Mr. SIMPSON. Mr. President, I am pleased to accept the amendment of the Senator from Wisconsin (Mr. PROXMIRE). As he so correctly and succinctly noted, the current ceiling on the amount of life insurance that members of the armed services, and recently discharged veterans may carry under the auspices of the serviceman's group life insurance and veterans' group life insurance programs is $20,000 and that limit was established several years ago. It is no longer a realistic limit. The pending amendment to raise this limit to $35,000 is appropriate and I am very pleased to accept it. The Senator from Wisconsin is to be commended for his initiative on this matter and I thank him for his usual attentiveness and for his efforts.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CRANSTON. Mr. President, I congratulate the Senator from Wisconsin on his amendment. It is a very constructive one.

I ask unanimous consent that I may be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BATTLE OF THE VETERANS' BUDGET

Mr. THURMOND. Mr. President, an article appeared in the Washington Post today concerning the 1982 budget for the Veterans' Administration which was authored by our distinguished colleague and chairman of the Veterans' Affairs Committee, AL SIMPSON of Wyoming.

Mr. President, the "Battle of the Veterans' Budget" outlines the various stages that occurred in the Senate's consideration of the VA budget. I am sure other committee chairmen experienced similar events in the consideration of their budgets.

Although the message has been sent across this great land of ours that the Congress and the new administration is taking more seriously the expenditure of Federal funds, I am pleased that the Nation's commitment to our veterans is demonstrated by a $1.7 billion increase over last year's VA budget.

Mr. President, for the benefit of my colleagues, I ask unanimous consent that the article "Battle of the Veterans' Budget" which appeared in the Washington Post on June 16, 1981, be printed in the RECORD at the close of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BATTLE OF THE VETERANS' BUDGET

(By ALAN K. SIMPSON)

This year's federal budget process has entailed high drama. The Congress, listening carefully to the American people, undertook a serious effort to reduce federal spending. Action in the Senate on the Veterans' Administration budget provided a most interesting case study. As chairman of the Senate Veterans' Affairs Committee, I was in a position not only to observe the roles being played out in this drama, but to participate fully in it as it unfolded.

The first stage was for each authorizing committee to examine in detail the president's proposals. A great many items required the attention of the new president, and the Reagan administration's budget recommendations for the Veterans' Administration were not available to me until three days before the deadline for committee budget reports. As a result, the Veterans' Affairs Committee was not able to responsibly study the president's specific proposals concerning the VA budget.

The committee was confident that the president's overall target figure could be achieved—with some "belt tightening." We never lost sight, however, of our primary responsibility to preserve essential services to veterans. With that in mind, the committee acted to restore $109 million for health care, $47 million for continued operation of the VA's regional offices and $25 million to continue the Vietnam veterans' "storefront" counseling centers. At the same time, the committee committed itself to finding $324 million in unspecified savings in the effort to support the president's economic recovery package.

A vigorous political struggle developed in which the minority party in the Senate offered amendment after amendment intended to increase President Reagan's budget proposal in the area of veterans' benefits as well as in many other areas. The endeavor was to paint the majority party as "heartless," uncaring and unfeeling with respect to its obligation to the nation's veterans and other constituent groups, knowing all the while that their amendments were principally intended to line up the ducks for the next election. Had I been a member of the minority, I would have done the same! The majority resisted these efforts, because it was quite evident that any such dilution of the president's economic package could seriously endanger the ultimate goal of achieving economic stability in this decade.

Even as this process was unfolding on the floor of the Senate, a compromise was being worked out between a bipartisan group in the House and the administration. Even though the House compromise budget contained $300 million more for veterans than was set forth in the version approved earlier by the Senate, and even though the president's endorsement of the House compromise ensured its passage, we continue to hear shrieks from various quarters that Congress is about to turn its back on America's veterans. It's just not so.

The professional veterans' organizations are in business to make sure that veterans receive at least their fair share of the federal budget. Some of these organizations continued to "pump up" their membership against the administration's proposals, while fully recognizing that both houses of Congress had rejected the supposedly detrimental aspects of the administration proposal and had restored the various cuts that were most important to veterans. Unfortunately, many veterans still seem to have the perception that the administration's budget will be accepted without any further modification.

I clearly recognize the legitimate role of these organizations. They are activists—they have a job to do and they do it well. I respect them for the role that they play—and they play hardball.

As the smoke clears, we need to look carefully at what will actually happen. Spending for veterans will increase by $1.7 billion over spending in the present fiscal year. This is a 7.6 percent increase. Admittedly, the new total of nearly $24 billion represents a $400 million decrease from the original funding proposals, but such funding constraints will not significantly affect essential veterans' programs. We have therefore remained faithful to the national desire for budgetary restraint while at the same time keeping faith with our obligations to veterans.

This year's veterans' budget process demonstrated how well our political system can work. While emotions ran high, the end result should be a strengthened sense of unity created by the assurance that all constituent groups involved participated fully in the debate. Most of the nation's Republicans, Democrats and veterans supported the final result.

Most heartening to me is the knowledge that the great majority of veterans are willing to help join the national effort to resolve our nation's economic woes. They know we have tried other nostrums and placebos as fast as they could be thrown off the back of the medicine wagon—and none has

worked. Responsible, reasonable veterans believe, as I do, that the greatest benefit to them and to all Americans would be the restoration of a vigorous economy.

Mr. SIMPSON. Mr. President, I believe that, under the previous order, we are ready to proceed with the rollcall votes.

The PRESIDING OFFICER. Is all time yielded back on the amendment?

Mr. SIMPSON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 53, offered by the Senator from Wisconsin (Mr. PROXMIRE). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Illinois (Mr. PERCY) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arizona (Mr. DECONCINI) is necessarily absent.

The PRESIDING OFFICER (Mr. HAYAKAWA). Are there any other Senators desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 150 Leg.]

YEAS—98

Abdnor	Garn	Metzenbaum
Andrews	Glenn	Mitchell
Armstrong	Goldwater	Moynihan
Baker	Gorton	Murkowski
Baucus	Grassley	Nickles
Bentsen	Hart	Nunn
Biden	Hatch	Packwood
Boren	Hatfield	Pell
Boschwitz	Hawkins	Pressler
Bradley	Hayakawa	Proxmire
Bumpers	Heflin	Pryor
Burdick	Heinz	Quayle
Byrd, Harry F., Jr.	Helms	Randolph
Byrd, Robert C.	Hollings	Riegle
Cannon	Huddleston	Roth
Chafee	Humphrey	Rudman
Chiles	Inouye	Sarbanes
Cochran	Jackson	Sasser
Cohen	Jepsen	Schmitt
Cranston	Johnston	Simpson
D'Amato	Kassebaum	Specter
Danforth	Kasten	Stafford
Denton	Kennedy	Stennis
Dixon	Laxalt	Stevens
Dodd	Leahy	Symms
Dole	Levin	Thurmond
Domenici	Long	Tower
Durenberger	Lugar	Tsongas
Eagleton	Mathias	Wallop
East	Matsunaga	Warner
Exon	Mattingly	Weicker
Ford	McClure	Williams
	Melcher	Zorinsky

NOT VOTING—2

DeConcini Percy

So Mr. PROXMIRE's amendment (No. 53) was agreed to.

Mr. BAKER. Mr. President, in light of the fact that this rollcall occurred perhaps earlier than some Senators thought and has taken the full time allocated, and that there are three other votes back to back that are ordered to commence at 12 or as soon as they may be reached after that hour, I ask unanimous consent now that the next rollcall, which would be 15 minutes otherwise, be a 10-minute rollcall. I believe we have already ordered that the other two would be 10 minutes as well.

The PRESIDING OFFICER. The Senator is correct. Without objection, it is so ordered.

Mr. KASTEN. Mr. President, I ask unanimous consent that my name be added as a cosponsor of amendment No. 59, as modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 59 (AS MODIFIED)

The question is on agreeing to the amendment, as modified, of the Senator from California (Mr. CRANSTON). The yeas and nays have been ordered and clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DECONCINI (when his name was called). Present.

Mr. STEVENS. I announce that the Senator from Illinois (Mr. PERCY) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 151 Leg.]

YEAS—98

Abdnor	Garn	Metzenbaum
Andrews	Glenn	Mitchell
Armstrong	Goldwater	Moynihan
Baker	Gorton	Murkowski
Baucus	Grassley	Nickles
Bentsen	Hart	Nunn
Biden	Hatch	Packwood
Boren	Hatfield	Pell
Boschwitz	Hawkins	Pressler
Bradley	Hayakawa	Proxmire
Bumpers	Heflin	Pryor
Burdick	Heinz	Quayle
Byrd, Harry F., Jr.	Helms	Randolph
Byrd, Robert C.	Hollings	Riegle
Cannon	Huddleston	Roth
Chafee	Humphrey	Rudman
Chiles	Inouye	Sarbanes
Cochran	Jackson	Sasser
Cohen	Jepsen	Schmitt
Cranston	Johnston	Simpson
D'Amato	Kassebaum	Specter
Danforth	Kasten	Stafford
Denton	Kennedy	Stennis
Dixon	Laxalt	Stevens
Dodd	Leahy	Symms
Dole	Levin	Thurmond
Domenici	Long	Tower
Durenberger	Lugar	Tsongas
Eagleton	Mathias	Wallop
East	Matsunaga	Warner
Exon	Mattingly	Weicker
Ford	McClure	Williams
	Melcher	Zorinsky

ANSWERED "PRESENT"—1

DeConcini

NOT VOTING—1

Percy

So Mr. CRANSTON's amendment (No. 59), as modified, was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I have recorded my vote as present to the Simpson substitute to the Cranston amendment (No. 59) because my family law firm in Tucson is handling a number of agent orange claims for veterans.

Mr. SIMPSON. Mr. President, before we begin the previously-ordered rollcall vote, I ask unanimous consent that the name of the Senator from Alaska (Mr. MURKOWSKI) be added as a cosponsor of amendment No. 61, as modified, offered by the Senator from Rhode Island (Mr. CHAFEE).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KASTEN. Mr. President, I ask unanimous consent that my name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 61, AS MODIFIED

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Rhode Island (Mr. CHAFEE). The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Illinois (Mr. PERCY), is necessarily absent.

The PRESIDING OFFICER (Mr. BOSCHWITZ). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 152 Leg.]

YEAS—99

Abdnor	Garn	Mitchell
Andrews	Glenn	Moynihan
Armstrong	Goldwater	Murkowski
Baker	Gorton	Nickles
Baucus	Grassley	Nunn
Bentsen	Hart	Packwood
Biden	Hatch	Pell
Boren	Hatfield	Pressler
Boschwitz	Hawkins	Proxmire
Bradley	Hayakawa	Pryor
Bumpers	Heflin	Quayle
Burdick	Heinz	Randolph
Byrd, Harry F., Jr.	Helms	Riegle
Byrd, Robert C.	Hollings	Roth
Cannon	Huddleston	Rudman
Chafee	Humphrey	Sarbanes
Chiles	Inouye	Sasser
Cochran	Jackson	Schmitt
Cohen	Jepsen	Simpson
Cranston	Johnston	Specter
D'Amato	Kassebaum	Stafford
Danforth	Kasten	Stennis
DeConcini	Kennedy	Stevens
Denton	Laxalt	Symms
Dixon	Leahy	Thurmond
Dodd	Levin	Tower
Dole	Long	Tsongas
Domenici	Lugar	Wallop
Durenberger	Mathias	Warner
Eagleton	Matsunaga	Weicker
East	Mattingly	Williams
Exon	McClure	Zorinsky
Ford	Melcher	
	Metzenbaum	

NOT VOTING—1

Percy

So the amendment (No. 61, as modified) was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I should like to ask the distinguished floor manager of this legislation to clarify his intentions with regard to the conference committee on S. 921 and H.R. 3499.

Sections 3 and 8 of the House-passed bill—H.R. 3499—would create budget problems. Section 8 contains an authorization requiring a minimum number of acute care hospital and nursing home beds. It does so in spite of the fact that long-term care beds are the major need of veterans medical assistance. Section

8 thus creates an authorization which drives up appropriations regardless of the projected needs of our veterans. Section 3 includes language which creates a relatively open-ended access to care for treatment of agent orange. The Veterans' Administration has opposed such a provision.

As a result, S. 921 is a piece of legislation that is superior to H.R. 3499. I should like, therefore, to urge that the distinguished floor manager and the other Senate conferees insist upon the Senate language on these issues in conference. I ask the distinguished floor manager to comment on the outlook for the conference on these points.

Mr. SIMPSON. I am very hopeful that the Senate's position will be approved by the conference. We will work diligently during the conference committee proceedings to retain language which is not only in the interest of our Nation's veterans, but also in the interest of all the other taxpayers who have a stake in this legislation.

Mr. DOMENICI. Mr. President, I wish to express my appreciation to the floor manager of this bill and applaud his intentions to defend the Senate provisions in conference.

Mr. MITCHELL. Mr. President, the U.S. Government must keep its commitment to the men and women in uniform when they retire from military service and reenter civilian life. I believe that veterans have a permanent claim on our Nation by virtue of their willingness to serve, to take the risks, and to make the ultimate sacrifice when it is demanded of them. The sacrifices cannot be equally shared. The risks cannot be equally distributed. But the Government can and must extend an equal commitment to each and every American who has served his country. I firmly believe that our commitment to veterans programs and services is an important a part of our defense effort as the newest airplanes and the most modern missiles.

That is why I am pleased to be a cosponsor of S. 921, the Veterans' Programs Extension and Improvements Act of 1981, and I am particularly pleased to cosponsor amendments to strengthen its provisions for Vietnam era veterans. I urge my colleagues to support these amendments.

Senator CHAFEE's amendment to extend the period of eligibility for the Vietnam era veterans readjustment counseling program has received deserved strong support from both sides of the aisle. I have personally viewed the important work of the vet centers. Uncertainty about their duration or strength of Federal support should not diminish the necessary role that this program has played in addressing the adjustment problems of Vietnam era veterans. Although the authority for operation of the vet centers was effective on October 1, 1979, many of the centers have only recently been able to operate without impediment. In spite of its relatively brief existence, the readjustment counseling program has received the accolades of veterans organizations and the communities in which the vet centers are located.

I have also cosponsored Senator CRANSTON's amendments to provide health care benefits to veterans exposed during service to agent orange, radiation or other toxic substances and to provide a limited extension of the "delimiting period" for the use of GI bill benefits.

It is imperative that the VA begin immediately to respond to the illnesses and health effects of agent orange and radiation. As the VA continues to investigate the issue of veteran exposure to agent orange, medical evidence has tentatively identified a link between such exposure and certain conditions and illnesses. In light of this connection, we have a responsibility to respond to those veterans who are suffering from these identified conditions.

I also support amendment No. 58 which would provide a limited extension of the GI bill delimiting period. The post-World War II GI bill is one of the most successful programs ever. It gave millions a chance to earn a college degree. And it has repaid its costs many times over in taxes and productivity returned to the national economy. The First World War was fought by an army of whom 71 percent had only a sixth-grade education.

The Government gave no help to those men. Today we know we must give to those who served a chance to catchup to their civilian counterparts. The targeted delimiting date extension is a very small step we can take to provide special assistance to those most in need—those who need job skills to obtain employment and those who are educationally disadvantaged.

As the 30 million veterans in our Nation age, as we better understand the long delayed health effects—physical and mental—that service can have, we must adjust and improve the network of programs that serve those who served us.

But it is not enough to provide rhetoric in place of help. Words cannot take the place of medical treatment. It is not good enough to recall the successes of the GI bill of the past without making it work for today's veterans. It is not good enough to recognize the stresses of war, but deny the counseling needed to overcome them.

I urge my colleagues to honor our commitment to America's veterans and support S. 921 and these amendments to the bill.

Mr. THURMOND. Mr. President, I rise in support of S. 921, as reported by the Senate Committee on Veterans' Affairs and as amended by the Senate.

This bill, the Veterans' Programs Extension and Improvement Act of 1981, will extend the authority for a variety of programs administered by the Veterans' Administration which will terminate at the end of this year. In addition, S. 921 will expand the scope of the ongoing study regarding exposure to the defoliant, agent orange, to include other defoliants and malaria preventive drugs used in Vietnam. I would like to discuss a few of the key provisions of this committee bill at this time.

First, S. 921 will extend the VA's authority to provide hospital services and medical care to veterans with nonservice-connected disabilities located in the Commonwealth of Puerto Rico and the Virgin Islands. Currently, this authority expires on September 30, 1982, although the VA reports that there is a large number of veterans, especially service-connected disabled in Puerto Rico and the Virgin Islands. Also, medical care services in these islands are not as accessible as they are in the United States.

Second, the authority for the VA to operate the 92 psychological readjustment centers will be extended for 3 years by S. 921 as amended by the Senate. Under current law, the eligibility for a large number of Vietnam veterans to be treated at these centers will expire September 30, 1981, in spite of the overwhelming testimony received by the Veterans' Affairs Committee that indicated the need to extend this eligibility and continue the program for at least 2 additional years.

Third, the veterans readjustment appointments (VRA) program will be extended for 3 years. Vietnam era veterans who are 30 percent or greater service-connected disabled are eligible for certain noncompetitive appointments within the Federal service. This program has been responsible for providing an opportunity to a large number of disabled veterans to enter the job market.

Finally, S. 921 will extend for 1 year the period in which State medical schools established with grant assistance from the VA may use previously appropriated Federal funds to defray certain costs of operating the medical school.

Mr. President, these are a few of the key provisions of S. 921 that I believe are very important. I also would like to take this opportunity to commend the distinguished chairman of the Veterans' Affairs Committee, AL SIMPSON, for the leadership and ability he has exhibited in managing S. 921 on the Senate floor and during its consideration by the committee. In addition, I would like to express my gratitude to the distinguished ranking minority member, ALAN CRANSTON, for his cooperation and wise counsel concerning this legislation. The Veterans' Affairs Committee has a common mission—service to our Nation's veterans, especially those disabled due to a service-connected injury. I believe the committee has shouldered this responsibility in the past and will continue to do so in the future.

Mr. President, I believe S. 921 as reported and as amended by the Senate is meritorious and I will support it.

● Mr. LEAHY. Mr. President, I have urged my colleagues to support two amendments to the Veterans Programs Extension and Improvement Act of 1981. The first will allow Vietnam veterans to continue to use their GI bill benefits for readjustment counseling for an additional 3 years. The second amendment will make Vietnam veterans eligible for health care benefits once the Administrator determines that there is credible evidence linking the veteran's disability to exposure to agent orange, other dioxins, or other specific toxic substances during his or her military service. I have cosponsored these amendments, and believe that they will make significant and

positive changes in the VA's efforts to assist veterans of the Vietnam era.

The VA has been painfully slow in evaluating the health effects of exposure to agent orange. It recently awarded a contract to the University of California to design a study of these effects, but it will still be a matter of many months before the study itself is finished and the results are known. Yet there is already substantial evidence that exposure to agent orange and other dangerous substances do have definite health effects, whether they be on domestic workers or veterans who fought in the Vietnam arena. This amendment gives the Administrator of the VA the ability to grant medical care benefits to veterans who may be suffering from these health effects.

I am pleased that the Veterans' Affairs Committee will be holding hearings on the whole issue of agent orange later this session. This will give Congress an opportunity to check on the progress of the VA and this study. There will be opportunities for public input at this time, and I will hope that Vietnam veterans, as groups or as individuals, will take the opportunity to comment.

I have urged my colleagues to adopt the amendment to extend eligibility for readjustment counseling by 3 years. These centers have enjoyed tremendous success, despite their relatively short existence. The center in Williston, Vt., was one of the very first centers to be opened in the Nation. Since then the small staff has traveled probably thousands of miles on back roads and in hazardous winter conditions to talk with the many veterans all over the State. This extension will grant them the certainty that they can continue their efforts without fear of interruption, and will assure veterans that it will be worth their while to seek this counseling.

One of the major problems that have faced the 92 counseling centers in recent months has been this uncertainty—uncertainty over their future. As some of you may know, the VA has held back on providing the additional staffing that was provided by my proposal in the Appropriations Committee last year to increase funding for these centers by $6 million. I recently joined in a suit, along with a number of my colleagues, to force the VA to use these funds for the purpose for which they were intended. This action, in addition to the amendment, is evidence of the Congress strong support for the future of the readjustment counseling program and centers.●

The PRESIDING OFFICER. The question is on agreeing to the committee substitute amendment, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 3499, which will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3499) to amend title 38, United States Code, to extend the Vietnam-era veterans' readjustment counseling program, to provide medical care for Vietnam veterans exposed to herbicide defoliants (including agent orange), to recover the cost of certain health care provided by the Veterans Administration, and for other purposes.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause is stricken, and the text of S. 921, as amended, is included in lieu thereof.

The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Illinois (Mr. PERCY) is necessarily absent.

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 153 Leg.]

YEAS—99

Abdnor	Garn	Mitchell
Andrews	Glenn	Moynihan
Armstrong	Goldwater	Murkowski
Baker	Gorton	Nickles
Baucus	Grassley	Nunn
Bentsen	Hart	Packwood
Biden	Hatch	Pell
Boren	Hatfield	Pressler
Boschwitz	Hawkins	Proxmire
Bradley	Hayakawa	Pryor
Bumpers	Heflin	Quayle
Burdick	Heinz	Randolph
Byrd, Harry F., Jr.	Helms	Riegle
	Hollings	Roth
Byrd, Robert C.	Huddleston	Rudman
Cannon	Humphrey	Sarbanes
Chafee	Inouye	Sasser
Chiles	Jackson	Schmitt
Cochran	Jepsen	Simpson
Cohen	Johnston	Specter
Cranston	Kassebaum	Stafford
D'Amato	Kasten	Stennis
Danforth	Kennedy	Stevens
DeConcini	Lanalt	Symms
Denton	Leahy	Thurmond
Dixon	Levin	Tower
Dodd	Long	Tsongas
Dole	Lugar	Wallop
Domenici	Mathias	Warner
Durenberger	Matsunaga	Weicker
Eagleton	Mattingly	Williams
East	McClure	Zorinsky
Exon	Melcher	
Ford	Metzenbaum	

NOT VOTING—1

Percy

So the bill (H.R. 3499) was passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read as follows:

A bill to amend title 38, United States Code, to extend the authority to provide certain contract hospital care and medical services in Puerto Rico, the Virgin Islands and other territories, to remove a limitation on certain dental care entitlement, to extend the period for Vietnam-era veterans to request readjustment counseling, to clarify eligibility for delimiting period extensions for vocational rehabilitation and GI Bill benefits based on disability, to extend the program of veterans' readjustment appointments in the Federal Government, to extend for two years for certain educationally disadvantaged, unskilled or unemployed Vietnam-era veterans the period of time in which GI Bill benefits may be used for the pursuit of certain training, and to provide certain health-care eligibility and outpatient care priority to veterans for disabilities linked to their exposure to agent orange, other specified toxic substances in Vietnam, or to nuclear weapons test radiation; to authorize expansion of an epidemiological study regarding veterans exposed to agent orange; and for other purposes.

Mr. SIMPSON. Mr. President, I ask unanimous consent that H.R. 3499, as amended, be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I ask unanimous consent that S. 921 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senator from Wisconsin (Mr. KASTEN) be added as a cosponsor to amendments numbered 59 and 61, as modified or amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, at the conclusion of the passage of this legislation, I do want to thank my good friend and colleague from California, the committee's ranking minority member, Senator CRANSTON, for his fine assistance, as is usual with him, on this measure both during committee action and now here on the floor. I have been privileged to enjoy a most pleasant and productive relationship with AL since I came to the U.S. Senate and to the Veterans' Affairs Committee, first as ranking minority member and now as chairman.

I think that relationship and the mutual respect shown by our fine staffs is what makes the committee efforts both in legislation and oversight activity so successful.

Admittedly, we do scrap a bit, but our mission is clear and we fill it.

I also wish to thank the other members of the committee on both sides of the aisle for their great cooperation and assistance, particularly my two senior colleagues of the majority, STROM THURMOND and BOB STAFFORD. Both of those two fine senior Senators have been most helpful to this freshman Senator in my role as committee chairman of this standing committee.

Mr. President, I also wish to thank my colleagues from Rhode Island (Mr. CHAFEE), Wisconsin (Mr. PROXMIRE), and from South Dakota (Mr. PRESSLER) for their sincere efforts on behalf of our Nation's veterans, as were so well demonstrated by the amendments they developed for inclusion in this legislation.

I wish to pay particular note to the staff of the committee, both majority and minority staff, who did such capable

and efficient work on this measure, including Garner Shriver, committee general counsel, John Pressly, committee associate general counsel, Bill Brew, special counsel, and my strong right hand Ken Bergquist, committee chief counsel, all of whom were so ably supported by Harold Carter, editorial director, Carol Deangelus, administrative officer, and by Becky Hucks and Laurie Altemost. On the minority staff, Jon Steinberg, Ed Scott, Babettee Polzer, and Molly Milligan all performed their services with their usual excellence and I thank them.

Mr. President, I believe the measure which the Senate has just approved, together with the amendments on which we voted moments ago, is now forged into a very important and timely measure, especially as it provides for important and very necessary changes in programs and activities directed to Vietnam-era veterans, and I appreciate the support of my colleagues.

INTELLIGENT COST CUTTING

Mr. MATHIAS. Mr. President, everyone who has been invited to deliver a commencement address at a college or university knows that it is a demanding experience. But for most of us it is a one-time effort. The likelihood of being asked to return to a campus for a second commencement speech is about the same as being struck twice by lightening on the same spot. I have great respect, therefore, for the ability of an annual commencement speaker to be fresh, pertinent, and interesting.

Such a speaker is Derek C. Bok, the president of Harvard University. His address at Harvard's commencement exercises earlier this month was to education what the President's state of the Union message is to the Nation. It was a definitive examination of the strengths and weaknesses of American education and a cogent analysis of where budget-cutting would do little damage and where it would do monumental damage.

Derek Bok's recommendations on how Federal support to education should be allocated should be must reading for all of us concerned with getting the most out of limited Federal funds for education. He sounds one note that is of special concern: The need to improve the dialog between Government and representatives of our universities. As Dr. Bok points out:

> Without a better dialog, we endanger the leadership in science and education so essential to the nation's welfare. The consequences of our mistakes will never appear in any balance sheet; they will emerge very slowly over many years.

I ask unanimous consent that Dr. Bok's very important commencement speech be inserted at this point in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

COMMENCEMENT ADDRESS BY DEREK C. BOK

For me, this occasion marks the end not only of another commencement but of a full ten years of service in this office. For all of us, it has been a trying and tumultuous decade, beginning in a time of war and protest and proceeding through the revelations of Watergate, the resignation of a President, the formation of OPEC, the soaring growth of interest rates and inflation, and the long incarceration of the hostages in Iran. Amid these shocks and surprises, we have had few triumphs and known few heroes. If there is any legacy from the seventies, it is a deep concern over the Nation's ability to manage its problems and maintain its strength and forward motion.

The end of the decade has brought a sharp reaction. A new President has taken office determined to move forward in a markedly different way. His programs are controversial and his remedies still untried. But, whether we agree or disagree with what he proposes, his election does reveal a broad consensus in support of certain basic propositions.

Most Americans now agree that the Nation has not been functioning well and that a major effort will be needed to rally the country and energize its institutions.

After many frustrations and disappointments, most Americans also seem to agree that the government has attempted to do too much and that private institutions and individuals must assume greater initiative if we are to succeed in regaining our momentum.

In short, this country has embarked upon a search for some new definition of the respective responsibilities of the public and private sector in a common quest for greater progress and prosperity.

As this new era begins, it is fitting for Harvard and other major universities to consider what role they should play in this new national effort. By saying this, of course, I do not mean to ignore the traditional goals to which all universities must be directed. Harvard's purpose is not entirely, or even primarily, to address immediate social issues but to serve the larger ends of expanding knowledge, preserving culture, and helping individuals to live fuller, more inquiring lives.

And yet, if the society is to resolve its problems, it will surely need the help of many able, well-prepared people, and it will also require new ideas and fresh discoveries. For better or for worse, universities represent the country's principal source both for preparing talented people and for producing new knowledge. As a result, we have a duty to use our resources not only to serve the larger ends of learning and culture but to address society's more pressing needs.

Over the past few years, we have been carefully reviewing our aims and activities, especially in the professional schools, with these social responsibilities clearly in mind.

The Faculty of Education, for example, at a time of wide dissatisfaction with the quality of public education, has redirected its efforts to bear more heavily on the problems of our public schools. We have developed a new curriculum to train those who plan and administer our systems of education at the state and metropolitan level. And we are also preparing a fresh array of programs for principals and headmasters of individual schools. These new initiatives are not randomly chosen. They have been selected deliberately to focus our efforts on those participants in public schooling who have the greatest opportunity to exercise leadership and bring about constructive change.

In Medicine and Public Health, we have tried to address the increasing public concern over the staggering costs of medical care. Since a dollar of prevention can avoid many dollars of cure, we are strengthening our efforts in toxicology, nutrition, and environmental health. We have developed extensive new programs to train those who plan and administer our extraordinarily complex systems of health care. And we are using new methods to evaluate medical technology and practices in order to achieve greater efficiency in the provision of acute tertiary care.

In our School of Government, we have launched an even larger experiment to provide a more rigorous professional education than has ever been devised for those who seek responsible careers in public service. We have programs not only for recent college graduates at the beginning of their government career but for congressmen, mayors, generals, admirals, and established public officials at the federal, state, and local levels. By attracting able students and providing them with the best attainable professional training, we mean to supply whatever education can provide to help meet the public demand to improve the quality of our government.

In the years ahead, it is clearly our duty to continue and strengthen similar efforts throughout the University.

For example, in our Law School, it will not be enough simply to prepare competent practitioners, important as that may be. The nation is not interested merely in competent lawyers; it is properly concerned about a legal system that is extraordinarily expensive and cumbersome for private institutions while often inaccessible and ineffective for large numbers of the poor and middle class. If our law faculty is to exercise leadership, it must find a way to address these important problems.

In the same fashion, the Business School cannot occupy itself entirely with the preparation of able general managers. It must press forward with the efforts already under way to explore the major problems of the corporate sector in our society—how to increase the rate of productivity and technological change; how to resolve the ethical dilemmas of corporate life; how business and government can work more effectively together; how corporations can be held accountable in a society where competition does not provide a perfect discipline and traditional government controls seem so imperfect and unsatisfactory.

Elsewhere in the University, we must seek to address other important human problems, ever mindful of the fact that as an independent institution, it is our special responsibility to attend to issues that are truly fundamental to the society in the long run, whether or not they happen to enjoy much public favor at the moment.

Specifically, we must continue to work at the problems of arms limitation, recognizing that the threat of mutual annihilation remains the single greatest danger to the survival of our civilization.

We must continue to devote our time and energy to the problems of population and economic development, remembering that poverty in the underdeveloped world represents the greatest source of human suffering and a principal threat to peace and stability in the world.

We must continue to reach out to attract the ablest students we can find in our minority populations, recognizing that the preparation of able Blacks and Hispanics for responsible positions in society represents the surest path to greater racial equality and understanding.

In moving forward on this broad agenda, we can accomplish much of what is needed through our own resources with the help of our alumni and friends. But like it or not, we have learned over the past thirty years that universities cannot fully meet society's needs without assistance from the federal government. Early in the postwar period, we found that research in the physical, biological, and medical sciences could only progress satisfactorily with substantial government support. Some years later, higher education found it impossible to accommodate huge increases in the student population without

federal assistance to train more Ph.D.'s and build new dormitories and classrooms. More recently, Congress has provided major support to achieve the ambitious goal of enabling all young people to have access to higher education in institutions appropriate to their needs.

By and large, these programs of federal support have achieved their purposes, so much so that American science and American universities have come to be widely recognized as preeminent in the world. Today, however, the role of government is being reassessed, and a judgment has been made that public expenditures should be curtailed. In this environment, universities must bear their full share of the sacrifices. We cannot expect the government to balance our budgets nor can we look to Washington to support activities and programs simply because they are valued by our professors or helpful to our students.

As citizens, however, we should expect the government to assure the continuation of functions that are truly important to the welfare of society, especially when these functions cannot be discharged satisfactorily by private means alone. In a society so dependent on knowledge and able people, two responsibilities seem especially critical.

To begin with, the federal government should make certain that our ablest and most promising young men and women have the opportunity to obtain the best possible preparation for callings that are important to a healthy, progressive society.

In addition, the federal government must take steps to insure that the highest quality of research can proceed in broad fields of inquiry that are important to the welfare of the nation.

Neither of these functions should be looked upon as assistance for the private needs of our universities. Instead, they represent essential investments in the future strength and vitality of the country and should be justified on that basis.

From this perspective, what are we to make of the proposals presently being considered by the Congress and the new administration? Have they gone far enough in reducing waste and cutting back on nonessential programs? And will they maintain the support that is critical to preserve the quality of education and research in fields important to our common welfare?

As we examine what is being proposed, many cutbacks seem eminently sensible. To choose but one illustration, no one who is serious about the need for fiscal restraint can protest the fact that well-to-do parents will no longer be allowed to take advantage of federally subsidized student loans. Other cuts will be painful but understandable. For example, the government has long given several thousand dollars to our medical schools for each student enrolled. We have benefited from these funds and have tried to use them well, yet I could not honestly assert that the quality of education available to doctors will decline significantly if these grants are brought to an end.

On the other hand, other proposals have been made which raise more serious concerns. For example, the administration has called for drastic cuts in student aid that could increase the cost of repaying educational loans by more than fifty percent. These added burdens will be difficult enough for undergraduates. But they will be particularly severe for students seeking to go on to graduate or professional schools after accumulating debts that often run to 10,000 dollars or more. For many of these students, the consequences will be clear. Either they will turn in greater numbers to careers in medicine, law, and business where they can expect to earn large starting salaries to repay their debts; or they will seek to enroll, not in the institutions they prefer, but in schools that offer an education at the least possible cost. In either case, the nation will suffer. Many able students will abandon plans to enter the ministry, or government service, or public-school teaching—despite an acute national need to attract greater talent into these callings. Other able men and women who still seek to enter these vocations will be unable to obtain the best preparation but will settle instead for the least expensive training.

These problems strike with particular force on those who are considering a life of science or scholarship. It is true that the nation has produced too many Ph. D.'s over the past ten years and that the prospects for a career in academic life are very dim indeed. At such a time, no one would argue that the government should mount a broad-based program to support large numbers of doctoral students. But the nation still retains a vital stake in continuing to attract to university faculties that small number of unusual people with the special talent to make important contributions to knowledge. If anything, this need has become even more critical today. Too few of us realize how much the success of American science has depended on the wealth of outstanding talent that came to us from Europe during the decades that surrounded World War II. Today, that source of talent has largely disappeared. If we cannot replace it with exceptional, young investigators of our own, the quality of our universities and the vitality of our scientific work is bound to diminish. In these circumstances, it is surely shortsighted to abolish the program of National Science Foundation fellowships that supports the 500 ablest young people each year for advanced study in the sciences. If students of this caliber are not encouraged to enter careers of research, we may lose forever the contributions they might make to fields of knowledge essential to the nation's progress.

Other proposals under consideration pose further threats to the quality of research in this country. Over the past fifteen years, federal appropriations for basic research have at least held their own in constant dollars. But federal funds for scientific instruments and facilities have fallen by more than fifty percent in real terms even as the costs of equipment and laboratory renovation have been rising much faster than the cost of living. The effects of this process are now becoming painfully clear. We know that the average age of the equipment in our university laboratories has grown to twice that of the major industrial laboratories.

We also know that the quality of our facilities has fallen even further behind the better laboratories in Western Europe and Japan. Despite these facts, added funds for scientific equipment have been stricken entirely from the budget. We should not delude ourselves about the consequences. The Nobel Prizes that our scientists are now receiving in such abundance almost always reward discoveries made at least a decade in the past. If our laboratories continue to deteriorate, our accomplishments will look very different when they are judged a decade hence. Without modern equipment, investigators cannot do their best work. If we neglect our facilities, the initiative in science will simply pass to other countries that have chosen to make a more determined effort to provide the best environment for scientific work.

A final cause for concern arises from the sudden decision to reduce federal funds for the social sciences by a full 75 percent. Now we can all agree that social science research is extremely difficult and that efforts to understand human behavior are often disappointing in their results. Even so, the fruits of such research are in evidence everywhere. The very means employed by the government to measure the gross national product, the rate of inflation, or the increase in productivity—the very methods used to forecast economic growth and unemployment, to estimate the deficit in the federal budget, to survey public opinion—even our knowledge about the burdens of government regulation and the basis for regulatory reform—are all the products of social science research.

At present our ignorance about many social phenomena is acute, and such ignorance costs us dearly. We know too little about the reasons for changes in productivity, yet the decline in our productivity is a subject of intense national concern. We lack the knowledge to minimize unemployment, yet every added percentage point in the unemployment rate costs us 70 billion dollars each year. I need not speak of the price we pay for our failure to comprehend the causes of crime, or the motivations that lead millions to indulge in habits injurious to their health, or the learning difficulties that consign so many children to a state of functional illiteracy.

Although the problems in carrying out such research are very great, the costs of ignorance are even greater. In such circumstances, it would be unfortunate not to make the modest investments required to continue research of the highest quality.

In making these remarks, I do not mean to join the parade of special pleaders seeking lower government appropriations for all institutions save their own. In higher education, the issue is not how much federal support to provide but how it should be allocated. Even as the government considers the spending cuts I have described, further proposals have been made to offer a tax credit of five hundred dollars per family for each student attending a college or university. The resulting loss of tax revenues would exceed three billion dollars per year. No one knows how much of this money would benefit the families of America and how much would accrue to colleges and universities through larger increases in tuition. In either case, the funds involved would pass to taxpayers and universities without regard to need and with little heed for the contribution that such sums would make to the progress and vitality of the society. At a time of fiscal austerity, I would question a decision to use public resources in this manner while neglecting less expensive programs that represent a more important investment in the future welfare of the country. (I do not address these remarks to the separate question of providing tax credits to offset tuition for private primary and secondary schools.)

The problems I have described remind us how important it is to build an effective partnership between the government and our universities, especially in a nation so dependent on new discoveries and able people. In the past, this partnership has suceeded in its major task of lifting American research and higher education to levels unparalleled in the world. And yet, we must acknowledge that mistakes have been made, at times by spending too much federal money and at times by appropriating too little.

Such errors are always unfortunate. During times of austerity, they become particularly costly. And yet, current procedures give us little assurance that public resources will be expended wisely. Critical choices are made by the Office of Management and Budget and by Congressional staff with insufficient knowledge of their impact on important educational needs. At the same time, representatives of our universities testifying before the Congress often assume an adversary role and defend each program and subsidy with too little regard for its true contribution to society. If we are to improve

the quality of the results, a better procedure must be devised. It is the government's responsibility to decide how much money can be spent and to defines the larger goals of education and research to which these funds should be directed. But spokesmen knowledgeable in science and education must have a better opportunity to engage in careful discussions to enlighten the government in deciding how to expend the sums available to achieve its public purposes. Through such a process, universities can make a genuine contribution to the nation's welfare even in time of fiscal restraint. Without a better dialogue, we endanger the leadership in science and education so essential to the nation's welfare. The consequences of our mistakes will never appear in any balance sheet; they will emerge very slowly over many years. But emerge they will, and the results will cost us dearly. As Alfred North Whitehead once declared:

"In the conditions of modern life, . . . the race which does not value trained intelligence is doomed. Today we maintain ourselves. Tomorrow, science will have moved forward yet one more step, and there will be no appeal from the judgment which will be pronounced on the uneducated."

In the interests of the country, it is important never to allow ourselves to suffer this fate.

Mr. SIMPSON. Mr. President, that certainly was a curiously provocative address by my colleague from Maryland. I will be interested to read the remarks that were presented.

RECESS UNTIL 2 P.M.

Mr. President, I believe that concludes the business of the committee before the Senate today and I believe it has been ordered that the Senate stand in recess until 2 p.m.

The PRESIDING OFFICER. Under the previous order, the Senate will, therefore, stand in recess until 2 p.m. today.

Whereupon, pursuant to the previous order, the Senate, at 1:04 p.m. recessed until 2 p.m.; at which time the Senate reassembled when called to order by the Presiding Officer (Mr. McCLURE).

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction of routine morning business.

Mr. BAKER. Mr. President, I understand that it may be a moment or so before the minority leader can reach the floor.

Mr. HELMS. Will the Senator yield?

Mr. BAKER. I yield the floor.

Mr. HELMS. No, I want to ask the distinguished majority leader a question. Is there a unanimous-consent agreement with reference to the Justice Department bill?

Mr. BAKER. Mr. President, there is not. The time provided, from 2 until 2:05, was designed to provide time for a colloquy between me and the minority leader on the possibility of such an agreement. The minority leader, I am advised, will be on the floor in a moment or so, and we will pursue that. It is my hope that we can turn to the Department of Justice authorization bill this afternoon. There is no time agreement on the bill, but it is our hope that we could begin debate on it. It was my request to the minority leader as well that I be given the authority, after consulting with him, to call up the Department of State authorization bill at any time on tomorrow, and then to resume consideration of the Department of Justice authorization bill for the balance of this week, if necessary.

Mr. HELMS. So the Justice Department bill not be called up until the colloquy between the leadership.

Mr. BAKER. The distinguished Senator from North Carolina is correct.

Mr. HELMS. I thank the Senator.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended until 2:15 under the same terms and conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, once again I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that I may proceed as in morning business for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—ORDER OF LEGISLATIVE PROCEDURE

Mr. BAKER. Mr. President, the minority leader is now on the floor, and I believe it is correct to say that Senators on both sides of the aisle have just concluded their caucuses. I know on our side our caucus dealt in part with how to arrange the schedule of debate and business of the Senate throughout the remainder of this week.

As I indicated earlier today, it is my hope that we could proceed in a few moments to the consideration of the Department of Justice authorization bill, and to proceed tomorrow at some point to the consideration of the Department of State authorization bill.

Let me propound a unanimous-consent request now, Mr. President, if I may, and it will provide the framework then perhaps for us to discuss the matter further or to arrange the sequence of events.

Mr. President, I ask unanimous consent that at the conclusion of the time just provided for the transaction of routine morning business that the Senate proceed immediately to the consideration of the Department of Justice authorization bill. I ask unanimous consent, Mr. President, that, further, at any time after the Senate proceeds to the consideration of the Department of Justice authorization bill, and after consultation with the minority leader, the majority leader be empowered to temporarily lay aside the Department of Justice authorization bill and proceed to the consideration of the Department of State authorization bill; with the further proviso that at the conclusion of that consideration and disposition of the Department of State authorization bill, the Senate resume immediately consideration of the Department of Justice authorization bill.

That concludes my request, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, will the distinguished majority leader alter his request so as to provide that beginning with the session on tomorrow the majority leader, after consultation with the minority leader, may at any time proceed to take up the Department of State authorization bill, so that the Senate will be assured today that the Senate will be on the Department of Justice authorization bill?

Mr. BAKER. Yes. In reply to the distinguished minority leader I would be happy to do that, and I revise my request so that it should read at any time on Wednesday, tomorrow, after consulting with the minority leader that the majority leader be empowered to move to lay aside temporarily the Department of Justice authorization bill, if the same still be before the Senate, and proceed to the consideration of the Department of State authorization bill, with the same proviso about resumption of consideration of the Department of Justice authorization bill if the same has not been disposed of.

Mr. ROBERT C. BYRD. Mr. President, I thank the majority leader, and I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. McCLURE). The Chair, on behalf of the Vice President, pursuant to Public Law 84–944, appoints the following Senators to the Senate Office Building Commission: the Senator from Vermont (Mr. STAFFORD), chairman; the Senator from Tennessee (Mr. BAKER); the Senator from New Mexico (Mr. DOMENICI); the Senator from Maryland (Mr. MATHIAS); and the Senator from Florida (Mrs. HAWKINS).

Mr. BAKER. Mr. President, may I inquire if there is further morning business?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. There being no further request for further morning business, morning business is closed.

DEPARTMENT OF JUSTICE AUTHORIZATIONS, 1982

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the Department of Justice authorization bill. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 951) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with amendments as follows:

On page 2, line 14, strike "Administration: $37,653,000." and insert the following: Administration;

(C) financial assistance to joint State and joint State and local law enforcement agencies engaged in cooperative enforcement efforts with respect to drug related offenses, organized criminal activity and all related support activities, not to exceed $12,576,000, and to remain available until expended: $50,229,000.

On page 3, line 19, strike "$176,702,000" and insert "$127,136,000";

On page 4, after line 16, insert the following:

"(5) for the Antitrust Division for its activities: $49,566,000";

On page 4, line 19, strike "(5)" and insert "(6)";

On page 5, line 6, strike "aircraft: $291,206,000" and insert the following: "aircraft"; and

(F) not less than $105,992,000, and positions for criminal litigation including the review of all allegations of violations of Federal criminal law and the prosecution of all offenses which merit Federal prosecution: $292,592,000.

On page 5, line 12, strike "(6)" and insert "(7)";

On page 6, line 10, strike "(7)" and insert "(8)";

On page 6, line 13, after "law", insert the following: contracting for expert witnesses according to the procedure authorized by Section 904 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 544),

On page 6, line 20, strike "(8)" and insert "(9)";

On page 6, line 23, strike "(9)" and insert "(10)";

On page 8, after line 7, insert the following:

(K) not to exceed $1,000,000 shall be made available for the purpose of carrying out the provisions of section 18 of this Act:

On page 8, line 11, strike "$739,014,000" and insert "$745,131,000";

On page 8, line 18, strike "(10)" and insert "(11)";

On page 10, line 15, strike $363,376,000" and insert $377,067,000";

On page 12, line 15, strike "authorized:", and insert the following:

(N) not less than $14,779,000 and positions for State and Local Task Forces which coordinates the enforcement of drug investigations, primarily heroin trafficking, with selected State and local law enforcement agencies:

On page 12, line 22, strike "$228,524,000" and insert "$234,444,000";

On page 13, line 3, strike "(12)", and insert "(13)";

On page 20, line 19, strike "$228,524,000", and insert "$234,444,000";

On page 22, beginning with line 9, strike through and including page 23, line 2, and insert the following:

SEC. 10. (a) That section 569(b) of title 28, United States Code, is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the United States marshals shall execute all lawful writs, process and orders issued under authority of the United States, and command all necessary assistance to execute their duties.

"(2) Service of complaints, summonses, and subpoenas shall not be performed by the United States marshals on behalf of any party other than the United States unless performed pursuant to—

"(A) section 1915 of this title or any other express statutory provision, or

"(B) an order issued by the court stating that it has concluded that service of a complaint, summons, or a subpoena should be made by the United States marshal in order to properly effect service;

(b) That section 1921 of title 28, United States Code, is amended to read as follows:

"(a)(1) Except as otherwise provided, the United States marshals or deputies shall collect, and a court may tax as costs, the fees for the following:

"(A) Serving a writ of possession, partition, execution, attachment in rem, or libel in admiralty, warrant, attachment, summons, capias, or any other writ, order, or process in any case or proceeding.

"(B) Serving a subpoena or summons for a witness or appraiser.

"(C) Forwarding any writ, order, or process to another judicial district for service.

"(D) The preparation of any notice of sale, proclamation in admiralty, or other public notice or bill of sale.

"(E) The keeping of attached property (including boats, vessels, or other property attached or libeled, actual expenses incurred, such as storage, moving, boat hire, or other special transportation, watchmen's or keepers' fees, insurance, and an hourly rate for each deputy marshal required for special services, such as guarding, inventorying, and moving.

"(F) Copies of writs or other papers furnished at the request of any party.

"(G) Necessary travel in serving or endeavoring to serve any process, writ, or order, except in the District of Columbia, with mileage to be computed from the place where service is returnable to the place of service or endeavor.

"(2) The marshals shall collect, in advance, a deposit to cover the initial expenses for special services required under subparagraph (E), and periodically thereafter such amounts as may be necessary to pay such expenses until the litigation is concluded. This paragraph applies to all private litigants, including seamen proceeding pursuant to section 1916 of this title.

"(3) For purposes of subparagraph (G), if two or more services or endeavors, or if an endeavor and a service, are made in behalf of the same party in the same case on the same trip, mileage shall be computed to the place of service or endeavor which is most remote from the place where service is returnable, adding any additional mileage traveled in serving or endeavoring to serve in behalf of that party. If two or more writs of any kind, required to be served in behalf of the same party on the same person in the same case or proceeding, may be served at the same time, mileage on only one such writ shall be collected.

"(b) The Attorney General shall prescribe from time to time regulations for the fees to be collected and taxed under subsection (a).

"(c)(1) For seizing or levying on property (including seizures in admiralty), disposing of such property by sale, setoff, or otherwise and receiving and paying over money, the United States marshals or deputies shall collect commissions of 3 per centum of the first $1,000 collected and 1½ per centum on the excess of any sum over $1,000, except that the amount of the commission shall be within the range set by the Attorney General. If the property is not disposed of by marshal's sale, the commission shall be in such amount, within the range set by the Attorney General, as may be allowed by the court. In any case in which the vessel or other property is sold by a public auctioneer, or by some party other than the marshal or his deputy, the commission authorized under this subsection shall be reduced by the amount paid to such auctioneer or other party. This subsection applies to judicially ordered sales and execution sales, without regard to whether the judicial order of sale constitutes a seizure or levy within the meaning of State law.

"(2) The Attorney General shall prescribe from time to time regulations which establish a minimum and maximum amount for the commissions collected under paragraph (1).

"(d) The United States marshals may require a deposit to cover any of the fees and expenses prescribed under this section.".

(c) Without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), the U.S. Marshals Service is authorized to credit amounts from fees collected for the service of civil process, including complaints, summonses, subpoenas, and similar process performed by the Marshals to its current appropriation account for the purpose, only, of carrying out those activities.

(d) The amendments made by this Act shall take effect on enactment.

SEC. 11. During the fiscal year for which appropriations are authorized by this Act, each organization of the Department of Justice, through the appropriate office within the Department of Justice, shall notify in writing the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, other appropriate committees, and the ranking minority members thereof, not less than fifteen days before—

(1) reprograming of funds in excess of $250,000 or 10 per centum, whichever is less, between the programs within the offices, divisions, and boards as defined in the Department of Justice's program structure submitted to the Committee on the Judiciary of the Senate and the House of Representatives,

(2) reprograming of funds in excess of $500,000 or 10 per centum, whichever is less, between programs within the Bureaus as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and the House of Representatives,

(3) any reprograming action which involves less than the amounts specified in paragraphs (1) and (2) if such action would have the effect of making significant program changes and committing substantive program funding requirements in future years,

(4) increasing personnel or funds by any means for any project or program for which funds or other resources have been restricted,

(5) creation of new programs or significant augmentation of existing program,

(6) reorganization of offices or programs, and

(7) significant relocation of offices or employees.

On page 28, line 10, strike "11" and insert "12";

On page 28, line 22, strike "12" and insert "13";

On page 29, line 22, strike "sections", through and including "Code." on line 23, and insert the following: 5 U.S.C. 5542 (and section 7 of the Fair Labor Standards Act of 1938, as appropriate), 5 U.S.C. 5545, and 5 U.S.C. 5546.

On page 30, after line 23, insert the following:

SEC. 17. Section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(a)) is amended by—

(1) striking out "September 30, 1982,"; and

(2) adding after the first sentence the following new sentence: "To carry out the purposes of this title there is authorized to be appropriated $70,000,000 for the fiscal year ending September 30, 1982.".

SEC. 18. (a) (1) The Attorney General, after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, shall make arrangements with an appropriate independent entity to prepare and submit, not later than October 1, 1983, to the Committees on the Judiciary of the Senate and the House of Representatives a recommendation as to the extent, if any, the Federal Government should provide communications systems, networks, and data bases, for the distribution and use by Federal, State, local, or foreign governments or private entities, of records compiled as a result of arrests of individuals or any other criminal records. The recommendation shall include an assessment of the feasibility and advisability of continuing the National Crime Information Center (NCIC), including the Computerized Criminal History Program (CCHP), and the other criminal record operations of the Federal Bureau of Investigation (FBI) including but not limited to the criminal records operations of the FBI Identification Division and the Automated Identification System (AIDS) and if feasible and advisable a plan to improve the operations of those systems and reconcile the operational redundancies among such systems.

(2) The policy for the preparation and development of the recommendation and plan, if any, required under paragraph (1) shall be made in consultation with, and with the recommendation of, an advisory panel. The advisory panel shall be selected by the Attorney General, after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, and shall consist of representatives of the Attorney General (including the Director of the Federal Bureau of Investigation and the Director of the Bureau of Justice Statistics), representatives of the Governors of the States and other users of the systems, including parties representing the concerns of law enforcement, civil liberty, and criminal justice operations, research, and evaluation.

(3) The plan shall—

(A) determine the purposes and uses of the system and related data bases by Federal, State, and local law enforcement and criminal justice agencies, by Federal, State, and local, and foreign governments, and by private sector organizations;

(B) determine whether foreign entities and agencies other than law enforcement and criminal justice agencies should be allowed access to data contained in the system for purposes which are not related to law enforcement and criminal justice needs of the United States, and, if so, the policies and procedures for such access;

(C) determine the functional, informational, and data service requirements to meet those recommended purposes and uses, with particular regard to the intergovernmental exchange of data;

(D) establish standards for system and data integrity and quality of service, including standards for the relevancy, accuracy, reliability, and completeness of data accessible in or through the system, as well as methods for insuring that irrelevant, inaccurate, obsolete, or incomplete data is identified in a timely fashion and corrected or eliminated from the system;

(E) establish privacy, confidentiality, and security requirements that any Federal, State, or local agency, or private sector organization, shall meet in order to gain access to the system, including standards as to use, who is responsible for maintaining the data, who has access to the data, what types of data are to be maintained, mechanisms for insuring data accuracy, reliability, security and completeness, and an agreement by the State or Federal agency to be audited for compliance with such standards;

(F) require that data be submitted by all Federal law enforcement and criminal justice agencies, including data with respect to the arrest and disposition of Federal offenders;

(G) establish procedures for the audit of Federal, State, and local level programs;

(H) develop effective sanctions for misuse of data and improper distribution of data, including legislative recommendations with respect to such sanctions;

(I) provide procedures to enable an individual to have access to, review, and challenge any information pertaining to him contained within the system;

(J) provide for an annual report to Congress on the system including problems relating to the data contained in the system, the technology employed, the utility of the system, a breakdown (by level of government) of the number of files maintained in the system on multi-State offenders, Federal offenders, and single-State offenders, a breakdown (by category of users) of requests for information, and legislative and regulatory recommendations with respect to improvement of the system; and

(K) provide a timetable for the implementation of the plan, the costs of such implementation (including the costs to the Department of Justice, other Federal law enforcement and criminal justice agencies, the States, and other users of the system), and recommendations for the funding of the system.

(4) The plan shall include recommendations on—

(A) the appropriate composition and selection of a national advisory board on the planning and management of the system to ensure the utility and accountability of the system;

(B) the merits of various organizational arrangements for management of the system, including the most desirable administrative mechanism, and whether maintenance and management of the system, in whole or in part, should be by the States pursuant to Federal guidelines, the Federal Bureau of Investigation, or another organization within the Department of Justice, or a combination thereof;

(C) the separation of the Computerized Criminal History Program from the National Crime Information Center;

(D) a requirement that each State have one State-designated repository to insure compliance, and to respond and provide entries for each system;

(E) with respect to criminal history information for single-State offenders, a requirement that criminal fingerprint cards only may be included in the Federal component of the system;

(F) the definition of "multi-State offender", and appropriate policies and procedures for the maintenance of information on multi-State offenders;

(G) the establishment of an automated interstate identification index to provide identifying information to Federal and State agencies, such index to consist solely of personal identifiers of an individual, the individual's FBI number, the individual's State identification number, and a notation of the existence of a criminal fingerprint card, and not to include charge or offense data;

(H) whether message-switching of operation contained in any system should be allowed;

(I) whether the organization charged with the management of the system shall be required to return any fingerprint card and delete the index entry upon request by the submitting State;

(J) the staffing of appropriately trained personnel for the system at all levels of government;

(K) the acquisition of updated technology and equipment; and

(L) any other matter determined appropriate by the Attorney General or the advisory panel.

(5) For the purposes of paragraphs (3) and (4), the term "system" includes the NCIC, the criminal record operations of the FBI Identification Division, AIDS, CCHP, and any proposed system resulting from the merger or separation of any of such systems.

(b) Not later than October 1, 1982, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives an interim report on the implementation progress with respect to the provisions of subsection (a).

(c) None of the sums authorized to be appropriated in this title may be used for the purposes of engaging in the activity of message-switching until such time as the Committees on the Judiciary of the Senate and the House of Representatives have each approved the plan required to be submitted under subsection (a) of this section. For the purposes of this subsection, the term "message-switching" means the use of electronic equipment to receive a message, store that message until an outgoing line is available, and then retransmit the message without any direct connection between the line on which the message was received and the line on which the message is retransmitted.

SEC. 19. (a) Section 516 of title 28, United States Code, is amended by inserting "(a)" immediately before "Except as otherwise authorized".

(b) Section 516 of such title is amended by adding at the end thereof the following new subsections:

"(b) The Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a copy of each written agreement between the Department of Justice and another agency affecting the litigation authority of the Department for particular categories of cases. Each agreement shall be submitted no later than thirty days before the agreement is effective.

"(c) Unless specific statutory authority for litigation responsibility is otherwise provided, the Attorney General shall be the exclusive arbiter for the resolution of any legal dispute between two or more executive agencies or departments, including a dispute as to which agency or department shall litigate an action, administer a particular program or regulate a particular activity.

"(d) The Attorney General shall report, at the beginning of each Congress, to the Committees on the Judiciary of the Senate and of the House of Representatives on—

"(1) bills or resolutions affecting the litigation authority of the Department of Justice, of which the Attorney General is aware, that were introduced in the previous Congress but were not enacted;

"(2) the status of litigation authority in the Federal Government, including the extent to which agencies other than the Department of Justice are authorized to litigate and whether such agencies are conducting litigation by formal or informal agreement with the Department of Justice;

"(3) the Attorney General's assessment of each agreement between the Department of Justice and another agency affecting the litigation authority of the Department for particular categories of cases, including—

"(A) a description of any problems relating to any such agreement;

"(B) the steps the Attorney General intends to take to remedy those problems; and

"(C) any legislative recommendations the Department of Justice may have to improve the coordination of legal activities between the Department of Justice and its client agencies; and "(4) the efforts the Attorney General has undertaken in the preceding two years and the efforts the Attorney General expects to undertake during the forthcoming years to coordinate activities and resolve conflicts between the Department of Justice and other Federal agencies, and to increase the efficient and effective operation of Federal litigation resources.".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Justice Appropriation Authorization Act, Fiscal Year 1982".

SEC. 2. There are authorized to be appropriated for the fiscal year ending September 30, 1982, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, or subdivision thereof) the following sums:

(1) For General Administration, including—

(A) the hire of passenger motor vehicles;

(B) miscellaneous and emergency expenses authorized or approved by the Attorney General, or the Deputy Attorney General, or the Associate Attorney General, or the Assistant Attorney General for Administration;

(C) financial assistance to joint State and joint State and local law enforcement agencies engaged in cooperative enforcement efforts with respect to drug related offenses, organized criminal activity and all related support activities, not to exceed $12,576,000, and to remain available until expended: $50,229,000.

(2) For the United States Parole Commission for its activities including the hire of passenger motor vehicles: $6,461,000.

(3) For General Legal Activities, including—

(A) the hire of passenger motor vehicles;

(B) miscellaneous and emergency expenses authorized or approved by the Attorney General, or the Deputy Attorney General, or the Associate Attorney General, or the Assistant Attorney General for Administration;

(C) not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on the certificate of the Attorney General;

(D) advance of public moneys under section 3648 of the Revised Statutes (31 U.S.C. 529);

(E) pay for necessary accommodations in the District of Columbia for conferences and training activities;

(F) the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals: $127,136,000.

(4) For the Foreign Claims Settlement Commission for its activities, including—

(A) services as authorized by section 3109 of title 5, United States Code;

(B) expenses of packing, shipping, and storing personal effects of personnel assigned abroad;

(C) rental or lease, for such periods as may be necessary, of office space and living quarters for personnel assigned abroad;

(D) maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties;

(E) advances of funds abroad;

(F) advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission;

(G) the hire of motor vehicles for field use only; and

(H) the employment of aliens: $705,000.

(5) For the Antitrust Division for its activities: $49,566,000.

(6) For United States Attorneys, Marshals, and Trustees, including—

(A) purchase of firearms and ammunition;

(B) lease and acquisition of law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year;

(C) supervision of United States prisoners in non-Federal institutions;

(D) bringing to the United States from foreign countries persons charged with crime;

(E) acquisition, lease, maintenance, and operation of aircraft; and

(F) not less than $105,992,000, and positions for criminal litigation including the review of all allegations of violations of Federal criminal law and the prosecution of all offenses which merit Federal prosecution: $292,592,000.

(7) For Support of United States Prisoners in non-Federal institutions, including—

(A) necessary clothing and medical aid, payment of rewards, and reimbursements to Saint Elizabeths Hospital for the care and treatment of United States prisoners, at per diem rates as authorized by section 2 of the Act entitled "An Act to authorize certain expenditures from the appropriations of Saint Elizabeths Hospital, and for other purposes", approved August 4, 1947 (24 U.S.C. 168a);

(B) entering into contracts or cooperative agreements for only the reasonable and actual cost to assist the government of any State, territory, or political subdivision thereof, for the necessary physical renovation, and the acquisition of equipment, supplies, or materials required to improve conditions of confinement and services of any facility which confines Federal detainees, in accordance with regulations to be issued by the Attorney General and which are comparable to the regulations issued under section 4006 of title 18, United States Code: $25,600,000.

(8) For Fees and Expenses of Witnesses, including expenses, mileage, compensation, and per diem of witnesses in lieu of subsistence, as authorized by law, contracting for expert witnesses according to the procedure authorized by Section 904 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 544), including advances of public moneys: $29,421,000. No sums authorized to be appropriated by this Act shall be used to pay any witness more than one attendance fee for any one calendar day.

(9) For the Community Relations Service for its activities including the hire of passenger motor vehicles: $5,313,000.

(10) For the Federal Bureau of Investigation for its activities, including—

(A) expenses necessary for the detection and prosecution of crimes against the United States;

(B) protection of the person of the President of the United States and the person of the Attorney General;

(C) acquisition, collection, classification and preservation of identification and other records and their exchange with, and for the official use of, the duly authorized officials of the Federal Government, of States, cities, and other institutions, such exchange to be subject to cancellation if dissemination is made outside the receiving departments or related agencies;

(D) such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General;

(E) purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles;

(F) acquisition, lease, maintenance, and operation of aircraft;

(G) purchase of firearms and ammunition;

(H) payment of rewards;

(I) not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and to be accounted for solely on the certificate of the Attorney General;

(J) classification of arson as a part I crime in its Uniform Crime Reports;

(K) not to exceed $1,000,000 shall be made available for the purpose of carrying out the provisions of section 18 of this Act: $745,131,000 of which $5,000,000 for automated data processing and telecommunications and $600,000 for undercover operations shall remain available until September 30, 1983. None of the sums authorized to be appropriated by this Act for the Federal Bureau of Investigation shall be used to pay the compensation of any employee in the competitive service.

(11) For the Immigration and Naturalization Service, for expenses necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including—

(A) advance of cash to aliens for meals and lodging while en route;

(B) payment of allowances to aliens, while held in custody under the immigration laws, for work performed;

(C) payment of expenses and allowances incurred in tracking lost persons as required by public exigencies in aid of State or local law enforcement agencies;

(D) payment of rewards;

(E) not to exceed $50,000 to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General and accounted for solely on the certificate of the Attorney General;

(F) purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles;

(G) acquisition, lease, maintenance, and operation of aircraft;

(H) payment for firearms and ammunition and attendance at firearms matches;

(I) operation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto;

(J) refunds of maintenance bills, immigration fines, and other items properly returnable except deposits of aliens who become public charges and deposits to secure payment of fines and passage money;

(K) payment of interpreters and translators who are not citizens of the United States and distribution of citizenship textbooks to aliens without cost to such aliens;

(L) acquisition of land as sites for enforcement fences, and construction incident to such fences;

(M) research related to immigration enforcement which shall remain available until expended: $377,067,000 of which not to exceed $100,000 may be used for the emergency replacement of aircraft upon the certificate of the Attorney General.

(12) For the Drug Enforcement Administration for its activities, including—

(A) hire and acquisition of law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year;

(B) payment in advance for special tests and studies by contract;

(C) payment in advance for expenses arising out of contractual and reimbursable agreements with State and local law enforcement and regulatory agencies while engaged in cooperative enforcement and regulatory activities in accordance with section 503a(2) of the Controlled Substances Act (21 U.S.C. 873(a)(2));

(D) payment of expenses not to exceed $70,000 to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General, and to be accounted for solely on the certificate of the Attorney General;

(E) payment of rewards;

(F) payment for publication of technical and informational material in professional and trade journals and purchase of chemicals, apparatus, and scientific equipment;

(G) payment for necessary accommodations in the District of Columbia for conferences and training activities;

(H) acquisition, lease, maintenance, and operation of aircraft;

(I) research related to enforcement and drug control to remain available until expended;

(J) contracting with individuals for personal services abroad, and such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Office of Personnel Management;

(K) payment for firearms and ammunition and attendance at firearms matches;

(L) payment for tort claims against the United States when such claims arise in foreign countries in connection with Drug Enforcement Administration operations abroad;

(M) not to exceed $1,700,000 for purchase of evidence and payments for information (PE/PI) to remain available until the end of the fiscal year following the year in which authorized;

(N) not less than $14,779,000 and positions for State and Local Task Forces which coordinates the enforcement of drug investigations, primarily heroin trafficking, with selected State and local law enforcement agencies:

$234,444,000. For the purpose of section 709(b) of the Controlled Substances Act (21 U.S.C. 904(b)), such sums shall be deemed to be authorized by section 709(a) of such Act, for the fiscal year ending September 30, 1982.

(13) For the Federal Prison System for its activities including—

(A) for the administration, operation, and maintenance of Federal penal and correctional institutions, including supervision and support of United States prisoners in non-Federal institutions, and not to exceed $100,000 for inmate legal services within the system;

(B) purchase and hire of law enforcement and passenger motor vehicles;

(C) compilation of statistics relating to prisoners in Federal penal and correctional institutions;

(D) assistance to State and local governments to improve their correctional systems;

(E) purchase of firearms and ammunition and medals and other awards;

(F) payment of rewards;

(G) purchase and exchange of farm products and livestock;

(H) construction of buildings at prison camps and acquisition of land as authorized by section 4010 of title 18 of the United States Code;

(I) transfer to the Health Services Administration of such amounts as may be necessary, in the discretion of the Attorney General, for the direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions;

(J) for Federal Prison Industries, Incorporated, to make such expenditures, within the limits of funds and borrowing authority, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase and hire of passenger motor vehicles;

(K) for planning, acquisition of sites and construction of new facilities, and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, to remain available until expended, and the labor of United States prisoners may be used for work performed with sums authorized to be appropriated by this clause; and

(L) for carrying out the provisions of sections 4351 through 4353 of title 18 of the United States Code, relating to a National Institute of Corrections, to remain available until expended: $383,784,000.

SEC. 3. Sums authorized to be appropriated by this Act may be used for—

(a) the travel expenses of members of the family accompanying, preceding, or following an officer or employee if, while he is en route to or from a post of assignment, he is ordered temporarily for orientation and training or is given other temporary duty;

(b) benefits authorized under section 901 (5), (6)(A), (8), and (9) and section 904 of the Foreign Service Act of 1980 (22 U.S.C. 4081 (5), (6)(A), (8), and (9) and 22 U.S.C. 4084), and under the regulations issued by the Secretary of State.

SEC. 4. (a) Sums authorized to be appropriated by this Act which are available for expenses of attendance at meetings shall be expended for such purposes in accordance with regulations issued by the Attorney General.

(b) Sums authorized to be appropriated by this Act may be used for the purchase of insurance for motor vehicles and aircraft operated in official Government business in foreign countries.

(c) Sums authorized to be appropriated by this Act for salaries and expenses shall be available for services as authorized by section 3109 of title 5 of the United States Code.

(4) Sums authorized to be appropriated by this Act to the Department of Justice may be used, in an amount not to exceed $35,000 for official reception and representation expenses in accordance with distributions, procedures, and regulations issued by the Attorney General.

(e) There are authorized to be appropriated for the fiscal year ending September 30, 1982, such sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nodiscretionary costs.

(f) Sums authorized to be appropriated for "Salaries and expenses, General Administration", "Salaries and expenses, United States Attorneys and Marshals", "Salaries and expenses, Federal Bureau of Investigation", "Salaries and expenses, Immigration and Naturalization Service", and "Salaries and expenses, Bureau of Prisons" may be used for uniforms and allowances as authorized by sections 5901 and 5902 of title 5 of the United States Code.

SEC. 5. Notwithstanding the second of the paragraphs relating to salaries and expenses of the Federal Bureau of Investigation in the Department of Justice Appropriation Act, 1973 (86 Stat. 1115), sums authorized to be appropriated by this Act for such salaries and expenses may be used for the purposes described in such paragraph until, but not later than the end of the fiscal year ending September 30, 1982.

SEC. 6. (a) With respect to any undercover investigative operation of the Federal Bureau of Investigation which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(1) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act may be used for leasing space within the United States, the District of Columbia, and the territories and possessions of the United States without regard to section 3679 (a) of the Revised Statutes (31 U.S.C. 665 (a)), section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3648 of the Revised Statutes (31 U.S.C. 529), section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c));

(2) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act may be used to establish or to acquire proprietary corporations or business entities as part of an undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to the provisions of section 304 of the Government Corporation Control Act (31 U.S.C. 869);

(3) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18 of the United States Code, and section 3639 of the Revised Statutes (31 U.S.C. 521); and

(4) the proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484);

only upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, an Executive Assistance Director) and the Attorney General (or, if designated by the Attorney General, the Deputy Attorney General) that any action authorized by paragraph (1), (2), (3), or (4) of this subsection is necessary for the conduct of such undercover operation.

(b) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraphs (3) and (4) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

(c) If a corporation or business entity established or acquired as part of an undercover operation under paragraph (2) of subsection (a) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation, as much in advance as the Director or his designee determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(d)(1) The Federal Bureau of Investigation shall conduct detailed financial audits of undercover operations closed on or after October 1, 1981, and—

(A) report the results of each audit in writing to the Attorney General, and

(B) report annually to the Congress concerning these audits.

(2) For the purposes of paragraph (1), "undercover operation" means any undercover operation of the Federal Bureau of Inves-

tigation, other than a foreign counterintelligence undercover operation—

(A) in which the gross receipts exceed $50,000, and

(B) which is exempted from section 3617 of the Revised Statutes (31 U.S.C. 484) or section 304(a) of the Government Corporation Control Act (31 U.S.C. 869(a)).

SEC. 7. Section 709(a) of the Controlled Substances Act (21 U.S.C. 904(a)) is amended—

(1) by striking out "and" after "1980", and

(2) by inserting after "1981", the following: "and $234,444,000 for the fiscal year ending September 30, 1982,".

SEC. 8. Section 511(d) of the Controlled Substances Act (21 U.S..C 881(d)) is amended by inserting "and the award of compensation to informers in respect to such forfeitures" immediately after "compromise of claims".

SEC. 9. Without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), the Drug Enforcement Administration is authorized to—

(a) set aside 25 per centum of the net amount realized from the forfeiture of seized assets and credit such amounts to the current appropriation account for the purpose, only, of an award of compensation to informers in respect to such forfeitures and such awards shall not exceed the level of compensation prescribed by section 1619 of title 19, United States Code;

(b) the amounts credited under this section shall be made available for obligation until September 30, 1983;

(c) such awards shall be based on the value of the seized property or the net proceeds from the sale of such property except that no award may be paid from or based on the value of the seized contraband; and

(d) the remaining 75 per centum of the net amount realized from the forfeiture of the seized assets referred to in subsection (a) shall be paid to the miscellaneous receipts of the Treasury;

Provided, That the authority furnished by this section shall remain available until September 30, 1983, at which time any amount of the unobligated balances remaining in this account, accumulated before September 30, 1982, shall be paid to the miscellaneous receipts of the Treasury: *And provided further,* That the Drug Enforcement Administration shall conduct detailed financial audits, semiannually, of the expenditure of funds from this account and—

(1) report the results of each audit, in writing, to the Attorney General, and

(2) report annually to the Congress concerning these audits.

SEC. 10. (a) That section 569(b) of title 28, United States Code, is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the United States marshals shall execute all lawful writs, process and orders issued under authority of the United States, and command all necessary assistance to execute their duties.

"(2) Service of complaints, summonses, and subpoenas shall not be performed by the United States marshal on behalf of any party other than the United States unless performed pursuant to—

"(A) section 1915 of this title or any other express statutory provision, or

"(B) an order issued by the court stating that it has concluded that service of a complaint, summons, or a subpoena should be made by the United States marshal in order to properly effect service;

(b) That section 1921 of title 28, United States Code, is amended to read as follows:

"(a)(1) Except as otherwise provided, the United States marshals or deputies shall collect, and a court may tax as costs, the fees for the following:

"(A) Serving a writ of possession, partition, execution, attachment in rem, or libel in admiralty, warrant, attachment, summons, capias, or any other writ, order, or process in any case or proceeding.

"(B) Serving a subpena or summons for a witness or appraiser.

"(C) Forwarding any writ order, or process to another judicial district for service.

"(D) The preparation of any notice of sale, proclamation in admiralty, or other public notice or bill of sale.

"(E) The keeping of attached property (including boats, vessels, or other property attached or libeled), actual expenses incurred, such as storage, moving, boat hire, or other special transportation, watchmen's or keepers' fees, insurance, and an hourly rate for each deputy marshal required for special services, such as guarding, inventorying, and moving.

"(F) Copies of writs or other papers furnished at the request of any party.

"(G) Necessary travel in serving or endeavoring to serve any process, writ, or order, except in the District of Columbia, with mileage to be computed from the place where service is returnable to the place of service or endeavor.

"(2) The marshals shall collect, in advance, a deposit to cover the initial expenses for special services required under subparagraph (E), and periodically thereafter such amounts as may be necessary to pay such expenses until the litigation is concluded. This paragraph applies to all private litigants, including seamen proceeding pursuant to section 1916 of this title.

"(3) For purposes of subparagraph (G), if two or more services or endeavors, or if an endeavor and a service, are made in behalf of the same party in the same case on the same trip, mileage shall be computed to the place of service or endeavor which is most remote from the place where service is returnable, adding any additional mileage traveled in serving or endeavoring to serve in behalf of that party. If two or more writs of any kind, required to be served in behalf of the same party on the same person in the same case or proceeding, may be served at the same time, mileage on only one such writ shall be collected.

"(b) The Attorney General shall prescribe from time to time regulations for the fees to be collected and taxed under subsection (a).

"(c)(1) For seizing or levying on property (including seizures in admiralty), disposing of such property by sale, setoff, or otherwise and receiving and paying over money, the United States marshals or deputies shall collect commissions of 3 per centum of the first $1,000 collected and 1½ per centum on the excess of any sum over $1,000, except that the amount of the commission shall be within the range set by the Attorney General. If the property is not disposed of by marshal's sale, the commission shall be in such amount, within the range set by the Attorney General, as may be allowed by the court. In any case in which the vessel or other property is sold by a public auctioneer, or by some party other than the marshal or his deputy, the commission authorized under this subsection shall be reduced by the amount paid to such auctioneer or other party. This subsection applies to judicially ordered sales and execution sales, without regard to whether the judicial order of sale constitutes a seizure or levy within the meaning of State law.

"(2) The Attorney General shall prescribe from time to time regulations which establish a minimum and maximum amount for the commissions collected under paragraph (1).

"(d) The United States marshals may require a deposit to cover any of the fees and expenses prescribed under this section.".

(c) Without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), the U.S. Marshals Service is authorized to credit amounts from fees collected for the service of civil process, including complaints, summonses, subpoenas, and similar process performed by the Marshals to its current appropriation account for the purpose, only, of carrying out those activities.

(d) The amendments made by this Act shall take effect on enactment.

SEC. 11. During the fiscal year for which appropriations are authorized by this Act, each organization of the Department of Justice, through the appropriate office within the Department of Justice, shall notify in writing the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, other appropriate committees, and the ranking minority members thereof, not less than fifteen days before—

(1) reprograming of funds in excess of $250,000 or 10 per centum, whichever is less, between the programs within the offices, divisions, and boards as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and the House of Representatives,

(2) reprograming of funds in excess of $500,000 or 10 per centum, whichever is less, between programs within the Bureaus as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and the House of Representatives,

(3) any reprograming action which involves less than the amounts specified in paragraphs (1) and (2) if such action would have the effect of making significant program changes and committing substantive program funding requirements in future years,

(4) increasing personnel or funds by any means for any project or program for which funds or other resources have been restricted,

(5) creation of new programs or significant augmentation of existing programs,

(6) reorganization of offices or programs, and

(7) significant relocation of offices or employees.

SEC. 12. (a) The Attorney General shall perform periodic evaluations of the overall efficiency and effectiveness of the Department of Justice programs and any supporting activities funded by appropriations authorized by this Act and annual specific program evaluations of selected subordinate organizations' programs, as determined by the priorities set either by the Congress or the Attorney General;

(b) Subordinate Department of Justice organizations and their officials shall provide all the necessary assistance and cooperation in the conduct of evaluations, including full access to all information, documentation, and cognizant personnel, as required.

SEC. 13. (a) Chapter 15 of title 11, United States Code (92 Stat. 2651 et seq.) and chapter 39 of title 28, United States Code (92 Stat. 2662 et seq.) are repealed.

(b) Section 408 of the Act entitled "An Act To Establish a Uniform Act on the Subject of Bankruptcy", approved November 6, 1978 (92 Stat. 2686), is repealed.

(c) Section 330 of title 11, United States Code (92 Stat. 2564) is amended by striking out "and to the United States Trustees.".

SEC. 14. The Act of March 2, 1931 (8 U.S.C. 1353a and 8 U.S.C. 1353b) is hereby repealed.

SEC. 15. The Immigration and Nationality

Act is amended by adding after section 283 the following new section:

"§ 283a. Reimbursement by vessels and other conveyances for extra compensation paid to employees for inspectional duties

"(a) The extra compensation for overtime services of immigration officers and employees of INS for duties in connection with the examination and landing of passengers and crews of steamships, trains, airplanes, or other vehicles arriving in the United States by water, land, or air, from a foreign port shall be paid by the master, owner, agent, or consignee of such vessel or conveyance, at the rate fixed under the applicable provisions of 5 U.S.C. 5542 (and section 7 of the Fair Labor Standards Act of 1938, as appropriate), 5 U.S.C. 5545, and 5 U.S.C. 5546.

"(b) The extra compensation shall be paid if the employee has been ordered to report for duty and has reported, whether or not the actual inspection or examination takes place: *Provided*, That this section shall not apply to the inspection at designated ports of entry of passengers arriving by international ferries, bridges, or tunnels, or by aircraft, railroad trains, or vessels on the Great Lakes and connecting waterways, when operating on regular schedules.".

SEC. 16. (a) Section 1353c of title 8, United States Code (the Act of March 4, 1921 (41 Stat. 1224), as amended), is redesignated as section 1353b of title 8, United States Code.

(b)(1) The Act of August 22, 1940, as amended (8 U.S.C. 1353d), is amended by striking the words "the Act of March 2, 1931" and inserting instead the words "section 283a of the Immigration and Nationality Act.".

(2) Section 1353d of title 8, United States Code is redesignated as section 1353c of title 8, United States Code.

(c) Section 5549 of title 5, United States Code is amended by—

(1) striking subsection (2), and

(2) redesignating subsection (3) through (5) as (2) through (4), respectively.

SEC. 17. Section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(a)) is amended by—

(1) striking out "September 30, 1982"; and

(2) adding after the first sentence the following new sentence: "To carry out the purposes of this title there is authorized to be appropriated $70,000,000 for the fiscal year ending September 30, 1982."

SEC. 18. (a)(1) The Attorney General, after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, shall make arrangements with an appropriate independent entity to prepare and submit, not later than October 1, 1983, to the Committees on the Judiciary of the Senate and the House of Representatives a recommendation as to the extent, if any, the Federal Government should provide communications systems, networks, and data bases, for the distribution and use by Federal, State, local, or foreign governments or private entities, of records compiled as a result of arrests of individuals or any other criminal records. The recommendation shall include an assessment of the feasibility and advisability of continuing the National Crime Information Center (NCIC), including the Computerized Criminal History Program (CCHP), and the other criminal record operations of the Federal Bureau of Investigation (FBI) including but not limited to the criminal records operations of the FBI Identification Division and the Automated Identification System (AIDS) and if feasible and advisable a plan to improve the operations of those systems and reconcile the operational redundancies among such systems.

(2) The policy for the preparation and development of the recommendation and plan, if any, required under paragraph (1) shall be made in consultation with, and with the recommendation of, an advisory panel. The advisory panel shall be selected by the Attorney General, after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, and shall consist of representatives of the Attorney General (including the Director of the Federal Bureau of Investigation and the Director of the Bureau of Justice Statistics), representatives of the Governors of the States and other users of the systems, including parties representing the concerns of law enforcement, civil liberty, and criminal justice operations, research, and evaluation.

(3) The plan shall—

(A) determine the purposes and uses of the system and related data bases by Federal, State, and local law enforcement and criminal justice agencies, by Federal, State, and local, and foreign governments, and by private sector organizations;

(B) determine whether foreign entities and agencies other than law enforcement and criminal justice agencies should be allowed access to data contained in the system for purposes which are not related to law enforcement and criminal justice needs of the United States, and, if so, the policies and procedures for such access;

(C) determine the functional, informational, and data service requirements to meet those recommended purposes and uses, with particular regard to the intergovernmental exchange of data;

(D) establish standards for system and data integrity and quality of service, including standards for the relevancy, accuracy, reliability, and completeness of data accessible in or through the system, as well as methods for insuring that irrelevant, inaccurate, obsolete, or incomplete data is identified in a timely fashion and corrected or eliminated from the system;

(E) establish privacy, confidentiality, and security requirements that any Federal, State, or local agency, or private sector organization, shall meet in order to gain access to the system, including standards as to use, who is responsible for maintaining the data, who has access to the data, what types of data are to be maintained, mechanisms for insuring data accuracy, reliability, security and completeness, and an agreement by the State or Federal agency to be audited for compliance with such standards;

(F) require that data be submitted by all Federal law enforcement and criminal justice agencies, including data with respect to the arrest and disposition of Federal offenders;

(G) establish procedures for the audit of Federal, State, and local level programs;

(H) develop effective sanctions for misuse of data and improper distribution of data, including legislative recommendations with respect to such sanctions;

(I) provide procedures to enable an individual to have access to, review, and challenge any information pertaining to him contained within the system;

(J) provide for an annual report to Congress on the system including problems relating to the data contained in the system, the technology employed, the utility of the system, a breakdown (by level of government) of the number of files maintained in the system on multi-State offenders, Federal offenders, and single-State offenders, a breakdown (by category of users) of requests for information, and legislative and regulatory recommendations with respect to improvement of the system; and

(K) provide a timetable for the implementation of the plan, the costs of such implementation (including the costs to the Department of Justice, other Federal law enforcement and criminal justice agencies, the States, and other users of the system), and recommendations for the funding of the system.

(4) The plan shall include recommendations on—

(A) the appropriate composition and selection of a national advisory board on the planning and management of the system to ensure the utility and accountability of the system;

(B) the merits of various organizational arrangements for management of the system, including the most desirable administrative mechanism, and whether maintenance and management of the system, in whole or in part, should be by the States pursuant to Federal guidelines, the Federal Bureau of Investigation, or another organization within the Department of Justice, or a combination thereof;

(C) the separation of the Computerized Criminal History Program from the National Crime Implementation Center;

(D) a requirement that each State have one State-designated repository to insure compliance, and to respond and provide entries for each system;

(E) with respect to criminal history information for single-State offenders, a requirement that criminal fingerprint cards only may be included in the Federal component of the system;

(F) the definition of "multi-State offender", and appropriate policies and procedures for the maintenance of information on multi-State offenders;

(G) the establishment of an automated interstate identification index to provide identifying information to Federal and State agencies, such index to consist solely of personal identifiers of an individual, the individual's FBI number, the individual's State identification number, and a notation of the existence of a criminal fingerprint card, and not to include charge or offense data;

(H) whether message-switching of information contained in any system should be allowed;

(I) whether the organization charged with the management of the system shall be required to return any fingerprint card and delete the index entry upon request by the submitting State;

(J) the staffing of appropriately trained personnel for the system at all levels of government;

(K) the acquisition of updated technology and equipment; and

(L) any other matter determined appropriate by the Attorney General or the advisory panel.

(5) For the purposes of paragraphs (3) and (4), the term "system" includes the NCIC, the criminal record operations of the FBI Identification Division, AIDS, CCHP, and any proposed system resulting from the merger or separation of any of such systems.

(b) Not later than October 1, 1982, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives an interim report on the implementation progress with respect to the provisions of subsection (a).

(c) None of the sums authorized to be appropriated in this title may be used for the purposes of engaging in the activity of message-switching until such time as the Committees on the Judiciary of the Senate and the House of Representatives have each approved the plan required to be submitted under subsection (a) of this section. For the purposes of this subsection, the term "message-switching" means the use of electronic equipment to receive a message, store that message until an outgoing line is available, and then retransmit the message without any direct connection between the line on which the message was received and the line on which the message is retransmitted.

SEC. 19. (a) Section 516 of title 28, United States Code, is amended by inserting "(a)" immediately before "Except as otherwise authorized".

(b) Section 516 of such title is amended

by adding at the end thereof the following new subsections:

"(b) The Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a copy of each written agreement between the Department of Justice and another agency affecting the litigation authority of the Department for particular categories of cases. Each agreement shall be submitted no later than thirty days before the agreement is effective.

"(c) Unless specific statutory authority for litigation responsibility is otherwise provided, the Attorney General shall be the exclusive arbiter for the resolution of any legal dispute between two or more executive agencies or departments, including a dispute as to which agency or department shall litigate an action, administer a particular program or regulate a particular activity.

"(d) The Attorney General shall report, at the beginning of each Congress, to the Committees on the Judiciary of the Senate and of the House of Representatives on—

"(1) bills or resolutions affecting the litigation authority of the Department of Justice, of which the Attorney General is aware, that were introduced in the previous Congress but were not enacted;

"(2) the status of litigation authority in the Federal Government, including the extent to which agencies other than the Department of Justice are authorized to litigate and whether such agencies are conducting litigation by formal or informal agreement with the Department of Justice;

"(3) the Attorney General's assessment of each agreement between the Department of Justice and another agency affecting the litigation authority of the Department for particular categories of cases, including—

"(A) a description of any problems relating to any such agreement;

"(B) the steps the Attorney General intends to take to remedy those problems; and

"(C) any legislative recommendations the Department of Justice may have to improve the coordination of legal activities between the Department of Justice and its client agencies; and

"(4) the efforts the Attorney General has undertaken in the preceding two years and the efforts the Attorney General expects to undertake during the forthcoming years to coordinate activities and resolve conflicts between the Department of Justice and other Federal agencies, and to increase the efficient and effective operation of Federal litigation resources.".

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, today, the Senate considers S. 951 the fiscal year 1982 authorization bill for the Department of Justice. This bill is of considerable importance since it reflects the results of a process which permits the Judiciary Committee and the Senate to scrutinize annually and approve all of the activities conducted by the Department of Justice. This process allows regular oversight of the numerous activities of the Justice Department and a better understanding of the impact of the Department's activities on this Nation's civil and criminal justice system.

Mr. President, prior to 1978, the Judiciary Committee had jurisdiction over all of the activities of the Justice Department, but the Department was not required to appear before the Judiciary Committee or the Congress on a regular basis before its programs were appropriated.

In 1978, the Congress decided to change this policy and enacted Public Law 94–503. This legislation specified that annual authorizing legislation would be necessary for the Department of Justice to qualify for an appropriation.

Pursuant to Public Law 94–503, the Attorney General, in January 1981 transmitted a detailed request for the authorization of $2,580,684,000 for fiscal year 1982. This request represented President Carter's fiscal year 1982 request for the Department of Justice.

In March 1981, the committee received a new submission from the Department to reflect President Reagan's decisions. The reestimate was a $196 million reduction in the Department of Justice program levels.

These reductions were primarily for general legal activities, U.S. attorneys and marshals, immigration, for the Federal Prison Systems and State and local grant assistance.

In most instances, the Judiciary Committee has agreed with the March request. We believe, the request reflected a genuine effort to reduce costs and supported the commitment of the President to reduce Federal spending and the Federal work force in order to promote national economic recovery.

However, there were instances where the Judiciary Committee considered a program to be of special priority and we adjusted the funding levels accordingly or provided some legislative relief to increase the effectiveness and efficiency of the program. In most instances, these adjustments were made after hearings indicated that such adjustments would be consistent with the policies of the Attorney General and the administration.

The committee has added funds to program elements directed at conducting foreign counterintelligence, patrolling the border of the United States, adjusting the immigration status of eligible aliens, and assistant State and local drug enforcement.

Mr. President, before I go any further in my statement, I wish to indicate that the Judiciary Committee has taken additional action since filing its report to conform S. 951 funding authorization levels to the instructions of the budget resolution—House Concurrent Resolution 115.

This exercise was difficult for the committee because it required that we adjust downward certain actions we felt were of considerable priority. I am pleased to report, however, that we were able to effect changes sufficient to achieve the savings included in the budget reconciliation instructions.

Mr. President, I must emphasize the importance of this legislation to the conduct of the daily activities of the Department of Justice. This bill contains authority to conduct vital Department activities in addition to authorizing amounts which can be spend for these activities. For example, the authority for the FBI to conduct certain undercover operations in all areas of their investigative responsibilities is contained in this bill. The authority to conduct research related to law enforcement; the authority by the Bureau of Prisons to expend funds for assistant State and local governments to improve their correctional systems; the authority to provide medical benefits to FBI, DEA, and INS personnel stationed abroad; and the authority for the U.S. marshals to bring to the United States from foreign countries persons charged with crime are provided by this legislation. These are but some of the critical authorities contained in S. 951. As a result, quick enactment of S. 951 is imperative.

Mr. President, as I indicated earlier, this bill incorporates some new initiatives along with authority previously granted to the Department in past authorization acts. The committee believes these initiatives are critical to the Department of Justice if it is to meet its Federal criminal and civil justice responsibilities efficiently and effectively.

Let me briefly describe some of those initiatives.

JOINT STATE AND LOCAL LAW ENFORCEMENT GRANT PROGRAMS

The committee agreed to an additional authorization of $12.5 million for State and local law enforcement grants for cooperative efforts to fight crime, especially drug related crime. Several multi-State organizations, including the Regional Organized Crime Information Center (ROCIC), are authorized to receive funds under this general category. In addition, similar organizations throughout the United States would be sustained under this modest amount of funding. The Judiciary Committee is convinced that these programs are worthwhile and deserve the limited support provided for in this legislation.

GENERAL LEGAL ACTIVITIES

This year, the committee spent a considerable amount of time examining the activities and resources of the general legal activities of the Department.

The March request had proposed an approximate 8 percent reduction in the authorized positions for the general legal activities areas from the totals originally included in the January request. The magnitude of the reduction created some concern. Therefore, the committee sought reassurance from the administration that the decrease would not adversely effect vital litigation programs.

There was concern that adequate resources were being provided for the criminal litigation functions of the Department. The Attorney General assured the committee that the new position levels generally reflected the current onboard strength of the litigating divisions and that neither the quality nor quantity of the current litigative efforts would suffer. Indeed, the Attorney General indicated that adequate resources were being provided for the criminal litigation function of the Department.

SEPARATE AUTHORIZATION FOR ANTITRUST DIVISION

The Judiciary Committee did not agree with the proposal of the Department that the Antitrust Division be merged with the other legal activities. The committee believes the mandate of the Antitrust Division to be somewhat unique and very complex. Consequently, a recognizable

and clearly separate resource request for the Antitrust Division is preferred. The committee believes that a separate request would assist it and the Congress in assessing more readily the level of effort that ought to be expended by the Antitrust Division.

GOVERNMENT LITIGATION AUTHORITY

Mr. President, the management of civil litigation throughout the Federal Government has been of continuous concern to the Judiciary Committee. In the last Congress, the committee held a series of oversight hearings on this subject. In particular, the committee focused on the implications for the courts and the public of delegating litigation responsibility to executive agencies other than the Department of Justice.

Accordingly, we have included in section 19 of this bill a provision to authorize the Attorney General to take a more active role in the development and implementation of litigation policy. The provision is designed to indicate clearly that the committee shares the Attorney General's commitment to the principle that the Attorney General primarily should represent the United States and all of its executive branch departments and agencies in any litigation in which the United States is a party or has an interest.

I must point out, however, that it is not the intent of section 19 to alter current arrangements between the Department and other Government agencies concerning the handling of Government litigation. Many Government agencies currently have their own litigation authority, and their authority would not be discontinued or altered under this section.

U.S. ATTORNEY, TRUSTEES AND MARSHALS

The March request for fiscal year 1982 proposed some significant reductions for the U.S. attorneys, the U.S. trustees program and the U.S. Marshals Service. The U.S. attorneys were reduced by 112 positions, the U.S. trustees program was eliminated, and the U.S. Marshals Service was reduced by 209 positions and $2.6 million.

In addition, the previous administration had proposed the establishment of an autonomous judicial system in the city government of the District of Columbia. It called for full authority for that government in prosecuting violations of laws of the District of Columbia, in taking custody of prisoners convicted of local violations, and in providing for the security of the D.C. Superior Court. A reduction of 314 positions and $13 million in U.S. attorney and marshals personnel and operations was associated with this proposal.

The request also sought legislation to remove the U.S. Marshals Service from the requirement of serving private civil process.

The committee reacted positively to most of the requests in this area. However, it took a series of actions to restore reductions for those programs it believes critical to the Federal criminal and civil justice effort. In the case of the proposed transfer of functions to the D.C. Superior Court, the committee agrees with the Attorney General that a complete review of the original request is prudent.

In the case of the U.S. attorneys, the committee restored 65 positions and $1.4 million to the criminal litigation program. The committee firmly believes that a systematic approach to Federal criminal justice enforcement is essential. A successful war on crime requires a sufficient number of agents coupled with an intense prosecutorial effort. Even though the committee sustained a reduction for the activities of the Criminal Division, the committee could not sanction the reduction for the criminal litigation efforts of the U.S. attorneys.

Regarding the U.S. trustees program, Mr. President, we heard testimony from the Attorney General that the elimination of this program was one of the hard choices that had to be made by the Department and the administration during a time of severe fiscal constraint. The committee agreed to support the proposal to eliminate the trustees program in fiscal year 1982. However, we are also mindful of the Attorney General's comment that this program seemed to have operated reasonably well. Furthermore, we are aware that prior to the expiration in 1984 of the statutory authority for the trustees program, an evaluation as to its validity and benefit was to have been completed. As the elimination of the trustees program was a hard choice for the Attorney General to make, it is similarly difficult for the committee to lend its unequivocal support to this proposal absent any substantive data indicating that such a program is no longer a valid and useful Department of Justice activity.

Section 13 of S. 951 contains legislation proposed by the administration which will conform present law to the proposal to eliminate the U.S. trustee program.

THE FEDERAL BUREAU OF INVESTIGATION (FBI)

Mr. President, in regard to the activities of the Federal Bureau of Investigation, the bill is reflective of an increased commitment to the Federal law enforcement priorities articulated by the Attorney General. For 1982, the Department requested additional resources for the undercover operations targeted primarily against organized and white collar crime and for the foreign counterintelligence program. A portion of these increases were partially offset by decreases in some of the lower priority field investigative programs. The request for the FBI also contained a decrease for the terrorism program. The reduction proposed for terrorism program was intended to approximate onboard employment levels.

While the committee agreed with much of the Department's request for the FBI, the committee was convinced that in the area of foreign counterintelligence and international terrorism additional funding is necessary. For this reason, the committee included additional resources in these and related program areas. The additions are not excessive and they were determined necessary after consultation with the Senate Committee on Intelligence. In addition, we intend to pursue this increase within the appropriations process.

IMMIGRATION AND NATURALIZATION SERVICE

For some time, the activities of the Immigration and Naturalization Service have been an area of considerable concern to the committee.

In recent years, the inability of the Immigration and Naturalization Service to curtail illegal immigration or expediting legal admissions has been attributed by this committee to chronic mismanagement, lack of leadership, and antiquated recordkeeping. In all fairness to the agency, it must be added that it has been repeatedly asked to enforce a statute that is in many instances archaic, has been given ambiguous policy directives, and with resource and personnel levels insufficient to meet ever-increasing workloads.

The 1982 budget request for INS called for a total decrease of 1,355 positions from the 1982 level. The INS is being asked to absorb 45 percent to the total position reductions for the Department of Justice. The committee was deeply concerned by the magnitude of these proposed INS reductions.

Serious questions were raised during the fiscal year 1982 authorization hearings held by the Subcommittee on Immigration and Refugee Policy. Based on testimony heard during those hearings, it was difficult for the committee to concur in the magnitude of the reductions, given the limited amount of justification that was provided in support of the reduction proposals.

Despite grave reservations about the implications of the fiscal year 1982 budget cuts, the Judiciary Committee wishes to give the administration time to complete its analysis of needed reform for the INS. In this spirit, the committee at this time is authorizing partial restoration of funds for only two INS programs—$4 million for Border Patrol and $3.3 million for adjudication operations.

The committee feels very strongly that other restorations should be made especially in the enforcement areas but we will await for the recommendations of the Attorney General and the results of the task force currently studying the immigration issue.

DRUG ENFORCEMENT ADMINISTRATION

The administration's request for the Drug Enforcement Administration reflects personnel reductions in almost every program. Significant staff reductions are in the intelligence program, the compliance and regulations program, the diversion investigative units, and the State and local task forces program. The diversion investigative units are singled out to be eliminated. The reduction in the task force program will require a closedown of 5 or 6 of the 19 current task forces.

The administration did request some moderate increases in the foreign cooperative investigation program and greater resources were requested to target the financial assets of major narcotics traffickers, an initiative which has the strong support of the Judiciary Committee.

The committee agreed to most of the

administration's request with one exception—the reductions to the State and local task force program.

Mr. President we believe that the budget reductions to the State and local task force program, which has been a means to coordinate State and local drug enforcement investigations, are inappropriate at this time.

Therefore, the committee had included authorization for $14,779,000 and 200 positions to be specifically used for the State and local task force program. This represents an increase of $5.9 million from the administration's request. The task force program represents 6 percent of the total DEA authorization in this bill and in the committee's view, it is essential to reduce the potential of costly duplicative investigations, jurisdictional jealousies between agencies and danger to undercover law enforcement officers.

Additionally, this bill assists the Department in carrying out its mandate through additional legislative authority. Sections 8 and 9 of the bill proposed authority for the Drug Enforcement Administration (DEA) to pay "moiety" rewards, that is a reward or share of the value of forfeited property to an informant for providing the information which led to the forfeiture. The committee believes this provision to be a significant alternative for funding critical operations for the Drug Enforcement Administration not at the taxpayers' expense but through seizing the assets of criminals.

Section 8 amends the Controlled Substances Act to provide the statutory authority and section 9 provides the mechanism through which such rewards can be paid. Stringent auditing procedures, a sunset provision and annual notification of Congress as to the use of the funds are included in the provision.

JUVENILE JUSTICE PROGRAM

Mr. President, regarding the proposal of the administration to eliminate the juvenile justice grant program, the committee took action to reaffirm its intention that the program continue in fiscal year 1982 by incorporating into this bill a cross-reference to the Juvenile Justice and Deliquency Prevention Act of 1974 and resetting at $70 million for 1982 the authorized funding level. Our subsequent action to reconcile with the instruction of the Budget Committee will reduce that level to $44 million.

Mr. President, when Congress passed and the President signed into law the Juvenile Justice Amendments of 1980, the Senate Committee on the Judiciary reported that in view of the "extent and cost of juvenile crime," the $200 million annual authorization provided in statute for this program "should be doubled or tripled."

In line with the administration's efforts to control Federal spending, we propose to reduce that authorization by more than two-thirds. It is the committee's view that the amount agreed upon to meet the budget instructions is the least amount with which this program can operate as a vital aspect of the effort against violent crime.

NATIONAL CRIME INFORMATION CENTER (NCIC)

Finally, Mr. President, I wish to mention section 18 of the bill, which addresses the activities of the National Crime Information Center within the FBI.

The National Crime Information Center has been an object of much discussion over the last 10 years. There are some who believe that the NCIC system and the information it contains reflects the birth of a national data bank which may jeopardize civil liberties. There are others who believe that the NCIC system assures the safety of police officers on the street by providing them with speedy information on a person that they have apprehended.

The discrepancy in the positions has hindered considerably the formation of an NCIC system that is responsive to law enforcement and the civil liberty concerns to all people. The committee is intent on putting this controversy to an end.

To that end, the committee has included section 18 in this bill which authorizes the Attorney General to make arrangements with an appropriate independent entity to prepare and submit to the Committees on the Judiciary of the Senate and the House of Representatives a recommendation on whether the Federal Government should provide criminal justice information systems, and if so, a recommendation on the appropriate Federal role, as well as a systems development plan to improve Federal, State, and local systems, and reconcile operational redundancies among them.

I do wish to point out that the committee has determined that, until the plan is approved by the Committees on the Judiciary of the House and Senate, no message switching shall be implemented by the Federal Bureau of Investigation. Section 18 simply maintains the status quo in order to permit the Attorney General with the advisory panel maximum leeway to resolve outstanding issues.

The sum of $1 million is authorized to be appropriated within the FBI's authorized funding level for fiscal year 1982 for the purposes of this section. This may not be a sufficient level to develop such a plan in fiscal year 1982, thus additional funding may need to be authorized by the Congress in order for the Bureau to meet this objective.

Mr. President, that concludes my summary of the major initiatives of this bill. I only add that the Judiciary Committee voted unanimously to report this bill favorably to the Senate and I urge that the Senate pass it promptly.

Mr. WALLOP. Mr. President, the Department of Justice Authorization Act for fiscal year 1982, as reported by the Committee on the Judiciary, takes an important step toward strengthening the capabilities of the Federal Bureau of Investigation. As chairman of the Budget Subcommittee of the Select Committee on Intelligence, I want to express the appreciation of the Intelligence Committee for the action of the Judiciary Committee on the FBI budget authorization for fiscal year 1982.

As a result of consultation between the Judiciary and Intelligence Committees, an additional $6,118,000 has been added to the FBI budget to maintain adequate funding for investigations of international terrorism and foreign counterintelligence without drawing down on other FBI resources. This amount incorporates the additional funds that would be authorized for the FBI foreign counterintelligence and international terrorism programs in the Intelligence Authorization Act for fiscal year 1982, as reported by the Intelligence Committee. The funds for these programs are authorized in both the Department of Justice Authorization Act and the Intelligence Authorization Act.

The increase for the FBI also includes funds for other Bureau programs to insure that the FBI is not compelled to draw down the levels of its already strained domestic law enforcement programs to meet increasing foreign counterintelligence and international terrorism requirements.

The foreign counterintelligence and international terrorism programs have the highest priority in the FBI, and they require a significant portion of overall Bureau resources. The activities of hostile intelligence services and their agents within the United States have been increasing steadily and show no sign whatsoever of abating. Foreign agents employ the most sophisticated intelligence techniques against this country to acquire not only classified information, but also a wide range of extremely valuable technological data subject to export controls. FBI foreign counterintelligence investigations must actively seek out and monitor the clandestine efforts of hostile foreign agents, so that the U.S. Government can prevent their operations from damaging the national security.

It is important to add, however, that increasing the FBI's resources addresses only part of the problem of illegal technology transfer. If the Government is to have an effective defense against this threat, there must be a comprehensive Government-wide program with clear-cut direction and coordination of the work of all the responsible departments and agencies. I am hopeful that the administration will take the actions necessary to achieve this goal.

International terrorism places additional growing demands on the FBI. The number of violent acts in this country by international terrorists does not fully measure the problem.

In the past year there have been assassinations and attempted assassinations in the United States that are clearly linked to international terrorism. But the FBI's responsibility is to do more than just investigate those crimes after they occur. The Bureau's mandate is also to gather intelligence that can serve to prevent the violent acts that are being planned by international terrorists before they happen.

The FBI must, therefore, investigate groups that may be preparing to engage in international terrorism and individ-

uals who may be aiding and abetting in such preparations. This includes groups within the United States that may engage in or aid and abet terrorism abroad, as well as foreign-based groups and even some foreign governments that seek to operate in this country in furtherance of their terrorist aims here and overseas.

One of the main reasons for the increase in FBI portion of the Intelligence Authorization Act for fiscal year 1982, as reported by the Intelligence Committee, is to maintain an adequate level for such FBI investigations of international terrorism without drawing down other Bureau program levels planned for fiscal year 1982. The Judiciary Committee has adopted the Intelligence Committee's recommendation in the Justice Department Authorization Act for fiscal year 1982.

The Judiciary and Intelligence Committees also share a concern about the impact of the growth of the FBI foreign counterintelligence and international terrorism programs on other Bureau activities. This has been an increasing problem in recent years, as these high-priority programs have cut into overall FBI resources. While foreign counterintelligence and international terrorism require additional funds, such increases should not force the FBI to draw down in other important areas.

Because of this concern, the chairman of the Intelligence Committee (Mr. GOLDWATER) and the vice chairman (Mr. MOYNIHAN) sent a letter to the chairman of the Judiciary Committee (Mr. THURMOND) recommending that the Judiciary Committee consider adding funds for other FBI programs that would otherwise be adversely affected by the growing foreign counterintelligence and international terrorism demands in fiscal year 1982. This includes funds requested by the FBI for other types of investigations and law enforcement training. The FBI also needs additional resources for Bureauwide investigative support programs to meet requirements for research, development, and maintenance of equipment in the foreign counterintelligence field without cutting back such support for FBI law enforcement responsibilities.

The Judiciary Committee has acted favorably on these recommendations. On behalf of the Intelligence Committee, I want to thank the chairman of the Judiciary Committee (Mr. THURMOND) and the chairman of the Judiciary Subcommittee on Security and Terrorism (Mr. DENTON) for their support of these recommendations. The members who serve on both committees, Senator BIDEN and Senator LEAHY, have also helped to insure what I expect will continue to be an excellent relationship between our two committees.

Finally, I am pleased to note the statement in the Judiciary Committee's report on the bill that the committee intends to pursue this increase for the FBI within the appropriations process. The Judiciary Committe will have my full support in these efforts, as well as in maintaining the position of the Senate in conference.

FIRST COMMITTEE AMENDMENT

Mr. THURMOND. Mr. President, I suggest that the clerk report the first committee amendment.

The PRESIDING OFFICER. The clerk will state the first committee amendment.

The assistant legislative clerk read as follows:

On page 2, line 14, strike "Administration: $37,653,000." and insert the following: "Administration;

"(C) financial assistance to joint State and joint State and local law enforcement agencies engaged in cooperative enforcement efforts with respect to drug related offenses, organized criminal activity and all related support activities, not to exceed $12,576,000, and to remain available until expended: $50,229,000.".

UP AMENDMENT NO. 154

(Subsequently numbered amendment No. 69.)

(Purpose: To forbid the Department of Justice from bringing or maintaining any action to require, directly or indirectly, the mandatory busing of schoolchildren)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS), for himself, Mr. THURMOND, Mr. EAST, and Mr. MCCLURE proposes an unprinted amendment numbered 154 to the first committee amendment.

At the end of the material proposed by the Committee to be stricken out in its first amendment to the bill add the following: "minus $37,653,000;

"(C) financial assistance to joint State and joint State and local law enforcement agencies engaged in cooperative enforcement efforts with respect to drug related offenses, organized criminal activity and all related support activities, not to exceed $12,576,000, and to remain available until expended: $50,229,000;

"(D) No part of any sum authorized to be appropriated by this Act shall be used by the Department of Justice to bring or maintain any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped.".

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I thank the Chair.

I inquire if the distinguished minority manager of the bill has a statement?

Mr. BIDEN. Mr. President, I have no statement. I am eager to hear what the Senator has to say.

Mr. HELMS. Mr. President, I thank the Senator.

Mr. President, exactly 1 week ago, the House of Representatives voted overwhelmingly to prohibit the Justice Department from initiating any sort of action that would require the busing of schoolchildren to promote racial integration.

The vote in the House was 265 to 122. The wide margin of victory clearly reflects the massive shift among lawmakers against the concept of busing. A similar amendment passed the House last year by a margin of less than 20 votes, and a bill containing the proposal was eventually vetoed by then President Carter.

This year, fortunately, there will be no Presidential veto. President Reagan has made it clear that he opposes mandatory busing. On November 18, 1980, the President stated succinctly that "busing has been a failure." And indeed it has.

It is clear, Mr. President, that the American people want an end to forced busing. The vast majority of the American people agree that it is unacceptable. Every poll I have seen shows that the vast majority of Americans, black and white, minority, and majority, are fed up with seeing their children hauled right past a neighborhood school, in some cases hauled as far as 15 or 20 miles away, consuming gasoline, spending tax dollars, lowering the quality of education, creating hostility, and diminishing the capability of teachers to educate our children.

Today, Mr. President, it is the Senate's turn to act. I believe we have the duty to speak out on this business of forced busing, certainly to the extent that Justice Department lawyers will not be running around this country promoting it. That is why, Mr. President, I have introduced this amendment. This is similar to the amendment that both the House and Senate passed in the last Congress, but which was vetoed by President Carter. It is similar to the amendment that my good friend, JIM COLLINS, successfully sponsored in the House last week which, as I said earlier, was adopted by a vote of 265 to 122.

The pertinent portion of the amendment is simple and straightforward:

No part of any sum authorized to be appropriated by this Act shall be used by the Department of Justice to bring or maintain any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped.

Mr. President, this language is clear and precise. As I stated, it has been overwhelmingly adopted by the House of Representatives. It means that the Justice Department is not to press a court to order mandatory busing to achieve some racial balance.

This language does not mean that school busing for racial balance is absolutely prohibited. It does not preclude the courts from ordering busing. It does, however, prevent the Justice Department from pursuing litigation with the purpose of requiring such busing.

The courts of course, should be precluded from ordering busing as a remedy to achieve integration. Hopefully, Congress will take action to achieve this objective either by passing a constitutional amendment or enacting legislation similar to S. 1005 (Student Freedom of Choice Act) which I introduced on April 27, 1981. This bill, S. 1005, was originally introduced in the Senate by our

former colleagues, the distinguished Senator from North Carolina, Sam J. Ervin, Jr., and the late Senator from Alabama, James Allen.

Sam Ervin wrote to me recently on the subject of busing, and he began his letter by saying:

DEAR JESSE: It seems to me that the time has come for Congress to put an end to one of the most aggravated forms of tyranny now being practiced upon the people of the United States by the federal courts and the federal bureaucrats—the forced busing of school children for integration purposes.

Mr. President, as our distinguished former colleague stated in his letter, the time has come for the Congress to take some control over the issue of forced busing.

We have had so much hostility bred in my State and in States across this Nation because a handful of bureaucrats and pressure groups have pushed something upon the citizens, both black and white, that they do not want and which, in fact, is destructive to quality education.

We need to release the administration of our school systems across this country from having to deal with a Washington bureaucracy that is constantly trying to push something upon the local communities that is not good for them and which, in fact, is destroying confidence in the public education system.

Mr. President, let us not overlook the enormous expense of forced busing upon the taxpayers. My staff has prepared a table which I ask unanimous consent to have printed in the RECORD, which vividly demonstrates just how expensive busing has become.

There being no objection, the table was ordered to be printed in the RECORD as follows:

COSTS OF BUSING, COMPARISON OF 1969-70/1977-78 FIGURES WITH 1979-80/1980-81 FIGURES

	1969-70	1977-78	1979-80	1980-81 [1]
Charlotte—Mecklenburg County:				
Buses	267	[2] 591	[3] 616	[4] 623
Bus miles	1,908,842	5,954,587	6,355,638	6,660,76
Service vehicle miles		572,377	643,953	643,374
Gallons/gas	278,343	1,119,656.5	1,748,108	1,31 ,071
Cost/gas	$47,448	$456,718. .8	$1,044,889	$1,438,456
Raleigh—Wake County:				
Buses	254	525	542	587
Miles	1,676,925	4,532,095	5,283,487	6,027,951
Gallons/gas	332,855	999,123	1 112,896.9	1,219,206.6
Cost/gas	$43,079	$405,928	$933,698.04	$1,264,849.66
Greensboro-High Point—Guilford County:				
Buses	107	567	610	[5]
Miles	[6] 593,176	4,100,110.1	4,499,482	[5]
Gallons/gas	131,817	847,293.6	888,911	[5]
Cost/gas	[6] $20,596	$341,969.44	$711,002	[5]
Winston-Salem—Forsyth County:				
Buses	208	408	408	408
Miles	1,239,300	4,480,991	4,649,808	4,651,800
Gallons/gas	305,307	865,757.9	895,473	895,630
Cost/gas	$37,089	$350,530.99	$686,827.16	$913,371.23

[1] Figures for 1980-81 approximate.
[2] Plus 50 service vehicles.
[3] Plus 59 service vehicles.
[4] Plus 46 service vehicles.
[5] Figures for 1980-81 not available until mid-August.
[6] Estimate based on averages from other school districts.

Mr. HELMS. Mr. President, the table compares busing costs for several major school systems in North Carolina for the prebusing school year of 1969–70 with the past 3 school years. I think the Chair and others will be astounded by the comparisons.

In 1969–70 the Charlotte-Mecklenburg system required only 267 buses and spent a little over $47,000 for gasoline. This past year, Charlotte-Mecklenburg utilized 623 buses and service vehicles which traveled more than 6 million bus-miles. And gasoline costs alone were $1,438,456.

The Raleigh-Wake County school system has also paid dearly for busing. This past school year, 587 buses drove over 6 million miles and consumed $1,264,-849.66 worth of gasoline. In 1969–70, before the advent of forced busing, the same system in Wake County needed only 254 buses and spent only $43,079 on gasoline.

With the shortage of fuel, it is folly to spend millions of gallons of gasoline to haul children to school simply to satisfy the whim and caprice of some Federal judge or Federal bureaucrat. That is what the people of this country have been saying for a good many years now, and it is time for the Senate to address that question.

I could go on and on, but the figures speak for themselves. I urge Senators to study this chart which I have just placed in the RECORD, because I am confident that this is representative of what is happening all across America where busing has been ordered into effect.

Mr. President, I commend the distinguished Attorney General, Mr. Smith, for his recent remarks against the use of forced busing. He noted the failure of forced busing in this way:

In the long line of school desegregation cases following Brown, the Supreme Court has pursued pupil reassignments as the remedy impliedly most likely to guarantee black children better educations. Upon the finding of a constitutional violation, courts have regularly and often automatically ordered busing. The sociological premise of Brown—that a segregated education inevitably deprived black children of an equal education—led the courts to order some form of racially determined reassignments in an attempt to improve minority students' education. In many instances that has come to mean busing to achieve racial balance in the schools.

Nevertheless, as Justice Holmes counseled, the life of the law has been experience and not logic. After substantial experience with busing as a remedy, a majority of blacks and whites disapprove the court-ordered transportation of children to remote schools for the sole purpose of achieving racial balance. The reasons are not hard to find, and they are not racially motivated.

The results of studies aimed at determining the benefits of busing to educational achievement are at best mixed. Some studies have found negative effects on achievement. Other studies indicate that busing does not have positive effects on achievement and that other considerations are more likely to produce significant positive influences. In addition, in many communities where courts have implemented busing plans, resegregation has occurred. In some instances upwardly mobile whites and blacks have merely chosen to leave the urban environment. In other instances, a concern for the quality of the schools their children attend has caused parents to move beyond the reach of busing orders. Other parents have chosen to enroll their children in private schools that they consider better able to provide a quality education. The desertion of our cities' school systems has sometimes eliminated any chance of achieving racial balance even if intracity busing were ordered.

All of these considerations point to the need for more innovative and practical approaches to achieve equal educational opportunity. Mandatory busing is not an effective educational remedy, and in many cases it has also proven counterproductive.

In conclusion, Mr. President, I believe, as Sam Ervin clearly stated, that forced busing is the worst tyranny ever perpetrated on America. The only issue today is whether the Senate is going to face up to its responsibility and do something to correct this tragedy.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from North Carolina.

The Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, I oppose the amendment of the Senator from North Carolina. I do so this year as I did last year. So that we set the proper framework for the debate, I believe it should be pointed out that this is not an antibusing amendment. This is an anticivil rights amendment.

The amendment, as such, does not restrict itself to the problems of racial imbalance in our schools. As being anticivil rights, it addresses itself to the problems of discrimination that exist as a matter of sex, to the problems of discrimination that exist as a matter of being disabled or retarded. These are all civil rights. Race is only one of the battlegrounds upon which we try to achieve, in a continuing way, equality in this Nation.

This amendment is not only anticivil rights; it is anti the Constitution of the United States. That is what we are talking about here today. The busing language is in there in a very deliberate way as being a buzzword which to incite passions, to the point where passion rules and logic, the rule of law, and adherence to the Constitution disappear.

I suspect that we are going to have much of this kind of nonsense in the months ahead, and it is for that reason that I choose this moment and this amendment to draw the line. Nothing of this nature—anticivil rights, anti-Constitution—is going to be achieved easily in this session of the U.S. Senate. It is

going to be fought every inch of the way—fought in the parliamentary sense, fought on the basis of substance or the lack thereof.

I recall that in the last session of the U.S. Senate, we had before us an appropriations bill for the Justice Department; and I recall that, for the first time in the history of either this body or the House, this type of language passed. It was passed at a time when politics was very much in the wind and politics ruled the reason of the U.S. Senate.

After the language was passed, I recall suggesting that we recess the matter until the next day, and I went home and tried to figure out a way to undo the mischief. The next day I offered an amendment that stated:

Nothing in this Act shall be interpreted to limit in any manner the Department of Justice in enforcing the Constitution of the United States, nor shall anything in this Act be interpreted to modify or diminish the authority of the courts of the United States to enforce fully the Constitution of the United States.

At this time I said this should do it, because certainly nobody is going to vote against that amendment.

If memory serves me correctly, I lost by a vote of 46 to 43; the Senate of the United States saying that the Justice Department cannot enforce the Constitution of the United States.

How ridiculous. What a derogation of our responsibilities, in the sense of upholding the Constitution, to turn down that kind of language.

Demagoguery ruled the floor of the U.S. Senate at that time, not a devotion to great constitutional principles. Demagoguery is once again afoot in what is being presented here under the title of an antibusing amendment.

Make no mistake about it—this eroding of our commitment to civil rights is not something that can be laid at the door of the last U.S. Senate or this session of the U.S. Senate.

Mr. HELMS. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. The Senator is going too far in stating his disagreement with the amendment. I do not object to his saying anything he wants to, but when he starts impugning the motives of another Senator, I think he is in violation of the rules.

Mr. WEICKER. No, I am afraid——

Mr. HELMS. The Senator used the word "demagoguery."

Mr. WEICKER. I would say, Mr. President, that there has been no reference made to the Senator standing on his feet right now.

The PRESIDING OFFICER. If the Senator from Connecticut will withhold for a moment, the Chair will read paragraph 2 of rule XIX:

No Senator in debate shall, directly or indirectly, by any form of words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

Mr. HELMS. I think that tells it all.

Mr. WEICKER. Mr. President, I am well aware of the rules of the Senate. On the other hand, for me to characterize matters that are brought before this body in any other way than what I have described, I think, loses the truth of what it is that is before us.

I repeat: What is before this body right now is anticivil rights. What is before this body is anti the Constitution. What is before this body is intended to go ahead and set one citizen against another. What is before this body obfuscates the real issue, which is a decline in our commitment to equality among our people, in every aspect of civil rights.

This amendment is not worthy of this body. If adopted, it certainly does nothing to enhance the respect and the commitment which each of us, as a U.S. Senator, makes in upholding the Constitution of the United States.

And I repeat, the line is going to be drawn right here, right here. Because if this amendment goes through—if this goes through—then believe me, there will be much to follow it, hard on its heels.

I repeat, it is not the last session of the Senate which can be held accountable for this lack of commitment to the civil rights of all Americans. It is not this session of the Senate that can be held accountable as to the lack of commitment. The fact remains that for the last several years Presidents of the United States of both parties, Senators of both parties, Congressmen of both parties, indeed both parties themselves, have felt that the issue of civil rights no longer needs our attention and indeed that it no longer has any political appeal; in fact quite the opposite is true.

The presumption is that to achieve the equality which is to be desired, as a matter of ideal and as a matter of law, feathers are going to be ruffled, so we should hunker down and avoid what is a disagreeable subject.

And I suggest to my colleagues that rather than putting on a hair shirt as to what we achieve in terms of the various remedies applied to the discrimination that existed in this country, rather than put a hair shirt on as to how effective those remedies were, we should state that they were effective and they still are effective.

To have somebody suggest, as the basis for an argument on civil rights, that we are using too much gasoline, I think is just preposterous. What is of far more concern, and should always be to this body, is flesh and blood; not whether x number of vehicles and x number of gallons of gasoline are being used to eliminate the vicious and evil practices of discrimination among our citizenry.

The fact is that that discrimination existed in its total form prior to the application of different kinds of remedies, one of which just happened to be busing. Is there anybody that is going to stand up and say we have not made monumental progress in this country within the lifetime of each person sitting in this Chamber and in the galleries? Whether in terms of economics, in terms of living conditions, in terms of education, in terms of opportunity, it is a totally different United States of America today than it was 20 and 30 years ago when it comes to the quality of life enjoyed by those of our citizens who were black.

The difficulty is that the job is not complete or anywhere near so. The idea that equality has been achieved is an idea without merit. Whether in the Northern States, such as mine of Connecticut, or in any other part of the country, the fact remains that discrimination exists in all of its forms; perhaps it has gone further underground, maybe it has become more insidious, but it is there. And just on the matter of those of our citizens who are black, as you look across this country and see the opportunity available to them, the housing available to them, the jobs available to them, how could anyone say that we have completed the task relative to achieving equality on their behalf, or indeed, equality for all of us, which I guess is the better way to phrase it?

In a few minutes I intend to amend the amendment of the Senator from North Carolina in the same fashion as I did last year, stating that:

Nothing in this Act shall be interpreted to limit in any manner the Department of Justice in enforcing the Constitution of the United States nor shall anything in this Act be interpreted to modify or diminish the authority of the courts of the United States to enforce fully the Constitution of the United States.

And it will be interesting to see how this is received by the author of this amendment or indeed how it is received by the rest of my colleagues.

(Mr. DENTON assumed the chair.)

Mr. WEICKER. Let me read to you now the report to the President and the Congress by the U.S. Commission on Civil Rights transmitted to the President of the United States, the President of the Senate, and the Speaker of the House on January of this year.

SIRS: The U.S. Commission on Civil Rights presents these recommendations to you pursuant to Public Law 85–315, as amended.

In 1980 the Nation witnessed increased resistance to equal opportunity, deepening concern about the relationship between minorities and agencies responsible for the administration of justice, growing strength of groups that preach hate, and civil unrest in many communities. If these trends are to be resisted, it is imperative that strong leadership be exercised during 1981 by both the Executive and Legislative branches of the Federal government. Based on analyses and reports of the Commission, this report lists the steps we believe should be taken to move the Nation toward achieving equality of opportunity.

Recent decades have witnessed enactment of strong civil rights laws and the rendering of numerous court decisions that guarantee equal protection of the laws. The Nation is now implementing those laws and decisions. Important progress in civil rights enforcement has been made in many cases, but vigorous opposition has also resulted. That opposition must be met by taking immediate steps to secure the rights established by the Congress and the courts.

Because of the urgency of the situation, we urge your prompt consideration of the enclosed recommendations.

Respectfully,

Arthur S. Flemming, Chairman; Mary F. Berry, Vice Chairman; Stephen Horn; Blandina C. Ramirez; Jill S. Ruckelshaus; Murray Saltzman; Louis Nuñez, Staff Director.

Mr. President, I ask unanimous consent that the appendix to the report to

the President and the Congress by the U.S. Commission on Civil Rights be printed in the RECORD.

There being no objection, the appendix was ordered to be printed in the RECORD, as follows:

APPENDIX.—RACE, ETHNIC ORIGIN, AND SEX OF FULL-TIME PRESIDENTIAL APPOINTEES, OCT. 6, 1980

	Male	Female	Total Number	Total Percent
American Indian	4	0	4	0.3
Asian and Pacific Island American	6	1	7	.6
Black	122	22	144	12.0
Hispanic	45	4	49	4.1
White, not Hispanic	862	116	978	81.3
Other, undesignated	13	6	[1] 20	1.7
Total:				
Number	1,052	149	1,202	100.0
Percent	87.5	12.5		

[1] Includes 1 person for whom sex was not reported.

Source: Presidential Personnel Office.

Mr. WEICKER. Mr. President, the report reads as follows:

REPORT OF THE U.S. COMMISSION ON CIVIL RIGHTS

INTRODUCTION

The 1980's is a critical period for civil rights. Increased resistance to civil rights progress, the resurfacing of hate groups, the growing frustration of millions of Americans for whom promises remain unfulfilled—all make the present decade a watershed period for civil rights. Current conditions demonstrate the necessity for action by the Executive and Legislative branches to achieve equality of opportunity for all Americans. Equality can only become reality following effective actions by the President and the Congress.

To demonstrate the commitment of the Federal government, a number of steps need to be taken during 1981. The following recommendations address the areas of administration of justice; Presidential appointments; civil rights coordination; enforcement of civil rights laws; the elimination of sex discrimination in Federal programs; equal educational opportunity; nondiscrimination in employment; and fair housing. We believe that action described in these recommendations will help achieve equal opportunity for all Americans, regardless of race, sex, national origin, age, religion, or condition of handicap.

RECOMMENDATIONS

I. The administration of justice

The Federal government should address the rise of hate groups, often accompanied by violence, with a well-coordinated and vigorous program.

The President should designate the Attorney General or another official to coordinate Federal response to activities of groups that practice violence against racial, ethnic and religious groups.

Federal legislation should be amended to allow the Department of Justice to prosecute more readily police officers who abuse their authority.

Congress should increase resources to hire additional personnel for the Criminal Section of the Civil Rights Division of the Department of Justice in order to handle cases involving alleged violations of civil rights by police effectively and expeditiously.

Resources for the Community Relations Service of the Department of Justice should be increased to help provide early resolution of community conflict through existing conciliation and mediation functions.

The past year has seen a distressing increase in racially motivated violence and group hatred. Acts of animosity, such as cross burnings and vandalism of churches and synagogues, have become widespread. Repeated acts of senseless violence have led to insecurity and fear in communities throughout the Nation. Moreover, civil disorders across the country have been triggered through violent treatment of minorities by law enforcement officials. All of these circumstances have contributed to an atmosphere that impedes civil rights progress.

The U.S. Commission on Civil Rights believes that this situation warrants immediate Federal attention. The Federal government must have a coordinated plan for dealing with such violent acts. We believe that the President should designate the Attorney General or another official of comparable rank to coordinate the Federal efforts in this area. This assignment would bring national attention to this problem and to the commitment of the Federal government to end violence.

We also believe that assaults by police officers should receive prompt attention from the Federal government. Changes should be made in Federal legislation that authorizes the Department of Justice to seek Federal criminal convictions against police officers who violate civil rights of those they are charged to protect. Current law and its interpretation by the Supreme Court of the United States inhibit in some cases that Department from filing suit in cases of police misconduct. Specifically, we recommend that:

Section 241 of volume 18 of the U.S. Code be amended to cover acts of violence against non-citizens as well as citizens, and acts committed by individuals who are not acting as part of a conspiracy.

Section 242 of volume 18 of the U.S. Code be amended to remove the requirement that "specific intent" on the part of police officers be shown, and to treat violent acts committed under color of law as felonies, not misdemeanors.

The amendments to current legislation will demonstrate clearly that acts of violence by police officers will not be tolerated.

While it is essential to have legal authority to pursue unlawful conduct by law enforcement officials, it is also necessary to have sufficient staff and resources to enforce laws effectively. The Civil Rights Division of the Department of Justice, responsible for enforcing those laws, is seriously understaffed. Congress should approve budgetary authority to hire additional personnel.

The Federal government also needs to respond more quickly and effectively to resolve community conflicts. Despite a substantial increase in the number of complaints, the Community Relations Service of the Department of Justice is severely limited in both staff and resources. The Commission believes that mediation and conciliation efforts of that agency should be increased to provide an alternative to costly and lengthy litigation.

II. Presidential appointments

The President should appoint women and minorities to the Judiciary and to Cabinet-level and other policymaking positions, to help strengthen the formulation and implementation of Federal policy.

Appointments of minorities and women have increased during recent years. As of October 6, 1980, minorities represented 17.0 percent of all full-time Presidential appointees (nominations confirmed or pending), and women, 12.5 percent (18.9 percent of women appointees were minority). (See the chart in the attached appendix.) The Nation is still confronted, however, with a need to achieve a greater utilization of qualified women and minorities in positions of authority. The inclusion of representatives of diverse groups with demonstrated commitment to civil rights in policymaking roles will help ensure that minorities and women participate in a significant manner in the decisionmaking process.

III. Establishing a coordinated Federal civil rights mechanism

The President should provide for coordinated efforts to eliminate discrimination in Federal programs and activities, and to ensure that all departments and agencies are working toward this goal at all levels. For example:

Appointing a senior White House advisor for civil rights would provide a long-needed focal point for coordinating Federal civil rights programs. The advisor should have direct access to the President and should be recognized as the President's representatives to speak for him in establishing management goals in the area of civil rights.

Strengthening the Civil Rights Division at the Office of Management and Budget (OMB) would provide systematic monitoring of Federal civil rights activity. The Division should continue to report to the Director of OMB who would then be in a position to provide information to the White House for oversight of Federal civil rights efforts. OMB should require agencies to report their progress in meeting their performance standards for programmatic activities that impact on minorities, women or citizens with handicaps, including (but not limited to) employment practices and the delivery of services.

To assure the inclusion of concerns of minorities and women in the development of Federal policies and programs, the Commission has recommended that the President appoint a senior White House advisor with responsibility for improving and coordinating Federal civil rights efforts, and that the Director of OMB establish a Division of Civil Rights within the Office of the Director.

These recommendations have been acted on only partially. No senior White House official is responsible for Federal civil rights efforts. Although an OMB Civil Rights Division has been established, it lacks sufficient budget and authority to serve the director effectively in the civil rights area.

A senior White House advisor who has authority to speak on behalf of the President and has direct access to him would strengthen the coordination of agency activities in the civil rights field.

In order to monitor effectively resource allocations for civil rights, the Director of OMB, acting through a Civil Rights Division, should:

Require agencies to submit sufficiently detailed data to determine whether they are fulfilling their civil rights responsibilities;

Require departments and agencies to identify the civil rights impact of program operations, and to propose corrective action, where appropriate; and

Require departments and agencies to report on their civil rights goals and timetables.

The President, acting through a senior White House advisor on civil rights and through the Director of OMB, can strengthen his leadership role in ensuring equal opportunity in the operation of Federal programs at the national, State, and local levels.

IV. Civil rights enforcement

The President should direct all Departments and agencies empowered to extend Federal financial assistance to ensure compliance with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, and the Age Discrimination Act of 1975.

When complaint investigations or com-

pliance reviews reveal that a recipient of Federal funds is not complying with civil rights laws, and timely voluntary compliance cannot be secured, administrative proceedings to enforce the requirements of the law should be instituted immediately and completed expeditiously; and

When compliance cannot be achieved, the sanction available under the law—termination of Federal financial assistance—should be invoked.

In numerous reviews and studies on enforcement of Title VI, Section 504, Title IX, and the Age Discrimination Act, the United States Commission on Civil Rights has consistently found that Federal departments and agencies have not vigorously enforced these laws. Departments are frequently slow to issue regulations, to investigate complaints, to conduct compliance reviews, to make preliminary determinations that compliance cannot be achieved, to bring administrative enforcement proceedings, and to terminate Federal funding upon a finding of noncompliance.

Fund termination is a necessary sanction. Without its use, the Federal government is in the position of subsidizing the violation of various civil rights laws. Because the sanction is utilized only sparingly and in extraordinary cases, recipients of Federal financial assistance believe that discrimination can continue with Federal acquiescence. It must be clear that fund termination will be invoked when timely compliance cannot be obtained.

Congress is attempting to limit Federal enforcement of civil rights laws by attaching amendments to various appropriations bills. An amendment sponsored by Rep. John M. Ashbrook (R-Ohio) would prohibit expenditure of Federal funds to enforce certain provisions of current Title IX regulations. These regulations, which are intended to enforce nondiscrimination on the basis of sex in education programs receiving Federal funds, prohibit sex discrimination in employment by educational institutions. The Ashbrook amendment would disallow the use of Title IX as a mechanism for relief in employment discrimination cases. The Commission believes that this avenue should remain open to provide the important linkage between nondiscrimination in programs and nondiscrimination in employment.

Mr. President, I will return to the reading of the report in a moment, but I would state that I intend to offer my amendment in a few minutes. I know there has been a great deal of scurrying around on this matter.

It is my understanding that the amendment would be in order. I certainly hope if I offer it nobody would in any way pull it down. We have the matter before us as presented by the Senator's amendment.

I now continue reading the report:

V. Eliminating discrimination based on sex

The President should issue an Executive Order prohibiting discrimination on the basis of sex in any program or activity receiving Federal financial assistance. Each Federal department and agency that extends Federal financial assistance should be responsible for enforcing this prohibition and should issue, within 180 days, regulations implementing the Executive Order.

Discrimination on the basis of sex still occurs in programs receiving Federal financial assistance where sex discrimination has not been explicitly banned. Sex discrimination cannot be tolerated any more than can discrimination on the basis of religion, age, handicap, race, or national origin. Although discrimination on the basis of sex has been prohibited in some Federal programs, the Federal government now needs to provide systematic direction for the elimination of sex discrimination in all programs.

Regardless of the ratification of the Equal Rights Amendment, for which we reaffirm our support, Federal agencies will still need a uniform mechanism for eliminating sex discrimination. An Executive Order can provide such a mechanism. Following its issuance, the Department of Justice should be directed to prepare implementing regulations expeditiously. In addition, all agencies should be directed to adopt these regulations, or develop comparable ones, within 180 days. Enforcement of the order would be the responsibility of each agency, under overall coordination by the Department of Justice, carried out through existing civil rights enforcement mechanisms. Vigorous enforcement of the Executive Order and its implementing regulations can be an effective tool for ending sex discrimination in programs receiving Federal financial assistance.

VI. Equal educational opportunity

The Congress and the President should vigorously enforce laws and regulations designed to foster equal educational opportunity, including the elimination of illegally-segregated schools.

The President should instruct the Office for Civil Rights of the Department of Education to increase its efforts to enforce Title VI of the Civil Rights Act of 1964, which prohibits discrimination in programs receiving Federal financial assistance.

The Department of Justice should be directed to expedite desegregation cases referred to it by the Department of Education.

The Congress should reject riders to appropriations bills that have the effect of tying the hands of the Executive branch in enforcement activities under Title VI. The President should veto appropriations bills containing riders which would make it virtually impossible for the Executive branch to terminate funds in cases where schools are illegally segregated in violation of Constitutional and statutory requirements.

The U.S. Commission on Civil Rights has consistently viewed Brown versus Board of Education as one of the most important rulings by the Supreme Court of the United States in the Nation's history. Despite this decision, equality in the Nation's schools has still not been achieved. The evidence we have gathered from field studies and public hearings makes abundantly clear that the statement by the Supreme Court of the United States in 1954 is still true: "Separate educational facilities are inherently unequal." We are especially alarmed by Congressional efforts to undermine Constitutional and statutory guarantees by attaching riders to various appropriations bills. Each year since 1978, the Congress has attached an amendment offered by Senators Eagleton (D–Mo.) and Biden (D–Del.) to the Appropriations Act for the Department of HEW (now the Department of Education) forbidding that Department from terminating funds in desegregation cases where compliance would require transportation of pupils beyond the school nearest their residence. In addition, an amendment was passed by the Congress that would have prohibited the Department of Justice from participating in school desegregation cases where the last available remedy would be student transportation. This amendment would have made it impossible in many situations to enforce Title VI.

We commend President Carter for his veto of the appropriations bill to which this amendment was attached.

Parenthetically, that amendment is exactly what we have before this body today as a matter of addition to the authorization bill.

I now go back to the report:

We agree with his statement that if the State-Justice-Commerce Appropriations Act of 1980 were enacted with the amendment it

• • • would impose an unprecedented prohibition on the power of the President of the United States and the Attorney General to seek a particular remedy in the Federal courts that in some cases may be necessary to ensure that our Constitution and laws are faithfully executed.

We also agree with him that the precedent that would be established if this legislation were enacted

• • • would effectively allow the Congress to tell a President that there are certain constitutionally-mandated remedies for the invasion of constitutional rights that he cannot ask the courts to apply If a President can be barred from going to the courts on this issue, a future Congress could by similar reasoning prevent a President from asking the courts to rule on the constitutionality of other laws and the constitutional necessity of other remedies upon which the President and the Congress disagree. That would be a most undesirable interference with the constitutional separation of powers.

An amendment by Rep. Ashbrook would prohibit expenditure of funds other than those for bilingual education to enforce proposed rules issued under Title VI, requiring State or local education agencies to meet the needs of limited English-speaking students through programs other than intensive English instruction. Passage of this amendment would hamper the efforts of the Federal government to ensure equal education opportunity for students whose primary language is not English and who have limited proficiency in English.

Another amendment by Rep. Ashbrook would prohibit expenditure of funds pursuant to an injunction or court order for any purpose specifically prohibited by the Education Appropriations bill. This amendment will erode judicial authority to interpret the law and to require remedial action.

Amendments sponsored by Rep. Ashbrook and Rep. Robert K. Dornan (R-Calif.) would limit authority of the Internal Revenue Service (IRS) to deny tax-exempt status to private schools found to be racially discriminatory. These amendments, already in effect for one year, require the Federal government to support, through tax exemptions, the existence of racially discriminatory private schools. The Commission deplores these ongoing attempts to deny educational equality to America's young people.

VII. Employment of minorities and women

The Federal government must enforce vigorously all laws related to nondiscrimination in employment, including Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and Executive Order 11246, as amended by 11375.

The employment status of minorities and women has long lagged significantly behind that of white males. Despite civil rights laws prohibiting discrimination, there is ample evidence that employment and promotional opportunities are not available to minorities and women on an equal basis with white males. In its report, Social Indicators of Equality for Minorities and Women, the Commission found that disparities in the unemployment rates of minorities and women, compared with white males, increased between 1970 and 1976. This situation did not change between 1976 and 1979. Recent Department of Labor (DOL) statistics show that the 1980 recession further exacerbated the unfavorable employment position of minorities. In July 1980, 6.0 percent of white males, and 5.9 percent of white females, were unable to find work. By contrast, the unemployment rate among mi-

norities was far higher; 15.2 percent of blacks and 10.9 percent of Hispanics were unemployed. Furthermore, over one-third of nonwhite youths ages 16 through 19 (34.6 percent of males and 38.9 percent of females) were out of work, compared with 16.4 percent of white youths.

Employed minorities and women are also in a disadvantaged position relative to white males. In 1979 only one out of twelve white males was a service worker, but one out of five females and one out of four minorities held such a job. By comparison, almost one-third of all white males were in professional or managerial positions, but fewer than one out of four females, and one out of six minorities, were in those occupational categories.

In order to combat discrimination, it is necessary for employers to establish effective affirmative action plans. Discrimination is a process that combines attitudes or actions of individuals, organizations, and social structures into patterns that maintain subordination, exclusion, and/or segregation, and thereby deny equal employment opportunities. Antidiscrimination efforts that supposedly guarantee "neutrality" in employment decisions are inadequate to eliminate entrenched discrimination. In these circumstances, only affirmative measures that consider race, sex, or national origin in decisions regarding employment can succeed in dismantling the discrimination process. The Executve branch should play a major role in combating discrimination in employment. First, the Federal government, functioning in its capacity as an employer, should set an example for employers in the rest of the Nation to follow, through effective enforcement of the Federal Equal Opportunity Recruitment Program (FEORP). Second, the Equal Employment Opportunity Commission should be provided adequate resources to continue to enforce vigorously Title VII of the Civil Rights Act of 1964, conduct compliance reviews and complaint investigations on a timely basis, and where conciliation does not produce compliance, file suit against violators. Finally, the Office of Federal Contract Compliance Programs (OFCCP) within the Department of Labor should be given resources necessary to monitor Federal contractors closely to ensure that they develop and implement affirmative action plans, as required.

Central to the success of this process are the efforts of companies to develop voluntary affirmative action plans, given additional impetus by the decision of the Supreme Court of the United States in United Steelworkers versus Weber. The Commission believes that strong support for private voluntary affirmative action efforts, as well as vigorous enforcement of affirmative action requirements to help overcome discriminatory treatment in employment, past and present, should be a cornerstone of Federal civil rights policy.

An amendment sponsored by Rep. Robert S. Walker (R-Pa.) to the Departments of Labor, Health and Human Services, and Education Appropriations bill would prohibit the expenditure of any funds by these departments to implement or enforce any program which includes ratios, quotas, or other numerical requirements in employment or admissions policies or practices. Passage of this amendment would seriously hamper the ability of OFCCP to enforce executive orders requiring the development of affirmative action plans.

VIII. Fair housing

The Federal government should act to ensure that discrimination on the basis of race, sex, national origin, or religion is eliminated in the sale and rental of housing.

The Congress should pass legislation strengthening Title VIII of the Civil Rights Act of 1968 to give the Department of Housing and Urban Development (HUD) authority to issue "cease and desist" orders in cases where housing discrimination is found. The President should direct HUD to enforce Title VIII vigorously.

Families headed by minorities and women have long faced discriminatory treatment in their search for adequate housing. As a result, segregated neighborhoods remain a persistent feature of urban and suburban settings.

Title VIII of the Civil Rights Act of 1968 is intended to ensure nondiscrimination in the sale and rental of housing. The law gives HUD the authority to investigate complaints, attempt to conciliate, and refer to the Department of Justice for possible litigation cases in which a "pattern or practice" of discrimination exists.

HUD has failed to pursue energetically avenues for curtailing discrimination. Twelve years have elapsed since the enactment of Title VIII, yet HUD has not issued implementing regulations. They should be issued immediately, to ensure strong enforcement of Title VIII and resolution of complaints in an effective and timely fashion. If immediate compliance on the part of violators cannot be obtained, HUD should refer "pattern or practice" cases to the Department of Justice for prompt action.

The U.S. Commission on Civil Rights has also long supported amendments to Title VIII that would grant HUD authority to issue cease and desist orders where violations of Title VIII are discovered. Fair housing amendments proposed in the 96th Congress, however, did not pass. We urge the 97th Congress to enact appropriate legislation in order to provide HUD with authority to combat housing discrimination effectively. When this legislation becomes law, the President should direct HUD to issue revised regulations at once reflecting this new authority.

CONCLUSION

Although equality of opportunity is guaranteed by the Constitution and by statute, its attainment remains elusive for millions of Americans. Discrimination in every facet of life remains a bitter reminder of unfulfilled promises. Recurring civil disorders are symptoms of the failure of the Federal Government to ensure equality of opportunity. Meanwhile, hate groups encouraging violence against racial and ethnic minorities and religious groups have become increasingly strident.

These circumstances require immediate action on the part of the President and Congress. The recommendations in this report describe those actions which we believe will help to alleviate violence and to bring about equal opportunity for all Americans, regardless of race, national origin, sex, age, religion, or condition of handicap.

Documentation for the preceding recommendations is contained in the following publications of the U.S. Commission on Civil Rights:

U.S. Commission on Civil Rights, "Desegregation of the Nation's Public Schools: A Status Report," 1979.

U.S., Commission on Civil Rights, "The Federal Civil Rights Enforcement Effort—1974," Volumn VI, To Extend Federal Financial Assistance, 1975.

U.S., Commission on Civil Rights, "The Federal Civil Rights Enforcement Effort—1974," Volume V I, To Preserve, Protect, and Defend the Constitution, 1977.

U.S., Commission on Civil Rights, "The Federal Civil Rights Enforcement Effort—1977," To Eliminate Employment Discrimination: A Sequel, 1977.

U.S., Commission on Civil Rights, "The Federal Fair Housing Enforcement Effort," 1979.

U.S., Commission on Civil Rights, "Fulfilling the Letter and Spirit of the Law: Desegregation of the Nation's Public Schools," 1976.

U.S., Commission on Civil Rights, "Police Practices and the Preservation of Civil Rights," 1980.

U.S., Commission on Civil Rights, "Social Indicators of Equality for Minorities and Women," 1978.

Now, Mr. President, I should like to know what that report, that language, has to do with the following language:

No part of any sum authorized to be appropriated by this Act shall be used by the Department of Justice to bring or maintain any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped.

This amendment, this abomination, flies directly opposite to what it is that the commission recommended. This is not a Republican commission nor a Democratic commission, not a conservative commission nor a liberal commission. It was specifically appointed outside of philosophy and partisan politics to assure that we, as a Nation, would maintain our commitment to the Constitution of the United States and to the achievement of equal opportunity for all Americans. With this report in hand, what is the response of at least some in the United States Senate? It is this amendment, an amendment designed to foster what was described in the report is conclusion, to set us one against the other, to insure the fact that equality of educational opportunity will not be achieved by this generation or, indeed, any other.

Mr. President, that is the reason why the line has to be drawn here today. That is the reason why I say this has nothing to do with busing. It has to do with the Constitution, it has to do with civil rights, it has to do with how we perceive each other. It has to do with whether or not hate is going to rule this Nation, whether it takes a form toward race or religion or toward ethnic origin; whether or not we are going to view each other in the most narrow sense or whether, indeed, we are going to allow each person in this country to achieve his or her fullest opportunity.

I would hope that we should get off this kick, whether in the Senate or in the White House, and get to the business of seeing discrimination eliminated in this country, once and for all. It is going to be a disagreeable task under the best of circumstances. What it hardly needs is an exercise on the Senate floor which, in effect, asks the U.S. Senate to abandon its leadership role in the achievement of equality, in the achievement of educational opportunity for all.

Make no mistake about it, Mr. President, when the riots occur on the streets of whatever town or city in this Nation, they occur because a signal has been sent from the top, whether it is the mayor's office or the U.S. Senate or the White House or wherever.

If we are not committed to the Constitution, if we are not committed to equality of opportunity, we who are supposed to be the leaders of this Nation,

who is supposed to preach the value of that Constitution? Who has the education to give it its widest and its best interpretation? If we are not committed, Mr. President, can we expect that the leadership can be found on the streets of this country, under the worst of circumstances?

Do we nowadays talk about furthering the opportunities for the retarded and the disabled citizens of the United States? That is one type of civil rights.

Do we talk about furthering the opportunities of women? That is another type of civil rights.

Do we talk about furthering the opportunities of blacks and Hispanics? Oh, no. We talk about eliminating the Voting Rights Act, or changing it. We talk about pulling away funding from education and from the cities and from job training. We talk about the elimination of Public Law 94–142.

The last 40 years for any of our minorities have been very difficult. The last 40 years for those who seek to assist them in their quest for quality have been very difficult. The next 40 years are going to be equally difficult.

It is going to take political courage. It is going to take compassion. But that is what this Nation is all about, Mr. President. The United States has never been a concept that deals in flesh and blood. When we whittle it down to statistics—head counts, percentages, square miles, gross national product—then believe me, we have lost the real value of this Nation, its people.

The men who founded this Nation set forth in this Constitution principles that were against their self-interest. Indeed, if the United States were run today as it was then, you would still have about 24 Virginia planters running the United States. But they had a dream for all of us. So what they advocated is this Constitution, though directly against their economic interests, their self-interest, permits each of us to be where we are today.

It is not too much to ask, I say, that this thing remain undiluted. Whatever constitutional privilege or right or opportunity was given to me should be given to the other person.

Somebody can declare to me today that the battle is over. Fair enough. I have no difficulty with that. That is fine. That is not what the U.S. Commission on Civil Rights says. Let us face it: That is not what your own eyes and your own ears tell you. Just go out there and look, and you do not have to look very far from where I am standing right now.

I said that this was going to be a debate on civil rights, and it is, and that means everyone. Let us get to the business of the disabled and the retarded. It is just within the last 4 to 5 years that they have come out of their corners, that they have come out of their institutions. They are starting, just now, to be able to share the life all of us enjoy. This is civil rights. This is what Public Law 94–142 achieved.

Only because of BOB STAFFORD of Vermont, Senator KENNEDY, some other Democrats, and the chairman, ORRIN HATCH, were we able to prevent that law from being thrown off the books. That is what happened last week in the Labor and Human Resources Committee. That is a law which finally, after years of fighting, established this particular minority in its own right, with a chance for opportunity and a chance to be a part of this society. So the concept was kept in place.

So far as the dollars are concerned, who in his right mind is going to stand up and say that the process of taking care of those who are disabled, the most hurt in body and mind—who is going to tell you that that is cheap? It is not. It is expensive.

How many of you attended this past week—as I did, in the State of Connecticut, and I am sure it went on in other areas of the country—the special olympics? I recall when that started in my State about 7 or 8 years ago. There were a hundred or 200 people. One hundred were retarded and disabled, and there were 100 to help them. I attended that event at Fairfield University on Saturday morning. There were 2,700 youngsters, accompanied by 2,700 other persons. Never mind all the others who were involved in making the event a success. There must have been at least 10,000 people out on that field.

That is what has happened in 5 or 6 years to some people you never heard of, or, if you looked at them, you did so with sympathy and sort of shook your head and figured that they really never could be a part of us.

All they do is sit in a corner and get fat and loll their tongue, and that is it. Well, they are not that today any longer. They are no different from you and I. If you and I sat in a corner, we would be fat. If nobody went ahead and taught us how to speak, we would loll our tongues.

That is what Public Law 94–142 was all about—so that these youngsters could get an education when they were 1 year old, 2 years old, 3 years old; because to them, that was the key to their whole future. With you and me, it was high school or college. Not to them.

We made the commitment conceptually, and we made it monetarily, to assure that, to the best of their abilities, they would be equal with each of us within this society called America.

That is civil rights. That is the reason why the fight has to take place here today. I know that when it is civil rights, we think about black and white, but civil rights is not a matter of words. But in here, in the Constitution, it is a matter of humanity.

You cannot say, "I am going to be against civil rights when it comes to black and white, but I am going to be for it here as far as men and women are concerned," or, "I'm going to be neutral as far as the disabled and retarded." You cannot pick and choose.

This document does not pick and choose. That is its genius. This is not Republican or Democrat or liberal or conservative. That is why this has to stay a Government of laws, not of men or changing parties or changing philosophy—not when it comes to this issue.

Mr. President, I will go on during the course of this conversation to highlight both the difficulties and the achievements of all those in minorities within this society, at one time or another, and show how, historically, we have managed to put together the circumstance which has given them equality.

I am also going to show in the course of the debate, in the next several days, how we have backed off this commitment during the past several years.

This is not a Reagan administration retreat. This is not a retreat of the 96th or the 97th Congress. It has just been a general hunkering down, figuring that there was no more political capital to be squeezed out of the issue of civil rights. You cannot look at the Constitution that way.

I am all for politics, and certainly it is what keeps this Nation going. I have no problems with the scraps that take place between our parties or the different philosophies within those parties, but the Constitution cannot be part of that type of fight. They have to retain certain touchstones that are constant, which do not change.

What kind of idiocy is it that opposes a statement that says the Justice Department shall enforce the Constitution of the United States? It must be a special idiocy before the U.S. Senate, because when I tell that story out there in the world, everybody cannot believe it. They said, "You're kidding. You fellows voted against having the Justice Department enforce the Constitution of the United States?"

"Yes, by a vote of 43 to 46."

"You've got to be kidding, Senator."

"No, I'm not."

Yes, I lose more than my share on this floor. But if there was anything that highlighted the flight from logic, the flight from intelligence, the flight from adherence to the Constitution on the floor of the U.S. Senate, it was the rejection of that amendment. If we had a vote today on that amendment, I would probably be beaten worse. That is how things have "changed" in the last several months.

So maybe it is that I cannot achieve any more victories on matters that should be of great pride to each Member of this body. Maybe a victory becomes no more than a holding action. Maybe that is the course for the next year-and-a-half, until the electorate refines the mandate of 1980—which mandate, I have said consistently—meant no more than removing from office an individual who was perceived as not able to lead the United States of America. It did not mean that we turn our backs on the Constitution, that we believe any less in civil rights, that we no longer understand the enormous inequities and injustices that still exist within this Nation, within our society. It had nothng to do with any of that. It had nothing to do with abortion amendments that fly totally in the face of unreality on the U.S. Senate floor.

A position on which the Senate voted, I noticed the other day, was approved by 10 percent of the people of the United States. It went flying through the U.S. Senate. Ten percent of the people in the country believe in the language we voted in the Senate. But it goes flying through here, and I will tell you why it does. It is because a narrow band of persons are

now dominating the electoral process—and that is not their fault. They have every right to go ahead and use this process of ours.

I will tell you whose fault it is. Everybody out there who is not voting is not participating. Do you know what a majority is in the United States of America right now, in an election year? About 26.1 percent has become a majority. It is not very difficult to control that kind of majority with one issue, and that is exactly what has happened.

So if anybody has any complaints and wants to join the fight, please—I might be one out of 100 here, but everybody out there is one out of 150 million, and that had better stop. That is why you get that result when the Senate votes language on an appropriations bill which requires a woman, even in rape or incest, to carry her baby a full term.

Ten percent of the country believes in that, but a majority of the U.S. Senate votes it through. These are the kinds of issues that we are going to be focusing on in the days ahead. There are those that feel the greatness of the Nation can be achieved by a certain pattern of behavior, a certain credo, a certain affirmation to a particular point of view. There are others of us that feel very strongly that it is all of us speaking out in all of our different ways on behalf of each other that gives to the United States its special quality, that in our diversity is our strength and that we seek to achieve the best for each other through this document, the Constitution of the United States.

Now, it would be my intention, Mr. President, in a minute to ask for the yeas and nays on the amendment that is before the Senate.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WEICKER. What would be required in the way of an appropriate second for the yeas and nays?

Mr. HELMS. Mr. President, if the Senator would yield on that question.

Mr. WEICKER. No, I made my inquiry to the Chair.

The PRESIDING OFFICER. A sufficient second would require one-fifth of the presumed quorum. A quorum is 51 Senators.

Mr. WEICKER. So that would be 11.

The PRESIDING OFFICER. Therefore, 11 would re required.

Mr. WEICKER. Unless there is an objection here, I would certainly go ahead and ask, without losing my right to the floor, for the yeas and nays on the amendment now before the Senate.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. WEICKER. I will continue and we will ask again in a minute so that some of my colleagues might come to the floor at this time.

Mr. President, I would like to, if I could, give to my colleagues the report of the Congressional Research Service on the progress of civil rights in the United States. The areas to be covered by the report are, one, voting rights; 2, school desegregation; 3, equal employment opportunity.

Mr. President, I would now ask for the yeas and nays on the amendment before the Senate.

The PRESIDING OFFICER. Is there a sufficient second? It appears that we have 11. There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. Thank you very much, Mr. President.

UP AMENDMENT NO. 155

(Subsequently numbered amendment No. 70.)

(Purpose: To ensure that the legislative branch does not encroach upon the executive branch or the Judicial branch)

Mr. WEICKER. I send to the desk my amendment and ask that it be read.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an unprinted amendment numbered 155, to the Helms unprinted amendment numbered 154.

Insert before the period at the end the amendment, the following: ", except that nothing in this Act shall be interpreted to limit in any manner the Department of Justice in enforcing the Constitution of the United States nor shall anything in this Act be interpreted to modify or diminish the authority of the courts of the United States to enforce fully the Constitution of the United States."

Mr. WEICKER. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. WEICKER. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut.

Mr. WEICKER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. Mr. President, we now have before us the language which certainly, if it were accepted, I might add, by the sponsors of the amendment, maybe we can move on to other business. But in the absence of that, it might be appropriate at this time to go ahead and now refer to the document from the Congressional Research Service of the Library of Congress.

I. Voting rights. (2) Voting rights: Legislation. The 24th amendment to the Constitution—

The 24th amendment—I might add I have a feeling this may be next on the agenda. So this is not immaterial at all to the argument as to civil rights. That is what is at issue, not busing, one small little fraction, part of the entire equation. Indeed, it does not even come into play unless an illegality has been determined as a matter of law, as a matter of the Constitution.

THE 24TH AMENDMENT TO THE CONSTITUTION

The 24th Amendment abolished the poll tax for Federal elections; it was passed by both Houses of Congress in 1962 and became the 24th Amendment in 1964.

THE VOTING RIGHTS ACT OF 1965

Prohibited for five years the use of tests and devices for voter registration in States and political subdivisions where discrimination had evidently occurred; authorized Federal examiners to register voters; required that States or political subdivisions covered by the law submit new voting laws for Federal approval before putting them into effect; abolished English-language literacy requirements for Spanish-speaking voters educated in Puerto Rico; authorized Federal observers at elections; directed the Attorney General to go to court to seek abolition of the poll tax in State and local elections (the Supreme Court in 1966 held that the poll tax as a condition for voting was unconstitutional). The Justice Department has authority to enforce the Act.

THE VOTING RIGHTS ACT AMENDMENTS OF 1970

Extended the Voting Rights Act of 1965 for an additional five years; imposed five-year, nationwide ban on literacy tests for voter registration; lowered the voting age to 18 in Federal elections (the 18-year-old vote is now guaranteed by the 26th Amendment to the Constitution adopted in 1971).

THE VOTING RIGHTS AMENDMENTS OF 1975

Extends the special coverage provisions of the Voting Rights Act of 1965 as amended in 1970 for an additional seven years; makes permanent the nationwide ban on literacy tests; extends special protection to, and requires special assistance for, voters in language minority groups: American Indians, Asian Americans, Alaskan Natives, persons of Spanish heritage.

(B) VOTING RIGHTS: RESULTS OF IMPLEMENTATION:

Between March 1964 and June 1967, the number of black citizens registered to vote in the 11 States of the South increased from approximately 2,100,000 to 2,800,000. In 1978, in the 17-State (including the District of Columbia) region of the South, the number of black citizens registered to vote was 4,654,000.

In the United States in 1964 there were 103 black elected officials, Federal, State, and local.

In 1978—as a result of this legislation in 1965, 13 years later—there were 4,503. Is there anybody that is going to argue against the effectiveness of the Voting Rights Act? Is there going to be anyone who is going to stand up and say that this does not have a dramatic impact on our governmental process?

Is there anybody that is going to say that this certainly is a direction in a free society that we should go to make sure that the election process is going to work for all of us; just as indeed for those of use who are fighting for legal services, what we want is the judicial process to work for all of us, because if it does work, the issue is not settled on the streets. But, failing that, that is where the issue is resolved.

That is the reason for those of us standing on this floor fighting for this Constitution, fighting for these civil rights, fighting for this election process, fighting for the Voting Rights Act. That is the reason why. Nobody is going to return any longer to their backseat or their back bench and be satisfied, not in this country and not in this world. The only question that arises is as to how the equality is going to be achieved, within these magnificent processes or by violence and bloodshed.

II. SCHOOL DESEGREGATION

(a) School Desegregation: The Constitution and Legislation—The 14th Amendment to the Constitution:

In *Brown* v. *Board of Education of Topeka* (1954), the Supreme Court held that State-required segregation of public schools on the basis of race violates the equal protection of the laws required by the 14th Amendment because "separate educational facilities are inherently unequal."

At this juncture, let us take a look at this amendment so often referred to and so little read by anybody, including many of my colleagues on the floor.

The 14th amendment to the Constitution of the United States, ratified July 9, 1868:

AMENDMENT XIV

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SECTION 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Then it goes on to sections 3, 4, and 5.

Mr. President, I ask unanimous consent that the amendment in its entirety be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT XIV

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SECTION 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SECTION 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States(or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

(Mr. GORTON assumed the chair.)

Mr. WEICKER. To continue:

Civil Rights Act of 1964:

Title IV authorizes the U.S. Attorney General to initiate school desegregation suits and authorizes Federal financial and technical aid for school desegregation.

Title VI prohibits discrimination on account of race, color, or national origin in programs supported by Federal funds. One of the most important programs is that of Federal assistance to education, and the threat of cutoff of such funds by the Department of Health, Education, and Welfare has been an important means of enforcing school desegregation.

(b) School Desegregation: Results of Implementation:

Let us take a look and see what we can come up with here in the way of figures.

In the South, where schools had been segregated by law, about 98 percent of black students were in segregated schools in 1964.

In the South in 1970, 34.3 percent of black students in public schools attended schools with a 90 to 100 percent minority student enrollment. By 1976, this figure had decreased to 23.4 percent.

In the continental U.S. in 1970, 46.9 percent of black students in public schools attended schools with a 90 to 100 percent minority student enrollment. By 1976, this figure had decreased to 39.5 percent.

That public schools in the South are more desegregated than public schools throughout the continental U.S. may be explained in part by residential segregation resulting from white exodus from cities. The U.S. News and World Report stated recently (May 8, 1978, page 43) that:

Black pupils today are still racially isolated in most big cities. Schools that have been "desegregated" are turning back toward all-black enrollment.

These are the findings of a survey by members of the staff of this magazine who covered key cities in all regions of the country.

Views on the educational results of integration efforts are mixed. But one trend is unmistakably clear: So many white families have been fleeing the cities that white pupils are now heavily outnumbered in the schools of most big cities.

So the problem is not a problem of the South. It is a problem that belongs to all of us—North, East, South, West, Midwest. Across the land, it is our problem. Indeed, as we try to resolve one aspect of the result of 200 years of discrimination in one manner, it appears that the problem pops out somewhere else in another form.

What we are seeing here today is that we should give up and let the thing sort itself out. It did not sort itself out for 200 years, and it will not sort itself out now.

There is not one of us here who wish it would not occur that way. To say to the Justice Department of the United States—which is not Republican or Democrat, conservative or liberal, charged with the responsibility of enforcing our laws and, for the most part, probably 90 percent, staffed by professionals—"You cannot apply certain remedies which are disagreeable to the population as a whole," completely guts their ability to act in any discrimination case.

That is the issue here.

You might be discriminated against because you came from some country which is in temporary disfavor with the citizens of this country. You may be discriminated against because you have some physical or mental impairment. You may be discriminated against because of the fact of your sex.

What you are saying here in this situation, which does deal, in the main, with race, is, "We are going to establish a principle that the Justice Department can pursue the enforcement of our laws, but only when we agree with it."

Do you understand how we are going to politicize the process? When your day comes, when you are standing in that court and you are asking for an independent judgment on your behalf, all of a sudden it is no longer independent; it has become politicized.

That is what is at issue here, the politicization of the entire process. That is something that not one of us as citizens can afford.

III. EQUAL EMPLOYMENT OPPORTUNITY

(a) Equal Employment Opportunity: Legislation—Title VIII of the Civil Rights Act of 1964:

Prohibited employment discrimination on account of race, color, religion, sex, or national origin by employers and labor unions with 25 or more employees or members and by employment agencies and established the U.S. Equal Employment Opportunity Commission with authority to seek enforcement by conciliation.

Executive Order 11246 (1965) as amended by Executive Order 11375 (1967):

The Executive Order originally covered Federal employment practices, but this part was superseded by Executive Order 11478, below. Prohibits discrimination on account of race, color, religion, sex, or national origin in employment by Federal contractors and subcontractors and on federally assisted construction, and requires affirmative action to promote equal employment opportunity. The Executive Order gives the Department of Labor authority to enforce contract compliance.

Executive Order 11478 (1969):

Prohibits discrimination on account of race, color, religion, sex, or national origin in the Federal civil service, and requires Federal agencies to undertake affirmative action to promote equal employment opportunity. Gave the Civil Service Commission responsibility for Federal equal employment opportunity.

The Equal Employment Opportunity Act of 1972:

Authorizes the U.S. Equal Employment Opportunity Commission to seek enforcement of Title VII through the courts; extends coverage of Title VII to schools, State and local governments, and to employers and labor unions with 15 or more employees or members. Requires equal employment opportunity in the Federal service and vested the Civil Service Commission with responsibil-

ity for Federal equal employment opportunity.

Reorganization Plan No. 1 of 1978:

Among other provisions, transfers responsibility for Federal equal employment opportunity from the Civil Service Commission to the Equal Employment Opportunity Commission.

(b) Equal Employment Opportunity: Results of Implementation:

In 1964, about six percent of employed black men were in professional or technical, white collar work. By 1974, the percentage had risen to nine.

In 1964, about three percent of employed black men were managers and administrators (except farm). By 1974, the percentage had risen to five.

In 1964, about 12 percent of employed black men were craft workers. By 1974, the percentage had risen to 16.

In 1964, about eight percent of employed black women were in professional or technical, white collar work. By 1974, the percentage had risen to 12.

In 1964, about two percent of employed black women were managers and administrators (except farm). Ten years later, the percentage was the same.

In 1964, about one percent of employed black women were craft workers. Ten years later, the percentage was the same.

In 1964, 14 percent of employed white women were in professional or technical, white collar work. By 1974, the percentage had risen to 15.

In 1964, about five percent of employed white women were managers and administrators (except farm). Ten years later, the percentage was the same.

In 1964, one percent white women were craft workers. By 1974, the percentage had risen to two.

In 1977, 7.7 percent of Hispanic men and 8.2 percent of Hispanic women were professional and technical workers; 6.9 percent of Hispanic men and 2.8 percent of Hispanic women were managers and administrators (except farm); and 20.4 percent of Hispanic men and 1.9 percent of Hispanic women were craft workers (figures are for the Spanish origin population 16 years old and over).

Source: Bureau of the Census.

For those, I might add parenthetically, who argue the fact that some action in the area of rights for women is not necessary, I think these statistics put the lie to that.

IV. FAIR HOUSING

(a) Fair Housing: Legislation.—The Civil Rights Act of 1968:

Title VIII prohibits discrimination on account of race, religion, or national origin in the sale, rental, and financing of housing and in brokerage services (exemptions: single-family houses sold by the owner without brokerage services or advisement and rental of units in owner-occupied dwellings in which no more than four families, including the owner's family, live). The Act authorizes the Department of Housing and Urban Development to enforce fair housing through conciliation.

Title IX establishes Federal penalties for forcible interference with fair housing rights.

The Housing and Community Development Act of 1974:

Amends Titles VIII and IX of the Civil Rights Act of 1968 by adding sex as protected class.

(b) Fair Housing: Results of Implementation:

In an article, "The Way Ahead," HUD Challenge, April, 1973 (page 16), Malcolm E. Peabody, Jr., then Acting Assistant Secretary of HUD for Equal Opportunity, stated:

"Despite improved attitudinal and economic factors, the pattern of expansion of the minority community has not changed. The major portion of minority expansion is still occurring at the ghetto edge, changing neighborhoods from all white to all black. Sometimes this occurs in a matter of years, sometimes within the space of one year. Comparatively few neighborhoods have been able to remain fully integrated with both whites and blacks continuing to compete for available housing."

In an article, "An Answer to Housing Discrimination," Civil Rights Digest, Winter 1975 (page 19), Lawrence Rosser and Beth White said:

"With the passage of the 1968 Civil Rights Act, formal restrictions against renting and selling to minority persons were outlawed. While this legislation has helped some minority families to gain equal access to housing opportunities in the suburbs, the vast majority of moderate-income workers still find housing only on the edge of the ghetto."

Vernon E. Jordan, President of the National Urban League, recently confirmed the continuation of housing discrimination ("Making Fair Housing a Reality," HUD Challenge, April 978, page 15):

"Checks of the extent of housing discrimination show that it is still routinely, if politely, practiced in the housing industry, however. Ten years of Title VIII have not overcome racial steering and other housing industry practices that maintain racially segregated residential communities and confound other attempts, as in education, to break down the separate and unequal legacies of our society." . . .

However, Edward Holmgren, Executive Director of the National Committee Against Discrimination in Housing, has found progress in fair housing ("NCDH and the Fair Housing Law," HUD Challenge, April 1978, page 17):

"If we turn the clock back and compare the blatant discrimination and openly-expressed racist attitudes of 10 to 20 years ago with conditions in 1978, there is clear evidence that gains have been made, although far too little progress has resulted from the law.

"The all but solid wall of discrimination in suburbia and many city neighborhoods has been breached. Formerly all-white suburban communities and racially-restricted sections of cities are beginning to become exceptions rather than the rule. While the degree of integration varies widely from token to substantial, and while the Fair Housing Law has benefitted primarily the minority middle class, new and inclusive residential patterns are developing. A recent carefully structured, scientifically controlled survey of 40 metropolitan areas, conducted by NCDH under contract with HUD, confirms this development."

V. EQUAL CREDIT OPPORTUNITY

(a) Equal Credit Opportunity: Legislation.—Equal Credit Opportunity Act of 1974:

Prohibits discrimination in the granting of credit on account of sex or marital status. The Act is enforced under the direction of the Federal Reserve Board.

Equal Credit Opportunity Act of 1976:

Adds race, color, religion, national origin, age, receipt of public assistance benefits and exercise of rights under the Consumer Protection Act as protected classes.

(b) Equal Credit Opportunity: Results of Implementation:

In an article entitled "Equal Credit Opportunity Benefiting Women" (Washington Star, February 9, 1979, page A-8), Bailey Morris said that the Equal Credit Opportunity Act has enabled many women to attain a financial independence which they could not have had five years before. She cites a survey of 2,080 women by the Commercial Credit Corporation which revealed that 80 percent of all respondents, and almost 70 percent of married respondents, had applied for credit on their own during the previous two years.

Robert J. Mylord, President of Advance Mortgage Corp., stated that increased mortgage credit to unmarried women and the addition of the earnings of married women to those of their husbands as the basis for mortgage loans pursuant to the Equal Credit Opportunity Act may have helped to cause the increased demand for single-family houses that has continued since 1976, despite consequent rising purchase prices and rising interest rates for home buyers ("Feminism Credited As Housing Aid," Washington Star, May 12, 1978, page D-13).

Mr. President, what I think is significant is, in this report of the Congressional Research Service, the index of major civil rights. The reason I am going to read the index is to stamp out the common perception that civil rights is a black matter. As I go down the index, I believe people will find that if you are in it or a friend or somebody else is in the index, then, all of a sudden, civil rights becomes something dear to all of us or part of all of our life's experience: voting rights; school desegregation; equal opportunity for employment; fair housing; equal credit opportunity; rights of American Indians; womens' rights; rights of older persons; rights of the handicapped; protection against surveillance; and fair information practices by the Federal Government.

It is not a black matter. It is an American matter. It is a constitutional matter, even if we throw up the buzz word "busing." How about segregation, North and South? How about those condemned by this society never to rise above whatever it is they enjoyed in the first 2 years of their lives? How about that? Any time any one of you goes to the hospital in your State or your community, ask those in the psychiatry department as to what the impact of education is on the minorities, on the blacks and Hispanics; that if that education is not there in the first few years of life what happens from there on out.

No, no. this is where the line gets drawn for all of us, not for a few of us.

Mr. METZENBAUM addressed the Chair.

Mr. WEICKER. I yield to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

Mr. WEICKER. I certainly will.

Mr. METZENBAUM. It is not a fact that the amendment before the Senate at the coment, including the amendment in the second degree, is indeed a back-door route in an authorization bill to attempt to deal with a problem that more properly belongs in the committee of jurisdiction, and is this not a method of trying to bring to the floor of the Senate by an indirect manner that which should be dealt with directly regardless of the point of view of Members of the Senate, and regardless of the position?

Are we not dealing with a question that not only has in it the substantive question relative to the issue of busing, but does it not go far beyond that and include the overall legal aspects of whether a question of this kind, which is of a constiutional nature, does not properly belong within the jurisdiction of the Committee on the Judiciary?

I question whether under the circumstances we have before us—I ask whether the Senator from Connecticut

sees any useful purpose in an amendment of this kind being dealt with by the Senate as an amendment to an authorization bill or whether it would not be far more appropriate, even for those who support the point of view that they do, to use the usual procedures, and under those circumstances would it not be more appropriate if the authors of the amendment were to take down the amendment and agree that it would be brought up again in some other manner?

Mr. WEICKER. In response to my distinguished colleague from Ohio, the answer is that this type of mischief has been going on with increasing frequency during the last several years because, to raise these matters in the appropriate way, before the appropriate forums, with the appropriate hearings, would almost insure their defeat. Heaven forbid that the American public should understand the kind of mischief that is being perpetrated on the floor of the Senate. They might become a little irritated. So we have riders on appropriations bills and we have educational matters appearing in Judiciary Committee bills. We have the legislative branch of Government saying what it is the judicial branch is going to do.

Mr. President, the Senator from Ohio is on his feet, and I want to make a point. The Senator from Ohio is up for reelection in 1982. So is the Senator from Connecticut. We have problems in our States. This is not, as I said a southern matter. The attitudes toward discrimination in this area pervade the United States. It is a small minority, I believe, as I know the Senator from Ohio believes, that hold these views. But they are there.

It certainly is not the politically popular thing to do for either the Senator from Ohio or the Senator from Connecticut to stand up and contest these kinds of moves. Indeed, it was the most disgusting sight I have ever seen in my life. in the last session of the Congress, to see those who traditionally defend these rights flee in fear of this kind of buzz word politics which raises all sorts of political ghosts and hobgoblins.

No more, though. I assume that my constituency is watching. The Senator from Ohio assumes his constituency is watching. That is exactly what we want them to do. I remember it was just a few weeks ago that somebody's admonition on this floor—I cannot remember who—was that somebody is watching. I hope they are.

We assume we are going to get the message across here, on the floor of the Senate, that all—black, white, Hispanic, Indian, Jewish, Protestant, Catholic, Polish, German, Irish, Italian, whatever—this is all ours; this is our Constitution, and that if they can go ahead and pick off one of us constitutionally, they get all of us, all of us.

The people from Ohio are going to get that message. The people of Connecticut know they are going to get it. They understand it.

Mr. President, I want to express my admiration for the Senator from Ohio for being consistent and being a leader. It is a great job we have, I say to the Senator. The television cameras are on us, we get our pictures taken, people watch us from the galleries. Constituents come in and shake our hands, smile, et cetera. It is all very, very pleasant.

But there is that tough time, also. There is that disagreeable time and I say to the Senator, let me tell him, that is the measure of a U.S. Senator coming up at that time. That is what he has done. It shows the measure of the man when it is tough, when it is disagreeable.

Mr. President, I remember—as a matter of fact, even today, but in the last several days, many times, people in the media taking this book, this Constitution. They read the Bill of Rights and they usually present it on a street corner, not under the label of "Constitution." They just have it listed there, what is stated there. They ask people, "Would you sign this petition, please?" The Bill of Rights. And more often than not, a majority of people will not sign it. More often than not, the answer comes back, "I am not going to sign that Communist document."

Well, the words have not changed. They are the same words that have been with us for hundreds of years. What has changed? We have changed. We have become more affluent. Instead of just a few people enjoying a quality of life to be desired, millions of us do. We forget that this is what brought us to where we are. All of a sudden, it becomes liberal. Those of us who speak for the Constitution of the United States are liberals.

I have seen conservatives slash this document to ribbons. It means nothing to them. They are the ones who are supposed to speak for law and order and the Constitution and patriotism and God and country. To stand up for this, even when you have everything—and I am talking about everything in terms of power, political and monetary, jobwise, or whatever—to stand up for this when you have all of that—oh, there is the task. There is the fight.

I assume, ladies and gentlemen, that this document means what it says and it says a lot of things which fly in the face of the oratory on this floor.

Mr. SPECTER. Will the Senator yield for a question?

Mr. WEICKER. I certainly will yield for a question from the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, in the letter which has been distributed from the leadership conference, there is an assertion that it can be predicted with a fair amount of certainty that President Reagan will sign the bill into law if it is, in fact, enacted. That appears at the second and third lines from the bottom on page 1. My question is really in two parts. One is, what is the basis, if the Senator from Connecticut knows, of that assertion?

The second part of the question is what constitutional impediments would be faced by having the President sign a bill where the Executive has the authority to execute the Constitution considering the discretionary matters which are lodged in the Attorney General as a law enforcement officer with vast discretion for judgments of that sort? Would there be a necessary conflict as to the Executive carrying out his constitutional responsibilities under the appropriate article of the Constitution?

Mr. WEICKER. Let me say this to the Senator: I am going to be very precise. I do not want to speak for the administration without the precise words of the administration before me. I think I am correct when I indicate in response to the Senator that the administration has had no opposition to the Helms language—in essence, what we have before us today.

I think it is also clear from campaign statements, from statements by the Attorney General that, if not in agreement with the precise language, the administration and the Attorney General are certainly in agreement with the thought expressed in this amendment.

Mr. SPECTER. Will the Senator yield for a question on that point?

Mr. WEICKER. Let me finish on the first point. The Senator asked the question as to what the constitutional problem is.

Again, I repeat from the veto message of President Carter. I am now reading from a letter dated December 4, 1980, from the White House:

DEAR MR. CHAIRMAN: I have decided that I will veto H.R. 7584, the State-Justice-Commerce Appropriations Act of 1980. A provision in this Act, the Helms-Collins amendment, would impose an unprecedented prohibition on the ability of the President of the United States and the Attorney General to use the Federal courts to ensure that our Constitution and laws are faithfully executed.

Throughout my administration, I have been committed to the enhancement and strong enforcement of our civil rights laws. Such laws are the backbone of our commitment to equal justice. I cannot allow a law to be enacted which so impairs the government's ability to enforce our Constitution and civil rights acts.

I have often stated by belief that busing should only be used as a last resort in school desegregation cases. But busing is not the real issue here. The real issue is whether it is proper for the Congress to prevent the President from carrying out his constitutional responsibility to enforce the Constitution and laws of the United States.

The precedent that would be established if this legislation became law is dangerous. It would effectively allow the Congress to tell a President that there are certain constitutional remedies that he cannot ask the courts to apply. If a President can be barred from going to the courts on this issue, a future Congress could by the same reasoning prevent a President from asking the courts to rule on the constitutionality of other matters upon which the President and the Congress disagree.

For any President to accept this precedent would permit a serious encroachment on the powers of this office. I have a responsibility to my successors and to the American people not to permit that encroachment to take place. I intend to discharge that responsibility to the best of my ability.

The purpose of this letter is to ensure that there is no doubt about my opposition to the objectionable provision in the State-Justice-Commerce Appropriations Act. My opposition also applies to the inclusion of such a provision in the Continuing Resoltuion.

I would of course prefer to avoid a veto of the Resolution. I recognize the difficulties such a veto could impose on critically important operations of the government and on the Congressional schedule. But I would be shirking my constitutional responsibilities if I allowed this unprecedented and unwar-

ranted encroachment on Executive authority and responsibility to prevail.

Sincerely,

JIMMY CARTER.

This is the letter sent to Chairman HOLLINGS of the Subcommittee on State, Justice, Commerce, and the Judiciary.

So there we have the Presidential response of the last administration to exactly the same language which is now pending before this body.

Let me give the Senator a little more history. There were Senators wandering around this floor saying, "Let's let Carter handle it." Indeed, right after it passed the Senate, as I was being interviewed by the media, the media had received the word that President Carter's initial reaction was, "Let the Supreme Court handle it."

This amendment is unconstitutional, I say to the Senator. As is the Senator from Pennsylvania, I am a lawyer. Maybe I did not get high marks as he did in law school, but this is so bad and so patently unconstitutional that I am not going to sit here and buck it down the line. I am going to stop it right here. I am not going to use the President as an excuse, so that we can pass it to him, and if he finds it unconstitutional, he can veto it. Oh, no.

This is the same group—the group that authors this type of legislation—that complains about the fact that the Supreme Court is ruling our lives. Do you know why they complain? Because we do not want the hot issues in this House, we buck them down the line, and all the hot potatoes end up in the Supreme Court; and when they make a ruling, we accuse them of legislating.

As I said, I cannot speak for the administration. They have only indicated no opposition to the Collins language, so I assume it is acceptable to them.

In any event, what they do or do not do in no way impacts on what I do and what this body does. There has been too much of that in the past. I suggest that we meet the issue head on right here.

Obviously, as a matter of logic, nothing is unconstitutional until it is declared so by the Supreme Court. But I say to the Senator that I do not have to wait for the roof to fall in before I step outside the house.

Mr. SPECTER. This question is not as timely as before, but the Senator from Connecticut has stated the chronology of some in this body wanting to pass the issue to the President, to avoid a decision, and that then the President wanted to consider passing the issue to the Supreme Court of the United States. I wonder whether the Senator has any knowledge as to whether there was any intent by the Supreme Court of the United States to pass the issue anywhere.

Mr. WEICKER. They cannot. They just have to sit there and listen to us complain because they did what we should have been doing.

Mr. SPECTER. Is it not true that, from time to time, the Supreme Court says it is not a justiciable issue for somebody else, such as Congress?

Mr. WEICKER. I suppose. The Senator is absolutely correct. They have handled more than their share of hot shots at third base in the last couple of decades.

Mr. SPECTER. I did not mean to suggest in the earlier question that I in any way disagree with the conclusion that there would be a constitutional conflict in having Congress compel or by mandate preclude the Department of Justice from enforcing the laws as the Department of Justice saw them, if the Department of Justice thought there was a constitutional issue, because I do think there is a constitutional conflict there.

The import of the earlier question was highlighted by the reference of the Senator from Connecticut to former President Carter's letter, wherein he said that regardless of his conclusion about the merits of busing or, as he put it, busing being the last alternative, he would not stand by and see the Presidential authority derogated by an act of Congress.

That is really the essence of the question I had posed to the Senator from Connecticut—in addition to posing some relief to the soliloquy—and that is, whether you like busing or you do not like busing or you think busing is undesirable or desirable, you simply would not stand by, as the President, and permit his constitutional authority and responsibility to enforce the Constitution to be limited by whatever Congress might do.

Mr. WEICKER. If I am not mistaken, when this issue was last before the Senate, and I will correct the record if I am wrong, President-elect Reagan indicated publicly that he would have signed the bill. I do not think I am wrong on that, because I went through enough agony on this proceeding. If he would have signed that one, I assume he would sign this one. It is the same language in both pieces of legislation.

We are not going to vote in the next few minutes. I am sure there is somebody up there with a pair of ears who will tell the President what goes on down here; and if he wants to send a letter here saying that he will veto this, I will welcome it.

Mr. SPECTER. If the Senator will yield, did the Senator say we are not going to vote for a few minutes? Can the Senator say when we are——

Mr. WEICKER. I believe these are matters best decided by the leadership, and it has been a while since I have been included in the leadership of the Republican Party.

If the President finds constitutional objection, I would welcome a letter from him right now saying that if we pass this bill with this amendment, he will veto it.

Incidentally, before the Senator from Pennsylvania leaves the Chamber, I just want to say this: I have long admired him, long before he came to this body, as one of the chief law enforcement officials of one of the great States of the Union. More particularly, I know how he used the laws of his State and of the United States to make sure that equality was a reality in Pennsylvania.

So I know that when he talkes with me on this subject, he does so with great feeling and, quite frankly, bearing a lot of scars that were inflicted on him because of his courage.

Mr. SPECTER. If the Senator will yield for a question, I thank the Senator for those very gracious comments.

The question I have is very troublesome to me, on the measure which is currently the subject of debate. It arises from the subject Senator WEICKER touched upon, and that is the broad discreation which the law gives to a law enforcement officer to make decisions. The legal books are filled with the rationale for granting that kind of discretion to the law enforcement official, whether he is a county attorney or a district attorney or a State attorney general or the Attorney General of the United States.

It was in that context that I expressed concern and asked Senator WEICKER the question as to whether it can properly be delimited—that is, the authority, the discretion of the Attorney General of the United States to make the decision as to whether an issue is constitutional or is not constitutional, aside from the article granting constitutional authority to the executive, requiring that the executive enforce the Constitution—whether the discretionary judgments have not risen to a proportion, constitutional or near constitutional, to preclude the limitation on the Attorney General's discretion to make that judgment.

Mr. WEICKER. I repeat—now I would resume my comments on this amendment—busing is not the issue at all. Civil rights is. Constitutional rights are. These are the issues.

But I think the importance that when the headlines get written, it is not a question of who stood up for busing, but who stood up for the Constitution of the United States. Who stood up for the civil rights of 250 million—and that is all of us—Americans? That is what this is all about.

Because if this legislation passes and you take the principle and apply it to any other fact situation, any time we do not like directions from that third part of our Government, the judicial process, then we will just give them the political orders from the floor of the U.S. Senate. And that is not good enough for a government of laws.

Does the Senator from Maryland have a question?

Mr. MATHIAS. I thank the Senator from Connecticut for yielding. I would first like to make a parliamentary inquiry. I am wondering if the President would advise the Senate whether the pending amendment is the following language: "No part of any sum authorized"——

The PRESIDING OFFICER. Does the Senator from Connecticut yield?

Mr. WEICKER. No, I have not. I am just yielding for a question.

Mr. MATHIAS. I am making a parliamentary inquiry.

Mr. WEICKER. The Senator is now making a parliamentary inquiry, but I yielded for a question.

The PRESIDING OFFICER. Without objection.

Mr. MATHIAS. Is the matter now before the Senate the amendment which provides that:

No part of any sum authorized to be appropriated by this Act shall be used by the Department of Justice to bring or maintain any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped.

Is that the matter before the Senate, as proposed to be amended by the Senator from Connecticut?

The PRESIDING OFFICER. That is the text of the amendment in the first degree. Before the Senate right now is the amendment to the amendment by the Senator from Connecticut.

Mr. MATHIAS. That is what I understood.

The reason I made that parliamentary inquiry was so that it could be clear to all of us just exactly what we are dealing with. And I want to ask a question, if the Senator from Connecticut would yield for the purpose of a question.

Mr. WEICKER. I yield for the purpose of a question.

Mr. MATHIAS. I would like to ask him whether the real import of this amendment is to deprive the Government of the United States of America of the ability to enforce the law? Is that his perception of what is at stake here?

Mr. WEICKER. What is the value of a judgment without a remedy? Clearly, it totally inhibits the Government of the United States from pursuing the rights of its citizens. A judgment without remedy is no judgment. It is worthless.

Mr. MATHIAS. Then if the Senator from Connecticut will yield for a further question, is he concerned about the possibility that a pattern is developing in which the Federal Government is being deprived of enforcement powers not only in this particular civil rights instance, but also in other matters of civil rights concern and of social concern to the American people?

Mr. WEICKER. The Senator is absolutely correct that though the buzzword "busing" is used, should this amendment pass, it establishes the principle of what it is the Justice Department cannot do. Even there, I might add, it is very imprecise in the language used "require directly or indirectly the transportation." Well, that means anything.

What it effectively does, it removes the Justice Department of the United States from all discrimination cases. That is what it does.

The Senator is also correct when he asks, is there a pattern being established? Yes, I say to the Senator, there is a pattern being established.

Mr. MATHIAS. If the Senator would yield for a further question, let me say that this situation reminds me a little of a conversation I had with a very great American some years ago at the time we were debating either the Haynsworth or the Carswell nominations to the Supreme Court. And this man, who had a distinguished record as a fighter for civil liberties, was rather inclined to support the Haynsworth nomination and he did it on this basis. He said, "You know, it matters very little who is going to be deciding cases on the Supreme Court if the Justice Department is not going to bring the cases. If the Justice Department doesn't bring the cases, it becomes moot who is on the court if there are no cases for the court to decide."

Now is that the kind of situation we are going to get into where the constitutional rights of citizens cannot be adjudicated, the guarantees of the Constitution cannot be fulfilled because the cases are not allowed to be brought before the court?

Mr. WEICKER. The Senator is absolutely correct. Now, you know what the argument is going to be. And see if this does not have a familiar ring to it from something which was decided just a few weeks ago on the floor. "Well, private individuals can bring the case. Private groups can bring the case." It does not make any difference whether they can afford to have a lawyer or not because the lawyer is no longer around because there is no legal services. Private individuals; private groups. It has a strange ring to it.

Abortion is legal. Abortion is legal. Of course the only people that can afford it are the rich, but you leave it legal. It all has a pattern to it, does it not?

What you effectively do is to strip Americans of their constitutional and legal rights through the funding process.

Do you want to ask some of these gentlemen that propose to go this route, to say to them, "All right, let's eliminate busing and all the various remedies that are so objectionable and disagreeable. Let's go the route of voting the money—the money—to make sure that there is equality of educational opportunity. One has to be in the mood of the Congress and the administration. How about appropriating $50 billion to do that and imposing the appropriate taxes to pay for it?"

I do not think anybody is going to vote that either. That is not popular. That is not popular. Nobody wants to vote $50 billion in spending. Nobody wants to vote taxes. Nobody wants to reorder people's lifestyles.

Again, I repeat, the catch up of 200 years of discrimination is disagreeable and there is no agreeable way to handle it. But, for God's sake, do not give away the Constitution in the bargain, because eventually that will be one of the only things that is left to each one of us when it is our ox that is being gored.

Mr. MATHIAS. Will the Senator from Connecticut yield for one final question?

Mr. WEICKER. I yield.

Mr. MATHIAS. The Senator said that it is his view that there is a certain pattern emerging here by which the U.S. Government is being deprived of the ability, the authority, to enforce laws. Would the Senator see any relationship between these various efforts in different fields of interest to deprive the Government of authority to enforce the law and similar suggestions that have been made to deprive the Federal courts of jurisdiction?

Mr. WEICKER. Yes.

Mr. MATHIAS. Now it seems to me, as I propound this question, that we have a very serious situation where, on the one hand, the executive is powerless to bring a case, and an attempt is made on the other hand to make the Federal courts powerless to hear the case. Who, then will respond to the grievance of the citizen? I ask the Senator from Connecticut, who then will be able to redress the wrongs that the Constitution is supposed to prevent, supposed to guarantee against? These are serious and far-reaching questions that are embodied, it seems to me, in the langugage of this amendment.

Mr. WEICKER. The Senator is correct. The Senator is correct in asking the question: Who will redress the grievances and the wrongs if there is no Justice Department? If you restricted the jurisdiction of the courts, if you deprived the citizen of counsel, what then? Good question. What then, colleagues? No lawyer, no Justice Department, no court.

The Senator from Maryland has brought it to its logical conclusion, its logical end. What then?

The streets. Every man becomes his own law. The rule of numbers, the rule of majority, in the physical sense.

We cannot have all these agreeable endings. No funding, no rules of the game, no traffic cop. We cannot have it that way, not in a government of laws.

These are the issues that confront all of us here this afternoon.

It would be easy enough to let this go through. The bill is not of great import. I suppose what is done with the amendment in the Justice Department, in the executive branch, pretty much determines whether it has any meaning or not. I suppose it would be possible to circumvent the Senate's will. But that just cannot happen anymore. It has happened too much and that is the reason why we are in this catch 22. We are not going to handle these delicate matters, these tough decisions. We are going to pass the buck. We pass it and when it comes back to us in a form we do not like, then we are going after the person who did make the decision.

That is the reason.

No more. Those of us my age and older remember that famous baseball umpire, Bill Klem. He used to stand out there at second base. You did not have sort of Billy Martin type incidents, with anybody coming up and poking at him or butting him. He would walk away. When he got to around second base, he would turn around and the manager of the player was following him. He would take his foot and draw a line in the dirt. If you went over that line, you were out of the game.

That is what is being done here with this amendment and all that it embodies. We have walked away. We have walked away now for years on our commitments to the Constitution, on our commitments to principle. We have asked others to go ahead and take upon their shoulders not our perks but our responsibilities. When we do not like the way they execute what was originally our responsibility, we even try to strip them of the ability to do what we should have done in the first place.

The Constitution of the United States and everything it says is never going to be easy for any generation. The very words themselves guarantee change and

turbulence, disagreement. But when we give up in those areas in terms of peace and quiet, we have achieved—this is not a promise but it is a statement of fact—we have achieved the advancement of a lifestyle for an entire society.

I want to make clear in these comments that this is not a regional issue. The hate, the discrimination, which so many people visualize in their minds as pertaining to the South pertains as much to my State of Connecticut and New England.

I remember as I was growing up and reading about U.S. Senators how it was continually stated to me that the reason why we did not get any civil rights legislation was because "a few Southern Senators were filibustering." That was an excuse that an entire Nation hung on. You see, we could point our finger at the other fellow and we never had to involve ourselves. So the excuse was "a few Southern Senators blocked the civil rights legislation."

But it was not so. The Nation did not want civil rights legislation. And when it did, when it was inspired to action, we got it. No filibuster could stem the tide of commitment by the American people. So this never was a Southern issue and it is not today. It is a constitutional issue, an American issue, an issue that should be near and dear to each one of us.

But the time has not come to say what we have done has been wrong or has failed. It has succeeded mightily.

In the area of education being touched upon here today, what has happened within our own lifetime? It used to be that a good education could only be had in a private school. That is not so today and it has not been so for a long time now. Education in our public schools is as good if not better than that in our private schools.

The fact is that in job opportunities based on education, no black had any opportunity whatsoever unless it was in some sort of serving capacity. Now look around you and see who have the managerial capacities. See who the Senators, the Congressmen, and mayors are and those who serve on our staffs. You know that came to pass by virtue of education. So it did not fail.

But it is failing now if that goes through. Then that is the end. We have admitted x percent to our society as equals and no more. The club is closed.

You cannot have it that way. The Nation then closes.

I would hope that this matter would come off the floor. It has no place in this bill in the Senate. What they do in the House is their business.

My own feeling is if there is ever a time when we can step back and look at ourselves and the value of the Constitution and of the laws of this Nation in relationship to what it is we do, it is right now. Nobody is up for reelection. If it does not happen now, it can happen when you get close to 1982, I can assure you. If there is an ounce of courage out there, this is the time to go ahead and lay it on.

Mr. President, I will now resume my reading of the Congressional Research Service document on civil rights.

(Mr. HUMPHREY assumed the chair.)

Mr. WEICKER. I will refer to the rights of American Indians.

VI. RIGHTS OF AMERICAN INDIANS

(a) Rights of American Indians: Legislation.—Titles II through VII of the Civil Rights Act of 1968 were designed to protect the rights of Indians by imposing many of the limitations of the Bill of Rights on tribal governments and tribal courts, by providing for a model code of legal procedure for courts of Indian offenses (courts established by the Department of the Interior on reservations), and by other provisions intended to extend constitutional protection to Indians.

(b) American Indians: Progress in Education and Employment Education.—In 1970, 95 percent of Indian children between the ages of seven and thirteen were in school.

In 1960, less than one-fifth of Indians 25 years old and above had finished high school; by 1970, one-third of Indians 25 and over had done so.

In 1960, four percent of Indians 25 and over had completed one to three years of college. By 1970, the percentage had risen to seven.

Employment

In 1970, 55 percent of Indians 16 years and over worked in urban areas. Seventy percent of Indian men and women were craft-workers or supervisors, operators, laborers, service workers, and clerical workers.

In 1960, between four and five percent of Indian men were in professional and technical occupations. In 1970, nine percent were in such occupations. In 1970, 11 percent of Indian women were professionals or technical workers.

SOURCE

Bureau of the Census.

VII. WOMEN'S RIGHTS

(a) Women's Rights: Legislation (see also Equal Employment Opportunity; Fair Housing; Credit Legislation).—

The Equal Pay Act of 1963:

Requires that women in private industry be paid a wage equal to that of men for work requiring equal skill, effort, and responsibility.

The Higher Education Act of 1972 extended coverage to executive, administrative, and professional employees and to outside saleswomen.

The Education Amendments of 1972, Title IX:

Prohibits sex discrimination in all federally assisted education programs, with certain exceptions.

Adds sex as a protected class under Title IV (school desegregation) of the Civil Rights Act of 1964 (*supra*).

Requires the gradual changing of single-sex vocational, professional, and graduate schools and of public colleges receiving Federal assistance to coeducational status.

Fair Labor Standard Act Amendments of 1974: Section 6 extends coverage of the Equal Pay Act of 1963 to employees of Federal, State, and local government.

Reorganization Plan No. 1 of 1978: Until 1979, the Department of Labor enforced the Equal Pay Act with regard to State and local government and private employment, and the Civil Service Commission enforced it with regard to Federal employment. All enforcement responsibility for the Equal Pay Act was then transferred to the Equal Employment Opportunity Commission (EEOC) pursuant to Reorganization Plan No. 1 of 1978. Because a violation of the Equal Pay Act will probably be a violation of Title VII (equal employment opportunity, enforced by EEOC) of the Civil Rights Act of 1964 as well, the transfer of authority was intended to facilitate unified enforcement of the two laws.

(b) Equal Pay Act: Results of Implementation.—The Department of Labor reported that between June 1964 and July 1, 1973, 142,597 women received awards under the Equal Pay Act totalling $65,578,600. In addition, the Department said, the American Telephone and Telegraph Co. had agreed to award a total of approximately $7,500,000 to about 3,000 female employees under the Act.

SOURCE

U.S. Congress. Joint Economic Committee. Economic Problems of Women. Hearings. 93rd Congress, 1st Session, 1973, Part 1, page 92.

VIII. RIGHTS OF OLDER PERSONS

(a) Rights of Older Persons: Legislation (see also Equal Credit Opportunity).—Age Discrimination in Employment Act (ADEA) of 1967: Prohibited employment discrimination on account of age against persons at least 40 but not yet 65 years old by employers in private industry with 20 or more employees, by employment agencies and by labor unions with 25 or more members or which refer employees to a covered employer; gave authority to the Department of Labor to enforce the Act through conciliation and through the courts.

Fair Labor Standards Act Amendments of 1974: Section 28 extended the protection of ADEA to Federal employees and applicants who are at least 40 but not yet 70 years old, and to employees and applicants of State and local governments; gave the Civil Service Commission enforcement responsibility for Federal employment and the Department of Labor such authority for State and local government employment.

Age Discrimination Act of 1975, Title III of the Older Americans Act of 1975: Prohibits discrimination in programs receiving Federal financial assistance on account of age (no limits); authorizes the Department of Health, Education, and Welfare to direct enforcement of the Act by Federal agencies providing such assistance.

Age Discrimination in Employment Act Amendments of 1978: Extends protection of ADEA to persons who are at least 40 but not yet 70 years old, and removes the upper age limit with respect to Federal employment.

Reorganization Plan No. 1 of 1978: Transfers all enforcement authority for ADEA as amended from the Department of Labor and the Civil Service Commission to the Equal Employment Opportunity Commission.

(b) Age Discrimination in Employment Act of 1967 As Amended.—Results of Implementation: The Department of Labor, in its report, "Age Discrimination in Employment Act of 1967; A Report Covering Activities Under the Act During 1978 . . ." cites the following figures representing the results of its enforcement effort with respect to non-Federal employment over a ten-year period:

"The number of complaints received by the Department increased from 1,000 in fiscal year 1969 to almost 4,300 in fiscal year 1978. From fiscal year 1969 through fiscal year 1978, cumulative enforcement activity disclosed over 15,000 employees and applicants for employment who have been discriminated against and who were due over $51 million in damages."

You know what the report is talking about. We have stopped talking about black and white long ago in this manner. We are talking about the elderly citizens in this country. If you do not like that, how many do they have here? They have 15,000 owed $51 million. Maybe you do not like the fact that 15,000 have been discriminated against, and $51 million was owed them, and maybe Congress would like to say "perhaps we had better get in that act, we had better get in that act". Perhaps Congress should say "We

do not like what the courts are doing." How does everybody think that would sit in this country? How would you like that? In other words, if we restricted the power of the courts to remedy the injustices against our elderly, do you want to try that one on for size? Does anyone want to go ahead and advocate that cause on the floor? It is not very popular, as the President just found out with social security, and I suggest the amendment would be up in 1 minute and would be down the next.

Mr. BAKER. Mr. President, will the Senate yield to me without losing his right to the floor?

Mr. WEICKER. I yield to the distinguished majority leader.

Mr. BAKER. Mr. President, I think it is pretty clear we are not going to dispose of this bill tonight or, perhaps, even the amendments that have been offered.

Mr. President, as soon as I can obtain a brief conference with the distinguished minority leader, I am prepared to suggest that we recess over until tomorrow. I am not now doing that, but since the distinguished Senator from Connecticut is on the floor, and the Senator from North Carolina, I have just talked to the Senator from South Carolina, the chairman of the committee, I will describe the request that I will make shortly.

Mr. President, shortly I am going to ask unanimous consent that the Senate stand in recess until 11 o'clock tomorrow. I understand we have a number of requests for special orders. Two have already been entered, I believe, and we have a request for two more, so that will make an hour of special orders. If we come in at 11 then after the housekeeping details are attended to, and the time allocated the two leaders is either utilized or yielded back, it will be something in the range of 12:15 p.m. or a little later before we get back on this bill.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond 10 minutes in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOLOCAUST VICTIMS REUNITE

Mr. PROXMIRE. Mr. President, on June 15, the Washington Post reported the opening of the World Gathering of Jewish Holocaust Survivors, at which 4,000 victims of the Nazi concentration camps meet this week to celebrate life, to seek lost family and friends, and to remember.

These survivors unite not only to remember and condemn the horrors of the holocaust, but also to affirm the value of life, to express their concern for the future of all peoples. Coming from 23 countries, they make a truly international appeal that all nations affirm their commitment to the most basic human right—the right of all peoples to live.

Ernest Michel, chairman of the gathering, expressed this humanitarian plea.

> We want to tell the world as a group once more, "This is what happened to us. We survived it and we pray that it will never happen again—to Jews or non-Jews. One Holocaust is enough." We want to tell the world, "Don't let it happen again."

This plea must not lie unheeded by this Senate. More than 35 years after the disclosure of the holocaust atrocities, this Nation still has not recognized genocide as an international crime. The Genocide Convention has never even been considered on its merits on the Senate floor.

Mr. President, as the survivors of the holocaust unite this week in Jerusalem to remember and reflect, let us reflect ourselves on the responsibility we bear to condemn the crime of genocide. When the victims of the horrors of concentration camps ask, "Don't let it happen again," let us not respond that we have been idle and indifferent. I urge this body to ratify the Genocide Convention.

BATTLE OF THE VETERANS' BUDGET

Mr. STEVENS. Mr. President, I would like to bring to the attention of the Senate an article written by one of the most conscientious and hard working Members of this body, Senator ALAN SIMPSON of Wyoming. His article makes some very important points from which all Senators may learn.

Senator SIMPSON's article underlines the commitment that the U.S. Senate has with respect to fulfilling our obligations to veterans who have faithfully served this country. Under the guidance and leadership of the chairman of the Veterans Affairs Committee, the Senate has made responsible decisions which fulfill our obligation we have to men and women who have served in the Armed Forces.

The skill with which Senator SIMPSON has guided the veterans budget through the Senate teaches us yet another lesson. It shows us that the budget process can work. It teaches us that, as Senator SIMPSON so aptly said:

> We have remained faithful to the national desire for budgetary restraint while at the same time keeping faith with our obligations to veterans.

I commend the article to all of my colleagues and I ask unanimous consent that the article appearing in the Washington Post of June 16, 1981, be reprinted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BATTLE OF THE VETERANS' BUDGET

(By ALAN K. SIMPSON)

This year's federal budget process has entailed high drama. The Congress, listening carefully to the American people, undertook a serious effort to reduce federal spending. Action in the Senate on the Veterans' Administration budget provided a most interesting case study. As chairman of the Senate Veterans' Affairs Committee, I was in a position not only to observe the roles being played out in this drama, but to participate fully in it as it unfolded.

The first stage was for each authorizing committee to examine in detail the president's proposals. A great many items required the attention of the new president, and the Reagan administration's budget recommendations for the Veterans' Administration were not available to me until three days before the deadline for committee budget reports. As a result, the Veterans' Affairs Committee was not able to responsibly study the president's specific proposals concerning the VA budget.

The committee was confident that the president's overall target figure could be achieved—with some "belt tightening." We never lost sight, however, of our primary responsibility to preserve essential services to veterans. With that in mind, the committee acted to restore $109 million for health care, $47 million for continued operation of the VA's regional offices and $25 million to continue the Vietnam veterans' "storefront" counseling centers. At the same time, the committee committed itself to finding $324 million in unspecified savings in the effort to support the president's economic recovery package.

A vigorous political struggle developed in which the minority party in the Senate offered amendment after amendment intended to increase President Reagan's budget proposal in the area of veterans' benefits as well as in many other areas. The endeavor was to paint the majority party as "heartless," uncaring and unfeeling with respect to its obligation to the nation's veterans and other constituent groups, knowing all the while that their amendments were principally intended to line up the ducks for the next election. Had I been a member of the minority, I would have done the same! The majority resisted these efforts, because it was quite evident that any such dilution of the president's economic package could seriously endanger the ultimate goal of achieving economic stability in this decade.

Even as this process was unfolding on the floor of the Senate, a compromise was being worked out between a bipartisan group in the House and the administration. Even though the House compromise budget contained $300 million more for veterans than was set forth in the version approved earlier by the Senate, and even though the president's endorsement of the House compromise ensured its passage, we continue to hear shrieks from various quarters that Congress is about to turn its back on America's veterans. It's just not so.

The professional veterans' organizations are in business to make sure that veterans receive at least their fair share of the federal budget. Some of these organizations continued to "pump up" their membership against the administration's proposals, while fully recognizing that both houses of Congress had rejected the supposedly detrimental aspects of the administration proposal and had restored the various cuts that were most important to veterans. Unfortunately, many veterans still seem to have the perception that the administration's budget will be accepted without any further modification.

I clearly recognize the legitimate role of these organizations. They are activists. They have a job to do and they do it well.

I respect them for the role that they play—and they play handball.

As the smoke clears, we need to look carefully at what will actually happen. Spending for veterans will increase by $1.7 billion over spending in the present fiscal year. This is a 7.6 percent increase. Admittedly, the new total of nearly $24 billion represents a $400 million decrease from the original funding proposals, but such funding constraints will not significantly affect essential veterans programs. We have therefore remained faithful to the national desire for budgetary restraint while at the same time keeping faith with our obligations to veterans.

This year's veterans' budget process demonstrated how well our political system can work. While emotions ran high, the end result should be a strengthened sense of unity created by the assurance that all constituent groups involved participated fully in the debate. Most of the nation's Republicans, Democrats and veterans supported the final result.

Most heartening to me is the knowledge that the great majority of veterans are willing to help join the national effort to resolve our nation's economic woes. They know we have tried other nostrums and placebos as fast as they could be thrown off the back of the medicine wagon—and none has worked. Responsible, reasonable veterans believe, as I do, that the greatest benefit to them and to all Americans would be the restoration of a vigorous economy.

NAMING MISSISSIPPI STATE UNIVERSITY BOLL WEEVIL RESEARCH LABORATORY IN HONOR OF DR. ROBEY WENTWORTH HARNED

Mr. COCHRAN. Mr. President, on behalf of Senator STENNIS and myself, I recently introduced legislation to name the U.S. Department of Agriculture Boll Weevil Research Laboratory on the campus of Mississippi State University in honor of Dr. Robey Wentworth Harned.

Dr. Harned is known as one of the founders of professional entomology in the South, serving for almost 25 years as head of the Department of Zoology and Entomology at Mississippi A&M College, now Mississippi State University, and as entomologist of the Mississippi Agriculture Experiment Station.

In Mississippi, Dr. Harned was continually generating great enthusiasm and professional interest for his chosen field, and attracting attention to the importance of entomology, which was then an unappreciated science. This enthusiasm, and the personal interest and dedication he exhibited daily, encouraged many students to pursue graduate work and careers in entomology. His encouragement of the students also included helping them secure jobs after graduation. In fact, at one time Mississippi State had more graduates, who were his former students, employed in entomological work by USDA than any other college except one in the United States.

He was instrumental, in 1918, in persuading the Mississippi Legislature to establish the State plant board, and he served for a number of years as the plant board's executive director, without pay.

This outstanding man also excelled in other fields while he served on the faculty at Mississippi State. As a hobby, he served unofficially as the college's track coach, inspiring many student athletes to outstanding efforts and fame. Several of his track stars were Olympic representatives, including some of my Cochran cousins who won gold medals.

In 1931, Dr. Harned's talents were summoned to Washington, and he served for the next two decades as head of Cotton Insect Research in the U.S. Bureau of Entomology and Plant Quarantine.

Following his retirement, one of the goals of his lifetime was achieved with the construction and dedication of the Boll Weevil Research Laboratory at Mississippi State. Unfortunately, ill health prevented Dr. Harned from attending dedication ceremonies on the MSU campus on March 22, 1962, much to the disappointment of his legion of friends and former students, who had hoped to present him officially with the portrait which now is displayed in the Boll Weevil Laboratory lobby.

The Mississippi Entomological Association has requested the enactment of legislation to name the laboratory in honor of Dr. Harned.

In recognition of his outstanding service, his dedication and inspiration in his chosen field, I urge the Senate to act favorably on this proposal, and officially name the USDA Boll Weevil Research Laboratory at Mississippi State University in honor of Dr. Robey Wentworth Harned.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations and withdrawal received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 2:11 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its clerks, announced that the Speaker has signed the following enrolled bill:

S. 1213. An act to amend title I of the Marine Protection, Research, and Sanctuaries Act, as amended.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

At 3:50 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has agreed to the amendments of the Senate to the following joint resolution:

H.J. Res. 238. Joint resolution to approve a Constitution for the United States Virgin Islands.

ENROLLED BILL PRESENTED

The Secretary reported that on today, June 16, 1981, he had presented to the President of the United States, the following enrolled bill:

S. 1213. An act to amend title I of the Marine Protection, Research, and Sanctuaries Act, as amended.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1392. A communication from the Executive Director of the Office of Management and Budget, transmitting, pursuant to law, a report that the appropriation to the Department of Justice for "Salaries and Expenses, Fees and Expenses of Witnesses" has been reapportioned on a basis indicating a necessity for a supplemental estimate of appropriation; to the Committee on Appropriations.

EC-1393. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend section 2306(f) of title 10, United States Code, to increase the amount of a dollar threshold applicable to the making of contracts; to the Committee on Armed Services.

EC-1394. A communication from the Assistant Secretary of the Air Force (Research, Development, and Logistics), transmitting, pursuant to law, a report on a study with respect to converting the commissary shelf-stocking and custodial services function at March Air Force Base, California, and the decision that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC-1395. A communication from the General Counsel of the Department of Defense, transmitting, pursuant to law, copies of executive orders amending the Orders for Court Martials; to the Committee on Armed Services.

EC-1396. A communication from the Acting Assistant Secretary of the Air Force (Research, Development, and Logistics), transmitting, pursuant to law, a report on the study with respect to converting the commissary shelf-stocking and custodial services function at Chanute Air Force Base, Ill., and the decision that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC-1397. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting, pursuant to law, a report on 10 construction projects

to be undertaken by the Army National Guard; to the Committee on Armed Services.

EC–1398. A communication from the Assistant Secretary of the Air Force (Research, Development, and Logistics), transmitting, pursuant to law, a report on a study with respect to converting the commissary shelf-stocking and custodial services functions at Luke Air Force Base, Ariz., and the decision that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC–1399. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Army's proposed letter of offer to the Netherlands for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–1400. A communication from the Secretary of Transportation, transmitting, pursuant to law, the quarterly report of the Urban Mass Transportation Administration for the first quarter of fiscal year 1981; to the Committee on Banking, Housing, and Urban Affairs.

EC–1401. A communication from the Vice President for Government Affairs of the National Railroad Passenger Corporation, transmitting, pursuant to law, a report on the average number of persons on board and the on-time performance of each train operated by the Corporation for the month of April 1981; to the Committee on Commerce, Science, and Transportation.

EC–1402. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to abolish the national driver register; to the Committee on Commerce, Science, and Transportation.

EC–1403. A communication from the Secretary of Energy, transmitting, for the information of the Senate, a update on the status of the national energy policy plan; to the Committee on Energy and Natural Resources.

EC–1404. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "New England Can Reduce Its Oil Dependence Through Conservation and Renewable Resource Development"; to the Committee on Energy and Natural Resources.

EC–1405. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on the use of alcohol in fuels, dated June 1981; to the Committee on Energy and Natural Resources.

EC–1406. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, notices of meetings related to the international energy program; to the Committee on Energy and Natural Resources.

EC–1407. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on activities carried out under title XX of the Social Security Act for fiscal year 1980; to the Committee on Finance.

EC–1408. A communication from the Secretary of Commerce, transmitting, pursuant to law, notification that on April 17, 1981, the President officially recognized the Louisiana World Exposition; to the Committee on Foreign Relations.

EC–1409. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on May 19, 1981; to the Committee on Governmental Affairs.

EC–1410. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on May 19, 1981; to the Committee on Governmental Affairs.

EC–1411. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on May 19, 1981; to the Committee on Governmental Affairs.

EC–1412. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on May 19, 1981; to the Committee on Governmental Affairs.

EC–1413. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on May 19, 1981; to the Committee on Governmental Affairs.

EC–1414. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on May 19, 1981; to the Committee on Governmental Affairs.

EC–1415. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on May 19, 1981; to the Committee on Governmental Affairs.

EC–1416. A communication from the Administrator of the General Services Administration, transmitting the annual report of the Administration for 1980; to the Committee on Governmental Affairs.

EC–1417. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a report on the Administration's records and information management activities during fiscal year 1980; to the Committee on Governmental Affairs.

EC–1418. A communication from the Acting Deputy Assistant Secretary for Administration of the Department of Housing and Urban Development transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC–1419. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting a draft of proposed legislation to assure essential transportation support for the FEMA's top secret installation known as the "Special Facility"; to the Committee on Governmental Affairs.

EC–1420. A communication from the Chairman of the U.S. Civil Rights Commission, transmiting, pursuant to law, a report entitled "Indian Tribes, a Continuing Quest for Survival"; to the Select Committee on Indian Affairs.

EC–1421. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on the number of Indians recruited and trained for positions, subject to Indian preference, in the Bureau of Indian Affairs in fiscal vear 1980; to the Select Committee on Indian Affairs.

EC–1422. A communication from the Deputy Director of the Selective Service System, transmitting, pursuant to law, a report on certain requests made of the agency under the Freedom of Information Act in calendar year 1980; to the Committee on the Judiciary.

EC–1423. A communication from the Assistant Attorney General for Legal Policy, transmitting, pursuant to law, the Department's 1980 annual report on Freedom of Information activities; to the Committee on the Judiciary.

EC–1424. A communication from the Acting Director of the United States Water Resources Council, transmitting, pursuant to law, a report on the Council's 1980 activities under the Freedom of Information Act; to the Committee on the Judiciary.

EC–1425. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on grants for childhood lead poisoning prevention; to the Committee on Labor and Human Resources.

EC–1426. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for the College Library Resources Program; to the Committee on Labor and Human Resources.

EC–1427. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Health Service Program Needs Assessments Found Inadequate"; to the Committee on Labor and Human Resources.

EC–1428. A communication from the Administrator of the Small Business Administration, transmitting, pursuant to executive order, the first annual report of the Presidential Advisory Committee on Small and Minority Business Ownership; to the Committee on Small Business.

EC–1429. A communication from the Acting Administrator of the Veterans' Administration, transmitting a draft of proposed legislation to extend authority for grants to States for state home facilities; to the Committee on Veterans' Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–208. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Armed Services:

"FILE NUMBER 166

"Whereas, The testing of nuclear devices at the Nevada Test Site began on January 17, 1951, and has continued to the present; and

"Whereas, Surface bursts and subsurface bursts which resulted in radioactive materials leaking into the air, have caused unusual amounts of radiation to be present downwind of the test areas; and

"Whereas, Recent investigations and reports have indicated that persons who reside downwind of the test site, including many persons who live in Nevada, have suffered and are suffering serious and even fatal effects from the radiation; and

"Whereas, Investigations have suggested that the United States Government may have failed to provide adequate warning and protection for persons living near and downwind of the test site; and

"Whereas, Existing legal remedies and recourses available to victims of the radiation which results from nuclear testing are fraught with difficulties; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of Nevada, jointly,* That we call upon the Congress of the United States to provide compensation and treatment for injuries suffered by persons near and downwind of the Nevada Test Site as a result of exposure to radiation from the testing of nuclear devices; and be it further

"*Resolved,* That fair and just compensation be made to victims of radiation, based upon determinations of an independent commission appointed with the approval of the governor and legislature of Nevada; and be it further

"*Resolved,* That an independent agency be established by the Federal Government to direct long-term monitoring, medical studies and research, and medical care of the victims; and be it further

"*Resolved,* That the legislative counsel forthwith transmit copies of this resolution

to the Vice President of the United States in his capacity as President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the delegation of the State of Nevada to the Congress of the United States; and be it further

"*Resolved,* That this resolution shall become effective upon passage and approval."

POM–209. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Commerce, Science, and Transportation:

"FILE NUMBER 164

"Whereas, Rail passenger service in Nevada has been experiencing a dramatic renaissance from its near extinction in the late 1960's; and

"Whereas, More than 185,000 people used trains of the National Railroad Passenger Corporation to travel in Nevada in 1980; and

"Whereas, The National Railroad Passenger Corporation (AMTRAK) is steadily increasing its rates to recover a greater percentage of its costs from its passengers; and

"Whereas, AMTRAK expects to cover 50 percent of its expenses by fares 3 years before the time set by Congress for it to do so; and

"Whereas, AMTRAK proposes that for a total budget of $853,000,000, only $240,000,000 more than that recommended by the President of the United States, it can continue to operate the complete national system, including those routes in Nevada in which this state has a vital interest; and

"Whereas, The national administration proposes a fiscal year budget of $613,000,000 which is allocated for passenger service on the East Coast; and

"Whereas, This legislature commends the Congress and the President for attempting to reduce federal spending but firmly believes that the proposed reduction in support for rail passenger service should be made proportionately throughout the various parts of the country, so that Nevada and the other western states may enjoy a proportionate share of that service; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of Nevada, jointly,* That this legislature hereby urges the Congress of the United States to continue its financial support of AMTRAK at a level which is adequate to maintain vital passenger services in all parts of the country; and be it further

"*Resolved,* That copies of this resolution be prepared and transmitted forthwith by the legislative counsel to the Vice President of the United States as presiding officer of the Senate, to the Speaker of the House of Representatives and to all members of the Nevada congressional delegation; and be it further

"*Resolved,* That this resolution shall become effective upon passage and approval."

POM–210. A resolution adopted by the Association of California Water Agencies, urging repeal of section 301 of the Federal Powerplant and Industrial Fuel Use Act of 1978; to the Committee on Energy and Natural Resources.

POM–211. A resolution adopted by the Los Gatos, Calif., Chamber of Commerce, urging the repeal of section 301 of the Powerplant and Industrial Fuel Use Act of 1978; to the Committee on Energy and Natural Resources.

POM–212. A resolution adopted by the Lakeport, Calif., City Council, urging the repeal of section 301 of the Powerplant and Industrial Fuel Use Act of 1978; to the Committee on Energy and Natural Resources.

POM–213. Joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Finance:

FILE NUMBER 165

"Whereas, The United States is reportedly the only country in the world which taxes gaming winnings as income; and

"Whereas, The right to raise revenues for state purposes is reserved to the states by the Constitution of the United States; and

"Whereas, Gaming is a primary and vital revenue raising source in the economy of the State of Nevada; and

"Whereas, The people of the State of Nevada have approved, as a matter of state policy, the raising of state revenue through the imposition of state taxes on gaming businesses; and

"Whereas, The legalization of gaming in the State of Nevada has resulted in the virtual elimination of illegal gaming activities in the state; and

"Whereas, The beneficial effects of the legalization of gaming on the state's interests are significantly inhibited by the imposition of a discriminatory federal tax which interferes with the latitude necessary for the state to pursue its revenue raising policies and law enforcement goals; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of Nevada, jointly,* That the legislature of the State of Nevada requests the Congress of the United States to enact legislation which exempts the winnings of individual gaming patrons from income tax; and be it further

"*Resolved,* That copies of this resolution be prepared and transmitted forthwith by the legislative counsel to the President of the Senate and the Speaker of the House of Representatives of the United States and to each member of the Nevada congressional delegation; and be it further

"*Resolved,* That this resolution shall become effective upon passage and approval."

POM–214. A resolution adopted by the Our Lady of Mercy Hospital Medical and Dental Staff, relating to the phaseout of PSRO programs; to the Committee on Finance.

POM–215. Joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Veterans' Affairs:

"FILE NUMBER 151

"Whereas, Nevada has sent her sons and daughters to serve their country, and to die in defense of their country, in each of its wars since the American Civil War; and

"Whereas, Many veterans of the wars which the United States has fought have found a home in Nevada either during or after serving in the Armed Forces; and

"Whereas, Many natives of Nevada and people who find Nevada to be a proper place for an independent, hardworking and patriotic person to live are devoted to their state, and would not wish to leave, even in death; and

"Whereas, the United States Government does not maintain a national cemetery in Nevada, thus preventing those of her veterans who wish to remain in Nevada forever from being buried among those brave men and women who share the bond which unites those who knew the experience of ". . . having been a soldier, or having been to sea"; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of Nevada, jointly,* That we call upon the Congress of the United States to establish a national cemetery in the southern part of Nevada, and if it is feasible, another in the northern part of the state, for the benefit of those veterans of the Armed Services who are Nevada residents by birth or choice, and for other veterans who are deserving of the best tribute which a grateful nation can offer them in death; and be it further

"*Resolved,* That the legislative counsel transmit a copy of this resolution to the Vice President of the United States as President of the Senate, to the Speaker of the United States House of Representatives, and to each member of the delegation of the State of Nevada to the United States Congress; and be it further

"*Resolved,* That this resolution shall become effective upon passage and approval."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MATHIAS, from the Committee on the Judiciary:

Report on S. 255, a bill to amend the patent law to restore the term of the patent grant for the period of time that nonpatent regulatory requirements prevent the marketing of a patented product, (together with additional views) (Rept. No. 97–138).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BOREN (for himself and Mr. NICKLES):

S. 1370. A bill to authorize the Secretary of the Army to acquire, by condemnation proceedings, or otherwise, such interests in oil, gas, coal, or other minerals owned by the Osage Tribe of Indians needed for Skiatook Lake, Osage County, Okla.; to the Select Committee on Indian Affairs.

By Mr. METZENBAUM:

S. 1371. A bill to amend the Older Americans Act of 1965 to require States to provide assistance to older persons with limited English-speaking ability for the purpose of enabling such older persons to participate in programs and receive benefits under the Act; to the Committee on Labor and Human Resources.

S. 1372. A bill to provide an effective and efficient youth employment program designed to improve career opportunities for youth between the ages of 18 and 24, particularly economically disadvantaged youth, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DECONCINI:

S. 1373. A bill to authorize the President to call a White House Conference on Veterans; to the Committee on Veterans' Affairs.

By Mr. PRESSLER:

S. 1374. A bill to deauthorize the Oahe and Pollock-Herreid units of the Pick-Sloan Missouri Basin Program, to authorize certain water projects in the South Dakota Water Management System, to authorize a study of the system to be administered by the State of South Dakota, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. TOWER:

S. 1375. A bill to provide for telephone privacy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DURENBERGER (for himself, Mr. COCHRAN, Mr. BOSCHWITZ, Mr. LEVIN, Mr. RIEGLE, and Mr. BURDICK):

S. 1376. A bill to amend title IV of the Federal Aviation Act of 1958 to reduce airline subsidies, and for other purposes; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOREN (for himself and Mr. NICKLES):

S. 1370. A bill to authorize the Secretary of the Army to acquire, by con-

demnation proceedings, or otherwise, such interests in the oil, gas, coal, or other minerals owned by the Osage Tribe of Indians needed for Skiatook Lake, Osage County, Okla.; to the Select Committee on Indian Affairs.

ACQUISITION OF CERTAIN MINERAL RIGHTS

Mr. BOREN. Mr. President, I am pleased to introduce this legislation, along with my colleague from Oklahoma, Mr. NICKLES, which would authorize the Secretary of the Army to subordinate the mineral rights owned by the Osage Tribe of Indians to the surface rights for the purpose of construction of Skiatook Lake in Oklahoma.

This legislation is necessary as the result of a 1976, eighth circuit court of appeals U.S. against Winnebago, wherein the court held that the United States was without authority to condemn lands acquired by the Winnebago Indian Treaty and held in trust by the United States without a clear expression of congressional intent to authorize the condemnation. The Osage Allotment Act of 1906 reserved the mineral interest in the Osage tribal lands to the tribe with provisions that the royalties from the mineral interest would be paid to the United States in trust for the tribe.

The Justice Department has stated that they believe that the holding in the Winnebago case applies equally to the Osage and that express congressional intent to acquire the Osage mineral interest would be required before condemnation could be undertaken.

I have met with the principal chief of Osage Tribal Council, along with the Corps of Engineers, to attempt to resolve the matter of just and equitable compensation for the mineral rights being subordinated. I have been pleased with the progress of the meetings and the willingness that both the corps and the tribe have exhibited in working toward a settlement in this situation.

I am equally aware of our Nation's need for increased energy production, especially the continuation of the search for and recovery of oil and gas which is abundant in Osage County. It is for this reason that I have asked that concessions be made in the Skiatook Lake area to allow for drilling activity in any area about the conservation pool, elevation 714 feet, to assure continued recovery of valuable minerals. I have also been given the assurance that drilling platforms will be allowed in the lake itself for the purpose of drilling for oil and gas reserves.

In short, I have tried to insure continued drilling activity in and around the Skiatook Lake area in order that the Osage Tribe will continue to receive revenue rightly due them and to provide a means for the recovery of minerals that are vital to our Nation's energy independence.

As energy has been a major issue in the 1970's and will continue to be of concern to us all in the future, I believe that another valuable resource—water—will become an equally important issue in the 1980's. We must now take the necessary measures to make sure we are well equipped to handle our future water needs. It is for this reason that I believe that the completion of Skiatook Lake is vital to Oklahoma.

The Skiatook project was authorized by section 203 of the Flood Control Act of 1962—October 23—and construction began in January 1974. To date the project is 51 percent complete with completion expected in the fall of 1983.

The first application for water supply from the Skiatook Reservoir was filed with the Oklahoma Water Resources Board by the city of Sand Springs, Okla., on June 8, 1966, for 11,200 A/F annually. Since that time 10 other communities have made application for water from the Skiatook Reservoir, totaling 72,562 A/F annually, and a number of applications are pending.

The communities that will be served by the Skiatook project now depend on the city of Tulsa to supply their water needs. Tulsa has already informed representatives of these communities that they will not be able to continue to supply needs in the future due to the growth and increasing demand of Tulsa residents and businesses. Therefore, it is essential that this reservoir be completed so that existing needs will be met.

I firmly believe that this legislation authorizing subordination, which will allow the Osage Tribe to retain ownership of its mineral interests and also supply the water needs of many thousands of Oklahomans, will be of benefit to all.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1370

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army is hereby authorized to acquire a subordination, by condemnation proceedings or otherwise, of such interests in the oil, gas, coal, or other minerals owned by the Osage Tribe of Indians, or held in trust for said Tribe, to the extent necessary for the construction of works relating to Skiatook Lake and the operation and maintenance of such lake as a part of the project for improvement of the Verdigris River and tributaries, Oklahoma and Kansas, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1180; Public Law 87-874).

● Mr. NICKLES. Mr. President, I join with my colleague, Mr. BOREN, in sponsoring this legislation which will resolve a dilemma that has developed during the construction of the Skiatook Lake in Osage County, Okla.

This project, authorized by section 203 of the Flood Control Act of 1962, has been under construction since January 1974. More than $50 million has been expended and the project completion date is in the fall of 1983. All the surface rights and rights to the minerals under the dam have been acquired. The problem arises in subordinating the mineral rights to the surface rights for the lake area.

Two years after the actual construction on Skiatook Lake, the court held, in the case of the *United States* v. *Winnebago Tribe of Nebraska*, 542 F. 2d, 1002 (8th Cir. 1976), that the United States is not authorized to acquire mineral rights to Indian trust lands without a clear expression of congressional purpose to permit such acquisition. The Department of Justice has stated that the determination in the Winnebago case applies to the Osage Tribe and to this particular lake project in Oklahoma.

The Government does not seek to acquire ownership of the remaining minerals nor to prohibit their recovery. This legislation provides the mechanism toward a solution by clearly stating the intent of Congress to authorize the subordination of mineral rights which was no doubt the intent of the 1962 legislation.

Once the mineral rights can be subordinated, the value of these minerals can be determined with protection of the rights of both the Osage Tribe and the Corps of Engineers representing the American taxpayers. Again, I wish to reiterate that this legislation does not remove the ownership rights from the Osage Tribe of Oklahoma. It merely allows the U.S. Government to complete the Skiatook Lake project which will provide flood control, recreation, and a much-needed water supply for all Oklahomans.

I urge my colleagues to take prompt action on this bill to insure a timely completion of Skiatook Lake.●

By Mr. METZENBAUM:

S. 1371. A bill to amend the Older Americans Act of 1965 to require States to provide assistance to older persons with limited English-speaking ability for the purpose of enabling such older persons to participate in programs and receive benefits under the Act; to the Committee on Labor and Human Resources.

ASSISTANCE TO OLDER PERSONS WITH LIMITED ENGLISH-SPEAKING ABILITY

● Mr. METZENBAUM. Mr. President, today I am introducing legislation which amends the Older Americans Act of 1965 to provide for outreach services for older Americans whose native language is not English.

The Department of Education estimates that there are over 15 million Americans with 800,000 residing in Ohio, for whom English is a foreign language. That number includes at least 3 million people over the age of 65, most of whom have spent their productive lives in this country, raised American families, and carried their full share of the tax burden. But many of them, particularly women who remained in the home to care for their families, were never able to develop sufficient fluency in English to permit them to deal effectively with Government agencies. That language problem has made it difficult for many of these senior citizens to obtain the housing assistance, nutrition services, medical care, legal services, and other social services to which they are entitled.

This legislation will take two modest steps to open the door to those who have been excluded. First, it requires States to deliver outreach services by workers fluent in a foreign language, spoken by a substantial number of elderly people residing in any of its planning and service areas. Second, the bill requires the States

to provide an assurance that an individual employed on a full-time basis in each such agency will be responsible for counseling senior citizens in the appropriate languages and assisting them in participating in programs provided under the Older Americans Act.

Mr. President, this is a very modest program I am proposing today, but it is also a program that responds to the real needs of senior citizens in every part of this country.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1371

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)) is amended—

(1) in paragraph (15), by striking out "and" at the end thereof;

(2) in paragraph (16), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(17) provide assurances that, if a substantial number of the older individuals residing in any planning and service area in the State are of limited English-speaking ability, then the State will require the area agency on aging for each such planning and service area—

"(A) to utilize, in the delivery of outreach services under section 306(a)(2)(A), the services of workers who are fluent in the language spoken by a predominant number of such older individuals who are of limited English-speaking ability; and

"(B) to designate an individual employed by the area agency on aging on a full-time basis, whose responsibilities will include—

"(i) taking such action as may be appropriate to assure that counseling assistance is made available to such older individuals who are of limited English-speaking ability in order to assist such older individuals in participating in programs and receiving assistance under this Act; and

"(ii) providing guidance to individuals engaged in the delivery of social services under the area plan involved to enable such individuals to be aware of cultural sensitivities and to effectively take into account linguistic and cultural differences."●

By Mr. METZENBAUM:

S. 1372. A bill to provide an effective and efficient youth employment program designed to improve career opportunities for youths between the ages of 18 and 24, particularly economically disadvantaged youth; to the Committee on Labor and Human Resources.

YOUTH EMPLOYMENT ACT OF 1981

● Mr. METZENBAUM. Mr. President, I am introducing the Youth Employment Act of 1981, a bill designed to create large-scale youth employment projects in the areas of energy conservation and development.

A decade ago, in response to social unrest in our cities, we developed a number of national programs designed to expand opportunity for Americans who have been left out of the economic mainstream. Many of those programs have now been virtually dismantled.

Last year, when I introduced this very same bill, the unemployment rate among youth 16 to 21 was 13 percent. That figure has increased over the past year to an astronomical level of 19 percent.

Today, we face a situation among this Nation's young people that could compare in seriousness to that of the late 1960's.

Nearly 3 million Americans below the age of 24 are unable to find work. And of those 3 million, a disproportionate number come from minority groups.

Among young blacks, for example, unemployment levels of 60 and 70 percent are common.

Unemployment may be a temporary phenomenon for many young people. But for others, it will mean moving into adulthood without having had the opportunity to mount the first steps in the career ladder. Unemployment rates drop by half between the teens and early twenties, but for youth who are out of work at age 20 to 24, when careers and families are usually started, the problems are particularly serious.

This Nation cannot afford to raise a whole generation of potential parents and young adults who have never held a job or established themselves in the job market. We cannot afford, in other words, to allow the unemployed youth of today to become tomorrow's welfare recipients.

The bill that we are introducing today is designed to attack youth unemployment by providing training and career opportunities in an area of great national need—energy conservation and development. And this is an area as well that will, in the years to come, generate new jobs in large numbers.

This legislation will create a national youth employment commission, charged with implementing large scale multiyear projects in such areas as weatherization, alternative energy development, mass transportation and low-head hydroelectric dam restoration. Projects will be located in areas of high unemployment, and will be initiated and developed at the local level.

Unlike current youth employment programs, each of these projects will last a mimimum of 2 years, a long enough period to build in upward mobility for participants. Thus, a typical entry level participant may in the first year learn good work habits like punctuality, attendance, and job responsibility. In the second year, he or she will be able to move up within the project under the supervision of the skilled tradesmen who will serve as supervisory personnel. Through this structure, participants will have a solid experience in the real world of work and will, I believe, emerge as employable, highly motivated individuals.

Finally, by concentrating on energy conservation and development, the projects will provide individual communities with energy improvements of long-term value. And for the economy as a whole, this program will help to meet our urgent national need for skilled manpower in the energy field. According to the Joint Economic Committee, aggressive development by this country of renewable energy sources could create as many as 3 million permanent jobs by the end of the 1980's.

Last year, the Senate Committee on Labor and Human Resources considered a number of youth employment proposals. In the final version of a bill which it reported to the floor, the committee decided to include my proposal. Although that bill was not taken up by the entire Senate, I heard no opposition to testing this bold approach. As the committee begins its deliberations on the reauthorization of CETA, I intend again to put forth this bill as one part of a comprehensive attack on youth employment.

Mr. President, this legislation is not meant to replace our current youth employment programs. Rather, it will strengthen them by testing a new, innovative, and realistic approach to two of the Nation's most critical problems.

Mr. President, I ask unanimous consent that a section-by-section analysis and the text of the bill be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 1372

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Youth Employment Act".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to provide for the development, selection, and implementation of multiyear large-scale projects in areas of energy development and energy conservation under which youth, particularly economically disadvantaged youth, will be provided with career employment opportunities.

DEFINITIONS

SEC. 3. As used in this Act:

(1) The term "area of substantial unemployment" means any area of sufficient size and scope to sustain a public service employment program and which has an average rate of unemployment of at least 6.5 per centum for any three consecutive months within the most recent twelve-month period as determined by the Secretary of Labor.

(2) The term "Commission" means the Youth Employment Commission established under section 6.

(3) The term "Executive Director" means the Executive Director of the Youth Employment Commission.

(4) The term "Federal executive agency" means any department, agency, or independent establishment of the executive branch of the Government, including any wholly owned Government corporation.

(5) The term "lower living standard budget" means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary of Labor based upon the most recent "lower living family budget" issued by the Secretary.

(6) The term "prime sponsor" means any prime sponsor designated under section 101 of the Comprehensive Employment and Training Act.

(7) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(8) The term "supportive services" means

services which are designed to contribute to the employability of participants, enhance their employment opportunities, assist them in retaining employment, and facilitate their movement into permanent employment not subsidized under the Act. Supportive services may include health care, transportation, temporary shelter, child care, and financial counseling and assistance.

(9) The term "underemployed individuals" means—

(A) individuals who are working part time but seeking full-time work; or

(B) individuals who are working full time but receiving wages not in excess of the higher of—

(i) the poverty level determined in accordance with criteria as established by the Director of the Office of Management and Budget; or

(ii) 85 per centum of the lower living standard income level.

(10) The term "unemployed individuals" means—

(A) individuals who are without jobs and who want and are available for work; or

(B)(i) in cases permitted by regulations of the Commission, individuals who are institutionalized in, or have been released from a prison hospital or similar institution, or are clients of a sheltered workshop; or

(ii) individuals who receive, or whose families receive, supplemental security income or money payments pursuant to a State plan approved under title I, IV, X, or XVI of the Social Security Act or would as defined in regulations to be issued by the Secretary of Labor, be eligible for such payments but for the fact that both parents are present in the home (I) who are determined by the Secretary of Labor in consultation with the Secretary of Health, Education, and Welfare, to be available for work and (II) who are either persons without jobs, or persons working in jobs providing insufficient income to support their families without welfare assistance.

The determination of whether individuals are without jobs shall be made in accordance with criteria used by the Bureau of Labor Statistics of the Department of Labor in defining individuals as unemployed, but such criteria shall not be applied differently on account of an individual's previous employment.

(11) The term "unit of general local government" means any city, municipality, county, town, township, parish, village, or other general purpose political subdivision which has the power to levy taxes and spend funds, as well as general corporate and police powers.

(12) The term "youth" means any individual who has attained eighteen years of age but has not attained twenty-five years of age.

AUTHORIZATION OF APPROPRIATIONS; RESERVATIONS

SEC. 4. (a) There are authorized to be appropriated to carry out the provisions of this Act (other than administrative expenses and independent evaluation expenses) $250,000,000 for the fiscal year 1982 and for each of the succeeding years ending prior to October 1, 1986.

(b) There are authorized to be appropriated $25,000,000 for administrative expenses including expenses relating to project selection and expenses relating to the independent evaluation of projects assisted under this Act, $25,000,000 for the fiscal year 1982 and $15,000,000 for the fiscal year 1983 and for each of the succeeding fiscal years ending prior to October 1, 1986.

(c) Notwithstanding any other provision of law not less than 5 per centum nor more than 10 per centum of amounts appropriated for the fiscal year 1982 and for each of the succeeding fiscal years ending prior to October 1, 1986 for—

(1) mass transportation projects supplies assisted by the Department of Transportation,

(2) solar energy development projects supplies assisted by the Department of Energy,

(3) low-head hydroelectric dam projects supplies assisted by the Department of Energy,

(4) weatherization projects supplies assisted by the Department of Energy and by the Community Services Administration, and

(5) alternative fuels projects supplies assisted by the Department of Energy and by the Synthetic Fuels Corporation,

shall be reserved and made available for projects selected by the Commission and carried out under section 13.

(d) Notwithstanding any other provision of law, unless enacted in specific limiting of the provisions of this subsection, any funds appropriated to carry out this Act, which are not obligated prior to the end of the fiscal year for which such funds were appropriated, shall remain available for obligation during the succeeding fiscal year and any funds obligated in any fiscal year may be expended during a period of two years from the date of obligation.

YOUTH EMPLOYMENT PROGRAM AUTHORIZED

SEC. 5. The Commission is authorized, in accordance with the provisions of this Act, to carry out a youth employment program under which eligible energy conservation and energy development projects are selected and developed by the Commission and carried out under agreement with Federal executive agencies, States, units of general purpose local government and nonprofit corporations in order to provide eligible youth with career employment opportunities.

YOUTH EMPLOYMENT COMMISSION ESTABLISHED

SEC. 6. (a) There is established, as an independent established of the executive bran of the United States Government, the You Employment Commission.

(b) The Commission shall be composed of nine members appointed by the President, by and with the advice and consent of the Senate. Individuals shall be appointed on the basis of their expertise in the fields of human resource management, energy conservation, energy development and other technical fields related to the functions to be performed by the Commission. In making appointments the President shall give due consideration to individuals who represent business, labor, community-based organizations, representatives of units of general local government and the general public.

(c) The term of office of each member of the Commission shall be three years, except that—

(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(2) the terms of the members first taking office shall be designated by the President at the time of appointment, three for a term of one year, three for a term of two years, and three for a term of three years.

(d)(1) The President shall select one of the members to serve as Chairman of the Commission, and the member so designated shall serve as Chairman for the duration of the term of his appointment as a member.

(2) Vacancies in the membership of the Commission shall not impair the power of the Commission. Five members shall constitute a quorum for the transaction of business, but any number may conduct hearings.

(e) The members of the Commission shall receive compensation at a rate equal to the daily rate prescribed for GS–18 of the General Schedule under section 5332 of title 5, United States Code, including traveltime for each day they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out functions of the Commission.

(f) No member of the Commission under this Act shall cast a vote on any matter which has a direct bearing on services to be provided by that member (or any organization which that member directly represents) or vote on any matter which would financially benefit the member or the organization which the member represents.

(g)(1) There shall be in the Commission an Executive Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Section 5314 of title 5, United States Code is amended by adding at the end thereof the following new item:

"Executive Director, Youth Employment Commission.".

FUNCTIONS OF THE COMMISSION

SEC. 7. (a) The Commission shall—

(1) establish procedures for the development and selection of eligible projects designed to provide eligible youth with career employment opportunities;

(2)(A) enter into agreements with Federal executive agencies, States, units of general purpose local government and nonprofit private corporations to carry out projects developed and selected under clause (1) of this subsection; and

(B) enter into arrangements, including, if necessary, transfer payments, to carry out the provisions of section 13; and

(3) monitor and evaluate the projects selected under this Act, with particular attention on efficient operation of such projects and evaluation of the potential for success of opening career opportunities to participating youth.

(b) In carrying out its general functions under subsection (a) of this section, the Commission shall—

(1) develop standards and criteria for the selection of eligible projects;

(2) solicit and otherwise encourage the development of innovative proposals for energy conservation or energy development projects suitable for the purpose of this Act;

(3) establish criteria for the rating of eligible projects based upon the potential for projects to provide career opportunities to eligible participating youth and to rate such projects;

(4) identify Federal executive agencies having responsibility for conducting eligible projects and similar energy conservation and energy development projects, and encourage States, units of general local government and nonprofit private organizations to make proposals for eligible projects;

(5) provide for administrative and support services of projects selected through agreements entered into in accordance with section 12, particularly agreements with States, units of general purpose local government, and private nonprofit corporations; and

(6) supervise, monitor, and evaluate projects selected, particularly evaluate the success of such projects in providing career opportunities for participating youth.

(c) The Commission shall prepare an annual report to the President and to the Congress concerning the activities of the Commission, including a description of the progress of projects selected and assisted under this Act and new ideas developed as a result of the conduct of such projects, together with such recommendations, including recommendations for legislation as the Commission deems appropriate.

ADMINISTRATIVE PROVISIONS

SEC. 8. (a) In order to carry out the functions of the Commission under this Act the Executive Director, under the general direction and supervision of the Commission, is authorized to—

(1) prescribe such regulations as he deems necessary to carry out the provisions of this Act;

(2) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act;

(3) receive money and other property donated, bequeathed or devised, without condition or restriction other than that it will be used for the purposes of the Commission, and to use, sell, and otherwise dispose of such property for the purpose of carrying out the functions of the Commission under this Act;

(4) receive, and use, sell, or otherwise dispose of, in accordance with paragraph (3) money and other property donated, bequeathed, or devised to the Commission with a condition or restriction including a condition that the Commission use other funds of the Commission for the purpose of the gift;

(5) conduct such planning studies and hold such hearings as may be required to carry out the provisions of this Act;

(6) secure from any Federal executive agency, including any independent establishment or instrumentality of the United States, or from any State or unit of general local government, information, estimates and statistics required in the performance of his functions under this Act;

(7) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

(8) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem as authorized by section 5703 of title 5, United States Code;

(9) enter into contracts, grants, agreements or other arrangements, or modifications thereof to carry out the provisions of this Act;

(10) provide for the making of such reports (including fund accounting reports) and the filing of such applications in such form and containing such information as the Executive Director may reasonably require;

(11) Withhold funds otherwise payable under this Act, but only in order to recover any amounts expended in the current or immediately prior fiscal year in violation of any provision of this Act, or any term or condition of agreements entered into by the Commission under this Act;

(12) make advances, progress, transfer and other payments which the Administrator deems necessary to carry out the provisions of this Act without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529); and

(13) make other necessary expenditures.

(b) Each such Federal executive agency is authorized and directed to furnish such information, estimates, and statistics directly to the Commission upon written request made by the Executive Director.

ELIGIBLE YOUTH PARTICIPANTS

SEC. 9. (a) Each participant in any project assisted by the Commission under this Act shall be a youth—

(1) who is unemployed or underemployed, and

(2) who resides with a family which has, or if not residing with a family has, an income equal to or less than 85 per centum of the lower living standard income level, and who is not attending an educational institution, as defined by the Executive Director of the Commission, on more than a half-time basis.

(b) Such participants must be citizens or permanent residents of the United States.

(c) For purposes of eligibility for participation in an eligible project under this Act, no youth shall be considered as unemployed unless such youth has been unemployed for at least seven consecutive weeks.

ELIGIBLE PROJECTS

SEC. 10. (a) No financial assistance shall be provided under this Act and no project shall be conducted under section 13 unless the Commission determines that the project—

(1) involves a program of energy conservation or energy development, such as solar energy development, low-head hydroelectric dam restoration, synthetic fuel production, weatherization programs, mass transportation programs, and the development of new energy sources;

(2) offers potential for contributing to career opportunities for eligible youth;

(3) will be located in an area of substantial unemployment;

(4) will provide at least two hundred and fifty job opportunities for eligible youth;

(5) will take at least two years from the date on which an agreement under section 12 is entered into to complete; and

(6) will offer eligible youth participants a range of employment opportunities and advancement opportunities.

(b) The Commission shall develop objective criteria for the selection of projects consistent with the provisions of this section and section 11 and shall submit the criteria as part of the first annual report to the Congress required under section 7(c).

PROJECT SELECTION

SEC. 11. (a) The Commission shall prescribe standards for the development and selection of projects which encourage proposals for large-scale projects designed to meet the requirements of section 10(a).

(b) The standards required by this section shall provide for—

(1) the development of proposals for energy conservation or energy development projects specifying the detailed employment needs and profiles for each such project;

(2) the costs of each such project;

(3) linkages for the youth opportunities element of each such project with prime sponsors and other institutions and organizations, including community based organizations which can contribute to employment opportunities for youth;

(4) a detailed description of administrative arrangements for carrying out the project; and

(5) a list of human resource specialists engineers and managers required to continually review the proposals developed under this subsection.

(c)(1) The Commission shall, in accordance with the provisions of this subsection, review each planning proposal developed under this section for the purpose of setting time tables and ranking the projects for selection under this Act.

(2) Once in each fiscal year the Commission shall submit the proposals developed under this subsection to independent experts for review and comment.

(3) After the review required by paragraph (2) of this subsection the Commission shall rank the projects in the order of the capacity of such projects to carry out the purpose of this Act and the timeliness with which such projects may be initiated.

ADMINISTRATIVE AGREEMENTS

SEC. 12. (a) From amounts appropriated under section 4(a), the Commission shall provide financial assistance to Federal executive agencies, State agencies, units of general local government, and nonprofit private corporations pursuant to agreements entered into by the head of such agency, government, or organization.

(b) Each such agreement shall contain provisions which—

(1) set forth a full description of the eligible project consistent with the provisions of sections 10 and 11 together with assurances that a preference will be given for the employment of eligible youth;

(2) set forth arrangements for an employability plan for eligible youth participants which—

(A) describe standards for performance by such youth;

(B) provide assessments at periodic intervals of the performance;

(C) provide procedures for the termination of youth who do not perform adequately;

(D) describe in detail the supportive services for such youth; and

(E) assurances that the youth will receive training and education opportunities designed to improve the opportunity of such youth for career advancement;

(3) set forth a description of the special vocational training and education elements of the employability plan described in the previous clause which will be carried out as an integral part of the eligible project and will be designed to increase the career advancement potential of participating youths;

(4) set forth a description of the production and organization techniques which will be employed in carrying out the eligible project and the provisions for adequate materials and supplies which will be available in carrying out the eligible project;

(5) set forth assurances that an adequate number of supervisory personnel, adequately trained in skills needed to carry out the project and to instruct the eligible participating youth, will be available in carrying out the eligible project;

(6) in the case of Federal executive agencies, contain assurances that existing resources and staff will be used in carrying out the eligible project;

(7) contain provisions designed to insure that any appropriate local prime sponsor may, if feasible, be involved in providing supportive services together with provisions for reimbursement for such services;

(8) set forth provisions for administrative and organizational arrangements necessary to carry out the eligible project; and

(9) set forth such other assurances, arrangements, and conditions consistent with the provisions of this Act, including the special conditions required under section 14, as the Commission deems necessary.

(c) The Secretary shall, as soon as practicable after the date of enactment of this Act, prepare and issue regulations to carry out the provisions of subsection (a) of this section.

RESERVATION FOR SPECIAL YOUTH EMPLOYMENT PROJECTS

SEC. 13. (a) From funds reserved pursuant to section 4(c), the Commission is authorized to—

(1) take whatever action and make whatever arrangements, including the transfer of funds, to develop and conduct jointly with the Secretary of Transportation, the Secretary of Energy, and the Director of the Community Services Administration, as the case may be, eligible projects subject to the reservation contained in section 4(b) with the added component of providing eligible youth with career employment opportunities; and

(2) make such arrangements with the Secretary of Transportation, the Secretary of Energy, the Director of the Community Services Administration, and the head of any other Federal executive agency, having responsibilities under this section, as the case may be, to carry out jointly the projects to which this section applies pursuant to agreements entered into which substantially comply with the provisions of this Act, especially the provisions of section 12 relating to administrative agreements, and the provisions of section 14 relating to special conditions.

(b) Notwithstanding any other provision of law and to the extent necessary in the administration of this section, the head of any Federal executive agency administer-

ing a project which is subject to the provisions of this section shall waive any administrative provision with respect to allocation, allotments, reservations, priorities, or planning and application requirements of the appropriate activity or project which is subject to the provisions of subsection (a) of this section.

(c) The Secretary of Transportation, the Secretary of Energy, the Director of the Community Services Administration, and the head of any other Federal executive agency having responsibilities under this section are authorized and directed to cooperate with the Commission in the administration of the provisions of this section.

SPECIAL CONDITIONS

SEC. 14. (a) The Commission shall not provide financial assistance under this Act for any project unless the following conditions are met.

(b) No eligible youth shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any eligible project because of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief.

(c)(1) Rates of pay for youth employed in eligible projects under this Act shall be no less than the higher of—

(A) the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938;

(B) the State or local minimum wage for the most nearly comparable employment; or

(C) the prevailing rates of pay, if any, for occupations and job classifications of individuals employed by the same employer, except that—

(i) Whenever the recipient of assistance having an agreement under section 12 of this Act has entered into an agreement with the employer and the labor organization representing employees engaged in similar work in the same area to pay less than the rates provided in this paragraph, youths may be paid the rates specified in such agreement;

(ii) whenever an existing job is reclassified or restructured, youths employed in such jobs shall be paid at rates not less than are provided under paragraph (1) or (2), but if a labor organization represents employees engaged in similar work in the same area, such youths shall be paid at rates specified in an agreement entered into by the appropriate recipient, the employer, and the labor organization with respect to such reclassified or restructured jobs, and if no agreement is reached within thirty days after the initiation of the agreement procedure referred to in this clause the labor organization, recipient, or employer may petition the Commission, who shall establish appropriate wages for the reclassified or restructured positions, taking into account wages paid by the same employer to persons engaged in similar work and rates established by the Secretary of Labor under section 442(3) of the Comprehensive Employment and Training Act; and

(iii) whenever a new or different job classification or occupation is established and there is no dispute with respect to such new or different job classification or occupation, youths to be employed in such jobs shall be paid at rates not less than are provided in paragraph (1) or (2), but if there is a dispute with respect to such new or different job classification or occupation, the Commission shall, within thirty days after receipt of the notice of protest by the labor organization representing employees engaged in similar work in the same area, make a determination whether such job is a new or different job classification or occupation.

(2) All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair, including painting and decorating of projects, buildings, and works which are federally assisted under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3173; 64 Stat. 1267) and section 2 of the Act of June 1, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)).

(d)(1) Eligible projects shall contribute, to the maximum extent feasible, to the elimination of artificial barriers to employment and occupational advancement.

(2) In the administration of eligible projects under this Act, eligible youth participants to be served shall be provided maximum employment opportunities, including opportunities for further occupational training and career advancement.

(3) All eligible projects, to the maximum extent feasible, shall contribute to occupational development, upward mobility, development of new careers, and overcoming sex-stereotyping (including procedures which will lead to skill development and job opportunities for participants in occupations traditionally limited to the opposite sex).

(4) All eligible projects shall be designed, to the maximum extent practicable, consistent with every youth's fullest capabilities, to lead to employment opportunities enabling participants to increase their earned income and to become economically self-sufficient.

(5) Recipients of financial assistance having agreements under section 12 of this Act shall provide such arrangements as may be appropriate to promote maximum feasible use of apprenticeship or other on-the-job training opportunities available under section 1787 of title 38, United States Code.

(e)(1) All eligible youth employed in eligible projects shall be provided workers' compensation, health insurance, unemployment benefits, and other benefits and working conditions at the same level and to the same extent as other employees working a similar length of time, doing the same type of work and similarly classified. Any such classification must be reasonable and must include nonfederally financed employees, but within any single classification a distinction may be made between youth and other employees for purposes of determining eligibility for participation in retirement systems or plans which provide benefits based on age or service, or both.

(2) Appropriate health, safety, and other standards for work and training shall be established and maintained.

(f) Recipients of funds under this Act shall assure an adequate number of supervisory personnel for eligible projects, who shall be adequately trained in skills needed to carry out the eligible project and to instruct participants in skills needed to carry out a project.

(g) Financial records relating to eligible projects, and records of the names, addresses, positions, and salaries of all youth employed in eligible projects, shall be maintained and made available to the public.

(h) Where a labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under the eligible project which may be selected under section 11 of this Act, such organization shall be notified and shall be afforded a reasonable period of time prior to the making of an agreement under section 12 in which to make comments to the recipient and to the Commission.

(i) No nongovernmental individual, institution, or organization shall be paid funds provided under this Act to conduct an evaluation of any program under this Act if such individual, institution or organization is associated with that program as a consultant or technical advisor, or in any similar capacity.

PAYMENTS

SEC. 15. (a) The Commission shall pay to each recipient having an agreement under section 12 of this Act, the amount which the recipient needs to carry out the eligible project under this Act.

(b) Payments made to such recipients may be made in installments, and in advance or by way of reimbursement, and in the case of Federal executive agencies, by transfer, with necessary adjustments on account of overpayments or underpayments, as the Commission may determine.

RECORDS, AUDITS, REPORTS, AND EVALUATIONS

SEC. 16. (a) In order to assure that funds provided under this Act are used in accordance with its provisions, each Federal executive agency, State agency, unit of general local government and nonprofit private organization receiving such funds shall—

(1) use such fiscal, audit, and accounting procedures as may be necessary to assure (A) proper accounting for payments received by it, and (B) proper disbursement of such payments;

(2) provide to the Commission and the Comptroller General of the United States access to, and the right to examine, any books, documents, papers, or records as the Commission or the Comptroller General requires; and

(3) make such reports to the Commission or the Comptroller General of the United States as the Commission or the Comptroller General requires.

(b) The Commission shall enter into contracts with qualified independent private organizations to make thorough evaluations of eligible projects assisted under this Act. Evaluations conducted under such contracts shall be made periodically during the operation of the project and at the conclusion of the project with special emphasis on evaluating how the project contributed to career advancement opportunities for youth participants.

SECTION-BY-SECTION ANALYSIS

Section 1. This section identifies the short title of the act as the "Youth Employment Act."

Section 2. Statement of purpose. This section states the purpose of the act as the development, selection and implementation of large scale projects in areas of energy development and energy conservation through which youth are provided career employment opportunities.

Section 3. Definitions.

Section 4. Authorization of appropriations. This section authorizes the following appropriations:

(A) $250 million, each year from 1982 to 1986;

(B) $25 million for administration for 1982 and $15 million for 1983 to 1986;

(C) Access by Youth Employment Act projects to between five and ten percent of the total funds available in the following areas:

Project supplies for mass transportation provided through the Department of Transportation;

Project supplies for solar energy development provided through the Department of Energy;

Low-head hydroelectric dam project supplies provided through the Department of Energy;

Weatherization project supplies provided through the Department of Energy and the Community Services Administration; and

Alternative fuels project supplies provided through the Department of Energy and by the Synthetic Fuels Corporation.

Section 5. Authorize the Youth Employment Commission to carry out projects in

the area of energy development and energy conservation and to enter into agreements to carry out projects through Federal agencies, States, units of local government and non-profit corporations.

Section 6. Establishes a Youth Employment Commission composed of 9 members appointed by the President for staggered terms. Membership will represent business, labor, community based organizations, general local government and the general public.

Section 7. Describe the functions of the Commission such as to develop, select, carry out, monitor and evaluate projects.

Section 8. Administrative provisions. Allows the Commission to prescribe regulations, appoint personnel, receive money, receive gifts, conduct studies, obtain the services of experts, enter into contracts, withheld funds for agreement violations and transfer payments.

Section 9. Eligible participants. Describes eligible participants as unemployed or underemployed (employed part-time and seeking full-time employment) youth aged 18 to 25 coming from a family or having an income equal to 85 percent of the lower living standard.

Section 10. Requires that each project be in areas of energy conservation or energy development, provide career opportunities for youth, be located in areas of substantial unemployment, last at least two years and provide employment for 250 youth.

Section 11. Authorizes the Commission to prescribe standards for the development and selection of projects.

Section 12. Authorizes and establishes the conditions for agreements with other Federal departments, States, non-profit corporations, and local governments.

Section 13. Authorizes agreements with other Federal departments for set-aside funds.

Section 14. Special conditions. This section contains an antidiscrimination clause, provides for safe working conditions, minimum wage, adequate supervisory personnel, notification of appropriate labor unions in the project area, adequate record keeping and a Davis-Bacon provision with regard to payment of supervisory personnel.

Section 15. Allows the Commission to advance payments or make installments.

Section 16. Requires accurate records, audits, reports and evaluation of projects by the Commission.●

By Mr. DECONCINI:

S. 1373. A bill to authorize the President to call a White House Conference on Veterans; to the Committee on Veterans' Affairs.

WHITE HOUSE CONFERENCE ON VETERANS ACT

Mr. DECONCINI. Mr. President, I rise to introduce legislation to establish a White House Conference on Veterans.

This is a propitious moment for such a conference. A new President and a new party control the Government. They have proposed a fundamental restructuring of Government programs and a reordering of national priorities. If such a process of reform is to result in more effective and more humane approaches to achieving the public good, a first requirement is that the public be thoroughly engaged in all aspects and dimensions of that process. For no Government program, no matter how creative, can succeed without public participation and support.

Past administrations have been committed to the welfare of the Nation's veterans, yet they have not articulated a clear and comprehensive policy. Neither has there been an effective mechanism to insure the input of those directly affected by national programs and policies.

Over the years a host of veterans' programs have been established to assist those men and women who have served their country. Some programs may have outlined their usefulness. Others may not be meeting their stated objectives. And new programs may be necessary to meet the ever changing needs of our veteran population. It seems reasonable to suppose that the veterans themselves are in the best position to evaluate the effectiveness of existing programs and to determine what our future priorities should be.

Veterans affairs is not a single, simple issue or problem. It is an extremely complex, multidimensional question involving not only the administration and the Congress, but the manifold organizations that represent the various groups of veterans. A White House conference would provide the framework for discussing these issues in a cooperative, multidisciplinary atmosphere.

It would bring together representatives of the various veterans' organizations who oftentimes have competing interests or goals. It would afford these groups the opportunity to discuss policy options and to develop a consensus on what our national priorities should be in the area of veterans' affairs. In an era of fiscal austerity, it is essential that our limited resources be carefully targeted on those most in need and I am convinced that the veterans will be able to clearly define those needs. I think it would be useful for the President to tap the collective knowledge and expertise of the various veterans organizations in the shaping of a national veterans' policy and a White House conference would be an ideal vehicle to achieve this objective.

The veterans' organizations already have in place a national network which would greatly facilitate the convening of State and local conferences to be held prior to the national conference. That same network would also provide the apparatus for generating public support for any conference recommendations the President may wish to implement.

Before concluding my remarks, I would like to take this opportunity to thank the Blinded Veterans Association for their invaluable assistance in the drafting of this legislation.

I urge my colleagues to support this legislation and ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1373

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "White House Conference on Veterans Act".

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds that—

(1) it is of critical importance to the Nation that those who served our country in military service be provided an opportunity for complete integration into all aspects of civilian society;

(2) the sacrifices made by men and women in our Armed Forces have helped make possible a better quality of life for a large and increasing percentage of our population;

(3) there are thirty million thirty-five thousand living American veterans who defended our Nation during the Spanish-American War, World War I, World War II, the Korean conflict, and the Vietnam era;

(4) there are at least two million two hundred and sixty-five thousand living veterans who were wounded or injured during wartime service;

(5) approximately 48 per centum of the adult population of the United States potentially qualifies for some form of veterans' benefits or services;

(6) many veterans and many dependents of disabled or deceased veterans continue to need assistance in areas of health, housing, education and training, employment, and overall readjustment;

(7) all levels of government and of the private sector must share responsibility for developing employment and educational opportunities for veterans; and

(8) it is essential that knowledgeable persons make recommendations to the President and the Congress to assure that veterans' benefits, programs, and services be administered efficiently and compassionately by Government agencies.

(b) It is the policy of the Congress that the Federal Government work jointly with the States and citizens to develop recommendations and plans for action in solving the multifold problems facing veterans.

WHITE HOUSE CONFERENCE ON VETERANS

SEC. 3. (a) The President is authorized to call a White House Conference on Veterans (hereafter in this Act referred to as the "Conference") not later than thirty months after the date of the enactment of this Act for the purpose of developing recommendations for the improvement of the administration of veterans' benefits and services. The Conference shall be planned and conducted under the direction of the National Veterans Planning and Advisory Council established under section 4 of this Act. The Administrator of Veterans' Affairs (hereafter in this Act referred to as the "Administrator"), the White House Veterans' Federal Coordinating Committee, and other Federal departments and agencies shall provide such cooperation and assistance to the National Veterans Planning and Advisory Council, including the assignment of personnel, as may reasonably be required by the Administrator. The Administrator shall serve as Chairperson of the Conference.

(b) For the purpose of ascertaining facts and making recommendations concerning the administration of veterans' benefits and programs, the Conference shall bring together veterans, the families and survivors of veterans, and representatives of Federal, State, and local governments, professional experts, and members of the general public recognized by veterans as being knowledgeable about problems affecting their lives.

(c) Participants in the Conference, and in conferences and other activities at the local and State level leading up to the Conference, are authorized to consider all matters related to the purpose of the Conference set forth in subsection (a) of this section, but shall give special consideration to recommendations for—

(1) providing quality medical, education, employment, and readjustment services for all veterans;

(2) assuring that every eligible dependent of disabled veterans and deceased veterans receives quality medical, education, employment, and other mandated governmental services;

(3) assuring that all of the Federal laws relating to veterans' benefits and services are administered with maximum efficiency and compassion;

(4) enabling veterans with psychological readjustment problems to receive quality psychological counseling assistance;

(5) assuring review and evaluation of all governmental programs affecting veterans and assuring proper planning for the future needs of veterans;

(6) assuring review and evaluation of the health and medical services available to veterans over fifty-five years of age;

(7) increasing research with respect to systems for delivery of veterans' education, rehabilitation, compensation, employment, medical, and other programs;

(8) resolving special problems of veterans who are educationally or otherwise disadvantaged;

(9) promoting other related matters for veterans;

(10) promoting economic and small business development opportunities for veterans; and

(11) reducing the costs of operations of the Veterans' Administration and the programs it administers without adversely affecting the administration of the benefits provided by title 38, United States Code.

(d) The Council shall submit a final report of the Conference to the President not later than one hundred and twenty days following the date on which the Conference is called, and the findings and recommendations included therein shall immediately be made available to the public. The Council and the Administrator shall, within ninety days after the submission of such report, transmit to the President and the Congress their recommendations for administrative action and legislation necessary to implement the recommendations contained in such report. The Administrator may publish and distribute for the Council the report and recommendations required by this subsection.

NATIONAL VETERANS PLANNING AND ADVISORY COUNCIL

SEC. 4. (a)(1) There is established a National Veterans Planning and Advisory Council (hereafter in this Act referred to as the "Council") to be composed of the Administrator and twenty-eight members to be appointed by the Administrator, of whom not less than ten shall be disabled veterans appointed to represent all disabled veterans. Eleven of the members of the Council shall be vetrans of the Vietnam era, four shall be veterans of the Korean conflict, one shall be a veteran whose service began and ended after the end of the Korean conflict and before the beginning of the Vietnam era, eleven shall be World War II veterans, and one shall be a World War I veteran. At least five of the members of the Council shall be veterans who are members of minority groups; at least one of the members shall be a female veteran; and at least one of the members shall be a veteran who was held a prisoner of war by an enemy government or its agents while serving in the active military, naval, or air service during World War I, World War II, the Korean conflict, or the Vietnam era. The Administrator shall serve as Chairperson of the Council.

(2) Any member of the Council who is otherwise employed by the Federal Government shall serve without compensation in addition to that received in such member's regular employment.

(3)(A) Members of the Council, other than those referred to in paragraph (2), shall receive compensation at rates not to exceed the daily rate prescribed for grade GS–18 under section 5332 of title 5, United States Code, for each day (including traveltime) they are engaged in the performance of their duties under this Act.

(B) All members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, while engaged in the performance of their duties under this Act, in the same manner as persons employed intermittently in Government service are allowed such expenses under section 5703 of title 5, United States Code.

(4) The Council shall cease to exist one hundred and twenty days after the submission of the final report required by section (3)(d) of this Act.

(b) The Council shall provide guidance and planning for the Conference.

DUTIES OF COUNCIL AND ADMINISTRATOR

SEC. 5. (a) In carrying out the provisions of this Act, the Council and the Administrator shall—

(1) request the cooperation and assistance of such other Federal departments and agencies as may be appropriate, including the White House Veterans' Federal Coordinating Committee and Federal advisory bodies having responsibilities in areas affecting veterans;

(2) render all reasonable assistance, including financial assistance, to the States in enabling them to organize and conduct conferences on veterans before the Conference;

(3) prepare and make available necessary background materials for the use of delegates to the Conference;

(4) prepare and distribute such interim reports of the Conference as may be appropriate; and

(5) engage such veterans and other personnel as may be necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service, and without regard to Chapter 57 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but rates of pay of individuals so engaged may not exceed the rate prescribed for grade GS–18 under section 5332 of such title.

(b) In carrying out the provisions of this Act, the Administrator shall, when feasible, employ veterans and give preference in such employment to disabled veterans.

DEFINITIONS

SEC. 6. For the purpose of this Act—

(1) the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

(2) the term "veteran" has the meaning provided in section 101(2) of title 38, United States Code;

(3) the term "World War I" has the meaning provided in section 101(7) of title 38, United States Code;

(4) the term "World War II" has the meaning provided in section 101(8) of title 38, United States Code;

(5) the term "Korean conflict" has the meaning provided in section 101(9) of title 38, United States Code;

(6) the term "Vietnam era" has the meaning provided in section 101(29) of title 38, United States Code;

(7) the term "disabled veteran" means a veteran who has a service-connected disease, injury, or other physical or mental defect; and

(8) the term "service-connected" has the meaning provided in section 101(16) of title 38, United States Code.

STATE PARTICIPATION

SEC. 7. (a) From the sums appropriated pursuant to section 8 of this Act, the Administrator may make a grant to each State, upon application of the chief executive thereof, in order to assist in meeting the costs of that State's participation in the Conference and other activities authorized by this Act, including the conduct of at least one conference within each such State.

(b) Grants made pursuant to subsection (a) of this section may be made only with the approval of the Council.

(c) Funds appropriated for the purposes of this section shall be apportioned among the States by the Administrator in accordance with their respective needs for assistance under this section, but no State may be apportioned more than $50,000.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 8. There are authorized to be appropriated, without fiscal year limitation, $6,000,000 to carry out the provisions of this Act, other than section 7, and such additional sums as may be necessary to carry out section 7. Amounts appropriated to carry out this Act shall remain available until expended.

By Mr. PRESSLER:

S. 1374. A bill to deauthorize the Oahe and Pollock-Herreid units of the Pick-Sloan Missouri Basin program, to authorize certain water projects in the South Dakota Water Management System, to authorize a study of the system to be administered by the State of South Dakota, and for other purposes; to the Committee on Energy and Natural Resources.

LEGISLATION RELATING TO WATER DEVELOPMENT

● Mr. PRESSLER. Mr. President, I am today introducing this bill but let me emphasize that I am open to suggestions from my colleagues. For a long time we have been struggling with water development in South Dakota. For 7 years I have gone to meeting after meeting and have devoted enormous staff time to water. I hope that this bill will help solve our problems.

Emotions run high on water issues. Once a woman threw a wad of paper at me during a water meeting. However, since then we have become friends.

The point I wish to make is that we must stop fighting, maneuvering, and dividing or we will lose out entirely. This bill is a part of that effort.●

By Mr. TOWER:

S. 1375. A bill to provide for telephone privacy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TELEPHONE RECORD PRIVACY ACT OF 1981

● Mr. TOWER. Mr. President, I am introducing today a bill to amend the Communications Act of 1934, to add a new title entitled the "Telephone Record Privacy Act of 1981."

The Telephone Record Privacy Act would assure the confidentiality of telephone billing records by requiring a subpena or other judicial order prior to the inspection of the telephone records by an officer, employee, or agent of the U.S. Government. Currently, customers of telephone and telegraph companies have no legal protection against the disclosure of their billing records to Government authorities.

The Supreme Court left standing a court of appeals decision that journalists have neither a fourth nor fifth amendment right to advance notice of subpenas to telephone companies of the journalists' telephone billing records. *Reporters Committee for Freedom of the Press* v. *American Telephone and Telegraph Company*, No. 76–2057 (D.C. Cir., Aug. 11, 1978); cert. den., No. 78–774 (Mar. 5, 1979). This follows earlier case law holding that customers of banks having no standing to contest the

production by the banks of depositors' records. *United States* v. *Miller*, 425 U.S. 435 (1976). The Right to Financial Privacy Act of 1978 which passed Congress on November 10, 1978, as title XI to Public Law 95-630 corrected this problem for customers of financial institutions by requiring the agency demanding the record to give prior notice to the bank customer and by providing the customer with standing in court to contest the production of the documents. The Privacy Protection Study Commission recognized that telephone toll records are one example of areas of recordkeeping that may be deserving of protection. The pertinent observations of the Commission on the subject follow:

In several areas of its inquiry the Commission attempted to identify records about an individual kept by third parties in which it believes the individual should have a legitimate expectation of confidentiality—a right to expect that such records or the information in them would not ordinarily be disclosed without his consent. The Commission found that certain financial insurance, and medical records fall in this category. The Commission also believes that other areas of private activity, which could not be studied as carefully, create records outside the possession of the individual which deserve protection, one example being telephone toll records.

While toll records are not analogous, as checking account records are, to "private papers" within the meaning of the Fourth Amendment, they provide independent documentation of communications which, before the telephone, were considered uniquely private in character. Indeed, our present legal system severely restricts access to the contents of such communications. Since the mere fact of communications is often as revealing as the content, the Commission believes that toll records should be protected as well. The American Telephone and Telegraph Company has, in fact, already taken a step in that direction by refusing to disclose toll records in all but a few instances unless a subpoena commands it. Moreover, telephone toll records are but one example of areas of record keeping that may be deserving of protection but into which the Commission did not have time to delve. (Personal Privacy in An Information Society; The Report of the Privacy Protection Study Commission, July, 1977, p. 356.)

The practice of the Bell System was outlined by H. W. William Caming of the American Telephone & Telegraph Co. as follows:

In this connection, we have repeatedly stated to the Congress, the Federal Communications Commission, and our customers, it has been longstanding Bell System policy to guard against the unauthorized disclosure of information relating to the existence of contents of any telephone conversation. We treat toll billing information pertaining to our customers with the utmost confidence, divulging it only pursuant to valid legal process. We believe this reflects the intent of Congress and the thrust of the law, as well as sound policy.

By way of background, toll billing records are corporate records maintained by each Associated Operating Telephone Company in the ordinary course of business as necessary substantiation for the charges billed to customers. The records consist primarily of toll billing statements, and records of operator-assisted calls and automatic billing data used in the preparation of such statements. These records generally contain the date, time of day, duration of the call, number and telephone exchange called, and the tariff charge for each toll call. They also list credit card, collect and other charges outside the local calling area, and charges for directory advertising and telegrams.

The records are generally kept for a fixed period of time, to serve the needs of the business and conform to statutory and regulatory requirements. They are normally destroyed as a matter of business routine at the conclusion of the prescribed retention period, usually six months.

These records, maintained for all subscribers, contain no information concerning the contents of any telephone conversation nor, with the limited exception of certain collect and person-to-person calls, the identities of the actual parties participating therein.

Prior to March 1974, it was the policy and practice of all Bell System Companies to disclose toll billing information upon receipt of a subpoena duces tecum (such as that of a court of competent jurisdiction, a grand jury or a Congressional committee) or an administrative summons (from the Internal Revenue Service, for example) valid on its face. Additionally, about half of our Companies released such records upon "demand of other lawful authority," such as a letter of demand, generally on official stationery, signed by the principal prosecuting attorney of a State or principal political subdivision thereof or by a law enforcement officer of command rank (usually captain or higher), stating that specific existing toll billing information for a specified period of time was required in conjunction with an ongoing criminal investigation.

When, however, official copies of subscriber toll billing records were to be introduced in any legal proceeding, such as a trial or before a grand jury, it was the practice of all Bell System Companies, as a matter of policy, to release such original records only upon receipt of a subpoena, administrative summons or court order valid on its face.

The Federal Communications Commission's Common Carrier Bureau had in 1979 carefully reviewed the restrictions voluntarily imposed by the Bell System upon disclosure of its toll billing records and found them more stringent than was required under Section 605 of the Communications Act of 1934 and judicial decisions thereunder.

The confidentiality of our customers' communications was further strengthened when, in the course of our continuing review of these matters, the procedures were revised effective March 1, 1974 to provide that no Bell System Company will release customer toll billing records except under subpoena, administrative summons or court order valid on its face. Thus, as a matter of policy, these records are no longer disclosed pursuant to other lawful demand.

In addition, customers are automatically notified within twenty-four hours after the receipt of a subpoena of summons for toll billing records relating to them, except in those circumstances where a legislative committee or law enforcement agency seeking such records requests nondisclosure by certifying that notification could impede and obstruct its official investigation or interfere with enforcement of the criminal law.

Also, our procedures require, as a result of a recent further refinement, that written notification shall automatically be given to all subscribers at the expiration of certification.

Thus, in all instances subscribers are automatically notified of the release of their toll billing records, either within twenty-four hours after receipt of process, or within five business days after the expiration of any periods of certification. In each instance, the notification contains all pertinent information, including the name of the party subpoenaing the records.

An exception to the foregoing policies is made in the instance of national security. In such cases, the records are provided only upon specific written request of the Director of the Federal Bureau of Investigation, or of an Associate Director or Assistant Director, for such information, as a necessary investigative technique under the Presidential power to protect the national security against actual or potential attack or hostile acts of a foreign power, to obtain foreign intelligence information deemed essential to the security of the United States, or to protect national security information against foreign intelligence activities, in connection with an investigation of organizations or individuals suspected to be agents of or in collaboration with a foreign power. Notification is not provided to the customer.

Bell System policy regarding the disclosure of its toll billing records strikes, we believe, a proper balance under existing law. It reflects our traditional concern for and society's growing insistence upon preserving the privacy of communications. It recognizes too our obligations to comply with the mandates of lawful process and not to unduly impede official investigations, whether criminal or legislative in character. (Statement of H. W. William Caming on behalf of the American Telephone and Telegraph Company before the United States House of Representatives Committee on Interstate and Foreign Commerce, Subcommittee on Communications, June 22, 1977).

Mr. President, the Telephone Record Privacy Act of 1981 would give customers of telephone and telegraph companies the same protection Congress gave bank depositors in 1978. It tracks very closely the provisions of the Right to Financial Privacy Act of 1978. Although the policies adopted by the Bell System are commendable and provide a large degree of protection and confidentiality for the records of Bell's customers, there is a need for reasonable Federal standards governing the production of toll records in response to demands of Federal agencies.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD as follows:

S. 1375

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. That this title may be cited as the "Telephone Record Privacy Act of 1981".

DEFINITIONS

SEC. 2. For the purposes of this title, the term—

(1) "customer" means any person or authorized representative of that person who is subscribing or has subscribed to the services of a communication common carrier;

(2) "communication common carrier" shall have the meaning given to "common carrier" in section 153(h) of title 47 of the United States Code;

(3) "toll records" means tickets, lists, or other detailed records of individual calls or messages, telegrams and similar messages, and messenger service charges, whether or not used as a basis for billing to customers.

CONFIDENTIALITY OF RECORDS—GOVERNMENT AUTHORITIES

SEC. 3. Except as provided by section (c), or (d), no Government authority may have access to or obtain copies of, or the information contained in the toll records of any customer from a communication common carrier unless the toll records are reasonably described and—

(1) such toll records are disclosed in response to an administrative subpena or summons which meets the requirements of section 5;

(2) such toll records are disclosed in response to a search warrant which meets the requirements of section 6;

(3) such toll records are disclosed in response to a judicial subpena which meets the requirements of section 7; or

(4) such toll records are disclosed in response to a formal written request which meets the requirements of section 8.

CONFIDENTIALITY OF RECORDS—COMMUNICATION COMMON CARRIER

SEC. 4. (a) No communication common carrier, or officer, employee, or agent of a communication common carrier, may provide to any Government authority access to or copies of, or the information contained in, the toll records of any customer except in accordance with the provisions of this title.

(b) A communication common carrier shall not release the toll records of a customer until the Government authority seeking such records certifies in writing to the communication common carrier that it has complied with the applicable provisions of this title.

(c) Nothing in this title shall preclude any communication common carrier, or any officer, employee, or agent of a communication common carrier, from notifying a Government authority that such carrier or officer, employee, or agent has information which may be relevant to a possible violation of any statute or regulation.

ADMINISTRATIVE SUBPENA AND SUMMONS

SEC. 5. A Government authority may obtain toll records under section 3 pursuant to an administrative subpena or summons otherwise authorized by law only if—

(1) there is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry;

(2) a copy of the subpena or summons has been served upon the customer or mailed to the last known address of the customer on or before the date on which the subpena or summons was served on the communication common carrier together with the following notice which shall state with reasonable specificity the nature of the law enforcement inquiry:

"Records or information concerning your toll records held by the communication common carrier named in the attached subpena or summons are being sought by this (agency or department) in accordance with the Telephone Record Privacy Act of 1981 for the following purpose: . If you desire that such records or information not be made available, you must:

"1. Fill out the accompanying motion paper and sworn statement or write one of your own, stating that you are the customer whose records are being requested by the Government and either giving the reasons you believe that the records are not relevant to the legitimate law enforcement inquiry stated in this notice or any other legal basis for objecting to the release of the records.

"2. File the motion and statement by mailing or delivering them to the clerk of any one of the following United States district courts:

"3. Serve the Government authority requesting the records by mailing or delivering a copy of your motion and statement to:

"4. Be prepared to come to court and present your position in further detail.

"5. You do not need to have a lawyer, although you may wish to employ one to represent you and protect your rights.

If you do not follow the above procedures, upon the expiration of 10 days from the date of service or 14 days from the date of mailing of this notice, the records or information requested therein will be made available. These records may be transferred to other Government authorities for legitimate law enforcement inquiries, in which event you will be notified after the transfer."; and

(3) 10 days have expired from the date of service of the notice or 14 days have expired from the date of mailing the notice to the customer and within such time period the customer has not filed a sworn statement and motion to quash in an appropriate court, or the customer challenge provisions of section 10 have been complied with.

SEARCH WARRANTS

SEC. 6. (a) A Government authority may obtain toll records under section 3(3) only if it obtains a search warrant pursuant to the Federal Rules of Criminal Procedure.

(b) Not later than 90 days after the Government authority serves the search warrant, it shall mail to the last known address of the customer a copy of the search warrant together with the following notice:

"Records or information concerning your toll records held by the communication common carrier named in the attached search warrant were obtained by this (agency or department) on (date) for the following purpose: . You may have rights under the Telephone Record Privacy Act of 1981.".

(c) Upon application of the Government authority, a court may grant a delay in the mailing of the notice required in subsection (b), which delay shall not exceed 180 days following the service of the warrant, if the court makes the findings required in section 9(a). If the court so finds, it shall enter an ex parte order granting the requested delay and an order prohibiting the communication common carrier from disclosing that records have been obtained or that a search warrant for such records has been executed. Additional delays of up to 90 days may be granted by the court upon application, but only in accordance with this subsection. Upon expiration of the period of delay of notification of the customer, the following notice shall be mailed to the customer along with a copy of the search warrant:

"Records or information concerning your toll records held by the communication common carrier named in the attached search warrant were obtained by this agency or department) on (date). Notification was delayed beyond the statutory 90-day delay period pursuant to a determination by the court that such notice would seriously jeopardize an investigation concerning . You may have rights under the Telephone Record Privacy Act of 1981.".

JUDICIAL SUBPENA

SEC. 7. A Government authority may obtain toll records under section 3 pursuant to judicial subpena only if—

(1) such subpena is authorized by law and there is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry;

(2) a copy of the subpena has been served upon the customer or mailed to the last known address of the customer on or before the date on which the subpena was served on the communication common carrier together with the following notice which shall state with reasonable specificity the nature of the law enforcement inquiry:

"Records or information concerning your toll records which are held by the communication common carrier named in the attached subpena are being sought by this (agency or department or authority) in accordance with the Telephone Record Privacy Act of 1981 for the following purpose: . If you desire that such records or information not be made available, you must:

"1. Fill out the accompanying motion paper and sworn statement or write one of your own, stating that you are the customer whose records are being requested by the Government and either giving the reasons you believe that the records are not relevant to the legitimate law enforcement injuiry stated in this notice or any other legal basis for objecting to the release of the records.

"2. File the motion and statement by mailing or delivering them to the clerk of the Court:

"3. Serve the Government authority requesting the records by mailing or delivering a copy of your motion and statement to

"4. Be prepared to come to court and present your position in further detail.

"5. You do not need to have a lawyer, although you may wish to employ one to represent you and protect your rights.

If you do not follow the above procedures, upon the expiration of 10 days from the date of service or 14 days from the date of mailing of this notice, the records or information requested therein will be made available. These records may be transferred to other Government authorities for legitimate law enforcement inquiries, in which event you will be notified after the transfer."; and

(3) 10 days have expired from the date of service of 14 days from the date of mailing of the notice to the customer and within such time period the customer has not filed a sworn statement and motion to quash in an appropriate court, or the customer challenge provisions of section 10 have been complied with.

FORMAL WRITTEN REQUEST

SEC. 8. A Government authority may request toll records under section 3 pursuant to a formal written request only if—

(1) no administrative summons or subpena authority reasonably appears to be available to that Government authority to obtain toll records for the purpose for which such records are sought;

(2) the request is authorized by regulalations promulgated by the head of the agency or department;

(3) there is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry; and

(4)(A) a copy of the request has been served upon the customer or mailed to the last known address of the customer on or before the date on which the request was made to the communication common carrier together with the following notice which shall state with reasonable specificity the nature of the law enforcement inquiry:

"Records or information concerning your transactions held by the communication common carrier named in the attached request are being sought by this (agency or department) in accordance with the Telephone Record Privacy Act of 1981 for the following purpose:

"If you desire that such records or information not be made available, you must:

"1. Fill out the accompanying motion paper and sworn statement or write one of your own, stating that you are the customer whose records are being requested by the Government and either giving the reasons you believe that the records are not relevant to the legitimate law enforcement inquiry stated in this notice or any other legal basis for objecting to the release of the records.

"2. File the motion and statement by mailing or delivering them to the clerk of any one of the following United States district courts:

"3. Serve the Government authority requesting the records by mailing or delivering a copy of your motion and statement to

"4. Be prepared to come to court and present your position in further detail.

"5. You do not need to have a lawyer, although you may wish to employ one to represent you and protect your rights.

If you do not follow the above procedures, upon the expiration of 10 days from the date of service or 14 days from the date of mail-

ing of this notice, the records or information requested therein may be made available. These records may be transferred to other Government authorities for legitimate law enforcement inquiries, in which event you will be notified after the transfer."; and

(B) 10 days have expired from the date of service or 14 days from the date of mailing of the notice by the customer and within such time period the customer has not filed a sworn statement and an application to enjoin the Government authority in an appropriate court, or the customer challenge provisions of section 10 have been complied with.

DELAYED NOTICE—PRESERVATION OF RECORDS

SEC. 9. (a) Upon application of the Government authority, the customer notice required under section 5(2), 6(c), 7(2), 8(4), or 2(b) may be delayed by order of an appropriate court if the presiding judge or magistrate finds that—

(1) the investigation being conducted is within the lawful jurisdiction of the Government authority seeking the toll records;

(2) there is reason to believe that the records being sought are relevant to a legitimate law enforcement inquiry; and

(3) there is reason to believe that such notice will result in—

(A) endangering life or physical safety of any person;

(B) flight from prosecution;

(C) destruction of or tampering with evidence;

(D) intimidation of potential witnesses; or

(E) otherwise seriously jeopardizing an investigation or official proceeding or unduly delaying a trial or ongoing official proceeding to the same extent as the circumstances in the preceding subparagraphs.

An application for delay must be made with reasonable specificity.

(b)(1) If the court makes the findings required in paragraphs (1), (2), and (3) of subsection (a), it shall enter an ex parte order granting the requested delay for a period not to exceed 90 days and an order prohibiting the communication common carrier from disclosing that records have been obtained or that a request for records has been made, except that, if the court finds that there is reason to believe that such notice may endanger the lives or physical safety of a customer or group of customers, or any person or group of persons associated with a customer, the court may specify that the delay be indefinite.

(2) Extensions of the delay of notice provided in paragraph (1) of up to 90 days each may be granted by the court upon application, but only in accordance with this subsection.

(3) Upon expiration of the period of delay of notification under paragraph (1) or (2), the customer shall be served with or mailed a copy of the process or request together with the following notice which shall state with reasonable specificity the nature of the law enforcement inquiry:

"Records or information concerning your toll records which are held by the communication common carrier named in the attached process or request were supplied to or requested by the Government authority named in the process or request on (date). Notification was withheld pursuant to a determination by the (title of court so ordering) under the Telephone Record Privacy Act of 1981 that such notice might (state reason). The purpose of investigation or official proceeding was .".

(c) When access to toll records is obtained pursuant to section 14(b) (emergency access), the Government authority shall, unless a court has authorized delay of notice pursuant to subsections (a) and (b), as soon as practicable after such records are obtained serve upon the customer, or mail by registered or certified mail to the last known address of the customer, a copy of the request to the communication common carrier together with the following notice which shall state with reasonable specificity the nature of the law enforcement inquiry:

"Record concerning your toll records held by the communication common carrier named in the attached request were obtained by (agency or department) under the Telephone Record Privacy Act of 1981 on (date) for the following purpose: . Emergency access to such records was obtained on the grounds that (state grounds).".

(d) Any memorandum, affidavit, or other paper filed in connection with a request for delay in notification shall be preserved by the court. Upon petition by the customer to whom such records pertain, the court may order disclosure of such papers to the petitioner unless the court makes the findings required in subsection (a).

CUSTOMER CHALLENGE PROVISIONS

SEC. 10. (a) Within 10 days of service or within 14 days of mailing of a subpena, summons, or formal written request, a customer may file a motion to quash an administrative summons or judicial subpena, or an application to enjoin a Government authority from obtaining toll records pursuant to a formal written request, with copies served upon the Government authority. A motion to quash a judicial subpena shall be filed in the court which issued the subpena. A motion to quash an administrative summons or an application to enjoin a Government authority from obtaining records pursuant to formal written request shall be filed in the appropriate United States district court. Such motion or application shall contain an affidavit or sworn statement—

(1) stating that the applicant is a customer of the communication common carrier from which toll records pertaining to the customer have been sought; and

(2) stating the applicant's reasons for believing that the toll records sought are not relevant to the legitimate law enforcement inquiry stated by the Government authority in its notice, or that there has not been substantial compliance with the provisions of this title.

Service shall be made under this section upon a Government authority by delivering or mailing by registered or certified mail a copy of the papers to the person, office, or department specified in the notice which the customer has received pursuant to this title. For the purposes of this section, "delivery" has the meaning stated in rule 5(b) of the Federal Rules of Civil Procedure.

(b) If the court finds that the customer has complied with subsection (a), it shall order the Government authority to file a sworn response, which may be filed in camera if the Government includes in its response the reasons which make in camera review appropriate. If the court is unable to determine the motion or application on the basis of the parties' initial allegations and response, the court may conduct such additional proceedings as it deems appropriate. All such proceedings shall be completed and the motion or application decided within 7 calendar days of the filing of the Government's response.

(c) If the court finds that the applicant is not the customer to whom the toll records sought by the Government authority pertain, or that there is a demonstrable reason to believe that the law enforcement inquiry is legitimate and a reasonable belief that the records sought are relevant to that inquiry, it shall deny the motion or application, and, in the case of an administrative summons or court order other than a search warrant, order such process enforced. If the court finds that the applicant is the customer to whom the records sought by the Government authority pertain, and that there is not a demonstrable reason to believe that the law enforcement inquiry is legitimate and a reasonable belief that the records sought are relevant to that inquiry, or that there has not been substantial compliance with the provisions of this title, it shall order the process quashed or shall enjoin the Government authority's formal written request.

(d) A court ruling denying a motion or application under this section shall not be deemed a final order and no interlocutory appeal may be taken therefrom by the customer. An appeal of a ruling denying a motion or application under this section may be taken by the customer (1) within such period of time as provided by law as part of any appeal from a final order in any legal proceeding initiated against the customer arising out of or based upon the toll records, or (2) within 30 days after a notification that no legal proceeding is contemplated against the customer. The Government authority obtaining the toll records shall promptly notify a customer when a determination has been made that no legal proceeding against the customer is contemplated. After 180 days from the denial of the motion or application, if the Government authority obtaining the records has not initiated such a proceeding, a supervisory official of the Government authority shall certify to the appropriate court that no such determination has been made. The court may require that such certifications be made, at reasonable intervals thereafter, until either notification to the customer has occurred or a legal proceeding is initiated as described in clause (A).

(e) The challange procedures of this title constitute the sole judicial remedy available to a customer to oppose disclosure of toll records pursuant to this title.

(f) Nothing in this title shall enlarge or restrict any rights of a communication common carrier to challenge requests for records made by a Government authority under existing law. Nothing in this title shall entitle a customer to assert the rights of a communication common carrier.

DUTY OF COMMUNICATION COMMON CARRIER

SEC. 11. Upon receipt of a request for toll records made by a Government authority under section 5 or 7, the communication common carrier shall, unless otherwise provided by law, proceed to assemble the records requested and must be prepared to deliver the records to the Government authority upon receipt of the certificate required under section 4(b).

USE OF INFORMATION

SEC. 12. (a) Toll records originally obtained pursuant to this title shall not be transferred to another agency or department unless the transferring agency or department certifies in writing that there is reason to believe that the records are relevant to a legitimate law enforcement inquiry within the jurisdiction of the receiving agency or department.

(b) When toll records subject to this title are transferred pursuant to subsection (a), the transferring agency or department shall, within 14 days, send to the customer a copy of the certification made pursuant to subsection (a) and the following notice, which shall state the nature of the law enforcement inquiry with reasonable specificity: "Copies of, or information contained in, your toll records lawfully in possession of have been furnished to pursuant to the Telephone Record Privacy Act of 1981 or the Privacy Act of 1974.".

(c) Notwithstanding subsection (b), notice to the customer may be delayed if the transferring agency or department has obtained a court order delaying notice pursuant to section 9 (a) and (b) and that order is still in effect, or if the receiving agency or department obtains a court order authorizing a delay in notice pursuant to

section 9 (a) and (b). Upon the expiration of any such period of delay, the transferring agency or department shall serve to the customer the notice specified in subsection (b) above and the agency or department that obtained the court order authorizing a delay in notice pursuant to section 9 (a) and (b) shall serve to the customer the notice specified in section 9(b).

(d) Nothing in this title shall be construed to prohibit any supervisory agency from exchanging examination reports or other information with another supervisory agency. Nothing in this title shall be construed to prohibit the transfer of a customer's toll records needed by counsel for a Government authority to defend an action brought by the customer. Nothing in this title shall be construed to authorize the withholding of information by any officer or employee of a supervisory agency from a duly authorized committee or subcommittee of the Congress.

EXCEPTIONS

SEC. 13. (a) Nothing in this title shall be construed to prohibit the disclosure of any toll records or information which is not identified with or identified as being derived from the toll records of a particular customer.

(b) Nothing in this title shall be construed to prohibit examination by or disclosure to any supervisory agency of toll records or information in the exercise of its supervisory, regulatory, or monetary functions with respect to a communication common carrier.

(c) Nothing in this title shall be construed to prohibit the disclosure of toll records in accordance with procedures authorized by the Internal Revenue Code.

(d) Nothing in this title shall be construed to authorize the withholding of toll records or information required to be reported in accordance with any Federal statute or rule promulgated thereunder.

(e) Nothing in this title shall be construed to apply to toll records sought by a Government authority under the Federal Rules of Civil or Criminal Procedures or comparable rules of other courts in connection with litigation to which the Government authority and the customer are parties.

(f) Nothing in this title shall be construed to apply to toll records sought by a Government authority pursuant to an administrative subpena issued by an administrative law judge in an adjudicatory proceeding subject to section 554 of title 5, United States Code, and which the Government authority and the customer are parties.

(g) Nothing in this title (except sections 4, 17, and 18) shall be construed to apply to toll records sought by a Government authority in connection with a lawful proceeding, investigation, examination, or inspection directed at the communication common carrier in possession of such records or at a legal entity which is not a customer.

(h) Nothing in this title (except sections 15 and 20) shall be construed to apply to any subpena or court order issued in connection with proceedings before a grand jury.

(i) Nothing in this title shall be construed to apply to toll records sought by the General Accounting Office pursuant to an authorized proceeding, investigation, examination, or audit directed at a Government authority.

SPECIAL PROCEDURES

SEC. 14. (a)(1) Nothing in this title (except sections 15, 16, 17, 18, and 21) shall be construed to apply to the production and disclosure of toll records pursuant to requests from—

(A) a Government authority authorized to conduct foreign counter- or foreign positive-intelligence activities for purposes of conducting such activities; or

(B) the Secret Service for the purpose of conducting its protective functions (18 U.S.C. 3056; 3 U.S.C. 202, Public Law 90–331, as amended).

(2) In the instances specified in paragraph (1), the Government authority shall submit to the communication common carrier the certificate required in section 4(b) signed by a supervisory official of a rank designated by the head of the Government authority.

(3) No communication common carrier, or officer, employee, or agent of such communication common carrier, shall disclose to any person that a Government authority described in paragraph (1) has sought or obtained access to a customer's toll records.

(4) The Government authority specified in paragraph (1) shall compile an annual tabulation of the occasions in which this section was used.

(b)(1) Nothing in this title shall be construed to prohibit a Government authority from obtaining toll records from a communication common carrier if the Government authority determines that delay in obtaining access to such records would create imminent danger of—

(A) physical injury to any person;

(B) serious property damage; or

(C) flight to avoid prosecution.

(2) In the instances specified in paragraph (1), the Government shall submit to the communication common carrier of the certificate required in section 4(b) signed by a supervisory official of a rank designated by the head of the Government authority.

(3) Within 5 days of obtaining access to toll records under this subsection, the Government authority shall file with the appropriate court a signed, sworn statement of a supervisory official of a rank designated by the head of the Government authority setting forth the grounds for the emergency access. The Government authority shall thereafter comply with the notice provisions of section 9(c).

(4) The Government authority specified in paragraph (1) shall compile an annual tabulation of the occasions in which this section was used.

COST REIMBURSEMENT

SEC. 15. Except for records obtained pursuant to section 4(d) or 13 (a) through (i), or as otherwise provided by law, a Government authority shall pay to the communication common carrier assembling or providing toll records pertaining to a customer and in accordance with procedures established by this title a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching for, reproducing, or transporting books, papers, records, or other data required or requested to be produced. The Federal Communications Commission shall, by regulation, establish the rates and conditions under which such payment may be made.

JURISDICTION

SEC. 16. An action to enforce any provision of this title may be brought in any appropriate United States district court without regard to the amount in controversy within 3 years from the date on which the violation occurs or the date of discovery of such violation, whichever is later.

CIVIL PENALTIES

SEC. 17. (a) Any agency or department of the United States or communication common carrier obtaining or disclosing toll records or information contained therein in violation of this title is liable to the customer to whom such records relate in an amount equal in the sum of—

(1) $100 without regard to the volume of records involved;

(2) any actual damages sustained by the customer as a result of the disclosure;

(3) such punitive damages as the court may allow, where the violation is found to have been willful or intentional; and

(4) in the case of any successful action to enforce liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

(b) Whenever the court determines that any agency or department of the United States has violated any provision of this title and the court finds that the circumstances surrounding the violation raise questions of whether an officer or employee of the department or agency acted willfully or intentionally with respect to the violation, the Civil Service Commission shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the agent or employee who was primarily responsible for the violation. The Commission after investigation and consideration of the evidence submitted, shall submit its findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or the representative of the employee. The administrative authority shall take the corrective action that the Commission recommends.

(c) Any communication common carrier or agent or employee thereof making a disclosure of toll records pursuant to this title in good-faith reliance upon a certificate by any Government authority shall not be liable to the customer for such disclosure.

(d) The remedies and sanctions described in this title shall be the only authorized judicial remedies and sanctions for violations of this title.

INJUNCTIVE RELIEF

SEC. 18. In addition to any other remedy contained in this title, injunctive relief shall be available to require that the procedures of this title are complied with. In the event of any successful action, costs together with reasonable attorney's fees as determined by the court may be recovered.

SUSPENSION OF STATUTES OF LIMITATIONS

SEC. 19. If any individual files a motion or application under this title which has the effect of delaying the access of a Government authority to toll records pertaining to such individual, any applicable statute of limitations shall be deemed to be tolled for the period extending from the date such motion or application was filed until the date upon which the motion or application is decided.

GRAND JURY INFORMATION

SEC. 20. Toll records about a customer obtained from a communication common carrier pursuant to a subpena issued under the authority of a Federal grand jury—

(1) shall be returned and actually presented to the grand jury;

(2) shall be used only for the purpose of considering whether to issue an indictment or presentment by that grand jury, or of prosecuting a crime for which that indictment or presentment is issued, or for a purpose authorized by rule 6(e) of the Federal Rules of Criminal Procedure;

(3) shall be destroyed or returned to the communication common carrier if not used for one of the purposes specified in paragraph (2); and

(4) shall not be maintained, or a description of the contents of such records shall not be maintained by any Government authority other than in the sealed records of the grand jury, unless such record has been used in the prosecution of a crime for which the grand jury issued an indictment or presentment or for a purpose authorized by rule 6(e) of the Federal Rules of Criminal Procedure.

REPORTING REQUIREMENTS

SEC. 21. (a) In April of each year, the Director of the Administrative Office of the United States Courts shall send to the appropriate committees of Congress a report concerning the number of applications for delays of notice made pursuant to section 9 and the number of customer challenges made pursuant to section 10 during the preceding calendar year. Such report shall include: The identity of the Government authority requesting a delay of notice; the number of notice delays sought and the number granted under each subparagraph of section 9(a)(3); the number of notice delay extensions sought and the number granted; and the number of customer challenges made and the number that are successful.

(b) In April of each year, each Government authority that requests access to toll records of any customer from a communication common carrier pursuant to this title shall send to the appropriate committees of Congress a report describing requests made during the preceding calendar year. Such report shall include the number of requests for records made pursuant to each section of this title listed in the preceding sentence and any other related information deemed relevant or useful by the Government authority.

(c) The Securities and Exchange Commission shall not be subject to the provisions of this title for a period of 2 years from the date of enactment of this title.●

By Mr. DURENBERGER (for himself, Mr. COCHRAN, Mr. BOSCHWITZ, Mr. LEVIN, Mr. RIEGLE, and Mr. BURDICK):

S. 1376. A bill to amend title IV of the Federal Aviation Act of 1958 to reduce airline subsidies, and for other purposes; to the Committee on Commerce, Science, and Transportation.

AIRLINE SUBSIDY REDUCTION ACT OF 1981

● Mr. DURENBERGER. Mr. President, there is a consensus both in Congress and in the administration that air service subsidies can be reduced. But how to accomplish that goal without placing additional hardships on communities struggling with the transition from a regulated to a deregulated environment is a more difficult question.

The legislation I introduce will produce an orderly reduction in air service subsidies, which presently cost the American taxpayer approximately $135 million annually.

This legislation would reduce that level to approximately $65 million in fiscal year 1982 and produce further substantial reductions thereafter.

Subsidies for small city service are now paid under two sections of the Federal Aviation Act. These sections seek to provide a gradual transition for such communities from a regulated to a deregulated environment.

Section 406 subsidies are paid primarily to regional airlines. They are traditional subsidies which at one time or another were paid to almost all airlines for service to small points. The Airline Deregulation Act terminated the section 406 program, with benefits being phased out by January 1, 1986. Certain provisions of that section designed to provide an added incentive for small city services, will expire January 1, 1983.

But in taking that action, Congress recognized that service to many small cities, including cities served with support of section 406, would be suspended after passage of the Deregulation Act unless some form of interim subsidy was created to bridge the transition, and foster the development of reliable commuter airline services.

As a consequence, section 419 was added to the Airline Deregulation Act to insure that no small city would receive less than essential air service.

Over 2½ years have passed since adoption of the Airline Deregulation Act. It is now apparent that both the 406 and 419 programs can be modified to achieve major budget reductions without undercutting the objective of a smooth, gradual transition. This legislation would accomplish that purpose in the following manner:

SECTION 406 PROGRAM

First, subsidies would be terminated for all cities enplaning 100 or more passengers a day. There are approximately 55 such cities in the 406 program and it is clear that virtually all of them would continue to receive adequate air service without subsidies. Payments for service to such cities at an annual level of approximately $47 million. Such outlays would cease immediately.

Second, a ceiling would be placed on future subsidy payments for the remaining cities, that is, those enplaning less than 100 passengers a day. This ceiling would be fixed at the rate level in effect in the second half of 1980.

Since that time, the rates paid to regional carriers under the class subsidy rates have increased by about $10 million for cities enplaning less than 100 a day.

The ceiling rate, even though lower than the present rate, will provide a sufficient incentive for the carriers to continue service at most points, particularly those with expected traffic growth.

Third, the bill provides that a carrier's profits on nonsubsidized routes which are in excess of a fair return shall be shared with the Government so as to offset subsidy payments. This had been the historic practice but it was barred until 1983 by the Deregulation Act to provide an added service incentive.

Fourth, the bill would make effective immediately, rather than January 1, 1983, a provision of section 419, the so-called bumping provision, which permits the replacement of section 406 service by section 419 service where the replacement carrier can offer a substantial improvement in service at a lower cost to the taxpayer. This provision adds additional assurance that where 406 subsidies continue they are subject to the discipline of a comparison with the section 419 alternative.

SECTION 419 PROGRAM

The existing 419 program contains no cost-benefit criteria. As a result, awards under the program have involved subsidies as high as $400 to $500 per enplaned passenger. It is questionable whether such extremely high payments can be justified, especially in light of existing budgetary conditions.

Points receiving such expensive service would appear to have little chance of ever attracting subsidy-free airline service. The question of whether subsidized service should be maintained until 1988 needs to be reexamined.

This legislation calls for a study of this problem by the Civil Aeronautics Board and the Department of Transportation with a report and recommendation to be submitted 120 days after enactment. Only then could Congress make an informed decision on appropriate revision to existing law.

COMPARISON WITH PROPOSAL TO ELIMINATE ALL 406 SUBSIDIES IMMEDIATELY

The administration's revised budget for fiscal 1982 proposes to reduce airline subsidies by eliminating section 406 payments entirely and immediately. No changes are proposed in the section 419 program. The budget estimate for that program—$58 million—appears to be $8 million below the level contemplated by this legislation for fiscal year 1982. But recent experience with section 419 awards verifies that the $58 million figure is unrealistically low.

And the sudden elimination of section 406 on October 1, 1981 could lead to serious and permanent harm to the system of small city airline service.

EFFECT OF SUDDEN TERMINATION OF 406 ON AIRLINE SERVICE

The CAB budget estimate presumes that termination of section 406 would lead to the filing of 90-day suspension notices at 60 cities in addition to those at which notices have already been filed.

In each case, the actual suspension would have to be delayed beyond the 90-day period until, as the law requires, a replacement airline is found to take over the service.

The CAB already faces a backlog of almost 40 such cases. Because of the difficulty in finding replacement airlines and completing the work necessary to fix subsidy rates, many of these cases involve "hold-on" periods of 9 months to 2 years.

As many as 90–100 cities would be subject to service by air carriers seeking to suspend service. In most such cases these carriers would reduce service to minimum levels pending suspension.

The problem of too many suspension notices and too few replacement airlines would be compounded by additional suspensions at small points already served under section 419 as the carriers serving such cities seek to move their operations to larger points.

Quite apart from the replacement carrier problems is the impact of 419 service on traffic development. Many of the 406 points which would assure continued service, without subsidy, by regional airlines offering large aircraft and through services to a variety of large cities.

The 419 program generally assures only minimum levels of service to one city in small—8 to 18 passenger, little or no freight capacity—aircraft. Such service at many of the larger 406 points would discourage traffic and reverse progress toward self-sufficiency.

BUDGET EFFECT

The CAB's budget estimate of $50 million also assumes that subsidies will be eliminated for all points enplaning over 100 passengers. As for points enplaning

less than 100, the CAB assumes as follows:

At points enplaning under 40 passengers a day: The 406 carriers would be replaced at the start of fiscal year 1982 by commuter carriers. The replacement service would cost an average of $250,000 per point in section 419 subsidy. All replacement cases now pending are also assumed to be concluded by October 1, 1981 with subsidies also averaging $250,000 per point.

At points enplaning 40–100 passengers: The 406 carriers would file for suspension but would be "held-in" until a replacement carrier is found, a period of extending, on the average, well into fiscal year 1983. The subsidy paid to hold-in such carriers would be $22 million, $4.6 million below the rate in effect for such services in the second half of 1980.

It is extremely doubtful that these forecasts can be achived. In view of the Board's current backlog, the time required for processing cases, and the overall shortage of replacement carriers, the immediate replacement of 406 carriers at points enplaning less than 40 per day is unattainable.

In addition, it is virtually certain that many of these will require more than $250,000 each in 419 subsidies. The $250,000 estimate is dated, based on early awards under the 419 program. Experience under the program indicates the subsidy cost per point tends to increase with the amount of service required.

This is illustrated by two recent awards of $697,000 and $776,000. These figures belie any suggestion that subsidies under section 406 could be limited to a maximum of $250,000. And since the points which would be added to the 419 program if 406 is deleted would require substantially more service than the points now in the 419 program, it is virtually certain that the CAB's forecast cannot be achieved.

Similarly, the Board's forecast of $22 million for hold-in service would appear unduly optimistic in light of the fact that it is well below the levels paid under section 406 last year.

Because of these considerations, it is quite likely that subsidy outlays in 1986 will be greater if 406 is eliminated entirely than if it is continued subject to the limitations in this bill. The bill would fix an absolute ceiling on 406 payments at the level in effect last year.

It would also prohibit the addition of new cities to the program. The maximum cost could not exceed $36 million. Other provisions would reduce that cost in succeeding years. These are: First, the requirement that once a city reaches the 100 passenger a day level, it is permanently removed from the program. Several cities are now close to that level. Second, the requirement that profits above a certain level be used to reduce subsidy—if significant profits were earned this would substantially reduce or wipe out 406 subsidies entirely. Third, the immediate application of the "bumping" procedure which could result in some 406 service being displaced by 419 services.

In contrast, there is no ceiling on 419 subsidies. Section 419 is an entitlement program. Subsidy costs are not limited by budgeted amounts. And actual experience under section 419 reflects a strong likelihood that such costs will far exceed the CAB's budget estimate.

Subsequent years: The CAB predicts that 419 subsidies will be less in fiscal year 1983 but higher again in fiscal year 1984. In light of the experience with the 419 program this is dubious at best. The 406 program, because of the new provisions, is almost certain to decline significantly in succeeding years.

In any case, the question of succeeding year costs can better be determined after some experience. This legislation does not foreclose further revisions to the 406 program a year hence.

At that time, the Congress will be considering revisions in the 419 program based on the report called for in section 5 of the bill. At that time, much better information on the cost of both the 419 and revised 406 programs will be available.

In the interim, the substantial downgrading of small-city service which would result from abruptly ending section 406 this October 1 will be avoided.

Mr. President, it is not my intention to frustrate or delay the inevitable process of completing the job which was started in 1978, and obviously long before that.

It is my firm belief that the Federal Government is largely responsible for the morass which now afflicts basic transportation industries.

The alternative I offer this morning is simply a better mechanism to achieve the subsidy reductions we all consider necessary. In actual practice, this bill and the administration's proposal would cost approximately the same amount.

But by phasing out section 406 rather than terminating it abruptly on October 1, 1981, this bill would provide rural communities with a higher level of air service during the transition to a deregulated environment.

Better service for the same price is obviously a better option, and I ask all of my colleagues to join in supporting this legislation.

I ask unanimous consent that the enclosed section-by-section summary be printed in full in the RECORD.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

Section 1. The bill is titled as the "Airline Subsidy Reduction Act of 1981."

Section 2. This adds a new "Section 420" to the Federal Aviation Act of 1958. Section 420 establishes a positive subsidy reduction program superimposed on the existing 406/Section 419 transition scheme:

Section 420(a) establishes a 100 daily enplanement cutoff for Section 406 subsidy eligibility at any point. This limitation by itself will reduce 406 subsidies by approximately $47 million from current levels.

Section 420(b) prohibits the addition of any new points to the 406 subsidy program on the restoration of a point to the program once it has been removed. It also contemplates that service in Alaska now subsidized under Section 406 would be assumed under Section 419. The greater part of such service is provided with small aircraft and is otherwise more typical of services now subsidized under Section 419.

Section 420(c) establishes a permanent ceiling on Section 406 subsidy payments. The ceiling would be set at the rates in effect as of December 31, 1980. For the carriers covered by the local service class subsidy rate (Frontier, Ozark, Piedmont and Republic) such rate will be at the level fixed by Amendment Four to the Class Rate which was the rate effective in the second six months of 1980 and reflected the automatic escalation provision of the Class Rate (the so-called "median adjustment" provision). The rate level would be applicable to all four carrier members of the class, including one carrier which, for reasons related to its merger with another carrier was not subject to the median adjustment provision prior to January 1, 1981.

In the first six months of 1981, the escalation provisions have resulted in a further increase of approximately 19%. The effect of this ceiling will be to roll back subsidy for the points which continue to be covered (that is, those enplaning less than 100/day) to a level more than $10 million below that which is curently in effect.

Two other carriers not covered by the class rate, Air Midwest and Air New England, are also expected to be receiving Section 406 compensation as of the start of fiscal year 1982. The later carrier is under a final rate order which calls for the total elimination of its 406 subsidy by December 31, 1982. The bill would prohibit the fixing of any higher rates for these carriers than were fixed by rate orders in effect on December 31, 1980.

Section 420(c) also provides for the restoration of the profit sharing provisions of the Local Service Class Subsidy Rate. Section 403 now prohibits consideration of such "other revenue" in determining subsidy prior to January 1, 1983.

The provisions of the bill relating to the service incentive portion of the rate is for the purpose of assuring that the elimination of a large number of points at one time (those enplaning over 100 per day) does not wipe out the service incentive portion of the rate for the remaining points as would otherwise occur.

The effect of the rate ceiling established in Section 420(c) combined with the elimination of points from subsidy eligibility under sections 420(a) and (b) will be to assure that Section 406 payments do not exceed $35.6 million in fiscal year 1982. This compares to the current level of approximately $120 million per annum for such payments. Other provisions allowing offset of profits against subsidy and eliminating subsidy for points whose traffic grows to the 100 per day level are expected to reduce 406 outlays to well below that amount in the succeeding years. The 406 program ends as of the end of 1985.

Section 3. This amends subsection 419(a)(11)(A) to advance the date for the start of involuntary "bumping" of Section 406 carriers by Section 419 carriers from January 1, 1983, to the effective date of the amendment. That provision permits the ousting of a 406 carrier from a point by any other carrier which can provide a substantial improvement in service without subsidy or at a lesser subsidy rate under Section 419. It provides an incentive to 406 carriers to offer the best possible service and assures that 406 payments do not exceed amounts which would be paid under Section 419 for substantially better service.

Section 4. This amends the provision of Section 419 which provides that if a carrier receiving compensation under Section 406 is "held in" a point beyond the expiration of its 90-day suspension notice, it shall continue to be paid such compensation as long as it is required to provide the service. The amendment is necessary because Section 420(c) would require that 406 payments be made subject to reduction through sharing of profits from the nonsubsidized services. Without this amendment a carrier could be "held-in" a point indefinitely but its com-

pensation for such service could be reduced below the cost of providing it by the application of profits from nonsubsidized services.

This would be at odds with the method by which section 419 "hold-in" payments are determined for other carriers.

Section 5. This calls for recommendations from the Civil Aeronautics Board and Department of Transportation as to whether further revisions should be made in the Section 419 program with respect to inordinately higher per passenger subsidies now being paid for service at some points. At present there are no cost-benefit guidelines contained in the 419 program. Congress needs to be advised as to what alternatives are available to it and what budgeting and air service consequences might be.

Section 6. Fixes the effective date of the section at the earliest practicable date. A special provision is included to avoid possible interruption of payments for Alaska service.●

ADDITIONAL COSPONSORS

S. 25

At the request of Mr. ARMSTRONG, the Senator from Georgia (Mr. MATTINGLY) was added as a cosponsor of S. 25, a bill to amend title 38, United States Code, to provide a new educational assistance program for persons who enlist, reenlist, or otherwise enter the Armed Forces after December 31, 1980, and a career service person's educational assistance program, and to amend title 10, United States Code, to authorize an educational leave of absence for members of the Armed Forces.

S. 170

At the request of Mr. MOYNIHAN, the Senator from Illinois (Mr. DIXON) was added as a cosponsor of S. 170, a bill to amend the Internal Revenue code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions.

S. 432

At the request of Mr. MATHIAS, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 432, a bill to establish a Commission on the International Application of Antitrust Laws.

S. 464

At the request of Mr. DURENBERGER, the Senator from Oklahoma (Mr. BOREN) was added as a cosponsor of S. 464, a bill to amend the Internal Revenue Code of 1954 to adjust provisions governing private foundations.

S. 566

At the request of Mr. WALLOP, the Senator from Nevada (Mr. LAXALT) was added as a cosponsor of S. 566, a bill to amend the Internal Revenue Code of 1954 to retain the oil percentage depletion rate at 22 percent.

S. 842

At the request of Mr. HAYAKAWA, the Senator from Wyoming (Mr. SIMPSON) was added as a cosponsor of S. 842, a bill to provide for stability and certainty in planning and management of certain national forest lands.

S. 857

At the request of Mr. TOWER, the Senator from Idaho (Mr. SYMMS) was added as a cosponsor of S. 857, a bill to impose quantitative restrictions on the importation of lamb meat.

S. 895

At the request of Mr. MATHIAS, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 895, a bill to amend the Voting Rights Act of 1965 to extend certain provisions for an additional 10 years, to extend certain other provisions for an additional 7 years, and for other purposes.

S. 1072

At the request of Mr. BOREN, the Senator from Florida (Mr. CHILES), the Senator from Arizona (Mr. DECONCINI), and the Senator from Louisiana (Mr. JOHNSTON) were added as cosponsors of S. 1072, a bill to amend the Internal Revenue Code of 1954 to provide an exclusion from gross income of interest earned on qualified housing savings certificates.

S. 1151

At the request of Mr. MITCHELL, the Senator from Vermont (Mr. STAFFORD) was added as a cosponsor of S. 1151, a bill to amend the Uniform Time Act of 1966 to provide that daylight savings time commence each year on the first Sunday in March rather than the last Sunday in April.

S. 1215

At the request of Mr. PROXMIRE, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 1215, a bill to clarify the circumstances under which territorial provisions in licenses to distribute and sell trademarked malt beverage products are lawful under the antitrust laws.

At the request of Mr. KASTEN, the Senator from North Dakota (Mr. ANDREWS), and the Senator from Wyoming (Mr. SIMPSON) were added as cosponsors of S. 1215, supra.

S. 1279

At the request of Mr. DANFORTH, the Senator from Illinois (Mr. DIXON), the Senator from Iowa (Mr. JEPSEN), the Senator from Kentucky (Mr. FORD), the Senator from Oklahoma (Mr. BOREN), the Senator from Maryland (Mr. SARBANES), the Senator from Montana (Mr. BAUCUS), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Indiana (Mr. LUGAR), the Senator from Tennessee (Mr. BAKER), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Utah (Mr. GARN), the Senator from North Dakota (Mr. ANDREWS), and the Senator from Florida (Mr. CHILES) were added as cosponsors of S. 1279, a bill to amend the Internal Revenue Code of 1954 to exclude from gross income a certain amount of interest earned on the All-Savers Certificate offered only at savings institutions.

S. 1309

At the request of Mr. GOLDWATER, the Senator from Utah (Mr. GARN) was added as a cosponsor of S. 1309, a bill for the relief of the estate of Dorothy Meserve Kunhardt.

S. 1336

At the request of Mr. QUAYLE, the Senator from Illinois (Mr. DIXON) was added as a cosponsor of S. 1336, a bill to provide for a series of regional Presidential primary elections.

SENATE JOINT RESOLUTION 59

At the request of Mr. ROBERT C. BYRD, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of Senate Joint Resolution 59, a joint resolution designating the square dance as the national folk dance of the United States.

SENATE JOINT RESOLUTION 73

At the request of Mr. GLENN, the Senator from Iowa (Mr. GRASSLEY), the Senator from Colorado (Mr. ARMSTRONG), the Senator from New York (Mr. MOYNIHAN), the Senator from California (Mr. HAYAKAWA), and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of Senate Joint Resolution 73, a joint resolution to designate the week beginning June 1, 1981, and ending June 7, 1981, as "Management Week in America".

SENATE JOINT RESOLUTION 74

At the request of Mr. MATHIAS, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of Senate Joint Resolution 74, a joint resolution designating the week of October 4 through October 10, 1981, as "National Diabetes Week".

SENATE CONCURRENT RESOLUTION 18

At the request of Mr. GOLDWATER, the Senator from Idaho (Mr. SYMMS) was added as a cosponsor of Senate Concurrent Resolution 18, a concurrent resolution relating to the free exercise of religion in the Ukraine.

SENATE RESOLUTION 139

At the request of Mr. ANDREWS, the Senator from Illinois (Mr. PERCY), and the Senator from Nebraska (Mr. EXON) were added as cosponsors of Senate Resolution 139, a resolution to assure the access of farmer-owned refining businesses to crude oil at reasonable prices.

SENATE RESOLUTION 150

At the request of Mr. QUAYLE, the Senator from Nebraska (Mr. ZORINSKY), the Senator from Washington (Mr. GORTON), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), and the Senator from Kansas (Mrs. KASSEBAUM) were added as cosponsor of Senate Resolution 150, a resolution to oppose efforts by the United Nations Educational, Scientific, and Cultural Organization to attempt to regulate news content and to formulate rules and resolutions for the operation of the world press.

AMENDMENT NO. 53

At the request of Mr. BENTSEN, his name was added as a cosponsor of amendment No. 53 proposed to S. 921, a bill to amend title 38, United States Code, to extend authority to provide contract hospital care and medical services in Purto Rico and the Virgin Islands, and for other purposes.

At the request of Mr. CRANSTON, his name was added as a cosponsor of amendment No. 53 proposed to S. 921, supra.

AMENDMENT NO. 59

At the request of Mr. CRANSTON, the Senator from Pennsylvania (Mr. SPECTER), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Indiana (Mr. LUGAR), and the Senator from Alaska (Mr. MURKOWSKI) were added as cosponsors of amendment No. 59 pro-

posed to S. 921, a bill to amend title 38 United States Code, to extend authority to provide contract hospital care and medical services in Puerto Rico and the Virgin Islands, and for other purposes.

At the request of Mr. DURENBERGER, his name was added as a cosponsor of amendment No. 59 proposed to S. 921, supra.

At the request of Mr. KASTEN, his name was added as a cosponsor of amendment No. 59 proposed to S. 921, supra.

AMENDMENT NO. 61

At the request of Mr. SIMPSON, the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of amendment No. 61 proposed to S. 921, a bill to amend title 38, United States Code, to extend authority to provide contract hospital care and medical services in Puerto Rico and the Virgin Islands, and for other purposes.

At the request of Mr. KASTEN, his name was added as a cosponsor of amendment No. 61 proposed to S. 921, supra.

AMENDMENTS SUBMITTED FOR PRINTING

DEPARTMENT OF STATE APPROPRIATIONS AUTHORIZATION

AMENDMENT NO. 68

(Ordered to be printed and to lie on the table.)

Mrs. HAWKINS submitted an amendment intended to be proposed by her to the bill (S. 1193) to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes.

DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION, 1982

AMENDMENT NO. 69

(Ordered to be printed.)

Mr. HELMS (for himself, Mr. THURMOND, Mr. EAST, and Mr. MCCLURE) proposed an amendment to the bill (S. 951) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 70

(Ordered to be printed.)

Mr. WEICKER proposed an amendment to the amendment (No. 69) proposed by Mr. HELMS (for himself and others) to the bill S. 951, supra.

DEPARTMENT OF STATE APPROPRIATIONS AUTHORIZATION

AMENDMENT NO. 71

(Ordered to be printed and to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to the bill (S. 1193) to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes.

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, I wish to announce that the Committee on Rules and Administration will hold a meeting on Tuesday, June 23, 1981, to mark up Senate Resolution 20, which provides for television and radio coverage of Senate proceedings. The Committee will also be considering various other pending legislative and administrative business, including S. 778, to authorize additional funds for the Smithsonian to plan the quadrangle development on the Mall, Senate Resolution 146, to provide for the participation in the Senate youth program of the Department of Defense school system outside the United States, and an original resolution establishing a Senate Placement Office within the Office of the Sergeant at Arms. The meeting will take place in room 301, Russell Senate Office Building at 10 a.m.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON RURAL DEVELOPMENT, OVERSIGHT AND INVESTIGATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Rural Development, Oversight, and Investigations of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Tuesday, June 16, to hold hearings on agriculture energy needs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, June 17, to hold hearings on the nomination of Warren King, Richard Salzman, Reggie Barnet Walton, and James A. Belson to the District of Columbia Superior Court judges.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, June 17, to hold nomination hearings on Mr. Palladino to be the Nuclear Regulatory Commissioner.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Aging be authorized to meet during the session of the Senate on Thursday, June 18 at 2:30 p.m., to consider early retirement and its implications for social security.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, June 18 at 2 p.m., to hold a business meeting to discuss the nomination of Charles Dean to be a member of the TVA Board of Directors.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON LABOR

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Labor of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, June 17, to hold hearings on the Longshoremen and Harbor-workers Compensation Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FLAG DAY AND THE HONOR AMERICA PERIOD

● Mr. GLENN. Mr. President, last Sunday, June 14, was Flag Day all across America. Congress established this day of celebration in 1949; and last Sunday, as on previous occasions, millions of our countrymen paused at 4 p.m. (EST) to recite the Pledge of Allegiance. This year's Flag Day was particularly special, since 1981 marks the 50th anniversary of the formal adoption of "The Star Spangled Banner" as the national anthem.

Equally important, Mr. President, Flag Day marks the advent of a unique period of celebration in this Nation—the annual "honor America" period. In the 21 days between June 14 and July 4, Americans are invited to acclaim the greatness of their country by word or action. I believe that the honor America period is a fitting time for all Americans not only to reflect upon the greatness of our country, but to reaffirm our commitment to making it even better in the future.

Adlai Stevenson once reminded us that—

> The real patriots are those who love America as she is, but who also want the beloved to be more lovable. This is not treachery. This, as every parent, every teacher, every friend must know, is the truest and noblest affection.

I share those sentiments, Mr. President, and I believe that dedicating ourselves to that principle would be a most appropriate way for us to truly honor America.●

MILITARY PAY

● Mr. GOLDWATER. Mr. President, probably the most important part of the problem our military faces is the obtaining and retention of good enlisted people. The pay matter is approached from various angles, but when we try to base it on a comparative basis with civilian pay, it is never going to work out.

There is no such a thing as comparability as a basis for pay in any area of American life. If there were, we would not have firemen or policemen or ministers or even members of the military be-

cause such a thing cannot exist. But if we pay on job equity, then I think we will solve the problem.

We must keep advances in pay in the military abreast of advances in other parts of our American life; that is, in timing; and we must constantly be asking ourselves, are we doing everything we can for these men we want first to get and then retain?

The Association of the U.S. Army has prepared a very short but concise statement on this subject and I ask that it be printed at this point in the RECORD.

The article is as follows:

MILITARY PAY—IT SHOULD BE BASED ON EQUITY, NOT ON RECRUITING SUCCESS

In a recent press release Rep. Les Aspin (D-Wis.) argued against Reagan Administration plans for an across-the-board military pay raise of 5.3 percent beginning in July, 1981, because military recruiting is now going well and the retention of trained personnel seems to be improving. In essence what Mr. Aspin is saying is that the pay of our soldiers, sailors, airmen and marines should be set by its success as a lure to serve, not by any comparison with the earnings of our nonmilitary citizens. If Mr. Aspin has his way, equitable comparability between civilian and military pay would be forgotten.

Actually, the planned 5.3 percent raise will not regain the comparability last achieved in 1972. In the intervening years, military pay has fallen 14.7 percent behind the upward path of inflation and 19.5 percent behind increases in civilian administrative, clerical and technical occupations in setting the 5.3 percent figure. Only about 12 percent of the military skills are truly parallel. It would have been better if the comparison had included pay for civilian blue collar skills, which can be compared to about 75 percent of military jobs. The combined comparison would have dictated an immediate military raise of 11.4 percent.

The lack of comparability is easily demonstrated by a couple of examples. For instance, a newly hired bus driver for the Washington Metropolitan Transit Authority will earn an annual salary of $16,827 while a college-graduate second lieutenant will earn a total of pay and allowance equaling $16,708. Similarly, a new recruit will earn just 86 percent of the Federal minimum wage if he or she performs just 40 hours of duty each week. A typical week in basic training is likely to be more than 60 hours and frequently will approach 80 hours.

It is totally contradictory to encourage volunteerism on one hand and then tell those who volunteer that they will not be compensated on the same basis as their fellow citizens who choose not to serve. To do so is to tell the men and women who wear the military uniforms of the United States that they are second-class citizens.●

THE 1981 WORLD REFUGEE SURVEY

● Mr. KENNEDY. Mr. President, the U.S. Committee for Refugees has just issued its annual world refugee survey, and once again it tells the story of millions of homeless men, women, and children in a desperate search for peace and relief around the world.

There are now more refugees needing homes in new countries than since the worst days after World War II.

There are few greater tests of the democratic and humanitarian ideals for which our Nation stands than how we respond to the needs of the world's displaced people. And there is no more basic human rights issue than the protection of refugees.

The U.S. committee's report reminds us of this, and helps us understand what we are doing to help, what other countries are doing, and what more needs to be done.

The report also reinforces a point sometimes forgotten by many Americans—that many countries have joined in the international effort to assist refugees, including some developing countries which can afford it the least.

As the committee's report documents, the United States can be proud of our generous support of international refugee programs. In total amount we are the largest contributor.

However, in per capita terms, we are 12th in contributions and 5th in the ratio of refugees we have resettled compared to the size of our population. Israel, Malaysia, Australia and Canada have resettled more refugees than we have in terms of population size.

Mr. President, I commend the U.S. Committee for Refugees for its important contribution to a better public understanding of the refugee problems we face around the world.

As Joan Baez notes in her introduction to the committee's report:

The fact that millions of men, women and children are living day to day in crowded refugee camps is a human tragedy of enormous proportions. And it is a human rights tragedy as well.

I share her sentiments, and I would like to share with my colleagues excerpts from the committee's report and its statistical review of world refugee problems. I ask that they be printed at this point in the RECORD.

The material follows:

REFUGEES AND HUMAN RIGHTS

(By Joan C. Baez)

The fact that millions of men, women and children are living day to day in crowded refugee camps is a human tragedy of enormous proportions. And it is a human rights tragedy as well. Sometimes natural disasters such as drought uproot thousands. But more often the causes lie in repressive policies of governments, bloody conflicts springing up as reactions to repressive regimes, campaigns of political, racial or ethnic persecution and international conflict.

To understand just what it means to be a refugee, one must go beyond the numbers, nationalities and ideologies, and focus on the simple fact that these were ordinary human beings long before they were refugees. And like all people, of course, they were born into families and communities, adhered to traditions and beliefs, built themselves homes, and sent roots deep into the community and the earth.

The bonds that tie most refugees to their homes and the earth most often date back generations. These people do not seek anything more than the right to live, work, laugh, grow old, and die with the dignity that befits every human being. And yet, these most basic rights are denied to them.

Nation battles nation, bombs and artillery tear apart the labors of men and women, and fear becomes the one constant in a life torn asunder. Can anyone really argue that the rights of the innocent citizens of these living nightmares have not been violated? When conditions become so intolerable that th only solution is escape, is this not a violation of the most basic of human rights?

Among the millions of refugees around the world today there are, of course, those who have escaped hunger, natural disasters, and non-political circumstances. But by and large these people will eventually return home when the situation which they fled improves. They are but a small percentage of the total number of refugees in the world. Of the balance, the vast majority are fleeing lands where fear, uncertainty, and terror have replaced order and security. These people are driven to seek refuge because individual human rights do not exist in their homelands.

Millions of refugees owe their lives to the humanitarian aid of governments, international organizations, voluntary agencies, and individuals. But for all these victims, the assistance has really come too late. Their lives and families have already been disrupted; they have already abandoned their homes; they have already suffered the agony of exile.

Ideally, we should aim at the source of the refugees' plight—the systematic and flagrant violation of human rights—wherever and whenever it occurs. This, of course, is no easy task. But that does not mean that it cannot be addressed. We in the international community must go beyond appeals for dollars—we must appeal for compassion and respect for each other as fellow human beings.

We must not allow political considerations and ideological prejudices to sway us from firm and persistent opposition to human rights violations. Surely, ideologies of the left and the right, as well as those which could be more aptly described as apolitical, have been guilty of equally abhorrent crimes against humanity.

Our task—one which is difficult and distinctly without promise of results—must be to try to change the fundamental attitudes that threaten the security of all mankind. We must all encourage universal respect for human rights. And as we do, we can only hope that the level of violence in the world will decrease, the dangers of terrorism will be lessened, and the number of political refugees in the world will be significantly reduced.

1981 WORLD REFUGEE STATISTICS

AFRICA

Country of asylum and Country of origin	*Number* [1]
Algeria	52,000
Western Sahara, various	
Angola	73,000
Namibia, South Africa, Zaire	
Botswana	3,400
Various	
Burundi	234,590
Rwanda	
Cameroon	266,000
Chad	
Central African Republic	7,000
Chad	
Djibouti	42,000
Ethiopia	
Egypt	5,000
Various	
Ethiopia	
Sudan	11,000
Int. Disp.	1,800,000
Gabon	30,000
Equatorial Guinea	
Kenya	3,500
Ethiopia, Rwanda, Uganda, various	
Lesotho	10,000
Various, mainly South Africa	
Nigeria	110,000
Chad	
Rwanda	10,150
Various	
Senegal	5,000
Various	
Somalia	1,540,000
Ethiopia	

Footnotes at end of table.

1981 WORLD REFUGEE STATISTICS—Continued

AFRICA—continued

Country of asylum and Country of origin	*Number* [1]
Sudan	490,000
Chad, Ethiopia, Uganda, Zaire	
Swaziland	10,000
South Africa	
Tanzania	
Burundi, Uganda	140,000
Int. Disp.	10,000
Uganda	
Rwanda, Zaire, various	112,400
Int. Disp.	265,000
Zaire	400,000
Angola, Uganda, Zambia	
Zambia	33,500
Angola, Namibia, various	
Zimbabwe	660,000
Internally Displaced	
Other countries	800
Total refugees	3,589,340
Total Int. Disp	2,735,000
Africa subtotal	6,324,340

ASIA, OCEANIA

Country of asylum and Country of origin	*Number*
Bhutan	6,000
Tibet	
East Timor	100,000
Internally Displaced	
Hong Kong	33,100
Vietnam	
Indonesia	4,000
Vietnam	
India	85,000
Afghanistan, Tibet	
Japan	1,700
Vietnam	
Laos	
Kampuchea	10,400
Int. Disp.	70,000
Macao	2,600
Vietnam	
Malaysia	13,400
Vietnam, Philippines	
Nepal	15,000
Tibet	
Pakistan	1,399,200
Afghanistan	
Papua New Guinea	1,000
Indonesia	
Philippines	3,400
Vietnam	
Singapore	2,700
Vietnam	
Thailand	382,000
Kampuchea (holding centers)	145,000
Laos, Kampuchea, Vietnam	117,000
Kampuchea (border area)	120,000
Vietnam	35,000
Kampuchea	
Total Refugees	1,994,500
Total Int. Disp	170,000
Asia and Oceania Subtotal	2,164,500

EUROPE

Country of asylum	*Number* [2]
Austria	23,000
Belgium	28,000
France	78,000
Germany (FRG)	70,000
Greece	4,000
Italy	14,000
Netherlands	5,000
Norway	3,000
Portugal	7,600
Spain	20,000
Sweden	13,000
Switzerland	24,000
United Kingdom	63,000
Yugoslavia	2,000
Europe Subtotal	354,600

LATIN AMERICA

Country of asylum	*Number* [2]
Argentina	26,000
Belize	6,000
Bolivia	500
Brazil	25,000
Chile	2,000
Colombia	2,000
Costa Rica	13,400
Cuba	3,000
Dominican Republic	3,300
Ecuador	600
El Salvador	50,000
Internally Displaced	
Honduras	33,000
Mexico	46,000
Nicaragua	7,000
Panama	2,000
Paraguay	1,200
Peru	600
Uruguay	2,000
Venezuela	16,000
Total Refugees	189,000
Total Int. Disp	50,000
Latin America Subtotal	239,600

MIDDLE EAST

Country of asylum and Country of origin	
Cyprus	200,000
Internally Displaced	
Iran	
Afghanistan	100,000
Int. Disp	1,000,000
Lebanon	
Various	2,900
Int. Disp	400,000
Palestine Refugees	
Assisted by UNRAW	
East Jordan	716,400
Gaza Strip	368,000
Lebanon	226,500
Syria	209,400
West Bank	324,000
Total	1,844,300
Yemen, Arab Rep. of	15,000
Democratic Yemen	
Total Refugees	1,962,200
Total Int. Disp	1,600,000
Middle East Subtotal	3,562,000

[1] Statistics on refugees come from governments as reported to the UNHCR prior to its conference on aid to African refugees, of April 1981. Statistics on "internally displaced" come from governments, or other sources, such as U.S. Coordinator for Refugee Affairs. Only countries with 1,000 or more are individually listed.

[2] Countries of origin for these refugee populations are not reported by UNHCR.

Where they come from

Detailed information on "country of origin" of refugees is available only for Africa.

Africa:	
Angola	18,000
Burundi	141,000
Chad	396,000
Equatorial Guinea	30,000
Ethiopia	1,967,000
Namibia	50,000
Rwanda	334,590
South Africa	15,200
Sudan	11,000
Uganda	188,500
Western Sahara	50,000
Zaire	277,000
Zambia	1,800
Zimbabwe	100
Various	109,150
Total	3,589,340

For the following continents, these principal sources of refugees are listed; totals for the whole population do not tally.

Asia:	
Afghanistan	1,519,200
Indonesia	1,000
Kampuchea	310,400
Laos	105,000
Tibet	86,000
Vietnam	60,900
Europe:	
U.S.S.R	15,100
Latin America:	
El Salvador	89,000
Middle East:	
Palestine	1,844,300
Democratic Yemen	15,000

Six-year resettlement: 1975–80

In an attempt to limit statistics of "refugees" to those persons still in need of permanent homes, World Refugee Survey has removed resettled people from country statistics and lists them here. Principal population groups represented are Indochinese, Latin Americans, and Soviet Jews. Years are 1975–1980. Only countries with 500 or more are listed. The total of all, including the under 500 countries, is 1,150,000. Because of the difficulties of reporting, this total is less than the actual number of resettled persons, worldwide. (See also Table 3 on page 41).

U.S.A	677,000
China	265,000
Israel	105,700
Malaysia	102,100
Canada	84,100
France	72,000
Australia	51,200
Germany (FRG)	32,100
U.K	27,600
Tanzania	26,000
Hong Kong	9,400
Switzerland	7,500
Sweden	7,300
Netherlands	4,700
Austria	4,300
New Zealand	4,100
Belgium	3,900
Argentina	2,800
Norway	2,700
Denmark	2,300
Romania	1,200
Spain	1,100
Italy	900
Chile	800
Japan	800
Cuba	700
Mexico	700

WHERE THEY ARE: WORLDWIDE

	Refugees	Internally displaced	Total
Africa	3,589,340	2,735,000	6,324,340
Asia	1,994,500	170,000	2,164,500
Europe	354,600	----------	354,600
Latin America	189,600	50,000	239,600
Middle East	1,962,200	1,600,000	3,562,200
Worldwide total			12,645,240

HELPING REFUGEES: WHICH COUNTRIES HELP?

In 1980 the number of refugees increased dramatically; 2 million men, women and children fled their home countries, pushed out by war or oppression. Wearily they made their way from Afghanistan into Pakistan, Cambodia into Thailand, Chad into Cameroon, Ethiopia into Somalia, Cuba into the United States, and El Salvador into neighboring countries. The new refugees joined millions already in exile.

One measure of the size of the problem is the expenditure of the United Nations High Commissioner for Refugees. In 1979 the UNHCR spent $270 million to assist refugees. By the time 1980 was half over the High Commissioner estimated the accelerating needs at $500 million—nearly double the 1979 figure. Contributions for the year to UNHCR were $423 million. Estimated needs for 1981 are at the same level—$500 million.

Consistent with its strong traditions of concern for human rights and people in need, the United States has responded to the refugee crisis with millions of dollars in aid

and with the resettlement of over 360,000 refugees in 1980.[1]

The United States is the single largest contributor to international aid for refugees (see Table 1), and sometimes it appears to the American Congress and the public that the U.S. carries a disproportionate amount of the load.

Refugee agency officials recognize the tendency to make this assumption. Director James L. Carlin of Intergovernmental Committee on Migration commented recently, "It is dangerous to allow the feeling to spread that the United States and a few other countries are paying too much. Public interest must be sustained and this can only be managed if there is convincing evidence that the burden is shared."

Many other countries do indeed share the burden, and the evidence is on the U.N. bookkeeping ledgers. In fact, when the contributions are tallied on a per capita basis the United States drops down in the listing to Number 12 (see Table 2).

Data on all that governments spend to assist refugees is not easy to compile. Contributions to the U.N. efforts—the most readily available information—only reveal part of the story.

TABLE 1—*1980 Contributions* to International Refugee Aid Agencies*

(Top 10, Ranked by Total Contribution)

[In millions of dollars]

Country	*Contribution*
U.S.A.	$199.4
Japan	81.1
Germany (FRG)	40.1
Sweden	33.0
U.K.	29.7
Netherlands	18.8
Canada	18.0
Norway	15.2
Australia	13.6
Denmark	12.2

*1980 amounts reported by United Nations High Commissioner for Refugees (UNHCR), UN Relief and Works Agency (UNRWA)—Palestine refugees), World Food Program (for refugees), UNICEF (for refugees) and 1979 amounts for Intergovernmental Committee for Migration (ICM). Contributions by European Economic Community (EEC) totaling $117 million have not been taken into account. The top 20 countries contributed 96 per cent of the national contributions of $520 million.

[1] In the year ended September 30, 1980, the U.S. received 231,700 refugees under the new Refugee Act. In addition 122,000 Cubans and 6,000 Haitians were permitted to stay as "entrants."

TABLE 2.—1980 CONTRIBUTIONS[1] TO INTERNATIONAL REFUGEE AID AGENCIES

[Top 20 countries, ranked by contribution per capita]

Country	(millions)	Contribution[1] (millions)	Contribution per capita	Gross national product per capita[2]
Sweden	8.3	$33.0	$3.98	$10,210
Norway	4.1	15.2	3.71	9,510
United Arab Emirates	.8	1.9	2.43	14,230
Denmark	5.1	12.2	2.39	9,920
Kuwait	1.3	2.5	1.91	14,890
Switzerland	6.3	9.7	1.53	12,100
Netherlands	14.1	18.8	1.33	8,390
Qatar	.2	.3	1.30	12,740
Saudi Arabia	8.2	10.6	1.29	8,040
Liechtenstein	.03	.04	1.23	11,300
Australia	14.6	13.6	.93	7,920
United States	222.5	199.4	.90	9,700
Canada	24.0	18.0	.75	9,170
Japan	116.8	81.1	.69	7,330
Germany (Federal Republic)	61.1	40.1	.66	9,600
United Kingdom	55.8	29.7	.53	5,030
Belgium	9.9	5.2	.52	9,070
Libya	3.0	1.3	.43	6,910
Iraq	13.2	5.2	.40	1,860
Iceland	.2	.07	.35	8,320

[1] 1980 amounts reported by United Nations High Commissioner for Refugees (UNHCR), U.N. Relief and Works Agency (UNRWA—Palestine refugees). World Food Program (for refugees). UNICEF (for refugees) and 1979 amounts for Intergovernmental Committee for Migration (ICM). Contributions by European Economic Community (EEC) totaling $117,000,000 not been taken into account. The top 20 countries contributed 96 percent of the national contributions of $520,000,000.

[2] Population and GNP figures from Population Reference Bureau, 1337 Connecticut Ave. N.W., Washington, D.C. 20036.

Notes:
$0.21 to $0.30 per capita—Finland, Gaza Authority, Israel, New Zealand, Luxembourg.
$0.11 to $0.20 per capita—Ireland, Italy, Jordan.
$0.02 to $0.10 per capita—16 countries including Austria, France, Spain, Greece, Syria.
$0.01 per capita or less—79 countries including South Africa, South Korea, Argentina, Chile, Singapore, Brazil.

Governments of countries which accept refugees for resettlement spend large sums on helping them to get started. The U.S. for example finances medical care, cash assistance, English lessons and vocational training for refugees. Similar expenditures are made by other resettlement countries. Efforts to compile this information, especially in comparative form, have so far been unsuccessful. The United States and other governments also contribute food surpluses to developing countries which in some cases go to refugees, and these amounts are not included in the calculations.

In addition, voluntary agencies in the U.S. and other countries raise large sums to assist refugees in the camps where they live and by resettlement in third countries. Information on these sums is not readily available.

MONEY FOR INTERNATIONAL AID

Information in Tables 1 and 2 is limited to assistance through international channels, consisting of 1980 contributions to four United Nations agencies and the 1979 figures of one agency outside U.N. (ICM). As will be seen, the U.S. leads in contributing but when measured in per capita terms. Scandinavian countries are Number 1 and 2 (Table 2).

The "Top 20" contributions come from two groups of nations—noncommunist industrialized countries (Western Europe, North America, the Far East) and Arab oil producing countries (Middle East, North Africa). The donations of the oil countries go primarily to UNRWA, the agency assisting the Palestine refugees.

Total donations by governments to the five agencies amounted to $520 million. The European Economic Community also contributed $117 million for refugees, most of it in foodstuffs. The "Top 20" countries gave $498 million, or 78 per cent of the combined total. The remainder was supplied by another 105 countries.

Voluntary agencies around the world independently raised $20 million for UNHCR in 1980, with The Netherlands' national committee raising the largest sum, $6.5 million. The balance was contributed by 82 other agencies in more than a dozen countries. Contributions were received from organizations in western Europe, Yugoslavia, Canada, U.S., Australia and Japan. These sums are not included in the Survey's tables.

RESETTLEMENT OPPORTUNITY

Most refugees eventually return to their home country, after the end of the disturbance which caused them to leave. Other large numbers settle where they are. For a minority, new homes in countries of resettlement are a necessity. The United States has responded generously to this need, with the support of thousands of individual sponsorship offers across the country. Other countries also have responded to the needs of refugees with offers of resettlement. Table 3 shows the numbers of refugees settled by various countries in a six-year period. The top 20 countries are listed, in order of the proportion of refugees compared to population.

Present Location: Refugees are on every continent. A total of 83 countries is included in the 1980 statistics. The arrival of groups of refugees often causes serious economic, political and social problems for the country of asylum, where resources often are limited. Table 4 shows the numbers of refugees in relation to local population and to Gross National Product per capita. Refugees are concentrated in the poorer countries. For example, the per-capita GNP of Somalia, with one refugee for every three inhabitants, is among the lowest in the world. Pakistan, dealing with 1.4 million refugees, is only slightly higher in this economic measure.

Owing to the size and complexity of current refugee problems, the tradition of caring for the homeless, which traces back to biblical times, has in the last four decades largely become the responsibility of international organizations. Yet the ability of these organizations to function rests entirely on the contributions received from the governments and people of many different countries. Taking an overall view, the countries of the world have responded generously to appeals, with donations to feed, clothe, house and resettle refugees.

No one can deny that the United States plays a pivotal role. In contributions (Table 1), the U.S. paid 38 per cent of the cost of U.N. refugee aid. In resettlement, the U.S. has taken the largest number of refugees and it has one of the highest concentrations of refugees compared to its populations. Both of these leadership roles—contributions and resettlement—are of great importance to the world's homeless. At pledging conferences of the United Nations, other countries look to the U.S. as standard setter; by and large the U.S. has led the way.

More than ever, this leadership role is important today—on humanitarian grounds and on grounds of furthering stability in countries which face many economic difficulties, leaving aside concern for refugees within their boundaries.

TABLE 3.—6-YR RESETTLEMENT TOTALS OF RECEIVING COUNTRIES

[Top 20 countries, ranked by ratio of refugees to population, 1975-80]

Country	Population (millions)	6-yr resettlement total [1]	Ratio of refugees to population
Israel	3.9	105,700	1:37
Malaysia	14.0	102,100	1:137
Australia	14.6	51,200	1:285
Canada	24.0	84,100	1:285
United States	222.5	677,000	1:329
Hong Kong	4.8	9,400	1:511
Tanzania	18.6	26,000	1:715
France	53.6	72,000	1:744
New Zealand	3.2	4,100	1:781
Switzerland	6.3	7,500	1:840
Sweden	8.3	7,300	1:1,137
Norway	4.1	2,700	1:1,519
Austria	7.5	4,300	1:1,744
Germany (Federal Republic of)	61.1	32,100	1:1,903
United Kingdom	55.8	27,600	1:2,022
Denmark	5.1	2,300	1:2,217
Bel ium	9.9	3,900	1:2,539
Netherlands	14.1	4,700	1:3,000
China	975.0	265,000	1:3,679
Argentina	27.1	2,800	1:9,679

[1] 1980 amounts reported by United Nations High Commissioner for Refugees (UNHCR), U.N. Relief and Works Agency (UNRWA—Palestine refugees), World Food Program (for refugees) UNICEF (for refugees) and 1979 amounts for Intergovernmental Committee for Migration (ICM). Contributions by European Economic Community (EEC) totaling $117,000,000 have not been taken into account. The top 20 countries contributed 96 percent of the national contributions of $520,000,000.

TABLE 4.—REFUGEES IN PRESENT LOCATIONS, LOCAL POPULATION, GNP

[Top 20 countries ranked by ratio of refugees to local population]

Country	Population [1] (millions)	Refugees, as of Jan. 1, 1981 [2]	Ratio, refugees to population	Gross national product per capita [1]
Somalia	3.6	1,500,000	1:3	$130
Jordan	3.2	716,400	1:5	1,050
Djibouti	.4	42,000	1:10	450
Lebanon	3.2	229,400	1:14	1,030
Burundi	4.5	234,600	1:19	140
Cameroon	8.5	266,000	1:32	460
Sudan	18.7	490,000	1:38	320
Syria	8.6	209,400	1:41	930
Swaziland	.6	10,000	1:60	590
Pakistan	86.5	1,400,000	1:62	230
Zaire	29.3	400,000	1:73	210
Angola	6.7	73,000	1:92	300
Honduras	3.8	33,000	1:115	480
Macao	.3	2,600	1:115	1,460
Uganda	13.7	112,400	1:122	167
Thailand	47.3	382,000	1:124	490
Lesotho	1.3	10,000	1:130	280
Tanzania	18.6	140,000	1:133	230
Hong Kong	4.8	33,100	1:145	3,040
Costa Rica	2.2	13,400	1:164	1,540

[1] Population and GNP figures from Population Reference Bureau, 1337 Connecticut Ave., NW., Washington, D.C. 20036.

[2] 1980 amounts reported by United Nations High Commissioner for Refugees (UNHCR), U.N. Relief and Works Agency (UNRWA—Palestine refugees), World Food Program (for refugees). UNICEF (for refugees) and 1979 amounts for Intergovernmental Committee for Migration (ICM) Contributions by European Economic Community (EEC) totaling $117,000,000 have not been taken into account. The top 20 countries contributed 96 percent of the national contributions of $520,000,000.

FREEDOM OF THE PRESS

● Mr. QUAYLE. Mr. President, on June 9, I introduced Senate Resolution 150 to express the Senate's opposition to efforts by the United Nations Educational, Scientific, and Cultural Organization (UNESCO) to attempt to regulate news content and to formulate rules and regulations for the operation of the world press. I have been pleased by the response I have received both from my colleagues in the Senate and from interested observers around the Nation. I have learned that there are many Americans who agree with me that neither UNESCO nor any other organ of the United Nations should be, in any way, involved in activities which would restrict the freedom of the press.

Last week, the Washington Star published two pieces, one by Rosemary Righter, a reporter who covers UNESCO for the Sunday Times of London, and one by the Star's own editors, which cogently argue the case against UNESCO's support for a "new world information order." I therefore ask that both essays be printed in the RECORD.

The essays follow:

[From the Washington Star, June 12, 1981]

UNESCO's "NEW ORDER"

Freedom of the press—above all the freedom of reporters, editors and publications to work without government control or manipulation—is an embattled principle in the world, as always. Its strengthening should be the goal of the U.N. Economic and Social Council's new International Program for the Development of Communication (IPDC), whose 35-member governing council convenes a first meeting in Paris next week (June 15-22). After all, it is among UNESCO's chartered assignments to "promote the free flow of ideas by word and image."

Unfortunately, that may not be the objective of IPDC. Some of its members and sponsors, in the so-called "developing world" and the Soviet bloc are promoting what they call a "new international information order," whose implications are in too many ways dangerously authoritarian.

A UNESCO official, Mr. Doudou Diene of Senegal, speaking recently of the communication-development program, cited "the important dimension of the cultural identities and the proper values of each nationality." Such "dimensions" and "values" might be variously defined. But we suspect Mr. Diene of using typical UNESCO-ese to telegraph his sympathy, and that of his organization's leadership, for the dilution of free press values for nationalistic or political purposes. The middle ground, after all, is narrow. Either you believe that the service of "cultural identities" and "proper values" is only incidental to the valid purposes of the press or you don't.

The so-called "developing nations" have legitimate complaints about the way their affairs are sometimes reported by the dominant publications and wire services of the West. They also need Western help in the development of communications technology. Those complaints and needs have a place on the IPDC agenda. The validity of the discussion crucially depends on whether it is assumed to be the business of the press to correct distortions, voluntarily, or whether it is assumed that governments may legitimately reshape the information flow by coercion.

At Talloires, France, in mid-May, representatives of the press from 24 nations with free press traditions met to frame a declaration insisting, in essence, on the duty of the U.N. member agencies to promote valid free-press principles. The Talloires declaration rejects the double standard so often invoked to justify repressive practices "in countries . . . insufficiently developed to enjoy (press) freedom."

UNESCO officials and others who aspire to use IPDC as a forum for the legitimation of a double standard, or of the manipulation of information by licensing, economic barriers or other means, should take heed. The Talloires declaration says, in clear terms, that subscribers to the free-press tradition will resist its perversion by IPDC, whatever form the perversion may take.

The new administration in Washington is sympathetic to the principles stated at Talloires. It is in no mood to temporize with, or indulge, the imposition of a crypto-authoritarian "information order." A recent New York speech by Elliot Abrams, assistant secretary of state for international organization affairs, makes that clear. The U.S. is for the first time actively cognizant of the dangers of the UNESCO initiative—as both Mr. Abrams's speech and the high-level nature of the delegation to the Paris meeting show.

It is rumored, incidentally, that some of those who are being considered now for the post of ambassador to UNESCO are novices in international and UNESCO affairs, including the international information order issue. The Reagan administration can and should do better. It should seek serious and able representation to UNESCO, where so many critical issues of freedom find an international forum. It is no place for a patronage appointment.

The Star not only subscribes to the principles of the Talloires declaration of mid-May. We also believe, as do others represented at the Talloires meeting, that the information issue is important enough to merit drastic action if basic UNESCO principles are compromised by IPDC.

If necessary, U.S. participation in and financial backing for the IPDC governing body should be withdrawn. And if that doesn't so-

ber the dispensers of "new world information order" mumbo-jumbo, serious consideration should be given to full withdrawal from all UNESCO activities.

The United States cannot countenance by compromise or meek submission any international "order" that degrades or negates the central values of democracy, whether those of the free press or any other institution.

STATIST VISION OF PRESS RISKS UNESCO'S FUTURE

(By Rosemary Righter)

LONDON.—UNESCO is in the process of destroying the last of its credit with the West.

In recent months, UNESCO's officials have been treating the world to a barrage of aggrieved statements, to the effect that it is being maligned by Western press reports; that the Western press has attributed to it actions and purposes totally at odds with its true, honorable, intentions.

UNESCO is expert at disclaiming responsibility for what takes place within its walls. No sooner are restrictions on the press proposed at UNESCO meetings than the secretariat plays a convenient game of Cheshire cat: UNESCO itself, they say, would not dream of imposing anything, but cannot fail to carry out the wishes of its member states.

But even UNESCO's skilled politicians will not be able to evade responsibility for its latest effort to flout clear, written agreements. This time its actions threaten to make a mockery of a program, initiated by the United States, to do something concrete to improve Third World communications.

The 35-nation council of the International Program for the Development of Communications starts its first meeting at UNESCO's Paris headquarters on Monday. Common sense dictates that, if this potentially useful program is to work, it must have the confidence of the people with the resources to offer.

AN AGREEMENT BROKEN

At the meeting which laid down the guiding principles for the IPDC a year ago, the United States insisted that decisions should be taken by consensus—thus avoiding the intrusion of bloc politics into what should be technical decisions. This was agreed, in writing, and reaffirmed at UNESCO's general conference at Belgrade in 1980. It was a condition for the reluctant assent by the United States to deal with the matter within UNESCO; the U.S. would have preferred this discussion to be independent of any single U.N. organization.

Now, on the eve of the first meeting, UNESCO has drafted rules of procedure in flat contradiction to the letter and spirit of the founding agreement. They read: "Each member shall have one vote . . . decisions shall be taken by a majority of the members present and voting." This reduces the Western countries—who, if Japan is included, have eight of the 35 council seats—to a powerless caucus.

UNESCO's Senegalese director-general, Amadou Mahtar M'Bow, presents himself to Western audiences as honest broker, if not peacemaker, as a man straining after ways to surmount ideological barriers and permit constructive action to improve news flow. In flouting the agreement over the IPDC, M'Bow has sacrificed more than Western goodwill. He risks making a nullity of a program which might have had a real impact on Third World communication needs.

It is an indictment of UNESCO that nobody is surprised by this latest development. The gap between UNESCO's propaganda for Western consumption, and its actions, has always been wide. UNESCO's highest officials insist that there is no truth to the charge that UNESCO seeks to set itself up as the arbiter of what news circulates in the world. UNESCO's support for the "new world information order," advocated by a group of Third World governments is, they say, benign: UNESCO's aim is to safeguard and extend the freedom of the press by making communication a practical reality for Third World countries which do not now have the means to participate in the international exchange of news and information.

This rhetoric masks a rage to regulate: The "new world information order," as it is shaping up with UNESCO's encouragement, is incompatible with the free flow of information. UNESCO's empire-building has been largely at the expense of its assigned duty to "promote the free flow of ideas by word and image."

A PERNICIOUS AGENDA

The West has tried to stem this onslaught with compromise and sweet reason. Year by year, the democracies have lost ground to the Third World notion of state control of the press. Indeed, the UNESCO communications program, drafted by the UNESCO secretariat and now being implemented, includes studies of: press standards; the "social responsibility" of the press; the media's contribution to establishing a new international economic order; the possibility of establishing an international right of reply and rectification—all projects which imply that the media are accountable to states, that governments have the right to sit in judgment.

Governments were powerless at the last UNESCO conference to excise a single one of these items from the program: so much for UNESCO's fiction that governments dictate its activities.

The same sleight-of-hand put the "protection of journalists," that insidious proposal which inevitably leads to licensing them and monitoring their conduct, on UNESCO's agenda. UNESCO argues that it has no policy in this area, that it is merely providing a forum for professionals. Yet UNESCO's contribution this year was to commission an "expert" report, from a French Marxist lawyer, which dwelt on "the legitimate concern of states to preserve their sovereignty in the process of ensuring the regulation of the journalistic profession."

The U.S. will sit down to bargain next week. That is right. It is in America's interest to offer broader participation in the flow of information to countries which, because they feel excluded, understandably resent Western dominance. There is no point in ceding the field to the UNESCO secretariat without a fight.

UNESCO ON THE ROPES

But it is time to make some points clear. UNESCO is coming to the end of its rope. The democracies, if they decide to support the IPDC program, will have as their goal a more open world society. As Elliott Abrams, assistant secretary of state for international organizations, said last weekend, "It is not the future of press freedom which is at stake but the future of UNESCO."

There are alternatives open to Western nations which want to help build up Third World media. They could think in terms of a communications development trust, encouraging participation by the private sector. Or they could increase their inadequate offers of bilateral aid.

Some governments will continue to use the slogan of a "new world information order" to put news at the service of the state. Others, as recent meetings both in Latin America and Asia suggest, are wearying of confrontation. If they are to be heard, it is up to the West to hold UNESCO to its bargains. For the U.S., that means assigning to UNESCO an ambassador of international standing, alert to the workings of devious international bureaucracies.

It will take consistent effort to stop UNESCO from changing the rules to suit its instinct for self-aggrandizement or to support assaults by authoritarian governments on the flow of news. That effort is vital.●

THE LAW OF THE SEA

● Mr. KENNEDY. Mr. President, one of the most shortsighted actions taken by the Reagan administration in its first few months was abruptly to shock friends and adversaries alike by halting the ongoing negotiations to reach a comprehensive agreement governing the sea and the seabed and passage through straits. After years of painstaking efforts by Republicans and Democrats, involving the most delicate national and international compromises, the new team bowed to the pressures of a few special interests and completely upset the applecart by declaring that it had to review all the work achieved to date. It failed to recognize that if other states are to be pressed for even more compromises in our interest, they will surely pursue terms that are more in their interest. No one should delude himself that American interests of great importance—including passage through narrow straits and restriction of territorial claims of other states—may not be at risk for the sake of questionable commercial gains.

Prof. Lincoln Bloomfield of the Political Science Department at the Massachusetts Institute of Technology, and John Temple Swing, Vice President and Secretary of the Council on Foreign Relations, have each written a perceptive article about the Law of the Sea negotiations, detailing their importance to the United States and the nature of the compromises which have been struck thus far. I ask that these articles be printed in the RECORD, and encourage my colleagues to study them.

The articles follow:

RICHES OF THE SEA: COMPROMISE OR CONFLICT?

(By Lincoln P. Bloomfield)

The administration's decision to try to renegotiate the Law of the Sea Treaty in order to increase the potential benefits to American mining interests is likely to produce the opposite of the intended effect. By granting a victory to those opposed to the plan negotiated so far, the administration has increased the chances of a major defeat for broad U.S. strategic interests and an unraveling of the most complex—and hopeful—international effort in history to bring order out of political chaos.

The effect is also to contribute to a credibility problem abroad by putting into question yet another treaty negotiated in good faith with recent Republican and Democratic presidents

The Law of the Sea (LOS) Treaty has been under negotiation for seven years by over 150 countries. At the ninth negotiating session last summer genuine agreement seemed within reach for the first time on the toughest issues of all, including fair and equitable provisions for extracting manganese, copper, and nickel from the deep seabed. The diplomatic miracle was to accomplish that crucial task while satisfying worldwide strategic, maritime, and development concerns.

Maritime nations like the U.S. wanted assurance of unimpended passage through strategic chokepoints such as Hormuz or Gibraltar. U.S. fishing interests wanted universal acceptance of the 200-mile economic

resources zone we had already unilaterally legislated. We also wanted a territorial sea narrow enough so our submarines could operate optimally. We wanted new rules for compulsory dispute settlement at sea. Our scientific community wanted guidelines governing hydrographic research—as did our Navy. Our environmentalists wanted marine mammals protected. And so on through 400 draft treaty articles.

But many countries are landlocked and wanted a share of the action. Others sit on key straits and wanted to control passage. Poor countries saw a new source of revenue for development in the manganese nodules on the seabed which belongs to no one and, according to international law, is part of the "common heritage of mankind." The militant leaders of the "77"—the 114 countries mostly located in the poorer half of the globe—wanted all or nothing. It is obvious why for a long time an overall agreement seemed an impossible dream, even though most countries agreed on the need for a set of agreed rules governing the operations of nations on nearly three-fourths of the earth's surface. Now a treaty is within reach.

The triumph of American diplomacy, in the skillful hands of U.S. Ambassador Elliot Richardson, was to negotiate a compromise agreement protecting all the aforementioned U.S. strategic and other interests, while enabling Western mining interests to extract minerals for themselves. The price was to help a new sea organization named the Enterprise mine in parallel with private interests, using the proceeds for the benefit of developing countries.

One of the most encouraging diplomatic events in years was the assumption of leadership in the LOS conferences by moderate statesmen from the "77" such as Tomy Koh of Singapore, who managed brilliantly to partially satisfy everyone's basic interests. Arrangements for the seabed regime were renegotiated until U.S. commercial interests were reasonably served. Even then they were only grudgingly accepted by the "77"—and by the mining companies and their friends in Congress. The executive branch was split down the middle, with domestic agencies—Commerce, Interior, and Office of Management and Budget—urging unilateral U.S. action, opposed by State and Defense Department officials who saw the vital U.S. interests involved.

A compromise was reached last year—with extraordinary difficulty—on U.S. domestic legislation that served to protect both U.S. worldwide concerns reflected in a successful LOS treaty, and the interests of mining companies who were authorized to proceed on their own if a treaty was not in effect by the first date—1988—when commercial operations were feasible. Part of the remaining LOS negotiation was to improve further interim investment protection.

If the treaty is pulled up by the roots with a demand for even greater American benefits, the various compromises which sustain other U.S. vital interests are bound to unravel. The moderates who helped us will have been discredited, leaving the field to the extremists. Nothing could be more damaging to broad American interests in peace and stability, or to the dimming prospects for a practical world order to help manage those things we either must cooperate to share equitably or will wind up fighting over.

LAW OF THE SEA: FANFARE AND AN UNCERTAIN FUTURE

(By John Temple Swing)

The tenth substantive session of the Third United Nations Conference on the Law of the Sea opens today with unexpected fanfare and an uncertain future. Last week front-page stories in at least two of the nation's major newspapers announced that the Reagan administration would not go along with the previously agreed objective of completing a comprehensive draft treaty on all aspects of ocean usage at the current session. This announcement certainly came as a shock to the 2,000-odd delegates from 158 countries gathering in New York. Although the negotiation has been one of the world's longest, most complicated, and least understood, it is, as Henry Kissinger observed while secretary of state, one of the most important in the 20th century. And, after seven years, it is now very close to completion. Why, then, has the outcome been thrown into doubt?

The problem arises from the one area of the negotiation that has always been politically sensitive: the creation of a new international organization to oversee the exploitation of deep seabed resources in the area "beyond national jurisdictions."

The conference remained deadlocked over this issue for three years, and only during the latter years of Mr. Kissinger's tenure as secretary of state was a compromise developed that, with some exceptions, is now generally acceptable to most participants: the so-called "parallel system" of exploitation. Simple in concept, if not execution, it provides one-half of the commercially available mine sites to Western countries and their companies and the other half to the corporate arm of the new International Seabed Authority known as the Enterprise. Net revenues earned by the authority in the form of taxes, fees, and profits from its own operations, as agreed from the outset, are to be allocated to the poor countries of the world for development purposes.

Throughout the negotiations, the developing countries have insisted that land-based producers of nickel and copper be protected from the potential threat to their economies by seabed production of the same minerals. This has led to interim limitations on deep seabed production, which, at least in principle, are anathema to "pure" free enterprisers.

Equally troubling to many company executives are provisions calling for commodity agreements for all seabed minerals and complicated provisions for the transfer of technology. Companies also worry that in spite of carefully created provisions on governance and requisite voting majorities for different classes of issues, access is not adequately guaranteed in black and white.

In part because of these doubts, mining companies successfully lobbied for the adoption in the summer of 1980 of domestic legislation to license US miners to begin site specific exploration by 1982 and site specific exploitation by Jan. 1, 1988. Such legislation could in theory provide some protection for US mining companies in the so-called "interim period" before an international treaty comes into force or even in the absence of such a treaty entirely.

Treaty provisions are not exempt from criticism, after all, even though they are the product of genuine negotiation between two sharply defined views. The problem is that all 130 developing countries and a fair number of developed countries would consider unilateral mining to be in direct violation of international law—or at the very least of the 1970 General Assembly resolution adopted during the Nixon administration by a vote of 108 to 0 (with the Soviet bloc abstaining and the United States voting in favor) that deep seabed resources are "the common heritage of mankind" to be exploited only "in accordance with an international regime to be created."

There is also the fact that the other areas of the draft treaty contain provisions of equal if not greater importance to the US national interest, most critically the preservation of freedom of navigation and overflight on the high seas, in the new "200-mile exclusive economic zones," and in straits like Gibraltar or Hormuz. The draft treaty also assures that the United States may claim its hard mineral resources, especially oil, in the areas of the continental margin that extend beyond 200 miles, subject only to minimal revenue-sharing provisions. Whales within and without the 200-mile economic zone receive special attention in a provision that should enhance their long-term conservation as a unique species. The draft treaty also makes important contributions to the evolution of international law for the protection of the marine environment, particularly in the area of vessel-source pollution.

In spite of these points, it is the administration's sympathy with the mining companies' view that led it to announce last week that its delegation had been instructed to seek a delay in the adoption of a formal draft treaty until a major policy review can be completed.

Whatever the result, the US delegation is likely to have its work cut out for it, since most other countries in the conference, developed and developing alike, came to New York to negotiate what they consider to be the remaining outstanding issues, not to reopen compromise texts resulting from the hard-fought battles of the past seven years. These issues are complicated enough, involving as they do the establishment of a preparatory commission that will draft the provisional rules and regulations for the authority: participation (with entities in addition to recognized states can sign the treaty); and, finally, preparatory investment protection for US mining companies during the interim period, an issue put on the agenda by the United States last summer in Geneva.

The last three administrations, two Republican and one Democratic, have all supported the goal of a widely accepted Law of the Sea treaty as the best way to protect the interests of all nations, including the United States. The new administration shares the same objective, but whether progress can be made toward it at this session remains to be seen. What really is at stake is the opportunity to establish by treaty the rule of law for an area that covers nearly three-quarters of the surface of the globe.●

A DIFFERENT PERSPECTIVE ON THE ISRAELI ATTACK

● Mrs. HAWKINS. Mr. President, it seems to me that there is a terrible sense of unreality about the outcry over Israel's attack on the Iraqi nuclear facility at Tuwaitha. Rarely does a commentator mention the explicit threat made by Saddam Hussein, the President of Iraq, to use weapons supplied by this reactor against Israel. Rarely does anyone mention the destabilizing effect a nuclear weapon would have in the hands of Hussein, or any of a number of other Mideast potentates.

Looked at realistically, the Israeli attack has to be seen as stabilizing, not upsetting. It is ironic that those who call for having all nuclear weapons destroyed should object to the destruction of this nuclear device, potentially in the possession of someone engaged in a holy war of elimination against the people of Israel.

But, of course, Mr. President, the Israeli attack is not viewed realistically. It is viewed through the prism of the United Nations, an organization which sometimes appears dedicated to clouding the real world in a fog of rhetorical confusion. The United Nations is, to put it mildly, irresponsible. It has no real

constituency, no economic base, no founding in the real world. It is largely a paper organization, and so it can engage in a paper battle. Nations such as Israel can pay some attention to the U.N. so long as it does not threaten Israel's real interests. The United States is the same way. The only difference seems to me to be that Israel has a clearer sense of its own interests than the United States has demonstrated in recent years.

Mr. President, one of our colleagues, the Honorable JACK KEMP, was in Israel at the time of the raid. His onsite experience may have given him some insight which we can all profit from. I therefore ask that a recent article he wrote for the Washington Star be printed at this point in the RECORD, and I would like to associate myself with his remarks.

The article is as follows:

SOME OF ISRAEL'S CRITICS SECRETLY BREATHE EASIER

(By JACK KEMP)

I happened to be in Israel at the time of Israel's strike against Iraq's nuclear facility at Tuwaitha, and world opinion's swift condemnation of the act. But as Prime Minister Menachem Begin outlined to me his reasons, and as I listened to American Ambassador Samuel Lewis explain the history of U.S. concern about Iraq's imminent nuclear capability, I felt a different sense of condemnation—directed not at Israel, but at those nations which have encouraged and assisted Iraq's Saddam Hussein in his dangerous drive to acquire atomic weapons.

The Osirak installation near Baghdad was not an "Atoms for Peace" project. Under agreements with France and Italy, Iraq contracted for one of the largest research reactors ever built: a 70 megawatt Osiris-type reactor dubbed "Tamuz 1," which was to be operational as early as next month. No one with any first-hand knowledge doubts that the primary purpose of the Tuwaitha facility was the production of weapons-grade fuel. Oil-rich Iraq does not need nuclear power, and Iraq refused a French offer to substitute a lower-grade fuel which can be used for energy but not for weapons.

It is also impossible to overlook the unambiguous declaration of Saddam Hussein, the Iraq President, that the atomic program was aimed at Israel. A state of war has existed between Iraq and Israel since 1948 due to Iraq's refusal to sign armistice or cease-fire, and Iraq has repeatedly expressed the goal of destroying Israel. Iraq's participation in the Nuclear Nonproliferation Treaty means little; its notoriety for repeatedly violating international commitments was reinforced again when Iraq attacked Iran, in contravention of a 1975 pact between the two countries.

Faced with Iraq's belligerent intentions, the fact that the atomic reactor was about to become "hot," and the failure of both U.S. and Israeli diplomatic efforts to stop the weapons program, Israel's precision strike was inevitable.

In my view, it is time for a searching reassessment of nuclear fuel and technology transfers. To supply a breeder reactor, fueled with highly enriched uranium, to a nation whose aggressive ambitions are stressed on a daily basis, was the apex of irresponsibility on the part of France and Italy. At the very least, these nations should not renew their support for Iraq's nuclear weapons program.

It is also time, I believe, for reexamining our notions of evenhandedness in foreign policy. How can the world condemn Israel, but not mention the threat of the Iraqi atomic weapons, or past American efforts to prevent France and Italy from supplying Iraq with nuclear capability?

Israel does not call for holy wars against its neighbors. It is no more likely to initiate aggression than the United States. In the Middle East, at least until Camp David, that makes Israel unique. The Syrian introduction of the missiles into Lebanon and the Iraqi nuclear program, both aimed at Israel, are about as subject to a happy medium as negotiations between a gunman and his victim. Is it evenhanded to presume that the moral claims of both parties are equally valid?

The violation of the territorial integrity of another nation is never to be taken lightly. But still less so is the acquisition of atomic weapons by a state whose unstable leaders declare the intent to use them against their neighbors. In the real world, we are forced on occasion to choose the lesser danger.

Israel may receive universal condemnation of its action. But even as it formally protests, the world—including many an Arab nation in the Middle East—is secretly relieved that one fewer unpredictable totalitarian regime is stockpiling.●

BRYCE HARLOW

● Mr. DOLE. Mr. President, the Members of this body owe a great deal to the men and women who have served our Government so ably during these past two centuries. There are a special few to whom we owe not only the benefits of historical precedence, but the beauty and strength that is this Nation. Bryce Harlow is at the top of that list.

That Byrce Harlow has taught us all is a testament to his ability to learn. From Gen. George C. Marshall, for whom he once worked, he learned more than a distinctive, understated grasp of language; the general's complete integrity brought out in Mr. Harlow the same awe-inspiring qualities of a degree that only a precious few leaders have ever matched.

Mr. President, the Senator from Kansas is proud to count Bryce Harlow among his friends. His place in history is secure, and his status as an elder statesman undisputed.

Mark Shields has written an insightful column on Mr. Harlow, and I ask that it be printed in the RECORD.

The column follows:

ALL THE MAN'S PRESIDENTS

(By Mark Shields)

If judgment were oil, then, all by himself, Bryce Harlow would be OPEC.

Presidents Eisenhower, Nixon and Ford all brought that Harlow judgment to the White House. A couple of them even took some of his advice. Harlow has spent 11 of his 43 adult years in Washington working in the White House for a Republican president.

Lately, two Republican presidents—Eisenhower and Ronald Reagan—have been compared hereabouts. Can Reagan be another Ike, his personal popularity secure and separate from his policies and politics? Did the attempt on his life and his own admirable behavior throughout transform Reagan into an authentic national hero, immune from traditional political criticism? And, if so, who will be the Ezra Taft Benson and John Foster Dulles—the "villains"—of the Reagan administration? Will Malcolm Baldrige or Samuel Pierce join James Watt?

For an answer to this or just about any political question, Bryce Harlow is a consensus All-American of leading authorities. Harlow does see similarities between the two presidents.

"Reagan's for real," he said last week. "He's a success, not at all insecure, free of hang-ups, and at peace with himself."

But is he politically another Ike?

"Not yet. By June 1953, the country had fallen hopelessly in love with Ike. When he stumbled, people picked him up and dusted him off," Harlow answered. "But it still could happen in Reagan's case."

A Persian proverb, heeded by generations of presidential assistants, advised that when the king says it is midnight at noontime, the wise man murmurs, "Behold the stars." Bryce Harlow never put much stock in Persian proverbs or in the contemporary celebrity of staff. Was Sherman Adams ever on the cover of People? His advice to all who will ever work in the White House or on Capitol Hill: "Never confuse yourself with your job. It may be important. You are not."

But Harlow did work closely with a lot of very important people. From 1941 to 1946, he was an army officer working with General of the Army George C. Marshall. Here are a few of his judgments about the men he has known.

Marshall: "Absolutely formidable personal character. Selfless to the point of being Christ-like." Harlow recalled Marshall's rigid sense of propriety when FDR told him: "George, I want you to call me Franklin." Marshall's response: "I'll try to, Mr. President."

Jerry Ford is cherished for his "tremendous decency." Richard Nixon's intellect is still respected. But one adjective to describe the resigned president: "driven." Ike was "the complete leader and politician."

There were no demons in Bryce Harlow's political world. He kept no enemies' list because he did not believe in enemies. Of all the politicians he knew, FDR and Ike were both "genuine naturals." He watched John Kennedy become a "natural." But to Bryce Harlow, Hubert Humphrey was "more of a natural than all of them—Roosevelt, Ike or JFK."

Harlow, than whom there is no one better at the delicate art of White House-congressional relations, warned the Reagan people to beware of the incipient perception that the administration "does not care about the little people." That's what the Harlow antennae are beginning to pick up, and if that perception grows, it could be, he knows, the political kiss of death. The Social Security blunder did not help at all. Like Harlow's word, which you could always take to the bank, his judgment is still very reliable.

Harlow, who was an Oklahoma Democrat until the late 1940s, closed with an encouraging word of sorts for the members of his old party. He recalls that during the first year of Ike's first term, there was real disarray among Democrats then out of office for the first time in 20 years. His advice to the opposition: "Both parties will win again—in spite of themselves." ●

CONSUMER PRODUCT SAFETY COMMISSION

● Mr. METZENBAUM. Mr. President, within the next few weeks, the Senate would be asked to consider legislation which would seriously jeopardize the Consumer Product Safety Commission's ability to effectively monitor the safety of thousands of products sold in the marketplace. In recent weeks, the administration has suggested that an independent commission is no longer cost-beneficial and that it could be brought under the direction of the Department of Commerce without harm to consumer safety.

I disagree strongly with this notion. Such a move would seriously undermine the Commission's efforts to insure the

health and safety of American consumers.

Since the Commission was created by Congress in 1973, it has made major strides to reduce the unreasonable risks of injury associated with many consumer goods. For example, the CPSC effort to remove asbestos-containing hair dryers from the marketplace has helped prevent more than 680 cancer-related deaths each year. The agency's effort to eliminate the cancer-linked chemical tris from infant sleepwear has helped save more than 500 lives. Its rule requiring child-proof caps on prescription drugs, aspirins, and other household items continues to prevent thousands of poisonings each year.

The CPSC's job is not done, Mr. President, American families can ill-afford to do without a strong, independent agency whose sole concern is product safety in the marketplace. I ask that my colleagues read the attached article by Ronald Wainrib, an attorney at the Consumer Federation of America, which appeared in the Washington Star on June 10. 1981. I believe that Mr. Wainrib's article clearly illustrates that the Independent Consumer Product Safety Commission's value to the public meets the most stringent criteria of cost-benefit analysis.

I ask that the article be printed in its entirety at this point in the RECORD.

The article is as follows:

CONSUMER SAFETY JOB ISN'T DONE

(By Ronald Wainrib)

The administration has launched its promised campaign to reduce regulatory burdens on business. The first target is health and safety regulation. The first victim is the Consumer Product Safety Commission (CPSC).

Last month the administration proposed cutting the CPSC budget by 30 percent. David Stockman, director of the Office of Management and Budget, acknowledged the cut was for "ideological" rather than "economic" purposes. He now proposes to transfer the commission to the Department of Commerce, a move he concedes is his compromise to abolishing the agency altogether.

Both are political acts, taken at the expense of consumer safety.

The CPSC was created in 1973 in response to the level of deaths and injuries resulting from unsafe and hazardous consumer products. An estimated 20,000 deaths, 30 million injuries, and 110.000 permanent disfigurements resulted each year, at costs to consumers of $5 billion for medical expenses alone.

The commission has a small budget by federal standards, $40 million. Yet, its recalls, product bans, safety standards, and hazard warnings save an estimated 2,135 lives and avoid almost 300,000 injuries every year.

ACTIONS THAT PAY

The administration charges that the commission is "no longer cost-beneficial." Its record speaks otherwise. Safety standards on children's cribs have saved an estimated 50 infants' lives each year since they were promulgated in 1973. Another 400 escape injury from faulty crib design annually, all at nominal costs to manufacturers. Similar statistics can be quoted for child-proof packaging on drugs and other toxic-substance containers.

Its bans and recalls of products with cancer-causing hazards, including asbestos-blowing hairdryers and Tris-treated pajamas, have avoided thousands of cancer cases at costs to the government of just $3,000 per cancer avoided.

Mr. Stockman claims that the commission has "largely accomplished its mission." Yet, the surgeon general of the United States last year ranked accident prevention and injury control among the most important means available for promoting health and preventing disease in the decade ahead. With so many new products entering the marketplace every year, the need for a watchdog agency to promote consumer safety will certainly not disappear.

Specifically, an estimated 77,000 people are injured every year in power lawn mower accidents, when their feet or hands come into contact with the cutting blade. CPSC's mower safety standard, to be effective in June of 1982, is projected to save approximately 60,000 of those injuries each year. Its standards for improving the stability of ladders are projected to avert 45,000 injuries annually, and standards for bathtubs and showers (making them more slip-resistant) another 66,000 injuries and 134 deaths each year. The list goes on.

The administration has already won the first battle. Subcommittees in both the House and the Senate have adopted its proposed budget cuts, with little argument. "There is no constituency for consumer safety," legislators assert.

The proposal to transfer the commission to the Department of Commerce now awaits congressional action. Administration supporters claim there will be no reductions in the protection of consumer safety. A look at the Commerce Department track record paints a less rosy picture.

Commerce's primary experience in administering a product safety program came from 1967 to 1971, when it was charged with standard-setting under the Flammable Fabrics Act of 1967 (as amended). The act's purpose was to protect consumers from the hazards of fabric fires, particularly wearing apparel and household materials. After four years of operation, the department was the subject of considerable criticism. Dr. Allen Campbell of the American Association of Pediatrics summed up the experience this way:

"For nearly four years the Flammable Fabrics Act has stood in testimony to initiative and disregard for consumer safety within the Department of Commerce. That agency has not taken action to protect consumers, but even worse the diabolical position being taken will allow the marketing of flammable fabrics."

What actions prompted such harsh words? Consider the case of carpet and rug flammability standards. In cooperation with the Carpet and Rug Institute, the department passed flammability standards which proved inadequate to protect a most susceptible population: elderly nursing home residents.

Two flammability tests were in use at the time: a weaker test, employed by the General Service Administration for buildings with little fire danger, and a second, more severe test, applied in hospital and institutional settings. Industry pushed hard for across-the-board adoption of the weaker standard. The Department of Health, Education, and Welfare had previously adopted the stricter standards for hospitals in its Hill-Burton program, and the industry wanted to break into that market.

The Department adopted the weaker standard. One month before it was to become effective, disaster struck. A nursing home fire in Marietta, Ohio, killed 31 elderly residents. The cause of death was smoke inhalation from the nylon carpets. Those carpets had passed the department flammability standards.

The New York Times questioned department officials concerning their plans to improve the standard in response to the deaths. The response was revealing:

"Department officials expressed doubts that the standard would be upgraded before it was put into effect . . . they said it was improbable that a stiffer requirement could be justified under the law on the basis of research or investigations so far completed."

The administration is flexing its deregulatory muscles. Unfortunately, decisions that are politically popular today may prove extremely costly to all of us in terms of safety and health impacts in months and years ahead.●

EMPLOYER SUPPORT OF THE GUARD AND RESERVE

● Mr. GOLDWATER. Mr. President, having served as a member of the National Guard and the Reserve for over 37 years, I know the great problem that exists in first getting the business part of American life to be willing to release reservists and guardsmen for their summer training without making them suffer pay damages.

The Federal Government is not setting nearly as good an example that business has accepted. The Federal Government should be just as willing to pay reservists or guardsmen who are civil servants as the business community is to pay its employees. There is no reason to dock the employees, to set them back, or to make them suffer just because they want to be of additional service to their country.

The Association of the United States Army has prepared a short paper on this subject, and I ask that it be printed in the RECORD.

The article follows:

DEFENSE REPORT

EMPLOYER SUPPORT OF THE GUARD AND RESERVE—THE FEDERAL GOVERNMENT MAY NOT SET A GOOD EXAMPLE

When the United States abandoned the draft as its major source of military manpower it also removed one of the most effective incentives for enlistment in the National Guard and the various Reserves.

In the same year the draft ended, President Nixon established the National Committee for Employer Support of the Guard and Reserve in an effort to make sure that the jobs and benefits of reservists were protected while they attended military training and to encourage employers to ensure the reservists did not suffer a loss of income while away from the job, training. The federal government permitted its civilian employees to draw both reserve and civil service pay while training, setting an excellent example for other employers.

Because of some obvious parallels between their military and civilian occupations—law enforcement officers, for example—about half of all our Army Reservists and Guardsmen are employed by federal, state or local governments. On several occasions, federal budgeteers have recommended that reservists who are also federal employees be paid either their civil service or their reserve pay, whichever is greater, during training. In each previous instance Congress has seen the frailty of this argument and has rejected it. Quite obviously, state and local governments would not be inclined to be any more generous than the federal paymasters and most civilian employers would be convinced that the federal government, as represented by the Committee for Employer Support, was talking out of both sides of its face.

We now have a similar situation surfacing with the Reagan Administration, where part

of the executive branch—the Pentagon—is wringing its hands about the sad state of reserve manpower while another part—the Office of Management and Budget—has resurrected the pay limitation as part of its frantic effort to reduce the budget. It would be both ironic and foolhardy if the Pentagon were to succeed in convincing Congress to increase bonuses and other incentives for reserve service while another action was concurrently taking money away from a major part of the reserve force.

It is to be hoped that Congress will once again see the light and help avoid this foolishness.●

THE VOTING RIGHTS ACT AMENDMENTS OF 1981

● Mr. GLENN. Mr. President, today I wish to voice my strong support for S. 895—the Voting Rights Act Amendments of 1981.

The Voting Rights Act represents the very essence of our democracy. As the late President Lyndon Johnson said before a joint session of Congress in 1965:

. . . Our fathers believed that if this noble view of the rights of man was to flourish, it must be rooted in Democracy. The most basic right of all was the right to choose your own leaders.

. . . It is the effort of American (blacks) to secure for themselves the full blessing of American life.

In urging Congress to enact the voting rights bill, President Johnson continued:

Their cause must be our cause too. Because it's not just the (blacks), but really it's all of us who must overcome the crippling legacy of bigotry and injustice. And we shall overcome . . .

With these words in mind, I am proud to join my colleagues as a cosponsor of S. 895—a bill to extend many of the act's most basic protections.

The legislation which I am cosponsoring would extend until August 6, 1992, the temporary or special provisions of the Voting Rights Act, including its preclearance and bilingual provisions. It would also clarify the standard of proof in voting rights discrimination cases so that such cases may be proved by evidence of discriminatory result. I will discuss the specific provisions of the bill further. But, first, I would like to briefly address the need for this legislation and, then, trace the history of the Voting Rights Act of 1965.

We have come a long way since 1965. Minorities have and are voting in increasing numbers. The number of blacks registering to vote in parts of the deep South have doubled over the past 16 years. According to an Atlanta-based voter education project, a total of 607 blacks are currently holding elective offices in 11 Southern States, representing an increase of nearly 19 percent in the 1980 elections alone. As for Congress, many blacks have taken the "long road up the hill" since the time when Hiram Revels became the first black U.S. Senator. In the 97th Congress, we have 18 black legislators. I ask unanimous consent that a recent article in the Washington Post and an article put out by the National Archives concerning blacks in Congress be printed in the RECORD at the conclusion of my remarks.

Although dramatic gains have been made, we still have a long way to go before minorities begin to participate and obtain proportional representation in our government. According to the Atlanta voting project, "blacks remain greatly underrepresented at all levels of government and black political participation remains below that of whites." In 1974, blacks comprised 9.8 percent of the voting age population, but comprised only 0.6 percent of the Nation's elected officials. Moreover, of the 236 blacks serving in State legislatures in 1974, only three blacks were elected to statewide executive offices. I believe that irrespective of whatever gains have been made, what is most important is to remain vigilant so that our hard won rights do not slip away from us. See *Rome* v. *United States*, 100 S. Ct. 1548 (1980).

BACKGROUND

The Voting Rights Act is based on the 15th amendment to the Constitution, which was adopted in 1870 during the Reconstruction era. This amendment extended the franchise to citizens of all races and gave Congress the power to enforce this right.

Because blacks remained disenfranchised for almost a century after the adoption of the 15th amendment, Congress enacted a series of bills to resolve the problem. The Civil Rights Act of 1957 prohibited interference with the right to vote in Federal elections. The Civil Rights Act of 1960 supplemented this basic protection by requiring the retention of all Federal election records for nearly 2 years. And where patterns and practices of discrimination existed, the act authorized the assignment of Federal referees. Finally, the Civil Rights Act of 1964 was enacted to prevent the manipulation of literacy tests.

Primarily because it relied solely on private litigation to enforce minority voting rights, this legislation failed to solve the problem of black disenfranchisement. Voting rights suits are onerous to prepare; they are time consuming and extremely costly. Moreover, in the past, even when these suits were successful in blocking discriminatory voting practices, States simply switched to other voting practices to accomplish the same result.

Frustrated by this failure, blacks began to organize protest demonstrations to draw attention to the discriminatory voter registration practices in many Southern States. These demonstrations culminated in 1965 with the now famous march from Selma, Ala., led by the Reverend Martin Luther King, Jr.

Shortly after the Selma march, Congress enacted the Voting Rights Act of 1965. Unlike the previous civil rights acts which laid its foundation, the Voting Rights Act covered all elections—Federal, State, and local. The act provided stringent new remedies to replace unsuccessful remedies of the past. Essentially, those remedies: First, suspended literacy tests and similar devices for 5 years; second, established a formula to determine which States and political subdivisions would be covered by the act's special provisions; third, established a preclearance procedure; and fourth, provided for the assignment of Federal examiners to list qualified applicants who were entitled to vote.

In 1970, Congress extended the Voting Rights Act for 5 additional years. Shortly after I came to the Senate, the act came up again for renewal. After a long battle, the Senate passed the 1975 Voting Rights Act Amendments. Subsequently the act was extended for another 7 years. In addition, the act's general provisions banning literacy tests and voter discrimination were made permanent, and the bilingual provisions were added to the special provisions of the act.

Within a year of its passage, the Voting Rights Act was challenged as an unconstitutional infringement of the rights of States. However, the Supreme Court, in *South Carolina* v. *Katzenbach*, 383 U.S. 301 (1966), upheld the constitutionality of the act as a valid means of implementing the 15th amendment. In writing the opinion for the majority, Chief Justice Warren stated:

After enduring nearly a century of widespread resistance to the Fifteenth Amendment, Congress has marshaled an array of potent weapons against the evil, with authority in the Attorney General to employ them effectively. Many of the areas directly affected by this development have indicated their willingness to abide by any restraints legitimately imposed upon them. We here hold the portions of the Voting Rights Act properly before us are a valid means for carrying out the commands of the Fifteenth Amendment. Hopefully, millions of nonwhite Americans will now be able to participate for the first time on an equal basis in the government under which they live. We may finally look forward to the day when truly "[T]he right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." 383 U.S. at 337.

THE 1981 AMENDMENTS

Perhaps the most important provision of the Voting Rights Act today is section 5. Under section 5, certain jurisdictions must preclear any changes in voting laws, practices or procedures with the U.S. Department of Justice (or the U.S. District Court for the District of Columbia). In order to obtain preclearance, these jurisdictions must demonstrate that any such change will not be discriminatory.

After literacy tests were banned in 1965, there was a concerted move in certain parts of the country to replace such tests with other means of discrimination. These have included redistricting, reregistration requirements, annexations, polling place changes and the substitution of at-large elections for single-member districts. As Chief Justice Warren, in *Allen* v. *Board of Education*, 393 U.S. 544, 569 (1969), observed:

The right to vote can be affected by dilution of voting power as well as by an absolute prohibition on casting a ballot.

Over the past 16 years, section 5 has been instrumental in preventing the seemingly infinite variety of electoral dilution schemes. More than 800 discriminatory voting changes have been blocked by the Justice Department. And countless others have been deterred by section 5's preclearance procedure.

Much of this success stems from the type of coverage provided by the act. Section 5 only applies to State or local jurisdictions which fall within the provisions of its statutory formula or trig-

ger mechanism. Prior to 1975, jurisdictions were covered if they maintained discriminatory literacy tests or devices on the first of November of 1964 or 1968 and if less than half of the voting age population were registered or voted in the 1964 or 1968 Presidential elections.

This formula was amended in 1975 to accommodate the addition of the bilingual provisions of the act. Under the formula, the principal focus has been on jurisdictions with historical patterns of voting discrimination, that is, States in the deep South from Virginia to Texas. However, section 5's application is not limited to Southern States. It also applies to such States as Alaska and Arizona, as well as a part of New York City.

Because of this type of coverage, we have been able to concentrate our resources and efforts in the areas of the country where they have done the most good. As a result, the preclearance review is normally completed within 60 days. It is a fast, thorough and efficient procedure with which to prevent specific voting rights abuses and deter jurisdictions from attempting to engage in future voter discrimination practices.

Section 5 should not be changed to apply nationwide. Because voting discrimination against minorities was pervasive in certain parts of our country, coverage under the Act was designed to focus on those areas. As the Court noted in South Carolina against Katzenbach:

> The Voting Rights Act was designed by Congress to banish the blight of racial discrimination in voting, which has infected the electoral process *in parts of our country* for nearly a century. (Emphasis added). 383 U.S. at 308.

There is no reason to change the focus of the act. In fact, the 1970 and 1975 extensions of the act suggest otherwise. And it seems unwise to create another large bureaucratic office to handle nationwide preclearance review based on mere speculation.

There are two additional reasons that militate against expanding section 5 to apply nationwide. First, no State or political subdivision is exempted from the act's prohibition against voting discrimination and literacy tests. In other words, the permanent provisions of the act already apply nationwide and, further, the act provides for bringing additional jurisdiction under court-ordered preclearance procedures. Second, where a covered jurisdiction demonstrates that the circumstances which triggered the application of section 5 no longer exist, the act contains a "bail-out" provision which will exempt that jurisdiction from coverage under the act.

S. 895 would also amend section 2 of the Voting Rights Act. This section prohibits racial discrimination in voting nationwide. Section 2 allows a voter who has been discriminated against to sue in Federal court to enforce his or her right to vote. In the past, such suits could be proved by a showing that a challenged electoral practice or procedure had a discriminatory result. This result could be arrived at through a careful assessment of the totality of circumstances, See *White* v. *Regester*, 412 U.S. 755 (1973). In other words, direct proof of an intent to discriminate is not required in these cases.

However, because of the Supreme Court's recent decision in *Mobile* v. *Bolden*, 446 U.S. 55 (1980), confusion has arisen over the standard of proof in voting rights cases. The Court's plurality opinion in Bolden, written by Justice Stewart, suggested that direct proof of an intent to discriminate is not required. However, the decision falls far short of establishing direct proof of intent as the new standard of proof in these cases. In order to avoid further confusion, S. 895 would amend section 2 to make clear that the standard of proof in voting rights cases may be met by a showing of discriminatory result.

Finally, S. 895 would extend the bilingual provisions of the Voting Rights Act for 7 additional years. These provisions were added to the special provisions of the act in 1975. Basically, they require covered jurisdictions to take steps to enable "language minority citizens" to exercise their voting rights as effectively as English-speaking voters exercise theirs. Although the bilingual provisions will not expire until 1985, the amendment would place them on the same timetable as the other special provisions of the act. The extension would also allow these provisions to apply to reapportionment and elections following the 1990 census.

Mr. President, I conclude by expressing my hope that my colleagues in both Houses of Congress will join to extend the life of the most successful civil rights legislation ever enacted. I also hope that the administration will support the extension of the Voting Rights Act.

I ask to have material in connection with this matter printed in the RECORD.

The material follows:

NATIONAL ARCHIVES OPENS EXHIBIT ON BLACKS IN CONGRESS

"The Long Road Up the Hill: Blacks in the United States Congress, 1870–1981" opened at the National Archives on Friday, February 27. The exhibit chronicles a dramatic chapter in America's legislative history with photographs, political cartoons, speeches, and official documents. The display is open to the public through 1981, on the second floor of the National Archives.

Entrance: Pennsylvania Avenue at Eighth Street, N.W.

Hours: Monday-Friday, 8:45 a.m.–10:00 p.m.; Saturday, 8:45 a.m.—5 p.m.

The history of blacks in Congress is little known. In 1870, eighty-one years after the convening of the first Congress, Hiram Revels was the first Afro-American to serve in the United States Congress. Representing Mississippi, Revels filled the vacant Senate seat formerly occupied by the Confederate president. Jefferson Davis.

From 1870 to 1897, twenty-two blacks were elected to Congress, all from southern states. These early black congressmen have been portrayed as ignorant tools of corrupt white politicians. The records show that these black men, like their white colleagues, were trained lawyers, teachers, and ministers, as well as farmers. They had gained political experience as state legislators and local government officials. In addition, these blacks needed unusual courage and tenacity. The legal status of their elections was often challenged, their supporters were intimidated, and some supporters were even murdered.

By the end of the nineteenth century, the enforcement of discriminatory laws combined with local customs effectively discouraged blacks from voting. C. Vann Wodward noted, "The effectiveness of disfranchisement is suggested by a comparison of the number of registered Negro voters in Louisiana in 1896, when there were 130,334 and in 1904, when there were 1,342. Between the two dates the literacy, property, and poll-tax qualifications were adopted. In 1896 Negro registrants were in a majority in twenty-six parishes—by 1900 in none." The Strange Career of Jim Crow, 1966. (p. 85).

It is not, therefore, surprising that from 1901 to 1929 there were no blacks in Congress. Since 1929, there has been a slow, steady increase, both in the number of black legislators and in the states or districts they represent. Their influence has grown with their numbers. In the present 97th Congress are eighteen black legislators. From 1870 to 1981, fifty-four blacks from twenty states have served in the Congress, three in the Senate and fifty-one in the House of Representatives.

[From the Washington Post, Mar. 5, 1981]

"LONG ROAD UP THE HILL": THE ARCHIVES' BALLOT OF BLACKS IN CONGRESS

(By Jean M. White)

"They just didn't put down the hoe and walk up to Capitol Hill."

Lillian E. Grandy was pointing to photographs showing the early black congressmen who held seats in the United States Congress in the turbulent years of the Reconstruction. In photos assembled for a new exhibit at the National Archives, these pioneer black legislators are men with the trappings of substantial accomplishment—the gold watch chain across the vest, the well-tailored suit, and, often, the comfortable girth.

Grandy was the coordinator of the new exhibit. "The Long Road Up the Hill: Blacks in the United States Congress, 1879–1981." It opens to the public today in time to catch Black History Month and will be on view indefinitely.

"I wanted to do this show because I remembered in horror what I learned in school in Nashville as a child," Grandy explained. "I remembered the cartoons that portrayed the early black congressmen as little better than animals. I was embarrassed. They were not ignorant field hands. They were teachers, lawyers, businessmen, ministers, and farmers like their white colleagues."

It was in 1870 that Hiram Revels, the first black congressman, filled the Senate seat formerly held by Jefferson Davis, president of the Confederacy. From 1870 to 1901, 22 blacks, all from southern states, served in Congress. In that latter year, George White was the last black left in Congress, and he left with these words:

"This, Mr. Chairman, is perhaps the Negro's temporary farewell to the American Congress, but let me say, phoenix-like he will rise up some day, and come again. These parting words are in behalf of an outraged, heartbroken, bruised, and bleeding, but God-fearing people, faithful industrious, loyal people—rising people, full of force."

White's words were to be prophetic. The "Long Road Up the Hill" traces how discriminatory laws and local customs discouraged black voters so that no black was elected to Congress from 1901 to 1929. But since then, the influence of black legislators has grown steadily.

Today there are 18 black legislators in the Congress. The exhibit carries the story through to the present day and the Black Caucus on the Hill. The Caucus supplied newsletters and communications with constituents not yet entered in the Archives, Grandy said.

Documents from the nation's files show that many of the first black congressmen of the Reconstruction days came to Washing-

ton with credentials of experience and public service. There is the handwritten resignation of Robert Smalls from the state legislature of Beauford County, S.C.

They had to be men of courage because their elections often were challenged, and they were met with hostility.

"Look at this scene from 1890 when a black representative from the state of Virginia was being sworn in. All the members of the Democratic party walked out," Dr. Caryl Marsh, curator of exhibits at the Archives, pointed out.

All the early black congressmen were Republicans. It wasn't until 1929 that Oscar DePriest came to Washington from Illinois as the first black Democratic congressman.

In bringing the "long road up the Hill" to present day, the faces are those seen on newspaper pages over the last decade—Augustus Hawkins, coauthor of the Humphrey-Hawkins full-employment bill, Barbara Jordan, Adam Clayton Powell, Walter Fauntroy, Cardiss Collins, Bill Clay, William Dawson, Charles Diggs, and many others up to the four new black congressmen sworn into office this session.

As to the controversy surrounding the careers of some congressmen such as Powell and Diggs, Grandy said that she decided that this was not subject material within the scope of the exhibit.

"I wanted to be upbeat," she emphasized. "There is more than enough good to be said."●

SENATOR SARBANES SALUTES THE SISTERS OF BON SECOURS

● Mr. SARBANES. Mr. President, for the past 100 years the Sisters of Bon Secours have served the people of Maryland with unselfish devotion that is truly worthy of those who have undertaken to enter the community of kindly help.

Their compassion for the poor, reaching out for the sick, the suffering, and the needy offer, in the words of Sister Justine Cyr, Provincial of the Sisters of Bon Secours:

> The only gifts that can truly reach the depths of a human being in need which touch and heal the deepest human suffering; love, joy and hope.

As the Sisters of Bon Secours in the United States celebrate their 100th anniversary on June 18, aptly called A Century of Caring, the Sisters look forward to the future and its challenges and seek to continue their service to all people, without distinction of social situation, race, or religion.

The Sisters of Bon Secours dedicate themselves with the simplicity, courage, and cordiality which embody their heritage, not only at the Bon Secours Hospital in Baltimore, but at hospitals in Richmond, Va.; Methuen, Mass.; and Grosse Pointe, Mich., as well as community medical centers, nursing and rehabilitation centers and homes in Maryland, Virginia, Pennsylvania, and Florida. Their Spiritual Center is located in nearby Howard County, Md.

I know well, the vital contribution the Sisters of Bon Secours have made to the welfare of the people of Maryland. The Bon Secours Hospital in Baltimore is a 217-bed facility that serves the people of Baltimore with the latest advances in medical and physical therapy as well as community outreach programs for drug and alcohol abuse. The Sisters, in their 100th anniversary year, have renewed their dedication to the Baltimore area by planning and opening two major projects, one in southwest Baltimore and one in Howard County.

Mr. President, I ask that an article from the Baltimore Catholic Review, honoring the century of caring of the Sisters of Bon Secours be printed in the RECORD.

The article follows:

1881 TO 1981—A CENTURY OF CARING

In the early evening hours of May 18, 1881, Mother St. Domitille gazed down upon the bustling port of New York City preparing to disembark with her two missionaries and to begin a new chapter in the history of the Sisters of Bon Secours.

It had been a long, uneventful 10-day voyage from Ireland and the journey was not yet over. There was one last leg, a train ride to Baltimore, Md., their final destination. It was hard to believe that the request of Archbishop Gibbons had turned into a reality.

Mother St. Domitille was accompanied by Sisters St. Flavie and St. Ferdinand, who would later become the cornerstones of the community's mission in the United States. When the sisters arrived in Baltimore the following morning, they were greeted by Mrs. John Small, a childless widow who provided the three missionaries with a portion of her furnished house as their first home. It was from this house that the Sisters of "Kindly Help" began taking monumental steps toward establishing one of the most beloved and needed religious communities in America.

What made the Sisters of Bon Secours so special in the eyes of Archbishop Gibbons was not only their compassion for the poor but also their training as professional nurses who had treated thousands of people in homes throughout France, England and Ireland. In 1881, there were few or possibly no trained nurses in the City of Baltimore where diseases such as typhoid, diphtheria and scarlet fever had reached epidemic proportions. Archbishop Gibbons recognized the desperate condition of his city and appealed to the French-founded Sisters of Bon Secours for help.

By mid-summer, three more sisters arrived from France to fortify the pioneer mission. Mother St. Domitille, her assignment to establish the mission now complete, returned to Paris. Sister Ferdinand was installed as the first superior of the new convent.

In no time, the remaining five sisters became a familiar sight to the residents of Baltimore. Their trademark was a black cloth handbag filled with the nourishments of life—medicine, clean bed linens, clothes for children and food. In essence, the black bag contained everything that might have eased the pain and suffering of the sick.

It did not take long for the sisters to outgrow their living quarters at Mrs. Small's house. About a year after their arrival in Baltimore a group of doctors helped the community purchase a house on the west end of the city for $16,000. For 83 years, the house at 2000 West Baltimore St. acted as the center of the congregation's activities. Later land purchases adjacent to the site enabled the sisters to build a hospital and novitiate on the convent grounds.

By 1887, the number of Sisters of Bon Secours in Baltimore reached 14. And as the number of new missionaries grew so too did the needs of a growing nation. The sisters, often carrying only their black bags, knew no boundary in their compassion for the poor and sick. Their primary objective, "to alleviate suffering and to bring others to the awareness of its redemptive meaning," resulted in services beyond the description of generous and unselfish.

The Baltimore convent began to branch in 1905 when the sisters established a house in Washington, D.C. Four years later, the sisters stretched northwestward to Detroit. This was only the beginning of the Sisters of Bon Secours' movement to extend aid to wherever help was requested. Later these requests would come from Richmond, Va., Darby, Philadelphia, Pa., Methuen, Mass., and North Miami, Fla.

The Sisters of Bon Secours main focal point of concern has always centered around the Baltimore area. Their history of institutional health care in the United States began in 1919 when the community opened a 22-room unit at the site on 2000 West Baltimore St. The three-story donated building rapidly expanded and by 1921 the hospital began the Bon Secours School of Nursing. Before the first class of nurses graduated, a new wing and convent were also added on the grounds.

Physical expansion of the hospital is the result of the sisters' unending compassion and generosity which is evident in the individual care provided to each patient. It is the community's belief of respecting the right to life and the right to be treated with dignity that prompted the sisters to enlarge facilities so that more residents could be treated. The sisters were always willing to make house calls if the patient could not come to the hospital.

Bon Secours Hospital is as vital to the Baltimore community today as it was 62 years ago. It is now a 217-bed facility that includes a child care center, an out-patient renal dialysis center, medical and surgical units plus other services such as physical therapy, nuclear medicine and community outreach programs that deal with drug and alcohol abuse.

Presently, the Sisters of Bon Secours have renewed their devotion to the Baltimore area by the planning and the opening of two major projects. Last month, the Washington Village Medical Center at Washington Boulevard, Barre Street and Fremont Avenue in southwest Baltimore opened its doors to service the medical and dental needs of 13,000 residents. The center, which will be able to treat about 90 percent of a person's medical needs, is a cooperative project of the Sisters of Bon Secours, Bon Secours Hospital, the Southwest Community Council and residents of Baltimore.

Next year, the Bon Secours Howard County life care facility for senior citizens is scheduled to open. This project, which features 275 residential units and a 90-bed continuing care facility, is the first life care facility to be sponsored by a Catholic organization in the United States. The main idea behind the project is to enable senior citizens to take care of themselves and maintain independency while still having the convenience of health care facilities on the 146-acre site.

The Sisters of Bon Secours moved their Provincial House to nearby Marriottsville in 1965. The large, cross-shaped facility sits on 313 acres and has a variety of functions. First of all, it acts as the administrative headquarters of the congregation. The sisters meet at Marriottsville to discuss and plan for the future.

This wing also serves as a home to sisters who have given years of service to the sick and dying. A retirement home it is not. The Sisters of Bon Secours never retires. She continues to serve in multiple ways such as home visiting, work at the spiritual center and visiting patients in nearby hospitals. These sisters, although they no longer belong to a hospital staff, are as genuinely concerned for the poor and suffering today as they were when they first entered the community of Kindly Help.

The remaining three wings of the Bon Secours' facility serve as the nationally known Marriottsville Spiritual Center. In a

traditionally unselfish manner, the sisters opened their doors in 1939 to those seeking spiritual enrichment. The center, born out of the desire for prayer and reflection, offers group and individual retreats.

Although the Sisters of Bon Secours no longer carry black bags, the service they represent has only changed . . . with the times. The sisters' black bags have merely grown larger. They have become hospitals, nursing homes, a home for crippled children, a center for the treatment of alcoholism and drug dependency, a community health care system, a rehabilitation center, a home for retired priests and a spiritual center. The sisters have successfully blended the use of modern technology with a deep concern for each patient.

A century ago, the Sisters of Bon Secours could not have envisioned the growth that would result from their black bags of care. The sisters were able to expand because they were able to adapt to the needs of their society. Whatever the request was, the Sisters of Bon Secours always answered with a simple "yes."

What the future will bring for the sisters is as uncertain today as it was when the community first arrived in Baltimore 100 years ago. They are still pioneers of physical and spiritual health in a world that has grown increasingly complex. Times change, but real concern, care and compassion for the poor and sick does not. Today, the Sisters of Bon Secours embrace the same frontier challenge that faced Mother St. Domitille and her two missionaries a century ago.●

JAPAN'S "MINIMALIST" GOVERNMENT

● Mr. GARN. Mr. President, sometime ago, the Wall Street Journal published an article on Japanese productivity. This article, entitled "Japan's 'Minimalist' Government," was written by Kent Calder, the son of a constituent of mine. Mr. Calder's observations are extremely interesting and come at a time when many of us are intrigued and, in some respects, frustrated, by Japan's productive capability. The article takes a different view of much of the conventional wisdom about Japanese business and government relationships, and raises issues which merit careful study.

This article is very timely. According to Mr. Calder, what Japan has accomplished is similar to our own efforts to obtain increased productivity through cooperative autonomy between government and business. There is no doubt that economic advances in Japan have affected, and maybe caused, in some respects, economic problems in America. Because Mr. Calder discusses why and where Japan's advances are taking place, I feel we can benefit from his comments in this field. I ask that Mr. Calder's article be printed in the RECORD.

The article follows:

JAPAN'S "MINIMALIST" GOVERNMENT

(By Kent E. Calder)

For many U.S. observers the Japanese experience is a case study in the strong positive consequences of aggressive state intervention in economic life. It is argued that economic planning, credit allocation and subsidies, directing resources away from dying industries such as textiles and toward "sunrise sectors" such as computers and telecommunications have helped Japan to maximize growth. A powerful, centralized and elite bureaucracy is said to be a major factor behind Japan's success, and the absence of such institutions a major cause of American failure.

Contrary to this conventional wisdom, Japanese success is in fact a powerful argument for less government rather than more. The times demand efficient, minimalist, market-oriented government—which can nonetheless coordinate the changes required to restore our national competitiveness. It is precisely this sort of minimalist government, with the low taxes and scope for private initiative, which has been a crucial element in Japan's dynamic industrialization.

Total national government expenditures as a proportion of GNP in Japan have averaged around 18 percent the past 10 years—more than five points lower than comparable levels in the U.S. and much lower than in the welfare capitalist states of Western Europe. Japan's Ministry of International Trade and Industry (MITI), which holds primary responsibility for that nation's enormously successful trade and industrial policy, has less than 14,000 employees, against 36,000 for the U.S. Commerce Department.

CURBS ON BUREAUCRACY

In sharp contrast to the contemporary European pattern, or to practices in such neighboring East Asian states as Korea and Taiwan, little Japanese industry is in public hands. Steel, shipbuilding, electric power and much of the transportation sector are privately held. The Japanese system also contains built-in curbs on the proliferation of government bureaucracy, though they may not work to perfection. Almost all enabling laws contain "sunset" provisions, causing laws and institutions to go out of existence after five to seven years unless renewed by parliament.

With its government small, Japan's burden of supporting the state has not been nearly as taxing as in other advanced nations, and resources have been freed to be used for private purposes, including industrial investment. Japan's effective rate of corporate taxation averages 7 percent less than in the U.S., due both to a lower nominal tax rate and to the existence of more extensive investment incentives, including more rapid depreciation for capital equipment than in the U.S. personal income taxes are also low, averaging 10 percent less than in the United States: capital gains accruing from securities investment are entirely tax exempt.

Perhaps the most important implication of Japanese experience for America's struggle to reindustrialize is the way Japan combines minimal, low-budget government with a coordinated, holistic approach to economic management. It concentrates government support efforts on strategic sectors whose production serves a wide array of small industries. Industries such as steel, energy, shipping and, most recently, semiconductors have gotten the bulk of government attention, oriented toward assuring that these sectors introduce the most efficient production facilities possible and adopt low-margin, high-volume production strategies which benefit sectors further downstream. Finished and consumer goods industries such as autos and consumer electronics in most cases have received little direct government guidance or aid.

Perhaps the key element in Japan's successful "minimal government" approach to industrial policy has been its astute use of market forces to achieve policy goals. In textiles, for example, MITI has forced domestic producers out of labor-intensive, low-value-added product lines, or out of the industry altogether, by allowing a growing flood of imports from Korea and Southeast Asia over the past decade. The U.S. for over 20 years has followed the path of protection instead.

In petroleum, MITI has simultaneously discouraged non-essential consumption and encouraged expanded supply by allowing gasoline prices to rise with world market prices. The U.S. has long had price controls.

In high-technology industry MITI has made a point of including multiple competing firms in key government-business research projects, such as the recent effort to build state-of-the-art VLSI electronic circuitry. In that instance, five major electronics firms were involved, and MITI distributed information to all of them. U.S. government research contracts have tended to be with individual firms, restraining incentives to develop technology for the market that exists when rival firms have access to it.

MITI is careful in shaping the parameters of markets and who may participate in them, primarily through its controls over industrial standards and, in certain sectors, through licensing of new production capacity. But once a given market has been established in accordance with strategic specifications, MITI, unlike the French bureaucracy, tends not to intervene in as much detail in the firms' daily decisions.

In conformity with its strong market orientation and its low number of administrative personnel, the Japanese government rarely tries to make strategic micro-level decisions. The government only rarely tells industry what equipment to buy, or what technology to introduce, although it routinely shapes the cost-benefit parameters of industry decisions by varying rates of accelerated depreciation, depending on the equipment involved. During the early 1970s, for example, Japanese firms were allowed to depreciate investments for pollution controls 60 percent in the first year to assure progress against Japan's severe problems. Subsequently that rate was reduced to 27 percent as those problems became more manageable. MITI influences industrial-siting by providing infrastructure in favored areas, rather than by directly ordering business into specific decisions. Policymaking through the price mechanism vastly reduces the need for regulatory bureaucrats, without causing the state to lose its grip on the evolution of industrial structure.

Even in the relatively small range of cases where the Japanese bureaucracy seemingly departs from its reliance on market forces to interfere with micro-level decisions, it generally does so to enhance what it perceives as long-range market forces. In shipbuilding, for example, the government after Oil Shock I created a cartel under special depressed-industries legislation passed in consultation with industry, it decided to scrap over 40 percent of existing capacity, and designated the facilities to be scrapped. But this action, like the parallel scrapping of much open-hearth steel and fertilizer capacity after 1973, was made on the assumption that market forces would ultimately move Japan's industrial structure in that direction in any case.

Minimalist government has also succeeded in coordinating the trillion-dollar Japanese economy because it has been able to rely extensively on private-sector initiative and information. In each major sector, an industry association (gyokai), representing major firms in the sector, stands ready to provide MITI with current data on the industry's condition, to help administer depressed-industry cartels, capacity-reduction and voluntary-restraint agreements. Major business federations like Keidauren with substantial staffs make policy proposals and help to orchestrate Japan's increasingly complex resource-oriented private economic diplomacy.

THE LIST OF FAILURES

Japanese industrial policy has been decidedly market-oriented, and has preserved the freedom of most uncompetitive firms to fail. The number of Japanese bankruptcies in 1978, for example, was more than double that in the much larger United States, and

the average liabilities per bankruptcy were 58 percent greater than in the U.S. Even one of the top 10 general trading companies, Ataka Sangyo, has recently been on the list of failures.

But Japanese policy has encouraged capital investment by reducing the uncertainties of major investment decisions. Japanese policy has permitted close ties between industrial firms and banks, though individual banks are permitted to own only up to 5 percent of a company's stock. Banks, especially long-term credit banks like the Industrial Bank of Japan, play a key role in allowing Japanese firms flexibly and rapidly to undertake massive investments such as those made to sustain an 8-percent increase in integrated-circuit production capacity between 1977 and 1979. Supply-side policies in the area of accelerated depreciation and demand-side policies relating to government procurement and support for export sales also help to reduce the financial risk involved in plunging ahead with new capital investment.

In an America where a heavy portion of the basic industrial plant is nearly 40 years old, the dynamics of "creative destruction" in Japan have considerable relevance. Despite the fact that the average age of Japanese capital stock is less than 10 years, capital spending increased 16 percent in 1979 and included substantial replacement expenditures or outlays for newer equipment capable of producing higher-value-added products. In shipbuilding and textiles, government subsidies for the scrapping of equipment have been a factor. There is normally also special accelerated depreciation for the introduction of new equipment, especially when it is technologically advanced.

Because of their sharply divergent cultural backgrounds and conceptions of the relationship between business and government, the United States and Japan in many ways find it difficult to learn from one another. But in an era when budget constraint and raising our national competitiveness are both pressing concerns, we should look long and hard at Japan's strategic use of markets as a model for our own reindustrialization.●

ORDER OF PROCEDURE TOMORROW

Mr. BAKER. Mr. President, the request I intend to make in a few moments, if the minority leader has no objection, will be that tomorrow we resume consideration of this bill. After the recognition of the two leaders under the standing order and the execution of any special orders, we will have a brief period for the transaction of routine morning business, and then continue with the debate on this bill in status quo, meaning we will resume at exactly where we left it, and that would mean the Senator from Connecticut would be recognized once again to continue his presentation which I have interrupted.

STATE DEPARTMENT AUTHORIZATIONS

Mr. President, sometime during the day tomorrow I intend to utilize that provision of the order which has already been entered to consult with the minority leader and then to proceed to the consideration of the State Department authorization bill. That will not be the first order of business tomorrow, however, and it would be sometime, probably in the early afternoon. I would not think the State Department authorization bill would take a great deal of time. It will take some time, but I would expect we will be back on the Justice Department authorization bill sometime before we conclude the session of the Senate tomorrow.

Mr. President, I see the minority leader is on the floor and I believe that it might expedite the business of the Senate if I were to make the request at this time.

Mr. MATHIAS. Mr. President, is the majority leader aware that there will be at least one and, perhaps, more, substantive amendments to the State Department authorization?

Mr. BAKER. To answer my friend from Maryland, I had been told, there would be amendments. But I had been advised, I hope correctly, that it is not likely that it would take the entire day to finish consideration of the State Department authorization bill.

Mr. MATHIAS. That is a confirmation devoutly to be desired.

Mr. BAKER. If the Senator from Maryland devoutly wishes for that, and I see a nod of assent from the Senator from North Carolina, I think the chances are very good, indeed.

Mr. WEICKER. I ask the distinguished majority leader is it safe to assume on the State Department authorization bill we will have no abortion or busing amendments?

Mr. BAKER. I had once thought it was possible to get through our routine and regular authorizing and appropriating process without these amendments. But I have to tell you that I was wrong. So I cannot give you that assurance.

Mr. WEICKER. I do not seek assurance. Nothing surprises me any longer, Mr. President. So we are ready to go on the State Department authorization.

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR PROXMIRE TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order, and the recognition of the two Senators previously provided for by special order, the Senator from Wisconsin (Mr. PROXMIRE) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR LEVIN TOMORROW

Mr. BAKER. Mr. President, following after the recognition of the Senator from Wisconsin (Mr. PROXMIRE) I ask unanimous consent that the Senator from Michigan (Mr. LEVIN) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF JUSTICE AUTHORIZATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that after the discharge of the time allocated Senators under the standing order and special orders just provided for, that the Senate resume consideration of the Department of Justice authorization bill, and that the Senator from Connecticut be recognized for the purpose of continuing the debate on this bill at that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF THOMAS O. ENDERS

Mr. BAKER. Mr. President, I yield to the Senator from North Carolina.

Mr. HELMS. Mr. President, will the Senator yield for a question?

Mr. BAKER. Yes.

Mr. HELMS. Could the Senator from North Carolina inquire about the nomination of Mr. Enders to be an Assistant Secretary of State?

Mr. BAKER. If I may answer, I might say to the distinguished Senator from North Carolina that I am not in a position at this point to clear the Enders nomination. I think there is some prospect we can do that in a reasonable time, but I would not be prepared to proceed to that nomination.

Mr. HELMS. I might say to the distinguished majority leader that Mr. Enders is a fine nominee and, for the record, I would like to see his nomination considered and his confirmation expedited.

Mr. WEICKER. Will the distinguished Senator from North Carolina yield?

Mr. BAKER. For one moment, if I may, Mr. President, I should like to observe, with a special satisfaction, the concern of the Senator from North Carolina for the early dispatch of the consideration of the Executive Calendar. I should like to say I shall assist him as far as possible.

Mr. HELMS. Let the record show that clearly.

Mr. WEICKER. Mr. President, I shall make the record even clearer. I think Mr. Enders is a fine person, well suited, both by temperament and by profession, to fill the job for which he is being nominated by the administration. By the same token, having made that statement and desiring mightily to approve Mr. Enders, I wish, maybe, that the administration would also take such positive notice of individuals in which some Senators have an interest.

I do not think it illogical that these matters be worked out, and I am sure they will be worked out, especially under the able leadership of the majority leader.

Mr. President, I do not want my friend from North Carolina to be put in a position of having it said that he is in any way holding up the Enders nomination. Quite frankly, the Enders nomination should not be held up. I do not think it is going to be held up. I think there are some matters that have to be resolved and I do not think that is going to delay it.

Mr. BAKER. Mr. President, I only remark that I have so much help being offered now that I feel the danger of suffocation.

Mr. ROBERT C. BYRD. Will the distinguished majority leader yield?

Mr. BAKER. I yield, Mr. President.

Mr. ROBERT C. BYRD. I should like to offer a little more help, Mr. President.

All the nominations are cleared on this side.

Mr. BAKER. Mr. President, that is help, indeed.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I cannot thank the minority leader enough for his announcement. There are two items on the Executive Calendar which I wish to consider tonight. I accept the offer of help by the minority leader. I ask unanimous consent that the Senate now go into executive session to consider the two nominations on the Executive Calendar under Interstate Commerce Commission and Office of Federal Procurement Policy.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. BAKER. Before the clerk states the nominations, may I announce that there will be no more rollcall votes tonight.

The PRESIDING OFFICER. The nominations will be stated.

INTERSTATE COMMERCE COMMISSION

The legislative clerk read the nomination of Reese H. Taylor, Jr., of Nevada, to be a member.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BAKER. I move to reconsider the vote by which the nomination was considered and confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OFFICE OF FEDERAL PROCUREMENT POLICY

The clerk read the nomination of Donald E. Sowle, of Virginia, to be Administrator for Federal Procurement Policy.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BAKER. Mr. President, I move to reconsider the vote.

Mr. ROBERT C. BYRD. I move to lay that motion on the table, Mr. President.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

REQUEST FOR CLEARANCE OF CERTAIN BILLS

Mr. BAKER. Mr. President, there are a number of items on the Calendar of General Orders that might be dealt with. I shall not propose to do all of them tonight, but let me list a few that I hope the minority leader might be in a position to consider—not today, but perhaps tomorrow or the end of the week. I shall supply the minority leader with a copy of the list I am about to read from.

Mr. President, I especially hope this week to be able to deal, perhaps on a unanimous-consent basis or, in any event, under a brief time agreement, with the following bills:

Calendar No. 101, S. 1195, Inter-American Development Bank, from the Committee on Foreign Relations;

Calendar No. 102, S. 923, Pretrial Services, from the Judiciary Comm.ttee;

Calendar No. 103, S. 816, the so-called Pfizer antitrust bill, from the Judiciary Committee;

Calendar No. 139, S. 1205, Environmental Research and Development, from the Committee on Environment and Public Works;

Calendar No. 148, S. 1095, the Water Resources Planning Act, from the Committee on Environment and Public Works;

Calendar No. 156, S. 823, chemical Tris bill from the Judiciary Committee; and

Calendar No. 165, S. 255, the patent bill, from the Judiciary Committee.

Mr. President, I hope that the distinguished minority leader might consider whether clearance can be obtained on his side of the aisle to deal with these matters, either by unanimous consent or with a brief time limitation.

Mr. ROBERT. C. BYRD. Will the majority leader yield?

Mr. BAKER. I yield, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, the Democratic policy staff, under my direction, is exploring the possibility of proceeding by unanimous consent with action on the bills that the distinguished Senator has named and, overnight, the staff will continue to do that. Perhaps by tomorrow, we can have at least some of them cleared. I hope so.

Mr. BAKER. Mr. President, I thank the minority leader. I am very grateful for that. As all Senators know, and the distinguished minority leader knows in particular, it is sometimes difficult to get clearances on both side in time to do measures on a particular day in question. For instance, today, the distinguished chairman of the Committee on the Judiciary had hoped to clear a bill that has not yet been fully cleared. I hope now, from time to time, to be able to suggest bills that are cleared on our side that the minority might consider for unanimous-consent action and also to give Senators some advance notice of those matters that the leadership might proceed to consider.

RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Mr. President, I know of no further business to be transacted by the Senate. I am advised that there are no requests on either side. If there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 11 a.m. tomorrow.

The motion was agreed to; and at 5:38 p.m. the Senate recessed until tomorrow, Wednesday, June 17, 1981, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate June 16, 1981:

DEPARTMENT OF STATE

Paul Heron Robinson, Jr., of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Canada.

Arthur F. Burns, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Germany.

Joan M. Clark, of New York, a Career Member of the Senior Foreign Service, to be Director General of the Foreign Service (new position).

DEPARTMENT OF JUSTICE

Edward C. Prado, of Texas, to be U.S. attorney for the western district of Texas for the term of 4 years, vice Jamie C. Boyd, resigned.

DEPARTMENT OF ENERGY

James G. Stearns, of Nevada, to be Director of the Office of Alcohol Fuels (new position).

CONFIRMATIONS

Executive nominations confirmed by the Senate June 16, 1981:

INTERSTATE COMMERCE COMMISSION

Reese H. Taylor, Jr., of Nevada, to be a Member of the Interstate Commerce Commission for the term of 7 years from January 1, 1977.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

OFFICE OF FEDERAL PROCUREMENT POLICY

Donald E. Sowle, of Virginia, to be Administrator for Federal Procurement Policy.

WITHDRAWAL

The withdrawal of the nomination of Ernest W. Lefever, of Maryland, to be Assistant Secretary of State for Human Rights and Humanitarian Affairs, vice Patricia M. Derian, resigned, which was sent to the Senate on April 22, 1981.

HOUSE OF REPRESENTATIVES—*Tuesday, June 16, 1981*

The House met at 12 o'clock noon.

The Reverend Dr. Jim Keith, pastor, First Baptist Church, Gulfport, Miss., offered the following prayer:

Our Father, we pause to offer thankful hearts for the privileges provided us:

For life and its source;

For liberty and its sanctity;

For law and its service to both.

We also acknowledge our representative responsibility:

For You we must do what Heaven desires:

For others we must do what humanity deserves.

Therefore, we ask Thy providential assistance in giving—

Perspective, that we may see the decisions of the moment against the backdrop of desired destiny;

Wisdom, that we may bring to bear the eternal mind upon the temporal setting; and,

Strength, that we may stand for proper principles and stride to the rhythm of the divine pulse.

Until the God of Peace gives the "peace that passes understanding" through the Prince of Peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. WALKER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 366, nays 10, present 2, not voting 53, as follows:

[Roll No. 75]

YEAS—366

Akaka	Andrews	Ashbrook
Albosta	Annunzio	Aspin
Alexander	Anthony	Atkinson
Anderson	Archer	Badham
Bafalis	Ertel	Leath
Bailey (MO)	Evans (DE)	LeBoutillier
Bailey (PA)	Evans (GA)	Lee
Barnard	Evans (IN)	Lent
Barnes	Fary	Levitas
Bedell	Fascell	Lewis
Bellenson	Fazio	Livingston
Benedict	Fenwick	Loeffler
Benjamin	Ferraro	Long (LA)
Bennett	Fiedler	Long (MD)
Bereuter	Fields	Lott
Bethune	Fish	Lowery
Bevill	Fithian	Lowry
Bingham	Flippo	Lujan
Blanchard	Florio	Luken
Bliley	Foley	Lundine
Boggs	Ford (MI)	Lungren
Boland	Ford (TN)	Markey
Bolling	Fountain	Marks
Boner	Fowler	Marlenee
Bonior	Frank	Marriott
Bonker	Frenzel	Martin (NC)
Bouquard	Frost	Martin (NY)
Bowen	Fuqua	Matsui
Brinkley	Garcia	Mattox
Brodhead	Gaydos	Mavroules
Brooks	Gejdenson	Mazzoli
Broomfield	Gephardt	McClory
Brown (CA)	Gibbons	McCloskey
Brown (CO)	Gilman	McCollum
Brown (OH)	Gingrich	McCurdy
Broyhill	Ginn	McDade
Burgener	Glickman	McDonald
Burton, John	Gonzalez	McEwen
Burton, Phillip	Gore	McGrath
Butler	Gradison	McHugh
Carney	Gray	McKinney
Chappell	Green	Mica
Cheney	Gregg	Michel
Clausen	Grisham	Mikulski
Clinger	Guarini	Miller (CA)
Coats	Gunderson	Miller (OH)
Coelho	Hagedorn	Mineta
Coleman	Hall (OH)	Minish
Collins (IL)	Hall, Ralph	Mitchell (NY)
Collins (TX)	Hall, Sam	Moffett
Conable	Hamilton	Molinari
Conte	Hammerschmidt	Montgomery
Conyers	Hance	Moore
Corcoran	Hansen (ID)	Moorhead
Courter	Hansen (UT)	Morrison
Coyne, James	Hartnett	Mottl
Coyne, William	Heckler	Murphy
Craig	Hefner	Murtha
Crane, Philip	Heftel	Myers
Daniel, Dan	Hendon	Natcher
Daniel, R. W.	Hertel	Neal
Danielson	Hightower	Nelligan
Dannemeyer	Hiler	Nelson
Daschle	Hillis	Nichols
Daub	Holland	Nowak
Davis	Hollenbeck	O'Brien
de la Garza	Holt	Oakar
Deckard	Hopkins	Oberstar
Dellums	Horton	Obey
Dickinson	Howard	Panetta
Dicks	Hoyer	Parris
Dixon	Hubbard	Pashayan
Dorgan	Hughes	Patman
Dornan	Hunter	Patterson
Downey	Hutto	Paul
Dreier	Hyde	Pease
Duncan	Jeffords	Pepper
Dunn	Jones (NC)	Perkins
Dwyer	Kastenmeier	Petri
Dyson	Kazen	Peyser
Early	Kemp	Pickle
Eckart	Kildee	Porter
Edgar	Kindness	Price
Edwards (AL)	Kogovsek	Pritchard
Edwards (CA)	Kramer	Pursell
Edwards (OK)	LaFalce	Quillen
Emery	Lagomarsino	Rahall
English	Latta	Railsback
Erdahl	Leach	Rangel
Ratchford	Shuster	Vento
Regula	Siljander	Volkmer
Reuss	Simon	Walgren
Rhodes	Skeen	Wampler
Richmond	Skelton	Watkins
Rinaldo	Smith (AL)	Waxman
Ritter	Smith (IA)	Weaver
Roberts (KS)	Smith (NE)	Weber (MN)
Robinson	Smith (NJ)	Weber (OH)
Rodino	Smith (OR)	Weiss
Roe	Snyder	White
Roemer	Solarz	Whitehurst
Rogers	Solomon	Whitley
Rose	Spence	Whittaker
Rostenkowski	St Germain	Whitten
Roukema	Stangeland	Williams (MT)
Rousselot	Stanton	Williams (OH)
Roybal	Stark	Wilson
Rudd	Staton	Winn
Russo	Stenholm	Wirth
Santini	Stokes	Wolf
Sawyer	Stratton	Wolpe
Scheuer	Studds	Wortley
Schneider	Stump	Wright
Schulze	Swift	Wyden
Seiberling	Synar	Wylie
Sensenbrenner	Tauke	Yates
Shamansky	Tauzin	Yatron
Shannon	Taylor	Young (AK)
Sharp	Traxler	Young (FL)
Shaw	Trible	Young (MO)
Shelby	Udall	Zablocki
Shumway	Vander Jagt	Zeferetti

NAYS—10

Evans (IA)	Jones (OK)	Schroeder
Goodling	Madigan	Walker
Hawkins	Mitchell (MD)	
Jacobs	Sabo	

PRESENT—2

Findley	Ottinger

NOT VOTING—53

Addabbo	Derrick	Johnston
Applegate	Derwinski	Jones (TN)
AuCoin	Dingell	Lantos
Beard	Donnelly	Lehman
Biaggi	Dougherty	Leland
Breaux	Dymally	Martin (IL)
Byron	Emerson	Moakley
Campbell	Erlenborn	Mollohan
Carman	Foglietta	Napier
Chappie	Forsythe	Roberts (SD)
Chisholm	Goldwater	Rosenthal
Clay	Gramm	Roth
Cotter	Harkin	Savage
Coughlin	Hatcher	Schumer
Crane, Daniel	Huckaby	Snowe
Crockett	Ireland	Thomas
D'Amours	Jeffries	Washington
DeNardis	Jenkins	

□ 1215

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 288. Joint resolution to correct Public Law 97-12 due to an error in the enrollment of H.R. 3512.

The message also announced that the Senate had passed a bill of the fol-

lowing title, in which the concurrence of the House is requested:

S. 893. An act to extend and amend the authority of the President to reorganize the executive branch of the Government under chapter 9 of title 5, United States Code.

DR. JIM KEITH

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, our invocation today was given by Dr. Jim Keith, pastor of the First Baptist Church of Gulfport, Miss., which is in my congressional district.

In addition to his church and civic activities throughout Harrison County, Dr. Keith has been very active in campus revivals at the University of Mississippi, Mississippi State University, the University of Southern Mississippi and Mississippi College. Last year, he served as Mississippi Division president of the Southwestern Seminary Alumni Association and participated on the committee on committees of the Mississippi Baptist Convention.

Dr. Keith earned his doctor of ministry and his master of divinity degrees from Southwestern Baptist Theological Seminary in Fort Worth, Tex., in 1975 and 1969. He earned his bachelor of arts degree in 1966 from Mississippi College.

He has been selected four times to "Outstanding Young Men of America" and twice to "Who's Who in the South and Southwest." He also has been recognized with his selection to "Community Leaders and Noteworthy Americans" and to "Who's Who in Religion."

A native of Jackson, Miss., Dr. Keith is married to the former Saundra Elaine Gordon, and they are the proud parents of three children, Scott, Todd, and Kristin.

I am very pleased to welcome Dr. Keith to our Nation's Capitol and to thank him for offering our opening prayer today.

PRIVATE CALENDAR

The SPEAKER pro tempore (Mr. FLIPPO). This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

REMEDIOS R. ALCUDIA, ET AL.

The Clerk called the bill (H.R. 1547) for the relief of Remedios R. Alcudia, Christopher, Ezra, Vermillion, and Peristello Alcudia.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the further call of the Private Calendar be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CANADIAN AMBASSADOR KENNETH TAYLOR HONORED TODAY

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AKAKA. Mr. Speaker, it is with great pleasure that I can publicly honor Canadian Ambassador Kenneth Taylor today. Ambassador Taylor is in Washington to receive the congressional gold medal from President Reagan.

As you will recall, it was Ambassador Taylor's unfaltering courage which gave this Nation its only moment of celebration during the hostage crisis in Iran. He made all the necessary arrangements to secure the safe return on January 28, 1980, of six U.S. diplomats in Iran at the time of the takeover of the American Embassy.

Although it has been little publicized, Ambassador Taylor did not leave Iran until our citizens were safely out of the country. This man personally risked his own safety for that of six Americans. We can only speculate as to what might have happened if the details of the daring escape had become known before Ambassador Taylor was safely out of Iran.

I would like to encourage every Member of Congress to come to the reception in Ambassador Taylor's honor today from 2 to 3 p.m. in EF-100, the Capitol. This will give you a personal opportunity to express your gratitude to Ambassador Taylor.

On behalf of all Americans, I would like to say that he has our undying respect and gratitude. Thank you, Ambassador Taylor.

POLLS SHOW WOMEN MAINTAIN HIGH DISAPPROVAL RATING OF REAGAN ADMINISTRATION

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, the Republican National Committee's pollster, Gary Lawrence, tried to explain the other day why women are expressing a higher disapproval rating of the Reagan administration. He indulged in shaminisms about men being "leading indicators" and women being "lagging indicators." In other words, where the men go, the women will follow.

I got news for Mr. Lawrence. Wishing does not make it so. Several recent polls, ABC/Washington Post, George Gallup, and the Harris Survey, along with a U.S. News & World Report leadership survey, show that the Reagan administration is significantly less popular with women than with men.

In fact, until 1980 men and women generally polled alike on political preferences. But more women voted for Carter than Reagan, and that trend continues in 1981.

Why? One of the most compelling social facts of the 1980's is the feminization of poverty. Female-headed families and female senior citizens, to cite two examples, are growing pockets of poverty in America. The ERA is an economic issue. Equal pay for equal and comparable work is an issue that enlists women clear across the political spectrum.

AN ALTERNATIVE TO LEGAL SERVICES CORPORATION

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, since we are debating the authorization of the Legal Services Corporation today, I want my colleagues to know that I have just introduced legislation that provides an alternative to the continuation of the Legal Services Corporation.

My bill would allow as a credit against the income tax imposed on an attorney an amount equal to 25 percent of the value of the charitable legal services performed for an eligible client in noncriminal proceedings during the taxable year.

The provision of legal services to poor people is one of society's important responsibilities. The problem is how best to accomplish this while minimizing Federal funding and inhibiting the continuation of a Legal Services Corporation bureaucracy that has been too often more interested in changing society, rather than representing poor people.

My legislation will encourage the private legal community to do more charitable work by providing a reasonable tax incentive. In our effort to return duties and responsibilities to the private sector that have too long been exercised by big Government, this bill is a gesture in the right direction.

GUIDELINES FOR IMPOSITION OF DEATH PENALTY

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, today I am introducing legislation which is

designed to set forth a set of procedural guidelines to be followed for the imposition of the death penalty. The bill I am introducing is identical to S. 114, as reported from the Senate Judiciary Committee last week on June 9. The reported bill is the result of extensive hearings held by the committee. It embodies most of the recommendations made by the Department of Justice in its written analysis of the bill, and is supported by President Reagan and the Attorney General.

National public opinion polls have consistently shown that a large majority of the American public supports the imposition of the death penalty for capital crimes. The number of my constituents calling for such action by the Congress has grown increasingly in recent months and I urge you to join in support of this legislation.

SUN OIL MEETS THE CHALLENGE

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. COLLINS of Texas. Mr. Speaker, American energy producers are meeting the challenge and America is moving toward self-sufficiency.

The big winner with the productivity from the U.S. oil companies is the U.S. Government. Alongside their outstanding job of production, the oil industry is also generating a tremendous amount of tax money for the U.S. Government. One of the most efficient oil companies in the world is Sun Oil. Sun is the 11th company in sales among the U.S. oil companies.

But it is most interesting to note that when a stockholder of Sun Oil Co. receives a dollar in dividends, the U.S. Government receives $12 in taxes. This is an overwhelming figure when you realize that taxes are 12 times as much as the net income received by a stockholder—$12 in taxes compared to each $1 in net dividends.

Capital reinvestment by Sun during 1980 was $4,044 million. With over $4 billion in capital expenditures, we realize Sun's all-out effort because Sun's net income was only $723 million. This means that Sun was reinvesting 5.6 times as much in capital exploration and building as their net earnings. They are going all the way in working to build an American base of energy self-sufficiency.

The gross revenues of Sun in 1980 were $13.2 billion. Sun has 48,806 employees.

But they are having to fight hard to maintain the company's proven developed reserves. In 1977, they had in crude oil reserves 774 million barrels of oil. This dropped to where on December 31, 1980, they had only 660 million barrels. In natural gas, Sun has been able to nearly maintain its balance as they had 3.474 billion cubic feet of gas and reserves in 1977 and at the end of 1980 the reserves were 3.26 billion cubic feet of gas.

It is interesting to review all the taxes which are generated by Sun Oil. The corporate income tax is $514 million. The windfall tax is $227 million. Other general taxes are $531 million. Taxes paid by employees were in excess of $224 million. So while the Government was receiving $1,496 million in tax revenues out of the Sun Oil Co. operation, the stockholders were only receiving $125 million net after they paid their personal income tax.

Sun, as well as other oil companies, keeps the pace with an active reinvestment program. Congress should encourage energy companies by helping them develop more funds internally for oil and gas development and exploration.

THE COMMITTEE RATIO RACKET: OUT OF SIGHT, OUT OF MIND

(Mr. BAILEY of Missouri asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BAILEY of Missouri. Mr. Speaker, on January 5 of this year, controversy and debate over inequitable party ratios on our House committees once again rang on the House floor. And once again the effort was to no avail. As usual, the majority voted along strict party lines to stack selective committees in their favor in clear violation of the democratic principle of "one person, one vote."

Although the debate has regrettably subsided, the pernicious fact of malapportioned House committees remains. It needs resolve once and for all. In a February 2 editorial, the Wall Street Journal called for reform of the majority's "arrogance" but termed a court-resolve a "thoroughly crummy idea." The Wall Street Journal's editorial, however, did not address the pertinent question of how, then, to reform this "committee ratio racket." If not by the court, how? If not now, when? And if not by us, who?

Recent polls indicate the GOP may become the House majority next year. After years of underrepresentation on House committees, it is highly unlikely that the Republicans will be overcome by sentiments of generosity toward the Democrats should the GOP regain the House. History and human nature demonstrate this truth.

The time for reform, therefore, is now. At the beginning of the 97th Congress, 2d session, a formal amendment to the House rules should be adopted providing for permanent proportional party representation on our House committees. None of us, whether Republican or Democrat, should fear a rule of one person, one vote. After all, such a principle forms the foundation of our system of representative democracy.

If we fail to reform the "committee ratio racket" now, we may miss the opportunity to reform. Justice and equity are badly abused by our current system of committee representation. The American people deserve better and there is and will be no better time to insure they have it than now.

In the next 3 days, I will discuss committee malapportionment in depth. I hope my colleagues will give serious thought to this serious issue and be guided by their conscience.

NO JUSTIFICATION FOR CONTINUED FUNDING OF LEGAL SERVICES CORPORATION

(Mr. SMITH of Oregon asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Oregon. Mr. Speaker, I am not convinced that H.R. 3480 addresses the problems in the Legal Services Corporation Act and am opposed to this legislation. The amendments do not insure the accountability of the Corporation, which has strayed from its original mandate of providing day-to-day legal assistance to indigent clients. It has become an instrument for social engineering, subject to the whims of those individuals intent on correcting every imagined social ill in our society.

The Corporation's performance record clearly shows misuse of public funds. Taxpayer dollars have been squandered on litigation to evolve social change that has little bearing on the ordinary legal needs of poor Americans.

Lawyers from the Legal Services Corporation have engaged in activities of lobbying Members of Congress and filing class-action suits against Government entities. All of this from an autonomous structure that is insulated from congressional oversight.

I am proud of a much better record for Legal Services Corporation in Oregon. I support the block-grant approach to accomplish the goal of legal assistance for those who cannot afford traditional methods. This will allow States such as mine to continue the services originally intended.

Given the past record of Legal Services nationally and its unwillingness to heed congressional directives, how can we justify continued funding of the organization? I do not think we can.

OUR HEROIC VOLUNTEERS

(Mr. WALKER asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, sometimes it takes a tragic event to bring home some simple truths. One of those truths is that we owe a great debt of gratitude in this society to the people who man our volunteer fire departments and our volunteer ambulance crews.

This past weekend in my community of Lancaster, Pa., a tragedy brought that point home. Three young men, Bruce Ditlow, Kevin Weatherlow, and Jeffrey Jones, who were volunteer ambulance crews and volunteer firemen, lost their lives trying to rescue a small boy from a septic tank where he had fallen and where they were overcome by methane gas in attempting the rescue. Another young fireman, Mark Rhinier, was also overcome in that attempt and is now in the hospital seriously injured.

These are people who serve us day in and day out. Volunteers are the folks we turn to in an emergency. They are people who risk their lives every day, often unheralded. This tragedy took the lives of three brave, conscientious young men. Volunteer firemen and volunteer ambulance crews are our neighbors and friends, but as this event shows, they are also heroes.

THE MALPROPORTIONED COMMITTEES OF THE HOUSE

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, when we started this Congress some months ago, one of the most important votes that took place got little notice in the press. That was because it was in the nature of a procedural or organizational vote. It had to do with how we organized ourselves in this House with reference to committees. At that time some of us on our side complained rather bitterly about the way the Ways and Means Committee was stacked against what we thought were the best interests of the American people.

This thought was brought home to me last week when I was home in my district and a small businessman came up to me and said, "Please, when you go back to Washington, tell the people not to lose the President's tax cut before it ever gets to the floor of the House."

This man was saying that he believes we need the President's tax cut. He was speaking for many, many small businessmen in my community. They were asking for a simple opportunity to be able to bring it to the floor and vote for it.

Mr. Speaker, it is extremely difficult for me, or for any Member of Congress, to explain to people back home that the reason we have difficulty is the way we organize this House at the beginning of the Congress.

So I would hope, Mr. Speaker, that we have some opportunity at some very near date to have a vote on the President's proposal and try to give the American people the tax relief they so desperately need.

TIME FOR CONGRESS TO BITE THE BULLET ON THE TAX CUT

(Mr. LUJAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUJAN. Mr. Speaker, I believe it is time for the Congress to bite the bullet on the matter of the tax cut. While admittedly difficult to do, we must put political considerations aside and enact some legislation for the good of the country.

One thing that has prompted me to say this today is a phone call I received from a constituent friend yesterday. He had to close his construction business in New Mexico for lack of activity in that particular industry.

In effect, this man said to me, "My business is going down the drain because our economy is in such bad shape, and you guys in Washington are arguing over an economic recovery program solely on political considerations."

This gentleman went on to say that he did not care whether it was a Democrat program or a Republican program, but "do something so we will have some hope for the future."

I know there are honest differences of opinion on both sides of the tax-cut issue, and emotions are strong when we have an issue as important and as complex as this one.

It can also be argued that decisions made in haste can often be more damaging than doing nothing.

There is another side to the coin, however, and it has to do with public confidence in the tax-cut legislation that we adopt. The success or failure of any tax package may depend on how it is accepted by the business community and the citizens as a whole.

It is my belief that the longer we debate the issue, or delay action, the less likely the program is going to be effective.

The time for action on the tax cut is now. Not only is the economic future of our country at stake, but the more our citizens read and hear about political infighting, the less confidence they have in our ability to take constructive action on important issues.

I think my friend in New Mexico was also saying, "You guys are fiddling while Rome burns." He could well be right.

DEFENSE OFFICER PERSONNEL MANAGEMENT ACT—TECHNICAL CORRECTIONS

Mr. NICHOLS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 3807) to make technical corrections in the Defense Officer Personnel Management Act.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

Mr. MITCHELL of New York. Reserving the right to object, Mr. Speaker, I do so only for the purpose of yielding to my colleague, the gentleman from Alabama, for an explanation of this request.

Mr. NICHOLS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, last year, as Members will recall, the Defense Officer Personnel Management Act (DOPMA) was enacted as Public Law 96-513. This legislation, modifying the statutes governing the appointment, promotion, separation, and retirement of military officers, was a massive and complex bill containing nearly 300 pages and affecting over 500 provisions of law. Recognizing that such a bill would create unforeseen problems that would only become apparent during its implementation, the Department of Defense sought a deferred effective date—September 15, 1981—to permit identification of these problems and to provide time to develop a legislative proposal to address them.

The Department of Defense has developed legislation containing those provisions that must be enacted prior to September 15, 1981, to avoid unintended results. I believe that the provisions of H.R. 3807 are consistent with the intent of congressional action last year, and no provisions are included that reflect changes to the policy envisioned at that time. I do not believe any of the provisions are controversial.

Many of the changes are purely technical in nature. Other changes are needed in order to clarify the original intent by removing ambiguity. Most changes, however, are required to address problems that were discovered by the services as they engaged in the detailed and rigorous process of developing the implementing regulations. These latter changes, for the most part, are required to smooth the transition to the new statutory authority.

It is important that this legislation be considered expeditiously. For example, the legislation contains a provision that would permit the Navy to continue officers recently passed over for the second time to the grade of lieutenant commander. The Navy has had to compress its selection board timing in response to DOPMA. Current law, which is modified by

DOPMA, requires that these officers be separated by the end of this month. The timing of the board and the required date of separation adversely affect the officers who have not had sufficient warning of their nonselection. If enacted before July, the technical corrections would modify current law and permit continuation of these officers until such time as they would have been separated, had the promotion boards been held on schedule.

Mr. Speaker, I urge the Members to support H.R. 3807.

Mr. MITCHELL of New York. Mr. Speaker, I rise in support of H.R. 3807.

Although there are a number of changes incorporated in the legislation, these changes have been thoroughly coordinated within the Department of Defense.

The Defense Officer Personnel Management Act (DOPMA), as enacted, will affect the vast majority of officers precisely as intended. However, when the Department of Defense specifically addressed the impact of DOPMA on small categories of individual officers whose unique characteristics place them outside of the normal situation, some unintended results occurred. These specific, unforeseen impacts are addressed in H.R. 3807.

For example, DOPMA defined the term "flag officer" to mean an officer of the Navy serving in the grade of admiral, vice admiral, rear admiral, or commodore admiral. In another section of law—not modified by DOPMA—flag officers are entitled to a mandatory courts-martial review. The unintended result of the change in DOPMA was to terminate the right to mandatory review for flag officers of the Coast Guard. Of course, we would not expect this omission to affect very many officers—if any at all. However, the change was not intended, and H.R. 3807 would clarify this.

In addition to clarifying the original intent, other changes are required to remedy oversights, to preclude potential anomalies, to facilitate administration, and to provide management flexibility.

For example, in most areas, the determination of the proper active duty grade for individuals being appointed as commissioned officers is clear. However, bringing members onto active duty from a Reserve component could result in an anomaly because Reserve personnel management procedures—which were not addressed by DOPMA—differ from laws that affect active duty personnel—to the reservists detriment in some cases. Promotion timing is generally later for members in the Reserves than for members on active duty. Thus, while physicians on active duty and in the Reserves would both be granted 4 years of constructive credit under DOPMA, the grade of an Army physician originally appointed on active duty would be captain, but the reservist would be a first lieutenant. If the reservist were subsequently called to active duty, he would—under DOPMA—be appointed in his Reserve grade. The bill would permit the reservist to be called to active duty as a captain to preclude such an anomaly from arising.

Other provisions relate to the promotion of active duty officers. To facilitate administration of promotion programs, changes are required to preclude anomalies from arising. For example, the services are required under DOPMA to furnish written notice to an officer before a promotion can be delayed. While this is appropriate in normal circumstances, it is possible that an action on the part of the officer that makes a promotion delay desirable and prudent also makes it impossible to provide the required notification: the officer may be absent without leave in such a case.

There are about 40 technical problems addressed by H.R. 3807 but none of the proposed solutions is inconsistent with the original intent of DOPMA.

The Department of Defense and the Congressional Budget Office estimate no cost to this legislation.

Mr. Speaker, I stongly urge favorable action on this bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3807

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Defense Officer Personnel Management Act Technical Corrections Act".

(b) Whenever in this Act a reference is made to a section of title 10, United States Code, as added or amended by "the Act", the reference shall be considered to be a reference to that section as added or amended effective September 15, 1981, by the Defense Officer Personnel Management Act (Public Law 96-513; 94 Stat. 2835).

SEC. 2. (a) Section 101(41) of title 10, United States Code (as added by section 101 of the Act (94 Stat. 2840)), is amended by inserting "or Coast Guard" after "Navy".

(b) Section 138(c)(3)(D)(iii)(I) of such title (as added by section 102(a)(2) of the Act (94 Stat. 2840)) is amended by striking out "and active military service".

(c) Section 266(a) of such title (as amended by section 501(4) of the Act (94 Stat. 2907)) is amended—

(1) by striking out "title," and inserting in lieu thereof "title and except for boards that may be convened to select Reserves for appointment in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps,"; and

(2) by striking out "an appropriate number of Reserves, as prescribed by the Secretary concerned under standards and policies prescribed by the Secretary of Defense" and inserting in lieu thereof "at least one member of the Reserves, with the exact number of Reserves determined by the Secretary concerned in his discretion".

SEC. 3. (a) Section 531 of such title (as added by section 104(a) of the Act (94 Stat. 2845)) is amended—

(1) by inserting "(a)" before "Original appointments"; and

(2) be adding at the end thereof the following new subsection:

"(b) The grade of a person receiving an appointment under this section who at the time of appointment (1) is credited with service under section 533 of this title, and (2) is not a commissioned officer of a reserve component shall be determined under regulations prescribed by the Secretary of Defense based upon the amount of service credited. The grade of a person receiving an appointment under this section who at the time of the appointment is a commissioned officer of a reserve component is determined under section 533(f) of this title.".

(b) Section 532(d) of such title (as added by section 104(a) of the Act (94 Stat. 2846)) is amended by striking out "medical officer or dental officer or as a chaplain" and inserting in lieu thereof "medical or dental officer, as a chaplain, or as an officer designated for limited duty in the Regular Navy or Regular Marine Corps".

(c)(1) Subsection (b)(1)(A) of section 533 of such title (as added by section 104(a) of the Act (94 Stat. 2846)) is amended—

(A) by inserting ", designated, or assigned" in the first sentence after "persons appointed";

(B) by striking out "appointment as a commissioned officer" in the first sentence and inserting in lieu thereof "such appointment, designation, or assignment"; and

(C) by striking out the second sentence and inserting in lieu thereof the following: "Except as provided in clause (E), in determining the number of years of constructive service to be credited under this clause to officers in any professional field, the Secretary concerned shall credit an officer with, but with not more than, the number of years of postsecondary education in excess of four that are required by a majority of institutions that award degrees in that professional field for completion of the advanced education or award of the advanced degree.".

(2) Subsection (b)(1)(B) of such section is amended by striking out "as an officer" and inserting in lieu thereof ", designation, or assignment".

(3) Subsection (b)(1)(E) of such section is amended by inserting ", designated, or assigned" in the second sentence after "being appointed".

(4) Subsection (d)(1) of such section is amended by adding at the end thereof the following new sentence: "However, in the case of an officer who completes advanced education or receives an advanced degree while on active duty or in an active status and in less than the number of years normally required to complete such advanced education or receive such advanced degree, constructive service may, subject to regulations prescribed under subsection (a)(2), be credited to the officer under subsection (b)(1)(A) to the extent that the number of years normally required to complete such advanced education or receive such advanced degree exceeds the actual number of years in which such advanced education or degree is obtained by the officer.".

(5) Subsection (f) of such section is amended to read as follows:

"(f) A reserve officer (other than a warrant officer) who receives an original appointment as an officer (other than as a warrant officer) in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps shall—

"(1) in the case of an officer on the active-duty list immediately before that appointment as a regular officer, be appointed in the same grade and with the same date of rank as the grade and date of rank held by the officer on the active-duty list immediately before the appointment; and

"(2) in the case of an officer not on the active-duty list immediately before that appointment as a regular officer, be appointed in the same grade and with the same date of rank as the grade and date of rank which the officer would have held had the officer been serving on the active-duty list on the date of the appointment as a regular officer.".

SEC. 4. (a)(1) Paragraph (2) of subsection (a) of section 612 of title 10, United States Code (as added by section 105 of the Act (94 Stat. 2851)), is amended to read as follows:

"(2)(A) Except as provided in subparagraph (B), a selection board shall include at least one officer from each competitive category of officers to be considered by the board.

"(B) A selection board need not include an officer from a competitive category to be considered by the board when there are no officers of that competitive category on the active-duty list in a grade higher than the grade of the officers to be considered by the board and eligible to serve on the board. However, in such a case the Secretary of the military department concerned, in his discretion, may appoint as a member of the board an officer of that competitive category who is not on the active-duty list from among officers of the same armed force as the officers under consideration by the board who hold a higher grade than the grade of the officers under consideration and who are retired officers, reserve officers serving on active duty but not on the active-duty list, or members of the Ready Reserve.".

(2) Paragraph (3) of such subsection is amended—

(A) by inserting ", with the exact number of reserve officers to be determined by the Secretary of the military department concerned in his discretion" after "at least one reserve officer of that armed force"; and

(B) by striking out the period at the end thereof and inserting in lieu thereof "who are eligible to serve on the board.".

(3) Such subsection is further amended by striking out paragraph (4) and inserting in lieu thereof the following:

"(4) Except as provided in paragraphs (2) and (3), if qualified officers on the active-duty list are not available in sufficient number to comprise a selection board, the Secretary of the military department concerned shall complete the membership of the board by appointing as members of the board officers who are members of the same armed force and hold a grade higher than the grade of the officers under consideration by the board and who are retired officers, reserve officers serving on active duty but not on the active-duty list, or members of the Ready Reserve.

"(5) A retired general or flag officer who is on active duty for the purpose of serving on a selection board shall not, while so serving, be counted against any limitation on the number of general and flag officers who may be on active duty.".

(4) Subsection (b) of such section is amended by inserting "convened under section 611(a) of this title" after "selection boards".

(b) Section 614(a) of such title (as added by section 105 of the Act (94 Stat. 2852)) is amended by striking out ", the names of the officers eligible for consideration by the board as of the date of the notification, the convening date of the board," and inserting in lieu thereof "which shall include the convening date of the board".

(c) Section 619(c)(2) of such title (as added by section 105 of the Act (94 Stat. 2855)) is amended—

(1) by striking out "and" at the end of clause (A);

(2) by striking out the period at the end of clause (B) and inserting in lieu thereof "for the purposes of clause (A); and"; and

(3) by adding at the end thereof the following new clause:

"(C) may, by regulation, prescribe a period of time, not to exceed one year, from the time an officer is placed on the active-duty list during which the officer shall be ineligible for consideration for promotion.".

(d)(1) Subsection (a) of section 624 of such title (as added by section 105 of the Act (94 Stat. 2857)) is amended—

(A) by striking out "or in the case of officers selected for promotion to the grade of first lieutenant or lieutenant (junior grade), when a list of officers selected for promotion is approved by the President," in paragraph (1); and

(B) by adding at the end of paragraph (2) the following new sentence: "Officers to be promoted to the grade of first lieutenant or lieutenant (junior grade) shall be promoted in accordance with regulations prescribed by the Secretary concerned.".

(2) Subsection (c) of such section is amended by striking out "in the grade of first lieutenant or lieutenant (junior grade) under this section" and inserting in lieu thereof "under this section in the grade of first lieutenant or captain or lieutenant (junior grade) or lieutenant".

(3) Subsection (d) of such section is amended—

(A) by striking out "The Secretary concerned may delay the appointment of an officer under this section if—" in paragraph (1) and inserting in lieu thereof "Under regulations prescribed by the Secretary concerned, the appointment of an officer under this section may be delayed if—";

(B) by inserting "them unless action to delay and appointment has also been under subsection (d)(2)" after "as the case may be," in the second sentence of paragraph (1);

(C) by striking out "The Secretary concerned may also delay the appointment of an officer to the next higher grade under this section in any case in which the Secretary finds that" in paragraph (2) and inserting in lieu thereof "Under regulations prescribed by the Secretary concerned, the appointment of an officer under this section may also be delayed in any case in which";

(D) by striking out the period at the end of the first sentence of paragraph (3) and inserting in lieu thereof ", unless it is impracticable to give such written notice before the effective date of the appointment, in which case such written notice shall be given as soon as practicable."; and

(E) by striking out "by the Secretary" in the second sentence of paragraph (3).

(e)(1) Section 637(b) of such title (as added by section 105 of the Act (94 Stat. 2864)) is amended by striking out "section 633, 634, 635, or 636" in paragraph (1) and inserting in lieu thereof "section 633 or 634".

(2) Paragraph (2) of such section is amended to read as follows:

"(2) An officer subject to retirement under section 635 or 636 of this title who is serving in the grade of brigadier general, commodore admiral, major general, or rear admiral may, subject to the needs of the service, have his retirement deferred and be continued on active duty by the Secretary concerned. An officer subject to retirement under section 635 or 636 of this title who is serving in a grade above major general or rear admiral may have his retirement deferred and be continued on active duty by the President.".

(f) Section 638(a) of such title (as added by section 105 of the Act (94 Stat. 2864)) is amended by striking out "four" in clauses (3) and (4) and inserting in lieu thereof "three and one-half".

(g) Section 689 of such title (as added by section 106 of the Act (94 Stat. 2868)) is amended by striking out the period and inserting in lieu thereof", except that a reserve officer who is credited with service under section 3353, 5600, or 8353 of this title and is ordered to active duty may be ordered to active duty in a reserve grade and with a date of rank and position on the active-duty list determined under regulations prescribed by the Secretary of Defense based upon the amount of service credited.".

(h)(1) The table in subsection (a) of section 741 of such title (as amended by section 107 of the Act (94 Stat. 2869)) is amended to read as follows:

"Army, Air Force, and Marine Corps	Navy and Coast Guard
General	Admiral.
Lieutenant general.	Vice admiral.
Major general	Rear admiral (Navy) and Rear admiral (upper half) (Coast Guard).
Brigadier general.	Commodore admiral (Navy) and Rear admiral (lower half) (Coast Guard).
Colonel	Captain.
Lieutenant colonel.	Commander.
Major	Lieutenant commander.
Captain	Lieutenant.
First lieutenant	Lieutenant (junior grade).
Second lieutenant.	Ensign.".

(2) Subsection (c) of such section is amended by inserting "of the Army, Navy, Air Force, and Marine Corps" after "officers".

(3) Subsection (d) of such section is amended—

(A) by inserting "of the Army, Navy, Air Force, or Marine Corps" in paragraph (1) after "officer" both places it appears; and

(B) by inserting "of the Army, Navy, Air Force, or Marine Corps" in paragraph (3) after "(other than a warrant officer)".

(4) The heading of such section is amended to read as follows:

"§ 741. Rank: commissioned officers of the armed forces".

SEC. 5. (a)(1) Subsection (b) of section 3064 of title 10, United States Code (as

amended by section 231 of the Act (94 Stat. 2886)), is amended by striking out "may appoint commissioned officers in, and may assign members to," and inserting in lieu thereof "may assign commissioned officers (other than officers of the Regular Army) and members to".

(2) Subsection (c) of such section is amended to read as follows:

"(c) Commissioned officers of the Regular Army may be appointed in a special branch, but the Secretary may not assign any officer of the Regular Army to a special branch.".

(b) Section 3210(a) of such title (as amended by section 502(5) of the Act (94 Stat. 2909)) is amended by striking out ", exclusive of the number authorized for the Army Medical Department and the Chaplains," and ", exclusive of the number of commissioned officers on the active-duty list authorized for the Army Medical Department and the Chaplains".

(c)(1) Subsection (a) of section 3353 of such title (as amended by section 205(a) of the Act (94 Stat. 2881)) is amended—

(A) by inserting "or an assignment to an officer category in which advanced education or training or special experience is required or will be directly used" in paragraph (1) after "in the Army";

(B) by inserting "or assignment" in paragraph (1) after "such appointment" both places it appears;

(C) by inserting "as a regular officer on active duty or as a reserve officer" in paragraph (1) after "that he performed"; and

(D) by striking out "receiving an original appointment" and "at the time of such appointment" in paragraph (2).

(2) Subsection (b)(1) of such section is amended—

(A) by inserting "or an assignment to an officer category in which advanced education or training or special experience is required or will be directly used" after "officer in the Army";

(B) by striking out "appointed in" in subparagraph (A) and inserting in lieu thereof "assigned to";

(C) by striking out "appointment as a commissioned officer" in subparagraph (A) and inserting in lieu thereof "such assignment";

(D) by striking out the second sentence in subparagraph (A) and inserting in lieu thereof the following: "Except as provided in clause (E), in determining the number of years of constructive service to be credited under this clause to officers in any professional field, the Secretary concerned shall credit an officer with, but with not more than, the number of years of postsecondary education in excess of four that are required by a majority of institutions that award degrees in that professional field for completion of the advanced education or award of the advanced degree.".

(E) by striking out "appointment as an officer," in subparagraph (B) and inserting in lieu thereof "assignment as an officer in such health profession,";

(F) by striking out "appointed" in the second sentence of subparagraph (E) and inserting in lieu thereof "assigned to such health profession"; and

(G) by striking out "appointed in" in subparagraph (F) and inserting in lieu thereof "assigned to".

(3) Subsection (b)(3) of such section is amended by striking out the period and inserting in lieu thereof "or his assignment to an officer category in which advanced education or training or special experience is required or will be directly used.".

(4) Subsection (c) of such section is amended—

(A) by inserting "as a commissioned officer (other than a warrant officer) on active duty or" after "while serving"; and

(B) by adding at the end thereof the following new sentence: "However, in the case of an officer who completes advanced education or receives an advanced degree while in an active status and in less than the number of years normally required to complete such advanced education or receive such advanced degree, constructive service may, subject to regulations prescribed under subsection (a)(2), be credited to the officer under subsection (b)(1)(A) to the extent that the number of years normally required to complete such advanced education or receive such advanced degree exceeds the actual number of years in which such advanced education or degree is obtained by the officer.".

(5) Subsection (d) of such section is amended by striking out "in the Judge Advocate General's Corps with a view to an immediate call to active duty" and inserting in lieu thereof "with a view to assignment in the Judge Advocate General's Corps".

SEC. 6. (a) Subsection (c) of section 5155 of title 10, United States Code (as added by section 351 of the Act (94 Stat. 2902)), is amended to read as follows:

"(c) The Secretary of the Navy, whenever the needs of the service require, may convene a selection board under section 611(a) of this title to select an officer in the Nurse Corps or in the Medical Service Corps (if such corps has been established under subsection (a)) for promotion to the grade of commodore admiral. An officer promoted pursuant to such a selection shall be appointed by the Secretary to the position of Director of the Nurse Corps or Director of the Medical Service Corps, respectively, for a term of four years, to serve at the pleasure of the Secretary. For the purpose of computing the total number of flag officers in the staff corps of the Navy under section 5444 of this title, an officer so appointed shall be considered an additional number in grade.".

(b)(1) Section 5444 of such title (as amended by section 302 of the Act (94 Stat. 2888)) is amended by striking out "specified" each place it appears in subsection (b) and inserting in lieu thereof "prescribed".

(2) Subsection (f) of such section is amended to read as follows:

"(f) The Secretary, in his discretion, shall prescribe the number of commodore admirals, and the number of rear admirals, in each staff corps. The total of the prescribed numbers of rear admirals for all the staff corps may not exceed 50 percent of the total number computed under subsection (b).".

(c)(1) Subsection (a) of section 5600 of such title (as amended by section 328 of the Act (94 Stat. 2895)) is amended—

(A) by inserting "or who is designated in an officer category in which advanced education or training or special experience is required or will be directly used" in paragraph (1) after "Marine Corps Reserve";

(B) by inserting "or designation" in paragraph (1) after "such appointment" both places it appears;

(C) by inserting "as a regular officer on active duty or as a reserve officer" in paragraph (1) after "that he performed"; and

(D) by striking out "receiving an original appointment" and "at the time of such appointment" in paragraph (2).

(2) Subsection (b)(1) of such section is amended—

(A) by inserting "or a designation in an officer category in which advanced education or training or special experience is required or will be directly used" after "officer in the Navy or Marine Corps";

(B) by inserting "or designated" in subparagraph (A) after "appointed";

(C) by inserting "or designation in such a category" in subparagraph (A) after "commissioned officer"; and

(D) by striking out the second sentence in subparagraph (A) and inserting in lieu thereof the following: "Except as provided in clause (E), in determining the number of years of constructive service to be credited under this clause to officers in any professional field, the Secretary concerned shall credit an officer with, but with not more than, the number of years of postsecondary education in excess of four that are required by a majority of institutions that award degrees in that professional field for completion of the advanced education or award of the advanced degree.".

(3) Subsection (b)(3) of such section is amended by striking out the period and inserting in lieu thereof "or his designation in an officer category in which advanced education or training or special experience is required or will be directly used.".

(4) Subsection (c) of such section is amended—

(A) by inserting "as a commissioned officer (other than a warrant officer) on active duty or" after "while serving"; and

(B) by adding at the end thereof the following new sentence: "However, in the case of an officer who completes advanced education or receives an advanced degree while in an active status and in less than the number of years normally required to complete such advanced education or receive such advanced degree, constructive service may, subject to regulations prescribed under subsection (a)(2), be credited to the officer under subsection (b)(1)(A) to the extent that the number of years normally required to complete such advanced education or receive such advanced degree exceeds the actual number of years in which such advanced education or degree is obtained by the officer.".

SEC. 7. (a) Subsection (a) of section 8353 of title 10, United States Code (as amended by section 205(b) of the Act (94 Stat. 2882)), is amended—

(1) by striking out "337 and 363" in paragraph (1) and inserting in lieu thereof "837 and 863";

(2) by inserting ", or receiving a designation in or assignment to an officer category in which advanced education or training or special experience is required or will be directly used," in paragraph (1) after "in the Air Force";

(3) by inserting ", designation, or assignment" in paragraph (1) after "such appointment" both places it appears;

(4) by inserting "as a regular officer on active duty or as a reserve officer" in paragraph (1) after "that he performed"; and

(5) by striking out "receiving an original appointment" in paragraph (2) and "at the time of such appointment".

(b) Subsection (b)(1) of such section is amended—

(1) by inserting "or a designation in or assignment to an officer category in which advanced education or training or special experience is required or will be directly used" after "officer in the Air Force";

(2) by striking out "appointed in" in subparagraph (A) and inserting in lieu thereof "designated in or assigned to";

(3) by striking out "appointment as a commissioned officer" in subparagraph (A) and inserting in lieu thereof "such designation or assignment";

(4) by striking out the second sentence in subparagraph (A) and inserting in lieu thereof "Except as provided in clause (E), in determining the number of years of constructive service to be credited under this clause to officers in any professional field, the Secretary concerned shall credit an officer with, but with not more than, the number of years of postsecondary education in excess of four that are required by a majority of institutions that award degrees in that professional field for completion of the advanced education or award of the advanced degree.".

(5) by striking out "appointment as an officer," in subparagraph (B) and inserting in lieu thereof "designation or assignment as an officer in such health profession,"; and

(6) by striking out "appointed" in the second sentence of subparagraph (E) and inserting in lieu thereof "designated in or assigned to such health profession".

(c) Subsection (b)(3) of such section is amended by striking out the period and inserting in lieu thereof "or his designation in or assignment to an officer category in which advanced education or training or special experience is required or will be directly used.".

(d) Subsection (c) of such section is amended—

(A) by inserting "as a commissioned officer (other than a warrant officer) on active duty or" after "while serving"; and

(B) by adding at the end thereof the following new sentence: "However, in the case of an officer who completes advanced education or receives an advanced degree while in an active status and in less than the number of years normally required to complete such advanced education or receive such advanced degree, constructive service may, subject to regulations prescribed under subsection (a)(2), be credited to the officer under subsection (b)(1)(A) to the extent that the number of years normally required to complete such advanced education or receive such advanced degree exceeds the actual number of years in which such advanced education or degree is obtained by the officer.".

(e) Subsection (d) of such section is amended by striking out "in the Judge Advocate General's Corps" and inserting in lieu thereof "with a view to designation as a judge advocate".

SEC. 8. (a) Section 601 of the Defense Officer Personnel Management Act (94 Stat. 2940) is amended—

(1) by striking out "paragraph" in subsection (b) and inserting in lieu thereof "subsection"; and

(2) by adding at the end thereof the following new subsection:

"(d)(1) Any delay of a promotion of an officer referred to in clause (2) or (3) of subsection (a) that was in effect on September 14, 1981, under the laws and regulations in effect on such date shall continue in effect on and after September 15, 1981, as if such promotion had been delayed under section 624(d) of title 10, United States Code, as added by this Act.

"(2) Any action to remove from a promotion list the name of an officer referred to in clause (2) or (3) of subsection (a) that was initiated before September 15, 1981, under the laws and regulations in effect before such date shall continue on and after such date as if such removal action had been initiated under section 629 of title 10, United States Code, as added by this Act.".

(b) Section 602 of such Act (94 Stat. 2940) is amended—

(1) by striking out clause (3) of subsection (b) and inserting in lieu thereof the following:

"(3) either holds a reserve grade higher than the temporary grade in which he is serving or is on a list of officers recommended for promotion to a reserve grade higher than the temporary grade in which he is serving,"; and

(2) by adding at the end thereof the following new subsection:

"(c)(1) Any delay of a promotion of an officer referred to in clause (B) of subsection (a)(1) that was in effect on September 14, 1981, under the laws and regulations in effect on such date shall continue in effect on and after September 15, 1981, as if such promotion had been delayed under section 624(d) of title 10, United States Code, as added by this Act.

"(2) Any action to remove from a promotion list the name of an officer referred to in clause (B) of subsection (a)(1) that was initiated before September 15, 1981, under the laws and regulations in effect before such date shall continue on and after such date as if such removal action had been initiated under section 629 of title 10, United States Code, as added by this Act.".

(c) Section 608(a)(1) of such Act (94 Stat. 2943) is amended by inserting "or is on a list of officers recommended for promotion to" after "serving in".

(d) Section 611 of such Act (94 Stat. 2943) is amended by adding at the end thereof the following new subsection:

"(c)(1) Any delay of a promotion of an officer referred to in clause (2) of subsection (a) that was in effect on September 14, 1981, under the laws and regulations in effect on such date, shall continue in effect on and after September 15, 1981, as if such promotion had been delayed under section 624(d) of title 10, United States Code, as added by this Act.

"(2) Any action to remove from a promotion list the name of an officer referred to in clause (2) of subsection (a) which was initiated before September 15, 1981, under the laws and regulations in effect before such date shall continue on and after such date as if such removal action had been initiated under section 629 of title 10, United States Code, as added by this Act.".

(e) Section 612 of such Act (94 Stat. 2945) is amended—

(1) by striking out "An" and inserting in lieu thereof "(a) Except as provided in subsection (b), an"; and

(2) by adding at the end thereof the following new subsection:

"(b) An officer who during fiscal year 1981—

"(1) failed twice of selection for promotion to the grade of either lieutenant or lieutenant commander, in the case of an officer in the Navy, or to either captain or major, in the case of an officer in the Marine Corps; and

"(2) had not previously failed of selection for promotion to that grade.

may not, because of such failures of selection, be involuntarily separated, involuntarily discharged, or retired under chapter 36 of title 10, United States Code, as added by this Act, before June 30, 1982, unless the officer so requests.".

(f) Section 613 of such Act (94 Stat. 2945) is amended—

(1) by striking out the period in subsection (a)(1) and inserting in lieu thereof ", except that an officer for whom no means can be established under the laws in effect on September 14, 1981, for computing creditable service in determining whether the officer is subject to involuntary retirement shall be retired under chapter 573 of title 10, United States Code, as in effect on September 14, 1981, on the basis of the years of service of such officer as determined under regulations prescribed under section 624(b).";

(2) by striking out subsection (a)(2)(A) and inserting in lieu thereof the following:

"(A) removed from active duty under section 1184 of title 10, United States Code, as added by this Act;"; and

(3) by inserting "day before the" in subsections (b)(1) and (b)(2) after "who on the".

(g) Section 615(c) of such Act (94 Stat. 2948) is amended by striking out ", in lieu of being reappointed in the line of the Navy under subsection (a), be appointed in that staff corps" and inserting in lieu thereof "request appointment in a staff corps and, with the approval of the Secretary of the Navy, be appointed in that staff corps. Any appointment under this subsection shall be in lieu of the reappointment of the officer under subsection (a)".

(h) Section 616 of such Act (94 Stat. 2949) is amended—

(1) by inserting "(a)" before "An officer"; and

(2) by adding at the end thereof the following new subsection:

"(b) Any female member of the Navy who on April 2, 1981, was appointed under section 591 or 5590 of title 10, United States Code, in the grade of ensign as an officer designated for limited duty may after September 14, 1981, be reappointed as an officer designated for limited duty under section 5596 of title 10, United States Code, as amended by this Act. A member so reappointed shall have a date of rank as an ensign of April 2, 1981, and shall have the same permanent pay grade and status as that member held on April 1, 1981.".

(i) Part B of title VI of such Act (94 Stat. 2945), is amended by adding at the end thereof the following new sections:

"CONTINGENCY AUTHORITY FOR NAVY PROMOTIONS UNDER PRIOR LAW

"SEC. 619. If necessary because of unforeseen circumstances, the Secretary of the Navy, during fiscal year 1982, may convene boards to select officers for promotion under chapters 545 and 549 of title 10, United States Code, as in effect on September 14, 1981, and officers so selected may be promoted in accordance with such chapters. An officer promoted to a higher grade under the authority of this section shall be subject to sections 613 and 629 as if he held that grade on September 14, 1981, and shall have a date of rank to be determined under section 741 of title 10, United States Code, as amended by this Act.

"RETENTION ON ACTIVE DUTY OF CERTAIN RESERVE LIEUTENANT COMMANDERS

"SEC. 620. Notwithstanding section 6389 of title 10, United States Code, an officer who on September 14, 1981—

"(1) holds the grade of lieutenant commander in the Naval Reserve;

"(2) is on active duty as the result of recall orders accepted subsequent to a break in active commissioned service;

"(3) is subject to placement on the active-duty list; and

"(4) is considered—

"(A) to have failed of selection for promotion to the grade of commander one or more

times under chapter 545 of title 10, United States Code, as in effect on September 14, 1981; or

"(B) to have been later considered to have failed of selection for promotion to the grade of commander one or more times under chapter 36 of title 10, United States Code, as added by this Act,

may be retained on active duty by the Secretary of the Navy for such period as the Secretary considers appropriate.".

(j) Section 621(b) of such Act (94 Stat. 2950) is amended to read as follows:

"(b) Under regulations prescribed by the Secretary of Defense, which shall apply uniformly among the Army, Navy, Air Force, and Marine Corps, the Secretary of the military department concerned, in order to maintain the relative seniority among officers of the Army, Navy, Air Force, and Marine Corps as it existed on September 14, 1981, may adjust the date of rank of officers—

"(1) below the grade of brigadier general or commodore admiral during the one-year period beginning on September 15, 1981; and

"(2) above the grade of colonel or, in the case of the Navy, captain until there are no longer any officers to whom section 614(d) is applicable.".

(k) Section 624(b) of such Act (94 Stat. 2951) is amended—

(1) by inserting "subject to placement on the active-duty list on September 15, 1981," after "In the case of an officer"; and

(2) by striking out "Defense" and inserting in lieu thereof "the military department concerned".

(l) Section 626(b) of such Act (94 Stat. 2952) is amended by striking out "any provision of chapter 36" and inserting in lieu thereof "section 1251".

(m) Section 629 of such Act (94 Stat. 2953) is amended by adding at the end thereof the following new sentence: "The Secretary of the military department concerned may waive the requirements of this section and of section 1370(a)(2) of title 10, United States Code, as added by this Act, with respect to any officer described in the preceding sentence.".

(n) Part C of title VI of such Act (94 Stat. 2950) is amended by adding at the end thereof the following new sections:

"SAVINGS PROVISION FOR RETIRED GRADE OF CERTAIN RESERVE OFFICERS

"SEC. 634. Unless entitled to a higher grade under any other provision of law, a member of the Army or Air Force who is a reserve officer and who—

"(1) is on active duty on September 14, 1981; and

"(2) after such date retires under section 3911 or 8911 of title 10, United States Code,

is entitled to retire in the reserve grade which he held or to which he has been selected for promotion on September 14, 1981.

"SAVINGS PROVISION FOR ORIGINAL APPOINTMENT IN CERTAIN GRADES UNDER EXISTING REGULATIONS

"SEC. 635. Any person who before September 15, 1981—

"(1) was selected for participation in a postbaccalaureate educational program leading to an appointment as a commissioned officer or had completed a postbaccalaureate program and was selected for appointment as a commissioned officer of the Army, Navy, Air Force, or Marine Corps;

"(2) under regulations of the Secretary of the military department concerned in effect on December 12, 1980, would have been appointed and ordered to active duty in a grade specified or determined in accordance with such regulations; and

"(3) had not been so appointed and ordered to active duty,

may be appointed and ordered to active duty in such grade with a date or rank and position on the active-duty list junior to that of all other officers of the same grade and competitive category serving on active duty.

"RETENTION IN GRADE OF CERTAIN RESERVE OFFICERS

"SEC. 636. A reserve officer of the Army, Navy, Air Force, or Marine Corps who on September 14, 1981—

"(1) is serving on active duty (A) under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)) for the administration of the Selective Service System, or (B) under section 708 of title 32; and

"(2) is serving in a temporary grade or is selected for promotion to a temporary grade,

may continue to serve in or may be promoted to and serve in such grade until promoted to a higher grade, separated, or retired.

"SAVINGS PROVISIONS REGARDING DISCHARGE OF REGULAR OFFICERS

"SEC. 637. An officer of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps who on September 14, 1981, was serving on active duty may not be discharged under section 630(1)(A) of title 10, United States Code, as added by this Act, on or after the day on which that officer completes three years of continuous service as a regular commissioned officer.

"REPAYMENT OF READJUSTMENT AND SEVERANCE PAY

"SEC. 638. Notwithstanding section 1174(h) of title 10, United States Code, as added by this Act, a person who received readjustment or severance pay before September 15, 1981, and who, on or after September 15, 1981, becomes entitled to retired or retainer pay under any provision of title 10 or title 14, United States Code, shall be required to repay that readjustment pay or severance pay in accordance with the laws in effect on September 14, 1981.".

(o) Section 641 of such Act (94 Stat. 2954) is amended—

(1) by inserting "or Dental Corps" in clause (1) after "Medical Corps" both places it appears;

(2) by inserting "or dental officer" in clause (1) after "medical officer" both places it appears; and

(3) by inserting "or 302b" in clause (2) after "section 302".

(p) The table of contents in section 1(b) of such Act (94 Stat. 2835) is amended—

(1) by inserting after the item relating to section 618 the following new items:

"Sec. 619. Contingency authority for Navy promotions under prior law.
"Sec. 620. Retention on active duty of certain reserve lieutenant commanders.";

and

(2) by inserting after the item relating to section 633 the following new items:

"Sec. 634. Savings provision for retired grade of certain reserve officers.
"Sec. 635. Savings provision for original appointments in certain grades under existing regulations.
"Sec. 636. Retention in grade of certain reserve officers.
"Sec. 637. Savings provision regarding discharge of regular officers.
"Sec. 638. Repayment of readjustment and severance pay.".

SEC. 9. Notwithstanding section 5752(a)(3) of title 10, United States Code, for selection boards convened on or after the date of enactment of this Act and before September 15, 1981, service in grade requirements shall be established under regulations prescribed by the Secretary of the Navy for eligibility for consideration for promotion of female officers in the line of the Navy to the grade of lieutenant commander and female officers in the Marine Corps to the grade of major.

SEC. 10. (a)(1) Section 501(10) of the Defense Officer Personnel Management Act (94 Stat. 2908) is amended by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) by striking out the item relating to section 741 and inserting in lieu thereof:

"'741. Rank: commissioned officers of the armed forces.'; and".

(2) Section 502 of such Act (94 Stat. 2908) is amended—

(A) by striking out subparagraph (B) of paragraph (9) and inserting in lieu thereof the following:

"(B) by adding at the end thereof the following new item:

"'3396. Exclusion of officers on the active-duty list.'.";

and

(B) by striking out "8066" in the first quoted matter in paragraph (19)(A) and inserting in lieu thereof "3066".

(3) Section 503 of such Act (94 Stat. 2911) is amended by striking out paragraphs (19), (23), and (24).

(4) Section 504(11) of such Act (94 Stat. 2916) is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) by adding at the end thereof the following new item:

"'8396. Exclusion of officers on the active-duty list.'.".

(b) Effective September 15, 1981, title 10, United States Code, is amended as follows:

(1) Section 123(a) is amended by striking out "3494," and "8494,".

(2) Section 1075 is amended by inserting ", or an enlisted member of a uniformed service entitled to basic allowance for subsistence," after "uniformed service" in the first sentence.

(3) Section 2147(d)(1) is amended by striking out "section 1072(2)(E)" and inserting in lieu thereof "section 1072(2)(D)".

(4) Section 3034(b) is amended by striking out the comma after "grade".

(5) The table of sections at the beginning of chapter 367 is amended by striking out the item relating to section 3922.

(6)(A) Section 5455 is repealed.

(B) The table of sections at the beginning of chapter 533 is amended by striking out the item relating to section 5455.

(7) The table of sections at the beginning of chapter 539 is amended—

(A) by striking out the item relating to section 5573a; and

(B) by striking out the item relating to section 5596 and inserting in lieu thereof the following:

"5596. Navy and Marine Corps: temporary appointments of warrant officers and officers designated for limited duty.".

(8) Section 6325(b) is amended—

(A) by striking out "under section 5597" and inserting in lieu thereof "or promoted under section 603"; and

(B) by striking out "5787 or 5787d" and inserting in lieu thereof "602 or 5721".

(9) Section 8034(b) is amended by striking out the comma after "grade".

(10)(A) Section 1174(c) is amended by striking out "on or after the effective date of the Defense Officer Personnel Management Act" and inserting in lieu thereof "after September 14, 1981,".

(B) Sections 5896, 5897, 5898(b), 5899, and 6403(a) are amended by striking out "the effective date of the Defense Officer Personnel Management Act" each place it appears and inserting in lieu thereof "September 15, 1981".

(c) Effective September 15, 1981, section 415(a) of title 37, United States Code, is amended by striking out "subsections (b) and (c)" and inserting in lieu thereof "subsection (b)".

(d) Effective September 15, 1981, Public Law 93-397 (10 U.S.C. 8202 note) is repealed.

SEC. 11. (a) Title 10, United States Code is amended as follows:

(1) Section 977(a) is amended by striking out "on or after the date of the enactment of the Department of Defense Authorization Act, 1981" and inserting in lieu thereof "after September 7, 1980".

(2) Section 1079(b)(4) is amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services".

(3) Sections 1450(d) and 1452(e) are amended by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management".

(4) Section 1451(a)(4) is amended by striking out "the effective date of the Uniformed Services Survivor Benefits Amendments of 1980" and inserting in lieu thereof "December 1, 1980".

(5) Section 1452(g)(4) is amended by striking out "section 1452 of this title" and inserting in lieu thereof "this section".

(6) Section 1489(b)(3) is amended by striking out "section 14 of the Act of August 1, 1956 (22 U.S.C. 2679a)" and inserting in lieu thereof "section 413 of the Foreign Service Act of 1980 (22 U.S.C. 3973)".

(7) Section 2002(a) is amended—

(A) in the text preceding clause (1) by inserting "(22 U.S.C. 4021(b))" after "section 701(b) of the Foreign Service Act of 1980"; and

(B) in clause (2) by inserting "(22 U.S.C. 4021(a))" after "section 701(a) of the Foreign Service Act of 1980".

(8) Sections 2324(b)(2)(B) and 2328 are amended by striking out "this Act" and inserting in lieu thereof "this chapter".

(9) Section 2688(a) is amended by striking out "the date of the enactment of the Military Construction Authorization Act, 1980" and inserting in lieu thereof "November 26, 1979".

(10) Section 7430(e) is amended by striking out "1969" each place it appears and inserting in lieu thereof "1979".

(11) Section 9621(f) is amended by striking out the comma in the second sentence.

(b)(1) Section 308c(e) of title 37, United States Code, is amended by striking out "Secretary of defense" and inserting in lieu thereof "Secretary of Defense".

(2) Effective as of October 1, 1980, the second sentence of section 403(b) of title 37, United States Code, is amended by striking out "who is in" and all that follows through "who is assigned" and inserting in lieu thereof "who is in a pay grade above pay grade E-6 and who is assigned".

(3)(A) The heading of section 406b of title 37, United States Code, is amended to read as follows:

"§ 406b. Travel and transportation allowances: members of the uniformed services attached to a ship overhauling or inactivating away from home port

(B) The item relating to such section in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

"406b. Travel and transportation allowances: members of the uniformed services attached to a ship overhauling or inactivating away from home port.".

(c) Section 806(b) of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1777), is amended by striking out "section 2662" and inserting in lieu thereof "section 2672".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPROVING CONSTITUTION FOR VIRGIN ISLANDS

Mr. WON PAT. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the joint resolution (H.J. Res. 238) to approve a constitution for the U.S. Virgin Islands, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the joint resolution. The Clerk read the Senate amendments, as follows:

Page 2, line 4, after "approved" insert "for submission to the people of the Virgin Islands in accordance with the provisions of Public Law 94-584 (90 Stat. 2809)".

Page 3, line 1, strike out "the" the first time it appears and insert "due".

Page 8, line 23, strike out "descendent" and insert "descendant".

Page 39, line 12, strike out "Senate" and insert "legislature".

Page 40, line 6, strike out "VIII" and insert "VII".

Page 41, in the matter which appears below line 8, after "Geraldo Guirty" insert "Olaf Hendricks".

Page 41, in the matter which appears below line 8, strike out "Ruby Simmonds, Vice" and insert "Ruby Simmonds, 1st Vice".

□ 1245

Mr. WON PAT (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendments be dispensed with and they be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Guam?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Guam?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, will the gentleman briefly explain the Senate amendments?

Mr. WON PAT. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Guam (Mr. WON PAT).

Mr. WON PAT. Mr. Speaker, let me say that the Senate amendments are clarifying and technical changes which are not controversial. They correct printing errors in the bill and correct an omission and a spelling error. The most significant change merely makes it clear that the constitution is being approved for submission to the voters of the Virgin Islands as provided in Public Law 94-584. All of the amendments are germane to the subject matter of the joint resolution.

Mr. LAGOMARSINO. Mr. Speaker, I appreciate the explanation and support the resolution as amended.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Guam?

There was no objection.

GENERAL LEAVE

Mr. WON PAT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Guam?

There was no objection.

SUPPORT OF IMPLEMENTATION OF WORLD HEALTH ORGANIZATION VOLUNTARY CODE ON INFANT FORMULA

Mr. ZABLOCKI. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 287) in support of the implementation of the World Health Organization voluntary code on infant formula.

The Clerk read as follows:

H.J. RES. 287

Whereas there is overwhelming scientific evidence that breastfeeding has substantial advantages for infant health and growth, that it offers an uncontaminated food supply, an early transfer of antibodies protective against infectious diseases, and a naturally evolved and tested nutritional source, and that it is an important factor in bonding between mother and child;

Whereas numerous studies, in a wide variety of developed and developing countries, over a long period of time, have shown that artificial infant feeding is associated with higher rates of illness and death and, in poor communities, with lessened growth and nutrition;

Whereas the problem of unrefrigerated infant formula prepared with polluted water and placed in inadequately cleaned bottles is further complicated by flies and heat in tropical climates;

Whereas one hundred million of the one hundred and twenty-five million children in the world below the age of one are born in developing countries;

Whereas ten million of these one hundred million children will probably not live until their first birthday;

Whereas diarrhea and other infectious diseases, when combined with the problems of malnutrition, account for more than half of these deaths;

Whereas the use of infant formula rather than breastfeeding is estimated to account for up to a million of these deaths per year; and

Whereas at a recent meeting of the World Health Organization, the United States was the only country, in a one hundred and eighteen to one vote, to vote against a voluntary code to encourage breastfeeding and to curb inappropriate marketing and advertising of infant formula, particularly in the Third World: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress—

(1) expresses its dismay at the negative vote cast by the United States on May 21, 1981, at the Thirty-fourth World Health Assembly of the World Health Organization on the "International Code of Marketing of Breastmilk Substitutes";

(2) urges the administration to notify promptly the World Health Organization that the Government of the United States will cooperate fully with other nations in implementation of the code;

(3) urges the United States infant formula industry to abide by the guidelines of that code, particularly with respect to exports and the activities of subsidiaries in developing countries; and

(4) reaffirms the dedication of the United States to the protection of the lives of all the world's children and the support of the United States for efforts to improve world health.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin (Mr. ZABLOCKI) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. BROOMFIELD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation before us, dealing with the World Health Organization voluntary code on infant formula, is a simple statement of policy on a subject which has received extensive consideration already in the Congress and in the executive branch. It is necessary to act promptly on this legislation to assure our constituents and other nations, that our basic policies and priorities on the health and well-being of the world's children have not changed.

I would like to thank Representative DAVID R. OBEY for his leadership and initiative in sponsoring this resolution and urging that the Congress go on record on this important question, which affects the lives of millions of children around the world.

Concern about the impact which inappropriate use of infant formula may have on the health of babies in developing countries is not a new subject for most Members of Congress. Four years ago, at the instigation of the Committee on Foreign Affairs, language was added to the Foreign Assistance Act directing the Agency for International Development to encourage breastfeeding in its programs in developing countries. During the last year, the Subcommittee on International Economic Policy and Trade of the Foreign Affairs Committee has conducted hearings and reviewed extensively the question of U.S. participation in international efforts to develop a marketing code for infant formula. Presently, the committee has underway further oversight on repercussions of the U.S. vote against the code at the recent World Health Assembly in Geneva.

House Joint Resolution 287 before us now is a simple statement of disappointment at the U.S. position on the code—we were the only country at that meeting to oppose the voluntary code on the marketing of infant formula. There are times when it is important to stand alone on principle, and I do not argue that the U.S. position is incorrect because it was the only "no" vote. It is wrong to stand alone when the bottom line of the issue involved is a basic health question. Very simply, we know that babies who are fed mother's milk have fewer diseases and lower mortality rates, particularly in developing countries, than infants who receive formula. We should be doing our best to encourage this simple, inexpensive, preventive health measure.

Much concern has been expressed about legal issues which the code raises. Since the code is voluntary, it does not require the United States or any other country to incorporate it completely into its legal system. Implementation in this case means, in my view, which, I might add, the Justice Department has agreed with, that the U.S. review the code to determine those provisions which apply to our health needs and legal framework. We should stand ready to cooperate with other nations in the same process. The infant formula industry in this country already voluntarily cooperates with many of the central provisions of the code. We should encourage them to follow the same responsible attitude in their exports and operations in other countries.

The United States has been a leader in issues of public health in this country and in its support for improved health conditions around the world. The resolution before us gives the Congress an opportunity to indicate that the United States has not changed its commitment to improved health measures for children of all countries. I urge an aye vote for this resolution.

Mr. BROOMFIELD. Mr. Speaker, I yield myself 2 minutes.

While I have serious reservations about the U.S. opposition to the World Health Organization's infant formula draft code, I see no reason for Congress to rush to judgment on this important matter today.

In my view, this matter deserves a full airing by the appropriate committees of Congress before it comes before the full House.

That has not been done. Two subcommittees of the House Foreign Affairs Committee are holding hearings on this very subject this afternoon.

Among the issues being considered by the subcommittees are whether or not constitutional issues have been raised by the World Health Organization action. The distinguished former Senator Sam Ervin, a noted authority on the Constitution, will testify today on this aspect of the matter.

Mr. Speaker, the World Health Organization has already acted. Why should not we consider all of the facts carefully before we act?

Senator Ervin recently expressed his concern about the impact of the code on our first amendment rights in testimony before a Senate subcommittee. I submit his remarks, as reprinted in the Washington Star, on May 13, for consideration of the Members along with the statement of the U.S. Ambassador Gerald Helman to the World Health Organization on May 20.

[From the Washington Star, May 13, 1981]

A TOTALITARIAN GRAB FOR BABY'S BOTTLE

(By Sam J. Ervin, Jr.)

The debate over the World Health Organization's proposed international code to regulate the marketing of infant food products has so far centered on whether it is healthier for mothers to breastfeed their babies or to use infant formulas. But the draft code involves much more than health policy and much more than infant formula.

The United States should strongly oppose the WHO's Draft International Code of Marketing Breastmilk Substitutes when it comes up for a vote before the World Health Assembly of the United Nations in Geneva later this month.

The draft code is a totalitarian document. It would undermine the basic American values of free speech, free press and free competition in the marketplace. It is designed to prevent the supposedly "evil" multinational companies from selling infant formula to mothers in developing countries. But, as we have learned time and again in this country, regulations of this sort often become more of a problem than the "evil" they were designed to correct.

Years of experience in government have taught me that you can't legislate away evil—even if you are a worldwide United Nations agency. But you can eliminate basic freedoms to which we in America have become accustomed, and this is particularly fearsome if it is carried out by an international agency.

DANGEROUS PRECEDENT

I would like to make clear that I am not necessarily in favor of use of infant formula as a substitute for breastfeeding. Rather, the issue of concern to me is that this code, if adopted, will establish a dangerous precedent of worldwide control over the advertis-

ing, labeling, and marketing of infant products.

This document is so broad that it attempts to regulate the marketing of virtually all products consumed by infants and young children. It covers, among other things, all baby foods, including pureed meats, vegetables, and fruits; all milk products, ranging from fresh whole milk to condensed or nonfat dry milk; strained fruit juices; cereals; teething cookies; breads; cheese; vitamins; and numerous prepared foods.

A brief discussion of the background of this matter is in order. Beginning in the early 1970s the United Nations agencies, including the WHO, medical and scientific groups and others, became disturbed by a decline of breastfeeding in developing nations. One thought put forth at the time was that the decline was attributable to the promotion and marketing of bottle-feeding.

The concern developed into an effort to fashion one law to govern the marketing of infant formula in all those sovereign and diverse nations which are members of the WHO, including the United States.

By submitting the draft code to the World Health Assembly for approval, WHO is seeking to dictate to members of the United Nations a uniform law governing the marketing and the use of a broad range of infant foods and related articles within their borders. American companies operate in these nations.

By scrutinizing with care the draft code, it's plain to see that its approval by the World Health Assembly will have a highly inimical impact upon the interests of American industry and international trade with respect to the products within the scope of the code. Besides, it is not well designed to promote the value of infant health and nutrition that it was professedly formulated to protect.

The draft code regulates with complete, drastic, and totalitarian precision every aspect of the marketing, distributing and using of infant products in foreign nations subject to it, and defines with equal precision every permissible activity of every person involved in any way in such transactions.

By so doing, the draft code virtually outlaws the exercise of discretion by anyone, and makes it impossible for American companies to operate in nations subject to it under agreements negotiated by federal agencies or themselves.

Hence, it frustrates the constitutional power of Congress to regulate the foreign commerce of American companies in the products within its scope.

Consideration of space and time preclude an enumeration of all the code's prohibitions. A few of these provisions expressly forbid all manufacturers and distributors operating in a nation subject to the Code to engage in any of these activities in seeking to market any product or articles within the scope of the Code:

(1) To advertise to the general public or otherwise to promote the sale or use of any such product or article.

(2) To place on labels of such products or articles any information, even pictures of children, other than that specified by the Code.

(3) To demonstrate how such products or articles are to be used in feeding infants and young children.

(4) To donate information, products and articles to health care systems and institutions unless they are requested to do so by the government for that purpose. And even in such instances, the things donated can be used outside such institutions only if they are distributed by them.

(5) To seek any direct or indirect contacts of any kind for business purposes with pregnant women or mothers of infants and young children.

(6) To distribute to pregnant women or the mothers of infants and young children any gifts or articles or utensils which may promote the use of infant products.

(7) To provide, directly or indirectly, to pregnant women, mothers or members of their families, samples of products within the scope of the code.

(8) To pay an employee any bonus based upon the marketing of any product or article within the scope of the code.

UNITED STATES SHOULD VOTE NO

The representatives of the United States in the forthcoming meeting of the World Health Organization ought to urge that body to reject the code. American taxpayers ought not to be compelled to finance in any measure WHO's efforts to impose this totalitarian code on the people of other nations. This country now provides 25 percent of WHO's funding. This international regulatory effort by WHO was ill-conceived; its end result is antithetical to American ideals and interests.

As a model for national legislation, the draft code is quite less than satisfactory.

As a possible stalking-horse for the establishment of an expansive international regulatory effort by WHO, it is dangerous.

U.S. STATEMENT ON WHO INFANT FORMULA CODE

(By Ambassador Gerald Helman, May 20, 1981—Geneva)

The United States has carefully considered the proposed draft International Code of Marketing of Breastmilk Substitutes. We sympathize with many of the views set forth in the course of the discussion on problems of infant nutrition. My Government is deeply concerned about maternal and infant health, and is supporting an extensive program in this field in our country and throughout the world. We are particularly concerned about infant malnutrition and infection associated with inadequate and improper feeding practices. We strongly endorse the work being done by the WHO across the broad front of problems associated with infant and young child nutrition, as reported by the Director General under Agenda Item 23.1. Indeed, the U.S. is committed to improving infant and child health around the world. Our own bilateral assistance programs encompassing education, training and dissemination of information in the promotion of breastfeeding and the improvement of infant and maternal nutrition attest to this commitment.

We recognize that one of the important aims of the Code of Conduct just adopted is to encourage breastfeeding. Further, we recognize the right of a government to ban or regulate the marketing of harmful products and substances, and we recognize in our laws the responsibility of manufacturers to adhere to honest and ethical standards in the marketing of their products. It is our conclusion, however, that the United States cannot support the Code before us.

In determining the position of the U.S. on this issue, we have had to balance what we see as the positive and negative factors involved. On the one hand, we strongly support efforts to promote and protect breastfeeding as the ideal form of infant nutrition, and we strongly support the work of the WHO and Director General Mahler in fostering improved health for all the people of the world. I think the interests of the United States Government in WHO and its continued support for WHO over the years are well known to every delegation here.

On the other hand, the apparent flexibility provided to Governments by paragraph 11.1 in our view does not overcome its overall effect of prescribing a rigid set of rules applicable to companies, health workers, and health care systems in all parts of the world. The Code also contains provisions that cause serious legal and constitutional problems for the United States.

Moreover, we have serious concerns about WHO's involvement in commercial codes and this is a central basis for our inability to support this Code.

In weighing that balance and taking into account all these considerations, the U.S. has determined that it must cast a negative vote.

Mr. Speaker, at this time I yield 5 minutes to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I rise in opposition to this resolution, especially at this time when there will be a hearing on this very subject this very afternoon.

The premises on which it is based are wrong.

I submit, the purpose of the resolution is to embarrass this administration, not to improve the health of babies.

The resolution calls for support for a code that violates the principles of freedom of speech, freedom of the press and could preempt the right of the U.S. Congress to regulate foreign commerce of American companies.

There is no scientific evidence directly linking the decline of breastfeeding with promotion of infant formula.

A study was conducted by the World Health Organization conducted from 1975-77. That study involved interviews of nearly 23,000 mothers in nine countries asking why those mothers did not breast-feed or stopped breastfeeding? The responses were because of insufficient milk, maternal illness, infant illness or a new pregnancy. Not once was any commercial factor mentioned. Also there is no factual basis for the statement that 10 million babies die each year and that 1 million deaths can be attributed to infant formula.

Dr. Derrick Jelliffe is often quoted as saying "10 million babies are dying in the Third World," yet in Newsweek on October 22, 1979, he is reported to have acknowledged that—

The number is a "symbolic figure" that he customarily uses to underline what a huge problem malnutrition and disease represents.

In the United States where infant formula is most readily available, breast-feeding has increased from 25

percent of all mothers to 50 percent of all mothers.

In the Soviet Union, Hungary, and Cuba, where no commercial advertising at all is permitted, breast-feeding is declining. In Algeria, where the Government controls all distribution of infant formula, the Government is increasing its purchase of infant formula in spite of its efforts to control its use.

Critics argue that infant formula causes death and malnutrition in babies. They fail to acknowledge that for millions of women who do not breast-feed or cannot breast-feed, infant formula is the next best nutriment. It certainly should be favored over the usual third world choices of sugar and water, flour and water, rice water, or fermented corn mash. The critics also fail to mention that the same polluted water they complain gets mixed with infant formula is also used with the traditional native weaning foods.

Infant health is such an emotional issue that it seems no amount of logic is going to persuade people that the world health code is a bad thing if it improves the health of babies. But there is no evidence that it will. Even if the code were strictly enforced by every nation in the world, there would still be poverty, pollution, poor sanitation, and illiteracy. Those are the real threats to infant health.

But leaving aside the debate on health, the constitutional arguments against U.S. support for the code are legitimate. Former Senator Sam Ervin, who is not known as a champion of Republican causes, says the code is—

> A totalitarian document, it would undermine the basic American values of free speech, free press and free competition in the marketplace.

The code is another example of an international effort to politicize issues that are social, cultural, or economic. It fits the pattern followed by UNESCO in drafting a treaty which would license journalists in order to establish generally accepted standards for their performance. This WHO code is another attempt to prevent the free flow of information, and its acceptance by the United States would mark a dangerous precedent. To propose, as this resolution before us today does, that we "will work to implement the code" is irresponsible and against the principles of freedom that we stand for. The potential for extending such universal regulation to every aspect of our lives is unlimited.

The United States made the correct constitutional choice in voting against the code, and I urge my colleagues to make the same choice and vote against this resolution.

□ 1300

Mr. ZABLOCKI. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Speaker, I rise in strong support of the resolution. I do not think an issue of this kind is one which should be debated on narrow, rigid lines or on technicalities or legalities. The issue is very simple, having to do with the merits of breast feeding and the health of a lot of people all over the world. There certainly cannot be any argument about this simple principle.

The code which the resolution before us discusses is strictly a recommendation, a guideline that is sensible and reasonable, and does not restrict any nation from doing anything. We as a nation have to go on record in the way that this resolution says that we should to express our continuing concern about improved public health for all. This is not as something new, as the chairman has pointed out, because we have expressed these concerns time and time again in other legislation.

The resolution before us reaffirms the dedication of the United States to protect the lives of all the world's children, and urges the administration and the U.S. infant formula industry to implement the principles of the code which 118 other countries have approved.

I think it is time for the American people to say that we believe that what is setout in this resolution is sensible and sound. This resolution should be adopted.

Mr. BROOMFIELD. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Speaker, I rise in support of the resolution, House Joint Resolution 287, of which I am a cosponsor.

The U.S. decision to cast the lone dissenting vote against the World Health Organization's international code for the marketing of infant formula is truly regrettable. This is especially true since the code aims at protecting the lives of millions of the world's children and was, therefore, supported by most of our closest European allies.

As we have heard from other speakers, breast feeding offers substantial advantages for infant health and growth over formula substitutes, especially in developing countries where infant formula is often mixed with contaminated water or prepared in unsanitary conditions. According to a UNICEF report, in many developing countries the interaction of malnutrition with increased disease results in an infant mortality rate of two to seven times higher for bottle-fed babies than breast-fed babies.

It is, therefore, unfortunate that on a leading international health issue which affects the health of millions of children in poor countries the United States set aside the health considerations and arrived at its decision to vote against the code on legalistic grounds.

The administration has argued that it voted against the code because it infringed upon the rights of commercial free speech, might restrain trade, and, thus, would not be adopted in the United States. In fact Government restriction of commercial activities, for the sake of the public interest, is an accepted practice in the United States and in the rest of the world.

The World Health Organization's code is a voluntary nonbinding set of guidelines which states in article II that—

> Governments should give effect to its principles as appropriate to their social and legislative frameworks.

In fact, the World Health Organization made the code voluntary in response to a U.S. request and promise, at one point in the negotiations, that we would not oppose its adoption.

To argue that the United States should not have voted for the code because it was inconsistent with U.S. law is not defensible. The code as clearly meant to operate primarily in the developing world and this is the thrust of the resolution before us.

As you will note, the resolution urges the U.S. infant formula industry to abide by the code, particularly with respect to exports to developing countries, and encourages the United States to cooperate with other nations in dealing with the problems of infant nutrition around the world. The resolution also reaffirms what has always been a fundamental American commitment to protect the lives of children and improve world health.

This then is the core of the issue. The World Health Organization's code deals with health, the health of children in the world's poorest countries. These children face tremendous obstacles on the pathway to adulthood. They deserve all the protection that the international community is able to provide.

Mr. ZABLOCKI. Mr. Speaker, I yield 1 minute of the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I rise in unequivocal support of this resolution. The issue facing this House is very simple. Are we going to stand silent and allow the administration to tell the rest of the world that the American people care more about the profits of multinational corporations than the lives of millions of infants? Or should we restore some sense of credibility that this Nation and administration lost in the World Health Organization with its recent vote? We were the only country in the world to oppose this advisory code. I think it is ludicrous to imply that our Constitution somehow

is inconsistent with the rights of millions of children; that to save or protect their lives somehow violates our Constitution; that in protecting our rights, we cannot protect these infants.

The issue presented to the Reagan administration and to this Congress is not whether infant formula products are safe if used in appropriate settings. The issue addressed by the World Health Organization's code which the Reagan administration refuses to address, is whether the sophisticated advertising and marketing techiques used in this country are appropriate for use in less developed nations. The decision made by the Reagan administration illustrates either a lack of understanding at the highest levels of the administration of the public health problems facing developing nations, or it demonstrates a relatively greater concern for the profits of multinational corporations than for the health of millions of infants throughout the world. This resolution provides Congress with the opportunity to take an affirmative stance for the health of infants throughout the world.

The code is a series of recommended actions which countries may adopt to alleviate the massive public health problems that result from improper marketing and improper use of infant formulas. As an example, the code recommends that countries prohibit sales representatives who are dressed in uniforms similar to those worn by nurses, from peddling infant formula products in maternity wards. For the United States to vote against an advisory code which seeks to protect new mothers from aggressive sales and marketing techniques is indefensible.

The simple fact remains that for millions of mothers the lack of sanitary conditions, misunderstanding of the preparation instructions, illiteracy, contaminated water, or the high price of the product precludes any possibility that this product can be used safely. However, a mother in developing countries is just like a mother anywhere else in the world. When she is told by people who she thinks are nurses or by sophisticated advertising techniques that infant formula is what her baby needs, she will use this product because she wants the best for her child and because she is not aware of the dangers.

It is outrageous that this administration would place the United States on record in opposition to efforts which will reduce the incidents of infant malnutrition. The administration opposes this code on the grounds that it restrains free access of information through advertising. This is a phoney issue. The fact is, the code is advisory and it urges countries to adopt the parts of the code "as appropriate to their social and legislative framework." The code provides possible actions for those countries which believe that the misuse of infant formula is a significant public health problem. Indeed the United States has acted in a similar manner in those areas where we have a significant health program in our Nation. We prohibit advertising of distilled alcohol and tobacco products on television because we believe the misuse of these products to be harmful. It is a hypocritical position to restrict advertising in this country, but oppose the advisory code on the grounds that it may lead to restraints of advertising in other countries. We should encourage countries to take the steps necessary to promote the health of infants.

Finally, passage of this resolution will help to restore the credibility of this Nation in the world health community. Beyond the isolation which accompanies our lone vote against the code, our negotiators acted in bad faith. Several concessions were made because of our concerns in return for our support. Even though the changes we requested were made, we still voted against the code. Our singular vote has broken a long standing historical record of unanimous nonpolitical decisions of the WHA.

It is regrettable that Congress is forced to express its dismay of the actions of this administration. However, I am firmly convinced that the American people would be outraged if they knew how much human suffering is caused by the misuse of infant formula, and there is substantial misuse—if they had any idea of the unethical and hard-selling tactics that promote such misuse.

As Members of Congress, we have the responsibility to accurately represent the views of the vast majority of the people we represent. I believe this resolution accurately reflects true American principles, and I urge my colleagues to vote for its support.

Mr. BROOMFIELD. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I rise in support of House Joint Resolution 287, legislation in support of the implementation of the World Health Organization voluntary code on the marketing of infant formula. I commend the distinguished chairman of the Committee on Foreign Affairs—of which I am a member—the gentleman from Wisconsin (Mr. ZABLOCKI), for taking the initiative on this critical issue.

The World Health Organization code on the marketing of breast milk substitutes was approved by that organization on May 21, 1981.

The code was developed principally in response to the improper use of breast milk substitutes in developing countries. When mixed with contaminated water, and overly diluted, so as to stretch out meager supplies, infant formula poses a severe and widely recognized health hazard. Under such conditions, higher rates of infant disease and death are unavoidable.

The United States was the only nation to oppose adoption of this code, doing so primarily because its delegation to the World Health Organzation meeting claimed that the code would interfere with the legitimate marketing of infant formula, and that such marketing alone was not responsible for the increased use of infant formula in developing nations.

Mr. Speaker, as drafted, the code is not a regulation, but instead recommends action to be taken to help assure that infant formula is not used improperly. Over 90 of our colleagues joined the gentleman from Iowa (Mr. HARKIN) and I in cosponsoring a resolution introduced before the vote urging that the U.S. delegation support the code. Today we are urging that the United States record its support for the code, and that the U.S. infant formula industry abide by the code's guidelines. No less than the lives of millions of the world's infants are at stake.

Accordingly, along with the distinguished chairman of the House Foreign Affairs Committee, I urge my colleagues to suspend the rules and pass this important measure.

Mr. ZABLOCKI. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. I thank the chairman for yielding me this time.

I want to salute him for his leadership on this issue.

Mr. Speaker, I rise in support of House Joint Resolution 287. The House today has an opportunity to reaffirm the U.S. commitment to infant health by offering our cooperation to nations seeking to implement the WHO's code of marketing of breast milk substitutes and by urging U.S. manufacturers of infant formula to comply with the code, at least in those areas where it is badly needed.

The Subcommittee on International Economic Policy and Trade, which I have the honor to chair, held oversight hearings in 1980 on the progress of the WHO and UNICEF in formulating an international solution to the problem of aggressive infant formula marketing in the less developed world where conditions of poverty and illiteracy make correct use of the product difficult, if not impossible. Testimony at those hearings indicated that at least 33 companies around the world market infant formula in developing countries, and that both in terms of the protection of infant health and of assuring fair competition among the companies, an international code applicable to all manufacturers was desirable.

The WHO went ahead to develop a code of marketing practices after extensive consultations with scientists, governments, industries, and other interest groups.

In my view, the U.S. vote against the code was ill-advised, to say the least, and enables our antagonists in the world to picture the United States as more interested in corporate profits than the health of millions of infants. It is important today that we reaffirm our commitment to improve the health and nutrition of all the world's children, and we can do so by expressing our willingness to help other nations to implement the code and by urging U.S. manufacturers to comply with it, at least in areas where the health of infants is threatened by the improper use of infant formula.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. LEACH).

Mr. LEACH of Iowa. Mr. Speaker, much has been said about the merits of the U.S. position on infant formula. I have concluded, as have many of my colleagues in the House, that nothing could be more unfortunate than for our country to have come out against "motherhood" in Third World countries and for what many perceive—rightly or wrongly—to be nothing less than child killing, all for the sake we are told, of Madison Avenue free speech and greater corporate profits.

It would be my hope this afternoon that not only will the merits of the issue be probed carefully, but so will the critical decisionmaking process itself. How the final decision, placing the new administration in such an insensitive position, was determined needs to be carefully examined to insure that when issues of humanitarian and strategic importance to the United States arise in the future, such as in the Law of the Sea negotiations, national rather than corporate interests are given primary consideration.

It is an unfortunate fact that with nearly every administration there emerge "revolving door" scandals, involving individuals who because of previous jobs or source of financial support ought not to be candidates for certain public offices and individuals who because of decisions made while in office should not accept certain positions in the private sector after leaving government.

We have laws on the books to prevent such conflicts-of-interest. But there are nevertheless those gray areas where the spirit of the law, rather than the letter, must dictate conduct.

As government has grown larger and intruded more deeply into private affairs, the prosperity of industry has become more dependent on governmental decisions. The distinction, thus, between public duty and private gain has become increasingly blurred. Examples are abundant. A former Secretary of Agriculture failed to pay income taxes on speaking fees generated because of his former Government position. A former President sold a debt-ridden peanut warehouse to a company which munificently benefited from an exception to his administration's tariff policy that he himself authorized shortly before leaving office. And, in the infant formula case before us today, the individual nominated to be Assistant Secretary of State for Human Rights advanced within the new administration the interests of an industry that helped pay his wages in the private sector.

It is always tragic when an administration is tainted by scandal, particularly when an administration, like this one, is so committed to giving new direction and vigor to the Nation. But when decisions must be made on issues as important as infant formula marketing codes, there must be no compromise on issues of character and conflict of interest.

Nor should there be any compromise on professional health standards. The World Health Organization, of which the United States is a member, has a long tradition of being one of the least politicized international institutions. In fact, a proposal at a 1978 Senate hearing was the impetus for bringing the issue of infant formula before the World Health Organization, recognizing the health and medical expertise represented there, was particularly well suited to dealing with the problem.

In the United States itself, the American Public Health Association has expressed firm support for the WHO infant formula marketing code, and eminent health experts publicly decried the decision to oppose the code. Dr. George Silver, professor of public health at Yale University School of Medicine, stated, "There can be no debate about the lethal consequences of unrestricted use of these preparations in the impoverished developing world."

Our top health official at AID resigned in a protest of conscience when the United States refused even to abstain, noting—

> The United States has rightfully earned a high degree of credibility in the World Health Organization. We have been in the forefront in the fight against disease—by the quality of our science and ingenuity, and by the extent and preseverance of our commitment to the goals of world health. * * * We are now about to throw away that credibility and to isolate ourselves* * *"

On June 2, 1981, an open letter was sent to Secretary Haig from five eminent United States health scientists from Columbia University, Johns Hopkins, Cornell, Berkeley, and UCLA, expressing deep disappointment over the U.S. vote and shock at being told that the administration, in defending its vote, is now suggesting that scientific evidence is lacking to relate inappropriate bottle feeding with high levels of infant morbidity and mortality. They warned: "Your Department should not be a party to the dissemination of information that goes against scientific evidence."

Tragically it would appear that professional health expertise in the United States was not a vital ingredient in the decisionmaking process on the U.S. vote on the WHO code.

But blunders do not seem to be limited to the conflicts of interest of an administration nominee and the callous disregard of professional health counsel. Reliable reports on internal decisionmaking within the administration suggest that professional diplomatic and foreign affairs experience was cast aside as well. For the past 3 years, the United States has been intimately involved with other WHO member governments, U.S. agencies, industries and its critics, and professional groups in the international decisionmaking process on developing an international code for formula marketing. The U.S. Government has previously supported World Health Assembly resolutions on breast feeding, infant nutrition, and the concept of an international code.

Similar dialog was vigorously conducted within the United States among various Federal agencies, the formula industry, health and nutrition professionals, and private sector critics. All of these preparations drew to a close this spring as the United States approached the 34th World Health Assembly. A final round of agency discussions and consultations led to the conclusion that if a concensus on a "yes" vote was impossible within the new administration, then at least concensus could be reached on an abstention. A decision reached by top ranking State, HHS, and AID officials concluded that an abstention would be made provided two further moderating concessions could be secured from the WHO.

Again, reliable sources report that the U.S. delegation to Geneva, headed by Assistant Secretary Elliott Abrams, was instructed by telegram to obtain the two desired concessions on the premise that the United States would then be in a position to drop its opposition to the code. Unfortunately, after these negotiations commenced and despite their success, the U.S. delegation in Geneva was instructed directly by the White House to end further U.S. negotiations and to vote "no" on the code.

Thus, it is clear that the administration, in the decisionmaking process on infant formula policy, compromised itself on all accounts. It compromised on personal standards of Government ethics and conflicts of interest. It compromised itself on health expertise on

which sound health policy decisions must be based. And it compromised itself on the diplomatic front by exposing itself to charges of bad faith negotiations after years of openly supportive and cooperative efforts with the WHO. This decision can only bode ill for future U.S. national interests in international negotiations.

All administrations take time to establish decisionmaking processes with which a new President can feel comfortable. I would hope that the infant formula issue would become a case study in decisionmaking, to ascertain whether refinements in the recently established process are in order.

I am particularly concerned that the White House political staff reportedly overrode professional advice from the health and international affairs institutions of our Government. An important question the administration should carefully consider is who key decisionmaking for important international issues should be, in terms both of their relevant personal experience as well as their institutional assignments.

In this regard, I was deeply disappointed this week to receive from the State Department a policy assessment that concluded:

The decision to vote against the International Code was a consensus decision reached at the highest levels of the White House policy staff, the Departments of State and HHS, and the U.S. Mission to the U.N.

This conclusion would appear to be either mischievously misleading or sheer fabrication. The White House staff clearly went against the consensus reached within the departments where health and diplomatic expertise are posited. To paint another picture simply does not fit the frame.

The American people voted last November for a new realism in foreign policy, but nothing would be more disappointing than for important strategic concerns to be jeopardized by a narrow philosophical bias on humanitarian issues of this nature.

Mr. Speaker, I urge adoption of this resolution as the least our Government can do to correct an unfortunate and deeply consequential mistake.

Mr. ZABLOCKI. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, I hate to say this, but ever since I got here, I have been waiting for a motherhood issue. This is it. I can not imagine any mother voting any way but for the resolution. I was very, very, very surprised by the administration's action on infant formula. I commend the committee for reporting this resolution because I think it is very important that the legislative body go on record as saying to the world that we think the administration made a mistake.

I think it will send a special signal to the world right now because this body is tending to want to act like the administration's rowing team on every issue and if we are willing to stand up and say on this issue we think they made a mistake, we have the courage to say it. I believe in free speech, but I think the free speech of our Government's health professionals should certainly be listened to and honored as much as the right of free speech for multinationals. Once the multinationals get a woman to buy their formula it is only a matter of days before she has to buy formula, for her milk dries up. She has no other choice then and this is not a normal consumer situation. I think a "yes" vote is the only way we can help erase the black eye we got in the international community and show that not everyone in America is against motherhood.

Mr. BROOMFIELD. Mr. Speaker, I yield 1 minute to the ranking minority member of the Committee on the Judiciary, the gentleman from Illinois (Mr. MCCLORY).

Mr. MCCLORY. First of all, Mr. Speaker, I would like to point out that there have been no committee hearings. There has been no report from any committee to this House. We are not acting on legislation which has been reported by a House committee. What we are doing here is to take up a bill under suspension on which I understand there are pending committee hearings, or subcommittee hearings which have not yet been held or completed.

Mr. Speaker, it seems to me also that what we are doing here is castigating an industry which has contributed substantially to the health and welfare of infants and persons of all ages here and around the world. For us to suggest that we are now going to subject ourselves, our Nation, and the so-called multinationals to control by the World Health Organization—which I think should be dedicating and devoting a lot more of its time to the subject of treating polluted water than suggesting that a clean and sterile manufactured product when mixed with the polluted water that is provided is causing death or injury to infants—is unthinkable.

It is my understanding that those who market these infant formula products support breast feeding as the best method for nourishing infants.

Mr. Speaker, many emotional words have been uttered regarding the recent resolution adopted by the World Health Organization seeking to censor or banish certain advertising of American companies and those of other nations which manufacture and market infant formula products.

An editorial in the Chicago Tribune of Tuesday, May 20, 1981, puts the WHO code in reasoned perspective and articulates a philosophy which is basic to our political and economic systems which some would sacrifice in bowing to the vindictiveness of some Third World leaders.

Mr. Speaker, the Tribune editorial speaks for itself and is as follows:

[From the Chicago Tribune, May 20, 1981]

THE POLITICS OF BREAST-FEEDING

It is inevitable that the United States will be tarred as a sort of heartless Uncle Son of Sam killer of Third World babies for its vote against the adoption by the World Health Organization of a code to ban promotion of infant formulas.

The American delegation stood alone in opposing the code, except for Chad and Bangladesh, whose delegates later explained their vote was a protest against curtailing debate on the bitter issue.

But it is not just a matter of the U.S. callously supporting exploitive multinational formula manufacturers who want to push an expensive product on poor Third World mothers whose babies die because they lack the sanitation, clean water, and money to use formula safely and in adequate amounts, as supporters of the WHO code protest. There are some good reasons for the unpopular American stand.

The code, which is voluntary but which WHO wants all nations to incorporate into their laws and regulations, sharply curtails the way baby formula can be advertised and marketed. For example, it would prohibit health care workers from telling women about using formula except when medically necessary. Such restrictions on business and free speech are not acceptable in the United States, especially when the product involved is safely and widely used here. The U.S. is right to vote against a code it would not incorporate into American law—and right to oppose this initial adventure into the regulation of international marketing of products.

The hundreds of protest groups which have urged boycotting the baby formula manufacturers over this issue say from 1 to 10 million babies a year die because the companies persuade mothers to abandon breast-feeding. But the statistics are unsubstantiated. And they ignore the fact that infant morbidity and mortality are high in Third World countries. They are high because breast-feeding by malnourished mothers may be inadequate, because sanitation is poor, and because mothers are often forced to use such locally-available milk-substitutes as rice gruel. Rather than restrict the availability and knowledge of commercial formulas, WHO might do better by finding ways to make such products safely and affordably available to mothers whose infants they could help.

It's surprising that women's groups have not protested against the WHO code. In one light, it can be seen as an attempt by a mostly male organization to dictate to women on an international scale how they must use their bodies—by restricting asccess to information that would permit them to make their own choices and in effect by limiting their ability to hold jobs until their babies are weaned. Many American women would be furious if the U.S. passed a law saying no one could tell them about baby formula or how to get it or how to use it unless a doctor (most of whom are male) decided it was medically necessary. Yet this is what the WHO code prescribes.

Breast-feeding is best for babies. The WHO code affirms it. Formula makers concur. In a voluntary agreement worked

out with WHO in 1979, the companies pledged to end objectionable sales promotion to consumers; while there have been some violations of the accord, it remains preferable to the new, much more restrictive code. Gerald B. Helman, who represents the U.S., emphasized after the WHO vote that the Reagan administration endorses "efforts to promote and protect breast-feeding as the ideal form of infant nutrition." But women are entitled to an informed choice in the matter, which the WHO code will not give them.

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Mr. ZABLOCKI. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. Mr. Speaker, I want to commend the chairman and the Members of the Congress who sponsored this resolution. I think this is very, very important to signal to the world that we oppose the vote of the administration on this issue.

Mr. Speaker, last year as one of two Members of Congress appointed to the U.N. Decade for Women, I became acutely aware of the tremendous need for proper conditions related to nutrition and health care for the world community. The needs of many countries is not the same as our own in all areas. We must have the humility and concern not always to impose our view. That is why the recent vote in the World Health Assembly on the infant formula code sent a clear signal to the international community that the United States appears to value the right of free marketing over the right to life. As the elected representatives of the people, the Congress has the duty to oppose this policy of our Government vigorously and to reflect the views of the majority of Americans.

Millions of children suffer and die each year from the effects of bottle feeding in cultures where the proper conditions for the use of infant formulas cannot be guaranteed. Aggressive advertising and promotion by formula manufacturers has been a major cause of these casualties and of the decline of breast feeding in developing countries.

In the past few years a consensus has emerged among nearly all sectors of the international community. The WHO/UNICEF code represents the best efforts of the international community to translate this consensus into humanitarian policies. Our voices should be heard in support of children everywhere.

Mr. ZABLOCKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Speaker, I rise in strong support of House Joint Resolution 287, urging compliance with the World Health Organization's infant formula code. I do so out of concern for our Nation's longstanding commitment to alleviating world hunger, disease, and malnutrition.

The underlying issue can be presented in stark terms: Whether corporate profits should prevail over the health of the newly born. By siding with the formula manufacturers, the administration has denigrated the humanitarian values that underpin America's international reputation.

Since 1974, the WHO has been consulting health professionals, public interest groups, and national governments, as well as the formula industry itself, on the development of a universally recognized infant formula code. As approved May 22, 1981, by a 118-to-1 vote, the code reflects an international consensus that the widespread use of infant formulas has increased infant malnutrition, disease, and premature death throughout the developing world.

Despite contrary claims by administration officials, the evidence against infant formulas is unassailable. The WHO now estimates over 10 million cases of illness due to unhealthy formula use. These problems can generally be overcome in developed societies, which benefit from a high standard of sanitation, health care, and education. In less developed countries, however, there is widespread danger that formula powder will be mixed with contaminated water or used in unsterilized bottles. It should be emphasized that natural alternatives to mother's milk exist. The United Nations Consultative Group on Maternal and Child Feeding, for example, recommends breast feeding from another source, fresh animal milk or other locally produced foods.

This point should be underscored: no one, not even the formula companies themselves, denies that breast milk is best for providing balanced nutrition and natural immunities from infant disease. Undaunted, the formula industry has persisted in what can only be described as unscrupulous marketing practices. Once a mother has stopped breast feeding, her body will stop producing milk within a short period. Having started with formula milk, she cannot stop if she then becomes dissatisfied with the quality of the formula substitute. Formula companies therefore seek to trap the mother shortly after birth. They accomplish this by handing out free samples when the mother leaves the hospital; having women in nurse-like clothing peddle door to door; advertising that depicts healthy well-nourished babies in communities desperate for a higher standard of living; and promotional gifts to health workers and medical institutions.

The code urges governmental restriction of these marketing practices, but does not itself try to ban the sale or export of the infant formula. Rather it sanctions national legislation to curb the marketing abuses, much like the United States has done in banning TV ads promoting cigarettes.

Industry officials have protested loudly to the administration. They object specifically to the code's prohibition on point-of-sale advertising, promotional sampling, misleading medical information, and discount pricing. Given what has become a highly competitive $2 billion per year business, the degree of industry pressure is not surprising. Moreover, as European and North American mothers revert to breast feeding, the competition for substitute markets in developing regions will surely increase.

Administration officials explain the U.S. posture by arguing that the code will establish a precedent for the international control of commerce. They also claim that the code raises constitutional problems under U.S. law. Both charges are false. In 1978, Congress itself enacted legislation to control the quality of infant formula sold in the United States. Further, the code is advisory only and thus represents no threat to our national sovereignty. In no sense will it have the binding force of a treaty or executive agreement. The Justice Department itself reached this conclusion in a recent letter to the Department of Health and Human Services, in which it stated that the code presents no constitutional or statutory difficulties.

For me, compliance with the code would help restore a sense of humanity to our Nation's foreign policy. It is offensive that the United States is a minority of one on this issue, and I urge my colleagues to adopt the resolution before us.

Mr. ZABLOCKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. WALGREN).

Mr. WALGREN. Mr. Speaker, I strongly support the resolution before us, House Joint Resolution 287, expressing Congress support for the World Health Organization's voluntary code on the marketing of infant formula. We all should be dismayed and saddened that the United States cast the only vote in opposition to this voluntary code in the World Health Organization on May 21.

The scientific evidence that breast feeding has critical health advantages over formula feeding in large parts of the world in overwhelming. In many developing countries adequate sanitary conditions do not exist to make the use of formula healthy. It is difficult to sterilize bottles; and many mothers, driven by the necessity of poverty, dilute formula with water, often contaminated water. Dilution of infant formula is a widespread cause of malnutrition; contaminated formula is a common cause of infant diar-

rhea. And diarrhea is the leading cause of infant mortality in many developing countries.

I believe that the World Health Organization marketing code would have gone a long way toward helping parents make an informed decision about whether to breast feed or bottle feed. Parents should not make this important decision on the basis of corporate hard-sell messages or free samples from manufacturers. The code would not be binding, it would lead the way toward responsible merchandising.

America's vote against the code is a big step backward for a nation that has had a long-standing humanitarian tradition and has tried to promote health and nutrition worldwide. In the eyes of other countries, our Nation has put corporate profits ahead of the health of children. The Reagan administration's position has eroded respect and trust of the United States, particularly that of the 118 countries who voted for the code.

Mr. ZABLOCKI. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR of Michigan. Mr. Speaker, on May 21, when the final vote came, 118 nations supported the World Health Organization's code on infant milk formulas. No nation joined the United States in opposing the code.

It was not for want of trying that the United States stood alone.

In March, a telegram was sent out over Secretary of State Haig's name instructing our Embassies to determine the available support for a U.S position opposing the code.

On May 19, our State Department proudly announced that four additional countries—Argentina, Chile, Guatemala, and El Salvador—would join the United States in opposing the code.

On May 20, on the first vote, in the committee of the whole, 9 countries abstained, and 45 missed the vote.

Procedural moves to advance the vote and end debate forced two additional countries, despite their support for the code, to vote no.

It clearly appeared that the dike had been breached. The abstentions might turn to no votes, and where nine could be found clearly there might be more.

It appeared that a major campaign had turned a world consensus for progress into chaos.

When the final vote came on May 21, the codes triumphed; the 118 yes votes were cast. The fact that the United States stood alone in its opposition, marked a triumph not only for millions of children, but for international organizations as well. It marked their ability to stand firm.

Mr. Speaker, it was one thing for the United States to vote against the code. It was another for the United States to launch a campaign against the code. And so the issue today is not merely whether the House will express its disagreement with the administration's vote. The issue is also whether we will demonstrate to the world that the administration's position is not the position of the American people—that their opposition is not our opposition.

The divide is clear. The United States can stand firm as a force of chaos, or can join the consensus for progress. I urge my colleagues to support the resolution.

At this point in the RECORD I insert a copy of the State Department's March telegram.

Subject: WHO infant formula code

1. C—Entire text.

2. Summary.—World Health Assembly (WHA), meeting in Geneva May 4-22, will consider the text of a code of marketing practices for infant formula and other breast-milk substitutes. Issue has provoked considerable controversy both within WHO circles and within the U.S. USG is currently giving full review to the position it should take on the code at WHA. Embassies requested to consult all relevant ministries in host government—MFA, foreign assistance, trade, economic affairs, justice, health, etc.—to advise on positions governments plan to take and in particular whether USG could expect support if it persuaded various options at the WHA. Reply requested by March 27. End Summary.

3. Drafting of code was authorized by WHA in May (1980) and has been underway since then. The contention was that certain marketing practices were inappropriately leading women away from breastfeeding and that the result when linked with possible improper mixing and storage of infant formula, especially in developing nations, was often malnutrition and infection among infants. The industry says there is no evidence linking their marketing practices and either a decline in breastfeeding or malnutrition in infants.

4. The current text of the code (see ref A) is in hands of WHO member governments as WHO document EB67/20 of December 10, 1980 but soon to be distributed again as a WHA document. The text is presented to the WHA in two versions, one as ginding regulations under article 21 of the WHO constitution, and one as recommendations to WHO member states under article 23. The 30-member WHO executive board in January unanimously endorsed the recommedatory version.

5. The USG has said throughout the drafting process that, although it agrees that breastfeeding is normally the ideal form of infant nutrition and should be promoted, the USG could not accept a legally binding code. Such a code would not be in keeping with other codes developed in the international system, all of which are voluntary, and it would presume that who could impose on the legislative processes of member states. Further, USG has said it believes that, given the substantial differences in educational, economic, social and legal circumstances among WHO's 155 member countries, any code must provide for flexibility of implementation and permit any of its provisions to be adapted or ignored by countries if they were inappropriate or inapplicable; thus no code could be binding on all member states.

6. In the form of recommendations, the code also contains certain problems for the USG and particularly for US industry. It recommends against all advertising to the public, regardless of whether the advertising appears to be misleading, inaccurate or related to a decline in breastfeeding. It contains substantial detail about the operation of corporations, including point-of-sale displays and payment of bonuses to salesmen. The text is not as clear as we might prefer that inapplicable.

Provisions could be rejected by member countries, although it can be interpreted in that way. Further, there is the potential that adopting of this code could stimulate WHO interest in further codes, relating to weaning foods, pharmaceuticals, or other products.

7. From the industry point of view, the code also recommends against a number of current marketing practices that industry believes have no effect on trends in breastfeeding and/or are valuable to public health interests. Even if the USG made a statement saying it had no intention of adopting laws or regulations to implement certain provisions because they are inapplicable in the United States or of debatable validity in the current controversy, companies feel they would nevertheless be under severe moral pressure to conform to these provisions.

8. A further problem is that the executive board has presented to the assembly an implementing resolution which is more troublesome than the text of the code (see ref B), the resolution itself appears to contain language which envisions a code in the form of binding regulations, and which also reasserts a number of controversial factors that the USG and others have been able to remove from the text of the code in the course of the negotiations.

9. USG would vote no on a code in the form of regulations. Options open to U.S. on a voluntary code appear to include the following:

(A) To support the code, while making a clear statement that member countries should review all provisions for their applicability in the local context, and specifically noting that the USG would not intend to apply certain of its provisions.

(B) To vote against approval of the code.

(C) To abstain.

(D) To seek changes in the text of the code by advancing the item on the WHA agenda (it is now scheduled for the penultimate day of the three-week meeting) and calling for a drafting group.

(E) To seek changes in the text of the resolution either in conjunction with or apart from the provisions above.

10. Posts requested to consult on this issue with all relevant ministries in most countries, including MFA, foreign assistance, trade, economic affairs, justice, health, etc., as appropriate. This issue has been handled primarily by health officials in most countries. However, there is the possibility that this code could set a precedent for other codes relating to other aspects of international business, and we wish this code brought to the attention of trade and economic affairs ministries in that context.

11. Posts requested to inquire about expected positions of most governments at WHA in May. In particular:

(A) If U.S. voted no, would others vote no, or would others abstain?

(B) If U.S. abstained, would others abstain?

(C) If U.S. sought to create a drafting group and change the text of the code, would others support such a move? What

kinds of changes would they want to introduce themselves?

(D) If U.S. sought to create a drafting group or otherwise to change the text of the implementing resolution, would others support such a move?

12. Embassy assessment of situation is welcome as well. So that there is ample time to review positions of others and develop coordinated USG interagency position, responses requested ASAP, but by March 27. HAIG.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. CONTE), the ranking minority member on the Committee on Appropriations.

Mr. ZABLOCKI. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. CONTE).

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. CONTE) is recognized for 4 minutes.

Mr. CONTE. Mr. Speaker, I am one of the prime sponsors of this resolution (H. Res. 287). Even since the controversy over infant formula surfaced some 2 months ago, I have been actively involved in efforts to get the administration to adopt a responsible position. Today I am raising my voice on the infant formula issue because it is a subject I feel strongly about. This resolution deals with one of the most silent killers in the world—hunger. Each minute that I speak, 28 people in the Third World die from hunger—and most of these are children.

This resolution is an attempt to get the United States to join the family of nations by cooperating fully with other countries in the implementation of the World Health Organization's code on infant formula. On May 21, the United States, out of 119 voting nations, cast the only negative vote against the code. This code represents an attempt to establish voluntary recommended guidelines to promote breast feeding and insure the proper use of breast milk substitutes. It seeks to protect mothers from aggressive and inaccurate advertising tactics.

THREE REASONS WHY THIS CODE IS IMPORTANT

At least hundreds of thousands of infant deaths a year are directly linked to the association of contaminated infant formula with diarrhea and malnutrition. This code is a modest attempt to assure that women who cannot breast feed and are desperately in search of alternative sources of feeding get the best product and advice on how to use it. The code also insures that women who are able to breast feed are not victims to aggressive advertising which inaccurately claims infant formula is better than breast milk.

Second, the U.S. refusal to support this code places us at odds with the 118 nations who did. This rejection comes at a time when the Reagan administration is trying to build serious relationships with Third World and developed nations alike. With this vote, nations can say that the United States panders to narrow commercial interests and that the United States is not serious about playing a leadership role in world economic development. Great Britain, I should note, actively supported the code.

Finally, the U.S. stance on this vote appears to contain a philosophical message that the United States believes that international organizations have no business getting involved in the economic or commercial activities of an individual nation. But this is a two-edged sword. If we mean what we say, then how can we expect to get a serious reception when the United States turns to the U.N. and asks for help in political matters like Iran, or possibly Lebanon.

WHY CRITICS OF THE CODE ARE WRONG

Critics say the WHO code violates the first amendment and antitrust laws. To this I reply, we are dealing with a question of intent, not some legal abstraction. The people in the Third World for whom this code is intended do not read lawbooks. The code is voluntary, recommendatory, and nonbinding. When the lives of millions are at stake, we should not hide behind some legal smokescreen.

Critics say the United States cannot recommend something to other nations that we would not adopt ourselves at home. The United States, however, regulates everything from diet pills to children's toys. The code is intended for the Third World where the problems exist, not the United States. Infant formula companies in the United States voluntarily refrain from advertising to the general public here.

Critics assert the code forbids all advertising. This code is a recommendation, not an international regulation. It leaves it up to each nation how best to implement the code. The code does not make infant formula outlawed or unavailable—it simply aims to curb inappropriate promotional and advertising practices.

Critics say the WHO code is part of a Third World effort to restrict the free flow of information. The code seeks only to restrict information that will be harmful to the health of the child. Women will still be able to get needed information from doctors and health professionals.

And critics charge that no evidence exists linking infant formula promotion to infant formula use and to diarrhea and malnutrition. A letter to Secretary Haig from leading experts in international nutrition programs at five of the Nation's most prestigious institutions points out that ample scientific evidence exists linking inappropriate bottle feeding with high levels of infant mortality.

WHY MY COLLEAGUES SHOULD SUPPORT THIS RESOLUTION

We cannot seek to play a responsible role in international matters—and be taken seriously by other nations—if we refuse, for the narrowest of reasons, to participate in something of such obvious importance to the rest of the world as the code on infant formula. Every Member who has a commitment to the elimination of global hunger should join me in support of this resolution.

Let me conclude with one final remark. Several weeks ago, my colleagues and I were asked to vote for the Gramm-Latta budget as a matter of principle. We did not agree with everything in that proposal but we voted for it on the basis of the common good. Those of us who oppose the U.S. vote on the infant formula code are making the same point: That the United States should support this code as a matter of principle for a greater good.

The mouths of babies in other less fortunate countries are little different from those in our own. When they open to cry in hunger, they are in need of their mother's milk, not poison.

As Shakespeare wrote in Othello:

If men should put an enemy in their mouths to steal away their brains, we should, with joy and applause, transform ourselves into beasts.

EDITORIAL REMARKS ON THE U.S. VOTE ON THE WHO CODE

Tallahassee Democrat, May 4, 1981: "The argument that any kind of marketing technique is acceptable to promote competition loses its effectiveness when manufacturers allow greed to become more important than their customers."

Journal of Commerce, May 7, 1981: "As a rule we are not overly enchanted with multilateral agreements or recommendations. . . . But if the United States abstains or votes no on the infant formula code, we believe that it will gain little and possibly lose much in its effort to restore U.S. credibility and influence with the developing world."

Chicago Sun-Times, May 12, 1981: "But now the U.S. delegation will withdraw support for the plan (code)—in effect, putting formula-makers' profits before the Third World babies. It's a shameful switch."

Baltimore Sun, May 14, 1981: "That the administration instead is opposing the code makes it appear to be callous toward the welfare of infants in the Third World. . . . When they oppose the WHO code, the U.S. companies and the U.S. government appear to oppose a public health revolution which could yield immense benefits for the world's poor."

Washington Post, May 15, 1981: "The fact is that none of the administration's objections has anything to do with the health of babies. That is the sorry flaw in its handling of this issue."

Long Beach (Cal.) Press-Telegram, May 18, 1981: "But the 'no' vote on the infant formula issue is a mistake. If the United States is alone in its 'no' vote, or at best among the very few that vote 'no' on this emotional issue, it will be marked as a nation that puts the interests of its own

companies above concern for the nutritional needs and development of infants."

Lewiston (Idaho) Morning Tribune, May 19, 1981: "It is easy to understand why the proposed code would attract so much support. It is a recognition by a community of civilized nations that much harm has been done by aggressive baby food conglomerates who for years have been taking advantage of the huge Third World market. It is harm that is measured not in dollars, but in human lives—babies' lives."

New York Times, May 19, 1981: "There thus appears no reason to cast the United States as the enemy of mothers and babies. It is unwise to contend that every society should observe American styles of commerce. And if there are wrong-headed provisions or precedents in such a code, they will be much better dealt with, country by country, by an American Government that shows itself sympathetic to the most elementary concerns of others."

Washington Star, May 19, 1981: "The U.S. is isolating itself from a consensus that it is merely silly to blame on a malicious anti-capitalist cabal, and also exposing itself to a charge of bad faith."

Baltimore News American, May 19, 1981: "Let us hope the Reagan administration realizes the damage it proposes to do, changes its mind and decides to vote with an eye toward the well-being of hundreds of thousands of infants, and not in keeping with the wishes of a powerful industry."

St. Louis Post-Dispatch, May 20, 1981: "The no vote by the U.S. is a sorry commentary on the country's concern for the health of infants everywhere."

Milwaukee Journal, May 20, 1981: "The Reagan administration should take its anti-regulation bias off the backs of babies in Third World countries."

Columbus (Georgia) Ledger, May 20, 1981: "Maybe the Reagan administration next will announce that the U.S. Justice Department has no right to interfere with the marketing and sale of heroin because it interferes with the free enterprise system. That would surprise us, but not much."

Raleigh News & Observer, May 20, 1981: "The Reagan administration will send a callous message to poor countries if it votes against a proposed international advisory code of ethics for the marketing of infant formula."

Miami News, May 20, 1981: "The risk, of course, involves far more than how the world views the United States. The lives of children are at stake—and the Reagan administration would be both wise and humane if it changed its mind. And instead of accepting the resignations of Babb and Joseph it should give them large raises."

Fort Wayne Journal-Gazette, May 20, 1981: "But whether it stems from tortured reasoning or behind-the-scenes lobbying, the administration's opposition to the proposed WHO code could mean death for Third World infants whose mothers are encouraged to feed them easily contaminated formula rather than breast-feeding them."

Vancouver (Wash.) Columbian, May 20, 1981: "The ethics of a public policy that puts corporate profits before infant starvation are questionable, indeed."

Oskaloosa (Iowa) Herald, May 21, 1981: "We say human beings and the preservation of health and life are more important goals."

Hartford Courant, May 21, 1981: "The code, which the Reagan administration opposes for ideological reasons, is only a partial but necessary step toward protecting the health and welfare of mothers and children."

Conway (Ark.) Log Cabin Democrat, May 21, 1981: "America, the world's leader in sharing its medical knowledge, equipment and personnel with other nations, got a black eye with this vote."

Minneapolis Tribune, May 21, 1981: "But potential health benefits from application of the code outweigh its bureaucratic drawbacks."

San Francisco Examiner, May 22, 1981: "Its saddening that the government has given, for no good reason, the adversaries of this country an emotional club with which to beat us over the head. Even if it happened to cost us something (which it wouldn't), we need to show a good deal more concern on this question and reverse our national position."

Marshall (Minn.) Independent, May 22, 1981: "Surely the Reagan administration is operating out of ignorance. Surely our president and other top government officials do not want to cast our country in the role of a child killer and, worse, one who does so for profit."

The Catholic Review, May 22, 1981: "Despite overwhelming evidence that such marketing practices by multi-national corporations like Nestle and Bristol-Myers are detrimental to the health of young children, the U.S. took the risk of destroying its own credibility on world health and trade circles."

South Bend Tribune, May 23, 1981: "No amount of explanation will erase the stigma of our vote. We are giving up world leadership for business reasons."

Fayetteville (N.C.) Observer, May 25, 1981: "Is the Reagan administration allowing the interests of big business to prevail over those of mothers and children? That is the smell of it."

Kansas City Times, May 25, 1981: "In failing to support a humanitarian World Health Assemble resolution favoring mother's breast milk as infant food at the expense of commercial substitutes, the United States shamed itself. Not only did it decline to stand beside 117 other nations of the world declaring concern for the dangers to children in underdeveloped countries posed by infant formulas, this administration served unqualified notice that it is not interested in being a symbolic moral leader."

Buffalo Evening News, May 26, 1981: "It is unfortunate that the Reagan administration found it necessary to cast a vote that unduly stressed legalistic issues to the exclusion of the health concerns involved in the infant formula debate. The decision . . . contributed nothing to the image of either the present administration or the nation."

Valley Advocate (Northampton, Mass.), May 27, 1981: "Shame seems often to be the underbelly of bravado. Yet, in the government's latest swagger before the world community there is a schism that is becoming familiar. Those who committed the indiscretion remain smug while the outcry of high-ranking respected officials and our consciences reveal a depth of humiliation."

Bucks County (Penn.) Times, May 1981: "It is painfully obvious that decisions like this one will not endear the administration to the leaders of the world's underdeveloped nations. In some cases, our legitimate interests make it impossible to accomodate them. But the controversy over infant formula appears to be a case of the administration going out of its way to be insensitive to their concerns."

Philadelphia Inquirer, May 1981: "The controversy is literally a motherhood issue, and the White House has put the United States on the wrong side of it."

Mr. ZABLOCKI. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Speaker, I rise to lend my strongest support to House Joint Resolution 287. I believe that it is in the best interests of our Nation and the world to support implementation of the World Health Organization's voluntary code on infant formula.

Mr. Speaker, last month the United States took a public position that, in the eyes of the world, in the view of many Americans including my constituents, and in my opinion, was indefensible, if not irresponsible. I am referring to the recent meetings of the World Health Organization in Geneva, Switzerland, where the Reagan administration cast the only opposing vote to a voluntary code limiting the promotion of infant formula in the world's poorest nations.

This vote triggered the resignations of two high-level officials in the U.S. Agency for International Development and inspired shock and disbelief from individuals and nations who view our vote as a disservice to the fight for global nutrition through international cooperation.

The issues raised by this controversy are neither new nor unique. Indeed, the infant formula question merely reflects a new manifestation of an old problem that inevitably arises when U.S. businesses seek to market products in Third World nations when these products were designed for use by relatively more educated and sophisticated consumers. Even products that are manufactured to the highest specifications and, when properly used fulfill a highly useful function, may, as some argue in the infant formula situation, have devastatingly negative results when used improperly.

Mr. Speaker, this is exactly the case with the use of infant formula instead of breast milk in many Third World nations. The widespread introduction of infant formula into underdeveloped nations brought a variety of devastating consequences and few, if any, benefits. Most severe is the estimate made by a top-level AID official that approximately 1 million of the 10 million infant deaths per year in the Third World are directly attributable to the use of artificial formula. The high cost of formula along with the difficulty in achieving sanitary hygiene in its use and the drop in breast feeding combine to cause severe malnutrition and increased mortality among the children of the Third World.

Mr. Speaker, the efforts made by the World Health Organization and other public and private institutions and persons to regulate the promotion

of breast milk substitutes deserve our strongest support. To suggest that the WHO voluntary code is too restrictive, as the Reagan administration did in justifying its negative vote, is completely unjustified. In voting "no" to a code to voluntarily limit promotion of infant formulas in less developed nations is to signal to the world that America's chief concerns rest not with the health of the children of the Third World, but rather with the vitality of private enterprise.

This is not the message that America should be sending. It does not reflect our national conscience nor the higher standards of ethics that we seek to achieve in our dealings with the poorer nations of the world. I believe that we must use every means available to get the message to this administration that the Congress and the American people will not tolerate such a display of misplaced values.

Mr. Speaker, I strongly support the passage of this joint resolution expressing our support for the World Health Organization's voluntary code on infant formula. Babies are dying from the improper use of formula. It is very wrong for us, as a Nation, to look the other way. As human beings, we cannot condone even an implicit nod in the direction of human suffering, especially when that suffering is borne by millions of helpless children.

Thank you, Mr. Speaker.

Mr. ZABLOCKI. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Speaker, every once in a while an issue comes before this House which is so clear cut and so compelling that it requires us to act and to act decisively. The issue here is not an embarrassment to the administration. As the gentleman from Wisconsin said, whoever decided in the bowels of the administration at the last minute to change our longstanding position in favor of this code, whoever made that decision to make us the only country to vote against it, they are the ones who have embarrassed all decent and human Americans. We do not wish to embarrass the President. Rather, what we wish to do by this vote is to send a message to President Reagan that the American people feel deeply and feel strongly about this issue and that we will back him up in making sure that those who gave him that kind of advice and turned our position around were wrong and that we want the President to stand firm behind our support for the international code on breast feeding.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. ZABLOCKI) has 4½ minutes remaining, and the gentleman from Michigan (Mr. BROOMFIELD) has 5 minutes remaining.

Mr. BROOMFIELD. Mr. Speaker, I yield 1 minute to the gentlewoman from Massachusetts (Mrs. HECKLER).

Mrs. HECKLER. Mr. Speaker, I rise in strong support of this resolution, and I think the point to be made here is that we are not suggesting or voting today on a ban on the marketing of infant food formula. I think many of us realize the great value of this product in the United States and abroad; but what we are talking about is a code of marketing that will provide those in the Third World with the information necessary to use this formula profitably and properly to save lives.

The fact is that baby bottle disease has claimed millions of lives. We can dispute whether it is 1 million, 4 million, 10 million a year, but the clear opportunity before this Congress is to prevent that toll of lives from growing—by proper marketing and by a code of marketing that is nothing more than fair ethics.

I am dismayed that our country saw fit to stand against the world and to fight a fair code of ethics in marketing, and I feel that we made a mistake that this Congress should reverse.

Mr. ZABLOCKI. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. FOGLIETTA).

Mr. FOGLIETTA. Mr. Speaker, when our country cast the only negative vote on the World Health Organization code for the marketing of infant breast milk formula, we also cast a vote for corporate interests over infant health. It is estimated that 1 million infants in developing nations die every year as a result of improper and unnecessary use of infant formula. That figure was derived through worldwide studies and by observation of professionals involved in health care delivery in those nations.

No one disputes that it is important for mothers who are unable to breast feed to have access to a nutritious substitute, and the products governed by the code should be readily available through health care professionals to those who need it.

The problem arises when the manufacturers of breast milk substitutes, through improper promotional activities, encourage mothers to bottle feed rather than breast feed when that is not necessary.

When women use formula, their own natural milk supply disappears. They cannot afford to buy an adequate supply of formula, so they dilute their meager supplies too thinly. The water that is used is often unclean. Proper sterilization and refrigeration facilities are not available.

The result is that their children receive an inadequate amount of nutrition and they receive it from a bottle that contains impurities and contributes to disease. The children become malnourished and usually enter into a cycle of diarrhea and illness that eventually may cause their death. The children that survive, already living in a disadvantaged society, get a poor start which they will never be able to overcome.

The promotional practices which have been documented are calculated to appeal to the aspirations of women in developing nations who are desperately trying to become more civilized. The advertising depicts bottle feeding as being more sophisticated, more scientifically reliable, and more convenient than breast milk. It shows pictures of fat, white, healthy babies. Supplies of the formula are freely given to doctors and hospitals, who in turn give it to pregnant women and mothers of infants. Doctors are sometimes rewarded for their use of these products. Promotions are often done by people dressed as health care professionals.

Because the improper promotion of breast milk substitutes has exacerbated the already severe malnutrition and infant mortality crisis in developing nations, the United States joined 155 other nations in devising a marketing code. The code would be recommended to participating nations through the World Health Organization, the most appropriate vehicle for supporting such an effort. After adoption, countries would implement their own laws to encourage breast feeding and proper marketing and utilization of breast milk substitutes.

I am embarrassed that my country was the only nation to vote against the code. Fortunately, it was adopted in spite of our objection. I hope the administration can be pressured into changing its position, but lacking that, I can only hope we will do what we can to help implement the code.

Mr. BROOMFIELD. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. SHUMWAY).

Mr. SHUMWAY. Mr. Speaker, I rise in opposition to House Joint Resolution 287. In so doing, I am not implying that there is doubt that breast feeding is the most preferred method of infant nutrition. The Code of Ethics and Professional Standards, prepared in 1975 by the International Council of Infant Food Industries, affirms the superiority of breast feeding whenever possible. And when the United States stood alone at the Assembly of the World Health Organization in voting against banning the advertising of baby formula in Third World countries, it did not disclaim this fact, but simply recognized the more fundamental issue that provisions in the code were contrary to U.S. law as it relates to commercial activities in the United States and abroad. The arbitrary prohibition of advertising and product information dissemination would make its implementation

impossible here and in other Western nations with similar free market systems. A New York Times editorial stated that, "It is unwise to contend that every society should observe American styles of commerce." In other words, the freedom that business enjoys in this country does not necessarily prevail in every country.

Mr. Speaker, the question was not whether other countries should have the power to ban such advertising, but whether we should agree that censorship of advertising is a good idea. In the United States, advertising is protected by the first amendment. I have no objections to voluntary compliance on the part of private industries. And indeed, industry has already demonstrated the ability and desire to impose regulation on itself. However, I strongly oppose the U.S. Government taking the formal position of explicitly mandating restrictions on American commerce which, in essence, is supporting the concept of censorship in advertising—a violation of our first amendment freedoms.

There was no suggestion that the formula advertising was false, just that it was unwise. The implementation of the proposed draft is unnecessary, potentially disastrous, and politically dangerous, for it would set a precedent for subsequent regulation of industry in other areas as well.

In conclusion, Mr. Speaker, I believe the vote cast by the United States in the Assembly of the World Health Organization was correct. If this country does not stand for freedom in commercial matters, it is clear that no other country will. We should not be a party to prohibiting, through international sanction, what is legal and permitted in our own country. I urge my colleagues to vote against Joint Resolution 287.

Mr. BROOMFIELD. Mr. Speaker, I yield 1 minute to the gentlewoman from Rhode Island (Mrs. SCHNEIDER).

Mrs. SCHNEIDER. Mr. Speaker, I rise in support of the resolution offered by the gentleman from Wisconsin (Mr. ZABLOCKI).

As a cosponsor of this bill, I feel strongly that this body must register its concurrence with the action of the World Health Organization to provide for a code of voluntary standards for the marketing of breast milk substitutes. The code adopted by the WHO not only received strong bipartisan support in the Congress, but also by health officials and a wide range of private groups and individual citizens.

Most importantly, I feel that the positive relationships which this Nation is attempting to forge with developing countries around the world will be seriously undermined by U.S. opposition to the voluntary standards for the marketing of infant formula. The lives of millions of infants in the developing world who use infant formula under conditions for which it was not designed, such as contaminated water, are at stake.

It is vital that we go on record in support of the code and register our dismay with the recent vote. I urge my colleagues to vote in support of the resolution.

Mr. BROOMFIELD. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. LEWIS).

Mr. LEWIS. Mr. Speaker, I rise to make three points. First, it should be very clear to all Members that we are not debating the merits of breast feeding of babies versus the value of breast milk substitutes as we discuss this resolution. Virtually every one who has addressed himself to this issue knows that breast feeding is superior to any substitute. This administration supports educational efforts to encourage breast feeding. Those who argue that anyone who opposes this code is against breast feeding and supports killing babies are carrying emotional arguments to idiotic extreme.

Next, I would like to address myself to the chairman of the Foreign Affairs Committee, the distinguished gentleman from Wisconsin (Mr. ZABLOCKI), and to the ranking minority member of the full Appropriations Committee, the gentleman from Massachusetts (Mr. CONTE). I have great respect for both of those gentlemen and share their concern about hunger and starvation throughout the world. But I must express great concern with what appears to be a debt that sheds a good deal more emotion than light. I am rather surprised to see an issue like this come to the floor without benefit of hearings. After the fact, you are having hearings this very afternoon. Let me suggest that there is a good deal about the credibility of those who are raising this issue that should have been reviewed by the policy committee, before the discussion on the floor.

Testimony taken by the Appropriations Committee crystalized those questions. Some of the key public playmakers in this process have presented testimony that I think at least brings serious doubt as to their credibility.

For example, they have suggested to us, that babies in the world would be better off if there was no breast feeding substitute whatsoever. There is plenty of documented testimony by noted professionals, who are concerned about child health care that will contradict those statements. I have included illustrations as follows:

STATEMENT BY ADEOYE ADENIYI, M.D. (LOND.), D.C.H., SENIOR CONSULTANT IN PEDIATRICS, UNIVERSITY COLLEGE HOSPITAL, IBADAN, NIGERIA

THE PLACE OF ARTIFICIAL FEEDING IN AFRICA

Recently attention has been focused on the possible dangers of artificial feeding in Africa. Emphasis has unfortunately been placed on the risks of diarrhoea and vomiting which are consequent upon wrong handling of the product and the vessels for its administration i.e. bottles. Such statements wholly condemn the use of these products without fair assessment of some of the tremendous advantages of milk products in critical conditions which I shall enumerate later. In addition, it is assumed that Africans as a whole are incapable of attaining standards of hygiene which has made artificial feeding acceptable and practised in all parts of the world—including South Africa. One can only hope this is not an attempt to insult the intelligence of Africans generally.

There are certain crisis areas where artificial feeding is not only mandatory, it is life saving i.e.

1. Infants whose mothers die during or shortly after childbirth.

2. In cases where breast milk fails or is inadequate.

3. In cases where breast feeding is contraindicated as in severe maternal illness.

4. In rapid growth after three months of age when the need to supplement infant feeding is crucial to normal nutrition status in early childhood.

In later childhood as weaning is planned artificial feeding becomes really important. Too often physicians, nutritionists and other health workers have remarked about the high incidence of Kwashiokor, marasmus and general protein-energy malnutrition in African children. The correct administration of these milk products as supplementary feeding will abolish this continuous tale of woe. Kwashiokor is not known in the well educated classes of Nigerians who know the use of these products and regularly use them for all their babies.

It is understandable that, in such circumstances, some paediatricians have advocated prohibiting the import of baby foods based on milk, and the display, on hospital walls, of pictures of bonny babies reared on these foods. But actually the effect of eliminating the "artificial" foods would be to raise the proportion of malnourished infants in the population and the infant mortality rate. It would not increase the numbers of infants satisfactorily fed at the breast.

The remarkable transformation in infant health in the affluent countries during the present century, associated with the disappearance of signs of protein-calorie malnutrition and a great reduction in infant mortality, was achieved in spite of the virtual abandonment of breast feeding. There are certain small countries in the tropics where the same thing has happened very quickly. Barbados and Puerto Rico are examples. In Barbados the infant mortality rate was about 200 in the 1930s: it is now below 40. Mortality in young children has also fallen enormously. The main factor involved has been the adoption of artificial feeding based on imported milk preparations and encouraged by the maternity and child health services.

Just as significant, I asked our witnesses, "Was there not a long debate within the State Department regarding this matter and within AID, and would they give me the testimony of those on the other side of the issue." They said no technicians were opposed to the position they were expressing. Yet, I have a memo I will submit for the record dated April 8 of this year which was sent to one of our witnesses—Stephen C. Joseph, at the time. Either Dr. Joseph does not open

his mail or he purposely misled the Appropriations Committee. It seems to me that the chairman of the foreign policy committee would have served the House well if he had questioned such witnesses before bringing this measure before the full House.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY, AGENCY FOR INTERNATIONAL DEVELOPMENT,
Washington, D.C., April 8, 1981.

To: Mr. Elliott Abrams, Assistant Secretary, IO, Department of State.

Through: Alfred D. White, Assistant Administrator, NE.

From: Carol Adelman, Nutrition Advisor, NE/TECH/HPN.

Subject: Infant Formula Marketing Code.

The purpose of this memorandum is to respond to your request at the April 3, 1981 meeting of health professionals for facts on the relationship between promotional practices of infant formula companies and the occurrence of bottlefeeding in developing countries. At the meeting, certain key assumptions underlying the proposed code for regulating promotional practices of companies were treated by various health professionals in attendance as facts. These "facts" were supported by anecdotes and minimal references, some with questionable validity. We believe it is important in reaching a U.S. position for the upcoming World Health Assembly to submit the following statement and references for the record. The major assumptions of the proponents of the code are as follows:

1. There has been a major/dramatic decline in breastfeeding worldwide, particularly in developing countries;

2. Children who are bottlefed in developing countries are found, in significant proportion, in the poorest families; and

3. Certain promotional practices of infant formula companies contribute significantly to a mother's initial decision to breastfeed or to continue breastfeeding.

ASSUMPTION NUMBER ONE—MAJOR DECLINE IN BREASTFEEDING

There are virtually no large scale studies which support the assumption that there have been dramatic declines in the majority of developing countries. First, adequate comparative surveys over time are not available. Those cited by Berg (The Nutrition Factor, The Brookings Institution, 1973) and most frequently referenced when this assumption is advanced, were limited in number, not comparable groups and not national surveys. In the past several years some very good national surveys have been completed in many of the developing countries. These surveys are cross-sectional and thus, it is difficult to extrapolate trends over time; however, the very high prevalences of breast feeding even in urban areas (from roughly 80-99 percent in the 6-11 months age group) suggest that any decline from 100 percent cannot be considered major.

A comprehensive reference to these surveys is a monograph which should be read by those working in the field of infant feeding as well as those working in the field of public interest lobbying. (Popkin et al., "Breastfeeding Practices in Low Income Countries: Patterns and Determinants," University of North Carolina at Chapel Hill, 1979). This monograph is attached. The following paragraph summarizes its findings from five national nutrition surveys in developing countries by the Center for Disease Control in Atlanta, Georgia and seven nationally representative surveys conducted by the World Fertility Survey:

"Clearly a decline exists in the extent and duration of breastfeeding in some low income countries and differences in breastfeeding patterns exist within countries, particularly between urban and rural areas in Latin America. But it is also clear that such a decline is not universal and rapid but rather uncommon and gradual thus far. In fact, in most Asian and African countries there is strong evidence of continuing almost universal breastfeeding for the first year of the infant's life. In some Caribbean and Latin American countries, however, there is a trend toward early weaning (especially in urban areas)."

Generally, in those countries where there is a higher prevalence of bottlefeeding with possibly more marked declining trends in breastfeeding (Latin America, Caribbean, some Asian countries), infant nutritional status and mortality rates are significantly better than in those countries where universal breastfeeding is the rule. Even in these latter countries, where there is some bottlefeeding mainly in urban areas (from roughly 1 to 20 percent in 6-11 months age group), the overall nutritional status of urban infants and children is better than that of rural children. Overall, infant mortality rates are generally lower in urban areas than in rural as well.

ASSUMPTION NUMBER TWO—BOTTLEFED CHILDREN FROM POOREST FAMILIES

It is not definitive to compare overall figures of urban and rural malnutrition/mortality with overall figures of percent bottle/breastfed. We lack data, however, on the more appropriate comparisons such as whether urban bottlefed children are worse off or better off than rural breastfed in the same country. There is little information on the characteristics of the relatively small percent of mothers in the least developed countries and the somewhat larger percent in middle income developing countries who do bottlefeed. Are they of higher socio-economic status, thus better able to support adequate bottlefeeding as industry groups maintain? Or, are they indeed the poorest mothers who are unable to afford adequate amounts of formula and unable to prepare it without contamination? It is probably a combination of both, but the relative percents are not well documented.

Data from a national survey in the Yemen Arab Republic indicate that in homes where fathers are literate and there is electricity (indicators of socio-economic status), there is a higher percentage of bottlefed babies than in homes with lower socio-economic status. (Yemen Arab Republic National Nutrition Survey 1979, Center for Disease Control, Atlanta, Georgia). In some tentative results from this same survey reported in a preliminary draft (tentative is stressed because further analysis is necessary to elucidate the findings), stunting (low height for age) and wasting/stunting (both low weight for height and low height for age) were both lower in breastfed infants as would be expected. The nutritional category of wasting by itself, however, was lower in breastfed infants. In the rural areas, early cessation of breastfeeding was associated with higher diarrhea rates as would be expected. In urban Sanaa, however, there was no difference in diarrhea rates between breastfed and bottlefed infants. This coupled with the higher proportion of bottlefed babies in homes of literate fathers may point to the better health/sanitation in this urban area, thus allowing a more favorable environment for bottlefeeding.

A similar kind of comparison from a national survey in Egypt yielded more clearcut associations between bottlefeeding and higher acute malnutrition. (Arab Republic of Egypt National Nutrition Survey 1978, Center for Disease Control and Nutrition Institute of Egypt). These data have not been broken down into urban/rural categories nor by socio-economic status. Thus, we don't know whether urban bottlefed children are overall better or worse off than rural breastfed or whether socio-economic status of bottlefed children is generally higher thus possibly accounting for the better nutritional status of urban poor children versus rural in Egypt.

Another study in Cebu, Philippines showed that the highest percentages of bottlefed babies came from families with the highest per capita incomes (Popkin, B., "Income, Time, The Working Mother and Child Nutriture," University of the Philippines, Paper No. 75-9, 1975).

In short, studies are few and results are not clear. Some data can support the hypothesis, however, that some if not many children who are bottlefed in developing countries may indeed come from families in higher socio-economic strata. One thing is clear. It is by no means certain that the majority or even a substantial percent of bottlefed babies in developing countries represent the poorest families.

ASSUMPTION NUMBER THREE—PROMOTIONAL PRACTICES CONTRIBUTE SIGNIFICANTLY TO A MOTHER'S DECISION TO BREASTFEED OR TO CONTINUE BREASTFEEDING

We are aware of only three completed studies which have examined this assumption. None of these support the assumption, but rather, indicate the opposite. At the meeting, reference to the WHO Survey was made in which an association between promotional practice and occurrence of bottlefeeding was not seen. (WHO Collaborative Study on Breastfeeding, Methods and Main Results of the first phase of the study: preliminary report. MCH 79/3 Geneva 1979). A survey in Trinidad indicated that the commonest reasons for introducing other milk to breastfeeding children were "insufficient milk" of the mother, "baby refused breast" and "baby was not satisfied." These accounted for 60 percent of reasons with no other reason surpassing 7 percent of total responses.

When asked why they used a particular milk, only 11 percent of mothers responded "saw it advertised." Fifty-four percent of mothers gave the answers "no particular reason," "recommended by friend or relative" and "recommended by nurse or doctor." ("Evaluation of a Breast Feeding Campaign in Trinidad," Miguel Gueri, Caribbean Food and Nutrition Institute, 1974). A third survey, in the Philippines, showed that the higher the number of visits by a company milk nurse, the longer the duration of breastfeeding. (Popkin, B. "The Role of the Rural Filipino Mother in the Determination of Child Care and Breast-feeding Behavior", University of the Philippines, Paper No. 76-12, 1976.)

In virtually all surveys which have asked mothers why they stopped breast-feeding, the majority of responses are new pregnancy and insufficient milk. In short, studies are extremely few and limited (e.g., cross-sectional not longitudinal, inadequate sampling procedures, etc.). It is not possible to say with any certainty that promotional

practices of companies have either no or limited impact on bottlefeeding prevalence. The only studies we are aware of, however, suggest the opposite of the primary premise of the code.

In summary, the code addresses practices (improper promotional activities) which have not, to our knowledge, been documented in quantitative studies as contributing to bottlefeeding prevalence in developing countries. Even if we assume that promotional practices have played some role, which they probably have, the code addresses a phenomenon in least developed countries which affects a minority of children about whose family income levels we are relatively ignorant. It is important to keep these thoughts in mind in order to put into perspective the relatively high priority in terms of time and resources that WHO, A.I.D., and HHS have given this issue among the full spectrum of infant/child nutrition issues.

Another important issue concerns supplemental feeding for the breastfed infant. The blanket recommendation that supplements to breast milk should be introduced between 4-6 months and not earlier (such as found in the code) is too rigid and could even be potentially harmful. Circumstances may exist where exclusive breastfeeding until almost 1 year of age is preferable to introducing supplements at 4-6 months, i.e., if maternal nutritional status is adequate and other conditions favorable. This is supported by some interesting date from the Egypt National Nutrition Survey referenced above which showed that infants exclusively breastfed between the ages of 6-11 months were less acutely malnourished and had the highest percent overweight as compared to those who were breastfeeding with a supplement. On the other hand, some recent analysis is pointing towards an earlier than previously thought growth faltering among breastfed babies in unfavorable circumstances as early as 2 or 3 months. (Waterlow, J.C., et al, "Faltering in Infant Growth in Less-Developed Countries," The Lancet, November 29, 1980). Thus, in the area of supplement feeding as well as breastfeeding, there is great variability between and within countries and much still to be learned. Dr. Waterlow states in the above article in the Lancet:

"In the eyes of some, to suggest that growth faltering may be caused by inadequate breastfeeding is an attack on the concept of breastfeeding, and opens the door to exploitation by industry. Such an attitude is surely sterile. Those of us, who participated in the WHO/UNICEF meeting in October, 1979, pledged ourselves, individually and on behalf of our sponsors, to promote breastfeeding. "Promote" in this context we take to mean to try to make it as widely adopted and as effective as possible. This aim cannot be achieved without a better knowledge of what is actually happening."

We agree with this distinguished nutritionist that there is a need for better knowledge of what is actually happening.

The conclusions of this memo in no way argue against some type of code being established. Nor are we suggesting that we wait to find out the answers to all the questions before approving a code. Clearly, a reasonable code is needed which limits companies, at a minimum, to practices followed in the United States and regulates any blatantly inappropriate practices in developing countries. The cause of malnutrition in infants and children in developing countries is not advanced by a code which even the most responsible companies cannot support and which could result in non-compliance and non-enforcement by companies and nations. The spirit of such a code should not subtly portray the product of infant formula as inherently dangerous for developing countries nor should it unnecessarily restrict effective distribution of formula to mothers who do bottlefeed. A case in point is the attached letter from the Egyptian Minister of Health to A.I.D. in which he requested infant formula specifically for the 10 percent of mothers in Egypt who cannot or do not breastfeed. As the Minister explains, these mothers are those who work away from home, who do not produce adequate milk because of their own malnutrition and whose lactation is reduced by oral contraceptives. His request was denied, and infant formula was put on A.I.D.'s restricted commodity list. We would rather see these infants receive infant formula making sure that its distribution is supervised and affordable than for mothers to have to turn to home-made breast milk substitutes which are likely to be nutritionally inadequate.

Bilateral and international organizations and health and nutrition professionals are responsible for presenting data to support conclusions, formulating the research questions to be answered and designing programs based on careful assessment in each country. at least some of the research and programs should include:

1. Indepth analyses of breastfeeding and bottlefeeding prevalence, trends and determinants using available large scale population based studies. (The Near East Bureau requested this in 1979 as seen in the attached memo.)

2. Indepth analyses of data on supplemental feeding trends and determinants and relationships with infant/child nutritional status.

3. Indepth analyses of relationships between breastfeeding, maternal and infant nutritional status and contraceptive methods.

4. Programs in health/nutrition/population which base their interventions on careful assessments of what is actually happening in different developing countries.

5. Operations research which seeks to answer hypotheses developed by the indepth analyses called for above.

6. Less emphasis on the speculative reasons for infant/child malnutrition and more emphasis on those for which existing information is more plausible, i.e., disease, infection, sanitation, maternal malnutrition, large families and frequent pregnancies and deleterious beliefs and practices associated with supplemental feeding.

My final point would suggest that we should view with alarm that pattern developing in world organizations such as UNESCO and WHO which would tend to limit rather than expand free speech. Those arguing for this code tend to set aside the free speech questions being raised by saying that the code is voluntary. Well ladies and gentlemen let me suggest that most of the countries involved in this debate at the WHO do not have a first amendment. It seems strange to me that by this vote today we may be encouraging WHO in limiting our ability to communicate with one another as they take on a new role as the "FTC" of the universe.

Mr. BROOMFIELD. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi (Mr. LOTT).

□ 1330

Mr. LOTT. I thank the gentleman for yielding.

Mr. Speaker, why are we doing this resolution on this floor at this time? Two subcommittees of the Foreign Affairs Committee are meeting right now, beginning at 1:30, to discuss this issue. We did not have advance notice on it. When we went over the schedule last week with the majority whip this was not on the agenda. The gentleman from Michigan (Mr. BROOMFIELD) is absolutely right. We should take this issue seriously, all of the questions involved, including the emotional ones and constitutional ones. But let us allow the hearings to be completed before we take action here in the House.

What we do today has no effect. The action has already been taken in the World Health Organization. I urge this resolution not be passed on suspension.

Mr. ZABLOCKI. Mr. Speaker, I yield the remainder of my time to the gentleman from Wisconsin (Mr. OBEY).

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. OBEY) is recognized for 3 minutes.

Mr. ZABLOCKI. Mr. Speaker, if I may make a brief observation first before yielding to the gentleman from Wisconsin (Mr. OBEY), I wish to respond to the minority whip that, as I stated in my remarks, this is not a new issue. For years the Committee on Foreign Affairs has carried out oversight responsibilities and has supported policies to promote improved health and well-being of all children. This voluntary code that I would hope our Government would also support follows this policy and is the reason which we are bringing up this resolution at this time.

Mr. OBEY. I thank the chairman.

Let me just say, people have asked what is the problem and why is this resolution here today.

The problem is very simple. In the Third World there are estimates that as many as 1 million children a year are dying because they are being exposed unnecessarily to the consumption of infant formula when breast feeding would be more healthy for those infants. At the instructions of the U.S. Government and 155 other governments, a code was developed by the World Health Organization to try to do something about it.

When the final vote came, the only country in the world who voted against the code was the United States.

The resolution is very simple. It says two things. It says we disagree with the vote that was cast against the code and it says we urge the administration, now that the vote is cast, to let bygones be bygones, forget about what is past and pledge now to actively work with other countries in the world to implement the code.

Let me make just a few points in closing. I want to remind the Members of this House that this code is a voluntary code. It does not require any country in the world to do anything that that country does not want to do. It is strictly a voluntary code.

Some people say it encourages abridgments of freedom of speech. That is absolute nonsense. In the United States, we do not have whiskey advertised on television. We do not have cigarettes advertised on television. We are urging that other countries follow the same practice in whatever manner is appropriate in their circumstances to prevent the unnecessary exposure to a death-dealing combination, contaminated water and infant formula, of millions of babies throughout the world.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. OBEY. After I have completed my statement I would be happy to yield to the gentleman.

Mr. Speaker, I congratulate those on the minority side of the aisle who have joined with us in authoring this resolution. That is bipartisan effort to minimize the damage to American interests around the world. The United Nations comes out with a lot of nutty resolutions. How do we have the credibility to ask our allies to oppose those resolutions, some of which may be very popular, unless we have a consistent record of supporting their actions where they are necessary and opposing actions where they are not.

To those Members who have said, and I think the gentleman from California indicated, that there was no evidence that in fact this health problem exists itself, I would like to know from which medical college he got his medical degree. We have many distinguished scientists including the chairman of the department of nutritional sciences, University of California; the chairman of the department of international health at Johns Hopkins; Derrick B. Jelliffe from the University of California and others who say there is plenty of evidence.

I am submitting for the RECORD the text of a letter from five distinguished scientists to Secretary Haig citing that evidence.

I am also submitting an article by the Journal of Commerce in support of the code and excerpts from numerous newspaper editorials in support of the code.

I urge my colleagues to support the resolution.

I also want to express my admiration for the two AID officials who resigned their positions rather than support the U.S. vote, Mr. Eugene "Tony" Babb and Dr. Stephen Joseph. Their resignations of conscience have helped to focus public attention on the need for us to correct this mistake.

CORNELL UNIVERSITY,
Ithaca, N.Y., June 2, 1981.

Secretary of State ALEXANDER HAIG,
Department of State,
Washington, D.C.

DEAR MR. HAIG: I attach to this an "open letter" addressed to you, concerning the very unfortunate vote of the U.S. in Geneva on the WHO Code of Marketing of Breast Milk Substitutes. The letter is "open" because we hope that it will not be treated as one more piece of mail against the Code, and simply become part of the "opinion poll" based on incoming mail on important current issues.

We write to you as five scientists, physicians and nutritionists who hold leadership positions in international nutrition and health at five U.S. institutions well recognized for their activities in this area of study. All of us have been concerned with the issue of infant feeding, we have much experience in developing countries, and we are familiar with the literature and research on the subject of infant feeding practices.

We were all deeply disappointed by the recent U.S. vote to oppose the WHO Code. We were moved by the resignation from AID of Dr. Joseph and Mr. Babb in support of their principles and beliefs. We are shocked to be told that the U.S. in supporting its vote is now suggesting that scientific evidence is lacking to relate inappropriate bottle feeding with high levels of infant morbidity and mortality. Your Department should not be a party to the dissemination of information that goes against scientific evidence.

This "open letter" provides our shared views on this. Although addressed to you, we are sharing it with other concerned officials and citizens.

Yours sincerely,
MICHAEL C. LATHAM, M.D.
DORIS H. CALLOWAY, PH. D.
CARL E. TAYLOR, M.D.
DERRICK B. JELLIFFE, M.D.
JOSEPH D. WRAY, M.D.

AN OPEN LETTER TO SECRETARY OF STATE ALEXANDER HAIG ON THE U.S. VOTE ON THE WHO CODE ON MARKETING OF BREAST MILK SUBSTITUTES

(By Michael C. Latham, M.D., Director, Program on International Nutrition, Cornell University, Ithaca, New York; Doris H. Calloway, Ph. D., Provost and former Chairman, Department of Nutritional Sciences, University of California, Berkeley; Derrick B. Jelliffe, M.D., Head, Division of Population, Family and International Health, University of California, Los Angeles; Carl E. Taylor, M.D., Chairman, Department of International Health, Johns Hopkins University, Baltimore, Md.; Joseph D. Wray, M.D., Deputy Director, Center for Population and Family Health, Columbia University, New York)

The United States at the World Health Assembly in Geneva on May 21, 1981 voted against the World Health Organization's Code of Marketing of Breast Milk Substitutes. The United States was alone in casting a negative vote. Large and small countries, industrialized and non-industrialized countries, conservative and communist nations, even our closest allies, all voted in favor. We believe that the U.S. action was a serious mistake. It will be viewed as an indication that the new Administration intends to support corporate profit ahead of the interests of the health of children in poor countries. We are concerned that the U.S. government was influenced by the campaign against the Code conducted by the three leading manufacturers of infant formula.[1] We are worried that Mr. Ernest Lefever,[2] Assistant Secretary of State for Human Rights designate may have been unduly listened to, without adequate consideration being given to his record, and his relationships with the formula industry, particularly the Nestle Corporation.

The explanations provided publicly by government spokesmen to explain the U.S. vote have stressed that the government could not support regulations on international control of commerce and that the Code might create legal and even constitutional problems for this nation. Many persons knowledgeable in these areas have stated that these reasons are fallacious, especially as the Code was only a recommendation.

As scientists, physicians and nutritionists, we are concerned that the government in explaining its vote is now, we are told, beginning to use the argument that there is no scientific evidence to show that bottle feeding with formula or other products has adverse effects on the health of young infants. This is absolutely untrue. We very strongly oppose any attempt by the government to spread such views which are false. We also believe that there is evidence to show that marketing practices influence mothers to use formula rather than to breast feed their babies. If such promotion is not successful we wonder why the industry opposes modest regulations to control marketing practices.

But we wish here to address mainly the health issues.

The decision of a poor third world mother to bottle feed rather than to breast feed her young infant may have very serious consequences for its health and even its survival.[3] The safe and sterile preparation of formula for bottle feeding is well nigh impossible when many mothers have no option but to use dirty water, when they do not have a refrigerator or turn-on stove, and where home conditions are insanitary. A contaminated formula or bottle is a common cause of infant diarrhea which in turn is the leading cause of infant mortality in many developing countries.[4,5] Formula is also relatively expensive,[6] and so overdilution is often practiced, and this is a cause of malnutrition of infants in poor communities.[7] Mothers' milk contains substances which help protect the infant against infections,[8] and it provides all the nutrients necessary for the health of the growing infant.[9] Breast feeding is cheaper for the mother than alternative feeding methods. Full lactation delays the onset of ovulation thus delaying the next pregnancy.[10,11] These are all well established scientific facts. The American Academy of Pediatrics in 1978 issued a policy statement on infant feeding, which stated that "breast feeding is strongly recommended for full term infants" and that "ideally breast milk should be practically the only source of nutrients for the first four to six months of life for most infants."[12]

It is well accepted that many third world mothers who could have breast fed their babies have been persuaded, as a result of industry promotion, to feed them artificially instead.[7] Some of these infants die each year as a result of this failure to breast feed. We recognize that industry promotional methods are not the only factors affecting mothers' decisions, and several of the corporations have modified the use of their most aggressive methods. The fact that such aggressive methods were, and sometimes still are, being used is the basis for the concern of pediatricians and health professionals, and the reason many of us advocated an international code to regulate promotional practices.

The formula manufacturers and their supporters such as Mr. Ernest W. Lefever seem to suggest that some of the above facts are in serious doubt. They are wrong. But even more seriously, they are attacking those of us who are advocates of breast feeding, and they suggest that we are all left wing ideologues. We submit that the survival of children is not an ideological issue. The promotion of good health does not have a political color. The United States and over a hundred other nations, both capitalist and socialist, reaffirmed at a WHO Conference in Alma Ata in 1979 the right of the world's people to enjoy, as far as is possible, a good level of health.

The WHO Code arose out of a WHO/UNICEF meeting held in Geneva in October 1979. The invited participants to the meeting included senior executives of the formula industry, the representatives of certain non-government organizations several of which had been critics of the formula industry, a group of scientific experts (including two of us), and representatives of some 30 governments. That meeting seemed to have reached an agreement for a marketing code and for certain principles to be included in it.[13]

WHO and UNICEF after that meeting diligently consulted people on all sides of the issue, and in lengthy meetings have arrived at the wording for such a Code.[14] Mr. Lefever stated that "the activists focused on the development of an international code to regulate the infant formula producers", thus suggesting that this whole exercise was a plot hatched by left wing critics of industry and orchestrated by certain church groups. This, as all the industry representatives know, is far from the truth. WHO spent at least equal time consulting industry representatives. The U.S. government played a leading and constructive role in the drafting of the Code, and in the wording of its various parts.

The Code as now accepted by the World Health Assembly is modest, it provides for less control than is probably desirable, it hardly restricts at all the promotion of formula through free samples and the medical profession, and it leaves implementation of the Code largely in the hands of individual governments—a right, of course, that they already enjoy.

It was particularly disappointing to learn that Ross Laboratories, the largest U.S. formula manufacturer, moved in early 1981 to oppose the Code. As recently as last October, Mr. David Cox, Chairman of Ross, informed one of us that they would support the code as drafted then. We had hoped that Ross was separating itself from the more intransigent position of Nestle and some of the U.S. manufacturers such as Bristol Myers.

We are not opposed to the marketing of infant formula. The products as manufactured in the U.S., Europe and elsewhere are often of high nutritional quality. A few mothers have no option but to bottle feed.[15] If a woman cannot breast feed her infant, then a good formula is preferable to many alternatives. But we believe, as do most pediatricians and nutritionists, that breast feeding is best. We therefore supported the WHO Code of Marketing which will in a modest way prevent some of the hard sell promotional techniques. These past promotional abuses have, we believe, been one among many factors that have contributed to the decline in breast feeding in some countries. The Code seeks in no way to restrict the availability of formula to mothers who wish to use it.

If you want it, we would be pleased to supply the data which show the advantages to infants of breast over bottle feeding in terms of their relationships to morbidity and risks of mortality. We are alarmed to hear that the U.S. vote in Geneva is now being explained on the completely false basis, that no scientific evidence supports the fact that inappropriate bottle feeding provides added dangers to infant health.

We have all had extensive experience working on health and nutritional problems in developing countries. We are familiar with the scientific evidence which relates to infant feeding practices. All five of us have engaged in research to further our knowledge about appropriate feeding of infants under different conditions. This pooled knowledge and experience leads us to secure scientific convictions that breast feeding is the ideal means of infant feeding.

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[From the Journal of Commerce, May 7, 1981]

SOURING ON MILK PACT

Center stage at the annual assembly of the World Health Organization this week at Geneva is a bitter controversy over the WHO-drafted international marketing code for infant formula. A non-binding recommendation, the draft code recommends that national governments adopt "legislation, regulations or other suitable measures" to prohibit the "advertising or other form of promotion" of infant formulas to the general public and to the medical profession.

All member governments of WHO with the exception of the United States are prepared to vote yes on the code. Alone, the United States has expressed severe reservations about the code and could vote no or abstain. In step with the State Department, the three major U.S. manufacturers of infant formula—Abbott Laboratories, Bristol-Myers and American Home Products which have an estimated $2 billion market in developing countries—have publicly denounced the code and asked the U.S. government to vote no.

Their announcement came as a surprise to supporters of the code within the administration and without. Until a few weeks ago, the companies had cooperated with the WHO in drafting the recommendations.

Paradoxically, the idea for a World Health Organization code of ethics to govern the marketing practices of the infant formula industry originated in the U.S. Congress three years ago, following hearings before the Senate Subcommittee on Health and Scientific Research. In a spirit of enlightened self-interest, the U.S. baby food industry agreed with a proposal of the subcommittee chairman, Sen. Edward M. Kennedy, D-Mass., to put the problem in WHO hands.

At the time, everyone agreed that a code was needed to prevent a tragedy from reoccuring. Babies had died in Nigeria because mothers stopped breastfeeding and mixed infant formula with unsanitary water. The governments of developing countries along with international pressure groups jumped to the conclusion that all corporate advertising and promotion techniques for infant formula were misleading and irresponsible, given the social and environmental conditions in developing countries.

The companies now argue that the code is too restrictive and departs from its original intent. Surprisingly, the companies in 1979 accepted WHO recommendations very similar to the draft code. Wrong, say the companies. WHO released a controversial document and made it look official when it wasn't. Whatever the fact of the matter, the U.S. manufacturers, deciding that the mood at State was right, recently seized the opportunity to oppose the code.

This isn't to say that the companies don't have a point when they complain that a universal code threatens their home market. Why should a code which derives from conditions in developing countries apply to the United States, they ask? Even though the code is voluntary, they feel, it will lend "moral suasion" to the idea that breastfeeding is inherently good and infant formulas are a poor second: perfect ammunition for

the government or other groups to pressure the industry in a possible dispute in its home market. One company has indicated that it would go along with the code if it didn't apply in the United States.

The U.S. companies, on the other hand, shouldn't be too eager to believe that joining the State Department's battle against multilateral block diplomacy is necessarily in their best interest. In developing countries, the WHO code is likely to give leverage to the health ministries vis a vis the development ministries.

Usually the development ministries have more power and tend to be relatively probusiness. But several developing countries have already adopted national legislation stricter than the WHO code on marketing of infant formulas. This trend is likely to continue no matter how the U.S. government votes on the code. And if the U.S. government ends up odd man out, as now seems likely, competing foreign concerns are likely to get better treatment.

At the political level, the State Department should not assume that the WHO code, which is a non-binding recommendation, bears any relationship to other U.N. legislative initiatives. The WHO executive-director in a letter has asked the State Department to consider the code as part of an international health effort, not as a test of will between the developed and the developing countries.

As a rule, we are not overly enchanted with multilateral agreements or recommendations. Under many circumstances, we believe, national legislation or bilateral agreements can best serve the U.S. interest. But if the United States abstains or votes no on the infant formula code, we believe that it will gain little and possibly lose much in its effort to restore U.S. credibility and influence with the developing world.

EDITORIAL REMARKS ON THE U.S. VOTE ON THE WHO CODE

Tallahassee Democrat, May 4, 1981: "The argument that any kind of marketing technique is acceptable to promote competition loses its effectiveness when manufacturers allow greed to become more important than their customers."

Journal of Commerce, May 7, 1981: "As a rule we are not overly enchanted with multilateral agreements or recommendations. . . . But if the United States abstains or votes no on the infant formula code, we believe that it will gain little and possibly lose much in its effort to restore U.S. credibility and influence with the developing world."

Chicago Sun-Times, May 12, 1981: "But now the U.S. delegation will withdraw support for the plan (code)-in effect, putting formula-makers' profits before the health of Third World babies. it's a shameful switch."

Baltimore Sun, May 14, 1981: "That the administration instead is opposing the code makes it appear to be callous toward the welfare of infants in the Third World . . . When they oppose the WHO code, the U.S. companies and the U.S. government appear to oppose a public health revolution which could yield immense benefits for the world's poor."

Washington Post, May 15, 1981: "The fact is that none of the administration's objections has anything to do with the health of babies. That is the sorry flaw in its handling of this issue."

Long Beach (Calif.) Press-Telegram, May 18, 1981: "But the 'no' vote on the infant formula issue is a mistake. If the United States is alone in its 'no' vote, or at best among the very few that vote 'no' on this emotional issue, it will be marked as a nation that puts the interests of its own companies above concern for the nutritional needs and development of infants."

Lewiston (Idaho) Morning Tribune, May 19, 1981: "It is easy to understand why the proposed code would attract so much support. It is a recognition by a community of civilized nations that much harm has been done by aggressive baby food conglomerates who for years have been taking advantage of the huge third world market. It is harm that is measured not in dollars, but in human lives—babies' lives."

New York Times, May 19, 1981: "There thus appears no reason to cast the United States as the enemy of mothers and babies. It is unwise to contend that every society should observe American styles of commerce. And if there are wrong-headed provisions or precedents in such a code, they will be much better dealt with, country by country, by an American Government that shows itself sympathetic to the most elementary concerns of others."

Washington Star, May 19, 1981: "The U.S. is isolating itself from a consensus that it is merely silly to blame on a malicious anti-capitalist cabal, and also exposing itself to a charge of bad faith."

Baltimore News American, May 19, 1981: "Let us hope the Reagan administration realizes the damage it proposes to do, changes its mind and decides to vote with an eye toward the well-being of hundreds of thousands of infants, and not in keeping with the wishes of a powerful industry."

St. Louis Post-Dispatch, May 20, 1981: "The no vote by the U.S. is a sorry commentary on the country's concern for the health of infants everywhere."

Milwaukee Journal, May 20, 1981: "The Reagan administration should take its anti-regulation bias off the backs of babies in Third World countries."

Columbus (Georgia) Ledger, May 20, 1981: "Maybe the Reagan administration next will announce that the U.S. Justice Department has no right to interfere with the marketing and sale of heroin because it interferes with the free enterprise system. That would surprise us, but not much."

Raleigh News and Observer, May 20, 1981: "The Reagan administration will send a callous message to poor countries if it votes against a proposed international advisory code of ethics for the marketing of infant formula."

Miami News, May 20, 1981: "The risk, of course, involves far more than how the world views the United States. The lives of children are at stake—and the Reagan administration would be both wise and humane if it changed its mind. And instead of accepting the resignations of Babb and Joseph it should give them large raises."

Fort Wayne Journal-Gazette, May 20, 1981: "But whether it stems from tortured reasoning or behind-the-scenes lobbying, the administration's opposition to the proposed WHO code could mean death for Third World infants whose mothers are encouraged to feed them easily contaminated formula rather than breast-feeding them."

Vancouver (Wash.) Columbian, May 20, 1981: "The ethics of a public policy that puts corporate profits before infant starvation are questionable, indeed."

Oskaloosa (Iowa) Herald, May 21, 1981: "We say human beings and the preservation of health and life are more important goals."

Hartford Courant, May 21, 1981: "The code, which the Reagan administration opposes for ideological reasons, is only a partial but necessary step toward protecting the health and welfare of mothers and children."

Conway (Ark.) Log Cabin Democrat, May 21, 1981: "America, the world's leader in sharing its medical knowledge, equipment and personnel with other nations, got a black eye with this vote."

Minneapolis Tribune, May 21, 1981: "But potential health benefits from application of the code outweigh its bureaucratic drawbacks."

San Francisco Examiner, May 22, 1981: "It's saddening that the government has given, for no good reason, the adversaries of this country an emotional club with which to beat us over the head. Even if it happened to cost us something (which it wouldn't), we need to show a good deal more concern on this question, and reverse our national position."

Marshall (Minn.) Independent, May 22, 1981: "Surely the Reagan administration is operating out of ignorance. Surely our president and other top government officials do not want to cast our country in the role of a child killer and, worse, one who does so for profit."

The Catholic Review, May 22, 1981: "Despite overwhelming evidence that such marketing practices by multi-national corporations like Nestle and Bristol-Myers are detrimental to the health of young children, the U.S. took the risk of destroying its own credibility on world health and trade circles."

South Bend Tribune, May 23, 1981: "No amount of explanation will erase the stigma of our vote. We are giving up world leadership for business reasons."

Fayetteville (N.C.) Observer, May 25, 1981: "Is the Reagan administration allowing the interest of big business to prevail over those of mothers and children? That is the smell of it."

Kansas City Times, May, 25, 1981: "In failing to support a humanitarian World Health Assembly resolution favoring mother's breast milk as infant food at the expense of commercial substitutes, the United States shamed itself. Not only did it decline to stand beside 117 other nations of the world declaring concern for the dangers to children in underdeveloped countries posed by infant formulas, this administration served unqualified notice that it is not interested in being a symbolic moral leader."

Buffalo Evening News, May 26, 1981: "It is unfortunate that the Reagan administration found it necessary to cast a vote that unduly stressed legalistic issues to the exclusion of the health concerns involved in the infant formula debate. The decision . . . contributed nothing to the image of either the present administration or the nation."

Valley Advocate (Northampton, Mass.) May, 27, 1981: "Shame seems often to be the underbelly of bravado. Yet, in the government's latest swagger before the world community there is a schism that is becoming familiar. Those who committed the indiscretion remain smug while the outcry of high-ranking respected officials and our consciences reveal a depth of humiliation."

Bucks County (Pa.) Times, May 1981: "It is painfully obvious that decisions like this one will not endear the administration to the leaders of the world's underdeveloped nations. In some cases, our legitimate interests make it impossible to accommodate them. But the controversy over infant for-

mula appears to be a case of the administration going out of its way to be insensitive to their concerns."

Philadelphia Inquirer, May, 1981: "The controversy is literally a motherhood issue, and the White House has put the United States on the wrong side of it."

● Ms. MIKULSKI. Mr. Speaker, I support House Joint Resolution 287, in expressing dismay that our country stood alone in casting a negative vote for adoption of the international code of breastmilk substitutes at the 34th World Health Assembly of the World Health Organization on May 21, 1981; in urging U.S. infant formula industries to abide by guidelines of that code, especially with respect to market activities of their subsidiaries in developing countries; and urging this administration to promptly notify the World Health Organization that the Government of the United States will cooperate fully with other nations in the compliance and implementation of the code.

At issue are the aggressive, uncontrolled, and often misleading marketing sales strategies of an infant formula industry whose gross annual revenues far exceed the billion dollar mark. A substantial proportion of the advertising and concomitant sales are directed toward developing countries, where consumer awareness is relatively low and poverty and illiteracy is relatively high.

It is impossible to safely and sterilely prepare the formula for bottle feeding when there is no operating refrigerator, or stove, or when home conditions are unsanitary—conditions which are common in the developing countries. A contaminated bottle or formula can often lead to infant diarrhea, which is the leading cause of infant mortality in many of the developing countries. Additionally, because formula is relatively expensive, overdilution is commonly practiced, leading to malnutrition. Mothers' milk also contains protective substances against infectious diseases while providing all the nutrients required by a growing infant. Last, let us acknowledge the fact that breast feeding is an important contributing factor in enhancing the emotional bond between a mother and her child.

Most pediatricians, nutritionists, and scientists feel that breast feeding is superior to bottle feeding for the above-stated reasons. This is not to deny the importance and utility of the infant formula industry—there are instances when mothers have no option but to bottle feed and it is essential that highly nutritious formula be made available to them. I will reiterate that what I am opposed to is the exploitive advertising techniques that were, and sometimes still are, being employed. These marketing strategies must be brought to a halt—strategies such as: company employed milk nurses who offer supposedly objective advice discouraging breast feeding; the distribution of free samples to mothers; or the offering of bribes to hospital employees as an inducement to get them to recommend formula use. There is evidence to show that advertising efforts are one of the contributing factors that influence a mother to bottle rather than breast feed her infant. If this were not so, I wonder why the industry is in such adamant opposition to modest regulation concerning promotional marketing techniques.

Let us reaffirm our dedication and commitment to the protection of the lives of our world's children and to the improvement and promotion of their health and well-being. To this end, I urge adoption of House Joint Resolution 287.●

● Mr. SOLOMON. Mr. Speaker, I rise in opposition to House Joint Resolution 287. In so doing, I am not implying that there is doubt that breast-feeding is the most preferred method of infant nutrition. The "Code of Ethics and Professional Standards," prepared in 1975 by the International Council of Infant Food Industries, affirms the superiority of breast-feeding whenever possible. And when the United States stood alone at the Assembly of the World Health Organization in voting against banning the advertising of baby formula in Third World countries, it did not disclaim this fact, but simply recognized the more fundamental issue that provisions in the code were contrary to U.S. law as it relates to commercial activities in the United States and abroad. The arbitrary prohibition of advertising and product information dissemination would make its implementation impossible here and in other Western nations with similar free market systems. A New York Times editorial stated that—

It is unwise to contend that every society should observe American styles of commerce.

In other words, the freedom that business enjoys in this country does not necessarily prevail in every country.

Mr. Speaker, the question was not whether other countries should have the power to ban such advertising, but whether we should agree that censorship of advertising is a good idea. In the United States, advertising is protected by the first amendment. I have no objections to voluntary compliance on the part of private industries. And indeed, industry has already demonstrated the ability and desire to impose regulations on itself. However, I strongly oppose the U.S. Government taking the formal position of explicitly mandating restrictions on American commerce, which, in essence, is supporting the concept of censorship in advertising—a violation of our first amendment freedoms.

There was no suggestion that the formula advertising was false, just that it was unwise. The implementation of the proposed draft is unnecessary, potentially disastrous, and politically dangerous, for it would set a precedent for subsequent regulation of industry in other areas as well.

In conclusion, Mr. Speaker, I believe the vote cast by the United States in the Assembly of the World Health Organization was correct. If this country does not stand for freedom in commercial matters, it is clear that no other country will. We should not be a party to prohibiting, through international sanction, what is legal and permitted in our own country. I urge my colleagues to vote against House Joint Resolution 287.●

● Mr. CONYERS. Mr. Speaker, I would like to speak on behalf of the joint resolution offered by my distinguished colleague from Wisconsin, Representative ZABLOCKI.

When the U.S. Representative to the United Nations cast the lone vote against a voluntary world code on infant formula, it sent a terrible message to the rest of the world. The message was that the most powerful nation on Earth would not help to prevent the unnecessary deaths of 1 million infants every year because we do not have the courage to restrain American corporations. The message was that the profit-taking of American multinational corporations is more important than newborn lives lost to infectious disease.

There has been widespread documentation that infant formula manufacturers engage in unethical practices throughout Africa. None of my colleagues could be unaware of the allegations that infant formula marketers participate in such deceptive practices as having their employees dress up as doctors and nurses to lure unwitting mothers. But, most of all, overwhelming scientific evidence demonstrates the inherent medical dangers of marketing infant formula. Authoritative sources trace the causes of infant deaths to contamination of infant formula by dilution, lack of refrigeration, and impure water, as well as the formula itself.

On May 21, at the United Nations, 118 nations, among them many of America's strongest allies, cast their votes for world health. Today, the House of Representatives can join those nations and declare its commitment to the health and safety of the children of the world. Let us not turn our backs on the future by turning our backs on the children of the world. Support the Zablocki resolution.●

● Mr. MARKEY. Mr. Speaker, I am relieved that the Congress has the opportunity today to dissent from the administration's position on the infant formula code. In my opinion, the case

for our resolution is simple and compelling. Millions of children suffer each year from the effects of bottle feeding under adverse conditions. When families lack access to clean water, sanitation, refrigeration, and facilities for boiling water, contamination results. When families lack adequate incomes, formulas are inevitably overdiluted. When illiteracy is widespread, mothers cannot read printed instructions for proper preparation. Worldwide research has established an absolutely clear link between the use of infant formula and deaths from diarrhea and malnutrition.

By contrast, breast-feeding is safe, nourishing, and almost free—the cost of supplementing the mother's diet is tiny compared to the cost of the formula. Breast milk also contains a wide range of natural immunants, many of which have not been replicated by modern science.

Opponents of this resolution will piously claim that a code limiting advertising threatens the free speech of infant formula manufacturers abroad. But there is nowhere a guarantee of corporate free speech. In fact, we prevent the advertisement of liquor and cigarettes—neither as potentially deadly as infant formula—right here in the United States.

Mr. Speaker, for over a century the United States has been a leader in the field of world health. But this kind of a vote at the World Health Assembly hacks away at our credibility as a humanitarian nation. It sends a message throughout the world that Americans care more about corporate profits than the infant health.

I believe that they do not. And I urge the Congress to speak for them today.●

● Mrs. COLLINS of Illinois. Mr. Speaker, as a Member of Congress, angered, appalled, and embarrassed that last month the United States stood alone in voting against the adoption of the International Code of Breastmilk Substitutes, I rise to express my wholehearted support of House Joint Resolution 287, a resolution in support of a voluntary code of infant formula.

My colleagues may well remember that this subject was brought before us in the 96th Congress; H.R. 4093, which was introduced by Representatives GEORGE MILLER and RONALD DELLUMS. The purpose of this legislation was to regulate the sale and distribution of infant formula in and to developing nations. Current regulations pertaining to infant formula are limited to ingredient labeling and processing in safe, sanitary facilities.

The use of unregulated infant formula in developing nations has contributed to the illness and death of thousands of infants. In response to this devastating situation, the World Health Organization (WHO) has developed a voluntary code of standards for the sale and distribution of formula to prevent any more casualties. The code represents a responsible and meaningful attempt to begin to alleviate the pain and suffering associated with the abuse of infant formula. The administration by its negative vote has in effect willingly chosen to support interests of corporations—profits—over very real human concerns.

On May 23, 1978, the Senate held hearings before the Health and Scientific Research Subcommittee on the use and promotion of artificial baby formulas in developing countries. Senator KENNEDY outlined the hearings purpose with the question:

Can a product which requires clean water, good sanitation, adequate family income and a literate parent to follow printed instructions be properly and safely used in areas where water is contaminated, sewage runs in the streets, poverty is severe and illiteracy is high?

Dr. Navidad Clavano, head of pediatrics at Baguio Hospital in Luzon, Philippines testified:

Well, in the Philippines, it is common knowledge that we have very high malnutrition and high infant death, and we have a lot of economic problems. You see mothers diluting their formula, because the basic salary of a filipino father is only around—less than two dollars, and how much would a tin of feed cost? It costs more than what he earns, and that milk should be consumed for only three days.

Prof. James E. Post, professor of management at Boston University testified:

The competitive marketing of infant formula produces no inherent benefits for the population of a developing nation. Price competition is rarely vigorous in less developed nations markets, creating little of the consumer benefit economists normally attribute to market competition. In the past, the industry has argued that freedom of consumer choice was reason enough to allow its products to be sold, and that they were not responsible for the lack of pure water, the poverty, or the illiteracy of the population. But that argument cannot legitimize a product whose misuse is predictable and calculable.

The promotion of propriety infant formula in developing countries has accelerated the trend away from breast feeding toward artificial feeding leading to increased incidence of early infancy morbidity and mortality. I hope that my colleagues will join me in voting for House Joint Resolution 287, so that an infant formula code can be implemented.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. ZABLOCKI) that the House suspend the rules and pass the joint resolution (H.J. Res. 287).

The question was taken.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 301, nays 100, present 2, not voting 28, as follows:

[Roll No. 76]

YEAS—301

Addabbo	Ertel	Lundine
Akaka	Evans (DE)	Markey
Albosta	Evans (GA)	Marks
Alexander	Evans (IN)	Marlenee
Anderson	Fary	Martin (IL)
Andrews	Fascell	Matsui
Annunzio	Fazio	Mattox
Anthony	Fenwick	Mavroules
Applegate	Ferraro	Mazzoli
Aspin	Fiedler	McCloskey
Atkinson	Findley	McCollum
Bafalis	Fish	McCurdy
Bailey (PA)	Fithian	McDade
Barnard	Flippo	McGrath
Barnes	Florio	McHugh
Bedell	Foglietta	McKinney
Beilenson	Foley	Mica
Benjamin	Ford (MI)	Mikulski
Bennett	Ford (TN)	Miller (CA)
Bereuter	Fountain	Mineta
Bethune	Fowler	Minish
Bevill	Frank	Mitchell (MD)
Biaggi	Frost	Mitchell (NY)
Bingham	Fuqua	Moakley
Blanchard	Garcia	Moffett
Bliley	Gaydos	Molinari
Boggs	Gejdenson	Mollohan
Boland	Gephardt	Montgomery
Bolling	Gilman	Morrison
Boner	Ginn	Mottl
Bonior	Glickman	Murphy
Bonker	Gonzalez	Murtha
Bouquard	Goodling	Natcher
Bowen	Gore	Neal
Brinkley	Gray	Nelligan
Brodhead	Gregg	Nelson
Brooks	Guarini	Nichols
Brown (CA)	Gunderson	Nowak
Brown (CO)	Hall (OH)	O'Brien
Burton, John	Hall, Sam	Oakar
Burton, Phillip	Hamilton	Oberstar
Carman	Hance	Obey
Chisholm	Harkin	Ottinger
Clausen	Hartnett	Panetta
Clay	Hawkins	Patman
Clinger	Heckler	Patterson
Coats	Hefner	Pease
Coelho	Heftel	Pepper
Coleman	Hertel	Perkins
Collins (IL)	Hightower	Petri
Conte	Hillis	Peyser
Conyers	Holland	Pickle
Courter	Hollenbeck	Porter
Coyne, James	Holt	Price
Coyne, William	Hopkins	Pritchard
Crockett	Horton	Pursell
Danielson	Howard	Rahall
Daschle	Hoyer	Railsback
Daub	Hughes	Rangel
Davis	Hutto	Ratchford
de la Garza	Jacobs	Reuss
Dellums	Jeffords	Richmond
DeNardis	Jenkins	Rinaldo
Derrick	Jones (NC)	Roberts (KS)
Dicks	Jones (OK)	Roberts (SD)
Dixon	Jones (TN)	Rodino
Donnelly	Kastenmeier	Roe
Dorgan	Kazen	Roemer
Dougherty	Kildee	Rogers
Downey	Kogovsek	Rose
Dunn	LaFalce	Rostenkowski
Dwyer	Leach	Roth
Dymally	Leath	Roukema
Dyson	Lee	Roybal
Early	Lent	Russo
Eckart	Levitas	Sabo
Edgar	Long (LA)	Sawyer
Edwards (CA)	Long (MD)	Scheuer
Emerson	Lowery	Schneider
Emery	Lowry	Schroeder
English	Lujan	Schumer
Erdahl	Luken	Seiberling

Sensenbrenner	Swift	Whitten
Shannon	Synar	Williams (MT)
Sharp	Tauke	Williams (OH)
Shelby	Tauzin	Wilson
Simon	Traxler	Winn
Skelton	Udall	Wirth
Smith (IA)	Vento	Wolf
Smith (NE)	Volkmer	Wolpe
Smith (NJ)	Walgren	Wright
Snowe	Wampler	Wyden
Solarz	Watkins	Yates
Spence	Waxman	Yatron
St Germain	Weaver	Young (AK)
Stanton	Weber (MN)	Young (FL)
Stark	Weiss	Young (MO)
Stenholm	White	Zablocki
Stokes	Whitehurst	Zeferetti
Stratton	Whitley	
Studds	Whittaker	

NAYS—100

Archer	Gingrich	Moorhead
Ashbrook	Gradison	Myers
Badham	Gramm	Pashayan
Bailey (MO)	Grisham	Paul
Benedict	Hagedorn	Quillen
Broomfield	Hammerschmidt	Regula
Brown (OH)	Hansen (ID)	Rhodes
Broyhill	Hansen (UT)	Ritter
Burgener	Hendon	Robinson
Butler	Hiler	Rousselot
Campbell	Hubbard	Rudd
Carney	Hunter	Schulze
Chappie	Hyde	Shamansky
Cheney	Jeffries	Shaw
Collins (TX)	Kemp	Shumway
Corcoran	Kindness	Shuster
Coughlin	Kramer	Siljander
Craig	Lagomarsino	Skeen
Crane, Daniel	Latta	Smith (AL)
Crane, Philip	LeBoutillier	Smith (OR)
Daniel, Dan	Lewis	Snyder
Daniel, R. W.	Livingston	Solomon
Dannemeyer	Loeffler	Stangeland
Deckard	Lott	Staton
Dickinson	Lungren	Stump
Dornan	Madigan	Taylor
Dreier	Marriott	Trible
Duncan	Martin (NC)	Vander Jagt
Edwards (AL)	McClory	Walker
Edwards (OK)	McDonald	Weber (OH)
Evans (IA)	McEwen	Wortley
Fields	Michel	Wylie
Frenzel	Miller (OH)	
Gibbons	Moore	

ANSWERED "PRESENT"—2

Conable	Hall, Ralph

NOT VOTING—28

AuCoin	Forsythe	Martin (NY)
Beard	Goldwater	Napier
Breaux	Green	Parris
Byron	Hatcher	Rosenthal
Chappell	Huckaby	Santini
Cotter	Ireland	Savage
D'Amours	Johnston	Thomas
Derwinski	Lantos	Washington
Dingell	Lehman	
Erlenborn	Leland	

□ 1345

The Clerk announced the following pairs:

Mr. AuCoin with Mr. Goldwater.
Mr. D'Amours with Mr. Forsythe.
Mr. Rosenthal with Mr. Erlenborn.
Mr. Lehman with Mr. Martin of New York.
Mr. Dingell with Mr. Napier.
Mr. Chappell with Mr. Thomas.
Mr. Breaux with Mr. Parris.
Mr. Hatcher with Mr. Derwinski.
Mr. Lantos with Mr. Beard.
Mr. Leland with Mr. Green.
Mr. Santini with Mr. Johnston.
Mr. Huckaby with Mrs. Byron.
Mr. Ireland with Mr. Savage.

Mr. LEBOUTILLIER changed his vote from "yea" to "nay."

Mr. EMERSON and Mr. COLEMAN changed their votes from "nay" to "yea."

Mr. RALPH M. HALL changed his vote from "yea" to "present."

So (two thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PERSONAL EXPLANATION

Mr. CHAPPELL, Mr. Speaker, on rollcall No. 76 I was unavoidably detained.

Had I been present, I would have voted "no."

EXPRESSING STRONG SUPPORT OF HOUSE OF REPRESENTATIVES FOR DIPLOMATIC EFFORTS TO RESOLVE CURRENT CRISIS IN LEBANON AND CONGRATULATING SPECIAL ENVOY PHILIP C. HABIB

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the resolution (H. Res. 159) expressing the strong support of the House of Representatives for diplomatic efforts to resolve the current crisis in Lebanon and congratulating Special Envoy Philip C. Habib on his tireless efforts to resolve that crisis, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 159

Whereas the ongoing crisis in Lebanon has far-reaching implications for international peace and security and has caused great human suffering and disruption of the economy in that country;

Whereas a diplomatic solution to the present situation in Lebanon which promotes a strong, independent, democratic Lebanon with close ties to the West is a major objective of United States foreign policy;

Whereas Special Envoy Philip C. Habib has demonstrated outstanding diplomatic skills in his effort to reach a peaceful solution which would significantly enhance the prospects of Lebanon once again becoming a peaceful, viable democracy; and

Whereas Philip C. Habib left private life to serve his country in a patriotic and selfless manner in Lebanon and has performed long and distinguished service in the Department of State: Now, therefore, be it

Resolved, That the House of Representatives strongly supports diplomatic efforts to resolve the current crisis in Lebanon and encourages the President to pursue a comprehensive and coordinated policy in Lebanon, including the development of an effective cease-fire, resolution of the issue of Syrian missiles, and promotion of the independence, sovereignty, unity, and territorial integrity of Lebanon.

SEC. 2. The House of Representatives congratulates Special Envoy Philip C. Habib on his tireless efforts to resolve current international problems concerning Lebanon and extends best wishes for success to Philip C. Halbib in the continuation of his mission to Lebanon and in his personal and public endeavors in the future.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 1 hour.

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of House Resolution 159, relating to the current crisis in Lebanon and the efforts of Special Envoy Philip C. Habib to resolve the crisis.

The resolution before the House has two purposes. First, it outlines a responsible U.S. policy regarding the present situation in Lebanon. Second, it recognizes the patriotic and selfless manner in which Phil Habib has acted to help bring about a diplomatic solution consistent with U.S. Policy.

The pillars of an effective U.S. policy toward Lebanon as embodied in the resolution include the development of an effective cease-fire, resolution of the issue of the Syrian missiles recently placed in Lebanon, and promotion of the independence, sovereignty, unity, and territorial integrity of Lebanon.

House Resolution 159 also makes specific references to the excellent efforts undertaken by Special Envoy Habib to reach a diplomatic solution to the current crisis. It notes that in a manner true to the great American spirit of service to one's country, Phil Habib left a comfortable life of retirement to bring his negotiating skills to bear in the cause of peace and relief of human suffering. Mr. Habib's latest effort in Lebanon is but one more example of his long and distinguished service in the Department of State.

Mr. Speaker, I am sure all Members extend to the Habib mission every best wish for success. U.S. policy objectives in the Middle East would be greatly advanced by a diplomatic solution in Lebanon which promotes a strong, independent Lebanon with close ties to the West. House Resolution 159 represents a congressional articulation of

support for such a development, as well as a recognition of Special Envoy Philip C. Habib's efforts to make such a development possible.

□ 1500

Mr. BROOMFIELD. Mr. Speaker, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Speaker, it requires men of courage and intelligence to confront grave international problems. I am reassured, therefore, by the fact that it is Philip Habib who is the U.S. Special Envoy assigned to defuse the Lebanon crisis. My confidence in Philip Habib, engendered by his long and outstanding service as Under Secretary of State and diplomatic troubleshooter, was reinforced when I met with him just 2 weeks ago. He was about to depart for the Middle East, after consultations in Washington, to resume a negotiated resolution of the Israeli-Syrian conflict over the Syrian missiles in Lebanon. As ever, I was deeply impressed with his willingness to undertake this assignment and his determination to complete an extremely difficult task.

Now, in the aftermath of the Israeli raid against the Iraqi nuclear facility, it has become commonplace to express concern for the viability of the Habib mission. I would like to caution my colleagues, however, that it is premature to lament the demise of this critical initiative. We would do well to remember that from the beginning of the Habib mission the pessimists have outnumbered the optimists regarding its outcome. Yet, Ambassador Habib's efforts in May were able to postpone an Arab-Israeli clash and to buy time for a negotiated settlement. And buying time has been much more than a diplomatic gambit. It has provided the opportunity to Sadat to reaffirm his commitment to the Egyptian-Israeli Peace Treaty and to King Hussein to state that he would not join Syria in a war against Israel. These are both important developments in the ever tense Middle East.

Therefore, rather than renewing predictions of a failure of the Habib mission, we in the United States must extend to this brave diplomat our support and encouragement and we must assert our expectation that he will succeed. It is no less important today, as he conducts talks in Syria, to avert an Israeli-Syrian clash than it was 30 days ago. So for all of these reasons I would voice my support for House Resolution 159, and I urge my colleagues to do likewise.

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from New York (Mr. KEMP) for debate purposes only.

Mr. KEMP. Mr. Speaker, I appreciate the gentleman's yielding, and let me say that I agree with the chairman of the committee.

This is an extremely important issue, particularly now that Ambassador Habib has returned to the Middle East, to continued his efforts to devise a negotiated settlement to this very difficult situation. I would like to congratulate the committee chairman, the gentleman from Wisconsin (Mr. ZABLOCKI), and also my friend, the gentleman from Michigan (Mr. BROOMFIELD), for bringing this resolution to the floor in support of Phillip Habib.

I support the resolution because I believe Ambassador Habib's personal dedication has been highly commendable. But I would like to ask the chairman of the committee about the meaning of line six of the resolution, in which it says that we support diplomatic efforts to resolve the issue of Syrian missiles in Lebanon. Is it the gentleman's understanding that the quote-unquote resolution of the Syrian missile situation means the removal of the Syrian missiles from Lebanon?

Mr. ZABLOCKI. Mr. Speaker, it is the intention of the chairman of the Committee on Foreign Affairs, and I think it is that of those who are cosponsoring the resolution, that this is a matter for negotiation. I do not think we are intending to make any determination at this time.

Mr. KEMP. Mr. Speaker, I plan to support the resolution. But I want the record to be clear that I do not believe that a just resolution of the crisis in Lebanon can be achieved so long as Syrian troops and Soviet SAM's remain in Lebanon, consolidating Syria's presence in and control of that country, and providing cover for PLO terrorist enclaves in southern Lebanon.

There is one phrase in the resolution that I would like to single out for special attention, because it is an objective that I emphatically and wholeheartedly support. It reads that the House of Representatives strongly supports the "promotion of the independence, sovereignty, unity, and territorial integrity of Lebanon."

Mr. Speaker, this is the crux of the crisis in Lebanon. It is one of the most tragic situations on the face of this Earth that the sovereign rights of the Lebanese people have been ruthlessly disregarded for so long. Today, Syria controls nearly 45 percent of the territory of Lebanon, while the PLO controls another 20 to 25 percent. Two-thirds or more of the nation of Lebanon, which was one a thriving democracy, which was once at peace, and which in all likelihood would have been a supporter of the Camp David accords, has now been invaded and occupied by external forces that are no friends of Lebanon, no friends of Israel, no friends of this country, and no friends of peace.

I have recently returned from the Middle East, where I met with many key people on the Lebanese crisis, including Major Haddad a real hero of the Free Christian Lebanese Army in southern Lebanon. I am convinced that the "independence, sovereignty, unity and territorial integrity of Lebanon" cannot be sustained so long as the Syrians and the PLO are occupying that country. The focal point of that occupation is now the Syrian SAM sites in Lebanon. The SAM's are a symbol of Syrian control—and they are more. Syrian missiles in Lebanon are part of an offensive infrastructure against Israel, threatening to turn Lebanon into a confrontation state in the event of future hostilities.

Southern Lebanon has become a safe house for Palestinian terrorists, rendering Israeli overflights critical to the legitimate defense needs of Israel. Syrian surface-to-air missiles would seek to deny Israeli reconnaissance and provide cover for terrorist strongholds. Finally, unrefuted reports of Soviet advisers in Lebanon, aiding Syrian SAM personnel, underscore the Soviet Union's interest in continuing strife in Lebanon.

It seems to me that we in Congress ought to make it very clear that a just resolution of the crisis in Lebanon cannot be reached unless Syrian SAM emplacements are withdrawn from Lebanon, as a step on the road to Syrian withdrawal from Lebanon and the restoration of Lebanese sovereignty into the hands of the Lebanese, Moslem, Christian, and Druze.

Mr. Speaker, the language appearing in the resolution which seeks to promote the independence, sovereignty, unity, and territorial integrity of Lebanon is a position that I can and will strongly support. I appreciate the effort of the committee chairman (Mr. ZABLOCKI) and those of the gentleman from Michigan (Mr. BROOMFIELD) in bringing this matter to the attention of the House and I want to express my personal regards and respects to Mr. Habib by supporting this resolution.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, before yielding to any other Members, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Illinois (Mr. FINDLEY) for debate purposes only.

Mr. FINDLEY. Mr. Speaker, I support the resolution. I think it is timely for us to take note of the extraordi-

nary diplomatic efforts that Ambassador Habib has undertaken.

This resolution was first before our committee in advance of the Israeli strike against the nuclear facilities in Iraq. This strike has complicated enormously the diplomatic mission of Ambassador Habib. That is accepted by every party who has spoken on the subject. It has made more difficult any achievement of a settlement of the Syrian missile aspect of the problem and any other aspect of it.

So I think it is very timely for us to express our profound appreciation for what he has done up to the present time. But it is also a timely moment for us to express our regret that what the New York Times has described as "an act of inexcusable aggression." That unfortunate act impairs severely the credibility of the United States in the Middle East and has complicated enormously the work of Mr. Habib.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from New York (Mr. GILMAN) for debate purposes only.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding, and I rise in support of this resolution (H. Res. 159) expressing our support for the diplomatic efforts to resolve the crisis in Lebanon. I commend the distinguished chairman of our Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. ZABLOCKI), and the ranking minority Member, the gentleman from Michigan (Mr. BROOMFIELD), for bringing this measure to the floor.

I want to associate myself with the comments made by the gentleman from New York (Mr. KEMP) and his astute observations of the crisis situation that presently exists in the Middle East and with regard to the need to support the efforts of our courageous diplomat, Special Envoy Philip C. Habib, who has been doing an outstanding job in demonstrating patience, concern, and a deep abiding faith in finding a peaceful settlement of the present problems in Lebanon.

Mr. Speaker, since it is extremely important that the Congress, at this critical time, express its support of our Nation's diplomatic efforts in Lebanon, Syria, and Israel, I urge my colleagues to support this resolution.

● Mr. DONNELLY. Mr. Speaker, it is imperative that we offer our strong support to diplomatic efforts to resolve the current crisis in Lebanon, and to protect the right of the Lebanese Christians and the other Lebanese communities to live in freedom and security.

By doing so, we lend the moral weight of the Congress and of the American people to the efforts of Special Envoy Philip Habib. We are grateful to Ambassador Habib for his selfless and tireless efforts, and we wish him every success.

The immediate crisis can only be resolved by the removal of all Syrian missiles now deployed in Lebanon. The goals of American policy must go beyond that, however, to a resolution of the conflicts that have torn that country apart.

Those goals include establishment of an immediate and effective cease fire throughout Lebanon, and preservation of free and secure Christian, Moslem, Druze, Armenian, and Jewish communities in Lebanon.

The United States has a longstanding commitment to the independence, sovereignty, and territorial integrity of Lebanon, free from terrorism, from outside military occupation, and from the corrosive influence of the Soviet Union and its surrogates. Let us look forward to assisting the people of Lebanon, through a freely and openly elected national government, rebuild a land of peace and freedom and independence.●

Mr. ZABLOCKI. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 398, nays 1, not voting 32, as follows:

[Roll No. 77]

YEAS—398

Addabbo	Brooks	Daniel, R. W.
Albosta	Broomfield	Danielson
Alexander	Brown (CA)	Dannemeyer
Anderson	Brown (CO)	Daschle
Andrews	Brown (OH)	Daub
Annunzio	Broyhill	Davis
Anthony	Burgener	de la Garza
Archer	Burton, John	Deckard
Ashbrook	Burton, Phillip	Dellums
Aspin	Butler	DeNardis
Atkinson	Campbell	Derrick
Badham	Carman	Dickinson
Bafalis	Carney	Dicks
Bailey (MO)	Chappell	Dingell
Barnard	Chappie	Dixon
Barnes	Cheney	Donnelly
Bedell	Chisholm	Dorgan
Beilenson	Clausen	Dornan
Benedict	Clay	Dougherty
Benjamin	Clinger	Downey
Bennett	Coats	Dreier
Bereuter	Coelho	Duncan
Bethune	Coleman	Dunn
Bevill	Collins (IL)	Dwyer
Biaggi	Collins (TX)	Dymally
Bingham	Conable	Dyson
Blanchard	Conte	Early
Bliley	Conyers	Eckart
Boggs	Corcoran	Edgar
Boland	Coughlin	Edwards (AL)
Bolling	Courter	Edwards (CA)
Boner	Coyne, James	Edwards (OK)
Bonior	Coyne, William	Emerson
Bonker	Craig	Emery
Bouquard	Crane, Daniel	English
Bowen	Crane, Philip	Erdahl
Brinkley	Crockett	Ertel
Brodhead	Daniel, Dan	Evans (DE)
Evans (GA)	Lent	Roe
Evans (IA)	Levitas	Roemer
Evans (IN)	Lewis	Rogers
Fary	Loeffler	Rose
Fascell	Long (LA)	Rostenkowski
Fazio	Long (MD)	Roth
Fenwick	Lott	Roukema
Ferraro	Lowery	Rousselot
Fiedler	Lowry	Roybal
Fields	Lujan	Rudd
Findley	Luken	Russo
Fish	Lungren	Sabo
Fithian	Madigan	Santini
Flippo	Markey	Sawyer
Florio	Marks	Scheuer
Foglietta	Marlenee	Schneider
Foley	Marriott	Schroeder
Ford (TN)	Martin (IL)	Schulze
Forsythe	Martin (NC)	Schumer
Fountain	Martin (NY)	Seiberling
Fowler	Matsui	Sensenbrenner
Frank	Mattox	Shamansky
Frenzel	Mavroules	Shannon
Frost	Mazzoli	Sharp
Fuqua	McClory	Shaw
Garcia	McCloskey	Shelby
Gaydos	McCollum	Shumway
Gejdenson	McCurdy	Shuster
Gephardt	McDade	Siljander
Gibbons	McDonald	Simon
Gilman	McEwen	Skeen
Gingrich	McGrath	Skelton
Ginn	McHugh	Smith (AL)
Glickman	McKinney	Smith (IA)
Goldwater	Mica	Smith (NE)
Gonzalez	Michel	Smith (NJ)
Goodling	Mikulski	Smith (OR)
Gore	Miller (CA)	Snowe
Gradison	Miller (OH)	Snyder
Gray	Mineta	Solarz
Green	Minish	Solomon
Gregg	Mitchell (MD)	Spence
Grisham	Mitchell (NY)	St Germain
Guarini	Moakley	Stangeland
Gunderson	Moffett	Stanton
Hagedorn	Molinari	Stark
Hall, Ralph	Mollohan	Staton
Hall, Sam	Montgomery	Stenholm
Hamilton	Moore	Stokes
Hammerschmidt	Moorhead	Stratton
Hance	Morrison	Studds
Hansen (UT)	Mottl	Stump
Harkin	Murphy	Swift
Hartnett	Murtha	Synar
Hawkins	Myers	Tauke
Heckler	Natcher	Tauzin
Heftel	Neal	Taylor
Hendon	Nelligan	Traxler
Hertel	Nelson	Trible
Hightower	Nichols	Udall
Hiler	Nowak	Vander Jagt
Hillis	O'Brien	Vento
Holland	Oakar	Volkmer
Hollenbeck	Oberstar	Walgren
Hopkins	Obey	Walker
Horton	Ottinger	Wampler
Howard	Panetta	Watkins
Hoyer	Pashayan	Waxman
Hubbard	Patman	Weaver
Hughes	Patterson	Weber (MN)
Hunter	Pease	Weber (OH)
Hutto	Pepper	Weiss
Hyde	Perkins	White
Jacobs	Petri	Whitehurst
Jeffords	Peyser	Whitley
Jeffries	Pickle	Whittaker
Jenkins	Porter	Whitten
Jones (NC)	Price	Williams (OH)
Jones (OK)	Pritchard	Wilson
Jones (TN)	Pursell	Winn
Kastenmeier	Quillen	Wirth
Kazen	Rahall	Wolf
Kemp	Railsback	Wolpe
Kildee	Rangel	Wortley
Kindness	Ratchford	Wright
Kogovsek	Regula	Wyden
Kramer	Reuss	Wylie
LaFalce	Rhodes	Yates
Lagomarsino	Richmond	Yatron
Latta	Rinaldo	Young (AK)
Leach	Ritter	Young (FL)
Leath	Roberts (KS)	Young (MO)
LeBoutillier	Roberts (SD)	Zablocki
Lee	Robinson	Zeferetti
Leland	Rodino	

NAYS—1

Paul

NOT VOTING—32

Akaka	Ford (MI)	Lehman
Applegate	Gramm	Livingston
AuCoin	Hall (OH)	Lundine
Bailey (PA)	Hansen (ID)	Napier
Beard	Hatcher	Parris
Breaux	Hefner	Rosenthal
Byron	Holt	Savage
Cotter	Huckaby	Thomas
D'Amours	Ireland	Washington
Derwinski	Johnston	Williams (MT)
Erlenborn	Lantos	

□ 1415

The Clerk announced the following pairs:

Mr. Akaka with Mrs. Holt.
Mr. D'Amours with Mr. Erlenborn.
Mr. Applegate with Mr. Beard.
Mr. Breaux with Mr. Derwinski.
Mr. Rosenthal with Mr. Thomas.
Mr. AuCoin with Mr. Johnston.
Mr. Washington with Mr. Parris.
Mr. Lantos with Mr. Napier.
Mr. Lehman with Mr. Livingston.
Mr. Huckaby with Mr. Hansen of Idaho.
Mr. Ireland with Mr. Williams of Montana.
Mr. Hatcher with Mr. Lundine.
Mr. Hall of Ohio with Mr. Hefner.
Mr. Ford of Michigan with Mr. Savage.
Mr. Gramm with Mrs. Byron.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1981

Mr. KASTENMEIER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3480) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3480, with Mr. MCHUGH in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Wisconsin (Mr. KASTENMEIER) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. RAILSBACK) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Mr. Chairman, I yield 6 minutes to the distinguished chairman of the Judiciary Committee, the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Chairman, I thank the subcommittee chairman for yielding this time to me.

I would like to first commend the subcommittee chairman and the ranking minority member of that committee, the gentleman from Illinois (Mr. RAILSBACK), together with the members of the subcommittee who unanimously supported the compromise version which is before the House now.

Mr. Chairman, I rise in support of H.R. 3480, a bill to extend the authorization for appropriations for the Legal Services Corporation for 2 additional years. The bill was reported favorably by the Committee on the Judiciary by a strong vote, 22 to 6, and is supported by a bipartisan coalition of members. I am aware that some members and the President may want to terminate the Corporation and end Federal assistance to the poor for civil legal aid. I believe that such a radical move is unwarranted, unfair, and unwise.

The Legal Services Corporation is a private nonprofit corporation which was created by Congress in 1974—Public Law 93-355. The original legislation was proposed by President Richard M. Nixon as an alternative to the earlier legal services program begun in the midsixties which was part of the executive branch in the Office of Economic Opportunity, and later in the Community Services Administration. The need for an independent corporation outside the executive branch was emphasized by the President, who stated that among the objectives of the new program would be:

> That the lawyers in the program have the full freedom to protect the best interests of their clients in keeping with the Canons of Ethics and the high standards of the legal profession * * * and that the Nation be encouraged to continue giving the program the support it needs to become a permanent and vital part of the American system of justice.

As President Nixon noted on May 15, 1973:

> Legal assistance for the poor, when properly provided, is one of the most constructive ways to help them to help themselves * * * (and) justice is served far better and differences are settled more rationally within the system than on the streets.

The Committee on the Judiciary has exercised oversight of the Legal Services Corporation since it began operations in 1975. We processed legislation to extend the authorization for appropriations in 1977—Public Law 95-222—and have held several hearings over the past 6 years. We have been impressed with the Corporation and the services which the local programs provide. Legal Services is well run and a bargain. More than 93 percent of its resources are spent to provide legal services directly to its clients in 323 legal services programs in 50 States, the District of Columbia, the Virgin Islands, Puerto Rico, Micronesia, and Guam. Less than 3 percent of the funding goes for central management and administration.

The national legal services program, though primarily funded through the Legal Services Corporation—which administers grants and monitors its grantees—is basically a local program. Field programs are generally private nonprofit organizations, each of which is directed by a local board whose composition is 60 percent lawyers and one-third clients from the service community. There are limited resources and so priority setting is conducted at the local level with input from the private bar and client community. The initial goal of "minimum access," that is, 2 attorneys per 10,000 poor persons, has just been completed. This is a modest goal of access to the justice system, since there are approximately 14 attorneys per 10,000 persons across the Nation. But for the poor this goal provides minimum access to the basic necessities of life—food, shelter, clothing, and education.

Legal services staff are in no way overpaid. They are dedicated lawyers who work long hours in modest offices. The average staff attorney is paid less than $17,000 per year. Nor is the work glamorous in the conventional sense. Fully 80 percent of their cases involve disputes in the family and over housing, income maintenance, and consumer finance. Eighty percent of legal services cases are closed within 6 months, about 30 percent within a day. Certainly this is an example of speedy justice. Less than 12 percent of the cases ever reach a court decision.

During this Congress the Subcommittee on Courts, Civil Liberties, and the Administration of Justice has conducted 8 days of hearings on the Legal Services Corporation.

Several witnesses testified, including critics of the program as well as supporters. The support for continuing the independent Legal Services Corporation has been very impressive and overwhelming. Public officials in my home State of New Jersey who have written to me of their support include: Gov. Brendan T. Byrne, attorney general, James R. Zazzali, public advocate, Stanley Van Ness and his assistant commissioner, Arthur Penn, and Newark mayor, Kenneth A. Gibson. All three deans of New Jersey's three law schools have written to me, as have many law students attending them. Most importantly, several hundred clients have written to me, many of them from New Jersey. H.R. 3480 has a wide range of support from over 80 national organizations, including several organizations for the elderly

and national bar organizations, including the American Bar Association. The support of the Conference of State Court Administrators, as well as several Federal, local, and State judges, indicates the high regard which the judicial system has for these legal services lawyers.

I urge you to support H.R. 3480.

□ 1430

Mr. RAILSBACK. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the issues before us today are extremely important. Foremost is the question of whether Americans who do not have the necessary resources will have assured access to a lawyer to help them with their noncriminal legal problems. In characterizing the Americans we are talking about, it is fair to say that they are poor, they represent a disproportionate number of American minorities, and they represent a disproportionate number of America's elderly citizens. To qualify, they must meet a poverty standard. The subcommittee, Republicans and Democrats alike, made the decision that the 29 million poor Americans in this country should be able to sit down and discuss their legal problems with an attorney. William Reece Smith, Jr., president of the American Bar Association, in a letter of support stated:

I believe we have the oldest surviving democracy in the world because our people perceive that they can settle their grievances and enforce their rights through the justice system.

Every lawyer in this body, and in the Nation for that matter, is fully aware of the fact that to successfully use our system of justice, you need the assistance of an attorney—and to deny these people that assistance is the very same as denying them access to our system of justice. If we do this, then I believe the consequences may be serious, not just for the poor but for our entire system of government.

We cut the Legal Services Corporation by $61 million from $321 million to $260 million. They are authorized under the bill for 2 years, 1982 and 1983, and are held at the same authorization for those 2 years. So, if the inflation factor was considered, which it was not, the cut would be substantially more than 61 million dollars. In addition, the subcommittee and full committee addressed 18 well-known problem areas and drafted amendments aimed at correcting those problem areas. For example, the Board of Directors of the Corporation, whom the President would appoint, would have greater power to fire employees considered to be subverting the will of the Congress, and to withhold funds from such local programs if necessary. Under this legislation before you today, class action suits against governmental units would be forbidden, unless in accordance with policies laid down by the President's Board. Employees engaged in illegal lobbying would be subject to criminal penalties. The Legal Services Corporation would be required to make available substantial amounts of funding to provide the opportunity for the private bar to render legal assistance, either in lieu of local legal services programs or in addition to them. This was an amendment which I introduced. It was recommended by the American Bar Association, and it is similar to the one proposed last year by my colleague, JIM SENSENBRENNER. This bill also requires local legal services programs to attempt to negotiate settlements of controversies before filing suit. This idea comes from my colleague from New York, HAM FISH. It also addresses a concern that has been expressed by our colleagues, Mr. CONABLE and Mr. GILMAN.

I have only mentioned a few of the amendments which the subcommittee adopted. The majority of the legal problems faced by the poor are relatively routine, but to the individuals, these problems take on crisis proportions which would often perpetuate other crises if it were not for the availability and the accessibility of legal services programs. Contrary to a misconception engendered by some on this floor today, legal service attorneys spend most of their time helping individuals. Of the 1.5 million legal matters handled annually by local programs, over 30 percent relate to family matters: Divorce, custody, visitation problems, support, wills, and guardianships. Legal service attorneys differ from lawyers in private practice in the large percentage of cases they handled in the income maintenance area—over 17 percent in January, 1981. These cases include social security disputes, including aid to families with dependent children. Another 14 percent of legal services cases fall into the area of consumer and finance law: Collection, repossession, contracts, warranties, bankruptcy, and debtor relief.

In June of last year, there appeared in the Washington Star a column by James J. Kilpatrick entitled "Of Justice for All." James J. Kilpatrick begins as follows:

If there is one concept that our Nation cherishes more than any other, it is the commitment that is carved in stone at the Supreme Court. The legend reads, "equal justice under the law". Year by year we creep a little closer toward that distant goal.

That cheerful observation is prompted by a report from the Legal Services Corporation, making its first five years of operation. The Corporation has come a long way from those angry days in 1973 and 1974 when many of us on the conservative side fought like bobcats against its very creation. In the nature of things, poor families can accept the realities of being poor; they are not going to have the food, clothing, housing, and higher education and material amenities of the rich. What they cannot accept is the sense of being unfairly ground down by the millwheels of the law.

He concluded:

We will never achieve the ideal of truly equal justice * * * but at law, we must keep trying. The preamble to the Constitution pledges a national purpose "to establish justice". Let us get on with the job.

In March of this year, Mr. Kilpatrick again devoted a column to the Legal Services Corporation, in which he states that if the Legal Services Corporation dies, it will have done itself in through its own lobbying efforts. But, Mr. Kilpatrick concludes that column as follows:

The concept is worth saving. Heaven knows that it is! I will cling to the ideal willy-nilly. But perhaps some other mechanism—block grants to the States, or pro bono service by private attorneys—would be better. If the Corporation dies, the need will still be there.

In conclusion, Mr. Chairman, in the other body, the Senate Labor and Human Resources Committee agreed last week to continue funding the Legal Services Corporation at $100 million a year for 2 years and not to abolish it. That committee is expected to report such a bill to the Senate floor this week. So your vote today will not be cast in vain.

In conclusion, Mr. Chairman, I would just like to say a word to my Republican colleagues—I believe we have a great opportunity to preserve what is good about this important program for the poor, and correct what needs correcting and redirect it in certain other areas. I urge you to vote in favor of H.R. 3480.

Thank you.

Mr. KASTENMEIER. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I am pleased to bring this bill to the House floor. I want to join the chairman of my committee, the gentleman from New Jersey (Mr. RODINO). I want to compliment him because it was his original bill that was presented to the subcommittee.

But particularly I want to compliment the seven members of the subcommittee, four Democratic members and three Republican members, for their cooperative work and for the most part in our long proceedings of hearings and markup we were of a like mind in terms of resolving differences.

The result is this bill bears 18 amendments. These amendments respond to various critics' views about how the program was operating.

Perhaps those who are proponents of the program would feel that we have overreacted in terms of some of these amendments. But, in any event, it is important to have the confidence of this House and to make an attempt to mitigate what people regard as abuses or wrongs. Even if the perception is there, we ought to respond.

Mr. Chairman, I rise in support of H.R. 3480, a bill to extend the authori-

zation for appropriations for the Legal Services Corporation for two additional fiscal years, 1982 and 1983, and for other purposes.

The Legal Services Corporation is an independent corporation created by Congress in 1974 (Public Law 93-355) with strong bipartisan support. The primary purpose of the Corporation is to be a vehicle for Federal funding of legal services around the Nation. President Nixon emphasized the need for an independent corporation "immune to political pressures * * * a permanent part of our system of justice."

The Corporation is governed by an 11-person Board of Directors appointed by the President of the United States with the advice and consent of the Senate. President Reagan now has the power to appoint all 11 members. No more than 6 members may be from any one political party.

The Corporation is very cost efficient spending only 3 percent for central administration and monitoring. In addition, the cost benefits to society at large and to clients in particular cannot be underestimated. Its existence at the national level insures that access to justice for the poor extends to every part of the country. If the poor had to rely on States or the private bar to deliver such services, coverage would be very spotty and uneven. When the Corporation began its operations in 1975, approximately 1½ million poor persons had access to the civil legal aid; today all 30 million poor persons have "minimum access"—2 attorneys per 10,000 poor persons.

The Legal Services Corporation is a modest and wise investment for taxpayers. It is currently funded at $321.3 million, although H.R. 3480 would reduce that amount by approximately 20 percent to $260 million. Compare that cost to the estimated $4 to $12 billion tax deduction which businesses claim against our tax revenues. Certainly it is only equitable that poor persons—who often require legal services to obtain the basic necessities of life—have the protection of our laws. To deny them this protection would create a subclass of nonprotected persons. Society benefits from the stability of having all its members part of the system of justice. Legal services cannot be categorized as just another social program.

This program is no budget buster; in fact, its costs have even been described by critics as "mere pocket change." The President did not budget any money for legal services, and would leave the responsibility to the sole discretion of the States or to the private bar. The States have no expertise or inclination to administer a legal services program nor do they have the financial resources. Creating 50 State bureaucracies would increase substantially the administrative costs of Control by the States of this program would be a move away from the local control which is the main structure for the present program. Local programs set their own priorities in consultation with the client community. Dependence on each State would bureaucracize and politicize this program. Also States are sometimes the defendants in cases brought by Legal Services attorneys to enforce their client's rights. Attorney General Sacks of Maryland noted that where a public agency has failed to follow the law or its own regulations, private enforcement of the law is often needed.

Neither can the private bar be required to shoulder the burden of civil legal aid to the poor. Lawyers can be and are encouraged to volunteer their services; the presence of a core legal services program is often a catalyst to increase volunteer efforts and to offer support on poverty law issues. Indeed the present system of support services is even more critically needed, as Legal Services funding is diminished and private bar participation is encouraged and increased.

The Corporation is funded for fiscal year 1981 under a continuing appropriation, Public Law 96-536, at the level of $321.3 million. H.R. 3480 extends the authorization for appropriations for 2 additional fiscal years, 1982 and 1983, at a reduced level—20 percent reduction, not including inflation—of $260 million for each fiscal year. H.R. 3480 also adds many additional restrictions to the current Legal Services Corporation Act, Public Law 93-355, as amended by Public Law 95-222. It is a bipartisan, compromise bill, responsive to many of the criticisms raised last year and during the 8 days of hearings during this Congress. At those hearings critics and indeed opponents, as well as supporters, were invited to and did testify. I would like to emphasize that after the hearings, the Subcommittee on Courts, Civil Liberties and the Administration of Justice voted unanimously to continue the Legal Services Corporation and to recommend H.R. 3480, which contains several new restrictions, to the full committee. After 2 days of markup, the Committee on the Judiciary voted overwhelmingly, 22 to 6, to continue the Legal Services Corporation as the primary mechanism for delivering legal services in civil matters to the poor persons of this Nation.

President Reagan has recommended that the independent Legal Services Corporation be abolished and that the annual Federal appropriation to the Corporation—$321.3 million in fiscal year 1981—be eliminated. He has suggested that the need for Legal Services can be met solely by the private bar and by authorizing States to fund Legal Services in their discretion through a single social services block grant to the States. The President would also cut the funding for the programs in the block grant by 25 percent. This approach of relying solely on the private bar and local initiatives has been tried before and has failed. That fact is one of the reasons why an independent Legal Services Corporation was created by Congress in 1974 with bipartisan support and the endorsement of President Nixon and the American Bar Association. In 1973 President Nixon called for the establishment of an independent nonprofit corporation—not a Federal or State agency—to administer the program. He stressed the need for independence and freedom to exercise professional judgment. He remarked that:

> (l)egal assistance for the poor . . . is one of the most constructive ways to help them help themselves . . . (and) that justice is served far better and differences are settled more rationally within the system than on the streets . . . (and that then was) the time to make legal services an integral part of our judicial system. (Emphasis added.)

I ask: "How can we foster respect for law and order, and then exclude one segment of the population from the legal system?" We cannot cut off access to the legal system to the most vulnerable segment of our population—the poor—and thousands of Americans agree with me.

A recent New York Times poll around the Nation confirmed that an overwhelming majority of persons—83 percent of those polled—favored increases in Legal Services or agreed that the funding for Legal Services should remain the same. Thirty-six percent favored increases; 47 percent wanted it to remain the same. Only 13 percent wanted decreases. And these were persons who—80 percent—otherwise approved of the President's economic program. Of those polled who considered themselves "conservatives," 78 percent wanted increases—35 percent—or that funding remain the same—43 percent—for Legal Services. These figures are impressive and are consistent with the correspondence which the subcommittee has received. I have received thousands, probably over 6,000, of letters supportive of the Legal Services Corporation, and only approximately 80 letters opposed. Most of these supportive letters are from Legal Services clients. Over 80 national organizations and 300 bar groups support the continuation of the Corporation. And I have received letters from Federal, State, and local public officials—including judges, Governors, attorneys general, mayors—supporting the present program.

In general, the Legal Services Corporation has been performing an excellent and efficient job administering and distributing Legal Services funds throughout the country. Only approximately 3 percent is spent on administrative and related costs. The network of 323 Legal Services pro-

grams is locally controlled usually by local boards composed of 60 percent attorneys and one-third clients. Each program sets its own priorities in consultation with the client community. Over 1.5 million matters were handled last year, and only 15 percent of these cases ever went to court. Most were routine matters involving family, housing and consumer law.

Besides the financing provisions, H.R. 3480 has changed the Legal Services Corporation Act in many other ways. In response to concerns raised by the gentleman from Louisiana (Mr. HUCKABY) and others, the State advisory councils have been mandated, restructured and given new powers and responsibilities regarding alleged violations and funding decisions, section 2. The gentleman from Florida (Mr. MCCOLLUM) added section 3, which requires that nonprofit organizations chartered solely to provide legal assistance be governed by a majority which are lawyers appointed by the majority bar associations in that area. In response to concerns raised by the gentlemen from California, Messrs. MOORHEAD and SHUMWAY, and the gentleman from Wisconsin (Mr. SENSENBRENNER), lobbying activities by Corporation officials and employees have been practically eliminated, placing them on the same footing as Federal Government workers. Legislative representation by employees of recipients or local programs has been sharply curtailed and narrowly defined, to eliminate some of the ambiguity in current law. Legal assistance may be provided in legislative and administrative matters only where an eligible client has a particular claim or when a formal request is made by an agency, legislature, committee or member thereof, and then response may be made only to the requester, section 5.

In response to concerns raised by several critics and by the gentleman from Michigan (Mr. SAWYER), limitations have been placed on class actions against governmental entities, section 6. In response to concerns raised by the gentleman from Virginia (Mr. BUTLER) and others, the Corporation and recipients have been made more liable for attorneys' fees to opposing parties, section 7. At the same time the ability of legal services programs to receive such awards has been severely restricted, section 10. In response to concerns raised by the gentleman from New York (Mr. FISH) and others, programs will be required to attempt to negotiate settlements before filing a suit, section 8. As a result of input from the American Bar Association, and the gentlemen from Illinois (Mr. RAILSBACK) and Wisconsin (Mr. SENSENBRENNER), the private bar will have increased opportunities to participate in delivering legal aid, section 9. This provision is designed to encourage a full range of private delivery methods, including pro bono and compensated services at less-than-customary fees.

Several additional restrictions have been placed on the use of legal services funds. Two such restrictions are contained in the current appropriations law: First, in section 11(5), prohibiting the representation of known illegal aliens to respond to the concerns of the gentlemen from Illinois (Mr. O'BRIEN) and California (Mr. SHUMWAY) and others; and second, section 11(5), prohibiting legal assistance to adjudicate the legalization of homosexuality to respond to the concerns of the gentleman from Georgia (Mr. MCDONALD).

Other restrictions incorporated in the act include one proposal by the gentleman from Mississippi (Mr. LOTT) to prevent training activities which disseminate information encouraging or advocating labor or antilabor activities, section 11(1), and one proposal by the gentleman from Kentucky (Mr. MAZZOLI) to curtail representation in abortion cases unless the mother's life is endangered, section 11(2). One amendment proffered by the gentleman from Colorado (Mr. KRAMER) has been adopted requiring stricter documentation of the eligibility of clients and of legislative activities, section 12. And the gentleman from Virginia (Mr. BUTLER) has lowered from 10 to 7 the percentage of funds which can be used for certain support activities, section 13(b).

I believe that H.R. 3480 is a true bipartisan effort, and should be supported.

The following is a brief explanation of the specific provisions of H.R. 3480.

STATE ADVISORY COUNCILS

The committee made several changes in current law to increase local accountability of programs and to improve enforcement of the act and regulations. Section 2 mandates State advisory councils, which are now optional, and gives them additional powers and responsibilities to review grant and contract applications and violations of the act and regulations. The committee bill requires the Corporation to appoint a council for a particular State if the Governor fails to do so and requires annual reappointment of council members.

LOCAL BAR SELECTION OF GOVERNING BODIES

Additional assurances of local accountability of program operations are provided by section 3 of the committee bill, which provides for bar association selection of a majority of the members of the governing bodies of legal services programs. This change responds to criticisms that existing law permits self-selected and self-perpetuating governing bodies and assures that this will not be the case.

The committee change requires that relevant bar associations be permitted to appoint attorneys to a majority of the seats on the governing body of a legal services program. This change does not affect the requirements of section 1007(c) which continue to apply. The committee recognizes that there will be certain procedural problems in implementation of the provision; for example, there will often not be a direct correlation between the geographic scope of bar associations and of programs, there may be multiple bar associations relevant to the service area, and it expects the Corporation to set out a process for appointment which will include means to deal with such problems consistent with the committee's intent that appointments be made by the most relevant bar associations, those representing a majority of attorneys in the service area of the program. It is expected the process will also provide for inclusion of minority bar associations, such as organizations of black, Hispanic, or women lawyers, and consider the diverse situations of all current grantees to insure an opportunity for all to conform to this new requirement.

IMPROVED ENFORCEMENT AND SANCTIONS

Section 4 of the committee bill gives the Corporation additional authority to enforce the act and regulations. Section 4(a) authorizes the president of the Corporation to suspend an employee of a recipient for violations of the act or regulations. It is expected that this authority would be used in extraordinary situations, such as where a recipient has refused to act with regard to an employee who has committed serious violations.

Section 4(b) of the committee bill repeals section 1011 of the act, which requires that a recipient be provided with notice and an opportunity for hearing before suspension or termination of funding, or denial of refunding. The requirements with respect to suspensions or terminations are retained in section 1006(b)(5), but the requirement of a prior hearing before denial of an application for refunding is eliminated. Section 4(c) continues the provision for interim funding to assure that service is not interrupted while decisions on such applications are pending.

This change will allow the Corporation to move with greater speed when it determines that a particular recipient should not be refunded because selection of another provider would best fulfill the purposes of the act and provide the most economical and effective delivery of legal assistance. It is expected that arbitrary action will not be confused with speed and that applications will still be dealt with in a reasoned and orderly manner.

PROHIBITIONS ON STRIKES BY LEGAL SERVICES EMPLOYEES

Section 1006(b)(5) of the Legal Services Corporation Act prohibits legal services employees, while they are car-

rying out legal assistance activities, from engaging in or encouraging others to engage in picketing, boycotts, or strikes, with one exception: When the action is in connection with an employee's own employment situation. Section 4(d) of the committee bill removes this exception.

ADDITIONAL LIMITATIONS ON LOBBYING

The committee bill adds significant new restrictions on lobbying. It imposes additional limitations on lobbying and narrows the circumstances in which legal services employees may engage in legislative representation.

Section 5(a) extends to officers and employees of the Corporation for the first time the antilobbying provisions of section 1913 of title 18, United States Code and subjects them to the same limitations on legislative activity that apply to Federal officers and employees. Section 5(b) further restricts the legislative activities of employees of recipients. It modifies current law to remove the explicit authority for legal services programs to lobby on their own behalf or on behalf of the Corporation before Congress. It also specifically adds publicity or propaganda designed to influence the introduction, passage or defeat of legislation to the proscribed activities. This confirms that this restriction applies to recipients and resolves any controversy as to the relationship between such language in legislation appropriating funds for the Corporation and the provisions of the act.

The committee bill also clarifies the scope of the exceptions. Under the first exception, legislative or administrative advocacy is only permitted when representing an eligible client whose legal rights and responsibilities are directly involved. This does not permit lobbying on matters of general concern to a broad class of persons as distinguished from acting on behalf of a particular eligible client. Under the second exception, legislative or administrative representation is permitted if a Government agency, a legislative body, or a committee thereof, or a member of such a legislative body or committee formally requests testimony or representations. This permits only a response to the agency, legislative body, committee or member making the request, and is not intended to permit a widespread lobbying effort.

LIMITATIONS ON CLASS ACTIONS

The committee bill provides additional safeguards to protect against the possible misuse of class actions in suits brought against Federal, State or local governments. The committee considered carefully, but rejected, an absolute prohibition of class actions. There are certain situations where class actions are appropriate to achieve effective remedies and avoid repetitive litigation that is costly to legal services, to the courts, and to the parties against whom such litigation is brought.

Section 6 specifically requires that the Board of the Corporation maintain policies and regulations governing the filing of class action suits against Government agencies. As a result of this requirement, no class action could be filed against a Government agency unless it was done in conformity with policies or regulations of the Board. The committee approach will provide appropriate restraints to guard against the misuse of class actions while continuing the availability of such actions in appropriate cases.

CORPORATION LIABILITY FOR ATTORNEYS FEES

Section 7 has been added to discourage legal services programs from bringing actions that have no basis, by making the program and the Corporation liable to opponents for attorneys' fees and other costs if the court finds that the action had no reasonable basis in law or fact.

NEGOTIATION REQUIREMENT

As a further step to discourage unnecessary litigation, section 8 of the committee bill requires that legal services attorneys attempt to negotiate a settlement of controversies before filing suit. The committee bill would not, however, preclude attorneys from immediately filing suit where such action is required to protect the interests of a client.

PRIVATE BAR INVOLVEMENT

Section 9 authorizes the Corporation, where feasible, economical, and efficient, to make substantial amounts of funds available to provide the opportunity for legal assistance to be rendered to eligible clients by private attorneys. Since the beginning of Federal support for legal services in 1965, the delivery of legal assistance to the poor has been a joint enterprise of staff attorneys and paralegals who work full-time for eligible clients and private practitioners who devote some of their time to pro bono or reduced fee representation of the poor. Since the Corporation came into existence, private attorney participation in this effort has expanded significantly. The committee bill encourages the continuation of this joint enterprise. It requires, however, that the Corporation develop regulations to prevent excessive compensation of participating attorneys.

CONDITIONS ON RETENTION OF ATTORNEYS FEES

To assure that the possibility of an attorneys' fees award does not dictate program priorities, the committee has added section 10, requiring that any such awards to a recipient be transferred to the Corporation except fees awarded as a result of a mandatory court appointment or reasonable costs customarily allowed in litigation against a losing party.

ADDITIONAL RESTRICTIONS ON THE USE OF FUNDS

Section 11(1) revises the restrictions on training programs to include a prohibition on disseminating information about public policies or political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations. This does not interfere with providing appropriate training to attorneys or paralegals.

Section 11(2) restricts legal assistance activities with respect to any proceeding or litigation relating to abortion or matters concerning abortions necessary to save the life of the mother. The bill would permit a legal services program to provide advice to a client about that client's legal rights and responsibilities with respect to laws related to abortion, and to refer the client to other attorneys but this exception for advice would not permit representation in any proceedings.

Section 11(5) prohibits legal assistance to any known illegal alien or for any litigation which seeks to adjudicate the legalization of homosexuality. This provision adds to the act restrictions already passed by Congress in legislation appropriating funds to the Corporation, Public Law 96-536.

DOCUMENTATION OF ELIGIBILITY

Recipient programs have an obligation to assure that they are serving clients eligible under the act and regulations, but the act has never specifically prescribed recordkeeping requirements for recipients or Corporation review of such records. Section 11 requires that recipients maintain documentation demonstrating the eligibility of clients served and conformity with the provisions of section 1007(a)(5) (A) or (B) in the case of legislative or administrative representation. The Corporation is required to review such documentation to assure compliance with this recordkeeping requirement. The bill specifically requires the Corporation to observe the confidentiality of client information and use proper safeguards to assure that such confidentiality is maintained.

FINANCING

The committee bill authorizes appropriations for the Corporation for fiscal years 1982 and 1983 at $260 million for each year. The committee recognizes that this will result in a reduction in service capacity but believes some reduction is compelled by current budgetary constraints. These figures represent an absolute reduction from the Corporation's 1981 funding level of $321.3 million and a 25-percent reduction from the 1982 recommendations originally submitted by President Carter.

Section 13(b) of the committee bill reduces from 10 to 7 percent the maximum amount of the annual appropriation that may be used for grants or

contracts for research, training, technical assistance, and clearinghouse functions.

The remaining provisions of the committee bill are technical conforming amendments.

□ 1445

Mr. RAILSBACK. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Illinois and my friend, the ranking minority Member (Mr. McCLORY).

Mr. McCLORY. Mr. Chairman, I would like to establish at the very outset of this debate that I have supported and will continue to support the important principle of providing legal services to the poor. Where I, and I believe many Members on both sides of the aisle, differ from our colleagues who are supporting H.R. 3480 is on the method through which legal services to the poor can best be provided.

In my opinion, the central issue in the debate today is essentially whether we are going to continue to fund a Federal bureaucracy, however minimal, that all too often has deviated from the intended purpose of providing for the everyday legal needs of the poor or whether we are going to allow State and local governments to monitor and guide legal aid programs so that they do meet the needs of the poor for legal services.

H.R. 3480 would reauthorize the Legal Services Corporation for 2 additional years. The President has recommended—and I concur—that the best way to provide legal services to the poor is through block grants to the States.

Let me quote for you from a letter dated April 20, 1981, to our chairman from David Stockman, the Director of OBM clearly laying out President Reagan's position on this issue. And I quote:

The Administration opposes authorization of LSC and has not recommended further funding for the Corporation in the President's 1982 Budget. The President has proposed a $3.8 billion social services block grant to States. Legal services would be an authorized social service activity for funding within the block grant, and States would have broad discretion to determine which social services best meet local and individual needs, and the appropriate level of funding for them. This would increase State priority-setting and control over resources, decrease overhead, and improve coordination among different social services.

The proposed block grant is an essential element of the Administration's plan to strengthen federalism by vesting appropriate decision-making at the State and local level.

I believe sufficient funding for legal services would be available within the $3.8 billion block grant. As part of the new authority, States would be able to increase legal services funding above the current level provided by LSC.

Added pro bono work by private attorneys, as part of their professional responsibility, could substantially augment legal services funding provided under the block grant.

It is important also that the private bar should share responsibility to see that block grant funds are properly directed. In many instances the States will be able to retain those existing programs that have established a credible record for providing legal services to the poor. I intend as ranking Republican on the Judiciary Committee to assist State and local bar associations as well as State and local officials in the proper use of the block grant money.

It is important to note that the Judiciary Subcommittee on Courts, Civil Liberities, and the Administration of Justice adopted 15 amendments during their deliberations on the reauthorization of the Legal Services Corporation. The full Judiciary Committee acquiesced in these 15 amendments and then adopted 3 additional amendments. Even now, there are additional amendments pending here today to the Legal Services Corporation Act. I do not think that this patchwork approach is a proper way to legislate on any issue, especially when there is a more viable alternative, such as the block grant approach in this case. Indeed, the vast array of amendments embodied in H.R 3480 suggest that in its 6 years in existence the Legal Services Corporation has not served us well.

I believe that the election last November and the ongoing philosophy which was voiced in the overwhelming adoption of the first budget resolution indicate substantial support for the principle of fiscal responsibility, which is much more readily achieved through block grants and local control than through a categorical grant and an unaccountable Federal bureaucracy. In light of the inherent difficulties of the Legal Services Corporation and in light of the fact that the President has proposed an alternative that would overcome those difficulties, it would seem unwise to continue to fund the Legal Services Corporation as a separate categorical grant program. Therefore, I urge my colleagues to reject H.R. 3480 and recommend instead that thereafter you support President Reagan's social services block grant program which will help asure the continuation of legal services to the poor.

Mr. SHUMWAY. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from California.

Mr. SHUMWAY. I appreciate the gentleman's yielding.

Mr. Chairman, I rise in strong opposition to the pending legislation. The Legal Services Corporation Act Amendments of 1981 (H.R. 3480) is based on the assumption that the current legal services program is essentially sound, and further, that the substantive changes in the LSC Act made in committee adequately respond to the concerns raised by many of those familiar with LSC activities. I do not share this view.

At the outset, Mr. Chairman, I would like to emphasize that my opposition to the Legal Services Corporation in no way implies that I do not believe that all Americans—irrespective of their economic status—must enjoy equal access to justice. This principle is one on which our society is fundamentally based, and I would be very surprised if any of our colleagues feel otherwise.

My concern, rather, is based on the fact that, as the size and expense of the LSC have rapidly grown in recent years, so have the abuses and excesses justified in the name of helping the poor. Simply stated, the LSC, its staff, and its grantees have, under the guise of providing needed legal assistance, consistently made use of Federal funds to pursue broad social and political objectives, often in direct violation of law and congressional intent.

The proponents of this legislation argue that the additional restrictions on LSC activities adopted by the Judiciary Committee will surely prevent a recurrence of the problems that have existed in the past. I support these efforts, and applaud the members of the committee for attempting to bring the LSC under control. Unfortunately, there is little reason to expect success. As Representative SENSENBRENNER noted in his dissenting views:

Past efforts to restrict the Corporation's activities have simply failed. Directives to restrict the activities of the LSC and its grant recipients in their brand of social activism have simply been ignored.

In this regard, some members may recall that I was prepared to offer amendments to the LSC reauthorization pending before the House in the waning days of the 96th Congress—legislation which was never acted upon. Further, I intend to support several of the amendments offered during the current debate; there is clearly need for additional statutory restriction. The problem, Mr. Chairman, is that while LSC grantees are currently prohibited from using Federal funds, for example, to represent illegal aliens, or to engage in lobbying or political activities, LSC attorneys have consistently interpreted the relevant statutes in a manner to make them all but meaningless. No action of Congress, short of terminating the LSC, can resolve this intolerable situation.

An area with which I have been particularly concerned is the repeated abuse by the LSC and its recipients of the restriction on lobbying activities contained in the basic LSC authorizing legislation. Under the Legal Services Corporation Act, the Corporation is

prohibited from lobbying with the exception that "personnel of the Corporation may testify or make other appropriate communication when formally requested to do so by a legislative body, a committee, or a member thereof, or in connection with legislation or appropriations directly affecting the activities of the Corporation." In addition, the act states that lobbying is permitted only when "representation by an employee of a recipient for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities (which shall not be construed to permit an attorney or a recipient employee to solicit a client, in violation of professional responsibilities, for the purpose of making such representation possible)."

Unfortunately, these limitations have not been effective in preventing the Corporation and its recipients from assuming the role of federally financed advocates for political and social causes. The Corporation has used taxpayer's money for lobbying efforts initiated, in many instances, not in behalf of the poor, but for the larger purpose of social reform. Those who insist that the Legal Services Corporation only works in pursuit of its overriding goal to provide equal access to our judicial system for low-income Americans should take another look at the evidence.

Consider, if you will, several articles that have appeared in Clearinghouse Review (a Legal Services publication). In one article, two lawyer-authors, employed by an agency funded by the LSC, describe how tax funds and talents provided by American taxpayers have been used for "social management" through litigation, lobbying, and political activities by the LSC. The two lawyers admit that they have offered lobbyists financed by the LSC the following advice:

To lobby local government effectively, we will have to learn, for a beginning, the demographics of local politicians' districts, their campaign contributors, their voting records, their staff assistants, the social service facilities and agencies within their districts, and labor, church and civic groups within their districts.

We are going to have to learn how to help clients who wish to conduct the mass letter-writing, postcard-sending and button-holing campaigns that other interest groups have used.

The authors noted past success, and I quote, "through effective use of the media, a coalition of progressive groups in Michigan was able to defeat two of the three regressive tax measures on the November 1978 ballot."

A second example discusses the regressive nature of the value-added tax, its impact upon the economic well-being of the poor, and the role of the Legal Services Corporation.

A final issue which the VAT proposal suggests is the fact that federal policymakers will be considering a variety of tax proposals throughout the early 1980s, such as the VAT in an effort to obtain much needed revenues.

We should not be content to leave these decisions to Congressman Ullman and Senator Long, federal bureaucrats and tax reform groups. Too little is known and understood about the impact of taxes upon the poor. The legal services and client community should begin to address this issue. We should begin to collect and analyze statistics which describe the impact of federal taxes upon the poor, the develop strategies to address these issues, and to build the network necessary for effective legislative advocacy on the issues.

Another example demonstrates the Corporation's involvement in organizing grassroots campaigns for Federal housing funds. HUD annually dispenses millions of dollars in community development block grants funds to cities and counties. In anticipation of CDBG program directives, the Legal Services Corporation placed in the Review an article entitled, "An Advocacy Guide to the Community Development Block Grant Program." The guide is designed to provide members of the legal services community with the background to enable them to "recognize, confront, and effectively resolve CDBG issues in a manner which maximizes the program's potential benefits for the low-income." Included in the article is a history of community development, the most significant aspects of a CDBG application, and problems that may arise in litigation over CDBG programs.

The following excerpts from the guide illustrate the perceived role of legal services in the implementation of the CDBG program.

. . . the CDBG program is primarily a political, rather than a legal, matter . . . At the very least, this means that the legal tools available for influencing the CDBG program are severely limited and legal and administrative strategies should be seen as necessarily supportive or other efforts to mobilize pressure on decisionmakers.

A community group's main consideration, for example, might be to back a sympathetic political faction or public agency over an unsympathetic one rather than to struggle over the use of a limited amount of CDBG funds per se. Because of the political considerations, for legal services involvement with the CDBG program to be most productive, it must be based upon an understanding of, and an appreciation for, resident's perspectives. Moreover, resident organizations, as the main source of political pressure, need to be seen as the key to ensuring ultimately that CDBG resources are used most effectively.

Although concern with such excesses has been highly publicized within the legal services community, LSC continues to flagrantly violate congressional intent. Perhaps the most telling example of the LSC attitude toward the prohibition on lobbying and political activity is the widely circulated December 29, 1980, memorandum written by Alan W. Houseman, director of the LSC Research Institute.

Houseman asserts that "today we face a severe threat to the continuation and growth of aggressive legal services. At stake is the survival of the legal services movement." In response, Houseman recommends "selling the merits of legal services to Congress, the media and others at the local, State and national levels * * * (and) developing an affirmative response to congressional efforts to impose restrictions on * * * the scope of representations to be provided to our clients." Houseman concludes by stating that "we will be increasing the Washington lobbying efforts of the Corporation," and that "an outside entity to lobby and coordinate survival activities on behalf of the legal services community" will be established.

In response to a review of this, and other material, GAO recently concluded "that LSC has itself engaged and allowed its grant recipients to engage in lobbying activities prohibited by Federal law."

There can be little doubt, Mr. Chairman, that, in the area of lobbying and political activity, the LSC and its recipients have demonstrated a shocking lack of regard for the law. My primary concern, however, is less with specific violations, no matter how serious, than with a persistent pattern of behavior on the part of the LSC—a pattern which convinces me that no amount of tinkering with the authorizing statutes will lead to a restoration of congressional control over LSC activities.

Given the fundamental philosophical orientation of most of those associated with the legal services program—one of activism and social reform—it is perhaps not surprising that the LSC has perceived itself as an entity without any real responsibility to Congress. As the New Republic noted in its February 3, 1979, issue, legal services was "intended to help the poor when they unavoidably get caught up in the complex legal machinery of modern society—in divorces, disputes with landlords, tussles with the welfare bureaucracy, and so forth. But too often legal aid lawyers use poor people as guinea pigs in an attempt to impose through the courts some fanciful middle-class view of social justice."

How a lobbying campaign for the graduated income tax in Massachusetts, or litigation to compel payment of SSI benefits to alcoholics, or litigation to define "black English" as a foreign language, or the coordination of a campaign to convince the supervisors of San Joaquin County, Calif., in my congressional district, to impose broad rent control ordinances can reasonably be viewed as the provision of essential legal services to the poor frankly escapes me. Yet it is in this very area of

social reform, and not basic legal services, that the LSC appears committed to involving itself.

Writing in the January-February 1981 issue of LSC News, the aforementioned Alan Houseman claims that "the nature of poverty law requires preserving the ability to undertake legislative and administrative representation, engage in community education, and assist clients in economic development and similar matters. These may be the most pressing issues we will face in the next Congress and with the next LSC Board of Directors."

Mr. Chairman, the Legal Services Corporation and its recipients are clearly not prepared to abide by the wishes of Congress. Ample alternatives for the provision of legal services to the poor exist; the administration, for instance, has proposed that funding be made available through the social services block grant. I therefore urge my colleagues to join me in opposition to H.R. 3480.

Mr. KASTENMEIER. Mr. Chairman, I yield 5 minutes to the distinguished member of the subcommittee, the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. I thank the chairman.

Mr. Chairman, for the information of those who may fear that with an independent agency such as the Legal Services Corporation the President would have no way of exercising control and direction, I would like to point out that the current President of the United States will have the power to appoint all—all—100 percent of the members of the Board of Directors of the Legal Services Corporation, including the Chairman. I submit that is a great deal of control, it is enough.

Second, I would like to point out that in subcommittee and full committee determinations on this bill—and they were meticulous—we accepted 18 amendments to a bill which was already near perfection. This bill is today about as pure as the driven snow on a chapel roof. There is nothing that could be raised in objection to this bill that has not been met.

Lastly, to my friends in California and others from anywhere who respect the judiciary, I have today received a letter from Thelton E. Henderson, a U.S. district judge for the northern district of California, telling me that a petition signed by 600 judges of California enthusiastically endorses this bill. The petition is signed by justices and judges of the Supreme Court of California, the California Court of Appeal, the U.S. Court of Appeals for the Ninth Circuit, U.S. district judges from all four of the Federal judicial districts in the State of California, and by judges of the municipal courts and supreme court of each and every one of the counties of the State of California. The letter reads as follows:

U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA,
San Francisco, Calif., June 12, 1981.

Hon. GEORGE E. DANIELSON,
House of Representatives, House Office Building, Washington, D.C.

DEAR CONGRESSMAN DANIELSON: Enclosed is a list of signatories to a petition to the Congress in support of the Legal Services Corporation, subscribed to by nearly 600 California judges. The petition states: "I subscribe to the concept of access to the justice system for all Americans. I therefore strongly support the reauthorization of the Legal Services Corporation to assure the continued delivery of legal services to poor people."

House Bill 3480, to extend the authorization for the Corporation for two years, is presently scheduled for consideration on the House Floor on Tuesday, June 26, 1981. We urge your favorable vote.

Sincerely,

THELTON E. HENDERSON,
U.S. District Judge.

Mr. DIXON. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from California.

Mr. DIXON. I appreciate the gentleman's yielding.

Mr. Chairman, I rise in support of this measure. I congratulate the committee for excellent representation in drawing a compromise.

Mr. Chairman, H.R. 3480, the Legal Services Corporation reauthorization, is a bill of enormous practical and symbolic importance to millions of poor Americans, and to our Nation's image as a just and compassionate society.

Perhaps the most successful program to emerge from the midsixties' war on poverty, the Legal Services Corporation is the only avenue of legal representation for many of the estimated 30 million Americans with incomes below 125 percent of the poverty level.

For better or worse, we live in an era in which our Nation's legal system has increasingly become the final arbiter of many heretofore mundane day-to-day conflicts and disputes. As a result, access to that system is no longer a luxury or ideal, but a basic matter of survival and protection for the Nation's poor.

Since its establishment as an independent agency in 1974, the Legal Services Corporation has been instrumental in bridging the legal gap between rich and poor.

Last year, over 300 legal aid programs in 3,000 counties across the country handled more than 1.5 million civil cases involving low-income persons.

These actions have been instrumental in protecting the rights of the most vulnerable in our society, and in providing needed assistance in the areas of family, law, education, employment, and income maintenance.

In discussing the activities of the Legal Services Corporation, it is important to note what the Corporation does not do. It does not seek the wholesale restructuring of society through out legal system. Only 2 of every 1,000 cases involved class-action lawsuits; indeed, only 15 percent involved litigation at all. It does not provide welfare for unemployed lawyers, most of whom are working for salaries far below what they could earn in private practice, since administrative expenses amount to only 3 percent of the Corporation's total budget.

The bill before us today, H.R. 3480, represents a master in the art of compromise. The Judiciary Committee and its Subcommittee on Courts, Civil Liberties and the Administration of Justice have bent over backward to accommodate the concerns of Members of Congress and other critics of Legal Services. As a result, I believe the bill is one which all but the most intractable opponents of equal access to justice can support.

As one who originally supported a simple 3-year reauthorization, I am of course disappointed in many of the restrictions placed upon the Corporation. But while I regret the departure from a truly independent Legal Services Corporation, I know how to count votes, and recognize that the principles for which the Corporation stands must be preserved, regardless of the political exigencies of the moment.

So I urge the Members of this House to consider the good faith efforts of the gentleman from Wisconsin (Mr. KASTENMEIER) and the other members of the subcommittee, each of whom have cosponsored the bill in its present form.

The bill before us responds to the concerns of fiscal austerity by limiting the reauthorization of the Legal Services Corporation to 2 years and reducing its funding by a full 20 percent, from $321 million to $260 million per year.

It responds to concerns about the inappropriate use of Federal resources by greatly limiting the lobbying power of Legal Services attorneys, and imposing criminal penalties for violations identical to those affecting Federal employees. It addresses the concerns of those who perceive Legal Services attorneys as tax-subsidized social architects by insuring that local class action lawsuits be initiated only in accordance with regulations promulgated by the national board, whose 11 members are all to be appointed by President Reagan.

It responds to those concerned about clogged court dockets by requiring local programs to attempt to negotiate disputes before filing suit, and makes the Corporation liable for attorneys' fees in losing cases.

Finally, it addresses many of the local control concerns voiced by then—Governor Reagan by mandating the establishment of State advisory councils appointed by the Nation's Governors and increasing their powers and responsibilities.

The bill also responds to the concerns to those who disapprove of Corporation involvement in controversial social issues. While I regret the inclusion of restrictions affecting the Corporation's ability to pursue cases involving abortion, homosexuality, and illegal immigration, I believe that the committee bill accurately reflects the present policies of the House.

I urge the House to reject efforts to further restrict the Corporation and undermine the delicate balance embodied in this bill.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Colorado.

Mr. WIRTH. I thank the gentleman for yielding.

I also want commend the committee, and I support this legislation.

Mr. Chairman, today we are considering the reauthorization of the Legal Services Corporation. I wish to express my strong support for this vital program and for its reauthorization at the $260 million funding level as reported out of the Judiciary Committee. The Legal Services Corporation has, since its enactment, been an effective structure for providing legal assistance to the poor, and reducing its authorizations below the $260 million level will result in the denial of equal justice to these individuals.

Access to justice is and must continue to be a basic underpinning of our society. While our laws are written to serve all citizens equally, the poor in fact have little effective access to this justice. The need for the continuation of this legal system is therefore a critical one, especially in this time when the reshuffling of our economic and national priorities may cause their needs to go unmet and their suffering to be ignored. I therefore strongly urge my colleagues to support the reauthorization of the Corporation at the $260 million level.

In addition, Mr. Speaker, I would like to voice my strong opposition to a proposed amendment which will restrict legal aid from pursuing justice for the poor in education cases. This amendment would effectively bar the poor from asserting the legal rights and protections relating to education which are guaranteed by the U.S. Constitution and which have been established by the Congress.

Mr. Speaker, I feel strongly that to prohibit legal action in these instances is to undermine our Nation's commitment to free and equal education and to ignore its importance in addressing problems of poverty. As Congress and others have recognized, those educational cases where the law is violated and equal educational opportunities are denied, litigation is sometimes required. Because of this recognition Congress has both established the right of individuals to seek legal redress in the courts and authorized the Attorney General to institute litigation. This amendment would only serve to undo years of progress in attaining a goal of true equality under the law for the poor and disadvantaged in this country.

Denying the poor access to legal services is an inappropriate way to express discontent with current laws concerning education as interpreted by the courts. The results obtained by legal services clients through litigation are simply reflections of what existing law mandates, as interpreted by the courts. Dissatisfaction with those mandates should be channeled into changing laws, not denying access to the courts.

The Legal Services Corporation only offers to the poor what is readily available to each person in this Chamber. Eliminating this service or severely restraining, fiscally or substantively, the Corporation will result in the denial of a fundamental principles of our society—that justice is not a commodity which can be purchased but is a right of all our people regardless of their ability to pay.

Mr. WON PAT. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the distinguished gentleman from Guam (Mr. WON PAT).

Mr. WON PAT. Mr. Chairman, I rise to express my support for H.R. 3480, the Legal Services Corporation authorization bill. The people of my district, the Territory of Guam, are well served by the Legal Services Corporation through funding it is now providing to the Guam Legal Services Corporation. The Guam Bar Association strongly favors continuation of the Legal Services Corporation and passed a resolution to that effect which, with your permission, I would like to enter into the RECORD at this point:

RESOLUTION

Be it resolved by the Guam Bar Association:

Whereas the Legal Services Corporation was established by Act of Congress to provide quality legal services to low-income individuals and families in non-criminal matters; and

Whereas low-income individuals and families are in need of quality legal services to assist them to overcome economic oppression, and to effectively cope with government and business bureaucracy; and

Whereas the Legal Services Corporation has extended a financial grant for such services to the people of the Territory of Guam by providing funding to the Guam Legal Services Corporation for the first time in 1981; and

Whereas it is in the interest of the Guam Bar Association and the entire community of Guam to have quality legal services for low-income individuals and families in non-criminal matters; and

Whereas the Public Defender Service Corporation is statutorily limited in its ability to represent low-income individuals and families in certain civil matters, justifying the existence of a program such as the Guam Legal Services Corporation: Now, therefore, be it

Resolved, That the Guam Bar Association supports continued funding for the Legal Services Corporation as an effective way of combating poverty and economic oppression; and be it further

Resolved, That the Guam Bar Association supports continued funding for the Guam Legal Services Corporation as an effective way of providing quality legal services to low-income individuals and families on Guam in non-criminal matters; and be it further

Resolved, That the President of the Guam Bar Association certify to and the Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the Honorable Antonio B. Won Pat, Guam's delegate to the U.S. House of Representatives; the Honorable Paul M. Calvo, Governor of Guam; the Honorable Thomas V. Tanaka, Speaker of the 16th Guam Legislature; the Honorable Robert W. Kastenmeier, U.S. Representative; the Honorable Pete V. Domenici, Chairperson of the Senate Budget Committee; the Honorable Ted R. Stevens, U.S. Senate; the Honorable Daniel K. Inouye, U.S. Senate; the Honorable Daniel Akaka, U.S. Representative; and Mary Bourdette, Legal Services Corporation.

I urge all of my colleagues to vote for passage of H.R. 3480.

Mr. RAILSBACK. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. Mr. Chairman, I rise in support of H.R. 3480, the reauthorization of the Legal Services Corporation.

Last year, when this matter was pending before this body, there were at least 25 amendments filed, all of which were directed at concerns Members had with what the Corporation was doing and how they were doing it. This year our subcommittee closely reviewed every one of those amendments and we adopted some version of 18 of them, which taken together, address almost every concern that the Members have. This year the subcommittee held 8 days of hearings. We received testimony from over 40 witnesses on both sides of the issue. We specifically asked Members of Congress to bring their concerns about the program to our attention so we could draft the appropriate remedies and they did. Our subcommittee—composed of four Democrats and three Republicans—drafted the legislation which is before you today, and it has the unanimous support of that subcommittee. I believe that with this legislation we can control, more so than ever before, the activities of the legal service attorneys.

The Legal Services Corporation is controlled by an 11-person Board of Directors. At this time, there exist five

vacancies on that Board. Next month, the other 6 positions on that Board become vacant, thereby enabling the President to appoint the entire 11-person Board. The Board, in turn, appoints the President of the Corporation and such other officers as the Board determines to be necessary. This alone assures that this Corporation is going to be controlled in its entirety by appointments made by this administration.

In addition, for the first time, the Corporation is given the authority to suspend or terminate immediately the funding of any program that violates any provision of this act. Also, the Corporation can fire any attorney in the field without cause and without a hearing. All of this authority is new and provided for by this legislation. In addition, each of the 323 programs located in the 50 States is controlled by a local board of directors. This legislation requires that the majority of appointments made to these boards be made by the local bar which is representative of a majority of the attorneys practicing law in the locality in which the program is to provide legal assistance.

So, to say that there will be little or no control over the programs or the attorneys working in those programs, is just not accurate.

One other major problem that this bill corrects relates to the so-called presumptive funding section. Under existing law, a local program has a right to be refunded unless the Corporation can show cause why it should not. This right to presumptive funding is eliminated in this legislation. Under this legislation, the Corporation will enter into a yearly contract with a local program after that program has satisfied all of the Corporation's specifications, statutory and regulatory. During the term of the contract the Corporation may terminate or suspend funding for 30 days without any hearing. If the Corporation holds a hearing and finds a violation of the act, however minor, it can immediately terminate funding. In addition, an attorney's employment can be terminated immediately at any time without cause and without a hearing. Now, once the contract with the local program expires, the Corporation has no obligation whatsoever to refund the grantee. If a program has filed an application for refunding and is likely to be refunded, the Corporation may but is not required to provide that program with interim funding, pending the final decision of the Corporation. But, I want to stress that there is no obligation to refund any program once its contract has expired. The committee, by this legislation, clearly abolished that practice.

The basic question to consider today is whether or not the Federal Government should continue to support legal assistance to the poor. Of all the witnesses we heard from, not a one testified against the Legal Services Corporation on this principle. Even Dave Stockman agrees that Federal moneys can be used for this purpose. We differ with him in the method used to deliver these services. He believes that the same thing can be accomplished through block grants to the States. If block grant money is provided I doubt very seriously if any money will be used for legal services in my State, simply because there will be too much competition for that money. I suspect that is going to be the case in many States.

I remind my colleagues that the Legal Services Corporation is a Republican initiative, which had its earliest beginnings when Lewis Powell, Jr., was president of the American Bar Association in 1965. Federally supported legal aid was the highest priority of his administration, and through his efforts, it first became a fact.

Lewis Powell, Jr. is now a Justice of the Supreme Court of the United States, appointed by a Republican President.

I share the view Mr. Justice Powell expressed once more at an annual meeting of the American Bar Association in August 1976.

> Equal justice under law is not merely a caption on the facade of the Supreme Court building. It is perhaps the most inspiring ideal of our society. It is one of the ends for which our entire legal system exists. And, central to that system is the precept that justice not be denied because of a person's race, religion, or beliefs. Also, it is fundamental that justice should be the same, in substance and availability without regard to economic status.

I urge your support of this legislation as a very modest effort to preserve and improve the rule of law in this country.

□ 1500

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding.

Mr. Chairman, I simply want to say that there was, in my opinion, no member of the subcommittee who worked any harder to meet the very real, I must concede, objections to the bill, the critical comments about it, than the gentleman from Virginia (Mr. BUTLER), who did yeoman work in trying to make it a positive, constructive, and yet well controlled program.

I just want to commend the gentleman.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman from Virginia yield?

Mr. BUTLER. I will be happy to yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. I thank the gentleman for yielding.

I want to join the gentleman from Illinois (Mr. RAILSBACK) in the remarks he made about the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. Mr. Chairman, I remind my colleagues that I support this legislation in its present form. I would not be supporting it today were it not for the action of our subcommittee.

Mr. KASTENMEIER. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Massachusetts (Mr. FRANK), a member of the subcommittee.

Mr. FRANK. Mr. Chairman, I would like to echo what has just been said about the work of the gentleman from Virginia (Mr. BUTLER) and the work, indeed, of all members of the subcommittee. As a new Member, it was my introduction to the markup process; and I think if my subsequent experiences reach that level, I will be very fortunate.

For a very long period of time, all seven members participated in a very, very careful process, and the result is a bill which more nearly meets legitimate objections than I would have thought possible before coming here. I think that ought to be stressed, because what has happened is that this issue has been taken away from the reality and ideologized beyond recognition.

For reasons that are not entirely clear to me, elements in this country on the far right of the political spectrum decided that they had to put the scalp of the Legal Services Corporation on their belt. What has happened is that they have ignored the very careful work of the subcommittee and the full committee. We have a bill that has been very carefully amended. Indeed, from the standpoint of many of us who have been historic supporters of the Legal Services Corporation, it has probably been amended excessively on the side of caution. There are activities which would seem to me to be legitimate which we have said they can no longer undertake. More in the future than in the past, the work of the Legal Services Corporation will overwhelmingly be providing legal assistance to people with family disputes, with landlord-tenant disputes, with other kinds of disputes of the most mundane sort; and I do not understand why this has become so ideologized, but it is clear that it has been.

There was an advertisement in today's Washington Post that was about as bizarre as anything I have seen. It had the most blatant denial of the facts of the situation as its premise. It included in there issues which the Legal Services Corporation is statutorily banned now from taking

up and which it will be further statutorily banned from taking up in the future. That is what I would implore Members to look at.

What we have here are very carefully drafted mandates at far less money than now exists in this particular program to give to the poorest people in this country access to the courts.

Let us be clear that the Legal Services Corporation makes no policy, decides no issues, does not decide who is eligible for anything. All you do is let people get into court. Are we so ashamed of the judicial system of the United States that we are afraid to let poor people enter its doors? Is that what causes harm? No one in the Legal Services Corporation has ever decided to give anybody a dollar or a divorce or a right against a landlord. All they have done is open access to the courts. If people think that the courts have been inadequate, perhaps we ought to address that across the board, but not by denying the poor access.

We are also told that the legal profession should do it for free. As a new member of the legal profession, I have a good deal of criticism to make of it. Yes, I would like to see the legal profession be more forthcoming. But do we punish the poor to the extent that lawyers do not volunteer? I am not sure that it makes sense to decide that the legal profession uniquely in America is somehow exempt from the motivation of supply-side economics. At a time when we are told everybody needs more incentive, we are told the lawyers can take care of all the poor people in the world for free. I do not think that is realistic.

But whatever your expectations are about the legal profession, understand that if you abolish the Legal Services Corporation, you do not punish the lawyers; you punish the poor people. There are people who suffer injury who will not be able to get redress. There will be people involved in accidents, people involved in commercial disputes, people involved in family disputes. This is the stuff of the Legal Services Corporation, and we have even more clearly enforced that in the bill.

So what we have before us is a piece of legislation unanimously approved by a subcommittee which had a broad spectrum of opinion, overwhelmingly approved by the Judiciary Committee, in which a majority of the members of both parties on that committee voted for it, and a bill very carefully amended to restrict the mandate of the Legal Services Corporation to providing basic legal services, simply getting people in the door, simply getting them into court, making no policy and dispensing no benefits and offering no substantive relief to anybody, but simply giving them access to a legal system of which I thought we were supposed to be proud.

For reasons unclear to me, the far right in this country has decided to make this a crusade. They have decided to ideologize it. They have decided to distort it. Look at that ad in the Washington Post today imploring us to vote against it. Then look at the bill. We are talking about two entirely different items.

I hope Members of this body will not be spooked by an ideologically motivated, dishonest campaign to say to the poor people of this country that their access to the courts will be entirely dependent on the private charity of lawyers. That is unworthy, I think of a nation that ought to be proud of its legal system and willing and eager to give everybody access to it.

Mr. RAILSBACK. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Michigan (Mr. SAWYER).

Mr. SAWYER. Mr. Chairman, the Legal Services Corporation is a product of its times, if you will. About 20 years ago, or starting around 1960, we began to address many, many problems of the poor. We got into consumer protection laws, both State and National, fair housing laws, fair debt collection practice acts, uniform credit codes, a proliferation of Indian and immigrant law, both legislation and court-made law, and we had to address it with an agency that some how could get the beneficiaries access to their rights under these various created protection acts, and Legal Service Corporation was the answer.

Now, to show the Members how busy it is, I took a check in the State of Michigan, where we have 5 donee agencies, and right now, there alone, we have 53,000 open files, 7,000 to 10,000 of them involving litigation. And if we are a fair representation, that means we are talking about 1 million open files in the United States. And if this is defunded, with 15 percent of them, or thereabouts, involving litigation, what is to happen to these people?

Mr. Chairman, 20 years ago the private bar could address this situation, and did it fairly well. But then it was pretty simple. We did not have these agency manuals on social security, supplemental social security, and food stamps, and whatnot, and Federal Trade Commission regulations, and all the other acts I mentioned. What we had was simple divorces, some tenant-landlord rights, and some debt collection. That was about 98 percent, and any lawyer could fairly easily, with relatively little time, take care of those problems.

Today that is not true. Today it is now a specialty, poverty law taught on a par with taxes, labor, administrative law, in virtually all of the law schools in the United States. And to expect an attorney not specializing in this area to be able to handle this without an inordinate expenditure of time is totally unreasonable.

Now, there has been some comment that the legal profession has been shirking its duty one way or the other and that it ought to step up and handle this whole massive problem without funding. Well, we do not say that all of the plumbers in the United States ought to go and fix anybody's plumbing that is leaking if they are making less than $10,000 and do it for nothing. We do not say the farmers ought to produce enough food to feed all of those who are making less than $10,000 and give it to them without food stamps, or with doctors on medical care, or with manufacturers on appliances, and landlords with their housing.

It is not a lawyer's problem. Lawyers did not create the poor. They did not create the legal problems for the poor. They are only singled out because, as the plumber with a leaking faucet, the doctor with a sick man, as a manufacturer with a needed appliance, or a farmer producing food, they are in a position to be able to address the problem. But it is a national problem; and, therefore, it ought not to be saddled unfairly on one profession.

Now, I may say what the legal profession are doing. Covington & Burling, one of the Nation's establishment law firms here in Washington, D.C., provides free of charge to the local D.C. agency here not only a full-time lawyer—and they rotate their lawyers 6 months down there—but full secretarial help at their own cost. This kind of thing is being done all over the Nation in varying degrees.

Not only do 83 percent of the Nation's people in the New York Times poll of April 30 support either present funding or increased funding, but only 13 percent are in favor of reduced funding, with 4 percent no opinion.

Now, let me just say this: We hear this block grant idea. First of all, the other 11 block grant targeted programs have built-in State bureaucratic constituencies. States have always administered those programs. No State, to my knowledge, has ever administered a legal aid program, and they have no built-in, in-house bureaucratic constituency. Legal Services is going to go down the tube immediately, to make up the 25-percent cut that these other programs with constituencies already in place.

Now, we have all heard horror stories, and we heard them in the subcommittee. But let me say that only about 7 donee agencies, out of 323 programs, have these stories emanated. And you know how horror stories get currency. Any time a jury—and there are probably 10,000 American juries

coming in with verdicts every week, and nobody ever hears about them—one jury reaches an aberrated, nutty verdict, it makes the wire services all over the United States.

We have even seen that happen with Congressmen. You know, 8 to 12 Congressmen get involved in some things, and yet the great bulk of us have never been offered money, been propositioned or done anything but walk up and down the Capitol steps, and yet we are all tarred with the brush. So I say do not get imbued with these horror stories.

Mr. KASTENMEIER. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Chairman, I rise in support of the reauthorization of the Legal Services Corporation. I certainly think that our Founding Fathers meant that "justice for all" meant just that; and not only for those people who could afford an attorney. Overall, the Corporation has done an outstanding job in funding the many locally controlled programs around the country that provide very important day-to-day legal services for low-income Americans. The Corporation has operated on a tight budget with local personnel who could easily be earning a higher income working in private practice. The Reagan administration's proposal to abolish this needed agency and combine some of its funding with a number of other programs into a single block grant to the States is regrettable. There have been some problems with some of the activities in which local legal aid agencies have become involved from time to time, but what the administration proposed was an overreaction. Following the President's recommendation on this would undoubtedly mean that most of the local programs would be eliminated and many people in this country would not have access to our legal system. The concept of equal justice would be lost.

The Judiciary Committee has reported a workable, constructive compromise bill that has bipartisan support and effectively addresses concerns expressed by critics of the progam over the last several years. It places needed restrictions on the types of cases local legal services programs can handle with Federal funds and sets new policies to make the programs more accountable. A particular concern of mine has been the kind of lobbying employees of some local programs reportedly have been involved in. The bill will allow no legislative or administrative advocacy by employees unless it is in line with the necessary representation of a specific eligible client or a formal request is made by a governmental agency or a member of a legislative body for testimony or representations. That restriction will allow local programs to continue with the bulk of their work which involves cases of family law, housing, income maintenance, and consumer, employment and finance law.

The tight budget that the Corporation has been running on this year, with very low administrative overhead, has been trimmed an additional 20 percent by the committee. A cut of that magnitude is definitely in line with our overall need to get Government spending under control. I know the cut will require difficult program decisions by the local boards, but I feel that all agencies need to share in this continuing effort. At the same time, the important help provided through Legal Services Corporation funding should not be terminated. To do so would be a step back from the tradition of justice for all.

I would make the following additional comments: We live in a very litigious society. Much of that has been brought on by the Congress and State legislatures who have created whole new areas of law and rights to access to the courts, much of which has been designed to help people of lower incomes enter into the courts and have access thereto. Those rights will be fundamentally denied if there is not a Legal Services Corporation providing that kind of help to people of low incomes. So on that basis alone, I would urge adoption of this bill.

Second, I think it is unreasonable to expect the private bar to do this. We have seen, in criminal cases, that the private bar did not do this until the requirement of legal representation was made a constitutional mandate and lawyers were paid; and, as a matter of fact, we are finding more and more that alleged criminals who are represented by the private bar prefer to be represented by legal defenders, as do the lawyers themselves, because that is a more efficient way, a more specialized way, of handling those cases. I think that is another argument for the Legal Services Corporation.

And, finally, I think that there is something unique about access to the courts which makes it relatively equivalent to access to health care. There are certain basic, fundamental rights that people in this country expect and deserve in a democratic society. One of those rights is equal access under law.

For all of these reasons, Mr. Chairman, I would urge the enactment of the legislation as proposed by the Judiciary Committee.

Mr. RAILSBACK. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. Mr. Chairman, as one of the Members on my side of the aisle who supported this bill in committee, I rise to announce that I am not supporting the bill on the floor now.

One of the problems, I think, that occurred in the full committee was that some of us who were not on the subcommittee were required to make some decisions without the benefit of the full facts, merely because we had not had the time to research this issue enough.

As one of those who does believe that we should make an effort for those people in our society who are poor to have access to the courts, I had to make a decision in my own mind whether the good outweighed the bad, or vice versa, with respect to Legal Services Corporation.

□ 1515

When you go back and review the history of this organization you see that time and time again the same complaints have been made with respect to the abuses of this program. Yet every year Congress puts in new limitations and every year those new limitations are of no real import. I speak about questions of lobbying. I do not know when I have been lobbied more by people involved with any Government agency than I have been on this particular bill.

We have something in the present law which suggests that Legal Services people are not supposed to lobby. Yet, every Member of Congress has probably been lobbied by someone who is supported by the current Legal Services Corporation. Some people say that there is not very much of a percentage of the money of the Legal Services Corporation which goes toward impact litigation or lobbying. Yet one can look up the figures and say that by at least one determination, at least 35 percent of all the money going into Legal Services Corporation is going to what they refer to as impact legislation or impact work.

What is that? I had a minority member union representative employed in my district come to me sometime ago and mention the fact that his elderly mother who needed to have a will drawn had gone twice to the Legal Services Corporation affiliate in my district to request their help. She was told on both occasions that they did not have the time to do it because hers was not a class action. It took two phone calls by my predecessor in office, a Congressman, to get them to even be concerned about that.

In my district, we happened to be going through a revitalization of the downtown area of one of my major cities. That city had spent $100,000 to make sure that every person living in a dilapidated hotel which was scheduled for demolition had another place to live. They gave them money to live from 3 to 5 years. And yet the Legal Services Corporation affiliate in my district came in and sought an injunction against the city. They held up construction work on a downtown area that has become pervasive with crimi-

nals, where a livable environment had long ago been destroyed, where senior citizens cannot walk without fear. Yet somehow this legal action was supposed to give them some support.

The people need to find out what the thrust of many of the Legal Services Corporation's efforts are. We ought to look at the statements made at the legislative advocacy meeting for legal services workers held in San Juan recently and find out where the real efforts are being made in the name of helping people. They are not helping the poor. They are helping themselves and their own political aims in many cases.

The CHAIRMAN. The Chair will advise the gentleman from Wisconsin (Mr. KASTENMEIER) that he has 9 minutes remaining.

The gentleman from Illinois (Mr. RAILSBACK) has 7 minutes remaining.

Mr. KASTENMEIER. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. SCHUMER).

Mr. SCHUMER. Mr. Chairman, I rise in support of H.R. 3480, the Legal Services Corporation authorization. We have heard a multitude of arguments saying that Legal Services lawyers meddle in areas in which they should not meddle; that Legal Services lawyers are forcing city governments, hospitals, and all these and other sorts of groups to do things that those groups do not wish to do.

At the same time, we hear pessimistic arguments that we are a proud Nation of laws. Well, I would ask the people who have said that legal aid is meddling, what do they think being a nation of laws is all about? It is about meddling. It is about going to court when you are not achieving rights that are guaranteed to you under the Constitution or under legislation.

We cannot have it both ways. We cannot say we are a nation that guarantees equal access to the law, but poor people should not meddle or have access to the courts, that the poor should not be allowed to press demands in the courts when someone who can hire a lawyer has that right.

The recent budget process has appeared to be a budget of selfishness, to be a budget of me, me, me to many people. It seems that the sacrifices are not being made across the board, that those who have the power in this body and in other places, we will not be touched or touched badly by the budget cuts, but those with no power, we will be decimated and will be crushed.

The many new immigrants in my district, from the Soviet Union, from Italy, from Greece, from the Caribbean, from Haiti need legal services to make the American dream real for them. Let us pass this bill and let us maintain at least one silver lining in the budget cloud of selfishness that hangs over us.

Mr. RAILSBACK. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Chairman, I fully support the reauthorization of the Legal Services Corporation. The bipartisan consensus of the overwhelming majority of the Judiciary Committee to continue this program is an indication of its viability and its necessity.

This Nation stands out from all others by the openness of our system of justice. A Federal judge once remarked that "the true test of the moral quality of a civilization is its treatment of the weak and powerless."

The noblest of our historic commitments is equal justice for all. It is a promise of our judicial system. It is the underpinning of our peoples' respect for law and their faith in our system. The Legal Corporation has helped provide access to the judicial process for redress of grievances, a logical extension of our founding democratic principles.

Mr. Chairman, a recent survey indicated that over 83 percent of the American people favor current or increased levels of funding for Legal Services. Even with the continuation of Legal Services, the poor will have available only one lawyer for every 5,000 persons below the poverty level—far below the national average of one lawyer for every 440 persons.

Today, equal access to justice barely exists. Without the LSC for many of the poor, courts would not be a place to determine rights but once again a place to which they are hauled by others.

The Judiciary Committee has made some essential changes in the operation of the Corporation that address in a constructive fashion, I believe, basic criticisms; 18 amendments have been adopted to meet these criticisms. The means are at hand to control the Board and assure Board control of the activities of staff and attorneys. But as we hear today of impact cases that should not have been brought, let us ask if the cases were successful.

Mr. Chairman, Legal Services are necessary. Legal Services Corporation is a highly efficient, cost-effective investment. I urge my colleagues to join me in voting for reauthorization.

Mr. KASTENMEIER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. SAM B. HALL, JR.).

Mr. SAM B. HALL, JR. Mr. Chairman, I rise in opposition to H.R. 3480 for many of the reasons that others of my colleagues have said they support this legislation.

I would like to point out one thing in particular because it was mentioned a moment ago that there may have been some meddling, by Legal Services people, with the further indication that such meddling was a good thing.

I would like to point out one or two cases where, in my opinion, the Legal Services people have meddled, and in areas where I think they have no reason to be.

The Legal Services people brought a suit to compel the payment of SSI benefits to alcoholics. There was litigation brought by Legal Services to compel the New York City Transit Authority to hire former heroin addicts.

There was a suit in New York to pay State welfare benefits to an illegal alien's parent.

There was a Federal district court suit challenging practices of Oregon school districts of searching students without warrants.

And listen to this: An attorney for the Hartford neighborhood Legal Services last year sought $7,000 to $10,000 from the State of Connecticut to mandate payment for a welfare recipient's sex change operation.

I say that is meddling and that the American people should not be called upon to finance that kind and character of litigation. It is said these people cannot get representation. In my part of the country we have what is known as a contingent fee contract. That contingent fee contract means what it says. If a person has a meritorious cause of action they can get representation. I practiced law for 28 years before coming to Congress, and I daresay that I saw very few people, if they had a meritorious case and needed a lawyer, that could not get one if they tried.

I urge my colleagues to vote against H.R. 3480.

Mr. RAILSBACK. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. KINDNESS).

Mr. RUDD. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS, I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Chairman, the President has indicated that he plans to stand by his decision to eliminate the Legal Services Corporation, and I support him.

The abolishment of the Legal Services Corporation would recognize the utter failure of this federally administered agency to achieve the purpose for which it was created. The administration has suggested that programs to meet the legal needs of the indigent be funded by the States through Federal block grants where they can be more closely monitored and controlled. This sort of effort to diffuse ineffective and expensive bureaucracies in favor of State and locally controlled programs is exactly what the American people have been asking for.

When we look at the purpose for which it was created, and compare that to the case history of the Legal Services Corporation, abolishment should be a foregone conclusion. De-

signed to help individual low-income citizens with legal problems ranging from eviction to divorce, the Legal Services Corporation has instead concentrated on espousing social impact cases and has flooded the courts with class action suits. The record of the Corporation shows a clear preference for high visibility cases over individual cases, and in many regional offices, such individual casework is not accepted at all. The General Accounting Office has further documented the Corporation's ineffectiveness in a study which shows that 60 percent of those eligible are not even aware of the services available through the Legal Services Corporation.

The Corporation has not only missed its target, but has violated the law by pursuing goals other than those authorized by Congress. Despite repeated legislative attempts to limit the Legal Services Corporation to legitimate activities, the record of the agency is littered with gross and flagrant violations.

For instance, the law prohibits lobbying by any publicly funded group. Yet, the Legal Services Corporation has embarked on major campaigns to influence legislation, including their recent attempt to save the Corporation. Legal Services Corporation funds have been used to support political causes such as rent strikes, prison reform, homosexual rights, and utility rate protests. In Arizona, a lawyer-constituent of mine reports that the Legal Services Corporation is involved in labor disputes. None of these activities is in line with the stated purpose of the Corporation.

Since its inception 7 years ago, the Legal Services budget has soared from $71.5 million to a requested $399 million for fiscal year 1982. This is a 360-percent increase for a program which lacks any accountability to Congress or the American taxpayer who is footing the bill. The House Judiciary Committee has proposed a much smaller budget for the Legal Services Corporation, but these cutbacks will not correct the basic flaws in the program.

The case against the Legal Services Corporation is clear—millions of tax dollars are being spent on illegal activities, and as long as the Corporation exists, the real legal needs of the poor will never be met. I urge my colleagues to join forces to remedy this situation by dismantling an ineffective Federal program and giving legal services responsibility to the State and local governments.

Mr. KINDNESS. I thank the gentleman for his contribution.

We are faced with a situation in which we have legislation before us dealing with an issue which has not legislatively matured and that is our problem. Our arguments that are being presented here are like ships that pass in the night. I was one of the members of the Committee on the Judiciary who supported the reporting out of this bill favorably before May 15 so it would meet the deadline for authorization bills to be out of committee and so that we would not be faced with a decision that was not our decision on the providing of Federal funds for legal services for the poor.

Without some kind of an authorization bill out here, there would have been a decision made by default. I oppose the authorization bill that is before us on the concept that it ought to go into the block grant approach, but the administration's position is not all that clear.

Our legislative progress on the block grant inclusion of Legal Services is entirely cloudy at this point, as I understand it. If anyone does understand it more clearly and can present a good clear argument that it is being taken into account in the social services block grant program, not only with just a couple of words, but in terms of how it would actually be a part, or that funds were actually taken into consideration in some cloudy manner for Legal Services in addition to the funds that otherwise would have been considered as part of what we are talking about for social services block grants, OK. That is the kind of position a good many of us would like to be in, to be able to vote for the inclusion of funding for legal services for the poor in a block grant program.

However, we are subject to the argument at the present time that it is not really provided for and that is why some of us did vote for the Legal Services authorization bill to be reported out of committee and are still in a bit of a quandary as to how to vote on this bill at this point.

It would be my hope that the position of the administration and perhaps of those who are most concerned with getting this into a block grant program could be clarified before we even vote on this bill. I think that would be the logical way to deal with this and we could get a clear view as to how people in this Chamber really feel about the providing of legal services for the poor in a block grant manner.

The CHAIRMAN. The Chair will advise the gentleman from Wisconsin (Mr. KASTENMEIER) that he has 5 minutes remaining and the gentleman from Illinois (Mr. RAILSBACK) has 1 minute remaining.

□ 1530

Mr. KASTENMEIER. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon (Mr. WYDEN).

Mr. WYDEN. Mr. Chairman, I rise today in support of H.R. 3480, which would reauthorize the Legal Services Corporation. But more important, I rise today in defense of equal justice for all—the poor as well as the rich.

That is, after all, what we are really talking about here today. What we are really debating is whether we wish to stand behind a commitment that is as old as the Nation itself—whether we really believe in justice for all, regardless of income—whether we really believe that everyone deserves their day in court, whether they can afford to pay for it or not.

I, for one, am appalled that we would even question supporting a program so fundamental to what our country stands for.

The administration and some of our own colleagues would have us believe that this is not what the debate is about. They would tell us that Legal Service attorneys are self-designated tribunes imposing a political ideology on poor people—that clients are merely notational, or the means to the lawyers' political ends—that the poor would really be better off if they had to pay modest fees for legal representation.

They also would tell us that the private bar is somehow to blame for the whole situation for allegedly shirking its responsibility to provide pro bono legal assistance to the poor.

I submit this is nothing more than political rhetoric designed to divert attention from the real issue at hand.

For the 6 years prior to taking office in January, I served as codirector of the Oregon Gray Panthers. As director of that group, I was intimately involved in working with legal service programs around Oregon with regards to the legal problems of the elderly. For the last 2 of those 6 years, I was also director of Oregon Legal Services for the Elderly, a model program run by the Legal Services Corporation and funded with Older American Act dollars.

Based on that experience, I can tell you that Legal Services attorneys are by and large dedicated professionals working for less money than most novice household repairmen and women—professionals who spend the vast majority of their time championing individual causes for poor people who otherwise would have no champion—professionals who are too busy defending poor clients to have time to foist their political ideologies on the poor.

Based on that experience, I can tell you that the many elderly clients who were helped by those attorneys would take exception at being told they were merely "notational", as administration officials have insinuated.

Based on that experience, I can tell you that anyone who says the poor would be better off having to pay for their own legal services has never pulled the last dollar from his or her pocket—and been faced with the choice of whether to buy food to eat

or oil to heat their home in the cold of winter.

The administration's charge that the private bar has neglected its responsibility to provide free or low cost legal assistance to the poor is equally unfounded—and unrealistic. Over the years, I set up two volunteer legal programs for the elderly in Oregon using the private bar. The response of the private bar was tremendous—they really came through. However, there were many cases they simply couldn't handle—including SSI, social security, nursing home law, and the like—and had to refer back to us.

However good intentioned the private bar might be, they simply cannot meet all the legal needs of the poor—more because they are not trained in these areas than anything else.

Perhaps the greatest irony of all is that in many ways, the Legal Services Corporation is exactly the type of Government program the Reagan administration claims to champion.

It is cost effective. Nationally, only between 3 and 4 percent of the total budget goes to administrative costs.

It is locally controlled. In my home State of Oregon, for example, nonprofit boards made up of concerned community members from all walks of life, call the shots and make the decisions as to how the programs can best serve the communities' poor.

It meets a demonstrated, ongoing need. Take the elderly population, for example. One-quarter of the elderly population is poor or near poor. Like other citizens, the elderly need legal assistance with housing issues, consumer problems, estate planning, and drawing up of wills. They also have many special legal needs, however, including access to vital social services and public entitlement programs—including home health care, in-home support services, income maintenance, and protective services—needs I have already indicated the private bar is not equipped to supply.

The administration has suggested we should force legal services to compete for State social service block grant funds. That would defeat the administration's own stated goal of cost efficiency and low administrative overhead by adding yet another level of bureaucracy to a program that is now a model of administrative simplicity.

It also would politicize the process and create an inherent conflict of interest as the poor's legal disputes are often with the very same State and/or local officials who would be responsible for making funding decisions.

The administration is fond of talking about maintaining a safety net for the needy. You cannot tell me that removing funding for an independent legal services program will not tear a hole in someone's safety net.

You also cannot tell me that removing the only source of legal assistance for most of America's poor is in any way justice for all.

I am in full agreement with the administration that we must stop runaway Federal spending. But let us cut where it makes sense to cut—where we have programs that are wasteful, duplicative or rife with fraud.

Let us not cut programs that are beneficial and cost effective—a worthy expenditure of the taxpayer's dollar.

Most of all, let us not cut in such a way as to make a mockery of the very foundations upon which this democracy was laid. Let us insure that "and Justice for all" really means for all—not just for the rich.

Mr. RAILSBACK. Mr. Chairman, I yield my remaining time to the gentleman from Missouri (Mr. EMERSON).

The CHAIRMAN. The gentleman from Missouri (Mr. EMERSON) is recognized for 1 minute.

Mr. EMERSON. Mr. Chairman, I rise in general opposition to H.R. 3480. While there exists a very real need for legal assistance for the poor, there is also a very real need to clean up the irregularities of the Legal Services Corporation. This House has before it a good vehicle to prove to the American people that we are indeed serious about spending less of their hard earned tax dollars and cleaning up Government programs run afoul of congressional intent. My position is in accord with the distinguished ranking Republican on the Judiciary Committee, Mr. MCCLORY, and I wish to associate myself with his remarks. My final vote on this bill is dependent on the disposition of the amendments pending to correct serious irregularities and on the opportunity to vote a substitute bill.

This body has the chance to begin to implement the block grant approach to spending that President Reagan has been advocating. With our votes on this bill, we have the opportunity to return to the States some of the power that is most appropriately theirs. November 4 told us that the same old bureaucratic gymnastics will no longer be tolerated and that the people expect us to write laws well enough designed to prevent misconstruction of the sort that has permitted Legal Services to stray so far, so often, from what conceptually, initially, was a good thing.

On a local note, my district contains the Southeast Missouri Legal Services, known as SEMOLS. Just several weeks ago I had to ask the distinguished chairman of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice to investigate serious allegations lodged against SEMOLS. I have in my possession copies of checks totaling approximately $2,500, written by SEMO Legal Services to various parties, including a Ramada Inn where, according to the current director of SEMOLS, strategy sessions were held to rally support for his defeat. It would have been equally inappropriate for public funds to have been spent to rally support for his hiring, so the point really has to do with the propriety of taxpayer liability for this type advocacy, which is indeed remote to providing fundamental legal services for the poor. I relate this unfortunate incident so that it may be added to the long list of irregularities cited by my colleagues here today, irregularities which drive hard-working taxpayers right up the wall.

Further, I would like to associate myself with the amendments of Mr. ASHBROOK and Mr. SENSENBRENNER which would prohibit the Legal Services Corporation from providing legal assistance on busing and abortion cases respectively. Congress cannot allow this kind of social tinkering to be carried out at taxpayer expense.

Senator RUSSELL LONG recently said, and I quote, "The most insane thing I could think of was to hire a lawyer to sue yourself * * * nobody but an idiot would do that." I submit that that is exactly what we have done—we have hired a battery of lawyers to sue the American taxpayer with his own dollars. I urge my colleagues not to reauthorize this defective legislation as it stands—and not to vote for it period, unless we can through amendment or a substitute bill get it on an efficacious course.

● Mr. EDWARDS of California. Mr. Chairman, I rise in support of H.R. 3480 as reported by the Judiciary Committee. Mr. Chairman, the issue facing us in this debate is a simple one. Despite the considerable rhetoric I am sure we will hear, despite the many amendments that will be offered, the proposition before us is as fundamental as this: Is our Government going to stand by its commitment that all in our Nation should enjoy the constitutional guarantee of equal justice under the law? Is legal assistance to be available only to a certain segment of our society—those who can afford to pay for it—or should all in our society have access to this basic right? I urge my colleagues to keep these questions in mind throughout our consideration of this legislation.

The bill before us today is a carefully crafted one. It is the product of an extensive series of hearings, the testimony of numerous expert witnesses, and the thorough deliberation of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, as well as the full Committee on the Judiciary.

H.R. 3480 is well balanced to insure that the poor in our Nation continue to have access to civil legal assistance while remedying problems that have been identified with the Legal Services Corporation's operations. The bill we

now consider is worthy of our support. It should be passed overwhelmingly.

The need for civil legal assistance among this Nation's poor is great. Unfortunately, resources are limited. Even at the current level of funding, only a fraction of the legal needs of eligible clients can be met. Under the committee's bill, the amount of money authorized for this program would be further decreased. However, even with limited funding, the accomplishments of legal services programs across the country are impressive. Last year they handled some 1.5 million legal matters for eligible clients.

During the past 5 years, the Corporation has met with overwhelming success. In this short time it has achieved a minimum access to justice for this Nation's 30 million poorest persons.

As with any undertaking, there have been occasional problems with the Corporation as well as its grantees. Human beings are fallable. But when these problems have arisen, the Corporation has taken prompt steps to deal with them. In addition, the Judiciary Committee has exercised diligent oversight over the program. As has been pointed out, this bill includes several amendments to the present enabling legislation to address the concerns that have been raised without impeding too far on the ability of a legal services attorney to fully and effectively represent a client.

There are those that now suggest that the Corporation should be abolished. Others suggest that if the States want to provide legal assistance to the poor, they can do so through the block grant program. History suggests that the second alternative will achieve essentially the same result as the first—the effective elimination of civil legal assistance to this Nation's poor.

I urge my colleagues to reject these suggestions, and instead to vote in favor of H.R. 3480.●

Mr. KASTENMEIER. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts (Mr. MOAKLEY).

Mr. MOAKLEY. Mr. Chairman, I stand before my colleagues today to reiterate my strong commitment to the continued operation of the Legal Services Corporation. In these times when economic realities foreshadow a reduction in many services for our Nation's poor, continued access to the courts is all the more vital.

The principle of equal justice for all has been in operation for hundreds of years. The Magna Carta stated, "To no one will we refuse or delay, right or justice."

The right to be heard, freedom and justice for all are the fundamental principles upon which our Nation was founded. The Legal Services Corporation delivers the promise of justice to those Americans who would not otherwise be able to afford access to that most basic element of democracy.

Aside from the various philosophical grounds for continuing to fund Legal Services, there are some practical considerations as well. Last year, Legal Services' 6,200 attorneys handled over 1.5 million cases. Most of those cases were in the areas of housing, consumer affairs, family law, social security benefits, and health care. Thus, the vast majority of those cases involved routine matters, yet they had an immeasurable impact on the lives of the individuals involved.

Opponents of the Legal Services Corporation charge that it initiates a flood of frivolous litigation, that it involves itself in numerous class action suits, and that its services could easily be replaced by private attorneys. I stand before you today to tell you that those charges are incorrect. First, of the numerous matters handled by Legal Services attorneys each year, only 15 percent result in litigation. As for class actions, only two-tenths of 1 percent of the cases handled by Legal Services last year were class actions. Finally, it is indeed true that members of the private bar should actively participate in providing representation for the poor, and most attorneys do make contributions of their time. Historically, however, such voluntary efforts have not proven sufficient to meet the legal needs of the poor, and are certainly not sufficient to meet the present need.

H.R. 3480, with its stringent restrictions on the types of cases that may be handled by Legal Services, and on the conduct of those employed by the Corporation, should satisfy even the most vehement opponents of the present Corporation.

Finally, I ask you to examine the principle of justice in America. If we as a nation demand that our citizens obey and respect the laws, should we not grant them the benefit of access of those laws? How can we expect our citizens to respect the American judicial process if we deny them participation in that process.

I strongly urge you to support H.R. 3480 and to continue funding for a viable, cost-effective program that upholds the most fundamental principles of our Nation.

● Mr. STARK. Mr. Chairman, one of the more outrageous proposals of President Reagan's administration is to abolish the Legal Services Corporation. This is a nation based on the ideal that there is liberty and justice for all. Where is the justice for the millions of Americans too poor to pay legal fees or to have access to lawyers and the courts if LSC is abolished?

I strongly support H.R. 3480, the bill to extend the authorization for appropriations for the Legal Services Corporation for 2 additional years at a funding level of $260 million for each year—1982 and 1983. This amount represents a 20-percent reduction from the Corporation's current funding.

Created in 1974, LSC now provides, on the average, only two lawyers for every 10,000 persons. That number is not wildly irresponsible. It is barely adequate. The lawyers who serve LSC do not abuse the system with excess litigation. Through arbitration, mediation, and conciliation, 85 percent of legal services cases have been settled out of court. Legal aid attorneys have performed responsibly, constructively, and in the full interests of their clients.

Justice should not be available only to those who can afford to buy it. Therefore, I recommend the reauthorization of the legal services program. This bill, H.R. 3480, embodies a series of constructive compromises designed to allow this important program to continue its necessary work.●

● Mrs. CHISHOLM. Mr. Chairman, I rise in support of H.R. 3480, which authorizes the continued Federal funding of the Legal Services Corporation for fiscal years 1982 and 1983. Access to our judicial system is the fundamental right of every citizen, rich and poor alike. There are an estimated 30 million poor people in this country, individuals earning under $5,000 a year and families of 4 with an income under $10,000 a year. The continuation of Legal Services is crucial to the provision of minimal access to the legal system for these persons.

Although the bar associations have recognized an obligation on the part of every lawyer to provide free legal services to those unable to pay and, although private attorneys do make contributions, voluntary efforts cannot be relied upon to meet more than a small percentage of the need. Nor can the States be relied upon to provide legal services under a block grant approach.

Many of the legal problems of the poor involve public officials who make decisions about their housing, income, health care, and children. Legal representation may mean legal action against State officials and programs. There is a direct conflict of interest if funding for lawyers comes from the same officials against whom the poor seek legal representation. Furthermore, while States could theoretically use block grants for legal services, none of the money now available through the Legal Services Corporation is proposed for transfer to the social services block grants. This would mean States would have to assume responsibility for a program they have never operated before and, with greatly reduced funds—funds needed for other social service programs. It is obvious that the legal needs of the poor cannot be adequately met without a strong national program.

Last year, Corporation-funded programs handled more than 1.5 million cases, affecting the lives of millions of low-income persons. The great majority of cases handled by legal services attorneys involve routine legal matters—assisting the elderly in securing pension or social security benefits, helping the ill obtain needed medical services, aiding tenants whose landlords refuse to provide heat, and other housing, consumer, and family law problems—problems often critical to the lives of the individuals involved. The estimated cost for these services was $10 per poor person. With overhead costs less than 3 percent of its budget, this makes the Legal Services Corporation one of the most cost-effective of all federally funded programs.

H.R. 3480 authorizes appropriations of $260 million a year for fiscal years 1982 and 1983, representing a 20-percent reduction from the Corporation's current funding, keeping in line with current budget cutting H.R. 3480 preserves federally funded legal services for the poor and the minimum access it provides, while placing additional restrictions of the Corporation in response to concerns raised by subcommittee hearings. It is a bipartisan bill with wide support among members of both parties.

In closing, I would like to repeat the words of Mr. Reece Smith, president of the American Bar Association, in his testimony before the Subcommittee on Courts, Civil Rights, and the Administration of Justice:

> If our system does not work for a substantial segment of our society—if the justice system works for the rich but not for the poor—then we are not "ensuring justice," and we cannot expect our citizenry to respect the law and the legal profession. And without that respect, that faith in our system, our entire American way of life becomes fragile and endangered.

Mr. Chairman, the words of Mr. Smith alone should be enough to encourage all of my colleagues to support reauthorization of the Legal Services Corporation. I urge my colleagues to support H.R. 3480.

Thank you.●

● Mr. ROYBAL. Mr. Chairman, I rise in support of H.R. 3480, which would continue funding for the Legal Services Corporation, a program which has proved itself to be both popular and effective. There is no real justification for eliminating this program, especially in view of its strong support, both in the general public and among members of the legal profession. In a recent national survey, 83 percent of those surveyed supported either the same level of funding for Legal Services, or an increase. My own experience bears this out. Thus far, my office has received almost 600 letters from constituents supporting funding of the Legal Services Corporation, with more still coming in. Let me emphasize that these are not postcards or petitions, but individual letters.

Even though I am strongly opposed to some of the restrictions in H.R. 3480, I find one compelling, overriding reason to support this measure—the Legal Services Corporation upholds the principle of equal justice for all under the law, a principle which is fundamental to our democratic system. Abolishing the Corporation would deny the poor access to the legal and judicial redress available to other Americans.

Let us look at the facts. The administration would have us believe that the LSC is a great waste of the taxpayers' money. It has been said the Legal Services lawyers use the Corporation as a forum to espouse their own liberal ideology, and do not truly concern themselves with the legal problems of the poor. Critics of the program believe that the private bar associations could provide legal services more effectively and fairly than does the Corporation. The administration favors funding legal programs through discretionary block grants to States, although it would not require that States use block grant funds for legal aid. However, the facts simply do not bear out the criticisms directed toward the LSC:

It is a fact that the LSC is one of the most efficient Government agencies. Only 2 percent of its budget is used for central administration, while more than 90 percent of its funds go directly to the local legal services programs which provide the legal representation for the poor. The average Legal Services lawyer's salary is less than $16,000—well below similar positions in the private sector.

The Corporation is also extremely efficient in settling cases—about 85 percent of its cases are settled out of court.

It is absurd to state that Legal Services lawyers use the Corporation only to advocate their own political beliefs. Most legal service cases concern family law—adoption, custody, divorce, support, parental rights, spouse abuse—income maintenance, housing, health, consumer problems—contracts, warranties, credit, debt collection, and sale matters—education, and individual rights. These are problems that plague all of us, yet in many cases local legal service programs provide the only affordable means of legal representation to solve these problems. Out of 1.5 million cases handled by Legal Services in 1980, only about 0.2 percent were class action suits.

If the Legal Services Corporation were abolished, it is likely that few States will allocate any of their already sparse funds to establish new, State-administered legal service programs. In States where little or no funds are allocated, or where funds were unevenly distributed between rural or urban centers, many or all poor persons would be denied equal access to the law.

Private attorneys would not be able to fill the gap caused by eliminating the LSC. Private attorneys are generally far too expensive for the poor to afford, and those lawyers who do handle pro bono cases would not be physically able to handle to caseload that would be required. Prominent members of the legal profession itself believe that years of experience make it clear that pro bono work can at best meet only a part of the need. It cannot duplicate the specialized, day-to-day services provided by the Legal Services offices.

In spite of these facts, H.R. 3480 goes even further in addressing the critics of the Legal Services Corporation. The bill conforms to the administration's program for fiscal austerity by cutting the Corporation's budget 20 percent below its fiscal year 1981 appropriation, and at the same time tightens control and oversight of the program to curb the so-called abuses. It restricts class action suits, lobbying, representation in certain issues that are abhorrent to LSC critics, and prohibits strikes by employees of local programs. It requires the creation of State advisory councils to review grant and contract applications and alleged violations, and encourages the private bar to assume a larger role in providing legal services.

Obviously, H.R. 3480 is a good-faith effort to work with the administration. It is a bill offered in a spirit of compromise, one which deals with complaints of program abuse and still allows the poor access to the U.S. legal system. Even though I must put aside many of my heartfelt beliefs in order to support this measure, I do support it in the same spirit of compromise in which it was offered. Let us work together to demonstrate to the Nation that we can cooperate, we can reconcile our beliefs, we can compromise for the good of all Americans. I ask all Members to join me in casting an "aye" for H.R. 3480.●

● Mrs. COLLINS of Illinois. Mr. Chairman, today the House begins debate on H.R. 3480, legislation reauthorizing the Legal Services Corporation through 1983, at a level of $260 million a year. I agree with my colleagues in the Congressional Black Caucus that this bill does not represent all that we wanted. However, it does represent a bipartisan effort to insure that the legal needs of the poor will be met.

I do not believe that in the interest of democracy it is correct or even proper to question the need to assure access to the legal system for those unable to pay for such services. I believe it is essential for all Americans to have access to our judicial system, re-

gardless of their ability to pay. Accordingly, I call upon all of my colleagues to support the continuation of the Legal Services Corporation and vote against further restrictive amendments.

Under H.R. 3480, the Legal Services Corporation would only be able to bring class action suits in accordance with the policies or regulations adopted by the LSC Board. I feel that such action is designed solely to limit their power to bring class action suits and would add an extra political struggle to an agency that was originally created to be independent. If citizens have the right to sue, then they should be allowed to do so. The courts should decide their merits of a case, not any other Government agency. I strongly regret the inclusion of this section of the bill.

I support Congressman MOFFETT's amendment, which, if adopted, would aid in removing some political confrontations between the directors of LSC and its local entities. By eliminating the authority of the LSC president to suspend local program employees, the independence of the local entities can be preserved. This amendment would remove the upper level political pressures that might cause the LSC president to circumvent local action by LSC units.

A civilized nation such as the United States depends upon a responsive legal system, not only to the wealthy but to the poor. Consider the Legal Services Corporation as insurance for a fair and just legal system—one that serves everyone. The strength of the LSC must not be removed, nor should we slowly dwindle its funds so that it cannot serve its purpose. Its strength lies in its independence and its national organization. We must not destroy it with political ploys, for then we are destroying the values this Nation has strived for since its beginning. On that basis we must support appropriate continuation of the legal services program.

I urge my colleagues to join me in voting for the passage of H.R. 3480.●

● Mr. JEFFORDS. Mr. Chairman, I rise in strong support of H.R. 3480, legislation reauthorizing representation for the indigent in this country. An unfortunate number of restrictions on legal aid activities have been written into this bill, some of them merely innocuous, others pernicious, but the important fact is that H.R. 3480 will allow the Legal Services Corporation to continue with its extremely important and worthwhile function. Equal access to justice is one of the principal underpinnings of our democracy, and we must not compromise our commitment to this noble standard.

The legal services program was first conceived during the Johnson administration, and emerged under the umbrella of the semiprivate LSC in 1974, at which time it had strong bipartisan support and the endorsement of then-President Nixon. The LSC is governed by an 11-member board appointed by the President of the United States and confirmed by the Senate.

Maximum eligibility under the program is currently 125 percent of the Office of Management and Budget's poverty level—$5,388 for an individual and $10,563 for a family of four.

Last year, 1.5 million cases were handled by the 323 separate legal aid programs around the country. Legal aid lawyers have spent the great majority of their time handling routine civil cases, such as divorce work, utility cutoffs, housing, welfare, and medicaid complaints. They work on will drafting and breach of warranty and entitlement benefit cases.

In 1980 alone, more than half a million elderly persons who otherwise would have been denied access to justice were provided with legal assistance through the Federal program. They were represented on a broad spectrum of vital issues, including housing, food assistance, social security, medicare, medicaid, age discrimination in employment, nursing-home regulations, taxes, fuel assistance, and retirement benefits. As a member of the Select Committee on Aging, I have seen how difficult it is for our elderly to cope with these serious problems, some of which are most acute in the Northeast and Midwest, where the winters can be harsh.

Vermont Legal Aid, which I am one of the original incorporators, has been able to provide low-income Vermonters with invaluable assistance over the years. It operates 6 offices and employs 34 lawyers, including those who work on special projects for the elderly and contracts with the State, 12 paralegals, and 19 secretaries. Vermont Legal Aid expects to serve 9,000 Vermonters during fiscal 1981 in appeals on social security disability and SSI matters, defense of foreclosures on federally insured housing loans, special education and employment rights secured by Federal law, and other cases.

The administration's plan had been to terminate the LSC as a separate entity and include legal services funding as part of a block grant to the States. The problem with this approach is that many States most likely would channel token or no funding for the representation of the underprivileged. An extremely uneven allocation of funds for legal services would be the net result. It is not hard to imagine locales across this Nation where an impoverished old woman would be unable to find help in redressing an unfair utility cutoff while, down the street, a fat cat with a watch fob, wingtip shoes and a Don Diego cigar clamped between his gold fillings is able to hire the best lawyers in town to get his son off the hook in a DWI accident.

Making legal services funding a State option when we all know full well that State governments, most significantly California, have been defendants in legal aid suits, is tantamount to folly. There is an inherent conflict of interest.

Moreover, we hear it said that private lawyers could pull in the slack, providing services to the poor on a pro bono basis. While pro bono work is vital, it can meet only a part of the need. It certainly cannot hope to match the specialized services rendered by low-overhead legal aid offices.

H.R. 3480 is a great improvement on the administration proposal, it is true. The bill provides $260 million for each of fiscal years 1982 and 1983, a 20-percent reduction from the current funding level. Although it is hard for me to swallow this low funding, I can accept it as part of the overall effort to reduce Federal spending. But permit me to review some of the restrictions built into the bill, and some additional curbs which will be offered as amendments on the floor, which I feel are counterproductive and unwise.

I appreciate that a delicate compromise has been struck between liberal and conservative Members on this bill which has allowed limited funding to go forward. For that reason, I will not offer any amendments which might upset this balance, even though I do not think the legislation itself is particularly balanced. But surely the unfortunate language in the bill should be pointed out.

H.R. 3480 requires the LSC Board to promulgate new rules restricting class actions against governmental entities. This provision undermines the principles of judicial economy and remedial effectiveness which are the keystones of class action rules of procedure. As an attorney and former attorney general of the State of Vermont, it simply does not make sense to me that the Congress should be encouraging countless unnecessary administrative hearings and attorney hours spent on repetitious litigation of common issues of law and fact. Our courts are burdened enough as it is; we do not need inefficiency.

Let us for a moment examine the sorts of class action suits filed by legal aid groups which so rankled a certain Governor of California and keepers of the conservative flame. In Vermont, the following legal aid class actions are included in the Federal docket: Unreasonable delays by the Social Security Administration in conducting administrative hearings in disability cases; HUD policies which result in ANFC tenant rentals which exceed maximum amounts allowed under Federal statutes governing the section

8 housing program; educational segregation of mentally retarded students from other public school students in violation of the Education for All Handicapped Children Act; and debt collection practices, including abusive and repetitious phone calls, third-party contacts, contacts with clients, after knowledge of attorney representation, and failure to send federally mandated notices in violation of the Federal Fair Debt Collection Practices Act. The attorney general of Vermont has filed a companion lawsuit in State court. These are not wild and irrational lawsuits brought by radical lawyers who have turned from occupying administrations buildings on their college campuses in the 1960's to fomenting unrest among the poor; by aging hippies who have graduated from Euell Gibbons and long hair adorned with leis of flowers to activistic class action suits. No; these are cases undertaken after careful review of their merits and their compliance with LSC guidelines.

Certainly the amendment I understand will be offered on the floor to bar any class action suits whatsoever should be voted down.

The requirement that grantees or contractors be nonprofit corporations organized for the sole purpose of furnishing legal assistance to eligible clients might restrict programs like Vermont Legal Aid from providing legal services via non-LSC grants or contracts to other clients, the elderly and mentally or developmentally disabled, for example. A strict interpretation of this provision could thwart efforts to raise funds to offset the 20-percent funding curtailment by prohibiting sliding fees in certain cases. In most programs, we have been asked to reduce Federal spending and simultaneously give local programs greater flexibility so that they can better adjust to funding reductions. Why not here? It is ironic that conservatives are asking us to support increased Federal involvement; is it not?

The provisions concerning documentation of eligibility may spawn more forms for legal aid programs to fill out, and are unnecessary to the extent that legal aid groups hold themselves to a high-eligibility standard simply because they do not have enough money to squander any on less than pressing cases.

Other restrictions which I find misguided are those on lobbying, attempted negotiation prior to suit filing, and the disposition of attorneys' fees awarded in successful suits. Floor amendments precluding suits against school boards, which would rule out action on behalf of handicapped children, and prohibiting legal aid groups from providing more than the minimum access level through special projects such as judicare should be defeated.

But by and large this bill is a good one, because, as I have said, it does not terminate the LSC. Representation for the poor with some restrictions attached is far preferable to no representation at all. Although under the $260 million funding level, some legal aid offices will have to be closed down, I am hopeful that through the judicare program and circuit riding we can still cover the same ground.

H.R. 3480 has the support of the Vermont Bar Association and a number of Vermont newspapers. Constituent mail coming into my offices on the bill is running 3.5 to 1 in favor of it. In closing, I would like to read letters from two distinguished judges in Vermont to the directors of Vermont Legal Aid expressing strong support for legal aid.

U.S. DISTRICT COURT,
DISTRICT OF VERMONT,
Burlington, Vt., June 3, 1981.

JOHN D. SHULLENBERGER, ESQ.,
Executive Director.
NEIL H. MICKENBERG, ESQ.,
Deputy Director,
Vermont Legal Aid, Inc.,
Burlington, Vt.

GENTLEMEN: This letter sets forth my personal opinion that there is a strong need to continue adequate federal funding for legal services to the poor at its current level.

In an increasingly complex society it is clear that the poor themselves lack both the funds and skill to provide for their legal requirements in any adequate manner. Fortunately, since its inception, Vermont Legal Aid, Inc. has been able to provide capable and efficient legal representation to the needy not only with regard to those immediate problems engendered by day-to-day living but in those broader situations where real or perceived constitutional and statutory violations appear to have occurred. Legal representation for the poor in these latter circumstances is quite as important as the more mundane matters which Legal Aid lawyers are more routinely called upon to render.

Because the poor are bound to needlessly suffer without forceful legal representation in an increasingly litigious society, I believe it would be a serious mistake to decrease the current level of funding available for this purpose to any significant degree. If alleged abuses of the program in other states have occasioned, at least in part, the proposed reduction of funds I agree with Chief Justice Barney of the Vermont Supreme Court, that Congress should seek to remedy the problem by providing more explicit directions regarding its intentions rather than penalizing the poor through the reduction of funds.

You are free to make whatever use of this letter you desire.

Sincerely yours,

ALBERT W. COFFRIN,
District Judge.

U.S. DISTRICT COURT,
DISTRICT OF VERMONT,
Rutland, Vt., May 28, 1981.

JOHN D. SHULLENBERGER, ESQ.,
Executive Director.
NEIL H. MICKENBERG, ESQ.,
Deputy Director,
Vermont Legal Aid, Inc.,
Burlington, Vt.

GENTLEMEN: I have received your joint letter of May 21, 1981, seeking an expression of the need for adequate funding of the Vermont Legal Aid, Inc., to finance the legal services provided by Vermont Legal Aid, Inc. to needy litigants in the United States District Court.

The quality of the representation provided by Vermont Legal Aid, Inc., in this district has been outstanding. The legal proceedings in which they were involved have been important, not only to the litigants but to the development of important constitutional principles in a broad area of our jurisprudence.

Despite limited financial resources in the past, the representation afforded by Vermont Legal Aid, Inc., has been of the highest quality. The reduction in funding for this important legal service group will seriously impair the rights of the deserving needy and will, of necessity, reduce the quality of the representation they have afforded in the past.

You are at liberty to use this communication in support of your efforts to obtain continued funding for the legal services provided by Vermont Legal Aid, Inc., throughout Vermont.

Sincerely,

JAMES S. HOLDEN.

I urge a favorable vote on H.R. 3480.

Thank you very much, Mr. Chairman.●

● Ms. OAKAR. Mr. Chairman, I rise in support of H.R. 3480, the reauthorization of the Legal Services Corporation Act, for 2 additional fiscal years, 1982 and 1983. In my judgment, failure to reenact this legislation which provides at least minimal legal representation for those otherwise denied access to our judicial system, is tantamount to slamming the door in the faces of millions of disadvantaged citizens.

Elimination of the Legal Services Corporation or acceptance of amendments above and beyond the committee's prudent recommendations which address the criticisms leveled at LSC, would literally transform our justice system into an elite, classist institution—targeted to primarily serve the wealthy. Elimination of LSC would not only further disadvantage the poor, but also disallow a fundamental constitutional right to large numbers of our citizenry. Given the proposed monumental axing of other delivery services in the areas of health, housing and education, to preclude the 30 million poor of our Nation the constitutional channels of justice, not only generally violates civil rights, but specifically removes the most viable vehicle available to defend basic human rights, such as quality health care, fair housing, and quality education.

The bill has already been compromised—any further watering down of LSC authority would, in essence, destroy the basic purpose of legal aid services; namely, to defend the rights of the unrepresented.

On the other hand, the administration's radical alternative to eliminate LSC per se, and rather to funnel moneys through State block grants which could be used for legal aid services is cursory at best. Moreover, the contention that the private bar has both the capacity and the commitment to offer assistance for poverty law issues appears on its face naive.

There are those who label legal aid attorneys by coining them as social reformists who improperly litigate the issues of the poor. There are those who contend that the sole purpose of Legal Aid attorneys is to grandstand their private political postures as opposed to practicing poverty law. To my knowledge, and in my experience, lawyers do not render the final judgments on cases—the courts do. Lawyers don't have the authority to create the law, they have the duty to follow it. If there is a discrepancy, it lies not with the attorney but with the court who has the ability and responsibility to interpret the law, to approve precedents and to set and maintain standards.

Let me here submit for the RECORD some of the services of our Cleveland office that have been rendered to our most vulnerable moderately incomed people—our elderly.

The Cleveland Legal Aid Society created a special office to offer services to the indigent elderly in the Cleveland area, called the Older Persons Law Office. The basic philosophy of this office is to make legal services more accessible to the elderly by establishing temporary offices in golden age and nutrition centers. The two lawyers who operate the Older Persons Law Office visit 17 different locations at least once a month interviewing older persons and providing legal services to the older persons.

The types of legal problems confronting the elderly who seek the help of Cleveland Legal Aid Society include probate problems, evictions, consumer problems, and family problems. Many of the consumer problems and family problems are the result of exploitation by merchants, home repair contractors and large household item salesmen. Often our clients are unable to read contracts or purchase agreements, not because they are illiterate but because the print on the documents is too small. This office has had to assist older persons whose homesteads were unlawfully and improperly taken from the older person, by family members, for monetary or personal gain resulting in actual physical and mental harm to the older person, in regaining the homestead.

Because of the high incidence of exploitation, abuse and neglect of the older persons by the community and by their family members, the lawyer who, is attorney in charge of the Older Persons Law Office, has worked with the Federation for Community Planning and community leaders and on behalf of several clients, with respect to adult protection services legislation for the State of Ohio. This proposed legislation has been introduced to the Ohio Legislature and hearings are now being held on the proposed adult protective services legislation.

Examples of cases handled by Cleveland Legal Aid Society:

First, an elderly widow had a contract with a home improvement company for home repairs. The work was shoddy and overpriced. Legal Aid Society sued. The judge found for the widow on the basis that the work was defective and that the contract was unconscionable and violated the Consumer Sales Practices Act.

Second, a bank attached the social security retirement funds of an older retired person that were on deposit in its branch office. The funds were in a checking account and were clearly marked "Social Security U.S. Treasury Direct Deposits." Until the Legal Aid attorney obtained release of the funds by filing the proper motion in court, the old man was without funds to pay rent and buy food.

Third, Legal Aid lawyers filed a class action on behalf of the needy, aged, and disabled medicaid recipients who resided at a Cleveland nursing facility. The medical care at the facility was inadequate, the care was abusive and dehumanizing. The patients often received improper dosages of medicine, unnecessary restraints were used, there was an everpresent stench of urine and feces. As a result of the cause of action, the nursing facility was placed in medical receivership and over an 18-month period was brought into compliance with State and Federal law.●

● Mr. RATCHFORD. Mr. Chairman, the bill we debate here today which would authorize funding for the Legal Services Corporation for an additional 2 years presents itself as the only hope many Americans have to secure one of the most vital of constitutional guarantees—equal justice under the law. Further, access to legal services by some 187,000 older Americans last year alone, has in most cases meant the difference between unnecessary and costly institutionalization and the ability to receive proper care and live one's remaining years in the home. To deny any of our Nation's 25 million elderly access to the legal and judicial redress enjoyed by other citizens merely because they are poor and unable to secure professional assistance, would represent a serious abridgement of a sacred guarantee. Just as reprehensible is any action that strips the older person of his dignity by forcing him into a nursing home when that care may well be inappropriate.

Let us not lose sight of the human side of this debate. Tragically, despite a plethora of Federal programs targeted at those Americans over the age of 60, the poverty rate for the elderly has climbed at an even faster rate that this burgeoning population itself has—reaching 15.1 percent in 1979, the most precipitous rise since the Census Bureau began tracking such figures in 1959. At the same time, the medicare program enacted in 1965 has failed to keep pace with the health care delivery system rocked by inflation. Although medicare was intended to meet the lion's share of the health care bill for the elderly, it has fallen far short of its goal now paying only 38 percent of health care expenses for the elderly. Medicaid reimburses only an additional 13 percent.

Few will deny that should we fail to authorize continued funding for the Legal Services Corporation, many of the 323 Legal Service projects now active throughout the country would be forced to close. These projects provide a wide range of legal services and counseling to elderly clients that fall below the Federal poverty threshold. The predominent share of these elderly clients would be unable to afford to retain an attorney to represent them on claims cases and the like. The American Bar Association has indicated that termination of Corporation funding would be devastating and would deny many their right to fair and equitable access to our justice system. It is clear that most private attorneys are inexperienced and untrained in handling the special brand of cases that most elderly clients present, and that many firms are either unwilling or unable to accept pro bono cases in excess of those handled presently.

My greatest concern, Mr. Chairman, is that if we fail to authorize continued funding for the Legal Service Corporation we will succeed in further exacerbating the institutional bias of our health care sytem. For far too many elderly, medicare reimbursement of essential outpatient or in-home health care services is their only hedge against far more costly and unnecessary institutionalization. When claims are denied, most elderly have neither the knowledge or the wherewithal to initiate the lengthy and agonizing appeals process. In the first stages of our in-depth study of medicare reimbursement practices, the Health and Long-Term Care Subcommittee of the House Select Committee on Aging has already identified numerous cases of claim denials that are inconsistent with legislative intent and/or regula-

tory guidelines. It is unfortunate that the elderly are all too often caught in this bureaucratic maze. The sad result is that many simply give up hope and are forced to sacrifice all that a lifetime of hard work represents in their retirement years—financial security, adequate health care, and the reassuring surroundings of one's own home and family. This too is the case when other essential Federal services are denied the older person, such as food stamps, fuel assistance, and social security benefits.

Without the benefit of legal representation and counseling rendered presently by local legal service projects, many elderly clients would be forced unnecessarily into nursing homes. As evidence of the problems associated with medicare reimbursement, for example, is one legal service project in my own State of Connecticut that handles medicare appeal cases exclusively. Legal assistance to medicare patients, funded in large part by Connecticut Legal Services, represents some 250 elderly clients a year that have been denied benefits they feel are rightly due them. Remarkably, LAMP has secured reversal of claim denials in well over 85 percent of its cases each year. This appears to be the pattern in many other parts of the country as well indicating the clear need for a thorough review of reimbursement policies but also the absolute need for legal assistance to those who have been incorrectly denied benefits and require help in the appeals process. I believe that it is entirely safe to say that in these types of cases, that without such legal assistance, many elderly would be forced into an institutional setting receiving an inappropriate level of care at a far greater cost to the Federal Government.

Several real cases will illustrate the desperate need that many elderly have for legal services. One year after moving into her apartment, a 72-year-old social security recipient Mrs. R. received her monthly rent check back from her landlord with a note attached indicating that there was a 43-percent increase in her rent retroactive 2 weeks. Mrs. R. filed a complaint with the Fair Rent Commission, but the process was slow and unweildy and the landlord had already asked the court to issue an eviction notice. Legal Services was able to stop the eviction act and persuade the court to demand that her rent be set at a more reasonable 16-percent increase.

Mr. D. is 78 years old and suffers from Parkinsonism and Paget's disease. He lives at home with his wife who is also severely disabled. In order to remain at home, he requires the assistance of visiting nurses and home health aides covered by medicare. When the home care agency erroneously terminated services to Mr. D. it became clear that in order to receive the care he needed it would be necessary for him to enter a nursing home as a welfare recipient. Legal assistance to medicare patients entered the case and was able to reinstate medicare coverage and necessary services so that Mr. D. was able to stay at home with his wife.

Legal Service attorneys have the knowledge and competence necessary to represent elderly clients in such cases. I for one dread the thought of how many such people would be forced into a nursing home were such legal services not readily available in the community. In keeping with the administration's desire to trim the cost of Government programs, this bill cuts the Legal Services Corporation authorization for each of the next 2 years by 20 percent, but it would retain the core of this essential program. Without it, we greatly increase the likelihood for many poor elderly that they will not have access to legal assistance when needed. But just as importantly, without such access to the judicial system of our land, many elderly will be deprived of the most important elements of their later years—the comfort of their own home and the love and care of their family close at hand.●

● Mr. STOKES. Mr. Chairman, I rise in support of the reauthorization of the Legal Services Corporation.

The Constitution of the United States guarantees to every citizen the right to "due process of law" and "equal protection of the laws". The reality, however, is that these guarantees are not available to those who do not have access to a lawyer when their personal or property rights are threatened. Consequently, the personal and property rights of the poor are often abused. The Legal Services Corporation was established to provide the poor with minimum access to legal services and thus insure that constitutional rights are not reduced to theoretical rights without practical means of realizing them.

The phrase "equal justice under law", which is proudly emblazoned in stone at the U.S. Supreme Court, is the cornerstone of our democracy. Since the inception of the Legal Services Corporation, this phrase has become, for many poor Americans, more than a theoretical concept. Last year alone the Corporation served more than 1.5 million poor persons who would otherwise be without legal assistance. Moreover, the Corporation has carried out its congressional mandate in a most cost-effective manner. Of its total budget, 3 percent goes for central management and administration overhead, 3 percent goes toward research and support services, the other 94 percent is allocated for the direct delivery of legal services to the poor.

The administration is opposed to this bill and the Office of Management and Budget is recommending a veto if it passes. Their opposition to this piece of legislation is consistent with their position of neglecting the needs of the poor, while fattening the coffers of the rich and offering policy rationale that cannot survive the most cursory analysis.

The administration's stated reasons for opposing the reauthorizing of the Legal Services Corporation is outlined in a paper written by Michael Horowitz, counsel to OMB Director, David Stockman, which states: One, that State-administered block grants and private bar activities are viable alternatives for providing legal services to the poor, and, two, that the Legal Services Corporation is a centrally directed movement of the left.

That State-administered block grants could be used for funding legal services is a position that is both hypocritical and counterproductive.

It is hypocritical because the OMB proposal for social services block grants does not include money for legal services. While theoretically, States could use block grant funds for legal services, the fact of the matter is, none of the money now available through the Corporation is slated for transfer to the block grant system.

It is counterproductive because it would undercut the independence of legal services by subjecting the program to partisan pressure. One of the responsibilities of legal service attorneys, is to challenge State and local officials when poor people believe they have been hurt because those officials are not carrying out their responsibilities as required by law. Under the block grant approach these same officials would be responsible for allocating funds thereby creating an inherent conflict of interest. The counterproductive nature of the block grant approach in also borne out by the fact that it would impose a whole new level of bureaucracy on a program that is now a model of administrative simplicity and efficiency.

The argument that the gratuitous or pro bono services of the private bar could provide adequate legal services to the poor is best answered by the New York Lawyers Committee to Preserve Legal Services when they pointed out,

> Pro bono services satisfy at present and are likely to satisfy in the future only a small and haphazardly selected portion of the legal needs of the poor. Indeed it was the inadequacy of private legal aid programs and pro bono activities by individual attorneys that led to the establishment of federally funded legal services in the first place.

The claim that the Legal Services Corporation is a centrally directed movement to the left is grossly misinformed. The bulk of the cases handled

by the Corporation involve routine legal matters where attorneys help resolve consumer disputes and landlord-tenant issues, where the elderly get assistance in securing social security or pension benefits and where the ill receive help in securing needed medical service.

Mr. Chairman, I could go on and on in my defense of this program, however, the issue involved is very simple: Do the poor need legal services? The answer is an unqualified "yes." In fact, when we realize that the ability to resist an eviction, the repossession of necessities or a loss of welfare eligibility can mean the difference between food, clothing, shelter, and doing without; we know that legal services for the poor is not only important, it is imperative. The need for legal assistance to the poor was most eloquently stated more than 50 years ago, by Reginald Herber Smith, when he reminded us:

> If men, because of poverty, cannot secure counsel, the machinery of justice becomes unworkable, and that in turn means that rights are lost and wrongs go unredressed. When persons are thus debarred from their day in court, they are as effectively stripped of their only protection as if they had been outlawed.
>
> No democracy can tolerate such a condition in its most essential institution, nor can it safely incur the dangerous sense of injustice, bitterness, and unrest which it inevitably engenders.

Finally, let me point out that while the Legal Services Corporation did not come into being until 4 years ago, the concept of Government-provided legal services has been with us for a long time. Under sections 162 and 212 of the Internal Revenue Code, the richest corporations and wealthiest citizens in the country deduct billions of dollars in legal fees from their tax returns. These deductions result in a loss of tax revenues for the Government, and therefore, represent just as real a cost to taxpayers, as do direct expenditures. The cost to the public in 1978 alone, for corporate legal expense deductions was $12 billion. Compared to this, the budget of the Legal Services Corporation is but a drop in the bucket.

Now is the time to cast a vote in favor of making our constitutional guarantees applicable to all citizens—rich or poor. Now is the time to reauthorize the Legal Services Corporation. I urge all of my colleagues to vote for this vital piece of legislation.●

The CHAIRMAN. All time has expired. Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed into the reported bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule.

No amendments to said substitute are in order except the germane amendments printed in the CONGRESSIONAL RECORD at least 2 legislative days before their consideration.

The Clerk will read.

The Clerk read as follows:

H.R. 3480

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Legal Services Corporation Act Amendments of 1981".

Mr. SENSENBRENNER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, H.R. 3480 does not reform the Legal Services Corporation. It falls so short of this mark it is difficult to understand how such claims can be made by the LSC supporters. The antilobbying restrictions, and the restrictions placed on abortion, illegal aliens, and presumptive funding are clear examples of the inadequacy of the bill.

There is an exception which allows lobbying activities, if such activity is directly related to client interest. These groups include organizations and "group clients," many of which are LSC recipients. It defies understanding why the Corporation has been given so much freedom to engage in federally subsidized lobbying activities on behalf of its often pro forma clients. Allowing the LSC to engage in lobbying activities is a flawed concept. It is not right or fair for all taxpayers to fund lobbying activities on behalf of any position for which they are in disagreement.

The prohibition on representation of illegal aliens is rendered meaningless by limiting it to individuals "known to be" in the United States in violation of the law. Anyone with commonsense knows that it cannot definitely be known if one is in the United States unlawfully until it has been adjudicated in court, or before an administrative body. The Legal Services Corporation will continue to represent illegal aliens both in deportation and in actions to obtain more Government benefits. American tax dollars should not be spent to represent those who are illegally in the United States.

The language on prohibiting LSC funds from being used for abortion litigation is full of crevices which LSC attorneys will widen into chasms. For example, in previous years, restrictions were adopted to prohibit LSC attorneys from engaging in abortion litigation. Obviously those past attempts were unsuccessful, as tougher language has been included in H.R. 3480. While attempting to further limit abortion rights litigation, the language in the bill still provides an exception which allows LSC attorneys to give legal advice "to an eligibile client with respect to such client's legal rights and responsibilities." This provision does not preclude taking an abortion rights case under the guise of representation "concerning such client's legal rights and responsibilities." For example, legal counsel could be given to minor children who seek abortions without prior parental notification or consent.

Finally, the present act provides existing grantees with an automatic pipeline to the Federal Treasury when their grants expire. Section 4 of the bill grandfathers for the 1982 calendar year the supposedly repealed presumptive funding provisions. It also retains some of the procedural requirements on termination and suspension of funding, creating unnecessary roadblocks for the LSC to withdraw funding from a present grant recipient. These provisions are also unfair because they make it too difficult for a competing legal services delivery system to receive funds.

The examples just mentioned are the tip of the iceberg. H.R. 3480 falls far short of the representation made by its supporters regarding the reforms it makes. It does not make a serious effort to change the direction of the Corporation toward the needs of individual clients. The Corporation will thus continue to pursue benchmark litigation which Congress has specifically prohibited. Congress, the General Accounting Office, and others will continue to expend resources to bring the LSC lawyers under control. The taxpayers will never get a fair return on their dollars. Indigent clients will continue to be underrepresented and be the pawns for social reform litigation. It is time to terminate this quasi-Government agency that has run amok. The result will be legal service programs designed at the State and local level which will better address the needs of the poor. It is time for a change.

Mr. SWIFT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to commend the Judiciary Committee on its work on the Legal Services Corporation by agreeing to reauthorize it for fiscal years 1982 and 1983 and avoiding the administration's recommendation to consolidate Legal Services into the health and social service block grants which would effectively make legal services just another permissible activity for block grants.

Legal Services Corporation currently funds three legal services programs in my State of Washington. For all too many people, legal services is the very last place to turn to when they require access to our legal system, access to which they are rightly entitled regardless of the income level. This fact of life was recognized by President Nixon whose administration proposed the Legal Services Corporation. It is also recognized by 18 local and State bar groups in Washington State who are concerned about the preservation of this program.

Over the past several years, legal representation has been available only on a minimal level in my congressional district. Recently, the Legal Services office in Mount Vernon, Wash., was closed due to funding limitations. Drastic cuts by Congress and ongoing inflation are presenting more challenges to the already restricted program in my district. Further diluting of this program through weakening amendments and budgetary cuts will erode services it now provides.

Further I am opposed to any effort to fund Legal Services through the block grant concept. Legal Services should not be the responsibility of the State and local governments. This approach would open the door to political intrusions into the attorney-client relationship. Congress should not undercut the structural independence which presently exists. Rather we should be firm in our insistence that political intrusion and the problems arising from that threat remain in the past. For these reasons, I commend the committee on their efforts and urge my colleagues to vote for reauthorization and vote "no" on any weakening amendments.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

STATE ADVISORY COUNCILS

SEC. 2. Section 1004(f) of the Legal Services Corporation Act (42 U.S.C. 2996c(f)) is amended to read as follows:

"(f) Within ninety days after the date of enactment of the Legal Services Corporation Act Amendments of 1981, the Board shall request the Governor of each State to appoint a ten member advisory council for such State. A majority of the members of the advisory council shall be appointed, after recommendations have been received from the State bar association, from among the attorneys admitted to practice in the State, and the membership of the council shall be subject to annual reappointment. The other members of the council shall include two eligible clients and two members of the general public from that State. If ninety days have elapsed after such request without such an advisory council being appointed by the Governor, the Board shall appoint such a council. The advisory council shall be charged with notifying the Corporation of any apparent violation of the provisions of this title and applicable rules, regulations, and guidelines promulgated pursuant to this title. The advisory council shall, at the same time, furnish a copy of the notification to any recipient affected thereby, and the Corporation shall allow such recipient a reasonable time (but in no case less than thirty days) to reply to any allegation contained in the notification. The Corporation and recipients shall notify the relevant State advisory councils promptly of any alleged violations of this title by recipients or their employees. At least sixty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly such grant, contract, or project and shall send notification thereof to the advisory council of any State in which legal assistance will be provided as a result of the grant, contract, or project. Notification shall include a specific description of the grant application or proposed contract or project and a request for comments and recommendations thereon. The council shall be given a reasonable opportunity to review and comment on such alleged violations and on such grants, contracts, and projects.".

Mr. KASTENMEIER (during the reading). Mr. Chairman, I ask unanimous consent that section 2 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. MOFFETT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MOFFETT. Mr. Chairman, we are going section by section, and we are on section 2?

The CHAIRMAN. The gentleman is correct. The Clerk is reading section 2.

Mr. MOFFETT. I thank the Chairman.

The CHAIRMAN. The gentleman from Wisconsin has requested that the section be considered as read.

Is there objection? The Chair hears none, and it is so ordered.

The Clerk will read.

The Clerk read as follows:

QUALIFICATIONS OF RECIPIENTS

SEC. 3. Section 1006(a)(1) of the Legal Services Corporation Act (42 U.S.C. 2996(a)(1)) is amended to read as follows:

"(1) to provide financial assistance to and to make grants to and contracts with—

"(A) qualified nonprofit organizations chartered under the laws of one of the States for the sole purpose of furnishing legal assistance to eligible clients, the majority of the board of directors or other governing body of which organization is comprised of attorneys who are admitted to practice in one of the States and who are appointed to terms of office on such board or body by the governing bodies of State, county, or municipal bar associations the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance, and

"(B) private attorneys for the sole purpose of furnishing legal assistance to eligible clients pursuant to the provisions of section 1007(a)(12);".

Mr. KASTENMEIER (during the reading). Mr. Chairman, I ask unanimous consent that this section be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

AMENDMENT OFFERED BY MR. KASTENMEIER

Mr. KASTENMEIER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair will inquire as to whether the amendment has been printed in the RECORD for 2 legislative days.

Mr. KASTENMEIER. Mr. Chairman, it has been.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. KASTENMEIER: Page 3, strike out lines 19 through 25 and all that follows through page 4, line 14, and insert in lieu thereof the following:

SEC. 3. Section 1007(c) of the Legal Services Corporation Act (42 U.S.C. 2996f(c)) is amended by striking out the last sentence and inserting in lieu thereof the following: "The Corporation shall also insure that a majority of the attorney members of the governing body be appointed by the bar association or associations in the area in which the recipient is to provide legal assistance. Any attorney, while serving on such board, shall not receive compensation from a recipient.".

Mr. KASTENMEIER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The CHAIRMAN. The gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 5 minutes in support of his amendment.

□ 1545

Mr. KASTENMEIER. Mr. Chairman, I offer this amendment solely to clarify several issues that have come up since the amendment contained in this section was in fact adopted in the Committee on the Judiciary.

The amendment deals with the role the bar associations should play in the Government's legal services program. The amendment offered in the Committee on the Judiciary had some discussion, and it centered exclusively on the general value and wisdom of bar associations participation in local legal service programs. I believe a majority of the Members supported the approach in the amendment.

However, the amendment originally, as presented prior to that time, appeared as an amendment to section 1007(c). The amendment in its final form was made in section 1006(a) to the "Powers, Duties, and Limitations" section rather than to the section on governing bodies of certain recipients. The result of that change was that we have a couple of problems with the amendment which, subsequent to its adoption, have come up.

First of all, having amended the wrong section, what it does—and this is the primary problem that I have—is that it refers to organizations having the "sole purpose of furnishing legal assistance to eligible clients." That language by its effect may rule out a number of organizations which heretofore have been eligible to receive assistance, and they include bar associations, some 37 of them.

It could also affect, for example, funds received under the Older Americans Act and law schools as well. Since they are not exclusively organized for the sole purpose of providing legal assistance to eligible clients, they would apparently be precluded from assistance.

What makes this particularly difficult now is that with the corporation being cut back to $260 million or whatever final figure is ultimately agreed to, we will have to depend more, not less, on organizations such as the bar associations for services, largely under this program, to be provided.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, in visiting with the gentleman about his amendment, I believe, yesterday, it was my understanding that the gentleman's amendment for the most part was substantially identical to the amendment offered by the gentleman from Florida (Mr. MCCOLLUM) that was adopted in committee.

In reading the chairman's proposed amendment right now, I find there is a very substantial difference, and that is the gentleman is talking about a majority of the attorneys and he is talking about a majority of the members of the board. That is a very real and substantial difference, and I think those of us on this side who supported the gentleman's amendment are not going to be able to accept this amendment. I do not know whether the gentleman meant to do that or not.

Mr. KASTENMEIER. Mr. Chairman, I will say to my friend, the gentleman from Illinois, that the reason I did this—and I would be happy for any other formulation—is because there are some areas or some localities in which there is not a majority of a single bar association and in which a single bar association does not command a majority of the membership of the bar.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield further?

Mr. KASTENMEIER. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I believe that we took care of that, and did so very purposely, I might add, by putting language in the report that made it very clear that in such cases the State bar could be brought into the picture.

I do not know whether this was done intentionally, but I think the gentleman is really making a very substantial change that simply is not going to be acceptable to us on this side.

Mr. KASTENMEIER. Mr. Chairman, I appreciate the comments of the gentleman from Illinois (Mr. RAILSBACK), but I think he must understand as well that we have a substantial problem, whether intended or not, in defunding the number of organizations. I might say for the benefit of the gentleman from Florida that apparently his bar association, the State Bar Association of Florida, would be defunded under this amendment. I do not think that is what he intended.

Mr. MCCOLLUM. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the purpose of the committee print or the purpose of the bill as it is now worded in section 3 was to delineate those organizations which were to receive the funds from the Legal Services Corporation and to in fact assure that all recipient organizations providing legal assistance were controlled by local or State bar associations. It was to eliminate the haphazard approach that has been followed in the past by the Legal Services Corporation whereby virtually any organization could receive funds and whereby in fact most of the funding that was done was done to organizations that were nonprofit in nature and that had governing boards which were determined by the very bureaucrats in the Legal Services Corporation who wanted to direct things for social activist litigation and who have tended in the past to be more interested in the overall politicizing of the Legal Services Corporations than they have in serving the interests of the poor, than they have in going into the courtroom and going into battle on individual problems.

The amendment offered by the gentleman from Wisconsin (Mr. KASTENMEIER) would totally destroy the concept of giving power to local and State bar associations. The gentleman from Wisconsin, as the gentleman from Illinois pointed out in the questioning, has in fact drafted an amendment that would allow for as little as 30 percent of the governing boards of the nonprofit organizations to be appointed by local and State bar associations instead better than 50 percent, which was the intent of the Judiciary Committee in voting out the language presently in the bill.

I cannot condone that, because of the simple reason that we as a Congress must indeed come to grips with the fact that if this Corporation is to survive in any form, it must be responsible and it must be held accountable to the individuals in the areas served, and there is no better group representative of the localities being served by the Corporation where legal assistance is being provided than local bar associations.

The particular language in the bill presently would provide for a majority of the local members of the bar to control the local recipient organizations, to control in essence the local legal services activities, and this representation would provide a buffer from a great deal of the public criticism that has been going on about the Legal Services Corporation and would temper in fact the rampant way in which we have been going out into left field to get into these activist litigation matters which are far beyond the scope of what was ever intended and getting into the field of politics. It is through an effort to get responsibility into the litigation area that the bill was brought to the floor as it is now.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, could the gentleman explain to me how, as in Detroit where we have 20 different joint organizations, we would divide these organizations into a board of the Legal Services Corporation?

Mr. MCCOLLUM. Yes. The gentleman from Michigan has asked, what about Detroit, where they have many different organizations, or what about any other city with that problem?

The way that would work under this particular bill language is that the organizations would be proportionately able to vote on who the board members are, nominate board members, or appoint board members based on what percentage of their group represented the entire area to be served. Let us say in the city of Detroit that maybe one group would represent 1 percent of the total members of bar associations and another one might represent better than 50 percent; conceivably under that situation they would have varying degrees of ability to appoint.

In other cases, if there is an area in which there cannot be a realistic way to control the appointments on a local level, they always have the option under this language to have the State bar association do the appointing. There is always a State bar association to do that.

Mr. CONYERS. Mr. Chairman, is the gentleman saying that he does not want lawyers that are not elected through their bar associations to serve on the Board?

Mr. MCCOLLUM. I am not saying that at all. I am in favor of lawyers having some input that might not be elected by their bar associations, but I am in favor of 50 percent of the governing boards being elected by local bar associations.

Right now the provision is for 60 percent of the board members to be lawyers. There is no provision that lawyers be nominated or appointed by local or State bar associations, and I would submit to the gentleman that the only way people are served now is through a haphazard procedure whereby mostly the bureaucrats in Legal Services go out and seek out organizations that have social interests and then have lawyers nominated who are sympathetic to those interests, and they are not thereby representative of

the broad community that should be controlling the activities of that association locally. It is ridiculous the way it is handled.

Mr. CONYERS. Mr. Chairman, if the gentleman will yield one final time, if we really want to politicize these boards to the ultimate, then we can just bring in a board that is comprised of all the members of the variety of organizations and, in some places, dozens of bar associations all to bear on legal services, and I would suggest to the gentleman that we would create the biggest mess that has ever been created in Legal Services.

The CHAIRMAN. The time of the gentleman from Florida (Mr. McCOLLUM) has expired.

(By unanimous consent, Mr. McCOLLUM was allowed to proceed for 1 additional minute.)

Mr. McCOLLUM. Mr. Chairman, my concern with respect to this is simply that we do not have a broad section of the bar represented presently, and because we do not have a broad section of the bar represented and because local bar associations do not have control over these organizations and over Legal Services activities, we have the controversy that we have today, and the needs of the poor are not being served, but the objectionable interest of going about getting into the politics at hand is being served.

What is happening is that a small group of individuals in this country is running the Legal Services Corporation to suit its own interests. A small group is in fact taking the Legal Services Corporation and moving it into the political arena, lobbying for all kinds of social issues to gain legislative interest, lobbying for political purposes, and bringing class action suits not to resolve the issues but simply to bring to the forefront, as I see in my fair State of Florida and as many other Members see in their States and districts, those things they think are important rather than resolving the issues of individual clients.

That is the important thing. That is what is wrong with the Legal Services, and if we turn the organization over to the organized bar associations, local and State, we have possibly come up with a workable system that we simply do not have now.

Mr. Chairman, the amendment offered by the gentleman from Wisconsin (Mr. KASTENMEIER) would destroy that concept.

AMENDMENT OFFERED BY MR. FRANK TO THE AMENDMENT OFFERED BY MR. KASTENMEIER

Mr. FRANK. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. FRANK to the amendment offered by Mr. KASTENMEIER: Strike the words, "of the attorney members," in line 9 of the amendment.

Mr. SENSENBRENNER. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Wisconsin (Mr. SENSENBRENNER) reserves a point of order on the amendment.

The gentleman from Massachusetts (Mr. FRANK) is recognized for 5 minutes in support of his amendment.

Mr. FRANK. Mr. Chairman, this is an effort to accommodate the point the gentleman from Illinois (Mr. RAILSBACK) raised when the gentleman from Wisconsin (Mr. KASTENMEIER) introduced his amendment.

There were two aspects of the amendment offered by the gentleman from Florida (Mr. McCOLLUM). One dealt with the requirement that the bar associations be allowed to appoint the majority of members of the local Legal Services Corporation. The other dealt with the instances where the people funded to provide legal services were multipurpose organizations that have other functions.

As I understand it, there was no disagreement with regard to the point I just mentioned. That is, the gentleman from Florida did not intend and none of us intended to make it impossible to use as a legal services entity groups that have other purposes.

There was disagreement with the notion that the bar association should appoint only the attorney members of the board, and that, as I understand it, was the major issue the gentleman from Illinois raised.

What my amendment does is restore the intention of the gentleman from Florida that the bar association would appoint a majority of the members of the Legal Services Corporation, not just the attorney members. I do not necessarily think attorney members are the best people, but in the spirit of trying to continue to work this out, I think this meets the point raised by the gentleman from Illinois.

So to clarify this further, multipurpose organizations should continue, where appropriate, to be the legal service channel, but it does say that where we have the Legal Services organization, the bar association would appoint a majority of the board and not just the attorney members.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, do I understand the gentleman's amendment to recognize and in no way change the current law that requires that 60 percent of the members of the governing board be attorneys? That is No. 1. It does not change that?

Mr. FRANK. Right. It does not affect that at all.

Mr. RAILSBACK. What it is saying is that besides the lawyers who are appointed to the board, a majority of the board, under the gentleman's amendment, shall be appointed with input from the various bar associations?

Mr. FRANK. Right. As the gentleman points out, it would not affect the number of appointments. It would say that the attorney members of the board appointed by the bar association would have to constitute a majority of the board, that is, 60 percent, or would have to constitute, say, 50 plus 1 and would have to be people appointed by the bar association. That is the effect of the amendment.

□ 1600

Mr. SENSENBRENNER. Mr. Chairman, I withdraw my reservation of a point of order.

Mr. KASTENMEIER. Mr. Chairman, I wish to say that I accept the amendment of the gentleman from Massachusetts. I am not going to delay the debate any longer. I hope we will vote on it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. FRANK) to the amendment offered by the gentleman from Wisconsin (Mr. KASTENMEIER).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. KASTENMEIER), as amended.

Mr. McCOLLUM. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 78]

Addabbo	Benjamin	Broyhill
Akaka	Bennett	Burgener
Albosta	Bereuter	Burton, John
Alexander	Bethune	Burton, Phillip
Anderson	Bevill	Butler
Andrews	Biaggi	Campbell
Annunzio	Bingham	Carman
Anthony	Blanchard	Carney
Applegate	Boggs	Chappell
Ashbrook	Boland	Cheney
Aspin	Boner	Chisholm
Atkinson	Bonior	Clausen
Badham	Bonker	Clay
Bafalis	Bouquard	Clinger
Bailey (MO)	Bowen	Coats
Bailey (PA)	Brinkley	Coelho
Barnard	Brodhead	Coleman
Barnes	Brooks	Collins (IL)
Bedell	Broomfield	Collins (TX)
Beilenson	Brown (CA)	Conable
Benedict	Brown (CO)	Conte

Conyers
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
Crockett
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dornan
Dougherty
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
Emery
Erdahl
Ertel
Evans (DE)
Evans (GA)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Fountain
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Grisham
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Hawkins
Hefner
Heftel
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Hopkins
Horton
Howard
Hoyer
Hubbard
Hughes
Hutto
Hyde
Jacobs
Jeffords
Jeffries
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Leach
Leath
LeBoutillier
Lee
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery
Lowry
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marks
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Moffett
Molinari
Montgomery
Moore
Moorhead
Mottl
Murphy
Murtha
Myers
Natcher
Neal
Nelligan
Nelson
Nichols
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rousselot
Roybal
Rudd
Russo
Sabo
Santini
Savage
Sawyer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stanton
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Wilson
Winn
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zeferetti

□ 1615

The CHAIRMAN. Three hundred and ninety-four Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Florida (Mr. McCOLLUM) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 155, noes 249, answered "present" 2, not voting 25, as follows:

[Roll No. 79]

AYES—155

Addabbo
Akaka
Alexander
Anderson
Annunzio
Aspin
Atkinson
Barnes
Bedell
Beilenson
Benjamin
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Brodhead
Burton, John
Burton, Phillip
Chisholm
Clay
Coelho
Collins (IL)
Conyers
Coyne, William
Crockett
D'Amours
Danielson
Daschle
Dellums
DeNardis
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan
Downey
Dwyer
Dymally
Early
Eckart
Edgar
Edwards (CA)
Ertel
Evans (IN)
Fary
Fascell
Fazio
Ferraro
Fish
Fithian
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Garcia
Gejdenson
Gilman
Glickman
Gonzalez
Gore
Gray
Green
Hall (OH)
Hamilton
Harkin
Hawkins
Hertel
Howard
Hoyer
Hughes
Jacobs
Jeffords
Jones (OK)
Kastenmeier
Kildee
Kogovsek
LaFalce
Leach
Leland
Levitas
Long (LA)
Lowry
Luken
Lundine
Markey
Martin (IL)
Matsui
Mattox
Mavroules
McHugh
McKinney
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Moakley
Moffett
Murtha
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Pease
Pepper
Peyser
Porter
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Rodino
Rostenkowski
Roybal
Russo
Sabo
Sawyer
Scheuer
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Sharp
Simon
Smith (IA)
Solarz
St Germain
Stark
Stokes
Studds
Swift
Synar
Udall
Vento
Walgren
Waxman
Weaver
Weiss
Williams (MT)
Wolpe
Wyden
Yates
Zablocki

NOES—249

Albosta
Andrews
Anthony
Applegate
Archer
Ashbrook
Badham
Bafalis
Bailey (MO)
Bailey (PA)
Barnard
Benedict
Bennett
Bereuter
Bethune
Bevill
Biaggi
Boner
Bonker
Bouquard
Bowen
Brinkley
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burgener
Butler
Campbell
Carman
Carney
Chappell
Cheney
Clausen
Clinger
Coats
Coleman
Collins (TX)
Conable
Conte
Corcoran
Coughlin
Courter
Coyne, James
Craig
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Davis
de la Garza
Deckard
Dickinson
Dornan
Dougherty
Dreier
Duncan
Dunn
Dyson
Edwards (AL)
Edwards (OK)
Emerson
Emery
English
Erdahl
Evans (DE)
Evans (GA)
Evans (IA)
Fenwick
Fiedler
Fields
Findley
Flippo
Florio
Forsythe
Fountain
Frenzel
Fuqua
Gaydos
Gephardt
Gibbons
Gingrich
Ginn
Goldwater
Goodling
Gradison
Gramm
Gregg
Grisham
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Heckler
Hefner
Heftel
Hendon
Hightower
Hiler
Hillis
Holland
Hollenbeck
Hopkins
Horton
Hubbard
Hunter
Hutto
Hyde
Jeffries
Jenkins
Johnston
Jones (NC)
Jones (TN)
Kazen
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath
LeBoutillier
Lee
Lent
Lewis
Livingston
Loeffler
Long (MD)
Lott
Lowery
Lujan
Lungren
Madigan
Marks
Marlenee
Marriott
Martin (NC)
Martin (NY)
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
Mica
Michel
Miller (OH)
Mitchell (NY)
Molinari
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Myers
Natcher
Nelligan
Nelson
Nichols
O'Brien
Parris
Pashayan
Patman
Paul
Perkins
Petri
Pickle
Pritchard
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Roe
Roemer
Rogers
Rose
Roth
Roukema
Rousselot
Rudd
Santini
Schneider
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Siljander
Skeen
Skelton
Smith (AL)
Smith (NE)
Smith (NJ)
Smith (OR)
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Staton
Stenholm
Stratton
Stump
Tauke
Tauzin
Taylor
Traxler
Trible
Vander Jagt
Volkmer
Walker
Wampler
Watkins
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Whitten
Wilson
Winn
Wolf
Wortley
Wright
Wylie
Yatron
Young (AK)
Young (FL)
Young (MO)
Zeferetti

ANSWERED "PRESENT"—2

Pursell
Savage

NOT VOTING—25

AuCoin
Beard
Bliley
Breaux
Brown (OH)
Byron
Chappie
Cotter
Derwinski
Erlenborn
Guarini
Hatcher
Holt
Huckaby
Ireland
Lantos
Lehman
Mollohan
Napier
Neal
Rosenthal
Thomas
Washington
Williams (OH)
Wirth

The Clerk announced the following pairs:

On this vote:

Mr. Guarini for, with Mr. Chappie against.

Mr. Lehman for, with Mr. Bliley against.

Ms. FERRARO and Mr. PORTER changed their votes from "no" to "aye."

So the amendment, as amended, was rejected.

The result of the vote was announced as above recorded.

□ 1630

The CHAIRMAN. Are there additional amendments to section 3?

Mr. MITCHELL of Maryland. Mr. Chairman, I move to strike the last word.

Mr. Chairman, amidst the prevailing administration's proposal to abolish the Legal Services Corporation, the House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice, has brought forth a bipartisan initiative to reauthorize the Legal Services Corporation at $260 million for fiscal years 1982 and 1983. I rise today in support of this effort, H.R. 3480, the Legal Services Corporation Act Amendments of 1981, and against all amendments which may further erode and weaken the intent of this measure.

Certainly many of us are not satisfied that the $260 million authorization level represents a 20-percent cut from the current level of appropriations. Moreover, several of the prohibitions on Legal Services Corporation activities as contained in H.R. 3480 go beyond what I believe to be an equitable compromise. For example, I believe that the incorporation of the provision which prohibits legal assistance in abortion cases, except when the mother's life is in danger, is a serious infringement on the reproductive rights of lower income women. Additionally, the lobbying prohibitions and limitations on class action suits, which continue to be a part of the Legal Services Corporation's mandate, leave many low-income residents virtually devoid of any type of viable advocacy representation. In spite of such drawbacks, we should concern ourselves today with assuring the continuation of the Legal Services Corporation, thereby providing legal services for our Nation's poor.

It is a tragedy that this Nation has reached a point where access to legal and judicial redress by the poor is in danger. It is even sadder that the fostering of such access by our own Government has become such a low priority that we are faced with proposals to either abolish one of the most efficient programs in this area, or radically restructure such programs and rely on the use of the highly questionable block grant approach to provide vital legal services. At this point we have been forced to literally concede to the inadequate level of funding authorized for the Legal Services Corporation, fight to maintain the program implementation structure as is, and stave off discriminatory, prohibitive amendments. The demanding nature of such a posture is exemplary of the insensitivity which prevails among our administration and many of its key players.

If there are those among us who do not care about legal services for the poor, perhaps we should concern ourselves with the cost effectiveness of insuring minimum access to legal services for every poor resident throughout this country. Indeed the accomplishment of legal access was an initial goal, in 1975, of the Congress and the Legal Services Corporation. Even in the face of continuous fiscal year budget cuts, this goal has been reached; there are two attorneys for every 10,000 poor people in every part of our country.

To look further, the Legal Services Corporation has an outstanding record in the area of out-of-court case settlements. It is particularly crucial that approximately 85 percent of such cases are settled out of court. In essence this type of program will be essential as our States incur more and more costs through the assumption of sole responsibility for administering social programs.

We must also face the issue of just what establishment will absorb the needs of the poor for legal assistance in the absence of the Legal Services Corporation. Admittedly, the American Bar Association has been outstanding in its efforts and encouragement. However, the reality remains that only a very small percentage of the legal services to the poor are available through the pro bono services of the private bar. In addition, as aforementioned, State and local funding of these services cannot possibly increase even from its established minimal support. Without the LSC we would have to consider alternatives, and there appears to be none.

The measure before you is very carefully structured to insure that political activism and advocacy will not play a primary role in the provision of legal services to the poor. However, we should recognize the functions of the Legal Services Corporation for what they are. They provide affordable means of legal representation in such areas as family law, credit, housing, and health. They are available because one's economic posture should not determine one's need or right to such assistance. The services have been provided, since the inception of the Corporation, under highly structured, monitored parameters, and they have helped millions of families.

My colleagues, it is very important that we remain aware of the foundation on which the activities of this very House rest—equal opportunity, fair representation of all citizens, and equal access to this Nation's democratic process. This foundation is solid because such access is a human right and not an economic privilege. We have been fortunate in that our Government has exercised a reflection of this foundation since 1974 by facilitating the utilization of the judicial process by all citizens, through a private, nonmembership, nonprofit entity. Our vote to reauthorize the Legal Services Corporation will add strength to this effort.

The measure before you represents the hard work of an esteemed Judiciary Subcommittee, which concerned itself with the incorporation of many key elements. Among these are: a more visible level of accountability; more stringent stipulations for Legal Services Corporation funding recipients; the assurance of attorney's fees for LSC opponents if the Corporation loses a case; the increased involvement of the private bar in more litigation; and more solid documentation of eligibility. These are but a few of the provisions which make this year's bill to reauthorize the Legal Services Corporation a measure which can be supported by Members on both sides of the aisle.

I strongly urge that this House move swiftly in its passage of H.R. 3480.

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair would inquire of the gentleman from Missouri if his amendment has been printed in the RECORD for 2 legislative days.

Mr. VOLKMER. Yes, it has, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER: On page 3, line 25, after the word "States" add the following: "and which nonprofit organization is to provide service to clients in an area which includes a political subdivision with a minimum population of 100,000 persons.".

Mr. VOLKMER. Mr. Chairman, this amendment was based with the intent to provide that in those areas in which you had rural population, the approach to be used to represent the poor would be what is known as the judicare approach and not the staff-attorney approach. Some of us from the rural areas and that represent solely rural areas that are within the scope of the Legal Services Corporation that provide representation for the poor feel very strongly that the judicare approach should be attempted and tried and that the staff-attorney approach sometimes does not provide adequate representation for the poor.

I would like to give you a little personal experience of why I offer this amendment to begin with, with what the gentleman from Illinois has done to try and help the same idea along by having his amendment in the bill for private attorney representation.

As many of you know, I represent a part of Missouri known as northeast Missouri. The southern part of my district is highly urban and contains a majority, a good part of St. Louis County. Then next to it is one of the largest and fastest growing counties, St. Charles, in the State of Missouri, and one of the fastest growing counties percentagewise in the whole United States. It is part of that urban area also. Both of those areas are included in what is known as Legal Services Corporation of Eastern Missouri located in St. Louis. They are doing a good job basically representing the poor. The rest of the area is strictly rural.

There was a proposal made by some attorneys who wanted to have representation for the poor through the Legal Services Corporation in that rural area. That rural area contains 14 counties that are mostly low in population. The highest population is my home county which has my home city of 19,000 population. The county itself has 28,000 population. Our 14 counties all together only contain approximately 200,000 people. Within those, in many small towns and in all the major cities, what I would call those over 10,000, there are attorneys.

Presently in the past those attorneys have represented the poor voluntarily on their own. Some of us felt that we could through judicare have better representation. The proposal was made to the Legal Services Corporation. Then the Legal Services Corporation was contacted by some groups that represent the poor and they proposed a competing proposal. There were then two competing proposals before the Legal Services Corporation, one for utilization of staff attorneys, the other for utilization of private attorneys through judicare.

In August of 1980 I wrote to Mr. Bradley who is Executive Director of Legal Services Corporation setting out my past experience in the practice of law in that rural area, my knowledge of the area and of the attorneys that were there, and how they had represented the poor in the past, and requested that he consider the judicare approach at least for a period of from 1 to 3 years. We would monitor it and would then make a decision as to whether it was properly being utilized to represent the poor.

Mr. Bradley did not even answer my letter. I never received a letter in reply and to this day I have never received a reply from the Legal Services Corporation to that letter.

Thereafter, the group that was pushing for the staff-attorney approach were successful in obtaining a grant for the Legal Services Corporation. Soon thereafter in April of this year Mr. Bradley went to my hometown of Hannibal and met with the members of the bar and the State bar board of governors with regard to the proposal of northeastern Missouri.

Following that it was interesting that he wrote to me a letter and told me about his meeting in my hometown with the members of the bar on Legal Services and asked me in that letter if I had any comments or suggestions with regard to representing the poor in my district.

I sent Mr. Bradley back a copy of my letter I had written to him in August 1980 and suggested that there were my suggestions and perhaps he could now reply to them. Mr. Bradley has still failed to do so. He has never replied yet to that letter.

I personally feel that in the rural areas where you have a lot of territory to cover, a lot of geography, but yet have private attorneys in all areas, you can utilize those private attorneys better to represent the poor than you can the staff attorneys.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. VOLKMER was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. I agree that in the metropolitan areas you should have staff attorneys. There is no question in my mind about it. And that should be done, but in the rural areas I think that the better way to do it is through the private attorneys.

The amount that the Legal Services sent out for these 200,000 people totally—and of that number, no more than 10 to 15 percent are qualified poor—the amount that they have now available for the year was approximately $300,000. I do not think that amount was absolutely necessary, nor do I think it would be wise to have eight attorneys, which they have been allocated, eight full-time attorneys plus their staff. I do not think that is a proper amount and later on I will have an amendment to reduce the amount of the authorization because I think that job can be done better, more efficiently, with less of the taxpayers' money.

I also would like to say one other thing that bothers me a great deal in the name of representing the poor, and that is the great degree of lobbying, full-time lobbying, that is being done and paid for through the Legal Services Corporation. We have some in Missouri. I know of one specifically through that same group in St. Louis that for the last session of the Missouri General Assembly has been spending 4 days, Monday through Thursday, in the State capital lobbying.

I do not mind some lobbying because I think it is necessary, but I question whether the Legal Services Corporation funds should be used to have an exclusive lobbyist solely for these purposes. I seriously question that. I had hoped to propose, and I did not get it in time, an amendment that would restrict lobbying to a certain percentage of time.

Mr. SAM B. HALL, JR. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Texas.

Mr. SAM B. HALL, JR. Would the gentleman explain to me, please, what he means by an area with a population of less than 100,000? Is that a county? What is an "area"? What is the definition of an "area"?

Mr. VOLKMER. I will admit to the gentleman this amendment was drafted hurriedly, and I am going to withdraw the amendment. I want the gentleman to know that, because the amendment was not drafted as well as it could be. All right? I wanted to bring out some of the feelings I have and why I personally feel that way. So if the gentleman is having difficulty with the amendment as such, I will withdraw it, but I just wanted to let the Members know why, first, I believe in preserving the program. However, we should have more oversight over it more often. That is why I believe in a 1-year authorization and I believe that the program can be done adequately for less money than the money proposed.

The CHAIRMAN. The time of the gentleman has expired.

Does the gentleman from Missouri (Mr. VOLKMER) ask unanimous consent to withdraw his amendment at this point?

Mr. VOLKMER. Yes; I do.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. Are there any further amendments to section 3? If not, the Clerk will read.

The Clerk read as follows:

ENFORCEMENT AND SANCTIONS

SEC. 4. (a) Section 1006(b)(5) of the Legal Services Corporation Act (42 U.S.C. 2996(b)(5)) is amended by striking out the second sentence and inserting in lieu thereof the following: "The Board, within thirty days after the date of enactment of the Legal Services Corporation Act Amendments of 1981, shall issue regulations to provide for the enforcement of this title, which regulations shall include, among available remedies, provisions for the immediate suspension of financial assistance under this title, suspension of an employee of the Corporation or any employee of any recipient by such recipient or by the President of the Corporation, and the reduction or termination of such assistance or employment as deemed appropriate for the violation involved. Financial assistance under this title shall not be terminated or suspended for a

period of more than thirty days unless the recipient, grantee, or contractor has been afforded reasonable notice and an opportunity for a fair hearing pursuant to regulations promulgated by the Corporation.".

(b)(1) Section 1011 of the Legal Services Corporation Act (42 U.S.C. 2996j) is repealed.

(2) The amendment made by paragraph (1) shall not affect any proceeding pending on the date of enactment of this Act which is being conducted in accordance with section 1011 of the Legal Services Corporation Act.

(c) Section 1007(a)(9) of such Act (42 U.S.C. 2996f(a)(9)) is amended to read as follows:

"(9) insure that every grantee, contractor, or person or entity receiving financial assistance under this title that files with the Corporation a timely application for refunding is provided interim funding, pending the decision of the Corporation on the application, sufficient to allow for the continuation of representation of clients on whose behalf litigation, negotiation, or other forms of representation have been initiated; and".

(d) Section 1006(b)(5) of such Act is amended in the first sentence by striking out "(except as permitted by law in connection with such employee's own employment situation)".

Mr. KASTENMEIER (during the reading). Mr. Chairman, I ask unanimous consent that section 4 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The CHAIRMAN. Are there amendments to section 4?

AMENDMENT OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair would inquire as to whether the amendment has been printed in the RECORD for 2 legislative days.

Mr. SENSENBRENNER. It has been, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. SENSENBRENNER: Page 5, strike out line 4 and all that follows through "Corporation" on line 8.

Page 5, line 9, strike out "(1)".

Page 5, strike out lines 11 through 14.

□ 1645

Mr. SENSENBRENNER. Mr. Chairman, the present Legal Services Corporation Act contains a nifty arrangement that provides for the automatic refunding of Legal Services Corporation grantees. So once a grantee got his pipeline into the Federal Treasury, then the money would keep on flowing year after year after year. The bill that is before the Committee this afternoon attempts to restrict this automatic refunding provision but does not do so in an effective manner.

This amendment insures the discontinuance of the preference that existing grantees have over other legal delivery systems by completely repealing the automatic refunding provision.

The present act provides existing grantees with an automatic pipeline to the Federal Treasury when their grants expire. Section 4(b)(2) of the bill grandfathers for the 1982 calendar year the supposedly repealed presumptive funding provision. Section 4(b)(2) and a provision which retains some of the procedural requirements on termination and suspension of funding provide unnecessary roadblocks by making it too difficult for the Legal Services Corporation to withdraw funding from a present grant recipient who does not comply with the grant contract.

The retention of the presumptive funding language makes it difficult to discipline or replace existing grantees. My amendment strikes the grandfather section from the bill and removes the cumbersome procedural requirements for termination or suspension of funding. This amendment puts the Corporation and its grantees in the same relationship as grantees have with other Federal agencies; mainly, the decision of funding or refunding rests entirely with the agency and no presumption favoring the grant applicant.

This legislation reduces the total authorization for the Legal Services Corporation from the present $321 million a year to $260 million a year. The conference committee report on the budget resolution provided $100 million for fiscal year 1982 for the Legal Services Corporation.

The fact of the matter remains that there is going to be a substantial reduction in funding legislated by this Congress for Legal Services irrespective of what framework the Legal Services reauthorization takes. I believe very strongly that it is better to do away with the grandfather clause for fiscal year 1982 so that those Legal Services grantees that have been doing a good job representing the indigent can be refunded at an adequate amount rather than attempting to squeeze at least $61 million less into the existing grant arrangement.

So for the sake of the Legal Services Corporation grantees, some discretion has got to be given to the new LSC Board on which grantees will be refunded rather than giving half a loaf or two-thirds of a loaf or three-quarters of a loaf to all of the grantees that have been on the Federal gravy train.

I would ask the supporters of this legislation to think very seriously about the effects of trying to squeeze $321 million into $260 million or less with an automatic refunding provision for fiscal year 1982. It just cannot be done; and for that reason, I would urge this Committee to repeal the presumptive funding provisions so as to give the new Legal Services Corporation Board the discretion to pick and choose which grantees will be refunded and to refund those grantees adequately rather than trying to stretch the dollar too far.

Mr. SAWYER. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Michigan.

Mr. SAWYER. Mr. Chairman, I am just curious. Is the intent of this amendment the removal of any requirement for notice on defunding for over 30 days?

Mr. SENSENBRENNER. Mr. Chairman, the way the legislation is worded, it does require a substantial procedural hurdle to be surmounted in order for any termination of funding or denial of a refunding arrangement. So, the answer to the gentleman's question is "yes"; but if the notice and hearing requirements stay in the law, the argument will be made by Legal Services Corporation grantees that they have got to continue getting the Federal money to continue their existing caseload, and when there is at least $61 million less in Federal funds, as this bill proposes, it is going to be pretty difficult for the Corporation Board to do that.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. SENSENBRENNER) has expired.

(At the request of Mr. SAWYER and by unanimous consent, Mr. SENSENBRENNER was allowed to proceed for 2 additional minutes.)

Mr. SAWYER. Mr. Chairman, will the gentleman yield further?

Mr. SENSENBRENNER. I yield to the gentleman from Michigan.

Mr. SAWYER. Mr. Chairman, I have checked with the five donee agencies in the State of Michigan alone, and presently they have 53,000 open files, 7,000 to 10,000 involving litigation. I do not see how you can just suddenly defund them with no notice or anything else. What happens to the 53,000 files and the 7,000 to 10,000 litigated cases? If we apply that nationally, we are probably talking about 1 million.

Mr. SENSENBRENNER. Mr. Chairman, if I can reclaim my time, the bill which the gentleman voted for and which was supported in committee contains a 25-percent reduction in the total authorized amount for the Legal Services Corporation. The philosophy behind this amendment is that it is better to give some grantees adequate funding rather than to give all grantees half a loaf or three-quarters of a loaf. I believe that there should be discretion given to the Legal Services Corporation Board on which grantees will be cut and how much, and which grantees will be eliminated altogether, because there is at least a $61 million total reduction in funding coming up for the Legal Services Corporation.

Mr. SAWYER. I thank the gentleman.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Virginia.

Mr. BUTLER. I appreciate the gentleman raising this question because I think it gives us an opportunity to make a legislative history which will probably make the gentleman's amendment unnecessary, because it is perfectly clear to me that what we have done here is give an absolute discretion to the Board to suspend or terminate, but if the termination is going to be longer than 30 days, then and only then do you have to have notice and opportunity for a hearing.

The purpose of that is to make clear that the Board knows what it is doing and appreciates the consequences. For example, what the gentleman from Michigan (Mr. SAWYER) has pointed his attention to—the 50,000 pending cases that are in the State of Michigan—if we are going to terminate all of the Michigan agencies, then there is a responsibility on the Board, it seems to me, to make sure that adequate provision is made.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. SENSENBRENNER) has expired.

(By unanimous consent, Mr. SENSENBRENNER was allowed to proceed for 3 additional minutes.)

Mr. BUTLER. If the gentleman will yield further, that is the reason, and the only reason, for the provision of the 30 days' notice, so that we can have an orderly procedure in the event of termination or suspension when it goes beyond 30 days.

I think, if the gentleman from Massachusetts is here, he would also embellish the legislative history to establish clearly there are no limitations on the discretion in the Board to terminate.

Mr. SENSENBRENNER. If I may reclaim my time, section 4(b)(2) of the bill provides that any application for refunding which is on file before the enactment of H.R. 3480 is to be covered by the presumptive funding provisions of section 1011 in the present law.

In other words, this section grandfathers for calendar year 1982 all of the present grant recipients. Because LSC grantees are funded on a calendar year basis, they get an extra 3 months beyond October 1, 1982.

It will be very difficult to replace existing grant recipients, therefore, before January 1, 1983.

I have to repeat myself, I say to the gentleman from Virginia.

Mr. BUTLER Well, some of us are slow.

Mr. SENSENBRENNER. There is $61 million less provided in this bill than is currently appropriated by this Congress for the Legal Services Corporation. If the bill says that we do business as usual effectively through January 1, 1983, there is no way on Earth that you are going to be able to squeeze in $61 million less in authorized and appropriated funds to do the same business that is being done at the present time. And what my amendment simply seeks to do is to give the Legal Services Corporation Board the authority to defund existing programs so that some existing grantees continue to receive their adequate funding.

If the same amount of money were authorized for the next fiscal year as was authorized and appropriated for this fiscal year, I think my amendment would be unnecessary, but there is $61 million less in this bill, and that is what makes the amendment necessary.

Mr. RAILSBACK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think it is very important for the Members to know exactly what we did and to understand what may be involved if the Sensenbrenner amendment is adopted.

We took the existing law. Some of us who wanted to tighten up the standards, make it more restrictive, we decided that, rather than having all of the formal requirements that are now inherrent in the law, namely, the provision that requires to show cause for suspension, namely, the full-scale hearing that is now provided, that was going too far. We wanted to make it easier for the Corporation, under certain circumstances, to be able to suspend or to be able to terminate. But in the event of a suspension or in the event of a termination, it seemed very fair to us that, to afford a reasonable due process, if that suspension was to last for more than 30 days, then there ought to be reasonable notice and a hearing.

Frankly, the subcommittee and the full Committee on the Judiciary tightened it up. We did it by design. We think that what the gentleman from Wisconsin is doing is completely knocking out any kind of due process at all.

So what I am saying is that the Corporation, under the bill that we have before us, is not even required to show cause. What we are doing is just a basic due process of a reasonable notice, and if the termination or the suspension exceeds 30 days.

I think the gentleman's amendment would go too far.

Mr. SENSENBRENNER. Mr. Chairman, would the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Section 4(b)(2) of the bill says that there is automatic refunding of grantees for fiscal year 1982 because the applications would be pending with the Corporation as of the date of enactment of this bill.

Mr. RAILSBACK. I understand.

Mr. SENSENBRENNER. Furthermore, all of the notice provisions that are contained in section 4(a)(1) of the bill do not apply for fiscal year 1982.

Now, my question of the gentleman is very simple: If you cannot defund a Legal Services Corporation grantee under section 4(b)(2) of the bill for fiscal year 1982, which in effect is calendar year 1982 because of the way those grant contracts operate, then how is the Corporation going to be able to handle a reduction in funding of at least $61 million, which is the amount that is authorized in this act?

Mr. RAILSBACK. It was my understanding, frankly, that the gentleman from Virginia answered that.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Massachusetts.

Mr. FRANK. I am puzzled by the assertion of the gentleman from Wisconsin.

I have read the section to which the gentleman has reference, and it is not my reading of this bill that this freezes in people for fiscal year 1982.

It talks about proceedings pending as of the date of enactment. Presumably, this would be enacted some time during this summer, well before fiscal year 1982 begins. And I do not see how something that is enacted in August, which cuts off as of the date of that enactment, would affect things for fiscal year 1982.

Mr. RAILSBACK. The other point I want to make, which is in agreement with what the gentleman is saying, is: What a mistake it would be if many legal services programs have all kinds of cases pending, which they are going to have pending, and even though we tightened it up and made it easier for the Legal Services Corporation to either suspend or terminate, at least we have to give some reasonable notice and have at least a 30-day requirement if we exceed the 30 days, I think.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Section 1011, subsection (2) of the present Legal Services Corporation Act, says, in essence, that financial assistance under the title shall not be terminated and an application for refunding shall not be denied unless the grantee, contractor, or person or entity receiving the assistance under this title has been afforded reasonable notice and opportunity for a full and fair hearing.

Mr. RAILSBACK. And, of course, that is what we repealed.

Mr. SENSENBRENNER. That is being repealed.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has expired.

(On request of Mr. SENSENBRENNER and by unanimous consent, Mr. RAILSBACK was allowed to proceed for 2 additional minutes.)

Mr. RAILSBACK. I yield to the gentleman.

□ 1700

Mr. SENSENBRENNER. However, what section 4(b)(2) says is that the amendment made by paragraph 1 shall not affect any proceeding which includes a refunding application that is being conducted as of the date of enactment.

Mr. RAILSBACK. What page is that?

Mr. SENSENBRENNER. Page 5, lines 11 through 14 of the bill.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Massachusetts.

Mr. FRANK. The gentleman is correct, but the refunding applications for fiscal 1982 will not be pending as of the date of that enactment. They simply will not. That is the error. The funding applications will not be pending and since they will not be pending, that section will not apply.

The gentleman from Illinois is correct. We explicitly repealed the section the gentleman referred to. We have replaced this. We have shifted the burden. The burden now would be on a grantee to show why they should be refunded.

We only provided interim funding so they can carry out their legal and ethical obligation to continue pending cases and pending matters. But the section the gentleman from Wisconsin refers to has no application to the fiscal 1982 funding.

Mr. RAILSBACK. Without belaboring the amendment, I urge its defeat.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to my colleague, the gentleman from Wisconsin (Mr. SENSENBRENNER), to respond to the last statement.

Mr. SENSENBRENNER. I thank the gentleman for yielding.

All I am saying is that unless my amendment is adopted, the Legal Services Corporation, because of the reduction in funding that is contained in this bill, is going to be put in a procedural straitjacket relative to funding grantees for calendar year 1982.

I would ask the membership of this Committee to adopt the amendment that I have offered so that the Legal Services Corporation would have the flexibility of figuring out ways to squeeze the present $321 million into the $260 million that is authorized by the bill.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I would be glad to yield to my colleague, the gentleman from Massachusetts.

Mr. FRANK. I thank the gentleman for yielding.

I want to emphasize that the gentleman from Wisconsin, I believe, has misread the section. We have repealed the presumption for continued funding. I appreciate the gentleman's concern.

Mr. ROUSSELOT. Did not the gentleman grandfather them in?

Mr. FRANK. No; we specifically did not grandfather or grandmother anyone in because they might get a sex change operation that the gentleman from Texas was worried about. If the gentleman would show me the "grandparenting" language, I would concede it. But it says "pending as of the date of enactment."

If this bill is enacted in August of this year, it will not affect the refunding for next year. I am asking the membership to consider. The gentleman from Wisconsin is a dedicated legitimate opponent of this bill. It really does not seem to me credible that he would be worried about putting them in a straitjacket when what he really wants to do is put them in a guillotine.

Now, he has every right to try and wipe them out. But let us not pretend that this is an effort to help them when we know the gentleman wants to blow them up.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The question was taken, and on a division (demanded by Mr. SENSENBRENNER) there were—ayes 24, noes 53.

RECORDED VOTE

Mr. SENSENBRENNER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 152, noes 251, not voting 28, as follows:

[Roll No. 80]

AYES—152

Archer	Craig	Gradison
Ashbrook	Crane, Daniel	Gregg
Badham	Crane, Philip	Grisham
Bafalis	Daniel, Dan	Gunderson
Bailey (MO)	Daniel, R. W.	Hall, Ralph
Barnard	Dannemeyer	Hansen (ID)
Benedict	Daub	Hansen (UT)
Bereuter	Davis	Hartnett
Boggs	Derrick	Hendon
Brinkley	Dickinson	Hiler
Broomfield	Dornan	Hillis
Brown (CO)	Dougherty	Hopkins
Burgener	Dreier	Hunter
Campbell	Duncan	Hyde
Carman	Dunn	Jeffries
Carney	Edwards (AL)	Johnston
Chappie	Edwards (OK)	Kemp
Cheney	Emerson	Kindness
Clausen	Emery	Kramer
Clinger	Evans (DE)	Lagomarsino
Coats	Evans (IA)	Latta
Coleman	Fiedler	Leath
Collins (TX)	Fields	LeBoutillier
Conable	Forsythe	Lee
Corcoran	Goldwater	Lent
Coyne, James	Goodling	Lewis
Livingston	Nichols	Smith (AL)
Loeffler	O'Brien	Smith (NE)
Lott	Parris	Smith (NJ)
Lowery	Pashayan	Smith (OR)
Lujan	Paul	Snowe
Lungren	Petri	Snyder
Madigan	Porter	Solomon
Marlenee	Quillen	Spence
Martin (IL)	Ritter	Stangeland
Martin (NC)	Roberts (KS)	Staton
Martin (NY)	Roberts (SD)	Stump
McClory	Robinson	Tauke
McDonald	Rogers	Tauzin
McEwen	Roth	Taylor
Michel	Rousselot	Trible
Miller (OH)	Rudd	Vander Jagt
Mitchell (NY)	Schulze	Wampler
Molinari	Sensenbrenner	Weber (MN)
Montgomery	Shaw	Whitley
Moore	Shelby	Whittaker
Moorhead	Shumway	Winn
Morrison	Shuster	Wolf
Mottl	Siljander	Wortley
Myers	Skeen	Young (FL)
Nelligan	Skelton	

NOES—251

Addabbo	Evans (IN)	Long (LA)
Akaka	Fary	Long (MD)
Albosta	Fascell	Lowry
Alexander	Fazio	Luken
Anderson	Fenwick	Lundine
Andrews	Ferraro	Markey
Anthony	Findley	Marks
Applegate	Fish	Marriott
Aspin	Fithian	Matsui
Atkinson	Flippo	Mattox
Bailey (PA)	Florio	Mavroules
Barnes	Foglietta	Mazzoli
Bedell	Foley	McCloskey
Beilenson	Ford (MI)	McCollum
Benjamin	Ford (TN)	McCurdy
Bennett	Fountain	McDade
Bethune	Fowler	McHugh
Bevill	Frank	McKinney
Biaggi	Frenzel	Mica
Bingham	Frost	Mikulski
Blanchard	Fuqua	Miller (CA)
Boland	Garcia	Mineta
Bolling	Gaydos	Minish
Boner	Gejdenson	Mitchell (MD)
Bonior	Gephardt	Moakley
Bonker	Gibbons	Moffett
Bouquard	Gilman	Mollohan
Bowen	Gingrich	Murphy
Brodhead	Ginn	Murtha
Brooks	Glickman	Natcher
Brown (CA)	Gonzalez	Neal
Broyhill	Gore	Nelson
Burton, John	Gramm	Nowak
Burton, Phillip	Gray	Oakar
Butler	Hagedorn	Oberstar
Chappell	Hall (OH)	Obey
Chisholm	Hall, Sam	Ottinger
Clay	Hamilton	Panetta
Coelho	Hammerschmidt	Patman
Collins (IL)	Hance	Patterson
Conte	Harkin	Pease
Conyers	Heckler	Pepper
Coughlin	Hefner	Perkins
Courter	Heftel	Peyser
Coyne, William	Hertel	Pickle
Crockett	Hightower	Price
D'Amours	Holland	Pritchard
Danielson	Hollenbeck	Pursell
Daschle	Horton	Rahall
de la Garza	Howard	Railsback
Deckard	Hoyer	Rangel
Dellums	Hubbard	Ratchford
DeNardis	Hughes	Regula
Dicks	Hutto	Reuss
Dingell	Jacobs	Richmond
Donnelly	Jeffords	Rinaldo
Dorgan	Jenkins	Rodino
Downey	Jones (NC)	Roe
Dwyer	Jones (OK)	Roemer
Dyson	Jones (TN)	Rose
Early	Kastenmeier	Rostenkowski
Eckart	Kazen	Roukema
Edgar	Kildee	Roybal
Edwards (CA)	Kogovsek	Russo
English	LaFalce	Sabo
Erdahl	Leach	Santini
Ertel	Leland	Savage
Evans (GA)	Levitas	Sawyer

Scheuer	Stratton	Whitehurst
Schneider	Studds	Whitten
Schroeder	Swift	Williams (MT)
Schumer	Synar	Wilson
Seiberling	Traxler	Wirth
Shamansky	Udall	Wolpe
Shannon	Vento	Wright
Sharp	Volkmer	Wyden
Simon	Walgren	Wylie
Smith (IA)	Walker	Yates
Solarz	Watkins	Yatron
St Germain	Waxman	Young (AK)
Stanton	Weaver	Young (MO)
Stark	Weber (OH)	Zablocki
Stenholm	Weiss	Zeferetti
Stokes	White	

NOT VOTING—28

Annunzio	Dymally	Lehman
AuCoin	Erlenborn	McGrath
Beard	Green	Napier
Bliley	Guarini	Rhodes
Breaux	Hatcher	Rosenthal
Brown (OH)	Hawkins	Thomas
Byron	Holt	Washington
Cotter	Huckaby	Williams (OH)
Derwinski	Ireland	
Dixon	Lantos	

□ 1715

Mr. GILMAN changed his vote from "aye" to "no."

Mr. MORRISON and Mr. MARLENEE changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. WILLIAM J. COYNE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I ask for unanimous approval to revise and extend my remarks. I rise in support of H.R. 3480, a bill to reauthorize the Legal Services Corporation. I urge my fellow colleagues to support the legislation that is before us today. H.R. 3480 would authorize appropriations for 2 additional years, at a funding level of $260 million for fiscal year 1982 and $260 million for fiscal year 1983. The Legal Services Corporation authorization bill as reported out of the Judiciary Committee amends the original act by adding certain restrictions on existing Corporation functions. Among the changes is a prohibition on class-action suites against Government entities. Assistance may not be provided for any actions to litigate cases to legalize homosexuality, support in abortion proceedings would not be allowed unless it would be necessary to save the life of a mother. In addition, H.R. 3480 states that Corporation employees and officers would be prohibited from lobbying and State advisory councils would be established to review grant and contract applications as well as to investigate alleged violations by local grant recipients.

In the continuing controversy about the Legal Services Corporation, 22 amendments have been introduced. These amendments focus on particular aspects of the act but for the most part tend to be counterproductive, target sections that are already covered in the existing legislation and seek to erode the general effectiveness of the Legal Services Corporation.

The Legal Services Corporation was created by Congress with bipartisan support in 1974. It is a private nonprofit Corporation. To be eligible to participate in the program, an individual must earn no more than $5,388 per year and a family of four $10,563. The Legal Services Corporation serves the truly needy in our country.

This necessary program makes the concept of equal justice a reality. Every individual deserves equal representation in and access to our court system. It is estimated that legal service attorneys in 323 programs around the country handled 1.5 million cases last year. This means that 2 attorneys serve approximately 10,000 truly needy people.

In the 14th Congressional District of Pennsylvania which I represent in Congress, neighborhood legal services has been assisting thousands of people who would otherwise not be represented by our legal system. During the weeks following the administration's budget cut recommendations, I received almost 500 letters from men and women in my district who were frightened and distressed by the talk of eliminating this vital program. Letter after letter stressed how helpful legal service attorneys were in settling housing, consumer, health care, and family law cases. The common concern was clearly expressed: what will we do without legal assistance?

I cannot understand why there is opposition to this fine program. Few programs can boast that they can serve a client for a mere $10 and that overhead is only 3 percent of the total budget. This is not a program run in Washington, D.C., far removed from the people it serves. The Legal Services Corporation is administered locally, not in Washington but by a board of directors made up of residents in the community they serve. This local aspect allows each program to determine how best to meet the needs of its constituents and community. With a proposed fiscal year 1982 Federal budget of $695 billion, $260 million is a negligible sum to allocate for a program that has proven to be very successful and cost effective. Therefore, I urge my colleagues to vote for H.R. 3480 as it presently stands.

In conclusion, Mr. Chairman, I want to stress the fact that certain rights guaranteed to our citizens are in danger of becoming, in fact, virtually nonexistent, if our citizens do not have adequate legal representation.

Mr. VENTO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today in support of H.R. 3480 which reauthorizes the Legal Services Corporation at a level of $260 million for fiscal year 1982, and commend the subcommittee chairman and members who have reported the measure before us.

Although I would personally like to see this valuable and important program not undergo a 20-percent cut over last year's level, I realize that cuts are being made in all social programs and the LSC will not be immune. H.R. 3480 is a very modest and reasonable proposal and should be acceptable to all Members of this body. I think that $260 million for fiscal year 1982 is a bare bones budget, but one which should allow the LSC to continue operating in an effective manner.

The Legal Services Corporation is, in my opinion, one of our most important social programs. It provides legal advice and civil representation to low-income persons throughout the United States. Nothing is more fundamental to our democratic society than the proposition that all persons are equal before the law. We cannot allow this principle to be made a mockery of by letting legal services fade away. Without the Legal Services Corporation, economic resources will again become a factor in determining justice in this country because only the affluent will be able to afford equal justice under the law.

The Legal Services Corporation is one of the most cost-efficient Federal programs in operation. Last year, with an appropriation of $321 million, the LSC provided grants to 323 locally run, community-based legal services programs. These programs in turn operated 1,200 neighborhood offices and offered assistance to 1.2 million Americans living at or near the poverty level. This works out to Federal expenditures on legal services for the poor of just over $10 per client. I really do not think that $10 per client is too high a price to pay for upholding one of the fundamental principles upon which this country stands.

The great majority of Legal Services Corporation cases are individual matters involving so-called poverty law. Characteristically, poverty law cases involve family matters, income maintenance/Government benefits issues, housing complaints, or consumer issues. Of the cases handled by the Southern Minnesota Regional Legal Services, Inc., which serves all of southern Minnesota including the St. Paul area, 75 percent involved these issues. The remainder of SMRLS cases were in related areas such as juvenile, employment, tort, mental health, education, immigration, civil rights, and so forth. Of the clients who received SMRLS assistance last year, approximately 15 percent were minorities and approximately 60 percent were women. SMRLS also helped 2,000 senior citizen clients.

Legal Services Corporation attorneys are specially trained to deal with the

need of the poor and their expertise has drawn the praise of both liberal and conservative legal experts. American Bar Association President William Reese Smith recently stated that the "continuation of the Legal Services Corporation is a matter of great public interest" and cited the Corporation as a remarkable example of Government and the private sector working together to solve society's problems. Smith has also joined many other legal experts who feel that the private sector cannot effectively provide the services handled by LSC lawyers. He recently said:

I think we have found through the efforts of the organized bar in yesteryear that a purely voluntary effort on the part of the organized bar is not likely to do the job. We need core support which is provided by these poverty professionals.

In my State of Minnesota, there are currently six legal services programs receiving LSC funds. Together, these six programs cover the whole State, and, in 1980, served 40,000 low-income Minnesotans. In addition to regular service offices, several of the legal services programs in Minnesota also operate special programs aimed at providing legal aid to Spanish-speaking people, migrant workers, Indians, and senior citizens. Throughout my tenure in the Minnesota State Legislature and in Congress, I have worked closely with legal services programs in the St. Paul area. I know that these programs have been very successful and enjoy strong public support.

If the Legal Services Corporation is cut beyond the $260 million proposed in H.R. 3480 or is block-granted as some have proposed, there is no doubt that we will see a major drop in legal services now available to the poor. Financially pressed States do not have the funds to support legal services programs themselves, nor can private sector attorneys hope to provide the same level of service through pro bono work. The Legal Services Corporation now operates with a remarkable 3-percent overhead and its lawyers are the recognized specialists in poverty law. I think it is crucially important that all Members support this very modest and reasonable proposal for the LSC reauthorization. We cannot afford to cripple this valuable service.

Mr. GONZALEZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the courthouses of this country, including the Supreme Court, are emblazoned with the slogan, "Equal Justice Under the Law." Those who oppose continuation of the Legal Services Corporation, or who want to so hedge it about that it is rendered meaningless, are opposed to the idea of equal justice. They want justice only for some, not for all.

How could this be?

The simple, elemental truth is that access to law is access to the power of law. If poor people can get effective legal help, they can grasp the power of law. Those who oppose or want to cripple the Legal Services Corporation want to deny poor people the same legal rights that the rest of us enjoy.

The Legal Services Corporation cannot write law, and it cannot interpret law. All it can do is argue before courts. It can do nothing if the courts find no merit in its arguments. Yet it is pictured as some omnipotent superlegislature.

Are we saying that we fear our own courts, that we fear our own laws? We are, if we kill or cripple the agency that brings law to the poor.

Are we saying that the poor should respect the law, even if they cannot make use of it to protect their own interests, to redress their grievances, to curb its abuse? We are, if we destroy or maim the Legal Services Corporation. It is sheer hypocrisy to say that people who are denied effective legal help should respect the law and observe due process.

The Legal Services Corporation devotes better than 99 percent of its workload to the ordinary, routine problems of daily living. Family problems, housing problems, and consumer problems make up virtually all of the caseload of the Corporation. The cost is less than $40 a case. With that kind of cost, it is plain that legal aid activity is anything but litigation happy. If the Corporation's lawyers ran to the courthouse on anything but the most difficult case, their record of low cost would not look so good. In fact, the Corporation provides the most efficient, cheapest legal service in the country—largely because it does everything it can to avoid going to court. How ironic that it is pictured as a monster grinding out class-action suits. And how untrue.

Do we really want a nation of laws, and not of men? If we do, then we have to be assured that there is equal access to equal justice. That is what the Legal Services Act is all about. It is an effort to give the powerless and the aggrieved the same access to law that the court motto proclaims. It is an effort to translate an ideal into reality.

The Legal Services Corporation has no power in and of itself. It cannot compel anyone to do anything. It can only appeal to the law—and what do we fear—that law may be on the side of the poor? If that is what we are afraid of, we do not deserve the privilege to claim that we believe in law.

The proposition before us is simple. The San Antonio Bar Association, like many around the country, is committed to the continuation of the Corporation. Their resolution is worthy of our consideration, and I include it in the RECORD.

RESOLUTION—SAN ANTONIO BAR ASSOCIATION BOARD OF DIRECTORS

Whereas the San Antonio Bar Association and the Bexar County Legal Aid Association have maintained a positive and supportive relationship, including the Bar Association's bi-annual appointment of seven members of the Board of Directors to the Bexar County Legal Aid Association, and the cooperation of the Bexar County Legal Aid Association with the San Antonio Bar Association Lawyer Referral Plan, enabling numerous citizens who are slightly over the eligibility limits of the association to obtain competent counsel, and

Whereas the San Antonio Bar Association recognizes the importance of the work undertaken by the Bexar County Legal Aid Association in Bexar County in representing indigent clients, and

Whereas the San Antonio Bar Association further recognizes that the Bexar County Legal Aid Association is funded by the Legal Services Corporation, and could not maintain a viable program without such funding: Now therefore, be it

Resolved by the Board of Directors of the San Antonio Bar Association, That the Congressmen representing Bexar County and the Senators representing the State of Texas be urged to support the reauthorization of the Legal Services Corporation, and to further support the appropriation of such sums as are necessary to continue the services of the Bexar County Legal Aid Association during fiscal years 1982 and 1983, and

Further, that the President of this Association forward a copy of this Resolution to the United States Senators Tower and Bentsen and Representatives Gonzalez, Kazen and Loeffler.

Mr. BINGHAM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 3480, legislation to continue funding the Legal Services Corporation for each of the next 2 years. The Corporation is the model Reagan agency—it is cost effective, unbureaucratic, locally controlled, immune from political pressures, and it does the job it is supposed to do. The bulk of the Corporation's work consists of assisting the poor with cases on divorce, welfare, eviction, and food stamps. These are routine legal matters but affect the day-to-day survival of hundreds of thousands of people.

The Corporation works to insure equal justice under the law, for the right to a fair trial is meaningless if an individual cannot afford access to our legal system. A person with an income under $10,000 per year simply cannot afford to hire a private attorney, and it clearly would be unfair to pit such a person against a professional legal advocate. Minimum access to attorneys is possible under H.R. 3480, despite the restrictions incorporated into it. I regret these restrictions and urge my colleagues not to hamper the Corporation even further and vote against restrictive amendments.

The block grant system proposed as an alternative to the extension of Legal Services is unacceptable. This

proposed system would rest heavily on volunteer efforts by private attorneys—but the American Bar Association has admitted that volunteer efforts by private attorneys are not sufficient to compensate for the loss of legal services. The system would give the States control over the allocation of legal services—but the States historically have failed to provide civil legal services for the poor. The block grant system would place control over poor people's cases in the hands of State and local officials—but those officials could be defendants in those very cases.

In short, extension of the Legal Services Corporation is necessary if the poor are to have a realistic opportunity to defend their fundamental rights under the law. I urge my colleagues to vote for H.R. 3480, and to oppose any amendments that may restrict the operation of the Legal Services Corporation.

Mr. OBERSTAR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 3480, a bill to extend the authorization for appropriations for the Legal Services Corporation for fiscal years 1982 and 1983. This bill sets a funding level of $260 million for each year, which represents a 25-percent reduction from the Corporation's current funding.

The issue before us is fundamental to our national commitment to the principle of equal justice under the law. Congress has fulfilled that commitment to equal justice in part through creation and funding of the Legal Services Corporation.

I strongly believe the legal needs of the poor cannot adequately be met without a strong national program such as the Legal Services Corporation. Records show that the private bar and the States have been unable to meet these needs in a substantial way. Lawyers across the country routinely provide pro bono services not only to the poor, but to nonprofit and charitable institutions as well. These efforts, however, cannot be expected to meet the need for legal assistance if the Corporation were abolished.

The administration has suggested that block grant funds to the States can be used to meet these needs. They have recommended that none of the funds now provided for the Legal Services Corporation be used in calculating the block grant allotment to the States. This is in definite contrast to the 75 percent of current funding approach used for most social services programs and would be a clear signal to the States that this program has the lowest priority.

The States now provide only 1 percent of civic legal services funding nationally, and there is little indication that they would be able to assume greater responsibility. With so many States facing serious financial difficulties, this is not the time to place on their shoulders the financial burden of providing legal services to the poor.

Furthermore, there is an inherent conflict in asking State or local governments to provide legal aid funds which are frequently used to force those same governments to comply with the law and provide services to which the poor are entitled.

While H.R. 3480 places a number of significant new restrictions on Legal Services programs, some of which I do not favor, and cuts 25 percent of the Corporation's present $321 million authorization, the bill is a responsible effort to effectively implement the principle of equal access to justice while at the same time correcting problems which have arisen at the Corporation. I strongly urge my colleagues to support H.R. 3480, and show that equal justice under law has real meaning and effect in our Government.

Mr. KASTENMEIER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. FOLEY, having assumed the chair, Mr, MCHUGH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3480) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes, had come to no resolution thereon.

PROVIDING FOR PRINTING OF ADDITIONAL COPIES OF OMNIBUS RECONCILIATION ACT OF 1981

Mr. GAYDOS. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 149) and ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman explain this a little bit to us?

Mr. GAYDOS. Yes. This resolution is necessary because there are untold and unlimited requests for the budget report, and that is what this deals with. It allows a leeway to print additional copies of the House and Senate budgets, which we will be needing in the next few days.

Mr. ROUSSELOT. How many extra copies?

Mr. GAYDOS. Some 4,500, broken down as follows:

The Chamber, including leadership, will be requiring 1,000 copies; the House Members (441 times 2) will be around 900 copies; the committees (25 times 75) will require 1,875; the Budget Committee will require 400 copies; the Senate will require 300 copies, for a total of 4,500 copies.

If I may submit to my colleague, this is a very important request because the demand has been heavy.

Mr. ROUSSELOT. Reserving the right to object, if there are substitutes or other amendments, will there be an allowance for additional printing on those?

Mr. GAYDOS. Yes, we are allowing that at the discretion of the committee to come and ask and supervise and will receive the various requests, and then determine whether they should be printed and what the printing should be.

Mr. ROUSSELOT. I thank the gentleman for his enlightening outline.

Mr. GAYDOS. If I may also say for the record, it is crucial that every Member have available at least a reasonable copy and a reasonable number of copies.

Mr. ROUSSELOT. So that they can find out whether their programs have been cut back?

Mr. GAYDOS. That is the intent of the resolution.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 149

Resolved by the House of Representatives (the Senate concurring), That at such time as the Omnibus Reconciliation Act of 1981 and the accompanying report are filed, passed by each body, and agreed upon in conference, there shall be printed on each occasion additional copies as indicated below, unless otherwise ordered by the Joint Committee on Printing:

(1) for the House version of the Omnibus Reconciliation Act of 1981, an additional 4,500 copies of the bill and accompanying report, and

(2) for the Senate version of the Omnibus Reconciliation Act of 1981, an additional 3,000 copies of the bill and report.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

OMB FIB FACTORY

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute.)

Mr. GONZALEZ. Mr. Speaker, the Office of Management and Budget is being turned into a fib factory. At one time you could count on some measure of truth from OMB, but its present style is to deny what is true and to

fabricate what it needs in order to accomplish the political goals of its director. If OMB is to have any useful purpose in government, it ought to abandon its role of fib factory.

Over the weekend, OMB proclaimed that the Banking Committee had mandated cuts that would cripple the administration of the Department of Housing and Urban Development. To back up that claim, OMB relied on a series of outright fibs, a string of little lies that adds up to a grand lie.

OMB claims that we cut the administrative expenses of the Department of Housing and Urban Development by 27 percent. No such thing is true. The actual cut is 15 percent, and it can be achieved simply by eliminating regional office structures that are not needed, that largely duplicate and complicate the work of area offices where the real work is done, and that serve mostly as feeding troughs for political appointees. In short, the truth is that HUD can achieve the cuts we call for simply by eliminating a wad of waste. All we are asking is that the administration cut some waste, and I am astonished that they do not want to do what they claim they want to do.

The OMB solemnly swears that processing time for section 8 subsidized housing would be doubled if the cuts we call for are put in place. I fail to see how that could happen, since the section 8 program is scheduled to go down by 40 percent, largely at the insistence of OMB. How it is possible to double processing time with a 15 percent staff cut when the workload is reduced by 40 percent is a calculation that no one except OMB propagandists can work out. The reality is that with the program reductions imposed by the budget, HUD is going to end up with less section 8 work per person than it has right now. If their processing time goes up, it would not be because of staff cuts, but because of good old-fashioned incompetence.

HUD claims that FHA processing will be hurt by staff cuts. The truth is that FHA workloads are down, thanks to administration policies, and beyond that, the FHA is self-financing—they can easily adjust manpower to workload requirements.

How can it be that HUD cannot accept a 15-percent cut, when it is demanding that local governments accept 25-, 30-, even 100-percent cuts? Does it really take more people to do less work? It does, if you believe the claims of the OMB fib factory. I do not.

THE 1981 OCCUPATIONAL DEATHS: ONE A DAY THROUGH APRIL

(Mr. GAYDOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GAYDOS. Mr. Speaker, as the Vice President's Task Force on Regulation, and the Office of Management and Budget, contemplate the concept of cost-effectiveness and regulation, the workplace keeps reminding us of the need to provide for worker safety and health.

Through the first 120 days of this year, Mr. Speaker, at least 122 American workers died on the job in ways that made the newspapers, and scores more were injured.

They died preparing to inaugurate a new President, and preparing to launch the Space Shuttle *Columbia.*

They were buried alive and cut in half.

They were crushed by grinding machinery, suffocated by fumes, and electrocuted.

They fell from high places, burned, and drowned.

They died in seemingly safe places, like bakeries and ice cream parlors, and in hazardous places, like mills, grain elevators, and construction sites.

Over 30 percent of these deaths were in construction.

Here, in the matter-of-fact language of the newspaper reports, is how 18 died:

Seven construction workers plunged more than 300 feet to their deaths in California in January when a scaffold collapsed inside a vertical shaft at a hydroelectric plant; an improperly installed bolt was determined to be the cause of the accident.

A man died buried in 20 feet of milo in a co-op elevator in Kansas in January.

A 63-year-old elevator repairman fell six floors to his death in California in February.

A 48-year-old millwright was crushed by a 4-ton counterweight in Illinois while attempting to repair the motor on a scrap-shaking table in February.

Two carpenters helping build a nuclear powerplant cooling tower were killed in Washington in March when the steel form they were standing on fell 70 feet to the ground.

Three men were crushed to death and two others injured when a wall collapsed in a nonoperational furnace in a Pennsylvania steel plant in March; the dead men were 58, 30, and 27 years of age.

A 27-year-old construction worker was killed when a 32-pound cinder block fell 9 stories onto his head and shattered his hard hat in California in April.

Two city government workers died when overcome by methane gas while working in a suburban sewage treatment plant in Illinois in April, and a third worker was overcome by fumes.

All 122 of these workers died doing the things that make the United States what it is, Mr. Speaker, as did those whose deaths are unchronicled, and as do their living coworkers who each day turn the wheels of industry and commerce with their muscle and lubricate them with their sweat.

How many of these deaths could have been prevented by a more effective health and safety program? We may never know.

But I do know that many deaths are preventable with the application of commonsense and experience.

And I know too that the costs of such deaths are high—high in lost income and benefits to survivors, in disruption and wasted potential, in lost productivity and rising workmen's compensation rates, and in ways that are difficult to plot on an economist's graph.

Prevention—that is why the Occupational Safety and Health Act was passed in response to a demand from the people in 1970, and it should be the point of view that is taken on continuing wealth and safety regulation. It certainly will be the viewpoint of the Subcommittee on Health and Safety.

INTERIOR DEPARTMENT RECLAMATION ENFORCEMENT AUTHORITY UPHELD ON THE SAME DAY THE ENFORCEMENT OFFICE IS DISMANTLED

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEIBERLING. Mr. Speaker, yesterday the Supreme Court upheld the constitutionality of the Surface Mining Control and Reclamation Act, ending a prolonged and bitter court challenge to the authority of Congress to impose mining and reclamation controls on the coal industry.

The ruling gives the Interior Department broad authority to enforce the law, and specifically upholds requirements Congress enacted ordering miners to restore steep slopes to their approximate original contours, and supports the prohibition on strip mining in particularly valuable and productive farm areas in the Midwest. The ruling is especially satisfying to those of us who worked for years to achieve orderly development of our coal resources, and to prevent the blight and ruin of our land so evident in the stripped moonscapes, eroded hillsides, silted valleys and poisoned streams of Appalachia.

It is ironic that on the very day that the Supreme Court paved the way for strong enforcement of this historic act, Secretary of Interior James Watt has finalized an abrupt order to phase out the regional offices of the Office of Surface Mining—offices which provide technical and engineering support to the industry and oversee enforcement of the law. Among the first to go will be the field offices in Denver.

Since the Denver offiee is regarded as one of the most productive and effective of the five regional posts, its abolition and the dispersal of its staff to remote Casper, Wyo., sends a negative signal as to how effectively the new administration intends to administer the protective requirements of the law.

The Secretary's action is ironic also because it flies directly in the face of action by both the House Interior Committee and of the House Appropriations Subcommittee on Interior, which have reaffirmed a strong commitment to the Office of Surface Mining in the reconciliation resolution to the budget. In fact, the Interior Appropriations Subcommittee had recommended increasing the number of Federal inspectors requested by the Secretary by providing enough money to nearly double their number. News accounts suggest that it was this very support in Congress for the goals of the Surface Mining Control Act displayed by the Congress which prompted the Secretary to push up his plans for reorganizing the Office of Surface Mining by several months.

Of course, until the budget for fiscal year 1982 is finally approved the Congress will not have finally spoken on this issue. In the meantime, the administration would do well to reflect on the recent Louis Harris survey which shows a drastic falling off of support for Republicans in the Western States, a development which Mr. Harris attributes to the antienvironmental posture of which Secretary Watt's statement and actions, on strip mining and other matters, are thus far, the most egregious example.

In any event, as one of the authors of the Surface Mining Act, I can assure the Secretary that his actions do not go unnoticed, and that those of us who fought to see this law enacted are heartened by the Court's action sufficiently to continue to fight to see that the law is enforced as originally intended by Congress.

PICACHO PASS: ARIZONA'S CIVIL WAR STORY

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, since Arizona became a State in 1912, many people in the rest of the Nation feel that Arizona history did not begin until that time.

That, of course, is untrue. On April 15, 1862, Union and Confederate troops met and fought at Picacho Pass, which today is part of Picacho Peak State Park, just off U.S. Highway 10 between Phoenix and Tucson. Thus Arizona played a role in the War Between the States.

Larry Hedrick, director of the Superstition Mountain Historical Society and Research Center, has written a brochure detailing that battle.

Mr. Speaker, I would like to share this with my colleagues by inserting the article in the RECORD.

PICACHO PASS: ARIZONA'S CIVIL WAR STORY

INTRODUCTION

During the War Between the States nearly six thousand engagements were fought involving a mere handful of men to tens of thousands of soldiers. Of all these conflicts, none has been more controversial than Arizona's own Battle of Picacho Pass. Indeed, few are aware that Arizona was even involved in the conflict.

Although the Confederate plan for the conquest of the West was not fulfilled, Arizona was an important step in the attempt to bring the resources of the West into the Confederate circle of influence. In order to grasp a true perspective into Arizona's role in the War Between the States, one should consider an event that occurred in the Eastern theatre of operation prior to the formation and occupation of Arizona territory.

The Battle of Bull Run, 21 July 1861, became the catalyst for the conquest of the West. The plan for the occupation and formation of Arizona was presented to President Jefferson Davis by Henry H. Sibley only ten days after that victory by Southern forces. Contrary to the view of many historians who portray the Confederate campaign in the West as an exercise in desperation, because of the pressures of the blockade (seven out of ten ships were running the blockade as late as 1864), the dream of a Southwestern empire could not have been conceived at a better time, for the Confederate morale and confidence was at an all time high. Indeed, after Bull Run, many confederate soldiers went home never to fight again, thoroughly convinced the War for independence had been won. Conversely it came at a time when the Union morale was perhaps at its lowest and Union forces in a complete state of panic.

On 1 August 1861, following the complete rout of Federal forces at Bull Run, Confederate Col. John R. Baylor, issued a proclamation annexing the New Mexico territory south of the thirty-fourth parallel as a new and independent territory and pronounced himself the first Governor of Arizona. Gen. Sibley and Col. Baylor began at once to marshall together an army in Texas. The Confederate operations in New Mexico began in earnest 26 October 1861, and Gen. Sibley's forces gained several victories in rapid succession. President Jefferson Davis and the Confederate Congress officially recognized Arizona territory 14 February 1862, and the stage was set for Arizona's only Civil War Battle.

HISTORICAL SUMMATION OF THE CIVIL WAR OCCUPATION OF ARIZONA

As the War Between the States gained momentum in the East, a drama was unfolding in the West that gave birth to a new territory and ultimately statehood to a vast area of southwestern desert, vaguely referred to by the Indians as Arizonac. In February 1862, a fifty-four man force under the command of Capt. Sherod Hunter was dispatched to occupy Tucson and arrived there February 28th. The formation and occupation of Arizona was threefold in it's purpose. To bring the mineral resources of the West under confederate influence, to form a land bridge to the West nearly doubling the land area of the confederacy and make it an ocean to ocean nation, therefore influencing the European powers to recognize and support her drive for independence, and to reach and recruit a large force of Southern sympathizers known to exist in southern California. Indeed, few people realize the Bear Flag of California today was the secessionist flag of southern California during the War Between the States.

Capt. Hunter set about immediately to make his small force look as formidable as possible to the California Unionist. In this he succeeded only too well and deceived the California authorities into believing reports that upwards of eight hundred Confederates occupied Tucson. The California authorities, to meet this threat, raised a 2,300 man force that became known as the California Column under the command of Col. James Carleton. A troop of nine men under Capt. William McCleave was sent in advance of the main column to secure supplies purchased by the Union from Ammi White's mill at the Pima villages, some thirty miles south of present day Phoenix.

Capt. Hunter, however, learning of this, arrested Mr. White on 3 March 1862. Lacking wagons, Capt. Hunter gave most of White's stores to the Pima Indians. On March 10th, Capt. McCleave arrived at White's mill. Capt. Hunter, posing as White, in civilian clothing, captured McCleave's entire force without a shot being fired. Capt. McCleave was so enraged by Capt. Hunter's tactics he challenged Capt. Hunter to a bare fist fight (his nine men against Hunter's band of nearly twice that number) with the Federals to be released if they won. Capt. Hunter declined and sent McCleave's force east to Mesilla under the command of Lt. Jack Swilling.

Lt. Swilling escorted McCleave's command with Ammi White to Mesilla. He deserted the Confederate cause and became a civilian scout for the Federals. In 1863, Swilling led the Walker mining party into Arizona and set up operations near Prescott. When Phoenix was developing in 1867, he founded the Swilling Irrigation Canal Co. and set about clearing out the Hohokam canals and became known as the father of irrigation in Phoenix. Many attribute Swilling as the leader of the Battle of Picacho Pass. Although not involved, Swilling allowed people to believe what they would and never denied it.

On 30 March 1862, elements of Hunter's men, scouting the California Column, fired on Union pickets at Stanwix Station west of Gila Bend, approximately eighty miles from the California border. Union Pvt. William Semmilrogge was wounded. Capt. Hunter, returned to Tucson with full knowledge of a large Federal force in the area, left Sgt. Henry Holmes in command of nine Confederate privates at Picacho Pass. The mission of these ten men was to warn Capt. Hunter of any attempt by the Federals to move on Tucson.

Unknown to either commander, the contest for Western supremacy had already been decided on 28 March 1862, at the Battle of Glorieta Pass in New Mexico. Although Gen. Sibley gained another military victory, Union Major Chivington led a cavalry detachment throughout the mountains and destroyed sixty-four inadequately protected supply wagons. Gen. Sibley, with little hope of acquiring adequate supplies began the withdrawal to Texas.

On April 14, Capt. Calloway with a force of 272 men sent ahead of the main body (when informed of McCleave's capture) re-

ceived word from his scouts that the Confederates occupied Picacho Pass. Capt. Calloway sent Lt. James Barrett, a troop of twelve men and a scout, Mr. Jones, with orders to circle the enemy and wait for support from the main force. Lt. Barrett's detachment approached the pass from the Tucson side and located three Confederate pickets at their main base camp. Lt. Barrett, anxious for a fight, disobeyed orders and charged the three dismounted Confederate troopers. Shots were exchanged and Barrett captured Sgt. Henry Holmes, privates William Dwyer and John Hill without casualties on either side. The firing alerted the other seven Confederate pickets stationed in the area by Holmes. These remaining pickets assembled, taking a dismounted defensive position in a heavy thicket. Lt. Barrett, according to Calloway's report, led his men single file into the thicket despite repeated pleas from his scout to dismount. This action was a critical mistake.

The first fire from the Confederates emptied four saddles. As the Federals regrouped, the Confederates retired further into the dense thicket and had time to reload. Lt. Barrett followed them up and was killed in the process.

Although Calloway's report states that "the first fire from the enemy emptied four saddles", it should not be interpreted four casualties were incurred. Col. Carleton had roughly stated previously that "If it becomes necessary to engage the enemy with cavalry, use the sabre rather than the pistol, for under fire it takes all the men to hold their California horses". The mounts of the Federals were evidently poorly trained and had not been exposed to combat. Under these conditions it is safe to assume that some troopers were unceremoniously dumped from the saddle. Leaving several troopers with the California horses, which Carleton held in such low esteem, and a man or two to guard the prisoners taken before the fight opened, there would not have been enough effectives to "follow up" the Confederates if indeed four casualties had been sustained on the initial mounted attack.

As the Federals regrouped, Lt. Barrett apparently followed his scout's advice and dismounted the men, for Calloway's report states "Barrett and Johnston were killed on the ground", as opposed to being shot from the saddle. After one and one-half hours of "desperate fighting", the Federals, leaderless, with three dead, three wounded, and no re-enforcements in sight, broke off the engagement taking their wounded, Cpl. Botsford, Pvt. Glenn, Pvt. Tobin and the three captured prisoners with them. Lt. Barrett, Pvts. George Johnson and William Leonard were left on the field where they had fallen. The Confederates had ample time to remove their wounded Pvts. Gilland and Green, and ride to warn Tucson before Capt. Calloway's forces arrived at the scene four hours later. Capt. Calloway, to the disgust of his men, retreated to the Pima villages the following day. The three prisoners were paroled 27 December 1862, at Ft. Yuma. On May 4th, Capt. Hunter, learning of Confederate reverses in New Mexico, with no hope of re-enforcements, withdrew to the capital of Mesilla.

It is interesting to note that Capt. Hunter's command was attacked by Apache Indians the following day at Dragoon Springs near present day Benson. He lost four men, twenty-five horses and thirty mules. In his brief occupation of Arizona, Capt. Hunter's forces met superior elements of the California Column three times, and three times were successful. The two forces never met again.

Many historians downplay Picacho Pass, reduce it to a meaningless affair, and refuse to call it a battle. There were twenty-four men involved and eleven casualties, a high percentage of casualties even for Eastern battles involving thousands. Battles of the Civil War were not judged by the numbers of men involved, but by the intensity of the action. One would have a difficult time convincing the participants at Picacho Pass, after one and one-half hours of "desperate fighting", that they were not in a pitched battle by any standards.

The most significant development in the New Mexico territorial campaign was the creation of Arizona Territory. On 24 February 1863, the Congress of the United States declared Arizona as a U.S. territory and the boundaries were established along the present day familiar configuration. Without the Confederate occupation, Arizona as we know it today, might still be New Mexico or at least statehood delayed by many years.

□ 1730

PRESERVATION OF CONFIDENTIAL INFORMATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HORTON) is recognized for 30 minutes.

● Mr. HORTON. Mr. Speaker, 15 years ago this Congress enacted a law which represents the triumph of the people over the bureaucracy—the Freedom of Information Act. This very valuable law, based on the principle that Government documents should be made available to the public unless there is a compelling reason for withholding them, has truly improved the workings of Government by making them more open to citizen participation.

In thinking about the Freedom of Information Act, however, we must remember that its fundamental concern, as expressed in the Committee on Government Operations' original report on the bill, is with "the right of the individual to be able to find out how his Government is operating." (H. Rept. 89-1497, page 6) In their work, Government agencies necessarily collect a substantial amount of data from private citizens and businesses. The purpose of the Freedom of Information Act never was, and is not today, to permit people to use Government files as a vehicle for spying on their neighbors and business competitors. We must preserve the act in accordance with its basic concern. But we must not allow it to be perverted for other functions.

In 1974, Congress gave voice to a fear that the provision of the law which exempts from mandatory disclosure agency "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy" needed to be strengthened. We took an important step in protecting the confidentiality of people's records by enacting the Privacy Act, placing considerable strictures on agencies' disclosure of those files.

We have never addressed, however, the problem of Government making public, under the Freedom of Information Act, confidential business records. It is true that the act exempts from mandatory disclosure "trade secrets and commercial or financial information obtained from a person and privileged or confidential." But it is also true that courts have interpreted this exemption very narrowly, saying that it pertains only to information the disclosure of which would cause either substantial competitive injury to the party from whom the information was obtained or impairment of the Government's ability to obtain similar data in the future. (*National Parks and Conservation Ass'n* v. *Morton*, 498 F. 2d 765 (D.C. Cir. 1974).) And it is further true that the Supreme Court has greatly limited a private business' ability to prevent an agency from making public information which the company considers confidential (*Chrysler Corp.* v. *Brown*, 441 U.S. 281 (1979)).

This, then, is the state of the law with regard to public access to business information in Government files: Private individuals, partnerships, associations, and corporations are required by law to supply a substantial amount of data to Government regulators. Much of this material is considered by the providers to be confidential—that is to say, in the normal course of their business dealings, they would not reveal it to outsiders. If a citizen requests this information directly from the private party, he would not receive it. If he requests the same data from a Government agency, however, the agency may give it to him; indeed, the agency can withhold it only if it falls within a small portion of what is generally considered confidential business information. The private party who supplied the material has little if any opportunity to object to the disclosure.

This situation is not fair to either business or Government.

It is not fair to business because it subjects private companies, merely because they are engaged in commercial activities which require the provision of information to the Government, to a risk of having competitors or other members of the public obtain their confidential data. A private firm is also given slight chance to participate in the decision regarding disclosure.

The situation is not fair to Government because it places agencies in a position where they must make critical decisions which properly involve citizens requesting business information and firms desiring to keep data confidential. Agencies have no particu-

lar interest in these disputes—they don't want to be parties to industrial espionage—but they must devote scarce manpower to the resolution of the conflicts. To the extent that disclosures opposed by business concerns make those companies more reluctant to provide agencies with other information which would help them make more informed decisions, Government is also harmed.

This discussion may sound as though it has come a long way from the Freedom of Information Act's objective of strengthening "the right of the individual to be able to find out how his Government is operating." It has. But it has also involved what is generally considered to be the major use of the act today. Three years ago, the Government Operations Committee found:

> The FOIA, which required the disclosure of many documents held by Federal agencies, is being employed more and more by corporations, corporate representatives, and those interested in corporate affairs to obtain information about business operations and agency regulatory activities (H. Rept. 95-1382, page 5)

Depending on whose estimate one wishes to use, between 33 and 60 percent of Freedom of Information Act requests are of this nature.

To keep the Freedom of Information Act a vehicle for making the workings of Government open to the public, and to protect the privacy of businesses as we have protected the privacy of individuals, I am today proposing several amendments to the act. The Preservation of Confidential Information Act, which I am introducing in conjunction with Congressman JOHN N. ERLENBORN, contains the following provisions:

PROCEDURAL AMENDMENTS TO THE FREEDOM OF INFORMATION ACT

First. A private submitter of information is to be provided with advance notice before the Government discloses his information under the FOIA.

Second. A submitter is given the right to submit written objectives to the disclosure of the requested information.

Third. An informal ex parte hearing to challenge disclosure of information is to be afforded a submitter. The hearing may be denied by an agency under certain conditions.

Fourth. De novo judicial review of an agency's disclosure decision, similar to review provisions currently in the FOIA for withholding decisions, is required.

Fifth. A requester may bring suit for disclosure if the "reverse FOIA" proceedings extend past a certain period.

SUBSTANTIVE AMENDMENTS TO THE FREEDOM OF INFORMATION ACT

First. Exemption (b)(4) (the "trade secrets" exemption) is expanded to include "proprietary information which would not customarily be disclosed to the public by the person from whom it was obtained" and "information which the agency has obtained in reliance on a commitment made by the agency in good faith not to disclose such information."

Second. Exemption (b)(4) is made mandatory, except where the submitter consents to disclsoure or nondisclosure would "seriously injure an overriding public interest."

Third. 18 U.S.C. 1905, the Trade Secrets Act, is identified as a basis for a claim of confidentiality by being defined as within the scope of the (b)(3) exemption (referring to information exempted from disclosure by other statutes). This amendment resolves a confusion left in the wake of the Chrysler decision.

PROVISIONS REGARDING IMPLEMENTATION OF THE FREEDOM OF INFORMATION ACT

First. The Office of Management and Budget is made responsible for issuing Governmentwide policies, principles, standards, and guidelines implementing the FOIA.

Second. Within each agency, the information resources manager is to be responsible for compliance with the law.

A similar bill (S. 1247) has been introduced in the other body by Senator BOB DOLE and several cosponsors.

I look forward to be convening of early hearings on these measures.●

ISRAELI RAID ON IRAQ'S NUCLEAR FACILITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. MICHEL) is recognized for 10 minutes.

● Mr. MICHEL. Mr. Speaker, the Israeli preemptive strike against the nuclear facility of Iraq has raised serious questions about the relationship between the United States and its longtime ally in the Mideast, Israel.

There are a number of questions that have arisen about the nuclear facility itself. Just what did France think the Iraq Government was doing in building a nuclear facility in perhaps the most oil-drenched area on Earth? And what did the rest of the Arab States think Iraq was doing? We can be certain that the ideological fanatics who rule Iraq did not build that plant in order to provide illumination for the back streets of Baghdad, or to spread the benefits of nuclear energy to neighboring Iran. The cooperation of France in the building of the nuclear facility in Iraq is an exercise in international irresponsibility.

Another question, not directly involved with the raid itself, concerns the intelligence agencies of the United States. How much did we know about this raid before it became reality? And, more to the point, what do we know about it now? I fully understand that much of this information might be classified but generally speaking it would be good to know if our intelligence agencies knew what was going on. If they did not, there should be a review of our intelligence-gathering capabilities in the area.

This brings us to the essential questions concerning the raid itself.

The first question is whether Israel had the right to make such a raid. Prime Minister Begin says that only Israel can determine its defensive needs. Since Israel determined that the raid was defensive in nature, the raid was therefore justified in Begin's view and did not involve misuse of American weapons.

Mr. Begin's argument is based on the principle of absolute national self-interest. Israel argues that as a matter of principle no nation can allow others to determine its national self-interest. This is an understandable position. I cannot think of any nation in the world that would argue with its logic.

But the next question is whether Israel's interests in this instance coincide with the interests of the United States. On many points the interests of our two nations are similar. But to use Mr. Begin's argument, only the United States can determine what is in its best interests. We cannot simply go along when Israel—or any ally—acts in such a way that our own long-range geopolitical goals might be harmed. And one of our long-range goals is friendship with moderate Arab nations as well as with Israel.

In the delicate negotiating and often bizarre complexities that mark Mideast relations, an Israeli raid on a fanatic Arab regime can have reverberations that change our relationship with moderate Arab nations. It may not make sense but little in the Mideast does.

If we perceive the Israeli raid as a violation of our arms agreement and as detrimental, in the long-range view, to a settlement of the complex Mideast problem and the advancement of our policy to seek Arab cooperation toward such a settlement, is this not our right?

Any suggestion that criticism of the raid is an abandonment of our commitment to the survival of Israel is nonsense. Any suggestion that such criticism is proof we are eager to sell-out Israel for Arab oil is also nonsense. And the sooner this is understood by all concerned the better off we will all be.

The major question of the raid seems to me to be one not of right but of judgment. Israel has the right to determine what is in its self-interest. But that does not mean the United States, which over the past 25 years has helped to keep Israel in existence through economic and military aid, must agree with the judgment in-

volved. The possession of a right does not necessarily mean that every exercise of that right is justified.

Israel has nothing to fear from a free, frank, and open debate in the United States about the political, moral, and diplomatic questions involved in a preemptive strike.

I believe that the survival of a strong and free Israel is in our national interest. I also believe it is in our interest to see to it that nuclear weapons do not proliferate in the Mideast—which, of course, brings up the question of exactly how many nuclear weapons Israel itself has and how it went about building them. But to put it in the mildest possible terms, I am not at all convinced that the principle of the preemptive strike is a sound guide to nuclear nonproliferation. A preemptive strike has a certain pragmatic value—if it works, it is good. But pragmatism has a history of degenerating into amoral self-interest in international affairs. A preemptive strike teaches a bitter lesson to the victim, the consequences of which may outlive the first exhilarating effect it has on the attacker.●

THE ENERGY RESEARCH AND DEVELOPMENT TAX INCENTIVES ACT OF 1981

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. FISH) is recognized for 10 minutes.

● Mr. FISH. Mr. Speaker, today I am introducing legislation to provide needed tax incentives to help stimulate the development of our Nation's domestic energy resources. This legislation, the Energy Research and Development Tax Incentives Act of 1981, provides tax benefits to encourage private energy research and development activities and to facilitate the development and use of new energy technologies. I believe that this tax incentive can play a key role in helping our Nation tap its great energy potential and in reducing our reliance on uncertain foreign oil supplies. It would also have important secondary benefits including the creation of new jobs, the growth of various supporting industries and the generating of additional tax revenues from increased economic activity.

This legislation provides a 20-percent investment tax credit for the capital costs of private sector energy research and development activities. This incentive would be applicable for all energy research and development expenditures over and above a fixed level based on a 5-year historical average of previous expenditures by any particular concern in this area. The fixed level used in the calculation of eligible expenditures would be modified for tax years prior to 1985 in order to reflect administrative and bookkeeping realities.

My legislation permits this tax credit to be carried back for 3 years and to be carried forward for 7 years under appropriate conditions. Expenditures that would be covered under this legislation would include those relating to research and development activities in the extraction, conversion, storage, transmission, and utilization of fossil, nuclear, solar, geothermal, and other energy sources and in energy consevation. This credit would take effect on January 1, 1981, and would expire on December 31, 1992.

The Science and Technology Committee has spent a great deal of time investigating the means to help our Nation develop more efficient and productive new energy technologies. It was most disturbing to learn that the United States presently ranks 13th among 17 International Energy Agency nations in Government support for research and development, according to recent IEA estimates. As for private sector support, a Harvard Business Review article released in the summer of 1980 pointed out that private sector investment in research and development has been steadily decreasing in recent years with no changes foreseen in the future. This is a dangerous trend which I believe must be reversed as soon as possible.

In spite of these problems, the administration position is that the Federal Government should only be involved in long-range, high-risk research and development activities which private industry cannot reasonably be expected to undertake. On the other hand, industry is expected to support activities relating to the development of nearer term technologies. Based on this philosophy, the administration has recommended dramatic reductions in funding for many energy research and development programs for fiscal year 1982, compared to last year's appropriations' levels.

During hearings on the Department of Energy authorization bill for fiscal year 1982, the committee heard from 22 witnesses on the need for strong Government support to overcome the various market barriers affecting the use of new energy technologies and more efficient energy conservation techniques. These witnesses have had a longstanding involvement in the energy area and gave our committee their expert views on energy research and development from an academic, industrial, consumer, and governmental perspective. Several of these witnesses recommended investment tax credits, in order to stimulate necessary energy research and development activities. This incentive would help promote the development of promising new energy technologies without the need to conform to burdensome Federal Government management and reporting practices.

I believe that an investment tax credit for private energy research and development is vital if our Nation is to continue to pursue the development of high payoff energy technologies that can help us develop and utilize our energy resources in a more efficient and effective manner. According to several experts, tax incentives for energy research and development are the most effective means of stimulating increased private research and development spending at the present time, with the removal of regulatory constraints following close behind. These incentives are also compatible with the administration's approach that near-term technologies should be the responsibility of the private sector.

In one particular area of concern to the Science Committee, several witnesses indicated that conservation research and development programs were highly cost-effective and anti-inflationary and should be continued. These programs support the development of many new energy-efficient processes in the residential, commercial, industrial and transportation sectors. For example, several of the most energy-efficient industrial processes now contemplated show that energy consumption per unit of output could be reduced by close to 50 percent with new technology under development in these programs. Dr. Dale Jorgenson of Harvard University specifically indicated that the impact on inflation due to increased petroleum prices is reduced by close to 50 percent if effective conservation programs are implemented.

Several other witnesses indicated that foreign industry and governments were already making inroads into our domestic markets for new heat pumps, furnaces, and engines, and that as a result, there was a growing need for Federal support to stimulate the development of new energy-efficient conversion technologies made in the United States. Tax incentives were strongly recommended as one of the most effective means to encourage the continuation of many of these conservation research and development activities.

In another area of concern, the Science Committee received a great deal of information and advice during the 96th Congress on our Nation's fossil energy programs from an Advisory Panel on Synthetic Fuels. This panel was convened by the Science Committee in order to explore the current state of synthetic fuels technologies and the related technical and engineering issues associated with the large-scale production of synthetic fuels. The panel was also asked to evaluate the Department of Energy's current synthetic fuels research and

development program and recommend any appropriate changes.

After many long hours of work, the panel came to several important conclusions regarding the scope and direction of a national synthetic fuels program. One of the major conclusions of this distinguished group of industry, financial, and Government representatives was that tax incentives were one of the most effective mechanisms to assist in synthetic fuels production and that they should be made available to stimulate technology improvements in this area.

Consistent with these recommendations, I believe that we need to provide strong tax support if our Nation is to maintain an effective energy research and development program. Many of the experts which have recently testified before the Science Committee have made it very clear that there are many important areas where free market forces acting alone cannot provide the necessary incentives to stimulate private energy research and development activities. The President has already recommended a 3-year accelerated depreciation writeoff for the capital costs of research and development in his economic recovery program. Just recently, the administration has proposed another research and development tax incentive which would provide for a 25-percent income tax credit for research and experimental wage expenditures. I applaud the administration's leadership in this area. My legislation attempts to supplement the President's proposal in this area and encourage the private sector to move forward in an aggressive manner in energy research and development with minimal Federal involvement.

In addition, a recent SERI report entitled "Building a Sustainable Future" recommended a tax credit for corporate research investment which is 125 percent of actual expenses, in lieu of the present Federal tax deduction. The premise for this recommendation was that private companies themselves were in the best position to determine what kinds of research were best suited to their needs. While my legislation does not go as far as the SERI recommendation, it does provide a clear signal that our Nation needs to maintain an aggressive energy research and development posture.

Mr. Speaker, research and development has been one of the primary bases on which our Nation has attained its world economic leadership. The legislation which I am introducing today will help our Nation maintain this leadership by stimulating private investment in new and more efficient energy technologies. It is not meant to reflect the only appropriate means to stimulate private investment in energy research and development, but only to encourage serious consideration of the importance of tax incentives in this area. I encourage my colleagues to seriously consider this proposal in the weeks ahead as Congress continues to consider a comprehensive tax program.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. WHITE) is recognized for 5 minutes.

● Mr. WHITE. Mr. Speaker, I was unable to be present for several votes due to my recent assignment overseas with the House Armed Services Committee. Had I been present, I would have recorded my votes in the following manner:

On rollcall No. 52, May 28, 1981, approval of Journal of Wednesday, May 27, "yes."

On rollcall No. 53, May 28, 1981, motion to suspend the rules and pass H.R. 3520, granting the steel industry an extension of the deadline for meeting clean air standards, "yes."

On rollcall No. 54, June 2, 1981, motion to suspend the rules and pass H.R. 3499, Veterans Health Care Act, "yes."

On rollcall No. 55, June 2, 1981, motion to suspend the rules and pass H.R. 2136, national cemetery construction bill, "yes."

On rollcall No. 56, June 2, 1981, motion to suspend the rules and pass H.R. 3337, extending youth employment programs authorized by the Comprehensive Employment and Training Act, "yes."

On rollcall No. 57, June 2, 1981, motion to suspend the rules and pass H.R. 1100, Prisoner of War Benefits and Health Care Services Act, "yes."

On rollcall No. 58, June 2, 1981, motion to suspend the rules and pass H.R. 3423, Veterans' Training and Business Loan Act, "yes."

On rollcall No. 59, June 2, 1981, motion to suspend the rules and pass H.R. 2039, Veterans' Home Loan Guarantees, "yes."

On rollcall No. 60, June 2, 1981, motion to suspend the rules and pass House Concurrent Resolution 76, concerning the plaque honoring servicemen who died in the Iranian hostage rescue attempt, "yes."

On rollcall No. 61, June 4, 1981, motion to concur in the Senate amendment to H.R. 3512 to prohibit reduction of full-time staff positions at the National Oceanic and Atmospheric Administration below 12,580, as amended with language providing that the Commerce Department need not comply with the provision, "yes."

On rollcall No. 62, June 4, 1981, amendment to H.R. 3455 that sought to delete certain funds for land acquisition at Fort Carson, Colo., "yes."

On rollcall No. 63, June 4, 1981, amendment to H.R. 3455 that sought to repeal the authorization for the construction of binary nerve gas production facilities at Pine Bluff Arsenal, "no."

On rollcall No. 64, June 4, 1981, passage of H.R. 3455, military construction authorization bill, "yes."

On rollcall No. 65, June 9, 1981, approval of Journal of Monday, June 8, "yes."

On rollcall No. 66, June 9, 1981, motion to suspend the rules and pass H.R. 3240, authorization for National Telecommunications and Information Administration, "yes."

On rollcall No. 67, June 9, 1981, motion to suspend the rules and pass H.R. 3239, authorization for administration of Communications Act of 1934, "yes."

On rollcall No. 68, June 9, 1981, motion to resolve House into the Committee of the Whole for consideration of H.R. 3462, "yes."

On rollcall No. 69, June 9, 1981, amendment to H.R. 3462 that forbids the use of funds for any action to require directly or indirectly the transportation of students to a school other than that nearest the student's home, "yes."●

EXPLANATION AS TO VOTE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANIELSON) is recognized for 5 minutes.

● Mr. DANIELSON. Mr. Speaker, I was unable to be present on the floor of the House of Representatives on Thursday, June 11, 1981, at the time the House voted on rollcall No. 74, and agreed to a substitute for a committee amendment to H.R. 3413, to authorize appropriations for the Department of Energy, that prohibits the obligation or expenditure of funds for the purpose of preparing environmental impact statements not already in the process of preparation, unless the preparation of such statements is required by statute. Had I been present, I would have voted "aye."●

OMB MAKES $9.6 BILLION ERROR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. FORD) is recognized for 5 minutes.

● Mr. FORD of Michigan. Mr. Speaker, there currently is a document circulating around the House entitled "Preliminary Assessment of House Committee Reconciliation Bills." It was prepared by the Office of Management and Budget and charges that savings achieved by House committee proposals are "false savings."

The document charges that the Post Office and Civil Service Committee's recommendation on Federal employee pay, if adopted—

• • • Could *increase* the Administration's budget by $11.3 billion over the two-year period following 1982 (emphasis in original).

According to OMB, fiscal year 1983 and 1984 savings of $5.2 billion and $6.1 billion, respectively, which are included in the President's budget, will not be achieved.

This is sheer nonsense. Either OMB deliberately is misleading Members concerning the Post Office and Civil Service Committee's action, or it has made a $9.6 billion error. Let us look at the facts.

The pay raises provided by the President's budget and the committee proposal, together with the savings in budget authority which will result, are set forth below. The savings are CBO estimates computed on the basis of OMB economic assumptions.

FEDERAL EMPLOYEE PAY RAISES

[Dollars in billions]

Fiscal year	President's budget		Committee proposal	
	Percent increase	Budget authority savings	Percent increase	Budget authority savings
1982	4.8	$3.781	5.8	$3.346
1983	7.0	5.227	7.4	4.620
1984	7.0	6.129	7.0	5.490
Total savings		15.137		13.456

In the area of Federal pay, the committee proposal saves about $1.7 billion less than the President's budget and the committee has made up this difference in other areas, such as eliminating double dipping by military retirees in the Federal civilian work force. OMB has misstated the committee's pay savings by $9.6 billion. It has also misrepresented the committee's overall actions as increasing the budget by $11.3 billion.

If any games are being played, it is on the part of the Office of Management and Budget. The figures demonstrated clearly that the Post Office and Civil Service Committee has made a sincere effort to comply with the mandate of the Budget Committee, albeit painfully.●

THE GENERAL ASSEMBLY OF THE POLISH-HUNGARIAN WORLD FEDERATION AND AFFILIATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the general assembly of the Polish-Hungarian World Federation and Affiliates recently convened in my own city of Chicago, and I commend the Federation's members and their president, Dr. Karol Ripa, for the fine work they have done over the years to alert the free world to the dangers of Communist expansion.

Mr. Aloysius A. Mazewski, president of the Polish National Alliance and the Polish American Congress, was to have addressed the general assembly but was called away to attend the funeral services of the former primate of Poland, Stefen Cardinal Wyszynski. Mr. Mazewski's message was read to the assembly in his absence, and the text of those remarks follow:

REMARKS OF ALOYSIUS A. MAZEWSKI

The story I am about to unravel for you, deals with one particular action of the Polish American Congress. But, in our minds, it can be expanded to larger context of vital interest to all ethnic Americans of East European origin, and especially to Hungarian Americans. Poles and Hungarians shared many glories and tribulations in their histories. Today, they are victims of Russian imperialism. We have thus, a common struggle on our hands and in many instances we have encountered the same difficulties and frustrations here in America.

Assembled for its organizational and constitutional convention in Buffalo, New York, May 30th through June 1, 1944, the Polish American Congress, as its first order of business, sent a Memorandum to President Franklin Delano Roosevelt, urging him with supportive historical and demographic data not to recognize "de facto" annexation by Moscow of the Polish territories wrestled at that time by the Soviet Forces from the retreating German army.

The Memorandum expressed fear that the Soviets will impose communist tyranny not only in the provinces already annexed, but in the rest of Poland, west of the chimerical "Curzon Line".

On that same day, May 30, 1944, the Senate and the House of Representatives passed "the sense of Congress" resolution advising President Roosevelt to support Poland's right to freedom, independence and territorial integrity.

In response to its Memorandum, the Polish American Congress received ambiguous statement coached in officialese double talk.

Then, on February 4th through 11th, 1945, came the Yalta Agreement which deprived Poland of nearly half of its rightful territory and declared "on paper" that new Poland should be a free, independent democratically governed state.

The signatories—the United States, United Kingdom and the Soviet Union solemnly declared that the execution branch in Poland will be a Government of National Unity, which should include "on equal basis", representatives of the Polish legal government-in-exile (in London) and communist activists who were already setting up some administrative units in territories left to Poland after the Yalta partition.

The legal Polish government in London was not consulted or even properly informed about this particular "Yalta decision".

This cavalier treatment flaunted the fact that the Polish government in London had the third largest Armed Forces on the Western Fronts.

The Yalta Agreement, reached, it would seem, under the spell of Josip Stalin and supported by misguided, misinformed or outright prejudicial communist apologists in the West was a tri-partite fait accompli.

Even so, it had a slim chance of winning reluctant concensus among nations of continental Eurpoe.

However, the Yalta Agreements and Declarations were never implemented or put to test due to the single-mindedness and intrasigence of the Soviet Union's aggressive policies, that by the end of 1945 brought part of the Central and the entire Eastern Europe under complete Russian domination.

These were, in our times, the initial acts of Soviet aggrandizement and the West's accession to Kremlin's design for conquest. They were the omens of the Cold War.

Naive apologists and certain intellectuals in the West who propagate the Russian version of history, told us at the time of Yalta and are telling us today, that the Soviet Union was and is justified in brutal subjugation of Eastern Europe, "because it needs protection for its Western borders". Protection from what?

These apologists and disoriented historians, never accepted one single fact that was obvious throughout centuries:

That Russia's fixed purpose of world domination has been the same under Tsars and under communist tyrants.

Her Juggernaut eastward in Asia, her struggles for complete control of the Dardanelles, her annexation of vast Polish territories in the 18th century and in 1945, her current incursion into Afghanistan, her designs to the Persian Gulf, her meddling in South America and Africa—are all integral parts of the same, and—in Russian mentality—immutable pattern of progression toward world domination.

What happened some 37 years ago in Eastern Europe and at Yalta is a matrix for the Soviet Union's current plans and activities.

Currently, the Kremlin is shouting and some misguided or outright pro-red intellectuals are parroting the line that—"the Poles want too much, the Poles are troublemakers, they go too far with their Solidarity movement, they are never satisfied with the status quo."

They shout these inanities in a crude effort to minimize the universal acclaim earned by Poles for their struggle to regain basic human rights in their national existence.

Today's struggle in Poland is as crucial as it was in the closing months of World War Two.

Only this time, it has different dimensions and is waged in the civic, sociological, cultural, and economic areas without resorting to arms or to any form of physical violence.

Nonetheless it is a struggle which can influence events in East Europe and remind the West that freedom, as a God-given attribute of man, is indivisible.

The Polish American congress was right in 1944 in its message to President Roosevelt.

And it is eminently right in our times, to wholeheartedly support President Reagan's just, stern and security-minded policy in dealing with the Soviet Union.

It is also subscribed with appreciation to the statement and declarations of Secretary of State Alexander Haig Jr. and Defense Secretary Caspar Weinberger regarding the Soviets.

We favor negotiations that would bring a measure of stability and security in Europe and the rest of the world.

But, as President Reagan has firmly and convincingly stated, we will enter these negotiations from the position of strength. To which we add—without the wishful thinking that has been and remains, the hallmark of the Yalta failure.

Today, in the area of our foreign policies and challenges we have two distinguished and experienced legislators, who speak and act in the name of the United States Congress.

They are: Senator Charles Percy, Chairman of the Senate Foreign Relations Committee and Congressman Clement Zablocki, Chairman of the House Foreign Relation Committee.

Both contribute significantly to the directions and stability of the United States Foreign Policy and both are those exceptional Americans who observed and know how to *properly* evaluate Russian moves, intentions and designs.

This distinguished gathering arranged by the tireless, and it seems to me—ageless Dr. Karol Ripa, is taking place in every important and crucial time both for American foreign policy and for Poland and its astonishing movement known as Solidarity.

Dr. Ripa deserves our gratitude and thanks for his activities and leadership in this Hungarian-Polish organization.

That Americans of Hungarian and Polish origin found common and historical ground is easy to explain and understand.

Poland and Hungary shared the same glory, growth and development particularly during the brilliant Jagiellonian era.

They also shared common fight and struggle, and common agony of defeat and enslavement.

And today, they share the bold vision of the future, in which both nations will regain full measure of freedom, independence and territorial integrity.

In Polish we sing "Jeszcze Polska nie zginela".

And we know that Hungary lives in the souls and minds of Hungarian people.●

KEY CHAIRMEN SAY EXPEDITE LOS POLICY REVIEW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 5 minutes.

● Mr. ZABLOCKI. Mr. Speaker, many of us are aware that the Reagan administration is conducting a review of U.S. policy toward the Third U.N. Conference on the Law of the Sea. The administration publically announced its intent to carry out such a review in early March just before the 10th session of the Conference opened in New York. In testimony before the Committee on Foreign Affairs on April 29, Mr. James Malone, Assistant Secretary of State, Bureau of Oceans, Environment and International Scientific Affairs said that the review would be thorough and comprehensive in scope and that all U.S. interest would be considered. In addition, he said the review would not be complete until after the resumed session of the Conference this August. The administration has the right to conduct a policy review, indeed we think it important that they do so.

The administration's time frame for completing the review in September or October 1981, however, will effectively prevent the United States from developing constructive proposals to be negotiated at the August session of the Conference. The United States may well lose a vital opportunity to negotiate adjustments in the text of the Draft Convention, and in particular on those provisions dealing with deep seabed mining.

My colleagues, Representative WALTER JONES, chairman, Committee on Merchant Marine and Fisheries and Representative JONATHAN BINGHAM, chairman of the Subcommittee on International Economic Policy and Trade of the Committee on Foreign Affairs, and I have recently urged the President to find a way to expedite the policy review so the United States can return to the negotiating table this August. Our sentiments are reflected in our letter to President Reagan of June 11, 1981. I include a copy of the letter in the RECORD at this time:

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 10, 1981.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We are writing to express our deep concern about the future role of the United States in the Law of the Sea Conference. While the Administration is justified in wanting to review U.S. policy with respect to the draft Convention, we feel strongly that this review should be conducted in an expeditious and balanced manner. Questionable interpretations of the current draft Convention that have surfaced from various sources should be promptly addressed, with the review concentrating on constructive refinements in the current text.

In our minds, the most compelling argument for going forward to conclude negotiations on a final comprehensive Treaty is that the commencement of commercial seabed mining, in which we have such a strong national interest, will be inhibited and delayed by the absence of a multilateral treaty. Under a comprehensive legal framework, financial institutions may be more willing to make available large resources necessary for industrial development of the deep seabed. A bilateral approach to cooperative ocean use would not assist us in achieving such U.S. requirements as global naval mobility, but it would likely sacrifice incentives inherent in a comprehensive treaty for nations to accept a broad range of ocean use standards rather than only those in which they have a particular interest. Issues that require clarification of revision in the current draft Convention, such as the provisions regarding assured access, technology transfer, production ceilings, preparatory investment protection and the constitution of the Preparatory Commission seem to us few in number compared to the vast majority of provisions that now enjoy wide consensus in the Conference and effectively protect U.S. interests. These provisions have evolved through the efforts and support of a majority of interested U.S. groups over the span of the last four U.S. administrations and should not now be cast aside.

The fact that the Congress last year enacted interim seabed mining legislation is ample and authoritative evidence of Congressional and American public support for completion of the comprehensive treaty process. That legislation which is the product of extensive study and work by our respective Congressional Committees, envisions the conclusion of a treaty and constitutes a mandate to the Executive Branch to work toward that end. In Section 2 of the Deep Seabed Hard Minerals Resource Act, the Congress declares that the purposes of the Act are, among other, to encourage the successful conclusion of a comprehensive Law of the Sea Treaty. Additionally, Title II indicates that the Congress intends that U.S. citizens engaged in deep seabed mining prior to a treaty be allowed to continue such operations in a manner that does not unreasonably impair the value of their investments. An acceptable treaty, therefore, is one that will protect U.S. interests and will enhance international comity. However, such an international treaty must be negotiated expeditiously in a multilateral forum in which the range of concerned interests are represented.

Consequently, we urge you to respond to the legislative mandate by completing your review and resuming full and constructive U.S. participation in the negotiations in time for the resumption of the 10th session of the Third Conference on the Law of the Sea scheduled for August 3, 1981.

Sincerely yours,

JONATHAN B. BINGHAM,
Chairman, Subcommittee on International Economic Policy and Trade.
CLEMENT J. ZABLOCKI,
Chairman, Foreign Affairs Committee.
WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries.●

BALDRIGE TESTIMONY ON THE EXPORT TRADING COMPANY ACT, H.R. 1648

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 20 minutes.

● Mr. LAFALCE. Mr. Speaker, although this country's export performance has been quite good in recent years, it has not been enough to overcome the level of imports, thus resulting in chronic trade deficits. More can and should be done to encourage increased U.S. exports to overcome those glaring trade deficits.

Therefore, I have introduced H.R. 1648, the Export Trading Company Act of 1981. This bill would not be a panacea for our trade problems, but it would be a meaningful first step toward the encouragement of increased U.S. exports. It would allow bank ownership of and participation in export trading companies under strictly regulated conditions, and it would provide an antitrust exemption for these companies.

On May 20, Malcolm Baldrige, the Secretary of Commerce, testified before the House Foreign Affairs Subcommittee on International Economic Policy and Trade concerning H.R. 1648. I want to share the Secretary's illuminating and thoughtful remarks with all of my colleagues, and I hope that all of my colleagues will join with me, the Secretary, the Reagan administration and the broad bipartisan coa-

lition in support of this important export promotion initiative.

The testimony follows:

STATEMENT OF HON. MALCOLM BALDRIGE, BEFORE THE SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY AND TRADE OF THE HOUSE FOREIGN AFFAIRS COMMITTEE, MAY 20, 1981

THE NEED FOR EXPORT TRADING COMPANIES

Mr. Chairman and members of the Committee, I am pleased to be here to discuss with you the need for export trading company legislation. This Administration belives that the creation of export trading companies is necessary to the continuing effort to improve U.S. export performance.

Exports play a vital role in the U.S. economy. The need for increased exports will become even more important in the years to come. The U.S. has been running tremendous trade deficits. Our trade deficit for 1980 was $24 billion. In order to pay for the imported goods and services we require we must increase our exports.

U.S. exports pay for our imports of oil and other necessary or desirable commodities and preserve and create jobs in the United States.

Most U.S. exports come from the largest U.S. corporations, with one percent of our U.S. firms responsible for 80 percent of our exports. If we are to offset U.S. trade deficits by export expansion, we must develop new ways to provide opportunities for thousands of small and medium sized American firms.

Enactment of export trading legislation will provide the mechanism to stimulate and train these smaller firms in how to export just as their foreign competitors are doing.

A January 1981 survey of U.S. public attitudes toward our balance of trade problems revealed widespread support for the formation of export trading companies. Cambridge Reports, Inc., at the request of Union Carbide Corporation, surveyed 1,200 Americans on U.S. foreign trade and competitiveness in world markets. Of those responding: First, more than 80 percent favored setting up trading companies that would sell abroad for smaller American companies that have trouble doing so on their own, and second, seventy percent favored allowing U.S. companies to sell jointly in foreign markets, even if such conduct in the United States would be prohibited under our antitrust laws.

Export trading company legislation must meet two criteria to be successful:

First, it must include provisions for bank ownership participation in export trading companies.

Second, it must provide a way for businessmen to insure that they will not run afoul of the antitrust laws in their export activities.

H.R. 1648, strongly supported by this Administration, will achieve both these aims. This bill is nearly identical to S. 734 which unanimously passed the Senate on April 8, 1981.

THE NEED FOR BANK PARTICIPATION

Banks can play an important role in developing successful export trading companies because of their management skill and financial resources. H.R. 1648, H.R. 1799 and H.R. 2123 permit banks to take a leading role in export trading company operations while safeguarding the financial system against any risks resulting from such participation.

The proposed legislation contains conditions and requirements that are more than adequate to meet any concerns raised about bank ownership of export trading companies. We would oppose any greater restrictions on bank equity participation such as those proposed in H.R. 2851.

These three bills prohibit preferential bank lending to any affiliating export trading company or its customers. Banking organizations would have to exercise the same credit judgment in lending to export trading companies as they do in other banking activities. These bills also limit aggregate banking investments in export trading companies.

The bills vest bank regulatory agencies—the Federal Reserve, Comptroller of the Currency, FDIC, FHLBB—with authority to establish standards, guidelines, regulations, inventory-to-capital ratios, and other requirements governing the activities of export trading companies with commercial bank involvement.

Any initial investment by a banking institution in an export trade subsidiary must be specifically approved by a Federal banking agency. All this is in addition to a stringent statutory limitation of total investments (equity and loans) in export trading companies to 10 percent of a bank's capital.

NEED FOR CLARIFICATION OF THE ANTITRUST LAWS

The participation of the banks, alone, will not ensure that small businesses will form export trading companies. It is equally important to clarify the existing antitrust laws in order to provide American business with an assurance that their export activity will not subject them to antitrust liability.

The Administration fully understands business' need to engage in specific export activity without fear of prosecution under the antitrust laws. We also understand the need for antitrust enforcement to protect the domestic economy from anti-competitive behavior. H.R. 1648 offers the best approach to these needs.

The bill would revise the Webb-Pomerene Act of 1918 to clarify the antitrust provisions applicable to export trade associations and export trading companies. It would also extend that Act's coverage to the export of services and transfer administrative responsibility for Webb-Pomerene from the FTC to the Commerce Department.

Most importantly, it would provide a certification procedure which would enable export trading companies to obtain antitrust pre-clearance for specified export trade operations.

The underlying purpose of export trading company legislation is export promotion, since no certification can issue unless a proposed ETC would serve to preserve or promote U.S. export trade.

Another export trading company bill, H.R. 2326, currently being considered by the Judiciary Committee does not include the preclearance certification procedure and, therefore, would not provide an export trading company with the necessary assurances against exposure to antitrust liability. As a result, those forming an export trading company would not have the same degree of confidence as to the legality of their actions available under a certification procedure.

Certification—which provides a listing of those activities deemed within the scope of the antitrust exemption—offers a far more satisfactory solution to the problem of antitrust clarification and offers maximum protection from treble damage suits.

Also, the Antitrust Division of the Department of Justice and the Federal Trade Commission have an important consultative role in the certification process and retain full authority to investigate and amend or invalidate the certificate.

Finally, the Administration believes it is unnecessary to require the establishment of a special office of export trade. We cannot support those sections of H.R. 1648 that would provide for new authorizations for such an office (sections 106 and 107). The International Trade Administration of the Commerce Department could administer title II without additional resources.

CONCLUSION

In summary, Mr. Chairman, we believe the need to increase U.S. exports is a compelling reason to make an exception from the general principle of separating banking and commerce. H.R. 1648 provides such an exception. The limitations and protection of title I are adequate to safeguard the integrity of our financial system.

Additionally, the business community must have assurance that specified cooperative export activity will not lead to antitrust liability. We believe the procedure in title II for obtaining a certification of antitrust immunity will enable most businessmen to obtain just this assurance, while at the same time providing safeguards to protect competitive principles.

Export trading companies will substantially improve our ability to compete for export business world-wide. The provisions in H.R. 1648 represent the most effective way to accomplish this purpose.●

HEARING ON VIRGIN ISLANDS LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. MAZZOLI) is recognized for 5 minutes.

● Mr. MAZZOLI. Mr. Speaker, I wish to announce that the Subcommittee on Immigration, Refugees, and International Law of the Committee on the Judiciary will hold a hearing on Thursday, June 18, 1981 on H.R. 3517, a bill to authorize the granting of permanent resident status to certain nonimmigrant aliens residing in the U.S. Virgin Islands. The hearing will be held in room 2237, Rayburn House Office Building at 9:30 a.m.

The legislation was introduced by Hon. RON DE LUGO on May 12, 1981, along with 30 cosponsors. The Governor and Legislature of the Virgin Islands have endorsed the proposal, which is designed to regularize the status of several thousand H-2 nonimmigrant workers, who have worked and resided in the islands for long periods of time.

Testimony will be heard from Congressman DE LUGO, administration officials, elected officials from the Virgin Islands Government, and representatives of interested organizations from that territory.●

A SECURE AMERICA: FORCE IS NOT ENOUGH

(Mr. SEIBERLING asked and was given permission to extend his re-

marks at this point in the RECORD and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, as we approach debate on the authorizations and appropriations for the Defense Department for fiscal 1982, I believe it will be helpful to bring to the attention of Members in both Houses three recent books dealing with the problems of national priorities and the impact of defense spending on our economy, particularly inflation. The *books* are: "Solvency: The Price of Survival: An Essay on American Foreign Policy" by James Chace, Random House, 115 pages; "Real Security: Restoring American Power in a Dangerous Decade" by Richard J. Barnet, Touchstone/Simon and Schuster, 127 pages; and "National Defense" by James Fallows, Random House, 204 pages.

All three books were reviewed recently in the Washington Post's book review section on Sunday, May 21, by Mr. Paul C. Warnke, former assistant secretary of Defense and former director of the U.S. Arms Control and Disarmament Agency. Mr. Warnke notes that the three books present different perspectives, but each recognizes that our national security problems are more complex than the prevailing mood of simple anti-Sovietism would suggest, and each concludes that we require more sophisticated solutions than merely allocating more wealth to weapons systems whose inflationary impact may far exceed their marginal military value.

James Chace emphasizes that the United States must produce more, consume less, rebuild its industrial base, and increase basic research and development, or expect gradual bankruptcy. In Chace's view, maintenance of military parity with the Soviet Union is not enough: Not only must we not meet that threat by policies that erode our economic power and increase tension with the Soviet Union, but we must devise a strategy for competing with the Russians in the Third World without dragging ourselves into a nuclear war. Surely, the growing nuclear race in the Middle East lends additional urgency to this point.

Fallows points out that the ways in which we spend the proposed staggering additional billions of dollars may not even give us the best force for the military missions that are the most likely.

Barnet believes that the economic costs of military power weaken the economy in specific ways and to that extent damage national security.

Mr. Speaker, the full text of the Warnke review of these three timely books follow these remarks:

[From the Washington Post, May 21, 1981]

A SECURE AMERICA: FORCE IS NOT ENOUGH

(By Paul C. Warnke)

A memorable Saturday Evening Post cartoon of the late 1930's showed a superannuated Confederate veteran in his wheelchair listening to the radio and opining: "If Longstreet had come at Gettysburg, there wouldn't be no Hitler!" Much of the discourse about international security today has an equally stark simplicity. The danger is that it is often taken too seriously.

The all-too-conventional wisdom is that the only threat to our national interests is Soviet military power and expansionism, and the only way to meet it is by massive increases in the defense budget. During his campaign, President Reagan told The Wall Street Journal that the world would have no "hot spots" at all if the Soviet Union stopped playing its dominoes game. As Richard J. Barnet, James Chace and James Fallows see it, a lot more is required to restore American power and shape an effective foreign policy.

These three books present different perspectives on our current security problems, but each reflects a recognition that they are more complex than the prevailing mood of simple anti-Sovietism would suggest Each concludes that these problems require more sophisticated solutions than the skewing of our priorities to allocate a great deal more of our wealth to weapons systems, the inflationary impact of which may far exceed their marginal military value.

Chace, who is managing editor of Foreign Affairs, focuses on his belief that America must "define and then defend her economic, military and political priorities." He contends that "overextension of our economic and military power" has brought us to the brink of insolvency. He writes: "An anti-Soviet consensus leading to a new crusade of global containment will not only strain our resources to such a degree that we will have to live with an enormous military establishment and a continuing reduction in our standard of living, but will also stretch our alliances to the breaking point."

Instead, he states, we must have a distinction between those interests that are vital and those that are clearly secondary, between those governments which pose actual military threats and those which, although they may be hostile, are not directly menacing. He refers to former secretary of state Kissinger's sardonic and realistic description of Marxist Chile as a dagger pointed at the heart of Antarctica, noting that this perception is in strange contrast to the Nixon administration's subsequent unwillingness to tolerate the existence of the Allende government. The sole security threat he sees from Latin America is our tendency to attribute the rise of left-wing revolutionary forces to the machinations of the Soviet Union and thus to base our policy for the hemisphere solely in terms of the Cold War.

As Chace puts it with felicitous style and clarity, the United States must produce more, consume less, rebuild its industrial base and increase basic research and development, or accept gradual bankruptcy. Just as the decision of the Johnson administration to fight the Vietnam war on credit set off the present devastating inflation, adoption of the same approach to the financing of the defense of our vital interests will fuel the inflationary fire. He argues that the way to restore the balance between our commitments and our power is to increase our means and, in this way, to regain our lost solvency. "For if we remain insolvent, how can we have a foreign policy at all?"

Chace in no way ignores the reality of Soviet military strength and the threat it presents. But he contends that the threat cannot be met by policies that erode our economic power, that frighten our allies and that yield increased tensions between the United States and the Soviet Union. In his view, maintenance of military parity with the Soviet Union is not enough. We must devise a strategy for competing with the Russians in the Third World without allowing this competition to drag ourselves and allies into a nuclear war.

To this avail, he proposes that we should refurbish our conventional arms strength, recognize the importance of foreign aid in helping to promote orderly international development, cut our dependence on foreign resources (our failure to conserve oil by a gasoline tax or rationing is "folly even less explicable than the Vietnam War"), and resume the serious pursuit of arms control to contain the ultimate danger of the Soviet-American global competition and to preserve our relationship with our allies.

Richard Barnet also addresses the decline of American power and also concludes that it is not the result of loss of nerve or lack of will to keep up in the military competition. He argues instead that something has been happening in the declining years of the 20th century to change the relationship between force and power. "U.S. military power has been a wasting asset for a generation."

Barnet sets forth four revolutionary factors that have transformed international politics. The first, of course, is the creation of "civilization-threatening weapons." Others are the emergence of "billions of people who previously were objects rather than subjects of international politics" and the resulting "enormous complexity of the contemporary world"; the revolution in and spread of military technology which "has turned out to be something of an equalizer," and the enormous escalation of the cost of military might. With Chace, he believes that "the economic costs of military power weaken the economy in specific ways and to that extent damage national security."

In this expansion of his brilliant *New Yorker* article, Barnet lists as one of our tragic mistakes the fact that we "confused stability with the status quo under the belief that our sheer power could stop the clock." But our decline in power does not mean "that the sun is about to rise on a Soviet Century." Instead, he sees a century of turmoil not dominated by any single nation, with the distribution of power much more diffuse, and uncontrollability of the arms race as the greatest threat we face. War, in these circumstances, is not a national security option.

I believe all this to be true. And despite—or perhaps because of—Soviet disregard of the sovereign rights of its smaller neighbors, I think they know it too.

Barnet reminds us that in the '50s it was the conservative Republicans who cautioned that excessive military spending would sap our economic power while the Democratic liberals believed it would stimulate the economy. The diaries and letters of President Dwight D. Eisenhower, recently made public, record his view that restraints on military expenditures are consistent with, and basic to, national security. A 1956 letter makes interesting if chilling reading today:

"Some day there is going to be a man sitting in my present chair who has not been raised in the military services and who will have little understanding of where slashes in their estimates can be made with little or no damage. If that should happen while we still have the state of tension that now exists in the world, I shudder to think of what could happen in this country."

Chace and Barnet are in agreement that no amount of increase in military expenditures will enable us to mold a world completely congenial to our economic and political objectives. James Fallows, in writing about defense rather than foreign policy, but recognizing the connection between the two, points out that the ways in which we spend the proposed staggering additional billions may not even give us the best forces for the military missions that are the most likely—or, perhaps, the least unlikely. All three authors are in accord that our faltering economy is perhaps our greatest source of international weakness, that much more money must be invested in productive capacity, inescapably leaving less for consumption and less for use by the government, including the Pentagon.

As Fallows sees it, there are three realities against which we should test our military planning. These are, first, that substantial increases in defense spending are not easy even if "more" defense meant more security; second, that the threats to American interests are diverse and unpredictable; and, third, that defense plans are rendered more difficult by intangible qualities that cannot be reduced to facts and figures. Like Chace, he points to a sick economy. In harrowing detail, he cites examples of expenditure of great sums of money on weapons systems of dubious need or degraded performance or both.

There are, regrettably, all too many instances of "gold plating" and attempts to exploit technological developments that are on the fringe of attainment, inordinately expensive and of marginal military utility.

Those who support the MX missile system, in a kind of deployment that would be an environmental disaster and a financial debacle, should ponder the reality of the alleged vulnerability of our ICBM force and ask whether we may have talked ourselves into an expenditure of $50 billion or more to meet a nonexistent problem with a ludicrous fix. I am grateful to Fallows for bringing to my attention the testimony of James Schlesinger before the Arms Control Subcommittee of the Senate Foreign Relations Committee on March 4, 1974. The statement of the then secretary of defense both surprised me and measurably increased my respect for his strategic sense. It had to do with the actual rather than the theoretical accuracy of Soviet missiles, and hence with the threat to our ICBMs:

"We can never know what degrees of accuracy would be achieved in the real world . . . The point I would like to make is that if you have any degradation in operational accuracy, American counterforce capability goes to the dogs very quickly. We know that, and the Soviets should know it, and that is one of the reasons that I can publicly state that neither side can acquire a high confidence first strike capability. I want the President of the United States to know that for all the future years, and I want the Soviet leadership to know that for all the future years."

Each of these books is well worth reading for itself. Collectively, they should help stimulate the national debate on our security interests that is badly needed. Among the issues that should be addressed is whether the best response to Soviet intervention is a star-spangled version of the Brezhnev doctrine. Another is whether our security will be well served either by failure to maintain a sound military posture or by resort to an unrestricted arms race. Both courses would be founded on the vain hope that the Russian bear may prove to be a paper tiger.

I doubt that our foreign policy interests or world peace can be advanced by greater reliance on the use of force to solve international problems. American power and world influence can be better employed to promote the principle of nonintervention by the strong in the internal disputes of the weak. That, together with a demonstrated respect for human rights and political differences, will tell the rest of the world whether a superpower should be viewed as a model, or as a monster.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. NAPIER (at the request of Mr. MICHEL) for today, on account of official business.

Mr. MCGRATH (at the request of Mr. MICHEL), for after 5 p.m. today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ROGERS) to revise and extend their remarks and include extraneous material:)

Mr. HORTON, for 30 minutes, today.
Mr. MICHEL, for 10 minutes, today.
Mr. FISH, for 10 minutes, today.

(The following Members (at the request of Mr. HOYER) to revise and extend their remarks and include extraneous material:

Mr. WHITE, for 5 minutes, today.
Mr. DANIELSON, for 5 minutes, today.
Mr. ST GERMAIN, for 10 minutes, today.
Mr. FORD of Michigan, for 5 minutes, today.
Mr. CROCKETT, for 10 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. ZABLOCKI, for 5 minutes, today.
Mr. LAFALCE, for 20 minutes, today.
Mr. MAZZOLI, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. OBEY to revise and extend his remarks and include extraneous material during debate on House Joint Resolution 287, World Health Organization.

(The following Members (at the request of Mr. ROGERS) and to include extraneous matter:)

Mr. BEARD.
Mr. LEBOUTILLIER in three instances.
Mr. TAUKE.
Mr. CLINGER in two instances.
Mr. MCCLOSKEY.
Mr. WEBER of Minnesota.
Mr. YOUNG of Florida.
Mr. DAVIS.
Mr. MCGRATH.
Mr. ROBERT W. DANIEL, JR., in two instances.
Mr. SOLOMON.
Mr. WHITEHURST.
Mr. HANSEN of Idaho.
Mr. GUNDERSON.
Mr. COLLINS of Texas in five instances.
Mr. HORTON.

(The following Members (at the request of Mr. HOYER) and to include extraneous matter:)

Mr. SHAMANSKY.
Mr. WHITE.
Mr. ROSTENKOWSKI.
Mr. MCDONALD in three instances.
Mr. HAWKINS.
Mr. APPLEGATE.
Mr. PEASE in two instances.
Mr. NOWAK.
Mr. WAXMAN.
Mr. ROE.
Mr. ECKART.
Mr. MARKEY.
Mr. LEHMAN.
Mr. FORD of Michigan.
Mr. CONYERS in two instances.
Mr. LELAND.
Mr. MAZZOLI.
Mr. GORE.
Mr. ROYBAL.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 893. An act to extend and amend the authority of the President to reorganize the executive branch of the Government under chapter 9 of title 5, United States Code; to the Committee on Government Operations.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1213. An act to amend title I of the Marine Protection, Research, and Sanctuaries Act, as amended.

ENROLLED JOINT RESOLUTION SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 288. Joint resolution to correct Public Law 97-12 due to an error in the enrollment of H.R. 3512.

ADJOURNMENT

Mr. HOYER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 33 minutes p.m.), under its previous order, the House adjourned until tomorrow,

Wednesday, June 17, 1981, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1608. A communication from the President of the United States, transmitting proposed amendments to the requests for appropriations for fiscal year 1982 for the Department of Defense—Military and for the Department of State (H. Doc. No. 97-61); to the Committee on Appropriations and ordered to be printed.

1609. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment to the Netherlands (Transmittal No. 81-45), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

1610. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment and services to Kuwait (Transmittal No. 81-54), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

1611. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of certain defense equipment to Canada (Transmittal No. 81-56), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

1612. A letter from the Director, Export-Import Bank of the United States, transmitting the annual report of the Bank for fiscal year 1980, pursuant to section 9 of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

1613. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act 4-49, "To amend the District of Columbia Housing Finance Agency Act to adopt a definition of undertakings in the area of primarily low- and moderate-income housing, and for other purposes," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

1614. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act 4-51, "To adopt a uniform law concerning controlled substances; to provide reasonable penalties for various narcotic and drug offenses; to provide for increased research into and prevention of drug abuse and drug dependence; to provide for education of abusers of controlled substances; to strengthen existing law enforcement authority in the field of drug abuse; to repeal the Uniform Narcotics Act and to amend other laws; and for other purposes," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

1615. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting a report covering the month of April 1981, on the average number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Energy and Commerce.

1616. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment and services to Kuwait (Transmittal No. 81-54), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1617. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment to Canada (Transmittal No. 81-56), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1618. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense services to the North Atlantic Treaty Organization (Transmittal No. 81-57), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1619. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment and services to Pakistan (Transmittal No. 81-58), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1620. A letter from the Assistant Attorney General, Office of Legal Policy, transmitting a report on the Justice Department's activities under the Freedom of Information Act during calendar year 1980, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

1621. A letter from the Acting Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to extend the authority for the program of grants to States for State home facilities, and for other purposes; to the Committee on Veterans' Affairs.

1622. A letter from the Secretary of Energy, transmitting the second annual report on the use of alcohol in fuel, pursuant to section 221(c) of Public Law 95-618; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MONTGOMERY: Committee on Veterans' Affairs. Report on allocation of budget totals to subcommittees (Rept. No. 97-148). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan: Committee on Post Office and Civil Service. Report pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 97-149). Referred to the Committee of the Whole House on the State of the Union.

Mr. MITCHELL of Maryland: Committee on Small Business. H.R. 2998. A bill to consolidate and modify the terms of the Small Business Administration programs under sections 7(a), 7(e), 7(h), 7(i), and 7(l) of the Small Business Act and sections 501 and 502 of the Small Business Investment Act of 1958; with amendment (Rept. No. 97-150). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 1309. A bill to provide grants to the 1890 land-grant colleges, including Tuskegee Institute, for the purpose of assisting these institutions in the purchase of equipment and land, and the planning, construction, alteration, or renovation of buildings to strengthen their capacity for research in the food and agricultural sciences; with amendment (Rept. No. 97-151). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. BROOKS: Committee on Government Operations. H.R. 2590. A bill to amend the Privacy Act of 1974 to impose additional restrictions on the maintenance and disclosure of mailing lists by Government agencies; with amendment. Referred to the Committee on Post Office and Civil Service for a period ending not later than July 17, 1981, for consideration of such portions of the bill and amendment as fall within that committee's jurisdiction pursuant to clause 1(o), rule X (Rept. No. 97-147, Pt. 1). And ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DYSON:

H.R. 3923. A bill to provide for payments in lieu of taxes to be made by the United States to local governments for property exempt from property taxation under Federal law which is located within the jurisdiction of the local government and owned by the United States, a foreign government, or an international organization; to the Committee on Government Operations.

H.R. 3924. A bill prohibiting the collection of certain user fees by the U.S. Coast Guard; to the Committee on Merchant Marine and Fisheries.

By Mr. ARCHER:

H.R. 3925. A bill to amend the Internal Revenue Code of 1954 to increase the percentage limitation on the amount of the deduction allowable for charitable contributions made by corporations; to the Committee on Ways and Means.

By Mr. D'AMOURS:

H.R. 3926. A bill to direct the U.S. Postal Service to issue a special postage stamp to commemorate the signing of the Treaty of Portsmouth; to the Committee on Post Office and Civil Service.

By Mr. FISH:

H.R. 3927. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax for increases in energy research and development expenditures; to the Committee on Ways and Means.

By Mr. HORTON (for himself and Mr. ERLENBORN):

H.R. 3928. A bill to amend the Freedom of Information Act to provide a hearing for persons objecting to disclosure of private confidential information, to preserve the

confidential status of certain kinds of private information contained in Government records, and for other purposes; to the Committee on Government Operations.

By Mr. HYDE (for himself and Mr. ASHBROOK):

H.R. 3929. A bill to amend the Internal Revenue Code of 1954 to provide a credit for the provision of certain charitable legal services; to the Committee on Ways and Means.

By Mr. MITCHELL of Maryland:

H.R. 3930. A bill to amend the Internal Revenue Code of 1954 to provide tax relief for small business; to the Committee on Ways and Means.

By Mr. PEASE:

H.R. 3931. A bill to amend title I of the Elementary and Secondary Education Act of 1965 to limit the authority of local educational agencies to use Federal funds received under title I for construction of a school facility to cases in which no reusable closed public school facility is within 2 miles of the proposed school facility; to the Committee on Education and Labor.

By Mr. PEPPER:

H.R. 3932. A bill to amend section 312(1) of the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mr. PRICE (for himself and Mr. DICKINSON) (by request):

H.R. 3933. A bill to amend title 10, United States Code, to provide that U.S. Navy regulations may be issued by the Secretary of the Navy without the approval of the President, and to provide express statutory authority for the Secretary of the Navy to issue other regulations; to the Committee on Armed Services.

By Mr. SOLOMON:

H.R. 3934. A bill to establish rational criteria for the imposition of the sentence of death, and for other purposes; to the Committee on the Judiciary.

By Mr. WATKINS:

H.R. 3935. A bill conferring jurisdiction on the Court of Claims to hear, determine, and render judgment on a claim of the Seminole Nation of Oklahoma; jointly, to the Committees on Interior and Insular Affairs and the Judiciary.

By Mr. WON PAT:

H.R. 3936. A bill to authorize the appointment of citizens of the Northern Mariana Islands as officers in the Armed Forces of the United States; to the Committee on Armed Services.

By Mr. MITCHELL of New York:

H.J. Res. 289. Joint resolution to provide for the designation of October 1981 as "White Cane Awareness Month"; to the Committee on Post Office and Civil Service.

By Mr. HENDON:

H. Res. 160. Resolution requiring that certain allowances for Members of the House of Representatives be fixed and adjusted by resolution agreed to by the House of Representatives; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. JACOBS:

H.R. 3937. A bill for the relief of Cheryl Cracknell Geenen; to the Committee on the Judiciary.

By Mr. MITCHELL of Maryland:

H.R. 3938. A bill for the relief of Marvie Joy Willis; to the Committee on the Judiciary.

By Mr. SAWYER:

H.R. 3939. A bill for the relief of Enrico C. Sobong and Esther A. Sobong; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2: Mr. NAPIER.

H.R. 110: Mr. EDWARDS of Oklahoma, Mr. OBERSTAR, and Mr. WOLPE.

H.R. 138: Mr. ADDABBO, Mr. ATKINSON, Mr. BONIOR of Michigan, Mrs. CHISHOLM, Mr. CLAY, Mr. COELHO, Mrs. COLLINS of Illinois, Mr. CORRADA, Mr. CROCKETT, Mr. DE LUGO, Mr. DELLUMS, Mr. DOWNEY, Mr. FAUNTROY, Ms. FERRARO, Mr. FRANK, Mr. KILDEE, Mr. LEHMAN, Mr. MARKEY, Ms. MIKULSKI, Mr. MILLER of California, Mr. MITCHELL of Maryland, Mr. PATTERSON, Mr. PEPPER, Mr. PRITCHARD, Mr. SCHEUER, Mrs. SCHROEDER, Mr. SEIBERLING, Mr. SHAMANSKY, Mr. SOLARZ, Mr. STOKES, Mr. WASHINGTON, Mr. WALGREN, Mr. WEAVER, and Mr. WEBER of Minnesota.

H.R. 247: Mr. PHILIP M. CRANE, Mr. DANIEL B. CRANE, Mr. DELLUMS, Mr. WALGREN, Mr. HAWKINS, Mr. MITCHELL of Maryland, Mr. CLAY, Mrs. CHISHOLM, Mr. LELAND, Mr. CROCKETT, Mr. ATKINSON, Mrs. HOLT, Mrs. COLLINS of Illinois, Mr. NAPIER, Mr. SAVAGE, and Mr. BLILEY.

H.R. 501: Mr. BEVILL, Mr. CHENEY, Mr. DWYER, Mr. DYSON, Mr. EDWARDS of Oklahoma, Mr. GARCIA, Mr. GOODLING, Mr. HERTEL, Mr. HOPKINS, Mr. LANTOS, Mr. MCDADE, Mr. NICHOLS, Mr. PURSELL, Mr. ROBINSON, Mr. ROTH, Mr. ROYBAL, Mr. SHAW, Mrs. SMITH of Nebraska, Mr. TAUZIN, Mr. WHITTEN, Mr. WILSON, Mr. ZEFERETTI, and Mr. GRISHAM.

H.R. 523: Mr. LUKEN.

H.R. 850: Mr. CORCORAN, Mr. GRADISON, Mr. GRAMM, Mr. HEFTEL, Mr. MOORE, and Mr. PORTER.

H.R. 1176: Mr. JAMES K. COYNE.

H.R. 1337: Mr. CONYERS.

H.R. 1430: Mr. JAMES K. COYNE.

H.R. 1431: Mr. JAMES K. COYNE.

H.R. 1576: Mrs. COLLINS of Illinois, Mr. FORD of Tennessee, and Mr. FOGLIETTA.

H.R. 1605: Mr. KOGOVSEK and Mr. OTTINGER.

H.R. 1642: Mr. DORGAN of North Dakota, Mr. DASCHLE, Mr. WOLPE, Mr. YOUNG of Alaska, Mr. AUCOIN, Mr. HAMMERSCHMIDT, Mr. HUTTO, and Mr. SHARP.

H.R. 1711: Mr. SMITH of Alabama.

H.R. 1809: Mr. LUKEN and Mr. WEAVER.

H.R. 1854: Mr. CONYERS.

H.R. 1862: Mr. OBERSTAR and Mr. WYDEN.

H.R. 1863: Mr. CONYERS.

H.R. 1919: Mr. CONYERS.

H.R. 1932: Mr. ANTHONY, Mr. AUCOIN, Mr. LUKEN, Mr. MOLLOHAN, Mr. ROBERTS of South Dakota, and Mr. TRAXLER.

H.R. 2034: Mr. HENDON.

H.R. 2315: Mr. GINGRICH and Mr. CONYERS.

H.R. 2364: Mr. SHAW, Mr. CHAPPELL, Mr. FUQUA, Mr. BUTLER, Mr. GINN, Mr. STUMP, Mr. DERWINSKI, Mr. BAFALIS, Mr. MAZZOLI, Mr. HYDE, Mr. ZEFERETTI, Mr. SAWYER, Mr. GILMAN, and Mr. BEARD.

H.R. 2414: Mr. NAPIER.

H.R. 2456: Mr. SMITH of Alabama, and Mr. AUCOIN.

H.R. 2475: Mr. ANDERSON, Mr. DIXON, Mr. FAZIO, Mr. GOLDWATER, Mr. LAGOMARSINO, Mr. LUNGREN, Mr. PASHAYAN, and Mr. THOMAS.

H.R. 2773: Mr. HAMMERSCHMIDT, Mr. WYLIE, Mr. BOWEN, Mr. MONTGOMERY, and Mr. DAUB.

H.R. 2776: Mr. JAMES K. COYNE.

H.R. 2791: Mr. NAPIER, Mr. JENKINS, Mr. LEATH of Texas, Mr. STATON of West Virginia, Mr. SPENCE, Mr. GINGRICH, Mr. ASHBROOK, Mr. HANSEN of Idaho, Mrs. HOLT, Mr. RUDD, and Mr. MOTTL.

H.R. 3070: Mr. FAUNTROY and Ms. FERRARO.

H.R. 3073: Mr. FAZIO, Mr. FROST, Ms. FERRARO, Mr. HERTEL, Mr. HUGHES, Mr. PORTER, Mr. STOKES, and Mr. WHITEHURST.

H.R. 3091: Mr. CONYERS and Mr. KOGOVSEK.

H.R. 3112: Mr. BAILEY of Pennsylvania, Mr. BONER of Tennessee, Mr. CONYERS, Mr. CORRADA, Mr. CROCKETT, Mr. DE LUGO, Mr. DYSON, Mr. EDGAR, Mr. ERDAHL, Mr. FISH, Mr. FORD of Tennessee, Mr. GRAY of Pennsylvania, Mr. GUARINI, Mr. MCKINNEY, Mrs. SCHROEDER, Mr. SCHUMER, Mr. SEIBERLING, Mr. SOLARZ, Mr. STOKES, Mr. SUNIA, and Mr. WOLPE.

H.R. 3151: Mr. MCKINNEY, Mr. BLILEY, and Mr. MARRIOTT.

H.R. 3202: Mr. CONTE, Mr. NOWAK, Mr. WEBER of Ohio, Mr. MICHEL, Mr. RAILSBACK, Mr. RUDD, Mr. TAUKE, Mr. BONKER, Mr. GINGRICH, Mr. BROWN of Ohio, Mr. BURGENER, Mr. PORTER, Mr. LUJAN, Mr. DERWINSKI, Mr. CLAUSEN, Mr. FORSYTHE, Mr. PRITCHARD, Mr. GREGG, Mr. FISH, Mr. SOLOMON, Mr. HORTON, Mr. KOGOVSEK, and Mr. WOLPE.

H.R. 3358: Mr. HILER, Mr. CHAPPIE, Mr. NAPIER, and Mr. HANSEN of Utah.

H.R. 3399: Mr. PEPPER.

H.R. 3456: Mr. BRODHEAD, Mr. PHILIP M. CRANE, Mr. GEPHARDT, Mr. AKAKA, Mr. ATKINSON, Mr. BONKER, Mr. DAUB, Mr. FORSYTHE, Mrs. HECKLER, Mr. BARNARD, Mr. FRANK, Mr. GRISHAM, Mr. LONG of Louisiana, Mr. PARRIS, Mr. RICHMOND, Mr. ROBERTS of South Dakota, Mr. SYNAR, and Mr. BRINKLEY.

H.R. 3473: Mr. LOTT.

H.R. 3530: Mr. WAXMAN, Mr. CROCKETT, Mr. FOGLIETTA, and Mr. KILDEE.

H.R. 3541: Mr. LOTT, and Mr. LEBOUTILLIER.

H.R. 3554: Mr. HUTTO.

H.R. 3587: Mr. CLAUSEN.

H.R. 3599: Mr. LOTT.

H.R. 3718: Mr. HEFTEL.

H.R. 3760: Mr. EMERY, Mr. KILDEE, and Mr. VENTO.

H.R. 3811: Mr. FLORIO and Mr. LANTOS.

H.R. 3838: Mr. BROWN of California and Mr. WHITLEY.

H.J. Res. 72: Mr. LAFALCE, Mr. O'BRIEN, Mr. ROBINSON, Mr. HUTTO, Mr. BROWN of Colorado, and Mr. STUMP.

H.J. Res. 141: Mr. EVANS of Delaware, Mr. HENDON, Mr. BROYHILL, MR. NEAL, and Mr. ROBERTS of South Dakota.

H.J. Res. 151: Mr. MORRISON, Mr. LIVINGSTON, Mr. D'AMOURS, Mr. HAMILTON, Mr. EDWARDS of Alabama, Mr. SHELBY, and Mr. HALL of Ohio.

H.J. Res. 287: Mr. LEHMAN, Mr. HOWARD, Mr. DIXON, Mr. LAFALCE, Mr. FOGLIETTA, Mr. VENTO, and Mrs. SCHNEIDER.

H. Con. Res. 124: Mr. BONKER, Mrs. SCHROEDER, Mr. COELHO, Mr. BROWN of California, Mr. WILLIAMS of Montana, Mr. CROCKETT, Mr DASCHLE, Mr. KOGOVSEK, Mr. ATKINSON, Mr. HARKIN, Mr. VENTO, and Mr. CONYERS.

H. Con. Res. 136: Mr. SOLARZ.

H. Res. 125: Mr. BINGHAM and Ms. FERRARO.

H. Res. 158: Mr. MARTIN of New York, Mr. STRATTON, Mr. HUTTO, and Mr. VENTO.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3238

By Mr. WAXMAN:

—On page 6, line 16, strike out "$145,000,000" and insert in lieu thereof "$160,000,000".
—On page 6, line 17, strike out "$130,000,000" and insert in lieu thereof "$160,000,000".

H.R. 3480

By Mr. VOLKMER:

—On page 2, line 3, add the following after line 3:

Section 1001 of the Legal Services Corporation Act (42 U.S.C. 2996) is amended by adding the following:

(7) in nonmetropolitan areas legal services for those who are unable to afford adequate legal counsel can best be provided by utilizing private attorneys under the system of judicare.

—On page 2, line 3, add the following after line 3:

Section 1002 of the Legal Services Corporation Act (42 U.S.C. 2996a) is amended by adding the following:

(9) "Nonmetropolitan areas" means any area in which legal services are to be provided and which area does not contain a political subdivision of at least fifty thousand persons.

—On page 4, add the following after line 14:

(C) In nonmetropolitan areas the corporation shall provide legal assistance through the use of private attorneys as provided for in section 1006(a)(1)(B).

—On page 7, line 21, add the following:

(e) Section 1007(a) of the Legal Services Corporation Act (42 U.S.C. 2996f) is amended by adding a new subsection as follows:

11. Insure that no employee of a recipient shall devote more than thirty percent of such employee's normal yearly working hours in effort to attempt to influence federal, state, or local legislative bodies or proposals.

—On page 13 strike lines 15 and 16 and insert in lieu thereof: "$241,000,000 for the fiscal year 1982.".

H.R. 3603

By Mr. PEYSER:

—Page 60, line 6, strike out "sugar beets and sugarcane," and insert in lieu thereof "oil sunflower seeds".

Page 60, line 10, strike out "sugar beets, sugarcane,".

Page 60, line 11, insert "and" at the end thereof.

Page 60, strike out line 12 and all that follows through page 61, line 7.

Page 61, line 8, strike out "(3)" and insert in lieu thereof "(2)".

Page 61, line 10, strike out "(g)" and insert in lieu thereof "(f)".

—Beginning on page 44, strike out line 19 and all that follows through page 58, line 3, and insert in lieu thereof the following:

REPEAL OF PEANUT ALLOTMENTS AND MARKETING QUOTAS

SEC. 701. The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended—

(1) in section 301(b)—

(A) in paragraph (1)(B) by striking out ", rice or peanuts" and inserting in lieu thereof "or rice",

(B) in paragraph (3)(A) by striking out "rice, and peanuts" and inserting in lieu thereof "and rice",

(C) in paragraph (6) by striking out subparagraph (C),

(D) in paragraph (10)(A)—

(i) by striking out "wheat, and peanuts" and inserting in lieu thereof "and wheat", and

(ii) by striking out "20 per centum in the case of wheat; and 15 per centum in the case of peanuts" and inserting in lieu thereof "and 20 per centum in the case of wheat",

(E) in paragraph (13)—

(i) by striking out subparagraph (B) and subparagraph (C), and

(ii) in subparagraph (G) by striking out "or peanuts, shall" and all that follows through "may be," and inserting in lieu thereof ", shall be the average yield per acre of corn", and

(F) in paragraph (16)(A) by striking out "rice, and peanuts" and inserting in lieu thereof "and rice",

(2) by striking out part VI of subtitle B of title III,

(3) in section 361 by striking out "peanuts,"

(4) in subsection (a) and subsection (b) of section 371 by striking out "peanuts," each place it appears,

(5) in section 373—

(A) in the first sentence of subsection (a)—

(i) by striking out "peanuts," each place it appears,

(ii) by inserting "and" before "all persons engaged in the business of redrying", and

(iii) by striking out ", all farmers" and all that follows through "machines", and

(B) in subsection (b) by striking out "peanuts",

(6) in section 375(a) by striking out "peanuts,",

(7) in section 377 by striking out "in the case of peanuts, an acreage sufficient to produce 75 per centum of the farm poundage quota or," and

(8) in section 378(c) by striking out "tobacco, and peanuts," and inserting in lieu thereof "and tobacco,".

PRICE SUPPORT FOR PEANUTS

SEC. 702. The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended—

(1) in section 101(b) by striking out "and peanuts",

(2) by inserting after section 106 the following new section:

"SEC. 106A. (a) The Secretary shall make price support available to producers through loans, purchases, or other operations on peanuts for each of the 1982 through 1984 crops at such levels as the Secretary finds appropriate, taking into consideration the eight factors specified in section 401(b) of this Act, and any change in the index of prices paid by farmers for production items, interest, taxes, and wage rates during the period beginning January 1 and ending December 31 of the calendar year immediately preceding the marketing year for which the level of support is being determined, but not more than $250 per ton for the 1982 crop, $175 per ton for the 1983 crop, and $100 for the 1984 crop. The levels of support so announced shall not be reduced by any deductions for inspection, handling, or storage: *Provided*, That the Secretary may make adjustments for location of peanuts and such other adjustments as are authorized by section 403 of this Act.

"(b)(1) In carrying out subsection (a) of this section, the Secretary may make warehouse storage loans available in each of the three producing areas (described in 7 CFR § 1446.4 (1977)) to a designated area marketing association of peanut producers which is selected and approved by the Secretary and which is operated primarily for the purpose of conducting such loan activities.

"(2) The Secretary may require that each such association establish pools and maintain complete and accurate records by type for peanuts handled under loans. Net gains on peanuts in each pool, unless otherwise approved by the Secretary, shall be distributed in proportion to the value of the peanuts placed in the pool by each grower. Net gains for peanuts in each pool shall consist of the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in such pool. Notwithstanding any other provision of this subsection, any distribution of net gains on peanuts of any type to any producer shall be reduced to the extent of any loss by the Commodity Credit Corporation on peanuts of a different type placed under loan by such grower.", and

(3) in section 408(c) by striking out "peanuts,".

EFFECTIVE DATE

SEC. 703. (a) Except as provided in subsection (b), the amendments made by this title shall take effect on October 1, 1981.

(b) The amendments made by this title shall not apply with respect to the 1978 through 1981 crops of peanuts.

EXTENSIONS OF REMARKS

THROWING MONEY AT PROBLEMS—1981 STYLE

HON. DONALD J. PEASE
OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. PEASE. Mr. Speaker, the Wall Street Journal of June 12 carried an op-ed article by a member of its board of contributors, Walter W. Heller, highlighting the contradictions and inconsistencies in supply side economics. Again relying on his experience as one of the framers of the Kennedy tax cut that we all hear cited as proof that a supply side tax cut will work, Dr. Heller points out that the premises that the Reagan program is based on—an enormous jump in investment—larger than anything our country has experienced before—a halving of inflation rates, and a drop from 14 to 6 percent for short-term interest rates can qualify "as a candidate for 'That's Incredible'."

Dr. Heller also points out that the business side of the comprehensive tax cut—the "10-5-3" accelerated depreciation plan, is extremely costly compared to the individual portion of the cut. Dr. Heller hopes that "the Congress will work out a tighter formula."

Mr. Speaker, for the benefit of my colleagues I insert the Wall Street Journal article by Dr. Heller of June 12, "Supply-Side Follies of 1981."

SUPPLY-SIDE FOLLIES OF 1981

(By Walter W. Heller)

Much of the skepticism about Reaganomics, especially in financial markets, arises out of what one might call the macro-defects of the program:

An expansionary fiscal menu of tax cuts and defense boosts that will outstrip budget cuts by $100 billion a year by 1984, coupled with a firm pledge to cut money growth in half by 1986, is seen as an open invitation to tight money, high interest rates and periodic economic indigestion.

A program premised on promises that real GNP will surge ahead at a 4.5% rate in 1982-85 and investment will jump from 10.5% to 14.5% of GNP while inflation drops from 11% to 5% a year and short-term interest rates from 14% to 6% is viewed as a candidate for "That's Incredible."

To get even close to the projected 1984 budget balance, everything would have to break right: plunging interest rates, no defense overruns, Congress coming through with $125 billion of budget cuts by 1984, and the economy hitting on all cylinders. That, too, stretches credulity.

But even if one lays aside these macro-doubts and judges the specifics of the Reagan program just by its supply-side tenets, one finds that micro-defects abound. Again and again Reaganomics fails to meet its own supply-side tests of spurring incentives to save, work and invest and channeling resources into efficient and growth-promoting uses.

Take savings stimulus. Never mind that the savings the nation may gain from the incentive effects of lower marginal tax rates under the 5-10-10 plan will be wiped out and then some by the continued deficits arising out of big tax cuts. The most effective single instrument the federal government can use to boost saving is to reduce its own dissaving (its own deficits) or run surpluses in a high-employment economy. What good does it do to stimulate private saving by deep tax cuts if such saving is more than offset by increased public dissaving?

The supply-siders argue that the saving induced by tax cuts will provide a non-inflationary source of financing for the continued federal deficits. (After years of inveighing against inflationary Democratic deficits, the Reaganites now assure us that Republican deficits need not be inflationary.) At the same time we are assured that the new flow of savings spurred by tax cuts will fuel an investment boom. Elementary arithmetic tells us they can't use the same savings twice.

A RUDE JOLT

Then there is the question of savings surge itself. Except in the high, wide and handsome brackets above $50,000, two opposing attitudes may give Treasury hopes of increased personal saving a rude jolt.

On one hand, putting three years' tax cuts on the books at once may irresistibly tempt inflation-wise consumers to buy cars and other durable goods on the cuff, counting on surefire tax cuts to pay the installments. Here, "unnamed White House sources" have made clear that the motive is more political than economic: "If Congress hasn't got the money, it can't spend it."

On the other hand, taxpayers who see through the nominal tax cuts and recognize that they will get little or no real relief on marginal tax rates won't have any incentive to save more. Especially in the critical middle range between $16,000 and $35,000, where brackets are narrow, the inflation pump will push marginal rates up as fast as Kemp-Roth pulls them down.

On this front, the Kennedy tax cut analogy so often cited by the supply-siders breaks down. Savings stimulated by the 1964 tax cut came from real marginal rate cuts in a non-inflationary environment, not illusory ones that high inflation in the Eighties will snatch away.

A puzzling inconsistency in the supply-siders' approach is their unwillingness to tackle tax shelters and deductions that have perverse supply-side effects. Cut high-bracket rates to boost savings? Fine. But cut off the tax deduction for interest on consumer debt and thereby remove a spur to spending (and hence a deterrent to saving) that costs the Treasury $6 billion a year? Or curb mortgage interest deductions and other tax breaks for housing that siphon funds away from productive machinery, equipment and plant? Or end the use of tax-free industrial revenue bonds ($8 billion in 1980) to finance private investments in everything from factories to golf courses, K marts and hamburger stands? None of these supply-side improvements has been put on the White House economic agenda. Why not? "We were elected to cut taxes, not increase them."

What seems to escape the supply-siders is this: Eliminating tax subsidies that discourage saving and distort investment has the same effect as granting tax reductions that encourage saving and promote investment. Indeed, true-blue supply-siders ought to insist on (a) cutting back tax preferences that deter saving or divert resources from the efficient uses into which the free play of market forces would channel them and (b) plowing the resulting revenue proceeds into reductions of marginal tax rates. That would double the bang for the supply-side buck.

A related supply-side puzzle centers on the 10-5-3 depreciation plan (even as now modified in the "coalition program"). It throws an awful lot of money at the investment problem, over $50 billion a year when fully effective. We need to stimulate capital formation and innovation. But is this the most supply-effective way to do it?

The modified Reagan capital recovery program would still divert industrial investment from equipment to structures and would confer huge tax benefits on big utilities and manufacturing companies and on the oil and gas industry. But there is very little in it for high-technology companies, small business and service industries with low capital requirements.

To make matters worse, the slow phase-in over five years creates an incentive to postpone investment to get a better tax break. And the combined benefits from 10-5-3 and the investment tax credit in some cases wipe out more than 100% of the corporate tax liability (and thus create juicy new tax shelters). The net result is a sloppy supply-side measure.

One has to hope that the Congress will work out a tighter formula, speed up the schedule (even if personal tax cuts have to be delayed a bit), and give a better break to small business and the industries that rely on human investment and research and development. It could thus significantly enlarge the supply-side payoff from the $50 billion-plus package of investment tax benefits.

When we turn to stimulus of work effort, the search for supply-side consistency in the Reagan program doesn't fare much better. True, on the insistence of Congress, provision is now being made for reducing the "marriage penalty," a definite plus for work incentives. Careful studies show that while tax cuts on existing earners don't have much net effect on work effort, second earners in the family do respond to lower tax rates both by working harder and by saving more.

BENEFITS WOULD BE CUT

But a curious contradiction persists in the Reagan fiscal program. Cuts in marginal tax rates for the middle and upper brackets are touted as an incentive for greater market-oriented work effort. But the Reaganites apparently do not recognize that cutbacks in food stamps and welfare payments for

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

the working poor create a huge disincentive for their work effort.

Thus, under the Reagan proposals: Earn nothing, and benefit payments would be $518 a month (for a typical welfare mother). Work hard for miserable pay (say $300 a month), and those benefits would be cut back so sharply that the take-home pay would rise to only $345, a "marginal tax rate" of 95%! Where is the supply-side logic (let alone equity) in a 50% cap on marginal tax rates for the wealthy while levying a 95% marginal rate on the earnings of the poor?

In its zeal to provide much-needed tax incentives for investment, the Reagan team seems to forget that the real secret weapon of U.S. economic leadership has been its generous investment in human capital—education, training, health, nutrition and similar intangibles. Deep budget cutbacks in these areas—for example, in education aids and loans, training and retraining, the Medicaid payments for the poor, in food stamps, in nutrition benefits for expectant mothers—threaten to reverse progress toward a more skilled, healthy and productive work force.

Supply-side economics in the sense of promoting more efficient use of resources, removing impediments to saving and investment, and providing targeted tax incentives for greater work effort and capital formation has much to offer. But if it is to deliver on its promise, the supply-siders—especially those in the White House and Treasury—will have to practice what they preach.●

TRIBUTE TO STEFAN CARDINAL WYSZYNSKI

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 8, 1981

● Mr. BIAGGI. Mr. Speaker, it is with great sadness and a sense of spiritual loss that I rise today to pay tribute to Stefan Cardinal Wyszynski, the leader of the Catholic Church in Poland for 32 years and a devoted crusader for faith and freedom throughout the world.

Throughout his life Cardinal Wyszynski campaigned vigorously for social and political rights for his countrymen. He was underground chaplain in the anti-Nazi resistance in World War II, before being consecrated as the bishop of Lublin in 1946. Less than 3 years later, he was named primate of Poland, and in 1953 the "worker priest," as he was affectionately called by the Polish people, was made a cardinal.

Cardinal Wyszynski was imprisoned by the Communists in 1953, but even after his release in 1956, and despite great personal risk, he continued to be an outspoken opponent of the Communist regime, and a believer in the freedom and value of the individual. His dedication to the spirit of peace and cooperation earned him a nomination for the Nobel Peace Prize, and his unwavering loyalty to the Polish people and the Polish heritage earned him the love and respect of his countrymen and the world.

His was the voice of reason which alone may have prevented disastrous Soviet intervention in Poland, both during the labor unrest of the past year and during the massive food shortages of 1976, and he may well have been responsible for the rebirth of freedom in Poland today. Though he regarded the imposed Communist order as fundamentally alien to Polish feelings and traditions, he nevertheless recognized the wisdom and accepted the responsibility of working within the framework of Communist rule.

Often treading a thin line between resistance and compromise, he consistently fought for religious freedoms within an officially atheistic regime. "After ten centuries of Catholicism," he reminded Poland's political leaders in 1966, "we have the right to be a Catholic nation, and we will never resign that right." Two years later, Cardinal Wyszynski condemned Communist brutality against students and university professors in Poland, and in a rousing speech asserted his people's rights to an independent existence. "We have no feelings of hatred for anyone," he said, "but we have the right to demand, according to the commandments of God, our human right to live free."

Cardinal Wyszynski devoted his life to the principle of spiritual and moral growth in the service of God, and just as he maintained the tradition of the church, and not the government, as the historical symbol of Polish nationalism, so will he remain symbolic of Poland's noble quest for freedom.

We mourn the passing of this nationally loved and internationally respected leader, but he leaves behind him more than just a memory of a courageous and dedicated fighter for freedom, a man of compassion, conviction, and understanding. He leaves behind him a national church that is stronger and more unified in 1981 than it was before the Communists dropped the Iron Curtain on Poland, a Catholic Church that is perhaps the strongest in the world today. And he leaves behind him an example of adherence to the cause of peace and the principle of human dignity, which the world would do well to remember and to emulate in the years ahead.●

JERRY SOLOMON INTRODUCES A BILL TO REESTABLISH CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE DEATH SENTENCE

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. SOLOMON. Mr. Speaker, today I have introduced legislation to establish a set of procedural guidelines to be followed when imposing the death sentence.

Federal law currently provides for the death penalty for treason, murder, espionage, rape, air piracy, and certain other felonies if death results from the commission of these crimes. But the death penalty provisions are all unenforceable in view of a series of Supreme Court decisions beginning with Furman against Georgia in 1972, because there are no legislated guidelines to control the exercise of sentencing discretion.

The bill I am introducing today is identical to Senate bill 114, reported from the Senate Judiciary Committee last week, which is designed to provide a set of procedures for the imposition of the death penalty that is in concert with the concerns of the Supreme Court. The effect of legislating such a set of guidelines will be to restore the death penalty for certain crimes. The crimes to which the death penalty would apply under this legislation include espionage, treason, murder, and a series of violent offenses—such as explosives, violations, and kidnaping—in which death results during the commission of the offense. The death penalty would also be called for in certain cases involving the attempted assassination of the President of the United States.

This proposed legislation is supported by the administration and the Department of Justice, in light of the fact that nearly all of the recommendations made by the Department of Justice in its written analysis of the bill have been incorporated into the reported version.

Under the provisions of this legislation, the death penalty may be imposed only if a sentencing hearing is held in accordance with the guidelines set forth as follows:

The attorney for the Government must serve notice a reasonable time before the trial that the Government intends to seek the death penalty, setting forth the aggravating factor or factors which the Government will seek to establish as the basis for the death penalty.

When the defendant is convicted or pleads guilty to an offense for which one of the punishments is death, the presiding judge shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted before the same jury which determined the defendant's guilt; or before a jury specifically impaneled for the purpose of this hearing, if the defendant was convicted upon a plea of guilty or was convicted after a trial before the court without a jury; or before the court alone upon mutual agreement between the defendant and the Government.

In the sentencing hearing, any information may be presented as to any

matter relevant to the sentence, including the existing aggravating or mitigating factors, regardless of its admissibility under the rules governing the admission of evidence in criminal trials. The exception to this provision relates to information which is substantially dangerous in causing unfair prejudice by the jury, confusion of the issue, or the misleading of the jury.

The burden of establishing the existence of aggravating factors is upon the Government and must be established beyond any reasonable doubt.

The burden of establishing the existence of mitigating factors is upon the defendant.

The jury, or the court in the absence of a jury, shall consider the evidence received during the hearing and decide whether or not any mitigating factors or aggravating factors have been found to exist. A finding of such a factor by the jury shall be made by unanimous vote.

Upon the finding that a sentence of death is justified, the court shall sentence the defendant to death.

During the sentencing hearing, the following are conditions to be viewed as mitigating factors when determining whether a sentence of death is to be imposed:

The defendant was under 18 years of age at the time of the crime;

The defendant's capacity to understand the wrongfulness of his conduct was significantly impaired at the time of the crime, but not so impaired as to constitute a defense to the charge;

The defendant was under unusual and substantial duress, although not sufficient duress to constitute a defense to the charge;

The defendant is punishable as a principal in the offense which was committed by another, but his participation was relatively minor, although not so minor as to constitute a defense to the charge;

The defendant could not reasonably have foreseen that his conduct in the course of the commission of murder, or other offense resulting in death for which he was convicted, would cause, or would create a grave risk of causing death to any person.

The following are conditions to be viewed as aggravating factors when determining whether a sentence of death is to be imposed in cases of treason and espionage:

The defendant has been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

The defendant knowingly created a grave risk of substantial danger to our national security during the commission of the crime;

The defendant knowingly created a grave risk of death to another person during the commission of the crime.

The following are conditions to be viewed as aggravating factors for homicide when determining whether a sentence of death is to be imposed:

The defendant intentionally killed the victim;

The defendant inflicted serious bodily injury which resulted in the death of the victim;

The defendant intentionally participated in an act which he knew or reasonably should have known would create a grave risk of death to another person, and the victim did die as a direct result of the act;

The defendant attempted to kill the President of the United States;

The defendant has been convicted of another Federal offense or a State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than 1 year, committed on different occasions involving the infliction or attempted infliction of serious bodily injury upon another person;

The defendant committed the offense in an especially heinous, cruel, or depraved manner;

The defendant committed the offense in the expectation of the receipt of anything of pecuniary value;

The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism;

The defendant committed the offense against the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or the officer next in order of succession to the Office of the President, in the absence of a Vice President, or any person who is acting as President in accordance with the Constitution;

The defendant committed the offense against a chief of state of a foreign government;

The defendant committed the offense against a Federal judge, a Federal law enforcement officer, or an employee of a U.S. penal or correctional institution while performing his official duties or because of his status as a public servant.

While meeting to determine whether to impose the death penalty, the jury shall be instructed that it shall not consider the race, color, national creed, or sex of the defendant in determining the justification of the death sentence. In addition, the jury shall submit to the court a signed certification that consideration of the defendant's race, color, national creed, or sex was not involved in reaching his or her individual decision.

In no case is the death sentence to be carried out upon a pregnant woman.

Finally, in any case where the death penalty is imposed, the sentence may be appealed by the defendant.

In closing, I would like to point out once again that the bill I have introduced is identical to that measure which has been reported by the Senate Judiciary Committee. It is the result of extensive committee hearings, and it embodies the majority of recommendations made by the Department of Justice. This measure is supported by the administration, and I encourage the support of my colleagues in the House, as well.●

A TRIBUTE TO THE LATE PRIMATE OF POLAND, STEFAN CARDINAL WYSZYNSKI

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 8, 1981

● Mr. ROSTENKOWSKI. Mr. Speaker, the death of Stefan Cardinal Wyszynski was a loss, not only to the people of Poland, but to those of Polish descent throughout the world.

This man endured the onslaught of both the Nazi occupation of World War II and the subsequent Soviet domination of his native land. And through it all, he consistently demonstrated ability as a defender of human rights in his own country, and through his example, set a standard for defending human dignity for the entire world.

While his achievements as a spiritual leader were noteworthy, it is difficult to separate his accomplishments in the clergy from his role as a national leader. The political importance of his office cannot be overstated. For in the often turbulent political environment of Poland, Cardinal Wyszynski was a tower of strength whose ability to promote stability was of great aid to the Polish people.

Even though he adamantly opposed forced atheism and other embodiments of Communist doctrine, the Cardinal was a moderating force during the recent solidarity movement tensions. His role can be characterized as one who constantly worked to diffuse anxiety and promote peaceful solutions.

As a Member of Polish descent who represents a district within a city with the largest concentration of Polish Americans in the United States, I want to express my appreciation to Mr. Aloysius Mazewski, president, Polish National Alliance, Mrs. Helen Zielinska, president, the Polish Women's Alliance, and Mr. Joseph Drobot, president, Polish Roman Catholic Union of America. These three prominent Chicagoans traveled to Poland to attend the funeral of Cardinal Wyszynski.

Clearly, the achievements of the cardinal speak for themselves, and I know that his successor, the next primate of Poland, will build on his most distinguished legacy.

I can only add that this Polish American will long remember the life of the noble Stefan Cardinal Wyszynski.●

IMMIGRATION LAW REFORM

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. DAVIS. Mr. Speaker, I think very few of us in this country question the need for significant immigration reform. It is well documented that the situation has reached a point where we face the choice of making significant reforms or subjecting our country's resources, both economic and natural, to extremely destructive pressures. I am pleased to see that congressional committees are devoting attention to this issue and I hope that we will soon see substantive proposals being generated from them in both Houses.

One of the forces behind the increased attention to this problem and the action which we are beginning to see is an organization known as FAIR, the Federation for American Immigration Reform. Dr. John Tanton, a constituent of mine is the founder of the organization from Petoskey, Mich. The efforts of Dr. Tanton and the people of FAIR have been invaluable in focusing public concern on this issue. Recently, Dr. Tanton and FAIR were recognized in an editorial in the San Francisco Chronicle which dealt with the immigration issue. I am submitting it for the RECORD today.

[From the San Francisco Chronicle, May 26, 1981]

IMMIGRATION LAW REFORM

Dr. John Tanton, founder and the chief prime-mover of an organization called FAIR, the Federation for American Immigration Reform, has noted that reform of immigration takes place about every generation. In 1924, major changes were enacted which eliminated preferences for Western and Northern European migrants. In 1952, the McCarran-Walter Act lessened the importance of national origins and gave priority to immigration reuniting families and to persons with needed skills. And today, Dr. Tanton believes, it is time to act again.

The reform today may take the form of the Immigration and National Security Act of 1981, introduced in the Senate by Senator Walter Huddleston, D-Kentucky, and in the House by Representatives Tony Coelho, D-Merced, and Robin Beard, R-Tennessee. Their companion bills are in response to widespread and oft-expressed alarm at the continuing flood of refugees from the human disasters in Cuba and Haiti and Southeast Asia and the equally disturbing flood of "illegals," chiefly across the country's leaky southern border.

The Immigration and National Security Act of 1981 would make four substantial changes in the current and ineffective operations of the Immigration and Naturalization Service. First, and most importantly, the law would ban the employment of aliens who are not legal residents of the United States. Employers would be required to verify the validity of both the identification and the number on Social Security cards presented by prospective employees. This would, of course, be a major change with great impact. It would lessen the motivation of aliens to enter illegally for their chances for employment would be substantially lessened. And it would create a different situation for millions of Americans and aliens legally resident here. Former Secretary of Labor C. Ray Marshall has said, for instance, that the nation "could reduce its unemployment to less than four percent if it were not for the illegals."

Other provisions of the proposed statute would place a comprehensive limit of new immigration at an annual level of 350,000 including refugees, and put a requirement upon the federal government that it prepare plans to handle any future refugee emergency such as last year's Cuban-Haitian boat crisis which caught the government without either plan or preparation. The Immigration and Naturalization Service would be given expanded personnel and facilities to improve response to illegal entry and illegal residence.

There can be no question that drastic change is needed, and needed now, in the Nation's immigration policy. The situation is so far out of hand that there is not precise knowledge about just how many illegal aliens there are in the country. Official estimates vary all the way from two to six million persons; private guesses go as high as 20 million. Illegal aliens arrive by walking across the border away from entry stations, sail in along the coasts, enter as students or tourists on legitimate visas and then simply meld into urban areas.

Most Americans realize that we are all, in a sense, "boat people" of either late or early arrival in the New World. The idea of America as haven of the stricken or deprived or exploited is cherished, as is the concept of the "melting pot." Today, however, there is also recognition that resources are finite. We no longer exist in a world of expanding frontiers awaiting unrestricted development. And part of that perception must be to control immigration with reason—and not let present population movement anarchy continue.●

SUPPORT YOUR LOCAL VOLUNTEER FIRE DEPARTMENT

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. CLINGER. Mr. Speaker, on June 27, 1981, the Lock Haven Volunteer Fire Department of Lock Haven, Pa., will be celebrating their 100th year of service to the community.

This department, founded in the proud tradition of Benjamin Franklin, has been responsible these many years not only for protecting the lives and property of its community, but also for rendering numerous other services, such as emergency first aid and the other kinds of special assistances, that we have come to expect from our local fire departments.

Those who have chosen to serve with this department throughout the years are to be commended for giving so freely of their time and efforts in assuming this often taken-for-granted responsibility. Communities all over our Nation have come to depend on their volunteer departments for the same services as those provided by fire departments supported by taxpayer moneys. We all can appreciate the dedication and hard work involved to maintain these volunteer departments without which our communities would suffer significantly.

I welcome the opportunity, therefore, to recognize and honor these outstanding public citizens of Lock Haven, and elsewhere, for their valuable contribution to the well-being of rural America.●

PAIGE PIPKIN, NATIONAL SPELLING CHAMPION

HON. RICHARD C. WHITE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. WHITE. Mr. Speaker, outstanding leaders and performers come from all parts of this great land, and contrary to the views of some of the dwellers of our largest cities, many of our high achievers have come from smaller communities. Such a person is Paige Pipkin, daughter of Mr. and Mrs. Horace N. Pipkin. Last week this outstanding young lady from El Paso, Tex., which I have the pleasure of representing in Congress, visited Washington, and when she departed she took with her the title of National Spelling Bee Champion for 1981. Champions are made of intangible stuff which leads some to believe that champions are born and not made. There are common ingredients that distinguish champions from those who merely compete: The champion never quits, has the will to win and has the fortitude to keep trying. Couple these qualities with intelligence and excellent training and you have a Paige Pipkin. Paige emerged this year from stiff competition against 8 million students to become this Nation's top speller. As a demonstration of all the qualities of a champion, Paige not only won this year's competition, but last year was the first runner-up in the same contest. To most people, this would be glory enough, but for Paige it was not the top. Now she is the national champion, and is held in esteem by her Nation, her State, and her city. Even more satisfying to those of us who look to the next generation for leadership, she exemplifies the ideal

of youth of which we justly can be proud. I want to thank Paige for the honor she has brought to El Paso and share with my colleagues an editorial which appeared in the June 9 issue of the Washington Post.

PAIGE PIPKIN PERSEVERES

An orgy of orthography occurred in Washington last week, involving 120 youngsters well below their majority. As quickly as you could shout "sarcophagus" (s-a-r-c-o-p-h-a-g-u-s), however, a 13-year-old youngster named Paige Pipkin broke the spell, and the 54th annual National Spelling Bee was over.

No matter that many of us—though not Paige Pipkin—would have problems rattling off the correct spelling of such familiar entries in the household Webster as vilipend, esurient, numen, susurrant and (the word that brought victory) sarcophagus. In a world of gloomy pedagogues who fidget their nights away counting declining national SAT scores, the arrival each year of the "Bee" finals invariably lifts the spirits.

Once again, as in past years, the youngsters displayed a full measure of perseverance and good sportsmanship. Take Miss Pipkin. After coming in second in the 1980 finals, she returned this year to unveil a new—and winning—style, a slow-paced, measured response distinctly different from the quick-trigger answers given by a number of other entrants: "I used to buzz through words," Miss Pipkin later told the Associated Press, "and I missed them." As for her comparably alliterative runner-up, a 12-year-old named Jason Johnson, he told reporters that since his newspaper-sponsor does not allow repeaters, he will not be coming back in 1982. Too bad, we thought, but not Jason Johnson: "I beat out my best friend to get here, and I'd like to see him get a chance next year. I'd really like that."

So would we. Most of all, however, we'd really like his friend—if he wins next year's contest—to be much like this year's winner and runner-up in style and temperament. Chances are that this will be the case. Chances are, also, that next year's runner-up will stumble on what we might call a Washington word, just as Jason Johnson did this year and Paige Pipkin the previous year. Mr. Johnson missed "philippic," and Miss Pipkin got caught on "glitch." Moral: Before beginning the questioning next year, the sponsors of the National Spelling bee should take the kids on a careful tour of Congress and the White House.●

THE SPIRIT OF THE HELSINKI VIGIL: THE PLIGHT OF RIMMA AND JACOB SOSNA

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. MICA. Mr. Speaker, today I would like to pay tribute to Rimma and Jacob Sosna, a brave couple suffering the fate of hundreds of Soviet Jews. The Sosnas' ordeal began in 1973 when they, their son Boris, and 85-year-old grandmother, and a disabled uncle applied for emigration visas. The family has reapplied for visas 10 times, and only Boris' request has been granted. Mr. and Mrs. Sosna's lives have been dramatically changed as a result of their request to emigrate.

Boris Sosna, who now resides in Israel, has described his family to be "one of the worst hit refusenicks." The Sosnas were denied visas due to the nature of Mrs. Sosna's work as an engineer, which she was forced to leave after her first application for a visa. Her son has stated that her work involved no state secrets and her publications and projects were of an open nature. Mrs. Sosna has been unable to find a job to replace the one she was forced to leave 8 years ago. Refusenicks often find it nearly impossible to find work.

Due to Jacob Sosna's excellent military combat record and decorations, he has remained employed as an engineer. Mr. Sosna, however, was demoted following his visa application. In addition, Boris claims that the strain and hostilities at his father's job, and the grief his father experienced over the separation from his son, caused Jacob Sosna to have a serious heart attack.

The Soviet disregard for the spirit of the Helsinki agreement is exemplified by the plight of the Sosna family. They were forced to pay, and they are still paying, a tremendous price for their desire to emigrate from the Soviet Union. It is tragic that parents must indefinitely be separated from their only son—that a grandmother may never be allowed to see her great-granddaughter, that productive careers must be ruined, that a family must live in misery; all the result of an emigration request.

I have written to Soviet President Brezhnev and Ambassador Dobrynin to request that the Sosnas immediately be granted emigration visas. I am hopeful that this family, and all those who suffer similar fates, soon will be reunited.●

PEASE URGES USE OF AGRICULTURE SURPLUS FOR POOR AND NEEDY

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. PEASE. Mr. Speaker, as the effects of inflation and recent funding reductions begin to affect our constituents, we must look to our resources to lessen this hardship.

A pilot program for distribution of surplus dairy products through food banks was passed into law as an integral part of the Agriculture Act of 1980. This program could solve two problems simultaneously; feed the poor and the elderly, and reduce stockpiles of perishable dairy products.

The Department of Agriculture has yet to implement this program and their evaluation is due in approximately 15 months. In the meantime, the storage costs are rising (over $25 million in the past 2 years just for butter, cheese, and milk), and there is discussion of selling to foreign countries at world market prices (this would translate to a $50 million subsidy, according to the Washington Post.)

Twenty of my colleagues have joined me in signing the following letter to Secretary John Block:

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 12, 1981.

Hon. JOHN BLOCK,
Secretary of Agriculture,
Department of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: We are writing you regarding a matter of utmost concern; the timely implementation of Food Bank Demonstration Projects, as directed in Sec. 211 of Public Law 96-494.

Our country currently faces a dilemma; a reduction in funding for food stamps and a costly surplus of dairy products. The prompt implementation of Food Bank Demonstration Projects could be the key to this problem.

It is our understanding that this program was targetted to begin in May of 1981. As stated in Sec. 211 (b) (1), "No food bank may participate in the demonstration projects conducted under this section unless an application therefor is submitted to and approved by the Secretary." The announcement of these applications has yet to appear in the Federal Register.

Sec. 211 (d) states "The Secretary shall submit a report to Congress on October 1, 1982, regarding the demonstration projects carried out under this section. Such report shall include an analysis and evaluation of Federal participation, and the feasibility of continuing such participation." In order for your evaluation to be thorough and fair, you will need an adequate period of time to conduct it.

Time is of the essence, Mr. Secretary. This program is crucial to many needy people across the country. We hope that you will extend every effort to expedite the implementation of the Food Bank Demonstration Projects.

Sincerely yours,

GEORGE BROWN,
HAROLD C. HOLLENBECK,
DON J. PEASE,
DON BAILEY,
G. WILLIAM WHITEHURST,
FREDERICK W. RICHMOND,
STEPHEN L. NEAL,
PETER W. RODINO,
VIC FAZIO,
BENJAMIN A. GILMAN,
DAN GLICKMAN,
DONALD J. MITCHELL,
STAN LUNDINE,
EDWIN B. FORSYTHE,
EDWARD R. MADIGAN,
JAMES R. JONES,
RAY KOGOVSEK,
NORMAN Y. MINETA,
JAMES WEAVER,
THOMAS A. DASCHLE,
BYRON DORGAN,
Members of Congress.●

SOVIET PRISONERS OF CONSCIENCE

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. McGRATH. Mr. Speaker, on more than one occasion, I have addressed this body on the issue of Soviet Prisoners of Conscience. I rise today to once again bring to my colleagues' attention the plight of Yuri Feodorov and Alexei Murzhenko. After the release of Iosif Mendelevich in February, these are the two remaining prisoners from the first Leningrad trials.

Mr. Speaker, yesterday marked the 11th anniversary of the arrests which led to the Leningrad trials. This is an appropriate time to reflect upon the plight of Feodorov and Murzhenko, and the others like them who are imprisoned in the Soviet Union because of their political and religious beliefs.

Yuri Feodorov and Alexei Murzhenko are not Jewish. Simply, they were individuals who shared the wish of their Jewish compatriots to flee the oppression of the Soviet Government. The conduct of both Feodorov and Murzhenko during the long pretrial interrogation and during the trial itself was exemplary. Despite intense pressure to betray their friends, they defended them throughout. At the trial, Murzhenko was sentenced to 14 years in prison and Feodorov 15. The two have now been in prison for 11 years.

Mr. Speaker, the denial of human rights to citizens of the Soviet Union transcends religious bounds. The Soviet Union, on all counts, remains one of the world's worst violators of human rights. We must continue to use all channels available to us to encourage the Soviet Government to comply with the international human rights accords which it has signed. We have this obligation as free men and women and citizens of the international community.●

THE GRUMMAN CORP. COMMITMENT TO NATIONAL DEFENSE

HON. JOHN LeBOUTILLIER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. LeBOUTILLIER. Mr. Speaker, as our Nation continues the process of rebuilding its vital defense capabilities, we in the Congress, as the appropriating authority for the expenditure of taxpayers' dollars, will be entrusted with the responsibility of insuring that the Nation receives the most cost-effective and reliable material.

I am extremely proud to note that the Grumman Corp. of Long Island will continue to play a vital role in the development of first-rate, high technology for our defense needs.

Specifically, I make reference to the Grumman F-14 Tomcat, A-6E Intruder, EA-6B Prowler, and the C-2A Greyhound; four proven aircraft which contribute greatly to the defense of America and her allies.

In keeping with the fine tradition of excellence and performance, which have become the trademark of the Grumman Corp., the U.S. Navy is seeking to add the Grumman COD to its contingent of support aircraft.

I believe the distinguished members of the New York State Assembly have articulated most clearly, the reasons supporting the purchase of this aircraft. I am, therefore, submitting for your consideration, a recent resolution passed by the New York State Assembly which expresses that sentiment. I ask that you, and all my fellow House Members give this resolution your most careful consideration.

LEGISLATIVE RESOLUTION—ASSEMBLY No. 435

Whereas, President Reagan has placed great emphasis on maintaining the strength, quality and readiness of United States military forces to balance the growth of Soviet Bloc and Warsaw Pact forces and our nation's ability to rapidly deploy forces in times of crisis is now under close scrutiny in Congress and throughout the world; and

Whereas the recent events underscore the importance of our nation's ability to respond to military threats; and

Whereas the State of New York, as a political body and as a body of individual citizens, has always supported a strong defense force to protect our nation and our allies; and

Whereas New York State is a pioneer in the development of industrial skills and technologies that contribute to the economy of the state and nation and have led to the production of vital military hardware for our armed forces; and

Whereas, Grumman Aerospace Corporation, which has provided jobs and has helped to support the economy of New York State for one-half century, manufactures military aircraft vital to the survivability and effectiveness of our Navy and Marine forces; and

Whereas the Grumman fleet of highly effective aircraft includes the F-14 Tomcat, the most capable fighter-interceptor in the world; the A-6E Intruder, the free world's only tactical bomber capable of completing its mission in any weather, day or night; the EA-6B Prowler, our nation's only combat proven electronic jamming aircraft; and the C-2A Greyhound, a carrier onboard delivery (COD) aircraft used to transport personnel and supplies to aircraft carriers at sea; and

Whereas the Navy has told the House Appropriations Committee, before which the program is currently pending, that it is desirous of obtaining a new Grumman COD, code named VCX, by production of thirty-nine such aircraft commencing in fiscal year nineteen hundred eighty-four; and

Whereas, this tested and well-powered aircraft type will continue to provide the dependable and efficient transportation on which our armed forces are so dependent; and

Whereas the need of the Navy for this new aircraft is urgent and the jobs of New York State residents are dependent upon this procurement; now, therefore, be it

Resolved, That this Legislative Body memorializes the President of the United States and the Congress to proceed forthwith with the purchase of the thirty-nine COD transport planes for the Navy, designated the VCX, from Grumman Aerospace Corporation of Bethpage, Long Island, because they are urgently needed and their production will serve as a deterrent to the Soviet Union in launching any offensive against this nation or its allies; and be it further

Resolved, That copies of this resolution, suitably engrossed, be transmitted to the Honorable Ronald Reagan, President of the United States, and to each member of the Congress of the United States from the State of New York.●

TRIBUTE TO ANGELO VACCARO

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. APPLEGATE. Mr. Speaker, I would like to take this opportunity to congratulate Mr. Angelo Vaccaro of Steubenville, Ohio, on recently achieving his 1,000th victory for the Steubenville-Teramana American Legion baseball team. He now has a record of 1,000 wins against 233 defeats in his 34-plus years of managing the Legion team.

Ang began his teaching and coaching career in 1938 at Steubenville High School upon graduating from Ursinis College in Pennsylvania. His teaching was interrupted in 1943 when he served in World War II as a gunnery officer with the U.S. Navy on merchant ships. In the fall of 1946 he returned to teaching at Steubenville High and began coaching the basketball team. In 1947 he suggested to the board of educators that the high school should have a baseball team. The board agreed and Ang's baseball career was launched.

He coached the basketball team from 1946 to 1960 with a record of 216 wins and 109 losses. He managed the baseball team from 1947 to 1960 with a record of 196 wins and 73 losses.

The Steubenville-Teramana American Legion baseball team was formed in 1947 with Ang's help and for 34 years he has been their only manager. Three times he has skillfully guided his team to the Ohio State championship—1964, 1978, and 1979. Throughout his years of managing the team, he has worked with a number of outstanding men who now have achieved recognition in their own right as managers and players of other teams.

Ang is a modest man who shuns publicity and occupies himself with managing his players. He is loved and respected by not only those who have had the privilege of being on one of his teams, but also by those who know

him and have witnessed his dedication and true sense of sportsmanship.

It is an honor to pay tribute to such a man.●

THE BALTIC HOLOCAUST

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. NOWAK. Mr. Speaker, many of us take for granted the political and social freedoms this country has to offer. Today we are witnessing the plight of two nations: Poland as she attempts to assert her religious and economic freedoms, and Afghanistan, as she tries to rise from the yoke of Soviet domination.

Post-World War I left a void in Eastern Europe. This void was filled with the creation of the independent Baltic States: Estonia, Latvia, and Lithuania. This June marks the 40th anniversary of the Baltic holocaust of 1941, in which the Soviet regime carried out the first mass deportation of Baltic people from their homelands in these three Baltic countries to Siberian slave labor camps.

I think the following statement from the Joint Baltic American National Committee will be of interest to my colleagues.

THE BALTIC HOLOCAUST

This month, Americans of Estonian, Latvian and Lithuanian decent will commemorate the 40th anniversary of the Baltic Holocaust. The days of June 14 and 15 marked the beginning of a mass deportation effort conducted in the Baltic States 40 years ago by the Soviet regime. In the wake of this campaign of terror, virtually no Baltic family was left untouched by the tragedy.

The deportation campaign has been planned in Moscow before the Soviet armies occupied Estonia, Latvia and Lithuania in 1940, ending their years of national freedom and soverignity which had begun in 1918. It was a purge of a broad scope, designed to eradicate all elements which might impede the sovietization of the three countries. The deportations began on June 14, 1941. The now infamous midnight arrests occurred simultaneously throughout the Baltic States. The people were tersely informed of their arrests by the KGB, but were not told of the charges against them. They did not know where they were to be taken, nor for how long. Given minutes to pack, they were rushed out of their homes, many for the last time.

At first, the arrests took the elite of Baltic society—the educated, those in government or military service—who could have provided the most resistance to Soviet rule. Later, the arrests and deportations would spread to many others who were even remotely related to the original victims. In its final form, the campaign took all Balts who were merely suspected of non-compliance, as well as those whom the Soviet authorities simply disfavored for unknown reasons. It was an irrational campaign of terror which reflected the fears of a paranoid dictatorship in Moscow. It claimed old and young, weak and strong, rich and poor.

The prisoners were herded into railroad cattle cars and transported to slave labor camps in Siberia. Death by malnutrition and exposure claimed many during the long journey. Many more died in the frozen wasteland of Siberia from disease, mistreatment or outright execution. In 1941, almost 100,000 Baltic peoples were deported, roughly over 30,000 from each of the three nationalities. By the end of 1949, a total of 850,000, or more than 10% of the population of these three nations had suffered this fate at the hands of the Soviet government.

Today, the Soviets continue to repress indigenous national, cultural and religious movements, Baltic and others. The Gulag Archipelago and its prisons and psychiatric institutions still exist. Recurring campaigns of terror have left their mark on the many people under Soviet rule, leaving a pervasive environment of fear, mistrust and hostility.

History has witnessed several holocausts, most notably the Armenian and Jewish. In each case, the cost in terms of human suffering and loss of life has been tragic. On this anniversary of the Baltic Holocaust, the Joint Baltic American National Committee and Baltic communities throughout the country, ask America's leaders to persevere in their efforts to fight oppression throughout the world, and to encourage humane, civilized and representative forms of government. America has tremendous power to influence the countries of the world and their policies. In the name of all those who died 40 years ago—in an environment which still exists today—we ask that this country never forget its role as the world leader in the cause of freedom.

Communism has deprived these people of the most important possessions they have—their personal and political freedoms. Communist influence in Europe, Asia, and other parts of the World denies the natural rights of millions of human beings. The knowledge that such conditions exists is gripping. Still it serves to contrast with the enormous amount of freedom we possess in this country. The condition upon which God has given liberty to man is eternal vigilance. This statement has never been truer, than in relation to these oppressed nations.●

RESOLUTION ON IRISH HUNGER STRIKE INTRODUCED

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. BIAGGI. Mr. Speaker, last Thursday, as chairman of the Ad Hoc Congressional Committee for Irish Affairs, I introduced House Resolution 158, a resolution expressing the concern of this House over the ongoing hunger strike in Northern Ireland's Maze Prison.

I am pleased to inform my colleagues that this resolution was introduced with strong bipartisan support as 52 of our colleagues joined with me in the initial introduction.

This resolution is simple and straightforward in its message. It demonstrates our opposition to all forms of violence and expresses our concern that continued intransigence in this crisis can only jeopardize the possibility of any solution being adopted to end this vicious cycle of death and destruction.

Let me emphasize that this resolution was developed in consultation with major Irish-American organizations. They plan to contact all Members of the House who have not joined us in this resolution thus far and urge support for its passage. I urge all Members of this House to ally themselves with us on this issue in order to put this body on record in support of urging a bold new initiative by the British Government which will exhibit greater flexibility in helping to end the current stalemated situation.

For the benefit of my colleagues, I am inserting the text of House Resolution 158 as well as the list of cosponsors thus far:

COSPONSORS

Mr. Gilman, Mr. Peyser, Mr. Roe, Mr. Hollenbeck, Mr. Walgren, Mr. Addabbo, Mr. Fauntroy, Mr. Zeferetti, Mr. Mitchell of Maryland, Mr. Ratchford, Mr. Russo, Mr. McGrath, Mr. Scheuer, Mrs. Collins of Illinois, Mr. Forsythe, Mr. Foglietta, Mr. Bingham, Mr. Crockett, Mr. Weiss, Mr. Lent, Mr. LeBoutillier, Mr. Carney, Mr. Molinari, Mr. Rangel, Mr. Mavroules, Mr. Lee, Ms. Ferraro, Mrs. Schroeder, Mr. Howard, Mr. Atkinson, Mr. Albosta, Mr. Brodhead, Mr. Edgar, Mr. Ottinger, Ms. Oakar, Mr. Moakley, Mr. Richmond, Mr. Gejdenson, Mr. Nowak, Mr. Gray, Mr. Rinaldo, Mr. Fish, Mr. Savage, Mr. Mottl, Mr. Frank, Mr. McKinney, Mr. Schumer, Mr. Annunzio, Mr. Swift, Mr. Yatron, Mr. Martin of New York, Mr. Stratton, Mr. Hutto, and Mr. Vento.

H. RES. 158

Resolution to express the sense of the House of Representatives that the hunger strike in Northern Ireland be settled

Whereas Irish men are dying on a hunger strike in Northern Ireland; and

Whereas world pleas, including one by Pope John Paul II, have been registered; and

Whereas this House deplores all forms of violence: Now, therefore, be it

Resolved, That the House expresses its deep concern over the hunger strike and calls upon the British Government to exercise greater urgency and flexibility in finding a humanitarian resolution.●

THE THATCHER-REAGAN EXPERIMENT

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. HAWKINS. Mr. Speaker, the Reagan administration has been chastised from many corners for basing its economic policy on unproven theories, hoping for never before achieved results. However, students of foreign economies note that many of the poli-

cies this administration proposes to implement in the United States have already been tested and proven to be unmitigated disasters in the United Kingdom. I fully endorse strong and positive relations with our great ally, Britain. However, good foreign relations need not mean imitating poor economic policy.

I have enclosed Bill Callaghan's article from the June 13 issue of the AFL-CIO News on the Thatcher-Reagan "experiment":

THE THATCHER EXPERIMENT—REAGAN-STYLE ECONOMIC POLICY TILTS BRITAIN INTO DEEPER SKID

Much of the U.S. economic plan unveiled by President Reagan in early 1981 has a familiar ring to British ears because Prime Minister Margeret Thatcher has pursued much the same course in England in the last two years. In those two years, output has slumped, unemployment has doubled and inflation is still above what it was when Mrs. Thatcher took office and set out to correct an inflation rate of less than 10 percent.

Unemployment has not spared any segment of the United Kingdom. In every region, including the previously prosperous Southeast and West Midlands, registered unemployment far outstrips registered vacancies. No matter how mobile British workers and their families are, they will find it difficult to get a job in any region they move to.

The irony of the policies pursued by the United Kingdom over the past two years is that they have actually made inflation higher rather than lower.

The simple fact is that the United Kingdom Government has deflated the economy. The Government was pinning all it hopes on the new incentives it thought it was creating by the cuts in income tax. Like President Reagan, Mrs. Thatcher seems to believe in the "Laffer" curve. Unfortunately for both of them, no evidence has been proved to show this curve exists.

Big business in Britain was clamoring before the 1979 election for cuts in income tax rates. They were duly rewarded when the first budget introduced by the Conservative Government slashed income tax rates, particularly for those on high incomes.

For most ordinary people the income tax cuts were more than offset by a near doubling of the UK sales tax (value added tax) and the the cuts in public expenditure. But the people lucky enough to earn 50,000 pounds (or $110,000) a year, top managers and executives, were given a 50 percent increase in their take-home pay. But these tax cuts did not make them work harder or put new life into the economy because of the added incentives. And the overall economic environment is so harmful and interest rates so high that there is little room for private initiative or enterprise.

A central element of Mrs. Thatcher's policy has been to pursue tight money and high interest rates. The monetarist argument is full of flaws. First, it is quite clear that there is no strong causal link between increases in the money supply and increases in the rate of inflation. All the monetarists can say is that there is an impact of changes in the money supply on inflation after a * * *.

Unfortunately no one can agree how long that time lag is: some say 18 months; some say two years; and some say five years. This is hardly the basis for a well-worked out policy of economic management.

Secondly, there is no proven connection between changes in the budget balance and changes in the money supply. In Britain, debate has centered on the public sector deficit known as the public sector borrowing requirement (PSBR). Despite the lack of any proven connection between the PSBR and the money supply, the main attention given by this Government has been to reducing the PSBR. But it has failed, and it has failed miserably.

The U.K. Government has made clear its determination not to change from its course, but the reality is that in certain areas the Government has been forced to modify and sometimes change its plans.

Recently it has been forced to provide extra financing for the coal and steel industries, as part of a belated recognition that these two core sectors cannot be left to the whims of market forces. Forcing short-term financial viability on these industries can in fact mean long-run decline.

These belated signs of repentance are welcome, but they do not add up to a change of strategy. As it nears the end of its second year in office, the Thatcher Government has been forced to recognize some elements of political and economic reality—but a much more significant shift in policy will be necessary if the economy is going to be put on the road to recovery.

All Americans should study the British economic experiment. It is rather uncomfortable being inside the test tube, but outside observers should recognize the experiment has not been a success. Of course, some will always blame the failure on government not applying the monetarist discipline tightly enough.

Indeed, U.S. Professor Milton Friedman, one of Mrs. Thatcher's economic gurus, has already criticized the Bank of England for not applying the monetary screws even tighter. The cost to the British economy of the present policies has been enormous. The cost of an even tighter fiscal and monetary policy is beyond belief. Unemployment and bankruptcies would have been higher still. It's possible that government, in adopting such a draconian policy, might cure the disease of inflation, but in doing so kill the patient, the British economy.

Both the U.K. and U.S. economies have tremendous potential, which if properly harnessed can bring benefits to British and American workers, as well as workers in the less developed countries of the Third World. But if President Reagan is going to adopt Mrs. Thatcher's economic policies, then American workers are in for a rough ride.●

YURI FEDEROV—PRISONER OF CONSCIENCE

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. BEARD. Mr. Speaker, it is my privilege to support the cause of Soviet Jewry by participating in the call-to-conscience vigil. I write today in an effort to dramatize the plight of prisoners or any individuals being denied permission to emigrate from the Soviet Union because of their political or religious beliefs.

It has now been 11 years since the shocking Lenigrad hijacking trials of 1970. Since that time, all but two of the defendants have been released or exchanged for Soviet spies. One of the remaining prisoners is Yuri Federov, and it is in his behalf that I urge your help. Federov was first incarcerated in 1962 for anti-Soviet activities. Upon his release in 1967, he resigned himself to the futility of further political activity. However, it immediately became clear that he would continually be harassed by the KGB who followed him everywhere. In desperation, he decided to do whatever he must to escape from Soviet persecution. An opportunity arose when he learned of the plan of several Jews to obtain a plane and fly out of the country.

Prisoners of Conscience are not just Jews wishing to escape religious and political persecution, but are also thousands of oppressed Soviet citizens who desire to emigrate for any reason. Yuri Federov is not Jewish, yet, he is indicative of the official repressive attitude toward emigration.

Eleven years ago Federov was sentenced to 15 years confinement to the strict regime labor camps of Perm in the Ural Mountains for his participation at the Smolny Airport attempt to board an empty aircraft and fly it across the border. Since that time, his health has deteriorated and medical attention has been refused. His mail has been confiscated and food parcels have mysteriously disappeared. He suffers from severe illness and his family fears that he will not survive the duration of his term without proper medical care for chronic kidney damage and an ulcer. These ailments are aggravated by the heavy and dangerous work required of all prisoners.

In failing health, Yuri Federov still faces 4 more years of his 15-year sentence. His personal conduct during the lenghty pretrial interrogation and trial suggests the great sacrifices that Soviet citizens are willing to make in order to secure what we in the West so highly value—freedom of movement and ideological expression. Despite constant threats and intimidation, he refused to provide any evidence for the prosecution of his codefendants. During the trial, Federov made a personal plea for mercy for other dissidents facing a death sentence.

The struggle for human dignity and basic freedoms continues in the Soviet Union. Yuri Federov is but one example of the passion with which Soviet Prisoners of Conscience sustain their desire for liberty. We cannot ignore their ordeal; we must not stop our support for their stamina and unrelentless courage. It is vital that we continue our pressure on the leaders of the Soviet Union to cease the oppression that thousands of Soviet Jews and other dissidents are forced to endure. I

call on those leaders to release Yuri Federov.●

THE ERODING EXEMPTION

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. LaFALCE. Mr. Speaker, as the Congress approaches the tax-cutting exercise, it should carefully consider how to cut taxes in a fair and equitable manner. Lost in all of the debate over how to cut taxes has been mention of the personal exemption, despite the fact that the personal exemption affects each and every taxpayer.

I believe that more attention must be paid to the personal exemption, because its value has been steadily eroding over the years. Thirty-five years ago, the personal exemption was $500; today, it is $1,000. Yet, the general price level has more than quadrupled during those 35 years, which means that the real value of the personal exemption has been reduced by 50 percent for all taxpayers. In fact, the present $1,000 level is exactly the same dollar amount for this exemption as prevailed from 1932 to 1939. If the personal exemption had been indexed since it was last raised in 1978, it would stand at $1,290, approximately, which further demonstrates that there has been considerable erosion in the value of this exemption.

I want to commend to the attention of all my colleagues a quite insightful and well-written article from the June 15 edition of Newsweek, entitled "$1,000 is Chicken Feed." The author is Alan L. Feld, a professor at Boston University School of Law. The article explores the inequities in the current level of the exemption and is a compelling argument for increasing the level of the exemption.

The article follows:

[From Newsweek, June 15, 1981]

$1,000 Is Chicken Feed

(By Alan L. Feld)

On April 14, as I labored over the Federal income-tax return, my youngest son asked, "How much does the government allow for me?"

"$1,000," I said.

"I'm worth more than that," he answered.

I agreed. Then I explained that the personal exemption for each child was supposed to cover the basic cost of supporting him. I added that he and his brothers certainly cost more than that in a year. Grateful for the distraction from Form 1040, I wondered how far the personal exemption would go in reality.

The annual $1,000 amount comes to almost $2.74 a day ($2.73 in leap years). How little can I spend to provide one child three meals a day, I wondered. Start with breakfast. A 6-ounce glass of orange juice costs about a dime, an ounce and a half of cold cereal about 7 and a half cents and 8 ounces of milk another 12 cents. Total, 29 and a half cents. Not a bad start. Lunch at school, a bargain at 85 cents. Today's menu provides macaroni and cheese, salad, milk and cake. Dinner is trickier. A quarter pound of hamburger meat, a bun and 5 ounces of a green vegetable cost about 90 cents (throwing in the ketchup for nothing). Add 15 cents if we begin with some canned soup. A fresh fruit for dessert adds another 15 cents. Total, $1.20 for dinner. Not bad, but I have only about 38 cents a day left to cover clothes, shelter, car pooling and other costs.

Support: The same exemption amount also covers each adult member of the family. The 38-cent margin begins to disappear if we add two cups of coffee to the menu. Also, I don't qualify for the school lunch. Either my budget is extravagant or Congress doesn't understand what a taxpayer has to spend to support himself and a dependent.

It was not always thus. Inflation and inattention have taken their toll. In 1939, at the end of the Great Depression, the personal exemption for a single person stood at its present dollar level, $1,000. A married couple got a $2,500 exemption, with small additional amounts for dependents. Those were princely sums, given the low prices by today's standards: bacon cost 32 cents a pound, 10 pounds of potatoes cost 25 cents and a dozen oranges went for 29 cents. In those days the income tax reached only disposable income. To help finance the World War II military effort, more revenue was needed from income tax, so the personal exemption was cut. By 1945 it stood at $500 per person. That amount covered a good deal more than $1,000 does today. Inflation has pushed the general consumer price index up more than fourfold since the end of World War II.

For autumn 1979 the Labor Department estimated a "low" urban budget for a family of four for a year at $12,585. The tax code allots such a family four personal exemptions—$4,000—presumably covering necessities. It adds another $3,400 for the zero bracket amount, the old standard deduction, in lieu of itemized deductions for medical expenses, interest, taxes and charitable contributions. The total of $7,400 is about 60 per cent of the low 1979 budget. Inflation since 1979 has pushed the percentage covered by the tax allowance even lower.

The Federal Government is not so tightfisted in dealing with personal living costs that arise in some contexts.

For business travel, it allows its employees up to $50 a day for food and lodging. In the private sector, a businessman can deduct far larger sums to set a table conducive to business discussion, including places for spouses. The perennial efforts to limit deductibility of expensive dining related to business have suffered consistent defeat. Congress has bowed to the argument that tens of thousands of jobs in the hotel and restaurant industries would disappear if it restricted deductibility. As a result, the legislators have avoided major changes and tinkered with details: corporations no longer can deduct the cost of maintaining a hunting lodge for business entertainment but may deduct the lodge's day-rental cost.

Budget: Congress is considering major income-tax changes. It could increase the personal exemption to a more realistic level. But this kind of tax change attracts little attention, as compared, for example, with exempting the first $50,000 of earnings for American citizens working abroad in order to compensate for higher costs of living.

Why not compensate all Americans for the inflated cost of living in our own country? I do not think many Senators or Representatives have considered the unfairness of limiting the personal exemption to $2.74 a day per constituent. The budget for Washington living runs higher; and in some circles a $1,000 food allowance for a person is more a fortnightly than an annual allotment. When lobbyists and other Washington persuaders happily provide food and drink, their companies deduct the full cost as an ordinary and necessary expense of doing business.

Tax benefits to feed people properly, even luxuriously, are now enjoyed by some. We need to provide tax parity between pâté and macaroni with cheese.●

HONOR AMERICA

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. YOUNG of Florida. Mr. Speaker, the 205-year history of our great Nation is something all Americans are proud to celebrate, and on those days we set aside to do so, we join as one to thank our countrymen who went before us and had a hand in making the United States what it is today.

Two of our patriotic holidays are celebrated within 3 weeks of each other. June 14, has been set aside to honor the symbol of our Nation, the American flag. And on July 4, we join together to thank our forefathers for setting our Nation free from British rule.

My constituents in St. Petersburg, Fla., have found a unique way to tie these two great celebrations together. By a proclamation of the city of St. Petersburg, the 21 days between Flag Day and Independence Day have been set aside to honor America. Each of us should join my constituents in honoring America during this period. While we should be thankful every day for what our country stands for, we should be especially thankful during these 3 weeks when we recount our rich heritage.

For the information of my colleagues and all Americans, I would like to enter the proclamation of the city of St. Petersburg into the Record.

Proclamation—City of St. Petersburg

Whereas the fervent outpouring of emotion by the American people is usually associated with the waving of the Flag; and

Whereas it has been stated that the American Flag represents all facets of our country. What is good and also what needs to be changed; and

Whereas it belongs to all groups, not only to maturity, but also to youth; and

Whereas it symbolizes both the inalienable rights of each individual and his equally inalienable responsibilities; and

Whereas the history of our flag and its development is a dramatic part of our heritage; and

Whereas to focus attention of the American people on their country's character and heritage; Now, therefore, be it

Resolved, That I, Corinne Freeman, Mayor of the City of St. Petersburg, Florida, do hereby proclaim the twenty-one days, Flag Day through Independence Day, as a period to honor America in St. Petersburg, and that there be public gatherings and activities at which the people can celebrate and honor their country in an appropriate manner.

In witness whereof, I have hereunto set my hand and caused the Seal of the City of St. Petersburg, County of Pinellas and State of Florida to be affixed this 14th day of June, 1981.

CORINNE FREEMAN,
Mayor.●

ECONOMIC WARFARE ORGANIZED AGAINST SOUTHERN AFRICA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. McDONALD. Mr. Speaker, at the same time as leaders of the two Soviet-dominated revolutionary terrorist movements in Southern Africa, the African National Congress (ANC) and the South West Africa People's Organization (SWAPO) tour the United States to give impetus and direction to compaigns to influence U.S. public opinion and foreign policy the U.S. activists who arranged the ANC/SWAPO tour last week have kicked off an intensified economic warfare campaign to help weaken the terrorists' targets.

In a press release, the purpose of the conference was described as initiating a "legislative campaign in the United States against public investment in South Africa," by bringing together "two dozen State and municipal representatives with trade union, civil rights, church and community organizations who form the backbone of local coalitions pressing for divestment action."

A significant number of the activists and the State and municipal officials have been active with the National Conference for Alternative State and Local Public Policies (NCASLPP), a project initiated by the Marxist Institute for Policy Studies (IPS) to influence public policies.

With support from the United Nations Special Committee Against Apartheid, nine groups playing leadership roles in coordinating in the United States a campaign of economic warfare against South Africa and South West Africa held a "conference on public investment and South Africa" in the Dag Hammarskjold Auditorium of the United Nations on June 12-13, 1981.

The conference was called by the Campaign Against Investment in South Africa whose eight members include the American Committee on Africa (ACOA), Transafrica, American Friends Service Committee (AFSC), Washington Office on Africa (WOA), Clergy and Laity Concerned (CALC), Interfaith Center on Corporate Responsibility (ICCR), Connecticut Anti-Apartheid for the United Nations which hosted part of the conference, and the parallel coalition, the Campaign to Oppose Bank Loans to South Africa (COBLSA) based in ACOA's offices.

The purpose of the conference was to coordinate efforts by progressive State and local legislators to pass statutes banning investment of State funds and pension funds in any businesses doing business with South Africa or South West Africa, or from placing public funds in any bank making loans to South Africa or to companies doing business there.

State Representative Albert Price of Beaumont, Tex., explained the process by which State legislators have been maneuvered into introducing such bills. He told the conference how he had been called by Randall Robinson's Transafrica which asked him to introduce disinvestment legislation already conveniently available.

Despite the fact that black South African labor and political leaders oppose economic sanctions and disinvestment programs because they would inflict massive suffering on black South African workers, and despite evidence that changing economic conditions in South Africa have brought progress in social areas, the support groups for the revolutionary terrorist movements, ANC and SWAPO, want the maximum economic stress to be experienced in South Africa.

Why do they want black people in South Africa and South West Africa to suffer although they claim to be trying to help them? Because, they say, good economic conditions assisted by foreign investment and jobs postpone the day of fundamental change. This is code for revolution.

To support their program of economic stress, ruin, and poverty for the people of southern Africa they say is to be "socially responsible"; but to support investment, expansion of industry, more skilled jobs, and better earnings for blacks accompanied by steady social progress they say is "social irresponsibility." George Orwell called it doublethink.

Oregon State Senator Bill McCoy expressed his gratification that the conference showed the two dozen State and local legislators assembled at the conference that they would have the backing of the United Nations Special Committee on Apartheid, the African-American Institute (AAI), and Transafrica as well as the other activist groups in their legislative efforts.

Opening events of the conference were held in the U.N. with chairman of the opening being Judge William Booth, president of ACOA. The keynote speaker was Ruth Messinger, a member of the New York City Council active with the National Conference for Alternative State and Local Public Policies (NCASLPP), a project of the Institute for Policy Studies (IPS). Georgia State Senator Julian Bond provided the keynote address and noted that in Atlanta last week, on the occasion of visits by African National Congress President Oliver Tambo and Moses Garoeb of SWAPO, southern activists held a conference targeted at forcing the Southern Company to end its purchases of low-sulfur South African coal. Bond said the economic campaign must "end U.S. complicity in perpetuation of the most vicious government on the face of the Earth."

A panel discussion followed with Michigan State Representative Perry Bullard, another NCASLPP veteran, describing Michigan State University's disinvestment decision in 1978 and a bill passed last year barring State funds from deposit in banks making loans to South Africa, to South African corporations, or to U.S. firms doing business there; Connecticut Anti-Apartheid Committee Chair Christy Hoffman; and John Harrington, political coordinator of the Service Employees International Union (SEIU) and a member of California Governor Jerry Brown's Taskforce on Public Investment.

The Saturday morning session was held at 777 U.N. Plaza in the Church Center for the U.N. Principal scheduled participants included James Farmer, executive director for the Coalition of American Public Employees (CAPE); Bill Lucy, secretary-treasurer of the American Federation of State, County, and Municipal Employees (AFSCME) and president of the Coalition of Black Trade Unionists (CBTU); and Robert J. Schwartz, vice-president of an investment counseling firm, Shearson, Loeb Rhoades, Inc.

Schwartz, an investment adviser to union pension funds and specialist in "socially responsible investment" advice, said the disinvestment of pension funds and public moneys must include assurances that other profitable investments can be made that will not damage the portfolio. This line of reasoning was not popular with the militant Marxists present. He maintained that union pension funds recognize that "socially responsible" investments exclude companies charged with violating Occupational Safety and Health Administration regulations, companies that cause pollution, companies with "anti-union" managements, and now any company doing business with South Africa.

New York State Assemblyman Albert Vann, chairman of the Black and Puerto Rican Caucus, said that because of New York's position as an international banking center, efforts to get the State assembly's banking committee to support regulations banning any loans by banks operating in that State to South West and South Africa were crucial.

Vann was supported by New York Assemblyman Roger Green who pointed out that the political base for such laws existed in that New York City's population now was 50 percent nonwhite and that organizers "had the benefit of direct contact with liberation movement representatives and liberation support groups."

Among those taking leadership roles in organizing what was termed a "legislative campaign in the United States against public investment in South Africa" and in bringing together "two dozen State and municipal representatives with trade union, civil rights, church and community organizations who form the backbone of local coalitions pressing for divestment action" were the following:

Randy Barber, director, Pension Investment and Control Issues (formerly with the People's Business Commission).

Ann Beaudry, program director, National Center for Economic Alternatives (NCEA).

Peggy Buchanan, Connecticut Anti-Apartheid Committee.

Carol Collins, coordinator, COBLSA.

Mark Harrison, human rights coordinator, Clergy and Laity Concerned (CALC).

Jerry Herman, director, Southern Africa Program, AFSC.

George Houser, retiring director, ACOA.

Jack Kittridge, Massachusetts Community Action.

Beata Klein, author, U.S. Bank Loans to South Africa.

Dumisi Kumalo, field representative, ACOA.

Edgar "Ted" Lockwood, WOA Education Fund.

James Madison, National Director for Political Action, NAACP.

James Mayes, Conference on Alternative State and Local Policies (CASLP).

Gail Morlan, research director, ACOA.

Randall Robinson, executive director, Transafrica.

Christine Root, Washington Office on Africa (WOA).

William Schweke, Conference on Alternative State and Local Policies (formerly the National Conference for Alternative State and Local Public Policies).

Jean Sindab, executive director, WOA.

Meg Skinner, Southern African Program Wisconsin AFSC.

Timothy Smith, executive director, ICCR.

Rober Walke, People for Southern Africa Freedom, Oregon.

Kim Zalent, Lutheran Coalition on South Africa.

Legislators participating included: Senator Jack Bachman, Massachusetts; Senator Julian Bond, Georgia; Representative Carolyn Moseby, Indiana; Senator Joe Neal, Nevada; Senator Allan Spear, Minnesota; Senator Ernest Chanbers, Nebraska; Representative Perry Bullard, Michigan; Representative Virgil Smith, Michigan; Representative Marcia Coggs, Wisconsin; Assemblyman Albert Vann, New York; Assemblyman Roger Green, New York; Representative Albert Price, Texas; Senator Bill McCoy, Oregon; and Assemblyman Herman Farrell, New York.●

AMERICA'S CENTURIONS ARE UNDER ATTACK

HON. JOHN LeBOUTILLIER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. LeBOUTILLIER. Mr. Speaker, although many Americans are justifiably concerned with the problems related to the economy, many more people are concerned with a more immediate and threatening problem—crime.

Virtually every recent survey and poll shows that people across the Nation are concerned and threatened by the rampant increase in crime. Robbery, burglary, assault, and a host of other criminal activities, have truly reached epidemic proportions.

Along with this onslaught of crime, the policeman on the beat has come under repeated, and increasingly violent attack. It would appear, Mr. Speaker, that respect for the law has for many, become a figure of speech. For the police officer, day-to-day existence has become a fight for life and death.

On June 7, 1981, the New York Daily News printed an article written by Mr. Frank Lombardi. The article is about Jack Beisel, a New York City police officer, who serves in the 111th precinct which is located in Bayside, N.Y.—part of the Sixth Congressional District which I represent.

Jack Beisel was lucky. Although wounded in the chest, during a recent shootout in a Brooklyn cafe, Jack Beisel soon returned to the job. His story follows this introduction.

What is more important, however, is the larger problem beyond the story of Jack Beisel. America is under seige by criminal forces who demonstrate no regard for even the most basic human rights. Our police forces deserve our support as they are truly the frontline forces in the worsening battle against crime.

The article follows:

JACK BEISEL LOOKS LIKE A COP, TALKS LIKE A COP, AND NEARLY DIED LIKE A COP

(By Frank Lombardi)

What happened to him could have happened to any of New York City's 23,000 police officers. Though his reactions may not represent the entire NYPD, they offer an insight into what it's like to be a cop today.

Beisel, 37, became a cop almost by whim. In 1966 he was living in Flatbush and working as a sales representative for the Campbell Soup Co. when, on the spur of the moment, he decided to take a "walk-in test" for the Police Department.

"They came around your neighborhood in those days and gave the test in schools and you could walk in off the street and take it," he recalls. "So I said, 'Why not give it a try?' And before you know it, it's 13 years later."

Like many rookies, Beisel loved the excitement of being a cop, the camaraderie, the every-day-brings-something-new aspect of a job that requires you to wear a badge and a gun and see the darker side of what people do to each other and themselves. But event by event, year by year, the disadvantages began to outweigh the pleasures.

"I have two sons and I'd break their legs before I'd let them come on the job," he says. "Not in this city; not at this time."

His paycheck—once a chief attraction of the NYPD—has withered under the fiscal crisis, inflation and the responsibility of a wife, four kids and a house in Suffolk County.

"I've had people tell me they're sick of cops complaining about their salaries. But after our last contract, after all the arguments and screaming, we ended up with $30 more in take-home pay every two weeks," he says. "I bring home $560 every two weeks. That's not a lot of money for risking getting killed."

For 11 years, Beisel fired his gun at nothing more menacing than paper targets at the range. That all changed on Labor Day, 1979, at 3:30 p.m.

Beisel and his partner, Bill Kilbride, assigned to the 83d Precinct in Brooklyn's Bushwick section, had been dispatched to check out a silent alarm going off at the Jefferson Cafe, a corner bar at 472 Wilson Ave.

With guns drawn as a precaution, the two cops tapped on the door and a black man came to the door window. The man, later identified as Ronald Fishon, a 32-year-old ex-con from Sing Sing, said he was cleaning up the place for the owner, who was "in the back." Once inside, the two cops were approached by a second man, wearing a holstered gun.

"He put his hands up," Beisel recalls, "and told us he was 'on the job,' a peace officer. He asked permission to reach into his pocket and slowly pulled out a correction officer's shield and ID card. He did everything right."

The correction officer, later identified as William Atkinson, 33, a state prison guard at Sing Sing, said he was a friend of the owner and helping out before the bar opened for the day. The two cops were about to leave, but Kilbride wanted to check with the owner.

Actually, the officers had interrupted a stickup, and owner Manuel Cruz had been

locked in the bathroom. "My partner was walking toward the back of the bar," Beisel recalls, "when the owner starts yelling, 'It's a robbery.' The fellow right next to me (Fishon) came up with a .38 and aimed it at my partner's back. I grabbed for it and missed. The gun came up underneath my arm and he shot me.

"I went down. The correction guard, thank God, ran out the front door. That left my partner and this other fellow that shot me. I was just lying there. My partner turned around and they had a gun battle. My partner hit the guy in the chest. He staggered, went out the door.

"We both ran after him. Outside, he fired again and we returned fire. By this time, my partner's gun was empty, I was empty. The guy rounded the corner and was out of sight. I grabbed my partner and said: 'Get me to the hospital, my chest is on fire.' "

Beisel was told later that Fishon, the ex-con, had collapsed behind some bushes in an empty lot around the corner from the bar. He had three bullets in him, two of them from Beisel's gun, but recovered. "To my surprise, people from the neighborhood stood there and pointed him out," Beisel says. "It was good of them, real good."

Fishon later pleaded guilty to charges of armed robbery and possession of weapons. Because of several prior convictions, he was declared a persistent violent felony offender (under a law that mandates a sentence of up to life imprisonment) and got 12½ years to life. Charges against Atkinson, his alleged accomplice, are pending.

Beisel says today's criminals don't think about punishment: "When I was a kid, and even when I became a cop, you never heard of policemen getting killed. Today you go to answer a burglar alarm and you better hope you don't get shot. Years ago, a burglar never carried a gun; he got caught, he gave up. He knew that was one of the minuses of his job. Not today. Today no one gives up. You tell someone to stop, they just keep going. Why should they stop? The bad guy out there has all the rights."

Beisel believes Fishon feared a life sentence if he was caught with a gun. "So he was like desperate. He knew this was it, he wasn't getting out of jail again. That's why we need the death penalty. Maybe guys would think twice before shooting a cop."

The bullet that was fired into the left side of Beisel's chest at point-blank range missed his vital organs, but he spent several months recuperating. A high police official visited him in the hospital and offered a transfer to a safer precinct. But Beisel returned to the 83d—and within weeks was involved in another shootout.

"We were looking for a car stolen at gunpoint in the next precinct, and passed it after a while. There were two men in it. We backed up and they saw us. One guy jumped out of the car. He popped a shot at us from 30 feet away. We ducked and fired one or two shots at him. He ran into a project and that was the end of it. Nobody was injured, nobody was captured, the car was recovered. That was it. That was also when I knew it was time to leave Brooklyn." Beisel contacted the official at headquarters and was transferred to the 111th Precinct in Bayside.

Compared to high-crime precincts, the 111th is a suburban haven where patrol cops spend most of their time responding to burglary complaints. But on Jan. 12, Beisel and his new partner, Augustus George, received an advisory that a young black man had just committed four different armed robberies in their vicinity.

"Almost like in the movies," Beisel says, "we put ourselves in a location where we thought this fellow might try to come by. It was a main intersection at Springfield Boulevard and the Long Island Expressway. And sure enough, five minutes later he drove right past us. There was a car chase. We rammed him; he rammed us. Finally, he crashed into a parked car."

The two cops, their guns drawn, ran up to the vehicle. "I saw a gun in his hand. When he started coming around with the gun and pointing, I knew just what I was going to do, or try to do."

The two cops fired 12 bullets into the car. Three of the bullets struck and mortally wounded Gary Williams, 19. He never got off a shot. When the cops pulled him out of the car, he was still clutching a loaded gun.

Williams was identified as the gunman who had robbed a liquor store, a delicatessen, a gas station and an ice cream parlor in Flushing, where he had pistol-whipped a young girl.

That fatal shooting occurred only a day after an off-duty cop, Robert Walsh, was slain "execution style" in Maspeth after trying to foil a holdup. The Walsh slaying had prompted police union chief Philip Caruso to issue a warning to cops to, essentially, shoot first and shoot to kill.

Beisel, who had known Walsh, says his brush with death some 17 months earlier had made him "much more aggressive" about using his gun in the Williams case. "In a situation like that, it's you against him. It's not the Police Department's policy, it's not Caruso's policy, it's nobody's policy. It's you against him. You do what you've got to do to survive.

"You don't shoot to kill; you just shoot to save yourself. If the person dies, well, so be it. I know that night I didn't want to kill anybody. I just wanted to save myself.

"Before I realized it, he was in the car, I was outside the window. He was pointing the gun at me. I pointed the gun at him. And I won.

"The thought of killing somebody doesn't come into your mind at a time like that. It's just self-preservation coming into your mind. If he'd just thrown that gun out of the car, that would have been the end of it."

Beisel says the fact that he is white and the slain youth black did not figure in it. "I guess it's a fact, there's no denying it, that blacks and Hispanics, for whatever reasons, commit a lot more violent crimes, stickups and stuff, than white people. And whites tend to commit white-collar crimes. I guess it's because of their stations in life, or whatever.

"I didn't care if that kid was white or purple. He had a gun. He didn't care what color I was. I was a police officer and that was it. Unfortunately, it does come down a lot that it's black against white. It just happens. There's more violent crime in the slums, and a lot of white policemen work there, so you're going to have white policemen shooting black kids.

"No one ever asks how come it's always black people shooting policemen, white cops and black. I'd bet 95% of the people who shoot policemen are minority people; so it works both ways."

The Police Department is supposed to conduct extensive investigations of serious shooting incidents. But Beisel says he wasn't "interviewed by anybody" after his three shootings, including the fatal one. "I don't know if that is good or bad. I can see why in the second shooting, where it was just a matter of firing the guns. But the first one was as bad as you can get, and the last one wasn't exactly nice. But I haven't been talked to by anybody."

Beisel says that his Brooklyn partner, Bill Kilbride, was "mentally down" for many months after the shooting in the bar. "He saw his best friend get shot. He spent weeks picking up my wife and taking her to the hospital to see me. It really hit him hard. Me, I was happy to be alive. To this day, nobody has offered him any help. That's why I'm so cynical about these department programs."

Beisel is equally disgruntled with the court system. He says: "The only people who have rights today are the criminals. Law-abiding people have no rights. If your house is burglarized and the burglar is caught, it's harder to get your property back than it is for him to get out in the streets again."●

ALCOHOL FUEL FINDINGS

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. TAUKE. Mr. Speaker, the Iowa Energy Policy Council recently completed an extensive study dealing with the development of alcohol fuels. Hearings were held all over the State to obtain testimony from expert witnesses and interested citizens.

The information accumulated at the hearings and from other sources was evaluated by the council to determine the impact of ethanol production on the following: food prices and market exports, the environment, energy balance, and rural communities.

The council's findings and its recommendations for alcohol production and utilization make a valuable contribution to the debate on the viability and potential growth of the alcohol fuels industry. For that reason, I insert them in the RECORD.

ALCOHOL FUELS POLICY REVIEW: FINDINGS

The development of an alcohol fuels industry has been a hotly debated topic recently. Claims which seem to contradict have been made on nearly every issue. The EPC has gathered information from a variety of experts, including experts testifying at the public hearing in Des Moines and individuals around the state interested in alcohol production. The issues have been identified; claims made by proponents and those who envision problems with alcohol production have been scrutinized. It has become apparent that the impacts of fuel alcohol production and utilization will depend entirely upon the development of the industry.

FOOD IMPACTS

It is unclear what impacts alcohol production from grain will have on food prices and export markets; some researchers report alcohol production levels over a couple billion gallons a year from grain could significantly increase food prices and could actually increase our trade deficit. Data supporting these views will not be in until more is known about export markets for by-products, and the change in human and livestock

diets with the availability of a high-protein by-product is documented. For this reason, it may be prudent to rely on cellulosic feedstocks for production levels above a few billion gallons per year.

ENVIRONMENTAL IMPACTS

If high levels of production are grain based, over-intensive row cropping on marginal lands will increase erosion. However, if cellulosic feedstocks can be profitable to a farmer, there will be significant incentive to plant forage and cover crops which reduce erosion and improve soil productivity. (Care must also be taken to ensure crop residues which also protect the land are not overharvested). In addition, increased profitability resulting from better grain prices should allow farmers to increase all soil conservation efforts.

Ethanol is potentially a cleaner-burning fuel than gasoline. However, emissions which are not a problem with petroleum-burning engines will need to be controlled.

ENERGY BALANCE

Modern fuel alcohol plants will have a positive energy balance. Displacement of oil imports will be maximized when non-petroleum and non-natural gas energy sources fuel the process. Technological breakthroughs in incorporating solar, eliminating distillation, and using "waste" feedstocks will further improve the balance and reduce costs.

ECONOMICS

Alcohol now enjoys a substantial tax-forgiveness. However, escalating oil prices may soon make alcohol a competitive fuel without subsidy if vehicles are available to utilize the fuels efficiently. In addition, conventional fuels still receive hefty subsidies from the federal government; thus, it is not unreasonable that alcohol receive market entry assistance via tax exemptions.

Projections for the price of other synfuels may be overly optimistic; these large capital-intensive projects tend to far exceed original estimates, and cost projections are continually escalating. The development of Iowa's biomass resources will also reduce exports for oil while providing jobs and more economic activity in Iowa.

SOCIAL IMPACTS

Rural communities are on the decline. Co-op sized alcohol plants will provide jobs and demands for other products in rural communities, stimulating local economies. A decentralized industry will also somewhat insulate transportation from the effects of localized disruptions or single plant close-downs.

LONG-TERM FEASIBILITY

Sufficient biomass could be available to provide ethanol for all transportation needs; nearly every state could have feedstocks for ethanol production. Vehicles designed to run on ethanol will be needed to use large amounts of ethanol efficiently. The technology is available to produce ethanol-powered cars at approximately the same cost as conventional vehicles. However, the market must be able to support 100,000 cars before automobile manufacturers will commit a line to production.

Thus, it appears any potential problems which could be encountered in the development of an alcohol fuels industry can be thwarted if the development is prudently directed. In addition, many positive economic and environmental benefits could accrue to Iowa from an alcohol industry; this, however, would not be the case for other synfuels.

The development of synfuels as an answer to our transportation fuel problems has become a highly visible banner lately. Energy Security Act funds for biomass energy have been marked for total rescission while $17 billion in financial assistance for other synthetic fuels has been left intact. One of the forces behind the push for these synfuels has been major oil companies which own substantial coal reserves and shale oil deposits used as synfuels feedstock. The economic, environmental, and social impacts of synthetic fuels development have not been widely publicized as have the potential impacts of ethanol production. Until the pros and cons of synfuels development have been measured against the pros and cons of other alternative fuels, it does not appear reasonable to commit the nation to a massive synfuels program by helping finance these ventures with public funds; funds which, for the most part, will be awarded to integrated energy corporations with sufficient resources to privately finance projects.

The acceptance of alcohol fuels as a viable transportation fuel will depend on actions taken before synfuels projects come on line to incorporate alcohol into the transportation system. It will be an uphill battle against highly organized forces with much greater financial backing. Iowa and other energy-poor states must begin now to make environmentally-benign, economically-enriching alcohol an important contributor to our fuel needs.

Recommendations approved by the Energy Policy Council to guide the development and utilization of alcohol fuels follows. A more detailed analysis of alcohol issues, which forms the basis for these findings and recommendations, is attached as an appendix.

RECOMMENDATIONS FOR ALCOHOL PRODUCTION AND UTILIZATION

1. USDA should review the impacts of corn-based alcohol production when cornethanol production reaches 1 billion gallons per year. It is unclear at this point what adjustments in the food, feed and export markets can and will be made to utilize the by-product. Once more is known about substituting alcohol by-products for corn products in human and livestock diets and what corresponding increases in other food and feed demand will need to be met, an informed decision can be made on the impacts of corn-based production.

2. Biomass alcohol projects incorporating high-risk technologies should receive financial assistance from the Synthetic Fuels Corporation. The Synthetic Fuels Corporation exists to provide financial assistance for the commercialization of projects which will synthesize fuel from coal, oil shale, and tar sands. These processes have not been widely commercialized and are considered to be a high-risk investment. Government loan guarantees, price supports, and purchase agreements reduce this risk to investors. Financial assistance for biomass-to-alcohol projects has been recommended for rescission because cornethanol and distillation technologies were not perceived to be high-risk ventures. However, technologies to produce ethanol from cellulose or to reduce energy inputs, which offer potential in reducing production costs, are also undemonstrated and are perceived as high-risk investments. As such, a portion of the $17 billion Synthetic Fuels Corporation funds should be earmarked for high-risk biomass-to-alcohol projects.

3. The agricultural community should receive reliable information from a common source on alcohol feedstocks, by-product utilization, and alcohol production and utilization. This new use for an agricultural commodity provides new opportunities for farmers. They will need good information on how to incorporate the new alcohol industry into their long-term plans, including new feedstocks available, the use of cover crops for soil conservation and as feedstock for alcohol production, reducing on-farm energy consumption, safe residue removal rates for their land, new balanced feed formulas for livestock, and reports on available alcohol production and utilization technology. Iowa State University has traditionally been the information base for Iowa farmers. The expertise and advice they provide farmers should be expanded to include alcohol and by-product production and utilization.

4. Alcohol projects capable of using a variety of feedstocks should be encouraged and given priority in financial assistance programs. Reliance on a single feedstock for alcohol production may cause competition between alcohol use and other historic uses, driving up costs and moving the feedstock out of its normal markets. Over-reliance on a single feedstock is most dangerous for those feedstocks with competing food uses. Thus, plants which can use a variety of starch or cellulosic feedstocks should be given priority in assistance programs to help reduce the higher capital-cost for those facilities.

5. Encourage the use of Iowa coal or renewable energy sources to power efficient alcohol plants. Large facilities still look to out-of-state energy sources to fuel plants—western, low sulfur coal, oil, and natural gas. Fluidized-bed combustion can burn Iowa coal and biomass in an environmentally-acceptable manner; residue burners are also available for biomass utilization. In addition, various means of eliminating distillation and incorporating solar into the production process are under review. Those technologies which are found to be economically feasible should also be given priority in commercial demonstration projects.

6. Information on how to use alcohol fuels (such as gasohol) should be made available. Gasohol has been on the Iowa market for 2½ years. However, many consumers are leery of using gasohol. Adverse publicity in a relatively few instances where gasohol has resulted in some problems (mainly fuel filter plugging) have not been countered by a user's positive experience with the fuel. An information campaign, detailing what problems could occur using the fuel, the incidence of these problems, cost of correcting them, etc., should be instituted to alleviate fears of using a relatively new fuel and better acquaint the public with the premium qualities of gasohol. The Iowa Development Commission has been given the responsibility of promoting alcohol fuels and would be the most appropriate agency to embark upon such a campaign.

7. All scales of production which are efficient should be encouraged. A variety of economies of scale exist—large plants can take advantage of production efficiencies, such as automation and lower overhead per volume output, while smaller plants have reduced transportation costs for feedstocks, alcohol, and by-product. The smaller plants fils well into the co-op structure, processing a feed and providing a fuel, and will help revitalize rural communities. The larger plants, located in more urbanized areas, can give local economies a boost, providing jobs for an under-utilized work force, adding tax revenues, and providing a demand for corn in markets where demand is soft.

To encourage the more widespread use of alcohol fuels—

8. States with an interest in biomass-ethanol production should caucus to investigate and demonstrate ethanol production and utilization. Iowa should attempt to organize states with an interest in biomass-ethanol production to pool expertise and research results, and to coordinate further investigation of alcohol production and utilization. Such a group could represent the market demand necessary to spur production and allow engine manufacturers to commit to a line of alcohol engines. (Motor vehicle manufacturers indicate 50,000 to 100,000 vehicle purchases would have to be committed to produce alcohol vehicles for a price similar to gasoline vehicles). The consortium could also investigate alcohol issues and would be effective in promoting ethanol/related legislation on the national level.

9. A state agency should begin testing the use of hydrous alcohol in specially-equipped vehicles. Production of 190 proof ethanol is less expensive and requires less energy than the production of the anhydrous alcohol needed for mixing with gasoline; vehicles designed to run on ethanol also offer greater thermal efficiency than gasoline-powered vehicles. Alcohol-powered vehicles are now operating in Brazil; an Alabama-based firm is importing these vehicles for fleet tests in America. In addition, innovators are also working on using alcohol in existing vehicles using different carburetion systems. Pate-Hanson of Elgin, Illinois is reportedly testing an alcohol-vaporization kit with the Illinois Department of Agriculture. The inventors claim fuel efficiencies of 60 to 70 mpg using 130 to 140 proof alcohol. The use of hydrous alcohol in specially-designed and conventional vehicles should be investigated with an eye toward the economics of converting a portion of the state vehicle fleet to hydrous-alcohol operation. (See following page for possible economics of alcohol purchases by the state).

10. Petroleum product marketers should be encouraged to offer straight alcohol. Utilization of lower proof alcohol will never be extensive unless the product is available away from the vehicle's base. Should the state vehicle fleet be converted to hydrous alcohol operation, arrangements could be made to limit state purchases to marketers selling 190 proof alcohol as incentive to market the hydrous product.

11. Provisions should be made to protect consumers buying alcohol products or purchasing equipment to produce alcohol. ASTM standards have been developed for motor fuel products sold in the state to ensure consistency. Similar standards should be developed for anhydrous alcohol for use in gasoline, and for lower proof alcohol to ensure quality. In addition, small-scale production equipment should be certified to provide consumers reliable information on performance characteristics. ISU has provided farmers tests performed on various agricultural products on the market; appropriations should be made to allow ISU to expand its work to include testing alcohol production equipment.

12. Schemes for utilizing alcohol on-farm should continue to be investigated. Concern for assured fuel supplies for farmers helped spur interest in alcohol production; energy-independence for agricultural communities should not be ignored. The EPC has sponsored research on the use of ethanol in diesel engines with discouraging preliminary results. However, chemical additives to ethanol show great promise in modifying the fuel for use in existing vehicles. In addition, prototype tractors developed to run on ethanol should be tested and demonstrated. These more promising developments should be pursued.

13. The use of ethanol for heating applications should be investigated. The use of ethanol in transportation vehicles has been widely explored. Ethanol, however, can also be used for heating, supplying a stable domestic energy source for residents now burning fuel oil. Little work has been done to assess the feasibility of ethanol as a replacement for fuel oil in heating; DOE has recently granted some appropriate technology awards to individuals who are investigating this use of ethanol. Their work, as well as assessments from furnace manufacturers, should be collected and reviewed to determine the potential for ethanol in heating applications.

14. A comparative analysis of all synfuels should be conducted to determine relative economic, environmental, and social impacts. Realistic costs and projections for all alternative fuels should be examined more closely to determine the total cost to society for each synfuel. The analysis should include cost estimates based on current market conditions, should acknowledge potential feedstock variations, and should attempt to derive the scenario with most positive impacts for each synthetic fuel likely to be commercialized.●

SMALL BUSINESS TAX RELIEF ACT OF 1981

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. MITCHELL of Maryland. Mr. Speaker, I am today introducing legislation that will provide tax relief for small business. Our country needs tax incentives for small businesses, because of the important contribution that small businesses make to our economy in terms of employment and income. A recent study indicated that in the area of employment, small businesses with less than 20 employees were responsible for over 66 percent of all new jobs created during the period of 1969 through 1976. Moreover, small businesses with less than 1,000 employees during this same period were responsible for the creation of "new industrial products and processes." Thus, small businesses have made significant contributions to our economy in the areas of employment and the development of innovative business products and processes.

In the past, the Committee on Small Business held several hearings on small business issues and most of those hearings indicated that small businesses carry a disproportionate share of the tax burden. Further, as a result of those hearings several specific tax proposals were developed. Many of these tax proposals were considered by the delegates to the White House Conference on Small Business.

In a time of rising unemployment, high interest rates, and inflation we should give special consideration to the problems of the small business community. It is essential that we recognize that a disproportionate share of the tax burden is carried by the small business community. It is for these reasons that I am introducing legislation which will address the following areas:

First, I propose to reduce corporate tax rates.

Second, I propose to increase the amount of investment tax credit available for eligible used equipment and machinery.

Third, I propose to increase the allowable number of shareholders in a subchapter S corporation from 15 to 25.

Fourth, I propose to increase the estate tax exemption from $175,000 to $300,000 and to raise the gift tax exclusion from $3,000 per year to $10,000 per year.

I have introduced this legislation because of my concern about the Reagan administration's tax proposals. I believe that the administration's tax proposals do not address the broader needs of the small business community. For example, the administration's tax proposals are supposed to contain provisions that provide tax relief to businesses. However, the Reagan administration fails to recognize the disproportionate tax burden that the present corporate tax rate structure imposes on small businesses that conduct business in the form of a corporation.

Although a significant number of small businesses conduct business in the form of a partnership or sole proprietorship, there are also a large number of small businesses that use the corporate structure. Thus, the reduction of the corporate tax rates will benefit a significant number of these small firms. Moreover, by further graduation of the corporate tax rates, these small firms will obtain some additional tax relief.

Another flaw in the administration's tax proposals is in the area of investment tax credit for the purchase of used equipment and machinery. Many small businesses cannot afford to purchase new equipment and machinery and are thus forced to maintain a viable business with used equipment or machinery. This problem is compounded by the current limit of $100,000 on the amount of used equipment and machinery eligible for the investment tax credit. My legislation increasing the limit from $100,000 to $300,000 on the amount of used equipment and machinery eligible for investment tax credit will benefit those small businesses that traditionally purchase used capital equipment.

I believe that the present Federal estate and gift provisions contained in the Internal Revenue Code inhibit the transfer of a family held small business from one generation to the next generation. As such, my legislation by increasing the estate tax exemption from $175,000 to $300,000 will provide relief for family held small businesses. Moreover, I have included in this legislation a provision to increase the gift tax exemption from $3,000 per year to $10,000 per year.

The major provisions of the bill are as follows:

Corporate tax rate reduction.—This provision would expand the graduated corporate tax structure by increasing the surtax exemption from $100,000 to $150,000 for 1981 and $200,000 for 1982. Further, it would reduce the rate of the present 17 to 15 percent on the first $25,000 of income. It also reduces the tax rate of the present 25 to 17 percent on income between $25,000 and $50,000 tax bracket. It further graduates the rate structures by reducing the tax rate of the present 30 to 25 percent on income between $50,000 to $75,000. It reduces the tax rate of the present 46 to 35 percent of income between $100,000 to $150,000. Further, it would extend the 40-percent rate currently $75,000 to $100,000 to an extended $100,000 to $150,000. Finally, it would reduce the maximum rate on corporate income from 46 to 45 percent.

Subchapter S corporations.—This provision would increase the maximum number of allowable shareholders in a subchapter S corporation from 15 to 25.

Used property eligible for the investment tax credit.—This provision would increase the amount of used equipment eligible for the investment tax credit and allow a carryover of any unused investment tax credit.

Estate and gift tax.—This provision would create a $300,000 exclusion from the gross estate rather than the current credit system. It provides a 10-percent rate reduction for estate taxes and raises the gift tax exclusion from $3,000 per year to $10,000 per year.

I trust this legislation will receive the early and favorable attention of the Congress.●

LET'S FIND OUT THE TRUTH ABOUT EL SALVADOR

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. WEBER of Minnesota. Mr. Speaker, I would ask my colleagues to read this article from the Washington Post of June 9, 1981. It describes some problems with the white paper released by the Department of State on the insurgent movement in El Salvador. It is quite interesting reading.

I believe that the State Department should present Congress with a complete explanation as to why they erred in their presentation of the situation in El Salvador, and what, if any, implications this has for the conduct of American foreign policy in this area. Our policy decisions on El Salvador are suspect both at home and abroad if they are derived from information which is misleading or inconsistent. As a supporter of the President's position on this matter, I would like to see the facts presented as objectively and conclusively as possible, and I will certainly look forward to having these questions settled.

[From the Washington Post, June 9, 1981]

WHITE PAPER ON EL SALVADOR IS FAULTY

(By Robert G. Kaiser)

The State Department's white paper on El Salvador, published in February, contains factual errors, misleading statements and unresolved ambiguities that raise questions about the administration's interpretation of participation by communist countries in the Salvadoran civil war.

The white paper was the first significant initiative from the Reagan administration in the field of foreign policy.

The document, and the supporting evidence described as "incontrovertible," were taken by administration emissaries to many countries of the world last winter.

When the white paper was published, the major news media tended to accept the document at face value, but it has subsequently been challenged in several analyses, primarily by individuals and journals critical of American policy in El Salvador. Yesterday, The Wall Street Journal added its reservations in a front-page story that said the white paper was flawed by errors and guesses.

The Journal's article prompted a statement from the State Department yesterday defending "the conclusions of the white paper," without replying to specific criticisms.

The Washington Post has been conducting its own inquiry into the white paper and the captured documents on which it was based. The inquiry was initiated to determine whether the evidence released by the State Department actually supported the department's sweeping conclusions.

This was a textual analysis, not an attempt to determine the extent of communist involvement in El Salvador, which cannot be determined from Washington.

The Post's inquiry indicates that on several major points, the documents do not support conclusions drawn from them by the administration. On other points the documents are much more ambiguous than the white paper suggested. Many of the documents contain no identifying markings whatsoever, though the State Department gives them concrete identifications.

In one key document, the State Department dropped a sentence from its translation into English, which undermines the department's characterization of the document.

The documents released by the State Department were only a small portion of the total found in two "caches." Both were found by police in San Salvador, one in November behind an art gallery, the second in January behind a false wall in a grocery store. Other documents from the same sources made available to The Post by the State Department actually contradict or differ substantially from the picture of the Salvadoran insurgency that is painted in the white paper.

Some of the broad conclusions in the white paper were simply not supported by the documents released with it. For example, the white paper made a much-publicized accusation that nearly 200 tons of arms had been delivered covertly to El Salvador, mostly through Cuba and Nicaragua. There is no concrete evidence to support this claim in any of the documents released with the white paper.

Some critics have charged that the documents were forged, but their evidence is essentially circumstantial, and the documents carry such meager identification that it would be hard to say just what had been forged if they were made up. The inconsistencies between the documents and the white paper do not prove that the white paper's conclusions are wrong, but they do raise question about those conclusions and how they were reached.

The most substantial of the documents published with the white paper was a partial account of a trip purportedly taken by Shafik Handal, secretary general of the small Salvadoran Communist Party, which is part of the front of opposition groups now backing the guerrillas in the civil war.

Last summer, according to the document, Handal visited Moscow, Hanoi, the major East European capitals, Addis Ababa and Havana. The purpose of his trip was to line up donations of arms and equipment for the Salvadoran rebels, according to the captured document.

In the book of documents the State Department released with its white paper, this one was described as an "excerpt of report on trip to the socialist countries . . ." by Handal. The document carries no identification of any kind, nor any signature, but its contents do describe a trip taken by an unnamed "comrade" who was apparently seeking military aid for the Salvadoran rebels.

The white paper, in summarizing this document, makes it appear that Handal wrote it. In the book of documents released with the white paper, this document is not attributed to any specific author. A quick reading might suggest that it was produced by someone close to Handal in the Salvadoran communist party. But the one sentence in the Spanish original (also released by State), which the department dropped in its English translation of the document, seems to confirm numerous other hints within the document that it was written by a Cuban.

The dropped sentence comes at the end of a paragraph describing what is purported to be Handal's visit to Ethiopia last July. The document says the Ethiopians promised to contribute arms to the Salvadoran rebels, listing types of weapons. The last sentence says that this cargo of arms "will leave in our ship the fifth of August."

Since the Salvadoran rebels have no Navy of their own, it is unlikely that this was written by Handal or one of his associates. The State Department indirectly acknowledges that the document in question was written in Havana by translating its many references to "here" as meaning Cuba.

If this was a Cuban report on Handal's trip, why was it found in a cache of rebel documents in Salvador? This would seem to be a significant point, but the State Depart-

ment ignored all questions about the origins of this untitled, unsigned document.

The white paper makes Handal's trip around the Soviet bloc, Vietnam and Ethiopia sound like an idyllic journey on which the traveler always got what he wanted (mostly arms, uniforms and equipment). Summarizing this document, the white paper recounts Handal's two visits to Moscow, one in early June and the other in late July. As the white paper notes, on the second visit Handal raised an issue that had come up earlier in his travels—whether the Soviets would provide aircraft to transport arms that Vietnam planned to donate to the Salvadoran rebels.

In the white paper's summary, this is how *that is described*: "Before leaving Moscow, Handal receives assurances that the Soviets agree in principle to transport the Vietnamese arms."

The document itself tells a different story. According to it, Handal was repeatedly frustrated in Moscow, and reported his frustration candidly to whomever wrote the document. A senior Soviet communist party official told Handal, the document says, that, "In principle, there is opinion in favor of transporting the Vietnamese weapons, but there has been no approval on the part of the leadership organs."

Handal, apparently angry, "made known through other channels his disagreement with the . . . lack of decision concerning the requests for assistance."

After two more weeks without a reply from Moscow, the document says, Handal began "expressing concern as to the effects that the lack of decision by the Soviets may have, not only regarding the assistance that they themselves can offer but also upon the inclination of the other parties of the European socialist camp to cooperate . . . ."

Neither this nor any other document released by the State Department indicates that the Soviets ever did provide the reqested air transport. And this document is the only one that linked the Soviets directly to the Salvadoran civil war.

The white paper also suggests that the account in this document of Handal's visit to Hanoi (which, the document says, the Russians suggested and financed) plus the later capture of U.S. M16 rifles that could be traced back to Vietnam demonstrated conclusively that Vietnam was providing weapons to the Salvadoran guerrillas.

The evidence presented, however, does not confirm this. According to this document, Handal was promised a wide variety of arms in Vietnam, but the M16 assault rifle—the basic weapon used by American infantrymen in the Vietnam war—was not on the detailed list given in the document.

The M16s in question were found in a truck that was captured in Honduras en route to El Salvador, according to the State Department. "Approximately 100 M16 rifles, some of which were traceable to Vietnam," were found in the truck, the department said. Why only "some" could be traced to Vietnam was not explained.

On another point in this document, the white paper says: "The Soviet official [who dealt with Handal in Moscow] ask[ed] if 30 communist youth currently studying in the U.S.S.R. could take part in the war in El Salvador," In fact, the document says, it was Handal who asked the Soviets to give military training to 30 youths then studying in Moscow who wanted to fight in the war, a request the Soviets approved after repeated prodding.

Another document in the collection is described as a "trip report" recounting a visit by Salvadoran rebels to Managua, Nicaragua, last summer. The white paper draws on this document to describe a meeting between the Salvadorans and Yasser Arafat, leader of the Palestine Liberation Organization. "Arafat promises military equipment, including arms and aircraft," according to the white paper.

The document, however, includes only this parenthetical reference: ". . . On the 22nd there was a meeting with Arafat." There is not a single word in the document about Arafat promising arms and aircraft. Nor is there any information in the white paper about where the PLO might acquire aircraft to donate to the Salvadoran rebels.

One handwritten document in the batch is described by the State Department as notes on an April, 1980, meeting of the Salvadoran Communist Party written by the same Shafik Handal. On the face of it this is an implausible description: even to an amateur eye, it is obvious that the document is written in two distinctly different handwritings. The document contains no reference to Handal or to a meeting of the Communist Party, and it is not dated.

According to the State Department's translation of this document, its author says it is necessary to "put the party on a war footing." In fact the author of this part of the document did not use the phrase for war footing ("estado de guerra") but refers instead to a state of struggle or dispute ("estado de pelea"). The translation quotes the author as saying that the attitude of the socialist camp "is magnificent." He adds: "We are not yet taking advantage of it." In fact, though, the word "yet" does not appear in the orginal Spanish.

Another questionable translation appears at the end of another unsigned, undated document headed "Logistical Concepts," which outlines plans for intensified rebel activity inside El Salvador (among other things). According to the State Department's translation, the document ends with this sentence: "This plan is based on there being an excellent supply source in Lagos [said to be a code name for Nicaragua]."

In fact, this document ends with this Spanish sentence: "Este plan partiria de que exista una real fuente de abastecimiento en Lagos." This is a conditional construction that should be translated: "This plan is based on the supposition that there exists a real source of supplies in Lagos," or, "This would be the plan if there is a real source of supplies in Lagos." The State Department removed this conditional sense, and changed the word "real" to "excellent."

Besides the documents published with the original white paper, the State Department's El Salvador working group allowed two Washington Post reporters to leaf through a batch of other documents captured in the same caches, including full versions of documents that were excerpted for release earlier. Read together with the documents released originally, these others draw a picture that differs in significant ways from the one in the white paper. These documents portray a guerrilla movement that is chronically short of arms and scrounging for more of them.

For example, among the documents released by the State Department is one described as an excerpt from a report on a meeting of the Salvadoran Unified Revolutionary Directorate (DRU), the leading body of the guerrilla movement. In the book of released documents it is dated Sept. 30, 1980, though the original (made available by the State Department later) is dated Aug. 30. In the English translation of the excerpt provided by State, the date is Sept. 1.

Whatever the right date, the short excerpt released by State is a list of weapons that Salvadoran communist party's "secretary general" [Handal] reported had been shipped to them by Soviet-bloc countries, which are said to be arriving in Nicaragua on Sept. 5. This is an impressive list of military hardware and supplies, including the weapons purportedly promised to Handal in Vietnam, Ethiopia and Eastern Europe.

Curiously, the list of weapons coming from Vietnam seems to be describing the same shipment listed in the report on Handal's trip discussed above; most of the items listed are the same on both lists. But inexplicably, this one differs on many details. For example, the trip report list said Vietnam offered 15,000 7.62 mm. cartridges for M30 and M60 machine guns; this second document says 480,000 such cartridges are coming from Vietnam.

In any event, the State Department included this small excerpt from a much longer document in its book of documents released with the white paper. It is obviously a list of equipment that Handal says is coming to Nicaragua for the Salvadoran rebels.

The full version of this document includes another section about the difficulties the rebels are having getting arms out of Nicaragua. It paints a picture that contradicts flatly the impression left by this other list. (This section was not released publicly, though it was made available to reporters who asked to see more of the captured documents.) Here are some excerpts:

"With regard to bringing weapons from Lago [described by State as the rebels' code name for Nicaragua]:

"(a) The E.R.P. [The Popular Revolutionary Army in Salvador] has made two serious attempts and the F.S.L.N. [the ruling Sandinista front in Nicaragua] has stood in its way for reasons which in the opinion of the E.R.P. are subjective and at times wrong.

"The E.R.P. has air, water and land resources and is ready to make two trips per week.

"One reason for not using the maritime route is that the F.S.L.N. [the Sandinistas] says that the E.R.P. should not touch its shores; the E.R.P. agreed to stay out at sea but even this did not work.

"The F.S.L.N. [Sandinistas] claimed that by land the weapons the E.R.P. would bring in would be too few (it was 200 rifles). It also said that it would no longer allow the F.P.L. [the Farabundo Marti Popular Liberation Forces, the largest rebel group in El Salvador] to bring weapons by the methods it has been using.

"(b) the P.C. [presumably the Communist Party] has reported that it cannot bring in large quantities but that it can bring in small quantities. . . ."

In other words, the State Department selected for public release a section of a document listing large quantities of arms due to arrive in Nicaragua, according to the report of the man alleged to have arranged for their shipment. Another section of the same document reporting on the actual troubles the rebels were having bringing arms into El Salvador was not selected for public release.

The contention of the white paper that the Salvadoran rebels were enjoying the benefits of "nearly 200 tons" of communist-supplied arms and materiel is not supported anywhere in these documents, and is implicitly refuted by many of them. In document after document there are reports of rebels

short of arms, or looking for ways to buy arms, or exhorting comrades to produce home-made arms, or plotting to kidnap wealthy Salvadorans thought to have access to private arsenals.

Document number 48 in the State Department's files (not released with the white paper) is described as a war plan of the Farabundo Marti Peoples' Liberation Front, described by State as "the coordinating board" of the principal leftist guerrilla groups. The document anticipates a military campaign that would last from Nov. 25 to Dec. 10 of last year. The document says it should be possible to bring 30 tons of arms into the country during November to prepare for this, but that the campaign could go forward even with less.

This document, dated Nov. 18, listed these guerrilla needs as of that time: 1,000 automatic rifles, four 50-cal. machine guns, 16 30-cal. machine guns, six M79 grenade launchers—in other words, modest needs indeed compared to the huge numbers of weapons emphasized in the white paper.

Document 83 in the State Department's files, unsigned and undated, is a description of arms and equipment available to the guerrillas. The file copy includes this notation from a U.S. government official who read and evaluated it: "From this," the American wrote, "it would appear they had only 626 weapons for more than 9,000 men." This document was omitted from the collection released to the press with the white paper.

The heart of the white paper is the accusation that "over the past year, the insurgency in El Salvador has been progressively transformed into a textbook case of indirect armed aggression by communist powers through Cuba."

This is a characterization that the Salvadoran government does not accept; on a recent visit to Washington, the foreign minister, Fidel Chavez Mena, said the war in his country was first of all an internal conflict, and secondarily an arena for the East-West contest.

The idea that the war in El Salvador is an internal, factional struggle does not appear in the Reagan administration's white paper. The anti-government guerrillas are described as part of the Salvadoran "extreme left"; and the white paper ignores the moderate elements, including former government ministers who belonged to the Christian Democratic Party of President Jose Napolean Duarte, who have joined the guerrilla cause.

Instead of the civil struggle described by Salvador's own government, the white paper perceived "a textbook case of indirect armed aggression by communist powers through Cuba."●

TRIBUTE TO DR. CLAUDIA H. HAMPTON

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. DIXON. Mr. Speaker, I rise to pay tribute to a distinguished Californian and friend, who after many years of dedicated public service with the Los Angeles Unified School District—LAUSD—is retiring on June 30. Currently, director of the human and school community relations resource office, LAUSD, Dr. Claudia H. Hampton will leave behind a legacy for all those who are committed to providing a quality education to our young people. For her, education was the force that pulled her across the country from Chicago to Los Angeles, and up the ladder of success. Dr. Hampton's accomplishments during her tenure with the Los Angeles Unified School District are quite impressive and, at a time when education is seemingly being relegated to a secondary priority, her achievements serve as an inspiration, one that I feel worthy of sharing with my colleagues in the House.

A native of Chicago, Ill., Dr. Claudia Hampton began her career as a social worker with the Chicago Welfare Department. From social worker, she moved into the elementary classroom where she taught for 6 years. Following her tenure in the classroom, Dr. Hampton went on to become an elementary counselor for the Chicago city schools, where she was responsible for the entire testing and counseling programs for one of that city's large inner city schools.

In 1957, Dr. Hampton began her career with the Los Angeles Unified School District as a classroom teacher. For more than 20 years, she has held a variety of positions including assistant supervisor of the child welfare and attendance office; director of community relations with the Office of Urban Affairs, LAUSD; and, of course, her current position as director, human and school community relations resource office, where she is responsible for the administration of an office established to identify and develop strategies for the resolution of contemporary social-educational problems unique to the urban environment. Along with these awesome responsibilities, since 1974, Dr. Hampton has served as adjunct professor in multicultural education at Pepperdine University.

The year 1974 also signaled another challenge to this dynamic woman, when she was named by then Gov. Ronald Reagan, to the governing board of the California State University and College System. Today, Claudia Hampton is chairperson of this board which presides over the largest public higher education system in the country. She will continue to serve in this position following her retirement.

In addition to her role as chairperson, Dr. Hampton is a member of the executive committee for the Economic Literacy Council of California; the Honorary Association for Women in Education, University of Southern California; a lifetime member of the National Council of Negro Women, Executive Committee, and the Los Angeles branch of the NAACP. She is also a member of Alpha Kappa Alpha, Phi Delta Kappa, and Phi Lambda Theta. Dr. Hampton is a former member of the State board of managers for the California Parent and Teachers Association, as well as the CORO Board of Directors, a tax-exempt, nonprofit foundation which sponsors public affairs internships for a select group of graduate fellows in government, business, and labor organizations in association with Claremont College.

Dr. Hampton's outstanding career has not gone unnoticed. She is the recipient of numerous awards and honors. Among them: A resolution presented in 1975 by the Los Angeles City Council in recognition of her outstanding public service; a resolution of commendation presented in 1976 by the California Assembly; the Los Angeles Bicentennial Award for Outstanding Community Service presented last year; the Silver Achievement Award, presented this year by the Los Angeles YWCA and, as if this were not enough, this wonderful and dynamic educator's mark can also be found at San Diego State University where, in 1977 the Claudia Hampton Scholarship was established.

On Thursday, June 25, 1981, friends and colleagues of Dr. Claudia H. Hampton will gather at the Space Building in Exposition Park in the Muses Room, to pay tribute to this outstanding public servant for her untiring efforts to the Los Angeles Unified School District. I would like to take this opportunity to join with my fellow Los Angeleans in saluting Dr. Hampton.

Last December, the Los Angeles Times, published an article on this very fine woman. In it, Dr. Hampton was queried about her future. She is quoted as saying, "Someday I'd like to say to myself on an autumn Friday night that I think I'll go to Maine to see the leaves turn—and the next morning do it." Well, it may be awhile before Claudia makes her journey, but for one who has given so much to so many, I wish for her the realization of her dream. No one is more deserving.●

FORT WADSWORTH LIVING NATIONAL PARK MEMORIAL (1636)

HON. JOHN LeBOUTILLIER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. LEBOUTILLIER. Mr. Speaker, recently, I sent two messages to the Fort Wadsworth Committee for a Living National Park Memorial (1636) To Preserve Our Heritage.

These letters were read at a special ceremony held at the United Nations on May 20, 1981. The letters and related events, stressed the need to appropriately acknowledge our fellow Americans who were held hostage in Iran,

and to extend recognition to those Americans who rallied to their support.

At a later meeting, petitions bearing 73,000 signatures supporting the former hostages, were presented to representatives of the U.S. State Department in the U.S. mission. Accompanying proclamations were presented to the Ambassadors of Austria and Sweden.

I would be remiss, Mr. Speaker, were I not to note the unceasing efforts of Mr. Leo Boller of Little Neck, N.Y.—a resident of the Sixth Congressional District which I represent—who has been the driving force behind these fine, patriotic efforts.

Through his efforts, and the assistance of many others, the Governor of the State of New York, the Honorable Hugh L. Carey, issued an official proclamation designating May 20, 1981, as "Student's Patriotism Honored by the U.S. Mission to the United Nations Day."

In these days of resurgent patriotism, I am extremely proud to cite this account of Americans expressing love of their country.

The young people who participated in this project have developed a deep appreciation of their country. I stand proudly to commend them, and all those who support the Fort Wadsworth Committee for a Living National Park Memorial.●

TERRORISTS ORGANIZE LOBBY: TARGETING REAGAN ADMINISTRATION AND CONGRESS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. McDONALD. Mr. Speaker, a week ago leaders of two Soviet-supported revolutionary terrorist organizations campaigned in the United States. The purpose of the terrorist leaders is to coalesce the efforts of their Communist and "New Left" revolutionary support groups, activist religious groups, some trade unionists, and State and local public officials in order to generate sufficient U.S. political pressure to reverse the Reagan administration's policies of moderation toward South-West and South Africa which also interfere greatly with the Soviet Union's expansionist and imperialist strategies in Africa.

The Soviet-alined terrorist leaders are Oliver R. Tambo, president of the African National Council (ANC), and Moses Garoeb, administrative secretary of the South West Africa People's Organization (SWAPO). The Department of State has admitted that issuance of a visa to Tambo by the U.S. Embassy in Lusaka, Zambia, was "a mistake," and agrees that at least "some elements" of the African National Council are terrorists. Inconsistently, however, the State Department has no policy to classify SWAPO as a terrorist organization despite the plain evidence of consistent SWAPO policies going back many years of murdering black leaders opposed to the SWAPO organization, of killing unarmed innocent civilians in villages and with mines on public highways, and of mass kidnapings in order to terrorize people into obedience to SWAPO.

Last week, when I first discovered these two revolutionary Marxist leaders had been granted U.S. visas and were visiting Washington, I provided documentation on the public record of terrorist actions taken over many years by both ANC and SWAPO, and noted some of the extensive support they receive from the Soviet Union and Soviet satellites and client states. [See CONGRESSIONAL RECORD, "Terrorist Leaders in Washington," June 9, 1981, E2820].

The first conference in which Oliver Tambo and Moses Garoeb were featured was held at Howard University on June 8, cosponsored by the Southern Africa Support Project (SASP), a Washington, D.C., based support group for the ANC and SWAPO terrorists, and by Transafrica, the lobbying group headed by Randall Robinson.

Accompanied at a press conference preceding the Howard University conference, by the ANC and SWAPO leaders, local activists, representatives of the Congressional Black Caucus, and the chairman of the U.N. Special Committee Against Apartheid, B. Akporode Clark, Randall Robinson released what he claimed were confidential State Department documents including memorandums and summaries of meetings with South African officials written by Chester A. Crocker, then the designated Assistant Secretary of State for African Affairs who since has been confirmed by the Senate.

The alleged State Department papers—and I say "alleged" because previously Transafrica has been involved in efforts to lend credibility to forged, bogus State Department documents—were used by the ranking SWAPO official Moses Garoeb to denounce our Government as having "declared war" on the people of South-West Africa, while ANC president Tambo excoriated America and South Africa for engaging in what he said was identical "extreme racism and brutality."

SWAPO specifically is opposed to the possibility that major international support may be developed for a U.S.-proposed "trade-off" demanding the complete withdrawal of Cuban and other Soviet-bloc forces from Angola and formation of a coalition government in Angola with Jonas Savimbi of UNITA in exchange for SWAPO participation in the government of South-West Africa.

In a pragmatic political sense, one might think that SWAPO leader Sam Nujoma would be pleased at an opportunity to end the killing and participate in elections. But Nujoma's opposition to this demonstrates both that he is indeed the creature of the Soviet Union—the only party which would suffer by this sort of arrangement—and his own extremism.

Nujoma repeatedly has said that SWAPO is unwilling to share power at all in South-West Africa. On June 1, he was quoted in the New York Times denouncing the United States and the other Western Five powers because they "want to force SWAPO to agree to the preservation of the privileges of the racist minority and the transnational corporations in Namibia." In other words, no minority rights and no property rights will be permitted in the Marxist dictatorship SWAPO is planning.

The conference at Howard University, entitled "Building Forces Against United States Support for South Africa," adopted a "National Declaration" which denounced our own elected Government as "not representative" of the American people, asserted that "the tactic of petitioning the Government for redress is futile," and said, "the people must find ways to act directly."

The inescapable implication is that the declaration attempts to cast a false aura of "legitimacy" over the use even of illegal and violent tactics to change U.S. foreign policy according to the desires of the supporters of ANC and SWAPO.

Opposition to U.S. plans for the defense of the South Atlantic oil routes from Soviet encroachment is another key theme of the National Declaration adopted by the conference on Building Forces Against United States Support for South Africa which said:

> We view with particular alarm * * * cultivation of U.S. friendship toward South Africa * * * rationalized by its strategic importance as an anti-communist bulwark and protector of the seas around the Cape of Good Hope, where the majority of U.S. imported oil flows. There are reports of a South Atlantic defense alliance * * *.

Participants in this conference included a mix of radical academics, anti-South Africa activists, a large delegation of ANC and SWAPO members, some African and U.N. diplomats, leading members of Soviet-controlled international communist fronts, and United States Marxist-Leninist revolutionaries.

Participants from the African National Congress included Oliver Tambo; Johnstone "Johnny" Makatini, head of ANC's U.N. observer office at 801 2d Avenue, No. 405, New York, N.Y. 10017, and formerly ANC's

liaison in Algeria responsible for obtaining terrorist training for ANC members in Cuba and Algeria; Dumi Matabane, ANC's Washington, D.C., representative 6804 Wilburn Drive, Seat Pleasant, Md.; Paula Matabane, Seat Pleasant, Md.; and the following members of ANC's New York United Nations group—S. Choabi; T. Mbeki; T. Mbousa; and A. Mkhize.

Also participating was Josephine D. Butler, identified to the conference as a leader of the D.C. Statehood Party, but actually a veteran leader of Communist Party, U.S.A., fronts and causes such as the U.S. Peace Council (USPC) and German Democratic Republic (East Germany) Friendship Committee. Freedomways magazine, a Communist Party magazine oriented toward minorities, was represented by Jean Carey Bond, and John Henrik Clarke of Hunter College. Charlene Mitchell of the Communist Party's Central Committee was present, but as the executive secretary of a major CPUSA front, the National Alliance Against Racist and Political Repression (NAARPR).

Conference participants included two activists from the National Conference of Black Lawyers (NCBL), a U.S. affiliate of the International Association of Democratic Lawyers (IADL), characterized in a 1978 hearing by the House Intelligence Committee as "one of the most useful Communist front organizations at the service of the Soviet Communist Party." These were Lauren Anderson and Jackie Mitchell, both of the NCBL's New York office.

Additional activists included George Houser, for 30 years head of the principal support group for Soviet-backed revolutionary terrorist movements on the African Continent, the American Committee on Africa (ACOA); Larry Holmes, last year's vice presidential candidate of the Marxist-Leninist ultramilitant Workers World Party (WWP), now a leader of the WWP-dominated People's Antiwar Mobilization (PAM); Rev. Edgar Lockwood, director of the Washington Office on Africa (WOA) Educational Fund; Jean Sindab, WOA; D.C. Mayor Marion Shepilov Barry; Jack Calhoun of the Marxist-Leninist weekly, The Guardian; Mark W. Harrison, Clergy and Laity Concerned (CALC); William Lucy, Coalition of Black Trade Unionists (CBTU) and AFSCME; Damu Smith, a pro-Cuba organizer with the American Friends Service Committee (AFSC); William H. Simons, Washington Teachers Union; Archie Singham; Cleveland Robinson, District 65; James Early; Sandra and Sylvia Hill, Southern Africa Support Project; and Imari Obadele (Richard Henry), head of the violence-oriented Republic of New Africa, convicted of offenses related to a 1971 Jackson, Miss., shootout in which Jackson police officer was killed and an FBI agent and second policeman were shot.

The "National Conference: Building Forces Against United States Support for South Africa" resolved to establish a "small working group" to handle:

(a) The Development of a scheme for a massive educational drive across the United States on southern African issues and U.S. foreign policy toward southern Africa (a 3 months project);

(b) The Preparation of an assessment of the positions/locations of Black Americans, physically, geographically, professionally, etc., throughout the United States, in relationship to the implementation process of foreign policy decisions (a longer term project).

"Implementation of U.S. foreign policy" was seen as passing "through the hands of longshoremen, communications workers, secretaries in the bureaucracies, in short, technical, industrial, service and clerical workers." The "educational drive" goal is "to understand what it is that we do in our daily lives and that if we did not do it, or we did it slightly differently, it would have a direct/immediate impact upon" those policies.

In light of the national declaration possibilities for strikes, sabotage, and espionage are in no way excluded from the tactical considerations.

The conference participants further pledged to lend their available personal and institutional resources to carrying out the conferences' goals.

Considering the extensive participation of two foreign principals, the African National Congress and South-West Africa People's Organization, and the direction that functionaries of these two organizations provided to this event, which had the avowed purpose of altering U.S. foreign policy along lines favorable to both ANC and SWAPO, it would be appropriate that the U.S. principles concerned be required to register as foreign agents. And I am referring the matter to the Department of Justice for action.●

HON. CARL VINSON

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 10, 1981

● Mr. HORTON. Mr. Speaker, like so many of my colleagues, I learned of the death of former Congressman Carl Vinson with a great sense of sadness. I had the privilege of serving with him in the House prior to his retirement in 1965. He was a titan and indeed a legend whom many of us regarded as one of the most dedicated and distinguished Members ever to serve in the House.

Congressman Vinson's record of 50 years in the House was punctuated by a number of noteworthy achievements, not the least of which was his ardent and effective advocacy of a strong national defense. In the years that he served as chairman of the former Naval Affairs Committee and subsequently the House Armed Services Committee, Carl Vinson affirmed and built upon the concept that America can only enjoy peace through a strong national defense. As a reflection of this commitment, Chairman Vinson was the architect behind today's modern, multiocean Navy. A grateful nation recognized these contributions when one of our nuclear aircraft carriers was named the U.S.S. *Carl Vinson.*

Although his contributions during his 50 years of service were numerous and of immense proportions, the late Carl Vinson leaves a legacy that will live on for years to come. It is a legacy of which all Americans can be proud.●

CONGRESSIONAL SALUTE TO CONNELLSVILLE, PA.

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. MURPHY. Mr. Speaker, I would like to call your attention to an article that was written about the city of Connellsville, which is celebrating its 175th anniversary this year. This Fayette County community has played an important part in our country's history, from the time prior to the American Revolution. Located on the banks of the Youghiogheny River, the city provided a gateway for early settlers traveling to the western frontiers. In addition, Connellsville has been referred to as the "Coke Capital of the World" because of the quality and quantity of the metallurgical fuel that was produced there in the heart of our country's bituminous coal region.

It is indeed a fitting tribute to a city of rich heritage dating back to the earliest days of our Nation. I therefore refer this article to your attention:

CONNELLSVILLE: CITY OF HISTORIC SIGNIFICANCE

(By Laura Lee Minerd)

Behind the fronts of the older buildings on Crawford Avenue and Pittsburgh Street lie many tales of a different Connellsville.

Time has forged on and many interiors have been remodeled but, outside, several landmarks bearing witness to an old, bustling downtown remain. Since Connellsville is celebrating its 175th birthday this year, its historic significance would seem important to reflect upon.

Before the white man came from across the Atlantic Ocean, this area was inhabited by Indians, the majority being from the Delaware tribe. By the time the American Revolution erupted, only about a thousand red men remained, the remainder having moved westward to avoid contact with the white settlers.

In 1753, one of George Washington's scouts, William Stewart, established residence on the New Haven (West Side) banks of the Yough River. Although Stewart was not a permanent resident, he was present long enough to give the place a name. To this day, the area near Memorial Bridge is known as "Stewart's Crossing."

Perhaps the most important of all settlers to come to this region was Colonel William Crawford, who migrated to the Connellsville area in 1770 from Winchester, Va.

A personal friend of George Washington, Crawford first traveled though the mountains to this area in 1758 when, seeing its beauty, he vowed to make this area his home. His 376¼ acres was formally surveyed *in the present* area of West Side and he proceeded to put up his cabin. (A replica of this structure was rebuilt for the public by Connellsville's Historical Society during the nation's Bicentennial celebration in 1976).

Colonel Crawford was commissioned in 1782 to command a regiment to stop Indian raids. At Sandusky, Ohio, his army was defeated and Crawford, 50, was burned at the stake.

Although Colonel Crawford never saw Connellsville settled as a community, during his lifetime he played an important role towards it. In the 1770's Zachariah Connell, the "father of Connellsville," came to stay with Crawford in his New Haven cabin.

Connell didn't stay there for long, however. In 1778, he moved across the river where he put up a cabin. Later he built a stone home on West Fairview Avenue, where he stayed until his death on Aug. 13, 1813. His grave, with its modest white headstone, may be found just past East Francis Avenue, in a small, private graveyard.

However, shortly before Connell died, he "birthed" Connellsville. On March 1, 1806, Connellsville became an official borough. With consolidation of Connellsville and New Haven on May 12, 1911, Connellsvillle also became the first city in Fayette County.

Although the streets of the city seem to be a little sleepy these days—thanks to the birth of the "shopping mall era," the downtown shopping days have ebbed—at one time the town virtually boomed.

Just ask some of the older town cronies. They will tell you tales!

West Crawford Avenue tailor Sam Simons, 82, who has been stitching for some 70 years, remembers a time when there were nine tailors on Crawford Avenue alone and the air of the town was black with the smoke from the soot of factories and coke ovens.

Edwin "Toots" Penn, railroader with the B & O for half a century, can recite tales of the dozens of trains that used to pass in and out of the city every day bearing cargo and passengers, constantly loading and unloading.

When the vast reserves of coal were found in this area in the latter 1700's, it was thought to be of little value since it was so soft it crumbled to dust.

But it was this soft coal which, beginning with the middle part of the next century, made Henry Clay Frick a rich, rich man. When it was roasted in the common "beehive" coke ovens for 48 to 96 hours, this coal became the famous pearl-gray Connellsville Coke, known around the world as the finest type of the metallurgical fuel.

With the Youghiogheny providing a gateway to the West, coupled with the emergence of the coal boom, Connellsville grew to be a thriving community, attracting scores of immigrants from countries around the world.

Since the time of the American Revolution, Connellsville men have followed the call to war. The proof lies in the city's older cemeteries, where flags still wave vigil over the bodies of soldiers from various contests, including the Civil War, the Spanish-American War, and the two World Wars.

Very notable to this area was World War II, as it was during these years that Connellsville and its railroads gained national fame.

These were the years (1944-46) of the "Connellsville Canteen." Utilizing 800 women volunteers, the Canteen cooked and served food to the troops headed to eastern camps and overseas.

About 3,500 soldiers were fed by the Canteen each week from April 10, 1944 to April 10, 1946, totalling some 600,000. It was said that the conductor's cry of "Connellsville, next stop!" brought cheers and hollering from car to car as the trains approached the station (recently demolished by the Chessie System).

Although the reserves of coal have dwindled and the coke ovens have stopped glowing, the bountiful richness of this area's history will continue on and on, making it more special as the years go by.●

NIAGARA GAZETTE REPORTER TO RECEIVE EPA AWARD

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. LaFALCE. Mr. Speaker, tomorrow, Rae Tyson of the Niagara Falls Gazette will be honored by the Environmental Protection Agency for his reportorial excellence in covering the many environmental stories that are of great concern to the people of Niagara County, N.Y.

The EPA is presenting a regional Special Award of Merit to Mr. Tyson at a public ceremony in the Agency's region II office in the Jacob K. Javits Federal Building. Mr. Speaker, the award is well deserved.

I have known Mr. Tyson since he began covering the environmental beat for the Gazette in 1979. As I am sure my colleagues are well aware, this is probably one of the most difficult environmental assignments in the Nation. In 1980 alone, Mr. Tyson penned over 200 environmental stories on the Love Canal, the Lake Ontario Ordance Works, local industry and its handling of hazardous substances, international environmental issues including acid rain and Great Lakes pollution, and the struggles of public agencies, elected officials, and citizens of the county and all of western New York to deal with chemicals and nuclear wastes.

Mr. Speaker, the skills that Mr. Tyson has brought to his task reflect his varied background. He has a degree in political science from Parsons College, and has served as a science teacher at the Wilson Central School and as visual arts coordinator at Artpark, the Niagara Frontier's multi-media center for the performing and visual arts. With his background, Mr. Tyson brings to his task the proper mix of expertise, political sensitivity, and community concern essential to the achievement of journalistic excellence.

It is a great privilege to inform my colleagues of the EPA's decision to publicly recognize Mr. Tyson's efforts on behalf of his community, and to join the Agency in saluting the job well done.●

LEGAL SERVICES PROGRAM

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. FORD of Michigan. Mr. Speaker, the legal services program has been subjected to a sustained assault on its integrity which threatens the very principle of our democratic system of government, equal justice under law. Some of the allegations against the legal services programs are not only vicious but are based on unfounded and distorted facts and assumptions. It is important to point out that these distortions and innuendoes are coming from those with the most extreme point of view of what our system of government is all about. They believe that anyone with a view opposite to theirs has no rights under our system of blind justice. They are of the view that since poor people are dependent on government for so much of their livelihood they have no right to question government actions that impinge upon their rights or deny them basic necessities to which they are entitled by law. It causes me to ponder, if legal services is generating so much controversy, they must be doing something right. They certainly are. I am convinced that the program's successes in establishing and protecting the basic rights of the poor have precipitated this crescendo of criticism. Why else would a few isolated cases with their attendant media sensationalism create such a furor and motivate the launching of such a campaign to completely abolish the program?

Mr. Speaker, the legal services program, in the overwhelming majority of activities, has adhered to its congressional mandate to represent the interests of the poor in matters basic to their survival. This exemplary program has provided poor people access to legal counsel they otherwise could not afford. In over 300 legal service programs across the Nation, dedicated, talented attorneys and assistants, working for salaries far below the norm, help poor people with their most basic needs. Primarily in the areas of family, consumer, and housing law, and administrative benefits,

legal services programs have aided poor people to protect their rights and gain entitlements which have been granted to them by law. Most important, the programs have fostered one of the most fundamental principles of our democratic system of government—equal justice under law. This is the essential reason we are here today to determine the authorized funding level for the Legal Services Corporation.

The Legal Services Corporation meets and surpasses the standards for efficiency, cost effectiveness, and delivery of services. It is one federally funded program which should be emulated, not faulted. In successive years, the Legal Services Corporation has directly funded local programs with 97 percent of its appropriations. The remaining funds, a mere 3 percent, sustains the Corporation's administrative costs of monitoring and supervising 323 legal services programs throughout the country. The Corporation has received sparing incremental appropriations increases. The inflationary erosion of these piddling amounts has prompted its authorizing committee to characterize the programs as "financially lean and austere." This program cannot be sullied with the label, "spendthrift."

Opponents of the Legal Services Corporation want to return the program to local control. What greater control can there be than what now exists where each program is governed by a board of directors composed of local people, of which 60 percent are local attorneys and at least one-third are local low-income persons who are eligible for legal assistance? Who better than these local people can set priorities so as to most effectively use the meager funds which they are allocated on those areas of law needing most attention in their locale? As noted by the Committee on the Judiciary, "reliance on locally determined policies, rather than nationally set priorities, has been a major reason for the successes of the program."

Mr. Speaker, I am aware that in a few instances, a few local programs have become involved in controversial issues. I am also cognizant that some of these issues were not of the kind envisioned by the drafters of the law that would be handled by these programs. I am convinced that previous restrictions added to the law and the restrictions contained in the bill before us adequately respond to any departure from the perceived norm. Any further restraints on personnel or program would render the agency impotent. Amendments to achieve greater restrictions on the legal services program are no more than subtle attempts to remove the limited access the poor now have to legal counsel.

Let us not forget that Federal funding of legal assistance to the poor was part of the original arsenal in the "war on poverty." The sixties were restive times. The poor, like many other groups, were taking to the streets, demanding to be heard and helped with their particular needs and problems. Recognizing these volatile situations, the strategists of the "war on poverty" made legal assistance one of the fundamental services to be provided through the Office of Economic Opportunity (OEO). After a few years the OEO program was replaced by the independent Legal Services Corporation.

The legal services program is the Government's promise to the poor that someone is listening and attempting to help. The poor know there is an established mechanism by which they can seek legal advice and assistance. They do not have to demonstrate in the streets to protect and enhance what has been promised to them by law. If the Legal Services Corporation is dismantled, that promise will be broken in the cruelest fashion. It will have been kept for a short time, then destroyed. Knowing the history of federally supported legal services, it is ironic that the shrillest opponents of the Legal Services Corporation are also some of the most vociferous proponents of law and order.●

SHAME ON UNITED STATES

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. ECKART. Mr. Speaker, one of the most disgraceful votes ever cast by a representative of the United States was done in late May at a meeting of the World Health Organization in Geneva. Our Nation's delegate, on orders of the Reagan administration, cast the only "No" vote against a strict ethical marketing code designed to cut down on infant deaths around the world.

The vote would have given new importance to enforcement of ethical marketing practices by infant formula manufacturers, especially in developing nations. Such marketers, through advertising campaigns in these nations, lead hundreds of thousands of mothers to use baby formula. Inadequate nourishment from polluted water and misuse, often results in serious illness and death for the infants.

Many Members of Congress tried to intercede with President Reagan to stop the plans for the U.S. delegate to vote against the code. The President refused to grant them any time on his schedule to discuss the matter.

Our vote was shameful. Our reasons bordered on the ridiculous. The corporate policies of Nestlé, Abbott Laboratories, Bristol-Myers, and American Homes Products Inc., who manufacture this formula and profit from this continuing tragedy, obviously have more weight in the determination of this administration's foreign policy than the needs of Third World mothers and infants. The standing of the United States has been damaged before the rest of the world. This vote is a blight on our foreign policy.●

CONGRESSIONAL SALUTE TO REV. MICHAEL SLONECKI UPON THE 40TH ANNIVERSARY OF HIS ORDINATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. ROE. Mr. Speaker, on Sunday, June 28, the residents of my congressional district and State of New Jersey will join with the members of the congregation of St. John Kanty Church, Clifton, N.J., to give testimony to an exemplary clergyman, esteemed pastor, outstanding community leader, and good friend, Rev. Michael Slonecki, O.F.M. Conv., as we celebrate the 40th anniversary of his consecration into the Sacrament of Holy Orders.

Mr. Speaker, Father Slonecki has maintained the highest standards of excellence throughout his lifetime and we are pleased to share the pride of his many, many friends and parishioners in his distinguished achievements, so unselfishly dedicated to the betterment of mankind. There is so much that can be said of the love, affection, and reverence with which Father Michael is held by all who have had the good fortune to know him. He was born in New York City on January 30, 1916, the son of Francis and the late Joanna Slonecki.

Upon completion of grammar school he came to New Jersey and graduated from Don Bosco Prep School, Ramsey, N.J., in 1933. He then worked for 1 year as a machinist before dedicating himself to the noble calling of the priesthood.

Father Slonecki entered the Franciscan Fathers novitiate in Ellicott City, Md., and commenced his philosophical and theological studies at St. Hyacinth's Seminary, Granby, Mass. While pursuing his theological studies at Seraphic College, Rome, Italy, the holocaust of war expanded in Europe and in June 1940 on the last ship to leave Italy before World War II, he returned to the United States with other Americans who had been studying abroad.

On July 5, 1941, Father Slonecki was ordained to the priesthood in St. Stanislaus Church, Chicopee, Mass., and was immediately assigned to St. John Kanty R.C. Church, Clifton, where his

personal commitment to the Almighty and to our people earned him the respect and reverence of all of his parishioners.

In 1946, Father Slonecki's ecclesiastical duties were fully committed for over two decades in conducting missions, novenas, 40-hour devotions, and priests' retreats for the thoughtful meditation, prayer, and spiritual renaissance of our people throughout the United States and abroad. He served in the States of Maine, Pennsylvania, New York, New Jersey, Michigan, Maryland, West Virginia, and in 1960 the Franciscan Fathers assigned him to Italy as confessor and guide for American pilgrims at the Shrine of St. Anthony in Padua, Italy, and as substitute apostolic confessor of Polish, Slovak, Italian, and English at St. Peter's Basilica, Rome, Italy. For 5 years prior to returning to St. John Kanty R.C. Church, he was the vicarburser at St. Adalbert's Church, Elmhurst, Long Island, N.Y. He returned to St. John Kanty Church as assistant pastor in 1973.

Mr. Speaker, we are so proud to have Father Michael with us in Clifton, N.J. He was presented with the Outstanding Citizen Award in 1979 by the Pulaski Association of Police and Fire Departments of New Jersey. At the present time he is chaplain for Pulaski Association, New Jersey State Firemen's Association, Sheriff's Office of Passaic County and the Clifton City Police Department. He is also moderator of the St. John Kanty Holy Name Society where the richness of his wisdom and direction have developed strength of character and a bond of friendship in faith, hope, and charity among the men of the parish, young and adults alike, that has truly added to the quality of the cultural heritage of the people of our community.

Mr. Speaker, I appreciate the opportunity to present this brief profile of a distinguished man of God who has dedicated his life's purpose and fulfillment to helping others and guiding them in their pathway of life. The quality of his leadership mirrored in the security and dignity that his parishioners and the Americans who sought his guidance and counsel in foreign lands have found in the comfort and aid he unselfishly and willingly gives to those in need and those who seek his helping hand and spiritual guidance.

Mr. Speaker, as Father Michael celebrates the 40th anniversary of his ordination to the priesthood I know that you and all of our colleagues here in the Congress will want to join with me in extending our warmest greetings and felicitations for the excellence of his service to his church, our Nation, and all mankind. We do indeed salute an esteemed pastor, exemplary clergyman, national and international ambassador of goodwill and brotherly love, and great American—the Reverend Michael Slonecki, O.F.M. Conv.●

COLGATE W. DARDEN, JR.

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. WHITEHURST. Mr. Speaker, last week Virginia lost its most distinguished son: Colgate W. Darden, Jr., who served Virginia's Second Congressional District throughout much of the decade of the 1930's, passed away.

Colgate Darden's career touched the lives of Virginians far beyond the environs of Tidewater. Subsequent to his service in the House of Representatives he was Virginia's wartime Governor. This was followed by a career in higher education that capped a lifetime of service to others, first as chancellor at the College of William and Mary, and then, for a much longer period, as president of the University of Virginia.

Thus Governor Darden's rare touch was felt by the young who were pursuing a career in higher education as well as by all other Virginians, who were blessed by his good commonsense during his tenure as chief executive of the Commonwealth. Even when he retired in Norfolk, he was still available as a wise counselor. Governors who succeeded him, Republicans and Democrats alike, found him easily accessible and his sage advice freely given.

Despite the high honors which were deservedly his, Colgate Darden never forsook the fundamental values he learned from his parents as he grew up in Southampton County. A man with a world view, who understood more than any other person I have known in my life the forces that drive history, Colgate's values and virtue were anchored in the roots of his childhood. His integrity, his candor, and his uncompromising devotion to truth—all were the products of those early years. We will not see the likes of him again for a long time. When he was alive, I constantly referred to him as the greatest living Virginian. It was a judgment never disputed.●

NEW CIVILIAN CONSERVATION CORPS

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. ROYBAL. Mr. Speaker, on May 21, I introduced H.R. 3686, to reestablish a Civilian Conservation Corps.

The purposes of my bill are very simple. It proposes to create a national work force of young people to maintain our national forests and public lands. It proposes to provide both employment and experience to young people currently unemployed. And in recognition of the fact that we live in a world of limited resources, it proposes to foster conservation.

In order to join the new Civilian Conservation Corps, a person would have to be unemployed, a citizen or lawful permanent resident of the United States, and between 16 and 25 years of age. Special consideration would be given to minority youth, and youth from areas of high unemployment.

The Secretary of the Interior, under whose jurisdiction the new CCC is to fall, would be responsible for insuring that CCC members receive at least the minimum wage and work under reasonable terms and conditions. The Secretary would be authorized to provide the opportunity for CCC members to further their education either through credit for service in the CCC or through actual academic study.

Finally, H.R. 3686 would make service in the CCC an alternative to the draft by making CCC members ineligible to be drafted except in times of war or national emergency.

Mr. Speaker, the need for this kind of legislation is clear. As of May, the national unemployment rate had risen to 7.6 percent. This translates into more than 8 million people who want jobs but cannot find them. The unemployment rate among teenagers is 19.5 percent and among minority youth, it is a staggering 33.6 percent. We cannot fail our young people this way. To my knowledge, I am the only current Member of Congress to have served in the original CCC, and I can testify to the pride and self-worth that service of this kind can provide to a young person.

But young people are not the only ones to benefit directly. Our country stands to benefit as well. Interior Secretary James Watt has publicly deplored the conditions at some of our national parks. If H.R. 3686 is enacted, this situation can be corrected with the help of young people who are ready and eager to work.

Every measurement of crime and delinquency that I am aware of shows a direct and perhaps causal connection between unemployment and a rise in crime. We can remove that temptation by putting our young people to work and at the same time provide a safer environment for the other members of our society.

The bottom line in this issue is that young people with jobs pay taxes and young people without jobs do not pay. Through my bill, H.R. 3686, we can put these young people to work and help them to help our country.

Following, Mr. Speaker, is a more detailed description of H.R. 3686 for the benefit of Congress and the public:

ANALYSIS OF H.R. 3686 TO ESTABLISH THE CIVILIAN CONSERVATION CORPS II

I. PURPOSE

Establishes a CCCII to provide a work force of young people who will maintain the natural resources of the nation; to provide employment and experience for young people; and to foster conservation.

Among the types of work projects that can be undertaken are: wildlife habitat preservation; recreation area development; forest insect control; erosion and flood damage control; stream and lake cleaning and pollution control; and recovery of biomass.

II. ENROLLMENT OF CORPS MEMBERS

Members must be: (a) Unemployed; (b) 16-25 years old; and (c) citizens or lawful permanent residents of the U.S.

Additionally: (a) Preference will be given to minority youths and to youths from areas of high unemployment; (b) members will serve a 24-month tour of duty; and (c) time spent in the CCCII will count towards civil service retirement.

Corps members will be: (a) Paid at least the minimum wage; (b) ineligible for the draft unless there is a war or national emergency.

III. CORPS CAMP ESTABLISHMENT

The Secretary of Interior will make grants to, or enter into agreements with, government agencies (federal, state and local) and Indian tribal organizations for the purpose of establishing Corps Camps. Preference will be given to the establishment of "residential" over "non-residential" camps. The Secretary will try to ensure that each state receives money in approximately the same proportion as the ratio of youth between 16 and 25 in that state to youth in the national population.

IV. CORPS CAMP MANAGEMENT

The Interior Secretary shall appoint staff to manage each residential camp. Non-residential camps will be managed by the land management agency involved.

Each camp will be organized into work crews supervised by a crew leader. Crew leaders must be retired or registered as skilled or semi-skilled with a state employment agency.●

COAL SLURRY PIPELINE STUDY

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. CLINGER. Mr. Speaker, on Monday, June 15, a new study was released which again indicates that coal slurry pipelines will offer substantial cost savings for coal transportation. A. T. Kearney, Inc., management consultants, compares the projected and now deregulated rail and coal slurry pipeline costs of moving 54 million tons of coal annually from the eastern and midwestern coalfields to Florida and Georgia. The study shows a potential transportation costs savings of up to $54 billion—in inflated dollars—between 1988 and 2007.

The Kearney report, which was commissioned by Coalstream Pipeline Co., a subsidiary of Continental Group, analyzes the 1,500-mile Coalstream pipeline which is proposed to be built to move coal mined in the Appalachian and Illinois Basin areas to the rapidly expanding electric consuming areas in the Southeast. The project will cost approximately $5 billion and will be completely financed by private capital and could be operational in 1988 if this Congress will grant coal pipelines the same access to the right of eminent domain which has traditionally been granted to the railroads, natural gas pipelines, oil pipelines, and interstate electric transmission facilities.

Following extensive hearings last Congress in the Public Works and Transportation Committee, of which I am a member, I voted to support coal pipeline legislation. Due to the press of the national elections, however, final action on the legislation was unfortunately delayed.

This year, it is my sincere hope that we will at last vote to add this much-needed, cost-effective competitive force to the coal transportation sector. Positive action on coal pipeline legislation will assure that the market forces operate at the maximum possible level by introducing to the coal hauling industry increased intermodal competition. That competition is not now present to any great extent and will not occur unless coal pipelines can be built. Thus, without congressional action, the Kearney-identified $54 billion in savings potential cannot be realized.

I urge you to consider this fact when we soon begin our consideration of the required coal pipeline enabling legislation.●

ROBERTA PETERS ADDRESSES CONGRESSIONAL ARTS CAUCUS

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. HORTON. Mr. Speaker, on June 2, I had the privilege, along with a number of my colleagues, to attend the Congressional Arts Caucus dinner. I am confident I echo the sentiments of those who were present when I say we were honored to hear Roberta Peters discuss the arts in this country. She poignantly set forth a thoughtful case for increased support of funding for the arts. I was impressed, as were those who heard her, by her remarks. I commend her address to my colleagues. The text follows:

REMARKS BY ROBERTA PETERS

When Fred Richmond called me a few weeks ago about this evening, he asked me to talk about the arts in our country at this time. This is obviously a large and rather general topic and so I will have to tackle it, the way I see it.

First, I think I should give my definition of art. To me, art is the visual and/or aural representation of how we see ourselves and the world we live in. If we think about that carefully enough, it demonstrates the importance of the arts to us. Intelligent behavior implies observation of ourselves and our surroundings, and then reasoning based on those observations in governing our present and future actions. The arts are a distillation of our observations, and then a portrayal in visual and/or aural form. To me this is the essence of civilized, intelligent living. It is not a basic for physical survival, but it is a necessity for civilized living.

I am now completing my 30th year as a performer in opera, concerts, television, recordings, and the legitimate musical stage. In those years, I have given thousands and thousands of performances, and I have crisscrossed this country time and again and have traveled the rest of the world extensively. Based on my experience, I will tell you that the arts are very important, and they need our continued, rather than diminished support. That support, I believe, should be channeled into two main areas.

First, we should support formal education in the arts on all levels, primary through higher education. This is where basic training provides exposure to the world of art. I would hope that there will be greater place given to arts education in curricula of schools on all levels. I would love to see the so called "core course" include a fair representation of these disciplines. But I go even further and I think that arts training certainly on all levels of higher education should include all those crafts which are needed in presenting the arts to the public. I mean, performing arts centers where the training includes backstage functions such as designing and making of scenery, lighting, costuming, make-up, programming, business administration, etc. Let me give you an example. Fred Richmond represents the Borough of Brooklyn and in that borough, Brooklyn College now has a performing arts center on both the undergraduate and graduate level and which gives degrees in the performing arts. All the functions which I have just enumerated are taught and practiced at this performing arts center. Thus, they can commission a symphony or opera and have their own faculty and students conceive the idea, write the work and then stage it for the public with no outside help. Here we see theory and practice in operation. When their students are graduated, they are trained and ready to take their places in their own specialities anywhere in this country.

The second area where I think the arts need our support, is in the theatres around the country which are not connected to any educational institutions. As you know, we have thousands of theatres in the United States presenting drama, opera, symphony and ballet. With the possible exception of the Broadway theatres in New York, most all the other theatres around the country have the common problem of financial survival. It is a fact that putting on opera or ballet or symphony is most always a losing proposition so far as money is concerned. Theatres which are conducive to such presentations are usually not large enough to take in enough money to meet the costs of the presentation. This applies not only to theatres in smaller towns and cities, but also theatres in major cities right on up to our

most prestigious houses. In the field of opera, it is accepted that the Metropolitan is the most prestigious theatre in the United States and possibly in the world. But it operates at a deficit like every other opera house in this country. I hope you will agree that it would be a national loss if the Metropolitan were ever to close, and I feel the same about lesser houses throughout the country.

Think for a minute of the structure of professional baseball. It is organized with two or three classes of minor leagues and then the major leagues sit on top of the whole structure. The minor leagues offer baseball to smaller cities and towns throughout the country, and they also serve as the training ground for the players who hope to make it to the top. I think it fair to assume that many of the minor league clubs are not self sustaining, but they are supported by the major league clubs so that they can have a continuing pool of talent. This is a somewhat rough comparison, but I think you can apply it to the theatre as well; be it opera, drama, ballet or symphony.

Let me make one last point. As I have told you earlier, I have sung a great deal in other countries around the world. In these other countries, the arts are supported extensively by the Government. For example, the Vienna State Opera is supported about 70 percent from Government funds and 30 percent from private sources. I think these figures are exactly reversed for the Metropolitan Opera. We are wrong and they are right. All my training and experience tell me, and I tell you, that we should give the arts greater support.●

THANKS TO THOSE RESPONSIBLE DEMOCRATIC MEMBERS OF CONGRESS FOR SAVING OUR ONCE PROUD NATIONAL RAIL SYSTEMS

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. MURPHY. Mr. Speaker, with the approval of H.R. 3568, the reconciliation bill and amendment to increase Amtrak's authorization level by $122 million for fiscal year 1982, I would like to commend Representative JIM FLORIO, chairman of the House Energy and Commerce Committee, along with other supporters of this legislation for helping to save funding for our valuable Amtrak and Conrail carriers.

Amtrak, which has been growing steadily through Federal support since 1970, has taken many recent actions to reduce costs, generate new revenue, and improve labor productivity. The company's equipment is new, performance is improving, and ridership continues to increase. Up to this point, however, Amtrak has been unable to negotiate with the train and engine crews that operate its trains in the Northeast corridor Washington to New York to Boston thus slowing down the system's realization of savings from productivity improvements and work rule changes. Had the administration's $613 million authorization proposal been accepted, Amtrak would have had to eliminate all service in western Pennsylvania including Pittsburgh.

There is no doubt that the operation of Amtrak is vital to those people in my home State of Pennsylvania. Not only is the train an economical mode of transportation for both business persons and tourists, but it serves as a large source of jobs and revenue to Pennsylvanians. Case in point: Amtrak expended $73,786,247 for goods and services in Pennsylvania in fiscal year 1980, including $3,352,480 to minority firms. Amtrak, alone, employs 3,659 Pennsylvania residents, not to mention the number of jobs and amount of revenue created through procurements and contracts, capital improvements, and tourism promotion.

This, however, is not to say that reductions would not be made. The responsible and cooperative majority have called for a savings in Amtrak's food and beverage service, a reduction of the cost of service on long-distance routes, and a 30-percent improvement of the number of passenger miles generated systemwide per Federal dollar.

The compromise measure approved on June 10 by the House Energy and Commerce Committee, which allows the Government to divest itself of Conrail no sooner than December 31, 1983, if it has failed to become profitable by that time, is equally fair to Conrail and to the administration. The bill will keep Conrail intact as an entity through 1983 and the chance to be profitable under Federal support until that time. Fortunately, the Democratic efforts show a deep concern and faith in Conrail, realizing that it is quite conceivable for Conrail to generate enough cash from operations to cover the approximate $400 million per year in capital needs. Times have changed; monopoly power has been replaced by heavy competition, and today, railroads are largely servants of economic activity rather than initiators of it. The pressure is on Conrail and the many small shippers who use their service. Pennsylvania, New York, and New Jersey are big industrial States; thus they are more rail-dependent and would experience the heaviest losses if Conrail were to divest. Like Amtrak, Conrail has made several substantial reductions, saving the company about $220 million per year, or more than $650 million over the next 3 years. However, the administration's and the Senate's proposal is extremely unjust in that their agreement would allow the Government to sell the freight system after June 1, 1982, as a single entity and if Conrail has not become profitable by December 1, 1982, the Government can proceed at that time with the company's sale.

In essence, Mr. Speaker, I feel the administration has been extremely unfair and skeptical in assuming that our Nation's railroad system has received more than its share of Federal support and that users should bear more of the cost of operating this service. It seems quite ironic that an administration whose major theme was the urgent need to reduce our inflation rate would order such stringent measures against one of our Nation's most economical means of transportation. While I, like all other Members of this body, realize the urgent need to reduce our Nation's inflation rate, I cannot envision these attempts as anything but disastrous to our economy. Fortunately, due to many respectable, responsible, and astute Democratic Members of the Congress, we have reached a decent compromise that would save America's once proud railroad systems.●

LELAND SUPPORTS INFANT FORMULA MARKETING CODE

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. LELAND. Mr. Speaker, today, June 16, 1981, I missed the recorded vote on House Joint Resolution 287, due to the fact that I was conducting official business, meeting with the past president of Jamaica. One of my greatest commitments is to see growth, stability, and peace come to our Carribbean neighbors.

Had I been present for the vote on House Joint Resolution 287, implementing the World Health Organization infant formula marketing code, I would have voted in favor of suspending the rule and passing that very important bill, which I wholeheartedly support.

Mr. Speaker, I thank you for this time.●

SAVE THE LEGAL SERVICES CORPORATION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. CONYERS. Mr. Speaker, the concept of equal access to justice is under assault with the admininstration's effort to eliminate funding for the Legal Services Corporation.

Initially, it recommended an end to the Corporation as part of the administration's plan to cut Federal spending and bureaucracy. The American Bar Association observes, however, that the program's administrative overhead is less than 3 percent of its

budget, "making this program one of the most cost-effective Federal programs" in existence.

Then the administration argued that legal services to poor persons could be provided as effectively through the private market economy. William Reece Smith, Jr., president of the American Bar Association, refutes this claim:

> We (the ABA) cannot bear the responsibility alone; the needs are simply too great. Assuring justice is a public concern that must be addressed by the nation as a whole and not left to one profession or group.

The ABA president continues:

> The Coporation's work has been successfully blended with voluntary efforts of the private bar—a remarkable example of government and the private sector working together.

Legal services opponents also have argued that States themselves can furnish adequate legal assistance through block grants. This proposition is self-contradictory. Many clients of legal services seek redress of legitimate grievances against State and local governments, or against powerful local interests that buttress these governments, and the States are not likely to serve their interests under these circumstances. After all, is this not the type of condition that Federal legal and constitutional theory sought to remedy—the need for a Federal presence to protect and insulate citizens against local tyrannies of the majority?

Certain critics of the program argue that legal services lawyers too often handle controversial issues, unpopular clients, and sensational cases. But who else is there to handle these? The fact of the matter is that the overwhelming majority of cases involve routine housing, consumer, family law, and administrative law issues.

The critics should answer this question: Is the legal services program vital to providing equal justice on a large national scale? The American Bar Association, the profession in the private sector most familiar with the question, answers with a resounding affirmative. I want to share with my colleagues at this point an article by Thomas Ehrlich, the first president of the Legal Services Corporation and former dean of Stanford University Law School, who also explains the indispensable role of the Corporation in providing equal justice to all Americans. The article appeared in the April 1981 issue of the American Bar Association Journal.

SAVE THE LEGAL SERVICES CORPORATION

(By Thomas Ehrlich)

Over the past decades bar organizations in general and the American Bar Association in particular have been powerful proponents of federally funded civil legal services for poor people. Without their enthusiastic endorsement, the program never would have begun in 1965 under the Office of Economic Opportunity. Without their strong support when the program came under attack during the late 1960s, the move to establish the Legal Services Corporation—separate from both the executive branch and partisan positions—never would have succeeded.

Once again federally funded legal services for poor people are under sharp attack—no less than a declaration of war. Once again the support of private lawyers throughout the country, and particularly those in the American Bar Association, is essential if the program is to survive. The new administration in Washington has announced that it is seeking to eliminate totally the Legal Services Corporaton. It is not asking Congress to reduce the corporation's current $321 million budget, as other federal programs are being reduced to achieve a balanced budget. Rather, the Reagan administration has recommended to Congress that legal services for poor people no longer receive any direct federal funds.

All lawyers who care about ensuring that poor people have a right to use the legal system that they, along with the rest of us, must live under and abide by should respond by helping to save the Legal Services Corporation.

Today about 6,200 staff lawyers and 2,800 paralegals are working in 323 local programs throughout the country. No area is now without minimum access, although many programs need to be strengthened. Plans to improve both the quality and the quantity of legal services are well under way.

What types of services do these programs provide for poor people? Each local program is an independent entity, governed by a local board of directors. Sixty percent of every board is composed of local lawyers in the community served, and eligible clients constitute another third of each board's membership.

Each local program is charged by the corporation with setting priorities for allocating resources to ensure that the most pressing needs of poor people in the community are well served. As a result, housing issues are the highest priority in some areas, consumer concerns in some, family matters in some, and administrative benefits in others. Viewing the country as a whole, those four subject areas account for 80 percent of legal services work. Other fields such as employment and juvenile law are also important, although not as significant as the four primary areas.

One of the most important efforts of the corporation over the past years has been to promote the active involvement of private lawyers in the direct delivery of legal services to poor people.

A preliminary step was mandated by Congress in the Legal Services Corporation Act—a study of the range of possible delivery mechanisms using private lawyers and a comparison of those mechanisms with staff-attorney programs. Thirty-eight demonstration projects were set up around the country to compare the costs, quality, client satisfaction, and impact on the client community of judicare programs, contracts with private law firms, prepaid legal insurance, pro bono publico projects, legal clinics, and voucher plans. Sixty staff attorney programs were analyzed for comparative purposes.

The full report on the results of the study, issued in June, 1980, is available from the Legal Services Corporation, 733 15th Street, Washington, D.C. 20005, and I urge those who have not read it to review a copy. It underscores, through carefully documented and empirical analysis, two important points.

First, no single method of delivering legal services is clearly preferable for every community in terms of the criteria considered. One mechanism—the voucher system—was found to have insuperable difficulties in practical operation, but the others are all feasible, and their particular utility depends on a variety of local circumstances.

Second, and most important, there is an important role for private lawyers in every local program. In some localities private lawyers may be the principal deliverers of services. In others they provide important supplements to staff attorneys. My own view, and it is confirmed by the study, is that the use of staff and private lawyers in the same program offers the most opportunities for effective services to poor people—and that, of course, is the aim of all our efforts. The old debate between judicare versus staff attorney programs has never made sense to me. The dichotomy is a false one because an entire range of program types is needed, and all of them should involve private lawyers in ways that work best for the particular communities to be served.

The American Bar Association endorsed this view last year when the House of Delegates recommended that the Legal Services Corporation Act specifically mandate "the opportunity for substantial involvement of private lawyers in providing legal services to the poor." In my judgment, that involvement is essential, whether or not it is mandated by Congress, and I know that the board of the L.S.C., of which American Bar Association Secretary F. Wm. McCalpin now is chairman, shares this view fully.

Private lawyers are already providing vital service through local programs in scores of communities. A technical assistance project has been initiated by the corporation to help expand the involvement of private lawyers even further.

High quality assistance for the full range of legal needs facing poor people is, of course, the central goal of these efforts. The board of the corporation is clear that this aim can be best achieved—indeed, can only be achieved—if private lawyers are fully and actively involved on a steadily expanding basis.

Some have questioned whether the legal services effort could not be better (or at least as well) handled by state governments. Why is a national organization needed? Three reasons seem to me most important.

First, a shift of responsibility from the L.S.C. to state governments would undercut the independence of legal services and subject the program to intense, partisan political pressures. Independence from those pressures is perhaps the most significant characteristic of the corporation. Congress does, of course, set annual budget allocations and fundamental policy directions, but the program is not subject to day-to-day supervision or influence by government officials. During the entire period I headed the corporation, no one from the White House under either President Ford or President Carter called to seek a partisan political favor.

As civil law enforcers, one of the responsibilities of legal services attorneys is to challenge state and local officials when poor people believe they have been hurt because those officials are not carrying out their responsibilities as required by law. This type of client representation is, of course, a normal part of a private attorney's practice. When supported with government funds,

however, it is not surprising that some officials would prefer elimination of that representation. Similarly, some landlords, retailers, and employers would prefer that their tenants, customers, and employees have no means of legal redress through an attorney when a dispute arises. A national organization, controlled by an independent board of directors and allocating funds to local programs that are similarly controlled by their own independent boards, ensures that quality legal services to poor people, not partisan politics, is the basis for decision making.

Second, the corporation has become a remarkably efficient and effective organization. It spends only 1.8 per cent of its entire budget on management and administration, far less than most comparable public and private agencies, at whatever level they are administered. Perhaps most important, legal services is already a locally run program. The corporation is able to ensure that local programs are controlled and supervised by local community leaders. A shift of administration to state governments would mean an increase in bureaucracy, red tape, and overhead expenses—the opposite of the objectives usually sought by moving responsibility to the states.

At the same time, the compensation also makes certain that the special legal needs and difficulties of access to legal services of particular groups are taken appropriately into account. Some areas of the country, for example, include substantial numbers of Native Americans who face unique types of legal concerns. Other areas have large groups of elderly persons who need special help in the areas of the law pertaining to their age and disabilities. In these and scores of other fields, a national entity is able to allocate scarce resources in ways that promote efficient and high-quality service.

Third, and closely related, the corporation provides training, co-ordination, technical assistance, and information exchange on a national basis. These services are essential for an effective civil legal assistance program. The remarkable efficiency of the current system would be undermined if the corporation were eliminated.

Materials from the L.S.C.'s national training programs are used widely in many law schools and continuing education programs—a tribute to their high quality. The corporation supports a national clearinghouse that publishes the only journal on poverty law and the only current poverty law reporting services. It has developed scores of manuals and other materials to assist private and staff lawyers in managing their work efficiently and in delivering legal assistance to their clients effectively.

In addition, the corporation has taken a lead in the design of effective delivery systems, the application of technology to legal practice, and the development of standards for quality legal work. It also has designed a professional monitoring system that ensures steady program improvement. The legal profession as a whole, and the public it serves, benefits enormously from these efforts.

Why the opposition to the continuation of the Legal Services Corporation in view of the enormous positive impact that it has had on the lives of millions of poor people throughout the country? There are at least three primary reasons.

First, the nature of effective legal advocacy makes it inevitable that legal services programs represent clients opposing public officials and private interests in every part of the country. Few people like to be involved in litigation or legal proceedings, and it is, therefore, understandable—although unfortunate—that some individuals resent legal services programs that are doing nothing more or less than properly representing their clients.

Second, as a former law school dean, I am the first to attest that good judgment, along with many other qualities of good lawyering, is not taught in law school. It is hardly surprising that among the thousands of legal services lawyers and staff members working around the country, some occasionally use poor judgment. Mistakes in particular matters have and will continue.

The surprising fact to me is that among the more than one million matters handled annually by local legal services programs, so few errors are made. Those programs rarely make headlines, even when they are involved in litigation, because they generally do such a good job. Of course, particular cases may be brought or not brought to trial when my personal judgment—or someone else's—might have been otherwise. But in light of the extraordinary array of problems and pressures, I think it is remarkable how well legal services programs work and how effective they are in serving their clients with a minimum of wear and tear on other individuals and institutions. Over the course of my years with the Legal Services Corporation, I worked with hundreds of women and men from programs in every state. In my view, there is no more dedicated, hard-working, and thoroughly professional group of lawyers serving anywhere.

A third reason is, I think, the most important. It is at the root of why legal services faces difficulties now: lack of public understanding of why those services for poor people are so important. The help of private lawyers everywhere is absolutely essential on this issue.

Most nonlawyers have little sense of what lawyers do or how important they can be to those facing a legal problem. In an educational system that virtually ignores law after fifth-grade civics for all but those who become lawyers, this is hardly surprising. But is does place a special premium on the role of private lawyers in underscoring the importance of legal services for poor people, in explaining why those services are not "just another public program" that may be useful but dispensable. Every lawyer, no doubt, has a special perspective on this issue. Two key points, from my own perspective, are particularly significant.

The first point for special emphasis is the advantages that accrue to all of us when a dispute involving a poor person is avoided or, if it cannot be avoided, is settled through legal proceedings.

For most people, law is only one among many avenues of redress when a problem arises and usually the one of last resort. Wealthy and middle-class persons generally have access to a number of mechanisms when trouble occurs. If a car is defective, they use a better business bureau or one of the government consumer complaint offices available in many localities. If they fail to receive a social security benefit, they know how to weave their way through the bureaucratic maze and, if need be, to tap necessary political help. In short, in these and other problems, most people have various levers to pull or push before turning to a lawyer.

Poor people, however, rarely know where those levers are or how to use them, and, if they do know, they often lack sufficient muscle to make the levers work. For poor people generally, legal services, if available, are the first as well as the last resort; they are the only avenue of redress. One need not raise the specter of blood in the streets to appreciate the importance to all of us that the legal system be used as widely as possible when self-help is the only other option.

The point is underscored by the reality in our society that many of the traditional institutions for settling disputes (or at least containing them)—family and church being primary among them—are far less able to cope than in earlier days. We can, and I do, bemoan the loss of strength in these institutions, but the loss is no less real.

Second, as I have already suggested, a central job of those in legal services programs is to ensure that civil laws—local, state, and federal—are enforced on behalf of poor people, just as they are on behalf of those who are able to afford an attorney. A network of laws affects poor people in every aspect of their lives, much more than is true for any other group in our society. The point is fundamental but often overlooked by nonlawyers.

It is not by happenstance that "to establish Justice" is the first purpose expressed in our federal Constitution by the framers who sought "a more perfect Union." That aim is stated in the preamble: to "insure domestic Tranquility, provide for the common defense, promote the general welfare. . . ." Without justice there can be no domestic peace or general welfare; in short, there can be nothing worth defending.

Justice is not possible in many civil situations, however, as only a lawyer can fully appreciate, if the individual involved has no legal counsel available. This is not true in all matters when a lawyer might be helpful, but it is true in a wide range of situations—when one is sued is an obvious example. The resources of all federally funded legal services programs are so scarce that they can be used only in those situations in the problem areas of the highest priority to poor people in each community.

If political liberty in this nation means anything, it must mean the opportunity to use the legal system in those problem areas. One of the responsibilities of citizenship is living within the legal system; one of the rights of citizenship must be to make use of that system when the need arises.

These and other basic reasons why legal services are so important to poor people must be communicated clearly and persuasively to the public generally. A legal proceeding is a terrifying prospect to a poor person forced with the loss of a home, or a job, or essential health benefits. A legal services lawyer often represents that person's only chance for equal justice under law. We must make that basic truth clear to the public.●

CONSTITUENTS SUPPORT SPENDING CUTS

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. GUNDERSON. Mr. Speaker, the results of my 1981 legislative questionnaire show that the people in western Wisconsin, who responded to

the survey, overwhelmingly support the President's economic recovery program.

A resounding 90 percent approved of the President's proposals to cut Government spending and that issue was named most often as the major concern.

In addition, there was widespread support for the 3-year, 30-percent reduction in tax rates.

Those who replied to the questionnaire also supported the President's call for increased defense spending by a margin of 3 to 1.

Congress has responded to what is truly a nationwide demand for spending reductions; we must now show a similar responsiveness to badly needed individual and business tax reductions.

The following is a complete summary of the responses to our Third District questionnaire:

1. Do you approve of the President's proposals to cut government spending by about $50 billion next year?

(A) Yes, 90; (B) No, 9.

2. The President has also called for a three year, 30 per cent reduction in individual federal income tax rates. Do you agree with this proposal?

(A) Yes, 75; (B) No, 20.

3. Do you favor the President's freeze on hiring new federal employees?

(A) Yes, 93; (B) No, 6.

4. Do you support the President's temporary freeze on new government regulations which will allow for review and elimination of unnecessary regulations?

(A) Yes, 93; (B) No, 6.

5. Under the Reagan plan spending for national defense would actually increase. Would you favor this increase?

(A) Yes, 73; (B) No, 24.

6. Is the Reagan Economic Recovery Program fair, and does it require equal sacrifices from rich and poor, urban and rural?

(A) Yes, 47; (B) No, 38.

7. Do you support a constitutional amendment to require a balanced federal budget except in war or national emergency?

(A) Yes, 84; (B) No, 13.

8. Do you think income tax rates should be adjusted (indexed) for inflation?

(A) Yes, 70; (B) No, 20.

9. Should businesses be permitted a more rapid tax writeoff for the cost of plants, equipment and vehicles, as a way of making more money available for the expansion of the business?

(A) Yes, 64; (B) No, 28.

10. Should a limit on the amount of money a senior citizen can earn while receiving Social Security benefits be eliminated?

(A) Yes, 56; (B) No, 39.

11. Our congressional district has a large number of dairy farmers. Do you think dairy price supports should be maintained at their present level of 80 percent of parity?

(A) Yes, 50; (B) No, 42.

12. Do you think federal funding of student loans and grants should be increased?

(A) Yes, 15; (B) No, 78.

(NOTE.—In percent. Percentages do not total 100—all questions not answered by all respondents.)

13. Of the following issue areas, which three concern you the most? Please rank 1, 2, and 3:

[In percent]

	Percent voting	Answer		
		No. 1	No. 2	No. 3
(A) Government spending	58	33	15	10
(B) Inflation	58	26	22	10
(C) Unemployment	14	3	6	5
(D) Welfare abuse	47	12	18	17
(E) Agriculture	10	4	3	3
(F) Government regulations	18	2	6	10
(G) Education	8	2	3	3
(H) National defense	22	6	7	9
(I) Energy	23	3	10	10
(J) Environment	10	3	3	4
(K) Elderly	11	2	3	6
(L) Small business	7	1	3	4
(M) Foreign policy	8	1	2	5
(N) Student loans	5	1	1	3

HANSEN TESTIMONY ON IMPACT AID

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. HANSEN of Idaho. Mr. Speaker, today I testified before the Subcommittee on Labor, Health, Education, and Welfare of the House Appropriations Committee regarding impact aid. My testimony reflects the concern from the Second District of Idaho relative to this issue. The testimony follows:

TESTIMONY OF HON. GEORGE HANSEN

Mr. Chairman, I congratulate you and the members of this subcommittee for your promptness and cooperation in scheduling hearings on impact aid.

Sixty-four percent of the State of Idaho is made up of federal land, giving our state the third highest percentage of federal land of the fifty states, being exceeded only by Alaska, 89 percent, and Nevada, 86 percent. Activities on federal land in Idaho are principally of five specific types: forest and Bureau of Land Management lands, nuclear energy and related federal projects, Air Force and national defense, reclamation and conservation, and American Indians.

Sixty-two of Idaho's 115 school districts are currently receiving Public Law 874 funds which represents 18,178 of Idaho's 215,000 school children. Many of the affected students are American Indians and not military dependents as so many people mistakenly believe.

The 62 school districts, many of them with enrollment of less than 1,000 students, have already had tremendous reductions in Public Law 874 support funds. The proposed complete elimination of category 3(b) funds will cause another direct loss of $3,198,000 to Idaho School districts' operating budgets. Such an additional reduction is extremely damaging to a marginal budget.

The 62 school districts are allowed by Idaho law to conduct over ride levies of the local taxpayers in order to raise monies to make up budget deficiencies, but it is not fair to expect Idaho taxpayers to place an additional burden on themselves to make up for the loss of federal impact funds which are traditionally acknowledged to be the responsibility of the federal government. The attempt to shift the federal responsibility of impact relief back to the local level is not only offensive to fairness, but the school district's are not capable of accepting the added tax burden. The school districts can not force a tuition charge on the military or the loggers of federal forest lands and certainly they do not desire to force such a charge on the native American Indians in areas such as Blackfoot and Pocatello.

Congress should not force a complete break of local school dependence on these revenues overnight. If there must be a change, it should be gradual and it still should be federal so long as they hold the lands and create this impact.

The purpose of the Public Law 81-874 Act is to provide financial assistance for local educational agencies in areas affected by federal activity. This Act was a declaration of policy to provide financial assistance in recognition of the responsibility and obligation of the United States for the financial burden imposed on local educational agencies. In fact, one of the charges to the President's Commission on the Review Federal Impact Aid Program is to evaluate "the ways in which local educational agencies which are federally impacted can best be assisted in meeting their educational needs."

The materials prepared by the Department of Education entitled "Reduction of School Assistance in Federally Affected Areas—(Impact Aid)" outlining a rationale of support and justification for this proposal, states, . . . "In the Impact Aid Program, the Administration proposes to direct scarce Federal resources only to those school districts most seriously burdened by the presence of nontaxable Federal property." . . . As I stated earlier, 64 percent of the State of Idaho is under Federal ownership. In some Idaho school districts over 80 percent of the land is "nontaxable federal property." The fact that the government is the largest land owner in the State of Idaho should readily qualify many Idaho school districts under the guidelines presented by the Department of Education. The percentage of tax-exempt federal property imposes a serious burden on many Idaho school districts.

The document referred to above, stresses that the reduction of funding is to "be achieved by eliminating payments for children whose parents contribute to the support of their education through state and local taxes." It is true, that these parents do contribute, however, not to the same extent as non-federally affected parents.

The critics of Impact Aid neglect or ignore the fact that in the case of non-federally affected parents there are usually two (2) sources of property taxes that contribute to the support of their children's education: the residential property taxes paid by these parents and the place of business or worksite property taxes paid by the employer, in many cases the employer also pays other state and local taxes. In the case of the federal government they are exempt from property and/or other state or local taxes to school districts.

It is my belief that all current Public Law 81-874 school districts would support repeal of this aid if Congress would enact legislation authorizing the Federal Government to pay an assessment at the same rate as local property taxes for comparable private property.

Under this type of arrangement the Federal government would contribute in-lieu funds in amounts three or four times as much as full federal funding of all categories under Public Law 81-874. The issues here is one of basic equity. For instance, our colleague of Virginia, Congressman Bill Whitehurst, is sponsoring legislation H.R.

3314, the National Payment in Lieu of Taxes Act, which would provide equitable treatment to localities where there is a large federal presence. The federal government is the single largest landlord in the United States, with holdings estimated in 1978 to be $279 billion. Because state and local governments receive little or no compensation for federal land holdings, their annual loss in revenue is estimated at $3.7 billion.

Under H.R. 3314, localities would identify all eligible federal properties and assess them at the same tax rate as other properties within the jurisdiction. This would then provide the full potential of income to local governments who are heavily dependent on real estate taxes for revenues.

Most residents do not pay enough in taxes on their home alone to pay for community service needs. Even in areas in which a federal presence offers employment to residents who would otherwise be unemployed or non-existent, there is relatively little direct benefit to the local government if only their place of residence can be taxed. Currently, if federal employees or any federally related commission, board, or agency are located in a leased building, the locality receives a full real estate tax payment. If the workplace is federally owned, the local government receives nothing. The direct local services to the building—police, fire, roads, transportation, sanitation, and so forth—are the same.

Former Commissioner of Education, Ernest L. Boyer recognized the importance of a business and/or industrial tax base in testimony concerning School Assistance in Federally Affected Areas, when he said "This policy recognizes the loss to a local community of both residential and industrial tax base to support the educational needs . . .", it emphasized and recognized that there are two sources of property taxes—residental and business.

The 94th Congress also recognized the financial responsibility of the United States Government to local governments by the enactment of the Payment in Lieu of Taxes Act (Public Law 94-1106). This legislation established a system for compensating counties on a yearly basis for revenue losses due to the tax-exempt status of federal lands. The Public Land Law Review Commission best summed up the need for this legislation with this recommendation:

"If the national interest dictates that lands should be retained in Federal ownership, it is the obligation of the United States to make certain that the burden of the policy is spread among all of the people of the United States and is not borne only by those states and governments in whose area the lands are located.

"Therefore, the Federal government should make payments to compensate state and local governments for the tax immunity of Federal lands.

"The situation is similar in county after county across the country; the Federal government as landowner does not pay what would be required if this land was on the tax rolls; nor does it adequately compensate counties for the burdens associated with the maintenance of local government services on these lands."

In his testimony relevant to Public Law 94-1106, John McGuire, Former Chief of Forest Service stated:

"The Department of Agriculture recognizes, as did the Public Land Law Review Commission, that the present system used to share receipts from Federal lands are not uniform and have other shortcomings. We support, in concept, more equitable payments to help compensate for local services which benefit Federal lands."

In view of the above, there can be little doubt Public Law 81-874 at full funding of all categories is a bargain to taxpayers when one considers that the federal government would pay at least three times as much if the federal property was subject to local tax rates.

Entitlement for category 3(B) pupils was initially established at 50 percent of the entitlement rate for category 3(A) students. The base for the 3(A) entitlement rate is one half of the national average cost per average daily attendance (a.d.a.) for the second preceding school year. Even the 3(A) category entitlement rate is not based on current costs but on the a.d.a. costs for the second preceding school year. The funding level proposed for fiscal year 1982 at 90 percent of entitlement would further reduce the rate used by most Public Law 81-874 school districts to calculate entitlement under this program; a rate that is already two years behind current average daily attendance costs. I submit that the funding concept for the category 3(A) entitlement rate is appropriate and justifiable and should be reinstated by the committee as the funding base for entitlement under this program. The fiscal year 1982 budget and appropriation approved by Congress should be commensurate to fully fund 3(A) and 3(B) category payments based on these rates and ration. Three studies of Public Law 81-874, the Battelle Report (1969), the Stanford Report and the Interim Report of the Federal Commission on the Review of the Federal Aid program (1980) support the economic fact that half of the local property tax revenues are derived from nonresidential property and conclude that the 3(B) category should not be excluded. The Interim Report of the Federal Commission indicated justification for expansion of the scope of this Act.

The proposed twenty percent of enrollment must be 3(A) pupils (super "A" districts) to qualify for participation under Public Law 81-874 is too large a factor for eligibility under this program. Most of the 62 Idaho school districts that qualified for funding under this program provide public education for predominately 3(B) category federally affected students. The twenty percent requirement will eliminate 59 Idaho school districts from participation in this program and would similarly eliminate nearly 4,000 school districts nationwide.

Mr. Chairman, Public Law 81-874 was conceived because of a justifiable need; that need still exists. This legislation deals directly with these requirements by providing aid directly to the local school district; hence, it allows local boards of education to spend the funds in maintenance and operation—the area where it is most needed. And this legislation has the lowest delivery cost since it does not have to pass through layers of bureaucracy.

Mr. Chairman, I urge the committee to report legislation whereby the federal government will meet their obligation and responsibility for federally impacted areas by providing full funding of 3(A) and 3(B) students.

Thank you again, Mr. Chairman, for this opportunity.●

SOVIET PRISONERS PERSECUTED

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. GORE. Mr. Speaker, I want to bring to the attention of my distinguished colleagues today the plight of two Soviet prisoners who have been unjustly persecuted by the Russian Government for trying to leave that country and for their friendship with a group of Soviet Jews. I have spoken out previously on behalf of these two individuals, Yuri Federov and Aleksey Murzhenko, as part of the vigil for freedom; today, I once again call this situation to the attention of my colleagues.

Both Yuri Federov and Aleksey Murzhenko were arrested in 1970 for attempting to escape from the Soviet Union in an empty plane along with several of their Jewish friends. Both Federov and Murzhenko had a history of harrassment from the Soviet Government and were subjected to harsh treatment during their arrest, trial, and conviction. During the trial, substantial pressure was placed on both men to testify against their Jewish comrades, but neither gave in to the Government's demands. As a result, they were sentenced to several years in a labor prison camp.

Throughout their confinement, Federov and Murzhenko have been denied the basic rights of decent treatment, right to visitation, and necessary health care. Repeatedly, their mail has been undelivered and visits from their families denied or limited to one or two times. And in both cases, severe illnesses which have stricken these prisoners have gone untreated.

In 1979, seven of the individuals also arrested with Federov and Murzhenko during the escape attempt were released. However, there has been no indication that similar action will be taken in regard to these two individuals.

Clearly, the harassment and mistreatment to which these men have been subjected is in violation of the basic human rights to which the United States ascribes and which we in the Congress attempt to encourage throughout the world. It is imperative that we make clear our support for these two prisoners who have been unjustly held and inhumanely treated throughout their imprisonment. Human decency demands that we speak out on behalf of these individuals compassionately and with vigor. We cannot maintain silence in the face of such unjustice, be it in the Soviet Union or in our own country. I urge my colleagues to continue to lend

their voices to the cause of these prisoners of conscience.●

GEORGE W. KOCH AND CONGRESSIONAL COUNTRY CLUB

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. WAXMAN. Mr. Speaker, many of my colleagues know George W. Koch, the president and chief executive officer of the Grocery Manufacturers of America. He is intelligent, persistent, and tenacious—and he is a man who fundamentally believes in justice and fairness. Over the past several years, because of certain practices that have come to his attention, he has been involved in a controversy with Congressional Country Club, and has come to champion the rights of its employees.

George Koch's activities are the subject of a recent column by Lionel Van Deerlin, our distinguished former colleague from San Diego, who now writes a weekly column for the San Diego Tribune. Mr. Koch and the employees of the Congressional Country Club charge that its staff has been cheated out of over $1 million in wages over the past three decades. The club has denied the allegations, and the matter is now being adjudicated.

George Koch has come to the conclusion from this experience that we should reexamine the various Federal, State, and local tax exemptions that private clubs enjoy. Important social issues are involved.

I commend to the attention of my colleagues Mr. Van Deerlin's article about George Koch:

[From the San Diego Tribune, Mar. 23, 1980]

BUSINESSMAN SUES HIS COUNTRY CLUB

(By Lionel Van Deerlin)

WASHINGTON.—In Hollywood, they'd complain to Central Casting. "You gave us the wrong man for the part," they'd say. "Send someone else."

But this wasn't Hollywood—it was Washington, D.C., which doesn't have a casting office. And logically or not, George Koch seems to have the part.

Koch (pronounced "Cook") is a 54-year-old conservative Republican, an early Reaganite. He wears expensive suits, and knows how it feels to ride behind a chauffeur. He's one of Washington's most successful lobbyists—though most lobbyists lack the prestige implied in Koch's title: president of the Grocery Manufacturers of America. He speaks for 130 of the nation's biggest food, cleanser, confection and packaging companies. His is one of the voices most persistently pressing upon Congress the views of Big Business.

Thus Koch would be dispatched to play the role of a steely-eyed, unionbusting captain of industry—the type who thinks liberals sick, the poor underserving and Christmas Eve ideal of evicting tenants. Right?

Perhaps Koch missed his cue. For he has achieved notoriety of another sort. It's been in all the Eastern papers. He's the man who accused his country club of wage-skimming and other nasty practices against its hired help—mostly blacks and Hispanics—and who has socked some $85,000 of his own money into legal challenges on their behalf. Koch's efforts have helped recover thousands of dollars in back earnings. They have pried open the hitherto closed records of a private club, have brought its officers and managers to their knees and could lead to a serious re-examination by Congress into tax benefits enjoyed by similar clubs across the land.

Object of Koch's vendetta is the 36-hole Congressional Country Club in suburban Maryland, enjoying prestige second only to Burning Tree. Its president emeritus was Herbert Hoover. Membership is limited, and fees are pegged to expense-account living like Koch's (initiation $8,000, dues $1,140 a year). It seems reasonable to assume that an overwhelming precentage of income for this and other such clubs is "business-expensed" and therefore paid by corporations, not private individuals.

Koch, whose Potomac home is a short distance from the club, used its premises contentedly with this wife and six children until the summer of 1975. It was then that a black waitress, Juanita Chavis, told him she had been fired after 24 years' service for refusing to move heavy dining tables unassisted. Because he knew she supported a family, Koch asked the club's personnel office to reconsider her case. The matter went to the club board before Mrs. Chavis got her job back.

A year later, two collegians hired as summer waiters felt they'd been shorted on pay. Fellow workers gave the young men Koch's name. And when club management refused an accounting, Koch provided an attorney to file a labor action. The claim was settled for $3,700 in back wages.

Now the war was on Koch asked Congressional's board to let his accountant examine club books for other possible improprieties. He was refused, on grounds it threatened members' privacy. Also turned down was an alternative suggestion for auditing by a qualified outsider.

Koch sensed a cover-up. And in February 1977 he went to court to compel an accounting.

It was the crossing of the Rubicon. A man of substance and social standing simply does not sue his country club. For Koch it meant the cold shoulder, even some unpleasant confrontations as he and the family continued using the club facilities.

But the staff knew they had a champion. And when two of them spotted cartons of club records stacked on a loading dock for the trash truck, they tossed them instead into an auto and sped—not to the county dump, but to Koch.

The unlikely Robin Hood thus acquired access to a veriable mother lode of information. The club's "trash," duly cross-indexed and supplemented by workers affidavits, traced this pattern of management practices:

—Skimming 20 percent off the "service charge," earmarked for the help, on food and beverage tabs that exceed $2 million a year.

—Unexplained additional deductions of $5 to $150 per pay envelope—amounting for one woman to an $11,000 loss over two years.

—Frequent failure to pay overtime.

—Refusal to certify workmen's compensation payments, even in the case of a 14-year waitress briefly incapacitated when a tray fell on her foot.

In the five years he's been at it, Koch believes he has uncovered more than a million dollars by which Congressional Club workers have been cheated—a good share of which he's confident the state attorney general eventually will order paid.

Meanwhile the Maryland court has seized current club records. Extensive depositions have been taken. In one of these Koch sought to ascertain whether monies skimmed from pay envelopes were used to pay a bartender suspected of doubling as offtrack bookie in the men's grill. He got this response from a club attorney:

"I don't understand what legal difference it makes whether the country club used it to buy golf balls with, whether they used it to build a putting green, or whether they paid somebody, or whether they bought drinks for the board of governors . . ."

Koch thinks it might make considerable difference to a club's continued eligibility for favorable tax treatment under federal law. But he hasn't carried the case this far in hope of reforming the Tax Code.

"These workers have been serving me and cleaning up after me since 1961," he says. "For a tax-exempt, all-white club to mistreat its help like this constitutes a cancer that will fester and corrupt society."

In which case, direct-actionists like Koch might be described as a cancer cure.

(Van Deerlin represented a San Diego county district in Congress for 18 years.)●

THE MAGIC IS IN THE PEOPLE

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. MURPHY. Mr. Speaker, after having listened to my colleagues here in the House on both sides of the aisle for several weeks deliberating the pros and cons of the administration's budget cuts, I cannot help but ponder over the title of an article which I came across in a widely circulated magazine. "The Magic is in the People * * *". As I studied this line, I could not help but feel how these words were so pertinent to those Members here in the Congress who have managed to cut many of our social service and health programs which were designed to help our senior citizens who are financially unable to provide themselves with the services for which they are in need.

According to the 1980 current population survey, the fastest growing segment of the poverty population consists of persons aged 65 and older, with over 60 percent of all elderly individuals living alone having annual incomes below $4,999, and about 25 percent of the aged person living as couples living on annual incomes below $3,500. However, be this as it may, the administration chose to select programs designed to assist this group of individuals who in most cases require these additional services to survive

and reduce their funding levels considerably.

Perhaps this was the "magic" of the administration to make food stamp benefits disappear for approximately 125,000 elderly persons, or in waving their wand to cut health benefits under medicaid and medicare reducing benefits for 5 million medicaid recipients and denying 3,100 persons home health benefits under medicare. Their magic show goes on with the elimination of jobs funded for senior citizens under CETA, as well as the elimination by CETA of public service employee services which have been most valuable to senior citizens. Legal services, lump sum social security death benefits, and social security minimum benefits also disappear as a result of the Gramm-Latta magic show, and as a grand finale the program also includes disappearing funding for housing.

As we all know, low-income housing has been at a premium since it began, and there always appears to be an increasing need for additional low-income housing units. However, the new administration's program has also managed to hit this area well by denying 52,447 rent subsidies, increasing rent payments to 727,340 persons in subsidized housing, and denying another 1,150 persons of new housing which was scheduled to be built.

If this is the "magic in the people" of the administration and the Gramm-Latta measure, then indeed the show will receive bad reviews, for the effects will be tragic. We have brought about these assistance programs over the years for our elderly because we have tried to help them survive. In a country where runaway inflation has taken over, how can we expect those on such limited incomes to bear the brunt of economic recovery and manage to live when even the bare necessities they depend on are reduced.

The "magic" may be in the people, for if our elderly are able to survive these harsh budget cuts, it will indeed be a stroke of great magic.●

REAGAN ADMINISTRATION OPPOSES FEDERAL SUBSIDY TO CLEAN UP THREE MILE ISLAND

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. MARKEY. Mr. Speaker, I would like to draw attention to the recent declaration by the Reagan administration opposing the use of Federal funds to subsidize the enormous clean-up costs incurred by the owners of the damaged Three Mile Island nuclear reactor. Those costs are currently estimated to total as much as $1.4 billion and have threatened the financial solvency of the owners, General Public Utilities.

I strongly oppose any taxpayer bailout of the costs to clean up the radioactive mess left by an accident inside a nuclear powerplant. The investors in that plant, and the responsible parties in the nuclear industry, should pay that price, not the taxpayer. I welcome the news that the Reagan adminstration seems to share this perspective.

Let me urge my colleagues to read the account of the White House statement which appeared in the Wall Street Journal on June 1, 1981. The Journal article summarizes a letter from David Stockman, Director of the Office of Management and Budget, to the gentleman from Pennsylvania (Mr. ERTEL). A copy of the Stockman letter is included below.

Our colleague, Mr. ERTEL, has proposed legislation that would require all U.S. utilities owning nuclear reactors to enter a nuclear accident recovery insurance pool, from which funds could be drawn to pay for onsite damages in the event of a nuclear accident. Participation in the insurance pool would be required by Federal law, as a condition for holding a license to operate a nuclear reactor. Such a proposal means that all ratepayers served by those utilities would underwrite the potential dollar loss faced by the investors in any reactor which might suffer a severe accident.

I believe this is the wrong direction for legislation to proceed. The parties immediately responsible for the regulation of electric power in Pennsylvania and New Jersey—the two States served by General Public Utilities—are capable of reaching an understanding with all affected parties concerned about the future solvency of the utility. I refer to the owners, investors, and creditors of the utility. Other parties, such as the Edison Electric Institute, which represents investor-owned utilities, can also offer a private sector solution to this problem by contributing to the cleanup fund. The fiscal problems of the Three Mile Island accident can be quarantined at the State level and in the private sector. There is no need for any Federal bailout, whether direct or indirect, to the nuclear industry.

In this vein, let me draw attention to the plan to offer $1 billion in onsite property damage protection was unveiled last month by American Nuclear Insurers (ANI) and Mutual Atomic Energy Reinsurance Pool (MAERP). The new insurance coverage provided by these private insurers would increase protection from the present ceiling of $369 million per reactor and could be in place by the beginning of 1982, assuming all U.S. nuclear utilities chose to participate in the plan fully.

ANI president Burt Proom announced details of the expanded property insurance plan in May. At that time, he indicated that three layers of coverage would be provided: $450 million provided from the pools; $350 million from a post-loss premium plan similar to that available from Price-Anderson coverage of offsite liability claims; and $200 million from guaranteed cost excess insurance. Unlike the legislation proposed by Mr. ERTEL, this plan is being offered without any Federal interference. It shows that the private sector will provide a solution to this problem free from Federal intervention.

[From the Wall Street Journal, June 1, 1981]

REAGAN FORMALLY OPPOSES DIRECT BAILOUT OF GPU OVER THREE MILE ISLAND ACCIDENT

WASHINGTON.—The Reagan administration has gone formally on record against a direct Federal bailout of the utility faced with staggering costs of cleaning up the damaged Three Mile Island nuclear reactor in Pennsylvania.

White House Budget Chief David Stockman said the Government shouldn't try to cope directly with the estimated $1.3 billion cost of removing radioactive water from the plant and taking out its damaged reactor core. General Public Utilities Corp., the plant's owner, has $300 million in insurance to cover cleanup costs, but is straining to find the rest of the needed money.

Mr. Stockman's views were contained in a letter to Representative Allen Ertel (D., Pa.). The Budget Director said the Federal Government can help with "sound" cleanup regulations, nuclear waste disposal "on a reimbursable basis from the utility" and general research on how a damaged reactor be decontaminated.

"For the reactor at Three Mile Island, it is reasonable to limit the role of the Federal Government to these three activities," Mr. Stockman said. "The private sector is responsible for sound business practices needed for providing reliable, safe and cost-effective electricity to the consumer."

Earlier this year the presidentially appointed Nuclear Safety Oversight Committee, chaired by Arizona Governor Bruce Babbitt, suggested the Government should pay for the Three Mile Island cleanup job. However, the idea has been received frostily by the Reagan administration, and there's little support for a direct bailout of GPU in Congress.

Representative Ertel, who asked for Mr. Stockman's views on the subject, is sponsoring a bill that would require all U.S. utilities with nuclear plants to form a special pool of Three Mile Island cleanup money. His bill would leave it to state utility regulatory commissions to decide whether to pass this special levy on to consumers or make a utility swallow it.

In preliminary hearings on Mr. Ertel's bill, opposition surfaced from other Members of Congress and from State utility commissions objecting to sticking consumers with the cost of a nuclear accident in Pennsylvania. However, Congress later this session may try to deal with the general subject of nuclear accident insurance, and a specific remedy for General Public Utilities' financial problems could be considered then.

In his letter, Mr. Stockman said Congress may want to require utilities to carry more insurance to cover future serious accidents, but he neither endorsed nor opposed Mr. Ertel's plan for dealing retroactively with GPU's March 1979 accident near Harrisburg, Pa.

The Reagan administration proposes to spend $75 million over 3 years on "research" at the Three Mile Island site on the Susquehanna River, a considerable increase from the Carter administration budget. The Energy Department says the work mainly consists of reconstructing how the accident happened. The agency also is studying methods of removing radio-activity from water in the reactor building, and it wants to lower a television camera into the reactor core vessel to get an early clue about the amount of damage caused by overheating when a faulty valve allowed the level of cooling water to drop, uncovering the uranium fuel.

The research objectives won't overlap very much of the cleanup work that GPU would have to do anyway, the Energy Department insists. "This is the only way we could sell it to the President," says one department official. "He didn't want to hear about a bailout."

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C. May 11, 1981.

Hon. ALLEN E. ERTEL,
U.S. House of Representatives,
Washington, D.C.

DEAR ALLEN: You and your staff have spent considerable effort in the past several months addressing the issue of nuclear accident recovery insurance. As is clearly indicated by the impasse at Three Mile Island, there are significant financial and political impacts when the affected utility is unable to absorb the cost of the cleanup.

There is certainly a role for the Federal Government at Three Mile Island. The Government can assure safe and environmentally sound recovery practices through the Federal regulatory process. It can provide for disposal of those wastes not suitable for shallow land burial on a reimbursable basis from the utility. Further, the Government can perform R. & D. which will provide generic information on the physical state of a damaged reactor core, and on the engineering problems of cleaning up and decontaminating a nuclear reactor.

For the reactor at Three Mile Island, it is reasonable to limit the role of the Federal Government to these three activities. To deal with the possibility of such accidents in the future, it may be necessary for Congress to consider legislation which would require that the owners of nuclear powerplants carry a greater amount of private property insurance.

In working toward a solution to the problem at Three Mile Island, we must keep in mind that the State public utility commissions are responsible for allowing adequate rates of return to the regulated utilties. The private sector is responsible for sound business practices needed for providing reliable, safe and cost-effective electricity to the consumer. We have seen, thus far, strong initiatives from the private sector in response to the accident at Three Mile Island. This administration feels that the private sector, working closely with State governments and their regulatory agencies, and the NRC can responsibly assure the expeditious cleanup of the damaged reactor at Three Mile Island.

The Congress can best support the long-term viability of the nuclear option by developing and articulating national policies which allow nuclear power to be truly competitive with other sources of energy supply. I look forward to working with you in this regard.

Sincerely,

DAVID A. STOCKMAN,
Director.●

BEST CHANCE FOR A WORLD-WIDE BAN ON COMMERCIAL WHALING

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. BONKER. Mr. Speaker, as chairman of the House Foreign Affairs Subcommittee that oversees U.S. participation in the International Whaling Commission, I was pleased to see this comprehensive editorial on the need for a commercial whaling moratorium appear in the Seattle Post-Intelligencer of June 6, 1981.

For the past 2½ years, the Human Rights and International Organizations Subcommittee has spearheaded congressional efforts to gain a worldwide ban on the commercial killing of whales. Most recently, on June 16, the subcommittee unanimously reported to the full committee House Concurrent Resolution 96, which I authored, urging the IWC to adopt an indefinite moratorium on all commercial whaling and to enact other measures to enhance protection for the world's whales. With the controversial bowhead whale issue temporarily off the IWC's agenda, the 33d Commission session will indeed present "the best chance to save the whales." It is my hope that at the Brighton meeting in July, we will finally bring an end to the needless commercial slaughter of whales.

Mr. Speaker, I highly commend to my distinguished colleagues this editorial on U.S. policy for the 33d International Whaling Commission meeting:

BEST CHANCE TO SAVE THE WHALES

There are high hopes that, at long last, a ban on commercial whaling will emerge from the 33rd annual meeting of the International Whaling Commission, to be held in Brighton, England, July 20 to 25.

So far, President Reagan has not named a commissioner to lead the U.S. delegation. But, unless there is a complete reversal of our traditional position on conservation of marine mammals, this country can be expected, once again, to push for an indefinite world moratorium on whaling. And, if not the U.S., then other nations are expected to put forth a whaling phase-out.

Just last year the Seychelles proposed a ban on sperm whaling. That resolution fell one tragic vote short of the three-fourths needed. Passage would have averted the slaughter of 1,300 sperm whales.

One nay-voter was Canada, paradoxically a non-whaling nation. Canada's vote with the whalers provoked much criticism, both within and without that country. Since then, environmental groups there have united to lobby for a moratorium. It's thought that Mac Mercer, the Canadian commissioner, may have felt enough public pressure to change his stand.

That's a reason for hope. Another reason for optimism is the expansion of the commission. The new members all seem disposed to vote in favor of conservation of the sadly depleted whale stocks. In 1980, there were 24 members of the whaling commission, nine of them whaling nations. Now the People's Republic of China and India (sympathetic to the moratorium) have joined. Costa Rica and West Germany, also expected participants, would probably vote for a ban.

Now it's thought that Brazil and Spain—whaling nations—may be backing away from previous votes with the whalers. Brazil has vowed to halt its whaling activity. Public opposition is mounting in Spain.

At the recent Convention on International Trade in Endangered Species, West Germany introduced a resolution to outlaw trade in sperm, fin and sei whales. The vote was 37-2, with only Russia and Japan (biggest slaughterers of whales) voting against the proposal. Curiously, the United States delegation argued—unsuccessfully—that whales taken in accord with the IWC quotas ought to be allowed in international trade. This argument is specious if one accepts the Japanese rationale that they slaughter whales to provide protein for their own people. The United States finally abstained on the West German proposal. It was not our country's finest hour.

That hour, we hope, will come at the Brighton meeting. There needs to be a total halt to whaling—an outright ban. Whale populations have been so exploited that some experts doubt that herds can ever be restored. Several species teeter on the brink of extinction—among them the sei and finback.

The Russians at least have made good on a 1978 promise to abandon whaling operations. The Soviets stressed the conservationist aspects of their decision, but it undoubtedly is more an economic move. There are so few whales remaining that it doesn't pay to keep a fleet in pursuit.

The world must halt its harvest of these gentle creatures as soon as possible. The time may already be too late.●

AMENDMENTS TO H.R. 2614

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. PEASE. Mr. Speaker, when the House votes on H.R. 2614, the Department of Defense supplemental appropriations, I intend to offer the following amendments and urge the support of my colleagues.

Page 10, after line 20, add the following new title:

TITLE VII—GENERAL PROVISIONS

SENSE OF THE CONGRESS

SEC. 701. (a) In recognition of the need to strengthen the military preparedness of the United States, it is the sense of the Congress that all funds appropriated under the authorization contained in this Act, the Department of Defense Authorization Act, 1981 (94 Stat. 1077 et seq.), and the Military Construction Authorization Act, 1981 (94

Stat. 1749 et seq.) shall be used directly to strengthen the national defense of the United States.

(b) In recognition of the efforts of the people of the United States to improve the efficiency and effectiveness of outlays by the Government, it is the sense of the Congress that the Secretary of Defense should attempt to reduce and eliminate unnecessary expenditures made by the Department of Defense which are not directly related to the defense of the United States.

RECREATION FACILITIES REPORT

SEC. 702. Not later than January 1, 1982, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report which—

(1) details the costs associated with maintaining military recreation facilities for use by members of the armed forces and their dependents;

(2) examine the availability of recreation facilities other than military recreation facilities for use by members of the armed forces and their dependents; and

(3) describes methods of obtaining funds by charging members of the armed forces and their dependents fees for the use of military recreation facilities.

Page 7, strike out line 10 and all that follows through line 19.

Page 10, after line 20, add the following new title:

TITLE VII—GENERAL PROVISIONS

RECREATION FACILITIES REPORT

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(3) describes methods of obtaining funds by charging members of the armed forces and their dependents fees for the use of military recreation facilities.●

TRIBUTE TO JAMES C. SERLES

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. ANDERSON. Mr. Speaker, on June 19 the Long Beach, Calif., Chamber of Commerce will hold its annual installation dinner, and honor, among others, Dr. James C. Serles, the chamber's president this past year.

Jim is quite an accomplished man. A native of Long Beach, he attended Pomona College after graduating from Poly High School; and then headed east to study dental surgery at Columbia University. His classmates at Columbia honored Jim by electing him class president all 4 years he was attending the university. Immediately following his graduation the Navy beckoned, and Jim returned home to serve his tour of duty as a dental officer at Terminal Island, Long Beach, Calif.

All of us in Long Beach are fortunate that Jim decided to stay in the area following his discharge from the Navy, for he is one of those persons who realizes that he lives not just in a city of buildings and strangers on the street, but in a community of friends and neighbors. There is a long list of activities and contributions that accompany the name Dr. James Serles, including work with the Boy Scouts, the United Way, the public school system, the Long Beach Community Hospital, the Long Beach Children's Benefit League, the Kiwanis Club, and, of course, the chamber of commerce. The Jaycees have honored him with both the Outstanding Community Service and Man of the Year Distinguished Service Awards.

My wife, Lee, and I are grateful to be friends of Jim's and we both know of his good work, and wish him the very best in his continued activities.●

ENERGY EFFICIENCY TAX CREDITS

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mrs. SCHNEIDER. Mr. Speaker, one of the primary concerns of the 97th Congress is to develop a tax package that will result in a hardier economic climate. The goals are to arrest inflation, enhance productivity, and reduce the tax burden. Last Thursday I introduced for myself and Congressman MARKEY, H.R. 3910, a bill that would help us achieve these goals. This legislation would provide tax credits for a fuller range of energy efficiency improvements in the commercial sector. It would also provide a tax credit for the rental housing sector, which is not now eligible for an energy tax credit.

Our bill increases the current energy conservation tax credit for the commercial sector from 10 to 20 percent and significantly broadens the list of eligible buildings and qualified equipment. There is roughly 30 billion square feet of commerical building space in the United States. The Solar Energy Research Institute has found that an investment in energy efficiency improvements of only $2 per square foot in this sector would save half of the 6.5 million barrels of oil equivalent per day now consumed. The potential for reducing energy use in the commercial sector is great, but large barriers frustrate the tapping of this enormous pool of energy. Unfortunately, the breadth and amount of the existing energy tax credit is inadequate to overcome these market imperfections. The major energy conservation impediment in the commercial sector is that the expected market response to rising energy prices is short circuited because the energy user—commercial space tenant—is often not the one would make energy efficiency investments—building owner. A 20-percent energy tax credit is necessary to compensate for this market disincentive.

We are calling for a 30-percent energy efficiency investment tax credit for the residential rental sector because market barriers are even more severe than in the commercial sector. There are approximately 25 million rental housing units in the United States that consume about 2.5 MBOE/D. Again, SERI calculates that 50-percent of the energy now used in these buildings could be saved through energy efficiency improvements in the rental housing sector, however, have been practically nonexistent because there is very little incentive for a landlord to invest in energy conservation since most energy costs are borne by the tenant.

If energy conservation investments were made in all buildings covered by this legislation, as much as 1.6 billion barrels of oil equivalent per year could be saved. At $30 per barrel this would amount to $48 billion. Another important benefit of this bill is that the U.S. Treasury would realize billions of dollars in tax revenue because the amount of fuel expended in tax reductions by businesses would be reduced, while at the same time increasing their taxable profit base.

Energy efficiency improvements have penetrated the commercial sector very slowly and have been all but absent in rental housing. Institutional barriers have prevented the marketplace from inducing an optimal response to rising energy prices. This legislation would offer incentives to overcome these obstacles. These investments represent a direct means of lowering the most inflationary commodity a business confronts—energy—resulting in a healthier cash flow and higher productivity through reduced energy bills.

H.R. 3910 will spur the marketplace to develop this cheapest, cleanest, and quickest source of available energy. We hope you will join us in cosponsoring this bill. Please contact Michael Totten, 5-2735, or Lisa Shulock, 5-2836, if you have any questions or would like to cosponsor.

H.R. 3910

A bill to amend the Internal Revenue Code of 1954 to encourage energy conserving improvements of commercial and residential property

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ENERGY CREDIT FOR CERTAIN ENERGY-SAVING IMPROVEMENTS

(a) GENERAL RULE.—Paragraph (5) of section 48(1) of the Internal Revenue Code of 1954 (defining specially defined energy property) is amended by striking out "or" at the end of subparagraph (L), and by striking out subparagraph (M) and all that follows and inserting in lieu thereof the following:

"(M) caulking and weatherstripping,

"(N) heating efficiency modifications, including—

"(i) replacement burners, furnaces, boilers, or any combination thereof,

"(ii) devices for modifying flue openings,

"(iii) electrical or mechanical furnace ignition systems which replace standing gas pilots, and

"(iv) improvements to heating distribution systems,

"(O) insulation (including insulation of any property located within the building or facility),

"(P) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflecting window and door materials,

"(Q) devices and equipment associated with load management,

"(R) replacement or modification of a cooling, refrigeration, or ventilation system,

"(S) replacement or modification of a lighting system,

"(T) a waste heat recovery system (or improvements thereof),

"(U) any property installed in connection with the conversion from master utility meters to individual meters, but only if such property is directly related to and installed in connection with the installation of any of the items specified in subparagraphs (M) through (T), or

"(V) any other property of a kind specified by the Secretary by regulations,

the principal purpose of which is reducing the amount of energy consumed in any existing process or activity and which is installed in connection with an existing building or facility. The Secretary shall not specify any property under subparagraph (V) unless he determines that such specification meets the requirements of paragraph (9) of section 44C(c) for specification of items under section 44C(c)(4)(A)(viii)."

(b) DEFINITION OF EXISTING.—Paragraph (10) of section 48(1) of such Code (defining existing) is amended to read as follows:

"(10) EXISTING.—For purposes of this subsection, the term 'existing' means—

"(A) when used in connection with a building or facility, 50 percent or more of the basis of such building or facility is attributable to construction, reconstruction, or erection before January 1, 1981, and

"(B) when used in connection with an activity or process, such activity or process was carried on in the building or facility as of January 1, 1981."

(c) INCREASE IN AMOUNT OF CREDIT.—

(1) The table contained in clause (i) of section 46(a)(2)(C) of such Code (defining energy percentage) is amended by inserting after the last item the following new items:

"VII. Specially defined energy property other than residential.—Property described in section 48(l)(5) (other than specially defined residential property).	20 percent	Jan. 1, 1981	Dec. 31, 1989.
"VIII. Specially defined residential property.—Specially defined residential property.	30 percent	Jan. 1, 1981	Dec. 31, 1989."

(2) Subparagraph (C) of section 46(a)(2) of such Code is amended by adding at the end thereof the following new clause:

"(v) SPECIALLY DEFINED RESIDENTIAL PROPERTY.—For purposes of clause (i), the term 'specially defined residential property' means any specially defined energy property (as defined in section 48(1)(5)) which is installed in connection with any building which is residential rental property (as defined in section 167(j)(2)(B))."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 1980, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.●

ENERGY CONSERVATION TAX CREDIT

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 16, 1981

● Mr. MARKEY. Mr. Speaker, I am pleased to join with my colleague from Rhode Island, Mrs. SCHNEIDER, in introducing legislation (H.R. 3910) that would provide a tax credit for energy conservation investments in rental housing and expand the conservation tax credit for the commercial sector.

Recently, we have made great strides in the area of improving the Nation's energy efficiency. Imports have been running at less than 5.5 million barrels of oil per day; from a high of 7.9 million barrels per day in 1977.

Yet we have only begun to scratch the surface of the vast potential for increasing energy efficiency. We are learning that future energy savings can be enormous and inexpensive. It is claimed, however, that high prices and a "free" energy market is all that is needed to insure our oil independence. Market forces will not achieve the optimal or necessary conservation response. There are significant institutional barriers that prevent the marketplace from reacting in an ideal manner.

Energy price signals often fail to reach the individual making investment decisions. In the commercial sector, a business that leases space and pays the energy bill, is unlikely to invest in energy efficiency improvements because the building is not their own.

This problem is even more severe in the residential rental sector. Rental housing makes up one-third of all residences, and accounts for about that fraction of overall residential energy use.

Conservation initiatives in multifamily and rental housing are inhibited for a number of reasons. High energy prices, which provide incentives to conserve in other types of housing, are hidden in the rental sector. The tenant ends up paying the energy bills; either directly to the energy supplier or as a passthrough in the rent. Thus, the landlord is insulated from the effects of high energy prices and has little incentive to improve the building's energy efficiency.

The energy consumed in the commercial and residential rental sectors is far too great to be ignored any longer. This legislation is designed to aid the marketplace; it will provide the incentives that are not now present in these sectors.●

HOUSE OF REPRESENTATIVES—*Wednesday, June 17, 1981*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O gracious Lord, giver of all good things, in a world beset by problems great and small, we still pause to praise Your name for Your acts of love to us. May we never be so overwhelmed by the difficulties of the day that we miss the beauty of Your creation and the majesty of Your presence. Lord, remind us by Your grace so we will ever proclaim Your goodness to people weighted down with the burdens and anxieties of the times. From the depths of our hearts we laud and glorify You, O Lord, and pray Your benediction upon us and all Your people. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

GUARANTEED STUDENT LOAN PROGRAM RESTORED

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, I am pleased to say that the Education and Labor Committee met this morning, and in truth we made the best out of a surely rotten situation that the Reagan administration has given us to deal with, and we have acted on the many programs that most Members of this Congress over the years have supported. I can say that while we did not cut the heart out of these programs, we certainly cut them off at the legs. But, I am going to talk about just one program, Mr. Speaker, and that is the guaranteed student loan program. There has been a great deal of interest expressed in it, and I think it is important that the Congress and the public know that the guaranteed student loan program has been restored. There will be no needs test necessary, and the program can continue to serve the interests of the people of this country, and particularly the low- and middle-income people of this country.

I think the committee, Mr. Speaker, under the direction of the chairman, CARL PERKINS, really has earned a great deal of thanks from the constituencies out there who have been poorly served by the Reagan administration.

FALSE BUDGETS

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEIBERLING. Mr. Speaker, I could hardly believe my ears when I heard Director of OMB and then the President himself denouncing House committees for claiming false cuts and making deep cuts in social programs in meeting their reconciliation instructions. Let us set the record straight.

First, it is the administration that proposed a misleading budget, with its false economic assumptions leading to false economic hopes. The administration's budget, which dictated the reconciliation actions, operates on the theory that continued large deficits can lead to lower inflation and lower interest rates. The responsibility for such false budget claims lies squarely at the doorstep of the administration.

Second, it was the administration that proposed the Draconian budget and maneuvered its adoption by Congress. It was the administration that proposed the deep cuts in child nutrition, education programs, health care programs, student loans, and mass transit.

The American people will see through the Republican sleight of hand of proposing cuts and blaming the Democrats for adopting them. The record is straightforward: Republicans designed a budget based upon voodoo economics and are now maneuvering to make sure that the working people of America are the ones who will pay for it.

SCIENCE AND TECHNOLOGY COMMITTEE MEETS ITS TARGET FIGURES

(Mr. OTTINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OTTINGER. Mr. Speaker, following out what my good friend from Ohio said, on the Science and Technology Committee the overall savings achieved are much greater than the targets contained in the reconciliation instructions.

Indeed, reconciliation was a very painful process. I did not agree with many cuts that were made, particularly a cut of 46 percent from conservation and 46 percent from solar programs.

The committee also cut things with which other people will disagree. We cut out the Clinch River breeder reactor. We made a 5.8-percent decrease in the nuclear fission program. We increased the nuclear fusion program.

But the overall savings by your committee was greater than the reconciliation guidelines. The reason those cuts had to be made were because of the vote on the Gramm-Latta budget.

Some view these savings as being phony because of the high baseline figure, but that baseline figure was set by the Gramm-Latta substitute and the baseline then agreed to by the House and Senate in conference.

Since the authorizations reported out of the Science and Technology Committee are below the Reagan-Gramm-Latta budget, and far below the reconciliation level that was decided on by the committees, certainly this committee more than met its obligation and is not subject to the kind of harsh criticisms that were leveled at us by the President and the OMB.

GOOD NEWS FOR THE WORKING PEOPLE OF AMERICA

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, President Reagan's tax cut compromise is supposed to reflect that he will no longer cling stubbornly to Kemp-Roth and how sensitive he is to early criticism he was too generous to the affluent. He now is attacking Congress because we are "dragging our feet" on his new "bipartisan" tax bill that is so sensitive to the working class.

Under his plan poor people will be able to leave estates of up to $600,000 without paying inheritance taxes. The unemployed can give $10,000 a year to each child without paying gift taxes. Welfare mothers can save $2,500 on their oil windfall profits tax. Blue-collar workers living abroad can earn up to $75,000 a year tax free. Blacks and Hispanics earning over $60,000 a year can get a tax break on their investment portfolios.

The working people he knows are a lot different than those I know. The ones I know are not in such a hurry to have all these "goodies" delivered.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

COMMITTEE ON ENERGY AND COMMERCE COMPLIES WITH GRAMM-LATTA DIRECTIVE

(Mr. DINGELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, like many of my other colleagues I was troubled about the idea of taking the strategic petroleum reserve off budget. But, under Gramm-Latta and under the leadership of the President and under the leadership of my colleagues on the Republican side of the aisle, we observed that was done in spite of my objection and that of many Members on this side of the House. It is now claimed by the administration and by certain of our colleagues on both sides of the aisle that $900 million in savings for the strategic petroleum reserve included in the Energy and Commerce Committee chairman's package, are false savings.

That is not true.

The administration through Mr. Stockman advised the Congress to take funding for the strategic petroleum reserve off budget. The Energy and Commerce Committee minority package takes $3 billion in budget authority and outlays for SPRO off budget. The majority's package takes a slightly larger figure.

The important point that must be remembered is that the majority package from the Energy and Commerce Committee meets the reconciliation directive in all particulars even if the strategic petroleum reserve savings over $3 billion included therein are not credited. Equally importantly, that package does comply with the instructions and the recommendations of the House earlier when we were told to do this under Gramm-Latta.

PRESIDENTIAL PERKS

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GONZALEZ. Mr. Speaker, the President is asking all Americans, and especially the poor, to make sacrifices in the name of economic stability. He seeks to take away the very bootstraps by which he exhorts the poor to raise themselves.

But the President is not asking himself to take any sacrifices. He is looking for a yacht. Yesterday, the *Sequoia* came back to town, like Banquo's ghost, ready for Presidential use.

If the President gets a yacht, even at no cost, it will cost plenty to keep it up, keep it safe, and float it down the creek.

I do not begrudge the Presidential perks. I do wonder, though, if he would deign to give a ride, maybe a berth, perchance even a swabbie's job to the people who are losing their jobs and their hopes in the budget bloodbath. Would the President, perhaps, even give a bowl of *Sequoia* soup to one of the million or so about to lose food stamps? Is there room on the yacht for a poor workingman?

SECRETARY REGAN SHOULD HAVE CONFIDENCE IN HIS OWN ECONOMIC ASSUMPTIONS

(Mr. LEVITAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVITAS. Mr. Speaker, I was shocked and disappointed to read in the New York Times on June 11 that Secretary of the Treasury Regan rejected the idea of attaching economic triggers to the third year of any tax cut. He said he disliked the idea, and I quote, "Because it introduces uncertainty about the tax cut and because defining the trigger would be contentious."

First of all, there would be no contention because the economic triggers would be the exact, same assumptions which the Reagan-Stockman budget has proposed, so there is no contention about what the triggers would be. They are the administration's very own. Do they disavow their own economic assumptions?

With respect to the alleged uncertainty, I can tell the Members that the third year would be as predictable and as certain as the administration's economic assumptions are reliable, and if they are not reliable and the Secretary of the Treasury does not believe in them himself, we has better know it now because we are headed for higher deficits, greater inflation, and higher interest rates if those economic triggers are not met.

The economic triggers for the third year of a tax cut would provide a fiscal safety net to avoid an astronomical deficit if the economy is not responding favorably to the Reagan program.

Therefore, Mr. Speaker, I urge that Mr. Regan, the Secretary of the Treasury, have as much confidence in his own economic assumptions for these triggers as he has asked Congress and the American people to place in them. If not, we are headed for an inflationary and interest rate disaster.

THE BITTER MEDICINE OF HIGH INTEREST RATES

(Mr. McCURDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCURDY. Mr. Speaker, rising mortgage rates are placing the dream of homeownership beyond the reach of most Americans—to the point now where 95 percent of American families can no longer afford to buy a new home. This is another bad-tasting dose of that medicine of high interest rates that Secretary Regan tells us we must swallow.

Here are the grim statistics recently compiled by the National Association of Home Builders in their report on the state of housing in America.

The median price of new homes increased to $64,600 in 1980 and mortgage rates rose just last month to 16 percent. The monthly payment on a 30-year, $60,000 mortgage is $807. It would take an income of about $50,000 a year to afford that new home today. Only a little over 5 percent of American families make that much money in a year.

Many economists fear that high interest rates will be an enduring feature of this administration as restrictive monetary policy collides with an expansionary fiscal policy—and the would-be home buyer gets squeezed out of the picture.

REBUTTAL TO OMB ON THE CLOSING OF POST OFFICES

(Mr. FORD of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FORD of Michigan. Mr. Speaker, one of the targets of criticism in the OMB paper released Monday is the recommendation by the Post Office and Civil Service Committee to reduce the Postal Service subsidy, which supports the smallest and least efficient post offices.

The Gramm-Latta budget substitute, which was endorsed by the administration, assumed a cut in this Postal Service subsidy for 1982 and called for its elimination entirely by 1984. What the Post Office Committee did was follow the Gramm-Latta instructions, but accelerate the cutbacks in the subsidy by 1 year, and require the Postal Service to submit to Congress a plan for closing or consolidating smaller post offices as a way to achieve the savings. Such a plan would be subject to congressional veto.

Given the reconciliation targets contained in the Gramm-Latta budget, the only other option for the committee was to eliminate Saturday mail, raise the price of stamps, or renege on the reconciliation instructions. The committee chose what it felt was the best option.

CONGRESS SHOULD NOT BE DICTATED TO

(Mr. JONES of Oklahoma asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES of Oklahoma. Mr. Speaker, the Budget Committee will meet this afternoon for the purpose of reporting out the omnibus reconcilia-

tion bill. The 15 legislative committees who were asked to cut more than $35 billion from existing law have not only met the instructions of the Congress, but they have exceeded those instructions with $37.5 billion in real cuts beginning in October.

Now there has been some discussion recently about the timetable slipping. I think it is important to note that this body, the House of Representatives, has not only met every timetable that has been agreed to on a bipartisan basis, but we will continue to do so.

The only thing that could slow this timetable down is if the Office of Management and Budget downtown insists on dictating to the House of Representatives and more particularly to the Republican Members of this body that they will dictate what the details of the policy decisions and the legislative decisions will be.

We keep hearing that OMB is going to send down a total reconciliation substitute of about 6,000 pages. Unless we can get some idea of what is in these 6,000 pages, unless we can get some idea as to whether or not there is going to be a substitute, and we get an idea in writing this week, then I think there is no way possible to keep up with the bipartisan deadlines and timetable that all of us had agreed upon.

So, I would hope that particularly the minority Members of this body will not permit the OMB or some agency downtown to dictate to them what the legislative responsibilities are which are yours in the first place.

THE PRESIDENT'S BUDGET

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, President Reagan, commenting yesterday on the budget compliance efforts of the various committees of this body, demonstrated either the heights of hypocrisy or the depths of ignorance. Some of the proposed cuts, he said, are "unconscionable," and of course they are unconscionable. But it is the budget resolution offered by Mr. Reagan and his Republican cohorts which mandated $50 billion in cuts in domestic programs.

The President's allies stated in the course of the budget debate that the budget resolution would be firing real bullets.

I am shocked that the President is now attempting to dodge his responsibility for those bullets. But the American people will know full well that it is the President who pulled the trigger on the Reagan budget.

PERSONAL EXPLANATION

(Mr. FRANK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRANK. Mr. Speaker, due to my absence on official business, I was not recorded on rollcall No. 51, the conference report on House Concurrent Resolution 115. Had I been recorded, I would have voted "nay."

I ask unanimous consent that this explanation be printed in the permanent edition of the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

MEANINGFUL RECONCILIATION

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, next week this body is supposed to vote on a reconciliation bill. It is not an understatement to say that the economic fate of the Nation, not to mention the credibility of this institution, is at stake. Yet there are those who would compromise both by advocating adoption of a reconciliation bill that contains the illusion of substance rather than the reality of it. If we are serious about making reconciliation work; if we are sincere in our commitment to carry out the mandate of the first budget resolution we passed just last month, then it is essential that we adopt a reconciliation bill that makes changes in the law necessary to achieve projected spending cuts and does so in a realistic fashion. To say that the food stamp program will be cut $1.4 billion, without changing the entitlement nature of that program, is no savings at all. Nor is it realistic to reduce reductions in Federal pay increases and offset the reduction by closing 10,000 post offices. Similarly, it is not realistic to expect that Congress will go along with some of the other cuts—such as those in senior citizen programs—that are being talked about now even though they were never assumed by the budget resolution in the first place. All these things are evidence of the same type of creative bookkeeping that got us into this mess in the first place and, the sooner we stop being so imaginative and face up to the hard realities, the better off everyone will be. I know it is tough to break a 40-year habit of "tax, spend, and elect," but that is precisely what the situation calls for.

PRESIDENT WAS NOT PRACTICING DEMAGOGUERY

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, I heard our Speaker on national television accuse the President last night of demagoguery. Mr. Speaker, I hope the Chair was listening to his Democratic colleagues this morning when I heard such statements as "rotten situation the President gave us," "unconscionable, draconian cuts," "voodoo economics," "phony figures," "the President is untruthful," "the President is a tool of big corporate profits."

Mr. Speaker, the President was not practicing demagoguery last night when he addressed the Nation, he was trying to get this Congress off its posterior and get them to act on his economic recovery program.

If one wants to talk about demagoguery, I think it is when the Members of Congress stand up here and make such statements and then rush down to the bank and cash their corporate dividend checks.

GIVE THE PEOPLE A CHANCE TO VOTE ON PRESIDENT'S TAX CUT

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LUNGREN. Mr. Speaker, the other day I had an opportunity to look at an article written by a former Member of this House, Mr. Otis Pike. He was talking about the tax-cut situation as we find it here in the House. He mentioned that the Constitution of the United States says very simply, "All bills for raising revenue shall originate in the House of Representatives." He traces the origins of it to the Magna Carta of 1215 and suggests that the purpose of that document was to give the power to the people and solely the power to the people to make decisions with respect to raising taxes.

He points out that the people, by their vote last November, decided that the President of the United States should be a Republican, that there should be 47 Democrats and 53 Republicans in the Senate, 243 Democrats and 192 Republicans in the House. As he said, "Thus spoke the people."

He then suggested that if one were to use that analysis for the way we have dealt with our committees, the people told us that we should have 19 Republicans for every 24 Democrats. But, instead, on the Committee on Ways and Means we have 23 Democrats and only 12 Republicans, and as he said, "Thus spoke the Democratic leadership."

Mr. Speaker, Mr. Pike gives us some insightful views with respect to where we find ourselves here today. He says that we have made a mistake here by forgetting the basic lesson of the Magna Carta and the U.S. Constitu-

tion. He said it very simply: "Don't mess around with taxation unless the people are represented." Mr. Speaker, give the people a chance to vote on the President's tax cut.

□ 1230

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1981

Mr. KASTENMEIER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3480) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 389, nays 9, present 1, not voting 32, as follows:

[Roll No. 81]

YEAS—389

Addabbo	Byron	Dorgan
Akaka	Campbell	Dougherty
Albosta	Carman	Downey
Anderson	Carney	Dreier
Andrews	Chappell	Dunn
Annunzio	Chappie	Dwyer
Anthony	Cheney	Dymally
Archer	Chisholm	Dyson
Ashbrook	Clausen	Early
Aspin	Clinger	Eckart
Atkinson	Coats	Edgar
Badham	Coelho	Edwards (AL)
Bafalis	Coleman	Edwards (CA)
Bailey (MO)	Collins (TX)	Edwards (OK)
Bailey (PA)	Conable	Emerson
Barnard	Conte	Emery
Barnes	Corcoran	English
Bedell	Coughlin	Erdahl
Beilenson	Courter	Ertel
Benedict	Coyne, James	Evans (GA)
Benjamin	Coyne, William	Evans (IN)
Bennett	Craig	Fary
Bereuter	Crane, Daniel	Fascell
Bethune	Crane, Philip	Fenwick
Bevill	Crockett	Ferraro
Biaggi	D'Amours	Fiedler
Bingham	Daniel, Dan	Fields
Blanchard	Daniel, R. W.	Findley
Bliley	Danielson	Fish
Bolling	Dannemeyer	Fithian
Boner	Daschle	Flippo
Bonior	Daub	Florio
Bonker	Davis	Foglietta
Bouquard	de la Garza	Foley
Brinkley	Deckard	Ford (MI)
Brodhead	Dellums	Ford (TN)
Brooks	DeNardis	Forsythe
Broomfield	Derrick	Fountain
Brown (CA)	Derwinski	Fowler
Brown (CO)	Dickinson	Frank
Burgener	Dicks	Frenzel
Burton, John	Dingell	Frost
Burton, Phillip	Dixon	Fuqua
Butler	Donnelly	Gaydos
Gejdenson	Marks	Roybal
Gephardt	Marlenee	Rudd
Gibbons	Marriott	Russo
Gilman	Martin (IL)	Sabo
Gingrich	Martin (NC)	Santini
Ginn	Martin (NY)	Sawyer
Glickman	Matsui	Scheuer
Goldwater	Mattox	Schneider
Gonzalez	Mavroules	Schroeder
Goodling	Mazzoli	Schulze
Gore	McClory	Schumer
Gradison	McCloskey	Seiberling
Gramm	McCollum	Sensenbrenner
Gray	McCurdy	Shannon
Green	McDade	Sharp
Gregg	McEwen	Shaw
Guarini	McGrath	Shelby
Gunderson	McHugh	Shumway
Hagedorn	Mica	Shuster
Hall (OH)	Michel	Siljander
Hall, Ralph	Mikulski	Simon
Hall, Sam	Miller (CA)	Skeen
Hamilton	Miller (OH)	Skelton
Hammerschmidt	Mineta	Smith (AL)
Hance	Minish	Smith (IA)
Hansen (UT)	Mitchell (NY)	Smith (NE)
Harkin	Moakley	Smith (NJ)
Hartnett	Molinari	Smith (OR)
Hatcher	Mollohan	Snowe
Hawkins	Moore	Snyder
Heckler	Moorhead	Solarz
Hefner	Mottl	Spence
Heftel	Murphy	St Germain
Hertel	Murtha	Stangeland
Hightower	Myers	Stanton
Hiler	Napier	Stark
Hillis	Natcher	Staton
Holland	Neal	Stenholm
Hollenbeck	Nelligan	Stokes
Hopkins	Nelson	Stratton
Horton	Nichols	Studds
Hoyer	Nowak	Stump
Hubbard	O'Brien	Swift
Huckaby	Oakar	Synar
Hughes	Oberstar	Tauke
Hunter	Obey	Tauzin
Hutto	Ottinger	Taylor
Hyde	Panetta	Traxler
Ireland	Parris	Trible
Jacobs	Pashayan	Udall
Jeffords	Patman	Vander Jagt
Jeffries	Patterson	Vento
Jenkins	Paul	Volkmer
Jones (NC)	Pease	Walgren
Jones (OK)	Pepper	Walker
Jones (TN)	Perkins	Wampler
Kastenmeier	Petri	Washington
Kazen	Peyser	Watkins
Kemp	Pickle	Weaver
Kildee	Porter	Weber (MN)
Kogovsek	Price	Weber (OH)
Kramer	Pritchard	Weiss
LaFalce	Pursell	White
Lagomarsino	Quillen	Whitehurst
Lantos	Rahall	Whitley
Latta	Railsback	Whittaker
Leach	Rangel	Whitten
Leath	Ratchford	Williams (MT)
Lee	Regula	Williams (OH)
Leland	Reuss	Wilson
Lent	Rhodes	Winn
Levitas	Richmond	Wirth
Lewis	Rinaldo	Wolf
Livingston	Ritter	Wolpe
Loeffler	Roberts (KS)	Wortley
Long (LA)	Roberts (SD)	Wright
Long (MD)	Robinson	Wyden
Lott	Rodino	Wylie
Lowery	Roe	Yates
Lowry	Roemer	Yatron
Lujan	Rogers	Young (AK)
Luken	Rose	Young (FL)
Lundine	Rostenkowski	Young (MO)
Lungren	Roth	Zablocki
Madigan	Roukema	Zeferetti
Markey	Rousselot	

NAYS—9

Clay	Holt	McDonald
Evans (IA)	Johnston	Mitchell (MD)
Hendon	Kindness	Solomon

ANSWERED "PRESENT"—1

Duncan

NOT VOTING—32

Alexander	Conyers	Lehman
Applegate	Cotter	McKinney
AuCoin	Dornan	Moffett
Beard	Erlenborn	Montgomery
Boggs	Evans (DE)	Morrison
Boland	Fazio	Rosenthal
Bowen	Garcia	Savage
Breaux	Grisham	Shamansky
Brown (OH)	Hansen (ID)	Thomas
Broyhill	Howard	Waxman
Collins (IL)	LeBoutillier	

□ 1245

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3480, with Mr. MCHUGH in the chair.

The clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, June 16, 1981, section 4 was open to amendment at any point.

Are there any further amendments to section 4?

AMENDMENT OFFERED BY MR. FRANK

Mr. FRANK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRANK: Page 6, strike out lines 1 through 4 and insert in lieu thereof the following:

(d) Section 1006(b)(5) of such Act is amended in the first sentence—

(1) by striking out "(A)";

(2) by striking out "; and (B) no such employee shall, at any time," and inserting in lieu thereof the following: "; except that, in connection with such employee's own employment situation, should an impasse in collective bargaining occur, no employee may engage in a strike unless the labor organization involved has given notice of the dispute to the Federal Mediation and Conciliation Service, and unless 60 days has elapsed after such notice is given. After receiving the notice, the Federal Mediation and Conciliation Service shall use its best efforts to bring the parties to agreement. The Corporation shall also insure that no such employee shall, at any time, including but not limited to when acting in connection with such employee's own employment situation,";

(3) in clause (iii) by striking out "or" after the comma;

(4) by striking out "(i)", "(ii)", "(iii)", and "(iv)" and inserting in lieu thereof "(A)", "(B)", "(C)", and "(D)", respectively; and

(5) by inserting immediately after "1007(a)(6)" the following: ", or (E) any conduct which would violate his or her professional responsibilities".

Mr. FRANK during the reading. Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. The Chair will inquire of the gentleman from Massa-

chusetts (Mr. FRANK) if this amendment was printed in the RECORD 2 legislative days?

Mr. FRANK. It was, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized for 5 minutes in support of his amendment.

Mr. FRANK. Mr. Chairman, unlike many of the amendments that will be presented with regard to the Legal Services bill which are fairly complex and technical, this one is quite straightforward. It involves an issue of basic principle on which Members I think would be fairly clear where they stand one way or another. So I will not go on at any great length.

Legal Services' employees, the employees of the grantee organizations that is the organizations which receive Legal Service funds are private employees. They have none of the rights, the privileges, and the tenure of the public employee. They have in the past had a right to strike where that was permissible under State law because nothing in the statute prohibited their right to strike and, indeed, there were several instances, not a great many, in which Legal Services' attorneys went on strike. They are members of a union, which is their right under the National Labor Relations Act to belong to a union.

Adopted in committee was an amendment offered by the gentleman from Virginia (Mr. BUTLER) which would prohibit Legal Services' attorneys from striking in the course of their employment. I have offered an amendment to the bill which would restore to them a limited right to strike, and I say restore because the current law is they have the right to strike. They are private employees, and if we, in fact, were to take away from them the right to strike they would, I believe, be the only private employees in America who are banned by the Congress of the United States from striking.

The amendment provides that they have a limited right to strike. Mainly it would provide that notice had to be given of a dispute to the Federal Mediation and Conciliation Service, and 60 days after such notice was given, if the dispute had not been resolved voluntarily, then there would be a right to strike.

It is, as I said, a fairly straightforward question. Whether or not there is something about the nature of an attorney that makes it impossible for them to strike, in fact, private attorneys in other contexts do strike. There are attorneys who are not in firms, not on the usual fee basis, but working as employees of organizations who have enjoyed their basic right to strike. I see no reason to take it away here.

I would point out we have heard long lists in the course of these debates of problems caused by various aspects of the Legal Services work. No one had come forward in our testimony or in any discussions that I have had to say that the strike situation had reached a crippling situation. It seems to me a basic right people working ought to have, that individuals ought to exercise for themselves. There is now a right to strike. The bill would take it away. My amendment would restore that limited right to strike, and I hope it is adopted.

Mr. COLLINS of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Chairman, I appreciate the gentleman rising to speak while I am on the floor and having an opportunity to hear his words of wisdom.

Mr. COLLINS of Texas. I thank the gentleman from California.

Mr. Chairman, there are so many things that Legal Services has entered into in past years that one wonders what is the real purpose of the Legal Services organization. Now we have an amendment on the floor where they are suggesting that this group starts striking itself, here we have a group of lawyers in this organization, and they desire to go around the country creating strikes within their own organization. We all wonder where will this Legal Services group ever end. With its far reaching activities.

Legal Services started out as a group that was going to protect the poor. Now, under this amendment, apparently the main concern is to try to protect themselves. I think this is one of the most unnecessary amendments we have ever had submitted on a bill that has very limited merit in itself, but this would be an absolute disaster if this particular amendment prevailed.

I very strongly urge my colleagues to vote against this amendment.

I want to make absolutely clear my opposition to H.R. 3480 and my support of the President's proposal to eliminate the Legal Services Corporation as a program at the Federal level. This bill, no matter how it may be amended, cannot correct the fundamental problem: The existence of a Federal Legal Services program will inevitably be abused and used as a base for political activity in which activist lawyers attempt to practice social engineering.

I am opposed to ideologues, subsidized by American taxpayers, who use poor people's legal problems as a facade for achieving their own political agenda. There are three major reasons why the time has come to zero-budget a Federal Legal Services program: first, the program has been blatantly abused and contributes to the problems of our judicial system; second, LSC class action work contributes to judicial activism that usurps the authority of Congress; and, finally, a Federal program is simply not needed to insure that low-income people receive legal assistance.

The LSC is a perfect example of liberal arrogance. Taxpayers are asked to fund a program that employs people whose goals have more to do with remaking society than with representing the poor. While the purpose of the LSC is supposedly to provide counsel to those unable to afford it, Barry Schwartz, from the Washington LSC office, in comments made last November said:

> What all of us ultimately care about . . . is meaningful welfare reform and a meaningful redistribution of wealth and income in this country.

Those are left-wing political goals that have nothing to do with competent legal representation of the poor. It is clear that legal services activists see themselves as having a responsibility to educate people about the supposed injustices of our society. To this end, Legal Services' personnel engage in grassroots lobbying to bolster their political survivability and push their social agenda. I think it is clear that many Legal Services' people hold the actual representation of the poor in contempt. They much prefer the more glamorous business of political activism and lobbying State legislators and Congressmen.

As it became clear after the November election that not only key liberal programs but the LSC itself may be slashed by the Reagan administration, about 100 Legal Services Corporation personnel and supporters went to Puerto Rico to plot strategy and organize lobbying efforts. The 5-day meeting was conducted at taxpayer expense approaching $100,000. The conferees talked about how welfare, consumer, environmental, and other LSC-supporting groups could be targeted and lobbied. They discussed strategies about how political activity could be pursued so that it would appear that clients were requesting it. All of this is outside the mandate of the LSC.

It is wrong for a Federal program to build up a constituency so as to help guarantee its political survival. That is what LSC does. Far beyond simply representing indigent clients in civil cases, they have developed slick techniques of mass mailing to targeted groups—such as welfare people—when related issues are before a legislature or Congress. They actually mobilize their own clients. And what comes of it? Litigation to require social security disability to be paid to alcoholics; suits to make the New York City Transit Authority hire former heroin addicts, and absurdities like the suit that compelled New York to pay State welfare benefits to illegal aliens. There was even the case of an LSC attorney seek-

ing to have taxpayers foot the bill for a welfare recipient's sex change operation.

In my home State of Texas, lawyers funded by the Legal Services Corporation have been representing illegal aliens although such activity has been a violation of Federal law for 2 years. In one case a LSC attorney even went to a deportation station and solicited illegal aliens to become her clients. Clearly, this is not what Congress envisioned when it created the Legal Services Corporation.

My other concern is with LSC-sponsored litigation itself. We have far too much litigation today. The LSC is responsible for much of the increase in the civil case load that clogs our courts. As we become a rights-conscious society, where every minor case of perceived discrimination gets elevated to the level of constitutional controversy, the LSC has rushed in to take the lead. As a result, we have had a 185 percent increase in the number of civil cases that U.S. Federal district judges have been faced with since 1960. In 1960, district judges had 58,000 civil cases before them; last year there were 168,000. The number of cases taken to appellate courts went up from 3,899 to 23,000, or 495 percent, in the same period.

Of even greater concern to me is the class-action litigation of the LSC. Often these suits act to usurp the power of Congress because they ask for judicial resolution of basic political and public policy issues. This trend has led to the judicial activism that has brought this country forced school busing, reapportionment, and affirmative action. When efforts are made to restructure society, greater regulation of people's lives results. That regulation is reflected in an increase in the Federal Register from 10,000 pages annually in 1970 up to 80,000 pages last year. The LSC wants bigger and bigger government; I hope my colleagues will say no to that request.

Finally, I am totally in favor of improving the quality of legal aid to the poor. The way to begin is by terminating the LSC and letting States and local governments decide on what legal aid programs are needed. People at the local level know what their own problems are. It is at that level that legal services should originate. Basically, I believe it is largely the responsibility of the private bar to represent the poor. With new law school legal aid programs and free or low-cost legal clinics becoming available, as well as the advent of lawyers' advertising, there is good access to counsel for the poor. I cannot support having the taxpayers finance lawyers' professional responsibilities.

I urge my colleagues who supported the President in the first budget resolution here in the House to join me in supporting his position on H.R. 3480, against reauthorization of the Legal Services Corporation.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. I thank the gentleman for yielding and want to compliment him on his perceptive comments. We do not need this amendment. The Legal Services Corporation does not need this amendment. The world does not need this amendment. Noboby needs this amendment. I urge my colleagues to reject it.

Mr. COLLINS of Texas. I think the gentleman from Virginia (Mr. BUTLER) has summed up this amendment very well. I hope my colleagues on both sides of the aisle will join in opposing this amendment.

Ms. FIEDLER. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentlewoman from California.

Ms. FIEDLER. I would like to ask the maker of the amendment a question. I was wondering what the poor people whose cases were in process, and perhaps coming before the courts were going to do during the course of the strike the gentleman envisions perhaps might occur as a result of this bill.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. In the past the cases of strikes—there have been instances, and I can speak from the Greater Boston Legal Services situation, where those attorneys who had pending matters which were under a time problem continued voluntarily to service their clients. There is an ethical obligation for attorneys not to allow their clients to be damaged unfairly through no fault of their own, and I believe attorneys who were currently involved in matters which were before the court or where there was a time deadline would be under an obligation to continue that. But there would be a stoppage for the period of the strike of any new cases.

Ms. FIEDLER. Does that not then describe the problem the gentleman is anticipating, that some of the attorneys will be actively involved in cases and others will not? And it seems to me the Legal Services Corporation at this particular point has a huge number of cases, as we have heard discussed on the floor, and that it perhaps might interfere with the course of the strike the gentleman is describing if all of them are actively involved in cases. It simply seems to me that they would be unable to fully implement a strike if they have a moral obligation to continue service.

Mr. FRANK. I would point out to the gentlewoman that, in fact, what it would mean is there would be no new cases accepted, there would be no new cases begun, but there would be only ongoing cases in operation.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. I very much regret that the gentleman from Massachusetts (Mr. FRANK) has introduced this amendment because it is very clear to me if it passes then I think we unintentionally jeopardized the bill. I know that is not his intention.

Some of us in the committee proposed a substitute which would have been in the nature of providing for compulsory arbitration. That is a far cry from permitting a strike.

I reluctantly am opposed to the gentleman's amendment, and I just hope that we can try to expedite this matter and appreciate the gentleman yielding to me.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. I thank the gentleman for yielding.

It is hard for me to understand how those who are urging a program to aid the poor would at the same time be supporting an amendment to this legislation which would have the effect of denying aid to the poor just at the discretion of employees of recipients of the Legal Services Corporation. The ban on strikes is something that was fully considered by the subcommittee and the full committee, and they felt that this ban should be placed into the law. For this amendment to come at this time on the floor on the part of a proponent of the legislation seems to me to be quite inconsistent.

□ 1300

Mr. SAWYER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment. I may say as a longtime practicing lawyer of some 30 years that the idea of lawyers striking is about as unappealing to me as doctors striking. Their ethical commitment goes not just to the files that they are processing in court but goes to rendering service to those who are in need of service. If this bill means anything, it means there is a great part of the American public in need of service, and for the lawyer to put his own self-interest ahead of theirs does not speak very highly for any lawyer.

I would further say that the strikes that have occurred have damaged the Legal Services Corporation, along with some other ill-advised conduct, and it

impresses me that where it has been represented that the lawyers who work for Legal Services by and large are zealous young lawyers, they are there because of their interest in serving the poor—and at payments less by a considerable amount than they would earn somewhere else. It seems to me that if that be true, they hardly need the right to strike, because if they do not like it there and do not feel that zealous, they could go earn what they would otherwise be worth somewhere else, with the American taxpayers in their desire to afford those in need of legal services at their expense not having this foisted on them.

Mrs. CHISHOLM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Massachusetts. The Legal Services Corporation is a private corporation. It was not intended to be nor was it created as a Federal agency. The National Labor Relations Board has determined time and again since 1977 that Legal Services' workers are not public employees and are fully covered by the National Labor Relations Act. Employees so covered are guaranteed the right to strike under section 7 of the act. Section 1006(b)(5) of H.R. 3480 would amend the current Legal Services Corporation Act to prohibit strikes, picketing, and boycotts by Legal Services' workers, even in connection with their own employment. Should section 1006(b)(5) pass as written, Legal Services' workers would be the first NLRA-covered employees to have their right to strike prohibited. Moreover, rights guaranteed in the National Labor Relations Act have never been removed from one group of workers through other legislation.

The prohibition against strikes, picketing, and boycotts is not aimed at any verified problem. In the 7 years of unionization in Legal Services, more than 70 unions have emerged. Yet during this period, there have been only nine strikes. And, for the most part, these strikes have had as their goal the procurement of better services for Legal Services' clients. And, while no new cases were taken on during strikes, no pending client's case was ever abandoned.

The amendment offered by my colleague, Mr. FRANK, provides for a 60-day cooling off period after an impasse in collective bargaining, during which time there would be no strike, and the Federal Mediation and Conciliation Service would attempt to resolve the dispute. The amendment also emphasizes a lawyer's ethical obligations to clients throughout labor disputes.

This amendment is supported by a number of unions, including the United Auto Workers which represents many Legal Services' employees. I urge my colleagues to support the preservation of the right to strike for Legal Services' workers as private employees.

Thank you.

Mr. VENTO. Mr. Chairman, will the gentlewoman yield?

Mrs. CHISHOLM. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentlewoman for yielding. I want to commend her, and the gentleman from Massachusetts for offering the amendment. I am a little bit bemused by the fact that advocates or opponents of the Legal Services program find it very flawed when the current law provides the possibility that there can be a strike by attorneys, which might impose on legal sevices for the needy, but yet they are ready to reject the entire Legal Services program and completely deny the poor permanently the right to legal services. So I am bemused by their opposition.

In addition to that, I would point out that preventing the right to strike is going to adversely affect the quality and experience of those workers' attorneys representing the poor. We are going to very likely prevent capable attorneys from serving in this program because of amendments denying fundamental workers' rights.

We ought to be interested in experienced attorneys, not just those immediately out of law school who have so generously offered their service—but we ought to treat them fairly in compensation and basic rights. I think the problem here is not raised by the gentleman from Massachusetts in terms of his amendment but by those in the Committee on the Judiciary putting such language in the bill to harass and try and kill the Legal Services program, that conservative element which is hellbent on breaking the back of the Legal Services program.

I commend the gentlewoman for her support of this amendment.

Mr. LUNGREN. Mr. Chairman, I move to strike the requisite number of words. I just wanted to respond to some things the gentleman said about the conservative element of the Committee on the Judiciary trying to destroy this bill. Frankly, if that were so, we would then allow this amendment to go through, because it would make it much more onerous and perhaps justify a Presidential veto. If you happen to believe, as many people here are saying that we need Legal Services to provide legal services for the poor, it seems to me to be rather inconsistent to give those people that we are saying must be on the firing line on a daily basis the right to strike. If these people are not Federal employees, we are surely fooling a lot of taxpayers who know their Federal funds are going there. Maybe in terms of a technical decision as to whether they are covered by the NLRA, they are not Federal employees, but the taxpayers back home are being asked to fund this program to the tune of hundreds of millions of dollars. It seems to me at the very least we ought to ask that those people who are going to give support to the poor in this country, by God, ought not to be able to strike in the middle of giving those services.

The fact that they did not in the past drop the cases that were then current during the strike does not mean that would not happen in the future. It seems to me the very least we can say is if they are truly dedicated to help the poor, and this is the only way we can give the poor access to the courts—an argument I do not accept but which is being advanced for purposes of support of this bill—these people must be required to do their work.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding. He said something about a Presidential veto. Could he expand on that?

Mr. LUNGREN. Pardon me?

Mr. CONYERS. The gentleman said something about a Presidential veto. What does he refer to? What does he have in mind?

Mr. LUNGREN. The gentleman has been here in the House longer than I have, and I am sure he knows.

Mr. CONYERS. I know what a Presidential veto is, but what does it have to do with this bill?

Mr. LUNGREN. I am sure the gentleman has been reading the newspapers on the possibility of a Presidential veto. My suggestion was that if in fact we were trying to make sure this bill did not pass, or if passed, vetoed, and the veto sustained, we would try to make the bill as onerous as possible. However, I believe that if this bill does go into effect, we would want to make sure the purpose of the bill would be served. The purpose of the bill is not giving people the right to strike; the purpose of the bill is to give those people who cannot afford legal representation, legal representation. I do not see how you fulfill that purpose by giving people who provide that service the right to strike.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding. I do not think it is fair to charge those who are opposing this amendment with being against legal aid to the poor. It is quite to the contrary. As a matter of fact, I support legal aid to the poor. But I will not support an additional categorical grant program financed 100 percent

with Federal funds. I think a block grant approach is far better, with much greater control at the local and State levels. That is a much better way to administer this kind of a program.

But whether it is in that kind of a program or whether it is in the legal services program that we have now, I think to condone strikes by these employees, as the gentleman from California has said, is quite inconsistent with our desire to provide legal services to the poor. I put legal services lawyers in the same category as police departments or fire departments, or other public servants who are providing a public service. For such public employees or such vital elements in our society to go on strike seems to me to be quite inconsistent with our system and with their obligation.

Mr. SAWYER. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Michigan.

Mr. SAWYER. I thank the gentleman for yielding. I may say that I am strongly in support here on the floor of the Legal Services Corporation. I oppose, however, this amendment and for the reasons I stated. I just want to address this Federal bureaucracy that the gentleman from Illinois wants to eliminate. By eliminating it, he would create 50 new bureaucracies out in the States, because none of them have bureaucracies in place at this point to administer what a single very small Federal bureaucracy is doing now.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. FRANK).

The amendment was rejected.

The CHAIRMAN. Are there further amendments to section 4?

AMENDMENT OFFERED BY MR. MOFFETT

Mr. MOFFETT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MOFFETT: Page 5, lines 1 and 2, strike out "or by the President of the Corporation".

The CHAIRMAN. The Chair will inquire of the gentleman from Connecticut if the amendment has been printed in the RECORD for 2 days.

Mr. MOFFETT. Yes; it has, Mr. Chairman.

The CHAIRMAN. The gentleman from Connecticut is recognized.

Mr. MOFFETT. Mr. Chairman, this amendment should be fairly easy to understand and easy to approve, for all of us who do have a strong sense of attachment to local control and believe that legal services is appropriately a program of local control. I am sure that the committee did not intend to diminish that local control by having language in the bill that allows the President to dismiss or suspend a local employee.

There is a process currently in existence that allows for local control by local boards. That allows for nine regional offices. That allows for regional visits and evaluation. That allows for a checklist and if a complaint is made to the Corporation, an investigation, and, if warranted, a local program can be defunded after due process measures are met, of course. Of course, the Corporation can recommend a local group.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding. The members of the subcommittee have reviewed the gentleman's amendment and we agree with his logic. We think it can be effectively implemented and enforced. I commend the gentleman on his amendment; it is a good one.

Mr. MOFFETT. I thank the gentleman.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. I thank the gentleman for yielding.

I concur in the comment just made by the gentleman from Illinois (Mr. RAILSBACK) and agree that the amendment is acceptable.

Mr. MOFFETT. I thank the gentleman.

Mr. BIAGGI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in general support of H.R. 3480, a bill to extend the authorizations for the Legal Services Corporation for an additional 2 years. I express my support on the basis that the need for this program is as strong today as when it was established in 1974.

I recognize that the Legal Services Corporation has had its problems over the years. I believe that H.R. 3480 as reported sufficiently addresses these problems by proposing some realistic reforms. I will elaborate on some of them later in my remarks.

On the positive side of things: The Legal Services Corporation today funds and oversees the operation of some 323 local legal service programs across the United States. While local programs do set some individual criteria—the Legal Services Corporation does require that eligibility be limited to the poor defined at 125 percent of poverty; $5,388 for an individual and $10,563 for a family of four.

This translates into assistance in some 1.5 million cases in 1980. We are referring to civil cases—no criminal representation is provided under this legislation. The Legal Services Corporation projects supply to an overwhelming degree assistance in the form of advice, negotiation, consultation, and other out-of-court mechanisms.

In human terms, these statistics reveal that poor, old, and minority individuals—many of whom had no access to the legal system—have been provided assistance under this program. This is a significant accomplishment which should be highlighted and be our primary motivating factor in passing this legislation.

As an original member of the House Select Committee on Aging, I am especially proud to have authored an amendment to the Legal Services Corporation. Act, during its last reauthorization in 1977. The Biaggi amendment, which was also adopted in the Senate through an amendment by Senator KENNEDY, improved accessibility to the legal service system for the elderly and disabled citizens of our Nation. I am pleased to say that the amendment has begun to achieve its objectives in two distinct ways. The first is that more older and disabled persons are participating in legal service programs. The second is the amendment has resulted in the Legal Services Corporation coordinating with other programs providing legal services for these groups. Most noteworthy of these coordinating activities exist between the Legal Services Corporation and the Older Americans Act. Together, they operate hundreds of programs providing invaluable legal assistance to poor, older persons.

We have made progress since 1977. At that time, based on a survey of 10 States, while older persons comprised 21.7 percent of their poor population, they only made up 7.2 percent of the Legal Services Corporation caseload. We found ourselves with the tragic irony of a legal service program practicing age discrimination.

Clearly, the elderly are in need of legal services. Hearings which we have conducted throughout the past 6 years by the House Aging Committee have revealed the elderly to be especially vulnerable to consumer crimes. We have seen older people swindled out of their life savings by such ploys as phony bank examiner games, handkerchief switch, phony investment schemes, and useless medical products. Legal service programs have helped to educate many seniors about these fraudulent operations and helped them avoid financial damage.

Other poor and disadvantaged Americans suffer similiar legal problems and the programs of the Legal Services Corporation have provided them with the critical access to the legal system which they need and were deprived of in the past.

Access is the critical service being provided by the Legal Services Corporation Act. It operates in much the same fashion as other laws whose roots are based in trying to provide access to our poor and disadvantaged. One can look to the landmark Voting Rights Act of 1965 and its various amendments. Here the issue was

denial of access to voting booths. A law was passed—and access became easier. So too with the Legal Services Corporation.

H.R. 3480 is a realistic bill. First and foremost, it shows genuine fiscal responsibility. The authorizations provided in this legislation are actually 20 percent below the 1981 appropriations. That certainly is a departure from the norm.

In addition, H.R. 3480 seeks to tighten the loose ends of the Legal Services Corporation. To improve accountability on the local level, the bill requires the establishment of State advisory councils to review grant and contract applications as well as alleged violations by local grant recipients. Each council would be comprised of 10 members appointed by the Governor. I would recommend, as a part of legislative history, that representation by the elderly on these State councils be provided by each State.

The bill tightens eligibility so that only private attorneys and nonprofit groups organized solely for the purpose of providing legal services could receive funds from the Corporation.

The bill provides restriction on lobbying activities but I am pleased that the bill allows Corporation employees and officers to be able to present testimony before various House and Senate committees who may seek their expertise.

The bill reforms the provisions pertaining to class action suits being filed by the Corporation. This is one of the main criticisms directed at the Legal Services Corporation, and the language in H.R. 3480 should be responsive to this area of concern and generate reforms.

There are other provisions and restrictions in this legislation that I am not so enamored with but, on balance, the bill is sound and worthy of support. I wonder how the Defense Department would feel if we imposed all these restrictions on how they spend their money or how their personnel operate? The Legal Services Corporation and their personnel have been saddled with a disproportionate number of restrictions on their ability to do their work. I will resist several amendments which will be offered to further tie their hands.

We have come a long way in several months. The administration had recommended zero funding for the Legal Services Corporation. However both the House- and Senate-passed budget resolutions did provide authority for a reauthorization of the Legal Services Corporation. With the consideration of H.R. 3480 we are taking another important step. Its passage would, of course, be a vital development.

The failure to pass this bill would be, in simplest terms, the legislating of still another gaping hole in the so-called safety net which is being weaved for the poor and needy of our Nation. Tragically our policy actions of recent months can best be described as a retreat—a retreat from the socially progressive legislation we have passed over the past two decades. We used to measure our commitment to the poor and needy in terms of a ladder upward mobility. Today we find the term "safety net" dominating our policy directions. The original Legal Services Act of 1974 was one of the progressive bills I referred to. It must be passed if we want to avoid any further retreat from our obligations to the poor and needy.

Mr. McCLORY. Mr. Chairman, I move to strike the last word. I would like the gentleman for Connecticut (Mr. MOFFETT) to describe what this amendment does. It is my understanding that it prevents the President of the Legal Services Corporation from discharging individual employees.

Mr. MOFFETT. Will the gentleman yield so I may respond?

Mr. McCLORY. I yield to the gentleman.

Mr. MOFFETT. I thank the gentleman. This language that is in the bill would change what has been the historic local imperative of the individual legal services office. When I spoke to our colleague sitting next to the gentleman from Illinois (Mr. RAILSBACK) about this—and as the gentleman knows, he has indicated his support for the amendment—he indicated that he did not want to see that happen. I do not want to see it happen. More importantly, the key members on the subcommittee, as Mr. RAILSBACK has indicated, do not want to see that happen. There is a procedure to suspend or dismiss an employee, and I would make a plea to my friend from Illinois that he support this as well in the name of local control and in the spirit of adequate provisions being in the bill and in the law at this time.

□ 1315

Mr. SAWYER. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Michigan.

Mr. SAWYER. I may say, as I understand and we spent some time looking at it, the amendment of the gentleman from Connecticut (Mr. MOFFETT) prevents or takes away the power of the President of the Corporation itself, the Legal Services Corporation, of firing an employee of a donee or recipient organization. These organizations are separate corporations. Mine, for example, is West Michigan Legal Services, Inc. It has its own local board, its own employees, except for getting about 80 percent of its funds from Legal Services Corporation. It still gets other funds. To let the President of this Corporation fire an employee of yet another corporation would be a hodgepodge I never heard of.

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. I would like to thank the gentleman from Illinois (Mr. McCLORY) for his remarks.

Mr. McCLORY. I would think that the removal of this kind of bureaucratic control, which would otherwise be permitted by the legislation, would indeed be consistent with my view as to how such a program should be administered.

I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. MOFFETT).

The amendment was agreed to.

The CHAIRMAN. Are there additional amendments to section 4? If not, the Clerk will read.

The Clerk read as follows:

PROHIBITIONS ON LOBBYING

SEC. 5. (a) Section 1006(c) of the Legal Services Corporation Act (42 U.S.C. 2996e(c)(2)) is amended to read as follows:

"(c) The Corporation shall not itself participate in litigation unless the Corporation or a recipient of the Corporation is a party, or a recipient is representing an eligible client in litigation in which the interpretation of this title or a regulation promulgated under this title is an issue, and shall not participate on behalf of any client other than itself. The provisions of section 1913 of title 18, United States Code, shall apply to all officers and employees of the Corporation.".

(b) Section 1007(a)(5) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(5)) is amended to read as follows:

"(5) insure that no funds made available to any recipient shall be used at any time, directly or indirectly, to attempt to influence any decision by a Federal, State, or local agency, to attempt to influence, directly or indirectly, through publicity, propaganda, or otherwise, the introduction, passage, or defeat of any legislation in the Congress of the United States, or in any State or local legislative body, or to attempt to influence State proposals by initiative petition, except where—

"(A) legal assistance is provided by an employee of a recipient to an eligible client on a particular application, claim, or case, which directly involves the client's legal rights and responsibilities, except that this subparagraph shall not be construed to permit a staff attorney or any other employee of a recipient to solicit a client, in violation of professional responsibilities, for the purpose of making such representation possible; or

"(B) a governmental agency, a legislative body or a committee thereof, or a member of such a legislative body or committee formally requests that an employee of a recipient testify or make representations to such agency, legislative body, committee, or member, in which case the employee may respond only to the agency, legislative body, committee, or member making the request.".

Mr. KASTENMEIER (during the reading). Mr. Chairman, I ask unanimous consent that this section be con-

sidered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

AMENDMENT OFFERED BY MR. KRAMER

Mr. KRAMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair will inquire as to whether the amendment has been printed in the RECORD for 2 legislative days.

Mr. KRAMER. Mr. Chairman, it has.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. KRAMER: Page 6, strike out line 20 and all that follows through line 21 on page 7 and insert in lieu thereof the following:

"(5) insure that no funds made available to any recipient are used, directly or indirectly, to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device, intended or designed to influence any decision by a Federal, State, or local agency, except where legal assistance is provided by an employee of a recipient to an eligible client on a particular application, claim, or case, which directly involves the client's legal rights and responsibilities, or to influence any Member of Congress or any other Federal, State, or local elected official to favor or oppose any Acts, bills, resolutions, or similar legislation, or any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council, or any similar governing body, except that this subsection shall not preclude such funds from being used in connection with communications to Federal, State, or local elected officials, upon the formal request of such officials through proper official channels, pertaining to the authorization or appropriations of funds or oversight measures directly affecting the operation of the program involved;".

The CHAIRMAN. The gentleman from Colorado (Mr. KRAMER) is recognized for 5 minutes in support of his amendment.

Mr. DAN DANIEL. Mr. Chairman, will the gentleman from Colorado (Mr. KRAMER) yield?

Mr. KRAMER. I yield to the gentleman from Virginia.

Mr. DAN DANIEL. Mr. Chairman, Among the taxpayer-funded programs proposed for the block grant group is the Legal Services Corporation.

LSC is an outgrowth of the Great Society programs of the midsixties. It has had a stormy history.

Like so many Federal programs, it was based on a legitimate need. In a criminal case, the courts have long provided counsel for defendants who could not afford it.

But there were other problems—divorce, adoption, custody, wills—where the cost of the service was often beyond the means of those who needed it.

The ink was barely dry on the act when the first practitioners took to the field—or to be more specific—to the streets.

Idealistic attorneys seized upon local LSC units as instruments for social change and as a breeding ground for illegal lobbying and class-action advocacy for some rights not condoned by the vast majority of the people.

So the law was amended. And amended some more.

Each time this happened, new ways were found around the restrictions and activists continued to pursue their goals at the expense of providing legal counsel to the poor. Of late, the Corporation has directed its efforts to lobbying.

Last November, at an estimated cost of $100,000, the LSC held a convention/workshop/teach-in—call it what you will—in San Juan, P.R.

In this Member's judgment, there is no conceivable justification for the use of taxpayer dollars to lobby.

A considerable amount of time was given over to a session on "legislative advocacy," and in case you were wondering, this is what you call lobbying when lobbying is prohibited by law and your charter.

It is interesting Puerto Rico was chosen for this session. It is not centrally located insofar as the United States is concerned. It does have one distinction: Puerto Rico receives the highest allocation of LSC funds of any political subdivision.

In 1980, this amounted to $12.8 million—more than California and more than New York, our most populous States.

We have obtained a verbatim transcript of this session and have found it both interesting and disgusting. Two things deter our offering it for the record. One is its length, for it was a time-consuming session. The other is its vulgarity.

I have heard the words before but not from those who consider themselves professionals, acting in a professional capacity, and spending your dollars in the process.

We learned some interesting things from this—that the Virginia congressional delegation was not held in high esteem—not surprisingly—and was thought to be immune to some of LSC's more successful tactics with other delegations.

We learned that some of the visits by constituents which appear to be spontaneous are in fact well planned and well organized.

We learned that in one other State, the director quite candidly admitted his primary interest was the redistribution of wealth and income in this country.

Listen to how another of the speakers describes his staff:

I am the white Anglo-Saxon protestant, white honky, in the office. My associate is the radical feminist. Our paralegal secretary is a former Marine enlistee who is now a Marxist.

These are not the kinds of things guaranteed to elicit support from the Congress or sympathy from the general public, both of which are necessary if the legitimate client community is to be served.

I am aware of the worthwhile services performed by some poverty lawyers. No thinking person would suggest that those who cannot afford legal services be denied them.

I believe that our system, so long as it requires these services, can well afford to provide them and I will support such a program.

In my judgment, the incorporation of the provision of legal services in the social services block grant to States or the use of tax policy to compensate lawyers in private practice are valid and desirable changes.

In the event this approach is not followed, then I believe new initiatives should be developed to meet legitimate needs of the poor while at the same time avoiding the abuse.

Mr. KRAMER. Mr. Chairman, I hope the Members will support this amendment, which will go a long way toward depoliticizing the Legal Services Corporation. There is already significant precedent in the law for it.

Last year, with the cooperation of the Committee on Education and Labor, we were able in a noncontroversial way to get similar language incorporated in the Juvenile Justice Act. That amendment prohibits lobbying activities on that program, and is now the law of the land. It went through on voice vote.

I would like to read to you from a letter that David Stockman sent out several days ago. It says:

A vote for 3480 is ultimately a vote for continued lobbying initiatives, partisan efforts, and "impact" litigation by Corporation attorneys—activities far less likely to serve the interests of the poor and to further the political agendas of many lawyers who now purport to speak for such poor people.

I would suggest unless we adopt this amendment, that is exactly what 3480 represents.

The committee is to be commended for significantly improving the structure under from which the Corporation has operated prior to the committee's work. However, the antilobbying provision which they have offered for your consideration is, in my judgment, simply incapable of preventing lobbying activities and wholesale partisan social activity reform initiatives.

The reason is that lobbying is permissible under the way the bill, as presently structured, if it can be related to the representation of a client. That is all it takes. So if anyone comes in and thinks basically a change in the law would benefit that particular client, then lobbying is permissible.

Obviously, I think, with a bill that is structured that way, the exception

against lobbying really swallows the rule.

Dan Bradley, the President of the Corporation, said as follows not too long ago:

If I could but mobilize my 5,500 full-time attorneys and my 17,000 full-time employees, HEW wouldn't stand a chance, HUD wouldn't stand a chance.

I suggest that the American people would also not stand a chance. I had the opportunity to talk to Mr. Bradley in the lobby yesterday. He is easy to find. The Members can just wander outside our Chamber. The Members can find him and many of his employees who this very moment are here on the Hill lobbying against anyone not supporting the reauthorization of this program.

I give that as an indication of just how serious this situation is without a provision like this to remove the temptation to get involved in the legislative process.

Mr. SAWYER. Mr. Chairman, will the gentleman yield for a question?

Mr. KRAMER. I yield to the gentleman from Michigan.

Mr. SAWYER. If the gentleman's amendment is adopted, will the gentleman support the bill that is on the floor?

Mr. KRAMER. Well, I have tried to view this with an open mind. I have some problems with the bill. I probably will not support it. I have not made a final decision about that yet, however, and I will see what amendments are or are not adopted.

My inclination at this point is not to support it, but I very well might.

Let me continue, if I might reclaim my time.

LSC Board Member Howard Sacks said in November 1980, on the goal of law reform:

It is a goal which transcends solution to individual legal problems. The pursuit of impact, even though it may require turning away some individual cases, is a good strategy.

Again, this reemphasizes the direction that this Corporation has been moving to enact or implement social change at the expense of individual representation.

Dan Bradley, in a 1981 interview, said:

In the 1980's, many of our attorneys may elect a legislative and administrative agency route, rather than go through a long, exhaustive, uncertain judicial process. It is certainly my observation that the legislative and administrative agency activity is as important, if not more important, than some of the long judicial appeals.

Now, the bill as it is presently structured would not prevent the virtual litany of horror stories that I have in front of me regarding this Corporation's lobbying activities, not over a long period of time but simply over the last year.

The CHAIRMAN. The time of the gentleman from Colorado (Mr. KRAMER) has expired.

(By unanimous consent, Mr. KRAMER was allowed to proceed for 2 additional minutes.)

Mr. KRAMER. There are many Members who would like to involve in some interchange on this, and I would certainly want to do that, but let me just in 1 minute or less, if I might, point out some of these horror stories that are presently existing.

Just several weeks ago the Boston and New York City grantees signed a letter concerning the Reagan block grant programs, along with 63 other organizations, addressed to Congressmen and Senators, in opposition to the cuts.

The Virginia Poverty Law Center several months ago urged Governor Dalton from Virginia to item veto a budget item denying welfare benefits to 18- to 20-year-olds still in school.

On April 28, 1981, an article in the Vallejo Times Herald in California talked about the grassroots lobbying of city councilmen by the Legal Services Corporation and its grantees in asking that city council to adopt a resolution opposing the Reagan cuts of the Corporation.

Alan Houseman, in a memorandum from 1980—he is the Director of the Research Institute for the Corporation—said:

Survival of aggressive advocacy is absolutely essential if this Corporation is going to do its work, and that we must take all steps necessary at the national, local or State levels to assure the continuation of other social benefit entitlement programs.

The list goes on and on, and these are certainly not limited, but only by example.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. KRAMER. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I understand the gentleman's amendment, and my feeling is that, to a great extent, the members of the subcommittee tried to deal with exactly the same problem.

The only thing in the gentleman's amendment that I strongly object to is that the gentleman has stricken from the bill subsection (B) on page 7 of the bill which would give a right to a State legislator or a U.S. Congressman or a committee to actually initiate a request of a particular legal aid program that may have developed a certain expertise in such areas as housing or landlord-tenant programs.

The CHAIRMAN. The time of the gentleman from Colorado (Mr. KRAMER) has again expired.

(On request of Mr. RAILSBACK and by unanimous consent, Mr. KRAMER was allowed to proceed for 3 additional minutes.)

Mr. RAILSBACK. Would the gentleman in the well agree that that is the main thrust of his amendment, that when compared to the amendments adopted by the subcommittee designed to tighten this up, the gentleman has gone one step further, and ruled out, except in certain very limited cases, the right even of a congressional committee or a subcommittee or a member thereof to request of a legal aid progam testimony before that committee?

Mr. KRAMER. The gentleman is partially correct, if I might respond.

The limitation is that if the Corporation or its attorneys or its grantees or its employees are going to be involved in appearances before Congress or appearances before a State legislative body, they are limited, upon request, to presenting information concerning the authorization for appropriations of funds or oversight measures directly affecting the operation of a program.

Mr. RAILSBACK. Will the gentleman yield at that point?

Mr. KRAMER. Certainly.

Mr. RAILSBACK. That is the concern we have. I visited California, where we talked with many State legislators, both Republican and Democrat, who indicated to us—Mr. Mooney and to me—that there had been valuable testimony before the California Legislature provided by Legal Services attorneys relating to certain problems that would be in the unique province of, say, a poverty lawyer, a legal aid lawyer.

There were Democrats and Republicans alike who had indicated they had performed a valuable service in such areas, particularly in the housing area with regard to contract and repossession issues.

I just think maybe the gentleman has gone a little bit too far.

Mr. KRAMER. May I just respond very briefly?

Here is the dilemma that we find ourselves in: What is the thrust of this Corporation and its grantees and its employees?

Is the thrust to give legal representation to poor people who cannot find or afford a lawyer?

If that was the thrust and I was convinced that that was the thrust, I would support this program overwhelmingly.

Is the thrust to be concerned about the individual client and his problems in a divorce situation or in a domestic situation or as landlord and tenant for individual representation? Or is it to bring forth social change, changing the fabric of our society through the process of changing legislation?

How many people who can afford attorneys, and how many of you who are attorneys in private practice who have ever represented some little guy who was concerned about one of these problems have said that maybe the di-

vorce statute of your particular State did not exactly meet that client's needs?

How many of you ran up to the State legislature, advocating that a change in the domestic law of that State be made?

And I would dare say that the middle class certainly does not get that kind of representation.

□ 1330

What we want to do if we are going to have a program like this is restore this program to the representation of the little, individual man and woman on the street.

The CHAIRMAN. The time of the gentleman from Colorado (Mr. KRAMER) has expired.

(At the request of Mr. BUTLER and by unanimous consent, Mr. KRAMER was allowed to proceed for 2 additional minutes.)

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. KRAMER. I am happy to yield to the gentleman from Virginia.

Mr. BUTLER. I thank the gentleman for yielding.

I appreciate the thrust of what the gentleman has to say. I think the gentleman is exactly right. I share many of the reservations that the gentleman from Illinois has about this amendment. But it is my own view that if a lawyer is hell bent to testify before the legislature, then he can do it on his own time and there is no way we can prohibit that.

So, my intention is to support the gentleman's amendment. I think it strengthens the bill. The significant thing is the symbolism of it. It lets the people in the Congress know and the people who will be working for this Corporation know exactly how this Congress feels about the lobbying activities of the group.

Mr. KRAMER. I very much appreciate the gentleman's support.

Mr. BUTLER. I also support the gentleman's amendment because the gentleman has held out the hope to us that he may possibly yet support the bill.

Ms. FIEDLER. Mr. Chairman, will the gentleman yield?

Mr. KRAMER. I am pleased to yield to the gentlewoman from California.

Ms. FIEDLER. I thank the gentleman for yielding.

I rise in support of this amendment. I think the gentleman has hit upon some of the issues that particularly concern me. It has been my assessment since I first began analyzing the makeup of the Legal Services Corporation and much of its activity, that it has, instead of focusing its attention on the legal services delivery system to the poor, become a very strong political organization with a tremendous political thrust.

I would like to share with my colleague a few words from a memorandum written by Alan Houseman who the gentleman referenced before, the Director of the Research Division for the Legal Services Corporation, the degree and the audacity with which that particular Corporation has discussed the lobbying of the Congress of the United States.

It says on page 13 of that memorandum:

> Analyze new Members of Congress from your area and review all old Members of Congress. What is needed is carefully compiled information about all Members of Congress. This includes attitudes, public statements and prior voting records toward Legal Services and other social benefit programs, their supporters and major contributors from within the bar and general community, possible contacts with their supporters and their political base in the district and State. This information should be sent to the State coordinator in the Office of Government Relations. The Office of Government Relations will develop an analysis of each Congressional person and office.

The CHAIRMAN. The time of the gentleman from Colorado (Mr. KRAMER) has again expired.

(At the request of Ms. FIEDLER and by unanimous consent, Mr. KRAMER was allowed to proceed for 2 additional minutes.)

Ms. FIEDLER. If the gentleman will continue to yield:

> The completed analysis will be sent to each State and program coordinator. The analysis will also include such information as prior congressional voting records on Legal Services, positions on other poor people's issues, committee assignments, names and backgrounds of key staff and which Members influence this Member.

It appears to me that this is not the kind of statement that is being made by people who are trying to pursue the interests of the poor, but instead individuals who are trying to pursue the interests of themselves.

It is my personal position that what we need is not more intensive lobbying efforts, but to limit their effort and ultimately I happen to support the block grant concept to diffuse this entire political organization.

Mr. KRAMER. I appreciate the gentlewoman's contribution.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. KRAMER. I yield to the gentleman from New Jersey.

Mr. COURTER. I thank the gentleman for yielding.

I would like to stand in support of the gentleman's amendment, for a couple of reasons.

First of all, I think everybody knows that the real purpose, really the fundamental purpose of the legal services program is to give legal assistance to indigents, obviously, those people who could not get that type of assistance without the program. It was very interesting to me to see someone stand and question the author of the amendment and say, "If your particular amendment passes, then will you support the legislation." I could not be characterized as being very supportive of the legislation, but I can certainly understand how I and I think many Members of the House would be supportive of this bill if it contained the gentleman from Colorado's amendment.

The amendment simply states that the attorneys in the Legal Services Corporation should be spending their time in helping the people that they are charged with in order to help, they are to spend their energies, spend the money of the taxpayers on helping people, indigents, with their legal problems who otherwise could not get the type of independent legal counsel.

The CHAIRMAN. The time of the gentleman from Colorado (Mr. KRAMER) has again expired.

(At the request of Mr. COURTER and by unanimous consent, Mr. KRAMER was allowed to proceed for 2 additional minutes.)

Mr. COURTER. If the gentleman will continue to yield, I notice that the only objection—I see some other people standing up, so there may be others—but the only objection to the gentleman's amendment that I have heard so far articulated is the fact that if it passes it is going to prohibit a Legal Services attorney or someone who is hired by Legal Services from testifying before some legislative body on something other than the funding of the particular program, but absolutely not so.

On his own time, during vacation, just like any other member of the bar in private practice, he can, upon request, testify on that particular program or any program whatsoever that the particular legislative hearing body wants him to testify on.

Mr. KRAMER. That is absolutely correct. The amendment only talks about Federal funds.

Mr. COURTER. The only objection that I have heard against the gentleman's amendment is very frankly unfair and inaccurate. I support the gentleman's amendment.

Mr. SAWYER. Mr. Chairman, will the gentleman yield?

Mr. KRAMER. I yield to the gentleman from Michigan.

Mr. SAWYER. I thank the gentleman for yielding.

I may say to the gentleman in the well that I am inclined to agree with the amendment. I practiced law for many, many years and largely litigation and never had occasion in all that time to ever have to go to a legislature or the Congress.

It seems to me they can do their job without that.

Mr. KRAMER. I thank the gentleman for his support.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. KRAMER. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding.

Can I ask the gentleman if this measure passes, the gentleman will support the bill and if it does not, he will not? What is the gentleman's judgment?

Mr. KRAMER. That question has already been asked. What I am trying to do—and I think whether I support it or not is immaterial—is basically improve a product, to make this the best possible legislation, if it is going to pass.

Mr. CONYERS. Is the gentleman going to support the bill?

Mr. KRAMER. I do not know. I am going to evaluate each and every amendment. I already indicated to the gentleman from Virginia that I was going to try and keep an open mind and that I had not made a final decision.

Mr. CONYERS. Are there other parts of the bill that the gentleman does not like that we can worry about before we leave the floor?

Mr. KRAMER. I do have some concerns, yes.

Mr. KASTENMEIER. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I think there are two principal areas of difference between the amendment of the gentleman from Colorado and the language we have in the bill before us. We heard the same horror stories that he has and others have who recited them today and yesterday.

As a matter of fact, the incident involving Mr. Houseman is arguably improper under existing law. It did not even require the bill before us or the amendment of the gentleman from Colorado to necessarily cure that. However, H.R. 3480 makes his actions clearly prohibited, and he could be criminally prosecuted if it happened in the future.

The differences are two: We still permit, and we think it is very essential, the representation of a client before a legislative body, a council, the Congress, or an agency.

The gentleman from Colorado narrows that down to an agency. The gentleman does not find it forbidden to represent a client before a public body, but says it may only be an administrative agency.

I think our experience is that this is very delimiting in terms of representation of poor people and really ought to be rejected.

Now the second part referred to by the gentleman from Illinois (Mr. RAILSBACK), goes to the cutting off of the connection between the local legal services programs and the Congress and the State legislatures.

To the extent that any such communication must be to Federal, State, and local officials upon the formal request of such officials through proper official channels pertaining to the authorization or appropriation of funds or oversight measures directly affecting the operation of the program involved.

Now we explicitly tried to preserve the abilities of a legislature or the Congress to make communications with the people involved in the legal services programs. We did limit it, because of complaints. I read from the bill before us, page 7, line 17:

* * * or make representations to such agency, legislative body, committee or member in which case the employee may respond only to the agency or legislative body, committee or member making the request.

So that the legal services program or attorney could not use that request as an excuse to communicate more broadly that point of view. We tried to narrow the neck of communications to what we thought was appropriate. But I am afraid what happens under the amendment of the gentleman from Colorado—and we have another amendment noticed in the RECORD by the gentleman from New Jersey (Mr. MINISH) which is directly in conflict with the amendment of the gentleman from Colorado (Mr. KRAMER), to wit:

The Corporation, any recipient and any employee of a recipient shall make available upon request to any committee or subcommittee of the Congress or to any Member of the Congress, any information which is not subject to the attorney/client privilege and relates to the operations of the Corporation or such recipient as the case may be.

This is exactly in the opposite direction. In other words, here is a Member of our body who wants to be able to receive information and make demands for such information.

So, for that reason, I would hope that the committee would stay with the language we have in the bill and reject the amendment.

Mr. RATCHFORD. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. Yes, I yield to the gentleman from Connecticut.

Mr. RATCHFORD. I thank the gentleman for yielding.

I find it very difficult to believe what we are hearing here this afternoon. I thought it was 1981, not 1984, but it really sounds a bit like 1984.

This amendment is shortsighted; it is unnecessary; and it is certainly clearly punitive.

Let me tell my colleague, as a former commissioner on aging in the State of Connecticut, that if this amendment were to pass, the people to be hurt the most—and I am sure the gentleman does not intend that—are those throughout this land who are over the age of 60.

I chaired a nursing home investigation in our State, and we found a tremendous amount of abuse—abuse in nursing homes, abuse in the communities.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. KASTENMEIER) has expired.

(At the request of Mr. RATCHFORD and by unanimous consent, Mr. KASTENMEIER was allowed to proceed for 3 additional minutes.)

Mr. RATCHFORD. If the gentleman will yield further, an abuse directed toward those who are the least equipped to handle it.

Now what did we do about it? We went to work to get some legislation. And who worked with us, Legal Services, not only in Connecticut, but throughout New England. In fact, the gentleman from Massachusetts who spoke earlier knows of an institute in Boston which worked with us. What did that product produce? A nursing ombudsman statute designed to get abuse in institutions, an elderly abuse statute designed to get abuse in the home, a statute relating to reimbursement so that the operators were not getting overreimbursement, and reimbursement was going to quality of care.

And yes, we also got on the books a statute relating to a nursing home receivership if that became necessary.

Mr. Chairman, none of these statutes would be on the books today if it were not for the involvement of Legal Services. They came on their own initiative. They brought stories of abuse. They worked with the commission and, as a result of it, the quality of life in Connecticut and other States who followed us is better as a result.

If we adopt this amendment, we rule out all of that. Who are the losers—the frail, the handicapped, and the elderly. I for one cannot stand and support that type of amendment, not in 1981 in the Congress of the United States.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentlewoman from Ohio.

Ms. OAKAR. I thank the gentleman for yielding.

Just to support what the gentleman from Connecticut and others have said, we had a very important hearing on elderly abuse and the extent of elderly abuse, which is something that is very seldom reported. The gentleman from Florida (Mr. PEPPER) and myself have sponsored a bill related to the abuse of our elderly.

Believe me, if it were not for Legal Services testifying, I believe we would not have come up with the bill that we think is relative to this problem.

So for me, anyway, this amendment cuts out the opportunity that I have as a member of the Committee on Aging to help people who are our most vulnerable citizens, older Americans.

□ 1345

So, I hope we just unanimously reject this amendment. It just cuts off our arms and just does not give us the opportunity to hear from those who really serve the people on a one-to-one basis.

I thank the gentleman for yielding to me.

Mr. BRODHEAD. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Michigan.

Mr. BRODHEAD. Mr. Chairman, I thank the gentleman for yielding. I want to add to the remarks of my colleague from Ohio and my colleague from Connecticut.

In my position as a member of the Public Assistance Subcommittee, we have to draft legislation dealing with the aged, dealing with the handicapped, dealing with people on welfare. We need to hear how these proposed rules, laws, impact on everybody.

The CHAIRMAN. The time of the gentleman from Wisconsin has again expired.

(At the request of Mr. BRODHEAD and by unanimous consent, Mr. KASTENMEIER was allowed to proceed for 2 additional minutes.)

Mr. BRODHEAD. We need to hear from everybody about this, and as I understand this amendment it would prevent Legal Services even from responding to requests for information from Members of Congress. When we have these hearings, we need somebody to come in to testify, someone to tell us how the problems are out in the field. They can do that.

Certainly, the wealthy in this country, the powerful in this country are well represented here in Washington and before our committees and at our hearings. These people provide some small voice, some little opportunity for the aged, for the elderly, for the handicapped, for the poor of this country of being heard before the Congress of the United States. I think it would be an outrage if we were to pass this amendment. I urge a no vote.

Mr. FRANK. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak on the amendment.

Mr. Chairman, we ought to focus on exactly what is at issue here. The gentleman read a number of horror stories. Most of them are taken care of by this bill. The bill as it is before us, absent the amendment, prohibits people from signing letters and telegrams unsolicited, and sending them. He quoted Mr. Bradley—it is an old quote. He referred to HEW. Since HEW has not been with us for a while, it shows the age of the quote. Mr. Bradley, for all his good works, is unlikely to be retained by the Reagan administration's appointees to the Legal Services Corporation. We are talking about a new Board of Directors and new law. The important thing is, new law.

The first part of the gentleman's amendment substantially rewords what is in the bill. What the gentleman does that is unique, he does one thing. He prohibits the right of Members of this body to get advice on legislation from people in Legal Services Corporation. Now, as the gentleman from Michigan pointed out earlier, one of the advantages of Legal Services is that a certain degree of expertise is accumulated. People work on various types of problems such as social security disability, which is a very difficult kind of problem. There are Legal Services people who work with impoverished older people, with the people trying to get social security disability. Changes are going to have to be proposed on that.

I would like to be able to talk to some Legal Services people with expertise in the administration of that, and get their opinion. The gentleman from Colorado says it is a crime for me to get that information. That is what we are talking about.

The only difference in substantive terms between the bill before us and the amendment is that individual State legislators, individual Members of Congress and minorities in members of the State legislatures cannot get testimony. A formal committee could request it. That means that if the majority in a State legislative body thought testimony would be inconvenient, they could keep it from coming because it has to be a formal request from the committee.

The language in the bill is very close to the language of the gentleman from Colorado except that we explicitly say in the bill before us, which was unanimously agreed to in subcommittee, an employee of a recipient may make representations to such agency, legislative body, committee, or Member and only to the one making the request if formally asked.

Remember what the bill also says, if an individual Member asked for information, that information can only come to the individual Member. This bill specifically prevents an individual Member from triggering the publicity flow to the world at large. That is what the gentleman from Colorado focuses on. He specifically knocks out of the bill one thing, the right of an individual member of an individual body, or the right of a minority action in a particular body, to request testimony or request information. Under this bill, the legislative minority in a particular committee could not get from the Legal Services people their answer to a letter on Legal Services stationery saying, "Here is what we think the effect of this change in landlord-tenant law or disability law or anything else would be."

It does not allow them, the bill at present, to speak to the country at large. It does not allow Mr. Hausman's memo, and presumably someone who wrote a memo like that should be and would be fired.

The only issue before us is, do we so distrust Members elected to serve in a legislative capacity that we make it a crime for them to ask the advice of a Legal Services attorney who has accumulated some expertise.

I hope we will defeat the amendment.

Mr. LUNGREN. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in support of the amendment.

I think, when we are discussing this amendment, it might be good for us to look at exactly what the amendment says. The amendment does not say that a Member cannot ask; it does not require that an entire committee ask. The amendment merely says:

> This subsection shall not preclude such funds from being used in connection with communications to federal, state, or local elected officials, upon the formal request of such officials through proper official channels, pertaining to the authorization or appropriations of funds or oversight measures directly affecting the operation of the program;

Now, reference was made a little bit earlier to the fact that some of those on the Aging Committee thought that we could not receive information from some Legal Services people when we had hearings on elderly abuse. Well, I read this to suggest that we could, given oversight responsiblity in this House, and that is part of our obligation in this House with respect to the question of how the Older Americans Act works. We would not have a prohibition in any regard whatsoever.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I would be happy to yield.

Mr. FRANK. What are official channels? I am a Member. What official channels do I go through? Do I ask the Speaker's permission? Do I ask the majority leader's permission? What are the official channels? If that is all it does, I do not know why we have it, because that is what the bill says. What are the official channels I as a Member have to go through, and who has a right to say to me as a Member, "No; you cannot ask that question?"

That is the only thing you are adding if you adopt the amendment.

Mr. LUNGREN. I suppose the only difference in this amendment from the bill as it passed out of our committee is that this tries to more specifically show that we do not want people using as an excuse, the fact that they got permission from one congressional office, and then sending it out.

Mr. FRANK. If the gentleman will yield again, the gentleman is dead

wrong. He has to read the bill. It specifically prohibits that.

The CHAIRMAN. The gentleman from California controls the time.

Mr. LUNGREN. If the gentleman will listen, what I am saying is, I think it is a question of the language we use. Every year we have come back and we have dealt with the question of lobbying. The gentleman has suggested to us that present law outlaws what was contained in Mr. Hausman's memo, in many of the things that we are seeing now with respect to lobbying. The fact of the matter is that the language that we have adopted in the past evidently is not sufficient. What the gentleman from Colorado is attempting to do is to give the most inclusive language possible so that we will get off the idea of lobbying.

The fact of the matter is that we have in the past evidently asserted the position of the full House that we will not allow this type of lobbying, but the language we have used in the past has not been sufficient.

What the gentleman is attempting to do is to try and make it more ironclad than what we had in the committee bill, which was adopted unanimously. I voted for the bill's version of this section with some reluctance because I did not think it nailed down the problem as well as the amendment of the gentleman from Colorado.

Mr. FRANK. In the first place, I am not responding to existing law. I am talking about our bill. The gentleman said that our bill before today would allow them, when asked, to answer the world at large. That is specifically ruled out by the bill. I only ask the gentleman to read the words on page 7, line 19 through 21. They may respond only to the committee member or agency which makes the request. So, the gentleman is wrong in that specifically.

Mr. LUNGREN. The gentleman misstates my comments.

Mr. FRANK. The gentleman uses it as an excuse to respond to the world at large. They explicity cannot do that, and I still have to ask the gentleman, what this adds is the words "official channels." Who and what are the official channels through which I or the gentleman from California would have to go to get a question answered.

Mr. LUNGREN. Well, I have enough respect for Congress to realize that we can determine what official channels are, and make that determination.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from New Jersey.

Mr. COURTER. I thank the gentleman for yielding. This debate is being hung up on the words, "official channels." It seems now that is the big objection to the amendment. I think it is pretty obvious that official channels just means some sort of letter from the chairman of the committee or the subcommittee through the normal course of action that they would like someone to testify; nothing shocking, nothing improper.

The point I am trying to make is the fact that opponents of this amendment seem to be couching their opposition to the amendment around the ranks of the poor and the downtrodden and the disadvantaged.

The main thrust, the purpose of the program, and I was a Legal Services attorney and I intend on final passage as long as some good amendments are passed to vote in favor of the program, is to give legal aid to people who otherwise could not receive that aid. The purpose of the program is to make sure that poor people who could not otherwise seek legal services because they do not have the type of money available can go to an attorney and get advice on landlord-tenant problems, matrimonial problems, all sorts of problems. The function of Legal Services is not changed by this amendment. As a matter of fact, the amendment strengthens the function and purpose of Legal Services.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Ms. OAKAR and by unanimous consent, Mr. LUNGREN was allowed to proceed for 1 additional minute.)

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I will be happy to yield.

Ms. OAKAR. I thank the gentleman. Since he mentioned specifically some of the items, my point is, I do not want to get into the legalese language of what this amendment says because, frankly, we all understand what its intent is. Its intent is to intimidate people who work for Legal Services to testify before Members of Congress or other legislative bodies. That is the end result.

Does the gentleman think for 1 minute that if this passes, that if I as a Member or Senator PEPPER calls upon them to testify, that they might not be intimidated to tell us the real story about elderly abuses? We all understand what the intent is because it is in the law already that they have to formally request that an employee of a recipient testify, so it is already in the bill as the gentleman from Massachusetts indicated.

I think what we are saying is, let us not intimidate people who might have a real, viable knowledge on an issue that we need to know about by having this kind of language. That is my point in talking about it.

The CHAIRMAN. The time of the gentleman from California has again expired.

(By unanimous consent, Mr. LUNGREN was allowed to proceed for 2 additional minutes.)

Mr. LUNGREN. Well, to the gentlewoman I respond that I do not assume that I have the ability to find out what is in her mind and tell her what her real intent is. What I stated is in fact the intent of the gentleman from California.

One of the concerns we have is that we have created a network of lobbying under ;al Services Corporation, that they have created national centers which really have virtually for their prime purpose, lobbying; that they have gone around what we had thought to be the lobbying prohibition put in by past Congresses. In fact the legal technicalities may be important to see if we can put into law what many of us thought was already in the law and which we have been told by Legal Services personnel was in fact not in the law—sometimes told that gleefully as they conducted lobbying.

So, I do not think it is just an attempt to somehow destroy or intimidate people. What we are attempting to do is to refocus Legal Services into what it is supposed to do, which is representing the poor. I have people in my district who have complained that they cannot get that representation because they have been told by the Legal Services affiliate that they do not have a class-action suit, and therefore an elderly woman could not get a will written.

I have had them take actions where they had no real client and actually stop some activity that was going on in the downtown section of one of my cities for the benefit of the elderly in my district.

All I am saying is, we may all have the same goals in mind, but some of us may disagree on the means by which we achieve them, and I do not think we ought to likely discard someone else's sincere motives. I certainly do not in any way discard the motives of the gentlewoman. She is sincere on it, and we evidently have a sincere disagreement.

Ms. OAKAR. I just want to say that I think the gentleman's other problem with the bill, and so forth, is not relevant to the discussion of this amendment because the gentleman is talking about problems that his constituents have relative to getting a legal aid attorney. I do not think this is really the subject of this amendment. I think we ought to get back to it.

Mr. RAILSBACK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think it is very important that we try to find out exactly what the intention of the author of the amendment is. To be quite candid, I agree with a remark made earlier by one of the Members on our side. I believe that the amendment is designed

to do what has been suggested by the gentleman from California (Mr. LUNGREN) and if that is the case then, I for one would not be concerned about the amendment.

□ 1400

I would like to ask my friend, the gentleman from Colorado (Mr. KRAMER), this question: Is my understanding wrong that what the gentleman is trying to do is, as he has said, is limit the right of a legislative body to be able to obtain information from a legal aid recipient or employee thereof to only those cases where, through official channels, they have requested information relating to funding or to the appropriations or the oversight of that particular program?

What I am asking is, what is meant by that? Let us take the case of the Committee on Aging. We have had that as an example. Is the gentleman in this particular case saying that if the congressional Committee on Aging wanted to ask a legal aid employee to testify, even though it did not relate to funding or authorizing that particular program but, rather, to giving personal experience about problems of the elderly that would be relevant to that Committee on Aging, they would not be able to do so? What exactly is the gentleman's meaning? Would we not be able to invite somebody, let us say, if we were sitting on the Committee on Aging?

Mr. KRAMER. Mr. Chairman, if the gentleman will yield, I believe we would be, with one caveat: Providing it is involved and affects the operation of the program.

Mr. RAILSBACK. Which program?

Mr. KRAMER. The Legal Services program. If the oversight or authorization proceedings of some committee of Congress involved laws that might be passed or bills that might be promulgated that would affect the authority of the Legal Services Corporation to be or to not be involved in certain areas or to expand their capability of operating, say, in an area that they had not been in before, or make changes in that area of operation; yes, they could indeed testify.

Mr. RAILSBACK. Mr. Chairman, let me just pursue this further, because I think the gentleman's intent is very important. It really represents the legislative intent of the author.

So what the gentleman is saying is that if the Committee on Aging of the U.S. Congress went through formal channels the expertise of an individual who worked a legal aid program, whatever, and then invited that person to come and testify, it would be permitted to do so as long as that particular legal aid program had dealt with the problem?

Mr. KRAMER. That is correct.

Mr. RAILSBACK. Or as long as it was believed that they could shed some expert knowledge on the subject?

Mr. KRAMER. That is correct.

Mr. RAILSBACK. Then, Mr. Chairman, I have got to ask the gentleman this: What, then, is the distinction between what the gentleman is trying to do, which, frankly, seems rather reasonable to me, and what we did in committee? In other words, it seems to me, by the gentleman's explanation, that he is agreeing with the way we tried to tighten it up? Is there really much difference?

Mr. KRAMER. Yes, I believe so.

Mr. RAILSBACK. What are the differences?

Mr. KRAMER. First of all, I think the key to this is that if the gentleman will read the language on page 7 of the bill, between lines 14 and 21, he will find there is no limitation at all, provided that there is a formal request, whatever that means. I do not think that is anymore nebulous really or any more informative than through official channels.

But this language, as it presently reads in the bill, would permit them to testify on any subject under the Sun—world hunger, international taxation, defense, you name it. They could testify, provided there was a formal request.

This limits their activities upon the request through official channels, which would mean going through the corporation to those areas in which the program was involved. So I think there is a difference; yes, a very important difference.

Mr. RAILSBACK. All right. If that is the gentleman's intent, then I think he has not done the disservice to the bill that I thought he had done. In other words, if that is his intention, then I for one, unless somebody can persuade me otherwise, see nothing wrong with his amendment.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has expired.

(On request of Mr. SENSENBRENNER, and by unanimous consent, Mr. RAILSBACK was allowed to proceed for 3 additional minutes.)

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. Yes; I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I would like to ask both the gentleman from Illinois (Mr. RAILSBACK) and the gentleman from Colorado (Mr. KRAMER) whether the antilobbying provision, both in the bill as reported and also in the amendment offered by the gentleman from Colorado (Mr. RAILSBACK), would prohibit the use of taxpayer funds to organize conferences on how to lobby legislative bodies by Legal Services Corporation grantees, as well as the printup and handout of materials.

Mr. RAILSBACK. Mr. Chairman, it is my understanding that that clearly is outside the scope of permissible activities, as well it should be.

Mr. KRAMER. Mr. Chairman, if the gentleman from Illinois will yield for just a moment, I think that the gentleman from Wisconsin (Mr. SENSENBRENNER) has hit the nail upon the head and pointed out the most significant aspect of this amendment and how it differentiates from the bill.

I am afraid that what we have done is kind of gone astray here, paying more attention to the testimony before Congress or some other legislative body. The key to this amendment and the most significant way in which this amendment differs from the bill as it is presently postured is this:

As I read it, I think it takes account of what Legal Services has done in litigation, in legislation passing, in terms of nursing homes and some other things that are very critical here, because it proves a point, and that is this:

With the bill as presently postured, as long as you can relate that lobbying to the representation of some client, you can do it, Now, under this amendment, you cannot, and that is the key here, because the bill as it is presently postured has got a hole in it through which you could drive a lobbying truck to the end of the world, and in fact as long as you could relate it to the representation of a client, you could do it.

Mr. RAILSBACK. In other words, the gentleman is repeating what I think he said earlier, and that is that what he is trying to do is he is trying to see that there is a formal request. The gentleman is insisting upon that, and I agree with that. The gentleman is also tightening it up to the extent that before you can invite the recipient or employee thereof to come and testify, it has to be something within his or her jurisdiction, in other words, something that they know about rather than just open ended.

Mr. KRAMER. That is correct. But what we are even more concerned about is section (A) in the bill which has nothing to do with testifying in front of Congress. I have reference to certain language that is contained in section (A) as it presently reads. If you can relate somebody's lobbying to a client, in other words, if it is to the client's benefit to get a change in the law, to get some benefit from passing a landlord-tenant act, or make a change in utility rates, you could lobby on behalf of that legislation.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has again expired.

(By unanimous consent, Mr. RAILSBACK was allowed to proceed for 2 additional minutes.)

Mr. RAILSBACK. Mr. Chairman, I just want to say that I happen to

agree with that. That is not the part of the gentleman's amendment that bothered me. I was prepared to work to accept the gentleman's amendment, and I do not mind tightening that up at all.

What we were worried about—and I think the gentleman has alleviated our concern—we were very much worried that the gentleman was only going to let that legal aid lawyer formally testify in the case of an authorization or some kind of an oversight that related not to the substantive concerns under that lawyer's jurisdiction, like housing or landlord-tenant concerns or whatever, but only to more general things that related maybe to funding and things like that. But that is not the gentleman's intent.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I thank the gentleman for yielding and for allowing me to participate in this clarification.

I think I also understand correctly from the gentleman from Colorado (Mr. KRAMER) that there is no intent in the amendment, between the bill as presented and the amendment—because the gentleman said paragraph (B) is not the major problem as far as the gentleman is concerned—there is no intention to differentiate between the rights of the legislative body; that is the same and remains the same, as the gentleman understands it?

Mr. KRAMER. Mr. Chairman, if the gentleman will yield, that is not correct, because the committee's version as it is presently written allows them to testify upon request on any subject under the Sun.

Mr. FRANK. I understand that.

Mr. KRAMER. This limits it to those programs in which the witness is operating.

Mr. FRANK. Mr. Chairman, let me rephrase the question.

Let us say we were within the jurisdiction of the gentleman asking the question; if the question was properly put by an individual Member of Congress, we could still do it without anybody else's permission? If I as an individual Member or you as an individual Member or, say, a State legislator wanted to question a witness—and I think this is an important part of it—if a State legislator wanted to question a grantee or attorney about a subject, under the gentleman's amendment, he would not need to get permission and this would not impinge upon his right to question the individual and get a formal response?

Mr. RAILSBACK. Mr. Chairman, I might add that under the amendment and also in the bill there is one provision which is very important, and that is that we do permit a Member to go through official channels, because that protects the minority. That is one thing we were concerned about.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has again expired.

(On request of Mr. FRANK, and by unanimous consent, Mr. RAILSBACK was allowed to proceed for 2 additional minutes.)

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Colorado.

Mr. KRAMER. Mr. Chairman, what the gentleman from Massachusetts (Mr. FRANK) is suggesting, I think, is partially right, in that; yes, he can testify about anything affecting the operating or the areas of jursidictional activities of the legal services program.

However, the request by Congressman or legislators, unlike the bill as it is presently postured—or perhaps maybe not unlike; it depends on how you read "formally request"—basically means that we do not just go to an individual, an attorney out there in Denver, Colo., or in Boston, Mass., and say, "Hey, come on in and testify about this." We got through official channels so that in the Corporation or wherever that testimony is going to come from we have a coordinated management approach to that testimony rather than going all around the Sun and just picking something up off the street.

Mr. RAILSBACK. Mr. Chairman, I simply want to say that the gentleman has really satisfied my concern.

Mr. KRAMER. I appreciate that.

Mr. RAILSBACK. I think the gentleman's amendment does tighten it up, and I think it does no disservice to what we had in committee.

Mr. FRANK. Mr. Chairman, will the gentleman yield further?

Mr. RAILSBACK. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I understand that part of it, but the one thing I am worried about is this: I understand we go through channels when we deal with the Legal Services Corporation, but I just wanted to make sure that the channels are not intended to make any restriction on a Member of Congress himself to be able to receive testimony or to trigger that action. If I wanted to obtain testimony or any other individual Member wanted to receive testimony, he has an untrammeled right to go through the proper channels.

Mr. KRAMER. But then the response is to him, not to 435 Members of Congress.

Mr. FRANK. As the bill already says.

Mr. KRAMER. Yes; as the bill states.

Mr. FRANK. Yes; as a Member, if I wanted to deal through channels, I could write the Legal Services Corporation and say, "Who in your organization has been dealing with the disability problem? Can you give me your opinion on this or that matter?" And that would be legitimate under the amendment?

Mr. KRAMER. That is absolutely right.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this will go down in history as the right-not-to-know amendment, in which we now begin to even preclude ourselves from getting the benefit of information from Legal Services attorneys.

Why have we not over the years raised a question about prime contractors and their lawyers and lobbyists and precluded them from participating in the legislative process? Why is it just the lawyers for the poor? What about the ex-Members of Congress who lobby on the floor?

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Chairman, I wonder if the gentleman form Colorado (Mr. KRAMER) would include in this oil shale contractors who get Federal funds and prohibit them from lobbying up here on other matters? I think it would be very interesting to know that.

How about people who get synfuels grants? Maybe what the gentleman from Colorado is saying is that we could set up a pack, and maybe we ought to have Legal Services attorneys, maybe ex-Legal Services attorneys, set up a political action committee so that those of us in the House would be more disposed to allow them complete access to the House.

This is absolutely outrageous. We are chopping off people who cannot afford to buy their way into the system, through class or whatever, and we say they will not have access to us. We are going to seal ourselves off from the rest of the country and deal with only those people who can buy their way into the system.

Mr. CONYERS. Mr. Chairman, some Members claim to be former Legal Services attorneys who are pressing a violation of the attorney-client relationship.

□ 1415

You cannot tell a lawyer that he cannot fully represent his client throughout the entire legal processes, whether they are administrative, whether they are in the court, whether they are in the councils, or in the legislature.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. In just a moment.

Now, this has gone too far. What about the first amendment? Does that have application here or not? Why do we not have sign-in sheets for the lawyers that are working for about $13,000 or $14,000, the heroes of the legal process in America, who are already stripped and now we come to the floor to have the final denuding.

This is an absolute outrage for any Member of this body who is a lawyer. It is all right for those who are waiting for the Judiciary Committee to make the final determination. It is all right for those who do not understand what the bar requires lawyers to do for their clients. It is OK that the prime contractors representing multibillion-dollar nonnegotiated contracts walk these Halls every day in the year; but when it comes to those representing the poor, let us cut them off.

And also, let us cut ourselves off from any constructive knowledge that they may have.

I want to yield to the Member of this body who was a lawyer from this group.

Mr. COURTER. Well, I thank the gentleman very much.

Mr. CONYERS. The gentleman is more than welcome.

Mr. COURTER. I thank the gentleman for yielding. I believe the gentleman is referring to me.

Mr. CONYERS. That is exactly correct.

Mr. COURTER. Because he did indicate that I was an active legal aid attorney and I was one of those who expanded the program in New Jersey by instigating legal services in Warren County and, as a matter of fact, for many years was a member of the board. For all I know, perhaps I still am a member of the Legal Services Board.

Mr. CONYERS. Well, I presume the gentleman is supporting this legislation, by the way.

Mr. COURTER. Now, let me just respond. The gentleman indicated that an attorney cannot fully represent a client unless he petitions to change the law.

Mr. CONYERS. I did not say that at all.

Mr. COURTER. That is exactly the message that I think I got from the gentleman.

Mr. CONYERS. I refuse to yield further until I clear up a mistake that the gentleman is making. I did not say that. I said that a lawyer has the right to fully represent his client, not only in the court, but wherever the processes of justice may take him.

Now I yield to my colleague.

Mr. COURTER. I thank the gentleman for yielding.

Under the amendment as proposed, that type of activity on a volunteer basis, as the gentleman knows, as well as I do, is not prohibited. Legal Services gets involved in various areas, on landlord-tenant areas, matrimonial areas, all sorts of other types of local problems.

Under the amendment, even public money, taxpayer money, could be used to permit those attorneys upon official request to come before a legislative body, whether it be here in the U.S. Capitol or in their local municipalities or in their local cities to talk, discuss and answer questions pertaining to their problems.

Mr. CONYERS. I refuse to yield any further to my friend from New Jersey.

Mr. COURTER. The gentleman has not even given me a chance to respond.

Mr. CONYERS. Well, I refuse to yield on my time. I will see that the gentleman gets it somewhere else.

What I want to ask my colleagues on this side of the aisle is to sincerely consider what you are saying to the poor people in America. Forget the lawyers. Forget their rights of access. Forget our need to know a lot more than we do; but just think of what you are telling millions of people who in noncriminal cases can never afford even a reasonable day in court, by imposing these Draconian restrictions upon their members.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(At the request of Mr. GARCIA, and by unanimous consent, Mr. CONYERS was allowed to proceed for 2 additional minutes.)

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. In just a moment.

I just want to ask you to be careful in terms of restricting the lawyer-client relationship in a way that you may have no intention of doing, that could apply in situations far beyond the Legal Services lawyers.

I yield to my colleague from New York.

Mr. GARCIA. Mr. Chairman, I thank the gentleman for yielding. Maybe the gentleman can help me.

We have had a situation in my congressional district where a person's home was foreclosed. It was foreclosed because that person at that particular moment did not have enough money to pay the back taxes, a small home, needed a great deal of work. He received some help from the Legal Aid Services, went back to the city, borrowed some money from an aunt in Puerto Rico to pay the back taxes.

At that particular moment the city had foreclosed and we went into what they call an In Rem program in which the city now confiscates the property. That person now wants to be able to get that home back with this borrowed thousand dollars.

We have presently introduced legislation in the State legislature which is being handled by Legal Aid, by the attorneys.

Under this amendment, would that person not be able to avail himself of the services of that particular lawyer, even though it affects only one person? The fact is that it may affect many, literally hundreds of homes that fall into the same category.

Mr. CONYERS. The gentleman has raised a classic instance where a lawyer in this Legal Services program may, in effect, be representing hundreds in a like situation. I do not know what it does under the amendment, but the committee bill has already tightened our restrictions on lawyers to an unconscionable limit. I objected to those and we come to the floor and here is a Member that has now convinced the leadership of a bill on the minority side that we ought to tighten it again.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(At the request of Mr. SEIBERLING, and by unanimous consent, Mr. CONYERS was allowed to proceed for 2 additional minutes.)

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to my colleague from Ohio.

Mr. SEIBERLING. Well, as I understand the Kramer amendment, it would even prevent a person who wants a private bill to be passed by this House dealing with a particular problem that can only be dealt with through specific legislation. It would prevent him from even obtaining that, and yet the right to petition for a redress of grievances is itself a right guaranteed in the Constitution and we are saying, well, if you have the money and can afford to hire counsel or are sufficiently well educated so that you can write your own letter to the Judiciary Committee and figure out what its rules are, you are OK; but if you do not, that is just tough.

Mr. CONYERS. The gentleman is correct.

Mr. SENSENBRENNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, amplifying on the colloquy that I had with the gentleman from Illinois (Mr. RAILSBACK) and the gentleman from Colorado (Mr. KRAMER) relative to Legal Services grantees getting involved in teaching people how to lobby on specific issues, I have in my possession a copy of a letter dated March 4, 1981, signed by Emma E. Gunterman, senior citizens advocate of the California Rural Legal Assistance, which is a Legal Services Corporation grantee. The letter states that two leaflets are attached relative to lobbying techniques and asks recipients of the letter to comment on those leaflets so that they can be passed out at an upcoming legislative training conference.

I am happy to note that the gentleman from Illinois (Mr. RAILSBACK)

stated that the present provisions of this bill would prohibit this kind of activity and that the gentleman from Colorado (Mr. KRAMER) states that if his amendment is adopted, this type of activity will also be prohibited.

So that the record will be complete when we get back into the House, I will ask unanimous consent that the letter from Emma Gunterman of the California Rural Legal Assistance be placed in the RECORD at this point.

The letter above referred to is as follows:

CALIFORNIA RURAL LEGAL ASSISTANCE,
Sacramento, Calif., March 4, 1981.

DEAR FRIEND: Please help. Attached are two leaflets, both of which describe how to work on legislation. The first one is intended for people like you who want a pretty complete overview of the legislative process, but don't want a long pamphlet on the subject. The second is intended for the ordinary Marys or Joes who can read and want to know: 1) that there is something they can do on legislation; and 2) when to do it—how to go about it.

In my experience there are two important reasons why there is not more effective citizens' input on legislation, aside from the feeling that it won't make a difference. First, many people just don't know where to write and how to find out where to write—and when. The second is that citizens who do get into the act write the wrong person and write at the wrong time.

I also have found out that when persons become interested in a particular issue (bill) they will begin to be involved in the committee where it is. Then, they naturally find out the next stop, the total process, and thus become effective. If, at first, they believe that the legislative process is complicated, they never get started.

The content of the short piece "State Legislation and You" is the result of several of us who have worked over the years with citizens who became involved.

Request: Please immediately, send me back specific changes or questions on the content of either leaflet.

Please, immediately let Mickey Bennett know, with a copy for our legislative office, of any questions or suggestions triggered by the enclosed pieces which should be handled in the upcoming legislative training conference.

Sincerely,

EMMA E. GUNTERMAN,
Senior Citizens Advocate.

P.S.—Personally, I feel there is too much material on the long sheet. I am always being told that people like you want all the background they can get. If you have any suggestions for cuts on the long sheet—let me know!

Mr. MOFFETT. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, there is no question that for some years now there has been a rather intense campaign by various powerful economic interests to do something about this lobbying, this growing grassroots lobby at the community level. There is absolutely no doubt that any of us who would vote for this amendment could be heroes, going before various utility groups, for example, and saying, you know, we really struck a blow against lifeline legislation last week. We know it was a Legal Services Corporation bill, but believe me, when we voted for the Kramer amendment, we limited this grassroots lobbying effort.

I think we could go before a group of people who are landlords and be heroes, because they have been harassed by various tenant groups.

The gentleman from Colorado has given us a hint of the kinds of groups he has in mind. He has mentioned them in his remarks, and they are grassroots groups.

The first point I would like to make is that as one who was originally in a grassroots citizen group that did lobbying, I wish all of us could have the experience for a year or two of lobbying at the grassroots level against powerful and well-financed interests. It is a unique and interesting experience and, needless to say, an uphill battle.

The second thing, though, even though I made earlier remarks when the gentleman from Michigan was good enough to yield to me, saying that we seem to be trying to seal ourselves off from this grassroots lobbying effort, the fact is that we are not going to do it. The bill, and I do not think it has been pointed out in the debate, I know the strategy by our good friends on both sides who are managing this bill is to try to hold on to what they have, but the bill itself, I think, is rather outrageous in the terms of the constraints it imposes. Line 24, page 6, prohibits any of these attorneys from attempting to influence any decision by any agency and so forth through publicity, which means that if any of the reporters were to go and ask for an interview, they could not even get an interview on some of these issues. That is in the bill already. So I think the bill is extremely restrictive. It is not as though the gentleman from Colorado is trying to amend something that is a wonderful product for grassroots groups. That is not the case; but I think the inevitable is going to be that you are not going to shut off this lobbying, anyway.

The gentleman from Colorado is making a name for himself, and I know he is proud of it, by limiting what our VISTA volunteers can do, making sure that we do not have any extensive lobbying by VISTA volunteers. He said at the beginning of his amendment that this is yet another chapter—really, I am not quoting directly— but he said that this amendment strengthens the antilobbying provision in this bill A similar amendment was adopted in the Juvenile Justice and Deliquency Prevention Act.

So these amendments year after year are aimed at groups that are going up against powerful groups in our society and are relatively powerless groups.

I know the gentleman wants to do the right thing, and he thinks this is the right thing, but the fact is that you are going to keep trying to plug up and block this grassroots activism and you are doing nothing but encouraging more and more people to organize; so it may not be the Legal Services attorneys; but believe me, as the gentleman from Michigan indicated, you are going to be the patron saint of grassroots activism in America.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I would be happy to yield to the gentleman from Colorado.

Mr. KRAMER. Let me make just two points, if I might. No. 1, I am fully supportive of grassroots lobbying and I hope it does expand. I think in a free country every citizen ought to either individually or banded together express their views before the legislature.

The key is should it be funded by the taxpayers? That is where the gentleman and I disagree. I do not think so, when you are advocating one point of view over that of another.

Second, the strong and eloquent arguments, and they are, indeed, eloquent, that the gentleman has made on behalf of grassroots lobbying and how this amendment would strike at the heart of that, indicates to me that the bill as presently postured, even though it represents itself to have done something about lobbying, really does very little.

Mr. MOFFETT. Well, no; unlike the gentleman, I plan to vote for the bill even though I do not like the provision in the bill with regard to lobbying. I am going to support the bill.

I think the gentleman from Wisconsin and our friend, the gentleman from Michigan and the gentleman from Illinois can relax, because I do not think this debate is going to change that many votes with regard to final passage of the bill; but I say to the gentleman, you have to understand, and I hope the gentleman does, that at the grassroots level the only people that are in a position to lobby per se are those that are out there every day on the firing line and who have a little bit of office space, and you know, it is not too elaborate a center, a place from which they can express their views.

The CHAIRMAN. The time of the gentleman from Connecticut has expired.

(At the request of Mr. SAWYER, and by unanimous consent, Mr. MOFFETT was allowed to proceed for 2 additional minutes.)

Mr. SAWYER. Will the gentleman yield?

Mr. MOFFETT. I would be happy to yield to my friend from Michigan, and

I would like to thank the gentleman for his work on this legislation.

Mr. SAWYER. Mr. Chairman, I think we have to bear in mind that we are right now trying to authorize the Legal Services Corporation. While I recognize that many lobbyists are lawyers, I do not really consider them lawyers in their practice. I do not consider law firms as essentially lobbyists.

Therefore, I would think if we want to really mix the two things, and they do not mix very much out in the real world, as the gentleman knows, that we then bring up a public lobbying bill and authorize it; but I hate to see the Legal Services bill go down the tube because of a lot of lobbying activity which I do not think really belongs in the same arena as Legal Services.

□ 1430

As I said before, I practiced law full time for 30 years in various litigating circumstances and never once had occasion to go to a legislator or a Congressman. As far as private bills go, they come to my staff and me without the benefit of lawyers, really, and we do what work is necessary if we feel it is something where an injustice was done and put it in for them.

But I just think to mix the lobbying thing in with Legal Services is mixing apples and oranges because I do not consider them to be the same thing.

Mr. MOFFETT. If I might reclaim my brief amount of time, I think inherent in the kind of work Legal Services does is the need, the need to communicate with people who are making public policy.

Mr. RAILSBACK. Will the gentleman yield?

Mr. MOFFETT. I am happy to yield to the gentleman from Illinois.

Mr. RAILSBACK. Let me echo what has been said by the gentleman from Michigan (Mr. SAWYER). Many of us are cutting the funding back, and it may even be cut back further. We want to say, frankly, we are trying to save Legal Services for the poor. So we must prioritize.

Frankly, there are many Members, Democrats and Republicans, that are very much concerned about many activities that are not related to providing legal aid to the poor, for example, some of the politicking and some of the lobbying that has taken place. I respectfully disagree with the gentleman, whom I respect, but I think that the gentleman is missing the point.

The CHAIRMAN. The time of the gentleman from Connecticut has again expired.

(By unanimous consent Mr. MOFFETT was allowed to proceed for 1 additional minute.)

Mr. MOFFETT. If I might say to the gentleman, I know what the gentleman has to do here, and I know we must get a bill through and the gentleman has been doing a great job as far as I am concerned, as have the people on this side who are responsible for the bill. I am not on the gentleman's committee. I am pleased with what the committee has done and what the gentleman had done, and I thank him, and I think many of us on both sides understand the political realities under which we work.

All I am saying is in the larger scheme of things, in the one Member's view, what we appear to be doing if we adopt the amendment of the gentleman from Colorado (Mr. KRAMER) as the gentleman from Michigan (Mr. CONYERS) suggested, is to send yet another message out there to the people at the grassroots level who already view themselves as powerless, that we are pushing ourselves away from them and sealing ourselves off from them, and saying that people have to buy their way into the system, and I think that is a tragedy if it happens.

Mr. VOLKMER. Mr. Chairman, I move to strike the requisite number of words.

If I may, I would like to ask some questions of the chairman of the committee and also the gentleman from Colorado (Mr. KRAMER), address the same questions to the gentleman on his amendment.

It has come to my attention from certain of the recipients that several things are occurring with regard to lobbying. I would like to know if the language in the bill or the amendment would in any way restrict either of these two things. One is it has come to my attention that some of the recipients have what we call full-time lobbyists on their staff and they spend 4 days a week with their State legislative bodies while the legislature is in session, or 5 days a week. They stay in the State capital. They do not stay back in the cities where the recipients' Legal Services Corporation has its office. They actually work on legislation continuously, just like other lobbying groups, private lobbying groups.

I would like to know whether the bill in any way, the language of the bill in any way would restrict that.

Mr. KASTENMEIER. Will the gentleman from Missouri yield to me?

Mr. VOLKMER. I yield to the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. I would say to the gentleman I do not believe the activity he refers to is authorized under H.R. 3480. The language on pages 6 and 7 of the bill—and let me read because it is more explicit than anything I might say—says:

> Insure that no funds made available to any recipient—

Which is a local legal services program—

> shall be used at any time, directly or indirectly, to attempt to influence any decision by a Federal, State, or local agency, to attempt to influence, directly or indirectly, through publicity, propaganda, or otherwise, the introduction, passage, or defeat of any legislation in the Congress of the United States, or in any State or local legislative body, or to attempt to influence State proposals by initiative petition, except—

And this is where the gentleman's case does not accord—

> where—
>
> (A) legal assistance is provided by an employee of a recipient to an eligible client on a particular application, claim, or case—

I would submit that somebody who is a permanent lobbyist at a State capital could not usually be the attorney for a local eligible client and represent only that claim. Therefore, what the gentleman has described would probably be improper certainly with this language. This language is explicit.

Mr. VOLKMER. The next question I have pertains to an individual case question as to whether or not it would be appropriate and permissible under the language in the bill for a legal aid staff person or attorney to solicit, in other words, send out a questionnaire to known clients. He would have clients, maybe 500 in an office, or 40, whatever the number is, and the names would be known. To each of them they would send out a list of legislation to come before the legislative session and they would send a letter and say to them would you please check off the things you would like for me to represent you in the State capital in the coming legislative session, and people check those things off and send them back. Then the lawyers say my recipients want me to do this. Would that be permissible under the language?

Mr. KASTENMEIER. If the gentleman from Missouri would yield further, I would say no, explicitly no. On page 7, line 9, we say that:

> Even though legal assistance may be provided in connection with the claim, this paragraph shall not be construed to permit a staff attorney or any other employee of a recipient to solicit a client.

That is precisely what the gentleman has described, so that also is forbidden in the bill.

Mr. VOLKMER. I thank the gentleman and appreciate that because those are the only two reservations I have ever had in what is going on presently.

I would now like to ask the gentleman from Colorado (Mr. KRAMER) as to what his amendment does in relation to both of those things.

Mr. KRAMER. Will the gentleman from Missouri yield?

Mr. VOLKMER. I yield to the gentleman from Colorado (Mr. KRAMER).

Mr. KRAMER. My amendment prohibits both of those. But let me, if I might, say that I think, at least in my judgment, and that is only one person speaking—I am an attorney. I had to get into politics to earn an honest living. I do not know what that means, so obviously I can only speak for

myself. But with respect to the second question, I can tell the gentleman I think unequivocally that both the bill and my amendment prohibits solicitation.

I would disagree with the gentleman from Wisconsin as to the first question. The way my amendment is postured it clearly prohibits this.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

(By unanimous consent Mr. VOLKMER was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. I yield to the gentleman from Colorado.

Mr. KRAMER. In my judgment, as the bill is presently postured, the No. 1 question very well may be OK under the bill as written, the reason being this—and the gentleman from Wisconsin read the operative language:

On a particular application, claim, or case which directly involves the client's legal rights and responsibilities.

Which means, as I read it, as long as we can tie that lobbying activity to a particular client in that office it is OK. So if it was in that particular client's best interests to have the law repealed, or a law enacted, or a law changed, the Legal Services Corporation, local Legal Services recipient could then lobby for either that repeal, that modification, or that new law.

Mr. VOLKMER. Without a request from the client to do so?

Mr. KRAMER. I would say to the gentleman that is correct, yes. There is nothing in here that says that. All the client has to do is relate the lobbying activity to the representation of the client, and if you as a lawyer said this was in the client's best interests in the case in which you are representing him to change the law, then you could lobby.

So I disagree with the interpretation of the gentleman from Wisconsin (Mr. KASTENMEIER) with respect to the first question.

Mr. VOLKMER. I would like to ask the gentleman—the gentleman from New York recently gave a situation in which he has knowledge of, and they are trying to change the law in Albany. Will the gentleman's amendment prohibit the Legal Services Corporation from attempting to change the law in regard to forfeitures of property for nonpayment of taxes in the State of New York? Would the gentleman's amendment prohibit that?

Mr. KRAMER. It depends. The lawyer cannot do it on his own initiative, but if it was part of the request, the procedure by the legislature; in other words, if you look down where we have an official request pertaining to something that that program is involved in, yes, he could then be invited to do so. But he would not do it on his own initiative.

Mr. VOLKMER. In other words, he could not tell his client this is another avenue that we can try; we have no other way to counter this, but maybe we can try.

The CHAIRMAN. The time of the gentleman from Missouri has again expired.

(By unanimous consent Mr. VOLKMER was allowed to proceed for 1 additional minute.)

Mr. KRAMER. If the gentleman will continue to yield, the way I read it, the only difference in our version is in terms of requesting information or testimony, and the committee's version is requesting that same information or testimony but ours limits it to what the program is involved with. The committee version opens that up so that testimony could be requested on any subject under the Sun.

So in that New York situation, as long as it was pursuant to a request, and it was within the ambit of the legal services that were being provided by that recipient Legal Services subgroup, yes, it could be done.

Mr. VOLKMER. But the gentleman's amendment would prohibit the Legal Services staff and staff attorney from initiating legislation by calling a Member that is from this man's district or person's district?

Mr. KRAMER That is correct.

Mr. VOLKMER. Prohibits him from calling up and saying we have this problem, would you please introduce legislation and see what you can do about getting this law changed?

Mr. KRAMER. That is correct.

The CHAIRMAN. The time of the gentleman from Missouri has again expired.

(By unanimous consent, Mr. VOLKMER was allowed to proceed for 1 additional minute.)

Mr. KRAMER. With respect to the administrative proceedings, that would not be the case; only the legislative proceedings. So if the gentleman were representing that client in front of a board or commission or, for example, if the gentleman were redeeming a piece of property as we would in Colorado in the Public Trustee's Office, and it would vary from State to State, the Legal Services lawyer on his own initiative could, indeed, represent that client administratively, but not legislatively, unless he was requested to do so.

Mr. GARCIA. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the amendment.

I will be brief. I would like to ask the gentleman from Colorado (Mr. KRAMER) a question. How is it possible that a person who comes out of a community such as mine is going to know that he or she must go the legislative route on his or her own? How is it possible?

Mr. KRAMER. Will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from Colorado.

Mr. KRAMER. They can do one of two things. He or she can do it him or herself or hire an attorney or, in fact, as has been pointed out, if the Legal Services attorney feels so strongly about that particular case, on his own time he can certainly make the contact. All this amendment does is prohibit the use of Federal funds. It does not prohibit the civil rights of that Legal Services attorney who may, in the extreme case the gentleman talks about, feeling so strongly about a matter, that personal legislation is necessary, he could go ahead on his own time.

Mr. GARCIA. I think the point has been well made by the gentleman from Colorado, the sponsor of this amendment. He is asking local people to understand not only the legislative process but the legal process as well. I think that in terms of this discussion that the points that had to be made were just made absolutely clear with the response by the gentleman from Colorado.

Mr. RAILSBACK. Will the gentleman yield to me?

Mr. GARCIA. Certainly I yield to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Could I just say in the gentleman's case that if the constitutent of a State legislator had received advice from a legal aid lawyer, and he said, "You have a problem, it is a legislative problem and under the law I am not permitted to make that contact, I have to receive a request." Then the constituent of that State representative can say, "I have got a problem," and all they have to do is get a request through the formal channels.

Frankly, to tell the gentleman the truth, and this is very important, the Kramer amendment does not make it any more difficult than the committee bill. It is the same approach. We require a formal request before the legal aid program or the lawyer can do it.

□ 1445

So under both it is the same, and I think that is very significant.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding. I want to thank the gentleman from New York for bringing us to the real world. How can a client know what his lawyer should do, much less know what the restrictions are on a national law? The answer hinted at gently by one of the respondents is that it is really very difficult. Maybe on his own time after

work he can pursue that problem. But this gets us back inescapably to the lawyer-client relationship.

There are a few lawyers in the U.S. House of Representatives that realize that a lawyer cannot shunt his responsibility as a member of the bar off, and then after work, on the weekends, on Sunday afternoon, do that which he ought to have been doing in the course of his legal duties.

Mr. SAWYER. Mr. Chairman, I move to strike the last word. I keep getting plagued by this confusion between what I have always recognized as the practice of law—which I think or always thought Legal Services was to provide to the poor—and the process of endeavoring to change the law. They are two different pursuits. While lawyers may change the law by getting a court to interpret the existing law to be what he believes it ought to be interpreted as, I have never considered the practice of law to be the effort to change the law. It is the practice of existing law. Endeavoring to change it, interpreted into what you feel it should be interpreted into being, the changing of the law is a political process involving lobbying and other efforts, like forming lobbying groups, distributing pamphlets in neighborhoods, recruiting voters to get out and vote. If you try to combine these two things, you are, as I said before, mixing apples with oranges, and you are prejudicing the oranges very, very seriously. But if you feel it is necessary to get a lobbying group that is going to go lobby for the interests of any sector at public expense, bring in a bill that says that, and let us treat it as the public lobbying bill and see if we want to appropriate public money for it.

But, for goodness sake, do not put this alien operation into the practice of law, which it is not and never has been. There is no course in law schools entitled "Lobbying for Changing the Law in the Congress," and it does not belong there.

Let me warn you that if this is put into this kind of a bill, you are prejudicing a very essential service which is, namely, the practicing of law on behalf of the poor.

Mr. SHAMANSKY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have been a member of a business law firm, and I am also a businessman. I have been a member of this law firm for over 25 years. We represent our clients in legal matters, and we learn from experience representing those business clients.

When we learn from experience that there is a part of the law which is simply inadequate or unjust, it is part of our function as business lawyers, lawyers who represent businesses, to seek, based on our experiences, changes in the law, which is perfectly appropriate. There is nothing ethically or legally wrong with that.

I am also one of those people who was a member of the Legal Aid Committee of Columbus Bar Association, which then organized the Legal Aid Society of Columbus, and I was a board member for 17 years, and a president. We have built up long experience with the law, and we find out occasionally that there are parts of the law which are inadequate or unjust which work to the detriment of our clients.

From that experience—and it is a perfectly fair analogy—we then should be able, in order to benefit the whole group, and certain clients in particular, which would help other clients also, to seek a change in the law.

The gentleman from Michigan (Mr. SAWYER) has made a fine distinction between changing the law and getting redress, which we have never found in our office that we would make such a distinction. We would never do a thing like that.

Mr. SAWYER. Mr. Chairman, will the gentleman yield?

Mr. SHAMANSKY. Yes, of course, I yield to the gentleman.

Mr. SAWYER. I thank the gentleman for yielding. In my law office I was chairman for some 8 years, with about 60-odd lawyers. We represented the full phalanx of all the business community, basically. While we were interested, we would usually merely write our Congressmen, which everybody has the right to do, I presume, or we would refer them to a professional lobbying firm. We did not engage in lobbying. We had no expertise in it. We were practicing law.

But did the gentleman's firm engage actively as being a whole, working lobbyist?

Mr. SHAMANSKY. We certainly felt qualified to represent to a legislator the conserns of our clients.

Mr. SAWYER. Did the gentleman go down and conduct lobbying in Columbus, Ohio?

Mr. SHAMANSKY. We certainly made the needs and concerns of our clients known to our legislators, which is perfectly ethical and legal.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. SHAMANSKY. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding.

I would like to ask, what does the gentleman from Michigan, my colleague, think all of these people walking the halls of the Capitol, the Rayburn Building, the Cannon Building, sitting in these committees are if they are not lawyers representing their clients on perfectly legitimate, representational issues, for some big fat fees? What does he think they are practicing—lobbying or lawyering?

Mr. SAWYER. If the gentleman will yield to me, some of them are lawyers; some of them are not lawyers. But when they are engaged in that activity, they are not practicing law; they are practicing lobbying—which is a totally legitimate function, for which they are entitled to be paid. It is an honorable profession; but they are not practicing law. Whether they be licensed lawyers or not, they are lobbyists. We have some so-called law firms in Washington, D.C., that are in effect really full-time lobbying firms.

Mr. SHAMANSKY. I wish to submit to the gentleman that my predecessor, who did not practice law for 22 years, is now a representative of a Columbus law firm, and he is in the Halls of Congress, I gather, ostensibly practicing law. He may well be representing his clients in the process. I just think to deny the experience of the Legal Aid Society of Columbus as they direct themselves with respect to the law, and say they cannot make that experience known to a legislator as the legislator needs it, is simply not understandable. I just do not understand it. It is self-defeating.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. SHAMANSKY. I yield to the gentleman from California.

Mr. LUNGREN. I thank the gentleman for yielding.

This concern about lobbying just did not come out of thin air. I would like to cite to the gentleman a statement made by the Legal Aid Services personnel at an advocacy meeting held in San Juan, P.R.:

> What all of us ultimately care about, what every single support center cares about ultimately is meaningful welfare reform and a meaningful redistribution of wealth and income in this country.

That is political. They have every right to believe that. But the question is, Do the taxpayers pay for it?

They have talked here about grassroots lobbying. One of the most intense grassroots lobbying efforts in this country, coming up from the grassroots, was the pro-life movement. I cannot tell you one Legal Services Corporation that ever assisted in the pro life movement. Yet I can give you examples where the Legal Services Corporation has worked against what that grassroots effort has done.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. SHAMANSKY was allowed to proceed for 1 additional minute.)

Mr. SHAMANSKY. It is certainly possible for every one of us to come up with one horror story. The millions of cases in this country that Legal Services has taken care of at the grassroots level, like the Legal Aid Society of Columbus, does not engage in that, and to keep throwing out those horror sto-

ries when they are an infinitesimal part of the whole operation is a deliberate effort, in my opinion, to distort what is happening here.

We have got to represent the dispossessed. Otherwise we say, go to the streets; do not go to the courts. Frankly, we want them to go to the courts, not to the streets.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. KRAMER).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. KRAMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 271, noes 141, not voting 19, as follows:

[Roll No. 82]

AYES—271

Albosta	Dreier	Ireland
Andrews	Duncan	Jeffries
Anthony	Dunn	Jenkins
Applegate	Dyson	Johnston
Archer	Early	Jones (OK)
Ashbrook	Edwards (AL)	Jones (TN)
Badham	Edwards (OK)	Kemp
Bafalis	Emerson	Kindness
Bailey (MO)	Emery	Kramer
Barnard	English	Lagomarsino
Beard	Evans (DE)	Latta
Benedict	Evans (IA)	Leach
Benjamin	Fenwick	Leath
Bennett	Fiedler	LeBoutillier
Bereuter	Fields	Lee
Bethune	Findley	Lent
Bevill	Fish	Levitas
Blanchard	Fithian	Lewis
Bliley	Flippo	Livingston
Boland	Forsythe	Loeffler
Boner	Fountain	Lott
Bouquard	Frenzel	Lowery
Bowen	Fuqua	Lujan
Brinkley	Gaydos	Luken
Broomfield	Gephardt	Lungren
Brown (CO)	Gibbons	Madigan
Burgener	Gilman	Marks
Butler	Gingrich	Marlenee
Byron	Ginn	Marriott
Campbell	Glickman	Martin (IL)
Carman	Goldwater	Martin (NC)
Carney	Goodling	Martin (NY)
Chappell	Gradison	Mazzoli
Chappie	Gramm	McClory
Cheney	Gregg	McCloskey
Clausen	Gunderson	McCollum
Clinger	Hagedorn	McCurdy
Coats	Hall, Ralph	McDade
Coleman	Hall, Sam	McDonald
Collins (TX)	Hamilton	McEwen
Conable	Hammerschmidt	McGrath
Conte	Hance	Mica
Corcoran	Hansen (ID)	Michel
Coughlin	Hansen (UT)	Miller (OH)
Courter	Hartnett	Mitchell (NY)
Coyne, James	Hatcher	Molinari
Craig	Heckler	Montgomery
Crane, Daniel	Hefner	Moore
Crane, Philip	Heftel	Moorhead
D'Amours	Hendon	Morrison
Daniel, Dan	Hightower	Murphy
Daniel, R. W.	Hiler	Myers
Dannemeyer	Hillis	Napier
Daschle	Holland	Natcher
Daub	Hollenbeck	Neal
Davis	Holt	Nelligan
Deckard	Hopkins	Nelson
DeNardis	Horton	Nichols
Derrick	Hubbard	O'Brien
Derwinski	Huckaby	Parris
Dickinson	Hughes	Patman
Dorgan	Hunter	Patterson
Dornan	Hutto	Paul
Dougherty	Hyde	Petri
Pickle	Shaw	Walgren
Porter	Shelby	Walker
Pritchard	Shumway	Wampler
Pursell	Shuster	Watkins
Quillen	Skeen	Weber (MN)
Railsback	Skelton	Weber (OH)
Regula	Smith (AL)	White
Rhodes	Smith (NE)	Whitehurst
Rinaldo	Smith (NJ)	Whitley
Ritter	Smith (OR)	Whittaker
Roberts (KS)	Snowe	Whitten
Roberts (SD)	Snyder	Williams (MT)
Robinson	Solomon	Williams (OH)
Roe	Spence	Wilson
Roemer	St Germain	Winn
Rogers	Stangeland	Wolf
Rose	Stanton	Wortley
Roth	Staton	Wright
Roukema	Stenholm	Wylie
Rousselot	Stratton	Yatron
Rudd	Stump	Young (AK)
Santini	Tauke	Young (FL)
Sawyer	Tauzin	Young (MO)
Schneider	Taylor	Zablocki
Schulze	Traxler	Zeferetti
Sensenbrenner	Trible	
Sharp	Vander Jagt	

NOES—141

Addabbo	Foglietta	Murtha
Akaka	Foley	Nowak
Alexander	Ford (TN)	Oakar
Anderson	Fowler	Obey
Annunzio	Frank	Ottinger
Aspin	Frost	Panetta
Atkinson	Garcia	Pease
Bailey (PA)	Gejdenson	Pepper
Barnes	Gonzalez	Perkins
Bedell	Gore	Peyser
Beilenson	Gray	Price
Biaggi	Green	Rahall
Bingham	Guarini	Rangel
Boggs	Hall (OH)	Ratchford
Bolling	Harkin	Reuss
Bonior	Hawkins	Richmond
Bonker	Hertel	Rodino
Brodhead	Howard	Rosenthal
Brooks	Hoyer	Rostenkowski
Brown (CA)	Jacobs	Roybal
Burton, John	Jones (NC)	Russo
Burton, Phillip	Kastenmeier	Sabo
Chisholm	Kazen	Savage
Clay	Kildee	Scheuer
Coelho	Kogovsek	Schroeder
Conyers	LaFalce	Schumer
Coyne, William	Lantos	Seiberling
Crockett	Leland	Shamansky
de la Garza	Long (LA)	Shannon
Dellums	Long (MD)	Simon
Dicks	Lowry	Smith (IA)
Dingell	Lundine	Stark
Dixon	Markey	Stokes
Donnelly	Matsui	Studds
Downey	Mattox	Swift
Dwyer	Mavroules	Synar
Dymally	McHugh	Udall
Eckart	McKinney	Vento
Edgar	Mikulski	Volkmer
Edwards (CA)	Miller (CA)	Washington
Erdahl	Mineta	Waxman
Ertel	Minish	Weaver
Evans (IN)	Mitchell (MD)	Weiss
Fary	Moakley	Wirth
Fascell	Moffett	Wolpe
Fazio	Mollohan	Wyden
Ferraro	Mottl	Yates

NOT VOTING—19

AuCoin	Erlenborn	Oberstar
Breaux	Evans (GA)	Pashayan
Brown (OH)	Florio	Siljander
Broyhill	Ford (MI)	Solarz
Collins (IL)	Grisham	Thomas
Cotter	Jeffords	
Danielson	Lehman	

□ 1500

The Clerk announced the following pairs:

On this vote:

Mr. Erlenborn for, with Mr. Oberstar against.

Mr. Brown of Ohio for, with Mr. Solarz against.

Mr. Thomas for, with Mr. Lehman against.

Mr. Pashayan for, with Mrs. Collins of Illinois against.

Mr. GORE and Mr. RUSSO changed their votes from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. DANIELSON. Mr. Chairman, I was compelled to be absent from the floor at 2:54 p.m. when the vote on the Kramer amendment took place, rollcall No. 82. If I had been present, I would have voted "no."

Mr. GARCIA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, major obstacles to the equal administration of justice are court costs and fees, the delay in receiving judgment, and the cost of an attorney. By the enactment of the Legal Services Corporation Act of 1974, the Nation provided legal assistance to those who lacked the financial ability to have the courts hear their grievances. By its action, the Federal Government buttressed the faith of the Nation's poor in our judicial system and recognized the need for equal access to our system of justice.

The administration's proposal to eliminate the Legal Services Corporation not only is contrary to the aim of the President's economic recovery program; but also to the idea of equal justice to all. If the major concern of the administration is to balance the Federal budget and eliminate wasteful and inefficient programs, the Legal Services Corporation should be strengthened, rather than destroyed.

The Legal Services Corporation is efficient and economically administered. In 1977, Federal administrative costs represented 2.9 percent of the Corporation's budget. By 1980, the cost dropped to 2.1 percent, and by 1981 to 1.8 percent. The Legal Services Corporation presently makes available two attorneys for every 10,000 poor persons eligible for the service. Of the total cases handled by Legal Services lawyers for fiscal 1981, the largest percentage relates to family matters. Approximately 30 percent involve divorces, separation, child custody, child support, and adoption matters. Approximately 18 percent of all legal services involve landlord-tenant disputes in nonsubsidized housing eviction matters. Well over 80 percent of these cases are resolved through negotiated settlements.

Well over 60 percent of the clients serviced by the Corporation are females between the ages of 18 and 34. Some 15 percent of the Legal Services clients are over the age of 60, while 2.8 percent are under age 18. Almost 16 percent are living primarily on social security benefits, which include the elderly and the handicapped. The

elimination of the Corporation and its funding will eliminate the strong tradition, and right, of the poor to equal justice under the law. The poor lack the resources to afford private counsel; thus, the administration's proposal will deny to the poor even minimal access to the courts.

Legal Services lawyers have been accused of being social and political activists. Their only crime has been that they effectively enforced the existing laws. We must remember that the Legal Services Corporation did not make the laws; they simply represented their clients before our judicial system. The decisions rendered on these cases were the legal determinations of our courts and judges.

I find it very difficult to justify the abolition of the Legal Services Corporation, especially at a time when the poor and their needs are being totally disregarded by an administration whose apparent concern is the elimination of necessary and proven social programs.

I support the efforts of the Judiciary Committee in the preparation of an acceptable authorization bill and I urge all Members to vote for H.R. 3480 without adding crippling amendments.

□ 1515

The CHAIRMAN. Are there any further amendments to section 5?

If not, the Clerk will read section 6.

The Clerk read as follows:

LIMITATION ON CLASS ACTIONS

SEC. 6. Section 1006(d)(5) of the Legal Services Corporation Act (42 U.S.C. 2996e(d)(5)) is amemded by adding at the end thereof the following: "No class action suit may be brought against the Federal Government or any State or local government except in accordance with policies or regulations adopted by the board.".

AMENDMENT OFFERED BY MR. WILSON

Mr. WILSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair would inquire if the amendment has been printed in the RECORD for 2 legislative days?

Mr. WILSON. Yes, Mr. Chairman, it has.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amemdment offered by Mr. WILSON: Page 8, lines 2 and 3, strike out "except in accordance with policies or regulations adopted by the Board".

Mr. WILSON. Mr. Chairman, this amendment is a very, very simple amendment. It simply prohibits any class-action suits to be brought against State, county, or local governments. Very little explanation is necessary, but this amendment would eliminate a very large percentage of the real grievances that my constituents have had with the Legal Services Corporation.

I believe it would better define the activities of that Corporation that would be more acceptable to the public. I would say to the sponsors of the bill that may oppose this amendment that I really believe this amendment might help pass the bill.

I understand that the amendment is acceptable on this side of the aisle.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. WILSON. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding.

I am advised that at least a couple of the members on the subcommittee will accept it. I happen to be opposed to it.

Mr. SAWYER. Mr. Chairman, will the gentleman yield?

Mr. WILSON. I yield to the gentleman from Michigan.

Mr. SAWYER. I thank the gentleman for yielding.

I may say that this was originally the amendment I offered in the subcommittee. We modified it to include the exception, but I am happier with the amendment as it was originally.

I would say to the gentleman that bearing in mind that we are trying to politically survive not just this time, but maybe in the future Legal Services, this is where a good 75 percent of the so-called horror stories originate, most of the political antagonism to the survival of the Corportion comes from.

It does not prevent an individual action being brought to address a grievance, but avoids the kinds of things I think have been threatening the life of the Corporation. I am prepared to support the amendment.

Mr. WILSON. I appreciate the gentleman making the point that it does not prohibit individual actions against any governmental body.

Mr. SAM B. HALL, JR. Mr. Chairman, will the gentleman yield?

Mr. WILSON. I yield to the gentleman from Texas.

Mr. SAM B. HALL, JR. I thank the gentleman for yielding.

I would like to associate myself with the gentleman's amendment. I think it is an excellent amendment. The gentleman and I both have adjoining districts in Texas. We have been plagued with what this amendment seeks to stop.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. WILSON. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. I commend the gentleman from Texas for introducing this amendment to get rid of class-action suits. I would like to quote an interview by Secretary of Health and Human Services Richard Schweiker that appeared on the air on July 2 in part.

Secretary Schweiker says:

One other area I might just mention is that we also in our Department have a lot of liberalization of welfare benefits occur because we are sued by public interest groups. Ironically we fund through the Legal Services Corporation these groups. The groups then turn around and sue my Department on liberalizing some benefit or some categorical program and then we have to go to court. We lose a lot of these cases. So, without Congress even intervening in public policy, because we fund lawyers to sue our Department, we lose the case and write new law by the case method and circumvent the Congress. This is where some of our welfare programs have gotten out of bounds.

So, a lot of the spiral of Federal expenditures through entitlement programs have come about as a result of the class-action suits that the Legal Services Corporation has filed.

So, I commend the gentleman from Texas for offering his amendment. This might put the reins on in an indirect way of the Federal Treasury from being raided.

Mr. WILSON. I thank the gentleman. I remember that interview and I appreciate the gentleman bringing it to my attention.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. WILSON. I yield to the gentleman from Texas.

Mr. PICKLE. I thank the gentleman for yielding.

The gentleman in the well is a very progressive Member of this body and has credentials beyond question that he has always tried to help the little person.

As I review the Legal Services Corporation, it was designed originally to help the individual and that is what this type of service should do, to help them on wills, on rents, divorces, and accidents.

Mr. WILSON. It should give them access to the system.

Mr. PICKLE. Now, when they extend their purposes to include class action cases or to set public policies or to even stop a public project, then they are going beyond what was intended.

If the committee wants to give the Corporation that kind of authority to have the right to bring class action suits, then we ought to have an amendment that clearly says that is what we want to do.

In the absence of that, all we can do is to put a prohibition in. We may not like to do that individually, but it is the only protection we have to try to maintain what I think is the purpose of Legal Services Corporation.

The gentleman has a good amendment and we ought to pass it.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. WILSON. I yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding.

I will speak later on the amendment itself, but I would like to inquire of the gentleman in the well.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WILSON) has expired.

(At the request of Mr. HARKIN and by unanimous consent, Mr. WILSON was allowed to proceed for 3 additional minutes.)

Mr. HARKIN. If the gentleman will continue to yield, if in fact, let us say, a Legal Services attorney—let us pose a hypothetical which I will show after a bit is not a hypothetical but was in fact a real case—a legal aid attorney has 10 or more clients and another legal aid attorney in another part of the State has 10 or more clients. Let us say we have a total of 30 or 40 clients who come in to various legal aid offices and they all have the same problem, let us say, with regard to a certain debt collection agency.

So here we have 30 or 40 individuals who want and who qualify for legal assistance, who are having problems with a debt collection agency and rather than filing 30 or 40 lawsuits, taking the court's time, costing the taxpayers a great deal of money, blocking up the courts, if that attorney could file a class action suit in accordance with rule 23 of the Federal Rules of Civil Procedure or applicable State rules, and take care of all of that, as long as he meets the requirements of such rules, what would be wrong with that?

Mr. WILSON. I would point out to the gentleman that my amendment would not affect the top, side, or bottom because a debt collection agency is a private agency. I am prohibiting class-action suits against the public, against the State, county, and local governments.

Mr. HARKIN. So the gentleman says that it is all right then for Legal Services attorneys to represent those people in a class action suit against a private organization, that is what he is saying. Right? Let us say then we have a similar case, however, it is not a debt collection agency, but it is a local unit of government that is not carrying out the mandates of either State or Federal law in providing housing assistance, food stamps, or whatever it might be.

Then rather than taking 30 or 40 separate cases to court, we can file a class action.

The gentleman says no, they ought not to be able to do that; is that what the gentleman says?

Mr. WILSON. That is right, because, for instance, in my district and in east Texas the Legal Services have filed suit against, tried to enjoin the Immigration Service from deporting illegal aliens, for example.

I know the gentleman is sincere. I would say to those others who are sincere about the need to provide the poor access to the courts, equal justice under the law, that this amendment, in my view, is an absolutely essential element in passing this bill at all or to keep it from being vetoed if it is passed.

The Legal Services say 95 percent of their cases involve a nonclass action providing access to justice to poor people who cannot afford it. I would say to the gentleman let us go ahead and continue to provide that 95 percent with some legal services.

Mr. HARKIN. I will speak on that later.

Mr. KASTENMEIER. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in opposition to the amendment.

This is a serious amendment. I think it is one of the most important three or four amendments offered to the bill. The subcommittee considered this at very great length. The full committee affirmed our formulation. It was not to throw out class actions against public entities, but to try to limit them somewhat more reasonably to offer the sort of review necessary to insure that those class actions which were brought were really appropriate.

I am sorry about cases such as obviously cited by the gentleman from east Texas (Mr. WILSON), the author of the amendment and the gentleman from Texas (Mr. SAM B. HALL, JR.), also from east Texas. I am not aware of the details of their case, but I am aware that it is not always popular to sue a public entity.

We must remember, however, that class action, as was indicated, have to already be very carefully scrutinized and controlled by Federal and State courts, and parties also have to prevail in seeking certification of a class. Now this is truly legislative overkill.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Iowa.

Mr. HARKIN. I did not want to interrupt, but I just wanted to make that point very clear to other Members of this body who may not be attorneys and who may never have participated in class action suits.

What the chairman is saying is that you have two hurdles. The first hurdle is you have to show that you meet all the requirements of rule 23 of the Federal Rules of Civil Procedure. You have to cross that hurdle first before you can even get into court to prosecute the case on class action.

Mr. KASTENMEIER. We have also heard, Mr. Chairman, that there are so many of these class actions. As a matter of fact, of the cases handled by local legal services programs, only 15 percent are litigated and less than 1 percent of those cases are class actions.

Presently, under the law, program directors must expressly approve any class action before it may be brought. But we have decided in committee that we want more stringent control than that. We considered a number of possibilities and ended up with the language in the bill which the gentleman seeks to eliminate stating that no class suits may be brought against the Federal Government or any State or local government except in accordance with the policies and regulations adopted by the National Legal Services Corporation Board.

Now very explicitly, we understood that the Board would be made up of this President's nominees and presumably class actions through such regulations would not be willy-nilly approved. We understood that. But yet we were agreeable to that particular process.

□ 1530

Let me tell the Members that among those who testified before our committee were a number of public officials who said that under no case give up class actions. For example, the attorney general of Maryland, Stephen H. Sachs, said to us:

> You know, I do not like to be sued any more than anybody else, but we try to keep the State out of legal trouble by practicing preventive law, but neither we nor our agency clients are all-knowing and infallible.

He went on to say—

> Let me give you a few examples of law enforcement successes of Legal Services in Maryland—

And he is on the other side of these cases—

> they regained unemployment compensation for 24,000 Marylanders whose benefits were reduced through an erroneous interpretation of law. They restored medicaid services for 188,000 Marylanders; guaranteed indigent veterans and widows the right to be heard; established the right of all citizens to a hearing before involuntary commitment in a State mental hospital.

He gave us other examples of where in fact the State was wrong and Legal Services programs through a class action vindicated the rights of thousands of poor citizens of the State of Maryland.

Mr. Chairman, in any event I urge my colleagues, even though I consider our committee amendment to be stringent, to reject the notion that class actions are no longer part of American law for one segment of the population—poor persons.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

(At the request of Mr. RAILSBACK and by unanimous consent, Mr. KASTENMEIER was allowed to proceed for 3 additional minutes.)

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I happen to agree with the remarks of the gentleman. I know we are trying to move along now, and that some of the amendments are going to be

agreed to. I am not going to take my own time, but I did want to say that we substantially tightened up class actions against governmental entities, recognizing that the Reagan administration is going to have absolute control over every single appointment to the governing board. In amendment offered by Mr. SAWYER of Michigan gave the control over class actions against governmental entities to that board, to that board, to promulgate rules and regulations or, for that matter, to do anything that that board wants to do with regard to class actions.

I was personally very impressed by the testimony that I had intended to cite, that the gentleman just cited, from the attorney general of Maryland, who happened to have been on the receiving end of several class actions. Just as the gentleman indicated, he said:

> I do not like being sued but there were some things going on in the State that related to mental, indigent people, that pertained to the elderly.

I know this is not the gentleman's intent, but I think that there may be serious abuses that do affect some people that need a great deal of help, that may not be handled if we prohibit all class actions in the manner.

Mr. FRANK. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak against the amendment.

Mr. Chairman, if we pass this amendment we officially say that the poor get second-class legal representation. Let us be very explicit about that. The fact is that the class action instrument has been developed over the years because it was an effective method of dealing with certain types of disputes. If this amendment passes, anybody in the country can be the beneficiary and the plaintiff in a class action suit unless you are poor. That is the rule we are adopting. We are adopting a new rule of procedure in the United States. None of the other things we have talked about have dealt with that.

The gentleman from Michigan (Mr. SAWYER) said earlier, let us differentiate between lobbying and the practice of law. OK, we are into the practice of law. We are being asked to adopt an amendment that says that we have two rules of law: one rule for everybody, and then we will have a separate one for the poor. We will say to the poor, "The class action form of litigation, which has been judged to be by litigants, by lawyers, by judges, by administrators, an extremely effective and efficient way of prosecuting certain cases, that is not available to you if you are poor, particularly not against governments."

I do not know what it is that is around in the atmosphere that makes people think that State governments are such paragons of virtue. Maybe I have the advantage of very recent service in one. We are asked to provide more Federal funds to the various State governments. Some form of block grant may or may not go through. Understand what the combination of saying no class actions against your State government means with the block grant program. To the extent that you enact block grants, you give more and more unrestricted Federal money to the State governments.

Perhaps you have a few guidelines in there about fuel assistance or services to the elderly, but then you make sure that nobody can bring a lawsuit to enforce those guidelines because, if you knock out class action by Legal Services, you make guidelines in block grants meaningless because no one is going to be able to enforce those case by case by case.

If the question is, Do you mean to say a State government, having been sued once, would continue a certain practice if it was not bound to cease it in other cases? The answer is, of course it would. Everybody knows it. Everybody here has had experience with that.

This is what we are saying. One, there is a second-class type of law practiced in this country. If you are a regular lawyer, you go out and you use whatever tool is most efficient. If you are representing poor people, we are going to tie one hand behind your back. You cannot use class action. It is the most blatant form of discrimination on the grounds of economics that I have ever heard of. It does not deal with the whole set of Federal rules about lobbying or anything else. It restricts Legal Services' lawyers from using the most efficient form of litigation.

Moreover, the argument that somehow Legal Services' lawyers in class actions are costing more money to be spent is nonsense. They can simply go into court, and I would say to Secretary Schweiker or anyone else, if someone thinks that a class-action decision gives people too much benefit under social security, bring in the statutory effort here and change it.

In the horror stories we have heard against this, we are spared one thing. No one has yet alleged that a class action is being brought on behalf of sex changes. If this debate goes on another day, we may hear about them also. We are told that somebody did a terrible thing by proposing that maybe alcoholics should get SSI. I do not know why it is so terrible if someone who is subject to the disease of alcoholism and is unable to support himself should be given funds under a disability program, but if you think it is wrong, do not blame Legal Services. They did not write the law; they did not make the decision. Come in here with a bill and say that alcoholics are not entitled. If you think it is so terrible that alcoholics who are sick should be treated as sick people by getting SSI, come in with a bill and take it away from them. Do not say to the poor people of this country, "We are going to give you second-class legal citizenship by saying that a very effective tool that is available for everybody else is not available to you if your lawyers think that that is the most effective way to give you relief."

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Well, what the gentleman is saying is that if this amendment passes, that lawyers who work for Legal Services or a legal aid firm or group can only bring second-class actions.

Mr. FRANK. Yes, I think the gentleman from Ohio is correct.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Minnesota.

Mr. VENTO. These are public dollars being spent. What the gentleman is saying is that the suits against the public entity would have to be brought individually. That is not a very efficient way to do it.

Mr. FRANK. It would clearly increase the amount of litigation and decrease the efficiency of the dollars. Take a block grant situation. You get a block grant and it is aimed in some cases at helping poor people. You have some guidelines. If there is a violation, Legal Services would have to bring individual cases, and the officials are not bound by the decision in one case to deal with the decision in another.

Mr. VENTO. If the gentleman would continue to yield, there has been a precedent in which the State and local government has always been treated differently, at least in a preferential manner, in terms of protection from lawsuits. So, I guess that this actually provides the unique case of the protection from lawsuits in terms of a class action suit that we do not afford to any private entity.

Mr. FRANK. That is right.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

(At the request of Mr. SAWYER and by unanimous consent, Mr. FRANK was allowed to proceed for 2 additional minutes.)

Mr. SAWYER. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Michigan.

Mr. SAWYER. You know, we are not just distinguishing against the poor, as the gentleman in the well puts it. We as taxpayers are prohibited from bringing class actions against the Fed-

eral Government on a tax matter. So, it seems to me that if the taxpayers are paying for this, they are at least being evenhanded, because that is the way they are treated.

Mr. FRANK. I would say to the gentleman, if he wants to make the case that that is unfair to him and to me, I would be glad to join with him in changing that, but I still say it is discriminating against people because we are denying to them a form of procedure that anyone else can have. It is simply an undeniable, blatant form of discrimination.

Mr. VENTO. Mr. Chairman, if the gentleman will yield further, this goes further than just the IRS cases, does it not? It addresses itself to a whole host of political subdivisions, not just to the Federal Government or the IRS.

Mr. FRANK. What it does is to say to the recipients of the block grants or any other Federal funds, "We do not care what you were told statutorily to do in the administration of these funds. You will be virtually beyond the rule of the court and beyond the rule of the law because nobody is going to be able to bring individual suit by individual suits."

The gentleman from Texas said, and I understand his point, better something than nothing. There comes a point—and let me say that I am surprised at how conciliatory I was in subcommittee. My old friends back home would not have recognized me, but there comes a point of principle. I understand the intention of the gentleman from Texas but he is asking us to do something in this amendment that nothing else does, to enshrine in the law of this country a blatant discrimination against the poor, saying, "You can get some legal services, but a particular form of procedure that has been held to be very, very efficient, we deny you that. We are not saying you cannot lobby here, we are not saying you cannot do this or that. We are saying that there are certain kinds of lawsuits that everybody else can have brought that cannot be brought that cannot be brought on your behalf."

Mr.WILSON. Mr. Chairman, would the gentleman yield?

Mr. FRANK. I yield to the gentleman from Texas.

Mr. WILSON. Why would not the committee do that very thing when it put class action suits in a separate category and said these have to be specifically approved by the Government Board?

Mr. FRANK. We did not do that because we left it up to the Corporation. People have alleged that there were abuses. We explicitly refused in subcommittee, although there seems to be a bit of erosion on the part of some members of the subcommittee, but we did not ban class action. We did say, given the stakes here, we are subjecting them to a second look, but we did not deny them. I do not think that is the same thing at all.

The CHAIRMAN. The time of the gentleman from Massachusetts has again expired.

(At the request of Mr. WILSON and by unanimous consent, Mr. FRANK was allowed to proceed for 2 additional minutes.)

Mr. WILSON. Certainly the committee or the subcommittee recognized the difficulties class action suits were causing for the Legal Services Corporation, or else they would not have put in the section that said that class action suits brought against public entities must be approved by the National Board.

Mr. FRANK. I would say to the gentleman, it is the equivalent of saying in a law firm, the junior member of the law firm has the authority to implement such-and-such, and a junior partner this and a senior partner that. Yes, we did within the Legal Services framework upgrade the level of authority in which a class action suit would have to be brought, but that is a very far cry from saying that in no cases, under no circumstances, can they be brought. We said, given that they do affect broad public policy questions, they should be decided at a higher level, but we also said that we hoped that they would be used where appropriate on behalf of poor clients.

Mr. WILSON. If the gentleman will yield one more time, the gentleman tells it as if the Board will look at these cases, find a substantial number of meritorious cases. The other arguments that have been made by the people that support the gentleman in opposing the amendment are that the present administration is going to appoint the entire Corporation. They will not allow any class-action suits.

Mr. FRANK. There are two separate questions here. My guess is that the present administration is likely to appoint 11 people to this Corporation who will allow nothing to happen whatsoever, and ask that they rescind all the money in about a month and a half. We cannot pass legislation based solely on that, but what we are saying is, we are giving authority at the highest possible level to make the most important decision. I would submit that is a very different thing from saying, "Under no case is this available to you."

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am inclined to oppose the amendment offered by the gentleman from Texas. It seems to me that if we are going to have legal services representation for the poor, we should not preclude a particular type of action where there is merit on the side of the person whom the Legal Services agency undertakes to represent. I think, however, that we should have in mind that class actions do, on occasion, enhance the cost of litigation throughout the country, not only the cost to the Legal Services Corporation to finance the class actions there on behalf of the poor, but the cost to the Federal Government or other agencies or units of government which are bound to defend these actions with public taxpayer-supported attorneys that must represent these agencies. But these occasions are offset by situations where class actions save expenses for both sides.

□ 1545

We have heard that there has been a proliferation of class actions which has been generated by some of the social activist attorneys in the Legal Services Corporation. To overlook that, I think, would be to overlook a reality of the situation.

So that in estimating the cost of this program, I think we should have in mind the cost of defending the actions which these lawyers for the various agencies must undertake to serve. But the real issue is whether the actions have merit. That cannot be resolved by a flat ban like that in the amendment. Just yesterday the gentleman from Massachusetts and I were on a call-in program on a local radio station, and I was very amused by one of those who called in and who said that he was very, very much in favor of the Legal Services Corporation. He said:

> We have had a great skyrocketing of bureaucracy. We have too many government regulations and too many controls, and these government lawyers are making it very difficult for us as individual citizens to defend ourselves against this excess of bureaucracy and of government regulation and controls, and you have got to keep the Legal Services Corporation to help us citizens defend ourselves against the bureaucracy and the excessive regulations.

Now, the thing that occurs to me—and I think there was some logic in what the gentleman was saying—is that we have put so much power into this fourth branch of government and have equipped it with so much in the way of lawyers and bureaucrats and regulators and controllers that we are complicating the life of the individual citizen to the extent that the individual citizen does need greater protection under the law and does need greater legal representation, including those who cannot afford to pay for it out of their own pockets.

So, Mr. Chairman, it seems to me that these are considerations we should have at the time we consider this kind of an amendment and the legislation as a whole.

Mr. SAWYER. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I am happy to yield to the gentleman from Michigan.

Mr. SAWYER. Mr. Chairman, one thing that has not been addressed here in this discussion is that those class actions, and particularly the ones against governmental units, tend to be pretty high profile and pretty expensive.

We have found, at least in our hearings, looking at some of the places some of the trouble has emanated from, that one agency, one donee agency, spent some horrendous percent of its budget, some hundreds of thousands of dollars, pursuing a class action against school boards, and with this kind of attention and this expenses, they are unable to render the nuts-and-bolts services. These things are rather boring probably to young, zealous lawyers, and they tend to gravitate to putting their effort and putting their funds into class actions at the expense of the individual services that are needed.

Mr. McCLORY. Mr. Chairman, I would like to point this out: That I think while it is important that class actions be controlled by the board, I would say it is probably difficult for a single board in Washington to determine whether class actions are appropriate in a particular community. I think that community control can decide much better as to whether a class action is valid when brought by a legal aid lawyer or lawyers who supported it, at least in part through taxpayer funds.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I am happy to yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I appreciate the comments of my radiomate of yesterday, but I do not understand the gentleman.

The gentleman said it would be better to let the local people decide what was appropriate. Since the amendment says they could never bring any class actions at all against State and local governments, what is the point of maybe deciding what is appropriate or what is not appropriate? I would think it is a fairly futile exercise.

I believe it is quite appropriate for us to differentiate between appropriate and inappropriate class actions, but the amendment wipes them out altogether.

Mr. McCLORY. Mr. Chairman, I do not speak in support of the amendment. I question the wisdom of the amendment, and I will oppose the amendment.

Mr. FRANK. I apologize to the gentleman from Illinois.

Mr. McCLORY. The gentleman misunderstood me.

Mr. FRANK. Mr. Chairman, I apologize to the gentleman from Illinois. I will pay more attention in the future.

Mr. HARKIN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Of all the amendments that will be coming before us today—and we have had one already on lobbying, I guess we will have one on homosexuality, and I guests we will be having some on a bunch of other things in this bill—I cannot think of one amendment that ought to be more enthusiastically opposed by those of my colleagues who may not be as supportive of legal services as I might happen to be. I especially speak to my conservative friends on the other side of the aisle.

What this amendment will in effect do, I think, as the gentleman from Illinois pointed out—is that it is going to cost not only the Legal Services more money, because they will now have to take individual cases to court, but it is also going to cost the local governments, the State governments, and the Federal Government more money because they will have to defend each one of those cases as they come up.

If you truly want to save some money and you truly are a fiscal conservative, the best thing to do is to vote no on this amendment.

As I pointed out in the colloquy with the gentleman from Texas, if I am a legal aid attorney and I have 10 or 20 cases against a State government or a local unit of government involving landlord-tenant law or something like that, and the same thing is true for other Legal Services attorneys in the State, what this amendment is going to say then is that we have to bring 50 and maybe 100 individual cases against that State to resolve those problems when it could be done with one suit in a class action.

I would also point out that not only does it save the defendants money, because they only have one action to defend rather than 50 or 100, but it also gives the defendants another benefit. If I as a legal aid attorney bring a class action against a unit of government and if I lose, then that bars all further actions on that case or similar cases from then on.

However, if I bring one case against a local government, let us say, on a housing violation, a violation of a housing ordinance, and I lose, I can go right ahead and bring another one or another attorney can bring another one under the circumstances.

So what happens is that in effect by adopting this amendment we are going to take away from those State and local and Federal governmental units the right to have a case decided and to have it decided for once and for all on the merits.

Mr. SAWYER. Mr. Chairman, will the gentleman yield for one clarification?

Mr. HARKIN. I yield to the gentleman from Michigan if perhaps he can get some more time for me.

Mr. SAWYER. Mr. Chairman, we have slipped into this thing of saying that we have 40 clients and saying that we have to bring 40 different actions, and that is a confusion.

You can put in one action for 40 clients, and that is not a class action. If they have similar interests as plaintiffs, they can be joined in one action. The class action is one where you are saying that for Joe Doakes and for all others similarly situated the judge has to determine what their class is, and so forth.

Let us try to keep it clear and make the distinction. Otherwise it can be confusing.

Mr. HARKIN. Mr. Chairman, the gentleman knows full well that if I have 10 clients, I can join them and settle that case as one brought in joinder. But the next day, if another client comes in with the same case, I have to go right back to court.

Mr. SAWYER. But that is not a class action suit.

Mr. HARKIN. Of course. In that case I have to go right back to court again.

So I would say, either from the standpoint of representing those clients who qualify for legal services or from the standpoint of the defendants and the State, local, and Federal Government units covered by this proposed amendment, any way we want to look at it, the best thing to do is to defeat this amendment.

Now, much has been said about the fact that these class actions are brought by Legal Services attorneys, and we hear all these horror stories. The fact is that it is less than two-tenths of 1 percent of the total caseload of Legal Services attorneys that are class actions. Now, that seems small, and we might argue, "Well, if it is that small, let's just do away with it, it's not that big." But in doing away with that, just that two-tenths of 1 percent of the total caseload, what we will do is generate, as I said, many more cases in local, State, and Federal courts covering each one of these actions on down the line.

If we adopt this amendment, we are going to cost the Legal Services more money, because by law they are going to have to represent those clients. They are going to have to go into court, and they are going to be bogged down day in and day out representing them.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. HARKIN) has expired.

(By unanimous consent, Mr. HARKIN was allowed to proceed for 2 additional minutes.)

Mr. HARKIN. Mr. Chairman, not only that, but we are going to cost the State and Federal governments more money because they are going to have to defend those lawsuits when in fact,

if we just went ahead and allowed, under the stringent guidelines set down by the committee itself, under the rules of practice of every State, and under the Federal Rules of Civil Procedure, rule 23, where they have to go ahead, as I said, and cross that first hurdle and get into court first on a class action, if we let them go ahead, not only do we save a lot of money but we take out a lot of cases that will clog those courts.

And we also do one other thing: We make sure that those clients, those people who have a just cause, who have a viable lawsuit against State, local, and Federal Governments, are served and those cases are heard expeditiously. We make certain that once the case is settled as a class action, as I said to the gentleman from Michigan (Mr. SAWYER), if the next day a client walks in the door with an identical same case, I do not then have to go down to court and file that same lawsuit and take it all the way through again.

So, Mr. Chairman, any way we look at it, from the standpoint of Legal Services and from the standpoint of defendants, the best thing to do is to defeat this amendment.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I tend, on account of my experience in legal aid and legal services, to support this amendment.

I was for some years the president of my county Legal Aid Society, and I know from firsthand the problems of the poor. I am still on the Legal Services Board, the Somerset-Sussex Legal Services Board, and at first glance some of the earlier speakers almost convinced me that perhaps I was wrong.

But I think back on what I know about this whole situation. We have in New Jersey a public advocate who sues local and State bodies most freely. We have also, of course, the public defender, who defends the indigent criminal in court.

But what have we got for the ordinary people, for the ordinary people who want a shoulder to lean on, who want to explain about their marital and child custody cases, their landlord-tenant cases, and the cases they have against businesses that do not deliver the car that they promised? What have we got? Legal Services.

What is the temptation in Legal Services? We can see it if we go to meetings, as I do. They long for class actions. Class actions are grander. There is less excitement in listening day after day to the same categories of individual problems.

I told the Legal Services when County Legal Aid ended that "80 percent of our cases are going to be marital and landlord-tenant, and the rest of it is going to be against business."

That is what people need help with. Somebody is going to have to deliver the service. If we get into the class action game, we will have to have a fourth agency in New Jersey to defend, to protect, to counsel, and to comfort the indigent who need legal help.

Mr. FRANK. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I was going to surrender the remainder of my time, but, yes, I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I appreciate the gentlewoman's yielding before she surrenders the balance of her time.

Mr. Chairman, I would simply point out the conditional phrasing of the gentlewoman's remarks, and I sympathize with and understand her genuine concern. In a theoretical context, I might share the gentlewoman's fears, but we are not in a theoretical context; we have 7 years of history. The fact is that we are not going to get them into the game; they have been in it.

In fact, even now, as they have been in it for some time, class actions have not consumed an enormous amount of their time.

Mrs. FENWICK. Mr. Chairman, I would like to reclaim my time.

I never talk from theory, because I do not know theory. I only know practice, and I have looked at legal aid myself and I know what the case load is.

Mr. FRANK. Mr. Chairman, will the gentlewoman yield? I believe the gentlewoman misunderstood me.

Mrs. FENWICK. I never talk from theory.

Mr. FRANK. Mr. Chairman, I did not mean to imply that the gentlewoman was theoretical; I am prepared to admit that the gentlewoman from New Jersey is a practitioner par excellence.

What I meant was that it is not a theoretical formulation that we face as to whether letting Legal Services get into class actions would divert them. They have had that option for many, many years, and I do not believe the evidence substantiates the charge that they have been diverted from their basic assignment in doing class actions.

Mrs. FENWICK. All I am saying is that the temptation is there and it is increasing. I hear more talk about it when I go to these meetings. That is what Legal Services is talking about. They seem to feel they should stop taking these private actions; that they ought to take class-action suits.

Mr. FRANK. But the gentlewoman knows that we have changed that in the law to give a supervisory hold on the corporation in their activities originating from Washington.

Mrs. FENWICK. I know. I am moved by what the gentleman says. I am still thinking it over.

Mr. HARKIN. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I do not think I have the time, but if I have enough time, I will yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Chairman, I thank the gentlewoman for yielding.

The gentlewoman has served in legal aid, and I am one of those who practiced almost 2 years as a legal aid attorney myself before coming to Congress. I never tried a class action suit, as some of my fellow attorneys did, but I know the gentlewoman—I know her quite well—and I know that she sympathizes greatly with the poor. I can just tell the gentlewoman, from my own experience as a legal aid attorney, that I have seen those poor clients come in day after day and day after day with the same case, and then again the same case, and you go to court and get one case settled, and, by gosh, the next day you see the same thing all over again.

□ 1800

Mrs. FENWICK. Another husband, another set of children, another automobile dealer, yes, another garnishee of wages, that is right, day after day after day, that is why lawyers get bored.

Mr. HARKIN. No, I am not talking about those. I am talking about the clients that come in because they are discriminated against by a local housing authority. They are being discriminated against by social security actions. Those kind of things lend themselves to a public advocate suit.

Mrs. FENWICK. The public advocate in New Jersey is terrific on that. He is suing 25 towns in my district right now. I know what the public advocate can do.

Mr. HARKIN. Is he a legal aid attorney?

Mrs. FENWICK. No; he is our public advocate. We have all that; but what we need is help for the individual.

Mr. PEPPER. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. WILSON's amendment is ill-conceived and would not only waste judicial time and resources, but would deny many people, in particular the elderly, enforcement of their rights and benefits.

Issues of benefits and programs for the elderly often affect thousands, even millions of people. Recently the Supreme Court considered a class action on a social security question. Justice Blackmun specifically noted:

> The class action device saves the resources of both courts and the parties by permitting an issue potentially affecting every social security beneficiary to be litigated in an eco-

nomical fashion * * * (*Califano* v. *Yamasaki*, 442 U.S. 682).

In my own State of Florida, I have seen the interests of justice served, the functioning of government improved and—most importantly—lives saved by use of class actions.

Several years ago, the State of Florida announced a policy of wholesale reclassification of nursing home residents to lower standards of need. Not only would this have required the mass shuffling of patients but, as a result, nursing homes announced they were no longer going to accept medicaid patients. Most outrageously, the State would have placed the burden of proving the need for a higher level of care on these generally frail patients. Legal Services brought one case, resolving the issue for thousands of patients. When the Federal judge certified the class and issued the injunction countless nursing home patients, who would have never gotten to court, were spared the life-threatening trauma of being transferred.

In a glaring example of bureaucracies making legislative decisions, Florida's welfare department decided, without legislative authority, to impose a copayment on the purchase of medicines by medicaid patients. Here again Legal Services attorneys—representing a class of mostly older Floridians—challenged the unlawful promulgation of this rule. Though some suffered before the Federal court halted enforcement of the rule, none died. And in the next legislative session a law was adopted prohibiting the imposition of copayments without specific legislative authority.

The legal system, confusing and intimidating for most people, is a frightful maze for the elderly. Frequently, older people forego rights we, as elected officials, have provided for them rather than use the legal system to challenge the faceless bureaucracy. For that reason, class actions are critical to enforcing the rights of older people. The infringed rights and denied benefits of thousands of older Americans, can be protected, and the will of Congress done, through class representation.

I urge you to be sensitive to the needs of older people and our system of justice and oppose Mr. WILSON's amendment.

Mr. LELAND. Mr. Chairman, I move to strike the requisite number of words. I rise to speak against the amendment.

I think, Mr. Chairman, that the author of the amendment probably does not understand, since I know that there are a lot of problems in his district, with violations of civil rights and measures that have hurt people who have very little voice in this Government, because historically they have not been represented adequately.

I speak in opposition to this amendment very simply because it establishes a precedent. It violates the integrity of the ability for people to collectively file grievances against the State and local and other political subdivisions in this country, primarily in the case of poor people. In fact, they understand that their collectivity is much more effective than their individual presentations of their grievances.

So, Mr. Chairman, I respectfully oppose this matter as a matter of protecting the essence of what civil rights are, what our civil rights program has been, particularly since I am in a minority and have not only been an advocate for civil and human rights, but also one who represents a lot of people who would like to enter class action suits against political subdivisions in order that they can, in fact, win suits.

From the Legal Services point of view, I think that because they have historically been denied opportunity because of lack of financial resources to engage counsel, they now in this measure can use Legal Services in order to enter into suits.

To prohibit this is, in fact, a real substantive change of principles in the opportunities for us.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. LELAND. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman.

I know the House is cluttered with experts on what the poor need in terms of legal services. It is a shame that nobody represents the rich as effectively as are concerned for the poor; but do you know that only 1 percent of all the lawsuits are class action in Legal Services?

You know, there might be an argument made by some Member in this body but there ought to be a few more class actions, rather than less.

Mr. LELAND. I think the gentleman is absolutely correct. From the information I have gotten, I understand it might be a little more than 1 percent of the suits that are filed that are class action suits; but the fact of the matter is that it is a nebulous number. It is incidental compared to the overwhelming services that Legal Services does offer to poor people.

Mr. CONYERS. Well, we are economically minded in this 97th Congress. We want to save money. We want to conserve resources.

Now, here is the only economic matter lawyers have ever invented, in my knowledge, and here it is being opposed by a body that is apparently bent on balancing the budget, eliminating the deficit, cutting 63 domestic programs, and then we get to the one economic way to sue, let us knock it out.

Mr. LELAND. I think the gentleman is absolutely correct. I very strongly associate myself with his comments.

Mr. WILSON. Mr. Chairman, will the gentleman yield?

Mr. LELAND. I yield to the gentleman from Texas, the author of the amendment.

Mr. WILSON. Well, I was just going to ask the gentleman in the well, I tend to agree with our friend, the gentleman from Michigan, that that is correct, that probably it is only 1 percent; but does it not just kind of logically make a little sense that if you have a practice that is only 1 percent of your activity and causes 90 percent of the trouble, just to get rid of it?

Mr. LELAND. I do not think so. I think the gentleman misunderstands the essence of effort being its own reward. Many times these people who enter into class action suits against these political subdivisions more often than not lose their cases.

The fact of the matter is that it might cause a lot of problems, but we who have been discriminated against historically have to fight and continue to fight. We have to try to achieve justice no matter what the cost.

We believe very strongly in the old adage that we must let justice prevail though the heavens may fall.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. LELAND. I would be glad to yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Chairman, I thank the gentleman for yielding.

I was listening to the colloquies going on here and it just occurs to me that there is kind of an analogy, I think, between Members of Congress in the way they represent their constituencies and operate their offices and the filing of class action suits. It goes something like this. Each Member, I know, has a number of staff people who work on cases in their districts. I know I get numerous "Dear Colleague" letters across my desk every year, hundreds of them, perhaps even thousands of "Dear Colleague" letters every year asking to cosponsor a bill because a certain problem has come up in the Member's district that affects a lot of people and people start writing, they start contacting their Congressman or Congresswoman about it and pretty soon we see a pattern develop.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(At the request of Mr. HARKIN, and by unanimous consent, Mr. LELAND was allowed to proceed for 1 additional minute.)

Mr. HARKIN. Mr. Chairman, if the gentleman will yield further, so what happens as we see that pattern develop, we do not just try to solve each one of those. What do you do? You in-

troduce a bill to take care of it; not only just to take care of all those, but for all others who may come after them that may be similarly affected.

So we Members of Congress have our own means of class action, and yet we are going to deny it to the poor people of this country.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(At the request of Mr. CONYERS, and by unanimous consent, Mr. LELAND was allowed to proceed for 1 additional minute.)

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. LELAND. I would be happy to yield.

Mr. CONYERS. Mr. Chairman, because the author of this brilliant amendment said it is only 1 percent, so let us cut it out, what carries about 15 percent of the impact of all the effectiveness of the suits, and maybe that is a reason to cut it out. That logic is not new to this legislation alone. We say let us cut off 100 corporate tax auditors at IRS and save their salaries and lose $100 million in escaped corporate taxes. That is part of the kind of rationale; so it is only a little bit, so just get rid of it.

Mr. LELAND. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. WILSON).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WILSON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 241, noes 167, not voting 23, as follows:

[Roll No. 83]

AYES—241

Albosta	Carney	Edwards (AL)
Alexander	Chappell	Edwards (OK)
Anderson	Cheney	Emerson
Andrews	Clausen	Emery
Anthony	Coats	English
Applegate	Coelho	Ertel
Archer	Coleman	Evans (DE)
Badham	Collins (TX)	Evans (GA)
Bafalis	Conable	Evans (IA)
Bailey (MO)	Coughlin	Fenwick
Bailey (PA)	Courter	Fiedler
Barnard	Coyne, James	Fields
Beard	Craig	Findley
Benedict	Crane, Daniel	Fithian
Benjamin	Crane, Philip	Flippo
Bereuter	Daniel, Dan	Forsythe
Bethune	Daniel, R. W.	Fountain
Bevill	Dannemeyer	Frenzel
Bliley	Daub	Fuqua
Boggs	Davis	Gaydos
Bouquard	de la Garza	Gephardt
Brinkley	DeNardis	Gibbons
Brooks	Derrick	Gingrich
Broomfield	Derwinski	Ginn
Brown (CO)	Dickinson	Goodling
Burgener	Dornan	Gramm
Butler	Dougherty	Gregg
Byron	Dreier	Grisham
Campbell	Duncan	Gunderson
Carman	Dyson	Hagedorn
Hall, Ralph	Martin (IL)	Sawyer
Hall, Sam	Martin (NC)	Schulze
Hammerschmidt	Martin (NY)	Sensenbrenner
Hance	McCollum	Shaw
Hansen (ID)	McCurdy	Shelby
Hansen (UT)	McDonald	Shumway
Hartnett	McEwen	Shuster
Hatcher	McGrath	Siljander
Hefner	Mica	Skeen
Heftel	Michel	Skelton
Hendon	Miller (OH)	Smith (AL)
Hightower	Mitchell (NY)	Smith (NE)
Hiler	Molinari	Smith (NJ)
Hillis	Montgomery	Smith (OR)
Holland	Moore	Snowe
Holt	Moorhead	Snyder
Hopkins	Morrison	Solomon
Horton	Mottl	Spence
Hubbard	Murphy	Stangeland
Huckaby	Murtha	Stanton
Hunter	Myers	Staton
Hutto	Napier	Stenholm
Hyde	Natcher	Stratton
Ireland	Neal	Stump
Jeffries	Nelligan	Tauke
Jenkins	Nelson	Tauzin
Johnston	Nichols	Taylor
Jones (NC)	O'Brien	Trible
Jones (OK)	Parris	Walker
Jones (TN)	Patman	Wampler
Kazen	Paul	Watkins
Kemp	Petri	Weber (MN)
Kindness	Pickle	Weber (OH)
Kramer	Porter	White
Lagomarsino	Pritchard	Whitehurst
Latta	Quillen	Whitley
Leath	Regula	Whittaker
LeBoutillier	Rhodes	Whitten
Lee	Rinaldo	Wilson
Lent	Ritter	Winn
Lewis	Roberts (KS)	Wolf
Livingston	Roberts (SD)	Wortley
Loeffler	Robinson	Wright
Lott	Roemer	Wylie
Lowery	Rogers	Yatron
Lujan	Rose	Young (AK)
Luken	Roth	Young (FL)
Lungren	Roukema	Zablocki
Madigan	Rousselot	Zeferetti
Marlenee	Rudd	
Marriott	Santini	

NOES—167

Addabbo	Dwyer	Kogovsek
Akaka	Early	LaFalce
Annunzio	Eckart	Lantos
Aspin	Edgar	Leach
Atkinson	Edwards (CA)	Leland
Barnes	Erdahl	Levitas
Bedell	Evans (IN)	Long (LA)
Beilenson	Fary	Long (MD)
Bennett	Fascell	Lowry
Biaggi	Fazio	Markey
Bingham	Ferraro	Marks
Blanchard	Fish	Matsui
Boland	Foglietta	Mattox
Bolling	Foley	Mavroules
Boner	Ford (TN)	Mazzoli
Bonior	Fowler	McClory
Bonker	Frank	McCloskey
Bowen	Frost	McDade
Brodhead	Garcia	McHugh
Brown (CA)	Gejdenson	McKinney
Burton, John	Gilman	Mikulski
Burton, Phillip	Glickman	Miller (CA)
Chisholm	Gonzalez	Mineta
Clay	Gore	Minish
Clinger	Gradison	Mitchell (MD)
Collins (IL)	Gray	Moakley
Conte	Green	Moffett
Conyers	Guarini	Mollohan
Corcoran	Hall (OH)	Nowak
Coyne, William	Hamilton	Obey
D'Amours	Harkin	Ottinger
Danielson	Hawkins	Panetta
Daschle	Heckler	Patterson
Deckard	Hertel	Pease
Dellums	Hollenbeck	Pepper
Dicks	Howard	Perkins
Dingell	Hoyer	Peyser
Dixon	Hughes	Price
Donnelly	Jacobs	Pursell
Dorgan	Jeffords	Rahall
Downey	Kastenmeier	Railsback
Dunn	Kildee	Rangel
Reuss	Seiberling	Vento
Richmond	Shamansky	Walgren
Rodino	Shannon	Washington
Roe	Sharp	Waxman
Rosenthal	Simon	Weaver
Rostenkowski	Smith (IA)	Weiss
Roybal	St Germain	Williams (MT)
Russo	Stark	Williams (OH)
Sabo	Stokes	Wirth
Savage	Studds	Wolpe
Scheuer	Swift	Wyden
Schneider	Synar	Yates
Schroeder	Traxler	Young (MO)
Schumer	Udall	

NOT VOTING—23

Ashbrook	Dymally	Oberstar
AuCoin	Erlenborn	Pashayan
Breaux	Florio	Ratchford
Brown (OH)	Ford (MI)	Solarz
Broyhill	Goldwater	Thomas
Chappie	Lehman	Vander Jagt
Cotter	Lundine	Volkmer
Crockett	Oakar	

□ 1615

The Clerk announced the following pairs:

On this vote:

Mr. Chappie for, with Mr. Oberstar against.

Mr. Ashbrook for, with Mr. Ratchford against.

Messrs. DECKARD, MAVROULES, LONG of Maryland, and D'AMOURS changed their votes from "aye" to "no."

Mr. WHITLEY changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments to section 6?

If not, the Clerk will read.

The Clerk read as follows:

LIABILITY FOR ATTORNEY'S FEES

SEC. 7. Section 1006(f) of the Legal Services Corporation Act (42 U.S.C. 2996c(f)) is amended to read as follows:

"(f) If an action is commenced by the Corporation or by a recipient and a final order is entered in favor of the defendant and against the Corporation or a recipient's plaintiff, the court shall, upon motion by the defendant and upon a finding by the court that the action had no reasonable basis in law or fact, enter an order (which shall be appealable before being made final) award reasonable costs and legal fees incurred by the defendant in defense of the action, except in contravention of a State law, a rule of the court, or a statute or general applicabiity. Any such costs and fees shall be directly paid by the Corporation.".

Mr. KASTENMEIER (during the reading). Mr. Chairman, I ask unanimous consent that section 7 be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The CHAIRMAN. Are there any amendments to section 7?

If not, the Clerk will read.

The Clerk read as follows:

NEGOTIATION REQUIREMENT

SEC. 8. Section 1007(a) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)), as

amended by section 4(c) of this Act, if further amended—

(1) in paragraph (9) by striking out "and" after the semicolon;

(2) in paragraph (10) by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(11) require recipients to attempt to negotiate a settlement of controversies before filing suit in order to prevent the persistent incitement of litigation and to encourage the resolution of such controversies through compromise and settlement rather than through litigation, except that nothing in this paragraph shall preclude attorneys from immediately filing suit where the circumstances of the case, as determined by the local program director, require immediate action to protect the interests of a client.".

Mr. KASTENMEIER (during the reading). Mr. Chairman, I ask unanimous consent that section 8 be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. RICHMOND. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 3480, the Legal Services Corporation reauthorization bill.

Our Constitution declares that the establishment of justice is one of the fundamental purposes of our Government and the 14th amendment guarantees the equal protection of the laws to all citizens.

Legal services for the poor are not a luxury to be dispensed with at will. These services are absolutely essential, if we are to fulfill the mandate of our Constitution. It is inconceivable that we should even consider abandoning this basic principle in the name of "budget trimming" or any other attractive catch phrase.

H.R. 3480 is a bipartisam effort to resolve the criticisms that have been directed at the Legal Services Corporation, while still maintaining minimum access to justice for needy citizens.

The Legal Services Corporation has just achieved its basic goal of providing 1 attorney for every 5,000 poor people. This level of assistance is barely meeting the needs of the Nation's poor. Every year, thousands of requests for help are denied because of insufficent funds. Therefore, any reductions below the amounts authorized in H.R. 3480 would represent an unconscionable breach of faith with those who have come to believe in equal justice for all.

Critics have contended that if Federal funding is eliminated the States will remain free to provide legal aid to the poor and would do so adequately. This argument simply does not square with the facts.

The Legal Services Corporation was established precisely because the States were not providing the poor with access to legal aid, and the pro bono work of private attorneys was not meeting the need.

President Reagan does not intend to grant the States any of the Federal funds now being spent on legal services. Nevertheless, he claims that the States will fund a service which they have repeatedly shown they will not provide.

Even if the States did choose to provide legal services, their programs would not necessarily be more responsive to the needs of citizens than the current federally funded program. The Legal Services Corporation is an outstanding example of a Federal program that is locally controlled. Each legal services program is governed by a board of directors chosen from the community it serves, to insure that each office will respond directly to the needs of its clients.

For example, last year New York City's 175 legal services attorneys handled over 50,000 cases, the vast majority of which dealt with housing, income maintenance, family law, and other problems that were crucial to the clients' lives.

The poor must continue to be guaranteed the same rights in civil law as the wealthier members of our society who can afford counsel.

Any further restrictions on the circumstances under which the poor can be represented or on the freedom of lawyer and client to determine the best method of handling each case would signal a return to an era when this country had two systems of justice—one for the rich and one for the poor.

Mr. Chairman, if we are not to make a mockery of the principle of equal justice for all, upon which this Nation was founded, the Legal Services Corporation must be reauthorized with adequate funding and without further restrictions.

The CHAIRMAN. Are there amendments to section 8?

If not the Clerk will read.

The Clerk read as follows:

PRIVATE BAR INVOLVEMENT

SEC. 9. Section 1007(a) of the Legal Services Corporation Act, as amended by section 8 of this Act, is further amended—

(1) in paragraph (10) by striking out "and" after the semicolon;

(2) in paragraph (11) by striking out the period and inserting in lieu thereof "; and "; and

(3) by adding at the end thereof the following:

"(12) in each fiscal year, to the extent feasible and consistent with paragraph (3) of this subsection, make available substantial amounts of funds to provide the opportunity for legal assistance to be rendered to eligible clients by private attorneys, except that the Corporation shall issue regulations to provide that compensation to private attorneys for rendering such legal assistance shall not exceed reasonable costs and expenses and the Corporation shall develop suitable criteria for determining the amount of such reasonable costs and expenses.".

□ 1630

Mr. KASTENMEIER (during the reading). Mr. Chairman, I ask unanimous consent that section 9 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The CHAIRMAN. Are there amendments to section 9?

If not, the Clerk will read.

The Clerk read as follows:

AWARDS OF ATTORNEYS' FEES

SEC. 10. (a) Section 1007(a) of the Legal Services Corporation Act, as amended by sections 8 and 9 of this Act, is further amended—

(1) in paragraph (11) by striking out "and" after the semicolon;

(2) in paragraph (12) by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(13) insure that any recipient who receives an award of attorneys' fees shall, notwithstanding any other provision of law, transfer such fees to the Corporation, except that (A) no recipient shall be required to transfer fees or other compensation received as a result of a mandated court appointment, and (B) a recipient may retain reasonable costs customarily allowed in litigation against an unsuccessful party.".

(b) The amendment made by subsection (a)(3) shall apply only to actions commenced after the date of enactment of this Act.

Mr. KASTENMEIER (during the reading). Mr. Chairman, I ask unanimous consent that section 10 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The CHAIRMAN. Are there amendments to section 10?

AMENDMENT OFFERED BY MR. KASTENMEIER

Mr. KASTENMEIER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Has the amendment been printed in the RECORD for 2 legislative days?

Mr. KASTENMEIER. The amendment, in fact, has been reported for at least 2 legislative days, and it qualifies.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. KASTENMEIER: Page 11, insert the following after line 3 and redesignate succeeding sections accordingly:

ALLOCATION OF FUNDING

SEC. 11. Section 1007(a) of the Legal Services Corporation Act, as amended by sections 8, 9, and 10 of this Act, is further amended—

(1) in paragraph (12) by striking out "and" after the semicolon;

(2) in paragraph (13) by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(14) unless minimum access to legal assistance is available or provided in all parts of the country, allocate basic field grants so as to insure that no greater level of access to legal assistance funded by the Corporation is available or provided to any part or area of the country than is available or provided to all parts of the country, consistent with available funding and other provisions of the Legal Services Corporation Act and regulations."

Mr. KASTENMEIER. Mr. Chairman, I offer this amendment at the request of my distinguished colleague, the chairman of the Subcommittee on Commerce, Justice, State, the Judiciary of the Committee on Appropriations, the gentleman from Iowa, Mr. SMITH. As the Members know, that subcommittee has had jurisdiction of the appropriation of the Legal Services Corporation over the years, and the subcommittee included various provisos in its annual appropriations bills. We have in fact incorporated most of them in the bill before us today. One we did not. The one that we inadvertently left out is dealt with as the subject in the pending amendment.

This amendment deals with the minimum access plans that the Legal Services Corporation has implemented over the last few years. The appropriations subcommittee has exercised close oversight over the plan and has included this proviso in its various appropriations bills. I offer a modified version of it to the authorizing legislation to avoid confusion and to gain congressional consistency over the operation of the Legal Services program.

As far as I am concerned, the amendment simply insures that to the exent feasible with appropriated funds, minimum access or at least similar levels of some access will be continued through the Corporation's funds, irrespective of whatever area of the country is affected, so that all areas of the country will be fairly and equitably dealt with. I think this is particularly desirable to include this amendment because we are going through a process which will involve less funding rather than more funding. This amendment will not affect any other non-Corporation sources of funds which recipients seek or have. Nor will it diminish the need to provide adequate support services nationwide.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding. I would hope this would not be considered controversial because the gentleman has accurately described it. All it provides is that in the event that there is less than minimum access for the country as a whole, which we know now there will be, then no area should be discriminated against. If we had more than minimum access or enough money so that some areas could have more than minimum access, then perhaps we should continue to let some have more than minimum access while others have only minimum access. But this just says there shall be no discrimination against any area of the country.

I think if we are going to have a national program this is absolutely necessary.

Mr. KASTENMEIER. I might say I think what the gentleman has in mind is that one part of the country not be discriminated against as opposed to any other part of the country, or that the cities or rural areas not be unduly cut back to the advantage of another.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I will be pleased to yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding. We have had a chance on this side to take into consideration the gentleman's amendment. We believe that it is well designed to assure, equitable legal assistance throughout the country, including in the rural areas. I very strongly support it. I commend the gentleman from Iowa (Mr. SMITH) and appreciate the work that he did on it.

I do know that one other Member on this side has some questions, the gentleman from Connecticut (Mr. DENARDIS) so I would hope that we would give him an opportunity to ask a couple of questions.

Mr. DENARDIS. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I will be pleased to yield to the gentleman from Connecticut.

Mr. DENARDIS. I thank the gentleman for yielding.

Will the author of the amendment clarify some points that some of us are trying to understand with respect to the formula and how it works. As I understand it, the minimum access formula would be the base from which reductions would be made in the future due to the reduced funding of the program overall. I wanted to know specifically whether funding beyond minimum access, funding that some programs have had because they preceded the Federal legislation in 1975 or that had special funding to accomplish special missions, additional funding and its historical record would be taken into consideration when the allocation of the cuts would be accomplished upon the passage of the bill.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. KASTENMEIER was allowed to proceed for 2 additional minutes.)

Mr. KASTENMEIER. I would like to yield to the true author of the amendment, the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. I thank the gentleman. When the gentleman says special funding for special missions, he is not saying the same thing as he said in the other part of his question. There would continue to be under the regulations some special funding for some special missions such as, for example, on some Indian reservations. There would not, however, be a continuation of the grandfathering in of more than minimum access in some areas that do not have a special mission, as long as there is not enough money so that everybody has minimum access.

Mr. DENARDIS. Mr. Chairman, will the gentleman yield further?

Mr. KASTENMEIER. I yield further to the gentleman.

Mr. DENARDIS. I thank the gentleman. The formula is based, I think—and I ask this by way of query—on the 1970 census which is one cause for alarm, but a greater cause for alarm is the question of the cost of living. How do we take into consideration the higher cost-of-living areas and almost inevitably the larger poorer population that reside in the higher cost-of-living areas of the country?

Mr. SMITH of Iowa. If the gentleman from Wisconsin (Mr. KASTENMEIER) will yield, we have that trouble everywhere. I think the highest cost of living in the United States is in a little town down in Arkansas. I do not know how you can give them more attorneys in that little town than you do anyplace else. It is impossible. But the minimum-access formula is based on 2 attorneys for 10,000 eligible recipients. In this case there will not be 2 attorneys for 10,000 recipients. There is going to be something less than that. There may be 1 attorney for 10,000. I do not know what it will turn out to be, but if it is less than the minimum access, then there ought to be a fair distribution of that service. It is based on the number of eligible poor people who reside in any particular area and the number of attorneys it takes to serve them, and the rules and regulations required to provide that service.

Mr. McCLORY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to make a brief statement that under the administration of the Legal Services Corporation there are no real criteria under which distribution of funds is made at the present time. It is true that you have to have an eligible recipient that is capable of receiving the funds and providing the services. But as far as a formula distribution of

funds, there is nothing like that at all. The funding is, as I understand it, 100 percent on the part of the Federal Government. However, that does not preclude contributions from local units of government or from private sources.

As a matter of fact, there are many private sources of funds that are utilized in the Legal Services agencies that are located around the country.

But I can understand the interest in amendments that would provide for 30 percent of the distribution of the funds in rural areas, or a better division of the funds, because it is at the present time a hodgepodge, hit-or-miss, very inequitable distribution of Federal funds. This in a sense suggests to me that it would be far better if we distributed funds through a block grant program and then left to the local units of government, the local agencies, the decisionmakers at that level, how the funds should be applied, where there is the need for legal aid agencies, and where there is not, and to control the kinds of legal aid services that are provided in the communities or the areas that are to be served.

I merely rise at this time to suggest that I understand the complaints that are made about the distribution and the maldistribution of funds, the inequitable way in which they are distributed. I have in front of me the annual report of the Legal Services Corporation for 1979. Just a cursory review of this indicates that some small communities are getting millions of dollars and some larger communities are getting far less.

Some areas are served; some are not served. I do not know how you can say that this is a great national program which must be perpetuated. I do not know how you can say that because we have this experience of the last 7 years that somehow this program is so valuable that we must perpetuate this in exactly the same form through a federally subsidized bureaucratic system.

Even though the Legal Services Corporation is directed by public-spirited individuals, and the President is going to have the opportunity to appoint them all—and they are fine people; I am not suggesting otherwise—do they know best about how to distribute funds or how to allocate funds in Waukegan, Ill., or to some small community in Arizona or Mississippi or wherever? It does not seem to me that they do, and I think that this program is being miscast in the way that it is being set forth in this form. I just want to reiterate my support of legal aid for the poor. At the appropriate time I expect to offer an alternative which will carry out the goals, of this bill and at the same time provide a system of delivery which I think is far more equitable and far fairer to the citizens throughout the country.

□ 1645

Mr. FRANK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to address to the author of the amendment a question. I commend the gentleman for offering this. I think the problems directly are important. The one thing I would like to ask is to alleviate fears because I am supportive of the thought in the amendment.

Am I correct in assuming the gentleman does not intend this to require a rigid dollar per capita distribution?

Mr. SMITH of Iowa. It would not be based on the population of an area at all. The equity is supposed to be according to the number of poor people to be served. Some area might have twice as many poor people per capita of the general population as another area.

Mr. FRANK. But it does not impose on the Corporation a kind of numerical formula?

Mr. SMITH of Iowa. Not a rigid one; it does not discriminate against any area.

Mr. FRANK. I thank the gentleman very much.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. KASTENMEIER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STANGELAND

Mr. STANGELAND. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair would inquire whether this amendment has been printed in the RECORD for 2 legislative days.

Mr. STANGELAND. Yes, it has, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. STANGELAND: Page 11, insert the following after line 3 and redesignate succeeding sections accordingly:

ACCESS TO LEGAL SERVICES; PRIVATE BAR PROGRAMS

SEC. 11. (a) Section 1007(h) of the Legal Services Corporation Act (42 U.S.C. 2996f(h)) is amended to read as follows:

"(h) The Corporation shall annually review whether all eligible clients, but especially eligible clients who are—

"(1) veterans,

"(2) native Americans,

"(3) migrants or seasonal farm workers,

"(4) persons with limited English-speaking abilities, or

"(5) persons in sparsely populated areas where a harsh climate and an inadequate transportation system are significant impediments to receiving legal services,

have special difficulties of access to legal services or special legal problems which are not being met. The Corporation shall report to the Congress annually on the extent and nature of any such problems and difficulties and shall include in each such report recommendations and procedures to implement appropriate remedial action as necessary.".

(b) Section 1007 of such Act is amended by adding at the end thereof the following new subsection:

"(i)(1) Subject to paragraph (2) of this subsection, no funds may be made available by the Corporation under this title by grant or contract for the fiscal years 1982 and 1983 to any State for providing legal assistance unless the following requirements are met:

"(A) At least one recipient in each State is a private bar program with open participation rights by members of the bar.

"(B) Each such private bar program is available to those local bar associations which desire to participate in the delivery of legal assistance to the poor, and funds are made available under this title to any such program, including funds for administrative support services.

"(2) The requirements of paragraph (1) need not be met in a State if the private bar in that State refuses or is unable to provide legal assistance to the poor in a private bar program and that refusal or inability is clearly demonstrated.".

(c) Section 1007(a)(3) of the Legal Services Corporation Act is amended to read as follows:

"(3) insure that grants and contracts are made so as to provide, consistent with the requirements of subsection (i) of this section, the most economical and effective delivery of legal assistance to persons in both urban and rural areas;".

Mr. STANGELAND (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. STANGELAND. Mr. Chairman, this amendment will assure greater use of the judicare or private bar program into our Legal Services operation.

This amendment simply does this. It would have the Legal Services Corporation setting up at least one private bar program or judicare program in each State.

These programs can give outstanding service to our rural areas. We have the judicare concept in our congressional district. This system does not use the central office concept, nor does it set up any additional bureaucracies.

What this system does is to make use of the talent already available—the attorneys in private practice.

The program in my district is called the Northwest Minnesota Legal Services and it serves 346,961 citizens in an area 280 miles long and 140 miles wide.

Only three cities in this area has a population exceeding 10,000 and Moorhead, the largest city, has a population of 30,000.

The region is agriculturally oriented and recent figures show that there is an 18 percent poverty population.

Northwest Minnesota Legal Services has an office in Moorhead and, at the

present time, it is staffed by five people.

Throughout the congressional district, 300 private attorneys have agreed to participate in the program. Governmental officials, the business community and the bar gives this program the outstanding cooperation it needs to be a success.

In the 4 years the program has been operating, we have not received one complaint.

Once it is determined that a person is eligible to receive legal aid, he or she can go to the attorney of his or her choosing. The attorney handles the case and charges the Federal Government the modest fee of $30 per hour.

Last year the cost to operate this program was $500,000. Only 20 percent of this was administrative cost and the remaining 80 percent were attorney fees.

In 1980, 3,641 applied for help: 3,069 cases were opened; 2,600 cases closed.

This program has eliminated the need for a staff of full-time attorneys stalking the area and looking for clients.

The program is operated by attorneys who have been practicing law in the area, and are respected members of the community.

Mr. Chairman, my amendment will assure greater use of the judicare or private bar approach in operating the Legal Services system.

It appears to me that more people close to the Legal Services programs are being convinced that this type of private bar program is good for the rural areas.

The committee, in its wisdom, did put an amendment in the bill which would further encourage the Legal Services Corporation to put this type of program into operation.

However, it is my belief that with the passage of my amendment, we will be making it clear that it is the intent of Congress that judicare is a program for the rural area.

This amendment does more than encourage the use of this program. This amendment says that no funds may be made available by the Corporation under this title by grant or contract for the fiscal years 1982 and 1983 to any State for providing legal assistance unless at least one recipient in each State is a private bar component with open participation rights by members of the bar.

Some might argue that in some cases the private bar may not want to participate and this could destroy the program.

My amendment also takes care of that. It also says that these requirements of one private bar program per State need not be met in a State if the private bar in that State refuses or is unable to provide legal assistance to the poor in a private bar program and that refusal or inability is clearly demonstrated.

Therefore, Mr. Chairman, we have nothing to lose by adopting this amendment. This amendment makes the bill stronger. It takes care of the rural areas. It uses a program that has been a success and tells the leadership of the Corporation to set this program up in the rural areas and let them enjoy the type of legal representation they deserve.

Mr. Chairman, this amendment improves the bill. It lets the people in the rural areas know that they too can benefit from this program.

I urge the Members of this House to support my amendment.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. STANGELAND. Mr. Chairman, I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman we on this side have had a chance to study the gentleman's amendment. We think it makes an improvement on the bill. It attempts to encourage the use of the private sector and the private bar. We are happy to accept it.

Mr. STANGELAND. I thank the gentleman.

AMENDMENT OFFERED BY MR. FRANK AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. STANGELAND

Mr. FRANK. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. FRANK as a substitute for the amendment offered by Mr. STANGELAND: On page 11, after line 3, insert the following new section and redesignate succeeding sections accordingly:

SEC. 11. (a) Section 1007(a) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)), as amended by Sections 8, 9, and 10 of this Act, if further amended—

(1) in paragraph (12) by striking out "and" after the semicolon;

(2) in paragraph (13) by striking out the period and inserting in lieu thereof "; and" and;

(3) by adding at the end thereof the following:

"(14)(A) insure that subject to paragraph (B) of this section, no funds may be made available by the Corporation under this title by grant or contract for the fiscal years 1982 and 1983 to any State for providing legal assistance unless the following requirements are met:

"(i) At least one recipient in each State provides legal assistance to eligible clients through a private bar component with open participation rights by members of the bar.

"(ii) Each such private bar component is available to those local bar associations which desire to participate in the delivery of legal assistance to the poor, and funds are made available under this title to any such program, including funds for administrative support services.

"(B) insure that the requirements of subparagraph (A) need not be met in a State if the private bar of that State refuses or is unable to provide legal assistance to the poor in a private bar component and that refusal or inability is clearly demonstrated."

(b) Section 1007(a)(3) of the Legal Services Corporation Act (42 U.S.C. 2996f(a) is amended by inserting ", consistent with the requirements of paragraph 14 of this subsection," after the words "to provide".

Mr. FRANK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute for the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

Mr. BUTLER. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued the reading of the amendment.

Mr. FRANK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute for the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. FRANK. Mr. Chairman, I think the gentleman from Minnesota (Mr. STANGELAND) has offered an amendment that is a very good one. The thrust is simply a rather technical reworking of it. There is no substantial difference, I believe, in its ability to carry out its purpose, which is to take advantage where they exist.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Illinois.

Mr. RAILSBACK. We have now had a chance to consider the gentleman's amendment to the Stangeland amendment. I have had a chance to talk to the gentleman from Minnesota (Mr. STANGELAND). Not only does the gentleman from Minnesota (Mr. STANGELAND) accept the gentleman's amendment, we accept it on this side as well.

Mr. FRANK. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. FRANK) as a substitute for the amendment offered by the gentleman from Minnesota (Mr. STANGELAND).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. STANGELAND), as amended.

The amendment, as amended, was agreed to.

● Mr. GRAY. Mr. Chairman, I rise in support of the legislation before us today to continue a federally funded Legal Services Corporation.

I would prefer, Mr. Chairman, that this bill contain a significantly higher authorization ceiling. I would also prefer that the bill not contain some

of the restrictions which it would place on the activities of the Legal Services Corporation.

However, I recognize that this bill is a carefully crafted compromise, and I urge my colleagues to recognize that it will accomplish the very necessary step of continuing the Federal funding of a program to give poor people the basic right and ability to have access to our system of justice.

We have heard from opponents of the Legal Services Corporation that this program is nothing more than a subsidy to fund so-called liberal causes. But I would ask my colleagues, Mr. Chairman, to define the term "liberal causes" for us.

In Philadelphia, these funds have been used to protect an elderly woman whose signature was forged on a loan application, leading to her home being put up for sale at a sheriff's auction. They have been used to secure social security payments for a man who was disabled and who had been improperly denied benefits. And they have been used to prevent people from being taken advantage of, or ignored by, those Government agencies which are supposed to protect the rights of citizens.

I do not see how these cases qualify as liberal causes, Mr. Chairman, and I further suggest that the Federal legal services programs have been the target of some highly unfair, and incorrect, criticism.

Its critics charge that Legal Services lawyers have increasingly focused on class actions which attack Government organizations and private interests. But in fact, in 1980 only two-tenths of 1 percent of all cases handled by Legal Services lawyers had more than one plaintiff. Of these cases, only a small portion was actually brought on behalf of a class of persons.

Clearly, the overwhelming majority of the cases handled by Legal Services attorneys involve only one client and involve everyday problems of poor people. The cases do not involve controversial social issues. Rather, they involve matters which might appear to be mundane to some of my colleagues, but which in fact are matters of crisis for individual clients.

Most legal service cases involve family law, such as adoption, custody, divorce, support, parental rights, and spouse abuse, or income maintenance, housing, health, and consumer problems such as credit, debt collection, contracts, and warranties.

Another thought we have heard expressed in this Chamber is that private lawyers could handle the cases if the Reagan administration gets its way and the Legal Services Corporation's funding is folded into a block grant, giving States the option to provide legal services.

These cases totaled more than 1.5 million last year alone. Those lawyers who do handle pro bono work would not be able to absorb such a great number of cases if the Legal Services Corporation were to be abolished.

Finally, Mr. Chairman, I would urge the President to reject the advice he is receiving that he veto this bill, should Congress pass it. As the Philadelphia Inquirer states so eloquently in a June 12, 1981, editorial—which I will submit for the record and which I commend to the attention of my colleagues—we must recognize that access to justice is not only for those who are able to afford it. Rather, it is the right of every American citizen.

EVERY CITIZEN HAS A RIGHT OF ACCESS TO JUSTICE

Critics of the federal program of legal services for the poor, such as Conservative Caucus director Howard Phillips (who tried to kill it during the Nixon administration), contend that it amounts to a "subsidy for liberal causes."

What's a "liberal cause"? Protecting an elderly woman, whose signature had been forged on a loan application, from having her home sold at a sheriff's sale? Seeing that a local board of assistance paid through medical assistance for blood tests for a woman who needed them to obtain a prescription to control seizures? Obtaining Social Security disability payments for a man who had become disabled with a heart condition? Preventing people from being ripped off by fraud, ignored by indifferent bureaucrats, having their heat and water cut off by utilities?

These are typical of the kind of cases that Community Legal Services of Philadelphia handles. They are typical of the bulk of cases poverty lawyers are involved in all over the country. What may offend Mr. Phillips as well as President Reagan, who sought to kill legal services in California when he was governor there and who as president has tried to persuade the Congress to kill the national program, is that the poverty lawyers have been successful. Most of their cases are settled out of court, but when they do go into court they win about 85 percent of the time.

Why shouldn't the poor have the same legal rights as the rich? Critics of legal services profess to find something wrong with having the taxpayers pay for a program that sues government entities. What nonsense. The taxpayers are paying for legal services for corporations and other businesses that often sue the government. Legal fees are deductible as business expenses. The Library of Congress estimates the annual tax loss is about $4 billion. Compare that with the $321 million budget of the Legal Services Corp.

The administration asserts that under its block grant program state and local governments can establish their own programs. More nonsense. As William Reece Smith Jr., president of the American Bar Association, and all 13 former presidents from 1965 on declared in an open memorandum to Congress, the states and local governments "cannot and will not step in to continue to assure the disadvantaged access to our judicial system," and, as they go on to declare, "depriving them of such access would be unjust and unwise."

The House Judiciary Committee has nevertheless voted to chop $60 million out of the legal services budget and approved further restrictions on the activities of poverty lawyers. The committee has, though, with most of its Republicans voting aye, called for continuing the program.

A reauthorization bill is scheduled for the House floor June 16, and it is reported that some of Mr. Reagan's advisers are urging him to veto it if it comes to his desk. If Mr. Reagan should be so "unjust and unwise" as to follow that advice, the Congress would have to override his veto.

Access to justice is not a matter of charity. It is not only for those who can afford it. It is the precious right of every citizen.●

● Mr. OTTINGER. Mr. Chairman, I rise in support of H.R. 3480, the Legal Services Corporation (LSC) authorization. While I am very greatly distressed that the bill reduces authorization ceilings and places numerous new restrictions on the activities of the Legal Services Corporation, I consider this bipartisan compromise measure, bad as it is, as vital if the poor are to have continued access to our judicial system.

I oppose any amendments to further restrain, limit, or cripple the LSC. The new restrictions and decreased funding already included in H.R. 3480 will have the effect of partially closing the courthouse doors to the poor. Any amendments to further debilitate the LSC can only slam those doors completely shut. We will be telling the needy that only those who can afford to pay will be able to seek enforcement of the laws allegedly intended for the benefit of all.

There are at least 30 million Americans living at or below the poverty level who are eligible for legal services funded by the LSC. In 1980, these programs handled 1.5 million legal matters. In my own area, Westchester Legal Services took on over 3,000 new clients in 1980, and over the past 14 years has served over 30,000 Westchester residents.

Those to be served, however, are not the only people who support H.R. 3480. A recent New York Times/CBS poll indicated that approximately 80 percent of those surveyed said that the legal services program should be maintained at present funding levels or expanded. I have heard from hundreds of my constituents urging a vigorous and well-funded legal services program. Even the American Bar Association supports the bill.

My good friend and former colleague from Texas, Bob Eckhardt, for whose wisdom I have the greatest respect, noted that the attempts to limit and restrict the LSC may be likened to attempts to repeal the Magna Carta. I agree fully with his assessment and urge my colleagues to oppose any amendments to restrict further the vital activities of the Legal Services Corporation.●

● Mr. FRENZEL. Mr. Chairman, I will cast a reluctant vote for this stripped-

down version of the Legal Services Corporation.

Basically, I remain suspicious of a program which taxes citizens who cannot afford legal services to buy such services for other citizens, but I will support this bill for a number of reasons.

First, in my State, the Legal Services Corporation does a good job. It appears to be supervised, to some extent at least, by a competent Board of Directors. Its lawyers work hard at wages well below local legal scales. Its record is not spotless, but there are not a lot of complaints about the day-to-day operations.

Second, our Judiciary Committee has reduced both LSC authority and funding consistent with the budget proposal. The overall operation will be scaled down considerably.

Third, it will be quite difficult to localize LSC services through block grants without some provision for a phase-in. Localization of service, however, may be inevitable, especially in the event of a veto.

There are, of course, about as many good reasons for not supporting the bill (H.R. 3480). My principal objection has already been noted here. Others include a lack of supervision and discipline in some areas, and inadequate legal services in others.

On balance, I will support this bill, but if the threatened veto is actually cast, that support is less certain. If Congress approves, I hope the President will approve, but, if not, it may not be wise to try to force the system on him.●

● Mr. LIVINGSTON. Mr. Chairman, there can be no doubt that the Legal Services Corporation does some good. However, I am greatly troubled by substantial evidence that millions of taxpayers dollars are being spent in legal activism which far exceeds the legal needs of the poor. A recent Patrick Buchanan column in the Chicago Tribune, for example, reflects that many attorneys in the Corporation have taken it upon themselves to redirect the tax moneys with which they are paid to lobby against the administration's programs to promote economic recovery in the United States. Such lobbying hardly suits the purposes for which they were hired.

I do not believe that the bill before us today, H.R. 3480, addresses my concerns as well as President Reagan's block grant proposal does. Funding legal aid services through block grants to the individual States, as the President proposes, will allow the States more discretion to address problems and needs unique to their areas. Similarly, block grants will allow citizens a greater voice in addressing the legal problems they face by controlling the program through their State and local representatives.

The Legal Services Corporation, Mr. Chairman, should not be confused with legal aid for the poor. We can and should have the latter, but without the abuses of the former.

I oppose H.R. 3480.●

● Mr. BROWN of California. Mr. Chairman, contained in our Pledge of Allegiance is a simple, yet profound, concept. This is a concept which is at the very basis and foundation of our Nation. We will never achieve it to perfection, but the simple words, "with justice for all," should represent the ultimate goal which we strive to obtain. If we permit ourselves to neglect or ignore this principle, then we erode all our rights set forth in our Constitution.

Today, we have before us a means to help achieve this basic principle embodied in our pledge, that we are a nation with "justice for all." Not just justice for the rich or politically elite, but for everyone—the poor, the elderly, the disadvantaged. In the last 6 years, the Legal Services Corporation has achieved "minimum access" to legal aid for the poor of our Nation. It has not been an easy task, but last year LSC obtained its goal of 2 lawyers for every 10,000 poor people in our country.

The Legal Services Corporation is one of our best examples of an effective and efficient use of Federal funds. Of the 1.5 million legal matters handled by Legal Services attorneys, only 15 percent actually resulted in litigation. In my own district, the Inland Counties Legal Services has brought this figure down to a mere 10 percent. And in 1981, it is expected that only 1.8 percent of the LSC budget will be used for central management and administration. Nearly all the rest will go directly to field programs to provide legal services, with the remainder being spent on program support, field monitoring, and the like.

Legal services to the poor have come a long way since 1919 when Reginald Heber Smith, in his book "Justice and the Poor," concluded that the United States was not fulfilling its promise of equal justice for all. Legal aid organizations throughout the country had been trying to fill the gap, and made great strides toward this effort, but simply could not be expected to keep up with the demand. During the Great Depression when legal services for the poor were most needed, most legal aid organizations had to cut services, not increase them. Even during the relative prosperity of the 1950's, growth in legal services, while substantial, could not keep pace. Another alternative was required.

As early as 1925, Chief Justice William Howard Taft remarked:

> If the individual in seeking to protect himself is without money to avail himself of such [a legal] procedure, the Constitution and the procedure made inviolable by it do not practically work for the equal benefit of all. Something must be devised by which everyone, however lowly and however poor, however unable by his means to employ a lawyer and to pay court costs, shall be furnished the opportunity to set this fixed machinery of justice going.

It was nearly 40 years later before the Federal Government began supplying the poor with any legal services, and nearly 50 years before the Legal Services Corporation was formed on an independent basis.

It is not accidental that the Legal Services Corporation concept was formed during the civil rights era. It was realized that it was in the public's interest to secure the allegiance of the poor, despite economic and social grievances, to our legal system for the peaceful resolution of disputes. To maintain "law and order," the poor must respect the legal system and perceive that it is fair. Essential to that perception is that everyone, including the poor, enjoy effective access to it. The key to access to the legal system is a lawyer. As the Supreme Court has stated:

> The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel.

Providing the poor with a lawyer does nothing more than provide them with the right to be heard; it does not guarantee the right to win. Can we, in good conscience, deny them this simple right to be heard?

"But not with Federal moneys!" many counter. Yet each year taxpayers are permitted to deduct billions of dollars in legal fees from their income tax returns. Such deductions mean a loss of tax revenues for the Government and represent just as real a cost to taxpayers as do expenditures of money from the Treasury. The cost to the public of the deductions—about $12 billion for corporations alone in 1978—dwarfs the comparatively tiny $260 million budget for the Legal Services Corporation. If we do not continue the LSC, we will not only be denying the poor legal counsel, but we will be continuing to subsidize the legal counsel of the rich. This imbalance of justice must not be tolerated.

The block grant approach is not an answer to this dilemma. To incorporate the Legal Services Corporation into a block grant would surely consign it to its death. The block grant proposed by President Reagan does not include any moneys for LSC. In addition, there has been little interest at the State or local government level in providing legal services. Virtually no such interest was demonstrated before the Federal funding effort started in 1965 and very little has been forthcoming since that time to supplement the Federal program. Currently, State and local governments contribute only a little more than $5 million to Legal Services programs, a sum

equivalent to 1.65 percent of the LSC budget. Finally, the block grant approach would surely cause more politicization than we will ever have under the present Federal arrangement.

The elimination of the Legal Services Corporation would not serve to reduce waste in Government, to get the Government off the backs of the people, or to return local programs to the States. Nor would the elimination of LSC in any way help to balance the budget or reduce inflation.

I urge my colleagues to vote in favor of the Legal Services Corporation and maintain the struggle for "justice for all"; to permit the poor, as well as the rich, the right to be heard, the right to remedy. The Legal Services Corporation merely provides that means for remedy—and a right without a remedy is no right at all.●

● Mr. CONYERS. Mr. Chairman, today's Washington Post carries an advertisement intended to influence Members to vote against H.R. 3480, the Legal Services Corporation Act Amendments of 1981. While the ad is ludicrous—it argues, for example, that the American Bar Association is not a conservative organization because the ABA supports conversion to the metric system—it also employs half-truths and innuendo to cloud the real issue before us.

The real issue is whether our country will honor its commitment to "equal justice under law." Will we provide poor people with access to legal help?

The ad, on the other hand, seeks to make the political beliefs and private lives of Legal Services' employees the issue. It seeks to control the Legal Services Corporation by criticizing Legal Services Corporation employees. The ad's sponsor would deny basic American rights to people because they are Legal Services Corporation employees. Such a denial is clearly unacceptable.

What political beliefs Legal Services' employees hold, what causes they support and work for on their own time, are not properly a matter of concern to us. Whether Legal Services' employees are members of the National Lawyers Guild or the moral majority should not affect a decision on whether the Legal Services Corporation should continue to carry on its important work.

Because the ad attempts to distort the debate and to focus on irrelevancies, I would like to go through the 13 questions it poses.

The first question is cleverly worded to suggest that Legal Services Corporation money was used to finance a seminar in Puerto Rico. This is not true. The seminar was not funded by the Legal Services Corporation, but was funded by a private, nonprofit association—the National Legal Aid and Defender Association. H.R. 3480 does not purport to authorize the sort of activity referred to in the first question, so even if you were to answer question one in the negative, that is not a reason to vote against the bill.

The second question implies, by means of unattributed quotations, that the Legal Services Corporation or its employees have advocated a "political awareness" program. The Legal Services Corporation has looked into this matter and has found that the statement in the question was not made by the Legal Services Corporation, a local Legal Services program, or an employee of the Legal Services Corporation or local Legal Services program. Again, since H.R. 3480 does not authorize "State legislative advocates," even if the second question were to be answered in the negative, that is not a reason to vote against the bill.

The third question, by the use of the sinister word "dossier," suggests that Legal Services lawyers are illegally obtaining information about Members of Congress. The only information which the Legal Services Corporation and its employees have about Members of Congress is public information acquired in the normal course of business in connection with legitimate activities. What information Legal Services employees acquire on their own time is not properly the concern of the Legal Services Corporation. However, there is nothing wrong with citizens collecting public information about what Members of Congress say and how they vote. This is the sort of activity that even the sponsor of the ad engages in.

The fourth question seeks to exploit the antipathy of many Americans toward Iran. The Legal Services Corporation Act makes aliens who are legally present in the United States eligible for legal help if they are low-income people. Thus, an alien student who is here legally and who meets the income requirement, is eligible for assistance. This is true if the student is Iranian—who, it should be noted, may still be here because he or she is anti-Khomeni, South Korean, or Taiwanese. Low-income aliens have legal problems, just as low-income citizens do. Why the alien should be denied assistance when the citizen receives it, is not clear.

The fifth question reports that top officials of the Legal Services Corporation of Iowa hold certain view and suggests that Federal funds went into organizing the Poor People's Platform Congress in Iowa. However, the Poor People's Platform Congress was funded by client groups, social service organizations, and other civic groups. The Legal Services Corporation of Iowa is not responsible for funding it.

The sixth question implies that the Gray Panthers—which is labeled as a "pro-Castro" organization—should not receive Legal Services help. The Gray Panthers is a group of elderly persons. It has been represented in litigation by Legal Services attorneys when it has been found to meet eligibility requirements. Legal Services attorneys have not represented Gray Panthers in political activities, pro-Castro or otherwise, but only in civil matters clearly within the guidelines of the Legal Services Corporation.

The seventh question suggests that Legal Services employees have, on work time, raised funds for terrorists and guerrillas in El Salvador. The Legal Services Corporation has investigated such a contention and has found that no employee of the Corporation or of a local Legal Services program has used working hours to raise funds for terrorists and guerrillas in El Salvador or has done so in his or her capacity as a Legal Services employee. Legal Services employees, like all American citizens, have the right to hold whatever political beliefs they prefer. What these beliefs are, and what a Legal Services employee does on his or her own time, has no relation to the work of the Legal Services Corporation. We should be concerned with what the Legal Services Corporation does, not with the political views of Legal Services employees.

The eighth question is directed at lobbying activities. The Legal Services Corporation Act restricts the activities of the Legal Services Corporation and Legal Services employees with regard to lobbying. The bill reported by the committee tightens those provisions. Both the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, and the full Judiciary Committee, looked into the criticisms about lobbying, and the provisions in the bill as reported represent the committee's response to the problems it found.

The ninth question suggests that Legal Services attorneys ought not to participate in lawsuits involving a sex change operation. It also suggests that Legal Services funds have been used to bring "homosexual rights" lawsuits. To begin with, it is not clear to me why a poor person should be denied access to court in a matter that involves a sex change operation under circumstances when a rich person would not be denied access. If an eligible client has a legal problem involving a sex change, it does not seem to me to be inappropriate for a legal services attorney to represent the client. Such cases are rare. Last year Legal Services attorneys handled some 1.5 million cases; only a few cases—perhaps 2 or 3, according to the Legal Services Corporation—involved a sex change operation. Second, Legal Services attorneys have represented homosexuals who meet the income requirements in matters that fall within the

Legal Services Corporation's guidelines. I see no good reason for denying legal representation in a probate matter, for example, to a poor person who is a homosexual just because that person is a homosexual.

The 10th question suggests that a substantial amount of Legal Services Corporation resources are used to bring lawsuits on behalf of prison inmates in order to challenge the conditions of incarceration. This is labeled "coddling." I see nothing inappropriate about representing an inmate in a civil matter, whether that matter involves conditions of incarceration or a divorce, for example. Does the ad's sponsor suggest that prison inmates have no degree of protection under the law? Does the ad's sponsor equate this protection under the law with coddling? The absurdity of such suggestions is evident. In any event, the Legal Services Corporation does not devote substantial resources to such activities. "Minuscule" more accurately describes the resources going to such activities.

The 11th question suggests that it is inappropriate for Legal Services attorneys to assist Indians with land claims. What the ad's sponsor seems to overlook is that such claims may be legitimate and, if legitimate, the Indians are entitled to redress. If the Indians seeking legal assistance with land claims are poor and are otherwise eligible, what is wrong with representing them? In one instance in which a Legal Services attorney was briefly involved on behalf of Indian claimants, the U.S. Government filed suit on behalf of the Indians (*Joint Tribal Council of Passamaquoddy Tribe* v. *Morton*, 528 F. 2d 370 (1st Cir. 1975)). The case was settled before trial in a compromise settlement approved by both the Maine Legislature and the Congress.

The 12th question suggests that it is wrong for representatives of activists groups to serve on the boards of local legal services programs. The Legal Services Corporation Act requires that 60 percent of the local boards be attorneys admitted to practice in the local area and that one-third of the local board be eligible clients. The bill reported by the committee further requires that all of the attorneys on the local board be appointed by the local bar. In any event, the political beliefs and activities of local board members have no bearing upon whether or not to continue funding the Legal Services Corporation.

The final question suggests that it is inappropriate to provide legal assistance to the poor when that assistance involves election law matters. Legal Services attorneys have provided eligible clients with legal assistance concerning election laws. This assistance is of the sort that any lawyer would provide to a client with questions about the election laws. It does not involve the Legal Services attorney using work time to campaign for or against any candidate or ballot question. I fail to see anything wrong in what Legal Services attorneys are doing. The poor are entitled to legal advice about elections, just like the rich.●

AMENDMENT OFFERED BY MR. M'DONALD

Mr. McDONALD. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair would inquire whether the amendment has been printed in the RECORD for 2 legislative days.

Mr. McDONALD. It has been, Mr. Chairman.

PARLIAMENTARY INQUIRY

Mr. KASTENMEIER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. KASTENMEIER. Mr. Chairman, is the amendment offered by the gentleman from Georgia to section 10?

The CHAIRMAN. As the Chair understands it, the amendment offered by the gentleman from Georgia inserts a new section after section 10.

Mr. KASTENMEIER. I thank the Chair.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. McDONALD: Page 11, insert the following after line 3 and redesignate succeeding sections accordingly:

RESTRICTIONS ON FUNDS

SEC. 11. Section 1006 of the Legal Services Corporation Act (42 U.S.C. 2996e) is amended by adding at the end thereof the following:

"(g) No funds made available to carry out this title may be used (1) to provide legal assistance to promote, defend, or protect homosexuality, or (2) to promulgate or enforce the proposed rules of the Corporation which were published in the Federal Register on March 23, 1981 (46 F.R. 18055; 45 C.F.R. 1624), or any substantially similar rules which the Corporation may promulgate, to the extent that such rules pertain to homosexuality.".

Mr. McDONALD. Mr. Chairman, the amendment before us today really requires little debate or explanation. Very simply, the U.S. Government should not spend one penny to promote, defend, or protect the practice or acts of homosexuality. In these changing political times when it is clear the people of the United States have told Congress they want a change from business as usual, it seems apparent to me the message they are sending us is not one which seeks to promote the legitimacy of homosexuality.

Individuals may have the right in their own personal lives to do as they see fit. This is not to say, however, that the Congress of the United States should venerate that conduct by expending funds to protect those practices.

It is, therefore, my proposal that no part of this bill authorize the use of taxpayers' funds to promote, defend, or protect the practice or acts of homosexuality.

The regulations proposed on March 23, 1981, by the Legal Services Corporation, which the second part of my amendment seeks to terminate, have the effect of making certain that funds of this Government could not be expended unless they in fact did promote, defend, or protect the practice or acts of homosexuality. Because this is the apparent opposite of what should be done and the exact opposite of what the House last year declared they wanted done by a vote of 290 to 113, it is clear these regulations in their present form should not be promulgated either.

In conclusion, Mr. Chairman, this is a simple amendment and straightforward vote. Those of this House who feel we should not spend taxpayers' dollars to promote, defend, or protect the practice or acts of homosexuality should vote in favor of this amendment.

Mr. KASTENMEIER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the Chair, Mr. McHUGH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3480) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes, had come to no resolution thereon.

DANGEROUS ATTACK ON FREEDOM OF THE PRESS

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, I would like to tell the House of a happy event today. I had introduced some time ago a resolution concerning UNESCO, and the extremely dangerous action that is taking place in that body which we all should be concerned about. It involves freedom of the press and it is a most unwarranted and dangerous attack on freedom of the press and communications generally.

I introduced this some time ago in the House, and Senator QUAYLE has followed in the Senate, and the happy news is that Senator QUAYLE's bill or resolution has been attached, in the charming fashion of the other body, nongermane, to a bill of Senator MOYNIHAN's, so we will have an opportunity to approve it in the House. I hope

this chance will be seized, because we are dealing here with something that is most important. I cannot understand why there has not been more outrage and concern in the world. There was, indeed, a big meeting at Talloires of publishers and journalists, and they expressed their very deep concern. The UNESCO proposal involves the licensing of journalists. It involves a code of ethics to which they are supposed to adhere. It is like the Nazi press promulgation of October 4, 1933. It must be opposed.

EXPORT-IMPORT BANK

(Mr. WILLIAM J. COYNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WILLIAM J. COYNE. Mr. Speaker, the International Trade, Investment, and Monetary Policy Subcommittee, on which I serve, has held extensive hearings into the misguided efforts of this administration to reduce its support for the Export-Import Bank.

Stuart Eizenstat, in today's Washington Post, pointed out that a reduction in Exim financing will lead to a reduced level of export growth. Eizenstat also states in his article that:

The cuts in Exim funding now before Congress will mean a reduction of more than $12 billion in export sales and more than 600,000 man years of U.S. employment in the next five years.

This administration, Mr. Speaker, is so committed to the proposition that a reduction in Federal spending will lead us to the economic promised land that it fails to consider the consequences of each of its proposed reductions in Federal spending.

Mr. Speaker, I include the article in the RECORD at this point:

[From the Washington Post, June 17, 1981]

CUTTING EXIM WILL ONLY HELP THE COMPETITION

(By Stuart E. Eizenstat)

The sharp cut in funding threatening the Export-Import Bank demonstrates a misunderstanding of the bank's purpose, could cripple its operation and jeopardizes achievement of the goals of President Reagan's own economic policy.

The Office of Management and Budget argues that Exim provides a costly subsidy to a few major companies for export sales that would be made without its assistance. This is untrue. While as a practicing attorney I have an interest in Exim, I believe maintaining a high level of funding is essential to maintain the competitiveness of American firms in world markets.

Exim was incorporated by Congress in 1945 as an independent government institution to encourage foreign buyers to purchase American goods. It operates as a self-sustaining institution, having more than doubled its capitalization since its organization. It has assisted more than $100 billion in U.S. exports—$18 billion last year alone.

Exim receives no appropriated funds and does not compete for scarce budget dollars. It is annually given authority to borrow the resources needed to fulfill its commitments, normally through the Federal Financing Bank, at the price of money to the Treasury plus a fee. The bank's users pay its costs—not the government or the taxpayers. Exim's figures in the federal budget are simply a cash-flow estimate.

It has never lost money and has returned $1 billion in dividends to the Treasury. The cost of its loans, loan guarantees and insurance programs are more than matched by loan repayments, interest on loans, insurance premiums and guarantee fees it receives from its users. This year it will generate income of about $125 million, of which $35 million is budgeted for payment to the Treasury. A Congress dedicated to reducing the deficit should not cut a program that has consistently made money, while supporting private enterprise.

A reduction in Exim financing will lead to a reduced level of export growth. Exim finances sales that almost surely would be lost without its support.

Most goods manufactured for export by American companies are competitive in world markets in terms of price and quality. But America's technology is no longer unequaled.

In the intense competition with foreign companies, the factor determining whether purchasers abroad buy American goods or those of other industrial nations is often the terms of export credit financing. Foreign governments grant extremely favorable financing terms for their exports. Without the help of Exim, a foreign buyer must choose between a purchase financed from another country at below-market interest rates or one from an American company at far higher rates—hardly a favorable choice from America's perspective.

Organization for Economic Cooperation and Development (OECD) countries recognize the central importance of exports and the crucial nature favorable financing plays in export sales. The Government Accounting Office recently found that Exim's equivalents in countries like Japan, France and Germany cover a far greater percentage of their exports with concessionary terms and at more favorable rates than Exim even before the proposed cutbacks and concluded that Exim "will need increased flexibility and resources if it is to consistently offer competitive financing." Our trade competitors must be viewing the drastic Exim reductions with a mixture of astonishment, bemusement and glee. American companies can successfully compete in a free world market with manufacturers from other countries, but not with foreign governments providing unmatched incentives to foreign buyers for comparable products.

Exim-financed export sales in large part would not have been successfully concluded in the absence of assistance. The secretary of the Treasury reported in 1980 that more than 70 percent of the direct credit export sales financed by Exim would not have been made without such financing. The comptroller general said that where Exim participates "the assistance it provides may well be crucial in maintaining important export markets."

In most cases, the absence of Exim financing completely excludes American companies from competing with subsidized foreign manufacturers for major sales.

Exports are essential to our economic security, and Exim is essential to many exports. Exports offset the burden of heavy foreign oil bills, help the balance of trade, strengthen the dollar and reduce inflationary pressures. Yet, Exim has been forced to stop taking new business—an economic tragedy.

Exim can help the administration create new jobs without rekindling inflation. One in six U.S. workers is involved in the production of goods sold abroad. Every $1 billion in exports creates up to 40,000 new jobs. In the last three years Exim has created an estimated 1½ million man-years of new employment.

The cuts in Exim funding now before Congress will mean a reduction in more than $12 billion in export sales and more than 600,000 man-years of U.S. employment in the next five years.

Exim is not a subsidy to a few big U.S. companies, but assists foreign purchasers to buy U.S. goods from American businesses of all sizes at competitive terms. Exim has made commitments to more than 5,700 firms in all 50 states. While OMB may wish to demonstrate that its budget cuts require a sacrifice even from business, America's workers will actually bear the sacrifice of Exim reductions.

Even though large U.S. exporters are major Exim recipients, their export sales support literally hundreds of subcontractors and suppliers—"invisible exporters"—whose workers are benefited. Ultimately, export credit assistance should be ended on a multilateral basis.

Last year, negotiations between the United States and OECD nations to reduce export subsidies failed to produce an agreement. These discussions recently resumed. To reduce unilaterally our export assistance while OECD countries continue their deep subsidies leaves our negotiators with little leverage and amounts to unilateral disarmament. Until an export subsidy agreement is achieved, increased levels of Exim financing are essential to remain competitive and to support negotiations for an unrestricted international trade market.

Exim merits bipartisan congressional support through increased funding.

AID TO CARIBBEAN OFFERS NEW PATH TO GREATNESS

(Mr. DE LUGO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DE LUGO. Mr. Speaker, the Caribbean is becoming an increasingly important part of the overall foreign policy picture of the United States. President Reagan and his administration are to be commended for taking a new initiative in looking at this critical area of the world. The importance of the American presence in the Caribbean, and that presence is exemplified by the U.S. Virgin Islands, cannot be overemphasized.

Strong cultural and social ties exist between the Virgin Islands and the emerging island nations of the Caribbean. In fact, it has been estimated that over 50 percent of the population of the U.S. Virgin Islands can trace their roots to other islands of the West Indies chain. Consequently, the U.S. Virgin Islands acts as America's showcase in this region of the world,

and can and should play a vital and integral role in our foreign policy as it relates to the Caribbean. I sincerely trust that the Reagan administration will see the wisdom of utilizing the Virgin Islands as a valuable resource in furthering its new initiative.

The President is launching a realistic and intelligent course of action in regard to their Caribbean policy, as noted in the comments by Georgie Anne Geyer entitled "Aid to Caribbean Offers New Path to Greatness" and published in the Washington Star of June 4, 1981. Ms. Geyer presents an excellent commentary on what is taking place and what we expect from the proposed Caribbean plan, and, therefore, Mr. Speaker, I have included her comments with these remarks:

AID TO CARIBBEAN OFFERS NEW PATH TO GREATNESS

(By Georgie Anne Geyer)

In his first few months in office, President Reagan has been preoccupied with strengthening our economy and defense. Now he has a chance for something beyond that: historic greatness.

I am referring to his consideration of a Marshall plan for the Caribbean. If he carries it through, it would enhance his name internationally and secure his place in the history books as little else could do.

The plan has been in the works for the last six months or so. Interestingly enough, it was not Americans but Latin economists and democratic leaders, distraught that the region is falling apart, who conceived the idea.

The subject will be one of the major items on the agenda when the president meets next week with Mexican President Jose Lopez Portillo.

PUSHED BY HAIG

But the process is already well along, pushed in particular by Secretary of State Alexander Haig.

Successful consultations have been held with German Chancellor Helmut Schmidt—he strongly endorses the idea—as well as with the Venezuelans, the Mexicans and the Jamaicans. Indeed, the newly elected, moderate prime minister of Jamaica, Edward Seaga, was the first one to give the idea its name.

Economists estimate that the funds needed to turn the region around are actually minuscule, if invested properly.

The entire Caribbean basin now receives about $1.3 billion a year in aid for development from the United States and other Western nations, plus another $600 million from Mexico and Venezuela, largely out of their oil production tradeoffs.

According to one Latin economist who has been working on this program, it would take only an additional $1 billion a year, if that money were invested in the right places and in the most productive economic areas, to point the basin in the right direction in the next six or seven years.

That additional $1 billion, he says, could be broken down like this: $300 million more a year from the United States; $60 million from Canada; $250 million from Europe and Japan; $300 million from international organizations; $40 million from Columbia and Brazil; and perhaps another $50 million from OPEC and other special funds.

Besides fighting Russo-Cuban subversion in the area and helping people live decent lives without migrating, this plan of financial assistance would recognize, by its clear multilateral flavor, what the Caribbean is and is not today.

It is no longer a lake dominated by the United States, but it is an area of American influence. It is also an area of international interest, with the West Europeans playing an increasingly active political, as well as economic, role there.

The plan for the Caribbean also would recognize a new equality in hemispheric affairs: The large, increasingly rich Latin countries have a responsible role in the area that they are only waiting to play.

SOVIET AID CUBA

There is still another factor that is of incalculable importance. The Soviets now give the Cubans $12 million a day, or over $4.3 billion a year in aid, to keep Cuban mercenary soldiers fighting for Soviet interests.

If, under the leadership of the United States and the democratic world, the Caribbean could be developed economically, politically and socially, and with only a fraction of that vast and destructive Eastern bloc military aid, it would show more clearly than anything else the differences in the two worlds that are clashing head-on in the area and elsewhere.

The Caribbean is clearly ripe for such a plan; indeed, it is asking for it. While attention has been riveted on the horrors of an El Salvador, many other nations in the Caribbean have rejected leftist solutions. But there has been nothing on the other side for them to hold on to.

President Reagan, working intelligently and realistically with the leaders of other nations with similar democratic and economic views, could offer this. Let us hope that the historic sense he is beginning to show will come to fruition in this Caribbean plan.

A VOTE FOR THE AMERICAN TAXPAYER

(Mr. JOHNSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSTON. Mr. Speaker over the last 15 years this body, with some help from the Senate, has engaged in a veritable orgy of giveaway programs, social welfare programs, programs designed to improve the well-being of America, supposedly. But all of these programs were at the expense of that most underprivileged group of all, the American taxpayer.

It is rare indeed that we find a bureaucrat managing one of these programs who admits his program is unnecessary. But Jim Burnley, an outstanding North Carolinian now heading VISTA frankly admits that VISTA is not needed. It is just another burden on the American taxpayer.

Very shortly we will have the opportunity to get rid of a program even the people participating in admit is not needed. I hope my colleagues in this body will join me in a vote against VISTA and a vote for the American taxpayer.

I would like to include in the RECORD the remarks of Jim Burnley to the Winston-Salem Kiwanis Club on June 4.

REMARKS BY JIM BURNLEY

When Ronald Reagan was running for President last year, he promised the American people "a new beginning". A major part of that "new beginning" is the reexamination of many government programs that have been taken for granted in recent years. Basic questions are being asked about each program under review, including (1) is the program fulfilling the goals set by the legislation authorizing it; (2) is the program cost effective and (3) even if the answers to each of those two questions is yes, is the program a proper function of the federal government?

I am here today to talk about a program, known as VISTA, which fails all three tests. Therefore, the Reagan Administration has decided to phase it out over the next three years. As the new Director of VISTA, I find myself being asked to work myself out of a job. Although this is a somewhat curious position to be in, I fully support the Administration's decision. To explain why, let me briefly describe the VISTA program and then examine it with you in light of the three tests.

VISTA is an acronym which stands for Volunteers In Service to America. Founded in 1965 as a part of Lyndon Johnson's so-called War on Poverty, it is often described as a domestic Peace Corps. In fact, both VISTA and Peace Corps are a part of the ACTION agency, which also includes a number of programs involving older Americans as volunteers such as the Foster Grandparents Program.

At present, VISTA has over 4,000 participants, called "volunteers". However, the term "volunteers" is a bit misleading. Each participant in the program is expected to work full-time. He or she receives a poverty level living allowance, plus a payment called a "stipend" of $75/month. By law, these payments cannot be considered to determine whether an individual qualifies for unemployment compensation or other forms of public assistance. Thus, there are quite a few VISTA volunteers serving today, at a cost to the U.S. government of just over $8,000 per person, who are also receiving food stamps and welfare.

Each VISTA volunteer is assigned to a sponsoring organization, such as a state or local government or a private non-profit organization. None of them are under the direct supervision of VISTA. With more than 800 sponsoring organizations, which means an average of five volunteers per sponsor, it is impossible for the national program to keep close track of the activities of each person it is paying.

According to the legislation under which we operate, VISTA is supposed "to strengthen and supplement efforts to eliminate poverty and poverty-related human, social and environmental problems in the United States by encouraging and enabling persons from all walks of life and all age groups, including elderly and retired Americans, to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems."

Translated into English, the program can do almost anything those in control wish, so

long as it is cloaked in the claim that poverty is being fought.

There may not be another agency in the Federal government where the political pendulum swung further last Election Day. I am a conservative Republican from North Carolina. My predecessor as Director, Marge Tabankin, won her political spurs on the radical fringes of the anti-war movement. In May 1972 at the height of the Vietnam War, she traveled to Hanoi, where she participated in a press conference denouncing supposed war crimes by the United States. Upon her return, she continued to work with other radicals such as Jane Fonda and Tom Hayden to undermine U.S. efforts to save South Vietnam from a Communist takeover.

Miss Tabankin's official "Biographical Sketch" used while she was Director of VISTA said that she "has devoted most of her adult life to community organization. She was a fellow of the Saul Alinsky School of Community Organization in Chicago . . . ."

Over the last four years, the VISTA program funded and supplied volunteers to numerous left-wing groups which adhered to the Saul Alinsky—Marge Tabankin philosophy of community organizing. A few examples include ACORN, the National Center for Urban Ethnic Affairs, the Gray Panthers, the California Action and Information Network (known as CHAIN) and the Radio Free Georgia Broadcasting Foundation, Inc.

VISTA's own records describe other projects still under way or only recently closed as follows:

"Developing advocacy programs; equipping poor people with the knowledge and proper perspective necessary to organize and bring about social changes; acting as change agents at the local level; expanding 5-county area to organize around welfare rights issues; fundraising; disseminating information on legislation; training leaders."

"To organize in the Northeast side of Chicago a volunteer self-help group; a not for profit housing corporation; and tenants groups to combat slum landlords."

"Consumer/ecology advocacy. Research issues, assist community groups and disseminate information pertinent to prevent consumer injustices throughout the state, rural non-industrial area."

I want to point out that not all VISTA projects are confrontational in nature and based on the leftist community organizing theory. Quite a few are doing unobjectionable work. But over the last four years, far too many projects were set up which seem primarily designed to fit the community organizing mold. Whether or not the statutory mandate requiring VISTA to address the problems of poverty is fulfilled by such activities is, at best, highly debatable. Were Miss Tabankin here, I am sure she would argue vigorously in support of her theories on community organizing. My view is that people should be thought of as individuals with individual problems, rather than as faceless masses to be organized and manipulated to serve some ideology.

The second question to be addressed is whether VISTA is cost effective. In one sense the answer is clearly "yes." It mobilizes over 4,000 people to work in communities all over America for poverty-level pay. Its bureaucracy is relatively small. Compared to numerous other governmental programs, it appears to be inexpensive.

However, in the larger, more important view, there is scant evidence that it has made any serious dent in the problems of poverty. According to the Bureau of the Census, there were 24.1 million poor people in this country in 1969 and 25.2 million ten years later, an increase of 1.1 million. You will recall that the Johnson Administration's broad array of social programs were supposed to wipe out poverty. It hasn't happened; and more than 400 million tax dollars have been spent just on VISTA since its inception.

A strong, growing economy with inflation under control will do more to reduce poverty in America—and do it quickly—than all the social engineering projects conceived or yet to be conceived by the federal government. The Reagan Administration's economic package of budget and tax cuts is designed to free the productive impulses of the American people so that through work and savings, all of us will have a chance to improve our economic status.

Finally, we should ask whether the activities of the VISTA program are appropriate for the federal government.

I believe the answer is "no." One serious problem is that its mission is too broadly defined in the authorization legislation. Each time the party in power changes, the new Director has virtually a free hand in remolding the program to suit his or her vision of the world. I have given you some information on what happened during the last Administration, and I can assure you that I am working hard to redirect VISTA during the phase-out period. Yet I have strong reservations about any appointed official having so much discretion over a mechanism which can be very damaging to local communities if misused.

Paradoxically, my other reservation on the wisdom of such a program stems from the lack of control a Director has over the activities of individual VISTA volunteers and their sponsoring organizations. When a sponsor is chosen, VISTA signs a twelve-month contract with it which can be terminated only if there is clear evidence of a violation of the statutes, regulations or national VISTA policies. One very vivid example of the problem occurred a couple of weeks ago when a volunteer working on a tenant organizing project told me, "The only way you can get a landlord's attention is to organize a demonstration in front of his house on Sunday morning." Incredibly, there is nothing I can do for the foreseeable future to prevent this man, who is totally supported by federal funds, from continuing to organize such demonstration. VISTA regulations in effect when I was appointed permit such demonstrations so long as they are nonviolent; and it will be another four months before the cumbersome process of changing the regulations can be completed.

Equally disturbing is the total lack of control local communities have over the activities of VISTA volunteers working there. Even though the Governor of a state can veto a project using VISTA volunteers within forty-five days of being notified of the proposal to set such a project up, this power is seldom exercised. On a number of occasions a group of VISTA volunteers have begun work in a small town and quickly antagonized the local citizenry. Yet when the complaint comes into the national office, we must reply that there is nothing we can do, unless there is clear evidence of wrongdoing by a specific volunteer, until the one-year agreement expires. Furthermore, if the federal officials in charge of the program are unsympathetic to the complaints, the project—and the problems it creates—may continue for several years.

If a state or city wishes to pay people a poverty-level living allowance to work full-time on the problems of the poor, I have no objection. In fact, I understand that legislation has already been introduced in at least one state to set up such a program. However, I am convinced that local control is essential.

The Reagan Administration's proposal to phase out VISTA is now pending in Congress, and both houses will be considering it in the next few weeks.

If the President's proposal passes, it will be one measured step toward the "new beginning" that our nation demanded last November 4th.

THE COMMITTEE RATIO RACKET: A HISTORY OF MALAPPORTIONMENT, 1911-81

(Mr. BAILEY of Missouri asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAILEY of Missouri. Mr. Speaker, the stacking of House committees to achieve what is euphemistically called firm working majorities is not a new issue but continues to violate old principles. That such a blatantly inequitable system even evolved in this seat of democracy is ironic and beyond justification. Yet it did and it is getting worse.

As a freshman strongly committed to the principle of one person—one vote, I was deeply disturbed to learn of the inequitable procedures used to apportion committee assignments among the majority and minority parties in this House.

Everyone has a stake in the issue of committee ratios. Current House committee apportionment purely and simply denies minority party Members of their proportionately equal vote on standing committees. It precludes minority Members of a fair opportunity to be elected to those committees. And, more to the point, it robs the American voters of their fundamental right to have the time-honored and judicially mandated principle of one person—one vote prevail in the committees of this House.

For the next 2 days, I will continue to explore the issue of committee ratios in depth. My segment today will cover the historical evolution of House committee apportionment.

In succeeding days, I will attempt to demonstrate why committee apportionment should be of equal concern to all Members, regardless of party affiliation. And in my final segment, I will discuss means of reform for a practice which must be recognized as nothing less than anachronistic, unjust, and backdoor discrimination against the voters of this Nation.

I should note, Mr. Speaker, that the statistics employed in my presentation were derived from data compiled by the excellent staff of the Library of Congress. When using statistics, the

figures are based on data at the beginning of each Congress, and Delegates and the Resident Commissioner were counted in committee statistics only for those Congresses in which they held committee voting privileges. As with most statistics there are, of course, alternative methods which could be used to arrive at the various figures. The statistics are less important than the principle involved and the actual trends. However, numbers often help give perspective so I have used them as illustrative aids.

COMMITTEE RATIOS: EARLY EVOLUTION

The Constitution reserves the determination of committee ratios to Congress under article I, section 5, which provides that "Each house may determine the rules of its proceedings * * *." From the early days of Congress in 1789 until 1911, the Speaker, under a rule of the House, was authorized to make committee appointments "unless otherwise specifically directed by the House."

On April 5, 1911, the House revised its rules and transferred the authority to name Members to standing committees from the Speaker to the House at large. As practice envolved, the Democrats and Republicans assigned committee slots through a party committee on committees and nominations for standing committees were submitted to the respective party caucuses. This longstanding but informal role of party caucuses was made a part of the House rules on January 3, 1975, which now require that all nominations to standing committees be submitted by the respective party caucuses.

GOODWILL AND NEGOTIATION

The April 1911 reforms did not set forth a mathematical formula to allocate committee seats between majority and minority parties. Such a determination was left to the goodwill and fairness of the party in power; by and large, until the 92d Congress (1971), the system worked without a great deal of complaint. At the beginning of each Congress, the majority and minority leadership met and through informal negotiations reached ratios which provoked little controversy.

This system of determining committee apportionment essentially lasted until 1971. Cannon's Procedures for House precedents prior to 1959 states, "the ratio between majority and minority parties on standing committees * * * is fixed by the majority committee on committees." Later, Deschler's Procedures, which details the modern precedents and practices of the House from the 86th to the 95th Congress, notes that, "In both the House and Senate, the party ratios on standing committees tend to reflect the relative membership of the two parties in the House and Senate as a whole."

Was Deschler right? The answer is "partially."

COMMITTEE RATIOS: NOT MUCH COMPLAINT 1911–46

From the 62d through the 79th Congress, the apportionment trends varied. Of these 18 Congresses, the Democrats were in the majority 12 times. During those Democratic Congresses, the majority was overrepresented in terms of total committee seats for eight Congresses, ranging from a minor factor of 0.91 percent to a significant 7.83 percent. Also during the 12 Democratic Congresses between 1911 and 1946, the Republicans were underrepresented on Appropriations and Ways and Means for 6 of the 12 Congresses and on Rules for a total of 8 Congresses. Democratic overrepresentation on these three powerful committees ranged as high as 16 percent on Rules, 12 percent on Ways and Means, and 9 percent on Appropriations. Indeed, inequitable treatment of the Republicans in the 64th Congress led one of our former colleagues to despair in 1916:

Such disproportion (in committee assignments), even if technically justified, is unfortunate, for it is likely to minimize, if it does not absolutely destroy, the wholesome influence of a vigilant opposition.

The Republicans were in majority for six continuous Congresses, 66th through 71st, during this period lasting from 1919 to 1931. During five of those six Congresses, the Republicans undercounted the Democrats in terms of overall committee seats by amounts ranging from 2.55 percent (69th) to 6.75 percent (70th) and shortchanged the minority on Appropriations, Rules, and Ways and Means every Congress except the 67th and 71st. In the 67th Congress, the Republicans allowed the Democrats overrepresentation on Appropriations, Rules, and Ways and Means, but given the broad Republican majority in the 67th Congress, 302 to 131, the Republicans were still able to retain a 2-to-1 minus 1 ratio on Appropriations, a 2-to-1 ratio on Rules, and a 2-to-1 plus 1 ratio on Ways and Means.

THE MORE YOU GOT, THE MORE YOU CAN GIVE

As the 67th Congress highlights, one distinctive trend during the period from the committee reforms of 1911 until 1946 was that the greater the majority in the House, the more magnanimous the majority party was in terms of committee ratios. For instance, in the 65th Congress (1917–19), the Democrats held a narrow margin of 219 to 214. During that Congress, the Democratic leadership assigned Democratic Members 7.83 percent more committee seats than proportionately correct and overrepresented Democrats by 16.09 percent on Rules, 11.32 percent on Ways and Means, and 6.56 percent on Appropriations.

By the 75th Congress, however, the Democrats held a comfortable edge of 255 House seats, actually undercounted their overall committee seats by 6.32 percent, and undercounted their number of seats on Appropriations, Rules, and Ways and Means by nearly 8 percent each. Indeed, the minority was technically overrepresented on every committee in the 75th Congress.

As noted, the Republicans had demonstrated similar, although not quite as pervasive, generosity in the 67th Congress when they held the House by a margin of 171 seats.

FIXED RATIOS

One other factor of significance in the Congresses between 1911 and 1946 was the tendency to retain fixed ratios on the three powerful committees of Appropriations, Rules, and Ways and Means. During 8 of those 18 Congresses, Appropriations held a ratio of 3 to 2 despite clear changes in the overall party ratios in the House. Likewise, Ways and Means stood at a 3-to-2 ratio for 10 of those Congresses and Rules was fixed at a 2-to-1 ratio for 10 of the 18 Congresses.

COMMITTEE RATIOS: PEACE AND PARTISANSHIP FROM POSTWAR TO 91ST CONGRESS

Although the House Select Committee on Committees noted in its final report in April 1980, that committee ratios between 1947 and 1975, 80th to 93d Congresses, "generally approximated the overall party division in the House," a look at the actual ratios on specific committees and for selective Congresses demonstrates clear inequities.

During the 80th Congress (1947), when the GOP was in majority and the 81st (1949) when the Democrats held sway, overall committee ratios and the ratios on Appropriations, Rules, and Ways and Means were fairly representative. However, for the 82d Congress (1951) through the 85th Congress (1957), discrimination against the minority party became the norm.

WHAT'S SAUCE FOR THE GOOSE

In the 80th Congress the Republicans held the House by a 57-seat margin. In the 81st Congress the Democrats held the House by a 92-seat margin. But by the 82d Congress, the Democratic edge had fallen to 36 seats and insecurity set in. Indeed, in the 82d Congress, the minority was underrepresented on all standing committees except Post Office and Civil Service, a disparity record unmatched in the prior years save for the 65th Congress when the Democrats held only a five-seat margin and the 72d Congress when the Democrates held a bare seven-seat margin. It should be noted, however, that on 7 of the 19 82d Congress committees, the underrepresentation was less than 1½ percent.

Since World War II, the Republicans have controlled the House only two times: the 80th Congress (1947) and the 83d Congress (1953). In the 80th Congress, the Republicans held an edge over the Democrats of 245 to

188 or a ratio of 0.57 to 0.43 and treated the Democrats very well on committee apportionment. On six committees the Republicans allowed the Democrats an excess of representation. On all other committees except Rules, Democratic underrepresentation was less than 4 percent. And on Rules, the Democrats were undercounted by 9.89 percent. The overall underrepresentation of Democrats on committees in the 80th Congress, 1st session totaled 1.69 percent.

However, after unfair treatment at the hands of the Democrats in the 82d Congress, when the Republicans regained the House in the 83d Congress, the GOP apparently decided that there was not much mileage in being good guys. The overall undercount of Democrats on House committees in 1953 was 4.25 percent. Democrats were underrepresented on Appropriations and Ways and Means by nearly 9 percent and on eight other committees by 4 to 5 percent. On Rules, the Republicans adopted a 2-to-1 ratio leaving the Democrats undercounted by over 15 percent. Indeed, on the basis of "what's sauce for the goose," the Republicans technically shortchanged the Democrats on all standing committees in the 83d Congress except for Merchant Marine and Fisheries.

In the 84th and 85th Congresses, the Democrats insured majority control of Appropriations and Ways and Means with Republicans underrepresented by 6 percent on both committees in both Congresses and undercounted the Republican seats on Rules by 13 percent in both Congresses. The minority was technically underrepresented on all other standing committees in these Congresses except Foreign Affairs. Indeed in the 85th Congress the Democrats undercounted the Republicans by a total of 14 committee slots.

ERA OF GOOD FEELING: 86TH TO 89TH CONGRESSES

Then in 1959 with the opening of the 86th Congress, committee ratios became more equal. The reason was simple. Like the 75th Congress where the Democrats held a broad majority, the Democratic Party also held significant margins in the 86th, 87th, 88th, and 89th Congresses ranging from a high of 155 seats—89th—to a low of 81 seats—88th. These majorities compare to the narrow 33-seat margin that the Democrats held in the preceding 85th Congress. Indeed, the Democrats would not again enjoy margins as high as those of the 86th to 89th Congresses until the 94th Congress—1975—when they leaped up to a margin of 145 seats. The Democrats comfortable control of the House during this period led to an era of good feeling when assigning the number of committee seats to the minority.

In the 86th Congress the Republicans had minus percentage factors on only four committees—Education and Labor, Foreign Affairs, Judiciary, and Rules—but the loss was only 2 percent or less. From the 86th—1957—through the 89th—1965—Congresses, Republicans were either overrepresented or underrepresented by less than 1 percent on the key committees of Appropriations and Ways and Means, while on Rules, the minority was underrepresented by 1.76 percent—86th—6.58 percent—87th—and 7.36 percent—88th. In the 89th Congress, Republicans were actually overcounted on Rules by a factor of 1.15 percent.

During this same period, the minority also received favorable weight in a number of committees in excess of their actual representation in the House as a whole. While in the 82d (1951) through 85th (1957) Congresses, the committees weighed favorably toward the minority numbered 1 per Congress, with the 86th Congress (1959) the minority received favorable weight on 16 of the 20 standing committees of the House. In the 87th Congress (1961), the Republicans had plus percentage factors on 14 committees, in the 88th (1963) on 7 committees, and in the 89th (1965) on 12 committees. In terms of overall committee seats this favorable treatment of the minority resulted in assignment of eight additional committee slots in the 86th Congress over and above what the Republicans could have proportionally hoped for, and one additional such seat in both the 87th and 89th Congresses. In the 88th Congress, the Republicans were shortchanged only two committee seats.

This "era of good feelings" began to decline with the 90th Congress (1967) after the Democrats suffered a net loss of 47 seats in the 1966 elections. In the 90th and 91st Congresses, and holding a narrower margin in the House, the Democrats again asserted full control over Appropriations, Rules, and Ways and Means with the minority firmly underrepresented on Rules by a factor of about 10 percent. The Democrats shortchanged the minority by a total of four committee seats in the 90th Congress and seven seats in the 91st. The 89th Congress (1965) was the last time the Republicans received equitable assignment in terms of overall committee seats.

COMMITTEE RATIOS: 92D AND 93D CONGRESSES ENTER "KING CAUCUS"

As noted earlier, beginning in 1911 committee apportionments had been determined at the beginning of each Congress with consultations and negotiation with the minority leadership. Three committees—Appropriations, Rules, and Ways and Means—were less sensitive to changes in the partisan composition of the House, and from 1911 (62d Congress) through 1973 (93d Congress), the ratios on these committees generally remained the same despite changes in party membership in the House. Notable exceptions can be found, but for the most part Appropriations and Ways and Means were generally 3 to 2 in favor of the majority, and Rules held a 2-to-1 ratio. Indeed, for the 32 Congresses between 1911 and 1973, a 3-to-2 ratio prevailed on Appropriations for 18 Congresses, a 2-to-1 ratio was maintained on Rules for 24 of these Congresses, and a 3-to-2 ratio was held on Ways and Means for 23 of the Congresses.

Since 1911, the other standing committees had tended to oscillate from underrepresentation to overrepresentation with the Congress, except for those committees which by House rule were fixed at a permanent 50–50 ratio.

In 1971, however, the House Democratic Caucus, holding a firm margin of 75 seats in the House, moved unilaterally to abandon the traditional practice of adjusting committee ratios at the beginning of each Congress to more reflect electoral changes from the preceding Congress. The Democrats decided in this landmark year that regardless of the margin of the majority and minority in the House as a whole, ratios on the critical Committees of Appropriations, Rules, and Ways and Means would be set at 2 to 1 and all other committees would never be less than 3 to 2.

One would have thought that this unprecedented decision by the Democratic Caucus would have raised a huge hue and cry, but no objection was raised on the record by the Republicans at the time.

The reasons were two. First, the 1971 decision of the Democratic Caucus had little immediate practical impact as the majority-minority ratio in the House at large for the 92d Congress was already nearly 3 to 2 (255 to 180) and steadily declined to 2 to 1 (290 to 145) by the 94th Congress. Second, the Democrats introduced the changes incrementally, and waited until 1975 (94th Congress) when Republican strength in the House had fallen to 33 percent, to permanently re-aline ratios.

The Republican silence, however, was short lived.

By the 93d Congress minority concern over the Democratic Caucus decision to permanently fix committee ratios began to intensify. The ratio of Democrats to Republicans in the 93d was 0.56 to 0.44, or 243 to 192. The ratio on Appropriations and Ways and Means, however, was fixed at 3 to 2 and Rules was at 2 to 1. In the terms of overall committee seats, the Democrats shortchanged the minority by a total of nine seats, the largest undercount since the 85th Congress.

During the 93d Congress a select committee, under the chairmanship of the Honorable RICHARD BOLLING, was established to study the House committee system and report reform recommendations to the House. As part

of this process, in May 1973 then Minority Leader Gerald Ford proposed that majority-minority ratios on committees should demonstrate strict adherence to the mathematical ratio of the two parties in the House with exceptions only for such committees as Rules and Standards of Official Conduct. This proposal was not included in the Bolling committee recommendations.

In fact, the close of the 93d Congress brought even greater discriminatory ratios. At an organizational meeting for the 94th Congress in December 1974, the Democratic Caucus by voice vote decided that all House committees, except Standards of Official Conduct, would be set at a 2-to-1 plus 1 ratio or not less than 67.2 percent. Such drastically inequitable ratios had never prevailed before.

COMMITTEE RATIOS: 94TH TO 96TH CONGRESS—THE NEW MATH 2 TO 1 PLUS 1

In the 94th Congress, Republican strength fell dramatically with a net loss of 47 seats compared to the 93d. The overall ratio of Democrats to Republicans in January 1975 was 290 to 145 or an even 2 to 1.

The December 1974 Democratic Caucus meeting referred to above took note of this great electoral victory but was not content with even this 2-to-1 majority. As a result, every standing committee in the 94th Congress reflected a 2-to-1 plus 1 ratio.

For the first time in the postwar period, the minority party was shortchanged on every standing committee. And to make matters worse, the 2-to-1 plus 1 rule was imposed by the Democrats on many subcommittees and conference committees.

Moreover, the longstanding tradition of 3-to-2 ratios on Appropriations and Ways and Means and 2 to 1 on Rules was also abandoned in favor of the 2-to-1 plus 1 arrangement. For 64 years these ratios had generally prevailed only to be wiped out by a single voice vote of a confident majority party.

With the onset of the 95th Congress, the Democrats picked up two more seats outnumbering the Republicans by 292 to 143. Armed with their even greater strength, the majority retained the 2-to-1 plus 1 ratio and on some committees went even further allowing on five committees a 2-to-1 plus 2 ratio and on one committee—Interior—a 2-to-1 plus 4 arrangement. The majority undercounted the Republicans by four committee seats.

The 95th Congress also witnessed abandonment of the traditional designation of standing committees size by House rules. Between the Legislative Reorganization Act of 1946 and January 3, 1975, the size of each committee had been established by House rule. House Resolution 988, the Committee Reform Amendments of 1974, however, removed the numerical size designation from House rules, allowing the Democrats even greater discretion and control over committee composition.

Apparently the Democrats' conscience, possibly chastened by the net loss of 16 seats, was somewhat regained in the 96th Congress as the caucus did not attempt to impose the 2-to-1 plus 1 ratio on all standing committees. The ratio of the House was then 276 to 159 or 0.63 to 0.37. The ratio for Appropriations and Ways and Means was set at 2 to 1 while Budget and Rules retained the 2-to-1 plus 1 ratio. As noted in the April 1980 Select Committee on Committee's report, however, no minority party since the 85th Congress has been as shortchanged in the number of committee seats as were the Republicans, in the 96th Congress. The Democrats had shortchanged the minority by a total of 10 committee seats.

COMMITTEE RATIOS: THE 97TH CONGRESS—BAD NEWS

With the Republicans' electoral sweep in the November 1980 elections, House Democrats awoke to find that they had lost 33 House seats from those held in the 96th Congress. The Republicans held 192 or 44 percent of the seats and the Democrats held 56 percent or 243 seats. The Democratic Caucus response was to reiterate its landmark break from tradition in 1971 and reestablish that the ratio of each committee would be minimum of three Democrats for each two Republicans while the ratio of Democrats to Republicans on Appropriations, Budgets, Rules, and Ways and Means would be at least 2 to 1.

The chart below details how the actual ratios stood at the beginning of the 97th Congress. Republicans were under counted by two committee slots each on Appropriations and Rules, by one seat on Budget, by one seat on Education and Labor, by two seats on Interior, and by three seats on Ways and Means. The only committee on which the minority was allowed a seat in excess of proportional ratios was Veterans' Affairs.

The Republicans, therefore, were shortchanged by at least 10 seats at the beginning of the 97th Congress—the same amount as the 96th Congress despite their net gain of 33 House seats.

Appropriations and Budget were fixed at a 3-to-2 ratio in favor of the majority, Rules was set at 2-to-1 plus 1, and Ways and Means was fixed at 2-to-1. In terms of overall committee undercount, the Republicans were underrepresented by a factor of 2.72 percent at the beginning of the 97th Congress—the highest percentage undercount of the minority since the 84th Congress. Also, despite the gain of 33 seats in the 97th, the Republicans were undercounted by the same number of seats on Appropriations and Budget Committees as they were in the 96th and were more undercounted on Rules and Ways and Means.

Such were and are the inequities of the 97th Congress. The ratios are clearly skewed for one purpose and one purpose only: To give the majority undue control over money matters, budget ceilings, legislative flow, and taxes. Such control directly counters the effective will of the people as expressed at the polls. No matter how the American public votes, their will can be effectively thwarted in the committees of this House.

HOUSE AND COMMITTEE RATIOS: 97TH CONGRESS (1981–83) [1]

	Number of seats	Distribution of seats				Percentage minority on committee compared to percentage minority in House	Committee seat distribution most closely approximating House ratio [2]	
		Number		Percentage				
		Democrat	Republican	Democrat	Republican		Democrat	Republican
Seats in the House	[3] 435	243	192	55.86	44.14			
Committee seats	759	444	315	58.58	41.42	−2.72		
Agriculture	43	24	19	55.81	44.19	+.05	25	19
Appropriations	55	33	22	60.00	40.00	−4.14	31	24
Armed Services	[4] 45	[4] 26	19	57.78	42.22	−1.92	26	19
Banking, Finance and Urban Affairs	[4] 45	[4] 26	19	57.78	42.22	−1.92	26	19
Budget	30	18	12	60.00	40.00	−4.14	17	13
District of Columbia	[5] 15	[5] 9	[6] 6	60.00	40.00	−4.14	9	6
Education and Labor	[7] 34	[7] 20	14	58.82	41.18	−2.96	19	15
Energy and Commerce	42	24	18	57.14	42.86	−1.28	24	18
Foreign Affairs	37	21	16	56.76	43.24	−.90	21	16
Government Operations	40	23	17	57.50	42.50	−1.64	23	17
House Administration	19	11	8	57.89	42.11	−2.03	11	8
Interior and Insular Affairs	[8] 42	[8] 26	16	61.90	38.10	−4.61	24	18
Judiciary	28	16	12	57.14	42.86	−1.28	16	12

HOUSE AND COMMITTEE RATIOS: 97TH CONGRESS (1981–83) [1]—Continued

	Number of seats	Distribution of seats				Percentage minority on committee compared to percentage minority in House	Committee seat distribution most closely approximating House ratio [2]	
		Number		Percentage				
		Democrat	Republican	Democrat	Republican		Democrat	Republican
Merchant Marine and Fisheries	[9] 36	[9] 21	15	58.33	41.67	−2.47	21	15
Post Office and Civil Service	[6] [9] [10] 27	[6] [9] 16	[10] 11	59.26	40.74	−3.40	16	11
Public Works and Transportation	[11] 46	[11] 27	19	58.70	41.30	−2.84	27	19
Rules	16	11	5	68.75	31.25	−12.89	9	7
Science and Technology	40	23	17	57.50	42.50	−1.64	23	17
Small Business	[10] 40	23	[10] 17	57.50	42.50	−1.64	23	17
Standards of Conduct	[12] 12	6	6	50.00	50.00	+3.16	7	5
Veterans' Affairs	[10] 31	17	[10] 14	54.84	45.16	+1.02	18	13
Ways and Means	35	23	12	65.71	34.29	−9.85	20	15

[1] Ratios as of beginning 97th Congress. [2] The ratio indicated is based upon the presumption that the size of the committee remains unchanged and is the distribution that most closely reflects the House ratio, but does not underrepresent the majority party. Accordingly, figures were rounded off to the nearest highest whole number of majority party members. [3] Additionally 1 voting Democratic Resident Commissioner, and 4 Delegates. [4] Includes 1 voting Democratic Delegate and 1 vacancy. [5] Includes 1 voting Democratic Delegate and 3 vacancies. [6] Includes 2 vacancies. [7] Includes 1 voting Democratic (New Progressive) Resident Commissioner. [8] Includes 1 Democratic (New Progressive) Resident Commissioner and 2 Democratic Delegates. [9] Includes 1 voting Democratic Delegate. [10] Includes 1 vacancy. [11] Includes 2 voting Democratic Delegates. [12] Equal division provided in House Rules.

Sources: Washington Monitor, Inc. Congressional Yellow Book. February 13, 1981. U.S. Congress. House. Clerk of the House. List of Standing Committees and Select Committees of the House of Representatives together with Joint Committees of the Congress. Prepared under the direction of the clerk of the House. Washington, U.S. Government Printing Office, 97th Congress. March 25, 1981.

□ 1700

EQUAL AND APPROPRIATE EDUCATION FOR HANDICAPPED CHILDREN

The SPEAKER pro tempore (Mr. MURTHA). Under a previous order of the House, the gentlewoman from California (Ms. FIEDLER) is recognized for 60 minutes.

GENERAL LEAVE

Ms. FIEDLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. FIEDLER. Mr. Speaker, not very long ago, the handicapped children of this Nation were the forgotten children in our public schools. Diagnosed incorrectly, placed in segregated classrooms and provided inadequate instruction, they were, in effect, discouraged from attending school at all to the quiet anguish of their families.

At first, State laws urged, but did not require, standards for education for the handicapped. When those laws proved ineffective, some mandatory State laws were passed. But adequate funds were not appropriated.

Parents then turned to the courts, and a pattern of court decisions and State legislative actions emerged. This led to congressional recognition of a national problem and recongnition of the Federal Government's responsibility to protect the fundamental rights of the handicapped student.

Public Law 94-142, passed in 1975, established our national commitment to give every child, even the most severely handicapped, the learning opportunities he or she needs to become as self-sufficent and productive as possible. It is important in both the symbol and the letter of the law—as a civil right statute and as a grant program.

Public Law 94-142 authorized State and local grants for excess costs of special education. It also required that States comply with four critical protections: First, a free and appropriate education for each child; second, with an individualized program; third, in the least restrictive environment; and fourth, with appropriate due process procedures for parents.

As a member of the Los Angeles School Board, I had the opportunity to work on special education programs to meet the goals of Public Law 94-142. Establishing the first special education commission of its kind in the country, we worked with Public Law 94-142 and brought parents, teachers, and community together to improve the special education program.

We have come a long way since 1975, but not far enough. Because of Public Law 94-142, almost 4 million children are receiving special education, geared to individual educational plans. Parents and local districts, districts and States are working in close partnership to improve the law and make changes where they are needed—within the flexible framework of public law 94-142. The strides we have taken are only the beginning of the process, and we must continue the cooperative efforts made possible by the very structure of Public Law 94-142.

Let us recognize the progress we have made and maintain, at all levels—Federal, State and local—our commitment to equal and appropriate education for handicapped children. If we do not, I fear they will be forgotten again too easily.

Mr. MURPHY. Mr. Speaker, as chairman of the House Subcommittee on Select Education, I wish to reaffirm my support for the maintenance of the essential provisions of Public Law 94-142, the Education for All Handicapped Children Act, which is under the jurisdiction of my subcommittee. Public Law 94-142 has been a critical factor in assuring that nearly 4 million handicapped children have the right to a "free, appropriate public education." Not only has this act confirmed our country's national interest in providing uniformly for the needs of these children, but Public Law 94-142 has also financially assisted the States in meeting these needs.

Presently this act faces severe cutbacks due to the results of the conference on the first budget resolution. Ironically, some of my colleagues expressing support for Public Law 94-142 today, voted for Gramm-Latta last month. However, given the already severe financial restrictions, Public Law 94-142 now faces possible repeal by the administration's proposal to place these drastically reduced funds in the education block grant.

Nearly a decade of progress in protecting the rights of handicapped children is seriously threatened. The right to an education, procedural safeguards, least restrictive environment, related services, and individualized education plans would be left to the discretion of the State or to litigation under the proposed block grant. The lack of earmarked Federal funds would force special education to compete at the State and local level for funds already cut severely by the 1981 rescissions and the restrictions imposed by the budget resolution. Furthermore, Federal funds could be substituted for State and local revenues which would result in further reductions in special education services.

The administration has told us that this block grant will reduce administrative costs and provide States with increased flexibility for educational decisionmaking. But, we have yet to hear the administration address the question of what impact this proposal will have on services for handicapped children. We cannot begin to adequately fund services as prescribed by the first budget resolution. Do we face fewer services for some children or decreased quality education for all children? Does it mean more litigation by

parents whose children may once again be excluded from public education and institutionalized? We cannot have it both ways. Either we fund Public Law 94-142 at levels greater than the majority of this House mandated a few weeks ago and oppose block grants or we step backwards from the accomplishments begun by the Federal Government for the States, and for public education.

I personally will continue to oppose block grants and criticize the insensitive guidelines of the first budget resolution. We are passing through a most dangerous time when many handicapped, middle-income and disadvantaged persons will suffer because of the severe reductions in funding and the proposed repeal of programs such as Public Law 94-142 through its inclusion in the block grant. I can at least say with pride that I fought to maintain the democratic principles which created sound programs and made America a better place in which to live.

Mr. ERDAHL. Mr. Speaker, in passing Public Law 94-142, the Education of All Handicapped Children Act, in November 1975, Congress recognized the rights of handicapped children to a free appropriate public education. It also recognized the need to provide targeted fiscal incentives for States to improve and expand their services to handicapped children. The statute paralleled and reinforced laws already enacted in many States. It received broad-based support from parents of handicapped children, State and local professional organizations, State officials, and Members of Congress.

Now, I sense we are at turning point—a redefinition of the Federal role for public education. Therefore, it is appropriate that we spend time to examine the Federal role across all federally funded education programs. I do not think that Public Law 94-142 should be exempt from such a review. In the past 6 years States have made a dramatic progress in responding to the needs of handicapped children, and such progress should be acknowledged and rewarded. With shrinking Federal dollars for education, States should be given increased discretion over the use of Federal funds for education of handicapped children; States should be relieved of counterproductive administrative requirements associated with Public Law 94-142. However, such discretion and relief should not, must not compromise the original intent of Public Law 94-142—making available a free appropriate public education with the necessary safeguards to each handicapped child in the Nation.

In order to achieve an equitable solution, the regulations for Public Law 94-142 and the statute itself require a careful review by knowledgeable persons. I believe there is a willingness and commitment among many groups to participate in such a review process, that there is consensus that changes in the regulations and statute are warranted at this time, and even that there are broad areas of agreement over what changes would be most effective. I urge my colleagues to support a thorough analysis of Public Law 94-142 before endorsing statutory changes.

Given the support for a thorough review of Public Law 94-142, it would be totally irresponsible to preempt such an activity by amending or repealing the statute through reconciliation. I am pleased to report that the minority members of the Education and Labor Committee unanimously supported the continuation of Public Law 94-142 as an independent authorization at this time in the recommendations on reconciliation sent to the minority leader, Mr. MICHEL. The minority members also recommended an authorization of $1.108 billion for the Education of the Handicapped Act in the minority substitute offered in the Education and Labor Committee on June 10. Today in a full committee meeting, the committee's recommendations on reconciliation pertaining to education programs for the handicapped included increased funds to match the figure offered by Republicans last week.

Our colleagues in the Senate have also endorsed continuing Public Law 94-142 as a separate authorization at this time. Thus, once again, bipartisan support for handicapped children and their right to a free appropriate education have been affirmed; and after approximately 5½ years experience with Public Law 94-142 we can work with parents, teachers, and administrators to explore the merits—and the disadvantages—associated with the statute. The reconciliation process has served as a catalyst in the development of many proposals to modify Public Law 94-142. As Members of Congress, we can use the mechanisms at our disposal to obtain input on these proposals from our constituents and to consider statutory modifications. Such potential modifications will take time, careful analyses, and cooperation. Parents of handicapped children expect us to act judiciously and to continue our bipartisan commitment to their children. Administrators and teachers ask us for additional funds for and administrative relief from Federal regulatory and statutory requirements related to Public Law 94-142. We must address both parental expectations and the concerns of school personnel. Revisions in the statute must be based firmly on their collective input. Through such input we will be able to develop an equitable balance between the rights of children and an effective use of available resources. We can achieve such a balance, we must achieve such a balance, but such a balance would be elusive if Public Law 94-142 were placed in a block grant. Supporting educational programs for handicapped children has been and should continue to be a national priority. Working together we can assure that is the case. Thank you Mr. Speaker.

● Mr. SMITH of New Jersey. Mr. Speaker, in 1975 the Congress enacted Public Law 94-142, which mandated the States, by no later than September 1, 1978, to provide a free adequate public education for all handicapped persons between the ages of 3 and 21. The States had until September 1, 1980, to provide special training, for those who needed it.

In the 1979-80 school year, the States spent over $5 billion on handicapped education. Of this, the Federal Government provided only some $804 million under Public Law 94-142.

When this legislation was enacted the States were told that they could expect some 40 percent of the costs to be paid by the Federal Government. The actual average has been some 12 percent.

In the 1979-80 school year, the last we have full figures for:

There were some 8 million handicapped in the age group 3 to 21. Of these some 3.9 million were getting the required education;

Only about 40 percent of the States were in compliance with the law;

The cost of converting school facilities—that is, physical conversion—the most expensive part of educating the handicapped, had never been covered by Federal appropriations.

The proposed budget for Public Law 94-142 was to be $922 million. That is now $691 million, which is to be included in the proposed block grant for health.

The purposes of Public Law 94-142 are very good ones, Mr. Speaker. I support this act, and this concept. I want to get as much funding as possible to assist the handicapped. I think this program of helping those to help themselves is very, very helpful to America.

However, I want to tighten up some administrative aspects. For instance,

We did not have any idea how many were to be covered under this act when it was passed in 1975. The estimates, made in 1977, may still be incorrect, according to the Department of Health and Human Services.

There is no full accounting of the estimated 4.1 million handicapped youth not covered in this education program;

The Federal Government has not lived up to its original commitment.

I want to preserve the purposes and intent of Public Law 94-142. I commend Congresswoman FIEDLER for her interest and concern; I am happy she arranged this special order.

I want to preserve the purpose and thrust of Public Law 94-142, however this is done. I favor adequate funding for the assistance to the handicapped. I would like us in this House to make such funding one of our priorities. We have to pick and choose, I know. Let us do this very carefully. Aiding the handicapped is one of our best and successful of programs. I take the opportunity of this special order to make known my own commitment, and to ask others to share in this commitment.●

● Mr. BEDELL. Mr. Speaker, I join my colleagues today in this special order of the House on the discussion of the importance of Public Law 94-142, the Education for All Handicapped Children Act, not because I have any new statistics or beautiful prose, but because of a silent tear that I have felt as I have read the hundreds of letters from handicapped children, parents of handicapped children, and local educators. Never before in the 7 years that I have been in the Congress have I received letters that have had such impact on me. Literally, these letters are a crying out of the heart of America.

Mr. Speaker, Public Law 94-142 strives to return to the classroom the millions of handicapped children who were disabled, not so much by their handicaps, but by the obstacles that prevented their participation in public and private education. Proponents of the repeal of this legislation argue that local education administrators know the needs of their local school districts and will meet the needs of the handicapped students more effectively. However, this act was created because many local school districts were not meeting the needs of the handicapped students.

I cannot believe that the needs of handicapped children will be met by turning over less money to States and localities with no accountability, no priorities, and no directions. For many of my colleagues that may have forgotten, or for the benefit of those of you who were not in Congress in July of 1975 when this act was adopted, let me recall some of the statistics that were presented to the Congress at that time regarding the educational services that were being provided to handicapped students before this act.

The U.S. Office of Education informed Congress in 1975 that of the estimated 8 million handicapped students, nearly 4 million handicapped children were receiving inadequate or no educational services. Only 59 percent of the visually handicapped students were receiving education; just 33 percent of the deaf-blind and other multiple handicapped students were receiving educational services; only 18 percent of the hard of hearing; 72 percent of the crippled and other health impaired; 81 percent of the speech impaired; 12 percent of the learning disabled; and 18 percent of the emotionally disturbed children. Mr. Speaker, 1.75 million handicapped children, or about 1 in 4, were not receiving any education at all in 1975.

Mr. Speaker, the debate over the elimination of Public Law 94-142 is not simply a budget battle. It is a debate over the goals and objectives of this country. It is a debate over the right of handicapped children to an education equal to the education to which other children are entitled. It is a debate about the commitment of this Congress to the educational needs of handicapped children.

Mr. Speaker, the elementary and secondary education consolidation block grant which the administration has proposed repeals title I of the Elementary and Secondary Education Act, the Education of All Handicapped Children Act, and the Emergency School Aid Act. It replaces these widely supported and hard-fought laws with virtually no requirement to meet the educational needs of all handicapped children, no requirement to focus educational services on persons or areas with the greatest need, no citizen participation provisions, and no mandated program priorities. The new block grant would contain no maintenance of effort provision, and just marginal planning and evaluation procedures. And finally, the legislation contains no system for holding States and localities accountable for their expenditures of Federal tax dollars. I find it hard to imagine that States and localities that failed to meet the educational needs of handicapped children before Public Law 94-142 will suddenly, under no accountability, no priorities, and less money, meet their needs.

This Nation's elementary and secondary education system is made up of 50 separate State education agencies, 16,000 local school districts, and many private schools. I think that most of us would like to believe that the schools in our district are of the highest quality and are run by concerned school boards and administrators. Yet within each of the 435 congressional districts there are school districts that are not meeting the needs of handicapped students. Some school districts fail to meet their needs because of the increased financial burden.

The National Educational Finance Project estimated in 1975 that the average cost of educating a handicapped child was 1.9 times that of educating other children. Educating some handicapped children could run as much as 3.69 times greater. Clearly, it is financially draining for a school district to meet the educational needs of what is often a small number of handicapped children. But that does not make their needs any less important. This was a major factor in the debate over this legislation in 1975. Public Law 94-142 states that the Federal funds were to be used to pay the excess costs of educating handicapped children. This was an essential provision of Public Law 94-142 that the local school districts demanded in 1975 and today the need is not less but even greater for this assistance. However, if we repeal this act, local school districts could use Federal educational funds for any purpose. If we are not assisting local school districts to meet particular educational needs as recognized by national goals and objectives then why are Federal funds supplementing local school budgets?

Mr. Speaker, if one could only visit a classroom where Federal funds have provided the extra assistance to a school district to provide education to a visually handicapped child or visit a classroom where a student born with Down's syndrome is being taught to read even simple words, or watch as a speech pathologist works miracles with a 7-year-old girl with a speech impairment, I am confident that they would recognize the value and importance of Public Law 94-142.

Many of these handicapped children with special assistance will learn and grow to participate fully in our society. Other handicapped children will progress more slowly and some may only be able to learn simple functions. Yet with educational training they may be able to improve their lives. It almost makes me cry as I read letters from my constituents which tell about their handicapped child that had little interest in life and activities around them until they were enrolled in a handicapped program at their school. Now their son or daughter is blossoming like a flower. He or she has interest in everything around them and is growing mentally. Their letters continue with the sad but hopeful picture of their son's or daughter's life improving and growing with this special education. While they may not live a normal life, they will live a meaningful life.

I ask you, how could we turn our backs on these children and the parents of these children? Clearly, without a Federal commitment to education for all children, whether they are handicapped or not, we will not see a happy future for the lives of handicapped children after the repeal of Public Law 94-142. And what will the outlook be for handicapped children in the absence of this act? For many, the future will be a State hospital or institution where there care is provided at the expense of the State or Federal Government—an expense that may run several times greater than the cost of educating the children under Public Law 94-142. For other handicapped children it will mean second-rate classrooms and leftover

appropriations if they are lucky, for many of the unlucky handicapped children will return to the days before Public Law 94-142, when they sat at home watching soap operas or staring out the window.

Mr. Speaker, I ask you, how can we turn our backs on these children?●

EDUCATION IMPROVEMENT ACT OF 1981

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 30 minutes.

● Mr. ASHBROOK. Mr. Speaker, I am today introducing a revised version of H.R. 54, the Education Improvement Act of 1981. It revises title I of the Elementary and Secondary Education Act to remove unnecessary Federal regulations, but leaving the structure of assistance for the education of disadvantaged children intact. It then consolidates the remaining titles of ESEA, which authorize 26 separate programs, into a single grant to the States, at least 80 percent of which must be passed on to local school districts.

I am pleased to be joined by my colleagues on the committee: BILL GOODLING, the ranking member on the Subcommittee on Elementary, Secondary and Vocational Education; JIM JEFFORDS, ranking member on the Subcommittee on Employment Opportunities; TOM COLEMAN, ranking member on the Subcommittee on Postsecondary Education; ARLEN ERDAHL, ranking member on the Subcommittee on Select Education, which handles education of the handicapped; LARRY DENARDIS, a hard-working freshman member of the committee with a keen interest in education; as well as by Messrs. MCCLORY, CLAUSEN, LAGOMARSINO, and BOB DANIEL, all senior Republican members who are well informed on education issues.

Mr. Speaker, this bill is aimed squarely at the problem of providing Federal aid for schools without enmeshing them in Federal regulations, controls, and paperwork which contribute nothing to classroom instruction, and in fact is detrimental to it. This bill was redrafted with the advice and assistance of school administrators from a number of States. Without attributing to them any responsibility for the content of the bill, I would like to acknowledge the assistance given to me and to our Education and Labor Committee minority staff in preparing the bill.

First of all, I want to acknowledge the skilled technical assistance of Paul Tayor, director of legislation for the Buckeye Association of School Administrators, in Ohio, and James Miller, director of Federal programs for the Ohio State Department of Education. Also, we received invaluable help from Dr. Willian Lucas, assistant superintendent of schools for Los Angeles, and a committee of the California Association of School Administrators.

In addition, the following individuals from some of our largest school systems went over a final draft with our staff, and many of their suggestions are incorporated in the bill; namely: Dr. Margaret Fleming, deputy superintendent of schools in Cleveland; Harland Ledford, director of Federal programs for the Memphis City Schools; Gilbert McCleod, clerk of the board of education for Norfolk, Va.; Dr. Louis Monacel, assistant superintendent of schools for Detroit; and Tom Rosica, director of Federal programs for the school district of Philadelphia. Again, they are not responsible for the contents of the bill, except that their suggestions greatly improved it in terms of its basic objective—to make Federal aid more responsive to local school needs.

Mr. Speaker, it is important to state what this bill does not do, in view of the concerns expressed by so many Members. First and foremost, it does not amend or alter in any way Public Law 94-142, the Education of All Handicapped Children Act. In my judgment, that act should be amended only after the most careful study and hearings by our committee—consideration which involves especially the parents and teachers of handicapped children. The parents of these children, so many of whom have suffered the anguish of seeing the educational needs of their children neglected, quite rightly regard Public Law 94-142 as a "Bill of Rights" for their children. It should not be altered without their involvement in the process.

Similarly, this bill does not reach outside ESEA to include adult education, Head Start-Follow Through, the Teacher Corps, Alcohol and Drug Abuse Education, or National Science Foundation programs. In simplifying title I of ESEA and consolidating the remaining 26 programs and 8 titles of this act, we make a major change in the packaging of Federal aid for schools. Indeed, this would accomplish about 90 percent of what the administration seeks to do in its education block grant proposal, and do it in a way acceptable to most school people. Other acts and other programs can be looked at later.

This bill does not eliminate basic protections we have written into law to insure that Federal education aid is used to actually make a difference—provisions requiring maintenance of effort, prohibiting supplanting of State and local funds by Federal funds, and similar provisions. But in each case these are rewritten at the suggestion of school administrators to give them enough flexibility to fit actual circumstances and to insure that they are not punitive in nature. The redrafting of these provisions also removes most of the need for Federal regulation, which is a concern of the administration which I share.

This bill would also eliminate most of the 10 million hours of paperwork our school people must complete each year to comply with current law and regulations governing these programs. This is a staggering burden which adds nothing to the instruction of children.

This bill retains provisions of existing law relating to the participation of nonpublic school children and teachers in these programs. There are, however, technical changes requested by the U.S. Catholic Conference on behalf of all nonpublic schools, and I deeply appreciate that assistance.

As the author of the bill, I also wish to make clear—as the law all along has intended—that nonpublic schoolchildren and teachers are to benefit equitably from these programs, based upon the proportionate nonpublic school enrollments. State and local agencies, in consultation with nonpublic school officials, must devise programs which meet the needs of nonpublic schoolchildren, and this bill gives them ample flexibility to do this more effectively than ever before.

This is only ordinary fairness, since we count nonpublic schoolchildren in determining payments to the States and local school districts. It is also sound policy in that the Federal concern for education should be for all children. Moreover, this has proven to be an effective means of building understanding and cooperation between public and private schools, thereby strengthening the whole education enterprise and public support for it.

Last July I introduced a very similar bill as a basis for the kind of discussions and consultation which produced the bill I am introducing today. The reasons I gave then apply now with equal force. I said, in part:

> If there is one educational concept which all of us in the committee and in this House as a whole have honored—at least in word—it is the concept of local control.
>
> It is a concept enshrined in the 10th amendment to the Constitution, and repeatedly reaffirmed in statutory language. Even the law creating the new Department of Education contains a provision which supposedly prevents Federal control of local educational decisions.
>
> Unfortunately, our actions have taken us in precisely the opposite direction. Each succeeding reauthorization of the Elementary and Secondary Education Act has made it more complex and convoluted—a delight for bureaucrats, consultants, and lobbyists, but a nightmare for real educators. I doubt there is a single Member of this House who has actually read the current text of title I alone in its entirety:
>
> I defy anyone to prove that the increased bulk of this statute has produced improved performance by education agencies at any level of government. On the contrary, it is becoming overwhelmingly clear that State education officials, local school superin-

tendents, and classroom teachers are finding their schedules besieged and their energy drained by a mine-numbing army of obscure Federal requirements.

As of October 1, 1979, the Code of Federal Regulations contained more than 1,400 pages of fine-print regulations governing Federal education programs. A substantial portion of this material has been made obsolete by further regulatory changes within the last 9 months.

The National Center for Education Statistics estimates that State and local educators will devote nearly 10 million hours during the 1980-81 school year to the task of coping with Federal paperwork.

The new Department of Education starts with a payroll of more than 5,000 employees—not including temporary or part-time personnel, people detailed from other agencies, consultants, or employees of the overseas schools serving military dependents.

In a survey conducted by the National Institute of Education three years ago, school principals ranked the federal paperwork burden as their most serious problem in trying to run their schools. The paperwork burden has grown worse since then, so it should come as no surprise that a more recent survey found that two-thirds of a sample of "exceptional" principals are planning to leave their jobs. By forcing them to work as petty clerks for the Federal colossus, we are driving our most dedicated educators right out of the profession.

Congress did not create all of our educational problems, and Congress cannot solve them—not alone. But Congress can effectively prevent their being solved by choking local enthusiasm and creativity in a tangle of red tape. That is precisely what we are doing as long as we allow the status quo to continue, and that is why the overwhelming need of the moment is for us to consolidate, streamline, and simplify.

Mr. Speaker, this bill addresses these problems. It would effectively and dramatically reduce the Federal regulations, administrative costs, and intrusions into the day-to-day operation of our Nation's schools.

It strongly reinforces the concept of local control of schools and local responsibility for setting education objectives and priorities. For the first time, really, a sizable amount of Federal funds would be available to every school district to plan and implement a broad range of programs, consistent with their own needs.

It is a long step forward in the creation of a rational structure of Federal aid to education which is designed to provide maximum help with minimum interference with State and local responsibilities. I commend this bill to the attention of my colleagues on both sides of the aisle in the conviction that it is consistent with the views of the overwhelming majority of Members. I think there is a real chance for speedy consideration and enactment of this legislation with the support of most school administrators, officials, teachers, and concerned parents. This could effectively remove the issue of Federal aid to education from the controversies with which it has long been clouded. That, too, would be a service to the whole Nation as well as to our system of education.

A section-by-section analysis of the bill follows:

THE EDUCATION IMPROVEMENT ACT OF 1981—SECTION-BY-SECTION ANALYSIS

Sec. 2. Statement of Sense of Congress With Respect to the Education of Handicapped Children

Section 2 expresses the sense of Congress that P.L. 94-142, the "Education of All Handicapped Children Act" needs revision to "ensure that it is reasonable and practicable in application while . . . fully responsive to the educational needs of handicapped children", but that it should not be included in consolidation legislation. It suggests a national commission to study the Act and report back to the Congress.

TITLE I—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF CHILDREN

Sec. 101. Declaration of Policy: The declaration of national policy under title I of the Elementary and Secondary Education Act of 1965 (ESEA) is modified so that the provision of financial assistance to State and local educational agencies to meet the special needs of educationally deprived children is continued but the Federal requirements are reduced to eliminate unnecessary paperwork and detailed Federal direction which does not relate to fiscal accountability.

Sec. 102. Duration of Assistance: Payments shall be made to State educational agencies (SEAs) during fiscal years 1983 through 1987 on the basis of entitlements created under ESEA title I, as in effect on September 30, 1982.

Sec. 103. Applicability of Repealed Provisions: Payments are to be based on the amount and eligibility for grants under the following provisions of ESEA title I, as in effect on September 30, 1982:

Subpart 1 (basic grants) and subpart 2 (incentive and concentration grants) of Part A (programs operated by local educational agencies); and

Subpart 1 (migratory children), subpart 2 (handicapped children), subpart 3 (neglected and delinquent children), and subpart 4 (general provisions) of Part B (programs operated by State agencies).

The Secretary shall use the following provisions for making payments under ESEA title I, as in effect on September 30, 1980:

Part E (payments), except that payments for the State administration shall not exceed 1.0 percent, instead of 1.5 percent; and

Part F (general provisions), sec. 197 (limitation on grants to Puerto Rico), and sec. 198 (definitions), but excluding sec. 195 (judicial review) and sec. 196 (national advisory council).

Provisions not included are those giving detailed instructions to school districts for program operation—which cause most of the paperwork and are an unwarranted Federal intrusion in local control of schools.

Sec. 104. Authorized Programs: State and local educational agencies are required to use payments made under this title to meet the special educational needs of educationally deprived children, including the acquisition of equipment, and, where necessary, the construction of school facilities. State agencies shall use funds to serve children counted for eligibility under Part B of ESEA title I. Local educational agencies (LEAs) shall use funds to serve educationally deprived children identified through an annual needs assessment, and as indicated in an application submitted and approved by the SEA.

Sec. 105. Approval of Applications: LEAs must have a 3-year application approved by the SEA in order to receive funds under this title. The application must describe the programs and projects, with assurances that these are to serve educationally deprived children based on an annual assessment of educational needs; are of sufficient size, scope, and quality to meet such needs; will be evaluated in terms of effectiveness in achieving the goals set for them; and make provisions for educationally deprived children attending private schools. This restates existing law, except that 3-year applications greatly reduce paperwork.

Sec. 106. Participation of Children Enrolled in Private Schools: Services for children attending private schools are identical to those required under ESEA title I.

Sec. 107. General Provisions: Sec. 107(a) contains the maintenance-of-effort requirement for LEAs that is similar to the provision in ESEA title I, except that LEAs must maintain at least 90 percent the fiscal effort of the preceding year, and any reduction of Federal payments is proportionate to the extent of the failure to maintain effort at a 90 percent level.

Sec. 107(b) limits the use of funds by the LEA to excess costs; the provision is similar to that in ESEA title I, but allows adjustments to be made when an LEA experiences a decrease in funds but when the percentage of total expenditures from local sources does not decrease.

Sec. 107(c) modifies the supplement, not supplant requirement for LEAs in ESEA title I by deleting language regarding State phase-in and other special State-funded programs for purposes similar to those under this title, because this is covered by section 107(e).

Sec. 107(d) requires comparability of services similar to the LEA requirement under ESEA title I, except that an LEA may comply by filing a written assurance to the SEA that it has established a district-wide salary schedule and a policy to ensure equivalence among schools of personnel and expenditures.

Sec. 107(e) allows for the exclusion of special State and local program funds from meeting the LEA requirements for excess costs, supplement, not supplant, and comparability of services, if such programs are consistent with the purposes of this title.

Sec. 107(f) authorizes the allocation of funds in certain States by the SEA directly to LEAs, without regard to counties, whenever a large number of LEAs overlap county boundaries. (ESEA title I requires such States to apply to the Secretary for approval for such action, and excludes concentration grants from this exception.)

TITLE II—CONSOLIDATION OF FEDERAL PROGRAMS FOR ELEMENTARY AND SECONDARY EDUCATION

Sec. 201. Statement of Purpose: Section 201 is a new title that consolidates current ESEA titles II, III, IV, V, VI, VII, VIII, and IX (basic skills improvement; special projects; educational improvement, resources, and support; State leadership; emergency school aid; bilingual education; community schools; and additional programs such as gifted and talented children, educational proficiency standards, women's educational equity, special grants for safe schools, and ethnic heritage program). Title II contains three program parts—basic skills development, educational improvement and support

services, and special projects—and two general parts—general provisions and Secretary's discretionary funds. Funds are authorized for the same purposes as set forth in the previous titles, but educational needs and priorities as determined by State and local educational agencies. The intent of the legislation is (1) to vest greater power for program administration with State educational agencies, (2) to reduce the paperwork associated with Federal programs, and (3) to place responsibility for setting educational priorities and for design and implementation of programs with local boards of education and school personnel involved in school operation.

Sec. 202. Authorization of Appropriations: Section 202 authorizes the appropriation of such sums as may be necessary for the fiscal year 1983 and for each of the four succeeding years.

Sec. 203. Allotments to States: of the amount appropriated, no more than 1 percent is provided for payments to trust territories as under current legislation. Provisions are made for a Secretary's discretionary funds that are not to exceed 5 percent of the sums appropriated.

The remaining 94 percent of the appropriation is to be allocated to the States (the 50 States plus the District of Columbia and Puerto Rico) on the basis of school-age population (ages 5–17).

Sec. 204. State Applications: Any State seeking funds under this title is required to file an application with the Secretary of Education that (1) designates the State educational agency as the State agency responsible for administration and supervision of programs under this title, (2) provides for State educational agency to consult with a broadly representative advisory committee, appointed by the Governor, (3) indicates how the funds reserved by the State are to be allocated among authorized programs (including those for nonpublic school children) and for State administrative programs for children of limited English proficiency, (6) provides for an annual evaluation beginning with fiscal year 1985, and (7) includes assurances of compliance with specific requirements. The application shall not be for a period that exceeds three fiscal years, and may be amended annually without submitting a new application.

Sec. 205. Allocation to Local Educational Agencies: Of the sums allocated to each State, not less than 85 percent shall be distributed to local educational agencies according to the relative enrollments in public and non-public schools within the school districts, adjusted, in accordance with criteria approved by the Secretary, to provide additional funds for districts with the greatest number of high cost pupils such as those children from low income families, children of limited English proficiency, or those living in sparsely populated rural areas. The Secretary is required to approve the criteria for funds allocation suggested by the State educational agency if such criteria produce an equitable distribution of funds with reference to the indicated factors.

Sec. 206. Local Applications: The local educational agency application is to (1) indicate the planned allocation of funds among the three parts of the title, (2) provide assurances of compliance with applicable provisions and participation of non-public school children, (3) provide assurances that appropriate instructional services will be provided to children of limited English proficiency, (4) keep required records, and (5) provide for systematic consultation with parents, school staff, and others as deemed appropriate by local school officials.

Local applications shall be for a period not to exceed three years, with provisions for annual revision. Local educational agencies are to have complete discretion in allocating funds among the parts of this title and the authorized programs.

Part A—Basic skills development

Sec. 211. Statement of Purpose: State and local educational agencies are to use funds to improve elementary and secondary instruction in the basic skills of reading, mathematics, and written and oral communication, as formerly authorized by title II of ESEA.

Sec. 212. State Leadership and Support Services: Section 212 indicates that States may use funds reserved for State use to contract with various public and private agencies and enlist the services of parents and volunteers to fulfill the purposes of Part A.

Sec. 213. School Level Programs: Local educational agency planning is to include provisions for participation by non-public school children and continuing consultations with teachers, principals, and (to the extent practicable) parents. The focus of local programs is to be on the improvement of basic skills for all children. School level programs shall include diagnostic needs assessment for all children, establishment of learning goals and objectives for all children and for school, pre-service and in-service training, parental participation, and testing and evaluation procedures.

Part B—Educational improvement and support services

Sec. 221. Statement of Purpose: State and local educational agencies may carry out a range of programs and projects formerly authorized under titles IV, V, VI, and VII of the Elementary and Secondary Education Act. Projects are to be consistent with the State and local applications and are to conform with other requirements, and they are to focus on State and local educational improvement activities and State leadership programs.

Sec. 222. Authorized Activities: Section authorizes (1) acquisition and utilization of library resources and instructional materials and instructional equipment and materials for use in academic subjects; (2) development of programs to improve local educational practices; (3) support and provide technical assistance for programs for children of limited English proficiency (and in Puerto Rico, children of limited Spanish proficiency); (4) programs to assist LEAs to address problems of minority group isolation in schools; (5) comprehensive guidance, counseling, and testing programs; and (6) programs and projects to improve planning, management, and implementation of educational programs.

Part C—Special projects

Sec. 231. Statement of Purpose: State and local educational agencies may use funds for programs and projects formerly authorized under ESEA titles III, VIII, and XI (special projects, community schools, and additional programs).

Sec. 232. Authorized Activities: Section 232 authorizes State and local educational agencies to use funds for a variety of special programs and activities, community education programs, and additional programs such as gifted and talented, educational proficiency, women's equity, safe schools, and ethnic heritage studies.

Part D—General provisions

Sec. 241. Maintenance of Effort; Federal Funds Supplementary: The maintenance of effort requirement provides for a level in the preceding fiscal year of 90 percent of either the aggregate expenditures or the average per pupil expenditure for the preceding second year. If a State falls below the 90 percent level, a proportional reduction is to be made in the State's allocation. Provisions are included that would permit the Secretary to waive the maintenance of effort requirement for one fiscal year only because of unforeseen decline in State fiscal resources.

Funds used by a State or local educational agency are to supplement funds from non-Federal sources, and in no cases to supplant funds from non-Federal sources.

Sec. 242. Participation of Children Enrolled in Private Schools: Section 242 contains extensive provisions related to participation by children enrolled in private schools. State and local educational agencies are to provide for private school children to benefit from programs and activities funded under title II. If a local educational agency makes no provisions for private school participation, the State educational agency is required to make arrangements for private school children to be provided with services and materials to the extent that would have occurred if the local educational agency had provided for participation by private school children.

Expenditures for private school children are to be equal to those for public school children in similar circumstances. Control of funds and titles to items purchased shall remain with the public agency. Funds are not to be commingled with State and local funds.

If a State is prohibited by law from providing for participation in programs for private school children, or if a State or local educational agency has failed or is unwilling to provide for participation by private school children, the Secretary is authorized to proceed with steps to assure that private school children have the opportunity to participate. In these instances, the State's payment is to be reduced in the amount necessary to pay the cost of the private school services. Final action is not to be taken until the State and local educational agency have an opportunity to submit an appeal to the finding of the Secretary. If a State or local educational agency is dissatisfied with the final resolution, provisions are made for review in the Federal courts.

Part E—Secretary's discretionary funds

Sec. 251. Statement of Purpose: The Secretary is authorized to carry out directly or make grants to public and private agencies for programs and projects related to dissemination, research, demonstration, development, staff training, and program implementation. Special provision is made for the continued funding of the "Inexpensive Book Distribution Program", the Special Mathematics Program, the national programs of arts in education, and the National Diffusion Network, at least to the level required to sustain these activities at the level of operations during fiscal year 1981.

TITLE III—GENERAL PROVISIONS

Sec. 301. Federal Regulations: The Secretary shall issue regulations relating to the duties of the Secretary under this Act, proper fiscal accounting for funds and payment methods, and compliance with the specific requirements and assurances re-

quired by this Act. With regard to all other matters relating to planning, developing, implementing, and evaluating programs and projects by State and local educational agencies, the Secretary shall not issue regulations, but shall consult and, upon request, provide technical assistance to promote effective instructional progams.

Sec. 302. Withholding of Payments: Whenever the Secretary, after reasonable notice to an SEA and an opportunity for a hearing, finds that there has been a failure to comply substantially with assurances or conditions required under this Act, the Secretary shall notify the SEA that, beginning 60 days after such notice, further payments will not be made to the State until the Secretary is satisfied that there is no longer a failure to comply.

Sec. 303. Judicial Review: Any State dissatisfied with the withholding of funds by the Secretary may file a petition for review of that aciton in the United States court of appeals. The filing of such a petition shall suspend any withholding of funds by the Secretary pending the judgement of the court. An SEA is presumed to have complied with this Act, but the Secretary may overcome such presumption if supported by the weight of evidence. This changes existing law which makes it almost impossible to successfully challenge a finding of the Secretary.

Sec. 304. Definitions: The following terms are defined: State, Secretary, State educational agency, local educational agency, parent, free public education, elementary school, secondary school, construction, equipment, school facilities, and children of limited English proficiency and appropriate instructional services for such children. All terms except construction and children of limited English proficiency are defined in a manner identical to that under ESEA title I. Other terms referenced in title I of this Act are to have the same meaning that they were given under ESEA title I, as in effect prior to October 1, 1981.

Sec. 305. Application of Other Laws: The application of sections 434, 435, and 436 of the General Education Provisions Act (relating to State educational agency monitoring and agency application) is limited to fiscal control and fund accounting procedures for programs authorized by this Act, and shall not authorize the Secretary to require any reports or take any actions not specifically authorized by this Act.

Sec. 306. Effective Date and Repealer: This section makes the provisions of the Act effective October 1, 1982 and repeals the Elementary and Secondary Education Act of 1965 on September 30, 1982, except that funds appropriated for fiscal year 1982 pursuant to authorizations repealed by this section for use in the school year 1982–1983 shall be used to carry out the purposes of this Act.●

ONE TOWN'S STRUGGLE WITH FEDERAL REDTAPE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. EMERSON) is recognized for 5 minutes.

Mr. EMERSON. Mr. Speaker, I would like to share with my colleagues an excellent article that appeared in the June 8 issue of U.S. News & World Report entitled "One Town's Struggle With Federal Redtape." The town, Cape Girardeau, Mo., is the hub of my congressional district.

The article aptly describes the problems Cape Girardeau has experienced with expensive and time-consuming compliance with needless Federal regulations. The morass of redtape imposed by the Federal Government on the businesses, schools, local government, and citizens of Cape Girardeau has stifled the city's economic potential and instilled in its citizens a deep sense of mistrust of government.

Some examples of this senseless regulatory burden include: Signs at St. Francis Medical Center offering federally mandated free medical care to qualified patients must be in Spanish as well as English, although the Spanish-speaking community represents less than one-tenth of 1 percent of the city's entire population; the Farmers & Merchants Bank has been forced to hire a full-time officer just to monitor banking regulations; and one of the city's largest employers, Superior Electric Products Corp., has been forced to spend over a quarter of a million dollars for pollution control devices that cost $75,000 a year to maintain. Of course, these additional costs are passed along to consumers, a situation which further fuels the fires of inflation.

Although Cape Girardeau has fought Federal regulations in the past, the city lost a court battle in 1979 when the Army Corps of Engineers designated as flood plain the land along Cape La Croix Creek. Although the creek only overflows during heavy downpours, and the businesses potentially affected by flooding were willing to forgo Federal aid and assume the financial risks involved, the corps imposed regulations that restricted Cape Girardeau's ability to build or redevelop the area. In the words of Mayor Howard Tooke, "what we have here is the Government imposing planned blight on our community."

This senseless interference by the Government with the lives of the people of Cape Girardeau is simply unacceptable. The case of Cape Girardeau is typical of thousands of American cities and towns, and is a perfect example of the urgent need for drastic regulatory reform legislation.

I applaud the President's efforts to ease our country's regulatory burden, but he cannot do it alone. Regulatory reform legislation has been introduced repeatedly over the years, but Congress has yet to act positively on such measures. The time is now to enact responsible legislation that will get the Government off the backs of the people so that cities like Cape Girardeau can truly fulfill their economic and social potential.

At this point, I would like to insert the text of the U.S. News & World Report article, and I urge my colleagues to read it:

ONE TOWN'S STRUGGLE WITH FEDERAL REDTAPE

CAPE GIRARDEAU, MO.—Sprawled across green hills rolling down to the Mississippi River, this commercial, educational and medical hub of southeastern Missouri is the picture of a typical American community.

Many residents of this city of 35,000 complain that it is also a textbook example of how government regulations have run wild to the point where they are punishing the people they are supposed to help.

How many government rules apply in Cape Girardeau? "How high is up?" answers banker William L. Bowers.

Critics see government intruding into nearly every area of the city's economic and social life—imposing rigid standards, adding untold costs to businesses and bringing, as one executive puts it, "paper work that won't stop."

Hearings hurdle. Horror stories of bureaucratic interference show up everywhere. Officials of St. Francis Medical Center must undergo five public hearings to prove to the Department of Health and Human Services that a 6.7-million-dollar expansion of its critical-care unit would not duplicate existing medical services.

The hospital president, John J. Keusenkothen, says of the redtape: "It takes hundreds of top-management man-hours and produces 30 volumes with about 400 pages each. It could delay completion of this critically needed facility by as much as a year. The process presupposes that health-care providers will do something self-serving and that hospital administrators are not to be trusted."

For years, Southeast Missouri State University drew most of its students from the surrounding 25-county area. But this year, the Department of Education ruled that St. Louis is part of the school's region and that therefore blacks must make up about 10 percent of the Southeast Missouri enrollment instead of the previous requirement of 3.9 percent.

"That's a federal regulation that changes the mission of the university," complains Bill W. Stacy, school president. "We have been a public university that serves the people of the area and have always welcomed minorities. Now we will have to recruit black students."

Atlas Plastics Corporation submits reports to nine federal and five state agencies. Notes M. L. Christensen, the firm's president: "A dozen people in our accounting and personnel departments spend about 20 percent of their time compiling and filing data for all kinds of agencies. We've got a file drawer full of reports, most of which are of absolutely no value to our business. The government needs a certain amount of information to take the economic pulse of the country, but it collects so much complicated information that it is ancient history by the time it's published."

Adds Ted Kelley, vice president of finance for Atlas, "I can foresee the time when a small company like ours is going to have a person whose only job is to monitor federal regulations and make sure we're in compliance."

That day already has arrived for the Farmers & Merchants Bank. In January it hired a full-time compliance officer to monitor the mountain of regulations affecting banking functions. President Narvol A. Randol cites as an example Regulation Z, written by the Federal Reserve Board to implement the Truth in Lending Act. Says

Randol: "There are 55 interpretations of this regulation by the Federal Reserve Board, 172 official interpretations by the Fed staff and over 1,000 unofficial staff interpretations."

Also planning to get help is Kenneth Mehrle, who finds himself spending more time filling out government forms than filling prescriptions at his pharmacy. Mehrle complains: "With medicaid, there's so much paper work we've decided to buy a computer. That's the only way I know of to keep up with it."

Mehrle is especially irked by forms that require him to fill out essentially the same information year after year. "Today's mail brought this application for renewing my corporation license," he notes. "I've been here for 27 years. You'd think they could just ask for the changes that have taken place over the last year, but no, you get a two-page form to fill out. It's the same for renewing my pharmacy license, the drugstore permit, the federal narcotics license, the state narcotics license, and the county and city business licenses."

States can require as much paper work as Washington. Jerry Lipps says one of his long-haul truckdrivers leaving on a trip from Cape Girardeau to Jacksonville, Fla,. has to carry eight permits, licenses or other documents. One of the papers must have stamps from two states, and the driver has to pick up two more documents along the way.

Meeting the standards set by government rules can be costly as well as time-consuming. Superior Electric Products Corporation, a maker of small appliances whose payroll of about 500 workers is one of the city's largest, spent $250,000 to install pollution-control equipment to remove chrome and nickel from discharged water. It costs $75,000 a year to operate. Says President James A. Bauerle, "It all goes into the cost of the products. In a couple more years, the discharge requirements may be more stringent, which would require us to spend another $100,000 to $150,000."

Fifteen percent of the 100-million-dollar cost of Marquette Cement Company's new plant went for dust collectors and electrostatic precipitators to meet Environmental Protection Agency clean-air standards. Pat Jarrett, plant manager, says: "It's easy to get 99 percent efficiency, but to reach the required 99.7 percent costs 40 percent more dollars. That's an area of cost benefit that should be reviewed."

A victory, but . . . "The Cape," as the city is called by residents, has never been one to accept unwanted government regulation without a fight.

In the 1970s, it won a court battle against extending the minimum wage to local government because, says former City Attorney Tom Utterback, "along with that came 26 volumes of federal regulations."

But in 1979, the city lost a court challenge of the Army Corps of Engineers' designation of land along Cape La Croix Creek, which snakes lazily through the west side of the city, overflows during unusually heavy downpours, city officials argued, and operators of the 250 businesses affected were willing to assume the risk and forgo eligibility for flood-disaster relief.

The ruling "means a new building in the Town Plaza shopping center must be elevated above the 100-year flood level, about 8 feet, or must be built floodproof, which adds 35 percent to building costs," says Robert Hendrix, president of the Chamber of Commerce. "The law says a flood plain involves a navigable waterway, but the way it's implemented a navigable waterway is anything that will float a stick."

Mayor Howard Tooke adds: "What this means is that there's not going to be any new building in the flood plain or even redevelopment by businesses already there. Existing buildings will gradually deteriorate. So what we have here is the government imposing planned blight on our community."

Residents are quick to tick off examples of what they see as government rules that either are only marginally helpful or plain foolish:

Signs at St. Francis Medical Center offering federally mandated free medical care to qualified patients must be in Spanish as well as English," even though Spanish-speaking people probably make up only something like 0.001 percent of our population," says Gregory J. Pleimann, the hospital's director of finance.

Twelve days before Marquette Cement Company closed its old manufacturing facility for good, an offical of the Mine Safety and Health Administration spent a week on a safety inspection. "Now, what's the value of that?" asks manager Jarrett.

An experiment on perception by psychologists at Southeast Missouri State University—involving students watching images projected on a screen—required formation of a seven-member panel to assure the Education Department that the study posed no danger to its human subjects.

Government officials sometimes ignore what they are being told.

Officals of St. Francis Medical Center decided not to accept a $15,000 Energy Department grant for a conservation program and used its own resources instead. But, reports Edythe M. Davis, the hospital's director of resource and development: "Even after we turned it down, we got volumes of paper for the reporting process. They were so sure no one would turn down government money that they sent a news release to the local newspaper saying we had accepted the grant."

Reason for hope? What's the outlook from Cape Girardeau on the future of government redtape?

Business leaders cheer President Reagan's drive to strip away federal regulations, but many expect little success. Says M. L. Christensen, the head of Atlas Plastics: "I think what we're going to see is a holding pattern and nonproliferation for some time, rather than a reduction."

Others worry that Reagan will have more luck in slashing the federal budget than in cutting regulations. Arthur Turner, the local school superintendent, observes: "Our concern is that we will be left with the worst of both worlds—losing federal money but not the regulations."

DOUBLE-DIPPING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. FORD) is recognized for 5 minutes.

● Mr. FORD of Michigan. Mr. Speaker, last week the Committee on Post Office and Civil Service, in order to achieve budget savings mandated under the reconciliation process, proposed ending the so-called double-dipping procedure that permits most retired military personnel working in civil service jobs to receive their full retirement pay as well as full salary.

Under the proposal, retired military and officers employed in the civilian work force would have their pay reduced by the amount of their military annuity. Thus these retired military people and retired civilian employees reentering the civil service would be treated precisely the same way.

Since the committee made the proposal—under a budget procedure that constitutes a kind of political blackmail and precludes the committees of the House from making meaningful choices—it has come under vociferous criticism.

It has been charged by double-dippers and their defenders in the administration that this proposal is unfair and is part of a sham to sabotage the administration's budget-cutting proposals.

Nothing could be farther from the truth. If indeed there is an element of unfairness in the recommendation, it is because the entire reconciliation process emphasizes dollar savings over all other considerations. Such a procedure is inherently unfair and is guaranteed to inflict pain and suffering on some groups in our society.

The Post Office and Civil Service Committee, not unlike others in the House, was faced with difficult, painful choices. After careful consideration it decided on the double-dipper proposal as the most equitable way to deal with the rigid constraints placed on it by the reconciliation process.

For anyone to suggest that this was a sham is to completely ignore the facts and to wallow in political obfuscation. The committee acted sincerely and with as much responsibility as possible under the shortsighted reconciliation process.

I am particularly distressed at remarks made by Office of Personnel Management Director Donald Devine, who called the proposal phony and painful in the same breath. Anyone with even a nodding acquaintance with budget drafting understands that phony measures are designed to avoid pain. When actions are painful it is generally because they are real. To suggest it can work both ways is to reveal a large measure of ignorance about the process.

Traditionally the role of the head of the Federal civil service is to keep the service out of politics. Instead Mr. Devine has shunned tradition and is fast becoming one of the most political members of the administration. I shudder to think what this portends for the future integrity of the civil service.

Mr. Devine says that it would have been much less painful to achieve the necessary savings by shifting to once-a-year cost-of-living adjustments for retired civilian employes.

Less painful for whom?

This was indeed the only other option. But the committee rejected it on grounds both of equity and national policy.

The committee proposal serves two purposes. First, the proposal attempts to achieve the required savings in the most equitable manner possible. Second, it eliminates one of the strong incentives for trained military personnel to retire from the military as soon as they are eligible at a time when there is a problem in retaining trained military personnel and when it is administration policy to reduce the size of the civilian work force.

When faced with the choice of cutting the incomes of civil service annuitants or the incomes of double-dippers, it seemed clear that the more equitable option was to eliminate double-dipping.

According to data available to the committee, the current average total compensation of military retirees is as follows:

	Military retired pay	Civil service pay	Total compensation
Officers	$14,640	$30,190	$44,830
Enlisted	8,510	19,275	27,785
Combined	9,960	21,250	30,940

Under the committee's proposal, the total compensation of these retired military personnel would be reduced to an amount equal to their civil service pay.

In contrast to the compensation of military retirees, the average annuity of retired Federal employees is approximately $11,000 and the average annuity of survivors is approximately $4,700.

The average retirement ages of officers and enlisted personnel are 46.2 and 41.4, respectively. In comparison, the average retirement age of civil service employees is 58.6 and the average age of civil service survivor annuitants—including children—is 62.7. It seems clear, therefore, that for many civil service annuitants their civil service annuities constitute their sole source of income. Unlike the average person retired from the military, they are generally too old to embark on new careers.

Another factor to consider is that military retirees continue to enjoy various benefits after retirement. These include commissary and post exchange privileges and medical and dental benefits for which the retiree makes no contribution. Civil service retirees may participate in the Federal employees' health benefits program but must pay the same premiums as active employees.

The committee's double-dipper proposal also serves the administration's objective of improving and strengthening the Armed Forces by removing one of the chief incentives for early retirement. Under the current military retirement system, there is a strong economic incentive to retire after completing 20 years of military service. Although there are few jobs in the military that cannot be performed by persons who are age 55 or older, the average retirement age is 46 for officers and 41 for enlisted personnel. For many of these retirees, Federal civilian employment is an attractive opportunity because the skills and experience they acquired in military service are readily transferable to civil service positions. By eliminating the present incentive for military retirees to easily slip into civil service jobs, the committee believes that many of these highly trained and skilled individuals will choose to remain in the Armed Forces where their skills and experience are sorely needed.

Finally, from an overall policy point of view, the committee proposal makes good sense. The proposal is based on the policy that no individual should receive both retirement pay based on Federal service and salary for active Federal service during the same period of time. This policy has applied to retired Federal employees for many years, and there is no convincing reason why it shouldn't be made applicable to retired military personnel.

If the committee's double-dipper proposal is adopted, the average retired enlisted man who today receives $27,785 in civil service pay and retired pay will on October 1 receive $20,393, taking into account both the October 1 pay increase and the September COLA for retired pay. This is a reduction in gross compensation of $7,382.

In the case of the average retired officer, total compensation would decrease from $44,830 to $31,941, a reduction in gross compensation of $12,889.

In 1978, according to the latest figures available, there were nearly 2,000 retired colonels working in the civil service. Those still in the civil service today are receiving an average of $62,718 in civil service pay and military retirement pay. At the same time there were 7,500 retired majors working in the civil service who would be receiving $50,130 in combined pay and retirement—no more than the current pay cap for civilian executives allows.

It would seem that the administration feels it is more important to protect these people from any cut in pay than it is to protect retired civil servants and their spouses and children from the ravages of inflation.

The Congressional Budget Office has estimated that the double-dipper proposal will result in outlay savings of $870 million in fiscal year 1982, $850 million in fiscal year 1983, and $690 million in fiscal year 1984. OMB charges the committee has overstated the savings and has failed to take into account the exodus from the civil service which will result from the proposal. OMB is wrong. The committee believes that if CBO erred at all, it is on the side of providing an estimate which understates the savings and this is really not an error but merely the result of data limitations. Here is why:

The most recent data available indicate there are about 142,500 double-dippers. Of these, 10,000 are not full-time employees, and CBO assumes they would quit immediately if the proposal is enacted. Hence, no savings are attributable to these 10,000 double dippers. That leaves 132,500 full-time double dippers. But 31,800 of these are in the Postal Service, and since it is not required to deposit its payroll savings in the Treasury as are other agencies under the proposal, no budgetary savings are attributable to those 31,800 double dippers.

The attrition rate for the remaining 100,700 is estimated to be far above the normal rate of attrition from Government service. Twelve percent are expected to leave by December 1981, 16 percent of the remainder during fiscal year 1983, and 21 percent of the balance during fiscal year 1984. The savings estimate takes this extraordinary attrition rate into account, and further assumes that no military retirees will accept future civil service positions. Finally, the savings estimate has been further reduced to reflect the exemption for military retirees who are receiving pensions based on combat-related disabilities, and possible exemptions granted by OPM to meet special or emergency employment needs.

There are also savings which will result which cannot be included in the estimate because of data limitations—specifically, the savings which will result from reducing the salaries of double-dippers in off-budget entities such as the Tennessee Valley Authority and the D.C. government. Since there is no readily available information on the number of double-dippers in such off-budget entities, savings which will occur in this area have not been included in the estimate.

The Dual Compensation Act of 1964, which permits double-dipping, was enacted to help alleviate a difficult manpower problem during a time when the Federal Government was experiencing critical problems in filling sensitive civilian positions with qualified people. It was also a time when a number of reserve military officers were nearing retirement age but were not eligible to compete for civilian positions.

It would seem that today those situations have been reversed.

Except for someone attempting to protect one group receiving preferential treatment at the expense of another, it is difficult to make a case for continuation of dual compensation for military retirees. It is especially difficult when the economic futures of one

group must be weighed against the economic futures of another, as was the case in this instance.

In such a situation the committee felt that the argument for eliminating dual compensation was overwhelming. And the committee believes the facts are convincing.

It is indeed disturbing to see the conscientious work of the committee turned into a political football by those who are determined to have their own way whatever the price.●

ACTION NECESSARY ON SOCIAL SECURITY FUNDING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. NELSON) is recognized for 5 minutes.

● Mr. NELSON. Mr. Speaker, I include in the CONGRESSIONAL RECORD the testimony I submitted to the House Ways and Means Committee's Subcommittee on Social Security on the need for action to assure future funding of the social security system:

Mr. Chairman, I want to thank you for giving me the opportunity to share with the subcommittee my views on Social Security. You and your subcommittee have done an admirable job in looking at the long-term and the short-term financing problems faced by the Social Security program.

There is a firestorm of protest that has arisen over the President's proposed changes in Social Security. The President proposed to reduce early retirement benefits immediately. This is too abrupt and too severe. We must allow people time to plan for their retirements. However, if we in the Congress allow this issue to remain on dead center after this setback for the President, we would be taking an irresponsible stance. Both the Congress and the President realize that there is both a long-term and a short-term funding problem for the Social Security system that must be addressed soon.

The Administration and the Congress will not let the Social Security system go into default. Social Security is too much a part of the fabric of our society and we all recognize this. Nevertheless, there has been widespread panic among our senior citizens because of the fear of losing Social Security. Concern is justified, but not panic. The Social Security system will be provided for, although the Administration plan seems unlikely to be achieved.

Therefore, I would like to set out my recommendations which have elements similar to some of the proposals made by your subcommittee and by individuals in the Congress to address these long- and short-term funding problems in the Social Security Trust Fund.

The short-term funding problem for the Old-Age and Survivors (OASI) Trust Fund amounts to approximately $15 billion. This short-term funding problem can be met by transferring moneys from the other two trust funds (the Disability and the Medicare Part A trust funds) or by a stop-gap measure of replacing the shortage of funds with general revenues, as your subcommittee has recommended.

To address the long-term problem, I propose several changes. I would remove Medicare Part A (hospital insurance) from being funded by the Social Security tax. This tax is currently paid by both employer and employee at a rate of 6.65 percent of total payroll and wages. I believe that, since Medicare hospital insurance is not work-related, that it has no logical reason to be paid by the Social Security tax. Rather it should be funded from the general revenues of the U.S. government—the same source as most of the Medicare Part B (payment of doctors' bills).

Removing the funding of Medicare Part A from the Social Security tax would then leave the Old-Age (Retirement) and Survivors (OASI) trust fund, as well as the Disability trust fund, to be paid from the Social Security tax. Removal of this $25 billion annual hospital insurance spending would allow the Social Security tax to be reduced by more than one percent of both payrolls and wages. This would be much needed relief for employers and employees.

Furthermore, to make the Social Security program actuarially sound in the long-run, I would also recommend that in the year 2000, through gradual change, the system begin to phase in a change in its 100 percent eligibility age from 65 to 68, and, concurrently, to shift its early retirement age from 62 to 65.

When Social Security was first set up in the 1930's, the normal life expectancy was 60 years. Now the life expectancy of Americans is near 75 years and by the turn of the century, will be even higher as a result of the miracles of modern medicine. With increased longevity of life as well as the increased desire on the part of older Americans to work, the retirement age could be increased with little disruption, especially if the date for the changeover is to be phased in over several years.

I would also propose that since many older Americans want to continue to be a productive part of the work force in America, the earnings limitation of $5,500 is too low. I think that this limitation should be raised immediately to a limit of $10,000.

For all of us, there should be concern about the system, not panic. As a practical matter, Congress and the President must do whatever is necessary to maintain the financial stability of Social Security. I want to see this done constructively and soon.

Thank you, Mr. Chairman, for giving me this opportunity to share my ideas with your subcommittee on this issue of primary importance to our nation.●

THE BANKING COMMITTEE RELUCTANTLY BUT FAIRLY MEETS ITS GRAMM-LATTA TARGETS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

● Mr. ST GERMAIN. Mr. Speaker, a week ago the House Banking Committee completed its consideration of cuts mandated by the first concurrent resolution on the Budget. Although Members had reservations about the implications of this process, they recognized their responsibility and voted for passage of a package which more than meets the Gramm-Latta targets. The committee print submitted to the House Budget Committee reported savings of $13.2 billion in budget authority, and $760 million in outlays.

Having met the budget-cutting requirements, the Banking Committee is now being attacked by David Stockman for not doing it in precisely the manner the administration wishes it done. But if the constitutional provision for separation of powers means anything, the administration must allow Congress to make decisions for itself on the particular distribution of the cuts.

The Reagan administration has made its list of desired cuts known through its acceptance of the Gramm-Latta targets, and the program reductions suggested therein. The massive reductions demanded by this process left the Banking Committee with little choice about which programs to cut, but the committee attempted to spread them as evenly as possible. It was our belief that the burden of spending cuts should be shared by all segments of society, and not dropped solely on the shoulders of the low-wage earners, the elderly and the poor. Still, the final cuts forced on the committee resulted in program reductions similar to those suggested by the administration.

I include a table comparing the suggested Reagan/Gramm-Latta cuts with the cuts made in those programs by the Banking Committee:

PROGRAM REDUCTIONS FOR FISCAL YEAR 1982

[In thousands]

	Reagan-Gramm-Latta	House Banking Committee
Export-Import Bank:		
BA	1,349,000	2,453,000
OUT	112,000	187,000
Rural housing insurance fund:		
BA	123,000	123,000
OUT		
National Consumer Coop Bank:		
BA	133,000	72,000
OUT	141,000	38,000
CDBG and UDAG Roll in:		
BA	469,000	570,000
OUT	47,000	57,000
HUD Rehabilitation Loan Fund:		
BA	137,000	137,000
OUT	213,000	160,000
HUD Neighborhood Self-help and planning Assistance Grants:		
BA	45,000	38,800
OUT	39,000	36,300
Subsidized housing:		
BA	10,921,000	9,107,000
OUT	88,000	48,100

From these seven programs, Gramm-Latta would take the $13.1 billion in budget authority reductions, required by their targets. The Banking Committee has taken $12.5 billion from these same programs, and further slashes in other areas of its jurisdiction for total savings of $13.2 billion. There were few choices for the committee to look at in designing its cuts. Two programs—the Export-Import Bank and subsidized housing—account for more than 70 percent of the funds authorized by the committee. In meeting cut targets amounting to 27 percent of the projected authorization levels for our programs, the largest

cuts had to come from those two programs.

Although the committee was forced, by the tyranny of numbers, to place most of the burden on these programs, it tried wherever it could to spread that burden throughout the entire range of its jurisdiction. Attacks on the authorization package which emerged cannot be founded on the committee's failure to meet its requirements under Gramm-Latta. They cannot even be founded on claims that there are vast differences between the administration suggestions and the Banking Committee's actions.

The only grounds for attack is that the committee did not take 85 percent of its cuts from assisted housing, as was suggested by Gramm-Latta. Instead, the committee looked to programs as far apart as Treasury Department's bureaucrats, and the guaranteed mortgage programs. We asked that all these programs make some sacrifice in what has to be a national effort to cut the Federal Government's budget.

The committee's reduction in Export-Import Bank funding was greater than that suggested by Gramm-Latta, but only $400 million more than President Reagan's suggested reduction. Through hard work in caucus, and full committee meetings, it was decided that this cut would be sufficient to help spread the savings burden, without endangering a single loan committed by the Bank for fiscal year 1982.

Challenges to the Banking Committee's reconciliation actions are now coming from OMB Director Stockman. Mr. Stockman seems to be disturbed by any cut which he did not specifically recommend, and by any amount even a penny more than he suggested should be cut. Savings made in non-OMB approved areas are dismissed as either false savings, draconian savings, or counterproductive savings.

The Banking Committee is criticized for daring to suggest that the bureaucracy of Treasury and HUD should share in the cuts along with the less fortunate in the private sector. OMB has decided to propagandize by suggesting that a cut in salaries and expenses in the Treasury Department would mean a delay in mailing social security and veterans' checks by the Bureau of Government Financial Operations. No money for stamps we are told by OMB.

Surely, among the myriad of tasks assigned to this bureau, including the tracing of money and securities lost in transit, accounting procedures for Federal Government disbursements and so forth, the agency in charge of cost-efficiencies for the entire Government can come up with a more rational spreading of those cuts than to fire all of its employees or stop buying postage stamps. If, in the end, it appears that the Bureau's staff can find no more rational way to distribute the cuts than to take it all out of one or another category, the Banking Committee will lend the Bureau some of our staff to help them make these cuts in a more efficient manner.

The committee requires cuts in the Office of the Secretary of the Treasury, the Office of the Secretary for International Affairs, the Bureau of the Mint, the Bureau of Government Financial Operations, the New York City loan guarantee program and the Chrysler Corp. loan guarantee program, as well as cuts in salaries and expenses for the Department of Housing and Urban Developmemt.

I am surprised that Director Stockman has suddenly emerged as a staunch defender of the bureaucracy. Cut housing for low-income families, but do not touch the salaries and expense funds for the Washington establishment—this is the message coming forth from OMB.

But the OMB criticisms, picky and naive as they are, are, more importantly, onerous. They are designed to create an image of failure on the part of House authorizing committees. If that image can be created, then policy choices such as taking 85 percent of the Banking Committee cuts out of one program—assisted housing—may have a chance of succeeding.

If this happens it would mean not only that the House has chosen to make the low-wage earners, the elderly and poor bear the burden of the administration's economic experiment, but that the House has chosen to make them bear this burden out of preference for soaking the poor rather than spreading the suffering more evenly across all aspects of society. The proposals currently circulating contain not only numbers changes, but also policy changes. Where the Banking Committee keeps low-income weatherization, urban development action grants and community development block grant programs separate and targeted to their special purposes, the substitutes would roll these programs together and terminate funding for low-income weatherization, although the committee has suggested full funding for weatherization programs.

The substitutes also disagree with the Banking Committee's efforts to see that the National Consumer Cooperative Bank continues as a viable institution capable of repaying the Government's capital.

These proposals suggest, instead, a Rube Goldberg phaseout of the Bank, leaving it to service existing loans and unable to make new loans or to attract capital from private investors. All this would leave in place an expensive loan servicing operation, an unproductive bureaucracy, endangering the repayments of Government capital, and almost certainly opening the Federal Government to costly lawsuits by private stockholders of the Bank.

The committee reconciliation, in contrast, limits further appropriations, but assures a structure that will enable the Bank to attract private capital and continue as an important source of credit for consumer cooperatives. The substitutes are simply a vindictive slap at cooperatives without regard to efficiency or the cost of such absurd methods of termination.

There are other such discrepancies, but they all add up to one question: Will the administration, and OMB in particular, live up to its side of the budget-cutting bargain? The Banking Committee has met its requirements by cutting $13 billion in programs, we ask the House to help us meet the administration's commitments to spread these cuts as evenly as possible.●

REUBIN ASKEW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

● Mr. PEPPER. Mr. Speaker, it was a privilege and pleasure for me to attend an appreciation dinner on February 7 at Walt Disney World in honor of a great American, an eminent Democrat, a distinguished Floridian, a much loved public servant, and my devoted friend, Reubin Askew, former Governor of Florida and U.S. Trade Representative under the Carter administration.

An eloquent address was delivered by Jack Daniel, my old friend and distinguished, publisher of the Florida Times-Union of Jacksonville, Fla., to those who were present on this memorable occasion. It is evident from Jack Daniel's summary of Ambassador Askew's career thus far that he knows well not only the public figure but the private man, with all his courage, sincerity, compassion, and sense of fair play. He does not elaborate on Ambassador Askew's eminent career, but upon his strength of character. As Governor of the State of Florida, Reubin Askew was one of those rare men who base their decisions upon doing what is right; not upon what is the expedient or profitable thing to do. This has earned for him the political respect, trust, and love of the people of Florida.

As Trade Representative with Cabinet status, and one prominent in the leadership of the Democratic Party, Governor Askew has also won for himself, and today enjoys, the respect, the esteem, and the warmest regards of millions of his fellow Americans. Governor Askew is not only a Democrat but an American worthy of even a larger role in the leadership of our Nation, and I believe a man to whom

increasing numbers of his fellow citizens are turning for leadership in these critical times of our Nation.

Mr. Speaker, so that those who read this RECORD can better know the distinguished former Governor of Florida and former Trade Ambassador Reubin Askew, the private man who is so appropriately honored in Jack Daniel's outstanding address, I ask that Mr. Daniel's address appear in full in the RECORD immediately following these comments.

SPEECH GIVEN AT REUBIN ASKEW DINNER
FEBRUARY 7, 1981, WALT DISNEY WORLD

It is a real tribute to Reubin Askew that he came through eight years as Governor more popular than the day he started.

Floridians have acquired an earned reputation over the years of being unkind to former governors who sought election to other offices.

A governor has so many opportunities and ways to make people mad that he usually succeeds, and historically, the people of Florida have shown themselves very accomplished at holding a grudge.

This history is what makes Reubin Askew's hold on the affection of his fellow citizens a singular phenomenon.

There is little doubt that he could have had any elective office in the State after he had served the maximum allowed by the constitution in the governor's office.

He didn't gain this special niche in the hearts of Floridians by avoiding issues or keeping out of controversy. Reubin Askew has been a fighter, a doer, and a shaper who has changed both the image and the direction of the State of Florida for the better.

In the process, he has probably made every one of his constituents—with the possible exception of Donna Lou—mad at least once and some many times.

He has taken on many of the State's most powerful interests, in hand to hand political combat. And he has won.

Why then has Reubin Askew been able to escape the enmity that goes with such controversy?

I think it was because whether you were for or against him in a particular battle, you never doubted his sincerity. You knew he believed that what he was doing was the best thing for his state and he would fight you to get it done.

That earned him respect.

Secondly, he had a habit of taking the right stand. In retrospect, even many of his opponents would look at the results and admit that he had been right.

That earned him trust.

Thirdly, his public service brought him no private gain. On the contrary, it was performed at his own individual cost.

That brought him admiration and gratitude.

Some of the battles he fought were extremely bitter, such as the one over acquisition of Big Cypress Swamp. There were even threats of bodily harm made towards him in that one. When he became governor, Florida's priceless natural treasures were fast disappearing. The slogan "See Florida before it is gone" was not meant to be cynical. It was a fact. Because Reubin Askew was governor, our grandchildren and their children will still be able to see some of the Florida we have all known.

Through the political battles over taxation, disclosure, judicial reform, governmental reorganization, education, human rights and services, corrections, transportation, criminal justice, environmental protection, industrial growth and the like, he held to a single goal—the improvement of the quality of life for Floridians, a clean environment politically as well as in nature.

But his accomplishments alone—as impressive as they are—do not account for this gathering tonight, nor do they explain his place in the hearts of his fellow citizens.

We, and they, regard him with affection. And that is what this evening is all about.

Abraham Lincoln, while in the Presidency, wrote this observation:

"I desire so to conduct the affairs of this administration that if at the end, when I come to lay down the reins of power, I have lost every other friend on earth, I shall at least have one friend left, and that friend shall be down inside of me."

I do not know whether Reubin Askew ever read those words. But I do know that he has lived them.●

THE FAMILY PROTECTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. SMITH) is recognized for 60 minutes.

Mr. SMITH of Alabama. Mr. Speaker, I am proud to introduce today legislation having a critical impact on America's future, not only for the 1980's, but beyond. The Family Protection Act promotes the survival of our most treasured American institution—the American family.

The American family is the first unit of government in our democracy. Throughout our history, families have shaped the values, motivations, and standards of judgment of generations of Americans. Self-government rests on the wise judgment and virtue of its citizens achieved through strong family life.

All of us have many reasons to be grateful to our families. They gave us birth, fed us, sheltered us, educated us, loved us, and made endless sacrifices for us long before we could make such difficult choices for ourselves. Our families are not just important for the sake of heredity. They are part of us psychologically, educationally, spiritually, and morally.

Although a Gallup poll indicated that an overwhelming majority of Americans count the family as "the most" or "one of the most" important elements in their lives, attacks on the family as an institution are coming from every side. I believe that these attacks are achieving some success. Consider the divorce rate. Record numbers of American marriages broke up in 1979. Our divorce rate tripled that of 20 years ago. If high interest rates are worth our attention, consider the effect on family life of compounding the 1979 women's divorce rate of 23 per 1,000 over several years. Marriage rates declined in the last decade. The number of umarried couples living together tripled. In the last 10 years, the number of children under 18 living with both parents dropped by a whopping 20 percent. Increasing mobility and changing morals caused numbers of persons living alone to soar. As an index of this isolation, the number of widowed persons living alone increased by 50 percent since 1970. Extended families are almost extinct. Of 300 children interviewed by researchers, only a tiny fraction reported close, regular contact with their grandparents. In a 5-year study called the definitive work on how children grow up in America, the word "grandparents" does not even appear in the index. Older Americans and handicapped persons geographically and emotionally separated from their families often find themselves in human warehouses where loving attention and good care are replaced by appalling and degrading conditions.

Our Federal Government is guilty of participating in the assault on the family along with other major contributors to the decline of American family life. Federal policies toward the family over the last several years have not just been party to a benign neglect of family life. Many Federal initiatives amount to the wholesale destruction of rights that have always been—and should always be—reserved for families. Children need love, reasonable discipline, and guidance from their parents. Parents need to know that they can give that love, discipline, and guidance without the interference of the National Government at every turn.

In many cases, Federal laws and regulations have intruded on parents' rights by setting up agencies and procedures that usurp parents' ability to influence the moral and spiritual development of their children. Federal funds currently support the teaching of parenthood education by the schools in ways with which many parents disagree. Federal programs offer contraceptive devices and abortion counseling to minor children without informing parents that their children need help. Federal laws and regulations governing families and children currently supersede or even duplicate State statutes designed for the same purposes by governments closer and more responsive to the people.

I do not believe that Federal policies should encourage the breakdown of what may be the last lines of communication for children in trouble. I do not believe that the Federal Government should dictate to Americans what values they should teach their children. I do believe that I—and you, my distinguished colleagues in the House—will break faith with the Americans who sent us here if we fail to remove these Federal intrusions.

Today, I am introducing the Family Protection Act as a first step in removing Government intrusion from the lives of American families. This act is

composed of six titles. Title I addresses family preservation by restoring parents' rights. Title II offers a wide-ranging program of tax incentives making it possible for families to meet their responsibilities to save for the education of their children, or for the care of aged parents or handicapped relatives. Title III sets up provisions preserving parental participation in their children's education. Title IV assures the right of voluntary prayer in public and private. Title V prohibits Federal regulation of religious institutions and their educational affiliates. Title VI outlines the courts of jurisdiction to which actions under this act may be brought by an aggrieved party.

Title I of the Family Protection Act insures against Federal intrusions. The act's first provision creates a legal presumption in favor of an expanded interpretation of the parents' role in the religious and moral upbringing of their children. It protects the lifeline of communication between parents and their children in need. The act requires that parents be notified when their minor children receive contraceptive devices or abortions from federally funded facilities. This title assures that State statutes bearing on child abuse, spouse abuse, and juvenile delinquency are protected from Federal interference so that each State can most effectively meet its priority needs for services in these important areas. To assist in preserving the military family, my bill reinstates a Department of Defense provision requiring members of the Armed Forces who are separated from their families to send home a predetermined amount automatically to support their dependents. This amount is the allowance provided to military personnel in addition to their pay.

Title I of my act also restricts the use of tax dollars by the Legal Services Corporation. While I fully support the complete elimination of this Federal boondoggle, it may survive. If it does, I want to end its expenditure of Federal funds interfering with family rights and family preservation. To do this, I have included in my bill provisions prohibiting such spending for suits to compel abortions or abortion funding or litigation for homosexual rights. Also pertaining to the Legal Services Corporation are provisions of title II prohibiting the use of Federal moneys for school desegregation litigation. Last week, my distinguished colleagues in the House voted overwhelmingly to prohibit the U.S. Justice Department from using Federal funds to instigate cases concerning busing for desegregation. If we take that action but allow the Legal Services Corporation to continue such activity, we will not accomplish our goal. This provision of the Family Protection Act will close the door on the Legal Service Corporation's participation in such suits.

A second vital area in which swift action is urgently required is in restoring to parents the right to participate fully in the education of their children. My wife, Eunie, and I are the parents of three children. Our right to determine their moral and spiritual development and to participate in their formal education is the most precious responsibility of parenthood.

But in schools today, that right is often abrogated. Professional educators run the schools. I support professionalism in education. What I cannot support is the denial of the family's right to provide parenthood education, to participate in decisions about educational materials used to teach their children, to visit classes and to inspect their children's educational records. American consumers would not even think of buying the simplest item without seeing it. How much more important is the quality of the education that we are providing for our children? Moreover, I am greatly concerned about returning local control to education. Local control of education historically has been synonymous with family control of education—a building block of our democracy. Somewhere in the frantic pursuit of Federal aid, and in the drive to equate educators with assembly line workers in a union shop, local control has been eroded so far that almost anyone in Washington has more to say about what a child learns in school than his or here parents have.

In titles II and III of the act, I have taken steps to end this inversion of authority in the American educational system. Title II allows tax-exempt status for parent-operated schools if these schools fulfill certain requirements and are accredited under Federal education law. Title III of my bill denies Federal funds to educational institutions that prevent parents from participating in decisions about their child's enrollment in religion courses or from visiting their children's classrooms. Federal aid also will be withheld from educational institutions preventing parents and the community from reviewing textbooks prior to their use. Parenthood education also is an important and sensitive area. The Family Protection Act restores control over parenthood education to the family. Parents can elect to provide parenthood education themselves, to allow the school to provide it, or arrange for the church or synagogue to provide parenthood education. This will promote the morals and values to which parents subscribe.

At the same time, this act protects the State's authority to regulate attendance requirements in the public schools and to determine teacher qualifications. Local schools will be given back the authority over sex intermingling in sports and other school activities. Under the act, industrial union shop conditions cannot be forced on professional educators, ending the implication that teaching a child is the same kind of task as placing parts in machines on an assembly line.

In addition to the Federal assault on the right of parents to raise their children, the family has yet another attacker: inflation. The fundamental motive of most human economic activity is family concern. It is for the family's welfare that parents make sacrifices, undertake so many struggles, and attempt so much saving and investment. Our current inflation rates have an extremely negative effect on any family's ability to educate children or to care for older and handicapped members. I believe that the Federal Government should provide incentives so that American families can fulfill these important responsibilities. For too long we have abrogated these responsibilities to the Federal Government. The result is not only poor care, but also a ballooning Federal budget riddled with waste, mismanagement, and fraud. What we need is a program that combines effective use of resources with the love and care that only families can provide. The Family Protection Act's title II provides incentives for just such programs. I believe that, in the long run, they will substantially reduce the need for Federal participation in these areas.

Title II of the act is especially concerned with the education of American young people at all levels. Today's education is an expensive commodity, in spite of Federal subsidies. Yet even the wisest parent, fighting to save for a child's education, faces difficult choices as hard-earned savings are made worthless by galloping inflation, skyrocketing tuition costs, and increased Federal taxes. My bill protects parents' savings. Parents, and other contributors, can deposit up to $2,500 tax exempt per year to save for their children's education.

Earlier, I spoke about the extinction of the extended family. I want to emphasize the importance of elders in the family circle. Older Americans are to our society what grandparents are to families: Sources of wisdom drawn from long experience, and of stability and strength. Without contact with them, children cannot learn respect for elders. They have no meaningful role models for their own old age. Federal policy has failed to provide American families with incentives to care for their older members. It is a national disgrace that elderly women on their own constitute the poorest segment of the American population. Federal policy had not dealt effectively with this problem. Nearly 14 percent of aged women have no income at all. If

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the 97th Congress fails to act, we will perpetuate our system of "old folks" homes, retirement communities, and other ghettos in which we have isolated the aged.

Title II of the Family Protection Act offers a solution. It permits a taxpayer maintaining a household that includes a dependent age 65 or older to take either a $250 income tax credit or a $1,000 income tax deduction. This title also will allow the establishment of a tax-exempt trust account, similar to an individual retirement account, in which taxpayers can save $1,500 annually for the support of an aged parent or handicapped relative. Further exemptions to strengthen the family can be taken by taxpayers filing a joint return in the year of the birth, or adoption of, their child. Additional incentives are offered for adopting difficult-to-place children such as older children or the handicapped.

In many cases, economic pressures on the American family have become so extreme that more than half of our married women have become members of the labor force. For their benefit, title II of my bill provides tax incentives for employers to establish day care centers for children of their employees.

But there is another side to our statistic. Despite our economic crisis, almost half of married women still are at the cornerstone of the family. Nevertheless, the traditional role of homemaker has been increasingly devalued. It is contrasted with "real work." It has been my observation, and my experience, that keeping a house, balancing the family budget, and dealing with children is real work. Reducing the status of homemaking has important social costs that will be measured by the children we rear. If homemaking continues to be a low-esteem, low-security job, a role to escape from rather than to enjoy, then American families and children will suffer. It is a tragedy that more security is not provided for homemakers who cannot obtain real benefits, particularly those for old age. I want to provide incentives for a wage earner to establish such benefits for his spouse. Title II of the Family Protection Act permits married individuals to claim an income tax deduction for payments to a retirement account created for the benefit of the spouse at home.

My final point about the Family Protection Act is critical. America was founded by people with a belief in God. The framers of our Constitution never intended to place Federal restrictions on the free exercise of religion or on freedom of speech. I believe that their intent was just the opposite. For too long, we have watched the deterioration of the Nation's family, social, and moral ideals in which religious expression plays such an important role. To deny children the right to join in voluntary prayer is to deny them an opportunity to share in our Nation's spiritual heritage and the personal rewards of relating religion to daily life. Expression of such fundamental freedom should not be benignly denied. A strong case must be made for the free exercise of religious expression, whether public or private. Therefore, title IV of the Family Protection Act provides for voluntary prayer or religious meditation. This includes individual prayer or devotional reading from religious literature initiated by members of a group. The provision guarantees that any person desiring not to participate will be excused.

One of the cornerstones of our heritage is the separation of church and state. In recent years, this separation has been eroded primarily by the Internal Revenue Service's intrusion into the policies of churches. Title V of the Family Protection Act bars the Federal Government from regulating church schools, religious activities, religious youth homes, and ministries of religious institutions.

The goal of the Family Protection Act is simple and critical. It is designed to preserve American family life. It will do this by strengthening the family as the basic social unit of our Nation. We must establish Federal policies that nurture and sustain our capacity to live and work together and to raise our children to become both competent and compassionate Americans. Today, in an age in which anything may be tried, we are driven to confront the destruction of a national treasure that our forebearers took for granted. I believe that our entire system of government as well as our heritage is at stake. The family is the cornerstone of both. If we allow that cornerstone to erode and collapse, not only our heritage but our democracy and its freedoms will be lost.

The Family Protection Act is not all encompassing. Although many have participated in crafting it, I am sure that there are many other things that can be done to preserve and protect the American family. The act that I have introduced today is a starting point—a benchmark in turning back to traditional American values. These values and the character they produce in the American people have made ours not only the greatest nation on Earth, but the greatest in the history of mankind.

I call upon my distinguished colleagues in the House to join me today in strengthening our democracy and protecting our heritage by reaffirming the value of the family to the American way of life.

□ 1730

Mr. SILJANDER. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Alabama. I am happy to yield to my colleague, the gentleman from Michigan.

Mr. SILJANDER. Mr. Speaker, it is a great honor to be standing before my colleagues today to speak about an issue which I consider to be as important as any we face in America today. I am speaking, of course, about the preservation of the family—the cornerstone of life in this country.

The family unit is responsible for the drive and productivity which made this country great. We have seen when proper upbringing is given to children, they grow to be loving and concerned family members and citizens.

It is through strongly bound families that discipline and loyalty are taught. These are the very traits which did so much to raise and unite this Nation in a few short years from a group of separate colonies into a nation that has become the world's model of freedom and prosperity.

Those who were brave enough to travel across the seas to an unsettled and forbidding land were a courageous people. They became more courageous as they found strength in their families. They faced many harsh tests together, both physically and politically.

Americans viewed family life as a cooperative effort toward common goals of fulfillment and survival. Fathers and sons built the houses that sheltered the family. Mothers and daughters made sure that the houses became homes. There was a strong sense of responsibility to take care of a family's elderly, injured or sick, to provide a moral education, and to supply the manpower for our Nation's defense.

Today, our families are fragmented. The mobility dictated by the demands of modern society has disrupted the family which historically maintained national and moral standards.

I think most would agree that our values are well formed in our early years, and these values are reinforced throughout the remainder of our lives. That is why it is so vitally important that we give parents every opportunity to raise their children the way that they feel is proper without bureaucratic government interference.

In the past few decades, government has not set much of an example in keeping its own house in order. I hardly feel it has the qualifications necessary to dictate standards and conduct in our homes. Insensitive laws mandating procedures for the raising of our children, has resulted in a bureaucratic nightmare. This governmental interference has fragmented our families even further and has led to the abrogation of responsibilities by many parents.

This attitude of "Big Brother will do it" has harmed families and our Nation as a whole. The ever-increasing pressures of modern life has made it

become increasingly important that we provide our children with a solid foundation brought about by a consistent philosophy and a stable family life.

I believe that the Family Protection Act, H.R. 311, sponsored by congressman ALBERT LEE SMITH, of Alabama and Senator ROGER JEPSEN, of Iowa, is legislation that would take decisionmaking over our families out of the hands of the Government, take it back, and put it into the hands of those who are attempting to teach their children a consistent philosophy.

This bill will promote family togetherness and strong traditional American values in our younger generation. It removes control from the Federal Government in the areas of child abuse, spouse abuse, and juvenile delinquency. These are areas of concern better left to the States in which the families live.

The Family Protection Act will also provide needed tax incentives: Incentives such as establishing a savings plan whereby parents can save 2,500 tax-free dollars a year if used exclusively for a child's education. It also allows tax deferral trusts similar to IRA's under which taxpayers can save $1,500 a year for the support of an aged parent or handicapped relative. This I feel is a reasoned and cost efficient alternative to the growth of welfare.

In the area of educational standards—the act will allow the States the right to determine the professional qualifications of teachers and the authority to regulate pupil attendance requirements without Federal interference. The Family Protection Act will also insure the primary right of parents to determine the content and quality of their children's education.

In the last few decades we have been faced with an unprecedented invasion of family rights by the Federal Government, an invasion that has resulted in basic rights and duties being stripped from parents. Your support for the Family Protection Act (H.R. 311) will be a first step in correcting this deplorable situation.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Alabama. I am pleased to yield to my colleague, the gentleman from California.

Mr. DANNEMEYER. Mr. Speaker, I want to take this opportunity to commend my friend and colleague, the gentleman from Alabama (Mr. SMITH) for taking this special order today to draw the attention of the Congress to the plight of the American family. The gentleman is to be further commended for his leadership role, along with that of the Senator from Iowa, Mr. JEPSEN, in putting together the Family Protection Act for introduction in the 97th Congress. This legislative package should serve to bring widespread concern about the future of the American family to the forefront of our collective conscience as we formulate public policy. All too often we focus almost exclusively on the symptoms of a problem rather than on its principal cause. In the process, we overlook important sociological trends that do not fit neatly into the compartments of our legislative process. The Family Protection Act is designed to correct this by making all of us sensitive to the impact of Federal Government actions on the family and, in the process, underline the relationship between the decline of the family and many problems which plague our society today.

The family is the basic unit in our society. It is the mechanism by which individuals are acclimated into the world. It is the vehicle for their moral, physical, emotional, psychological, and institutional development. The family is the linchpin of our organizational structure. The strength of family bonds are an important component of societal cohesion. The justification for the family is both moral and practical.

Despite the fact that the family unit has served us well, there are those who treat profamily comments as a bit of nostalgia. Others are well-intentioned, yet pursue policies which have had the unintended impact of weakening the family unit. Many of these policies originated with the Federal Government, something that the Family Protection Act takes into account.

The seriousness of the weakening of the family cannot be underestimated. While it is impossible to quantify, nonetheless I am convinced that the decline of the family is both a cause and an effect of many unfortunate circumstances: The rate of divorce, the 1.5 million abortions each year, the decline in school test scores, the use of drugs, the decline in moral values, the rise of single parenting, just to name a few.

A family is the unit through which decisions about the welfare of our children should be made. However, in recent years, the trend has been towards letting matters which should be handled by the family be handled by third parties. In our so-called modern society, we send our children to day care centers rather than rear them in the loving environment of a home. Discipline is left to the authorities and the schools rather than being instilled at home. Our elderly are sent to nursing homes rather than being cared for by loved ones. All of this is expedient and convenient, but we are slowly coming to realize the negative effects of some of these things on the quality of our way of life.

To the extent that the poor condition of our economy often forces both parents to work contrary to their preference, we are in a position to relieve this pressure through the adoption of policies to improve the economy. But the problem runs deeper. For example, there is something fundamentally wrong when an individual teenager may receive family planning services without either parental consent or parental notification, yet in my State of California must receive parental consent to donate blood. There is no more vital an issue in the life of an individual and the life of a family than the personal growth of the child through adolescence. Yet, we sever the link between parent and child by allowing outside parties to interfere with the process of growing and learning together as parent and child. That is why I am pleased that this Family Protection Act includes a parental notification requirement.

This legislation is an omnibus package and I will not go into its every detail. Further, I recognize that the legislative process is not a cure-all or an end-all means of dealing with this problem. As individuals in our own families and in our own communities, we must educate ourselves and call attention to the problem. The solution will come from a decentralized examination of our own attitudes as a society, not from the Federal Government imposing its will on the Nation. Nonetheless, this bill will provide individuals with a cause of action in certain circumstances. It will reverse or reform Federal policies which weaken family life. In short, it will reverse years of neglect and enable us, as a society, to strengthen our own foundations.

● Mr. LOTT. Mr. Speaker, I join with my colleagues in support of the Family Protection Act. Historians and commentators at the end of each decade have a penchant for assigning it some type of label to reflect the direction of the generation. For instance, we are told that the decade of the seventies was a time of the "me" generation when the emphasis was on the individual. Unfortunately, this attitude has been interpreted by some as a signal to shove aside the rights of families.

I would like to see the Congress beat the historians to the punch in this decade and declare it the "family" generation—a generation devoted to the support and protection of the American family. This attitude is nothing new. The great majority of Americans—not necessarily the individuals you will see on the nightly news—derive their strengths and basic values from the family unit. This is the attitude that has driven America over the decades—not the "me" generation or the "them" generation or even the "Pepsi" generation.

We have spent almost all our time in the 97th Congress thus far in consideration of the economy and the necessi-

ty of getting it back on track. We must remember, however, that Americans last November also cast their votes for the restoration and protection of the family. Americans are sick of the family's being shoved aside and its power being given to the bureaucracy, its jurisdiction to the courts, and its resources to the Government grantors. Government may be strong enough to destroy families, but it can never replace them.

The solution to this situation is in the enactment of legislation such as the Family Protection Act which my good colleague ALBERT LEE SMITH is introducing today. The Family Protection Act responds to Federal intrusion on the family by proposing to reassess the formulation of all domestic policies from the standpoint of the family.

I am pleased to see its emphasis on education, which is a vital means by which families pass on their ideals and beliefs to the next generation. This bill, for example, will provide assistance for parents who have chosen to obtain education for their children in private schools.

As the House is well aware, the Internal Revenue Service and the courts have in the past attempted to revoke tax exemption for some private schools without providing the most basic elements of due process and fair play. Such harassment will be curbed under this act, thus insuring parents a wider range of free choice in securing their children's education.

And, to help families plan for the postsecondary education of their children, the act establishes a savings plan whereby parents may deposit up to $2,500 tax exempt, per year, to save for their children's education.

I know that the majority of Americans are looking to their Government to preserve the family in the wake of ever-expanding Federal power. I applaud my colleague from Alabama for his legislative response to American families.●

□ 1745

Mr. SMITH of Alabama. Mr. Speaker, there is a crying need by families in the United States for assistance and for less Federal Government intrusion into their lives so that they can carry on parenting for their children. We feel, I feel, and Senator JEPSEN, on the Senate side, that this is something that is timely and that is needed. I look forward to working with the Members of the House to promote this bill on this side.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BROYHILL (at the request of Mr. MICHEL), for today, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. EMERSON), to revise and extend their remarks and include extraneous material:)

Mr. SMITH of Alabama, for 60 minutes, today.

Mr. ASHBROOK, for 30 minutes, today.

Mr. EMERSON, for 5 minutes, today.

(The following Members (at the request of Mr. KOGOVSEK), to revise and extend their remarks and include extraneous material:)

Mr. FORD of Michigan, for 5 minutes, today.

Mr. NELSON, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ST GERMAIN, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. MAVROULES, for 30 minutes, July 8, 1981.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SENSENBRENNER, to insert a letter at the conclusion of his remarks on the Kramer amendment to H.R. 3480 in the Committee of the Whole today.

(The following Members (at the request of Mr. EMERSON), and to include extraneous matter:)

Mr. BENEDICT.
Mr. MICHEL in two instances.
Mr. CAMPBELL.
Mr. RITTER.
Mr. WAMPLER.
Mr. DAUB.
Mr. LEBOUTILLIER.
Mr. BROOMFIELD.
Mr. ROUSSELOT in two instances.
Mr. PAUL.
Mr. LIVINGSTON.
Mr. PARRIS.
Ms. FIEDLER.
Mr. LOWERY of California.
Mr. GREEN.
Mr. DENARDIS.
Mr. BURGENER.
Mr. LUJAN.
Mr. HYDE in two instances.

(The following Members (at the request of Mr. KOGOVSEK), and to include extraneous matter:)

Mr. WAXMAN.
Mr. FITHIAN.
Mr. TRAXLER.
Mr. DOWNEY in two instances.
Mr. RATCHFORD.
Mr. WEISS.
Mr. HAMILTON.
Mr. LANTOS.
Mr. CONYERS.
Mr. ROE in two instances.
Mr. IRELAND.
Mr. HEFTEL in two instances.
Mr. MINETA.
Mr. FASCELL.
Mrs. SCHROEDER.
Ms. OAKAR.
Mr. MILLER of California.
Mr. EDGAR.
Mr. JOHN L. BURTON.
Mr. YOUNG of Missouri.
Mr. FORD of Michigan.
Mr. HARKIN.

ADJOURNMENT

Mr. KOGOVSEK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 49 minutes p.m.), the House adjourned until tomorrow, Thursday, June 18, 1981, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1623. A letter from the Comptroller, Department of State, transmitting the semiannual report on international narcotics control program activities for the period ended March 31, 1981, pursuant to section 481(b)(2) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

1624. A letter from the Acting Director, U.S. Water Resources Council, transmitting a report on the Council's activities under the Freedom of Information Act during calendar year 1980, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

1625. A letter from the Acting Deputy Assistant Secretary of Housing and Urban Development for Administration, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1626. A letter from the Assistant Secretary of Energy for Management and Administration, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1627. A letter from the Acting Secretary, Federal Maritime Commission, transmitting notice of the extension of the statutory deadline for the Commission's decision in docket No. 81-10, Sea-land Service, Inc., Trailer Marine Transport Corp., Gulf Caribbean Marine Lines, Inc., and Puerto Rico Maritime Shipping Authority—Proposed General Rate Increases in the Puerto Rico and Virgin Islands Trades, pursuant to section 3 of the Intercoastal Shipping Act, 1933; to the Committee on Merchant Marine and Fisheries.

1628. A letter from the Secretary of Transportation, transmitting the quarterly report of the Urban Mass Transportation Administration for the first quarter of fiscal year 1981, pursuant to section 4 of the Urban Mass Transportation Act, as amended; to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ZABLOCKI: Committee on Foreign Affairs. House Joint Resolution 220. Joint resolution proclaiming Raoul Wallenberg to be an honorary citizen of the United States, and requesting the President to ascertain from the Soviet Union the whereabouts of Raoul Wallenberg and to secure his return to freedom (Rept. No. 97-152, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASHBROOK:

H.R. 3940. A bill to amend the manufacturing clause of the copyright law; to the Committee on the Judiciary.

By Mr. ASHBROOK (for himself, Mr. GOODLING, Mr. JEFFORDS, Mr. COLEMAN, Mr. ERDAHL, Mr. DENARDIS, Mr. CLAUSEN, Mr. ROBERT W. DANIEL, JR., Mr. LAGOMARSINO, and Mr. MCCLORY):

H.R. 3941. A bill to consolidate and simplify the administration of Federal elementary and secondary education programs by the Elementary and Secondary Education Act of 1965, as amended, in order to eliminate unnecessary paperwork and undue Federal interference in our Nation's schools, and for other purposes; to the Committee on Education and Labor.

By Mr. BREAUX (for himself and Mr. FORSYTHE):

H.R. 3942. A bill to amend the Commercial Fisheries Research and Development Act of 1964; to the Committee on Merchant Marine and Fisheries.

By Mr. BROOKS:

H.R. 3943. A bill to amend the Federal Grant and Cooperative Agreement Act; to the Committee on Government Operations.

By Mr. JOHN L. BURTON:

H.R. 3944. A bill to amend title XIX of the Social Security Act to provide for medicaid coverage of acupuncturists' services; to the Committee on Energy and Commerce.

H.R. 3945. A bill to provide benefits under part B of the medicare program with respect to acupuncture treatment in States which license or certify individuals who furnish such treatment; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. FAZIO (for himself and Mr. JOHN L. BURTON):

H.R. 3946. A bill to amend title 10, United States Code, to prohibit the construction of naval vessels, or major components of hulls or superstructures of naval vessels, in foreign shipyards; to the Committee on Armed Services.

By Mr. GUARINI:

H.R. 3947. A bill to amend the Internal Revenue Code of 1954 to repeal the dollar limitation on the amount of used property for which the investment tax credit is allowable; to the Committee on Ways and Means.

By Mr. HYDE:

H.R. 3948. A bill to amend the Voting Rights Act of 1965; to the Committee on the Judiciary.

By Mr. HYDE (for himself and Mr. SPENCE):

H.R. 3949. A bill to amend section 1103 of title 11 of the United States Code; to the Committee on the Judiciary.

By Mr. LAGOMARSINO:

H.R. 3950. A bill to amend title 10, United States Code, to authorize studies on reuse of military bases and community planning assistance made necessary by the establishment, realinement, or closure of Department of Defense installations or by the cancellation or termination of Department of Defense contracts or the failure to proceed with an approved major weapon system program; to the Committee on Armed Services.

By Mr. OTTINGER (for himself and Mr. MOORHEAD):

H.R. 3951. A bill to promote energy conservation by providing for daylight saving time on an expanded basis and for other purposes; to the Committee on Energy and Commerce.

By Mr. PAUL:

H.R. 3952. A bill to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition; to the Committee on Ways and Means.

By Mr. ST GERMAIN:

H.R. 3953. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income interest earned on the All Savers Certificate offered at financial institutions; to the Committee on Ways and Means.

By Mr. SANTINI (for himself, Mr. GINN, Mr. MARRIOTT, and Mr. HANSEN of Utah):

H.R. 3954. A bill to authorize the Secretary of Defense to provide special impact assistance to State and local governments and other local or regional entities for the purpose of mitigating the adverse impact on local communities resulting from the deployment of the MX missile system or from the development of the east coast Trident submarine base; to the Committee on Armed Services.

By Mr. SMITH of Alabama:

H.R. 3955. A bill to strengthen the American family and to promote the virtues of family life through education, tax assistance, and related measures; jointly, to the Committees on Armed Services, Education and Labor, the Judiciary, and Ways and Means.

By Mr. STARK:

H.R. 3956. A bill to amend section 201 of the Housing and Community Development Amendments of 1978 for the purpose of encouraging efforts relating to energy efficiency; to the Committee on Banking, Finance and Urban Affairs.

By Mr. TAUKE:

H.R. 3957. A bill to provide mandatory social security coverage for Members of Congress and the Vice President; to the Committee on Ways and Means.

By Mr. BENEDICT:

H.J. Res. 290. Joint resolution to authorize and request the President to designate July 1981 as "National Peach Month," and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. MARKEY (for himself, Mr. BINGHAM, Mr. SYNAR, Mr. SOLARZ, Mr. FROST, Mr. GILMAN, Mr. FISH, Mr. DUNN, Mr. LEBOUTILLIER, Mr. WEISS, Mr. WYDEN, Mr. SCHEUER, Mr. TRAXLER, Mr. LOWERY of California, Mr. WAXMAN, Mr. FORSYTHE, Mr. AUCOIN, Mr. BLANCHARD, Mr. DIXON, Mr. FOGLIETTA, Mr. WORTLEY, Mr. FRANK, Mr. HALL of Ohio, Mr. LEHMAN, Mr. MAVROULES, Mr. OBERSTAR, Mr. PEPPER, Mrs. FENWICK, Mr. ADDABBO, Mr. ROSENTHAL, Mr. GREEN, and Mr. MINISH):

H. Con. Res. 150. Concurrent resolution expressing the sense of the Congress that the President should take certain actions concerning the supply of further nuclear material and technology to Iraq by certain countries and concerning U.S. nuclear nonproliferation policy; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

132. The SPEAKER presented a memorial of the assembly of the State of New York, relative to granting honorary American citizenship to Raoul Wallenberg; jointly, to the Committees on the Judiciary and Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 385: Mr. BARNES and Mr. ERTEL.

H.R. 435: Mr. DOUGHERTY.

H.R. 556: Mrs. SCHNEIDER, Mr. FORD of Tennessee, and Mr. BIAGGI.

H.R. 654: Mrs. SCHNEIDER.

H.R. 741: Mr. MADIGAN, Mr. CLAY, Mr. BARNARD, Mr. IRELAND, Mr. YOUNG of Missouri, Mr. GOODLING, Mr. BADHAM, and Mr. MAVROULES.

H.R. 1005: Mr. LOTT, Mr. BADHAM, and Mrs. SCHNEIDER.

H.R. 1297: Mr. LOEFFLER and Mr. HILER.

H.R. 1298: Mr. LOEFFLER and Mr. HILER.

H.R. 1642: Mr. LOWERY of California.

H.R. 1662: Mr. STOKES, Ms. FERRARO, Mr. DONNELLY, Mr. GARCIA, Mr. FAUNTROY, Mr. MURPHY, and Mr. MITCHELL of Maryland.

H.R. 1765: Mr. WILLIAMS of Montana.

H.R. 2103: Mr. GOODLING, Mr. DAUB, Mr. ROBERT W. DANIEL, JR., Mr. SILJANDER, and Mr. IRELAND.

H.R. 2250: Mr. FOWLER, Mr. PRICE, Mr. JENKINS, Mr. GARCIA, Mr. SOLARZ, and Mr. ANTHONY.

H.R. 2262: Mr. CONYERS.

H.R. 2451: Mr. DICKS.

H.R. 2505: Mr. SCHEUER, Mrs. HOLT, Mr. LOWERY of California, Mr. JOHNSTON, Mr. FINDLEY, Mr. COATS, Mr. FORSYTHE, Mr. PORTER, Mr. MCCLORY, Mr. DUNCAN, Mr. MITCHELL of Maryland, Mr. BURGENER, Mr. FRANK, Mr. FISH, Mr. STANGELAND, Mr. WEBER of Minnesota, Mr. SIMON, Mr. MURPHY, Mr. BARNARD, Mr. YATRON, Mr. EVANS of Georgia, Mr. NELLIGAN, Mr. HARKIN, Mrs. CHISHOLM, Mr. GARCIA, Mr. GINGRICH, Mr. CROCKETT, Mr. JAMES K. COYNE, Mr. JEFFORDS, Mr. PATTERSON, Mr. CHAPPELL, and Mr. MINETA.

H.R. 2640: Mr. MCCURDY.

H.R. 2936: Mr. GEPHARDT.

H.R. 2973: Mr. DIXON, Mr. WASHINGTON, Mr. CONYERS, Mr. WAXMAN, Mr. LANTOS, Mr. NEAL, and Mr. SAVAGE.

H.R. 2977: Mr. WOLPE, Mr. WIRTH, Mr. LAFALCE, and Mr. HARKIN.

H.R. 2983: Mr. ROTH, Mr. SIMON, and Mr. GOODLING.

H.R. 3003: Mr. ROBERT W. DANIEL, JR., Mr. PATTERSON, and Mr. BARNARD.

H.R. 3269: Mr. ALEXANDER, Mr. KRAMER, Mr. BAILEY of Missouri, Mr. RHODES, and Mr. ADDABBO.

H.R. 3274: Mr. GUNDERSON.

H.R. 3427: Mr. HANSEN of Idaho and Mr. ENGLISH.

H.R. 3456: Mr. WHITLEY, Mr. ANDREWS, Mr. WOLF, Mr. YOUNG of Missouri, Mr. LEE, Mr. ANTHONY, Mr. IRELAND, Mr. NEAL, Mr. LEVITAS, Mr. LIVINGSTON, Mr. WALGREN, and Mrs. HOLT.

H.R. 3575: Mr. KINDNESS, Mr. RINALDO, and Mr. GUNDERSON.

H.R. 3614: Mr. GINN, Mr. RAHALL, Mr. BEARD, Mr. WHITLEY, Mr. DWYER, Mr. GOODLING, Mr. DAUB, Mr. JENKINS, Mr. WILLIAMS of Montana, Mr. BOWEN, Mr. SANTINI, and Mr. PEPPER.

H.R. 3744: Mr. AUCOIN, Mr. BONKER, Mr. BONER, Mr. JOHN L. BURTON, Mr. COELHO, Mr. DANIEL B. CRANE, Mr. PHILIP M. CRANE, Mr. DASCHEL, Ms. FERRARO, Mr. GEPHARDT, Mr. GREEN, Mr. MARTIN of North Carolina, Mr. OBERSTAR, Mr. SCHEUER, Mr. SOLOMON, Mr. SYNAR, Mr. WYDEN, and Mr. YOUNG of Missouri.

H.R. 3769: Mr. HUTTO.

H.R. 3786: Mr. ROE, Mr. EDWARDS of Alabama, Mr. LIVINGSTON, Mr. WYDEN, Mr. HUCKABY, Mr. MCDONALD, Mr. HUTTO, Mr. ROBERT W. DANIEL, JR., Mr. IRELAND, Mr. WEBER of Ohio, and Mr. BIAGGI.

H.R. 3811: Mr. MAVROULES.

H.R. 3907: Mr. FOGLIETTA, Mr. KILDEE, Mr. CROCKETT, Mr. CONYERS, Mr. HORTON, and Mr. PORTER.

H.J. Res. 72: Mr. FAZIO, Mr. BETHUNE, Mr. SILJANDER, Mr. MADIGAN, and Mr. MICHEL.

H.J. Res. 102: Mr. JONES of North Carolina, Mr. MOTTL, Mr. PICKLE, Mr. ROEMER, Mr. VENTO, Mr. EMERY, Mr. WRIGHT, Mr. EMERSON, Mr. HILER, Mr. MCEWEN, Mrs. BOGGS, Mr. DERRICK, Mr. SPENCE, Mr. CAMPBELL, Mr. NAPIER, Mr. GIBBONS, Mr. BRINKLEY, Mr. LEE, Mr. ATKINSON, Mr. SKELTON, Mr. BROOKS, Mr. WAXMAN, Mr. WALGREN, Mr. BAILEY of Pennsylvania, Mr. MITCHELL of New York, and Mr. HAMILTON.

H.J. Res. 159: Mr. RINALDO, Mr. ROE, Mr. FORSYTHE, Mr. FLORIO, Mr. GUARINI, Mr. HORTON, Mr. PEPPER, Mr. SCHUMER, Mr. RICHMOND, Mr. FOGLIETTA, and Mr. ADDABBO.

H.J. Res. 162: Mr. GRADISON, Mr. BAILEY of Pennsylvania, Mr. JONES of Tennessee, Mr. RINALDO, Mr. HAMILTON, Mr. FOUNTAIN, Mr. MYERS, Mr. GEJDENSON, Mr. JACOBS, Mr. BENJAMIN, Mr. FORD of Tennessee, Mr. WYLIE, Mr. CLAUSEN, Mr. JONES of North Carolina, Mr. FINDLEY, Mr. VOLKMER, Mr. HOYER, Mr. FITHIAN, Mr. CHAPPIE, Mr. BEREUTER, and Mr. PATTERSON.

H.J. Res. 220: Mr. ZABLOCKI.

H.J. Res. 256: Mr. LEBOUTILLIER, Mr. GORE, Mr. FAUNTROY, Mr. BARNES, Mr. ROE, Mr. MARRIOTT, Mr. RAHALL, Mr. FOUNTAIN, Mrs. HOLT, Mr. O'BRIEN, Mr. HUTTO, Mr. IRELAND, Mr. CARMAN, Mr. LONG of Maryland, Mr. DYSON, Mr. DUNN, Mr. FAZIO, Mr. MURPHY, Mr. LUNGREN, Mr. WORTLEY, Mr. WINN, Mr. ADDABBO, Mr. GILMAN, Mr. NICHOLS, Mrs. BYRON, Mr. CORRADA, Mr. HORTON, Mr. MOORHEAD, Mr. MOTTL, Mr. BRODHEAD, Mr. BROWN of California, Mr. MURTHA, Mr. SANTINI, Mr. SILJANDER, Mr. FOGLIETTA, Mr. PEPPER, Mr. WAXMAN, Mr. BOWEN, Mr. DAUB, and Mr. ANDERSON.

H.J. Res. 279: Mr. CORRADA.

H. Con. Res. 1: Mr. GEPHARDT.

H. Con. Res. 111: Mr. LOWRY of California, Mr. HYDE, Mr. GRAY, Mr. BARNES, Mr. LEACH of Iowa, Mr. PORTER, Mr. SMITH of Alabama, Mr. DWYER, and Mr. CONYERS.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2614

By Mr. PEASE:

—Page 7, strike out line 10 and all that follows through line 19.

—Page 10, after line 20, add the following new title:

TITLE VII—GENERAL PROVISIONS

RECREATION FACILITIES REPORT

SEC. 701. Not later than January 1, 1982, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report which—

(1) details the costs associated with maintaining military recreation facilities for use by members of the Armed Forces and their dependents;

(2) examines the availability of recreation facilities other than military recreation facilities for use by members of the Armed Forces and their dependents; and

(3) describes methods of obtaining funds by charging members of the Armed Forces and their dependents fees for the use of military recreation facilities.

H.R. 3238

By Mr. WAXMAN:

(Substitute for the amendment offered by Mr. COLLINS of Texas.)

—Page 6, strike out lines 16 and 17, and insert in lieu thereof the following: "and $160,000,000 for each of the fiscal years 1984, 1985, and 1986".

SENATE—*Wednesday, June 17, 1981*

(Legislative day of Monday, June 1, 1981)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

Father in heaven, no group of men and women in the world bear greater responsibility than those who compose the Senate of the United States. No group holds more power and greater potential for the good of all people. Enable this body to realize total fulfillment of its destiny.

Jesus said:

If a kingdom is divided against itself, that kingdom cannot stand. And if a house is divided against itself, that house will not be able to stand.—Mark 3: 24 R.S.V.

Lord God strengthen the Senate against every divisive force that would neutralize its influence.

Give to the Members of the Senate with their diverse and often conflicting views a high sense of the common purpose which unites them. Deliver them from stubborn pride that imputes to itself infallibility, that gives absolute value to views that are of relative importance, and that pits partisanship against common cause and national interest.

Father in heaven, guide Thy servants through discussion, debate, and confrontation to the adequate solutions so desperately needed. In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President. I inquire of the Chair, are there special orders for the recognition of Senators this morning?

The PRESIDENT pro tempore. There is a special order for the Senator from Wisconsin (Mr. PROXMIRE) for 15 minutes, the Senator from Michigan (Mr. LEVIN) for 15 minutes, the Senator from Iowa (Mr. JEPSEN) for 15 minutes, and the Senator from Nevada (Mr. LAXALT) for 15 minutes.

Mr. BAKER. I thank the Chair.

Mr. President, I am now advised that the Senator from Nevada (Mr. LAXALT) has no further requirement for the special order in his favor. I ask unanimous consent that it be canceled.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader rescind cancellation of the special order in favor of the Senator from Nevada (Mr. LAXALT) and transfer the 15 minutes ordered for the recognition of Senator LAXALT to the Senator from Oklahoma (Mr. BOREN)?

Mr. BAKER. Yes.

Mr. President, I ask unanimous consent that instead of rescinding and cancellation of the special order in favor of the Senator from Nevada (Mr. LAXALT) the 15 minutes otherwise ordered for the recognition of Senator LAXALT be transferred to the Senator from Oklahoma (Mr. BOREN) instead.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished majority leader.

Mr. BAKER. Mr. President, I thank the minority leader.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that after the execution of special orders in favor of the Senators just identified there be a brief period for the transaction of routine morning business to extend not longer than 30 minutes in which Senators may speak for not more than 5 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

DEPARTMENT OF JUSTICE AUTHORIZATIONS

Mr. BAKER. Mr. President, is it not so that according to the order previously entered, that after the expiration of time allocated to the two leaders under the standing order or its disposition otherwise, the time allocated to Senators under special orders, and the time for transaction of routine morning business, the Senate will automatically resume consideration of the Department of Justice authorization bill, S. 951, at which time the Senator from Connecticut (Mr. WEICKER) will be recognized for the purpose of continuing debate on a Weicker second-degree amendment to the Helms amendment?

The PRESIDENT pro tempore. The Senator is correct.

Mr. BAKER. Mr. President, I thank the Chair.

DEPARTMENT OF STATE AUTHORIZATIONS

Mr. President, some time during the course of this day I intend to confer with the minority leader at his convenience on the matter of laying aside temporarily the Department of Justice authorization bill so that we may proceed to the consideration of the Department of State authorization bill as provided for in another order previously entered.

It is my hope that we might be able to proceed to the Department of State authorization bill at approximately 2 p.m., but, as I indicated just now, I will confer with the minority leader before we proceed in that manner.

However, Senators should be on notice that we will commence the debate on the Department of Justice authorization bill after the expiration of time allocated to the Senators under the standing order, the special orders, and morning business. That should run for about an hour, perhaps a little less. At the expiration of that time, at approximately 2 p.m., I anticipate that there is a good likelihood we will temporarily lay aside the Department of Justice authorization bill and proceed to the consideration of the Department of State authorization bill.

The best estimates and appraisals I can receive from this side of the aisle are that we should be able to dispose of the Department of State authorization bill in about 2 hours. In any event, it is my expectation that after we dispose of the Department of State authorization bill we resume consideration of the Department of Justice authorization bill for a time yet today.

So, Mr. President, the Senate will have a fairly busy day today. I expect we will run to a normal time for recess or adjournment this evening. It will not be late, but it will be a full day nonetheless.

Tomorrow morning, we will resume consideration of the Department of Justice authorization bill unless that has been disposed of or unless we have not yet disposed of the Department of State authorization bill.

I hope that we can finish both of those measures today and tomorrow. If we can do that and take care of certain other matters that must be dealt with, especially items that I identified last evening that might be dealt with on short-time limitations or by unanimous consent, and other items that may be cleared on both sides for action today and tomorrow, I hope that it might be possible to go over then until Monday. That is by no means certain. So Senators should not plan on it, but I simply urge that we consider

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

the arrangements of the Senate so that we might entertain that possibility at least.

MONDAY—RECONCILIATION BILL

On Monday, it is my advice that we will be able to turn to the budget reconciliation bill which has now been reported by the Budget Committee of the Senate. The report on that bill, by the way, runs to more than 900 pages, just short of 1,000 pages. Copies have been made available or will be made available today in an early or midafternoon timeframe. So on Monday next I expect that we will be in a position to proceed to the consideration of that bill.

There is, of course, the statutory time limitation on that bill, and it may take Monday and Tuesday, maybe even Wednesday, to finish that measure, but I hope we can address the problems that remain in connection with the consideration of that measure and the bill itself and dispose of it in time to take up the farm bill before we go out for the July 4 recess.

Mr. President, that is a vignette preview of the schedule of the Senate, as I see it, at this moment.

My purpose of expounding at some length is because I know Senators have to plan their schedules, especially at this time and more particularly in view of the fact that there is a possibility at least of an airline strike beginning on Sunday night. I hope that does not occur.

I have today talked to the Secretary of the Department of Transportation and asked him to keep me advised regularly on the progress of the negotiations on the possibility of that strike. I will report to Senators that at this time it appears at least a 50-50 prospect that such an interruption may occur.

I will continue to report as I receive further information, but in the meantime I urge Senators to consider their travel schedules for this weekend and most especially for Sunday to assume for the sake of schedule safety that there may be some difficulty in returning after Sunday by air.

Since we have the budget reconciliation bill up on Monday, and I am sure every Senator will want to be on the floor at that time, I thought it might be appropriate to call this to the attention of all Members at this point early in the week.

Mr. President, I have no further need for my time, if any remains, under the standing order, and I am prepared to yield it back or yield to the minority leader for his use if he wishes.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished majority leader. Will the majority leader yield his remaining time to me?

Mr. BAKER. Yes, I yield my time remaining under the standing order to the minority leader.

Mr. ROBERT C. BYRD. Mr. President, I yield to Mr. BOREN such time as he may need.

HIGH INTEREST RATES

Mr. BOREN. Mr. President, I thank the distinguished minority leader. I shall require only a brief amount of time.

Yesterday I took the floor to indicate that I will continue to speak each day we are in session until the administration takes some action to provide for an immediate program to assure the continued security of our thrift institutions, to meet the growing crisis in housing, in agriculture, small businesses, and other critical areas in our economy caused by the high interest rates.

As I pointed out yesterday, while we may be working on a long-term cure for the economic ills of our country, we face urgent short-term problems caused by the high interest rates, problems which will grow into a major crisis in the very near future if this Congress and this administration do not take action.

I want to again urge the President not to wait until a serious problem develops, but to plan now, to take action now, to prevent this crisis from developing.

Mr. President, this morning I would merely cite two or three statistics to show how this crisis is going day by day, and to indicate again the need for action to be taken to provide for the security of our thrift institutions in this country.

According to the March 1981 first quarter figures which have been released, the earnings of the insured savings and loan associations in the United States declined in the first quarter of this year by $671 million, in terms of a net decline for this quarter only, the first quarter only.

The net worth of thrift institutions so insured in this country fell by 2.1 percent in the first quarter of this year alone.

Mr. President, perhaps even more dramatic is the record as it applies to the influx of new savings, new deposits, into the insured savings and loan associations.

In 1977 $32 billion of new savings was added to these institutions; in 1978 that figure had fallen to $23 billion; in 1979 it fell to $15 billion; in 1980 it fell to $10 billion; and in the first quarter of this year there were no new savings added as a net figure. In fact, the amount of savings, net increase in savings, in savings and loans in the first quarter of 1981 was a negative $1 billion; in other words, a net outflow of savings from these institutions of $1 billion in the first quarter of this year.

Mr. President, the merger of institutions can only go on so long before the chain runs out. Action must be taken to shore up these institutions either through the provision of tax-exempt certificates of deposit or savings accounts which will be attractive to potential savers, which will cause people to begin to increase savings in these institutions, and action must be taken to help bring the net interest costs of housing loans down so that the average American family can once again afford to buy a house, so we can put people in the construction industry and in the building trades back to work; and action must be taken in the near future if we are to avoid serious problems in agriculture, in small business, where those who are productive in our society simply cannot continue to pay the present short-term high rates of interest and continue to exist financially.

Mr. President, I again call for action and urge the President and his administration to prepare a plan, to present it to Congress, so that we can prevent what could be a crisis from developing.

I thank the Chair and I yield back the floor.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I now yield back to the distinguished majority leader, after which I will yield to my friend from Illinois and my friend from Virginia.

Mr. BAKER. Mr. President, I appreciate the generosity of the minority leader, and I wonder if he will postpone that for a moment until there is time for staff to examine a document that I believe the Senator from New Mexico wishes to present.

Mr. ROBERT C. BYRD. I thank the majority leader.

I yield to the Senator from Illinois.

Mr. DIXON. I thank the minority leader.

INDEPENDENCE OF LITHUANIA

Mr. DIXON. Mr. President, 3 months ago I stood before my colleagues to share in the joy of the 63d annual commemoration of the declaration of independence of Lithuania. Today, I am here again to voice my support for the proud Lithuanians, but for another reason.

June 15 marked the 41st anniversary of the occupation and incorporation of Lithuania into the Soviet Union. This is an occasion that must not be forgotten.

To quote President Franklin Delano Roosevelt:

> Lithuania did not lose her independence—Lithuanian independence was only temporarily put aside. Time will come and Lithuania will be free again.

I share these sentiments, and hope, as do all independent Lithuanians, that one day this brave and durable nation will again experience liberation.

VOTE OF COMMITTEE ON THE BUDGET ON MOTION TO REPORT THE OMNIBUS RECONCILIATION ACT OF 1981

Mr. BAKER. Mr. President, if the Senator will permit me to yield to the Senator from New Mexico, he has two matters to present. One is the matter that I believe is in the act of being cleared now, and the other is for the purpose of introducing a bill.

The PRESIDING OFFICER (Mr. COCHRAN). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, on behalf of the Committee on the Budget, the following is an announcement of the

vote on the motion to report the Omnibus Reconciliation Act of 1981, which occurred yesterday, June 16, 1981:

Vote of the Committee on the Budget on the motion of the Chairman to report the Omnibus Reconciliation Act of 1981, with a "do pass" recommendation, and to include in the committee report the views of the Committee on the Budget on nonbudgetary material in the bill, on committees which did not meet their reconciliation instructions, and on the action of the Energy Committee on the Strategic Petroleum Reserve.

YEAS

Mr. Armstrong, Mrs. Kassebaum, Mr. Boschwitz, Mr. Hatch, Mr. Tower, Mr. Symms, Mr. Grassley, Mr. Kasten, Mr. Quayle, Mr. Gorton, Mr. Hollings, Mr. Chiles, Mr. Johnston, Mr. Sasser, Mr. Hart, Mr. Riegle, Mr. Moynihan, Mr. Exon, and Mr. Domenici.

NAYS

None.

THE PRESIDENT'S ECONOMIC RECOVERY PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I now yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I rise to applaud the firm position taken by President Reagan at his press conference yesterday in behalf of his economic recovery program.

The President has presented to the Congress and to the country a program which, taken as a whole, is, I feel, a desirable one and an important one. It couples an essential reduction in spending with a reduction in taxes.

The American people, I am convinced, want a reduction in the cost of government. The American people also feel that taxes are too high, and President Reagan has addressed this problem with his proposals to Congress.

Without his courage, his leadership, and his determination I am convinced we would not bring about a reduction in Federal spending. But with his courage, his determination, and his leadership we will, I am convinced, bring about a reduction in the cost of government that can be coupled with a reduction in taxes.

The President feels it is important that the enactment of his economic recovery program not be delayed. I agree with him, and I hope Congress will not stall. I hope Congress will act quickly on his total program. The sooner this total program can be enacted, the sooner there will be removed the element of uncertainty that exists in the Nation today.

Business cannot proceed without knowing what the Congress will do in regard to the tax program, and the average American citizen is in the same dilemma.

So I hope that Congress will act quickly on this program. I applaud President Reagan for his determination, for his leadership, and for his courage in standing firmly behind the program that he has presented.

Mr. ROBERT C. BYRD. Will the distinguished Senator yield?

Mr. HARRY F. BYRD, JR. Yes.

Mr. ROBERT C. BYRD. The Senator will admit, will he not, that the Congress has acted with speed in dealing with the President's economic program? I think Congress has acted remarkably expeditiously in dealing with the President's proposed budget cuts.

Mr. HARRY F. BYRD, JR. I agree.

Mr. ROBERT C. BYRD. The first concurrent resolution was enacted, the reconciliation resolution was enacted, the reconciliation bill is being marked up now and will be on the floor next week. Should not the Congress be given credit for having acted expeditiously and responsively and responsibly with respect to that portion of the President's economic program?

Mr. HARRY F. BYRD, JR. Yes, I agree.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, I yield the remainder of the time back to the majority leader.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I thank the minority leader. We have sort of played ping-pong with the time today, but I think it has been to good effect.

Mr. President, I now yield to the distinguished chairman of the Budget Committee.

The PRESIDING OFFICER. The Senator from New Mexico.

CORRECTED "CROSSWALK" ALLOCATIONS FOR FISCAL YEAR 1982

Mr. DOMENICI. Mr. President, I ask unanimous consent to have printed in the RECORD a table showing the corrected Senate crosswalk allocations for fiscal year 1982 under the recently adopted first budget resolution.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

CORRECTED SENATE COMMITTEE ALLOCATIONS PURSUANT TO SEC. 302 OF THE CONGRESSIONAL BUDGET ACT, FISCAL YEAR 1982

[In millions of dollars]

	Direct spending jurisdiction		Entitlements funded in annual appropriation acts	
	Budget authority	Outlays	Budget authority	Outlays
Appropriations Committee	464,889	428,966	----	----
Agriculture, Nutrition, and Forestry Committee	942	3,392	31	33
Armed Services Committee	−572	−570	15,395	15,281
Banking, Housing, and Urban Affairs Committee	4,142	747	----	----
Commerce, Science, and Transportation Committee	877	−89	319	319
Energy and Natural Resources Committee	1,085	1,029	60	58
Environment and Public Works Committee	8,705	2,211	----	----
Finance Committee	339,144	321,242	41,374	42,607
Foreign Relations Committee	13,189	11,206	----	----
Governmental Affairs Committee	40,728	29,474	(1)	(1)
Judiciary Committee	410	393	59	59
Labor and Human Resources Committee	5,421	6,103	4,908	4,874
Rules and Administration Committee	41	6	----	----
Small Business Committee	----	----	----	----
Veterans Affairs Committee	1,285	903	15,569	15,502
Select Committee on Indian Affairs	461	283	----	----
Not allocated to committees	−109,846	−109,846	----	----
Total, budget	770,900	695,450	77,706	78,734

(1) Less than $500,000.

Note: Details may not add to totals due to rounding.

Mr. DOMENICI. Mr. President, I further ask unanimous consent that this table be considered the fiscal year 1982 allocation to Senate committees for purposes of section 302(a) of the Congressional Budget Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, the Senate Budget Committee staff, while working with CBO, House Budget Committee, and Senate Appropriations Committee staffs discovered some technical errors in the fiscal year 1982 crosswalk allocations to Senate committees that were printed in the statement of managers accompanying the conference report on House Concurrent Resolution 115, the first concurrent resolution on the budget for fiscal year 1982. The revised table I am placing in the record corrects these technical errors.

First, $1,100 million in budget authority and $92 million in outlays for programs authorized by the Senate Banking Committee but appropriated in regular appropriation bills were improperly allocated as direct spending in the jurisdiction of the Senate Banking Committee. These amounts should have been assigned to the Senate Appropriations Committee.

Second, $123 million in budget authority reductions in programs in the direct spending jurisdiction of the Senate Banking Committee were improperly allocated to the Senate Appropriations Committee.

Finally, coding errors on certain entitlements funded in annual appropriations acts resulted in slight understatement of these amounts in the jurisdictions of the Senate Agriculture Committee and Senate Labor and Human Resources Committee and a slight overstatement of these amounts in the jurisdiction of the Senate Finance Committee.

These technical corrections have been discussed with the staffs of the affected committees. Those committees have no objection to making these corrections.

Mr. HATFIELD. Mr. President, I wish to express my appreciation to Chairman DOMENICI for asking unanimous consent to publish a revised "crosswalk" for fiscal year 1982. This crosswalk contains the allocation to the Appropriations Com-

mittee as a result of the conference agreement on the budget resolution. I understand that today's action makes technical corrections and does not in any way alter what Congress intended when it passed the resolution.

The Appropriations Committee will shortly report to the Senate its subdivision of that total allocation by subcommittee. It will be that subdivision which the Senate will use to measure each individual appropriations bill against the budget resolution. This same procedure is used by the House; namely, the Appropriations Committee subdivides its allocated total for purposes of comparing its bills to the budget resolution.

However, Members should be aware of a discrepancy which exists even before any subdivision is made. The total allocations for the Appropriations Committees of the House and the Senate are different. The House Budget Committee has allocated for fiscal year 1982 over $1 billion more in outlays to the House Appropriations Committee than has been allocated to the Senate Appropriations Committee by the Senate Budget Committee.

This difference stems in large part from the House Budget Committee's policy on assumed collections from oil company overcharges. They contend that this policy results in an add-on of $176 million in budget authority and $1,048 million in outlays for the House Appropriations Committee. The Senate Budget Committee has no such policy assumption. This issue, we understand, was not considered in conference on the budget resolution.

This fact would probably not be a source of concern if it involved the authorizing committees since authorizing committees have different jurisdictions in the House and the Senate. But of course the Appropriations Committees have the same jurisdiction in the two Chambers—the same 13 subcommittees. So, for the two allocations to differ in outlays by an amount of this size is a source of concern.

I think the Senate should be aware that it is going into the fiscal year 1982 appropriations cycle with an allocation less than the House's.

Mr. DOMENICI. Mr. President, I thank the distinguished leader and distinguished minority leader for yielding.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I have no further need for my time if any remaining and I yield it back.

RECOGNITION OF SENATOR JEPSEN

The PRESIDING OFFICER. Under the previous order, the Senator from Iowa (Mr. JEPSEN) is recognized for not to exceed 15 minutes.

Mr. BAKER. Mr. President, before the Senator is recognized, I ask unanimous consent that I may be recognized for 30 seconds without it being charged against the time allocated to the Senator from Iowa.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I am now advised that the distinguished Senator from Oklahoma, who has already spoken this morning, has no further need for time. I ask unanimous consent that the special order of 15 minutes in his favor be transferred instead to the distinguished Senator from Iowa, Mr. JEPSEN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair and I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from Iowa is recognized for not to exceed 30 minutes.

S. 1378—THE FAMILY PROTECTION ACT

Mr. JEPSEN. Mr. President, I send to the desk a bill and ask that it be appropriately referred.

The PRESIDING OFFICER. Without objections, the bill will be received and appropriately referred.

Mr. JEPSEN. Mr. President, I ask unanimous consent that the Senator from Nevada, Senator LAXALT, be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEPSEN. Mr. President, I am today introducing a bill, along with Senator LAXALT as the chief cosponsor, which is designed to strengthen the American family. Specifically, the purpose of the act is to preserve the integrity of the American family, to foster and protect the viability of the American family by emphasizing family responsibilities in education, tax assistance, religion and other areas related to the family and to promote the virtues of the family.

I ask unanimous consent that a fact-sheet I have prepared be printed in the RECORD.

There being no objection, the fact-sheet was ordered to be printed in the RECORD, as follows:

[Fact Sheet]

FAMILY PROTECTION ACT OF 1981

The provisions of the Family Protection Act of 1981 fall into six Titles:

Title I. Family Preservation.—To preserve the integrity of the American Family, to foster and protect the viability of the American Family in the areas of parental rights, parental notification, juvenile delinquency, child abuse, spouse abuse, the restriction of Legal Services Corporation litigation pertaining to abortion, divorce, homosexual rights, and busing; Armed Forces Dependents allotments and homosexual advocacy.

Sec. 101. Rights of Parents. This section would amend the General Judiciary Procedures Provisions, Chapter 111 of Title 28 of the U.S. Code (28 U.S.C. 1651 *et seq.*) by adding at the end a provision providing for "a legal presumption in favor of an expansive interpretation" of the parental role in supervising and determining the religious or moral formation of a child.

Sec. 102. Parental Notification. This section amends the General Provision section of the U.S. Code to provide that no program may receive federal funds unless prior to providing a contraceptive device or abortion service (including abortion counseling) to an unmarried minor, the parents or guardian of such minor are notified.

The section further amends Part C of the General Education Provisions Act for the exact same purpose. Therefore, as drafted the "parental notification" provisions shall apply generally to the U.S. Code Statutes at Large, and specifically to Part C of the General Education Provisions Act.

Sec. 103. Juvenile Delinquency. This section amends the Juvenile Justice and Delinquency Prevention Act of 1974 (P.L. 93–415) by adding a new section stipulating that no federal program, directive, guideline, agency directive, commission or grant shall be construed to override existing state law relating to juvenile delinquency.

Section 103(b) is added for the purpose of preserving the integrity of state participation or cooperation in any program for the return of runaway youths through interstate compact or other similar legislative statutes or provisions.

Presently, the Juvenile Justice and Delinquency Prevention Act currently contains no provision comparable to sections 103(a) or 103(b).

Sec. 104. Child Abuse. This section provides that no federal program, directive, guideline, or grant be construed to provide any existing state law relating to child abuse.

Sec. 104 (b) would add a new condition to state programs on child abuse which seek federal funding under either the Child Abuse Prevention and Treatment Act of Title IV of the Social Security Act (42 U.S.C. 620 *et seq.*), specifically, that such programs be specifically authorized and established by the respective state legislature(s).

Sec. 104 (c) amends section 3 of the Child Abuse Prevention and Treatment Act by revising the definition of child abuse to conform with the definition of child abuse under the Child Welfare Amendments of 1979 (P.L. 96–272), (See H.R. 3434), and also by creating an exception for discipline or corporal punishment "applied by a parent or individual explicitly authorized by a parent to perform such function".

Sec. 105. Spouse Abuse. This section as drafted is amended to the General Provisions of the U.S. Code. It provides that no federal law, program, guideline, agency action, commission action, directive or grant shall be construed to pre-empt state statutory law relating to spousal abuse or domestic relations.

Sec. 106. Legal Assistance Restrictions. This section would impose numerous restrictions on the kinds of legal representation that could be offered by federally funded legal services offices.

Specifically, this section would amend section 1007 (b) of the Legal Services Corporation Act. (42 U.S.C. 2996 f (b) to ban funding under that Act to entities which provide legal assistance:

"To any proceeding or litigation which seeks to procure an abortion, or

"With respect to any proceeding or litigation seeking to obtain or arising out of a divorce, or

"To any proceeding or litigation which seeks to adjudicate the issue of homosexual rights.

Present law imposes restrictions only on the federal funds made available through Legal Services Corporation. This section would place the restriction under section 1007 (b) on *all* activities of the Corporation grantees, whether paid for out of Corporation funds or not.

Sec. 107. Armed Forces Dependents' Assistance allotments. This section amends Title 37 the "Pay and Allowances of the Uniformed Services" provisions, Chapter 13 by authorizing the Secretary of Defense to pay to the dependents of any member of the armed forces a monthly dependents' assistance allotment, which allotment shall be deducted from the pay and allowances of the member when such dependents are living separate from the member.

Public Law 93–64 (H.R. 8537, submitted by

the DOD), enacted July 9, 1973, allowed the mandatory allotment provision in the Dependents' Assistance Act of 1959 to expire in 1973. The mandatory allotment provision required members in pay grade E–4 (with four years or less service), E–3, E–2, and E–1 to allot a portion of their pay directly to their dependents in order to qualify for Dependents Assistance Act benefits, which consisted of a quarters (housing) allowance.

NOTE: Public Law 87–531 (1962) removed the mandatory allotment requirement for members in pay grade E–4 (with four years service) and above.

Sec. 108. Federal funds for Homosexual Advocacy. This section would bar federal funds from going to any public or private individual or entity which presents that male or female homosexuality is an acceptable lifestyle. Presently, there is no federal statute which places such a condition on the receipt of federal funds.

This section is not intended to prohibit a homosexual from receiving social security, welfare, veterans benefits, student assistance or other public funds.

The policy pursuant with this section centers on the proposition that the government should not support either directly or indirectly homosexual advocacy. This is particularly true in regard to the use of taxpayers dollars.

Title II. Taxation.—To foster and protect the viability of the American family through taxation in the areas of education savings accounts, tax exempt schools, multigenerational households, parental support accounts, retirement savings account, corporate day care, charitable contributions, and exemptions for childbirth or adoptions.

Sec. 201. Education Savings Accounts. This section is modeled after S. 24, by Senator Dole of Kansas. The section adopts the education savings provisions of S. 24 with several modifications in the areas of private schools, insurance company participation, and participation by relatives. Specifically, this section would amend the Internal Revenue Code of 1954 to provide for the establishment of and the deduction of an education savings account for each child. Parents and the child may contribute up to 2,500 per year to this account and receive a corresponding tax deduction.

Contributions may be made each year of a child's life until the child reaches 21 or enrolls at a qualified elementary, secondary, college or vocational school whichever occurs first.

Amounts from the fund will not be subject to tax when used for tuition, fees, and reasonable living expenses while the child is at a qualified educational institution. However, the amounts so expended will be included ratably in the child's income over a 10-year period beginning in the year the child attains age 25.

The section also provides for relatives of the child or parent to contribute to the account.

Sec. 202. Tax Exempt Schools.

Sec. 202(a) of the bill would create a new subsection 501(j) of the Internal Revenue Code. (Present subsection 501(j) would become 501(k).) Proposed subsection (j) outlines several conditions for organizations which wish to qualify for tax-exempt status as educational organizations. Under proposed subsection (j) an organization described in section 501(c)(3) of the Internal Revenue Code would be treated as organized and operated exclusively for educational purposes if it met 5 requirements:

1. It must be organized and operated exclusively for the purpose of providing preschool, grammar school, high school or college education;

2. It must be incorporated as a nonprofit corporation in any state of the United States, its territories or possessions, or in the District of Columbia;

3. Its bylaws must prohibit discrimination in the hiring of teachers or admission of students on the grounds of race, nationality or ethnic background;

4. It must require attendance for at least the same number of days as are required in public schools of the state in which it is located;

5. The school cannot be operating under a judicial order entered under 202(b) of the Family Protection Act.

Paragraph 1 of subsection 202(b) would provide a method whereby the Attorney General (U.S.) could obtain a judicial order barring a tax exemption for a school which had violated any provision of sections 1977, 1978, or 1979 of the Revised Statutes (i.e. 42 U.S.C. sec. 1981, 1982, 1983) or of the Civil Rights Act of 1964. If the Attorney General has reasonable grounds to believe that a school has violated any of those provisions, the Attorney General is required to file a civil suit for a declaratory judgement in the federal district court for the district where the school is located.

If the Attorney General can establish by a preponderance of the evidence that the school has engaged in deliberate or intentional discrimination for at least four consecutive years prior to the filing of the suit, the court would be required to issue a judicial order barring a tax exemption for the school. Paragraph 6 would prevent the court from considering a school policy requiring the faculty to adhere to or subscribe to certain doctrines or beliefs to be a policy of deliberate and intentional discrimination.

Sec. 203. Multigenerational Households. This section would add two new sections to the Internal Revenue Code which would permit a taxpayer to take either a tax credit or a deduction for maintaining an elderly dependent in the household.

Section 203(a) would add a new section 44F which would permit a taxpayer who maintains a household which includes a dependent who is at least 65 years old at the end of the taxable year to take a $250 credit against his income tax. The tax credit would be non-refundable and would be applied after certain other credits such as the foreign tax credit, the credit for the elderly, the general tax credit, the investment tax credit, the child care credit and the residential energy credit.

Certain special rules would be applied. An individual would be treated as maintaining a household only if the individual (or the individual and spouse) furnished over half the cost of maintaining a household. Married couples would have to file a joint return to take advantage of the credit. Legally separated couples and divorced couples would not be considered married. In addition, certain married individuals who file separate returns would be permitted to claim the credit if they maintained a home for a qualifying individual for more than one-half of the year, furnished over half the cost of maintaining the household during the year, and if their spouses did not live in the household during the last six months of the taxable year.

Section 203(b) would create a new Code section 222 (after moving section 222 to section 223). Proposed section 222 would be an alternative provision to the proposed section 44F credit. Section 222 would permit a taxpayer to take a deduction of $1,000 per year for each year during which the taxpayer maintained a household for a dependent at least 65 years of age at the close of the taxable year. The same special rules regarding marital status and claiming the deduction discussed in connection with the credit would apply. The remainder of the section would conform the Code to the changes made by this section of the bill. It provides for an effective date of taxable years beginning after December 31, 1980.

Sec. 204. Parental Support Account. This section would create two new Code sections, 223 and 645. New section 223 would allow a deduction of up to $3,000 per year for contributions to a trust established to care for an individual's parents or a handicapped relative. A handicapped relative would have to fall into one of eight categories of relationship to the grantor in addition to being handicapped: (1) son, daughter, or grandchild; (2) stepson or stepdaughter; (3) brother, sister, stepbrother, stepsister; (4) father, mother, grandparent; (5) stepfather or stepmother; (6) niece or nephew; (7) aunt or uncle; (8) son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, sister-in-law.

New section 645 would describe a qualified parental or handicapped relative care trust. Under proposed section 645(a)(1) the trust would be exempt from tax, with certain exceptions. Under proposed section 645(a)(2) the amounts distributed by a qualified trust would not be included in the gross income of the beneficiary provided the beneficiary is not the spouse of the grantor of the trust and provided the beneficiary is not related to the grantor as (1) a son, daughter, grandchild; (2) stepson or stepdaughter; (3) brother, sister, stepbrother or stepsister; (4) father, mother, or grandparents; or (5) stepfather or stepmother.

Sec. 205. Retirement Savings Account. Section 205(a) would amend section 219 of the Internal Revenue Code to allow an individual retirement plan on behalf of the individual's spouse.

Subsection 205(b) of the bill would amend section 219(c) of the Code to explain how married individuals can claim the deduction for payments to an individual retirement plan for the benefit of a spouse. The spouse could have no compensation income in order for the taxpayer to claim the deduction for the payments; however, for purposes of computing the maximum allowable deduction the non-earning spouse would be treated as having compensation income equal to the earning spouse's compensation includable in gross income for the taxable year. The maximum deduction (the lesser of 15% of compensation or $1,500) would be computed separately for each spouse.

If the spouse were handicapped, the maximum deduction would be $3,000. (A handicapped individual is defined in Code section 190(b)(3) as an individual who has a physical or mental disability (including, but not limited to, blindness or deafness) which results in a functional limitation to employment or who has a physical or mental impairment which substantially limits one or more major life activities of such individual.)

The couple would have to file a joint tax return in order to claim the deduction for payments made for the benefit of the spouse. No deduction for payments to an individual retirement plan on behalf of a spouse would be permitted if the spouse had compensation includable in gross income or if a deduction would be disallowed if the spouse were making the contributions.

Sec. 206. Corporate Day Care—Charitable Contributions. This section would provide incentives for employers to establish day care centers for children of their employees. Section 203(a) would amend (section 162(b) of) the Internal Revenue Code to provide that an employer may take an ordinary and necessary business expense deduction for amounts paid to a day care center which meets the requirements of Code section 501(c)(22), which is operated by an employee of the taxpayer and which provides care for children of employees of the taxpayer.

NOTE: 501(c)(22) is the "Charitable Contributions" provision.

Sec. 207. Exemptions for Child Birth or Adoption. This section would amend section 151 of the Code to allow an additional personal exemption of $1,000 in the year that a

child is born to, or adopted by, a taxpayer. A $3,000 exemption would be allowed in the case of a child born to the taxpayer who was handicapped and in the case of the adoption of a child "whose parents were not members of the same race," who had attained the age of 6 before the beginning of the taxable year of the adoption, or who was handicapped. The language "whose parents were not members of the same race" is intended to mean a child of mixed racial background.

In order to qualify for the additional exemption, a married couple would have to file a joint return in the birth or adoption year. The additional exemption would not be permitted to single persons or to married persons filing separate returns. If the taxpayers would not fully utilize the additional exemption because their incomes were not enough to absorb the additional deduction, the portion which could not be used could be carried over to the following year.

In addition, this section would allow an individual to deduct the amount of the adoption expenses paid or incurred by the taxpayer during the taxable year.

The maximum dollar amount allowable as a deduction for all taxable years with respect to the adoption of any child shall not exceed $3,500 for domestic adoptions and $4,500 in the case of an international adoption.

Adoption expenses under the bill means reasonable and necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the legal adoption of a child by the taxpayer and which are not incurred in violation of state or federal law.

Title III. Education.—to preserve the integrity of the American family in the area of education pertaining to community and parental participation relating to a child's education and a child's religious instruction, state or local teacher qualification and certification, non-profit private school exemption amendment to the National Labor Relations Amendments Act (NLRA), and education block grants.

Sec. 301. Community Participation in Religious Instruction and Education. This section would amend Part C of the General Education Provisions Act (20 U.S.C. 1230 *et seq.*) to provide that it shall be unlawful for any federal, state or local educational agency or institution receiving any federal funds which (1) fail to provide procedures through which parents and communities can participate in decisions "relating to the establishment or continuation of courses relating to the study of religion" (including provision for parental consent to student enrollment in any courses), or (2) limit the right of parents to visit the public schools or classes or to inspect their children's school records. The section would also bar states and local educational agencies from using federal education funds in school districts which require teachers as a condition of employment to pay dues or fees.

This section would further amend Part C of the General Education Provisions Act (20 U.S.C. 1230 *et seq.*) to bar the extension of federal funds under applicable education programs (1) to states and local educational agencies which do not "provide for parental review of textbooks prior to their use in public school classrooms"; and (2) to purchase or prepare any educational materials which tend to denigrate, diminish, or deny the role differences between the sexes as it has been historically understood in the United States.

Finally, the section provides that any individual aggrieved by a violation of the act may bring a civil action in the appropriate district court of the United States for damages or equitable relief as may be appropriate.

Sec. 302. Rights of States and Local Educational Agencies. This section would provide that "federal funds shall not be withheld under any provision of federal law nor shall any provision of federal law be construed to prohibit" (1) the right of any state or local educational agency to determine the requisite qualifications of teachers within their jurisdictions (including the right not to require a certificate, so long as a college degree relevant to at least one of the subject areas to be taught by the teacher is required), (2) the right of any state to set or not to set attendance requirements at public or private schools within their jurisdiction, and (3) the right of any local educational agency, in consultation with parents, to limit or prohibit the "intermingling of the sexes in any sport or other school-related" activity.

302(b) would amend the National Labor Relations Act (29 U.S.C. 151 *et seq.*) to add a new exemption for non-profit private schools. The section would amend Section 2(2) of the NLRA (29 U.S.C. 152(2)) to exclude from the definition of employer "any corporation or association operating a non-profit private school, if on part of the net earnings inures to the benefit of any private shareholder or individual."

Sec. 303. Education Block Grants. This section was prepared prior to the time the Administration's block grant proposal was introduced. However, the section in many respects is similar to the Administration's block grant proposals.

Specifically, this section would amend the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 *et seq.*) by repealing Titles I, II, III, IV, VII, and IX of that Act and substituting in their stead a new Title XI. The states would have broad discretion in allocating funds at the local level.

It is my recommendation to the appropriate committee that this section be amended to reflect the Administration's elementary and secondary education block grant proposals.

Sec. 304. Released Time for Parenthood Education. This section provides that no provision of the Federal law shall be construed to prohibit release time for parenthood education to be conducted by churches in fulfillment of school requirements for required parenthood education courses.

Sec. 305. Legal Services: Busing. This section would amend section 1007(b) of the Legal Services Corporation Act (42 U.S.C. 2996f(b)) to prohibit funds received by LSC grantees from being used for legal assistance or litigation relating solely to achieve racial quotas or the desegregation of any elementary or secondary school or school system.

Title IV. Voluntary Prayer and Religious Meditation.—To ensure and protect the right to the free exercise of religious expression as guaranteed under the First Amendment to the Constitution of the United States.

Sec. 401. The Voluntary Prayer and Religious Meditation Act of 1981. This section is designed to reverse the last 19 years of Supreme Court decisions and subsequent case law regarding the constitutionality of state-sponsored religious exercises in the public schools.

The section directs its attention to the First Amendment to the Constitution, specifically the "Free Exercise Clause".

The First Amendment states that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; . . .

The Supreme Court has prohibited state involvement in school prayer or other religious activity strictly on the establishment clause.

The "Exercise Clause" has taken a secondary role to the "Establishment Clause" in determining the constitutionality of state sponsored religion. At best, the "Free Exercise Clause" should be given equal balance and authority with the establishment clause.

A strong case must be made for the free exercise of religious expression whether public or private. Such expression is a fundamental freedom which should not be benignly denied in order to protect other freedoms equally fundamental.

This section directly confronts the religious freedom and establishment clause issue through congressional statutory law.

Finally, this section provides that any individual aggrieved by a violation under Title IV of the bill may bring a civil action in the appropriate district court of the United States, or in any state court of competent jurisdiction, for damages or for such equitable relief as may be appropriate or both.

In short, a parent or guardian representing a student who is being denied the opportunity (right) to participate in religious exercises would have standing to bring a civil action in Federal or state district court .

Sec. 402. Congressional Findings.

Sec. 403. Definition.

Sec. 404. Voluntary School Prayer and Religious Meditation Right Protected.

Sec. 405. Civil Actions Authorized; Jurisdiction and Relief.

Sec. 406. Savings Provisions.

Title V. Rights of Religious Institutions and Educational Affiliates.—to preserve and protect the integrity of religious institutions and their related activities from government intrusion, regulations and other acts of governmental intervention.

Sec. 501. Rights of Religious Institutions. This section would bar the federal government from imposing "any legal obligation or condition" with respect to curriculum, religious activities, licensure, conditions of employment, and operating procedures on a variety of social service organizations, if the organizations are "directly or indirectly operated by a church or religious organization."

The types of organizations and programs covered by this exemption from federal regulation would be church-operated child care centers, orphanages, foster homes, social action training programs, emergency shelters for abused children or spouses, schools, juvenile delinquency or drug abuse treatment centers or homes, and "similar programs." This section would permit reasonable health and fire regulations, however, when promulgated by an instrumentality of the federal government exercising the authority of a local government.

501(b)(1) is designed to ensure that religious organizations (under the section) whether directly or indirectly affiliated with a church, are not exempt from the provisions of the Civil Rights Act of 1964 with respect to race, creed, color, or national origin.

501(b)(2) is designed to exempt church or religious organizations (under the section) from any rules or regulations relating to affirmative action, quotas, guidelines, or actions designed to overcome racial imbalance.

Title VI. Miscellaneous.

Sec. 601. Jurisdiction.

Section 601(a) would provide jurisdiction in the United States district courts or any territorial court which has the powers of a district court for suits brought under the Act, without regard to the amount in controversy. Section 601(a) would also provide for venue in any district in which the defendant is an inhabitant, transacts business, or is found, and provides for similar service of process.

Section 601(b) would bar any action brought in State court under the Act from being removed to federal court except when a federal official or the United States is a party. The section would further provide that no costs may be assessed against the United States.

Sec. 602. Limitations on Actions. This section would provide that a civil action must be brought within six years after the cause of action arises.

Sec. 603.

Section 603(a) provides that any person who violates any provision of the bill or regulations thereunder may be subject to a civil fine not to exceed $5,000. The subsection provides that an offense is newly committed each day of the violation. The subsection also provides that the fine may only be imposed after a hearing. Subsection 603(b) provides that hearings shall be conducted pursuant to the adjudication provisions of the Administrative Procedure Act (5 U.S.C. 554).

Subsection 603(c) provides that the Attorney General or a delegee may collect the civil fines, payable to the United States, in the district courts. The subsection limits review on collection matters to exclude the validity and appropriateness of the final determination. Subsection 603(d) provides that a person aggrieved by a final determination under subsection (b) may seek review in a United States Court of Appeals within twenty days after the determination. Review is to be in accordance with the Administrative Procedure Act (5 U.S.C. 706).

Section 604. Contrary Stipulations Void. This section would provide that any agreement contrary to the provisions of the bill is void.

Sec. 605. Report to Congress. This section requires the Secretary to file a report with the Congress within thirty months on the implementation of the bill.

Sec. 606. Effect on other laws. This section provides a rule of construction that, the bill does not limit, but is in addition to, any other private right provided by the federal or state law.

Sec. 607. Authorization of Appropriations. This section authorizes appropriations to carry out the provisions of the bill and does not specify a limitation on the amount.

Sec. 608. Separability. This section provides for the separability of the provisions of the bill, if any provision is found invalid.

Mr. JEPSEN. Mr. President, today I join with Senator LAXALT in introducing a vital and innovative piece of legislation, the Family Protection Act. Vital, because this legislation seeks to tackle the problems that surround Government intervention in the lives of individuals and their families. Innovative because the 97th Congress' version of this act is a novel effort to call attention to the value of the family unit and its definitive role in society as a whole.

As an elected public servant, a father of six children and a grandfather, I have great concern over the rise of Government intervention in the family. Government policies interfering with the family have increased over the past decade under the guise of solving human problems in the areas of health, education, and social services. Government oversight is no substitute for active participation by the community, the church, and in the final analysis, the family unit.

Government activists, although many times well intentioned, have adversely influenced the direction of American social policy. Very subtly, over a period of relatively few years, bureaucrats have spun a suffocating web of programs and regulations that has threatened the very existence of the traditional family. If you recall, after the 1970 White House Conference on Children and Youth, the Forum 14 report redefined the family as a group of individuals in interaction.

The American Home Economics Association has determined that the family is a unit of two or more persons who share values and have a commitment to one another over time.

Unfortunately, such all-encompassing definitions, while at first glance may appear bland and academically accurate, actually extend the meaning of family to include anyone and anything from group marriages, to homosexual and lesbian couples who want to adopt children.

How did the traditional definition of two or more persons related by blood, heterosexual marriage, or adoption become so old fashioned and unacceptable.

As a young man growing up on a farm, I quickly learned the meaning of hard work and working together in a family unit. I realized that character and selflessness are uniquely inspired by household chores, well-placed words of encouragement and, on occasion, a prudent use of corporal punishment.

Truly, it is only through healthy family life that young people develop their habits and lifestyles. As a result of family upbringing, the individual realizes his essential character and grows into a participating member of society.

As noted author Richard Reilly stated:

Without the family that formation is impossible. It is in and through human society that man naturally reaches his fullest completion, and the fundamental cell of that society is the family.

Robert Kennedy said that:

One of the basic reasons we have had crime, lawlessness and disorder in the United States has been the breakdown of the family unit.

His statement demonstrates one of the fundamental truths about a society: Every attempt by a society to circumvent the structure of the family in establishing social change has been subject to dismal failure and moral disaster.

The family unit is so basic, so fundamental, and so necessary to society that it is hard to believe it is under attack—but it is. The family has become a favorite target of some organizations and intellectuals bent on transforming the existing social order.

As a Conservative, I strongly support the traditions and institutions which have served to strengthen the family and have stood the test of time. I cannot accept the concepts of these social planners who believe that times are changing and we need to adjust our basic values to fit the change in times.

There are many instances where Government policies have affected the integrity of the family. A few come immediately to mind.

Too often, compulsory busing disrupts family and neighborhood life and heightens racial tensions without improving the quality of education for children of any race or ethnic background. More importantly, it radically removes the responsibility from parents for directing their children's education.

Some of the rules and practices used in providing aid to families with dependent children—AFDC—are examples of how a Government program can disrupt family life. Under this program, low-income families deprived of a father's support are granted cash assistance while intact families in the same financial bracket do not meet eligibility requirements. This system provides no monetary incentive toward marriage for an unmarried couple who already have children.

Under title IX funding, human services professionals have received Federal grants to cure family-related social maladies. A percentage of these funds are being used to finance 15 race desegregation assistance centers and 10 sex-discrimination assistance centers.

The activities of these federally funded centers range from recruiting females or males for employment in jobs not traditionally held by members of their sex to identifying race stereotypes in textbooks and other curricular material and developing methods of countering their effects upon students.

At best, such design is counterproductive to efforts to treat each minority as an individual rather than each individual as a member of a minority.

Mr. President, I ask, Is the role of the Federal Government to shape the attitudes of the American people? Are we to seek our moral direction from the Federal Government?

For over a decade now there has been a concerted effort to detach sexual activity in young people from the imperatives of morality and responsibility. What began as an effort by the Federal Government to provide health care services for low-income women has expanded into other untouchable areas of family planning. The Federal Government now is funding abortion referrals and counseling and is distributing contraceptives to minors without parental consent.

I agree wholeheartedly with Eunice Kennedy Shriver when she stated:

To do something helpful about teenage sex and pregnancy, we do not need more money for the mechanics of birth control or more value-free sex education. We need efforts that strengthen the family commitment and marriage and get at the problems that lead adolescents into early sexual activity.

I firmly believe that the Federal Government should not interfere or intrude into personal family life relationships. Families that have not been able to solve their personal problems have traditionally looked to their community's spiritual and religious leaders for direction.

Our role as elected officials should be one of protecting the freedoms of families as well as individual citizens. The time has come when protection that reflects the will of the people must be provided for and defined through legislation. With the accelerated erosion of basic family values due to Government intrusion and growing secular humanism—the time for family protection legislation has arrived.

The results of the November 1980 election clearly reflected the desire of the American people to see a change in the direction of our country's economic, educational, moral, and social policies. The elections were not won by just single issue, right-wing elements in our political system.

The widespread geographic unanimity of voting in last year's election was a true reflection of a growing concern among Americans across the country that America is in trouble.

The Family Protection Act is a nonpartisan legislative effort that is intended to send a clear signal to all parents that they have the primary rights and responsibilities in the character formation, education, and health care of their children.

The intention of the bill is simple. In key areas, such as education, taxation, religion, and domestic relations, the Family Protection Act seeks to restore the responsibilities for strengthening the family to the unit itself.

Specifically, the Family Protection Act is divided into six titles: Family preservation; taxation; education, voluntary prayer; the rights of religious institutions, and educational affiliates; and jurisdiction.

FAMILY PRESERVATION

Title I of the Family Protection Act seeks to revise several antifamily sections of the United States Code. Although much more needs to be done to preserve the integrity of the family, I believe this section is a step in the right direction.

The concepts contained in this section include:

A reinforcement of the parent's legal right to direct the religious and moral upbringing of their children.

A shift in responsibility from the Federal Government to the State and local government for maintaining programs dealing with juvenile delinquency, as well as child and spouse abuse;

A restriction of Legal Services funds for use in litigation cases dealing with abortion, homosexual rights, and divorce; and

A requirement that parents are to be notified when an unmarried minor receives contraceptive devices or abortion-related services from a federally funded organization.

I note Mr. President, for the record, that in the last 15 to 20 years we have had an outpouring of money that totals in the millions of dollars in programs which were designed to address the problems of pregnancy and venereal disease among teenagers. Hundreds of millions of dollars in social programs, initiated in large part and supported by the Federal Government, agencies and organizations associated with Government, have tried to solve this problem. The results have been that we have an accelerated growth of teenage pregnancies; venereal disease is rampant and running higher than ever.

It seems to me that a requirement that parents are to be notified when an unmarried minor receives contraceptive devices or abortion-related services from a federally funded organization, a requirement that the parents themselves be involved in setting both the values and the discipline and guidance, would deal with this problem more effectively than the hundreds of millions of dollars poured into these programs by the Federal Government. What the Government has been doing has not and is not working at all.

There is a great obsession by those in this wave of humanism that has swept this country, and especially the bureaucrats and social advisers here in Washington, D.C. For some reason, whether it is the Potomac water they drink, if that is it, or whatever, suddenly believe they are more knowledgeable than anyone else with regard to what is best for people, particularly the people's children, and that if we start a program on a small scale and it does not work, the way to improve that program is to expand it and to make it a bigger program. If that does not work, then, we have a reciprocal pump in taxpayer funds, to put a few hundred million more dollars into the program and hundreds more people, and if it gets big enough and all-encompassing, it is eventually bound to work.

That mentality has been disastrous over the last half century in the Nation's Federal Government policy.

Mr. President, this act also includes a reinstatement of the 1973 Department of Defense requirement that service personnel separated from their families by military duty send home a predetermined allowance for family support each month.

It also provides a restriction of Federal funds for use in financing any organization that uses the funds for the express purpose of advocating homosexuality as a lifestyle.

TAXATION

Title II of the Family Protection Act seeks to reform the Internal Revenue Code to enable family members to care for each other. For too long, the Federal Government has used the tool of taxation to manipulate the individual as the central unit of our society at the expense of the family unit. This section addresses several inequities in the Federal tax code.

All too frequently, low- and moderate-income families are forced to put their elderly parents into subsidized nursing homes because they cannot afford to keep them at home. This bill proposes to allow a family a tax credit or a tax exemption if they take upon themselves the responsibility of caring for their aging relatives.

Although tax subsidies cannot attempt to match the amount of money required to keep an elderly dependent at home, it is certainly more cost-effective and more humane than putting an elderly relative out of sight in a federally regulated, subsidized, and controlled institution.

In the same vein, the Family Protection Act establishes a trust account procedure similar to the individual retirement account, under which taxpayers could save $1,500 a year for their aged parent's or handicapped relative's support.

In the area of educational savings, relatives would be allowed to set aside $2,500 tax exempt, per year, for a child's education.

Additionally, this section establishes a new Internal Revenue Code provision for educational institutions which wish to qualify for tax exempt status.

Employed individuals are given the option of saving $1,500 tax deductible, a year, for their nonsalaried spouse's retirement. Also, corporations are eligible to deduct the expenses of maintaining an employee-employer day care facility.

We find too often, Mr. President, that with the eroding away of the values of the man-wife, mother-father, sister-brother relationship, the family as a basic unit, there is also the eroding away of the value and the beauty of a woman being a mother and a homemaker.

You need only to listen to or to read the way some of the surveys that have been taken with regard to woman's function or role when they put the question. The question, when they ask about the homemaker, is usually asked this way: "Do you have a professional job or career outside the home, or do you stay home and do nothing?"

Additionally, Mr. President, this legislation allows a married couple to claim an additional $1,000 tax exemption for the year in which a child is either born or adopted. This exemption increases to $3,000 if the child is born handicapped, or over the age of 6, or biracial. This provision allows the individual to deduct the amount of adoption expenses paid during the taxable year.

EDUCATION

Beginning in the early 1960's, Mr. President, education became the center of the battle between Federal or local jurisdiction. Laws and grant programs were enacted one after another to aid those who had historically been left out: The underprivileged, the handicapped, the non-English speaking.

But somehow, the tail began to wag the dog. The few narrowly defined educational programs mushroomed into a vast series of contracts, activities, regulations, and unyielding Federal oversight. Local education became dominated by bureaucratic paperwork generated by the Federal Government.

Even though the Federal Government subsidizes only about 8 percent of local educational costs, local school boards can no longer be primarily responsible to parents. They have been forced to turn toward Federal policies and regulations for direction.

For example, in the past, there have been Federal challenges regarding all-male boys choir. The Government tried to regulate father-son banquets, mother-daughter banquets, all other similar functions.

In Iowa, we have an annual girls basketball season with highly competitive teams that I believe are second to none. Several years ago, the Federal Government of Washington, D.C., wanted to enforce a rule requiring the Iowa girls basketball program to change their rules to comply with the same rules required in boys basketball. Again, I say, Mr. President, I do not know, what some folks back here get into in the Government, or what happens to them, but they somehow seem to get the feeling that they have all the answers and know better what is best for people than people do themselves.

Today, Mr. President, many schools in this country are becoming closed fortresses to parents. The historic cooperation between parents and school boards in establishing and running local schools has broken down. Too often today, education officials view the parents with hostility. It is time to reverse this unfortunate trend.

The Family Protection Act would provide a cause of action—a cause of action. Mr. President—for parents if they were prohibited from participating in decisions vital to their child's educational development. If enacted, title III of this act would allow parents to visit public classrooms and review their children's school textbooks. This bill would also prevent States from using Federal funds to promote material that does not reflect a balance between the status roles of man and women.

It would also allow parents to withdraw their children on a release-time basis from classes teaching the functions of becoming a parent. Parents would also be notified if their child's curriculum required a course in religion.

Also, the Family Protection Act returns the right to the States to determine school attendance requirements, teacher qualifications, and the right, with parental consent, to determine policies for sex-intermingling in sports and other activities. As recommended by the Reagan administration, the bill would return certain education funds to the States in the form of block grants, rather than categorical, regulated grants.

Other education concepts would remove the private schools from the jurisdiction of the National Labor Relations Board as well as restrict the Legal Services Corporation from hearing cases dealing with school desegregation.

PRAYER

Mr. President, our forefathers framed the Constitution to insure that all Americans enjoyed the freedom of worship and the free exercise of prayer. However, in 1962, the U.S. Supreme Court ruled that both nondenominational prayer and Bible reading without comment conflicted with the first amendment prohibiting the establishment of religion. At the time of the decision, 26 States permitted Bible reading in schools and 13 permitted the recitation of the Lord's prayer.

I point out, Mr. President, that when I attended school, in a one-room country schoolhouse on a corner of our family land, each day began with pledge of alllegiance outside to the flag, regardless of what the weather was, cold or hot. We went inside, hung up our clothes, put our boots in a nice neat row if it was wet weather, went and stood beside our desks, recited the Lord's Prayer together, sat down, and went to work. I am very thankful for that school, that training, that discipline.

In addition to that discipline, I also learned to read, to write, to add, and to subtract without the Federal Government telling me how to do it.

Mr. President, I note for the record since the Senate's inception in the late 1700's, this Chamber has begun each day's activities by asking God's blessing. Yet, throughout this country, public school children are being denied that privilege.

In a novel manner, title IV of the Family Protection Act reinstates the individual's right to the free exercise of religion based on the free exercise clause of the U.S. Constitution, which, for some reason or other, the Supreme Court decided to either ignore, or make subordinate to the establishment clause.

RIGHTS OF RELIGIOUS INSTITUTIONS AND EDUCATIONAL AFFILIATES

Title V of the Family Protection Act deals with the rights of religious institutions and their educational affiliates. The ever-increasing authority of Federal agencies has caused major church-state conflicts never contemplated by Congress when it enacted much of the legislation these agencies claim as their source of authority. Numerous problems have occurred as a result of attempts to treat religious organizations as secular.

Many of the same religious schools long denied public funds because they are religious now find themselves subjected to Federal regulations because they are treated like secular institutions.

It has been a long-established policy that religious schools are an integral and definite part of the religious mission of the church.

Title V would prohibit agencies of the Federal Government from adopting and enforcing rules which violate the constitutional rights of religious institutions. It would ban the imposition of federally mandated requirements upon religious institutions.

This provision in no way interferes with the provisions of the Civil Rights Act of 1964, with respect to race, creed, color, or national origin, or with the ability of local government to require reasonable fire, health, and safety standards. Furthermore, religious institutions are protected from affirmative action guidelines, quotas, or goals.

JURISDICTION

The final section, title VI, outlines the various courts of jurisdiction to which an action under the act may be brought by an aggrieved party.

In addition, this section outlines the statute of limitations and other procedural questions.

Mr. President, this is the essence of the Family Protection Act. It is a lengthy but comprehensive piece of legislation intended to focus attention on the family unit and its historic place in American society. Clearly, the 1980's will provide a platform for all Americans who believe it is time to return the jurisdiction of the family back home where it belongs.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1378

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Family Protection Act".

SEC. 2. (a) The purpose of this Act is to preserve the integrity of the American family, to foster and protect the viability of American family life by emphasizing family responsibilities in education, tax assistance, religion, and other areas related to the family, and to promote the virtues of the family.

(b) In accordance with the purposes of this Act, the Congress finds that—

(1) a stable and healthy family is the foundation of a society and its culture;

(2) the family in America is the lifeline of America's continued existence and the cornerstone of America's growth and future development;

(3) certain Government policies have directly or benignly undermined and diminished the viability of the American family; and

(4) the policy of the Government of the United States should, on and after the date of the enactment of this Act, be directed and limited to the strengthening of the American family and to changing or eliminating any Federal governmental policy which diminishes the strength and prosperity of the American family.

TITLE I—FAMILY PRESERVATION

RIGHTS OF PARENTS

SEC. 101. (a) Chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following:

"§ 1657. Rights of parents

"In any action brought under the provisions of this title involving the parental role in supervising and determining the religious or moral formation of a child, there is a legal presumption in favor of an expansive interpretation of that role.".

(b) The table of sections for chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following: "1657. Rights of families.".

PARENTAL NOTIFICATION

SEC. 102. (a) No program, project, or entity shall receive Federal funds, either directly or indirectly, under any provision of law unless such program, project, or entity, prior to providing any contraceptive device or abortion service (including abortion counseling) to an unmarried minor, notifies the parents or guardians of such minor that such contraceptives or abortion services are being provided.

(b) Part C of the General Education Provisions Act is amended by adding at the end thereof the following new section:

"PARENTAL NOTIFICATION

"SEC. 440A. No program, project, or entity shall receive funds, either directly or indirectly, from the Federal Government under any applicable program unless such program, project, or entity, prior to providing any contraceptive device or abortion service (including abortion counseling), to an unmarried minor, shall notify the parents or guardians of such minor that such contraceptives or abortion services are being provided.".

JUVENILE DELIQUENCY

SEC. 103. The Juvenile Justice and Delinquency Prevention Act of 1974 is amended by inserting after section 103 the following new section:

"Sec. 104. (a) No Federal program, guideline, agency, directive, commission, or grant shall be construed to abrogate, alter, broaden, or supersede existing State statutes on juvenile delinquency.

"(b) Nothing in this section shall permit a State to fail to participate or cooperate in any program for the return of runaway youths, whether by interstate compact or otherwise.".

CHILD ABUSE

SEC. 104. (a) No Federal program, guideline, agency action, commission action, directive, or grant shall be construed to abrogate, alter, broaden, or supercede existing State statutory law relating to child abuse.

(b) No Federal funds shall be expended for the operations of any child abuse program in any State unless such program has been specifically authorized and established by the State legislature of the State in which such program operates.

(c) Section 3 of the Child Abuse Preven-

tion and Treatment Act is amended to read as follows:

"DEFINITION

"SEC. 3. For purposes of this Act, the term 'child abuse and neglect' means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child under the age of eighteen, or the age specified by the child protection law of the State in question, by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened, but such term does not include discipline or corporal punishment methods applied by a parent or individual explicitly authorized by a parent to perform such function.".

SPOUSE ABUSE

SEC. 105. No Federal law, program, guideline, agency action, commission action, directive, or grant shall be construed to abrogate, alter, broaden, or supercede existing State statutory law relating to spousal abuse or domestic relations.

LEGAL ASSISTANCE RESTRICTIONS

SEC. 106. (a) (1) So much of section 1007(b) of the Legal Services Corporation Act as precedes paragraph (1) thereof is amended to read as follows:

"(b) No entity receiving funds made available by the Corporation under this title, either by grant or contract shall—

(2) Section 1007(b) of such Act is amended by striking out "to" the first place it appears in paragraphs (1), (2), (3), (5), (6), (7), (9) and (10).

(3) Paragraph (4) of section 1007(b) of such Act is amended by striking out "for any of the" and inserting in lieu thereof "engage in any of the".

(b) Section 1007(b)(8) of such Act is amended to read as follows:

"(8) provide legal assistance with respect to any proceeding or litigation which seeks to procure an abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, or to compel State or Federal Government funding for an abortion;".

(c) Section 1007(b) of such act is amended by—

(1) striking out "or" at the end of paragraph (9),

(2) striking out the period at the end of such section and inserting in lieu thereof a semicolon, and

(3) adding at the end thereof the following new paragraphs:

"(11) provide legal assistance with respect to any proceeding or litigation seeking to obtain or arising out of a divorce; or

"(12) provide legal assistance with respect to any proceeding or litigation which seeks to adjudicate the issue of homosexual rights.".

ARMED FORCES DEPENDENTS' ASSISTANCE ALLOTMENTS

SEC. 107. (a) Chapter 13 of title 37, United States Code, relating to allotments and assignments of pay, is amended by adding at the end thereof the following new section:

"§ 708. Allotment for dependents of members of the armed forces

"(a)(1) Subject to the provisions of subsections (b) and (c) of this section and under such regulations as the Secretary of Defense shall prescribe, the Secretary concerned shall pay to the dependents of any member of the armed forces, when such dependents are living separate from such member, a monthly dependents' assistance allotment in the amount specified in paragraph (2) of this subsection. The amount paid under this section in any month to the dependents of any member shall be deducted from the pay and allowances of the member.

"(2) The amount of the monthly dependents' assistance allotment to be paid under this section shall be an amount equal to the amount of the basic allowance for quarters to which such member is entitled. A member may increase the amount of the monthly dependents' assistance allotment to be paid to the dependents of such member by requesting the Secretary concerned in writing to increase the amount of the deduction from such member's pay and allowances. The amount of any increase in the monthly dependents' assistance allotment and the corresponding amount deducted from the pay and allowances of the member may be any amount which is a multiple of 10.

"(b) Determinations made by the Secretary concerned under this section regarding the payment and amount of any dependents' assistance allotment shall be final and conclusive for all purposes and shall not be subject to review in any court, except for cases involving fraud or gross negligence.

"(c) As used in this section, the term 'dependent', with respect to a member of the armed forces, means—

"(1) the member's spouse; and

"(2) the member's unmarried child (including any of the following categories of children if such child is in fact dependent on the member: a stepchild; an adopted child; or an illegitimate child whose alleged member-father has been judicially decreed to be the father of the child or judicially ordered to contribute to the child's support, or whose parentage has been admitted in writing by the member) who either—

"(A) is under 21 years of age; or

"(B) is incapable of self-support because of a mental or physical incapacity, and in fact dependent on a member for over one-half of his support.

For the purposes of this section, the relationship between a stepparent and stepchild is terminated by the stepparent's divorce from the parent by blood.".

(b) The table of sections at the beginning of chapter 13 of such title is amended by adding at the end thereof the following new item:

"708. Allotment for dependents of members of the armed forces.".

FEDERAL FUNDS FOR HOMOSEXUALITY ADVOCACY

SEC. 108. No Federal funds may be made available under any provision of Federal law to any public or private individual, group, foundation, commission, corporation, association, or other entity for the purpose of advocating, promoting, or suggesting homosexuality, male or female, as a life style.

TITLE II—TAXATION

EDUCATION SAVINGS ACCOUNTS

SEC. 201. (a) In General.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as 222 and by inserting after section 220 the following new section:

"SEC. 221. EDUCATION SAVINGS ACCOUNT.

"(a) DEDUCTION ALLOWED.—In the case of an individual, there is allowed as a deduction the sum of—

"(1) amounts paid in cash, and

"(2) the fair market value at time of transfer of stock, bonds, or other securities, which are readily tradeable on an established securities market, transferred,

during the calendar year which ends with or within the taxable year by such individual to an education savings account established for the benefit of an eligible individual.

"(b) LIMITATIONS.—

"(1) ACCOUNT MAY NOT BE ESTABLISHED FOR BENEFIT OF MORE THAN 1 INDIVIDUAL.—An education savings account may not be established for the benefit of more than 1 individual.

"(2) INDIVIDUAL MAY NOT BE BENEFICIARY OF MORE THAN 1 ACCOUNT.—An individual who is the beneficiary of more than 1 education savings account during any calendar year shall not be treated as an eligible individual for that calendar year.

"(3) MAXIMUM DEDUCTION PER ACCOUNT.—The amount allowable as a deduction under subsection (a) to an individual for amounts paid or transferred to an account for any calendar year shall not exceed $2,500.

"(4) CONTRIBUTIONS BY MORE THAN 1 PERSON.—If more than 1 individual makes contributions to an education savings account during a calendar year, the $2,500 amount under paragraph (3) shall be allocated proportionately among all individuals contributing to the account during that year on the basis of the amounts contributed by each such individual.

"(5) ADJUSTMENT OF LIMIT FOR INFLATION.—

"(A) IN GENERAL.—Beginning in 1983, the dollar amounts in paragraph (3), paragraph (4), and subsection (c)(2)(A) shall each be adjusted by multiplying such amounts by the inflation adjustment factor for the 12-month period ending on July 31 of the preceding calendar year and, as adjusted, shall be substituted for such amounts for taxable years ending with or within the calendar year next beginning after such 12-month period.

"(B) COMPUTATION OF INFLATION ADJUSTMENT FACTOR.—

"(i) DETERMINATION AND PUBLICATION.—The Secretary shall, not later than October 1 of each calendar year (beginning in 1982), determine and publish in the Federal Register the inflation adjustment factor for the immediately preceding 12-month period ending on July 31 in accordance with this paragraph.

"(ii) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the average monthly Consumer Price Index (all items—United States city average) published by the Bureau of Labor Statistics of the Department of Labor for the most recent 12-month period ending on July 31 and the denominator of which is the average monthly Consumer Price Index (all items—United States city average) for the 12-month period ending on July 31, 1980.

"(c) DEFINITIONS AND SPECIAL RULES.—

"(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means the taxpayer, a child of the taxpayer (within the meaning of section 151(e)(3)), or an individual who bears a relationship to the taxpayer described in paragraphs (1) through (8) of section 152 (a), unless such taxpayer, child, or individual—

"(A) has attained the age of 21 before the close of the calendar year for which the contribution is made, or

"(B) is enrolled as a full-time student at an eligible educational institution for more than 4 weeks during that calendar year.

"(2) EDUCATION SAVINGS ACCOUNT.—For purposes of this section, the term 'education savings account' means a trust created or organized in the United States exclusively for the purpose of paying the educational expenses of an eligible individual, but only if the written governing instrument creating the trust meets the following requirements:

"(A) No contribution will be accepted unless it is in cash, stocks, bonds, or other securities which are readily tradeable on an established securities market, and contributions will not be accepted for the taxable year in excess of $2,500.

"(B) The trustee is a bank (as defined in section 401(d)(1)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person

will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts (other than contracts the beneficiary of which is the trust) and the face amount of which does not exceed the excess of—

"(i) the amount by which the maximum amount which can be contributed to the account from the inception of the trust until the taxable year which includes the year in which the individual for whom the trust has been established attains age 25, over

"(ii) the sums of the amounts contributed to the account for all taxable years.

"(D) The assets of the account may be invested in accordance with the direction of the individual contributing to the account, but, if more than one individual has made contributions to the account, the consent of all such individuals shall be required for any such direction.

"(E) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(F) Any balance in the account on the day before the date on which the individual for whose benefit the trust is established attains age 26 will be distributed on that date to each of the individuals who have contributed to the trust in an amount which bears the same ratio to such balance as such individual's contributions bear to the sum of all such contributions.

"(3) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution on the last day of a calendar year if the contribution is made on account of such calendar year and is made not later than the time prescribed by law for filing the return for the taxable year (including extensions thereof) with or within which the calendar year ends.

"(4) STOCK, ETC., TO BE VALUED AS OF TRANSFER DATE.—The fair market value of stocks, bonds, and other securities shall be determined as of the date on which they are transferred to the account. If the date of transfer falls on a Saturday, Sunday, or public legal holiday, then the fair market value shall be determined by reference to the last preceding day on which they could have been traded on an established securities market.

"(5) EDUCATIONAL EXPENSES.—The term 'educational expenses' means—

"(A) tuition and fees required for the enrollment or attendance of a student at an eligible educational institution,

"(B) fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution,

"(C) a reasonable allowance for meals and lodging, and

"(D) the liability for tax under this chapter of any individual who does not elect the application of subsection (d)(3)(B) which is attributable to any amount required to be included in income under subsection (d)(3)(A).

"(6) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means—

"(A) an institution of higher education,

"(B) a vocational school,

"(C) a secondary school, or

"(D) an elementary school.

"(7) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means the institutions described in section 1201(a) or 491(b) of the Higher Education Act of 1965.

"(8) VOCATIONAL SCHOOL.—The term 'vocational school' means an area vocational education school as defined in section 195(2) of the Vocational Education Act of 1963 which is in any State (as defined in section 195(b) of such Act).

"(9) ELEMENTARY AND SECONDARY SCHOOLS.—

"(A) ELEMENTARY SCHOOL.—The term 'elementary school' means a privately operated, not-for-profit, day or residential school which provides elementary education and which meets the requirements of subparagraph (D).

"(B) SECONDARY SCHOOL.—The term 'secondary school' means a privately operated, not-for-profit, day or residential school which provides secondary education that does not exceed grade 12, and which meets the requirements of subparagraph (D).

"(C) HANDICAPPED FACILITIES INCLUDED.—The terms 'elementary school' and 'secondary school' include facilities (whether or not privately operated) which offer education for individuals who are physically or mentally handicapped as a substitute for regular public elementary or secondary education.

"(D) REQUIREMENTS.—An elementary school or secondary school meets the requirements of this subparagraph if such school—

"(i) is exempt from taxation under section 501(a) as an organization described in section 501(c)(3), and

"(ii) does not exclude persons from admission to such school, or participation in such school, on account of race, color, or national or ethnic origin.

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, any amount paid or distributed out of an education savings account shall be included in gross income by each individual who has contributed to the account, in an amount which bears the same ratio to such payment or distribution as the amount contributed by that individual for all taxable years bears to the amounts contributed by all individuals for all taxable years, for the taxable year in which the payment or distribution is received, unless such amount is used exclusively to pay the educational expenses incurred by the individual for whose benefit the account is established.

"(2) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Paragraph (1) does not apply to the distribution of any contribution paid during a taxable year to an education savings account to the extent that such contribution exceeds the amount allowable as a deduction under subsection (a) if—

"(A) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such individual's return for such taxable year,

"(B) no deduction is allowed under subsection (a) with respect to such excess contribution, and

"(C) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (C) shall be included in the gross income of the individual for the taxable year in which it is received.

"(3) INCLUSION IN INCOME OF QUALIFIED DISTRIBUTIONS.—

"(A) IN GENERAL.—Unless an individual elects the application of subparagraph (B) with respect to all amounts paid or distributed out of the account which were used exclusively to pay the educational expenses of such individual, all such amounts shall be included in the gross income of such individual in the taxable year in which such amounts were paid or distributed out of the account.

"(B) QUALIFIED DISTRIBUTIONS INCLUDED IN BENEFICIARY'S INCOME OVER 10-YEAR PERIOD.—If an individual for whose benefit an education savings account was established elects the application of this subparagraph, the gross income of such individual for the taxable year in which that individual attains age 25 and for each of the 9 succeeding taxable years shall be increased by 10 percent of the sum of the amounts paid or distributed out of the account which were used exclusively to pay the educational expenses incurred by that individual.

"(e) TAX TREATMENT OF ACCOUNTS.—

"(1) EXEMPTION FROM TAX.—An education savings account is exempt from taxation under this subtitle unless such account has ceased to be an education savings account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) LOSS OF EXEMPTION OF ACCOUNT WHERE INDIVIDUAL ENGAGES IN PROHIBITED TRANSACTION.—

"(A) IN GENERAL.—If, during any taxable year of an individual who contributes to an education savings account, that individual engages in any transaction prohibited by section 4975 with respect to the account, the account ceases to be an education savings account as of the first day of that taxable year.

"(B) ACCOUNT TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which any account ceases to be an education savings account by reason of subparagraph (A) on the first day of any taxable year, paragraph (1) of subsection (d) applies as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day).

"(3) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year, the individual for whose benefit an education savings account is established uses the account or any portion thereof as security for a loan, the portion so used is treated as distributed to that individual.

"(f) ADDITIONAL TAX ON CERTAIN AMOUNTS INCLUDED IN GROSS INCOME.—

"(1) DISTRIBUTION NOT USED FOR EDUCATIONAL EXPENSES.—If a distribution from an education savings account is made, and not used in connection with the payment of educational expenses of the individual for whose benefit the account was established, the tax liability of each of the individuals who has contributed to the account for the taxable year in which such distribution is received shall be increased by an amount equal to 10 percent of the amount of the distribution which is includable in his gross income for such taxable year.

"(2) DISQUALIFICATION CASES.—If an amount is includable in the gross income of an individual for a taxable year under subsection (e), his tax under this chapter for such taxable year shall be increased by an amount equal to 10 percent of such amount required to be included in his gross income.

"(3) DISABILITY CASES.—Paragraphs (1) and (2) do not apply if the payment or distribution is made after the taxpayer becomes disabled within the meaning of section 72(m)(7).

"(g) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to any community property laws.

"(h) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in section 401(d)(1)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an education savings account described in subsection (c). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(i) REPORTS.—The trustee of an education

savings account shall make such reports regarding such account to the Secretary and to the individual for whose benefit the account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.".

(b) DEDUCTION ALLOWED IN ARRIVING AT ADJUSTED GROSS INCOME.—Paragraph (10) of section 62 of such Code (relating to retirement savings) is amended—

(1) by inserting "or education" after "Retirement" in the caption of such paragraph, and

(2) by inserting before the period at the end thereof the following: "and the deduction allowed by section 221 (relating to deduction of certain payments to education savings accounts)".

(c) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 of such Code (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, certain individual retirement annuities, and certain retirement bonds) is amended—

(1) by inserting "education savings accounts," after "accounts," in the caption of such section,

(2) by redesignating paragraphs (2) and (3) of subsection (a) as (3) and (4), and b, inserting after paragraph (1) the following

"(2) an education savings account (within the meaning of section 221(c)),", and

(3) by adding at the end thereof the following new subsection:

"(d) EXCESS CONTRIBUTIONS TO EDUCATION SAVINGS ACCOUNTS.—For purposes of this section, in the case of an education savings account, the term 'excess contributions' means the amount by which the amount contributed for the taxable year to the account exceeds the amount allowable as a deduction under section 221(b) for such taxable year. For purposes of this subsection any contribution which is distributed out of the education savings account and a distributor to which section 221(d)(2) applies shall be treated as an amount not contributed.".

(d) CONTRIBUTION NOT TO BE TREATED AS A GIFT FOR GIFT TAX PURPOSES.—Section 2503 of such Code (relating to taxable gifts) is amended by adding at the end thereof the following new subsection:

"(e) EDUCATION SAVINGS ACCOUNTS.—For purposes of subsection (b), any payment made by an individual for the benefit of his child to an education savings account described in section 221(c), shall not be considered a gift of a future interest in property to the extent that such payment is allowed as a deduction under section 221.".

(e) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 of such Code (relating to prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR EDUCATION SAVINGS ACCOUNTS.—An individual for whose benefit an education savings account is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be an education savings account by reason of the application of section 221(e)(2)(A) to such account.", and

(2) by inserting "or an education savings account described in section 221(c)" in subsection (c)(1) after "described in section 408(a)".

(f) FAILURE TO PROVIDE REPORTS ON EDUCATION SAVINGS ACCOUNTS.—Section 6693 of such Code (relating to failure to provide reports on individual retirement account or annuities) is amended—

(1) by inserting "or education savings accounts" after "annuities" in the caption of such section, and

(2) by adding at the end of subsection (a) the following: "The person required by section 221(i) to file a report regarding an education account at the time and in the manner required by such section shall pay a penalty of $10 for each failure unless it is shown that such failure is due to reasonable cause.".

(g)(1) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 221 and inserting in lieu thereof the following:

"Sec. 221. Education savings accounts.

"Sec. 222. Cross references.".

(2) The table of sections for chapter 43 of such Code is amended by striking out the item relating to section 4973 and inserting in lieu thereof the following:

"Sec. 4973. Tax on excess contributions to individual retirement accounts, education savings accounts, certain 403(b) contracts, certain individual retirement annuities, and certain retirement bonds.".

(3) The table of sections for subchapter B of chapter 68 of such Code is amended by striking out the item relating to section 6693 and inserting in lieu thereof the following:

"Sec. 6693. Failure to provide reports on individual retirement accounts or annuities or on education savings accounts.".

(h)(1) Part III of subchapter B of chapter 1 of such Code (relating to items specifically excluded from gross income) is amended by redesignating section 128 and 129 and by inserting after section 127 the following new section:

"SEC. 128. EDUCATION SAVINGS ACCOUNT DISTRIBUTIONS.

"In the case of an individual, and except as is provided in section 221(d)(1), gross income does not include distributions from an education savings account used exclusively for the payment of educational expenses of that individual (within the meaning of section 221(c)(5))."

(2) The table of sections for such part III is amended by inserting after the item relating to section 127 the following new items:

"Sec. 128. Education savings account distributions.

"Sec. 129. Cross references to other Acts.".

(i) Subsection (b) of section 152 of such Code (relating to definition of dependent) is amended by adding at the end thereof the following new paragraph:

"(6) A payment to an individual for whose benefit an education savings account (as defined in section 221(c)) is established from that account which is excluded from the gross income of that individual under section 128 shall not be taken into account in determining support for purposes of this section.".

(j) The amendments made by this section shall take effect with respect to taxable years beginning after December 31, 1981.

TAX EXEMPT SCHOOLS

SEC. 202. (a) Section 501 of the Internal Revenue Code of 1954 is amended by redesignating subsection (j) as (k) and by inserting after subsection (i) the following new subsection:

"(j) SCHOOLS.—An organization shall be treated as an organization described in subsection (c)(3) organized and operated exclusively for educational purposes, if—

"(1) it is organized and operated exclusively for the purpose of providing preschool, grammar school, high school, or college education;

"(2) it is incorporated as a nonprofit corporation in any State of the United States, its territories or possessions, or in the District of Columbia;

"(3) the bylaws of the organization prohibit discrimination in the hiring of teachers or admission of students, on grounds of race, nationality, or ethnic background;

"(4) the academic course of instruction of the organization requires attendance for at least the same number of days as are required in the public schools in the State in which the organization is located; and

"(5) a judicial order entered under section 202(b) of the Family Protection Act is not in effect with respect to such organization.".

(b)(1) Whenever the Attorney General has reasonable grounds to believe that an educational institution described in section 501(j, of the Internal Revenue Code of 1954 has violated any provision of section 1977, 1978, or 1979 of the Revised Statutes or of the Civil Rights Act of 1964, he shall file a civil suit for declaratory judgment in a Federal district court for the district in which the educational institution is located. If the Attorney General establishes before such court, by a preponderance of the evidence, that the school has, for at least 4 consecutive years prior to the filing of the suit, engaged in a policy of deliberate and intentional discrimination, the court shall issue a judicial order barring a tax exemption for such institution.

(2) If the court finds that the Attorney General brought a suit under this subsection out of malice, bias against the religious or ethnic composition of an academic institution's supporters, or any other improper motive, the court may, at its discretion, assess damages against the Attorney General and against the Internal Revenue Service agents and officers responsible for bringing of the action.

(3) No judicial order issued under the provisions of this subsection shall take effect until the first taxable year of the academic institution which begins after the institution has exhausted all rights of judicial review.

(4) A district court which has entered a judicial order under the provisions of this subsection shall retain jurisdiction over the case, and shall revoke its order at such time as the academic institution demonstrates, by a preponderance of the evidence, that its discrimination policies have been discontinued and will not be renewed.

MULTIGENERATIONAL HOUSEHOLDS

SEC. 203. (a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by inserting before section 45 the following new section:

"SEC. 44F. ELDERLY DEPENDENTS.

"(a) GENERAL RULE.—In the case of an individual who maintains a household which includes as a member, a dependent who, as of the close of such individual's taxable year, has attained the age of sixty-five, there shall be allowed, as a credit against the tax imposed by this chapter for the taxable year, a credit of $250.

"(b) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(c) SPECIAL RULES.—For purposes of this section, the special rules set forth in paragraphs (1), (2), (3), and (4) of section 44A(f) shall apply with respect to the credit allowed by subsection (a).".

(b) Part VII of subchapter B of chapter 1 of such Code (relating to additional itemized

deductions for individuals) is amended by redesignating section 222 as 223 and by inserting after section 221 the following new section:

"SEC. 222. ELDERLY DEPENDENTS.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual who maintains a household which includes as a member a dependent who, as of the close of such individual's taxable year, has attained the age of sixty-five, there shall be allowed a deduction of $1,000.

"(b) SPECIAL RULES.—Paragraphs (1), (2), (3), and (4) of section 44A(f) shall apply with respect to the deduction allowed by subsection (a).

"(c) ELECTION TO TAKE CREDIT IN LIEU OF DEDUCTION.—This section shall not apply in the case of a taxpayer who, for the taxable year, elects to take the credit against tax provided by section 44F (relating to elderly dependents). The election shall be made in such manner and at such time as the Secretary shall prescribe.".

(c)(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting immediately after the item relating to section 44C the following new item:

"Sec. 44F. Elderly dependents.".

(2) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 222. Elderly dependents.
"Sec. 223. Cross references.".

(3) Section 6096(b) of such Code (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44F" and inserting in lieu thereof "Section 44E, and section 44F".

(d) The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1980.

PARENTAL SUPPORT ACCOUNTS

SEC. 204. (a) Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 223 as 224 and by inserting after section 222 the following new section:

"SEC. 223. CONTRIBUTIONS TO QUALIFIED PARENTAL OR HANDICAPPED RELATIVE CARE TRUST.

"(a) GENERAL RULE.—In the case of an individual there is allowed as a deduction the sum of the amounts paid or contributed by that individual for the taxable year to or under a trust described in section 645 established by that individual to provide care for a qualified beneficiary (within the meaning of section 645(c)(2)).

"(b) MAXIMUM DEDUCTION.—The amount allowable as a deduction under subsection (a) for any taxable year may not exceed $3,000 with respect to payments to or contributions under a trust established for a single beneficiary.".

(b) Subpart A of part I of subchapter J of chapter 1 of the Internal Revenue Code of 1954 (relating to general rules for taxation of estates and trusts) is amended by adding at the end thereof the following new section:

"SEC. 645. QUALIFIED PARENTAL OR HANDICAPPED RELATIVE CARE TRUST.

"(a) EXEMPTION FROM INCOME TAXES.—

"(1) EXEMPTION FOR TRUST.—Except as provided in paragraph (3), a qualified parental or handicapped relative trust shall be exempt from taxation under this subtitle.

"(2) EXEMPTION FOR BENEFICIARY.—Except in the case of a mandatory distribution provided for in subsection (b), any amount distributed during the taxable year by a qualified parental or handicapped relative care trust shall not be included in the gross income for the taxable year of the qualified beneficiary to or for whose benefit such amount is so distributed to the extent that such amount is received by any individual—

"(A) who is not the spouse of the grantor of such trust, or

"(B) whose relationship to such grantor is not described in paragraphs (1) through (8) of section 152(a),

for the purpose of providing care for such beneficiary.

"(3) TRUST FUNDS TO BE TAXED ON DISTRIBUTIONS.—Except in the case of a mandatory distribution provided for in subsection (b), a qualified parental or handicapped relative care trust shall be treated as having taxable income for the taxable year in an amount equal to the sum of the amounts distributed by the trust during the taxable year, reduced by any portion of such distributions included in the gross income of a beneficiary for the taxable year under paragraph (2).

"(b) MANDATORY DISTRIBUTIONS.—

"(1) TO PARENT UPON ATTAINMENT OF AGE 64.—In the case of a trust established for the benefit of a parent of the grantor, the amount in the trust shall be distributed to the beneficiary not earlier than the close of the taxable year in which the beneficiary attains age 64.

"(2) DEATH OF BENEFICIARY.—If the qualified beneficiary of a qualified parental or handicapped relative care trust dies, the amount in the trust shall be distributed to—

"(A) in the case of a qualified beneficiary who is a parent of the grantor, the surviving spouse of the beneficiary, or, if there is no surviving spouse, the grandchildren of the beneficiary, or, if there are no grandchildren of the beneficiary, to the grantor, or

"(B) in the case of a trust established to provide care for a qualified beneficiary who is a handicapped relative, to the children of such beneficiary, or if there are not such children, to the grantor.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED PARENTAL OR HANDICAPPED RELATIVE CARE TRUST.—The term 'qualified parental or handicapped relative care trust' means any trust—

"(A) which is created and governed by a written instrument under which—

"(i) it is impossible, at any time before the termination of the trust, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of care for any qualified beneficiary of the trust, the payment of administrative expenses of the trust, or a mandatory distribution required under subsection (b), and

"(ii) the grantor of the trust has no reversionary interest in any portion of the trust (other than in the case of a mandatory distribution required under subsection (b)(2)) which may take effect in possession or enjoyment before the death of all qualified beneficiaries of the trust or before all beneficiaries of the trust cease to be qualified beneficiaries of such trust;

"(B) the trustee of which is a bank (as defined in section 401(d)(1)) or any person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the purpose of the trust; and

"(C) no beneficiary of which is a beneficiary of any other qualified parental or handicapped relative care trust.

"(2) QUALIFIED BENEFICIARIES.—The term 'qualified beneficiary' means a parent of the grantor or any individual—

"(A) who bears a relationship to the grantor described in paragraphs (1) through (8) of section 152(a); and

"(B) who, under regulations prescribed by the Secretary, at the time such trust is established, is unable to engage in any substantial gainful activity because of a medically determinable mental or physical impairment which can be expected to be of long-continued and indefinite duration.".

(c) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out the last item and by inserting in lieu thereof the following:

"Sec. 223. Contributions to qualified parental or handicapped relative care trust.
"Sec. 224. Cross references.".

(d) The table of sections for subpart A of part I of subchapter J of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 645. Qualified parental or handicapped relative care trust.".

(e) The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1980.

RETIREMENT SAVINGS FOR SPOUSES

SEC. 205. (a) Subsection (a) of section 219 of the Internal Revenue Code of 1954 (relating to deduction for retirement savings) is amended by inserting "or for the benefit of his spouse" immediately after "benefit".

(b) Paragraph (2) of section 219(c) of such Code (relating to married individuals) is amended to read as follows:

"(2) MARRIED INDIVIDUALS.—In the case of an individual who claims a deduction under subsection (a) for payments made for the benefit of his spouse—

"(A) The maximum deduction under subsection (b)(1) shall be computed separately for the individual and his spouse. For the purpose of making the computation for the spouse, the spouse shall be treated as having compensation includable in gross income for the taxable year equal to the compensation includable in such individual's gross income for the taxable year.

"(B) The deduction provided by subsection (a) shall be allowed for payments made for the benefit of such individual's spouse only if the individual and his spouse file a joint return of tax for the taxable year.

"(C) In the case of payments made for the benefit of a spouse who is handicapped within the meaning of section 190(b)(3), '$3,000' shall be substituted for '$1,500' in subsection (b)(1) and (b)(7).

"(D) No deduction shall be allowed under subsection (a) for payments for the benefit of a spouse for any taxable year for which—

"(i) the spouse has earned income includable in gross income, or

"(ii) a deduction would not be allowed if the spouse were the individual making the payment for the spouse's own benefit because of any limitation or restriction which would apply if the spouse were the individual making the payment.

"(E) This section shall be applied without regard to any community property laws. For purposes of this section, the determination of whether an individual is married shall be made in accordance with the provisions of section 143(a).".

(c) The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1980.

CORPORATE DAY CARE—CHARITABLE CONTRIBUTIONS

SEC. 206. (a) Subsection (b) of section 162 of the Internal Revenue Code of 1954 (relating to charitable contributions and gifts excepted) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply with re-

spect to amounts paid or contributed by the taxpayer to a day care center which meets the requirements of section 501(c)(23).".

(b) Subsection (c) of section 501 of such Code (relating to list of exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(23) a corporation organized and operated in the United States exclusively for the purpose of providing day care for children, no part of the net earnings of which enures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office, and which—

"(A) has applied for (and such application has not been rejected),

"(B) has been granted (and such granting has not been revoked), or

"(C) is exempt from having,

a license, certification, registration, or approval as a day care center under the provisions of applicable State law.".

(c) In the case of a day care center described in section 501(c)(23) of the Internal Revenue Code of 1954—

(1) the Secretary of the Treasury may not promulgate any criterion of eligibility for exemption from tax under section 501(a) of such Code which is not described in paragraph (23) of section 501(c) of such Code,

(2) no certification or approval by the Internal Revenue Service shall be required as a condition for such tax exemption, and

(3) no agency or department of the United States Government may require compliance with any rule or regulation by such a center as a condition of such tax exemption.

EXEMPTIONS FOR CHILDBIRTH OR ADOPTION

SEC. 207. (a) Section 151 of the Internal Revenue Code of 1954 (relating to allowance of deductions for personal exemptions) is amended by adding at the end thereof the following new subsection:

"(f) ADDITIONAL EXEMPTION FOR CHILDBIRTH OR ADOTION.—

"(1) IN GENERAL.—An exemption of $1,000 for each child born to, or adopted by, the taxpayer during the taxable year.

"(2) BIRTH AND ADOPTION OF SMALL CHILDREN.—In the case of—

"(A) a child who is born to the taxpayer and who is handicapped (within the meaning of section 190(b)(3)), or

"(B) the adoption of a child—

"(i) whose natural parents were not members of the same race, or

"(ii) who has attained the age of 6 before the beginning of the taxable year for which the additional exemption allowed by paragraph (1) is claimed, or

"(iii) who is handicapped (within the meaning of section 190(b)(3)),

'$3,000' shall be substituted for '$1,000' in paragraph (1).

"(3) JOINT RETURN.—The additional exemption allowed by paragraph (1) for any taxable year shall not be allowed to an individual who is not a married individual (as defined in section 143) or to a married individual (as defined in such section) who does not make a joint return of tax with his spouse for the taxable year.

"(4) CARRYOVER OF UNUSED DEDUCTION.—In the case of a taxpayer for whom the exemption allowed by paragraph (1) for a taxable year reduces his tax liability to zero, and in the case of a taxpayer whose liability for tax under this chapter (determined without regard to the additional exemption allowed by paragraph (1)) is zero, the additional exemption allowed by paragraph (1) for that taxable year, or that portion of such exemption which is properly attributable to a reduction of the taxpayer's liability for tax under this chapter below zero, shall be carried over to the following taxable year and shall be treated, for such following taxable year, as an additional exemption allowed by paragraph (1) for that taxable year.".

(b)(1) Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

"SEC. 221. ADOPTION EXPENSES.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction the amount of the adoption expenses paid or incurred by the taxpayer during the taxable year.

"(b) LIMITATION ON DEDUCTIONS.—

"(1) MINIMUM DOLLAR AMOUNT.—No deduction shall be allowable under subsection (a) for the first $500 of adoption expenses paid or incurred with respect to the adoption of any child.

"(2) MAXIMUM DOLLAR AMOUNT.—The aggregate amount allowable as a deduction under subsection (a) for all taxable years with respect to the adoption of any child shall not exceed $3,500 ($4,500 in the case of an international adoption).

"(3) DENIAL OF DOUBLE BENEFIT.—

"(A) IN GENERAL.—No deduction shall be allowable under subsection (a) for any amount for which a deduction or credit is allowable under any other provision of this chapter.

"(B) GRANTS.—No deduction shall be allowable under subsection (a) for any adoption expense paid from any funds received under any Federal, State, or local program.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ADOPTION EXPENSES.—The term 'adoption expenses' means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a child by the taxpayer and which are not incurred in violation of State or Federal law.

"(2) INTERNATIONAL ADOPTION.—The term 'international adoption' means an adoption—

"(A) occurring under the laws of a foreign country, or

"(B) involving a child who was a citizen of a foreign country who—

"(i) was brought to the United States for the purpose of adoption, or

"(ii) came to the United States under circumstances with respect to which the necessity for the child's placement in adoption proceedings was reasonably foreseeable.".

(2) Section 62 of such Code (defining adjusted gross income) is amended by inserting after paragraph (16) the following new paragraph:

"(17) ADOPTION EXPENSES.—The deduction allowed by section 221.".

(3) The table of sections for such part VII is amended by striking out the item relating to section 221 and inserting in lieu thereof the following:

"Sec. 221. Adoption expenses.

"Sec. 222. Cross references.".

(c)(1) The amendment made by this section shall apply with respect to taxable years beginning after December 31, 1980.

(2) The amendments made by subsection (b) shall apply to adoption expenses paid or incurred after December 31, 1978, in connection with any adoption which becomes final after December 31, 1980.

TITLE III—EDUCATION

COMMUNITY PARTICIPATION IN TEACHING OF RELIGION

SEC. 301. (a) Part C of the General Education Provisions Act is amended by adding at the end thereof the following new section:

"PARENTAL PARTICIPATION; TEACHERS RIGHTS; EDUCATION ALTERNATIVES

"SEC. 440B. Notwithstanding any other provision of law, it shall be unlawful for any Federal, State or local educational agency or institution receiving any Federal funds to—

"(1) prohibit parents or representatives of the community from participating in decisions relating to the establishment or continuation of courses relating to the study of religion;

"(2) prohibit or unnecessarily limit parental visits to public schools or classes, or the right of parents to inspect their children's education records upon reasonable notice;

"(3) require the force payment of dues or fees as a condition of employment for teachers; or

"(4) prohibit parental review of textbooks prior to their use in public school classrooms.".

(b) Part C of the General Education Provisions Act is further amended by adding at the end thereof the following new section:

"COURSES OF INSTRUCTION AND EDUCATION MATERIALS

"SEC. 440C. No funds authorized under any applicable program or any provision of Federal law shall be used to secure or promote education materials or studies relating to the preparation of education materials if such materials do not reflect a balance between the status role of men and women, do not reflect different ways in which women and men live and do not contribute to the American way of life as it has been historically understood.".

(c)(1) Any individual aggrieved by a violation of section 440B or 440C of the General Education Provisions Act may bring a civil action in the appropriate district court of the United States, or in any State court of competent jurisdiction, for damages, or for such equitable relief as may be appropriate, or both.

(2) Each district court of the United States, and each State court of competent jurisdiction, shall provide such equitable relief, including injunctive relief, as may be appropriate to carry out the provisions of sections 440A and 440B of the General Education Provisions Act.

(3)(A) It shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case brought under this subsection is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge), who shall then designate a district or circuit judge of the circuit to hear and determine the case.

(B) It shall be the duty of the judge designated pursuant to this subsection to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

(4) In any action or proceeding brought under this subsection, the court may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs and any department or agency of the United States, of a State, or of a political subdivision of a State, shall be liable for costs the same as a private person.

(5) For the purpose of this subsection the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Marina Islands, or the Trust Territory of the Pacific Islands.

RIGHTS OF STATES AND LOCAL EDUCATIONAL AGENCIES

SEC. 302. (a) Federal funds shall not be withheld under any provision of Federal law

nor shall any provision of Federal law be construed to prohibit—

(1) the right of any State or any State or local educational agency to determine the qualifications required of teachers within the jurisdictions of such agencies, including the right to make a determination that no certification requirement will be imposed;

(2) the right of any State to set or refuse to set attendance requirements at public or private schools within their jurisdictions, including the right to determine that no such attendance requirement will be imposed; or

(3) the right of any local educational agency, in consultation with parents of students enrolled in the schools of such agency, to limit or prohibit the intermingling of sexes in any sports or other school-related activities.

(b) Section 2(2) of the National Labor Relations Act is amended to read as follows:

"(2) The term 'employer' includes any person acting as an agent of an employer, directly or indirectly, but shall not include the United States or any wholly owned Government corporation, or any Federal reserve bank, or any State or political subdivision thereof, or any corporation or association operating a school, if no part of the net earnings inures to the benefit of any private shareholder or individual, or any person subject to the Railway Labor Act, as amended from time to time, or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization.".

EDUCATION BLOCK GRANTS

SEC. 303. (a) The Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new title:

"TITLE XI—ELEMENTARY AND SECONDARY SCHOOL ASSISTANCE PROGRAM

"STATEMENT OF PURPOSE

"SEC. 1101. In order to meet the rising costs of providing education in the public schools of the States and to assist the limited resources of State and local educational agencies, it is the purpose of this title to make unconditional education block grants to State and local educational agencies.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1102. There are authorized to be appropriated for the purpose of carrying out this title, $4,500,000,000 for the fiscal year 1982 and for each succeeding fiscal year ending prior to October 1, 1985.

"ALLOTMENT

"SEC. 1103. (a)(1) From the funds appropriated pursuant to section 1102, the Secretary shall allot not less than 1 per centum among Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands and the Northern Mariana Islands, according to their respective needs.

"(2) From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to such remainder as the number of children in each such State—

"(A) who are age five to seventeen inclusive; and

"(B)(i) who are enrolled in the public elementary and secondary schools of local educational agencies, and

"(ii) who are enrolled in such schools of the State educational agency of such State.

"(3) For the purposes of paragraph (2) of this subsection the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands and the Northern Mariana Islands.

"(b) The portion of any State's allotment under subsection (a) for a fiscal year which the Secretary determines will not be required, for the period such allotment is available for carrying out the purposes of this title shall be available for reallotment from time to time, on such dates during such period as the Secretary may fix, to other States in proportion to the original allotments to such States under subsection (a) for such year, but with such proportionate amount for any such other States being reduced to the extent it exceeds the sum which the Secretary estimates will be needed in such State and will be used for such period for carrying out applications approved under this title, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount reallotted to a State under his subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

"USES OF FUNDS

"SEC. 1104. Grants made under this title may be used in accordance with applications approved under section 1105 for educational programs and activities conducted by public elementary and secondary schools of local educational agencies and of State educational agencies.

"APPLICATIONS

"SEC. 1105. (a) A grant under this title may be made to any local educational agency upon application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary. Each such application shall—

"(1) provide that the programs and activities for which assistance under this title is sought will be administered by and under the supervision of the applicant;

"(2) in the case of a State educational agency, provide assurances that no more than 5 per centum of the funds for which the application is made by such agency will be expended for purposes other than programs and activities conducted by the public elementary and secondary schools of such agency; and

"(3) provide for making evaluations of programs and activities assisted under this title.

"(b) Applications for grants under this title may be approved by the Secretary only if—

"(1) the application meets the requirements set forth in subsection (a); and

"(2) the application is consistent with objective criteria established by the Secretary for the purpose of achieving an equitable distribution under this title within such State. Such criteria shall be based upon a consideration of—

"(A) the number of children aged five to seventeen, inclusive, who are enrolled in the public elementary and secondary schools of the local educational agencies within each such State; and

"(B) the relative need of the local educational agencies within the State for assistance under this title.

"(c) Amendments of applications shall, except as the Secretary may otherwise provide, be subject to approval in the same manner as the original applications.

"PAYMENTS

"SEC. 1106. Payments under this title shall be made from a State's allotment to any State or local educational agency which has an application approved under section 1105. Payments under this title shall be made for the cost of carrying out an application of a State or local educational agency and shall exclude any costs with respect to which payments were received under any other Federal program.

"WITHHOLDING

"SEC. 1107. Whenever the Secretary, after giving reasonable notice and opportunity for hearing to a grant recipient under this title, finds—

"(1) that the program or activity for which such grant was made has been so changed that it no longer complies with the provisions of this title; or

"(2) that in the operation of the program or activity there is failure to comply substantially with any such provision;

the Secretary shall notify such recipient of his findings and no further payments may be made to such recipient by the Secretary until he is satisfied that such noncompliance has been, or will promptly be, corrected. The Secretary may authorize the continuance of payment with respect to any program or activities pursuant to this title which are being carried out by such recipient and which are not involved in the noncompliance.

"JUDICIAL REVIEW

"SEC. 1108. (a) If any State or local educational agency is dissatisfied with the Secretary's final action with respect to the approval of its application submitted under section 1105, or with his final action under section 1107, such State or local educational agency may within sixty days after notice of such action file with the United States court of appeals for the circuit for which agency is located a petition for review of that action. A copy of that petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary shall file promptly in the court the record of the proceedings on which he based his action, as provided for in section 2112 of title 28, United States Code.

"(b) The findings of fact by the Secretary, if supported by substantial evidence shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United State Code.

"PROHIBITIONS AND LIMITATIONS

"SEC. 1109. (a) Nothing contained in this title shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system.

"(b) Nothing contained in this title shall be construed to authorize the making of any payment under this title for the construction of facilities as a place of worship or religious instruction.

"DEFINITIONS

"SEC. 1110. As used in this title the term 'free public education' means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State.".

(b) Title I, II, III, IV, VII, and IX of the Elementary and Secondary Education Act of 1965 are repealed effective October 1, 1981.

RELEASED TIME FOR PARENTHOOD EDUCATION

SEC. 304. Nothing contained in this Act, any amendment made by this Act, or any other provision of Federal law shall be construed to prohibit release time for parenthood education to be conducted by churches or parents.

LEGAL SERVICES: BUSING

SEC. 305. Section 1007 (b) (9) of the Legal Services Corporation Act is amended to read as follows:

"(9) to provide legal assistance with respect to any proceeding or litigation relating solely to the achievement of racial quotas for, or the desegregation of, any elementary or secondary school or school system .".

TITLE IV—VOLUNTARY PRAYER AND RELIGIOUS MEDITATION

SHORT TITLE

SEC. 401. This title may be cited as the "Voluntary Prayer and Religious Meditation Act of 1981".

FINDINGS

SEC. 402. (a) The Congress finds that—

(1) America is a Nation founded on freedom;

(2) essential to freedom is the free exercise of the inalienable rights guaranteed to all by our creator;

(3) in order to preserve such rights it is equally essential that the Constitution be broadly interpreted in matters of individual freedoms; and

(4) the free exercise of religious expression whether public or private is a fundamental freedom which should not be benignly denied in order to protect other freedoms equally fundamental.

(b) In order to secure the right of individuals to the free exercise of religion guaranteed by the first amendment of the Constitution, the Congress pursuant to its authority under the necessary and proper clause of section 8, article I of the Constitution, enacts the provisions of this title.

DEFINITION

SEC. 403. As used in this title—

(1) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands; and

(2) the term "voluntary prayer or religious meditation" includes individual prayer and devotional reading from religious literature initiated by members of the group, provided that any person so desiring is excused from participating in such prayer and devotional reading.

VOLUNTARY SCHOOL PRAYER AND RELIGIOUS MEDITATION RIGHT PROTECTED

SEC. 404. (a) Each individual shall have the right to participate in the free exercise of voluntary prayer or religious meditation in any public building or in any building which is supported in whole or in part through the expenditure of Federal funds.

(b) No department or agency of the United States, of any State, or of any political subdivision of a State, shall abridge the right of free exercise of voluntary prayer or religious meditation in any public building or any building which is supported in whole or in part through the expenditure of public funds.

CIVIL ACTIONS AUTHORIZED; JURISDICTION AND RELIEF

SEC. 405. (a) Any individual aggrieved by violation of this title may bring a civil action in the appropriate district court of the United States, or in any State court of competent jurisdiction, for damages or for such equitable relief as may be appropriate, or both.

(b) The district courts of the United States shall have jurisdiction of actions brought under this section without regard to the amount in controversy.

(c) Each district court of the United States, and each State court of competent jurisdiction, shall provide such equitable relief, including injunctive relief, as may be appropriate to carry out the provisions of this title.

(d)(1) It shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge), who shall then designate a district or circuit judge of the circuit to hear and determine the case.

(2) It shall be the duty of the judge designated pursuant to this subsection to assign the case for hearing within 30 days of filing with the court. A hearing of the case must be held within 180 days upon the proper filing of the case with the court.

SAVINGS PROVISION

SEC. 406. The provisions of this title shall supersede all the provisions of the Federal law that are inconsistent with the provisions of this title.

TITLE V—RIGHTS OF RELIGIOUS INSTITUTIONS AND EDUCATIONAL AFFILIATES

RIGHTS OF RELIGIOUS INSTITUTIONS

SEC. 501. (a) With respect to admissions policies, instructional or training materials, instruction or methodological hiring or selecting of employees and staff, contractual relationships with employees and staff, or operating procedures, neither the Federal Government nor any instrumentality thereof shall by rule, regulation, or otherwise impose any legal obligation or condition on any childcare center, orphanage, foster home, social action training program, emergency shelter for abused children or spouses, school, juvenile delinquency or drug abuse treatment center or home, or similar program or institution which is directly or indirectly operated by a church or religious organization. For purposes of the preceding sentence, the promulgation of reasonable health and fire regulations by an instrumentality exercising the authority of a local government shall not be prohibited.

(b)(1) The provisions of subsection (a) shall not apply with respect to the administration of the Civil Rights Act of 1964 with respect to race, creed, color, or national origin.

(2) Nothing in this subsection shall be construed to permit rules or regulations relating to affirmative action, quotas, guidelines, or actions designed to overcome racial imbalance.

TITLE VI—MISCELLANEOUS

JURISDICTION

SEC. 601. (a) Except as otherwise provided in this Act, the district courts of the United States and any court in a territory which is vested with the powers of a district court shall have jurisdiction of any civil action brought under this Act, or under an amendment made by this Act, without regard to amount in controversy. Any such action may be brought in the district wherein the defendant is found or is an inhabitant or transacts business, and process may be served in any district of which the defendant is an inhabitant or wherever the defendant may be found.

(b) Except as otherwise provided by this Act, any action brought under this Act, or under an amendment made by this Act, in any State court of competent jurisdiction shall not be removed to any court of the United States, unless an officer or employee of the United States in his official capacity is a party. No costs shall be assessed against the United States in any such action brought by or against the United States in any court of the United States, or of a State.

LIMITATION OF ACTION

SEC. 602. Any action brought under this Act, or an amendment made by this Act shall be brought within six years after the cause of action arises.

ENFORCEMENT

SEC. 603. (a) Except as otherwise provided by this Act, any person who violates any provisions of this Act, any amendment made by this Act, or any rule, regulation, or order issued thereunder, may be subject to a civil penalty, not to exceed $5,000 for each violation, after opportunity for a hearing pursuant to subsection (b). Each separate offense shall be a violation and, in the case of a continuing offense, each day shall constitute a separate violation.

(b) Each hearing pursuant to subsection (a) shall be public and any assessment of a penalty after such a hearing shall be based on the record. Each hearing shall be conducted in accordance with the provisions of section 554 of title 5, United States Code.

(c)(1) Any penalty assessed pursuant to subsection (b) may be collected in an action brought by the Attorney General or, if the Attorney General directs, by the head of the appropriate agency in any district court of the United States. In any such action, the validity and appropriateness of the final determination imposing the penalty shall not be subject to review.

(2) The penalty shall be payable to the United States Treasury.

(d) A person aggrieved by a final determination under subsection (b) is entitled to judicial review in an appropriate United States Court of Appeals, if petition for review is filed within twenty days after the determination is made. Review of the determination shall be in accordance with section 706 of title 5, United States Code.

CONTRARY STIPULATIONS VOID

SEC. 604. Any condition, stipulation, or provision binding any person to waive compliance with any provisions of this Act, any amendment made by this Act, or any rule or regulation issued thereunder is void.

REPORT TO CONGRESS

SEC. 605. The Secretary shall prepare and submit to Congress, within thirty months after the date of enactment of this Act, a comprehensive report on the administration of this Act and the progress of States.

EFFECT ON OTHER LAWS

SEC. 606. (a) The rights and remedies provided by this Act, or any amendment made by this Act, shall be in addition to any other right or remedy provided under Federal or State law.

(b) This Act, and any amendment made by this Act, does not limit any other right or remedy for the protection of the family under State or Federal common law or statutory law.

AUTHORIZATION OF APPROPRIATIONS

SEC. 607. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEPARABILITY

SEC. 608. If any provision of this act or any amendment made by this Act, or the application of such provision or amendment to any person or circumstances, shall be held invalid, the remainder of this Act or such amendment or the application of such provision or amendment to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Mr. JEPSEN. Mr. President, in the interest of providing the Members of the Senate and the Congress a legislative summary of the provisions contained in the Family Protection Act of 1981, I have outlined many of the key sections of the bill. I wish to emphasize that this sum-

mary is in brief and, therefore, subject to change and additional interpretation.

I ask unanimous consent to have the summary printed in the RECORD, and I thank the leadership for their cooperation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF PROVISIONS CONTAINED IN THE FAMILY PROTECTION ACT OF 1981

RIGHTS OF PARENTS

Section 101. This section would amend Chapter 111 of Title 28 of the U.S. Code (28 U.S.C. 1651 *et seq.*) by adding at the end thereof a provision providing for a "legal presumption in favor of an expansive interpretation" of the parent's role "in supervising and determining the religious or moral formation of his child" in federal cases involving that role.

Although the legal presumption that would be stated by this section is not now codified in federal statutes, it would appear to conform to existing case law determinations regarding the parent's role in the religious and moral formation of his child as protected by the free exercise and due process clauses of the Constitution. In *Pierce* v. *Society of Sisters*, 268 U.S. 510, 534–35 (1925), the Supreme Court struck down a State statute requiring parents to send their children to public, but not private, school, stating:

. . . we think it entirely plain that the Act of 1922 unreasonably interferes with the liberty of parents and guardians to direct the upbringing and education of children under their control. . . The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with high duty, to recognize and prepare him for additional obligations.

In *Wisconsin* v. *Yoder, supra*, the Court upheld the right of Amish parents to withdraw their children from public school after the eighth grade, stating:

. . . this case involves the fundamental interest of parents, as contrasted with that of the State, to guide the religious future and education of their children. The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition. . . The duty to prepare the child for "additional obligations," referred to by the Court (in *Pierce*), must be read to include the inculcation of moral standards, religious beliefs, and elements of good citizenship. . . However read, the Court's holding in *Pierce* stands as a charter of the rights of parents to direct the religious upbringing of their children. 406 U.S. at 3232–233.

More recently, in *Parham* v. *J.R.*, 442 U.S. 584, 602–03 (1979) the Court reaffirmed this presumption in rejecting the argument that a parent's decision to commit his child to a mental institution must be reviewed by the government in a formal, adversary pre-admission hearing:

Our jurisprudence historically has reflected Western civilization concepts of the family as a unit with broad parental authority over minor children. Our cases have consistently followed that course . . . The statist notion that governmental power should supersede parental authority in *all* cases because *some* parents abuse and neglect children is repugnant to American tradition.

See also *H. L.* v. *Matheson*, —— U.S. ——, 49 USLW 4255 (1981); *Quilloin* v. *Walcott*, 434 U.S. 246 (1978); *Stanley* v. *Illinois*, 405 U.S. 645 (1972); *Ginsberg* v. *New York*, 390 U.S. 629 (1968).

This expansive view of parental authority over children is not without limit, of course. The Court has affirmed the right of government to intervene in instances in which parents' decisions threaten significant harm to the health or safety of the child or create a social burden. See, *e.g.*, *Prince* v. *Massachusetts*, 321 U.S. 158 (1944); *Planned Parenthood of Central Missouri* v. *Danforth*, 428 U.S. 52 (1976); *Parham* v. *J. R., supra; Application of President and Directors of Georgetown College, Inc.* 118 U.S. App. D.C. 80, 331 F. 2d 1000, *cert. den.* 377 U.S. 978 (1964). But absent proof of such significant threats to the child or society, the presumption is in favor of parental authority.

It is my opinion that this section is consistent with existing interpretations of that presumption, and thus would not alter existing law, but simply seek to codify existing case law which presumptively favors parental rights.

This section would appear to be within Congress' power, and therefore, poses no apparent constitutional implication.

PARENTAL NOTIFICATION

Section 102(a). This section would provide that no program may receive federal funds unless, prior to providing a contraceptive device, abortion, counseling, or an abortion to an unmarried minor, the agency notifies the minor's parents or guardian.

Federal law does not now require parental notification as a condition of federal funding of programs relating to family planning. For instance, family planning services specifically targeted to adolescents are funded through discretionary grants awarded by the Office of Adolescent Pregnancy Programs, authorized under titles VI of P.L. 95–626. The law requires that a grantee's family planning services be limited to counseling and referral unless other services are not available in the community. The grantee is required to inform any pregnant adolescent of the availability of counseling on all options regarding her pregnancy, which appears to include abortion counseling. However, the law specifically prohibits expenditure of any funds under the Act for the performance of an abortion. The law presently mandates grantees to "encourage" unemancipated minors receiving services to consult with their parents, but grantees are not required to make any services contingent on parental notification. Therefore, this section would mandate any services be contingent on parental notification.

Family planning services are also funded under title XIX of the Social Security Act (the Medicaid program), under title XX of the Social Security Act (social services), under title III–D of the Public Health Service Act (primary health care), and under title X of the Public Health Service Act (family planning). None of these programs requires parental notification, as follows:

"Title XIX of the Social Security Act specifically requires States to offer family planning services and supplies, including services and supplies to minors, in order to qualify for matching funds under the Medicaid program. There is no parental notification requirement. The law is silent on whether family planning services include abortion counseling or the provision of abortions.

"Under title XX of the Social Security Act, States are authorized to use their matched federal funds to offer family planning services, including medical care related to family planning, to anyone. There is no parental notification requirement. The law is silent on whether family planning services include abortion counseling or abortion, but, instead, appears to leave the matter to the States' discretion.

"Subpart I of title III–D of the Public Health Service Act authorizes grants to community hospitals (section 328), migrant health centers (section 329), and community health centers (section 330) for the provision of medical services including primary health services. Primary health services are defined to include family planning services, which, in turn, are left undefined. There are no provisions relating to family planning services specifically for minors, and no parental notification requirement.

"Title X of the Public Health Service Act authorizes direct grants and contracts to public and private nonprofit agencies (section 1001), formula grants to States (section 1002), and training grants to organizations and individuals (section 1003) to establish and operate family planning projects. Section 1001 specifically mentions family planning services for adolescents, and the other two sections do not exclude adolescents. There is no parental notification requirement in any of the three sections. Section 1008 of this title specifies that no funds may be used in programs where abortion is a form of family planning."

In addition to the above funded programs, title IV–A of the Social Security Act (Aid to Families with Dependent Children—AFDC) requires (but does not fund States to ensure that family planning services are available to AFDC recipients, including sexually active minors). There is no parental notification requirement.

Section 102 (b). This section would amend part C of the General Education Provisions Act (20 U.S.C. 1232 *et seq.*) by adding a new section stipulating that no programs under the Act may receive federal funds unless, prior to providing a contraceptive device, abortion counseling, or an abortion to an unmarried minor, the minor's parents or guardian have been notified.

JUVENILE DELINQUENCY

Section 103. This section would amend the Juvenile Justice and Delinquency Prevention Act (42 U.S.C. 5601 *et seq.*) by adding a new section. Subsection (a) of the new section would stipulate that no federal program, directive, guideline, or grant may be construed to override any existing State law relating to juvenile delinquency. Subsection (b) of the new section states that nothing in this new section should be construed to permit a State to fail to participate or cooperate in any program for the return on runaway youths, whether by interstate compact or otherwise.

The Juvenile Justice and Delinquency Prevention Act currently contains no provisions comparable to those in section 103.

CHILD ABUSE

Section 104.

Section 104(a) would provide that no federal program, directive, guideline, or grant be construed to override any existing State law relating to child abuse. Section 104(b) would provide that no federal funds for any program related to child abuse may be spent in any State unless that State's legislature specifically authorizes such a program. Section 104(c) would, for the purposes of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5010 *et seq.*), qualify the definition of "child abuse" to exclude discipline or corporal punishment by a parent or any persons designated by a parent.

There is no comparable provision to section 104(a) in current federal law, although federal law does not now appear to override State laws relating to child abuse. Section 104(b) adds a new condition to State programs on child abuse which seek federal funding under either the Child Abuse Prevention and Treatment Act of titles IV or XX of the Social Security Act, namely, that such program be "specifically authorized and established" by their State legislature(s). It would also bar direct grants from the federal government to child abuse programs that are privately operated in any State, (as is now possible under the Child Abuse Prevention and Treatment Act), and require that such grants be limited to, or channeled

through, State programs that have been specifically authorized by the State legislature(s).

Section 104(c) takes the entire existing definition of "child abuse" in the Child Abuse Prevention and Treatment Act and adds a qualifying phrase at the end that would exclude from the definition corporal punishment administered by a parent or an agent of the parent. This latter change would not materially alter existing law: in virtually every State, reasonable corporal punishment administered by a parent or a person standing *in loco parentis* is privileged. See *Baker* v. *Owen*, 423 U.S. 907, *aff'g* 395 F. Supp. 294 (M.D. N.C., 1975); *Ingraham* v. *Wright*, 430 U.S. 651 (1977).

SPOUSE ABUSE

Section 105. This section would provide that no federal program, directive, guideline, or grant shall be construed to override any existing State law "relating to spousal abuse or domestic relations."

There is no comparable provision to section 105 in current federal law.

LEGAL ASSISTANCE RESTRICTIONS

Section 103. This section would impose restrictions on the kinds of legal representation that could be offered by legal aid programs funded by the Legal Services Corporation (LSC). The section would amend section 1007(b) of the Legal Services Corporation Act (42 U.S.C. 1996f(b)) to bar funding under that Act to entities which provide legal assistance:

"(1) which seeks to procure an abortion or to compel any individual or institution to perform an abortion or assist in the performance of an abortion, or provide facilities for the performance of an abortion, or to compel State or federal government funding for an abortion, or

"(2) in any case relating to a divorce, and

"(3) in any case seeking to adjudicate the issue of gay rights."

The restriction with respect to abortions is broader than existing law: Existing law bars such representation where the performance of the abortion or provision of facilities is "contrary to the religious beliefs or moral convictions of such individual or institution". Ths section would eliminate that proviso, and would further extend the bar on representation to include suits which seek "to compel State or federal government funding for an abortion." See 42 U.S.C. 2996f(b)(8).

The restriction with respect to divorce and gay rights would be new.

Finally, it should be noted that existing law imposes restrictions only on the use of federal funds made available through the Legal Services Corporation. This new section would place these restrictions on *all* activities of LSC grantees, whether paid for out of LSC funds or not.

ARMED FORCES DEPENDENTS' ASSISTANCE ALLOTMENTS

Section 107. This section would provide for the mandatory direct payment of an amount equal to a military member's basic allowance for quarters (BAQ) to the member's dependents, when those dependents are living separate from the member. The allotment would be deducted from the pay and allowances received by the member.

Subsection (a) of section 107 would add a new section 708 to chapter 13 of title 37, U.S. Code, Pay and Allowances of the Uniformed Services, entitled "Allotment for dependents of members of the armed forces." "Armed forces" are defined in 37 USC 101 as meaning the Army, Navy, Marine Corps, Air Force, and Coast Guard.

Subsection 708(a)(1) provides that subject to such regulations as may be prescribed by the Secretary of Defense, the Secretary concerned (defined in 37 USC 101 as the secretaries of the military departments or the Secretary of Transportation, in the case of the Coast Guard when it is not operating as part of the Navy) shall pay a monthly dependents' assistance allotment to the dependents of any member of the armed forces, when such dependents are living separate from the member. All officers (commissioned and warrant) and enlisted personnel of all grades are included. The amount paid to the dependents of a member shall be deducted from the pay and allowances received directly by the member.

Subsection 708(a)(2) specifies that the amount of dependents' assistance allotment to be paid shall be equal to the BAQ to which the member is entitled. A member may, however, increase the amount of allotment to be paid to his dependents by requesting the Secretary concerned, in writing, to deduct an additional amount from the member's pay and allowances to be sent to the member's dependents. Such an additional allotment may be in any multiple of $10.00.

Subsection 708(c) defines the term "dependent," with respect to a member of the armed forces, as meaning (1) a member's spouse; and (2) a member's unmarried child (including the following categories of children if they are dependent on a member: a stepchild, an adopted child; and illegitimate child whose alleged father—if a member of the armed forces—has been judicially decreed to be the childs father or ordered to contribute to the child's support, or whose parentage has been admitted in writing by the military member. Such unmarried children must be either under 21 years of age or both (a) incapable of self-support because of mental or physical incapacity, and (b) in fact dependent on the military member for over one half of their support.) The relationship between a stepparent and a stepchild is deemed to be terminated—for purposes of eligibility for dependents' assistance allotments—if the stepparent is divorced from the parent by blood.

Subsection (b) of the proposed section 107 of the Family Protection Act would amend the table of sections of chapter 13 of title 37, U.S. Code, to add at the end a reference to the new section 708 of title 37.

Comparison with current law

Current law provides for no mandatory allotments of any portion of a military member's pay to his dependents when he is separated from them.[1]

No such allotments have ever been required for either commissioned or warrant officers. However, from 1950 through 1973 certain enlisted personnel were required to establish an allotment payable directly to their dependents in order to qualify for basic allowance for quarters (BAQ) rates specified for persons with dependents.

The Dependents' Assistance Act of 1950 (ch. 622, 64 Stat. 794; Act of September 8, 1950), required that all enlisted personnel make allotments such as those described to be eligible for BAQ as "with dependents" rates. It further authorized (in section 8 of the Act) that the Secretary concerned could, without the consent of an enlisted member, direct that a payment of BAQ with dependents be made, and the requisite allotment to a member's dependents be established, if the enlisted member had dependents and did not voluntarily make an allotment and thereby qualify for BAQ with dependents.

The Act of July 10, 1962 (76 Stat. 152) modified the system, in effect leaving the mandatory allotment requirement only for junior enlisted personnel (grades E–1 through E–3 and grade E–4 with less than four years of service). Rather than extending the allotment requirement (it had always been a temporary provision requiring extension every few years since its enactment in 1950) it was allowed to expire as of July 1, 1973. Since then, there has been no requirement of any sort for military personnel to directly allot any of their pay to their dependents.

There are several major differences between the old Dependents' Assistance Act (DAA) allotments and those which would be required by section 107 of the Family Protection Act:

"The DAA applied only to enlisted personnel and after 1962 only to junior enlisted personnel. Section 107 would apply to commissioned and warrant officers in all grades as well as all enlisted personnel.

"The DAA allotment procedure required the member to allot not only his monthly BAQ, but an additional amount deducted from his basic pay, to his dependents. The proposed statute requires only an amount equal to the BAQ to be allotted (although the member may voluntarily allot more).

"Under DAA, a direct allotment to dependents was made regardless of whether or not the member and his dependents were living separately. Section 107 would require such an allotment only if the member was living separate from his dependents.

"The DAA included dependent parents in its definition of dependents coming under its purview. Section 107 would apply only to spouses and unmarried children."

FEDERAL FUNDS FOR HOMOSEXUAL ADVOCACY

Sec. 108. This section would bar any federal funds from being made available to any individual or organization for the purpose of "advocating, promoting, or suggesting homosexuality, male or female, as a life style."

Changes from existing law

This condition on federal funding does not now exist in this form in federal law but would not appear to alter the existing situation. In 1981 Congress added to the continuing resolution for the fiscal 1981 appropriations for the Legal Services Corporation a prohibition on the use of federal funds "to provide legal assistance for any litigation which seeks to adjudicate the legality of homosexuality." P.L. 96–536 (Dec. 16, 1980) (incorporating by reference the restrictions contained in H.R. 7584 as enacted prior to its veto by the President). This section would not affect that prohibition. In addition, it might be noted that existing law does not appear to provide funds for the purpose of promoting homosexuality. Thus, this section would not appear to materially affect existing grant programs.

The section nevertheless is designed to codify into statutory law a prohibition of any federal funds which are used solely for the purpose of "advocating, promoting, or suggesting homosexuality, male or female, as a life style."

It is not the intention of this section to prohibit or deny social security benefits, welfare, veterans benefits, student assistance or other federal assistance to any individual who may suggest or intimate homosexuality as a life style.

TITLE II—TAXATION

Section 201.

Section 201 adds two new sections to the Internal Revenue Code to provide for education savings accounts which are similar in theory to individual retirement accounts

[1] A family separation allowance is authorized by 37 USC 427 to equitably reimburse members of the uniformed services involuntarily separated from their dependents for the average extra expenses that result from the separation, and to reimburse members who must maintain a home in the United States for their dependents and another home overseas for themselves for the average expenses of maintaining the overseas home. The family separation allowance, however, is payable in addition to any other allowance or per diem to which the member may be entitled. It is not deducted from the member's pay and allowances and allotted directly to dependents.

which exist in present law for retirement savings.

Proposed new section 221 would allow individuals a deduction for contributions of cash or readily tradeable stocks, bonds, or other securities to an education savings account for an eligible individual. Each education savings account could only be established for one individual and an individual could not be the beneficiary of more than one account. (Proposed Code sections 221(a) and 221(b)(1) and (2)).

There would be a $2,500 limit on the amount which could be contributed to each account each year, but beginning in 1983 that amount would be adjusted annually for inflation. The Secretary of Treasury would determine and publish by October 1 of each year the inflation adjustment factor for the preceding 12-month period ending on July 31. The inflation adjustment factor would be determined by dividing the Consumer Price Index for all items—United States city average for the most 12-month period ending on July 31 by the same index for the 12-month period ending on July 31, 1980. This result would be multiplied by $2,500 to determine the inflation-adjusted amount. (Proposed Code section 221(b)(3), (5)).

If more than one person contributed to the same account during the year, the $2,500 or the inflation-adjusted amount deduction would be allocated proportionately among all individuals contributing to the account. (Proposed Code section 221(b)(4)).

Providing that the eligible individual was under age 21 during the year the contribution was made and was not enrolled as a full-time student at an eligible institution for more than four weeks during a calendar year, an education savings account could be set up for the taxpayer, a child or stepchild of the taxpayer, or any of the following relatives of the taxpayer: grandchildren or their descendants, brothers, sisters, stepbrothers, stepsisters, fathers, mothers, grandparents, nieces, nephews, aunts, uncles, sons-in-law, daughters-in-law, fathers-in-law, mothers-in-law, brothers-in-law, and sisters-in-law. (Proposed Code section 221(c)(1)). This definition prohibits contributions to an education savings account once the beneficiary enters an eligible institution. Since a private elementary school can be an eligible institution, this provision may not facilitate saving for secondary or higher education.

An education savings account would be a United States trust for the purpose of paying the eligible expenses of an eligible individual. (Proposed Code section 221(c)(2)). Custodial accounts where the assets were held by a bank or other person satisfactory to the Secretary of the Treasury could constitute education savings accounts if they would qualify as education savings accounts but for the fact that they were not trusts. The custodian would be treated as trustee. (Proposed Code section 221(h)).

The governing instrument of the trust or custodianship would have to meet these requirements:

(1) Contributions could not be accepted unless they were in cash, stocks, bonds, or other readily tradeable securities.

(2) Contributions could not exceed $2,500 per year.

(3) The trustee would have to be a bank or another person acceptable to the Secretary of the Treasury.

(4) The trust assets could not be invested in life insurance contracts unless the trust was the beneficiary of the contracts and the insured is the grantor of the trust. The face amount of the contracts must not exceed an amount equal to $2,500 times the potential life of the trust i.e. (the number of years from the establishment of the trust until the beneficiary of the trust reaches age 25).

* * * * *

of the individual(s) contributing to the account, but if more than one individual has made contributions to the account, the consent of all the contributing individuals would be required.

(6) The assets of the trust would not be commingled with other property except in a common trust fund or common investment fund.

(7) The assets in the trust on the date that the beneficiary attains age 26 are required to be distributed to each of the trust's contributors in the proportion to their contributions to the trust. (Proposed Code section 221(c)(2)).

Contributions to the trust would be deemed made during the preceding calendar year if the contribution is made on account of that calendar year and is made by the time prescribed by law for filing the return for the taxable year which covers December 31, of the preceding year. (Proposed Code section 221(c)(3)).

Contributions of stocks, bonds, and the like will be valued at market value on the date of contribution or the last preceding day on which they could have been traded on an established securities market. (Proposed Code section 221(c)(4)).

Eligible expenses would mean tuition and fees required for enrollment and attendance of a student at an eligible educational institution, fees, books, supplies, and equipment required for courses, and reasonable allowance for meals and lodging and any income due because the beneficiary must include the distributions in his or her income.

Eligible educational institutions would include an institution of higher education, a vocational school, a secondary school, or an elementary school. Institution of higher education means institutions described in section 1201(a) or 491(b) of the Higher Education Act of 1965. (See 20 U.S.C. §§ 1141 and 1088). According to those sections an institution of higher education is one which has high school graduates or holders of an equivalency certificate as regular students, which is legally authorized to provide a postsecondary school education, which provides a program of education leading to a bachelor's degree or provides at least a two-year program which is acceptable for full credit to a bachelor's degree, which is a public or nonprofit institution, and is accredited or, if not accredited, meets certain alternative criteria. Schools of nursing, post secondary vocational institutions, and certain other proprietary institutions of higher education are also included in this definition. (Proposed Code section 221(c)(6) and (7)).

A vocational school would mean an area vocational education school, as defined in section 195(2) of the Vocational Education Act of 1963, which is in any State. (See 20 U.S.C. §§ 2461(2) and (8)). The term area vocational educational school is defined in that act to mean a specialized high school, the department of a high school, a technical or vocational school, or the department or division of a junior college, community college or university used exclusively or principally to provide vocational education to persons who are available for study in preparation for entering the labor market. Some of those types of schools have to meet additional requirements. A State is defined to include the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. (Proposed Code section 221(c)(8)).

Elementary school would mean a privately operated, not-for-profit, day or residential school which provides elementary education. Secondary school would mean a privately operated, not-for-profit, day or residential school which provides education that does not exceed grade 12. Both elementary and secondary schools would be required to be exempt from Federal income taxes under Code section 501(a) and (c)(3) and they could not exclude persons from admission to, or participation in, the school on account of race, color, or national or ethnic origin. Facilities which offer education for individuals who are physically or mentally handicapped as a substitute for regular public elementary or secondary education are included within the definitions of elementary and secondary schools; however, the handicapped facilities do not have to be privately operated. (Proposed Code section 221(c)(9)).

Proposed section 221(d) outlines the tax treatment of distributions from the education savings account. First, the general rule is that unless the distribution is used exclusively to pay the education expenses incurred by the beneficiary of the account, any distribution from the account will be included in the gross income of the contributors to the account in the same proportion as the amounts which they have contributed to the account over the years.

Second, distributions which are the result of corrections of excess contributions do not fall within the general rule, providing the correction is made within the time for filing the return for the year involved, that no deduction was taken for the excess contribution, and that any interest or dividends attributable to the excess contribution is also returned. The person to whom the excess contribution is returned must report the income earned on the excess contribution.

Third, the beneficiary of the savings account may elect to be taxed on distributions from the savings account which are spent on eligible expenses. First, he or she may elect to include the distribution of the gross income in the years the distributions are made. Second, he or she may elect to defer the taxes until the taxable year in which the individual turns age 25. In that year, and for the nine succeeding taxable years, the beneficiary will include in his or her gross income 10 percent of the amounts paid or distributed from the account which are used to pay that individual's educational expenses.

If a distribution from the account is not used for educational expenses of the beneficiary, the contributors to the account will be taxed on the amount not used properly plus an additional 10 percent of the deemed distribution. (Proposed Code section 221(f)(1)).

Although paragraph (f)(2) is entitled "Disqualification cases," the proposed statutory language states that if an amount is includable in the gross income of an individual under subsection (d), his tax shall be increased by an amount equal to 10 percent of the amount required to be included in his gross income. There is no reference to disqualification in the statutory language. Subsection (d) covers the tax treatment of almost all distributions. If paragraph (f)(2) is intended to describe a penalty provision, the reference to susbection (d) is too broad. If disqualification because of prohibited transactions is the object of the penalty, paragrarph (e)(2) might be referenced. If distribution of unused funds under paragraph (d)(1) is intended to be penalized, that paragraph should be mentioned.

Proposed Code section 221(e) outlines the tax treatment of the education savings accounts. Basically they would be exempt from taxation, but they would be subject to the unrelated business income taxes imposed by Code section 511. The tax exemption could be lost, however, if a contributor to the account engages in a transaction prohibited by Code section 4975. The account would retroactively lose its exemption as of the first of the year in which the prohibited transaction occurred. This would mean that the assets of the account would be treated as if they had been distributed to the contributors as of the first day of the year.

Prohibited transactions would include such transactions between the account and

contributors as selling or leasing any property to each other; lending money to each other; furnishing goods, services or facilities to each other; dealing with the account assets as if they belonged to the contributor; or receiving kickbacks because of transactions involving the account.

If the beneficiary of the account were to pledge the account as security for a loan, the portion of the account which is pledged would be treated as if it had been distributed to the beneficiary. (Proposed Code section 221(e)).

There is no penalty for distributions made to the taxpayer after the taxpayer becomes disabled, even if the distribution is not used to pay educational expenses. (Proposed Code section 221(f)(3)).

Community property laws would not apply to this section.

Proposed Code subsection 221(i) requires the trustee of an education savings account to file reports with the Treasury and with the beneficiary of the account. The actual requirements would be established by regulations.

Bill section 201(b) would amend paragraph 10 of Code section 62 (which defines adjusted gross income) to provide that the deduction allowed by proposed Code section 221 would be used in arriving at adjusted gross income. In other words, taxpayers would be entitled to deduct contributions to education savings accounts whether or not they itemized deductions on their returns.

Bill section 201(c) would amend Code section 4973 to impose a tax of six percent on any excess contributions to an education savings account. The tax would not be imposed, however, if the excess contributions were timely corrected as provided in proposed Code section 221(d)(2).

Bill section 201(d) would amend Code section 2503 to provide that payment to an education savings account would not be considered a gift of a future interest in property to the extent that the payment is allowed as a deduction under section 221.

Bill section 201(e) would amend Code section 4975 by adding a new paragraph (c)(4) exempting the beneficiary of an education savings account from the tax on prohibited transactions imposed by Code section 4975 if the account ceases to be an education savings account by reason of a prohibited transaction.

Bill section 201(f) would amend Code section 6693 to provide penalties for failure to file the reports required by proposed Code section 221(i). There would be a $10 penalty for each failure unless the failure were due to reasonable cause.

Bill section 201(g) provides for amending the appropriate tables of contents of sections of the Code to take into account the changes that would be made by the bill.

Bill section 201(h) would redesignate Code "sections 128 and 129" (this appears to be a typographical error which should read "redesignate section 128 as 129") and insert a new section 128. New section 128 would provide that gross income does not include distributions from an individual higher education account used exclusively for the payment of educational expenses of that individual. Appropriate changes would be made in the table of sections.

Bill section 201(i) provides that payments made to an education savings account do not count for purposes of determining how much support is provided a dependent under Code section 152.

Bill section 201(j) provides for a December 31, 1981 effective date.

Nothing in the present Internal Revenue Code allows taxpayers to set aside money tax-free for the education of their children. The format of the education savings account appears to be modeled on the present Code provisions for individual retirement accounts.

Section 202.

Bill section 202(a), entitled "tax exempt schools," would create a new Code subsection 501(j). (Present subsection 501(j) would become 501(k)). Proposed subsection (j) outlines a sort of "safe harbor" for organizations qualifying as tax-exempt educational organizations. Under proposed subsection (j) an organization described in Code section 501(c)(2) would be treated as organized and operated exclusively for educational purposes if it met six requirements:

(1) It must be organized and operated exclusively for the purpose of providing preschool, grammar school, high school or college education;

(2) It must be incorporated as a nonprofit corporation in the District of Columbia, any State, territory, or possession of the United States;

(3) Its bylaws must prohibit discrimination in the hiring of teachers or admission of students on the grounds of race, nationality or ethnic background;

(4) It must require attendance for at least the same number of days as are required in public schools of the State in which it is located;

(5) A majority of its board of directors must be parents of students attending the school operated by the organization; and

(6) The school cannot be operating under a judicial order entered under section 202(b) of the Family Protection Act.

Section 202(b) provides a method whereby the Attorney General could obtain a judicial order barring a tax exemption for a school which had violated any provision of sections 1977, 1978, or 1979 of the Revised Statutes (i.e. 42 U.S.C. §§ 1981, 1982, or 1983) or of the Civil Rights Act of 1964. If the Attorney General has reasonable grounds to believe that a school has violated any of those provisions, the Attorney General is required to file a civil suit for a declaratory judgment in the Federal district court for the district where the school is located. If the Attorney General can establish by a preponderance of the evidence that the school has engaged in deliberate and intentional discrimination for at least four consecutive years prior to the filing of the suit, the court would be required to issue a judicial order barring a tax exemption for the school.

If the court found that the Attorney General brought the suit out of malice, bias against the religious or ethnic composition of the school's supporters, or any other improper motive, the court could assess damages against the Attorney General and against the Internal Revenue Service agents and officers responsible for bringing the action.

The judicial order barring tax exemption would not take effect until the beginning of the first taxable year after the school had exhausted its rights of judicial review. The court would be required to retain jurisdiction over the case and revoke its order when the school demonstrated, by a preponderance of the evidence, that its discriminatory policies had been discontinued and would not be renewed.

Proposed section 501(j) is narrower than existing interpretations of what educational institutions are covered by Code section 501(c)(3), because that section is not limited to preschools, grammar schools, high schools, or colleges. According to Treasury Regulation 1.501(c)(3)-1(d)(3) "educational" relates to instruction or training of the individual for the purpose of improving or developing his capabilities or instruction of the public on subjects useful to the individual and beneficial to the community.

Present law does not require that an exempt organization be incorporated. Present statutory law does not explicitly require that an educational institution's bylaws prohibit discrimination in the hiring of teachers or the admission of students. However, the courts and the Internal Revenue Service have interpreted section 501(c)(3) to require that educational organizations have a nondiscriminatory policy as to students. They require the organization's governing instruments and its brochures to contain a statement that the school has a racially nondiscriminatory policy as to students. In addition the school must publicize this policy. Rev. Rul. 71-447, 1971-2 C.B. 230 and Rev. Proc. 75-50, 1975-2 C.B. 587. The requirements as to number of days of required attendance and composition of the board of directors would be new.

Under existing law the Internal Revenue Service may revoke the tax exempt status of an organization without resorting to litigation. If the Service does so, the organization has the right under Code section 7428 to bring an action for a declaratory judgment for a determination as to its continuing qualification.

Under existing law, unless a school has received some Federal financial assistance, it is unlikely that the United States would be able to bring an action to affect the school's policies of racial discrimination. A private party may bring an action under 42 U.S.C. § 1981 (alleging violation of equal rights to make and enforce contracts), § 1982 (alleging violation of equal rights in dealing with property), or § 1983 (alleging deprivation of rights secured by the Constitution and laws of the United States under color of State law), but the United States may not bring such actions. If the school has received some Federal financial assistance, the United States could bring an action under Title VI of the Civil Rights Act of 1964. It is unlikely that many private elementary or secondary schools receive Federal financial assistance.

Under existing law a court may award reasonable fees and expenses of attorneys to the prevailing party in any civil action brought by or against the United States or any agency and any official of the United States acting in his or her official capacity in any court having jurisdiction over the action, to the same extent that any other party would be liable under common law or under the terms of any statute which provides for an award. 28 U.S.C. § 2412.

Section 203.

Section 203 is entitled "multigenerational households." Section 203(a) would create a new Code section 44F. Proposed section 44F would permit a taxpayer who maintains a household which includes a dependent who is at least 65 years old at the end of the taxable year to take a $250 credit against income tax. The credit would be non-refundable and would be applied after certain other credits such as the credit for the elderly, the general tax credit, the investment tax credit, the child care credit, and residential energy credit.

Certain special rules would be applied. An individual would be treated as maintaining a household only if the individual (or the married couple) furnished over half the cost of maintaining the household. Married couples would have to file a joint return to take advantage of the credit. Legally separated couples and divorced couples would not be considered married. In addition certain married individuals who file separate returns would be permitted to claim the credit if they maintained a home for a qualifying individual for more than one-half of the year, furnished over half the cost of maintaining the household during the year, and if their spouses did not live in the household during the last six months of the taxable year.

Bill section 203(b) would create a new Code section 222 (after moving section 222 to section 223). Proposed section 222 would be an alternative provision to the proposed section 44F credit. Proposed section 222

would permit a taxpayer to take a deduction of $1,000 per year for each year during which the taxpayer maintained a household for a dependent at least 65 years of age at the close of the taxable year. The same special rules regarding marital status and claiming the reduction discussed in connection with the credit would apply. The remainder of the proposed section would conform the Code to the changes made by this section of the bill. It provides for an effective date of taxable years beginning after December 31, 1980.

Both the credit and the deduction for maintaining an elderly dependent in a household would be new provisions. In certain aspects they resemble the section 44A household and dependent care credit and/or dependency exemption.

Section 204.

Bill section 204 is captioned "parental support accounts." Bill section 204(a) would create a new Code section 223 which would allow a deduction of up to $3,000 per year for contributions to a trust established to care for a qualified beneficiary.

Bill section 204(b) would create a new Code section 645 which would describe a qualified parental or handicapped relative care trust. Under proposed Code section 645 (a) the trust would be exempt from income tax, with certain exceptions. Amounts distributed by a qualified trust for the purpose of providing care for a beneficiary would not be taxable to the distributee unless the distributions were received by a spouse or relative of the grantor of the trust.

The trust would be taxable on amounts distributed to the extent that the distributions were not included in the income of a beneficiary during the year. There would be exceptions to this rule in the case of mandatory distributions. Proposed Code section 645(b) describes two kinds of mandatory distributions. First, if the trust is for the benefit of the grantor's parents, the amount in the trust must be distributed to the beneficiary not earlier than the close of the taxable year in which the beneficiary attains age 64. There is no deadline for mandatory distribution. Second, if the beneficiary of a qualified parental or handicapped relative care trust dies, the amount in the trust must be distributed to specified relatives.

Proposed Code section 645(c) contains definitions. Qualified parental or handicapped relative care trust would be defined as any trust which is created and governed by written instrument which meets the following requirements. It must be impossible for any part of the trust to be used for any purpose other than providing care for any qualified beneficiary, paying administrative expenses of the trust, or making a mandatory distribution. In addition, the grantor of the trust can have no reversionary interest in any portion of the trust which might take effect before the death of all qualified beneficiaries of the trust or before all beneficiaries of the trust cease to be qualified beneficiaries of the trust. The trustee of the trust must be a bank or similar institution or a person satisfactory to the Secretary of the Treasury. No beneficiary of the trust can be a beneficiary of any other qualified parental or handicapped relative care trust.

The term qualified beneficiary means a parent of the grantor or a relative of the grantor who is unable to engage in any substantial gainful activity because of a medically determinable mental or physical impairment which can be expected to be of long-continued and indefinite duration. (The term relative is described by the list of dependents in Code section 152(a)(1) through (8), i.e. children of the grantor or their decendents, stepchildren, siblings, or stepsiblings, parents or their ancestors, nieces, nephews, aunts, uncles, and parents-in-law, children-in-law, and brothers- and sisters-in-law.)

There are provisions to conform the Code to the changes proposed by section 223, and the proposed effective date is taxable years beginning after December 31, 1980.

Proposed sections 223 and 645 are new.

Section 205.

Bill section 205 would amend Code section 219 to allow an individual to make contributions to an individual retirement plan on behalf of the individual's spouse. In order to take advantage of this provision the spouse could not have any earned income of his or her own; however, for purposes of computing the amount of the spouse's contribution to the individual retirement account, the spouse would be deemed to have compensation equal to the compensation included in the working spouse's gross income for the taxable year.

The maximum deduction (the lesser of 15% of compensation or $1,500) would be computed separately for each spouse. If the spouse were handicapped, the maximum deduction would be $3,000. Handicapped would be defined in section 190(b)(3), i.e. a person who has a physical or mental disability (including, but not limited to blindness or deafness) which results in a functional limitation to employment or who has a physical or mental impairment which substantially limits one or more major life activities of such individual. The couple would be required to file a joint return. No contribution or deduction would be permited if the spouse had earned income includible in gross income or deduction would be permitted if the spouse had earned income includible in gross income or if a deduction would be disallowed if the spouse were the individual making the contributions.

Section 219 would be applied without regard to any community property laws. Whether or not a couple is considered married would be determined on the last day of the taxable year. The effective date would be taxable years beginning after December 31, 1980.

Under existing law, Code section 219 permits a deduction for contributions to an individual retirement plan; however, if both husband and wife contribute to such plans, each must have compensation included in gross income and each must meet the requirement for setting up a plan. If only one spouse has compensation, only that spouse may make a deductible contribution to his or her own plan under section 210. Couples are not required to file a joint return in order for the person making the contribution to claim the deduction. There is no special additional contribution for a handicapped spouse.

The proposed amendment of Code section 219(c)(2) would eliminate the current language which clarifies the fact that if both husband and wife have their own compensation incomes and each meets the requirements for setting up an individual retirement account, each may make his or her own contributions to his or her own plan. The language may have been unnecessary, but its elimination does raise a question as to the intended result.

Under current Code section 220, an individual with a non-earning spouse may make a contribution for both of them. Under this provision, however, the maximum contribution is $1,750, which is only $250 more than the individual could have contributed on his or her own behalf under current section 219. (Sections 219 and 220 are alternative provisions.) Section 220 does not require filing a joint return. In order for the non-earning spouse to benefit from section 220 the working spouse must be eligible to set up an individual retirement plan. If the working spouse is ineligible (perhaps as a result of participating in a plan at work), then the non-earning spouse receives no benefit from the existence of section 220. The proposed section 219 may change this result.

Section 206.

Section 206(a) is entitled "corporate day care—charitable contributions." It would amend Code section 162(b) to provide that taxpayers may take an ordinary and necessary business expense deduction for amounts paid to a day care center which meets the requirements of proposed Code section 501 (c)(23).

Section 206(b) creates a new type of tax-exempt organization. The organization would be organized and operated in the United States for the purpose of providing day care for children. No part of the net earnings could inure to the benefit of any private individual. The day care center could not lobby, participate in political campaigns or spread propaganda. It must have or have not been rejected for any necessary certificates or licenses required by States law.

The Internal Revenue Service and other government agencies are prohibited from promulgating any other criteria for eligibility for the proposed section 501(c)(23) exemption.

Current law permits a corporation to deduct payments to a day care center to provide care for preschool children of its employees as an ordinary and necessary business expense deductible under section 152 of the Code. (See Rev. Rul. 73-348, 1973-2 C.B. 31). Under present law day care centers which are primarily educational or primarily charitable may qualify as tax-exempt organizations. See Rev. Rul. 68-166, 1968-1 C.B. 255; Rev. Rul. 70-533, 1970-2 C.B. 112. Under present law, however, these organizations must apply for exemption in order to have their exempt status recognized by the Internal Revenue Service.

Section 207.

Section 207 would amend Code section 151 to allow an additional $1,000 personal exemption for a taxpayer in the year that a child is born to or adopted by the taxpayer. An additional personal exemption of $3.000 would be allowed in the case of a child born to the taxpayer, which child is handicapped. In the case of the adoption of a child whose parents were not members of the same race or a child who is over age six, or a handicapped child an extra $3,000 exemption would be allowed under the section. The additional exemption would be allowed only to married individuals filing joint returns. If the exemption reduces a taxpayer's tax liability to zero, the extra amount could be carried over to the following year.

In addition section 207 would add a new Code section 221 which would allow the deduction of adoption expenses greater than $500 but not more than $3,500 or $4,500 in the case of an international adoption. Adoption expenses would include reasonable and necessary adoption fees, court costs, attorney fees, and other expenses directly related to the legal adoption of a child. Illegal expenses could not be deducted. International adoptions include adoptions in foreign countries, or involving a child who is a citizen of a foreign country who was brought to the United States to be adopted or whose placement for adoption was reasonably foreseeable. Reimbursed expenses or otherwise deductible expenses could not be deducted under this section.

These provisions are new. There are no special exemptions for childbirth or adoption in the year they occur.

TITLE III—EDUCATION

Section 301. This section would amend Part C of the General Education Provisions Act (20 USC 1230 et seq.) to make it unlawful for any educational agency which receives federal funds to: (1) bar "parents or representatives of the community from participating in decisions relating to the establishment or continuation of courses relating to the study of religion," (2) bar or unnecessarily limit the right of parents to visit the public schools or to inspect their children's education records, (3) require teachers to pay dues or fees as a condition of employment, or (4) bar parents from re-

viewing textbooks prior to their use in the classroom.

This section would further prohibit the use of federal funds to "secure or promote" educational materials which "do not reflect a balance between the status role of men and women, do not reflect different ways in which women and men live and do not contribute to the American way of life as it has been historically understood."

Finally, this section would authorize personnel aggrieved by a violation of any of the above to seek judicial redress in state or federal court, would require the court in which such suit is brought to provide an expedited hearing on the matter, and would authorize the award of attorneys fees and costs to such persons if they prevail.

Section 301 would alter, and add to, existing law in a number of respects. The "Family Educational Rights and Privacy Act of 1974" (20 USC 1232g (a)(1)(A)) requires educational agencies receiving federal funds to give parents "the right to inspect and review the education records of their children," but that requirement is enforceable only administratively, not by private suit, as would be provided by this section. Section 14(b) of the "Labor Management Relations Act, 1947" permits states to allow collective bargaining agreements which require membership in a labor union as a condition of employment, a grant of discretion which twelve states now exercise. The section would bar such union security provisions with respect to teachers. 20 USC 1232a bars the federal government from exercising "any direction, supervision, or control over the curriculum, program of instruction, . . . or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system. . . ." and thus might be modified by this section. The remaining provisions of this section would appear to be new to federal law.

Section 302 (a). This section would provide that "federal funds shall not be withheld under any provision of federal law nor shall any provision of federal law be construed to prohibit" (1) the right of any state or local educational agency to determine the requisite qualifications of teachers within their jurisdictions (including the right not to require a certificate), (2) the right of any state to set or not to set attendance requirements at public or private schools within their jurisdiction, and (3) the right of any local educational agency, in consultation with parents, to limit or prohibit the "intermingling of the sexes in any sports or other school-related" activity.

The language of this section providing that "federal funds shall not be withheld under any provision of federal law" to affect (generally) every provision of federal law authorizing the withholding of federal funds under specified circumstances, such as Title VI of the Civil Rights Act of 1964 (42 U.S.C. 1000d), Title IX of the Education Amendments of 1972 (20 U.S.C. 1681), and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

But the specific and narrow intent of this section is to link the limitation on withholding to the exercise of the three rights enumerated. In that sense the effect of the section on existing law would be considerably narrower.

Federal law at present does not authorize the withholding of funds or otherwise prohibit the exercise of discretion by the States in setting attendance requirements and determining the qualifications of teachers; such matters are now wholly prerogatives controlled by State law.

Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), however, does bar discrimination in federally assisted education programs on the basis of sex, and regulations issued pursuant to Title IX bar schools receiving federal assistance from offering athletic programs that are segregated on the basis of sex. (45 CFR Part 86.41(a))

The only exception to this requirement provided by the regulations is for athletic teams "where selection for such teams is based upon competitive skill or the activity involved is a contact sport." Id., af 86.41(b)) Thus, the first two "rights" summarized above would not appear to change existing law, but the third would appear to alter this aspect of Title IX.

It must be emphasized that the overall intent of this section is to codify protection from unnecessary federal intrusion in the rights enumerated.

Section 302(b). This section would amend the National Labor Relations Act (29 U.S.C. 151 *et seq.*) to add a new exemption for nonprofit private schools. The section would amend Section 2(2) of the NLRA (29 U.S.C. 151(2)) to exclude from the definition of employer "any corporation or association operating a school, if no part of the net earnings inures to the benefit of any private shareholder or individual."

With one exception, each of these proposed amendments to the NLRA concerns amendments to the Act that were adopted by Congress in 1974.

The provision outlined above would add a new exemption to the NLRA for "any corporation or association operating a . . . school, if no part of the net earnings inures to the benefit of any private shareholder or individual." The extent to which such institutions are presently covered by the NLRA is not entirely clear. Not until 1970 did the National Labor Relations Board interpret the Act to cover private universities,[2] overruling in that case a contrary ruling it had made in 1951.[3] In subsequent cases it extended this ruling to private elementary and secondary schools, both sectarian and non-sectarian.[4] In *NLRB* v. *Catholic Bishop of Chicago*, 440 U.S. 490 (1979), however, the Supreme Court held that the NLRA does not cover teachers in private sectarian schools. More recently, in *NLRB* v. *Yeshiva University*, 444 U.S. 672 (1980) the Court held that the NLRA similarly does not extend to full-time faculty members in private universities who perform extensive managerial functions. These decisions leave open the possibility that the NLRA still covers efforts to organize nonteaching personnel at private schools, including those religiously affiliated, as well as efforts to organize faculty at private nonreligious schools who do not perform extensive managerial functions. The exclusion of private schools from the definition of "employer" in the NLRA that would be made by this section would eliminate that possibility.

EDUCATION BLOCK GRANTS

Section 303. Specifically, this section would amend the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) by repealing Titles I, II, III, IV, VII, and IX of that Act and substituting in their stead a new Title XI. The states would have broad discretion in allocating funds at the local level.

This section was prepared prior to the time the Administration's block grant proposal was introduced. However, the section in many respects is similar to the Administration's block grant proposals.

It is my recommendation to the appropriate committee that this section be amended to reflect the Administration's elementary and secondary education block grant proposals.

Section 304.

Summary

This section provides that no provision of federal law "shall be construed to prohibit released time for parenthood education to be conducted by churches."

The Supreme Court has interpreted the establishment of religion clause of the First Amendment to prohibit "shared time" programs between schools to teach religion to consenting students. *Illinois ex rel. McCollum* v. *Board of Education*, 333 U.S. 203 (1948). The Court has further held, however, that it is constitutionally permissible under the First Amendment for the public schools to "release" consenting school children during the school day so that they can repair the nearby churches for purposes of religious instruction. *Zorach* v. *Clauson*, 343 U.S. 306 (1952). Thus, released time programs in themselves do not violate the First Amendment. But if the state becomes excessively implicated in such programs by such means as giving course credit for the religious instruction, the First Amendment likely is transgressed. *Lanner* v. *Wimmer*, 463 F. Supp. 867 (D. Utah 1978).

Thus, existing law does not prohibit released time programs of parenthood education conducted by churches, and this section would not change that situation.

Section 305. Legal Services: Busing. This section would amend section 1007 (b) of the Legal Services Corporation Act (42 U.S.C. 2996f(b)) to prohibit funds received by LSC grantees from being used for legal assistance or litigation relating solely to achieve racial quotas or the desegregation of any elementary or secondary school or school system.

This restriction is broader than existing law. Existing law also bans legal services representation in proceedings related to desegregation, but does permit "the provision of legal advice to an eligible client with respect to such client's legal rights and responsibilities" in connection with such proceedings. This section would eliminate that exception from the bar. See: 42 U.S.C. 2996f (b)(9).

TITLE IV—VOLUNTARY PRAYER AND RELIGIOUS MEDITATION

Section 402. This section, entitled the "Voluntary Prayer and Religious Meditation Act of 1981", states that every individual "shall have the right to participate in the free exercise of voluntary prayer or religious meditation" in any building supported in whole or in part with federal funds, and bars any governmental agency from abridging that "right of free exercise of voluntary prayer or religious meditation." The section further provides a cause of action for individuals aggrieved by violations of this right, and requires the courts to give expedited review to such claims. The section defines "voluntary prayer or religious meditation" as "individual prayer and devotional reading from religious literature initiated by members of the group, and prayer and devotional reading from religious literature, provided that any person so desiring is excused from participating . . ."

In *Engel* v. *Vitale*, 370 U.S. 421 (1962) and *Abington School District* v. *Schempp*, 374 U.S. 203 (1963) the Supreme Court held unconstitutional as an establishment of religion, state sponsorship of prayer and devotional Bible reading in the public schools. A number of state and lower federal courts have extended these rulings to bar as well student-initiated prayer and Bible study groups in public elementary and secondary schools. *Brandon* v. *Board of Education of the Guilderland Central School District*, 635 F. 2d 971 (2d Cir. 1980); *Johnson* v. *Huntington Beach Union High School District*, 137 Cal. Rptr. 43 68 Cal. App. 3d 1 (Ct. App.), *cert, den*, 434 U.S. 877 (1977); *Trietley* v.

[2] *Cornell University*, 183 N.L.R.B. 424 (1970).

[3] *Trustees of Columbia University in the City of New York*, 97 N.L.R.B. 424 (1951).

[4] *Shattuck School*, 189 N.L.R.B. 886 (1971); *Roman Catholic Archdiocese of Baltimore*, 216 N.L.R.B. 249 (1975).

Board of Education of the City of Buffalo, 65 A. 2d 1, 409 N.Y.S. 2d 912 (App. Div. 1978).

Because a basic canon of statutory construction is to so construe statutes to avoid constitutional questions, this section has been deliberately designed to statutorily reverse the above rulings. The right stated by the section is a right of *individual* prayer or religious meditation although it is not designed to exclude some element of group devotional reading as well.

TITLE V—RIGHTS OF RELIGIOUS INSTITUTIONS AND EDUCATIONAL AFFILIATES

Section 501. This section would bar the federal government from imposing on a variety of church-related organizations any requirements with respect to admissions policies, instructional or training materials, instruction or methodological[5] hiring or selecting of employees and staff, contractual relationships with employees and staff, or operating procedures. The only exceptions would be "reasonable health and fire regulations", when promulgated by a federal instrumentality exercising the authority of a local government, and requirements imposed pursuant to the Civil Rights Act of 1964.

The latter would be limited to requirements with respect to race, creed, color, or national origin, (i.e., not sex) and would include requirements "relating to affirmative action, quotas, guidelines, or actions designed to overcome racial imbalance." The church-related organizations covered by this section would be child care centers, orphanages, foster homes, social action training programs, emergency shelters for abused children or spouses, schools, juvenile delinquency or drug abuse treatment centers or homes, and "similar" programs or institutions.

Most government regulation of the above named types of organizations would be State and local in nature rather than federal. But the federal government does regulate conditions of employment and does impose a variety of conditions on organizations receiving or desiring to receive federal financial assistance.

For instance, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 200d *et seq.*) bars discrimination on the basis of race, color, and national origin in programs and activities receiving federal assistance; Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*) bars discrimination on the basis of sex in federally assisted education programs; Section 504 of the Rehabilitation Act 1973 (29 U.S.C. 794) bars discrimination in federally assisted programs on the basis of handicap. None except church-operated programs receiving federal assistance from these obligations.

Title VII of the Civil Rights Act of 1964 (42 U.S.C. 200e *et seq.*) bars discrimination in employment on the basis of race, color, national origin, sex, and religion, and does exempt church-operated schools and colleges with respect to discrimination on the basis of religion. But no such exemption attaches to such institutions for discrimination on the other prohibited basis, or for any prohibited discrimination by non-academic church programs. Similarly, the minimum wage and maximum hour provisions of the Fair Labor Standards Act (29 U.S.C. 201 *et seq.*) make no exception for religious organizations as such.

Particular grant-in-aid programs may impose additional requirements on the operating procedures of recipient organizations, without exception for church-operated programs. Title XX of the Social Security Act (42 U.S.C. 1397 *et seq.*), for instance, authorizes grants to the State for a variety of social services, such as day care, prevention of child abuse, and foster care. For at least some of these programs, the statute and/or the implementing regulations impose detailed requirements on the ultimate recipients with respect to staffing ratios, educational requirements for personnel, etc. See, *e.g.*, 42 U.S.C. 1397a(a)(9)(A) and 45 CFR Part 71, 45 Fed. Reg. 17881–85 (March 19, 1980) (day care requirements).

Section 301 is intended to eliminate the applicability of virtually all such Federal regulations and conditions to the named church-operated programs and organizations with the exception of certain aspects of the Civil Rights Act of 1964, and thus would substantially alter existing law.

TITLE VI—MISCELLANEOUS

Section 601. Jurisdiction.

Section 601(a) would provide jurisdiction in the United States district courts or any territorial court which has the powers of a district court for suits brought under the Act, without regard to the amount in controversy. Section 601(a) would also provide for venue in any district in which the defendant is an inhabitant, transacts business, or is found, and provides for similar service of process.

Section 601(b) would bar any action brought in State court under the Act from being removed to Federal court except when a Federal official or the United States is a party. The section would further provide that no costs may be assessed against the United States.

Jurisdiction: Under existing law the Federal courts would have jurisdiction of suits brought under the Act pursuant to the general Federal question jurisdiction statute (29 U.S.C. 1131). However, except when a Federal official or the United States is a party or another statute specifically waives the requirement, general Federal question jurisdiction requires a minimum amount in controversy of $10,000. Section 601(a) would remove that amount in controversy requirement for suits between private parties brought under this Act.

Venue and Service: The venue and service provisions appear to expand present law for suits brought under the Act. 28 U.S.C. 1391(b) provides that venue lies in the district where all defendants reside, or where the claim arose. In the instance of an individual, section 601(a) of the Act would create liability to suit in any district where the individual transacts business or is found, even if only transiently. In the instance of a corporation, section 601(a) of the bill does not appear to alter venue (although the change in linguistic style may subject the proposed subsection to a different interpretation than current law).

In the instance of a government official of the United States as a defendant, 28 U.S.C. 1391(e) provides for venue (1) where the defendant resides, (2) where the cause arose, (3) where real property that is the subject of the action is situated, or (4) where the plaintiff resides if no real property is involved. Section 601(a) of the bill would appear to limit venue to the residence of the officer being sued and eliminate venue where the cause arose, where any real property may exist, or where the plaintiff resides.

Section 601(a) of the bill provides for service of process in any district in which the defendant may be found. Initial process is essential to personal jurisdiction over the defendant, and, accordingly, in the sense of service of the complaint, this subsection provides for nationwide service of process. This is not uncommon in terms of asserting jurisdiction.

Removal: Existing law permits the removal from State court of all civil actions over which the federal district courts have original jurisdiction. *See* 28 U.S.C. 1441. Existing law further permits the removal from State court to federal district court of all civil and criminal actions in which a federal official or the United States is the respondent. *See* 28 U.S.C. 1442. Thus, for suits brought under this Act, the removal authority granted by Section 601(b) would be generally consistent with the latter statute but substantially narrower than the former one.

Costs: Rule 54(d) of the Federal Rules of Civil Procedure states the general rule that costs may not be taxed against the United States unless specifically provided for by law. Section 601(b) of the bill restates that general rule.

Congress has the constitutional authority to set affirmatively the jurisdiction of the district courts and to provide for procedure in the courts. *Wayman* v. *Southard*, 23 U.S. (10 Wheat.) 1 (1825).

Section 602. Limitation on Actions. This section would provide that a civil action must be brought within six years after the cause of action arises.

This section further provides a common limitation in the law. The determination of a six year limitation is not unusual.

Congress possesses the authority to limit liability to a given period of time. *Wayman* v. *Southard, supra.*

Section 603. Enforcement.

Section 603(a) provides that any person who violates any provision of the bill or regulations thereunder may be subject to a civil fine not to exceed $5,000. The subsection provides that an offense is newly committed each day of the violation. The subsection also provides that the fine may only be imposed after a hearing.

Subsection 603(b) provides that hearings shall be conducted pursuant to the adjudication provisions of the Administrative Procedure Act (5 U.S.C. 554).

Subsection 603(c) provides that the Attorney General or a delegee may collect the civil fines, payable to the United States, in the district courts. The subsection limits review on the collection matters to exclude the validity and appropriateness of the final determination.

Subsection 603(d) provides that a person aggrieved by a final determination under subsection (b) may seek review in a United States Court of Appeals within twenty days after the determination. Review is to be in accordance with the Administrative Procedure Act (5 U.S.C. 706).

The imposition of a civil fine is common to federal regulatory schemes, usually subsequent to some form of proceedings as outlined above.

Thus, the provision, while new to federal law as part of this bill, would not be unusual. The authority of the Attorney General to collect the fine is a restatement of the Attorney General's authority under 28 U.S.C. 509, 514, 517, and 547.

The authority to delegate the collection function is a restatement of the Attorney General's authority under 28 U.S.C. 510. The provision requiring filing of an appeal from a determination within twenty days and the restriction on review of collection matters are not uncommon.

It is my opinion that Congress has the authority to enact these provisions.

Section 604. Contrary Stipulations Void. This section would provide that any agreement contrary to the provisions of the bill is void.

This provision is new, and therefore, would not directly affect existing law.

As long as this provision is applied prospectively, there would not appear to be any constitutional infirmity. However, should the provision be applied retroactively (to agreements made prior to the enactment of the bill), the Impairment of Contracts clause of Article 1, section 10, clause 1 of the Constitution or the due process clauses of the Fifth and Fourteenth Amendments (under a taking without just compensation theory), may be implicated. It is not possible to analyze in detail whether the provision,

[5] This phrase may be intended to state "instruction or methodology."

as applied, would violate these constitutional strictures, but the provision does not, on its face, appear to be unconstitutional.

Section 605. Report to Congress. The section requires the Secretary (what Secretary is not specified) to file a report with Congress within thirty months on the implementation of the bill.

Section 606. Effect on Other Laws. This section provides a rule of construction that the bill does not limit, but is in addition to, any other private right provided in federal or state law.

This section is new, and it is my view that Congress has authority to require such an interpretation.

Section 607. Authorization of Appropriations. This section authorizes appropriations to carry out the provisions of the bill and does not specify a limitation on the amount. The open limitation on the amount is *not* intended to imply "open-ended" or otherwise unlimited funding to carry out the provisions of the bill.

Section 608. Separability. This section provides for the separability of the provisions of the bill, if any provision is found invalid.

Such separability provisions are common, and it is my view that Congress has the authority to enact this provision.

Mr. LAXALT. Mr. President, today I am pleased to cosponsor the 1981 version of the Family Protection Act. The 1981 Family Protection Act, sponsored by my good friend and very able colleague the senior Senator from Iowa, ROGER JEPSEN, marks another major step in the vital process of strengthening the traditional family structure in America and minimizing the harmful Federal intrusions in our Nation's churches, schools, and families.

As I am sure Senators recall, last Congress I was the chief sponsor of the Family Protection Act, with the strong support and cosponsorship of Senator JEPSEN. In the 97th Congress, I find myself more deeply involved than I could have anticipated, in many diverse areas, including chief legislative responsibility in the Senate for the regulatory reform bill, and as chairman of the President's task force on federalism. A bill as complex and important as the Family Protection Act requires more effort than I felt I could devote to it.

Yet my commitment to the family, to traditional values, and to religious freedom is every bit as strong as it was last year. Fortunately Senator JEPSEN has agreed to assume the responsibility of the Family Protection Act in addition to his many other senatorial duties. I was pleased to place the care of the bill into his capable hands; I have the highest regard for the senior Senator of Iowa and I am confident that the bill could be in no better hands.

The sincerity of the Senator's convictions is striking, and the amount of work he has put into this bill is truly impressive. Already Senator JEPSEN has carefully reviewed the former version and has made positive changes, including restructuring the provisions in a more logical way. The Family Protection Act of 1981 is a different and better bill than last year's version in that it reflects changes resulting from careful study and the wisdom of continuing dialog. While I remain an enthusiastic supporter and a cosponsor, it is truly now the Jepsen Family Protection Act.

However, Mr. President, even more important than the language of the bill itself is what the bill represents. Like all pieces of legislation of this magnitude and complexity, changes have been made and more will be made during the legislative process. But behind the bill is a recognition of the necessity of this country to revitalize its family structure and to reemphasize the traditional values that made this a great nation.

When I originally introduced the Family Protection Act in 1979, it was the first time that conservatives offered a comprehensive family policy. Before that, for several decades family policy had been defined only by social activists who had called for ever-increasing Federal intervention in the most intimate of family relationships. Clearly, the vast array of Federal social programs has had a detrimental effect on all the intermediate institutions of our society such as the family, the schools, and the churches. It was a form of government activity that aroused the most hostile reaction from the American people, and with good reason.

The Family Protection Act turned the debate around in a healthy way. For the first time, policymakers began to take a look at their programs to make sure that they did not harm the family in some unintended way. People who had been previously politically apathetic rallied behind a measure designed to foster and protect their families. Americans began to reflect on the importance of the family and on traditional values. At the same time we witnessed a resurgence of traditional families and a return to the older ways that worked so well.

I believe that the policies of President Reagan will further strengthen the family. I do not expect a continuation of the social tinkering that we saw in the last 4 years under the Carter administration advocated by appointments openly hostile to traditional values. Instead I expect an administration deeply sympathetic to family concerns. Two of the provisions of the 1979 bill, elimination of the marriage tax penalty and educational block grants, have been embraced by the Reagan administration.

In short, Mr. President, I perceive the Jepsen Family Protection Act as an integral part of a process to develop a new awareness of the importance of the family to American society and to develop Federal policies designed to foster and encourage that family. I look forward to spirited hearings on the bill here in the Senate and to further changes to strengthen the bill. In essence today we are not merely reintroducing a Family Protection Act but we are reaffirming a family protection movement.

Along with Senator JEPSEN, I look forward to a resurgence of the American family in the 1980's.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 15 minutes.

RECONCILIATON BILL IN PRESENT FORM WOULD DESTROY UNIQUENESS OF THE U.S. SENATE

Mr. PROXMIRE. Mr. President, next Tuesday this body begins consideration of the vital reconciliation bill. That bill will have special significance this year, because it will be the first time Congress has made the painful effort to cut spending sharply and make the agonizing decisions on what specific programs to cut back.

That process will give us a bare 20 hours of debate, including quorum calls and rollcalls—20 hours to discuss a bill that, according to the majority leader, Senator BAKER, this morning, will run 900 pages.

The authors of the law that gave us this reconciliation process, including our distinguished Democratic leader, Senator ROBERT C. BYRD, did a brilliant job and won a great success in fashioning a bill that would permit this body to get on with the vital business of controlling a $700 billion spending program without doing violence to the right of every U.S. Senator to debate and amend substantive matters that do not affect the budget process. We justified limiting debate on the reconciliation bill on the ground that matters of policy that did not have clear and direct budgetary significance would remain aside and apart—outside the reconciliation bill. In other words, debate would be limited on the reconciliation bill, but the bill would have an exclusive concern with the budgetary process and not matters that did not have budgetary significance.

Mr. President, all Senators must recognize the absolutely vital significance of this distinction. The U.S. Senate remains unique among the parliamentary bodies of the world as the one body that still permits virtually unlimited debate and—of equal importance—unlimited amendment.

In order to permit this body to proceed in the face of impassioned minority resistance, we have painstakingly and carefully developed a cloture rule to limit debate under some circumstances. At first, that rule required a two-thirds vote of all elected Senators—in other words, 67 Senators to invoke cloture. We have modified the rule to permit three-fifths of the elected Senators, or 60, to invoke cloture.

Even after cloture has been invoked, Senators can consume up to 100 hours in debate on any issue that comes before the Senate. Furthermore, until the Senate invokes cloture, Senators are free to submit amendments, even nongermane amendments, and press them to a vote. This body has invoked cloture on occasion in recent years, but the occasions have been relatively rare.

So we have cautiously and carefully compromised our right to unlimited debate and unlimited amendment. But we have moved only gradually and always with a recognition that the unique distinction that the U.S. Senate gives a minority—and I do not mean a partisan minority that is a Democratic or a Republican minority, necessarily: I mean, as well, a regional minority, or an ideological minority, or an economic minor-

ity. In this body more than any other in the world, we believe in a day in court for every Senator.

People wonder why it is such an honor to be a U.S. Senator and why it is such a distinction. Here is one distinction which makes this body unique and makes the office we occupy most distinctive.

This morning, the Chaplain, in the prayer he delivered, told us that nobody has more power for good, and that is true.

One of the reasons why this body has won the distinction it has is that we have listened to the minorities over the years and only painfully have changed the positions we have taken.

Now, in one fell swoop, we are about to rip to shreds everything that remains of the freedom of debate and amendment. Now—next Tuesday—we are about to tear apart the great distinction that characterizes this body. Various authorizing committees of this body have poured a great deal of substantive legislation into this reconciliation bill. In fact, most of the 900 pages of this bill include legislation having only a remote, if any, relationship to the budget process.

Mr. President, my great fear is that the budget process is being subverted in the various committees and in particular in the Banking Committee, by the inclusion into the reconciliation bill of substantive changes in law which have no direct spending impact. In my judgment these actions are outside the spirit and wording of the Budget Act and represent highly questionable attempts to short circuit the legislative process of deliberation and debate.

By an 8 to 7 straight party-line vote in the Banking Committee—and this is only one example, and this happened in a number of committees—the Banking Committee engrafted onto the reconciliation bill substantive changes in law that are wholly outside the budget process, including provisions:

No. 1, altering the character of housing community development from a targeted approach to low- and moderate-income families to a block grant revenue-sharing approach. This has no effect on the amount of money. That was not touched. As a matter of fact, when this legislation was brought up it was said by the chairman, and we all agreed it be brought up under those circumstances, because it had no budgetary impact.

The second point is that legislation which we have now put in the reconciliation bill raises the ceiling on FHA loans for mobile home parks and lots in mobile home condominiums. Again this has no effect on the amount of money involved.

It raises the ceiling on FHA loans for property improvement, and it directs HUD to develop a model manufactured housing code. Neither of those provisions has any budgetary effect.

It preempts State usury limits on mobile home loans.

It bars certain Federal assistance to communities with rent control laws.

It amends the reserve requirement section of the Monetary Control Act.

There is no budgetary significance at all in any of that.

Mr. President, I favor some of these amendments on their merits, and I think they are very good amendments, and I intend to push for them if we go to conference on the other bill which I hope we will, but none of those amendments should be on the reconciliation bill.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. PROXMIRE. I am happy to yield to my friend from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I congratulate the Senator on the speech he is making. He is calling the attention of the Senate to the dangers of including in the reconciliation bill legislation that has no budgetary impact.

This was not the intent of Congress in enacting the budget reform legislation. I had a bit to do with the enactment of that legislation. I was chairman of the Subcommittee on Rules of the Senate Committee on Rules and Administration at that time, and I spent an entire Lincoln Day recess working with staff in developing that piece of legislation. I think it was a forward-looking measure.

I think that the budget reform process has proved to be feasible and under the leadership of Mr. Muskie and Mr. Bellmon, and now Mr. HOLLINGS and Mr. DOMENICI, I think the Senate has been able to exercise disciplines in connection with the budget process, all to the good of the Republic.

But now if this process is used as a vehicle whereby controversial nonbudgetary legislation can be cranked into the reconciliation bill, thus avoiding adequate debate on the Senate floor and avoiding amendments on the Senate floor, will be a violation of the intent and spirit of the Budget Act—perhaps not a violation of the words as written, but the practical effect will be the circumvention of rule XXII which provides for cloture to shut off debate. It would also virtually eschew the authorization process. We might as well do away with authorizing committees if this is the way we are going to legislate, and just put all authorizing legislation into the recapitulation bill, which will be covered by a time agreement of 20 hours, with no nongermane amendments in order. The minority, which today is the Democratic Party, is virtually powerless to debate or to amend the legislation under such circumstances, but tomorrow it may be the other side of the aisle which will be in the minority.

So it does at least three things.

First, it effectively circumvents provisions of rule XXII for terminating debate.

Second, it preempts the responsibility of authorizing committees and it can do the same with the Appropriations Committee, as well, in connection with rescissions.

And, finally, it violates the spirit and intent of the budget reform process and ultimately will lead to its destruction.

I do not say it is being done by design. I do not know that. I think it probably is not being done by design. I think it may be a happenstance development that is unfolding before our eyes, and I think that at the moment it may just appear to be convenient for committees, but I am glad to see Members on both sides of the aisle becoming concerned about this development and I hope that action can be taken to protect the budget reform process against this violation.

I thank and commend the distinguished Senator from Wisconsin and apologize to him for taking so much of his time.

Mr. PROXMIRE. Mr. President, I especially thank the Democratic leader because he more than anyone else is responsible for the Budget Act. He knows more about it, I think, than anyone else in this body without any question, and I think he can speak with far more authority than any other Member. So his word should have special weight.

Mr. President, we should also keep in mind the fact that the conferees on substantive legislation would not come from the committee of jurisdiction. The Banking Committee members would not be in conference on this budget. The Budget Committee would be in conference. That is also true of the Commerce Committee and true of the other committees.

Furthermore, substantive programs could be bargained off, one against the other, in a bizarre-like atmosphere without the committees having jurisdiction having any voice in it. Especially perhaps most importantly, the purpose of the budget process, which is to control spending, could be subverted by focusing our gaze upon substantive program issues and tradeoffs.

Mr. President, there are hundreds of pages of this kind in the reconciliation bill we will take up. And if we act on the bill without stripping out every bit of nonbudget legislation, we will create a precedent that will literally destroy the unique, virtually unlimited debate and unlimited amendment character that has made this body distinctive.

Consider the ridiculous position we will be in next Tuesday. Each of the managers of the bill will have 10 hours under his control. How much time will the vital money matters involved in this crucial bill take? They will probably take 6 or 8 hours on each side. That will leave Senator DOMENICI and Senator HOLLINGS in charge of 2 to 4 hours each on the widest range of red-hot, highly controversial, nonbudget issues.

Both of these able Senators will do their best and their best is very good, but they will almost certainly have to deny many Senators, both Republican and Democratic, the time to speak for even a few minutes on matters of the greatest importance to that Senator, to his State, and to the country. Equally bad, Senators will have no chance to offer amendments that they sincerely feel should come before this body for majority decision.

I say to fellow Senators: Think of standing up on the floor a week from next Thursday or Friday, without any chance to speak or amend on some of the most important legislation that we will have this year.

And what a precedent. In the future the open invitation to any committee that wants to ram a bill through without debate will be simply to put it on the

reconciliation bill. Perfect, perfect—no discussion, no debate, no amendment.

The skids will be greased, and this body will cease to be the unique forum that gave its Members the right to speak their mind at length and to amend substantive legislation without restriction.

Mr. President, I ask unanimous consent to have printed in the RECORD an excellent article on this matter by Eileen Shanahan appearing in the June 15, 1981, issue of the Star.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNEASY BUDGET RIDERS

(By Eileen Shanahan)

Sometimes it almost seems that Congress wants to make it impossible for itself to function rationally.

The latest case in point involves the pending budget bills. The prime culprits include members of both houses and both parties.

The task Congress has before it in dealing with President Reagan's budget would be difficult enough in the best of circumstances. The problem is not merely that Congress has to decide what to do about the huge cutbacks in federal programs that the president has proposed. The extra complication comes from the fact that Congress is also still in the process of creating its own new procedures and precedents for handling the budget.

These procedures for fiscal 1982 have now reached their most complex and difficult stage—the "reconciliation" bill, which will set forth the specific program cutbacks that are needed to enable the government to live within the overall spending ceiling Congress has already adopted. The bill is expected to run some 4,000 pages, a record by a large margin.

As if the task of considering such a measure were not overwhelming enough, several congressional committees have added to their sections of the bill significant nonbudget legislation. These actions threaten simultaneously to endanger the still-fragile budget processes and to prevent any significant debate on some major new laws.

LICENSES LOCKED IN

Among these riders, plainly the most indefensible, in terms of their lack of relevance to the budget measure, are three bills that make fundamental changes in the standards and procedures for licensing commercial TV and radio stations and reduce the amount of regulations that ham radio operators are subject to.

The bipartisan group in the Senate Commerce Committee that added these provisions to the reconciliation bill was plainly hoping to prevent any real debate on them; there is every prospect that they will realize their aim. There simply will not be time for the Senate to examine the implications of the broadcast deregulation riders in the mere 20 hours of debate that is allowed on the budget measure. Opponents of the riders say they would have the effect of granting TV and radio licenses in virtual perpetuity, a move that surely merits discussion.

An even larger batch of substantive legislation has been added to the budget bill by the housing committees in both the House and Senate. Some aspects of these riders do have serious spending implications, but the real reason they were included was obviously to get them enacted into law without debate or amendment. In the House, the budget bill will come up under a rule that will prohbit most amendments.

SILLY BARGAINING PLOY

The first move on the housing riders was made by Democrats on the House Banking Committee, led by Rep. Fernand St Germain of Rhode Island. Then the Senate committee, led by Jake Garn of Utah, added some others in what it said was self-defense. In fact, the Senate committee ultimately got itself into the silly and potentially dangerous position of leaving some things out of its bill that it really favors, as a means of creating a bargaining position down the road when the Senate-House conference committee meets to write the final version.

Among the riders that the Senate committee included was one that would deny what are called Section 8 public housing funds to any locality that has rent control or a "rent stabilization" program—the latter language being aimed specifically at New York City.

There are a number of other legislative riders in the budget package, undoubtedly including some that no one except their authors knows about yet.

So far, the only voice that has been seriously raised against the whole process of legislating on the budget reconciliation bill is that of Senator Alan Cranston of California, who offered an amendment in the Banking Committee to eliminate all the housing riders.

He said that the committee, by attaching substantive legislation to the budget bill, was setting "an adverse precedent" that would "circumvent the right of senators to discuss thoroughly a substantive proposal on the floor.

CONTROLS ENDANGERED

The action is also "an ill-advised abuse of the budget process," Cranston went on, that will "dilute—and hence endanger—the primary purpose of the budget reconciliation process, which is to control federal spending."

He was defeated on a straight party-line vote, all his fellow Democrats with him and all the Republicans against. Cranston thinks any move to eliminate the riders on the floor would suffer the same fate.

Nor is it clear whether anyone else, in either the House or the Senate, will try to get the riders out of the reconciliation bill.

Rep. Leon Panetta of California, head of the House Budget Committee's task force on reconciliation, points out that only a few of the House committees added riders, and argues that it would lengthen the already difficult process of working on the 4,000-page bill to make a flight over them. He says this even though he argues that there's a real danger that the reconciliation process will get loaded down with such legislation and that next year there will be more such items and the year after that still more.

In the Senate, Budget Committee Chairman Pete V. Domenici of New Mexico has already indicated that he will go along with all the extraneous material added by the various committees. That is a surprise, because Domenici has always been a strong budget cutter and would not figure to be the type who would participate in undermining the budget-control process in which he now has such a significant role.

And it is a pity because the Senate Budget Committee, much more than its House counterpart, had until this year a sturdy record of resisting incursions against the integrity of the process. It was a record that had been made in a warm atmosphere of bipartisanship, by former Senators Henry Bellmon of Oklahoma, the committee's ranking Republican, and Edmund S. Muskie of Maine, its former chairman.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. PROXMIRE. I am happy to yield to the Democratic leader.

Mr. ROBERT C. BYRD. Mr. President, I call attention to the fact that there is no limit to the mischief that can be worked if this approach is allowed to go unchecked.

I understand that the Parliamentarian would advise the Chair that unless such nonbudgetary provisions within the reconciliation bill made up a preponderance of the thrust of that bill, no point of order would lie against the bill.

In other words, if the preponderance of the reconciliation measure consisted of provisions that had a budgetary impact, then the mere fact that some other provisions within the reconciliation bill had a nonbudgetary impact—no matter how far reaching they might be—a point of order would not lie.

So it is conceivable if we go a little way today, we will go further tomorrow and then further the next day, and then further the next day. Eventually we could crank into the reconciliation bill the death penalty, which I favor under certain circumstances but, nevertheless, I do not favor going about its enactment in this way.

I think legislation of that kind should be adequately debated on the floor. If there are enough Senators who can hold out and avoid cloture, fine. That is the process.

But I would not want to see the day come when very controversial legislation of that kind can be cranked into the reconcilliation bill, and passed in this Senate within a maximum time of 20 hours. The amendments would be limited, no nongermane amendments would be in order.

The majority can do anything it wants to do. It can run roughshod over the minority, and the minority is helpless because that legislation is so written that there are no loopholes. There are just no places left where one might raise the flag of warning, where one might be able to delay the whole process from beginning to end. The first concurrent budget resolution, the second concurrent budget resolution, the reconciliation resolution, the reconciliation bill, and the conference reports on all these are all covered by airtight, watertight, parliamentarily ironclad, provisions that leave no room whatsoever to get at them and open them up for extended debate unless a majority of votes can be secured to waive the automatic time limitations.

I say this is an extremely dangerous approach.

Mr. PROXMIRE. Mr. President, I hope the Senator will yield on this because I think he, more than anybody else, recognizes this, because he has done more than anybody in the Senate to proceed expeditiously while, at the same time, honoring an unlimited degree of debate. He has fought harder than anybody else to accomplish that. But it has been painstakingly, thoroughly debated and there have been long hearings on it, and we should proceed only with great caution and care.

Now, if we proceed right away without any thought at all because we find some kind of a loophole—inadvertent according to the author of the bill, who is the Senator from West Virginia, completely inadvertent—and able to push through all of this substantive legislation and avoid the kind of debate and amend-

ments which have given this body its unique character, we do this at our peril.

Mr. ROBERT C. BYRD. Why, Mr. President, the death penalty could be included, the Office of Civil Rights could be abolished, the campaign financing laws could be rewritten—there is just no limitation as to what can be done using this approach as long as the majority, whatever party is in the majority at the time, wishes to proceed in that way, and if the majority has the votes, the minority can be absolutely crushed.

There would be strictly limited time for debate on very controversial legislation, strictly limited opportunity to amend. The Chair can be overruled—or sustained—if the majority has the votes. So, wrong would prevail if the majority of votes are on the side of wrong.

I am happy to state to the distinguished Senator that in my conversations with Senator BAKER there is the realization on both sides of the potentially destructive effect that this approach might have, on the budget reform process, and there is concern, and rightly so, on the side of the majority—because it is recognized that the majority today may not be the majority tomorrow as we look down the road, and what the majority can do today to the minority, the majority of today can have done to it tomorrow if the majority again switches to this side of the aisle.

This is not good for the budget reform process, and is not good for the Nation.

Mr. PROXMIRE. I am sure the Senator realizes we often consider the majority as a political majority, Democrat or Republican.

But they can be regional and ideological majorities. The distinguished Senator from North Carolina was in a minority in a lot of ways, politically and ideologically, and he did a wonderful job in the Senate.

He has rallied great national support because we have the kind of rules that enable Senator JESSE HELMS to stand up on the floor and speak his mind, and he may be the only one doing so, and he served a great purpose doing it that way.

We do not want to wipe out that kind of opportunity for JESSE HELMS or somebody who takes the opposite view of what we take, but that is, I am afraid, what we are doing if we take the position that the reconciliation process can be used to push through controversial issues.

Mr. ROBERT C. BYRD. The Budget Committee is helpless because it cannot eliminate one sentence from the bills sent to the Budget Committee by the authorizing committees for inclusion in the reconciliation bill. It has to include everything they send. If they send the death penalty, which I support, if they send antibusing legislation, which I support, or anything else they send, as long as the nonbudgetary legislation does not make up the preponderance of the reconciliation bill, no point of order would lie against it, according to the Chair, and if the majority in a given situation has the votes, the Chair can be overruled even if the Chair would rule that a point of order would lie.

So it is a very dangerous process. I say that those of us who may favor these pieces of legislation I have enumerated would certainly be ill-served if we allowed this process to go unchecked because it would mean that legislation we do not favor could also be enacted, and we would then be gagged and bound, and we could not even kick and scream.

Mr. HELMS. Mr. President, will the Senator yield? I guess it is fair to say, Mr. President, the more things change, the more they remain the same.

We have had the situation in the past, and I certainly agree with the Senator that every Senator's rights ought to be protected. I thank him for his generous comments about me.

Mr. PROXMIRE. I thank the distinguished Senator from North Carolina.

THE FAMILIES OF MAN

Mr. PROXMIRE. Mr. President, on June 15, 1981, the International Holocaust Association will commemorate those trouble years with a world gathering of Jewish holocaust survivors. The organizers anticipate that over 10,000 victims of Hitler's programs will congregate in Jerusalem to share their memories of that attempt to destroy the Jewish people. Yet the association hopes that it will not be a "memorial service," but rather a "celebration of life," looking to the future with joy and optimism.

Mr. President, I too would like to look to the future with hope and optimism. I feel that the way to best express that optimism is to take positive measures to insure that no such tragedy could ever happen again. Preventing the unspeakable nightmare of genocide is clearly less difficult than attempting to halt or remedy them once such madness has begun to run its course. And such crimes do continue—whether in Uganda or Cambodia. Not mere murders these, but conscious attempts to destroy the roots of whole cultures.

The Genocide Convention marks a small but real step toward making such episodes a little less possible. While some may challenge it as mere symbolism, such symbolism has an intrinsic value which cannot be ignored. For the first time the international community has acknowledged the rights not only of individuals, but of the family and community of men.

The United States historically has recognized the value of pluralism—each group offering its unique institutions and traditions, culture, and heritage. It is this group existence which the Genocide Convention tries to protect.

Mr. President, I therefore ask my colleagues to ratify the Genocide Convention, as a memorial to the holocaust, and more, as a living testimony to our respect for the irreplaceable value of all the world's varied cultures.

RECOGNITION OF SENATOR LEVIN

The PRESIDING OFFICER (Mr. EAST). Under the previous order, the Senator from Michigan is recognized.

THE ISRAELI ACTION IN IRAQ

Mr. LEVIN. Mr. President, more than a week has passed since Israeli planes struck the Osirac nuclear reactor in Iraq. During that time, I have carefully studied the events surrounding the attack and evaluated the conflicting claims that were being made about its necessity, legality, and morality.

I have also been engaged in a series of briefings. While there are still a host of unanswered questions surrounding the events of last week, I believe that I understand enough to allow me to reach some conclusions and share my views with my colleagues.

The development of those views has been guided by one central question: Did Israel reasonably believe that it was acting in its own self defense when it attacked the Iraqi nuclear reactor? The answer to that question, it seems to me, will allow us to make some fairly reasonable judgments about the legality of that action and its appropriateness.

Additionally, Mr. President, I believe that we can approach an answer to that question only by placing the events of the last 10 days in perspective. That perspective has to begin with an analysis of the political climate which has existed in the Middle East for the past 33 years. That climate is relatively easy to characterize: The simple fact is that the entire nature of the region is defined by hate. With the exception of Egypt, no Arab State has been willing to even grant Israel the right to exist. All of her other neighbors persist in their refusal to recognize her being and all remain in a state of war with her and avowedly dedicated to her destruction and elimination.

That underlying reality—which is, paradoxically, the denial of reality—forms the core of Middle Eastern politics and policies. We can never solve the complex and difficult issues bedeviling this region of the world because the Arab states refuse to recognize Israel's existence and Israel understandably declines to enter the give and take of negotiations with parties whose unabashed goal is to take Israel off the map and give the sea a new gift of human life.

Because we are a people surrounded by oceans, we find it hard to understand what life is like for a people surrounded by enemies. Because we are a nation which has always found some way to negotiate, we find it hard to understand the problems of a nation which cannot negotiate because no one will even recognize its right to sit at a peace table. Because we are a country blessed with the resources which allow us to plan for the future, we find it hard to understand the psychology of a country which must worry about the present.

As a result, we sometimes find it hard to understand what Israel finds it must live with.

Yet unless we are able to internalize Israel's condition and share her legitimate fears, we can never understand her conduct.

I would submit, Mr. President, that it is precisely this inability to comprehend the reality of Israel's position which has led to much of the criticism surrounding her actions of last week.

If we understand the depth of hatred which surrounds Israel; if we sense the nature of the threat she faces daily; if

we feel the pain that the deaths of Israelis have suffered for 33 years have seared into souls already scarred beyond endurance by the loss of 6 million in the holocaust; then, Mr. President, I submit that we would understand why Israel concluded that its strike against the Iraqi reactor was, in fact, both defensive and defensible.

In the next few minutes, I want to try and retrace some of the factors which could lead Israel reasonably to conclude that she had no option but to take out the reactor and I also want to consider some of the broad policy implications of their decision.

We have to begin any analysis of Israel's motives by recognizing one central fact: Iraq remains at war with Israel and Iraq remains avowedly determined to exterminate her. This state of war is not a function of Israeli desire; rather it is a result of Iraq's refusal to recognize Israel's right to exist. Similarly, while Iraq remains publicly committed to the total destruction through either terrorism of overt war, of what it calls the "Zionist entity," Israel has never publicly or privately indicated a desire to eliminate Iraq or any of its other Arab neighbors.

But Iraq's past activities pall before the threat she would pose if she had atomic weapons. Her insistence that France supply her with the kind of enriched uranium which is usable in atomic weapons, as opposed to other fuels which would have served legitimate research purposes without creating a nuclear capability, is persuasive evidence of her intent.

Iraq, however, takes the position that her participation in non-proliferation inspection agreements, and the finding of the International Atomic Energy Agency that no diversion of fuel has yet occurred, absolves her actions of any threatening implications. There is, perhaps, at first glance, a certain legitimacy to that position. But a second look demonstrates the hollowness of it. Under the worst case scenerios, Iraq would not need to divert any enriched uranium for some time to come—so the fact that it can account for all of it now means very little. Similarly, her agreement to allow for inspections prior to the reactor going "hot" carries little weight. The critical question is what the Iraqis would have done after the reactor was on line. Additionally, Mr. President, we have to recognize that nothing bound Iraq to continue to participate in the non-proliferation agreement. She had the ability to pull out of even the modest protection that agreement provides at any time that suited her interests.

We cannot say what Iraq might or might not have done. But that is precisely the motive behind the Israeli attack. By the time that Israel confirmed Iraq's diversion of nuclear materials, it would have been too late. No strike against the reactor would have been possible once it was operational. The human consequences of a strike at that time are so great that Prime Minister Begin specifically ruled it out as a possibility, according to his interview with the American press this past Sunday. For Israel, the choice was to act now or face an unanswerable threat later.

In that context, it is important to recognize that Israel did not come to this crisis for the first time 10 days ago. Ever since the announcement that Iraq was developing this reactor, Israel has attempted—through all appropriate and possible diplomatic channels—to prevent the kind of crisis that developed. For example, Israel communicated her concern to the United States and enlisted the assistance of President Ford and President Carter. Their efforts to dissuade the Iraqis failed. Similarly approaches were made to France and other countries involved in the export of nuclear materials and expertise to Iraq. Those efforts failed. Finally, Israel made it clear that she regarded the Iraqi reactor as a direct threat to her security and indicated that appropriate action would be taken if its development was continued. That announcement failed to halt either construction or planning of the reactor.

And as these efforts failed, the need for action grew. In the face of persistent threats by Iraq—threats which span many years and take many forms—Israel reasonably concluded that Iraq would use the reactor to develop nuclear weapons which, in turn, she would be willing to use against Israel.

Still, Israel waited. She did not launch immediate attacks. Prime Minister Begin reports that he waited 2 full years after discovering that Iraq was firmly on the path of nuclear development prior to authorizing the strike. In those years, as I have said, diplomatic efforts were undertaken. But with their failure, Israel really had only two courses of action: she could do nothing and hope that when the bomb was developed, public opinion would somehow shield her children from its radiation or she could move to protect those children herself. Given what we know of the "power" of public opinion and given the inevitability of Iraq's development, she was reasonable in concluding that her legitimate self-defense needs required action.

That action was taken. It was taken carefully to minimize human suffering.

It is important to recognize that this was not an action taken against legitimate nuclear research undertaken by an Arab State. Israel has not moved against those nuclear reactors which exist or are planned in other Arab States. This was a strike directed against a specific nuclear plant in a specific country—a plant which, according to a number of reliable reports I have seen, had no other apparent purpose but, at some point, to produce nuclear weapons.

Mr. President, critical to the legitimacy of Israel's action, is the question of motives: Iraq's motives and Israel's motives. I have spelled out my reasons for believing that Iraq's motives were clearly directed to the development of nuclear weapons to be directed in turn against Israel.

But equally important, Mr. President, is the question of Israeli motivation. As we all know, the arms sale agreement we signed with Israel requires that the weapons we supply be used for only specified purposes. Any offensive use of the weapons is strictly prohibited. Thus the question of "legitimate self-defense" is critical to a final judgment about the legality—as opposed to the necessity—of Israel's action.

In that regard, Mr. President, a good deal of discussion about Israel's actions has focused on the meaning of the term "self defense." While I do not view the dictionary as a definitive source of information, I think it is instructive to look at its explanation of the term "self defense." My standard Senate-issued dictionary defines it in this way: "the right to protect oneself against violence or threatened violence with whatever force or means are reasonably necessary."

I specifically call the attention of my colleagues to the phrase "threatened violence." In my mind, too much of the discussion about the attack has focused on the claim that there was no existing danger; that the strike took out a potential danger rather than a current one. But that distinction is not, Mr. President, one that exists in either the relevant law or in the way that people commonly use the terms contained in that law. "Self defense" clearly involves the right to act in ways which will prevent a threatened attack as well as in ways which will respond to a direct attack.

But this notion of a preemptive strike has raised some real questions in some quarters about the precedent that Israel may have created. Some people appear to feel that Israel, if not punished in some way, will have established a new rule of international behavior: one which allows any nation to decide unilaterally to attack any other nation which behaves in ways which it perceives to be potentially threatening.

Such an interpretation of Israeli action would be an unjustifiable extension of their behavior. Israel did not act in a theoretical world with a goal of enunciating a new policy. Israel acted in a real world with the goal of protecting their legitimate national security interests. Her action, and any precedent it sets, must be understood in that context.

Thus, in my mind, the only way to generalize from this Israeli "doctrine" is by suggesting that if another country remains in a state of war against you, and that country has publicly and consistently called for your extermination, and that country has never recognized your right to exist, and that country is developing the capability to produce weapons able to kill, at a single blow, much of your population, then you are entitled to attack the facility producing that weapons capability provided, of course, that you do so in a way which is designed to minimize any damage to the civilian population and gain no territory or material advantage in the process.

Some questions have been raised about the raid that cannot be definitely answered yet including questions about the timing of the attack. Those are important questions and they deserve to be answered. I hope that they will be addressed in the hearings now scheduled in both the House and the Senate. But, no matter what the final answer is on that issue it does not impact on the ulti-

mate necessity or legality of the act itself.

Let me conclude these remarks, Mr. President, by expressing some of the concerns I have about the direction of current American policy in the wake of the Israeli strike. I do not believe that the United States would be warranted in cutting off military aid to Israel. Such a cutoff would be in direct conflict with America's strategic interests in the region and, as a result, not something we would be required to do or well served by doing.

Similarly, I do not believe that the temporary suspension of scheduled delivery of planes to Israel was warranted. Such action, in my mind, prejudges an ultimate conclusion about the nature of their action and, in addition, reaches the wrong judgment. That sale was in our national self interest when it was agreed to and it remains in our national interest now. Instead of taking punitive actions against Israel, this is the time Mr. President, for us to renew and expand our efforts to bring peace to this critical but troubled region of the globe. Israel's determination to respond to real threats to her existence will not change. Our efforts have to be directed at minimizing those threats and moving ahead in our efforts to facilitate a framework for peace. In that regard, Mr. Habib's mission to Syria deserves continued support. And certainly American efforts to develop an enforceable non-proliferation policy need to be strengthened.

I need not detail for my colleagues the important strategic role that Israel plays in the Middle East as America's strongest ally. But some of those who have generally supported attempts to strengthen Israel have reacted to this strike by moderating the warmth of their support. I fear that in this domestic and international climate, the United States may over-react to the immediate concerns of some and make long term commitments which, in the final analysis, will work to our disadvantage. The specter of the proposed sale of F–15 enhancement equipment and AWACS to Saudi Arabia looms large as a hidden factor in our discussions of what action America might now take. Other issues of similar magnitude may confront the Congress in the weeks ahead. I call on the President and the Congress to consider carefully the implications of any such action and allow time to help us place Israel's strike against the Iraqi reactor in perspective.

As time reduces the passions which still flame too brightly now, I believe that America will come to realize that Israel acted reasonably in preventing that reactor from coming on line. Additionally, the passage of time will also allow us to see even more clearly how great a threat a nuclear Iraq would be to Israel and to American interests in the Middle East.

This, then, is a time for thought and reflection. And most of all, it is a time to realize that the policies we have followed in the Middle East are a result of our own values and our national self-interest. If our policies continue to be shaped by those twin concerns, then I am sure that our response to Israel's action will be measured and moderate. Such a response, I believe, represents both a realistic analysis of Israel's motives and a rational attempt to protect American interests.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for a period not to exceed 30 minutes, during which Senators may speak for up to 5 minutes each.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, unfortunately, I could not be here last Monday when the Senate paid tribute to Senator JOHN TOWER's 20th year in this body. I would like to present a few remarks today to express my feelings about this very unique individual.

JOHN TOWER—SENATORIAL SUPERMAN

Mr. COHEN. Mr. President, one of the most vivid Senatorial images ever etched into the minds of Americans is that of JOHN TOWER dressed as Superman. The photographer who snapped that picture captured the verve, ebullience, and good humor of the man who has become a true giant of the Senate in his 20 years in this body. He also captured the essence of the performance of JOHN TOWER in his role as chairman of the Senate Armed Services Committee.

The quality of leadership which Chairman TOWER has exercised in these early months of the 97th Congress should serve as an example to all students of the legislative process. The steady, forceful hand Chairman TOWER has displayed at the helm of the committee is worthy of his Navy background.

No other committee in the Senate has accomplished as much as the Senate Armed Services Committee this year. Under Chairman TOWER's leadership, action has been completed in near record time on the fiscal year 1982 defense authorization bill. More important, the committee has shown its willingness to question administration proposals, to make spending reductions where necessary, and to direct increased funding in areas not adequately addressed. Committee action on the Trident, the *Oriskany*, the CX and other issues reflects the independent, thoughtful approach taken by Chairman TOWER.

What has meant most to me personally is the friendship and guidance which JOHN TOWER has so graciously and consistently given me in the 2½ years I have been in the Senate. When I came to the Senate and joined the Armed Services Committee, I had not had the benefit of service on the parallel committee in the House. Early in my time in the Senate, I was faced with making major policy decisions on issues such as strategic arms limitation. For someone still wrestling with the multitude of acronyms the Pentagon employs with enthusiasm it was a challenge—albeit an exciting one—to become involved so actively in the SALT debate. For me, and other junior members of the Armed Services Committee, JOHN TOWER's advice and counsel were invaluable.

His counsel and his support have been the linchpin essential to the legislative success of the Armed Services Committee in this Congress. Speaking as one of four members of the committee who were not in this body 3 years ago, but who now serve as subcommittee chairman, I cannot say enough about the backing and the direction provided by Chairman TOWER. He has provided support in every possible way and has stood with us as we have made our legislative recommendations.

What has characterized JOHN TOWER's leadership most has been the way in which he has sought to make all legislative efforts be bipartisan initiatives. The members and staff of the Armed Services Committee have always worked well together, and political considerations have always been secondary to the defense of the Nation. Under Chairman TOWER, this has been especially so.

In closing, Mr. President, I would like to insert an article written by Judith Miller of the New York Times in January, as the 97th Congress was convening. In that article, she spoke of the ambitious schedule Chairman TOWER had set for the Armed Services Committee. JOHN TOWER made that "ambitious" pace look easy. When one considers the potential pitfalls inherent in the legislative process here in the Senate, that accomplishment alone should make JOHN TOWER, rather than Christopher Reeves, a candidate for the starring role when the motion picture industry considers filming "Superman III."

Mr. President, I ask unanimous consent that the article to which I have referred be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SENATOR TOWER GETS POWERFUL NEW POST

(By Judith Miller)

WASHINGTON, January 19.—In Senator John G. Tower's office, there is a plaque, a gift from a military officer. "Enlisted men are stupid," it reads, "but extremely cunning and sly and bear considerable watching."

None of his colleagues on the Senate Armed Services Committee question the Texas Republican's intelligence. But in all other respects Mr. Tower, the new chairman of the armed services panel and the Senate's only enlisted reservist, has succeeded in living up to the plaque's motto.

Interviews with Senate committee members and staff aides indicate that the committee's influence, always considerable, is likely to be substantially enhanced under Mr. Tower's leadership and that the panel's policy initiatives in the national security arena will be afforded considerable weight by the Reagan administration.

Longtime Capitol Hill analysts predict that the committee's new assertiveness in foreign and national security affairs is likely to threaten the Senate Foreign Relations Committee's historic pre-eminence in overseeing the administration's foreign policy.

HE'S VIRTUALLY UNSTOPPABLE

"With no disrespect to Senator John Stennis, our former chairman," said Senator John W. Warner, Republican of Virginia, "John

Tower will provide a more vigorous thrust to the committee."

"In his present position, he's virtually unstoppable," said Senator William S. Cohen, Republican of Maine, who is a close friend of Mr. Tower.

John Goodwin Tower, 56 years old, has come a long way from his modest origins in east Texas as the son of a Methodist minister. The Senate's second most senior Republican, "Tex Tower" as he was known in his stint as a disk jockey, favors British cigarettes and hand-tailored, Saville Row suits, byproducts of his graduate work at the University of London. A former college professor of government in Wichita Falls, he is given to reciting long passages of poetry as well as the commercial jingles he used to read over the airwaves.

As he sits in his spacious Senate office behind a desk that is longer than he is tall, Mr. Tower now has little time for casual banter. He asserts that he is well prepared for the task facing his committee and seems aware that, as for most of the Senate's conservatives, the political tide is flowing his way.

REJECTION AS DEFENSE SECRETARY

Even Mr. Tower's most bitter defeats seem to have played into his hands. Although senior Republican advisers never considered him as a serious candidate for Secretary of Defense, a post he deeply coveted, his rejection seems to have made the administration more beholden to his personnel and policy recommendations.

When asked, for example, how much of an increase the administration was contemplating in the military budget for the fiscal year 1982, Defense Secretary-designate Caspar W. Weinberger said at a luncheon last week that "Tower feels that a substantial increase in 1982 will be required."

In a private session recently Mr. Tower warned Frank C. Carlucci, the incoming Deputy Secretary of Defense, that the Defense Department needed to recruit more individuals with expertise in defense, according to Capitol Hill aides. Specifically, Mr. Tower deplored press reports that the administration was planning to fill the post of Secretary of the Navy with a political appointee. He vigorously endorsed the nomination of John F. Lehman, Jr., a conservative military analyst with close ties to him and other committee members. Although there has not yet been a public announcement, Mr. Lehman has been offered the job, transition officials confirmed.

Senator Tower declined to comment on the tense, private session, stating only: "I have made some recommendations."

PRAISE FOR REORGANIZATION

Democratic and Republican committee members have praised Mr. Tower's reorganization of the panel's subcommittees according to military missions. Senator Gary Hart, Democrat of Colorado, for one, called the restructuring a "good reform that was long overdue." Most members also expect that the new subcommittees will be more visible and independent than subcommittees were under Mr. Stennis's direction.

Not everyone is a Tower enthusiast. Some say that he has insufficient patience with the "nuts and bolts" of the committee's activities, that he can be arrogant and that he has a deepseated mean streak.

"John's reputation for meanness is based on surface appearances," said Senator Cohen, "and not on fact. He's tough-minded, but fair."

This reputed toughness is reflected in the committee's new assertiveness. Political analysts expect the committee to play a more active role in overseeing weapons sales, technology transfer and security assistance, areas dominated in the past by the Senate Foreign Relations Committee. Mr. Tower said that the committee "expects to review matters that impact on military balance that are not directly within our legislative jurisdiction." Even Democrats such as Mr. Hart have called for "a joint deliberation venture" by the two panels on strategic arms negotiations, arms sales and other issues.

MANEUVERING FOR JURISDICTION

"Mr. Tower certainly does not intend to let us lose any more jurisdiction," concluded Rhett Dawson, the committee's majority staff director, referring to the panel's loss of oversight authority on intelligence affairs in Mr. Stennis's tenure as chairman.

Moreover, the armed services panel's influence is likely to be strengthened by the new administration's skepticism about Senator Charles H. Percy, Republican of Illinois, who is chairman of the Foreign Relations Committee. Senior administration officials, for example, have been privately critical of Mr. Percy's recent visit to the Soviet Union and his statements conveying what they termed a "false perception" that the United States was eager to begin a new round of negotiations on a strategic arms limitation treaty.

Finally, the armed services panel is not marked by the partisan ideological differences that characterize the foreign relations panel.

Mr. Tower has set an ambitious schedule for the panel that will require the completion of a military budget authorization by the end of March. He declined to discuss the size of the increase the committee would recommend over President Carter's request of $180 billion for the fiscal year 1982, but knowledgeable Capital Hill aides said that Mr. Tower would seek an increase of $20 billion to $30 billion increase.

Mr. COHEN. Mr. President, I ask unanimous consent that if there is printed a bound volume of the testimonials which were given in the Senate last Monday regarding Senator JOHN TOWER, my remarks be included.

The PRESIDING OFFICER. Without objection, it is so ordered.

ACTIVITIES OF THE KU KLUX KLAN

Mr. GRASSLEY. Mr. President, as I noted recently during a speech on the Senate floor, an alarming upsurge of harassment and terrorism by the Ku Klux Klan has physically and psychologically brutalized blacks, Jews, and Vietnamese immigrants in communities from coast to coast.

One of my constituents recently called my attention to another aspect of Klan activism which also merits the attention of this body, and of the American people.

As outlined in the June 1981 National Education Association Reporter, and documented by other publications, as well, the Klan is now recruiting children into a new KKK "Youth Corps," shaping impressionable young minds with propaganda based on bigotry and hatred.

The intellectual climate in which our children are nurtured today will have consequences for the world of tomorrow, as those children themselves become the leaders who shape our laws and enforce public policy. For that reason, I encourage thoughtful analysis by my colleagues of the following material, from the June 1981 NEA Reporter, which I ask unanimous consent to have printed in the RECORD:

First. "Newly Resurgent Ku Klux Klan Exploits Racial Tensions in America's Schools."

Second. "We're the Future Klan."

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

NEWLY RESURGENT KU KLUX KLAN EXPLOITS RACIAL TENSIONS IN AMERICA'S SCHOOLS

The Ku Klux Klan is back. In nearly every part of the country, Klansmen are burning crosses, hiding under sheets—and targeting youngsters as young as age 10 for a new KKK "Youth Corps."

Your students could be among the next recruits.

Klan youngsters wear "White Power" T-shirts instead of robes, learn to handle guns for what they're told is a forthcoming "civil race war," and prepare to join the Klan when they become 18.

The resurgence of the Klan over the last 10 years has tripled the estimated national membership of the various splinter groups that claim to be the true KKK. There are now about 11,500 Klan members active in at least a score of states: Alabama, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas and Virginia.

Add Connecticut to the list. Last September, Klan members conducted a cross burning in a private field outside the eastern town of Scotland. "In the South, yes, but in Connecticut?" was the outraged reaction of Dimples Armstrong, a ninth grade physical science teacher in Danbury.

"The kids were asking questions," says Armstrong, who chairs the Minority Affairs Commission of the Connecticut Education Association (CEA/NEA). "Teachers started calling CEA after they realized they didn't have adequate information about the Klan to pass on to their students."

One 15-year-old black student was overheard asking his classmates a few days after the Klan rally, "If the Klan comes after me, where can I hide?"

The number of children who have joined the Klan Youth Corps is hard to determine—the Klan has a vested interest in maintaining secrecy and exaggerating its strength—but these incidents have been reported over the past few years:

Claiming membership in two Klan youth groups, Oklahoma City high school students attacked a gay bar with baseball bats.

Decatur, Alabama, children wearing Klan T-shirts burned a school bus during an anti-busing rally.

The Boy Scouts of America turned down a charter request from a group of 10 boys, ages 13 to 20, and their Klan sponsor, who was training them in firearms, hand-to-hand combat, and racist ideology at a KKK paramilitary camp outside Houston. The youths were being taught to decapitate enemies with a machete. One mother reported that her sons were told "they might go on a Mexican border mission to watch for illegal aliens."

At a number of schools, children have been recruited to join the Klan with specially targeted flyers, like one that asks: "Uptight about schools . . . or just about niggers? . . . Are you 'fed up' with special privileges accorded blacks by the school administration, simply on account of their race? . . . Conditions in school have become so rotten that trying to get an education has become a laugh. Who can learn anything caged up with a bunch of cannibals?"

Propaganda like this is sparking a wide-ranging program of NEA and affiliate action. NEA's Special Committee on Student Behavior Reflecting Racial and Ethnic Prejudice has been closely monitoring KKK activities, and the Representative Assembly—the Association's highest governing body—has committed funds "to train, inform, and assist teachers in developing skills and attitudes

necessary to combat negative student behavior which reflects prejudice and discrimination of any kind, including that demonstrated by the resurgence of the Ku Klux Klan and neo-Nazi and other extremist groups."

NEA's Teacher Rights and Instruction and Professional Development units are both working to carry out this mandate. IPD recently awarded an anti-violence grant to the Connecticut Education Association to help develop anti-Klan curriculum materials.

Connecticut teachers surged into action after last fall's KKK demonstration in Scotland. Convinced that there was a need as well as a commitment to deal with the Klan issue, CEA President Bob Chase appointed a task force. With the help of NEA and the Council on Interracial Books for Children, this 15-member group is developing lesson plans that can be used in kindergarten through senior high.

The CEA task force decided to allow students to reach their own conclusions on the Klan. "We adopted an inquiring attitude," says Task Force Chair Dimples Armstrong. "We let the facts speak for themselves."

The new CEA/NEA curriculum guide developed by the task force concentrates on 115 years of Klan history. It traces the growth of the Klan from its inception in the Reconstruction Era through its heyday after World War I when membership swelled to nearly 3½ million. The guide also chronicles the Klan's forced retreat underground in the 1960's with the passage of civil rights legislation, as well as its resurgence during the last decade as bitter school busing battles and a worsening economy have spurred new KKK membership gains in the North.

The lesson plans encourage class discussions on the broader issues raised by the Klans' existence—separatism, white supremacy, and racism.

A limited number of the curriculum guides will be distributed at July's NEA Representative Assembly in Minneapolis. Watch this newspaper and other NEA publications for information on when the anti-Klan guide will be available to you.

In Maryland, Association activists won extensive press coverage earlier this year when they denounced the "insidious tactics" of the Klan and set up a monitoring system, encouraging teachers to report racist incidents.

"Some of the incidents reported," says Maryland State Teachers Association President Rufus Abernethy, "include attempts by the Klan to enroll students in its youth movement, the distribution of racist literature, the wearing of Klan paraphernalia, cross burnings, an increase of signs urging people to join the Klan, and the circulation of Klan membership applications on the windshields of cars in parking lots."

On the local level, members of the Harford County (Md.) Education Association started to mobilize against the Klan after several crosses were burned; one on the lawn of the local president of the National Association for the Advancement of Colored People.

The teachers convinced both the school board and the county council to pass resolutions opposing racist actions by the Klan in Harford County.

NEA activists who have been involved with the fight against the Klan have tried hard not to overreact to reports of KKK youth recruiting. But the Klan, although still small in numbers, represents a threat that can't be ignored. It would take only a few fanatics to set off sparks where tensions exist.

Advises Klanwatch, an organization sponsored by civil rights activist Julian Bond and his Southern Poverty Law Center, "That's why these groups have to be kept small, and why better efforts must continually be made to foster in our schools, cities, and families the sort of racial understanding and brotherhood that will make the idea of a youth corps as repugnant to impressionable children as it is to thinking adults."

'WE'RE THE FUTURE KLAN'

Randy, 13, and an unnamed 11-year-old girl were interviewed last summer by "30 Minutes," a CBS-TV program for children, at a Klan Youth Corps camp near Warrior, Alabama, where they were learning to handle guns—and being taught an unusual version of post-Civil War history by Bill Wilkinson, leader of the Invisible Empire of the Ku Klux Klan. The Klan was formed, he said, to protect whites from marauding ex-slaves who killed white men, raped white women, and took over their homes until they ran out of food, when they went on to the next farmhouse.

CBS. Randy, there are a lot of young people out there who probably don't know too much about the Klan. I wonder if you could tell us, what does it mean to you?

RANDY. It stands for white supremacy. You know, to fight the communists, to fight the niggers, and the Jews, and the Vietnamese, and everybody, you know, the Jews and communists in America, and it means white supremacy.

CBS. How do you feel about blacks and other minority people, yourself?

GIRL. Myself? I realize that I didn't like blacks.

RANDY. They're not as intelligent.

CBS. Do you know that for a fact?

RANDY. I know that for a fact.

CBS. How do you know that?

RANDY. Well, at school, walking down the halls, they're putting their arms around white girls. That's the mixture of races, and that's not intelligent.

GIRL. I think we should send them back to Africa, the Iranians back, the Cubans back.

CBS. Do you hate them?

RANDY. Yah!

CBS. Do you think it's right for a young person to be taught to think about killing another human being?

RANDY. Well, we're not taught to kill another human being. We're out there because the civil war's coming, you know, there's another war coming. It's going to break out, and it's not going to stop until the last person's dead, and the kids are going to have to be tough, because we're the future Klan.

SENATOR CHILES COSPONSORED AMENDMENT RESTORING MONEY FOR THE AVIATION OFFICERS CONTINUATION PAY

Mr. HOLLINGS. Mr. President, on May 20, during consideration of the fiscal year 1981 rescission and supplemental appropriations bill (H.R. 3512), the Senate passed an amendment (UP No. 114) offered by myself and others which restored money for the aviation officers continuation pay.

Unfortunately, Senator CHILES was excluded from the RECORD as an original cosponsor of this amendment. I ask unanimous consent that the RECORD reflect Senator CHILES as an original cosponsor of the amendment to restore funding for aviation officer continuation pay.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BALTIC STATES

Mr. PERCY. Mr. President, each year at this time, we recall the tragic events of June 1940, when the Baltic States were occupied by Soviet troops and forcibly incorporated into the Soviet Union.

The political sovereignty of these nations was crushed and the peoples subjected to foreign domination. Large numbers of citizens were deported, and all sources of national pride trampled.

Mr. President, we and the Baltic Americans who recall this tragedy will not be silent. We will never forget the plight of the peoples of Latvia, Lithuania, and Estonia.

THE ISRAELI BOMBING OF AN IRAQI NUCLEAR FACILITY

Mr. DECONCINI. Mr. President, on June 7, 1981, the Israeli Air Force bombed and destroyed an Iraqi atomic reactor which would have enabled Iraq to manufacture nuclear weapons. The attack was staged on a Sunday to minimize the possibility of injuring foreign experts employed at the reactor; and although Israel and Iraq have been technically at war for some time now, the attack was surgically executed to destroy just the reactor.

As we all know, governments throughout the world—including our own—condemned the bombing. The United Nations Security Council is considering imposing sanctions on Israel, and, as usual in that august body, the anti-Israel rhetoric flows loud and long.

However, Mr. President, what truly astonishes me is that precious little has been said about the Iraqi Government, which was without doubt developing this facility to construct nuclear weapons. I, for one, Mr. President, would sleep poorly at night knowing that the Iraqi Government—whose track record in international politics is well known, had the means to initiate a nuclear holocaust. Even less is being said about our supposedly peace-loving allies, France and Italy, who were diligently aiding and abetting the Iraqis in developing this weapon, or about the Soviets, who had already provided Iraq with a delivery system for the nuclear bombs that Iraq would have had in approximately 3 years. Furthermore, Mr. President, we seem to have forgotten entirely that the Iraqi reactor had been the target of an unsuccessful attack by another Middle Eastern nation—Iran.

It amazes me that we so quickly condemn our allies for using force when faced with force. True, in a perfect world there would be no need for air strikes, but in a perfect world there would be no production of nuclear weapons, and by the way, there would be no need for the use of naval blockades such as the one the U.S. imposed during the Cuban missile crisis of not so many years past. We sold and will continue to sell Israel weapons to defend itself, yet when they use those weapons to accomplish that intended goal—and do the world a favor in the bargain—we condemn them.

Mr. President, I believe it is about time we begin to get a little more realistic about our arms sales policy to Israel and to the Middle East in general. Albeit the Camp David accords were a remarkable step forward to peace between Israel and

Egypt, the area as a whole is a hotbed of controversy and strife with the leadership of many nations either extremists along the lines of the Khomeini model or under the control of the Soviet Union.

If we are going to sell weaponry to Isreal, we must begin to trust Israel in its use of these weapons, because we cannot accurately second guess when or how this weaponry should or should not be employed; and to be perfectly frank, when push comes to shove, they will indeed use it in the way that they feel will best insure their security. This is the way any nation with rational leaders reacts when its interests are at stake.

In sum, Mr. President, I hope that the nations of the world can learn from the Israeli action and take it upon themselves to join together to prevent the spread of nuclear weapons. And, Mr. President, since this hope is a wan one, I must be grateful to Israel now for eliminating a threat to world peace.

I ask unanimous consent that a column by J. Emmett Tyrell which appeared in the June 15, 1981, issue of the Washington Post be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

BOUQUETS TO THE ISRAELIS

Why all the rending of garments over last week's Israeli air strike? The Iranians tried to bomb the very same Iraqi nuclear plant last September, and I noted no uproar. Why the anguished chorus over the Israeli attack? Is it because the Israelis were successful and the Iranians missed? Had Allah smiled on the Iranian bombers, would the United Nations have convened another of its hot-air confabulations? Imagine Iraq's president, Saddam Hussein, in possession of atomic bombs. Would the Saudis sleep as comfortably then as they do now? Would Jordan's King Hussein? Would the Syrian Machiavel, Hafez Assad, or anyone else in that enormously volatile area?

The nations of the Middle East and, for that matter, all the peace-loving nations of the world ought to be sending the Israelis bouquets. And let us be spared any more of the Arabs' emotional sonorities about international law. The Iraqis are at war with Israel. They want to be at war with Israel. They like to be at war with Israel. In fact, Saddam Hussein seems to relish war as fondly as the late Benito Mussolini did, though Hussein butchered a lot more of his countrymen in pursuing high office than did Mussolini.

Many of those now ardently criticizing Israel apparently are ignorant of the vicious and mercurial nature of Israel's enemies. They seem to doubt that any foreign peoples would ever be ruthless or unreasonable. Thus they favor ceaseless dialogue and public relations as instruments of diplomacy. Such people are simply ignoring the nature of international politics.

The goal of all serious political activity is control, generally control of one's enemies. If one is insufficiently powerful to subjugate one's enemies, one scales down one's ambitions. The difference is between choosing an offensive or a defensive policy. The third option is taking no action at all.

The Israelis will never be powerful enough to subjugate their enemies, and they cannot opt out of their political situation. Hence they are condemned to a defensive strategy, and their air strike last week was a masterful show of defense. Their critics wish they had exercised the third option and done nothing.

This is the option with which the West has been most comfortable with over the past 35 years. Those who prescribe it essentially see foreign affairs as apolitical. They refuse to accept that there are struggles for influence going on in the world. They deny that there are malevolent forces. They believe all disagreements are reasonable disagreements. Always they counsel restraint.

By practicing restraint, the West has prospered. Every year more and more fashionably dressed people parade along the Champs Elysees, the Via Veneto and Central Park South. Life is sweet; all is well.

But the grim truth is that, in an increasing number of countries around the world, life has become hellish. And as the Western powers withdraw their influence, allowing the liberal order in international relations to be extinguished, the future of world peace itself is increasingly left in the nervous hands of men like Saddam Hussein. I for one do not like the drift of things. As the citizenry of the West continues to cut deals abroad and live the high life at home, more and more woebegone immigrants from foreign barbarism drop themselves to Western shores. It is an ominous sign.

The countries of the West abound with Africans, Asians and Latin Americans who have lost the struggle for political control in their countries. The Israelis understand the meaning of these signs. The outcome of the war in Southeast Asia should constitute the great political lesson of the late 20th century. The Israelis appreciate this. They do not want to become the next wave of boat people.

For over three decades the Israelis have steadfastly accepted the imperatives of their political condition. A nation of under 4 million, it has endured in an ocean of 134 million hostile faces. During this time, dozens of peoples have had their cultures snuffed out. Yet the irony is that by accepting the imperatives of their political condition, the Israelis have actually gained a degree of acceptance in that hostile ocean that their present critics would never have prophesied. More Arabs today view the Israelis as tolerable than ever before. In that turbulent and bloody-minded area, the Israelis have been the only truly effective peace-keeping force. The Lebanese understand this. The Egyptians understand it. Do the diplomats of the West understand?

SUNSHINE AND OPEN GOVERNMENT: A THOUGHTFUL REAPPRAISAL

Mr. PERCY. Mr. President, in the mid-1970's, Congress passed two pieces of legislation which have changed the way our Government operates. The Government in the Sunshine Act and amendments to the Freedom of Information Act have opened the doors of decisionmaking to all who care to view the process. Like no other government in the world, the American Government bares its soul to the people it is meant to serve.

Yet this legislation has had some unexpected effects that need to be closely looked at. Like anything, sunshine and openness have associated costs.

A former counselor of mine, Stuart M. Statler, has written an excellent article describing those costs. The article appeared in the May issue of the American Bar Association Journal. Mr. Statler served for 8 years as chief minority counsel to the Senate Permanent Subcommittee on Investigations. Now, as a Commissioner at the Consumer Product Safety Commission and having just completed a stint as the agency's acting chairman, he examines both the positive and negative points of the openness issue, providing a thoughtful study of the practical consequences of openness in Government. I commend it to all those interested in the way our Government works and as a starting point to considering, through legislation and through oversight hearings, how the Congress can improve the administration of those two acts.

I ask unanimous consent that the article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the American Bar Association Journal, May 1981]

LET THE SUNSHINE IN?

(By Stuart M. Statler)

"Agency Hailed for Openness Now Closing Some Meetings" blared the headline in the Washington Post of November 30, 1980. Back to business as usual. Behind closed doors, that is. Fat-cat lobbyists seducing regulators. The public be damned.

This scenario makes for saucy stories of intrigue and a few splashes of journalistic ink, but it simply doesn't ring true. To its proponents, openness in government is as American as motherhood and apple pie. But the fact is that openness is neither a panacea nor an end unto itself. It entails unanticipated side effects that can work against the purposes it is meant to promote. For all its virtues—and they are considerable—openness in government is not an unmitigated good.

A backlash against the perceived excesses of closed decision making led to the enactment of two landmark pieces of legislation in the mid-1970s: the Government in the Sunshine Act and an amended Freedom of Information Act. These laws dramatically expanded the public's ability to delve into the processes and inner sanctums of governmental decision making.

There can be little doubt about the legislation's goals. If one accepts the premises that all who have a legitimate interest in a decision should have equal access to the decision makers and that all who would subvert the process deserve to be discovered, what possible reason could there be for curtailing public scrutiny?

But experience has not borne out all of the well-intentioned expectations of the proponents of this legislation. Openness in government has left much to be desired. Its constraints frequently force decision makers to choose between competing, sometimes mutually exclusive, public policy goals.

Distinguishing among these goals is critically important. It is simply naive to believe that they can be achieved equally. To many, even suggesting a re-evaluation of the role of openness raises the specter of closed, antidemocratic decision making. However, we must do just that. Without knowing the relative costs and benefits, we cannot ascertain the over-all value of openness in government. We need to examine its practical consequences.

The experience of one agency—the Consumer Product Safety Commission—provides a useful example from which broader conclusions can be drawn about open government.

Created by Congress in 1972 at the height of public distrust in government, the commission is the sole independent federal agency responsible for regulating the safety of some 15,000 consumer products. Consumer advocates and public interest groups hailed

the passage of the Consumer Product Safety Act as a great victory.

The original commission attempted to do more than simply protect the consumer. It wanted to achieve this goal while acting in the most open manner possible. The commissioners believed the agency should go beyond the legal obligations to expose its decision making to complete public scrutiny.

Instead of weighing the competing values of consumer protection and open decision making, the commission simply assumed that total openness could be obtained without detracting from its safety mandate. It was felt that openness could only enhance the quality of decisions affecting consumer health and safety.

A few examples illuminate the lengths to which the agency went in self-revelation:

Records must be kept of all telephone conversations by commissioners and staff with outside parties unless the matter discussed is "trivial." The logs are available to anyone.

Almost all meetings between agency staff and outside parties must be publicly announced at least seven days in advance.

Representatives of industry and the media may enter any meeting between staff and outsiders unless specifically excluded.

To close such a meeting, a majority of the commissioners must determine that extraordinary circumstances exist, with reasons set forth in a public calendar.

The inflexibility of the policy has led the commission to circumvent the spirit of its own openness strictures. For instance, special assistants are used as conduits to relay information among commissioners' offices, since the commissioners themselves cannot meet as a group in closed session unless specific exemptions apply. Closed meetings among commissioners' staffs become trial runs for the formal meetings. Delegating policy development to staff—in the interest of serving some obtuse notion of openness—vitiates the principle of shared decision making at the top through a face-to-face interchange of ideas.

A philosophy of total openness has had certain adverse effects on the commission's substantive operations and on its record of accomplishments. By examining specific examples, we can gauge this impact and its associated costs.

1. Efforts to improve the safety of chainsaws. Almost since its inception, the C.P.S.C. has been aware that tens of thousands of people are injured every year in accidents involving chainsaws. After considerable study, the agency determined that "kickback"—an unexpected rearing up of the saw toward the operator—caused a major share of chainsaw accidents. The staff began seeking ways, through design changes, to reduce kickback.

In June, 1978, the C.P.S.C. began a co-operative venture with the industry's trade group, the Chain Saw Manufacturers Association. The two groups hoped to develop a voluntary safety standard. Over the next 18 months, every meeting C.P.S.C. staffers held with the industry individual firms, interested consumers, foreign manufacturers, technical exports, and other government officials was open and held in a "fishbowl" environment: a meeting between two or three people being observed by a dozen or more.

Whatever action the commission ultimately takes on chainsaws will have a huge impact on both industry and consumers, affecting millions of dollars and thousands of lives. With so much at stake, fairness dictates that anyone with a legitimate interest in the final decision have an opportunity to participate. Different manufacturers have large investments in diverse safety devices: each should be able to describe its approach to the commission, outline its effectiveness, and defend it against the snipings of others. The commission could thus derive a clear sense of the relative merits of the various devices.

Unfortunately, however, the joint effort ended in frustration. One common criticism—voiced by industry members and agency staff alike—was that the glacial pace of the effort stemmed from its total openness. There was much public posturing and little candor. Exchanges were stilted, causing distrust on both sides. Manufacturers' motives were questioned. They were wary about disclosing marketing plans or technological advances to competitors in attendance. Breakthroughs by certain firms could not be discussed lest a competitive advantage be lost. Deserved criticism of fellow industry members who were dragging their feet went unstated. Key sales and economic data were withheld.

In short, what might have been said and accomplished in the privacy of a closed meeting was never said or discussed. The lack of a complete and candid exchange and the consequent two-year delay carried heavy costs for American consumers. Every day's delay translated into preventable human pain and suffering.

The issue is not open versus closed meetings but whether the process must be totally open, at all stages, regardless of the result. In view of the safety mandate of the commission, the tradeoffs become clear. On the one hand, limiting access to the agency can have substantial economic consequences for a chainsaw manufacturer; on the other, delays in promoting safety because of openness constraints may have even more significant—and tragic—repercussions.

2. Efforts to deal with formaldehyde. Early in 1980 the C.P.S.C. staff received information indicating that formaldehyde, a substance already under review, may be carcinogenic in rats. Although the data were sketchy, staff acknowledged the news with no small degree of alarm because of formaldehyde's importance as a basic building block in industry. Some nine million pounds are produced yearly, the bulk of it used in plywood, particle board, and home insulation. It is also found in permanent press shirts and certain shampoos and toothpastes.

Instead of meeting immediately with staff scientists to evaluate the data, commissioners opted to wait almost two weeks until an open public meeting could be scheduled. In the interim the industry issued a press release downplaying the potential risk. The commission—instead of informing itself immediately so that it could, if necessary, alert the American public to the risk—waited to meet, only to find itself reacting to distorted industry accounts.

This is not to say that the agency should have met hastily and reached a regulatory decision based on preliminary data. But, at a minimum, the agency should have taken immediate steps to learn about the new data. Waiting until all procedural niceties could be observed only served to confuse the American public. It is ironic that when the commission finally did conduct its open meetings, not a single member of the public attended.

3. Matters involving adjudication. In addition to rule making, the C.P.S.C. also adjudicates hazard matters involving specific firms whose conduct violates the law. Especially in cases involving recalls of products that present "substantial product hazards" under 15 U.S.C. § 2064, the commission seeks prompt redress. Yet the agency's handling of one case in 1980 points up the impediments to consumer safety when these matters are dealt with too openly. The case involved an electric fan associated with numerous fires. The agency sought to remove it from the marketplace.

At deliberations open to the public, staff urged a particular regulatory approach and various commissioners challenged its wisdom. This put the manufacturer on notice that the commission itself was not completely persuaded by the merits of the case, and the firm learned what elements of the proposed corrective action plan the commission questioned. As any skilled negotiator can attest, telegraphing which elements of a position are firm and which are not is tantamount to conceding the latter.

Although the commission eventually worked out a voluntary recall plan with the company, a more far-reaching agreement might have been achieved. Able to assess the C.P.S.C.'s perception of the strengths and weaknesses of the case, the offending firm gained an enormous advantage. Openness enabled it to opt for a lesser recall at the expense of the larger public interest.

By contrast, a contemporaneous case involving baby cribs reportedly tied to several infant deaths exemplifies the advantage of limiting access when debating strategy. Preventing additional deaths and injuries required a massive recall effort. Toward that end, the C.P.S.C. needed as much leverage as possible in negotiating with the manufacturer. Since the firm failed to report promptly its awareness of the hazard, the C.P.S.C. could assess a tidy civil fine. The commission needed to balance carefully the trade-off between a reporting penalty and a comprehensive corrective action plan. It was vital to have a frank, free-flowing discussion of all the options, without tipping the agency's hand.

The commission availed itself of an exemption to the Sunshine Act designed to protect potential litigation strategy and it met behind closed doors. All options and tradeoffs were candidly reviewed. As a result, the agency secured one of the most wide-ranging innovative recalls in its history and a large civil fine to boot. But had those strategy meetings been held in the open, the scope of the discussion would have been sharply curtailed and the ensuing recall far less advantageous to consumers.

4. Public disclosure of product information. The C.P.S.C.'s commitment to openness also embraces the Freedom of Information Act, which is meant to provide public access to government records. Commission policy provides extraordinary access, making disclosure the rule and withholding the exception. Unlike most other agencies, only rarely does the commission invoke the act's discretionary exemptions.

In theory, widespread disclosure of information increases public understanding of an involvement in agency decision making. But in practice, the agency's mandate to protect consumers has been compromised. For example, in May of 1980 the commission voted three–two to release laboratory results of certain cellulose insulation tests. Disclosure identified levels of noncompliance that trigger enforcement action. Because it has a small staff and limited resources, the C.P.S.C. must use discretion in enforcing its standards. Industry's awareness of our enforcement strategy undercuts future enforcement activity, as well as the credibility of the standard itself.

Another conflict between F.O.I.A. openness and other important policy goals is pointed up by a decision of the United States Supreme Court in *C.P.S.C.* v. *G.T.E. Sylvania*, 100 S.Ct. 2051 (1980). The television industry sought to enjoin the C.P.S.C. from releasing, in response to F.O.I.A. requests, accident reports identifying specific brands and models of television receivers. A unanimous Court told the commission it could not disclose the information without adequate safeguards. Policy concerns other than openness were overriding. The language, legislative history, and public policy consequences of the Consumer Product Safety Act led the Court to conclude that the commission must take steps to assure that any information disclosed is "accurate" and "fair in the circumstances." In other words, fairness to the TV

firms that submitted the data was the paramount policy concern, instead of unqualified public disclosure.

While the ruling will place an enormous burden on the C.P.S.C. to assure the accuracy of information prior to release, there may be a hidden benefit. Firms and industries are more likely to submit sensitive data when they understand that it will be adequately protected from misleading disclosure. Armed with more complete information, the agency should be able to reach more informed decisions on product hazards.

Openness serves two principal purposes. First, it reduces the possibility of any impropriety or the appearance of it. Second, open access permits anyone who shares a stake in the decision to present a point of view. But accomplishing these two aims is not sufficient. They only help achieve the other policy goals on which agency performance is judged. But it is these goals—in the case of the C.P.S.C., preventing accidental injury and death—that are paramount. When agencies substitute process for purpose, they ignore the very reason for their existence.

It is important to ask, moreover, who benefits from the constraints imposed by openness. Theoretically, "the public" does. In practice, however, openness too often serves the narrow purposes of special interests. Do the news media flock to our meetings? Do the public interest groups vie for seats in packed hearing rooms? Do interested consumers wait in line to hear debates on the hazards they face? Hardly.

But, without fail, you'll find lawyers and lobbyists galore, all representing special interests. Those attending our meetings and burying us with F.O.I.A. requests are the very ones against whom the commission is considering action. They are paid to do just that.

In enacting the Sunshine and F.O.I.A. legislation, Congress wanted to give specific powers and tools to the public to guard against undue influence by special interests. Yet the very interests meant to be watched over have become the watchdogs. They, not the public, most often reap the benefits of openness, and at very high cost to the ability of government agencies to do what is expected of them.

Balancing competing considerations within a governmental agency is no easy task. But regulatory agencies must accord top priority to their substantive mandates, to what Congress originally asked of them, to their *raison d'être*. Adding other laudable aims to their task—openness, among them—has taken its toll. At times the added burdens have impaired the ability of these agencies to accomplish their primary mandates. Even praiseworthy means, such as open decisions openly arrived at, do not justify poor regulatory results.

When a formal regulatory decision is at hand, openness should be preserved to the extent possible. Those decisions may have major financial or social ramifications. They can affect so many persons in so many significant ways that it is important for all affected parties to observe and participate in the process. But when an agency is simply exploring issues devoid of any immediate regulatory impact—and especially at an early or preliminary stage—unfettered discussion should be encouraged. If candid dialogue is inhibited by openness and the overriding public interest does not suffer from any one person's exclusion, then preserving openness in those circumstances may be unwarranted.

We need first to identify those areas that must be open and those in which it is less important. It is time to reassess the true benefits and costs of openness in government decision making. By all means, let the sunshine in—remembering always, however, that too much of a good thing can be harmful.

ARMS SALES TO CHINA

Mr. PELL. Mr. President, yesterday, Secretary of State Haig, during a press conference, announced from Beijing that he had conveyed to China President Reagan's "* * * desire to inject new momentum into * * *" United States-People's Republic of China relations. I strongly endorse efforts to improve U.S. political and economic relations with the People's Republic and fully support Secretary Haig's attempts "* * * to promote the evolution of our bilateral relations with China on the basis of principles embodied in the Joint Communique on Normalization." For too long we, in the United States, pretended as if China's nearly 1 billion people did not exist or were of no consequence. It was not true then, and it is certainly not true today. It is very much in our interest and the interest of our allies to maintain and improve relations with China.

Having said this, I must admit that the specific arms sales proposals Secretary Haig discussed with the Chinese greatly disturbs me. Three previous administrations decided that it was not in American interests to provide China with lethal military equipment or technology. But, the United States has now indicated to the People's Republic of China that we are prepared to lift our munition list restrictions and have agreed in principle to consider selling Beijing both lethal and nonlethal arms on a case-by-case basis.

Whether one supports or opposes this change in U.S. policy, I believe such a significant change should not have occurred until the question had been publicly aired and debated. This is too important an issue to be decided without such a debate and close consultations with the Congress. At this point, however, the Chinese leadership knows more about our U.S. arms sales policy than we do here in the United States.

Mr. President, I ask unanimous consent that the opening statement from Secretary Haig's press conference yesterday be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT FROM SECRETARY HAIG

I came to China to clear the air, dispel some misaporehensions, and convey the President's desire to inject new momentum into our bilateral relationship with China. Specifically, I came to discuss with leaders of China major developments in the global strategic environment, regional issues of mutual concern, and some bilateral questions.

My discussions over the past three days have been unusually productive. They confirmed the importance we attach to high level contact with the leaders of the People's Republic. They also bore out my expectation that we face important opportunities for moving our cooperative ties with China on to a new plateau.

With regard to international issues, it is apparent that the strategic realities which prompted reconciliation between the United States and China more than a decade ago are more pressing than ever. U.S. and Chinese perceptions of the international situation have never been closer. Our common resolve to coordinate our independent policies in order to limit the Soviet Union's opportunities for exploiting its military power has likewise grown stronger. It is clear that China appreciates the steps taken by President Reagan to restore our military power, reinvigorate our alliances and ties to friendly nations, develop equitable relations with third world countries, and place our economy on a sound footing.

With respect to regional issues, we found that we shared objectives on virtually all issues. Even though our tactical approaches may differ on some. Naturally, much of our discussion focused upon the challenges posed by the Soviet Union and its proxies in Afghanistan and in Indochina. We shared a common determination to prevent the pressure of other events from deflecting attention away from this twin strategic challenge. Our objectives in both areas coincide—above all, in our resolve to press for the complete withdrawal of foreign military forces from Afghanistan and Cambodia.

On other issues, where our approaches differ to some extent, as in the Middle East and southern Africa, the discussions were useful in narrowing the range of disagreement.

On bilateral issues we made genuine progress. Regarding Taiwan, I explained that the unofficial relationship which has characterized the contacts between the people of the U.S. and the people of Taiwan since normalization of relations with the People's Republic of China will be continued, and this was understood.

I underscored our intent to promote the evolution of our bilateral relations with China on the basis of principles embodied in the joint communique on normalization. We discussed a number of specific ways in which cooperation can be expanded to our mutual benefit.

I conveyed the President's intent to treat the People's Republic as a friendly nation with which the United States is not allied but with which it shares many interests.

I informed them of the administration's intent to introduce legislation amending U.S. laws which lump the PRC with the Soviet bloc.

I outlined some changes in export control procedures which we hope will facilitate expanded trade with China.

There were a number of other specific results of these discussions.

I extended on behalf of President Reagan an invitation to Premier Zhao Ziyang to visit the United States. Premier Zhao accepted the invitation and will visit our country sometime next year. Premier Zhao also reconfirmed his invitation to President Reagan to visit the People's Republic.

As you may know, some of our oil companies have been concerned about possible problems of double taxation because of the way the Chinese tax code is written. I raised these concerns and Bo Yibo welcomed my suggestion that U.S. tax experts visit China to discuss the matter, which is of potentially great significance to future foreign investment in oil exploration.

With respect to economic cooperation, the Chinese and we agreed to hold the second joint economic committee meeting headed by Treasury Secretary Regan and Vice Premier Bo Yibo in China this autumn.

Bo Yibo also responded positively to the suggestion that a separate joint U.S.-P.R.C. Commission on Commerce and Trade be established, and agreed to consider a specific proposal at an early date.

I said in Hong Kong that I was not coming to China on an arms selling mission. But we did agree that exchanges between our respective defense establishments would con-

tinue to expand. And Vice Chief of the Pla Liu Huaqing Qy-Oh-Wa-Ching will bring a delegation to the U.S. in August.

With regard to consular matters, we reached agreement on an exchange of notes that will enable the PRC to open an additional consulate in New York and the U.S. to open one in Shehyang.

Because of our heavy schedule of official discussions, my colleagues and I had no opportunity to explore the world-famed classical attractions of Beijing. That extremely pleasant experience fell to my wife, who visited the palace museum, Great Wall, king tombs, summer palace and an experimental elementary school. She was also particularly pleased to have had an opportunity to meet with Madame Kang Keoing, vice chairman of the National People's Congress and vice chairman of the All-China Women's Federation.

I would also like to pay tribute to the many Chinese friends and American colleagues who worked so hard and so effectively to assure the success of this visit. I believe it was unusually significant and successful. It foreshadows the prospects that President Reagan's administration will be marked by a major expansion of Sino-American friendship and cooperation.

CONCLUSION OF MORNING BUSINESS

Mr. STEVENS. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

DEPARTMENT OF JUSTICE AUTHORIZATIONS, 1982

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the Department of Justice authorization bill. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 951) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from Connecticut is recognized.

AMENDMENT NO. 70 TO AMENDMENT NO. 69

Mr. WEICKER. Mr. President, for the information of my colleagues I will review the parliamentary situation with regard to the pending measure, S. 951, the Department of Justice authorization bill for fiscal year 1982.

When the first committee amendment to the bill was reported yesterday, the Senator from North Carolina (Mr. HELMS) offered an amendment to the committee amendment to add the following new language:

No part of any sum authorized to be appropriated by this Act shall be used by the Department of Justice to bring or maintain any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped.".

I spoke then, as I do today, in strong opposition to this amendment, as an amendment that is anti civil rights, as an amendment that is anti the Constitution of the United States. I indicated that this antibusing language was offered in a very deliberate way to incite passions to the point where passion rules, and logic, the rule of law, and adherence to the Constitution disappear.

I stated my position, that I suspect that we are going to have much of this kind of nonsense in the months ahead; and for that reason, I chose this moment and this amendment to draw the line. Nothing of this nature—in other words, nothing that is directed against the civil rights of all Americans, nothing that smacks of being unconstitutional—is going to be achieved easily in this session of the U.S. Senate.

I am not saying that I expect victory today, because, clearly, the votes are not here. But I am saying that the protagonists will have to go back to the locker room and get bandaged up and take a few jacuzzis and have a little rest before they will be ready to come back on the field.

I look toward the election of 1982 as being that moment in time when the American people express themselves very specifically on a type of issue which confronts the United States today.

This morning, when I came to the Senate with my stepdaughter, I had breakfast with her in the cafeteria, around 7:30. She asked me what this debate was all about. She asked me as to whether it was a matter of busing, whether that was what Senator HELMS and I were arguing about.

I allowed as to how, certainly, Senator HELMS felt this was a busing matter; but that, in truth, the argument related to civil rights. I told her that civil rights is something that goes far beyond busing, far beyond the relationships among blacks and whites and Hispanics—indeed, civil rights is an issue and is a matter of existence for every American.

Did she know that the rights of her younger brother, who is retarded, fell into the category of civil rights, his education coming, as it does, on the basis of Public Law 94–142; that this law was put on the books by those who were concerned with the civil rights of those who were disabled in mind and body—a law intended to see that the equality of opportunity which should belong to all of us as Americans was also available to this category of citizen?

Did she know that the rights of women fall into the category of civil rights? We have seen, from the statistics I quoted yesterday, aside from those who argue that everything is equal, that both in terms of job opportunity and equal pay for equal work, there is no equality between the sexes in this Nation today; that this is a matter of civil rights.

Did she know that the discrimination practiced against our senior citizens, the elderly, and the court actions that have taken place on the basis of that discrimination, and the fines levied on account of such discrimination, were matters of civil rights as it pertained to the elderly in this Nation?

Civil rights is really another term for the rights that are bestowed on each of us as Americans by the Constitution of the United States. It is not something that passes with each session of Congress or something that is bestowed by a particular party or a particular philosophy.

If, indeed, the Senate could restrict the ability of the Justice Department and the courts of this Nation to enforce the laws of the Nation and the Constitution of the United States in the instance of education and of desegregation of our schools—if that could be achieved by the Senate of the United States, why, then, as a matter of principle, could not the Senate of the United States, depending on its whim, its philosophy, or its partisanship, say what it is a court could or could not do vis-a-vis the elderly, vis-a-vis women, vis-a-vis the disabled and retarded?

That is why this fight has to take place.

It is not a matter, in other words, of the desegregation of the few schools. It is the principle, that if accepted as a matter of legislation and of constitutional process, would take the independent judiciary and politicizes it to the extreme.

There are many court decisions that I disagree with. There are many actions of the Justice Department that I disagree with. But I know that above all it is terribly important that this Senator, indeed this individual, LOWELL WEICKER, not interfere with the judicial process, with the process of justice of this country.

That is the issue that is presented to us today.

Now, the amendment which we are actually passing upon, in the first instance, is not the Helms amendment. What is it that I choose to have come to pass as modifying the concept advocated by the distinguished Senator from North Carolina? The amendment before this Chamber states the following:

Except that nothing in this act shall be interpreted to limit in any manner the Department of Justice in enforcing the Constitution of the United States, nor shall anything in this act be interpreted to modify or diminish the authority of the courts of the United States to enforce fully the Constitution of the United States.

I have to ask my colleagues, my constituents, those present in the Chamber today, is there anything in that language that would make you afraid as a citizen of this country? Is there anything in there to be ashamed of? Or regardless of your philosophy and regardless of what section of the country you come from, or your state in life, is it what you would hope would always be the case? Do you agree or disagree that the Department of Justice shall enforce the Constitution of the United States and the courts of the country will enforce the Constitution of the United States? Do you want anything less than that? Believe me sooner or later, every one of you will enjoy your lesser state and there will be no documents, there

will be no humanity, and no principle to speak up for you.

I urge my colleagues to get to the very important business of this country, among which business clearly is a rededication to the cause of equality of opportunity right across the board for all citizens.

I think it is terribly important that, understanding the origins of our greatness, we rededicate ourselves to seeking out even the one wrong, because in doing that we give to ourselves the spirit that can surmount all obstacles and without that dedication we fast lose our way.

I suppose one of the difficulties that I find with the present national mood is the business of putting everything on the basis of numbers and a numbers game. On that basis, was there ever any reason whatsoever, and now I go back to our earliest days, to advocate a correction of the conditions as they apply to the poor? Certainly, in terms of initial numbers, in terms of political strength, they were not a majority in the United States. Yet their civil rights were being severely restricted.

It is one thing to be a resident of our country. But without an education where is the opportunity? And that education was denied the poor or given in such quality that it did them little good when they did obtain their diplomas.

No. We made a conscious determination that education was important to every one of us, that with it, the horizons were unlimited. So we talked not just about education but an excellence of education to the point where today as I stand here, the quality given from our public educational system is fully the equivalent of that in the private. Yet within my lifetime that was not the case. A good education could only be obtained through the private sector.

So, first, we made the determination to educate and then, second, that excellence would be the essential part of that educational system.

Then we looked around and discovered that indeed there were particular circumstances that attended other members of our society, where they were a minority within a minority. A good example of that was what I referred to earlier, Public Law 94–142 which dealt with the disabled and with the retarded. And we found that the opportunity afforded them was very limited, again understanding that their future very much depended on educational opportunity for them being equal to that of normal children.

It was going to be expensive. It was going to be expensive, but if indeed we were talking about equality then the cost had to be paid.

So today, as I stand discussing this matter, I know that both the lot in life and the prospect that life holds for our retarded and disabled is truly unlimited. That was not the case 5 or 6 years ago.

And believe me I am not about ready to retreat on that commitment or see us go back to the dark ages as to how we view these very special members of our society.

Is there anybody who would deny that we realized early on that there was a very special problem when it came to those in our society, citizens of this Nation, who because of the color of their skin were receiving an education far inferior to that of the majority? It took a while to both recognize the problem and have the willingness to address it. But finally we did.

It took great assistance from the judicial branch of Government to accomplish this fact. The legislative branch had not tackled the problem and proffered the solution, but with the prodding of the judicial branch, the legislative branch came into the program and we moved into the matter of educational opportunity for all Americans, most particularly in this instance those who were black, those who had either had no education or inferior education for nigh on to 200 years.

There are those who are going to say, as they do in this amendment, "Well, the actions we took have not achieved the hoped-for end." What I have seen done in just a matter of 20 years sure beats the dickens out of what was done for the preceding 180 years.

I saw the States handle the matter, as did everyone else. We saw the private sector handle the matter, as did everyone else. What was required of us as a people to live up to the words we have in our Constitution was indeed expensive in terms of lifestyle and money.

But why is it then today, some 20 years later, there are blacks in positions of authority, in business, in the law, in medicine, in government? Why, if all this was a failure, is the complexion of America so different in terms of those who are in the leadership of this Nation?

The fact is on the basis of results, not speculation. What this Congress and the courts devised was not a failure. What we are being asked here today is to return to that time of doing nothing, and again clearly that bottom line result speaks for the failure of that approach.

Mr. President, I wonder if I might have order?

The PRESIDING OFFICER (Mr. GORTON). The Senate will be in order.

The Senator from Connecticut may proceed.

Mr. WEICKER. On what basis does this body presume to inject itself into the justice process? Certainly, we have the right to make the laws, certainly the right, especially in the Senate, as a matter of advise and consent, to play a role in the appointment of judges.

What we are saying here today is even though we have a role to play in the appointment of judges, even though we are going to make the laws, in other words, we are going to have the players on the field, we are going to make the rules of the game, but then if the game does not go the way we want it to go, we want to be able to cancel out everything we have done.

What I am saying here today basically to all of that is "No, no." We started it, and we are going to now have to see what the finish holds for all of us as citizens of this country, whether we are Senators or whether we are a part of those whom we serve, the citizenry of the Nation. We are not going to get more than one swing at the pitch of justice in this country.

I saw the same process take place with many of our regulatory agencies, where Congress, having set up the agency in hopes of remedying a particular problem or advancing a particular opportunity in this country, then did not like what the agency did, so they said, "We are now going to go ahead and control it by keeping a hand on funding."

There are tough decisions to be made in this country, very tough decisions. But if we choose to follow the route of assigning them either to an agency or to a court, then we have to accept the consequences of that buck-passing.

I want to cite again the example of what happened right here on the floor of the Senate in the past session of Congress when the exact same language, the exact same scenario, took place: Senator HELMS coming forth with his "antibusing," anti-civil-rights language; Senator WEICKER adding his amendment, reaffirming the role of the courts of this country and reaffirming the provisions of the Constitution. I wish I could read you the rollcall of Senators coming up to me on the floor and saying, "LOWELL, you are absolutely right, but this is a political hot potato and, quite frankly, the President can go ahead and handle it. So even if we pass the bill on the floor of the U.S. Senate the President will veto it. It is unconstitutional, LOWELL."

Can you imagine recognizing you are voting for something you perceive as unconstitutional? What kind of an exercise in leadership is that?

Then, having passed on the floor—or rather—the Weicker amendment having lost, the press obviously immediately contacted the White House and the word was sent back. Fortunately, it was not a word that was to hold: President Carter lived up to the title of being President of the United States in this instance. He made the tough decision. But in any event, the initial word out of the White House was, "This is a hot potato and it is more probable than not that the President will let this slide off and let the Supreme Court make the decision as to whether it is constitutional or not."

Just in that time, those few hours, you had a microscopic view of the problem that we find ourselves in today as a Senate complaining about that which "we have no control over either in the judicial or the regulatory sense."

If you choose to have others make the decision, then you are stuck with the decision they make, and that is what people in this Chamber do not like, and if they do not like it, I would suggest to them that they make the decision themselves.

Now there is a solution other than busing to the educational problems which confront this country. But, believe me, my colleagues, Mr. President, it costs money and it is big bucks. The minute you talk that kind of big bucks, you had better start talking taxes, to go ahead and raise them, and nobody wants to talk spending big money and nobody wants to talk taxes. So we would prefer to have somebody else handle it, feeling that would be the cheaper way politically.

Now we are learning it is not so cheap; that in order to go the other route while

achieving a political end here, it is necessary for us to disregard our oath of office to the Constitution of the United States or, rather, even to totally disregard that document itself.

If you want equality of educational opportunity, you want the same physical plant, the best there can be in every school district, the highest quality of teacher you can find, the best programs in every school, absolutely equality, you will have equality of educational opportunity. You will have people attracted to those schools. But that is not the way it works.

The costs will be monumental. I am perfectly willing to vote for that also. I am perfectly willing to vote for that money and those taxes and not have the court decide how we are going to achieve the equality.

I suppose what I am saying to my colleagues in the Senate is that you cannot have your pocketbooks and your prejudices intact. It does not work.

Two hundred years of doing the wrong thing is going to cost. You are going to have to pay for it in dollars, you are going to have to pay for it in lifestyle. The last alternative is you do not have to pay as long as you cheapen or diminish the goal. Then it does not cost as much in lifestyle or money.

You can say to yourself, "Well, that is a great idea, the equality of opportunity. But in this case, we just got to pull it down to a little bit lower level." That is the third way out and that is what I will have no part of; no part of.

We can go ahead and give opportunity to all of those that are disabled and retarded in this country if we go ahead and pay for it in terms of money or in lifestyle, or we can all of a sudden make a new determination at this time in our political history, that, no, really, the retarded and the disabled do not deserve that chance at equality; let somebody else take care of it. We will just go ahead and lower what it is that we dream for them, that we hope for them. We will make life a little bit better, but not quite equal.

As far as our elderly are concerned, something a little bit less than equality; something a little bit less than that which each one of us hope for with all of our strengths and all of our abilities; something a little bit less for the elderly of this Nation.

Do you know what happens eventually? Slowly but surely the whole Nation just comes down a few notches. It is no longer the best. It is no longer what we demanded for ourselves—the best. It is second best. And once you start to think like that, it becomes third best and fourth best and our place on the stage of history as a great nation will have been one of the shortest on record for any nation.

Two hundred years old. Small in population. Not all that big in land mass. Preeminent in the world. And probably more so than any other reason it was that we never settled for second best.

But the dreams as they were pursued—and they were that, they were dreams—as they were pursued they came into a reality that was nothing short of the dream itself. I do not want to stand on this floor speaking for any part of our society and wish for anything less than what has been given to me, what I have and what I hope for.

Now I realize that society is going to shape its priorities in terms of general policy from time to time and that it is going to shift. That is to be expected in this political process. But there are certain touchstones, certain markings, certain buoys that have to remain constant.

One of those is this Constitution. What is being done out here, in an invasion of judicial and executive independence we cannot in effect amend the Constitution of the United States except as is called for in the Constitution of the United States. You cannot do this by the end-around that is being proposed here by the Senator from North Carolina and the Representative from Texas.

If there are to be different classes of the citizenry, if there is to be different treatment accorded to different classes of the citizenry, then go ahead and pass a constitutional amendment, say so in the Constitution of the United States. But do not go ahead and try to use the authorizing function here to intrude upon the judiciary and the executive branch of the Government in a way that diminishes the civil rights of every American.

Do you think you could pass a constitutional amendment that says the Senate of the United States can tell the Justice Department when it should or should not appear in court on behalf of any one of us? Do you think you could pass a constitutional amendment in this country that says the Senate of the United States shall tell the courts of the United States what they can or cannot adjudicate?

Why, you know that that would not get 1 percent of the votes out there. Not 1 percent. If it be known—I say this not very willingly as a Member of this body, believe me—if you want to put it on a popularity scale, the people of this country far more believe in the judges than they do the Senators. And maybe that has something to do with the perception of integrity and I am now talking about intellectual integrity. Maybe it has something to do with the perception of who it is that is playing politics and who it is that has a commitment to the Constiution of the United States.

I would not let this go up to a constitutional amendment. I think we would fare very badly with this kind of legislation, were the American people to ultimately decide what should or should not be done.

Do you want to know how this divides? Do you want to get into this business of setting one of us against the other? Listen to the amendment proposed by the Senator from North Carolina. Listen to it very carefully:

(D) No part of any sum authorized to be appropriated by this Act shall be used by the Department of Justice to bring or maintain any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped.

See what happens? I am supposed to feel grateful as a parent of a retarded child to see I am going to be off the hook. They are not going to do this to my child.

Do you see how this dividing process starts? White and black, those who are whole, those who are somewhat disabled, those who are rich, those who are poor.

No, no. That is exactly what this document makes sure will not happen. That is why there is the Constitution of the United States, because if we were all to become black, if there is only one white, that person would be just as important as all those who are black. We can all be termed normal, and that one normal is just as important. That is what this is all about. It does not play a numbers game. It does not understand numbers. It does not understand majorities.

It says that each one of us is as important as the other.

That is what you want to go ahead and dilute, modify? That is what you are going to adjust downward?

This is great, this is great stuff, this Constitution.

This business of the amendment which says what it is that Justice can do in this country is rot, spelled r-o-t.

I think the job, really, which confronts all of us as citizens is what is left to be done, not to look back and say what is it we have done but what is left to be done.

There is more work out there for our generation on what is left to be done in terms of humanity than any of us will be able to achieve if we spent full time at it in the course of our lifetime. It takes no great advocate, it take no U.S. Senator, no special genius to go ahead and see clearly that education is not equal for all of our citizens. It also take no special genius to understand that really nothing can move forward unless that education is in place for every one of our citizens.

I find it interesting that those who want to cut down on the cost of Government, those who complain about the high cost of welfare, who turn their heads at the enormous unemployment that exists among young people, among minorities, are the same ones who also want to cut back on the education when, indeed, the investment made there takes care of the subsequent problems.

I would hope that the Justice Department, under the Attorney General and under the President, would vigorously pursue in every way the dream of quality of educational opportunities for all Americans, and where somebody is violating the law they not only be told that they are violating the law but they be ordered to straighten out their act. Discrimination is illegal. Segregation is illegal. Separate but equal is illegal. Illegal.

None of these matters being complained about in terms of remedy even come to pass until that first determination has been made, that is that an illegality exists. But apparently now we have a new concept of justice. As long as a majority support the illegality in political terms we say nothing about it. Law and order. Law and order.

Advocates of this legislation before us want law and order. Yes, there is law

and order. This is law and order that I am talking about right now.

An illegality is determined; so what are you going to do about it? Everybody is concerned about somebody running around the inner city doing bodily harm to a victim, and we should rightfully be concerned. But what about the harm that is done by those sworn to uphold the Constitution when they want to ignore the Constitution and ignore the law? Because it is more sophisticated, is it any the less the crime?

It is far more the crime. We are supposed to know better. We have been placed in that situation where, by virtue of economics and education, we, above all, should understand both the consequences of wrongdoing and that which is required to end the wrongdoing.

Because enough people do not agree with the verdict, the judgment, are we saying as a nation that we are not going to obey? Is that what we are saying? Are we going to lead the lawbreakers here on the Senate floor in terms of how we view the Constitution, because we do not like what the Supreme Court does, because we do not like what the Justice Department does? All of a sudden it is no longer what is legal or not, but what we like.

Well, fine, let everybody, 250 million of us, go out and figure out our own set of laws. It is not a matter of what we like. It is not a matter of what brings us the most votes at election time. It is a matter of what law is about. In the separation of powers, when it comes to the Constitution, and when it comes to the right to declare a remedy on an illegality, it is all a matter of law, not what we like or what we think is right or what we think is wrong. It is a matter of the law.

This is a government of laws, not of men, and yet it is slowly being turned around into just that which brought us into being as a nation in the first instance.

It used to be before there was a United States of America that if individuals high enough up did not like the law, they could ignore it or in some instances disobey it. Because that became too common a practice, more than just a few said, "I have had it." And that few came over here and they decided that, at least for them, there was going to be a government of laws, and the epitome of that is embodied in the Constitution of the United States.

Mr. BIDEN. Mr. President, will the Senator yield for a question without losing his right to the floor?

Mr. WEICKER. Of course I yield for a question.

Mr. BIDEN. Is the Senator suggesting that the U.S. Senate and Congress do not have a right to speak to what remedy the Court can use after they have determined there has been a constitutional violation?

Mr. WEICKER. I am saying to the Senator that, if he wants to write the law, which includes the remedy, I suggest he please do so.

Mr. BIDEN. Well, the law is there. The Constitution says and the courts interpreted that separate but equal is not equal and if the Court finds such a system exists, it can declare it unconstitutional.

Mr. WEICKER. No, it declares it illegal.

Mr. BIDEN. Also illegal, but it declares it unconstitutional. But then it has a number of remedies available to it. One of those remedies, as the law exists now, is busing. One of those remedies is the redrawing of school district lines. Another of those remedies is to realine the grade structure of the schools; still another remedy is to close certain schools.

So there is a whole array of remedies available to the court just as when someone murders someone else, there are a number of remedies the court has available when it adjudicates guilt. They can send someone to prison for a fixed period of time, or for life, or even put someone to death, in some instances. I always felt that Congress and the legislative branch had the responsibility to speak to those remedies, just as we set sentences for certain offenses.

Mr. WEICKER. Agreed; I say to the Senator he has made my point. He has not spoken—I say he—we as a body have not spoken.

Mr. BIDEN. As I understand the situation here, the Senator is saying that we are proscribing one remedy that should not be used.

Mr. WEICKER. We are saying, one we do not like.

Mr. BIDEN. That is right.

Mr. WEICKER. I suggest that if we want to tackle this problem, we should set forth what the law is and what the remedies are to the courts and the Justice Department. But we should not come in after the fact and say what we do not like when, indeed, we have forfeited our right to say what the remedy shall be.

The Senator is making exactly the point. We chose not to speak on this issue. Now that someone else has spoken, we want to get in. We do not like that.

We should have stood up and spoken in the first instance. We could have spoken in the way, I say the Senator, which is the most meaningful, which was to go ahead and appropriate the moneys necessary to get around this problem. We do not want to do that, either.

What remedies would the Senator suggest are appropriate? I should like to hear his answer. This is a great opportunity for the Senator to lay on the record those remedies which are going to address themselves to declared illegalities in terms of school segregation.

Mr. BIDEN. Mr. President, I should be delighted to do that. Let me make clear for the record that this is not my amendment. I do not think it is the best route in which to go. I think it is fraught with difficulties, but let me respond to the Senator's question.

I remind the Senator that this Senator, from Delaware, rose on the floor of the Senate in 1975 and suggested that busing did not work and that busing was not an appropriate means to deal with the problems facing our society with regard to racially imposed segregation. I remember at that time suggesting that we should, in this body, have a comprehensive approach which would embody the following measures: We should appropriate large sums of money to be targeted to inner cities primarily, and to poor rural school districts, to deal with the problems of inferior schools. We should also put forward legislation that encompassed some of the following proposals, including the establishment of magnet schools, the establishment of gifted and talented programs in districts that would attract the best and the brightest students on a voluntary basis.

And I remember at that time, some of my colleagues criticizing me by suggesting that I should not be jerry-rigging the whole school system and that what I was attempting to do, notwithstanding my commitment—to spend all that money—that my proposal was not within the prerogative of the Senator and this body. Although I had the right to do it, it was not good policy.

Now here we are, Mr. President, further down the road. I think with the single exception of this busing issue, the Senator's views and my views parallel on civil rights and civil liberties. No one in this body, in the 9 years I have been here, has accused me of not being a staunch advocate of civil liberties and civil rights.

Mr. WEICKER. The U.S. Commission on Civil Rights does, but aside from that——

Mr. BIDEN. The U.S. Commission on Civil Rights does because they do not like my position on busing, one single issue. I am a cosponsor of the Voting Rights Act. As the ranking member of the Judiciary Committee and a member of the committee, I have been associated with every civil rights bill that has come down. I have voted for them, made a contribution to them, and/or initiated them.

The Senator from Delaware has said the single worst thing we can do for the civil rights movement is continue to push a remedy that is extremely counterproductive. It is counterproductive because it undermines the basic support among the majority of American citizens that we need to get in order to pass major civil rights legislation. It is counterproductive even in terms of the goals that it sets out to accomplish; that is, to better the educational opportunities of disadvantaged students in this country. And, most of all, it is counterproductive because it is extremely unrealistic.

What the Senator is suggesting is what many 1960's liberals—and I am not categorizing the Senator as a 1960's liberal—though it seemed to make sense at the time. We decided that we were going to handle the problems relating to segregation in this country, most of which stemmed from housing patterns and employment patterns, by requiring the educational system to solve all of the problems relating to civil rights in this country, notwithstanding the fact that there might not have been an intentional attempt to discriminate within the school system.

If the Senator will recall, and this made some sense—at the time, we were dealing with the outgrowth, as the Senator knows, of busing.

But busing as a remedy did not come early, it came late. The reason it came late is the court got frustrated. The

court said, "Separate but equal is not equal, so we want to do away with dual school systems," and ordered everybody to do that. We had some creative local school systems in States in the South and I categorize my State as part of that. We were segregated by law, something I am not at all proud of.

What happened was that we found that very enterprising local authorities decided, by many different methods, including gerrymandering school districts, a way by which they could avoid the court order. So the court began to evolve a process whereby they would break that down to stop people in those jurisdictions from being able to continue to maintain those segregated school districts.

Mr. WEICKER. If the Senator will yield, I want to make sure the record is clear that the Senator is asking a question.

Mr. BIDEN. Yes, this is a long question.

Mr. WEICKER. Oh, this is a long question.

Mr. BIDEN. That is true, this is a long question.

I shall ask the Senator at the conclusion of this long question if he would like to respond to keep it in the form of an interrogatory. What happened, it seems, is that as we dealt with the problem of doing away with segregatory practices in the South, we had a situation—and I am probably oversimplifying in the interest of time, but I think I am not being inaccurate—wherein black and white people lived together in the same neighborhoods.

But the way living patterns developed in the North was very different. They were somewhat analogous to all other migratory patterns that occurred. When the Italians came, when my Irish ancestors came, when the Poles came, they tended to go to the Irish, Polish, and Italian ghettos, and they tended to live together.

Well, as blacks moved North, they tended, as a consequence of laws being imposed upon them because of where they could and could not live, to live in areas that were not integrated.

If you ride through a small town in most Southern States you will often find a black family and a white family living on the same block. You do not find that very often in the North. So when busing came along as a remedy to solve segregation in the South, it made some sense, because essentially what you had was a black family and a white family living on the same block, but going to separate schools, white to the white school and blacks to a black school. Authorities drew district lines that would literally go between the houses and the yards and down the middle of streets. Consequently, all the blacks would end up in one school and all the whites in another school, even though they lived in the same area.

The courts said, "Look, we look at this imaginary town of Smithville, with a population of 40 percent black and 60 percent white, but, coincidentally, the two schools in Smithville, one is 100 percent black and one is 100 percent white. Something is rotten in Smithville. So we will tell you what we are going to do, Smithville. We are going to require you to prove you are not segregated by putting in a racial balance test. We are going to apply numbers. The schools had better reflect a 60-to-40 white-black ratio because we know that in Smithville, 60 percent to 40 percent of the population is the white-black breakdown and it is an integrated breakdown."

But when they got up North, in New York, Connecticut, Michigan, and other places—and I am not suggesting that northerners are any less prejudiced, any more good spirited, any better than southerners; but because of the way the living patterns developed, you found in Smithville, Pa., the blacks all lived in one corner of Smithville and the whites were interspersed in the rest of Smithville. There was no integration in the living pattern, so you had a reverse dilemma.

In the South, you had integrated living patterns and segregated facilities, whether it be the schoolbus, the park fountain, or the local transit authority. In the North, you had, by and large, integrated facilities but segregated neighborhoods.

So the court came along, and, understandably, out of the evolution of their frustration, applied the same method designed to solve the Southern dilemma in the North.

But guess what that meant. That meant a very preposterous arrangement, whereby they had to attempt, through the school system, to rearrange a living pattern that had developed, some of it by happenstance but much of it as a matter of law.

Instead of going in and bringing actions against developers, housing complexes, and individuals based on the fact that they had restrictive covenants as to where people could live, instead of demanding, as I have suggested over the last 8 years, that when we build Federal housing, you had better have some blacks living in that housing project instead of suggesting that you had better have low-income housing interspersed with middle income housing; instead of attacking the problem, which was housing, they went to the schools and said, "Now, look, you education folks in the schools, you take care of all our social problems. You may not be able to adequately teach kids how to read, write, add, and subtract; but, in addition to not being able to teach kids how to read, write, add, and subtract, we want you to teach them to be sexually well adjusted, to be good citizens, and solve the problems that relate to segregation in America."

Some school officials said that does not make a lot of sense, but because many school district authorities were mean spirited, and had participated in actions that were racist or had racist intent, those of us who are considered liberals and moderates kept our mouths shut because we did not want to be seen as supportive of George Wallace who was standing is front of the school door. We did not want to be associated with that. So we did not look very closely at what was happening. It was just very fashionable to say, "Hey, guess what? This is civil rights. Therefore, I'm for it." And busing became defined as civil rights.

My question is almost over.

[Laughter.]

So what happens is that now some of us who have been associated with the civil rights movement—and I believe I have some credentials in this area. When I was in high school and college—I do not know where the Senator was then, since I got elected a little after he did—I was riding buses, sitting in on Route 40, integrating restaurants, and all that kind of thing.

I was a criminal defense lawyer, who represented the Black Panthers of my city at one time.

But even some of us guys said, "Hey, look, busing is not working. It's dividing the country. It's moving the civil rights movement backward, not forward. It's not helping education very much. It's not the way to attack the problem."

If you have a problem in housing, go to housing. If you have a problem in education, go to eduction. If, in fact—and I am sure the Senator agrees—the school district was intentionally designed to keep blacks out or anybody out, then we should use whatever methods are available to eliminate that segregation even if it means redrawing the whole school district line.

But that is not what is happening now. We have Federal judges, well-intentioned men and women, who sit and say, "You know what, it looks like Wilmington, Delaware, and New Castle County are 21 percent black. Therefore, it seems like a good idea that every school district in the area and every school be 21 percent black."

The fact that blacks do not live in the same neighbodhoods that whites live in and the fact that there is no evidence that the people up in that school district did anything to keep blacks from going to the school, does not matter, because we have an objective. The objective is to integrate society.

That may be a laudable social objective, but it is not a constitutional imperative. There is a distinction between integration and eliminating segregation.

Now, here is my question: Will the Senator acknowledge that there could be a school that was absolutely 100 percent black and not be segregated? Does the Senator think such a circumstance could exist? A 100-percent black school, not one white person, and that school not be segregated. Is that possible?

Mr. WEICKER. That is possible.

Mr. BIDEN. I yield the floor.

Mr. WEICKER. I say to the Senator that, as he knows——

Mr. BIDEN. Not that I have had it.

Mr. WEICKER. The Senator cannot get off the hook that easily.

Mr. BIDEN. If the Senator asks me a question. I have the floor, and then he is in trouble. [Laughter.]

Mr. WEICKER. I will be glad to try to elicit from the Senator a response.

Let me put it this way: Will the Senator deny his previous act? The amendment now before the Senate is an amendment that says: "except that nothing in this Act shall be interpreted to limit in any manner the Department of Jus-

tice in enforcing the Constitution of the United States nor shall anything in this Act be interpreted to modify or diminish the authority of the courts of the United States to enforce fully the Constitution of the United States."

After that very fine and articulate presentation as to the Senator's commitment to civil rights, this amendment does not mention the word "busing," has nothing to do with busing whatsoever. It merely is an affirmation of the right of the Justice Department to enforce the Constitution and the courts to enforce the Constitution.

Does the Senator intend to vote for that amendment?

Mr. BIDEN. I intend to support the right of the Justice Department to enforce the Constitution, but I would be very happy to vote for that amendment if we had a little dialog here and the Senator acknowledges that the intent of that language is in no way to diminish the intent of the original amendment of Senator HELMS, which is to get the Justice Department out of the busing business.

Mr. WEICKER. Let me put it this way: The Senator knows a lot better than I do that he already has voted against this amendment once before, last year.

Mr. BIDEN. That is right.

Mr. WEICKER. The Senator was not voting against busing. He was voting against the rights of the Justice Department and the courts to enforce the Constitution. That is what he voted against.

Mr. BIDEN. That is not correct.

Mr. WEICKER. That is correct. That is all the amendment said. Now the Senator is saying, "I will be glad to vote for it as long as that enforcement role is one which I agree with."

Come on. The Senator knows our Constitution just as well as I do. He knows the whole intent of the three separate branches of Government is that we maintain the independence of each and we do not make an incursion on each other's responsibility which in effect detracts from the independence of each one of those branches.

I know what is going on here and so does the Senator from Delaware.

I stated at the outset, No. 1, this is not even a busing argument. It is a constitutional argument. It is a civil rights argument. Busing is a nifty political buzz word and one that might incite passion and get votes or turn off votes, whatever.

We find we have to make a choice now in picking against a constituency and reelection and defending this Constitution.

I do not think busing is such a hot idea as far as the State of Connecticut is concerned. I know I am not going to tell the courts and I am certainly not going to go ahead and tell the Justice Department what it can or cannot do to protect the rights of all the citizens of my State.

That is what is at issue.

So I repeat as I stated at the outset of this argument. Busing is a very convenient way to take attention away from the principal issue which is: If this type of legislation passes, then every time the justice and the court system does something that we do not like, we move in, but otherwise they can handle all the dirty problems that we shove out of our Chamber.

Last, the Senator mentioned the additional funding for education, that he voted for that every time.

I have not taken a look to see exactly what the rollcall was.

I also proposed an amendment which proposed a tax to go ahead and raise the money. I had no support in the Chamber.

It is fine to say we are going to vote a little money here to go ahead and take care of this problem. But what about the taxes to pay for that?

Mr. BIDEN. I support the Senator on that.

Mr. WEICKER. I do not think the Senator did that. I do not think I had a vote in the Chamber. It is easy to figure out where everyone is.

Mr. BIDEN. I am not sure of the interpretation of the Senator's amendment.

Mr. WEICKER. I think that the Senator has every right to go ahead and pronounce his judgment on the educational system of this country and how it is that we have or have not succeeded in desegregation efforts.

I said here at the outset and repeat, as I do not think the Senator was in the Chamber when I said it before, I have no hair shirt on about what the public education system of the United States accomplished.

Maybe again the Senator is sensitive to these little articles that appear that SAT scores have gone down and some people cannot read and write.

When I see what has been achieved, it has been an enormous success. With whatever shortcomings it has, like anything else where one tries, one is going to stumble to some degree, but the public education system of this Nation has nothing to apologize for.

No. 2, for whatever disagreeableness and failures might have occurred in the desegregation effort, the fact is desegregation has occurred, but it only occurred not only as a matter of law but as a matter of total commitment by the leadership of the political constituency, whether that happens to be national, local, or State.

That probably is more important than any law that has been written.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. WEICKER. I yield, but I wish to protect my right to the floor at this juncture. I am more than willing to accommodate the leadership in whatever the leadership wishes to do. I want to protect my right to the floor.

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate disposes of S. 1193 and resumes consideration of S. 951 that the Senator from Connecticut (Mr. WEICKER) is recognized.

The PRESIDING OFFICER (Mr. COHEN). Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF STATE AUTHORIZATIONS, 1982 AND 1983

Mr. STEVENS. Mr. President, I ask unanimous consent, pursuant to the order previously entered, that the Senate now turn to the consideration of Calendar Order No. 96, S. 1193, the Department of State authorization bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1193) to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it so ordered.

Mr. PERCY. Mr. President, today the Senate will consider S. 1193, a bill authorizing appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, the Board for International Broadcasting, the Arms Control and Disarmament Agency and the Inter-American Foundation.

The total amounts authorized by this legislation for fiscal years 1982 and 1983 are $3,124,105,000 and $2,837,034,000 respectively. This represents a cut of $26,250,000 from the administration's fiscal year 1982 request and $32,250,000 from the administration's fiscal year 1983 request. Despite these reductions, I believe that this bill will provide the U.S. foreign policy agencies with adequate resources to carry out their various mandates and to promote U.S. interests abroad.

I ask unanimous consent that the following table which compares the administration's requests with the committee's recommendations be printed in the RECORD:

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ADMINISTRATION FUNDING REQUESTS—FISCAL YEARS 1982 AND 1983

[In thousands of dollars, fiscal years]

	1981 authorization	1981 appropriation (CR)	Revised 1982 request	Revised 1983 request	Committee 1982 recommendations	Committee 1983 recommendations
Department of State:						
Administration of foreign affairs	1,009,895	948,139	1,318,754	1,248,059	1,318,754	1,248,059
International organizations and conferences	525,082	516,941	563,806	554,436	523,806	514,436
International commissions	26,081	24,713	22,508	22,432	22,508	22,432
U.S. bilateral science and technology agreements	1,400	1,400	3,700	3,700	3,700	3,700
Migration and refugee assistance	517,298	456,241	553,100	460,000	560,850	467,750
Total	2,079,756	1,947,434	2,461,868	2,288,627	2,429,618	2,256,377
International Communication Agency	465,944	447,915	561,402	482,340	561,402	482,340
Board for International Broadcasting	86,787	99,700	98,317	98,317	98,317	98,317
Inter-American Foundation	15,964	15,964	12,000	(1)	12,000	0
Arms Control and Disarmament Agency	20,645	17,000	16,768	(1)	18,268	(1)
Asia Foundation	4,100	4,100	0	0	4,500	0
Total	2,673,196	2,532,113	3,150,355	2,869,284	3,124,105	2,837,034

[1] Such sums as may be necessary.

Mr. PERCY. In addition to authorizing funds for the above-mentioned agencies, other sections of this legislation: Earmark $18,750.000 for the resettlement of Soviet and Eastern Europe refugees in Israel; earmark $2,085,000 for the reopening of consulates in Turin, Italy; Salzburg, Austria; Goteborg, Sweden; Bremen, Germany; Nice, France; Mandalay, Burma; and Brisbane, Australia; earmark $45,800,000 in fiscal year 1982 and fiscal year 1983 for the Organization of American States; earmark $1,500,000 for the International Committee of the Red Cross for its prison visitation program; require that the fiscal year 1982 and 1983 assessed contributions to the United Nations be an amount equal to the assessment minus 25 percent of the budget of the Committee on the Exercise of the Inalienable Rights of the Palestinian People and the Special Unit on Palestinian Rights; provide for an ex gratia payment of $81,000 to the Government of Yugoslavia as an expression of concern for the injuries sustained by a Yugoslav national as a result of an attack on him in New York City; grant authority to the Secretary of State to extend the duration of passports and to raise the passport fee; provide the legal authority to pay arrearages in the U.S. assessments for the International Institute for the Unification of Private Law and the Hague Conference on Private International Law; remove the legislative ceilings on the assessments to the Pan American Railway Congress and Institute of Geography and History; establish the position of the U.S. Representative to the International Organizations in Vienna; authorize the Department of State to lease living quarters for the U.S. staff at the U.N.; establish a Buying Power Maintenance Fund in the Department of State; authorized $4,500,000 for the Asia Foundation in fiscal year 1982; authorize $12,000,000 for the Inter-American Foundation in fiscal year 1982; provide an additional educational round trip for dependents of Foreign Service personnel; provide various changes in the administrative authorities of the International Communication Agency (ICA); mandate the threefold increase of ICA's exchange-of-persons programs over the next 4 years; merge the Board for International Broadcasting with the Board of Directors of RFE/RL, Inc.; modify ACDA's security clearance requirements to facilitate the prompt assignment and assumption of duties of former military and Foreign Service officers; authorize research by ACDA in all aspects of anti-satellite activities; and repeal various obsolete provisions of foreign affairs law.

In conclusion, Mr. President, I wish to commend the Foreign Relations Committee for taking the administration's funding requests, which had already been severely pared by the Office of Management and Budget, and finding other areas of savings to bring this bill to the floor below the President's budget.

Mr. President, I certainly commend the staff director of the majority, Mr. Ed Sanders and also Mr. Christenson, the staff director of the minority, because of the fine way they have worked with staffs and with the Senators to bring about this budget.

I hope my colleagues will keep this in mind in considering this legislation and support the bill as reported by the committee.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, this bill, the Foreign Relations Authorization Act for fiscal years 1982 and 1983, provides the authority to run the Department of State, the International Communication Agency (ICA), the Board for International Broadcasting (BIB), and the Arms Control and Disarmament Agency (ACDA). These agencies are the principal instruments for advancing American foreign policy interests around the world and, as such, play a role as important as that of the Defense Department in enhancing America's security.

I am pleased to report that, thanks to a proposal offered by Senator GLENN, the committee was able to come in with a budget lower than that of the administration. The Glenn proposal—which simply accelerated the administration's deferral program for contributions to 15 international organizations—saved $40,000,000. This increase allowed the committee to better support certain deserving programs, notably in the area of humanitarian assistance, and still make substantial savings.

This bill provides a barebones authorization for our foreign policy agencies and it is certainly in line with the reductions being made across the board in Government programs. In the long run, however, I am deeply concerned about the erosion of support for our foreign policy agencies.

For example, since 1960, the number of Foreign Service officers has declined from 3,717 to 3,564. In exactly the same period, the workload for these men and women has increased considerably. The number of embassies, consulates, liaison officers, and missions to international organizations has increased from 165 to 224, while consular work has increased 900 percent and Washington's demand for reporting cables has increased 400 percent.

In the area of our public diplomacy there has been a similar decline—the number of Fulbright participants is now 5,500, down from 9,000 in 1966. The international visitors program has declined from over 2,000 in 1966 to less than 1,600 today.

We must recognize that effective public and private diplomacy is a critical component of our national security. Diplomacy is also cost effective.

This bill contains several modest proposals—notably amendments to reopen seven consulates closed during the previous administration, and to increase our exchange programs—which will enhance the U.S. presence worldwide. I hope it will be the beginning of a process of strengthening our vitally important diplomatic arm.

I would add that this bill was arrived at in a consensual way with cooperation between the majority and minority staffs.

UP AMENDMENT NO. 156

(Purpose: Technical Amendment)

Mr. PERCY. Mr. President, before recognizing the distinguished Senator from Florida, I would just like to take a moment to send to the desk an unprinted technical amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 156.

On page 11, line 17, strike the words "no less than".

Mr. PERCY. Mr. President, this amendment is technical in nature and is designed to eliminate ambiguity with respect to section 113. The current language could be interpreted to imply that

no less than $20 million of the buying power maintenance fund must be used every time there is an adverse fluctuation in the currency rate. This is not the intent of the committee and I wish to delete the words "no less than" found on page 11, line 17 of S. 1193.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois (Mr. PERCY).

The amendment (UP No. 156) was agreed to.

Mr. PERCY. Mr. President, I believe the Senator from Florida would care to seek recognition for her amendment.

Mrs. HAWKINS addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 68

(Purpose: To provide for distribution within the United States of the film entitled "In Their Own Words")

Mrs. HAWKINS. Mr. President, I call up my amendment No. 68 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida (Mrs. HAWKINS) proposes an amendment numbered 68.

Mrs. HAWKINS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 23, between lines 5 and 6, insert the following:

DISTRIBUTION WITHIN THE UNITED STATES OF THE FILM ENTITLED "IN THEIR OWN WORDS"

SEC. 203. (a) Notwithstanding the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431)—

(1) the Director of the International Communication Agency shall make available to the Administrator of General Services a master copy of the film entitled "In Their Own Words"; and

(2) the Administrator shall reimburse the Director for any expenses of the Agency in making that master copy available, shall secure any licenses or other rights required for distribution of that film within the United States, shall deposit that film in the National Archives of the United States, and shall make copies of that film available for purchase and public viewing within the United States.

(b) Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the International Communication Agency.

Mrs. HAWKINS. Mr. President, this amendment permits the International Communications Agency to release one of its films for public viewing in the United States. First, I would like to mention and commend the Cuban-American National Foundation, and Of Human Rights, two nonprofit organizations that are faithfully informing the American people about Caribbean politics. Let me explain the background.

This film, "In Their Own Words," is a pictorial essay of the economic and social failure of the Communist government of Cuba. The conditions described by many of the Cuban refugees in the film account for the massive exodus from Cuba a year ago. The film tells of a crippled economy and an oppressive regime, but more importantly it puts a human face on the countless refugees who risked their lives to begin anew in the land of the free and the home of the brave. For most of us the Cuban refugees are merely statistics on the front pages of our newspapers. This film reminds us that the refugees are people—desperate and brave people. They are people who want to live in freedom and who want an opportunity to better themselves and the lot of their children.

As a Senator from Florida, I am especially concerned about the activities of Fidel Castro and the Cuban regime in the Caribbean. Cuban involvement in Nicaragua and El Salvador, and the failure of the Cuban economy resulting in the huge Mariel boatlift have sent shock waves throughout my State. For most Americans these concerns are abstract foreign policy problems, but for the people of the State I represent they have a real, everyday impact on their lives. I believe that Cuban interventionism and mischief in the region must be brought to an abrupt halt. I also believe that this administration is well prepared to stand up to the Cuban interventionism in the Caribbean. But more than this can be done.

For almost two decades Castro has taken every opportunity to spread his revolution—both by words and by bullets. But what of Castro's revolution? Nothing has shown the world more eloquently the hyprocrisy of the Cuban revolution than the pictures of thousands of Cubans boarding anything that floats in the hope of escaping Castro's island paradise. Is this what Castro wants to export? Many people are ignorant of the dismal record of the Cuban economy which is subsidized by the Soviet Union to the tune of $45 million per day. They are also unaware that freedom and justice are nonexistent in Castro's island domain.

For this reason, I am offering this amendment that will permit the International Communications Agency to release the film "In Their Own Words." As the title suggests, this film allows the Cuban refugees themselves to tell of the oppressive conditions in Cuba. The film provides an explanation for the massive boatlift that innundated Florida last year.

As most of my distinguished colleagues are, I am sure, aware, International Communications Agency films may not be released to be shown inside the United States except by the approval of both Houses of Congress. The House of Representatives has already passed this amendment, in the form of H.R. 2884, by an overwhelming voice vote. By acting in this fashion we will greatly facilitate the speedy release of this film.

This is not an unusual request. The Congress has acted on a number of occasions to grant permission for the viewing of International Communications Agency films inside the United States. Since 1965, Congress has exempted over 35 ICA films, and the Agency has indicated to me that they have no objection to the release of this film. I believe that this film will dispel much of the ignorance that surrounds Cuba, and I have indications from my constituents that if the ICA releases this film that it will be aired in Florida.

Florida has been made to bear the responsibility for the massive exodus from Cuba last year resulting from failed economic and social policies under Castro. America opened wide her arms for the Cuban refugees and then left the people of Florida to bear the burden. Floridians are a generous and giving people, but they have been called upon to give too much. The rest of the Nation has turned its back on the Cuban refugee problem. For example, last week the Senate Labor and Human Resources Committee denied a national responsibility in finding solutions to the Caribbean refugee problem by cutting by more than one half the funding for Cuban/Haitian refugee assistance. I believe that we must develop a national policy to prevent a recurrence of the Cuban boatlift—the people of Florida can be asked to bear no more.

Clearly, the blame for the plight of refugees lies with the disastrous socialist policies of the Cuban regime, but the immediate problems stem from decisions made by other administrations. The innocent ones in this situation are the stalwart people of Florida, and the refugees themselves. Certainly no one can condemn the Cuban refugees for seeking a better life across the water as did almost all of our forebears.

Except for the criminals that Castro sent over with the refugees, who should be treated as such, the refugees are victims of a stagnant, oppressive Cuban regime. This amendment which I am proposing will make the Cuban refugees more real and human to those who view the film, and I urge my distinguished colleagues to give their full support to this amendment.

Mr. President, I move the adoption of the amendment.

Mr. PERCY. Mr. President, with respect to the amendment offered by our distinguished colleague from Florida, I ask unanimous consent to have printed in the RECORD at this point a letter and accompanying materials dated April 15, 1981, which I received from Thomas Houser.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THOMAS J. HOUSER,
Alexandria, Va., April 15, 1981.

Hon. CHARLES H. PERCY,
Dirksen Senate Office Building,
Washington, D.C.

DEAR CHUCK: You recently received a letter from Marcelino Miyares who was helpful to us in our early campaigns in the 60's. Marcelino is asking you to introduce a bill in the Senate that has already been introduced in the House—H.R. 2636. In the interest of fair representation with what has happened with respect to the Cuban refugees, it would seem that the bill has considerable merit.

I am curious as to why a law exists prohibiting the International Communication Agency (ICA) from distributing its materials within the U.S. It seems to me that this law would have a tendency to protect the distribution of inaccurate facts as they may be distributed in foreign countries.

Because of your very busy schedule, you

may choose not to introduce this bill yourself but have one of your colleagues on the Senate Foreign Relations Committee introduce the bill on the Senate side.

Trust all is well.

All best wishes,

THOMAS J. HOUSER.

OMAR,
Chicago, Ill., April 9, 1981.

Hon. CHARLES H. PERCY,
U.S. Senate,
Dirksen Building,
Washington, D.C.

DEAR SENATOR PERCY: The purpose of this letter is to ask you to introduce a bill in the Senate similar to the House Bill H.R. 2636 introduced by Congressman Benjamin A. Gilman.

The bill was introduced to make it possible for the film, In Their Own Words, produced by the International Communications Agency (ICA) to be distributed in the United States. Present law prohibits ICA to distribute its material within the U.S.A. Precedents do exist in the form of amendments as in the case of films about George Meany, Margaret Mead, John Kennedy, etc.

Distribution in the U.S. of this film is important because it presents the reality of many of the new Cuban refugees. It shows clearly that many endured unspeakable hardships to come and to escape, not only the economic situation, but artistic repression and the absence of basic freedoms. Just as important is that the overemphasis placed by the press on the negative aspects and difficulties encountered in the arrival and resettlement process—already one year long—may be offset by the reality of "Their own words" to provide a more balanced presentation.

It is also relevant to note that Castro's government has produced two films about the exodus which predictably portray the refugees as undesirables and which are being distributed in the U.S.

I trust you will do everything in your power to make it possible for a part of the truth to be communicated to the people of the United States.

Cordialmente,

M. MIYARES.

S. 1636

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461), the Director of the International Communication Agency shall, upon receipt of reimbursement for any expenses involved, make available to the Administration of General Services, for deposit in the National Archives of the United States, a master copy of the film entitled "In Their Own Words", and the Administrator shall make copies of such film available for purchase and public viewing within the United States.

Mr. PERCY. Thomas Houser was a prominent Chicago attorney with the Burlington Railroad. He took leave of absence from that post in order to become a campaign manager for me when I ran for office early in my political career. He subsequently has served as Deputy Director of the Peace Corps, as a Commissioner of the Federal Communications Commission, and is presently general counsel for the National Association of Manufacturers.

Even though Florida is my own native State, I spent only 6 months there. When I received a letter dated May 6 from my distinguished colleague, Senator PAULA HAWKINS, I felt it more appropriate that she introduce and call up this measure than myself.

I would be very honored to be a cosponsor and ask unanimous consent that I be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I know of no objection on this side of the aisle. I turn to my distinguished colleague, the minority manager of this bill for his reaction.

Mr. PELL. I think it is a fine amendment and we are glad to support it and recommend its adoption.

Mr. PERCY. I fully support it. We have no objection. We ask that it be accepted by the Senate.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 68) was agreed to.

Mr. PERCY. I thank my distinguished colleague.

I yield to my distinguished colleague from Indiana.

UP AMENDMENT NO. 157

(Purpose: To oppose efforts by the United Nations Educational, Scientific, and Cultural Organization to attempt to regulate news content and to formulate rules and regulations for the operation of the world press)

Mr. QUAYLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. QUAYLE for himself and Mr. MOYNIHAN) proposes an unprinted amendment numbered 157.

Mr. QUAYLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the bottom of page 28, add the following:

UNITED NATIONS EDUCATIONAL, SCIENTIFIC, AND CULTURAL ORGANIZATION

SEC. 502. (a) The Congress finds that—

(1) the First Amendment of the Constitution of the United States upholds the principle of freedom of the press;

(2) Article 19 of the Universal Declaration of Human Rights states that "everyone has the right to freedom of opinion and expression; this right includes the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers";

(3) the signatories to the Final Act of the Conference on Security and Cooperation in Europe concluded in 1975 in Helsinki, Finland, pledged themselves to foster "freer flow and wider dissemination of information of all kinds", and to support "the improvement of the circulation of, access to, and exchange of information";

(4) the Constitution of the United Nations Educational, Scientific, and Cultural Organization itself is committed to "promote the free flow of ideas by word and image"; and

(5) a free press is vital to the functioning of free governments.

(b) The Congress hereby expresses its opposition to—

(1) efforts by the United Nations Educational, Scientific, and Cultural Organization to attempt to regulate news content and to formulate rules and regulations for the operation of the world press; and

(2) efforts by some countries further to control access to and dissemination of news.

Mr. QUAYLE. Mr. President, let me briefly outline what this amendment does.

This amendment incorporates a resolution that I introduced on June 9, 1981, which, in effect, shows our opposition to UNESCO's attempt, and that of many members of UNESCO, to establish what they call a "new world information order."

Mr. President, this amendment says, as the resolution says, that the Congress hereby expresses its opposition to:

(1) efforts by the United Nations Educational, Scientific, and Cultural Organization to attempt to regulate news content and to formulate rules and regulations for the operation of the world press; and,

(2) efforts by some countries to further control access to and dissemination of news.

Mr. President, this is not a new issue. This issue has been around for a number of years. Since 1976 in particular, the issue of controlling the flow of information has been debated. At the request of some Western nations, including the United States, it has been postponed. It has been postponed for a while, but it is going to be back on the calendar. I feel adoption of this amendment will send a very clear and vital mesage to UNESCO, and to those who would like to have control of the news media on an international basis—the United States will have no part of it.

Freedom of the press is very fundamental. It is inherent in our Constitution. It is one of the principles that has made this country what it is today.

There are those who say that the Western media distorts and slants against their countries. What UNESCO will want to do, if they get their way, is to license journalists. How ridiculous does this have to become before someone stands up and says something?

The licensing of journalists by UNESCO, the licensing of journalists anywhere in a free society, is repugnant to those who believe in inalienable human rights.

Make no doubts about it, Mr. President, that if we, as Members of the Senate, do nothing, and if we say nothing, this movement will continue to grow. It will grow like a cancer on the human soul and the human spirit.

We have the club, if you want to call it that, which is funding UNESCO, about 25 percent, or $45 million a year. That is a club we do not want to use, but I, as one Member of the Senate, would not hesitate to use it if they continue to go forward.

Mr. President, this amendment is very simple, very direct. It says that we are against the regulation of the news content; that we are against any type of attempt to control the free flow of information; that we feel that the best way to have progress internationally is to have the competition of ideas, to have a free press, to have free access. If we begin to "license journalists," this action, I feel, will have far greater repercussions than anything that has come before this body.

Mr. President, I hope this amendment is agreed to. I hope the Senate will go

on record at this time to oppose efforts to curb the free flow of information by seeing the so-called new world information order for what it actually is.

It is not 1984 yet, but George Orwell was not too far off when he was talking about how Government is going to control everything.

Well, government—international government, domestic government—should not even think about controlling the press and inhibiting a free press' access to facts and information. It is through facts and information and the competition of ideas that, as a country in a very interdependent world, we shall have progress.

I thank the Chair.

Mr. President, I ask unanimous consent that a document entitled "Chronology of Events" relating to UNESCO and also the text of Senate Resolution 150 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHRONOLOGY OF EVENTS

1972—UNESCO identifies the Western news services as instruments for "the domination of the world public opinion . . . a source of moral and cultural pollution".

1974—Soviet representatives to UNESCO introduce a "draft declaration of fundamental principles governing use of the mass media in strengthening peace and international understanding and in combatting war propaganda, racism and apartheid." The resolution asserts the right of governmental control over the mass media.

1976—The West's opposition to the draft declaration forces the vote on the declaration to be postponed for two years. The trade-off for postponement is an agreement to establish a commission to study international communications problems.

1978—UNESCO's conference produces a draft which eliminates all references to governmental control over the media. Western representatives note, however, the "predilection toward state control of the media" within the UNESCO Secretariat.

1980—The so-called Mac Bride Commission issues its report. Western observers find in the report a constant advocacy of pressuring, if not requiring, news media to promote government-established "social, cultural, economic and political goals."

At the 1980 meeting, the West resists more Soviet-backed resolutions to legitimize restrictions on the freedom of the press. The trade-off this time is a commitment to a new body within UNESCO to assist Third World countries in building up their own communications facilities. The West supports the formation of this new body, but the suspicion lingers that UNESCO is oriented toward greater governmental control over the use and flow of information.

1981—In February, the UNESCO Secretariat holds a meeting in Paris to discuss proposals to license and protect journalists and to ensure that they comply with the "generally accepted" ethics of their profession. Only intense pressure from Western delegates and media representatives succeed in opening the meeting and blocking the proposals. The proposals remain, however, on the UNESCO agenda for its next General Conference in 1983.

S. RES. 150

Whereas the first amendment to the Constitution of the United States upholds the principle of freedom of the press;

Whereas article 19 of the Universal Declaration of Human Rights states that "everyone has the right to freedom of opinion and expression; this right includes the freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media regardless of frontiers";

Whereas the signatories to the Final Act of the Conference on Security and Cooperation in Europe concluded in 1975 in Helsinki, Finland, pledged themselves to foster "freer flow and wider dissemination of information of all kinds", and to support "the improvement of the circulation of, access to, and exchange of information";

Whereas the Constitution of the United Nations Educational, Scientific, and Cultural Organization itself is committed to "promote the free flow of ideas by word and image"; and

Whereas a free press is vital to the functioning of free governments: Now, therefore, be it

Resolved, That (a) the Senate of the United States of America strongly opposes efforts by the United Nations Educational, Scientific, and Cultural Organization to attempt to regulate news content and to formulate rules and regulations for the operation of the world press.

(b) The Senate also opposes efforts by some countries to further control access to and dissemination of news.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the Secretary General of the United Nations and to the Director General of the United Nations Educational, Scientific, and Cultural Organization.

Mr. PERCY. Mr. President, I ask unanimous consent that I may be added as a cosponsor to the amendment of the distinguished Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I point out that I have been very proud indeed that the publishers and editors in my own State of Illinois have taken a leadership position in this area. I know that Clayton Kirkpatrick of the Chicago Tribune, who just retired as chief executive officer of the Tribune Co., has taken a strong position.

I feel the amendment is well taken and should be put in the hands of the Department of State to strengthen our position and the position that they have taken at the United Nations.

Mr. QUAYLE. Mr. President, I thank the very distinguished chairman.

Mr. MOYNIHAN. Mr. President, I have the honor to be a cosponsor of the amendment introduced by the distinguished Senator from Indiana, who is leading the Senate in this matter as the United States ought to lead the world. I am delighted to hear that the distinguished chairman of the Committee on Foreign Relations joins us in this matter.

UP AMENDMENT NO. 158

Mr. President, I send to the desk an unprinted amendment to the amendment before us.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) for himself and Mr. MITCHELL proposes an unprinted amendment numbered 158 to amendment No. 157.

At the end of the amendment, add the following new section:

PROMOTION OF FREE PRESS

(a) None of the funds authorized to be appropriated under paragraph (2) of section 102 of this Act may be used for payment by the United States toward the assessed budget of the United Nations Educational, Scientific and Cultural Organization if such payment would cause the total contribution of the United States to the United Nations Educational, Scientific and Cultural Organization to exceed its assessed contribution less 25 percent of the amount made available by the United Nations Educational, Scientific and Cultural Organization for projects or organizational entities the effect of which is to license journalists or their publications, to censor or otherwise restrict the free flow of information within or between countries, or to impose mandatory codes of journalistic practice or ethics.

(b) The Secretary of State shall prepare and transmit annually to the Congress a report on the implementation of this section.

Mr. MOYNIHAN. Mr. President, the object of this amendment, which the Senator from Indiana, and the distinguished chairman of the Committee on Foreign Relations have joined me in cosponsoring, is to put teeth into the statement Mr. QUAYLE and I have offered.

Mr. President, the freedom of the press is under assault from the United Nations Economic, Scientific and Cultural Organization. It is as ironic a thing as has happened in the long history of this organization. The first head of UNESCO was Julian Huxley, that great expositor of the idea of the liberal exchange of views and of competition in the marketplace of ideas. The charter of UNESCO itself declares that "Since wars begin in the minds of men, it is in the minds of men that the defenses of peace must be constructed." It goes on to pledge "unrestricted pursuit of objective truth, and the free exchange of ideas and knowledge".

This has been steadily perverted across the spectrum of UNESCO activities, but in no area has it been more alarming than this, the planned creation of a New World Information Order.

The evaluation of this proposal, it should be known, began in 1975, when the Soviet Union introduced in the general conference of UNESCO a "draft declaration on fundamental principles governing the use of the media in strengthening peace and international understanding and combating war, propaganda, racism, and apartheid."

The objective of the Soviet Union, then as now, was to bring about an alliance of the developing nations and the totalitarian nations to control the movement of information in the way it is controlled in their own countries. The proposal as it comes to us from UNESCO, in the context of its work plan for 1981 through 1983, talks about the "promotion of a free flow and a wider and better balanced exchange of information." We should view this through Orwellian lenses and understand that what this actually means is the promotion of an unfree flow and a narrow and worse and more restricted exchange of misinformation.

Mr. President, the United States has been understanding of the complaints of the developing countries, as have the other countries of the democratic world. In 1976, we met in Nairobi and asked, "Must we go forward with this?" and we agreed to a commission. A commission was appointed, headed by a winner of the

Lenin Peace Prize. May I say, Mr. President, you do not get a Lenin Peace Prize unless you have deserved it.

The PRESIDING OFFICER. May we have order in the Senate? The Senator is making an important point.

Mr. MOYNIHAN. The predictable proposal from a commission headed by a recipient of the Lenin Peace Prize, to legitimize state power over journalists, was presented to the general conference at Paris. The West said, "We cannot have the licensing of journalists. If government gives you the right to be a journalist, it may also deny you that right."

We said, "Can we not help with the technology of information flow?" It is a complex technology. It depends very much on sophisticated and expensive things like satellites. The new nations have a legitimate claim to share the benefits of this technology. We have offered to do so. It is not what they want. They want government control of the press. They want a world press which reflects the press they have, in the main, in their own nations.

In 1980, at the Belgrade Conference, the McBride Commission again came forward. We said, "This is not acceptable to countries with a tradition of a free press. Can we not help you with the technology? Can we not offer our resources in funds and in knowledge?"

A council of 35 members, the International Program for the Development of Communications, was established to oversee the transfer of media technology to the developing world. It was agreed then, at Belgrade in November 1980, that the council would work by consensus, that it would be necessary to have the cooperation of the minority of states which value a free press, for the IPDC to operate. Then, lo and behold, the rules were presented saying decisions would be taken by majority vote, in the same way as they are done in the General Assembly and other UN forums. This should not have come as a surprise. The members of the United Nations, and UNESCO, have long since ceased to respect the obligations of the majority toward a minority. It should similarly not be a surprise when the IPDC, the proposal of the democratic states, does not work.

Mr. President, the views of one Member of this body might not seem to carry very much weight in our deliberation. Allow me to point out that I am joined in this view by others, in addition to my able colleagues who are cosponsors of this amendment. Exactly one month ago, on May 17, in the French village of Talloires, near Geneva, a group of distinguished leaders of news organizations from 20 nations assembled under the auspices of the Fletcher School of Law and Diplomacy of Tufts University. They adopted a statement of principle and purpose in defense of a free press that is called the Declaration of Talloires.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that my amendment be modified by adding eight words at the beginning, as follows: "it is the sense of the Congress".

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment, as modified, is as follows:

At the end of the amendment, insert the following new section:

PROMOTION OF FREE PRESS

SEC. 503. It is the sense of the Congress that (a) none of the funds authorized to be appropriated under paragraph (2) of section 102 of this Act may be used for payment by the United States toward the assessed budget of the United Nations Educational, Scientific and Cultural Organization if such payment would cause the total contribution of the United States to the United Nations Educational, Scientific and Cultural Organization to exceed its assessed contribution less 25 percent of the amount made available by the United Nations Educational, Scientific and Cultural Organization for projects or organizational entities, the effect of which is to license journalists or their publications, to censor or otherwise restrict the free flow of information within or between countries, or to impose mandatory codes of journalistic practice or ethics.

(b) The Secretary of State shall prepare and transmit annually to the Congress a report on the implementation of this section.

Mr. PERCY. Mr. President, may we have the yeas and nays?

Mr. MOYNIHAN. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. Mr. President, I shall not delay the Senate more than another minute. I would like to advise the Senate of the type of people that met at Talloires to deplore this slide toward an international accord on the harnessing of the free press, which currently preoccupies UNESCO: Mr. Harold Andersen of the Omaha World-Herald, a member of the World Press Freedom Committee; Mr. V. O. Adefela, News Agency of Nigeria; Mr. Maribel Bahia of the International Federation of Newspaper Publishers; Mr. George Beebe of the Miami Herald; representatives of United Press International and the Associated Press. I particularly call to this body's attention, the participation at Talloires of Mr. Peter Gallines, of the International Press Institute, which has kept the conscience of the world in this matter. Also attending were Mr. Murray Gart, editor of the Washington Star and Mr. Georges-Henri Martin, the publisher of Tribune de Geneve, both men of impeccable standards.

All of these individuals rose together at Talloires and said to UNESCO, "No more."

So, too, Mr. President, should the Congress of the United States. As our distinguished Assistant Secretary of State for International Organizational Affairs, Mr. Elliott Abrams, has said the question is not the future of the free press. The question is the future of UNESCO. It is time the people at UNESCO were awakened to that fact.

The amendment before us says that it is the sense of Congress that the United States should withhold from its contribution to UNESCO our share of the money UNESCO chooses to spend implementing its misguided New World Information Order. Because we provide 25 percent of UNESCO's operating budget, we should withhold 25 percent of the amount spent on activities whose effect, in the words of the amendment: "is to license journalists or their publications, to censor or otherwise restrict the free flow of information within or between countries, or to impose mandatory codes of journalist practice or ethics."

I urge my colleagues to adopt this amendment, which will send the message to UNESCO that we are serious about defending that most precious right of a free people, the right of opinion and expression that is both epitomized and guaranteed by a free press.

I ask unanimous consent that the Declaration of Talloires as well as the names of the distinguished signatories be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TEXT OF DECLARATION BY INDEPENDENT NEWS ORGANIZATIONS ON FREEDOM OF PRESS

TALLOIRES, FRANCE, May 17.—Following is the text of the Declaration of Talloires, adopted by the leaders of independent news organizations from 20 countries at the Voices of Freedom conference:

We journalists from many parts of the world, reporters, editors, photographers, publishers and broadcasters, linked by our mutual dedication to a free press,

Meeting in Talloires, France, from May 15 to 17, 1981, to consider means of improving the free flow of information worldwide, and to demonstrate our resolve to resist any encroachment on this free flow,

Determined to uphold the objectives of the Universal Declaration of Human Rights, which in Article 19 states, "everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers,"

Mindful of the commitment of the Constitution of the United Nations Educational, Scientific and Cultural Organization to "promote the free flow of ideas by word and image,"

Conscious also that we share a common faith, as stated in the charter of the United Nations, "in the dignity and worth of the human person, in the equal rights of men and women, and of nations large and small,"

Recalling moreover that the signatories of the final act of the Conference on Security and Cooperation in Europe concluded in 1975 in Helsinki, Finland, pledged themselves to foster "freer flow and wider dissemination of information of all kinds, to encourage cooperation in the field of information and the exchange of information with other countries, and to improve conditions under which journalists from one participating state exercise their profession in another participating state" and expressed their intention in particular to support "the improvement of the circulation of, access to, and exchange of information,"

Declare that:

(1)

We affirm our commitment to these principles and call upon all international bodies and nations to adhere faithfully to them.

(2)

We believe that the free flow of information and ideas is essential for mutual understanding and world peace. We consider restraints on the movement of news and information to be contrary to the interests of international understanding, in violation of the Universal Declaration of Human Rights, the constitution of Unesco, and the final act of the Conference on Security and Cooperation in Europe; and inconsistent with the charter of the United Nations.

(3)

We support the universal human right to be fully informed, which right requires the free circulation of news and opinion. We vigorously oppose any interference with this fundamental right.

(4)

We insist that free access, by the people and the press, to all sources of information, both official and unofficial, must be assured and reinforced. Denying freedom of the press denies all freedom of the individual.

(5)

We are aware that governments, in developed and developing countries alike, frequently constrain or otherwise discourage the reporting of information they consider detrimental or embarrassing, and that governments usually invoke the national interest to justify these constraints. We believe, however, that the people's interests, and therefore the interests of the nation, are better served by free and open reporting. From robust public debate grows better understanding of the issues facing a nation and its peoples; and out of understanding greater chances for solutions.

(6)

We believe in any society that public interest is best served by a variety of independent news media. It is often suggested that some countries cannot support a multiplicity of print journals, radio and television stations because there is said to be a lack of an economic base. Where a variety of independent media is not available for any reason, existing information channels should reflect different points of view.

(7)

We acknowledge the importance of advertising as a consumer service and in providing financial support for a strong and self-sustaining press. Without financial independence, the press cannot be independent.

(8)

We recognize that new technologies have greatly facilitated the international flow of information and that the news media in many countries have not sufficiently benefited from this progress. We support all efforts by international organizations and other public and private bodies to correct this imbalance and to make this technology available to promote the worldwide advancement of the press and broadcast media and the journalistic profession.

(9)

We believe that the debate on news and information in modern society that has taken place in Unesco and ohter international bodies should now be put to constructive purposes. We reaffirm our views on several specific questions that have arisen in the course of this debate, being convinced that:

Censorship and other forms of arbitrary control of information and opinion should be eliminated; the people's right to news and information must not be abridged.

Access by journalists to diverse sources of news and opinion, official or unofficial, should be without restriction. Such access is inseparable from access of the people to information.

There can be no international code of journalistic ethics; the plurality of views makes this impossible. Codes of journalistic ethics, if adopted within a country, should be formulated by the press itself and should be voluntary in their application. They cannot be formulated, imposed or monitored by governments without becoming an instrument of official control of the press and therefore a denial of press freedom.

Members of the press should enjoy the full protection of national and international law. We seek no special protection nor any special status and oppose any proposals that would control journalists in the name of protecting them.

There should be no restriction on any person's freedom to practice journalism. Journalists should be free to form organizations to protect their professional interests.

Licensing of journalists by national or international bodies should not be sanctioned, nor should special requirements be demanded of journalists in lieu of licensing them. Such measures submit journalists to controls and pressures inconsistent with a free press.

The press's professional responsibility is the pursuit of truth. To legislate or otherwise mandate responsibilities for the press is to destroy its independence. The ultimate guarantor of journalistic responsibility is the free exchange of ideas.

All journalistic freedoms should apply equally to the print and broadcast media. Since the broadcast media are the primary purveyors of news and information in many countries, there is particular need for nations to keep their broadcast channels open to the free transmission of news and opinion.

(10)

We pledge cooperation in all genuine efforts to expand the free flow of information worldwide. We believe the time has come within Unesco and other intergovernmental bodies to abandon attempts to regulate news content and formulate rules for the press. Efforts should be directed instead to finding practical solutions to the problems before us, such as improving technological progress, increasing professional interchanges and equipment transfers, reducing communication tariffs, producing cheaper newsprint and eliminating other barriers to the development of news media capabilities.

Our interests as members of the press, whether from the developed or developing countries, are essentially the same; ours is a joint dedication to the freest, most accurate and impartial information that is within our professional capability to produce and distribute. We reject the view of press theoreticians and those national or international officials who claim that while people in some countries are ready for a free press, those in other countries are insufficiently developed to enjoy that freedom.

We are deeply concerned by a growing tendency in many countries and in international bodies to put government interests above those of the individual, particularly in regard to information. We believe that the state exists for the individual and has a duty to uphold individual rights. We believe that the ultimate definition of a free press lies not in the actions of governments or international bodies, but rather in the professionalism, vigor and courage of individual journalists.

Press freedom is a basic human right. We pledge ourselves to concerted action to uphold this right.

SIGNATURES

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Hewson A. Ryan, Fletcher School of Law and Diplomacy, Tufts University, Medford, MA 02155, USA.

Michael Saint-Pol, Agence France-Presse, 11 Place de la Bourse, Paris, France.

Victor de la Serna, Associacion de Editores de Diarios, Espanoles, Espronceda 32, 6a Madrid 3, Spain.

Dr. M. L. Snijders, (International Press Institute), Utrecht Niewsblad, Drift 23, 3512 BR Utrecht, Holland.

H. L. Stevenson, United Press International, 220 East 42nd Street, New York, NY 10017, USA.

Dr. Robert Stevenson, University of North Carolina at Chapel Hill, Howell Hall 021A, Chapel Hill, NC 27514, USA.

Leonard Sussman, Freedom House, 20 West 40th Street, New York, NY 10018, USA.

Stanley M. Swinton, Associated Press, 50 Rockefeller Plaza, New York, NY 10020, USA.

Frans Vink, (International Federation of Newspaper Publishers), Het Laatste Nieuws, Em. Jacqmainlaan 105, 1000 Brussels, Belgium.

Walter N. Wells, International Herald Tribune, 181 avenue Charles de Gaulle, 92521 Neuilly Cedex, Paris, France.

Dr. Brigitte Weyl, (International Federation of Newspaper Publishers), Sudkurier, Toftach 4300, D-7750 Konstanz, West Germany.

Hector Wynter, The Daily Gleaner, PO Box 40, Kingston, Jamaica.

Mr. MOYNIHAN. Mr. President, I see that the distinguished Senator from Indiana is on his feet.

Mr. QUAYLE. Mr. President, I should like the record to show that the Senator from New York was a leader in this effort; that he and I had similar amendments coming in today; that this is a joint effort of the Senator from Indiana and the Senator from New York in bringing this matter to the attention of the Senate. The Senator from New York has described it as an international assault on the freedom of the press. I want the record to show that clearly.

The distinguished chairman of the committee is now a cosponsor of this amendment. The Senator from Delaware (Mr. ROTH) wishes to have his name added as a cosponsor, and I ask unanimous consent that that be done.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. QUAYLE. I again thank the Senator from New York for his leadership and for his cooperation.

Mr. MOYNIHAN. I thank my learned and gallant friend.

Mr. PERCY. Mr. President, today, by adopting this amendment that I am proud to cosponsor, together with my distinguished colleagues the Senator from Indiana, (Mr. QUAYLE) and the Senator from New York, Senator MOYNIHAN, we make it clear that the Senate of the United States is adamantly opposed to the efforts at UNESCO to regulate news content and to formulate rules and regulations for the operation of the world press.

Press freedom is one of the unique achievements of free societies. As representatives of the greatest free society on Earth, it is right that we express ourselves clearly and strongly on this point. We refuse to stand idly by while others seek to erode freedom of the press.

This amendment expresses the sense of the Senate that U.S. payment to UNESCO will be reduced if UNESCO sponsors efforts to license journalists, or their publications, to censor or otherwise restrict the free flow of information within or between countries, or to impose mandatory codes of journalistic practice or ethics.

I support this amendment with concern for the rights of people throughout the Earth to have access to accurate, objective and comprehensive news, just as we enacted into law a few years ago the Charter of the Voice of America, requiring VOA to establish high standards of journalistic reporting and broadcasting based on press freedom.

I am proud of what we are doing with this amendment. It reflects our national pride in the press freedom we enjoy and which we desire for all peoples everywhere.

Mr. President, I know of no other Members who wish to speak on this matter, and we are ready to vote. The yeas and nays have been ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York (UP No. 158, as modified). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from South Dakota (Mr. PRESSLER) is necessarily absent.

The PRESIDING OFFICER (Mr. NICKLES). Are there any other Senators who have not voted?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 154 Leg.]

YEAS—99

Abdnor	Garn	Mitchell
Andrews	Glenn	Moynihan
Armstrong	Goldwater	Murkowski
Baker	Gorton	Nickles
Baucus	Grassley	Nunn
Bentsen	Hart	Packwood
Biden	Hatch	Pell
Boren	Hatfield	Percy
Boschwitz	Hawkins	Proxmire
Bradley	Hayakawa	Pryor
Bumpers	Heflin	Quayle
Burdick	Heinz	Randolph
Byrd, Harry F., Jr.	Helms	Riegle
Byrd, Robert C.	Hollings	Roth
Cannon	Huddleston	Rudman
Chafee	Humphrey	Sarbanes
Chiles	Inouye	Sasser
Cochran	Jackson	Schmitt
Cohen	Jepsen	Simpson
Cranston	Johnston	Specter
D'Amato	Kassebaum	Stafford
Danforth	Kasten	Stennis
DeConcini	Kennedy	Stevens
Denton	Laxalt	Symms
Dixon	Leahy	Thurmond
Dodd	Levin	Tower
Dole	Long	Tsongas
Domenici	Lugar	Wallop
Durenberger	Mathias	Warner
Eagleton	Matsunaga	Weicker
East	Mattingly	Williams
Exon	McClure	Zorinsky
Ford	Melcher	
	Metzenbaum	

NOT VOTING—1

Pressler

So Mr. MOYNIHAN's amendment (UP No. 158), as modified, was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. QUAYLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. QUAYLE. The vote was on the amendment to the Quayle amendment. Have we voted on the Quayle amendment as amended?

The PRESIDING OFFICER. The Quayle amendment has not been agreed to as yet.

Mr. QUAYLE. All right. I move for its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana, as amended. (Putting the question.)

The amendment (UP No. 157), as amended, was agreed to.

Mr. QUAYLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY addressed the Chair.

Mr. PERCY addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. DOLE. The Senator from Kansas will yield without losing his right to the floor.

Mr. ROBERT C. BYRD. Mr. President, I call attention to the fact that the Senator from Vermont was repeatedly seeking recognition. I would hope that the Chair would recognize Members on this side of the aisle when they clearly seek recognition. Under the rule the first Senator to seek recognition is to be recognized. Of course, it is within the discretion of the Chair and there is no appeal from the Chair's decision. I hope the Chair will be fair in the recognition of all Senators.

I thank the distinguished Senator from Kansas for yielding.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOLE. Mr. President, I appreciate the comments of the distinguished Senator from West Virginia. But I do believe that we in past months and years have recognized——

Mr. LEAHY. Mr. President, can we have order? The lack of order was the reason why the Chair was unable to hear me, because I was on my feet ahead of the Senator from Kansas. At least if we can have order we can hear now.

Mr. DOLE. Mr. President, I do not think this is unprecedented for the Chair to recognize whomever he may see seeking recognition.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield on that point?

Mr. DOLE. I have been here for 12 years——

Mr. ROBERT C. BYRD. I have been the foremost defender of the minority in the matter of fairness and being recognized by the Chair.

I say it will cause division and strife and great difficulty in this body if the minority feel that the Chair is not being fair in recognizing members of the minority.

I thank the Senator for yielding.

Mr. DOLE. Mr. President, I do not have any quarrel with the distinguished Senator from West Virginia, and I do not think I have much of a quarrel with the Senator from Vermont. I just suggest that we may be able to resolve any differences we have before we do anything on an amendment that is about to be called up by either the Senator from Vermont or the Senator from Kansas, and I would be very willing to discuss that with the Senator from Vermont, and maybe we can work out some approach to this that is not strictly partisan.

It has been my understanding around here for some time that we had a bipartisan policy on nutrition issues. I stood here on the floor a week ago with the Senator from Vermont shoulder to shoulder on a number of nutrition issues, and I hope we can have the same consideration today.

This involves infant formula, and I think there are some who see a chance for a little—a chance to nick the administration a bit. If that is what the Senator from Vermont has in mind, the Senator from Kansas does not consider that to be a bipartisan approach. The Senator from Kansas is going to do something else, but if we want to work it out so that we take out the language critical of the administration and approach this in a way that I think we should, then we can proceed to dispose of this very quickly.

I would like to ask the distinguished Senator from Vermont if he thinks that is a possibility.

Mr. LEAHY. The Senator from Kansas, Mr. President, will recall that the Senator from Vermont spent a number of hours on the floor last week defending the position of the Senator from Kansas while the Senator from Kansas was necessarily required to be in the Committee on Finance on very significant matters in his capacity as chairman of the Committee on Finance.

And the Senator from Vermont rather arduously argued for and defended and promoted positions taken by the Senator from Kansas and reiterated over and over again the great respect the Senator from Vermont has for the Senator from Kansas' position on nutrition matters.

I would assume that is what the Senator from Kansas—if I might have his attention just for a moment—I assume that that is what the Senator from Kansas refers to as a bipartisan effort. Certainly the Senator from Vermont felt it was.

Now, Mr. President, we may be discussing a moot point. We seem to be in a debate on an amendment or on a resolution which is not before the Senate yet.

The Senator from Vermont would remind his colleagues, including the Senator from Kansas, that the Senator from Vermont has consistently for years, both in Republican and Democratic administrations, taken precisely the same position on the issue of infant formula that he intends to take on the floor today.

The Senator from Kansas served with me on the Presidential Commission on World Hunger. The position that I took there—a position that, as I recall, the Senator from Kansas agreed with in the Presidential Commission on World Hunger under President Carter—is precisely the same position that I would hope to urge here today. It is not a partisan position. I think it is reflected, basically, in the resolution adopted in the House of Representatives yesterday by an overwhelming bipartisan coalition.

It is a case, incidentally, where the resolution that the Senator from Vermont would hope to have before us that would say, among other things, that the Congress would reaffirm the dedication of the United States in the protection of lives to all the world's children and the support of the United States for efforts to improve world health.

Now, if that is not a blessing of not only our country, our Congress, our positions in the administration, I do not know what is.

I realize I am speaking on the time of the Senator from Kansas and, naturally, I yield back to him.

Mr. DOLE. I was just asking a question. I guess the question I asked the Senator from Vermont, if there is an opportunity to let somebody else have the floor and the two of us go back and see if we can agree on some common language. I know the Senator from Virginia would like to be recognized.

Mr. LEAHY. The Senator from New York does also.

Might I suggest to the Senator from Kansas that——

Mr. DOLE. I do not need to be lectured by the Senator from Vermont. If he would like to discuss it, we will discuss it. If not, I will offer the resolution.

Mr. LEAHY. Mr. President, I was seeking to answer the question of the Senator from Kansas. I was not seeking to respond either to his lecture or to make a lecture. I would be perfectly willing to discuss the matter with him and follow his suggestion that we yield to the Senator from New York and the Senator from Virginia and, in the meantime, take up matters which I understand are either speeches or things that are just going to be accepted anyway, and then he may want to suggest that we then come back to this issue.

Mr. DOLE. Mr. President, I think the Senator from Vermont has a resolution, as I understand it, an amendment, and the Senator from Kansas and the Senator from Minnesota have an amendment. There really is not that much difference in the two approaches. I think perhaps in 5 minutes we can work out some language that might be satisfactory to the managers of the bill, the Senator from Vermont, the Senator from Kansas, and the Senator from Minnesota and others who have an interest in this.

And I say this, I hope, in the proper spirit. We do work closely together on the nutrition issues and I do not want that partnership, if that is not an overstatement, to be destroyed in some partisan effort, either by this Senator or any other Senator. So I am certainly willing to accommodate the wishes of the Senator from Vermont and, hopefully, the manager of the bill.

Mr. PERCY. Mr. President, will the Senator yield? I feel compelled to give a sequence of events here that I had agreed to. Senator BYRD approached me and asked if he could speak on a subject pertaining to the last amendment. I assured him that if I went to the Senator from Vermont, who had already indicated that he would ask and seek recognition immediately following the last vote, that he would yield to him. The Senator from Vermont agreed to that procedure. I was seeking recognition so that I might yield to the Senator from Virginia when, at the same time, recognition was sought by other Senators.

I feel that if this matter could be worked out in comity it would be far better. I would suggest we set aside this amendment until such time as it can be

thoroughly discussed. If it is possible to reach an agreement, fine. If not, then let us take them up separately in whatever sequence is determined best.

But I would, at this time, have the Senator from Virginia, Senator BYRD, recognized, which would give us enough time to work out an agreement on this amendment. The Senator from New York has an amendment that he could dispose of rather quickly. It would be logical to take that one up next.

Mr. DOLE. Mr. President I yield to the Senator from Vermont.

Mr. LEAHY. Mr. President, I certainly will advise the distinguished chairman of the Foreign Relations Committee that I have no objection to that.

A few minutes ago, when I thought this was going to be a relatively noncontroversial thing, especially considering the vote in the House yesterday, my thought was to bring up my amendment, yield to the distinguished Senator from New York, who has a relatively quick matter, then to the distinguished Senator from Virginia, who said that he wanted to make a few remarks about one of the earlier votes. And then, if we did not go immediately to a vote on my amendment, to ask to have it set aside so that the distinguished Senator from California could bring up a matter that he had on the Peace Corps.

It seems to have broken down into considerably more than that. Maybe it might be good to go to the distinguished Senators from New York, Virginia, and California, and speak with the distinguished chairman of the Finance Committee and find out if, indeed, our views have spread that much apart since last year.

Mr. DOLE. Mr. President, there is no amendment pending, so I agree with the Senator from Vermont. We will, along with the Senator from Minnesota and others who have a direct interest in this, adjourn to some quiet place and maybe we can work it out. If anybody has been offended in the last few minutes, let the record show that it was not intended.

Mr. PERCY. Mr. President, I would ask, in the form of a unanimous-consent request, that the Senator from Virginia be recognized for such time as is required for him to comment on the last amendment; following his recognition, that the Senator from New York be recognized to offer an amendment; following that, that the Senator from California be recognized; and following the disposition of that amendment, the Senator from Kansas be recognized for the purpose of reporting to the Senate whether or not an agreement has been reached on the infant formula amendment.

The PRESIDING OFFICER. Is the Senator making that request?

Mr. PERCY. I am making such a unanimous-consent request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I yield temporarily to the Senator from New York.

UN AMENDMENT NO. 159

(Purpose: To restrict the payment of funds by the Department of State to international organizations for projects that would promote the Palestine Liberation Organization)

Mr. MOYNIHAN. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an unprinted amendment numbered 159.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 4, immediately after line 11, add the following new section:

SEC. 104(a). None of the funds authorized to be appropriated under paragraph (2) of Section 102 of this Act may be used for payment by the United States toward the assessed budget of the United Nations, or any of its specialized agencies, which would cause the total contribution of the United States to exceed its assessed contribution less 25 percent of the amount budgeted by such agency for projects of which the primary purpose is to provide political benefits to the Palestine Liberation Organization or entities associated with it.

(b) The President shall annually review the budget of the United Nations, and of its specialized agencies, to determine which programs have the primary purpose of providing political benefit to the Palestine Liberation Organization and shall report to Congress the programs and amounts for which the United States assessment is withheld.

(c) This section shall not be construed as limiting United States contributions to the United Nations, or its specialized agencies for programs for which the primary purpose is to provide humanitarian, educational, developmental and other non-political benefits to the Palestinian people.

Mr. MOYNIHAN. Mr. President, this is an amendment that is supported by both of the distinguished managers of the legislation. It reenacts and somewhat extends two amendments adopted in the last 2 years by which the Department of State was instructed to reduce where appropriate any funds appropriated by the United Nations for the political advantage of the Palestine Liberation Organization.

I believe it has unanimous support on both sides of the aisle. If there is no further debate, I would move its adoption, Mr. President.

Mr. PERCY. Mr. President, there is no objection on this side that I know of.

Mr. PELL. Mr. President, there is no objection on this side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from New York (Mr. MOYNIHAN).

The amendment (UP No. 159) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HARRY F. BYRD, JR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

THE QUAYLE-MOYNIHAN AMENDMENTS ON FREEDOM OF THE PRESS

Mr. HARRY F. BYRD, JR. Mr. President, I wish to commend the able Senator from New York (Mr. MOYNIHAN), and the able Senator from Indiana (Mr. QUAYLE), for the amendment which was just adopted by the Senate. It is an important piece of legislation. What it does is to send a message to the United Nations that the U.S. Senate believes in freedom of the press; that the U.S. Senate does not favor licensing of the press, and it does not favor regulation by the United Nations of the press in any of the nations of the world.

I think it is an important piece of legislation for the Congress to have considered and the Senate to have enacted. I congratulate both Senator MOYNIHAN and Senator QUAYLE.

DEATH OF JOHN S. KNIGHT

That ties in, Mr. President, with another item, one of sadness. That is the death yesterday of one of the Nation's outstanding newspapermen, John S. Knight.

John S. Knight began his newspaper career some 60 years ago on the Akron, Ohio, Beacon News. As the years went by, he acquired the Chicago Daily News, the Philadelphia Inquirer, the Philadelphia Daily News, the Miami Herald. More recently, he was in the forefront of those who put together the Knight-Ridder organization combining the Knight chain of newspapers with the Ridder chain of newspapers.

Jack Knight was an all-round newspaperman: a writer, an editor, a publisher, a businessman of unusual acumen, one who knew every aspect of the newspaper business.

I think it is typical of Jack Knight that he considered himself first and foremost an editor, and his weekly column, the Editor's Notebook, was one of the best read columns in the United States.

I had the opportunity to serve with Jack Knight on the board of directors of the Associated Press.

Incidentally, I also had the opportunity to serve on the board of directors of the Associated Press with the grandfather of the distinguished Senator from Indiana (Mr. QUAYLE). I am referring to Eugene Pulliam. He was a delightful individual, one of the most interesting, one of the most attractive individuals I have had the opportunity to know and a courageous and independent-minded newspaperman.

I am getting a little off my subject here, but I did want to make a few comments in regard to Jack Knight who was a wonderful friend to me through the years. He helped me so much when I became the youngest member of the Associated Press board. He was so helpful to me, and all through the years I valued highly his friendship. The Nation yesterday lost a great newspaperman and an outstanding American—Jack Knight.

Mr. QUAYLE. If the Senator will yield, I thank the distinguished Senator from Virginia. As one Senator to another and as one former newspaperman to another former newspaperman, I thank him for those kind remarks about my grandfather.

I did not know Jack Knight personally, but my family has been in the newspaper business ever since day 1. I would like to be associated with the remarks of the Senator and I would like to say from my knowledge Jack Knight was a newspaperman's newspaperman. He knew the operation. The Knight-Ridder newspapers are very well respected in this country. They get involved in the community. So often there is some criticism. I am one of those critics of the so-called chain newspapers, but I can say that the Knight-Ridder newspapers take community involvement very seriously. I am glad that the distinguished Senator has brought up this matter and I ask that I be associated with his remarks.

Mr. HARRY F. BYRD, JR. I thank my colleague for his comments.

I do believe the Knight-Ridder organization is a wonderful organization.

I thank the Chair.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER (Mr. HAYAKAWA). The Senator from California.

UP AMENDMENT NO. 160

(Purpose: To separate the Peace Corps from the ACTION Agency)

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself, Mr. MATHIAS, Mr. BOSCHWITZ, Mr. HATFIELD, Mr. SARBANES, and Mr. BRADLEY, proposes an unprinted amendment numbered 160.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 28, below line 18, insert the following:

TITLE VI—PEACE CORPS AUTONOMY

SHORT TITLE

SEC. 601. This title may be cited as the "Peace Corps Autonomy Act".

ESTABLISHMENT AS AN INDEPENDENT AGENCY

SEC. 602. Effective on the date of enactment of this Act, the Peace Corps shall be an independent agency within the executive branch and shall not be an agency within the ACTION Agency or any other department or agency of the United States.

TRANSFER OF FUNCTIONS

SEC. 603. (a) There are transferred to the Director of the Peace Corps all functions relating to the Peace Corps which were vested in the Director of the ACTION Agency on the day before the date of enactment of this Act.

(b)(1) All personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds as are determined by the Director of the Office of Management and Budget, after consultation with the Comptroller General of the United States, the Director of the Peace Corps, and the Director of the ACTION Agency, to be employed, held, or used primarily in connection with any function relating to the Peace Corps before the date of the enactment of this Act are transferred to the Peace Corps. The transfer of unexpended balances pursuant to the preceding sentence shall be subject to section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c).

(2)(A) The transfer pursuant to this section of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any employee to be separated or reduced in rank, class, grade, or compensation, or otherwise suffer a loss of employment benefits for one year after—

(i) the date on which the Director of the Office of Management and Budget submits the report required under section 606, or

(ii) the effective date of the transfer of such employee,

whichever occurs later.

(B) The personnel transferred pursuant to this section shall, to the maximum extent feasible, be assigned to such related functions and organizational units in the Peace Corps as such personnel were assigned to immediately before the date of enactment of this Act.

(C) Collective-bargaining agreements in effect on the date of enactment of this Act covering personnel transferred pursuant to this section or employed on such date by the Peace Corps shall continue to be recognized by the Peace Corps until the termination date of such agreements or until a mutual modification by the parties otherwise specifies.

(3) Under such regulations as the President may prescribe, each person who does not hold an appointment under section 7(a)(2) of the Peace Corps Act and who is determined under paragraph (1) to be employed primarily in connection with any function relating to the Peace Corps shall, effective on the date of enactment of this Act, be appointed a member of the Foreign Service under the authority of section 7(a)(2) of the Peace Corps Act, and be appointed or assigned to an appropriate class thereof, except that—

(A) no person who holds a career or career-conditional appointment immediately before such date shall, without the consent of such person, be so appointed until three years after such date, during which period such person not consenting to be so appointed may continue to hold such career or career-conditional appointment; and

(B) each person so appointed who, immediately before such date, held a career or career-conditional appointment at grade 8 or below of the General Schedule established by section 5332 of title 5, United States Code, shall be appointed a member of the Foreign Service for the duration of operations under the Peace Corps Act.

Each person appointed under this paragraph shall receive basic compensation at the rate of such person's class determined by the President to be appropriate, except that the rate of basic compensation received by such person immediately before the effective date of such person's appointment under this paragraph shall not be reduced as a result of the provisions of this paragraph.

DIRECTOR OF THE PEACE CORPS

SEC. 604. Section 4(b) of the Peace Corps Act (22 U.S.C. 2503(b)) is amended by striking out "such agency or officer of the United States Government as he shall direct. The head of any such agency or any such officer" and inserting in lieu thereof "the Director of the Peace Corps. The Director of the Peace Corps".

TECHNICAL AMENDMENTS

SEC. 605. (a) Section 3 of the Peace Corps Act (22 U.S.C. 2502) is amended by—

(1) repealing subsections (d), (e), and (f); and

(2) redesignating subsection (g) as subsection (d).

(b) The repeal of provisions of law made by subsection (a) of this section shall not affect (1) the validity of any action taken under the repealed provisions before the date of the enactment of this Act, or (2) the liability of any person for any payment described in such subsection (f).

REPORTS

SEC. 606. (a) Not later than the thirtieth day after the date of enactment of this Act, the Director of the Office of Management and Budget shall submit to the appropriate committees of the Congress and to the Comptroller General a report regarding the steps taken in implementation of the provisions of this Act, including descriptions of the manner in which various administrative matters are disposed of, such as matters relating to personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, available, or to be made available in connection with functions or activities relating to the Peace Corps.

(b) Not later than the forty-fifth day after the date of the enactment of this Act, the Comptroller General shall submit to such committees a report stating whether, in the judgment of the Comptroller General, determinations made by the Director of the Office of Management and Budget under section 3(b)(1) were equitable.

REFERENCES IN LAW

SEC. 607. References in any statute, reorganization plan, Executive order, regulation, or other official document or proceeding to the ACTION Agency or the Director of the ACTION Agency with respect to functions or activities relating to the Peace Corps shall be deemed to refer to the Peace Corps or the Director of the Peace Corps, respectively.

Mr. CRANSTON. Mr. President, the amendment I have offered contains the text of S. 1015, as reported by the Senate Foreign Relations Committee on May 15. This amendment would provide for the separation of the Peace Corps from the ACTION Agency.

Mr. President, I am offering the text of S. 1015 to this bill because I feel it is urgent that we take action on this matter now. Despite the strong bipartisan support for S. 1015 on the Foreign Relations Committee, we have been unable to schedule action on this legislation. S. 1015 was reported on a 10 to 2 vote and is cosponsored by Senators PELL, MATHIAS, BOSCHWITZ, BIDEN, GLENN, SARBANES, TSONGAS, DODD, BAUCUS, BRADLEY, HART, KENNEDY, and LEVIN. Although identical provisions are contained in S. 1196, the 1982 foreign assistance bill and virtually the same provisions are in the House companion bill, H.R. 3566, it now appears that action on the House bill is likely to be substantially delayed in the House, and there are apparently similar delays in the Senate's consideration of the foreign assistance legislation. I believe it would be most unwise for us to allow the separation legislation, which has such strong support in both authorizing committees, to fall by the wayside.

As my colleagues will recall, much of

the impetus for the separation of the Peace Corps from the ACTION agency arose out of the nomination of an individual with a background in military intelligence work to serve as the director of the ACTION agency. I strongly felt, as did a number of my colleagues, several former directors of the Peace Corps from both parties, and many, many former and present Peace Corps volunteers, that this action would seriously and substantially undermine the effectiveness of the Peace Corps in underdeveloped nations throughout the world and would, for the first time, provide a factual nexus upon which to base attacks upon the Peace Corps' integrity and its historic separation from the intelligence activities of this country.

However, because a solution to the problem posed by the nomination of Thomas Pauken to serve as the Director of the ACTION agency—the total and complete separation of the Peace Corps from the ACTION agency—had been approved by the Senate Foreign Relations Committee and was about to be approved—as it was the next day—by the House Foreign Affairs Committee, I did not seek to block consideration of Mr. Pauken's nomination.

I took that action because I did not wish to unduly delay the Senate's business and because I believed that we would expeditiously be moving toward consideration of the separation legislation. I was also given assurances by the distinguished Senator from Maryland (Mr. MATHIAS) that Mr. Pauken had promised to keep hands off the Peace Corps and agreement was reached that the Senate would proceed immediately after the Pauken nomination to consideration of the nomination of Loret Ruppe to serve as Director of the Peace Corps, thereby avoiding creating a vacuum in the leadership of the Peace Corps itself. In light of the committee's action and these assurances, we agreed to proceed with the consideration of Mr. Pauken's nomination.

Mr. President, as I indicated, much of the impetus for this legislation was generated by the nomination of an individual with a background in military intelligence to serve as the Director of the ACTION agency. This nomination presented a breach of a tradition of strict separation of the Peace Corps from any connection or appearance of connection with intelligence activities—a tradition which has been adhered to by each successive administration—Republican and Democratic alike—over the past 20 years. There has been much discussion and debate about the degree and extent of the nominee's intelligence training and experience, whether his intelligence activities fell within or without the period for automatic disqualification under existing Peace Corps and ACTION agency regulations, and the extent to which he would be actively involved in Peace Corps activities.

Mr. President, those issues, I believe, are largely irrelevant to the basic problem presented by the nomination of Mr. Pauken. The basic problem is how his nomination would be perceived overseas in underdeveloped, not particularly sophisticated communities where legal and technical distinctions between professional intelligence and military intelligence are immaterial.

Mr. President, I do not wish to take the time of the Senate to belabor these issues any longer. Mr. Pauken has been confirmed. Those opposing his confirmation withdrew their opposition to the Senate's consideration of his nomination because we felt that an appropriate approach to dealing with the problem would be through the separation of the Peace Corps from the ACTION agency.

Mr. President, although Mr. Pauken's nomination precipitated much of the current support for separation of the Peace Corps from the ACTION agency, it is not the sole reason nor, in the long run, should it be viewed as the primary reason, although I believe it is highly relevant to our timing in acting on the amendment. Indeed, congressional interest and support for this course of action long preceded Mr. Pauken's nomination. During the last Congress, the House of Representatives approved—by a margin of 276 to 116—legislation removing the Peace Corps from the ACTION agency. The House legislation, however, would have placed the Peace Corps within the then newly forming International Development Cooperation Agency—IDCA—a transfer which many Members of the Senate opposed on the grounds that placement of the Peace Corps within IDCA might make it appear to be simply another part of our foreign aid program and thus deprive it of its uniqueness as a people-to-people program, outside the mainstream of Government programs. The House-Senate Conference Committee rejected this transfer, expressing, however, reservations about the continuation of the Peace Corps within the ACTION agency and indicating the intent of the committees to continue to reevaluate the issue.

Mr. President, the committee report on S. 1015 delineates the various areas that have caused considerable concern over the continued relationship of the Peace Corps to the ACTION agency. I ask unanimous consent that appropriate excerpts from the committee report, with corrections of certain printing errors, be reprinted in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. CRANSTON. Mr. President, these areas of concern have focused upon the unnecessary bureaucracy, decline in recruitment, lowered staff morale, and general subordination of the Peace Corps to the ACTION agency's domestic programs. Nowhere is the problem more acute than in the area of recruitment and communications. The ACTION agency, not the Peace Corps, is responsible for recruitment activities. Volunteers apply to the ACTION agency itself, not the Peace Corps. This arrangement substantially dilutes the positive recruitment value that arises from the Peace Corps' strong public image and identity. The decline in the number of Peace Corps volunteers since its merger into the ACTION agency can be attributed at least in part, to the Peace Corps' loss of control over and public identification with its own recruitment activities.

The ACTION agency, not the Peace Corps, controls communication. Hence, various publications, reports, and releases issued by the ACTION agency continue to portray the Peace Corps as simply one of several volunteer programs operated by the ACTION agency.

Finally, Mr. President, very real budgetary and personnel problems have plagued the merger of the Peace Corps and the ACTION agency. The Peace Corps is forced to pay 60 percent of the cost of joint services, irrespective of the proportion of those services actually provided to the Peace Corps. The separate personnel systems—the Peace Corps with its foreign service-based system and the ACTION agency with its general schedule-civil service system—has made it difficult for personnel to be transferred between domestic and international volunteer program activities and has been a constant source of internal tensions.

When it comes to working out some of these problems, it is the ACTION agency, not the Peace Corps, that negotiates with the employee union.

Mr. President, under the current arrangement, the Peace Corps is submerged under unnecessary layers of bureaucracy—a bureaucracy that saps its strength and vitality. Indeed, the very essence of the Peace Corps and its appeal to Americans lies in its being the antithesis of a Government bureacracy. Yet, submerged within the ACTION agency and subordinate to the domestic volunteer programs, the Peace Corps has lost much of the visibility and strength which it enjoyed in its early days.

Mr. President, the amendment I am offering, and the approach approved overwhelmingly by both the Senate Foreign Relations Committee and the House Foreign Affairs Committee, would restore the Peace Corps to the kind of operational independence it enjoyed during its first 10 years. It would become an independent Federal agency, free from any entanglements with any other Federal agencies. The amendment would retain, however, the existing relationship between the Peace Corps and the Secretary of State—a relationship which has existed since the enactment of the Peace Corps Act, which provides for the effective integration of the Peace Corps with the overseas programs of other U.S. Government agencies.

Mr. President, finally, let me say that CBO has determined that there would be no budgetary impact resulting from the passage of this legislation. The only impact would be a resolution of the current problems facing the Peace Corps and a restoration of this extraordinary program to the status and the vitality it enjoyed in its early days.

As the Peace Corps prepares to celebrate next week its 20th anniversary, I can think of no more fitting action than for the Senate to approve this legislation to revivify the Peace Corps program and congressional support for its important mission. I urge my colleagues to support this amendment.

EXHIBIT 1

EXCERPTS, WITH TECHNICAL CORRECTIONS, FROM SENATE REPORT NO. 97–84, TO ACCOMPANY S. 1015

* * * * *

COMMITTEE ACTION

S. 1015, a bill to separate the Peace Corps from the ACTION agency, was introduced by Senator Cranston (for himself and Senators Pell, Mathias, Biden, Sarbanes, Tsongas, Baucus and Kennedy) on April 27, 1981, and referred to the Committee on Foreign Relations. Additional co-sponsors are: Senators Dodd, Glenn, Bradley, Boschwitz, Levin and Hart. The Committee received testimony on the proposal to separate the Peace Corps from ACTION during the Committee's hearing on April 29, 1981.

The Committee agreed in an open markup session on May 13, 1981, to report S. 1015, as amended, favorably to the Senate and to report identical provisions as part of the Foreign Assistance Act Amendments of 1981. Senators voting in favor were: Perry, Kassebaum, Boschwitz, Pell, Biden, Glenn, Sarbanes, Tsongas, Cranston and Dodd. Senators voting in the negative were Helms and Lugar.

COMMITTEE COMMENTS

S. 1015 would separate the Peace Corps from the ACTION Agency, thereby restoring it to the full Operational autonomy it enjoyed during its early years. Although the Committee's decision was precipitated to a large extent by the controversy surrounding the appointment of an individual with a military intelligence training and field work background to serve as the Director of the ACTION agency and the impact that this nomination might have upon the long-standing policy of the Peace Corps to avoid any involvement or appearance of involvement with any intelligence activities, it is the Committee's view that a number of independent programmatic considerations make separation desirable in order to permit the Peace Corps to carry out its mission effectively.

HISTORY OF PEACE CORPS' STATUS

The Peace Corps Act, enacted September 22, 1961, authorized the President of the United States to carry out the programs authorized under the Act and to exercise the functions vested in him by it through such agency or officer of the United States government as he shall direct. Under Executive Order 11041 of August 6, 1962, the President delegated the basic operational authorities under the Act to the Secretary of State. The Secretary, in turn, delegated those authorities to the Director of the Peace Corps in State Department Delegation 35–11A, dated August 29, 1962. The Peace Corps thus was initially operated as an agency technically within the Department of State, but enjoyed very substantial operational autonomy through the delegation of authorities.

In 1971, pursuant to Executive Order 11603 of July 1, 1971, the Peace Corps was transferred to the ACTION agency, created by Reorganization Plan No. 1 of 1971, and authority to direct the Peace Corps was assigned to the Director of the ACTION agency. A statutory basis for the ACTION agency was established in 1973 in title IV of the Domestic Volunteer Service Act of 1973, Public Law 93–113. Between 1971 and 1979, the Peace Corps was administered by the ACTION agency and its director along with various domestic volunteer programs such as VISTA (Volunteers in Service to America) and the Older American Volunteer programs—R.S.V.P. (Retired Senior Volunteer Program), Senior Companions, and Foster Grandparents.

In May of 1979, President Carter issued Executive Order 12137 which superseded Executive Order 11603. Executive Order 12137 continued the Peace Corps as a program within the ACTION agency but provided it with certain budgetary and operating autonomy. The memorandum from President Carter accompanying the Executive Order described its effect as follows:

This executive order supersedes Executive Order 11603, issued in 1971. Executive Order 11603 assigned to the ACTION Director the authority to direct the Peace Corps. The attached order delegates that authority to the Peace Corps Director.

The order requires the Peace Corps Director to consult with the Director of ACTION and to coordinate Peace Corps activities with those of ACTION. It provides that the Director of ACTION will be responsible for the general direction of all ACTION functions which jointly serve ACTION's domestic volunteer components and the Peace Corps, and for advising the Peace Corps Director to ensure the carrying out of the functions assigned to the Peace Corps Director.

Under the 1979 Executive Order, the ACTION agency controls the following services provided to the Peace Corps:

1. recruitment of volunteers and processing of applications;
2. general administration—for example, space management, accounting, data processing, procurement, and contracting;
3. internal auditing and inspections;
4. investigation of equal employment opportunity complaints;
5. limited legal services—for example, monitoring staff compliance with the Ethics in Government Act, Freedom of Information and Privacy Acts, and monitoring legal requirements of contracting procedures;
6. communication services;
7. health services to Peace Corps volunteers;
8. supervision of the Peace Corps partnership program;
9. services for former volunteers; and
10. security investigations for Peace Corps staff and some volunteers.

The ACTION agency also is responsible for applying the intelligence separation policy to ACTION agency employees providing services to the Peace Corps.

At the time the Peace Corps was placed in the ACTION agency, the desirability of effecting certain administrative economies, a closer degree of cooperation between domestic and international volunteer service efforts, and more efficient recruitment of volunteers were cited as justifications for the merger.

For the most part, these expectations have not been fulfilled. Instead, the Peace Corps, as an agency within the ACTION agency, has been continually plagued by a variety of managerial, personnel, and budgetary problems. In addition, submerged within the ACTION agency, the Peace Corps lost much of its visibility and acquired an overlay of staff and bureaucracy which did not contribute to its vitality.

These problems led the House of Representatives in April of 1979 to approve—by a margin of 276 to 116—legislation removing the Peace Corps from the ACTION agency. The House legislation, however, would have placed the Peace Corps within the then newly forming International Development Cooperation Agency—IDCA—a transfer which many members of the Senate opposed on the grounds that placement of the Peace Corps within IDCA might make it appear to be simply another part of our foreign aid program and thus deprive it of its uniqueness as a people-to-people program, outside the mainstream of government programs. Additionally, it was hoped that issuance of the 1979 Executive Order would resolve some of the problems confronting the program within the ACTION agency. For these reasons, the committee of conference on the International Development Cooperation Act of 1979 agreed to retain the Peace Corps within the ACTION agency. The conference committee, however, expressed its strong support for maximum autonomy for the Peace Corps under the new executive order and expressly stated that:

* * * cost savings may be an argument for continuing some shared functions, but concern is expressed that in the long run effectiveness in meeting the needs of Peace Corps, particularly in a vital area such as recruitment, should be the dominant consideration. (Conference Report No. 96–397, pages 40–41, to accompany H.R. 3324).

The conference committee also stated the intention of the authorizing committees to review carefully the details relating to implementation of the new executive order and * * * to reconsider the action taken by the House * * * if implementation of the executive order does not provide sufficient autonomy and alleviate the problems which the Peace Corps has been facing in recent years.

It is the view of this Committee that the implementation of Executive Order 12137 has not effectively alleviated the problems which the Peace Corps has been facing since the merger. In the Committee's view, only full autonomy by the establishment of the Peace Corps as an independent agency will restore it to the visibility and vitality that it enjoyed in its early years.

CONTINUING PROBLEMS WITHIN THE ACTION AGENCY

Concern over the viability of the Peace Corps' placement in the ACTION agency and the effect of that placement on the continued vitality of the Peace Corps' operations has been raised in various studies, including a 1977 report, The Future of the Peace Corps, prepared by former Assistant Secretary of State Harlan Cleveland under a contract between the ACTION agency and the Aspen Institute for Humanistic Studies; a 1974 report, The Peace Corps: Perspectives for the Future, prepared by the National Academy of Sciences; and a 1977 report, The Ambitious Task. New Approaches to Peace Corps and Private Voluntary Organization Efforts to Promote Third World Development, prepared by Warren Wiggin, former Deputy Director of the Peace Corps, released by the Trans-Century Corporation. These reports cited increased bureaucratic entanglements, lowered staff morale, decline in recruitment, and subordination of the Peace Corps to the Agency's domestic programs as some of the adverse consequences of the placement of the Peace Corps in the ACTION agency.

Some areas where specific problems have existed include recruitment, communications, overlapping areas of authority, budget and cost allocation, and conflicting personnel systems.

Recruitment

Under the 1979 Executive Order, the ACTION agency maintains responsibility and control over the recruitment of potential volunteers. The ACTION Agency controls both the recruitment resources and the general recruitment effort. Volunteers apply to the ACTION agency itself, not the Peace Corps. This arrangement substantially dilutes the positive recruitment value that arises from the Peace Corps' strong public image and identity. The decline in the number of Peace Corps volunteers since its merger into the ACTION agency can be attributed, at least in part to the Peace Corps' loss of control over and public identification with its own recruitment activities.

Communications

One of the most serious problems associated with the present status of the Peace Corps with the ACTION agency is its loss of visibility. The ACTION agency, not the Peace Corps, controls communications. Hence, various publications, reports, and releases issued by the ACTION agency continue to portray the Peace Corps as simply one of several volunteer programs operated by the

ACTION agency (including, for example, those in connection with the recent nomination of a new Director and Deputy Director of the ACTION agency). The value of its unique history and mission and its rich heritage—which have distinguished it from simply being a "volunteer" program and from generally operating as another Government bureaucracy—have thus been substantially diminished. The overall focus and image of the ACTION agency rests upon and derives from its domestic programs; the continued submergence of the Peace Corps within the ACTION agency does not serve to enhance the Peace Corps' reputation.

Bureaucracy and overlap authority

Under the present structure, the Peace Corps is encumbered by unnecessary layers of bureaucracy and conflicting channels of communication. The Acting Director of the Peace Corps, William Sykes, in his testimony before the Committee on April 29, 1981, called attention to the problems created by the multiple channels of communication which currently exist, as well as the difficulties that arise when the various support units are required to be responsible to two different masters—the Director of the Peace Corps and the Director of the ACTION agency.

These unnecessary layers of bureaucracy tend to sap the Peace Corps of vitality. Indeed, the very essence of the Peace Corps and its appeal to Americans lies in its being the antithesis of government bureaucracy. A unique program from its inception, the Peace Corps needs to be free to respond creatively to new ideas and the continuously evolving and emerging needs of host coun-countries.

Budgetary problems

The Committee has had a continuing concern about allocation of costs for support services provided by the ACTION agency to the Peace Corps, and the extent to which the Peace Corps pays a disproportionate share of the joint support services. Currently, the Peace Corps pays 60 percent of the costs of all these services irrespective of the amount or cost of the services actually provided to the Peace Corps. According to the recent testimony presented to the Committee by the Acting Director of the Peace Corps, this allocation may be equitable in some areas and inequitable in others.

Personal problems

The Peace Corps operates under a unique foreign service personnel system which requires that its staff appointments generally not exceed 5 years. The ACTION agency, of course, operates under the general civil service system. The separate Peace Corps personnel system has repeatedly been a source of major labor/management controversies and has made it very difficult for personnel to be transferred between domestic and international volunteer program activities. The ACTION agency has also insisted upon serving as the sole management representative with respect to labor/management relations covering all of the Peace Corps' non-professional employees in the United States. As recently as April 23, 1981, the Acting Director of the ACTION agency reiterated that all negotiations with the employee's union must be handled through the ACTION agency's Labor Relations officer.

Cost issues

A preliminary analysis of the cost of operating an independent Peace Corps prepared earlier this year by the Peace Corps budget office indicated that separation would not entail additional costs to the Peace Corps. In testimony before the Committee, the Acting Director of the Peace Corps indicated that the ACTION agency budget office and OMB had reached different conclusions. In an April 2, 1981 letter to Max Friedersdorf, Assistant to the President for Legislative Affairs, the chairman requested the administration to provide the Committee with a report on whether the shared support services provided for by the 1979 Executive Order had resulted in any significant savings for the Peace Corps, including a detailed comparison of any such savings with the probable costs that would have been incurred by the Peace Corps had it been a completely independent agency from ACTION. In a letter dated April 3, Mr. Friedersdorf indicated that the administration had no information available with respect to this question but indicated that a request was being made to OMB to review the question. On April 27, 1981 the Committee received a further response from Mr. Friedersdorf estimating at the "outside" an additional cost of $3 million to operate an independent Peace Corps. The memorandum, which is reprinted as Appendix II, also states that the figure "is likely to be too large."

Based upon the preliminary data available, it is the Committee's view that it is unclear whether cost savings or additional costs would result from separation of the Peace Corps from the ACTION agency. However, the Committee believes that the need to provide the Peace Corps with full autonomy in order to assure its future strength and vitality outweigh the possible minimal additional budgetary costs projected by OMB.

INTELLIGENCE-SEPARATION POLICY

Since its earliest days, the Peace Corps has had a policy of complete and total separation from intelligence agencies and activities. In order to dispel any false charges of any intelligence connection, a companion policy was established barring persons with certain intelligence backgrounds from serving as Peace Corps volunteers or staff. These policies have been strongly supported since 1961 by each successive administration and have been a cornerstone of the Peace Corps' effectiveness.

Although the Committee was sharply divided over whether the nomination of Thomas Pauken (confirmed by the Senate on May 7, 1981) to be Director of the ACTION agency would compromise the intelligence-separation policies (see Executive Report No. 97–6, (April 7, 1981)), this Committee remains staunchly committed to the continued total separation of the Peace Corps from intelligence activities and to the maintenance and strict application of the intelligence policies as described in the March 18, 1981, letter of the new Peace Corps Director, Loret Ruppe, and former Acting Director Sykes, set forth in the hearing record on this legislation.

In the Committee's view, the Peace Corps' autonomy will contribute to this goal of maintaining that separation and strictly enforcing those policies. The kinds of issues that arose with respect to Mr. Pauken's nomination and might arise with respect to other ACTION agency employees would henceforth be eliminated. Moreover, only the Director of the Peace Corps—as distinguished from the head of any other agency—would have any role in the interpretation, application, and enforcement of these internal policies.

In this regard and in order to contribute to the maximum possible effectiveness of the intelligence-separation policies and the perception of them, the Committee notes with approval the following statements by Committee member Senator Charles Mathias during debate on May 7 on Mr. Pauken's nomination.

Mr. MATHIAS. Mr. Pauken gave me his assurances that he would "keep hands off" the Peace Corps if he was confirmed as the Director of the ACTION agency. I understood those assurances to mean that he would delegate whatever responsibilities he might have with respect to the Peace Corps to his Deputy and that is a major reason why I felt I could vote to confirm his nomination when it was considered in the Foreign Relations Committee. I understand that Mr. Pauken has recently been reported to have stated his intention to delegate his responsibilities with respect to the Peace Corps to the Deputy Director of the ACTION agency and will not be directly involved in any decisions made in regard to the Peace Corps. I very much hope that he will make such a delegation of authority as soon as he takes office and will publicize it widely. (Congressional Record, May 7, 1981. S. 4495 (daily ed.).)

The Committee very much hopes that Mr. Pauken will act accordingly during the pendency of Congressional consideration of the separation legislation (also approved by the House Foreign Affairs Committee on May 7 as part of its consideration of the proposed International Security and Development Cooperation Act of 1981).

CONTINUING COORDINATION WITH THE DEPARTMENT OF STATE

The Committee's action with respect to the separation of the Peace Corps from the ACTION agency would not in any way alter the existing relationship between the Peace Corps and the Secretary of State. The Secretary of State would continue to have the responsibilities, which the Secretary has had since the enactment of the Peace Corps Act, under section 4(c)(4) and (d) for assuring that Peace Corps programs are effectively integrated with and are not unduly duplicative of the overseas programs of other U.S. government agencies.

TRANSFER OF PERSONNEL, RECORD, UNEXPENDED FUNDS AND RELATED ADMINISTRATIVE MATTERS

The Committee bill provides for all personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds which are employed, held, or used primarily in connection with functions relating to the Peace Corps as determined by the Director of the Office of Management and Budget (OMB) after consultation with the Comptroller General and the Director of the Peace Corps and the Director of the ACTION agency, to be transferred from the ACTION agency to the Peace Corps not later than 30 days after the date of enactment, the Director of OMB is required to submit to the appropriate committees of the Congress (the four authorizing Committees, the Governmental Affairs, and the Government Operations Committee, and the Appropriations Committees) and to the Comptroller General a report on the steps taken to implement the separation. This report must include a description of the manner in which the various administrative matters associated with the separation are disposed of, including matters relating to personnel, assets, liabilities, contracts, property, records, and unexpended funds.

The Comptroller General of the United States is also directed to report to the appropriate Committee within 45 days after enactment, as to whether the division is equitable to the agencies, the employees, and parties involved. In the event it becomes necessary, it is the Committee's expectation that the Director of OMB and the Comptroller General will file supplemental reports to fully inform the appropriate Committees on the matters involved.

The Committee bill also provides specific protections for those employees currently employed by the ACTION agency who are to be transferred under the Committee bill to the Peace Corps. The bill provides that the transferred employes shall, to the maximum extent feasible, be assigned to related functions and organizational units in the Peace Corps. Thus, a transferred employee would, if at all possible, be assigned to a position in a unit where his or her duties and the functions of such unit would be comparable to his or her former duties and to the functions of his or her former unit. It also pro-

vides that those employees shall not because of such transfer be separated or reduced in rank, class, grade, or compensation, or otherwise suffer a loss of employment benefits for one year after the later of either of the following dates: the date on which the Director of OMB submits the report required with respect to implementation of the separation, or, with respect to any individual employee who has been transferred, the effective date of such individual's transfer. The Committee bill provides that any collective-bargaining agreement covering and regarding employees transferred or those employed by the Peace Corps that is in effect on the date of enactment shall continue to be recognized by the Peace Corps until the termination date of the agreement or until a mutual modification by the parties otherwise specifies. These protections are similar to those which have been provided to employees in other programs when new or independent agencies have been established, such as under section 9(a) of Public Law 93–644 (former section 601(h) of the Economic Opportunity Act) with respect to the Community Services Administration, under section 3(c) of the Legal Services Corporation Act of 1974 (Public Law 93–355) with respect to the Legal Services Corporation, and under section 502(a) of the Department of Education Organization Act (Public Law 96–88) with respect to the Department of Education.

The Committee bill specifically provides for the transferred employees to be appointed as members of the Foreign Service under the authority of section 7(a)(2) of the Peace Corps Act and, with respect to the 5-year limitation on Peace Corps Act appointments, under section 7(a)(2)(A) of that Act, provides certain protections for personnel with General Schedule appointments who are transferred to the Peace Corps. These protections are based upon the provisions in section 5 of Public Law 89–134 which provided "grandfather" protection to employees with General Schedule (GS) appointments in 1965 when the unique, unified Peace Corps personnel system derived from Foreign Service Act authorities and the 5-year employment limitation were established by the Public Law 89–134. Thus, under the Committee bill, persons whose career or career-conditional appointments were above grade 8 of the General Schedule (GS-8) would be entitled to retain their existing GS appointments for three years. After 3 years, if they wished to continue their employment with the Peace Corps, they would be required to convert to a comparable appointment in the Foreign Service under authority of section 7(a)(2) of the Peace Corps Act and become subject to the 5-year employment limitation contained in clause (A) of section 7(a)(2). Transferred employes whose career or career-conditional appointments were at GS-8 or below would receive comparable Foreign Service Unlimited appointments and would thus be permanently exempt from the 5-year service limitation in the same manner as were employees at GS-8 and below by virtue of the 1965 amendments. Enactment of the Committee bill would not in any way affect the status of those employees "grandfathered" under that prior section. These new protections should be implemented in a similar fashion to the provisions of Public Law 89–134.

COST ESTIMATE

In accordance with section 252(a) of the Legislative Reorganization Act of 1979 (Public Law 150, 91st Congress), the committee provides the following estimate of the cost of S. 1015, prepared by the Congressional Budget Office. The Committee concurs with the estimate.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., May 15, 1981.

HON. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 1015, a bill to separate the Peace Corps from the ACTION Agency, as ordered reported by the Senate Committee on May 13, 1981.

This legislation authorizes no additional funds to carry-out the separation and is expected to have no budget impact.

Sincerely,

ALICE M. RIVLIN, *Director.*

REGULATORY IMPACT STATEMENT

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee on Foreign Relations has made an evaluation of the regulatory impact which would be incurred in carrying out the Committee bill. The results of that evaluation are described below:

A. *Estimates of the numbers of individuals and businesses who would be regulated, and a determination of the groups and classes of such individuals and businesses.*—Inasmuch as the bill provides only for separation of the Peace Corps from the ACTION agency and the establishment of the Peace Corps as an independent agency, its enactment would not result in the regulation of any individuals or businesses.

B. *Determination of the eccnomic impact of such regulations on individuals, consumers and businesses affected.*—Since, as previously indicated, there would be no such regulation, there would be no such impact.

C. *Determination of the impact on the personal privacy of the individual affected.*—The enactment of the Committee bill would not have any impact on the personal privacy of any individuals.

D. *Determination of the amount of additional paperwork that will result from regulations to be promulgated under the bill.*—The only regulations expected to be promulgated directly as a result of the bill would pertain to the transfer of certain personnel, pursuant to the provisions of the bill, from the ACTION agency to the Peace Corps. Those regulations, however, are not expected to increase substantially the paperwork involved in those transfers.

SECTION-BY-SECTION

Section 1.—Would provide that the measure may be referred to as the "Peace Corps Autonomy Act".

Section 2.—Would provide that, effective on the date of enactment, the Peace Corps shall be an independent agency within the executive branch and shall not be an agency within the ACTION agency—as it now is under Executive Order 12137, dated May 16, 1979—or within any other department or agency of the United States.

Section 3: Subsection (a) would transfer to the Director of the Peace Corps all functions relating to the Peace Corps which were vested in the Director of the ACTION agency prior to the date of enactment. This would not, however, in any way limit the President's discretion to withdraw any Peace Corps delegation, under present section 4(b) or other provisions of the Peace Corps Act or under other applicable law, to the Director of the Peace Corps or to any other official.

Paragraph (1) of subsection (b) would provide for the transfer to the Peace Corps of various items, including personnel, assets, liabilities, contracts, property, records, and unexpended balances which are used primarily in connection with functions relating to the Peace Corps, as determined by the Director of the Office of Management and Budget (OMB), after consultation with the Comptroller General and the Director of the Peace Corps and the Director of the ACTION Agency.

Subparagraph (A) of paragraph (2) of subsection (b) would provide that the transfer pursuant to this section of full-time employees (except experts or consultants or other special government employees) and part-time permanent employees shall not cause such employees to be separated or reduced in rank, class, grade or compensation, or otherwise suffer a loss of employment benefits for one year after the later of (1) the date on which the Director of the Office of Management and Budget submits the report required under section 6(a), or, (2) effective date of a particular individual transfer.

Subparagraph (B) of paragraph (2) of subsection (b) would provide that employees transferred from the ACTION agency to the Peace Corps pursuant to this section shall be assigned, to the maximum extent feasible, to such related functions and organizational units in the Peace Corps as such employees were assigned to immediately before the date of enactment of this Act.

Subparagraph (C) of paragraph (2) of subsection (b) would provide that any collective-bargaining agreement in effect on the date of enactment of this Act covering employees transferred pursuant to this section or employed on that date by the Peace Corps shall continue to be recognized by the Peace Corps until the termination date of the agreement, or until a mutual modification by the parties otherwise specifies.

Paragraph (3) of subsection (b) would provide, under such regulations as the President may prescribe, that, with two exceptions, each employee who does not hold an appointment under section 7(a)(2) of the Peace Corps Act and who is determined under paragraph (1) to be employed primarily in connection with any function relating to the Peace Corps shall, upon the effective date of this Act, be appointed a member of the Foreign Service under the authority of section 7(a)(2) of the Peace Corps Act, and be appointed or assigned to an appropriate class thereof. Under the first exception, no transferred employee may be so appointed without his or her consent until three years after that effective date. During this 3-year period, an employee who does not consent to such an appointment may continue to hold his or her career or career-conditional appointment. Under the second exception, each transferred employee holding a career or career-conditional appointment at grade 8 or below of the General Schedule (GS) shall be appointed a member of the Foreign Service for the duration of operations under the Peace Corps Act. Thus, persons at grade GS–8 or below would not be subject to the five-year appointment limitation contained in section 7(a)(2)(A) of the Peace Corps Act. Persons above grade GS–8 would be permitted to continue their employment under their career or career-conditional appointments for 3 years after their transfer to the Peace Corps. After that time, if they wished to continue their Peace Corps employment, they would be required to accept a Peace Corps Act (Foreign Service) appointment to which the 5-year appointment limitation would apply. The basic rate of compensation for persons appointed under these provisions would not be permitted to be reduced below the rate reecived by such person immediately prior to the effective date of such person's appointment. This paragraph is derived from section 5 of Public Law 89–134, establishing the unique, unified Peace Corps personnel system, and should be implemented in similar fashion.

Section 4.—Would amend section 4(b) of the Peace Corps Act to limit the President's current authority to exercise the functions vested in him under the Peace Corps Act through government agencies and officials of the President's choosing by permitting the President to delegate the authority to perform those functions only to the Director of the Peace Corps.

Section 5.—Would repeal no-longer-applicable provisions of section 3(d), (e), and (f) of the Peace Corps Act, which contain references to the Director of ACTION to the Treasury in fiscal year 1976 to rectify certain imbalances in the Peace Corps readjustment allowance account, the waiver of claims for certain erroneous payments of readjustment allowances to Peace Corps volunteers, and the relieving of ACTION and Peace Corps disbursing officers of liability for certain improper or incorrect payments during that period; and would provide that the repeal of these provisions would not affect the validity of any action taken under the repealed provisions prior to their repeal or the liability of those disbursing officers for such payments.

Section 6.—Subsection (a) would require the Director of OMB to submit to the appropriate committees of the Congress (the four authorizing Committees, the Governmental Affairs and Government Operations Committee, and both Appropriations Committees) and to the Comptroller General, within 30 days after the date of enactment, a report on the steps taken to implement the separation of the Peace Corps from the ACTION agency.

Subsection (b) would require the Comptroller General to submit to those same committees, within 45 days after the date of enactment, a report stating whether, in the Comptroller General's judgment, the determinations by OMB were equitable.

Section 7.—Would provide that references in any statute, reorganization plan, executive order, regulation, or other official document or proceeding to the ACTION agency or the Director of the ACTION agency with respect to functions or activities relating to the Peace Corps shall be deemed to refer to the Peace Corps or the Director of the Peace Corps, respectively.

CHANGES IN EXISTING LAW

In accordance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law (Public Law 87-293, as amended) made by S. 1015 as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PEACE CORPS ACT, AS AMENDED

PUBLIC LAW 87-293

87TH CONGRESS, H.R. 7500

September 22, 1961

An act to provide for a Peace Corps to help the peoples of interested countries and areas in meeting their needs for skilled manpower

TITLE I—THE PEACE CORPS

* * * * * *

SEC. 3 * * *

[(d) The Director of ACTION shall transfer to the readjustment allowance, ACTION, account at the Treasury Department, no later than December 31, 1975, not to exceed $315,000 from any sums available to carry out the purposes of this Act in fiscal year 1976 to rectify the imbalance in the Peace Corps readjustment allowance account for the period March 1, 1961, to February 28, 1973.

[(e) The Director of ACTION is authorized to waive claims resulting from erroneous payments of readjustment allowances to Peace Corps Volunteers who terminated their volunteer service between March 1, 1961, and February 28, 1973, notwithstanding the provisions of section 5584 of title 5, United States Code, and notwithstanding the fact that the names of the recipients of such overpayments may be unknown.

[(f) Disbursing and certifying officers of the Peace Corps and ACTION are relieved from liability for improper or incorrect payment of readjustment allowances made to volunteers between March 1, 1961, and February 28, 1973, other than any cases known to have resulted from fraud, notwithstanding the provisions of the first section of the Act entitled "An Act to provide permanent authority for the relief of certain disbursing officers, and for other purposes", approved August 11, 1955 (31 U.S.C. 82a-2), and of section 2 of the Act entitled "An Act to fix the responsibilities of disbursing and certifying officers, and for other purposes", approved December 29, 1941 (31 U.S.C. 82c).]

[(g)] *(d)* In recognition of the fact that women in developing countries play a significant role in economic production, family support, and the overall development process, the Peace Corps shall be administered so as to give particular attention to those programs, projects, and activities which tend to integrate women into the national economics of developing countries, thus improving their status and assisting the total development effort.

DIRECTOR OF THE PEACE CORPS AND DELEGATION OF FUNCTIONS

SEC. 4. (a) The President may appoint, by and with the advice and consent of the Senate, a Director of the Peace Corps and a Deputy Director of the Peace Corps.

(b) The President may exercise any functions vested in him by this Act through [such agency or officer of the United States Government as he shall direct. The head of any agency or any such officer] *the Director of the Peace Corps. The Director of the Peace Corps* may promulgate such rules and regulations as he may deem necessary or appropriate to carry out such functions, and may delegate to any of his subordinates authority to perform any of such functions

* * * * * *

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I send to the desk a substitute for the pending amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair informs the Senator from California that so long as the Senator has the right to modify his amendment, an amendment to his amendment will not be in order.

Mr. CRANSTON. I withdraw the second amendment for the moment, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask for the yeas and nays on my pending amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 161

(Purpose: To separate the Peace Corps from the ACTION agency)

Mr. CRANSTON. Mr. President, I now call up the amendment at the desk as a substitute for my amendment, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself and Mr. MATHIAS, Mr. BOSCHWITZ, Mr. HATFIELD, Mr. SARBANES, and Mr. BRADLEY, proposes an unprinted amendment numbered 161.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the material proposed to be inserted, insert the following:

TITLE VI—PEACE CORPS AUTONOMY

SHORT TITLE

SEC. 601. This title may be cited as the "Peace Corps Autonomy Act".

ESTABLISHMENT AS AN INDEPENDENT AGENCY

SEC. 602. Effective on the date of enactment of this Act, the Peace Corps shall be an independent agency within the executive branch and shall not be an agency within the ACTION Agency or any other department or agency of the United States.

TRANSFER OF FUNCTIONS

SEC. 603. (a) There are transferred to the Director of the Peace Corps all functions relating to the Peace Corps which were vested in the Director of the ACTION Agency on the day before the date of enactment of this Act.

(b)(1) All personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds as are determined by the Director of the Office of Management and Budget, after consultation with the Comptroller General of the United States, the Director of the Peace Corps, and the Director of the ACTION Agency, to be employed, held, or used primarily in connection with any function relating to the Peace Corps before the date of the enactment of this Act are transferred to the Peace Corps. The transfer of unexpended balances pursuant to the preceding sentence shall be subject to section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c).

(2)(A) The transfer pursuant to this section of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any employee to be separated or reduced in rank, class, grade, or compensation, or otherwise suffer a loss of employment benefits for one year after—

(i) the date on which the Director of the Office of Management and Budget submits the report required under section 606, or

(ii) the effective date of the transfer of such employee,

whichever occurs later.

(B) The personnel transferred pursuant to this section shall, to the maximum extent feasible, be assigned to such related functions and organizational units in the Peace Corps as such personnel were assigned to immediately before the date of enactment of this Act.

(C) Collective-bargaining agreements in effect on the date of enactment of this Act covering personnel transferred pursuant to this section or employed on such date by the Peace Corps shall continue to be recognized by the Peace Corps until the termination date of such agreements or until a mutual modification by the parties otherwise specifies.

(3) Under such regulations as the President may prescribe, each person who does not hold an appointment under section 7(a)(2) of the Peace Corps Act and who is determined under paragraph (1) to be employed primarily in connection with any function relating to the Peace Corps shall, effective on the date of enactment of this Act, be appointed a member of the Foreign Service under the authority of section 7(a)(2) of the Peace Corps Act, and be appointed or assigned to an appropriate class thereof, except that—

(A) no person who holds a career or career-conditional appointment immediately before such date shall, without the consent of such person, be so appointed until three years after such date, during which period such person not consenting to be so appointed may continue to hold such career or career-conditional appointment; and

(B) each person so appointed who, immediately before such date, held a career or career-conditional appointment at grade 8 or below of the General Schedule established by section 5332 of title 5, United States Code, shall be appointed a member of the Foreign Service for the duration of operations under the Peace Corps Act.

Each person appointed under this paragraph shall receive basic compensation at the rate of such person's class determined by the President to be appropriate, except that the rate of basic compensation received by such person immediately before the effective date of such person's appointment under this paragraph shall not be reduced as a result of the provisions of this paragraph.

DIRECTOR OF THE PEACE CORPS

SEC. 604. Section 4(b) of the Peace Corps Act (22 U.S.C. 2503(b)) is amended by striking out "such agency or officer of the United States Government as he shall direct. The head of any such agency or any such officer" and inserting in lieu thereof "the Director of the Peace Corps. The Director of the Peace Corps".

TECHNICAL AMENDMENTS

SEC. 605. (a) Section 3 of the Peace Corps Act (22 U.S.C. 2502) is amended by—

(1) repealing subsections (d), (e), and (f); and

(2) redesignating subsection (g) as subsection (d).

(b) The repeal of provisions of law made by subsection (a) of this section shall not affect (1) the validity of any action taken under the repealed provisions before the date of the enactment of this Act, or (2) the liability of any person for any payment described in such subsection (f).

REPORTS

SEC. 606. (a) Not later than the thirtieth day after the date of enactment of this Act, the Director of the Office of Management and Budget shall submit to the appropriate committees of the Congress and to the Comptroller General a report regarding the steps taken in implementation of the provisions of this Act, including descriptions of the manner in which various administrative matters are disposed of, such as matters relating to personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, available, or to be made available in connection with functions or activities relating to the Peace Corps.

(b) Not later than the forty-fifth day after the date of the enactment of this Act, the Comptroller General shall submit to such committees a report stating whether, in the judgment of the Comptroller General, determinations made by the Director of the Office of Management and Budget under section 3(b)(1) were equitable.

REFERENCES IN LAW

SEC. 607. References in any law reorganization plan, Executive order, regulation, or other official document or proceeding to the ACTION Agency or the Director of the ACTION Agency with respect to functions or activities relating to the Peace Corps shall be deemed to refer to the Peace Corps or the Director of the Peace Corps, respectively.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MURKOWSKI). Without objection, it is so ordered.

Mr. HELMS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business before the Senate is S. 1193 to which are pending two amendments offered by the Senator from California (Mr. CRANSTON).

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. How can the Senator from California have two amendments pending?

The PRESIDING OFFICER. The Senator from California sent up one amendment on which the yeas and nays were ordered. He then sent up a substitute for his first degree amendment.

Mr. HELMS. I see.

Will the Chair state again what is the precise pending business? Which of the amendments is pending?

The PRESIDING OFFICER. The second-degree substitute amendment is the pending question.

Mr. HELMS. I see.

So, in effect, the second amendment submitted by the distinguished Senator from California precludes any further amendment. Is that correct?

The PRESIDING OFFICER. That is not the case.

Mr. HELMS. I thank the Chair.

In any case, shortly I shall move to table the first amendment which would bring down the second amendment.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. If the first amendment is tabled, then the second amendment is brought down with it. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I thank the Chair.

Now, Mr. President, I have checked my recollection with the White House by telephone just now. The administration is unalterably opposed to this amendment. In the first place, the able Senator from California has submitted a bill in the form of an amendment, and this bill has been reported to the Senate. Therefore, the best that can be said for the amendment is that it ought not to be acted upon on this bill but acted upon as a bill, as a piece of legislation.

The Senator from North Carolina has some thoughts about the proposal to separate the Peace Corps from the ACTION agency. With all due respect to Senators who support this concept, it is, in fact, a slap in the face to a distinguished American, Mr. Pauken, and I do not think we ought to operate that way around here.

If the concern of Senators is that the Peace Corps might be tainted, as some have indicated or implied, by having an affiliation with the U.S. Government or by having a former intelligence officer as head of the Peace Corps' parent organization, which is ACTION, which Mr. Pauken heads, then perhaps the best policy for this Senate to pursue would be to separate the Peace Corps not only from ACTION but from the U.S. Government as well, make a private organization out of it.

In that way there could be no charge raised by anybody that the Peace Corp is, as some have said today, a tool of the CIA or of any other Government agency, and in that way no life of any Peace Corps volunteer would be in jeopardy for reasons of affiliation of the Peace Corps with any agency of the U.S. Government.

I happen to think all of these suggestions are specious and unfounded and, as I said earlier, it is a veiled slap in the face of Mr. Pauken, a distinguished American who served his country well.

The Peace Corps could become a private volunteer organization and seek assistance from the Agency for International Development, AID, and from the general public. Let it stand on its own feet. Maybe it is time to do that.

We can debate that when the Senator's bill comes up. But let us not come in through the back door with a veiled slap against a fine American. Let us not come in through the back door with a piece of legislation which has been converted into an amendment. Let us meet the matter forthrightly and head-on with a full debate on this floor on a substantive question.

If the Peace Corps should become a private volunteer organization, it would then be truly and completely a volunteer organization with volunteers working in foreign countries and with contributions for its activities being voluntary, at least in part, aside from the funds it will receive from AID.

Let me repeat, the administration is correct in its unalterable opposition to this amendment, and for that reason, Mr. President, I move to lay the amendment on the table and I ask for the yeas and nays.

The PRESIDING OFFICER. Will the Senator identify which of the two amendments he is going to move to table.

Mr. HELMS. Well, with all due respect to the Chair—and I do respect the Chair and the Parliamentarian—I do not understand why the tabling of the first amendment submitted would not bring down the second amendment.

The PRESIDING OFFICER. It would.

Mr. HELMS. I thought the Chair stated exactly the opposite just a moment ago. But the Chair now says in any case that if the first amendment is tabled, it brings down the second; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. In that case I move to table the amendment first submitted, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Carolina to lay on the table the amendment of the Senator from California. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Pennsylvania (Mr. HEINZ) and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from New York (Mr. MOYNIHAN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The result was announced—yeas 45, nays 52, as follows:

[Rollcall Vote No. 155 Leg.]

YEAS—45

Abdnor	Garn	Packwood
Andrews	Goldwater	Percy
Armstrong	Gorton	Quayle
Baker	Grassley	Roth
Byrd, Harry F., Jr.	Hatch	Rudman
Cannon	Hawkins	Schmitt
Chafee	Hayakawa	Simpson
Cochran	Helms	Stevens
Cohen	Jepsen	Symms
D'Amato	Kasten	Thurmond
Denton	Laxalt	Tower
Dole	Lugar	Wallop
Domenici	Mattingly	Warner
Durenberger	McClure	Zorinsky
East	Murkowski	
	Nickles	

NAYS—52

Baucus	Glenn	Metzenbaum
Bentsen	Hart	Mitchell
Biden	Hatfield	Nunn
Boren	Heflin	Pell
Boschwitz	Hollings	Proxmire
Bradley	Huddleston	Pryor
Bumpers	Humphrey	Randolph
Burdick	Inouye	Riegle
Byrd, Robert C.	Jackson	Sarbanes
Chiles	Johnston	Sasser
Cranston	Kassebaum	Specter
Danforth	Kennedy	Stafford
DeConcini	Leahy	Stennis
Dixon	Levin	Tsongas
Dodd	Long	Weicker
Eagleton	Mathias	Williams
Exon	Matsunaga	
Ford	Melcher	

NOT VOTING—3

Heinz	Moynihan	Pressler

So the motion to lay on the table UP amendment No. 160 was rejected.

Mr. MATHIAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, further debate on this amendment is now in order, is it not?

The PRESIDING OFFICER. The Senator is correct. The amendment is debatable.

Mr. MATHIAS. Mr. President, I support the proposal to separate the Peace Corps from ACTION, primarily because I believe full autonomy for the Peace Corps will increase its ability to meet the objectives the Congress set for it: First, to help people in the poorer nations to improve their skills; second, to promote better understanding of the American people among the peoples of developing countries; and, third, to promote better understanding and awareness of the people of the developing countries among the American people. The Peace Corps will be better able to recruit volunteers, and to work in foreign countries, and to communicate its purposes and results to the American people, if it is a fully autonomous agency.

Mr. President, this is a particularly appropriate time to return the Peace Corps to the independent status it enjoyed during its first 10 years of existence. The Peace Corps is celebrating its 20th anniversary this summer. More than 80,000 Peace Corps volunteers have served in more than 80 countries during the past two decades. The Peace Corps has greatly assisted many countries in their development efforts, and while doing so, has increased the understanding of American ideals and principles.

It is deeply regrettable that some Americans do not even realize the Peace Corps continues to exist today, and are totally unaware of its accomplishments. Full autonomy for the Peace Corps will greatly enhance the visibility of the Peace Corps.

Mr. President, I wish to point out to my colleagues that the Congressional Budget Office has concluded that the proposed separation of the Peace Corps from ACTION "is expected to have no budget impact." The Peace Corps itself made a preliminary analysis of the cost of operating independently from ACTION and concluded there would be no additional costs to the Peace Corps. OMB came to a different conclusion, estimating the cost, on the outside, at $3 million, although OMB said that figure "is likely to be too large."

The Committee on Foreign Relations concluded, and I concur, that even if there were a small additional administrative cost entailed in separation—and there may not be, based on our own conclusions—an autonomous Peace Corps would be well worth it in terms of efficient realization of the purposes the Peace Corps serves.

Mr. President, I believe one of the best 20th anniversary presents the Congress can give to the Peace Corps and to the American people is approval of this measure to restore full autonomy to the Peace Corps.

Mr. RANDOLPH. Mr. President, will my able colleague from Maryland yield?

Mr. MATHIAS. It will be a privilege to yield to the distinguished Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I thank my colleague from Maryland. The arguments he sets forth are all valid. There is no partisanship or should not be in this sort of matter. There are disagreements. That is absolutely, in my opinion, the very heart and essence of what we are doing here this afternoon.

Mr. President, I am privileged to join in the amendment that has been offered by our colleague, the Senator from California (Mr. CRANSTON) who advocates the autonomy of the Peace Corps. I do it not because he is a member of the Democratic Party. I do it not because someone else from the Republican Party opposes his efforts. I feel that it is very, very important, that we, in a sense, return the Peace Corps to its original design and purpose when it was so ably directed by our good friend Sargent Shriver; we must not allow it to be frittered away, as it were.

If I may be pardoned, Mr. President, it was my privilege to address that first Peace Corps group that left the United States to go overseas. I talked with them the night before they left for Katmandu, a long way from the United States of America. I remember that tall, gangling farm lad from Iowa who said to me, "I wonder why I am going so far away from the United States of America." Just a farm boy from the Middle West. I said, "You are answering the question yourself, of course. You are going to try to help people who need to know how to plant, how to cultivate, and how to produce the foodstuffs for the countries, wherever those countries exist. You are going to help people perhaps to build a house, build a road, or build a bridge, where they may have been sheltered in a lean-to. You even will plant a crop and help harvest it or have no way to move to market so that little children will have the nourishing food they need. You are not going to revolutionize the world. That is not the purpose. But you are going to have that commonality of understanding."

Sometime we shall come, hopefully, to the realization that it is not enough to be tolerant of someone else because, in tolerance, you can walk by on the other side. People often say "I am tolerant of this or that," but what the world needs, as I talk here, perhaps too earnestly, is understanding between men and women. That is working for and with people—not for greater armaments, and not certain types of programs that are so sophisticated in the ways of death-dealing devices that we wonder what we should do. There is every reason for practical programs such as the Peace Corps, in which the United States of America will participate with people from other lands, other backgrounds in building, hopefully—and I use these words advisedly—a better world.

Mr. MATHIAS. Mr. President, the Senator from West Virginia is exactly right. He has put his finger on the objectives of the Peace Corps, to build a better world, to work for people and with people. We do that without any aura of personality or any aura of political mo-

tivation. The best way to do that is to have the Peace Corps operating independently so no perception of political motive can creep in. That is why I am supporting this.

The Senator from West Virginia is further right in saying that there are those on both sides of the issue on both sides of the aisle. We are dealing with this as a matter of conscience for the best interests of the United States and of humanity. That is why I favor the amendment.

Mr. President, I yield the floor.

THE TIME TO ENACT THE PEACE CORPS AUTONOMY ACT IS NOW

Mr. BRADLEY. Mr. President, the time has come to establish the autonomy of the Peace Corps and thereby restore to it the strong identity that motivated its volunteers during its formative years. This can be done by enacting the Peace Corps Autonomy Act, introduced by the distinguished senior Senator from California, Senator CRANSTON. Nothing less will do. Separation of the Peace Corps from the ACTION umbrella has been gaining support among legislators, members of the executive branch, and the Peace Corps family over the past few years. Those closest to the organization have long recognized that autonomy for the Peace Corps will increase its visibility, enhance recruitment, and thus lift up the morale of its personnel. It will renew the sense of purpose and vitality that distinguished this special organization during its early years and I believe it could launch the Peace Corps into a new era of commitment and effectiveness.

In 1961, the Peace Corps was born of a compelling ideal: Dedication to bettering the conditions of the world's poor by sharing America's resources of human talent, skills, and idealism. To establish its special identity, it was made a separate agency within the Department of State. The dynamism and exuberance of the first director of the Peace Corps, Sargent Shriver, a man whose name has become almost synonymous with the Peace Corps, turned the idea into an institution.

For 10 years, the Peace Corps remained a vibrant agency in the State Department. In 1971, it was transferred to the ACTION agency, whose umbrella also extended over VISTA and other domestic volunteer programs. Then in 1979, the House approved legislation which would have removed the Peace Corps from the ACTION agency and placed it within the newly created International Development Cooperation Agency (IDCA). However, this proposal disturbed many supporters of the Peace Corps, including Members of this body, who feared that placing the Corps within IDCA, the proposed umbrella aid agency, would cast it as another foreign aid program. This image would rob it of its unique people-to-people character, which emphasizes the mutual benefit of interaction between Peace Corps volunteers and the people of their host countries. Responding to these concerns, and recognizing the value of Peace Corps independence, President Carter offered a compromise. He issued an Executive order which made the Peace Corps "semiautonomous" within the ACTION agency.

Mr. President, the 1979 Executive order apparently has resolved some of the administrative, personnel, and budgetary problems that concerned Members of Congress. However, being subsumed within ACTION continues to hinder the ability of the Peace Corps to project a strong independent identity, and this, no doubt, has affected the recruitment of Peace Corps volunteers. Remaining under the ACTION umbrella obscures Peace Corps' visibility both at home and abroad. Peace Corps is a unique institution with a special global purpose, and should not be grouped with domestic programs which have a noble, but different purpose. It can best accomplish its mission by standing on its own.

Indeed, Mr. President, its separate identity is intrinsic to accomplishing its mission. Foreign hosts to Peace Corps volunteers must know and believe that the Peace Corps is not just another instrument of U.S. foreign policy, but a unique force for global betterment through people-to-people contacts.

A report entitled the "Future of the Peace Corps," prepared under a contract for the ACTION agency by the Aspen Institute for Humanistic Studies, concluded, in 1977, that "as the 'holding company' for the Peace Corps," ACTION drastically reduced the Peace Corps' visibility, subordinated its recruitment function to several different domestic volunteer groups, kept the number of volunteers low, allowed the unit cost of a volunteer to rise, and, "in general, made the Peace Corps a somewhat more routine, less exciting adjunct to the foreign aid function, rather than a uniquely vibrant expression of 'the best that is in us'." Revitalizing what can become our best means for broadening international understanding is sufficient reason to take the simple administrative action of separation authorized by S. 1015.

Mr. President, the recent confirmation of ACTION's Peace Corps Director, Thomas Pauken, presents a forceful argument for separating the Peace Corps at this time. Like a number of my colleagues, I opposed Mr. Pauken's nomination not because I questioned his character, ability, or qualifications, but because I feared that his previous service as a military intelligence advisor in Vietnam would be construed by the foreign peoples with whom the Peace Corps works as evidence of a connection between the Peace Corps and the U.S. intelligence community. Such suspicions can compromise irreparably the effectiveness of the Peace Corps. For this reason, the Corps has maintained a policy of complete separation from the intelligence community and its activities. Technically, Mr. Pauken is not barred from serving as Director of ACTION, but many friends of the Peace Corps, including me, strongly feel that Mr. Pauken's assumption of the Directorship of the Peace Corps' parent agency can be used to feed foreign suspicions that the Peace Corps serves U.S. intelligence agencies. Foreign citizens not familiar with our policies or bureaucratic structure are not likely to draw fine distinctions between an umbrella agency and the agencies it embraces, nor between past intelligence work and current intelligence activity. Merely raising these suspicions would seriously rob the Peace Corps of its effectiveness and endanger the security of its overseas staff and volunteers.

The recent confirmation of Mr. Pauken as Director of ACTION makes it imperative that we pass this bill not next year, or the next year, but now. I hope my colleagues will join with me in reinforcing the credibility of this important institution and reinvigorating its activities. I urge them to once and for all resolve the decade-old problem of submersion that has plagued the Peace Corps, and pass S. 1015, the Peace Corps Autonomy Act.

Mr. President, I yield the floor.

Mr. TSONGAS. Mr. President, I wish to make two points briefly, if I may. There are two of us in this body who were Peace Corps volunteers. I served in Ethiopia in 1962 and 1964 in the first group that went over to that country. I feel very strongly about the Peace Corps, what it was about, what it did, not only for those countries but for the United States. Ironically and appropriately, this weekend in Washington is the 20th anniversary conference of the Peace Corps. There are returned Peace Corps volunteers from all over the Nation convening in the Nation's Capital this weekend to talk about the value of the Peace Corps, where it is going, and so on. This gesture to strengthen the Peace Corps back to its original administrative foundation, I think, is very appropriate and will be appreciated by those who are here this weekend.

The second point I make is that this is a truly bipartisan effort. Let me point out that, last year and 2 years ago and before that, there were a number of us who were involved with the Peace Corps and wanted to separate it. At that time, Sam Brown, who was the head of ACTION, argued with us, "Give me a chance to prove that it can work."

Well, like fools, we agreed to that appeal and gave him a year. The year did not work out well. By the time we got around to resolving the issue, it was too late. So, under the prior Democratic administration, I was in favor of the separation. I am in favor of it now under a Republican administration.

The facts have not changed, Mr. President. The Peace Corps flourished as a separate entity. It will flourish again when it is separated from ACTION. So there is no partisanship to it, having been involved in the struggle for some time.

I believe the Peace Corps has done a great deal for this country and for those who come back. I know it has done a great deal for me.

I urge my colleagues to give us the benefit of the doubt on this issue and let us see where the separation will go.

I yield to the Senator from Connecticut.

Mr. DODD. I thank the Senator for yielding.

Mr. President, I am the other Peace Corps volunteer serving in this body. I served for 2 years in the Dominican Republic, shortly after the revolution in that country in 1965.

I strongly support the amendment of the Senator from California. This amendment should stand on its own. It is an idea whose time has come.

I believe that the Peace Corps, in the last decade, lost much of the luster and the effectiveness it had achieved in the first decade of its existence as a result of incorporating it under the umbrella ACTION.

While there are a number of Government agencies which do not enjoy overwhelming public support in this country, one of the unique qualities of the Peace Corps throughout its 20-year existence has been that, of all the other agencies of the Federal Government, the Peace Corps has been one agency that has enjoyed overwhelming popular support.

They have had difficulty in the last few years in recruiting. I believe that allowing the Peace Corps to stand on its own, to achieve the preeminence, if you will, that it enjoyed years back, in our overall governmental structures, will contribute significantly to the work the Peace Corps has done over the years.

One of the great ironies of the Peace Corps is that the most significant beneficiary of the Peace Corps has not really been the host country which the Peace Corps has served over these 20 years. In fact, I believe most volunteers will admit that our own country, the United States, has been the great beneficiary. The more than 90,000 returned Peace Corps volunteers have made significant contributions to our own society as a result of their experience as Peace Corps volunteers.

I believe the effectiveness of the Peace Corps would be enhanced by restoring it to the full operational autonomy it enjoyed from 1961 to 1971. The Peace Corps is one of the most popular and well respected Government agencies. Unfortunately, its effectiveness had been diminished by its incorporation into the ACTION agency.

I should note that when my distinguished colleague, Senator CRANSTON, introduced this measure as S. 1015 in the Senate Foreign Relations Committee on May 13, it was passed overwhelmingly. I was pleased to be an original cosponsor of this legislation. Because of its importance, I believe it is entirely appropriate that the separation of the Peace Corps from ACTION should be offered as an amendment to the bill being considered today.

Since its incorporation into ACTION in 1971, the Peace Corps has lost much of its visibility and effectiveness in recruiting motivated volunteers. As part of ACTION, the unique international mission of the Peace Corps has been blurred by its association with all the other domestic volunteer programs. Separation from ACTION will restore the strong public image and identity of the Peace Corps and enhance its recruiting efforts, I believe.

Another reason to establish the Peace Corps as an independent agency is to relieve it of the unnecessary layers of bureaucracy. The Peace Corps currently shares various support services with ACTION which are required to report to two different authorities. The lines of authority and communication under the present structure are confused and often conflicting. The positive image of the Peace Corps is simply not enhanced by the perception of bureaucratic conflict and inefficiencies. The Peace Corps has an international mission. Its submersion in a larger agency with purely domestic responsibilities makes little sense.

Finally, we come to the issue of the Peace Corps' historic policy of complete and total separation from intelligence activities. No one can argue that any association of the Peace Corps with intelligence-gathering activities would seriously endanger the safety of our volunteers serving overseas. Unfortunately, such an association has been made by some because of the nomination of Thomas Pauken as Director of ACTION. Mr. Pauken's previous experience in military intelligence has rightly caused concern that his oversight of the Peace Corps could blur the strict separation of the Peace Corps from intelligence activities. The complete autonomy proposed by this amendment would insure that both the reality and the perception of complete and total separation from intelligence functions could not be called into question.

An independent Peace Corps will be a stronger, more vital, and more effective Peace Corps. I join the millions of others who are striving to achieve an independent Peace Corps, and I urge my colleagues to support this amendment.

Mr. TSONGAS. Mr. President, I will finish with one story.

Yesterday, in the Foreign Relations Committee, Senator PERCY ended the meeting by talking about a speech Senator DODD had delivered recently to a conference of Americans and Mexicans. Senator DODD delivered his speech in Spanish, speaking as one who had served in Latin America. Senator PERCY was present at the speech and was very taken with the impact of the speech by one former Peace Corps volunteer who is now serving in the Senate.

I believe that is an illustration of what the Peace Corps has meant. I suggest we go back to what that has meant.

Mr. DURENBERGER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair informs the Senator that an amendment is not in order. There are two amendments currently pending.

Mr. PELL. Mr. President, a parliamentary inquiry.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, a moment ago, this Senator voted against the tabling motion, for the reason that a year or so ago, I offered an amendment similar to this, to remove the Peace Corps from the ACTION agency.

I have been informed by a little birdie that there is perhaps at least a tiny element of rebuke in the amendment now pending. I doubt that seriously. But just in case this amendment has some tiny element of rebuke, either to the present Director of the ACTION agency or to the administration, I want to make it clear that I disassociate myself from any such activity. I believe that the fundamental underpinnings of the amendment are very good, and I shall support it, as I did 1 year ago.

Mr. CRANSTON. Mr. President, I thank all Senators who have spoken in favor of this amendment. It was particularly significant to have two former Peace Corps volunteers, Senators DODD and TSONGAS, speak on its behalf.

I ask unanimous consent to have the name of the Senator from West Virginia (Mr. RANDOLPH) added as a cosponsor of both pending amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Senator RANDOLPH played a key part in the establishment of the Peace Corps, and I am delighted to have him as a cosponsor, and I appreciate very much his very meaningful, most heartfelt remarks about the Peace Corps.

I thank Senators MATHIAS, HATFIELD, BOSCHWITZ, and HUMPHREY and others on the other side of the aisle for their support based on the substance of this matter.

I suggest that we now proceed to a vote, if we may.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the second degree (UP No. 161) by the Senator from California.

The amendment in the second degree was agreed to.

Mr. CRANSTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, the yeas and nays have been ordered on the underlying amendment. I see no reason to put the Senate through a rollcall vote, since we have decided the issue, and I ask unanimous consent that the order for the yeas and nays on the amendment be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment, as amended.

The amendment (UP No. 160), as amended, was agreed to.

Mr. CRANSTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Kansas is to be recognized.

Mr. PERCY. Mr. President, I am very pleased to report that an agreement has been reached. Senator DURENBERGER will offer an amendment on behalf of the distinguished Senator from Kansas and the distinguished Senator from Vermont.

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The PRESIDING OFFICER. The Senator from Minnesota.

UP AMENDMENT NO. 162

(Subsequently numbered amendment No. 72.)

(Purpose: Amendment to State Department authorization concerning infant nutrition)

Mr. DURENBERGER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Minnesota (Mr. DURENBERGER), for himself, Mr. LEAHY, and Mr. DOLE, proposes an unprinted amendment numbered 162.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, between lines 13 and 14, insert the following:

INFANT NUTRITION

SEC. 117. (a) Congress finds there is overwhelming scientific evidence that breastfeeding has substantial advantages for infant health and growth, that it offers an uncontaminated food supply, an early transfer of antibodies protective against infectious diseases, and a naturally evolved and tested nutritional source, and that it is an important factor in bonding between mother and child.

(b) Congress is concerned that numerous studies, in a wide variety of developed and developing countries, over a long period of time, have shown that improper use of breastmilk substitutes is associated with higher rates of illness and death and, in poor communities, with lessened growth and nutrition. The problem of unrefrigerated breastmilk substitutes prepared with polluted water and placed in contaminated bottles is further complicated by insects and heat in tropical climates.

(c) It is estimated that 100 million of the 125 million children in the world below the age of one are born in developing countries. Congress is concerned that 10 million of these 100 million will probably not live until their first birthday and that diarrhea and other infectious diseases, when combined with the problems of malnutrition, account for more than half of these deaths.

(d) Congress is further concerned that the health of those infants whose mothers are unable to provide them adequate breastmilk—whether for physical, economic, or cultural reasons—also be protected.

(e) Congress is concerned with the negative vote cast by the United States on May 21, 1981, at the 24th World Health Assembly of the World Health Organization on the "International Code of Marketing of Breastmilk Substitutes", and is further concerned that the vote has subjected United States policy to widespread misinterpretation.

(f) Therefore, the Congress:

(1) reaffirms the dedication of the United States to the protection of the lives of all the world's children and the support of the United States for efforts to improve world health;

(2) endorses the work being done by the Agency for International Development (AID), the World Health Organization (WHO) and the United Nations Children's Fund (UNICEF) across the broad front of problems associated with infant and young child nutrition;

(3) encourages the international health organizations, and their member states, to continue combating infant illness by improving sanitation and water quality;

(4) urges the United States Government and the breastmilk substitute industry to support the basic aim of the Code and to cooperate with the governments of all countries in their efforts to develop health standards and programs designed to implement the objectives of the Code.

Mr. DURENBERGER. Mr. President, I express my appreciation to the Senator from Kansas (Mr. DOLE) and the Senator from Vermont (Mr. LEAHY) for the effort they have put into reaching an amicable solution to a proposed amendment that deals with the issue of infant formula.

Mr. President, for many years concerned people have struggled with the issue of the marketing of synthetic infant formula in underdeveloped nations. A number of Minnesotans, many of whom worked overseas on the nutritional needs of those in underdeveloped countries, were among the leaders in bringing this issue to the forefront of public attention. Because of their involvement, I am acutely aware of the controversy and bring forth this amendment today.

Our country's vote at Geneva on the World Health Organization's Infant Formula Marketing Code isolated the United States and left many people with more questions than answers. Unfortunately, the vote served to polarize a discussion that was already marked by extreme positions.

The amendment we offer today is an attempt to address the concerns that many people worldwide have raised about the U.S. vote. The amendment recognizes that synthetic infant formula, when properly used, is a valuable supplement to the diet of many infants and young children and a godsend to mothers who cannot rely upon natural feeding. In our concern for the nutritional needs of infants and children in underdeveloped nations we cannot lose sight of this fact.

Nor can we compromise on the basic guarantees in our own Constitution. As former Senator Sam J. Ervin, Jr., pointed out in a recent news article:

The issue of concern to me is that this code, if adopted, will establish a dangerous precedent of worldwide control over the advertising, labeling, and marketing of infant products.

Senator Ervin's warning is not to be dismissed lightly. However, our amendment—which is in the form of a "Sense of the Congress" resolution rather than binding law—does not infringe on the right of any person or business; rather, it addresses the very real problems of abuse, illness and malnutrition connected with the use of synthetic infant formula.

Mr. President, our concern today is the health of infants throughout the world. As our amendment points out, breastfeeding has significant advantages over the use of synthetic formulas.

Numerous studies have shown that the improper use of breastmilk substitutes is linked with higher rates of illness and death.

If the users of infant formula in these cases were well-educated and living in a modern society with access to appropriate storage facilities and clean supplies of water, there would be little concern. We all know that is not the case.

In fact, one of the specific points addressed in this amendment is the need for international health organizations to continue combating infant illness by improving sanitation and water quality.

In the wake of the U.S. vote at Geneva, our policy has been misinterpreted and used by propagandists who are always looking for avenues of attack on our country. That concerns me and gives me added impetus for this amendment.

But what concerns me even more is the health of infants. If we were dealing only with the symbolism of a vote we could swallow our pride and move on to other matters. But we are dealing with much more than that. The sum of 100 million of the 125 million children in the world under the age of one were born in developing countries. At least 10 million of these infants will not live until their first birthday. Many more millions will be undernourished.

Certainly, not all of this tragedy is related to the use of synthetic formula. But if it is in our power as a compassionate nation to give these infants a better opportunity for a healthy life, then we must take every step available to us to achieve this goal.

Mr. President, in my opinion, this amendment sets the record straight on U.S. policy, and I think it is a very important step in the direction of bringing help to the persons in underdeveloped countries.

● Mr. ANDREWS. Mr. President, I support the amendment offered by Senators DURENBERGER, LEAHY, and DOLE.

We are all aware of the horror stories that surround this issue, and I do not think I need to document the advantages of breastfeeding. But, I do think it is important that the Senate of the United States go on record in support of the World Health Organization's efforts to improve the nutrition of all infants in the world.

I am not in favor of controlling private enterprise, as you well know. But, I do feel that commonsense and decency must come into play when our products are being marketed throughout the world. During my years in the Congress, I have worked to promote our advanced agricultural products and technology around the world in a positive, productive manner.

Products like infant formulas should be provided to underdeveloped countries to promote health and well-being among the mothers and infants, but it must be done with discretion. The instances of malnutrition and suffering we have all heard about in connection with the marketing of infant formula is not the image I believe we want America to have.

Others have already outlined the entire problem, but I did want to add my voice of support.●

Mr. DOLE. The Senator from Kansas will not be available tomorrow, and I want to make a statement in support of

the resolution. I want to thank the distinguished Senator from Vermont and the Senator from Minnesota for working out what I consider to be a positive resolution, and to also thank the members of their staff.

Mr. President, many of us have devoted considerable attention over the past few weeks to the U.S. vote against a proposed international code on breastmilk substitutes. In the course of the debates surrounding America's vote in the world health assembly against the proposed code, little attention has been given to the positive efforts in support of breastfeeding that our country makes in the Third World. The Agency for International Development (AID) is explicitly authorized by the Foreign Assistance Act to promote infant nutrition, including breastfeeding, maternal health and good weaning practices. Pursuant to these statutory authorizations, AID has spent millions of dollars in Third World countries promoting breastfeeding and surveying nutritional practices.

The Reagan administration has announced that the United States voted against the proposed breastmilk substitute code because, if enacted in the United States, the code would have posed numerous constitutional and other legal questions. Some have disputed the wisdom or necessity of the vote. The administration would, for instance, have been equally well served by an abstention coupled with an explanation of the first amendment considerations applicable in this country but nowhere else.

In any event, whatever the vote or the reasons for it, we must now look to the future. I am convinced that AID's and the administration's commitment to breastfeeding is genuine. I believe that, in our development assistance programs, we will strive to advance the spirit of the WHO code, even though the administration could never accept many of its constitutionally questionable provisions.

THE U.S. RECORD ON INFANT NUTRITION

In response to the mandate of the Congress in the Foreign Assistance Act of 1977, the United States expanded its efforts to promote maternal nutrition, breastfeeding, and good weaning practices on the international scene. The United States has been supporting projects in developing countries years before the idea of a code was recommended by the WHO/UNICEF meeting in Geneva in October 1979. We expect this to continue as more and more countries themselves give attention to the problem of maternal and infant malnutrition.

U.S. EFFORTS THROUGH AID

The following is a brief progress report of the maternal and infant nutrition activities currently supported by the United States through the agency for international development.

To assist countries in promoting a broader dialog on policy issues and to insure that policymakers have access to the most current scientific and technical knowledge, AID is supporting a series of workshops and seminars on an international, regional, and national basis. In the past 18 months, it has supported the following:

A regional symposium in Bangkok, attended by representatives of 10 Asian countries. Held in connection with the Asian pediatric congress, the symposium results were presented to 3,000 participants of that congress.

A regional workshop in Cali, Columbia for pediatric, obstetric, and nutrition professionals from 12 Latin American countries. The printed workshop proceedings were distributed throughout Latin America.

A symposium on breast-feeding promotion in Brazil in conjunction with an international dietetic congress.

A workshop in Fiji for representatives of 10 island nations.

National workshops in the Philippines, Nepal, Indonesia, Panama, Costa Rica, Lesotho, the Gambia, and Sierra Leone.

Several of these activities have been undertaken in cooperation and/or collaboration with the World Health Organization, UNICEF, and private voluntary organizations. The choice of resource leaders and participants is the responsibility of the developing countries and the conclusions and recommendations are their own. The United States does not prejudge or attempt to influence the results.

A clearinghouse is now in operation at the American Public Health Association to provide information on request to developing-country policymakers and project implementers on research findings and on new policy and program developments.

A new newsletter has been created and is now distributed three times a year in English, French, and Spanish to developing country workers. About 7,000 copies are read by about 30,000 persons involved in maternal and infant nutrition.

About 225 midwives received training in a Guatemala course.

A training manual on the management of breastfeeding promotion in health centers was received and tested for use by health auxiliaries, midwives, and nurses in El Salvador.

The center for population activities is training midlevel managers of family planning and women's programs in at least five countries to strengthen their capabilities in promoting breastfeeding, good weaning, and improved maternal nutrition.

Expertise and some funding has been provided to the institute of child health in Tunisia to help them train pediatricians, nurses, and auxiliaries in promoting breastfeeding and other infant nutrition activities.

Seminars have been provided for Burmese medical students.

To assist countries in deciding on and implementing weaning foods strategies and programs, AID is offering several kinds of assistance:

Through an inter-agency agreement with the U.S. Department of Agriculture, we offer help to countries with the food technology to formulate products, to determine their feasibility, to engineer plants, and to plan marketing. In the past 2 years, AID-assisted weaning food plants have been opened in Sri Lanka, Costa Rica and Guyana.

Under a contract with a group at Harvard and MIT, assistance is given to promote home and village based weaning foods. Under this relatively new project activity, personnel are in the field at the present time providing technical assistance in Senegal and Liberia.

Joint USDA-Harvard-MIT teams are available to help countries design weaning food strategies which may encompass promoting traditional weaning practices in some parts of a country while developing an industrial product to serve other areas.

To assist needy mothers and children in meeting their dietary deficits over the short and medium term, the food for peace program continues to give high priority to providing foods for maternal and child feeding programs. More than half of the donated food commodities—worth about $173,000,000—are blended and fortified to meet the special needs of pregnancy, lactation, and weaning.

To assist countries in planning and implementing programs to educate and motivate the public in developing countries, AID has provided funds to the international nutrition communication service, a consortium of organizations with expertise in every facet of nutrition education from community development activities to mother-to-mother approaches to school curriculum development to the use of mass media in broad-based education campaigns to the general public. Similar assistance is frequently provided as part of a country specific health or nutrition project. Over this past year-and-a-half technical assistance has been given to over 25 countries in Asia, Africa, Latin America, and the Caribbean.

In order to formulate the most effective policies and programs, there is a great need to improve the quality of data on infant feeding, on the relationship between maternal diet and location, on the relationship between location and family planning, and in a host of other areas. The United States is supported by the WHO, private industry and various universities and research institutes, which should, in time, provide more universally agreed upon information so that policies and programs can be undertaken with increasing confidence. Among AID's current research activities are the following:

Food consumption surveys in a number of countries include data on breastfeeding and weaning practices.

Work is underway to compile 30 country profiles which will summarize published data on such things as prevalence of malnutrition, infant mortality and morbidity rates, prevalence and duration of breastfeeding, maternal nutrition, diet during pregnancy and lactation, and so on. This documentation of published data will provide a ready reference guide for those who design projects, make policy, or have research interest in this area. The first of these profiles is off the press, and all 30 profiles should be ready within a year.

As part of a broad interdisciplinary research effort in Mayalsia, breastfeed-

ing patterns and determinants are being examined to identify the extent and length of breastfeeding, and to compile a profile of women who chose to limit or substitute for breastfeeding.

A grant has been given to the population council to conduct a four country study on the determinants of infant feeding practices. Anthropological techniques are being combined with cross-sectional survey methods to identify the nature of trends in breast and bottle feeding as well as their association with factors such as clinic and health center practices, the nature of traditional beliefs, women's work patterns, incomes, infant formula marketing practices, and so on. Three other institutions are affiliated with the population council in this effort and five developing-country organizations are involved. Collection of field data is currently under way in the four participating countries—Indonesia, Thailand, Kenya, and Colombia.

Technical assistance and funds are also being provided: First, to Cameroon to study the causes of high growth failure among weaning age children in the northern province; second, to Tunisia to study breastfeeding and weaning practices in mothers using hospital services; third, to Honduras to study infant feeding practices and associated factors in urban low income families; fourth, to the Congo to document infant feeding practices for designing a national nutrition education program.

Additional studies are being carried out in the Caribbean and in Central America through AID grants to the Caribbean Food and Nutrition Institute (CFNI) and the institute of nutrition for Central America and Panama.

The above-mentioned activities represent a fairly comprehensive but incomplete list of current American funded activities in the general area of maternal and infant nutrition. This may serve to provide an idea of the scope of our activities and to underscore our abiding concern for the problems of maternal and infant nutrition.

Mr. KENNEDY. Mr. President, I am pleased to join in this bipartisan effort to voice America's support for the international code on infant formula adopted at last month's meeting of the World Health Organization in Geneva.

Regrettably, the vote of our Government failed to reflect the humanitarian concerns of the American people. Among the nations of the world, the United States was the only country to cast a "no" vote on the code. We turned our back to the overwhelming majority of the world community on a fundamental issue that is literally a matter of life and death to millions of newborn children.

We could not convince a single other country to join us in voting against the WHO code.

We stood isolated on a vote of 118 against our single vote of "no".

How often, Mr. President, has the United States been so alone on a moral issue at the United Nations?

How often have we voted against a humanitarian initiative?

How often have we placed the profits of the giant international drug firms above saving the lives of dying children?

The answer is never—until this administration's vote in Geneva.

Worse still, Mr. President, our vote was unnecessary even on the principal grounds cited by the administration—that the code would be in violation of American laws.

The WHO code is a voluntary code. It was not designed for use in the United States. It cannot supersede the laws of any nation. And it can become effective only if a particular nation decides to make it effective and acts to implement it.

Yet we voiced our opposition to the cries for help from these nations who want and need the code—the developing nations in the third world where human suffering of unspeakable proportions—from poverty, disease and malnutrition—is a daily reality.

If nothing else, America should have voted for the code to show that we understand the horror and the sickness, the poverty and the frustration of millions—to say to other nations that we are your friends, we grieve with you for your dying infants, and we want to do all we can to help.

Mr. President, I feel a particular sense of disappointment over the administration's negative vote, since it was our Subcommittee on Health that helped initiate our Government's involvement in the infant formula issue. As chairman of the subcommittee I spoke to the world health assembly in Geneva in 1977 and later at Alma Ata. The problem of infant formula deaths was raised repeatedly, and I personally saw the deep concern of delegates from throughout the Third World.

In meetings I had with the director-general of WHO, Dr. Mahler, I urged greater international action to deal with infant formula deaths. And at home I joined with others in a bipartisan effort to secure our Government's support of a voluntary code—one that was developed and modified in close consultation with our Government.

During extensive hearings I conducted in 1978, we heard eloquent testimony that the infant formula code will help save the lives of millions of newborn children. If governments and companies abide by the code's provisions on the advertising, marketing, and promotion of such formulas, millions of infants will escape infant formula deaths.

Every day, countless infants and young children pay with their lives because the formulas they are fed are watered down or prepared with unsanitary water. Daily, mothers who could have provided breast milk to their children are persuaded to be modern to do what advertisements say is the best thing for their children—to give them special infant formulas. But the tragedy is that their own milk is far safer.

Again, Mr. President, we know these facts because over the years we have heard repeated expert testimony from physicians and nurses in the field, who have seen with their own eyes infant formula deaths. We know this from missionaries and health experts who have seen malnurished children languishing in remote lands—so remote that there is no medicine, but there are cans of infant formula available and sold by international companies.

But our Government has ignored the facts, and it has set America against the rest of the civilized world.

If there is any solace in this self-inflicted wound, it is the certain knowledge that if America's vote had been cast by the American people, the outcome would have been different.

Today's action by the Senate will help give voice to this and express the concern of the American people for the plight of infants around the world who, daily, die infant formula deaths.

Mr. HAYAKAWA. Mr. President, let me just take a very few seconds to include in the RECORD two articles on the subject of baby formula.

One is from the San Francisco Examiner of May 28, 1981, entitled "Infantile Furor Over Baby Formula," and another is from the Washington Post by Harry Levine entitled "Baby Formula: Health Isn't the Issue."

Mr. President, I ask unanimous consent to have printed in the RECORD these two articles to which I have referred.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the San Francisco Examiner, May 28, 1981]

INFANTILE FUROR OVER BABY FORMULA

(By R. Emmett Tyrrell, Jr.)

Infant formula! What is the conscientious citizen to do about it? More to the point, what is the United States of America going to do about it? Yes, here is the state to which our world-savers have brought us. Now a nation of almost 227 million souls with a budget of nearly $569 billion and all the interests that go with it must also adopt a position on the marketing and use of baby formula that insures the "protection and promotion of breast-feeding"—the "unique biological and emotional basis for the health of both mother and child."

Let those Americans anxious over the clandestine powers of the world-wide conspiratorial doings of the CIA or the international bankers weigh this sudden development. Apparently, the La Leche League of militant breast-feeders is more powerful than was heretofore imagined.

Last week the world-wide advocates of breast-feeding rose up and got the august World Health Organization (WHO) to adopt a voluntary code that would ban the promotion of infant formula, a modern convenience inimical to serious breast-feeders all over the world. Not only that, but the United States received a very black eye in the process, for our government was one of a very few members of WHO to vote against the breast-feeders.

"There is no doubt," lamented Mr. John Tendrotti, secretary of the Interfaith Center on Corporate Responsibility, "that this will isolate the United States in the international health community." There we will be, all alone, while the USSR, Burundi, Bolivia, and Vietnam forge ever-ahead on the frontiers of world health. There had once been such shining hope for the United States in WHO.

What has put infant formula into such low repute with the experts at WHO is that mothers in the Third World use it rather than mother's milk to nourish their children, and they occasionally mix it improperly either out of ignorance or because such ingredients as clean water are not available. The infants occasionally get sick, some die. According to opponents of infant formula,

Third World mothers often use infant formula because its producers advertise so effectively. That is to say, the producers can effectively educate women to buy this stuff but not to mix it properly.

Several of the major producers of infant formula are American companies, and in the measured words of Dr. Stephen C. Joseph, an opponent of infant formula who quit our government in protest last Wednesday, these companies are turning "baby bottles into lethal weapons." Can we anticipate a drive from the world-savers for the registration of baby bottles?

The United States voted against this infant formula code last week because of concern over WHO's "involvement in commercial codes." Those are the words of Gerald B. Helman, the U.S. representative. After all, it is a very big world out there, complicated by a myriad of conditions, political, economic, developmental, and physical. According to Helman, the United States objects to a "rigid set of rules applicable to companies, health workers, and health care systems in all parts of the world."

Our government, of course, is absolutely correct, and to see it take a stand against the hot-air dispensers of the United Nations and such specialized U.N. agencies as the World Health Organization is very refreshing. This preposterous code is but one more example of the world-savers' yen to reach deeper and deeper into the lives of free people in lieu of carrying out their original goal of promoting peace and freedom around the globe. We live in a world where people are evermore frequently being butchered by terrorists like the IRA, the PLO, and other such international hooligans, and what do the world-savers get up on their hind legs about? Infant formula.

Undoubtedly there are places on this earth where infant formula is a health menace. On the other hand there are places where it is a blessing, for instance where starvation and other natural disasters have made breast-feeding impossible. Every nation on this earth is free to ban infant formula as it sees fit. There is no reason for United Nations organizations to delve into this realm.

[From the Washington Post, May 7, 1981]

BABY FORMULA: HEALTH ISN'T THE ISSUE

(By Harry Levine)

This month, the World Health Assembly meeting in Geneva will vote on a proposed code to regulate the marketing of breast milk substitutes, worldwide.

The Post in its April 23 editorial ["Formula for Trouble"] concedes that, "the proposed code, sanctioning interference in the domestic marketplace to restrict the promotion of a legal product, cuts across the grain of a free-enterprise society." For those who oppose it, the code goes far beyond: It arbitrarily restrains and prohibits legitimate commercial activities in clear violation of U.S. constitutional protection of freedom of expression and freedom of association.

Although the code's proponents argue that the anti-formula campaign is a "health issue," the medical premise underlying the code is fundamentally faulty. This erroneous premise has been nurtured by critics such as Dr. Derrick Jelliffe for UCLA, who is quoted by the activist group INFACT in its fundraising letter: "Ten million Third World babies are starving because of the heartless, money-hungry actions of powerful multinational corporations."

Yet Newsweek, on Oct. 22, 1979, reported that Jelliffe "acknowledged that the number is a 'symbolic figure' that he customarily uses to underline what a huge problem malnutrition and disease represents."

The Post editorial makes a number of unfounded assumptions. The most important of these is that breast-feeding can be promoted by imposing severe restrictions on the marketing of infant formula. There is no sound evidence that infant formula marketing practices are casually related to mothers' decisions concerning breast-feeding. In the United States, where the infant formula market is well developed and highly competitive, breast-feeding has increased dramatically during the past decade. Of greater importance, the World Health Organization's own 1975–1977 study on breast-feeding involving interviews with nearly 23,000 mothers in nine diverse countries—both developing and developed countries—failed to show any causative relationship between commercial factors and breast-feeding decisions. In response to open-ended questioning about why mothers did not breast-feed or stopped breast-feeding, the study reported that insufficient milk, maternal illness, infant illness and a new pregnancy were mentioned frequently. Not once was any commercial factor mentioned. It is important to note that the WHO study was probably the most massive study of breast-feeding practices ever conducted.

The problems contributing to infant malnutrition and disease in the Third World are profound and cannot be dismissed by ascribing them to infant formula: poverty, pollution, poor sanitation and illiteracy will not be removed with a code. As The Wall Street Journal noted: "The critics fail to mention that the same contaminated water that they fear gets mixed with formula was always mixed with traditional native weaning foods."

There are still those who believe that the infant formula companies should support the code if they care about babies' lives. The leading activist groups, INFACT and the Interfaith Center for Corporate Responsibility, call the infant formula manufacturers "baby killers" and accuse them of having, by virtue of their opposition to the code, "declared war on babies."

In this context, it is essential to remind ourselves that infant formula is life-sustaining food. All agree that breast milk is preferred, but as the Committee on Nutrition of the American Academy of Pediatrics states: "When breast-feeding is unsuccessful, inappropriate or stopped early, infant formulas provide the best alternative for meeting nutritional needs during the first year."

Still the question persists: Why not support the code? Isn't the anti-formula campaign "in essence a health issue" to protect infants in the Third World, as The Post says? For anyone willing to read the fine print, there is substantial evidence to the contrary.

Article 5.1 of the code, for example, would prohibit any and all advertising and promotion to the public, regardless of its informational, educational or economic merit. Article 5.3 prohibits worldwide all "point of sale advertising—special displays, discount coupons, premiums, special sales" at local supermarkets. Another provision of this code would prohibit sales incentive compensation, sales goals and bonuses related to sales for employees. Another would prohibit providing samples to doctors and prohibit doctors and hospitals from providing samples to the patients.

How can one really relate these sweeping prohibitions to polluted water in the Third World? For those who are skeptical about the intended scope of the code, it should be noted that proponents of the code very clearly state that this code should apply to the United States. Should the code be adopted, it would take the form of an official recommendation of the World Health Assembly to every one of the 155 member countries as a "minimum requirement" and one to be implemented "in its entirety" in the form of "legislation, regulations or other suitable measures."

We recognize, of course, that there are areas of many less developed countries in which poverty, poor sanitation, illiteracy and insufficient access to health care and advice introduce certain health risks. It is readily accepted that breast-feeding should be particularly encouraged in such areas. In this respect, our formal policy is designed to avoid discouragement of breast-feeding while encouraging the safe and appropriate use of our infant formulas. We carefully monitor the observance of these policies, and where violations have been found—however small—they have been swiftly corrected.

The WHO's proposed code contains many unwarranted restrictions and prohibitions that are unconstitutional, and it represents a dangerous precedent. Such arbitrary and supra-national attempts to regulate commerce will be dignified and encouraged unless concerned individuals and governments voice their objections now.

We believe that the United States should vote "no" on the proposed code.

Mr. HAYAKAWA. Mr. President, I believe it is not understood well enough that in many undeveloped countries, as among the poor throughout the world, babies are not weaned very often until they are 12 or 14 years old, and baby formula very frequently enables the mother to stay alive by relieving her of breastfeeding at an age when in more plentiful societies breastfeeding stops before the age of 2 and this supplement is for the mother's sake no less than for the baby's and this fact is frequently overlooked in this discussion.

I thank the Chair.

Mr. DURENBERGER. Mr. President, I yield to my colleague and cosponsor, the Senator from Vermont, if he is prepared.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Vermont is recognized.

Mr. PERCY. Mr. President, I wonder if the Senator will yield for just a comment on procedure that we might follow now?

Mr. LEAHY. Mr. President, I am happy to yield to the Senator.

ORDER OF PROCEDURE

Mr. PERCY. Mr. President, it is my understanding that it will require about an hour and a half to complete the necessary speeches that Senators may wish to make on the pending amendment.

It is, therefore, the suggestion of the floor managers of the bill that we temporarily set this amendment aside, take up all other noncontroversial amendments that can be disposed of. It is the understanding of the floor managers that there is an unbreakable engagement that will involve half of the Senate. Therefore, we will dispose of all amendments tonight other than the pending amendment. The Foreign Relations Committee is in session tomorrow on the Israeli attack on the Iraqi reactor. That will involve every member of the Foreign Relations Committee from 10 to 12 and then from 2 p.m. forward.

It is my suggestion to the majority and minority leaders that we then set aside the period from 12 noon to 2 p.m. for the disposal of the pending infant formula amendment and then final passage of the bill.

I have to check with our respective majority and minority leaders on that, but if that appears feasible, because there is no chance to finish the debate tonight on the infant formula amendment, I will ask that those who are offering that amendment set that aside so that we may take up next the Roth amendment, a Simpson amendment, a Pell amendment, and a Helms amendment in that sequence.

Mr. DURENBERGER. Mr. President, if the Senator will yield, I can speak for this side and I know of no other Senator who has indicated a desire to speak on the issue, although there may be some on this side.

The Senator from Vermont may have others who wish to speak on the issue.

Mr. LEAHY. Mr. President, I advise the distinguished chairman of the Foreign Relations Committee, the manager of the bill, that I wish very much to have the matter handled expeditiously.

I had assumed earlier this afternoon that we had a resolution which could have gone through at that point and when we sought recognition to call it up, I discovered at the time I sought recognition to call it up that that was not the case and that there were objections to the original resolution.

Since then I have worked with the distinguished Senator from Minnesota and the distinguished Senator from Kansas (Mr. DOLE) in an attempt to work out a resolution which we can agree to and the resolution that the Senator from Minnesota and I have before the Senate now is one we can agree to.

The only problem with that is that it changed some parts which I like to think are not material. If it did change some parts of the original resolution, there were a number of Senators who asked to be able to speak on the subject. I cannot give an accurate count of how many or how long they wish to speak on it before we bring it to a vote. Knowing the time schedule that we have here, there are enough of them so we could not bring a vote tonight.

So the suggestion of the distinguished Senator from Illinois—this is the long way around answering it—is probably a very good one.

I wonder if we might do this, if the Senator from Illinois could hold for a moment for one housekeeping thing. I know the Senator from Minnesota has a list of cosponsors he wished to put in the resolution. I now have a list of cosponsors that I did not have prepared when I was sending it in.

I wonder, before either one of us forget, if we could ask unanimous consent first the Senator from Minnesota and then myself be allowed to put our list of cosponsors in and then work out this problem that the Senator from Illinois has.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that Senators DANFORTH, HATFIELD, ANDREWS, CHAFEE, D'AMATO, GORTON, and COHEN be added as cosponsors to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that Senators BAUCUS, BENTSEN, BIDEN, BRADLEY, BUMPERS, CRANSTON, DODD, HUDDLESTON, INOUYE, LEVIN, KENNEDY, METZENBAUM, MITCHELL, PELL, PRYOR, PROXMIRE, TSONGAS, WILLIAMS, ZORINSKY, and RIEGLE be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, will the Senator yield?

Mr. LEAHY. I yield.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that Senator ROTH be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, might I ask the Senator from Vermont if he knows of any good reason why we could not accept this amendment tonight, since he indicates he does not have any specific indication of anyone who wishes to speak to the bill?

Mr. LEAHY. I do have a number, and I add simply, as the Senator from Illinois has alluded to, some of the scheduling problems we now face. I do know of at least three Senators who wish to speak as well as myself. I have assured them that they could speak. I have at least two Senators who asked me if I would request a rollcall vote, and I know some have already left, quite frankly. So I think that maybe the suggestion of the Senator from Illinois is a very good one.

I wonder if we might ask for the yeas and nays on the resolution now, and I ask for the yeas and nays on the resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Mr. President, I wonder if the managers of the bill will mind if I proceed for a few minutes, and then, provided the Senator from Minnesota does not object, I would be happy to have this matter laid aside and brought back up again at an appropriate time tomorrow.

Mr. BAKER. Mr. President, will the Senator yield to me for a moment?

Mr. LEAHY. I am happy to yield.

Mr. BAKER. Mr. President, let me make an inquiry, if I may, of the distinguished manager of the bill, the chairman of the Foreign Relations Committee, and the ranking minority member, as to what other amendments they know of to this bill and what estimates they can give me on how long it may take to complete the bill other than the amendment that has now been offered or the resolution that has now been offered by the Senator from Vermont.

Mr. PERCY. Mr. President, to the best of my knowledge there are two Roth amendments that can be disposed of in 2 minutes. There is a Helms amendment that can be disposed of in probably 5 minutes. I want that checked, but I think it could be done. And there is a Pell amendment that could be disposed of in 1 minute. There is a Simpson amendment that could be disposed of in 2 minutes.

So if we could get underway immediately on these amendments, we would then be able to be completed with this phase of it by 5:30 p.m. I renew my suggestion now to the majority and minority leaders that because of the hearings tomorrow from 9 a.m. to 12 and 2 p.m. to ad infinitum on the Israeli attack on the Iraqi reactor, I hope that the floor managers of the bill could be here from 12 to 2 p.m. and that we could enter into a unanimous-consent agreement that no other amendments would be accepted, with the time reserved for discussion of 1½ hours on the infant formula amendment, that it would be voted on at that time, followed immediately by final passage of the State Department authorization bill.

Mr. BAKER. Mr. President, if the Senator will permit me then, I would like to suggest that the Senator from Vermont might agree that we could temporarily lay aside his resolution and proceed to some of those amendments or resolutions that have been identified now by the manager of the bill on this side. While we are doing that I will check our cloakroom to identify any other amendments that may be in the wings and in the offing, and if the minority leader would care to do the same, I am perfectly agreeable in a few minutes to see if we can get a unanimous-consent agreement to provide for a time certain to debate the resolution tomorrow and for a time certain for a vote on final passage of this bill, and provide that no other amendment will be in order except those that we sequence and consider tonight.

Mr. LEAHY. Mr. President, reserving the right to object——

Mr. BAKER. I have not made the request, but what I am saying is I am willing to do that if the Senator is willing to lay aside his resolution temporarily so that we can proceed.

Mr. LEAHY. Mr. President, if the distinguished minority leader does not mind, there has been a lot of discussion on this resolution this afternoon, and I wonder if I might be able to proceed for just a few minutes so that it will be in the record and at least give my position on the resolution?

Mr. PERCY. The Senator from Illinois has stated that he has no deadline tonight at all. I am available until midnight, but I understand half of the Senate has other engagements that begin at 5:30. If the Senator from Vermont will continue from now until 5:15 then the floor managers could dispose of all other amendments by 5:30 and we would be prepared, if the majority and minority leaders see fit, to set a time certain for debate and then vote on the infant formula amendment and final passage tomorrow. We would be prepared to wrap up our business tonight.

Mr. DURENBERGER. Mr. President, will the Senator yield for 10 seconds?

The PRESIDING OFFICER. The Senator from Minnesota has the floor.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the name of the Senator from Maryland (Mr. MATHIAS) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, have we reached an agreement relative

to the introduction of other amendments? I was willing to yield to the Senator from Vermont so that he could make his statement at this point.

Mr. LEAHY. The distinguished majority leader has advised me that he has some further scheduling problems. But what I would suggest is that my immediate problem would be taken care of if at some point here this evening I could have 5 or 6 minutes to discuss the resolution that I helped draft and then we can always set this aside temporarily and leave it to everybody who wants to discuss it to discuss it tomorrow during whatever time it takes prior to the vote, and I am perfectly willing to hold off for a relatively short period until I do speak.

Mr. BAKER. Mr. President, I do not want to urge the Senator from Vermont to forfeit any rights, but I really do believe it would expedite this whole proceeding if the Senator from Vermont would agree to lay this resolution aside momentarily and let us go to a few other things. I can assure him that at some point during the course of the remainder of this day we will return to his resolution. In the time we are disposing of other matters I think the cloakrooms on both sides will see if we can get the unanimous-consent agreement we have just described. Altogether I think it would expedite the proceedings of the Senate, so I hope the Senator from Vermont will permit that.

Mr. LEAHY. With the assurances of my good friend from Tennessee that I will have a chance to speak this evening, and that there will be no unanimous-consent agreement entered into without my being on the floor, I would be perfectly happy to step aside and let somebody else bring up their matters.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, is the resolution of the Senator from Vermont now pending before the Senate?

The PRESIDING OFFICER. The Senator's amendment is now the pending business.

Mr. BAKER. Mr. President, I ask unanimous consent that it be laid aside temporarily with the understanding that before the conclusion of the day today, that his amendment—is it an amendment?

The PRESIDING OFFICER. It is an amendment.

Mr. BAKER. The amendment will once more be laid before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, at this time I yield to Senator ROTH for the purpose of offering amendments. Will the Senator be offering the amendments en bloc?

Mr. ROTH. We can do that. I think in the interest of time I will do that.

UP AMENDMENT NO. 163

(Purpose: To facilitate investment of certain amounts received by the Japan-United States Friendship Commission)

Mr. ROTH. Mr. President, I send two amendments to the desk. The first amendment I offer on behalf of the distinguished Senator from Hawaii (Mr. INOUYE) as well as myself.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Delaware (Mr. ROTH), for himself and Mr. INOUYE, proposes an unprinted amendment numbered 163.

Mr. ROTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the bottom of page 28, add the following:

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

SEC. 502. (a) Section 6(4) of the Japan-United States Friendship Act is amended by striking out "and not to exceed 5 per centum annually of the principal of the Fund" and inserting in lieu thereof a comma and the following: "any amount of the contributions deposited in the Fund from nonappropriated sources pursuant to paragraph (2) or (3) of this section, and not to exceed 5 per centum annually of the principal of the total amount appropriated to the Fund".

(b) Section 7(e) of such Act is amended by inserting after "amounts received" the following: "(including amounts earned as interest on, and proceeds from the sale or redemption of, obligations purchased with amounts received)".

The PRESIDING OFFICER. Is the Senator seeking to have the amendments considered en bloc?

Mr. ROTH. Yes.

Mr. President, my distinguished colleague from Hawaii (Mr. INOUYE) and I ask unanimous consent for an amendment, which I understand has been cleared on both sides of the aisle. That would permit the full utilization by the Japan-United States Friendship Commission of a generous $2 million gift from the Government of Japan. During his visit to the Capitol last month, prime Minister Suzuki presented this gift to the Commission, which was established by the Congress in 1975 to promote mutual understanding between our two countries, with the explicit understanding that it would be expended at the rate of $500,000 per year for at least 4 years. The Friendship Commission Act explicitly invests authority in the Commission for the expenditure of gifts and donations outside of the appropriations process.

The act is, however, silent on the question of earnings on donated funds. Our amendment would correct this drafting oversight by allowing the Commission to place the Japanese gift in the general fund where it could accumulate interest earnings for a fifth year of programs.

To enable the Commission to meet its obligation to expend the gift at the rate of $500,000 per year, and in response to the generous spirit with which the gift was given, our amendment also exempts the gift from the 5 percent of principal annual expenditure ceiling, and from the appropriation process. With regard to the latter exemption, the Congress, of course, has every right to expect an annual full report on the Commission's activities and programs, regardless of the funding source.

The purpose of this amendment is to permit full utilization by the Japan-United States Friendship Commission of a generous $2 million gift from the Government of Japan. What we seek to do by this amendment is to provide unquestionable authority for the Commission to invest the principal of the gift in the existing trust fund and allow the Commission to expend the gift without regard to limitations on expenditures of principal which exist under current law.

This has been cleared with both sides as well as with the distinguished Senator from Connecticut (Mr. WEICKER), chairman of the Subcommittee on Appropriations for the State Department.

Mr. WEICKER. Mr. President, I believe that I share the sentiment of my colleagues in grateful appreciation to the Government of Japan for its generous contribution to the Japan-United States Friendship Commission. It is my understanding that these funds are intended to be used within the United States for public programs promoting greater understanding of our ties and mutual interests.

I wish to commend the Senator for taking the initiative to clarify a situation in the law with respect to the Commission's authority to invest the Japanese donation and provide for the expenditure of this gift in a prudent manner. It is my understanding that the amendment is necessary in order to provide unquestionable authority for the Commission to invest the principal of the gift in the existing Trust Fund and allow the Commission to expend the gift without regard to the limitation on expenditure of principal which exists under current law. Is that correct?

Mr. ROTH. The Senator from Connecticut is correct. A clarification is needed because existing law does not explicitly provide the Commission authority to expend the principal amount of donations which may be deposited in the Japan-United States Friendship Trust Fund. The law does provide authority to expend gifts without regard to limitations on the expenditure of trust fund moneys; however, the law is unclear with respect to gifts deposited in the trust fund to earn interest.

However, the Commission also wishes to be able to draw upon the principal of the gift without regard to the limitation on expenditure of trust fund moneys. This will allow the Commission to expend approximately $500,000 each year for the next 4 years on programs in the United States supported by this gift from the Japanese.

Mr. WEICKER. Thank you. I have one last question. It is my understanding that the principal and interest from this gift will be able to be expended without approval of the Appropriations Committees. However, we would expect the Commission to include in its report to the Congress each year details on the manner in which these funds are spent. Does the Senator agree that this matter should be included in the Commission's report?

Mr. ROTH. I agree fully with the Senator that the Commission should include a report on all of its activities to the Congress, including those financed through donations.

Mr. WEICKER. I thank the Senator. From the standpoint of the Committee

on Appropriations, we would have grave concerns regarding the use of unappropriated Federal funds if the activity supported by these funds carried with it any sort of implication of future obligation or liability on the part of the U.S. Government.

Mr. ROTH. I understand the concern expressed by the Senator from Connecticut and agree that the amendment in no way authorizes the Commission to undertake programs which may result in an obligation which must be supported by appropriated funds.

UP AMENDMENT NO. 164

(Purpose: To require each chief of diplomatic mission of the United States to promote United States exports)

Mr. ROTH. Mr. President, I send the second amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Delaware (Mr. ROTH), on behalf of himself, Mr. SASSER, Mr. PELL, and Mr. CHAFEE, proposes an unprinted amendment numbered 164.

Mr. ROTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, between lines 13 and 14, insert the following:

DUTIES OF CHIEF OF MISSION

SEC. 117. (a) Each chief of diplomatic mission of the United States in a foreign country shall have as a principal duty the promotion of United States goods and services for export to such country.

(b) For purposes of subsection (a), the term "chief of diplomatic mission" has the same meaning as given to the term "chief of mission" in section 102(a)(3) of the Foreign Service Act of 1980.

Mr. ROTH. Mr. President, on behalf of Senator SASSER, Senator PELL, Senator CHAFEE, and myself, I rise to offer printed amendment No. 71 to S. 1193, the Department of State authorization for fiscal years 1982 and 1983. This amendment would add a new section to the authorization bill, citing the promotion of U.S. goods and services overseas as one of the prime functions of our Ambassadors and other high-level official representatives in foreign countries.

Mr. President, right now, the United States is facing a serious challenge in the international marketplace. U.S. producers of goods and services are suffering ever-increasing competition at home and abroad. They are losing the competitive contest in manufacturing trade.

We see the effects everywhere of our inability to compete. Here at home, foreign producers are taking a growing share of the market in steel, autos, fabricated metals, and other products traditionally supplied by U.S. firms. Overseas, our share of the global market for manufactured goods has been cut in half over the last 25 years. We now supply only 12 percent of the world's manufactured products; and this, at a time when markets in Latin America and around the rim of Asia are growing at astounding rates.

Our cumulative trade deficit grows larger and larger each year. In 1980, the United States witnessed a $25 billion deficit in our merchandise trade account. This year has seen some progress, but the overall outlook is still not good. More to the point, however, rather than measuring the ebb and flow of our merchandise trade deficit, we should be seeing surpluses.

Our workers, factories, firms, indeed entire industries, should enjoy surpluses in our balance of trade.

While the President's economic recovery program will go a long way to restore our economic health and the long-term security for U.S. labor, I believe more must be done in the international field to promote trade.

All of us have a stake in expanding exports. All of us in business, government, and labor must pitch in to restore domestic economic growth, international trading strength, and job opportunities.

Concentrating on Government for a moment, I believe all branches can help. Here in Congress, LLOYD BENTSEN and I have formed a 73-member Senate Export Caucus. We have banded together to support trade-expanding legislation; to work with the executive branch in charting and achieving our export goals; and to spread the word generally on the benefits to labor and management of increased export activity.

In the executive branch, all agencies—Commerce, the U.S. Trade Representative, Agriculture, and others—should make the greatest possible effort to discover trade opportunities and facilitate U.S. firms' ability to compete internationally.

Mr. President, in light of this, I believe the State Department and its overseas representatives can do much to improve our competitive picture. While Reorganization Plan No. 3 of 1979 transferred responsibility for our overseas commercial representation to the Department of Commerce—and I enthusiastically support that transfer—I believe export promotion should also be pursued at the highest levels of our overseas diplomatic missions. Put simply, our ambassadors—our chiefs of diplomatic missions—should make trade expansion an important element of their own portfolios.

Recently, a majority of the Senate Export Caucus wrote to President Reagan with that suggestion. We requested that he instruct Ambassadors and Embassy staffs to become aggressive marketers of U.S. goods and services. As we stated in our letter, we should consider our Ambassador's ability and success in encouraging foreign purchases of U.S. products as important criteria in judging their performance in the field. Moreover, as I wrote in a similar letter to the Secretary of State:

> Our Embassies can make a valuable contribution, as well, by taking every opportunity to press for host country consideration and purchases of U.S. products.

Mr. President, the amendment we are offering today would cement this concept that trade promotion should be pursued at the highest levels of our overseas missions. It would place the Senate firmly on record as saying that every effort should be made to improve our footing in the international field.

Mr. President, I urge my colleagues to support this amendment. Now is the time to get everyone—including our Ambassadors and other chiefs of mission—into the international trade race. The longer we wait, the more we will slip in the export competitiveness ratings.

Mr. President, I also ask unanimous consent that the text of the Senate Export Caucus letter to the President be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., May 14, 1981.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The United States is facing one of the greatest challenges in its international economic history. We are losing our competitive preeminence and our world leadership role in the trade of manufactured goods. As a result, we are forfeiting numerous overseas and domestic sales opportunities, our foreign market share and employment possibilities in the United States. All sectors—business, labor, consumers and government—have much to gain in reversing this decline and restoring our export competitiveness and domestic growth capabilities. All Executive Branch agencies, the Department of State and its representatives abroad, in particular, have a vital role to play in this trade expansion effort.

In light of our critical need to increase exports, we in the Senate Export Caucus believe we should institute as important criteria by which to judge our Ambassadors and Embassy staffs their ability and success in encouraging foreign purchases of U.S. products. All overseas representatives should include this export expansion responsibility as a major element of their portfolios. The Export Caucus would therefore request that our Ambassadors be instructed to make trade expansion a top priority of their Embassies.

Many in the Senate have devoted much of their efforts to improving the environment for U.S. firms seeking to sell overseas. Our Embassies can make a valuable contribution, as well, by taking every opportunity to press for host country consideration and purchases of U.S. products. Much as the President of France actively promotes the sale of Airbus aircraft, our Ambassadors should direct their efforts toward strengthening the U.S. balance of trade and hence our international predominance.

Through cooperation among business, labor and government at all levels, here and abroad, we can regain international trade health, which is an important component of our economic recovery. We must have the assistance and dynamism of our diplomatic corps in the field, however, if we are to be successful in our export endeavors.

Sincerely,

Lloyd Bentsen, Co-Chairman, Senate Export Caucus; Jennings Randolph, Barry Goldwater, Thad Cochran, Roger W. Jepsen, David Durenberger, John H. Chafee, William V. Roth, Jr., Co-Chairman, Senate Export Caucus; Ernest F. Hollings, Daniel K. Inouye, Max Baucus, Steven D. Symms, Larry Pressler, Mack Mattingly, Lawton Chiles, Richard G. Lugar, David Pryor, Charles H. Percy, S. I. Hayakawa, Alan J. Dixon, Howard Cannon, Mark O. Hatfield, Jesse Helms;

Carl Levin, William S. Cohen, Dan Quayle, John Heinz, John C. Danforth, Bob Kasten, J. James Exon, Paul Tsongas, Edward M. Kennedy, Wendell H. Ford, Frank H. Murkowski, Howell Heflin, Strom Thurmond, John Stennis, Sam Nunn, Lowell Weicker, Mark Andrews, George J. Mitchell, Harrison "Jack" Schmitt, Orrin G. Hatch, Donald Riegle, Daniel Patrick Moynihan, Howard M. Metzenbaum.

Mr. ROTH. This amendment would add a new section to the authorization bill assigning the promotion of U.S. goods and services overseas as one of the principal functions of our ambassadors and other high-level official representatives in foreign countries.

I think we are in agreement in this body that it is important that we do everything possible to promote the export of American-made goods. What this amendment would do is to make that a requirement for our diplomatic representatives abroad.

I yield the floor.

Mr. PERCY addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, first I should like to simply congratulate Senator ROTH on the role that he has played in accepting from Prime Minister Suzuki a $2 million contribution to the United States-Japan mission and for his amendment that facilitates that gift.

The Japanese Government and the Japanese people have extended themselves in any number of ways to demonstrate their friendship to this country.

Their gift of $3 million to the John F. Kennedy Center for the theater was a magnificent gesture of friendship. This particular gift is also extraordinarily generous and is greatly appreciated.

The purpose of the Japanese contribution is to expand cultural communications in public affairs programs on Japan in the United States in an effort to enhance U.S. public understanding of the Japanese people and their great culture.

Having learned a good deal about the Japanese culture over a period of three decades now in visiting Japan, both in the private sector and public sector, and having developed so many close friends within the Japanese Government and its citizenry, as has Senator ROTH, I commend again Senator ROTH for the role that he has played in this connection.

With respect to the duty of our missions abroad, certainly the chief of our diplomatic mission should have a major role in the promotion of U.S. goods and services for export to the countries that they represent the United States in.

I introduced legislation several years ago to create a full-time Under Secretary of State for Economic Affairs because we were not paying the same kind of attention to economic affairs and export matters that other countries were.

Efforts being made by the distinguished chairman of the Government Affairs Committee to put emphasis on exports strengthens this Nation, strengthens our economy, and strengthens our role in the world. Certainly we hope that the State Department understands fully our feeling that they have a duty and a responsibility in this regard that is coequal, in a sense, with their political responsibilities.

Promoting trade is an underpinning of a strength of this country. It is a strong part of the economic recovery program of the Reagan administration. I fully support this amendment and urge adoption of both amendments.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I think both amendments have great merit. I am particularly glad to be a cosponsor of the one that encourages our ambassadors to take the responsibility for exports.

I commend these amendments to our colleagues.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I move the adoption en bloc of the two amendments offered by me.

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from Delaware.

The amendments (UP amendment No. 163 and UP amendment No. 164) were agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 165

(Purpose: To remove provisions dealing with visa waiver)

Mr. SIMPSON. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON) for himself and Mr. THURMOND, proposes an unprinted amendment numbered 165.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 8 strike out all that appears after line 7 down through and including line 10 on page 11.

Mr. SIMPSON. Mr. President, this amendment would delete the provision which would amend the Immigration and Nationality Act in order to waive visas for nonimmigrants entering the United States from certain countries.

As chairman of the Subcommittee on Immigration and Refugee Policy, of the Committee on the Judiciary, I have become acutely and even painfully aware of the serious difficulties this Nation faces in enforcing its immigration laws.

Our immigration problems are complex and interrelated and cannot be easily resolved with any single solution. Improvements, therefore, in this area might well be best realized through comprehensive reform measures which will increase enforcement efficiently while addressing the root causes of illegal immigration. We have learned that illegal immigration to this country results not only from surreptitious entry across our borders, but increasingly it results from the nonimmigrants who enter with legal documents and then simply overstay their visas.

So we intend, Mr. President, to fully examine the merits of the visa waiver provision within the context of a very comprehensive overhaul of immigration laws and with new immigration reforms. In this regard, I have discussed the provisions with officials, the White House and Department of State and notified them of my intent to review this thoroughly during the course of hearings by the Subcommittee on Immigration and Refugee Policy and I assure you will be of every assistance in shepherding its passage.

Mr. President, I understand the chairman of the Foreign Relations Committee has, along with his staff, reviewed the amendment and is prepared to accept it.

Mr. PERCY. Mr. President, that is correct. I believe both managers of the bill are prepared to accept it and I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment (UP No. 165) was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PERCY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I thank the chairman of the Foreign Relations Committee.

Mr. PERCY. Mr. President, the ranking minority member and floor manager of the bill will offer an amendment on behalf of himself and myself.

UP AMENDMENT NO. 166

Mr. PELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island (Mr. PELL), for himself and Mr. PERCY, proposes an unprinted amendment numbered 166.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 24, strike out lines 1 through 15 and insert in lieu thereof the following new section:

MEMBERSHIP OF THE RFE/RL BOARD AND THE BIB

SEC. 304. (a) The Board for International Broadcasting Act of 1973 is amended by adding at the end thereof the following new section:

"MERGER OF THE BOARD FOR INTERNATIONAL BROADCASTING AND THE RFE/RL BOARD

"SEC. 11. (a) Effective January 1, 1982, no grant may be made under this Act to RFE/RL, Incorporated, unless the certificate of incorporation of RFE/RL, Incorporated, has been amended to provide that—

"(1) the Board of Directors of RFE/RL, Incorporated, shall consist of the members of the Board for International Broadcasting and of no other members; and

"(2) such Board of Directors shall make all major policy determinations governing the operation of RFE/RL, Incorporated, and shall appoint and fix the compensation of such managerial officers and employees of

RFE/RL, Incorporated, as it deems necessary to carry out the purposes of this Act.

"(b) Compliance with the requirement of paragraph (1) of subsection (a) shall not be construed to make RFE/RL, Incorporated, a Federal agency or instrumentality.".

(b)(1) Section 3(b)(1) of such Act is amended to read as follows:

"(b)(1) COMPOSITION OF BOARD.—The Board shall consist of ten members, one of whom shall be an ex officio member. The President shall appoint, by and with the advice and consent of the Senate, nine voting members, one of whom he shall designate as chairman. Not more than five of the members of the Board appointed by the President shall be of the same political party. The chief operating executive of RFE/RL, Incorporated, shall be an ex officio member of the Board and shall participate in the activities of the Board, but shall not vote in the determinations of the Board.".

(2) Sections 3(b)(3) and (4) of such Act are amended to read as follows:

"(3) TERM OF OFFICE OF PRESIDENTIALLY APPOINTED MEMBERS.—The term of office of each member of the Board appointed by the President shall be three years, except that the terms of office of the individuals initially appointed as the four additional voting members of the Board who are provided for by the Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983, shall be one, two, or three years (as designated by the President at the time of their appointment) so that the terms of one-third of the voting members of the Board expire each year. The President shall appoint, by and with the advice and consent of the Senate, members to fill vacancies occurring prior to the expiration of a term, in which case the members so appointed shall serve for the remainder of such term. Any member whose term has expired may serve until his successor has been appointed and qualified.

"(4) TERM OF OFFICE OF EX OFFICIO MEMBER.—The ex officio member of the Board shall serve on the Board during his or her term of service as chief operating executive of RFE/RL, Incorporated.".

Mr. PELL. Mr. President, this amendment is a perfecting amendment to the committee's proposed merger of the Board for International Broadcasting and the Board of RFE/RL, Inc. The effect of this amendment is to increase the size of the Board for International Broadcasting from five voting members to nine voting members. In addition, the chief executive officer of RFE/RL, Inc., shall serve, as he does now, as an ex officio member of the Board for International Broadcasting.

The perfecting amendment explicitly states that the merger of the Boards "shall not be construed to make RFE/RL, Incorporated, a Federal agency or instrumentality." This puts in statutory language the clear intent of the Committee not to "federalize" the radios.

It is my belief that the President would appoint to the four positions created by the perfecting amendment some of the very distinguished members of the Board of Radio Free Europe/Radio Liberty. This Board, which includes former Ambassadors, prominent educators, and other very accomplished individuals, has a depth of experience and knowledge which would greatly benefit the BIB. We cannot, of course, require the President to use the new slots for this purpose, but I strongly urge him to do so.

When I originally proposed the merger of the BIB with the Board of RFE/RL, Inc., in 1977, the committee report included a suggestion that the President set up a Citizen's Advisory Commission to include those members of the Board of RFE/RL not appointed to the Board for International Broadcasting. If the Senate approves the merger of the two Boards, I hope the President will again consider this suggestion. The talent represented by the Board of RFE/RL should be utilized.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment (UP No. 166) was agreed to.

Mr. PERCY. Mr. President, I am happy to yield, for the purpose of offering an amendment which the managers of the bill find acceptable, to the distinguished Senator, a member of this committee, Senator HELMS.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair, and, of course, I thank my distinguished chairman.

UP AMENDMENT NO. 167

(Purpose: To designate certain radio broadcasts to Cuba as "Radio Free Cuba")

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment No. 167.

On page 24, between lines 15 and 16, insert the following:

RADIO FREE CUBA

SEC. 305. Any program of the United States Government involving radio broadcasts to Cuba for which funds are authorized to be appropriated under this Act or any other Act shall be designated as "Radio Free Cuba".

Mr. HELMS. Mr. President, the people of Cuba yearn for freedom from the tyranny of the Castro dictatorship. They yearn for the freedoms of speech, press, and privacy that their American neighbors enjoy. They seek freedom from the oppression of unreasonable searches and seizures, or detention without fair trial or writ of habeas corpus that are part of our tradition of freedom.

Radio broadcasts into Cuba primarily are done by the Voice of America, which carries Spanish language broadcasting into all of Latin America, with no specific broadcast for Cuba. Additionally, VOA broadcasting is essentially news programing, and so forth, and is not geared toward telling Cubans the hard facts about the Castro regime, the high cost to Cuba of Castro's regime, the failures of Castro and his Communist allies, and the alternatives of freedom and a better life that awaits all Cubans if the Castro regime is overthrown or removed from office.

This amendment creates a Radio Free Cuba in the Board of International Broadcasting. Additionally, it designates any other U.S. broadcasting into Cuba as Radio Free Cuba as well. Radio Free Cuba under the Board of International Broadcasting should operate just as Radio Free Europe and Radio Liberty operate in Eastern Europe and the Soviet Union. Funding from the general funds available to the Board of International Broadcasting can be augmented by solicitations within the United States for the activities of Radio Free Cuba—much as has been done with Radio Free Europe in the past. This way, all Americans can participate in getting out the message of freedom to Cuba.

Mr. President, there are two wars that can be waged: The war of words and ideas; and the war of bullets. When a nation loses the war of words and ideas, the war of bullets inevitably follows. As far as Cuba is concerned, the United States is barely contesting the war of words. Must we resort to a shooting war, as a result? In the meantime, should we give Castro the field in the war of words, not even contesting him?

Obviously not, and for that reason I urge my colleagues to support this amendment, setting up Radio Free Cuba. A similar amendment was included in the State Department Authorization bill last year, but that bill, as Senators know, was bottled up at the end of the session in the last Congress.

We should move forward with Radio Free Cuba.

I thank the Chair and I thank the distinguished managers of the bill for their willingness to accep this amendment.

Mr. President, I ask unanimous consent that a one-page document entitled VOA Broadcasting to Cuba be printed in the RECORD at this point.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

VOA BROADCASTING TO CUBA

The addition of Spanish-language broadcasts targeted specifically for a Cuban audience has been suggested as a topic for review by the VOA and the USICA.

At this time, the Voice broadcasts 5½ hours daily in Spanish to the Hemisphere, all of which is beamed to Cuba by a medium-wave (standard band) transmitter located in the Florida keys, using a directional antenna aimed at Cuba.

The length of time on the air clearly is not as important as the message communicated, the information provided, the portrait of U.S. society that is delineated. The framework for any Voice of America broadcast, in any language to any country, is the VOA Charter, which mandates the Voice to provide world news accurately, objectively, and comprehensively; to reflect American thought and institutions; and to present U.S. policies and responsible discussion of them. Those responsibilities preclude VOA's broadcasting into a country as a surrogate national radio, or unduly concentrating on subject matter of specific concern to another country. What VOA can do, and does, is to deal with another nation's internal developments when and as they become issues of international significance.

How to present reports and discussions of such developments becomes the crucial question. For some years, VOA carried a daily program "tailored" for Cuban listeners, created in reaction to the Bay of Pigs debacle in 1961. In 1974, the Nixon Administration concluded that it would be more productive

and persuasive to incorporate the materials carried in that program into the general flow of programing in Spanish to the Hemisphere.

Among the program materials used in the regular Spanish language programing in the first half of 1980, for example, were interviews with Cuban political prisoners Huber Matos and Emilio Rivero and with a broad cross-section of Cuban refugees in Costa Rica, Peru, Key West, Miami, Eglin Air Force Base, Fort Chaffee, Arkansas, and Indiantown Gap, Pennsylvania. Developments involving Cubans in Angola and Ethiopia are reported to Cuba, as developments in Cuba are reported to Africa. News analyses, commentaries, editorial opinion packages, and special reports and documentaries appear regularly and on special occasions.

Evidence through the years—the latest coming from the recent influx of refugees—suggests that Cuban listeners have indeed used VOA Spanish as a chief source of information about the outside world, about the United States, and about developments in and concerning their own country. It is not the form that has been important to them, but the substance of the broadcasts. And it has been, from the VOA point of view, just as important to keep the rest of the Hemisphere informed regarding Cuban developments as Cuba itself. Creating a separate broadcast "for Cubans only" would in no way increase the supply or availability of appropriate broadcast materials, but could rather be interpreted as a special propaganda campaign, less credible and even dismissable.

June 1980.

Mr. HELMS. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I reluctantly acquiesce in the adoption of the amendment. I am concerned that one effect of this amendment would be to require the Voice of America, whose mission is to tell the world about America, to be relabeled Radio Free Cuba. The Voice of America is the voice of our country and should not be disguised under any other label.

I hope the Senate understands that this amendment does not set up an entity like Radio Free Europe or Radio Liberty. By relabeling present U.S. Government broadcasts, I hope this amendment will not have the effect of undermining the objectivity or straightforwardness of the Voice of America.

The PRESIDING OFFICER. The question is on agreeing to the amendment. Without objection, the amendment is agreed to.

The amendment (UP No. 167) was agreed to.

Mr. HELMS. I thank the distinguished managers of the bill.

The PRESIDING OFFICER. The Senator from Vermont.

UP AMENDMENT NO. 162

Mr. LEAHY. Mr. President, earlier this afternoon, the Senator from Minnesota and I offered an amendment on infant formula. I would like to speak to that for a few minutes.

The persistence of widespread hunger and malnutrition in the world continues to be one of the most awesome challenges confronting humanity. Hunger has many faces, but is perhaps most tragic when it strikes at the lives of children.

Over 200 million young children are chronically malnourished, and each year more than 11 million children die before reaching their first birthday.

Less well known is the fact that each year as many as 10 million infants in developing countries suffer acutely from the effects of bottle feeding under poverty conditions.

Mother's milk provides all of the essential nutrients required for infant health, as well as a range of natural anti-infective properties. It is the optimal means of feeding for all infants for at least the first 4 to 6 months. When mothers have ready access to clean water, refrigerator and modern stoves, are able to read formula labels and mixing instructions, and have sufficient incomes to be able to mix formula full strength, feeding with formula can be a viable alternative to breastfeeding.

But in most areas of developing countries, infant formula use has been shown to be extremely hazardous. Dr. Halfdan Mahler, director-general of WHO (World Health Organization), has said:

Evidence from the Third World indicates that infants breastfed for less than 6 months, or not at all, have a mortality 5 to 10 times higher in the second 6 months of life than those breastfed for 6 months or more.

Modernization and urbanization are among the major causes of declining breastfeeding and increased bottle feeding. Another important, and relatively more controllable, cause has been the vigorous advertising and promotional campaigns undertaken by formula manufacturers.

Billboards, posters, calendars, and baby books have been used to promote formula use. Milk nurses or mothercraft workers, often dressed to resemble nurses, have visited mothers in maternity wards, in clinics and in homes, offering free samples of formula. Once interrupted, the process of lactation can be extremely difficult to reestablish.

James Grant, executive director of UNICEF, has highlighted the importance of countercyclical measures to protect breastfeeding:

In the crucial first few months of life, breastfeeding is usually the young child's lifeline. And the recent drift towards the bottle feeding of babies, a drift for which the industrialized world has provided both the example and the means, has cost tens of thousands of young lives.

Sadly, therefore, advertising the fact that breast milk is best is now also a necessary step in improving child health.

In part, the campaign for breastfeeding must also be a campaign to regulate those who promote and sell commercial infant formula to mothers who do not need it, and are unable to safely use it.

No one argues seriously that infant formula should be withdrawn from the marketplace. A small percentage of women are physiologically incapable of breastfeeding; for their children, formula can be lifesaving. All mothers, of course, should be able to make their own choices about infant feeding practices. Mothers should be able to make informed choices, however, with full knowledge as to the benefits of breastfeeding and the potential health posed by bottle feeding.

Mr. President, as we all know, the United States cast the lone negative vote against the World Health Organization's International Code of Marketing Breastmilk Substitutes. The vote was 118 to 1. This code, while it will have the sanction of world public opinion, is nonbinding and voluntary. Each member nation is urged to take appropriate steps for its implementation. However, the code provided that:

Governments should take action to give effect to the principles and rules of this code, as appropriate to their social and legislative framework, including the adoption of national legislation, regulations or other suitable measures.

To cast the lone negative vote, Mr. President, was detrimental to our national and international interests. I fail to see the foreign policy advantage that we gained from this "no" vote.

I am concerned that the international community may misread this vote to conclude that the United States does not share a concern for the health of the world's chilldren, that the United States will turn aside when presented with a real life threat to innocent babies.

Now what is this real life threat? The point was made by a nun I heard a few weeks ago. She was explaining the situation in an African nation where the baby bottle was a status symbol of all that is Western, modern, and good. This baby bottle had such a high status that it cost the equivalent of $15—$15 for a plastic baby bottle, in most areas more than a month's income. And because of this expense, and because of its value, it was used over and over, by family after family. But with no sterilization, no purification, the bottle quickly became black with mold. And yet this blackened bottle was used, with formula or with any liquid, and it was still considered a status symbol. As the nun said, the bottle was so decayed, any Member of this body would dare not to touch it, let alone feed a child with it.

This is the situation in Africa, I have heard similar examples in other regions.

Let me present the problem in basic human terms. If a mother in a Third World country clinic receives a free sample of formula given to her by a representative of a formula company, she may be persuaded that bottle feeding is indeed the modern thing to do and that it is best for her baby.

Yet, when she returns to her home she may find that the water to mix with the powdered formula is impure, or that she cannot sterilize the bottles, or that she cannot afford the formula.

But by then she, and her baby, are tragically trapped. Once she has stopped breastfeeding, she cannot change her mind. Her body will not produce milk.

In a very real sense, she and her baby are hooked on the expensive formula. She must keep using it, even if the baby becomes ill, even if she has to dilute it, even if the baby's life is threatened.

No one, not even the formula companies themselves, denies that breast milk is the most perfect food for infants. Breast milk offers a baby unique immunities, balanced nutritional content, and it is always sterile. It is also

free, unfortunately for the formula manufacturers.

This is first of all a human and moral question. I cannot banish from my mind the image of a child slowly starving on formula so diluted it is a pale grey—even if others can. I cannot ignore the anguish a poor mother must go through, knowing that her baby is suffering and that, since she cannot go back to breastfeeding, there is nothing she can do—even though those who have advocated infant formula for purely commercial reasons apparently can.

There are also foreign policy considerations. As a recent editorial from the Journal of Commerce stated:

> If the United States abstains or votes no on the Infant Formula Code, we believe that it will gain little and possibly lose much in its effort to restore U.S. credibility and influence with the developing world.

I firmly believe that it was not in our best national interest to oppose this code.

This decision did not reflect the compassion and the concern of the American people. It was a mistake. It was made for the narrowest of economic reasons and the rest of the world will not soon forget our position on this issue.

I would hope that the world would not misinterpret the United States feeling in this regard.

Mr. President, I ask unanimous consent that Senators HOLLINGS and HART be added as cosponsors to the Durenberger-Leahy resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senator from Michigan (Mr. RIEGLE) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, S. 1195 would authorize U.S. participation in the general capital increase of the World Bank. The bill also authorizes completion of the U.S. shares of the fifth replenishment of the Inter-American Development Bank and the second replenishment of the Asian Development Fund.

These last two items—replenishments of the IDB and ADF—were passed by the Senate in the previous Congress, but the House did not concur. Because these are catch up authorizations which were previously considered by the Senate, I will not take the Senate's time to discuss them. I refer my colleagues to the committee report and to the record in the 96th Congress.

The general capital increase for the World Bank is a new and vital proposal to increase the development of poor countries. The proposed amounts are included in the President's budget and in the congressional budget resolution. This legislation has the strong support of the administration.

The general capital increase would approximately double the capital of the World Bank from $40 billion to $80 billion. The increased capital will enable the World Bank to maintain its lending for development at a constant level in real terms despite the ravages of inflation.

When the general capital increase was originally proposed, it was expected to enable the World Bank to increase its lending by 5 percent per year in real terms. Worldwide inflation turned out to be much higher that expected; consequently, the proposed capital increase is needed to prevent World Bank lending from declining in real terms.

The U.S. share of the total capital increase will be 22 percent, approximately $8.8 billion. Only a small portion, 7.5 percent, of the total subscription will be paid-in capital. The remainder, 92.5 percent, will be callable capital.

The administration has budgeted the U.S. share of paid-in capital over a 6-year period beginning with fiscal year 1982. The United States will pay in less than $110 million each year for 6 years, a total of $658 million.

Actual budget outlays during the next few fiscal years will be tiny compared to the total capital increase and to the return to the U.S. economy.

As shown in the estimate prepared by the Congressional Budget Office, which is reprinted in the committee's report, budget outlays will be only $11 million per year in fiscal years 1982 through 1985.

The reason for this very low outlay figure is the administration's decision to provide only 10 percent of the appropriated amount in cash each year.

The remainder will be provided in the form of a letter of credit to be drawn upon in future years. Clearly, the administration has done everything possible to reduce the budgetary impact of the capital increase on the United States.

In fact, the U.S. economy will reap substantial benefits from the World Bank's expanded lending program. Other countries are contributing more than $3 for every dollar the United States subscribes to the World Bank. The Bank will be able to lend $65 for every $1 paid in by the United States. The United States will gain from $13 to $15 of U.S. exports, up to a $30 increase in national income and output, and from $6 to $9 in increased Federal revenues from every $1 the United States pays into the World Bank.

These remarkable returns to the U.S. economy are due to the structure of the Bank, which uses capital subscriptions to back its borrowings of funds on the market, and to the successful record of economic development supported by the Bank. From 1950 to 1975 the average per capita income of the developing world grew at over 3 percent per year. Never have so many people—over 2 billion—achieved so much economic growth in so short a time. Much of that growth would not have been possible without lending by the World Bank.

The World Bank not only provides money for development, but also technical assistance and policy advice which help developing countries adopt successful development strategies.

The United States also gains in terms of security through the World Bank. The United States has mutual defense relationships with 7 of the top 10 recipients of World Bank loans: Brazil, Turkey, Korea, Thailand, Colombia, the Philippines, and Mexico. These seven countries received about one-half of all new lending by the World Bank in 1980.

If anyone has any doubt, despite all the objective evidence, that U.S. participation in the World Bank serves U.S. interests just consider the Soviet view of the World Bank. A Russian author, V. Zholobov, writing in an official Soviet publication, recently described the World Bank as the "servant of monopoly capital"—the Communist code words for the capitalist system. He says:

> The facts concerning IBRD's real activities . . . show that the Bank has always been and remains, a staunch defender of the capitalist economic system, and assists in establishing a private enterprise sector in the economies of developing countries.

He complains that most of the Bank's loans have gone to Brazil, Indonesia, Korea, Morocco, the Philippines and a number of Latin American capitalist countries, which he says are the "bulwarks of private capital." He also complains that the World Bank does not finance public sector industrial undertakings:

> During 1978, the majority of countries with a socialist philosophy—Ethiopia, Afghanistan and the People's Democratic Republic of Yemen, plus a number of others that seek primarily to develop the public sector of their economies—did not receive a single loan from IBRD or its affiliates.

The Russians would like nothing better than to see us weaken our support for the multilateral development banks. They know, although some Americans seem still to be confused on the point, that the multilateral development banks are a powerful instrument for advancing the free-market system and U.S. security, as well as the economic development of poor nations.

S. 1195 represents one more step in advancing U.S. interests and frustrating Russian ambitions. The Reagan administration is fully in support of this legislation. Secretary of Treasury Regan and Secretary of State Haig have testified repeatedly in support of this legislation and the IDA legislation which the Senate passed in April. On June 5 they wrote to the House Banking Committee in support of the President's request for funds for the multilateral development banks, and were joined in signing that letter by Budget Director Stockman, Secretary of Commerce Baldridge, and U.S. Trade Representative Brock.

The Committee on Foreign Relations reported S. 1195 favorably by a vote of 14 to 0. I urge my colleagues to join in supporting this important legislation.

Mr. PELL. Mr. President, today the Senate will consider S. 1195—a bill to authorize U.S. participation in the general capital increase (GCI) of the International Bank for Reconstruction and Development—the World Bank—and to complete U.S. obligations with respect to the fifth increase in the capital subscriptions of the Inter-American Development Bank (IDB); the sixth replenishment of the fund for special operations (FSO)—the concessional loan window of the IDB; and the second replenishment

of the Asian Development Fund—the concessional loan window of the Asian Development Bank.

THE GENERAL CAPITAL INCREASE

The general capital increase (GCI) in the World Bank's subscribed capital will result in a doubling of its resources from $40 billion to $80 billion. The U.S. share of this increase will be $8.7 billion—approximately 22 percent of the total capital increase—and will raise the total U.S. subscription in the Bank to $18 billion.

The World Bank has performed a vital role in stabilizing the world economy throughout its 35-year history. Some of my colleagues may not be aware, Mr. President, that in its early days, the World Bank was instrumental in raising capital at that time desperately needed to rebuild the war-torn economies of Western Europe and Japan, our principal allies.

In the more recent past, the Bank has provided assistance to Greece, Ireland, Singapore, Spain, Finland, and Iceland; and thanks in good measure to the Bank, the economies of these countries have now grown and developed to the point that World Bank assistance is no longer necessary. It is imperative that the work of the World Bank be allowed to continue not only because it benefits individual countries in the developing world but because through its activities, it promotes economic growth and stability in the world economy as a whole.

The actual budgetary cost of U.S. participation will be modest. Only $658 million, or 7.5 percent of the $8.7 billion, will actually be transferred to the World Bank. This will be accomplished over a 6-year period through contributions of $110 million annually. The remaining $8 billion of the U.S. subscription will be in the form of callable capital guaranties, and except under extraordinary circumstances, will never leave the U.S. Treasury.

I might note, Mr. President, that it is highly unlikely that the callable portion of the U.S. subscription would ever be called. Not once since the founding of the Bank 35 years ago have members been asked to transfer any of their callable shares to the Bank.

Yet, the callable capital subscriptions to the World Bank serve a vital function in its lending operations—they allow the Bank to borrow funds on international financial markets up to the value of these subscriptions and to lend these funds to developing countries for specific development projects. The U.S. Treasury has estimated that for every dollar that the United States provides in paid-in capital, the Bank is able to extend $65 in loans to the developing world, largely because of the financial leverage provided by the callable capital subscriptions.

MAKEUP LEGISLATION

The other major purpose of this bill, as I noted earlier, is to complete the authorizations for U.S. participation in the increase in the capital of the Inter-American Development Bank (IDB), the replenishment of the IDB's fund for special operations (FSO), and the replenishment of the Asian Development Fund (ADF). On May 17, 1979, the Senate passed S. 662—a bill authorizing U.S. participation in the IDB's capital increase and the FSO and ADF replenishments at the levels that had been internationally negotiated.

However, due to a difference in the House-passed version, the authorization levels which finally became law fell short by 10 percent for the IDB's capital increase and FSO and by 15 percent for the ADF.

The Reagan administration has requested that this Congress act expeditiously to authorize the outstanding U.S. commitments—$275 million for the IDB, $70 million for the FSO, and $66.8 million for the ADF—so that the capital increase and replenishment plans of these institutions can be completed as originally negotiated. This administration has stressed that this must be done if the United States is to meet its international commitments.

Mr. President, I urge my colleagues to support this bill. In my view, the enactment of this legislation is important not only because it will preserve the integrity of these multilateral development institutions and permit them to continue to provide financial assistance to the developing world, but also because it is a signal to the rest of the world that the United States continues to be committed to a policy of responsible economic and political leadership in international affairs.

UNANIMOUS-CONSENT AGREEMENT

Mr. BAKER. Mr. President, will the Senator from Kentucky permit me to make a unanimous-consent request? If he has a brief statement, I shall defer.

Mr. HUDDLESTON. I have a brief amendment that has been accepted.

Mr. BAKER. Mr. President, I have talked to the distinguished minority leader about this and I believe it is agreeable. We have run a hotline on our side. I am informed that perhaps the minority has done so, as well. There are no other amendments to this bill, the Department of State authorization, with the exception of the amendment of the Senator from Kentucky.

I ask unanimous consent, Mr. President, that at this time, the Department of State authorization bill be temporarily laid aside following the consideration of the amendment by the Senator from Kentucky and that the Senate immediately proceed to the consideration of Calendar Order No. 101, S. 1195, and that, without any debate, we proceed immediately to a rollcall vote on that bill.

Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on that measure at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. I ask unanimous consent that, after the disposition of S. 1195, there be a brief period for the transaction of routine morning business; that when the Senate reconvenes tomorrow, it resume consideration of the Department of Justice authorization bill after the recognition of any Senators under the standing order or any special orders and the transaction of routine morning business, if ordered; that at 12 o'clock tomorrow the Senate return to consideration of the Department of State authorization bill and at that time the amendment of the Senator from Minnesota (Mr. DURENBERGER) and the Senator from Vermont be the pending business; that there be a period of 1½ hours for debate on that measure——

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield?

Mr. BAKER. I yield to the minority leader.

Mr. ROBERT C. BYRD. Mr. President, I shall have to say if the rollcall vote is not begun virtually immediately on Calendar Order No. 101, I cannot agree to taking it up tonight.

Mr. BAKER. Mr. President, I withdraw my previous request and formulate this request:

Mr. President, I ask unanimous consent that the Department of State authorization bill be laid aside temporarily and that the Senate proceed to the consideration of Calendar Order No. 101, S. 1195; that there be no debate in order; and that, after the disposition of that measure, the Senate return to the consideration of the Department of State authorization.

The PRESIDING OFFICER. Is there objection?

Mr. HUDDLESTON. Reserving the right to object, Mr. President, does that preclude my amendment?

Mr. BAKER. It is going to take 15 minutes to do the rollcall. As the minority leader pointed out, unless we get that rollcall done right now, I am afraid we cannot get it done this evening. I am at the mercy of the Senator from Kentucky and the Senator from West Virginia.

Mr. PERCY. The Senator from Kentucky said his amendment will take 30 seconds.

Mr. HUDDLESTON. It will take me 30 seconds, but—I shall not object, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. PARTICIPATION IN THE INTERNATIONAL BANK

Mr. BAKER. Mr. President, are the yeas and nays ordered on S. 1195?

The PRESIDING OFFICER. The yeas and nays have been ordered.

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 1195) to provide for continuing participation by the United States in the International Bank for Reconstruction and Development, the Inter-American Development Bank, and for other purposes.

Mr. MATHIAS. Mr. President, I support S. 1195, the bill to authorize U.S. participation in the World Bank's General Capital Increase and completion of the shortfall in U.S. subscriptions to the

Asian Development Fund and Inter-American Development Bank. I do so because the multilateral development banks are vital to sustaining economic development in a period of severe financial strain in the global economy.

Many developing countries, including many close allies of the United States and important trading partners, will have great difficulty paying their oil import bills over the next few year. Their economic prospects are further diminished by the slower growth rates expected in the developed countries. Major economic adjustments will be required in most developing countries, and assistance from the multilateral development banks can spell the difference between sound adjustment and disaster.

The United States has a much larger stake in the continuing economic development of Third World nations than we sometimes realize. We import over 50 percent of our needs of 24 or 32 minerals designated as strategic and critical, including more than 90 percent of the bauxite, chromite, cobalt, columbium, manganese ore, and nickel that we use. A continuous, assured supply of these minerals is absolutely essential to our industrial and military security. The United States cannot afford to neglect the development needs of mineral rich nations.

Access to secure supplies of minerals and raw materials at relatively stable prices is only one facet of the American stake in developing countries. Another is that the United States currently sells 40 percent of its manufactured exports to developing countries. These countries form the fastest growing market for U.S. exports, expanding at a rate of 20 percent a year, compared to 15 percent for U.S. exports to developed countries. The developing countries are also major purchasers of U.S. agricultural commodities and will inevitably become better customers as their populations expand. In turn, we import 50 percent of the goods they manufacture.

We have consistently underestimated the vital security stake we have in the Third World stability both in terms of limiting Soviet expansion and of guaranteeing access to essential resources for the West. A list of the top recipients of World Bank loans is nearly identical to a list of the developing countries of greatest strategic interest to the United States. Brazil, Turkey, Korea, Thailand, Colombia, the Philippines, and Mexico received nearly half of all IBRD loans in 1980. China will be an important recipient in the future.

The World Bank plays a vital role in supporting an open, growing, market-oriented world economy. The National Advisory Council on International Monetary and Financial Policies in its special report to the President on the World Bank's General Capital Increase notes:

A "western" market-oriented economic outlook has always guided the Bank's policy advice. The IBRD has consistently encouraged realistic public sector pricing policies and discouraged excessive trade barriers.

The administration strongly supports S. 1195 and the appropriations necessary to maintain United States commitments to the multilateral development banks. Secretary of Treasury Regan told the Senate Appropriations Committee on April 28th:

The Administration fully recognizes the important support that the banks can provide for the orderly, market-oriented economic development of a large number of developing countries. The Administration also recognizes that the multilateral character of the banks and the substantial resources at their command make these institutions well positioned to help promote growth-spurring economic policies in the developing world.

Mr. President, when you add to all these considerations: the fact that we are talking about actual budget outlays of $11 million per year for the next few fiscal years for the General Capital Increase; and the fact that the World Bank will be able to lend more than $60 to developing countries for every dollar the United States pays into the Bank; and the fact that the U.S. economy will receive back several times our budget expenditures in terms of exports and investment income—I cannot think of a sounder investment in our future. On humanitarian grounds, on economic grounds, on security grounds, the multilateral development banks are one of the best deals the United States has ever had.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New York (Mr. D'AMATO), the Senator from Pennsylvania (Mr. HEINZ), the Senator from South Dakota (Mr. PRESSLER), the Senator from Delaware (Mr. ROTH) and the Senator from New Mexico (Mr. SCHMITT), are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. D'AMATO) would vote "aye."

Mr. CRANSTON. I announce that the Senator from New York (Mr. MOYNIHAN), the Senator from Colorado (Mr. HART) and the Senator from Louisiana (Mr. LONG) are necessarily absent.

The PRESIDING OFFICER (Mr. ARMSTRONG). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 65, nays 27, as follows:

[Rollcall Vote No. 156 Leg.]

YEAS—65

Armstrong	Danforth	Hollings
Baker	Dixon	Huddleston
Baucus	Dodd	Inouye
Bentsen	Dole	Jackson
Biden	Domenici	Jepsen
Boschwitz	Durenberger	Johnston
Bradley	Eagleton	Kassebaum
Bumpers	Exon	Kasten
Cannon	Ford	Kennedy
Chafee	Glenn	Lavalt
Chiles	Gorton	Leahy
Cochran	Hatfield	Levin
Cohen	Hayakawa	Lugar
Cranston	Heflin	Mathias
Matsunaga	Pryor	Stennis
Metzenbaum	Riegle	Stevens
Mitchell	Rudman	Tower
Murkowski	Sarbanes	Tsongas
Nunn	Sasser	Wallop
Packwood	Simpson	Weicker
Pell	Specter	Williams
Percy	Stafford	

NAYS—27

Abdnor	Garn	Nickles
Andrews	Goldwater	Proxmire
Boren	Grassley	Quayle
Burdick	Hatch	Randolph
Byrd, Harry F., Jr.	Hawkins	Symms
Byrd, Robert C.	Helms	Thurmond
DeConcini	Humphrey	Warner
Denton	Mattingly	Zorinsky
East	McClure	
	Melcher	

NOT VOTING—8

D'Amato	Long	Roth
Hart	Moynihan	Schmitt
Heinz	Pressler	

So the bill (S. 1195) was passed, as follows:

S. 1195

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT AND ASIAN DEVELOPMENT BANK

SEC. 101. The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 39. (a) The United States Governor of the Bank is authorized—

"(1) to vote to increase by three hundred and sixty-five thousand shares the authorized capital stock of the Bank; and

"(2) to subscribe on behalf of the United States to not more than seventy-three thousand and ten shares of the capital stock of the Bank: *Provided*, That not more than 7½ percent of the price of the shares subscribed may be paid into the Bank on subscription, with the remainder being subject to call: *Provided further*, That any subscription to additional shares under this section shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

"(b) In order to pay for the increase in the United States subscription to the paid-in capital stock of the Bank provided for in this section, there are authorized to be appropriated, without fiscal year limitation, $658,305,195 for payment by the Secretary of the Treasury.

"(c) In order to effect the United States subscription to the callable capital portion provided in this section, the United States Governor of the Bank is authorized to subscribe, without fiscal year limitation, to the callable portion of the United States share of increases in capital stock in an amount not to exceed $8,149,256,155.".

TITLE II—INTER-AMERICAN BANK AND ASIAN DEVELOPMENT BANK

SEC. 201. The Inter-American Development Bank Act (22 U.S.C. 283 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 30. (a) The United States Governor of the Bank is authorized on behalf of the United States to contribute to the Fund for Special Operations $70,000,000; *Provided, however*, That any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

"(b) In order to pay for a portion of the increase in the United States subscription to the capital stock of the Bank provided for in section 29(a) and for the United States contribution to the Fund for Special Operations provided for in this section, there are authorized to be appropriated, without fiscal year limitation, for payment by the Secretary of the Treasury (1) $274,920,799

for the United States subscription and (2) $70,000,000 for the United States contribution to the Fund for Special Operations.".

SEC. 202. The Asian Development Bank Act (22 U.S.C. 285 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 26. (a) The United States Governor of the Bank is authorized to contribute on behalf of the United States $66,750,000 to the Asian Development Fund, a special fund of the Bank: *Provided*, That any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

"(b) In order to pay for the United States contribution to the Asian Development Fund provided for in this section, there are authorized to be appropriated, without fiscal year limitation, $66,750,000 for payment by the Secretary of the Treasury.".

TITLE III—HUNGER AND GLOBAL SECURITY

SEC. 301. This title may be cited as the "Hunger and Global Security Multilateral Development Bank Act".

SEC. 302. The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.), as amended by section 101, is further amended by adding at the end thereof the following new sections:

"SEC. 40. (a) The Congress finds that there is a need for concerted international efforts to deal with the problems of malnutrition, low life expectancy, high birth rates, childhood disease, underemployment, and low productivity in developing countries.

"(b) The Congress notes with approval that the Inter-American Development Bank, under the terms of its Fifth Replenishment, has adopted the target that 50 percent of its lending benefit the poorest groups and has developed a usable methodology for determining the proportion of its lending which benefits such groups.

"SEC. 41. (a) The Secretary of the Treasury shall consult with representatives of other member countries of the International Bank for Reconstruction and Development, the International Development Association, the African Development Fund, the Asian Development Bank, the Inter-American Development Bank, and, if the United States becomes a member of the African Development Bank, the Secretary of the Treasury shall consult with other member countries of the African Development Bank, for the purpose of establishing guidelines, within each of those institutions, which specify that, to the maximum feasible extent consistent with the purposes and charters of those institutions, annual lending by each of those multilateral development institutions shall be designed to benefit needy people, primarily by financing sound, productive, self-sustaining projects in developing countries which provide assistance to help poor people improve their conditions of life. It is the sense of Congress that at least 50 percent of the annual lending by each multilateral development institution should be designed to benefit needy people.

"(b) The Congress finds that both projects for the construction of basic infrastructure facilities and projects dealing with social problems or the promotion of basic human needs can be designed to meet the objectives of this section. For purposes of this section and section 42, needy people are those who are classified as 'absolutely or relatively poor' under the standards adopted by the International Bank for Reconstruction and Development and the International Development Association.

"SEC. 42. The Secretary of the Treasury shall prepare and transmit a report annually to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate on the progress being made toward achieving the goals of section 41, and shall also include, for each of the institutions referred to in section 41, as accurate an estimate as practicable of the proportion of the lending by such institution which benefits needy people in its borrower countries. In formulating such estimates, the Secretary of the Treasury may utilize the methodology developed by the Inter-American Development Bank or such other methodology or methodologies as may be appropriate.".

TITLE IV—EFFECTIVE DATE AND AVAILABILITY OF FUNDS

SEC. 401. This Act shall take effect upon its date of enactment, except that funds authorized to be appropriated by any provision contained in title I or II are not available for use or obligation prior to October 1, 1981.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MATHIAS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF STATE AUTHORIZATION ACT, FISCAL YEARS 1982 AND 1983

The Senate resumed consideration of S. 1193.

Mr. HUDDLESTON. Mr. President, what is the order of business at the present time? Do we return to the foreign relations bill?

The PRESIDING OFFICER. The pending business is S. 1193.

UP AMENDMENT NO. 168

(Purpose: To require the President to transmit a report on the total cost of domestic and foreign assistance for refugees and Cuban and Haitian entrants)

Mr. HUDDLESTON. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) proposes an unprinted amendment numbered 168.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

REPORT

SEC. . (a) Not later than 60 days after the date of enactment of this section, the President shall prepare and transmit to the Congress a full and complete report on the total cost of Federal, State, and local efforts to assist refugees and Cuban and Haitian entrants within the United States or abroad for each of the fiscal years 1981 and 1982. Such report shall include and set forth for each such fiscal year—

(1) the costs of assistance for resettlement of refugees and Cuban and Haitian entrants within the United States or abroad;

(2) the costs of United States contributions to foreign governments, international organizations, or other agencies which are attributable to assistance for refugees and Cuban and Haitian entrants;

(3) the costs of Federal, State, and local efforts other than described in paragraphs (1) and (2) to assist, and provide services for, refugees and Cuban and Haitian entrants; and

(4) administrative and operating expenses of Federal, State, and local governments which are attributable to programs of assistance or services described in paragraphs (1), (2), and (3); and

(5) administrative and operating expenses incurred by the United States because of the entry of such aliens into the United States.

(b) For purposes of this section—

(1) the term "refugees" is used within the meaning of paragraph (42) of section 101(a) of the Immigration and Nationality Act; and

(2) the phrase "Cuban and Haitian entrants" means Cubans and Haitians paroled into the United States, pursuant to section 212(d)(5) of the Immigration and Nationality Act, during 1980 who have not been given or denied refugee status under the Immigration and Nationality Act.

Mr. HUDDLESTON. Mr. President, refuge assistance from the United States totals in the billions of dollars and is provided by the Federal, State and local governments. Because of the multitude of programs and the many agencies and departments they are scattered among, it is almost impossible to get a true picture of the total cost.

In order to overcome this lack of information, I introduced an amendment, similar to the one I am offering today, in 1979 which required a report on the total cost of our refugee assistance efforts. In February of 1980 this report was released and revealed that the estimated cost for fiscal year 1980 would be $1.7 billion and $2.1 billion in fiscal year 1981. Unfortunately, these figures are now outdated because of the Cuban/Haitian arrivals and the generation of new information regarding the refugees we are admitting.

At a time when the needy children of this country are being forced to go without vital assistance because of cutbacks in food, housing, and jobs programs, this bill, S. 1193, would increase the authorization for refugee assistance. I believe that a report on the total cost of our refugee programs would help the Congress and the Committee on Foreign Relations set spending priorities in a more reasonable manner.

The amendment I am offering would simply require the President to report within 60 days on the total cost of our refugee assistance efforts including the Cuban/Haitian arrivals. It is exactly the same kind of report which the Carter administration was required to make last year. The administration has all the figures, it is simply a matter of putting those figures together in one report.

Mr. President, this is a very simple amendment, very similar to the one that was adopted 2 years ago that simply requires the administration to supply Congress with the total cost of refugee assistance.

It has been cleared on both sides of the aisle, and I ask for its immediate consideration.

Mr. PELL. Mr. President, the Senator has discussed this with the minority side of the aisle. It seems like an excellent amendment. I hope that the acting majority manager will accept this amendment.

Mr. MATHIAS. Mr. President, the chairman of the Foreign Relations Com-

mittee has discussed this with the author of the amendment, and I believe he has no objection to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (UP No. 168) was agreed to.

Mr. BAKER. Mr. President, there will be no more rollcall votes tonight.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I now ask unanimous consent that there be a brief period for the transaction of routine morning business to extend not longer than 20 minutes in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

LET US GIVE CREDIT WHERE CREDIT IS DUE

Mr. ROBERT C. BYRD. Mr. President, I was somewhat disappointed with the criticisms that President Reagan leveled at the Congress in his press conference yesterday.

Let us give credit where credit is due. This Congress has acted with great dispatch on the President's proposals. It has been delivering highly complicated and very major legislation at an astonishing speed. And the main thrust of the legislation which has emerged, and is emerging, is giving the President what he wants. These measures are fundamentally altering programs and policies which have been built, by Democratic and Republican administrations alike, over several decades. They cannot be revised overnight. Yet, the committees of both Houses are to be congratulated for the tremendous urgency and speed with which they have examined and marked up the various proposals submitted by this administration.

The American people expect us to do our job. There is a reason the framers of our system of government separated and balanced the powers of the three branches of Government. If Congress is stampeded into thoughtlessly embracing everything that comes to it from the executive branch, mistakes will be made and great damage can be done. We have worked in a spirit of comity with this President and we will continue to do so. But comity and respect have got to be a two-way street.

Let us briefly review the record of this Congress so far. Both Houses of Congress have already passed budget resolutions which ordered committees to cut $36 billion in spending next year and some $140 billion over the next 3 years. The committees have produced follow-up reconciliation cuts in programs which will be on the floor of the Senate next week and on the floor of the House shortly. We have approached this process in a highly constructive and responsive way. The cuts do not mirror image the President's proposals entirely, but they give him most of what he has asked for. We are hard at work on the President's tax cut proposals. The American people will have a tax cut. But the President's proposal as initially submitted was far from perfect. We are changing it in some ways which President Reagan yesterday acknowledged to be constructive. Our constructive criticism has resulted in the President's adding many important provisions to his revised tax bill. I would like to see the third year cut tied to the President's success in bringing interest rates down.

The legislative process works with give and take. It is a time-proven successful process.

I am not aware of any Congress which has ever given a President everything he wants. And this is as it should be. No branch of this Government is infallible. We noted that mistakes of billions of dollars were made in the executive branch when the first budget was so hastily prepared and submitted to us. Should we have rubberstamped those mistakes? Of course not.

The Senate has already passed this administration's first defense bill, and the House will shortly consider its version. We gave the administration largely what it wanted in that bill. We did not give it everything because there were some ill-considered items. It is a responsible bill, and we went as far as to give the administration money for strategic programs on which it has itself not yet been able to make decisions. We authorized billions for a new bomber, the recommendation for which was due to be submitted to us by March 15, 1981. There is still no recommendation. We have given additional billions for an MX basing mode system, and they have not yet come up with a recommendation on that. We passed a very costly Navy shipbuilding program, but we had to shoot in the dark because the administration failed to provide us with the 5-year shipbuilding program which is mandated by law to be submitted each year with the budget. And so we have tolerated these delays and acted on the basis of very incomplete information. We understand the new administration needs time to formulate its defense and foreign policies. And we certainly expect the administration to respect the Congress as it considers and acts on its economic program. We have seen in the past the paralysis that can develop when the President and Congress are at odds with each other. On our side of the aisle we have sought to avoid that paralysis. I believe we have succeeded and we will continue to succeed.

And so, Mr. President, let us give credit where credit is due. The American people want action. They are getting action. But the American people want us to do our work carefully and thoughtfully. They are getting that kind of work.

Mr. President, I yield the floor.

THE WORLD'S MOST COMPULSIVE GAMBLER

Mr. HATFIELD. Mr. President, in the last 48 hours, the United States has announced new security agreements with Pakistan and the Peoples' Republic of China. I do not wish to suggest that the considerations applying to each agreement are similar. Clearly, each relationship poses unique circumstances and conditions for U.S. foreign policy. It would be equally faulty to assume, however, that there are not significant common denominators underlying our willingness to embark on these radical departures from established policy.

I submit, Mr. President, that the United States is fast becoming marked as the "world's most compulsive gambler." I challenge the proponents of these arms agreements to provide a single shred of evidence that our convenient friends today will hold the reins of power a year from now. Recent history has demonstrated the potential for dramatic shifts in the leadership of the Peoples' Republic of China. The extremely tentative power base held by General Zia in Pakistan is also well-known. His is a brutal and unstable government unable to provide even the base necessities of life for its own people. The substance of Pakistan's allegiance to the United States is even more questionable than its own stability.

Have we already forgotten the destruction of the American Embassy in Pakistan, and the passive indifference of the Pakistani Government toward that act? With so much talk of renewed commitment to our real friends, we now move to bestow "allied status" on a government that so recently displayed supreme disregard for this Nation.

These recent actions were intended to signal strength and resolve to the Soviets. They in fact signal confused purpose and hollow commitment. They represent a desperate substitute for the genius and courage which the increasingly dangerous global situation requires of us. Instead, Mr. President, we are becoming the image of the gambler who disregards his family's welfare, blinds himself to the future and blanks out the past in a feverish effort to achieve immediate and total security.

Mr. President, I have been as critical of the Soviet Union as any Member of this Chamber. I deplore the march of totalitarism. I condemn the brutality and spiritual bankruptcy of their system. But we must stand for something. Our hopes for a stable global community and our historic ideals should not be casually abandoned in deference to an all-consuming and myopic anti-Sovietism.

Mr. President, we must confront ourselves with brutal honesty. Have we come to view the nonproliferation on nuclear weapons and the eradication of the root causes of global stability as such hopeless goals that our only recourse is to live for the moment?

I say to my colleagues that the rules of the international game are changing. We, through such rash acts, are relinquishing our right to constructively shape that process, for as we point our finger of condemnation at the Soviet Union, we do so with our eyes closed and our ears deaf to the cries of suffering in this world.

One billion human beings on this Earth are so limited by illiteracy, malnutrition, and disease as to deny them the very potential of the genes with

which they were born. As each minute passes by here today, 21 children will die.

Twenty-eight African countries are presently suffering drought conditions. The food deficit is expected to increase as the eighties progress. Yet we appear surprised as country after country becomes ripe for revolution and, consequently, Soviet adventurism. Rather than showing that we care, we leap into questionable arms agreements with regimes with whom the only factor we have in common is fear of the Soviet Union.

I ask my colleagues to take a hard look at the glaring inconsistencies in logic which emerge in both the Pakistan and the China case. Within days of an attack by Israel on an Islamic nuclear reactor, we agree to sell offensive fighters to an Islamic nation which is no less an enemy of Israel—and even more suspect of aggressive nuclear intent. Pakistan has shown disdain for the United States and international legal efforts to control the spread of offensive nuclear technology by its refusal to sign the Nuclear Non-Proliferation Treaty.

We brand every revolt against friendly authoritarian regimes as inspired by totalitarian communism, yet Chinese communism, with all of its totalitarian implications, now is an acceptable candidate for lethal U.S. weaponry.

Mr. President, it is my deepest hope that Congress will not allow itself to succumb to these bankrupt interpretations of our security needs. That which masquerades as realism is increasingly proving itself removed from reality. And let us be honest about the implications—the cost in human terms—of this new emphasis on cultivating friendships with arms. There are profound problems facing this world, and with each day that we indulge our gambling instincts the answers become more distant, and the dangers more acute.

S. 1369—WITHHOLDING OF CERTAIN GAMBLING WINNINGS

Mr. HUDDLESTON. Mr. President, on June 15, 1981, I introduced a bill to repeal section 3402(q) of the Internal Revenue Code of 1954.

Mr. President, my purpose in introducing this legislation is to remove an unnecessary and ill-advised impediment to the legitimate wagering industry, from which so many of our States derive significant revenues.

This bill does not challenge the overall tax policy of our Nation toward gambling income. However, I will note that the United States is the only country in the world where the incidence of taxation is on revenues from the winnings of individuals, rather than solely from the operations of legal gambling activities.

There appears to be clear and convincing evidence that the section of our tax code dealing with withholding of gambling earnings, section 3402(q), violates our longstanding American tradition of Federal neutrality toward wagering activities.

This code section was enacted with the purpose of assuring compliance with the tax laws and providing increased revenues for the Treasury, but we have no evidence that it has resulted in significant additional Federal income. However, it clearly has induced otherwise law-abiding citizens to patronize illegal gambling activities, and in so doing has caused a fall in State revenues from parimutuel wagering.

Some 32 States now derive significant revenues from racing, and additional sums are raised in some of these States from lotteries and casino operations.

In 1977, the first year in which section 3402(q) was effective, total State revenues from parimutuel activities declined for the first time in 18 years. In 1978, they dropped at a faster rate, with total State losses of $18 million.

Revenues from racetrack betting declined in 12 States during 1978. Even in those States where revenues have continued to rise, there is strong reason to believe that a substantial portion of wagering activity is being diverted to illegal oddsmakers.

The burden of compliance with this tax provision on the racetrack facilities was recognized in the final report of the Commission on the Review of the National Policy Toward Gambling, which concluded:

> The withholding measure will increase the advantage to illegal operators, generate minimal revenues to the Government, and unnecessarily increase the administrative burden to the legal gambling businesses.

Mr. President, in operation this so-called withholding provision actually constitutes a 20-percent excise tax on that average citizen who is lucky enough to win on a long-shot exotic bet at the racetrack. Despite the fact that 85 percent of these patrons sustained net gambling losses in the year in which these winnings were withheld, less than half were able to recoup this obligatory tax payment from the Treasury.

There are two major reasons for this windfall to the Federal Government. First, one must give up the standard deduction and elect to file an itemized tax return to get back the withheld winnings. And, second, the IRS accounting standards for substantiating offsetting losses are so burdensome as to deter all but the most stalwart taxpayers.

In combination, these two barriers prevent the majority of affected individuals from ever recovering the winnings which are lawfully and rightfully theirs.

Nor has this provision been successful in meeting its proponents' goals for raising revenues. The total winnings withheld in 1978 were only $66 million, despite the IRS' initial claims that Federal receipts would improve by more than $100 million per year. More than $50 million out of that $66 million should have been returned to taxpayers under a fair and reasonable system of substantiating offsetting losses.

In part, this provision was enacted in response to allegations that some taxpayers were using various means to evade the reporting requirements for large winnings which existed prior to 1977.

Although one IRS study concludes that withholding improves bettor compliance in reporting gambling winnings to some degree, that study indicates that most bettors who receive large racetrack winnings not subject to withholding do report the winnings as income.

However, it is very clear that the net effect of section 3402(q) has been to boost the already high competitive advantage of illegal gambling activities.

The success and scale of illegal wagering, abetted by and lucrative for organized crime, is of far greater consequence to the Nation than the occasional attempts of some individuals to avoid Federal taxes on their gambling winnings.

IN MEMORY OF IRVING H. STEINHORN

Mr. McCLURE. Mr. President, I would like to ask the Senate to pause for a few moments to remember Irving H. Steinhorn, a member of the staff of the Energy and Natural Resources Committee who died Sunday after a long and difficult battle with cancer and other complications.

Mr. Steinhorn's career as a printer spanned 41 years, including 23 years of dedicated service with the Government Printing Office. Since 1973, Mr. Steinhorn served as printer for the Energy and Natural Resources Committee on assignment from GPO. Irv's charm and wit in helping frenzied staff meet printing deadlines will be long remembered.

For the past 3 years Mr. Steinhorn has struggled with cancer. He faced the difficulty and pain of his illness with great courage. Never once did he complain or seek sympathy. He worked diligently and untiringly—always with a kind word and a friendly smile for his fellow workers. He will be dearly missed by his many friends.

I extend my heartfelt sympathy to his wife, Harriet, and his children, Pauline, Alan, and Mark.

MESSAGES FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 11:16 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 288. Joint resolution to correct Public Law 97–12 due to an error in the enrollment of H.R. 3512.

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. THURMOND).

At 2:44 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 149. Concurrent resolution authorizing the printing of additional copies of the Omnibus Reconciliation Act of 1981, and accompanying reports.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. 1377. An original bill to provide for

reconciliation pursuant to title III of the first concurrent resolution on the budget for fiscal year 1982 (H. Con. Res. 115, 97th Congress) (Rept. No. 97–139).

By Mr. PERCY, from the Committee on Foreign Relations, with an amendment, and amendments to the preamble:

S. Res. 152. Resolution relating to the 1,300th anniversary of Bulgarian statehood.

By Mr. PERCY, from the Committee on Foreign Relations, with amendments, and an amendment to the preamble:

S. Con. Res. 18. Concurrent resolution relating to the restoration of the free exercise of religion in Ukraine.

By Mr. PERCY, from the Committee on Foreign Relations, with amendments, an amendment to the title, and amendments to the preamble:

S. Res. 144. Resolution to offer strong support for diplomatic efforts to resolve the current crisis in Lebanon, and to protect the right of Lebanese Christian and other communities to live in freedom and security.

By Mr. PERCY, from the Committee on Foreign Relations, without amendment, with an amendment to the title, and amendments to the preamble:

S. Con. Res. 5. Concurrent resolution expressing the sense of the Congress with respect to the imprisonment and treatment by the Government of the Soviet Union of Dr. Viktor Brailovsky, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. DOLE, from the Committee on Finance:

Ann Dore McLaughlin, of the District of Columbia, to be an Assistant Secretary of the Treasury.

Peter J. Wallison, of New York, to be General Counsel for the Department of the Treasury.

By Mr. PERCY, from the Committee on Foreign Relations:

Daniel J. Terra, of Illinois, to be Ambassador at Large for Cultural Affairs.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Daniel J. Terra.

Post: Ambassador at Large for Cultural Affairs.

Nominated: February 11, 1981.

Contributions, amount, date, and donee:

1. Self, $52,200. (See attached Schedule 1.)

2. Spouse, $10,000. (See attached Schedule 2.)

3. Children and spouses names, $10,500. (See attached Schedule 3.)

4. Parents names, deceased.

5. Grandparents names, deceased.

6. Brothers and spouses names, deceased.

7. Sisters and spouses names, deceased.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

DANIEL J. TERRA.

SCHEDULE 1

Daniel J. Terra:

1976

United Republican Fund, $12,500.
Ronald Reagan for President, $1,000.
Sam Young for Congress, $1,000.

1977

United Republican Fund, $6,100.

1978

United Republican Fund, $11,500.
Charles H. Percy for Senator, $1,000.

1979

United Republican Fund, $8,500.
John Porter for Congress, $1,000.

1980

United Republican Fund, $10,600.
Ronald Reagan for President, $1,000.
John Porter for Congress, $1,000.
David O'Neal for Senator, $1,000.
Paul Laxalt for Senator, $1,000.
Unity dinners for Robert Dole, Howard Baker, John Connally, Ben Fernandez, etc., $5,000.

SCHEDULE 2

Adeline R. Terra:

1976

Ronald Reagan for President, $1,000.
Sam Young for Congress, $1,000.

1977

None.

1978

Charles H. Percy for Senator, $1,000.

1979

None.

1980

Ronald Reagan for President, $1,000.
Paul Laxalt for Senator, $1,000.
Unity dinners for Robert Dole, Howard Baker, John Connally, Ben Fernandez, etc., $5,000.

SCHEDULE 3

James D. Terra (Son):
1976: None.
1977: None.
1978: None.
1979: $1,000 Reagan for President. $1,000 John Nimrod for Congress. $500 United Republican Fund.
1980: $1,000 Laxalt for Senator. $2,500 Unity dinners for Robert Dole, Howard Baker, John Connally, Ben Fernandez, etc.

Penelope S. Terra (Son's Spouse):
1976: None.
1977: None.
1978: None.
1979: $1,000 Reagan for President.
1980: $1,000 Laxalt for Senator. $2,500 Unity dinners for Robert Dole, Howard Baker, John Connally, Ben Fernandez, etc.

Theodore E. Cummings, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Austria.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Theodore E. Cummings.

Post: U.S. Ambassador to Austria.

Nominated March, 1981.

Contributions, amount, date, and donee:

1. Self, (Federal) $23,750, 1976–1981; (State) $41,000. Various Federal State and local campaigns.

2. Spouse, (Federal) $3,500, 1976–1981.

3. Children and Spouses, N/A.

4. Parents, N/A.

5. Grandparents, N/A.

6. Brothers and Spouses, N/A.

7. Sisters and Spouses, N/A.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

THEODORE E. CUMMINGS.

THEODORE E. CUMMINGS POLITICAL CONTRIBUTIONS OF $1,000 OR MORE

	Federal	Other
1976:		
United Republican Financial Committee	$1,250	--------
Republican National Committee	5,000	--------
1977:		
Friends of Zev Yaroslovsky (Los Angeles City)	--------	$1,000
Citizens for Wilson	--------	1,500
Younger-Curb Campaign Committee	--------	10,000
Republican National Committee (Eagles)	10,000	--------
Green for Senator	1,000	--------
1979:		
Friends of Van de Kamp (Los Angeles County)	--------	1,000
Lt. Governor Mike Curb Committee	--------	2,500
Reagan for President	1,000	--------
1980:		
Baker for President	1,000	--------
Paul Gann for Senator	1,000	--------
California Republican Party	--------	25,000
Reagan for President (Mrs. Cummings)	1,000	--------
President's Transition Trust	2,500	--------
President's Transition Trust (Mrs. Cummings)	2,500	--------
Total	26,250	41,000

Robert Sherwood Dillon, of Virginia, a Foreign Service Officer of Class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lebanon.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Robert S. Dillon.

Post: Ambassador, Lebanon.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and Spouses: Dale (and husband Dr. James Lips), John, Robert, Elizabeth, and Thomas Dillon.

4. Parents: Mrs. Dale C. Dillon (mother).

5. Grandparents, none.

6. Brothers and Spouses, none.

7. Sisters and Spouses: Joanne D. Lichty, sister (husband, Donald H. Lichty).

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

ROBERT S. DILLON.

Ernest Henry Preeg, of Virginia, a Foreign Service Office of Class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Haiti.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Ernest Henry Preeg.

Post: Ambassador to Haiti.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses: Terri E. Preeg, none.

4. Parents: Claudia T. Preeg, $200–$300,* Republican Party.

5. Grandparents: Henry C. Casper, none.

6. Brothers and spouses: William E. Preeg, none; John C. Preeg, none.

7. Sisters and spouses: None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these

*Best estimate is $50–$75 per year over past four years.

persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

ERNEST H. PREEG.

Maxwell M. Rabb, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Italy.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Maxwell M. Rabb.

Post: Ambassador to Italy.

Contributions, amount, date, and donee:

1. Self: (See Attached).

2. Spouse: (Se Attached).

3. Children and Spouses: (See Attached).

4. Parents: Deceased.

5. Grandparents: Deceased.

6. Brothers and Spouses: George and Alberta Rabb; Warren and Eleanor Rabb, None.

7. Sisters and Spouses: Deceased.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

MAXWELL M. RABB.

Contributions, amount, date, and donee:

1. Self:

$100, August 5, 1977, Republican National Committee.

$100, October 12, 1977, Republican National Committee.

$1,000, October 19, 1977, Malcolm Wallop Senate Drive Committee.

$1,000, Senator James McClure—Idaho.

$1,000, January 27, 1978, Re-elect Howard Baker Committee.

$500, February 15, 1978, Re-elect Senator Pell Committee.

$1,000, February 28, 1978, Cohen for Senate Committee.

$250, September 27, 1978, Cohen for Senate Committee.

$250, September 28, 1978, Cohen for Senate Committee.

$1,000, October 17, 1978, Armstrong for Senate Committee.

$1,000, September 24, 1978, Arch Moore for Senate Campaign.

$500, October 17, 1978, The Al Simpson Senate Campaign.

$500, Senator Mark Hatfield of Oregon Committee.

$1,000, October 19, 1978, The Brooke Committee.

$500, September 26, 1978, Citizens for Percy.

$100, November 27, 1978, Cheney for Congressman.

$1,000, February 27, 1979, Pressler for Senator.

$1,000, March 14, 1979, Al Simpson Campaign.

$1,000, April 26, 1979, People for Boschwitz.

$250, June 11, 1979, Idaho for Church.

$25, June 25, 1979, Republican National Committee.

$250, November 19, 1979, Pressler for President.

$100, November 29, 1979, Carney for Congress Committee.

$1,000, August 15, 1979, Congressional Leadership Committee P.A.C.

$1,000, October 25, 1979, Reagan for President.

$250, January 15, 1980, Friends of the Conservative Party.

$2,000, March 10, 1980, Manhattan East Side Republican Club.

$100, April 1, 1980, RNC Campaigner Membership Fund.

$250, June 6, 1980, Grassley for Senate.

$100, September 18, 1980, New York Congressional Committee.

$250, September 18, 1980, Citizens for Buckley.

$1,000, September 29, 1980, Paul Laxalt for Senator.

$1,000, October 14, 1980, Jake Garn for U.S. Senate.

$1,000, October 23, 1980, Marylanders for Mathias.

$500, October 27, 1980, Re-elect Bob Packwood Committee.

$1,000, November 3, 1980, Rudman for Senate Committee.

$500, November 3, 1980, Bob Packwood for Senate Committee.

$1,000, February 24, 1981, Friends of Al D'Amato.

2. Spouse:

$100, December 21, 1977, Women's Campaign Fund.

$500, October 17, 1978, the Al Simpson Senate Campaign.

$1,000, October 25, 1979, Reagan for President.

3. Children and Spouses:

Emily Maltby (daughter), none.

Howard Maltby (son-in-law), none.

Priscilla Haskins (daughter), none.

John Haskins (son-in-law), none.

Sheila Rabb Weidenfeld (daughter), none.

Edward Weidenfeld (son-in-law):

$25, 1977, Tom Loeffler for Congress.

$100, 1977, Dick Cheney for Congress.

$200, 1977, Women's Campaign Fund.

$250, 1977, Bill Cohen for Senate.

$100, 1977, Jim McClure for Senate.

$200, 1979, Reagan for President.

Bruce Rabb (son):

$250, September 9, 1977, Malcolm Wallop for Senate—Wyoming.

$100, March 6, 1978, Bill Cohen for Senator.

$100, January 24, 1979, Thomas Petri—Wisconsin.

$100, March 20, 1979, Bob Packwood for Senate.

$500, September 27, 1979, Robert Dole for Senate.

$50, October 19, 1980, Thomas Petri—Wisconsin.

Harriet Rabb (daughter-in-law), none.

Charles H. Price II, of Missouri, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belgium.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Charles H. Price II.

Post: Ambassador to Belgium.

Contributions, amount, date, and donee:

1. Self: See attached schedule.

2. Spouse: See attached schedule.

3. Children and Spouses: See attached schedule.

4. Parents: See attached schedule.

5. Grandparents: See attached schedule.

6. Brothers and Spouses: See attached schedule.

7. Sisters and Spouses: See attached schedule.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

CHARLES H. PRICE II.

POLITICAL CONTRIBUTIONS

Donor, date, donee, and amount:

Charles H. Price II:

March 1, 1977: John Connally—John Connally Dinner, $50.

March 11, 1977: Republican National Committee, $15.

October 19, 1977: James Spainhower—Friends and Supporters of James Spainhower, $50.

January 26, 1978: Missouri Republican State Finance Committee, $250.

April 5, 1978: Political Action Committee of Missouri Banking Association, $10.

May 12, 1978: Republican National Committee, $25.

May 23, 1978: Tom Coleman—Citizens for Coleman, $100.

August 7, 1978: Tom Coleman—Citizens for Coleman, $100.

October 5, 1978: People for Pete Committee, $50.

October 11, 1978: Jim Antonio—Friends of Jim Antonio, $100.

January 6, 1979: Leonard for Council Committee, $50.

February 1, 1979: Wheeler for Mayor Campaign, $100.

February 28, 1979: Richard Berkley—Berkley for Mayor, $200.

June 25, 1979: Richard Berkley—Berkley for Mayor, $200.

March 12, 1979: Richard Berkley—Berkley for Mayor, $250.

April 10, 1979: Ronald Reagan—Reagan for President Committee, $1,000.

May 7, 1979: Kay Waldo, Friends of Kay Waldo, $50.

July 2, 1979: Kay Waldo, Friends of Kay Waldo, $50.

October 11, 1979: Kit Bond, Friends of Kit Bond, $100.

December 11, 1979: Republican National Committee, $50.

1979: American Bank & Trust Co. Political Action Committee (This amount represents the total of monthly deductions from his paycheck.), $280.

May 5, 1980: Kit Bond, Bond for Governor Committee, $200.

September 12, 1980: Kit Bond, Bond for Governor Committee, $500.

August 5, 1980: National Conservative Political Action Committee, $500.

September 25, 1980: Republican National Committee, Prelude to Victory Party, Kansas City, Missouri, $5,000.

March 12, 1980: United Republicans, $25.

May 6, 1980: Tom Coleman, Citizens for Coleman, $500.

July 28, 1980: Richard Berkley, Berkley Birthday Dinner, $100.

August 22, 1980: Senate Campaign Committee, Senatorial Trust, $5,000.

September 24, 1980: American Bank & Trust Co. Political Action Committee, $100.

October 14, 1980: McNary for Senator, $100.

October 30, 1980: Kit Bond, Bond for Governor Committee, $1,000.

September 27, 1980: James Spainhower, Missourians for Spainhower, $100.

December 10, 1980: James Spainhower, Missourians for Spainhower, $25.

December 29, 1980: Reagan Ten Club & Republican Eagles, $250.

1980: American Bank & Trust Co. Political Action Committee (This amount represents the total of monthly deductions from his paycheck.), $480.

Carol Swanson Price:

December 18, 1978: Senate Campaign Committee, Senatorial Trust, $1,000.

January 31, 1979: Richard Berkley, Berkley for Mayor, $100.

March 12, 1979: Richard Berkley, Berkley for Mayor, $250.

April 10, 1979: Ronald Reagan, Reagan for President Committee, $1,000.

July 1, 1980: United Citizens for Kemper, $100.

July 29, 1980: Kit Bond, Kit Bond for Governor, $500.

September 21, 1980: Kit Bond, Kit Bond for Governor, $500.

August 1, 1980: National Conservative Political Action Committee, $500.

September 17, 1980: Reagan-Bush Compliance Fund (This is not a political contribution within the meaning of the Federal Election Campaign Act of 1971.), $1,000.

February 18, 1980: Senate Campaign Committee, Senatorial Trust, $1,000.

September 25, 1980: Republican National Committee, Prelude to Victory Party, Kansas City, Missouri, $3,000.

Joint Contributions of Charles H. Price II and Carol Swanson Price:

March 1, 1977: James Spainhower, Friends and Supporters of James Spainhower. $25.

December 20, 1977: Missouri Republican Finance Committee. $100.

December 14, 1978: Richard Berkley, Dick Berkley for Mayor. $200.

June 17, 1980: United Citizens for Kemper. $100.

May 2, 1980: Tom Coleman, Citizens for Coleman. $200.

August 22, 1980: McNary for Senator. $100.

December 19, 1980: Inaugural Committee. $84.

December 23, 1980: Kennedy Gala. $250.

Parents, grandparents, and siblings are deceased. Children (Pickette Virginia Price, Charles Blair Price, Caroline Lee Rhoden, Melissa Marie Rhoden, and Charles H. Price III) have made no political contributions.

(The above nominations from the Committee on Foreign Relations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PERCY, from the Committee on Foreign Relations, without reservation:

Treaty Doc. No. 97-3. Consular Convention between the United States of America and the People's Republic of China, signed at Washington on September 17, 1980 (Ex. Rept. No. 97-14).

By Mr. HATCH, from the Committee on Labor and Human Resources:

Robert Melvin Worthington, of Utah, to be Assistant Secretary for Vocational and Adult Education, Department of Education.

Lawrence F. Davenport, of California, to be Associate Director of the ACTION Agency.

Kent Lloyd, of California, to be Deputy Under Secretary for Management, Department of Education.

Winifred Ann Pizzano, of Virginia, to be Deputy Director of the ACTION Agency.

Vincent E. Reed, of the District of Columbia, to be an Assistant Secretary for Elementary and Secondary Education, Department of Education.

William C. Clohan, Jr., of West Virginia, to be Under Secretary of Education.

(The above nominations from the Committee on Labor and Human Resources were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOMENICI:

S. 1377. An original bill to provide for reconciliation pursuant to Title III of the First Concurrent Resolution on the Budget for fiscal year 1982 (H. Con. Res. 115, 97th Congress); from the Committee on the Budget; placed on the calendar.

By Mr. JEPSEN (for himself and Mr. LAXALT):

S. 1378. A bill to strengthen the American family and to promote the virtues of family life through education, tax assistance, and related measures; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 1379. A bill to amend the Public Utility Regulatory Policies Act of 1978 to prohibit retail electric and gas utility rate increases in excess of the cost of living; to the Committee on Energy and Natural Resources.

By Mr. MATTINGLY:

S. 1380. A bill to amend title 5 of the United States Code to insure that Civil Service retirees do not receive annuities which are in excess of the salaries received by individuals working on the positions from which the retirees were retired; to the Committee on Governmental Affairs.

By Mr. D'AMATO:

S. 1381. A bill to amend the Federal Water Pollution Control Act to permit the discharge of alum and alum sludge under such Act; to the Committee on Environment and Public Works.

S. 1382. A bill entitled the "Volunteer Fire Department Equity Act"; to the Committee on Finance.

By Mr. HART:

S. 1383. A bill to encourage the orderly development of oil shale resources on Federal lands; to the Committee on Energy and Natural Resources.

By Mr. RIEGLE:

S. 1384. A bill to amend section 205 of the Federal Credit Union Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BOSCHWITZ:

S. 1385. A bill for the relief of Kwok Kit (John) Fung; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JEPSEN (for himself and Mr. LAXALT):

S. 1378. A bill to strengthen the American family and to promote the virtues of family life through education, tax assistance, and related measures; to the Committee on Finance.

(The remarks of Mr. JEPSEN and Mr. LAXALT on this legislation appear earlier in today's RECORD.)

By Mr. MOYNIHAN:

S. 1379. A bill to amend the Public Utility Regulatory Policies Act of 1978 to prohibit retail electric and gas utility rate increases in excess of the cost of living; to the Committee on Energy and Natural Resources.

LIMITING PRICE INCREASES FOR UTILITIES

● Mr. MOYNIHAN. Mr. President, I am today honored to join my friend and distinguished colleague from the House, Representative PETER PEYSER, in his commendable effort to hold public utility rate increases to reasonable levels. I rise to introduce companion legislation to Representative PEYSER's farsighted legislative initiative of May 20, H.R. 3653, amending the Public Utilities Regulatory Act of 1978.

Our legislation would simply require that the rate of increase in public utility rates not exceed the national rate of inflation for the preceding year. We propose no restrictions on a State commission's discretion to review requests for rate increases. Rather, our proposal imposes a modest restraint on continuing rate escalation.

As energy costs represent an increasing share of every household's budget, it is imperative that we insure that our publicly regulated utilities provide energy at a price which fairly represents the cost of production. It is not unreasonable to expect that utility rate increases be held to a level equal to the inflation rate, as computed by the Consumer Price Index. With this legislation, we seek to protect householders throughout the Nation who have found themselves burdened by gas and electric rate increases in excess of the already staggering inflation rate.

Mr. President, I ask unanimous consent that two tables describing rate increases for gas and electric utilities over the past several years be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD as follows:

GAS RATE INCREASE

[In percent]

	1979	1980	1981
Consumer Price Index	13.3	12.4	[1] 8.4
1. Village of Bath	0	3.0	0
2. Brooklyn Union Gas Co	1.5	4.2	0
3. Central Hudson Gas & Electric Corp	4.8	0	0
4. Columbia Gas of New York, Inc	3.6	1.8	0
5. Consolidated Edison of New York, Inc	0	7.2	3.2
6. Corning Natural Gas	.6	1.2	0
7. Fillmore Gas, Inc	1.6	5.6	0
8. Granby and Hemmingway Co	11.2	0	0
9. Long Island Lighting Co	9.9	0	0
10. Natural Fuel Gas Distribution Corp	6.2	3.5	2.5
11. NYS Electric & Gas Corp	3.0	3.0	.1
12. Niagara Mohawk Power Corp	0	3.6	4.1
13. Orange & Rockland Utilities, Inc	0	.3	[2]
14. Pavilion Natural Gas Co. (merged with Rochester)	4.8	4.5	0
15. Pennsylvanian & Southern Gas Co	11.8	0	0
16. Reserve Gas Co., Inc	0	10.4	0
17. Rochester Gas & Electric Corp	6.6	5.1	0
18. Southern Tier Gas Corp	0	0	0
19. Syracuse Suburban Gas Co., Inc	0	1.1	0
20. Valley Gas Corp (merged with Rochester)	0	0	0
21. Woodhull Municipal Gas Co	0	0	0

ELECTRIC RATE INCREASE

Consumer Price Index	13.3	12.4	[1] 8.4
1. Central Hudson Gas & Electric Corp	11.6	0	[3]
2. Consolidated Edison Co., Inc	6.6	0	15.5
3. The Fischers Island Electric Corp	5.4	12.8	0
4. Lawrence Park Heat, Light, & Power Co	14.6	0	0
5. Long Island Lighting Co	4.0	[4]	5.2
6. NYS Electric & Gas Corp	5.8	6.7	[5] 8.6
7. Niagara Mohawk Power Corp	1.7	10.5	9.3
8. Orange & Rockland Utilities, Inc	0	4.7	0
9. Pennsylvania Electric Co. (Waverly)	0	18.0	0
10. Rochester Gas & Electric Corp	8.2	15.9	0
11. Village of Rockville Center	0	0	16.0

[1] Through April, seasonally adjusted, annualized.
[2] Minor decrease; rate design change.
[3] Pending.
[4] 2.5 percent, May; 8.5 percent, November (temporary).
[5] Temporary.

Source: Power Division, Tariff Analysis Section, NYS Public Service Commission. ●

By Mr. MATTINGLY:

S. 1380. A bill to amend title 5 of the United States Code to insure that civil

service retirees do not receive annuities which are in excess of the salaries received by individuals working in the positions from which the retirees were retired; to the Committee on Governmental Affairs.

CEILINGS ON ANNUITIES FOR CIVIL SERVICE RETIREES

● Mr. MATTINGLY. Mr. President, today I am pleased to introduce a bill which will, for the first time, place maximum ceilings on annuities that may be paid to present civil service retirees as well as those who retire on or after March 1, 1981.

At present, there is a limit on the initial amount of annuity that a civil service retiree may receive in relation to salary. That limit is determined by multiplying a percentage—usually 2 percent—times the employee's years of service. This product is then multiplied times the employee's high-3-year average salary. The result cannot exceed 80 percent of the annuitant's high 3-year-average salary. That is all well and good, as far as it goes. But, the problem arises once the annuity begins, because there is presently no limit on how high a civil service retiree's annuity can be pushed by cost-of-living raises. These raises are based on the Consumer Price Index and are presently payable twice a year. When the Consumer Price Index increases at a rate that is higher than increases in Federal pay, as has been the case in recent years, it is possible for the annuities of some retirees to exceed the present salary of the position from which they retired, and still continue to rise. This bill will cap the pensions of such persons at their present levels.

For persons who retire after March 1, 1981, the bill would maintain the initial ratio used to compute the maximum annuity throughout the life of the retiree.

The savings in annuity payments brought about by enactment of this bill are difficult to assess. However, the Office of Personnel Management estimates that the savings relative to persons who retired prior to March 1, 1981, would range between $5 million and $10 million per year. The Congressional Budget Office estimates that if the cap on future annuitants contained in the bill had been in effect since October 1, 1978, savings for fiscal year 1980 would have been $26.4 million, for fiscal year 1981 would have been $91.2 million, and for fiscal year 1982 would approach $200 million.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD as follows:

S. 1380

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8340 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(g)(1) An annuity shall not be increased by reason of any adjustment under this section to a level which is in excess of the maximum permissible amount determined for such annuity at the time for such adjustment.

"(2) For purposes of this subsection, the maximum permissible amount shall be—

"(A) in the case of an annuity which commences before March 1, 1981, the lesser of—

"(i) the final pay (or average pay, if higher) of the employee or member, increased by the cumulative average increase in rates of pay of the General Schedule under section 5332 of this title during the period between the date the annuity commenced (or, in the case of a survivor of a retired employee or Member, the date the employee's or Member's annuity commenced) and the date of the adjustment under this section; or

"(ii) the rate of pay paid on the date of the adjustment under this section for GS–18 of the General Schedule under section 5332 of this title (or, if higher, the rate of pay paid on the date of the adjustment under this section for the last office or position (or equivalent thereof) held by the employee or Member), and

"(B) in the case of an annuity which commences on or after March 1, 1981, an amount equal to the product of—

"(i) the percentage determined under section 8339 of this title in computing the employee's or Member's annuity, multiplied by

"(ii) the current maximum rate of pay for the highest General Schedule, Executive Schedule, or Senior Executive Service position (or, if the highest position was not one of such positions, the level of the General Schedule, Executive Schedule, or Senior Executive Service Schedule determined by the Office in its sole discretion to be equivalent to the highest position) held by the employee or Member for at least 6 months during the period on which the employee's or Member's average pay is based.

"(3) The Office shall prescribe regulations for the application of this section for an annuitant who becomes employed in an elective or appointive position. Such regulations shall provide that any additional annuity shall be added to his initial annuity for purposes of applying this section.".

(b) The amendment made by this section shall take effect at such time as the Director of the Office of Personnel Management shall determine, but not later than 180 days after the date of the enactment of this Act, except that no annuity shall be reduced by reason of such amendment below the amount payable on the day before such amendment takes effect.●

By Mr. D'AMATO:

S. 1382. A bill entitled "The Volunteer Fire Department Equity Act"; to the Committee on Finance.

VOLUNTEER FIRE DEPARTMENT EQUITY ACT

● Mr. D'AMATO. Mr. President, today I am introducing a bill to place volunteer fire departments on an equal footing with municipal fire departments in their ability to borrow money to finance the purchase of needed firefighting equipment. This bill is titled "The Volunteer Fire Department Equity Act."

As a member of the Island Park Volunteer Fire Department, I fully understand how worthwhile such organizations are. Currently, there are over 25,000 volunteer fire departments in the United States providing firefighting services to over 30 percent of our country's population. Well over a majority of our Nation's land area is protected by volunteer firefighters.

Volunteer fire departments are vital for the protection of human lives and property in their communities. In most cases they serve as extensions of local governments. As such, they should receive the same ability to borrow at lower interest rates than normal that municipal fire departments have.

This ability to borrow at lower interest rates than currently being charged results from making tax exempt the interest paid by volunteer fire departments on obligations incurred to purchase, construct, restore, or improve firefighting property. With the incentive of tax-exempt interest, lenders will offer lower rates. This, of course, is the same treatment afforded to regular units of local government by the Federal Tax Code.

The provisions of this bill only apply when the volunteer fire department is the only organized firefighting service in the area, when the volunteer fire department is required to provide firefighting services by the local government, when at least 50 percent of the volunteer fire department's operating expenses come from the local government, and when the volunteer fire department assesses no charges for providing its firefighting services. This bill specifically states that volunteer fire departments which do not meet all of these conditions are not affected by this legislation.

Mr. President, the firefighting equipment of our Nation's volunteer fire departments is rapidly becoming outdated. At current interest rates they cannot afford to replace this equipment. Therefore, if we are not to lose the effective firefighting services of these valuable organizations, we must pass this legislation without delay.●

By Mr. HART:

S. 1383. A bill to encourage the orderly development of oil shale resources on Federal lands; to the Committee on Energy and Natural Resources.

OIL SHALE LEASING ACT OF 1981

● Mr. HART. Mr. President, I am introducing today the Oil Shale Leasing Act of 1981, which will allow the orderly development in the 1980's and 1990's of our vast oil shale resources. The bill removes some unnecessary obstacles to oil shale development, while both leaving in place the key protections against too much development and adding important new safeguards. While no legislation can diminish the need for sound land management decisions by the Secretary of the Interior, this legislative framework will help make sure that oil shale leasing decisions strike the right balance between energy development and the other needs of the Nation and Colorado.

Because oil shale leasing policy is so important—both to the Nation as a whole and to those of us who live in oil shale country—I have sought the assistance of many people in preparing this bill. Representatives of energy companies and conservation groups have been particularly helpful in sharing with me both information and policy suggestions.

I especially want to express my appreciation to the many State and local government officials in Colorado who helped to shape the bill. In particular. Richard D. Lamm, the Governor of Colorado; Monte Pascoe, the executive director of the Department of Natural Resources,

and Chips Barry, the deputy director of the department, made several suggestions which greatly improved the bill. While of course nobody but myself is responsible for the content of the legislation, the bill represents the views of Colorado's elected State and local officials to the limits of my ability to accommodate those views.

While many people deeply involved in oil shale development have helped me to prepare this bill, only broad public scrutiny will tell if this proposal represents the best balancing of national, State, and local interests. I invite that scrutiny. The introduction of a bill is just the beginning of the legislative process, and there will be many opportunities for improving the bill based upon additional suggestions.

I especially invite Coloradans to study this proposal and let Congress know their views. The lands this bill deals with are owned by the people of the United States, and the final decisions on leasing them for oil shale development will primarily be made in Washington. But despite the broad national interest in these leasing decisions, Coloradans have more at stake than other Americans. Over 80 percent of the Nation's oil shale deposits are in our State. If they are developed in the wrong way, our communities, our agriculture, our tourism and recreation, our air and water quality, will all be threatened.

Before describing the details of the legislation I am introducing today, it will be helpful to review briefly some basic facts about oil shale.

To begin with, the energy potential of oil shale is staggering. Of the oil trapped in the Green River shale formations of northwestern Colorado, Utah, and Wyoming, just the fraction which can be recovered economically with the technology now being developed is enough to produce 1 million barrels of oil per day—about one-sixth of our current imports—and sustain that production for several centuries.

Because of the overriding national security and economic need to end our dangerous dependence on foreign oil, we would be foolish not to pursue oil shale development as part of a balanced energy program. Now, with the major Federal subsidies available from the Department of Energy and the new Synthetic Fuels Corporation, and with the world price of oil between $35 and $40 per barrel, the energy companies have adequate incentives to undertake that development.

We have long heard that oil shale development is just around the corner. This time, however, it is finally true. Some 15 companies have either started development activities or are preparing production plans for specific oil shale projects.

In essence, the first generation of oil shale development is now underway. By the end of this decade, there will likely be at least six or seven oil shale plants operating at a commercial scale. Each plant producing about 50,000 barrels of oil a day will cost between $2 and $6 billion, will be larger than any industrial facility now in Colorado, and will attract—counting both the work force and the secondary population—as many as 20,000 people.

While there definitely will be a first generation of oil shale plants, the future of the industry beyond this first stage is still uncertain. Ultimately, of course, the decisions on future oil sale development will be made primarily by the private sector, based on the success of the first plants, the relative economic attractiveness of oil shale and other sources of energy (including conservation), and other factors best evaluated in the marketplace. But these private decisions inevitably will be made in the context of public policies. The decisions of the Synthetic Fuels Corp. may determine whether a company decides to undertake an oil shale project. The decisions made by government environmental agenices may determine where oil shale plants are located and how they are operated.

But the most important Government decisions will concern the leasing of Federal oil shale lands. The decisions on whether, when, and how additional Federal lands should be leased essentially will determine the future of oil shale development. Federal lands managed by the Department of the Interior contain over 80 percent of the Nation's recoverable oil shale deposits—including virtually all the richest deposits. Simply put, unless the Secretary of the Interior decides to lease these lands, future oil shale development will be limited. On the other hand, if too much land is leased, or if leases are issued without adequate safeguards, the development could have very severe adverse effects.

The Secretary of the Interior determines what Federal lands, if any, to lease for oil shale development and what conditions will apply to that development. The Secretary's decisions must follow the provisions of the Mineral Leasing Act of 1920—but that act gives the Secretary broad authority, with few limits. (The two most important limits—on the number of oil shale leases per company, and on the size of oil shale leases—are discussed below.)

In 1973, the Department of the Interior issued four oil shale leases, two in Colorado and two in Utah. These were issued under the Department's "prototype" oil shale leasing program, which was designed to encourage the testing of oil shale technologies. There is no statutory distinction, however, between a "prototype" oil shale lease and a "permanent" oil shale lease.

Since there may be additional oil shale leasing in this decade, it is appropriate to provide a much more detailed statutory framework for oil shale leasing. The Oil Shale Leasing Act will provide that framework by establishing national policy on:

Preparation for additional leasing;

The number and size of leases;

The availability of additional lands for off-tract activities of current leases;

Conditions on oil shale development on Federal lands; and

The role of State and local governments in Federal leasing decisions.

Since the companies holding the current oil shale leases have a pressing need for quick congressional action on the off-tract leasing issues, we must continue consideration of legislation covering just off-tract leases while Congress considers the issues related to an expanded leasing program.

Mr. President, this legislation represents a sound framework for the resolution of the crucial oil shale leasing decisions which will be made in the next decade. I urge the Senate to give careful consideration to this comprehensive bill, and ask unanimous consent that a detailed description of the Oil Shale Leasing Act of 1981 be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

ANALYSIS

ADDITIONAL LEASING

The Oil Shale Leasing Act would—

Require the Department of the Interior to prepare comprehensive regional management plans for the balanced long-term use of Federal oil shale lands;

Require the Secretary of the Interior to report to Congress on issues associated with additional leasing; and

Establish a moratorium on additional leasing—except for one new lease to test the multi-mineral technology—until that report has been filed with Congress.

Regional planning

The bill requires the Department of the Interior to prepare a plan for the management of public lands in areas—such as Colorado's Piceance Basin—where Federal lands contain substantial oil shale deposits.

Despite all the attention that has been paid to oil shale, the Department of the Interior does not have now adequate, current land management plans for oil shale regions.

These plans, while focusing on oil shale development, also would address other regional land uses, such as recreation and the development of other energy resources and how those uses would be reconciled with oil shale development. Most importantly, the planning could determine the level of oil shale and other resource development which could be accommodated in a region without unacceptable effects. The plans then would provide a foundation for specific oil shale leasing decisions.

Report to Congress

The bill directs the Secretary of the Interior to report to Congress on his evaluation of the effects of different levels of oil shale development and any recommendations for changes to relevant laws. The Secretary's report would give Congress an opportunity to determine whether any legislative changes—in addition to those introduced today—should be made.

Moratorium on additional leasing

The bill establishes a moratorium on additional oil shale leasing until the Secretary of the Interior has prepared the regional land management plans and filed with Congress the report analyzing the effects of different levels of oil shale development. The moratorium will guarantee that decisions to issue any additional leases are not made piecemeal, but instead are based on a careful understanding of the overall regional effects of oil shale development.

Although the bill does not establish a deadline for either preparing the plans or making the report to Congress, it should be possible to complete both these steps within two years. A moratorium of this length should not cause any hardship, since there is neither a national need nor an industry desire for immediate leasing of additional

land. The four Federal leases which were issued in 1973 and an additional 25 tracts of private oil shale lands which are held by energy companies are already available for development. The Department of the Interior has estimated that the 15 oil shale plants which are being planned for development on these lands will be able to produce by 1990 anywhere from 280,000 to 863,000 barrels of oil per day. In other words, enough oil shale is already available for development to produce at least the 400,000 barrels per day which Congress established last year as an oil shale production goal. Even more important, 400,000 to 500,000 barrels per day represents a rough measure of the level of first generation production which we are now confident can be accommodated without unacceptable regional community or environmental effects. So, it makes sense to wait to learn more about what the actual production will be from the 15 plants which are already planned, before we undertake any major expansion of the Federal leasing program.

The bill includes one exception from the moratorium on additional leasing: letting the Secretary of the Interior issue—before the completion of a regional management plan or the report to Congress—an additional lease for a multi-mineral operation. This type of operation would involve the mining of the deepest and richest layer of oil shale deposits, to extract not only the shale but also other valuable sodium mineral deposits, such as nahcolite and dawsonite, which are intermingled with the oil shale. This promising technology can only be undertaken with the mixture of mineral resources found on Federal land, so the technology cannot be tested unless additional Federal land is leased for that purpose.

Since one of the primary goals of our leasing policy should be to encourage the demonstration of different technologies, and since a single multi-mineral lease clearly would not bring about unacceptable cumulative effects from the first generation of oil shale development, it is appropriate to allow one additional lease for a multi-mineral operation while analysis and planning is underway for possible future leases.

LIMITS ON NUMBER AND SIZE OF LEASES

The Oil Shale Leasing Act would—

Leave in place the current limits on the number and size of oil shale leases;

Establish an exception from the limit on the number of leases a company can hold, to allow oil shale development in areas of intermingled land ownership; and

Establish an exception from the limit on the size of leases, to allow oil shale development in areas with thin shale deposits.

The two most important provisions of the Mineral Leasing Act of 1920 which apply especially to oil shale leases limit the number and size of the leases. A single company is limited to one oil shale lease, and the size of a single lease is limited to 5,210 acres.

These two limits provide the only firm statutory protection against a level of oil shale development which would have unacceptable effects on northwestern Colorado.

The adverse effects of too much development are best illustrated by the testimony presented at hearings held in Colorado last year by the Senate Budget Committee's Task Force on Synthetic Fuels, which examined the projection by Exxon that future oil shale production may reach eight million barrels per day. The testimony revealed that oil shale development on this scale, given the expected state of the technology, would have these devastating effects:

It would use all the water available in northwestern Colorado, and then drain additional supplies in other states;

It would require, in just two counties, five times as much mining each year as all the coal mining in the nation last year;

It would produce a regional "brown cloud" 15 times as thick as Denver's; and

It would increase the number of people in northwestern Colorado from about 50,000 to almost two million.

I hasten to point out that the level of oil shale development projected by Exxon would be unacceptable and unattainable even if the Federal government made all oil shale lands available for leasing. However, the effects of this level of development would be so overwhelming that they illustrate dramatically the dangers of too much development.

Since the Mineral Leasing Act's limits on the number and size of leases provide the single most important legal barrier to unacceptably massive oil shale development, it is crucial that these limits remain in the law. After we have some experience with the first generation of oil shale development, it may be appropriate to relax or remove these limits. For now, however, it would be premature and foolhardy to take away these important safeguards.

While the limits on the number and size of leases effectively prohibit massive oil shale development, they will not interfere—except in the two relatively minor situations discussed below—with a first or even a second generation of oil shale development. Even with the current limits, each energy company is able to lease 5,210 acres, or eight square miles. In areas where the oil shale is highly concentrated, such as Colorado's Piceance Basin, this much land contains as much as five billion barrels of shale oil, enough to supply a large, commercial oil shale plant for decades.

The Oil Shale Leasing Act includes two relatively minor exceptions to the current statutory limits on the number and size of oil shale leases. These exceptions will not undercut the statutory protection against massive oil shale development, but will allow orderly oil shale development in two instances where that orderly development is now blocked by the statutory limits.

The first exception will allow a company to hold, in addition to a regular oil shale lease, additional leases of small parcels of Federal land where those additional leases are necessary to allow the economic mining of oil shale in areas of intermingled land ownership. Without this exception, a company would have to disrupt its mining operations to bypass small parcels of Federal land.

While there would be no restriction on the number of so-called "bypass" leases, the total size of the bypass leases held by one company could not exceed 2,560 acres.

The second exception will allow the size of an oil shale lease to be larger than 5,210 acres in areas where the oil shale deposits are so thin that the larger area is necessary to support a commercial oil shale plant. The bill defines the test for determining whether a larger lease may be allowed in a way that would allow the larger leases in Utah, Wyoming, and part of Colorado. The existing limit of 5,210 acres would continue to apply to the richest oil shale deposits in Colorado, such as those in the Piceance Basin.

OFF-TRACT LEASES

The Oil Shale Leasing Act would allow the Secretary of the Interior to issue additional or ancillary leases to the companies now holding the Federal oil shale leases issued in 1973, so those companies can dispose of spent shale and locate their surface retorts off of their primary lease tracts.

The new off-tract leases will make more economical either the "modified in situ" technology or open pit mining with surface retorting. If a company is using the modified in situ process, locating spent shale and surface retorts within the basic leasehold—as would be required under the current law—would prevent the company from extracting and processing the oil shale located beneath the spent shale and the surface retorts. Open pit mining would produce even more spent shale and require even more surface retorting, so the use of off-tract land would be even more important.

The most important difference between the Oil Shale Leasing Act and other off-tract legislation which has been proposed is that the Oil Shale Leasing Act would allow the Secretary of the Interior to issue off-tract leases only to companies already holding oil shale leases, and would not authorize the off-tract leases in conjunction with future oil shale leases.

In the last Congress, the House of Representatives and the Senate Energy Committee both approved off-tract legislation which would have allowed the additional leases for any companies receiving an oil shale lease through 1985. That bill was not brought before the full Senate. I continue to feel as strongly as I did then that it would be a grave mistake to extend the off-tract authority to future leases.

Making available additional lands for off-tract operations greatly increases the size of the oil shale project which can be conducted under the basic lease. Officials of the Rio Blanco Company, one of the holders of a current oil shale lease, have testified that getting an off-tract lease would let them increase the recovery of oil from their current lease from about 1.5 billion barrels (without off-tract land) to about five billion barrels (with off-tract land). Of course, this increase in the size of the operation brings with it a proportionate increase in the effects of the operation on the adjacent communities and on the natural environment.

Even more importantly, the availability of off-tract land for spent shale disposal and surface retorting greatly increases the relative economic attractiveness of open pit mining. Open pit mining has some advantages over other processes, including a greater rate of resource recovery and lower levels of some pollutants. However, each oil shale open pit mine would be larger than any strip mine in our history. It is appropriate to allow the testing of open pit mining, but we should not expose northwestern Colorado to the several huge strip mines which could result from an unlimited off tract bill.

CONDITIONS OF LEASES

The Oil Shale Leasing Act adds to the law requirements for several conditions on oil shale leasing to ensure that operations under the lease are conducted in a way which protects the public interest. Most of these conditions are virtually identical to those which are required for coal leases under the Coal Leasing Amendments of 1977. The conditions cover—

Competitive bidding for leases;

The level for royalties;

Community assistance;

Protection of the environment; and

Diligence in the operation of the lease.

Most of these conditions would apply to both basic oil shale leases and off-tract leases. The conditions on competitive bidding and the level of royalties, however, are only appropriate for basic oil shale leases, and would not apply to off-tract leases.

Competitive bidding

The bill provides that additional oil shale leases can be issued only by competitive bidding. This is how the leases issued in 1973 were awarded, but there is no current statutory requirement for competitive bidding. Issuing leases by bidding ensures that all companies have equal access to possible leases, and helps to ensure that companies pay the fair value of the lease.

The bill also provides that the Secretary of the Interior shall not accept the highest bid for a lease if the Secretary determines that the bid does not represent the fair market value of the lease. Like the identical provision in the Coal Leasing Amendments, this provision guarantees that the people of the

United States get a fair return for the sale of their resource.

Royalties

The bill provides that the level of royalties to be paid to the United States on oil produced from a lease must be at least eight percent of the value of the oil.

The current law requires the payment of royalties, but leaves the amount of the royalties up to the Secretary's discretion. The royalties established on oil produced from current oil shale leases vary according to a complex formula, with the amount being roughly equal to one percent of the value of the oil.

Establishing a minimum royalty level of eight percent for shale oil would put shale oil on equal footing with underground coal, which is also subject to a minimum royalty of eight percent. This level is lower than the 12.5 percent royalty which applies to coal from surface mines, to oil, and natural gas.

The bill would not affect the current authority of the Secretary to suspend royalty payments for the first five years of an oil shale lease, as an incentive for the early commercial production of shale oil.

Community assistance

The basic Mineral Leasing Act of 1920 provides that half of the revenues received from the leasing of Federal lands are to be given to the states in which the lands are located. The Oil Shale Leasing Act makes two changes to this system to ensure that the revenues are used to help meet the needs for public facilities and services in the communities which will be affected by the oil shale development.

The first change strengthens the current requirement that a state use its share of the revenues to meet the needs of the affected communities. Under current law, the revenues are given to the state subject to a Congressional mandate that the State legislature must give priority in spending the monies to the communities affected by the development which produced the revenues. The Oil Shale Leasing Act would establish an absolute condition that revenues from oil shale leases be used to assist the affected communities.

The second change requires the prepayment of some of the royalties which would normally be expected to be paid during the term of the lease. The prepayment of the royalties at the beginning of the lease would provide financial assistance to affected communities when their need is the greatest—during the construction of new facilities and the provision of new services for the population drawn by the oil shale development—rather than during the later stages of the oil shale operation. The amount of royalties which would be prepaid would be determined by the Secretary, who would consider all forms of financial assistance available to the communities before determining what level of prepayment is appropriate. Of course, royalties prepaid at the beginning of a lease term would not have to be paid later, when the oil was actually produced.

The bill also authorizes the Secretary to include in the lease additional conditions to ensure that adverse community effects are prevented to the extent possible.

Protection of the environment

The Oil Shale Leasing Act requires the Secretary of the Interior to include in oil shale leases specific conditions to make sure that the operations are conducted in an environmentally acceptable fashion. These conditions would have to include a requirement that the company prepare and get Secretarial approval of a detailed plan for the operations under the lease and the reclamation of any land disturbed by these operations. This plan would have to be approved before the company could undertake any operations which would disturb the land subject to the lease.

The Coal Leasing Amendments established a similar requirement for coal leases.

Diligence

The Oil Shale Leasing Act requires a company holding an oil shale lease to exercise diligence in its oil shale operations as a condition of keeping the lease. This diligence requirement includes a specific requirement tnat the company produce oil frcm the shale within ten years of getting the lease.

The purpose of the diligence requirement is to guarantee that a company cannot hold Federal oil shale lands for speculative purposes.

The Coal Leasing Amendments established a similar requirement for coal leases.

ROLE OF STATE AND LOCAL GOVERNMENTS

The Oil Shale Leasing Act includes several provisions to guarantee that appropriate state and local government officials are involved in the decision-making on oil shale leasing. These provisions include:

The application of state and local law to operations on leased land;

Concurrence by the Governor in the decision to issue a lease;

The creation of a Federal/state team for reviewing regional oil shale leasing issues;

Specific requirements for consultation with state officials on key leasing decisions; and

A provision guaranteeing access by a Governor to the Department of the Interior's records on oil shale leasing.

These provisions would apply to basic oil shale leases and to off-tract leases.

Despite the stake the people living in oil shale regions have in the decisions made about the development of Federal oil shale land, those decisions will be made by the Secretary of the Interior and other officials in Washington. While the Secretary of the Interior has the ultimate responsibility for making oil shale leasing decisions, Coloradans and the residents of other oil shale states have a fundamental need to be involved in making those decisions—decisions which have the potential to influence Colorado more than any other Federal land management decisions have ever influenced a single state. Opening the decision-making process to state and local government officials from affected areas will give these officials an opportunity to help shape the future of the area where they live. It will also improve the decisions ultimately made, by guaranteeing that the decisions are not made just from the distant perspective of Washington, D.C.

Application of State and local law

The Oil Shale Leasing Act provides that operations on oil shale leases must be conducted in accordance with nondiscriminatory state and local law. This is a clarification of what is already the case.

Governor concurrence

The Oil Shale Leasing Act gives the Governor of a state in which oil shale lands are located the right to recommend to the Secretary that a lease not be issued. If the Governor recommends against issuing a lease, the Secretary could issue the lease upon making a finding that there is an overriding national interest involved. The Governor—but only the Governor—would be able to seek judicial review of the Secretary's finding that there is an overriding national interest.

This provision is virtually identical to the current law which gives the Governor of a coastal state the right of concurrence in the leasing of Outer Continental Shelf lands.

Regional oil shale leasing teams

The Oil Shale Leasing Act requires the Secretary of the Interior to create a Federal/state regional oil shale leasing team for each region where Federal lands will be leased for oil shale development. The Governor of each state in the region (or the Governor's designee) would be a member of the team. Since the team would include more Federal members than state members, the Federal government would not lose its primary role in the management of the Federal lands—but the team would provide an on-going opportunity for state officials to be involved in shaping Federal decisions on the leasing of land within the region. The regional oil shale issues on which the team would advise the Secretary include the overall amount of lands to be leased within the region, the selection of specific sites for leases in the region, and the conditions to be included on the leases.

This represents a statutory foundation for Federal/state teams which would be similar to the regional coal leasing teams created by the Department of the Interior as part of its recent reforms of the leasing of public lands for coal development.

Consultation with State officials

The Oil Shale Leasing Act includes specific requirements that the Secretary of the Interior consult with state and local officials in affected areas before making key oil shale leasing decisions. These key decisions include whether to issue leases and what conditions to include within the leases.

State and local government officials in affected areas would be given an explicit statutory right to make recommendations to the Secretary of the Interior about what lands should be leased and what the conditions of the leases should include. The Secretary would have to accept a recommendation by a Governor, unless the Secretary made a finding that the action recommended by the Governor would not be in the national interest. To avoid the possibility of numerous lawsuits, however, the Secretary's findings would not be subject to judicial review unless the Secretary issues a lease over the Governor's objection.

The Governors of states with oil shale resources would be able to comment on the report to Congress prepared by the Secretary of Interior on future leasing issues, and the Secretary would be required to submit those comments to Congress along with the report.●

ADDITIONAL COSPONSORS

S. 312

At the request of Mr. LEVIN, the Senator from New York (Mr. D'AMATO), and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 312, a bill for the relief of Maria and Timofei Chmykhalov, and for Lilia, Peter, Liubov, Lidia and Augustina Vashcenko.

S. 354

At the request of Mr. PERCY, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 354, a bill to amend the Export Administration Act of 1979.

S. 501

At the request of Mr. MOYNIHAN, the Senator from Maine (Mr. MITCHELL) was added as a cosponsor of S. 501, a bill to amend the Internal Revenue Code of 1954 with respect to the amount which certain private foundations are required to distribute.

S. 578

At the request of Mr. MOYNIHAN, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 578, a bill to amend the Internal Revenue Code to change certain accounting rules related to inventory.

S. 776

At the request of Mr. HUDDLESTON, the Senator from Arkansas (Mr. BUMPERS)

was added as a cosponsor of S. 776, a bill to amend the Immigration and Nationality Act to more fully limit and control immigration to the United States, and for other purposes.

S. 808

At the request of Mr. MATHIAS, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 808, a bill to amend title 5, United States Code, to promote public safety by encouraging the employment of highly qualified air traffic controllers by establishing a salary classification system providing compensation commensurate with responsibility, by establishing a reasonable maximum number of weekly work hours, and by establishing a special retirement plan, and for other purposes.

S. 811

At the request of Mr. DOLE, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 811, a bill to amend the Powerplant and Industrial Fuel Use Act of 1978 to permit local distribution companies to continue natural gas service to residential customers for outdoor lighting fixtures for which natural gas was provided on the date of enactment of such act, and for other purposes.

S. 856

At the request of Mr. SARBANES, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 856, a bill to provide that certain term employees whose service was terminated by the Government Printing Office may have such service taken into account when the employees are being considered for other Federal employment, and for other purposes.

S. 857

At the request of Mr. TOWER, the Senator from Idaho (Mr. MCCLURE) and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of S. 857, a bill to impose quantitative restrictions on the importation of lamb meat.

S. 886

At the request of Mr. ANDREWS, the Senator from Kansas (Mrs. KASSEBAUM) was added as a cosponsor of S. 886, a bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Louis L'Amour.

S. 1030

At the request of Mr. MCCLURE, the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1030, a bill to protect firearms owners constitutional rights, civil liberties, and rights to privacy.

S. 1035

At the request of Mr. MATHIAS, the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1035, a bill to provide an opportunity to individuals to make financial contributions, in connection with the payment of their Federal income tax, for the advancement of the arts and the humanities.

S. 1235

At the request of Mr. D'AMATO, the Senator from South Dakota (Mr. ABDNOR) and the Senator from Georgia (Mr. MATTINGLY) were added as cosponsors of S. 1235, a bill to exempt certain matters relating to the Central Intelligence Agency from the disclosure requirements of title 5, United States Code.

S. 1249

At the request of Mr. PERCY, the Senator from Alabama (Mr. HEFLIN) was added as a cosponsor of S. 1249, a bill to increase the efficiency of Government-wide efforts to collect debts owed the United States, to require the Office of Management and Budget to establish regulations for reporting on debts owed the United States, and to provide additional procedures for the collection of debts owed the United States.

S. 1279

At the request of Mr. DANFORTH, the Senator from New York (Mr. D'AMATO), the Senator from Georgia (Mr. MATTINGLY), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Virginia (Mr. WARNER), the Senator from Georgia (Mr. NUNN), the Senator from South Carolina (Mr. THURMOND), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Oregon (Mr. PACKWOOD), the Senator from Alabama (Mr. HEFLIN), and the Senator from Indiana (Mr. QUAYLE) were added as cosponsors of S. 1279, a bill to amend the Internal Revenue Code of 1954 to exclude from gross income a certain amount of interest earned on the all-savers certificate offered only at savings institutions.

S. 1365

At the request of Mr. DOLE, the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1365, a bill to amend the Bankruptcy Act regarding farm produce storage facilities, and for other purposes.

SENATE JOINT RESOLUTION 10

At the request of Mr. HUDDLESTON, the Senator from Maine (Mr. COHEN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Montana (Mr. BAUCUS), and the Senator from Utah (Mr. GARN) were added as cosponsors of Senate Joint Resolution 10, a joint resolution to establish a Commission on Presidential Nominations.

SENATE JOINT RESOLUTION 53

At the request of Mrs. KASSEBAUM, the Senator from Colorado (Mr. ARMSTRONG) was added as a cosponsor of Senate Joint Resolution 53, a joint resolution to provide for the designation of September 6, 1981, as "Working Mothers' Day."

SENATE JOINT RESOLUTION 59

At the request of Mr. ROBERT C. BYRD, the Senator from Oklahoma (Mr. BOREN), the Senator from North Dakota (Mr. BURDICK), the Senator from Utah (Mr. GARN), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Michigan (Mr. LEVIN), the Senator from New Mexico (Mr. SCHMITT), the Senator from New York (Mr. MOYNIHAN), and the Senator from South Dakota (Mr. ABDNOR) were added as cosponsors of Senate Joint Resolution 59, a joint resolution designating the square dance as the national folk dance of the United States.

SENATE JOINT RESOLUTION 89

At the request of Mr. KENNEDY, the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of Senate Joint Resolution 89, a joint resolution on the hunger strike in Northern Ireland.

SENATE CONCURRENT RESOLUTION 10

At the request of Mr. HATFIELD, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of Senate Concurrent Resolution 10, a concurrent resolution expressing the sense of the Congress concerning the continuing permanent conversion of productive agricultural lands to nonagricultural uses.

SENATE CONCURRENT RESOLUTION 21

At the request of Mr. THURMOND, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of Senate Concurrent Resolution 21, a concurrent resolution expressing the sense of the Congress on the Baltic States question.

SENATE RESOLUTION 74

At the request of Mr. MOYNIHAN, the Senator from California (Mr. CRANSTON) was added as a cosponsor of Senate Resolution 74, a resolution relating to actions taken by the Foreign Ministers of the Non-aligned Movement at their recently concluded meeting in New Delhi.

SENATE RESOLUTION 139

At the request of Mr. ANDREWS, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of Senate Resolution 139, a resolution to assure the access of farmer-owned refining businesses to crude oil at reasonable prices.

SENATE RESOLUTION 151

At the request of Mr. KENNEDY, the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Tennessee (Mr. SASSER) were added as cosponsors of Senate Resolution 151, a resolution to insure that a fair share of the business tax cut is specially designed for small and independent businesses.

AMENDMENT NO. 61

At the request of Mr. CHAFEE, the Senator from Connecticut (Mr. WEICKER), the Senator from Pennsylvania (Mr. SPECTER), and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of amendment No. 61 proposed to S. 921, a bill to amend title 38, United States Code, to extend authority to provide contract hospital care and medical services in Puerto Rico and the Virgin Islands, and for other purposes.

AMENDMENT NO. 68

At the request of Mr. PERCY, his name was added as a cosponsor of amendment No. 68 intended to be proposed to S. 1193, an original bill to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communications Agency, and the Board for International Broadcasting, and for other purposes.

UP AMENDMENT NO. 114

At the request of Mr. HOLLINGS, the Senator from Florida (Mr. CHILES) was added as a cosponsor of UP amendment No. 114 proposed to H.R. 3512, a bill making supplemental and further continuing appropriations for the fiscal year ending September 30, 1981, rescinding certain budget authority, and for other purposes.

SENATE RESOLUTION 153—SUBMISSION OF A RESOLUTION TO REQUIRE FULL ADHERENCE TO U.S. TRADE AGREEMENTS

Mr. HEINZ (for himself, Mr. DANFORTH, Mr. BAUCUS, Mr. SYMMS, Mr. GRASSLEY, Mr. PERCY, and Mr. DURENBERGER) submitted the following resolution, which was referred to the Committee on Finance.

S. RES. 153

Resolved, it is the sense of the Senate that the President take expeditious action, through all available channels, to resolve the long-standing dispute over the recognition and protection of industrial property rights provided for in Article V of the Agreement on Trade Relations between the United States and Hungary and more specifically provided for in an Agreed Minute signed by the parties on June 11, 1979. If a final settlement of the dispute is not reached on an expedited basis, it is the sense of the Senate that the President, pursuant to Section 404(c) of the Trade Act of 1974, should suspend the extension of nondiscriminatory treatment to the Hungarian People's Republic as provided in the aforementioned Agreement, until settlement is reached.

ADHERENCE TO TRADE AGREEMENTS

● Mr. HEINZ. Mr. President, on June 2, 1981, the President notified Congress that he had made the necessary determinations for the 3-year extension of the commercial agreement with the Hungarian People's Republic. The resolution I am submitting today calls for the end of a long-standing trade dispute that flies in the face of the rules embodied in that commercial agreement, I am specifically referring to the Hungarian practice, for over 3 years now, of hindering the patentability in Hungary of agricultural chemicals invented by our companies, and the blatant disregard of the Hungarians for valid patent rights held by U.S. chemical manufacturers in third countries.

The necessity of this resolution is clearly evident from the history of this problem. In recent years, Hungary has been relying heavily on its relatively advanced chemical industry to generate sales to hard currency markets in order to close its trade gap with the West. In order to permit Hungarian production of new agricultural chemicals that ultimately are sold in large quantities in foreign markets, patents on such products in Hungary are hindered and often not issued. This results in the production of agricultural chemicals in Hungary that, in other parts of the world are protected by valid patent rights. These products, then, are exported to third countries where, in many instances, the Hungarian product is passed off as a U.S. company's product or infringes a U.S. company's patent.

Such sales are often in small quantities that are difficult to detect. Even where detected, patent infringement litigation is lengthy, complex and extremely expensive. Consequently, resolving the problem through patent litigation by each company in each country where there is an infringing sale, is not practical. The Hungarians know this and have concluded that they can, with impunity, continue to ignore not only U.S. companies' industrial property rights but disregard the provisions of our trade agreements with them.

Examples are numerous of Hungarian practices that derogate from their trade commitments to us. Virtually the entire product catalogue published in 1979 by Chemolimipex, the Hungarian export trading organization, contained U.S.-origin proprietary agricultural chemical technology. In many instances the Hungarian product was identified with the counterpart U.S. patented products that was copied. Hungarian sales of infringing products have been documented in such countries as Tanzania, Greece, Spain, Italy, Turkey, Brazil, and the Netherlands. Companies such as DuPont, FMC, and Monsanto have at various times been adversely affected by these Hungarian unfair trade practices.

The longest standing, and perhaps most costly problem, has been Hungarian exports to Brazil of a product that infringes FMC's valid patents in that country. As early as 1977, FMC Corp., one of this country's leading agricultural chemical exporters, became aware of the fact that the Hungarian trading company, Chemolimpex, was selling a pesticide it called Furadan in, among other places, Brazil. The problem was that FMC had already established a patent right in Brazil for the pesticide it trade named Furadan before the Hungarians entered the Brazilian market. Notwithstanding consultations and law suits, the problem had not been resolved when the United States-Hungarian commercial agreement was presented to Congress in 1978 for its approval. Three years later, and numerous good faith efforts on the part of FMC to negotiate a settlement with the Hungarians have led to nothing. The Hungarians continually bring the talks to the brink, and then stall when finalization of an agreement is sought.

The Finance Committee reviewed the overall agricultural chemical problem in 1978 when it was reviewing the entire United States-Hungarian trade agreement. Included in the committee report on the agreement was the following important passage:

> Notwithstanding the committee's favorable report of the resolution to approve the agreement, the committee is particularly concerned about the full and faithful execution of that part of the trade agreement relating to industrial property rights. The committee has been informed by the American agricultural chemicals industry of certain past practices of firms and agencies in Hungary which will not be in accord with the spirit, if not the letter, of the agreement. These include the granting of patents to Hungarian firms while denying or failing to act on the applications of American firms. Furthermore, the committee understands Hungarian firms are selling agricultural chemicals protected by American owned patents in third countries, countries where the American chemical companies have patent protection, in a manner such that the American firms find it practically impossible to protect their industrial property rights. *The committee expects that such practices will no longer take place under this new, mutual undertaking by the Government of Hungary and that of the United States. The Committee will carefully monitor this problem during the life of the agreement and will again review it at the time for renewal and may recommend further action, if necessary.* (Emphasis added.)

By June 1979 the problem had not been solved. Thus, representatives of Hungary and the United States met as a Joint Economic and Commercial Committee to seek an agreement that was intended to resolve, once and for all, the industrial property rights problem. The result was an agreed minute which stated, in paragraph 4:

> Each side agrees that, in keeping with the spirit of the harmonious and cordial relations signified by the Trade Agreement, the companies of both sides are obliged to respect in their activities the relevant laws and regulations on industrial property rights, held by the nationals or residents of the other side (including in third world countries) and not assist others to infringe those rights.

Senate hearings the following month, however, with Hungarian actions rather than minute words as a guide, made clear that little real progress had occurred.

Following these hearings, the Finance Committee discussed the matter further in executive session. Based on my analysis of the problem, I concluded "that the Hungarians really are being egregious and not acting in good faith." Senator DANFORTH added:

> Attempts have been made to negotiate in good faith with Hungary. Nothing has come of it.

The result of the committee's hearings and deliberations on this matter was a letter dated August 23, 1979, in which then-Chairman LONG outlined the continuing problem to Secretary of Commerce Kreps. On behalf of the committee, the Chairman stated that the disputes "should be resolved expeditiously within the letter and spirit of the commercial relations."

On July 21, 1980, approximately 1 year later, Senator DANFORTH asked a Commerce Department official if the problem continued to exist. The response:

> That is generally correct. I would say the progress has been more than a little, but it has not been the complete resolution of the problem.

Today, on the eve of the third year in which we have had a commercial agreement with the Hungarians, and the second year in which we have had an explicit agreement to honor our companies' respective industrial property rights in third countries, what do we have? After 3 years of earnest expressions of concern by the Finance Committee and diplomatic activities by the executive branch, what have we accomplished? The disappointing answer is—renewal of the United States-Hungarian commercial agreement for 3 more years with no satisfactory solution of the industrial property rights problem in sight.

The resolution I submit today is timely and necessary. Timely because, as stated in the Finance Committee report in 1978, if the problem is not resolved by the time the agreement is to be renewed, the committee will consider further action to put this problem to rest. Necessary,

because the blatant disregard of our international trade agreements and the rights they seek to protect are a matter of principle that cannot be left to atrophy in negotiations that continue ad nauseum. Moreover, the Hungarians must not be allowed to misinterpret and misconstrue the legal and constitutional authorities available not only to the Executive, but Congress, in regulating trade with foreign nations and, more specifically, countries with nonmarket economies. The Hungarians must not be permitted to believe that simply because the commercial agreement was not terminated they now have a license to continue, with impunity, the derogations of the trade agreements they have with this country.

Adoption of this resolution will communicate not only to the Hungarians, but the executive branch, this Chamber's firm commitment to requiring full adherence to our trade agreements. It calls upon the President to take expeditious action, through all possible channels, to finally resolve the dispute. If that does not succeed, it expresses the sense of the Senate that the Executive suspend, pursuant to section 404(c) of the Trade Act of 1974, the operation of the agreement, pending resolution of this longstanding problem.

Mr. President, what was a sore spot in our trade relations with Hungary 3 years ago has now developed into a major wound to the principle of respect for industrial property rights and trade commitments. Three years ago, it was anticipated that the problems would be quickly resolved and therefore, did not interfere with an expansion of trade commitments between our two countries. Today, however, the problem remains, and has grown in magnitude to the extent that it now serves to justify a hard reassessment of our trade relations with the Hungarians and the lack of good faith that they have demonstrated in this crucial subject of industrial property rights.●

AMENDMENTS SUBMITTED FOR PRINTING

DEPARTMENT OF STATE AUTHORIZATION ACT

AMENDMENT NO. 72

(Ordered to be printed.)

Mr. DURENBERGER (for himself, Mr. LEAHY, Mr. DOLE, Mr. HOLLINGS, Mr. HART, Mr. RIEGLE, Mr. BAUCUS, Mr. BENTSEN, Mr. BIDEN, Mr. BRADLEY, Mr. BUMPERS, Mr. CRANSTON, Mr. DODD, Mr. HUDDLESTON, Mr. INOUYE, Mr. LEVIN, Mr. KENNEDY, Mr. METZENBAUM, Mr. MITCHELL, Mr. PELL, Mr. PRYOR, Mr. PROXMIRE, Mr. TSONGAS, Mr. WILLIAMS, Mr. ZORINSKY, Mr. ROTH, Mr. MATHIAS, Mr. GORTON, Mr. COHEN, Mr. D'AMATO, Mr. DANFORTH, Mr. HATFIELD, Mr. ANDREWS, and Mr. CHAFEE, proposed an amendment to the bill (S. 1193) to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes.

REGULATORY REFORM ACT

AMENDMENT NO. 73

(Ordered to be printed and referred to the Committee on Governmental Affairs and the Committee on the Judiciary, jointly, pursuant to the order of April 29, 1981.)

Mr. DANFORTH (for himself, Mr. CHILES, Mr. NUNN, Mr. ROTH, Mr. PERCY, Mr. STEVENS, Mr. RUDMAN, Mr. MATTINGLY, Mr. COHEN, and Mr. SIMPSON) submitted an amendment intended to be proposed by them to the bill (S. 1080) to amend the Administrative Procedure Act to require Federal agencies to analyze the effects of rules to improve their effectiveness and to decrease their compliance costs, to provide for a periodic review of regulations, and for other purposes.

● Mr. DANFORTH. Mr. President, together with Senators CHILES, NUNN, ROTH, PERCY, STEVENS, RUDMAN, MATTINGLY, COHEN, and SIMPSON, I am today submitting an amendment to S. 1080, the Regulatory Reform Act. The purpose of the amendment is to make clear that no appropriated funds may be used by agencies to pay the expenses of persons intervening or participating in agency proceedings, except as expressly authorized by statute.

Mr. President, whatever the merits may be of providing tax dollars to private parties to intervene in agency proceedings—and in my opinion the merits are quite hard to find—there is no merit in allowing regulatory agencies to decide—on their own—whether interventions should be publicly funded. This amendment makes clear that no tax dollars can be provided to pay the expenses of intervenors unless an agency has express statutory authority to do so.

Authorization now exists for a handful of programs only, but agencies from time to time have sought to fund such activities on their own—on the basis of implied grants of authority. President Carter went so far as to encourage agencies to establish intervenor funding programs if an implied grant of authority could be found, and the General Accounting Office has repeatedly maintained, even in the face of a Circuit Court of Appeals decision to the contrary, that an implied grant of authority is sufficient to authorize such payments.

I disagree. Given the controversial nature of intervenor funding programs and the serious potential for abuse in disseminating public funds to private parties, the decision to make such payments should not be made by administrative agencies on the basis of implied authority. If public funds are going to be disseminated to private parties, they should be disseminated on the basis of clear, unequivocal statutory authority—or not at all.

That is what this amendment does. It prohibits the use of appropriated funds to pay the expense of persons participating or intervening in agency proceedings, except as expressly authorized by statute. The terms "participating" and "intervening" are used advisedly, since the terms are often used interchangeably, and since funds are sometimes provided to persons to "participate," though not necessarily to "intervene," in agency proceedings. It is the intent of this amendment to avoid such nice questions of law as when "participation" becomes "intervention."

Under this amendment, if any funds are to be provided to private persons to participate in agency proceedings, there must be express statutory authority to do so. The exceptions are carefully drawn and are meant to be read narrowly. Excepted are payments under the Equal Access to Justice Act, the public participation program established under the Magnuson-Moss amendments to the Federal Trade Commission Act, the "offeror" program under section 7 of the Consumer Product Safety Act, a program to provide funding to public participants in State Department proceedings under the Department of State's authorizing legislation, and payments authorized for proceedings under the Toxic Substances Control Act. (In the past, efforts were made to extend the authority granted under the Toxic Substances Control Act to proceedings under any act administered by the Environmental Protection Agency. This amendment is intended to prohibit such an expansive reading of the Toxic Substances Control Act.)

Finally, the amendment excepts payments "otherwise * * * expressly authorized by statute." This provision is intended to be narrowly construed. It is intended to permit, for example, the reimbursement of per diem expenses and travel to witnesses where expressly authorized, or the payment of expenses to members of advisory committees where authorized by statute.

This amendment may be characterized by some as an amendment to kill intervenor funding programs. I have never disguised my dislike for intervenor funding, but the fact of the matter is that the purpose of the amendment is not so much to stop unauthorized intervenor funding programs as it is to assert the prerogative of Congress to exercise control over the operation of such programs.

I am pleased to be joined in offering it by no less than eight members of the Governmental Affairs Committee, giving the amendment majority support in the committee, and by my good friend on the Judiciary Committee, Senator SIMPSON. I am pleased to say that the administration supports the amendment. I hope that others of my colleagues will find it worthy of support.

DEPARTMENT OF JUSTICE AUTHORIZATION ACT

AMENDMENT NOS. 74 AND 75

(Ordered to be printed and to lie on the table.)

Mr. CHILES (for himself, Mr. HUDDLESTON, Mr. BENTSEN, and Mr. HOLLINGS) submitted two amendments intended to be proposed by them to the bill (S. 951) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENTS RELATING TO THE IMMIGRATION AND NATURALIZATION SERVICE

● Mr. CHILES. Mr. President, I am submitting to the desk two amendments to the Justice Department authorization bill. I plan to bring them up later during consideration of the authorization bill. The first restores to the Immigration and Naturalization Service (INS) funds for hiring inspectors, investigators, and people who help process immigration applications. The second makes a cut of 2.5 percent in several Justice Department programs to effect the spending above the INS authorization level recommended by the Senate Budget Committee.

The first would restore to the authorization bill: 200 positions in inspections; 309 positions in investigations; and 94 positions in status verifications. As I understand it, the Senate Judiciary Committee has already restored a total of 360 positions—200 in adjudications and 160 in the Border Patrol—and I applaud that action. This amendment would insure that INS would have the manpower it needs to carry out its basic functions, especially to enforce the immigration laws. In fact this amendment does no more than restore these positions to their original 1982 base.

The administration had proposed to eliminate 1,355 positions from the Immigration and Naturalization Service. This at a time when immigration to the United States is at its highest level in our history.

By law, 270,000 aliens are allowed to immigrate into the United States each year. In spite of this ceiling, last year over 800,000 persons were admitted, including 133,000 Cuban/Haitian entrants. In 1979, 600,000 persons were admitted; in 1978, 600,000 persons were admitted. These numbers do not include illegal immigrants who are currently living in the United States. Although accurate counts are unavailable, estimates of illegal immigrants living in the United States today run from 3.5 million to 6 million. In Florida and in many other parts of the country, the present immigration situation is seen as one of our major problems.

The Immigration and Naturalization Service (INS) is charged with enforcing the immigration and citizenship laws. At this point when the need for effective enforcement has never been greater, the administration's 1982 budget request for INS calls for a decrease of 1,355 positions from the 1981 staffing level—a 12.4 percent personnel reduction.

The INS is being asked to absorb 45 percent of the total position reduction in the entire Justice Department. Most of the personnel cuts come in programs that directly involve the screening, detection, and deportation of illegal aliens.

The proposed cuts include a 38-percent reduction in the number of personnel whose job it is so seek out and arrest illegal aliens, a 37-percent reduction in personnel for processing applications for benefits, and a 12-percent reduction in the number of personnel assigned to inspect aliens arriving at U.S. ports of entry.

Such reductions are not in the interest of effective and efficient government, a goal which the administration is committed to achieve. At a time when the Nation is increasingly concerned about the growth of the illegal alien population, it makes no sense to eliminate those whose job it is to reduce and control that population.

I would like to take a moment to give an update on the current immigration situation in Florida. On Tuesday morning, 300 Haitians arrived in Florida; hundreds continue to arrive each week.

In addition, a district court judge has just tied the hands of the Government and prevented it from deporting those who have been found to have arrived in our country illegally. This came a week after the Attorney General had found that due process had been extended to the Haitians who were undergoing exclusion hearings. We do not know how long this situation will continue.

We now have a detention facility for these people at Krome North, an old military facility. But today, there are over 1,500 Haitians at the Krome site, a figure almost double the stated capacity of 800.

These other people are living in tents, and those tents are filled today. The INS Miami office had to reassign 17 of its officers from their normal duties and detail them to the Krome site. Thirty two other INS offices around the country have also been reassigned to the Krome facility. Yet I am told that staffing at the Krome site remains woefully inadequate.

What has been the result of this shift? The already overloaded facilities of INS in Miami are now strained to the breaking point. The INS office in Miami can process 100 applications a day. Now, early each evening, people in sleeping bags begin lining up in front of the INS office.

They will spend the night in front of the office, so that they can get one of the 100 places for the next day. There are reports of people selling their places in line, like ticket scalpers at a big football game.

Moreover, the INS office in Miami tells me that it would take eight additional people working full time an entire year just to clear out the existing backlog of applications to be processed. That is not counting the hundreds of new people who are arriving each week.

Mr. President, with this situation in mind, I would like to take a moment to describe the functions and duties of some of the positions which would be restored by this amendment.

INS inspectors operate at major ports of entry and at U.S. airports. In 1980, INS inspectors turned back over 800,000 illegal aliens seeking to enter the United States; the year before, over 950,000 illegal aliens were turned away. That number exceeds the number of illegal migrants detained by the Border Patrol, and points up the importance of the inspections program as a frontline enforcement program.

At the same time, foreign visitors coming lawfully to the United States are expected to spend $12 billion this year. Last year, for the first time in our history, more commercial air passengers arriving in the United States were foreign visitors than returning citizens and resident aliens.

The orderly admission of these visitors is critical to our economy. At the same time the United States must be protected against the illicit entry of millions who seek to enter the United States to compete in the U.S. job market, avail themselves of the benefits of this society at added costs to our taxpayers or for other illegal purposes.

This is the task of the immigration inspector. It makes no sense to reduce the number of inspectors by 200 or 12 percent, when the number arriving at U.S. ports of entry continue to increase.

The inspections workload at airports is expanding at an annual rate of 15 percent. Despite the development of more streamlined methods of operations, the Judiciary Committee itself expects that a significant cut in the number of INS inspectors will "result in long waiting times at ports of entry and airports, limit INS ability to identify inadmissible aliens, and could inhibit international tourism and commerce." In fact, today waiting times at the Miami International Airport can run as long as from 2½ to 4 hours. The administration's proposal represents a 12.8-percent cut in the number of INS inspectors.

INS investigators locate and identify illegal aliens already in the United States, thereby deterring other potential illegal aliens from attempting to enter the United States. This is the only method currently used to apprehend illegal aliens who have made it past the border, and who are already holding jobs in the United States. In 1980, INS investigators located over 65,000 aliens who were illegally employed. They were earning at a rate of over $446 million a year.

INS investigators also locate aliens who have been scheduled for deportation, but who have absconded. Investigations activities focus on fraud, criminal, immoral, narcotics, and other areas.

Status verification investigations gather the background material necessary for field investigations and for adjudications on immigration and deportation proceedings. The pending caseload is expected to rise from about 9,600 at the beginning of 1980 to over 14,000 by the end of 1982. This rise in caseload, coupled with the proposed staffing cuts, will make it more difficult for the adjudications and naturalization programs to properly process visa applications.

Prior reductions over the last several years have decreased the authorized force of these two programs by 421 positions, or over 30 percent. This has already had a drastic effect on both the casework and the apprehensions made by the INS investigators: In 1977, the number of deportable aliens has decreased from 204,000 to 126,000 last year.

The additional staff reductions of 403 persons, 309 in investigations and 94 in status verifications will further reduce the effectiveness of both programs and add to the backlog already created by prior staff cuts.

There are no easy places to make the offsetting cuts which are necessary for

that portion of my amendment which exceeds the amount recommended by the Senate Budget Committee. What I tried to do was to spread the offsetting cuts as widely as I could in order to reach the $5,931,000 of excess over the Budget Committee target.

As a result I am proposing an offsetting cut of approximately 2.5 percent in each of the following Justice Department accounts: General administration; U.S. Parole Commission; general legal activities; Foreign Claims Settlement Commission; and Antitrust Division.

I know that any cut of these accounts will be tough to make, because the Justice Department budget is already so tight. Nevertheless, I believe that our immigration needs are so pressing at this time that we simply cannot afford to sit idly and watch our entire immigration system fall apart.

Mr. President, I ask unanimous consent that the text of the amendments be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 74

On page 10, line 15, strike "$377,067,000" and insert in lieu thereof "$387,552,000".

AMENDMENT NO. 75

On page 2, line 22, strike "$50,229,000" and insert in lieu thereof "$48,807,295".

On page 2, line 25, strike "$6,461,000" and insert in lieu thereof "$6,299,475".

On page 3, line 20, strike "$127,136,000" and insert in lieu thereof "$123,955,005".

On page 4, line 16, strike "$705,000" and insert in lieu thereof "$687,375".

On page 4, line 18, strike "$49,566,000" and insert in lieu thereof "$48,326,850".●

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public, an additional item to be considered during the Subcommittee on Public Lands and Reserved Water hearing scheduled for Wednesday, June 24, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

The subcommittee has added to the hearing agenda H.R. 618, a bill to convey title to certain lands to the City of Angels, Calif.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Subcommittee on Public Lands and Reserved Water, Committee on Energy and Natural Resources, room 3104, Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding this hearing, you may wish to contact Mr. Tony Bevinetto of the subcommittee staff at 224–5161.

ADDITIONAL STATEMENTS

SENATOR AND MRS. BIDEN CO-SPONSOR ASHLEY BLAZER BIDEN

● Mr. ROTH. Mr. President, it gives me great joy to report to the Senate that my colleague from Delaware, Senator BIDEN, and his lovely wife, Jill, have brought into the world their first child, Ashley Blazer Biden. Weighing in at 6 pounds, 10 ounces, young Ashley made her first appearance in Delaware at 7:49 a.m. on June 8.

Ashley has not yet made her political preferences known, but I can only hope that she follows the growing trend of other young people today and registers Republican at the appropriate time.

I know my colleagues in the Senate join me in extending our congratulations to Jill and JOE BIDEN on this happy occasion.●

RESULTS OF COAL-SLURRY PIPELINE STUDY

● Mr. BUMPERS. Mr. President, I should like to share with the Senate the results of a study which shows that the consumers of this Nation could save at least $12 billion in coal transportation costs if just one coal-slurry pipeline were allowed to be built. A study by A. T. Kearney, Inc., management consultants, released on Monday, June 15, by Coalstream Pipeline Co., which compares the projected maximum rail and coal-slurry pipeline costs for moving 54 million tons of coal annually from the eastern coal fields to Florida and Georgia. The study shows a potential transportation cost savings of $12 billion for the two decades between 1988 and 2007 if the coal is moved by pipeline. The Kearney report, which was commissioned by Coalstream Pipeline Co., analyzes the 1,500-mile Coalstream pipeline which is proposed to be built from near Huntington, W. Va., and Shawneetown, Ill., to the coal markets of Florida and Georgia. The project will cost $3 billion in 1981 dollars, will be completely financed by private resources and could be operational by 1988 if this Congress will grant the pipelines the same access to the right of eminent domain which has been granted to the railroads, natural gas pipelines, oil pipelines, and interstate electric transmission facilities.

The Kearney study is merely the latest evidence that the Nation must allow this proven technology to compete in the energy marketplace. Last Congress, I introduced legislation which would have granted certain rights of eminent domain to coal-slurry pipeline companies. Three days of hearings were held on the legislation in the Senate Energy and Natural Resources Committee. However, the Congress adjourned before Senate action on the legislation could be completed. These hearings indicated that coal-slurry pipelines could offer substantial cost savings to consumers, create new coal mining jobs, help increase the production of coal, increase the revenues of the coal industry, save large quantities of imported crude oil and petroleum products, and reduce the Nation's balance-of-payments deficit.

The case for coal-slurry pipelines is at least as strong in 1981 as it was in 1981—as indicated by the Kearney study. Last Congress, we deregulated the railroad industry to allow market forces to operate. This Congress, we should assure that market forces operate at the maximum possible level by introducing to the coal hauling industry increased intermodel competition. That competition will not occur, and the benefits of the market place—including the huge cost savings which were identified in the Kearney study—will not occur unless Congress grants the right of eminent domain to coal-slurry pipelines. The time has come for this Congress to begin serious consideration of the required coal-slurry pipeline enabling legislation.

I ask that the study be printed in the RECORD.

The study follows:

COMPARISON OF PROJECTED MAXIMUM RAIL AND COAL SLURRY PIPELINE RATES FOR TRANSPORTING COAL TO SELECTED SOUTHEAST UTILITIES

EXECUTIVE SUMMARY

In view of the large projected increase in U.S. coal use by the year 2000, Coalstream Pipeline Company (CPC), a subsidiary of Continental Resources Company (CRC), is considering the construction of a coal slurry pipeline from the Huntington, West Virginia and Shawneetown, Illinois areas to serve 16 selected generating plants in Georgia and Florida. Total estimated coal use is 54 million tons per year. In order to construct the pipeline, Federal eminent domain legislation is required.

The major competitors for this traffic are the rail carriers currently serving the generating plant sites. Historically, these carriers have been closely regulated by the Interstate Commerce Commission (ICC). However, on October 14, 1980, the Staggers Rail Act of 1980 was signed into law, substantially deregulating the ratemaking process for railroads and, for the first time, allowing negotiation of long-term contracts with rail carriers for transportation services. To understand and assess the implications of this legislation on the potential rail rates for coal deliveries to the affected utility generating plants, CPC commissioned Kearney: Management Consultants to prepare an analysis of potential rail rates. Independently, Fluor Ocean Services, Inc. was commissioned to estimate potential pipeline rates.

Kearney's rail rate analysis consisted of the calculation of the Interstate Commerce Commission (ICC) prescribed adjusted Rail Form A variable costs for each of the 16 potential movements. These variable costs were used as a basis for estimating the maximum allowable rates which avoid ICC jurisdiction in the ratemaking process under the provisions of the Staggers Act. Rates beyond this maximum are subject to protest by the shippers and receivers and review by the ICC. These estimated rates were then projected for 1988 (the first year of operation of the proposed pipeline) through 2007.

Fluor's pipeline rate analysis consisted of developing estimated maximum allowable coal slurry pipeline rates based on ICC-valuation ratemaking methodology for oil pipelines, since a regulatory methodology for coal slurry pipelines has not been established. These rates were also projected from 1968 through 2007.

The comparison indicates that after 1988 the maximum allowable pipeline rate is less than the maximum allowable rail rate under the Staggers Act. The primary reason is that a large portion of the railroad cost structure is subject to normal price inflation (which can be passed through under Staggers Act provisions), while a large portion of the pipeline cost structure is fixed capital investment not subject to general inflation.

The exact impact of the proposed pipeline on the rate eventually paid by the af-

fected utilities depends upon many economic and competitive factors. However, an indication of the spectrum of possible impacts can be gained from consideration of the data in Figure A.

1. Status Quo.—If there were no threat of pipeline construction, the railroads would be free to set rates in a relatively noncompetitive environment. Under the provisions of the Staggers Act, it is likely that these rates would approximate the maximum rates shown in Figure A for rail transportation. The total cost of rail transportation for 54 million tons of coal annually would be approximately $28 billion in 1981 dollars ($115 billion in inflated dollars) over the 20-year period.

2. Construction of Coal Slurry Pipeline.—If eminent domain legislation is enacted and the coal pipeline is constructed, then pipeline rates for the movements would approximate those in the pipeline rate curve shown in Figure A. The cost of pipeline tansportation for 54 million tons of coal per year over this 20-year period would be approximately $16 billion in 1981 dollars ($61 billion in inflated dollars).

If eminent domain legislation were enacted, the threat of slurry pipeline competition alone would likely result in coal transportation savings from competition between the railroads and the proposed pipeline. Under the provisions of the Staggers Act, utilities could negotiate long-term contracts for rail transportation to establish rate levels and control future rate escalation. Similar contracts would be negotiated between the utilities and the operators and the proposed pipeline. In such a competitive environment, railroads would likely price selected movements at rates susbtantially below the maximum allowed by the Staggers Act as shown in Figure A. The pipeline could also be expected to lower its rates from the maximum allowable to compete with the railroads. Therefore, this competition between rail and pipeline to establish long-term contractual arrangements for coal transportation to the 16 generating plants could result in net rates below those shown in the rail and pipeline curves in Figure A.

Therefore, the possible savings in coal transportation costs for the 16 selected generating plants would range from nothing—if there were no eminent domain legislation—to as much as $12 billion in 1981 dollars ($54 billion in inflated dollars) if the coal pipeline were constructed and transported the 54 million tons of coal annually over the 20-year period. By introducing competition for their coal traffic, some portion of this potential savings would likely be realized by the affected utilities simply from approval of eminent domain legislation.●

THE MORAL MAJORITY

● Mr. EAST. Mr. President, the Moral Majority has lately emerged as a potent force in the political and social life of America. In attaining nationwide influence, it has also become highly controversial.

Some have praised this organization as a champion of civic virtue; others have damned it as a menace to civil liberties. Hardly anyone, however, has tried to understand it as the significant cultural phenomenon that it is.

One of the few observers to accord the Moral Majority the probing and scholarly analysis it deserved is Dr. James J. Thompson, Jr. In an essay published in the May 1981 issue of the Rockford Papers, Dr. Thompson, professor of history at the College of William and Mary, examines the Moral Majority from his perspective as a southerner, a historian, and a man of letters. He treats his subject accurately and fairly, and finds much to praise, much to criticize, and much to wonder at. He does not deliver an authoritative verdict on the Moral Majority, but in my opinion he demonstrates to any thoughtful reader that the issue cannot be reduced to an argument over whether the Reverend Jerry Falwell is on the side of the apes or the angels.

Mr. President, I ask that Dr. Thompson's essay be printed in the RECORD. I would also like to take this opportunity to commend the Rockford Institute for the quality of its publications and the lively contribution it has made to the discussion of so many important national issues.

The essay follows:

THE MORAL MAJORITY

(By James J. Thompson, Jr.)

He who would touch the heart of the Moral Majority must begin with the people, those Americans who look to the Reverend Jerry Falwell to lead them out of the wilderness of moral turpitude and national decline. Beyond the slogans, the ideological fervor, the turmoil of political action, even beyond the flamboyant figure of Falwell himself, stand those Americans who have watched helplessly as the values they cherish have been battered by pornographers, abortion advocates, homosexuals, feminists and shrill leftists who seethe with hatred toward the land of their nativity. Small wonder that God-fearing folks have been driven closer and closer to the edge of hopelessness.

I understand these people; I know the rhythms of their lives, the worries that plague them, the fears that haunt them: they are my people—kinfolk, friends, neighbors. I have spent my life among them. But how can I, a college professor denizened in the security and comforts of the ivory tower, claim such kinship? Quite simple: I am a Southerner, reared by the canons of that "old-time religion" which has left its indelible imprint upon so many of us, even those who have drifted away from the faith of their fathers. And though Reverend Falwell casts his message to every corner of America and seeks to transcend that region of the heart delimited by Southern Protestant fundamentalism, has warm and folksy manner, the rolling cadences of his speech, the call to righteousness he thunders from the pulpit, all of these provoke a ready response from Southern Protestants. Among these people—my people (though they would no longer claim me as their own)—lies the bedrock strength of the Moral Majority.

Andrew Justin belongs to this number. Mr. Justin, a once-vigorous man who for fifty years farmed five hundred acres of peanuts, corn and soybeans in Surry County, Virginia, has now at the age of seventy-two begun to show the infirmities of a long life. He still lives on the land—hard by the banks of the broad and placid James River—bequeathed to him by his father and by generations of Justins who nurtured the soil and reaped its abundant fruits. Across river a piece and on the far side from Mr. Justin's farm lies Jamestown, where in 1607 a small band of Englishmen—not yet Virginians—sloshed ashore to begin their experiment in the New World. Andrew Justin loves Virginia, and though his grandfather followed General Lee in an arduous struggle to sever Virginia and the South from the Union. Mr. Justin loves America. But he offers his deepest devotion to his God, a God of majesty and glory whose presence suffuses the humble, white-clapboard Baptist church where Andrew Justin worships on Sunday mornings.

Andrew Justin has worked hard throughout a long life. His broad acres have thrived under his diligent care, and the fruits of his toil have raised five children—two boys and three girls—to manhood and womanhood. The eldest, Andrew, Jr., now runs the farm, but he must work a part-time job to meet the spiraling costs of such essentials as fertilizer, gasoline and machinery. Robert, the second son, has served in the Marine Corps for twenty-two years. Of the Justin daughters, Mary Ann, the eldest, teaches in a junior high school across the river in Williamsburg; Ruth lives in California with her husband, an officer in the Air Force; and Sallie, the youngest, lives in Arlington, Virginia and works for the Department of the Interior in Washington, D.C.

To all outward appearances Mr. Justin should be contented and a happy man, proud of his farm, pleased with the success of his children, at peace with his fellow man and secure in his religious faith. But Mr. Justin views the world of 1981 with dismay. The newspaper and television, with their daily chronicle of our national malaise, leave him shaking his head in disbelief. Not much of a reader beyond the newspaper, the Bible and an occasional agricultural journal, Mr. Justin had in recent years, as his work pace tapered, taken to watching television to while away the idle hours that come unbidden to an old man; but the steady barrage of what its promoters call "realism" or "sincerity" but what Mr. Justin classifies as "filth" provoked him to snap off the set and leave it standing mutely in his living room. When Robert Justin visits his father he brings shocking talk of America's decline in military strength. Mary Ann carries home from Williamsburg news of discipline problems in the schools and of thirteen-year-olds for whom drunkenness and drug abuse have become routine facts of life. Sallie visits as often as possible, although Mr. Justin has come to dread the tales she tells of big-city life, a world that reminds Mr. Justin of nothing so much as the Sodom and Gomorrah that God effaced from the earth for their wickedness. The seizures of the fifty-three Americans by the Iranians shocked Mr. Justin, but curiously enough, one seemingly small and inconsequential matter—to most people, at least—sent him into an unaccustomed outburst of rage. Rumors of plans for a gay-rights rally in front of the state capitol building in Richmond drove him to the breaking point; not even the old citadel of the Confederacy could escape the insidious grasp of moral decay.

In the Reverend Jerry Falwell and the Moral Majority Andrew Justin spied a sign of hope as real as the first green shoots of corn that each year push through the soil to remind him of the ever-renewing fecundity of his land. He now faithfully watches Falwell's "Old Time Gospel Hour," aired on Sunday evenings by the Christian Broadcasting Network in Virginia Beach; he pores over the monthly Moral Majority Report with an avidity he has rarely shown in his reading outside the Bible; and whenever possible, he sends a few dollars to Reverend Falwell to aid in the Lord's work.

How typical is Andrew Justin? Opponents of the Moral Majority would dearly love to believe "very typical," for then they could comfortably stereotype the movement, peg it once and for all and reduce it to the querulous mutterings of a bunch of uneducated and aging Southern rednecks who have added "queer-baiting" to their traditional abuse of the Negro. But the Moral Majority will not be consigned quite so easily to a convenient pigeonhole. Yes, the Andrew Justins of America have turned to Jerry Falwell, but just as surely, the Moral Majority's appeal reaches beyond these men. Leftists endlessly prate about the "masses" and the "people," those ill-defined groups in whose

alleged interests they labor tirelessly. Well, if leftists wish to see the means on the march they had best cast an eye on the Moral Majority. Across America millions of people—old and young, rich and poor, urban and rural, blue-collar and white-collar—have responded to the call of Jerry Falwell and like-minded Protestant preachers. Disconcerting as it may be for the liberals of the Northeast, the Moral Majority represents something more than the latest outburst of Southern backwardness and pugnacity. This time we have allies.

ITS BEGINNINGS

In the 1970's a new phenomenon broke upon the American religious scene: the "electronic church." Led by such individuals as Pat Robertson, son of a former United States Senator and head of the Christian Broadcasting Network of Virginia Beach, Virginia, this movement harnessed the technological innovations in mass communications to the preaching of the Gospel.

In part, this development simply continued a course charted out in the 1950's and 1960's by such evangelists as the Reverend Billy Graham, who saw in television a way to reach far more sinners—and in a more dramatic manner—than ever dreamed of by earlier generations of radio preachers and itinerant revivalists who lugged their tents and rickety wooden folding chairs from town to town. But Billy Graham never had his own network, backed up by a sophisticated electronic gadgetry that brings tears of joy to the eyes of electronic engineers. Pat Robertson followed in Billy Graham's footsteps, but he has surpassed Graham in making of Christian broadcasting a science as well as an art.

The electronic church emerged at an auspicious time in American history. As Protestant proselytizers found themselves able to penetrate into households they had never before reached, they discovered themselves face to face with a revolution in morality, a revolution whose siren call beckoned Americans to fling off their inhibitions and join the "fun generation" in seeking self-fulfillment through self-indulgence.

The same television set that brought Pat Robertson's "700 Club" into the family rooms of America could, with a mere flip of the dial, regale those seated before that little box of electronic wonders with steamy sex and risque language formerly heard only in locker rooms and cocktail lounges. The television set—a standard feature in American homes by the 1970's—nightly trumpeted the arrival of the New Morality.

If the 1970's witnessed the fetid flowering of the New Morality, this decade also produced stunning testimony to the rapid erosion of America's standing as a world power. In the aftermath of a disastrous and unpopular war in Southeast Asia, American policy-makers—both Republican and Democratic—pulled back and waffled and temporized in the face of foreign problems seemingly too complex to allow of any solution.

In Angola, for example, the pro-Western guerrilla leader Jonas Savimbi fought—and still fights—a lonely war, while his Marxist opponents sent Cuban troops into combat against him. High American officials clucked fretfully about "No More Vietnams." The Soviet Union, untainted by any such failure of the will, drove ahead with a massive military buildup and reached its long arm into every trouble spot on the globe. A decade of American vacillation appropriately staggered to its shameful culmination in Teheran, where a mob of Iranian thugs and revolutionaries—known affectionately to American news commenators as "student militants"—seized fifty-three Americans and held them hostage for over a year.

The bold and ruthless Soviet invasion of Afghanistan, coming as it did in the midst of the hostage crisis, seemed almost anticlimatic, but, if so, this anticlimax exposed ever more clearly the inability of America's leaders to do more than wring their hands and chide the Soviets for their brutishness. Beset by sappers at home and assailed from abroad by a malign crew, the old Republic so lovingly constructed by Jefferson, Adams, Washington, Hamilton and Madison creaked on its foundations.

In the midst of this era of declining fortunes the electronic church continued to gain popularity; it spread its message across the United States and energized evangelical Protestants, forging among them a nondenominational sense of unity that had not previously existed. The Reverend Jerry Falwell, pastor of the Thomas Road Baptist Church in Lynchburg, Virginia, seized the moment, and, with the help of several other pastors, established the Moral Majority, Inc., on June 6, 1979. In the words of a pamphlet entitled Fighting for a Moral America in This Decade of Destiny, Falwell created the organization "to give a voice to the millions of decent, law-abiding, God-fearing Americans who want to do something about the moral decline of our country."

ITS IDEAS AND GOALS

This pamphlet furnishes a brief yet informative introduction to the ideas and goals championed by the Moral Majority, for it distills the movement down to its essence. Taking this pamphlet as a fair representation of the movement, one notes a three-pronged emphasis. First, an assessment of the present condition of America; in blunt terms and boldface type the pamphlet proclaims: "America is Sick." This illness springs from those feminists, ultraliberals, humanists, socialists, pornographers and homosexuals who have polluted the wellsprings of American life. Working together in a crusade of the ungodly these groups seek to destroy all that God-fearing men and women cherish: "Bible morality," the family, the public schools, the free-enterprise system and America's greatness as a nation. America now teeters on the brink of an abyss; the "Decade of Destiny"—the 1980's—will bring either disintegration or—just possibly, if good men act—renewal.

But "God Still Stands With America"; with this heading the pamphlet moves into the second of its three points. Here lies hope, the possibility for America to slash through the briar patch of wickedness and regain the high road of righteousness. America is the New Israel, a people uniquely chosen by God to bear His standard through the modern world. No other people possess the will and capacity to carry the message of redemption and salvation to a tired and sin-wearied world, for "America has more God-fearing citizens per capita than any other nation on earth." Lest God forsake us, though, we must cleanse the wellsprings and gird ourselves for the fight to keep America free; then once again God will bestow His blessings upon His people.

Beyond the chastisement of the enemy and the call for a return to God lies a hard-nosed practicality, the third emphasis of Fighting for a Moral America in This Decade of Destiny. Moral men must act and the Moral Majority offers a program for that action. As Reverend Falwell makes clear in the October 15, 1980 Moral Majority Report, "Moral Majority is a political organization," designed to press its program in the public arena. With its national headquarters located close to the United States Capitol building, Moral Majority, Inc. makes its presence felt in the corridors of power in Washington, D.C. Fighting for a Moral America in This Decade of Destiny charts the course along which Reverend Falwell intends to lead the faithful in this fivefold avowal of purpose:

(1) Mobilizing the grass roots of moral Americans into a clear, loud, and effective voice, which will be heard in the halls of Congress, in the White House and in state legislatures across this land.

(2) Informing the moral majority of Americans about what is going on behind their backs in Washington. The monthly Moral Majority report will help accomplish this goal.

(3) Lobbying intensively in Congress to defeat left-wing, social welfare bills that would further erode our precious freedoms.

(4) Pushing for positive legislation which will ensure a strong, enduring and free America.

(5) Helping the moral majority of Americans in local communities fight pornography, homosexuality, obscene school textbooks, and other burning issues facing each and every one of us.

With this plan of action, Moral Majority, Inc. has "declare[d] open warfare against the forces which threaten our freedom as Americans." The hour is late but Reverend Falwell and his cohorts believe that a handful of righteous men, allied with God and armed with the weapons of Truth and Decency, can stir those hitherto silent Americans and turn the nation back to God. Clearly, the Moral Majority does not shrink from this herculean task.

RESERVATIONS AND ALLEGATIONS

Were the entreaties of the heart to be answered affirmatively, I should conclude this essay here, and end on a note of approbation. After all, Moral Majoritarians have just and good reasons for their angar, and they have correctly discerned the source of our moral malaise. But my critical side reasserts itself over the sympathies of the heart. More must be told, and the telling will raise serious questions about the Moral Majority. Certain aspects of the movement trouble me deeply, and those features do not hang about the periphery of the movement; they stand at the very center of the Moral Majority.

My animadversions will probably offend Moral Majoritarians, for their all-or-nothing mentality allows for no compromise, no leeway to step gingerly across a stretch of ground mined with complexities, nuances and ambiguities. I risk the ire of Moral Majoritarians willingly, though, for to back off would pose an even greater danger: that of averting one's eyes from the lapses of other conservatives simply because we march together under the same broad banner. The Left has often fallen prey to a similar temptation; with a spirited faith in Popular-Front unity it has refused to criticize the transgressions of its own number, no matter how wrong-headed, misguided or even vicious some leftists might be. Let us have no Popular Fronts of the Right in this hour of conservative ascendancy. If we allow our own excesses to go unrebuked we shall play into the hands of the Left, and Lord knows, we have done that too often already.

In the interests of fairness I begin my critical task by laying to rest an old canard: the Moral Majority does *not* feed on a simmering stew of hatred for Jews, Catholics and blacks. A sacred canon of leftist ideology affirms that any conservative movement peopled by white Protestants (especially when Southern) has to—simply has to!—derive its motivating impulse from racial, religious and ethnic hatred. To dissuade leftists of this cherished belief would take the strength of ten men, and *I* am not up to that task. Still, this matter must be addressed directly, for in the minds of many it alone supplies ample reason to condemn such organizations as the Moral Majority.

First, anti-Semitism: On November 9, 1980, the Reverend Jerry Falwell, in the company of such luminaries as Senators Henry Jackson and Daniel P. Moynihan, received the Jabotinsky Medal for his support of the state of Israel; to my knowledge,

Menachem Begin does not generally bestow medals upon rabid anti-Semites. The Moral Majority may well harbor some Jew-haters within its ranks, but if so, they receive no encouragement from the organization. Neonazis who seek sustenance from the Moral Majority will go away empty-handed.

The most hysterical of leftists have raised the cry that the Moral Majority serves as a thinly disguised front for the recrudescent Ku Klux Klan. To those of this cast of mind it seems obvious that Jerry Falwell will eventually call for lynchings to solve America's racial problems. As with the charge of anti-Semitism, leftists have little evidence to cite, but then doesn't everyone know that all white Southerners hate blacks?

The South's conservative white Protestants have indeed often been guilty of leaving their Christianity in the cloakroom when it comes to dealing with blacks. Since the 1840's when Baptist and Presbyterian ministers added their voices to the defense of slavery, Southern Protestants have been in the forefront of efforts to maintain the racial status quo. But with the tumults of the civil-rights movement of the 1950's and 1960's, white Southerners began—however slowly and tentatively—to break out of the old mold. Right now they suffer confusion over racial matters; unfortunately, this creates fertile ground in which the seeds of demagoguery can sprout. Jerry Falwell could have been that racist demagogue, but, quite simply, he is not. He does not whip up the rednecks with the old shibboleths of Southern racism.

Only one convinced that opposition to welfare chiseling and forced busing constitutes racism could possibly accuse Reverend Falwell of stirring racial animosity. Racists would not seek out Professor Walter E. Williams, the well-known black economist, to contribute essays to the Moral Majority Report.

Anti-Catholicism has long thrived in conservative Protestant circles. Baptist preachers in particular have historically worked this issue masterfully, playing the prejudices of their congregations with the artistry of a Pablo Casalas on the cello. But the heyday of Protestant Catholic-baiting has passed; the New York Times and other journals of enlightened liberal opinion seem to be the main purveyors of anti-Catholicism these days. Conservative Protestants have much in common with their Roman Catholic counterparts.

To what extent the Moral Majority recognizes this cannot easily be determined. Suffice it to say that Reverend Falwell has eschewed the old colorful and titillating verbal assaults on the "Whore of Babylon," a once sure-fire way to rouse the passions of conservative Protestants, especially in the South. It may just be that Moral Majoritarians have begun to realize that the World Council of Churches poses a greater threat to godliness than does Pope John Paul II.

THE REAL PROBLEM

Having cast aside the bogus allegations of bigotry, I can now get down to the real problems presented by the Moral Majority. Because the movement cannot be separated from the man, one must look first at the Reverend Jerry Falwell himself. Falwell possesses the wit and smiling charm that have endeared such preachers to generations of conservative Protestants. The man knows how to work a crowd. He makes his listeners laugh and cry, he stirs them to anger and indignation, and with dulcet tones he comforts them with reminders of Christ's love for sinners.

To be effective, such oratory must simplify issues; it cannot deal in complexities; it must lead its votaries with clarion calls and clear dictates. People seek this in their religion, for amidst the confusions of this world they need the reassuring simplicities of the Gospel message and clear-cut distinctions between God's cause and the Powers of Darkness. The Christian message by turns energizes and soothes, but it does so most effectively when it avoids the enervating ambiguities of the human condition.

When carried into the political arena this approach causes untold problems, and Reverend Falwell has carried it into politics with a vengeance. The danger lies in reducing God's cause to simplicities and then in believing that man can establish those simplicities on this earth. This urge transcends the categories of Right and Left, for Protestants on both ends of the political spectrum have sought at times to unsheathe the sword (either literally or figuratively) in an effort to make man's kingdom conform to their own narrow interpretation of God's will.

In England in the 1640's the Puritans mixed religion and politics into a heady brew that intoxicated Oliver Cromwell's saints. In the interests of a republicanism that rapidly degenerated into vicious egalitarianism, these crusaders for Christ purged the land with blood, beheaded King Charles I, and attempted—but failed—to translate God's kingdom into worldly reality. King Charles II had to teach England to laugh again. A similar impulse drove fanatical American abolitionists—intoxicated this time with the febrile emotionalism of Protestant revivalism—into a crusade to impose their vision of God's righteousness. Several hundred thousand Union troops paid with their life's blood for this abolitionist vision, and if this sacrifice furthered God's cause, it would have been difficult to have convinced a prostrate South of that contention.

I apologize for placing Jerry Falwell in such unsavory company. Yet Reverend Falwell makes me uneasy on this score. He simplifies and reduces to easily comprehensible slogans the terrible complexities that grip our nation. When Falwell launches into one of those long litanies of denunciation against homosexuals, feminists, abortionists and ultraliberals the folks in the pews know immediately that they stand with the Lord and battle at Armageddon.

No compromise with evil! No temporizing with the forces arrayed with the Prince of Darkness! Reverend Falwell serves it up, and the flock feeds well on this fare. This creates a mentality of bold self-righteousness among Falwell's followers; when carried into the political realm it brings one back to Cromwellian crusaders and abolitionist zealots. Falwell, no doubt, understands that the masses of God-fearing Americans need to be aroused and urged to gird themselves for the Lord. But once aroused, girded and thrown into politics, what then? Can Reverend Falwell explain to them the intricacies of the political system, the delicately balanced give-and-take of compromise that Daniel Boorstin has called "the genius of American politics"?

A mood of all-or-nothing comports poorly with the workings of the government that was fashioned in Philadelphia in the long, hot summer of 1787.

The key consideration here extends far beyond the liberal charge that the Moral Majority has conflated church and state. Only a shameless and mendacious liberal clergyman could accuse Falwell of being the first to smudge the line between the sacred and secular realms. Liberal Protestants have been guilty of this since the 19th century.

Liberal clergymen have long lusted with a white-hot passion to call the shots in the political arena. Falwell as preacher-in-politics does not really distress them; what does cause sleepless nights for liberals is Falwell as conservative preacher-in-politics. "Why, oh, why," moan the liberals, "can't those rabble-rousing Baptist preachers keep their message within the walls of their churches?"

On the deepest level the problem concerns Falwell's identification of America with the cause of God. Falwell sincerely believes that America is God's chosen nation, a New Israel that enjoys in God's eyes a position of primacy among the nation's of the earth. Just as Yahweh, punished ancient Israel for her transgressions, so He chastises America to shake her from her apathy and to direct her once again in the ways of righteousness.

If this be true—and Falwell believes it is—then it behooves Moral Majoritarians to cleanse the nation of sinfulness and reestablish America as the bastion of God's truth. But why should God look with special favor upon the United States? Why not Germany, birthplace of the Protestant Reformation, or Switzerland, the scene of John Calvin's experiment in godliness? Charles Peguy, the early 20th-century French poet, tirelessly reiterated that God loves Frenchmen foremost among His children. How can any nation claim such special standing before a God who sent His only begotten Son to die on a rude cross for all men?

The kingdoms of this world are ephemeral. They rise, flourish and fall; only the grace of God charts a steady and unbroken course through this world. Reverend Falwell has forgotten this vital fact. He wishes to establish in America what God gives no man the ability to make: a nation of righteousness wholly dedicated to God's will.

Christians must combat evil in this world, but to speak of one nation as God's chosen people, and to seek to purify that nation through political action, invites disastrous consequences. Weak and sinful men—even including the Moral Majoritarians—cannot realize God's righteousness on this earth. This does not mean that the Christian must retreat from politics into a quietistic isolation; it is only to remind Christians—whether liberal or conservative—that the ways of man are not the ways of God.

GOD'S WILL AND ECONOMIC SYSTEMS

The pamphlet Fighting for a Moral America in This Decade of Destiny avows the Moral Majority's eternal opposition to "creeping socialism, which is a first cousin to communism." Here the Moral Majority divides the world into Good Guys and Bad Guys, not over morality, as it generally does, but along the lines of economic systems. This will not do. Differences exist among socialists as surely as they do among conservatives. Conservatives need to practice careful discernment on this issue, for genuine democratic socialists must be singled out from among those who merely garb themselves in a clock of democratic rhetoric to hide their totalitarian motives.

In Eastern Europe, for example, democratic socialists remain some of the best friends the West has; should Soviet hegemony over this tormented part of the globe ever be broken, these men will help to usher in an era of hope for Eastern Europe. On the home front, conservatives have benefited greatly from the astute analyses and unwavering commitment to freedom shown by such socialist intellectuals as Daniel Bell and Sidney Hook.

Granted, many American socialists ally themselves with the very forces that conservatives rightly abhor, but such an alliance need not necessarily follow from one's belief in a socialist economic system. There are journals of opinion in America which stand forthrightly for moral decency without being conservative or preaching Christian moral orthodoxy; they oppose the moral decay of America with an intellectual sophistication that the Moral Majority would do well to emulate. It ill behooves conservatives to assume automatically that all socialists serve the cause of Satan. The world of ideas contains far more complexity than Moral Majoritarians would like to admit.

The flip side of the Moral Majority's disdain of all varieties of socialism appears in

the organization's commitment to capitalism or, as it is more often phrased, "the free-enterprise system." I do not take issue with this devotion as such; the considerable merits of capitalism as an economic system do not concern me here. A far more profound issue does: the identification—implied, at least—to capitalism with Christianity.

To listen to Moral Majoritarians sing paeans to free enterprise leads one to surmise that capitalism has received the divine imprimatur. Christianity existed for nigh fifteen-hundred years before capitalism emerged, and God's grace will continue to move through this world should capitalism cease to exist. God's cause does not rise or fall with the fluctuating fortunes of the New York Stock Exchange. To fall into the trap of believing that it does severely limits one's vision and indicates an overriding concern for economics that forces religion into a mere supporting role. We should and must defend America's economic freedoms, but to contend that the most crucial fight lies here is to be guilty of secularizing humanity into "Economic Man."

I doubt that most Moral Majoritarians have probed very deeply into the nature of competing economic systems; their opposition to socialism and their concomitant devotion to capitalism arise from other than economic analysis. The key to understanding this appears in a sentence in *Fighting for a Moral America in This Decade of Destiny:* "Today, we are promoting the philosophy of 'something for nothing'—giveaway programs and welfarism—to the point where our country is nearly bankrupt." Leftists leap gleefully upon such statements as signs of a festering fascism that uses code words such as "welfare chiselers" in place of the older and blunter racial slurs. This misses the real point. Moral Majoritarians long for a simpler America now past, a nation of independent farmers and small shopkeepers who controlled their own economic destinies to a considerable degree. The industrialization and urbanization of the late 19th century dealt this America a fatal blow. We live under an economy of staggering complexity and interdependence. Lazy freeloaders do indeed sup at the public trough, but alongside them stand those Americans who have been victims of the ups and downs of an urban, industrial economy. Moral Majoritarians hearken back to a preindustrial rugged individualism that wanders disconsolately—and at times, viciously—through our present society. Like it or not, we live in the era of the welfare state; to rail against freeloaders only complicates matters and places a stigma upon the aged, the infirm, the unskilled and all those who have not prospered in our society. Jesus Christ commanded us to love the poor, not to berate them.

FREEDOM AND DECENCY

Civil libertarians tell a lugubrious tale these days, one replete with book-burnings, rigid thought-control, and hot-eyed Moral Majoritarian zealots. Frenzied cries of repression from civil libertarians should surprise no one, for these people apparently spring from their mothers' wombs possessed of the ability to espy the heavy and brutal hand of neofascism where most of us would see only common sense at work. Why this latest outcry? Quite simple: the Moral Majority has declared war on pornography. Civil libertarians prosphesy jackbooted repression; Moral Majoritarians speak of moral decency.

Moral Majoritarians have put together a persuasive brief. Only the deaf, dumb, blind and ignorant could deny that America has been inundated with pornographic provocation in the last two decades. On stage and screen and in books and magazines we have been treated to a display of moral degradation that almost exceeds the powers of the human imagination. Here I agree with the feminists: this material degrades women into objects of the most perverse male lusts. To argue that this affects only mature adults is to delude oneself into believing that children live in splendid isolation from the rest of society. If the amount and nature of pornography that exists at a given time serves as a fair index of a society's moral health, then this is, as Moral Majoritarians contend, a very sick land.

How can health be restored? Do nothing, answer the civil libertarians; act with alacrity for the day is short, respond the Moral Majoritarians. Clearly the civil libertarians' fastidious concern for the free expression of filth merchants will not do. But the program of the Moral Majority is fraught with danger. Freedom of expression is a fragile liberty; twirl a globe in your hands and count the countries where it exists. The People's Republic of China has no problem with pornography because its form of puritanical totalitarianism simply prohibits it.

The dilemma comes down to this: how can we stamp out pornography without setting dangerous precedents? Do Moral Majoritarians possess the sensitivity and powers of discrimination to draw the sometimes-fine line between pornography and that which may offend their moral sensibilities but deserves to be protected? One needs a rapier in this situation, but Moral Majoritarians have drawn a broadsword. I remember well a budding young Moral Majoritarian who expressed to me his disgust with Graham Green's "The Quiet American" because of a minor sex scene it contains.

Recently a group of citizens of this mentality raised an uproar in Norfolk, Virginia, over a nude statue in front of the Chrysler Art Museum. Such sallies into the realm of aesthetic criticism do not encourage me.

I for one do not wish to allow the Moral Majority to define pornography and then to act authoritatively on that definition. Yet freedom does easily degenerate into license. Civil libertarians frequently forget that a society has the right and necessity to protect itself. Total freedom of expression can gut a society from within, leaving only a tottering shell waiting for the surging wave of barbarians to topple it. Moral Majoritarians have determined not to allow this to happen. I applaud their willingness to befriend and shelter the homeless waif of moral decency. But I wince at the idea of a Moral Majority free to work its will in this matter. Moral Majoritarians bring vigor, energy and moral rectitude to the fight against pornography, but they lack the intellectual acumen and discriminating artistic taste to guide them in this campaign. Only an older and wiser conservatism—one well schooled in the knowledge of the fragile balance between free expression and license—can save them from folly.

SOME FINAL CONCERNS AND CONCLUSIONS

No feature of the Moral Majority troubles me quite so much as the one I have for last. I choose my words carefully here, for I wish above all else to avoid the holier-than-thou attitude that infects so many of the religiously liberal critics of the Moral Majority. Moral Majoritarians have rightly singled out for condemnation some of the vilest elements in our society: abortion advocates who readily sacrifice unborn children to the self-interest of women who do not wish to be trammeled with the burdens of motherhood; gay-rights activists who seek to foist upon America the idea that homosexuality is a normal expression of love; male-hating feminists who intend to destroy the family; and those leftists whose psychological imbalance leads them into a vicious campaign to bring America to her knees. In one sense, these people deserve whatever abuse they receive. They cannot be reasoned with; they will not be satisfied until they have pressed their evil designs to full realization. I have railed against these people at times in language that would appall even the most vehement of Moral Majoritarians. But I feel uneasy after venting my wrath. From deep within, a nagging voice throws up to me the Christian injuction: "Hate the sin and love the sinner." I protest; "How can I love such destroyers of all I cherish?" But the voice comes back: "For there is no man that sinneth not." I am caught there, left without a convincing retort.

Moral Majoritarians often give the impression of hating the sin and the sinner. Perhaps the frailties of our fallen state make the distinction nearly impossible to draw: sin and sinner intertwine inextricably with one another. But hard as it may be to admit, Jesus Christ gave His life to save all men, even abortionists, homosexuals and pornographers. The conservative who has stepped outside the Christian religion can easily divide the world into the Good and the Bad loving one and hating the other with a clear and unmitigated passion.

The Christian conservative takes upon himself an onerous task: to combat evil but, at the same time, to remember that we all form part of the evil that entered the world with sin. Moreover, the Christian must view the doers of evil as children of God who have strayed far but who have not been forgotten or forsaken by our Lord. No easy task, that; but Jesus Christ never said that it would be easy to follow Him.

Moral Majoritarians assail evil with a refreshing vehemence in this age of pusillanimity, but I search long and fruitlessly through this vehemence for the gentleness and love of Jesus Christ. By the dictates of the Faith they defend, Moral Majoritarians have no choice: fight the abortionists, pornographers and other foes of moral decency, but—and this "but" contains the painful part—pray for them, show them the love that passeth all human understanding.

Where does this leave us? Have I so severely disparaged the Moral Majority as to dismiss it as, at best, of no consequence and, at worst, downright dangerous? I think not, for I return to where I began, to the millions of Americans who look to the Moral Majority for hope, for encouragement, for a way out of the morass into which our nation has fallen. These people—decent, hard-working folks—have reached the breaking point; they have had enough of moral decay and national decline. The Reverend Jerry Falwell and the Moral Majority have stirred these people, aroused them to the dangers we face. Who among conservatives can in good conscience not be grateful to the Moral Majority for that? But conservatives will be remiss if they accept without question the programs and methods of all groups on the Right.

Many conservatives made that mistake in the 1950's when they permitted Senator Joseph McCarthy to unleash his brand of cheap-jack demagoguery. On the Left, well-meaning liberals fell into the same trap in the 1930's when they allowed themselves to be blinded by the fog of Popular-Front amity. Let us have no repetition of those miserable episodes. The Moral Majority possesses the capacity to work a salutary influence upon America; it can also discredit conservatism and usher in a speedy reaction against the revived conservative temper of America. We shall see.●

VIKTOR BRAILOVSKY

Mr. TSONGAS. Mr. President, today marks another sad day for the human rights of Soviet Jewry. Viktor Brailovsky, doctor of cybernetics, went on trial in Moscow for allegedly violating section 190–1 of the Soviet Criminal Code. Article 190–1 provides:

The systematic circulation in oral form of fabrications known to be false, which defame the Soviet state and social system, and likewise, the preparation or circulation in written, printed or other form, of works of such content—shall be punished by deprivation of freedom for a term of up to three years, or by correctional tasks for a term of up to one year, or by a fine of up to 100 rubles.

It all sounds very proper. But, in fact, the only crime that Dr. Brailovsky committed was to be born a Jew and to seek freedom from the shackles of totalitarianism.

Mr. President, Dr. Brailovsky's case is not very different from the many thousands of cases of Soviet Jews who desire to immigrate to Israel. But during the past 9 years that he and his family have waited for exit visas, Dr. Brailovsky has not remained silent. Let me share with my colleagues some of the specifics of this case.

In October 1972, Viktor Brailovsky, along with his wife Irina and their two children, first applied to immigrate to Israel. As a result, both Viktor and Irina were fired from their prestigious scientific jobs. Their phone was disconnected and their mail service curtailed. Again and again since 1972, the Brailovsky family has been refused permission to immigrate on the grounds that Viktor possessed secret scientific information. In 1976, after 4 long years of waiting, Viktor was given a verbal clearance to emigrate—but his wife, Irina, an applied mathematician, could not leave because allegedly she possessed state secrets. After a few agonizing months, Viktor decided to emigrate with one of his children and leave his wife and other child behind. In an act of typical capriciousness, the Soviet authorities then denied his visa on the grounds that the separation of his family would violate the Helsinki Final Act.

These continued denials of Viktor's most basic human rights left him undaunted. He became one of the founders of the samizdat (underground) journal, Jews in the U.S.S.R., and served as editor for its last five issues—until it ceased publication in the summer of 1979. This nonpolitical journal was devoted exclusively to Jewish history and culture and served as an important source of information for Jews living in the Soviet Union.

In 1977, Viktor became worried that he and other unemployed Jewish scientists would fall too far behind in their fields. As a result, he organized the Moscow Sunday Seminar, which met every week in his flat. The Sunday Seminar consisted of a nonpolitical group of refuseniks who were dedicated to the advancement of scientific knowledge. On many occasions, they would invite visiting scholars to present scientific papers at their meetings for discussion by the participants.

The Soviets, however, do not allow such activities to continue for very long without responding. In April 1980, Viktor was arrested and told that he was being investigated for his involvement with the publication, Jews in the U.S.S.R. Although he was released, the harassment did not end. On November 13, 1980, just 2 days after the opening of the Madrid Conference, eight policemen arrived at the Brailovsky apartment with a search warrant and a warrant to take Viktor in for questioning. Irina insisted on accompanying her husband to the police station. After lengthy questioning, Viktor was able to tell her, before being led away, that he had been arrested, apparently for his involvement in Jews in the U.S.S.R.

Mr. President, recently a member of my staff returned from a private trip to the Soviet Union where he had the opportunity to meet a number of Soviet refuseniks. He learned firsthand what it means to be a Jew in the Soviet Union. The constant surveillance by the KGB, the wiretaps, the censored mail, the lack of religious freedom, the problems in maintaining a job. But he also learned about the strength and the vitality of these people who live under such harsh physical and mental conditions. In addition, he met with Irina Brailovsky and learned firsthand of the mental anguish she has had to bear for the past 9 years.

Mr. President, it now appears that Soviet authorities will further respond to Viktor Brailovsky's activities by placing him in a labor camp for 3 long years. I call on all of my colleagues to join me in urging the Soviet authorities to reconsider the charges that have been brought against Dr. Brailovsky and to grant him and his family one of the most basic of all human rights—the right to emigrate to the country of their choice.●

THE USE OF DRUGS IN HORSERACING

● Mr. PRYOR. Mr. President, I would like to share with my colleagues two articles by Andrew Beyer entitled, "Drugs Can Be Dangerous To Health of Maryland Racing" and "Racing's Major Enemy Attacking From Within" which recently appeared in the Washington Post. Mr. Beyer does an excellent job of illustrating the problems associated with the use of drugs in horseracing.

I introduced legislation, S. 1043, earlier this year to address this question by establishing minimum standards for drug use and laboratory testing procedures so that all horses may compete on an equal basis. This legislation has strong bipartisan support in both the House of Representatives and the Senate.

Along with many in the racing industry, I would prefer that the need for this legislation did not exist. However, the problem continues, and it seems that Federal legislation is necessary to safeguard the interests of all involved in the sport of horseracing.

I ask that Mr. Beyer's articles be printed in the RECORD.

The articles follows:

[From the Washington Post, June 13, 1981]

DRUGS CAN BE DANGEROUS TO HEALTH OF MARYLAND RACING

(By Andrew Beyer)

Trainer Bud Delp announced last week that he will soon move his stable from Maryland, where he has enjoyed two decades of success, "to another state where conditions are better." One condition that Delp finds so objectionable in his home state is the restriction on use of the drug Lasix.

Most trainers in Maryland share his feeling, and they will ask the racing commission next week to liberalize its rules governing Lasix. Some militants wanted to strike over the drug issue. In other states, such as Illinois and Kentucky, horsemen have obtained court injunctions to stop racing commissions from putting tough drug rules into effect.

It might seem strange that such passions could be aroused by a drug that helps the small percentage of horses who tend to bleed from the nostrils during a race. But the Lasix controversy involves a much broader issue: the interests of horsemen versus the interests of the sport.

To the trainer of a bleeder, Lasix seems an undiluted blessing. When a horse tends to bleed, he may suck the blood back into his throat and lungs and have such trouble breathing that he is virtually worthless as a racehorse. Lasix can cure him. Yet in Maryland, he can be treated with the medication only if a state veterinarian has witnessed him bleeding on the track.

If the horse goes back to his barn and then bleeds, he's not eligible for Lasix. If his bleeding is internal, he isn't eligible, either. To the owner of a bleeder who may be worth $50,000 with Lasix and zero without it, these restrictions seem irrational. Maryland trainers want a much more liberal system for certifying horses as bleeders, perhaps something like Pennsylvania's. There a horse may get Lasix if an endoscopic examination detects blood in his lungs. (This isn't terribly restrictive, since a recent study disclosed that as many as 96 percent of all horses may have such traces.) What the trainers would like even better, of course, is the right to use Lasix any time they think it necessary, without having to get the state's permission.

People who advocate the unfettered use of Lasix have short memories. Trainers talk as if they want to use the drug judiciously to treat a specific ailment, but Lasix has been wildly abused since it was introduced to American racetracks in the early 1970s. At first, private vets could certify horses as bleeders, and well-connected trainers managed to get the coveted "bleeder slips" for practically all the horses in their stables. Horseplayers remember that time well, because the form went crazy. Animals were improving 10 or 20 lengths overnight, giving some credence to the widespread belief that Lasix could camouflage the presence of more potent, illegal drugs in a horse's system.

When the Maryland Racing Commission allowed the unrestricted use of Lasix, but decreed that horses getting the medication should be listed publicly, bettors had further reason for skepticism. While Lasix was supposed to help the 5 percent of thoroughbreds who were bleeders, 60 to 70 percent of the horses on every racing program in Maryland would be running with the drug. The use of drugs seemed about as controlled and judicious at Laurel, Bowie and Pimlico in the 1970s as it was in Haight-Ashbury in the 1960s.

The sport was suffering from a tremendous public-relations problem, a universal perception that "drugged horses" were running at American tracks. Federal intervention was threatened. So the National Association of State Racing Commissioners proposed tough guidelines on drugs, including a ban on Lasix. But the nation's owners and trainers have fought such restrictions on every front; they can't live without their drugs.

Their principal argument—that restrictions on Lasix hurt them economically by decreasing the value of certain thoroughbreds—is somewhat specious. The state of Maryland will pay out exactly the same number of dollars to owners and trainers whether

Lasix is legal or not. The only difference is that it will be distributed more to the owners and trainers of physically sound horses and less to those with physical problems—which is what improving the breed is all about anyway.

"When they talk about how their horses will decrease in value without Lasix," said trainer King T. Leatherbury, "I think they're forgetting that sound horses will be increasing in value."

The worst aspect of the trainers' crusade for drugs is the public perception of what they are doing. The trainers are saying (with the world listening): We can't train without using drugs. Our horses can't run without drugs. Even after the "permissive medication" experiment of the 1970s failed miserably and left the sport with a tarnished public image, owners' and trainers' groups have been fighting protracted battles for more drugs.

The most tangible result of the resulting image problem is the Corrupt Horse Racing Practices Act, a heavyhanded bill that would mandate criminal penalties for even minor drug violations. Sen. Charles Mathias (R-Md.), said he will hold hearings on the measure at the start of next year if the sport doesn't set its own house in order. Concern over such intervention is what made the National Association of State Racing Commissions realize it had to draft some tough guidelines on drugs. But such concerns don't faze the trainers.

"Horsemen tend not to look at the overall picture," Leatherbury said. "They have tunnel vision; they see only their own personal problems and don't look at the industry as a whole."

At one point in the Maryland trainers' meeting on Lasix last week, Leatherbury said, "I hope we trainers are as important as we think we are." He was met with a smattering of boos, which was not surprising. Trainers seem to believe that the convenience of using drugs such as Lasix on their horses is more important than the health of the sport.

[From the Washington Post, June 17, 1981]

RACING'S MAJOR ENEMY ATTACKING FROM WITHIN

(By Andrew Beyer)

Leaders of the horse racing industry were assembled in Washington the past two days and spent most of their time discussing the sport's "crisis in integrity."

They didn't come up with any dramatic remedies for the fixing, drugging and ringer scandals that regularly tarnish thoroughbred racing. In fact, the annual conference of the American Horse Council gave indications that the game will face some new problems in the coming year.

Racing commissioners, track executives and horsemen offered some reasonable, although familiar, suggestions for combating larceny: tighter licensing procedures for owners, better drug-testing, elimination of conflicts of interest for racing officials.

But Paul Berube of the Thoroughbred Racing Protective Bureau hit upon the key issue when he said, "The most alarming fact which has been established in all our recent investigations is the willingness of so many licensed professionals in racing to accept bribe money in return for their losing effort. No sport outside of parimutuel horse racing has such a negative record. What we need to account for is why . . ."

I think there is a clear answer to Berube's question. There probably aren't many people who come into the racing game intending to be crooks; you don't often see apprentice jockeys stiffing their mounts. But racing stewards tolerate so much petty larceny that it is easy for jockeys and trainers to fall into bad habits.

Observant race-watchers will see, on almost any day, riders who seem to be applying a double hammerlock to their mounts. Students of handicapping will sometimes see form reversals so drastic that they defy all logic. Yet few stewards in America manage to perceive these things, let alone summon jockeys and trainers before them and ask for an explanation.

The stewards ought to be the first line of defense against larceny, and yet I can't name a track in America where they are doing this job properly. But this is the level on which racing has to combat its budding scandals; sweeping plans formulated by panels of industry leaders aren't going to do the job.

But there is another issue in racing—the use of drugs—that can be dealt with by fiat. Sen. Charles Mathias (D-Md.) appeared before the American Horse Council meeting on Monday to issue a warning that the Federal Government may step in to curtail the use of medications.

Mathias is considered a friend of the racing industry, but he said bluntly, "The Federal Government should intervene only as a last resort, but I suspect that is the kind of situation we now have in thoroughbred racing. The pressure is mounting on this subject. On Capitol Hill, there is a rising chorus of protests about the use or abuse of medications on racehorses. It is pretty clear to me that a consensus is forming that this is inhumane to the horses and unfair to the bettors.

"There was a trend toward reform, but it is running out of steam. One-third of the 30 racing states do not restrict anti-inflammatory drugs, steroids or diuretics, and several states are backsliding."

Mathias' criminal law subcommittee can hold hearings on the bill sponsored by Sen. David Pryor and Rep. Bruce Vento that would impose tough federal penalties on drug use at racetracks. "I am very reluctant to call up the federal cavalry," Mathias said, "so I will delay hearings on this bill until after the first of the year to give the states an ample opportunity to preempt the need for federal regulation."

The racing industry seems unlikely to set its own house in order. The Horsemen's Benevolent and Protective Association has fought and impaired many States' efforts to impore a ban on drugs. That organization's president, Don Johnson, doesn't perceive that the horsemen may have to sacrifice some of their own interests for the health of the industry. He told his audience on Monday that the interests of the horsemen come first, and felt that the main problem facing the industry was that cheap, greedy track owners weren't doing enough for trainers.

Other racing officials knew where the HBPA's selfishness is going to lead. "It's going to be hard for any congressman to listen to hearings on the drugging of racehorses and not vote for federal intervention," said Earle Palmer Brown, president of Rosecroft Raceway. Such messy congressional hearing on drugs in racing will make the industry's current image problems seem mild, indeed.●

THE AIRLINE SUBSIDY REDUCTION ACT OF 1981

● Mr. BOSCHWITZ. Mr. President, I join my distinguished senior colleague, Senator DAVE DURENBERGER, in introducing the Airline Subsidy Reduction Act of 1981.

The bill is being introduced to reduce the potential impacts of subsidy reductions, while remaining committed to the President's program of reducing the Federal budget.

I have supported the President in his efforts to reduce the Federal budget, and I will continue to do so. I have traveled all across my State informing Minnesotans that I plan to hang in with the President because I believe the end result of his economic recovery program will be an invigorated economy that will benefit all Americans.

While I agree we should reduce the cost of the subsidy programs, I believe a different alternative than suggested by the administration can achieve the same savings, while providing better airline service to medium and small sized communities.

The administration proposes to eliminate the 406 subsidy program and rely entirely on the 419 essential air service program to provide subsidized air service to small communities. The Civil Aeronautics Board (CAB) projects a savings of $55 million by eliminating the 406 program. Seventy-five percent of the proposed savings will be achieved by eliminating the subsidy to the points where 100 or more passengers enplane per day. We agree with this approach and have made it part of our proposal. The difference between our bill and the administration's proposal involves cities with less than 100 enplanements per day.

The administration proposes completely eliminating the 406 subsidy program on October 1, 1981. In Minnesota, this will have an immediate adverse impact on the communities of Bemidji, Brainerd, Thief River Falls, Hibbing/Chisholm, and International Falls. Currently, Republic Airlines is subsidized under the 406 program to provide service to these communities. If the 406 program is eliminated on October 1, the CAB will have to find a carrier, probably a commuter, to provide service under the 419 program. In the meantime, they would have to hold-in Republic Airlines until a replacement carrier could be found. I am concerned that the CAB has underestimated the cost of the hold-in subsidy.

Many people in the communities that would lose the 406 program service have contacted me sharing our concern over its elimination. The Hibbing, Minn., Chamber of Commerce provided me with a written dialog entitled "Section 406 versus Section 419: Facts versus Fiction." It is an excellent discussion of the major points of concern.

A successful transition from the combined 406/419 programs to a 419-only program requires an adequate and available supply of equipment for commuter airlines to provide service to meet the increased demand created by the elimination of the 406 program. The CAB contention that the necessary equipment will be available is contradicted by a study conducted by the Congressional Research Service in August of 1980. That study stated:

The commuter airline industry is suffering a significant shortage of suitable aircraft. . . . There are limited number of current aircraft designs suitable for efficient use of commuter service, most of which are produced by firms outside the U.S. The rapid expansion of the commuter market provided little lead time for equipment manufacturers. The result is that, since deregulation, commuter airlines have placed orders exceed-

ing $300 million for new aircraft with normal delivery waits of between one and two years.

Adequate air service is of vital importance to communities in all of our States. The 406 program has helped to provide a good level of service to many medium and small communities. Most everyone agrees that a substantial reduction in the cost of the programs can be made. We even agree on how most of the savings can be achieved. However, I remain convinced this bill is a better alternative—one that will achieve the required savings while limiting the negative impact to be felt by many of our small communities.

I ask that the paper to which I have referred be printed in the RECORD.

The paper follows:

SECTION 406 VERSUS SECTION 419

FACTS VERSUS FICTION

A major target for federal budget cutting proposed by the CAB and adopted by the new Administration is subsidized air service to the nation's small communities. Legislation has already been drafted by the CAB and sent to Congress which would eliminate all federal subsidies provided under Section 406 of the Federal Aviation Act.

The legislation leaves intact the "essential air service" subsidy program provided in Section 419 of the 1978 Deregulation Act. The CAB, however, does not regard jet or any other large aircraft service to medium sized or small community as essential. The service authorized by the CAB under Section 419 generally provides for no more than two round trips a day to the nearest hub and frequently contemplates service with aircraft much smaller than customarily offered by certificated airlines. Service under Section 419 also requires an intercarrier connection at the hub city to reach points beyond whereas under 406, single plane or single carrier service to points beyond the hub is provided.

Many communities which would lose Section 406 air service are concerned about the prospect of service under Section 419. They note that data available from the CAB itself does not support the Board's arguments against the 406 program.

Set forth below are some of the fictions concerning both 406 and 419 subsidies, together with some of the actual facts concerning the relative costs, levels of service and equities. These are the issues which must be addressed if the CAB's effort to eliminate Section 406 and rely entirely on Section 419 to provide air service to numerous small cities throughout the country is to be considered objectively.

Fiction.—Where subsidy is necessary to maintain or provide air service to small communities, the Section 419 program provides such service for about half as much as the Section 406 program costs.

Fact.—Since deregulation of the nation's airlines, Section 406 carriers have been replaced in some 25 small cities by commuter carriers and small certificated carriers under Section 419. The total cost of the Section 406 subsidy to the carriers formerly serving these points was about $6.3 million, while the commuters have been awarded 419 subsidies of approximately $5.6 million, a decrease of only 12.5%.

More significant, however, is the fact that the cost of Section 419 in 1980 was $61.96 per enplaned passenger. This compares to a cost of only $19.12 per enplaned passenger under the 406 program during the same period. Thus it takes $3 of federal subsidy under Section 419 to move the same number of passengers as can be moved by $1 of federal subsidy under Section 406.

Fiction.—Section 419 commuter air service is generally as efficient as Section 406 service.

Fact.—A 1980 Congressional Research Service report states that the commuter airline industry is suffering from a significant shortage of suitable aircraft and is providing service in equipment unsuited to the needs of regular passenger service. The limited seating capacity of these aircraft makes scheduling difficult and often leaves passengers stranded on the ground without the protection of denied boarding compensation and baggage liability rules which are required of certificated airlines. Even where the commuters have funds for aircraft purchase, often no aircraft are available from equipment manufacturers, most of whom are outside the U.S.

CRS also reports that the commuters have additional problems training and recruiting personnel, problems with terminal congestion and gate arrangements, and fuel shortages. CRS concludes that in many communities, these equipment scheduling and performance problems are of such magnitude as to make the residents of the small communities that they serve wish for the return of the major carriers.

Fiction.—Commuters and small certificated carriers providing Section 419 service may use smaller aircraft, but the service is more frequent than under Section 406.

Fact.—In the 25 small cities where Section 406 service has been replaced by Section 419 service, the number of departures a week has increased in fewer than one-half of these cities. By comparison, in over 50 percent of these communities the 419 service is either no more frequent or significantly less frequent than it was under Section 406. In addition, the number of passenger seats per week provided by the commuter replacements under Section 419 has decreased by 72.9 percent from the number of seats per week provided by replaced Section 406 carriers.

Fiction.—Section 419 commuter service is more than adequate to serve the needs of local business in small communities.

Fact.—According to Business Week Magazine, commuter service has not yet filled the needs of the business traveler. In fact, loss of major carriers and timely jet service in many small cities has necessitated a rapid but costly increase in private business aircraft travel.

Fiction.—Elimination of the 406 subsidy program will not result in loss of essential air service since the CAB can easily replace that service with Section 419 commuter service.

Fact.—Congressional Research Service reports that for many smaller communities finding a replacement carrier can be very difficult. Because of shortages of aircraft and other factors, the CAB has not always been able to find a commuter ready and willing to perform the service even when subsidy is available. The CAB's attitude that this situation with respect to small cities will rectify itself in time and that communities in need of air service will eventually get it was described by CRS as "laissez-faire."

Fiction.—Section 406 subsidies are paid to provide an unnecessarily high level of air transportation to a few small communities in the United States.

Fact.—Section 406 is a program which subsidizes 140 small cities whose overall share of the federal budget is miniscule compared to the nation's large cities. For example, cities with populations in the range of most of the 406 points, 50,000 or less, received an average of $100,000 each in total federal revenues in 1978–79. By comparison, cities with populations of 500,000 to 1,000,000 received an average of $48,000,000 each during the same period. Thus, the share of the larger urban areas was more than 480 times larger than the share of most Section 406 cities. Measured another way, the cities of 50,000 or less received only $38.95 per capita in federal funds in 1978–79 compared to $186.59 per capita in federal funding received by cities in the 500,000 to 1,000,000 population range.

Fiction.—Elimination of Section 406 is consistent with this Administration's overall efforts to reduce federal spending in all areas, including transportation.

Fact.—Reductions in federal spending are desirable and should be supported where the proposed cuts are reasonable and impact all elements of the transportation industry and the traveling public equally. The CAB's proposal, however, is not merely a reduction in subsidized air service to the nation's small communities but a virtual elimination of all scheduled jet and large aircraft service to over 140 small cities throughout the nation. By comparison, the new Administration is proposing to spend $3.6 billion for urban mass transportation systems in FY 1982, a figure more than 42 times greater than the $88.5 million cost of the 406 program as originally programmed for next year.●

SOVIET OCCUPATION OF THE BALTIC STATES—41ST ANNIVERSARY

● Mr. ZORINSKY. Mr. President, once again we are reminded of the ongoing struggle for human rights in many regions of the world, as we acknowledge the 41st anniversary of the occupation of the Baltic States of Lithuania, Latvia and Estonia by the Soviet Union. This anniversary should perhaps best be commemorated not as one more year of Soviet occupation, however, but as one more year of Lithuanian resistance to that occupation. The struggle by the Baltic States for independence and freedom from domination by the Soviet Union has not wavered throughout the past four decades.

The Baltic countries experienced a brief period of freedom and economic expansion between World Wars I and II. By 1938, the Baltic States of Lithuania, Estonia and Latvia had elevated their position in world commerce to such an extent that their combined volume of trade had far surpassed that of the Soviet Union—the latter a nation with 18 times the Baltic population. However, the Soviet military occupation of the Baltic States in 1940 and the subsequent Soviet-engineered incorporation of the region in August of that same year brought the period of Baltic prosperity to a crashing halt.

Mr. President, Americans have never recognized this illegal action by the Soviet Union, and on the 41st anniversary of the occupation we must once again recall the words of then Secretary of State Sumner Welles on behalf of the people of the Baltic States, and on behalf of the human rights struggle around the globe:

The people of the United States are opposed to predatory activities no matter whether they are carried on by the use of force or by the threat of force. Nor can we watch without protest when powerful states intervene in the domestic affairs of their less powerful neighbors. The United States will continue to stand by these principles because of the conviction of the American people that, unless the doctrine in which these principles are inherent once again governs the relations between nations, the rule of reason, of justice, and of law, in other words the basis of modern civilization itself, cannot be preserved.

Mr. President, I request that a statement submitted to me by the Lithuanian American community of Omaha be printed in the RECORD. The statement follows:

FORTY YEARS OF LITHUANIAN RESISTANCE TO FOREIGN OCCUPATION

No one act so violates our ideals of freedom as the signing of the infamous Molotov-Ribbentrop Pact of 1939 by Nazi Germany and Soviet Russia, in which, they divided the sovereign nations of Eastern Europe between them.

As a consequence, in June of 1940, Soviet armies overran the Baltic States of Lithuania, Latvia and Estonia and forcibly annexed them into the Soviet Union.

To excise growing resistance within Lithuania, the NKVD (predecessor of the KGB) rounded up more than 35,000 men, women and children on the nights of June 14 and 15, 1941, crammed them into cattle cars and shipped them to Siberian concentration camps, from which few ever returned. Only the swiftness of the Nazi invasion of Lithuania, one week later, prevented the NKVD from eliminating over 700,000 Lithuanians whose names were found on undestroyed deportation lists.

This Russian attempt to stifle dissent was actually the catalyst that unified Lithuanian resistance against all foreign invaders. Indeed, on June 22, 1941, when Germany attacked the Soviet Union, a carefully planned anti-Soviet revolt erupted throughout Lithuania, resulting in the formation of a Provisional government. This government, however, was an obstacle to German designs for a "New Europe", and on August 5, 1941, the Provisional Government of Lithuania ceased to function. Thousands of Lithuanian leaders who had survived Soviet dragnets found themselves headed for Auschwitz, Dachow and other extermination camps for resisting Nazi rule or aiding Jews. In all of Europe, only the Lithuanians refused to form any SS unit for the Nazis.

The Russians reoccupied Lithuania during the winter of 1944, and until 1952, anti-Soviet partisans struggled against the Soviet military occupation in protracted guerrilla warfare, at a cost of over fifty thousand Lithuanian lives—martyrs for freedom.

For more than forty years, occupation and genocide have been repeated by the USSR and its client states, not only in Lithuania, but also in Eastern Europe, Asia, Africa, Central and South America and most recently in Afghanistan. Indeed, during its entire sixty-three years in power, Communist Russia has remained an ideologically dogmatic, politically repressive, and internationally predatory state which has exploited every opportunity to control its weaker neighbors.

The treatment of the signers of the 1979 Baltic Memorandum, which called for the public disclosure and the abrogation of the secret protocols to the nefarious Molotov-Ribbentrop Pact is typical of Russian repressive measures. Of the forty-five signers of the Baltic Memorandum, six have been arrested, two have been committed to psychiatric institutions, two have died, one has been forcibly resettled, and one has escaped to freedom in the West. Only time will reveal the fate of the remaining thirty-three.

Western correspondents and Western government officials must continue to focus world attention on the Soviet Union's blatant disregard of human rights and fundamental freedoms. The Soviet Union must be made to realize that it will be held accountable for its denial of basic human rights in the Baltic States and the other Captive Nations. The issue of self-determination for the Baltic States must be addressed in the United Nations and all international forums.●

COMMEMORATION OF THE JUNE 15, 1940, OCCUPATION AND INCORPORATION OF LITHUANIA INTO THE SOVIET UNION

● Mr. BUMPERS. Mr. President, it is a privilege for me to join Lithuanian Americans throughout our country to commemorate the June 15, 1940, forcible occupation and incorporation of Lithuania into the Soviet Union. Since that time, the people of Lithuania have suffered repression and repeated violations of their basic human rights. Thousands of Lithuanians died in the resistance to Soviet annexation and hundreds of thousands more were imprisoned or deported to Siberian labor camps for refusing to relinquish their heritage.

While the Soviet Union has succeeded in temporarily extinguishing the flames of political freedom in Lithuania, the desire for independence is still very much alive. Despite political and cultural repression and religious persecution, dissidents continue to battle for their rights at great personal risks, and struggle to keep communications open to the West.

Today, in commemorating this tragic anniversary, we rededicate ourselves to the tireless promotion of human rights and national freedom and in so doing, uphold the principles of our own democratic heritage. With the support and cooperation of millions throughout this country and other nations, we urge the Soviet Union to comply with the human rights provisions of the Helsinki agreements and dedicate ourselves to promoting the just cause of Lithuanian self-determination.●

THE POTENTIAL OF THE HIGH TEMPERATURE GAS REACTOR

● Mr. SCHMITT. Mr. President, the issue of nuclear power has been the subject of many hours of debate and, no doubt, will be discussed at length in the future.

The economic growth of the United States in past years has been attributed in part to the major role which low cost and abundant supplies of energy have played in our development. Today we are confronted with the fact that fossil energy is no longer cheap and there is not an unlimited supply of fossil fuels. More important for future generations is the fact that these valuable natural chemicals should not be burned as fuel any longer than absolutely necessary.

If this Nation is to have a reliable source of low cost energy, it is essential that we continue to develop new technology of alternative energy resources. One such technology is the High Temperature Gas Reactor (HTGR).

A recent article in Scientific American points out the March 1979 Three Mile Island nuclear reactor accident is a shock from which the nuclear power industry has not yet recovered.

Author Harold M. Agnew, the former Director of the Los Alamos Scientific Laboratory, notes:

> Perhaps the principal lesson of Three Mile Island is that the current generation of nuclear power plants is vulnerable to certain rare events that can lead to a condition where the time available for responding correctly can be less than a minute.

Dr. Agnew appropriately asked:

> Do we need to be content with nuclear reactors of a design such that operators must react correctly within a minute in order to prevent damage to the reactor?

All but one of the 71 nuclear power plants commercially in operation today are an adaptation of the first reactor used to power the U.S. Nautilus launched in 1954. The exception is a helium-cooled reactor, and HTGR, operated by the Colorado Public Service Company at Fort St. Vrain.

As noted in Dr. Agnew's article:

> The Fort St. Vrain experience has verified several important safety and operating advantages of the HTGR.

Because the HTGR reacts slowly to unexpected operational changes, an operator has sufficient time to take appropriate corrective action. Dr. Agnew further stated, "hours rather than seconds."

The HTGR reactor at Fort St. Vrain is the only reactor not required by the Nuclear Regulatory Commission to have a full time expert on site. Such an expert is on call to report within an hour, if needed.

In addition to safety advantages, the improved performance characteristics of the HTGR provide several environmental advantages over the current generation of nuclear power plants.

The HTGR releases less waste heat; consumes less water; can be located at arid or semi-arid sites; operates at an higher efficiency; produces less solid waste; and consumes less uranium.

Says Dr. Agnew:

> In general, maintenance, repair and handling costs are lower in an HTGR plant. He suggests that once the Fort St. Vrain reactor has been brought up to full power this summer and demonstrates the exceptional safety and reliability that its designers predict, U.S. utilities will "look favorable on the HTGR when they are again ready to place orders for nuclear power plants.

Mr. President, the Committee on Energy and Natural Resources has recognized the potential of this form of nuclear power. In the committee report on the fiscal year 1982 authorizations for the Department of Energy civilian programs, the committee directs the Secretary of Energy to pursue commercialization of this technology. The House Armed Services Committee has directed a feasibility study on the prospect of using this nuclear technology to meet the energy requirements of two national research labs, Sandia National Lab at Albuquerque and the Los Alamos Scientific National Laboratory.

A key element in congressional support for the HTGR has been in recognition of the strong support by the utility industry. The House Science and Technology Committee recognizing the potential for this technology has recommended a fiscal year 1982 funding level of $40 million.

During consideration of the fiscal year 1981 supplemental, both the House and Senate Appropriations Committees rejected a reduction of $21 million in the funding of this program.

I would strongly encourage my colleagues to familiarize themselves with the HTGR, as I am certain you are going to be hearing more about this advanced technology in the months to come.

Mr. President, I ask that the article by Dr. Harold Agnew, "Gas-cooled Nuclear Power Reactors," be reprinted in full in the RECORD.

The article follows:

[From the Scientific American, June 1981]

GAS-COOLED NUCLEAR POWER REACTORS

(By Harold M. Agnew)

In March, 1979, the nuclear power industry suffered a shock from which it has not yet rocovered: the accident that disabled one of the nuclear reactors at Three Mile Island. It is ironic that an event that caused no discernible physical harm to anyone crippled the prospect for expanding nuclear power at the very time the nation was becoming generally aware of the need for new domestic sources of energy.

Although the experience at Three Mile Island demonstrated to the satisfaction of technically qualified people that present-day water-cooled nuclear reactors offer no significant threat to the health and safety of the general public, it also showed that such accidents and equipment failures can jeopardize the operability of the plant and place at risk the heavy capital investment it represents. In the extreme case an accident such as the one at Three Mile Island can threaten the financial survival of the operating utility.

Perhaps the principal lesson of Three Mile Island is that the current generation of nuclear power plants is vulnerable to certain rare events that can lead to a condition where the time available for responding correctly can be less than a minute. In such low-probability events if the appropriate actions are not undertaken immediately, the consequences can be extremely costly even when public safety is not at issue. It is reasonable to ask: Do we need to be content with nuclear reactors of a design such that operators must react correctly within a minute in order to prevent damage to the reactor? The answer is no.

That being the case, how did the U.S. nuclear power industry come to follow the path it did? The dominance in the U.S. of the light-water reactor has a simple explanation. The pressurized-light-water reactor is a straight-forward adaptation of the highly compact reactor designed to propel the first nuclear-powered submarine, the U.S.S. *Nautilus*, launched in 1954. An electric-power version of the submarine reactor, built by the Westinghouse Electric Company, went into service at Shippingport, Pa., three years later. The General Electric Company soon introduced a reactor design of its own, the boiling-water reactor, in which the heat generated by nuclear fission was carried away from the core by steam rather than by pressurized hot water.

In both types of reactor it is essential that the reactor core not be uncovered, even briefly, lest the temperature in the core quickly rise and melt the metal jackets around the fuel pellets, as indeed probably happened at Three Mile Island. Light-water reactors are equipped with redundant safety features to cope with a "loss of coolant" accident. In such accidents the emergency equipment is designed to flood the core with water from a plentiful and assured source. When the normal coolant flow was interrupted at Three Mile Island, a sequence of improbable events, including apparent operator error, interrupted the delivery of the emergency cascade of water for too long a time.

All but one of the 71 commercially licensed and operating nuclear power plants in the U.S., which currently supply about 11 percent of the nation's electric power, are light-water reactors. The exception is a helium-cooled reactor, the Fort St. Vrain Nuclear Generating Station, which was accepted for service in the summer of 1979 by the Public Service Company of Colorado. The plant's rated capacity is 330 megawatts of electric power, or MWe, which is about a third the output of a standard commercial power plant. The reactor has been operating at up to 70 percent of rated power and has recently been released by the Nuclear Regulatory Commission for testing at up to full power.

The Fort St. Vrain demonstration plant was designed and built for the Public Service Company of Colorado by the General Atomic Company as a part of the Atomic Energy Commission's Power Reactor Demonstration Program. This followed the successful operation of a 40-MWe prototype, Peach Bottom Atomic Power Station No. 1, on the system of the Philadelphia Electric Company. In its seven and a half years of operation, from 1967 through 1974, the Peach Bottom reactor was available for service 86 percent of the time (except for scheduled shutdowns related to the research and development objectives of the reactor itself). The comparable figure for all U.S. nuclear reactors is about 66 percent.

The key safety features that differentiate the helium-cooled reactor from water-cooled reactors are two. First, since the reactor core is cooled by a circulating gas completely confined within a massive reactor vessel, the reactor cannot lose its primary coolant because of a rupture of pipes outside the vessel. Second, if the circulation of the gas is interrupted by some mishap to all of the main helium-circulation system, the temperature within the reactor core rises only slowly because the fuel elements are embedded in a massive matrix of graphite, which serves as the moderator for slowing down neutrons and which can absorb the heat released by fission products after the nuclear chain reaction itself has been halted. In a helium-cooled graphite-moderated reactor the nuclear reaction is halted by the insertion of control rods, similar to those in all reactors, or alternatively by the injection of small boron-containing balls that "poison" the reaction. In water-cooled reactors the loss of the coolant, which also acts as the moderator, stops the reaction.

If the emergency cooling systems in a light-water reactor should fail to function, the temperature in the reactor core would rise even after the reaction had been shut off because the fission products accumulated in the fuel elements would continue to release energy at a high rate. At the instant of shutdown, decay heat amounts to about 7 percent of the rated thermal output of the reactor, or about 210 megawatts in a water-cooled plant with a thermal rating of 3,000 megawatts (equivalent to an electric output of 1,000 MW). It is estimated that in such a loss-of-coolant accident the temperature of the cladding around the fuel elements would reach 3,000 degrees Fahrenheit and fuel failure would begin in as little as 50 seconds in a pressurized-water reactor and in less than two minutes in a boiling-water reactor. With a helium-cooled reactor, in a comparable event involving a system depressurization and the total failure of the helium-circulation system, more than an hour would be required for the temperature inside the core to reach 3,000 degrees F. At that temperature both the coated fuel particles and graphite fuel elements in a helium-cooled reactor would not be affected. The fuel particles and graphite can readily withstand temperatures of up to 4,000 degrees F., which would not be reached until at least 10 hours had elapsed. In short, there is ample time to institute a variety of reasoned emergency measures for restoring the flow of helium coolant.

The virtues of gas-cooled graphite reactors have been widely recognized elsewhere in the world. In the 1950's and 1960's, when the U.S. had committed itself to light-water reactors, Britain and France developed gas-cooled graphite-moderated reactors, in which the coolant was carbon dioxide rather than helium. Britain now has more than 40 gas-cooled reactors in operation or under construction, France has seven and Italy, Spain and Japan have one each. More than 600 reactor-years of operating experience has been acquired with the European gas-cooled reactors. Such reactors have accounted for nearly a fifth of the total nuclear power generated in western Europe, Japan and the U.S. so far.

The British and French efforts were at an early stage in 1956 when a group of physicists, many of them with experience at the Los Alamos Scientific Laboratory, gathered at La Jolla, Calif., to consider the problem of designing a reactor that would be both more efficient and inherently more "forgiving" than the reactors then available. Among those present were H. A. Bethe of Cornell University, Freeman J. Dyson of the Institute for Advanced Study, Peter Fortescue of the Atomic Energy Research Establishment at Harwell in England and Frederic de Hoffmann, who was then president of General Atomic. Out of these early deliberations, aided by concepts from Britain and France, evolved the concept of the high-temperature gas-cooled reactor, or HTGR, tested at Peach Bottom and on a larger scale at Fort St. Vrain. Because the U.S. has plentiful supplies of helium, that gas could be selected as a coolant instead of carbon dioxide. Helium has the important advantage that it is stable to the high radiation flux in the reactor, does not become radioactive, is chemically inert and has excellent heat-transfer characteristics.

The attractive features of HTGR's were summarized by Joseph M. Hendrie, chairman of the Nuclear Regulatory Commission, in testimony before a congressional subcommittee in March, 1980. Such reactors, he said, "have efficiencies as good as the best fossil-fuel plants and are substantially more efficient than the water-cooled reactors. They not only get better thermal efficiency but also get better energy utilization out of each pound of uranium that is mined, better, in fact, by probably 15 or 20 percent than the best estimates for advanced light-water fuels." He added that HTGR's "have some safety advantages. They are machines in which you don't have to do a lot of things in a hurry if something goes wrong because the core structure is a great massive pile of graphite, a very high-temperature and stable material, so that if you get a power dropoff or the plant circulators go out, [you have time] to sit down and think about what to do."

The first series of gas-cooled reactors built in Britain were called Magnox reactors because the fuel rods, which contained natural unenriched uranium, were clad in a magnesium alloy. The reactor core, incorporating many tons of graphite, was housed in a large and expensive steel pressure vessel many times bigger than the pressure vessels needed for light-water reactors. Then in 1958 French engineers showed that the steel vessel could be replaced with a vessel of prestressed concrete that could be constructed in sizes large enough to house the entire reactor system, including the steam generators. The prestressed-concrete reactor vessel, or PCRV, is kept in compression at all times

by a network of redundant, tensioned steel tendons that can be monitored and retensioned or even replaced if necessary. Tightness against leaks is ensured by a steel liner affixed to the inside of the PCRV, which acts only as a membrane seal to contain the coolant. The liner and the walls of the PCRV are cooled by water circulating through tubes that are welded to the outer surface of the vessel.

PCRV's were subsequently adopted for all French and British gas-reactor systems. The high degree of safety afforded by the concrete vessel contributed to the British decision to construct a second generation of reactors known as advanced gas reactors (AGR's) near urban sites. In this second generation the fuel was uranium oxide, a ceramic, clad in stainless steel, a change made possible by the adoption of slightly enriched uranium. With the new fuel AGR's could operate at higher temperatures than the Magnox-fueled reactors and were able to "burn" more of the uranium 235 in the fuel before refueling became necessary. With higher temperatures the efficiency of electric-power generation was raised from about 30 percent to a little more than 40 percent.

In the U.S. the Atomic Energy Commission (a predecessor agency of the Department of Energy) nutured interest in gas-cooled reactors in the 1950's and 1960's by supporting the study of several advanced reactor concepts. One of the AEC's main objectives was to reduce the amount of uranium required per unit of electric power; at that time uranium resources appeared scarce in relation to the projected needs. As a result the study emphasized reactor concepts that were either breeders or advanced converters. A breeder creates at least one atom of new fuel for each atom of fuel consumed. Advanced converters generally create from .7 to one atom of fuel for each atom consumed. Light-water reactors yield between .5 and .6 atom of fuel for each atom consumed. The high-temperature gas-cooled graphite-moderated reactor qualifies as an advanced converter. It was one of the designs that survived the inevitable weeding out. The HTGR had strong support from the utility industry because it is competitive in capital costs with light-water reactors and because it exploits a uranium-thorium fuel cycle with a low uranium consumption and therefore low fuel costs.

The continuing evolution of gas-reactor technology in Europe and the U.S. has led to a convergence in at least two important particulars for the next stage in the development of gas-cooled reactors. Helium replaces carbon dioxide as a coolant and the reactor core is charged with nuclear fuel in a unique system that dispenses with the need for a metal cladding. The two features have been demonstrated not only at Peach Bottom and Fort St. Vrain but also in two European reactors. The British operated a helium-cooled 20-MW thermal test reactor in southern England from 1965 to 1976. In Germany an HTGR of 15 MWe (called the AVR) has been generating electric power since 1967, with the outlet gas temperature being as high as 950 degrees Celsius. (The temperature of water leaving the core of a pressurized-light-water reactor is about 610 degrees F., or 321 degrees C.) A 300-MWe plant based on the AVR experience is now under construction in Germany and is scheduled for start-up in 1984 or 1985. In the U.S. the Fort St. Vrain reactor of 330 MWe has provided more than two billion kilowatt-hours of power since 1978 and has demonstrated the fuel performance and safety characteristics of a contemporary HTGR design. The reactor has been subjected to test transients up to and including the complete loss of forced-coolant circulation with no adverse effects on the reactor core or on other primary components of the system.

On the basis of the Fort St. Vrain experience General Atomic, in cooperation with Gas-Cooled Reactor Associates (an organization of U.S. utility companies) and the Department of Energy, has developed a reference design for an HTGR of 860 MWe. The goal has been a design that is simple and conservative and that places high emphasis on the safety and protection of capital investment. The reactor core is contained within a multicavity prestressed-concrete reactor vessel. Helium leaves the core at 1,266 degrees F. (reduced from 1,494 degrees F. at Fort St. Vrain) and passes through four primary coolant loops, where steam is generated at a temperature of 1,000 degrees F. and a pressure of 2,500 pounds per square inch.

Helium is forced through each coolant loop by a circulator driven by an electric motor. (The Fort St. Vrain circulators are driven by steam.) The core also is provided with an auxiliary cooling system consisting of three loops, each sufficient by itself to deliver 100 percent of the required cooling when the helium in the reactor vessel is at the normal working pressure of 1,050 pounds per square inch, or 50 percent of the cooling when the vessel is depressurized. The helium that passes through the auxiliary cooling system is cooled with water circulated by electrically driven pumps that can be powered, if need be, by diesel generators.

The combination of a stable, inert gas for a reactor coolant and a highly temperature-resistant graphite core structure allows steam to be generated at the high temperatures and pressures found in the modern electric-power plants that burn fossil fuel. The net electric-generating efficiency of the HTGR reference design is 38.5 percent, slightly below the 39.2 percent achieved at Fort St. Vrain. The small reduction was made in the interest of simplifying the steam-generating system and to furnish still further operating and safety margins.

A fundamental property of the helium coolant, a confined gas that cannot possibly condense to liquid form in the system, is that it follows a linear temperature-pressure relation; therefore instrument readings of temperature and pressure can provide independent checks on each other. Because there is no liquid-gas interface, as there is in boiling-water reactors (and in pressurized-water reactors under certain emergency conditions), a single unambiguous signal—pressure—always indicates the presence and physical condition of the coolant. Rapid depressurization of the primary cooling system can be tolerated without concern that voids have formed and left part of the core uncovered, as can happen when pressure is released from water that is above its atmospheric boiling point.

The Fort St. Vrain experience has verified several important safety and operating advantages of HTGR's. Operating and maintenance personnel have received exposures to radiation far below the limits established for nuclear plants. Fewer than 10 workers out of a total of several hundred have received amounts of radiation that were even measurable.

The Fort St. Vrain system has responded smoothly and gracefully to load changes caused either by transient excursions in the power-generating cycle or by the temporary shutoff of equipment within the plant. Because the core of the HTGR is large and releases less heat per unit volume than light-water reactors do and because the massive core, incorporating some 1,500 tons of graphite, has a large capacity to absorb heat if coolant flow is reduced or interrupted, the reactor responds slowly to an unexpected operational upset, allowing the operators enough time to take appropriate action: hours rather than seconds.

At Fort St. Vrain five such upsets have interrupted the forced circulation of helium for extended periods without giving rise to a measurable increase in the temperature of the core or harming the plant or the fuel in any way. The risk of damaging the reactor or the reactor core through operator error is virtually eliminated. Thanks to the HTGR's thermal stability the system for bringing the activity of the reactor to a halt by the insertion of neutron absorbers and the systems for emergency cooling can be of simple design. There is also ample time for such systems to be actuated manually if it is allowed by regulation. One consequence of the Three Mile Island accident is that the Nuclear Regulatory Commission now requires the full-time presence of an on-site expert, called a shift technical adviser, at nuclear power plants. Fort St. Vrain is the only reactor exempted from this rule; an expert is not required to remain on the site but is on call to report within an hour.

The prestressed-concrete reactor vessel is incorporated in the design as a major safety feature. First, a catastrophic rupture of the PCRV is such a remote possibility that risk analysts characterize it as being incredible. Every steel tendon that gives the PCRV its strength is independent and redundant; the vessel is in a constant state of compression. Second, the PCRV is designed to withstand an ultimate pressure of more than twice the normal operating pressure, or some 2,400 pounds per square inch. Any crack in the steel liner that might result from excessive pressure can do no more than give rise to a slow gas leak; such leaks tends to seal themselves when the pressure is reduced slightly. Third, total depressurization can result only if there is a failure of one of the pipe penetrations or small service lines that pass through the wall of the PCRV. Such a hypothetical failure is an extremely low-probability event. Moreover, at each penetration site the vessel is equipped with flow limiters that prevent the rapid release of gas that could cause structural damage to the core or to the cooling system.

The improved performance characteristics of the HTGR also offer several environmental advantages over the current generation of reactors. Because an HTGR operates at an efficiency of about 39 percent compared with an efficiency of about 33 percent for light-water reactors, an HTGR releases about 25 percent less waste heat to be dissipated into the surrounding environment. If the heat, in the form of hot water, is rejected into a nearby lake or river, concern about raising temperatures to a point harmful to the aquatic ecosystem is reduced proportionately. If cooling towers are used to dissipate the heat, they consume less water and can be smaller and less expensive. If cooling ponds are used, an HTGR plant with about a third more megawatts of capacity than a light-water plant can be sited on a pond of a given size without exceeding a specified pond temperature. Where dry cooling towers must be adopted to meet environmental regulations or fit available water supplies, the loss of plant capacity in hot weather will be only about half as great with an HTGR as it is with existing nuclear power plants. As a result an HTGR plant can be situated at a remote arid or semiarid site with a smaller penalty in cost.

The level of radioactivity in normal discharges from all nuclear power plants is carefully monitored. An HTGR plant inherently releases into the plant process streams less radioactivity and at lower concentrations than a light-water reactor does. In addition an HTGR incorporates features that will ensure that releases of radioactivity from the plant to the environment are essentially zero. Routine decontamination procedures can be expected to produce small volumes of low-level liquid wastes (less than 2,000 gallons per year with a total activity of less than 150 curies). Such small volumes can be

shipped off-site with little difficulty or retained on-site. The solid wastes produced by an HTGR should total less than 2,000 cubic feet per year. Some 80 percent will consist of low-level waste (such as paper, filter elements and spent resins) that is only slightly contaminated and can be shipped off-site in drums for burial or burning with virtually no effect on the environment. The remaining 20 percent will be intermediate-level waste, consisting chiefly of reflector blocks, which must be periodically replaced. Such waste can be shipped off-site in shielded 55-gallon transport casks for long-term safe disposal.

Helium-purification and gas-recovery systems incorporated in the standard HTGR plant should reduce the radioactive levels in released gases to several orders of magnitude below the current Government regulation of five millirems per year. Tritium (the radioactive isotope of hydrogen) generated within the primary system of an HTGR is removed in the helium-purification system by an oxidizer that converts the tritium into tritiated water, which is subsequently solidified and handled as solid waste that can be readily isolated as the tritium decays. (The half-life of tritium is 12.26 years.)

The HTGR has evolved a number of features that simplify operation, maintenance and refueling. For example, the entire primary coolant, helium, is confined within the prestressed-concrete reactor vessel. The PCRV itself provides all the necessary shielding for personnel, so that maintenance work can be done throughout the reactor building while the plant is in operation. Because the entire secondary steam system is essentially free of radioactivity all equipment in the steam cycle outside the PCRV, including the turbine-plant equipment, can be operated and maintained as it would be in a plant fired with fossil fuel. Because the amount of steam flowing to the turbines in an HTGR plant is only about 60 percent as large as that flowing to the turbines in a light-water power plant of the same output, all the equipment associated with the steam and feedwater cycles of an HTGR plant is small and therefore easier to maintain. In general, maintenance, repair and handling costs are lower in an HTGR plant than they are in light-water plants because helium, unlike water, is inert, nonradioactive and noncorrosive.

One big advantage of gas as a coolant is its transparency, which makes it possible to inspect many areas within the PCRV visually. The radiation shielding inherent in the design of the PCRV makes it possible to carry out many inspection and maintenance tasks while the reactor is running, which reduces the time the reactor must be taken out of service for such purposes.

Essentially all structural members of the PCRV, such as the vertical tendons and the circumferential cable wrapping, can be inspected visually while the reactor is operating. Selected members are continuously monitored for changes in tension or strain that would indicate a deterioration in performance. If necessary, any structural member can be replaced. All external concrete surfaces, except those immediately surrounding the ports for the control rods, can be inspected visually while the plant is running. The control-rod ports and the surfaces surrounding the site where the control-rod drives penetrate the PCRV can be readily inspected in the course of refueling.

Recent refueling experience at Fort St. Vrain has demonstrated the ease of handling the HTGR's block-type fuel elements. About 240, or a sixth, of the fuel elements were removed from the core and replaced with fresh fuel; the other 1,240 elements were left in place. The refueling crew was exposed to such low levels of radiation that measuring them called for a microrem meter. By extrapolating from existing data one can calculate that the sum of the integrated manrem exposure for the entire refueling operation following on the operation of the reactor at full power will be less than five man-rem. Federal regulations currently limit individual workers to five rem over a period of a year.

Each HTGR fuel elements is a graphite block, hexagonal in cross section, 14 inches wide and 31 inches long. The block is perforated lengthwise with 72 coolant channels and 138 blind holes for fuel. Graphite is an ideal choice as a moderator and a structural material because its strength actually increases with temperature. In the reference design the graphite fuel blocks are stacked in columns of eight. This axially segmented arrangement facilitates fabrication, handling and refueling.

The convenient block configuration has been made possible by the development of a specially coated fuel particle. The kernel of each particle is a microsphere of uranium oxycarbide (suitably enriched in uranium 235) about .01 inch in diameter. Around each kernel thin layers of carbon, pyrolic carbon and silicon carbide are applied at high temperature, yielding a tightly encased particle with a total diameter of about .03 inch. A similar form of encapsulation is used for the thorium particles. The technique ensures the containment of the fission products. The tiny spheres are tested in batches of 2,000 for structural integrity when they are exposed to a radiation flux that simulates the internal environment of the reactor. The particle-production process, which is semiautomatic, and the rigorous testing procedure work together to achieve a close control of quality.

Although severe and unforeseen service conditions in one region of the reactor core might cause the particle coating to fail and release fission products, the failure would be limited to the area directly involved. In most reactors, where the cladding of the fuel elements run the entire length of the reactor core, an operating upset that ruptures a small section of cladding could release fission products from the entire length of the fuel rod. The performance of the fuel elements at Fort St. Vrain has fully met design expectations. Indeed, the release of fission products has been well below the predicted levels. In sum, the fission-product barriers in the HTGR fuel element have been demonstrated to have a high degree of reliability.

The properties of the HTGR make it possible to exploit a wide variety of nuclear fuel cycles with it. The cycle that has been most intensively studied and tested is the uranium-thorium one, in which fully enriched uranium (93 percent U-235) serves as the primary fissile material and thorium (Th-232) serves as a "fertile" material. In the reactor the thorium absorbs neutrons and is ultimately converted into the fissile isotope uranium 233, which can be recycled in subsequent fuel reloadings. The Fort St. Vrain reactor is fueled with uranium enriched to 93:5 percent U-235, in combination with thorium. The design of the plant allows the use of either fully enriched or medium-enrichment uranium (about 20 percent U-235). The HTGR fuel-cycle costs, under the current restraints on fuel reprocessing and recycling, are essentially equivalent to those of other commercial plants. Unless the policy is changed by the Administration spent fuel is to be stored indefinitely, without recovery either of the unspent U–235 or of the U–233 or plutonium created during the operation of the reactor. This fuel cycle is commonly called the stowaway cycle.

If an HTGR were operated on a stowaway uranium-thorium cycle with fully enriched uranium, it would consume about 20 percent less uranium over its 40-year life than a light-water reactor would. If both types of reactor could be operated with a full recovery of their uranium and plutonium, the HTGR would consume about 50 percent less uranium. The HTGR therefore offers the opportunity of saving substantial amounts of uranium with either a stowaway policy or a full-recycle one, provided the reactor is designed to accept fully enriched fuel. The significance of the potential uranium savings can be appreciated when one considers that the total fuel cost over the life of a nuclear power plant is roughly equal to the total initial cost of the plant.

Over the past six years orders for about 55 nuclear power plants have been canceled. Only six years ago U.S. utilities had demonstrated interest in constructing 10 HTGR plants. Once the Fort St. Vrain reactor has been brought up to full power, which is scheduled for this summer, and has demonstrated the exceptional safety and reliability that its designers confidently predict, it is seasonable to assume that U.S. utilities will look favorably on the HTGR when they are again ready to place orders for nuclear power plants.●

THE DEMISE OF HCRS

● Mr. CRANSTON. Mr. President, Secretary of the Interior James Watt, who served from 1972 to 1975 as Director of the Bureau of Outdoor Recreation, testified at his confirmation hearings that he was especially proud of his role in raising the authorization level of the land and water conservation fund from $300 million to $900 million. Yet as soon as he took office he supported the Reagan administration's slashing of LWCF moneys and he abolished the Heritage Conservation and Recreation Service, the successor agency to the Bureau of Outdoor Recreation, which administered the fund.

HCRS was the agency within the Department of the Interior which provided grants and technical assistance for natural and cultural preservation and recreation to Federal agencies and State and local governments. Since HCRS was not a land-managing agency, it could focus on developing strong ties with State and local governments. The agency was an excellent one and very popular with communities in California. It was the regional staff of HCRS that laid the groundwork for designation of 1,200 miles of northern California rivers as national wild and scenic rivers to be administered by the State of California.

From 1977 to 1980, HCRS's record in natural preservation was impressive. The agency accelerated the national natural landmarks program, designated over 400 national recreation trails, completed a nationwide inventory of America's wild and scenic rivers, and worked closely with State and local governments to identify and protect important natural areas.

In abolishing HCRS on May 31, Secretary Watt made no claim that the agency did not work—only that money could be saved. Mr. President, I believe that it is important that the many valuable functions performed by HCRS be continued at the same level by the National Park Service which is now responsible for these activities. In closing, I wish to share with my colleagues the achievements of HCRS in the area of natural preservation, and I ask that excerpts from the report "HCRS Accomplishments, 1977 to 1980," be printed at this point in the RECORD.

The excerpts follow:

EXCERPTS FROM HCRS ACCOMPLISHMENT REPORT, 1977–80

NATURAL PROGRAMS

A. National natural landmarks (NNL)

Completed an accelerated review of 1400 potential NNL candidates in FY 1980. Identified approximately 200 areas which appear to meet criteria for NNL status: 76 were designated by the Secretary of the Interior by August 1980.

Continued natural history studies, including contract awards for all but 2 of the 33 natural regions of the United States, Puerto Rico, the Virgin Islands, and the Pacific Trust Territories to provide a logical and scientific basis for designating NNLs.

Decentralized and streamlined the NNL identification and review processes. Published regulations in the Federal Register in 1979 for the first time since the program was created in 1963.

Initiated several pilot programs to help monitor the condition of NNLs. These include agreements with the Boy Scouts of America and the Soil Conservation Service, and between HCRS regional offices and several states to monitor and supply information on damaged and threatened NNLs.

Prepared the portion of the annual Section 8 report which lists NNLs exhibiting known or anticipated damage or threats to their integrity.

B. Natural resource systems planning

1. National Trails System:

Designated over 400 National Recreation Trails (NRTs)—the number of NRTs designated during the past 2 years is more than twice the total number designated during the program's first 7½ years. Most of the 494 NRTS now in the National Trails System are accessible to cities.

Developed a major trails system planning program to assess existing trails, develop plans for trails actions nationwide, and stimulate the development of new trails. The program started in September 1979 and will be completed in February 1981, with 38 regional workshops already held across the nation.

2. National Wild and Scenic Rivers System:

Completed a nationwide rivers inventory to identify potential wild, scenic, and recreational rivers. The inventory covers over 354,000 river miles and identifies 58,000 that are potentially eligible for federal, state, or local conservation actions.

Distributed results of the nationwide inventory to all federal agencies. Implemented a presidential directive that all federal agencies take care to avoid or mitigate any adverse effects of their actions on rivers identified in the nationwide inventory.

Revised the wild and scenic river study and management guidelines to accelerate the study process and ensure the consideration of river ecosystems and rivers in urban areas.

3. Barrier Islands:

Initiated a barrier islands study (Atlantic/Gulf Coasts) in response to the President's May 1977 directive to develop an effective plan for protecting barrier islands. A study group formed under HCRS leadership completed a report in July 1978. Nearly 300 barrier island study units were identified, involving 1.6 million acres. An update of the national island data file was begun, and some 20 federal agencies whose programs have an impact on barrier islands were identified. As a result of the report, a DEIS was developed and published in February 1980 to consider options to protect barrier islands.

Prepared public information items related to barrier islands, including a slide show, three 30-second television public service spots, and a brochure.

C. Federal lands planning

1. Land and Water Conservation Fund:

Purchased about one million acres in FY 1977–79 at a cost of $1.1 billion to be managed as follows: 676,288 acres under National Park Service for $930.9 million; 191,456 acres under Forest Service for $150.9 million; 93,059 acres under Fish and Wildlife Service for $69.1 million; and 2,739 acres under Bureau of Land Management for $4.6 million.

Worked as a member of the Land and Water Conservation Fund Policy Group (LPG), which includes the NPS, FWS, BLM, and FS, to assure the effective use of available federal funds for land acquisition to protect nationally significant resources. As staff to LPG, HCRS developed and refined a priority criteria system to guide annual budget allocations among member agencies. HCRS continues to work through LPG to develop better planning and decisionmaking procedures to improve coordination among the agencies and make the best use of available funds.

2. Land Preservation Techniques and Activities:

Served as lead agency in incorporating the Area of National Concern (ANC) concept into the Department of the Interior's land planning process. ANC is an alternative to direct federal land acquisition, development, and operation and maintenance. ANC emphasizes the establishment of partnerships among federal, state, and local governments and the private sector to protect nationally significant natural and cultural resource areas.

Served as lead agency in providing technical and financial assistance to the New Jersey Pinelands, the first national reserve authorized by Congress, requiring the exercise of state and local responsibilities to the greatest extent practicable in regulating the use of land and water resources.

Serve as lead agency in an interagency task force that is developing an education program to protect areas by other-than-fee acquisition methods. Methods vary, but may include registration, cooperative management, regulations, revolving funds, tax incentives, exchanges, easements, and transferable development rights.

Coordinate the annual Section 8 report which includes information on areas studied for potential addition to the National Park System; a list of not less than 12 areas which appear to be of national significance and which may have potential for inclusion in the National Park System; and a list of areas included on the National Registry of Natural Landmarks and nationally significant properties listed on the National Register of Historic Places which have known or anticipated damage or threats to their integrity.

Assisted in the transfer of 190 areas, totaling over 11,000 acres, of federal surplus real property to state and local governments for park and recreation uses, valued at $76.1 million.

Developed 57 cooperative management agreements for suitable portions of military base lands to be managed for recreation uses in cooperation with state governments.

D. State heritage programs

1. National Heritage Policy Act:

The Administration's proposed National Heritage Policy Act was introduced in the Senate in September 1979 and in the House in February 1980. Hearings on the bill were held before the Subcommittee on National Parks and Insular Affairs of the House Committee on Interior and Insular Affairs on March 17 and 18, 1980; and before the Subcommittee on Parks, Recreation and Renewable Resources of the Senate Committee on Energy and Natural Resources on April 17, 1980.

2. State Natural Heritage Program:

Assisted 23 state natural heritage inventory and protection programs with matching grants from the Land and Water Conservation Fund totaling approximately $2.2 million. As of August 1980 there were 27 such programs in operation.

3. World Heritage:

Assumed responsibility for representing the Department of the Interior in coordinating United States participation in the World Heritage Committee.

Coordinated the preparation of three United States nominations to the World Heritage List for 1981.

Initiated a nationwide inventory of potential World Heritage sites in the United States to be used to prepare future nominations and evaluate nominations.●

SANCTIFYING REVOLUTION: PROTESTANTISM'S NEW SOCIAL GOSPEL

● Mr. EAST. Mr. President, international terrorism, in both the underdeveloped as well as the advanced economies, remains one of the greatest threats to civilized political order, stability, and democratic freedoms. But terrorism does not operate in a vacuum. It must have financial, legal, and propaganda support. While we know that this kind of support comes from the Soviet Union and other revolutionary states such as Libya, Algeria, and Iraq, we must recognize that much of it also comes from our own country—from private groups and organizations that give assistance to terrorist movements under the label of "national liberation," "social justice," and "progressivism."

Some of the saddest instances of support for terrorism are associated with some American church groups. In the following article from the American Spectator of May 1981, Rael Jean Isaac and Erich Isaac document the massive ideological and financial support provided by some American church organizations for international terrorism.

Although the leftist minority directing the terrorist support effort from within the church groups is comparatively small, the enormous sums of money they have given to terrorists—such as the $350,000 donated to the Soviet-backed African National Congress and SWAPO, as well as large sums channeled to the PLO—deserve serious attention.

The authors also trace the origins of the Marxist propaganda effort within organized American religion from the "social gospel" of the early 20th century to the current "liberation theology" which masks the Marxist-Leninist doctrine of class warfare with lip service to Christian teachings.

I commend this article to the attention of my colleagues in the Senate and of the public in an effort to publicize the serious problems for American security and foreign policy posed by these supporters of terrorism within our own borders and within our churches. Perhaps the light of public scrutiny will alert the vast majority of American church members of all denominations and faiths to this misuse of our religious

institutions for terrorist and propagandistic ends.

I ask that the article be printed in the RECORD.

The article follows:

SANCTIFYING REVOLUTION: PROTESTANTISM'S NEW SOCIAL GOSPEL

(By Rael Jean Isaac and Erich Isaac)

The Sword is my Shepherd . . . and give us this day our open gay.

The Reverend Dr. Spacely-Trellis, Bishop of Bevindon, condemned the World Council of Churches for its decision to send 45,000 pounds to the guerrillas then operating inside Rhodesia. His grounds? The World Council could not be absolutely sure that the money would be spent on arms rather than on food, clothing, and medicine. Dr. Spacely-Trellis argued: "Would it not have been prudent to take no chances and send actual weapons instead, through whatever ecumenical channels are available, thus expressing the Church's concern for the Third World in terms which everybody can understand?" The bishop then brandished a submachine gun, causing his parishoners to duck beneath their pews.

No, this did not happen. It is English satirist Peter Simple's portrait of radical churchmen. But the reality is not much less bizarre. The following *did* happen. Toward the end of 1975, the Fifth Assembly of the World Council of Churches convened in Nairobi, Kenya. The main speaker was Dr. Robert McAfee Brown, Professor of World Christianity at Union Theological Seminary in New York City. Dr. Brown testified that as a white male bourgeois American he embodied "racism, sexism, classism, and imperialism." In token of his penitence he announced that he would no longer be guilty of "linguistic imperialism" and switched to Spanish. As the audience reached for their translation headsets to return Dr. Brown's Spanish to English, he described Jesus as a spokesman for social and political liberation. But ever conscious of the fatal impediments of his being and upbringing, Dr. Brown apologized: "You may feel that I have not made Jesus political enough, and that I am too conditioned by bourgeois categories to understand the full thrust of liberation."

How did the representatives of modern Christianity come to the point where *London Daily Telegraph* Editor Colin Welch could explode in fury: "Those wretched Churchmen: in a way one could respect them more if they went to Africa themselves to murder missionaries and children rather than hire a pack of savages to do it for them"? Welch was referring to the same 1978 World Council of Churches grant to the Patriotic Front guerrillas operating against the elected interracial government of Zimbabwe-Rhodesia that had angered Peter Simple. In the two-year period prior to the grant the Patriotic Front had massacred 33 foreign missionaries and their children. Shortly after receiving it the Front shot down a civilian plane and massacred the survivors. When protests were raised in the United States, the United Presbyterian Church issued a statement defending the grant. The statement even rejected suggestions that the World Council make sure tht money went for medicine rather than guns on the grounds that "the way we make the grants is part of our statement of trust."

The slashing attacks of Welch and Simple were reinforced by more sober-sounding but equally critical analyses from respected churchmen like William Rauscher (Episcopalian), Richard Neuhaus (Lutheran), and Paul Ramsay (Methodist) in the United States, and Edward Norman (Anglican) in England. These critics have decried the political radicalization of an influential segment of Western Protestant clerical leadership. In Norman's words:

"The contemporary equivalent of burning your opponent at the stake is to give aid, as the World Council of Churches does, either actively or by moral support, to those engaged in armed attempts to extinguish their political opponents in the developing world."

The direct funding of terrorists is the most dramatic form of support for revolution given by church organizations. In 1980 the World Council of Churches announced record donations to the Program to Combat Racism, under which the grants to terrorist organizations are made. The lion's share of the money ($350,000) went to the African National People's Organization (SWAPO), both Soviet-backed movements operating in southern Africa. (More than half of all American contributions to the World Council of Churches come from the United Methodist and the United Presbyterian Church.)

Much more church money, however, goes to fronts for terrorist organizations and totalitarian states, and for field work, both in the United States and overseas, designed to raise consciousness of oppression and to organize the oppressed against their designated oppressors. Many millions of dollars in cash and services for such purposes are contributed annually by the National Council of Churches, the United Methodist Church, the Episcopalian Church, the United Presbyterian Church, and the United Church of Christ. Remarkably, even small peace churches like the Quakers and Mennonites have been seized by revolutionary fervor. For example, the Community Information and Legal Aid Center run by the American Friends Service Committee in East Jerusalem is essentially a legal-aid center for arrested PLO terrorists. Its chief social worker served a four-month prison sentence for participation in a PLO cell.

The climate in some church agencies has grown so fevered that they have literally become breeding grounds for terrorists. A goodly part of the Episcopal Church's National Commission on Hispanic Affairs wound up in jail, for either committing acts of terror for the Puerto Rican FALN or covering up for those who did. One member of the Commission observed ruefully that some of its members seem to have been doing the church's work by day and throwing bombs by night. In view of the attitude of church leadership toward revolutionary change, those members may well have believed they were doing the church's work by both day and night.

A former Commission member, Carlos Alberto Torres, joined the FBI's most wanted list in 1976, after police found 211 sticks of dynamite, 50 pounds of carbon nitrate, and a dozen batteries and blasting caps in his apartment. In 1978 the Commission's former Northeast Regional representative, William Morales, lost his fingers and part of his jaw while inexpertly making bombs for the FALN in his apartment. Morales promptly filed a $1.2 million lawsuit against New York officials, charging these officials with confiscating his fingers instead of arranging for them to be resewed. He did not stay around to collect, however, preferring to escape from a prison ward at Bellevue a month after being sentenced to a 29–89 year prison term. (The FALN is not always so incompetent. In 1975, a bomb in New York's historic Faraunces Tavern killed four and injured dozens more.)

While the police were still looking for Torres, the Hispanic Commission's Executive Director and its secretary went to jail rather than testify about his whereabouts. At the time of their release from jail ten months later (their legal fees paid for by the Episcopal Church and the National Council of Churches), three other members of the Commission remained incarcerated for refusing to testify before grand juries. Although the Executive Director and secretary were given $40,000 upon their release as "a pastoral response to their financial need," the church's support was insufficient, according to Episcopal Bishop Robert DeWitt who condemned *any* cooperation by the church with federal authorities. The Interreligious Foundation for Community Organization (IFCO), then a program of the National Council of Churches, argued that although some might contend it was the duty of church people to aid the authorities in apprehending criminals, "that may be true *so long as the trail does not lead through the church.*" (Italics in the original)

At the April 1980 United Methodist Church's General Conference, Methodist layman David Jessup presented a report on contributions to radical political groups made by several church agencies between 1977 and 1979. In Jessup's words:

"Most Methodist churchgoers would react with disbelief, even anger, to be told that a significant portion of their weekly offerings were being siphoned off to groups supporting the Palestine Liberation Organization, the governments of Cuba and Vietnam, the pro-Soviet totalitarian movements of Latin America, Asia and Africa, and several violence-prone fringe groups in this country."

In seeking to discredit the Jessup study, the Board of Global Ministries of the Church brushed the criticism off as "right wing extremism." But Jessup scarcely qualifies even as a conservative. He works for the AFL–CIO and was active in the Peace Corps in Peru and in the civil rights and farm worker movements in California. Anxious to work for refugee aid within the church, Jessup first became aware that something was amiss when his children came home from Sunday school with appeals for surprising causes. Jessup documented $442,000 in direct grants to political activist groups, many of them terrorist and totalitarian support groups, and calculated that in-kind services to these groups went into the millions.

Jessup asked the General Conference of the United Methodist Church to establish a Committee on Accountability to reassess the extent of aid given by the church to such groups and to consider carefully whether anti-democratic groups should be funded at all. The Conference refused. Instead the Methodist bureaucracy prepared a rebuttal to Jessup's study. And that rebuttal is fascinating for the insight it provides into church rationalizations for supporting totalitarianism and terror. The amount of the grants was not disputed by the church (Jessup had obtained his figures from the church bodies themselves), nor was the radicalism of the groups to which the money was given. The Board of Global Ministries and Board of Church and Society of the Methodist Church defended the grants on the grounds that they conformed to the social principles and social resolutions of the General Conference and were consistent with the Church's mission.

What was this mission? The church's reply to Jessup defines it as "solidarity with the poor and the powerless. . . . In the ministry and message of Jesus, the way in which we treat 'the least of these' transcends the question of whether the political system is totalitarian or democratic." Actually, since in totalitarian states all but a small elite are powerless to control their fate, what the Methodist leadership is saying is that the real mission of the church is solidarity with the poor—not the powerless. It is enough for any group to proclaim itself for the poor to become a theologically appropriate beneficiary of Methodist funds—which explains why Marxist groups invariably qualify. In his introduction to the church's reply to Jessup, Methodist Bishop Roy Nichols, President of

the Board of Global Ministries, admits as much: "When the church commits itself to identification with the poor and oppressed, we may sometimes become involved with people whose blend of Marxist interpretation and Christian theology may be different from our own." Since a number of the groups receiving church funds professed no Christian theology at all, the blend did not have to be very diluted.

Many of these groups served as propaganda agencies for Communist states, especially for Cuba and Vietnam. The Methodist Board of Global Ministries gave money to some organizations that produce pro-Cuba propaganda. The most influential of these is the North American Congress on Latin America (NACLA), which was founded as the research arm of the famed SDS of the 1960s. American churches provided initial funding for NACLA; its first headquarters were in the building housing the National Council of Churches; many of its founders were seminary students; and one of its founders was the well-known Presbyterian theologian Richard Shaull. None of this has stopped NACLA from viewing the church as a prime instrument of imperial oppression. NACLA developed a "Church Project" designed, in its own words, to expose the churches as "velvet-gloved counterparts of the iron fist of capitalist violence and exploitation."

The Board of Global Ministries also sponsors tours to Cuba and participates in Cuban-sponsored international conferences, which according to one glowing Methodist report "deal with the liberation of people from oppressive political, economic and social systems." Methodist officials have not been deterred by the forcible transfer of thousands of childen as young as seven from Africa to Cuba for training as revolutionary cadres for Soviet-backed regimes. Dr. Paul McCleary, associate general secretary of the United Methodist Board of Ministries, has lauded the Cuban program as one that will produce "highly trained and disciplined leaders [who] will be a decisive force in the future direction of their nations."

Even though many in the anti-war movement have condemned human rights violations by the victorious North Vietnamese, the Methodist Church has financed organizations that continue to endorse Vietnam uncritically. These include Friendshipment and the Indochina Resource Center. Pat Patterson of the Board of Global Ministries staff was part of a Friendshipment delegation to Hanoi, and at a May 1977 press conference she told of how the Vietnamese had taught her that their reeducation process was "a way to make people ready for a new society." Mrs. Patterson added: "As a Christian I was particularly moved by this. I have never seen nor heard people taking reconciliation so seriously." The Indochina Resource Center became distinguished by its defense of the Pol Pot regime. Writing in the Center's publications, Gareth Porter, coordinator of the Center from 1974–76, denied there was hunger in Cambodia. His defense of Pol Pot during 1977 congressional hearings so offended liberal Congressman Stephen Solarz that he called the testimony contemptible and compared Porter to the writers who deny that Hitler killed six million Jews. (Since the Vietnamese invasion of Cambodia, however, it has become permissible to attack Pol Pot.)

The Methodist's World Division at first funded information offices for both Bishop Muzorewa and Robert Mugabe. But after Muzorewa accepted an internal settlement in 1979, the Methodists gave money only to the Patriotic Front then employing terror against the Muzorewa-led government. It is little wonder that Muzorewa, head of the Zimbabwean Methodist Church, expressed hurt anger when he learned of the Methodist action:

"We just can't understand why the American Church sides with our enemies. Doesn't it seem strange to you that our brothers and sisters . . . would support people who want to close our churches?"

Presently the Methodists fund American support groups for the Soviet-backed African National Congress and the South West Africa People's Organization (SWAPO). In 1978, the World Division of the Church also gave $5,000 directly to the African National Congress. Doubtless, the Methodist leaders believe their money is being used in the fight against racism and colonialism, but Methodist Church resolutions have the peculiar habit of singling out Soviet-dominated African countries as being especially deserving of economic aid from the United States.

Methodist funds provided transportation, bail, and other assistance to the noisy pro-Khomeini street demonstrations by the Moslem Students Association in August 1980, when the hostages were in their tenth month of captivity. That same month Ramsey Clark was given the use of Methodist facilities in Washington to announce to the press his plan to investigate U.S. crimes in Iran. Jessup points out that John Adams of the Board of Church and Society was leading marches of Iranian students as late as September, "his lanky frame pacing along about 20 feet in front of the first row of life-size posters of the Ayatollah Khomeini."

Methodist contributions to the PLO are streamed through Palestinian support groups in the United States. One recipient is the Middle East Research and Information Project (MERIP) whose main problem is deciding with which branch of the Palestinian revolution to identify. (Its sympathies clearly lie with George Habash in his tactical struggle with Arafat's organization.) MERIP's publications are included in the Methodist resource packet *Middle East Mosaic* distributed to church study groups. Another recipient is the Palestine Human Rights Campaign, the chief PLO support group in the United States. Palestine Human Rights Bulletin No. 12, included in the packet, calls for a PLO state on the West Bank and in Gaza as an intermediate step toward a "secular democratic" state—the PLO's euphemism for Israel's destruction. Also receiving Methodist funds is the Palestine Solidarity Committee and its Middle East Resource Center, directed by Sheila Ryan, formerly of the Weather Underground.

Jessup has identified over forty such groups which have received Methodist funds. Some are concerned with domestic issues—for example, denying legitimacy to U.S. intelligence activities. Several, like the American Indian Movement, cooperate with Soviet efforts to publicize the "plight of American political prisoners." What they all have in common is an earnest desire to promote the view that America is an evil society.

By restricting itself to the funding of support groups, the Methodist Church performs a far more valuable service for their causes than it would if it channeled the weapons directly to the terrorists. The "liberation" movements in Africa, the Middle East, and Latin America are none of them in need of money for arms, since all receive arms directly or indirectly from the Soviet Union. What they do need is legitimacy. They need to be accepted in the United States as positive forces for social change, so as to inhibit any U.S. government action against them.

As the largest contributor ($4.7 million) to the National Council of Churches, the Methodist Church has a strong influence on its policy and direction. The Council includes 32 Protestant and Eastern Orthodox denominations, and it is even further detached than the Methodist bureaucracy from the views (and potential pressures) of lay church members. An important critic of church radicalism, Richard Neuhaus, observes that when "the people at 475 Riverside Drive" (the great block-square structure that houses the National Council) talk of lining up the churches on an issue, what they really mean is that they have contacted a small network of "progressive" bureaucrats in a handful of dwindling denominations. The National Council must satisfy only the likes of Dr. Paul McCleary and his counterparts among the United Presbyterians, Episcopalians, and other denominations. Yet, the National Council never hesitates to speak in the name of 41 million Christians to the media and before Congress.

As in the case of the Methodist Church, actions of the National Council are supposed to follow from its policy statements. The painstaking preparation of these statements suggests that they are important enough to warrant examination for what they may reveal about the National Council's perspective. Let us look at one example: the National Council's policy statement on criminal justice. The statement developed out of a series of hearings by a Council task force in five regions of the country during which 120 people gave testimony. After the hearings the drafting group met with representative panels for further study. When in November 1979 the final product was presented to the Government Board for approval, one member objected to the title, "The Injustice of the Criminal Justice System." He argued that a less loaded title would be more likely to attract serious attention from members of the criminal justice system. A representative of the task force countered that the document was speaking to victims of the system and so any change in title was unacceptable. (In fact there was a slight change, which meant little in substance: "Challenges to the Injustice of the Criminal Justice Sys-System.")

In the United States, according to the final policy statement, "law in itself is unjust and the 'criminal justice system' is poisoned at its source." Our legal system simply reflects "the interest and privilege of the powerful." It is a tool "to suppress non-violent political dissent, to cope with social problems, and to provide cheap labor." Our legal system oppresses the poor and racial minorities who "sometimes serve a scapegoat function for society." At the end of the 12-page document it transpires that there are three levels of culpability. Least at fault is the criminal; partly culpable is the unjust criminal justice system; but most culpable is society itself whose injustices have created the criminal.

The only concrete proposal contained in the paper is the suggestion to replace imprisonment with restitution. "Incarceration should only be imposed with a formal, legally prescribed demonstration that no acceptable alternative exists." Instead, "a constructive social relationship" is to be established between the victim and the offender. The criminal and his victim will negotiate the resolution of their conflict "with appropriate safeguards against vindictiveness and intimidation." One has visions of an old lady in a Bronx housing project sitting in her living room over tea "negotiating" with the thugs who robbed her. The criminals are more than likely to leave the place with whatever they missed the first time.

The National Council unfortunately does not believe that thugs terrorize low-income housing projects. The true criminals are those who represent the institutions that oppress the poor, forcing them into what is interpreted as criminal behavior. Thus, the Interfaith Center on Corporate Responsibility (a National Council affiliate) is eager to impose criminal sanctions and prison penalties on corporation executives whom it holds responsible for public injury caused by corporate decisions. In the National Council world view social determinism applies only to the poor and minorities. It is not surprising, then, to find the National Council's President, the Reverend M. William Howard, visiting "political prisoners" in the United

States. Says Reverend Howard: "One of our favorite beliefs in this country is that we have no political prisoners" when "much of our prison population is comprised of people who are victims of the social, economic and political structures of our society."

In addition to providing intellectual, moral, and political support for radical change, the National Council is also involved in revolutionary "field work," much of it carried out through the Division of Overseas Ministries, which absorbs by far the largest portion of the Council's $31 million annual budget. In a report on its Agricultural Missions program, the Division of Overseas Ministries recognizes hunger "as a problem of injustice more than food scarcity, injustice based on economic inequality, racial and sexual discrimination, technological elitism and on political barriers to change." Agricultural Missions emphasizes support for "local indigenous movements that [have] tended toward total liberation of rural people—spiritual, economic and political." In other words, the National Council's overseas aid program, ostensibly directed to alleviate suffering and hunger in underdeveloped lands, believes its major function to be the creation of rural leadership cadres who will struggle against "oppressive" governments and "transnational corporations." The National Council report suggests how its program works:

"A few leaders of campesino groups from different countries in Latin America get together annually. . . . They discover in one meeting that the most serious problem in the region is the proliferation of transnationals in agri-business. They feel helpless and ill-equipped to even begin to plan strategies for action. They decide to hold a seminar and invite Gonzolo Arroyo, director of the Research Centers in Latin America and the Third World to help them understand something about transnationals in the agrarian sector, how they function and the power they hold over campesinos. These leaders are then better able to enter into the process of conscientization [consciousness-raising] with their communities."

In the Council's view, funding this sort of program represents an improvement over previous efforts in the war against hunger, which were confined to the sending of food, seeds, and tools.

Once revolutionaries seize control, the National Council becomes mesmerized by their rhetoric. The Council sends missions of solidarity to the oppressed of Uruguay, Bolivia, Guatemala, Argentina, etc., but to Cuban political prisoners—per capita probably the largest group in Latin America—it pays no accord. Instead, it passes resolutions calling for an end to the U.S. embargo against Cuba, and then it presses for an embargo against El Salvador. Nor does it stop with resolutions. Its Church World Service is opening what it describes as an "advocacy office" in Washington, D.C. whose purpose is to lobby for the establishment of commercial and diplomatic ties with Cuba. Until February 1980, Church World Service defied the U.S. trade ban by flying supplies to Cuba in small Cessna planes. According to Dr. Paul McCleary, its executive director, "You can hand-carry anything into Cuba."

Perhaps the most surprising center of chic-guilt psychosis mixed with radical political activity is the once-staid Episcopal Church, the economic well-being of whose members had earned it the sobriquet "The Republican Party at Prayer." The great Episcopal cathedrals, St. John the Divine in New York and Grace Cathedral in San Francisco, have become centers of what Episcopal Canon William Rauscher describes as "the church in frenzy." Well-known political science professor and Episcopal layman Paul Seabury has described how St. John the Divine was made available for light shows, Shinto rites, Sufi workshops in Dervish dancing, ceremonies for striking farm workers and for Indians at Wounded Knee, special anniversary masses for the musical Hair and political protest rallies. On the other side of the continent, Seabury continues, Bishop Kilmer Myers welcomed to Grace Cathedral light shows, guitar liturgies, nature festivals, and pagan ceremonials. Seabury writes:

"In 1971, during one nature ceremony in the cathedral, a decidedly ecumenical audience watched reverently as the poet Allen Ginsberg, wearing a deer mask, joined others similarly garbed to ordain Senators Alan Cranston and John Tunney as godfathers of animals (Cranston of the Tule elk and Tunney of the California brown bear). The cathedral dean was dimly seen through marijuana smoke, wrestling atop the high altar to remove a cameraman, while movie projectors simultaneously cast images of buffalo herds and other endangered species on the walls and ceilings to the accompaniment of rock music."

In 1977, the Church appointed the former spiritual adviser to the Black Panthers, the Reverend Earl Neil, to head its Coalition for Human Needs, responsible for giving money to minority community action groups. In 1980, the 44-member Executive Council of the Church voted to commend Fr. Paul Washington for participating with Ramsey Clark in the Iranian hearings on the crimes of America.

On the whole, the activist church leadership sees itself as a bona fide—if unwilling and penitent—member of the class of affluent oppressors. In a novel departure, however, Episcopal Bishop Robert DeWitt, editor of a journal called the Witness, has included the church in the ranks of the oppressed. DeWitt likens the United States to the Roman Empire and the Pharohs of Egypt. The agents of enslavement are supermarkets, insurance companies, and banks, what he terms the local precincts of the empire. The clergy is not exempt from servitude because its members drive, shop, and buy insurance. Bishop DeWitt is not without a certain optimism, however, for this is the way it was in the land of Egypt until someone preached "Let my people go." DeWitt edited a Study Action Guide for groups within the church in which it is declared, "the system which creates and sustains much of the hunger, underdevelopment, unemployment and other social ills in the world today is capitalism." A model for emulation is China where the old human tendencies to be selfish and exploitative are disappearing.

The ideas of Bishop DeWitt are clearly dominant in the new Episcopal Urban Caucus, established in February 1980. Its governing body is composed largely of the board of the *Witness* and heading the staff is the magazine's former associate editor. The keynote speaker at its foundation meeting announced that the members were being asked to join a "revolution." The Caucus plans to seek $12 million from the 1982 Convention of the Church. As the Reverend Jerome Politzer has observed with pained humor, "the Protestant Episcopal Church may someday be known as the Marxist Party at prayer."

The leadership of the United Presbyterian Church has also displayed marked sympathy for radical causes for more than a decade. United Presbyterian national headquarters donated $10,000 to the Angela Davis defense fund at the time of her murder trial. (The hierarchy gave no funds to her less chic, non-Communist codefendant Russell McGee.) The heroes and causes follow hard upon one another. A reader's letter to the conservative *Presbyterian Layman* noted that "Caesar Chavez had been 'bumped off the first page and draft dodgers have disappeared but they have been adequately replaced by homosexuals, J. P. Stevens and Nestlé." In 1980, the General Assembly of the Church voted to set up an Emergency Fund for Legal Aid for Racial and Intercultural Justice to provide financial assistance to members of racial minorities for costs stemming from litigation. Substantial sums were promptly granted to various individuals accused (in some cases already convicted) of murder and robbery. During the hostage ordeal, the same General Assembly was more concerned with explaining than condemning Iranian actions. The hostages had been in captivity for 231 days when the General Assembly passed a resolution which, while calling for release of the hostages, professed embarrassment at "our quickness in expressing righteous indignation when our own people are hurt, but our slowness to do so when brutal indignities are imposed on others with our tacit support."

The United Church of Christ is probably the most radical of the larger churches. This is reflected in its funding, its personnel, and the degree of lay support enjoyed by its leadership. A further bit of evidence: Attitude surveys have shown that ministers of the United Church of Christ approve of the National Council of Churches more than the ministers of any other of its member denominations.

The United Church of Christ had the distinction of receiving a $10,000 award from the People's Bicentennial Commission, a radical and bitterly anti-business group formed in opposition to the official bicentennial celebrations. It was bestowed upon the Church for "evidence likely to lead to the arrest and of a Fortune 500 company." The Church had imprisonment of the chief executive officer turned over to the Commission documents obtained from an avowedly Communist (white) group in the Union of South Africa allegedly demonstrating that Mobil Oil had supplied fuel to Rhodesia in spite of the trade sanctions then in force. The Church was promised another $15,000 if Mobil's head should actually go to jail.

In 1978 the United Church of Christ responded to the allegations of then UN Ambassador Andrew Young (himself a United Church of Christ minister) that there were political prisoners in the United States, by producing a list of U.S. political prisoners based solely on the criterion that if jailed criminals had committed politically motivated crimes, they are political prisoners. The list was compiled by yet another United Church of Christ member, the Reverend Ben Chavis, then in jail as one of the Wilmington 10. By 1978 the United Church of Christ had poured $425,000 from church coffers into the defense of Chavis and his cohorts. Their conviction has been set aside, and Chavis now heads the Washington office of the Church's Commission for Racial Justice. Denouncing the draft at a February 1980 rally of the National March against the Klan in Greensboro, North Carolina, Chavis announced, "If we're going to fight, we're going to fight right here in the U.S.," and then promised, "We're going to march; we're going to march. We're going to tear this system down!" Chavis has been speaking all over the United States as co-chairman of the National Alliance against Racist and Political Repression. His fellow chairman is Angela Davis, most recently candidate for Vice President on the Communist party ticket in the 1980 elections.

But perhaps the most unlikely supporters of violent revolution are the peace churches. The fundamental tenet of the Quaker American Friends Service Committee denies that "violence can ever be right." Yet this same Committee identifies with and promotes the cause of terrorist groups in Africa, Asia, and Latin America. The American Friends Service Committee suffers from the same curious double vision that impairs the leadership of major denominations. It objects to human rights violations only by governments it de-

fines as "right-wing." Stephen Chapman, former staff journalist for the New Republic, conducted a series of interviews with AFSC staff and reported that not once did he ever hear anything critical of a Communist government. AFSC brochures criticize South Korea for political repression, for limitations on labor unions, and for its economic system. But in the case of totalitarian North Korea the Committee professes itself unable to pass judgment, "since the political and legal system, in fact the whole structure, are very different from our own." With similar curious judgment, the Committee describes Vietnam as a new society based on "justice and equality."

Even violence is explicitly justified, Jim Bristol, head of the AFSC Peace Education Program in Southern Africa, professes to disagree with the claim that thoroughgoing change "can be done only by armed violence." But he is not going to insist that those who believe differently should adhere to this view:

"Others, however, and in particular the oppressed who are engaged in the struggle for their own freedom, see violence as the only alternative to continued exploitation and oppression, and whereas I am unable in my own conscience to support that violent struggle, I certainly do not feel that I should argue with them against it, especially when it is my own nation and my own privileged society which is involved in the oppression under which they suffer."

The intertwining of cultural and religious radicalism is evident among Friends. The AFSC has not only instituted affirmative action for women and minorities (40 percent women and 20 percent minorities on all staffs and committees), but has mandated "goals" of one "open gay" in each region and five "open gays" in the national office. A minimum of two "open gays" are required per committee. The AFSC is to do business only with those "who share our affirmative action standards."

If the emphasis here has been on Protestant churches rather than on synagogues or the Catholic Church, it is not because Jewish and Catholic leaders have been impervious to revolutionary enthusiasm. In fact, the Jewish Reform movement is a member of the Methodist-created Coalition for a New Foreign and Military Policy, despite the fact that its human-rights working group includes the chief U.S. support group for the PLO. The Catholic Church has seen both the radicalism of the Berrigan brothers and the international radicalism of the Maryknoll order. But organized Judaism remains relatively impermeable to the allure of radical politics because hostility toward Israel has become a virtual touchstone of the revolutionary passion. As for the Catholic Church, it need simply be said that most of its command posts have not yet been captured by radical churchmen. (It might also be noted that not all command posts in Protestantism have fallen; Southern Baptists and Lutherans, for example, have remained relatively immune.)

Thus far we have not addressed the most interesting question: Why? That fringe groups within the churches should be caught up in the cultural eddies of the broader society is not surprising, but why should the leadership of mainline churches support revolutionary groups? Why is this leadership so critical of American economic, social, and political institutions? Why are the massive human rights violations of Marxist regimes exempt from criticism? Why are such regimes praised, and their support groups given financial aid? Why should Marxism exert any attraction at all for churchmen when antipathy to religion is one of Marxism's best-known characteristics?

The answers lie in the political traditions of American Protestantism. In the years between World Wars I and II, the Federal Council of Churches—the predecessor of the National Council of Churches—became a center of what was known as the "Social Gospel." And the churches most zealous for revolution today are those which were most active in support of the Social Gospel: the Methodists, United Presbyterians, Episcopalians, and Congregationalists (now part of the United Church of Christ). But while the roots of the attitudes prevalent in the National Council go back to the Federal Council, there have been important changes since World War II, and especially in the last twenty years. The dislike of capitalism and the attraction to Marxism is old—the hatred of the United States is new. The yearning for social transformation is old—the acceptance of violence is new.

The Social Gospel first received prominence within the Federal Council in the Council's 1920 report entitled *The Church and Industrial Reconstruction*. The report was a scathing attack on capitalism: Capitalism depends on the conflict between capital and labor. Capitalism glorifies competition. Capitalism treats people as tools. Capitalism relies on self-interest and the profit motive. Capitalism produces stunted personalities. Capitalism is contrary to the teaching of Christ that the human personality is sacred, that brotherhood is the proper relationship between men, that cooperation and not greed should guide men's actions, and that social behavior should be guided by "loving service."

On the other hand, the newly launched Soviet experiment, with its stated goal of absolute equality and human brotherhood, seemed closer in spirit to the Christian vision of an ideal economic order. Even after time brought knowledge of purges and mass deaths, many in the forefront of the ecumenical movement continued to judge the Soviet Union leniently. The very loftiness of Soviet goals was enough to excuse performance. It was argued that the difficulty inherent in transforming man and society is so overwhelming, that mistakes are bound to occur. The United States, by contrast, was condemned for the gap between its ideals and institutions. Nor surprisingly, the depression of the thirties made that gap seem all the more indefensible.

The insistence on violent revolution, however, prevented the majority of Social Gospel leaders from adopting the Marxist critique in toto. The vanguard of the Social Gospel opposed violence. The Kingdom of God and the Christianization of the social order were to occur through love and not through class warfare. In addition, the Social Gospel leaders preferred cooperative ownership of productive resources to centralization and state-controlled public ownership.

This combination of pacifism and anti-capitalism led many Social Gospel advocates to accept isolationism. But thanks largely to the intellectual transformation of Reinhold Niebuhr, a leading proponent of the Social Gospel, many of its followers overcame their illusions that pacifism was an answer to Hitler, or that the Soviet Union was "the millenial hope of the possibility of a perfect society held out by Marxism, Niebuhr argued in *Moral Man and Immoral Society* that a truly moral social order is an impossibility. Man can choose only the relative good—the absolute good is a chimera. Niebuhr's growing pessimism, which extended to the possibility of "moral man as well, led to a growing willingness to confront Nazism with force and to recognize the totalitarian nature of Soviet society. In an imperfect world, the choice between the lesser of two evils—the use of force or the victory of Nazism—was clear.

But that was before the war. Today, Niebuhr's anti-utopian realism has been swept aside. In the words of John C. Bennett, a longtime Social Gospel spokesman: "The forward-looking social activism of the Social Gospel is with us again, but in a much more radical form."

This radicalism, abetted by the increased legitimacy of violence, has been based on a burgeoning willingness to believe the worst about the United States. Previously, American society had been deeply appreciated by Protestant churchmen—one historian has noted it was their "deep expectations about the special qualities of American society" that had impelled and "allowed them to criticize in the first place." But this self-conception of American churchmen—that their role was to hold American society to its promises—was replaced by one which paralleled the attitude of the German theologians toward the role of the church in the rise of Nazism. The witness borne against the Nazis by a courageous band of German theologians—Bonhoeffer, Niemöller, and Barth—became identical in the minds of some American churchmen with the witness borne by radicals against the policies of the American government. The absurdity of this analogy aside, it was nevertheless enhanced when Niemöller and Barth became increasingly anti-American. (Barth actually claimed it was a religious duty to support the Vietcong.) What is more, Niebuhr's justification of the use of violence against Nazism made it easier for these churchmen to draw from their perception of America as a fascist state, a justification for anti-American violence.

But even more influential among American church radicals have been the theologians of what has variously been called "revolution," "hope," and "liberation." Although this theology, as historian Guenter Lewy has pointed out, is so ecumenical that it cannot be attributed to specific denominations, its impact has been especially felt in Catholic Latin America, where it has become wedded to Marxism. A theology of liberation transforms key symbols like incarnation, revelation, and resurrection, so that they do not refer to a divine event in the past but to political liberation in the present. According to Presbyterian theologian Richard Shaull, only at the center of the revolution can man "perceive what God is doing." Not surprisingly, this perspective has driven priests literally into the center of the revolution. Catholic priest Camilo Torres declared "only violent revolution could put properly oriented decisionmakers into positions of power" and took to the hills where he and his band met death at the hands of Colombian government forces. Four years later he was followed by Father Domingo Lain who issued a manifesto calling upon Colombians "to prepare themselves for the final struggle." (The manifesto, with its dateline "from the mountains," was published in full by the North American Congress on Latin America, one of the recipients of Methodist funds.)

The theology of revolution has a distinctly anti-American cast, not least of all because, as Edward Norman has observed, much of what is believed to be characteristic of Latin American liberation theology is the work of North American and other foreign missionaries and priests. The Maryknoll order in the United States is an outstanding example.

Predictably enough, in John C. Bennett's view, "the dialogue and collaboration between Christians and Marxists in the Third World and especially in Latin America may have a transforming effect on Christian understanding of the U.S. role in the world." The traditional conflict between Marxism and Christianity is increasingly presented as the fault of the churches. Bennett believes not only that "Marxism has been the bearer of a true revolutionary imperative," but that "its anti-religious stance is a judgment upon the churches."

In a logical progression, revolutionary change in the United States becomes essential if this country is to be eliminated, in Profes-

sor Bennett's words, "as a counterrevolutionary force from the blacks of the Third World countries." The "Third World" takes on a metaphorical meaning and includes U.S. blacks, Spanish-Americans, and American Indians as honorary members. The task for the Christian is to identify with—and to support actively—the oppressed of both the geographical and the metaphorical Third World.

If the oppressed turn to violence, Christians must support them in that decision. In an homage to liberation theology, the 1968 Uppsala Assembly of the World Council of Churches declared that "at times 'law and order' may be a form of violence" and that the "covert violence of those with power may at times have to be overcome by the overt violence of those who are their victims." On the subject of black rioting in U.S. cities, the National Council in 1969 announced that "there [is] an ethical difference between the violence used by the oppressed and that used by the oppressor." Said the Council: "Each use of violence is to be viewed on its own merits." In 1979, Dr. Robert McAfee Brown took this logic a step beyond the exoneration of violence to an attack on nonviolence, when he averred that although nonviolence can be useful as a technique, it is dangerous as an ideology. To urge nonviolence "on Third World people *or on minority groups at home*" [italics added] is irresponsible. Even peace churches condone violence once the act itself is redefined to include the righteous motives that drive men to violence. To condemn violence in its conventional sense is to take account only of the symptoms when it is necessary to deal with the cause. And in a perverse way, for groups like the Quakers, violence has become the identifying mark of the worthy cause. The more violent the group the greater the injustice from which it must be suffering, and so the more it compels support.

The imprecision of the Marxist vision of the post-revolutionary future is attractive to the churches because it provides a rationale for cooperation with Marxists without committing churchmen to scientific materialism. Marx opposed any attempt to describe post-revolutionary society on the grounds that to do so would detract from the revolutionary struggle itself. "What socialism will be we just don't know," said Lenin. This confirms the Christian radical in his faith in the possibility of a post-revolutionary Christian future, and facilitates his interpretation of the traditional Marxist attack on religion as a vilification of churchly establishments that had made their peace with an oppressive order. The modern Christian Left combines millenarian temperament with a social and political analysis and action program which is hardly distinguishable from Marxism-Leninism. According to one description, in "every part of the world the inner contradictions . . . have given rise to struggles within and against the established order" and that order has reached "the End of the Road." This sort of thing differs from Communist tracts only in an occasional use of religious phraseology.

All this could scarcely be more foreign to most church members. In fact, a recent National Council of Churches study has revealed that the rank and file of member denominations are more conservative than Protestants of denominations not affiliated with the Council, Catholics, Jews, and those without any religious affiliation. To cite one example: Whereas the National Council has officially denounced the harshness of the U.S. criminal justice system, an overwhelming 81.5 percent of the rank and file believe that the courts have been insufficiently harsh in dealing with crime.

Such revelations have had little impact on the Council. Rather, they have heightened conviction and lead to redoubling of effort, for they have shown how sorely needed is the "prophetic mission" of the Council. In many denominations members have voted with their feet, and entire churches have seceded from the central bodies with which they were affiliated. A new prayer book and the ordination of women have produced defections by Episcopal churches, and the compulsory appointment of women elders has precipitated defections by Presbyterian churches. (The large Ward United Presbyterian Church in Livonia, Michigan, seceded even though it had women elders; its minister Bartlett Hess explained: "It's the principle of freedom we're greatly concerned about. If the church takes away our freedom on one issue, they might take it away on another.") Typically, the United Presbyterian Church has sought to stem the exodus by amending its constitution to require that all property held by individual churches be held in trust for the whole denomination. The church can then take seceding congregations to court over their buildings and property.

In *Exit, Voice and Loyalty*, political economist Albert O. Hirschman identifies what he calls an exit option and a voice option for individuals concerned with the deterioration of product or organization performance. For Hirschman, ideally, these are mechanisms of recuperation. The exit option warns of trouble as sales dip or membership falls off. The voice option also makes dissatisfaction obvious as complaints are made. Both are necessary, for without the option of exit, voice is not effective. Hirschman does not specifically deal with churches, for he recognizes them as institutions where the individual is not likely to exercise the option of exit. Nevertheless, we have seen that this option has been exercised, not merely by those for whom the option is relatively easy (their exit is chronicled in the large numbers of lost members the mainline churches report each year), but in the departure of whole churches made up of those most committed to the traditional rituals, theology, and forms of governance of their churches. And voice has been raised by those congregations which ultimately exited and by those which have remained to work from within. Journals like the *Christian Challenge*, the *Presbyterian Layman*, and the *New Oxford Review* and individuals like David Jessup have raised their voices in sustained and eloquent condemnation of the radical politics of their churches. Precisely because loyalty is in few areas so high as it is toward religious affiliation, one would expect the option of voice to be exercised with particular determination and resourcefulness. Yet potentially effective as voice is in the churches, it has thus far not been so, and the silence of most church members has been deafening.

But now some of the most distinguished clergy and laymen who have blazed the trail of voice are setting out to blaze a new trail—of voice backed by organization. On April 10, 1981, there was held the founding meeting of the Institute of Religion and Democracy, an interdenominational organization whose board members include Peter Berger, Carl Henry, Richard Neuhaus, Michael Novak, and Edward Robb. The Institute will provide the services, information, and resources that will help Christians to make actual the enormous potential for restoration that exists in the voices of millions of Christians.●

NORTH PACIFIC FUR SEALS

● Mr. LEVIN. Mr. President, during my floor statement last Thursday concerning my amendment to the resolution of ratification for the Protocol amending the Interim Convention on Conservation of North Pacific Fur Seals, I inadvertently forgot to mention two organizations that have worked diligently to focus public and congressional attention on the annual slaughter of North Pacific Fur Seals. Those organizations are: The Animal Protection Institute of America, and People for the Ethical Treatment of Animals.

Both organizations were very involved in developing Senate support for a reservation I had intended to introduce in the event there was not agreement on acceptable language for the understanding.

Mr. President, I ask that letters from both these organizations be printed in the RECORD.

The letters follow:

ANIMAL PROTECTION INSTITUTE OF AMERICA,
Sacramento, Calif.

DEAR SENATOR: On behalf of our nationwide membership of over 100,000, we urge you to vote for the Levin reservation to the Protocol Amending the Interim Convention on the Conservation of North Pacific Fur Seals, which is scheduled for floor action on Thursday, June 11.

You will be receiving a "Dear Colleague" letter from Senator Levin on this proposal, but we would like to make the following points:

The Levin reservation will call for a reduction in the number of seals to be killed by the U.S. The U.S. would remain a party to the Convention, and the rights of Japan and Canada under the treaty would be protected.

API considers the continued subsidy of seal-killing by the U.S. Government both economically and ecologically unsound. The U.S. spends $5 million annually on this program, while receiving far less in income from this kill. In an era of government austerity, this is surely a misuse of taxpayers' money. In addition, the seal-killing is conducted according to the out-moded concept of "maximum sustainable yield, rather than upon consideration of the species in relation to its ecosystem.

The U.S. position on international wildlife conservation is weakened by our involvement in this government sponsored seal slaughter. Congress, which has gone on record as opposing the killing of harp seals by Canada and Norway, appears hypocritical in endorsing our own seal-killing scheme.

API views the hunt as inhumane and as an incredible waste of wildlife. The goal of our organization is the elimination, or alleviation, of pain, fear and suffering of animals. Thus, government subsidy of, and participation in, such a slaughter cannot be condoned.

We believe the native Aleuts, as well as the seals, have been victims of this program. API supports government programs to offer these native peoples alternative employment.

Please vote for the Levin reservation.

JANE RISK,
Vice President.

PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS,
Washington, D.C., June 10, 1981.

DEAR SENATOR: The leaders and members of the organizations listed below endorse the contents of this letter:

The Society for Animal Rights;
The Animal Rights Network;
Defenders of Animal Rights;
Friends of Whales;
The Minnesota Animal Rights Coalition;
The Washington Humane Society;
United Animal Defenders;
The Coalition to End Animal Experimentation;
People for Animal Welfare Society;
Animal Rights Network of Berks County, Pennsylvania;
The National Coalition for Alternatives to Animal Experimentation;

The Animal Rescue League of Berks County, Pennsylvania;

The Humane Society of Berks County, Pennsylvania;

American Vegetarians;

The Vegetarian Information Service;

The Maryland Animal Rights Society;

The League Opposed to Vivisection and Experiments; and

People for the Ethical Treatment of Animals.

We strongly urge you to vote against the Resolution of Ratification of the Protocol Amending the Interim Convention on Conservation of North Pacific Fur Seals.

We urge you to take this action because of the persistent inability of the U.S. Government to renegotiate this treaty to bring it into accord with contemporary environmental and ethical concerns regarding marine mammals.

Under this treaty, the four parties—the United States, USSR, Japan and Canada—agree to refrain from killing North American fur seals in coastal and international waters. However, the U.S. Government is also obliged under the treaty to sanction and subsidize the commercial slaughter of about 25,000 seals annually on the Pribilof Islands. This activity directly contravenes U.S. domestic policy on marine mammals as expressed in the Marine Mammal Protection Act of 1972.

Policy questions aside, the land kill of seals on U.S. territory is an entirely superfluous operation in today's economy. In today's world—a far different one from that of 1911 when the treaty originated—hunting seals one and two at a time on the high seas just can't pay. And, in the United States, coastal sealing is effectively prohibited by the Marine Mammal Protection Act.

Yet, the United States Senate is being asked to ratify this treaty for another four years unchanged—and thus ratify the slaughter of about 100,000 seals on U.S. territory. And the reason? There is a new motivation for killing seals, which the treaty coincidentally serves: The seals are alleged to be nuisances and competitors to the booming Japanese fishing industry. Japanese fishermen want those 25,000 seals exterminated every year on the Pribilof Islands. So, under the terms of the 1911 treaty, we are told we must provide the service. And we must even continue to give Japan, and Canada too, 15 percent of the proceeds of the skins, which are by no means thrown back into the sea but find their way to Japan and Europe as United States-subsidized luxury fur apparel.

In other words, the North Pacific Fur Seal Treaty, once the foundation of a successful conservation program, has become something else: a program to exterminate seals on behalf of the commercial interests of another nation whose fishermen, for their part, are glad to be relieved of the difficult business of killing seals at sea. This is hardly a fair shake.

Finally, we must add a word about the problems of the Aleuts living on the Pribilof Islands: Just as we do not believe the U.S. can conserve seals by killing them, so we do not believe the Aleuts can achieve economic independence through continued dependence on the government financed seal kill.

Please vote to end the treaty—and let the American people protect the Pribilof herd its own way, under the Marine Mammal Protection Act of 1972.

Sincerely,

KARIN JACKSON,
Assistant to the Chairperson.●

MONEY MARKET FUNDS

● Mrs. HAWKINS. Mr. President, since taking office in January, I have received more mail on the subject of money market funds than on almost any other subject. I am sure other Senators have experienced a similar flood of letters.

I account for this fact by noting that the people of this country are being crushed by inflation, and they are desperately seeking a way to protect the value of their resources. Money market funds, by providing interest rates above the rate of inflation, offer that protection. The rates of interest paid by regulated savings institutions such as banks and savings and loans do not match the inflation rate, and thus those institutions are not attractive investments for our people.

Money market funds are a new phenomenon, Mr. President, springing into existence in response to an inflationary situation unprecedented in our history since the Civil War. For that reason, before taking a position on the need for their regulation I wanted to get the benefit of hearings before congressional committees as to the nature of the problem and the money market response.

I have now had a chance to examine the question more closely, Mr. President, and I would like to say that it is clear to me that the answer does not lie in additional regulation of money market funds. That response would simply be to deny the people of this Nation, especially the senior citizens who live on fixed incomes, an opportunity to defend themselves and their savings.

I can well understand the fears of the established institutions about competition from an unregulated savings institution such as a money market fund. The answer, however, should be deregulation of banks and S. & L.'s, not new regulations. We can lower the interest rates allowed for money market funds, but that will not help.

The alternative, permitting banks and savings and loans to offer higher rates of interest will offer our savers even more opportunities to protect their money.

As usual, Mr. President, there are a number of people who argue that the answer to this problem, which was created by Government, is more Government regulation. I do not agree with that approach, and wish to assure you that I will resist any attempt to burden money market funds with the kinds of regulations that produced money market funds in the first place.

This whole issue is an example of blaming the cure for the illness. Money market funds do not cause inflation; they were created in response to it.

If we do not like money market funds, the answer is to bring under control the inflation that is robbing our people of their substance, cheating them out of their savings, and driving them out of the traditional institutions which served us so well for so long, until they were crippled by government intervention.●

LITHUANIAN FREEDOM DAY

● Mr. DODD. Mr. President, June 15 marked the 40th anniversary of the Baltic States loss of independence resulting from the unlawful intrusion of the Soviet Union. The once free countries of Lithuania, Latvia, and Estonia have lived under Soviet domination since 1941.

I am asking for special recognition for those who have died in pursuit of freedom and for the Baltic people who continue to strive to exercise their basic human rights within their homeland.

The hegemony of the Soviet Union is not restricted to territorial expansion, but extends to the suppression of the cultural, religious, and political heritage of these once free nations,

Untold numbers of Lithuanian and Russian protestors have been arrested and imprisoned for voicing their opposition to Soviet domination of the Baltic States and violations of human rights that are consistently committed against Lithuanians, Latvians, and Estonians who refuse to deny their heritage.

Soviet domination has not diminished the will of Lithuanians and other satellite states to be free again. These independence days instill the spirit of national hope and identity in captive nations and remind free nations of their responsibility to advocate sovereign equality for all nations and not just a powerful few.

Lithuanians only experienced freedom for two decades. Americans have been fortunate to have lived under our Constitution for 205 years, which guarantees the right to petition the Government, and the freedoms of press, assemblage, and religion.

By celebrating Lithuanian Freedom Day, we as Americans can better appreciate our freedoms and renew the continued struggle to keep alive a hope for independence for all oppressed nations, and to say that we will never forget their struggle for the fulfillment of human rights and human dignity.●

THE MAJOR LEAGUE BASEBALL STRIKE

● Mr. MOYNIHAN. Mr. President, my distinguished friend, Mr. A. Bartlett Giamatti, the president of Yale University, has written a marvelous piece for yesterday's New York Times that I think expresses the feelings of us all on the major league baseball strike.

We all miss the summer game, which somehow always succeeds in making the burdens of the world less heavy. At the baseball park, even the weight of the summer heat is made bearable by the lightness of the action.

We must all hope dearly for the early return of the season and the resumption of our old and good rivalries. Mr. Giamatti reminds us of the sadness that we now feel and the joy we might find again if only the two sides in this dispute will compose their present differences. I commend him for this.

I would, however, remind Mr. Giamatti, who declares himself to be "devoted to the Boston Red Sox," that his residence in New Haven is much closer to New York than to Boston.

With the return of the season, still greater happiness will await Mr. Giamatti if he travels south to New York instead of north to Kenmore Square to find his pleasure. He might then dis-

cover the joys of winning baseball, an experience that, alas, appears to be no longer available in Beantown.

I ask that Mr. Giamatti's article be printed in the RECORD.

The article follows:

MEN OF BASEBALL, LEND AN EAR

(By A. Bartlett Giamatti)

NEW HAVEN.—Call this baseball strike an example of deny-side economics, which says you withhold from the consumer what he most desires so that you may substitute discipline for satisfaction; call it a symptom of the plague of distrust and divisiveness, that afflicts our land; call it the triumph of greed over the spirit of the garden.

Call it what you will, the strike is utter foolishness. It is an act of defiance against the American people, and the only summer God made for 1981, and I appeal for it to cease. I do so as a citizen.

O, Sovereign Owners and Princely Players, masters of amortization, tax shelters, bonuses and deferred compensation, go back to work. You have been entrusted with the serious work of play, and your season of responsibility has come. Be at it. There is no general sympathy for either of your sides. Nor will there be.

The people of America care about baseball, not about your squalid little squabbles. Reassume your dignity and remember that you are the temporary custodians of an enduring public trust. That public trust began when Mr. Alexander Cartwright took the New York Nine to play the first game of baseball, on the Elysian Fields in Hoboken, N.J., on June 19, 1846. You are evidently so enthralled by your mucky pelf and your self-serving stratagems that you have forgotten what your trusteeship means. I will tell you.

Baseball began in a bright green field with an ancient name when this country was new and raw and without shape, and it has shaped America by linking every summer from 1846 to this one, through wars and depressions and seasons of rain.

Baseball is one of the few enduring institutions in America that has been continuous and adaptable and in touch with its origins. As a result, baseball is not simply an essential part of this country; it is a living memory of what American culture at its best wishes to be.

The game is quintessentially American in the way it puts the premium on both the individual and on the team; in the way it encourages enterprise and imagination and yet asserts the supreme power of the law. Baseball is quintessentially American in the way it tells us that much as you travel and far as you go, out to the green frontier, the purpose is to get home, back to where the others are. The pioneer is ever striving to come back to the common place. A nation of migrants always, for all the wandering, remembers what every immigrant never forgets: that you may leave home but if you forget where home is, you are truly lost and without hope.

It is, this grand game, no game but a work of art fashioned to remind us that we all began in the great green Elysian Field of the New World, with all its terrors and promises.

Today, in those enclosed green spaces in the middle cities, under smokey skies, after days that weigh heavy either because of work or because of no work, the game reminds the people who gather at the field, in the city, of the best hopes and freest moments we can have. The obligation to continue to be the medium for hope, in the season America now is in, is an obligation far weightier than your mercantile spats.

Princelings and Sovereignlets of baseball, you speak of the game as an industry. That is your right. Play the game for whatever mercenary motives you wish. But remember that, from our point of view, you play it so that we may all remember a past—graceful, energetic, free in the order and law of a green field—that never was.

Whatever your ordinary motives, remember that you are entrusted by America with baseball so that we, during the deep, resonant pauses, may play the game in our heads—the only place it truly endures—and that we play it and keep it there for one transcendent reason: that we may think well of ourselves and of our neighbors. You play baseball so that we may remember the future we want for our children, the future that always begins for Americans in the summer of the Elysian Field.

Men of baseball, you try our patience. Enough is now enough. Go back to work. You will lose a country if you impose autumn on a people who need and deserve a summer without yet another denial.●

ALASKA OIL

Mr. STEVENS. Mr. President, summer is an important time in Alaska, especially when it pertains to energy development. Summer is the time when plans are made, construction takes place, and studies are conducted.

Many of us do not stop and think about how much planning and the degree of technology that goes into the development of an oil field in the Arctic. Let me tell you, the technology used in the drilling exploratory wells in permafrost, the technology used in separating oil from gas, the technology of controlling the flow of oil over 800 miles from Prudhoe Bay to Valdez, compares to the engineering feats that many Americans are content to see only in movie theaters.

The fact is, however, that Americans are using highly sophisticated techniques and planning to bring billions of barrels of Alaskan oil to Americans and that summer is a critical time in the process.

Recently, the world has been temporarily jolted with the recent price leveling by the members of the OPEC cartel. Americans should not be fooled as we have been during the decade of the 1970's. We should continue to search for oil within our country. We should continue to inventory our resources so that we may not be again caught off guard with respect to natural resources.

Mr. President, an article appeared in the June 16, 1981 edition of the New York Times regarding the production of oil from Alaska. The article accurately describes the magnitude of investment needed to continue the production of Alaskan oil.

It also describes the billions of dollars worth of investment that is required to produce oil from geological structures on the North Slope in places like the Kuparuk sands.

Mr. President, I commend this article to my colleagues and I submit for the RECORD the text of the article.

The article follows:

SQUEEZING OUT THE OIL IN ALASKA—NEW TOOLS SENT TO SPUR PRUDHOE FLOW

(By Wallace Turner)

ANCHORAGE, June 15.—Next month, an armada of tugs and barges will leave Puget Sound for the two-and-a-half-week voyage north through the Gulf of Alaska, past the Aleutian chain, across the Bering Sea, around Point Barrow and to the docks at Prudhoe Bay.

Aboard will be multimillion-dollar cargoes of oilfield equipment that will permit the extraction from the rich Alaskan fields of as much oil as possible.

The prime oil formation in Prudhoe Bay is the Sadlerochit, where production started in 1977 from sandstone that begins at 9,000 feet below the frozen mud on the surface. A secondary discovery, where production is expected to start early next year, lies slightly above, at 7,500 feet, and to the west, in the Kuparuk formation.

"We will spend $5 billion in the next five years in North Slope development," said Glenn Simpson, president of Arco Alaska, the Atlantic Richfield Company's operating arm in this state. "This will include additional oil recovery equipment in the Prudhoe Bay field as well as bringing the Kuparuk field into production early next year."

The original discovery is believed to hold 30 billion barrels of oil, of which more than 9 billion are said to be recoverable. The field is operated in two parts because of its huge production of 1.5 million barrels a day. Half is operated by the Standard Oil Company (Ohio), which owns about 53 percent of the oil, and the other half by Atlantic Richfield, which owns about 21 percent. Exxon also owns about 21 percent with other companies owning minor shares.

The Kuparuk sands are believed to hold about 4 billion barrels of oil. Geologists for the state of Alaska have estimated, however, that no more than 750 million barrels are recoverable because of the characteristics of the sand formations holding the petroleum deposits.

By operating the Sadlerochit field with present equipment and drilling in a 160-acre pattern, only 5.3 billion barrels would be recovered.

Six barges of the flotilla are carrying equipment for the second stage of recovery from the Sadlerochit deposits. The equipment is in modules, some of which are 10 stories high and weigh 2,000 tons. The modules will be moved across the frozen plain and linked to the wells.

The equipment in the modules will drain off gas and thus speed the flow of petroleum up the well pipe. The ratio of gas to oil becomes higher as the oil pool lowers, and the increased gas slows the oil's flow.

This $1.56 billion addition to field equipment will add 1.2 billion barrels to the life of the field. Installation of a gas re-injection system over the next two years will cost $500 million and add 500 million barrels more of oil recovery. Gas produced until then will be re-injected into the formation at other wells, to be preserved until a gas line is built across Canada to the United States.

Also in the next year or so, the number of wells will be doubled, to cover an 80-acre pattern, at a cost of $960 million. This will add 800 million barrels of recovered oil. The production wells cost about $3.5 million each to drill.

Finally, in 1984, water injection will begin, intended to shove the remaining oil toward existing wells. That will cost $1.9 billion and will increase recovery by 1.1 billion barrels.

Production from the Sadlerochit sands began in mid-1977 with completion of the Trans Alaska Pipeline System. Output began at 316,000 barrels a day and is now about 1.5 million barrels a day. Analysts estimate that the Sadlerochit production will begin to decline in eight or nine years.

Production from the Kuparuk sands will begin in 1982 and grow slowly until additional room becomes available in the pipeline, either through construction of new capacity, or a decline in the output from Sadlerochit.

The Kuparuk field is expected to produce 60,000 barrels a day at the beginning and reach a maximum of 100,000 barrels a day, an Atlantic Richfield spokesman said.

OFFSHORE EXPLORATION CONTINUES

Meantime, work moves forward on exploring the Beaufort Sea offshore leases that the petroleum companies acquired at a joint

Federal-state auction held in Fairbanks in December 1979.

Sohio drilled two small exploration wells that struck deposits. The company announced that one indicated a flow of 4,400 barrels of oil a day, and the other, 2,700 barrels a day. Some companies have spent this Arctic work season building gravel islands from which to drill next season.

There is no hurry, for there is now no room in the pipeline, which is the only way to market.

Elsewhere in Alaska, Atlantic Richfield will begin drilling in 1982 on leases acquired in a Federal sale last fall in the Gulf of Alaska 26 miles off Yakutat. Two of Arco's bids were rejected. These two tracts, and 173 on which no bids were received, will be offered again June 30 at a sale in Anchorage.

Roger Herrera, exploration manager of Sohio Alaska, the arm of Standard Oil (Ohio) in this state, said: "We will continue to explore the Lisburne formation, east of Prudhoe. We will drill a test well in the Colville River area west of the Kuparuk field."

Sixteen companies, looking toward future Federal lease auctions, are paying for the "cost wells" in the Beaufort Sea. This is an exploration cost-sharing device where the partners pay equally for the information, which they then use in bidding at lease auctions.

The tracts are the Navarin Basin, in the western Bering Sea; the St. George Basin, which is south of the Pribilof Islands, and the Northern Aleutian Shelf, which lies near Bristol Bay.

SENATOR SARBANES PRAISES ST. LEO'S CENTENNIAL

● Mr. SARBANES. Mr. President, this year marks the centennial of St. Leo the Great's Church in Baltimore's Little Italy. This respected spiritual and cultural center has long played a central role in one of Baltimore's proudest ethnic communities. Saint Leo's has nurtured and taught thousands of Italian Americans and other Baltimoreans who have been active in all walks of life in Baltimore and Maryland.

Thomas J. D'Alesandro, Jr., who has served the people of his community for more than 50 years in important public posts, including five terms as a Representative in the U.S. Congress and 12 years as mayor of Baltimore, is the honorary chairman of St. Leo's Centennial Committee, as well as the father of another mayor of Baltimore, Thomas J. D'Alesandro III. The elder Mr. D'Alesandro has pointed out the importance of St. Leo's in the life of Baltimore:

This year St. Leo's Church in Little Italy is celebrating its centennial anniversary. Over the years it has provided a religious haven for many Baltimoreans and its sons and daughters have helped in the development of this community."

Little Italy has been a symbol of the dynamic, creative renaissance which has come to characterize Baltimore and its people.

Mr. President, a fine article recounting St. Leo's 100 years of service as a church caring for its community and some of the people who made it that way appeared last Sunday in the Baltimore News American. I ask that this article be printed in the RECORD at this point.

The article is as follows:

A CHURCH CARING FOR ITS COMMUNITY—ON ITS 100TH ANNIVERSARY, PARISHIONERS RECALL TIMES OF UNITY

(By Oakleigh Thorne)

During the Depression, St. Leo the Great's Roman Catholic Church in southeast Baltimore handed out flour and other items to the poor.

When church members went off to World War II, the Rev. Louis Lulli sent a prayer book and crucifix to each of St. Leo's 448 men and women overseas.

Lulli, now in semi-retirement at age 71, still makes house calls to parishioners like Paul and Mary Costello, who can no longer attend regular mass.

The thousands of persons crowding into Little Italy today are actually celebrating two events. One is the annual festival of St. Anthony, marking the death of Italian Saint Anthony of Padua, celebrated in the parish since 1904.

The other is the 100th anniversary of St. Leo's, spiritual and social heart of Baltimore's Italian community.

"I was baptized there, received Holy Communion there, I was confirmed there and I went to school there," said retired city worker Mike DiCicco, 84.

Ida Esposito, Rose Strollo, Eleanor DiCicco, Regina Palmisano, Frank Velleggia and dozens of others say the same thing.

In fact, for most of this century, anyone raised in Little Italy could expect to celebrate all the major moments of life there.

And even though church membership is dropping because senior citizens can't walk up the granite steps and because the size of the community was cut in the 1950s when public housing was built nearby, many members of the parish still come back often.

One is restaurateur Frank Velleggia, who lives in Baltimore County.

"There's pride involved, there's just a memory of—I don't know what to use—a more peaceful time," he says. "A day and age when people cared for each other, and things that were happening didn't sound as gloomy as they do now. Not as threatening.

"I guess we come back looking for some semblance of that time. Nothing stays the same. But we're looking for something that reminds us of that."

Thomas D'Alesandro, Jr., has a prepared statement on today's St. Leo's celebration, which will be remembered with a 1,400-person ball at Martin's West.

"This year St. Leo's Church in Little Italy is celebrating its centennial anniversary. Over the years it has provided a religious haven for many Baltimoreans and its sons and daughters have helped in the development of this community. Yet the 100-year-old structure needs renovations badly as it stands alongside the redeveloped downtown Baltimore, and we are appealing to everyone to contribute to the alterations of this great church."

D'Alesandro, who has served 53 years in government (including eight in the state legislature, four on the City Council, 10 as U.S. congressman and 12 as mayor) also has an unprepared statement:

"I used to sing in the choir until they figured out what was wrong," he said.

Today he will serve as the unofficial First Man of Little Italy. He is honorary chairman of the Centennial Committee and will ride in a limousine at the head of the parade with Mayor William Donald Schaefer.

Last week, Velleggia, 42, a former altar boy at St. Leo's Church and a graduate of St. Leo's School, sat on the granite steps leading up to the front door of the church. He had just attended noon mass, as he often does.

"Little Italy and St. Leo's are one and the same, you can't really separate any part of it out," Velleggia said. "Each part adds up to the whole and each part is the whole—it's hard to put into words."

For Ida Esposito, 63, one of the organizers of the festival, the words come more easily.

"My earliest childhood memory? I remember my holy communion day (at age 6). The morning was beautiful—May 24, 1924. Then a storm came up in the afternoon, a hailstorm, while we were at the Crowning of the Blessed Mother. When we got out of church my father picked up some hailstones and says, 'Look at all this white confetti that came down while you were in church,'" Esposito said.

She smiles and fumbles with a gold crucifix hanging around her neck. "I really thought it was confetti. I'd never seen confetti before."

Until last year when its school closed, St. Leo's also educated the community's children.

"I was sent to St. Leo's School," remembers Esposito. "We were the first ones to (have graduation ceremonies) at the St. Leo's Church because we had no school. We had classes at Bagby's Furniture Co. in the first floor (Eastern Avenue and Exeter Street). We were the first to graduate from the church and now it's a tradition, at least it was until they closed the school.

"The only reason they had to close was because they didn't have too many kids going to the school. As the children started to graduate we found we didn't have any children to take their place. Most of the neighborhood is elderly, but a lot of babies are being born in the neighborhood now—there are a lot of young people moving back in."

St. Leo's School—now used for social functions such as the spaghetti dinners—is a half block down Stiles Street from the church. Many residents thought the closing would kill the neighborhood.

The closing, however, caused few problems in relocating students, who now attend either public school or schools in neighboring parishes, such as St. Patrick's, St. Stanislaus', St. Casimir's, Holy Rosary and St. Michael's.

But the pain of losing the church school hasn't gone away. Elia Mannetta, the 29-year-old founder of the Little Italy Community Organization, fought for eight years to keep the school open.

"In a way Little Italy has died. In a way the school is now a memory, it's not alive anymore. Believe it or not a lot of people did things for the school, and not for the church," Mannetta said.

"The reason people are helping the church now is because Father Lulli is a veteran, an old friend, and Father Anthony (Lorento) has the vigor of youth," he said of the church's two pastors.

The last year the school was in operation only 24 out of 102 children were from the neighborhood. When tuition was raised, enrollment declined.

Population decline hit the church, too; attendance from approximately 500 each Sunday 20 years ago to about 250 now.

Still, St. Leo's remains a strong church.

Despite the drop in attendance, the number of weddings and baptisms at the church has increased slightly over the last four years because parishoners who moved away are coming back to get married. And with the closing of the school, the church has shed a financial burden and can put more funds into repairing the building.

Mike DiCicco, 84, sits this evening on a green bench under a small tree in front of his Formstore rowhouse on Exeter Street. Down the block and across Stiles Street, St. Leo's looms above the three-story rowhouses.

DiCicco left the hospital two weeks ago after suffering a heart attack and he can't make it to Sunday mass anymore.

He is sitting next to his wife, Eleanor, 73.

A friend, Regina Palmisano, 71, stands off to one side.

"That (the church) is what's been holding the neighborhood together," he says. "They got a system, them women, and they work hard for the church. The day the new pastor (Rev. Lorento) came down they fell in love with him."

As the three sit down to talk, Nellie Chiapparelli walks down the street. Like Eleanor DiCicco and Palmisano, she is dressed in a flowered cotton dress.

Chiapparelli looks at her watch. "Are you going to church? It's about to start."

It is the Tuesday night before St. Anthony's festival and women from all around the neighborhood gather in small groups to go to St. Leo's and celebrate a mass for St. Anthony. The night mass is part of a novena—a holy celebration conducted on the 13 Tuesdays before the anniversary of St. Anthony's death 750 years ago.

Today, the 229th Maryland National Guard Band will march through Little Italy starting at 9 a.m. to call the faithful of Little Italy to a high mass at St. Leo's at 9:30 a.m.

After the mass, more than 12 bands, drum corps and color guards, and dozens of politicians and church officials will parade through the streets of Little Italy displaying the statue of St. Anthony.

Then the festival's music and dancing will begin. The parishioners celebrate St. Anthony's festival because after they prayed to him, they said they were spared from the ravages of the great Baltimore fire of 1904.

The fire had started in a dry goods warehouse nearby, and quickly spread because of high winds. As it swept toward Little Italy, five Italian men who had left their families at the Broadway Armory, the evacuation site, made their way to St. Leo's.

They knelt in prayer before the statue of St. Anthony and asked that the fire stay away. After their prayer, a strong east wind came up and stopped the flames just short of Little Italy.

The festival has been held annually since then except for a four-year hiatus after the riots in the neighborhood north of Little Italy in 1971.

One of the five men who prayed to St. Anthony that day in 1904 was Joseph Petrella, father of 80-year-old Mary Costello. The next year he was elected president of the St. Anthony Society, which organized the festival until the society's demise in the late 1940s.

This year her son, Ralph Costello, is the organizer. Although Ralph Costello moved out of Little Italy several years ago, he still comes back for Sunday mass and is president of St. Leo's Parish Council.

"I joined the St. Anthony Society in 1923," said her husband, Paul Costello, who is the only living member of the now disbanded society.

"In 1932 we had the big one. We had two bands, electric lights, a big procession with all the members of the society marching in the procession with badges on. We had all that for $4,000. You can't get peanuts for $4,000 anymore."

Added his wife: "Before then they had little candles hanging across the street and when the wind blew them out they'd have to get up on ladders and light them all again.

"They used to decorate my father's house with lights and flags because he was the president. It used to make me really embarrassed."

When Italian immigrants first started in the late 1800s to move into the area that eventually became known as Little Italy, they attended the nearest church, St. Vincent's Church at the corner of Front Street and Fallsway.

Because many of the Italians didn't speak English, the Rev. Joseph Leo Andreis, from Turin, Italy, and then assistant pastor at St. Vincent's, would lead a special mass in Italian in the church basement.

In 1880, Rev. Andreis was appointed to found a congregation in Little Italy. After a vigorous collection campaign, the cornerstone for the new church was set that fall.

The church was named after St. Leo the Great, who was pope from 440 A.D. to 461 A.D. and persuaded Attila the Hun to leave Rome.

On Jan. 23, 1881, the first mass was said in the basement in the uncompleted church. By 1909, the parish had grown to 2,000, mostly impoverished Italian immigrants.

Because the parish was so poor, pastors at St. Leo's learned to depend on the festival and fund-raising dinners for financial help.

The structure itself has remained virtually the same since 1887, when the Frescos were finished, with the exception of a mural painted behind the alter in 1954 by Louis Jambor, a famed Hungarian religious artist. Jambor died before the mural was finished and the work was completed by an American.

In the dome above the white marble altar with its fine gold mosaics is a huge mural of St. Leo standing at his throne with a Bible clasped in his left arm and his right arm raised in blessing.

To his right, Attila the Hun rides a horse. Above Pope Leo, the Father, the Son and the Holy Ghost rise toward heaven.

The alter below is made of white Italian marble with purple marble inlaid around the edges. The tabernacle is inlaid with gold mosaics.

On the wall to the left of the pulpit is a statue of St. Anthony. It is the same statue of St. Anthony the five Italian-Americans prayed to 77 years ago to spare their church from fire.●

TERRORISM AGAINST TURKISH DIPLOMATS

● Mr. QUAYLE. Mr. President, forgotten among the many reports of international terrorism is the campaign of terrorist activities being carried out against Turkish diplomats. According to the test figures, fourteen Turkish diplomats have been assassinated around the world in just the last 5 years. This premeditated violence against the Turkish diplomatic community is an uncomfortable echo of our own recent experience with brutal violations of international law in Iran.

I wish to raise my voice in protest along with many others who have deplored these senseless acts. I also support the pledge made by Secretary of State Haig in his recent meeting with the Turkish foreign minister to provide greater security for Turkish diplomatic personnel working in the United States. Terrorism is not confined to distant parts of the globe. It is a barbaric plague that infects the entire world community. We in the United States have been relatively fortunate so far. We may not be for much longer. Last October, for example, a bomb was exploded at the building belonging to the Turkish delegation to the United Nations in New York. Four American citizens were injured in this incident.

Now is the time to condemn all acts of terrorism whatever the motivation, and to make it clear to terrorists and potential terrorists that their barbaric acts will not be tolerated. A civilized society can do no less.●

SENATOR RIEGLE OPPOSES SUSPENSION OF ISRAELI ARMS SHIPMENTS

● Mr. RIEGLE. Mr. President, the decision by Israel to destroy a facility in Iraq dedicated to the immediate production of nuclear weapons for use against Israel is a decision I fully understand. I can understand how a chief of State of Israel might well have ordered this mission at some point.

However, one might judge the actions of Israel or Iraq, the world is well rid of this particular nuclear weapons facility.

It is exceedingly difficult to draw the line that separates a defensive military strike from an offensive one.

Based on the facts now available, I do not believe this action warrants a suspension of arms shipments to Israel, and I find President Reagan's decision to suspend the delivery of F–16 aircraft to Israel to be an excessive response. I hope this action by the President will be of limited duration and that normal transactions with Israel will resume shortly.

As for the general spread of nuclear weapons and nuclear weapons technology, the United States and other Western nations have not worked hard enough to prevent nuclear proliferation. Free world greed and careless judgment have been and are major contributors to the spread of nuclear weapons development now taking place in numerous countries. We must change our ways. Random air strikes are not the answer to this worldwide problem.

Perhaps the destruction of the Iraqi facility will focus world attention on the imperative—the absolute imperative—of limiting the transfer of nuclear weapons technology and productive capacity to additional nations. Then we must move on to reduce the staggering stockpiles on nuclear weapons presently in the world's military arsenals.

World survival demands that we move now with major new initiatives to stop the mindless spread of nuclear weapons around the globe. Time is short and humankind hangs in the balance. Let us act now, while we still can.●

SENATOR KENNEDY ADDRESSES THE UNION OF AMERICAN HEBREW CONGREGATIONS

● Mr. CRANSTON. Mr. President, recently, the distinguished senior Senator from Massachusetts, Senator KENNEDY, delivered an address to the Union of American Hebrew Congregations. Sentor KENNEDY has outlined for us very clearly many of his concerns about the direction this country is headed toward—both domestically and internationally. I share many of his concerns. He could not be more on target when he says "* * * the New Right is all wrong." His message of concern and sympathy for the problems faced by all too many Americans is a splendid reaffirmation of the moral responsibility the radicals of the New Right would have us turn our backs on.

I also share Senator KENNEDY's fears with respect to the Middle East—par-

ticularly about the administration's plans to sell sophisticated offensive weapons, AWACS and sidewinder missiles, to Saudi Arabia. I also believe that the administration's response to Israel's action to eliminate the nuclear threat posed by Iraq was a hasty and ill-conceived one. Senator KENNEDY has made some cogent points, and I wish to share them with my colleagues. I ask that the full text of Senator KENNEDY's speech be placed in the RECORD at this point.

The speech is as follows:

ADDRESS OF SENATOR EDWARD M. KENNEDY, UNION OF AMERICAN HEBREW CONGREGATIONS

Thank you Rabbi Schindler, for that warm introduction.

We are meeting today at a time of great decisions about the direction of our country at home and in the larger world. Fundamental principles that define our destiny as a free people are now at risk—principles that have taken years, and sometimes generations to build. Those principles must not be set aside at the whim of passing political majorities. And they certainly must never be swept aside by those who dare to call themselves a Moral Majority.

We must reaffirm our own basic convictions about America and the world.

Not long ago, within the short span of a few weeks, we all experienced the profound shock of the attack on the President and then on the Pope. When the Holy Father was wounded, it seemed to be a shot that went to the soul of the world.

All of us are grateful that President Reagan, Pope John Paul II, and the others who were injured are now covering. But before these latest flashes of gunfire fade from our conscience, we must demand action against the violence that terrorizes our streets and neighborhoods, and the international terrorism that too often tears the fabric of the world community.

And there is something else that must be said about the reign of rising crime in our society. At long last, we must act on handgun control. We must outlaw the Saturday Night Specials, whose only purpose is to kill and to maim other human beings. We must take cheap handguns out of the hands of the killers, the muggers, and the psychopaths.

Last year, handguns killed 48 people in Japan, 8 in Great Britain, 34 in Switzerland, 52 in Canada, 21 in Sweden, 42 in West Germany—and 10,728 in the United States. That statistic would be unacceptable in any other civilized country in the world, and we must make it unacceptable in our own country.

Those of us who favor handgun control have absolutely no intention of taking rifles and sporting pistols from hunters. We will not limit the right of law-abiding citizens to defend their families. But we have had enough of the old smears and the false fears fed by the N.R.A. When I read their propaganda, I think that perhaps the National Rifle Association should really be called the National Handgun Association. So let us say to them, on the issue of handgun control, we will never give up and we will never give in.

Abroad, we cannot stand silent about a series of ominous steps our government has taken. I believe the Administration is wrong on El Salvador, wrong on nuclear arms control, and wrong on human rights. And I believe the Administration is twice wrong on the Middle East—wrong once for its policy of arms sales to Saudi Arabia that will jeopardize the security of Israel, and wrong again for its criticism of the action last week by Israel against Iraq.

You know where I stand. I consider the State Department's criticism of Israel's action against the Iraqi nuclear facility to be unwarranted and unjust.

The United States should not second-guess Israel's decision in this extremely difficult situation—a dilemma that potentially involved a fundamental threat to the very survival of our surest friend and strongest ally in the Middle East. This issue is of utmost concern for the national security of Israel. It is an issue for the Israelis to determine for themselves.

There surely was cause for grave concern. Iraq is the sworn enemy of Israel and committed to its destruction. Since 1948, it has regarded itself as in a state of war with Israel. Unlike other Arab nations, it has refused even to sign an armistice with Israel. It sponsors continuing terrorist actions against Israel. It has rejected the Camp David peace agreements. And now, Israel faced the prospect of nuclear weapons in the hands of one of its most bitter enemies.

Instead of assailing Israel, we should criticize the failure to forestall European suppliers from providing sensitive nuclear technology to Iraq.

We should insist that the effort to halt nuclear proliferation must become a major priority for our nation and the world.

I call upon the Reagan Administration to resume the delivery of F-16 aircraft, which are essential to the defense of Israel. I also call upon the Administration to strongly oppose any effort in the Security Council or the General Assembly of the United Nations or elsewhere, to condemn, to punish, or to expel Israel.

We must never forget that the security of Israel is essential to the security of the United States.

There is a sad corollary to the suspension of F-16 deliveries to Israel—the incredible, and incredibly wrong, decision by the Administration to sell advanced military planes and equipment to Saudi Arabia.

I voted against the sale of F-15 fighter planes to Saudi Arabia in 1978, because they would threaten the security of Israel. In fact, that sale generated so much concern that the Carter Administration promised to draw the line right there—and never to increase the offensive capability of the Saudi aircraft.

A new Administration must not repudiate the solemn obligations of the United States government. We are not talking about some technical "enhancement" of the F-15. We are talking about advanced sidewinder missiles and sophisticated AWACS planes to give Saudi Arabia a command platform in the air to guide attacks against the territory of Israel.

America must never give the Saudis or any other nation the power to overwhelm Israel's air defenses. I will vote and speak and work against the AWACS sale and all the other parts of this dangerous arms sale to Saudi Arabia. And with your help, I believe that we can defeat that deal in the United States Senate.

If the Reagan Administration wants to pursue an anti-terrorist strategy, then let them stop selling offensive arms to Saudi Arabia, which spends nearly $400 million a year to finance the terrorists of the P.L.O.

If the Administration wants peace in the Middle East, then let them stop selling offensive arms to Saudi Arabia, which fiercely opposes the Camp David path to peace. Any arms we supply to Saudi Arabia must be defensive weapons only. They must always be pointed in the right direction—and never against Israel.

Finally, I want to speak to you briefly about the challenges we face in domestic policy. These challenges are equally difficult—and they, too, must be squarely met. We have heard often in recent months about the rethinking of liberal programs.

There have been mistakes. But government has also made an indispensable difference. In the outcry and disillusion of the day, let us remember that it is government which set minimum wages and maximum hours, which insured the security of the elderly and the rights of labor, which opposed discrimination and protected the health and safety of workers on the job, which fought for equal rights for the majority who are women and civil rights for the minority who are not white or who speak with the Spanish tongue. And it is, in fact, government which helped to make our economy prosperous in the past—and which helped to keep our free enterprise system truly free.

We have much to be proud of. And we can also afford to be realistic about the places where government has fallen short. Many of our programs have succeeded. Some have not. In other cases, the problem is not that progressive ideas have failed, but that they were never really tried.

President Reagan has suggested that Americans are worse off today than twenty years ago. Surely none of us believes that. No black person who now has civil rights, no family that has escaped from poverty, no worker who experienced the prosperity of the 1960's, who bought a home and sent his children to college, can possibly believe that.

One of the clearest examples of the Administration's alliance with extremism was their attempt to appoint Warren Richardson, the former General Counsel and chief lobbyist for the so-called Liberty Lobby, as Assistant Secretary of Health and Human Services. The Liberty Lobby has a relentless record of anti-Semitism, of racism, and of bigotry against ethnic groups.

In the face of the national outcry against the nomination, Mr. Richardson withdrew his name. You and all those who sounded the alarm deserve great credit for preventing the unwarranted nomination of Warren Richardson. There is no room at the highest levels of government for anyone who spent four years associated with the anti-Semitic, anti-black, and anti-ethnic propaganda of the Liberty Lobby.

We are told, and it is surely correct, that we cannot solve our problems simply by throwing money at them. But that is only a half-truth misused to excuse indifference and neglect. Instead we must insist on the whole truth. We must also say that this nation cannot solve its problems by throwing tax cuts, budget cuts, and Social Security cuts at them.

Certainly, we must trim waste and needless spending from the budget. But that is not all they are proposing to do. Certainly, we must eliminate unnecessary regulation, and not ask of business a standard which is impossible to meet. But that is not what they are proposing.

What they are proposing is to eliminate the loans that send hundreds of thousands of our sons and daughters to college; the school lunches that feed hundreds of thousands of young children every day; the health care programs that have increased the length and raised the quality of our lives.

What the Administration is suggesting is that we cut back on the safety regulations which have saved thousands from death and serious injury, that we allow workers to breathe more cotton dust, that we abandon the goal of preserving the environment, and leave instead to our children a land which they can no longer truly call America the beautiful.

Most of all, we must not accept the empty notion that compassion is out of fashion—that caring for others is passé. The neediest families and the middle class are not natural enemies. Often, they are the common victims of monopoly and concentrated private power. The greatest drain on the economic security of our citizens in recent years is not due to the decent things they have done for each other, but to the higher and higher sums that have been taken from them to pay for home heating oil and energy.

As progressives, we must adapt our enduring values to changing conditions. That is not a novel idea, but an old tradition that reaches from the New Frontier of Woodrow Wilson to the New Deal of Franklin Roosevelt to the New Frontier of John Kennedy.

In that spirit, we must offer new hope for economic progress and social justice in the 1980's.

In due time, I am convinced that this present mood—this anti-government, anti-education, anti-middle-class attitude—will pass. The people of America will finally realize that here, and in every other area the extremists touch, the New Right is all wrong.

They may be riding high for now. But they are riding for a fall. Their infatuation with inaction and their religion of reaction cannot survive the reality of the 1980's.

America's faith in government is as old as the Mayflower Compact and the Declaration of Independence, and as new as the voyage of the Spaceship Columbia. And the vast majority of the people of this nation will soon come to understand that the prevalent philosophy of this day is alien to all our history and contrary to all our hopes.

When that realization reaches home, you and I will be there, ready to pick up the fallen standard and make government again the true servant of all the people of this land.

I am proud to stand with all of you in this auspicious Consultation on Conscience. And in that spirit, let us renew our covenant with Israel and our own pledge of peace.

For peace is all that Israel asks. Peace, as the prophet Micah wrote, so that "They shall sit, every man under his vine and under his fig tree, and none shall make them afraid."

Peace, as the Torah teaches, so that "The desert shall rejoice and blossom as the rose. And they that wait upon the Lord shall renew their strength."

Let us pledge to pursue that peace together. Let us follow the age old dream as the guiding star that will lead us safely to the future.●

"MAJORITY AND MINORITY LEADERS OF THE SENATE"

Mr. BAKER. Mr. President, I have a resolution for myself and for the distinguished minority leader. I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for himself and the Senator from West Virginia (Mr. ROBERT C. BYRD) proposes a resolution, as follows:

S. RES. 154

Resolved, That the compilation entitled "Majority and Minority Leaders of the Senate," prepared by the Senate Parliamentarian Emeritus, Floyd M. Riddick, shall be printed, with any revisions and certain tables, as a Senate document, and an additional two thousand copies shall be printed for distribution by the Secretary of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 154) was agreed to.

Mr. BAKER. Mr. President, these requests, I believe, have been cleared with the distinguished minority leader.

OMNIBUS RECONCILIATION ACT OF 1981

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 149, a resolution pertaining to the printing of the Omnibus Reconciliation Act of 1981.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 149) authorizing the printing of additional copies of the Omnibus Reconciliation Act of 1981, and accompanying reports.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 149) was agreed to.

REQUEST FOR CLEARANCE OF CERTAIN BILLS

Mr. BAKER. Mr. President, there are two items on the Calendar of General Orders on this side which are cleared and I would inquire of the distinguished minority leader if he is in a position to clear them at this time: calendar order No. 102, S. 923, the Pretrial Services Act, and calendar order No. 156, S. 823, dealing with the chemical tris.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader withhold that request momentarily?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. BAKER subsequently said: Mr. President, I am advised that perhaps the two calendar orders that I identified have not yet been cleared on the minority side.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I wonder if we might consider one item on the Executive Calendar. I am referring to Calendar Order No. 1: Withdrawal of United States-Canada East Coast Fishery Resources Agreement, which is cleared on this side.

Mr. President, I understand that item on the Executive Calendar is cleared.

EXECUTIVE SESSION

WITHDRAWAL OF UNITED STATES-CANADA EAST COAST FISHERY RESOURCES AGREEMENT

Mr. BAKER, Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of considering Senate Executive Resolution 1, Calendar Order No. 1 on today's Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the executive resolution.

The assistant legislative clerk read as follows:

SENATE EXECUTIVE RESOLUTION 1

Resolved, That the Secretary of the Senate is directed to return to the President of the United States, as requested in his message to the Senate under date of April 21, 1981, the Agreement Between the Government of the United States of America and the Government of Canada on East Coast Fishery Resources, signed at Washington on March 29, 1979 (Executive V, 96th Cong., 1st sess.).

The PRESIDING OFFICER. The question is on agreeing to the Senate Executive Resolution 1.

The executive resolution (S. Ex. Res. 1) was agreed to.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I will now put the remainder of the unanimous-consent request that I discussed earlier.

ORDERS FOR THURSDAY

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order there be special orders in favor of the Senator from Tennessee (Mr. BAKER), the Senator from South Carolina (Mr. THURMOND), and the Senator from Virginia (Mr. WARNER) for not more than 15 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that after the execution of the special orders there be a period for the transaction of routine morning business to extend not longer than 15 minutes in length in which Senators may speak for not more than 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RESUME CONSIDERATION OF S. 1193 AND S. 951 TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to the consideration of S. 1193, the Department of State authorization bill, and that it complete its consideration of the Durenberger-Leahy amendment, that such amendment be the only amendment in order; that upon the disposition thereof and to the exclusion of any intervening debate, motion, point of order or appeal, a vote then occur on final passage of the bill; and that upon the disposition of S. 1193 the Senate return to the consideration of S. 951, the Department of Justice authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M. TOMORROW

Mr. BAKER. Mr. President, I know of no further business to come before the Senate on this side of the aisle and I see no Senator seeking recognition. Therefore, Mr. President, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9 a.m. tomorrow.

The motion was agreed to; and, at 6:29 p.m., the Senate recessed until tomorrow, June 18, 1981, at 9 a.m.

EXTENSIONS OF REMARKS

EXPLANATION AS TO VOTE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. LANTOS. Mr. Speaker, I was unable to be present on the floor of the House of Representatives on Tuesday, June 16. Had I been present I would have recorded my votes in the following manner:

On rollcall No. 75, June 16, 1981, approval of the Journal, "Yes."

On rollcall No. 76, June 16, 1981, House Joint Resolution 287, support of infant formula code, "Yes."

On rollcall No. 77, House Resolution 159, support efforts to resolve the crisis in Lebanon, and congratulate Special Envoy Philip Habib on his tireless efforts to resolve current international problems, "Yes."

On rollcall No. 78, quorum call.

On rollcall No. 79, amendment (Mr. KASTENMEIER) to the Legal Services Corporation Act to insure that a majority of the attorney members of the governing body be appointed by the bar association or associations in the area in which the recipient is to provide legal assistance, "Yes."

On rollcall No. 80, amendment (Mr. SENSENBRENNER) to repeal the automatic refunding provision of the Legal Services Corporation Act, "No."●

STRAINS IN THE NATO ALLIANCE

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. WEISS. Mr. Speaker, many of our European allies have shown increasing concern over the past 18 months about the proposed placement of U.S.-provided nuclear missiles in several European countries. President Reagan's plan to continue to move toward deployment without first conducting arms control negotiations for the European theater future strains our Nation's relations with our key allies on that continent.

An article appeared recently in In These Times which documented our allies' growing resistance to President Reagan's policy for defense of Europe. This article points out that a majority of Europeans support ratification of the SALT II agreement and want new arms control negotiations to commence immediately. In spite of this strong sentiment from several of our closest allies, the President has not made a clear commitment to controlling the spread of nuclear weapons.

This issue is of vital concern to all Americans. I urge my colleagues to carefully consider the possible further problems which could be caused by unnecessary pressures on the NATO alliance. The article follows:

NATO ALLIES HAVE THEIR OWN OPINIONS

(By John Judis)

The Reagan administration is deeply concerned about what National Security Advisor Richard Allen described recently as "outright pacifist sentiments" now prevalent in Western Europe. Manifested by the opposition to the pledge by NATO nations to increase defense spending 3 percent annually and to station 572 intermediate-range American missiles on European soil, the new pacifism threatens to subvert the administration's military and diplomatic ambitions.

During the last 18 months, opposition to the defense spending and theater nuclear force (TNF) proposals—both of which were introduced in NATO by the U.S.—has been most marked in the Netherlands, Belgium and Denmark. American defense analysts now even refer to Europe's disenchantment as "Denmarkization." But in the last six months, there are clear signs that Denmarkization has spread to the bulwarks of NATO, West Germany and Great Britain.

In West Germany, Chancellor Helmut Schmidt, who has supported TNF and the 3 percent increase, has found himself embattled within his own Social Democratic Party. On the eve of his May 21 visit to the U.S., he even threatened to resign if his party members did not back him on these points. Schmidt's political problems were underscored by the results of the May 10 West Berlin elections, which saw an antimilitarist "Alternative List" take 7.2 percent of the vote and deprive the Social Democrats and Free Democrats of their majority.

In Great Britain, the ascendency of antimilitarist Michael Foot to the Labour Party leadership already had alarmed the Reagan administration. Then, last month, opposition to NATO's priorities surfaced within the Conservative Party. In response to continuing inflation, Margaret Thatcher's Defense Secretary John Nott has drawn up a plan for $2 billion in defense *cuts* over the next 10 years.

But even more astonishing and disconcerting to the Reagan administration were the results of polls undertaken in Western Europe by the United States International Communications Agency (USICA), formerly the U.S. Information Agency. The USICA polls, taken by Gallup Institute, demonstrate that public opposition to the Americans' NATO proposals is widespread and growing.

According to the most recent polls, two-thirds of West Germans and half of the British and Dutch reject stationing missiles on European soil. Forty percent of Germans rejected stationing them under any conditions. An additional third would support them only so long as they thought East-West arms control negotiations would succeed.

The proposal for deploying the neutron bomb in Europe, which has been revived by Defense Secretary Caspar Weinberger, also meets with steadfast opposition. Its deployment is opposed by 58 percent in the Netherlands (with only 17 percent favoring it), by 53 (vs. 15) percent in Norway, 36 (vs. 28) percent in Britain and 44 (vs. 27) percent in West Germany.

Among the six NATO countries, only the West Germans and British support existing levels of defense spending. In France, Italy, Belgium and the Netherlands, a third or more support cutting defense spending, while only 10 percent favor the NATO increases.

In all these countries, the support for the NATO increase and for TNF has sharply declined over the last year. Support for a defense increase among the British dropped from 50 percent in March 1980 to 30 percent this spring. Support for an increase among West Germans dropped from 41 percent in May 1980 to 20 percent last October.

The drop in support partly reflects growing concern about inflation. One survey showed that 47 percent of West Germans, 67 percent of the British and 70 percent of the Italians would support cutting defense spending to fight inflation. As inflation has persisted and increased this year, support for defense cuts has risen.

THE NEW NEUTRALISM

A majority of Europeans supported SALT II and want new arms control negotiations to commence immediately. When asked to compare the priorities of arms control vs. strengthening NATO, 50 to 18 percent in France, 44 to 21 percent in the Netherlands, 40 to 31 percent in Great Britain, and 35 to 21 percent in West Germany thought arms control more important.

Detente is a good word, not a bad word, in Western Europe. Eighty percent of West Germans thought detente "appropriate" to safeguarding peace and freedom. Sixty-seven percent of West Germans and 52 percent of the French favor a "conciliatory approach" to the Soviet Union. Sixty-five percent of West Germans and 54 percent of the French (as opposed to 34 percent of Americans) think the West has benefited from detente as much as the Soviet Union has.

The most dramatic demonstration of Western European support for arms control came when the USICA asked whether arms control talks should be halted in the event of a Soviet invasion of Poland; only one in 10 thought they should.

There is also considerable and growing support in Western Europe for diplomatic independence from the U.S. An independent Common Market foreign policy is favored by a third of Germans, and by pluralities in France, Italy, Belgium and the Netherlands. In a March 1980 poll, before the drop in support for the new NATO commitments, 60 percent of the French, 55 percent of the British and 37 percent of West Germans wanted their countries to stay out of disputes between the U.S. and the Soviet Union rather than increasing their backing for the U.S. Forty percent of the French, 20 percent of the British and 34 percent of West Germans wanted their countries to become neutral.

One might assume that growing European support for neutrality reflects a favorable opinion of the Soviet Union, but the contrary appears to be the case. From 1972 to October 1980, there has been a decline in favorable opinion of Soviet "socialism." In 1972, 28 percent had a positive and only 43 percent had a negative view of Soviet socialism; eight years later, only 14 percent had a positive view, and 59 percent had a negative view.

European support for neutrality seems more based on two related factors: first, growing fear of the Soviet Union and recognition that the East is now militarily equal to, if not stronger than, the West; and second, fear that the U.S. policies under Reagan increase the chances of war. Sixty-three percent of West Germans (vs. 35 percent in 1979) believe that West Germany is threatened by the Soviet Union. In Britain, the percentages believing Britain threatened jumped from 77 to 85 percent.

Since 1972, the proportion of West Europeans that see the U.S. as "the most powerful country in the world" has declined 20 percent in France, Britain and West Germany. A plurality in West Germany and France think the U.S. and the Soviet Union are militarily equal, and more think the USSR is militarily superior than think the U.S. is.

There is very little support, however, for Reagan's goal of regaining military superiority over the Soviet Union. In West Germany, 75 percent in a recent poll supported equality between the two superpowers, while only 16 percent supported the goal of American superiority. Two-thirds believed that Reagan would follow a "harder line" against the Soviet Union than his predecessor did, and 60 percent wanted Bonn to "keep its distance" from such a policy. In Britain, 48 percent think Reagan's policies will harm Soviet-American relations, while 22 percent think they will improve them.

Reagan's immediate problems in Europe are based on his rejection of SALT II. The proposal to introduce missiles into Europe was originally predicated upon the adoption of SALT II, which was to lead directly to SALT III talks on the arms balance in the European theater. In this context, the TNF was taken as a Kissingerian "bargaining chip" rather than as an escalation of the arms race.

But Western Europeans now see both TNF and the 3 percent spending increase as dangerous escalations that bring Europe closer to war. As they told Defense Secretary Weinberger at last month's NATO meeting, they need a commitment on the part of the U.S. to begin immediately arms talks with the Soviet Union. Weinberger gave them a lukewarm one, which will not be enough to stem the growing disenchantment with American military strategy.

But even if Reagan should repudiate his own political base and plunge earnestly into arms control negotiations, it is unlikely that he can prevent the erosion of the Western alliance. The erosion has not been based upon the policies of particular American administrations, but upon the growing economic equality between the U.S. and Western Europe and the growing military equality between the U.S. and the USSR.

The NATO defections are not isolated developments, but part and parcel of the breakdown of the Bretton Woods monetary system, the creation of the European Monetary System, independent European initiatives in the Mideast and Central America, and the unwillingness of Western Europe to join a united front with the U.S. after the Soviet invasion of Afghanistan. In the next decade, Western Europe's growing independence, combined with the erosion of Soviet control in Eastern Europe, will profoundly alter world politics.●

THE ALL-VOLUNTEER FORCE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. MICHEL. Mr. Speaker, we are seeing many reports and articles questioning the values and the efficiency of the All-Volunteer Force (AVF). I recently came across an article that makes a very persuasive case in favor of the AVF and I want to commend it to your attention.

At this point I insert in the RECORD: "Volunteer Army: It Deserves a Fair Chance" by Lawrence J. Korb, Washington Post, June 9, 1981:

VOLUNTEER ARMY: IT DESERVES A FAIR CHANCE

One does not casually disagree with Gen. Maxwell D. Taylor on military matters, but, after much thought, I must register my objection to his prescription [op-ed, May 12] for meeting our military manpower needs—"a rapid return to some form of conscription."

Like President Reagan and Defense Secretary Caspar Weinberger, I am sworn to do what is best for the security of our nation. Also like them, I am philosophically disposed against the governmental intrusion into private lives that conscription would involve. This leads me to want to do everything we can to maintain a strong military through an All-Volunteer Force, a worthy concept that has not been given a fair chance.

Designed with the best of intentions about a decade ago and heralded with appropriate rhetoric about its importance and about the commitment to make it work, the All-Volunteer Force was short-changed and short-circuited, not all that long after it was introduced.

Potential recruits were enticed with the prospect of earning a living roughly comparable with that in the civilian world. The harsh reality, however, was that military compensation, in relation to that in the civilian sector, began declining shortly after the AVF was established; by 1979, compensation for our men and women in uniform had fallen about 7 percent behind that of their civilian counterparts. Not only that, but allowances for such things as housing and moving fell even further behind. Military families routinely spent thousands of dollars out of their own pockets for these things, and some 20,000 of them became eligible for food stamps. Only last fall did the gap begin to narrow and some semblance of equity return.

The American people were promised well-trained, professional military forces, yet training has declined in the services over the life of the AVF, in no small part because of budgetary restraints. By 1976, for example, Navy pilots flew 30 percent fewer hours per month than they had flown before the Vietnam War. In 1973, the Army reduced basic training from eight weeks to seven. Also, the average length of technical training in the Air Force dropped from 15 weeks to 11. The result, not surprisingly, is a force that is not as well trained and, therefore, not as ready to fight as it should be.

The All-Volunteer Force was supposed to reestablish positive and mutually respectful relations between the military and the rest of our society, giving greater prestige to this most essential of careers and more satisfaction to those who volunteered for it. Yet, throughout most of the 1970s, the pall of Vietnam hung over this foundling experiment and respect for the military fell to a post-World War II low.

So my first conclusion is that it is premature to declare the AVF a failure. Our implementation of it may have been a failure, but that says little about the concept.

The Reagan administration's view is that we should give AVF a full and fair try, and we are committed to doing what is necessary to make that possible. To begin with, we are proposing a 5.3 percent real increase in pay to reestablish and then to maintain basic equity for those who serve in uniform. Second, in our revised defense budget for fiscal year 1982, we are proposing significant increases in training, averaging 5 percent for all the services—and training, we must remember, correlates directly with readiness. Third, we are determined to restore the pride Americans once felt in their military personnel; by word and deed we are showing that it is a noble career, one that preserves the freedom and the security we all enjoy and cherish. Recruiting and retention data for the first half of fiscal year 1981 show we are on the right track.

Gen. Taylor's concern about how long—not how well—our forces could fight is more a matter of sufficient ammunition, supplies and equipment to sustain combat, and our budget moves us in the right direction in that area as well. His worry that, once combat starts, casualities would discourage volunteers is somewhat misplaced: the premise of the AVF is that it is essentially a peacetime force; in time of a large-scale war, conscription would be resumed and we would not have to rely only on volunteers to fight the war.

My basic objection to his article, and my fundamental message here, is: let's give the All-Volunteer Force a real chance before we think about a return to the cumbersome bureaucracy, the coercive intrusion and the basic unfairness of conscripting only a small number of young people to man a peacetime military force.●

TWO YOUNG HEROES

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. ROUSSELOT. Mr. Speaker, it has recently been brought to my attention that two young heroes are residing in my district. Marnieta Howard and Jessy Wootten, students at Mid-Valley School in West Covina, Calif., jointly saved a 4-year-old boy from snow suffocation during a school field trip at Mount Baldy, a ski resort, on March 9, 1981.

While at a recreation site near a posted avalanche area, the two young people heard cries. Initially they ig-

nored them, but the cries persisted. Investigating, 12-year-olds Marnieta and Jessy could just barely see the arms and head of a small boy in what appeared to be a ditch about 50 feet up the mountainside.

With difficulty keeping their footing, the two struggled up the slope while the youngster continued with his cries of fear. They saw that he had sunk into a slide area of soft snow. From a nearby tree Marnieta broke off a branch, and with Jessy on one side of a large hole supporting one end, Marnieta buttressed the other end of the branch on a rock so she would be free to work to reach the child.

The boy did not cooperate with Marnieta as she instructed him to grab hold of her arm, so she was forced to reach further to grab his shoulder and pull until he was able to crawl onto her back. Jessy's efforts continued in supporting the branch as Marnieta climbed toward him with the boy clinging to her. After many tense minutes the two reached safety.

Halfway through the rescue they could hear the local sheriff's commands on a megaphone to stop climbing in an avalanche area. The boy's father and the sheriff were looking for the boy when they observed Marnieta in an off-limits area. Soon, though, the men realized what the children were doing. Amazed at the risk that they took, and at their bravery, the men praised the two young heroes for their actions after the chilling event.

This is a moving example of courage and compassion, and I am proud of these two life-savers, as are their families and the people of San Gabriel and Covina, where the children live. Marnieta and Jessy certainly deserve recognition for their heroic deed, and it is for this reason that I bring it to the attention of my colleagues.●

SUPPORT FOR PUBLIC BROADCASTING

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. MARKEY. Mr. Speaker, tomorrow the House will consider legislation affecting America's unduplicated cultural resource: Public broadcasting. I am proud to represent an area served by one of public broadcasting's hallmark stations, WGBH in Boston. WGBH has always worked under severe budgetary constraints, yet has managed not only to survive but to set standards of excellence in broadcasting communications worldwide. I urge my colleagues to read the following editorial from the Boston Globe before considering their vote on the Public Broadcasting Act Amendments of 1981.

[From the Boston Globe, June 1, 1981]

PUBLIC TV'S PROMISE: II

Public television has brought the Lyceum, Chatauqua, Minsky's and Camelot into American livingrooms against heavy odds. It has satisfied the Nation's hunger for beauty, presented great drama, explored the sea and the sky—on shoestring budgets. Boston's Channel 2, like the other 285 stations in the public broadcasting system, has had to rattle a tin cup continually to raise the money it needs to continue its programming.

This programming proves how good television can be. This week's auction, with its frenetic, non-stop solicitation, only dramatizes public television's desperate financial situation.

WGBH's burden isn't likely to ease. This year the federal government appropriated $172 million for public broadcasting. That represents about a third of public broadcasting's entire annual budget. It also represents five percent of what the commercial networks will pour into programming in the same period. The sum is an expenditure of 70 cents for every American, or less per capita than any other country in the world. Although Congress has offered several compromises, the Reagan Administration proposes to reduce that appropriation to $100 million by 1986.

Under the Reagan budget, public television stands to lose in other ways as well. Proposed budget cuts for the National Endowment for the Arts, the National Endowment for the Humanities, the National Science Foundation and the Department of Education, which have all made grants to public television, will deprive it of additional revenue. Under current law, public television must raise $2 of private money for every $1 of federal money. If government funds are reduced, matching funds will also be reduced. These reductions will force programming cuts, which in turn may have an adverse effect on viewer support and corporate contributions.

The air is thick with alternative proposals, schemes and plans. Some suggest that public television could save money by getting out of the production business or by reducing local programming. Others believe that public television could raise money by advertising, by renting its facilities when they are not in use, by trying commercial ventures such as publishing or videocassettes. Others argue that stations themselves must become more cost-conscious. None of these alternatives is likely to generate tremendous sums.

PBS is also studying the creation of a pay cable service for the performing arts. Skeptics doubt whether the proposed Public Subscriber Network will be able to compete with commercial services that plan similar pay cable offerings, but others believe public television is best equipped to do the job.

Rep. Tim Wirth (D-Colorado) and others rightly contend that the Corporation for Public Broadcasting, the 15-member governing board that disburses government funds, should be retained if it can be made to operate more efficiently. Wirth has proposed legislation that would, among other provisions, limit CPB's administrative costs.

Inflation and increased programming costs have already forced some stations to streamline, cut back and lay off. Many believe that it's impossible to make a strong case for greater government support for public TV now that so many other essential services are being cut. Is it?

Lawrence K. Grossman, President of the Public Broadcasting System, which distributes programming to the stations, predicts that public television will survive, that it will continue to be vital. He also predicts that it will always have financial problems. "Every institution that has concerned itself with culture," he says, "even when it was supported by the court, even when it was supported by the church, even when supported by the government or rich business patrons as the Dutch did, has always been underfunded, has always had to scratch."

Public television in this country has always had to scratch, to spend creative energy in pursuit of money. This effort may prove as critical to our culture as daVinci, Chartres' architects or Rubens proved to theirs. This nation cannot afford to have public television fail.●

DAVIS-BACON SHOULD GO

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. PARRIS. Mr. Speaker, we are all aware of the number of controversial reports on the 50-year-old Bacon-Davis Act. This inflationary regulation has boosted average construction costs of the Washington Metro system 6.8 percent higher and average Metro labor costs nearly 34 percent higher than would normally occur if this act were not on the books.

The U.S. taxpayers will be forced to pay an additional $150 million in costs for Metro because of this antiquated legislation.

Recently, a newspaper in my district, the Alexandria Gazette, which is the country's oldest daily newspaper, ran an excellent and incisive editorial on this subject. I think my colleagues will find it informative.

A copy of the editorial follows:

[From the Alexandria Gazette, June 6, 1981]

DAVIS-BACON SHOULD GO

There seems to be no good reason why the U.S. Labor Department should be in the business of setting local wage rates—particularly rates that are much higher than necessary. But such is the case, thanks to the Davis-Bacon Act, which is costing U.S. taxpayers about a billion dollars a year in inflated building costs.

Davis-Bacon is a hangover from the Great Depression, a law enacted 50 years ago to protect small-time contractors from cutthroat competition by gangs of destitute laborers, who roamed the nation in the 1930s.

The conditions that led to enactment of Davis-Bacon vanished long ago, but the law lingers on, having an entirely different effect than its framers intended. Under its terms, the Labor Department surveys wages in each region of the country and supposedly averages highest and lowest rates to set a "prevailing wage" in each category of the construction trades. Contractors employed on public works using federal money are required to pay this prevailing rate the Labor Department, however, almost always accepts the local union contract rates as the

prevailing wage, ignoring the thousands of non-union workers who earn less.

This salary-setting forces all bidders on public works where federal money is used—and this includes highways, and most major city and county projects these days—to pay artificially high wages, rather than the average wages prevailing in the area. By thus driving up all construction wages, Davis-Bacon results in an inflation of pay scales that will cost taxpayers an estimated billion dollars extra this year on $30 billion of government public works across the country.

Inasmuch as all have to pay the same salary rate, government contractors support the Davis-Bacon Act, because it removes labor costs from the bidding competition. Building trades unions also like it, because it has helped to keep construction-industry pay at nearly double the average level for all hourly workers.

In California construction costs are further inflated by the Walsh-Healey Act, a companion to the Davis-Bacon Act, which governs pay scales on state public works, with similar results.

We don't need such laws that fuel government spending and inflation. Clearly Congress ought to repeal Davis-Bacon, just as the California state legislature should get rid of the Walsh-Healey Act.

The Reagan Administration has indicated it would prefer to amend the Davis-Bacon Act to remove its worst features. We believe this piecemeal approach is wrong. Davis-Bacon should be stricken from the books as a costly, irrelevant relic of the 1930s.●

ARROGANCE AND WASTE IN LEGAL SERVICES PROGRAM

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. IRELAND. Mr. Speaker, as we debate the Legal Services bill, I want to call to the attention of my colleagues a letter I received from an attorney in north Florida which describes the arrogant attitude on the part of the Legal Services Atlanta office in first trying to force a program on a local bar association, and then rejecting their $140,000 grant application on the grounds that they did not ask for enough money!

This, and numerous other horror stories brought to my attention, clearly point out that the people running Legal Services' programs are simply not operating in the realm of reality. It does not make sense to mandate a preconceived formula that says an area must spend x number of dollars in order to provide adequate legal services.

What is even more alarming is that when a program tries to return unused Federal dollars—our tax dollars—they are told they cannot do so!

I, for one, feel the time has come to put the brakes on this wasteful approach. Why should one be penalized for doing a good job for less money?

I personally would encourage local bar associations, and State bar associations to take up a far greater role in providing essential legal services to the poor and needy than they have to date. In a sense, the Legal Services Corporation constitutes a tax-subsidized service to the legal profession, allowing the private attorneys to avoid their public responsibility.

Some local, private groups have tried to carry out their civic responsibilities, as I have pointed out above, only to be stymied by the Corporation. This is wrong, it must stop forthwith. Today's vote should begin that process.

The letter from George E. Day, a member of the Okaloosa Walton Bar, to the President of the Legal Services Corporation follows:

MAY 29, 1981.

Complaint and demand for investigation, Mr. Victor Geminiana, Legal Services Corp., Atlanta, Georgia and Legal Services Corp., Washington, D.C.

President DAN BRADLEY,
Legal Services Corporation,
Washington, D.C.

DEAR MR. BRADLEY: This letter is an official complaint concerning the management action of the regional director of the Atlanta, Georgia office. I am both staggered and amazed at the cavalier manner in which Mr. Geminiana handles the taxpayers money.

The Okaloosa Walton Bar provides free legal services for the needy in the community. The members of the bar donate their services to cover each day, and the attorney who has the duty on his assigned day processes the indigent client. To the best of my knowledge, there has never been a case where some truly needy was not represented, if he made his needs known.

The Legal Services Corporation (thru the Atlanta office and you) has told us we must have your socialized lawyering program here, and that either we take a grant of money to do it, or they will give that money to a group from Tallahassee or from Pensacola, and they will do the socialized lawyering for us. They further have told us that we have to take the program.

We the bar reluctantly agreed to submit a bid to open an office that would be funded by you at the rate of $140,000.00 of taxpayers' money. Atlanta turned our bid down for the incredible reason that we hadn't asked for enough money.

Now Mr. Bradley, I really have trouble with that decision. If we could do it for free, and give good service, why can't we do it for $140,000.00?

After we have had some additional time to think it over, we refuse any part of your socialized lawyering program, and we will sue you to kingdom come to keep your wasteful ways out of our area.

In a day and time when our country has been running billions of dollars in the red, driving up the rate of inflation, and truly hurting the needy with high taxes and unemployment; you people are a disgrace in your posturing about the poor.

I am aware that our neighboring county was overfunded by $300,000.00 which they tried to return to you. It's my understanding that when you refused the refund, they used the money to purchase a building. I gather that this building then went off the tax rolls.

Down here in North West Florida, Mr. Bradley, we still think $300,000.00 is a lot of money. When the $140,000.00 you want to waste on us is added, we have almost half a million.

What's even scarier Mr. Bradley is that I think North West Florida might only be the tip of the iceberg. How much taxpayer sweat and blood is being blown in Miami, New Orleans, Dallas, Los Angeles, Chicago, New York City and Philadelphia.

As Everett Dirksen once said "a billion here, and a billion there, and pretty soon you're talking about real money."

We gave Ronald Reagan seventy-three percent (73 percent) of the vote to get Government off our backs. It seems that your Legal Services Corporaton doesn't understand the voters message.

I demand an investigation of this incredible waste, and insist that you get busy and find the rest of that iceberg.

Truly yours,

GEORGE E. DAY, P.A.
Attorney at Law.●

BALTIMORE CITY'S CETA WORKERS

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. MITCHELL of Maryland. Mr. Speaker, the many attacks on the Comprehensive Employment and Training Act (CETA) program implementation should not lead to the dismissal of the fine services performed by CETA workers. In the Seventh District of Maryland, which I represent, the use of CETA youth resources has facilitated the existence of: Over 200 private businesses acting as worksites; 8 alternative schools serving over 3,000 dropouts; tightly supervised work projects where youth make visible and lasting improvements to the community; and, productive year-round opportunities for 7,000 teenagers.

Unfortunately, we are constantly deluged with an inordinate amount of data which cite abuse, waste, and inadequacy in the CETA programs. Moreover, we see questions about whether the CETA workers are truly contributing to community development in a significant manner. In the city of Baltimore, I am very proud that our CETA workers are just as important to the economic and social growth of our community as any other component.

Through city and nonprofit agencies, CETA workers: weatherize 4,000 homes each year; rehabilitate vacant city houses; teach basic literacy skills to school dropouts; prevent truancy in the schools; read newspapers and books over the radio for visually handicapped; provide shelter for battered women; provide means to homebound elderly; paint murals to beautify city neighborhoods; and, provide theater and musical entertainment throughout the city.

Our Baltimore CETA workers are characterized by outstanding achievement in such areas as community stabilization, increasing worker produc-

tivity, community improvement and services. It is distressing to know that massive cuts in the public service employment (PSE) component alone will cost Baltimore $31 million and 3,000 jobs. Moreover, cuts in this particular component burden Baltimore with a severe loss in the area of sources for trained, work-ready employees.

Another analysis shows that with the massive cuts and virtual elimination of the PSE component, Baltimore's PSE taxpayers may become tax users. The projected economic impact in this area is: $7.5 million in added unemployment compensation costs; $3.8 million in lost FICA revenues; $3 million loss in Federal/State and local income tax receipts; and, $5 million loss in sales tax receipts.

I am certain that I am not alone in my concern as a representative of a large urban area. The impact of the CETA cuts will be devastating, and I am afraid that we are taking a large risk by dreaming for the private sector to absorb the resulting unemployment. Hopefully, we will take more than a second look at CETA as we move through future budget deliberations and considerations.●

CONGRESS AND THE COURT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. HAMILTON. Mr. Speaker, I insert my Washington Report for Wednesday, June 17, 1981, into the CONGRESSIONAL RECORD.

WASHINGTON REPORT

One of the most interesting legislative battles going on in the back rooms of the Capitol is the attempt to deny the United States Supreme Court the authority to hear certain cases.

Since the earliest days of our history as a nation, the Supreme Court has been unchallenged as the final authority which interprets and enforces the United States Constitution. In recent years, however, many people have been angered by the Court's decisions on the touchy issues of abortion, desegregation, and prayer in schools. When they look at the recent performance of the Court, they see a series of rulings that have exceeded the limits of judicial review, eroded the deliberative processes of the Congress, and thwarted the will of the majority. Unable to move forward against the Court by amending the Constitution, they favor passing a bill that would restrict the Court's jurisdiction.

The common legislative route is being chosen because it is quick and easy. To become law, a bill to restrict the reach of the Court requires a simple majority in both houses of Congress and the signature of the President. A constitutional amendment to overturn a decision of the Court requires a two-thirds majority in both houses of Congress and ratification in the legislatures of three-fourths of the states. There is a complicating factor in the common approach, however. If a bill is enacted, the Court may not be compliant. It has the power to review legislation, and it may fight hard to preserve its authority to deal with every case brought before it by determining that the new law is unconstitutional. All the elements of a full-fledged constitutional crisis would be present in this clash between Congress and the Court.

To date, some 25 "court-stripping" bills have been introduced in Congress. The bills raise larger questions which transcend the issues of abortion, desegregation, and prayer in schools. The specific issues are clearly important, but the larger questions go to the very heart of our nation's system of government, a system in which three separate but equal branches foster democracy by checking and balancing one another. What Congress will do with the bills remains very uncertain.

The debate focuses on Article III of the Constitution, which establishes the federal judiciary and outlines its powers. A clause in the article is the basis of the Court's power to review the decisions of the state and lower federal courts, yet that clause gives the Court appellate jurisdiction "with such Exceptions, and under such Regulations as the Congress shall make." The controversy can be stated simply: under this provision of the Constitution, can Congress keep the Court from hearing certain cases?

As one might expect, specialists in constitutional law do not agree. Many of them, probably the clear majority, concur with the view that the court-stripping bills are dangerous. These scholars argue that restraint by Congress in this realm of action serves the country well by helping to guarantee the overall stability of the system. Some experts do not think that the bills would violate the Constitution, but nearly everyone acknowledges that there is no definite precedent. The ultimate effect of the bills would be to clear the way for scores of separate and potentially different state and federal rulings on various issues, with no higher tribunal to resolve the conflicts. Most specialists believe that if Congress strips the Court of the authority it now has to enforce constitutional rights in one area, pressures will build to strip the Court of its powers of enforcement in many areas. The Court could end up totally decimated, a mere shadow of its former self. Even if the pressures were not overwhelming, the Court's historic protection of the minority against the abuses of the majority would be subtly compromised and the delicate balance among the three separate but equal branches of government would be fundamentally altered.

It seems to me that the court-stripping bills are unwise as a matter of public policy. I understand the frustration of many American citizens who have tried unsuccessfully to undo the rulings of the Court. I, too, have disagreed with some of those rulings. While Article III of the Constitution may give Congress the power to limit the Court's reach, I am persuaded that the exercise of the power would have undesirable side effects. Cutting into the Court's jurisdiction would distort the nature of the federal union by permitting state and federal courts to decide for themselves what the Constitution means. Exactly what the Constitution would finally become is anyone's guess. Also, the relationship of checks and balances among the three branches of the government has given the nation a profound stability in bad times and in good. We make sudden, far-reaching changes in that relationship at our own peril.

The struggle for power between Congress and the Court is certainly nothing new. The Founding Fathers never intended the Court to be subject to the prevailing mood of the electorate, so while it has sometimes been "behind the times" it has also been protective of individual rights, no matter what the mood. In the debate on the pending bills, we must not forget the larger ramifications they would have for our constitutional system.●

TRIBUTE TO DR. AND MRS. JAMES V. DWAN OF SAGINAW, MICH.

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. TRAXLER. Mr. Speaker, I would like to take this time to share with my colleagues a very memorable occasion in the lives of two special people in my district. These people are Dr. and Mrs. James V. Dwan who will be celebrating their 50th anniversary. They were joined in marriage on August 29, 1931, in Bay City, Mich. Dr. and Mrs. Dwan are the proud parents of 6 children and presently have 29 grandchildren and 1 great-grandchild.

Dr. Dwan is a lifelong resident of Saginaw, Mich. He is currently retired after practicing dentistry for 55 years in the Saginaw area. His many years of faithful service in the Eighth Congressional District of Michigan have been greatly appreciated.

I sincerely hope the coming years for Dr. and Mrs. Dwan are as happy and joyous as their past 50 years together have been, and I hope all of my colleagues will join in my best wishes to Dr. and Mrs. Dwan.●

EXECUTIVE MANAGERIAL DEVELOPMENT PROGRAM OF THE DEPARTMENT OF THE INTERIOR

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. JONES of North Carolina. Mr. Speaker, I call to the attention of the Members of the House the executive managerial development program (EMDP) of the Department of the Interior. This very worthwhile program is designed to identify and train promising employees in grades GS-9 through GS-14 for subsequent top-level-carrier-management positions in the Department and its bureaus.

This year there were 35 participants in this program which involves a 10-month curriculum consisting of rotational assignments throughout the Government, structured seminars on management theory and practice,

courses at local universities and an important 6-week exposure to the lawmaking function of the Congress of the United States.

Having learned of the program earlier this year, I invited the U.S. Fish and Wildlife Service of the Department of the Interior to assign two trainees to the Merchant Marine and Fisheries Committee, which I chair. The two trainees assigned to this committee, Jeff Fountain and Stephanie Caswell, proved to be gifted, industrious, and resourceful. In collaboration with members of my staff they planned their own study programs which included attendance at subcommittee and full committee hearings, observation of floor activity in the House and Senate, and working with subcommittee and full committee staff in the development and handling of reauthorization acts and drafting and development of other legislation. In addition each of them researched and reported upon a bill or concept within his range of knowledge and experience. For example, Jeff Fountain, who has been employed in wildlife refuge management for approximately 15 years, worked on a uniform atlas of U.S. wildlife refuges, and Stephanie Caswell, with experience in drafting environmental impact statements, developed a 23-page detailed report on a proposed clearinghouse for processing permit applications for water projects.

The executive managerial development program (EMDP), and its predecessor training programs of the Department of the Interior, have graduated over 1,100 executives since 1949. Many of these graduates have top-level governmental positions in the Department of the Interior, its agencies and bureaus. The 35 participants this year went through an extended selection process including individual bureau competition at regional and national levels, testing at managerial testing centers, and final evaluation by the Office of the Secretary of the Interior. These participants came from 10 different agencies, with technical backgrounds as diverse as physical scientist in international data analysis to tribal operations officer, and wildlife refuge manager. Their education ranged from bachelor of arts in liberal arts, to Ph. D. and LL.D. degrees.

From what we have observed of the program and its participants, we are persuaded that it is in fact an outstanding example of how the Congress itself can benefit from utilizing the specialized knowledge and expertise of qualified employees of an executive department—in this instance the executive Department of the Interior—and how these same employees can benefit the Nation in return by learning how our laws are made—a knowledge which can be vastly important to them as they assume future positions of leadership. I have today written James Watt, Secretary of the Department of the Interior, to congratulate him and his Department for development this executive managerial development program and to urge that it be continued.●

IN HONOR OF THE DELAWARE VALLEY SYMPHONIC BAND

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. EDGAR. Mr. Speaker, it is with great pride that I bring to the attention of my colleagues the achievements of the student musicians of the Delaware Valley Symphonic Band. They have a history of excellence, and it is their continuing superiority in the world of music that has won for them invitations to perform in Germany, Austria, Italy, and Switzerland this summer.

These young junior and senior high school students are special people. They have been chosen through the audition process to become members of this organization, thus setting in motion a cycle of long hours of rehearsal, study, and the sacrifice of other activities dear to the heart of young people. Their hard work has meant pleasure for those of us living in the Delaware valley fortunate enough to have thrilled to their music.

In 1979, the Freedom's Foundation of Valley Forge awarded the group a George Washington gold medal for promoting community and international understanding during its second European tour. Awards have been bestowed by 10 European governments and the U.S. Congress.

Miss Bonnie Strang will once again serve as conductor and Mrs. Nora Burridge as associate conductor for this summer's tour. Under this devoted leadership the band pursues the fulfillment of its motto: Dedicated to the development of American youth and the furtherance of international understanding through music. Indeed, music is the international language that has the power to cement friendships and dissolve animosities among the nations. What more noble goal should we be about?

I am proud and happy to invite my colleagues to join me in congratulating this group of inspiring young musicians and in wishing them a successful and rewarding tour.●

SOUTH AFRICA: A FICTIONAL FRIEND

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. DOWNEY. Mr. Speaker, President Reagan recently described South Africa as a "country that has stood behind us in every war we have ever fought."

Was he correct? The answer is yes or no, depending on what we define as South Africa.

It is true that the Government of South Africa supported the Allies in both World Wars. So Mr. Reagan is technically correct.

On the other hand, this policy was opposed by a vigorous pro-Nazi, anti-Semitic, antiliberal capitalism faction, and it is this faction which came to power after the Second War and has remained in power to this day. In the unlikely event that we should again enter conflict with a Nazi regime, there can be no doubt that South Africa under its present leadership would stand with our enemies. There can be no doubt that, had South Africa's movement to the right occurred 15 years earlier, that country would have stood at the side of Adolf Hitler. In short, if these people are indeed behind us we would best not turn our backs on them.

The history of South Africa's world view is summarized in a thoughtful article by Stephen Cohen which appeared in the New Republic of May 2, 1981, which I now insert in the RECORD.

SOUTH AFRICAN HISTORY, REAGAN STYLE: SUCH GOOD FRIENDS

(By Stephen Cohen)

In a recent interview President Reagan signaled his readiness for warmer U.S.-South African relations with a rhetorical question. "Can we," the president asked emphatically, "abandon this country that has stood beside us in every war we've ever fought?" The president's remark, offhand though it may have been, was widely reported. It was gratefully received by the South African government as showing greater understanding of apartheid. It encouraged those who want to end U.S. pressure for change in South Africa. And it was a serious distorition of the historical record.

The clear implication was that those who rule South Africa today—the National party and the Afrikaner community—supported us in World Wars I and II. But the National party, then a parliamentary minority, and its Afrikaner followers actively fought to keep South Africa out of both world wars. The South Africa that stood by us was led by pro-British politicians who drew support primarily from English speakers.

One month after the start of World War I, the South African government announced that as part of the British Empire, it was automatically at war with the common enemy, Germany, and would attack German Southwest Africa. The Nationalist leader, J.

B. M. Hertzog, vehemently denounced these plans, Afrikaners staged war protest meetings around the country, and three Afrikaner generals began a rebellion. A fourth officer even joined his forces with German units in Southwest Africa, handing recalcitrants over to his new allies as prisoners of war. Loyal government units, also consisting of Afrikaner soldiers, quickly put down the revolt. But three rebel leaders who were killed became Afrikaner martyrs, and the Nationalists benefited from widespread Afrikaner resentment of South Africa's involvement in Britain's war.

In 1933 a coalition government was formed, with Hertzog as prime minister and the pro-British Jan Smuts as his deputy. Hertzog's accommodation with the English speakers caused a sharp split within party ranks, and about half the Nationalist members of Parliament formed an opposition under D. F. Malan.

The question of South African participation in World War II tore the coalition asunder and healed the breach among Afrikaner Nationalists. On September 4, 1939, shortly after Britain declared war on Germany, the South African Parliament met to consider its position. Hertzog not only argued that involvement was against South African interests, he also defended Hitler as acting simply to make up for Germany's "humiliation" by the "monster of Versailles." Malan, who was to become prime minister in 1948, insisted that Germany's annexation of Czechoslovakia was no more than necessary self-defense.

The motion to declare war on Germany carried, but only by a vote of 80-67, as the Nationalists who had supported the coalition government now joined Malan's opposition forces. Hertzog resigned as prime minister to protest the declaration of war, and Smuts took over the job. According to Oswald Pirow, who had been Hertzog's minister of defense, "Afrikaners were . . . elated by the realization that, although . . . Smuts had a majority in the Parliament, they were united as never before in their history."

Hertzog and Malan continued to press in Parliament for reversal of the September 1939 declaration of war. In January 1940, Hertzog introduced a motion calling for immediate peace with Germany and argued, "South Africa's participation in the war is the greatest blunder and most fatal mistake ever made. . . . I again ask for proof that Germany is out for world domination." He stated that Germany had been tormented since 1914 as no other country in history and had taken over the Rhineland, Austria, Sudetenland, Czechoslovakia, and Poland only "to repair the ravages of Versailles." Malan added that it would be far better for England and America to lose the war than to win. In June Hertzog asserted that the war was "hopelessly lost." In August he accused the Western powers of a crime for refusing to discuss Hitler's "peace offers." A year later he declared, "I regard National Socialism as suited to the moral and religious outlook of the Afrikaner. . . . Liberal capitalism, with its unrestricted economic competition, was responsible for the destruction of the Boer Republics and the impoverishment of all Germany."

Even at that, Hertzog was considered "soft on the British" by most other Afrikaner Nationalist leaders. During the war he was forced out of active politics after being accused of collaborating with "British-Jewish" plotters by J. G. Strijdom, who was to succeed Malan as prime minister in 1953.

The Nationalist newspaper, Die Transvaaler, was edited at this time by H. F. Verwoerd, who followed Strijdom as prime minster in 1958. A pro-Smuts newspaper accused Die Transvaaler of falsifying the news to support Nazi propaganda. Verwoerd sued for libel and lost. The judge explained, "On the evidence he is not entitled to complain. He did support Nazi propaganda, he did make his newspaper a tool of the Nazis in South Africa, and he knew it." Meanwhile, P. W. Botha, who is prime minister today, was a full-time party organizer. He had joined in 1935 at the age of 19 and helped to mastermind the Nationalist victory over Smuts after the war.

On April 12, 1945, South Africa received the news that Franklin Roosevelt had died. Malan and the Nationalist opposition refused to cooperate with Smuts in a vote of condolence, because it would set a precedent and one day the Parliament would be asked to "mourn for Stalin."

But for many Afrikaners, Malan and his Nationalist party did not go far enough. They were challenged from the right by the Ossewa-Brandwag (Ox-Wagon Guard), named to honor Afrikaners who had fled in ox wagons a century before from areas under British control. The group's 300,000 members, organized into paramilitary units, cheered British defeats and hailed Nazi victories. An elite unit within it, the Stormjaers, looking "disquietingly akin to Nazi stormtroopers," engaged in wartime sabotage of power stations, railroad tracks, and telephone and telegraph lines. The Smuts government interned about 2,000 members of the Ossewa-Bandwag for antiwar activities. Among them was B. J. Vorster, Assistant-Hoof Kommandant or regional commander—and South Africa's prime minister from 1966 to 1978.

Who were the South Africans who did stand by us in World War II? It was not only the white supporters of Smuts, but non-whites as well. The non-whites had three representatives in Parliament who voted with the Smuts forces to declare war on Germany, and the African National Congress passed a resolution favoring South Africa's entry into World War II.

It must be said that non-white endorsement of the war was not enthusiastic. It was tempered by demands that support be repaid with steps to end racial discrimination, and many resented the law prohibiting non-white soldiers from bearing arms. Yet thousands of them served in auxiliary forces inside South Africa and helped to safeguard the war effort against internal subversion by Afrikaners. They also supplied the industrial labor for South African factories that manufactured war material.

President Reagan's point about sticking with those who have stood beside us in war does not justify warm relations with the current South African government under the National party. It's a far better reason for being tough on their policy of apartheid, which was inspired by Nazi ideology and which enslaves non-whites who did stand by us in World War II.●

LAST HOPE

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. GARCIA. Mr. Speaker, a concerned citizen who is employed at the South Bronx Census Bureau was inspired by his work to write the following poem, which I would like to share with you all.

REFLECTIONS ON A VISIT TO A GHETTO

(By Simon Perlmutter)

Dry is the well that once reflected the moonlight
Dead is the brook that once gurgled and laughed
Gone is the spirit that climbed over the mountain
A desert of rubble grows high where once danced a fountain
Cold is the sun which nurtured the oppressed and beaten
And cold is the air which once carried the fragrance of Eden
All who exist in this ghetto are by fear and poverty gaffed
Yet, treasures and potentials of rich human resources are here to be tapped
Still twinkles the star on that bleak blanket of sky
Giving courage, hope and determination for those who must try
Yes, this is the place where we must give effort and thought
For our flag when it's flying, must never be flying for naught.●

STATE OF CALIFORNIA ENDORSES H.R. 3238, PUBLIC BROADCASTING LEGISLATION

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. WAXMAN. Mr. Speaker, I am pleased to insert in the RECORD for the benefit of my colleagues the strong endorsement conveyed by Gov. Jerry Brown of California in favor of H.R. 3238, the Public Broadcasting Amendments Act of 1981, which will be on the House floor later this week. Specifically, the Governor has endorsed adequate funding for public broadcasting and continuation of the public telecommunications facilities program—the targets of weakening amendments to be offered on the House floor.

I commend this letter to the attention of my colleagues:

STATE OF CALIFORNIA,
GOVERNOR'S OFFICE,
Sacramento, Calif., June 12, 1981.

Hon. HENRY WAXMAN,
Member of Congress, House Subcommittee on Telecommunications, Rayburn House Office Building, Washington, D.C.

DEAR HENRY WAXMAN: The administration very much supports your efforts, as coauthor of H.R. 3238, the Public Broadcasting Amendments Act of 1981, to continue Federal assistance to public broadcasting to the maximum feasible extent. I know the difficulty of doing so, yet public broadcasting remains a vital source of public education and community service. Public broadcasting needs the chance to develop new sources of revenue. Reduction in Federal grants for public broadcasting should be planned and

gradual, rather than precipitous and disruptive.

Your approach is especially important to California whose public broadcasting system is the largest of any state and whose breadth of listeners and viewers, as well as supporters, is unequaled. I have expressed a similar support for public broadcasting this year when I proposed to the State Legislature an increase in the budget of the California Public Broadcasting Commission to nearly three times its current level. Similarly, I am encouraged by your efforts to continue the Public Telecommunications Facilities Program at a significant level to strengthen all public telecommunications. In California, public telecommunications is an important factor, not only in providing for community education, but also in augmenting social services and reducing the cost of governmental programs.

California thus has a special stake in the outcome of H.R. 3238 and the ensuing joint conference. Nearly 25 percent of the population regularly take advantage of public broadcasting programing. Every public broadcasting station, whether in the far northern reaches of our state or in the Southland, has shown large percentage increases in the numbers of contributors and their dollars.

It is my hope that public broadcasting shall not only be permitted to endure, but to grow. H.R. 3238 is the best Congressional vehicle to achieve these goals. By copies of this letter, I propose to the California Congressional delegation that each and every district deserves the benefits of H.R. 3238 and would hope that it would be supported by their representatives.

Sincerely,

EDMUND G. BROWN, Jr.,
Governor.●

OUTSTANDING SERVICE TO THE NATION BY CHARLES BENNETT

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. CHAPPELL. Mr. Speaker, as you are aware, on June 5, 1981, a significant milestone was established by a Member of this body. The Member to whom I refer, is my dear friend, respected colleague, and the dean of the Florida delegation—Hon. CHARLES E. BENNETT. On June 5, 1981, CHARLIE completed his 30th consecutive year without missing a single legislative vote on any rollcall in the U.S. House of Representatives.

As we all know, it is difficult—if not impossible—to be present for every legislative vote in any given year; but to have maintained such an unblemished record for 30 years is, indeed, a landmark achievement.

CHARLIE BENNETT has compiled a record of 12,944 rollcalls, including 8,707 recorded votes and 4,237 recorded quorum calls since first coming to Congress in January of 1949. While such numbers are impressive on their own; they represent a quality of leadership which is of much greater significance—that being a dedicated commitment to represent the views and concerns of his constituents who sent him to this honored Chamber. CHARLIE BENNETT has served his constituents, the State of Florida, and the Nation with honor, dedication, and unswerving loyalty. CHARLIE's service has not been without personal sacrifice and he continues to put his public responsibilities at the forefront of his daily life. As the dean of our delegation he leads with strength, fairness, and compassion. His personal integrity, honesty, and objectivity are well known and respected by his colleagues and constituents alike. In short, CHARLIE BENNETT is the epitome of what a public servant is all about and those of us who have been fortunate enough to serve with him know that we are better legislators because of that association.

Clearly, my colleague's unbelievable statistical record, as well as his undiminished sense of duty over the past 30 years are worthy of recognition by both his colleagues and the citizens of the Third Congressional District of Florida.●

BOUQUETS TO THE ISRAELIS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. DORNAN of California. Mr. Speaker, although the controve surrounding the Israeli bombing the Iraqi nuclear plant rages on, I believe that the following editorial by R. Emmett Tyrell, Jr., just about says it all. I commend it to the attention of my colleagues:

[From the Washington Post, June 15, 1981]

BOUQUETS TO THE ISRAELIS

(By R. Emmett Tyrell, Jr.)

Why all the rending of garments over last week's Israeli air strike? The Iranians tried to bomb the very same Iraqi nuclear plant last September, and I noted no uproar. Why the anguished chorus over the Israeli attack? Is it because the Israelis were successful and the Iranians missed? Had Allah smiled on the Iranian bombers, would the United Nations have convened another of its hot-air confabulations? Imagine Iraq's president, Saddam Hussein, in possession of atomic bombs. Would the Saudis sleep as comfortably then as they do now? Would Jordan's King Hussein? Would the Syrian Machiavel, Hafez Assad, or anyone else in that enormously volatile area?

The nations of the Middle East and, for that matter, all the peace-loving nations of the world ought to be sending the Israelis bouquets. And let us be spared any more of the Arabs' emotional sonorities about international law. The Iraqis are at war with Israel. They want to be at war with Israel. They like to be at war with Israel. In fact, Saddam Hussein seems to relish war as fondly as the late Benito Mussolini did, though Hussein butchered a lot more of his countrymen in pursuing high office than did Mussolini.

Many of those now ardently criticizing Israel apparently are ignorant of the vicious and mercurial nature of Israel's enemies. They seem to doubt that any foreign peoples would ever be ruthless or unreasonable. Thus they favor ceaseless dialogue and public relations as instruments of diplomacy. Such people are simply ignoring the nature of international politics.

The goal of all serious political activity is control, generally control of one's enemies. If one is insufficiently powerful to subjugate one's enemies, one scales down one's ambitions. The difference is between choosing an offensive or a defensive policy. The third option is taking no action at all.

The Israelis will never be powerful enough to subjugate their enemies, and they cannot opt out of their political situation. Hence they are condemned to a defensive strategy, and their air strike last week was a masterful show of defense. Their critics wish they had exercised the third option and done nothing.

This is the option with which the West has been most comfortable with over the past 35 years. Those who prescribe it essentially see foreign affairs as apolitical. They refuse to accept that there are struggles for influence going on in the world. They deny that there are malevolent forces. They believe all disagreements are reasonable disagreements. Always they counsel restraint.

By practicing restraint, the West has prospered. Every year more and more fashionably dressed people parade along the Champs Elysees, the Via Veneto and Central Park South. Life is sweet; all is well.

But the grim truth is that, in an increasing number of countries around the world, life has become hellish. And as the Western powers withdraw their influence, allowing the liberal order in international relations to be extinguished, the future of world peace itself is increasingly left in the nervous hands of men like Saddam Hussein. I for one do not like the drift of things. As the citizenry of the West continues to cut deals abroad and live the high life at home, more and more woebegone immigrants from foreign barbarism drop themselves to Western shores. It is an ominous sign.

The countries of the West abound with Africans, Asians and Latin Americans who have lost the struggle for political control in their countries. The Israelis understand the meaning of these signs. The outcome of the war in Southeast Asia should constitute the great political lesson of the late 20th century. The Israelis appreciate this. They do not want to become the next wave of boat people.

For over three decades the Israelis have steadfastly accepted the imperatives of their political condition. A nation of under 4 million, it has endured in an ocean of 134 million hostile faces. During this time, dozens of peoples have had their cultures snuffed out. Yet the irony is that by accepting the imperatives of their political condition the Israelis have actually gained a degree of acceptance in that hostile ocean that their present critics would never have prophesied. More Arabs today view the Israelis as tolerable than ever before. In that turbulent and bloody-minded area, the Israelis have been the only truly effective peace-keeping force. The Lebanese understand this. The Egyptians understand it. Do the diplomats of the West understand?●

LEBANON: ANOTHER COMMITMENT?

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. PAUL. Mr. Speaker, House Resolution 159 was passed almost unanimously yesterday, and it should not have been.

Some parts of the resolution urge peace in the Middle East and praise the character of Philip Habib. I, of course, have no problem with these.

But toward the end of the resolution are some words that require a full debate, not a quick sense-of-Congress resolution brought up under unanimous consent, all too reminiscent of previous resolutions that have meant trouble.

House Resolution 159 states:

Resolved, That the House of Representatives strongly supports diplomatic efforts to resolve the current crisis in Lebanon, and encourages the President to pursue a comprehensive and coordinated policy in Lebanon, including the development of an effective cease-fire, resolution of the issue of Syrian missiles, and promotion of the independence, sovereignty, unity, and territorial integrity of Lebanon.

Since when have the people of the United States become the guarantor of Lebanon? Such a promise could require the use of troops, as well as billions of tax dollars.

Are we to solve the issue of Syrian missiles by force? Or use our troops to patrol a cease-fire?

This overbroad resolution, sponsored by the leadership of the Foreign Affairs Committee, has within it the seeds of possible trouble for the United States. Congress should not have considered it in such a fashion, with Members hardly even having time to read it.

We need less meddling in the internal affairs of other nations, not more.

But this resolution could be used to justify who knows what use of dollars and lives, in a future conflict or peacekeeping operation.

House Resolution 159 is a bad resolution, brought up without sufficient time to study its implications. It is not in our country's interests. It should not have been passed.●

LEE TERRY POEM

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. DAUB. Mr. Speaker, in my congressional district, the election commissioner for Douglas County, Lee Terry, is well known for his competent and dedicated public service. He is less well known for his able talents with the pen.

Recently, Lee applied this talent by writing a poem that encourages the electorate to vote on election day—a poem that earned him the prestigious Freedom's Foundation Award. His message is clear—our democratic form of government is only as strong as each individual's participation in the political process and the underlying component of this participation is his or her responsibility to vote. I am pleased to share "Time to Share" with my colleagues:

TIME TO SHARE

(By Lee Terry)

Another election is just down the road.
Time for Americans to share in the load of helping to keep our Country strong
And "the land of the free", as it says in our song.
But there's one thing about it that you and I know,
A lot of Americans aren't going to show.
They'll find all kinds of excuses to stay away,
Like "one vote doesn't count", or, "just busy that day".
But one vote does count. It puts teeth in the system
And when the votes are not there, you'll find somebody missed them,
For a flip of a coin has determined the fate
Of many and many a Candidate.
And those who don't vote saying politicians are greedy,
That they work for themselves and not for the needy
Fail to recall in our history's short past
Of the many great people who helped this nation last
Through depression, scandal, inflation and wars
But still kept the enemy away from our shores.
Sure there are Politicians who can be labeled cheaters
But that's not the character of most of our leaders.
We've had some of the best that God put here on earth
Like Washington who gave this country its birth
And Jefferson who's vision enlarged this great land
And Lincoln who taught us a house divided can't stand,
And who breathed new life into the meaning of freedom
And then gave his own when the people did need him.
And there was Wilson who wanted to have peace above all
And his message became America's call
As Roosevelt, Ike and others let the World know
We're peaceable people but if there's trouble we'll show,
And we'll stop those who threaten Democracy's way.
We've had leaders prove that day after day.
America's lucky. Just look through the years,
And although you'll find many filled with some tears,
Most of them glisten in a Country of dreams
Where hope burns as bright as the sun's kindly beams
Because those we elected have given their best
To make this Country shine over all of the rest.
In every election around four million souls
Go on the ballots hoping for roles
In Congress, as Mayor, as Judge, or as Clerk,
And it's those people too, who made America work.
Another great leader once taught us anew
Not to ask for ourselves what our Country can do.
And it's certainly not much for our Country to ask
That we go to the polls and put ourselves to the task
Of insuring for millions who yet may see
What it's like to breathe the air of Liberty.●

JOHN S. KNIGHT

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. FASCELL. Mr. Speaker, the Nation has lost one of its publishing giants. I would like to pay tribute to and reflect upon the importance of the contributions which John S. Knight made to his profession and to the country.

At the time of his death yesterday at the age of 86, John Knight headed Knight-Ridder Newspapers, Inc., with 33 newspapers around the Nation, including the Miami Herald in my own hometown, with a combined circulation of 4 million. He was actively involved in the operations of his papers; prided himself on the independent editorial stance of his newspapers which "called our shots as we see them."; and on their civic and social consciousness as well as their efficient and profitable operation.

He was a Pulitzer Prize winner; an outstanding journalist in every sense of the word; and a man whom it was a privilege to know. His death marks the end of a truly remarkable journalism career. His contribution to journalism and the country will long be remembered. His precepts will long be honored by a legion of exceptional businessmen and journalists who grew up in and are a part of the John S. Knight organization.●

COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT ACT OF 1964

HON. JOHN B. BREAUX

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. BREAUX. Mr. Speaker, I have today introduced, with the support and cosponsorship of my good friend and colleague, Mr. Forsythe, legislation that will significantly alter the approach of the Federal Government in making grants to States for projects involving research on or development of commercial fishery resources. The

current grant program for commercial fisheries, implemented pursuant to provisions of the Commercial Fisheries Research and Development Act of 1964, has been successful in many instances, but equally unsuccessful in a number of other areas. In fact, a March 21, 1981, report by the Department of Commerce Inspector General was highly critical of the National Marine Fisheries Service (NMFS) which administers the grant program. According to the Commerce Inspector General, it has been impossible for either the Congress or the executive to determine the effectiveness of the program due to NMFS's failure to develop adequate evaluation criteria.

Mr. Speaker, in this era of tight budgets, fiscal restraints and conflicting claims for scarce Federal resource dollars, we cannot justify the blind continuation of programs that are neither adequately targeted to national problems nor capable of assessment regarding the effectiveness of these programs in addressing such problems. It is this principle that has guided our review of the existing commercial fisheries grant program and led us to the conclusion that changes are necessary.

Mr. Speaker, the bill that is being introduced today makes several important changes to existing law. Among them are provisions that:

First, revise the formula for determining each State's apportionment of available funds. The new formula is designed to stress the priority to be accorded those projects that will in fact lead to an increased commercial value for fish harvests in each State. The formula is also designed to be consistent with the reduced funding levels for this program that were recommended by the Fisheries and Wildlife Conservation and the Environment Subcommittee, which I chair;

Second, establish for fiscal year 1983 and beyond, priority for projects that involve interjurisdictional fisheries;

Third, revise the existing cost-share formula consistent with the establishment of a priority for interjurisdictional fisheries. These projects will continue to be eligible for up to 75 percent Federal financing. For projects involving a fishery of only local or State interests, we believe the State should be willing to pay for an increased share of the total project cost and the Federal share will be reduced accordingly to no more than 25 percent; and

Fourth, require NMFS to promulgate criteria by which both proposals submitted and the overall program itself may be evaluated. More detailed reports will be required from NMFS so that the relevant congressional committees will be assured of effective oversight.

Mr. Speaker, I believe this is carefully considered legislation. I believe it is essential if we are to continue this program. It is my intention to hold hearings on this bill in the very near future and to proceed with a markup shortly thereafter. I urge my colleagues to support this bill and insure its swift enactment.●

NATIONAL PEACH MONTH

HON. CLEVE BENEDICT

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. BENEDICT. Mr. Speaker, I have today introduced legislation to authorize and request the President to designate July 1981 as "National Peach Month." My distinguished colleague, Senator THURMOND, has also introduced this measure in the Senate.

I am sure you are aware that food and agricultural production is critically important to our economy and is a highly efficient, renewable resource. There will constantly be the growing demand to increase our Nation's capacity to produce nutritious fruits and vegetables, especially in today's world with so much emphasis on diet.

Specifically, peaches are a very important source of vitamin A, protein, and minerals, such as calcium and iron. Moreover, they are very low in calories, containing approximately 38 calories each. Peaches can and should be, therefore, a nutritious part of any well-balanced diet.

Mr. Speaker, I urge my colleagues to join me in calling attention and paying homage to the nutritional and economic values of this particular fruit.●

FEDERAL MEAT INSPECTION ACT

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. WAMPLER. Mr. Speaker, I ask my colleagues to join me in congratulating the U.S. Department of Agriculture on the 75th anniversary of the Federal Meat Inspection Act.

"Consumer protection" is a phrase coined in the last 15 years. Some may think it has gone too far—that we are trying to protect Americans from themselves. But one low-key program, begun long before the consumer protection era, is of unquestioned value. That program is, of course, meat inspection.

President Theodore Roosevelt said that a law was needed to inspect the preparation of meat food products "from the hoof to the can." That law was passed in 1906. In 1980 USDA inspected 129 million cattle, hogs, and other meat animals before and after slaughter. Then inspectors oversaw preparation of 70 billion pounds of processed meat products. Safe, wholesome, and accurately labeled products were marked with the Federal inspection seal.

At dinner last night, you may have noticed the phrase "USDA, Inspected and Passed" on the ham package. Few Americans know that this means: The ham was cured and smoked under Federal inspection; the hog from which the ham came was inspected for signs of disease before and after slaughter; USDA approved the company's ham curing formula for safety and its label for accuracy before the ham was processed; the plant met sensible sanitation and safety requirements before USDA agreed to inspect it; the plant could not sell its products in interstate or foreign commerce without inspection.

Even though they do not know the details of inspection, Americans expect that the meat they buy will be safe, wholesome, and accurately labeled. Their trust in the Federal inspection program is perhaps reflected in the fact that they take it for granted. Meat inspection is a consumer protection program that works.

Congratulations, USDA.●

FEDERAL FAT: MORE ON THE DAVIS-BACON ACT

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. HAGEDORN. Mr. Speaker, for those of my colleagues who may have missed it, I am submitting the following editorial from the April 22 Wall Street Journal which correctly describes the case for repeal of this antiquated law as "overwhelming."

I commend this article to my colleagues as food for serious thought when we are working to eliminate waste from the Federal budget and curb the rampant inflation under which our economy is laboring:

[From the Wall Street Journal, Wednesday, Apr. 22, 1981]

DAVIS-BACON IN THE DOCK

Over the 50 years the Davis-Bacon Act has existed, we've penned uncounted editorials condemning this especially flagrant example of federal economic intervention. But since the law is once again undergoing legislative scrutiny and since some of our readers may have come in late, the subject deserves review.

We'll start with the story of E. D. Plummer, a paving company located in Washington Township, Pa.—a rural community of 9,600 in Franklin County, some 130 miles from Philadephia and 22 miles from Maryland. E. D. Plummer does a lot of road work. On private jobs, Ken Plummer Sr. pays his flagman $4 to $5 an hour: a decent wage for a flagman in Washington Township; a decent wage, too, for a flagman in Franklin County or in nearby Maryland. But when

Ken Plummer Sr. does a government project, he pays the flagman $10.80 an hour. Same man, same work, same flag.

The difference is Davis-Bacon, a law requiring private contractors to pay something called "the prevailing wage" on federally funded construction projects. The prevailing wage does not have to prevail in the immediate geographic area, however; so the Labor Department usually imports it from the nearest big city. Thus, the prevailing wage is usually a union wage and the highest wage. For Ken Plummer, the prevailing wage is the Philadelphia wage—or twice the going rate.

This kind of thing can be pretty pricey. This year the federal budget calls for $30 billion in construction. Over a billion of that represents the unnecessary cost of Davis-Bacon wages.

Davis-Bacon has other, less obvious, effects. Boosting wages on federal construction makes federal construction more expensive, thus we get less of it; and it bids labor away from private projects, thus boosting private wages and limiting private projects. The net results, then, are less construction and less employment. Those who do work are, of course, handsomely enriched through this sneaky redistribution of income away from taxpayers.

Partly as a result, no doubt, construction workers receive wages nearly double, on average, the level for all hourly workers. Moreover, Davis-Bacon has a rather sordid history, passed mainly at the behest of small local contractors who wanted protection from the competition of roving gangs of itinerant workers, many of whom were destitute blacks, during the Depression. Also, there are a number of other laws that protect hourly workers in the construction trades against unfair treatment.

The times are achangin' for a law whose sole purpose is to bump up wages wherever and whenever possible. Four states have already repealed their "mini" Davis-Bacon and repeal is being considered in a dozen others. Congress will consider the matter after spring recess; the Senate has scheduled oversight hearings to begin April 28. The Reagan administration, whose support is critical to any repeal effort, has recently been talking only about tightening up the act. While we sympathize with the view that attention ought not be diverted from the President's economic program, it would be a shame to skip the opportunity to remove Davis-Bacon from the books. The case for repeal is so overwhelming that it's hard to see how arguing it would be distracting. Indeed, arguing for repeal seems the simplest course to take; goodness knows, it's the most sensible one.●

CARL LEVIN IN OPPOSITION TO THE DEATH PENALTY

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. CONYERS. Mr. Speaker, a number of bills are introduced each session of Congress to reinstitute capital punishment for certain Federal offenses. Although these proposals differ as to which crimes are serious enough to warrant the penalty of death, and whether judge or jury is better suited to making individual case determinations, the fundamental issue remains the same.

In a penetrating article which appeared in the Washington Post on June 12, our esteemed colleague from Michigan, Senator CARL LEVIN, discusses the question of whether capital punishment has a role in our criminal justice system. His analysis is insightful and timely, following passage of death penalty legislation by the Senate Judiciary Committee.

Senator LEVIN has had a wealth of experience in criminal law and is highly regarded as an expert in that field. He served as assistant attorney general of Michigan from 1964 to 1967, and subsequently worked as chief appellate attorney for the Defender's Office of Legal Aid and Defenders Association of Detroit. As a Detroit City Council member from 1969–1973 and council president from 1973 to 1977, CARL LEVIN won the respect and admiration of the citizens of Detroit. I am especially grateful to have had the opportunity to have worked closely with him during those years.

CARL LEVIN has brought to the Senate all of the qualities of a great statesman. I recommend Senator LEVIN's article to the attention of my colleagues:

[From the Washington Post, June 12, 1981]

DEATH PENALTY: ERRORS HAPPEN

(By Carl Levin)

This week, the Senate Judiciary Committee approved a bill to reinstitute the death penalty for certain federal crimes. As a lawyer with some experience in capital cases, I hope the bill "dies."

A primary reason to oppose the death penalty is the fear that innocent people will be executed. Proponents of capital punishment suggest that such "mistakes" are rare. But as the gubernatorial commutations in "high-profile" cases such as those of Sacco-Vanzetti and the Haymarket defendants indicate, they do take place. Even more frequent is our experience with situations in which innocent people escaped execution only through fortuitous circumstances unrelated to the judicial system's ability to correct error.

One example comes from my experience with the Public Defender's Office in Detroit. There I was assigned the case of Charles Clark, convicted of murdering a store-owner in 1937 and serving a mandatory life sentence because Michigan had previously abolished the death penalty.

In the years following his conviction, Clark persisted in proclaiming his innocence. Despite the hardships of prison life, he rejected gubernatorial offers to commute his sentence, explaining that acceptance would be an implicit admission of guilt.

I was intrigued by the case. I read the trial transcript and concluded that there was a good possibility that Clark actually was innocent. An investigator was assigned to find the murdered store-owner's daughter who, as the only eyewitness, had played the critical role at the trial.

When we talked with her, it became clear that she really had never been able to identify Clark as the killer or even place him at the scene. Her testimony, she explained, was the result of a detective's telling her at a lineup, "that's the man who shot your father," rather than her own recollection.

With the only evidence against him removed, a new trial was ordered, and soon thereafter Charles Clark left prison a free and officially innocent man. There is some comfort to be derived from the absence of the death penalty in Michigan, a fact that allowed Charles Clark to savor his ultimate vindication.

But this case demonstrates that our criminal justice system is fallible. It is designed, operated and maintained by imperfect human beings. Although we cannot allow the fear of error to paralyze us, we should avoid acts that make error irredeemable.

The issues associated with capital punishment go beyond the question of clear error. Our judicial code does more than establish innocence or guilt—it also seeks to evaluate relative levels of culpability. Thus we distinguish between murder in the first and second degrees. And in the bill now before the Senate, we catalog conditions that mitigate against imposing the death sentence.

These gradations of guilt attempt to recognize and respond to the diversity of human motives and the difficulty of determining individual intent. The inherently imprecise nature of this determination ensures that errors will be made in assessing the degree of guilt and imposing the appropriate punishment.

The Judiciary Committee's acceptance of proposals that allow the members of the jury to disagree about what specific aggravating factors justify the death penalty, as long as they agree that some aggravating factors were present, simply highlights this problem.

One can argue about the death penalty's deterrent effect, its morality or the fairness of its application. But one cannot argue against its ability to take the life of an innocent person or that it can be applied inappropriately in cases in which some degree of guilt is firmly established.

It is simply unwise and unconscionable to deprive ourselves of the ability to correct errors. The fatal flaw of the death penalty is that it denies us that opportunity.●

A SALUTE TO THE URBAN SERVICES AGENCY'S VOLUNTEERS

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. MITCHELL of Maryland. Mr. Speaker, I am very proud to take this time to honor the many volunteers of the Urban Services Agency in Baltimore, Md. Over the years, these volunteers have shared the gifts of dedication, commitment, and unrelentless service with those who have benefited from their work.

I believe that as we face the prevailing mood of fiscal austerity and Government spending reductions, we should be particularly proud that people such as the Urban Services Agency's volunteers have been in the forefront of rendering essential services for lower- and middle-income residents. The volunteers' initiatives include a wide range of services—from

caring for the elderly to counseling younger adults. Their efforts do not know the boundaries of race or economic status. Their work is centered around a commitment to the community.

The week of April 27 has been designated as National Volunteer Week. This will be a week when both national and local level initiatives will center around recognizing and thanking the many Urban Services Agency's volunteers who have served our communities proudly and unselfishly. I urge my colleagues to join in these efforts.●

REPRESSION OF CHARTER 77 HELSINKI MONITORING GROUP

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. RITTER. Mr. Speaker, I am greatly disturbed by the ongoing repression of members of the Charter 77 Human Rights Movement in Czechoslovakia. Formed in 1977, this group dedicated itself to monitoring the Czechoslovakian Government's compliance with the 1975 Helsinki accords. The incarceration of these brave individuals is yet another example of the Soviet Union and Eastern bloc nation's nonadherence to the Helsinki agreements.

Since their founding, members of Charter 77 have been the subject of harassment, arrest, and incarceration. Most recently, Jiri Hajek, former foreign minister, and approximately 30 members of the group were arrested by the Czechoslovak Government and charged with subversion. These people are not criminals. In fact, many of those currently awaiting trial in Czechoslovakia are men and women of distinction and courage. They are people who viewed the Helsinki agreements as a means of bringing more humanity to an area where justice is merely a fleeting hope. The intimidation and harassment these people have endured for the cause of greater freedom sets a shining example of hope and strength for all others seeking greater human rights. Today, I ask the leaders of Czechoslovakia to reaffirm their commitment to respecting basic rights and to the agreement they made at Helsinki, by releasing these people.

The arrest and incarceration of the Charter 77 group is merely one example of members of Helsinki monitoring groups being harassed in Communist bloc countries. Within the Soviet Union, a Ukrainian group, a Lithuanian group, an Armenian group, the Christian Committee for the Defense of Believers, the Working Commission on Psychiatric Abuse, the Group for the Legal Struggle of the Faithful and Free Seventh-day Adventists, and the Catholic Committee for the Defense of Believers were all formed to monitor Soviet compliance of the Helsinki accords. Today 47 members from these groups are either in prison or internal exile. In essence, they have been punished for their conviction that the commitments of the Helsinki Act were to be taken seriously. By supporting an agreement made by their Government, these people have been labeled anti-Soviet and have been the victims of intimidation, harassment, and imprisonment.

Today, as delegations from the 35-member nations making up the Conference on Security and Cooperation in Europe meet in Madrid to further the goals of the Helsinki accords, the incarceration of these brave people only underscores the need to work harder at achieving the objectives of the Helsinki accords and a restoring of basic human rights to everyone. President Brezhnev recently said, "My only wish, my only goal is to see peace and cooperation among all the peoples of the world." If so, why are his armies wreaking havoc upon the people of Afghanistan? If so, why are his secret police terrifying those whose only wish is for greater freedom? Perhaps Mr. Brezhnev and his fellow Communist bloc leaders should heed U.S. Delegation Chairman Max Kampelman's statement to all nations:

> We must again remind ourselves that the issues of human rights and humanitarian concerns are an indispensible part of our security and our search for peace.●

ACID PRECIPITATION

HON. DONALD J. MITCHELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. MITCHELL of New York. Mr. Speaker, recently, I had the honor of participating in the United States-Canada Interparliamentary Group meeting conducted in Halifax, Nova Scotia. As a member of the Environment and Fisheries Panel, I was very involved in the discussion of one of the most pressing issues affecting our two nations—acid precipitation. Perhaps the most startling facts I learned at the meeting was that surveys indicate that 70 percent of all Canadian citizens are aware of the threat of acid rain, while less than 30 percent of all Americans are similarly aware of the problem.

I urge my colleagues to endeavor to become better aware of the acid rain issue and to share their knowledge with their constituents. Toward that end, I commend their attention to a recent article from the New York Times which cogently describes the effects that acid rain is having on a community in my congressional district:

[From the New York Times, June 8, 1981]

ACID RAIN IN ADIRONDACKS DISRUPTS THE CHAIN OF LIFE

(By Ralph Blumenthal)

EAGLE BAY, N.Y.—Brook trout no longer crack the glassy surface of Big Moose Lake here in the western Adirondacks. They have vanished, along with crayfish and frogs, loons, kingfishers and most of the swallows. The chirping tree frogs called peepers have largely disappeared or stilled their voices, and blights are killing the beech and yellow birch, spruce, tamarack and pin cherry trees.

An unnaturally silent spring, worrisome to conservation offcials and naturalists, has fallen over sectors of this wilderness, the rustic setting of Theodore Dreiser's "An American Tragedy," a novel closely based on a murder on Big Moose Lake in 1906.

Now, said Commissioner Robert A. Flacke of the New York State Department of Environmental Conservation, an environmental tragedy is unfolding in these high western parts of the largest park preserve outside Alaska. Pollutants borne by rain, wind and snow and traced to factory emissions from heavily industrialized parts of the Middle West have left more than 200 acid-pickled lakes devoid of fish and are disrupting the life chain in ways that scientists are striving to understand.

The deleterious effects of coal smoke and auto emissions in combination with other compounds in the atmosphere have long been recognized. But not until the state reported last December that hundreds of Adirondack lakes were dead or dying from acid precipitation was the gravity of the threat clear. And even that report did not convey what several days of interviews with local residents and state conservation officials established: Not only fish, but also other species are starting to disappear in one of the nation's wildest places.

The woods still abound with a multitude of bear, deer, fox and beaver, though moose have long since disappeared, and many lakes still do have fish. But the effect of pollution on them and human beings remains largely unknown.

All this has not impeded tourism, by most accounts. For every disappointed fisherman who may now go elsewhere, other visitors have come along.

"We are finding the effects more and more every day," Commissioner Flacke said. He linked the pollution primarily to emissions from the Middle West and he warned that unless the sources were quickly abated, "We will see nothing but deterioration."

As he explained it, the Federal Clean Air Act allowed states to develop their own anti-pollution compliance plans. The East generally switched from coal to low-sulfur oil. However, the utilities and plants in the Middle West, particularly the industrial Ohio Valley, retained locally available coal but built nearly 1,000 tall "megastacks" to disperse the fumes—which the weather pattern typically carries east into the hilly Adirondacks.

What is needed, Mr. Flacke asserted, is a policy of "national coal-washing" to remove impurities, and recognition that efforts by Washington to save millions of dollars by removing pollution regulations could cost billions in lost resources.

"There is a continual degradation, and where it will stop no one knows," said Vincent Moore, executive director of the Adirondack Park Agency, which administers this preserve of 9,000 square miles, about

the size of Vermont. So far, he said, the affected region has been limited to about 5 percent of the park.

In December, after a four-year Adirondack study, the State's Environmental Conservation Department cited 212 "critical" lakes and ponds where the fish had all but died out and 256 others where fish life was considered "endangered."

In many of the critical lakes, the acidity linked to airborne sulfur and nitrous oxides had reached pH 4.5 or below, denoting acidity at least 10 times today's normal atmospheric levels and more than 100 times more acidic than a neutral solution. On the pH scale of 0-14 that scientists use to measure acidity, 7 is neutral, neither acid nor alkaline. Each number below 7 represents a tenfold increase in acidity, each number above 7, a tenfold increase in alkalinity. The "normal" atmosphere today is somewhat acidic, about pH 5.6. Water more acidic than about pH 5.5 tends to impair the reproduction function of trout and other fish and eventually kill them off and disrupt the web of life.

BEHIND-THE-SCENE PROBLEMS

Almost any evening, guests at Covewood Lodge, one of the inns and camps rimming Big Moose Lake, about 75 miles north of Utica, can watch from the safety of their cabins as families of black bear pad out of the woods to feast on soda crackers and stale fruit pies that the management puts out for them. Flying squirrels leap from tree to tree and mallards paddle along the shore of the lake, four miles long and a mile wide.

But to those who know the region best, something is very wrong.

"Our guests used to catch trout here anytime they wanted to—60 fish in an hour with barbless hooks was nothing to them." recalled C. V. Bowes Jr., the proprietor of Covewood Lodge since 1952 and a naturalist who has conducted nature tours in Africa and South America.

The fishing began to deteriorate about 20 years ago, he recalled: "Every year it'd get a little less until it disappeared." Now, he said, there are only stunted perch and bullhead that the children fish for from a footbridge. The lake water registers a pH of 4.3, which gives some swimmers bloodshot eyes, similar to the effect from swimming in highly chlorinated pools.

METALS APPEARING IN WATER

Moreover, when the Health Department came to test the spring-fed drinking water last summer, it found three times the normal copper level and five times the normal lead level: The high-acid water with readings of pH 5.5 was absorbing potentially hazardous concentrations of metals. Mr. Bowes treated the problem by passing the water through limestone chips and restored the alkalinity to pH 7.3.

Last year he tried the same thing, on a much larger scale, in a bay of Big Moose Lake. He bought 30 tons of crushed limestone for $120 and shoveled it into the water from a boat. That succeeded in raising the pH from 4.5 to 6, but only for three months. Then it dropped again. In July, he is planning to try it again, this time with 150 tons. The state has been conducting similar experiments on other lakes, spraying lime from planes.

However, this may bring its own problems. Studies in Scandinavia, where the acid precipitation problem is severe, have shown that lime tends to release toxic mercury compounds normally tied up in plant tissues.

BOUNTIFUL DAYS OF THE PAST

Roy Higby, too, remembers the way it used to be. In the 1870's, his father, James Henry, became the first white man said to have settled on Big Moose Lake, founding a vast camp that spread over a mile of lakefront. "My father used to catch enough trout to feed 100 guests for supper," recalled the 87-year-old Mr. Higby. "That was up to 1913."

Something started going wrong after the 1930's, he said, but he doesn't understand what. "Why does Fourth Lake have good fishing and Big Moose none?" he asked.

It was Mr. Higby, then a 12-year-old boy, who first spotted the drowned body of 20-year-old Grace Brown in Big Moose Lake on July 11, 1906. Her 23-year-old boyfriend, Chester E. Gillette, was later charged with taking her out in a skiff and clubbing her overboard with a tennis racket, because she was pregnant and blocked his love for a wealthier woman. He was convicted and electrocuted. The story, with thinly disguised names, was fictionalized as "The American Tragedy" by Mr. Dreiser, who researched the case locally.

Many other lakes around Big Moose have also been affected. William Marleau, a state forest ranger from Big Moose hamlet who has spent all his 58 years here, remembers that he caught his last trout in Woods Lake in 1972—the same year the loons left.

On a distant rock in the lake—starlingly clear like the other lifeless waters—a seagull hen sat hatching her eggs, waiting, apparently, for her mate to fly in take-out food from livelier places.

"This used to be my best place," Mr. Marleau said, pointing to an alder bed on nearby Twitchell Creek. "I haven't seen a trout break in there for years."

"Outside the bear," he said, "everything's getting scarce."

Alongside bumpy logging trails, the bark of beech trees displayed the white fuzz of beech scale that, Mr. Marleau said, threatened to decimate the beech in the Adirondacks. "Birds used to destroy the insects that would spread it," he said.

Mr. Marleau said his health had been broken too. "I've been getting diarrhea for about three years," he said. "I've got indigestion and heartburn. I had my gallbladder out. I had high blood pressure and now they found out I have angina."

When he checked his well water, he said, it registered pH 4.5. "I've stopped drinking water as much as possible," he said.

Some old-timers who remember the way fishing used to be don't believe what has happened. "Why, Don Stanton showed me some old pictures of trout from Woods Lake," recalled Al Tennyson, one of the last four members of the Antlers, a 58-year-old hunt club near the lake. "He thought I was lying when I told him there isn't a trout left in there."

Martin Pfeiffer, an aquatic bilogist who heads the state's research effort into the effects of acid precipitation, said: "The problem is even more sinister than DDT." He was referring to the insecticide danger cited by Rachel Carson in her book. "Silent Spring," that spurred the environmental movement a generation ago. "When you stop spraying with DDT, there's a gradual improvement," he said. "But if this goes on too far, the land may never recover.●

VETERAN'S MEMORIAL HEADSTONES AND MARKERS

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. HEFTEL. Mr. Speaker, I commend to the attention of my colleagues an article by Jeanette Foster of the Honolulu Advertiser, "A Widow and a Plaque: How Perseverance Pays." This article is a testimonial to Mrs. Beverly Brew Miranda and her attempts to obtain a war memorial plaque for her war-decorated husband, Mr. William Brew. I applaud Mrs. Miranda for her unrelenting efforts and I applaud the House for its expeditious passage of H.R. 1714, the veteran's memorial headstones and markers bill.

The article follows:

[From the Honolulu Advertiser, June 4, 1981]

A WIDOW AND A PLAQUE: HOW PERSEVERANCE PAYS

(By Jeanette Foster)

WAILUKU.—You can take on city hall and win, even if it takes nearly a decade of letter writing, phone calling and lobbying to pass an act of Congress to do it, according to Beverly Brew Miranda.

Miranda has been fighting the Federal Government for 8½ years now to get a war memorial plaque placed at the National Memorial Cemetery of the Pacific for her war-decorated husband, William Brew.

Finally this week, half her battle was won. The U.S. House of Representatives unanimously passed a bill that would allow all veterans, from World War II on, who have donated their bodies to science, or were buried at sea, or were cremated, to have a memorial plaque placed in their honor at any national cemetery.

Miranda, an accountant at a Maui radio station, said it hasn't been an easy fight.

When her husband died of cancer in 1972, it was his wish to donate any non-diseased organ to a transplant center and the remainder of his body to the UC Medical Center.

"He specifically told the med center to dispose of his body in any way they'd see fit—that way I wouldn't have to deal with it," Miranda said. "He didn't want to extend the process for me."

Miranda said she then thought it would be a simple procedure to get a plaque for her husband, who was awarded two Purple Hearts and a gold star for bravery during his five years as a Marine during World War II.

"I called up the Veterans Administration and asked about a memorial plaque," she said. "They said no, according to rule such and such, subsection such and such, they could not issue a plaque if there were no remains.

"Here was a man who gave of himself to his country; he was legally blind in the right eye because of shrapnel injuries."

The Veterans Administration said it was sorry, but that was the rule.

"If a man gave of himself in death as in life. I didn't see why they couldn't install the plaque." Miranda said. "It was the principle of the thing. I am an accountant by trade; I like things to be settled. No plaque

showing that he had lived bothered me, so I fought it."

At the time Miranda lived in California, so she wrote to Ronald Reagan, who was then governor of California. Reagan wrote back saying, sorry, it was a Federal matter.

So she started writing members of Congress, with no luck.

"Everybody would either ignore me, give me the runaround or refer me to the VA, who would write me the same letter referring me to rule such and such, subsection such and such," Miranda said. "I know that rule by heart. I was getting nowhere."

Miranda even wrote to Jimmy Carter while he was in the White House.

"I wrote a detailed letter outlining the problems. I asked for intervention and I got a post card back saying it has been referred to the Veterans Administration," Miranda said. "And the VA sent me that same letter again."

After writing her own congressional representatives without any luck, Miranda said that in October 1980 she wrote Cecil Heftel's office—even though she wasn't in that Hawaii congressman's district.

"Heftel picked it up and ran," she said.

Not only did Heftel introduce and lobby for the bill, which passed the House on Tuesday, but he also wrote her monthly letters on the status of the legislation.

"Sen. Sparky Matsunaga has committed himself to pushing the bill through the Senate," Miranda said. "Somewhere along the way, the bill picked up 100 sponsors—VA groups—who also lobbied and wrote letters in support of the bill."

Miranda said she picked Punchbowl for the site for her husband's memorial plaque because several of his friends are buried there.

"I can remember that when we had our first trip to the Islands, the first thing we did was go to Punchbowl," she said. "It was the first time I had seen him cry. He recognized the names of his buddies on those plaques. I know that this is the place where he would want his plaque to be."●

RAOUL WALLENBERG—LOST, BUT NOT FORGOTTEN

HON. JOHN LeBOUTILLIER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. LeBOUTILLIER. Mr. Speaker, during the closing years of World War II, the Nazi's were desperately trying to kill off all the Jews left in Hungary. Hundreds of families were driven from their houses and deported to death camps, never again to see their homeland.

In mid-1944, Raoul Wallenberg, a non-Jew and member of a leading family of bankers and industrialists, was sent to Budapest by the Swedish Government. On this life-saving mission, Wallenberg printed thousands of Swedish passports, established "safe houses" which served as havens for countless Hungarian citizens and rescued many individuals from cattle cars bound for the infamous concentration camps. These heroic actions resulted in saving the lives of more than 100,000 Hungarians who would otherwise have been viciously slaughtered by the Nazis.

On January 17, 1945, in violation of international law and his diplomatic immunity, Raoul Wallenberg was seized and imprisoned by the Soviet Union. Despite claims by the Russians that Mr. Wallenberg had died, many former Soviet prisoners have reported that this hero of the human spirit was actually still alive.

I would like to bring to the attention of my colleagues the following legislative resolution which was adopted in the New York Assembly on May 20, 1981. It memorializes the Congress of the United States to enact legislation proclaiming Raoul Wallenberg to be an honorary citizen of the United States of America, and requests that the President of the United States ascertain the precise whereabouts of Raoul Wallenberg for the purpose of securing his return to freedom.

In view of Raoul Wallenberg's courageous actions, I have been proud to cosponsor this legislation. The heroic deeds of this brave humanitarian must never be forgotten.

STATE OF NEW YORK, LEGISLATIVE RESOLUTION—ASSEMBLY No. 731

Legislative resolution memorializing the Congress of the United States to enact legislation proclaiming Raoul Wallenberg to be an honorary citizen of the United States of America, and requesting that the President of the United States of America ascertain the precise whereabouts of Raoul Wallenberg for the purpose of securing his return to freedom.

Whereas the United States of America was at war with Hungary during World War II, and therefore had no direct diplomatic relations with that country; and

Whereas the United States Government, through Secretary of State Cordell Hull, requested the cooperation of Sweden, a neutral nation, in its attempt to protect the lives of Hungarian Jews who faced extermination at the hands of the Nazis; and

Whereas Raoul Wallenberg agreed to assist in this enterprise, and took up the post of Secretary to the Swedish Legation for this purpose; and

Whereas from the time that he arrived in Budapest on July ninth, nineteen hundred forty-four, with extraordinary courage, and with total disregard for the constant danger to himself, Raoul Wallenberg saved the lives of almost one hundred thousand innocent men, women and children; and

Whereas Raoul Wallenberg continued to care for those whom he had saved, using funds and directives supplied by the United States of America, providing them with food, shelter and medical care; and

Whereas the Soviet Union, in violation of International Law and in violation of his diplomatic immunity, seized Raoul Wallenberg on January seventeenth, nineteen hundred forty-five; and

Whereas the Soviet Union has never offered an explanation or issued a charge which would justify his detention and subsequent imprisonment; and

Whereas Raoul Wallenberg has been a prisoner in the Soviet Union since nineteen hundred forty-five, and because reports from former prisoners in the Soviet Union suggest that this hero of the human spirit is still alive; and

Whereas history has revealed that such heroic acts of salvation were tragically rare during the massacres of millions of innocent victims during World War II; and

Whereas the significance of Raoul Wallenberg's concern for his fellow men has been tainted by the wall of silence that continues to surround his fate: Now, therefore, be it

Resolved, That this Legislative Body memorialize the House of Representatives and the Senate, in Congress assembled, to enact legislation conferring United States citizenship upon Raoul Wallenberg, and respectfully requesting that the President of the United States, Ronald Reagan, sign such a bill into law and use all power at his disposal to ascertain the precise whereabouts of Raoul Wallenberg for the purpose of securing his return to freedom; and be it further

Resolved, That copies of this Resolution, suitably engrossed, be transmitted to the Honorable Ronald W. Reagan, President of the United States, to the President Pro-Tem of the Senate, to the Speaker of the House of Representatives and each Member of Congress from the State of New York.

By order of the Assembly,

CATHERINE A. CAREY, *Clerk*.●

ARMS TO CHINA: PRO AND CON

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mrs. SCHROEDER. Mr. Speaker, last July U.S. News & World Report conducted a pro/con exchange on the question "Sell U.S. Arms to China?" Harvard History Professor Richard Pipes took the pro side, and I took the con.

The Reagan administration announced yesterday that we had agreed to sell arms to China, so I thought my colleagues might wish to consider the arguments that Professor Pipes and I raised.

[From the U.S. News World & Report, July 21, 1980]

SELL U.S. ARMS TO CHINA?

YES—"WE HAVE A COMMON INTEREST IN STOPPING SOVIET EXPANSION"

(Interview with Richard Pipes, Baird Professor of History, Harvard University)

Question. Professor Pipes, why do you favor the sale of American weapons to China at this time?

Answer. We and China have a common interest in stopping Soviet expansion. A strong China inhibits the Russians because it confronts Moscow with resistance in the East as well as in the West. For that reasons, a militarily strong China is very much in our interest.

Furthermore, every time the Russians become threatening, we can draw a little bit closer to the Chinese. That's wonderful leverage in our common interest. That kind of action registers in Moscow; don't think it doesn't.

Question. In arming Peking, would we run the risk of provoking a dangerous Soviet response—perhaps even an attack on China?

Answer. I don't normally worry much about Soviet anxieties, but in the case of China the Russians are indeed extremely

sensitive—almost irrationally so. An all-out campaign by the United States to arm China could trigger a violent response from them. Therefore, an American policy of selling arms to China must be carefully calibrated.

In this instance, we should put ourselves in the Soviets' shoes and ask: Will a specific weapon worry Moscow only to the point where it says the situation may get out of hand, so let us stop? Or will the Soviet say the situation has already gotten out of hand, and so we had better strike while we may? There's a fine line there. A broad spectrum exists between doing nothing and doing too much.

Question. Just how far should U.S. go in providing the Chinese with weapons?

Answer. Broadly speaking, we would do well to limit arms supplies at this time to defensive weapons—those that would enable the Chinese to give the Russians a very rough time in case of a Soviet attack or some greater worldwide conflagration. Of course, it's very hard to say when defensive arms become offensive. Clearly, however, we must not sell them offensive strategic nuclear systems. As for conventional weapons, I would not worry too much about upsetting the balance of power in that region.

Actually, the Chinese seem more interested in technology than in hardware. We might share with them data on ballistic-missile defenses—helping them to devise systems against possible nuclear attack. I favor that. I do not favor an all-out effort—the kind that we would make on behalf of our allies in the North Atlantic Treaty Organization.

Question. Are the Chinese forces really so desperately weak that they need U.S. weapons and technology at this time?

Answer. They are extremely primitive. Peking's military establishment is prepared for a World War I type of conflict, but they confront a possible World War III scenario. They have to make enormous leaps. Our know-how might go a long way toward modernizing China's forces.

Question. Isn't there a danger that this technology or weaponry could also menace U.S. allies such as South Korea or Taiwan?

Answer. Of course, if you look into the 21st century, that may well happen. But China is not an aggressive power. If you look at Russian history, you find a legacy of expansion going back 600 years. China does not have that tradition.

There is no question that someday we may not see eye to eye with China. But that is why we ought to exercise great moderation and keep our options open on the arms question. Still, for the foreseeable future, our common enemy is the Soviet Union. You have to take care of dangers as they present themselves.

Question. Aren't we running the risk of being drawn into Asian conflicts by this Chinese military connection?

Answer. Quite the contrary. We may inhibit the Chinese from plunging ahead into wars. We can acquire an influence that we didn't have before. For example, if the Chinese 10 years from now were more heavily dependent on the U.S. for weapons and actually contemplated aggressive action, we would be in a position to decide whether to supply essential spare parts and ammunition. The moment you give or sell weapons you have a certain amount of leverage over the recipient.

Question. In your view, would we jeopardize our future relationship with China if we failed to supply arms?

Answer. You mean that we must draw much closer to the Chinese, or else drift apart? I don't think that is necessary, and I am not making this argument. I see America's relations with China this way: We have no outstanding quarrels. There are not territorial disputes. The Chinese are not penetrating into areas where we feel we have vital interests. On the other hand, our political systems are so far apart that there's no natural propensity to draw much closer together.

So the relationship comes down to this: We have a common interest in blunting the thrust of Soviet expansion. China sees the Soviet threat in a very somber light; so do we. I do not believe China is presently menaced by the Soviet Union. If China were menaced, the situation would be different. Then the question of supplying arms would assume much greater importance in the relationship between China and the U.S.

Question. If China and Russia should be reconciled, wouldn't the Chinese be more dangerous for the U.S. if they were armed with American weapons?

Answer. Actually, military links between China and the United States are likely to reduce the possibility of rapprochement between China and Russia. I don't see much prospect of a reconciliation anyway. The mutual antagonisms are extremely strong in both countries.

It could happen, I believe, only in an extreme scenario in which the Chinese perceived the United States and NATO to be so weak as to be perfectly helpless. The Chinese then might decide that they could not stand on their own and might feel compelled to seek rapprochement with the Soviet Union.

Moscow, of course, would love a rapprochement with China. It is the Chinese who don't want it. They have had their fingers burned. They find the Soviet government so treacherous that they want nothing to do with it.

NO—"WE DON'T NEED TO THROW GASOLINE ON THE FIRE" IN RELATIONS WITH RUSSIA

(Interview with Representative Patricia Schroeder, Democrat, Colorado)

Question. Representative Schroeder, why do you oppose the sale of U.S. arms to China to help build up its defenses?

Answer. Because that suggestion is an almost hysterical reaction to the Soviet invasion of Afghanistan. People who support the idea seem to say: "China makes the Russians mad so let's make them madder."

The Chinese might well draw the U.S. into an Asian conflict not of our own making and not in our interest. We would be giving Peking an additional—and lethal—tool without any control over where it might be used. This could embarrass us terribly, we may one day end up fighting against our own weapons.

After all, it's impossible to say the turbulence of the "cultural revolution" is over and China is now stable forever. Chinese leaders are quite old, and no one is sure about the new wave of leaders.

Question. How do you think the Soviets would respond if the U.S. and China drew closer militarily?

Answer. Russia is paranoid about those 1 billion people sitting on its border—so much so that they station 46 divisions on that border. That's not just rhetoric; the fear is very real.

If it looks like we really are moving toward some kind of military alliance, the Soviets may consider a pre-emptive strike on Chinese targets or resort to more border confrontation. That would be a very grave situation.

Anyone who doesn't understand that Moscow controls Vietnam has his head in the sand. Vietnamese troops just marched into Thailand. Maybe this is their response to our playing of the "China card" at their expense.

Question. Isn't there a case for supplying weapons to help China defend itself against that Soviet military threat?

Answer. Not really. As a member of the Armed Services Committee, I am one of the few Americans to see the Chinese Army go through fire-control exercises.

Let me tell you this: We in the U.S. may be short on manpower, but they are not. Their equipment may be Korean War vintage. But with 4.3 million Chinese under arms, there's no way the Soviets or Vietnam are going to sustain any invasion of China.

If we accelerate a rearmament of China, then we really are modernizing its military for action beyond its borders. The question becomes: What are they going to do with that power?

Question. If we help modernize China's military forces, who do you fear they might attack?

Answer. The Chinese backed North Korea against us, as I remember it. They have not changed horses. We can only conclude they still support reunification under North Korean domination. We have treaty obligations in South Korea.

Also, Taiwan is still the most emotionally charged issue for the Chinese. If they decided to take Taiwan by force, we would be terribly embarrassed—to say the least—if they did it with our guns. We simply have no commitments from Peking about that.

Question. In view of the Russian invasion of Afghanistan, wouldn't U.S. arms deliveries to China send a warning signal to Moscow?

Answer. For one thing, the Chinese haven't signed in blood to go along with us 100 percent on anything. We aren't even close to that. I have talked a great deal with Chinese officers. Most of what I hear is rhetoric about how the U.S. should fight Soviet aggression at every turn. But we get no idea as to where China itself is going.

Secondly, the Soviets already are very angry and worried. We have given the Chinese most-favored-nation trade status and access to our technology. We haven't given comparable concessions to Russia. All this has made the Soviets almost hysterical. We don't need to throw gasoline on the fire by selling China our weapons, too.

Question. If not the sale of weapons, how far should the U.S. go in developing a military relationship with China?

Answer. Look, we already are selling weapons that we label "defensive"—radar, that sort of item. Don't say they aren't weapons. They are. We are already going too fast. We must reward the Chinese for true friendship, not just give them everything just to scare the Russians.

Our policy should ask: Which side are you on? Because when we give those weapons, all sorts of things follow. For one thing, we will give our European allies a legitimate reason to sell strategic technology to the Russians, simply because we did the same with Peking.

Question. Are you worried about the possibility that American ties with China might start to unravel if we refuse to meet a future arms request?

Answer. Everybody asks for weapons because they are status symbols for world leaders. The Chinese are in the same game as everyone else. They will always desire American arms, for several reasons: Ego, world leadership, access to new technology. But the question of arms supplies won't determine whether the rapprochement between the U.S. and China lives or dies.

I have never met a Chinese official who doubts that China can defend its own territory. China isn't like Israel—outnumbered and outgunned by its neighbors. They aren't at all insecure.

They may well want weapons for other purposes, to use in other places. But why should we be involved in that?

Question. How would Congress react to a Chinese request for arms?

Answer. There would be great concern. Congress doesn't want a return to the two-China policy. But it is also not ready to arm Peking.

We are still breaking new ground, taking each other's temperature. The Chinese aren't the British. Don't forget: It was not that long ago that we were shooting at each other across the Yalu River.●

BRYCE HARLOW

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. MICHEL. Mr. Speaker, anyone who has lived in Washington during the past 20 years or so will tell you that there are two divisions of Presidential advisers. The first division is made up of Bryce Harlow. The second division contains all the rest. Bryce is a uniquely gifted and likeable man, skilled in politics and admired by all.

Mark Shields recently wrote a piece about Bryce Harlow in the Washington Post. It is a brief, but admiring, look at a real pro.

At this point, I wish to insert in the RECORD, "All the Man's Presidents," by Mark Shields, Washington Post, June 9, 1981.

ALL THE MAN'S PRESIDENTS

(By Mark Shields)

If judgment were oil, then, all by himself, Bryce Harlow would be OPEC.

Presidents Eisenhower, Nixon and Ford all brought that Harlow judgment to the White House. A couple of them even took some of his advice. Harlow has spent 11 of his 43 adult years in Washington working in the White House for a Republican president.

Lately, two Republican presidents—Eisenhower and Ronald Reagan—have been compared hereabouts. Can Reagan be another Ike, his personal popularity secure and separate from his policies and politics? Did the attempt on his life and his own admirable behavior throughout transform Reagan into an authentic national hero, immune from traditional political criticism? And, if so, who will be the Ezra Taft Benson and John Foster Dulles—the "villains"—of the Reagan administration? Will Malcolm Baldrige or Samuel Pierce join James Watt?

For an answer to this or just about any political question, Bryce Harlow is a consensus All-American of leading authorities. Harlow does see similarities between the two presidents.

"Reagan's for real," he said last week. "He's a success, not at all insecure, free of hang-ups, and at peace with himself."

But is he politically another Ike?

"Not yet. By June 1953, the country had fallen hopelessly in love with Ike. When he stumbled, people picked him up and dusted him off," Harlow answered. "But it still could happen in Reagan's case."

A Persian proverb, heeded by generations of presidential assistants, advised that when the king says it is midnight at noontime, the wise man murmurs, "Behold the stars." Bryce Harlow never put much stock in Persian proverbs or in the contemporary celebrity of staff. Was Sherman Adams ever on the cover of People? His advice to all who will ever work in the White House or on Capitol Hill: "Never confuse yourself with your job. It may be important. You are not."

But Harlow did work closely with a lot of very important people. From 1941 to 1946, he was an army officer working with General of the Army George C. Marshall. Here are a few of his judgments about the men he has known.

Marshall: "Absolutely formidable personal character. Selfless to the point of being Christ-like." Harlow recalled Marshall's rigid sense of propriety when FDR told him: "George, I want you to call me Franklin." Marshall's response: "I'll try to, Mr. President."

Jerry Ford is cherished for his "tremendous decency." Richard Nixon's intellect is still respected. But one adjective to describe the resigned president: "driven." Ike was "the complete leader and politician."

There were no demons in Bryce Harlow's political world. He kept no enemies' list because he did not believe in enemies. Of all the politicians he knew, FDR and Ike were both "genuine naturals." He watched John Kennedy become a "natural." But to Bryce Harlow, Hubert Humphrey was "more of a natural than all of them—Roosevelt, Ike or JFK."

Harlow, than whom there is no one better at the delicate art of White House-congressional relations, warned the Reagan people to beware of the incipient perception that the administration "does not care about the little people." That's what the Harlow antennae are beginning to pick up, and if that perception grows, it could be, he knows, the political kiss of death. The Social Security blunder did not help at all. Like Harlow's word, which you could always take to the bank, his judgment is still very reliable.

Harlow, who was an Oklahoma Democrat until the late 1940s, closed with an encouraging word of sorts for the members of his old party. He recalls that during the first year of Ike's first term, there was real disarray among Democrats then out of office for the first time in 20 years. His advice to the opposition: "Both parties will win again—in spite of themselves."●

RESURGENCE OF SWEATSHOPS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. MILLER of California. Mr. Speaker, strong opposition continues to grow to the proposal of Secretary of Labor Donovan to rescind the 40-year-old prohibition against industrial homework in the garment industry.

At hearings before the Subcommittee on Labor Standards, of which I am chairman, witnesses from industry, labor, and consumer groups testified that revocation of the homework ban would make effective enforcement of the Fair Labor Standards Act an impossibility. The subcommittee will be holding another hearing in Los Angeles, the garment center of the west coast, on June 29, to hear additional testimony from manufacturers, contractors, labor representatives, and State enforcement experts.

MANUFACTURERS OPPOSE ACTION

Leading garment manufacturers have disputed the Secretary's contention that his proposal is a minor action. Instead, they argue, revoking the homework ban will cost taxpayers hundreds of millions of dollars in lost tax payments and social security contributions. The proposal will handicap enforcement of the law, penalizing law-abiding manufacturers, in particular small businesses.

The president of the Florida Needle Trades Association has written to Secretary Donovan:

If you lift this regulation you can definitely assume that none of these homeworkers will be making the minimum wage and the exploitation will continue. The argument that they should be happy earning what they do, with no costs for babysitting or transportation, was the same argument that was used to justify slavery and feudalism. But we made a decision in this country that we don't allow slave wages. The impact of this proposal on small businesses in Miami will be devastating.

Similar criticism has come from Levi-Strauss, one of the largest garment manufacturers in this country:

It seems ludicrous to us to say on one hand that workers need protection and that the present regulations may not protect them sufficiently and to say on the other hand that it follows that the abolition of the regulations will provide that protection * * *. We believe a general removal of the prohibitions on homework would undercut the minimum wage provisions of the Fair Labor Standards Act * * *. We believe that the impact of this proposal on small businesses would be harmful * * *. It is our strong recommendation that the Labor Department reexamine the homework question and rather than eliminating the prohibitions contained in the present regulations, it propose new, more effective and realistic regulations.

It must be pointed out that even those who are sympathetic to the plight of the small number of women in the outerwear knitting business in Vermont, whose unusual case served as the pretext for the Secretary's action, do not support the wholesale elimination of the rule. The Bennington, Vt., Banner charged that the Secretary "chose to throw the baby out

with the bath water" in applying the Vermont situation to the whole Nation.

SECRETARY ADMITS ENFORCEMENT WEAKENED

Even Secretary Donovan, in a frank interview with the Los Angeles Herald-Examiner confessed that elimination of the homework ban would impede enforcement of the fair labor law which is strange since he originally said that he hoped revocation would have the opposite effect:

I do recognize that policing (without the ban) *will be far more difficult, if not impossible.* And we would be *aiding and abetting (employers)* and *taking advantage of those people who are here illegally.* They would be more abused in my case if this (ban) was lifted—Herald-Examiner, May 22, 1981 (Emphasis added).

HOMEWORK DESCRIBED

Merle Linda Wolin, a reporter for the Herald-Examiner, spent 8 months last year researching sweatshops and substandard labor conditions in the Los Angeles garment industry. I have already shared part of her outstanding 16 part series. "Sweatshop," with my colleagues. Today, I want to submit another section, one in which she describes the abuses to which homeworkers are subjected in the garment trade. These are the conditions which will proliferate, by the Secretary's own admission, unless the plan to rescind the homework ban is dropped and the laws are better enforced.

The articles follow:

[From the Los Angeles Herald Examiner, Jan. 18, 1981]

HOW ONE HOME WAS SHUT DOWN

(By Merle Linda Wolin)

Had the labor commissioner's investigators not confiscated J.C. Penney's long sexy pink nightgowns from a home sweatshop on East Slauson Street in Los Angeles, no one might have known that the workers who produced the fancy sleepwear earned less than the minimum wage and shivered in the cold.

But on a windy, rainy March day in 1979, the exploited workers got lucky. Someone left the front door to the main house open, giving a bird's-eye view from the streets of the piles of bundled garments inside.

Coincidentally, investigators from the Concentrated Enforcement Program, the state task force in charge of enforcing the labor code in the garment and restaurant industries, were walking by on a routine inspection of the area. To trained investigators, piles of bundled garments inside a home means industrial homework, strictly forbidden under the California Labor Code.

The investigators rang the doorbell and politely asked the resident, Elva Sonco, if he was engaged in sewing for either a manufacturer or contractor. Though at first Sonco denied it, he realized he had been caught.

He allowed the investigators in, resigned to losing his business, his garments and his workers.

"We walked to a little tar-paper shack in back of the house," said Joe Razo, director of the 2-year-old CEP, who worked that day as one of the investigators. "There was some wood over the tar, but it (the shack) was not protected from the wind. Workers—there were four—had to keep their coats on because it was so cold. And there was loose wiring hanging all over the place."

Razo said the nightgowns were being made for J.C. Penney by manufacturer Bernard Kattler, president of That's It, Inc., who knowingly contracted out the sewing to the Sonco home.

Razo said Sonco's wife admitted to him that besides violating the law prohibiting homework, the manufacturer had no workmen's compensation nor did he keep time records for the employees, two employer requirements under the labor code.

The law forbidding homework in the garment industry is essential, Razo says. The Sonco case tells why.

First, the fiercely competitive garment industry traditionally has relied on mostly undocumented or illegal workers. People, State Assistant Labor Commissioner Bea Christensen says, are "easily exploited, willing to work for less."

"Because of the highly competitive nature of the business," Christensen said in a telephone interview, "many manufacturers and contractors who operate on a shoestring are the types who will try to cut their costs and undercut legitimate operators by using homeworkers."

When sewing homework was legal in California, before 1941, she said it was difficult for the Labor Department to maintain working standards and wage minimums. In response to the abuses, a state order against homework, except in special cases, was issued by the Industrial Welfare Commission in 1941.

Unfortunately, abuses in the home—labor violations and health hazards—continued. The people who suffered this time were the few homebound or handicapped persons who had received special homework permits.

"It is much easier to bring a factory with 50 operators into compliance with the law than to go out to 50 homes and find out if people are being paid properly," Christensen said.

One labor investigator claims that as much as 50 to 60 percent of all garments produced in California's $3.5 billion industry are sewed illegally in homes. Razo, however, claims there is no way to accurately estimate homework.

Since the beginning of the CEP in April 1978, labor investigators have confiscated more than 60 loads of garments related to illegal homework in Los Angeles. According to Razo, the retail value of goods confiscated last year alone was estimated at between $1.5 and $2 million.

Though criminal complaints were filed on each of the 60 homework pickups, only 20 cases made it through the court process. Personally, Kattler was fined $250 for refusing to cooperate with the CEP, an amount Razo says "is just a slap on the wrist, one that encourages this situation to continue."

Besides keeping vigil on labor standards, investigators at the CEP in Los Angeles are concerned about the health hazards of home production. Razo said that wherever there are bundles of cloth, in homes and in factories, there are likely to be cockroaches. he said that if the fabric is newly dyed there will also be toxic fumes.

"If I were a woman wearing a nightgown," said Razo, "though I might look great for my husband, I would be very worried about cockroaches who lay eggs in these garments made under homework conditions. I also could not help but worry about the poor exploited soul who made it."

[From the Los Angeles Herald Examiner Jan. 18, 1981]

HOMEWORK: THE ALIEN'S SECRET SUPPORT SYSTEM

(By Merle Linda Wolin)

No one seemed to know how much garment industry homework is done in Los Angeles. And I had no idea how work illegally filters down to homes from the contractors or manufacturers. So at the end of May, I decided to find out on the streets.

I had few preconceived notions about homework. In the Mendoza shop where I worked in early May, I witnessed trusted sewing machine operators carry out unfinished blouses stuffed in large green, plastic garbage bags, presumably to be finished later at home.

For nine days, from 8 a.m. to 5 p.m., I walked the residential streets of the city, from Central Los Angeles to Sunland in the north, to Wilmington, the "Heart of the Harbor," to El Monte on the east. I chose streets where it seemed working-class and poor people lived; many neighborhoods were largely Spanish-speaking.

I also went to specific addresses, taken from a list of clients given to me by the owner of a sewing machine rental shop. A person renting one or more industrial machines might, I reasoned, be engaged in homework.

Dressed in my Brazilian alien attire, I stopped people on every block to ask for help. "I'm a little lost," I would say in Spanish. "Could you please help me?

"A friend of mine," my story went, "told me a woman on this block sewed at home for someone in la costura (Spanish slang for the garment industry) and was looking for a helper. I really need work. But I can't seem to find the house. Do you know where it might be?"

With that as an opener, I began to see the underworld of garment homeworkers, a vast network of exploited laborers and their friends, people who reside illegally in Los Angeles and look to each other for protection and support. Not only did most try to help me find work, but many gave me seasoned advice on how to get by as an illegal alien.

Invariably, whomever I stopped for help would react in a friendly way. No one seemed to think my probing for homework was strange or unusual. And they almost always suggested I try at least one house on the block where they thought they heard the clicking of sewing machines or where they knew one of the residents worked in the garment industry.

"Try that house over there," said one stout Anglo woman on Cantara Street in Sunland. She spoke no Spanish, so I tried hard to effect a broken accent in English. She told me she often saw a large van parked in front of the house. "A man delivers large bundles of cloth to the back garage," she explained. "A few days later, he picks them up."

She apparently had no idea this work was illegal. "Good luck," she said. "I hope you find work."

I crossed the street and walked down the long driveway to the side of a small wood-frame, ranch-style house. The garage in the back had been converted to a tiny home. Just inside the open front door, a small Latin woman sat at a large industrial ma-

chine, working on tan-colored polyester blouses with the label, "Sugar on Top."

I explained my situation to her. Was she the one who was looking for a helper?

"You could work with me in a minute," she said earnestly, in Spanish with a distinct Mexican accent, "but I have only one machine and the work barely pays enough to keep me going."

She explained that she worked for a nearby Cuban sewing contractor who loaned her the machine from his shop. He delivered the work to her door. She told me she used to work in the factory, where her sister still works, but with such low wages she could not afford to pay a baby sitter and eat well, too. Despite the wages, she considered the Cuban a kind and generous man for letting her work at home.

"I make between $10 and $15 a day," she said. "I know it's not much but at least I'm here with the children. Sometimes I work 10 hours a day, sometimes more. And I have to cook for my husband. Yes. He works, too. Every little bit helps, no?"

She extended her hand in friendship and asked why I wanted to work at home. When I told her I was here illegally and feared immigration officials who might raid a factory, she assured me not to worry.

"I've been here illegally for five years," she said. "No one has bothered me."

She suggested I ask the Cuban contractor for work in his shop. After a few days, she said she was certain he would loan me a machine and let me work at home.

She offered to walk me to the factory, some 10 blocks away, to introduce me to the owner and help me feel more comfortable. I told her that if I could not find work in a home, then I would assuredly take her up on her kind offer.

In Central and South Central Los Angeles, I found a high concentration of garment homeworkers—at least one on every block. As I walked along the dark corridors of large, run-down hotel-apartment buildings on Washington Boulevard south of downtown, I heard the clack-clack of machines behind many doors and saw scraps of cloth in stairwells and garbage containers.

In these instances, children seemed to be my best leads.

"Do you know anyone in the building that sews for a living and might hire me?"

"Sure!" said one 10-year-old boy eager to help. "There's Aida in number 16, Maria in 22. And, oh yeah! There's the Guatemalan senora on the third floor. I don't remember her name but I'll show you where she lives."

I knocked on doors, and where people answered, I politely asked for sewing work. No one had enough to share. In fact, many women with machines told me that lately they had been with little or no work for themselves.

She explained that the owner of her building also owned a garment factory at Seventh and Maple streets and would bring sewing home for many of the tenants. She and her mother worked in their small, one-bedroom apartment.

"Work has been very slow lately," she explained. "There's been no homework for me or any of my friends for nearly two weeks. Something is going on. We don't know what."

The homeworkers were, of course, feeling the pinch of the country's economic hard times according to officials in the California Employment Development Department, 4,000 reported jobs have been lost in Los Angeles County's garment industry in the past year due to the country's recession. Though many feel a slowdown in the garment industry is often precisely the time when contractors and manufacturers try to use more homeworkers as a way to cut costs, this year it seemed that business was so bad that homeworkers' work was scarce, too.

(According to Dun and Bradstreet, a leading international credit service, there has been a 23.8 percent increase in the failures of apparel manufacturing businesses nationwide from January through July 1980, perhaps another indication explaining why employment, even homework, in the garment industry is down.)

Looking for work in homes or apartments, I stumbled on many small, out-of-the-way sewing factories, usually behind boarded-up storefronts or in deserted-looking buildings.

I always stopped and asked for homework. Some shop owners told me to check with them in a few days, more work was coming in. Some offered me work in their shops. A few told me homework was not allowed in this country. One man offered to deliver work to my door. He held up the delicate, white polyester blouse I would make. Inside the collar, the label read "Saldera—Made in Thailand."

The extent to which most people went out of their way to help me find work made a lasting impression and increased my understanding of how undocumented workers survive in an environment many of them describe as hostile in Los Angeles.

One sunny morning on 25th Street, near downtown, a fruit vendor who was piling oranges and mangoes high on an old-fashioned cart told me to look for work from the woman who lived in the white, wooden house four doors down.

She was tall and spindly, this middle-aged senora who sat on an old, dusty green couch on a creaky front porch. She gently stroked the black kitten on her lap. Her coarse hair, an even mixture of black and white, was pulled loosely behind her head in a long ponytail. There was a large horizontal space where her front teeth had been.

I approached the porch from the side driveway, peering up to her through the wood slat railing. I told her my story. She told me hers.

She said she used to sew at home. She still had several machines inside. But the manufacturers paid less now than before and, besides, her eyes were going bad.

"Don't be afraid of immigration or of working in a factory," she said firmly when I told her I preferred to work at home because of la migra, Spanish slang for immigration officials. "If you see any police or people you suspect, don't hide. Just say hello and act like this is your country, too. It works. I know. I've been here without papers for 20 years."

The money for a baby sitter, she agreed, was a more difficult problem. If I could not find someone to care for my two children, she said I should come back and see her. She would help me.

Then an idea hit her. She stood up and without a word walked into the house. Minutes later, she returned and invited me to join her on the porch. She took me into her confidence.

"Here, take this Social Security card," she said, handing me an authentic blue-and-white Social Security card that belonged to someone named Denise Washington.

"When I moved into the house many years ago," she explained, "it came in the mail. I don't need it."

She told me I could take it to a vendor on Broadway in downtown Los Angeles and for very little money he would make a metal copy that I could use permanently. She showed me her own card, a fake, gold-colored, credit-card-sized plaque with a Mexican flag imprinted on one side, and the American flag on the other. In the middle, the words "U.S. Social Security Number" were embossed above the number and the name.

The name on her card identified her as Latin, though she said everyone knew her as Connie. She assured me I could get a card with a Brazilian flag instead of the Mexican flag that most people here want.

On Broadway, sure enough, I had no problems getting a copy of Denice Washington's Social Security card—my seguro in Spanish.

Three dollars and 50 cents in cash. And it took no more than five minutes. The young man behind the counter of the open-air watch and camera store just assumed the name on the card was not mine.

"Would you prefer to use your own name?" he asked in a business-like way. "It doesn't mater. The number's the same. And no, no Brazilian flags."

Several weeks later, I returned the original card to Connie on 25th Street. She was glad to see me, interested in my progress. When I told her I had met many other people who were in the same boat as I, she cautioned me about revealing my "true" identity to near strangers.

"You think they are your friends," she said, "but then something can happen and for vengeance they will report you."

Before I left, she gave me good tips on how to avoid problems with immigration. she said that if I ever faced deportation, I should use a fictitious name. "That way," she said, "you can always get back in the country without fear that if they catch you three times, they will punish you."

I thanked her and said goodbye. She graciously offered to help me in the future. "Don't be shy," she said. "I've helped many people in this country, and now they're helping me. We have to trust in God and look out for each other."●

STUDIO MUSEUM IN HARLEM

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. RANGEL. Mr. Speaker, the Studio Museum in Harlem is a landmark of African American art and culture in Harlem. The museum provides my community with a regular schedule of 8 to 10 exhibitions per year of African American art and culture. In addition, the museum sponsors seminars, concerts, and lectures that are available for those individuals who are interested in learning more about their culture.

The museum is attempting to undertake a major expansion of their activities, so that they will be able to provide more activities to the public. I would like to share with the House the remarks that I prepared for this groundbreaking.

REMARKS AT THE STUDIO MUSEUM GROUNDBREAKING, WEDNESDAY, MAY 20, 1981

This is indeed a happy day. The groundbreaking ceremony marks the realization of our dream, finding a new home for the Studio Museum. In this new hope, imaginative projects that have been on the drawing boards for years will finally go forward as we now have a larger facility in which we can be more innovative.

The New York Bank for Savings was kind enough to present the five-story building which will house the Museum. I am glad to see the partnership which is demonstrated here today between the private and public sector on behalf of our community. Earlier this week I learned that the City is including $300,000 for the Studio Museum rehabilitation in their community development budget. Although the check isn't forthcoming immediately, the fact that the City is including this proposal in their package being submitted to HUD is a good sign. It also illustrates that they too recognize the need for a renewed partnership. The need for a heightened partnership is underscored given the Reagan budget cuts.

After spending a good deal of time reviewing the Reagan proposals, it is clear that this Administration is unsympathetic to the needs of our community, given the President's own statement that the "taxing power of the government . . . . must not be used to regulate the economy or bring about social change." A majority of the Congress subscribed to this attitude, as recently we adopted a budget that will undoubtedly cause a good deal of hardship for those already in need.

However, if we are to survive, then the activity that we are all so very proud to be a part of today must be duplicated throughout the City. The corporate community has a responsibility to take an activist role in efforts to improve the quality of life for all. As the Federal commitment is being reduced, corporate and community initiatives must be strengthened. I applaud all associated with this monumental achievement and know that we all should be proud of the legacy we are bequeathing here today for those that come after us.●

NEW STRATEGY NEEDED FOR MINORITY BUSINESS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. GINGRICH. Mr. Speaker, when we talk about making members of minority groups a full part of America's economic and political structure, we tend to focus on the wrong things. We argue about job quotas, court rulings, and Federal regulations. These things are important, but spending all of our time on them needlessly divides liberals from conservatives and blacks from whites.

On the subject of minority enterprise, a new focus, a new dialectic, is needed in the eighties. This decade will be a time of creative Federalism, incentives-based tax policy, and a leveling off of government growth. That is political reality. We can argue all day about whether you have to be for big government to also favor helping up-and-coming economic and minority groups in America, but I'm afraid that the majority of Americans are going to seem hardhearted if we put the question to them in such simplistic form. After all, as journalist Elizabeth Drew has stated, anti-inflation is a social program too, and most Americans think it the most important one.

Our fellow Americans have nothing against helping minorities and the poor, and we should reject obsolete rhetoric that implies otherwise. But that brings us back to the need for a new framework in which to discuss the problems of economic justice for Americans who have encountered discrimination and barriers to participation in our economic life. I would suggest that we concentrate intensely on minority enterprise, and find national answers to questions such as the following:

What are the half dozen major reasons why minority businesses fail? What overriding characteristics are shared by successful black businesses? What did successful black entrepreneurs do when they were younger that made them a success? What do successful white entrepreneurs have in common with their black counterparts, and how do they differ? Do TV and the educational system tend to encourage short term, general thinking in younger people—when perhaps it is a long term, specific business sense that is needed to make struggling enterprises work? How will existing minority-run businesses get a piece of the action as America rebuilds its defenses?

Of course, these are not the only questions we must ask, and I realize that probably thousands of people are trying to find answers to these and many more. I certainly do not claim to have the answers, since I am just beginning to learn about these issues. But I know we have to do better. We have to focus much more on the how and why of minority enterprise, and move away from a mindset that equates big Government with compassion and the free market system with callousness toward minorities.

I doubt that big spending programs based in Washington are the answer to the problems of minority enterprise development. But even if they were, my political sense tells me that, in a time of cuts in the most popular programs, you could not get a majority in this body to spend scarce funds for that type of program. By continuing to posture as if that is both desirable and possible, we condemn America's existing and potential minority enterprises to a future no better than their recent past.

Small business creates well over half of America's new jobs in any given year. And, in terms of real jobs, all business—small, medium, and large—will be creating almost all the new jobs in the eighties, as Government shrinks relative to the private sector. We need to ask the questions that provide the answers that enable America's minorities to get a decent portion of these jobs and earn a healthy chunk of this new business ownership.

Black unemployment in 1980 averaged 13.2 percent, and it never got below 10 percent during the 4 years before that. Such shocking statistics came during a period when social welfare spending was exploding and Congress routinely rejected deep spending cuts. We taxed, we spent, we inflated, and it seems to have had no net favorable impact on minority business development.

Contrast the second half of the seventies with the whole of the fifties, a period characterized by 1- or 2-percent inflation, stable tax burdens, and the dominance in Congress of the conservative coalition. Black unemployment during 1950–59 averaged 8.2 percent. This was in spite of two recessions and widespread civil rights abuses, and tells the objective observer that megagovernment is not the answer to minority enterprise problems and may in some cases be part of the problem.

I repeat that I do not have the answer. We will do well enough at this point merely to figure out the right questions to ask. But I am willing to suggest at the outset that all of the Federal programs of the last 15 years could not do as much for America's minorities as could a drop in black unemployment during the next 4 years from 14 to 8 percent, together with a corresponding rise in minority business ownership.

So I appeal to my colleagues of all political persuasions to look anew at how we integrate minorities into an expanding U.S. economic structure. I recently assigned a full-time staff member in Georgia to work on this. Her name is Toni O'Neal, and she would like to hear from those of my colleagues and their staff members who seek new approaches to minority enterprise issues.

Today I include in the RECORD Toni's first article, which was published last month in the Douglas County Sentinel of Douglasville, Ga. She points out that the Reagan administration is cutting programs that are supposed to help minority enterprise development, and asked the question that all of us must start trying to answer: What ideas for self-help, what tax incentives, what strategy do we replace the old programs with?

The article follows:

[From the Douglas County Sentinel, May 28, 1981]

NEW STRATEGY NEEDED FOR MINORITY BUSINESS

[By Toni O'Neal]

During the 1968 presidential campaign, Richard Nixon said that the business of America must include black business. Less that two months after taking office, President Nixon signed Executive Order No. 11458, which directed the Secretary of Commerce to establish within his department an Office of Minority Business Enterprise (OMBE). This was the first time a president had recognized by executive order that the federal government has a responsibility to promote black and other minority-owned businesses.

Once again, the country is under the leadership of a Republican administration. Will President Reagan continue the government's role in the development of black business, or will his administration turn its back on the minority business community? Let's look at the first few months of the new administration as it concerns minority business enterprise.

The Reagan administration has proposed eliminating or sharply cutting all the programs in the Small Business Administration (SBA) that aid minority business owners. Many of these programs have been criticized over the past few years for being mismanaged and benefiting only a few of the many businesses that need help. A prime example is the Small Business Development Center Program, in which about half-a-dozen universities across the county were supposed to provide technical and managerial assistance to small and disadvantaged businesses. This is to be eliminated.

Other programs will be held to their fiscal 1980 funding levels. In addition, the administration has proposed a 25 percent reduction in all SBA lending and loan guarantees and an increase in SBA loan interest rates from 9¼ percent to market levels. There are also proposals to reduce technical assistance, cut funding for business development, and reduce equal opportunity loans to economically and socially disadvantaged businesses. A cut in surety bond guarantees has been added to the package of budget reductions.

Another Reagan intervention is a change in rules for the Dept. of Transportation's (DOT) minority business contracting procedures. Previously, DOT was required to award a certain amount of contracts to bidders who could list a specific set of minority subcontractors they planned to use. Many times these contracts would go, not to the lowest bidder, but to the bidder who could prove he had met his minority participation quota. This caused a lot of bidders to become angry and resulted in quite a few lawsuits against DOT.

The Reagan administration stepped in and agreed to review the minority participation requirements. In the meantime, officals quickly revised the old rules becasue of pending lawsuits. The new rules maintain that a certain amount of contracts have to go to bidders with some minority participation, but the firm that wins the bid only has to show that it made a good attempt to meet the minority participation goal.

It cannot be disputed that many of the federal initiatives to help develop minority businesses have failed. Due to a lack of continuing monitoring, a lack that goes back to the Nixon years, many of the programs have outlived their usefulness, lost sight of their original aim, or become ensnarled in bureaucratic redtape. But if it's the intention of the new president to "clean house," is it not also necessary to replace the old with some new, fresh ideas and strategies for promoting minority business?●

BILL GREEN APPEALS FOR THE FREEDOM OF MICHAL KUKABAKA

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. GREEN. Mr. Speaker, I rise in defense of Michal Kukabaka, an ailing man who is now serving a 3-year prison sentence in the Byelorussian Soviet Republic.

Mr. Kukabaka is imprisoned for "slandering" the Soviet state by disseminating human rights treatises and protesting the Soviet practice of confining dissidents in psychiatric hospitals. A rally appealing for his freedom and celebrating his honesty and courage will be held on June 21, 1981, at Hammarskjold Plaza in my district.

My "adopted" Soviet prisoner of conscience is Dr. Semyon Gluzman, who has been in prison and is now in exile for refusing to cooperate in the Soviet psychiatric abuses that Mr. Kukabaka has opposed. One of Dr. Gluzman's actions which most angered the Soviet authorities was his refutation of the official diagnosis of Gen. Pyotr Grigorenko as insane. I was pleased to hear that the general's wife, Mrs. Zinaida Grigorenko, will be attending this rally, for it points out the intertwined fates of all Soviet dissidents, and that an effort on behalf of one Soviet dissident is ultimately an effort on behalf of all.

For the benefit of my colleagues, I am pleased to insert in the RECORD a release from the Committee for the Defense of Prisoners of Conscience in Byelorussia. The release further describes Michal Kukabaka's harsh and unjust treatment, as well as the rally that will be held this Sunday. The efforts of the committee and many others on his behalf are a meaningful step forward in bringing about Mr. Kukabaka's freedom and gaining permission for him to emigrate, and I am pleased to participate in this worthy cause.

COMMITTEE FOR DEFENSE OF PRISONERS OF CONSCIENCE IN BYELORUSSIA

"Michael Kukabaka needs help!"—This was the basic message in a larger document of the Moscow Helsinki group signed by Dr. Sakharov's wife, Yelena Bonner, dated December 28, 1980.

Byelorussian-Americans are responding to this appeal on Sunday June 21, 1981 (2 p.m.) in front of the United Nations (Hammarskjold Plaza) by holding a rally to mark the second anniversary of Michal Kukabaka's sentencing. Mrs. Zinaida Grigorenko, wife of General Grigorenko, Kukabaka's personal friend and benefactrice, will be one of the speakers. Also, signatures will be collected petitioning the U.S. Government to secure Kukabaka's release from prison. The 44-year-old Byelorussian dissident worker has renounced his Soviet citizenship and wants to emigrate to the West.

M. Kukabaka was sentenced on June 21, 1979, in Babruisk in Soviet Byelorussia. Before that, he had been detained for seven years in Soviet psychiatric prisons for such "crimes" as disseminating the text of the Universal Declaration of Human Rights.

The three-year sentence in 1979 was imposed on Kukabaka for the following offenses, according to a transcript of the Prosecutor's summation of the charges (the transcript was made by Viktor Nekipelov who attended the trial and who is now serving a prison term for his dissident activities):

"It has been established by the materials of the trial that Kukabaka, from July 1977 to October 1978, has been orally slandering the Soviet state and its social order. Besides, he wrote and transmitted to the West the articles, 'Detente and Human Rights are Indivisible' and 'Stolen Fatherland.' These articles viciously slander our political order and they have both been used by foreign anti-Soviet propaganda. And the last point of the indictment is: handing to Nikitina the so-called 'Open Letter to Health Minister Petrovsky,' alleging the persecution of people in our land for their beliefs and their confinement in psychiatric hospitals."

In one of the rare available photographs of Michal Kukabaka we see him participating in a wreath-laying ceremony at a monument in Minsk, capital of Byelorussia, erected in memory of victims of the Minsk ghetto. This event took place on May 9, 1977.

Mr. Ilya Goldin, now residing in Israel, who sent us this photo, wrote in his accompanying letter:

"Michal was not the only Byelorussian who came to the monument that day. Also, it must be considered that the act of laying the wreaths was viewed by the authorities as sedition and for a person with Kukabaka's past such an act was very dangerous."

Michal Kukabaka is still in danger. He is also suffering from poor health and the inhuman conditions of his detention.

Fight for life of Michal Kukabaka!●

THE CLINCH RIVER BREEDER REACTOR: THE REAL ECONOMICS ARGUMENT

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. ROE. Mr. Speaker, one of the major criticisms of the Clinch River breeder reactor plant project (CRBRP) argues that the project is not economic. The argument is specious and without substance. If you think about it, technology demonstration projects are never built on the basis of economics. Whether its demonstration of synthetic fuels production, solar photovoltaics, clean coal burning, or any other new technology, the purpose of technology demonstration facilities is to gain design, construction, and operating experience

which will be used in developing commercial demonstrations whose purpose is more directly related to proof of economic viability.

CRBRP is a technology demonstration, not a demonstration of commercial readiness. However, because this argument is being used by those opposed to the project—and usually all nuclear power—it is appropriate to look closely at the facts. Any such analysis will clearly show that most, if not all, of the cost of the facility will be regained through the sale of electricity generated by the plant.

The CRBRP is an essential intermediate demonstration plant step toward the deployment of the breeder option. While the major value of the CRBRP lies in demonstrating liquid metal breeder technology and obtaining operating experience, the cost effectiveness of the project can be assessed by comparing the costs of engineering, equipment, and construction of the plant with the expected operating revenues to be realized from the sale of electricity from the facility over its lifetime.

The CRBRP was authorized in fiscal year 1973, and it has progressed through major design completion with many components purchased at the time the Carter administration endeavored to cancel the program. Since it is a first-of-a-kind plant, it has incurred substantial first-of-a-kind engineering and R. & D. costs which are additional to the conventional capital costs of a powerplant. The comparison of completing the plant, operating it for 30 years, and producing revenues throughout that period versus cancellation has been carried out with the first-time costs and R. & D. costs excluded from the analysis since those costs are generic to the liquid metal breeder program. In this cost assessment the present worth of future expenditures and costs of fuel and operations and maintenance have been determined by using an uninflated discount rate of 3.8 percent.[1] The basis for present worth calculations is that funds spent prior to 1981, the chosen base date for commencing plant operations, could have acquired greater value if allowed to draw interest—3.8 percent—up to that time. Funds spent after 1981 are reduced by the interest that would have accrued if a present sum were invested at the base date (1981). This requires determining future sums in current year (1981) dollars and then applying the uninflated discount rate to determine the present worth in 1981 dollars. A comparison can then be made in equivalent present worth 1981 dollars of the cost of the plant to date plus the termination estimate vesus cost to completion less operations income. This analysis follows.

From the total project cost of $3.197 billion in year-of-expenditure dollars (YOE), first-of-a-kind engineering, R. & D., and 5-year operating costs, including the initial core and reloads, were subtracted and the balance was deescalated to give a plant cost of $2.14 billion in 1981 dollars. The 5-year operating costs as a technology demonstration are included in the 30-year operating costs. To obtain the plant cost on a Federal expenditure basis, the industry contributions of $363 million have also been subtracted, giving the plant cost of $1.78 billion in 1981 dollars.

It should be emphasized that this includes the costs arising from the delays to the project due to suspension of licensing and construction by the previous Carter administration. This delay cost is $837 million (YOE) due to the stretch-out of all activities for the past 4 years and an additional 2-year delay in licensing due to the impact on the project schedule.

The revenues from 30 years of operation of CRBR have been estimated taking the 1981 wholesale cost of TVA power at 3.28 cents per kilowatt hour—escalated at 1.9 percent[2] per year beginning in 1990—throughout the plant operating life, since this represents the value of the energy from the plant. This revenue is $3.26 billion in 1981 dollars. Deductions from the electricity revenue income will occur each year due to the costs of fuel and operations and maintenance and these have been estimated at a total of $0.97 billion in 1981 dollars.

In calculating the revenues, no credit has been taken for the value of the plutonium bred during the plant operating life. Decommissioning costs at end of life have similarly not been included since they are effectively covered either by the value of the bred plutonium or the revenues beyond 30 years.

In this evaluation, 30 years was taken as the period for net revenues although the design life of the plant is 40 years. It should also be noted that in this analysis, the 30-year period under the above financial ground rules commences from the start of operation of the plant—criticality in February 1990.

The 1981 dollar values determined in the foregoing are then converted to present worth values by applying the uninflated discount rate of 3.8 percent per year to the values for each future year and discounting back to 1981. The results of this analysis are presented in the following table:

PRESENT WORTH (1981)

[In millions of dollars]

	Termination	Completion
Spent to date (sunk cost)	743	743
Termination of completion costs	[1] 267	1044
Subtotal of costs	1010	1787
Revenues less fuel, operations, and maintenance costs	0	854
Net cost	1010	933
Difference		(77)

[1] Based on $150 million for the termination costs of the project plus $117 million for reimbursement of industry contributions to the project assuming no utility litigation for governments breach of contract.

This present worth analysis thus shows a better-than-break-even situation in favor of proceeding to completion. By proceeding to completion and operation, the major value of CRBR in demonstrating LMFBR technology and obtaining operating experience will be obtained at a minimum cost since the present worth of the revenues will pay for a large part of the plan costs.

Comparison of the capital cost with the net revenue also shows that the net present worth Government outlay to completion is $933 million. Recognizing that Clinch River is an essential step toward the breeder option, the $933 million can be considered as an investment toward the eventual use of the present stockpile of depleted uranium. This stockpile has an energy potential, when used via the breeder, equivalent 1½ times the total identified coal reserves in the United States; the energy potential of the stockpile is also equivalent to more than 1,300 billion barrels of oil, twice the world's proven oil reserves. The expenditures, therefore, for completion of the Clinch River Plant is a modest price to pay to provide long-term energy security for the United States.

It should finally be emphasized that the unnecessary delays to date have increased the cost of the project by $837 million, giving strong justification for proceeding to completion and operation of CRBR as rapidly as possible.

From this analysis it is clear that the economics of CRBRP cannot be legitimately used to argue against completion of the project. Of course there are uncertainties in these figures but all of our analyses show that the net costs to complete are very similar to the costs to terminate. Thus, by proceeding to completion and operation, the major value of CRBRP in advancing LMFBR technology will be realized at a minimum cost whereas vast technical capability will be wasted if we abandon the project.

I urge my colleagues to reject the argument that CRBRP is a waste of Federal funds or uneconomic. While the plant revenues cannot be used to justify the facility, they clearly dem-

[1] "EPRI Technical Assessment Ground Rules for Economic Comparisons" (PS-866-SR, June 1978).

[2] TVA data on the real growth of electric power costs in excess of the inflation rate.

onstrate the misleading nature of the economics argument.

The Clinch River Breeder Reactor project is important to our energy future, and I urge you to support its completion.●

A REWARDING EXPERIENCE

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. CAMPBELL. Mr. Speaker, last week it was my privilege to help introduce 29 outstanding young people from the Fourth District of South Carolina to the inner workings of the Federal Government and the beauty and historical riches of the Nation's Capitol.

High schools throughout my district selected a rising senior to represent them in the Fourth District congressional classroom program—an intensive dawn-to-dark schedule of briefings, tours, and cultural events. This year's trip included tours of the Supreme Court, the Library of Congress, the FBI and other Federal agencies; luncheon with the South Carolina congressional delegation; and a tour of the White House complete with breakfast with members of the White House staff. The students also attended a performance at the Kennedy Center and viewed the House in session.

During this complex time in our history, when there are more questions than answers and, more often than not, more than one answer, I think it is important for the young people of our Nation to have the opportunity to see firsthand how our Government works. The congressional classroom provides a unique learning experience not only for the students, but also for me through their questions and our exchange of ideas. I have found working with these young people a most rewarding experience, and would like to commend them for their strong leadership potential and belief in the ideals our Nation represents.

I would also like to offer a special word of appreciation to those whose civic mindedness made this program possible. The Fourth District congressional classroom is financed entirely by businesses and industries from the district, and I feel we are fortunate to have friends like them who have faith in the youth of our country. Our contributors this year included: Riegel Textile Corp.; M. Lowenstein & Co.; J. P. Stevens & Co., Inc.; Arkwright Mills; Coca-Cola Bottling Co. of Greenville; Moreland-McKesson Chemical Co.; Duke Power Co.; Spartan Radiocasting Co.; Bell Pharmaceutical; Inman Mills; Fiber Industries, Inc.; Package Supply & Equipment Co., Inc.; Lockwood Greene, Engineers; PYA/Monarch Foodservice; Spartan Grain & Mill Co.; Bankers Trust of South Carolina; Southern Wood Piedmont Co.; Lucas Industries, Inc.; Cooper Motor Lines, Inc.; Hoechst Fibers, Inc.; Simpsonville Mills Co.; Intex Products, Inc.; Pepsi Cola plant of Greenville; Liberty Corp.; Union Camp Corp.; Steele Heddle; Union Carbide; Fidelity Federal Savings & Loan Association; Henderson Advertising; Southern Bank & Trust Co.; C. Dan Joyner & Co., Inc.; Community Cas Stores; Texize, Division of Morton-Norwich; W. R. Grace & Co.; Cryovac Division; Phillips Fibers Corp.; Piedmont Federal Savings & Loan; Spartanburg Development Association; Dan River, Inc.; U.S. Shelter Corp.; Fiske-Carter Construction Co.; Zima Corp.; and Burger King Corp.

In closing, I would like to congratulate each of the congressional classroom participants and their parents. If the qualities demonstrated by these young people are typical, then our future is in excellent hands. The 1981 Fourth District congressional classroom scholars include: James S. Barnes, son of Mr. and Mrs. James H. Barnes; James C. Batchelor, Jr., son of Mr. and Mrs. James C. Batchelor; Dean Bender, son of Mr. and Mrs. Gerald Bender; Rebecca Boland, daughter of Mr. and Mrs. C. G. Boland; Virginia B. Brown, daughter of Mr. and Mrs. J. B. Brown; Benny Joe Bryson, Jr., son of Mr. and Mrs. Benny Joe Bryson, Sr., Brooks Cannon, son of Mr. and Mrs. Marvin Cannon; Lauri Douglass, daughter of Mr. and Mrs. C. R. Douglass; Marian E. Few, daughter of Mr. and Mrs. Jim Few; Frances Ann Fisher, daughter of Mr. and Mrs. Robert Fisher;

Also, Leon Kythas, son of Mr. and Mrs. Pete Kythas; Edward Lomas; son of Mr. and Mrs. V. M. Lomas; Angela Lykes, son of Mr. and Mrs. Charles Lykes; John Russel Madray, son of Mr. and Mrs. J. B. Madray; Robert L. Paxton, son of Mr. and Mrs. John H. Paxton; Beth Phillips, daughter of Rev. and Mrs. Gaynor Phillips; Bryan Ramey, son of Mrs. Mary A. Ramey; Janet Roth, daughter of Mrs. Catherine Roth; Martin Glenn Tune, son of Mr. and Mrs. Cecil Tune; Katherine Health Cart, daughter of Mr. Jonh M. Cart: Louie Crocker; son of Mr. and Mrs. Raymond E. Crocker; Pam Fontenot, daughter of Mr. and Mrs. Joseph L. Fontenot; Keith Green, son of Mr. and Mrs. Joseph Green; Danny Duncan, son of Mr. and Mrs. Billy D. Duncan; Lisa Hines, daughter of Mr. and Mrs. Jimmy Hines; Nancy Susan Holden, daughter of Mr. and Mrs. Grady Holden; Terry Richards, son of Mr. and Mrs. Carroll Richards; Melanie Weeks, daughter of Mr. and Mrs. Kelly O. Weeks, and Michael Wilson, son of Mr. and Mrs. William Wilson.●

RESTRICTIVE TREND BY CANADA TOWARD U.S. INVESTMENT

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. LUJAN. Mr. Speaker, on May 20 I sent a letter to Secretary of State Alexander Haig expressing my concern over an apparent restrictive trend by Canada toward U.S. investment and ownership of energy and natural resources. This at a time when Canadian companies are aggressively seeking to take over and control vast energy and natural resources in the United States. A subcommittee of the House Energy and Commerce Committee will begin hearings this week on this very matter. I would like to share with you today, the response which I received from the State Department.

The letter follows:

DEPARTMENT OF STATE,
Washington, D.C., June 16, 1981.

DEAR MR. LUJAN: The Department of State shares the concerns expressed in your May 20 letter regarding the treatment of U.S. private investment in Canada. We also understand your concern over the activities of Canadian and other foreign investors in the United States energy and minerals sectors, and want to assure you that we are following developments in this area as well.

U.S.-Canadian investment relations should be placed in the context of overall United States policy, which has for many years been to encourage an open international investment climate and to seek to minimize government intervention in the decision-making process related to individual investments. The national treatment principles (under which foreign investors are treated no less favorably than domestic investors in similar situations) has been a central element of our investment policy. The U.S. has worked bilaterally and multilaterally to promote the broadest possible acceptance of the national treatment principle by other governments. The centerpiece of these efforts is the 1976 Organization for Economic Cooperation and Development (OECD) Declaration on Investment and the associated Decision on National Treatment.

We understand your concern with regard to reciprocity; Canada's policies toward foreign investment have since the mid-1970's been moving in a restrictive and discriminatory direction while the United States has maintained an open investment climate. We agree on the need for equity and balance in our investment relations with Canada. We have thus far been seeking to achieve this balance through full consultations with Canada to ensure they are aware of our views. In that regard, the U.S. Government has met with the Canadian Government on several occasions in recent months to discuss our particular concerns in regard to the activities of the Canadian Foreign Investment Review Agency (FIRA) and implementation of Canada's controversial National Energy Program (NEP). Most recently, the Department of State participated in a delegation to Ottawa to discuss FIRA and our growing concern about the discriminatory treatment accorded U.S. investors.

Regarding the NEP, since its announcement in October 1980, the U.S. Government has acted bilaterally through extensive consultations, and multilaterally through the OECD's Investment Committee and the International Energy Agency, to underscore our concern over the serious implications of the NEP in three major areas: investment, energy, and trade.

In our discussions on Canadian investment issues, we have opposed adoption of policies and laws which discriminate against U.S. and other foreign investors and which are contrary to Canada's bilateral and international commitments. As a result of these discussions, we believe that the Canadian government is fully aware of U.S. concerns and we expect that they will take these concerns into account as they develop their policies. Indeed, recent Canadian modifications to the NEP's first major piece of implementing legislation and their statments reaffirming their support for the principle of national tratment are, in our view, positive developments that we seek to encourage. Nevertheless, the precise course of future Canadian investment policy is uncertain and will bear careful watching in the months ahead. We intend to continue to pursue our goal of balanced and non-discriminatory U.S.-Canadian investment relations.

We continue to believe that Canadian and other foreign investment in the United States can make a positive contribution to the development of U.S. resources, particularly in the minerals sector with its high capital requirements. With regard to such inward investment activities, U.S. law provides a number of safeguards which in our view are adequate to protect our essential security and other interests. The U.S. Government follows overall inward investment trends and has facilities for overseeing specific investments. For example, the interagency Committee on Foreign Investment in the United States (CFIUS), chaired by the Treasury Department, coordinates U.S. policy and monitors the impact of inward investment, including review of foreign investments which might have major implications for U.S. national interest. If there are difficulties with particular investments, we do not hesitate to present our concerns to the foreign government involved or to take other measures to protect vital U.S. interests.

In developing policies toward investment in the U.S. minerals sector, we must take into account the fact that the U.S. is the largest investor in foreign countries and has been a major force in world mining development. In the future the United States is likely to be increasingly reliant on imports for a number of crucial raw materials, and it is apparent that we continue to have a major interest in maintaining maximum freedom of investment and capital flows in world mining. In this regard, United States policies concerning foreign investment in the U.S. minerals sector will have a significant impact on the policies of other countries. Imposition of U.S. restrictions could invite retaliatory actions by others. Therefore, we must proceed cautiously in considering and adopting policies which would restrict inward investment.

In conclusion, I would like to assure you that the issues raised in your letter are matters of serious, continued, and high-level attention in the Department of State. Senators Nickles and Johnston and your colleagues Messrs. Brown and Wright have made inquiries similar to yours and we look forward to working closely with all of you in addressing these important issues.

Yours sincerely,

RICHARD FAIRBANKS,
Assistant Secretary for Congressional Relations.●

AMEND SECTION 1103 OF TITLE 11

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. HYDE. Mr. Speaker, in the last Congress, the House Judiciary Subcommittee on Civil and Constitutional Rights passed a bill designed to make technical and substantive changes in the Bankruptcy Reform Act which this body passed into law in 1978. I was then, as I am now, ranking Republican member of that subcommittee and was successful in amending the Senate bill in such a way as to constructively alter the present language in section 1103(b) of the Bankruptcy Reform Act. That section now requires that a conflict of interest is automatically assumed when anyone employed to represent a creditor's committee also represents another entity in connection with the same case.

Just as when a lawyer in a real estate transaction represents both the buyer and the seller at settlement, there is no automatic conflict of interest. In some small jurisdictions, which do not have a large bankruptcy bar, individuals have for years been representing both a creditor's committee and the creditor himself without any noticeable problem. The language which I offered last year was accepted by the House and, in preliminary agreements with the Senate, by Senate conference negotiators. There was no demonstrable controversy. Nevertheless, due to a philosophical disagreement between Chairman DON EDWARDS and Senator STROM THURMOND, S. 658 was never enacted into law.

When this Congress began, the committee reevaluated certain jurisdictional priorities and properly shifted bankruptcy to the Subcommittee on Monopolies and Commercial Law. I am also a member of that subcommittee and have now learned that Chairman RODINO plans to put off separate consideration of issues such as my amendment to section 1103(b) until purely technical matters have been disposed of. Accordingly, I am introducing this bill today for the purpose of giving notice to Chairman RODINO that changes in section 1103 must be made in order to allow for the normal function of the bankruptcy bar in less populated areas of the country than New Jersey. Since there was no disagreement of substance with regard to my amendment in the last Congress, and the Senate has no problem with my amendment, I see no reason why this bill could not go forward independent of any other legislation.

H.R. 3949

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1103(b) of title 11 be amended by adding "having an adverse interest" after the word "entity" and by adding "representation of one or more creditors of the same class as represented by the Committee shall not per se constitute the representation of an adverse interest." after the word "case.".●

THE LEGAL SERVICES CORPORATION

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. FORD of Michigan. Mr. Speaker, as an original sponsor of the Legal Services Corporation, I have watched with pride over the years as its attorneys have fulfilled their mandate of providing quality legal services to the poor. Not only do I continue to support this program, I believe that its funding should be increased beyond its current $321 million authorization. Even the current program falls short of insuring equal justice under law for all Americans, regardless of their income.

My support of H.R. 3480 is shared by the Michigan House of Representatives. I would like at this time to place in the RECORD a copy of a resolution recently adopted by the Michigan House, which eloquently states the position of the people of Michigan with regard to the continued funding of the Legal Services Corporation.

With particular regard for the amendment of Mr. KRAMER that would restrict the lobbying activities of LSC attorneys, I would like to draw my colleagues attention to the second whereas clause of the resolution, which states:

Equal justice requires access to all forums enforcing and creating justice—judicial, administrative and legislative—by the rich and poor alike.

The full text of the resolution follows:

A RESOLUTION MEMORIALIZING THE PRESIDENT AND THE CONGRESS OF THE UNITED STATES TO CONTINUE PROVIDING FINANCIAL SUPPORT TO THE LEGAL SERVICES CORPORATION

Whereas, The cornerstone of our democratic system is "equal justice under the law"; and

Whereas, Equal justice requires access to all forums enforcing and creating justice—judicial, administrative and legislative—by the rich and poor alike; and

Whereas, The Legal Services Corporation, a not-for-profit corporation authorized by Congress in 1974 to "provide high quality legal assistance to those who would other-

wise be unable to afford adequate legal counsel", has been funding approximately 1,450 locally controlled offices throughout the country; and

Whereas, An estimated 1.5 million cases are handled each year by this organization for the nation's estimated 30 million poor people, encompassing such routine matters as domestic relations, spouse abuse, parental rights, housing, bankruptcy, and employment and consumer law; and

Whereas, President Ronald Reagan has indicated that he plans to eliminate the Legal Services Corporation totally and immediately by recommending to Congress a 100% cut in the federal funds to the Legal Services Corporation; and

Whereas, The president of the American Bar Association, the president of the Michigan Bar Association, judges and members of the private bar across the country have expressed their deep concern over the elimination of this crucial program. These leaders of the legal community know that without a federally funded program, millions of our nation's neediest citizens will be denied access to our system of nonviolent resolution of civil complaints; and

Whereas, Even though there has been a longstanding commitment to treat the poor with dignity and justice in our State, Michigan's budget is inadequate to meet the existing needs of our citizens, given our current fiscal crisis, and the State cannot support the Legal Services Corporation; and

Whereas, Michigan suffers from one of the highest unemployment rates in the country and these recently unemployed people are in need of legal services which they will not be able to purchase for themselves; now, therefore, be it

Resolved by the Michigan House of Representatives, That the President and the Congress of the United States be hereby memorialized to continue financial support to the Legal Services Corporation, thereby seeking to insure that justice is available to all our citizens; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan Congressional Delegation.

Adopted by the House of Representatives, May 5, 1981.●

JOHN S. KNIGHT: A GIANT IN JOURNALISM

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. BROOMFIELD. Mr. Speaker, America lost one of the giants of journalism and a pioneer in the modern communications industry with the death of John S. Knight on Tuesday at the age of 86.

The editor emeritus of the Miami Herald and Knight-Ridder Newspapers, Inc., Mr. Knight was a national figure whose newspapers shaped public opinion from coast to coast.

I came to know him in the years after he purchased the Detroit Free Press, Michigan's oldest daily newspaper, in 1940. Under his guidance, the Free Press played a major role in molding the postwar development of Michigan and the Detroit metropolitan area. While other newspapers have come and gone, the Free Press remains one of the two largest and most influential dailies in Michigan.

Mr. Knight's empire eventually expanded to include 33 papers and 3 television stations.

He won the Pulitzer Prize for editorial writing in 1968 for his column, "The Editor's Notebook," and other writings.

Always a patriot, Mr. Knight left Cornell University when World War I broke out and enlisted in the Army. He received a battlefield commission as a second lieutenant with the 113th Infantry and fought in the campaigns of the Argonne and Alsace-Lorraine.

Following the war, he joined his father's newspaper, the Akron Beacon Journal, and went on to become its managing editor and chief editorial writer.

After his father's death in 1933, Mr. Knight inherited that newspaper and the Massillon Independent in nearby Massillon, Ohio. Using profits from the two papers, he set out to build one of the most successful newspaper chains in America.

Despite his success, he would never accept any title higher than that of editor.

He maintained there was no higher title and despite his official retirement in 1976, retained an almost daily interest in the Beacon Journal until his death.

John S. Knight's career in journalism paralleled America's greatest era and his influence undoubtedly helped shape that greatness.●

THE ORCHARD CONCEPT: A PARTNERSHIP THAT WORKS

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. LOWERY of California. Mr. Speaker, the availability of affordable housing for the elderly concerns us all. In San Diego, we have a landmark development, Orchard I, that represents a most successful private-public joint venture.

A general partnership of four developers—Steve Drogin, Ted Odmark, Jim Welch, and Dick Plumleigh—have produced a model project of national significance. I urge my colleagues to read the article below which will appear in the Community Investment Newsletter of the Federal Home Loan Bank of San Francisco:

THE ORCHARD CONCEPT: A PARTNERSHIP THAT WORKS

(By Steve Drogin)

While economic conditions have virtually halted construction of apartment developments, creative relationships between developers, municipalities and financial institutions can be formed to encourage such projects.

In today's market, it will take this type of cooperative approach to assure that the public's need for low and moderate income rental housing is met. Without a concerted effort, the necessary apartment developments will not be built and local government and private industry will be derelict in their social responsibility.

An example of how this approach can work may be found in The Orchard, an innovative development that provides affordable rental housing for senior citizens on land owned by the City of San Diego. It is the largest conventionally financed apartment project now under construction in California.

The first phase of the Orchard complex was built in 1977, providing 275 apartments for seniors. Orchard I was constructed on City owned land that previously had stood vacant and was leased to the developers on favorable terms.

Today, Orchard I remains 100% occupied, an aesthetically attractive apartment community for its 300 senior citizen inhabitants.

A second phase of The Orchard began construction this February and by late July developers plan to have the first of the complex's 288 units ready for occupancy.

And though the two Orchard developments will be adjacent, share some of the same facilities, and their residents will live as one community, there is a definite distinction in how each phase was developed and constructed.

Orchard I was the brainchild of ST Associates, a group of four developers who convinced San Diego's City Council that they could provide needed senior housing with rental prices far below existing market rates.

ST Associates, a general partnership comprised of San Diego developers Steve Drogin, Ted Odmark, Jim Welch and Dick Plumleigh, obtained a ground lease on 5.1 acres of surplus city property between Mission Bay and Point Loma. They secured a $2.9 million, 30-year loan from San Diego Federal Savings and Loan Association at 9½ percent, slightly under the prevailing rate at that time.

In exchange for the favorable lease terms with the city, ST Associates agreed that at least 20 percent of the apartment units would be filled with senior citizens who held existing HUD Section 8 certificates. Rents also were to be raised only once annually, in a passthrough based on anticipated increases in operating expenses.

The resulting Orchard I development has been fully occupied since completion. Today, nearly one-third of its residents are Section 8 certificate holders and rents for one-bedroom apartments are $195, considerably less than the current $300 HUD limit. In fact, since Orchard I was completed, HUD's Section 8 rental limits for existing units has risen 59 percent while rents at The Orchard have increased 14.4 percent.

Orchard I consists of 29 buildings over the 5.1-acre parcel. Most buildings have eight or 14 apartment units with a total of 259 one-bedroom units and 16 studio apartments.

The grounds of the apartment complex are covered by a variety of fruit trees, which residents are invited to harvest and from which the project derives its name. The development also includes popular community gardening plots in which additional fruits and vegetables are raised by residents.

A 5,000-square-foot community center is the social gathering place for many of The Orchard's residents. It includes an assembly hall, library, television room, hobby room, business office, mail center and an office for its full-time social activities director, who sets up classes and programs for the senior citizens.

With the construction of Orchard II, the community center will be expanded by 1,500 square feet.

The complex also offers low-cost lodging for guests of its residents. Visitors to The Orchard can remain overnight in motel-like accommodations at the site for a nominal charge.

Mayor Pete Wilson takes pride in The Orchard for its public service of providing much needed housing for the elderly in San Diego, a region whose mild climate attracts many senior citizens. Wilson has continued to lend his support to efforts to develop Orchard II. Mayor Wilson and his staff were especially helpful in the efforts to develop the support of the local financial institutions in the unique financial structure utilized for Orchard II.

Orchard II's lease with the city stipulates that 6.82% of gross income from the project be annual rental on the property. Since the development opened in fiscal 1978, its owners have paid ground rent totaling $127,000, including $42,639 for fiscal 1980.

Orchard I and Orchard II are subject to full possessory interest taxes. The 1980-81 tax levy by the county was $43,600 for Orchard I.

Because the apartments in the first phase of The Orchard were built at an average cost of $11,800 each, or less than one-quarter of the common construction cost of a unit in a subsidized high-rise apartment complex, rents are correspondingly lower.

One-bedroom units in newly built high-rise buildings commonly rent in the $500 range with utility costs figured in. The Orchard II one-bedroom models will rent for $285 monthly, exclusive of utility charges.

Because present economic conditions make it impractical to build with traditional financing techniques, Orchard II is being built with creative financing.

Orchard II Associates, a general partnership composed of Steve Drogin and Financial Scene Inc., a service corporation of San Diego Federal Savings & Loan Association, is financing the second phase of The Orchard by once again receiving a 30-year loan from San Diego Federal. Only this time San Diego Federal was able to make a project loan at the below market rate of 10⅛% because it was able to borrow a like amount of funds from the San Diego Redevelopment Agency at the same rate. The Redevelopment Agency was able to supply the loan to San Diego Federal for purposes of financing Orchard II at that rate because under Federal and State laws, the Redevelopment Agency was able to issue its bonds with the interest paid exempt from Federal and State Income Taxes.

Through the cooperation of the Redevelopment Agency and the participation of San Diego Federal, which agreed to repay its loan to the agency regardless of the financial success of Orchard II, Drogin and Financial Scene were able to substantially reduce the financing cost of the project which directly impacted the rents required to be paid by the tenants.

The bonds were purchased by eight banks and savings and loan associations with their home or major offices in San Diego. Bank of America and Imperial Saving & Loan Association lead the group with each purchasing $1 million of the 10% 30-year obligation.

Other institutions who purchased the bonds include Security Pacific National Bank, Home Federal Saving & Loan Association, Central Federal Saving & Loan Association, Allstate Saving & Loan Association, Union Bank and San Diego Trust & Savings Bank.

Joseph H. Torrence, of Dillon, Read & Co. Inc., the investment banking firm responsible for structuring the financing, made the decision to sell the A-rated bonds to local financial institutions through private placement rather that a public offering based on the fact that the then current bond market would have demanded a yield of 11¾%, a figure that would have made the project infeasible.

Presently, 74% of the residents of Orchard I have annual household incomes of $7,000 or less. If bonds had been issued at 11¾%, the benefit of offering affordable housing to senior citizens with similar incomes would have been severly jeopardized.

Financial institutions purchased the tax-exempt bonds to support the construction of low and moderate cost housing for senior citizens as well as to bolster their Community Reinvestment Act performance records.

Lenders were further encouraged to purchase the bonds by the guarantee of San Diego Federal Savings to repay its loan to the agency, thus assuring repayment of the bonds. Because its Financial Scene service corporation was part of the Orchard II joint venture partnership, San Diego Federal was precluded by Federal statute from being a purchaser of the bonds. However, its guarantee of the loan made the bonds more marketable to other institutions and assured the construction of Orchard II.

Furthering complicating the attempt to put together a first-of-the-kind financing effort was the non-subordinated lease with the City. Yet the development moved ahead because of the realization that a cooperative partnership between local government and private developers was a better solution than traditional public housing projects.

"We believe there is a real need for housing of the elderly in San Diego," said Thomas F. Carter, Executive Vice President of San Diego Federal. "There are not enough units being built to provide shelter for the elderly.

"When a developer comes to us with an innovative project, and he's willing to take a little less profit in order to build housing for low and moderate income individuals, then we are willing to do whatever we can to assist them. In the Orchard project, that meant guaranteeing repayment of the bonds so the project could be built with lower financing costs and, consequently, rents could be less expensive."

When completed, Orchard II will have a total of 288 units in 23 buildings, most of which will contain eight or 16 apartments. The development will include 96 studio apartments. The number of studio apartments was substantially raised for the second phase of The Orchard as a means of keeping the highest number of units available at the lowest possible rents. The cost per unit for Orchard II is $16,300.

Each of the one-bedroom units in the two-story, on-grade apartment complex will contain 465 square feet, slightly larger than the units in the first phase.

Orchard II units also will be equipped with energy-saving devices such as low-flow restricters on kitchen and bath sinks, faucets and shower heads; water-saver toilets; fluorescent lighting outdoors; and, individual electric water heaters with on-off switches to enable residents to closely control their own energy consumption.

Apartment construction is being closely monitored to assure that units will be built as rapidly as possible, thus avoiding increased financing costs associated with escalating construction costs. Orchard II construction should be completed in September.

The combination of favorable terms on the lease of the land from the City, the favorable financing terms arranged through the cooperation of the Redevelopment Agency, San Diego Federal and the community spirited financial institutions who purchased the bonds and the good fortune of receiving very favorable bids for the construction of the project, all contributed to successfully providing this additional housing stock to senior citizens at affordable rents.

While The Orchard development is innovative, it is one that can be copied by other developers and other municipalities. Such a project requires a recognition on the part of state and local officials that it will take concerted efforts between the public and private sectors such as this if new apartments are to be constructed and made available at affordable rents.

Rising interest rates, land costs and threats of rent control have virtually shut down apartment construction. At the same time, federally subsidized housing projects appear doomed.

There still, however, remain thousands of acres of land under government control that could be used for projects such as The Orchard. It is up to local and state government to initiate partnerships between government, developers and financial institutions, and provide for the housing needs of the public.●

TESTIMONIAL TO JOHN C. COLEMAN

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. JOHN L. BURTON. Mr. Speaker, it is an honor to pay tribute to a man so well known and respected by his community—one whose competence has inspired confidence in those entrusted to protect the well-being of the people.

John C. Coleman is retiring this month as chief of police of Novato, Calif. He has held this position nearly 8 years, which culminates a career of 25 years in the law enforcment field. His excellent record of service extends back to the Long Beach Police Department and includes an appointment as chief of police in Brawley, Calif.

His dedication to hard work and professional standards is reflected in his activities in police chiefs' associations at the local, State, and international levels. Chief Coleman is also a past president of the Marin County Police Chief's Association.

In addition to his busy professional life, Chief Coleman has been actively

involved in community's affairs through the Kiwanis Club and Little League, for which he has managed a team for the past 3 years.

I am proud to commend a man of John C. Coleman's stature.●

THE CLINCH RIVER BREEDER REACTOR: IT SHOULD BE CONTINUED

HON. ROBERT A. YOUNG
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. YOUNG of Missouri. Mr. Speaker, in spite of our conservation efforts, this Nation still imports large quantities of foreign oil. Our dependence on foreign sources of supply for energy has cost our economy and our people heavily. It has had grave implications for our national security.

Fortunately, we have taken steps to alleviate this dependence through conservation and diversion to domestic energy sources. We have begun to plan for a future of secure, plentiful energy supplies which will allow our economy to continue to grow, providing jobs and a high standard of living for our people. The liquid metal fast breeder reactor (LMFBR) is a key element in planning future energy security, and the Clinch River breeder reactor (CRBR) is the next logical step in LMFBR development.

The United States has had an extensive breeder reactor development program for 30 years, and the technological feasibility of the breeder has already been proven. Other countries, such as France, Russia, Great Britain, and Japan, have also recognized the potential of breeder reactors and are rapidly developing the technology. These nations have recognized the vital role of energy in national security, and they are taking steps to tap a virtually unlimited energy source for the future.

During the past few years, the expansion of nuclear power in the United States has been limited, and light water reactors (LWR) have been delayed and even canceled. However, there are now approximately 70 LWR's operating in the United States, providing nearly 12 percent of the Nation's electricity, and the Department of Energy's nuclear power growth projections show clearly that there is still a considerable need for growth of nuclear-powered electric generating capacity.

Fission reactors can convert only a small amount of the energy contained in our uranium resources. In contrast, breeder reactors can extract 50 times more energy, extending our uranium resources for centuries. The Department of Energy has developed estimates of uranium production capability to meet the near-term nuclear power growth demand. These estimates indicate that even with expanded uranium production capability, LWR uranium consumption will exceed production of readily available high grade uranium resources by the turn of the century. Although lower grade uranium resources exist, they are more expensive to produce.

Additional uranium also exists in the form of speculative potential resources, such as seawater and uranium available through recycling enrichment plant and mill tailings. These sources will be difficult and expensive to develop, and they should not be expected to meet the large LWR requirements.

Considering the uncertainties in uranium availability and costs, the logical, safe and reasonable course to follow is one which will insure that the LMFBR will be available for commercial deployment at the earliest possible date. I hope that we have learned from the last decade the penalties due to a lack of preparation and planning for domestic energy security. Delaying LMFBR commercial viability poses a much greater risk to the United States than any perceived penalty associated with early commercial readings of LMFBR technology. We simply must have this insurance policy, and CRBR is part of the premium.

The challenge currently before us is to determine the LMFBR strategy which will bring the technology to commercial readiness in a timely and cost-effective manner. The most logical course is to pursue a program during the next decade which will build on the existing technical program experience and provide the flexibility to accommodate a range of commercial introduction dates while keeping the breeder team together. This program would include the design, construction and operation of the Clinch River breeder reactor plant and later on a large LMFBR development plant (LDP) along with supporting research and development in vital technical areas including the fuel cycle.

This approach maintains the momentum of the overall program and effectively uses the existing technical experience and expertise. In the late 1990's, the program would reach a point which would allow a decision to proceed directly to a commercial plant early in the 21st century or to adopt a more deliberate approach which would permit later commercial introduction of the LMFBR. In any case, if we proceed now with CRBR and introduce commercial LMFBR's early in the 21st century, nuclear fuel resources will not be affected until at least 2020.

The strategy of proceeding with development of CRBR allows us to build on the strong base of already developed U.S. LMFBR technology. The experimental breeder reactor II, a 20 MW(e) plant located in Idaho, has been operating since the mid-1960's. The fast flux test facility, a 133 MW(e) test reactor in Washington State, began operation in 1980. Both plants are providing valuable performance and operating data. The design of CRBR, a 350 MW(e) project, is more than 80 percent complete, with all major plant components on order and most confirmatory plant research and development nearing completion.

The design, construction, and operation of these plants in progressively larger sizes have brought the technology to a point where the technical feasibility of the LMFBR concept has been proven. The program is now at a stage where engineering scale demonstration of the technology is required to prove LMFBR reliability as a commercial energy production option. Data from this phase of the program is required to support future decisions on whether the LMFBR should be commercially deployed.

Continued development of the LMFBR has been supported by various studies over the years, including the recent Committee on Nuclear Alternative Energy Systems of the National Academy of Sciences, the International Nuclear Fuel Cycle Evaluation, and DOE's nonproliferation alternative systems assessment program.

There are many advantages to continuing LMFBR development, including:

First, helping to insure U.S. energy independence in the future by demonstrating large-scale breeder operation.

Second, maintaining the U.S. technical position among the foreign nations which are rapidly developing the breeder concept. If a commercial LMFBR market develops, American industry will be in a position to successfully compete for a fair market share, and the United States will be better able to influence foreign developments which threaten the proliferation of nuclear weapons.

Third, providing a low-risk insurance policy against future shortages and/or large price increases affecting uranium.

Fourth, receiving benefit from the funds already spent on CRBRP.

The decision to proceed with Clinch River is not a commitment to commercialize the LMFBR concept. It is a commitment to obtaining the design, construction, and operating information necessary for the industry to make rational decisions on the future course of development of LMFBR. I strongly support the continuation of CRBR. It is a step in the right direction to energy security for our country. I urge my colleagues to support this program.●

ISRAELI ATTACK

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. MARKEY. Mr. Speaker, today I introduced with 31 cosponsors a concurrent resolution expressing the sense of the Congress on the Israeli attack against the nuclear reactor in Iraq. The resolution asks that no sanctions or condemnations be applied against Israel for the June 7 incident. In addition, the resolution urges the President to pressure France and Italy not to resupply Iraq with nuclear technology to replace that destroyed by Israel. Finally the resolution asks the President to strengthen U.S. nonproliferation policy and determine the adequacy of the IAEA inspection and safeguard system.

Mr. Speaker, I would like to thank the cosponsors of this resolution and urge my other colleagues to join with us in this effort to halt the spread of nuclear weapons.

Following is the list of cosponsors and the text of the resolution:

COSPONSORS

Jonathan Bingham, Michael Synar, Stephen Solarz, Martin Frost, Benjamin Gilman, Hamilton Fish, Jim Dunn, John LeBoutiller, Ted Weiss, Ron Wyden, Jim Scheuer, Bob Traxler, Bill Lowery, Henry Waxman, Edwin Forsythe, Les AuCoin, Jim Blanchard, Julian Dixon.

Thomas Foglietta, George Wortley, Barney Frank, Tony Hall, William Lehman, Nick Mavroules, James Oberstar, Claude Pepper, Millicent Fenwick, Joseph Addabbo, Ben Rosenthal, Bill Green, Joseph Minish.

H. CON. RES. 150

Concurrent resolution expressing the sense of the Congress that the President should take certain actions concerning the supply of further nuclear material and technology to Iraq by certain countries and concerning United States nuclear non-proliferation policy

Whereas Israel is a national security ally of the United States;

Whereas Iraq, despite huge oil reserves, purchased a 70 megawatt nuclear reactor from France which uses substantial amounts of highly enriched uranium as fuel;

Whereas Iraq purchased from Italy nuclear technology and training to aid in the development of a plutonium extraction capability;

Whereas both highly enriched uranium and plutonium can be used directly to manufacture nuclear weapons;

Whereas the President of Iraq has made public statements implying that nuclear weapons could be used against Israel; and,

Whereas the crucial issue facing the United States is not whether Israel did or did not commit a technical violation of our arms sale agreement, but the real issue is the consequence of the spread of nuclear weapons technology throughout the world: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring) That it is the sense of the Congress that—(1) The President should urge the governments of France and Italy not to sell sensitive nuclear technology or material to Iraq to replace the reactor and equipment destroyed by Israel's action of Sunday, June 7, 1981; (2) the Congress should impose no economic or military aid sanctions against Israel in response to the June 7 action and the President should veto any United Nations condemnation of Israel; (3) the President should strengthen the nuclear nonproliferation policy of the United States and should improve and tighten restrictions on the export of nuclear technology or material which can be used to make atomic weapons; and (4) the President should determine the adequacy of the international system of safeguards and whether they provide sufficient warning of a diversion of civilian nuclear material to military purposes.●

FOLKS ARE GOING TO MISS "BIG JIM"

HON. LAWRENCE J. DeNARDIS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. DeNARDIS. Mr. Speaker, a good personal friend and an outstanding citizen and public servant died suddenly last month. James R. Guthrie, Republican registrar of voters in West Haven, Conn., left many memories—and an enviable number of friends.

The following article in the New Haven Journal Courier is a particularly warm and personal tribute to Jim Guthrie.

FOLKS ARE GOING TO MISS 'BIG JIM'

(By Vincent C. Carbone)

WEST HAVEN.—The big friendly smile and handshake which were two of Jim Guthrie's trademarks will be missed.

A jovial individual, James R. Guthrie, 47, was a firefighter's firefighter, a politician and a man who spent many hours as a field engineer for the Armstrong Rubber Co., whose job it was to make periodic inspections of tires being tested for trucking companies.

"Big Jim" went away on one of those inspection trips last week and Friday suffered a heart attack and died in Nashville, Tenn., despite efforts of paramedics to save his life.

The word swiftly hit the community, both here and at Armstrong, of Jim Guthrie's passing, and it shocked his many friends.

All of his years, from the day he became 21 and was able to vote, Jimmy Guthrie was a Republican. He worked his way up through the ranks by being a solid party worker, served on the town committee, and when Emmet Simmons retired, he was appointed registrar of voters for the party.

But whether they were Republicans or Democrats, Jimmy treated them all alike. He served in many peace-making roles to resolve issues which developed at election time and was never one to deny an opponent of an answer on a voting question.

"We're shocked. We just can't believe it," Betty Sweeney, who has been a clerk for the GOP in the registrars office for many years, said upon learning of his death.

It was a sad day around City Hall. The gloom was so thick, it could be cut with a razor blade.

Mayor Robert Johnson, a Democrat, worked side by side with Guthrie when the pair served as fire commissioners in the First District.

"I have always had the highest respect for Jim. He has done much for the fire services, not only here, but throughout the state. And, likewise, he was a dedicated registrar and public servant," the mayor said on learning of his passing.

During the years Guthrie served on the fire commission, his main objective was to provide the city with improved fire services. The department was increased, new apparatus replaced antiquated units and better working conditions resulted as the department was upgraded.

But he didn't stop at the local level. Jim spent many days and nights away from home, serving as president of the Connecticut State Firemen's Association, always striving to improve legislation to better protect the families of firefighters. In this direction, he was a super performer, and throughout the state and New England he was recognized as a firemen's fireman.

And today at 9 a.m., at St. John's Vianney Church, many firefighters, politicians and his colleagues at Armstrong Rubber will attend a Mass of Christian Burial for a class gentleman, who could have run for mayor or any other local public office and won hands down.

Jimmy Guthrie came from a special mold. He was a man of outstanding character, strong leadership and a devoted father and family man.●

ADDRESS OF JACOBO TIMERMAN BEFORE AMNESTY INTERNATIONAL

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. HARKIN. Mr. Speaker, last night the annual general meeting of Amnesty International U.S.A. was held. It view of this organization's ongoing struggle to put an end to torture, abuse, and oppression of human rights, it was very fitting that Jacobo Timerman address a tribute to the gathering.

I have had the opportunity and good fortune to meet with Mr. Timerman on several occasions. Since his release from prison in Argentina, Mr. Timerman has become an invaluable source of information about the realities of oppression in his country, as well as an eloquent proponent for the continual struggle for human rights.

In his tribute to Amnesty International last night, with great insight and concern, he expressed a dilemma facing the human rights cause.

While the people affirm the necessity of fighting for human rights, they create diplomatic and political theories, like the thesis of "Quiet Diplomacy," or the theory of different strategies that should be employed in individual cases, or the difference between authoritarian and totalitarian governments. What they are trying to do is to replace the idea of human rights with a mere tactical or strategic exercise, that is, to sterilize the

basic idea, and create a kind of travesty which dictators on the right and the left quickly interpret as an unlimited license to trample on human rights.

Providing us with more than just an understanding of the problems with human rights policy, Mr. Timerman is also able to offer, from experience, valuable solutions.

All of the former political prisoners with whom I have spoken, whether they be Russians in Israel, Chileans in France, Uruguayans in Spain—insist that the only formula that exists for an effective struggle for human rights is a permanent public denunciation of violations formulated by governments, or private institutions, or the press * * * There is the original telegram sent by the Swedish diplomat Raul Wallenberg from Budapest, when he was struggling to save the Jews that Eichmann was sending to the gas chambers of Auschwitz. The telegram, dated the 29th of July, 1944, directed to London and Washington via Stockholm, reads: "Foreign press publicity eased the situation here. We need more."

Therefore, I submit to the attention of my colleagues Jacobo Timerman's address of last night and strongly urge them to heed his message.

ADDRESS BY JACOBO TIMERMAN, FORMER PRISONER OF CONSCIENCE IN ARGENTINA

I am grateful to Amnesty International of the U.S.A. for inviting me to speak to this meeting. I speak for myself, as another person in the struggle for human rights, and appreciate this opportunity to present my own views.

Every person who gets out of prison feels an immediate impulse and an urgent need to reconstruct his life. It is not very probable that he can achieve it, because prison has destroyed many of his inner mechanisms. His second impulse, therefore, is to try to construct a new life. For this he needs privacy and the emotional support of his family.

But the prisoner who has been released as a result of the efforts of thousands of people feels other obligations as well. I obtained my liberty as a result of the struggle of organizations and individuals who generously give their time to a world campaign for human rights.

I would like to spend my time in Israel, dedicated to the beautiful adventure of reconstructing a Jewish state, a democratic and peaceful Israel, participating in the enormous endeavor of correcting history and ending the most terrible aggression against human rights recorded by history, the endless barbarism of anti-Semitism. But I have continued to travel around the world and to add my voice to the cry for human rights.

I have taken part in almost all the international meetings of journalists and publishers which have been held in the 20 months since I was released from prison—to tell the world of the first case in memory of a genocide of journalists—the kidnapping by the Argentine armed forces to 100 journalists and their subsequent total disappearance. I have participated in conferences devoted to the problem of the disappearances, especially the International Colloquium held in the French Senate at the beginning of this year under the auspices of the International Federation of Catholic Lawyers. In all those ceremonies in which I have been honored by the Jewish institutions of the United States for my struggle for the security of the Jewish community of Argentina—the American Jewish Committee, the United Jewish Appeal, Haddasah, the United Synagogue of America, the Anti-Defamation League of B'nai B'rith—I have presented the case of human rights violations in Argentina. And I have participated in the international campaign for the freedom of the Soviet dissident Ida Nudel, in close cooperation with the sister of that great woman, Mrs. Elena Friedman.

In my house in Tel Aviv, we organized the press conference that Mrs. Friedman gave in Madrid, shortly before the beginning of the Helsinki deliberations at the end of last year, and I maintained the firm position that we must confront the pressure of U.S. State Department officials who insisted on the cancellation of the press conference. Those bureaucrats felt that it might provoke the Soviet Union into deciding not to permit the inauguration of the Madrid gathering. We were abandoned by all those who should have participated in that press conference, but there were two persons, in addition to Mrs. Friedman, who insisted that it was necessary to confront the Soviet Union with the denunciation of the case of Ida Nudell.

One of my most precious awards is the letter sent to me by Ida Nudel's sister, saying: "I am filled with gratitude for the important and timely advice you gave us in a difficult period of decision when we were in Madrid."

My presence here is in response to the same motives, I am not a perfect orator. My English is faulty. I am not an expert on human rights. I am a former political prisoner persecuted for his ideas, a former Jewish prisoner tortured for his origins, a survivor of the clandestine prisons of Argentina. I do not come to present theories. I come to give personal testimony. And I do so before this assembly because I am grateful to Amnesty International, and because this Assembly represents the men and women who maintain the integrity of the humanitarian, moral and political principles that give birth to the United States of America, principles which, in the midst of tremendous upheavals, have guided the course of the history of this nation and this people.

During this long journey of meetings, conferences and ceremonies, I have observed that no one any longer dares to deny the need for governments and private institutions to defend the human rights of individuals and societies. No one, openly, denies that violations of human rights exist under different political regimes, and that it should be condemned, halted, neutralized. Perhaps one of the greatest successes of the marvelous institution that is Amnesty International is its ability to demonstrate that there is no organization today—labor union or professional association, scientific or sports group, cultural or artistic council—that does not have a department or committee dedicated to the protection of human rights. And it is also a great triumph to show that those who used to be openly opposed to the struggle for human rights, now choose to employ mechanisms of deception but not of opposition. While the people affirm the necessity of fighting for human rights, they create diplomatic and political theories, like the thesis of "quiet diplomacy," or the theory of different strategies that should be employed in individual cases, or the difference between authoritarian and totalitarian governments. What they are trying to do is to replace the idea of human rights with a mere tactical or strategic exercise, that is, to sterilize the basic idea, and create a kind of travesty which dictators on the right and the left quickly interpret as an unlimited license to trample on human rights.

Curiously enough, the thesis of authoritarian governments which are friendly and should be protected, and totalitarian governments that should be openly accused because there is no hope of winning their friendship, does not originate in the recent semantic adventures of American conservatives. It was the Soviet Union that perfected the idea in the case of Argentina. The Soviet Union has been the only important world power never to formulate one single protest against the violation of human rights in Argentina. It has been the Soviet Union that has blocked in the United Nations every attempt by democratic countries to investigate violations in Argentina, to condemn these violations. Every time the Argentine drama was to have been considered by the United Nations Commission on Human Rights, the Soviet Union, with the help of the automatic majority that controls the institutions of the U.N., put forth such a variety of fantasies that even an American delegate was moved to say: "Abuse of human rights is abominable, but we want the same standards applied everywhere." Another delegate, Richard Shifter, said that if the U.N. Commission on Human Rights is worthy of its name, it should be guided by "one standard is assessing violations of human rights and fundamental freedoms." Unfortunately the Reagan administration wishes to modify this policy and apply a double standard.

I have also been able to demonstrate that the conservative ideologues who apply the Soviet semantics, also, in the case of Argentina, apply the mathematical machinations of the directors of the Argentine communist party. The Argentine communists maintain that the support of the so-called moderate military in Argentina has permitted an improvement in the situation of human rights, and they devote themselves to making a count of how many disappearances there are today and how many there were before. That is like feeling sufficiently satisfied with the changes introduced in Russia after the death of Stalin, especially the vindication of many of those murdered by the regime, and at that point considering the matter closed.

The theorists of quiet diplomacy make their reckonings in the following way. Since the Reagan administration has occupied the White House, there has not been one single disappearance in Argentina, giving the impression that this was achieved through silent negotiations with the Argentine military. But if the Argentine military are able to stop the wave of disappearances, that means that they are the kidnappers. How is it possible, then, to maintain absolute silence over the fate of 15 to 20,000 persons whom they kidnapped? Isn't there any moral or religious problem in this to worry the proponents of silent negotiations?

Quiet diplomacy then compares the absence of disappearances in 1981 with the 28 disappearances in 1980, and takes pride in the great success of the present American administration.

But, in my opinion, if we accept this mathematical formula, we can also say that the Carter administration reduced the disappearances from 15,000 to 28, which from the arithmetical point of view is an even greater triumph.

What the new theorists of human rights evidently intend is to pervert the whole concept, emptying it of its moral content. The current president of Argentina, General Roberto Viola, who is so content with quiet diplomacy, was Chief of Staff and Commander in Chief of the Army when thousands of persons disappeared. Since he assumed power, last March, he has not taken a single step to respond to the requests of the families of the disappeared persons, nor a single step to resolve the problem of those imprisoned without charge and without trial, nor to change the situation of those who were illegally condemned by military courts that were created by laws put into force by the same officers, in contravention of the Argentine constitution.

All the former political prisoners with whom I have spoken, whether they be Russians in Israel, Chileans in France, Uruguayans in Spain—insist that the only formula that exists for an effective struggle for human rights is a permanent public denunciation of violations formulated by governments, or private institutions, or the press.

From my own experience, I believe that the most effective action is always that of private institutions supported by the press. And I remember that on a visit I made to the Museum of the Ghetto Fighters, north of the city of Haifa, there is the original telegram sent by the Swedish diplomat Raul Wallenberg from Budapest, when he was struggling to save the Jews that Eichmann was sending to the gas chambers of Auschwitz. The telegram, dated the 29th of July, 1944, directed to London and Washington via Stockholm, reads: "Foreign press publicity eased the situation here. We need more." I think that all the newspapers in the world, all the written and spoken press, should distribute that telegram of Raul Wallenberg to all journalists, so that they may always keep it in mind.

My experience has also shown me that if there is a government that is disposed to have a human rights policy defined as such, this policy will put that country in a prominent position, a position which becomes transformed into a permanent defense of its own interests. In this sense, those of us who were imprisoned, those who are in prison still, will never forget President Carter and his contribution to the battle for human rights. Those who attack his policy as too weak, do so because they cannot find other arguments and must revert to hypocrisy. Those who attack his policy as ineffective, do so because they are seeking a strategy to destroy the policy of human rights and they do not dare to say so openly. Those who say that this policy did not defend the interests of the United States, are trapped by the same obsessions of those who consider that the United States was too generous with the Marshall Plan and that it did not suit American interests.

Once again I shall return to this point. No one dares to dispute the validity of the struggle for human rights. But totalitarians of right and left, pragmatic conservatives, all are seeking a way to change the strategies as a way of neutralizing this struggle.

It is not the only formula that they have copied from the Soviets. I remember the campaigns unleashed by the Soviet Union against the intellectuals who became disillusioned with Russia. The French writer Andre Gide, the Hungarian Arthur Koestler, the Rumanian Panait Istrati, to recall only a few. On returning from the Soviet Union, and after the publication of their books, they were accused of being police agents, mercenaries, arms traffickers, decadent bourgeois.

The same policy is followed today by the theorists of quiet diplomacy with the prisoners who are released from jail and declare themselves in favor of an open struggle against the violation of human rights—a struggle that should include all nations, condemn all regimes, those of the left and those of the right, those who call themselves friends and those presumed to be enemies. There should be no double standard, because this double standard is part of the strategy of fascists and communists alike. On this point, Amnesty International has surely been the organization that has maintained an independent position with the most courage and which has withstood most of the attacks. Luckily, it is a strong and solid institution. Much more difficult is the situation of individuals who must readapt their lives after being badly battered, in part destroyed, in prison. They feel obliged to denounce what they have seen, but feel themselves attacked by theorists who utilize lies and defamation with the same virulence and immorality as the communist parties of the Third International used them against the intellectuals who were disenchanted by the Soviet Union between the two wars.

But the fact is that we are here. And we are all over the world. Under different designations, in the framework of different institutions or religious or political identities, there are millions of us who are dedicated to this struggle for human rights. Because we are convinced that the defense of these rights is the basis of humanity, the basic principle for which life may be preserved. They cannot murder all of us. They will not be able to torture everyone. They cannot frighten everyone. They cannot deceive everyone, not with false strategic promises, not with false mathematical calculations, not with semantic adventures. The struggle to which we are committed has had, and still has, moments of beauty, sacrifice and glory, that no campaign of attrition, no psychological action, can destroy. Think of the great human epic of the Mad Mothers of the Plaza de Mayo, meeting every Thursday in front of the Casa de Gobierno in Buenos Aires, asking about their children. Imagine them in that plaza, surrounded by "gorillas" in uniform and in civilian clothes, hand in hand, insulted, pawed, pushed, beaten, kidnapped—and none of the valiant generals who ordered the murder of their children dares to confront them. The Argentine president does not dare to receive them. No officer has the courage to assume the responsibility for what he did. Perhaps these soldiers have studied history better than we did. Many conservative theorists do not wish to compare them to the Nazis, and none of those who signed the death warrants of 15,000 persons, thinking of Nuremberg, dares to take responsibility for what he did.

I could give many examples of sacrifice and struggle. Lawyers, threatened with death, have not abandoned their clients. Reporters on the only free newspaper in Argentina, the Buenos Aires Herald, bearing up under harassment, threats, humiliations, accept the challenge of being the only free voice in the nation—young staff members born in England, showing more Argentine patriotism than the army officers.

Thousands of stories. I should like to recount two of them. The efforts of Rabbi Marshall Meyer to enter the jails, the humiliation inflicted on him by the guards, his attempts to discover the whereabouts of the disappeared persons. The emotion I felt when he visited me for the first time, and how he helped the Catholic prisoners—whom the priest in the prison did not even want to visit on Sundays. At that time, Rabbi Meyer represented for all of us—Catholics, Jews, believers and atheists—something stronger than religion. He represented the total idea of humanity.

And let me read you a paragraph from an article by Professor Fritz Stern of Columbia University that appeared in Foreign Affairs.

Professor Stern writes in the July 1978 edition, after returning from a visit to Argentina: "The Argentine dictatorship faces pockets of opposition from within. The Church, it would appear, is far from indifferent to the violations of human rights. It serves as an occasional shield for those outside as well: prominent lay Catholics told me—and individual Jews confirmed it—that the Jewish community of some 400,000 people, which feels a collective sense of beleaguerment, turns first of all to the hierarchy when a specific threat to Jewish rights appears."

These two examples clearly show the depth of solidarity, as they also show that solidarity can confront and resolve problems of every kind created by the violation of human rights. It has an effectiveness which penetrates all nations, which confronts all governments, which worries all regimes.

When we make a count of all the violations that occur in the world today, especially the terrible creations of the inventors of new crimes—the disappearances in Argentina, the boat people and the re-education camps of Southeast Asia—it seems that the task of amnesty is impossible, interminable. Perhaps it is interminable. But it is possible, and for twenty years, Amnesty has been able to prove it.

We have been called together by the men and women of Amnesty International of the United States. This country has witnessed important battles for civil liberties and human rights—fought under many different names and under many different political and religious symbols. The most admired heroes, the names repeated throughout the world, are the names of Americans born in this land. Just a few weeks ago, in this country, in this city, one more battle for human rights was won, and a group of semantic adventurers was prevented from deceiving the people of the United States about the true meaning of human rights. This one event demonstrates the force of this idea in America, the depth to which it has penetrated the conscience of the American people. And it does not much matter what attitude the government adopts, because the strength and the vitality of the struggle will be represented by the American people and by its Congress, and by its humanitarian organizations.

Many times we have conquered fear. We have conquered confusion. We shall also conquer brutality.

I salute the men and women of Amnesty International.●

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LETTER FROM MAJ. MICKEY R. CONROY

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. BURGENER. Mr. Speaker, all of us in the Congress have received mail concerning the services provided to veterans of the Vietnam era. Some of this mail has come from Vietnam veterans and some from citizens who are concerned. I recently received a letter from a Vietnam veteran who is highly critical of the behavior and demands of some vocal individuals who are frequently presented as speaking for him. He rejects their representation and raises a number of valid points I believe should be of interest to many of my colleagues.

I ask that the letter of retired Marine Maj. Mickey R. Conroy be printed at this point in the RECORD for the consideration of all Members of the House:

ARMED FORCES RETIREES ASSOCIATION, CALIFORNIA,
Santa Ana, Calif., June 1, 1981.

Congressman CLAIR W. BURGENER,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN BURGENER: I am aware of the tremendous pressure that you function under during your deliberations to do that which is right or that which is in the best interest of your constituents. I do not wish to add to that pressure. However, I would like to give you my input on the issue of the continued funding for the Vietnam Veterans Outreach Centers.

As you are certainly aware, there is presently a "Vietnam Veterans" sit-in at the Brentwood Veterans Administration Medical Facility. This sit-in is supposedly being conducted to dramatize the neglect of the Vietnam Veteran. The leading characters are easily recognized "activists" whose history in anti-military activities reach back to the campus anti-war demonstrations of late sixties . . . demonstrations that created the attitudes that caused the people to subdue their respect for those who served when their country called . . . demonstrations greatly assisted by the biased media coverage the activists were given.

These leading characters have made a living at the expense of unfortunate individuals who are easily taken in and then utilized to "perform" for the news media to create an image that "such and such" program is critically needed. Not needed within the structure of the existing system, but something special that only those creators of the problem can administer. Of course, those leaders will receive a nice salary for their efforts, and will also decide who will or will not be permitted to work in the program. This insures that some well meaning, sincere individual will not expose the true operation, and just what is really done.

Let me establish my credentials so that my concern for the Vietnam Veteran issue can be understood. The common media description of a Vietnam Veteran is that he is a "young veteran". Because of this image, I get overlooked because I am over fifty, gray haired, short and dumpy. I did, however, serve thirty-three (33) months engaged in Vietnam. In fact, I had been deployed to Southeast Asia in 1962, and saw first hand the conflict developing in Siagon. I do not smoke, use drugs, drink beer or hard liquor, just some wine and champagne in moderation. I have more decorations and awards than most of my contemporaries. Decorations and awards accumulated over twenty-one years of service in the Navy and Marine Corps. Four of the decorations were awarded for service during World War II at an age when I was too young to join the Armed Forces. Most importantly, I will give anyone access to my military record as well as a copy of my DD 214. I would only hope that those who are leading and participating in the sit-in would do the same.

I am now, and have been for the past ten years, the President of the Armed Forces Retirees Association, California. I am a member of the California Department Commanders Veterans Council and serve as their Legislative Chairman. I possess a life membership in the National Association for Uniformed Services and the Veterans of Foreign Wars. I maintain memberships in the American Legion, Amvets, The Retired Officers Association, and the Marine Corps Aviation Association. I retired with zero percent disability so am not eligible for membership in the Disabled American Veterans to the best of my knowledge.

I attend various veterans meetings during each month of the year, and spend many hours assisting veterans in many ways. I have been told by the advocates of the Vietnam Veterans Outreach Centers that the Vietnam Veteran is fearful of the VA, and "the system," and will only respond when talking to his "peers"—another Vietnam Veteran. I remind them that I am a Vietnam Veteran—both North and South Vietnam—so why don't I meet these critically ill and deprived veterans. All I ever meet are those who are propagandizing the need for the Centers, and are employed in them.

I am as active as most volunteers who work without remuneration in the legitimate veterans community. I have a deep respect for my government, and a great deal of pride in the Armed Forces of this country as well as a sense of appreciation for all those who served in an honorable manner. I am sick and tired of being degraded by the leadership of the present fiasco as being a failure, spaced out on drugs, drowning in alcohol, or waiting to explode in a psycho episode. I am none of these, and neither are the thousands of Vietnam Veterans I know.

Don't tell me I'm lucky, because I will match the chronic complainers from my broken home in Appalachia through three wars to a successful position in a large, established corporation. I served where they served, went over just as they did, and rotated home on the same basis. I received no parades, and didn't want any. No one spat on me or called me "killer" or other derogatory names. Maybe it all depends on where one spends one's time. If you live in the gutter, then you should expect the dirt that goes with it.

Failures are failures as long as they reach for crutches and excuses. Vietnam was the excuse, and special programs are the crutches. You, as a representative of the people, must function as a mother does, and prepare the "chronic complainers" for the facts of life. The facts being that the Vietnam War has been officially over for six years, and for practical purposes, for ten years. It is time to face the fact that no one as badly off as those orchestrating the Brentwood sit-in say they are, could have suffered so long without going to the VA for help. If they aren't sitting-in at Brentwood, I personally doubt the status and credentials of those who are sitting-in, and those who are manipulating the media to create an "event".

It was not my intent to write a lengthy letter, but I feel the time has come to challenge the con-artists using veterans as their front. The major organizations will not attack the "anti-establishment" Vietnam veterans because they do not wish to get embroiled in a contest that will only cause them to be painted as being anti-Vietnam Veteran. The Armed Forces Retirees Association does not have that fear. We are military professionals who will never have to take a back seat to any short time participant.

The membership of AFRAC consists of over 50 percent who are Vietnam Veterans. The future holds that every military retiree who retires anytime up to May 8, 1995 will be a bonafide Vietnam Era Veteran, therefore, we feel we have a parochial interest in Vietnam Veteran affairs.

It is respectfully requested that you consider the following recommendations when voting on the Veterans Administration funding:

(a) that the Vietnam Veterans Centers' funding be deleted, and those funds made available to the medical department of the VA; or

(b) that you propose an amendment to limit the users of the Veterans Centers to those who actually served in combat in Vietnam; or

(c) funding be authorized for a period of one year only.

There is much more I could say concerning my personal involvement with the "activists" we hear so much of on radio and television, but I'll save that for another time. I will appreciate your favorable consideration of the recommendations I have set forth, and I would appreciate a response from you.

You can truly assist the Vietnam Veteran by listening to the "silence" of the vast majority who have not joined in the carefully orchestrated sideshow. It tells it all.

Sincerely,

MICKEY R. CONROY,
Major, USMC (retired),
President, AFRAC.●

THE CIGARETTE SAFETY ACT

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. MOAKLEY. Mr. Speaker, last week the American Medical Association adopted a report expressing support for the concept embodied in the Cigarette Safety Act. I think it is important to note the growing concern people in the medical profession have for the destruction of human lives that occur in cigarette-related fires and that they have called on the Congress to address this serious problem. The text of the report follows:

REPORT OF THE BOARD OF TRUSTEES: CIGARETTE SAFETY ACT—RESOLUTION 72, I-80

Resolution 72 (I-80), which was referred to the Board of Trustees, calls upon the Association to support a cigarette safety act

"to require persons who manufacture cigarettes or little cigars for sale or distribution in commerce to meet performance standards prescribed by the Consumer Product Safety Commission, and for other purposes."

The issue of self-extinguishing cigarette legislation has been before the House previously (Resolution 20 (I-79) and Board of Trustees Report G (A-80)). Resolution 20 called upon AMA to support H.R. 5504 (96th Congress). That bill would empower the Consumer Product Safety Commission to issue regulations establishing standards to ensure that ignited cigarettes and little cigars would self-extinguish if not smoked for a five-minute period. The Board recommended that Resolution 20 not be adopted and that the Association not endorse H.R. 5504 because the legislation was not specific on how cigarettes and little cigars are to be made self-extinguishing in five minutes. The report called for further research into self-extinguishing cigarettes.

The Council on Legislation has reviewed legislation introduced into the current Congress (S. 51 and H.R. 1854). These bills would authorize the Consumer Product Safety Commission to establish regulations that would set standards for cigarettes and little cigars so that they will have a "minimum capacity" for igniting upholstery and mattresses. The regulations would be based upon standards developed by the Commission based upon "objective studies, including studies conducted by the Bureau of Standards of the Department of Commerce." The regulations would be established through notice and comment rulemaking with oral presentations being allowed. After promulgation of a final rule, adversely affected parties would have a right to file a petition for judicial review of the regulations. The bill stipulates that the process used to meet the performance standards cannot add additional toxic elements to the cigarette or little cigar.

H.R. 1854 differs from S. 51 in that it requires the Consumer Product Safety Commission to terminate the regulatory proceedings prior to the publication of a final rule if it finds that setting such a standard would be "technologically impractical or economically unreasonable." The Council received information that in 1979 fires started by cigarettes resulted in 2,300 deaths, 5,800 injuries, and $210 million in property damage.

In its consideration of these bills the Council noted that they differed from the legislation considered in the 96th Congress. In the previous bills, the legislation called for cigarettes and little cigars to be made self-extinguishing during a five-minute period, if not smoked.

The Board believes that the incidence of smoking-related fires and the injury to smokers, as well as to innocent third parties caused when fire spreads to other apartments, hotel rooms, or buildings, could be significantly lessened if an economical and practical means were available to make cigarettes less likely to cause upholstery and mattress fires. However, the Board is concerned with implementation through the Consumer Product Safety Commission to develop the regulations. The Commission is now the center of legislative controversy and is slated for substantial reductions in its funding and staff.

The Board has approved the recommendation of the Council on Legislation expressing support for the concept embodied in S. 51 and H.R. 1854 that calls for objective studies and the development of regulations requiring the manufacture, if feasible, of cigarettes with reduced capacity for causing fires.

The Board recommends that this report be adopted in lieu of Resolution 72.●

FRANK AND BILL MOORE—A TEAM FOR ALL SEASONS

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. LEWIS. Mr. Speaker, at the end of this month, the Redlands Daily Facts, a newpaper in my district, which has been owned and published by the same family for two generations will change hands. The entire community of Redlands will be holding a dinner to honor the two brothers who have run the paper since 1942 and I want to take this opportunity to join their many other friends and admirers in expressing my gratitude and appreciation to Frank and Bill Moore as they retire.

I could, of course, go on at great length about these two gentlemen's achievements over the past 40 years. Between the two of them, they have held almost every civic and community post available and have made monumental contributions both to the community and the surrounding area. However, rather than recite these accomplishments, I would prefer to share my personal recollection of each of them.

I first became aware of Bill Moore when only a neophyte to San Bernardino County politics. The public official I most admired was Stewart Hinckley—then running for reelection to the State assembly after a stint in Washington. I quickly learned that the man he most relied upon for advice and counsel when the going got rough in the chess game of public affairs and political decisionmaking was Bill Moore. The polished publisher of the Redlands Daily Facts was not only a successful businessman, but a tough and sophisticated strategist in one of the roughest businesses in the world. It has been to my great benefit and privilege that Bill has been a friend and adviser from the beginning. For that I will always be grateful.

On a "Moore" personal note, I will never forget the sparkle in his wife Jo's beautiful eyes as she first told me of her love for body surfing on our southland ocean waves. Oftimes, the charm of a man's lady says more about character than any biography can.

Frank Moore is endless—the editor par excellence. When you think he can amaze you no more, there he is with another probing question that forces you to rethink all of your preconceived notions about a subject you had already put to rest. Frank is a journalist—with all the positive qualities that reflect the very best of the fourth estate. He really cares about good journalism. He really cares about the importance of an accurate flow of information between what does goes on out there and his reading public. He really cares about people.

A keen instinct for what is just, a penetrating intellect, a persistent probing style—Frank Moore has contributed more than he will ever know to my search for what is best in public affairs.

Mr. Speaker, I commend to my colleagues William C. and Frank E. Moore—a classic team in a classic American community—running what will always be remembered as a classic among American newspapers. Their contribution to Redlands will never be replaced and will never be forgotten.●

VOTING RIGHTS ACT

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 17, 1981

● Mr. HYDE. Mr. Speaker, when the House Judiciary Subcommittee on Civil and Constitutional Rights first began hearings on the Voting Rights Act extension this spring, I tried to retain an open mind. I must confess that I had, and still have, a decided bias with regard to treating some sovereign States of this Union in a different way than others are treated. Accordingly, I chose to introduce H.R. 3198, later followed by H.R. 3473, both of which were designed to shift the burden of proving a violation of the Voting Rights Act from the States who are accused of violating the law to the complainants who allege that the violation has occurred. It seemed to me then that the administrative process under section 5 of the act was, and still may be, subject to political abuse and manipulation. I felt much more comfortable with a judicial procedure which could ultimately guarantee the same remedy as section 5 could. What was important to me was that the remedy of preclearance would still be available in order to punish those jurisdictions which had acted in a fashion which had the purpose or effect of discriminating against minority voters.

During the course of the hearings, which will be concluded by the end of this month, it as become progressively clear to me that certain areas of this country have not aggressively sought to improve their electoral systems in a way which would permit minorities to become active participants. For these jurisdictions, perhaps administrative preclearance is the proper recourse, as much as it pains me to say so.

In addition it has become clear that the bailout provision now contained in

the law only serves as a disincentive to progressive change while locking in those jurisdictions which have honestly tried to improve conditions and which have abided by the law for nearly 17 years. Under the act, no political subdivision of a covered State may bail out until the State does. That practice smacks of revenge and cannot help but cause frustration and anger among those who want to do the right thing.

It is somewhat misleading to suggest that any part of the Voting Rights Act expires. Most of the act is totally permanent, while that portion which is subject to a term of years does not result in the expiration of section 5—administrative preclearance. What happens after 17 years is that jurisdictions covered in 1965 become eligible to apply for bailout. Under the provisions of section 4(a) a covered jurisdiction may not escape the administrative preclearance requirements of section 5,

> Unless the U.S. District Court for the District of Columbia in an action for declaratory judgment brought by such State or subdivision against the United States has determined that no such test or device has been used during the 17 years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color.

This means that under present law, on August 7, 1982, some of the jurisdictions now covered by section 5 will be eligible to file for a declaratory judgment in the U.S. District Court for the District of Columbia. Having filed, the United States, in the person of the Attorney General, may oppose bailout on the grounds that such jurisdiction or any part of it has used such a device at some time during the previous 17-year period.

The bill I am introducing today incorporates much of what was contained in those bills which have gone before it. Moreover, it reflects my acceptance of the fact that the guarantees of the 15th amendment supersede the intrusion on traditional federalism which administrative preclearance may make. The Supreme Court said as much in Katzenbach against South Carolina and, though witnesses before the subcommittee admit some constructive changes have taken place in the South, the need for such an extraordinary remedy still persists.

My bill would extend the administrative preclearance provisions, indefinitely, subject to the possibility that a covered jurisdiction may bail out effective immediately. Bailout is not automatic and the test is far stricter than the act now requires. In my view, this change would strengthen the act, not weaken it, because it would provide incentives for jurisdictions to do more than simply maintain the status quo presently required under the 1965 act.

Under my proposal, a covered jurisdiction, no matter whether it is a State or political subdivision of a State, will be eligible to file for bailout immediately if it can satisfy four requirements to the satisfaction of a local Federal court. It must show that one, it has not discriminated by way of a test or device for 10 years preceding the filing of the action, two, that it has not had a substantial objection during that same 10-year period, and three, that it has submitted all proposals which it was legally obligated to submit.

By substantial, I mean not insignificant, and I would leave that definition to report language and to the interpretation of the appropriate Federal judge. By requiring a jurisdiction to submit a proposal which it is legally obligated to submit, I would take into account those issues which were, and are, legitimately under controversy. However, once the law becomes clear, a jurisdiction must submit or be ineligible for bailout.

My bill would also require a jurisdiction filing for bailout to satisfy one last requirement. It must convince a local Federal court that it has made constructive efforts to enhance minority participation in the electoral process. Examples of such efforts could include the lengthening of registration hours, the lengthening of voting hours, the creation of same-day registration, shifts from at-large to single-member districts, the elimination of reidentification procedures, and the like. This last provision is designed to encourage jurisdictions to reevaluate their existing practices with an eye toward making the electoral system more accessible to all eligible voters, particularly those, both black, white, and brown, who are now intimidated from exercising their right to vote by memories of past discrimination.

My bill also provides that the court granting bailout would retain jurisdiction for 5 years and that preclearance can be revived upon motion of the Attorney General or an aggrieved party should any backsliding occur.

I recognize that my newest proposal creates a bailout standard which is more difficult to meet than that which is in the current statute. However, the current statute does not even come into play at the earliest until 1982, and, if H.R. 3112 becomes law, until 1992.

I think we must, in fairness, recognize and encourage progress where it has occurred and provide an incentive for jurisdictions to change. Only when change truly comes will those who have been denied the vote in the past become active participants in the future.

SECTION-BY-SECTION ANALYSIS

Section 2. This section creates a prospective "effects" test in subsection 2 of the act. It retains the "intent" test for existing voting standards and practices, thereby retaining the Supreme Court's interpretation as cited in *Mobile* v. *Bolden*. However, future changes nationwide will be judged by the effect they have on minority voters.

Section 3. This section amends section 3(c) of the existing act by permitting an aggrieved person or the Attorney General to institute a suit in a Federal court anywhere in the United States for the purpose of protecting the voting rights of minority voters. This section makes reference to a new section 12(g), also created by this bill, and provides that an action prevailing under section 12(g) shall mandate the use of judicial preclearance for "a period of not more than 4 years."

Section 4. This section amends section 4 (a) of the Voting Rights Act of 1965, by eliminating the prohibition against bailout for subdivisions of a covered state. This amendment effectively reverses the Supreme Court's holding in *City of Rome* v. *United States*, issued last spring, and creates the potential for State governments to be covered by the administrative preclearance provisions of section 5 while their political subdivisions are not.

Subparagraph 2 eliminates the 17-year prohibition against bailout by making a State or political subdivision immediately eligible if it can meet a four-pronged test. If the jurisdiction filing for bailout can convince a local Federal judge that it (1) has used no test or device for the purpose or effect of discriminating for 10 years, (2) has, during that 10-year period, made all the submissions to the Department of Justice which it is legally required to make, (3) the Attorney General has not successfully interposed any "substantial" objection with respect to any submission made during that 10-year period, and (4) has shown through its own efforts that it truly intends to incorporate the minority community in its electoral system.

It is intended that the use of the word "substantial" in the third requirement will mean any objection issued by the Department of Justice to a submission by the filing jurisdiction which, if approved, would have had a highly significant impact on minority voters. Furthermore, it is also intended that the filing jurisdiction is only required to submit those changes in its electoral laws which are not subject to legal controversy.

Subparagraph 3 eliminates the three-judge court for the District of Columbia as the forum for bailout petitions.

Subparagraph 4 permits the federal court granting bailout to retain jurisdiction for period of 5 years so that it might reopen the action, and possibly revoke its bailout order, upon motion of the Attorney General or any aggrieved party. The burden would be on the moving party to show that the State or political subdivision receiving bailout has participated in conduct following bailout which, had it taken place prior to bailout, would have precluded the issuance of a declaratory judgment.

Subparagraphs 5 and 6 are technical changes to the existing act.

Section 5. Section 5 adds a new section 12(g) to the existing act. Under this new section the Attorney General may bring an action in any Federal court maintaining that a "pattern or practice" of voting rights abuse of has taken place and, if he is sustained, implement mandatory preclearance supervised by a local Federal court.

This section also creates a new section 12(h) which permits the Attorney General

to intervene in any civil action which he certifies is of "general public importance."

Section 6. This section eliminates the use, in section 14(b), of the District of Columbia court and permits local Federal district courts to entertain the questions involving the Voting Rights Act.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, June 18, 1981, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 19

9:00 a.m.
Commerce, Science, and Transportation
To resume hearings on S. 898, proposed Telecommunications Competition and Deregulation Act.
235 Russell Building

Foreign Relations
To continue open and closed hearings on the Israeli air strike in Iraq.
Room to be announced

Labor and Human Resources
Employment and Productivity Subcommittee
To continue hearings on employment and training programs in the United States, focusing on objectives of employment and training policy and the relationship between Federal, State and local governments in the funding, design and administration of employment and training programs.
4232 Dirksen Building

Select on Intelligence
To hold a closed briefing on intelligence matters.
Room S-407, Capitol

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold hearings on S. 1295, establishing a Soybean Research Institute for the development of a national soybean policy.
4221 Dirksen Building

Appropriations
Military Construction and Defense Subcommittees
To continue joint hearings to review proposed budget estimates for the MX missile program.
1223 Dirksen Building

Armed Services
*Preparedness Subcommittee
To resume hearings on S. 906, authorizing funds for the acquisition of strategic and critical materials for the National Defense Stockpile, and S. 1338, prescribing the method for determining the quantity of any material to be stockpiled under the Strategic and Critical Materials Stock Piling Revision Act of 1979.
212 Russell Building

Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold hearings on proposed legislation to transfer the Maritime Administration from the Department of Commerce to the Department of Transportation.
6226 Dirksen Building

Environment and Public Works
Transportation Subcommittee
To resume hearings on S. 841 and S. 1024, bills authorizing funds through fiscal year 1986 for the construction and safety of Federal highways.
4200 Dirksen Building

Finance
Business meeting, to continue markup of the administration's tax reduction proposal.
2221 Dirksen Building

Judiciary
Criminal Law Subcommittee
To hold hearings on S. 691, strengthening the laws for the criminal infringement of a copyright involving the reproduction or distribution of phonorecords, motion pictures, or audiovisual works.
5110 Dirksen Building

2:00 p.m.
Finance
Business meeting, to continue markup of the administration's tax reduction proposal.
2221 Dirksen Building

Joint Economic
International Trade, Finance, and Security Economics Subcommittee
To hold hearings on United States-Japan economic relations.
2154 Rayburn Building

JUNE 22

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nominations of Joseph P. Welsch, of Virginia, to be Inspector General, Department of Transportation, Sherman M. Funk, of Maryland, to be Inspector General, Department of Commerce, and June G. Brown, of Virginia, to be Inspector General of the National Aeronautics and Space Administration.
235 Russell Building

9:30 a.m.
Judiciary
Constitution Subcommittee
To hold hearings to review certain Constitutional restraints upon the Judiciary.
2228 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold oversight hearings on the role of the rural telecommunications system in America.
235 Russell Building

Environment and Public Works
To resume oversight hearings on the implementation of the Clean Air Act.
4200 Dirksen Building

1:30 p.m.
Environment and Public Works
Environmental Pollution Subcommittee
To resume oversight hearings on the implementation of the municipal wastewater treatment construction grants program of the Clean Water Act, and to hold hearings on S. 975, revising and extending for 1 year certain provisions of the Federal Water Pollution Control Act, and on other related proposals.
4200 Dirksen Building

JUNE 23

9:00 a.m.
Appropriations
Defense Subcommittee
To resume closed hearings on proposed budget estimates for fiscal year 1982 for the Defense Establishment, focusing on the Central Intelligence Agency.
Room S-406, Capitol

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 49, S. 879, and S. 1151, bills extending the period of daylight savings time.
235 Russell Building

Labor and Human Resources
Aging, Family, and Human Services Subcommittee
To hold oversight hearings on the role of the Federal Government in family planning programs of title X of the Public Health Services Act.
6226 Dirksen Building

Labor and Human Resources
Labor Subcommittee
To resume hearings on S. 1182, improving the administration of the Longshoremen's and Harbor Workers' Compensation Act by removing certain inequities, reducing incentives for fraud and abuse, and assuring immediate compensation benefits and competent medical treatment for injured employees.
4232 Dirksen Building

10:00 a.m.
Environment and Public Works
To continue oversight hearings on the implementation of the Clean Air Act.
4200 Dirksen Building

Governmental Affairs
To resume hearings on S. 1080, improving and modifying the Federal regulatory process, and other related measures.
3302 Dirksen Building

Rules and Administration
Business meeting, to mark up Senate Resolution 20, providing for television and radio broadcasting of Senate Chamber proceedings, S. 778, authorizing additional funds to plan for the development of the area south of the original Smithsonian Institution Building (South Garden Quadrangle), Senate Resolution 146, providing for

the participation in the Senate youth program of the Department of Defense school system outside the United States, proposed legislation establishing a Senate Placement Office within the Office of the Sergeant at Arms, and other legislative and administrative business.

301 Russell Building

Select on Indian Affairs

To resume hearings on the substance of S. 1088, authorizing funds for fiscal years 1982 and 1983 to promote the goal of economic and social self-sufficiency for American Indians, and Hawaiian and Alaskan natives (pending on Senate Calndar).

1114 Dirksen Building

2:00 p.m.

Environment and Public Works

To hold hearings on the nomination of A. Alan Hill, of California, to be a member of the Council on Environmental Quality.

4200 Dirksen Building

Judiciary

To hold hearings on S. 326, prohibiting a refiner, other than an independent or small refiner, from operating a gas station in the United States.

2228 Dirksen Building

JUNE 24

9:00 a.m.

Select on Intelligence

To hold a closed briefing on intelligence matters.

Room S-407, Capitol

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on the nomination of Michael J. Fenello, of Florida, to be Deputy Administrator of the Federal Aviation Administration.

357 Russell Building

Commerce, Science, and Transportation

To hold oversight hearings on the activities of the Department of Commerce in the areas of strategic minerals and materials.

235 Russell Building

Labor and Human Resources

Business meeting, to mark up S. 755, authorizing funds for fiscal year 1982 for Federal alcohol and drug abuse programs, S. 1085, authorizing funds for fiscal years 1982, 1983, and 1984 for the Head Start program, S. 1086, authorizing funds for fiscal years 1982, 1983, and 1984 for programs of the Older Americans Act, S. 1087, authorizing funds for fiscal years 1982 and 1983 for programs under the Domestic Volunteer Service Act, S. 1090, authorizing funds for fiscal years 1982, 1983, and 1984 for support services and research programs relating to adolescent pregnancy, and S. 1132, authorizing funds for fiscal year 1982 for direct services planning, advocacy, legal representation, research, demonstration, and special projects for the developmentally disabled.

4232 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold hearings on the needs of American consumers in the coming decade.

1318 Dirksen Building

Energy and Natural Resources

Public Lands and Reserved Water Subcommittee

To hold hearings on miscellaneous legislation relating to land conveyances, studies, boundary changes, and exchanges, S. 146, S. 187, S. 188, S. 512, S. 634, S. 656, S. 763, S. 764, S. 794, and H.R. 618.

3110 Dirksen Building

Environment and Public Works

Environmental Pollution Subcommittee

To resume oversight hearings on the implementation of the municipal wastewater treatment construction grants program of the Clean Water Act, and to hold hearings on S. 975, revising and extending for 1 year certain provisions of the Federal Water Pollution Control Act, and on other related measures.

4200 Dirksen Building

Governmental Affairs

To hold oversight hearings on the Federal Government's firm making procedures.

3302 Dirksen Building

Governmental Affairs

Energy, Nuclear Proliferation, and Government Processes Subcommittee

To hold hearings on proposed legislation authorizing funds for programs of the Nuclear Non-Proliferation Act.

Room to be announced

Small Business

Advocacy and the Future of Small Business Subcommittee

To hold hearings on Government competition with small business.

424 Russell Building

2:00 p.m.

Environment and Public Works

To oversight hearings on the implementation of the Clean Air Act.

4200 Dirksen Building

Governmental Affairs

Intergovernmental Relations Subcommittee

To hold hearings on S. 1042, abolishing the Intergovernmental Personnel Act grant program.

3302 Dirksen Building

JUNE 25

9:00 a.m.

Appropriations

Defense Subcommittee

To resume closed hearings on proposed budget estimates for fiscal year 1982 for the defense establishment, focusing on the National Security Agency.

Room S-406, Capitol

*Veterans' Affairs

Business meeting, to mark up S. 917, increasing the rates of disability compensation for disabled veterans, and the rates of dependency and indemnity compensation for their survivors; S. 911, authorizing the payment of a special pension to the survivor of persons awarded the Medal of Honor; and S. 779 and S. 112, bills providing for memorials to honor the memory of certain deceased members of the Armed Forces; S. 266, implementing procedures and guidelines for the interagency sharing of health resources between the Department of Defense and the Veterans' Administration; Amendment No. 62, providing for greater coordination and sharing of the medical facilities of the Veterans' Administration and the Department of Defense, of S. 636, proposed Veterans' Administration Health Care Amendments; and S. 415 and S. 416, bills increasing the maximum amount of specially adaptive equipment assistance to certain service-connected disabled veterans, and on other related proposals, including S. 915, S. 917, S. 1297, S. 1315, S. 1316, and S. 1317.

412 Russell Building

9:30 a.m.

Energy and Natural Resources

*Energy and Mineral Resources Subcommittee

To hold hearings on S. 1073, authorizing an additional lands lease to the holder of an oil shale lease for purposes that the lessee demonstrates are necessary for such operation.

3110 Dirksen Building

10:00 a.m.

Commerce, Science and Transportation

To hold hearings in conjunction with the National Ocean Policy Study on the substance of Senate Resolution 147, calling for a moratorium of indefinite duration on the commercial killing of whales.

235 Russell Building

Commerce, Science, and Transportation

Consumer Subcommittee

To continue hearings on the needs of American consumers in the coming decade.

1318 Dirksen Building

Environment and Public Works

To continue oversight hearings on the implementation of the Clean Air Act.

4200 Dirksen Building

Governmental Affairs

Energy, Nuclear Proliferation, and Government Processes Subcommittee

To continue hearings on proposed legislation authorizing funds for programs of the Nuclear Non-Proliferation Act.

Room to be announced

11:00 a.m.

Governmental Affairs

Business meeting, to mark up S. 10, providing for creation of a Commission to design a blueprint for improving governmental performance at the Federal level and throughout the intergovernmental system.

3302 Dirksen Building

Labor and Human Resources

Labor Subcommittee

Business meeting, to mark up S. 398, permitting certain employees to work a 10-hour day in the case of a 4-day workweek; S. 351, providing for the transfer of surface sand, stone, and gravel operations from jurisdiction under the Mine Safety and Health Administration to the Occupational Safety and Health Administration; and S. 496, eliminating the jurisdiction of the Mine Safety and Health Administration of independent construction contractors who are engaged by mine operators to build structures on the surface of a mine site.

4232 Dirksen Building

2:00 p.m.

Environment and Public Works

Business meeting, to consider pending nominations.

4200 Dirksen Building

JUNE 26

9:30 a.m.

Finance

Taxation and Debt Management Subcommittee

To hold hearings on miscellaneous tax measures, S. 721, S. 791, S. 532, S. 979, and S. 169.

2221 Dirksen Building

JULY 7

9:30 a.m.
Commerce, Science, and Transportation
*Aviation Subcommittee
To hold hearings on proposed legislation to provide for an early phaseout of the Civil Aeronautics Board.
235 Russell Building

Labor and Human Resources
Aging, Family and Human Services Subcommittee.
To hold hearings on the primary intervention in addressing societal problems.
4232 Dirksen Building

Small Business
Innovation and Technology Subcommittee
To resume hearings on S. 881, to stimulate technological innovation and to increase economic productivity by using small businesses more effectively in Federal research and development programs.
424 Russell Building

JULY 8

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To continue hearings on proposed legislation to provide for an early phaseout of the Civil Aeronautics Board.
235 Russell Building

Small Business
Innovation and Technology Subcommittee
To continue hearings on S. 881, to stimulate technological innovation and to increase economic productivity by using businesses more effectively in Federal research and development programs.
424 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance and Monetary Policy Subcommittee
To hold joint oversight hearings with Finance's Subcommittee on International Trade on U.S. trade policy.
2221 Dirksen Building

Energy and Natural Resources
*Energy and Mineral Resources Subcommittee
To hold hearings on S. 859, providing for uniform treatment of certain receipts under the Mineral Leasing laws.
3110 Dirksen Building

Finance
International Trade Subcommittee
To hold joint oversight hearings with Banking, Housing, and Urban Affairs Subcommittee on International Finance and Monetary Policy on U.S. trade policy.
2221 Dirksen Building

JULY 9

9:00 a.m.
*Veterans' Affairs
To hold hearings on the prospective nomination of Robert P. Nimmo, of California, to be Administrator of the Veterans' Administration.
412 Russell Building

9:30 a.m.
*Commerce, Science, and Transportation
*Aviation Subcommittee
To continue hearings on proposed legislation to provide for an early phaseout of the Civil Aeronautics Board.
5110 Dirksen Building

10:00 a.m.
Veterans' Affairs
To hold hearings on the prospective nomination of Allan B. Clark, Jr., of Texas, to be Deputy Administrator of the Veterans' Administration.
412 Russell Building

11:00 a.m.
Veterans' Affairs
To hold hearings on the nomination of Frank S. Sato, of Virginia, to be Inspector General, Veterans' Administration.
412 Russell Building

JULY 14

9:30 a.m.
Small Business
To hold hearings on small businesses' participation in the production element of the defense sector.
424 Russell Building

Select on Ethics
To hold hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 15

9:30 a.m.
*Veterans' Affairs
To hold oversight hearings on procedures for the adjudication of certain claims, and to hold hearings on S. 349, providing for limited judicial review of the administrative action of the Veterans' Administration, and for reasonable fees to attorneys representing legal counsel for veterans.
412 Russell Building

Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To hold hearings on S. 1166, to provide grants to States for low-income weatherization assistance programs.
3110 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 16

9:30 a.m.
*Veterans' Affairs
To continue oversight hearings on procedures for the adjudication of certain claims, and to hold hearings on S. 349, providing for limited judicial review of the administrative action of the Veterans' Administration, and for reasonable fees to attorneys representing legal counsel for veterans.
412 Russell Building

Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 17

9:30 a.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 20

9:30 a.m.
Select on Ethics
To resume hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 21

9:30 a.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 22

9:30 a.m.
Veterans' Affairs
To hold hearings on S. 5, S. 7, S. 25, S. 26, S. 48, S. 105, S. 248, S. 417, and S. 742, bills providing educational assistance to members of the Armed Forces.
412 Russell Building

Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To hold hearings on S. 506, reinstating and validating certain numbered U.S. oil and gas leases.
3110 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 23

9:30 a.m.
*Veterans' Affairs
To continue hearings on S. 5, S. 7, S. 25, S. 26, S. 48, S. 105, S. 248, S. 417, and S. 742, bills providing educational assistance to members of the Armed Forces.
412 Russell Building

Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 24

9:30 a.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 27

9:30 a.m.
Select on Ethics
To resume hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Select on Ethics
To resume hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 28

9:30 a.m.
Labor and Human Resources
Aging, Family and Human Services Subcommittee
To hold hearings on adoption services in the United States.
4232 Dirksen Building

Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 29

9:30 a.m.
*Veterans' Affairs
Business meeting to mark up S. 349, providing for limited judicial review of the administrative action of the Veterans' Administration, and for reasonable fees to attorneys representing legal counsel for veterans.
412 Russell Building

Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 30

9:30 a.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 31

9:30 a.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

SEPTEMBER 16

9:30 a.m.
*Veterans Affairs
Business meeting to mark up S. 5, S. 7, S. 25, S. 26, S. 48, S. 105, S. 248, S. 417, and S. 742, bills providing educational assistance to members of the Armed Forces.
412 Russell Building

SEPTEMBER 22

11:00 a.m.
*Veterans' Affairs
To hold hearings on fiscal year 1982 legislative recommendations of the American Legion.
318 Russell Building

CANCELLATIONS

JUNE 18

9:30 a.m.
Labor and Human Resources
Education, Arts and Humanities Subcommittee
To continue hearings on S. 1103, authorizing funds through fiscal year 1986 for elementary and secondary education programs, and providing educational support at the State and local level.
5110 Dirksen Building

JUNE 24

10:00 a.m.
Labor and Human Resources
Education, Arts and Humanities Subcommittee
To resume hearings on S. 1103, authorizing funds through fiscal year 1986 for elementary and secondary education programs, and providing educational support at the State and local level.
4232 Dirksen Building

SENATE—*Thursday, June 18, 1981*

(Legislative day of Monday, June 1, 1981)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Gracious, loving God, in the extraordinary, exclusive environment which is the Senate of the United States, protect those who labor here from the seductive, corrupting influence of power and prestige. Deliver them from the delusion of self-importance which their position so subtly nurtures. Remind them of the example of the greatest Man who ever lived who taught that "He that would be greatest must be the servant of all."

In disagreement and confrontation help them to respect and love each other as they struggle together for resolution of complex issues. Help them never to take for granted the many who serve them faithfully day after day. As they face a weekend away from legislation, grant them some relaxed and precious hours with their families to strengthen and deepen relationships with spouse and children.

Father God. who art love. make genuine love, which is the fulfilling of the law, the dominant force in our lives. In the name of Him who in love laid down His life for us all. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, there are three special orders, are there not, for the recognition of Senators this morning?

The PRESIDENT pro tempore. The Senator from Tennessee is to be recognized for 15 minutes; the Senator from South Carolina is to be recognized for 15 minutes; and the Senator from Virginia is to be recognized for 15 minutes.

Mr. BAKER. I thank the Chair.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the sequence of special orders and morning business be reversed, and that there now be a period for the transaction of routine morning business in advance of the recognition of Senators under special orders.

The PRES.DING OFFICER (Mr. HATFIELD). Without objection, it is so ordered.

Mr. BAKER. Mr. President, could I inquire of the distinguished minority leader if he is today in a position to consider two bills identified to him last evening?

Mr. ROBERT C. BYRD. Calendar Orders 102 and 156 are cleared, provided they are considered en bloc.

Mr. BAKER. I thank the minority leader.

S. 923—PRETRIAL SERVICES ACT OF 1981

S. 823—PAYMENT OF LOSSES DUE TO BAN ON USE OF THE CHEMICAL TRIS

Mr. BAKER. Mr. President, I ask unanimous consent that the two calendar numbers identified by the minority leader, Calendar No. 102 (S. 923) and Calendar No. 156 (S. 823), be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the first bill identified by title.

The legislative clerk read as follows:

A bill (S. 923) to amend chapter 207 of title 18, United States Code, relating to pretrial services.

The PRESIDING OFFICER. The clerk will state the second bill by title.

The legislative clerk read as follows:

A bill (S. 823) to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purposes.

The Senate proceeded to consider the bill S. 923 to amend chapter 207 of title 18, United States Code, relating to pretrial services, which had been reported from the Committee on the Judiciary without amendment; and the bill S. 823, to provide for the payment of losses incurred as a result of the ban on the use of the chemical tris in apparel, fabric, yarn, or fiber, and for other purposes, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause, and insert the following:

That (a) the Court of Claims shall have jurisdiction to hear, determine, and render judgment upon any claim for losses sustained by any producer, manufacturer, distributor, or retailer of children's sleepwear, or by any producer, converter, manufacturer, distributor, or retailer of fabric, yarn, or fiber contained in or intended for use in children's sleepwear, as a result of the actions taken by the United States under the Federal Hazardous Substances Act on April 8, 1977, and thereafter relating to apparel, fabric, yarn, or fiber containing Tris (2,3-dibromopropyl) phosphate: *Provided, however,* That such children's sleepwear and such fabric, yarn, or fiber contained in or intended for use in children's sleepwear was subject to the requirements of or was subject to use in compliance with the mandatory Federal flammability standard FF3–71 or FF5–74, at the time of its manufacture.

(b)(1) In determining the validity of any claim under this Act and the amount of the losses sustained for which such a claim is brought, the court shall consider the following factors:

(A) The degree to which reasonable alternatives to Tris (2,3-dibromopropyl) phosphate existed at the time the Federal Government established the applicable mandatory Federal flammability standard referred to in subsection (a).

(B) Whether it would have been feasible, or reasonable, for the claimant to have tested Tris (2,3-dibromopropyl) phosphate for chronic hazards at the time the Federal Government established such flammability standard.

(C) The degree to which the Federal Government, or other nationally known researchers tested Tris (2,3-dibromopropyl) phosphate for toxicity, or other health hazards, and disseminated the results of these tests.

(D) The degree of good faith demonstrated by a claimant in seeking to comply fully with such Federal flammability standard.

(E) The extent to which a claimant may have relied in good faith upon assurances from suppliers that the products containing Tri (2,3-dibromopropyl) phosphate were safe.

(F) The degree to which a claimant acted reasonably in using Tris (2,3-dibromopropyl) phosphate for the time period that such substance was used.

(G) The degree to which a claimant, in good faith, complied with actions taken by the United States under the Federal Hazardous Substances Act on April 8, 1977.

(H) The degree to which a claimant, in good faith, complied with the export provisions of the Federal Hazardous Substances Act and the Consumer Product Safety Act.

(2) In determining the amount of the losses for which a claim is brought under this Act, the amount of such losses shall not include lost profits, proceeds from distress sales, attorney's fees, or interest on any such resulting loss suffered by any producer, converter, manufacturer, distributor, or retailer of such children's sleepwear, or to any producer, or manufacturer of fabric, yarn, or fiber.

(c)(1) The measure of losses for producers or manufacturers of children's sleepwear shall be the cost of producing or manufacturing the sleepwear garment, plus the cost of the fabric, yarn, or fiber used for such production or manufacture, or the cost of such goods held in stock on the date of enactment of this Act, less the fair market

value, if any, of the sleepwear garment, or the fabric, yarn, or fiber. If such garment, fabric, yarn, or fiber was resold after April 8, 1977, but prior to the date of enactment of this Act, then the measure of losses shall be the cost of producing or manufacturing the sleepwear garment plus the cost of the fabric, yarn, or fiber less the proceeds from any such sale.

(2) The measure of losses for producers, converters, or manufacturers of fabric, yarn, or fiber shall be the cost of producing, converting, or manufacturing the fabric, yarn, or fiber, plus the cost of the raw materials used for such production, converting, or manufacturing or the cost of such goods held in stock on the date of enactment of this Act, less the fair market value, if any, of the fabric, yarn, or fiber on such date. If the fabric, yarn, or fiber was resold after April 8, 1977, but prior to such date of enactment, then the measure of losses shall be the cost of producing, converting, or manufacturing the fabric, yarn, or fiber plus the cost of the raw materials used for such production, converting, or manufacturing less proceeds from any such sale.

(3) The measure of losses for distributors and retailers shall be the distributor's or retailer's purchase price for goods referred to in paragraphs (1) and (2) of this subsection, held in stock on the date of enactment of this Act, less the fair market value, if any, of such goods, and less the amount of any reimbursement received. A distributor or retailer shall, notwithstanding the lack of possession of such merchandise, qualify to claim for the unreimbursed portion of its losses, as limited by this paragraph.

(4) In addition to the losses determined under paragraphs (1), (2), and (3) of this subsection, a claimant may also be compensated for unreimbursed costs of transportation paid for the return of such sleepwear garments, fabric, yarn, or fiber.

(d) No claim under this Act may be brought as a class action nor may any claim under this Act be brought by two or more parties unless damages are claimed to be jointly recoverable or are disputed among the parties.

(e) Upon payment of any claim under this Act, regardless of whether such payment is the result of a court judgment or a settlement, the United States shall be subrogated to the claimant's rights to recover losses or to assert a claim against any person or organization relating to the subject matter of such claim paid by the United States. The claimant shall execute and deliver instruments and papers and take whatever steps are necessary to secure such rights in the United States in order to be entitled to the entry of a judgment by the Court and payment under this Act, and the failure of the claimant to perform such acts or take such steps shall constitute cause to deny the entry of such judgment and payment. The failure of the claimant to perform such acts or to take such steps shall not limit or adversely affect the right of the United States to act as subrogee or assignee to the full extent of its payments under this Act. Any purported limitation on the right of the United States to act as assignee or to become subrogated to the rights of a claimant shall be without any effect, to the extent that the United States has made payments under this Act.

(f) Any claim under this Act shall be barred unless commenced within two years after the date of enactment of this Act.

(g) No payment shall be made under this Act upon any claim for losses sustained by any such producer, processor, manufacturer, distributor or other retailer, for apparel, fabric, yarn or fiber containing Tris phosphate until such time as the claimant produces proof of the proper disposal of such goods.

S. 923—PRETRIAL SERVICES ACT OF 1981

Mr. THURMOND. Mr. President, this bill would mandate pretrial services in all judicial districts which will be provided by the chief probation officer and other probation personnel for a period of 18 months after enactment.

During that period only the chief probation officer will be responsible for providing these services, but will also have the capability to use contract authority or other outside services to accomplish the goals of the legislation.

Mr. President, after the 18-month period, there is a provision that would allow, with the approval of a three-judge panel, a judicial district to opt into provisions that permit the designation of a separate pretrial service officer within the probation office to handle pretrial, as well as other probation and parole responsibilities assigned by the chief judge.

The bill does not provide for any separate agency, any new bureaucracy, or division of the probation office. It simply allows for the designation of an officer within the various probation offices to handle pretrial services, if necessary to do so to meet heavier case loads.

The bill also continues the operation of the existing pilot pretrial services offices currently in place in 10 judicial districts.

Mr. President, I have no objection to the passage of this bill.

S. 823—PAYMENT OF LOSSES DUE TO BAN ON USE OF THE CHEMICAL TRIS

Mr. THURMOND. Mr. President, today, the Senate considers a bill to provide for the payment of losses incurred as a result of the ban on the chemical tris.

Mr. President, this legislation seeks to correct economic losses sustained by the ban of the chemical flammability retardant tris by the Consumer Product Safety Commission on April 8, 1977.

The cost to apparel manufacturers of repurchasing all unsold or unwashed garments for children made from fabric containing tris and disposing of unsold inventories of clothing made from fabric containing tris, has been estimated to be over $50 million.

In a statement by the American Apparel Manufacturers Association before the special hearing panel on July 26, 1977, the amount of the loss was stated to be $150 million. The AAMA now believes the actual losses suffered by all sleepwear manufacturers to be about $50,100,000. This includes garments, uncut fabric in apparel plants, and the "to-date" indirect costs, such as transportation, administration, and storage. Of course, some smaller additional costs will be incurred as storage costs continue and potential disposal costs appear.

The harm to these sleepwear makers was considerable. It imposed an immediate obligation upon the apparel manufacturers to repurchase the garments they have sold. It left the entire industry without an adequate recourse or remedy. Some apparel manufacturers face bankruptcy because their losses as a result of the ban could exceed their net worth.

This legislation is not a bailout. It is simply legislation to confer jurisdiction on the U.S. Court of Claims to determine the dollar value and render judgment for losses sustained by producers, processors, manufacturers, distributors, dealers, and other persons as a result of actions taken by the Federal Government under the Hazardous Substance Act relating to the ban on apparel, fabric, yarn, or fiber containing tris.

Mr. President, the basis for the claim of industry for indemnification rests upon the double-edged aspect of Government regulation. That is, the Department of Commerce on the one hand, required the industry to use a chemical like tris in sleep wear and, when in good faith the industry did so, the Consumer Product Safety Commission banned the tris-treated sleep wear. This is just one example of layer of regulation being placed upon layer of regulation. As the long arm of the overregulators continues to grow, the image of Government as a responsible and responsive unit diminishes.

The passage of tris legislation in this Congress is imperative. It is a recognition that private industry has been overregulated by the Federal Government, and in so doing, has suffered an economic loss that is not its fault.

Mr. President, this legislation will affect a number of apparel and textile firms in my State of South Carolina. It will also affect similar firms in a number of States throughout the country. This legislation is long overdue and should be passed promptly in this Congress and signed by the President.

The PRESIDING OFFICER. Without objection, the bills are considered en bloc, the committee amendments to the bill S. 823 are agreed to, the bills are engrossed for a third reading and considered read the third time, and the bills, as amended, if amended, are passed en bloc.

The text of the bill S. 923, the Pretrial Services Act of 1981, is as follows:

S. 923

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—PRETRIAL SERVICES ACT OF 1981

SEC. 101. This title may be cited as the "Pretrial Services Act of 1981".

SEC. 102. Section 3152 of title 18, United States Code, is amended to read as follows:

"§ 3152. Establishment of pretrial services in all districts

"The Director of the Administrative Office of the United States Courts (hereinafter in this chapter referred to as the 'Director') shall, under the supervision and direction of the Judicial Conference of the United States, provide directly, or by contract or otherwise, to such extent and in such

amounts as are provided in appropriation Acts, for the establishment of pretrial services in each judicial district (other than the District of Columbia). Pretrial services established under this section shall be supervised by a chief probation officer appointed under section 3654 of this title or by a chief pretrial services officer appointed pursuant to section 3152A of this title.".

SEC. 103. Chapter 207 of title 18, United States Code, is amended by inserting after section 3152, the following new section:

"§ 3152A. Establishment of pretrial services in special districts

"(a) If an appropriate United States district court and the circuit judicial council jointly recommend the establishment of pretrial services in a particular district, pretrial services shall be established under the general authority of the Administrative Office of the United States Courts.

"(b) The pretrial services established under subsection (a) shall be supervised by a chief pretrial services officer selected by a panel consisting of the chief judge of the circuit, the chief judge of the district, and a magistrate of the district or their designees. The chief pretrial services officer appointed under this subsection shall be an individual other than one serving under authority of section 3654 of this title.".

SEC. 104. Section 3153 of title 18, United States Code, is amended to read as follows:

"§ 3153. Organization and administration of pretrial services in all districts

"(a) With the approval of the district court, the chief pretrial services officer in districts in which pretrial services are established pursuant to section 3152 of this title, or the chief probation officer in all other districts, shall appoint such other personnel as may be required. The position requirements and rate of compensation of the chief pretrial services officer, the chief probation officer and such other personnel shall be established by the Director with the approval of the Judicial Conference of the United States, except that no such rate of compensation shall exceed the rate of basic pay in effect and then payable for grade GS–16 of the General Schedule under section 5332 of title 5, United States Code.

"(b) The chief pretrial services officer in districts in which pretrial services are established pursuant to section 3152 of this title, or the chief probation officer in all other districts, is authorized, subject to the general policy established by the Director and the approval of the district court, to procure temporary and intermittent services to the extent authorized by section 3109 of title 5, United States Code. The staff, other than clerical staff, may be drawn from law school students, graduate students, or such other available personnel.

"(c)(1) Except as provided in paragraph (2) of this subsection, information contained in pretrial services files, presented in any pretrial services report, or divulged by a pretrial services officer, a chief probation officer, or a staff member during the course of any hearing, shall be used only for the purposes of a bail determination and shall otherwise be confidential. The report shall be made available to the attorney for the accused and the attorney for the Government.

"(2) The Director shall issue regulations establishing the policy for release of information contained in pretrial services files. Such regulations shall provide exceptions to the confidentiality requirements under paragraph (1) of this subsection to allow access to such information—

"(A) by qualified persons for purposes of research related to the administration of criminal justice;

"(B) by persons under contract under section 3154(4) of this title;

"(C) by probation officers for the purpose of compiling presentence reports;

"(D) insofar as such information is a pretrial diversion report, to the attorney for the accused and the attorney for the Government; and

"(E) in certain limited cases, to law enforcement agencies for law enforcement purposes.

"(3) Information contained in pretrial services files, presented in any pretrial services report, or divulged by a pretrial services officer, a chief probation officer, or a staff member during the course of any hearing, shall not be admissible on the issue of guilt in any judicial proceeding, except that such information may be used in proceedings to determine guilt or penalties for failure to appear or a violation of the conditions of release, in perjury proceedings, and for the purpose of impeachment in any subsequent proceeding.".

SEC. 105. Section 3154 of title 18, United States Code, is amended to read as follows:

"Pretrial services functions shall include the following:

"(1) Collect, verify, and report to the judicial officer prior to the pretrial release hearing, information pertaining to the pretrial release of each individual charged with an offense, and recommend appropriate release conditions for each such individual.

"(2) Review and modify the reports and recommendations specified in paragraph (1) of this section for persons seeking release pursuant to section 3146(e) or section 3147 of this chapter.

"(3) Supervise persons released into its custody under this chapter.

"(4) Operate or contract for the operation of appropriate facilities for the custody or care of persons released under this chapter including residential halfway houses, addict and alcoholic treatment centers, and counseling services.

"(5) Inform the court and the United States attorney of all apparent violations of pretrial release conditions or arrests of persons released to its custody or under its supervision and recommend appropriate modifications of release conditions.

"(6) Serve as coordinator for other local agencies which serve or are eligible to serve as custodians under this chapter and advise the court as to the eligibility, availability, and capacity of such agencies.

"(7) Assist persons released under this chapter in securing any necessary employment, medical, legal, or social services.

"(8) Prepare, in cooperation with the United States marshal and the United States attorney such pretrial detention reports as are required by the provisions of the Federal Rules of Criminal Procedure relating to the supervision of detention pending trial.

"(9) Develop and implement a system to monitor and evaluate bail activities, provide information to judicial officers on the results of bail decisions, and prepare periodic reports to assist in the improvement of the bail process.

"(10) To the extent provided for in an agreement between a pretrial services officer in districts in which pretrial services are established pursuant to section 3152 of this title, or the chief probation officer in all other districts, or a staff member in his or her official capacity, and the United States attorney, collect, verify, and prepare reports for the United States attorney's office of information pertaining to the pretrial diversion of any individual who is or may be charged with an offense, and perform such other duties as may be required under any such agreement.

"(11) Make contracts, to such extent and in such amounts as are provided in appropriation Acts, for the carrying out of any pretrial services functions.

"(12) Perform such other functions as specified under this chapter.".

SEC. 106. Section 3155 of title 18, United States Code, is amended to read as follows:

"§ 3155. Annual reports

"Each chief pretrial services officer in districts in which pretrial services are established pursuant to section 3152 of this title, and each chief probation officer in all other districts, shall prepare an annual report to the chief judge of the district court and the Director concerning the administration and operation of pretrial services. The Director shall be required to include in the Director's annual report to the Judicial Conference under section 604 of title 28, United States Code, a report on the administration and operation of the pretrial services for the previous year.".

SEC. 107. The table of sections for chapter 207 of title 18, United States Code, is amended—

(1) so that the item relating to section 3152 reads as follows:

"3152. Establishment of pretrial services in all districts.";

(2) by adding after the item relating to section 3152, the following:

"3152A. Establishment of pretrial services in special districts.";

(3) so that the item relating to section 3153 reads as follows:

"3153. Organization and administration of pretrial services in all districts.";

and

(4) so that the item relating to section 3155 reads as follows:

"3155. Annual reports.".

SEC. 108. (a)(1) Except as provided in paragraph (2), this title and the amendments made by this title shall take effect on the date of enactment of this title.

(2) The amendment made by section 103 of this title shall take effect eighteen months after the date of enactment of this title.

(b) During the period beginning on the date of enactment of this title and ending on the effective date specified in subsection (a)(2) of this section, the pretrial services agencies established under section 3152 of title 18 of the United States Code in effect before the date of enactment of this title may continue to operate, employ staff, provide pretrial services, and perform such functions and powers as are authorized under the provisions of chapter 207 of title 18 of the United States Code.

SEC. 109. (a) There are authorized to be appropriated, for fiscal year 1982 and each succeeding fiscal year thereafter, such sums as may be necessary to carry out the provisions of chapter 207 of title 18 of the United States Code, as amended by section 103 of this title.

(b) There are authorized to be appropriated for the period beginning after September 30, 1981, and ending on the effective date specified in section 108(a)(2) of this title, such sums as may be necessary to carry out the activities of the pretrial services agencies established under section 3152 of title 18 of the United States Code in effect before the date of enactment of this title.

The text of the bill S. 823, relating to payment of losses due to ban on use of the chemical tris is as follows:

S. 823

A bill to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Court of Claims shall have jurisdiction to hear, determine, and render judgment upon any claim for losses sustained by any producer, manufacturer, distributor, or retailer of children's sleepwear, or by any producer, converter, manufacturer, distributor, or retailer or fabric, yarn, or fiber contained in or intended for use in children's sleepwear, as a result of the actions taken by the United States under the Federal Hazardous Substances Act of April 8, 1977, and thereafter relating to apparel, fabric, yarn, or fiber containing Tris (2,3-dibromopropyl) phosphate: *Provided, however,* That such children's sleepwear and such fabric, yarn, or fiber contained in or intended for use in children's sleepwear was subject to the requirements of or was subject to use in compliance with the mandatory Federal flammability standard FF3–71 or FF5–74, at the time of its manufacture.

(b) (1) In determining the validity of any claim under this Act and the amount of the losses sustained for which such a claim is brought, the court shall consider the following factors:

(A) The degree to which reasonable alternatives to Tris (2,3-dibromopropyl) phosphate existed at the time the Federal Government flammability standard referred to in subsection (a).

(B) Whether it would have been feasible, or reasonable for the claimant to have tested Tris (2,3-dibromopropyl) phosphate for chronic hazards at the time the Federal Government established such flammability standard.

(C) The degree to which the Federal Government, or other nationally known researchers tested Tris (2,3-dibromopropyl) phosphate for toxicity, or other health hazards, and disseminated the results of these tests.

(D) The degree of good faith demonstrated by a claimant in seeking to comply fully with such Federal flammability standard.

(E) The extent to which a claimant may have relied in good faith upon assurances from suppliers that the products containing Tris (2,3-dibromopropyl) phosphate were safe.

(F) The degree to which a claimant acted reasonably in using Tris (2,3-dibromopropyl) phosphate for the time period that such substance was used.

(G) The degree to which a claimant, in good faith, complied with actions taken by the United States under the Federal Hazardous Substances Act on April 8, 1977.

(H) The degree to which a claimant, in good faith, complied with the export provisions of the Federal Hazardous Substances Act and the Consumer Product Safety Act.

(2) In determining the amount of the losses for which a claim is brought under this Act, the amount of such losses shall not include lost profits, proceeds from distress sales, attorney's fees, or interest on any such resulting loss suffered by any producer, converter, manufacturer, distributor, or retailer of such children's sleepwear, or to any producer, or manufacturer of fabric, yarn, or fiber.

(c) (1) The measure of losses for producers or manufacturers of children's sleepwear shall be the cost of producing or manufacturing the sleepwear garment, plus the cost of the fabric, yarn, or fiber used for such production or manufacture, or the cost of such goods held in stock on the date of enactment of this Act, less the fair market value, if any, of the sleepwear garment, or the fabric, yarn, or fiber. If such garment, fabric, yarn, or fiber was resold after April 8, 1977, but prior to the date of enactment of this Act, then the measure of lossees shall be the cost of producing or manufacturing the sleepwear garment plus the cost of the fabric, yarn, or fiber less the proceeds from any such sale.

(2) The measure of losses for producers, converiers, or manufacturers of fabric, yarn, or fiber shall be the cost of producing, converting, or manufacturing the fabric, yarn, or fiber, plus the cost of the raw materials used for such production, converting, or manufacturing or the cost of such goods held in stock on the date of enactment of this Act, less the fair market value, it any, of the fabric, yarn, or fiber on such date. If the fabric, yarn, or fiber was resold after April 8, 1977, but prior to such date of enactment, then the measure of losses shall be the cost of producing, converting, or manufacturing the fabric, yarn, or fiber plus the cost of the raw materials used for such production, converting, or manufacturing less proceeds from any such sale.

(3) The measure of losses for distributors and retailers shall be the distributor's or retailer's purchase price for goods referred to in paragraphs (1) and (2) of this subsection, held in stock on the date of enactment of this Act, less the fair market value, if any, of such goods, and less the amount of any reimbursement received. A distributor or retailer shall, notwithstanding the lack of possession of such merchandise, qualify to claim for the unreimbursed portion of its losses, as limited by this paragraph.

(4) In addition to the losses determined under paragraphs (1), (2), and (3) of this subsection, a claimant may also be compensated for unreimbursed costs of transportation paid for the return of such sleepwear garments, fabric, yarn, or fiber.

(d) No claim under this Act may be brought as a class action nor may any claim under this Act be brought by two or more parties unless damages are claimed to be jointly recoverable or are disputed among the parties.

(e) Upon payment of any claim under this Act, regardless of whether such payment is the result of a court judgment or a settlement, the United States shall be subrogated to the claimant's rights to recover losses or to assert a claim against any person or organization relating to the subject matter of such claim paid by the United States. The claimant shall execute and deliver instruments and papers and take whatever steps are necessary to secure such rights in the United States in order to be entitled to the entry of a judgment by the Court and payment under this Act, and the failure of the claimant to perform such acts or take such steps shall constitute cause to deny the entry of such judgment and payment. The failure of the claimant to perform such acts or to take such steps shall not limit or adversely affect the right of the United States to act as subrogee or assignee to the full extent of its payments under this Act. Any purported limitation on the right of the United States to act as assignee or to become subrogated to the rights of a claimant shall be without any effect, to the extent that the United States has made payments under this Act.

(f) Any claim under this Act shall be barred unless commenced within two years after the date of enactment of this Act.

(g) No payment shall be made under this Act upon any claim for losses sustained by any such producer, processor, manufacturer, distributor or other retailer, for apparel, fabric, yarn or fiber containing Tris phosphate until such time as the claimant produces proof of the proper disposal of such goods.

AMERICANISM FOR THE CARRISON SCHOLARSHIP OF BOB JONES UNIVERSITY IN GREENVILLE, S.C.

Mr. THURMOND. Mr. President, the topic of Americanism has long been the central theme for numerous books, speeches, and articles. It has also been a popular—and needed—subject for students in all levels of education.

David M. Dersch, a student at Bob Jones University in Greenville, S.C., is the author of a winning essay and recipient of the Daniel J. Carrison Scholarship which was set up in 1971 for Americanism essays. The funding for this scholarship comes from the John P. Gaty Charitable Trust which I had the honor of establishing for such accomplishments.

Mr. President, in order to share this excellent paper on Americanism with my colleagues, I ask unanimous consent that this essay appear in the RECORD at the conclusion of my remarks.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

OUR GOVERNMENT: PROTECTOR OR PROVIDER?

(By David M. Dersch)

What is the function of the United States Government? Exactly what type of role should it play in the lives of today's citizens? Should it be the protector or provider of its subjects? To answer this question, one ought first look to the past, viewing the foundational principles of our government, and then look at the present to ascertain any deviations. If differences are found, then the product from each philosophy should be weighed, and the more beneficial role chosen.

Over 350 years ago a small group of men banded together before setting foot on a strange, new land. They did not know what lay ahead of them, but they did discern that facing unknown perils together rather than separately was much wiser and safer. These Pilgrims realized unless they united together for protection under an established authority, that they would fall prey to the savages on shore.

A century and a half passed and another group of men, this time representing some three million people, again banded together to form a government. These men, our Founding Fathers, also realized that a central authority was needed—one strong enough to "insure domestic tranquility" and to "provide for the common defense," yet weak enough to allow the individual his rights of "life, liberty, and the pursuit of happiness," in whatever manner he should choose. The philosophy of our forefathers is clear: government is needed for protection, not for the individual from himself, but for the liberty of the individual from outside aggressors. They furthermore believed that government should provide the individual with the freedom to choose his own economic destiny.

A person's economic well-being ought to be proportionate to his talents and willingness to better himself, according to the an-

cient law, one reaps what one sows. From this philosophy sprang the cornerstones of our political and economic structure, the Constitution and the Free Enterprise System.

The next 150 years saw thirteen struggling colonies grow from obscurity to become the undisputed international leader following World War II. Our government, assuming a laissez faire approach toward business and a protectionist attitude toward its citizens' liberties, successfully steered our country during this period of unparalleled growth. A citizenry with character coupled with opportunity provided by a free enterprise government permitted this tremendous expansion.

But recently our government has assumed another role. Instead of protecting the individual from outsiders, it has also determined to protect him from himself. Instead of providing the individual with the economic freedom to determine his condition, the government has resolved to provide him with guaranteed economic security. The United States Government now seems to view as its duty to put a steak in every stomach, an education in every child, and clothes on every back. Through Social Security, Medicaid, Welfare, and the Food Stamp Programs, to name a few, our government has assumed social responsibilities that were once left to the individual or to the family unit.

At first glance this trend may appear harmless enough. What does it matter if government wishes to provide economic security as well as physical security? But steak, education, and clothes cost money; somehow the price must be paid. To provide these social "rights," government, not inherently self-supportive, must turn to its supporters for the material or monetary resources. Any service or product that the government provides, therefore, ultimately is paid for by the people (that is, the people who work). Those who receive the benefits but do not support the system constitute "dead weight." In essence, government in such a situation is not a provider, as many falsely believe, but rather a distributor, who transfers wealth from the worker to the non-worker.

The result of our government acting as a "provider" is an ever-increasing problem. At first the productive working class, comprising a large majority of the population, could support the minority of non-workers. People, however, easily see in such a system a chance to get something-for-nothing, and being human, begin to use it to their advantage. After all, why work when one does not have to? Because the initiative to work and be productive has largely been taken away, the ratio of non-workers to workers is continually increasing. Add to this growth the non-productive, inevitable administrative cost in the distribution of funds, and the system is doomed to economic failure. Our government, therefore, acting as the "provider," is in reality bankrupting our country.

Our government . . . protector or provider? As shown, when its governmental philosophy consisted of protecting the citizens' rights and providing the individual with an incentive to work, the United States prospered greatly. But when the government decided to protect the individual from himself, providing guaranteed economic security by redistributing wealth, stagnation set in, and our national economy began its present downhill slide. Our government, in a sense, must be both protector and provider: it must provide protection of the citizens' liberty and also protect the providers of our national wealth. But it must not, as it does today, provide economic protection for the non-worker, or protect the non-provider from his own laziness. The United States Government is both a protector and a provider, but it must administer these roles in the proper perspective.

ILLEGAL ALIENS AND THE WELFARE SYSTEM

Mr. THURMOND. Mr. President, more and more news reports reveal that all too many illegal immigrants in the United States are not only taking away jobs from American citizens but are also becoming an increasing burden on the welfare system.

Los Angeles County, Calif., has even gone to the extreme of suing the Federal Government for millions in unpaid medical bills for illegal aliens.

James Reston of the New York Times, in fact, has called illegal immigration and all of the burdens that it is creating "one of the most complicated human and political problems before the Nation."

A recent article by reporter Mary Elson in the Chicago Tribune expresses some of my concerns about the welfare system becoming a haven for illegal aliens.

Mr. President, in order to share this excellent journalistic piece with my colleagues, I ask unanimous consent that this article appear at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Apr. 12, 1981]

"WELFARE SYSTEM A HAVEN FOR ILLEGAL ALIENS"

Federal and state officials are aiding a growing number of illegal Mexican aliens to become part of the United States government welfare system, openly thwarting attempts by immigration officials to identify and deport the aliens.

Illinois Department of Public Aid officials say they routinely permit illegal aliens to receive Public Aid Grants for their children born in the U.S., because the children qualify as citizens for the payments.

The officials say they do not report the illegal aliens to the U.S. Immigration Service because privacy regulations prohibit disclosure of information about welfare applicants.

The result is that an increasing number of illegal aliens are able to remain in the U.S. without working, surviving solely on income from the U.S. government, immigration officials say.

"It's something they've (illegal aliens) recently tumbled onto," said Ted Georgetti, an Immigration Service investigator in Chicago. "The longer they're here, the more knowledge and sophistication they get about how the system operates. They come originally to work. But they certainly find out they needn't really work to make ends meet.

"They certainly have no compunction about going on the federal dole."

Public Aid documents reveal that caseworkers plainly describe applicants as "illegal aliens" on forms that include the names, addresses, and phone numbers of the aliens.

Laurel Loughnane, a spokesman for the Illinois Department of Public Aid, acknowledged that illegal alien "guarantees" are a source of discussion in the department. But she said, "We can't report them to Immigration. It's the law. We follow the law."

Cook County hospital officials keep records of the number of illegal aliens treated at the financially troubled institution, and hospital personnel privately say that the responsibility for taking care of the illegal immigrants is one reason for the hospital's economic woes.

Asked why the hospital did not report the aliens to the Immigration Service, spokesman Margo Phillips said: "We don't feel it's our responsibility.

"There are more coming to the door. What do we do? We can't turn them away. But we're stuck with the bill."

During February, Phillips said, records show that the hospital treated 112 illegal aliens. Of those, only six were able to pay all or part of the bill. Phillips said, however, that the number of illegal aliens treated probably is even larger because the aliens frequently are able to obtain fraudulent Social Security cards and pass as U.S. citizens. She said the hospital treats 1,300 to 1,400 patients a day.

Georgetti said there is no way to tell how many illegal aliens are benefitting through their children from welfare grants. But he said there are "hundreds of thousands" of illegal aliens in the Chicago area, and that "they're certainly becoming a bigger part (of the welfare system) as the knowledge be-

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not wish to be identified, said about 10 per cent of each worker's 200-plus cases in her office involved illegal aliens and that in the last six months the numbers have increased dramatically.

"Now that word is out, you'd think you were in some town in rural Mexico when you walk into our office," the caseworker said. "They tell all their friends back in Mexico, and they say, 'By God, those Americans are even crazier than we thought.' "

Last week, the public aid department reported that the number of public aid cases in Illinois—more than one million—is at the highest level since the Depression. President Reagan last week also called for a data bank on welfare recipients that would make now-private case information available to federal and state agencies. Reagan asserts that the system would reduce fraud, abuse, and waste.

Maria (a psuedonym), an illegal alien who was interviewed by The Tribune in her West Side home, is a typical case. The 23-year-old woman came to Chicago two years ago. She said her husband already had moved here but deserted her shortly after she joined him.

Like an increasing number of the women, she was pregnant when she arrived. She had her baby, now 2 years old, at Cook County Hospital at taxpayers' expense. The hospital sent her a bill for $120, but she said she did not pay it.

After the baby was born, she went to a Public Aid Office, where she applied for and was granted food stamps and $79 a month for the baby under Aid to Families with Dependent Children. She was designated as the "grantee" on a Public Aid form.

Next to the blank for "Social Security number," the caseworker had written: "None." Another part of the form lists the names of three persons living with her, with the word "illegal" after each name.

Another routine notation by the caseworker stated: "RPY (Represenative Payee—or grantee) is illegal alien—speaks no English."

Asked if she had any fear of identifying herself to Public Aid officials as illegal, she said, "No, a friend of mine (also illegal) was already on Public Aid, and she took me and said there would be no problem." In January, about 600,000 persons in Illinois were receiving AFDC grants totaling nearly $68 million a year.

Maria now lives with three young male illegal aliens in a four-room apartment that

rents for $130 a month. She said, "They let me stay here, and I do laundry, iron, and cook for them."

Maria is pregnant again. She said she probably will have her next baby at Cook County Hospital and get welfare payments for that child, too.

The caseworker said it was common for the young women with new babies born in the U.S. to keep house for other illegal aliens.

"Obviously these girls aren't coming here to work," she added. "They're coming here pregnant, either to live with someone, a common-law spouse who is working, or they're coming here specifically to get on Public Aid."

Although the AFDC grants are meager, they seem like gold to illegal aliens who are accustomed to even greater poverty in their native land, the caseworkers say. Asked why she came to the U.S., Maria said: "People in Mexico said it was a good place to go; $50 here has the buying power of $1,200 in Mexico."

Officials say illegal aliens also are easily able to obtain unemployment insurance by presenting false Social Security cards. Stella Cuthbert, state unemployment insurance commissioner, listened during an interview as, an employee explained that if an applicant had a Social Security card, employment, verification, "and stated that he was a U.S. citizen, we wouldn't usually go any further. We don't witch-hunt." Cuthbert said, however, that the number of fraud cases identified is "minimal."

A Latino social worker in Evanston, who refers illegal aliens to social service agencies in the area, agreed. "At unemployment compensation offices, they ask, 'Are you legal to work in this country?' If the answer is yes, they (the illegal aliens) have no problem."

Bob Kichura, an official at Chicago's Department of Human Services Community Service Center, 2550 W. North Ave., said illegal aliens frequently are given free baskets of food and counseled about how to get Public Aid for their children.

"We provide whatever services we can to them. We don't ask if they're illegal or not," Kichura said. He estimated that 15 to 20 per cent of the approximately 30,000 persons who come to the center each months are illegal aliens.

The privacy regulations in both the Illinois Department of Public Aid code and the U.S. Department of Health and Human Service Code state that the officials are "prohibited from disclosing the contents of any records, files, papers, and communications, except for purposes directly connected with . . . administration" of the program.

Johnetta Jordan, a Public Aid department spokesman in Springfield, said the most common reason for disclosing applicant information was to aid in fraud investigations. But she said since the U.S.-born children of illegal aliens are entitled to the benefits, no fraud is involved in designating the illegal parent as "grantee."

Cook County Board President George Dunne, who officially is charged with overseeing the finances of Cook County Hospital, was asked why the hospital did not report the aliens. He said "that's the first time that's come to my attention" and said he would "check into the policy."

However, he said: "I don't think I would want to put that imposition on the people at the hospital. We treat people every day who have broken the law of the government—people injured in the act of a crime. If someone presents himself and he's sick, he ought to be taken care of, whether he's an alien or not."

Georgetti said the attitude taken by other government bodies toward illegal aliens is frustrating but legal.

"Obviously, the circumstances are not appealing to me as an enforcement officer, he said. "I'd welcome the opportunity to get information from state officials." But he said that under current regulations, withholding identity of the aliens is a "legitimate interpretation" of the statutes.

"About the only thing we can hope for is that by virtue of more people becoming cognizant of the situation, they'll demand of their representatives that something be done," Georgetti said. "Ultimately, we hope for legislation to change it."

PROSECUTIONS INVOLVING CLASSIFIED INFORMATION

Mr. THURMOND. Mr. President, sometimes Federal criminal cases are not prosecuted because the Government is faced with a "Hobson's Choice"—whether to disclose sensitive classified information in a trial or not prosecute a case of clear guilt. The Attorney General has sent to me a copy of the guidelines to be used by the Department of Justice in making this delicate decision. Since the issue is one of general interest to every Senator, I ask unanimous consent that a copy of these guidelines and the forwarding letter from the Attorney General be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., June 10, 1981.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Attached are the guidelines I have issued for the prosecution of cases which may involve the disclosure of classified information. Issuance of these guidelines was required under section 12(a) of the Classified Information Procedures Act of 1980 (Pub. L. No. 96-456, 94 Stat. 2025) which provides in pertinent part that:

". . . The Attorney General shall issue guidelines specifying the factors to be used by the Department of Justice in rendering a decision to prosecute a violation of Federal law in which, in the judgment of the Attorney General, there is a possibility that classified information will be revealed."

While it is inevitable that there will continue to be cases in which the potential damage to national security interests that could result if classified information were revealed at trial is such that prosecution is precluded, the procedures set out in the Classified Information Procedures Act should enable the Department to prosecute more effectively those cases in which classified information may be at issue. Furthermore, these guidelines should facilitate more reasoned and uniform decisionmaking with respect to the determination of the propriety of initiating or declining prosecution of such cases.

Sincerely,

WILLIAM FRENCH SMITH,
Attorney General.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C.

ATTORNEY GENERAL'S GUIDELINES FOR PROSECUTIONS INVOLVING CLASSIFIED INFORMATION

1. Introduction:

The determination of whether it is appropriate to decline prosecution of a violation of federal law is a matter within the discretion of the Executive Branch. It is the policy of the Department of Justice that where it is believed that a person has committed a federal offense and there is sufficient evidence to secure conviction, prosecution should be sought unless no substantial federal interest would be advanced by the prosecution or unless there are other substantial federal interests that would be served by declining prosecution.

This principle was among those articulated in the recently published "Principles of Federal Prosecution."[1] Paragraph 2 of Part B of the "Principles", which addresses the decision to decline prosecution, provides that:

"The attorney for the government should commence or recommend federal prosecution if he believes that the person's conduct constitutes a federal offense and that the admissible evidence will probably be sufficient to obtain and sustain a conviction, unless, in his judgment, prosecution should be declined because:

"(a) no substantial federal interest would be served by prosecution;

"(b) the person is subject to effective prosecution in another jurisdiction; or

"(c) there exists an adequate non-criminal alternative to prosecution."

However, in cases in which there is a possibility that classified information may be revealed if the prosecution is pursued, an additional consideration must be addressed in determining whether it is appropriate to continue with the investigation or prosecution; that is, whether the need to protect against the disclosure of the classified information outweighs other federal interests that would be served by proceeding with the prosecution. In such cases, therefore, it is the responsibility of the Department of Justice, in consultation with the agency or agencies whose classified information is involved, to identify and assess these competing interests so that a reasoned decision may be made with respect to continuing the investigation or prosecution.

The purpose of these guidelines is to identify those factors which should be considered in determining whether to prosecute a violation of federal law where it appears that there is a possibility that classified information will be revealed if prosecution is pursued. While these guidelines do not provide an exhaustive list of all factors which may properly have a bearing on this determination, an attempt has been made to enumerate those factors which are most important and are likely to arise with some frequency.

2. General Provisions.

a. Authority:

These guidelines are issued pursuant to section 12(a) of the Classified Information Procedures Act of 1980 (Pub. L. No. 96-456, 94 Stat. 2025), which provides in pertinent part that:

". . . The Attorney General shall issue guidelines specifying the factors to be used by the Department of Justice in rendering a decision whether to prosecute a violation of Federal law in which, in the judgment of the Attorney General, there is a possibility that classified information will be revealed."

b. Definitions:

As used in these guidelines—

(1) the term "classified information" means any information or material that has been determined by the United States Government, pursuant to an Executive order, statute, or regulation, to require protection against unauthorized disclosure for reasons of national security and any restricted data, as defined in paragraph *r* of section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 201 (y)); and

(2) the term "national security" means the national defense and foreign relations of the United States.

[1] The "Principles of Federal Prosecution," which apply to all federal prosecutions, were published by the Department of Justice in July 1980, and are set out in section 9-27.000 of the U.S. Attorneys' Manual.

c. Functions of the Attorney General:

The functions and duties of the Attorney General under these guidelines may be exercised by the Deputy Attorney General, Associate Attorney General, or an appropriate Assistant Attorney General. However, the exercise of these functions and authorities by an official other than the Attorney General shall in no way limit the authority of the Attorney General to review, reverse, or amend any decision made under these guidelines.

3. Initiating or Declining Prosecution:

a. Determination of the propriety of initiating or declining prosecution:

Where, in the judgment of the Attorney General, it appears that the prosecution of a violation of federal law may result in the disclosure of classified information, the Attorney General shall determine whether the potential damage to the national security that might result from such disclosure outweighs other federal interests that would be served by the prosecution of the offense. If it is determined, after review of all relevant factors, that the potential damage to national security interests posed in prosecuting such a case outweighs other federal interests in proceeding with prosecution, prosecution of the offense may be declined.

In making this determination, the Attorney General shall assess all relevant information and evidence, consult with and seek the advice of the appropriate interested departments and agencies, and, whenever appropriate, fully utilize the procedures set out in the Classified Information Procedures Act of 1980 in order to assess more accurately the probability that classified information would be disclosed if the case were prosecuted, and the likely nature and extent of such disclose.

b. Factors bearing on the decision to initiate or decline prosecution:

In rendering a decision whether to prosecute a violation of federal law where there is a possibility that classified information may be revealed, the following factors, among others, should be considered:

(1) The likelihood that classified information will be revealed if the case is prosecuted. All relevant considerations bearing on this issue should be weighed, including:

(a) whether it will be necessary for the government to reveal classified information publicly in order to establish an element of the offense;

(b) whether the introduction of classified information will be sought by the defendant as a means of establishing a defense;

(c) whether the government will be required to disclose classified information to the defendant under the *Brady* doctrine, the Jencks Act, or in fulfillment of due process or other requirements;

(d) the likelihood that, under the procedures of the Classified Information Procedures Act, classified information sought to be disclosed publicly by the defendant would be found to be inadmissible, or the government would be permitted to use a substitute for the disclosure of specific classified information;

(e) the number and nature of persons to whom disclosure of classified information may be necessary, and the nature and extent of protective measures that may be available to prevent disclosure beyond authorized recipients; and

(f) whether the government's refusal to permit disclosure of classified information would result in dismissal of the indictment or a lesser sanction.

(2) The damage to the national security that might result if the classified information is revealed. All relevant considerations bearing on this issue should be weighed, including:

(a) the nature and extent of anticipated harm to the foreign relations or national defense of the United States;

(b) the level of classification and sensitivity of the information at issue;

(c) the extent of any previous unauthorized disclosure of the information;

(d) the likelihood that disclosure of classified information in the course of the prosecution would confirm the accuracy of classified information previously unsubstantiated; and

(e) the likelihood that disclosure would adversely affect future cooperation with individuals, organizations, or governments in obtaining classified or other confidential information.

(3) The likelihood that the government would prevail if the case were prosecuted. As in all Federal prosecutions in any case where proceeding with prosecution may result in disclosure of classified information the likelihood of a successful prosecution based on the available evidence should be established.

(4) The nature and importance of other federal interests that would be served by prosecution. Although an assessment of the federal interests that would be served by prosecution is a consideration in the decision to prosecute any case, where proceeding with prosecution may result in the disclosure of classified information that would create a risk of damage to the national security, all relevant considerations bearing on this issue should be carefully weighed, including:

(a) the seriousness of the offense charged;

(b) the extent of the prospective defendant's involvement in the commission of the offense;

(c) the likely sentence that would be imposed if conviction were obtained;

(d) the likely deterrent effect of conviction; and

(e) the availability of adequate noncriminal alternatives to prosecution.

4. Reservation:

a. Relation to the authority of the Attorney General:

Nothing in these guidelines shall be construed to limit the authorities or responsibilities of the Attorney General under the Constitution or laws of the United States.

b. Non-litigability:

The guidelines set forth herein are solely for the purpose of internal Department of Justice guidance. They are not intended to, do not, and may not be relied upon to create a right or benefit, substantive or procedural, enforceable at law by any party to any matter, civil or criminal.

5. Term and Effective Date:

These guidelines shall become effective on June 10, 1981, and shall remain in effect until modified in writing by the Attorney General.

Issued this 10th day of June, 1981.

WILLIAM FRENCH SMITH,
Attorney General.

WARREN RICHARDSON

Mr. HATFIELD. Mr. President, there is a growing concern in this Chamber about the methods and tactics used when we, or the general public, are feeling antipathy toward a Presidential nominee.

One of the objectives of every President is to select talented people to help him carry out the mission of the executive branch. Innate ability, complementary experiential background, and impeccable character are all important ingredients one hopes to find in people selected for high-level Government posts. It matters not that we may be for or against a particular nominee, for hopefully objective reasons, that we should be concerned about the unfortunate treatment that several recent nominees have received.

What we have perceived in the media and sensed in the behind-the-scenes rumor mill have not aided us or the American people in coming to just conclusions on these nominees. I trust that commenting about it today will at least have some ameliorating effect as we will soon have before us again controversial nominees.

Once more, I want to assert that it does not matter whether we are for or against particular nominees that this issue should be raised. But rather we should be concerned that possibly a few less-than-principled people have prevailed and could again, in short-circuiting the objective analysis of candidates' qualifications.

For my own part, it is my conviction that I should support the President in his nominations unless there is a compelling reason not to. In that light I supported Mr. Warren Richardson for the post of Assistant Secretary of Legislation at Health and Human Services, and I was prepared to vote against Ernest Lefever as the Assistant Secretary for Human Rights at the State Department. But notwithstanding my position on these nominations, my concern grew through the process of each man's consideration that facts were put aside for fiction to the detriment of society.

In Mr. Richardson's case it is my belief that the Government has lost a fine man and effective public servant. I wrote to him recently to extend empathetic support and to ask for a "thorough debriefing" from his perspective, with the belief that his insights gained through his difficult experience would be helpful to the Senate.

I was not disappointed. His response not only addresses candidly, and with thorough documentation, his own treatment in being wrongly charged with anti-Semitism, but also explores the dangers of McCarthy-era guilt by association and the difficulties of having stories like his handled factually in the press. I commend his letter and its attachments to your study.

Mr. President, I ask unanimous consent that Mr. Richardson's letter and the copies of correspondence to him be entered into the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
June 15, 1981.

Hon. MARK HATFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATFIELD: Thank you for sending me a copy of the booklet, "For Those Who Hurt." It was very thoughtful of you and helpful to me. In your letter of June 9, 1981, you ask if it is possible to provide you with a "thorough debriefing" from my perspective of the "unfortunate treatment" I received as a nominee for an assistant secretary position.

At your suggestion, I am pleased to set forth an account of the recent ordeal involving the withdrawal of my name from consideration by the President for nomination to the position of Assistant Secretary for Legislation at the Department of Health and Human Services (HHS). This account will deal with three major aspects of the controversy: the political battle, the battle of personal integrity, and McCarthyism.

At the outset, let me state clearly that I have no personal animosity towards the cast of characters who played out their parts in this drama on the stage of life.

THE POLITICAL BATTLE

The synopsis of events began on Tuesday, April 14, when a local official of the Anti-Defamation League of B'nai B'rith called Mr. David Newhall, who now holds the title of Chief of Staff at HHS, and informed him that the League would oppose my proposed nomination. Upon being informed of this development late that afternoon, I tried to locate former Senator Richard Stone. The next day I talked to him in London, England, and he called the Anti-Defamation League, asking them to postpone publicizing this matter until after he returned to the United States on Saturday, April 18, and we could talk with the individuals concerned. There was apparent agreement to proceed in that fashion.

Unfortunately, a Member of Congress issued a press release on the subject, and it became a topic of newspaper reports on Friday, April 17. More stories appeared in subsequent days. The allegation was put forth that I am anti-Semitic, hence not qualified to serve as the Assistant Secretary for Legislation at HHS. The following week, beginning Monday, April 20, the intensity of the press campaign increased. I wrote an apology for whatever misunderstanding may have arisen over any of my actions. I also visited with the Washington chiefs of two well-known Jewish organizations. A United States Senator informed the Secretary that he was going to lead a filibuster to try to stop my confirmation if the nomination reached the floor.

By mid-week it became clear that the war was being fought on two levels. Level one was an attack on my character, i.e., the charge of anti-Semitism. Level two was political, i.e., the liberal establishment telegraphing its desire to battle the Reagan administration over my appointment.

The growing importance of the political battle also became very clear because of three events:

1. A leader of one Jewish organization assured me that this affair was "nothing personal."

2. Letters from Americans of Jewish descent who have known me for at least 25 years declared, and explained, that I am not anti-Semitic. These were ignored by Jewish leaders and the press.

3. A Jewish friend of mine called to explain that this was a liberal scheme to embarrass the Reagan Administration.

There is yet another reason why it became apparent that the battle was now essentially political in nature. Nothing ever just happens in politics—it is planned. Timing is one of the key factors in political wars, just as it is in bullet wars. The whole offensive against me was timed to reach a crescendo when President Reagan appeared before the joint session of Congress to bring them, and a nationwide TV audience, his very important message about the economic recovery program.

There is independent verification that the whole attack was timed and not spontaneous. As noted above, Tuesday, April 14, 1981, was the date the Department was notified that my appointment would be opposed. Six days prior thereto, namely, April 8, a political observer in Washington with excellent connections called to tell me that a decision had already been made to oppose my nomination in order to attack the Reagan Administration. Why the delay? Timing, of course.

It was not until the week beginning Monday, April 13, that it became generally known that President Reagan would address the nation when Congress returned from its Easter recess. The timing pattern was almost upset by the phone call from Senator Stone. Had there been no press statements until after he arrived at his office on April 20, and had we met with Jewish leaders about their concerns, the opponents' critical timing sequence would have been ruined.

On Friday, April 24, the White House made its formal announcement that the President would address Congress the next Tuesday, April 28. That same Friday afternoon it became clear that there was no evidence to support the charge of anti-semitism, and it was equally clear that the liberal establishment timing sequence was on course, thus allowing them to ride the issue into a filibuster in order to embarrass the President. Their ploy was checkmated when I withdrew my name from consideration.

My decision was made without any pressure from the Secretary or the President, both of whom had been extremely supportive.

One of my colleagues at HHS commented afterward on the irony of the situation. He pointed out that I had been employed, in large measure, because of my ability to understand political situations and to arrive at sound political judgments. In exercising these abilities, I removed myself from the position.

Thus it goes in political wars. There are winners and losers. I was a loser in this one. From a political perspective only, I must say that the liberal establishment planned and executed its battle well. But there will be other battles, other winners and other losers.

THE BATTLE OF PERSONAL INTEGRITY

American political history is replete with examples of mudslinging, name-calling, and other assorted political dirty tricks. Likewise, the victims of such battles litter the pages of history. My case is no different from the others. All of us have a duty to be graceful losers in the political battle, but none of us is under an obligation to allow false allegations relative to our personal life to go unanswered.

In terms of the battle over my personal integrity, I was exonerated. In his statement accepting my request to withdraw my name, Secretary Schweiker said:

"A careful review produced no convincing evidence that Warren Richardson is or ever was anti-Semitic or racist."

His conclusion was based upon personal knowledge and upon the letters which were sent to the Department in my behalf.

These letters came about because many friends called to offer help. They either read or heard about the headline, "Charges of Anti-Semitism Peril Nomination for Key HHS Post," which appeared in the first story carried by the Washington Post on April 17. Most of them were outraged over the untrue characterization of me since all have known me to be non-anti-Semitic.

Fortunately, two of the people who offered to help are American citizens of Jewish descent. One of these individuals is Mr. Albert A. Rapoport, who wrote, in part:

"I am an American of the Jewish faith. In the past, I have been a member of B'nai B'rith, B'rith Sholom, and the Jewish War Veterans. Because of my background, education and practice as a lawyer for over 27 years, I feel well-qualified to judge whether a person is anti-Semitic or not. Anti-Semitism is a condition of a person's character. It cannot be imputed. It either exists, or it doesn't exist.

"Warren is not anti-Semitic in any way, shape or form. This judgment is based on the many years I have known him as a friend, and to be a sensitive human being. We met in September of 1951, at law school in Washington, D.C. Warren and I went to classes together, studied together, and endured the trauma of studying for and taking the bar examination together. We socialized at parties and family gatherings. During all of these years, I have never heard Warren utter an anti-Semitic remark; tell a racist story of any kind; or speak unfeelingly of a person, because of his race, religion, or national origin. You can understand my sense of outrage at seeing groundless allegations that Warren is anti-Semitic. The only obvious thing to be gleaned from these Post articles is that Warren is being used as a political football for the selfish interests of others, regardless of consequences to a really decent human being, and his family. Is it any wonder that we have difficulty in getting the best people for government service when they have to bear unfounded slings and arrows?"

In short, Mr. Rapoport says that I'm not anti-Semitic.

The second citizen of Jewish descent is Mr. Irwin Richman. He states:

"At the outset, I would stress that as a Jew, I have known anti-Semites and experienced their hatred first hand. I have known Warren Richardson for over 25 years (since December 1955) and state that Warren Richardson has never by word or deed shown or expressed anti-Semitism. On the contrary, Warren Richardson is one of the most fair-minded, objective persons I have known."

Again, I am not anti-Semitic. Copies of both letters are attached.

Also attached are copies of other letters which were received. Mr. and Mrs. George Hewitt, who have known us for over thirty years and come from "mixed heritage and religious backgrounds," say that the allegation of anti-Semitism is "the most unfortunate, false, and unfounded accusation and abuse of our freedoms that I have ever known." Two people, Congressman Gene Snyder and Mr. William E. Pursley, Jr., were lobbied by me when I was employed at Liberty Lobby, and they both testify, in effect, that I was not then, and am not now, anti-Semitic.

The next three people—Hubert Beatty, James D. McClary, and R. M. Chastain—all worked with me at the Associated General Contractors (AGC) from 1973 to 1977, after I had left Liberty Lobby, and testify as to my competency as a lobbyist.

Mr. Charles T. Carroll, Jr., worked with me at AGC on a daily basis for almost four years. His testimony is that "not once" during that period did I ever express any thought that could be viewed as anti-Semitic. During the past eight years I have worked as a lobbyist with a great many people. Four of them—Argyll Campbell, Hal Coxson, John S. Bush, Jr., and F. Patricia Callahan—spent many, many hours with me. All of them testify, in effect, that I am not anti-Semitic.

Another business friend is Mr. Kenneth C. O. Hagerty, Vice-President of the American Electronics Association (AEA). AEA was a client to my firm when I was in business for myself from 1977 to 1981. Mr. Hagerty states:

"What I can speak to that you may not know are Warren's philosophic and religious views. He and I have had numerous extended conversations over the years on religion, politics, and the interrelation between them. Those private conversations took place long before he had any thought of returning to government service. They have ranged over all economic, political and geopolitical issues. Never in that time can I recall a single statement or reference that might reasonably be construed as anti-Semitic. I can vouch for the fact that Warren's view of the world is not antagonistic toward Jews or any other ethnic group."

The next attached letter is from Mr. Bruce Klein who knows me socially through his association with my wife in their place of employment. He, too, states that I am not anti-Semitic.

Mr. Svend Petersen, from Florida, writes:

"At no time did I hear Mr. Richardson utter a remark that could be even remotely construed as anti-Semitic. In fact, it

seemed to me that one could assume from his conversation that he was opposed to putting people into ethnic categories, as he vigorously expressed his opposition to labeling people as ethnic stereotypes.

"All of my people, except for immediate family members, were, from 1940 to 1945, under the rule of the National Socialists, while Germany occupied Denmark, my birthplace. Had Mr. Richardson been anti-Semitic or pro-National Socialist, I would have discontinued our friendship."

Finally, here are the words of Miss Yvonne M. Chicoine, who writes:

"We were speaking of the role of God in society and why communism could not be tolerated by anyone with a faith in God because it was not only non-God, but anti-God. As I recall, you were 'somewhat' angered by the infighting that exists between people with different religious beliefs because of your concern that it detracted from the more important objective—that of preserving an atmosphere where individuals have the freedom to worship God at all.

"These certainly are not the sort of words that would be spoken by someone who found Judaism the most dangerous element in today's society."

The sum of all these letters is that those who know me state unequivocally that I am not anti-Semitic and/or that I am a good lobbyist. Their statements, moreover, are identical to my own self-perception. Having been raised in a Christian home, I have long known and believed that the single God of the universe loves all peoples, regardless of race, creed, or color, equally well. That is why I know that I am non-anti-Semitic—because I am not anti-anybody.

Let us compare my true character, as evidenced by the testimony above, with the charges against me. When the words from the newspaper stories have been clarified, the furor can be reduced to two allegations:

1. I had authored an op-ed piece for the New York Times (May 18, 1971) which contained an anti-Semitic reference in one sentence of the last paragraph.

2. I had worked for Liberty Lobby.

Regarding the first item, it should be noted that I did not write the last paragraph of the by-lined column for The New York Times. I did not know about its existence until after publication, and I was disturbed by the addition. A letter by the true author of that paragraph is attached. That leaves only the second item, a statement which attempts to paint my character by the ancient art known as guilt-by-association.

Mr. Rapoport, quoted above, puts his finger on the cardinal fact that "anti-Semitism is a condition of a person's character. It cannot be imputed. It either exists, or it doesn't exist." The idea that anti-Semitism is a condition of a person's character finds support in the words of Mary Cunningham of corporate America fame. In an article in The Washington Star's "Comment" section on May 10, 1981, adapted from a recent speech by her, Miss Cunningham devotes some attention to the high cost of prejudice. She says:

"Prejudice is a moral failing in the souls of the people who harbor it."

Anti-Semitism is a prejudice, and whether it is a moral failing of the soul or a condition of character, the essential fact is that it cannot be imputed from circumstances outside the soul and/or character. Thus, in weighing direct testimony against an allegation based upon guilt-by-association, there is no question but that the direct testimony vitiates any conclusion reached by the attempted imputation. The matter can be put another way, as it was by Mr. Hagerty, also quoted above:

"As you know, it is impossible to prove a negative. Warren cannot refute these charges in any absolute sense—nor could anyone else. The burden of proof must be on those asserting his anti-Semitism to show it affirmatively."

Those who made the charge did not show any affirmative proof that I am anti-Semitic. Perhaps they showed a prima facie case of guilt-by-association, but they failed to rebut the positive, affirmative proof that I am non-anti-Semitic provided by the testimony of the people discussed above.

These people have known me from different periods of my life and under such intimate circumstances that if I had ever been anti-Semitic, they would have observed it.

At this point it could be fairly said that a mistake had been made in not taking this positive evidence to the press and having my side of the story presented to the public. When the whole affair started, the Secretary asked his Chief of Staff to conduct a complete review of my proposed nomination. He believed that the review could be conducted in a responsible way, with everybody trying to produce positive evidence on one side or the other. Because of this concept of fair play on his part, he made a determination that there would be a news blackout as to his activities and mine. The case would not be tried in the papers. With this decision I concurred. Unfortunately, the news media thought otherwise and carried on the battle in a one-sided manner.

But the individual members of the press should not bear all the criticism for their incomplete coverage of the event. The news business in this country is so competitive that reporters and feature writers are under great pressure to produce copy, whether it is checked for accuracy and balance or not. We are all familiar with the case of Janet Cooke, late of the Washington Post, who almost won a Pulitzer Prize for the story of "Jimmy"—almost, that is, until it turned out there was no Jimmy. Then, the Washington Star for Saturday, May 9, 1981, carried the story (page A–4) of New York Daily News columnist Michael Daly, who resigned the day before over an article about some events which followed the death of Bobby Sands. Michael O'Neill, editor of the News, is quoted as saying:

"In the absence of independent corroboration of disputed points and in view of his use of misleading journalistic techniques, his resignation was accepted."

This insatiable drive for sensationalism, regardless of the cost in truth and accuracy, cannot be laid entirely at the feet of the reporters. It can be partly attributed to the system. Reporters, too, work for others, and their superiors must look at the mirror of introspection to decide how this wild trend can be halted.

The news media itself recognizes that there is a problem. A front page story in the Wall Street Journal for May 14, 1981, by Paul Blunstein addresses the situation. The headline is: "Bad News." Mr. Blunstein mentions both the Janet Cooke and Michael Daly cases along with others. He refers to Mr. Ben H. Bagdikian, "a former Washington Post editor who teaches journalism at the University of California at Berkeley."

Later in the article Mr. Blunstein says:

"But Mr. Bagdikian believes that competition—especially competition from the strong visual imagery of television—has produced pressure 'to reward reporters who are stylistically distinctive, without looking at them closely enough to see that they're factually distinctive.'"

Later on, Mr. Blunstein says:

"But Mr. Felker [Clay Felker, current editor of the Daily News afternoon edition] disagrees with Mr. Bagdikian about the pressure on reporters. He thinks the problem is with the writers themselves, especially those who aspire to become junior versions of Tom Wolfe, an erstwhile Felker star who sometimes spends months with the people he writes about. Writers are 'much better educated than they used to be, and much more difficult to deal with,' Mr. Felker says. 'Editors have lost control of their writers.'"

"That has been troubling critics since before the Janet Cooke affair. In the Yale Review last August, writer John Hersey argued that the time had come to 'redraw the line between journalism and fiction.'"

Even TV is not spared from comment by the press. Judy Bachrach, in her column for The Washington Star of May 27, 1981, wrote about the "four left-wing terrorists" who "hijacked a Turkish jetliner." She explained:

"Another headline, another show. One figured it would have a brief run on ABC's Nightline; interviews with hostages' relatives, four-minute analysis of Turkey Today, fuzzy long-lens shots of terrorists, slap-dash reconstruction of who they are and what they want. After years of practice, the news organizations have become as expert at absorbing, *mythologizing* and *inciting* the bad news as the terrorists themselves. Every detail, every bullet is bathed in the glamour of action and anonymity (Who was that masked man?)." (Emphasis added)

Whether it be competition among themselves, competition with television, lack of talent, loss of control by editors, the need to redraw the line, or the expertise at mythologizing and inciting the bad news, it is obvious that the system is in dire need of a return to lost ideals. Because we believe in the tradition of a free press, we pray that the news industry will pump the bilge water out of its own ship.

Regardless of what motivated the press to present only a one-sided view of the false charges leveled at me, and notwithstanding the positive proof of my non-anti-Semitism, some people have exhibited much interest in one aspect of my career—the four years spent at Liberty Lobby. Why did I go there? Why did I stay? Wasn't I in a policy-making position? All these questions are irrelevant, because they are part of the attempt to find me guilty by association, whereas it has been established by positive means that I am non-anti-Semitic. However, to satisfy the curiosity of those who feed upon the irrelevant, I shall briefly answer these questions.

I went to Liberty Lobby in June 1969 because of the opportunity it offered to alleviate the economic distress caused by a serious auto accident involving my wife four months earlier. The accident resulted in five serious operations over a 7-year period, including three on the spine, which continued the financial drain. My wife wore neck braces night and day for nearly four years. In addition to attending to her health problems, I was required to drive my children over 65 miles per day to and from school. I stayed at Liberty Lobby because it was difficult to find a comparable job which allowed me the freedom to make the transportation commitment. Middle-class Americans of all faiths and ethnic backgrounds understand these family problems. In response to the third question, I was not in a policy-making position.

M'CARTHYISM

We all know that political battles can become messy. The possibility of losing such a battle is a risk we take when we enter the political war zone. But one risk not assumed is the personal vilification heaped upon a person—not directly, but through guilt-by-association. Many years ago the liberal establishment cried "foul" when the late Senator Joe McCarthy pursued these tactics for his own political ends. Recently, in the Washington Star for Thursday, April 30, 1981, columnist Edwin M. Yoder, Jr., wrote an article on "Senator Denton and Memories of McCarthyism." One paragraph follows:

"But while historical perspective broadens, it does not alter the verdict on McCarthyism. However motivated, McCarthy's

techniques—falsehood, innuendo, slander, the general disregard of judicious and responsible inquiry so central to democracy—were evil. The late Richard Rovere speculated that McCarthy, so far as motives were concerned, was essentially a nihilist, and maybe he was right. In most affairs of state, in any case, motive matters far less than effect."

McCarthyism means evil techniques; specifically, falsehood, innuendo, slander and the general disregard of judicious and responsible inquiry so central to democracy. The whole concept of McCarthyism has become mired in political rhetoric. This is a tragedy because beneath the rhetoric, beyond the evil technique, we find human beings involved, not checkers on a political checkerboard.

Mr. Yoder has performed a fine service by illuminating and refining the definition of this evil. While his terminology "the general disregard of judicious and responsible inquiry so central to democracy" may lack specificity in the eyes of McCarthy-lovers, it is not obscure to most Americans. Clearly, those words embrace the idea of a general disregard for one of the great hallmarks of Anglo-American law—a person is innocent until proven guilty. Regardless of how many hundred victims (of which I am only one, therefore, not unique) have resulted from the application of McCarthyism, very few, if any, were allowed their birthright of being declared innocent and requiring their detractors to prove in a positive (not guilt-by-association) manner their transgressions. This basic unfairness, which tears the warp and woof of the American culture, is the reason why most Americans abhor McCarthyism.

The practices of McCarthyism (including the evil techniques, denial of the concept that we are innocent until proven guilty, and the tragic personal consequences) produces a result which goes far beyond my own case. It is an unjustifiable flaw in the national conscience. The cumulative result of this virus means that our American civilization shall never mature until we rid ourselves of this disease.

My own bona fides as an anti-McCarthy fighter were established when Senator Joe McCarthy was practicing his art. As stated by Mr. Rapoport in his letter (copy attached):

"Warren and I were in law school during the McCarthy era. We were almost alone in our opposition to McCarthyism. In the afterclass discussions and arguments, which were so much a part of the law school experience, Warren and I would go against as many as 15 to 20 other students, expressing our immense distaste for Senator McCarthy's tactics. How ironic that one of the great anti-McCarthy debaters is now being subjected to 'McCarthyism' by the very institution which deplored that reprehensible tactic."

I opposed McCarthyism 30 years ago, and I oppose it now. Perhaps my opposition is more meaningful now since I have been victimized by this un-American evil.

In my own case the most notable aspect of McCarthyism was the general disregard of judicious and responsible inquiry. The person who released the information to the press was asked why I had not been notified and given the opportunity to verify the facts before publication. All of the information and letters contained herein could have been supplied prior to release to the press just as easily as after the fact. There was no adequate response to the question.

Another example of the general disregard of judicious and responsible inquiry was reported at length in The Washington Post "Outlook" section for Sunday, May 10, 1981. In a story entitled "The Nazi Who Never Was" and subtitled "How a witch-hunt by judge, press, and investigators branded an innocent man a war criminal," Flora Johnson tells the story of Frank Walus. In her words she says:

"Overwhelming evidence shows that Walus was not a Nazi war criminal, that he was not even in Poland during World War II. *Much of this evidence was available to the U.S. government before Walus was even charged, long before he was brought to court.* (Emphasis added)

* * * * *

"And the Walus case can, for the moment, stand as another monument to the stupidity of witch-hunting of any type, however laudable the ostensible aim."

I am sure it is no consolation to Mr. Walus, who has lost his life savings in attorney's fees and court costs, to be welcomed aboard that stately ship which carries the victims of McCarthyism.

Putting aside, for a moment, consideration of McCarthyism as a technique to be used in political battles, let us look at the effect of such an unfounded accusation on the life of the victim. I have spent my entire life learning and honing the skills of a lobbyist. These skills are recognized by my peers and by Secretary Schweiker. To be selected as the person to be the Assistant Secretary for Legislation in the Department of this government, which has the third largest budget in the world, was a recognition by the Secretary and the President of my high standards and professional achievement. I shall always treasure this endorsement of my talent and hard work. It is with great difficulty that I shall forget, however, the experience of having this appointment so unfairly torn from me at the hands of McCarthyism. Neither fair play nor democracy appear to have been well served under the circumstances.

The thrust of this lengthy debriefing was essentially summarized in your letter of June 9, 1981, when you said:

"Once again it appears that a few unprincipled people prevailed without there being the benefit of objective analysis of candidate qualifications."

I hope that you and some of your colleagues can design a way to change the Senate confirmation system to focus on critical factors, such as ability, and curtail the trivialization of the process.

Finally, I wish to thank you for taking a personal interest in this aspect of statecraft—the selection of excellent people to serve our country.

Sincerely,

WARREN S. RICHARDSON.

ALBERT A. RAPOPORT,
Washington, D.C., April 19, 1981.

Mr. DAVID NEWHALL III,
Executive Assistant to the Secretary/Executive Secretary of the Department, Department of Health and Human Services, Washington, D.C.

DEAR MR. NEWHALL: As an American citizen of Jewish decent, I could not think of anyone I would rather have as the Assistant Secretary for Legislation than Mr. Warren Richardson.

Today's story in *The Washington Post* by Spencer Rich is outrageous. His story in Friday's edition of the *Post* was no better. The gist of the allegations is that Mr. Warren Richardson is anti-Semitic and, therefore, unfit for public office. I consider the charge absolutely false, and I object to the methods which have been utilized to smear him.

I am an American of the Jewish faith. In the past, I have been a member of B'nai B'rith, B'rith Sholom, and the Jewish War Veterans. Because of my background, education, and practice as a lawyer for over 27 years, I feel well-qualified to judge whether a person is anti-Semitic or not. Anti-Semitism is a condition of a person's character. It cannot be imputed. It either exists, or it doesn't exist.

Warren is not anti-Semitic in any way, shape or form. This judgment is based on the many years I have known him as a friend, and to be a sensitive human being. We met in September of 1951, at law school in Washington, D.C. Warren and I went to classes together, studied together, and endured the trauma of studying for and taking the bar examination together. We socialized at parties and family gatherings. During all of these years, I have never heard Warren utter an anti-Semitic remark; tell a racist story of any kind; or speak unfeelingly of a person, because of his race, religion, or national origin. You can understand my sense of outrage at seeing groundless allegations that Warren is anti-Semitic. The only obvious thing to be gleaned from these Post articles is that Warren is being used as a political football for the selfish interests of others, regardless of consequences to a really decent human being, and his family. Is it any wonder that we have difficulty in getting the best people for government service when they have to bear unfounded slings and arrows?

I am indignant that this is a media smear campaign, using innuendo to achieve a political purpose. In Friday's article, Post writer Rich quotes Nathan Perlmutter that he "believes" that Liberty Lobby was anti-Semitic for the last 20 years. So what? The critical issue is whether Warren is anti-Semitic!

Today's Post article of Sunday, April 19th, is more of the same. Mr. Rich refers to code words which I have never heard. Warren was probably just as surprised to learn that he spoke some kind of code language not taught us at law school.

Warren and I were in law school during the McCarthy era. We were almost alone in our opposition to McCarthyism. In the afterclass discussions and arguments, which are so much a part of the law school experience, Warren and I would go against as many as 15 to 20 other students, expressing our immense distaste for Senator McCarthy's tactics. How ironic that one of the great anti-McCarthy debaters is now being subjected to "McCarthyism" by the very institution which deplored that reprehensible tactic! If Warren's nomination is stopped because of guilt by association, I shall be in the forefront of a defense committee, organized to stop this terrible disease of McCarthyism, which I thought had been done away with years ago.

Another innuendo which I object to strongly in the Rich articles, is that Warren should have somehow silenced others from voicing their opinions. During our law school years, both in and out of classes (and particularly during the McCarthy debates), Warren reminded us that we are not entitled to freedom of speech if we deny it to others. It is entirely within Warren's character to let others say whatever suits their fancy.

I have always thought of Warren as a brilliant, intellectual type, who cared about the problems of people. In nearly thirty years of our knowing each other, and discussing matters ranging from politics, to religion, to sports, to social problems and foreign affairs, Warren has never expressed an extremist view; on the contrary, they are balanced, rational and moderate.

Respectfully yours,

ALBERT A. RAPOPORT.

APRIL 19, 1981.

Mr. DAVID NEWHALL III,
Executive Assistant to the Secretary/Executive Secretary of the Department, Department of Health and Human Services, Washington, D.C.

DEAR MR. NEWHALL: I write this as an American Jew and a friend of Warren Richardson and to express my strong disagreement with the allegations of anti-Semitism made against Warren Richardson as reported in the Washington Post of April 17, 1981.

At the outset, I would stress that as a Jew, I have known anti-Semites and experienced their hatred first hand. I have known Warren Richardson for over 25 years (since December 1955) and state that Warren has never by word or deed shown or expressed anti-Semitism. On the contrary, Warren Richardson is one of the most fair-minded, objective persons I have known.

This is not to say that Warren and I agree about everything. On the contrary, we have argued together, disagreed in certain areas, and agreed in others. But never has there been acrimony or hatred shown by Warren and I have always considered him a friend.

During the period December 1955 through September 1959, Warren and I, as attorneys at the General Accounting Office, were close. We ate lunch together, had many talks on life, religion, raising children, and almost any other subject that close friends discuss. Warren is a man of strong convictions, but even if you disagree with him (as I did on some matters), you recognize him as an honest, straightforward person. As a political liberal I saw this in Warren's conservatism.

Our contacts have not been restricted to the office. Warren and his wife, Nancy and myself and my wife have socialized together. In fact, Warren held my first-born son in his arms at my son's bris (circumcision ceremony) and participated in our religious celebration. This was not the act of an anti-Semite.

And so, as a matter of conscience, I have written this on my Passover and Warren's Easter to refute the allegations of anti-Semitism against Warren Richardson. These allegations have no basis in substance or fact.

Sincerely yours,

IRWIN RICHMAN.

ROCKVILLE, MD., *April 17, 1981.*

Mr. DAVID NEWHALL III,

Executive Assistant to the Secretary/Executive Secretary of the Department, Department of Health and Human Services, Washington, D.C.

DEAR MR. NEWHALL: We have studied, raised families, worked, and socialized with Mr. and Mrs. Warren Richardson for over thirty years. Since my wife and I have mixed heritages and religious backgrounds we are very perceptive to anyone who discriminates against others on racial or religious bases. We know that Mr. and Mrs. Richardson do not have prejudiced thoughts, never entertain discriminatory attitudes, and have never spoken or acted in an anti-Semitic or racist manner. They have sacrificed greatly in order to strive for and obtain the highest ideals, educational standards, morals and motivations for themselves and their children. Their success is witnessed by their professional achievements as well as the accomplishments of their children. They and their children are the perfect example of what America stands for.

The allegations of anti-Semitism that have been made against Warren Richardson are the most unfortunate, false, and unfounded accusations and abuse of our freedoms that I have ever known.

Yours respectfully,

GEORGE HEWITT.
JACQUELINE A. HEWITT.

HOUSE OF REPRESENTATIVES,
Washington, D.C., April 20, 1981.

Hon. RICHARD S. SCHWEIKER,

Secretary, Department of Health and Human Services, Washington, D.C.

DEAR DICK: During my tenure on the Hill representing the Fourth District of Kentucky, I have had a good voting record on pro-Israeli issues.

I have known Warren Richardson for many years, going back to the days when he worked for Liberty Lobby. He has lobbied me on a variety of issues at the time (and since). On every encounter I found him to be a warm, sensitive and immensely capable lobbyist. Never at any time did Warren exhibit any anti-Semitic attitude or posture.

I trust this will assist you in making a determination as to whether or not to go forward with his nomination.

With best wishes, I am

Sincerely yours,

GENE SNYDER.

ARLINGTON, VA.,
April 20, 1981.

Mr. DAVID NEWHALL III,

Executive Assistant to the Secretary/Executive Secretary of the Department, Department of Health and Human Services, Washington, D.C.

DEAR MR. NEWHALL: I am writing this letter on behalf of Warren Richardson, my friend and colleague for the past eight years, in view of certain allegations made against him, in effect, describing Mr. Richardson as "anti-Semitic." At present I am the Chief Legislative Assistant to Senator Frank H. Murkowski of Alaska.

I have worked with Warren Richardson over the past eight years in my capacity as Chief Counsel of the Senate Judiciary Subcommittee on Revision and Codification of Laws (1972–74), Chaired by Senator Sam J. Ervin, Jr. of North Carolina, and as Chief Legislative Assistant to Senator Richard Stone of Florida (1975–80). In all of my dealings with Warren Richardson, in his capacity as a representative of the Liberty Lobby, a representative of the Associated General Contractors, and more recently representing his own consulting firm, Warren Richardson has always been an advocate of principle and legitimate political philosophy. He has never expressed or intimated in any way whatsoever an opinion or attitude that demeans any individual or group on the basis of race, color, creed or national origin. For anyone to imply the contrary is to indicate to me that such a person simply does not know Warren Richardson nor has ever worked with him.

My first association with Warren Richardson was during the period while he was serving as general counsel of the Liberty Lobby and I was working with Senator Ervin on the staff of the Judiciary Committee (1972–73). Senator Ervin, who holds his constitutional views with integrity and determination, was strongly opposed to the Senate ratification of the so-called "Genocide Convention." The Liberty Lobby also opposed this treaty. On many occasions Warren Richardson and I talked about legislative tactics and substantive issues relating to the Senate's consideration of the "Genocide Convention." In the course of many meetings which I had with Warren Richardson on this subject, our discussions were based on Senator Ervin's concern that this pending treaty would fundamentally undermine the constitutionally-guaranteed rights of American citizens who might be subject to international criminal tribunals where such constitutionally-guaranteed rights would not be provided for. Senator Ervin and I both appreciated greatly Warren Richardson's knowledge on this subject which was useful in Senator Ervin's active opposition to the convention during the 1972–73 period.

Subsequent to my getting to know Warren Richardson during the 1972–73 period, I worked with Warren Richardson while I was the Chief Legislative Assistant to Senator Stone. I had occasion to work with Mr. Richardson on labor relations issues while he was representing the Associated General Contractors and on the "Heinz-Stone" constitutional amendment to limit Federal spending, when he was representing his own consulting firm. Throughout this period of time I found Warren Richardson to be a man of complete personal and professional integrity, a man of unusual intellectual energy and a man of fairness and good spirit.

While I am not personally familiar with the circumstances surrounding the allegations of "anti-Semitism"' made against Warren Richardson, I do unqualifiedly state that I have never heard from Warren Richardson any expression or witnessed any action on his part that would in any way imply racial, ethnic or religious prejudice. In brief, Warren Richardson could not possibly be "anti-Semitic."

Any new Administration needs men and women of intelligence and integrity. Warren Richardson is such a man. I recommend him most highly for the Assistant Secretary's position and believe he would be a great asset to your Department and to the Congress.

Sincerely,

WILLIAM E. PURSLEY, Jr.

THE ASSOCIATED GENERAL
CONTRACTORS OF AMERICA,
Washington, D.C., April 20, 1981.

Mr. DAVID NEWHALL III,

Executive Assistant to the Secretary/Executive Secretary of the Department, Department of Health and Human Services, Washington, D.C.

DEAR MR. NEWHALL: Mr. Warren Richardson was employed by The Associated General Contractors of America, as Director, Legislation, from July 15, 1973 until July 1, 1977, which was the effective date of his resignation.

Warren Richardson's professional competence during his employment by this association contributed significantly to establishing the foundation for our current legislative activities.

Mr. Richardson worked diligently and well for our organization. His knowledge of the federal legislative process, and how to influence that process effectively were excellent.

Mr. Richardson resigned from The Associated General Contractors of America's staff to establish his own business.

Sincerely,

HUBERT BEATTY,
Executive Vice President.

BOISE, IDAHO,
April 20, 1981.

Mr. DAVID NEWHALL III,

Executive Assistant to the Secretary, Secretary of the Department of Health and Human Services, Washington, D.C.

DEAR MR. NEWHALL: I am writing you regarding the appointment of Warren Richardson as Assistant Secretary of Health and Human Services. It appears from news releases that this may be in jeopardy because of a presumed affront to one organization in an editorial written by Mr. Richardson ten years ago.

I have known Mr. Richardson for some eight years, starting with his employment in the Legislative Division of the Associated General Contractors of America. I was National President of the AGC in 1972. I served on the Executive Committee from 1962 until 1978. From 1973 to 1976, I was Chairman of the Legislative Committee, and Mr. Richardson was in charge of the staff of that committee.

During those three years under my direction Mr. Richardson organized the Legislative Network of the AGC. That network now has established an AGC member of an associate member as liaison with each of the 535 members of Congress. This is a lobbying effort which is extremely effective on legislation concerning the construction industry.

As you may know, construction in all of its ramifications is the largest industry in the United States.

I was gratified by the proposed appointment of Mr. Richardson in an area where

he is eminently competent. The appointment of such second and third tier individuals is a requisite for the successful accomplishment of President Reagan's program. Frankly, if the Administration starts to compromise its appointments because of the outcries of every special interest group that raises its head, it is going to be "business as usual" for the next four years—as it has been for far too long—and the President will not be able to do what I believe he can do and what must be done if this country is ever to realize its true potential.

As to my bonafides, prior to my retirement three years ago, I was Chairman of the Board of Morrison-Knudsen Company, Inc., of Boise, Idaho, a leading construction and engineering firm which has an annual volume of $2 billion. The Company works worldwide.

I am a lifelong Republican having held county, state and national positions. For any information you may need about me personally, my integrity, ability, patriotism and so forth, I refer you to the entire Idaho delegation—Senators McClure and Symms, and Congressmen George Hansen and Larry Craig. They will tell you I don't make any endorsements lightly.

This letter is written because I believe the decision to make this appointment of Mr. Richardson was excellent, and I would not like to see the Secretary needlessly lose the services, advice and counsel of capable individuals like Warren Richardson for what appear to be specious reasons.

Thank you for any consideration you may give this letter.

Sincerely,

JAMES D. MCCLARY.

MORRISON-KNUDSEN COMPANY, INC.,
Boise, Idaho, April 20, 1981.

Mr. DAVID NEWHALL III,
Executive Assistant to the Secretary, Secretary of the Department of Health and Human Services, Washington, D.C.

DEAR MR. NEWHALL: I recently learned of criticism directed toward the confirmation of Warren Richardson as Assistant Secretary of Health and Human Services.

As a friend and colleague of Warren through an association commencing during his employment with the Associated General Contractors, I want to personally voice strong endorsement of Warren's confirmation. Warren has some splendid qualities, to include intelligent, innovative, resourceful, competent and experienced; capabilities which have kept him on the success side of past efforts and which has earned him an excellent reputation as a very good legislative advocate.

Coupled with the above, his integrity and common sense provide an employer with an adroit ability to accomplish with the utmost probity.

I would hope to reinforce the qualities which first brought Warren's talents to your awareness and nomination, to not now utilize so capable an individual would not appear to be in the administration's best interest.

Sincerely,

R. M. CHASTAIN.

U.S. SENATE,
SUBCOMMITTEE ON LABOR,
Washington, D.C., April 20, 1981.

Hon. RICHARD S. SCHWEIKER,
Secretary, Department of Health and Human Services, Washington, D.C.

DEAR MR. SECRETARY: I note from recent press reports that the nomination of Mr. Warren S. Richardson has been placed in jeopardy because of allegations of anti-Semitism on Mr. Richardson's part.

I have known Mr. Richardson since September 1973 and worked directly for him, on a daily basis, for almost 4 years thereafter. *Not once* during this time did Mr. Richardson express any thought that could be viewed as anti-Semitic. Indeed, I have heard no words expressing any form of bigotry from Mr. Richardson on any occasion.

In this 4 year period Mr. Richardson and I repeatedly discussed world events and problems. On these frequent occasions any bigotry on Mr. Richardson's part would have been apparent.

Mr. Richardson is a knowledgeable, conscientious, and analytical individual who is well qualified to be an Assistant Secretary at HHS. The charges against him should be dismissed immediately, as they are without basis.

I deplore the tactics of those that are seeking to scuttle Mr. Richardson's nomination. It's too bad that, in their zeal to achieve their goals, they are willing to go to such extremes.

Sincerely,

CHARLES T. CARROLL, Jr.,
Counsel Subcommittee on Labor.

NATIONAL ASSOCIATION
OF MANUFACTURERS,
Washington D.C., April 21, 1981.

Mr. DAVID NEWHALL III,
Executive Assistant to the Secretary/Executive Secretary of the Department, Department of Health and Human Services, Washington, D.C.

DEAR MR. NEWHALL: Even though I did not know Warren Richardson until after he had worked for Liberty Lobby, I can state with conviction that my friendship and close working relationship with him as a fellow lobbyist never showed Warren to be, in any way, anti-Semitic—or, for that matter, prejudiced against any person because of his race, religion or national origin. True, Warren does hold certain convictions—he does have a philosophy—about the role and the size of government in our society, but this in no way has ever manifested itself—in my observation—in any personal prejudices against any person, because of his heritage and background.

I do not, for a minute, believe that Warren Richardson shares any of the views attributed to his former boss, Curtis Dall, in a 1970 interview in True magazine as reported in Sunday's Washington Post. He simply is not that kind of man.

The details of this exaggerated "flap" aside, I can state without hesitation or equivocation that Warren Richardson is a superb lobbyist of indefatigable energy and skill who knows and understands well the legislative process. There is no doubt in my mind that Warren brings to any Congressional liaison post in any major department all the requisite ability and skill to perform such a job to the credit of our government. Among Washington lobbyists who worked on recent labor-management issue battles, Warren was—and is—recognized as a splendid leader; in the case of the defeat of common situs picketing by the House of Representatives, Warren was THE PRINCIPAL LEAD BUSINESS LOBBYIST (then working for the Associated General Contractors of America) in orchestrating the rejection of that undesirable legislation. He works well with people of varying temperaments; his knowledge and wisdom, his understanding of Congress and the legislative process, his solid working relations with many members of Congress, has engendered great respect among fellow lobbyists who view him as a natural leader.

I would urge the Secretary to stand by Warren Richardson and retain him in the service of the Department. I hope that Secretary Schweiker and you and his other top advisers will recognize this allegation (if I can dignify it with that word) against Warren as untrue and unwarranted. Certainly it is being blown all out of proportion to its very dubious merit.

From my experience and knowledge of Warren Richardson, I can assure you that you and the Secretary will never regret standing by him and retaining him in the service of the Reagan Administration in a key post in your Department.

Best wishes.

Sincerely,

ARGYLL CAMPBELL.

P.S. The views expressed above are my own personal convictions; they do not represent the official position of the National Association of Manufacturers, or its arm which I serve, the National Industrial Council.

Mr. DAVID NEWHALL III,
Chief of Staff, Department of Health and Human Services, Washington, D.C.

DEAR MR. NEWHALL: I am writing to express my concern regarding what certainly must be unfounded allegations and unjustified character attacks involving Warren Richardson, the Assistant Secretary-Designate for Legislation at the Department of Health and Human Services.

I have known and have worked closely with Warren since 1975, when I was first a labor law attorney and later the Director of Labor Law at the U.S. Chamber of Commerce. He and I worked together on several legislative issues and we were in almost daily contact during the many months he helped direct the efforts of the business community on the so-called labor law reform bill. During that time, I never detected anything that would substantiate the allegations concerning racial or religious biases. To the contrary, Warren has always impressed me as being a very decent, moral and unbiased individual.

It is a tribute to Warren Richardson that his friends and allies in the business community, as well as his erstwhile legislative foes from organized labor, have the highest personal regard and professional respect for him. It would be a tragedy for the Department, and for the Administration in general, to lose someone of his ability and character.

Sincerely,

HUNA P. COXSON.

JOHN S. BUSH, Jr.,
Washington, D.C., April 24, 1981.

Mr. DAVID NEWHALL III,
Chief of Staff, Department of Health and Human Services, Washington, D.C.

DEAR MR. NEWHALL: I have served long and intimately with Warren Richardson on several successful legislative lobbying campaigns. He is very experienced and highly competent in this line of work and commands the respect and attention of a large number of congressmen, senators and their staffs.

During hundreds of hours where Mr. Richardson and I were alone visiting congressional offices, over luncheon, coffee, and dinners, I have never heard him utter a single anti-Semitic nor "racist" statement. He is not only a gentleman but indeed a truly gentle person.

It is a profound tragedy that Mr. Richardson is now the center of one of the periodic hysteria episodes in the media. I believe any thinking person would happily trade in a brief lapse in his life of which he is not particularly proud. So let the Liberty Lobby case be with Warren Richardson.

Secretary Schweiker will suffer the loss of a talented and dedicated legislative professional if the news media succeed in destroying him.

Very truly yours,

JOHN S. BUSH, Jr.

WASHINGTON, D.C., *April 20, 1981.*

Mr. DAVID NEWHALL III,
Executive Assistant to the Secretary/Executive Secretary to the Department, Department of Health and Human Services, Washington, D.C.

DEAR MR. NEWHALL: I wholeheartedly support the nomination of Warren S. Richardson to be Assistant Secretary for Legislation at the Department of Health and Human Services. I was stunned to read the allegations in the press against both his personal integrity and his qualifications for the position.

From 1974 to 1980, I represented Sears, Roebuck and Co. as a lobbyist in Washington. During that time I had the opportunity to work closely with Mr. Richardson on several major legislative campaigns, including common situs picketing both in 1975 and again in 1977 and the labor law reform filibuster in 1978. I can categorically state that in my six year association with Mr. Richardson, he displayed the utmost professional regard for all persons irrespective of race, religion, sex or national origin. Mr. Richardson is a fine and accomplished professional whose reputation for fairness, quality and effectiveness is beyond reproach.

Those allegations by the press are false and malicious and deserve nothing less than a resounding condemnation.

Yours truly,

F. PATRICIA CALLAHAN.

COLUMBIA, MD.,
April 20, 1981.

Subject: Appointment of Warren Richardson as Assistant Secretary.

Mr. DAVID NEWHALL III,
Executive Assistant to the Secretary/Executive Secretary of the Department, Department of Health and Human Services, Washington, D.C.

DEAR MR. NEWHALL: I am an engineer with the firm MPR Associates here in Washington, and have worked with Mr. Richardson's wife for the last five years. During that time I have frequently spoken with Mr. Richardson in my office. I have met him socially numerous times, and have visited with him both at his home and mine.

As long as I have known him, Mr. Richardson has always brought great energy and dedication to his work. In general, he has been associated with more conservative causes, and as a result I have from time to time had ideological differences with him. However, in all the time I have known him I have never heard him express any opinions or make any statements which were even slightly anti-Semitic or racially biased. I have never even heard him tell a joke with racial overtones. I am unable to understand the basis for any of the statements which have been made against him.

In my opinion Mr. Richardson is a dedicated and hard worker who will be a credit to the Department of Health and Human Services. Please count me as one of those who believe that allegations that he is anti-Semitic or racially biased are completely unfounded.

Sincerely,

BRUCE KLEIN.

AMERICAN ELECTRONICS ASSOCIATION,
Washington, D.C., April 17, 1981.

Mr. DAVID NEWHALL III,
Executive Assistant to the Secretary, Executive Secretary of the Department, Department of Health and Human Services, Washington, D.C.

DEAR MR. NEWHALL: I was distressed to read this morning that the nomination of Warren Richardson is being questioned on grounds of alleged anti-Semitism. I have known Warren for some years and worked closely with him on a number of legislative projects. I am sure you already know he is an unusually effective and professional legislative advocate who is able to work well with people of diverse viewpoints and backgrounds.

What I can speak to that you may not know are Warren's philosophic and religious views. He and I have had numerous extended conversations over the years on religion, politics, and the interrelation between them. Those private conversations took place long before he had any thought of returning to government service. They have ranged over all economic, political and geopolitical issues. Never in that time can I recall a single statement or reference that might reasonably be construed as anti-Semitic. I can vouch for the fact that Warren's view of the world is not antagonistic toward Jews or any other ethnic group.

As you know, it is impossible to prove a negative. Warren cannot refute these charges in any absolute sense—nor could anyone else. The burden of proof must be on those asserting his anti-Semitism to show it affirmatively. To my knowledge, they have not done so. I do not think they will be able to.

All we have seen so far has been guilt-by-association. Many people would be surprised and disappointed if that were enough to deprive this administration of a person as able as Warren Richardson.

Sincerely,

KENNETH C. O. HAGERTY,
Vice President, Government Operations.

APRIL 18, 1981.

To Whom It May Concern:

I have known Warren S. Richardson, of Washington Grove, Maryland, since 1961. For a number of years, while I lived in neighboring Rockville, he and I were seatmates on the Baltimore & Ohio Railroad's morning and evening commuter trains. We visited in each other's homes occasionally and I met his wife and children, just as he met my wife and children.

At no time did I hear Mr. Richardson utter a remark that could be even remotely construed as anti-Semitic. In fact, it seemed to me that one could assume from his conversation that he was opposed to putting people into ethnic categories, as he vigorously expressed his opposition to labeling people as ethnic stereotypes.

All of my people, except for immediate family members, were from 1940 to 1945, under the rule of the National Socialists, while Germany occupied Denmark, my birthplace. Had Mr. Richardson been anti-Semitic or pro-National Socialist, I would have discontinued our friendship.

While I am confident that B'nai B'rith is a fine fraternal organization, I have mixed feelings about the Anti-Defamation League or, as some of my Jewish friends designate it, the Defamation League. While it naturally and commendably fights organized anti-Semitism, I can recall when it joined in the smear campaign against Charles A. Lindbergh before the United States intervened in World War II. During the hate campaign against the Republican presidential candidate, Barry M. Goldwater (who is half-Jewish), in 1964, the League was very active. As an employee of a senator and several members of the House of Representatives, I read quite a bit of its propaganda.

I believe that a person can be anti-Zionist without being anti-Semitic, just as I believe that a person can oppose the idolatry of the Kennedy cult without being anti-Catholic. I further believe that one can oppose the efforts of the King cult to canonize Martin L. King, Jr., without being anti-Negro.

Millions of Americans want the national government cut down to size. This can be done only by either reducing the number of jobs in the bureaucracy or by replacing collectivistic incumbents with conservatives. If my Social Security payments are reduced and my Civil Service annuity is cut, I will say "Amen!", provided, of course, that millions of other recipients have their payments reduced.

Mr. Richardson has graduated from law school, he is a certified public accountant, and he has had experience selling real estate. He is civic-minded, having served on the Washington Grove city council.

I hope the Committee on Finance of the Senate will report the Richardson nomination to the Senate with a recommendation that he be confirmed.

With all good wishes, I am,

SVEND PETERSEN.

JACKSON HEIGHTS, N.Y., *April 22, 1981.*

Mr. WARREN RICHARDSON,
Washington Grove, Md.

DEAR WARREN: Reading the news accounts of your alleged anti-Semitism make me wish that more people had been present at the lunch we had shortly before I left for New York.

We were speaking of the role of God in society and why communism could not be tolerated by anyone with a faith in God because it was not only non-God, but anti-God. As I recall, you were 'somewhat' angered by the infighting that exists between people with different religious beliefs because of your concern that it detracted from the more important objective—that of preserving an atmosphere where individuals have the freedom to worship God at all!

These certainly are not the sort of words that would be spoken by someone who found Judaism the most dangerous element in today's society.

My prayers continue for your speedy confirmation as the new Assistant Secretary.

Warm regards,

YVONNE.

ALEXANDRIA, VA., *April 16, 1981.*

Mr. DAVID NEWHALL III,
Executive Assistant to the Secretary/Executive Secretary of the Department, Department of Health and Human Services, Washington, D.C.

DEAR MR. NEWHALL: Warren Richardson has asked me to explain to you the circumstances of the New York Times letter of May 18, 1971.

In early March of that year Warren had testified before Congress that Liberty Lobby had been opposed to the war in Vietnam. This generated many phone calls and inquiries. I believe the New York Times initiated a request for the Lobby to prepare an op-ed piece on that subject. Since Warren had testified, I asked him to prepare the draft.

After the draft was prepared and forwarded to me, Warren left the office for the day. I reviewed the document and made few changes, except I added the last paragraph. If you read the piece carefully, you will see the difference in writing style. It was my prerogative as a policy maker to make whatever changes I deemed appropriate. Because Warren had left for the day, I dropped the letter in the mail.

I can recall how upset Warren was when he saw the published version of the piece with the added paragraph. He thought it was off the subject and objectionable.

Sincerely yours,

CURTIS B. DALL.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVAL

A message from the President of the United States reported that on June 16, 1981, he had approved and signed the following act:

S. 1070. An act to extend the authorization for youth employment and demonstration programs, and for other purposes.

MESSAGES FROM THE HOUSE

At 2:19 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 3807. An act to make technical corrections in the Defense Officer Personnel Management Act; and

H.J. Res. 287. Joint resolution in support of the implementation of the World Health Organization voluntary code on infant formula.

HOUSE MEASURES REFERRED

The following bill and joint resolution were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3807. An act to make technical corrections in the Defense Officer Personnel Management Act; to the Committee on Armed Services.

H.J. Res. 287. Joint resolution in support of the implementation of the World Health Organization voluntary code on infant formula; to the Committee on Foreign Relations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1430. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation relative to certain regulations governing excepted service technicians of the National Guard; to the Committee on Armed Services.

EC–1431. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a proposed foreign military sale to Canada; to the Committee on Armed Services.

EC–1432. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Army's proposed letter of offer to Kuwait for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–1433. A communication from the Director of the Export-Import Bank of the United States, transmitting, pursuant to law, the annual report of the Bank for fiscal year 1980; to the Committee on Banking, Housing, and Urban Affairs.

EC–1434. A communication from the Secretary of Energy, transmitting, pursuant to law, a study of the compliance problems of small electric utility systems; to the Committee on Energy and Natural Resources.

EC–1435. A communication from the Secretary of Energy, transmitting pursuant to law, the quarterly report on Biomass Energy and Alcohol Fuels for the period January-March 1981; to the Committee on Energy and Natural Resources.

EC–1436. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report required under the Public Utilities Regulatory Policies Act of 1978, dated May 1981; to the Committee on Energy and Natural Resources.

EC–1437. A communication from the United States Trade Representative, transmitting, pursuant to law, notice that the President has decided to renew the U.S.-Romanian and U.S.-Hungarian Trade Agreements; to the Committee on Finance.

EC–1438. A communication from the Secretary of Labor, transmitting a draft of proposed legislation to amend the Federal Employees' Compensation Act, as amended, to provide for more equitable benefits, to reestablish a waiting period for benefits, to promote the return of disabled workers to employment, and for other purposes; to the Committee on Governmental Affairs.

EC–1439. A communication from the Assistant Secretary of Energy (Management and Administration), transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC–1440. A communication from the Librarian of Congress, transmitting, pursuant to law, the annual report on the activities of the Library of Congress for fiscal year 1980, including the Copyright Office, four issues of its supplement, and a copy of the annual report of the Library of Congress Trust Fund Board; to the Committee on Rules and Administration.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–216. A resolution adopted by the Mayor and Councilmembers of Homerville, Georgia, favoring full funding of the "Priority Primary" program in the Department of Transportation; to the Committee on Commerce, Science, and Transportation.

POM–217. A resolution adopted by the Napa, California, Chamber of Commerce, favoring legislation to repeal section 301 of the Powerplant and Industrial Fuel Use Act of 1978; to the Committee on Energy and Natural Resources.

POM–218. A resolution adopted by the Healdsburg, California, Chamber of Commerce, favoring legislation to repeal section 301 of the Powerplant and Industrial Fuel Use Act of 1978; to the Committee on Energy and Natural Resources.

POM–219. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"RESOLUTION

"Whereas, Toxic and hazardous waste, which is often carcinogenic, is a threat to the natural environment and a danger to public health; and

"Whereas, While the incidence of cancer in the United States and the quantity of toxic and hazardous waste produced in the country is increasing, the number of dump sites that are safe and capable of receiving such waste is declining in number, with only one such dump site in the Los Angeles basin; and

"Whereas, Although it is in the public interest to reduce or remove toxic chemicals from the environment, there is a significant economic risk associated with new technology to treat toxic and hazardous waste; and

"Whereas, There is a need for investments in technology to reduce, eliminate, detoxify, neutralize, and recycle toxic and hazardous waste; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact appropriate legislation to provide a 40 percent investment tax credit for equipment and facilities which reduce, eliminate, detoxify, neutralize, or recycle toxic and hazardous waste at the site of generation of that waste or at a regional collection facility, and to provide a 60-month amortization and depreciation for such equipment and facilities; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives and to each Senator and Representative from California in the Congress of the United States."

POM–220. A resolution of the County Council of Clinton County, New York, opposing the early retirement proposal as to retiring at sixty-two years of age under the Social Security System; to the Committee on Finance.

POM–221. A resolution adopted by the San Luis Obispo, California, City Council, expressing its support of the efforts by the Federal administration to return powers to local entities and urging a careful implementation of those efforts in ways that will enhance, not further impede, home rule; to the Committee on Governmental Affairs.

POM–222. A resolution of the Four State Inter-Tribal Assembly, constituting an Inter-Tribal Assembly made up of federally-recognized tribes, stating their position on certain issues in legislation adopted at an Inter-Tribal Assembly in Duluth, Minnesota; to the Select Committee on Indian Affairs.

POM–223. A resolution adopted by the Medical Staff of Owensboro-Daviess County Hospital, Owensboro, Kentucky, relating the repeal of PSRO programs; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. Res. 141. Resolution to express the sense of the Senate that combating violent crime should be a national priority.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. McCLURE, from the Committee on Energy and Natural Resources:

Daniel N. Miller, Jr., of Wyoming, to be an Assistant Secretary of the Interior.

Richard Mulberry, of Texas, to be Inspector General, Department of the Interior.

Shelby Templeton Brewster, of Maryland, to be an Assistant Secretary of Energy (Nuclear Energy).

J. Erich Evered, of Nevada, to be Administrator of the Energy Information Administration.

(The above nominations were reported from the Committee on Energy and Natural Resources with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation:

Alan Green, Jr., of Oregon, to be a Federal Maritime Commissioner for the term of 5 years expiring June 30, 1986.

(The above nomination was reported from the Committee on Commerce, Science, and Transportation with the recommendation that it be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. TOWER, from the Committee on Armed Services:

Mr. TOWER. Mr. President, from the Committee on Armed Services, I report favorably the following nominations: Maj. Gen. Sinclair L. Melner, U.S. Army, to be lieutenant general, Gen. Bryce Poe II, U.S. Air Force (age 56), for appointment to the grade of general on the retired list, Lt. Gen. James P. Mullins, U.S. Air Force, to be general, and Maj. Gen. Nathaniel R. Thompson, Jr., U.S. Army, to be lieutenant general. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. In addition, in the Air Force and Reserve of the Air Force there are 73 appointment/reappointments/promotions to the grade of colonel and below (list begins with Irving Freedman), in the Air Force Reserve there are 40 promotions to the grade of lieutenant colonel (list begins with David C. Billow), in the Navy there are 643 temporary/permanent promotions to the grade of commander (list begins with Ronald J. Abler), and in the Navy and Naval Reserve there are 50 temporary/permanent appointments to the grade of commander and below (list begins with Bruce R. Dailey). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of June 9, 1981, at the end of the Senate proceedings.)

By Mr. STAFFORD, from the Committee on Environment and Public Works:

Nunzio J. Palladino, of Pennsylvania, to be a Member of the Nuclear Regulatory Commission for the term of 5 years expiring June 30, 1986; and

Charles H. Dean, Jr., of Tennessee, to be a member of the Board of Directors of the Tennessee Valley Authority for the term expiring May 18, 1990.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THURMOND:

S. 1386. A bill to amend chapter 5 of title 18 of the United States Code, relating to arson in executing a scheme to defraud; to the Committee on the Judiciary.

S. 1387. A bill to provide a waiting period for the purchase of a firearm within the special territorial jurisdiction of the United States; to the Committee on the Judiciary.

S. 1388. A bill to amend section 1751 of title 18, United States Code, dealing with Presidential assassination, kidnaping, and assault; to the Committee on the Judiciary.

By Mr. WARNER (for himself, Mr. HEFLIN, Mr. FORD, Mr. MATTINGLY, Mr. HUDDLESTON, Mr. ANDREWS, Mr. MURKOWSKI, Mr. RANDOLPH, Mr. HARRY F. BYRD, JR., Mr. STEVENS, Mr. DENTON, Mr. PACKWOOD, Mr. SPECTER, Mr. SASSER, Mr. JEPSEN, Mr. HAYAKAWA, and Mr. BRADLEY):

S. 1389. A bill to declare and recognize the vital importance of deep-draft commercial ports to this country's economy and national defense, and the world's economy and energy self-sufficiency, and to establish a process to promote, finance, and facilitate on an expedited and priority basis the improvement of deep-draft commercial ports in the United States in order to promote domestic commerce and U.S. export capabilities for coal, grain, and other agricultural commodities, manufactured goods for export, iron ore and other commodities; to the Committee on Environment and Public Works.

By Mr. PROXMIRE:

S. 1390. A bill for the relief of Kenneth W. Hunke and Virginia F. Hunke; to the Committee on the Judiciary.

By Mr. BENTSEN:

S. 1391. A bill for the relief of Dr. Oscar Raul Espinoza Madariasa, his wife, Maria Inez, his son Felipe Andres and daughter Claudia Paola; to the Committee on the Judiciary.

By Mr. MITCHELL:

S. 1392. A bill to repeal the tariff on casein blanks; to the Committee on Finance.

By Mr. MITCHELL (for himself and Mr. DURENBERGER):

S. 1393. A bill to amend the Internal Revenue Code of 1954 to increase the charitable contribution deduction allowable for property constructed by the taxpayer and contributed for use for educational purposes or for research or experimentation; to the Committee on Finance.

By Mr. DECONCINI:

S. 1394. A bill to improve the ability of the Secret Service to protect the President and other designated protectees; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND:

S. 1386. A bill to amend chapter 5 of title 18 of the United States Code, relating to arson in executing a scheme to defraud; to the Committee on the Judiciary.

S. 1387. A bill to provide a waiting period for the purchase of a firearm within the special territorial jurisdiction of the United States; to the Committee on the Judiciary.

S. 1388. A bill to amend section 1751 of title 18, United States Code, dealing with Presidential assassination, kidnaping, and assault; to the Committee on the Judiciary.

LEGISLATION RELATING TO FRAUD, PURCHASE OF A FIREARM, AND PRESIDENTIAL ASSASSINATION, KIDNAPING, AND ASSAULT

The remarks of Mr. THURMOND on this legislation appear earlier in today's RECORD.

By Mr. WARNER (for himself, Mr. HEFLIN, Mr. FORD, Mr. MATTINGLY, Mr. HUDDLESTON, Mr. ANDREWS, Mr. MURKOWSKI, Mr. RANDOLPH, Mr. HARRY F. BYRD, JR., Mr. STEVENS, Mr. DENTON, Mr. PACKWOOD, Mr. SPECTER, Mr. SASSER, Mr. JEPSEN, Mr. HAYAKAWA, and Mr. BRADLEY):

S. 1389. A bill to declare and recognize the vital importance of deep-draft commercial ports to this country's economy and national defense, and the world's economy and energy self-sufficiency, and to establish a process to promote, finance, and facilitate on an expedited and priority basis the improvement of deep-draft commercial ports in the United States in order to promote domestic commerce and U.S. export capabilities for coal, grain, and other agricultural commodities, manufactured goods for export, iron ore, and other commodities; to the Committee on Environment and Public Works.

DEEP-DRAFT PORTS

The remarks of Mr. WARNER and Mr. HEFLIN on this legislation appear earlier in today's RECORD.

By Mr. MITCHELL:

S. 1392. A bill to repeal the tariff on casein blanks; to the Committee on Finance.

REMOVING THE TARIFF ON CASEIN BUTTON BLANKS

● Mr. MITCHELL. Mr. President, I am introducing a bill to remove the tariff on imported casein button molds, also referred to as blanks. This tariff no longer serves its original purpose and is putting domestic firms at a competitive disadvantage.

The Ball & Socket Manufacturing Co., which has a plant in Waldoboro, Maine, manufactures casein buttons used on work gloves and uniforms. To manufacture these buttons, the firm must purchase casein button blanks. Since 1979, there have been no domestic manufacturers of blanks, so Ball & Socket has had to purchase imported blanks. The tariff on imported finished buttons is only 6.8 percent.

This tariff schedule puts Ball & Socket at a competitive disadvantage. They have no alternative to purchasing imported blanks and paying a tariff. Furthermore, if they pass on this cost in the form of higher prices, foreign suppliers are at clear advantage because of the lower tariff.

Mr. President, the tariff on casein blanks is unnecessary and unwise. It is unnecessary because there are no domestic blank producers to protect with the high tariff. It is also unwise because domestic manufacturers such as Ball & Socket, by buying raw materials and manufacturing the buttons themselves, create jobs in the United States. The differential in tariffs encourages purchasing finished buttons manufactured overseas. I urge the Senate to act swiftly to repeal this tariff.●

By Mr. MITCHELL (for himself and Mr. DURENBERGER):

S. 1393. A bill to amend the Internal Revenue Code of 1954 to increase the charitable contribution deduction allowable for property constructed by the taxpayer and contributed for use for educational purposes or for researcher experimentation; to the Committee on Finance.

RESEARCH AND EXPERIMENTATION EQUIPMENT DONATIONS ACT

● Mr. MITCHELL. Mr. President, I am pleased to join with Senator DURENBERGER in introducing the Research and Experimentation Equipment Donations Tax Act of 1981. This bill would improve the existing tax incentive for the donation of newly manufactured equipment to universities, colleges, and vocational schools.

This bill addresses two pressing national needs. First, it would aid financially hard-pressed educational institutions in expanding their research and experimentation programs. Second, it would improve the innovative capabilities of U.S. Business Enterprises by reducing the shortage of trained technical personnel.

One of the biggest obstacles faced by schools trying to create or expand technical programs is the prohibitive cost of state-of-the-art technical equipment. The problem is compounded by the rapid pace of new technical development, which makes costly equipment obsolete in a short period of time. Schools have to rely to a greater degree than ever before on equipment donations from the private sector.

Prior to 1969, the full fair market value of equipment donated to a school was tax deductible. The flow of donated equipment was adequate to meet educational needs. Since, then, however, this tax deduction has been limited to the cost of manufacturing the donated equipment. This is substantially less than what these products would be sold for. It places an unnecessary constraint on the amount of inventory that is contributed to educational institutions each year.

As a result, the amount of equipment being donated by the private sector has not kept pace with industries' demand for more qualified technical people. From local vocational schools to America's leading colleges of engineering, there is a pressing need for laboratory and instructional equipment. And the amount of technical equipment, such as computer systems and laboratory test gear, that schools can afford to purchase is sadly inadequate.

Another urgent national priority, one which will certainly be addressed in the upcoming tax bill, is the need to encourage American businesses to bring innovative products and production technologies to the marketplace. A number of bills have been introduced that would provide incentives for firms to expand their research and development efforts.

Yet these efforts will not be successful unless policies are adopted to deal with the labor shortage facing high technology industries. Many firms in these industries have annual growth rates of 30 to 40 percent and create thousands of jobs each year. Often the constraint on a firm's growth is not inadequate demand for its product or shortages of equipment, but rather it is the shortage of trained technical staff.

An increased flow of donated equipment could help solve both the universities' cost problems and the industries' trained-labor shortage. To accomplish this, however, the tax incentive for the donation for equipment to educational institutions must be improved.

The bill we are introducing today would restore the full fair market value deduction for donated equipment. The increased tax deduction would be available for equipment that was constructed by the taxpayer within 3 years of when it was donated. In the case of used equipment, the amount of tax deduction would be reduced by the amount of previous depreciation deductions or tax credits that may have been taken by the taxpayer.

Recipient schools must agree, in writing, with the donor that the equipment will be used solely for educational or R. & D. purposes and that the property will not be transferred by the recipient. This is to insure that the equipment is for administrative purposes and that it would not be sold. As is the case of other contributions under chapter 170 of the Internal Revenue Code, deductions would be limited to a maximum of 5 percent of the taxpayers' liability.

This bill serves clear public purposes and contains adequate safeguards to prevent abuse. A similar measure, H.R. 2472, has been introduced in the House by Representative SHANNON. I urge my colleagues to support this measure.●

● Mr. DURENBERGER. Mr. President, I am pleased to cosponsor the Research and Experimentation Equipment Donations Tax Act of 1981. This legislation would increase the tax incentive for corporations to donate state-of-the-art technology and up-to-date equipment to our colleges, universities, and vocational schools. Under present law, a corporation is limited to deducting only the costs of manufacturing for all gifts of equipment.

The legislation that I am today introducing with my colleague, Senator MITCHELL, increases the corporate deduction for state-of-the-art equipment to the fair market value of such gifts. In so doing, our legislation removes the substantial disincentive under current law to give the most technologically advanced equipment to our Nation's colleges, universities, and vocational institutions. Indeed, this legislation would equalize the choice between corporate sale and donation of such valuable equipment.

The beneficiaries of this legislation are numerous: Our students who will gain hands-on experience and become knowledgeable about the most up-to-date technology available; the private sector which today suffers from a shortage of trained personnel in many fields; and our academic researcher who today must, at times, limit or delay their inquiries for lack of funds to purchase the necessary laboratory instrumentation or computer systems. The need is both urgent and real.

Colleges and universities have been deeply affected by the economic vagaries of the times. As a whole, higher education has held its own in the last decade by extreme financial belt-tightening and by mortgaging the future of their physical and human capital. The drawing down of reserves, the deferred maintenance of buildings, the failure to keep pace in faculty and staff compensation are familiar and distressing facts. Also of importance is the financial inability of many institutions to purchase new equipment for instruction and research to overcome obsolescence or to keep pace with technological advances.

To illustrate, the 1965 National Academy of Sciences report on chemistry recognized the need for updating our Nation's laboratories, yet failed to recognize the revolution in the experimental approach to chemistry, biology, and other fields occasioned by equipment innovations such as on-line data acquisition and the minicomputers. Such equipment is today a prerequisite for many types of research. Increasing the tax incentive for corporations to donate these badly needed resources will contribute importantly to the goal of better education and research on our Nation's campuses.

The need to rehabilitate the Nation's research and teaching laboratories has been well documented in recent years. In June 1980, for example, the Association of American Universities presented a report to the National Science Foundation that documented the serious condition of research instrumentation in many leading academic laboratories. The laboratories of 16 leading universities were compared with those of leading commercial and Government facilities. The AAU found that the median age of research instruments in the universities is now twice that of leading commercial laboratories. The widening gap between industry and universities will seriously threaten the ability of our Nation's leading researchers to work at the cutting edge of their fields. The next generation of scientists and engineers also will have their educational experiences compromised by their lack of experience in working with up-to-date equipment. Industry and Government will see the adverse effects on their programs, especially in defense, energy, and health programs essential to our national security and economic and physical well-being.

Bruce Smith and Joseph Karlesky in their recent book, "The Universities in the Nation's Research Efforts," document the emerging instrumentation needs of our colleges and universities.

"A sampling of interview comments gives some idea of the widespread nature of the problem as it is perceived across a variety of fields and institutions." The vice president at a private university in the South cited the growing obsolescence of research equipment as one of his top two or three concerns, along with the impact of inflation and declining research awards. The chairman of a life sciences department in a private midwestern university declared that "my top priority is equipment, my next priority is equipment, and my third priority is equipment." The vice chancellor for academic affairs at a Southern public university saw the lack of equipment funds as "a major concern in chemistry, math, geology, and especially physics." The chairman of the chemistry department at a major northeastern private institution predicted that the availability and stability of funds for general research services, including sophisticated instrumentation, "will be a major factor affecting research over the next 10 years."

While equipment need spans the sciences, engineering programs perhaps illustrate the acute nature of this problem. As Smith and Karlesky report:

Engineering is largely a "hands on" field of endeavor. Therefore, both teaching and research equipment must resemble in some way those used currently in industry and commerce. Ideally the university engineering research laboratory today should be a forerunner of elements of tomorrow's new plant.

Engineering research depends heavily on the use of auxiliary instrumentation—such as sensors, detectors, meters, signal conditioners, and data display or recording systems, e.g., magnetic-tape and computer processors. This instrumentation also frequently includes specialized analyzers, mass spectographs, electron microscopes, gas chromatographs, and comparable devices for which the current unit price ranges between $50,000 and $200,000. Altogether, the auxiliary equipment needed for any modern engineering research undertaking costs about as much as the facilities with which it is used.

Some of the highest ranked institutions visited by Smith and Karlesky restrained in their research efforts because of the lack or insufficiency of expensive instrumentation, for example, microfabrication equipment, computer systems, and data banks. One leading private university reported special problems in the area of electronic materials and devices, where "the rapid obsolescence and high capital investments for laboratory equipment make it increasingly difficult to compete with industrial laboratories . . . We have not had the equipment to fabricate integrated circuits, which has forced an emphasis on materials research as opposed to circuit research.

The instrumentation problem is even more serious for the multitude of small engineering schools, those with perhaps only three or four departments. The cost to them for research facilities is the same per department as at the large schools but the relative cost of instrumentation is considerably more because it cannot be shared over as wide a base. While the equipment problem appears to be a major one for the larger institutions, it is of almost unmanageable dimension for the small engineering schools.

Equipment costs throughout the sciences have risen dramatically in recent years. The cost of an electron microscope basic to the day to day work of students and scientists has increased in cost from $45,000 to $105,000 in the last 5 years. Other basic elements of any normal lab each average between $10,000 and $100,000. It is our hope that corporations realizing the stake that they and the Nation as a whole have in increasing our Nation's innovation and productivity will utilize this tax incentive we propose today to help reequip our Nation's colleges, universities, and vocational schools.●

By Mr. DECONCINI:

S. 1394. A bill to improve the ability of the Secret Service to protect the President and other designated protectees; to the Committee on the Judiciary.

SECRET SERVICE REFORM ACT OF 1981

Mr. DECONCINI. Mr. President, on Monday, March 30, like a recurring nightmare, this Nation and the entire world was again shocked by a senseless and tragic assassination attempt on the life of the President of the United States. The horrible sight of the President, his press secretary, and the courageous law enforcement officers being wounded in front of the Washington Hilton should have pricked the national conscience and warned us in the Congress that something must be done to help our Secret Service win the battle against would-be assassins and terrorists.

The bill which I am introducing today, I believe, will take a major step toward providing the Secret Service with the necessary legislative assistance to overcome many of the obstacles which currently impede their efforts to investigate and apprehend potentially dangerous individuals before tragedy strikes—not after the fact. This legislation will also provide legislative relief to the Agency to enable it to improve the quantity, the quality and protect the confidentiality of intelligence data from all sources, including foreign, State and local governments. Finally, this bill will help to improve the Service's criminal investigative capabilities by expanding the criminal investigative jurisdiction of the Secret Service—not to supersede the criminal investigative authorities of other law enforcement agencies but to supplement the overall Federal law enforcement effort in specific, important areas.

Mr. President, on April 2, the Treasury, Postal Service, General Government Appropriations Subcommittee, of which I am the ranking minority member, held a hearing with the Secret Service, which, because of the tragic events of March 30, focused on the incident at the Washington Hilton, and more importantly, on the legislative changes that would facilitate the gathering of critical intelligence data for the Service in conducting their protective and investigative functions.

Secret Service Director Stuart Knight was very candid about the statutory roadblocks that impede the gathering of accurate, crucial intelligence data on potentilly dangerous groups and individuals. Since those hearings, I have worked closely with the Secret Service to fine-tune those legislative changes that would not only improve their intelligence gathering capabilities and toughen criminal penalties for threats to public officials, but expand and more clearly define the protective and criminal investigative functions of the Service. This bill is a culmination of several months of reviewing existing and proposed new Secret Service authorities in the wake of the March assassination attempt against President Reagan.

Mr. President, I would like to outline briefly some of the major provisions of the Secret Service Reform Act of 1981 and explain why I feel that these changes will substantially improve the protective and investigative functions of the Service.

First, the cornerstone of this legislation in an amendment to the Freedom of Information Act that would exempt from disclosure matters related to the protective functions of the U.S. Secret Service. The bill would also amend both the Freedom of Information Act and the Privacy Act to better assure the protection of the identity of confidential informants, who currently fear retaliation and disclosure of confidential sources of critical intelligence data.

During the April 2 hearings, Director Knight testified that the quantity of intelligence information being received from the FBI is about 60 percent of what the Service used to get and that the quality was also worse. These amendments to both the Freedom of Information Act and the Privacy Act should alleviate many of those problems without violating the rights of our citizens that are protected by the acts and the Constitution. The Service must have better information on potentially dangerous groups and individuals in order to protect our top public officials and visiting foreign leaders from the ever-present threats against their lives. This amendment should be a major help in this regard.

Second, extend "physical zone of protection legislation to all persons under the physical protection of Federal investigative or law enforcement agencies." Currently, this "physical zone of protection" authority exists only for the protection of the President. This legislation would provide a specific criminal offense for violation of this "zone of protection" for protectees of the Service and provide further deterrent for unauthoized personnel to penetate security areas established by law enforcement authorities. This was a legislative recommendation of the House Select Commission on Assassinations that has never been implemented.

Third, extend to various other specified protectees of the Service the same type of protection against threats of physical harm which is presently afforded the President and officer next in line of succession to the Presidency. This provision would provide protection similar to the so-called Presidential threat statute to former Presidents and members of the immediate family of the President, the President-elect, the Vice President, the Vice President-elect, a major candidate for the Office of the President or Vice President or the spouses of such major candidates. This legislation would enable the Secret Service to immediately investigate and prosecute persons making such threats against these highly visible and vulner-

able public figures. Investigation and prosecution of such threats has been hampered because of a lack of an applicable Federal statute similar to the "Presidential threat statute."

Fourth, continue protection of former Presidents during their lifetime, but limit protection of the spouse and minor children of a former President to a period of 6 months after the President leaves office, unless protection is declined. This provision would also authorize protection for a former Vice President for 6 months after the Vice President leaves office unless such protection is declined; and authorize the Secretary of the Treasury to extend or reinstate protection after any 6-month period if the Secretary determines that such protection is necessary.

Current protectees, who would no longer qualify for Secret Service protection would be provided protection for a 6-month period following the enactment of this legislation and then removed from protective service. However, the Secretary can reinstate protection if warranted and would continue to gather intelligence relating to the necessity of providing or reinstating such protection.

It is felt that the foregoing modifications in existing protection are justified on the basis of the experience of the Secret Service in its protective responsibilities especially during the past few years. The protective intelligence gathered by the Service regarding the number and kinds of threats against public officials and their families suggest that the manpower and resources of the Service can be better utilized in other areas of responsibility.

Fifth, extend to the Secret Service additional authority to conduct investigations of suspected violations relating to threats against other protectees of the Secret Service, and fraudulent dealings with Government loan programs and general fraud against the Government. These are areas in which the Secret Service has extensive experience and would serve to supplement—not supercede—the efforts of other law enforcement entities, while at the same time enhancing the Secret Service's criminal investigation functions around the country in its 96 field offices.

The criminal investigation function goes hand in glove with the Secret Service's more visible protective activities. Fraud against the Government is on the rise and the expertise of the Secret Service should be fully utilized in order to assist other law enforcement agencies to crack down on criminal activity in these important areas.

Again, it is not the intention of this legislation to vest exclusive jurisdiction in the Secret Service in these areas, but to allow the Service to maintain an active law enforcement capability, to facilitate its other investigative duties, and to bolster the overall Federal law enforcement effort in these important areas of responsibility. An enhanced criminal investigation program not only improves the Service and improves our Federal law enforcement effort, but tends to attract highly qualified, law enforcement personnel to the Service.

Sixth, authorize the reimbursement of Secret Service agents for the actual, reasonable cost of the meals they consume during protective assignments, when the agents, though not in travel status, are nevertheless specifically assigned to remain in close physical proximity to a protectee on a 24-hour basis.

Although this is not a major legislative change, it would help to improve morale and fairness among on-duty agents and rectify what is believed to be an inequity within the Secret Service. Maintaining the morale of agents who are under considerable pressure and working around the clock is an important goal that should not be overlooked in developing an improved protective and criminal investigation environment for the Service.

Seventh, make it a felony to forge an endorsement or signature on a Treasury check or bond or security of the United States; or to pass or attempt to pass such an obligation knowing that it bears a forgery. Also, make it a felony to knowingly exchange or possess, with knowledge of its false character, an obligation of the United States that has been stolen or bears a forged endorsement.

Currently, violations for forgery of endorsement or fraudulent negotiation of a Treasury check or bond or other security of the United States are being prosecuted under title 18, section 495 of the United States Code. However, that section was not specifically drafted to deal with Government obligations. Consequently, many of the variations of offenses involved with forgery of Government obligations are not covered by section 495.

The legislative proposal contained in this bill would make it possible to prosecute both forgeries of endorsements and related crimes involving obligations of the United States under one section and would be of tremendous help to the Secret Service—the agency with primary jurisdiction to investigate crimes involving obligations and securities of the United States.

Mr. President, I do not take lightly the new responsibilities and authorities which this bill provides for the Secret Service. However, I introduce this bill at this time in recognition of the fact that the Secret Service needs better intelligence data and a broadened criminal investigative jurisdiction to enhance its overall law enforcement and protective capabilities.

The evidence surrounding the assassination attempt to President Reagan makes it clear that the Service needs better sources of information; it needs to be able to offer assurances to its intelligence sources that their information will not be disclosed; and they need to be more involved in criminal investigation activities in order to sharpen their investigative skills and to contribute to our overall Federal law enforcement effort in their specific areas of expertise. Also, this bill recognizes that tougher penalties are needed to deter would-be assassins and those who threaten our elected public officials.

The time for providing the Secret Service with these important authorities is now. We cannot wait until another tragedy strikes one of our national leaders. I urge my colleagues on both sides of the aisle to join with me in supporting this bill and working toward its prompt enactment, and ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1394

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b) of section 552 of title 5, United States Code, is amended—

(1) in clause (8) by striking the word "or" after the phrase "financial institutions;";

(2) in clause (9) by striking the period and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new clause:

"(10) records maintained by the Secret Service in connection with its protective functions which are conducted in accordance with section 3056 of title 18, United States Code.".

(b) Section 552 of title 5, United States Code, is amended by adding the following new subsection:

"(f) A law enforcement agency shall exempt any record maintained for a law enforcement purpose including the protective functions of the United States Secret Service for a period of ten years from the date of the document, from the termination of the investigation, or in the case of judicial action from the termination of the probation, the term of imprisonment, or the imposition of the fine, as the case may be, whichever date is most recent."

(c) The amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 2. Section 1752 of title 18, United States Code, is amended—

(1) by amending the title of such section to read as follows:

"§ 1752. Temporary residences and offices of the President and others";

(2) in subparagraph (1) of paragraph (1) of subsection (a) by amending such subparagraph to read as follows:

"(1) any building or grounds designated by the Secretary of the Treasury as temporary residences of the President or other person protected by the Secret Service or as temporary offices of the President and his staff or of any other person protected by the Secret Service, or";

(3) in subparagraph (ii) of paragraph (1) of subsection (a) by inserting the words "or other person protected by the Secret Service" after the word "President";

(4) in paragraph (1) of subsection (d) by amending such paragraph to read as follows:

"(1) to designate by regulations the buildings and grounds which constitute the temporary residences of the President or other person protected by the Secret Service and the temporary offices of the President and his staff or of any other person protected by the Secret Service, and";

(5) in paragraph (2) of subsection (d) by inserting the words "or other persons protected by the Secret Service" after the word "President"; and

(6) by adding at the end thereof the following new subsection:

"(f) As used in this section the term 'other person protected by the Secret Service' means any person authorized to receive the protection of the United States Secret Service pursuant to section 3056 of title 18, United States Code, who has not declined such protection.".

SEC. 3. (a) Chapter 41 of title 18, United

States Code, is amended by adding at the end thereof the following new section:

"§ 879. Threats against certain other United States Secret Service protectees

"(a) Whoever knowingly and willfully threatens to kill, kidnap, or inflict bodily harm upon a former President of the United States; a major candidate or the spouse of a major candidate for the Office of the President or Vice President; or a member of the immediate family of the President, the President-elect, the Vice President, or the Vice President-elect shall be fined not more than $1,000 or imprisoned not more than five years, or both.

"(b) As used in this section—

"(1) 'major candidate or the spouse of a major candidate for the Office of President or Vice President' means any person receiving Secret Service protection pursuant to provisions of Public Law 90–331;

"(2) 'immediate family' includes—

"(A) any person who is related by blood, marriage, or adoption to the President, President-elect, the Vice President, or the Vice President-elect and who receives Secret Service protection; or

"(B) any person to whom the President, President-elect, Vice President, or Vice President-elect stands in loco parentis and who receives Secret Service protection; and

"(3) 'President-elect' and 'Vice President-elect' shall have the same meaning given those terms in section 871(b) of this title.".

(b) Section 3056(a) of title 18, United States Code, is amended by striking out in the fifth clause the phrase "and 871" and inserting in lieu thereof "871, and 879".

(c) The analysis for chapter 41 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"879. Threats against certain other United States Secret Service protectees.".

SEC. 4. (a) Section 3056 of title 18, United States Code, is amended—

(1) in the first clause of subsection (a) by amending such clause to read as follows: "Subject to the direction of the Secretary of the Treasury, the United States Secret Service, Treasury Department, is authorized to protect the person of the President of the United States, the members of the President's immediate family, the President-elect, the Vice President or other officer next in the order of succession to the Office of President, and the Vice President-elect, and the members of their immediate families unless the members decline such protection";

(2) in the second clause of subsection (a) by amending such clause to read as follows: "protect former Presidents during their lifetime, and the person of a former Vice President and the spouse or surviving spouse and children under sixteen years of age of a former President for a period of six months, unless such protection is declined and subject to the right of the Secretary of the Treasury to extend or reinstate protection for such persons after the six-month period if the Secretary deems such protection necessary";

(3) in the fourth clause of subsection (a) by amending such clause to read as follows: "detect and arrest any person committing any offense against the laws of the United States relating to coins, obligations, and securities of the United States and of foreign governments, including all laws applicable to offenses involving, or in any way relating to, the electronic transmission of transfer data for United States or foreign government funds";

(4) In the fifth clause of subsection (a) by amending such clause to read as follows: "detect and arrest any person violating sections 212, 213, 216, 285, 286, 287, 289, 371, 433, 493, 495, 508, 509, 641, 657, 709, 871, 878, 1001, 1002, 1003, 1006, 1007, 1011, 1013, 1014, 1907, and 1909 of this title and any offense against the laws of the United States relating to the counterfeiting or theft of marketable securities" and

(5) in the ninth clause of subsection (a) by amending such clause to read as follows: "pay expenses for unforeseen emergencies of a confidential nature under the direction of the Secretary of the Treasury and accounted for solely on the Secretary's certificate".

(6) The following new sentence is added as the second sentence in subsection (a) of section 3053 of title 18, United States Code: "Further, the United States Secret Service is authorized to conduct investigations of and make arrests for any fraud against the United States or any entity insured by an agency of the United States or entity insured by any Government corporation or Government controlled corporation, insofar as such fraud involves or relates to any electronic funds transfer."

(b) Any person whose protection would be terminated by the amendments made by subsection (a) shall continue to receive Secret Service protection for a period of six months from the date of the enactment of this Act.

SEC. 5. Section 102 of the Treasury Department Appropriations Act, 1970 (Public Law 91–74; 31 U.S.C. 1032) is amended to read as follows:

"SEC. 102. Under regulations prescribed by the Secretary of the Treasury, the Department of the Treasury is authorized to—

"(1) reimburse its agents working on protective missions, as provided by law, for subsistence expenses without regard to rates provided by section 5702 of title 5; and

"(2) reimburse its agents for subsistence expenses when working on protective missions, as provided by law, in a nontravel status on a twenty-four hour a day basis.".

SEC. 6. (a) Chapter 25 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 510. Forging endorsements on Treasury checks or bonds or securities in the United States

"(a) Whoever, with the intent to defraud—

"(1) falsely makes or forges any endorsement or signature on a Treasury check or bond or security of the United States; or

"(2) passes, utters, or publishes, or attempts to pass, utter, or publish, any Treasury check or bond or security of the United States bearing a falsely made or forged endorsement or signature shall be fined not more than $10,000 or imprisoned not more than 10 years, or both.

"(b) Whoever, with knowledge that such check or bond or security of the United States is stolen or bears a falsely made or forged endorsement or signature buys, sells, exchanges, receives, delivers, retains, or conceals any such check or bond or security of the United States that in fact is stolen or bears a forged or falsely made endorsement or signature shall be fined not more than $10,000 or imprisoned not more than 10 years, or both.

"(c) If the face value of the Treasury check or bond or security of the United States or the aggregate face value, if more than one Treasury check, bond, or security of the United States, does not exceed $500, in any of the above mentioned offenses, the penalty shall be a fine of not more than $1,000 or imprisonment for not more than 1 year, or both.".

(b) Subsection (a) of section 3056 of title 18, United States Code, is amended by inserting in the fifth clause the number "510," after "509,".

(c) The analysis for chapter 25 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"510. Forging endorsements on Treasury checks or bonds or securities of the United States.".

ADDITIONAL COSPONSORS

S. 441

At the request of Mr. NUNN, the Senator from Nebraska (Mr. EXON) was added as a cosponsor of S. 441, a bill to provide limited assistance by the Armed Services to civilian drug enforcement agencies.

S. 496

At the request of Mr. MELCHER, the Senator from New Mexico (Mr. SCHMITT) and the Senator from Oklahoma (Mr. BOREN) were added as cosponsors of S. 496, a bill to amend the Federal Mine Safety and Health Act of 1977.

S. 613

At the request of Mr. THURMOND, the Senator from Iowa (Mr. JEPSEN) was added as a cosponsor of S. 613, a bill to amend section 1951 of the United States Code, and for other purposes.

S. 732

At the request of Mr. NUNN, the Senator from Mississippi (Mr. STENNIS), and the Senator from Nebraska (Mr. EXON) were added as cosponsors of S. 732, a bill to insure the confidentiality of information filed by individual taxpayers with the Internal Revenue Service pursuant to the Internal Revenue Code and, at the same time, to insure the effective enforcement of Federal and State criminal laws and the effective administration of justice.

S. 814

At the request of Mr. NUNN, the Senator from Arizona (Mr. DECONCINI), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), and the Senator from Mississippi (Mr. STENNIS) were added as cosponsors of S. 814, a bill to improve the administration of criminal justice with respect to organized crime and the use of violence.

S. 966

At the request of Mr. SASSER, the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 966, a bill to amend chapter 13 of title 18 of the United States Code.

S. 1025

At the request of Mr. GRASSLEY, the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of S. 1025, a bill to provide for penalties for persons who obtain or attempt to obtain narcotics or other controlled substances from any pharmacist by terror, force, or violence, and for other purposes.

S. 1073

At the request of Mr. ARMSTRONG, the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of S. 1073, a bill to amend section 21 of the act of February 25, 1920, commonly known as the Mineral Leasing Act.

S. 1107

At the request of Mr. SIMPSON, the Senator from South Dakota (Mr. ABDNOR), the Senator from Arizona (Mr. GOLDWATER), the Senator from New Mexico (Mr. DOMENICI), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 1107, a bill to amend certain provisions of title 28, United States Code, re-

lating to venue in cases of a local or regional nature which involve the United States as a party.

S. 1120

At the request of Mr. KASTEN, the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of S. 1120, a bill to reduce the amount of funds available to an agency unless the agency has reduced waste, fraud, and abuse to the maximum extent feasible or demonstrates that no waste, fraud, or abuse exists in the administration of programs, and for other purposes.

S. 1131

At the request of Mr. DANFORTH, the Senator from Georgia (Mr. MATTINGLY) was added as a cosponsor of S. 1131, a bill to require the Federal Government to pay interest on overdue payments and to take early payment discounts only when payment is timely made, and for other purposes.

S. 1163

At the request of Mr. NUNN, the Senator from Arizona (Mr. DECONCINI), the Senator from Nebraska (Mr. EXON), the Senator from Mississippi (Mr. STENNIS), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), and the Senator from Texas (Mr. BENTSEN) were added as cosponsors of S. 1163, a bill to increase the penalties for violations of the Taft-Hartley Act, to prohibit persons, upon their convictions of certain crimes, from holding offices in or certain positions related to labor organizations and employee benefit plans, and to clarify certain responsibilities of the Department of Labor.

S. 1181

At the request of Mr. JEPSEN, the Senator from Georgia (Mr. MATTINGLY) was added as a cosponsor of S. 1181, a bill to amend titles 10 and 37, United States Code, to increase the pay and allowances and benefits of members of the uniformed services and certain dependents, and for other purposes.

S. 1215

At the request of Mr. PROXMIRE, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 1215, a bill to clarify the circumstances under which territorial provisions in licenses to distribute and sell trademarked malt beverage products are lawful under the antitrust laws.

S. 1245

At the request of Mr. HATCH, the Senator from New Hampshire (Mr. HUMPHREY) was withdrawn as a cosponsor of S. 1245, a bill to provide for the cession and conveyance to the States of federally owned unreserved, unappropriated lands, and to establish policy, methods, procedures, schedules, and criteria for such transfers.

S. 1272

At the request of Mr. CANNON, the Senator from Michigan (Mr. RIEGLE), the Senator from Montana (Mr. BAUCUS), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arizona (Mr. GOLDWATER) were added as cosponsors of S. 1272, a bill to modify certain airport and airway user taxes to provide appropriate funding for the Airport and Airway Trust Fund, and for other purposes.

S. 1279

At the request of Mr. DANFORTH, the Senator from Massachusetts (Mr. TSONGAS), the Senator from Wyoming (Mr. WALLOP), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Tennessee (Mr. SASSER) were added as cosponsors of S. 1279, a bill to amend the Internal Revenue Code of 1954 to exclude from gross income a certain amount of interest earned on the all-savers certificate offered only at savings institutions.

S. 1348

At the request of Mr. SASSER, the Senator from South Dakota (Mr. ABDNOR), and the Senator from Minnesota (Mr. DURENBERGER) were added as cosponsors of S. 1348, a bill to amend the Internal Revenue Code of 1954 to clarify certain requirements which apply to mortgage subsidy bonds.

S. 1365

At the request of Mr. DOLE, the Senator from Washington (Mr. GORTON) was added as a cosponsor of S. 1365, a bill to amend the Bankruptcy Act regarding farm produce storage facilities, and for other purposes.

SENATE JOINT RESOLUTION 59

At the request of Mr. ROBERT C. BYRD, the Senator from Illinois (Mr. DIXON) and the Senator from Georgia (Mr. NUNN) were added as cosponsors of Senate Joint Resolution 59, a joint resolution designating the square dance as the national folk dance of the United States.

SENATE JOINT RESOLUTION 64

At the request of Mr. SIMPSON, the Senator from New Mexico (Mr. DOMENICI), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Florida (Mrs. HAWKINS), the Senator from Virginia (Mr. WARNER), the Senator from New Jersey (Mr. WILLIAMS), the Senator from New York (Mr. MOYNIHAN), the Senator from Michigan (Mr. RIEGLE), the Senator from Michigan (Mr. LEVIN), the Senator from New Jersey (Mr. BRADLEY), and the Senator from Arizona (Mr. GOLDWATER) were added as cosponsors of Senate Joint Resolution 64, a joint resolution designating August 13, 1981, as "National Blind Veterans Recognition Day."

SENATE JOINT RESOLUTION 78

At the request of Mr. COCHRAN, the Senator from Colorado (Mr. ARMSTRONG) was added as a cosponsor of Senate Joint Resolution 78, joint resolution to provide for the designation of October 2, 1981, as "American Enterprise Day".

SENATE JOINT RESOLUTION 84

At the request of Mr. DECONCINI, the Senator from California (Mr. CRANSTON) was added as a cosponsor of Senate Joint Resolution 84, joint resolution to proclaim March 19, 1982, as "National Energy Education Day".

SENATE RESOLUTION 141

At the request of Mr. THURMOND, the Senator from Mississippi (Mr. COCHRAN), the Senator from Illinois (Mr. DIXON), the Senator from Hawaii (Mr. INOUYE), the Senator from Maine (Mr. MITCHELL), the Senator from Michigan (Mr. RIEGLE), the Senator from Tennessee (Mr. SASSER), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of Senate Resolution 141, resolution to express the sense of the Senate that combating violent crime should be a national priority.

SENATE RESOLUTION 144

At the request of Mr. PERCY, the Senator from Minnesota (Mr. BOSCHWITZ), and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of Senate Resolution 144, resolution to offer strong support for diplomatic efforts to resolve the current crisis in Lebanon, and to protect the right of Lebanese Christian and other communities to live in freedom and security.

SENATE RESOLUTION 150

At the request of Mr. QUAYLE, the Senator from North Carolina (Mr. EAST), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Florida (Mrs. HAWKINS), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of Senate Resolution 150, resolution to oppose efforts by the United Nations Educational, Scientific, and Cultural Organization to attempt to regulate news content and to formulate rules and regulations for the operation of the world press.

AMENDMENT NO. 69

At the request of Mr. HELMS, the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of amendment No. 69 proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 72

At the request of Mr. DURENBERGER, the Senator from South Dakota (Mr. PRESSLER), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Illinois (Mr. PERCY), and the Senator from Oregon (Mr. HATFIELD) were added as cosponsors of amendment No. 72 proposed to S. 1193, an original bill to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communications Agency, and the Board for International Broadcasting, and for other purposes.

AMENDMENTS SUBMITTED FOR PRINTING

DEPARTMENT OF JUSTICE AUTHORIZATION ACT

AMENDMENT NOS. 76–92

(Ordered to be printed and to lie on the table.)

Mr. BIDEN submitted 17 amendments intended to be proposed by him to the bill (S. 951) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 93

(Ordered to be printed and to lie on the table.)

Mr. DECONCINI (for himself and Mr. THURMOND) submitted an amendment intended to be proposed by them to the bill S. 951, supra.

AMENDMENT NO. 94

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS submitted an amendment intended to be proposed by him to amendment No. 69 to the bill S. 951, supra.

AMENDMENT NO. 95

(Ordered to be printed and to lie on the table.)

Mr. CHAFEE submitted an amendment intended to be proposed by him to amendment No. 69 to the bill S. 951, supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. LUGAR. Mr. President, I wish to announce that the Senate Agriculture Subcommittee on Agricultural Research and General Legislation has scheduled hearings on S. 1295 sponsored by Senator HEFLIN. S. 1295 would establish a Soybean Research Institute.

The hearing will be held on Friday, June 19 beginning at 10 a.m. in room 324 Russell Building.

Anyone wishing to testify should contact Denise Alexander of the Agriculture Committee staff at 224–0014.

ADDITIONAL STATEMENTS

ENVIRONMENTAL STUDY CONFERENCE NAME CHANGE

● Mr. LEAHY. Mr. President, I should like to announce to Congress that the Environmental Study Conference has a new name: The Environmental and Energy Study Conference.

The new name was approved by a 126-to-47 vote of the conference membership. A two-third's margin was required. The new name represents a long-overdue recognition of the conference's extensive work on energy issues and more fully reflects the full scope of its activities.

As Senate chairman of the conference, I point out that the new name will not change our priorities or goals. We will continue to provide Congress with the kind of legislative and constituent support it needs to deal knowledgeably and responsibly with the whole range of environmental health, energy, and natural resources issues, as well as related economic impacts.●

FRINGE BENEFIT TAXATION

● Mr. MATTINGLY. Mr. President, on May 31, 1981, the temporary moratorium prohibiting the Internal Revenue Service from issuing regulations regarding the taxation of fringe benefits expired. With the expiration of this moratorium, the opening of a so-called "can of worms" is conceivable. If an individual parked on a lot owned by an employer, the value of free parking could amount to taxable income. If an individual worked in a store and received an employee discount, that individual could conceivably pay income tax on the amount of the discount. An individual could be required to pay income tax on the amount of employer-paid civic organization dues, and the cost of the company picnic or Christmas party could be considered taxable income to participating employees.

In an effort to prevent the Internal Revenue Service from issuing regulations regarding the taxation of fringe benefits, I introduced S. 1154, legislation to extend permanently the expiring moratorium. In addition, Senator JEPSEN and I, along with 62 other Senators from both political parties, wrote Secretary of the Treasury Regan requesting that he halt the publication of such regulations, since the possibility is remote that the Congress would allow such regulations to take effect.

In response to this effort, Secretary Regan announced yesterday that "no regulations or rulings altering the tax treatment of fringe benefits will be issued by the Treasury prior to July 1, 1982." I was pleased by this announcement.

Although we have temporarily won the battle, the war is not over. Next year, we will again be confronted with the threat of regulations by the Internal Revenue Service in the area of fringe benefits. I think we all agree that if fringe benefits are to be taxed, they should be taxed by the Congress, which must answer to a constituency at election time. Unfortunately, the bureaucrats at the Internal Revenue Service have no constituency to answer to and, therefore, their actions are obviously less sensitive to the wishes and desires of the electorate.

I would like to take this opportunity to thank those Senators who have joined me in cosponsoring S. 1154, to permanently eliminate the threat of such regulations. To keep this problem from reoccurring, I solicit support from my colleagues who have not joined me in cosponsoring this bill. We must act now to put the issue of fringe benefit taxation to rest once and for all.●

IN MEMORY OF IRVING H. STEINHORN

● Mr. JACKSON. Mr. President, it was with deep sorrow that we on the Committee on Energy and Natural Resources learned of the death last Sunday of Irv Steinhorn. For 8 years Irv has been detailed to the committee from the Government Printing Office to assist in preparing and printing committee documents.

This was not a 9-to-5 job. The congressional schedule frequently required the committee documents staff to work late and to work weekends. Irv carried his share of the workload willingly. He was particularly proud of his service with the committee, and we, in turn, drew great pleasure from our association with him.

Irv was a gentle, unassuming man whose sense of humor showed on his face in great abundance in those moments when stories and anecdotes are shared among friends and coworkers. His battle with the illness that eventually claimed his life was a long and difficult one. He bore this burden without complaint and provided an example of great courage and stoicism to all who knew him. He was buried Tuesday in his hometown of Baltimore, Md., in a portion of land reserved for Jewish war veterans.

We loved Irv Steinhorn. Our thoughts are with his wife, Harriet, his children, Pauline, Alan, and Mark, and the rest of the family to which he was so devoted.●

FARM PRODUCE STORAGE FACILITIES

● Mr. JEPSEN. Mr. President, the Senator from Kansas has introduced S. 1365 which, as a bill to amend the Bankruptcy Act regarding farm produce storage facilities, the Senator from Iowa is cosponsoring along with his colleagues, Senator KASSEBAUM and Senator DANFORTH, S. 1365, as a revised version of S. 839, which the Senator from Iowa also cosponsored, is the result of much constructive criticism and suggestion from representatives of farm groups, State regulatory agencies, the U.S. Department of Agriculture, banking groups, the feed and grain dealers association, and other concerned groups and individuals. After careful consideration of the facts presented by these persons, more acceptable provisions have been incorporated into S. 1365.

The Senator from Kansas, in a commendable action, has introduced this bill, designed to benefit the farm producer whose crops are stored in a commodity warehouse which has filed a petition for bankruptcy. The bill the Senator from Kansas has introduced has clarified and corrected those parts of S. 839 which provided a cause for concern among members of the farming community. The Senator from Iowa is indeed honored to be a cosponsor of S. 1365 as an effort to alleviate a hardship being experienced by an increasing number of farm producers.●

VETERANS PROGRAMS EXTENSION AND IMPROVEMENT ACT OF 1981

● Mr. LEAHY. Mr. President, I would like to take a moment to urge my colleagues to support these two amendments to the Veterans Programs Extension and Improvement Act of 1981. The first will allow Vietnam veterans to continue to use their GI bill benefits for readjustment counseling for an additional 3 years. The second amendment will make Vietnam veterans eligible for health care benefits once the Administrator determines that there is credible evidence linking the veteran's disability to exposure to agent orange, other dioxins, or other specific toxic substances during his or her military service. I have cosponsored these amendments, and believe that they will make significant and positive changes in the VA's efforts to assist veterans of the Vietnam era.

The VA has been painfully slow in evaluating the health effects of exposure to agent orange. It recently awarded a contract to the University of California to

design a study of these effects, but it will still be a matter of many months before the study itself is finished and the results are known. Yet there is already substantial evidence that exposure to agent orange and other dangerous substances do have definite health effects, whether they be on domestic workers or veterans who fought in the Vietnam arena. This amendment gives the Administrator of the VA the ability to grant medical care benefits to veterans who may be suffering from these health effects.

I am pleased that the Veterans' Affairs Committee will be holding hearings on the whole issue of agent orange later this session. This will give Congress an opportunity to check on the progress of the VA and this study. There will be opportunities for public input at this time, and I will hope that Vietnam veterans, as groups or as individuals, will take the opportunity to comment.

I urge my colleagues to adopt the amendment to extend eligibility for readjustment counseling by 3 years. These centers have enjoyed tremendous success, despite their relatively short existence. The center in Williston, Vt., was one of the very first centers to be opened in the Nation. Since then the small staff has traveled probably thousands of miles on back roads and in hazardous winter conditions to talk with the many veterans all over the State. This extension will grant them the certainty that they can continue their efforts without fear of interruption, and will assure veterans that it will be worth their while to seek this counseling.

One of the major problems that have faced the 92 counseling centers in recent months has been this uncertainty—uncertainty over their future. As some of you may know, the VA has held back on providing the additional staffing that was provided by my proposal in the Appropriations Committee last year to increase funding for these centers by $6 million. I recently joined in a suit, along with a number of my colleagues, to force the VA to use these funds for the purpose for which they were intended. This action, in addition to the amendment, is evidence of the Congress strong support for the future of the readjustment counseling program and centers.●

IMPORTANCE OF CORN AND OUR FARMERS

● Mr. GRASSLEY. Mr. President, today I would like to speak about something which is the life-blood of my home State of Iowa—corn. For years Iowa has been one of the leading corn producing States in the Nation. Moreover, during the last 3 years, the corn production in Iowa has been the highest in the Nation, averaging over 1½ billion bushels of corn per year.

Last week, the Washington Post carried an excellent series of articles that underscore how extremely important corn and our farmers are to all Americans. These articles discussed the vast number of uses for corn that I am sure that many of us have come to take for granted. These uses range from food and feed to fuels for our energy future.

The effect of corn on our individual lives is matched only by its effect on the economy of the Nation. To quote from the series:

The USDA estimates that 20 percent of all the country's jobs are related to agriculture, which means that corn, as the principal crop, plays a vital role in turning over the dollar. "For every farmer, there is a machinery plant, a truck factory, a fertilizer and pesticide industry, a trading company, a researcher, a seed producer, a railroad, a barge line, an exporter, a miller, a slaughterhouse, a processor and packager of foods who depend on the farmer's success in the field.

Mr. President, everywhere we turn, we see in some way or another, the farmer's hand. This Nation was built by pioneers who farmed the fertile lands of the Midwest. That land, now farmed by their children and grandchildren, continues to pump life into our country.

Mr. President, soon the Senate will be debating the 1981 Omnibus Farm Bill. In light of this, I believe that the timing of this series could have been no more appropriate. Our farmers are the backbone of America, and it is essential that my colleagues recognize this fact during their consideration of this new farm legislation. Consequently, I ask unanimous consent that the first part of this series be inserted into the RECORD for the benefit of those who may have missed the articles.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MIDWEST'S YELLOW GOLD—U.S. FARMERS PUT THE CORN IN CORNUCOPIA

(By Ward Sinclair)

Fanciful the thought might seem, but America will not make it through the rest of this day without corn.

We have nothing else like corn. Not oil. Not gold or uranium. Not wheat or soybeans. Not our assembly lines or our high technology. Corn is our major foodstuff and our major agricultural export. It finds its way into thousands of common industrial products.

Unknown to most Americans, corn has insinuated itself so thoroughly into food and industrial processes that we would be hard put to go on without it.

Across the Nation, but principally in the rich black earth of the Midwest, the seeds are growing on millions of acres, soon to become a bounteous harvest that is the American equivalent of the petroleum wealth of the Persian Gulf. Not even that is adequate description.

This is not the sweet corn that we eat off the cob, creamed or in kernels. It is field corn: dent corn to the farmer, *zea mays* to the botanist, maize to the storybook Indian. It is far more than a staple of the American diet, converted as it is to meat, milk, eggs, meal, starch and sweeteners.

Corn has become a great industrial generator, providing the basic ingredient of innumerable products and stimulating invention and ingenuity in the research laboratories. Beyond that, it will go abroad, bringing $7 billion or more in return, money that helps pay for the oil, the autos, the stereos and other geegaws we cherish.

Other crops—wheat, for example—may be more prestigious. But corn is quintessentially American, an extraordinary grain tracked through our history by romance and legend. Every schoolchild knows how the Spaniard found maize in the New World, how the pre-Columbian natives deified it, how the American pioneer thrived on it. We traded on corn, lived off it, boozed with it, embellished our language with it.

But that glorified past doesn't begin to reflect the bread-and-butter side of the humble kernel of corn. A more revealing way to look at corn is to parse its place in daily living.

You wake up on sheets of cotton, wearing pajamas of flannel, both woven with corn starch for sizing. You turn on the transistor radio—the dry cell batteries contain corn starch. You put on shoes with leather tanned from the lactic acid of corn. Out of bed, you bump the door and the wall. The plywood and the wallboard contain corn starch. Your bath powder contains corn, your cosmetics, a corn ingredient.

Breakfast begins with corn flakes. The milk came from a cow fed with corn; the eggs, fried in corn oil, from a chicken who got her energy from corn. The pig that became the sausage and bacon grew up on corn. The English muffin is rolled in corn meal. You spread it with margarine, made from pure corn oil, or butter from that corn-fed cow, then smear it with corn-sweetened jelly.

Your car may be driven by gasohol, made from corn distilled to alcohol. Your midmorning soft drink is sweetened with a powerful corn syrup, colored by a caramel from the corn, and carbonated by the carbon dioxide from the corn distilling process. The penicillin you're taking for that infection is made possible by another corn distillery byproduct.

Lunch is a hamburger, from a corn-fed steer. The bun has a wheat base, but it contains corn syrup. The paper wrapping was produced with a corn starch. The potato chips were fried in corn oil. Dessert is pie ala mode, with a filling thickened with corn starch and an ice cream topping made with the corn-fed cow's milk. Both the filling and the ice cream are sweetened with corn syrup.

At midafternoon, you mail a birthday card to mother. The card was treated with a corn derivative to hold the ink, the stamp and the envelope have a glue made from corn.

For dinner, you don a clean shirt or dress, gently stiffened with corn starch. The cocktail began in a cornfield—the bourbon is distilled from corn mash, and the mix that made it a whiskey sour is sweetened with corn sugar and blended with a dextrin from the corn.

You dine on ham (from the corn-fed hog), sweet potatoes (candied with corn syrup), sweet corn, cornbread (from cornmeal and salad doused with dressing that flows easier because of a gum extracted from corn. The beer and wine contain corn ingredients. Dessert turns out to be an imitation tapioca, made from corn starch, sweetened with corn syrup, blended with milk and eggs.

Impressive as this inventory might be, it only begins to describe the place of field corn in the American economy.

U.S. Department of Agriculture economists calculate that last year's drought-stricken harvest from 73 million acres was about 6.6 billion bushels of corn. It will be used in two principal ways: 4.1 billion bushels fed to livestock; 2.5 billion to be exported.

About 750 million bushels will be used for human food and for seed and industrial purposes. That corn is available from the reserve of around 1.6 billion bushels left over from the record 1979 crop and a tiny flow of imports.

These numbers keep changing, but the wet-milling industry that makes starch, sweeteners, alcohol and animal feed will use about two-thirds of the 750 million bushels. The rest will go to ethyl alcohol (for gasohol), for seed, for flour, meal, grits, flakes; for pet foods, beer and distilled spirits.

The largest overall use of corn, obviously, is for food. The American farmer markets his corn through the meat, eggs and milk he produces. That is, admittedly, not the most efficient use of the grain, for experts say it

takes roughly eight times more corn to produce food this way than the average American might need by eating the grain directly.

But the abundance of corn and the farmer's steadily rising productivity, made possible by hybrid seed development and more sophisticated farming techniques, have mooted questions of best-use for the time being.

The center of this prodigious harvest is the Corn Belt, composed of six midwestern states, Iowa, Illinois, Minnesota, Nebraska, Indiana and Ohio, which last year grew about 4.8 billion bushels, or roughly 72 percent of all the nation's corn. Iowa, with 1.46 billion bushels, and Illinois, with 1.06 billion, were far and away the leaders, together outproducing all other major corn-growing countries in the world.

Once that grain leaves the farm, an impressive ripple effect begins, spilling all across the American economy in ways seldom perceived. The USDA estimates that 20 percent of all the country's jobs are related to agriculture, which means that corn, as the principal crop, plays a vital role in turning over the dollar.

For every farmer, there is a machinery plant, a truck factory, a fertilizer and pesticide industry, a trading company, a researcher, a seed producer, a railroad, a barge line, an exporter, a miller, a slaughterhouse, a processor and packager of foods who depend on the farmer's success in the field.

There is no reliable dollar figure to quantify the place of corn in that panorama of commerce and industry, but suffice to call it in the multibillions.

Without wanting to appear too melodramatic about his place in this scheme of things, William (Bill) Fugate, an Illinois farmer who grows corn to feed his hogs, put it this way: "If the farmer doesn't have money to buy a combine or a car, somebody else cannot assemble it. Agriculture really is the backbone of our economy . . . Everybody wants to eat."

Yet while Americans continue the high-protein diet that Fugate and his corn help make possible, and which other nations try to emulate by buying U.S. grains in massive amounts, a quest goes on for a better, higher-yielding corn and more ways to use it.

Just as the corn spreads its wealth through the economy, it generates scientific inquiry and stimulates ingenuity that leads industrial processors into wondrous flights of technological fancy. Each new process leads to two more, and the future possibilities seem infinite.

The Archer-Daniels-Midland Co. at Decatur, Ill., for instance, the country's major producer of alcohol from corn, has found a way to utilize the heat and excess carbon dioxide from its corn-refining operations.

The carbon dioxide from its alcohol fermentation is captured, processed and sold—200 tons of it a day—for the fizz in soft drinks, for fire extinguishers, for fast-freezing of food. Waste heat is channeled into two half-acre experimental greenhouses, where garden vegetables are grown hydroponically and sold in local supermarkets. ADM foresees huge potential for commercial hydroponics, using the waste heat and carbon dioxide to stimulate plant growth.

Not far away, at the USDA's Northern Regional Research Center at Peoria, scientists have made formidable discoveries by probing deeper into the potential of corn.

The Peoria researchers discovered xanthan gum in the corn, which is now used widely in processed foods and by dozens of industries to make paint pigments, ceramic glazes, insecticides and herbicides, cosmetics and fire retardants. They found a way to convert corncobs into low-grade methane gas for drying grains, a major expense for farmers using petroleum products.

But the basic corn component they are exploring is the starch, which USDA scientists like Dr. William M. Doane say one day could help pry America away from its dependence on petroleum. "We think we have just scratched the surface of new technologies with starch," Doane said.

The array is impressive already: urethane plastics, for example, as well as a biodegradable plastic film for packaging that replaces plastics derived from petroleum, and a product called Super Slurper, a dust that can absorb 2,000 times its weight in water.

The implications of Super Slurper, now marketed in body powder, adult diapers, seed coatings to induce germination and as a moisture-holder for household and large-scale agricultural plants, are enormous. For example, a typical Corn Belt farmer plants 25,000 costly hybrid corn seeds to get roughly 18,000 seedlings. Treated with the moisture-attracting dust, that same planting may produce 24,000 seedlings, Doane said, boosting yield and cutting production costs.

"It creates a water reservoir," Doane explained, "and it draws water to the seed. It could aid crops in dry areas and it has potential for truck gardens and transplanting. But this is just one product. We have not yet really tapped the potential of starch."

Peoria scientists now are looking at the natural polymers in corn starch as a replacement for the synthetic polymers that come from petroleum.

"We use 1 million barrels of oil or their natural gas equivalent per day to make synthetics," Doane said, "Starch can replace some of that. We grow a lot more starch than what we need for food or animal feed. Less than 2 percent of the U.S. corn crop goes into starch: 2 billion to alcohol and half-a-billion into textiles. . . .

"Technologically, from plant materials we could make all the products we now make from petroleum. The cost still is not feasible, but we continue to search. . . ."

Which is a long way from the traditional notion of corn as a mainstay of the American pantry. But then, maybe it isn't at all.●

HERITAGE CONSERVATION AND RECREATION SERVICE

● Mr. LEAHY. Mr. President, my State of Vermont has been a leader in the historic preservation movement, and my fellow Vermonters have long appreciated the importance of retaining links to our past. As a member of the Appropriations Subcommittee that oversees the Department of the Interior, I have had a strong interest in the historic preservation program, which until recently was part of the larger Heritage Conservation and Recreation Service (HCRS). I say until recently, because HCRS has been abolished by the Secretary of the Interior. These activities have been transferred to the Park Service, where they had been located until 1977.

The historic preservation programs of the Federal Government were greatly strengthened at HCRS and brought under effective management. HCRS has played a significant role in preservation during the last 4 years, and I would like to include in the RECORD a list of its most important accomplishments. Among its most noteworthy achievements, HCRS computerized the National Register of Historic Places, accelerated the recording of projects for the Historic American Building Survey and the Historic American Engineering Record. HCRS also approved and certified over 1,300 Tax Act rehabilitation projects that have an investment of over $750 million.

I hope that the Park Service will support and further strengthen these historic preservation efforts. I ask unanimous consent that the list be included at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Excerpted from HCRS Accomplishment Report, 1977–1980]

CULTURAL PROGRAMS

A. NATIONAL REGISTER OF HISTORIC PLACES

1. Registration, Determinations of Eligibility, Certifications of Significance.

Streamlined the nomination, determination of eligibility, and certification of significance processes to more efficiently review all submissions. The program operations branch of the National Register was created to bring together technical support systems including computerization, word processing, control, correspondence, and microfilming.

Published standards and guidance for states, federal agencies, and others identifying and evaluating historic properties in six "How To" publications and six "National Register Standards and Guidelines" publications.

Listed approximately 7,000 nominations in the National Register from 1977 to 1980. Approximately 23,000 listings are now in the Register.

Reviewed approximately 6,000 requests for determinations of eligibility.

Implemented new property owner notification regulations for nominations.

Published proposed regulations to establish an appeals process for nominations.

Published proposed revisions to the determination of eligibility rules.

Worked with the Advisory Council on Historic Preservation to create an expedited review process for a major interstate pipeline project.

Began computerization of the National Register. Opened a center for the public to have direct access to this information.

National historic landmarks (NHL) program

Designated 57 NHLs in 1978 and 6 in 1980. There are now 1,555 NHLs.

Announced a recreation theme study for potential NHLs, and identified 26 properties with this potential.

NHL Task Force, created in 1979 to review all facets of the program, completed its work and made recommendations to the director. Interim regulations were published for the NHL program.

Published a preliminary inventory of sites to be considered for nomination to the World Heritage List.

B. STATE PLANS AND GRANTS

Refined state Historic Preservation Fund (HPF) grant application instructions to reduce paperwork by 54 percent.

Apportioned $13.9 million to states and $2.5 million to the National Trust for Historic Preservation in FY 1977, $36.7 million to states and $4.8 million to the National Trust in FY 1978, $47.1 million to states and $5.4 million to the National Trust in FY 1979, and $47 million to states and $5.2 million to the National Trust in FY 1980. During this four-year period all funds were obligated, 230 survey and planning projects were funded, and 3,300 acquisition and development projects were funded.

Implemented the Resource Protection Planning Process in the HPF program.

C. TECHNICAL PRESERVATION SERVICES

Reviewed, evaluated, and awarded to 37 states an "Expanded Participation" option

under the HPF to allow states to review proposed project work for conformance with standards. Cut HCRS review time to an average of two days in contrast to two weeks formerly needed to review applications including plans and specifications.

Implemented a new program authorized by Congress for the purpose of certifying rehabilitation projects in order to qualify property owners of historic buildings for tax incentives provided by the Tax Reform Act of 1976 and the Revenue Act of 1978.

Developed standards and guidelines that define allowable and unallowable treatments, and appropriate and inappropriate methods of applying those treatments, to National Register properties and certified historic structures.

Published "The Secretary of the Interior's Standards for Historic Preservation Projects" in the Federal Register of December 7, 1978.

Developed 10 preservation case studies in a new series for HPF and Tax Act projects. Approximately 8,000 case studies have been distributed to states, developers, trade associations, and lenders.

Administered, cooperatively with the states and the National Trust for Historic Preservation, the $5 million Maritime Heritage Grants Program of matching grants for the preservation and restoration of all types of ships and other watercraft, shoreline facilities, underwater archeology, and educational programs.

Administered the Secretary of the Interior's $2 million FY 1979–80 Historic Preservation Discretionary Fund Grant Program to preserve neighborhoods historically associated with minorities, native Americans, and ethnic populations. Also administered a $1,005,000 Challenge Grant program from the secretary's discretionary fund to support 10 innovative historic preservation projects which will benefit minority groups and the handicapped, and facilitate energy conservation in historic structures.

Prepared the portion of the annual Section 8 report (General Authorities Act of 1976) which lists national historic landmarks exhibiting known or anticipated damage or threats to their integrity.

Established a monitoring system cooperatively with regional offices to observe the condition of national historic landmarks which may develop signs of damage or threat.

Approved and certified over 1,300 Tax Act rehabilitation projects in 48 states that have an investment of over $750 million.

Developed a bulletin publication series "Interpreting the Secretary's Standards for Historic Preservation Projects" to explain preservation/rehabilitation decisions to state historic preservation offices.

Completed a study to evaluate and assess aspects of the 1976 Tax Reform Act preservation provisions, examining factors that influence the choice between preservation and new construction and assessing the effectiveness of tax incentives versus cash grant subsidies for historic preservation.

Completed the first phase of a long-term interagency project with the General Services Administration, the National Park Service, and the Environmental Protection Agency to monitor and evaluate damages to historic brick and stone buildings caused by air-borne pollutants and irresponsible human intervention.

Published a variety of materials in preservation technology and provided advice and assistance to a number of federal agencies.

D. NATIONAL ARCHITECTURAL AND ENGINEERING RECORD (NAER)

Implemented a backlog project to streamline procedures and realign personnel. Prior to 1979, NAER sent records to the Library of Congress at a rate of less than 75 structures a year. During FY 1980, NAER sent documentary records on 850 structures and inventories on another 200. The savings effected by the new procedures are over $25,000, including one work-year and $5,000 in supplies and reproduction costs. The NAER collection in the Library of Congress is one of the new national collections of its kind to be so readily and inexpensively accessible to the public.

Fielded 73 teams that have produced for local communities and other federal agencies documentary records on approximately 1,100 structures. Most of these records have immediate practical applications for planning, adoptive reuse, rehabilitation, and maintenance studies. The presence of a NAER team in a local community usually generates enough public interest in preservation to effect planning changes. Field team projects have provided on-the-job training for hundreds of students.

Helped federal agencies comply with their responsibilities under Section 2(c) of Executive Order 11593 by inventorying and recording cultural resources that will be adversely affected by federal projects; reviewing documentation produced by others in compliance with E.O. 11593; and advising private firms and state, local, and federal agencies who are developing NAER documentation in compliance with E.O. 11593. Records on 539 structures have been accepted.

Promoted programs to document historic resources associated with minority history, including projects in the Sweet Auburn Historic District in Atlanta, Georgia; the Victorian District in Savannah, Georgia; the town of Locke, California; the Barrio Historic District in Tucson, Arizona; and El Camino de Las Missiones in El Paso, Texas.

Initiated a project with funding from the Department of Housing and Urban Development to study energy-conscious design features in historic structures and publish a pamphlet to help homeowners make the best use of those features.

Developed a community rehabilitation action program in response to the President's Urban Policy challenge. From 1978 to 1980 NAER teams worked in 12 cities, including Claremont, New Hampshire; Danville, Virginia; Sault Ste. Marie, Michigan; Philadelphia, Pennsylvania; Lockport, Illinois; Butte, Montana; Seattle and Tacoma, Washington; Mauch Chunk, Pennsylvania; Laguna, New Mexico; Guthrie, Oklahoma; and Virginia City, Nevada.

Sponsored three historic bridge preservation symposiums attended by over 300 engineers, historians, and preservationists.

Documented during the past 3 years with photographs, measured architectural drawings, and historical monographs approximately 300 sites and structures with historic significance. This figure includes projects recorded in accordance with Executive Order 11593 provisions. Recording projects were done in 25 states. The sites and structures represent a variety of resources in historic archaeology and preservation. Documentation of these sites represents approximately 55,000 pieces of infomation available to the public through the NAER archives in the Library of Congress Prints and Photographs Division.

E. INTERAGENCY ARCHEOLOGICAL SERVICES (IAS)

Administered over 200 survey and data recovery contracts totaling over $7 million.

Developed methods, standards, and reporting requirements for data recovery.

Developed a nationwide program to compile information about archeological reports prepared in connection with federal projects. Over 3,000 documents have been reviewed, and the information is available through the National Technical Information Service.

Published a variety of reports and handbooks to assist in meaningful archeological research.

F. PRESERVATION POLICY

Drafted a manual to help local decisionmakers compare historic preservation with other development alternatives.

Participated coordinated HCRS's involvement in an interagency and private sector small town revitalization initiative. The National Main Street Center, coordinated by the National Trust for Historic Preservation.

Reviewed, evaluated, and revised the National Register and NHL criteria for evaluation.

GENERAL

At the end of the Carter Administration these historic preservation programs had been fully located in the 8 regional offices of HCRS. In most regions, processing time for grants applications and Tax Act certifications had been substantially shortened. A variety of joint projects with natural preservation and recreation were underway, thus achieving the pogram efficiencies obtainable only through a fully reorganized operation.●

LAW OF THE SEA

● Mr. PELL. Mr. President, we are all well aware that the Reagan administration is currently undertaking a comprehensive review of the draft convention of the Law of the Sea Treaty. The intention to undertake such a review was announced by Secretary Haig on March 3, just prior to the opening of the 10th session of the Third Law of the Sea Conference in New York. It is certainly fitting and proper that any new administration undertake such a review.

As one who has long been an advocate of establishing an international regime to govern the world's ocean space, I know that if this goal is to be achieved, there must be a resolution of many complex issues, and this takes time. My own efforts in the Senate to bring such a regime to fruition date back to 1967. At that time, I introduced Senate Resolution 172, which called for the negotiation of a comprehensive multilateral treaty governing all of the military and nonmilitary uses of ocean space. Once again, in 1969, I introduced another Senate resolution, Senate Resolution 33, which not only called for the negotiation of a comprehensive treaty but also contained a draft Law of the Sea Treaty. I was partially rewarded for my efforts in 1972, when the U.S. Senate gave its advice and consent to ratification of the Seabed Arms Control Treaty—a treaty to prohibit the emplacement of nuclear weapons and other weapons of mass destruction on or below the seabed floor.

As you can see, Mr. President, given the long history of this issue, we need not despair over a few months delay in the negotiations so that the United States can complete its study of the treaty—it need not irreparably damage the prospects for a comprehensive LOS treaty. However, I do think that this administration must be careful not to delay too long, lest hard-won gains, achieved during 8 years of negotiations, during the course of three different administrations, may be lost. In this regard, let me call to the attention of my colleagues a very persuasive editorial entitled "Reagan and the Sea Treaty," which appeared in the Boston Globe on June 15, 1981.

I ask that the article be printed in the RECORD.

The article follows:

REAGAN AND THE SEA TREATY

President Reagan's Administration has a chance to correct a bad impression made last March when it sidetracked negotiations in the multiyear Law of the Sea conference. It should work toward vigorous participation when the conference reconvenes in August.

The President's advisers seem to believe that it is better to risk the danger of having no treaty at all than to move ahead on the 320-article draft version that has been developing so tediously over the past eight years. The treaty covers a host of issues in addition to the mining of minerals, but it is this single question that evidently captures the greatest amount of Administration attention.

The draft treaty stipulates that minerals found on the floor of the sea are the property of all nations, in effect, and that their mining requires the international licensing of anyone who wishes to do so, with licensing fees, environmental controls, limits on the volume of production and royalty payments into an international fund for distribution to all nations, including those with no seashores. The treaty moreover requires that mining companies share their technology with other nations to expedite their access to such minerals.

There is room for argument about the content of the treaty and such argument can be conducted after the treaty is completed in its preliminary form.

The problem with delay, and with even the appearance of abandoning its provisions, is multifold. From the point of view of those potential American deep sea miners, the absence of an agreement could jeopardize their ability to obtain financing. The danger for them is that other countries might challenge their right to mine the seabeds. It is entirely possible, in the absence of a treaty, that coastal nations might attempt to assert sovereignty over the ocean bottoms off their coasts all the way out to wherever. During the period of disputes over the 200-mile limits, even such smaller countries as Peru were able to make life very difficult for fishing vessels from countries that did not accept such a claim. Now, of course, it is a matter of standard acceptance, but a new round of conflicts over the sea bottom could be messy.

The treaty also deals with the ticklish problem of assertions of sovereignty that might have the effect of closing vital straits—notably Malacca between Malaysia and Sumatra, Hormuz in the Persian Gulf and others in various archipelagoes around the world. Failure to complete work on the treaty could reawaken the temptation among strategically located nations along such straits to turn them into modern versions of the Rhine River, where once tribute had to be paid by all who passed the castles that still line its shores.

Finally, the principle of internationality contained in the treaty is one that the United States has long embraced in other contexts, sometimes against the strong claims of others. The most important case is Antarctica, where the principle is vital to our continued access to the entire continent for scientific and logistifcal reasons. That continent, which remains unmilitarized and is the site of many national efforts, might be subject to more stringent claims if the U.S. appears to renounce the principle in the case of the seabed.

The Administration may have been reasonable in asking for a pause to get its bearing on the Law of the Sea treaty. It will undercut its own objectives, especially those of encouraging economic development in a rational manner, if it insists on a total review of all the issues that have been largely resolved already by previous Republican and Democratic administrations alike.●

ANTICRIME PROPOSALS OF THE DEMOCRATIC CONFERENCE

● Mr. KENNEDY. Mr. President, the far-reaching proposals adopted today by the Senate Democratic Conference represent a major step forward in the national effort to deal with one of the most urgent domestic challenges facing our society—the problem of violent crime.

I am also pleased that many of the most important initiatives in this package are proposals we have developed on a bipartisan basis in recent years in the Senate Judiciary Committee, including a number of measures in the criminal code reform bill approved by the committee in the past. Of special significance are the following proposals:

First and most important, a comprehensive reform of the unsatisfactory two-century-old system of money bail. Henceforth, under the two key parts of this proposal, money bail will be strictly limited to ability to pay, and persons accused of crime will be detained in prison awaiting trial only if they are a danger to the community or likely to flee before their trial.

This proposal meets the basic goals of law enforcement. It is consistent with the basic standards of fairness and civil liberties. It will end the unacceptable age-old abuses of money bail, by requiring a candid and open judicial assessment of the need for pretrial incarceration of persons accused of crime.

No longer will truly dangerous defendants be released on money bail to kill or rob again. No longer will defendants who pose no danger to the community or risk of flight be unfairly sent to jail because they cannot afford to pay the cost of bail. This proposal has the potential to become a historic landmark in the war on crime and in our ongoing effort to fulfill the great goal of equal justice under law.

Second, a complete overhaul of current unworkable and open-ended sentencing procedures, including the abolition of parole; the adoption of a comprehensive system of guidelines requiring fixed sentences within a narrow range for specific crimes; appellate review of sentences; and mandatory prison terms for those who commit gun crimes.

Third, treatment of certain violent youth offenders as adults, including prison terms for those convicted of violent crimes.

Fourth, a thorough revision and retargeting of the Federal law enforcement assistance program to concentrate available Federal resources on areas of special need and programs of proven effectiveness, such as street crime, career criminals, violent youth offenders, and the festering epidemic of crime from drug addiction.

Crime in American society is not a new problem. But its seemingly unchecked growth has become more and more a source of fear and alarm for all our people.

One out of three households in the United States was touched by crime last year. Some experts claim that over a 5-year period, virtually every household in the country will be victimized.

It is bad enough that we are suffering from double-digit inflation and double-digit interest rates in our economy. It is even worse that we also suffer from double-digit increases in the rate of crime.

National security begins at home. It will do no good to arm America to the teeth against enemies abroad, while losing the war at home against enemies within.

Talking tough is not enough. Trading in our civil liberties is wrong—and we know it will not work. There is no refuge in easy rhetoric. We need solutions—and the solutions will not come carrying convenient philosophical labels, liberal or conservative.

Nor is this a partisan effort. I am proud of the bipartisan consensus we have achieved on crime in the Senate Judiciary Committee. I also commend the efforts of Senator BYRD, Senator BIDEN, Senator NUNN, and the other Senate Democrats who have worked hard to reach today's agreement, and I look forward to working closely with Senators of both parties in the days and weeks to come to enact effective legislation to deal with crime.

The public is increasingly apprehensive and angry. The lost opportunities of the 1970's have given way to the real possibilities of a new decade and a new administration.

Let us make no irresponsible promises. But we now have a reasonable chance of making real progress in the difficult but winnable war against crime in our society.●

VIEWS OF SENATOR SIMPSON ON IMMIGRATION

● Mr. EAST. Mr. President, our immigration policy is in disarray. Illegal immigrants flood into the country almost at will.

Immediate attention to this problem is needed. I commend my distinguished colleague, the chairman of the Subcommittee on Immigration and Refugee Policy of the Senate Judiciary Committee, for his leadership in speaking out in behalf of immigration reform. I ask that Senator SIMPSON'S thought-provoking letter to the editor of the Christian Science Monitor, published June 16, 1981, be printed in the RECORD.

The letter follows:

SOCIAL LIMITS ON IMMIGRATION

In an article of May 7 ["Why immigration won't be restricted"] Roger Fillion set out some valid and interesting obstacles which must be addressed if we are to effect a speedy resolution of this country's chaotic immigration problems. Yet, I must indeed disagree with his conclusion that US policy makers and the American people will simply bog down in the face of these challenges. Our failure to overcome these obstacles would mean the continuation of this nation's half-hearted immigration policies and the continued open and flagrant violation of our immigration laws.

Mr. Fillion's use of the term "restrictionist" throughout his commentary would seem to imply that our immigration reform is limited to one of two extremes—either virtually

closing our doors to immigration, or embracing some kind of "open door" policy. Legal immigration has been, and is, beneficial to our country, but I am firmly convinced that we can no longer absorb all of the people in the world who would wish to come here. Further, I believe that the social limits on immigration will be realized much sooner than the economic limits as is illustrated by the social problems directly related to immigration we have recently seen in South Florida, California and Texas.

We now accept more legal immigrants than the rest of the world combined, and, in addition, more people enter our country illegally than legally. This large illegal influx is estimated at 800,000 a year and it has resulted in some 3.5 to 6 million persons being present illegally in the country. These illegal aliens constitute a fugitive and fearful underclass in our society. The abuse and exploitation to which they are subjected has been well documented and is a serious national disgrace. We must have immigration reform or we shall be overwhelmed by sheer numbers.

In my view there is and will be substantial and continuing pressure from two important groups. The first is from the American people who have indicated repeatedly that they want immigration brought under control and to see a reduction in the numbers of people coming to this country. The second is from the House and Senate subcommittees dealing with immigration and refugee policy whose members believe strongly that the law needs to be reformed in the interest of the American people and their descendants.

The probability that reform legislation will be successfully enacted is greatly enhanced by the excellent working relationship between the two subcommittees—one chaired by a Democrat in the House and the other by a Republican in the Senate. This relationship and the seriousness of the subcommittees' determination to develop legislation which is substantively sound and politically realistic was shown in early May by the holding of a series of joint hearings on the Final Report of the Select Commission on Immigration and Refugee Policy. Such joint hearings are extremely rare, the last being some 30 years ago.

I believe that the most solid foundation of immigration reform rests on a "three-legged stool" comprised of (1) increased enforcement of our immigration laws at our borders and internally throughout the United States; (2) employer sanctions against those who have a persistent pattern and practice of exploiting this vulnerable underclass of society; and (3) a more secure form of worker identification. An improved counterfeit-resistant social security card has been suggested, or a card which would not have to be carried or presented except at the time of seeking employment. If a card were to be used it might simply state, "I am authorized to work and be employed in the United States of America." To these three cardinal parts of the program should be added the element of a legalization program for those illegal immigrants who have resided in the U.S. for a certain, yet to be determined, period of time; a redrafting of our immigrant preference system based on our national interest; a streamlining of our H-2 program for temporary workers; and a revitalization of the efficiency, professionalism and "esprit de corps" of our Immigration and Naturalization Service.

And of those persons who sincerely object to these proposals, I have only to ask again that they come forward with any alternate proposals to bring immigration under control. To Mr. Fillion I would make that same earnest request. What we need now are not seers or prophets, but rather committed politicians ready to prescribe the best way to bring illegal alien entry into this country under control in order that we might continue legal immigration into this country in a manner which will benefit both those who come to our shores and boundaries and those 230 million Americans who are already here.

WASHINGTON.

ALAN K. SIMPSON,
U.S. Senator.●

DISMEMBERING CONRAIL

● Mr. BIDEN. Mr. President, the Senate soon will have before it the administration's Conrail legislation, as amended by the Commerce, Science, and Transportation Committee. This bill, S. 1100, was introduced at the administration's request on May 4. A week later, without the benefit of a hearing as requested by the committee's Democratic members, S. 1100 was approved by the committee. The vote was 10 to 5.

Early last week, additional changes to the President's original legislation were announced by the distinguished chairman of the Commerce Committee, Senator PACKWOOD. These changes, worked out by Secretary of Transportation Drew Lewis, Senator PACKWOOD, Surface Transportation Subcommittee Chairman JOHN DANFORTH, and Senator HOWARD CANNON specify in greater detail the conditions and timing of how Conrail shall be sold. While this so-called compromise is an improvement on President Reagan's initial legislation, it still provides for Conrail's dissolution—even if Conrail is operating profitably. As a result, I cannot support S. 1100 as it is currently drafted.

Unfortunately, it appears likely that the Senate will not be given an opportunity to debate and get a separate vote on S. 1100. The Commerce Committee has chosen to include this 84-page bill in its budget reconciliation package. While some amendments might still be possible, many are likely to be ruled out of order under the restricted rules of procedure governing debate on the reconciliation bill. I find this attempt to eliminate debate on the President's Conrail termination bill regrettable. Unfortunately, as a Member of the Senate minority, there is little I can do to block this action.

Yesterday, the Commerce Committee finally held a hearing on S. 1100. Testimony was received from representatives of all concerned with Conrail and the transportation services it provides. Of all those who testified, the comments of Stephen Berger, Chairman of the U.S. Railway Association, most objectively described the impact this legislation is likely to have. Analyzing the bill's current language, Mr. Berger testified:

However, the Department of Transportation is recommending a process leading to the dismemberment and sale of Conrail lines. This recommendation is now embodied in the "compromise" bill now being considered by this committee, S. 1100. In my view, the Department's proposal as reflected in S. 1100 is a very high risk option that may lead to less rail service in the Northeast without saving any Federal expenditures. Specifically, S. 1100 would authorize the Secretary of Transportation to dismember Conrail at his own discretion after a brief waiting period, regardless of whether the railroad can become viable. This plan for automatic dismemberment of the Northeast rail system would create the "fire sale" atmosphere with its attendant economic uncertainties for the region that all of us were hoping to avoid. Moreover, there is great doubt that the scenario currently envisioned in S. 1100, namely an inexpensive transfer of the Conrail system to private sector operation, could ever be realized under the plan contained in the bill.

I share Mr. Berger's concern and concur with his analysis. Conrail should be given the opportunity to become profitable. Actions like the joint labor-management $239 million wage deferral agreement announced last month demonstrate it is possible. We should not predetermine Conrail's fate as I am afraid the administration's bill does. Conrail is simply too important to the country. I had hoped to see legislation enacted along the lines recommended by Mr. Berger. I urge my colleagues to read his entire statement. I ask that Mr. Stephen Berger's testimony before the Senate Commerce, Science, and Transportation Committee on June 17, 1981, be printed in the RECORD.

The testimony follows:

STATEMENT OF STEPHEN BERGER, CHAIRMAN, UNITED STATES RAILWAY ASSOCIATION

Mr. Chairman and Members of the Committee: I appreciate the opportunity to appear before you today to discuss options for Conrail. The principal choice facing Congress today is between two major courses of action. One is to make the changes necessary for Conrail to succeed, while preserving maximum flexibility for future action depending on the railroad's performance. The other is to adopt S. 1100, which, as current drafted, limits the options available for the future by predetermining Conrail's fate and dictating its ultimate dissolution.

Whatever course of action is decided upon will be vitally important to the Nation as a whole and particularly to the Northeast quadrant. The importance of the Northeast to the national economy is amply demonstrated by the fact that the region accounts for more than 45 percent of the personal income of the United States, 50 percent of the manufacturing employment, and 43 percent of the nonmanufacturing employment. At the same time, however, the Northeast's share of these is declining compared to the rest of the country. Indeed, all of us are aware of the problems facing the region.

It is therefore all the more necessary that we keep in mind the importance of Conrail as the Northeast's major rail system. In the Northeast's weakened economic condition, failing to ensure the continued orderly operation of that rail system could have a detrimental effect on large segments of the business community. Shippers would perceive a threat to the basic transportation network, switch from rail to truck, and begin planning the relocation of their plants and facilities to areas considered less prone to economic disruption.

Events like this would encourage disinvestment, accelerate the deterioration of the Northeast, and thus undermine the President's efforts to revitalize the economy. Ultimately, new pressures would be created especially in the South and the West, for enormous capital expenditures for new industry, housing, energy, and transportation. In short, there would be pressure to duplicate the existing economic and social infrastructure of the Northeast at a time when the Nation is facing a severe shortage of capital to rebuild its economic base.

The problem, then, is how best to resolve the Conrail dilemma while minimizing the risk of massive economic dislocation. In seeking a solution to this problem we can be guided by several criteria.

First, it is most important that the initial course of action be one which preserves the

most options. Unforeseeable and uncontrollable circumstances can render the best of plans useless in short order, but if we do not back ourselves into an economic corner, it will be possible to adjust to cope with future events to our advantage. In essence, the best solution is one that allows the most flexibility.

Second, any appropriate course of action must address the basic problem: Conrail's poor cost to revenue relationship. Whether Conrail is to continue to exist as a single entity or is to be dismembered and sold, it is imperative that its labor costs, including labor protection costs, be reduced; that its operating costs be brought under control; and that the passenger and Northeast Corridor problems be solved.

Third, the rail service needs of the region must continue to be met. If rail service is permitted to rapidly deteriorate or is brought to an abrupt end, detrimental results will be felt throughout the region's business sector.

Fourth, the best solution is one which will cause the least economic and social disruption by reducing uncertainty. In short, economic dislocation can be avoided best by choosing a course of action having a planned, realistic outcome in which the parties with a direct interest may participate.

Fifth, the problem should be solved at the least cost to the taxpayer.

Finally, the overall objective must be to return Conrail to the private sector.

I believe that a program aimed at making Conrail viable has the best chance of achieving these objectives. In its April report, Conrail at the Crossroads: The Future of Rail Service in the Northeast, NSRA recommended that Congress provide Conrail enough funds to enable it to achieve very substantial, visible progress throughout a two-year transition period as a condition of not dissolving the railroad. At the same time, and as dictated by predetermined signs of progress or lack thereof, a contingency plan for proceeding to dissolution should be formulated.

Since any dissolution strategy would require some preparation and implementation time under any circumstances, this transition approach is both practical and flexible. If Conrail possesses the ability to succeed and pay dividends to the region as a productive, competitive, self-sufficient force in the transportation market, this mechanism, though cautious and austere, gives it a chance to prove it. If Conrail cannot make its own way, the trial period will have better prepared the property and all parties involved for an orderly dissolution process which minimizes Federal and other costs.

In summary, several important steps must be achieved: Conrail must make aggressive use of the new economic flexibility provided by the Staggers Act; it must be relieved of the burdens of passenger service and labor protection; it must reduce its costs; and it must, both through management actions and negotiations with organized labor, attain appropriate employment levels and improve productivity.

Moreover, a program to improve Conrail's cost structure, tighten its management, and achieve necessary labor concessions would be an essential part of the transition even if the railroad were to be sold or dismantled. However, if it were ordained beforehand that Conrail was to be abolished, it would be more difficult to achieve the management-induced improvements and other interim goals that are essential before other railroads would agree to take over major portions of Conrail's lines.

It is particularly encouraging that the Department of Transportation, Conrail, and the ICC also agree that these objectives must be achieved. In addition, I am further encouraged by the recent agreement negotiated by Conrail and organized labor that will result in Conrail's costs being reduced by $229 million annually. The USRA April report incorporated a potential reduction of $225 million in labor expense as a major component in Conrail's ability to achieve a positive income from operations at an early date. Thus, the recent agreement with labor represents a major step toward accomplishing those elements which all parties agree are necessary.

However, the Department of Transportation is recommending a process leading to the dismemberment and sale of Conrail lines. This recommendation is now embodied in the "compromise" bill now being considered by this committee, S. 1100. In my view, the Department's proposal as reflected in S. 1100 is a very high risk option that may lead to less rail service in the Northeast without saving any Federal expenditures.

Specifically, S. 1100 would authorize the Secretary of Transportation to dismember Conrail at his own discretion after a brief waiting period, regardless of whether the railroad can become viable. This plan for automatic dismemberment of the Northeast rail system would create the "fire sale" atmosphere with its attendant economic uncertainties for the region that all of us were hoping to avoid. Moreover, there is great doubt that the scenario currently envisioned in S. 1100, namely an inexpensive transfer of the Conrail system to private sector operation, could ever be realized under the plan contained in the bill.

First, the S. 1100 provision for appropriations for interim funding and transfer costs is uncertain. The bill provides an authorization of "such sums as may be necessary" to maintain "essential services during the transfer process." Thus the bill does not specify a level of appropriations, nor does it shed light on what Conrail services the Secretary might deem "essential" and therefore fund. Our April report estimates that Conrail would require $400 to $600 million more in Federal funding to become viable. DOT has estimated that implementation of its fire sale proposal could require more than $600 million in Federal funds. In my opinion, it could cost more.

For example, one major requirement of a transfer process would be transition funding. Assuming that the transition process takes two years to prepare for the then "instantaneous" transfer of Conrail, the Federal costs of those two years should be comparable to continuing to operate Conrail and maintaining its service capacity for two years. While the management of a railroad scheduled for liquidation could severely limit plant and equipment replacement and maintenance, this reduction in capital expenditures might be balanced by traffic diversion as shippers anticipate service cuts.

Indeed, given heightened shipper concern about uncertain future service patterns, extensive traffic losses could result, stripping revenue out of the shrinking system faster than costs could be reduced. Moreover, management would have neither the incentive nor the capability to achieve potential cost reductions. In addition, a transfer process would have to address implementation costs and the acquiring railroads' possible need for financial assistance.

Second, as currently drafted, S. 1100 relies heavily on the assumption that potential acquirers will be eagerly waiting in the wings to take over the Conrail system. However, extensive conversations with other railroads that could logically pick up the pieces convince me that none of them is prepared at this time to acquire substantial portions of Conrail's lines and thus its cost problems. I believe that other railroads would require Conrail to make fundamental progress in addressing its cost structure before any significant segments of its lines would be attractive. This unwillingness to purchase Conrail's lines is not surprising, since the situation was the same in the early 1970s when the major railroads of the Northeast and Midwest, including the Penn Central, were bankrupt.

At that time, because no profitable railroads were willing to acquire the bankrupts' lines and their attendant cost problems, the Federal government had to step in to ensure continued rail service in the Northeast quadrant. Thus, in a sense both then as well as now the rest of the industry is demanding that Conrail's physical plant and human resources be reduced to a level commensurate with its real market potential, and this cannot be done overnight. In addition, other railroads are heavily preoccupied with consolidating their own organizations as a result of recent and prospective rail mergers and with trying to adjust to the business implications of the Staggers Act reforms.

Perhaps even more significant is the fact that there is little economic necessity for any railroad outside Conrail's service area to take an active interest in acquiring Conrail's lines. An analysis of Conrail's 1979 traffic base reveals that about 70 percent of Conrail's traffic originates and terminates within Conrail's service region and is never interchanged to or from other railroads outside the region. The principal cross-regional interchange is with the Southern region, which accounts for 11 percent of Conrail's traffic. Only 15 percent of Conrail's traffic is interchanged with railroads west of the Mississippi River, and that traffic is widely dispersed: 3 percent moving to or from the Pacific coast states, 5 percent to the Sunbelt west of the Mississippi, and 7 percent to the Rocky Mountain and Northern Plains states.

This distribution of Conrail's traffic suggests the railroads that should be most interested in gaining access to Conrail's traffic base are those presently serving the Conrail region, or the emerging cross-regional carriers that span the Conrail region and the Southern region, such as the CSX or the proposed NWS. As we note in our April report, these carriers would need to acquire relatively small portions of Conrail's physical and human resources to serve the bulk of Conrail's traffic. Assuming even modest acquisitions by those carriers, the bulk of the traffic now interchanged by Conrail with railroads west of the Mississippi could continue to move over the same gateways as it does today, so those railroads would not be compelled to seek Conrail lines to preserve their traffic.

Combining these economic factors with the clear reluctance of other railroads to consider acquiring Conrail lines at this time suggests strongly that, absent other circumstances such as substantial government intervention, committing the government to a transfer process now would produce an end result closer to the "small segments" than to the "major portions" end of the transfer spectrum.

S. 1100 does little to resolve these fundamental problems. If anything, it may exacerbate them, since it puts all parties in interest on notice that Conrail most likely will be dismembered after mid-1983. During the interim period, the railroad can be expected to deteriorate physically, employee attitudes can be expected to worsen, and the best of Conrail's employees—both labor and management—can be expected to seek their fortunes elsewhere.

In sum, I believe that the likely result of this process will be a Conrail which is less likely to look like an attractive acquisition than the Conrail of today. This will put further pressure on the Federal government to step into a permanent financing role as our hopes to return these rail properties to the private sector slip ever further from our grasp.

In dealing with possible approaches to a transfer process, the real issue remains how can the Conrail economic equation—namely, its revenue to cost relationship—be altered.

The analyses in our December and April reports conclude that change requires a fundamental alteration of costs. Transfer of small segments of Conrail to neighboring railroads could permit those enterprises to acquire a high proportion of Conrail's revenue base while absorbing relatively small portions of Conrail's physical and human resources, altering the present revenue/cost equation of serving Conrail's traffic. On the other hand, if to obtain Conrail's traffic, acquiring railroads would also have to acquire major portions of Conrail's physical and human resources, it is difficult to understand how much transfer and acquisition would by itself alter the revenue/cost relationship of serving Conrail's traffic. Either the essential changes must be made before other railroads would purchase, or the acquiring railroads must be expected to take the same steps we believe are essential and achievable by Conrail itself.

Therefore, I urge that legislation be adopted which undertakes to solve the economic problems of freight service in the Conrail region rather than to merely reorganize them. I am not persuaded that the economic ills attendant to current patterns of rail operations and service in this region will be ameliorated by merely changing Conrail's name.

Legislation designed to meet the criteria I mentioned previously would have as its main feature an "incentive" provision for Conrail. Specifically, Congress should provide Conrail with sufficient funds to enable it to implement, over a two-year transition period, a program designed to result in financial viability. Unlike S. 1100, however, if profitability were achieved, then the railroad would not be automatically dismembered.

Accomplishing this objective will require, of course, cooperation of labor, shippers, other railroads, and government at all levels. But we believe that without such cooperation the railroad has little future in its present form or as a transfer candidate. For this reason, we recommend that all of these parties continue to participate in the process of deciding Conrail's future.

A control board, similar to that proposed in the Lent-Lee bill in the House—with advisory assistance from a group reflecting various private sector interests, would maximize the potential for such cooperation. If, during this time frame, it became apparent that Conrail was not making substantial progress toward financial viability, this group could make such a determination based on an objective test of profitability. If, however, Conrail did make substantial progress, at the end of the period it could be a more attractive acquisition candidate or, if it were deemed appropriate, the Federal government could dispose of its stock position in the railroad through the normal offering process.

Of course, there are no low risk, low cost answers to the problems of providing an adequate and effective private sector rail system for the Northeast and Midwest regions. The one common thread of all the studies undertaken pursuant to the Staggers Act is that there is not any "no further Federal funding" solution to the rail service problems of the Conrail region.

However, I continue to believe that achieving a viable Conrail ought to be attempted because, if that goal is accomplished, it will be at less cost and produce more benefits than any other option. It will be the least disruptive of solutions and provide the most service. A viable Conrail will contribute to the general economic revitalization of the country, something which is of enormous concern to all. But while interim funding is made available, Conrail must be required to achieve definite performance objections throughout a two-year period. And specific plans should be developed for future action in the event Conrail is not successful in attaining those performance goals.

Most importantly, as USRA's April recommendations make clear, the end result of the process must be a Conrail fully restored to the private sector, either through having achieved viability and having been recapitalized with its ownership then being shifted from the government to private hands, or, if viability is not achieved, through transfer of its lines to other railroads.●

THE ADDITIONAL VIEWS ON RECONCILIATION OF THE DEMOCRATIC MEMBERS OF THE LABOR AND HUMAN RESOURCES COMMITTEE

● Mr. KENNEDY. Mr. President, I submit for the RECORD the additional views on reconciliation of the Democratic cerns as we approach the debate on reconciliation.

The Labor and Human Resources Committee's reconciliation package protects many of the essential principles for which the minority members have stood, however, there are a number of flaws which we have identified in our additional views. I urge my colleagues to give serious consideration to these concerns as we approach the debate on reconciliation.

The material follows:

ADDITIONAL VIEWS

INTRODUCTION

The Reconciliation package adopted by this Committee is the product of a long and difficult process. The Labor and Human Resources Committee, more than any other Committee of the Senate, is the people's committee. It helps parents and communities educate children. It assists elderly to heat their homes. It provides assistance to our nation's handicapped. It provides essential community and preventive health programs. It protects the health and safety of America's workers and supports vital training programs. It provides a wide range of needed human services for the poor, the elderly and the disadvantaged.

This reconciliation package protects many of the essential principles we enumerated earlier. One, the Legal Services Corporation is continued and funded. Two, the low income Energy Assistance Program is not part of a larger social services block grant; it is targeted on low income families, particularly the elderly to cover higher energy costs; and the funding level did not fall below $1.8 billion. Three, the Administration's proposals for comprehensive, all-inclusive, "no strings" block grants in education, health care and handicapped assistance were rejected. Four, the Title I, Handicapped Education, Adult Education and Bilingual Education programs—representing the vast majority of education funds—were not relegated to block grants. In higher education the drastic funding cutbacks in student aid to low and middle income families were rejected. Five, the identity and separate funding of neighborhood health centers, mental health centers and migrant health centers was maintained. Six, Childhood Immunization will remain a categorical program. Seven, the Nutrition program will continue as a separate, identifiable part of the Older Americans Act. Legal Services for the Elderly is continued.

These are significant accomplishments that make our Reconciliation proposal a major improvement over the Administration's original proposals. They have been achieved with bipartisan support on the Committee, and have been accepted by the Administration, the Majority Leader, and the Chairman of the Budget Committee.

The Reconciliation package retains a number of serious flaws, which we discuss below, subcommittee by subcommittee. But perhaps the most significant flaw is the process by which far-ranging changes in law have been made. The Committee has been forced to re-write a generations' worth of carefully designed legislation in the space of a few weeks. In most key areas, we have been without the benefit of hearings, or indeed of any public input by experts in the fields and those who will be affected by the changes. Much of the legislation has been written in haste, with limited or no opportunity for bipartisan consideration. The Budget Act was never designed to deprive the American people their right to an open, orderly and considered legislative process.

HEALTH

The Administration's proposals for health programs reflect a deep indifference to the serious health care needs of the poor and underserved in our nation's cities and rural areas. The Administration proposed an across-the-board 25 percent reduction in vital health and prevention programs such as community and migrant health centers, mental health, childhood immunizations, alcohol and drug abuse, family planning and others. In addition, the Administration would fold virtually all of these programs into two formless block grants, with little accountability and no assurance that vital programs will be continued by the states. The serious threat to the nation's health will be even greater in future years, when the Administration is likely to seek even further cuts in these vulnerable block grants.

The Committee's actions reject a number of the Administration's proposals. In conformity with the actions of Congress, $76 million have been restored for community and preventive health programs. Childhood immunization is kept as a separate program, at the 1981 level of funding, rather than the disasterous 25 percent cut proposed by the President. The block grant proposal has been modified to assure that community and migrant health centers and mental health centers will continue to be funded throughout the life of the block grant. States must continue to fund all existing centers for at least two years, unless they obtain a specific waiver from the Secretary of Health and Human Services. Thereafter, States must use objective performance criteria in deciding whether to continue to fund these centers, and must provide an independent review process for centers that are dissatisfied with the State's decision to discontinue funding. A 10 percent cap has been placed on administrative costs from federal funds.

Despite these improvements, we believe that there are deficiencies in the health package. The decision to turn oversight of the community migrant health centers and migrant health programs to the states, without adequate study or opportunity for an orderly transition, raises grave concerns. Many states are totally unfamiliar with the planning or delivery of primary health care. In fact, the New York State Health Commission in testimony before the House Energy and Commerce Health Subcommittee has stated:

"There are several programs slated for consolidation funding, such as community and migrant health centers, with which New York has no experience. In addition, there is no existing State mechanism to accommodate the allocation of significant funding reductions among programs. The Administration's proposal to consolidate public health funding is not acceptable or feasible, because it abruptly drops total program responsibility on the door steps of State governments. Moreover, it threatens to disrupt service delivery

and to adversely affect the health and welfare of New York residents."

The proposal adopted by the Committee eliminates the requirement of community involvement on community health and mental health centers' governing boards. This requirement is one of the most important and innovative features of these programs. The participation of center users on the board assures that services are responsive to the community's needs, and is a key component of the center's success.

Similarly, the decision to include mental health in the block grant represents an unnecessary and unwarranted turning away from the promising development of the Mental Health Systems Act. The Act, which was adopted with broad bipartisan support only last year, was an innovative attempt to develop an integrated approach to the problems of mental health on the federal, state and local level. We believe that the Mental Health Systems Act deserves an opportunity to demonstrate its considerable worth.

The Reconciliation package provides no assurance that states will continue to fund key health programs, such as alcohol and drug abuse, family planning, venereal disease programs and other essential service and prevention programs. Many of these programs face termination as early as next year, with the possibility of serious disruptions and the attendant adverse consequences on the public health. Although we support giving states additional flexibility in administering health programs, we believe that the public is entitled to assurances that federal dollars will continue to be available for these critical health programs.

We are also disturbed by the Committee's failure to recognize the importance of continuing identifiable family planning and alcohol and drug abuse programs, which, through the years, have provided needed services in a cost-effective fashion.

The National Hypertension Program, since its inception in 1973, has been remarkably successful. The heart disease death rate has declined 8 percent, preventing 195,000 premature deaths; the stroke death rate has been reduced by 25 percent, saving 127,000 lives. The number of hypertensives on treatment has nearly doubled. The Committee's decision to fold this important program into the preventive health block grant not only destroys the momentum of the private sector's effort to enhance public awareness of the dangers of untreated hypertension, it also threatens the progress that has been made in combatting this devastating condition.

We are also concerned with the lack of accountability in these block grant proposals. The taxpayers of this country are entitled to know how block grant dollars are spent and what results have been achieved. The Secretary must be able to determine whether states are complying with the assurances required of the states. And the Congress must know the effect of turning over administration of these programs to the states, in order to assess whether this approach should be continued, modified or abandoned.

Health planning

We are disappointed the Committee rejected our attempt to restore a portion of the funding for health planning. The health planning program has represented an important component of the national effort to bring under control skyrocketing health care costs. Without some form of constraint on capital investment, there will be little prospect for rationalizing the supply of hospital and health care facilities and controlling costs.

Health planning activities have demonstrated their effectiveness in placing a needed brake on capital expenditures. The 202 planning agencies annually review approximately $5 billion in planned expenditures, disapproving about 20 percent. Many hospitals have dropped or postponed nonessential construction and expansion plans as a result of certificate of need review.

Terminating the health planning program flies in the face of the President's goal to reduce Federal spending. In its absence, the nation faces the prospect of at least $10 billion in unnecessary hospital construction and improvement over the next four years. The effect of this excess investment on Federal health care reimbursement programs and on health costs generally will be highly inflationary.

Although much has been made about the salutary effect "competition" will have on controlling unnecessary health expenditures, the Administration has yet to submit any concrete proposals that would enhance competition in the health care field.

We believe that Federal expenditures for the health planning program can be reduced by better targeting Federal dollars to the most effective cost containing activities. We would eliminate requirements for appropriateness review, eliminate review of nonpatient care related to expenditures, and raise the trigger for review from $150,000 to $750,000 or even $1,000,000. By targeting health planning on the review of expensive construction projects and high cost new technology, we could continue to reap the benefits of health planning in terms of rational cost containment while we consider alternative proposals.

EDWARD M. KENNEDY.
JENNINGS RANDOLPH.
HARRISON A. WILLIAMS, Jr.
CLAIBORNE PELL.
THOMAS F. EAGLETON.
DONALD W. RIEGLE, Jr.
HOWARD M. METZENBAUM.

AGING, FAMILY, AND HUMAN SERVICES

OLDER AMERICANS ACT

We are gratified that the Committee continued existing funding levels, with slight inflationary adjustments, for most of the programs under the Older Americans Act of 1965. The Older Americans Act is the only categorical, federal social services program targeted exclusively on the elderly population. Any diminution of the essential transportation, in-home, legal, and nutrition services provided under its authority would impose great hardship on the growing segment of our population which is already being asked to make considerable sacrifice.

ENERGY ASSISTANCE

We fully support the continuation of a clearly targeted program of energy assistance to low-income households as embodied in the Home Energy Assistance Block Grant Act.

Congressional concern with protecting low-income households and individuals from the hardships of rapidly rising energy costs began shortly after the OPEC oil embargo of 1973, and has increased as the previous Administration began phasing out price controls on domestic crude oil in June 1979, and the Reagan Administration lifted most remaining price controls in January of this year. A series of federal low-income energy assistance programs, with funding ranging from $200 million in the first year of an energy assistance program to $1.85 billion in 1981 have resulted. The authority for this year's program, enacted as Title III of the Crude Oil Windfall Profits Tax Act of 1980, authorized an expanded program for 1981 at a funding level of up to $3.1 billion, and explicitly stated that up to 25 percent of net revenues generated by the tax from 1982 through 1990 were to be allocated to low-income households.

We are deeply concerned that the authorization continued in this legislation falls far below the previously authorized amount, and that there is no longer a direct link to the approximately $5 billion that might be available if the full one-fourth of the net windfall profits tax revenues were provided. Our concern is heightened by the knowledge that energy prices are projected to rise at a faster rate than inflation during the 1980's. Average prices for fuel oil, gasoline, and electricity are expected to increase at an annual rate at least one or two percentage points higher than the general inflation rate. Natural gas prices, currently subject to federal price controls, will undoubtedly soar as the Reagan Administration's scheduled phaseout of controls goes into effect.

We also regret that the compromise agreed to does not explicitly prohibit states from offsetting home energy assistance payments against other federal or state assistance programs. An amendment to reinstate this prohibition, offered by Senator Eagleton, failed by a vote of 9 to 7. In allowing each state to set up its own method for determining if and how energy assistance payments or allowances will be considered as income or resources of eligible households under the other federal or state programs, it is virtually certain that two households in precisely the same circumstances prior to receipt of home energy assistance will be affected differently as the assistance mechanism differs. We expect to monitor closely the states' policies of energy assistance benefits disregard with an eye toward identification of anomalies of double benefits for some and reduced benefits for others.

Finally, we would have preferred a strict income eligibility standard for the states to follow in allocating energy assistance payments, as has been contained in prior law, to assure that aid be targeted to those most in need. However, we believe it unlikely that the lack of such an eligibility ceiling will lead states to set unsatisfactorily high income limits. In 1981, the vast majority of states chose to set eligibility limits that were more restrictive than those contained in the statute. We believe the requirement that priority be given to households having at least one elderly or handicapped individual, and that the largest benefits be paid to the households with the greatest energy costs relative to their incomes, protects against assistance being diverted from the lowest income and most vulnerable households.

COMMUNITY SERVICES

We are particularly troubled by the Committee's action to eliminate the Community Services Administration, transfer only a portion of its program authority to the Department of Health and Human Services, and channel what limited funding is provided through the states.

In 1964, Congress enacted the Economic Opportunity Act, stating that it was "the policy of the United States to eliminate the paradox of poverty in the midst of plenty." Essential to that policy was the creation of the Community Services Administration as an independent, central point to maintain a national focus on the elimination of poverty.

One need only to look at the success of numerous CSA-developed programs, i.e., Headstart, weatherization, and energy assistance, to recognize that the existing model is an effective way to develop programs that are responsible to the needs of the poor yet flexible enough to produce local solutions within a national framework.

An amendment offered by Senator Metzenbaum to extend the existing authority of the Economic Opportunity Act would have preserved the national commitment to eliminating poverty, the one federal agency that is mandated to help poor people become self-sufficient, and the national network of community action agencies which have demonstrated the ability to operate efficient, effective and responsive program for the

elimination of poverty. The amendment failed 9 to 7.

However, we are gratified that a majority of the Committee recognizes the importance of maintaining the successful network of 893 community action agencies by the inclusion of the requirement that states give special consideration to existing community action agencies, or any successor agency. These agencies, with their longstanding tradition of local initiatives, are essential to continuing a comprehensive approach to the problems of the poor.

DOMESTIC VOLUNTEER SERVICES ACT

While we are pleased that the Committee has recognized the value of the services provided through the Older American Volunteer Programs under ACTION, we are concerned by the Committee's action with respect to VISTA. VISTA is a federal program that works. A recent evaluation found that VISTA volunteers mobilized a total of $6.5 million in resources for their local projects, and each recruited an equivalent of 15 non-ACTION volunteers. It is estimated that the program served or assured benefits to 1,200,000 of the nation's poor in FY 1980.

This Administration's proposed phase-out of the VISTA program, ratified by the Committee's action, turns its back on a successful domestic volunteer service program which exemplifies the American tradition of self-help and cooperative efforts.

Senator Metzenbaum, on behalf of the Democratic members of the Committee, offered an amendment to restore Fiscal Year 1983 budget authority to the proposed 1982 level, already a reduction of 25 percent from current funding. That motion failed 9 to 7.

LEGAL SERVICES CORPORATION

Of particular importance is the extension of authority for the Legal Services Corporation, albeit at a substantially reduced level.

Congress created the Legal Services Corporation seven years ago as a private, nonprofit organization to serve the legal needs of the poor, and to insure continued access to our country's system of justice for low-income individuals and families. During its short tenure, it has mounted an impressive record in extending the protection of the law to the poor in countless areas of daily life, helping them to grapple with the complex legal ramifications surrounding the flesh and blood problems they encounter, including unwarranted utility cut-offs, questionable eviction actions, improperly terminated Medicaid services to children and the elderly, consumer fraud matters, and employment problems.

President Reagan, and certain members of the Committee have recommended that the Legal Services Corporation be abolished and that the need for legal services for the poor be met solely by the private bar and through social services block grants to the states. While we support increased participation in Corporation projects by members of the private bar, that alone will not work. The volume of pro bono work by private attorneys has grown steadily, but these efforts can meet only a small portion of the legal needs of the poor.

It is totally unrealistic to expect that the states will move forward to provide an effective civil legal services program for their poor. Only about one percent of the funding for such services is now being provided by the states. The inherent conflicts of interest, combined with the states historical lack of any role in civil legal services, gives no indication that the states are willing or able to assume the role of provider of legal services to the poor.

Equal access to justice under law, the principle on which our nation was founded, can only have meaning and life if every individual has the means to enforce his rights and redress his grievances. Our continued commitment to this principle requires the continuation of the Legal Services Corporation.

EDWARD M. KENNEDY.
JENNINGS RANDOLPH.
HARRISON A. WILLIAMS, Jr.
CLAIBORNE PELL.
THOMAS F. EAGLETON.
DONALD W. RIEGLE, Jr.
HOWARD M. METZENBAUM.

ALCOHOLISM AND DRUG ABUSE SUBCOMMITTEE

The President's budget proposed to repeal four separate programs—grants to states for alcohol abuse services; alcohol abuse project grants and contracts; grants to states for drug abuse services; and drug abuse project grants and contracts—and to transfer seventy-five percent of the funds previously made available under these programs to the health services block grant.

While we are pleased that the Committee has modified this proposal by retaining two small ($15 million each) separate authorizations for alcohol and drug abuse demonstration grants, we are deeply concerned with the Committee's action in transferring the remainder of the project grant funds for both alcohol and drug abuse, as well as the two grants to states, into the health services block grant.

The Federal alcoholism and drug abuse effort was established ten years ago in response to the inability of the states to respond effectively and comprehensively to the alcohol and drug abuse treatment and rehabilitation needs of their citizens. The efforts of the last decade have begun to show success in increasing national awareness of the problems of alcohol and drug abuse and removing powerful social stigmas from illnesses which, left untreated, manifest themselves in myriad other health problems, family distress and instability, and enormous losses in human potential and productivity. Great strides have been made in extending the availability of community services for the victims of alcohol and drug abuse. But this network of services continues to have major gaps and significant population groups—such as women, older persons, Native Americans and youth—remain underserved or inappropriately served. Many state alcohol and drug abuse service delivery systems are relatively new and vulnerable. We are deeply concerned that these service delivery systems will experience a major disruption and diminution of support in the context of a large health services block grant which incorporates sharp reductions in funding across the board.

Although we believe that there is a continued need for direct Federal support for substance abuse services, we agree that some program consolidation is possible and that states can and should assume a larger role in the management and allocation of these funds. For this reason, we offered an alternative to the Committee's block grant proposal, which would have consolidated the four separate alcohol and drug abuse programs into a single grant to states and which would have given states significantly increased flexibility in using these funds. We are deeply disappointed at the Committee's action in rejecting this amendment by a vote of nine to seven.

EDUCATION

In the area of education, we wish to express our displeasure with the procedures that were utilized to virtually rewrite all of the Federal education laws. Programs that vitally affect the lives of millions of Americans were changed with scant attention to the impact these changes would have. In our opinion, the changes will have a devastating effect on our citizens, and many of their hopes and dreams will have to be deferred or dropped altogether. We believe that the true strength of our nation depends upon the sum total of the education and character of our people. These proposed changes ignore that basic reality.

The overall cut in the education budget is approximately 11%. Many programs, however, have been subjected to far more drastic reductions, and some will be eliminated altogether. But whether the cut is large or small, the general impact is the same. Because of these cuts, millions of Americans—disadvantaged young children needing basic skills assistance, students needing loans to attend college, men and women needing vocational training—will be denied crucial educational aid to help them improve their lives.

With respect to program consolidation, we had hoped this would not be accomplished through reconciliation. We would have preferred following the original timetable of the Chairman of the Subcommittee on Education, Arts, and Humanities, which called for an additional series of hearings and a markup in mid-July. This would have allowed serious and complete deliberation on this far-reaching proposal, as opposed to acting upon it in a precipitous and ill-considered manner through the reconciliation process.

Despite this situation, the Committee has adopted what appears to be a reasonable proposal for educational program consolidation. It does not include vitally important and successful programs, such as assistance to economically disadvantaged children, education for the handicapped, bilingual education, adult education, and vocational education and training. In most instances, it consolidates only the more experimental and innovative education programs. This should result in a considerable reduction of paperwork and much more program flexibility at the State and local level.

We are heartened by the fact that the Committee action recognizes the true value of certain categorical programs. Despite rhetoric to the contrary, Title I of the Elementary and Secondary Education Act is a program that works, and works well. By deciding not to drastically alter this program, the Committee has indicated quite forcefully the importance of targeting a major portion of Federal education dollars on groups who definitely need additional or special education services.

In the area of postsecondary education, we have been forced to make many unpleasant changes, particularly in the Guaranteed Student Loan program. Although these changes are ones we wish we did not have to make, they are changes that will not stop the program completely. This would have been the result had the Committee adopted the recommendation of the Reagan Administration. All of the testimony received by the Committee indicated that the loan proposals advanced by the Administration would have resulted in no guaranteed loans being made this fall. Over two million students would have found they could not obtain a loan, and it is estimated that college enrollments would have declined by 500,000 to 750,000 students. Such an occurrence would have been a national tragedy, and we believe that the proposals adopted by the proposals adopted by the Committee will help avoid such a situation.

The changes being proposed for Federal education programs are not ones that we agree to with any enthusiasm. They are, however, the least painful of many very painful choices. We believe the economic recovery program of the Administration, which encourages these types of changes, emphasizes the wrong set of national priorities. But, if we do make these changes, we are confronted with the possibility of having other committees—ones with a less comprehensive understanding of these important concerns—substantially alter education programs on which we have worked diligently for many years. We do not want to let this happen, and we believe that the changes rec-

ommended by this Committee are the best of many poor options.

EMPLOYMENT

The majority's recommendation calls for drastic reductions in the authorized funding for the comprehensive and employment and training act (CETA) and the Wagner-Peyer Act. The Committee Democrats disagree with the basic philosophy behind the reductions in this area, because we believe that forging a coherent policy to reduce inflation requires that we fully utilize this Nation's human resources.

At a time when we are deeply concerned with productivity, it makes no sense to take away from unskilled, disadvantaged and young Americans their opportunity to develop marketable skills through employment training. The majority's short-sighted recommendations in this area run counter to the nation's best interest.

Even with these programs in place, unemployment among young people is a severe national problem. Presently, the unemployment rate among teenagers is 19 percent. Among minority teenagers, the unemployment rate reaches the astronomical level of 35 percent: And in some inner-city areas, minority youth confront 50–60 percent unemployment levels. We face the prospect that a whole generation will reach adulthood without having a career or an occupation.

In that spirit, Senator Metzenbaum proposed an amendment which would have increased by $200 million, the recommended authorization level for Title IV–A of the CETA youth programs. The majority's recommendation was to fund this program at no more than $406,200,000. Current policy for this program is appoximately $1 billion. Obviously, the magnitude of the reduction recommended by the majority would severely retard any serious effort to close the gap between the unemployment rates of youth and those of the general population. The rejection by a 9–7 vote of the Metzenbaum amendment highlights the weakness in the majority's road to economic recovery. Without adequately preparing these young people for employment, we can be sure that many of them will in the future be unnecessarily dependent on public assistance.

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HOWARD M. METZENBAUM.●

GERMAN DAY

Mr. SPECTER. Mr. President, I would like to bring to the attention of my colleagues a celebration of ethnic heritage which takes place in my city, Philadelphia, every year. On June 28, the German American community of Philadelphia will gather at the Bayerischer Volkfest Verein to hold their annual German Day celebration.

This gathering of the Philadelphia area German American community and their friends is a celebration of ethnic pride and heritage and the proceeds from the event help support the annual von Steuben Day parade in Philadelphia.

As history reports, Baron Friedrich Wilhelm Ludoff Gerhard Augustin von Steuben left his native Germany to join the demoralized troops of General Washington at a critical time during our Revolutionary War. He took the freezing, starving, and poorly trained and disciplined Continental Army and molded it into a first-class fighting unit which was able to take on and overcome the British Army, at that time considered to be the best in the world. The efforts of von Steuben helped to maintain the freedom of our fledgling Nation.

Today, the German American community has much of which it may be justifiably proud. From the first German settlers who came to America during the late 17th century and settled in Philadelphia's "Germantown" to those millions of others who followed in the ensuing centuries, German Americans have contributed greatly to the growth, prosperity and preservation of the United States. They came to America seeking only freedom and the opportunity to work. They found both and they helped to make the United States the great Nation it is today.

German Day is celebrated across our Nation on various days in recognition of these brave immigrants who came to a new world—like all of the ethnic groups which make up our Nation—bearing only their proud heritage and a hope for a new and better life. They stayed and worked and, together with their ethnic counterparts from all areas of our globe, helped to build our mighty Republic.

THE SAVINGS AND LOAN INDUSTRY

● Mr. MITCHELL. Mr. President, the problems confronting the savings and loan industry in today's economic climate need little explanation.

At a time when mortgage rates are around 15.5 percent, and when the average home price is around $70,000, it is not surprising that the savings and loans—indeed, the entire thrift industry—is in deep trouble. Today's mortgages are being written for an average amount of $65,000. That represents a basic interest and principal repayment of $848 per month. Even if that were the full monthly cost of homeownership, many millions of Americans would be priced out of the market. But of course, with the costs of insurance and taxes, the average monthly cost of homeownership today is approaching $1,000 per month. Middle-income families simply cannot qualify for mortgages. The American dream of a home of one's own is fast becoming a nightmare.

The combined effects of high interest and high-priced housing from recent years of inflation has had a disastrous effect on the institutions which traditionally finance the bulk of American homes.

At the same time, the deregulation of the banking industry occurred at a time when its effects could not have been more disastrous. In 1979, savings and loans held 53 percent of the money market certificates. At the time, they enjoyed the quarter-point interest differential which was designed to help them maintain the base of long-term savings that are essential to the long-term mortgage market. Since 1979, the savings and loans' share of money market certificates has fallen to 32 percent—in just 2 years. Nothing more clearly illustrates the difficulty of making fundamental adjustments in this industry in a time of rising inflation and high interest rates.

The results of the economic climate are clear evidence of the scope of the problem. The high yields available on other investments have drawn funds from the savings and loans: At a rate of $4.6 billion in April alone. At the same time, the return on long-term, low-interest mortgages cannot come close to matching the costs of attracting new deposits. The thrift industry this year anticipates an industry-wide loss ranging from $2.5 billion to $6 billion.

The Federal Savings and Loan Insurance Corporation has already had to liquidate one institution: The Economy Savings and Loan Association of Chicago. The corporation has merged seven other S. & L.'s to prevent their bankruptcy.

If this trend continues, we could see the end of the independent savings and loan component of our banking system.

This year, the FSLIC has paid out $375 million in insurance for deposits at troubled institutions. In 1980, at this time, the corporation had paid out only $195 million.

And yet, despite the clear evidence of problems in the thrift industry, the administration has failed to take action. Administration claims that the powers of the FSLIC and the bank board alone are sufficient to overcome the temporary problems facing various institutions overlook the fact that the economic climate is making fundamental and perhaps irreversible changes in the industry as a whole. Unless we want to see these changes occur without lifting a finger to prevent them, I believe it is imperative that we act now.

I am cosponsoring the All Savers Act, a measure which would provide substantial aid to the savings and loan industry by exempting from Federal tax liability the interest earned on a special type of certificate that these institutions could offer.

The intention of the All Savers Act is to provide a vehicle through which the thrift industry could compete on a more equal basis with other parts of the banking system.

These certificates would offer returns at rates pegged to 70 percent of Treasury bill rates. This rate of return, coupled with the tax advantage, should help provide a savings inflow that would offset, to some extent at least, the impact of the economic climate and would also provide a breathing space for the industry to adjust to the current regulatory climate.

In addition, this proposal would have the advantage of increasing savings, a goal of both the administration and the Congress. It would help make more mortgage financing funds available, an outcome which would, of itself, help lower mortgage interest rates and provide a much-needed boost to our beleagured homebuilding industry. Most importantly, it would help preserve the independent thrift component of our banking system, a goal I believe is essential.

I would do what I can to assure that this proposal comes before the Senate for debate and a vote as promptly as possible. I believe it is an important part of our efforts to help fight inflation and overcome the adverse effect of high rates of interest.●

FEDERAL LAND LEASES FOR DISPOSAL OF SPENT SHALE AFTER OIL EXTRACTION

● Mr. GARN. Mr. President, I have recently added my name as a cosponsor of Senator ARMSTRONG's bill, S. 1073, which would provide authority for the Secretary of the Interior to lease Federal land for the disposal of spent shale after the extraction of oil from it.

The situation requiring this legislation is very simple, Mr. President. The United States contains enormous reserves of oil in the form of shale. Much of this shale lies in the two States of Utah and Colorado. In order for the oil to be extracted, the shale must be heated, releasing the oil-bearing kerogen, which is then drawn off. The shale may be mined and heated in a surface retort, or it may be heated in situ.

In either case, Mr. President, a substantial amount of land is required for surface facilities. Land is also required for the disposal of the shale after treatment. Even in the in situ process, a substantial amount of shale, and in some cases overburden, must be removed and disposed of. Since there is plenty of land in the areas where this shale lies, disposal would not normally be a problem; nor would finding enough land for the location of the treatment facilities and other surface buildings.

However, there is an obscure provision of the Federal Land Management Policy Act which restricts leasing of Federal land for shale oil production to the lands where the shale actually lies. No adjacent land can be leased for location of ancillary facilities, or for disposal.

S. 1073 would correct that defect in FLPMA.

Mr. President, this is not an oil shale bill, per se. It does not commit the Nation to oil shale or to any other kind of energy. It has long been my position that oil shale as an alternative to existing energy sources must meet the test of the marketplace. If oil shale is economical, it will be produced. If it is not, it will not. But it is not a fair market test to impose barriers to rational construction of facilities and disposal of wastes, and that is what the present provisions of law do. They artificially bias the case against oil shale.

In recent months our dependence on foreign oil has declined somewhat, Mr. President, as it should, and as I predicted it would, given the rising prices that have come with decontrol. But we remain uncomfortably dependent on foreign, unstable oil sources. Mexico has just announced that it will raise the price of its oil $4 per barrel, again for purely political reasons. I doubt that the rise will stick, given the current state of the oil markets, but the action does indicate the need to continue our progress toward developing more domestic sources.

Mr. President, Senator ARMSTRONG is to be commended for his initiative in introducing this legislation. I know he has secured a large number of cosponsors of the legislation, and I hope it will move quickly through the Congress.●

THE SUPREME COURT COTTON DUST RULING

● Mr. KENNEDY. Mr. President, yesterday's Supreme Court decision upholding OSHA's regulation limiting worker exposure to cotton dust represents a truly significant victory for the workers of this Nation and a resounding defeat for the administration's efforts to undermine workplace health and safety standards.

When Congress enacted the Occupational Safety and Health Act in 1970, we promised to provide American workers the maximum protection against exposure to toxic substances. But industry, and more recently the Reagan administration, have opposed efforts to fulfill that promise by contending that regulations are too costly and that the act required that benefits to workers be balanced against the costs to industry.

The Court has now resoundingly rejected that argument by stating what should have been apparent to all of us—that in enacting OSHA, Congress placed "the benefit of worker health above all other considerations."

The issue before the Court was an OSHA standard regulating worker exposure to cotton dust in our Nation's textile mills. For over a century we have known that workers who breathe cotton dust day after day run a high risk of developing brown lung or byssinosis, a disease which can cause permanent, total disability and death.

Over half a million workers in the textile industry are exposed to dangerous levels of cotton dust on the job every day.

Today over 35,000 victims of brown lung disease in the United States are totally and permanently disabled; 85,000 of the workers who are exposed to cotton dust, or 15 percent, suffer from some degree of byssinosis.

It took almost 10 years to get OSHA to issue an effective standard to protect textile workers. Under those rules, which became effective in 1980, textile manufacturers were required to clean up their factories by installing new machinery which the Labor Department estimates will spare 74,000 workers from the agony of brown lung.

The industry said that these controls were too expensive and argued that workers could be adequately protected if they were required to wear protective masks.

The Reagan administration virtually announced its support for the industry position earlier this year.

In March the Secretary of Labor announced that he was beginning his review of OSHA health standards by performing a "cost-benefit analysis" of the cotton dust standard to explore alternative means of enforcement—including the use of respirators or protective masks.

Incredibly the Secretary also asked the Supreme Court not to decide the case it ruled on yesterday so that Department could rewrite the regulations.

Clearly the Department intended to weaken the protection textile workers and their union, the Amalgamated Clothing and Textile Workers, had fought so long and hard to achieve.

The Court's decision to reject that request is a victory for every worker in this country whose health may be impaired by toxic substances in the workplace. But while there is reason to celebrate, we will have to remain vigilant. We did not enact OSHA without a struggle. And we will not retain it without one.

We clearly declared our intention to protect workers 11 years ago. But that has not stopped industry from repeatedly resisting attempts to implement effective health standards. And there is every reason to believe their opposition will continue. Industry spokesmen have already indicated that further litigation will be pursued. And the fact remains that an administration which has openly declared its support for the antiseptic cost-benefit concept will determine how effective the law will be enforced for the next 3½ years.

As the ranking minority member of the Labor and Human Resources Committee, I intend to do everything I can to assure that the cotton dust standard is fully enforced and that the administration fulfills its responsibility to issue standards which will provide protection for millions of workers in other industries who face the threat of serious illness or death because of exposure to toxic substances.

I will also oppose any effort to undermine the Court's ruling legislatively. Congress should not succumb to the cost-benefit numbers game. Workers are entitled to a clean workplace free from recognized health hazards, as the Supreme Court has now made abundantly clear. I, for one, do not intend to see that judgment reversed in the 97th Congress.●

THE PRODUCTIVITY LEADERSHIP OF MR. THOMAS J. MURRIN

● Mr. SPECTER. Mr. President, the Westinghouse Electric Corp. of Pittsburgh, Pa., has had a history of industrial leadership which has made those of us from the State very proud. Mr. Thomas J. Murrin, the president of Westinghouse Electric Corp.'s public systems company is continuing that fine tradition.

The American Productivity Center recently recognized Tom Murrin for his preeminent productivity leadership. The productivity center cited his commitment to promoting productivity improvement in the Government and the private sector. The productivity center also recognized Tom Murrin's productivity work within the Westinghouse Electric Corp.

Under Tom Murrin's leadership, the Westinghouse Corp. has implemented numerous new productivity programs. In the last 2 years Westinghouse has doubled its rate of productivity improvement. This achievement is even more impressive in light of the fact that they were able to double an already above-average productivity growth rate.

Tom Murrin has also worked with

members of the executive and legislative branches of the U.S. Government in an effort to find ways to improve the productivity of our Nation's industries. His work with the Department of Defense has been of particular note. Westinghouse has sponsored trade union and management trips to Japan to visit industry and labor groups in that highly productive country.

I applaud the American Productivity Center's choice for productivity recognition. The kind of corporate thinking that Westinghouse has displayed within their own company and within our Nation's corporate world is very valuable to our country as a whole. Emphasis on productivity keeps a company's products competitive with foreign manufacturers that Americans from all industries are meeting in today's world market. Progressive corporate decisionmaking such as that displayed by Westinghouse will provide job security for our Nation's workers and, at the same time, strengthen our Nation's economy.●

Mr. BAKER. Mr. President, I ask unanimous consent that it be in order to consider the votes by which both bills were passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I make that motion.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I have no further need for morning business time. I have no need for my time under the standing order. I am prepared to yield it to any Senator.

Does the distinguished Senator from South Carolina, the President pro tempore, have need for additional time?

Mr. THURMOND. Mr. President, I would like to have the time of the majority leader if he can spare it. I am due at the Armed Services Committee on the military construction bill in a little while. I would like to have the time between now and 9:30 to report on some crime bills.

Mr. BAKER. Mr. President, before the Senator from South Carolina proceeds, I ask unanimous consent to yield control of the time allocated to me under the special order this morning to the distinguished Senator from South Carolina.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, before I yield my time under the standing order to the Senator from South Carolina, which I will do, I wish to yield to the minority leader so that he may speak.

Before I do that, Mr. President, I now yield to the Senator from South Carolina such time as I have remaining under the standing order, with that time to begin running after the time for the recognition of the minority leader has expired.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I yield to Mr. PROXMIRE and then to Mr. HEFLIN.

Mr. HEFLIN. Mr. President, I will follow after the time of the Senator from South Carolina has expired. I will be supporting his statements.

ORDER FOR RECOGNITION OF SENATOR BOREN

Mr. BAKER. Mr. President, I ask unanimous consent that after the execution of the special order for additional time allocated to the Senator from South Carolina, the Senator from Oklahoma (Mr. BOREN) be recognized, on a special order, for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

FREEDOM OF SPEECH AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, during the 22 years that the Genocide Convention has stood before the Senate, a number of objections have been raised and rebutted. One such charge is that the prohibition in the Convention of "direct and public incitement to commit genocide" would compromise our freedom of speech guaranteed by the first amendment.

Nothing could be further from the truth. First, "direct and public incitement to commit genocide" is in no way protected by the first amendment. The Supreme Court ruled in Brandenburg against Ohio that a State may forbid advocacy of the use of force or of law violation only where "such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action." The language of the convention is consistent with this decision. "Direct and public incitement to commit genocide" would clearly not be protected under the first amendment.

Second, were there any conflict, the Constitution would control the question. The Supreme Court decided in Reid against Covert that no treaty may supersede a provision of the Constitution. Furthermore, the enacting legislation which would follow ratification of the convention would also be subordinate to the Constitution, and subject to the review of the Supreme Court. The freedoms of speech which we so rightly cherish could be in no way jeopardized by ratification of the Genocide Convention.

The Senate's failure, however, to adopt the convention jeopardizes important interests of our Nation. Our record as a leader in human rights is marred by this omission. Our reluctance to condemn mass murder has implied to others that we are indifferent even to so heinous a crime as genocide.

Mr. President, that free speech would not be endangered is but one example that the United States has much to gain from adoption of the Genocide Convention, and nothing to lose. We have shown the world how highly we esteem the right to free speech. Let us show that we also value the most fundamental right—the right of a people to live. Let us ratify the Genocide Convention.

CBS SUPERB DOCUMENTARIES ON THE DEFENSE OF THE UNITED STATES

Mr. PROXMIRE. Mr. President, for the last four nights, and tonight will be the concluding night, CBS has had a series of articles on the defense of the United States. I think this has been one of the finest documentaries that television has been able to present to the American people in a long, long time. The defense of this country is a matter that has concerned many Senators.

The CBS participants discussed, it seems to me with great intelligence but in a provocative and controversial way, our problems on manpower; the adequacy of pay; the adequacy of training; the problem of women in the Army; whether or not we should have the draft; our technology, which, of course, is tremendously effective but is in many ways grossly misapplied and is resulting in enormous costs, paying too much and getting too little and with a tremendous amount of goldplating; our readiness and the lack of readiness of some of our divisions and our aircraft carrier task forces, and the inadequacy of the number of tanks, planes, and ships that we have available. Top generals, admirals, scientists, the Secretary of Defense and Members of Congress discussed and debated those matters and television films of our military forces in action drove home the problems dramatically.

Mr. President, I have noted that these prime time documentaries get terrific attention in my State, and I am sure that is true all over the country. I notice whenever I go to give speeches whatever is in the documentary that is current is the matter that provokes the interest of the people I address. So congratulations to CBS on a superb series and a great contribution to public understanding of this fundamental national problem.

I am sure the American people are more interested and concerned now about our defense than they have been in a long, long time, thanks in no small part to the remarkable job that the Columbia Broadcasting System is doing in this classic series on our Defense Establishment.

Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I reserve the remainder of my time.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

RECOGNITION OF SENATOR THURMOND

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

S. 1386—ARSON IN EXECUTING A SCHEME TO DEFRAUD

Mr. THURMOND. Mr. President, a major area of criminal activity, especially by organized crime, is the so-called arson-for-profit schemes. The widespread growth of this type of crime has gained national attention in recent years. Last year the Subcommittee on Criminal Justice of the Senate Committee on the Judiciary held hearings on this problem. The bill I am introducing today is designed to provide Federal criminal penalties for his conduct in certain situations.

Arson is a unique crime. It generally occurs with no eyewitness present, and the evidence of the crime, if any exists, is extremely difficult to ascertain. In addition, the investigative resources required to determine the cause and origin of a fire are often beyond the ability of most jurisdictions. Arson investigators, even if knowledgeable and experienced, often are unable to find the clue or evidence necessary to make a criminal arson case.

Arson-for-profit cases go even further by requiring experienced investigators and prosecutors to make what is essentially a white collar crime case. Other evidence, besides testimony of an accomplice, is often required to support a conviction. In short, arson-for-profit crimes frequently go either unsolved or unprosecuted.

Mr. President, property damage from fires has increased dramatically in recent years. According to the National Fire Protection Association, fires of suspicious origin increased 7.1 percent between 1978 and 1979. More important, however, dollar losses in that same period increased 24.5 percent to $1.328 billion in 1979. Arson accounted for 14.3 percent of all structure fires and 26.8 percent of all property losses from structure fires.

Arson-for-profit schemes are the primary contributor to these increases in property damage figures. The way the scheme works is this: An investor, usually connected with organized crime, will go into an underdeveloped area of a city and buy a number of townhouses for say, $10,000 each. He then fraudulently enters into a series of paper sale-and-purchase transactions for the property over a period of time. Each transaction increases the apparent value of the property and, of course, increases the amount of fire and casualty insurance that can be purchased on the appraised value of the property. Finally, when the insurance coverage reaches a substantial amount, the property, usually still unoccupied, is burned. The original investors, who have never lost title to the property because of the fraudulent real estate transactions, collect a substantial insurance windfall. With the scheme successfully carried out, another group of buildings is then targeted for a similar scheme.

The Federal Bureau of Investigation has recognized the growth of this activity by organized crime and is devoting increased resources to solving these crimes. Unfortunately, the Federal law in this area is not specific enough to apply to many of these arson-for-profit schemes. My bill is intended to provide a statutory basis for the investigation and prosecution of these crimes.

Mr. President, I ask unanimous consent that the bill I am introducing be printed at this point in the RECORD. In addition, I ask unanimous consent that an article entitled "Arson in U.S. Reaches a Crisis Stage," from the June 8, 1981, issue of the U.S. News & World Report, be printed in the RECORD following the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 5 of title 19 of the United States Code is amended by adding at the end thereof a new section as follows:

"SEC. 82. Arson in executing a scheme to defraud—

"(a) Whoever, having devised or intending to devise a scheme or artifice to defraud or to obtain property of another by means of a false or fraudulent pretense, representation, or promise, engages in conduct with intent to execute such scheme or artifice and the scheme or artifice affects interstate commerce and involves the obtaining of insurance proceeds of $100,000 or more by arson shall be fined not more than $250,000 or imprisoned not more than ten years, or both.

"(b) As used in this section, 'arson' means the substantial damage of a building, dwelling, or structure by fire or explosion.".

ARSON IN U.S. REACHES A CRISIS STAGE

America is being put to the torch by 10-year-old kids, hardened criminals, businessmen, psychopaths and vengeful citizens in a multibillion-dollar wave of arson for passion and profit.

Just in the past few months—

Fire raced through the Las Vegas Hilton, killing eight persons, and through the Stouffer's Inn in Harrison, N.Y., killing 26. Investigators said both fires were set intentionally.

An arson blaze in Brooklyn demolished a tenement and killed nine members of a single family.

A series of fires has destroyed over 400,000 acres of forest land in Florida. Officials estimate that 50 percent were set by "hell raisers" or other arsonists.

Conflagrations like these, along with fires set by professional "torches" and speculators to collect insurance, have risen astronomically in the U.S. over the past decade.

What's more, arsonists are getting away with it. Only 3 such fires in every 100 leads to an arrest, and not even 1 case in 100 results in a conviction.

From firefighters, federal officials and insurance investigators comes this checklist of what is going up in the smoke of deliberately set fires—

About 1.3 billion dollars in direct damage from all types of fires in 1979, the last year figures are available—more than 10 times the losses for 1968.

Indirect damage estimated as high as 15 billion dollars a year in lost tax revenues and wages, unemployment-insurance payments, relocation costs and other economic ripple effects.

At least 908 deaths and about 3,000 injuries from arson or suspected arson in 1979—when the number of structural fires was nearly four times the 1968 total of 50,000.

There is some evidence that soaring arson trends are starting to level off. But analysts say this is no time to let up on anti-arson programs that have begun to show results in some areas. "We're at a crisis stage," says Florida Fire Marshal Bill Gunter. "Arson is spreading out there, and it just can't be business as usual."

Behind that assessment, echoed by fire and insurance experts around the country, lie staggering statistics on the busy activity of fire setters. Totals vary with accounting methods, but the federal National Fire Data Center estimates that arsonists in 1979 ignited 177,000 buildings and other structures, 63,000 vehicles and 383,000 outdoor targets ranging from forests to city trash cans. Total arson fires: 623,000.

In the U.S., "the rule of thumb is that 1 fire in 4 is intentionally set," by far the highest arson rate in the world, says Philip Schaenman of the Fire Data Center. From the standpoint of direct dollar losses, he adds, arson is now in the same league with burglary or larceny.

Experts say the chief motives behind arson in the U.S. are psychological rather than economic, as in arson-for-profit insurance ripoffs.

According to the U.S. Law Enforcement Assistance Administration, vandalism accounts for 42 percent of all arsons, followed by arson for revenge at 23 percent; pyromania, 14 percent; arson for profit, 14 percent, and other motives, 7 percent.

The population of known fire setters is dominated by youngsters, who are often motivated by youth-gang peer pressure. In the decade of the '70s, 54.6 percent of all arrested arsonists were under 18 years of age, including 11 percent age 10 or under, according to the Federal Bureau of Investigation's Uniform Crime Reports.

One major target of youthful firebugs is the schoolhouse. A survey by the Insurance Company of North America found that arson accounted for about 26 percent of the damage done to vandal-plagued schools across the country.

As for revenge, one federal government study concludes: "In many inner-city neighborhoods, gasoline splashed on an apartment door has replaced the gun as a way to settle quarrels."

Nor is fire vengeance confined to the big city. In Ashton, Mich., last November, police reported that a schoolchild, allegedly a victim of parental abuse, confessed to setting fire to the parents' bedroom in such a way as to block all escape. They died, along with three children.

While most arson fires are the result of purely destructive impulses, arson for profit remains a major cause of fire devastation and economic loss. Indeed some federal fire officials estimate that blazes set to collect insurance proceeds account for as much as one-half of all direct annual dollar losses from arson.

Who are the culprits? John Lynch of the U.S. Fire Administration's Arson Prevention Program gives this answer: "Organized crime is involved. Business people are involved. Speculators are involved. Homeowners are involved. But in the main, arson-for-profit operations are not so much the work of a Mafia-type organization as they are the organized crime of a group of conspirators that gets together and buys a series of properties to burn down for profit."

Boston ring. Ostensibly model citizens made up one of the biggest economic-arson rings ever uncovered by authorities—an operation broken up by Boston authorities in 1977 following 35 fires that destroyed an estimated 6 million dollars' worth of property. Among the 33 persons arrested were a retired

fire chief, a police officer, lawyers, insurance adjusters and real-estate professionals.

Other major arson rings have since been smashed in New York City and elsewhere, while smaller-scale operations are believed to be widespread.

In the typical scan of this type, authorities say, the conspirators purchase a depressed property cheap—sometimes taking advantage of federal urban-renewal programs. The owner makes a few improvements and sells to a confederate at an exorbitant price, inflating the nominal market value of the property as a basis for fattening the insurance coverage. Then fire strikes.

But economic arson comes in many varieties. According to investigators, big-time examples range from extortion practiced by underworld loan sharks to fires set by "strippers," who scavenge plumbing, wiring and fixtures exposed in the gutted structure. Other types of arson reflect the everyday economic concerns of the average citizen. Among the insurance-arson trends are the burning of homes that cannot be sold and vehicles that are costly gas guzzlers.

In a crime spree as rampant and damaging as this one, why are arrests and convictions so rare? Authorities give these answers:

Arson is difficult to detect. There are seldom any witnesses, and the arsonist often takes pains to make the blaze look accidental.

Local fire and police departments tend to lack both the manpower and expertise to effectively combat arson. Coordination problems also arise among enforcement agencies. In one case in Connecticut, police ordered insurance investigators to leave the scene of a fire on a claimant's property.

Public support has been lacking. Many citizens perceive arson as, at worst, a minor crime against property. As a result, few cities spend more than 1 percent of their fire department budget on anti-arson programs.

Nonetheless, a number of localities have begun developing vigorous arson-control programs in recent years, including task forces that combine the talents of police, fire and insurance investigators and prosecutors. Along with these have come public-education programs, tipster hot lines and computerized arson-information files.

Among the communities that now have major anti-arson programs under way are Boston, New York, Philadelphia, Seattle, Baltimore, East St. Louis, Ill., and communities in Florida.

In getting these programs started, many cities have relied on the expert technical assistance and financial aid provided in recent years by the federal government and by insurance companies.

The insurance companies, too, have adopted a tougher stance. "In the past, the attitude was that you can't win in arson cases, and the insurance companies literally rolled over and played dead," says Janet L. Brown, a Florida attorney who defends insurance firms against false claims. "But that has all changed. There is a better attitude on investigating arson fires. Companies are becoming more reluctant to pay immediately."

The Feds pull out. Signs that these efforts are starting to pay off include a dramatic increase in arson arrests in some areas and a slight decline in arson fires nationwide from 1978 to 1979, according to figures compiled by both the federal government and the National Fire Protection Association. Still, analysts caution that a one-year decline is insufficient grounds for optimism. Local fire and law-enforcement authorities cite another cause for concern: Federal financial support for local anti-arson efforts is being reduced just as the programs are hitting their stride.

For example, the Law Enforcement Assistance Administration, the major source of such funds, is being dismantled. Its 9-million-dollar assistance program for local firefighting efforts, begun in 1979, will end when funds run out this year.

In all, officials say, the gains made in the battle against arson amount to little more than a promising start in a long fight. "We're attempting to deal with it," says John Barracato, a director of arson fraud for Aetna Life & Casualty, "but we're no closer today to solving the arson problem than we were 10 years ago."

S. 1387—WAITING PERIOD FOR THE PURCHASE OF A FIREARM WITHIN THE SPECIAL TERRITORIAL JURISDICTION OF THE UNITED STATES

Mr. THURMOND. Mr. President, today, I am introducing a bill to amend the Gun Control Act to provide for prompt notification of the Federal Bureau of Investigation when application is made to purchase a handgun on Federal property. To assure an opportunity for verification of information supplied by a prospective buyer, under the bill, the dealer would be required to wait 21 days before the sale of the handgun may be completed and the handgun may be delivered to the purchaser.

Mr. President, it should be noted that this measure applies to retail purchases made on Federal enclaves. I am introducing this bill to indicate my strong support for the concept of a waiting period as a part of the purchasing procedure for acquiring handguns. While I do not at this time favor the imposition of a waiting period by Federal mandate on the States, I urge the States to reexamine their laws and re-evaluate this procedure as one possible step to be taken to prevent the unlawful purchase of a handgun by a dangerous individual.

The rationale for this kind of procedure was outlined by the Ford administration in testimony on H.R. 9022 before the House Committee on the Judiciary on October 1, 1975, as follows:

> The . . . delay may, in itself, have some salutary effect. Surveys have indicated that there is a strong temporal correlation between handgun purchasers and illegal handgun usage, indicating that many handguns are purchased for the express purpose of engaging in criminal activity; a "cooling off period" may therefore occasion some benefit by delay in acquisition alone. The principal purpose of the . . . period, however, is to provide an opportunity for ascertaining the accuracy of the information supplied by the would-be purchaser . . . to establish whether he has a record of felony convictions or other disability that would disqualify him from purchasing a handgun.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1387

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 922 of title 18, United States Code, is amended as follows:

(a) delete the word "and" at the end of paragraph (4);

(b) redesignate paragraph (5) as paragraph (6) and insert the following new paragraph (5):

"(5) any firearm other than a shotgun or rifle to any individual within the special territorial jurisdiction of the United States as defined in 18 U.S.C. 7(3), unless the Federal Bureau of Investigation is notified within seven days that an application to purchase or receive such firearm has been executed by the individual and twenty-one days has elapsed following execution of the application; and"; and

(c) delete the language "and (4)" in the next to the last sentence of the subsection and insert in lieu thereof "(4), and (5)".

S. 1388—PRESIDENTIAL ASSASSINATION, KIDNAPING, AND ASSAULT

Mr. THURMOND. Mr. President, the recent attempt on the life of President Reagan by a person involved in a prior gun incident in the vicinity of a President suggests that prompt reporting of such incidents could provide Federal authorities with information which could be valuable in protecting against assassination attempts on the President. While I am informed that the prior incident with respect to the assailant of President Reagan was promptly reported to the FBI, this practice—extended to the Secret Service as well—is important enough to be reflected in the statute.

Accordingly, today I am introducing a bill to require the FBI to request other law enforcement agencies to promptly report to the Bureau and the Secret Service all gun incidents in the vicinity or expected vicinity of the President, or a Presidential candidate, that might have relevance to the safety of the President or candidate for the Presidency.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1388

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1751 of title 18, United States Code, is amended by adding the following sentence at the end of subsection (1):

"The Federal Bureau of Investigation shall request Federal, State, and local law enforcement agencies to promptly report to the Bureau and the Secret Service all arrests or other incidents involving the possession or use of a firearm in the vicinity or expected vicinity of the President, or a candidate for the Presidency, under circumstances that do not exclude the possibility that the possession or use might have been for purposes that would be in violation of this section.".

SENATE RESOLUTION 141—COMBATING VIOLENT CRIME SHOULD BE A NATIONAL PRIORITY

Mr. THURMOND. Mr. President, on May 20, 1981, I joined with a number of Senators in sponsoring Senate Resolution 141, a resolution to express the sense of the Senate that taking all appropriate action necessary to combat violent crime should be a national priority as well as a priority of the Senate, and should receive immediate attention. I am privileged today to report the resolution to the full Senate for its consideration.

At the time the resolution was submitted, I emphasized that "Government's primary responsibility is to protect the citizens against external enemies and also internal enemies, the chief of which today is crime." Also, I noted a 16-bill crime package—9 of which had already been introduced—which I intended to present or support in dealing with this problem. These measures include broad-ranging proposals that involve, among other things, reform of the Federal Criminal Code, sentencing reform, and bail reform.

Mr. President, I applaud the efforts of my colleagues in proposing action on legislation directed toward the reduction of the national crime rate. The suggestions of all who feel they can help us deal with the crime problem are welcomed. I am sure the Reagan administration will be responsive to our efforts. On April 22, 1981, Edwin A. Meese delivered a speech to a law enforcement group, in which he stated:

(C)rime has never been far from the top three or four concerns of the public over the past 10 or 15 years. And it's only been occasionally that it's been eclipsed by foreign affairs, or by inflation, or the state of the economy, or unemployment, that temporarily it becomes third, fourth, fifth, and then it seems to rise again as it is at the present time. Which is not unsusual, because you know far better than I that over the last 10 years violent crime has increased 59 percent in this country; and, of course, the statistics for 1980 show an increase of 10 percent overall for Part I crimes and 13 percent for violent crimes. This is a matter of great concern, people no longer feeling safe in their own homes, no longer feeling safe in their own cities; as a matter of fact, those of us who live in Washington wake up in the morning to a long list of the shootings that have occurred the previous night, which is a daily feature of our radio news programs in the morning. And so it's necessarily a matter that concerns the Reagan administration.

Mr. President, at this time I wish to commend the able Senator from Alabama (Mr. HEFLIN) for being the primary author and sponsor of this resolution, which is joined in by a number of other Senators. I now send the resolution to the desk.

Mr. President, why are we so concerned about crime? Criminal activity now encompasses every facet of our lives. Reports from the Department of Justice indicate that last year almost one-third of all households in the United States were victimized by crime. The following chart shows that in a time-offense relationship, there was a crime committed every 2.4 seconds last year in America.

Violent crimes give the most frightening report, with one murder committed every 24 minutes, one forcible rape every 6 minutes, one robbery every 56 seconds, and one aggravated assault every 48 seconds. Property crimes were also extremely numerous in 1980, with one burglary every 8 seconds, one larceny-theft every 4.5 seconds, and one motor vehicle theft every 28 seconds.

Mr. President, I ask unanimous consent to have the information printed in the RECORD.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

CRIME CLOCK

ONE CRIME INDEX OFFENSE EVERY 2.4 SECONDS

One violent crime every 24 seconds.
One murder every 24 minutes.
One forcible rape every 6 minutes.
One robbery every 56 seconds.
One aggravated assault every 48 seconds.
One property crime every 2.6 seconds.
One burglary every 8 seconds.
One larceny-theft every 4.5 seconds.
One motor vehicle theft every 28 seconds.
Source: FBI Uniform Crime Report.

Mr. THURMOND. Mr. President, fear has begun to permeate our society. A security systems firm in Ohio recently sponsored a survey which discovered that 9 out of 10 Americans lock their house doors and will not open them to visitors until they know who is knocking; 7 of 10 lock their car doors while driving; and 6 of 10 telephone their friends when they arrive home safely after a visit. In addition to this, the poll indicated that 52 percent of the people interviewed own a gun for the purpose of protection.

Other public opinion polls have found that almost 50 percent of the people in the United States are afraid to walk in their own neighborhoods at night. Even in rural America, where people once kept their doors unlocked and their windows open, burglaries, and thefts of cars, trucks, and farm equipment run rampant. In essence, we are being held captive by those who have no respect for the rights of others.

George Gallup and others have found that people today favor stricter and harsher punishments to control the flourishing crime rate. Mr. Gallup suggests that these public feelings "coincide with a sharply rising fear of crime on the part of the American people." We must take action to combat this burgeoning problem.

In the United States there are more than 6 million known criminals. If we consider those criminals that are unknown to the authorities, this already huge number becomes even larger. The number of criminals in this country is so enormous that it exceeds the population of 42 of the 50 States. To illustrate this point further, in 1977 there were only 1,331,000 persons employed in the food products trade, 1,156,000 in the wearing apparel trade, and 1,010,000 in the motor vehicle trade, three of the largest employing trades in America. The number of criminals in the United States is nearly double the number of employees of all these trades combined.

In a Newsweek magazine article dated March 23, 1981, a survey was conducted in which the respondents were asked: "How much confidence do you have in the police to protect you from crime?" Forty-two percent of those responding said, "not very much." The question, "How much confidence do you have in the courts to sentence and convict criminals?" was also asked, and 59 percent answered, "not very much." Persons responding to a Gallup poll listed lenient court systems, second only to economic problems, as the major cause of the burgeoning crime rate.

Of course, State and local lawmakers must accept their responsibility to maintain law and order within their jurisdictions. They must take an active role in motivating the members of their communities to become involved in crime prevention. Strong community spirit has proved to be a major deterrent to crime in several areas of the Nation.

"Neighborhood Watch" programs in New York City and the District of Columbia have inspired communities all over the country to take an active part in the prevention of crime. Once people make a firm commitment to abolish crime in their neighborhood, criminal activity usually declines dramatically. A story in the New York Times of February 10, 1981, described such a community. This neighborhood is reportedly in a crime-ridden section of New York City—the South Bronx.

However, the people in this section of the city work, play, and relax without fear. Shops have no bars on the windows, children play in the parks, and old people walk the streets alone. The residents of this community work with the police and care about their neighbors. They have said "no" to crime in their neighborhood, and it has worked.

The possibility of achieving a safe society can become a reality. Although crime is usually a State and local matter, the need for aggressive Federal leadership has never been greater. A growing number of my colleagues and I have urged the administration and the Congress to make crime prevention and judicial reform a top priority issue, second only to the health of the economy.

Mr. President, what can we do about crime? First, we must collect ideas from every source, including the current Presidential Commission on Violent Crime. Several members of the Committee on the Judiciary have already introduced legislative proposals on issues ranging from capital punishment to livestock fraud. As previously noted, I have already introduced six bills and cosponsored three others that will strengthen the Federal law enforcement process. Just 1 month ago, Senators HEFLIN, NUNN, CHILES, BOREN, and KENNEDY added to this effort by submitting several proposals that would attempt to improve law enforcement and reform the judicial system. As chairman of the Committee on the Judiciary, I welcome any ideas from my colleagues that will assist in curbing the crime problem. Let me list a few of my ideas.

First, we must come to grips with the tremendous number of juvenile offenders. Youth between the ages of 10 and 17 represent 13.8 percent of the population; however, they account for more than 20 percent of the arrests for murder, forcible rape, and aggravated assault. Juveniles also account for 49 percent of the arrests for arson. Including arson, juveniles are responsible for approximately one-fourth of all the violent crime offenses.

We need to let our youth know that they will be punished for their wrong actions. If the young decide at their age that crime goes unpunished and actually pays, they will become the habitual offenders of our society. Attention must

be given to the juvenile justice programs that deter youth from a life of crime.

Second, we must adjust our criminal justice system to meet the needs and interests of victims and witnesses. The system has shifted so far toward the protection of the criminal that little concern has been shown for the rights of the innocent. This problem must be rectified by appropriate legislative action.

Third, the safety of the community should be taken into account before making bail release decisions. A tremendous number of crimes are committed by persons who are out on bail, probation, or parole. I feel that a large percentage of these offenses could be eliminated if the courts were able to consider danger to the community as a qualifying factor for release on bail.

Fourth, I support efforts to revise the sentencing procedures presently used in the judicial system. Uniformity of sentences for similar offenses should be a goal of the system. Traditionally, sentencing has been an individual decision by the judge—a subjective judgment about the appropriate punishment for a particular offense formulated within broad legal limits. I am very much in favor of a proposal that would establish guidelines for standardized sentences. Such a proposal should carry the provision that the defendant could appeal a sentence set above the guideline, and the Government could appeal a sentence below the guideline.

Fifth, sentences and punishments should be imposed and carried out. In his book "For Capital Punishment," Walter Berns stated that 98.3 percent of serious crimes go unpunished. From a materialistic viewpoint, the question is not, "Why do so many people commit crimes?" but rather, "Why do not more people commit crimes?"

In the course of administering justice, there is perhaps no judicial role more profound in its impact than the power to impose a punishment. The most important thing about a punishment is that it be one which fits the costs of the crime, and that it will, without doubt, be imposed. Today, judges impose punishments with the greatest reluctance, as if they are embarrassed or ashamed of doing so. The judicial system must acknowledge punishment as the expression by the community of its disapproval of a crime. If a society is too ready to forgive the wrongdoer, and punishment is not meted out, then the society may be condoning the crime.

Of course, latitude in deciding punishment for an offender does not reside solely with the judge. In many jurisdictions, the parole board or prison officials exercise considerable discretion in deciding how much of a sentence an offender will serve. I believe that a sound sentencing system would abolish parole and limit good time credits with respect to terms of imprisonment. To serve as a deterrent and a punishment, the sentence of the judge should be served in full. Also, a person convicted of multiple violent crime offenses should be labeled as an habitual offender and be made subject to life imprisonment without parole.

Sixth, capital punishment should be reinstated for certain serious and heinous crimes. The penalty of death is the only punishment that even comes close to recompensing for trampling on the sanctity of innocent life. As violent crime grows, the public sentiment increases in favor of the death penalty as a deterrent to crime. Approximately two-thirds of the American people favor the death penalty for persons convicted of murder.

Seventh, the entire judicial process must be speeded up. At some point, a decision and judgment must become final. Continued appeals as a means of delaying punishment have clogged the entire court system. By designating a point at which all appeals must end, the judicial system will become more effective.

Eighth, the so-called exclusionary rule, under which highly relevant evidence is excluded from consideration in a criminal trial because it was obtained through an illegal search and seizure, should be abolished. It makes no sense to turn the criminal loose as a method of punishment of a police officer for failure to comply with the often technical requirements of the search and seizure law. We should punish the criminal and at the same time provide a civil and administrative remedy to deal effectively with the erring police officer.

Several of the measures I have mentioned have long been included in the Criminal Code reform bills that have been considered in the Committee on the Judiciary. I have concluded that it is time to separate some of the more urgent reforms out of the Criminal Code bill for independent and immediate treatment. We must, however, continue the massive job of modernizing the Federal criminal laws as a whole to meet the needs of a modern society. As of April 1981, some 36 States had acted to revise and modernize their criminal laws. The need is as great, or greater, with respect to the Federal system.

Mr. President, I hope the point has been made that this country faces a crisis in crime and that we can do some things to help. Now is the time to begin. I intend to ask each subcommittee of the Committee on the Judiciary to act promptly on pending measures to deal with crime on both the Federal and State levels so that we will have the broad base of information and opinion necessary to judge the merits of these proposals and to establish priorities. With the cooperation of every member of the committee, we will make progress toward once again making this country a safe place to live and work.

Mr. President, we hope that what we are doing at the Federal level, I repeat, will have some effect on the States. We realize that crime is primarily a State responsibility, but what we do at the Federal level can be a model for some of the States to emulate and we feel can be an inspiration to them to take action to help alleviate this serious crime problem.

Mr. President, I yield to the able and distinguished Senator from Alabama.

Mr. HEFLIN. Mr. President, I express my sincere appreciation to the distinguished chairman of the Judiciary Committee for his support of the resolution and for his excellent remarks that he has just completed outlining a program against crime that could well be called a national war on violent crime. Chairman THURMOND has long been a leader in the search for effective methods of deterrence of criminal activity. He has contributed considerable time and effort to combating crime for which we are all thankful. His constant concerns for the welfare of the American people is deeply appreciated.

I also thank the members of the Judiciary Committee for their unanimous support of this resolution. The ever-increasing burden placed on the American people by criminal activity desperately needs the attention and concern exhibited by my colleagues. I am grateful for their dedication to the continuing war on crime.

Statistics compiled and published by the FBI reveal that violent crime is running rampant in every section and locale in the country. Their statistics indicate that, over the past 30 years, the number of murders in the United States has increased by 370 percent and the number of robberies by 300 percent. Also, in 1980, crime was up nationwide by 10 percent over 1979.

One significant result of this alarming increase in crime is the paralyzing effect it is having on the American people. In the past few years, crime has become more vicious and irrational and, therefore, more frightening.

The American people are virtually being held prisoner in their own homes by criminals who operate in the streets with impunity and with little or no fear of arrest or punishment. The criminals are waging war within our borders—and they are winning it.

Mr. President, I urge my colleagues in the Senate to join in this declaration that the deterrence of violent crime should be a national priority. I ask my fellow Senators to unite in a national effort to stem the rising tide of violent crime.

Mr. President, I ask unanimous consent that the following cosponsors be added to Senate Resolution 141: Senators BIDEN, COCHRAN, DIXON, INOUYE, MITCHELL, RIEGLE, SASSER, and WILLIAMS.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I yield back my time to the distinguished Senator from South Carolina.

The PRESIDING OFFICER. Does the Senator from South Carolina wish recognition?

Mr. THURMOND. Mr. President, I now yield the floor.

RECOGNITION OF SENATOR BOREN

The PRESIDING OFFICER. Under the previous order the Senator from Oklahoma is now recognized.

HIGH INTEREST RATES

Mr. BOREN. Mr. President, as I have noted before, I intend to continue to take the floor each day until action is forth-

coming from the administration to take care of a serious developing situation in this country.

We have a problem that has become urgent. It demands an immediate solution. It is my hope that we will not wait until a severe crisis has developed before we act.

I am talking about the serious problem caused by the short-term impact of high interest rates on critical areas of our economy.

In a very short period of time, if action is not taken, many financial and thrift institutions will find themselves in deep trouble and many small businesses and small farmers will go further into the red. Many will be forced into liquidation.

Two articles which appeared in the press in the last 24 hours again demonstrate the urgency of this problem and the need for immediate action.

I wish to quote from those articles. The first is an article from last night's Washington Star by Sheilah Kast, Washington Star staff writer. It is headed "Drop in Housing Starts Supports Predictions of Sluggish Growth." I quote from that article:

Wilted by high interest rates, housing starts fell 14 percent last month, to their lowest level since the depths of the housing depression a year ago, the Commerce Department has reported.

That news, combined with the Federal Reserve Board's report yesterday that industrial production inched up just 0.3 percent in May, lent evidence to the view that the economy is growing only sluggishly during the second quarter.

It quotes chief economist Michael Sumichrast of the National Association of Homebuilders "who said he expects the housing industry to remain depressed through the summer."

Noting that weak homebuilding activity curtails jobs and demands in related businesses, Sumichrast said, "Without any question, the multiplier effect is so enormous, housing will bring down the whole GNP to the point where it might be neutral or negative in the third quarter."

We have now doubled the rate of unemployment for the Nation in the construction industry. High interest rates have led to the unemployment of over an estimated 1 million people in our country.

As I mentioned earlier, Mr. President, the related effect on the thrift institutions in this country is, perhaps, the most dangerous short-term problem of all.

In regard to that situation with the thrift institutions, I want to quote from an article which appeared this morning on the business page of the New York Times, written by Mr. Clyde H. Farnsworth entitled "Insurer of Troubled Thrift Units." The subhead is "U.S. Agency Offers Help To Prevent Default." I want to quote to you from that article, Mr. President. I ask unanimous consent that the entire article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BOREN. Mr. President, let me just read the highlights from this article. I think it points out the nature of the problem which we face. It is datelined Washington, June 17, and reads as follows:

WASHINGTON, June 17.—The discothèque in the basement of the Federal Home Loan Bank Board building a block from the White House is named, appropriately enough, the Buck Stops Here.

Upstairs in the offices of the Federal Savings and Loan Insurance Corporation, the subsidiary of the bank board that is the main insurer of deposits, computer simulations are being run on the 4,700 federally chartered savings and loan associations.

Fed by the monthly financial data generated by the institutions—numbers on income, net worth, deposits, withdrawals, mortgage portfolio yields and average cost of deposits—the computer spews out the names of "problem" institutions that could face insolvency within two years if corrective steps are not taken.

The insurer's computers are where the buck really stops, and they are now running overtime, having already identified 263 problem institutions, up from 246 in March and 120 at the end of 1980.

Mr. President, that means that in a 5-month period the number of troubled institutions that could face insolvency within the next 2 years has grown from 120 to 263—in 5 months.

I continue to quote the article:

SQUEEZE ON EARNINGS

As a result of paying high interest rates to attract or hold deposits while receiving the bulk of its income from much lower-yielding mortgages, the thrift industry is experiencing the most serious earnings squeeze of the last three decades.

And this in turn has focused attention on the bank board's insurance corporation, which, because it insures about $500 billion of deposits . . .

I want to read that again, Mr. President, that insurance corporation insures $500 billion worth of deposits "with a fund now worth only a little more than $5 billion." That is how much is in the insurance fund according to this writer, Mr. President, "$5 billion at current market values," and this insurance corporation, needless to say, has a strong interest in trying to prevent default.

I would point out, Mr. President, going further in the article, that so far this year the insurance fund, which has been growing at a rate of only about $700 million a year, so far in the first 3 months this year has already paid out $375 million in assistance to the savings and loan industry.

Last year it paid out $1.2 billion and, you can see, with the rate of troubled institutions almost tripling in the first 5 months of this year, that is going to be a very conservative figure compared to what is going to happen this year.

Mr. President, I regret to say it but we are going to have very, very serious problems in this country if action is not taken; whether it be an emergency program to help obtain and rediscount the old paper of these institutions; whether it be the creation of tax-exempt, interest-bearing accounts in our thrift institutions, our banks, our credit unions, which can be targeted back to housing to help the situation, all of these options must be considered.

Let us not wait, let us not wait until a serious situation develops which could shake the confidence of the American people in our economy before we devise an emergency program.

How long are we going to continue a situation where in the first quarter of 1981 the thrift institutions of this country overall had no new net savings or deposits but instead had an outflow of $1 billion? How long are we going to continue a situation in which in the last few months we had a drop in the reserves of the thrift institutions of $28 billion, the largest short-term drop in reserves in financial institutions in the history of the United States?

How long will we continue to allow such massive unemployment in the construction industry and in the building trades? How long will we allow a situation to continue where four out of five families cannot qualify for a home mortgage because of the short-term, high-interest rates? How long will we allow the threat of massive bankruptcies of small businesses and farmers to continue? How long must we wait, Mr. President, until we develop an emergency plan to deal with the urgent and immediate problem being caused in the short term by high-interest rates?

We may be embarked on the proper long-term cure for our economy, for the economic ills of this country, and I think we are. I think the administration is headed in the right general direction. But, Mr. President, if we let the patient die in the emergency room, we are not going to have time to devise the long-range cure and to have the beneficial effects of it.

If we allow the condition with our thrift institutions to continue without action, if we allow the continued effect on the homebuilding industry, if we allow a situation under which our income levels are such that over 80 percent of all the families in this country are totally foreclosed from an opportunity to undertake to buy a home, we are courting serious economic problems in the short range that could be so difficult that we will not have the long-range recovery that all of us hope for.

Let us not wait too long, Mr. President. I hope all of my colleagues will join with me in urging the administration to take action.

I yield the floor.

[From the Washington Star, June 17, 1981]

DROP IN HOUSING STARTS SUPPORTS PREDICTIONS OF SLUGGISH GROWTH

(By Sheilah Kast)

Wilted by high interest rates, housing starts fell 14 percent last month, to their lowest level since the depths of the housing depression a year ago, the Commerce Department has reported.

That news, combined with the Federal Reserve Board's report yesterday that industrial production inched up just 0.3 percent in May, lent evidence to the view that the economy is growing only sluggishly during the second quarter.

However, some economists who agree on that disagree about how strong a rebound the third quarter will see. In the first quarter, the Gross National Product grew 8.5 percent.

Among the most pessimistic is Michael Sumichrast, chief economist of the National Association of Homebuilders, who said he expects the housing industry to remain depressed through the summer.

Noting that weak homebuilding activity curtails jobs and demand in related businesses, Sumichrast said, "Without any question, the multiplier effect is so enormous, housing will bring down the whole GNP to the point where it might be neutral or negative in the third quarter."

By contrast, David Ernst, economist at Evans Economics, a Washington forecasting firm, said, "The recent decline in inflation in the United States should work its way into mortgage rates enough to give housing a boost . . . Housing will be expanding by the third quarter."

The Evans firm is predicting GNP growth of about 4 percent in the third quarter.

Several economists said the key factor in a housing recovery will be a noticeable drop, of about 2 percentage points, in mortgage interest rates. While some banks have recently cut their prime lending rates a notch or two, there is no evidence that mortgage rates have slid from the 16.1 percent national average of early May.

Sumichrast said builders struggling to weather their 29th month of shrinking activity face rates of 19 to 21 percent when they seek construction loans. The Commerce Department estimated that housing starts in May dropped to a seasonally adjusted annual rate of 1.15 million units, the lowest since the 938,000 level of May last year.

In the Northeast, housing starts remained about the same as in April. They dropped 16.5 percent in the South, 14 percent in the North-Central states and 13.6 percent in the West.

Issuance of building permits, a signal of future construction, rose only 0.3 percent last month, to an adjusted annual rate of 1.2 million.

The industrial production report said much of the tiny gain in output was concentrated in autos and auto parts. David Cross, a senior economist at Chase Econometrics in Bala Cynwyd, Pa., said that although auto sales have slumped since the first quarter, automakers are building up inventories in anticipation of closing their factories this summer to re-tool for new models.

Cross called the industrial production report "further evidence that the economy is virtually in a state of stagflation. There's very little hope we're going to see any significant recovery until the tail end of the year."

[From the New York Times]

INSURER OF TROUBLED THRIFT UNITS—U.S. AGENCY OFFERS HELP TO PREVENT DEFAULT

(By Clyde H. Farnsworth)

WASHINGTON, June 17.—The discotheque in the basement of the Federal Home Loan Bank Board building a block from the White House is named, appropriately enough, the Buck Stops Here.

Upstairs in the offices of the Federal Savings and Loan Insurance Corporation, the subsidiary of the bank board that is the main insurer of deposits, computer simulations are being run on the 4,700 federally chartered savings and loan associations.

Fed by the monthly financial data generated by the institutions—numbers on income, net worth, deposits, withdrawals, mortgage portfolio yields and average cost of deposits—the computer spews out the names of "problem" institutions that could face insolvency within two years if corrective steps are not taken.

The insurer's computers are where the buck really stops, and they are now running overtime, having already identified 263 problem institutions, up from 246 in March and 120 at the end of 1980.

SQUEEZE ON EARNINGS

As a result of paying high interest rates to attract or hold deposits while receiving the bulk of its income from much lower-yielding mortgages, the thrift industry is experiencing the most serious earnings squeeze of the last three decades.

And this in turn has focused attention on the bank board's insurance corporation, which, because it insures about $500 billion of deposits with a fund now worth only a little more than $5 billion at current market values, has a particularly strong interest in trying to prevent default.

When an association lands on the problem list, said H. Brent Beesley, a real estate lawyer from Salt Lake City who is the new director, "we tell it that it should contemplate taking some action—cutting expenses, reducing overhead, considering merger with a strong, safe harbor." He continued, "And if the situation is not rectified, we then ask the board of directors to authorize us to effect a merger for them."

FORCED MARRIAGES

So far this year the insurance corporation has liquidated one failing institution—the Economy Savings and Loan Association of Chicago—and merged seven others with stronger institutions. One of the recent forced marriages involved the New York and Suburban Savings and Loan Association of Scarsdale, N.Y., which was absorbed by the Anchor Savings Bank of Northport, L.I.

The "supervisory" or forced marriages, with the insurance corporation as the broker, are not especially popular in the industry. The practical consequences are that the managers of the troubled institution lose their jobs.

For this reason the industry has been pressing for some type of capital infusion program involving temporary Government financial assistance to strengthen the asset side of the balance sheet until general economic conditions improve.

INFLATION, HIGH RATES CITED

The industry has argued that the precarious financial condition of many thrift units has been caused less by faulty management than by high inflation and high interest rates, for which it is not responsible.

Fearing a large drain on the Treasury, the Reagan Administration has opposed any new extraordinary measures and taken the position that the bank board and its insurance corporation already have adequate powers and resources to deal with the situation.

The chairman of the bank board, Richard T. Pratt, said that the fund was earning $1 billion a year on insurance premiums from the institutions and investments, and that this should be enough to handle any losses this year without having to dip into principal.

So far this year the cost to the insurance fund of assisting the industry has amounted to $375 million, compared with $195 million over the same period in 1980. The money is spent on paying depositors and in assuming mortgages of troubled institutions.

EXPANSION URGED

Mr. Pratt argues that the industry does not need a bailout but should get the authority to enter new lines of business.

"Thrifts should be able to engage in real estate investment on a much wider basis than is currently permissible," he said. "Real estate is their strong suit, and I believe thrifts could be engaged in a much broader spectrum of real estate activity—for example, real estate acquisition and development, commercial construction loans, industrial land development loans, and real estate improvement loans—without compromising their housing finance mission."

More than new business, however, the industry needs lower interest rates to get out of its present imbroglio. Industry leaders say, as a rough rule of thumb, that annual earnings rise about $3 billion for every percentage-point reduction in short-term rates.

The insurance corporation, Mr. Beesley said, already has the power to grant financial assistance to problem thrift units, but he insists that such assistance is "not a bailout but a tool we use for our own purposes."

"I must be emphatic on this point," he continued. "We will not give assistance in any form until the board of directors has given us the right to merge the problem association into a strong institution. We have to handle the situation in the way that is least expensive and least disruptive from our point of view."

Armed with the computer printouts, field examiners of the insurance corporation call on all the associations at least once a year. They monitor the weaker institutions more intensively, calling on them monthly, weekly or even daily in extreme cases.

There are more than 1,000 such examiners, most of them accountants, who report to a managerial staff of 60 supervisory examiners. The supervisors analyze trends in money flows, the performance of management, the market potential.

"I think the system works reasonably well," said Dale F. Riordan, chief economist at the National Savings and Loan League. "The examiners are competent and professional. If anything, they could use more staff in Washington to make the judgmental calls."

Jonathan E. Gray, research analyst at Sanford C. Bernstein, an investment house that follows the thrift industry, noted that one area where there might be insufficient data was the position of the associations in mortgage and interest rate futures contracts undertaken often to speculate on turns in the interest rate cycle.

Chicago's Economy Savings and Loan Association, which was liquidated last month at an estimated cost to the insurance corporation of $60.2 million paid to insured depositors, was believed to have speculated on Ginnie Mae futures—contracts to buy and sell packages of mortgages put together by the Government National Mortgage Association and traded much as securities are.

In a liquidation or forced merger, the insurance corporation often has to take over the mortgage-backed securities of the failing institution that have yields far below current market rates. Given today's high interest rates, such securities would have to be sold at a substantial discount to realize cash from them.

The insurance fund has a book value of $6.5 billion. This includes about $1 billion of the mortgage-backed securities that it has assumed in earlier mergers; the balance is in Treasury securities. Because of high interest rates, the current market value of these assets is about 20 percent less than the book value, or $5.2 billion.

RECOGNITION OF SENATOR WARNER

The PRESIDING OFFICER. Under the previous order, the Senator from Virginia is recognized for not to exceed 15 minutes.

Mr. WARNER. I thank the Chair.

S. 1389—THE NATIONAL PORT AND NAVIGATION IMPROVEMENT ACT OF 1981

Mr. WARNER. Mr. President, in my life there is good news and bad news today. The good news is that I am introducing a bill for the dredging of American ports and harbors, and I am joined in this effort by no less than 13 of my distinguished colleagues. I have worked on this bill for almost a year.

The bad news is that today I am experiencing the worst case of laryngitis I have ever had since I have been a Mem-

ber of the Senate, so if the President and others will bear with me, I will do my very best to explain this legislation.

The bill I am introducing today is entitled The National Port and Navigation Improvement Act of 1981. It sets Federal contributions for the construction of navigational improvement projects at no less than 60 percent. For operation and maintenance the Federal contribution is set at 75 percent.

I mention that at the outset for the reason that earlier legislation introduced by myself and the distinguished Senator from Louisiana (Mr. JOHNSTON) did not reflect such cost-sharing measures. These cost-sharing measures are directly attributable to the efforts by President Reagan and the members of his administration to awaken the need in Congress and throughout America that, in future legislation of this type, the costs must be borne in part by the States with the ports and harbors, and in part by the Federal Government.

Changing the funding mechanism for deepwater port improvement projects is only one of the major conditions which any port improvement legislation must address.

Equally important are the provisions which will mandate expedited permitting, congressional authorization, environmental review, and judicial review processes.

This bill, if enacted into law, would produce these absolutely necessary reforms and integrate them with a responsible funding mechanism.

Mr. President, it is my belief that this bill will provide the remedies needed to make our ports acceptable for competitive world trade by providing funding in a manner compatible with the administration's benefit-receiving cost-sharing concept.

The new bill would be considered generic legislation and would allow any of our Nation's 170-plus deep-draft commercial ports to avail itself of the bill's various provisions regardless of the type of cargo which is exported or imported through its facilities.

I wish to reemphasize, Mr. President, that the bill, in my judgment, and in the judgment of others, provides advantages for not only coal exporters, but for any exporters who ship materials in such bulk quantity that the larger type of cargo vessels now being used or likely to be used in the future are required.

The National Port and Navigation Improvement Act of 1981 would provide the following benefits for our Nation's deep-draft commercial ports:

First, funding for navigation improvement projects; second, favorable tax treatments for money expended by non-Federal sources for navigation improvement projects; third, expedited review of deep-draft commercial port maintenance programs; fourth, expedited process for navigation improvement projects; fifth, expedited environmental review of such projects; sixth, expedited congressional review of such projects; seventh, expedited judicial review of claims filed in such projects; eighth, automatic authorization for projects which receive no Federal contribution; ninth, expedited process for shortsighted facility permitting; and last, tenth, advance moneys for feasibility study survey reports and environment impact statements for advanced engineering design for such authorized projects while awaiting congressional appropriations process.

Mr. President, the average navigation improvement project today—that is, the type covered by this bill—would require almost 24 years to complete. We, as a nation, simply can no longer afford the luxury of nearly a quarter of a century of delays from concept to project completion. Nevertheless, the bill would not obviate any current environmental, congressional, judicial, or other review requirement. It would merely speed them up so that projects may be completed as expeditiously as possible, substantially reducing the current completion times.

Mr. President, apart from the domestic consideration of this bill, I believe very firmly that it will help our balance-of-payments situation by making us more competitive in the world's market. But it is imperative, from the standpoint of national defense, that this Nation have the capability of exporting its coal worldwide, particularly to our allies, such that we can take a more active role in meeting their energy needs and, thereby, strengthening their nations—so that, in turn, we have the mutual reinforcement to work toward strengthening the national defense of each nation and advancing the cause of world peace.

Mr. President, for the past year, America has been accorded graphic examples of the inability of its coastal ports to meet the needs of the world's trading nations; of the ports' inability to meet the demand of energy-consuming nations for American coal; and of the ports' potential inability to meet world demand for American grain or other bulk commodities.

The alarming truth is that America's bulk loading ports, especially its coal-loading ports, have allowed their infrastructures, including harbor depth, to become dangerously out of step with the current trends of world shipping.

To transport their goods, especially bulk commodities, shippers more and more are turning to vessels larger in size and complexity than those of a generation ago. Prior to 1965, vessels of 20,000 deadweight tons (dwt) or smaller transported grain, coal and iron ore. Today, ships of 100,000 dwt or greater are becoming standard.

Over 25 percent of the coal trade in 1979 was carried in vessels of over 100,000 dwt. It is estimated that coal carried in large bulk vessels could rise to 40 percent in 1983 and possibly 50 percent in 1985.

Today there exist 388 bulk carriers and combination carriers of over 100,000 dwt with another 94 on order. The Japanese recently lanuched a 194,000 dwt coal-ore carrier and announced orders for two 200,000 dwt energy-saving coal-ore carriers from their shipyards. Several other countries have similar intentions.

Trading nations of the world are turning to these larger vessels for simple economic reasons. The bigger bulkers generally use less fuel, are more efficient, and more productive; greatly lowering the per-ton cost of the commodities, raw materials and manufactured products carried.

This trend in shipping to substantially larger bulk vessels is a "good news—bad news" story for America.

The good news is that this trend to vessels of 100,000 dwt or more lowers the cost to shippers and to consumers, makes U.S. goods more attractive in international trade, generates additional employment and reduces our balance-of-payments deficit.

According to a recent U.S. Maritime Administration study, the cost of ocean transport accounts for some 20 to 35 percent of the delivered price of coal. At current rates, utilizing a 120,000 dwt carrier could save shippers over 30 percent of freight charges incurred in moving the same volume in a 60,000 dwt vessel.

That is the good news. The bad news, however, is that very few U.S. ports are now able to fully load any ship of 100,000 dwt or more.

The vast majority of bulkers of 100,000 dwt or larger have a draft of over 50 feet; in fact, the average is about 55 feet.

The only major coal-loading port in the United States close to being able to handle these large bulk vessels is Hampton Roads. Its maximum loading depth is 46.5 feet, which equates to a maximum load approximating 100,000 tons.

Being competitive in today's world bulk commodity trade—whether it be coal, grain, iron ore, or other dry bulk trade—means a nation must have adequate capacity to meet the needs of world trading nations.

Adequate capacity requires port facilities and navigation channels which are both wide enough and deep enough to handle large ships economically and safely. The United States does not measure up today.

In 1980, lack of suitable port and navigation facilities cost the U.S. bulk industries many millions of tons in lost sales. In the coal industry alone, the National Coal Association estimates our current port inadequacies lost America the sale of at least 10 million tons of coal worth approximately $500 million.

To an industry which currently has 20,000 miners out of work, 10 million tons of lost sales due to inadequate port facilities is a terrible catastrophe and a national disgrace—lost jobs and lost opportunities never to be recovered.

Mr. President, the coal export market is a very competitive industry. For America to retain its position as the world's No. 1 coal exporter, it must do everything possible to see that its coal remains competitive in price and quantity.

To be competitive, and stay competitive in today's export market, our Na-

tion must improve and upgrade current coal-loading facilities, build new ones, and deepen its harbors.

A recent survey by the London shipbroker firm of Simpson, Spence & Young found there are currently nine coal-loading ports in the world capable of handling ships of 100,000 dwt or larger. By their definition, ports able to accommodate such ships must accept the necessary length and beam, plus a minimum draft of 46 feet.

I ask unanimous consent that a table showing existing ocean loading terminals be inserted in the RECORD at this point.

There being no objections, the table was ordered to be printed in the RECORD, as follows:

EXISTING OCEAN LOADING TERMINALS CAPABLE OF HANDLING VESSELS OF OVER 100,000 DWT

Country: Port	Maximum size (LOA, beam, etc.) of vessel in deadweight tons	Draft in meters	Approximate maximum size cargo on this draft	Effective annual coal capability in million tons
Australia: Hay Point	150,000	17.64	Full DW	11/15.0
Canada:				
Roberts Bank	160,000	18	Full DW	11.0
Neptune Terminal	125,000	14.5	100,000	3.5
Quebec	200,000	14.62	160,000	3.0
Poland: Gdansk	110,000	15	Full DW	10.0
South Africa: Richards Bay	160,000	17	150,000	26.0
United States:				
Norfolk Pier 6	150,000	14	112,000	20.0
Los Angeles	120,000	14	95,000	1.0
U.S.S.R.: Vostochny	125,000	15-16.5	Full DW	5.0

Mr. WARNER. Worldwide, the coal exporting nations have the opportunity to utilize 30 coal discharging ports capable of accepting 100,000 dwt vessels or larger. Of these 30 ports, about 20 were built specifically for the steel industry. Some are being adapted to meet the needs of the burgeoning thermal coal trade. Eleven of the ports are capable of taking tonnage of 150,000 dwt or even more.

I ask unanimous consent to have inserted in the RECORD a table showing the existing ocean discharging terminals.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

EXISTING OCEAN DISCHARGING TERMINALS CAPABLE OF HANDLING VESSELS OF OVER 100,000 DWT

Country: Port	Maximum size (LOA, beam, etc.) of vessel in deadweight tons	Draft in meters	Approximate maximum size cargo on this draft	Effective annual coal capability in million tons
Belgium: Antwerp	125,000	13.71	100,000	10.0
Denmark:				
Ensted	140,000	15	125,000	5.0
Stignaes	125,000	15.3	117,000	3.0
France:				
Dunkirk	125,000	14.2	104,000	8.0
Le Havre	150,000	17	145,000	7.0
Fos	160,000	18	Full DW	4.0
Germany:				
Hansaport	280,000	13.72	160,000	2.0
Wilhelmshaven	110,000	14.32	100,000	2.0
Italy: Taranto	260,000	23	Full DW	6.0
Japan:				
Chiba	225,000	17	180,000	
Fukuyama	150,000	16-17.3	Full DW	
Kashima	180,000	17	160,000	
Kawasaki	250,000	20	Full DW	
Kimitsu	150,000	17	145,000	25.0
Mizushima	220,000	16	170,000	
Muroran	160,000	16	140,000	
Nagoya	160,000	14	120,000	
Oita	300,000	28	Full DW	
Wakayama	150,000	14	120,000	
Holland:				
Amsterdam	150,000	13.72	110,000	3.0
Rotterdam	250,000	20.65	Full DW	124.0
Ijmuiden	150,000	13.72	115,000	4.0
South Korea: Po Hang	170,000	14.5	140,000	4.0
Spain: Gijon	150,000	13.72	110,000	3.7
Yugoslavia: Bakar	150,000	17	full DW	2.0
Taiwan: Kaohsiung	150,000	14	120,000	3.0
United Kingdom:				
Hunterston	350,000	27.43	full DW	
Immingham	165,000	14	125,000	10.0
Port Talbot	125,000	14.93	110,000	
Redcar	160,000	17	150,000	

1 As from 1981.

Mr. WARNER. While America has two of the nine coal loading ports now capable of accommodating 100,000 dwt bulk vessels, it might appear our Nation has become complacent and satisfied with the status quo. We have not authorized any coastal port improvement project since 1976.

America's export competitors, as well as her customers, have not rested on their laurels. Seeing the trend to larger vessels and deeper ports, both our competitors and our customers are rapidly adding to their port capacity—either expanding and improving current ports, or building new ones.

Fourteen of these discharge ports will be capable of taking vessels of between 150,000 dwt and 200,000 dwt.

Unhappily, America's ports currently do not have the capacity to adequately service them.

I ask unanimous consent that there be inserted in the RECORD a table listing "New Developments in Coal Loading Terminals," and a table listing "New Developments in Coal Discharging Terminals."

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

NEW DEVELOPMENTS—COAL LOADING TERMINALS, INCLUDING UPGRADING EXISTING PORTS—TONNAGE OVER 100,000 DWT

Country	Definite	Proposed	Size DWT	Draft (meters)	Year	Planned annual coal-handling capability (million tons)
Australia	Hay Point (2d loader)		175/200, 000	19	1983	15–20. 0
	Newcastle (upgrading)		125, 000	15	1983	[1] 15. 0
	Newcastle (Kooragang)		150/175, 000	15. 2–17	1984–85	15. 0
	Port Kembla (new loader)		150, 000	16. 45	1983	14. 0
	Gladstone (Clinton)		120/150, 000	15. 4–16. 5	1982	12. 5
	Abbot Point (new loader)		120/150, 000	16. 4	1984–85	10. 0
		Brisbane				
		Fishermans Island	120, 000	15. 25	1987–88	10. 0
Canada	Roberts Bank (2d loader)		200, 000	19	1983	25. 0
	Prince Rupert (new loader)		200, 000	19–21	1984	15. 0
		Gros Cacouna	300, 000		1985–90	10–15. 0
		Point Noire	300, 000		[2]	5–10. 0
Colombia		La Guajira	130, 000		1985–86	15. 0
South Africa	Richards Bay (upgrading)		200, 000	19	1985	[1] 18
China		Shijiu Suo	100, 000			10. 0

[1] Additional. [2] Late 1980's.

NEW DEVELOPMENTS—COAL DISCHARGING TERMINALS INCLUDING UPGRADING EXISTING PORTS—TONNAGE OVER 100,000 DWT

Country	Definite	Proposed	Size DWT	Draft (meters)	Year	Planned annual coal-handling capability (million tons)
Belgium	Antwerp (upgrading)		150/170, 000	14. 62–15. 25	1985–86	[1] 5. 0
		Zeebrugge (new)	125, 000		1983	7. 0
Denmark	Ensted (upgrading)		170, 000	17–18	1983	[1] 4. 0
	Stignaes (upgrading)		170, 000	17–18	1983	[1] 4. 0
Eire	Money Point (new)		170, 000	19	1984	4. 0
France	Dunkirk (new)		200, 000	21	1983	10. 0
	Le Havre (new)		170/200, 000	17–20	1982–85	7. 0
	Fos (new)		250, 000	20	1984–85	5. 0
	Montoir (new)		140, 000		1983	3. 0
Holland	Maasvlakte (MCT new)		250, 000	30. 65	1983–84	15. 0
	Ijmuiden "Norcot" (new)		180, 000	17–18	1985	5–10. 0
Israel	Hadera (new)		170, 000	21	1982–83	4. 0
Hong Kong	Castle Peak		120/150, 000	15	1985–86	5. 0
	Lama Island		120/150, 000	17	1982	5. 0
Japan	Hibikanada (upgrading)		150, 000	17	1985	[1] 5. 0
		Tomakomai	150, 000	17	1990	8. 5
	Yokkaichi		120, 000	14	1986	5. 0
		Sakito	150, 000		1988	5. 0
	Matsuura		120, 000		1985	5. 0

[1] Additional.

Mr. WARNER. Mr. President, although these are the most up-to-date tables available, recent events and announcements of proposed port improvements have already made them dated.

Spain has announced plans for two new ports capable of handling 150,000 dwt vessels; Italy, one port of 160,000 dwt capacity; Taiwan, one port of 150,000 dwt capacity; and Colombia, one port capable of handling vessels in the 200,000 dwt size.

Not only are other nations building new deep-draft ports and deepening current ports, they are building vessels of over 100,000 dwt to carry their coal and maximizing their coal shipment economies.

France has ordered four 135,000 dwt vessels, Denmark is building two 132,000 dwt vessels, and Japan is building several 140,000 dwt ships.

Increasingly, coal importing nations will depend on coal exporting nations with ports able to accommodate 100,000-plus dwt vessels efficiently.

America does not have such ports at the present time.

Nor is America moving to deepen its ports in the foreseeable future.

America will lose an enormous economic shot in the arm if it fails to deepen its ports.

The Interagency's Coal Export Task Force's Interim Report succinctly highlighted the benefits that would stem from deepening our harbors:

> Lowering the delivered cost of coal by employing larger ships would bring the United States closer to the possibility of selling in a price competitive range, should additional efficiencies be realized in other parts of the coal chain . . . such savings would likely put the United States in a position where it could compete in Europe on the basis of price with Australia, even if Australia were to employ lower cost, coal fired ships for transport. On the other hand, failure to take any action to improve coal ports could generate adverse reactions abroad which, apart from purely economic consideration, might affect our export levels. Finally, enhancing coal trade, as part of the international effort to increase coal production and use in order to reduce dependency on foreign oil by our industrialized allies, involves security considerations which go beyond the trade-related benefits noted above.

Having ports which can service superbulk loaders will lower the ocean transportation cost of coal by up to $6 a ton—which will go a long way toward making America's coal competitive.

America's continued reluctance to deepen its ports is a signal for foreign buyers to look elsewhere for more readily available, cheaper coal.

An even bigger incentive for our foreign coal customers to go elsewhere is the enormous penalties they pay because of our inadequate port facilities. The French, it is estimated, paid at least $20 million in penalties because of port delays, while the Japanese paid a mind-boggling $150 million.

Currently American private industry is busily trying to cure some of its export ills by speedily modernizing coal facilities and building new ones. That will help.

However, one stark fact remains: America is still not deepening its ports. The world coal fleet of the future will not be able to anchor at our coal facilities because of pure economics. The fleet will go elsewhere where they can fully utilize their vessels.

Mr. President, it is one thing to identify a problem, but quite another to devise a generally acceptable solution.

While many parties agree that our ports need to be deepened and improved, there is not a broad consensus on the manner in which this should be accomplished.

As I became aware of the critical situation facing our Nation's ports and bulk industries, I examined the port navigation improvement process and how the Federal Government could help.

Up to and including this year, the Federal Government generally funded navigation improvement projects fully.

Since 1824, the Corps of Engineers had Federal responsibility for improvement and maintenance dredging of channels of our Nation's ports.

In the 157 years of corps involvement, a very elaborate process developed for studying, reviewing, authorizing, and funding coastal ports' improvement and maintenance projects.

The process is slow and cumbersome, and it is dramatically politicized. In fact, there have been no deep-draft navigation projects authorized in the last 5 years.

For the 36 recent improvement projects undertaken, it took an average of 24.4 years from authorization of a study to completion of construction.

Entirely too long. The process does not respond effectively to fast-breaking shipping trends.

The process is in need of drastic, total overhaul.

Toward this end, I introduced S. 3247, the Ports and Navigation Improvement Act of 1980, last December in the 96th Congress.

The Ports and Navigation Improvement Act of 1980 sought to expedite the process—including environmental review, permit review, congressional review and judicial review.

The President's Interagency Coal Export Task Force strongly endorsed such a fast-track concept in its January 1981 Interim Report:

> The need to simplify, coordinate, and remove unnecessary delays from governmental administrative and environmental reviews cannot be overstated.

The report found that the implementation process for harbor improvements took more than 20 years. Their conclusion was that the process must be sped up in every phase. As we had intended, the introduction of the 1980 bill generated helpful suggestions and constructive comments, many of which are reflected in the bill I introduce today.

The need for such legislation, if anything, is more urgent than before.

America faces difficult economic times. Past excessive Federal spending has taken its toll.

Enormous budgetary deficit and public debt have accrued. The people cannot, should not, and will not allow these to be increased.

November brought a new administration rooted in fiscal responsibility and in line with the thinking of the majority of the American public.

The Reagan administration demands all Federal funding programs be scrutinized closely. Those who benefit from a Federal program must pay their fair share for benefits received.

In the case of improving and maintaining our Nation's ports, the Reagan administration would end the longstanding practice of full Federal funding—and replace it with a shared funding concept. The parties benefiting share the cost.

I totally endorse the administration's concept.

It is a fiscally responsible concept to which all Virginians adhere, and which all of America should adopt.

The Reagan administration applied this concept to coastal port improvement and maintenance programs in S. 809, establishing a cost-sharing funding mechanism for these programs.

S. 809 is the administration's blueprint for funding for the coastal port improvement and maintenance process.

Like the administration, Mr. President, I believe that those who benefit should pay their fair share. Further, I believe that a coastal port improvement and maintenance program benefits many parties—all of whom should pay their fair share.

Not only do the parties which utilize harbor facilities benefit. So do the city, the State and the region in which the harbor is located. And, let us not forget, so does the United States as a whole.

This was strongly pointed out in a 1978 U.S. Maritime Administration study which concluded operations at our Nation's deep-draft ports represent a major national industry. It is an industry which employs 1,046,000 persons. It had gross sales of $28 billion, and contributed $15 billion to the gross national product in 1978. Moreover, the Nation's deep-draft ports support one in eight jobs in American factories, and one in four jobs in agriculture.

Testimony received by the Environment and Public Works Committee on June 12 of this year, addressing our inefficient port facilities and inadequate port depth for world bulk trade, also emphasized the significance of our ports to the national economy:

> The debilitating and counterproductive effect of port inefficiency is much like an invisible—and, usually unintended—additional tax levied on commodities exported and imported. U.S. import consumers, and export producers, ultimately pay the higher price which results from inadequate and/or inefficient port and transport services. That higher price often takes the form of business lost as U.S. exports become progressively more expensive and therefore less attractive in the increasingly competitive world market. Lost business equates to fewer jobs for American citizens, lost tax revenues, and higher payments for unemployment and other social services. U.S. taxpayers thus have a vital interest in the efficiency of the nation's transportation system, and particularly the port and navigation component thereof.

Just as important, our coastal port facilities contribute to our national security.

Our ability to move large quantities of food, fuel, and materials through our coastal ports to our allies, strengthening their economies and security, is a benefit which cannot be measured in mere dollars and cents.

America is only as strong and secure as its allies. Their security means America will not be forced to use its own resources—men and military hardware—to shore up an allied country.

Adequately maintained coastal ports allow our merchant marine to move goods to service the needs of our military forces stationed throughout the world.

S. 809, the administration bill, recognizes this fact and allows for a proration of costs between private parties and the Federal Government for Coast Guard navigation requirements, Department of Navy transportation requirements, or any other national defense transportation requirements.

However, S. 809 does not set a percentage for Federal Government contribution for the benefit it receives from the coastal port improvement or maintenance project. Rather, the Secretary of the Army is to determine that contribution at a later date.

I believe a figure can be and should be attributed to the Federal Government's benefit from and contribution to coastal port projects.

I believe the benefits to the Federal Government—the impact on our balance of payments, national employment, social services, gross national product, national security, trade treaties, security treaties, assistance to our military forces—exceed the benefits accrued by private, State, and local entities. Therefore, I believe the Federal contribution for coastal port improvement and maintenance projects should be greater than the non-Federal contribution.

The bill I am introducing today—the National Port and Navigation Improvement Act of 1981—recognizes this fact and sets the Federal contribution for construction of navigation improvement projects at no less than 60 percent. For operation and maintenance, the Federal contribution is set at 75 percent.

Where the national defense transportation requirements are greater, on a port-by-port basis, the Federal contribution would be increased.

The reasons for the differences in the Federal contribution for construction versus operation and maintenance are:

First, the Federal Government has a major responsibility to see that America has a free-flowing, integrated national transportation network. Our coastal ports are a major part of that network. If the ports are not properly operated or adequately maintained, the network fails and virtually all of America's foreign commerce will be blocked. The national need to maintain an effective transportation network is of greater importance than is the need to construct and improve individual ports—thus the differing contribution ratios.

Second, our foreign customers seek fees and charges for their goods which are certain in nature and which can be used as the basis for entering into long-term contracts. Long-term contracts cannot be entered into while operation and maintenance costs fluctuate from year to year. They do not lend themselves readily to fixed-fee schedules. Providing Federal contribution for operation and maintenance will reduce that uncertainty. The Nation as a whole will benefit.

Third, construction calls for a greater amount of capital investment up front for each project. Operation and maintenance is less of a financial burden on the United States than are construction costs of individual projects. Considering the current national economic situation, it was not my intent to increase Federal expenditures unnecessarily.

A grandfather clause in the bill exempts the depths existing within our Nation's ports from any operation and maintenance charges. Custom requires the Federal Government to fully fund operation and maintenance of current ports. Our Nation's ports are either their natural depth or a depth the Federal Government felt necessary and agreed to operate and maintain.

With the pending change in funding rules, principles of equity require our Nation's ports not to be compelled to pay for the maintenance of depths they were required to accept. After the enactment of this act, however, ports are clearly on notice that the funding rules of the game have been changed. They will have to pay their proportionate share of the improvement.

Changing the funding mechanism for deepwater port improvement projects is only one of the major conditions which any port improvement legislation must address.

Equally important is reform which will mandate expedited permitting, congressional authorization, environmental review and judicial review processes.

The National Port and Navigation Improvement Act of 1981 would produce these absolutely necessary reforms and integrate them with a responsible funding mechanism.

One of the major delays in improving and maintaining our deepwater commercial ports is the environmental impact statement process.

My bill seeks to expedite this process on two levels—current maintenance programs, and new construction and maintenance programs.

To expedite current maintenance programs, the bill requires the Secretary of

the Army to submit to Congress within 1 year from the date of the enactment of this act a 5-year deep-draft commercial port maintenance program setting forth a schedule of required maintenance dredging projects.

The Secretary will submit, along with the required maintenance program, a programmatic environmental impact statement addressing the various implications and effects of a dredging program to maintain and improve our Nation's deepwater commercial ports.

To assist in the preparation of these documents for submission to Congress, the Secretary of the Army is to enter into memoranda of agreement with appropriate agency and department heads, within 180 days of enactment of this act, delineating the responsibilities of each and assuring timely interagency cooperation. The agreements will establish schedules and time limits for interagency review and comment—90 days for review of maintenance dredging projects and 270 days for review of federally authorized channel improvement projects. These time limits will not be extended.

Congress has 60 days from the time it receives both the maintenance program and the final environmental impact statement (EIS) to disapprove the documents by a joint resolution of disapproval.

If Congress does not disapprove the documents, the Secretary is authorized to undertake the maintenance projects outlined in the documents for a 5-year period.

The maintenance program can be reauthorized by the appropriate congressional committee at the end of the 5-year period by a resolution of approval.

The Secretary shall periodically submit to Congress any revision of an existing EIS of a navigation improvement project previously authorized by Congress within 30 days of the completion of such revision.

Likewise, the Secretary shall revise, maintain, and submit to Congress within 30 days of its completion a final EIS for any navigation improvement project in a deep-draft commercial port authorized by Congress on or after the date of enactment of the act.

The bill authorizes the Secretary of the Army to undertake new construction improvements in any deep-draft commercial port in the United States which meets a criteria test set forth in the bill on an expedited and priority basis.

The Secretary is authorized to undertake a new construction project if:

First, non-Federal interests enter into a cost-sharing agreement with the Secretary;

Second, the Secretary finds the project feasible on the basis of acceptable engineering standards and environmentally acceptable; and

Third, Congress passes upon a detailed application submitted by the Secretary covering the project.

The bill sets forth an expedited process for review and authorization of any new construction project.

The Secretary has 2½ years—from the time a sufficiently detailed application for a navigation improvement project from any deep-draft commercial port is received—to submit to Congress a document containing a feasibility study, EIS and survey report on the project.

The feasibility study and survey report should be completed within 1 year of receipt of the request calling for such study and report.

The EIS must be prepared by the Army Corps District Engineer within 18 months of receipt of a sufficiently complete proposal for such project by that port.

The Secretary shall submit a final EIS to Congress within 30 days of its completion and before there is any discharge of material from the construction of the projects.

The bill sets forth in detail the information to be contained in the EIS.

There shall be prepared and submitted to Congress an advanced engineering and design plan and work schedule for the project within 18 months of the date of submission of the feasibility study and survey report.

In the preparation of the EIS, feasibility study, survey report, the advanced engineering design plan, and work schedule, the bill requires the Secretary to implement procedural reform regarding interagency review, comment, and consideration of EIS to include:

First, consolidated Federal assessment and regulatory proceedings, that is, joint public hearings, and

Second, preparation of joint Federal and State environmental impact assessments and coordinated regulatory review of the projects on a concurrent basis.

The Corps of Engineers is designated the lead Federal agency for purposes of joint environmental assessment and coordinated regulatory review of these projects.

Congress has 60 days upon receipt of the final EIS, survey report, and feasibility study for a proposed project to disapprove a proposed project by a concurrent resolution of disapproval.

If Congress does not disapprove the project within the allotted time, it shall be a conclusive finding that:

First, the EIS is adequate according to law;

Second, the national interest for purposes of the Federal-consistency provisions of the Coastal Zone Management Act and other related Federal laws is met; and

Third, there is compliance with section 404 of the Water Pollution Control Act.

Shoreside facility permits receive the same fast-track treatment as navigation improvement projects under the bill. Shoreside facilities undergo the same delays incurred by navigation improvement projects and the act would alleviate this major problem.

Judicial review of the act and projects authorized under the act receives expedited treatment in accordance with the precedent enacted by the Trans-Alaskan Pipeline Act.

The adequacy of environmental impact statements approved by Congress during the project authorization, findings and determinations by Congress pursuant to title II of the act, and actions taken to carry out projects under the act are not subject to judicial review. However, claims alleging the act is invalid may be brought within 60 days following enactment. Claims alleging that an action implementing a project under the act would deny rights under the Constitution of the United States, or alleging that action is beyond the scope of authority conferred by this Act, may be brought within 60 days following the date of that action.

A claim not filed within the time limit will be forever barred.

The district court in which the project or action complained of is located shall have exclusive jurisdiction over the legal action. The judicial proceeding shall be heard in an expedited fashion taking precedence over all other matters on the docket. The court will not have jurisdiction to give any injunctive relief except in conjunction with a final judgment in a case involving a claim filed pursuant to the act.

Any review of a final judgment, decree or order of a district court may be had only upon direct appeal to the Supreme Court.

The Federal Government, before undertaking any construction project, must enter into a cost-sharing agreement with non-Federal interests whereby the non-Federal interests agree to pay not more than 40 percent of the cost of the project's construction within the life of the project, but not to exceed 50 years from the date the project is put into use, and 25 percent of the future operating and maintenance cost of the project over its life.

The cost-sharing agreement only applies to those projects begun after the enactment of this law.

The project may be financed by the Federal Government subject to normal interest rates and agreement to repay the agreed-upon cost-sharing amount, or it may be financed by other means.

The bill allows for each deep-draft commercial port to recover its reimbursement obligation in whatever manner it chooses. However, fees cannot be assessed to vessels owned and operated by the United States or any other nations which are not engaged in commercial service, or vessels used by a State or a political subdivision for noncommercial purposes.

This bill allows the Federal contribution—60 percent for construction, 75 percent for operation and maintenance—to be greater in certain circumstances.

When a natural disaster occurs, the act does not require non-Federal public bodies to contribute to the rehabilitation or maintenance of the port.

In cases where a non-Federal body agrees with the Federal Government to contribute 100 percent of the project's costs, the project may be acted upon without a requirement for any further congressional authorization under this act.

The bill will amend the Internal Revenue Code to all for tax-exempt bonds to be issued for deep-draft commercial port navigation improvement projects authorized under this bill.

Finally, the bill allows any projects which have been authorized by Congress

or are currently undergoing the authorization process to receive the benefit of fast-track procedures set forth under this law incorporating work that has already transpired under the project's application.

Mr. President, it is my belief that this bill, if enacted, will provide the remedies needed to make our ports acceptable for competitive world trade, while providing funding in a manner compatible to the administration's benefit-receiving/cost-sharing concept.

I am joined in this effort by Mr. HEFLIN, Mr. FORD, Mr. MATTINGLY, Mr. HUDDLESTON, Mr. ANDREWS, Mr. MURKOWSKI, Mr. RANDOLPH, Mr. HARRY F. BYRD, JR., Mr. STEVENS, Mr. DENTON, Mr. PACKWOOD, Mr. SPECTER, and Mr. SASSER.

Mr. President, before I close, I certainly want to acknowledge the very able assistance by a number of staff members on the drafting of this bill and the holding of the innumerable meetings over the past year. Mr. Roger Sindelar, formerly of my Senate office staff and now of the Senate Energy Committee staff, has acted as the manager on this project. I would like to pay special recognition to the Corps of Engineers which has assisted in the drafting of this bill.

Mr. President, I ask unanimous consent to have the bill printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1389

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SHORT TITLE: FINDINGS AND PURPOSES AND OBJECTIVES; DEFINITIONS

SEC. 101. This Act may be cited as the "National Port and Navigation Improvement Act of 1981".

SEC. 102. The Congress finds and declares that:

(a) Many of the nation's deep draft commercial ports of this nation serve vital and essential national and public interests of this country in—

(1) providing for the safe and efficient conduct of defense transportation essential to this country's national defense and free world security;

(2) providing for the continued conduct of national and international waterborne trade, commerce, and transportation, of coal, grain and other agricultural commodities, manufactured goods for exports, iron ore and other commodities necessary to the economic stability and well-being of this country, our balance of trade with other nations, and the value of our currency; and

(3) assisting in our national effort to achieve energy self-sufficiency and promote free world energy independence including efforts to expedite the development, transportation, and export of the abundant deposits of coal processed by this Nation.

(b) The operation, maintenance, and improvement of deep-draft commercial ports in the United States has traditionally been fostered and promoted through a partnership entered into between the federal government and the several states and ratified in the United States constitution, through which port development has been a jointly undertaken, shared responsibility, with the federal government improving and maintaining the navigability of ports and waterways and facilitating the safe and efficient movement of commerce through the provision of aids to navigation and other port-related services, and with the States, operating through commercial ports, providing necessary port facilities and shoreside improvements to accommodate foreign and domestic waterborne commerce.

(c) Recent technological improvements in vessel construction and cargo handling, with the objective of increasing productivity, efficiency, energy conservation and marine transportation, have been reflected in the substitution of larger, deeper draft vessels with shorter turn-around times, in bulk, break-bulk and container trade and the requirement for dedicated shore facilities, thereby necessitating increased capital investment and operating expenditures by the federal government and commercial ports for navigation improvements, expansion of port facilities, and extension of necessary port-related services.

(d) Many of the Nation's deep-draft commercial ports, because of the trend towards larger, deeper draft vessels are seriously inadequate (including lack of adequate channel depth and dimension, and maintenance thereof) to continue to serve vital and essential interests of this country as specified in Section 102(a) of this Act.

(e) It is in the national interest to assure that the Nation's deep-draft commercial ports are and remain adequate to serve and further the essential national interests specified in this Section 102(a) of this Act by enacting a process which expedites on a priority basis the authorization, funding and construction of federally-authorized navigation improvement and maintenance projects.

(f) Users or other beneficiaries of federal navigation improvement projects done on deep-draft commercial ports should pay for or share in the expenditures for such projects through a uniform and flexible cost sharing arrangement between the federal government and commercial ports of the costs of constructing & maintaining federally-authorized navigation projects and providing necessary port-related services.

SEC. 103. The purposes and objectives of this Act are—

(a) to enact a process to congressionally authorize navigation improvements of the Nation's deep-draft commercial ports on an expedited and priority basis, in accordance with the procedure set forth in Section 2 of the Act, at locations designated by the Secretary of the Army, acting through the Chief of Engineers, upon a determination by the Chief of Engineers that:

(1) the affected deep-draft commercial port serves vital and essential national and public interests of this Nation as specified in Section 102 of this Act;

(2) such deep-draft commercial port is inadequate to continue to serve such national interests without the undertaking of the proposed navigation improvement;

(3) the national interest would be served by the undertaking of the proposed navigation improvement on an expedited and priority basis; and

(4) the navigation improvement is economically justified, engineeringly feasible.

(b) to provide a uniform procedure for judicial review of the navigation improvements authorized by this Act, and of all actions taken pursuant to this Act (and all matters pertaining thereto).

(c) to expedite and facilitate applications for federal permits for construction and operation of related marine cargo handling facilities (and related access thereto) at the Nation's deep-draft commercial ports.

(d) to set forth the options and the extent to which the users or other beneficiaries of federal navigation improvements for waterway transportation in United States deep-draft commercial ports should pay for or share in the expenditures for such improvements and federal measures to insure such payment.

SEC. 104. As used in this Act, the term:

(a) "Deep-draft commercial port" means any ocean or Great Lakes port, or harbor, in the United States that is open to public navigation, has a federally authorized channel at least 24 feet in depth at mean low water, has associated access channels and berthing areas, and is subject to operation by a state port authority.

a State, a combination of states or political subdivisions of states, with a federally-authorized depth of 24 feet or greater, and associated access channels and berthing areas other than those administered by the Saint Lawrence Seaway Development Corporation.

(b) "Navigation Improvement Project" shall include only deep-draft commercial port activities, channel dredging activities and the disposal, containment, storage, handling, or other disposition of dredged material associated with such activities which are necessary to achieve the purposes and benefits of such dredging activities and policies and objectives of this Act.

(c) "Secretary" means the Secretary of the Army.

(d) "United States" and "State" include the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of Northern Marianas, the Trust Territory of the Pacific Islands, and any other territory and possession over which the United States exercises jurisdiction.

(e) "State Port Authority" means a state, a political subdivision of a state, or an authority established for the purpose of operating a deep draft commercial port, under an interstate compact or under a law or ordinance of, or a charter issued by, a state or political subdivision thereof.

(f) "Vessel engaged in foreign commerce" means any vessel over one thousand gross tons, documented under the laws of the United States or of any foreign nation, and operated in the foreign commerce of the United States.

(g) "Maintenance project" means any required operation and maintenance undertaken by, or contract to, the Secretary, or with the approval of the Secretary, of a federally authorized channel in a deep draft commercial port authorized by Congress to accommodate public navigation, prior to the date of enactment of this Act.

TITLE II—PRIORITY NAVIGATION PROJECTS

SEC. 201. Deep Draft Commercial Ports Maintenance Program.

(a) The Secretary of the Army, acting through the Chief of Engineers, in furtherance of the purposes of this Act, and taking into consideration, among other things, the findings, conclusions, and recommendations of the study directed by Section 158 of the Development Act of 1976 (P.L. 94-587), shall prepare, periodically revise and maintain, and submit to Congress within one year from the date of enactment of this Act, a deep draft commercial port maintenance program. The Maintenance program shall include a schedule of required maintenance dredging projects, including access channels and berthing areas maintained by non-federal agencies, for deep draft commercial ports authorized by Congress prior to, on, or after the date of enactment of this act, for the five year period following the submission of the program to Congress for approval or reapproval.

(b) In conjunction with the maintenance programs required by the previous subsection, the Secretary shall also prepare and submit to Congress, in cooperation with the Administrator of the Environmental Protection Agency, a programmatic environmental impact statement including, among other things:

(1) An analysis of the adequacy of U.S.

deep draft commercial ports to accommodate increasing import and export trade, particularly in dry-bulk commodities including, but not limited to, coal, grain, iron ore, phosphate, and other dry-bulk exports.

(2) The economic, social, and environmental costs and benefits associated with maintaining and improving, and from failing to adequately maintain and improve, deep draft commercial ports of the United States to accommodate rapidly expanding international trade.

(3) A cost-effective ranking of alternative means of dredge spoil disposal, taking into consideration, among other things, the findings and conclusions of the Dredged Material Research Program authorized by Section 123(1) of the Rivers and Harbors Act of 1970 (P.L. 91–611) including, but not limited to the following:

(i) upland disposal;

(ii) confined disposal;

(iii) wetland disposal, including use of environmentally acceptable mitigation measures and mechanisms for offsetting losses through habitat development or restoration;

(iv) open water disposal, including clean material capping, borrow pit disposal, splitside disposal, use of hyper saline basins, submarine canyons, and selective placement;

(v) creation of offshore islands;

(vi) deep ocean disposal.

(c) Not later than the one hundred-eightieth day after the date of enactment of this Act, the Secretary shall enter into memorandums of agreement (MOA) with the Administrator of the Environmental Protection Agency, encompassing the discharge of his duties under Section 404 of the Federal Water Pollution Control Act, as amended (33 USC 1344) and Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 USC 1413) as they relate to the disposal of dredged and fill material into the navigable waters of the United States, including the territorial sea, and in ocean waters, at specified disposal sites by, or under contract to, the Corps of Engineers incident to the maintenance and improvement of federally-authorized channels in deep draft commercial ports of the United States authorized by this Act, and with the Secretaries of the Departments of Interior and Commerce, in the exercise of their comment, review, and recommending authority relating to the environmental aspects of the maintenance and improvement of federally-authorized channels in deep draft commercial ports of the United States authorized by this Act, conducted by, or under contract to the Corps of Engineers, under Section 102 of the National Environmental Policy Act of 1969 (42 USC 4332), the Fish and Wildlife Act of 1956 (70 Stat. 119; 16 USC 742(a)), the Fish and Wildlife Coordination Act of 1958 (72 Stat. 563; 16 USC 661) and other relevant federal laws. Those agreements shall be developed for the primary purpose of assuring, to the maximum extent practicable consistent with existing law, inter-agency coordination by the agreeing parties in the discharge of their respective statutory responsibilities in order to facilitate the timely conduct by the Corps of Engineers of required maintenance dredging of federally-authorized channels in deep draft commercial ports within the schedule required by subsection (a) of this section, and with the expedited and priority consideration of navigation improvement projects authorized by section 202(a) of this Act. These agreements shall contain, among other things, fixed schedules for interagency review and comment, and consideration of required maintenance dredging and navigation improvement projects, including necessary approval of dredged spoil disposal sites, and the imposition of fixed time limits for interagency review, including time limitations for maintenance dredging in deep draft commercial ports of ninety days, and for federally-authorized channel improvement projects of 270 days, which may not be extended.

(d) Commencing with the sixtieth calendar day following the receipt by Congress of the maintenance program required by subsection (a) and the final environmental impact statement required by subsection (b), unless the Congress disapproves of that program and final environmental impact statement by concurrent resolution within that period of time, and except as herein provided and subject to the requirement of section (e), the discharge of dredged or fill material as part of the maintenance of a federally-authorized navigation project in a deep draft commercial port, authorized prior to, on, or after the date of enactment of this Act, is not prohibited by or otherwise subject to the requirements under section 404 of the Federal Water Pollution Control Act, as amended (33 USC 1344), or a state program approved under that section, or under section 301(a) or 402 of that Act (except for effluent standards or prohibitions under section 307), and under section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 USC 1413), if information of a clear and convincing character as to the effects of that discharge, including consideration of the guidelines developed under section 4044(b) of the Federal Water Pollution Control Act and the guidelines developed under section 103 of the Marine Protection, Research and Sanctuaries Act, is included in an environmental impact statement, or the modification of an existing environmental impact statement concerning a navigation improvement project previously authorized by Congress, submitted to Congress in accordance with subsection 404(r) of the Federal Water Pollution Control Act, and before the commencement or continuation of required maintenance dredging in that port, unless previously authorized by the Secretary acting under his section 404 or section 103 permit authority. The Secretary is authorized for a period of five years, subject to reapproval by Congress in the form of a resolution of approval by the Committee on Public Works and Transportation of the House of Representatives, or the Committee on Environment and Public Works in the United States, to undertake required maintenance dredging of federally-authorized channels, incorporating the approval of required maintenance dredging of related access channels and berthing areas undertaken by non-federal agencies, in deep draft commercial ports of the United States in accordance with existing law and the provisions of this Act.

(e) The Secretary shall prepare, periodically revise and maintain, and submit to Congress within thirty days of its completion any modification of an existing environmental impact statement for a navigation improvement project in a deep draft commercial port previously authorized by Congress, incorporating required maintenance dredging of federally-authorized channels, access channels and berthing areas maintained by non-federal agencies, subject to those reasonable conditions set forth in detail in the proposed modification, as the secretary determines to be necessary and economically feasible to protect, and or minimize harm to the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of incorporating specific mitigating conditions. Likewise, for any navigation improvement project in a deep draft commercial port subsequently authorized by Congress on, or after the date of enactment of this Act, the Secretary shall prepare, periodically revise and maintain, and submit to Congress within thirty days of its completion a final environmental impact statement in accordance with subsection 404(r) of the Federal Water Pollution Control Act, containing that additional information and subject to those additional requirements set forth in this subsection.

SEC. 202. Deep Draft Commercial Port Improvement.

(a) General authorization.

In furtherance of the purposes of this Act, the Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake navigation improvements in any deep draft commercial port in the United States on an expedited and priority basis—

(1) which he determines to be engineeringly feasible and meets the requirements set forth under Section 103(a) of this Act, subject to the approval of Congress under subsection (d) and the imposition of a requirement pursuant to subsection (a)(2) for local cost-sharing in lieu of a requirement for the determination of the economic justification of that project and

(2) those improvements are undertaken pursuant to an agreement between the Secretary and non-federal interests providing for local cooperation for those improvements, and between the Secretary and that commercial port providing for local sharing of the costs of improving and maintaining federally-authorized channels in that port in accordance with Title III of this Act.

(b) Before making such a determination, the Secretary shall prepare, periodically revise and maintain, and submit to Congress within two and one-half years of the receipt by the Secretary of a sufficiently detailed application by any deep draft commercial port regarding a proposed navigation improvement project, an adequate decision document on an expedited priority basis including (1) the requirement for the District Engineer for the District in which that deep draft commercial port is located, to prepare and submit to Congress within one year of the date of receipt of such a proposal by the District Engineer, and without the necessity for further administrative review, a feasibility study and survey report, pursuant to a resoluton requesting such a study and report by either the Committee on Public Works and Transportation of the House of Representatives or the Committee on Environment and Public Works of the United States Senate. The Secretary is further authorized to prepare such a study and report subject to reimbursement for the costs of preparation of the study and report, by a deep draft commercial report without requirement for further congressional authorization or appropriation of funds for that purposes; (2) the requirement for the District Engineer to prepare an environmental impact statement on any proposed navigation improvement project in a deep draft commercial port, to be completed within eighteen months of the receipt by the District Engineer of a sufficiently complete proposal for such a project by that port. The Secretary shall submit a final environmental impact statement to Congress within thirty days of its completion and before the actual discharge of any dredged or fill material in connection with the construction of such a project. That statement shall include, among other things: (1) an analysis of the economic, social, and environmental costs and benefits associated with improving, or failing to improve the navigability of that port, in relation to expanding export trade, particularly in dry bulk commodities; (ii) a cost-effective ranking of alternative means of dredge, spoil disposal available to that port; and (iii) any reasonable mitigating conditions set forth in adequate detail, which the Secretary determines to be necessary and economically feasible to protect, or minimize harm to the environment except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental cost of incorporating those mitigating conditions and

(iv) evidence of compliance with the guidelines developed under section 404(b)(1) of the Federal Water Pollution Control Act, as amended (33 USC 1344(b)(1)) applicable to the discharge of dredged or fill material into the navigable waters of the United States, including the territorial sea, and section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 USC 1413), applicable to the discharge of dredged and fill materials into ocean waters.

(3) The preparation and submission to Congress for approval, within eighteen months of the date of submission of the feasibility study and survey report for a navigation improvement project previously directed by Committee resolution, an advanced engineering and design plan and work schedule for that project without requirement for the provision of an economic justification or for further administrative review of the construction plan for schedule for that project.

(c) In addition to those procedural requirements regarding interagency review, comment and consideration of the environmental aspects of navigation improvement projects in deep draft commercial ports authorized under this Act set forth in subsection 101(c), the Secretary shall implement such other procedural reforms in the nature of expedited and priority review of navigation improvement projects as will accomplish the purposes of the Act, including but not limited to: (1) the use of consolidated federal environmental assessment and regulatory proceedings, including the conduct of joint public hearings with other federal agencies under the Administrative Procedure Act (80 Stat. 378; 5 USC 551), as required; and (2) the preparation of joint federal and state environmental impact assessments and coordinated regulatory review of such projects on a concurrent basis under relevant federal and state law, with particular application to dry bulk export facilities constructed on or after the date of enactment of this Act and associated with navigation improvement projects authorized under this Act, located in or immediately adjacent to the navigable waters of the United States. The Corps of Engineers is designated the lead federal agency for purposes of such a joint environmental assessment and coordinated regulatory review of those projects.

(d) The absence of a concurrent resolution disapproval by the Congress within sixty days following the receipt of a final environmental impact statement, survey report and feasibility study for a navigation improvement project in a deep draft commercial port authorized under this Act, shall constitute a conclusive finding and determination by the Congress of: (1) the national interest for purposes of the federal consistency provisions of the Coastal Zone Management Act of 1972, as amended (86 Stat. 1280; 16 USC 1451) and other related federal laws; (2) the adequacy of the final environmental impact, which determination shall not be reviewable in any court of the United States or of any state, territory or possession of the United States, or of the District of Columbia; and (3) compliance with Section 404 of the Water Pollution Control Act as amended (33 USC 1344) and section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 USC 1413).

(e) Any study concerning a deep draft commercial port navigation improvement project currently ongoing or completed upon the enactment of this Act may utilize all of the procedures to expedite the remaining steps leading to authorization and implementation as provided for in this Title. For these studies the authorization and implementation procedures as provided for in this Act shall utilize all of the work already completed for these studies at the date of the enactment of this Act.

SEC. 203. Deep Draft Commercial Port Shoreside Facility Permitting.

(a) The Secretary and the Chief of Engineers are directed to expedite and facilitate applications for federal permits for construction and operation of marine cargo handling facilities (and access thereto) at the Nation's deep draft commercial ports and to expedite decisions on such permit applications.

(b) The Secretary is authorized in expediting shoreside facility permits to implement the same procedures as set forth in sections 201(c) and 202(c) of the Act.

SEC. 204. Judicial Review.

Environmental impact statements for projects authorized by this Act, findings and determinations by Congress pursuant to Title II of this Act, and actions to carry out such projects shall not be subject to judicial review under any federal or state law except that (a) claims alleging the invalidity of this Act may be brought within sixty days following enactment and (b) claims alleging that an action to implement a project authorized under this Act would deny rights under the Constitution of the United States, or that an action is beyond the scope of authority conferred by this Act, may be brought within sixty days following the date of that action.

A claim shall be barred unless a complaint is filed within the time specified. Any such complaint shall be filed in a United States District Court, for a district where the project or action complained of concerning a project is located. The district court shall have exclusive jurisdiction to determine that proceeding in accordance with the procedures hereinafter provided, and no other court of the United States, or of any State, territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction over any such claim, whether in a proceeding instituted prior to, on, or after the date of enactment of this Act. Any such proceeding shall be assigned for hearing at the earliest possible date, shall take precedence over all other matters pending on the docket of the district court at that time, and shall be expedited in every way by that court. The court shall not have jurisdiction to grant any injunctive relief against any project, or Act complained of concerning a project authorized by this Act, except in conjunction with a final judgment in a case involving a claim filed pursuant to this Act. Any review of a final judgment, decree or order of such District Court may be had only upon direct appeal to the Supreme Court of the United States.

TITLE III—PRIORITY NAVIGATION PROJECT FINANCING

SEC. 301. Mandatory Local Cost Sharing for Navigation Improvement Projects.

(a) In furtherance of the purposes of this Act, the Secretary of the Army, acting through the Chief of Engineers, before constructing any navigation improvement project authorized by Congress prior to, on, or after the date of enactment of this Act, or approving such a project in, or proposed by, a deep draft commercial port of the United States, shall undertake such a project, or condition such approval, upon the agreement in writing between the Secretary and that port, or amendment of an existing agreement between the Secretary and that port providing for the undertaking of such a project subject to local cooperation, that the port shall agree to pay no more than forty per centum of the project construction cost including interest during construction, within the life of the project but in no event to exceed fifty years after the date the project becomes available for use, plus not more than twenty-five per centum of the future operating and maintenance cost of such a project over the life of the project in accordance with this title.

(b)(1) The requirement in this Act for non-federal reimbursement to the federal government for federal construction or rehabilitation expenditures by the Corps for improvements of deep draft commercial port navigation improvement projects applies to any construction, rehabilitation or alteration project for which initial construction funds are provided to the Corps after the enactment of this law.

(2) The entire amount of the federal construction or rehabilitation expenditures to be reimbursed pursuant to the requirements of this Act, including interest during construction, shall be reimbursed within the life of the project but in no event to exceed fifty years after the date the project becomes available for use, as determined by the Chief of Engineers. The interest rate used for purposes of computing interest during construction and interest on the unpaid balance of each construction advance shall be determined by the Secretary of the Treasury, taking into consideration the average market yields during the month preceding the fiscal year in which each advance is made on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period of the project.

(3) This Act shall not be construed to prohibit non-federal public bodies from securing financing through means other than provided for in this Act.

(c) The requirement in this Act for non-federal reimbursement to the federal government for federal operation and maintenance expenditures extends only to federal expenditures by the Corps for operation and maintenance of any construction, rehabilitation, or alteration project for deep draft commercial port navigation improvement projects for which initial construction funds are provided to the Corps on or after the date of enactment of this bill.

(d) Agreements with non-federal public bodies to carry out obligations required by this Act may relate the timing and extent of such obligations to projects or to separable units, features, or segments of such projects as the Chief of Engineers determines to be reasonable and otherwise within the requirements of this Act and the authorizations for the improvements concerned. Such agreements may reflect that they do not obligate future State legislative appropriations for their performance or payment when obligating future appropriations or other funds would be inconsistent with State constitutional limitations.

(e) (1) Upon enactment of this bill, and in accordance with the provisions of this section and regulations promulgated by the Secretary pursuant to this section, an affected non-federal public body may provide for the recovery of its reimbursement obligations pursuant to this Act (including its administrative expenditures incurred therefor) by the collection of fees for the use by vessels in commercial waterway transportation in deep draft commercial ports of the United States (or appropriate segments thereof) whose federal operation, maintenance, or improvement occasions the reimbursements required by the affected non-federal public body.

(2) For purposes of this section:

(a) The term "commercial waterway transportation" means any use of a vessel in any deep draft channel or deep draft commercial port as defined in this Act—

(i) in the business of transporting persons or property for compensation or hire, or

(ii) in transporting property in the business of the owner, lessee, or operator of the vessel.

(b) Fees are not authorized for collection for—

(1) vessels owned and operated by the United States or any other nation or political

subdivision thereof and not engaged in commercial service; or

(ii) vessels used by a State or political subdivision thereof in transporting persons or property in the business of the State or political subdivision.

(3) The Secretary, in consultation with the Secretaries of State, Commerce, Transportation, Treasury, Energy, and Agriculture, the Attorney General of the United States, and the Director of the Office of Management and Budget, may promulgate, and may from time to time revise, regulations and guidelines to govern the programs of non-federal fee collection that may be undertaken pursuant to the authority of this section.

SEC. 302. Federal Contribution for Deep Draft Commercial Port Navigation Improvement Project.

This Act shall not be construed to prohibit or otherwise interfere with any Department of the Army or other federal authority to operate, maintain, or improve any deep draft channel or deep draft commercial port of the United States for purposes of Coast Guard navigation requirements. Department of Navy transportation requirements, or any other national defense transportation requirements. Moreover, this Act shall not be construed to require any non-federal contribution for navigation costs allocable to national defense transportation requirements, or to vessels not engaged in commercial service. The Secretary, in consultation with other concerned agencies, shall establish cost allocation guidelines to carry out this section that shall designate a cost allocation of or for national defense and non-commercial purposes of sixty per centum for construction and seventy-five per centum for operation and maintenance of deep draft commercial port navigation improvement projects which are begun on or after the date of enactment of this bill, except where higher cost allocations may be warranted on a port-by-port basis. In cases where a natural disaster may occur at a deep draft commercial port which has undergone or was undergoing a navigation improvement project non-federal public bodies will not be required to contribute to the rehabilitation or maintenance required because of said disaster.

SEC. 303. No Federal Contribution for Deep Draft Commercial Port Navigation Improvement Project.

Provided that an appropriate non-federal public body agrees, without benefit of the financing available under Title III of this Act, to reimburse the federal government for all of its construction costs of a project on an annual basis during construction and to begin such reimbursements not later than one year after construction is initiated, the Secretary, acting through the Chief of Engineers, is authorized to study, design, construct, and rehabilitate such deep draft commercial port navigation improvement project of the United States as defined in section 104(a) of this Act, and to operate and maintain such channels and ports, at such depths and dimensions and with such dredged material disposal and other related facilities, as the Secretary determines to be justified to insure the safe and efficient conduct of national defense and commercial waterway transportation. Such improvements may be provided and maintained as a federal project pursuant to laws and policies then in existence and without a requirement for any further congressional authorization.

SEC. 304. Tax Treatment for Construction Projects.

Subparagraph (d) of section 103(b)(4) of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by inserting the words "deep draft commercial ports navigation improvement projects" before the period.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. Authorization of Appropriations.

There are authorized to be appropriated to the Secretary of the Army such sums as may be necessary to implement the purposes of this Act, those sums to remain available until expended without regard to fiscal year. Pending the appropriation of those sums, the Secretary of the Army, acting through the Chief of Engineers, may transfer, upon approval of the Committee on Appropriations, from existing Department of the Army (Corps of Engineers) civil appropriations, such sums as may be necessary for the immediate prosecution of feasibility studies and survey reports, environmental impact statements, and advanced engineering design, and other necessary studies, for navigation improvement projects authorized under this Act.

SEC. 402.

If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

SEC. 403.

This Act shall not be construed as limiting the authority or function of any officer or agency of the United States under any other law or regulation which is not inconsistent with of in conflict with this Act. All laws, regulations, executive orders, or other authorities are hereby repealed to the extent inconsistent with or in conflict with the provisions of this Act.

SEC. 404.

Monies paid to the Secretary, pursuant to this Act, shall be deposited in the general fund of the Treasury. The Secretary shall report to the Congress on or before September 30, 1982, and annually before the start of each fiscal year thereafter, on the actual and anticipated receipts of the United States pursuant to this Act and the condition and operation of the cost recovery program required by this Act.

Mr. HEFLIN. Mr. President, I rise to join the distinguished Senator from Virginia in cosponsoring S. 1389. He has done yoeman's work in drafting this measure and should be congratulated on this as well as his initial work on The Ports and Navigational Improvement Act of 1980 which I also cosponsored. It is important that we realize the importance of ports in this country in relation to the Nation's overall economy and defense. The importance of ports is nothing new. From the founding of this country, ports were an essential building block of local, State, and regional economic development. They have been used by farmers, manufacturers, and others throughout the years to make America the leading trade nation in the world.

Overall it has been stated that one out of every seven jobs in U.S. manufacturing depends upon our export performance and that performance is dependent on the ability of U.S. seaports to handle their volume of U.S. foreign trade. This industry provides employment for 1,246,800 persons. In addition, the Commerce Department estimates that the present volume of U.S. import and export tonnage will double over the next 20 years to over 600 million tons annually.

The importance of our exports to the United States economically speaks for itself. Within this context two primary areas are coal and agricultural exports.

As we well know, coal is the energy source of the future. We can and, in fact, ought to supply a substantially large portion of the world's energy needs. It is predicted by the International Energy Agency that the United States will have to export 100 million tons of coal by 1990 and 300 million tons by the year 2000 to meet the world energy needs. While the United States exports approximately 70 million tons of coal this year, statistics show that we could produce at least another 100 million tons of coal per year if we had the capability to ship it.

American agriculture also plays a vital role in the foreign commerce of the United States. Figures released by the U.S. Department of Agriculture reveal that the United States exported $32 billion worth of farm products during the fiscal year 1979. U.S. agriculture imports for the same period totaled $16.2 billion, leaving a net gain of $15.8 billion to the United States balance of trade. Again, this is an area that will do nothing but increase.

I might add that these areas are not only important to the United States, but they are particularly important to the State of Alabama. Alabama has tremendous agriculture resources and nearly one-tenth of the coal in the United States is located here. Four of Alabama's major coal fields are located in the Tenn-Tom region and the life expectancy of Alabama's coal reserves is approximately 1,000 years. Needless to say, the State of Alabama will play a vital role in domestic coal and agriculture markets for many years to come.

Ports also play a vital role in our Nation's defense. In time of war the United States and its allied forces overseas without necessary port facilities would be isolated without supplies and reinforcements. Those of us who participated in World War II realize this importance. It is just as true today as it was then.

There is another more subtle area that affects our national defense. Our national security is only as strong as our energy security. Further, America's national security is dependent upon the collective energy security of our allies. Japan and NATO are as vulnerable as we are.

To the extent we are able to provide our allies with a reasonable reliable source of coal, they will become less vulnerable to economic and military blackmail by foreign energy suppliers. We must recognize that no greater threat to peace exists than the danger that is born of energy instability.

Now that we have established the importance of ports, the question arises as to whose responsibility it is to continue upgrading port facilities. Traditionally, this function has revolved around a partnership of Federal, State and local government, and private initiative. This partnership which was forged at the founding of this country has been one of long standing; yet, it has problems.

The U.S. seaports are in the midst of an extensive and expensive technological change. In this regard, the current upgrading and modernization of U.S. port facilities have severely taxed industry's financial resources, making them less

economically viable at a time when, as indicated, the Nation's overseas trade is expected to increase tremendously.

Ports are doing their part. They have made investments which have amounted to $2 billion in the past decade. Yet, over the next 10 years there is an investment of at least $10 billion which will have to be made and that is probably on the conservative side.

We must realize that American seaports are a source of considerable direct benefit to the Federal Government itself. In addition to the indirect revenue arising from port economic activity, the Federal Government in fiscal year 1978 collected $5.6 billion in customs duties and $12 million in vessel fees at U.S. ports. In contrast, expenditures by the Corps of Engineers for 1978 for operation and maintenance and construction of navigation projects came to only $410.4 million. In short, Federal port expenditures are but a fraction of U.S. revenue intake from port activities.

Compounding the problem is that higher costs, when passed along to the shippers, make American exports more costly in relation to those of other nations, thus weakening the overall ability of the United States to compete in world markets. We must be careful not to have such a severe deterioration in the port industry that the only way out would be a massive infusion of Federal funds. Such an outcome is clearly undesirable and we should all work together to prevent this from happening.

Because of the problems outlined earlier I join Senators JOHNSTON and WARNER in cosponsoring the Ports and Navigation Act of 1980, which was introduced in the last session of Congress. Our primary purpose in introducing the legislation was to generate discussion and comment in an attempt to get all parties concerned, as well as the administration and Congress to focus on this problem. We feel our desired purpose has been achieved. After reviewing the recommendations from private, public, congressional, and administration sources the legislation has been redrafted and is being introduced today.

This legislation will allow any of our Nation's deep-draft commercial ports to avail themselves of its provisions regardless of the type of cargo which is exported or imported from its facilities. This legislation is termed "The National Port and Navigation Improvement Act of 1981" and will provide the following:

First, funding mechanism for navigation improvement projects;

Second, favorable tax treatment for moneys expended by non-Federal sources for navigation improvement projects;

Third, expedited review of deep-draft commercial ports maintenance program;

Fourth, expedited process for navigation improvement projects;

Fifth, expedited environmental review of such projects;

Sixth, expedited congressional review of such projects;

Seventh, expedited judicial review of claims filed against such projects;

Eighth, automatic authorization for projects which receive no Federal contribution;

Ninth, expedited process for shoreside facility permitting, and

Tenth, advance moneys for feasibility studies, survey reports, environmental impact statements for advanced engineering design for such authorized projects while awaiting the congressional appropriations process.

While I am in support of the overall concept of this legislation and feel that we must move expeditiously, there is one aspect that has troubled me from the beginning which I still feel requires a lot of study. That is the funding problem.

This legislation calls for a cost sharing between Federal and non-Federal parties. It calls for at least 60 percent Federal funding for the construction of such projects and 75 percent Federal funding for operation and maintenance. We must study this aspect of the bill very carefully. We cannot penalize ports and make them noncompetitive both nationally and internationally through fees that would be collected. There are a number of questions that should be studied in this regard: whether or not all ports should share equally in the cost; whether these fees should be levied on all import and export tonnage with provisions to cover exports and imports shipped by Canadian and Mexican ports; whether or not the U.S. Customs, rather than the port organization should collect these moneys; and who should determine the assessment and cost-sharing fees? These and other areas concerning the funding should be carefully weighed and studied before legislation is passed.

As I have stated earlier ports are essential to the future competitiveness of this country and world market. This is the time for the public and private sector to work together for the common good of all America. Time is of the essence. The lead time in developing ports can be as much as 24 years. I firmly believe that working together we can devise a workable solution to this problem and pass legislation by both a short- and long-range plan for our Nation's ports.

I therefore, urge my colleagues to study this matter carefully, provide the necessary input and move as expeditiously and carefully as possible to insure the revival of our ports in such a way that we will maintain a competitive edge in the international markets.

Again I congratulate the distinguished Senator from Virginia for his work and vision in this area.

● Mr. HUDDLESTON. Mr. President, it is a distinct pleasure for me to join the distinguished Senator from Virginia in cosponsoring the Ports and Navigational Improvements Act of 1981. I believe that the Senator has done an outstanding job in assimilating into this bill the best of the many approaches which have been put forward to deal with a critical flaw in our Nation's transportation network. This flaw, the poor condition and lack of capacity in our Nation's ports, must be addressed soon. If not, one of the potentially most significant export markets, our Nation's domestic coal production, will be forced to radically reduce its expectations in a day when we are seeking in every way possible to promote the market for this valuable commodity. We simply cannot allow the bottlenecks in our transportation network to continue.

Having attempted to secure Federal assistance for the national problem of highway system inadequacy in carrying increasing amounts of domestic coal production, I can attest to the fact that securing favorable action on this legislation we present today will be a formidable task. However, as with the highway system this is a task that must be undertaken. The backup of coal cars in our port facilities graphically states the problem that we have today. Yet, the larger problem of no foreign markets for our coal because we cannot guarantee prompt and reliable delivery will be shown not in illustrative photographs but rather on the minus side of our balance of trade statements.

A clear example of what the extent of the problem could be lies in the current ongoing negotiation between Kentucky interests and the Italian Government for rather substantial amounts of Kentucky coal. It is my understanding the Italians have often stated that assured transportation is a vital factor in the successful conclusion of an agreement. Hopefully, our present transportation system is adequate to satisfy the needs of the Italians. I believe it is. However, in order for the projected coal export demands of future customers to be met, significant expansion of U.S. port capacity must take place.

The details of the process provided in the Ports and Navigational Improvements Act of 1981 have been clearly presented by the distinguished Senator from Virginia. I think it is important to note that this bill, in providing funding for navigational improvement projects, does not obviate any current environmental, congressional, judicial, or other review requirements. As the bill stresses, these reviews would merely be speeded up in order that port projects may be completed as rapidly as possible. Also, it should be understood that we are not talking about the Federal Government being the sole provider of construction and maintenance funds. Non-Federal parties are required to contribute to an extent which guarantees that the Federal Treasury will not be tapped to an unacceptable degree.

As I have stated time and time again with respect to inadequacy of the highways that carry our coal, what we have here is not a problem limited to the specific areas where the highways or in this case the ports are located. Rather, because our Nation's coal supply provides the entire country with untold benefits, the lack of port capacity is indeed a problem which the Federal Government has a very proper role in addressing.

I urge my colleagues to join with Senator WARNER, the other cosponsors, and me in taking prompt action on this most important legislation.●

● Mr. SASSER. Mr. President, I am pleased to join as an original cosponsor of S. 1389, a bill to expand U.S. port capacity so as to meet projected coal export demand. The bill addresses some of the most important problems which are currently limiting our coal export capacity.

Coal is America's most abundant energy resource. Moreover, America has more mineable coal reserves than any country in the world, with roughly one-third of the world's reserves lying beneath its soil. If studies are correct, and coal does become the world's growth fuel, the United States, with the largest known reserves, could become the world's prime exporter—the Saudi Arabia of coal.

In fact, we could probably be exporting more than 80 million tons of coal to overseas destinations this year if we had sufficient coal port capacity in the United States. I believe that the clear intentions of representatives of many foreign countries to use greater quantities of coal indicates to Congress that we must give legislative priority to expediting coal port improvements. Without these improvements, we will lose several million tons in overseas sales because our current transportation system cannot move coal out of the country efficiently enough. Current port congestion is turning away much of the future market.

This is not an easy task, though, Mr. President. There are many controversial issues which Congress must address, one of these being the issue of "user fees." I feel that such fees would be inconsistent with the purpose of the bill, that being to facilitate and encourage increased exportation of coal, and I hope that my colleagues in the Senate will join me in an effort to see that no fees are implemented which will afford unreasonable treatment to those who use our Nation's ports.

Worldwide, coal's future is bright, but there are important questions which Congress must address. In particular, the future demand for coal depends on our capability to address environmental concerns, the rate of growth in electricity demand and nuclear power capacity and, of course, the rate at which the coal transportation system can be improved.

Mr. President, coal is truly our most abundant energy resource. Government reports estimate that we have some 1.7 trillion tons of coal reserves with about one-fourth of this, or 435 billion tons, in the proven reserve category. Even with sharply expanded demand, we have reserves to last for hundreds of years.

Thus, although demand for coal in the United States increased sharply in 1979 and 1980, the U.S. coal-producing industry still has substantial excess productive capacity. Right now, we could be producing an additional 100 million tons of coal per year. In short, the United States has the ability to supply sharply expanded demands for coal, for both our domestic and export markets.

It does us little good, though, to produce all this coal, especially for a growing export market, unless it can be moved efficiently and quickly. The demand for our coal by foreign nations continues to rise, and by making the necessary improvements in our port systems, we can be guaranteed a large and growing share of the coal export market.

I am encouraged by the growing interest in Congress on this subject. I trust that the Environment and Public Works Committee will move expeditiously to consider S. 1389 and the other related coal ports bills that have been referred to the committee. It is time that the Congress stands foursquare behind sensible efforts to improve our coal export capacity.●

COMMERCIAL PORTS

Mr. FORD. I am pleased to join with my distinguished colleague from Virginia, Senator WARNER, and others in introducing this legislation to improve this country's deep-draft commercial port capability.

While this bill will benefit all of the Nation's deep-draft commercial ports, regardless of the type of cargo which is handled through its facilities, there is a critical need for eliminating the many obstacles and delays which have hindered much needed improvements to facilitate the increased demand for coal exports.

Last year, the Senate Energy and Natural Resources Committee conducted 3 days of extensive hearings at my request on the growing importance of coal in international trade.

The hearings focused on both the short- and long-term problems that must be resolved for the United States to accommodate any significant expansion in international coal trade. There is no question that this country has the coal to sell—but the ability to ship the coal to other continents in a timely, economical manner is where many uncertainties exist.

This constraint, if left unaddressed, could well prove to be the one factor which prevents a substantial increase in U.S. coal exports.

The legislation which we are introducing today would go a long way toward making it easier for deep-draft commercial ports to plan, finance, and complete much needed expansion and other improvements in a timely, orderly way.

All this would be accomplished without circumventing, thwarting or frustrating any current environmental, congressional, judicial, or other review requirements. It would merely provide for accelerated timetables so that the needed work could be finished in the shortest available time.

Let me just say, Mr. President, that as other countries turn more and more to coal as an alternative to Middle East oil, this country has the potential to contribute the greatest percentage to international exchange. By the year 2000, some expect that the United States will be producing and exporting between 137.8 and 220.5 million short tons of coal.

To move the projected tonnages, both exporting and importing nations will be required to upgrade ports to accommodate the much larger vessels that can carry significantly larger loads.

If these port improvements are not forthcoming, the United States can expect to lose much of the potential coal export market to nations such as Australia, Poland, South Africa, and the People's Republic of China.

Other coal-exporting nations are not waiting to put their house in order. One such example is South Africa's Richards Bay facility which is already much more advanced than any of this country's ports in its ability to handle large carriers.

So, Mr. President, I say that this legislation we are introducing today is vitally important, not for just coal, agricultural, and manufacturing, but all industries that are part of our international trade picture.

I hope that other Senators will take a close look at this legislation and recognize with us the need for prompt and favorable consideration of it.

● Mr. DENTON. Mr. President, the Ports and Navigation Improvement Act of 1981, would authorize channel-dredging to accommodate very large coal and grain vessels at several U.S. ports, including one from my own State of Alabama, the Port of Mobile. Mobile is now the ninth busiest seaport in the Nation. It is expected to play an even greater role after the Tenn-tom is completed.

The United States has reached a point in its history where major decisions, regarding the future of the country as a viable economic nation and dependable trading partner, must be made. If we are to take advantage of the current interest and future potential indicated by other nations in purchasing coal and grain from the United States, we must immediately formulate some hard and fast rules for development of our ports to fully capitalize on our future opportunities.

Expanding world coal and grain markets offer great opportunity to the United States. Exporting serves U.S. foreign policy goals by helping our allies reduce their dependence on OPEC energy supplies. It could mean substantial contributions to our international trade balance of payments as much as $16 billion by the year 2000. It would mean thousands of new jobs in the coal fields and supporting industries. Trade would increase national income and assist in greater tax revenues.

When foreign governments contract to buy U.S. coal and grain they analyze our ability to deliver the product, including such factors as labor dependability, our rail and water systems to transport, and our port handling capabilities.

The one restriction which comes to the forefront in most discussion is our Nation's bulk handling facilities, particularly at existing deep water ports.

We must help our Nation's foreign trade by insisting that American ports be dredged to 55 feet to handle supercolliers and grain carriers so that the United States can remain competitive in the world trade market.

A glance at any schedule of the U.S. merchant marine vessels will reveal a decrease in the number of ships from the previous year but an increase in the deadweight tonnage.

The administration and the 97th Congress must take prompt action to remedy our Nation's ports inadequacies to meet the projected world export shipping needs and demands. We can begin by passing intact, the Navigational Port and Navigation Improvement Act of 1981.

This new bill would call for at least 60 percent Federal funding for the con-

struction of such projects and 75 percent funding for operations and maintenance. Existing deep-draft commercial port depths would be grandfathered and would not be subject to operation and maintenance contribution.

The Navigational Port and Navigation Improvement Act of 1981 would remedy deficiencies affecting our Nation's ports in eight areas.

First, it would assist funding for navigation improvement projects.

Second, it would offer favorable tax treatment for money expended by non-Federal sources for navigation improvement.

Third, it would encourage an expedited review of deep-draft commercial ports maintenance programs.

Fourth, it would expedite the process for navigation improvements.

Fifth, it would expedite the environmental review of projects.

Sixth, it would expedite the judicial review of claims against such projects.

Finally, it gives automatic authorization for projects which receive no federal contribution.

It is an honor for me to be a cosponsor of Senator Warners' bill, Navigational Port and Navigation Improvement Act of 1981. I am deeply committed to the improvement of our ports and waterways and hope that the administration and this congress will pass this legislation, realizing that the improvement of our ports is an investment that will assure America's future in the world trading community and national security interests.●

DEPARTMENT OF STATE AUTHORIZATIONS, 1982 AND 1983

The PRESIDING OFFICER (Mr. SPECTER). Under the previous order, the Senate will now resume consideration of S. 1193, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1193) to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communications Agency, and the Board for International Broadcasting, and for other purposes.

The Senate resumed the consideration of the bill which had been reported from the Committee on Foreign Relations with amendments as follows:

S. 1193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—DEPARTMENT OF STATE

SHORT TITLE

SEC. 101. This title may be cited as the "Department of State Authorization Act, Fiscal Years 1982 and 1983".

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 102. (a) There are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law, the following amounts:

(1) For "Administration of Foreign Affairs", $1,318,754,000 for the fiscal year 1982 and $1,248,059,000 for the fiscal year 1983.

(2) For "International Organizations and Conferences", $523,806,000 for the fiscal year 1982 and $514,436,000 for the fiscal year 1983.

(3) For "International Commissions", $22,508,000 for the fiscal year 1982 and $22,432,000 for the fiscal year 1983.

(4) For "Migration and Refugee Assistance", $560,850,000 for the fiscal year 1982 and $467,750,000 for the fiscal year 1983, of which not less than $18,750,000 shall be made available only for the resettlement of Soviet and Eastern European refugees in Israel.

(b) Of the amounts authorized to be appropriated by section 102(a)(1) of this Act for the fiscal years 1982 and 1983, $2,085,000 shall be available for each such fiscal year only for expenses to operate and maintain consular posts at Turin, Italy; Salzburg, Austria; Goteborg, Sweden; Bremen, Germany; Nice, France; Mandalay, Burma; and Brisbane, Australia.

(c) Of the amounts authorized to be appropriated by section 102(a)(2) of this Act, $45,800,000 shall be available in fiscal year 1982 and $45,800,000 shall be available in fiscal year 1983 only for the Organization of American States for the payment of 1982 and 1983 assessed United States contributions and to reimburse the Organization of American States for payments under the tax equalization program to employees who are United States citizens.

(d) Of the amounts authorized to be appropriated by section 102(a)(4) of this Act, $1,500,000 shall be available in fiscal year 1982 and $1,500,000 shall be available in fiscal year 1983 only for the International Committee of the Red Cross to support the activities of the protection and assistance program for "political" detainees.

PALESTINIAN RIGHTS UNITS

SEC. 103. Funds appropriated under paragraph (2) of section 102 of this Act may not be used for payment by the United States, as its contribution toward the assessed budget of the United Nations for any year, of any amount which would cause the total amount paid by the United States as its assessed contribution for that year to exceed the amount assessed as the United States contribution for that year less—

(1) 25 percent of the amount budgeted for that year for the Committee on the Exercise for the Inalienable Rights of the Palestinian People or any similar successor entity), and

(2) 25 percent of the amount budgeted for that year for the Special Unit on Palestinian Rights (or any similar successor entity).

EX GRATIA PAYMENT

SEC. 104. Of the amount appropriated for the fiscal year 1982 under paragraph (1) of section 102 of this Act, $81,000 shall be available for payment ex gratia to the Government of Yugoslavia as an expression of concern by the United States Government for the injuries sustained by a Yugoslavia national as a result of an attack on him in New York City.

BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

SEC. 105. In addition to the amounts authorized to be appropriated by section 102 of this Act, there are authorized to be appropriated to the Secretary of State $3,700,000 for the fiscal year 1982 and $3,700,000 for the fiscal year 1983 for payment of the United States share of expenses of the science and technology agreements between the United States and Yugoslavia and between the United States and Poland.

PASSPORT FEES AND DURATION

SEC. 106. (a) The first sentence of section 1 under the headings "FEES FOR PASSPORTS AND VISAS" of the Act of June 4, 1920 (22 U.S.C. 214), is amended to read as follows: "There shall be collected and paid into the Treasury of the United States a fee, prescribed by the Secretary of State by regulation, for each passport issued and a fee, prescribed by the Secretary of State by regulation, for executing each application for a passport.".

(b)(1) Section 2 of the Act entitled "An Act to regulate the issue and validity of passports, and for other purposes", approved July 3, 1926 (22 U.S.C. 217a), is amended to read as follows:

"SEC. 2. A passport shall be valid for a period of ten years from the date of issue, except that the Secretary of State may limit the validity of a passport to a period of less than ten years in an individual case or on a general basis pursuant to regulation.".

(2) The amendment made by this subsection applies with respect to passports issued after the date of enactment of this Act.

INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW AND THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW

SEC. 107. Section 2 of the joint resolution entitled "Joint Resolution to provide for participation by the Government of the United States in the Hague Conference on Private International Law and the International (Rome) Institute for the Unification of Private Law, and authorizing appropriations therefor", approved December 30, 1963 (22 U.S.C. 269g–1), is amended by striking out ", except that" and all that follows through "that year".

PAN AMERICAN RAILWAY CONGRESS

SEC. 108. Section 2(a) of the joint resolution entitled "Joint Resolution providing for participation by the Government of the United States in the Pan American Railway Congress, and authorizing an appropriation therefor", approved June 28, 1948 (22 U.S.C. 280k), is amended by striking out "Not more than $15,000 annually" and inserting in lieu thereof "Such sums as may be necessary".

PAN AMERICAN INSTITUTE OF GEOGRAPHY AND HISTORY

SEC. 109. Paragraph (1) of the first section of Public Resolution 42, Seventy-fourth Congress, approved August 2, 1935 (22 U.S.C. 273), is amended by striking out ", not to exceed $200,000 annually,".

INTERNATIONAL ORGANIZATIONS IN VIENNA

SEC. 110. Amend section 2 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287e) by adding at the end thereof the following new subsection:

"(h) The President, by and with the advice and consent of the Senate shall appoint a representative of the United States to the Vienna office of the United Nations with appropriate rank and status who shall serve at the pleasure of the President and subject to the direction of the Secretary of State. Such person shall, at the direction of the Secretary of State, represent the United States at the Vienna office of the United Nations, and perform such other functions there in connection with the participation of the United States in international organizations as the Secretary of State from time to time may direct.".

LIVING QUARTERS FOR THE STAFF OF THE UNITED STATES REPRESENTATIVE OF THE UNITED NATIONS

SEC. 111. Section 8 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287e), is amended:

(1) by striking "the representative of the United States to the United Nations referred to in paragraph (a) of Section 2 hereof" and inserting in lieu thereof "the representatives provided for in Section 2 hereof and of their appropriate staffs", and

(2) by adding at the end thereof the following: "Any payments made by the United States Government personnel for occupancy by them of such leased or rented premises shall be credited to the appropriation, fund, or account utilized by the Secretary for

such lease or rental, or the appropriation, fund, or account currently available for such purposes."

SELECTIVE NONIMMIGRANT VISA WAIVER

SEC. 112 (a) Section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182(d)) is amended by adding at the end thereof the following new paragraphs:

"(9)(A) The requirement of paragraph 26(B) of subsection (a) may be waived by the Attorney General and the Secretary of State, acting jointly, in the case of an alien who—

"(i) is applying for admission as a nonimmigrant visitor for business or pleasure for a period not exceeding ninety days;

"(ii) is a national of a country which extends, or is prepared to extend, reciprocal privileges to citizens and nationals of the United States; and

"(iii) has been determined not to represent a threat to the welfare, safety, or security of the United States.

"(B)(i) For the period beginning on the effective date of this paragraph and ending on the last day of the first fiscal year which begins after the effective date of this paragraph, a country shall be considered to be within the purview of subparagraph (A)(ii) of this paragraph if, in the last fiscal year preceding the effective date of this paragraph such country had a nonimmigrant visa refusal rate, as determined by the Secretary of State in such manner as he shall by regulations prescribe, of less than 2 percent.

"(ii) For each fiscal year following the period specified in subparagraph (B)(i), a country considered to be within the purview of subparagraph (A)(ii) during such period shall not be considered to remain within the purview of subparagraph (A)(ii) unless, in the fiscal year immediately preceding such fiscal year, it had a rate of exclusion and withdrawal of application for admission and rate of violation of nonimmigrant status, as determined in both cases by the Attorney General in such manner as he shall by regulations prescribe, which did not exceed 1 percent. Determinations required by this subparagraph shall be made as soon as practicable after the end of each fiscal year.

"(iii) If, in any fiscal year following the period specified in subparagraph (B)(i), a country not previously considered within the purview of subparagraph (A)(ii) shall have a nonimmigrant visa refusal rate, as determined in the manner provided for in subparagraph (B)(i), of less than 2 percent, such country shall be considered to be within the purview of subparagraph (A)(ii) for the next following fiscal year and shall thereafter be treated in the manner specified in subparagraph (B)(ii).

"(C) Notwithstanding the provisions of subparagraph (A) and (B) of this paragraph, no alien shall be admitted without a visa pursuant to this paragraph if he has previously been so admitted and failed to comply with the conditions of his previous admission.".

(b) Section 214(a) of the Immigration and Nationality Act (8 U.S.C. 1184(a)) is amended by changing the period at the end thereof to a colon and by adding thereto the following: Provided, That no alien admitted to the United States without a visa pursuant to section 212(d)(9) shall be authorized to remain in the United States as a temporary visitor for business or pleasure for a period exceeding ninety days from the date of his admission.".

(c) Section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)) is amended to read as follows:

"(c) The provisions of this section shall not be applicable to (1) an alien crewman; (2) an alien (other than an immediate relative as defined in section 210(b)) who hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status; (3) an alien admitted in transit without visa under section 212(d)(4)(C); or (4) an alien admitted as a temporary visitor for business or pleasure without a visa under section 212(d)(9).".

(d) Section 248 of the Immigration and Nationality Act (8 U.S.C. 1258) is amended by inserting after the word "except" the following: "an alien admitted as a temporary visitor for business or pleasure under section 212(d)(9),".

BUYING POWER MAINTENANCE FUND

SEC. 113. (a) Section 24(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(b)), is amended to read as follows:

"(b)(1) In order to maintain the levels of program activity provided for each fiscal year by the annual authorizing legislation for the Department of State, no less than $20,000,000 of the fund authorized by section 102 may be used to offest adverse fluctuations in foreign currency exchange rates, or overseas wage and price changes, which occur after November 30 of the calendar year preceding the enactment of the authorizing legislation for such fiscal year.

"(2) In order to eliminate substantial gains to the approved levels of overseas operations, the Secretary of State shall transfer to the appropriation account established under paragraph (1) of this subsection such amounts in other appropriation accounts under the heading "Administration of Foreign Affairs" as the Secretary determines are excessive to the needs of the approved level of operations because of fluctuations in foreign currency exchange rates or changes in overseas wages and prices.

"(3) Funds transferred from the appropriation account established under paragraph (1) shall be merged with and be available for the same purpose, and for the same time period, as the appropriation account to which transferred; and funds transferred to the appropriation account established under paragraph (1) shall be merged with and available for the purposes of that appropriation account until expended. Any restriction contained in an appropriation Act or other provision of law limiting the amounts available for the Department of State that may be obligated or expended shall be deemed to be adjusted to the extent necessary to offset the net effect of fluctuations in foreign currency exchange rates or overseas wage and price changes in order to maintain approved levels.".

(b) Section 704(c) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1477b(c)) is amended by striking out "preceding" and inserting in lieu thereof "calendar year preceding the enactment of the authorizing legislation for such".

(c) Section 8(a)(2) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2287(a)(2)) is amended by striking out "preceding" in the first sentence and inserting in lieu thereof "calendar year preceding the enactment of the amendments to paragraph (1) which provide the authorization for such".

(d) The amendments made by this section shall take effect on October 1, 1981.

ASIA FOUNDATION

SEC. 114. In addition to the amounts authorized by section 102, $4.5 million is authorized to be appropriated in fiscal year 1982 for the Asia Foundation in furtherance of that organization's purposes as described in its charter. Such funds are to be made available to the Foundation by the Department of State in accordance with the terms and conditions of a grant agreement to be negotiated between the Department of State and the Asia Foundation. Funds appropriated under this section are authorized to remain available until expended.

INTER-AMERICAN FOUNDATION

SEC. 115. (a) Section 401(s)(2) of the Foreign Assistance Act of 1969 (22 U.S.C. 290f(s)) is amended to read as follows:

"(2) There is authorized to be appropriated not to exceed $12,000,000 for the fiscal year 1982 to carry out the purposes of this section. Amounts appropriated under this paragraph are authorized to remain available until expended.".

(b) Section 401(h) of the Foreign Assistance Act of 1969 (22 U.S.C. 290f(h)) is amended to read as follows:

"(h) Members of the Board shall serve without additional compensation, but shall be reimbursed for travel expenses, including per diem in lieu of subsistence, in accordance with section 5703 of title 5, United States Code, while engaged in their duties on behalf of the corporation.".

DEPENDENT TRAVEL

SEC. 116. (a)(1) The first sentence of section 5924(4)(B) of title 5, United States Code, is amended by striking out "American secondary or" and inserting in lieu thereof "American secondary education or, in the case of dependents of an employee other than an employee of the Department of State or the International Communication Agency, to obtain an American".

(2) Section 5924 of such title is amended—

(A) by inserting "(a)" immediately before the first sentence; and

(B) by adding at the end thereof the following:

"(b)(1) An employee of the Department of State or of the International Communication Agency in a foreign area is entitled to the payment of the travel expenses incurred by the employee in connection with the travel of a dependent of the employee to or from a school for the purpose of obtaining an undergraduate college education.

"(2) Paragraph (1) shall apply—

"(A) to two round trips each calendar year, and

"(B) to travel expenses which—

"(i) are extraordinary and necessary expenses incurred in providing adequate education for such dependent because of the employee's service in a foreign area or areas, and

"(ii) are not otherwise compensated for.".

(b) The amendments made by subsection (a) shall take effect on October 1, 1981.

TITLE II—INTERNATIONAL COMMUNICATION AGENCY

SHORT TITLE

SEC. 201. This title may be cited as the "International Communication Agency Authorization Act, Fiscal Years 1982 and 1983".

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 202. There are authorized to be appropriated for the International Communication Agency $561,402,000 for the fiscal year 1982 and $482,340,000 for the fiscal year 1983 to carry out international communication, educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 2 of 1977, and other purposes authorized by law.

CHANGES IN ADMINISTRATIVE AUTHORITIES

SEC. 203. (a)(1) Title III of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1451–1453) is amended—

(A) in section 301 by striking out "citizen of the United States" and inserting in lieu thereof "person"; and

(B) in sections 302 and 303 by striking out "citizen of the United States" and inserting in lieu thereof "person in the employ or service of the Government of the United States".

(2) Such title is further amended—

(A) in section 301—

(i) by striking out "Secretary" the first place it appears and inserting in lieu thereof "Director of International Communication Agency", and

(ii) by striking out "Secretary" the second place it appears and inserting in lieu thereof "Director"; and

(B) in section 303 by striking out "Secretary" and inserting in lieu thereof "Director of the International Communication Agency".

(3) Section 302 of such Act is amended—

(A) in the second sentence by striking out "section 901(3) of the Foreign Service Act of 1946 (60 Stat. 999)" and inserting in lieu thereof "section 905 of the Foreign Service Act of 1980"; and

(B) in the last sentence by striking out "section 1765 of the Revised Statutes" and inserting in lieu thereof "section 5536 of title 5, United States Code".

(b) Section 802 of such Act (22 U.S.C. 1472) is amended—

(1) by inserting "(a)" immediately after "SEC. 802."; and

(2) by adding at the end thereof the following new subsections:

"(b)(1) Any contract authorized by subsection (a) and described in paragraph (3) of this subsection which is funded on the basis of annual appropriations may nevertheless be made for periods not in excess of five years when—

"(A) appropriations are available and adequate for payment for the first fiscal year; and

"(B) the Director of the International Communication Agency determines that—

"(i) the need of the Government for the property or service being acquired over the period of the contract is reasonably firm and continuing;

"(ii) such a contract will serve the best interests of the United States by encouraging effective competition or promoting economies in performance and operation; and

"(iii) such method of contracting will not inhibit small business participation.

"(2) In the event that funds are not made available for the continuation of such a contract into a subsequent fiscal year, the contract shall be canceled and any cancellation costs incurred shall be paid from appropriations originally available for the performance of the contract, appropriations currently available for the acquisition of similar property or services and not otherwise obligated, or appropriations made for such cancellation payments.

"(3) This subsection applies to contracts for the procurement of property or services, or both, for the operation, maintenance, and support of programs, facilities, and installations for or related to radio transmission and reception, newswire services, and the distribution of books and other publications in foreign countries.".

(c) Paragraph (16) of section 804 of such Act (22 U.S.C. 1474(16)) is amended by inserting "and security vehicles" immediately after "right-hand drive vehicles".

(d) Title VIII of such Act (22 U.S.C. 1471–1475b) is amended by adding at the end thereof the following new section:

"ACTING ASSOCIATE DIRECTORS

"SEC. 808. If an Associate Director of the International Communication Agency dies, resigns, or is sick or absent, the Associate Director's principal assistant shall perform the duties of the office until a successor is appointed or the absence or sickness stops.".

(e) Paragraphs (18) and (19) of section 804 of such Act (22 U.S.C. 1476 (18) and (19)) are amended—

(1) by striking out "and" at the end of paragraph (18); and

(2) by striking out the period at the end of paragraph (19) and inserting the following: "; and

"(20) purchase motion picture, radio and television producers' liability insurance to cover errors and omissions or similar insurance coverage for the protection of interests in intellectual property.".

(f) Section 1011 of the United States Information and Educational Exchange Act of 1948, as amended, is amended by adding at the end thereof the following new subsection:

"(i) Foreign currencies which were derived from conversions made pursuant to the obligation of informational media guaranties and which have been determined to be unavailable for, or in excess of, the requirements of the United States and transferred to the Secretary of the Treasury, shall be held until disposed of, and any dollar proceeds realized from such disposition shall be deposited in miscellaneous receipts. As such currencies become available for such purposes of mutual interest as may be agreed to by the governments of the United States and the country from which the currencies derive, they may be sold for dollars to agencies of the United States Government.".

(g) Title VIII of the United States Information and Educational Exchange Act of 1948, as amended, is revised by the addition of the following section:

"SEC. 809. Cultural exchanges, international fairs and expositions, and other exhibits or demonstrations of United States economic accomplishments and cultural attainments provided for under this Act or the Mutual Educational and Cultural Exchange Act of 1961 shall not be considered "public work" as that term is defined in section 1 of the Defense Base Act, as amended (section 1651(b) of title 42 of the United States Code).".

LIQUIDATION OF THE INFORMATIONAL MEDIA GUARANTY FUND

SEC. 204. Section 1011(h) of such Act (22 U.S.C. 1442(h)) is amended by adding at the end thereof the following new paragraph:

"(4) Section 701(a) of this Act shall not apply with respect to any amounts appropriated under this section for the purpose of liquidating the notes (and any accrued interest thereon) which were assumed in the operation of the informational media guaranty program under this section and which were outstanding on the date of enactment of this paragraph.".

INTERNATIONAL EXCHANGES AND NATIONAL SECURITY

SEC. 205. (a) Congress finds that—

(1) United States Government sponsorship of international exchange-of-persons activities has, during the postwar era, contributed significantly to United States national security interests;

(2) during the 1970's, while United States programs declined dramatically, Soviet exchange-of-persons activities increased steadily in pace with the Soviet military buildup;

(3) as a consequence of these two trends, Soviet exchange-of-persons programs now far exceed those sponsored by the United States Government and thereby provide the Soviet Union an important means of extending its worldwide influence;

(4) the importance of competing effectively in this area is reflected in the efforts of major United States allies, whose programs also represent far greater emphasis on exchange-of-persons activities than is demonstrated by the current United States effort; and

(5) with the availability of increased resources, the United States exchange-of-persons program could be greatly strengthened, both qualitatively and quantitatively.

(b) It is therefore the sense of Congress that—

(1) United States exchange-of-persons activities should be strengthened;

(2) the allocation of resources necessary to accomplish this improvement would constitute a highly cost-effective means of enhancing United States national security; and

(3) because of the integral and continuing national security role of exchange-of-persons programs, such activities should be accorded a dependable source of long-term funding.

(c) Beginning in fiscal year 1982, exchange-of-persons programs administered by the International Communication Agency shall, over a four-year period, be expanded to a level, in real terms, three times that in effect on the date of the enactment of this Act.

TITLE III—BOARD FOR INTERNATIONAL BROADCASTING

SHORT TITLE

SEC. 301. This title may be cited as the "Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983".

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 302. There are authorized to be appropriated for the Board for International Broadcasting $98,317,000 for fiscal year 1982 and $98,317,000 for fiscal year 1983.

ADDITIONAL FUNDING

SEC. 303. Notwithstanding the provisions of section 8b of Public Law 93–129, not to exceed $6,195,000 of the gain realized during fiscal year 1981 through upward fluctuations in foreign currency exchange rates shall be made available to compensate for losses incurred as a result of the bomb explosion at RFE/RL, Inc., Munich headquarters on February 21, 1981, and for additional RFE/RL, Inc., operating expenses as might be deemed appropriate.

MERGER OF THE BIB AND THE RFE/RL BOARD

SEC. 304. Section 4 of the Board for International Broadcasting Act of 1973 is amended as follows:

"(c) Beginning January 1, 1982, no grant may be made under this Act unless the certificate of incorporation of RFE/RL, Inc., has been amended to provide that—

(1) the Board of Directors of RFE/RL, Inc., shall consist of the members of the Board for International Broadcasting and of no other members; and

(2) such Board of Directors shall make all major policy determinations governing the operation of RFE/RL, Inc.; and shall appoint and fix the compensation of such managerial officers and employees of RFE/RL, Inc., as it deems necessary to carry out the purposes of this Act.".

TITLE IV—ARMS CONTROL AND DISARMAMENT AGENCY

SHORT TITLE

SEC. 401. This title may be cited as the "Arms Control and Disarmament Agency Act, Fiscal Years 1982 and 1983".

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 402. Section 49(a) of the Arms Control and Disarmament Act (22 U.S.C. 2589(a)) is amended to read as follows:

"SEC. 49. (a) To carry out the purposes of this Act, there are authorized to be appropriated—

"(1) for the fiscal year 1982, $18,268,000 and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs, and to offset adverse fluctuations in foreign currency exchange rates, and

"(2) for the fiscal year 1983, such sums as may be necessary to carry out the purposes of this Act.

Amounts appropriated under this subsection are authorized to remain available until expended.".

SECURITY CLEARANCES

SEC. 403. Section 45(a) of the Arms Control and Disarmament Act (22 U.S.C. 2585(a)) is amended by inserting the following new sentence after the second sentence thereof: "In the case of persons detailed

from other Government agencies, the Director may accept the results of full field background security and loyalty investigations conducted by the Defense Investigative Service or the Department of State as the basis for the determination required under this subsection that the person is not a security risk or of doubtful loyalty.".

ANTISATELLITE ACTIVITIES

SEC. 404. Section 31(b) of the Arms Control and Disarmament Act (22 U.S.C. 2571) is amended by striking the "," and inserting the following phrase: "and of all aspects of anti-satellite activities;".

TITLE V—MISCELLANEOUS PROVISIONS

REPEALS; TECHNICAL AMENDMENTS

SEC. 501. (a) The following provisions of law are repealed:

(1) Section 408 of the Act entitled "An Act to authorize appropriations for fiscal years 1980 and 1981 for the Department of State, the International Communication Agency, and the Board for International Broadcasting", approved August 15, 1979 (22 U.S.C. 287c note).

(2)(A) Section 121(b) (22 U.S.C. 1175 note),

(B) section 122(b) (22 U.S.C. 2280 note),

(C) section 203 (22 U.S.C. 1461–1 note),

(D) section 504(e) (22 U.S.C. 2656d(e)),

(E) section 601(b) (92 Stat. 985),

(F) section 603(c) (22 U.S.C. 2656 note),

(G) section 608(c) (22 U.S.C. 2656d note).

(H) section 609(c) (92 Stat. 989),

(I) section 610(c) (22 U.S.C. 2151 note),

(J) section 611(b) (22 U.S.C. 1731 note),

(K) section 613(b) (22 U.S.C. 2370 note),

(L) section 705(a) (22 U.S.C. 2151 note),

(M) section 709 (22 U.S.C. 2151 note), and

(N) section 711 (22 U.S.C. 2220a note), of the Foreign Relations Authorization Act, Fiscal Year 1979.

(3)(A) Section 107(b) (91 Stat. 846),

(B) section 109 (a)(7) (22 U.S.C. 2384 note).

(C) section 414(b) (22 U.S.C. 1041 note),

(D) section 501 (91 Stat. 857),

(E) section 503(b) (91 Stat. 858),

(F) section 505 (22 U.S.C. 2151 note), and

(G) section 513 (19 Stat. 862), of the Foreign Relations Authorization Act, Fiscal Year 1978.

(4) Section 403 of the Foreign Relations Authorization Act, Fiscal Year 1977 (22 U.S.C. 2871 note).

(5) Sections 102(b) (89 Stat. 756) and 503(b) (89 Stat. 772) of the Foreign Relations Authorization Act, Fiscal Year 1976.

(6) Section 15 of the State Department/USIA Authorization Act, Fiscal Year 1975 (22 U.S.C. 2151 note).

(b)(1) The Foreign Relations Authorization Act, Fiscal Year 1979, is amended—

(A) in section 121, by striking out "(a)";

(B) in section 122, by striking out "(a)";

(C) in section 601, by striking out "(a)".

(D) in section 611, by striking out "(a)";

(E) in section 613, by striking out "(a)"; and

(F) in section 705, by striking out "(a)".

(2) The Foreign Relations Authorization Act, Fiscal Year 1978, is amended—

(A) in section 107, by striking out "(a)";

(B) in section 414, by striking out "(a)";

(C) in section 503, by striking out "(a)"; and

(D) in section 505, by striking out "(a)".

(3) The Foreign Relations Authorization Act, Fiscal Year 1976, is amended—

(A) in section 102, by striking out "SEC. 102. (a) Except as provided in subsection (b), no" and inserting in lieu thereof "SEC. 102. No"; and

(B) in section 503, by striking out "(a)".

Mr. STEVENS. Mr. President, I ask that the cloakrooms notify Senators that the Senate has resumed its consideration, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 72

Under the previous order, the Senate will now resume consideration of the amendment by the Senator from Minnesota (Mr. DURENBERGER).

Mr. DURENBERGER. Mr. President, as I indicated last evening, I have no further argument to make in favor of the amendment. I am not aware of anyone on this side of the aisle who does. At this time, I yield to the Senator from Vermont for whatever remarks he cares to make in addition to those he made last night.

Mr. LEAHY. Mr. President, I thank the Senator.

The PRESIDING OFFICER. The Senator may proceed.

Mr. LEAHY. Mr. President, the discussions yesterday, which revolved primarily around procedural matters on this resolution, may have obscured some of the issues that we have before us. There is a great deal of concern and it is, I believe, bipartisan concern, as to the posture presented by the United States in its vote on the infant formula matter. The United States has an enviable record worldwide in efforts that it has made in combating hunger, in helping in refugee programs, and providing both medicine and food, not only within its own borders but without its borders, to Third World nations, emerging nations, wartorn nations, nations ravaged by natural disaster. These are items in the history of the United States which all of us, as Americans, can be extremely proud of.

That is why it is unfortunate that the United States voted as it did, for whatever reasons—technical or otherwise—to be the lone dissenting vote on the question of infant formula. That, really, is why I believe the other body, as well as this, has raised the issue as something to be discussed, debated, and voted upon in our respective bodies, to express a concern that the enviable U.S. record in these areas not be clouded or overcome by this one issue.

I think an example of it is the fact that there has been a great deal of discussion in newspapers throughout the United States, local newspapers that perhaps normally would be more involved in issues of the budget, either of their own State or of the Nation, their own local community, or in other national items. Let me read a few of those:

Tallahasssee Democrat—May 4, 1981:

The argument that any kind of marketing technique is acceptable to promote competition loses its effectiveness when manufacturers allow greed to become more important than their customers.

Journal of Commerce—May 7, 1981:

As a rule we are not overly enchanted with multilateral agreements or recommendations. . . . But if the United States abstains or votes no on the infant formula code, we believe that it will gain little and possibly lose much in its effort to restore U.S. credibility and influence with the developing world."

Chicago Sun-Times—May 12, 1981:

But now the U.S. delegation will withdraw support for the plan (code)—in effect, putting formula makers' profits before the health of Third World babies. It's a shameful switch.

Baltimore Sun—May 14, 1981:

That the administration instead is opposing the code makes it appear to be callous toward the welfare of infants in the Third World. . . . When they oppose the WHO code, the U.S. companies and the U.S. government appear to oppose a public health revolution which could yield immense benefits for the world's poor.

Washington Post—May 15, 1981:

The fact is that none of the administration's objections has anything to do with the health of babies. That is the sorry flaw in its handling of this issue.

Long Beach (Cal.) Press-Telegram—May 18, 1981:

But the "no" vote on the infant formula issue is a mistake. If the United States is alone in its "no" vote, or at best among the very few that vote "no" on this emotional issue, it will be marked as a nation that puts the interests of its own companies above concern for the nutritional needs and development of infants.

Lewiston (Idaho) Morning Tribune—May 19, 1981:

It is easy to understand why the proposed code would attract so much support. It is a recognition by a community of civilized nations that much harm has been done by aggressive baby food conglomerates who for years have been taking advantage of the huge third world market. It is harm that is measured not in dollars, but in human lives—babies' lives.

It is ironic, Mr. President, that at a time when this country and this Government have stated a great concern for the unborn of its Nation, when we have on the floor of the House and Senate legislation pending that does everything from trying to make a congressional determination of the ultimate theological question of when life begins, straight through, on an issue which could be considered as protective of human life as any in the world, the United States ends up in the unenviable position of appearing to be in favor of billions of dollars of profits for some of the multinational baby food manufacturers and not on the side of babies who will be using that formula.

It should not be forgotten, Mr. President, what we have here. We have a situation where the image of the Western World, the image of progress, the image of democracy, the image of civilization, is a baby bottle and baby formula. I do not think that it puts too fine a point on it, Mr. President, to say that in many areas of the world, the steps taken by some of these baby formula manufacturers are very much akin to drug peddlers and dope peddlers in this country—the free samples, the below-cost items.

Is it any more sinister to get somebody hooked on a narcotic habit in this country, that they cannot afford and cannot sustain but cannot live without, than to convince mothers in a country where there is a lack of pure water, lack of normal sanitation methods, to stop the traditional methods of breast feeding, certainly proved throughout eons of time,

through our whole evolutionary process, a safe hygienic method of feeding their children? Instead, to be telling them that they must stop and it is an irreversible stop—biology is biology. Once stopped, you do not start up again.

The formula companies say, "Take this free sample of baby formula. Start with that." What happens within a month or 2 months when the free samples run out?

Many times, in many of these countries, it is necessary to spend as much money for formula as a family normally would spend on food for the whole family.

We have come to a time when the symbol of Western development is the baby bottle. It makes no difference, then, what is put into the bottle, whether it is water that is contaminated, filthy and dirty, swimming with germs; whether it is an improperly diluted formula; whether it is a formula that has been exposed to every kind of unsanitary situation. That is what goes into it, because, by God, it is Western development. "We are coming into the free world by using this bottle."

I referred yesterday to the testimony of one of the missionary nuns who worked with those in a Third World country. She talks about the baby bottle costing nearly a month's salary or a month's income of a family. The bottle was fetid, putrid, black, dirty, crawling with bugs. It is that western baby bottle.

The mother's children are being fed with that bottle because, after all, the glossy, colorful ads showed that this is the modern way and this is the way to have healthy children. Yet, family after family would wonder why child after child would die.

We are talking about baby formulas going into countries where children are not even recorded—their births are not recorded, many times, for months and months, because so many of them die.

Again, I would refer to the many editorials on this issue—from all over the country.

The New York Times of May 19, 1981, said:

There thus appears no reason to cast the United States as the enemy of mothers and babies. It is unwise to contend that every society should observe American styles of commerce. And if there are wrong-headed provisions or precedents in such a code, they will be much better dealt with country by country, by an American Government that shows itself sympathetic to the most elementary concerns of others.

Washington Star, May 18, 1981:

The U.S. is isolating itself from a consensus that it is merely silly to blame on a malicious anti-capitalist cabal, and also exposing itself to a charge of bad faith.

Baltimore News American, May 19, 1981:

Let us hope the Reagan administration realizes the damage it proposes to do, changes its mind and decides to vote with an eye toward the well-being of hundreds of thousands of infants, and not in keeping with the wishes of a powerful industry.

St. Louis Post-Dispatch, May 20, 1981:

The no vote by the U.S. is a sorry commentary on the country's concern for the health of infants everywhere.

Milwaukee Journal, May 20, 1981:

The Reagan administration should take its anti-regulation bias off the backs of babies in Third World countries.

Columbus (Ga.) Ledger, May 20, 1981:

Maybe the Reagan administration next will announce that the U.S. Justice Department has no right to interfere with the marketing and sale of heroin because it interferes with the free enterprise system. That would surprise us, but not much.

Raleigh News & Observer, May 20, 1981:

The Reagan administration will send a callous message to poor countries if it votes against a proposed international advisory code of ethics for the marketing of infant formula.

Miami News, May 20, 1981:

The risk of course involves far more than how the world views the United States. The lives of children are at stake—and the Reagan administration would be both wise and humane if it changed its mind. And instead of accepting the resignations of Babb and Joseph it should give them large raises.

Fort Wayne Journal-Gazette, May 20, 1981:

But whether it stems from tortured reasoning or behind-the-scenes lobbying, the administration's opposition to the proposed WHO code could mean death for Third World infants whose mothers are encouraged to feed them easily contaminated formula rather than breast-feeding them.

Vancouver (Wash.) Columbian, May 20, 1981:

The ethics of a public policy that puts corporate profits before infant starvation are questionable, indeed.

Oskaloosa (Iowa) Herald, May 21, 1981:

We say human beings and the preservation of health and life are more important goals.

Hartford Courant, May 21, 1981:

The code, which the Reagan administration opposes for ideological reasons, is only a partial but necessary step toward protecting the health and welfare of mothers and children.

Conway (Ark.) Log Cabin Democrat, May 21, 1981:

America, the world's leader in sharing its medical knowledge, equipment and personnel with other nations, got a black eye with this vote.

Minneapolis Tribune, May 21, 1981:

But potential health benefits from application of the code outweigh its bureaucratic drawbacks.

San Francisco Examiner, May 22, 1981:

It's saddening that the government has given, for no good reason, adversaries of this country an emotional club with which to beat us over the head. Even if it happened to cost us something (which it wouldn't), we need to show a good deal more concern on this question, and reverse our national position.

Marshall (Minn.) Independent, May 22, 1981:

Surely the Reagan administration is operating out of ignorance. Surely our president and other top government officials do not want to cast our country in the role of a child killer and, worse, one who does so for profit.

The Catholic Review, May 22, 1981:

Despite overwhelming evidence that such marketing practices by multi-national corporations like Nestle and Bristol-Myers are detrimental to the health of young children, the U.S. took the risk of destroying its own credibility on world health and trade circles.

South Bend Tribune, May 23, 1981:

No amount of explanation will erase the stigma of our vote. We are giving up world leadership for business reasons.

Fayetteville (N.C.) Observer, May 25, 1981:

Is the Reagan administration allowing the interests of big business to prevail over those of mothers and children? That is the smell of it.

Kansas City Times, May 25, 1981:

In failing to support a humanitarian World Health Assembly resolution favoring mother's breast milk as infant food at the expense of commercial substitutes, the United States shamed itself. Not only did it decline to stand beside 117 other nations of the world declaring concern for the dangers to children in underdeveloped countries posed by infant formulas, this administration served unqualified notice that it is not interested in being a symbolic moral leader.

Buffalo Evening News, May 26, 1981:

It is unfortunate that the Reagan administration found it necessary to cast a vote that unduly stressed legalistic issues to the exclusion of the health concerns involved in the infant formula debate. The decision . . . contributed nothing to the image of either the present administration or the nation.

Valley Advocate (Northampton, Mass.), May 27, 1981:

Shame seems often to be the underbelly of bravado. Yet, in the government's latest swagger before the world community there is a schism that is becoming familiar. Those who committed the indiscretion remain smug while the outcry of high-ranking, respected officials and our consciences reveal a depth of humiliation.

Bucks County (Penn.) Times, May 1981:

It is painfully obvious that decisions like this one will not endear the administration to the leaders of the world's underdeveloped nations. In some cases, our legitimate interests make it impossible to accommodate them. But the controversy over infant formula appears to be a case of the administration going out of its way to be insensitive to their concerns.

Philadelphia Inquirer, May 1981:

The controversy is literally a motherhood issue, and the White House has put the United States on the wrong side of it.

I will now refer to the testimony of Dr. Alan Jackson, who heads the Tropical Metabolism Research Unit at the University of the West Indies, in Kingston, Jamaica. Dr. Jackson states:

Studies that have been carried out [in Jamaica] over the last 12 years show that there is a consistent pattern of infant feeding. About 70 percent of the mothers start off by breast feeding their children. But from a very early age, they introduce their children to bottle feeding, complementary feeding, usually with a milk formulation.

Initially, widespread advertising, free samples, and the use of milk nurses encouraged this type of feeding practice. The government has been fairly active in Jamaica, and they have attempted to limit the extent of the advertising and the accessibility of milk nurses to government institutions. But this has had little effect on the established pattern.

Furthermore, the influence of the advertising and the milk nurses has been found to outlast the period of their physical presence, so that unless definitively and strongly advised otherwise, the mothers persist in a pattern of bottle feeding in subsequent pregnancies. And this is something that is asso-

ciated, in fact, with the ambivalence itself of health professionals who, themselves, have been courted by milk companies, and help to promote an undesirable practice of feeding.

Now, the average family income in Jamaica for a family of, say, five or six people is of the order of $16 to $20 a week. Now, to properly feed a four-month-old baby [with formula]—it is difficult to get an accurate figure, because they are having rising costs of living—but it is a minimum of $7 a week out of total family income of, say, $20 a week. Obviously, that is prohibitive.

Mr. President, I have a letter which was sent to me by Miss Linda Kelsey in connection with this matter. Miss Kelsey is probably best known to Americans for her brilliance as an actress. Many see her on television each week on the Lou Grant program, but I believe that those of us who have worked the most in this area know her for the unstinting effort she has given to this whole issue. In her letter, she speaks of a trip she made into India, Bangladesh, Malaysia, Hong Kong, and the Philippines. She says:

I feel very strongly that the U.S. Government should support the World Health Organization/UNICEF efforts to stop the unethical promotion of breast milk substitutes. I have just returned from seeing babies afflicted with "bottle baby disease" in five Asian countries where I talked with their suffering mothers, and learned from local health workers of the difficulties they have stopping the trend away from breast feeding. What I experienced has made me very angry because it is all so preventable. But to do so requires the voice of the powerful, such as yourself, defending the silent voices of the children.

I was asked to visit India, Bangladesh, Malaysia, Hong Kong, and the Philippines by the International Organization of Consumers' Unions; my visit was coordinated by the consumer societies of each nation. They asked me in the hopes that my public image as a "reporter on the Lou Grant Show" would help stimulate support for an issue only casually treated in the press.

James Grant, Director of UNISEF, has termed this the "silent catastrophe," because the babies suffer and die with no political voice. It is estimated that four million infants will die each year—11,000 per day—as the result of inappropriate bottle feeding. (In the five days since I've returned to the time I've written this letter, the number of babies who have died has surpassed the deaths of all Americans in the Vietnam war.) Having seen one baby in Bangladesh suffering so unnecessarily, multiplying these figures to global proportions staggers me.

I visited health clinics and hospitals, talked with front line health workers, with women's groups, consumer organizations, and government officials. They were shocked when I told them that the new Administration was contemplating a vote against the WHO/UNICEF code of marketing for breast-milk substitutes, to be debated at this months' World Health Assembly. I was very moved by their sense of abandonment, of the sense of helplessness that an underfunded health worker feels when faced with the powerful interests of large commercial firms. They expressed the need for the code to help right the imbalance, and help them attain the political force needed to protect their children from the unnecessary and dangerous use of breast milk substitutes.

They showed me the promotion stickers, free samples, and advertisements of the baby milk companies. I saw stacks and displays of baby milks in tiny stores—the most visible and prestigious products of a poor shop—next to open sewage and slum conditions which insured that the babies would only suffer, deprived of the protective qualities of their mother's milk. In one hospital I visited in the Philippines, infant formula companies' western dressed sales personnel were so common with their samples, gifts and posters, that upon entering, I was asked what milk company I represented!

The companies involved were, of course, American and Swiss. But also English, Dutch, Japanese and even Indian. I couldn't have imagined the intensity of competition until I saw huge billboards advertising milk products near the slums of Bangladesh, by so many firms.

I know that the advocates of breast feeding and the marketing code are being accused of being political. It's true, of course, and my trip has convinced me of this necessity. A powerful institution—much less the combined forces of over thirty large milk companies—cannot be changed without political intervention. But this is not an issue that splits on traditional conservative/liberal lines. Those who do so have not seen the babies, or the advertising in the most appalling circumstances—or are motivated purely by self-interest. We must act now to conserve our most valuable resource: the world's future citizens.

It is not a question of banning the use of infant formula, but of insuring its safe use. It is a case of developing guidelines that will make corporations responsible for controlling the advertising, marketing and promotion activities which in and of themselves, create a market in spite of public health considerations. The World Health Organization (consisting of 155 member nations) will undertake this responsibility this month at its Assembly in Geneva, through consideration of its code of marketing for breast milk substitutes.

I believe your efforts with Senate Resolution No. 111 are essential to protect millions of innocent children. I have written to your colleagues to urge them to support your efforts. On behalf of those I spoke with, I thank you for caring enough to commit yourselves to help at this time.

I am convinced that the U.S. will suffer great political damage if we are the only nation in the world—as we might well be—to vote against the code. After my visits, I know that it will be interpreted by people around the world that we are more concerned with the health of our industry than the health of children. This would be an insult to American ideals—and the very real feelings of American citizens who support this effort.

Sincerely,

LINDA KELSEY.

P.S.—I'm enclosing a xerox of an article that appeared in Asia Week while I was there. I think it shows the extent of interest and depth of feeling I found wherever I went.

Mr. President, I ask unanimous consent to have printed in the RECORD the article to which Miss Kelsey referred.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SABOTAGE: BREAST VS. BOTTLE: A NEW BATTLEFRONT

MELY, 19, feels sluggish and untidy as her visitor clucks greetings from the foot of the hospital bed. The "nurse" is matronly but trim, her uniform spotlessly white, her hair pulled smoothly back by an economic combination of tortoiseshell clasp and prim little bonnet. She slips the neat blue shoulder-bag over the bed rail and begins to fuss around Mely. Isn't Mely lucky to have an adorable new baby daughter? Is Mely sure she has enough breast-milk to keep the little one contented? Mely looks tired—babies can be so demanding. Has Mely heard about this amazing new milk developed by doctors in America and Europe where all babies are so healthy and strong?

YUE-LING, 27, worries that her 3-day-old son isn't getting enough milk from her swollen, aching breasts. The baby seems fretful and cries a lot; each feeding is becoming a trial for both mother and child. Yue-ling feels like weeping with relief when the firm but friendly young woman in the starched trouser-suit and sensible shoes explains how infant formula is scientifically designed by babycare experts for modern mothers.

RAJ, 36, listen thoughtfully as the impeccably groomed "nutritionist" goodhumouredly scolds him. His wife, trying to hush their 4-year-old son and suckle the new infant at the same time, calls irritably from the door of their two-room hut: breast-feeding may be a labour she snaps, but at least it is free. Raj sees her anger, her desperation, her rumpled and prematurely stooped figure. He hears the "nutritionist" chide him with happiness, convenience and science . . .

All over Asia, those scenes are being repeated thousands of times every day, with countless variations. Always, the aim is the same: to convince mothers that "infant formulas"—milk-substitute preparations made and aggressively marketed by multinational corporations—are better than mother's milk. Unfortunately, their claims are not true. In some instances, the claims and activities of infant formula manufacturers constitute crimes against Asia and against the developing world as a whole. Now, just when the international community has finally begun a concerted effort to combat the menace, the big companies are gearing for a counter-attack.

At the World Health Assembly in Geneva, Switzerland, next month, representatives of more than 150 countries will debate a code of ethics for the sale of infant formulas and other baby foods. The code was drafted by the World Health Organization (WHO) and the United Nations Children's Fund (UNICEF) following a joint meeting of these two agencies in Geneva in October 1979. Many infant-formula companies participated in the discussions that led to the drafting of the marketing code; they did so out of a sense of moral obligation, having studied the evidence that misuse of their products endangers the health and even the lives of millions of children around the world. Yet as the Geneva conference draws closer, some of those same companies are preparing to sabotage the code or dilute it so heavily that it will be virtually meaningless.

The reason for that scandalous about-face has nothing to do with health, science or modernity. It is pegged directly to politics or, more accurately, to the shift in American and West European politics. With the advent of the Reagan Administration, some of the manufacturers who previously cooperated with the U.N. agencies have begun to "sense an advantage," as one angry UNICEF topsider puts it. They have made it clear they intend to fight in Geneva next month by characterising the code as a "restraint on free trade." They intend to portray the code's provisions against misleading or ambiguous advertising as a violation of the U.S. Constitution's First Amendment, which protects freedom of speech and freedom of the press.

By such means, the companies plan to obscure the real purpose of the code, which seeks not to ban infant formula but to prevent or minimise its abuse through aggressive marketing. Those marketing efforts go far beyond simple advertising: most glaringly, they include the use of "milk nurses"—salespeople employed by the companies to push their products in hospitals, towns and villages. Because they appear to function in an official or semi-official capacity, and because they are often abetted by corrupt or ignorant hospital staffers, the hucksters have little difficulty winning over Mely and Yue-ling or fathers like Raj who want to make life easier for their wives.

At the core of the current debate is the incontrovertible and mounting evidence of much higher sickness and death rates among bottle-fed babies than among breast-fed youngsters. The evidence is most startlingly clear in terms of diarrhoeal diseases: bad water, dirty bottles and unsterilised teats cause diarrhoea. And since infant formula makes a big dent in family income, parents habitually dilute the product to make it last longer. Result: progressive malnutrition. James P. Grant, UNICEF's executive director, believes worldwide adoption of the marketing code "could save a million children a year now dying of diarrhoea and [the effects of] malnutrition." The infant-food industry, adds WHO Director-General Halfdan Mahler, is "morally obliged to change its practices."

Many women, for one reason or another, are not able to breast-feed; for them, infant formula—properly used—is a godsend. WHO and UNICEF don't dispute this. What they do dispute is marketing aimed at convincing mothers that infant formula is "almost as good," "as good" or "even better" than mother's milk. They also want to put a stop to marketing that suggests substitute milk products are "more convenient" and "more modern," a tactic favoured in developing and industrialised societies alike.

"Want to be a real hero?" asks an ad published by Mead Johnson & Co. of Evansville, Indiana. "Buy Mom a two-week supply of Enfamil Nursette infant formula. . . . She'll appreciate your gift [because] Nursette is easy to use—it means less work, more rest. . . . Isn't your wife's happiness worth it?" Yet the American Academy of Paediatrics is unequivocal in asserting that "breast milk is the best food for every newborn infant."

Mead Johnson is a wholly-owned subsidiary of Bristol-Myers Co. (annual sales: US $2.5 billion). Ross Laboratories, which makes Similac, is owned by Abbott Laboratories (annual sales: $1 billion). These two companies are said to hold about 90 percent of the infant formula market in the U.S. Along with a third, American Home Products Corp., they have begun intensive lobbying in Washington to persuade American politicians to oppose the marketing code.

Those companies had previously supported the draft code; now, conscious that a Republican government is much more inclined to leave big business alone, they are reneging. The draft, they claim, is a "serious distortion of the original intent"—a charge that leaves WHO and UNICEF officials blinking in amazement. "They helped write it!" exclaims one.

From the outset, some other manufacturers actively opposed the international agencies efforts to draw up a code. One of them was the giant Swiss-based food corporation Nestlé, whose products are familiar in many Asian countries. Nestlé tried to skirt the issue, say UNICEF sources, by "insisting that it had never said breast milk wasn't best, by claiming that its products have improved baby nutrition in developing countries, by saying it doesn't advertise infant formula in poorer countries, and so on." Unfortunately for Nestlé, those lofty claims are easily brought down to earth:

Claim: "Nestlé actually encourages breast-feeding." Fact: While the company's products do carry the advice that "Breast-feeding is Best," Nestlé's promotional and marketing techniques effectively spread the opposite message. Through doctors, midwives and the mothers themselves, Nestlé clearly encourages the use of infant formula—hardly surprising, since it makes the stuff. The Interfaith Centre on Corporate Responsibility (ICCR), an activist wing of the National Council of Churches in the U.S., quotes a letter from a Nestlé "medical representative" who said her main responsibility "is to promote the Nestlé infant formula products" by visiting "people in the medical profession who are directly in contact with infants." In return for infant-formula samples, she wrote, "the recipients would of course recommend, in one way or another, Nestlé formulas."

Claim: Nestlé does no consumer advertising of infant-formula products in developing countries." Fact: While Nestlé supposedly ordered a halt to all such advertising in July 1978, it promoted formula to mothers at a baby show in Malaysia in October 1978. Formula promotion calendars were distributed by Nestlé in Indonesia in 1979.

Last month, a well-known European expert on child nutrition announced that he was quitting his post as consultant to a Nestlé subsidiary because of Nestlé's activities in developing countries. In a letter to the British medical journal The Lancet, Dr. Stig Sjölin of Sweden's Uppsala University Hospital declared: "Despite sharp and well-founded criticism from a number of organisations and individuals over the years, Nestlé has shown little interest in changing its attitudes and marketing policies." He added: "Nestlé, in its obstinacy, has even joined forces with other large manufacturers of breast-milk substitute—not, as is now clear, to establish rules of conduct that would protect child health, but to defend the manufacturers' activities and to protect their own economic interests."

The 1979 WHO/UNICEF meeting was attended by government representatives from eighteen countries including India, Japan, Malaysia, New Zealand, Papua, New Guinea, the Philippines, the U.S. and Britain. Also among the participants were experts from U.N. and other agencies such as the Food & Agriculture Organisation (FAO), the World Bank's Rural Development Department, the International Labour Organisation (ILO), the U.N. Conference on Trade & Development (UNCTAD), the U.N. Fund for Population Activities (UNFPA), the World Food Programme and the U.N. Industrial Development Organisation (UNIDO). Among the participants from the infant-formula industry itself were executives from Bristol-Myers, Mead Johnson, Abbott, Wyeth and Gerber (U.S.), Friésland and Nutricia (Holland), Dumex (Denmark), Meiji Milk Products and Snow Brand (Japan) and Nestlé (Switzerland). At that meeting, by consensus, it was agreed that "there should be an international code of marketing of infant formula and other products used as breast-milk substitutes. This should be supported by both exporting and importing countries and observed by all manufacturers." The code was duly drawn up in consultation with industry officials and approved two months ago by the executive board of the World Health Organisation; now it must be approved by the WHO Assembly next month.

The motion before the Assembly will take the form of a "recommendation" to member governments, rather than a "regulation"—a concession to the industry and a reflection of the industry's lobbying over the past year. The hope is that governments, once the recommendation is accepted, will quickly give the code the full force of law in their own countries.

If the code is weakened further or scuttled altogether by the manufacturers' new counterattack, Asian governments will have only two options: to legislate against improper marketing practices, or watch more of their youngest citizens suffer and perhaps die through misuse of infant formula. Plainly, there is nothing wrong with established breast-milk substitutes, used correctly and under the supervision of trained medical personnel. But there is a lot wrong with the manner in which leading companies exploit social pressures, ignorance or poverty in selling their products to mothers who may not need it and probably can't afford it. To Geneva in mid-May, the thoughts of all caring Asians must turn.

Mr. LEAHY. One of the articles in the Washington Post spoke of the use of baby formulas in Brazil and it presented a scientific study showing a large percentage of bottlefed babies in Brazil's largest city are undernourished.

In fact, as a result, the conservative military government of Brazil launched a campaign to encourage mothers to breastfeed their children, according to Jim Brooke of the Washington Post.

The report that they found that 32 percent of the bottlefed babies suffered from malnourishment, 32 percent compared to only 9 percent of the breastfed babies. Twenty-three percent of the bottlefed babies had to be hospitalized.

Mr. President, I shall read a few paragraphs from the Washington Post article of April 21, speaking of a survey done in Brazil:

The survey findings were echoed in random interviews with mothers in Rocinha, one of Rio's largest—and worst—favelas or shantytowns.

"I started giving [formula] to my baby boy at 1½ months, but he got a stomach infection that almost killed the child," one woman, known only as Nicinha, said as she sat in her two-room house, partially roofed with flattened soy oil cans.

Nicinha said her baby was consuming four cans of formula a week. To save money she diluted the mix with flour, corn meal and cream of rice cereal. At $2.50 a can, a month's supply of Nestogeno costs $40, while most wage earners of Rocinha earn Brazil's minimum salary—$80 a month. The São Paulo study found that formula feeding a baby for one year would require 43 percent of the income of a poor family of four, compared to the cost of breast-feeding, approximately 4 percent.

"The water here also doesn't help," Nicinha said, waving to a green-gray open sewer gurgling three feet from her doorstep. Favela residents get their water from nearby wells, but they say this water is polluted, frustrating efforts to sterilize baby bottles.

Across the sewer and down a narrow, slippery, alley Maria da Conceicão sat in her darkened room, nursing her 1-year-old son, Vito.

"They are much stronger," she said of breast-fed babies. "They don't get sick with diseases."

Dr. Amandio Ferreira de Souza, head pediatrician at Rio's Poor Mother Hospital agreed with Maria da Conceicão's comments.

"Almost all the diarrhea cases I see are bottle-fed babies," he commented.

Without hesitation, Dr. Amandio said his fellow pediatricians in Rio are "100 percent" in favor of breast-feeding, but for many years his profession was the target of a multifaceted promotional campaign by Nestlé.

Until recently, Nestlé gave a free, one year's supply of powdered milk to Brazilian pediatricians, nutritionists and maternity nurses when they or their wives had children. The São Paulo report found that Nestlé advertising helps support professional journals, and Dr. Amandio said the company frequently sponsors meetings of pediatricians.

Mr. President, as I said before, our country is a good country. It is a generous country. It is an honest country. But we have problems of malnourishment, malnutrition, and hunger in our country, and we are only now beginning to accept that and take steps to get rid of it.

We have expressed concern and we have demonstrated our concern in other parts of the world.

But what worries me is that we can wipe out that whole concern overnight by looking as if we are just jumping in bed with some of the multinationals and helping them make billions of dollars at the cost of the lives of thousands and perhaps millions of babies.

It is interesting when we have to pause for a moment and look at some of the issues. The Foreign Relations Committee is meeting now on a matter which I think is an extremely important one, the Israeli attack on the Iraqi nuclear facility, the questions that it raises on stability in the Middle East, the possibility and portentions that it makes for possible nuclear war in that area. These are significant issues.

They should not overshadow this issue because, believe me, from the mail I have received, the people I hear from, the people I have talked with in other parts of the world, this is a major item. When the United States wants to demonstrate its good faith to the rest of the world, when the United States seeks allies around the world, we do not necessarily get those allies by simply building bigger and better battleships or taking obsolete battleships out of mothballs to do it and sail them around the world as though we were Teddy Roosevelt and the great white fleet. We do it by our example. We do it by our respect of human rights. We do it by the constancy of our diplomacy. We do it as much in many areas by moral persuasion as anything else.

The United States must make sure that it does not give itself the image of babykillers because we are not. We are not. And the vote that we saw a few weeks ago unfortunately can be interpreted that way in so much of the world and our enemies will very quickly move to interpret it that way.

It is unfortunate, when so many good Americans of all political persuasions have made every effort possible to demonstrate the good will of America around the world and have spent billions of dollars of our tax dollars to help other countries. That in the almost frivolous action we can wipe out much of that good will because of a lack of realization of the steps that we have taken and without realizing the complexity of these issues and trying to go through on a wing and a prayer. And I think that that is what has happened here.

This is the way we wipe out years of efforts of trying to develop good faith around the world.

This reflects a catering to commercial interests without considering the overall best interests not only of the United States but also of our allies.

I hope that as a result of the resolution before the Senate and the resolution passed by the other body by a 3-to-1 margin that it will not happen again.

Mr. President, I have been pleased, during the discussions of this issue, with the great concern shown by my colleague from New England, the distinguished Senator from Maine (Mr. MITCHELL). Senator MITCHELL has discussed it with me in great detail, and has attended hearings on this issue. I know when I had the opportunity to serve with the distinguished Senator from Kansas on the Presidential Commission on World Hunger that I wished the distinguished Senator from Maine had already been in the Senate at that time because I think he might have been a welcome addition to those who testified and appeared before the Commission. He brings a sense of urgency to this vital issue.

I am reminded of another member of that Commission, one who did more really to get the Commission to start than anybody else, folksinger Harry Chapin. Mr. Chapin would come down like a man with a mission, strolled the halls of the House and the Senate to get that Commission started.

I think the sight of Harry Chapin and his guitar, various Senators and Congressmen striding very quickly down the halls with him, became a very familiar one until the Commission on World Hunger was founded.

As a member of the Commission, he urged, so eloquently, the issues we have before us.

So I have to think that on behalf of him, and so many others, that it is good to see new Members take up this issue. It is with a sense of respect that I yield to the distinguished Senator from Maine (Mr. MITCHELL).

Mr. MITCHELL. I thank the Senator.

Mr. President, the decision of the U.S. Government to cast the world's only negative vote against the adoption of the infant formula marketing code was regrettable.

The code is an advisory code; it does not have the legal force of a treaty or other international obligation. It does not require the United States to impose any limits on marketing practices for infant formula domestically, nor does it mandate any restrictions on such practices by U.S. companies operating abroad.

It would require the United States to report back to the World Health Organization as to what steps it has taken to prevent misleading and overly-aggressive selling of infant formula in circumstances where its use is not appropriate.

One hundred eighteen nations voted in Geneva to uphold that code. They are nations that range from industrialized countries like Britain, Canada, Switzerland to the very poorest countries whose babies are most at risk from inappropriate infant feeding practices.

Only the United States of America voted no.

This is not an action in which I, as a citizen of this land, or indeed in which any citizen should take any pride.

By a negative vote, we did not protect the right to free enterprise. Our own laws prohibit misleading advertising. We did not protect the first amendment. The first amendment does not condone unfair business practices.

In 1978, our Congress enacted legislation to protect the quality of infant formula sold here in the United States. That action did not infringe on the rights of any company to conduct its business within the law.

Yet, our Government voted against this international, advisory code because of claims that the restrictions it recommends against certain marketing practices represent an intrusion on Constitutionally guaranteed rights. That is simply not so.

The purpose of this advisory code is simple, not difficult to understand. It is intended to support the governments of poorer nations in their efforts to protect their people against the blandishments of advertising that implies infant formula is as good as breastfeeding, preferable to breastfeeding, or superior to breastfeeding.

It is designed to help limit the practice of companies dressing their saleswomen in uniforms that look like nurses' uniforms, and sending them to maternity clinics and villages to make the sales pitch to illiterate women that infant formula will make their babies as strong and healthy as European babies, or American babies.

It is designed to prevent these "nurses" giving free samples of formula to postparturient women for a few days, a practice which lets the mother's milk dry up and makes a return to breastfeeding impracticable.

The manufacturers have claimed that they do not engage in these and similar misleading practices any more under a voluntary code of self-restraint. But a report by health professionals, Peace Corps workers and others in the field last year found at least 700 individual instances of abuse.

The manufacturers claim that marketing does not encourage women who can breastfeed to switch to formula. They claim their only goal is to reach those women who cannot breastfeed. If these marketing practices do not, in fact, encourage sales, it is hard to understand why the companies are so adamant against any restrictions.

And it is even more difficult to understand in light of the fact that this code is purely advisory. It mandates nothing.

This question involves much more than ideological arguments over whether we should oppose the anticorporate attitude of some governments. It directly affects the health of new-born babies in Africa, Asia, and Latin America.

Infant formula is meant to be prepared under careful sanitary conditions. It is designed for mothers who understand the nutritional needs of their babies. When it is mixed from a contaminated water supply, when none of the utensils can be sterilized, when illiteracy or misunderstanding combines with poverty to stretch the precious formula by watering it down, when it cannot be refrigerated in a tropical climate, then the use of infant formula is surely inappropriate. When the disposable bottles American mothers use do not exist, and formula is given to a baby from a Coke bottle with a rag tied across the neck then, surely, infant formula is dangerous to infants.

So I am deeply concerned about the implications of our negative vote. Instead of sending the message that we support free economic activity—which we do—that corporate operations play an important constructive role in developing countries, are we instead sending

the message that the economic health of private interests far outweighs any other consideration in the world community?

That is why I am concerned about the administration's overruling the decision reached by the Department of State and Health and Human Resources to abstain on the vote as a mark of U.S. concern about overly broad restrictions on commercial activity. An abstention sends that precise message. A negative vote sends much more.

The drafting of the code had already been substantially modified at U.S. insistence. References to nonmilk-substitute baby foods were eliminated at our insistence. The code was made advisory, rather than being issued as a regulatory code, at our insistence. The language of the code was toned down at our insistence.

All this was done to maintain the unanimity of world concern about the nutrition and health of the most helpless among us, newborn infants.

But, apparently as the results of industry lobbying, the administration has vetoed this advisory recommendation.

A recognition of the sanctity of human life and support for the right of life itself surely goes beyond the most elementary goal of seeking to permit birth. It surely entails obligations to preserve newly-born life and to protect the health of the newborn, as well.

I deeply regret this wrong decision by the U.S. Government to vote against this code.

I thank the Chair and I thank my colleague, Senator LEAHY, for the opportunity to say a few words on this subject.

Mr. LEAHY. I thank the Senator, the distinguished Senator from Maine.

I appreciate the comments of the distinguished Senator from Maine who has expressed a great deal of concern about this issue in the past. I could not emphasize enough what the distinguished Senator from Maine refers to and that is a concern, a concern for life that all of us share. I hope that none of us feel or that no one in this country feels that it is only those who may use a rubric or a slogan, whether it be right to life or any other type of slogan that only they are concerned about lives. I cannot imagine any Member in this body. Republican or Democrat, who is not concerned with human life.

But it has to go beyond merely the rhetoric of being concerned with human life. One has to make sure that reality catches up with that rhetoric and, conversely, that the rhetoric does not overshadow the reality. It is not enough simply to give speeches that say we value and we cherish human life, which we do, it is not enough to say that we will make the world free and safe for all people, unless we take the steps to make sure that those people, especially the most defenseless of them, can live in such a world.

It is not enough to use the rhetoric on the one hand, but then to substitute the reality of a really Faustian alliance with corporations that obviously care little for life and care little for the well being of their customers but care only that there be customers. And so many of these multinational corporations could care less about the lives of the people in the third world of the emerging nations. They could care less about a right to life no matter how defined.

I think that instead of taking action which seems to appear to condone what they have done, that we should take action that condemns what they do—not just what they have done but what they do—because their activity condemns to death tens of thousands, hundreds of thousands, even millions of infants, born and yet to be born, in Third World countries.

I doubt very much if, for even a moment, these death sentences are discussed in the corporate headquarters of some of these multinationals, but rather, the billions of dollars of profits that are gained by them putting into commerce, putting into commerce, items that—because of the countries they are used in—are as dangerous and deadly as any drug peddler on the streets of any city in the United States or anywhere else in the world.

Is it any more deadly, I ask my colleagues, for a pusher in the cities or back alleys of this country to peddle heroin to an addict, an adult addict who can make a conscious determination of whether they will take that heroin or not? Is it any different, or is it in fact more deadly, than giving polluted, dangerous, unsanitary formula in a bottle ridden with germs, unsterilized, to a 2-month old infant who has no choice at all but respond with a biological urge to eat and in thousands and thousands of instances takes in a more deadly substance than that heroin addict in the back alley of our cities?

And yet every one of us, in or out of the Government, will rise on this floor and condemn the activities of those heroin pushers. But they do not sit in nice, gleaming corporate headquarters.

But you know there is one area I found in our hearings where there is one very near connection. None of those heroin pushers are willing to talk about the profits they make. They do not give out a balance sheet detailing these profits. I know from the hearings conducted by the distinguished Senator from Massachusetts (Mr. KENNEDY) and others, that we found that a lot of these multinationals are not too eager to tell about their profit figures either.

I know in the work that we did with the Hunger Commission we found that a lot of them said it was just a minor matter. A minor matter? The best information we are able to develop is that we are talking about a multibillion dollar market.

And is it not interesting, when the figures get up into the tens of millions, the hundreds of millions and eventually into the billions of dollars, that any question of morality goes right out the window in those plush corporate headquarters?

Mr. President, let us make sure that when we vote on this resolution it is so overwhelming that we send two messages, not only in this land but across the world: First, a message to our own Government that we will never vote this way again; and, second, to the world that the policy of the United States is not to condone but the policy of the United States is to condemn the activity of these multinationals, an activity that determines the death and guarantees the death of helpless infants through the world.

Mr. President, I realize that there are those who feel that we have taken a great deal of time on this issue on the Senate floor. Mr. President, I have seen far more time taken on housekeeping matters for the Senate. I have seen far more time taken on mischievous amendments to appropriations bills. Mr. President, I can think of few issues that are as important, not only to the people of this country but to the image of our country abroad and, more than image, to the substance of life abroad.

Mr. President, I note on the floor the presence of the distinguished Senator from Massachusetts (Mr. KENNEDY). I know that he wants to speak. He is the Senator who has had the public hearings on this matter and I yield to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I wish to express my very deep sense of appreciation to the Senator from Vermont, my friend, Senator LEAHY, and also to Senator DURENBERGER for their initiative in developing the amendment which is before us today. If I had my "druthers," I would have drafted a resolution which would have deplored the action of the United States in what I consider to be a shameful vote in the World Health Organization on the infant formula code.

It seems to me, Mr. President, that the vote that was cast by the administration in behalf of the United States clearly did not reflect the medical opinion of those who have studied this issue closely over a period of years, whether it has been in the U.S. Senate or within the World Health Organization. I refer to very extensive hearings that our subcommittee in the Labor and Human Resources Committee, the Health and Scientific Research Subcommittee, held in 1978. The vote that we cast at the World Health Organization was not consistent with the medical testimony that was submitted to our subcommittee, a subcommittee that was acting in a bipartisan way with our present Secretary of HHS, Senator Schweiker, who was then the ranking minority member and an extremely active member on this issue, a man who spoke with both knowledge and understanding of the dangers of the dilution of infant formula in the Third World countries.

The vote that was cast in the World Health Organization was also not consistent with the studies that have been done within the World Health Organization, which has a wealth of information on the less developed countries of the world where this infant formula is used and abused.

So the action that was taken by the United States in that international forum is completely inconsistent with what I consider to be the overwhelming

medical testimony that has been gathered not only in the U.S. Senate but in the World Health Organization.

There should be no confusion, Mr. President, by the Senate on this fact.

Second, Mr. President, it is important that the American people, when they read this debate, recognize that there are those of us who are cosponsors of this resolution who believe, and believe very deeply, that if the vote was to be cast in the World Health Organization by the American people, the vote by the United States would have been overwhelmingly in the affirmative on what the World Health Organization had developed—because the American people understand the issue well because we are a compassionate and humane nation and citizenry.

The mothers of this country would have demanded that the United States and its representatives cast an affirmative vote, mothers who, I think, understand the needs of other mothers in the Third World countries, who see their infants die because of the failure of having adequate resources to buy and use infant formula, mothers who understand the agony and the pain of an infant who is on the verge of death because of malnutrition. Maybe mothers in our own society have not looked into the eyes of their own infants and seen them die of malnutrition, but they understand full well what that horror can mean to a parent, to a loved one, to a mother, and to the members of a family. That is what we are talking about here this morning.

International agencies have estimated there will be close to 1 million children who will die in this world of ours because of the misuse of infant formula. There are 15,800,000 children who die every year in this world. Fifteen million two hundred thousand of them die in the Third World from preventable diseases—diseases that could be prevented with immunization and with technology which are already available.

To do this would amount to maybe $200 to $300 million—a lot of money, granted, but which pales in comparison to the billions and billions of dollars that we spend in the budget of the United States, money we spend in terms of our own national security.

Sometimes we hear voices which say, "Well, we cannot really immunize those children in Third World countries because we cannot get out into the bush or into rural areas."

Listen to Dr. Davida Coady, who testified before our committee on the problems of nutritional deficiency, whether it be Biafra, Southeast Asia, or Africa. She talked about her visits to some of the most rural and distant parts of the world. And she says in those small villages the one item you can find is infant formula.

It is amazing how they are able to develop and deliver cans of infant formula into the most rural and remote places in the world and still we are unable to get medicines there or develop an immunization program to try and sustain life in many of those same countries.

Mr. President, I remember traveling to the World Health Organization in 1977 and speaking about the abuses of the infant formula. At that time I visited with Dr. Mahler, the head of the World Health Organization, urging his personal intervention in the development of a code. Also, I remember his inquiring of me whether there would be support by the United States for the fashioning, shaping, and development of an infant formula code.

I could not possibly conceive of the possibility that the United States would not be out front in trying to lead the world in an area which is of such great importance and significance for millions and millions of people throughout the world in the fashioning and the shaping of an infant formula code.

I recall returning from that World Health Organization and working with the then Senator Schweiker in the development of this very extensive set of hearings on the medical implications of failing to develop an infant formula code, and returning to the World Health Organization in 1979 and speaking with the delegates at that assembly about the progress that had been made in the development of an infant formula code.

Then I heard the first rumblings in the early part of this year that the United States was thinking of voting negative—not in the affirmative or abstaining with objections, other possible votes that the United States could take. Now we were considering casting our vote in the negative, being the only nation in the world to cast our vote in the negative on an issue that will not even affect the United States but will only affect the other countries of the world if they take the appropriate remedial action which will protect their people.

It is a voluntary code, to be accepted or rejected by the individual nations, but the U.S. position was, in effect, saying, "We are not even going to urge that Third World countries even consider this particular code."

How shameful our vote, Mr. President, and how shameful our action.

It seems to me, Mr. President, that this resolution does, in some measure, give an opportunity for the elected representatives of the American people to indicate what I stated earlier—that, if this issue had been decided by the American people rather than by this administration, there would have been a very clear, powerful voice that would have spoken and voted in the affirmative and placed the United States where the United States should be placed. That is in a leadership role for its concern for humanity and its concern for children, its concern for suffering, anguish, and pain, and its concern for our follow human beings who share this planet with us.

On the issue of whether it is the survival of infants or the profit margins of major international drug companies, who profit so dramatically from infant formulas, there would have been no equivocation, there would have been no hesitation. The voice of the United States and the vote of the United States would have been aye.

Mr. President, this resolution gives us some opportunity to speak on this issue and to indicate by our support for it that we reject the position of the administration on this question and that, on this resolution, we express the position of the American people and vote aye.

Again, Mr. President, I commend the Senator from Vermont and the Senator from Minnesota for their leadership in this issue.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter which I sent to Secretary Schweiker in April of this year on this issue, in which I was joined by Senator PELL and Senator HATFIELD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, D.C., April 10, 1981.

Hon. RICHARD S. SCHWEIKER,
Secretary of Health and Human Services, Washington, D.C.

DEAR MR. SECRETARY: We are writing to express our hope that you will give your support to a consensus which has been developed by the World Health Organization on a voluntary code of marketing of breastmilk substitutes (infant formula). As you will remember, it was the work of the Senate Health Subcommittee in 1978 which highlighted the serious health consequences in the developing world associated with the use of infant formula. In May, 1980 the full Senate Committee on Foreign Relations in its report on the foreign aid legislation, endorsed the recommendations of the WHO/UNICEF special meeting, of October 1979, on Infant and Young Child Feeding. The Committee's report stated "The Committee wishes to go on record in support of WHO and UNICEF's efforts to formulate an internationally observed Code for the appropriate marketing and distribution of breastmilk substitutes."

In our view, the WHO Code deals with this issue in a sensible manner. Its voluntary nature also argues for our support. The WHO has been able to effect a compromise solution which apparently has the support of the developing world countries, virtually the entire health community, our European allies and at least the acquiescence of the European manufacturers involved who now constitute some 90 percent of the actual production of the infant formula.

We believe that it is in the American interest to join this consensus. If necessary, reservations could be made on those points in the Code that cause serious problems for the industry. We believe that a negative vote would be directly counter to our own interest and would place us in a position of opposing a major step toward reducing sickness and death among Third World infants. We have written to Secretary Haig on this matter as well.

We hope that you will take these views into consideration as you consider the U.S. position at the upcoming World Health Assembly.

Sincerely,

EDWARD M. KENNEDY.
CLAIBORNE PELL.
MARK O. HATFIELD.

Mr. LEAHY. Mr. President, I thank the Senator from Massachusetts for his statement, and I find myself in total agreement. I could not help but think during the hearings held by the Senator from Massachusetts that the case was made so persuasively by people who had no political ax to grind at all. They were people who were just involved in world health care, concerned people.

Mr. KENNEDY. Will the Senator yield on that point?

Mr. LEAHY. Yes.

Mr. KENNEDY. I should like also to have printed, Mr. President, the witness list of individuals who appeared in a public forum that a number of Senators held on this issue last month. This just reinforces the point made by the Senator from Vermont. For we had on this panel Bishop Francis Murphy, who is the chairman of the Archdiocesan panel of Justice and Peace Commission of Baltimore, but also representing the Catholic bishops. We had Rabbi David Sapperstein, who is the director of the Religious Action Center of the Union of American Hebrew Congregations and the Central Conference of Rabbis and Mr. Louis Knowles, who is associate professor of public health of the University of California at Los Angeles.

Quite frankly, these were three representatives of the three different denominations of religion in the United States. But we could have had a panel, that would have continued to be testifying even today, of those who are concerned about the moral implications of the vote of the United States and our responsibilities in terms of the hungriest and neediest people of the world. There was no equivocation, no hesitation from that group.

On the third panel, there was Dr. Davida Coady, who has been appearing before our committee since the early 1970's. Formerly Davida Taylor, she is an outstanding nutritionist, who first worked in Biafra. She now works at UCLA as a nutritionist, teaches there for 6 months of the year and takes 6 months of the year to work in an underdeveloped country. Her final words to the Members of the Senate at the forum were that she does not mind the deprivation and she does not mind being separated from her loved ones and the members of her own family for 6 months at a time, doing that year after year; that while she was troubled by the extent of poverty that she saw in the Third World and the suffering that she saw, the one thing she pleaded for was for the United States not to be undermining what she and others had dedicated their lives to; that is, trying to provide at least some semblance of a nutritious diet for infants in the Third World.

She felt that if the Congress of the United States could do anything in this area, maybe we are not in a position to do all the positive things that we would like to do, but for God's sake, do not permit the kinds of abuses that we have seen with infant formula. Mr. President, this is a person who has years of professional experience in this area.

There was also Dr. Michael Latham, professor of international nutrition, Cornell University, who was on a study mission I sent to Africa. Also Douglas Johnson, who has been national chairperson of the Infant Formula Action Coalition. Then there were the extremely courageous Dr. Stephen Joseph, who was the Deputy Assistant Administrator of Human Resources Development, and Eugene Babb, Deputy Assistant Administrator for Food and Nutrition, AID.

I think it is probably appropriate at this point to note that these two individuals, men of conscience, preferred to resign their official positions rather than be a part of a decisionmaking process that ran so completely contrary to their consciences. They had careers of dedication to the interests of the United States in the service of their country and the foreign service of our Nation, but they finally came to a point where they said, on this issue, "Enough is enough," and they stood with the American people. I think at a time of a lot of cynicism and skepticism about bureaucrats and people who run Government agencies, these two individuals stand out as stars, individuals who wanted to come down on the side of the American people on this issue rather than with the administration's decision, which ran so completely contrary to their conscience. I think in this whole dialog and development of a Senate record, they ought to understand that their actions speak powerfully and their service to their country is respected and understood by many.

(Mrs. HAWKINS assumed the chair.)

Mr. LEAHY. Madam President, if the Senator will yield, I am remarkably proud of both those men. The irony of it is that they had to resign their positions because they had tried to defend the United States from taking an action that was sure to bring about worldwide condemnation—and it did.

The further irony of it is that what they were doing was taking a position that I am confident reflects the feeling and the will of people of both political parties, of all ideologies throughout the country. Had the United States taken their position, we could have increased our credibility within the Third World, we could have shown our dedication to humanity, and we could have shown our dedication to basic rights of life.

Yet, because they were not listened to, they had to resign; and the United States went into a position that brought about condemnation from around the world, raised serious questions about our responsiveness to the Third World, and was a position that was an enormous propaganda gift to those countries that are opposed to the United States.

Here, all the things that the United States does not want to do, the United States ended up doing. The two courageous people who tried to keep the United States from making a terrible mistake were forced to resign their positions. We cannot say enough good about them, and I am pleased by the recognition they have received in the other body for their activity.

Mr. KENNEDY. I thank the Senator for his comments.

Madam President, I ask unanimous consent to have the witness list printed in the RECORD.

There be'ng no objection, the witness list was ordered to be printed in the RECORD, as follows:

WITNESS LIST

PANEL I

Ms. Linda Kelsey, Actress, Los Angeles, Calif.

Rev. Daniel Driscoll, Maryknoll Order, Ossining, N.Y.

Sister Margaret Moran, Medical Mission Order, Philadelphia, Pa.

PANEL II

Bishop P. Francis Murphy, Auxilliary Bishop of Baltimore, Chairman of Archdiocesan, Justice and Peace Commission of Baltimore.

Rabbi David Sapperstein, Director of Religious Action Center of Union of American Hebrew Congregation and the Central Conference of American Rabbis.

Mr. Louis Knowles, Coordinator for Hunger Concerns, National Council of Churches in the U.S., New York, N.Y.

PANEL III

Davida Coady, M.D., Associate Professor of Public Health, University of California at Los Angeles.

Dr. Michael Latham, Professor of International Nutrition, Cornell University, Ithaca, N.Y.

Mr. Douglas Johnson, National Chairperson, Infant Formula Action Coalition, Minneapolis, Minnesota.

PANEL IV

Dr. Stephen Joseph, Deputy Assistant Administrator, Human Resources Development.

Mr. Eugene Babb, Deputy Assistant Administrator for Food and Nutrition, Agency for International Development.

Mr. LEAHY. Madam President, the witness list that has just been placed in the RECORD by the distinguished Senator from Massachusetts is interesting because, as he has said, the hearings could have gone on, with a continuing witness list, until now, and it could have continued beyond. We would have heard more and more of the same, more and more documentation. In fact, of the various hearings or meetings I have attended, I have been to very few where the documentation on a subject was so thorough, so complete, and so persuasive.

It is interesting to look at what might be said on the other side. About the strongest support I have heard given for the activity of the multinational sale of baby formula and the way they have done it was, "well, it really doesn't amount to very much business, and it really doesn't amount to very much activity on our part and, therefore, why the fuss?"

The obvious question we ask then is, "How much business does it amount to?"

"Well, we have differing kinds of accounting methods, et cetera, so we don't give the answer."

Madam President, as nearly as we can tell, the business amounts into the billions of dollars. That is why, as I said before, money wins out over morality in this question. That is why those in the corporate headquarters—well-fed, well-cared-for—can close their eyes to the suffering and the deaths of infants throughout the third world. It is a case in which one would think that any person with a spark of human conscience would condemn, not condone, the activity we are seeing.

Madam President, I know there have been times when some other justification has been tried to be given for this. The Baltimore Sun published an article last year on this matter in which Edwin T. Frantz, the vice president of Stouffer's tried to defend the activity of Nestles in this regard. I will read a response by Dr. Carl E. Taylor, who is professor and

chairman of the Department of International Health at Johns Hopkins University. His response appeared in the Baltimore Sun of September 13, 1980. Dr. Taylor said:

Editor: The Saturday, August 23, edition of *The Sun* carried an article by Edwin T. Frantz, vice-president of Stouffer's, a Nestle affiliate, that is full of self-serving distortions and inaccuracies. In setting the record straight it is important to realize that the current counter-offensive against the "Nestle Boycott" by representatives of affiliated subsidiaries such as the Rusty Scupper indicates that the boycott is being remarkedly effective.

(1) It is the worst kind of distortion by association to imply that because use of Nestle's infant formulas has increased in developing countries they can take credit for the decline in infant mortality which has occurred in spite of Nestle's activities.

It is outright fallacious to say, "Nestle has been the strongest supporter of breast-feeding of infants." The well documented truth, which I have seen myself in many countries where we have research projects, is that infant formula representatives use unscrupulous sales tactics.

For instance, women dressed like nurses have handed out free samples to lactating mothers, then when the breast milk dried up the poor mother had to buy formula—a process analogous to a drug pusher. Because of cost, the mother dilutes the formula so much that it only colors the water and is totally inadequate nutritionally.

(2) The argument downplaying the role of bottles in transmitting infections is also spurious. Even though infected water would be used with a spoon and cup, the dosage of infectious agents would be much less.

An inadequately sterilized bottle with milk residue is one of the bacterial world's most delicious culture media. It is almost impossible to clean a bottle and nipple except with sophisticated equipment, whereas a cup and spoon can be readily cleaned and sun dried. Use of bottles is actually and symbolically associated with formula feeding while gruels are, in most local cultures, automatically eaten with local utensils.

(3) It is scientifically untrue that supplementing breast-feeding with gruels of cereals and lentils leads to "serious infant nutrition problems." Breast-feeding, even by an undernourished mother, provides the protein needed so that even cassava or arrowroot supplements provide the added calories sufficient to sustain excellent growth.

(4) It is not true that formula use is limited to the urban middle class. I have a picture of a typical shop in a remote valley two weeks trek into Nepal with the shopkeeper breast-feeding her own infant while the shelves behind her are loaded with infant formula.

(5) Nestle and the other infant formula companies are not leading the current worldwide move to promote breast-feeding as is claimed but are being dragged along kicking and screaming to cooperate with the new "code" for ethical behavior of infant formula sales which is being drafted under the auspices of the World Health Organization and UNICEF.

This was written, as I have said, on September 13 of last year. The code he spoke of is the code that the United States, all by itself throughout the world, voted against.

I quote Dr. Taylor again:

The saddest indictment against their attitude is that when this code came up for vote at the last World Health Assembly, the United States stood almost alone in voting against it. The U.S. position was taken over the vehement objections of U.S. health professionals because of pressure on the State Department from the Department of Commerce.

Much of the international credibility generated by U.S. church groups and others who have led the boycott was neutralized by that one vote and a slow retrieval of our position is now going to be necessary. Obviously the boycott of all Nestle affiliates including the Rusty Scupper, is still needed to show that we care.—Carl E. Taylor, M.D.

Madam President, I do not stand here suggesting boycotts. I stand here suggesting the United States stand for world health, that the United States stand for decent nutrition, and that the United States stand for the war against malnourishment and hunger.

Madam President, I have said over and over again, and I will say it once more, that we have no difficulty in this country of condemning drug peddlers and drug pushers. I join in that condemnation. I join in condemning the criminal activity that they carry out but especially the human misery that is caused by those addicted to them.

But you know it is easy for us to condemn the drug pusher and the drug peddler. The drug pushers and drug peddlers are not among our friends and our associates. They are outside the pale. They are outside decent company and decent people. So we can condemn them.

But what happens when those who are as bad as any drug peddler or any drug pusher, when the corporate executive determines that we will addict the mothers and infants of the Third World into unsafe, unsanitary bottle feeding, we will subject them to disease, to malnourishment, to hunger, often to death? Do they not deserve the condemnation of us, of our people, of our Government, of our country as much as an international drug peddler and drug pusher? And could it be that that condemnation does not occur because they are just nice people, because they have nice homes, because they work in nice buildings and they go to nice clubs and they have nice political affiliations, and they have nice adherence to the tenets of the free enterprise system?

In my former career as a prosecutor I could point to a lot of heroin peddlers who belonged to nice clubs and had nice affiliations, political and otherwise, and it might appear as if they were nice people, who would stand up and say they were all in favor of the free enterprise system. In fact, one of the regulations they would like to get rid of is the law against heroin peddling and let the free market seek its own level.

That is what we are doing here. In the guise of free enterprise we end up condemning to death thousands, perhaps millions of infants.

Even there we blew it. Even on the strictly commercial sense we blew it, because as the Journal of Commerce stated, "If the United States abstains or votes no on the infant formula code we believe it will gain little or possibly lose much in its effort to restore U.S. credibility and influence with the developing world."

I refer, Madam President, back to the Vancouver, Wash., Colombian which said, "The ethics of a public policy that puts corporate profits before infant starvation are questionable, indeed."

I expect the RECORD will carry a number of pages pro and con on this issue, speeches delivered on the floor and speeches not delivered on the floor. I wonder if any of those speeches say it better than that.

The Oskaloosa, Iowa, Herald:

We say human beings and the preservation of health and life are more important goals.

The Hartford Courant, May 21, 1981:

The code, which the Reagan administration opposes for ideological reasons, is only a partial but necessary step toward protecting the health and welfare of mothers and children.

This is from the Conway, Ark., Log Cabin Democrat, May 21, 1981:

America, the world's leader in sharing its medical knowledge, equipment, and personnel with other nations, got a black eye with this vote.

The Minneapolis Tribune, May 21, 1981:

But potential health benefits from application of the code outweigh its bureaucratic drawbacks.

The San Francisco Examiner, May 22, 1981:

It is saddening that the Government has given, for no good reason, the adversaries of this country an emotional club with which to beat us over the head. Even if it happened to cost us something (which it wouldn't), we need to show a good deal more concern on this question and reverse our national position.

The Marshall, Minn., Independent, May 22, 1981:

Surely the Reagan administration is operating out of ignorance. Surely our President and other top Government officials do not want to cast our country in the role of a childkiller and, worse, one who does so for profit.

The Catholic Review, May 22, 1981:

Despite overwhelming evidence that such marketing practices by multinational corporations like Nestle and Bristol-Myers are detrimental to the health of young children, the U.S. took the risk of destroying its own credibility in world health and trade circles.

I commend very much my distinguished colleague from Minnesota in sponsoring with me and with the others this resolution.

Madam President, I am willing to yield to the Senator from Minnesota if he prefers. I will have further things to say before the vote.

Madam President, I suggest the absence of a quorum and ask unanimous consent that I may do so without losing my right to the floor.

The PRESIDING OFFICER. Without object, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURENBERGER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Madam President, I clarify——

The PRESIDING OFFICER. Under the previous order the Senator from Vermont was to be recognized.

Mr. LEAHY. I yield to the Senator from Minnesota.

Mr. DURENBERGER. Madam Presi-

dent, I first clarify a one-word error that appears in the printed amendment No. 72, which is under consideration.

On page 3, line 17, the fourth word on that line should read "member" rather than "number" as in the original amendment introduced yesterday.

Madam President, I have appreciated the opportunity to listen to a variety of statements in support of this resolution yesterday and again this morning, and while others are anxious that this matter be brought to a vote and that the underlying bill be disposed of, I think it is important that those who do have something to say on this issue have the opportunity to say it.

A lot has been said today, in particular, about mothers and about children, and I will not try to add my own feelings on that score, although it is important and relatively easy to do it.

I noted in the RECORD during the consideration of a similar resolution before the House of Representatives on Tuesday that Congresswoman PAT SCHROEDER took the opportunity to say that she has been waiting for a long time for a "motherhood" issue to come along on which to speak. She felt this was such an issue.

But I would add another dimension that I think is very important to the consideration of this particular amendment. Earlier this morning there was a group of about 40 young Minnesotans, all Future Farmers of America, in the gallery. Prior to their coming over here I had the opportunity to speak with them and to answer some of their questions. The first question I was asked by these young people was on this particular issue, although when they asked the question they had no idea I was today involved with this amendment.

I asked them why this issue was of importance to them, and they said very simply:

> We and our families feel that our mission in life is to feed the hungry, and we have a deep concern for the people of the third world and for our opportunities to provide them with the necessities of life. We are kind of confused by the vote of our Government with regard to the infant formula issue.

That gave me the opportunity, Madam President, to speak to a part of America and a part of the world that I think has been neglected so far in this debate. The unique thing about Americans around this world is the fact that they bring the same kind of compassion and the same kind of commitment to their fellow men and women wherever they go in the world and wherever they find the need. They bring an experience, they bring an expertise, they bring money, they bring food, they bring whatever they can to share with other people.

For the many years that Americans have been leaving this country to go to developing countries around this world, we have found them coming back to this country saying:

> Can't we do more? Can't we do it better? Can't we better feed the hungry and clothe the naked and educate the young and develop job opportunities and whatever may be needed so that the people in other parts of the world can have the opportunity that we have in this country?

Americans, as several people have indicated here this morning, have been taking a part of their lives and sharing it with other people without any compensation other than knowing that they have fulfilled a part, and probably the most important part, of their mission here in life.

So I think it is important to say on behalf of every one of those Americans—whether they have had the opportunity to go abroad and to work in underdeveloped nations with people, or whether they have been here wishing they could—that the vote on May 21 has not changed America's role in providing for the needs of those less fortunate.

Now, part of the amendment that is before us speaks to our concern as Members of this Congress with the negative vote and our concern that the vote has subjected the U.S. policy in the health area to widespread misinterpretation. I think that is the key to the issue before us here today.

We heard all of the editorials recited from all over the United States of America indicating that America sent the wrong signal abroad. We heard the Senator from Vermont read a portion of Linda Kelsey's letter. I would want the Senator from Vermont and all my colleagues to know that Linda Kelsey's compassion and concern, and the sacrifices she has made, I think, from the fact that she was born, raised, and educated in St. Paul, Minn. She exemplifies people like Doug Johnson who, for several years, has been trying from a Minnesota base to bring the concerns of this issue before the American people.

So we have heard all of the misinterpretation in one way or another.

The other side of it is expressed by constitutional lawyers, principally Sam Ervin, for example, who said:

> Whether or not constitutional issues have been raised by World Health Organization action is crucial.
>
> The debate over the World Health Organization's proposed international code to regulate the marketing of infant food products has so far centered on whether it is healthier for mothers to breastfeed their babies or to use infant formula.
>
> The draft code is a totalitarian document. It would undermine the basic American values of free speech, free press and free competition in the marketplace.

At least one newspaper, the Chicago Tribune, as I recall, in a May 20, 1981 editorial said in part:

> The code, which is voluntary but which WHO wants all nations to incorporate into their laws and regulations, sharply curtails the way baby formula can be advertised and marketed.

It gives some examples. It goes on to say:

> The United States is right to vote against a code it would not incorporate into American law—and right to oppose this initial adventure into the regulation of international marketing of products.

So, Madam President, I would suggest that what we are doing here is not so much condemning a policy, because I do not think that that vote represented a policy. It would appear from a careful reading of the record leading up to the decision to cast a negative vote that the fault here is not with the policy of our new President, the fault is not with the policy of the new administration. The fault probably lies with the process of decisionmaking by which any new administration comes to decisions on issues like this.

I would recommend to my colleagues the statement of Congressman JIM LEACH of Iowa who, on Tuesday, in the House debate on a similar resolution addressed this particular problem. I will just quote one concluding comment from the Congressman's statement. This was in support of the House resolution, which passed overwhelmingly:

> All administrations take time to establish decisionmaking processes with which a new President can feel comfortable. I would hope that the infant formula issue would become a case study in decisionmaking, to ascertain whether refinements in the recently established process are in order.

I would suggest, Madam President, that there are times when it is important to stand alone on principle. But no one here has argued that the U.S. vote was wrong because it was the only "no" vote. It is of great concern to all of us, however, when our country stands alone and the bottom line of the issue involved is the most basic of health issues, the life of the newborn.

The amendment has been carefully crafted, with the help of the Senator from Vermont and the Senator from Kansas (Mr. DOLE), to make sure that that bottom line is American policy. The bottom line reaffirms the dedication of the United States to the protection of the lives of all the world's children and the support of the United States for efforts to improve world health; it endorses the work of AID and the World Health Organization and UNICEF; it encourages international health organizations and their member states to continue combating infant illness by improving sanitation and by improving water quality; and it urges the U.S. Government and the breast milk substitute industry to support the basic aim of the code and to cooperate with the governments of all countries in their efforts to develop health standards and programs designed to implement the objectives of the code.

So the Senator from Vermont is correct when he says a signal will be sent by this amendment, and that that signal will principally be our concern for the impression that that vote has left on the people of the world about American policy.

Those of us who proposed this amendment believe that that was not the vote that should have been cast. Senator DOLE yesterday expressed his concern when he said that the administration could have accomplished its objectives by other means, principally by abstaining on this issue and by indicating its reasons for doing so.

But in the end, Madam President, it is crucial whether we who represent the American people criticize a decision or criticize an underlying policy. In this

case, it is my opinion that the decision warrants criticism; the policy does not.

I have no concern that this President or that this administration has differed or varied or traveled any distance from the commitment that American individuals and the American Government have made for many years to improve the health of the children of this world. I hope they improve their decisionmaking process when it comes to these and related issues. And I, too, believe that this amendment will insure that a similar vote will not be cast in the future.

I yield back to the Senator from Vermont in the hopes that we may be able to, at the convenience of our colleagues, conclude this matter in perhaps the next 10 minutes or so.

Mr. LEAHY. Madam President, I will conclude for myself very soon. I probably just have 2 or 3 minutes. I am afraid if I talk much longer on the subject, I may do irreparable damage to the image that Vermont has taciturnity and I certainly would not want to do that.

I must state to my colleagues, in now starting my second term in the Senate, I have had very few issues that have concerned me as greatly as a person, as a parent, and as an American as this issue, because ultimately it is a very great moral issue.

The actions taken by our country reflect so much what kind of an image we will have throughout the world. I use that word "image" in the truest sense of the word, because I want an image of our Nation that reflects the goodness of our people, reflects the concern of our people, and especially reflects the great concern that Americans have always had for their children, a concern that we have over and over again expressed for the children of the world. I hate to think that an action we take as a country could wipe out that image almost overnight. So I hope there will be an overwhelming vote in the Senate today so that we do not do that.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WARNER). Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I have been reading excerpts from certain newspapers around the country. I would like to refer to several of them at this point.

The South Bend Tribute, on May 23, 1981, stated:

> No amount of explanation will erase the stigma of our vote. We are giving up world leadership for business reasons.

The Fayetteville, N.C., Observer, on May 25, 1981, stated:

> Is the Reagan administration allowing the interests of big business to prevail over those of mothers and children? That is the smell of it.

The Kansas Times, on May 25, 1981, stated:

> In failing to support a humanitarian World Health Assembly resolution favoring mother's breast milk as infant food at the expense of commercial substitutes, the United States shamed itself. Not only did it decline to stand beside 117 other nations of the world declaring concern for the dangers to children in underdeveloped countries posed by infant formulas, this administration served unqualified notice that it is not interested in being a symbolic moral leader.

The Buffalo Evening News, on May 26, 1981, stated:

> It is unfortunate that the Reagan administration found it necessary to cast a vote that unduly stressed legalistic issues to the exclusion of the health concerns involved in the infant formula debate. The decision . . . contributed nothing to the image of either the present administration or the nation.

The Valley Advocate, Northampton, Mass., on May 27, 1981, stated:

> Shame seems often to be the underbelly of bravado. Yet, in the government's latest swagger before the world community there is a schism that is becoming familiar. Those who committed the indiscretion remain smug while the outcry of high-ranking, respected officials and our consciences reveal a depth of humiliation.

The Bucks County, Pa., Times, in May 1981, stated:

> It is painfully obvious that decisions like this one will not endear the administration to the leaders of the world's underdeveloped nations. In some cases, our legitimate interests make it impossible to accommodate them. But the controversy over infant formula appears to be a case of the administration going out of its way to be insensitive to their concerns.

The Philadelphia Inquirer, in May 1981, stated:

> The controversy is literally a motherhood issue, and the White House has put the United States on the wrong side of it.

Mr. President, in summation, we have heard the debate, and I think we have made a good record here. In this record, I think we have emphasized the fact that the American people not only disagree greatly with the vote that was cast earlier, but also disagreed very much with the fact that commercial interests are being allowed to run rampant over human interests; that money has been allowed to ease out morality.

I would emphasize once again to my colleagues that we cannot stand here and condemn drug peddlers and drug pushers and say how bad they are because of what they do to their victims and close our eyes to those who, in the guise of commercialism and the free enterprise system, condemn just as greatly the infants of the Third World. Infant formula manufacturers and dispensers have done precisely that.

It is a shame on world trade.

I rather suspect that this country, at least, in future votes, will emphasize that we do indeed feel it is a shame.

Mr. President, our country is a good country; it is an honest country. It is a country with a heart and a country with a great sense of morality.

I would hope that neither our own citizens nor the rest of the world judge our country on a vote that was, quite frankly, in my estimation, a bad, bad mistake. I would hope they would look at the action we are about to take here in the Senate and the action taken in the other body to reflect our true nature.

Mr. President, I am perfectly willing to yield back the remainder of my time should the Senator from Minnesota be willing, and go ahead with the vote.

Mr. DURENBERGER. Mr. President, the Senator from Vermont is correct. I think the world will judge us on this vote today, not on the May 21 vote. I think that is why this amendment and this vote are so important.

I want to conclude by expressing my appreciation to the Senator from Vermont for his longstanding efforts in this regard, for his particular understanding in putting together this amendment, and for his concerted efforts to bring a broader appreciation to the world of America's concern for the health of the young.

Mr. LEVIN. Mr. President, I am pleased to be a cosponsor of the amendment which has been offered by Senators LEAHY, DURENBERGER, and DOLE which expresses the Senate's concerns regarding the U.S. delegation's negative vote on the World Health Organization's international code of marketing of breast milk substitutes.

This amendment, if approved by the Senate, will send a clear message to those who have legitimately questioned the administration's decision to vote against the code that the Congress supports the goals established by the World Health Organization—that of protecting the health of infants and mothers in developing nations through proper marketing procedures.

Mr. President, we have known for some time that studies indicate that infants in the Third World have suffered from diseases and in some instances, death from the misuse of infant formula. Yesterday the Washington Post reported that a study recently completed by a San Francisco social advocacy law firm indicated that misuse of infant formula is not restricted to developing nations. According to the report published by the law firm, pediatricians in the Los Angeles metropolitan area who were questioned about the use of infant formula by the poor indicated that misuse has resulted in "diarrhea, gastroenteritis, vomiting, dehydration and malnourishment." If there was evidence that children are dying from improper use of breast milk substitutes in this country, I am confident that the administration would act promptly to control marketing procedures. I believe that we have some responsibility to assist in protecting the lives of children in Third World countries.

While the Reagan administration's objections to the code have centered upon concerns, the U.S. lone vote against the code was interpreted by countries all over the world as a vote against the goal of protecting the lives of mothers and infants. This amendment will reaffirm our support for the World Health Organization's work to protect the health of infants in developing countries and I am hopeful that it will also encourage the administration to make a stronger commitment to the goals established in the code.

Mr. CHAFEE. Mr. President, this amendment will serve to correct any unfortunate misimpression that the United

States is unconcerned about the health of the world's poorest children.

Infant mortality throughout the Third World has reached epidemic proportions. Today 21 young children die every minute throughout the developing countries from hunger related causes, primarily diarrhea and other infectious diseases. This amendment merely states what is the preponderant view of the medical profession and the scientific community—that breast feeding is a nutritional source of uncontaminated food which also provides necessary protection against potentially deadly diseases faced by young children in developing countries. By doing so, this amendment will hopefully clear up any misinterpretation that might lead to the conclusion that breast feeding is, in any way, an inferior food source.

There is also an undeniable danger that reliance upon infant formula in areas where safe and sterile formula preparation is not possible, can result in widespread infant diarrhea—the largest single cause of infant deaths in the poorest regions of the Third World. Under such circumstances, it is only prudent that governments consider ways to control excessive promotional practices. It is here as well that this amendment is designed to correct any misimpression by stating the intent of the Congress not to discourage other countries from adopting standards to protect the health of their citizens.

Finally, this amendment urges greater efforts to improve sanitation and water quality thereby bringing about healthier infant feeding practices where mothers can not or choose not to breast feed.

This country cares deeply about the world's poor and their children. I urge my colleagues to support this amendment which will send the message clearly and unambiguously that we are concerned.

● Mr. BAUCUS. Mr. President, I have for years been concerned, frustrated and frightened about the misuse of infant formula throughout the world. I carefully followed the infant formula hearings Senator KENNEDY held several years ago, and I am proud to be an original cosponsor of the Infant Formula Act of 1980 which this body adopted last year.

Personally, I was amazed and ashamed by the vote this country cast at the World Health Assembly of the World Health Organization on the International Code of Marketing of Breastmilk Substitutes.

The fact is, Mr. President, that the brilliant, sophisticated, and extremely successful marketing techniques of the world's multinational corporations and our own American corporations are in a large way contributing to the poisoning and death of thousands of infants throughout the world.

Successful marketing is not necessarily good marketing. Brilliant, sophisticated, and extremely successful marketing is not enough. Marketing must also be responsible. That's what the WHO voluntary code on infant formula was all about, responsible marketing.

No one should dispute that there is a need for breast milk substitutes. There is a place for infant formula when breast feeding is impossible and the understanding and resources for correct preparation are available.

There should be no place for breast milk substitutes in conditions of poverty, illiteracy, and disease, where babies are in desperate need of the unique antibodies found only in breast milk, when the mother is capable of breast feeding.

Infant formula manufacturers are in business to make money. They make money by selling baby formula. They see an ever-expanding market in developing countries whose population booms at unbelievable rates. They have fabulous marketing techniques. Poor, illiterate mothers are easy targets. Aggressive marketing stimulates increased consumption under hazardous conditions and consequently, thousands of babies fall ill and die. This has all been carefully documented.

One last point. Mr. President. I am not quite sure what the link is, but I find it worth noting that the nation with one of the highest rates of infant mortality in the industrialized world cast the only vote against the voluntary code on the marketing of infant formula.

Children everywhere deserve protection from malnutrition and disease. Passage of this amendment is a very small symbol of our commitment to this protection. I urge passage of this amendment.●

Mr. DURENBERGER. Mr. President, I have no further comments on this issue. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

Mr. BAKER. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA), the Senator from New Hampshire (Mr. RUDMAN), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Colorado (Mr. HART), the Senator from New York (Mr. MOYNIHAN), the Senator from Michigan (Mr. RIEGLE), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. RIEGLE) and the Senator from Tennessee (Mr. SASSER) would each vote "yea."

The PRESIDING OFFICER (Mr. SYMMS). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 89, nays 2, as follows:

[Rollcall Vote No. 157 Leg.]

YEAS—89

Abdnor	Boren	Cannon
Andrews	Boschwitz	Chafee
Armstrong	Bradley	Chiles
Baker	Burdick	Cochran
Baucus	Byrd, Harry F., Jr.	Cohen
Bentsen	Byrd, Robert C.	Cranston
Biden	Danforth	D'Amato
DeConcini	Huddleston	Nunn
Denton	Humphrey	Packwood
Dixon	Inouye	Pell
Dodd	Jackson	Percy
Dole	Jepsen	Pressler
Domenici	Johnston	Proxmire
Durenberger	Kassebaum	Pryor
Eagleton	Kasten	Quayle
Exon	Kennedy	Randolph
Ford	Laxalt	Roth
Garn	Leahy	Sarbanes
Glenn	Levin	Simpson
Goldwater	Long	Specter
Gorton	Lugar	Stafford
Grassley	Mathias	Stennis
Hatch	Matsunaga	Stevens
Hatfield	Mattingly	Thurmond
Hawkins	McClure	Tsongas
Heflin	Melcher	Wallop
Heinz	Metzenbaum	Warner
Helms	Mitchell	Weicker
Hollings	Murkowski	Williams
	Nickles	Zorinsky

NAYS—2

East	Symms

NOT VOTING—9

Bumpers	Moynihan	Sasser
Hart	Riegle	Schmitt
Hayakawa	Rudman	Tower

So Mr. DURENBERGER's amendment (No. 72) was agreed to.

Mr. PERCY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PERCY. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors: Senators PRESSLER, HEINZ, and PERCY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I ask for the years and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. There is no time for debate.

Mr. LEAHY. Mr. President, I ask unanimous consent that I may proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I commend my colleagues for this overwhelming vote on this amendment. I think it expresses very clearly what should be the position of the United States and I hope that in future votes the administration and anyone involved with it will listen very carefully to the overwhelming vote by this body and the other body, that should have been the vote before the 34th World Health Assembly on the Code of Marketing of Breastmilk Substitutes.

The PRESIDING OFFICER (Mr. WARNER). The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA), the Senator from New Hampshire (Mr. RUDMAN), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Texas (Mr. TOWER), are necessarily absent.

I further announce that, if present and voting, the Senator from Texas (Mr. TOWER), would vote "yea."

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Colorado (Mr. HART), the Senator from New York (Mr. MOYNIHAN), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee (Mr. SASSER) would vote "yea."

The PRESIDING OFFICER. Have all Senators in the Chamber voted?

The result was announced—yeas 88, nays 4, as follows:

[Rollcall Vote No. 158 Leg.]

YEAS—88

Abdnor	East	McClure
Andrews	Exon	Melcher
Armstrong	Ford	Metzenbaum
Baker	Garn	Mitchell
Baucus	Glenn	Murkowski
Bentsen	Goldwater	Nickles
Biden	Gorton	Nunn
Boren	Hatch	Packwood
Boschwitz	Hatfield	Pell
Bradley	Hawkins	Percy
Burdick	Heinz	Pressler
Byrd, Harry F., Jr.	Helms	Pryor
	Hollings	Quayle
Byrd, Robert C.	Huddleston	Randolph
Cannon	Humphrey	Riegle
Chafee	Inouye	Roth
Chiles	Jackson	Sarbanes
Cochran	Jepsen	Simpson
Cohen	Johnston	Specter
Cranston	Kassebaum	Stafford
D'Amato	Kasten	Stennis
Danforth	Kennedy	Stevens
DeConcini	Laxalt	Symms
Denton	Leahy	Thurmond
Dixon	Levin	Tsongas
Dodd	Long	Wallop
Dole	Lugar	Warner
Domenici	Mathias	Weicker
Durenberger	Matsunaga	Williams
Eagleton	Mattingly	

NAYS—4

Grassley	Proxmire	Zorinsky
Heflin		

NOT VOTING—8

Bumpers	Moynihan	Schmitt
Hart	Rudman	Tower
Hayakawa	Sasser	

So the bill (S. 1193), as amended, was passed, as follows:

S. 1193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—DEPARTMENT OF STATE

SHORT TITLE

SEC. 101. This title may be cited as the "Department of State Authorization Act, Fiscal Years 1982 and 1983".

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 102. (a) There are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law, the following amounts:

(1) For "Administration of Foreign Affairs", $1,318,754,000 for the fiscal year 1982 and $1,248,059,000 for the fiscal year 1983.

(2) For "International Organizations and Conferences", $523,806,000 for the fiscal year 1982 and $514,436,000 for the fiscal year 1983.

(3) For "International Commissions", $22,508,000 for the fiscal year 1982 and $22,432,000 for the fiscal year 1983.

(4) For "Migration and Refugee Assistance", $560,850,000 for the fiscal year 1982 and $467,750,000 for the fiscal year 1983, of which not less than $18,750,000 shall be made available only for the resettlement of Soviet and Eastern European refugees in Israel.

(b) Of the amounts authorized to be appropriated by section 102(a)(1) of this Act for the fiscal years 1982 and 1983, $2,085,000 shall be available for each such fiscal year only for expenses to operate and maintain consular posts at Turin, Italy; Salzburg, Austria; Goteborg, Sweden; Bremen, Germany; Nice, France; Mandalay, Burma; and Brisbane, Australia.

(c) Of the amounts authorized to be appropriated by section 102(a)(2) of this Act $45,800,000 shall be available in fiscal year 1982 and $45,800,000 shall be available in fiscal year 1983 only for the Organization of American States for the payment of 1982 and 1983 assessed United States contributions and to reimburse the Organization of American States for payments under the tax equalization program to employees who are United States citizens.

(d) Of the amounts authorized to be appropriated by section 102(a)(4) of this Act, $1,500,000 shall be available in fiscal year 1982 and $1,500,000 shall be available in fiscal year 1983 only for the International Committee of the Red Cross to support the activities of the protection and assistance program for "political" detainees.

PALESTINIAN RIGHTS UNITS

SEC. 103. Funds appropriated under paragraph (2) of section 102 of this Act may not be used for payment by the United States, as its contribution toward the assessed budget of the United Nations for any year, of any amount which would cause the total amount paid by the United States as its assessed contribution for that year to exceed the amount assessed as the United States contribution for that year less—

(1) 25 percent of the amount budgeted for that year for the Committee on the Exercise for the Inalienable Rights of the Palestinian People (or any similar successor entity), and

(2) 25 percent of the amount budgeted for that year for the Special Unit on Palestinian Rights (or any similar successor entity).

RESTRICTION OF FUNDS TO UNITED NATIONS WHICH WOULD PROVIDE POLITICAL BENEFITS TO THE PALESTINE LIBERATION ORGANIZATION

SEC. 104. (a) None of the funds authorized to be appropriated under paragraph (2) of section 102 of this Act may be used for payment by the United States toward the assessed budget of the United Nations, or any of its specialized agencies, which would cause the total contribution of the United States to exceed its assessed contribution less 25 percent of the amount budgeted by such agency for projects of which the primary purpose is to provide political benefits to the Palestine Liberation Organization or entities associated with it.

(b) The President shall annually review the budget of the United Nations, and of its specialized agencies, to determine which programs have the primary purpose of providing political benefit to the Palestine Liberation Organization and shall report to Congress the programs and amounts for which the United States assessment is withheld.

(c) This section shall not be construed as limiting United States contributions to the United Nations, or its specialized agencies for programs for which the primary purpose is to provide humanitarian, educational, developmental and other nonpolitical benefits to the Palestinian people.

EX GRATIA PAYMENT

SEC. 105. Of the amount appropriated for the fiscal year 1982 under paragraph (1) of section 102 of this Act, $81,000 shall be available for payment ex gratia to the Government of Yugoslavia as an expression of concern by the United States Government for the injuries sustained by a Yugoslav national as a result of an attack on him in New York City.

BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

SEC. 106. In addition to the amounts authorized to be appropriated by section 102 of this Act, there are authorized to be appropriated to the Secretary of State $3,700,000 for the fiscal year 1982 and $3,700,000 for the fiscal year 1983 for payment of the United States share of expenses of the science and technology agreements between the United States and Yugoslavia and between the United States and Poland.

PASSPORT FEES AND DURATION

SEC. 107. (a) The first sentence of section 1 under the headings "FEES FOR PASSPORTS AND VISAS" of the Act of June 4, 1920 (22 U.S.C. 214), is amended to read as follows: "There shall be collected and paid into the Treasury of the United States a fee, prescribed by the Secretary of State by regulation, for each passport issued and a fee, prescribed by the Secretary of State by regulation, for executing each application for a passport.".

(b)(1) Section 2 of the Act entitled "An Act to regulate the issue and validity of passports, and for other purposes", approved July 3, 1926 (22 U.S.C. 217a), is amended to read as follows:

"SEC. 2. A passport shall be valid for a period of ten years from the date of issue, except that the Secretary of State may limit the validity of a passport to a period of less than ten years in an individual case or on a general basis pursuant to regulation.".

(2) The amendment made by this subsection applies with respect to passport issued after the date of enactment of this Act.

INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW AND THE HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW

SEC. 108. Section 2 of the joint resolution entitled "Joint Resolution to provide for participation by the Government of the United States in the Hague Conference on Private International Law and the International (Rome) Institute for the Unification of Private Law, and authorizing appropriations therefor", approved December 30, 1963 (22 U.S.C. 269g–1), is amended by striking out ", except that" and all that follows through "that year".

PAN AMERICAN RAILWAY CONGRESS

SEC. 109. Section 2(a) of the joint resolution entitled "Joint Resolution providing for participation by the Government of the United States in the Pan American Railway Congress, and authorizing an appropriation therefor", approved June 28, 1948 (22 U.S.C. 280k), is amended by striking out "Not more than $15,000 annually" and inserting in lieu thereof "Such sums as may be necessary".

PAN AMERICAN INSTITUTE OF GEOGRAPHY AND HISTORY

SEC. 110. Paragraph (1) of the first section of Public Resolution 42, Seventy-fourth Congress, approved August 2, 1935 (22 U.S.C. 273), is amended by striking out ", not to exceed $200,000 annually,".

INTERNATIONAL ORGANIZATIONS IN VIENNA

SEC. 111. Amend section 2 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287e) by adding at the end thereof the following new subsection:

"(h) The President, by and with the advice and consent of the Senate shall appoint a representative of the United States to the Vienna office of the United Nations

with appropriate rank and status who shall serve at the pleasure of the President and subject to the direction of the Secretary of State. Such person shall, at the direction of the Secretary of State, represent the United States at the Vienna office of the United Nations, and perform such other functions there in connection with the participation of the United States in international organizations as the Secretary of State from time to time may direct.".

LIVING QUARTERS FOR THE STAFF OF THE UNITED STATES REPRESENTATIVE OF THE UNITED NATIONS

SEC. 112. Section 8 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287e), is amended:

(1) by striking "the representative of the United States to the United Nations referred to in paragraph (a) of Section 2 hereof" and inserting in lieu thereof "the representatives provided for in Section 2 hereof and of their appropriate staffs", and

(2) by adding at the end thereof the following: "Any payments made by the United States Government personnel for occupancy by them of such leased or rented premises shall be credited to the appropriation, fund, or account utilized by the Secretary for such lease or rental, or to the appropriation, fund, or account currently available for such purposes.".

BUYING POWER MAINTENANCE FUND

SEC. 113. (a) Section 24(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(b)), is amended to read as follows:

"(b)(1) In order to maintain the levels of program activity provided for each fiscal year by the annual authorizing legislation for the Department of State, $20,000,000 of the fund authorized by section 102 may be used to offset adverse fluctuations in foreign currency exchange rates, or overseas wage and price changes, which occur after November 30 of the calendar year preceding the enactment of the authorizing legislation for such fiscal year.

"(2) In order to eliminate substantial gains to the approved levels of overseas operations, the Secretary of State shall transfer to the appropriation account established under paragraph (1) of this subsection such amounts in other appropriation accounts under the heading "Administration of Foreign Affairs" as the Secretary determines are excessive to the needs of the approved level of operations because of fluctuations in foreign currency exchange rates or changes in overseas wages and prices.

"(3) Funds transferred from the appropriation account established under paragraph (1) shall be merged with and be available for the same purpose, and for the same time period, as the appropriation account to which transferred; and funds transferred to the appropriation account established under paragraph (1) shall be merged with and available for the purposes of that appropriation account until expended. Any restriction contained in an appropriation Act or other provision of law limiting the amounts available for the Department of State that may be obligated or expended shall be deemed to be adjusted to the extent necessary to offset the net effect of fluctuations in foreign currency exchange rates or overseas wage and price changes in order to maintain approved levels.".

(b) Section 704(c) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1477b(c)) is amended by striking out "preceding" and inserting in lieu thereof "calendar year preceding the enactment of the authorizing legislation for such".

(c) Section 8(a)(2) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2287(a)(2)) is amended by striking out "preceding" in the first sentence and inserting in lieu thereof "calendar year preceding the enactment of the amendments to paragraph (1) which provide the authorization for such".

(d) The amendments made by this section shall take effect on October 1, 1981.

ASIA FOUNDATION

SEC. 114. In addition to the amounts authorized by section 102, $4,500,000 is authorized to be appropriated in fiscal year 1982 for the Asia Foundation in furtherance of that organization's purposes as described in its charter. Such funds are to be made available to the Foundation by the Department of State in accordance with the terms and conditions of a grant agreement to be negotiated between the Department of State and the Asia Foundation. Funds appropriated under this section are authorized to remain available until expended.

INTER-AMERICAN FOUNDATION

SEC. 115. (a) Section 401(s)(2) of the Foreign Assistance Act of 1969 (22 U.S.C. 290f(s)) is amended to read as follows:

"(2) There is authorized to be appropriated not to exceed $12,000,000 for the fiscal year 1982 to carry out the purposes of this section. Amounts appropriated under this paragraph are authorized to remain available until expended.".

(b) Section 401(h) of the Foreign Assistance Act of 1969 (22 U.S.C. 290f(h)) is amended to read as follows:

"(h) Members of the Board shall serve without additional compensation, but shall be reimbursed for travel expenses, including per diem in lieu of subsistence, in accordance with section 5703 of title 5, United States Code, while engaged in their duties on behalf of the corporation.".

DEPENDENT TRAVEL

SEC. 116. (a)(1) The first sentence of section 5924(4)(B) of title 5, United States Code, is amended by striking out "American secondary or" and inserting in lieu thereof "American secondary education or, in the case of dependents of an employee other than an employee of the Department of State or the International Communication Agency, to obtain an American".

(2) Section 5924 of such title is amended—

(A) by inserting "(a)" immediately before the first sentence; and

(B) by adding at the end thereof the following:

"(b)(1) An employee of the Department of State or of the International Communication Agency in a foreign area is entitled to the payment of the travel expenses incurred by the employee in connection with the travel of a dependent of the employee to or from a school for the purpose of obtaining an undergraduate college education.

"(2) Paragraph (1) shall apply—

"(A) to two round trips each calendar year, and

"(B) to travel expenses which—

"(i) are extraordinary and necessary expenses incurred in providing adequate education for such dependent because of the employee's service in a foreign area or areas, and

"(ii) are not otherwise compensated for.".

(b) The amendments made by subsection (a) shall take effect on October 1, 1981.

DUTIES OF CHIEF OF MISSION

SEC. 117. (a) Each chief of diplomatic mission of the United States in a foreign country shall have as a principal duty the promotion of United States goods and services for export to such country.

(b) For purposes of subsection (a), the term "chief of diplomatic mission" has the same meaning as given to the term "chief of mission" in section 102(a)(3) of the Foreign Service Act of 1980.

INFANT NUTRITION

SEC. 118. (a) Congress finds there is overwhelming scientific evidence that breastfeeding has substantial advantages for infant health and growth, that it offers an uncontaminated food supply, an early transfer of antibodies protective against infectious diseases, and a naturally evolved and tested nutritional source, and that it is an important factor in bonding between mother and child.

(b) Congress is concerned that numerous studies, in a wide variety of developed and developing countries, over a long period of time, have shown that improper use of breastmilk substitutes is associated with higher rates of illness and death, and in poor communities, with lessened growth and nutrition. The problem of unrefrigerated breastmilk substitutes prepared with polluted water and placed in contaminated bottles is further complicated by insects and heat in tropical climates.

(c) It is estimated that one hundred million of the one hundred and twenty-five million children in the world below the age of one are born in developing countries. Congress is concerned that ten million of these one hundred million will probably not live until their first birthday and that diarrhea and other infectious diseases, when combined with the problems of malnutrition, account for more than half of these deaths.

(d) Congress is further concerned that the health of those infants whose mothers are unable to provide them adequate breastmilk—whether for physical, economic, or cultural reasons—also be protected.

(e) Congress is concerned with the negative vote cast by the United States on May 21, 1981, at the Twenty-Fourth World Health Assembly of the World Health Organization on the "International Code of Marketing of Breastmilk Substitutes", and is further concerned that the vote has subjected United States policy to widespread misinterpretation.

(f) Therefore, the Congress—

(1) reaffirms the dedication of the United States to the protection of the lives of all the world's children and the support of the United States for efforts to improve world health;

(2) endorses the work being done by the Agency for International Development (AID), the World Health Organization (WHO), and the United Nations Children's Fund (UNICEF) across the broad front of problems associated with infant and young child nutrition;

(3) encourages the international health organizations, and their member states, to continue combating infant illness by improving sanitation and water quality; and

(4) urges the United States Government and the breastmilk substitute industry to support the basic aim of the Code and to cooperate with the governments of all countries in their efforts to develop health standards and programs designed to implement the objectives of the Code.

TITLE II—INTERNATIONAL COMMUNICATION AGENCY

SHORT TITLE

SEC. 201. This title may be cited as the "International Communication Agency Authorization Act, Fiscal Years 1982 and 1983".

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 202. There are authorized to be appropriated for the International Communication Agency $561,402,000 for the fiscal year 1982 and $482,340,000 for the fiscal year 1983 to carry out international communication, educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 2 of 1977, and other purposes authorized by law.

CHANGES IN ADMINISTRATIVE AUTHORITIES

SEC. 203. (a)(1) Title III of the United States Information and Educational Ex-

change Act of 1948 (22 U.S.C. 1451–1453) is amended—

(A) in section 301 by striking out "citizen of the United States" and inserting in lieu thereof "person"; and

(B) in sections 302 and 303 by striking out "citizen of the United States" and inserting in lieu thereof "person in the employ or service of the Government of the United States".

(2) Such title is further amended—

(A) in section 301—

(i) by striking out "Secretary" the first place it appears and inserting in lieu thereof "Director of the International Communication Agency", and

(ii) by striking out "Secretary" the second place it appears and inserting in lieu thereof "Director"; and

(B) in section 303 by striking out "Secretary" and inserting in lieu thereof "Director of the International Communication Agency".

(3) Section 302 of such Act is amended—

(A) in the second sentence by striking out "section 901(3) of the Foreign Service Act of 1946 (60 Stat. 999)" and inserting in lieu thereof "section 905 of the Foreign Service Act of 1980"; and

(B) in the last sentence by striking out "section 1765 of the Revised Statutes" and inserting in lieu thereof "section 5536 of title 5, United States Code".

(b) Section 802 of such Act (22 U.S.C. 1472) is amended—

(1) by inserting "(a)" immediately after "SEC. 802."; and

(2) by adding at the end thereof the following new subsections:

"(b)(1) Any contract authorized by subsection (a) and described in paragraph (3) of this subsection which is funded on the basis of animal appropriations may nevertheless be made for periods not in excess of five years when—

"(A) appropriations are available and adequate for payment for the first fiscal year; and

"(B) the Director of the International Communication Agency determines that—

"(i) the need of the Government for the property or service being acquired over the period of the contract is reasonably firm and continuing;

"(ii) such a contract will serve the best interests of the United States by encouraging effective competition or promoting economies in performance and operation; and

"(iii) such method of contracting will not inhibit small business participation.

"(2) In the event that funds are not made available for the continuation of such a contract into a subsequent fiscal year, the contract shall be canceled and any cancellation costs incurred shall be paid from appropriations originally available for the performance of the contract, appropriations currently available for the acquisition of similar property or services and not otherwise obligated, or appropriations made for such cancellation payments.

"(3) This subsection applies to contracts for the procurement of property or services, or both, for the operation, maintenance, and support of programs, facilities, and installations for or related to radio transmission and reception newswire services, and the distribution of books and other publications in foreign countries.".

(c) Paragraph (16) of section 804 of such Act (22 U.S.C. 1474(16)) is amended by inserting "and security vehicles" immediately after "right-hand drive vehicles".

(d) Title VIII of such Act (22 U.S.C. 1471–1475b) is amended by adding at the end thereof the following new section:

"ACTING ASSOCIATE DIRECTORS

"SEC. 808. If an Associate Director of the International Communication Agency dies, resigns, or is sick or absent, the Associate Director's principal assistant shall perform the duties of the office until a successor is appointed or the absence or sickness stops.".

(e) Paragraphs (18) and (19) of section 804 of such Act (22 U.S.C. 1476 (18 and (19)) are amended—

(1) by striking out "and" at the end of paragraph (18); and

(2) by striking out the period at the end of paragraph (19) and inserting the following:

"; and

"(20) purchase motion picture, radio and television producers' liability insurance to cover errors and omissions or similar insurance coverage for the protection of interests in intellectual property.".

(f) Section 1011 of the United States Information and Educational Exchange Act of 1948, as amended, is amended by adding at the end thereof the following new subsection:

"(i) Foreign currencies which were derived from conversions made pursuant to the obligation of informational media guaranties and which have been determined to be unavailable for, or in excess of, the requirements of the United States and transferred to the Secretary of the Treasury, shall be held until disposed of, and any dollar proceeds realized from such disposition shall be deposited in miscellaneous receipts. As such currencies become available for such purposes of mutual interest as may be agreed to by the governments of the United States and the country from which the currencies derive, they may be sold for dollars to agencies of the United States Government.".

(g) Title VI I of the United States Information and Educational Exchange Act of 1948, as amended, is revised by the addition of the following section:

"SEC. 809. Cultural exchanges, international fairs and expositions, and other exhibits or demonstrations of United States economic accomplishments and cultural attainments provided for under this Act or the Mutual Educational and Cultural Exchange Act of 1961 shall not be considered "public work" as that term is defined in section 1 of the Defense Base Act, as amended (section 1651 (b) of title 42 of the United States Code).".

LIQUIDATION OF THE INFORMATIONAL MEDIA GUARANTY FUND

SEC. 204. Section 1011(h) of such Act (22 U.S.C. 1442(h)) is amended by adding at the end thereof the following new paragraph:

"(4) Section 701(a) of this Act shall not apply with respect to any amounts appropriated under this section for the purpose of liquidating the notes (and any accured interest thereon) which were assumed in the operation of the informational media guaranty program under this section and which were outstanding on the date of enactment of this paragraph.".

INTERNATIONAL EXCHANGES AND NATIONAL SECURITY

SEC. 205. (a) Congress finds that—

(1) United States Government sponsorship of international exchange-of-persons activities has, during the postwar era, contributed significantly to United States national security interests;

(2) during the 1970's, while United States programs declined dramatically, Soviet exchange-of-persons activities increased steadily in pace with the Soviet military buildup;

(3) as a consequence of these two trends, Soviet exchange-of-persons programs now far exceed those sponsored by the United States Government and thereby provide the Soviet Union an important means of extending its worldwide influence;

(4) the importance of competing effectively in this area is reflected in the efforts of major United States allies, whose programs also represent far greater emphasis on exchange-of-persons activities than is demonstrated by the current United States effort; and

(5) with the availability of increased resources the United States exchange-of-persons program could be greatly strengthened, both qualitatively and quantitatively.

(b) It is therefore the sense of Congress that—

(1) United States exchange-of-persons activities should be strengthened;

(2) the allocation of resources necessary to accomplish this improvement would constitute a highly cost-effective means of enhancing United States national security; and

(3) because of the integral and continuing national security role of exchange-of-persons programs, such activities should be accorded a dependable source of long-term finding.

(c) Beginning in fiscal year 1982, exchange-of-persons programs administered by the International Communication Agency shall, over a four-year period, be expanded to a level, in real terms, three times that in effect on the date of the enactment of this Act.

DISTRIBUTION WITHIN THE UNITED STATES OF THE FILM ENTITLED "IN THEIR OWN WORDS"

SEC. 206. (a) Notwithstanding the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the International Communication Agency shall make available to the Administrator of General Services a master copy of the film entitled "In Their Own Words"; and

(2) the Administration shall reimburse the Director for any expenses of the Agency in making that master copy available, shall secure any licenses or other rights required for distribution of that film within the United States, shall deposit that film in the National Archives of the United States, and shall make copies of that film available for purchase and public viewing within the United States.

(b) Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the International Communication Agency.

TITLE III—BOARD FOR INTERNATIONAL BROADCASTING

SHORT TITLE

SEC. 301. This title may be cited as the "Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983".

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 302. There are authorized to be appropriated for the Board for International Broadcasting $98,317,000 for fiscal year 1982 and $98,317,000 for fiscal year 1983.

ADDITIONAL FUNDING

SEC. 303. Notwithstanding the provisions of section 8b of Public Law 93–129, not to exceed $6,195,000 of the gain realized during fiscal year 1981 through upward fluctations in foreign currency exchange rates shall be made available to compensate for losses incurred as a result of the bomb explosion at RFE/RL, Inc., Munich headquarters on February 21, 1981, and for additional RFE/RL, Inc., operating expenses as might be deemed appropriate.

MEMBERSHIP OF THE RFE/RL BOARD AND THE BIB

SEC. 304. (a) The Board for International Broadcasting Act of 1973 is amended by adding at the end thereof the following new section:

"MERGER OF THE BOARD FOR INTERNATIONAL BROADCASTING AND THE RFE/RL BOARD

"SEC. 11. (a) Effective January 1, 1982, no grant may be made under this Act to RFE/RL, Incorporated, unless the certificate of incorporation of RFE/RL, Incorporated, has been amended to provide that—

"(1) the Board of Directors of RFE/RL,

Incorporated, shall consist of the members of the Board for International Broadcasting and of no other members; and

"(2) such Board of Directors shall make all major policy determinations governing the operation of RFE/RL, Incorporated, and shall appoint and fix the compensation of such managerial officers and employees of RFE/RL, Incorporated, as it deems necessary to carry out the purposes of this Act.

"(b) Compliance with the requirement of paragraph (1) of subsection (a) shall not be construed to make RFE/RL, Incorporated, a Federal agency or instrumentality.".

(b)(1) Section 3(b)(1) of such Act is amended to read as follows:

"(b)(1) COMPOSITION OF BOARD.—The Board shall consist of ten members, one of whom shall be an ex officio member. The President shall appoint, by and with the advice and consent of the Senate, nine voting members, one of whom he shall designate as chairman. Not more than five of the members of the Board appointed by the President shall be of the same political party. The chief operating executive of RFE/RL, Incorporated, shall be an ex officio member of the Board and shall participate in the activities of the Board, but shall not vote in the determinations of the Board.".

(2) Sections 3(b) (3) and (4) of such Act are amended to read as follows:

"(3) TERM OF OFFICE OF PRESIDENTIALLY APPOINTED MEMBERS.—The term of office of each member of the Board appointed by the President shall be three years, except that the terms of office of the individuals initially appointed as the four additional voting members of the Board who are provided for by the Board for International Broadcasting Authorization Act, fiscal years 1982 and 1983, shall be one, two, or three years (as designated by the President at the time of their appointment) so that the terms of one-third of the voting members of the Board expire each year. The President shall appoint, by and with the advice and consent of the Senate, members to fill vacancies occurring prior to the expiration of a term, in which case the members so appointed shall serve for the remainder of such term. Any member whose term has expired may serve until his successor has been appointed and qualified.

"(4) TERM OF OFFICE OF THE EX OFFICIO MEMBER.—The ex officio member of the Board shall serve on the Board during his or her term of service as chief operating executive of RFE/RL, Incorporated.".

RADIO FREE CUBA

SEC. 305. Any program of the United States Government involving radio broadcasts to Cuba for which funds are authorized to be appropriated under this Act or any other Act shall be designated as "Radio Free Cuba".

TITLE IV—ARMS CONTROL AND DISARMAMENT AGENCY

SHORT TITLE

SEC. 401. This title may be cited as the "Arms Control and Disarmament Agency Act, Fiscal Years 1982 and 1983".

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 402. Section 49(a) of the Arms Control and Disarmament Act (22 U.S.C. 2589(a)) is amended to read as follows:

"SEC. 49. (a) To carry out the purposes of this Act, there are authorized to be appropriated—

"(1) for the fiscal year 1982, $18,268,000 and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs, and to offset adverse fluctuations in foreign currency exchange rates, and

"(2) for the fiscal year 1983, such sums as may be necessary to carry out the purposes of this Act.

Amounts appropriated under this subsection are authorized to remain available until expended.".

SECURITY CLEARANCES

SEC. 403. Section 45(a) of the Arms Control and Disarmament Act (22 U.S.C. 2585(a)) is amended by inserting the following new sentence after the second sentence thereof: "In the case of persons detailed from other Government agencies, the Director may accept the results of full-field background security and loyalty investigations conducted by the Defense Investigative Service or the Department of State as the basis for the determination required under this subsection that the person is not a security risk or of doubtful loyalty."

ANTISATELLITE ACTIVITIES

SEC. 404. Section 31(b) of the Arms Control and Disarmament Act (22 U.S.C. 2571) is amended by striking the "," and inserting the following phrase: "and of all aspects of anti-satellite activities;".

TITLE V—MISCELLANEOUS PROVISIONS

REPEALS; TECHNICAL AMENDMENTS

SEC. 501. (a) The following provisions of law are repealed:

(1) Section 408 of the Act entitled "An Act to authorize appropriations for fiscal years 1980 and 1981 for the Department of State, the International Communication Agency, and the Board for International Broadcasting", approved August 15, 1979 (22 U.S.C. 287c note).

(2)(A) Section 121(b) (22 U.S.C. 1175 note),

(B) section 122(b) (22 U.S.C. 2280 note),

(C) section 203 (22 U.S.C. 1461–1 note),

(D) section 504(e) (22 U.S.C. 3656(e)),

(E) section 601(b) (92 Stat. 985),

(F) section 603(c) (22 U.S.C. 2656 note),

(G) section 608(c) (22 U.S.C. 2656d note),

(H) section 609(c) (92 Stat. 989),

(I) section 610(c) (22 U.S.C. 2151 note),

(J) section 611(b) (22 U.S.C. 1731 note),

(K) section 613(b) (22 U.S.C. 2370 note),

(L) section 705(a) (22 U.S.C. 2151 note),

(M) section 709 (22 U.S.C. 2161 note), and

(N) section 711 (22 U.S.C. 2220a note), of the Foreign Relations Authorization Act, Fiscal Year 1979.

(3)(A) Section 107(b) (91 Stat 846),

(B) section 109(a)(7) (22 U.S.C. 2384 note),

(C) section 414(b) (22 U.S.C. 1041 note),

(D) section 501 (91 Stat. 857),

(E) section 503(b) (91 Stat. 858),

(F) section 505 (22 U.S.C. 2151 note), and

(G) section 513 (19 Stat. 862), of the Foreign Relations Authorization Act, Fiscal Year 1978.

(4) Section 403 of the Foreign Relations Authorization Act, Fiscal Year 1977 (22 U.S.C. 2871 note).

(5) Sections 102(b) (89 Stat. 756) and 503(b) (89 Stat. 772) of the Foreign Relations Authorization Act Fiscal Year 1976.

(6) Section 15 of the State Department/USIA Authorization Act, Fiscal Year 1975 (22 U.S.C. 2151 note).

(b)(1) The Foreign Relations Authorization Act, Fiscal Year 1979, is amended—.

(A) in section 121, by striking out "(a)";

(B) in section 122, by striking out "(a)";

(C) in section 601, by striking out "(a);

(D) in section 611, by striking out "(a)";

(E) in section 613, by striking out "(a)"; and

(F) in section 705, by striking out "(a)".

(2) The Foreign Relations Authorization Act, Fiscal Year 1978, is amended—

(A) in section 107, by striking out "(a)";

(B) in section 414, by striking out "(a)";

(C) in section 503, by striking out "(a)"; and

(D) in section 505, by striking out "(a)".

(3) The Foreign Relations Authorization Act, Fiscal Year 1976, is amended—

(A) in section 102, by striking out "SEC. 102. (a) Except as provided in subsection (b), no" and inserting in lieu thereof "SEC. 102. No"; and

(B) in section 503, by striking out "(a)".

UNITED NATIONS EDUCATIONAL, SCIENTIFIC, AND CULTURAL ORGANIZATION

SEC. 502. (a) The Congress finds that—

(1) the First Amendment of the Constitution of the United States upholds the principle of freedom of the press;

(2) Article 19 of the Universal Declaration of Human Rights states that "everyone has the right to freedom of opinion and expression; this right includes the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers";

(3) the signatories to the Final Act of the Conference on Security and Cooperation in Europe concluded in 1975 in Helsinki, Finland, pledged themselves to foster "freer flow and wider dissemination of information of all kinds", and to support "the improvement of the circulation of, access to, and exchange of information";

(4) the Constitution of the United Nations Educational, Scientific, and Cultural Organization itself is committed to "promote the free flow of ideas by word and image"; and

(5) a free press is vital to the functioning of governments.

(b) The Congress hereby expresses its opposition to—

(1) efforts by the United Nations Educational, Scientific, and Cultural Organization to attempt to regulate news content and to formulate rules and regulations for the operation of the world press; and

(2) efforts by some countries further to control access to and dissemination of news.

PROMOTION OF FREE PRESS

SEC. 503. (a) It is the sense of the Congress that none of the funds authorized to be appropriated under paragraph (2) of section 102 of this Act may be used for payment by the United States toward the assessed budget of the United Nations Educational, Scientific and Cultural Organization if such payment would cause the total contribution of the United States to the United Nations Educational, Scientific and Cultural Organization to exceed its assessed contribution less 25 percent of the amount made available by the United Nations Educational, Scientific, and Cultural Organization for projects or organizational entities the effect of which is to license journalists or their publications, to censor or otherwise restrict the free flow of information within or between countries, or to impose mandatory codes of journalistic practice or ethics.

(b) The Secretary of State shall prepare and transmit annually to the Congress a report on the implementation of this section.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

SEC. 504. (a) Section 6(4) of the Japan-United States Friendship Act is amended by striking out "and not to exceed 5 per centum annually of the principal of the Fund" and inserting in lieu thereof a comma and the following: "any amount of the contributions deposited in the Fund from nonappropriated sources pursuant to paragraphs (2) or (3) of this section, and not to exceed 5 per centum annually of the principal of the total amount appropriated to the Fund".

(b) Section 7(e) of such Act is amended by inserting after "amounts received" the following: "(including amounts earned as interest on, and proceeds from the sale or redemption of, obligations purchased with amounts received)".

REPORT

SEC. 505. (a) Not later than sixty days after the date of enactment of this section, the President shall prepare and transmit to the Congress a full and complete report on the total cost of Federal, State, and local efforts to assist refugees and Cuban and Haitian

entrants within the United States or abroad for each of the fiscal years 1981 and 1982. Such report shall include and set forth for each such fiscal year—

(1) the costs of assistance for resettlement of refugees and Cuban and Haitian entrants within the United States or abroad;

(2) the costs of United States contributions to foreign governments, international organizations, or other agencies which are attributable to assistance for refugees and Cuban and Haitian entrants;

(3) the costs of Federal, State, and local efforts other than described in paragraphs (1) and (2) to assist, and provide services for, refugees and Cuban and Haitian entrants; and

(4) administrative and operating expenses of Federal, State, and local governments which are attributable to programs of assistance or services described in paragraphs (1), (2), and (3); and

(5) administrative and operating expenses incurred by the United States because of the entry of such aliens into the United States.

(b) For purposes of this section—

(1) the term "refugees" is used within the meaning of paragraph (42) of section 101(a) of the Immigration and Nationality Act; and

(2) the phrase "Cuban and Haitian entrants" means Cubans and Haitians paroled into the United States, pursuant to section 212(d)(5) of the Immigration and Nationality Act, during 1980 who have not been given or denied refugee status under the Immigration and Nationality Act.

TITLE VI—PEACE CORPS AUTONOMY

SHORT TITLE

SEC. 601. This title may be cited as the "Peace Corps Autonomy Act".

ESTABLISHMENT AS AN INDEPENDENT AGENCY

SEC. 602. Effective on the date of enactment of this Act, the Peace Corps shall be an independent agency within the executive branch and shall not be an agency within the ACTION Agency or any other department or agency of the United States.

TRANSFER OF FUNCTIONS

SEC. 603. (a) There are transferred to the Director of the Peace Corps all functions relating to the Peace Corps which were vested in the Director of the ACTION Agency on the day before the date of enactment of this Act.

(b)(1) All personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds as are determined by the Director of the Office of Management and Budget, after consultation with the Comptroller General of the United States, the Director of the Peace Corps, and the Director of the ACTION Agency, to be employed, held, or used primarily in connection with any function relating to the Peace Corps before the date of the enactment of this Act are transferred to the Peace Corps. The transfer of unexpended balances pursuant to the preceding sentence shall be subject to section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c).

(2)(A) The transfer pursuant to this section of full-time personnel (except special Government employees) and parttime personnel holding permanent positions shall not cause any employee to be separated or reduced in rank, class, grade, or compensation, or otherwise suffer a loss of employment benefits for one year after—

(i) the date on which the Director of the Office of Management and Budget submits the report required under section 606, or

(ii) the effective date of the transfer of such employee,

whichever occurs later.

(B) The personnel transferred pursuant to this section shall, to the maximum extent feasible, be assigned to such related functions and organizational units in the Peace Corps as such personnel were assigned to immediately before the date of enactment of this Act.

(C) Collective-bargaining agreements in effect on the date of enactment of this Act covering personnel transferred pursuant to this section or employed on such date by the Peace Corps shall continue to be recognized by the Peace Corps until the termination date of such agreements or until a mutual modification by the parties otherwise specifies.

(3) Under such regulations as the President may prescribe, each person who does not hold an appointment under section 7(a)(2) of the Peace Corps Act and who is determined under paragraph (1) to be employed primarily in connection with any function relating to the Peace Corps shall, effective on the date of enactment of this Act, be appointed a member of the Foreign Service under the authority of section 7(a)(2) of the Peace Corps Act, and be appointed or assigned to an appropriate class thereof, except that—

(A) no person who holds a career or career-conditional appointment immediately before such date shall, without the consent of such person, be so appointed until three years after such date, during which period such person not consenting to be so appointed may continue to hold such career or career-conditional appointment; and

(B) each person so appointed who, immediately before such date, held a career or career-conditional appointment at grade 8 or below of the General Schedule established by section 5332 of title 5, United States Code, shall be appointed a member of the Foreign Service for the duration of operations under the Peace Corps Act.

Each person appointed under this paragraph shall receive basic compensation at the rate of such person's class determined by the President to be appropriate, except that the rate of basic compensation received by such person immediately before the effective date of such person's appointment under this paragraph shall not be reduced as a result of the provisions of this paragraph.

DIRECTOR OF THE PEACE CORPS

SEC. 604. Section 4(b) of the Peace Corps Act (22 U.S.C. 2503(b)) is amended by striking out "such agency or officer of the United States Government as he shall direct. The head of any such agency or any such officer" and inserting in lieu thereof "the Director of the Peace Corps. The Director of the Peace Corps".

TECHNICAL AMENDMENTS

SEC. 605. (a) Section 3 of the Peace Corps Act (22 U.S.C. 2502) is amended by—

(1) repealing subsections (d), (e), and (f); and

(2) redesignating subsection (g) as subsection (d).

(b) The repeal of provisions of law made by subsection (a) of this section shall not affect (1) the validity of any action taken under the repealed provisions before the date of the enactment of this Act, or (2) the liability of any person for any payment described in such subsection (f).

REPORTS

SEC. 606. (a) Not later than the thirtieth day after the date of enactment of this Act, the Director of the Office of Management and Budget shall submit to the appropriate committees of the Congress and to the Comptroller General a report regarding the steps taken in implementation of the provisions of this Act, including descriptions of the manner in which various administrative matters are disposed of, such as matters relating to personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, available, or to be made available in connection with functions or activities relating to the Peace Corps.

(b) Not later than the forty-fifth day after the date of the enactment of this Act, the Comptroller General shall submit to such committees a report stating whether, in the judgment of the Comptroller General, determinations made by the Director of the Office of Management and Budget under section 603(b)(1) were equitable.

REFERENCES IN LAW

SEC. 607. References in any law, reorganization plan, Executive order, regulation, or other official document or proceeding to the ACTION Agency or the Director of the ACTION Agency with respect to functions or activities relating to the Peace Corps shall be deemed to refer to the Peace Corps or the Director of the Peace Corps, respectively.

DEPARTMENT OF JUSTICE AUTHORIZATIONS, 1982

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 951, the Department of Justice authorization bill, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 951) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

The PRESIDING OFFICER. The Senator from Connecticut.

AMENDMENT NO. 70 TO AMENDMENT NO. 69

Mr. WEICKER. Mr. President, pending before this body is the Weicker amendment in the second degree to the Helms amendment in the first degree to S. 951, the Department of Justice authorization bill for fiscal year 1982.

I would like to, at this juncture, try my best, in any event, to correct the perception given through the media as to what the issue is before this body. The issue is the Weicker amendment. That amendment says specifically:

Except that nothing in this act shall be interpreted to limit in any manner the Department of Justice in enforcing the Constitution of the United States, nor shall anything in this act be interpreted to modify or diminish the authority of the courts of the United States to enforce fully the Constitution of the United States.

Nowhere in the language of that amendment does "busing" appear. I keep on reading about an antibusing amendment and the entire debate framed in terms of busing. As I indicated, this is a civil rights debate. More particularly, as far as the amendment before this body, it relates to the constitutional powers of the executive branch under the judicial branch. It has absolutely nothing to do with busing.

The amendment assures that the Justice Department of the United States shall enforce fully the Constitution of the United States and that the courts of the United States shall enforce fully the Constitution of the United States. That is the issue before the Senate at this time.

The Helms amendment addresses itself, in part, to the issue of busing. That is not what the Weicker amendment does.

I think it important to straighten the record at this point so that not only do those that are within the Chamber know what it is that we are being asked to pass upon but also that the public at large understand the issues at debate on the floor of the U.S. Senate.

There are several arguments out here, several issues presented. The Senator from North Carolina in his amendment has presented the issue of the adequacy or inadequacy of busing as a remedy for those instances where segregation and discrimination is alleged. The Senator from North Carolina has raised the issue as to whether or not the legislative branch of Government can make an incursion on the constitutional powers of one of the other branches or both of the other branches, that is, the executive and the judicial branches.

The Senator from Connecticut in his amendment merely reaffirms the powers of the branches, specifically the executive and the judicial, reaffirms the powers as granted under the Constitution of the United States.

It would be my hope, I might add, that there would be acceptance of the Weicker amendment, both by the majority on this side and by the President of the United States.

I am out here carrying the baggage for the President on my amendment. It would be very possible for the President to say, "I agree with Senator HELMS—as indeed I have agreed in the past, I am against busing as a remedy—while at the same time I feel it incumbent upon me to protect the prerogatives, the separation of that branch of Government over which I am the head."

That best defines the two issues that are before this body. The President, if he accepts the Helms language without the Weicker language, freely admits, then, to the ability of the Congress to say what it is that his branch of Government and those agencies under his leadership can or cannot do. And I would suggest, respectfully, to the President of the United States that he understand the full ramifications of what it is that is being attempted out here on this floor.

This was the basis, the essence, of the veto by former President Carter of this legislation in the past. Indeed, the former President stated that his action was taken to preserve the powers of his Office, of his branch.

Let me read again from the letter of December 4, 1980, from then President Carter to then Chairman HOLLINGS of the Subcommittee on State, Justice:

DEAR MR. CHAIRMAN: I have decided that I will veto H.R. 7584, the State-Justice-Commerce Appropriations Act of 1980. A provision in this Act, the Helms-Collins amendment, would impose an unprecedented prohibition on the ability of the President of the United States and the Attorney General to use the Federal courts to ensure that our Constitution and laws are faithfully executed.

Throughout my administration, I have been committed to the enhancement and strong enforcement of our civil rights laws. Such laws are the backbone of our commitment to equal justice. I cannot allow a law to be enacted which so impairs the government's ability to enforce our Constitution and civil rights acts.

Here is where former President Carter gets into the substance, the nonconstitutional substance, of the busing issue.

I have often stated my belief that busing should only be used as a last resort in school desegregation cases.

But then he says:

But busing is not the real issue here. The real issue is whether it is proper for the Congress to prevent the President from carrying out his constitutional responsibility to enforce the Constitution and laws of the United States.

The precedent that would be established if this legislation became law is dangerous. It would effectively allow the Congress to tell a President that there are certain constitutional remedies that he cannot ask the courts to apply. If a President can be barred from going to the courts on this issue, a future Congress could by the same reasoning prevent a President from asking the courts to rule on the constitutionality of other matters upon which the President and the Congress disagree.

For any President to accept this precedent would permit a serious encroachment on the powers of this office. I have a responsibility to my successors and to the American people not to permit that encroachment to take place. I intend to discharged that responsibility to the best of my ability.

I ask unanimous consent that the letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEAR MR. CHAIRMAN: I have decided that I will veto H.R. 7584, the State-Justice-Commerce Appropriations Act of 1980. A provision in this Act, the Helms-Collins amendment, would impose an unprecedented prohibition on the ability of the President of the United States and the Attorney General to use the Federal courts to ensure that our Constitution and laws are faithfully executed.

Throughout my administration, I have been committed to the enhancement and strong enforcement of our civil rights laws. Such laws are the backbone of our commitment to equal justice. I cannot allow a law to be enacted which so impairs the government's ability to enforce our Constitution and civil rights acts.

I have often stated by belief that busing should only be used as a last resort in school desegregation cases. But busing is not the real issue here. The real issue is whether it is proper for the Congress to prevent the President from carrying out his constitutional responsibility to enforce the Constitution and laws of the United States.

The precedent that would be established if this legislation became law is dangerous. It would effectively allow the Congress to tell a President that there are certain constitutional remedies that he cannot ask the courts to apply. If a President can be barred from going to the courts on this issue, a future Congress could by the same reasoning prevent a President from asking the courts to rule on the constitutionality of other matters upon which the President and the Congress disagree.

For any President to accept this precedent would permit a serious encroachment on the powers of this office. I have a responsibility to my successors and to the American people not to permit that encroachment to take place. I intend to discharge that responsibility to the best of my ability.

The purpose of this letter is to ensure that there is no doubt about my opposition to the objectionable provision in the State-Justice-Commerce Appropriation Act. My opposition also applies to the inclusion of such a provision in the Continuing Resolution.

I would of course prefer to avoid a veto of the Resolution. I recognize the difficulties such a veto could impose on critically important operations of the government and on the Congressional schedule. But I would be shirking my constitutional responsibilities if I allowed this unprecedented and unwarranted encroachment on Executive authority and responsibility to prevail.

Sincerely,

JIMMY CARTER.

(Mr. ANDREWS assumed the chair.)

Mr. WEICKER. Mr. President, the issue is no different here today than it was in December of last year.

Let me say this: My reservations, when I made the request to the majority leader and through him asked that the request be relayed to the White House that they support the Weicker part of this amendment, are that if the Weicker amendment is passed, it will perfect Helms, which, to me, is patently unconstitutional. In effect, it would make Helms constitutional and the Helms then very well might withstand a court test. But without this language, let me say that everything we do here today is going to be down the drain in a matter of time. It might be before it goes through the court process that it will be a year, maybe a year and a half or 2 years. But the Helms amendment is unconstitutional on its face. There is no doubt about it in my mind or, I think, in anybody else's mind.

I would again suggest to my colleagues that the first issue to be resolved is whether or not the legislative branch of Government can go ahead and dictate to either of the other branches what it is that they can hear or they can do in terms of the procedures allowed them by law and under the Constitution.

The Weicker amendment was rejected by the 96th Congress by a vote of 46 to 43. I suppose the question that has to be asked is, Why is affirming the enforcement, which is all this amendment says and which has nothing to do with busing—why is affirming the enforcement of the Constitution of the United States by the executive and by the judicial so controversial.

I woke up this morning and it was as though I had awakened from a nightmare, that you have to stand on the Senate floor and fight for the principle that the Constitution is going to be enforced. Maybe I should have thrown the Senate of the United States into the amendment also. That might have made it too tough. In this way, we are only imposing that obligation on our colleagues in the executive and the judicial branch.

The other matter which I very much object to is every article that I read starts off with an implied reference to "The liberal Senator from Connecticut, Senator WEICKER," and so forth.

When it comes to the Constitution and the enforcement thereof, I think we best see what it is that the various sides are advocating.

I believe that this, the Constitution of the United States. means what it says, period. I construe this document very, very strictly. As a matter of attitude toward the Constitution, I would suggest

that maybe the position of the Senator from Connecticut is the conservative, indeed the very conservative, position, and we do not blithely roam around these Halls jumping over the various separations of the branches, and we just do not blithely throw the civil rights of Americans out the window or up for grabs.

If there are laws to be changed and policies to be made, that is one thing, but to ignore the rights and the strictures that are contained in this document seems to me rather liberal if not cavalier handling of the document which is the origin of everything that proceeds forth from the Government of the United States.

I would repeat that I would hope that before this day is over we can all agree that we can sign onto the Weicker amendment without fear we have done any violence to our oaths of office, to our constituents, or to those matters of policy that we each might believe, differing as those beliefs might be.

Of course, the real difficulty is that the proponents of this legislation want to rewrite the Constitution of the United States in a manner that is outside the provisions of that document when it comes to amending it.

Article V of the Constitution states:

> The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article, and that no State without its Consent, shall be deprived of its equal Suffrage in the Senate.

That tells you how to go ahead and amend the Constitution of the United States. What you do not do is to go ahead and put riders on appropriations bills, riders on authorization bills, use the funding process to say what it is the judicial system can or cannot do.

Do you know what the ultimate act will be in this scenario we are following? I sit as chairman of the Appropriations Subcommittee that handles the State Department, the Justice Department, the Commerce Department, and the Federal judiciary. So the ultimate act in this play as set forth on the scene by the distinguished Senator from North Carolina, from South Carolina, and their various colleagues is that we will use the appropriations process to say what it is the Federal judiciary can or cannot do. If we do not like a decision of the Supreme Court, then we will go ahead and cut off funding for the Supreme Court.

That is the ridiculous, not the logical, end to the path that was commenced by the Senator from North Carolina and many of his colleagues several years ago. There is no reason why it should not be done, according to the logic behind this type of legislation.

If the Supreme Court decides cases and the majority of this body does not like the decisions, then cut off their appropriations.

Mr. President, I have no desire to be on my feet in this matter. On the other hand, as a matter of principle, I really do not see what course of action is left open to me. I do not want the judicial branch of Government saying to me what we should or should not do. I do not want them to come back to me or come back to this body and say that we have made bad law.

Our difficulties in this whole area of civil rights is that we should make no law and leave it up to the courts or, as is the instance before us today, we make bad laws and have it thrown back at us.

The easiest course to take right now, for this Senator, would be to allow this matter to come to a vote, have it go through, and then for it be declared unconstitutional, which is what would happen.

I believe very, very strongly that, aside from the easy and the pleasurable decisions which are made a hundred times over on this floor, which benefit many of our citizens, there are those times when the very tough decisions have to be made. That is one of those times.

We—I say "we," not the individual Members of this body at this time, but a series of Congresses—we delayed too long the realistic implementation of the ideas and admonitions contained in the Constitution when it came to equality—so long, in fact, that any correction of past omissions was going to be expensive, was going to be disagreeable; and that is the process that is being objected to here today.

I suppose it has been since Brown against Board of Education, approximately 26 years; and with the impatience that is characteristic of our Nation—and that is a good thing—we say that certainly we should have been able, in 26 years, to do what needs to be done. That is enough. But, of course, that is not what the fact situation out there in the countryside tells us. The job is still incomplete. It has not been done, and it has not been done primarily for two reasons: The political leadership in this country, in too many instances, has wavered in its commitment to equality for all Americans; and as soon as the leadership wavers, it is only a matter of time before that indecisiveness, that weakness, catches hold among the rest of the citizens.

Second, we have not gone ahead and demanded the monetary resources of ourselves to make up the lost ground, lost over a period of 200 years. The problems have changed to a great degree. Much of the segregation now is in the North, not the South. The issue long ago lost its regional tinge.

What comparatively was improvement in the past—since you were starting from ground zero—is not so easily attained right now. Large strides could be proved statistically, initially, and be statistically encouraging, since we are starting from scratch. Now the going gets tougher.

Mr. President, what I should like to talk about initially this afternoon is the matter of restrictions imposed by the legislative branch on matters which the judicial branch can consider violative of the basic tenets of our constitutional, tripartite system of government.

> The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws whenever he receives an injury. One of the first duties of Government is to afford that protection . . .
>
> The government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation if the laws furnish no remedy for a violation of a vested legal right.

That is one of the great landmark cases in this Government of laws, and it clearly spells out a philosophy and a principle in total contradiction to what is being offered by the Senator from North Carolina in conjunction with the distinguished chairman of the Committee on the Judiciary.

Issuance of remedial orders is an integral part of the judicial process, and if the courts are to act at all, they must be immunized from congressional control. By limiting what the Justice Department could present to the courts, Congress would be unconstitutionally interfering with the judicial process. As Chief Justice Marshall observed in Marbury against Madison.

> It is emphatically the province and duty of the judicial department to say what the law is. (5 U.S. at 177).

To allow Congress to control the matters which the judiciary may consider would give "to the legislature a practical and real omnipotence, with the same breath which professes to restrict their powers within narrow limits"; this would reduce "to nothing what we have deemed the greatest improvement on political institutions—a written constitution." (Marbury against Madison, 5 U.S. at 178).

It is well established that the courts may not arbitrarily order—I wish to emphasize that—may not arbitrarily order busing of students as a remedy for unconstitutional school segregation.

In the seminal busing decision, *Swann v. Charlotte-Mecklenburg Board of Education*, 402 U.S. 1 (1971), the Supreme Court was careful to note that there were limits on busing remedies which courts could order:

> An objection to transportation of students may have validity when the time or distance of travel is so great as to either risk the health of the children or significantly impinge on the educational process. (402 U.S. at 31.)

The Supreme Court, setting aside a desegregation order in *Milliken v. Bradley*, 418 U.S. 717, 744 (1974), reiterated that there were strict standards for fashioning a busing remedy:

> The controlling principle consistently expounded in our holdings is that the scope of the remedy is determined by the nature and extent of the constitutional violation.

Right there, we have one of the greatest arguments against what is being propounded by the proponents of the Helms amendment—that is, the Supreme Court and a judiciary gone wild.

The law has been very precise as to what can or cannot be done. It has to be tailored to the violation. That, of course, raises the first instance, lest anybody get all their sympathies aroused, on how unjust a particular court order is in terms of remedy. No remedy is ordered unless an illegality has been established.

So we are not dealing with some innocent party here. We are talking about somebody who has been convicted—as much convicted as a murderer, as much convicted as a burglar, as much convicted as a rapist. We are talking about somebody who has been convicted. We are talking about the establishment of an illegality that has taken place and has been determined to be an illegality. Not until that happens, do we even get into the business of remedy, one of which remedies may be busing.

I do not understand what all the sympathy is all of a sudden on the floor of the Senate for the criminal. We hear much about law and order. We are talking about a criminal. There is all this concern about a criminal.

This is not speculation. What, in effect, first happens is someone—jury, judge, a combination of the two—has made a determination the laws of the Nation have been violated, that is, that certain of our citizens are being discriminated against. This discrimination takes place in the area of race relations.

Other discriminations have taken place. We read where a court just recently upheld the rights of workers to safe conditions. That was a discrimination that had taken place against laboring people. And the employers were found to be in violation of the laws of this Nation.

Other discriminations have taken place against those who are retarded and disabled and the courts have come to their assistance as they have been discriminated against. There are other discriminations against women and discrimination as to the matter of sex. All of these, in other words, situations are violations of the law.

Why is this violation of the law any different from the person who bops someone on the head in an alley or in some dark corner of an American city? Why is this any different from someone who breaks into an individual's home to steal whatever is in there? Why is this different from the individual that takes money and embezzles money from a bank?

We have laws. When those laws are broken and it is established that the law has been broken, then it is up to the court to go ahead and render judgment. As to which judgment again is restricted by what is established in law.

Why is it that this great law and order group all of a sudden evinces all this sympathy for the criminal? The fact that the criminal is a large group does not make it any less criminal. The law has been broken. In effect, we, this Senator included, all of us, the American society broke the law for 200 years. This is the law, this Constitution of the United States, and that portion I will state:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without the due process of law: nor deny to any person within its jurisdiction the equal protection of the laws.

We broke the law. That was the determination that was made. Separate is not equal.

Now we have to stand up and take our medicine just like anyone else convicted under the judicial processes of this country. What we are saying is well, all right, we are guilty, but we are an exception, since it is society. We are an exception to what it is that can be imposed upon us in terms of a judgment.

What is it that makes us so privileged because we are society as a whole? What makes us different from that individual in the dock who has been adjudged as guilty? Why can he not stand before the judge and his peers, the jury, and say:

I am an exception. You cannot put me in jail for 5 to 10 years. You cannot fine me $50,000. Even though I am guilty, I am an exception.

What gives us, in other words, the basis for requesting an exception? Is it the fact that there are many of us rather than just a few or rather than one?

That is the essence of what we are doing here today. If this were one person, one person's vote would not count. That is why we request the exception. Too many of us are requesting it on behalf of our constituents because there are a lot of people involved in the disagreeable process of catching up with the principles of the Constitution of the United States.

So politically it becomes an advantageous thing to do. It has nothing to do with justice. This is politics. It is not justice.

We are seeing the classic example of a government of men rather than a government of laws. And it is governments of men whose days are numbered.

If the President feels as he does about busing, then at least let him manifest his philosophical and his partisan beliefs in a way that will not harm the continuing authority and power of the office that he holds, and he has that right. He has every right in the world to support the Helms amendment. But he has no right to give away what is not his to give, the authority of his office, the separateness of his office, in terms of power from the power of this body and the power of the judiciary.

Disagree as he might on any given issue, it is his duty to hand on to his successors in terms of structure and substance when it relates to the power of the Presidency as much as was left to him.

Has it occurred to Senators that that letter was written by former President Carter after he had been defeated and certainly no one is going to argue the philosophical differences between him and the man who was to succeed him? The easiest thing in the world for President Carter would have been to say, all right, we will let this one go through. Indeed, it might have formed some basis for him recapturing or starting on the come-back trail. I do not know.

But the fact was that his determination was made not on the matter of busing, not on the matter of segregation, and not on the matter of discrimination, although his views were well known and he alludes to them. I do not want in any way to minimize the commitment of the man to civil rights. But he wanted to assure Ronald Reagan that that office in terms of its power, its authority, its separateness from the legislative branch, was going to be intact, whole, undiluted. I think President Reagan owes as much. I think President Reagan owes as much to future Presidents. I think he owes as much to the people of this country to assure that in terms of constitutional structure the House of State is intact.

The policies and philosophies of his administration have nothing to do with the argument that I now present to my colleagues. That is a matter that we can go up and down on hundreds of votes that will take place during the course of the next several years. We will agree and we will disagree. He will be adjudged or his administration will be adjudged on that basis also. I am confident that when he writes that record that reelection will be assured him.

But as to the business of the Constitution and the structure of this Government, the checks and balances, the minute this becomes a partisan or a philosophical issue then the greatness of the Nation is neither assured nor will it be long lived.

The Supreme Court reiterated in *Dayton Board of Education* v. *Brinkman*, 433 U.S. 406, 420, (1977) that the remedial powers of the Federal courts are called forth by violations and are limited by the scope of those violations:

Once a constitutional violation is found, a Federal court is required to tailor "the scope of the remedy" to fit "the nature and extent of the constitutional violation" . . . The remedy must be designed to redress that difference, and only if there has been a systemwide impact may there be a systemwide remedy.

Thus, the courts are limited to restoring the plaintiffs to the position they would have occupied had they not been subject to unconstitutional discrimination.

Limitation of the Justice Department's authority to litigate—in any manner—to remedy unconstitutional segregation would be unconstitutional.

In 1977, Congress passed an Eagleton-Biden amendment which would prevent HEW from administratively requiring school desegregation by transporting students beyond the closest school. However, it left intact the Justice Department's enforcement authority. A Federal district court upheld the constitutionality of the amendment on the grounds that Congress specifically left unaffected Justice Department's litigative authority:

But the fact remains that the amendment leave(s) untouched the litigation enforcement option that permits the Civil Rights Division of the Department of Justice, upon referral of a case from HEW, to pursue legal action and obtain the full measure of appropriate relief, including student transportation, if warranted, against the offending recipients. *Brown* v. *Califano*, 455 F. Supp. 837, 840 (D.D.C. 1978).

The district court emphasized that only the continued ability of the Justice Department to litigate effectively supported the constitutionality of the amendment:

> This conclusion (of constitutionality) however, embodies only a view concerning the facial constitutionality of the . . . disputed provisions . . . Should further proceedings in this case reveal that the litigation option left undisturbed by these provisions cannot, or will not, be made into a workable instrument for effecting equal educational opportunities, the Court will entertain a renewed challenge by plaintiffs on an as applied basis, (emphasis in original) *Brown* v. *Califano*, 455 F. Supp. at 843.

In upholding the constitutionality of the amendment, the Court of Appeals also relied on the unbridled ability of the Justice Department to litigate violations of Constitutional rights.

> To avoid constitutional doubts, we must proceed on the assumption that Congress intended the Department of Justice to act with the greatest dispatch. *Brown* v. *Califano*, No. 78–1864 (D.C. Cir., January 31. 1981), slip op. 25. As the amendments also leave in place the enforcement options at the Department of Justice, we cannot find that on their face they "restrict, abrogate, or dilute" the guarantee of equal protection.

(Mr. COHEN assumed the chair.)

Mr. WEICKER. This raises the issue, Mr. President, and I would like to refer to one word there, "unbridled," the unbridled ability of the Justice Department to litigate.

You know this argument and this problem was first raised—and I am talking now about this session of Congress—in the attempts to eliminate the Legal Services Corporation. The issue raised, in essence, is why lawyers should be provided for the poor and, indeed, if lawyers are provided the poor, should not then the matters which they can involve themselves in, which they can litigate, be limited?

The issue on the floor here today is: Should not the Justice Department's ability to litigate be limited? All right.

Now let me move, in other words, that principle, the limitation of our legal rights, to all of those of us who are citizens of this country.

Is there anyone here who would not be mightily offended if it were even suggested that his legal rights should in any way be limited by Congress, by the President, by his neighbors? I certainly would find that offensive. Why is it then that a poor person should not find it offensive to be poor monetarily? That is a station in life which is reality, which is something that we cannot do something about, but does that mean because a person is poor monetarily that we can use this book to say, in other words, if you are in the zero to $5,000 category of income then you get the first six pages of the Constitution? If it is $10,000 to $15,000 then you pick up a couple of more pages of the Constitution? I mean, how does that work? It does not. Every one of the pages here, every word in here, belongs to each one of us. It makes no difference what our income is. It belongs to each one of us, every last word, every sentence, every right.

How arrogant it is that anybody should suggest that because someone is poor that, No. 1, they do not deserve the services of a lawyer, but even if they get those services the services have to be limited.

I might add that the suggestion of the limitation of services is that that, of course, means they could bring lawsuits once again not only to enforce their rights but in some way stand up against the discrimination of their neighbors, and the neighbors of the majority, and the neighbors of the majority at the polling booths. How arrogant, how arrogant that anybody should suggest that the Justice Department of the United States should proceed in a certain way, how the Justice Department should proceed in assuring each American of his rights. How arrogant. Mind you, the next step—and we have seen those matters before us here previously, the same advocates of this legislation have actually indicated as to what they are going to do in the courts, in the remedies that the courts can apply. How arrogant. Is there anybody within the sound of my voice who would like to have the Senate of the United States determine his case, his grievance? Is there anybody who would like to have 100 politicians decide on his particular justice when that day comes? Do you want the courts of this country and the Justice Department listening to the voices and counting the house? Is that what you want? That is not justice; that is mob rule. That is politics disguised in the robes of justice.

We are all deserving better than that. That is what is at issue here today. Initially I set it out as to the independence of the legislative branch from that of the executive branch; the independence of the executive branch from the judiciary. But really in the final analysis it is the independence of the justice accorded to each one of us. You cannot in the United States of America separate the institution of government from the people because government is the people. Ben Franklin said "In this country the people rule." So whatever it is that the President gives up or the courts give up each one of us gives up.

Who is going to deny that decisions rendered by a court are not going to set some of our teeth on edge? Who has ever played in a football game, a baseball game, a basketball game, or a hockey game and has liked every decision rendered by the umpire, the referee, or the linesmen or whatever? Nobody, and nobody is going to like all the decisions handed down by the courts.

I did not like the decision, for example, on the Hyde amendment which upheld its constitutionality. I thought that was a rotten decision. But I am not roaming around the corridors of the Capitol trying to figure out how I can circumvent it. I accept that also as the law of the land just like Roe against Wade is the law of the land.

There is an ending to all of our processes. What is being advocated here is no better than a sophisticated form of anarchy, to say that there is no end. That is why I am back here today literally citing those cases which are the initial landmark cases of American jurisprudence. The very issues I am discussing here in the year 1981, some few years after our Bicentennial celebration, these were the very issues which formed the basis of case law history in this country.

So that those that regard this debate from afar and say, "Well, this is a fight between various Members of Congress in terms of their philosophy, in terms of their partisanship. It is a fight between the Congress and the President."

This is not a fight between various philosophies and the Congress and the President. This is a matter that involves 250 million Americans, every one of them. You just better pray—I know I am going to lose on this floor. I know exactly what all this time is going to end up to. It is going to end up to a loss.

But, regardless of how you feel on the issue of busing, on the principle that is involved here, that of independence of the justice system of this country, you better hope I win, because the next time around it is not going to be busing. It is going to be something that is near and dear to your heart and you are going to get political justice rather than untampered with, undiluted justice. That is the problem.

In upholding the constitutionality of the amendment, the court of appeals also relied on the unbridled ability of the Justice Department to litigate violations of constitutional rights. 'To avoid constitutional doubts, we must proceed on the assumption that Congress intended the Department of Justice to act with the greatest dispatch. As the amendments also leave in place the enforcement options at the Department of Justice, we cannot find that on their face they 'restrict, abrogate, or dilute' the guarantee of equal protection."

Thus, the Helms amendment—which would limit the Justice Department's enforcement powers—is unconstitutional. Furthermore, based on the court of appeal's decision of Brown versus Califano, the Helms amendment—if passed—would also render the Eagleton-Biden amendment unconstitutional.

Mr. President, I would like to read an article prepared by Prof. Paul Gewirtz of Yale Law School on "Why Proposed Legislation To Restrict the Federal Court Jurisdiction Is Unwise and Unconstitutional." This is dated March 27, 1981.

> The Congress is currently considering a number of bills which strip both the Supreme Court and the lower Federal courts of the power to hear cases involving school prayers, abortion and busing. The announced purpose of these bills is to try to change the results reached in specific Supreme Court decisions over the past 20 years. These bills are unwise as a matter of policy and unconstitutional as a matter of law. They should be opposed whether one is for or against school prayer, for or against abortion, for or against busing.

I might add, I have not read this until this minute. Obviously it is a similar chain of thought.

> What is at stake is something far more fundamental than any particular issue such as school prayer. What is at stake is a central feature of our democratic political system for two centuries: The essential role played by an independent Federal judiciary in our system of checks and balances and separation of powers.

At least since John Marshall's famous decision in *Marbury* v. *Madison*, it has been established that the Federal judicial power is supreme over Congress in resolving Federal constitutional questions and enforcing Federal constitutional guarantees. The Federal courts are the ultimate interpreters of the Constitution. In the much quoted words of Chief Justice Marshall, it is "the province and duty of the judicial department to say what the law is."

(Mr. ABDNOR assumed the chair.)

Mr. MATHIAS. Mr. President, will the Senator from Connecticut yield for a question?

Mr. WEICKER. Mr. President, I see my very good friend, the distinguished Senator from Maryland, on the floor, who certainly is one of the great legal minds of this body. I would be delighted to yield for a question, although I doubt that there is much that I can answer that the distinguished Senator does not already know.

Mr. MATHIAS. Well, the Senator from Connecticut is very generous in his praise today. I am grateful for it. I would say that I was too humble to accept such sentiment if it were not for recalling those words of Winston Churchill. When it was brought to Churchill's attention that Clement Attlee was a very humble man, he said. "Yes, but then Clem Attlee has so much to be humble about."

My question, Mr. President, directed to the Senator from Connecticut is this: Is is not true that if we prohibit the Department of Justice from taking action, effective action, litigating to guarantee the rights of citizens, that we then are in a situation where the most radical people on both sides of this issue of school desegregation will be the ones in court, those who are violently for it and those who are violently against it, and that the Department of Justice, which has not only an interest but a duty and a responsibility to consider the interest of all citizens, will be precluded from playing a role?

Mr. WEICKER. The Senator is correct when he says that under the provisions of this amendment those in court will be the private litigants.

Mr. MATHIAS. And the most radical private litigants.

Mr. WEICKER. And the most radical.

Mr. MATHIAS. On both sides.

Mr. WEICKER. On both sides. And that we will not have someone in there representing all Americans, all Americans, of views both pro and con. The Senator is absolutely correct in his observations.

But I also have to raise the question as to why matters of the Constitution, why matters of the Constitution, either adherence to or violation of, are or should be the responsibility of private citizens. What is the Government for if it cannot defend the very basis of its existence as a government?

We have been through this whole exercise in the abortion argument. "Abortion is legal. Abortion is legal. But we will so construct it that, practically speaking, it is only available to the wealthy."

What kind of a policy is that? I understand the law, but what kind of a policy is that? What kind of a policy is it that says we have a Constitution but it is only there for use by those who can afford to come into court to use it on their behalf or in defense of another person? What kind of a policy is that?

Believe me, these machinations on the floor that relate to abortion and relate to busing and probably school prayer and the rest, they are going to put us into a constitutional Gordian knot that nobody is going to be able to cut. There is no logic to what is being done. There is no basis in law to what is being done.

It is illogic that is being presented as being eligible to become the law of this country.

Mr. HELMS. Mr. President, will the Senator from Connecticut yield for a question with the understanding he would not lose his right to the floor?

Mr. WEICKER. I am glad to yield.

Mr. HELMS. Mr. President, will the Senator be willing to give an estimate as to when and if the Senate may be allowed to vote on this question? It matters not to the Senator from North Carolina.

Mr. WEICKER. If my distinguished colleague from North Carolina would support the amendment of the Senator from Connecticut, we could have a vote right this minute.

Mr. HELMS. If a bullfog had wings, Mr. President, he would not bump his rear end so much. But that is not the question.

When are we going to vote if I do not support the Senator's amendment?

Mr. WEICKER. If the Senator from North Carolina does not support the amendment of the Senator from Connecticut, then it would be very difficult to ascertain as to when a vote will take place on the Weicker amendment. It still is my hope, as I have indicated, that I can get the support of the Republican leadership and of the President of the United States on my amendment.

Very frankly, that is going to put me into a quandary at that stage of the game as to whether or not HELMS, as amended by WEICKER, is something that is going to receive my support. It probably would. I do not like the language that is contained therein. On the other hand, I also realize that good Government operates best when a compromise is made. I feel that at least those rights would be protected. The policy might change.

I am willing to take my lumps or my victories on matters of policy. It is the Constitution that bothers me.

I would hope that such support might be forthcoming, in which case we would vote this afternoon.

In the absence of any such support from the parties I have mentioned, either the Senator from North Carolina, the majority leader, or the President of the United States, I really would say that the vote would come at the same time that the physical stamina of the Senator from Connecticut gives out. Then we will have the matter for a vote. I cannot say when that will be.

I have been known to tire quickly on a tennis court in the matter of a half hour. I have been known to go for 6 hours on a tennis court. I just do not know what is going to happen. I also do not know what the schedule of the majority leader is, who is the one, of course, who determines all of our schedules.

Mr. HELMS. If the distinguished Senator will yield further, I thank him for the information he has just given me. I shall continue to listen to him very carefully.

(Mr. MATTINGLY assumed the chair.)

Mr. WEICKER. In continuing the remarks prepared by Professor Gerwitz:

While most of us can point to some decisions of the Supreme Court with which we disagree, we recognize that, overall, this power of judicial review, exercised by an independent federal judiciary, is a critically important element of our constitutional democracy. Overall, it has served us well—whether it has been to vindicate the rule of law when challenged by a corrupt President, or to protect ordinary citizens against an over-reaching government, or to open the way to greater racial equality, or to help mediate conflicts between nation and state or executive and legislature. The reason that the proposed jurisdictional limitations are so dangerous is that they would undercut, in a fundamental and unprecedented way, that essential function of interpreting and enforcing the constitution. Congress, in effect, would be assuming the power to change specific constitutional results by simple majority vote and without a constitutional amendment.

Consider, for example, the effect of the bill that strips jurisdiction from all federal Courts to hear cases involving school prayers. In the early 1960's, the Supreme Court ruled that the First Amendment of the U.S. Constitution, which prohibits the establishment of religion, prohibits the government from requiring the reading or recitation of prayers in public schools. If a public school introduces prayers and a parent sues to enforce those earlier Supreme Court decisions, the state courts might well fail to provide a remedy; but if that happens, under current law the parents could appeal to the United States Supreme Court, a federal court, to enforce their federal constitutional rights. The proposed jurisdictional legislation seeks to prevent the Supreme Court from hearing such a case. The State court decision allowing school prayers would stand. Thus, as its sponsor Senator Helms admits, the proposed legislation seeks to manipulate jurisdiction so as to restore prayer to the schools—in short to change a constitutional result.

Such legislation is nothing less than an assault on the independence of the federal judiciary. Perhaps the Framers of the First Amendment of our constitution were wrong in seeking to prevent the establishment of religion by the government. Perhaps the Supreme Court's decisions interpreting the meaning of the First Amendment should be changed. That is not the issue. The question is whether it is appropriate for Congress, by a simple majority, to try to achieve those ends by means of manipulating the jurisdiction of federal courts to hear cases. The answer is no. The constitution itself provides a method for changing the content of constitutional guarantees: amending the constitution through the procedures specified in Article V. It is a difficult process, requiring approval by a two-thirds vote in each House of Congress and ratification by three-fourths of the states. But it was designed to be difficult. The proposed jurisdictional provisions seek to end-run this constitutional amendment process by asserting Congress' power, by simple majority, to strip away from federal courts the jurisdiction to hear cases enforcing existing constitutional rights.

It is a power that, once unleashed, would be difficult to confine. It would work a funda-

mental reallocation of power between Congress and the Supreme Court. Recognizing that a constitutional democracy is a delicate thing, and that ours has been a uniquely successful experiment, it would be terribly unwise and terribly risky for Congress to act in a way that surely undercuts the role and function of an independent federal judiciary in our system of separation of powers. No short-runs gain justifies such a long-term risk.

This is not an issue that should divide conservatives and liberals, or Democrats and Republicans. It should not divide those who support or disagree with one or another constitutional decision of the Supreme Court. The issue at stake is one of our basic constitutional structure and institutional arrangements—whether we really want to tamper so fundamentally with the basic allocation of powers in our political system. When the proposed legislation is understood in these terms, the opposition to it should grow.

Significantly, constitutional scholars of all political stripes have concluded that jurisdictional limits of the sort involved here are unconstitutional. The late Alexander Bickel, perhaps the most respected constitutional scholar of his generation, was of this belief, in spite of his sharp criticism of Supreme Court decisions such bills sought to change. Said Professor Bickel: "I deplore as more destructive than the worst of busing the attempt to work such a reallocation of powers between Congress and the Supreme Court."[1] Professor Robert Bork of the Yale Law School, a conservative who served as Solicitor General of the United States under Presidents Nixon and Ford, opposes such congressional restrictions on jurisdiction as a "cure that may set a precedent more damaging than . . . wrong Supreme Court decisions."[2]

The only argument in favor of the constitutionality of Congress power to regulate the federal court's jurisdiction in this way relies upon Article III of the Constitution itself, the Article which discusses the judicial power. Article III provides that the "judicial Power of the United States, shall be vested in one Supreme Court"—thereby specifically mandating the existence of the Supreme Court—"and in such inferior Courts as the Congress may from time to time ordain and establish." Article III also provides that the judicial power of the United States shall extend to various categories of cases, including "all Cases . . . arising under this Constitution."

Article III provides that in some of these cases the Supreme Court shall have original jurisdiction, but it then goes on to state that in "all the other cases . . ., the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations, as Congress shall make." According to proponents of the legislation being discussed here, this "exceptions and regulations" clause gives Congress unfettered authority to prevent the Supreme Court from hearing on appeal whatever cases Congress sees fit to withhold from the Supreme Court. Moreover, Congress power to ordain and establish the lower federal courts allegedly gives Congress the plenary authority to withhold from those courts the power to hear such cases as an initial matter.

But neither Article III, nor the history of its interpretation, will sustain such a radical view of Congress powers. To be sure, Congress does have significant authority to regulate the jurisdiction of the federal courts. But given the status of the Supreme Court as a constitutionally mandated court, and given the distinctive role that the Framers of the Constitution understood the Supreme Court would play in the constitutional plan—to assure the supremacy and uniform application of the Constitution—the "exceptions and regulations" clause should most plausibly be seen as authorizing only neutral "housekeeping" measures (such as the congressional provision for discretionary certiorari jurisdiction), and not the selective exclusion of cases of the sort involved here, which interferes with the Court's central constitutional functions. In short, such legislation violates Article III itself and the requirements of separation of powers that pervade the entire Constitution.

At the very least, Congress may not exercise its powers under Article III in a way which violates other provisions of the constitution—just as Congress may not exercise its admittedly broad powers to regulate commerce or to tax in a way which violates other constitutional provisions. Thus, Congress obviously could not "except" from the Supreme Court's appellate jurisdiction cases in which the plaintiff was black. Such a law would deprive blacks of rights to equal protection of the laws guaranteed by provisions of the Constitution other than Article III itself.

More generally, if the purpose and effect of a Congressional restriction on federal court jurisdiction is to interfere with the vindication of substantive constitutional rights, such a restriction on federal jurisdiction is a violation of the substantive constitutional right involved. If Congress sought to restore school prayers to the public schools by means of a substantive statute, that would surely violate the First Amendment. So too does a jurisdictional statute which, its sponsors concede, is designed to have the same effect. Congress is simply trying to achieve indirectly what it could not achieve directly. The bill disadvantages a category of Constitutional rights because of Congress opposition to those rights. However broad Congress power to regulate federal court jurisdiction, it does not extend this far. (Obviously, Congress could not claim that its purpose in singling out school prayer cases or abortion cases is to regulate the Supreme Court's workload or to serve some other neutral housekeeping objective.)

It is no answer to assert that the state courts remain open and will fully enforce existing constitutional rights. The sponsors of the bills have obviously made the judgment themselves that many state courts will enforce existing rights with far less vigor and effectiveness than their federal court counterparts; that is the point of the proposed legislation. (Nor is this Congressional judgment without reasonable foundation. For a variety of reasons, the federal Supreme Court and federal lower courts have traditionally been more favorably disposed to claims of federal rights than state courts, and more effective in implementing those rights.) Congress' action will presumably have the effects that Congress desires.[3] This is particularly apparent with respect to the restrictions of the Supreme Court's appellate jurisdiction. Denying Supreme Court review is not outcome-neutral, but weighted against effectuation of that Court's settled law. For the Court to accept such restrictions on its jurisdiction would not only violate the principles of *Marbury* v. *Madison* but the substantive rights that Congress seeks to override.

In short, the proposed bills are not truly provisions aimed at regulating jurisdiction, but rather are aimed at achieving a desired result—indeed at changing settled constitutional rules. That such legislation would be unconstitutional is, in the end, the lesson of *United States* v. *Klein*, 80 U.S. (13 Wall.) 128 (1872). In Klein, Congress had passed legislation which prevented certain claimants who had received Presidential pardons from receiving claim awards and which deprived the Supreme Court of jurisdiction to review claims based upon Presidential pardons. While nothing that in general Congress had power to regulate the Court's jurisdiction, the Court concluded that the legislation here was unconstitutional since "the language of the proviso shows that it does not intend to withhold appellate jurisdiction except as a means to an end. Its great and controlling purpose is to deny pardons granted by the President the effect which this court had adjudged them to have." 80 U.S. (13 Wall.) at 145.

Finally, a word about the famous Reconstruction case, *Ex parte McCardle*, 74 U.S. (7 Wall.) 506 (1869). In McCardle, the Court upheld Congress' power to repeal the Supreme Court's appellate habeas corpus jurisdiction that had previously been authorized by an 1867 statute. This outcome, along with some language in the Court's opinion, is sometimes read to establish that Congress has very broad power to withhold Supreme Court jurisdiction under the power to make "exceptions." Plainly the case cannot support such a reading. The opinion explicitly and carefully states that the repeal did not affect other jurisdictional statutes giving the Supreme Court power to review habeas corpus decisions. Indeed, in the very same Term as McCardle the Supreme Court held that denial of habeas corpus could be reviewed under those other provisions. *Ex parte Yerger*, 75 U.S. (8 Wall.) 85 (1869). Far from establishing Congress' broad power to remove access to the Supreme Court's appellate jurisdiction, McCardle actually stands for the proposition that in constitutional cases Congress may withhold one jurisdictional basis for Supreme Court review only if another jurisdictional basis is available.[4] The recent round of legislative proposals restricting the Supreme Court's appellate jurisdiction contains none of McCardle's escape hatches, and for that reason they are patently unconstitutional.

Mr. President, I will now read from the testimony of Edward Cutler, on behalf of the American Bar Associations, before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, of the Committee on the Judiciary of the U.S. House of Representatives, concerning legislation to divest Federal courts of jurisdiction to consider particular types of cases.

Mr. Cutler starts off as follows:

Thank you, Mr. Chairman and members of the Committee, for this opportunity to ap-

[1] "What's Wrong With Nixon's Busing Bills", *The New Republic*, April 22, 1972.

[2] *New York Times*, March 16, 1981; p. A16. The literature on the subject is vast. The starting point is Hart, "The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise in Dialectic," 66 Harv. L. Rev. 1362 (1953). See also Theodore Eisenberg, "Congressional Authority to Restrict Lower Federal Court Jurisdiction," 83 Yale L. J. 483 (1974).

[3] In any event, actions "animated by such a purpose have no credentials whatsoever; for '[a]cts generally lawful may become unlawful when done to accomplish an unlawful end . . ., whatever [their] actual effect may have been or may be.'" *City of Richmond* v. *United States*, 422 U.S. 358 (1975).

[4] Professor Bickel thought *Ex Parte McCardle* "aberrational", presumably because of the extraordinary Reconstruction background. In light of current constitutional doctrine which makes legislative motives and purposes one measure of constitutionality, *e.g.*, *Washington* v. *Davis*, 426 U.S. 229 (1976), *Ex Parte McCardle* is also aberrational in its methodology, for it reflects the outdated view that "We are not at liberty to inquire into the motives of the legislative."

pear before you during your deliberations upon the many bills which would withdraw from the United States Supreme Court and the lower federal courts jurisdiction on selected issues. You, Mr. Chairman, are quoted as saying that these bills "pose a constitutional crisis." This makes it fitting and important that the views of the organized bar be expressed.

My name is Edward I. Cutler, a practicing attorney from Tampa, Florida. I am here today as a representative of the American Bar Association, whose members comprise the bulk of the legal profession in the United States and number one-third of all of the lawyers in the world. We are committed to the goal of assuring meaningful access to justice in this country.

The ABA's Special Committee on the Coordination of Federal Judicial Improvements, which I chair, has, since its creation in 1971 worked diligently toward improvement of such access to justice in the federal court system. As you know, our Committee has, within its area of responsibility, many of the subjects falling within the jurisdiction of your Subcommittee and has over the years enjoyed a close relationship with you. Today, consistent with your invitation, we limit our testimony to those portions of the jurisdiction legislation upon which our Association has, in accordance with its rules and procedures, articulated an official position.

The Association has, of course, always been devoted to upholding our constitutional system of government. Only a month ago, in his address on Law Day, U.S.A., William Reece Smith, Jr., president of the A.B.A., reminded us that "we are a free people because we live in a society governed by the rule of law rather than the whims of the powerful," that the "Constitution and the Bill of Rights are the heart of that body of law," that "the greatest genius of the Constitution and the Bill of Rights lies in the balance they strike between order and liberty," and "just as we have a responsibility to make representative government work, we have a responsibility to see that the personal liberties guaranteed in the Bill of Rights are protected."

The constantly growing number of proposals before you to strip the federal courts of jurisdiction on various federal constitutional issues stems from substantial dissatisfaction, expressed currently with judicial decisions relating to abortion, busing, prayer in public schools and other public buildings, male-only draft registration, and who knows what next!

This Association has long opposed effectuating change in constitutional jurisprudence through jurisdictional legislation. In 1958, when the Congress was considering legislation to withdraw Supreme Court jurisdiction in certain matters,[1] the A.B.A. adopted a resolution which stated that, "reserving our right to criticize decisions of any court in any case and without approving or disapproving any decisions of the Supreme Court of the United States, the American Bar Association opposes the enactment of Senate Bill 2646 which would limit the appellate jurisdiction of the Supreme Court of the United States."

The 1958 resolution was based on a motion by John C. Satterfield (A.B.A. president 1961–1962), and on a report by the Association's Special Committee on Individual Rights as Affected by National Security, whose distinguished members included Ross L. Malone (A.B.A. president 1958–1959, a former U.S. Deputy Attorney General) who chaired the committee, and Whitney North Seymour (A.B.A. president 1960–1961). Their reasoning is equally applicable today:

The integrity and uniformity of judicial review and the *independence of the judiciary* are vital to our system of government. If they are impaired, individual rights will be imperiled. Since maintenance of individual rights is the most notable distinction between our system and the Communist system, and the one on which we must rely to rally the hearts and minds of men to our cause, their impairment would also, in a broad sense, injure our national security.

The bill would leave lower courts to make final decisions in the fields withdrawn from Supreme Court jurisdiction. We do not believe it sound to prevent review in the highest Court of such important questions. The lower courts may differ among themselves so that there may be great confusion in decisions. Resolution of such conflict is a historic contribution of review in the Supreme Court. *It is difficult to conceive of an independent judiciary if it must decide cases with constant apprehension that if a decision is unpopular with a temporary majority in Congress, the Court's judicial review may be withdrawn.* (Emphasis added).

I should point out that many distinguished members of the Congress, the Department of Justice, noted legal scholars, leading legal practitioners, and officials of state and local bar associations traversing the country, from the Association of the Bar of the City of New York and of the District of Columbia in the east, to the State of Washington in the west, including Edward L. Wright (A.B.A. president 1970–1971), similarly expressed their opposition to such legislation.

The organized bar did not participate in the extensive hearings held before your Subcommittee last year in connection with the Helms Amendment to S. 450 of the 96th Congress. At that time the controversy was confined to the withdrawal of federal court jurisdiction over cases involving prayer in public schools and buildings. It was that bill, which died in the last Congress, that has spawned the many bills now at hand. Had we been before you at last year's hearings, we would have joined in the constitutional and policy objections which were so well presented to you at that time.[2]

We remain as committed as ever to the same policy and, in connection with the pending bills, reiterate our strong opposition to such legislative restrictions upon the jurisdiction of the Supreme Court,[3] while reserving our right to challenge any of its decisions on the same or any other subjects.

Putting aside constitutional questions for the moment, the current bills should, at least as far as Supreme Court jurisdiction is concerned, be rejected as a matter of public policy. Supreme Court decisions interpreting the Constitution establish binding precedents, subject to alteration by the people through the process of constitutional amendment. The Framers provided in Article V a means of changing the Constitution and made it difficult to achieve. The "leaden-footed process of constitutional amendment," as Justice Frankfurter called it, with the requirement of extraordinary majorities in Congress and among the States, was designed to make sure that transient majorities could not easily change our fundamental law. To by-pass this method through jurisdictional legislation seems to ignore the concerns of the Framers.

We do not doubt the integrity of trial level judges, both state and federal, or their fealty to their oaths to uphold and defend the Constitution. However, to give them an unreviewable power to decide basic constitutional issues will inevitably lead to diverse local interpretations and practices under the Constitution.

In the absence of Supreme Court review, the command of the Supremacy Clause that the Constitution be the "supreme law of the land" would become a nullity. Since the adoption of the Judiciary Act of 1978, a constant feature of the history of federal court jurisdiction in this country, upon which the nation continues to depend, has been the review by the United States Supreme Court of state court interpretations on questions of federal constitutional law. If, as Justice Holmes reminded us, a page of history is worth a volume of logic, that singular fact stands as a practically unanswerable argument against jurisdictional legislation of the kind that concerns us now.

With regard to the constitutional issue, the Association does not believe that the "exceptions and regulations" clause will bear the weight the proponents would put on it. That clause authorizes congressional structuring of federal jurisdiction, to be sure, but not without limit. To construe it the way the proponents would is to make it the only power conferred on the Congress that is beyond the constraints of other provisions of the Constitution. The First Amendment, the Fourth Amendment, the Fifth Amendment, and all other express prohibitions limit the power of Congress to legislate with respect to other constitutional provisions under granting powers which would appear on their face to be unlimited. Examples are the taxing and spending clause, the commerce clause and the postal clause. The power of Congress to make exceptions and regulations to the appellate jurisdiction of the Supreme Court must be similarly limited.

A number of the pending bills would similarly attempt to eliminate the jurisdiction of the lower federal courts. Although the Association has not previously studied the legality and desirability of such legislation, it is doing so now. We anticipate that there will be an appropriate resolution before our House of Delegates in August and would hope that your Committee and the Congress will defer action on such legislation until the Association has had an opportunity to complete its study and make its recommendations on behalf of the organized bar of this country.

Meanwhile, I go back to the school days when I learned forever the fundamental lessons of our representative democracy, the constitutional division of power among the three branches of government, the protections of the Bill of Rights, the relationship between the state and federal governments in our great country, and the teaching of *Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137 (1803), that the Supreme Court of the United States must be our last bulwark in the exposition of the law of the Constitution.

Mr. President, Mr. Cutler's remarks, I think, particularly articulate the issues that are before the Senate. The real question is what value we place upon the

[1] S. 2646 of the 85th Congress dealt, among other things, with the following subjects, unrelated except that each arose from recent Supreme Court decisions involving alleged Communists: admission to the bar, proceedings before Congressional committees, executive security programs, state anti-subversive legislation, and teaching of Communism.

[2] As reported in the printed Hearings Before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the Committee on the Judiciary, House of Representatives, Ninety-Sixth Congress, Second Session, on S. 450, Prayer in Public Schools and Buildings—Federal Court Jurisdiction, July 29, 30, August 19, 21, and September 9, 1980 (Serial No. 63).

[3] We do not oppose, in fact we have supported, as a "housekeeping measure" to be enacted by the Congress, reduction in the *obligatory* jurisdiction of the Court, which was the original objective of S. 450, prior to the Helms Amendment. In its unamended form S. 450 was supported not only by the American Bar Association but by members of the Supreme Court itself.

law in this country. A Senator's words are not law that have gone through the constitutional process. Indeed, even legislation passed here is not law. It has not gone its way through the constitutional process.

Can anyone conceive of a nation that had only a legislative branch and an executive branch? That is in effect what is being called for as a matter of spirit and principle in the amendment of the Senator from North Carolina.

Two events take place on May 1 of every year. One is Law Day; the other is May Day.

That day represents to one nation the celebration of that which gives each one of us as an individual, and not as a nation, a uniqueness, which protects us from the irresponsibilities of men. The other celebrates that type of government which cares not a whit about the individual, where the decisions are made for the individual and where there is no recourse and no redress available to that individual.

Certainly, there is not one, neither on the floor nor in the galleries, who does not abhor the totalitarianism represented by a Communist government. But totalitarianism is not restricted to communism.

It is any government or any form of government which dictates the beliefs and the conduct of its citizenry without redress, without appeal, without consideration of what it is that resides within that individual either in terms of problems or hopes.

It could well be that under this Constitution there are many individuals who are not benefiting from the great thoughts and the great admonitions, the great rights expressed within this document. But by virtue of our legal system it is always possible to see that such a wrong is righted.

Who is to determine whether there is such a wrong? Not Senator WEICKER, not Senator HELMS—at least not up to this point— but right here, these words, these thoughts. They do not change what is right or what is wrong.

I wish that somehow I could make people understand the issue on this floor because the issue indeed is the survival of this Government of free persons, and to retain that freedom means there will be those times when we heartily disagree and, indeed, are penalized by our Government for our transgressions.

I understand all of that. It is not a utopia. This country was never conceived as such. Indeed, the quieter we become, usually the more trouble is afoot. But there has to be an end to every process. In this case the judicial process in the United States is the end. There has to be an end. From the people of this country to the representatives, to the President, to the courts, and finally to the Supreme Court, that is the law, that is our form of civilization, the greatest that man has ever conceived.

What this legislation says, if we do not like the ending, having gone the entire constitutional process, then we throw the umpire out of the game.

The matter for debate on this floor does not relate to a few school districts, to a few blacks, to a few whites. It does not relate to busing and it does not relate to education. It relates to all of our civil rights, all of our legal rights. It relates to our status as individuals within the framework and standing before our Government. That is what is involved.

My friends of the press, believe me, this also involves them. It involves the first amendment. It involves their civil rights. It involves the rights of the handicapped and the disabled. It involves the rights of the working people. I see much, as I read my newspaper, about how there is a revolt in middle America among the blue collar workers, and so forth. How did they achieve their rights? They were a minority. The great labor movement, which is now the conscience of the United States of America, and which has been in the forefront of so much of our social legislation, had to win its rights through the courts of this country and, fortunately, I might add, for us the leadership of the labor unions still understand that.

Those who are elderly, our senior citizens, who had been put on a shelf to be viewed, no longer to be a part of our society, to be discriminated against; how do they come to be once again in our conscience as a nation? Because they used the courts, and they still do.

Unfortunately, it did not turn right out just as a matter of individual concerns. Before you are all through with it, whether it is what you do with your hands or what you do with your minds or the color of your skin or where you came from or what your religion is, there is not one of us who not only walks in freedom but thinks in freedom because we know we have the justice and the judicial system of this country in full operation, in free operation, and it stands alongside of us.

There are many times you wish maybe it would be gone because you do not like a particular decision. But this wheel is going to come full circle here in the Senate.

Is there anybody who does not think it will? You have seen the politics of your own country. We can go from conservative to liberal, from Republican to Democrat and back again. But what does not change is the law, the availability of the law to each one of us and the ability of each one of us to stand before the law and to seek its assistance. This is the issue.

No matter how high anybody feels he is riding today at sometime in each of our lives we will thank God for that which is the law and that which does not change.

I remember when I first came to the U.S. Senate—and this might be interesting, Mr. President, to my southern brethren here—and they had a vote on changing rule XXII, the filibuster rule, the cloture rule, and they wanted to bring it down from 66 to 60 to invoke cloture, guess who voted against changing the rule?

This Senator from Connecticut joined with my southern colleagues because I always wanted to make sure that the minority would be protected. At that time those from the Southern States and their views were in the minority, and their philosophy in the minority.

But I voted with them because I wanted to protect them. That is the greatness of this body here, which is the matter of unlimited debate, and the fact that minority views can be heard.

So there is no inconsistency in this Senator's standing before this body and pleading that the rules of the game do not change. I did not change them when I was in the majority in the sense that I describe.

There is no reason why policies cannot change. That is the business of politics and philosophy. Not the law, at least not by a handful of U.S. Senators using the funding process.

If they are such great advocates of the Constitution, why do they not go out there and get a constitutional amendment? Why does not my good friend from North Carolina seek out a constitutional amendment on abortion? Why not a constitutional amendment on busing? Why not a constitutional amendment? The Senator knows he could not get a constitutional amendment, not within his lifetime, not in his lifetime.

To show you how out of step the U.S. Senate is with the people of America, we, under the leadership of the distinguished Senator from North Carolina, 2 weeks ago sat here and told a woman who had been made pregnant by and through rape, who was having a child through incest that no Federal funds would be available for an abortion.

One week later ABC and the Washington Post took the poll in the United States of America, and 50 percent of those polled said abortion should be legal under such circumstances; 40 percent said it should be legal under all circumstances, and 10 percent of the people felt the same way as the Senate of the United States.

That is why there will be no constitutional amendment, because you cannot pull these rotten issues out into the broad light of day and expect them to swim or sail. They will not. They represent a narrow band of thinking that is not the thinking of this country.

Yes, we believe as a nation in the courts of this land and we want their protection, fully understanding as a people that sometimes decisions are going to go against us. But not all America is swaying to the political winds and wondering about reelections. We really are more interested in making sure that our institutions are sound and will remain sound.

Yes, all America is interested in the fact there is going to be equality among us. We understand that civil rights is not a black and white issue, but it relates to the state of our minds and our bodies, that is civil rights; and our age, that is civil rights; and our sex, that is civil rights; and our religion, that is civil rights.

What gall for those that call themselves conservatives and profess a belief in the Constitution of the United States that they bring their religion in on this floor and into the Government of this

country. Have you read the Constitution? Have they?

Amendment No. 1: "Congress shall make no law respecting the establishment of religion." That is what it says, "no law." And the reason why "no law" was that thousands came over here because somebody did try to make a law and put it on top of them and they did not like it and they founded a new country and now we have to go 200 years later through the same exercise. What gall.

Uphold the Constitution? They do not even know what it says and they care less.

But I think the people of this country understand. They understand that they do not want anybody telling them what they ought to believe in. They understand that what was prejudice against the Catholics only a few years ago could be a prejudice against their religion tomorrow. There will pass a day when Protestantism is the official religion of the land.

The only duty this U.S. Senate has is to make damn sure that whatever anybody believes in their heart they can continue to believe it and that nobody is going to impose on them their particular faith. And I am not going to see in any manner or shape or form—I am sure this issue will come up—the United States becoming a theocracy. It is not.

The only faith that I am committed to is the Constitution of the United States. That is the scripture, that is the law, that is the Bible, that is the Torah, that is whatever you want to call it. That is it. Period.

Who am I to know what God's will is? That is arrogance. And that is not the Constitution.

No, every great concept of this instrument is being thrown out on this floor for deliberation and potential passage by this body. This used to be the house of great ideas. Right now my duty is that of a garbage collector. What is being thrown out is trash and it is not worthy of even consideration.

I do not care what the votes are. We are talking about matters of the greatest principle. But the only thing I am not willing to do is to have somebody else make the decision.

"Oh, I tried my best, but, don't worry, the President will take care of it."

One day, the President is not going to take care of it. The President is going to be sitting there in the White House and say, "Well, let the Supreme Court take care of it." One day the Supreme Court is not going to take care of it and all of a sudden it is gone. That very process which you are trying now to interrupt or to distort, it will go, the whole process, because nobody cared and then it will become a law.

Do you realize why we are in this predicament even now? It is because nobody has cared in election after election. From 90 percent, to 80 percent, to 70 percent, to 60 percent. Nobody cares. There is no such thing as Washington. There is no such thing as those Senators, those Congressmen. It is a representative democracy. It is us.

And if nobody cares at the beginning of the chain, then, believe me, it is only a matter of time before nobody cares at the end; and it is all gone then. That is the reason why the fight here is not busing. Fine, if this administration does not want to use busing in a policy sense, that is their business. I can live without it. But what I cannot live without is the ability of the court to make its judgment as to how the illegality is going to be remedied.

What good is to to say if somebody is guilty if there is nothing you can do about it? What is the alternative being proposed out here on the floor? Have you heard any Senator saying, "I am against busing, but here is what we are going to do"? You do not hear that. You hear, "I am against busing." Period.

What do you do? What do you do? Unless somebody is also in the back of their minds saying there is no discrimination. Now you know that is not so. And the courts say that it is not so.

Mr. CHAFEE. Will the Senator yield for a question?

Mr. WEICKER. Yes, I yield for a question to my distinguished colleague from Rhode Island.

Mr. CHAFEE. As I understand the amendment that is on the floor, the Weicker amendment, it says:

> Except that nothing in this act shall be interpreted to limit in any manner the Department of Justice in enforcing the Constitution of the United States, nor shall anything in this act be interpreted to modify or diminish the authority of the courts of the United States to enforce fully the Constitution of the United States.

Am I correct in reading this?

Mr. WEICKER. The Senator is absolutely correct. That is all it states.

Mr. CHAFEE. My question then is, I cannot understand why this just is not accepted by a voice vote. Is there anybody around here who is suggesting that we want in any way to limit the Department of Justice in enforcing the Constitution of the United States or to diminish the authority of the courts to enforce fully the Constitution of the United States? It seems to me that is about the simplest matter we have had come before this Senate in quite awhile. I cannot see why there is any debate over it.

Do I further understand that the Helms amendment, which is the underriding amendment to which the Senator's amendment goes, do I understand that that would prohibit "the Justice Department from bringing any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped"?

Now, as I read that language, the Department of Justice would thus, as I see it, be effectively barred from participating in any desegregation case where busing could be part of the remedy.

As I follow these cases over the years, busing is never the remedy, it is considered in connection with remedies to these desegregation difficulties.

Now am I correct in the Senator's interpretation? Does he see this as the virtual repeal of the 1964 Civil Rights Act declaring support for the Supreme Court's decision in Brown against the Board of Education? Is that the Senator's position?

Mr. WEICKER. Senator, my position is that is exactly what the legislation does. Let me try to answer the Senator's questions step by step.

First of all, the Senator says, "How is it that we are not having a voice vote on the Weicker amendment, which merely requires the Justice Department and the courts to enforce the Constitution"?

Now I do not want to lose my right to the floor, but I certainly would like to have Senator HELMS answer your question because I cannot conceive of how any Member of the U.S. Senate can vote against the Constitution being enforced by the Justice Department or the judiciary.

I do not know how anybody can go ahead and vote against that, unless they feel that, in the recesses of their hearts, they really just do not want a judicial system; they do not want any independence of decision.

I fail to see where any possible harm, ulterior motive, or deviousness could enter into the Justice Department and the courts in enforcing the Constitution of the United States. I do not. As far as I am concerned, I am willing to have it taken by a voice vote right now.

Mr. HELMS. Will the Senator yield?

Mr. WEICKER. I yield.

Mr. HELMS. The Senator is not familiar with the 1964 Civil Rights Act because it specifically excluded the busing. That answers the question.

Mr. WEICKER. Nothing specifically excludes busing. The Senator knows that as a matter of law.

Mr. HELMS. I beg the Senator's pardon.

Mr. WEICKER. What the Senator is trying to do at this juncture is to do an end-around the Constitution of the United States.

Mr. HELMS. No, he is not.

Mr. WEICKER. Fortunately, the Constitution will be here long after the Senator is gone. I might add, thank the Lord that those words, those concepts are going to be here and they will be in place, regardless of what either of our philosophies are, parties are, regions, whatever. They will be here and they will guarantee the rights, the impartial adjudication of rights, for all Americans. Not the Senator's adjudication.

On the second part of the question of the Senator from Rhode Island, what, effectively, it does, to the Justice Department, if we take a look at the Helms amendment where it says, "No part of any sum authorized to be appropriated by this act shall be used by the Department of Justice to bring or maintain any sort of action to require directly or indirectly the transportation of any student to a school," how is the Justice Department going to know where a matter ends up?

Here they are saying you cannot appear in court. That is what they are saying. You cannot appear in court because this might directly or indirectly end up in busing. How do they know? It re-

moves the Justice Department of the United States from effectively pursuing any matters of discrimination.

Mr. CHAFEE. I wonder if the Senator will yield for another question.

Mr. WEICKER. Of course.

Mr. CHAFEE. Am I correct in my view of this that what we are debating here is not probusing or antibusing? Am I correct in my view that really this has nothing to do with busing whatsoever?

Mr. WEICKER. That is correct.

Mr. CHAFEE. Am I also correct in viewing this as an issue in which busing is being dragged in, busing being looked upon as relatively unpopular, dragged in as a tool in order to remove the Justice Department from getting involved in any way in desegregation cases? Am I correct in my understanding of what the Senator was previously saying that when you prevent the Justice Department from being involved directly or indirectly in a desegregation case where busing might be a tool, what you are really saying is that the Justice Department cannot get in at all because, indirectly, busing might be involved?

Am I correct in that?

Mr. WEICKER. The Senator is absolutely correct. I might add, I will go one step further. In the amendment, the author of the amendment actually engages in discrimination in the amendment as he discriminates between students that I am sure he considers to be normal students and those who are mentally or physically handicapped. It is an exercise in discrimination both in its entirety and in its specificity.

Mr. CHAFEE. Let me ask the Senator a question. We went through this routine last year. I am not sure what the vote was, but I am sure, and am I not correct, that the President vetoed this legislation last year?

Mr. WEICKER. The Senator is correct. I lost on this matter 46 to 43, and the President subsequently vetoed for the reasons I have stated.

Mr. CHAFEE. I would ask the question, what happened thereafter? I cannot recall that the Senate took up the matter subsequently on the overriding provision. Was that late in the session and, therefore, it did not come, or was the veto sustained in the House?

Mr. WEICKER. Let me get my chronology in order. The President threatened to veto. I will get the precise response.

On December 4, 1980, President Carter indicates he will veto the State, Justice appropriations bills because of the Collins-Thurmond language, because it impairs the Government's ability to enforce our Constitution and the Civil Rights Act. On December 10, 1980, the Senate accepts a Weicker amendment that eliminates the Collins-Thurmond language from the State, Justice portion of the continuing appropriation bill. Because the State, Justice portion is effective for all of fiscal year 1981, it means, in effect, that it had no effect, or the language was removed. In conference on the continuing resolution, the Collins-Thurmond language was dropped from the final version of the bill.

In other words, it was under the threat of a Presidential veto that the Congress dropped the language.

Mr. CHAFEE. I see.

I suppose that the proponents of the underlying amendment, or others if not proponents, might well try and tar those of us, such as the Senator from Connecticut, and I am supportive of his position, who are protesting the Helms amendment, I suppose some might find it a convenient occasion to label the Senator and his allies in this effort as probusing.

I might say that I have reservations on busing, but I would also like to say that I think to remove busing completely as a tool in trying to achieve racial desegregation would be unfortunate.

I look on busing as a last resort measure. I think busing certainly should be considered, not as the sole measure nor as the primary measure, but as a possible tool to achieve desegregation.

However, under the Helms amendment, as I understand it, and reviewing what we went over a few minutes ago, that busing would not be permitted either directly or indirectly in any kind of a solution.

Am I correct in my judgment that this amendment is blatantly unconstitutional; that if it were approved, it would remove from the executive branch the only power the executive branch has to assure that Federal funds are spent in a constitutional manner; that it would require the executive branch to continue to fund school districts that it knows to be unconstitutionally segregated?

Here is a question: Am I correct in saying we have a law on the books? The Supreme Court, in interpreting the Constitution of the United States, says that certain actions have to be taken. If this legislation were passed. it would say that it is fine to have the law on the books, but that portion of the U.S. Government responsibility for enforcing the laws would not be permitted to act. Am I correct in that?

(Mrs. HAWKINS assumed the chair.)

Mr. WEICKER. The Senator is correct.

Mr. CHAFEE I find it inconceivable that this Congress could even give thought to such a proposition.

If we do not like the underlying law, am I not correct in suggesting let us change the underlying law? If they do not like busing, if they do not like that which the Supreme Court of the United States has so interpreted, that there has to be desegregation and that this is a tool to achieve it—if they do not like all that, I suppose there are other ways to change it.

Mr. WEICKER. That is right.

Mr. CHAFEE. We can change the Constitution, eliminate desegregation in the country, eliminate busing as any possible tool.

Mr. WEICKER. That is right.

Mr. CHAFEE. But to say that we are going to get around the Constitution by saying that the law enforcement agencies of the United States cannot proceed to enforce the Constitution is the most ridiculous and obviously unconstitutional act that could possibly be taken.

Let me ask the distinguished Senator a question: Has anything like this ever come before the Congress on a prior occasion that he knows of?

Mr. WEICKER. Well, it did, in the last session of the last Congress.

Mr. CHAFEE. I meant except in connection with this effort by those who oppose busing to achieve desegregation.

Mr. WEICKER. No.

Mr. CHAFEE. Has this Senate ever previously acted to get around the Supreme Court or the Constitution of the United States by taking an action such as this?

Mr. WEICKER. I think similar measures, insofar as utilizing the appropriations process, have occurred. I think we saw it in the abortion debate. But this is the second time that there is actual opposition to an amendment reaffirming the ability of the Justice Department and the courts to enforce the Constitution of the United States. That is unique.

Mr. CHAFEE. Let me ask the Senator this: If this amendment should be adopted, would that not open the appropriations process to a whole series of actions? For example, some people do not like the banning of school prayer.

Mr. WEICKER. That is right. That will be next. That will be next, I say to the Senator.

Mr. HELMS. That is right.

Mr. CHAFEE. That will be the next technique.

The Constitution says one thing, but those who do not like the Constitution and do not have the votes to change it will then come up here and then, with a 51-to-49 vote on the floor of the Senate, will say that the Justice Department cannot enforce the Constitution and the laws thereof of the United States.

Mr. WEICKER. That is right.

Mr. CHAFEE. This has unlimited opportunities, I suppose.

Mr. WEICKER. For example, we know that the education of the retarded and disabled children is enormously expensive, so I can foresee the time come when, with very limited funds out there, somebody is going to say, "Now, listen, that has gotten to be too expensive, and we have to take care of the majority of children out there first. So let's take care of them. So let's make sure that the Justice Department can't pursue the civil rights of the retarded and disabled."

Everybody can conceive that this argument has to do with black people and Hispanics. We are talking about a civil rights issue, I say to the Senator. It applies to each of us, and all of a sudden, maybe one of these days, it will be unpopular to be old; it will be unpopular to be disabled; it will be unpopular to be an American, and you no longer have the Constitution there to defend you.

Well, maybe one of these days, if the distinguished Senator from North Carolina keeps it up, it will be unpopular to be a U.S. Senator, and you will not have the Constitution to protect you, and we will just go ahead and make sure the Justice Department is going to keep hands off.

Mr. CHAFEE. Let me ask a question here. What arguments do the proponents of this measure give? Do they say the Constitution is just a little bit of unnecessary baggage we should not have around and it is unfortunate? It says

what it does, but we will take care of it through the appropriations process.

Does that seem to be the rationale? I have not heard the proponents of this measure. Has the Senator received any answer to their position?

Mr. WEICKER. Their position, very simply, is that they could not achieve a constitutional amendment through the constitutional process—they know that. Indeed, they could not go ahead and in regular legislative fashion—that is, regular hearing, committee hearings, and floor debate on the issue—they could not win that way. They are doing it end-around the Supreme Court of the United States and around the Congress of the United States.

I repeat—so that nobody has to worry, I might add, about being tarnished, about being probusing or antibusing—we are not even on a busing amendment. We are on a Weicker amendment that says the Justice Department and the courts will enforce the Constitution. That is bothersome. What in heaven's name is going on on the floor here, when men cannot stand up and vote? I will tell you why they cannot vote; I will tell you exactly.

Do you know when this antibusing legislation was passed the first time? Note the date—September 25, 1980. That was about a week or two before the election, I say to the Senator, and that was the threat hanging over the peoples' heads.

I am going to tell the Senator from Rhode Island and the Senator from North Carolina: I will be proud, proud to stand as I am now, on behalf of an undiluted Constitution; and if that means busing, I say to the Senator, then I run on that. But what I will not do is to save my backside and go around here saying that life in this country is all roses and it is all pleasant. There comes some pretty tough times, both individually and collectively as a society, when you have to stand up for this doctrine.

Mr. CHAFEE. Let me ask the Senator another question.

We have a constitutional amendment which has provided that the youths 18 years of age have the vote. We know the kind of dangerous crowd that group is. Sometimes they do not shave right. Their clothes are disreputable. Many of them smoke pot. They are kind of a rough crowd.

Suppose we thought that those 18-year-olds really are not sensible enough, despite what we have done to the Constitution, to vote. Would it not be possible to say that that scruffy crowd, these 18-year-olds who will be a rather dangerous threat—what is more, they do not get haircuts. Suppose we said that the Justice Department could not use any appropriated funds to enforce the protection of the rights of the 18-year-olds to have a vote. Is that a possibility, if we follow along the same theory that the Helms amendment does today?

Mr. WEICKER. It is absolutely correct, I say to the Senator.

Mr. CHAFEE. That is a very interesting approach. The Senator means an 18-year-old who goes to vote, you deny him the vote? Sure, he is 18, but he does not have the sense that those older people have, those old 21-year-olds have, so he is denied the right to vote. He proceeds under his constitutional rights. Where is he? He is left hanging there. The Justice Department cannot act on his behalf?

Mr. WEICKER. What the court can do is say, "Young man, your constitutional rights have been violated. Good day and good luck." Now that is it, no remedy. In other words, the adjudication——

Mr. CHAFEE. He has won the case, but he still does not have the right to vote.

Mr. WEICKER. That is right, absolutely right, I say to the Senator. There could not have been a better example of what is going to be effected here by the amendment of the Senator from North Carolina.

Mr. CHAFEE. It is somewhat similar to what Andrew Jackson said. Did not he say, "The court made the decision, now let them enforce it"? You strip away the enforcement powers, which are the only things that we have to enforce the law. It is all right to have laws. It is all right to have equal justice under laws. But what protection is there if the Justice Department is not there to enforce that individual's right? Am I correct in believing that it is an absolutely hollow victory?

Mr. WEICKER. The Senator is correct.

What is being proposed here, in effect, is that the realization of justice will then take place on the streets rather than become a matter of individual justice. In other words, the whole system of law disintegrates.

I find it ironic that those who stand up in the name of God, country, and whatever else they wave around in the air, are the ones who, in effect, advocate an anarchistic approach toward the justice system of this country.

The Senator is absolutely correct when he says that it does not do much good to go ahead and have a right or, indeed, have that right determined, if the right cannot be enforced or the remedy cannot be enforced.

That is not roughly what the amendment of the Senator from North Carolina says; that is what it says.

Mr. CHAFEE. I wonder whether I may ask the Senator another question. I wonder whether the Senator will agree with the following editorial which appeared in the Providence Journal, in Rhode Island, on November 19, entitled "Reopening the Nation's Wounds Over Court-Ordered Busing," as follows:

Etched into the memories of most adult Americans over the age of 40 is the landmark 1954 U.S. Supreme Court case, *Brown* v. *Board of Education*. It was the end of so-called "separate but equal" public schools for black and white students and the beginning of nationwide school desegregation.

Progress toward racial harmony in this country over the last quarter century has been enormous. Federal civil rights legislation of the 1960's went far in promoting equality of opportunity in employment, housing, education and the political selection process. Progress continues but there remain many more rivers to cross.

Mr. HELMS. Madam President, is the Senator asking a question?

Mr. CHAFEE. I am asking whether he agrees with this editorial.

Mr. WEICKER. I beg the Senator's pardon. I do not understand what the Senator from North Carolina said.

Mr. CHAFEE. He was asking if I was asking a question.

Mr. WEICKER. That is the way I understood the question that was posed.

Unless the Senator cares to impose his rules on the U.S. Senate, I think we will stick to the Senate rules.

Mr. CHAFEE. I continue to read:

On Monday, however, Congress regressed—in time and principle. The Senate, following earlier action by the House, approved an appropriation bill containing a provision that harks back at least 20 years to the period before busing for school desegregation purposes became a burning issue. If the bill becomes law, it will prohibit the U.S. Department of Justice from using federal funds in furtherance of legal action that could result in court-ordered busing.

Such a law would prevent the nation's top law enforcement agency from seeking a transportation remedy for unconstitutional school segregation. Put another way, it might well start a chain reaction that could undo a great deal of the goood that has been accomplished in the sensitive area of race relations.

As Sen. Lowell Weicker, R-Conn. said last week, the anti-busing amendment is "an abandonment of the Constitution of the U.S. and a retreat from assuring equal opportunities in education to all the children in this country. The issue is not busing.

I should like to repeat that the issue is not busing.

The issue is "whether or not the Justice Department will be able to enforce the Constitution."

School busing in the last few years has not been a highly controversial issue. More than two years ago Detroit became the largest school district in the nation to comply with court-ordered busing. The desegregation process got under way without a hitch. Boston, after its tumultuous beginning, has largely come around. Indeed, even at the start serious disorders occurred at only four Boston schools. As the United States Commission on Civil Rights noted in a 1975 report, "desegregation proceeded in a peaceful and orderly manner in and around 76 schools."

That is a reference to Boston which is always pointed out as the area where busing has wrecked havoc.

In Louisville, Ky. and Charlotte, N.C. busing is an accepted fact of life. Even Jackson, Miss., which fought desegregation for a decade in the courts, has largely accepted the inevitable. In March 1978 these newspapers noted that "five of the seven all-white private academies (formed to provide a segregated alternative for whites) have closed and white enrollment in the public schools is climbing back toward normal."

Busing is not the optimum solution to segregation.

And to that I say amen.

It ought to be used only as a last resort. But Congress in reopening the old wounds is calling into question all the monumental gains that have been made over the last 27 years. It is raising false hopes that the former sancity of the neighborhood school will be restored. It is saying to more than 20 million black Americans that the racially charged words "forced busing" are about to have their currency restored.

I might note parenthetically it is always "forced busing." That has a ring of evil to it.

This is not the way America in the 1980's is described to go, notwithstanding the ultaconservative rise of the Strom Thurmonds and Jesse Helms, Rhode Island's Sen. John H. Chafee noted on Monday that many senators who believed the anti-busing measure was unwise or unconstitutional voted for it because they were afraid that political opponents could use the vote to portray them as supporters of "forced school busing."

The constitutionality of this legislation is seriously in question. If it passes—both a Senate-House conference committee and presidential approval are pending—it is certain to be challenged in the federal courts. Prosecuting federal legal remedies for segregated schools because the busing of school children is unpopular would be hard to reconcile with the social injustices committed against blacks for 300 years.

U.S. Atty. Gen. Benjamin Civiletti has said he will recommend that President Carter veto the bill and that he understands the State Department will do the same. Under the circumstances there seems no alternative.

Now my question to the Senator is does that seem to be a fair summary not of the legislation a year ago or last November but of this legislation to which the Senator's amendment is appended? Am I correct in my appraisal of that?

Mr. WEICKER. The Senator is absolutely correct in his appraisal.

Madam President, I ask unanimous consent that the editorial be printed in the RECORD in its entirety at this point.

There being no objection the editorial was ordered to be printed in the RECORD, as follows:

REOPENING THE NATION'S WOUNDS OVER COURT-ORDERED BUSING

Etched into the memories of most adult Americans over the age of 40 is the landmark 1954 U.S. Supreme Court case. Brown v. Board of Education. It was the end of so-called "separate but equal" public schools for black and white students and the beginning of nationwide school desegregation.

Progress toward racial harmony in this country over the last quarter century has been enormous. Federal civil rights legislation of the 1960's went far in promoting equality of opportunity in employment, housing, education and the political selection process. Progress continues but there remain many more rivers to cross.

On Monday, however, Congress regressed—in time and principle. The Senate, following earlier action by the House, approved an appropriation bill containing a provision that harks back at least 20 years to the period before busing for school desegregation purposes became a burning issue. If the bill becomes law, it will prohibit the U.S. Department of Justice from using federal funds in furtherance of legal action that could result in court-ordered busing.

Such a law would prevent the nation's top law enforcement agency from seeking a transportation remedy for unconstitutional school segregation. Put another way, it might well start a chain reaction that could undo a great deal of the good that has been accomplished in the sensitive area of race relations.

As Sen. Lowell Weicker, R-Conn. said last week, the anti-busing amendment is "an abandonment of the Constitution of the U.S. and a retreat from assuring equal opportunities in education to all the children in this country. The issue is not busing. The issue is whether or not the Justice Department will be able to enforce the Constitution."

School busing in the last few years has not been a highly controversial issue. More than two years ago Detroit became the largest school district in the nation to comply with court-ordered busing. The desegregation process got under way without a hitch. Boston, after its tumultuous beginning, has largely come around. Indeed, even at the start serious disorders occurred at only four Boston schools. As the United States Commission on Civil Rights noted in a 1975 report, "desegregation proceeded in a peaceful and orderly manner in and around 76 schools."

In Louisville, Ky. and Charlotte, N.C., busing is an accepted fact of life. Even Jackson, Miss., which fought desegregation for a decade in the courts, has largely accepted the inevitable. In March, 1978 these newspapers noted that "five of the seven all-white private academies (formed to provide a segregated alternative for whites) have closed and white enrollment in the public schools is climbing back toward normal."

Busing is not the optimum solution to segregation. It ought to be used only as a last resort. But Congress in reopening the old wounds is calling into question all the monumental gains that have been made over the last 27 years. It is raising false hopes that the former sanctity of the neighborhood school will be restored. It is saying to more than 20 million black Americans that the racially charged words "forced busing" are about to have their currency restored.

This is not the way America in the 1980's is destined to go, notwithstanding the ultraconservative rise of the Strom Thurmonds and Jesse Helms. Rhode Island's Sen. John H. Chafee noted on Monday that many senators who believed the anti-busing measure was unwise or unconstitutional voted for it because they were afraid that political opponents could use the vote to portray them as supporters of "forced school busing."

The constitutionality of this legislation is seriously in question. If it passes—both a Senate-House conference committee and presidential approval are pending—it is certain to be challenged in the federal courts. Proscribing federal legal remedies for segregated schools because the busing of school children is unpopular would be hard to reconcile with the social injustices committed against blacks for 300 years.

U.S. Atty. Gen. Benjamin Civiletti has said he will recommend that President Carter veto the bill and that he understands the State Department will do the same. Under the circumstances there seems no alternative.

Mr. WEICKER. Madam President, the Senator is correct. The comments contained in the editorial are correct.

The fact is that it is an easy task, indeed, for power to appeal to the baser emotions that exist in every one of us as human beings and thus translate those baser emotions into that which becomes hysterical.

The fact is that each citizen of this country should keep clearly in his or her mind the value of this Constitution and not allow any temporary hysteria to go ahead and obviate its value, its particular personal value to them.

This is their greatest protection, not Senator WEICKER, not Senator HELMS, not Senator CHAFEE, but that Constitution.

We became a Nation because a group of men fled from the rule inspired by the baser emotions of men. That is why we became a Nation. That is why men fled across the oceans to come here and the safeguards that they set up were not a matter of speculation. They were not something dreamed up out of thin air.

Why these safeguards? They were put there because they were born of bitter experience, experience where men's prejudice cost men's lives.

And I say for my friends in the gallery that first amendment was born of the bitter experience where men and women could not write what was on their minds or in their hearts or if they did, yes, thrown in a corner and forgotten or even worse—death.

Now it becomes sort of a light thing to bandy about in libel suits and all the rest of it. But understand the origin of it. It dealt with life itself. Never mind the words that were written.

And no matter how unpopular for the moment the media might become, and it can become unpopular for the moment, that survives. That does not change. And it cannot change because some Senator gets on this floor and says in those suits involving first amendment cases the Justice Department shall or shall not prosecute, shall or shall not ask for a particular remedy. When this goes you go, if that principle is established.

So unlike all of us who have to speculate when we pass the law—yes; we think we are responsive to a particular need as expressed or a particular hope of our constituents, but still it is a matter of speculation—this is no speculation, not that Constitution. That is no speculation. That was born of pretty hard experience.

If you think you are smarter than that experience then indeed you do take your life and the life of the Nation in your own hands.

I wish to read and include in the RECORD at this time the entirety of the Leadership Conference on Civil Rights and the letter which has been sent to all Senators.

The composition, incidentally, of the Leadership Conference is:

Honorary Chairmen, A. Philip Randolph, Roy Wilkins; Chairman, Clarence M. Mitchell; Secretary, Arnold Aronson; Legislative Chairperson, Jane O'Grady; Counsel, Joseph L. Rauh, Jr. The Executive Committee consists of Bayard Rustin, Chairman, A. Philip Randolph Institute; Wiley Branton, NAACP Legal Defense and Education Fund, Incorporated; David Brody, Anti-Defamation League of B'nai B'rith; Senator Edward W. Brooke, National Low Income Housing Coalition; Jacob Clayman, National Council of Senior Citizens, Incorporated; Douglas A. Fraser, International Union of United Automobile Workers; Dorothy Height, National Council of Negro Women; Msgr. George Higgins, U.S. Catholic Conference—Division of Urban Affairs; Ruth J. Hinerfeld, League of Women Voters of the U.S.; Benjamin L. Hooks, National Association for the Advancement of Colored People; Ronald Ikejiri, Japanese American Citizens League; Vernon Jordan, National Urban League; Janice Kissner, Zeta Phi Beta Sorority; Iris Mitgang, National Women's Political Caucus; Gilbert Padilla, United Farm Workers of America; Reese Robrahn, American Coalition of Citizens with Disabilities; John Shattuck, American Civil Liberties Union; Eleanor Smeal, National Organization for Women; Rev. Leon Sullivan, Opportunities Industrialization Centers; J. C. Turner, International Union of Operating Engineers; and Kenneth Young, AFL–CIO.

WHY ALL SENATORS SHOULD VOTE AGAINST THE COLLINS AMENDMENT TO THE JUSTICE AUTHORIZATION BILL

The Collins amendment is the Helms language.

1. The Collins Amendment would prohibit the Justice Department from bringing "any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped." The Department of Justice would thus be effectively barred from participation in any desegregation case where busing could be part of the remedy. This would work a virtual repeal of provisions of the 1964 Civil Rights Act declaring support for the Supreme Court's decision in *Brown* v. *Board of Education* and authorizing the Executive branch to aid in the enforcement of the constitutional right to nondiscrimination in public education.

2. The amendment is blatantly unconstitutional. The amendment would remove from the Executive branch the only power it has to assure that federal funds are spent in a constitutional manner. It would require the Executive branch to continue to fund school districts that it knows to be unconstitutionally segregated.

A federal court of appeals here has already indicated (in *Brown* v. *Califano*) that cutting off the Justice Department's right to go to court would raise "grave constitutional difficulties." And landmark cases such as *Cooper* v. *Aaron*, 358 U.S. 1 (1958) speak directly to the government's obligation not to support unconstitutional activities.

3. If the Senate passes the Justice Department Authorization Bill with this amendment included, it can be predicted with a fair amount of certainty that President Reagan will sign the bill into law. The Senate would be participating in a violation of the separation of powers—the placing by Congress of an unconstitutional restraint upon the powers of the Executive branch. The responsibility of every Senator to carry out the dictates of the Constitution mandates that the Senate not pass a bill that places such unconstitutional restraints on the Executive branch.

4. While the Senate could pass the bill and leave the matter to the courts to deal with after the President signs the bill, it would be an abdication of responsibility. The aim of this amendment is to put pressure on the courts by isolating them for Congress and the Executive as happened after the *Brown* case. If the Senate passes this bill, it is assisting the sponsors of the amendment in carrying out their aim.

5. No case has been made for the Collins Amendment. It has not been shown that the Justice Department has played a harmful role in desegregation litigation. The amendment does not deal with whether busing can be judicially required in a particular case. The courts, not the Department of Justice, determine the appropriate remedy in a school desegregation case. This amendment will not stop desegregation litigation or the use of judicially-ordered busing as a remedy for illegal segregation. It will keep the Department of Justice from insuring that federal funds are spent in a constitutional manner.

6. People who say that desegregation involving busing has been a failure are incorrect. Research and practical experience show that a great deal of progress has been made through school desegregation orders involving busing. Research on how desegregation affects achievement scores and the relationship between desegregation and white flight show that desegregation involving busing can be both beneficial and stable. The Collins Amendment is part of a campaign to get the courts out of desegregation cases and to stop desegregation progress dead in its tracks.

7. Whatever the views of individual senators may be about busing as a desegregation remedy, we cannot believe that they would want to act in callous disregard of the Constitution and in a way which threatens to destroy the progress in race relations that has been achieved through civil rights legislation over the past seventeen years. Yet those are precisely the destructive results that will flow from passage of this amendment to the Justice Authorization Bill.

Mr. President, I know the distinguished Senator from Ohio has several questions to ask, which I care to respond to, but for 1 minute I have to continue with my statement, and then I am most anxious to listen to him, to ask really what has happened in this Nation where 100 U.S. Senators are unable to stand up and reaffirm the right of the Justice Department and the courts to support or to enforce rather the Constitution of the United States? What kind of insanity is afoot in this Nation that makes Senators afraid to stand up and vote for that kind of amendment?

I think I know what it is. It is what I referred to earlier. The problem is the majority has left the field. There is no moral majority out there. It is a minority of nuts who want to go ahead and impose their views on everybody else. But the majority left the field because they are too lazy to participate.

Mr. HELMS. Madam President, the Senator has gone too far.

Mr. WEICKER. Now, Senator, I make no reference to anybody on this floor. My characterization of a group out there is my characterization. Maybe censorship is a part of the Senator's philosophy, it is not mine. If the Senator finds anything personal in that, if the shoe fits, wear it. Otherwise there was no reference made to the Senator.

So what is needed is for this Nation, not a Senator from Ohio or Connecticut, to stand up against this kind of business. The Nation has to stand up and say, "Yes, that Constitution means more to us than any particular discomfort; and, yes, we are going to involve ourselves in this process. We will be told what is in that Constitution and we are not going to be told any more than that. Otherwise we want to make sure that all we can do is to have full expression, to have whatever resides within each of us, given full expression and growth within the laws of this Nation."

The Senator from Ohio indicated he had a question.

Mr. METZENBAUM. Madam President, will the Senator yield for a question?

Mr. WEICKER. I yield for a question.

Mr. METZENBAUM. It has come to the Senator from Ohio's attention that on June 16, 1981, the Washington Post editorialized as follows:

The anti-school busing rider that zipped through the House last Tuesday is either so broad it is a total reversal of federal policy or so narrow it is superfluous. Either way, it deserves to be killed by the Senate.

Mr. JOHNSTON. Madam President, point of order. A question should not be asked in the guise of reading a long document, and then, I suppose, he will ask whether the Senator agrees. So I move that that is not a question.

Mr. WEICKER. Now, you are going to tell how a question can be asked on the Senate floor?

Mr. JOHNSTON. The Senator from Connecticut can yield for a question only.

Mr. METZENBAUM. The Senator from Ohio was asking a question. I do not understand how I can do it other than to place the necessary foundation of the question before the Senate in order that the Senator from Connecticut can respond adequately. I know it has been done many times before, and I am certain the Senator from Ohio is in order.

Mr. JOHNSTON. Madam President, the point of order is that a Senator may not under the guise of asking a question read a lengthy document and then ask the Senator who has the floor if he agrees with it.

Mr. WEICKER. Madam President, I would point out to the Chair that the Senator from Ohio had been on his feet for 20 seconds when the Senator from Louisiana raised his point of order. I think whether by construction of law or by commonsense it must be clear that the Senator from Ohio has not even had an opportunity, thanks to the interruption, the rude interruption, by the distinguished Senator from Louisiana, to ask his question.

Maybe it is that we are all going to be told what it is we can do vis-a-vis the Constitution, but I do not think we need to be told how we can ask our questions on this floor. Maybe that is the style of politics in other parts of this country, but again it does not come under Senate rules, the Constitution or anything else.

I ask that the distinguished Senator from Ohio be granted the courtesy of asking his question.

The PRESIDING OFFICER. The Chair is going to allow Mr. METZENBAUM sufficient time to ask his question and notifies the Senator from Connecticut that the rules will be strictly construed.

Mr. WEICKER. I know the Chair and I know the Chair is both fair and will strictly enforce the rules. I have complete confidence in the Chair as the Chair and as an individual.

Mr. METZENBAUM. Madam President, may the Senator from Ohio proceed?

The PRESIDING OFFICER. The Senator from Connecticut has yielded to the Senator from Ohio for a question.

Mr. METZENBAUM. Of course.

Would the Senator from Connecticut agree with those two paragraphs that lead off the editorial which I just described, which read as follows:

The anti-school busing rider that zipped through the House last Tuesday is either so broad it is a total reversal of federal policy or so narrow it is superfluous. Either way, it deserves to be killed by the Senate.

The rider, attached as usual to an appropriation bill, forbids the Department of Justice to bring "any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's

home" except in cases in which the student is mentally or physically handicapped.

Does the Senator from Connecticut agree with those two paragraphs?

Mr. WEICKER. I certainly do. I think the question raised by the Senator from Ohio and the editorial which appeared in the Washington Post is exactly the basis for the debate on this floor, the subject matter for debate on this floor.

Mr. METZENBAUM. I would ask the Senator from Connecticut whether he would agree with the next part of that editorial which reads:

Since any school desegregation case can result in a judicial order requiring busing, one interpretation of this rider is that it forbids the Department of Justice, and thus the federal government, to initiate any more school cases. If that is what it means, it is an effort to put the financial burden of school litigation back onto minority groups and put the Justice Department's civil rights division on the sidelines when school matters are discussed in court.

A second possible interpretation is that the rider permits the Justice Department to continue bringing or participating in school cases but prevents it from suggesting to the judges that busing might be an appropriate remedy. If this is what it means, it is probably unconstitutional as a limitation on the department's responsibility to enforce the law and, given recent statements by the attorney general, unnecessary.

Am I right in assuming that the Senator from Connecticut agrees with those two paragraphs?

Mr. WEICKER. Absolutely. What I object to—the Senator does agree with the question of the distinguished Senator from Ohio. I suppose what bothers me is it is one thing to put the Justice Department on the sidelines as a matter of policy; it is another thing putting them on the sidelines by virtue of taking an unconstitutional action.

Mr. METZENBAUM. Then I would ask the Senator from Connecticut what his thoughts are with respect to the next two paragraphs which read:

In a recent speech setting forth his views on civil rights, Attorney General Smith came close to forswearing busing and mandatory quotas as acceptable solutions to segregation problems. He said he was changing the department's policy in school cases from one that insists "the only and best remedy for unconstitutional segregation is pupil assignment through busing" to one that will propose whatever remedy has the "best chance of both improving the quality of education . . . and promoting desegregation."

Mr. Smith's description of past policy is somewhat exaggerated: almost nobody has ever asserted that busing is the "only and best" solution. But the attorney general's description of the policy he intends the department to follow while he is in charge should satisfy all but the most violent critics of school busing.

Does the Senator from Connecticut have a view with respect to those thoughts as expressed by the Attorney General?

Mr. WEICKER. The Attorney General and the President of the United States have made their views very clear on this point. And very strongly, I think, they have the right to implement those views, implement those views as a matter of policy. And, again, maybe that policy would include legislation passed here on the floor.

What they do not have a right to do is to give away the constitutional powers of the Presidency by this incursion on the part of the legislative branch of Government and what they do not have a right to do is to take away from the civil rights of all Americans by permitting the violation of the Constitution of the United States. That they do not have a right to do.

Mr. METZENBAUM. Then the editorial goes on to say:

Busing of school children, after all, is a peculiar thing. It is critical to the operation of almost every school district in the country—segregated, desegregated or otherwise. Even a county as urbanized as Arlington buses children all over the place, mostly to improve the qualty of the education available to them. There may be times when busing is an essential part of any desegregation plan, and there may be times when desegregation can be accomplished without it.

It seems exceptionally shortsighted for Congress to be considering legislation to tie the attorney general's hands on so important an issue just when he has promised to do something about it. Actually, if the broader interpretation of this anti-busing rider is accurate, it would bar the Justice Department from proposing to the courts those "better remedies" that Mr. Smith has promised.

Would the Senator from Connecticut agree that the editorial thrust in the concluding two paragraphs states the posture that it is probably more appropriate if the Attorney General wishes to proceed in that manner that he may do so, indeed do so within the constitutional limits, but proceeding in this manner with an amendment, a rider, on an appropriations bill is probably unconstitutional and certainly if not unconstitutional highly inappropriate as a matter of legislating?

Mr. WEICKER. Well, I agree. And I would say this, in response to the distinguished Senator from Ohio, that really the Attorney General of the United States ought to be out here on this floor arguing the position expressed by the Senator from Connecticut. It is his executive branch. It is not mine. I should cheer the fact that, "Well, let's go ahead and nibble away at the executive," because that is what we are doing. We are doing it apparently in the name of some popular cause, but that it what we are doing. He is not here to protect the executive branch. The President is not here to go ahead and protect the executive branch.

I expressed, I say to the Senator, my willingness to the administration this morning, through the distinguished majority leader, to accept both the Helms amendment, which to me is an abomination, and the Weicker amendment.

Now, at least in that way the policy, odoriferous as it is, can be adopted by the administration but the Constitution is protected.

So, indeed, if I have any difficulties with that kind of a compromise it is that I have made out of this lemon a constitutional lemon.

But nobody is interested in that. Apparently there is too much political capital to be made by saying, "Oh, we are all against busing." There is where the political capital is. Never mind the Constitution. Nobody knows about the Constitution. Nobody cares about the Constitution. But everybody knows about busing.

It does not make any difference at all as to whether or not the power of the Presidency has been eroded for future Presidents. It makes no difference at all. None. It does not make any difference if the civil rights of all Americans have been eroded just a little bit. Nobody cares about those things.

The fact is everybody will sleep tight and comfortably and secure in their beds tonight knowing that their President and Senator HELMS have eliminated busing from the American scene. That is a terrible price to pay, I say to the Senator. It is a terrible price to pay for one good night's sleep as a Nation.

Mr. METZENBAUM. Is it not a fact that the Senator from Connecticut is saying that he is prepared to accept the antibusing amendment provided that it conforms with the Constitution of the United States and that it comes within the limitations as prescribed in your amendment?

As I understand what the Senator is saying, he will accept the amendment but that nothing "shall be interpreted to limit the Department of Justice in enforcing the Constitution of the United States, nor shall anything in the act be interpreted to modify or diminish the authority of the courts of the United States to enforce fully the Constitution of the United States."

Now I have some difficulty in understanding why anybody would be unwilling to accept that constitutional recognition unless they are not prepared to accept the Constitution of the United States. Would the Senator from Connecticut be good enough to illuminate me as to what the objection is to accepting the Constitution?

Mr. WEICKER. Because the Senator is absolutely correct. What is being done here is being done with a complete, total knowledge that it is unconstitutional. It is not a matter of it is a close question. It is knowingly being done—knowingly in the sense of knowing that it is unconstitutional. Because, indeed, if it were a close question, then do it through article five. Amend the Constitution. Do it through authorization hearings of a bill, appropriations hearings; do it that way.

Oh, that brings it out into the full light of day. And you know what happens to a fish when you leave it out there for a long time. It starts to smell. It starts to smell. And believe me that is just like an old fish in the sunshine, that Helms amendment.

It is unbelievable to anybody, anybody outside this Chamber, that you cannot go ahead and pass an amendment saying that the Justice Department and the courts should support the Constitution.

I say to the Senator I think probably this is one of the sadder days or weeks or whatever it is we have been on this. But we will go at it just as long as we can.

It is my understanding, incidentally,

I say to the Senator, that there are others who will have other amendments to this matter.

It has been decided by a handful—incidentally, I find it absolutely amazing that, with all the numbers on their side and the President on their side and the Attorney General, the majority leader, all of that on their side, and they have to worry about the Senator from Ohio asking a question as to how many words he is going to be allowed, as to whether or not he is going to be able to read a little bit.

I will tell you, they want this thing off the stage just as fast as they can get it off the stage. And that is why it is not coming off the stage, not until my legs, my voice, my bladder, or whatever, gives out.

I think we just want everybody to know what it is that is going on. And that is just not so funny. It is pretty serious stuff. The impact of what is done here in terms of the legislation, both in the rejection of the Weicker amendment and the adoption of the Helms amendment, is obviously going to impact on future matters to come before this Senate.

Are you going to see the first amendment done in by this way? That is what is next up on the board. You know that little item here, the first amendment to the Constitution. "Congress shall make no law respecting an establishment of religion."

Is that a little bit important to a few people around here, important enough, in other words, so that you feel that it ought to go the constitutional amendment route? You are not going to get it on a constitutional amendment route.

You are going to get it in some quick ploy out here on the Senate floor. But if you think that everybody wants to stand up and fight for the fact that Congress is not going to establish a religion, is that what it is going to take to get the people excited, when all of a sudden a rabbi sitting there, a priest there, a minister there, and all of a sudden they are asking, "Am I going to be the official religion? Is it my religion that is going to be established? If not, what is going to happen to me?"

How are they going to come at you? Are you going to have the courts around? Are you going to have the courts and the Justice Department around to protect your religious freedom? I will tell you one thing: You better start thinking about it. You did not have to start thinking about it until now. Now you can start to think about it. And you better start to worrying.

We are not talking about any more busing now, are we? We are not talking about blacks or Hispanics or innercities, where all those matters that maybe we do not agree with or maybe we do not like exist.

We are talking about us. I assume that everybody believes in something. Well, you just might be believing in the wrong thing, according to the Senator from North Carolina. You just might be believing in the wrong thing. And then who is going to go ahead and stand in there for you? If you have the money, you are all right. Perhaps I can tell all of you, and I am a lawyer and I should know, that it is a pretty expensive process.

I think all of you have the right to have your Government represent you on the matter of the first amendment. If somebody is coming down on you, if somebody is doing a rain dance on you because of whatever you believe in, for your sake I hope that this Government will stand by you, no matter what it costs or how many lawyers they have to send in or whatever remedy they want, that they will be able to do it for you so that you can believe as you want to believe.

Do you think it is going to end here? Does any one of you really believe it is going to end here with "busing?" Did you believe it was going to end when the Hyde amendment started with all these exceptions, and one by one those exceptions got peeled off?

I remember in the last session of Congress everybody said under no circumstances would they ever prevent the funds from going to a woman who was raped. "My God, you cannot do that."

We cannot? We did, 1 week ago. There it went.

"Under no circumstances would a woman not get funded if she was pregnant by virtue of incest, under no circumstances. It cannot happen."

It did, 2 weeks ago.

It is not going to end. That is the proposition I lay before you. It is not going to end. It is going to go on and on.

I do not have the votes out here, I know that, but I have to make sure that it is going to be tough going every inch of the way, and sooner or later some people are going to wake up and understand that it no longer encompasses their pet hate or their pet discrimination, but, indeed, what is being articulated has finally come to overwhelm them.

I forgot, and I wish I had the exact quote in front of me, though somebody on my staff could get it for me, from the German theologian. I want to make sure I attribute it to the right person. I am speaking of the theologian who spoke of his experience prior to World War II.

First they came to get the labor unions, and nobody spoke up. Then they came to get the lawyers and nobody spoke up. And then the teachers and nobody spoke up. And then the Jews and nobody spoke up. Finally they came to get me, and there was no one left to speak.

This is not the problem of some black man or black woman. It is not the problem of some Hispanic. It is your problem and it is mine.

To say that the Justice Department of the United States cannot enforce the Constitution of the United States, to say that the courts of the United States cannot enforce the Constitution of the United States—think about it. That is the point where we are. Nothing that I can say here rings the bell louder than the opposition to the amendment.

I can even excuse the U.S. Senate voting against that amendment in the heat of an election. I can understand that happening. But, this is June of 1981. We are a year-and-a-half away from an election. The "pressure" is off. If we do not stand up now, when in God's name do we stand up? It is not going to become easier, either in terms of the substance or in terms of the timing, as we move closer to 1982. It is going to get tougher.

You know just as well as I do it is far harder to retake ground than not to give it up at all.

I would hope that somewhere along the line somebody will start to speak out loud and clear or outside the floor, in the media, among their constituency, what have you.

Incidentally, I brought with me today a copy of "A Connecticut Yankee in King Arthur's Court" by Mark Twain which I plan to read shortly. I know that some of you find it difficult to listen to me and I find it difficult to listen to me, but at least if we are going to do our thing, let us do it with some thoughts better than I can express them. Mark Twain can certainly do that on all the issues we have been talking about here, and more to boot.

It has now been 4 hours today. I understand from the Republican leadership that we are going to be made to go another 4 hours. That is fine. I do not exactly know what the pressure is. It would seem to me that we best sit down and think about these matters. But, apparently, the rush—whatever the rush is—is of such a nature that the majority leader is bound and determined to go ahead and force the issue in a physical if not a mental sense.

Well, we will try to handle that as best we can.

I would like to read from the testimony of Lawrence Tribe, professor of law at Harvard University, in his testimony before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice in the House Judiciary Committee.

Mr. Chairman and Members of the Subcommittee:

I am honored to appear at the Subcommittee's invitation to testify concerning the constitutional limits on Congress' authority to curtail the jurisdiction of federal courts to enforce constitutional rights. In this statement, I will set forth the general framework of principles governing the constitutionality of such measures, and will attempt to apply that framework to the sixteen bills which are pending before the Subcommittee and which illustrate quite well the range of issues presented.

INTRODUCTION

Grave misgivings are inevitably stirred when the opponents of specific constitutional rulings suggest that such rulings be changed not by constitutional amendment—with the participation of state legislatures, and subject to requirements of concurrence by extraordinary majorities—but by ordinary statutes limiting court jurisdiction and enacted by a mere majority of the House and Senate. Some of these misgivings come into focus only when we recall that the practice of elaborating and enforcing constitutional provisions through an independent judiciary—a practice inaugurated for the United States in *Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137 (1803)—is one that few nations in the world follow. The 1961 Constitution of South Africa, * * *

That model government to a few of my colleagues, that model government—

* * * for example, expressly provides in Section 59(2) that, with only the most limited exceptions, "[n]o court of law shall be

competent to enquire into or to pronounce upon the validity of any Act passed by Parliament. * * *

A noted student of South African law and politics observes:

"As a result of the new Constitution's firm adherence to legislative supremacy, and the restriction of the courts' testing rights to [a few limited] matters. * * * Parliament has been able to ride roughshod over individual liberty without fear of judicial obstruction.", J. Dugard, "Human Rights and the South African Legal Order 35" (Princeton Press, 1978).

Now maybe we have the reason why South Africa is a model to some of my colleagues. It is not any model to me, nor to the world, nor to anybody who has any faith in themselves or any dignity to themselves, or wish to see themselves expressed as they wish to see themselves expressed:

Thus the technique of circumventing constitutional safeguards through carefully crafted jurisdictional withdrawals approved by mere legislative majorities has, to say the least, disturbing antecedents.

In this country, of course, the continuing availability of state courts as forums for the enforcement of federal constitutional rights, and the tradition of at least some voluntary compliance with the norms entailed by such rights, render jurisdictional withdrawals a good deal less threatening than they might otherwise be. Yet the transparent expectation of those who propose such withdrawals is precisely that state courts will in fact prove less receptive than their federal counterparts have been to assertions of those rights that the proposed statutes deliberately single out for removal from the protective reach of the federal bench. Moreover, if our history is one in which federal rights have at times been taken quite seriously indeed even without federal compulsion, it is also a history in which federal rights have at other times depended upon such compulsion for their very survival. For these among other reasons, the inquiry into what limits, if any, are imposed by the United States Constitution upon Congress' restriction of federal court jurisdiction assumes more than merely theoretical interest.

Despite wide differences of view as to just what limits the Constitution does in fact impose on Congress' power, virtually all students of the subject begin from a shared premise: any federal court in which a purported jurisdictional restriction is asserted at least has jurisdiction to decide whether or not the purported restriction is itself constitutional.[1] In the exercise of this threshold jurisdiction—this power, and indeed duty, to review the constitutional validity of any statutory creation of gaps or fissures in a federal court's subject-matter or remedial jurisdiction—a court will encounter both internal and external constitutional constraints, the first set stemming from the nature and sources of the affirmative authority Congress must invoke in legislating controls over federal courts; the second, deriving from independent limits and prohibitions imposed by the Constitution upon all federal legislation.

Within each of these two categories of constitutional constraints, the internal and the external, some of the most significant limits will, of course, be implicit rather than explicit in the constitutional text. This should come as no surprise, for "[t]he tacit postulates" of the constitutional plan "are as much engrained in the fabric of the document as its express provisions." *Nevada* v. *Hall*, 440 U.S. 410, 433 (1979) (Rehnquist, J., joined by Burger, C. J., dissenting). The remaining task is to describe the constraints themselves and to illustrate their operation by examining the bills now before the Subcommittee.

INTERNAL LIMITS

1. Congress' jurisdiction-defining powers with respect to the Supreme Court in particular are internally limited by the substantive role that the Constitution assigns to the Court. The reach of the Supreme Court's original jurisdiction ("all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a Party") is, of course, fixed by Article III (as limited in turn by the Eleventh Amendment), and can be neither expanded nor contracted by an Act of Congress. That was, indeed, the precise holding of *Marbury* v. *Madison*.

As to the Supreme Court's reviewing authority, there is general agreement that Congress' power under Article III to regulate, and make exceptions to, such appellate jurisdiction, while undoubtedly very broad, "must not be such as will destroy the essential role of the Supreme Court in the constitutional plan."[2] Whatever the reach of that necessarily vague principle, it is difficult to believe that the principle would not at least bar, for example, the abolition of Supreme Court jurisdiction to review any state court order that is, will be, or was, subject to review by the highest court of the state. Stripping the Supreme Court of its power under the Supremacy Clause to enforce constitutional rules directly against recalcitrant state courts—a power firmly established in *Martin* v. *Hunter's Lessee*, 14 U.S. (1 Wheat.) 304 (1816)—would generate a clash of sovereigns so irreconcilable as to imperil the Union,[3] by gutting the Supreme Court's capacity to preserve the unity and supremacy of federal law.[4]

Mr. MATHIAS. I am wondering if the distinguished Senator from Connecticut will allow me to make a unanimous-consent request—that on the condition he not lose his right to the floor, I might make a very brief statement of perhaps a minute or a minute and a half in length.

Mr. WEICKER. Certainly, I have no objection, insofar as I do not lose my right to the floor, but there are others on the floor who might object.

Mr. MATHIAS. I am propounding that request to the Chair.

Mr. HELMS. Reserving the right to object, Mr. President, if we may add that my good and dear friend from Connecticut stay within my sight, because I cannot bear the thought of his departing.

Mr. WEICKER. I do not know how far the Senator from North Carolina can see. I am talking about physically, not intellectually.

Mr. HELMS. I would ask that the Senator stay in the Chamber. If the Senator stays in the Chamber, we will accept that request.

Mr. WEICKER. I am more than willing to stay in the Chamber.

Mr. HELMS. The Senator does lose his right to the floor if he leaves the Chamber.

Mr. WEICKER. Why does it bother my good friend from North Carolina?

Mr. HELMS. I have been here for 4 hours. I just cannot bear the sight of——

Mr. WEICKER. I have been here for 4 hours. The Senator from North Carolina has been sort of jumping around all over, so do not worry.

Mr. HELMS. I am not worried.

The Senator from Connecticut is the one who seems to be worried.

Mr. WEICKER. I will not leave to avail myself of the creature comforts.

Mr. HELMS. That is fine. I have no objection under those conditions, I say to the Senator.

Mr. WEICKER. I would hope, then, that the distinguished Senator from Maryland could have his unanimous-consent request granted.

The PRESIDING OFFICER. The Senator from Connecticut has the floor. Does he yield to the Senator from Maryland?

Mr. WEICKER. So long as I do not lose my right to the floor and I may resume my speech from the point I interrupted.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. No.

The PRESIDING OFFICER. Without objection, the Senator from Maryland is recognized.

Mr. MATHIAS. Mr. President, I am very grateful to the Senator from Connecticut and extremely grateful to the Senator from North Carolina, who have made it possible for me to address the Senate very briefly.

Mr. HELMS. I am delighted to be helpful, I say to the Senator.

ANNOUNCEMENT OF JUSTICE POTTER STEWART'S INTENTION TO RETIRE

Mr. MATHIAS. Mr. President, I have just been advised that Justice Potter Stewart has today announced his intention to step down from the bench of the Supreme Court of the United States. Justice Stewart was nominated to be a member of the court by President Eisenhower and has served with consistent distinction since his appointment.

He has shown an admirable capacity for maintaining a moderate posture in the middle of the legal road, while at the same time being totally and objectively independent on issues that he felt demanded special consideration.

I should like to express, to the extent that one Senator can express it, the appreciation of the people of the United States to Justice Stewart for his dedication in one of the most demanding and difficult tasks in our society.

Mrs. Mathias joins me in wishing Justice and Mrs. Stewart a fulfilling and a happy life in such other vineyards as they choose for their future labors.

DEPARTMENT OF JUSTICE AUTHORIZATIONS 1982

The Senate continued with the consideration of S. 951.

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. WEICKER. I thank the Chair.

Footnotes at end of article.

The seminal cases of *Ex parte McCardle*, 74 U.S. (7 Wall.) 506 (1868), and *Ex parte Yerger*, 75 U.S. (8 Wall.) 85 (18 8), are certainly not to the contrary, since they together establish only that Congress may extinguish one avenue to the Supreme Court for appellate review of a constitutional claim when other avenues for bringing that claim to the Court for review remain open.

2. Congress' jurisdiction-defining powers with respect to all Article III courts are also internally limited by Article III's implicit concept of the "judicial power," and by basic principles governing the separation of powers among the three branches of the National Government.

The judicial power described by Article III, Chief Justice Marshall declared in *Marbury* v. *Madison*, is the power to "decide . . . [cases] conformably to the law, [including] the constitution. This is of the very essence of judicial duty." This duty is, in turn, inherently incompatible with congressional authority to direct an Article III court to arrive at the outcome desired by Congress whether or not regarded by such a court as consistent with the Constitution and laws of the United States; the Supreme Court so held in *United States* v. *Klein*, 80 U.S. (13 Wall.) 128 (1872), ruling that Congress may not dictate the rule of decision for a particular case, even in the guise of a jurisdictional regulation.

The nub of the matter is that courts sworn to uphold the Constitution in their discharge of adjudicative responsibility cannot be required, in deciding a case otherwise properly before them, to ignore any question they regard as crucial to a correct decision under law, and certainly cannot be forced to "close their eyes on the constitution, and see only [Congress'] law." *Marbury* v. *Madison*, 5. U.S. at 178.

Yet just such a requirement would be imposed, for example, by H.R. 2365 and H.R. 2791, both of which purport to strip the Supreme Court and the lower federal courts of jurisdiction over all questions going to the constitutional validity of statutes that treat males and females differently in military registration, induction, training, or service. Whenever an Article III court endowed with subject-matter jurisdiction over a controversy deems any such military-personnel statute relevant to the correct outcome, these proposals would in effect instruct that court automatically to proceed as though the statute's constitutional validity made no difference—to "close [its] eyes on the constitution, and see only the law." Such an instruction violates both Article III and Article VI.

That Congress may control the timing and the context for federal judicial review of its own statutes [5] does not imply that Congress may place its favorite laws behind a shield wholly impenetrable by federal judicial review. For Congress to do so would impermissibly condemn those federal judges before whom such enactment become relevant in pending cases to serve as instruments of constitutional disregard and defiance. Authorized to decide a case, an Article III court must decide it constitutionally—or not at all. *See United States* v. *Nixon*, 418 U.S. 683, 704–05 (1974).

Beyond this internal requirement of adjudication according to a court's best effort to address all questions necessary to decision, to do so in accord with law, and to regard the Constitution as the "supreme law of the land"—beyond this, both the Supreme Court and all inferior courts created pursuant to Article III are charged to resolve only actual cases or controversies, and are concomitantly barred from merely offering "opinions in the nature of [legal] advice." *Muskrat* v. *United States*, 219 U.S. 346, 362 (1911). See also Correspondence of the Justices, Letter from Chief Justice John Jay and the Associate Justices to President George Washington, August 8, 1793. To "constitute a proper 'controversy,'" an "asserti[on] [of] a right [must be] susceptible of judicial enforcement." *Maryland* v. *Louisiana*, 49 U.S.L. Week 4562, 4565 (U.S. Supreme Court, May 26, 1981).

It follows that Congress may not so truncate the jurisdiction of an Article III court as to empower it to "decide" a legal controversy while denying it any means to effectuate its decision—or even, as in the ordinary declaratory judgment, at least to alter the concrete situation of the parties or the range of options open to them. Congress' broad authority to regulate the panoply of available remedies, in other words, stops short of the power to reduce an Article III court to be a disarmed, disembodied oracle of the law lacking all capacity to give concrete meaning to its decision that one party won and the other lost.

This much, at least, is implicit even in Article III's bar to adjudication at the behest of a party lacking any concrete stake in the outcome of the proceedings.[6] For a party advancing a legal argument in a court that has been rendered impotent in any meaningful degree to remedy the wrong complained of lacks, by definition, any stake beyond a citizen's purely theoretical curiosity about how the case turns out.

Thus, for example, H.R. 73 and H.R. 900—both of which would unconditionally deprive inferior Article III tribunals of authority to "issue any restraining order" or "temporary or permanent injunction" (and, in the case of H.R. 900, of authority to issue any "declaratory judgment" as well) in any case arising out of a law restricting abortions—seem inconsistent with Article III. For an Article III tribunal thus defanged, but nonetheless seized of jurisdiction to "decide" a pregnant woman's anticipatory challenge to the validity of an abortion ban under which she is threatened with a criminal fine if she exercises her rights as defined by *Roe* v. *Wade*, 410 U.S. 113 (1973), is reduced to whistling in the wind: if it rules the ban invalid and the threat unconstitutional, as it should, it might as well send the woman its regrets. For the tribunal is forbidden to come to her aid in an anticipatory way—while there is still time—even without any showing that the state courts would, or even might, provide timely relief in proceedings of their own. On the contrary, the expectation quite clearly is that the states will not do so—even though the pending statutes, H.R. 73 and H.R. 900, would at least leave open the possibility of the Supreme Court's appellate review of such state court refusals. The point, it should be emphasized, is not that H.R. 900 and H.R. 73 guarantee that the pregant woman's rights will be rejected in every court to which she goes for preventive relief; the point is that these restrictions would leave Article III tribunals with no way to compel the timely vindication even of the rights such tribunals find to be unconstitutionally jeopardized; and they in no way link this power vacuum to grounds for supposing that state courts will vindicate the rights on their own or will be forced to do so by the Supreme Court before it is too late. A federal court placed in such a predicament has been emptied of the essential attributes of judicial power contemplated by Article III:

> [For] Congress . . . to confer the jurisdiction and at the same time nullify entirely the effects of its exercise are not matters heretofore through, when squarely faced, within its authority.[7]

Similarly, H.R. 869, H.R. 1079, and H.R. 1180 would purport to strip all Article III courts of jurisdiction to "require the attendance at a particular school of any student because of race, color, creed, or sex," and H.R. 761 would extend this ban to an ouster of jurisdiction "to make any decision, or issue any order, which would have the effect of requiring any individual to attend any particular school"—evidently for any reason. This latter provision, insofar as it tells federal courts what "decision[s]" they may and may not make regardless of their view of the applicable law and facts, plainly contravenes *United States* v. *Klein*, *supra*. And all four provisions, insofar as they purport to rule out various pupil-assignment remedies regardless of whether any other decree could give effect to the court's constitutional determination,[8] appear to violate the requirement that decisions made by Article III tribunals not be doomed to futility from the start.

The same may be said with respect to H.R. 114, which attempts to strip all inferior federal courts of jurisdiction, directly or indirectly, to "modify" the effect of any state court order so long as that order is or was reviewable by the state's highest judicial body. If a federal court concludes that such an order was entered in violation of the Constitution; that opportunities to challenge and modify it within the state's judicial system were and remain constitutionally inadequate; and that the individual whose rights the order violated, now a party properly before the federal court, will continue to be unconstitutionally prejudiced by the order unless it is promptly modified by that federal court, then following the mandate of H.R. 114 would render the court powerless to give its conclusion any effect whatever.

The view has at times been expressed that Congress is bound not only to equip whatever federal courts it creates with subject-matter and remedial jurisdiction sufficient to satisfy the implicit demands of Article III but also to create such lower federal courts in the first instance (how many? where?) and to vest them with all the jurisdiction that Article III allows, see *Martin* v. *Hunter's Lessee*, 14 U.S. at 330–31, at least to the degree that the effective protection of constitutional rights under modern conditions so requires.[9] The consistent rejection of this position—a position perhaps rendered more plausible by the Civil War Amendments than it was when Justice Story announced it in Hunter's Lessee—might be thought to preclude its adoption now. But such rejection of the Story view should not be permitted to obscure the underlying principle—one never rejected by any court—that no Article III tribunal that Congress elects to create, whether under constitutional compulsion or otherwise, may be crippled from birth with a defect of design fatal to the tribunal's capacity to fulfill a function indispensable to the "judicial power of the United States."

EXTERNAL LIMITS

3. That Congress' jurisdiction-defining powers—in common with all other powers entrusted by the Constitution to the National Legislature—are limited externally as well as internally may at times be forgotten, or obscured by sweeping dicta about plenary authority, but is undeniable all the same.

> "[T]he Constitution is filled with provisions that grant Congress or the States specific power to legislate in certain areas; these granted powers are always subject to the limitation that they may not be exercised in a way that violates other specific provisions of the Constitution." [10]

Thus, whatever its "power to give, withhold, and restrict the jurisdiction of [federal] courts. . ., [Congress] must not so exercise that power as to deprive any person of life, liberty or property without due process of law or to take private property without just compensation." *Battaglia* v. *General Motors Corp.*, 169 F.2d 254, 257 (2d Cir. 1948), *cert. den.*, 335 U.S. 887 (1948) (footnote omitted), or to contravene any other provision in the Bill of Rights, or in the Bill of Attainder Clause or the Ex Post Facto Clause of Article I, Section 9, or in any other independent limitation or constraint imposed by the Constitution or its amendments upon affirmatively authorized federal legislation. Were the law otherwise, Congress could freely deny access to federal courts to all but white Anglo-Saxon Protestants, or to all who voted in the latest election for a losing candidate.[11] If such consequences are to be pre-

Footnotes at end of article.

vented, it must be the case that Acts of Congress are accorded no special immunity from independent constitutional limits on national legislation simply because such Acts are cast in jurisdiction-defining terms; the power to define and control the jurisdiction of federal courts is no talisman, somehow dissolving otherwise fatal constitutional limits on what Congress has chosen to do.

As with the internal limits upon the power of Congress to control jurisdiction, these external limits may derive from the interstices and implications of the text, structure, and history of the Constitution as well as from its explicit terms. Ex parte Garland shows as much,[12] and nothing in the logic of the situation counsels a more restrictive canon of constitutional interpretation here than in the identification of internal limits.

4. Among the external constraints the Constitution imposes upon all federal legislation, including legislation that regulates judicial authority, is the principle that no law may unjustifiably deter or disadvantage the exercise of a constitutional right. The Supreme Court recognized decades ago that constitutional rights could be jeopardized and ultimately destroyed not only by laws directly forbidding or penalizing their exercise but also by laws making their exercise the occasion for withholding or withdrawing benefits or privileges that would otherwise be available.[13] "It is inconceivable that guaranties embedded in the Constitution of the United States may . . . be manipulated out of existence," [14] by using the invocation of such guarantees as a trigger for suspending access to a valued service that government would otherwise have extended. The fact that the service is one government could have chosen to abolish altogether is immaterial; it is the choice to withdraw something selectively when particular constitutional rights are exercised that marks a law as an indirect burden upon such exercise. And whenever a law has this character, it automatically becomes constitutionally suspect. Such a law is per se void to the extent it is intended to prevent or penalize the exercise of a constitutional right.[15] And, to the extent the law's tendency to deter or disadvantage such a right is but an unintended and incidental consequence of the measure, the law is valid only if demonstrably necessary to the attainment of a compelling governmental purpose—a purpose with respect to which the law is neither underinclusive nor overinclusive.[16]

5. One particularly pernicious device through which a law might deter or disadvantage the exercise of a right is the technique of making the right's exercise ineligible for a generally available form of governmental protection.

The kind and degree of protection to provide—the combination of executive and judicial enforcement authority to confer—is left, in the first instance, to the judgment of the legislature. But so fundamental is "the right of every individual to claim the protection of the laws, whenever he receives an injury," [17] that that protection cannot be suspended or reduced so as to abandon the enjoyment of selected rights to a jeopardy from which others are shielded. Government even bears responsibility for the citizens that it invites, whether directly [18] or indirectly [19]—including the abuse that it encourages by suspending or withholding ordinarily available devices of law enforcement.[20] Even more plainly, the Federal Government is accountable for the public harassment or persecution of citizens that predictably results when it declares open season on them by placing the rights they seek to exercise in a "free-fire" zone, one that is expressly ineligible for the usual panoply of executive and judicial mechanisms for enforcing such rights through making state and local officials civilly and criminally liable for their abridgment. At least when surrounding rights are fully protected through such mechanisms, "denying the equal protection of the laws includes the omission to protect, as well as the omission to pass laws for protection." *United States* v. *Hall*, 26 Fed. Cas. 79 (C.C.S.D.Ala. 1871).

Congress' sweeping authority to define federal torts and crimes, for example,[21] would confront an insuperable constitutional obstacle were that authority to be deployed in such a way as to protect from hostile state and local governmental activity only such constitutional rights as might meet political favor with the electorate at any given time.

Thus, U.S.C. § 1983 currently subjects to civil liability in federal court all who, under color of state law, deprive individuals of their constitutional rights; and 18 U.S.C. § 241 now makes criminal the willful deprivation of such rights by state and local officers, among others, who "threaten or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution . . . , or because of his having exercised the same."

Such harassment is not immunized from federal prosecution by the theoretical existence of state remedies against it.[22] Nor is such harassment immunized by the fact that it takes the form of arrests, searches, seizures, or interrogations under a patently void statute—one that could not possibly lead to a valid conviction; indeed, precisely such harassment is currently subject to preventive relief by federal injunction. *See Younger* v. *Harris*, 401 U.S. 37, 47–49 (1971).

Now imagine what would happen if Congress were to amend 18 U.S.C. § 241 to make it inapplicable, or to limit its punishment to nominal fines, whenever the "right or privilege" that had been subjected to threat or intimidation was the right to an abortion, or the right not to have even "voluntary" prayers conducted in one's public school, or any other of a short list of rights of which a majority in Congress happened to disapprove. It is unthinkable that such a law would, and unimaginable that it should, be upheld—not because Congress' reach in enacting it would have exceeded its grasp (Congress' power to define federal crimes and to regulate their punishment is at least as "plenary" as many of its other powers and is, if anything, broader than its power to control federal judicial jurisdiction) but because in its reach Congress would have collided with the rights that it had selectively sought to disadvantage.[23]

The same would follow if Congress were to withdraw from the reach of 42 U.S.C. §1983 the right to bring up one's children without undue public intrusion, or the right to end a pregnancy, or indeed any other specific right, thus subjecting to federal civil remedies at law and equity all actions under color of state law depriving citizens of their constitutional rights—except for the rights thereby left by Congress to fend for themselves. The fact that Congress' exclusion of selected rights might involve a limit on the judicial branch rather than, or in addition to, the executive branch, obviously makes no constitutional difference so far as the external constraints on Congress' powers are concerned.

The deployment of Congress' affirmative authority so as to expose disfavored rights to an increased risk of state suppression is equally invalid regardless of whether Congress bases such affirmative authority on its power to enforce the Fourteenth Amendment under Section 5, on its Necessary and Proper Clause power to set substantive and procedural limits on the Executive Branch, or on its Article I and III powers to determine the subject-matter and remedial reach of federal judicial authority within the sphere made potentially available by Article III itself.[23]

Exactly the same analysis would apply if the federal protection out of which Congress sought to carve a set of disfavored rights involved not a mechanism for imposing civil or criminal liability in federal court upon those state officials who willfully interfere with the exercise of rights, but a mechanism for enjoining in federal court all state interference with such rights. Congress' focused deletion of a right such as abortion from the list of rights eligible to receive protection through this federal injunctive mechanism—especially if coupled with the inclusion of abortion funding, and perhaps of police inaction against abortions, as targets against which the injunctive mechanism would expressly be made available [24]—would be exactly as infirm, constitutionally, as would a congressional enactment specifying that police and others who arrest or threaten women seeking abortions are to be immune from the federal criminal punishment to which other rights violators (including, if H.R. 900 were to become law and be upheld, those who run public abortion clinics) are subject under 18 U.S.C. §241.

Thus H.R. 73 and H.R. 900, which would forbid federal district courts to issue injunctions or restraining orders in cases arising out of bans on abortion or on abortion funding, are both in hopeless conflict with the Constitution's external limits on Congress' powers—a conflict that is, of course, exacerbated by the fact that these laws would permit (and perhaps require) federal courts to award injunctions against state officials in exactly the same lawsuits, involving the same courts and parties and issues, if sought on behalf of the unborn to halt state aid to abortions or to end a state policy of allowing abortions to go unprosecuted.

Superficially distinguishable—but, on closer inspection, not genuinely so—are the proposed statutes that would prevent federal judicial action restrictive of "voluntary" prayer in public schools. These statutes purport to eliminate federal court jurisdiction to hear or to review any case arising out of any state law or rule "which relates to voluntary prayer in any public school or public building." Read literally, this language appears to deny federal judicial access equally whether the prayer-related state rule in the case forbids voluntary prayer, makes it optional, requires schools to provide for it, or "relates" to it in some other way. Yet the impetus behind these denials of federal court access in school prayer cases has come exclusively from proponents of voluntary prayer (who feel aggrieved by federal court decisions rejecting their position) and not at all from opponents of such prayer who are concerned that federal courts have been too willing to permit (or even to require) that opportunities for such voluntary prayer be provided in public schools. Indeed, five of the bills (H.R. 72, H.R. 326, H.R. 989, H.R. 1335, and H.R. 2347) contain preambles that expressly describe their purpose as that of preventing federal courts from ruling voluntary prayer unconstitutional and enjoining it as such. Although the remaining two bills (H.R. 408, H.R. 865) contain no such language, their silence on the point cannot obscure the one-sided aim and effect of these measures. That observation leads to a broader point, one developed in the following section.

6. "Jurisdictional gerrymandering"—the practice of excising disfavored rights from generally available forms of federal protection—cannot be saved by a mere appearance of neutrality. In *Hunter* v. *Erickson*, 393 U.S. 385 (1969), a city charter amendment prevented the city council from "implementing any ordinance dealing with racial, religious, or ancestral discrimination in housing without the approval of the majority of the (city's) voters." *Id.* at 386.

The amendment drew no distinctions

Footnotes at end of article.

among racial and religious groups, subjecting "Negroes and whites, Jews and Catholics . . . to the same requirements if there is housing discrimination against them which they wish to end." *Id.* at 390.

Despite this appearance of neutrality, in which "the law on its face treats Negro and white, Jew and gentile in an identical manner," *Id.* at 391, the Court had no hesitation in recognizing "the reality . . . that the law's impact falls on the minority." *Id.*

Although subsequent decisions might be understood to require a showing of discriminatory intent before such racially differential impact, even in access to a governmental forum, triggers strict judicial scrutiny,[23] there is no doubt that even wholly inadvertent and incidental burdens on the exercise of an independently secured constitutional right continue to require compelling justification. (*See* Section 4, *supra.*) Thus, the patently illusory neutrality of the school prayer statutes, for example, would not spare them from evaluation under a requirement of precise fit and compelling necessity—a requirement that they could not, in all likelihood, meet.

Similarly, the arguable neutrality, as a facial matter, of the pending bills that purport to withdraw federal judicial power to assign students to particular schools—either with reference to race, creed, color, or sex (see H.R. 869, H.R. 1079, H.R. 1180) or on any basis whatever (see H.R. 761)—would be unlikely to obscure their discriminatory impact and structure.

7. To whatever extent courts might be reluctant to rely on judicial findings of forbidden congressional motive to invalidate jurisdictional restrictions that are neutral on their face and that are too ambiguous in their effects to be struck down on that basis alone,[24] the most that might follow is that some of the restrictions at issue might squeak by in the courts—not that they are constitutional.

Congress duty to comply with the Constitution's mandates derives not from the risk that courts may otherwise strike down Congress enactments but from the oath binding every Member of Congress "to support this Constitution." See Article VI. Whatever courts might say as to some of the measures analyzed in this statement, the Members of Congress surely can have no doubt that all of the jurisdictional restrictions now pending before them are designed, obviously and transparently, to circumvent constitutional rulings of the Supreme Court by a method less onerous than the amendment procedure set forth in Article V. Doubtless aware of this forbidden aim, Congress should, I believe, regard itself as duty-bound to reject the pending measures—whatever its predictions as to how courts might rule on each of them.

8. Conversely, any congressional decision to enact jurisdictional limitations believed to be unconstitutional, in the expectation that the Supreme Court or another federal court will promptly strike the limitations down, would be completely irresponsible.

Such a decision by Congress might be motivated by a wish to curry favor with some constituents while passing the buck for constitutional enforcement to the federal judiciary—which can then be dramatically criticized, in feigned surprise and with calculated political effect, for imperialism and hyperactivity. Or such a congressional decision might instead be motivated by a hope that federal judges frightened by Congress assault upon their jurisdiction and fearful of even worse attacks to follow, would either be cowed into (erroneously) upholding unconstitutional limits on their own jurisdiction or pressured into (hypocritically) reversing those decisions—on such issues as abortion, busing, prayer, gender-neutral military registration, and the like—that provoked the public's dissatisfaction and its spasms of legislative rebuke to the courts.

Whatever Congress motive for enacting legislation that it knows (or ought to know) is unconstitutional, and whatever the eventual reaction of the federal courts, the cost of such cynical manipulation of the Constitution as our most fundamental and unifying body of law—the cost in reduced credibility for already wounded institutions and in diminished power for already weakened sources of normative guidance—is bound to be far too high to make the gambit worthwhile.

9. Even when entirely constitutional and well intended, the restructuring of federal court jurisdiction to achieve substantive ends should be undertaken only with the greatest caution and after the clearest possible showing of need and efficacy.

Even on the most optimistic of assumptions, state courts, recognizing themselves as still bound by the Constitution and as constrained to follow the Supreme Court's still authoritative decisions construing it, would either replicate the very rulings that had inspired jurisdictional restructuring, thereby freezing the law unwisely but otherwise rendering the shift from federal to state courts too inconsequential to have been worth the effort; or would move in dozens of different directions in their understanding and elaboration of the governing constitutional norms, thereby destroying a vital uniformity on matters governed not by fifty distinct bodies of state law but by one constitutional rule. Unless such diversity is secretly desired as a way of overturning a constitutional ruling that one dislikes when one cannot muster enough support to amend the Constitution itself, its virtue is difficult to fathom in dealing with the one document that, above all others, binds the Nation into a legal whole.

Thus, the Supreme Court has found it intolerable even for federal constitutional restraints on matters as localized as police interrogation to vary from state to state.[27] It is still less tolerable, surely, for a person's ability to vindicate a right under the First Amendment's Religion Clauses, or under the Fifth Amendment's Due Process Clause, to vary with the geographical terrain. If there is any question as to which ours must be not fifty laboratories but "one nation, indivisible," that question is the fundamental meaning of these genuinely constitutive features of our policy—the provisions that make ours an open society aspiring to equal justice under law.

Although it is not beyond imagination that such state-by-state fragmentation—even at a level where national unity means so much—might be worth risking for some transcendent benefit, the circumstances in which such a benefit could be reliably achieved through jurisdictional abacadabra seem most unlikely to obtain. Thus the presumption against the enactment even of constitutionality valid gerrymanders of federal court jurisdiction ought to be extremely heavy—especially when one adds the caveat that such jurisdictional measures, in their motivation as well as in their structure and impact, must invariably raise the gravest of constitutional questions.

FOOTNOTES

[1] *See, e.g.,* Hart, "The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise in Dialectic," 66 Harv. L. Rev. 1362, 1387 (1953).

[2] Hart, 66 H.L. Rev. at 1365.

[3] *See* O. Holmes, *Collected Legal Papers* 295 (1920).

[4] *See* A. Hamilton. *The Federalist* Nos. 22, 81; J. Madison, *The Federalist* No. 39; *Cohens* v. *Virginia*, 19 U.S. (6 Wheat.) 264, 416–18 (1821); Ratner, "Congressional Power Over the Appellate Jurisdiction of the Supreme Court," 169 U. Pa. L. Rev. 157, 160–167 (1960).

[5] *See, e.g., Yakus* v. *United States*, 321 U.S. 414 (1944); *Lockerty* v. *Phillips*, 319 U.S. 182 (1943).

[6] *See Baker* v. *Carr*, 369 U.S. 186, 204 (1962).

[7] *Schneiderman* v. *United States*, 320 U.S. 118, 168–69 (1943) (Rutledge, J., concurring). Cf. *Sterling* v. *Constantin*, 287 U.S. 378, 403 (1932) (Hughes, C. J.).

[8] Cf. *North Carolina* v. *Swann*, 402 U.S. 43 (1971) (invalidating state statute that rules out busing remedy even where needed to correct *de jure* segregation).

[9] *See* Eisenberg, "Congressional Authority to Restrict Lower Federal Court Jurisdiction," 83 Yale L.J. 498 (1973).

[10] *Williams* v. *Rhodes*, 393 U.S. 23, 29 (1968) (emphasis added).

[11] *But see Ex parte Garland*, 71 U.S. (4 Wall.) 333 (1867) (former Confederate sympathizers cannot be denied access as advocates in cases before federal courts).

[12] *Id.*

[13] *See, e.g., Frost & Frost Trucking Co.* v. *Railroad Commission*, 271 U.S. 581, 593–94 (1926).

[14] *Id.*, quoted with approval in *Western and Southern Life Insurance Company* v. *State Board of Equalization of California*, 49 U.S.L. Week 4542, 4546 (U.S. Supreme Court, May 26, 1981).

[15] *See United States* v. *Jackson*, 390 U.S. 570, 581 (1968); *Shapiro* v. *Thompson*, 394 U.S. 618, 631 (1968); *Frost & Frost Trucking Co.* v. *Railroad Commission*, 271 U.S. at 593–94.

[16] *See Shapiro* v. *Thompson*, 394 U.S. at 634; *Memorial Hospital* v. *Maricopa County*, 415 U.S. 250, 258 (1974); *Sherbert* v. *Verner*, 374 U.S. 393, 404–07 (1963). *See also Thomas* v. *Review Bd. of Indiana Employment Security Div.*, 101 S.Ct. 1425, 1431 (1981).

[17] *Boddie* v. *Connecticut*, 401 U.S. 371, 374 (1971); *Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137, 163 (1803).

[18] *See Lombard* v. *Louisiana*, 373 U.S. 267 (1963) (property owners invited to invoke facially neutral trespass laws against blacks during sit-ins at restaurants).

[19] *NAACP* v. *Alabama*, 357 U.S. 449, 462 (1958) (compelled disclosure of membership lists made government responsible for predictable private abuse that would result).

[20] *See Gregory* v. *Chicago*, 394 U.S. 111 (1969); *Feiner* v. *New York*, 340 U.S. 315, 326–27 (1951) (Black, J., dissenting); Z. Chafee, *Free Speech in the United States* 245 (1948).

[21] *See, e.g., United States* v. *Hudson & Goodwin*, 11 U.S. (7 Cranch) 32 (1812) (federal courts have no authority to punish conduct without congressional enactment specifically defining conduct as criminal).

[22] *See Screws* v. *United States*, 325 U.S. 91 (1945) (state police who beat black suspect to death may be federally prosecuted under 18 U.S.C. § 242 for willful deprivation of suspect's constitutional rights under color of law notwithstanding possible state prosecution for murder).

[23] Whatever such a law's other aims, it would fit too poorly (to pass muster under strict scrutiny) any objective other than the forbidden one of deterring or penalizing the rights excluded.

[24] A contrary illusion might be fostered by the fact that Congress' control over the Supreme Court's appellate jurisdiction, at least, rests on Article III's express reference to congressionally created "exceptions." But this circumstance has no bearing on the external limits on the power in question, nor is there even any reason to suppose that the Necessary and Proper Clause, say, confers less affirmative authority over its range

of subject matters than the Exceptions Clause does over it.

[24] *See, e.g.*, H.R. 900, Section 1, which would achieve this result (unless struck down) by declaring fetuses to be among the "persons" to whom the state's duties of equal protection extend.

[25] *See, e.g., Washington* v. *Davis*, 426 U.S. 229 (1976).

[26] *Cf. Uniter States* v. *O'Brien*, 391 U.S. 367 (1968).

[27] *See Oregon* v. *Hass*, 420 U.S. 714, 719 (1975).

Mr. WEICKER. Mr. President, I now wish to read the statement of Telford Taylor on behalf of the American Civil Liberties Union before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the Committee on the Judiciary of the House of Representatives.

My name is Telford Taylor. I am a lawyer, admitted to practice in the District of Columbia, New York State, and various federal courts including the Supreme Court of the United States. I have been at the bar for 47 years, first as a federal government attorney (1933–42), and since 1952 as a private practitioner. In recent years I have been principally occupied with law school instruction, and have conducted classes and seminars at the Yale, Columbia, Harvard, University of Colorado, and Benjamin Cardozo Law Schools. I am presently Nash Professor Emeritus at the Columbia Law School and Kaiser Professor of Constitutional Law at the Cardozo Law School.

Throughout these years I have been primarily concerned with federal, including federal constitutional law, and I have conducted classes in constitutional law at all of the above-named institutions, and in every year since 1963.

I am appearing here on behalf of the American Civil Liberties Union, in order to discuss the extent of congressional power over federal court jurisdiction. I am aware that there are a number of pending bills, in both the House of Representatives and the Senate, which withdraw federal court jurisdiction in a variety of ways. I share with the ACLU the view that most of these bills, if enacted into law, would be unconstitutional. But I am not a member of or bound by the views of the ACLU, and the particular contents of this statement do not necessarily reflect their opinions.

1. CONGRESS AND THE INFERIOR FEDERAL COURTS

My opposition to the jurisdictional provisions of these bills is not based upon a narrow view of Congressional power in this field. The Supreme Court has explicitly recognized that Congress has "plenary control over the jurisdiction of the federal courts." *Bro. of R. Trainmen* v. *Toledo, P. & W. R. Co.*, 321 U.S. 50, 63–64 (1944) This is in accord with the history and language of Article III of the Constitution, Section 1 of which vests the judicial power in the Supreme Court "and in such inferior Courts as the Congress may from time to time ordain and establish" It is generally understood that this wording embodied a compromise between those among the framers who favored and those who opposed establishment of a federal court system. Thus the decision between the two alternatives was not mandated by the Constitution itself, and it was left up to Congress to handle by statute.

It thus appears that it would have been entirely constitutional for Congress to establish no "inferior" federal courts at all. And although the First Congress did in fact establish the district and circuit courts, the First Judiciary Act gave them a range of jurisdiction which, by today's standards, was very narrow.

Accordingly, if we were to look to the intentions of the framers, Congress could constitutionally conclude and legislate extensive curtailment, or even abolition, of inferior federal court jurisdiction. Of course, from a practical standpoint, a decision not to make inferior federal courts in 1789 would have been quite different from a decision to abolish them in 1981, after we have had federal courts for nearly two centuries, and after more than a century during which they have become a major part of the nation's judicial machinery. These practical considerations have led one commentator to conclude that: "Abolition of the lower federal courts is no longer constitutionally permissible . . . the jurisdiction of these courts is not a matter solely within the discretion of Congress." Eisenberg, Congressional Authority to Restrict Lower Federal Court Jurisdiction, 83 Yale L.J. 498 (1974).

While I think all would agree that today the abolition of the lower federal courts, or deep inroads into their jurisdiction, would be extremely unwise, and indeed destructively revolutionary, of course these bills effect, quantitatively, a very limited withdrawal. My opposition to them, and my conclusion that they are unconstitutional, does not rest upon the proposition that there are quantitative constitutional limits on Congressional power over inferior federal court jurisdiction. That power is, as stated by the Supreme Court, "plenary," like, for example, Congressional power to regulate interstate commerce.

2. CONGRESS AND THE SUPREME COURT

Unlike the lower federal courts, whose existence is dependent on Congressional creation, the Supreme Court is the creature of the Constitution itself. The Constitution (Article III, Section 2, second paragraph) also specifies the Supreme Court's original jurisdiction, which Congress is powerless to alter, and endows the Court with appellate jurisdiction "both as to Law and Fact, with such exceptions, and under such Regulations as the Congress shall make."

Because of the striking, and plainly intentional, differences in wording between the provisions dealing with the lower federal courts and those dealing with the Supreme Court, I do not think that Congressional power over the Supreme Court's appellate jurisdistion can properly be described as "plenary" in the sense that the power over lower federal court jurisdiction is "plenary." The power to "regulate" assumes that there is a corpus of appellate jurisdiction to be regulated; the power to make exceptions assumes that there is such a corpus from which there can be subtraction.

Furthermore, there is a structural interlocking between Sections 1 and 2 of Article III. If Congress should choose under Section 1 to create no lower federal courts, all federal issues, constitutional and statutory, would be resolved in the state courts; a failure to provide for review of their decisions in the Supreme Court would leave that Court with nothing but very limited original jurisdiction and confront the nation with the probability of disparate federal law among the several states. And in fact the First Judiciary Act (1789) gave the lower federal courts no general jurisdiction over federal questions and therefore provided for Supreme Court review of state court decisions on federal questions.

In short, while the framers of the Constitution contemplated the possibility that there would be no lower federal courts whatever, I do not think it conceivable that they contemplated the possibility of no Supreme Court appellate jurisdiction whatever. Were Congress to enact a law totally abolishing the Supreme Court's appellate jurisdiction, I believe it would be unconstitutional.

The difficulty, of course, is that the Constitution does not specify any standard limiting the so-called "exceptions and regulations" clause. The problem is not unique to that clause. Since the First Judiciary Act, Congress has specified the dates of Supreme Court terms, then fixed at two per year, in February and August.

Mr. MATHIAS. Mr. President, will the Senator yield for a question?

Mr. WEICKER. Yes, I certainly do yield to the distinguished Senator from Maryland.

Mr. MATHIAS. The Senator has referred to legislation which would deprive the courts of jurisdiction in specific areas of cases. I am wondering whether the Senator will agree that this kind of legislation, as he and I have already discussed, bears some relationship to the matter pending before the Senate?

Mr. WEICKER. Yes, it certainly does.

Mr. MATHIAS. Does the Senator agree the proponents of these bills appear to believe that if the Supreme Court and the lower Federal courts are deprived of jurisdiction that State courts could decide such cases without fear of Supreme Court review and thus ignore the precedents that are set by the Supreme Court of the United States, the highest constitutional authority?

Mr. WEICKER. Senator, absolutely, absolutely. But, Senator, it should come as no surprise, this total disrespect of the authors of the amendment before this body to the judicial system and to the courts of this country.

Mr. MATHIAS. Well, I am not drawing any such conclusion. But I do have some concern about either the deprivation of jurisdiction which could prevent the enforcement of the guarantee of rights and liberties of the American people or the deprivation of enforcement powers on the part of the executive branch which could have an equally devastating effect.

I have a further question of the Senator from Connecticut. Does the Senator believe if State courts are given such explicit jurisdiction and then proceed to exercise it in a manner which is inconsistent with existing precedents that the State would be acting in a manner which would be totally inconsistent with the supremacy clause of the Constitution?

Mr. WEICKER. The Senator from Connecticut responds in the affirmative to the Senator from Maryland.

Mr. MATHIAS. Let me just pursue that with another question. Is there any reason why these court jurisdiction restrictions could not be expanded into the future to cover all constitutional rights, freedom of speech, freedom of religion, freedom from reasonable search and seizure?

If we were to deprive the Federal courts of jurisdiction in a whole series of issues, would it not be possible in fact to vitiate the entire Bill of Rights as a practical matter?

Mr. WEICKER. Senator, that is what is being done right out here, and that is what is being contemplated by the authors of this amendment. It is not a question that this is speculative. The Senator is absolutely right.

Mr. HELMS. Mr. President, the Senator has gone too far.

Mr. WEICKER. Senator, you have gone too far, and that is the reason why somebody is saying "no" to you. The Senator is stating his opinion of the legislation.

Mr. HELMS. No, you are stating your opinion of me.

Mr. WEICKER. And, quite frankly, as long as that legislation sits out there I am going to characterize the legislation in every way that I possibly can as being unconstitutional, as being that which deprives people of their rights under the Bill of Rights. If the Senator does not like the characterization of the legislation there is nothing I can do about that.

Mr. HELMS. Mr. President, he is not characterizing the legislation. He was characterizing a Senator, and there is a difference.

Mr. WEICKER. Mr. President, will the reporter please read the record so that we have it before us as to how the Senator was characterized.

The PRESIDING OFFICER. The Official Reporter will read the statement of the Senator from Connecticut to which the Senator from North Carolina has referred.

The Official Reporter of Debates (Mr. Benjamin H. Firshein) read as follows:

Mr. WEICKER. Senator, that is what is being done right out here, and that is what is being contemplated by the authors of this amendment. It is not a question that this is speculative. The Senator is absolutely right.

Mr. WEICKER. That was in response to the Senator from Maryland. That is correct.

Mr. MATHIAS addressed the Chair.

The PRESIDING OFFICER. Will the Senator suspend, please?

Is the Senator from North Carolina calling the Senator from Connecticut to order at this time?

Mr. HELMS. Mr. President, in response to your question, I simply think that the Chair wants to keep the Senator from Connecticut within bounds, within the rules of this Senate.

The PRESIDING OFFICER. Is the Senator calling the Senator from Connecticut to order? Otherwise, he has nothing to say.

Mr. HELMS. I will not press the point, because it is not worth the time. But I want to say that I have been attacked personally time and time again by my friend from Connecticut and I think that he ought to stop that. His disagreement with the amendment is fine, but his attacks on other Senators are not fine.

Mr. WEICKER. I would address myself to the Chair by saying that I have nothing but the greatest affection for the Senator from North Carolina. Quite frankly, he and I have been through too many battles, so I want the record to be clear as to how I look upon him as a person.

Mr. HELMS. I thank the Senator.

Mr. WEICKER. There is just no question about that.

On the other hand, I express my rather strong feeling as to the legislation that he has on the floor, but not to the Senator.

Mr. HELMS. If the Senator will yield and not lose his right to the floor, the problem with the Senator is he knows too many things that are not so. If I ever get a chance, I am going to refute the arguments that he has made and I am going to do it in detail. I am going to quote constitutional sources and scholars that will absolutely rebut 98 percent of what the Senator said. I say further that he has no more devotion to the Constitution than the authors of this amendment that he objects to. I hope we can keep it on a high level.

The Senator can disagree all he wishes, but do not attack STROM THURMOND and JIM MCCLURE and JOHN EAST and JESSE HELMS, because you do not love this country any more than I do.

Mr. WEICKER. Senator, I did not even realize that Senator EAST and Senator MCCLURE and others were involved in this effort.

Mr. HELMS. There are a lot of things you do not realize, Senator, but we will get to that later.

The PRESIDING OFFICER. If the Senators will suspend, the Chair would like to rule and read rule XIX, paragraph 2, which is applicable if the Senator from North Carolina cares to invoke it.

No Senator in debate shall, directly or indirectly, by any form of words impute to another Senator or to other Senators any conduct or motive unworthy of becoming a Senator.

Does the Senator from North Carolina desire to use that rule?

Mr. HELMS. No, I do not.

The PRESIDING OFFICER. All right, I recognize the Senator from Connecticut. He may continue.

Mr. WEICKER. I thank the Chair. Again, I just have to repeat my personal affection and respect for my good friend from North Carolina.

Mr. HELMS. Which is reciprocated.

Mr. WEICKER. And I have to repeat what I consider the legislation on the floor to be. It is that fish in the sun, Senator, and that has nothing to do with you.

Mr. HELMS. Leave it to the legislation.

Mr. WEICKER. That is what I am talking about.

Mr. HELMS. You have not been talking about the legislation. You have been talking about the sponsors of the amendment.

The PRESIDING OFFICER. The Chair will remind the Senator from Connecticut that he can lose the floor if he yields to a Senator for other than a question and he has not yielded for a question but he is getting a statement.

Mr. WEICKER. Well, the Chair is absolutely correct. I do not want to lose the floor, I just want to express my affection for the Senator from North Caroline, that is all.

In any event, in response to my good friend from Maryland—my good friend, the Senator from Maryland is the one who got me into all of this trouble—I am glad to go ahead and say to him that I think there are serious constitutional defects to what it is that is being proposed here. Indeed, these defects could strip each one of us of our rights under the Constitution.

The answer is, yes, in any given set of circumstances we could lose our rights as to freedom of speech, freedom of religion, privacy, or what have you, and there would be no recourse for us in the sense that either the courts were stripped of their jurisdiction or the Justice Department of its abilities to pursue the action against the act complained of.

Mr. HATFIELD. Will the Senator from Connecticut yield for a question?

Mr. WEICKER. I am delighted to yield to the Senator from Oregon for a question and respond as best as I am able to.

Mr. HATFIELD. I want to ask the Senator from Connecticut a question relating to perhaps other civil rights issues that might be affected by the precedent that this particular amendment, if adopted, might set.

I ask the question as a nonlawyer, but my question is raised because I am concerned about whether or not the Senator feels that this would limit the Supreme Court's authority to hear cases or the Justice Department's ability to fulfill its constitutional obligations. How does the Senator feel that these issues would be affected and what would be the impact upon not only civil rights but on other issues that might face the Justice Department in the future?

I ask this question in perhaps a series of questions—I would like to get it all out—or I can ask them one at a time, whichever the case may be.

But does the Senator see this as different from, say, a congressional action that would cause a reduction of appropriations to carry out an action or as contrasted to a Supreme Court ruling in which an agency is carrying out an action, or as contrasted to a legislative amendment that would change the responsibility of an agency?

Well, that really raises a series of questions, but I raise this because I recall at the time that we were offering the McGovern-Hatfield amendment to cut off funds for the Vietnam war, that question was raised in the debate of whether or not we were encumbering the President from carrying out a constitutional duty. If the Senator recalls—this question is in this context—the President's duty or his warmaking powers were later redefined because of confusion in that case.

Does the Senator from Connecticut think that there is any similar confusion here or is it a pretty clear case of an encumbrance that would be placed upon the Justice Department from actually carrying out an action mandated by the Supreme Court and differentiating that from, say, a redefining of a responsibility vis-a-vis an appropriation action or an amendment to it?

Mr. WEICKER. In response to the question of the Senator from Oregon, the fact is the passage of this type of legislation removes—removes the judicial branch of Government from the constitutional process. This type of legislation binds, inhibits the executive branch of Government from its full participation in the constitutional process.

Mr. HATFIELD. If the Senator will yield for a question, is the Senator saying it, in effect, impacts upon two of the three branches of Government?

Mr. WEICKER. Absolutely correct. It inhibits one—how can a court hear something that cannot be brought before it? That is why they can be removed. If, indeed, the Justice Department cannot seek the remedy, then a court cannot make an adjudication of something that is not before them.

I have never seen, as long as I have been in the House of Representatives, 2 years, and the U.S. Senate, 11 years, anything so unconstitutional as this amendment, except when it was previously raised by the Senator from North Carolina last year. It is unconstitutional. And if that falls harshly upon anyone's ears here, the fact is that that is the case.

Mr. HATFIELD. If the Senator will yield for a further question on that point, are there any other areas or subject fields that the courts today are restricted from hearing or are in a similar category that this amendment would place this subject?

Mr. WEICKER. Well, the method used, the legislative method used, in other words, of trying to achieve a judicial or policy end by reducing the appropriations process obviously has been used in other instances.

Mr. HATFIELD. If the Senator will yield for a further question, are there any subject categories that are specifically excluded from the Court's review as I understand this would do?

Mr. WEICKER. No. The Senator is correct. My answer would be no. I know of none. I know of none.

Mr. HATFIELD. If the Senator would yield for a further question, as I understand it, the Senator from Connecticut is saying that this would be the first time for a precedent-setting action that would specifically exclude an area of subject in the law from the Supreme Court's consideration or jurisdiction?

Mr. WEICKER. If you pass this amendment—I am not talking about the Weicker amendment, I am talking about the restrictive one—then the fox is in the chickenhouse. This is the first time, this is the first time. But the principle will have been established. And once the principle is established—I wonder if I might ask the Chair for order. I cannot respond to the Senator while another Senator is talking to him.

The PRESIDING OFFICER. The Senate will be in order.

Mr. WEICKER. Once the principle is established on a matter of those cases that relate, as this does, to discrimination by race or school desegregation cases, once it is established by virture of this principle, then you can apply any other fact situation and the principle remains.

So, indeed, you could put more funds into retarded cases, elderly cases, and so on. You can go right down the list, once the principle is established.

Mr. HATFIELD. If the Senator will yield for a further question, let us assume as the scenario for my question that this amendment is adopted and becomes part of the law. Would this action be subject to review by the Supreme Court, such legislative action, and would it be in a position to strike it down as unconstitutional?

Mr. WEICKER. The answer to the Senator from Oregon is in the affirmative.

This raises an interesting question. First of all, there is no doubt in my mind it is going to be struck down as being unconstitutional. There is no doubt. And then we can all sit down here and say, "Oh, oh, we made a mistake."

There is only one thing wrong and the Senator knows what that is: It is probably going to be several years before that determination is going to be made and the lives of how many children would have been cut to ribbons in the meantime? Believe me, when you take that education away for whatever it is, 5, 6, 7, or 8 years, you set the course for years to come. So this tinkering around with the Constitution of the United States by whomever it is who proposes this type of legislation is not without consequence.

So we can all run around and say, "We won our election." We won our election at a cost of how many children?

Point No. 2: Who is to say to the Senator who sits as chairman of the Appropriations Committee that if the Supreme Court says this is unconstitutional, that at whatever time they say that we will then have a rider on the appropriations bill? I am the chairman of the Subcommittee on State, Justice, Commerce, and the Federal Judiciary. We will have a rider on the appropriations bill cutting off the funding of the Supreme Court that said this was unconstitutional.

There is the problem on both of its counts, both as to how it affects those who will have no action on their behalf for years and also once we establish this principle to go after the Court itself by cutting off its money.

Mr. HATFIELD. The Senators responded obviously to the generic subject that this raises. But what would be the ramifications of saying to any other agency of Government, besides the Justice Department, if this matter became law and the precedent was set? Would it have such ramifications in other agencies besides Justice as far as carrying out programs and policies?

Mr. WEICKER. Yes, it would. Obviously, with every one of your Federal agencies that has any sort of a quasi-judicial function, if you do not like what they are doing, you just move in on them. But I do not think we will have any trouble on that. If we have no trouble moving against the judicial system of this country, I can assure you there will be no problem in moving against that which is quasi-judicial. The answer is that the various agencies, whether FTC or any other, which have to make quasi-judicial decisions, can have us interjected into the system if we do not like what they are doing, by going ahead and withholding funding and saying that there are certain things they can or cannot do.

Mr. HATFIELD. Let me put the question this way: Let us assume for a moment that the objective or the policy that this amendment would create or change is a desirable one. Are there other remedies. are there other methods that the Senator would suggest we could approach that matter with, in order to achieve the same objective?

Mr. WEICKER. This is on the amendment of the Senator from North Carolina?

Mr. HATFIELD. Yes.

Mr. WEICKER. The answer is it is very easy to achieve, without damage to the constitutional process, what it is that the Senator from North Carolina is trying to do. Indeed, as I read the great Republican platform and I hear the admonition from the President and his Attorney General, I have no doubt what he seeks to do in this particular piece of legislation is going to happen anyway. It is right out there. There is a big difference between people saying these things and turning the constitutional process upside down to achieve these things.

Let us say in answer to the question that we could defeat the amendment of the Senator from North Carolina, and we are not going to, and the practical effect would be exactly the same as what it is he is trying to achieve. The difficulty comes not with his amendment but with openly rejecting the amendment of the Senator from Connecticut which says the Justice Department shall enforce the Constitution of the United States and the Court shall enforce the Constitution of the United States.

We have people running around here who do not like the courts. They do not like what the courts have done.

Well, that is a little bit different.

My answer to the Senator is that, yes, there are many ways by virtue of what has already been stated as administration policy, by virtue of an affirmative act, I might add. which was passed by constitutional amendment, article V of the Constitution of the United States. You can go ahead and do it through a bill, run it through the authorizing and appropriation process, signed by the President and approved by the President. Every way.

This is unconstitutional, totally out of the stream of the legislative process, and, indeed, telling the President of the United States what the policy is to be.

I repeat for my more conservative colleagues who believe and quote the Constitution of the United States. I wonder how thrilled the President is that from now on the Congress is going to be able to tell his branch of Government what to do.

This is where the President ought to be, on the floor right now defending that aspect of the proposition.

Sure, approve the Helms amendment, that is no problem, but there is the congressional incursion into the constitutional authority of the President.

Mr. HATFIELD. If the Senator will yield for a further question, the Supreme Court is a coequal branch with the other two branches of Government, and if there is something the Supreme Court has ruled upon which they disagree with, which they feel is in error, the Senator from Connecticut, I understand, is saying that we have other remedies to correct that disagreement other than this particular procedure we are forming now, such as by taking that issue head on, by other legislation or a constitutional amendment. We can change the impact or the effect of that ruling in a more or-

derly, constitutional procedure than what is being selected here. Do I understand that correctly?

Mr. WEICKER. The Senator from Oregon is correct. For example, we could propose an amendment as a substitute for the Helms amendment because we do not like busing; we do not like what the courts are doing to achieve equality of educational opportunities. We can pass an amendment right here saying that Congress will appropriate $50 billion, in lieu of the Helms amendment, in lieu of busing, that the Congress will appropriate $50 billion and go ahead and raise the necessary taxes to pay for it in order to achieve equality of educational opportunities.

There is a way to do it. I do not think, quite frankly, it would have many supporters.

I just do not see how you can have your prejudices and your wallets intact. I really do not. That is where the strain is coming here. Someone is trying to find an answer to this problem without any pain whatsoever, either in terms of lifestyle or in terms of dollars. But I want to repeat, because this is terribly important in this debate: This is not a busing debate. I imagine there are a lot of people who have spoken here on my behalf, on the constitutional issue, who do not like busing.

That is what everybody is to be tarred with, to be tarred with the busing question so that they will quiver and go ahead and respond politically.

"I do not want my constituents to know that I am for busing. That would be terrible." They run as fast as they can.

The fact is that the debate here has to do with the Constitution. The debate has to do with civil rights, everybody's civil rights, with the constitutional process, the role that we play, and the executive and the judiciary. These are the arguments here on the floor. I only wish somehow I could unshackle my colleagues from the fear that is engendered with the buzzwords that come forth in this issue. I feel that if they had no political fear they would do the right thing, constitutionally.

Mr. HATFIELD. Will the Senator yield for a further question?

Mr. WEICKER. I certainly will.

Mr. HATFIELD. Do I understand the Senator to say that whether he is for or against busing as a public policy, as expressed by the Court, he rejects that as the issue and says the issue is more how we go about the process of changing the impact of that Supreme Court ruling, and, therefore, that the busing issue still should be resolved by other methods as a public policy, maintaining the integrity of the Court's role in ruling on such legislation and the judiciary department's responsibility. Is that correct?

Mr. WEICKER. That is absolutely correct. I think my colleagues know me well enough to think sometimes they might object to style.

Let us say that I was 100 percent against busing. I would take the exact same position on this floor as I am taking right now, the exact same position. Again, I have no repeat, when I first came to the U.S. Senate, we were changing rule XXII. That is when we were dropping it from 66 to 60. I voted against that change as a New England Senator. I did not want to choke off the voice of the then minority.

Regardless of what I am supposed to be—liberal, or whatever it is, or coming from New England—no New England Senators favor cloture. That was neither here nor there. There was an important principle, so far as I was concerned. At that time, it favored my Southern colleagues.

The important principle was that here, if nowhere else in the United States, a person could be heard, no matter whether it was only one person or two persons. I voted against that change, and I say the same thing here—that on this issue, where I am 100 percent against busing, I would still vote against the Helms amendment and I would vote for the Weicker amendment.

To me, it is a constitutional matter. At least, I try to feel these things—at least in my own mind—in a pragmatic way.

To achieve this end and leave the Constitution behind in shambles, to leave the concept of separation of powers in shambles, to leave Marbury against Madison—Chief Justice Marshall's decision—in shambles, what is it we have done in achieving some sort of political philosophy?

Mr. HATFIELD. Mr. President, will the Senator yield for a further question?

Mr. WEICKER. I yield.

Mr. HATFIELD. Will the Senator agree that one can have a dual goal, that one can seek dual goals without abandoning one for the other, that one could have in this case the goal of changing the busing policy of this Nation but at the same time maintain the goal of the constitutional question of separation of powers, much as in the case when the first Republican President, Mr. Lincoln, was seeking the goal of emancipation of the slaves but at the same time the goal of preserving the Union—and he was not going to sacrifice one for the other—could you maintain the duality of goals?

For example, if I were opposed, say, to busing policy, which I am not, I still could be opposed to busing and maintain that goal as well as the goal of preserving the separation of powers, as I understand the interpretation by the Senator from Connecticut.

Mr. WEICKER. Certainly.

Mr. HATFIELD. It is not either/or?

Mr. WEICKER. It is not.

The Senator raises the very interesting point that this issue is raised by members of the party of Abraham Lincoln. If ever there were a contradiction, I would say that is it.

I should like to read to the Senator, in response to his question, the quotation that I believe is on target as to the issue he raises. This is quoting Chief Justice Marshall in Marbury against Madison:

> The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he received an injury. One of the first duties of government is to afford that protection. . . .
>
> The government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for a violation of a vested legal right.

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

Mr. WEICKER. I yield to my distinguished colleague for the purpose of a question.

Mr. HATFIELD. I often have found myself in a situation—I wonder whether the Senator finds himself here today in a similar situation—in which the goal or objective is a sound or legitimate one, and one pursues that objective with diligence and with tenacity, but one also has a responsibility to communicate that goal and objective clearly not only to the colleagues but also, more especially, to the public. But as well as pursuing that goal, what responsibility do we have to attend to the methodology—I am not suggesting that one is engaged here today, or any colleague—with saying the ends justify the means?

Does the Senator from Connecticut not agree that due care has to be given to the methodology one uses to achieve a goal or seek a goal and that one cannot really separate the one from the other—that is, the goals from the methodology?

Mr. WEICKER. Let me give a personal example out here on the floor which illustrates the earlier point made by the Senator from Oregon, and I will carry it into the question he just asked.

It has to do with the abortion debate. The Senator will correct me if I am wrong. His legislative position consistently has been along with that of the Senator from North Carolina on the issue.

Mr. HATFIELD. That is correct.

Mr. WEICKER. The Senator from Oregon is the chairman of the Appropriations Committee. He felt very strongly, having lived through 2 or 3 years of it, that the time had come to put an end to this business of legislation on an appropriations bill; that it had totally bogged down the whole process, and it has. So he differentiated between his position legislatively as a Senator from Oregon and his position as chairman of the Appropriations Committee as to the procedures on the last vote we had, and he voted against the Helms language, even though substantively he believed in it, feeling that there was a proper way to bring that to a vote out here and that he would be voting for it.

The Senator from Oregon illustrates his own point as to a proper way and a wrong way to do things and how sometimes we are divided as to the matter of procedure and as to the matter of law, as to the matter of substance in our opinions.

I also say to the Senator—and it may be a comment on the temper of the times, with respect to those of you in the leadership, for the reason I have stated, as a matter of procedure, of voting against the Senator from North Carolina—that I also recall the threat that:

People will be watching, and there will be no excuse as to whether or not you think you are voting on a matter of procedure. They will be watching.

That is the temper of these times.

I want to make the record clear, here and now. I know exactly how the Senator voted and why he voted—to try, as the new chairman of that committee, to bring sense, to bring order to our new procedures on the Senate floor and not have them the shambles they have been in the past several years, as both of us know, as members of the Appropriations Committee.

It took a great act of courage on the part of the Senator from Oregon to temporarily set aside his convictions on the substance, to achieve the proper constitutional procedures.

The only thing I am sorry for was to hear anyone stand on this floor and say, "They will be watching; they will be watching; they will be watching."

Well, I hope they are watching now. I cannot make it any clearer than I have made it in the past 5 hours.

In any event, there are proper ways through our process to achieve particular legislative ends.

I would have no difficulty at all if the antibusing amendment were proposed as a constitutional amendment. Does the Senator know why it is not proposed as a constitutional amendment? It is very clear. It is tough, very tough. I refer to article V:

Whenever two-thirds—

Now we are not talking about a majority.

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, * * *.

That is a tough road. That is not a simple majority on a rider on an authorization bill. That is tough.

Now let us take another way to go. The constitutional way is too tough, and it is a bad idea to sit in the sunlight too long. It taints even those who propose it. So let us take the other road. Let us take the road that you have a piece of legislation and I have a piece of legislation. Regardless of what it is, what do we do? First, we have our staffs sit down and draw a bill.

We bring the bill to the well, and it is assigned to a committee. We have to wait while that matter is referred to a committee and we get agreement to have a hearing on the bill. A hearing is held. The committee is going to meet on it.

Everything we do here has to be duplicated in the other House, and finally maybe it will come here or there, and maybe we will get a conference, and maybe it will go to the President and then it will be subject to the courts.

That takes time. We cannot afford to have time on this matter. We need it for political purposes now, Senators.

So the fastest way we can do that, to obviate that process, is to put it as a rider on an authorization bill.

The Senator knows as well as I know the bad things that happen in the dead of night, that happen in the dark alleys and the corners.

Frankly, the light and the breadth and the magnificence of the constitutional process is just too much for this legislation, and that is why it is not being used.

Mr. HATFIELD. I thank the Senator for his answers to the questions.

Mr. WEICKER. I thank my distinguished colleague from Oregon for his questions and his commitment to these and all other matters. I do not believe there is anyone who treasures human life more than he does, is more understanding of the views of others, is firm in his own belief, never trying to impose himself on others. To me, he stands as the highest example of a man dedicated to the Constitution and to life and the magnificence of life and the potentials of life in all its forms. He is a credit to everything that is good.

Mr. HATFIELD. I thank the Senator.

Mr. KENNEDY. Mr. President, will the Senator yield for a question?

Mr. WEICKER. I yield to the distinguished Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I wish to just address the question to the Senator from Connecticut. I indicate as a preface to the question that I support the amendment offered by Senator WEICKER and oppose the amendment offered by Senator HELMS which would restrict civil rights litigation by the Justice Department.

As the Senator from Connecticut has forcefully pointed out to this Chamber last fall, the issue transcends a Member's particular policy view on student transportation. The question simply put is whether we will handcuff the Department of Justice and prevent it from trying to enforce the Constitution. The constitutional rights secured by the 14th and 15th amendments will become hollow promises. I believe that if Senator WEICKER's amendment is not adopted, when the ability of those who enforce our constitutional rights to seek essential remedies for constitutional violations is denied, we have, in effect, denied the right.

I know this is a point that the Senator from Connecticut has spoken about during this debate and discussion. Our sworn duty is to protect the Constitution.

So does the Senator agree with me that we have an obligation not to deny the constitutional rights by denying their remedies for violation? I think that the answer will be affirmative, but I am interested if the Senator could perhaps just for my own edification and again for the record speak to that briefly.

Mr. WEICKER. I thank the distinguished Senator from Massachusetts. He is absolutely correct in his view of the situation.

What good does it do to establish the illegality if after it has been established and after it has been adjudicated you say good day and goodby. I mean, that is what we are talking about. There can be no remedy. If there can be no remedy asked for, first, the court cannot hear what is not being asked for. That takes the courts out of the picture and then insofar as the remedy or lack thereof, what happens to the poor plaintiff? It renders meaningless whatever law is on the books whether it be congressionally passed or whether it be the Constitution without a remedy.

Mr. KENNEDY. So this is basically the constitutional issue which I know has been the thrust of the Senator's argument during this period of time and it is basically not a new question but it is one which it seems to me that we end up with debating with reasonable frequency over the period of years and that is if we deny the remedy essentially we are denying the right.

Mr. WEICKER. That is correct.

Mr. KENNEDY. And what the Senator is pointing out at this time is that effectively we are denying at least one possible remedy to the plaintiffs and by doing that we are affecting what has been established by various court decisions as being one possible remedy in order to achieve the constitutional right.

I inquire further whether it is not correct that the courts have made clear that the U.S. Government may not provide Federal funds to aid school systems or agencies which are unconstitutionally segregated. As I remember the debates over a period of some 19 years there has been a very clear statement of policy and quite appropriately so that we should not be voting taxpayers' moneys to perpetuate discrimination in our society. That has been a tenet which has had broad bipartisan support and one which I think the American people would feel strongly about.

Am I correct in my understanding of the Senator's argument that that is the state of the law?

That certainly has been an issue which has been debated over the period of years that we have debated the various civil rights legislation, whether it has been in housing or in transportation or whether it has been in other areas, school segregation cases, that we do not want to see the situation where the Federal taxpayers' or American taxpayers' moneys are going to be used to develop or continue the situation where there is basic discrimination. I believe that has not only been the findings of the legislative branch but I think there have been important court decisions on the issue.

Mr. WEICKER. The Senator's question is properly made and emphasized and he is absolutely correct. I yield further for purposes of a question from the Senator from Massachusetts.

Mr. KENNEDY. Is it not true, further, that the courts have indicated that the Federal funds may continue to be provided to State or local agencies which are segregated provided that the Federal Government is in the process of seeking an effective program to end segregation? And I think the importance of this question is underlined by stressing the effective aspects to end such segregation. If we find the situation where the school

districts are in the process of attempting to move to eliminate segregation, as I understand, the holdings have been that there still can be some continuation of the funding.

In many instances it is a very considerable period of time to eliminate the patterns of discrimination which have been built up over the years, and there have been supportive pieces of legislation to actually help and assist those communities that have shown a desire to do so that are under Federal court order.

Those funds are actually being reduced and cut back, I think unwisely. If a local community is attempting to try and respond to the problems of segregation in a thoughtful and meaningful and in a constitutional way, to deny them the help and assistance to do so is I think extremely both shortsighted and cruel and puts a very special burden on local community taxpayers which they do not deserve.

But my question is, Is it not the state of the law at the present time that if the community itself is moving toward trying to remedy the problems of discrimination in a particular jurisdiction, it has been upheld that there can be a continuation of funding for those particular school districts as long as there is an effective program? And I think what is at point here is if we deny the remedy to a particular district, we make it even all the more difficult for a local community to bring itself into conformity with the Constitution. I understand that then it is a self-defeating situation where the school district then would be denied the resources at the Federal level even if the local school district is attempting to comply with the constitutional mandates.

Mr. WEICKER. The Senator is absolutely correct, and he raises in the question the fact that everyone likes to ignore where they paint with a broad brush the evils of busing, et cetera, which is that no court can order any more of a remedy in the situation than the illegality demands. It is not a question of just throwing busing orders out willy-nilly. The law, the same Supreme Court that passed Brown against Board of Education and Charlotte against Mecklenburg, et cetera, said the remedy has to be specifically tailored to the illegality.

The answer is whether in terms of permitting the school district to receive Federal funds if indeed they are doing their best or in terms of how the remedy is tailored. The fact is that whatever it has done under the law is also done with commonsense.

What you cannot have is the leadership of the United States of America saying that we are clearing out. It is every man for himself. If you have the dough, sure, you can go ahead and bring the case. But the Justice Department is what represents all of us as a nation and as a society. They are no longer in the ball game. Is that not great? Is that not just great? We are clearing out, every man for himself.

Let me tell you I fear as much for what would happen in my State of Connecticut as I do anywhere else in the country so I am not sitting here pointing a finger. The answer is I want the Justice Department there to go ahead and stand up for every American's civil rights and that may not necessarily be a racial matter, and yet as a matter of principle if you remove them here you can get them out anywhere else.

Mr. KENNEDY. I think the Senator has made an important point which is not only an opinion but is also the current status of the law.

I was wondering whether the Senator was familiar with the recent announcements of the Attorney General, William French Smith, in a recent public speech that he concluded student transportation was not an appropriate remedy in most segregation cases and that the Department of Justice under his stewardship will sharply curtail the use of such proposals.

In light of the Attorney General's position, does it not seem to the Senator from Connecticut an unwise and an unnecessary step even to those Senators who oppose the use of student transportation to pass a statute of doubtful constitutionality where the Department itself has indicated that it will rarely call for such transportation?

Mr. WEICKER. The Senator is absolutely correct. The administration has already made the views clear. I have no doubt there has been any lessening of fervor in support of civil rights cases. That is their business. They quite frankly can do this without the legislative branch of Government making a massive incursion on the rights of the executive branch. That, as the Senator will recall, was the basis of President Carter's threatened veto and he said, "I want to pass this office on," and this was after, I might add, he was defeated. He said "I want to pass this office on with the same powers as the office that I received."

Now, what President Reagan will do here if this gets into law is to have something a little bit less of an executive branch than was given to him.

Mr. KENNEDY. I have listened over the period of the last couple of days to the Senator's arguments, and they have been based upon, as I understand it, both the constitutional issues and the particular court holdings.

I just want to say that I feel the Senator has performed an important service to the Senate and, most importantly, to the preservation of the constitutional rights of the citizens of this country. I appreciate the response of the Senator.

Mr. WEICKER. I appreciate the distinguished Senator from Massachusetts' questions. I know as this session of the Senate progresses there will be the Senator's times on the floor protecting the constitutional rights in many other forms, and believe me this is going to be one dandy session for those of us who stand there on the side of the Constitution. There are going to be more runs against it than we would like to see.

Mr. KENNEDY. I thank the Senator.

Mr. WEICKER. Now, Mr. President, I think we had better get back to the matter at hand, that being the statement of Telford Taylor in testimony before the House of Representatives:

During the constitutional crisis during President Jefferson's first year in office, Congress eliminated the August term. Doubts were expressed about the constitutionality of that change, but the issue was not litigated. Suppose, however, that Congress should provide for only one term every 10 years. Like a total abolition of appellate jurisdiction, I believe such a measure would be unconstitutional, but, once again, how are we to draw a line?

Learned commentators have suggested such formulations as that Congress must not exercise its powers under Article III in such a way "as will destroy the essential role of the Supreme Court in the constitutional plan." That is a commendable principle, but fortunately, the Supreme Court has never had occasion to articulate it or anything like it, since Congress has, over the years, acted with due restraint.

Well, I will tell you, Mr. Taylor—and I guess his testimony was on June 3, 1981—we can forget the days when Congress acted with due restraint. Congress is in the process of going ape, hog wild, any other term you want to go ahead with and apply—hardly due restraint or hardly with regard to the Constitution of the United States:

Equally fortunately, we do not need to wrestle with this particular dilemma in appraising the constitutionality of the several bills which are presently the focus of discussion. In quantitative terms, none of them accomplishes a significant impairment of federal jurisdiction, in either the Supreme Court or the lower courts. It is indeed the very particularity of these bills which accounts for what I believe to be the constitutional flaw that afflicts all of them, whether they relate to the jurisdiction of the lower federal courts, or the Supreme Court, or of both.

3. CONSTITUTIONAL LIMITATIONS ON CONGRESSIONAL POWER OVER FEDERAL COURT JURISDICTION

To say that Congressional power over federal court jurisdiction is "plenary" does not mean that it is immune from the general limitations on Congressional power found elsewhere in the Constitution, including the several amendments. Congress specifies the jurisdiction by enacting statutes, and those statutes are no more immune from constitutional scrutiny than any others.

The Congressional power over interstate commerce is so ample that, despite the enormous proliferation of federal legislation, not since 1936 has a federal regulation of commerce been held unconstitutional. Yet nothing is better settled than that this power is subject to constitutional limitations such as the First Amendment and the due process clause of the Fifth Amendment. Were Congress to enact statutes forbidding interstate carriers to transport literature reflecting a particular political persuasion, or goods owned by members of a particular race or adherents of a religion, these statutes would undeniably be regulations of interstate commerce, but they would be constitutionally invalid under the First or Fifth Amendments.

The same principle applies to the exercise of Congressional power under Article III. A statute withdrawing from the federal courts jurisdiction to issue injunctions at the suit of individuals identified with particular political, racial, or religious groups would be manifestly unconstitutional under those same amendments.

These conclusions, I believe, follow inevitably from the language and structure of the Constitution. See *Louisville Joint Stock Land Bank* v. *Radford*, 295 U.S. 555, 589 (1935):

"The bankruptcy power, like the other great substantive powers, is subject to the Fifth Amendment." That there are few precedents in the jurisdictional field is, therefore, hardly surprising. But sufficient precedent is not lacking, for the foregoing conclusions are amply and explicitly supported by the decision and opinion in *United States* v. *Klein*, 13 Wall. 128 (1872). In that case, the Court of Claims had been given jurisdiction to determine, subject to Supreme Court review, claims to recover property taken by military action during the War Between the States. Some such claimants had been adherents of the Confederacy, but had subsequently taken amnesty oaths pursuant to President Lincoln's pardon proclamation. With the purpose of barring such claimants from recovery, Congress in 1870 passed a statute which provided that, if in any such case the claimant relied upon a presidential pardon as proof of eligibility, the Court of Claims or the Supreme Court (as the case might be) should have no further jurisdiction, and should dismiss the claim for want of jurisdiction.

In the Klein case, involving such a claim, the Supreme Court held the 1870 statute unconstitutional, saying that it was not "an exercise of the acknowledged power of Congress" over the Supreme Court's appellate jurisdiction. Two reasons were given of which one, directly relevant here, was that the statute impaired the effect of a pardon, and thus infringed the President's constitutional power under Article II, Section 2 to "grant Reprieves and Pardons for Offenses against the United States." The fact that the 1870 statute was phrased in jurisdictional terms made no difference, since its effect was beyond the power of Congress and violated Section 2 of Article II.

Accordingly, the requirement that statutes enacted by Congress under its Article III powers conform to general constitutional limitations is clearly established, both under the language and structure of the Constitution, and as a matter of decisional precedent. The immediate question is whether the several bills with which we are presently concerned can survive constitutional scrutiny under those principles. For the reasons given hereinafter, I believe that question must be answered in the negative.

Mr. FORD. Mr. President, will the Senator from Connecticut yield for a question?

Mr. WEICKER. Well now, to my esteemed colleague from Kentucky I would be delighted to yield, with the understanding that I do not lose my right to the floor and upon the condition that resumption of my speech continues to be considered my first speech on this matter on this day. Under those circumstances I would be glad to go ahead and do it. I ask unanimous consent that I might yield to the Senator from Kentucky under those circumstances.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Mr. President, reserving the right to object, just so the Senator will lose his right to the floor only if he takes his seat or leaves the Chamber.

The PRESIDING OFFICER. Or he loses his right to the floor if he yielded for other than a question.

Mr. HELMS. Excepting in this case he has yielded for another purpose.

The PRESIDING OFFICER. He can yield for any purpose by unanimous consent.

Mr. HELMS. Yes.

Mr. FORD. Mr. President, I ask unanimous consent that I might take 15 seconds without the distinguished Senator from Connecticut losing his right to the floor and all other rights he stated in his original statement.

Mr. WEICKER. I say to my good friend from Kentucky I think the Senator from North Carolina wants to make sure the Senator from Connecticut cannot necessarily leave the Chamber briefly or sit down. I think we will survive that. As far as I am concerned, you go right ahead as long as I do not lose my right to the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. FORD. I thank my two distinguished colleagues for letting me do this.

(Mr. FORD's statement is printed earlier in the RECORD in connection with the statement by Mr. WARNER on the introduction of his bill relating to commercial ports.)

Mr. WEICKER:

Fourth, the purpose of H.R. 900 and comparable bills is constitutionally impermissible.

The currently pending bills withdrawing federal court jurisdiction vary widely in subject matter and in the breadth of the withdrawal. Some withdraw jurisdiction only from the lower federal courts, some withdraw jurisdiction from the Supreme Court as well. Some withdraw all cases relating in any way to a particular constitutional right, others withdraw the power to utilize injunctions or declaratory judgments in such cases.

All the bills, as far as I know, share in common the feature that they single out particular constitutional rights, and confine their application to cases dealing with that right. Thus, some of the bills deal with rights guaranteed by the establishment clause of the First Amendment relating to school prayers, some with busing or other remedies pertaining to school desegregation, others with equal protection rights affected by the male-only draft registration, and still others with women's abortion choice rights under the due process clause, as recognized by the Supreme Court in *Roe* v. *Wade*.

A good example of the general tenor of these bills is H.R. 900, Section 2 of which would withdraw from the lower federal courts jurisdiction to issue injunctions or declaratory judgments in any case invloving a state statute which limits women's abortion rights. Like the statute of 1870 involved in the *Klein* case, Section 2 of H.R. 900 is a limitation on federal court jurisdiction. But just as the purpose and effect of the 1870 statute was substantive—i.e., to nullify the effect of a presidential pardon on war property claims—so the purpose and effect of Section 2 of H.R. 900 is substantive—i.e., to make it more difficult than theretofore for individuals to secure their constitutional rights recognized in *Roe* v. *Wade*. In neither case is the purpose constitutionally permissible.

Mr. SPECTER. Will the Senator from Connecticut yield for a question?

Mr. WEICKER. I yield to the distinguished Senator from Pennsylvania for a question without losing my right to the floor.

Mr. SPECTER. Mr. President, I ask the Senator from Connecticut, would there not be any effect, in his judgment, on the actions of busing as a remedy to discourage potential settlements and agreements among the parties in fashioning a remedy?

I ask this question because the possibility that a court might impose the remedy of busing has been viewed as a serious threat or drastic remedy by those who oppose it which, in some cases, has been said to have been a reconciling factor in leading those in opposition to busing to engage in imaginative thinking to structure a remedy which they would propose and which might not be acceptable fully to the plaintiffs' position but has provided middle ground for an accommodation.

One of the concerns which has been suggested by some, and even those who oppose busing as being undesirable and unworkable have expressed a concern that it be eliminated as a possible remedy which is a sword of Damocles, so to speak, hanging over the heads of one of the parties who would not want it. So it removes that kind of a threat and might, in effect, discourage the settlement process which has worked heretofore to save the time of the court and the parties that lead to an amicable resolution of the controversy, which obviously is the best way possible to resolve litigation disputes. I would like the Senator's judgment on that, please.

Mr. WEICKER. The Senator raises a very good question. I might add we are now on a new matter in the course of this debate.

The answer is, yes, obviously it has been an encouragement for parties getting together to settle their disputes to use moderate means to try to effect a compromise with the law. I think this is an aspect of the situation heretofore not raised.

The Senator makes a very good point in the course of this question. And clearly the availability of this remedy has probably played a very large role in achieving successful mediation rather than having the court impose its own version of a remedy:

Now, of course, I am aware of the many cases in which the Supreme Court has declared and applied the rule that the constitutionality of a statute must be determined on its face, and without inquiry into motives or purposes that underlie the enactment. See, e.g., *McCray* v. *United States*, 195 U.S. 27, 56 (1904); *Arizona* v. *California*, 283 U.S. 423, 455 (1931); *United States* v. *Darby*, 312 U.S. 100, 113–14 (1941); *Flemming* v. *Nestor*, 363 U.S. 603, 617 (1960); *United States* v. *O'Brien*, 391 U.S. 362, 382–86 (1968). For example, a law prohibiting anyone other than a lawyer from engaging in debt-adjusting will be upheld if a rational and legitimate purpose can be conceived, without going behind the face of the statute to determine whether or not the actual motive was to confer financial benefits on lawyers—a motive by which legislators, many of whom are lawyers, might be governed. *Ferguson* v. *Skrupa*, 372 U.S. 726 (1963).

But there are well-recognized exceptions to that principle. *United States* v. *O'Brien*, *supra* at 383 note 30; Ely, *Legislative and Administrative Motivation in Constitutional Law*, 79 Yale L.J. 1205 (1970). Perhaps the most important one involves the equal protection clause of the Fourteenth Amendment. For many years the Supreme Court has declared the rule that the unequal impact of a statute is not enough to establish a violation of the equal protection clause; there must be a governmental purpose to discriminate. *Snowden* v. *Hughes*, 321 U.S. 1 (1944); *Keyes* v. *School District*, 413 U.S. 189 (1973); *Washington* v. *Davis*, 426 U.S. 229 (1976); *Arlington Heights* v. *Metropolitan Housing Corp.*, 429 U.S. 252 (1977); *Mobile* v.

Bolden, 446 U.S. 55 (1980). And it is equally well settled that, in equal protection cases, the courts are not limited to an examination of the statute on its face. *Loving* v. *Virginia*, 388 U.S. 1 (1967); *Green* v. *County School Board*, 398 U.S. 430 (1968); *Columbus Board of Education* v. *Penick*, 443 U.S. 229 (1979). Indeed, the inequality of impact may be so great that a purpose to discriminate may be inferred from that circumstance alone. *Yick Wo* v. *Hopkins*, 118 U.S. 356 (1886); *Washington* v. *Davis*, *supra* at 253–54 (Justice Stevens, concurring).

Finally, and perhaps most important for present purposes, the Court has held that a statute which does not on its face articulate an unlawful purpose, may, because of its language and the context in which it is enacted, disclose on its face an unlawful purpose and an inevitable unlawful effect. *Grosjean* v. *American Press Co.*, 297 U.S. 233 (1936); *Gomillion* v. *Lightfoot*, 364 U.S. 339 (1960).

The *Gomillion* case involved an Alabama statute enacted in 1957 which changed the boundaries of the City of Tuskegee from a square to what the Supreme Court described as "a strangely irregular twenty-eight-sided figure" (364 U.S. at 341). The complainants, black citizens resident within the square boundaries, sought in the federal courts a declaratory judgment that the statute was unconstitutional, alleging that its "essential inevitable effect" would be "to remove from the city all save only four or five of its 400 Negro voters while not removing a single white voter or resident."

The reason I smile, as a former member of a State legislature, Mr. President, is that I find this is not just a matter of race. I have seen many of the 28-sided configurations in legislative reapportionment cases. I imagine we are going to see more than a few by the time the next sessions of these legislatures are through reapportioning on the basis of the latest census:

The lower federal courts dismissed the action on the ground that they had no power to review the Alabama legislature's action. The Supreme Court unanimously reversed the judgment below, holding that, upon the facts alleged, the statute violated the Fifteenth Amendment, since upon those facts ". . . the conclusion would be irresistible, tantamount for all practical purposes to a mathematical demonstration, that the legislation is solely concerned with segregating white and colored voters by fencing Negro citizens out of town so as to deprive them of their pre-existing municipal vote."

I believe that the relevance of the *Gomillion* case to the issue at hand here is obvious. The power of the Alabama legislature over municipal districting was recognized by the Supreme Court as having "breadth and importance" (364 U.S. at 342), just as Congressional power under Section 1 of Article III should be so recognized. The Alabama statute did not explicitly disfavor black residents of Tuskegee, but the boundaries drawn made clear its unconstitutional purpose and effect. Section 2 of H.R. 900 does not explicitly avow an unconstitutional purpose, but such a purpose is nonetheless manifest, from both its text and its context.

To be sure, the constitutional rights involved are not the same. The *Gomillion* case involved the voting rights protected by the Fifteenth Amendment or, as Justice Whittaker thought (356 U.S. at 349), the equal protection clause of the Fourteenth Amendment. That clause is not irrelevant to the scrutiny of H.R. 900, but the constitutional rights recognized in *Roe* v. *Wade* are, under the Court's opinion, based on the concept of personal liberty embodied in the due process clause. These rights the Court declared to be "fundamental," and "broad enough to encompass a woman's decision whether or not to terminate her pregnancy" (410 U.S. at 153). Certainly they are constitutionally entitled to as much protection as those involved in the *Gomillion* and *Grosjean* cases.

Plainly H.R. 900, including Section 2, is intended to prevent if possible, and at least to obstruct, fulfillment of the rights recognized in *Roe* v. *Wade*. Indeed, the sponsors of these bills have been commendably frank in acknowledging that purpose, and have made no effort to mask it.

But it is quite unnecessary to rely on such statements by the bills' sponsors, and my conclusion that Section 2 is unconstitutional is based squarely on the text of the bill itself. For it is impossible to conceive of any jurisdictional considerations to which the bill is relevant. There are, to be sure, a number of litigations involving the performance of abortions pending in the federal courts, but they constitute but an infinitesimal part of the total volume of federal court litigation. Thus the bill cannot reasonably be regarded as intended to reduce the burdens on the federal courts.

Cases involving the federal constitutionality of state laws, are, to be sure, very numerous in both state and federal courts. A view could be advanced that since state laws are involved, their validity should be first passed upon in the state courts. Of course, that would throw on the Supreme Court the entire burden of ensuring uniformity among the states of the standards of constitutional validity, and I do not think such a course would commend itself as a matter of policy. But recognizing that such a decision is within

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It cannot reasonably be contended that so singular a change is reasonably related to a general jurisdictional purpose. Nor do abortion litigations present any features that explain singling them out from other rights similarly derived from the Fifth or Fourteenth Amendments, for exclusion from the federal courts.

The conclusion is inescapable, on the face of the bill, that its only purpose and its inevitable effect are to obstruct the judicial protection of the constitutional rights recognized in *Roe* v. *Wade*. Such purpose and effect, in the absence of a compelling state interest, are unconstitutional: "It is well settled that, quite apart from the guarantee of equal protection, if a law 'impinges upon a fundamental right secured by the Constitution [it] is presumptively unconstitutional.'" *Harris* v. *McRae*, 480 U.S. —, 65 L.Ed. 2d 784, 801 (1980); *Mobile* v. *Bolden*, 446 U.S. 55, 76 (1980); *San Antonio School District* v. *Rodriguez*, 411 U.S. 1, 17, 31 (1973); *Shapiro* v. *Thompson* 394 U.S. 618, 634 (1969).

I should add, though it may be unnecessary, that Section 2 of H.R. 900 also violates the principle of equal protection of the laws, which has been held to be embodied in the due process clause of the Fifth Amendment, and is therefore binding on the federal government as well as the states. *Bolling* v. *Sharpe*, 347 U.S. 492 (1954). For the jurisdictional withdrawal in Section 2 singles out pregnant women, whose rights are protected by *Roe* v. *Wade*, * * *

Sound familiar, We are now singling out children being discriminated against as shown in Brown versus the Board of Education. All of a sudden the picture becomes clear as decision after decision is picked out. Therefore, we will do the end-around by the constitutional route or the appropriation process. Who is to know what decision tomorrow the United States Senate is not going to like or the House of Representatives is not going to like? Who is to say what decision the citizenry as a whole does or does not like? Now we have a Government not of laws but a Government of what we like and what we do not like. Indeed, I do not find that much different from an anarchy, total anarchy, legislative anarchy, judicial anarchy, executive anarchy. Government by what we like and what we do not like.

Mr. MATHIAS. Will the Senator yield for a question?

Mr. WEICKER. I yield for a question.

Mr. MATHIAS. My question relates to the line of thought of the Senator from Connecticut. I would say that to avoid the kind of difficulty that we got into when I raised a question earlier, I will specify that my question does not raise any issue whatever with respect to the sponsors of the legislation.

Mr. WEICKER. I intend to be absolutely mild in my response.

Mr. MATHIAS. This question of legislation which prevents the enforcement of constitutional rights, whether by a private court jurisdiction or by prohibiting the executive branch from the enforcement of the law does raise, I think, a disturbing issue. I am wondering if the Senator from Connecticut would agree that when you prohibit the Department of Justice from taking legal action from enforcing the law, you are, in effect, circumventing the amendment process that is set forth in article V of the Constitution of the United States. I suppose what I am further asking the Senator from Connecticut is whether he believes that the amendatory process, so long debated in the constitutional convention and so carefully drafted by the Founders of the Republic, was intended by its authors to be so circumvented by a simple statutory process passed by a Congress and thereby actually frustrating the fundamental organic law on which the Republic is founded.

Mr. WEICKER. Clearly, the legislation is intended to circumvent the constitutional process, whether it be the constitutional amending process or whether it be the constitutional legislative process.

Mr. MATHIAS. Does it go too if you cannot get a constitutional amendment adopted, if you cannot get it within the time frame, you accomplish the same thing by simply saying that the Federal Government will not carry out the steps which the Constitution otherwise requires?

Mr. WEICKER. The Senator is correct. But that is the reason for this whole exercise. The Senator is absolutely correct.

There is no intent to comply either procedurally or substantively with the Constitution of the United States. There is no attempt to comply either procedurally or substantively with the Constitution of the United States.

This amendment by the distinguished Senator from North Carolina does many things and he can tell it is doing many things. But, if agreed to, it will have set back the cause of civil rights 50 years

and it will have destroyed a portion of the Constitution.

It might do a lot of other things which would please me. That is fair enough. I just want to also understand what it is that is going to be done. The cost-benefit analysis which seems to have overcome this town might say, "Well, that is a good tradeoff. A little bit of the Constitution, a little less civil rights, but we get rid of busing." That is kind of a cost-benefit study. I am not getting into that. I am saying very simply that I am not going to give up one word of the Constitution of the United States no matter what is achieved. I am certainly willing to see policy changed. I will take my lumps on the floor. I know things are going to be different as a matter of policy around here. That does not bother me.

I voted against the budget and got soundly beaten. I have no complaints coming. I voted against the confirmation of Alexander Haig and I got beaten. I have no complaints about that. On that, no proposal made was unconstitutional. I might disagree with the individual, I might disagree with the numbers in the budget, but certainly I would not stand up here and give this kind of an argument to support my votes there.

But this is different. This is an entirely different horse that is being trotted out here. This goes way beyond any busing issue. I do not think in the course of my presentation during the past several days I have once gotten into any sort of a statistical review or substantive review of busing. It is not necessary.

I might add in saying that, I do not in any way back off. If that is what the court orders, that is what I am for. I am not saying here that I am for everything, but, do not worry anybody, I am against busing.

Busing is not something that all of a sudden dropped down from on high. It is something the Court instructed as the best response to the illegality, and if we have a better response here on the Senate floor, why not go ahead and enact it?

Has anybody asked what is the response of the U.S. Senate to discrimination in the schools? What has been our response?

You would have a hard time finding it. That is the reason why the Court had to act. I am sure the Court would have preferred not to have gotten into this at all. The final refuge, then, for those who were the victims of this particular type of discrimination were the courts. That is the point I tried to make. You want the courts, every one of us wants them, as our final refuge, in our moment of crisis, in our moment of difficulty.

That is what is important.

I cannot say that I think the issue of busing is going to be gone because I can tell you in the absence of any sort of initiative, it is not going to be gone. As soon as we come up with a plan, as soon as we do something on this end, then it will disappear from the scene. But we cannot all go running around the United States saying, Yes, there is discrimination, and throw up our hands. There has to be an answer; imperfect as the Court's answer happens to be, it happens to be the only answer out there because we are not acting here.

Then along comes the leadership of the Senate and the White House and uses the same buzz words, inflames the same passions.

In community after community—I say this to my colleagues—where the political leadership has stood firm behind the Constitution and behind the law, there has been adherence to the law. But when the Governor or the city council or the mayor or the Senators or the Congressmen started to thumb their noses at the law, then, believe me, everybody else gets into the act. Would you expect anything else to happen?

I hope, as I stand before this body tonight, that the people in my State understand what is at issue here. Connecticut can be very proud of the fact that it goes by the title of the "Constitution State." It was the 1st of the 50 States to have a written constitution, the fundamental orders.

It is great to have those words on the license plate, but they should mean something or they do not. It also is not the New England State of the old New Englander that most people understand. My State is 25 percent of Italian origin, just short of that in both Irish and Polish. In terms of quality of life, it has one of the highest per capita incomes in the country, one of the highest standards, as No. 2 or No. 3, in terms of quality of life.

How does everybody in my State feel they got to where they are?

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. WEICKER. Again, I want to be careful that I do not lose my right to the floor. I will be delighted to yield for a question, so long as I do not lose my right to the floor and it is agreed to by the distinguished Senator from North Carolina.

Mr. JOHNSTON. This is only one question or a series of two or three questions.

The PRESIDING OFFICER. The Senator yields for a question only.

Mr. JOHNSTON. Prior to the Civil Rights Act of, I believe, 1964, did the Justice Department have the right to intervene in school desegregation cases, whether it be for the purpose of busing or otherwise, to desegregate schools?

Mr. WEICKER. I assume, quite frankly, that the Justice Department has had the right to enforce the laws of this country at any time in its existence.

Mr. JOHNSTON. Would the Senator be surprised if I told him that that right is one not inherent in the Constitution but, rather, one created by Congress in the Civil Rights Act of 1964, which act specifically gives that right to intervene, and but for that, they would not have the right to intervene?

Mr. WEICKER. No, I would not agree with the Senator on that point. Frankly, I again turn to the Constitution and read the portion which says that the President of the United States shall see to it that the laws be faithfully executed. I am sure I could win my case, as it goes through the courts, on the basis of that Presidential power.

Mr. JOHNSTON. I invite the Senator to look at the cases and the law. That was the whole reason for the passage of that provision, which sets up a basis whereby, under the present act, the Justice Department may intervene only where requested to do so on the complaint to the Justice Department by a citizen who alleges that he has been the victim of discrimination.

Mr. WEICKER. I am glad the Senator raises the question. It is an interesting question. Why do we not change the law?

Mr. JOHNSTON. Congress, in passing the act, perceived that the right was not inherent in the Constitution.

Mr. WEICKER. I understand, but why do we not change that law, then? I am taking the Senator at face value now. Let us change that law.

Mr. JOHNSTON. That is precisely what the Helms amendment would do, in part.

Mr. WEICKER. That law is not before this body right now, and the Senator from Louisiana knows that as well as I do.

Mr. JOHNSTON. The Helms amendment?

Mr. WEICKER. No, the 1964 act. That is not before us. We are trying to change policy through a rider on an authorization bill.

Mr. JOHNSTON. That law is not laid down; but the Helms amendment, whether it is specifically stated or not, is, in effect, an amendment to the Civil Rights Act, because it changes the Civil Rights Act of 1964.

Mr. WEICKER. I have to respond to that, because that is the very issue we have raised on the floor.

The fact is that the act has not been brought up before a committee; the fact is that the act has no had hearings; it is not before a committee; it is not on the floor; it is not before the House; it is not before the Senate. That is the whole point we made.

We said there are two ways you can change the law: Either change the law through the constitutional, legislative process, or change it through the constitutional process of getting an amendment to the Constitution of the United States. However, what is being done here, as I understand it—see if I am correct. Maybe it is the wrong bill. This is an authorization bill upon which we are trying to affix appropriations language. Am I correct?

Mr. JOHNSTON. The Senator is correct that this is an authorization bill, but the Helms amendment is entirely consistent with the Senate rules. If it were not, I am sure the Senator would have made a point of order, and it would have been stricken.

As to the question of whether that is constitutional, in my view, that which Congress created in the Civil Rights Act of 1964, Congress can alter, and that is precisely what the amendment of the Senator from North Carolina would do.

I have another question, if I may ask it.

The amendment of the Senator from North Carolina states, in effect, that the Justice Department may not directly bring an action to transport or to bus

schoolchildren. Does that amendment, on its face, or in its implication, prohibit the Justice Department from bringing a suit to declare the unconstitutionality of the operation of a school system—that is, could they bring an action saying that the schools of Chicago are discriminatory and violative of the due process or equal protection clauses of the 14th amendment and ask the Court for appropriate relief? Would this amendment prohibit that, in the judgment of the Senator from Connecticut?

Mr. WEICKER. This amendment, the way it is drafted, would prohibit the Justice Department from being involved in any discrimination case whatsoever, never mind schools. The answer is yes; and I will tell the Senator why.

Listen to the language:

No part of any sum is authorized to be appropriated by this Act shall be used by the Department of Justice to bring or maintain any sort of action to require directly or indirectly the transportation of any student to a school . . .

I do not know who the grammarian is—"any sort of." That is not exactly the precision I think one requires from lawmakers.

When the Justice Department brings the action how do they know what is going to happen? Obviously, they could bring the action and, obviously, all of a sudden the Court could make a determination that the transportation shall be required, and all of a sudden they are out of luck. They do not know what is going to happen.

This is very broad. As soon as you put the word indirectly in there they run the risk, and they are out of luck. That is the way I interpret it. With the lack of any further precise language, believe me, that is the way I interpret this. I do not want to take a chance on it.

My answer to the Senator is that I do not think the Justice Department, under this, can effectively have them sitting still. I believe it would be declared unconstitutional.

I have tried to answer the question the best I can.

Mr. JOHNSTON. What would be the penalty if the Justice Department brought an action to desegregate a school system declaring it is unconstitutional, not asking for any particular remedy other than for appropriate relief? If the Senator believes that that violates the Constitution, what is the penalty? What happens?

Mr. WEICKER. Nothing happens. that is the whole problem. What good does it do to say something is unconstitutional and illegal if there cannot be any remedy?

Mr. JOHNSTON. I am asking the Senator this: If the Justice Department brings that suit, the court is not deprived of jurisdiction, is it?

Mr. WEICKER. Yes, it is, because it could potentially end up in a transportation order, and it is not allowed to do that. No funds may be used so long as there is a possibility that result could be produced.

Mr. JOHNSTON. No funds could be used for what—for bringing the action? If the action is brought, anyway, it does not have anything to do with the jurisdiction or powers of courts or remedies that courts may grant.

Mr. WEICKER. I can see the scenario. The Justice Department goes to court, presents its case, and they are all sitting there for the court to respond. The court responds, "We are going to have a transportation order," at which point all the Justice Department lawyers close up their briefcases and walk out of the courtroom.

That is what it says to me. All of a sudden, you have triggered it, albeit indirectly. Maybe they go in there asking for it. Maybe they ask for appropriate relief, but all of a sudden they are confronted with an order that says transportation or busing. They cannot sit in the courtroom, and who is going to enforce, to see that it is done?

Mr. JOHNSTON. In terms of enforcement, the court enforces, not the Justice Department. It is the court which makes the order. The court can order, and frequently does order, either the private plaintiffs or the school board or employees, outside experts, to come in.

Mr. WEICKER. Let us carry the question a little further. So the court renders its opinion, and the defendants appeal. Who handles the appeal? The Justice Department is now going to withdraw from the case.

Mr. JOHNSTON. The private plaintiffs could do so.

Mr. WEICKER. We have been all through that. This is what we call the trickle down private sector theory, that what is not done by Government is going to be handled by the private sector.

The people involved in this do not have money for attorneys, for heaven's sake. I do not understand that.

The Senator from Louisiana and I certainly can be in defense of our rights under the Constitution. We have both the power and resources to do it. But that is not the criteria as to the ability to avail ourselves of the Constitution.

The Justice Department of the United States is the one that is supposed to stand in for all of us as a society on these matters.

By God, it is one thing when you were going to gut Legal Services because you do not think poor people should have the same kind of lawyers we have. Now you are saying that our society, in the broadest sense, cannot have the Justice Department. If there is no Justice Department, no legal services, what good, in God's name, does it do to have a Constitution, unless you are a U.S. Senator or someone who, as I say, either in terms of power or resources, can avail himself of the lawyers necessary to do the job?

Mr. JOHNSTON. I tried to establish in the first instance that what the Senator is dealing with here is not with constitutional rights but rather with rights created by the Civil Rights Act of 1964 but for which the Justice Department would have no power to maintain any class action at all.

Mr. WEICKER. I am saying to the Senator that the President and the Justice Department as part of the executive branch has the obligation to see that the laws are faithfully executed, and I have no doubt in my mind that means the power to enforce the 5th and 14th amendments of the Constitution.

To me what holds this Nation together is our system of justice, the belief that no matter how badly things go for us either in our private lives or in terms of what the Congress does or does not do or the President does or does not do, still in the ultimate the courts and justice system of this country will stand beside us regardless of who we are.

I do not think there is one of us who would not categorize the last several decades as tumultuous, as turbulent. If indeed in the world as a whole there is a Third World emerging, so it is also true that within our own Nation there are those emerging who in the past had been left off in the dark corners of our society either in terms of opportunity or in terms of economics or in terms of physical or mental condition.

Let me describe a recent experience as to the importance of the litigious process, and remove it from the area of race. Is there anyone here who doubts for 1 second that it was through the justice process, through our courts, that those minority elements of our society that were either mentally retarded or physically disabled achieved their rights? We did not give it to them. They had to fight for it. They are still fighting for it. The Senator knows as well as I do that Congress as a whole in Public Law 94–142 only recently enacted legislation. Architectural barriers are included in recently enacted legislation. These things had to be fought for principally through the courts.

Now we all pat ourselves on the back and say how proud we are to extend our hands to those of our brethren who had that particular deficiency. But we did not do it gratuitously; we did not do it spontaneously. We had to get a quick kick in the tail because the justice system operated.

No one is sitting here and pointing a finger and saying they know that discrimination and segregation of our school system was a matter for the South. It was a matter for the whole country. We know that. Maybe the most blatant examples of discrimination now exist in Northern States. That very well might be true. That is not the issue here. The issue is, and the Senator knows as well as I do, that unless our legal systems and the personnel associated with it are available to those elements of society, we are all going to rest on our oars. It is easier not to do anything and say in your own mind that the things will naturally sort themselves out.

I am 50 years old, and it has been in the last 40 years, well within this short lifetime, that the circumstance of education in this country has changed so it is not a question of any great long history. We can count on fingers on one hand the blacks who went to college, never mind the ones who got a decent public school education.

(Mr. QUAYLE assumed the chair.)

Mr. JOHNSTON. Mr. President, will the Senator yield for another question?

Mr. WEICKER. No. For now I will speak.

Mr. JOHNSTON. All right.

Mr. WEICKER. The fact is that for all the stumblings, for all the times we skinned our knees in this process of trying to achieve an answer to a quality of educational opportunity, just look at this world out there today. Just look at what it consists of. No one is going to say that busing is not the answer or it is 100-percent successful. I am sure, at times, maybe it should not have been used. The fact is, it was the justice system of this country that kept us going forward.

Many, many times it would have been a lot easier to sit down and say the job is finished. It is almost like our old colleague Senator Aiken who would say: "Let us get out of Vietnam; we won the war." It is much easier to say, I think we all agree, that the battle is won. It is now up to the individual. Society has done everything it can for its minorities, for those who are deprived, for those who do not have the opportunity. But that is not so. That is not reality.

All the other problems begin with that matter of education. The Senator knows that and I know that.

So, it is not just a matter of some nice-to-have situation that we wish we might be relieving ourselves. This is it. This is life, what very well might turn out not to be much of a life at all. It might take 2 years of waiting to see whether I am right or JESSE HELMS is right. That is not the point. That means nothing. What counts are the 2 years taken out of some human being's life.

That is why this cannot just go through. That is why we have to act now.

I do not know a single thing that has been achieved in this Nation that somehow the judicial process and the legal process also have not been mightily involved.

We are all going to go ahead and disagree while that process unties the knots of our society.

But we have to believe in ourselves and we have to believe in that legal system. How many times do you think we here on the floor of the U.S. Senate have committed a gaff or done the wrong thing by the people we are supposed to represent? Probably many times. But who has a hair shirt on about the U.S. Senate? I do not. Or the House of Representatives, or the various Presidents? I think the record speaks for itself as to how this society has continually moved upward.

Is there some reason why, because of whatever mistakes we have, we should go ahead and eliminate the powers of the Senate or reduce them? I do not think so.

Any process that is a human process is going to make mistakes and that means from the beginning right through the last scene of the last act which in our case is the judicial system, the Supreme Court.

I suppose what was being spoken for here today is a system of government without parallel anywhere in the world today, or throughout the history of the world.

I just suggest that maybe it is that we go a little slow regardless of our passions before we change that system.

The Constitution of the United States has served us all well. We have all done well by it. There is no one who can say, despite what is stated today in this sort of macho society of ours about survival of the fittest, "I made it on my own." None of us did. Not one of us. In some way the concepts and the principles that were put down on paper over 200 years ago have impacted on each one of our lives. Some more than others. But it has impacted upon all of us.

The Senator from North Carolina earlier indicated that I might have implied that I am closer to or advocate with greater fervor the Constitution. That is not so. But legislatively I suppose where we differ is that I want him to achieve his successes within the rules as written. And I think he can easily do that, the votes being what they are here on the floor of the Senate.

And even if he is wrong no great harm will have been done this Republic or the future.

I wish him nothing but the best and that he be right, but even if wrong no other generation has to suffer for our mistakes.

The difficulty with changing the Constitution is that then if an error has been made the Nation will be a long time recovering from it. More importantly, once it is understood that that document is vulnerable it becomes worthless. It will become a receptacle for every hot potato that is put into this Chamber. It will become a trash basket instead of a goal. It will be the way out instead of a dream. That is why you cannot change that, albeit you can change the laws to your heart's content.

Is there anybody with the slightest knowledge of current affairs on the status of American politics who does not feel this legislation or this concept is going to come into being by the normal legislative process, by the normal administrative process, without coming at the Constitution?

Do you really want instead of "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances," something in there that addresses itself to abortion?

Really, from magnificence for all generations in all ages to our particular problem on this day in this year?

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized," the great right of privacy, do you really want busing in there instead of that great language? Is that what this is for?

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offenses to be twice put in jeopardy of life or limb; or shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation," do you want a prayer-in-school amendment rather than those words? Is that what this is?

Every generation is going to have its problems. We have ours, no more, no less. But the rules—that is important—they cannot give way. It is ironic that a U.S. Senator should be here arguing for the preservation of the powers of the executive branch of Government. The judiciary does not have that capacity in any event to be out on this floor or to be in the White House. But certainly the executive branch is very much involved in what it is that is now going on.

There are going to be those times when we are not so enlightened and the executive is or vice versa, and the question is how those matters turn out along with the two of us, and we have the umpire who takes into consideration not only whatever powers we have but whatever rights the American people have.

I repeat, Mr. President, that we have come to this pass and really we are a reflection of the American people. We are not something separate and apart. So it is unfair to say that any one of us cares more or cares less for the Constitution of the United States or for the principles I have espoused. We do not care any more or less here than do the people of this country, and it really has been a long time since they very much cared about the Constitution.

Most of them, many of them, probably have not even read a copy in their lifetimes, and they do not understand, if they have not, what the origins of our greatness are. It is not the hardware we buy to keep ourselves secure; it is not the gross national product; it is those concepts, those principles. It is the state of our spirit that is going to determine the state of our Union much more than the state of our pocketbook or the state of our weaponry.

We are too small a people, just as a matter of population we are too small, to be No. 1 in the world. In natural resources there are several continents that have much more of an abundance than the United States of America.

I can go down the whole checklist, in other words, of normal criteria. It is like people saying to you when they take a look at a football team or a baseball team that they cannot understand how that team is in first place. On paper they do not look that good.

Believe me, we do not look that good on paper. But those principles have driven us to achieve more so than any other nation in the history of the world, more so than any other nation today.

That is what is in there, that is what people die for, and that is why it has got to stay just as it is. That is the reason for all this silly business of a Senator

being here doing this thing for whatever amount of time I have been here doing it. Believe me, when I woke up this morning I said to myself, "Why not sort of let the thing go? No. 1, if it becomes law, and if you are certain of what you are saying, it will be declared unconstitutional."

The last time I went through it I said that you always have the President there and you hope he is going to veto it. That, of course, is gone this time.

I know what the votes are going to be. I might get a few more tonight if we voted because more of those, at least on my side, are absent than those on the distinguished Senator from North Carolina's side. But I probably will lose tonight as I will lose by a greater margin tomorrow. So it is not a matter of votes which are going to change.

Maybe this is the beginning where suddenly things do become a little bit more important than the politics of the moment. Maybe it is something where somebody is going to get involved who is not involved now.

Maybe it is that somebody will go ahead and read that Constitution and really try to understand it for the first time and understand what it is that up to this point has been disagreeable for them, but in light of reading that Constitution takes on new meaning.

Nobody should feel bitter as to the price we paid to eliminate discrimination in our schools during the past years because, believe me, the result has been magnificent, people walking out there with a dignity and an opportunity and a goal they never had before, and even if there was only one person who was in that category, each one of us as a society should be elated.

But you know and I know, there are more than one, there are millions. But the one thing you cannot do is say that the concept called America is finished, that we have done our work, that we are just terrific and we are fine. We are not.

I expect we will probably get to a vote on this thing tomorrow. Certainly it will be impossible for me to do a solo again, even if I eliminate my morning tennis match. But what is needed is as we perceive the highest way of achieving our duty, as we perceive that, to pursue it.

Mr. President, at this time, I would like to read an op-ed piece from the New York Times dated June 13, 1981. This article is by Alfred Kazin, professor of English at the Graduate Center, the City University of New York, and at Hunter College. He was visiting professor of English at Notre Dame in 1978 and 1979. This article is adapted from his recent commencement address at the Center. The title is "Going Backward."

I was astonished on May 18 to discover that the President of the United States, speaking at the Notre Dame University commencement, heralded such private universities as the only independent universities. "If ever the great independent colleges and universities like Notre Dame give way to and are replaced by tax-supported institutions, the struggle to preserve academic freedom will have been lost." The President paid the tribute customary on such occasions to our Founding Fathers: "A group so unique we've never seen their like since they rose to such selfless heights. They gave us more than a nation."

One of these Founding Fathers was Thomas Jefferson, who was prouder of having founded the tax-supported University of Virginia than of anything else except having written the Declaration of Independence and the Virginia Statute of Religious Freedom.

In the midst of a terrible Civil War, July 2, 1862, the Congress of the United States provided that the Federal Government give portions of the land it owned within the states to the states themselves for state universities. The Morrill Act is virtually the most important piece of legislation on behalf of American education ever passed. Thirteen million acres of the public domain were given to the states.

To imagine America today without the benefits of the great universities of California, Michigan, Minnesota, Indiana, Iowa, Missouri, etc., etc., is impossible.

To think that any private university, especially one founded by a clerical order, is more "independent" than a great state university, with its healthy pluralism of religious and nonreligious inspirations, its concern for the public weal, its basis in the constitutional separation of church and state, is to recognize, among other signs, that the American mind in high places is going backward these days.

The Senate in its wisdom voted the other day to prohibit the victim of rape from being assisted by public funds in obtaining an abortion. A Republican senator, Lowell Weicker, remonstrated with the leader of the move to prohibit assistance, Jesse Helms, by pointing out that his harshness was not only unconscionable but had no sanction in our moral tradition. Such a prohibition, said Senator Weicker, can hardly be said to come down to us from Mount Sinai. On the contrary, replied Senator Helms, it does come down from Mount Sinai; and if this smacks of Cotton Mather, so be it.

The chairman of Moral Majority in Illinois, the Rev. George A. Zarris, encourages his members to monitor libraries. "I would think," he said, "moral-minded people might object to books that are philosophically alien to what they believe. If they have the books and feel like burning them, fine." In Abingdon, Va., the Rev. Tom Williams, objecting to novels by Harold Robbins, Philip Roth, Sidney Sheldon, insisted that on his say-so books be removed from the local library. He threatened to file charges against the librarian if minors were allowed to check out the books. The librarian pointed out that under Virginia law the library did not have to show Mr. Williams a list of people who had checked out the books. What a victory is that for democracy.

The other day, Secretary of State Alexander M. Haig, Jr., justified our present indulgence toward the Government of Argentina, despite the terror it practices against many of its citizens, on the ground that Argentina and the United States are philosophically akin: Both nations "believe in God."

An official of a scholarly think-tank, the Hudson Institute, claims to have figured out that in the event of a nuclear war only 20 million Americans will be killed, which, happily, leaves 204 million survivors.

This is a time when everyone now in power professes a great distaste for the Big State, for Federal controls. The National Endowment for the Arts and the National Endowment for the Humanities are being slashed on the grounds that their concerns are better taken care of by the states. Student loans are cut and in many cases eliminated. Every hard-won modern provision for the general welfare is contemptuously discarded from the budget. Every day sees an attempt to indoctrinate the American people from Washington about matters essentially private, whether it is birth control or the freedom to believe or not believe.

Where is the American mind these days to point out that all these pressures and even threats from Washington enjoining us to uphold individualism and free enterprise are just the opposite of American freedom and individualism?

I read now a New York Times editorial entitled "America Can't be Colorblind Yet."

AMERICA CAN'T BE COLORBLIND YET

In signaling the Reagan Administration's retreat on affirmative action and school busing, Attorney General Smith says he yearns for the day when the Constitution can be applied in colorblind ways. Who doesn't? But in working toward that day, a humane society simply cannot forget its obligations to the victims of that earlier form of color-consciousness, segregation.

Blacks have made notable gains in a generation—gains that coincide with a Federal commitment to civil rights and affirmative action, school desegregation and, yes, preferential consideration in higher education and elsewhere. As David Rosenbaum recently reported in The Times, the proportion of high school graduates going to college is now roughly the same for blacks and whites, and the average income of young black couples equals that of whites.

But progress cannot be a reason for complacency. Every index of misery continues to show that the devastating effects of racism linger on in America. Blacks make up a disproportionate number of the citizens dependent on public assistance. The unemployment rates among black males and teen-agers remain at least twice as high as among whites. The proportion of blacks dropping out of the labor force altogether has doubled over the last two decades.

Simply proclaiming equality of opportunity is not enough. And if the Reagan Administration prefers its remedies to appear colorblind, there are in fact ways to help overcome the deprivations of the neediest blacks without practicing "discrimination in reverse." But they all require a greater commitment than any yet shown by the new team to helping poor people—of every color.

Poverty is more and more concentrated in the cities and most heavily among blacks. Any Federal effort to elevate the poor, therefore, would necessarily aid the victims of segregation among them.

If the Reagan team isn't comfortable with preferential admissions to universities, for example, then let it condition Government subsidies on the inclusion of more poor undergraduates. It could require Federal contractors to earmark more jobs for the chronically unemployed, or for welfare recipients. It could expand the aid to elementary education that it in fact proposes to cut, and extend it to high schools. It could make welfare benefits and housing subsidies portable, so that poor people would be freed to seek out work.

Preferential treatment has indeed roiled the political waters. But millions of blacks, long denied training and education, remain unable to take advantage of opportunities. This is not yet the time for wholly neutral Government, as if "equal" were in fact fair to all. The legacies of segregation remain all around. Fair-sounding rhetoric will not remove them.

And I think, again, we get back to what the reality of life in this country is and what the reality of dealing with life is. This amendment is about as far removed from reality as anything possibly could be.

In any event, the amendment before us now is the Weicker amendment.

I believe earlier I paused for a question or somebody wanted to put something in the RECORD when I was addressing myself to the people of my own State of

Connecticut, with its great mix of persons, great ethnic mix, a larger percentage of majorities, a State that enjoys a very high per capita income, one that has consistently ranked highest on the list as to the quality of life. Most particularly, I was addressing what it is that their Senator is doing on this floor in this crazy exercise.

I suppose the words that I hope to get through to this, the Constitution State, the one that had the first written Constitution, much of it similar to that which I have read on many occasions to this body this afternoon, is that each one of us as citizens of the State of Connecticut have done well because of these constitutional principles, have done well because we have been able to utilize the judicial systems of our Nation.

The working people of Connecticut, the blue collar working people of Connecticut, one of the largest per capita manufacturing States in the Nation, understand what the courts mean.

When Republican theoreticians sit around and muse about OSHA and what is the purpose of an occupational health and safety agency, they know. They know, the workers who sit there and have suffered from asbestos poisoning from working in the various plants and the submarine works, they know what it means; the loss of an eye as they work over their lathes in cities like Bridgeport. They know in a thousand different ways as they have lost a limb. They know OSHA in the factories that dot the land. They understand. Nothing was given to them in the sense of care, but it had to be fought for legislatively and through the judicial system. Now they have it.

Is the loss of a limb any more important than the loss of a mind? I think in the final analysis that blue collar worker will understand why it is that that child, that black child, has to be protected in terms of educational opportunity; has to be given that opportunity; has to be assured of that opportunity.

No, that State of Connecticut is not Greenwich, Darien, New Canaan. It is Hartford, New London, Toynton. It is working people, families who are in their second generation. They see their children in a school which they never had.

I wish my friend Senator KENNEDY were here. He had a classmate, Billy Frate, who attended Harvard with him. Billy's father was a man by the name of Gennaro Frate. He ran a news store in Darien, Conn. His family came over from Italy. He had none of what Bill had, TEDDY'S classmate. Gennaro Frate ran the news store. He would be in there at 7:30 in the morning and then he would pack up and go up to the legislature. He was the man who guided me into politics. He was my advisor.

I can remember when the Republicans controlled that State legislature and he was the chairman of the roads and bridges committee, certainly a position which gave a man enormous power with the prospect of enormous patronage and all sorts of goodies coming to him. Not Gennaro Frate, not one nickel. Not one nickel ever crossed that man's hand because of his love for this Nation and seeing what it had given to him in the way of his own business and to his son in terms of an education.

The story of Gennaro Frate is repeated a hundred times over in the State of Connecticut.

Do you honestly feel that the Italians who came to the State of Connecticut, without this system of courts, without this system of justice, without the commitment of leadership to the weakest in our society—do you honestly believe they would be, in one short generation, where they are today?

It would not happen.

The fact is it was never meant to be a numbers game in this country. If we only move after we count the House, we are not going to move.

This document here, who wrote it? Who wrote it? Do you think some black wrote it? Do you think some retarded child wrote it? Do you think some elderly person wrote it? Do you think some woman wrote it? Do you think somebody without an education wrote it?

No, it was written by the most prosperous, the wealthiest, the most advantaged, the most powerful men in our society, and what was contained in here was directly contradictory to their own interests. That is who wrote it. It was directly contradictory to their interests. But they made sure that those principles were set down on paper, and because they did, and because they did not think of themselves, they did not count the house.

Each one of us is much the better for it, as is an entire nation.

(Mr. HUMPHREY assumed the chair.)

Mr. WEICKER. That is what I find so appalling about what happens here. I do not care if there is one person out there who does not have that educational opportunity, if there is one person being discriminated against in any form whatsoever. We, as a nation, should make that our concern. What do we do when somebody falls down a well? The whole Nation stands in anticipation that everything will be done to get that one person out of the well. Or that one person trapped in a building.

That is the spirit of this country. You know it as well as I do. If there has ever been a nation that has been for the underdog, it is the United States of America. Are you sure that is still the way we look at it? I wonder.

We got banged around a little bit in Vietnam; we got banged around a little in Watergate. So we have all licked our wounds now and have gone home when we ought to be out looking for trouble, and there is so much of it out there. We are so well-equipped constitutionally and spiritually to handle it.

I have no apologies for what we have done, and I have no fears as to what it is we are capable of.

This is an amendment of fear—an amendment of fear—political fear, fear of competition. The whole thing just is riddled with the thought of fear.

There is not one person in this Chamber, not one, who can vote for the Weicker amendment who could not hold their head high, and even turn around and vote for the next amendment, if they want to, to protect their backside. But at least you can stand up and vote for the first one. What, someone is going to accuse you during your campaign of being for the Constitution of the United States?

"He voted for the Weicker amendment." I want to see your opponent stand up and say, "That man voted for an amendment that said the Justice Department can enforce the provisions of the Constitution of the United States."

Do you think you could be beaten on that?

"This man voted to enforce the Constitution of the United States." Do you think you will be beaten?

Amendment No. 2—vote for it. Do you honestly think that in the course of a political career, because you stand up there for the independence of the judiciary and those who need some special assistance, that because you voted for that, you are going to be beaten? Do you think this Nation wants to be inspired? Do you think this is inspirational?

It is my understanding that in a few minutes, things are going to be wrapped up, the evening is going to close. Everything has been set out on the floor.

If I may have the attention of the Senator from North Carolina, for whatever transgressions, real or imagined, against my distinguished colleague from North Carolina, I apologize.

There is no reason why, if I am going to be here fighting for what I consider the rules, I should not abide by them myself.

You have the advantage. Sometimes I think it is better to have the votes than the rules, and I am not so sure you do not have them. In any event, I think you know the depth of my feeling as to the substance of the matter before us, and it certainly should not spill over in my respect for somebody who has always been a gentleman to me.

Mr. HELMS. Mr. President, will the Senator yield, without losing his right to the floor?

Mr. WEICKER. I yield.

Mr. HELMS. I hope and believe that the Senator knows that the affection and respect he has just expressed is certainly reciprocated. He and I have opposed each other a number of times, and I have never failed to enjoy it. We have agreed to disagree agreeably. I say to the Senator that he is a gentleman, that he is a friend and I hope he will continue to be.

He knows the rules well. There were just one or two points when I thought he became a little enthusiastic, but I hold no feeling whatsoever. I admire and respect him.

Mr. WEICKER. I thank my distinguished colleague very much. My statement stands, with great feeling and great respect for him.

Mr. President, I hope serious consideration will be given by my colleagues now as to the issues before us. It has to be clear, as I said, that we are not going to be going through another day of this. Certainly, I do not expect anybody to do what I have not done in the U.S. Senate—to read the CONGRESSIONAL RECORD; but, somewhere along the line, maybe somebody heard a yell or two over the squawk box that registered.

In any event, I believe the issue to be as I have defined it. I believe the importance of the issue to be as I have attested. I also believe that the courage demanded now of the Senate is as was always required the minute each of us took our oath of office. This is not an issue for today. It is an issue that is for many years to come.

It is all right to say that other matters, obviously in the same vein, will be raised during the 97th Congress. But we have postponed long enough, not just as a Senate but also as a country, coming to grips with these problems.

I never fear when we have the greatest possible number, whether it is on the floor or among the electorate as a whole, but the decisions cannot be made by a few. They have to be made by the many. That is where it all started, and this is no more than the last act. I hope this Nation understands its responsibility in the whole matter.

Before I start to read further, I ask this of the majority leader: I am prepared to continue to read from this, if he wants me to. I know that in a few minutes he intends to do something.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senator may yield to me briefly, without losing his right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. I yield briefly to the distinguished majority leader.

Mr. BAKER. I thank the Senator from Connecticut.

Mr. President, it is always an awesome sight to see one of our colleagues put himself on the line as the Senator from Connecticut has done and as the Senator from North Carolina has done. While they both have been on the floor about an equal length of time, the burden has fallen principally on the Senator from Connecticut. He has gone on now for about 6½ hours, and the Senator from North Carolina has been on the floor about that length of time.

It has been one of those things the Senate does so well and is such a mark of commitment and conviction of Members on the opposite sides of an important issue.

Mr. President, I do not think there is any good purpose to be served by continuing the debate far into the night. I am prepared at this time, or in just a moment, if the Senator yields the floor, to do these things. I will not do them until the minority leader has had an opportunity to hear them.

I will ask unanimous consent—which I do not do now—that the Senate stand in recess until 10 a.m. tomorrow.

Mr. President, let me begin over. I observe that the minority leader is in the Chamber now. Let me put a unanimous-consent request, if I may.

UNANIMOUS-CONSENT REQUEST

Mr. President, I ask unanimous consent that when the Senate completes its business tonight, it stand in recess until 10 a.m. tomorrow; that at that time, the Chair, under the standing order, recognize the two leaders; that after the discharge of those orders or the yielding back of all time, there be a period for the transaction of routine morning business, to extend not more than 30 minutes, in which Senators may speak for not more than 5 minutes each; that at the conclusion of morning business, the Senate return, without intervening action, to the Department of Justice authorization bill, the measure now pending.

Mr. President, that is the request.

Mr. WEICKER. Mr. President, reserving the right to object, as I indicated, I think it a larger possibility that I am not going to be standing on this floor for this length of time. I do not want to second-guess my recuperative powers. As I turn the 50-year mark, they diminish a little.

Mr. BAKER. It gets better.

Mr. WEICKER. I suspect, without making a commitment, that the Weicker amendment is going to be voted on. But I should like to at least have the guarantee that when we do resume, the Senator from Connecticut will be recognized.

Mr. BAKER. Mr. President, I must tell the Senator what I am sure he already knows—that is, when we recess tonight, notwithstanding that we will resume consideration of this measure tomorrow, as well as his amendment, he would not automatically be recognized, absent unanimous consent.

I see the distinguished Senator from North Carolina in the Chamber, and I inquire of him whether or not he would object if such a request were put.

Mr. HELMS. I would have to object, Mr. President.

Mr. BAKER. Let me suggest an alternative, if I may.

I wonder if we can arrange a time certain to vote, either on the amendment in the second degree, the Weicker amendment, or on a tabling motion, if such is ordered. Would the Senator from Connecticut consider that?

Mr. WEICKER. Are we going to have some sort of horserace out here to see who is recognized? Somehow, I cannot see myself sort of leaping over JESSE'S back to get the attention of the Chair, or the other way around, for that matter. There must be some civilized way to settle this, and I suggest that we really should do that.

I do not contemplate—and I mean what I say; it is not a ruse in any way—I do not contemplate that I am going to take very much more time on my amendment. I have put in 7½ hours here, and I feel that, under the circumstances, I at least should have the right to take it up tomorrow morning.

Mr. BIDEN. Mr. President, if the Senator will yield, somebody suggests that by spending 7½ hours, you have forfeited any reasonable rights you might have. [Laughter.]

Somebody suggests—not I.

Mr. WEICKER. I understand that that opinion probably will be shown tomorrow as to who votes against the Weicker amendment. So I will receive my just desserts on that.

Mr. BAKER. There are no just desserts. The Senator from Connecticut and the Senator from North Carolina have shown themselves in the very best traditions of the Senate. It has been a good debate on an important issue.

I renew the request as to whether we might be able to set a time certain to vote tomorrow either on the Weicker amendment or on a tabling motion.

Mr. WEICKER. First, I think my decision would be made on whether or not we are going to have an up-and-down vote on my amendment.

Mr. BAKER. I yield to the Senator from North Carolina.

Mr. HELMS. I thank the distinguished majority leader.

Mr. President, I have spent no more than 15 minutes, perhaps closer to 10, in defense of the very good amendment which was drafted with the help of a very good constitutional lawyer who used to serve in this body—the name is Sam J. Ervin, Jr.—and in consultation with other constitutional lawyers.

Mr. President, I feel that I must have some time to balance the record on some of the assertions made in good faith.

Mr. WEICKER. I agree.

Mr. HELMS. I have been accused of ripping up the Constitution and at one time I was shredding up little schoolchildren, and that sort of thing, and not a syllable was I able to say in my own defense.

I would be perfectly amenable, as a matter of fact, I will say that I am eager, to enter into some sort of time agreement where time is allotted to those of us who support the proposal to put an end to the worst folly ever imposed upon the people of this country, forced busing, so that we can have our say.

I wish to read into the RECORD some of the statements by Sam Ervin. I wish to defend the constitutionality of a very constitutional proposal. If some time can be allotted for that, I will go along with the majority leader on any unanimous-consent agreement he propounds.

Mr. BAKER. Mr. President, let me formulate the request then.

First of all, is there a request pending?

The PRESIDING OFFICER. There is a request pending that the Senate convene tomorrow at 10 a.m. and the leaders be recognized under the standing order.

Does the Senator wish it all?

Mr. BAKER. I do not, but I wish others to have it if the Chair does not mind.

The PRESIDING OFFICER. That there are 30 minutes for morning business, that we return without intervening action to the Department of Justice authorization bill.

Mr. BAKER. All right.

Mr. President, let me restate the request. I will do part of it now.

UNANIMOUS-CONSENT AGREEMENT

ORDER TO CONVENE AT 10 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 a.m. tomorrow, that after recognition of the two leaders under the standing order there be a period for the transaction of routine morning business of not to exceed 30 minutes in length and Senators may speak for not more than 5 minutes each.

Mr. ROBERT C. BYRD. Mr. President,

reserving the right to object, will the Senator include in his order 15 minutes for the junior Senator from West Virginia?

Mr. BAKER. Yes. I include that in the request.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. I am sorry. As I understand so far the request has not included our matter. Is that correct?

Mr. HELMS. That is correct.

Mr. BAKER. It has not.

I say in all fairness to the Senator if this order is granted and we do indeed recess tonight no one will have an automatic right to recognition in the morning.

Mr. WEICKER. Why do we not get the remainder of the request then to see where this goes before we leave?

Mr. BAKER. Mr. President, I will sort of put that on hold then.

Let me explore the suggestion made by the Senator from North Carolina. Let me shop for an agreement here.

CONSIDERATION OF DEPARTMENT OF JUSTICE AUTHORIZATIONS

Mr. President, I also ask unanimous consent that after the close of morning business on tomorrow the Senate immediately return to the consideration of the pending measure; that the Senator from Connecticut be recognized for not to exceed 15 minutes; that following after that the Senator from North Carolina be recognized for not to exceed 30 minutes; that at the conclusion of that time there be a vote up and down on the Weicker amendment.

Mr. HELMS. No.

Mr. WEICKER. First of all we have an agreement that gives to the distinguished Senator from North Carolina more time. That does not bother me at all. He can have the time in the morning. On the other hand, I think 15 minutes is probably a little bit close insofar as the windup and any other Senators who might want to speak on this issue from my side of it.

Mr. BAKER. What does the Senator suggest?

Mr. WEICKER. I suggest probably at least insofar as my side of this, and we can work out the other aspect with the distinguished Senator from North Carolina, I say no more than an hour.

Mr. BAKER. All right.

Mr. President, I amend my request so that the Senator from Connecticut would have 1 hour of debate and 1 hour for the Senator from North Carolina and that at the conclusion of that time there be a vote up and down on the Weicker amendment.

Mr. HELMS. No. I cannot consent to the up-and-down vote. We may very well go that route. I leave that option open.

Mr. BAKER. I amend the request then, so that a vote occur in relation to the Weicker amendment into that time.

Mr. WEICKER. What would be the objection to an up-and-down vote? And I might add I am perfectly willing to adjust the time. If time is of concern to the Senator from North Carolina, I will be glad to go ahead and adjust that anyway.

I do not intend to table his amendment. I would certainly be glad to go ahead. As best I can guarantee I am not going to table his amendment. He deserves an up-and-down vote on that. Why would it not be fair that I deserve an up-and-down vote on mine?

Mr. HELMS. The answer to that is that I have discussed this with every Senator who is interested and I have informed them that it is my intent to move to table. I do not want the confusion on the floor for the same reason many of my amendments have been tabled in the past. A tabling motion is the clearest thing to understand.

Mr. WEICKER. There are many things. It is not the clearest vote to understand. Up or down is the clearest.

Mr. HELMS. I am talking about when Senators come in here to vote.

Mr. WEICKER. I respect that. I do not think it is the clearest. The clearest vote is an up-and-down vote on the issue. If anything, the tabling motion, and the Senator and I both know, is a matter of parliamentary procedure that the tabling motion is meant to obfuscate at least to some extent the constituency on the issue.

Mr. HELMS. I will say, if the Senator will yield, neither he nor I have the floor, I imagine the majority leader will let me continue for 1 additional minute.

I understand the argument he is making because I made it myself on the 100 times that my amendments or legislation have been tabled by good friends of mine, including the distinguished majority leader at that time.

But I feel obliged to object to consenting to eliminate the possibility of a tabling motion.

I say to the majority leader and to my friend from Connecticut that I will examine tomorrow morning when I have a chance to talk to Senators and I will just as soon have an up-or-down vote on it. But I feel obliged to stick with what I have talked to them about.

Mr. BAKER. Let me suggest we are terribly close to a time agreement on a matter that has consumed this entire day. I urge both my friends, the Senator from Connecticut and the Senator from North Carolina, to permit this order and with the hope, then, that the Senator from North Carolina and the Senator from Connecticut could discuss the matter either tonight or in the morning or maybe they can arrive at an agreement on whether there will be an up-or-down vote or not, but get the time agreed that I just suggested which will give us time certain to proceed to dispose of this matter, guarantee the Senator from Connecticut be recognized first thing in the morning, to leave open only the question of whether the vote is on tabling or up and down.

That is a long way from where we were just 15 minutes ago. I hope my friend will agree with that.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. BAKER. I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I hope that the Senator from North Carolina will be willing for an up-and-down vote. As he knows, this is a very, very important vote, and in my humble opinion, tabling, if he will pardon the expression, is the chicken maneuver. It give many Senators the opportunity to get off the hook. If we are going to settle this thing eventually I think the best time to start is by an up-and-down vote as to how we all feel about this matter. We can vote for tabling and no one knows what the devil is going on.

I urge that we have an up-and-down vote and forget about tabling.

Mr. HELMS. I say to the Senator I agree with him, but I am not locked into concrete about the tabling motion and the Senator from Connecticut and I have been down this road before and we have always cooperated with each other in good faith, and I think we will on this occasion. It will be my intent, unless there is some unusual set of circumstances as I do not anticipate, to have an up-and-down vote. Frankly, I agree with the Senator from Arizona. I do not like tabling motions particularly when a time agreement is in effect. A tabling motion serves no purpose, as the Senator knows, except to put an end to debate.

So I think there will be no problem about that.

I assure the Senator from Connecticut that in all probability we will go on an up-and-down basis.

ALLOCATION OF TIME

Mr. BAKER. Mr. President, let me renew my request. It is that in the morning after the conclusion of morning business the Senator from Connecticut be recognized and that there be a time agreement on his amendment of 2 hours, to be equally divided and at the end of that time or if that time is yielded back that a vote on the amendment or in relation to the amendment occur.

Mr. President, let me amend the request in two further respects. The minority leader points out that we are dealing within the Republican family on this time agreement.

Mr. HELMS. That is right.

Mr. BAKER. Mr. President, I ask unanimous consent also that the distinguished Senator from West Virginia, the minority leader, have under his control 1 hour. It would be a total of 3 hours for debate.

NO VOTES BEFORE NOON TOMORROW

The second part of my additional request is that no vote occur in respect to this matter before the hour of 12 o'clock noon tomorrow.

Mr. President, the request is that.

Mr. WEICKER. And as I understand it that I have the good intention expressed by the distinguished Senator from North Carolina that he is going to do his best to talk to Senators on his side and see that we can get an up-and-down vote without locking themselves in.

Mr. BAKER. I think that is a fair restatement.

Mr. President, I now put that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair, and I thank all Senators.

Mr. President, it is the intention, of course, of the Senate to be in tomorrow.

I will not expect that we will be in very late tomorrow but business will be transacted. There will be at least one vote, perhaps other votes. The Senate will not be in session on Saturday.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 a.m. on tomorrow.

The motion was agreed to; and, at 7:34 p.m., the Senate recessed until tomorrow, June 19, 1981, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate June 18, 1981:

NATIONAL CONSUMER COOPERATIVE BANK

Carol E. Dinkins, an Assistant Attorney General, to be a Member of the Board of Directors of the National Consumer Cooperative Bank for the remainder of the term expiring September 23, 1982, vice William A. Clement, Jr.

William Gene Lesher, an Assistant Secretary of Agriculture, to be a Member of the Board of Directors of the National Consumer Cooperative Bank for the remainder of the term expiring September 23, 1982, vice Carol Tucker Foreman.

Roger William Mehle, Jr., an Assistant Secretary of the Treasury, to be a Member of the Board of Directors of the National Consumer Cooperative Bank for the remainder of the term expiring September 23, 1982, vice Roger C. Altman.

Darrell M. Trent, Deputy Secretary of Transportation, to be a Member of the Board of Directors of the National Consumer Cooperative Bank for the remainder of the term expiring September 23, 1982, vice Graciela (Grace) Olivarez.

Philip D. Winn, an Assistant Secretary of Housing and Urban Development, to be a Member of the Board of Directors of the National Consumer Cooperative Bank for the remainder of the term expiring September 23, 1982, vice Geno Charles Baroni.

Joseph Robert Wright, Jr., Deputy Secretary of Commerce, to be a Member of the Board of Directors of the National Consumer Cooperative Bank for the remainder of the term expiring September 23, 1982, vice Sam W. Brown, Jr.

Albert Angrisani, an Assistant Secretary of Labor, to be a Member of the Board of Directors of the National Consumer Cooperative Bank for the remainder of the term expiring June 10, 1983, vice Alexis Herman.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United State Code, section 3962:

To be general

Gen. Volney Frank Warner [redacted], (age 54), Army of the United States (major general, U.S. Army).

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Pat William Crizer [redacted], (Age 56), Army of the United States (major general, U.S. Army).

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Ernest Graves, Jr [redacted], (Age 56), Army of the United States (major general, U.S. Army).

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Thomas Howard Tackaberry, [redacted] (Age 57), Army of the United States (major general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Raphael Dean Tice [redacted], U.S. Army.

IN THE NAVY

The following-named officer, having been designated for command and other duties of great importance and responsibility in the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment while so serving as follows:

To be Vice Admiral

Rear Adm. Thomas J. Kilcline, U.S. Navy.

The following nomination, having been favorably reported by the Committee on Energy and Natural Resources on June 18, 1981, pursuant to previous order of the Senate, that the nomination be referred to the Committee on Government Affairs for not to exceed 20 days:

Richard Mulberry, of Texas, to be Inspector General, Department of the Interior, vice June Gibbs Brown.

79-059 O - 85 - 32 Part 10

HOUSE OF REPRESENTATIVES—*Thursday, June 18, 1981*

The House met at 10 a.m.

The Reverend Dr. Michael Scanlan, president, University of Steubenville, Steubenville, Ohio, offered the following prayer:

Lord, our God, we present this assembly and its deliberations to You. We ask for Your action to make it truly a government formed under God. Purify the hearts of those who serve here, establish Your Lordship over them, guide their deliberations by Your Holy Spirit, protect them from the powers of evil, and grant wisdom in great abundance, so that the people of this Nation may live in peace and fidelity to You. We are conscious of our sins and ask forgiveness; we are aware of the crises in our world and ask deliverance. Bless us that we may bless Your holy name.

I offer this prayer in the name of Jesus Christ, my Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 149. Concurrent resolution authorizing the printing of additional copies of the Omnibus Reconciliation Act of 1981, and accompanying reports.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3499. An act to amend title 38, United States Code, to extend the Vietnam-era veterans' readjustment counseling program, to provide medical care for Vietnam veterans exposed to herbicide defoliants (including agent orange), to recover the cost of certain health care provided by the Veterans' Administration, and for other purposes.

The message also announced that the Vice President, pursuant to Public Law 84-944, appointed Mr. BAKER, Mr. DOMENICI, Mr. MATHIAS, and Mrs. HAWKINS to be members of the Senate Office Building Commission.

THE REVEREND DR. MICHAEL SCANLAN

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, I am pleased to welcome to the Halls of Congress, the Reverend Michael Scanlan, of Steubenville, Ohio.

Father Scanlan, a long-time friend, has been president of the University of Steubenville since 1974, where he has also served as lecturer of theology and dean of the school.

Father Mike's participation in the charismatic movement has led him to be chairman of the National Service Committee for Catholic Charismatic Renewal and has been the speaker of both the National and International Charismatic Conference, and also for the religious education conferences annually.

He is a man of many talents and interests which is evident in the numerous books he has written along with his many religious and community activities.

He is a distinguished lawyer who holds a B.A. degree from Williams College, Williamstown, Mass., and a law degree from Harvard. He is a member of the New York Bar Association and has served as staff judge advocate for the U.S. Air Force.

He has attended Catholic University of Washington, D.C., and Boston University.

Father Scanlan was ordained in 1964 at St. Francis of Loretta, Pa., where he later received his master of divinity degree in theology.

Is it not refreshing to know, Father Scanlan, that while prayer has been taken out of the public schools and continuing to be a sensitive issue, we in the House of Representatives and the U.S. Senate continue to open our session each day with a prayer?

Again, Father Mike, welcome.

SUPREME COURT COTTON-DUST RULING

(Mr. GAYDOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GAYDOS. Mr. Speaker, the U.S. Supreme Court yesterday closed the back door, the courts, on administration hopes to write into health and safety law by fiat an as yet unexplained concept called cost-benefit analysis, and told those who would subordinate worker health to it that they must use the front door, the Congress.

It happened because the Occupational Health and Safety Administration last spring petitioned for return of a pending appeal of proposed cotton-dust standards, a matter of worker health, so they could be used for the pilot effort on the administration's theoretical regulatory cure-all, cost-benefit analysis.

Worker health protection, primarily through engineering controls in the workplace, was the foundation of several standards criticized severely by our former colleague, David Stockman, now Director of the Office of Management and Budget, in his famous "Economic Dunkirk" memo of last fall. It was a game plan.

And worker health, not particularly safety, and the capital investment required to protect it, has been the point of most of the half-dozen or so standards OSHA has delayed, postponed, or withdrawn since the new administration came to power.

Had the Justices done as OSHA suggested or had they accepted cost-benefit analysis in the cotton-dust ruling, cost-benefit and a host of new approaches would have been marched through the back door.

Congress would have had no chance to examine them, modify them, or pass judgment on them after weighing the evidence.

But the majority Justices said Congress did not intend cost-benefit analysis, our former colleague, Mr. Stockman, or anything else to have a dominate position in regard to worker health.

Thus the Court correctly has closed the back door and pointed to the front.

As chairman of the Subcommittee on Health and Safety, I and my colleagues will be waiting to welcome them. We are willing to give whatever ideas they have a fair, balanced, and thorough hearing.

PERMISSION FOR SUBCOMMITTEE ON MILITARY INSTALLATIONS AND FACILITIES OF COMMITTEE ON ARMED SERVICES TO SIT TODAY DURING 5-MINUTE RULE

Mr. DAN DANIEL. Mr. Speaker, I ask unanimous consent that the Subcommittee on Military Installations and Facilities of Committee on Armed Services be permitted to sit during the

5-minute rule today to discuss a classified matter.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 3238, PUBLIC BROADCASTING AMENDMENT ACT OF 1981

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 149 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 149

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3238) to amend the Communications Act of 1934, to extend certain authorizations of appropriations contained in such Act relating to public broadcasting, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Michigan (Mr. BONIOR) is recognized for 1 hour.

Mr. BONIOR of Michigan. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Arizona (Mr. RHODES), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 149 provides for the consideration of H.R. 3238, to amend the Communications Act of 1934, to extend certain authorizations of appropriations for public broadcasting, and for other purposes.

The rule provides for 1 hour of general debate to be equally divided between the chairman and the ranking minority member of the Committee on Energy and Commerce.

The resolution makes in order consideration of a committee amendment in the nature of a substitute now printed in the bill as an original bill for purposes of amendment under the 5-minute rule.

It is an open rule allowing any germane amendment to be offered to either the bill or substitute and allows Members to demand a separate vote on such amendments adopted in the Committee of the Whole after the Committee has risen and reported the bill to the House.

Upon conclusion of consideration of the bill one motion to recommit with or without instructions will be in order.

H.R. 3238 authorizes $25 million for fiscal year 1982, $20 million for fiscal year 1983, and $15 million for fiscal year 1984 for public telecommunications facilities grants; and $160 million for fiscal year 1984, $145 million for fiscal year 1985, and $130 million for fiscal year 1986 for Committee for Public Broadcasting activities grants.

Obviously, severely reduced Federal funding and rising costs will adversely impact on the financial viability of public broadcasting. The committee has attempted to mitigate the impact of diminished funding by:

First, providing Federal funding disbursement on an annual basis rather than the present quarterly basis,

Second, authorizing public broadcasting stations to lease their facilities for remuneration,

Third, allowing the company logo of program supporters to be displayed, and

Fourth, establishing a Commission of Alternative Financing for Public Broadcasting.

The committee also proposed guidelines for the distribution of funds, a limit of 10 percent on the amount of appropriated funds which may be expended on administrative costs, and a prohibition on editorializing or support of political candidates by public broadcasting.

As drastic as the activities funding cuts of the committee may seem, they pale beside those proposed by the administration.

Despite the fact that public television is now available to 90 percent of the U.S. households with television, and public radio is accessible to 65 percent, the administration in April declared that "taxpayers as a whole should not be compelled to subsidize entertainment for a select few."

I would suggest that the alternative programing of public broadcasting, while often not commercially profitable, provides a desired service to a large segment of the population and, hence, is legitimate as a Federal function.

Every time this body votes to pass legislation, it does so with the full knowledge that it will not benefit everyone equally. For example, few people will ever have need of Coast Guard services and yet we, the Congress, have determined that it is in the national interest to maintain those services. So, too, in the past the Congress has declared alternative television programing to be of national benefit. I am happy to see that the committee has decided to continue that commitment although the funding levels may be less than ideal.

Mr. Speaker, I know of no opposition to the rule and urge its expeditious adoption in order to proceed with consideration of this important legislation.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 149 provides for consideration of H.R. 3238, the Public Broadcasting Amendments Act of 1981.

House Resolution 149 grants an open rule, providing 1 hour of general debate on H.R. 3238, to be equally divided between the chairman and ranking minority member of the Energy and Commerce Committee.

The resolution provides for consideration of the amendment in the nature of a substitute, recommended by the Energy and Commerce Committee, now printed in the bill as an original bill for purposes of amendment.

A motion to recommit with or without instructions is in order.

By way of background, H.R. 3238 reauthorizes the Corporation for Public Broadcasting (CPB) for fiscal years 1984–86 and reauthorizes the public telecommunications facilities program for fiscal years 1982–84. Further, the bill establishes a new formula for allocation of funds appropriated for the CPB and drops the current quarterly disbursement of appropriated funds in favor of annual disbursements. The bill also authorizes public broadcast stations to engage in income-producing activities.

The administration and many members of the Energy and Commerce Committee have expressed concern over the funding levels and other provisions of the bill. However, as the requested open rule will allow the House absolute freedom in addressing these concerns, I urge adoption of this resolution so we may proceed to the consideration of H.R. 3238.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. BONIOR of Michigan. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ADMINISTRATION'S ECONOMIC RECOVERY PLAN IS A FORM OF ECONOMIC FAITH HEALING

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, I have been listening to claims about the economic recovery program for 5 months. I just want to say I am a bit tired of the claims. I think the program for economic recovery and the claims that are made about it are sheer nonsense.

The fact is, they say, "If we just cut Government spending we can save the economy. If we just give the rich some big tax breaks it is going to be great for all of us. If we turn our energy policy over to the energy companies, somehow it is going to be good for our future. If we throw money at the military, somehow we are going to be a stronger America."

I just think it is nonsense, and it is time for us to start talking about what is real in economics.

The program, I think, is becoming a feedlot for the rich in both tax cuts and spending cuts. I think we ought to cut spending just because we spend too much, and I think we ought to cut taxes simply because our tax system is bad and our tax system needs cutting. So, I intend to support spending cuts and tax cuts.

But, let us stop deluding that these are going to cure the economy. The fact is, the type of spending cuts and tax cuts that we have seen proposed by the administration are not only unfair, I think they represent a form of economic faith healing that will not work.

OMB WANTS IT BOTH WAYS: CONGRESS CUTS TOO MUCH; CONGRESS WILL NOT CUT AT ALL

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I was amused, as I am sure you were, to read OMB's latest diatribe against congressional efforts to reduce the budget through the reconciliation process. It seems on the one hand, that we are making Draconian cuts. I can assure you that, if Draco were still alive today, he would be 2,602 years old and would work at OMB.

On the other hand, we are charged with offering false savings, by the same people who proposed to save $9 billion by moving the strategic petroleum reserve from an on-budget to an off-budget item. The modern day Dracos at OMB seem to want to have it both ways: Congress cuts too much; Congress will not cut at all.

One allegedly false savings has to do with semiannual cost-of-living adjustments for retirees. The Committee on Armed Services, on which I serve, tied COLA's for military retirees to what happens to civil service retirees. The Foreign Service Act, which DANTE FASCELL and I developed last Congress, tied COLA's for retired Foreign Service personnel to what happens to civil service retirees. These linkages are crucial for employee moral and fairness. Each class of Federal retirees should be protected against the cruel punishment of President Reagan's inflation to the same extent. To do otherwise would be to demean the work of one type of Federal worker.

So, the lead committee on the issue is Post Office and Civil Service, on which I serve as chair of the Subcommittee on Civil Service. We decided, given the fact that we were forced to make $5 billion worth of unwarranted budget cuts, that it was less unfair and less of a breach of faith to treat military retirees in the same way as civil service retirees for purposes of reemployment than it was to go back on the word we gave retirees that we would protect twice-a-year COLA.

I would remind my colleagues that the House overwhelmingly reaffirmed that commitment on an amendment offered by the Republican from Maryland, Mr. Bauman, just last year.

The Congressional Budget Office has told us that our double-dipper proposal will save $907 million in budget authority next year. This is more than the aggregate of all the once-a-year COLA proposals, of which OMB seems so fond. Where, I ask you, is the false savings? It is clear to me who has the concession on deception in Washington today.

□ 1015

ADMINISTRATION ATTACKS COMMITTEE ON EFFORTS TO CORRECT DOUBLE-DIPPING EXCESSES

(Mr. FORD of Michigan asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. FORD of Michigan. Mr. Speaker, yesterday President Reagan's head of the Office of Personnel Management Donald Devine unleashed a bitter attack at the Committee on Post Office and Civil Service, accusing it of a "phony" action in attempting to treat all Federal employees exactly the same with respect to the issue of double-dipping.

It was an extraordinary defense of a practice that permits a person to receive full retirement pay while earning a second retirement entitlement and, indeed, a second full paycheck.

Indeed, it is now possible for the same person to have the Government contribute to social security while he is serving in the military and later, after 20 years of military service, use his veteran's preference to go ahead of other people seeking employment with the Federal Government, and then to receive a full civil service paycheck, plus a full military pension, while acquiring a civil service pension, and then, on his 62d birthday, retire to Florida or Arizona, thereby becoming entitled to three checks at the beginning of each month from Uncle Sam from three different retirement systems. This occurs at the same time when many people in this country do not have any pension and when the Reagan administration, through OMB Director David Stockman, has recommended taking old people who are getting the $122 minimum benefit off the social security roles because they do not need it.

I am surprised that the administration supports any kind of double-dipping. I recall that the administration earlier this year attacked what it perceived as double-dipping on the part of hapless schoolchildren who benefit from both food stamps and subsidized school lunches.

I find it hard to believe that the administration favors taking food away from poor children but supports paying some people three Federal pensions.

Elimination of double-dipping would result in real savings. To say that this is a "phony move," as the administration has, is to play recklessly with the facts. According to the Congressional Budget Office, it would save $907 million in budget authority in fiscal year 1982 alone.

PERMISSION FOR COMMITTEE ON THE DISTRICT OF COLUMBIA TO SIT TODAY DURING 5-MINUTE RULE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that the Committee on the District of Columbia may be permitted to sit today during the 5-minute rule for the purpose of considering legislation related to the location of chanceries in the District of Columbia.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF 1981

Mr. KASTENMEIER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3480) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3480, with Mr. VENTO, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Wednesday, June 17, 1981, the Clerk had read through line 3 on page 11 of the bill. Pending was an amendment offered by the gentleman from Georgia (Mr. MCDONALD).

Mr. KASTENMEIER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take the floor for two purposes. I want, first of all, briefly to inform the Committee of the situation we are in and the expectations of the managers of the bill.

We are starting section 11 of a bill with technically 14 sections. There are a number of amendments to section 11, which is the section on restrictions. The amendment offered by the gentleman from Georgia (Mr. MCDONALD) is the last amendment before we start section 11 of the bill. The gentleman from Georgia adds a new section 11 to H.R. 3480.

Other issues which will be raised in the bill's section 11 will be those of education and desegregation in education generally, and there will be two amendments on the subject offered by the gentleman from Ohio (Mr. ASHBROOK). On the question of whether legal advice shall be prohibited in abortion cases, there is an amendment by the gentleman from Wisconsin (Mr. SENSENBRENNER). There are two possibilities for amendments on the question of aliens or illegal aliens and their representation by the Legal Services Corporation program. Essentially those are the other areas to be covered in section 11.

In section 12, there are a couple of amendments but my understanding is that at least on one and perhaps both there is likely to be agreement.

In section 13, there are several amendments, at least two of which are important.

Obviously, Mr. Chairman, we intend to conclude today. We have adequate time to do so. I hope that the Members will not unduly protract the debate, particularly on issues which go far beyond the bill and are emotional in character and would bring very little light to the formulation of language in this bill.

Mr. Chairman, on yesterday, when the Committee rose, the gentleman from Georgia (Mr. MCDONALD) had offered his amendment on the subject of homosexuality. As a matter of fact—and I hope this will be true of other amendments—we will try to explain what the present law is in the act, what is in the bill, and then, third, what the implications of the amendments are. So there is throughout this section the need for reviewing these two choices—very often there are three—the present act, that which is in the bill before us, and that which a Member's amendment may seek to accomplish.

On the subject before us now, that of homosexuality, the committee in its wisdom, while I did not support the subcommittee in this, nonetheless felt that it was desirable to provide language in the current law on appropriations to provide a limitation. They put this in the act. It simply states on page 12 that it shall not be permitted that there be provided "legal assistance for any litigation which seeks to adjudicate the legalization of homosexuality."

Now, this language was agreed to in conference last year and is a present restriction in the law in an appropriations bill (Public Law 96-536).

The language of the gentleman from Georgia (Mr. MCDONALD) presumably goes beyond that. It talks about funds which may not be used "to provide legal assistance to promote, defend or protect homosexuality." I take it this is consistent with his amendment of last year. It further goes on to discuss and forbid the implementation of proposed rules of the Corporation.

I oppose the amendment offered by the gentleman from Georgia (Mr. MCDONALD). I think it is unnecessary, because in large measure it will be duplicative. We are at least dealing with a subject which is certainly not important in the sense that the Legal Services programs are widely used for these purposes. There are rare cases involving this subject. Those cases are rare indeed.

□ 1030

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin has expired.

(By unanimous consent, Mr. KASTENMEIER was allowed to proceed for 1 additional minute.)

Mr. KASTENMEIER. Let me say in conclusion, Mr. Chairman, what the committee gives you as language is that which the House and the Senate have already voted on, on the subject, and is current law. I think to go beyond this would be not only unnecessary and duplicative, but raise far more questions than it answers as to who might be represented for whatever purpose.

It has been suggested by others, even those who would defend themselves against such a charge, would be powerless if otherwise qualified to seek redress or assistance of the Legal Services Corporation.

So for that reason, Mr. Chairman, I urge that the Committee reject the amendment of the gentleman from Georgia.

I yield to the gentleman from Georgia (Mr. MCDONALD).

Mr. MCDONALD. Mr. Chairman, I ask unanimous consent to be able to insert at this point in the RECORD a statement that was read at the conclusion of yesterday's session.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. MCDONALD. Mr. Chairman, the amendment before us today really requires little debate or explanation. Very simply, the U.S. Government should not spend 1 penny to promote, defend, or protect the practice or acts of homosexuality. In these changing political times, when it is clear the people of the United States have told Congress they want a change from business as usual, it seems apparent to me the message they are sending us is not one which seeks to promote the legitimacy of homosexuality.

Individuals may have the right in their own personal lives to do as they see fit. This is not to say, however, that the Congress of the United States should venerate that conduct by expending funds to protect those practices.

It is, therefore, my proposal that no part of this bill authorize the use of taxpayer's funds to promote, defend, or protect the practice or acts of homosexuality.

The regulations proposed on March 23, 1981, by the Legal Services Corporation, which the second part of my amendment seeks to terminate, have the effect of making certain that funds of this Government could not be expended unless they in fact did promote, defend, or protect the practice or acts of homosexuality. Because this is the apparent opposite of what should be done and the exact opposite of what the House last year declared they wanted done by a vote of 290 to 113, it is clear these regulations in their present form should not be promulgated either.

In conclusion, Mr. Chairman, this is a simple amendment and straightforward vote. Those of this House who feel we should not spend taxpayers' dollars to promote, defend, or protect the practice or acts of homosexuality should vote in favor of this amendment.

Mr. WEISS. Mr Chairman, will the gentleman yield?

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin has again expired.

(At the request of Mr. WEISS, and by unanimous consent, Mr. KASTENMEIER was allowed to proceed for 1 additional minute.)

Mr. WEISS. Mr. Chairman, will the gentleman yield to me?

Mr. KASTENMEIER. Yes; I certainly yield.

Mr. WEISS. Mr Chairman, I appreciate the gentleman yielding to me.

I simply want to associate myself with his position and comment that, as a matter of fact, on exactly the same language the Justice Department last year expressed its opposition to the McDonald amendment because of the unconstitutionality, in their judgment, of this particular provision.

Mr. LEACH of Iowa. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, gay rights is a subject all too prone to emotive rather than reasoned debate. An important consideration of the gay issue in a legal services context is the lawyer's professional obligation, which is borne by all members of the bar, whether they work for a federally supported legal services program or in the private sector in a partnership, a corporation, or other work setting.

The American Bar Association's model code of professional responsibility provides in part that:

> The duty of a lawyer, both to his client and to the legal system, is to represent his client zealously within the bounds of the law.

This ethical consideration is explained:

> In our government of laws and not men, each member of our society is entitled to have his conduct judged and regulated in accordance with the law; to seek any lawful objective through legally permissible means; and to present for adjudication any lawful claim, issue, or defense.

I am concerned that the McDonald amendment, which prevents an attorney from advocating all a client's legal rights, interferes with the ethical obligation of a lawyer to represent a client fully within the law.

This obligation stands at the very center of the adversary process. The legal system assumes, and its efficacy depends on, each lawyer advocating all a client's legal rights, and to the best of the lawyer's ability. It is not for the advocate to decide what is just, or even moral, in the case; such a judgment would usurp the function of the judge or jury. The advocate seeks for the client that which the client is entitled under the law. A lawyer betrays a professional trust if he or she does not exercise every legitimate effort on the client's behalf. Congress should not put a lawyer, any lawyer, in a position where he or she is forced to violate ethical obligations or ignore a client's rights under the law.

Accordingly, any restriction on representation, simply because a client represents a minority, such as the gay population, is repugnant to the notion of all citizens having equal rights under the law. Our adversarial legal system bears a striking resemblance to the competitive economic system. In each, we assume that all parties will strive to their utmost and that this striving will yield the greatest benefit to society. I am concerned that passage of the McDonald amendment implies handicapping some and not others and that by thus upsetting the competitive adversarial balance the Congress will be unleashing an arrow into the heart of a legal system founded on the principle of equal protection of fundamental human rights for all.

Mr. RAILSBACK. Mr. Chairman, would the gentleman yield?

Mr. LEACH of Iowa. I would be delighted to yield.

Mr. RAILSBACK. I thank the gentleman for yielding. I think that it takes a great deal of courage on his part to make the statement that he has made and I think that he is absolutely right. I concur with his comments and I just want to commend him for them.

Mr. LEACH of Iowa. Well, I thank the gentleman.

Mr. Chairman, I urge rejection of this amendment.

Mr. JOHN L. BURTON. Mr. Chairman, I move to strike the requisite number of words. I rise to speak against the amendment.

Mr. Chairman, we could spend some time going over the flawed language of the amendment. I did not know that the Legal Aid Society promotes homosexuality. I do not know if they promote anything. I think all they are is attorneys trying to act under the law; but as I said last year, this is about the most outrageous amendment that has ever been brought before the House of Representatives. We are telling a group of American people who are taxpayers, who have a lifestyle that people do not necessarily agree with, both within the Congress and without the Congress, that they are not really American citizens entitled to protection under the law.

Now, this bill is funded with American taxpayers' dollars. In the district that I represent, a great number of the small businesses, a great number of the restaurants, a great number of the boutiques, a great number of the barbershops and beauty shops are operated and owned by gay individuals, who pay more taxes than many of the people sitting in this body and who are responsible citizens in their community as any of us sitting in this body. We are saying to them that we will take your taxes, regardless of your sexual preference, but if there is a gay person who needs legal aid, we are not going to take care of them.

Well, I think this amendment is flawed in one basic way. We should say that anybody who has a sexual preference that is not heterosexual does not have to pay taxes that go to fund the Legal Services Corporation and maybe we will have some equity.

It is an outrage to the citizens of my community that I represent. It is an outrage to the straight people in the community that I represent, because we have learned that gay people fall into the same category as straight people. Some of them are jerks and some of them are not. That is the definition. It is no different than the color of their hair.

To single out this group is very politically popular for some. Or after all, some are saying that it is a sin to have this type of sexual preference where you can find some terms in the Bible that relate to the fact that I guess some of the people in the Bible might have sinned. I just do not think it is fair. It is not right. It is unconscionable. And, again, the taxpayers in my district who are gay—and they are proud to be gay—are out of the closets. After an elected official in our city who was gay was shot down and murdered in city hall, there were doctors, lawyers, professors, and even politicians who came out of the closet to proclaim their sexual preference, because they thought it was time to rid themselves of whatever guilt they were holding within by hiding in the closet and to proclaim that they were no different from anybody else when they were out on the street working and paying taxes.

Mr. McDONALD. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I would be happy to yield.

Mr. McDONALD. I thank the gentleman for yielding.

I would like to point out that many members of organized crime pay taxes, perhaps not as much as they should pay, but nevertheless generally pay taxes. I do not think that many in this body or many Americans believe, however, that the taxes of this country should be used to promote the programs and attitudes and protection of organized crime activity.

Mr. JOHN L. BURTON. Well, if I can reclaim my time, I will give the gentleman $1,000 if he can show me under U.S. statutes where having a different sexual preference from yours is a felony and a crime—organized or disorganized. Some of it is organized.

Mr. McDONALD. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. Yes.

Mr. McDONALD. The matter of homosexual activity is listed as a violation of numerous State statutes across this country.

Mr. JOHN L. BURTON. We are talking about Federal law here. We do not infringe upon States rights. I am surprised if my friend from Georgia would infringe on States rights.

Mr. McDONALD. Well, I agree. I do not think we should. This is one of the reasons I have offered this amendment.

Mr. JOHN L. BURTON. Well, now, if the gentleman wants, I will be happy to enter into a little colloquy with him. The gentleman's amendment does not say that a person caught violating a law against, shall we say, sexual acts with a member of the same sex is denied legal aid under this. It says in effect that even if there is a nondiscrimination clause in a community that says you cannot discriminate——

The CHAIRMAN pro tempore. The time of the gentleman from California has expired.

(By unanimous consent, Mr. JOHN L. BURTON was allowed to proceed for 4 additional minutes.)

Mr. JOHN L. BURTON. But if there is a nondiscrimination clause in a city or a State about gay people being able to have access to a restaurant or even to rent a unit, that somehow they are denied the right to have legal representation to enforce a local bona fide ordinance.

Now, this does not say you cannot defend somebody who is out in front of the Capitol committing an act of sodomy. It is not limited that way. It is a very broad thing that just lets everybody say it is just a whack at people who happen to have different sexual preferences.

In many States now, acts between consenting adults in private is not a crime. In fact, in the State of Virginia it is a crime for a person to massage a person of the opposite sex, but it is not a crime for a man to massage a man or a woman to massage a woman, and we know what that might lead to.

So I think that the States are getting away from making homosexuality per se a crime and they are making certain things like sodomy out on the Capitol steps or acts in public a crime.

I think this is a terrible amendment. It is an outrageous amendment. I believe it would be an unconstitutional amendment.

I know, as I say, that many of the taxpayers and the business people in my community are gay. If you look throughout the arts, you can find people who have confessed themselves to having a different sexual preference, many of them making salaries in the millions of dollars, and figure out how much taxes they pay. I think it is an insult, and to equate gay people with organized crime just reduces to absurdity, but points out the absurdity of this amendment.

I would ask an overwhelmingly no vote.

I thank the gentleman for his comments.

Mr. FRANK. Mr. Chairman, I move to strike the requisite number of words. I rise to speak against the amendment.

Mr. Chairman, Members ought to be clear that they are not voting now on whether or not they like homosexuality. The language in the bill clearly says that none of these funds shall be used to advocate on behalf of the legalization of homosexuality. To the extent that that is the issue, the language in the bill takes care of it. What is at issue are two things; one, regulations, regulations which have all the reality of unicorns, because these are regulations that were proposed which the Reagan board will have to dispose of. If anyone thinks he or she has to vote to prevent the Reagan board from adopting these regulations, he or she has spent the last year in a time capsule, which may, in fact, be the most attractive place to have spent it.

So the regulations clearly have no reality, will have no reality, and are a complete throw-in. Therefore, the difference between the language in the bill and the language in the amendment is as follows: It is not clear what the language in the amendment means and there are constitutional rules that will apply. It is conceivable, however, that it could be applied to say that in any lawsuit in which homosexuality was alleged, Legal Services people could not get involved.

I quote now the gentleman from Illinois (Mr. HYDE) in committee, who spoke very strongly against this particular amendment. The gentleman from Illinois (Mr. HYDE) spoke in favor of leaving the language as it was and against this particular amendment and he pointed out that he as a lawyer was proud of the legal system of the United States and was not prepared to deny people access to it. He pointed out correctly that what this language does as proposed is to allow any clever lawyer to deny an impoverished person Legal Services representation in some cases by fabricating or putting into a case an issue of sexual preference. If there is a landlord-tenant dispute and a clever lawyer for the landlord wants to make that implication, it is conceivable in some courts, and we are dealing here with rather loosely drawn language and I hope it will not be interpreted to mean that, but no one would say right now for sure that it could not be interpreted that way. You could find that the individual tenant would find himself or herself deprived of legal assistance, because if he or she were alleged to be homosexual and that was mentioned by the opposing attorney, no matter what the merits of the case, the landlord would say, "I don't like this person because of his or her sexual preference," and the language of the gentleman from Georgia could lead to the Legal Services attorney having to withdraw. That was the point the gentleman from Illinois (Mr. HYDE) made and he made it quite accurately. That is why the Judiciary Committee overwhelmingly rejected this.

Now, the committee also rejected an amendment which I offered, and I live by that, to strike the committee language on this issue. I do not accept the point of the language as is, but that is where the majority voted; but we ought to be clear that there is, in fact, no question here of whether or not people are voting to allow the advocacy of homosexuality.

Mr. McDONALD. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Georgia.

Mr. McDONALD. I appreciate the gentleman yielding.

The committee amendment does nothing of substance on the issue of homosexuality.

□ 1045

The committee language is as follows:

> Funds may not be used "to provide legal assistance for any litigation which seeks to adjudicate the legalization of homosexuality."

Another way to state this case is that funds may not be used to provide legal assistance for any litigation which seeks to adjudicate the decriminalization of homosexuality.

The Legal Services Corporation is already barred from involving itself in criminal proceedings by their enabling legislation; proceedings where the issue of decriminalization might be argued.

Therefore, the committee's amendment does little more than reiterate the present statute. It in no way addresses the advocacy of homosexual conduct as a civil right. It in no way addresses litigation by the Legal Services Corporation where they seek to impose acceptance of homosexual conduct on an employer, landowner, school district, or the public at large.

The committee amendment in no way stops the promulgation of regulations by the Legal Services Corporation that seek to impose on all legal aid societies the acceptance of homosexual conduct as a civil right.

My language is, therefore, necessary to stop the advocacy of homosexuality as a public issue. The committee's language in no way addresses this subject.

I thank the gentleman for yielding.

Mr. FRANK. If I can take back my time, I congratulate the gentleman on the brilliance of that maneuver. What the gentleman has done is to redefine the language in the amendment, and then the gentleman beats the heck out of the language that he has redefined and invented, and I concede that is easy to do. The language did not talk about decriminalization, it talked about legalization. That does not simply mean criminal.

There are references to the question of sexual orientation from a legal standpoint in many civil statutes, in the immigration statutes and others. We deal with that. As I say, what the gentleman did was to redefine the amendment, strike the word "legalization," and put in the word "decriminalization."

The CHAIRMAN pro tempore. The time of the gentleman from Massachusetts has expired.

(By unanimous consent Mr. FRANK was allowed to proceed for 2 additional minutes.)

Mr. FRANK. I concede that the gentleman from Georgia (Mr. MCDONALD), having redefined the language, ignored the language in the bill and made a brilliant point in denouncing his own language. I would join with him in the criticism of his own language.

But I would point out his language has little to do with the bill.

The other red herring, is the question of the regulations, if the Reagan 11 appointees, who will probably be Howard Phillips and 10 of his clones, were going to adopt these regulations, then the gentleman would have reason for concern, but I suggest this is hardly a serious matter for us to discuss.

The question remains, as the gentleman from Illinois pointed out in our committee and, as I said, he would have mentioned if he had been on the floor today, the fact is we now have in the bill language which says that the Legal Services money should not be used for general advocacy of changing the legal status of homosexuality. The law says that. The law as it is before my colleagues today says Legal Services funds shall not be used for advocacy to legalize homosexuality, and that has been in the law.

If, by the way, that law had been transgressed we would have heard about it. In the big parade of horror stories that surround the bill there were none about the misuse of funds for this purpose, so what remains before us is, are we going to accept language from the gentleman from Georgia, not which says they should not get involved in advocating a legal status for homosexuality, because that is before you, but a law that is loosely drawn which would disallow representation of impoverished persons, bar lawyers from Legal Services from becoming involved in cases in which they should be involved.

AMENDMENT OFFERED BY MR. WEISS TO THE AMENDMENT OFFERED BY MR. M'DONALD

Mr. WEISS. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. WEISS to the amendment offered by Mr. MCDONALD: In subsection (g) strike the words ", defend, or protect" and insert in lieu thereof the words "the legalization of".

Mr. WEISS. Mr. Chairman, at the outset let me indicate that this amendment is similar to one that was conceived by Mr. HYDE. I want to give him full credit for the thought and work that he has put into it, but I do not at all suggest this is being done at his request or even upon discussion with him. I am offering it on my own behalf.

Mr. Chairman, what the amendment I offer seeks to do, in essence, is to return this provision of the bill to that which is now in the law. In essence, it would take us back to the original report and legislation that came out of the House Judiciary Committee, which included a provision prohibiting litigation which seeks to adjudiciate the legalization of homosexuality. This provision is identical to the language which is currently included in the State, Justice, Commerce, Judiciary, and related agency appropriation bill for fiscal year 1981.

I simply want to state by way of argument that last year when the gentleman from Georgia (Mr. MCDONALD) succeeded in getting the language of his amendment adopted by the House, the Department of Justice wrote a letter to the distinguished Member of the other body, Mr. HOLLINGS, of South Carolina, in setting forth their opposition and the reasons therefor. Dated August 18, 1980, the letter states:

The amendment is ambiguous. However, if it is construed to deny legal assistance to homosexuals in circumstances where it would be provided to others, then it must be subjected to the constitutionally required due process scrutiny. The amendment must have a rational relation to a legitimate governmental purpose. The Supreme Court recently reiterated and applied this test in its decision upholding the Hyde amendment which restricts Federal funding for abortions.

They cite Harris against McRae, then go on to say:

The legislative history in the House does not identify such a rational basis. In addition, the House amendment's broad phrasing could conceivably implicate first amendment rights in at least some of its application, whereupon a much more stringent standard of review would apply.

They then cite United States against O'Brien.

In a footnote to that paragraph they state—

It is not clear from the language of the amendment or the brief House floor debate what presently permissible activities by the Legal Services Corporation the new provision is designed to preclude. For example, what would be its effect on a client's request for assistance with an alleged violation of a local ordinance or other non-Federal prohibition against discrimination based on sexual orientation? Would it restrict involvement in a child custody case where the sexual preference of one of the parents was among the issues presented?

Those are quotes from the letter of the Justice Department to Senator HOLLINGS.

Mr. Chairman, I think it buttresses the argument that the better part of wisdom is to adopt the amendment I have offered which amends Mr. MCDONALD'S amendment and leaves the law exactly where it is right now.

Mr. MCDONALD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I do not think it is necessary to take the entire 5 minutes. This is just simply taking my amendment back to the committee language and is really not an amendment to the amendment but merely an effort to revise my amendment back to what the original committee language was. Therefore, technically it probably would have been viewed as out of order.

I yield back the balance of my time.

Mr. STUDDS. Mr. Chairman, I move to strike the requisite number of words and rise in support of the amendment of the gentleman from New York (Mr. WEISS).

Mr. Chairman, I do not think the House does itself particularly proud in considering amendments of this kind and certainly not in the way we have done it in the past. My recollection is that the first time this amendment was offered by the gentleman from Georgia (Mr. MCDONALD) was, I believe, two Congresses ago. It came at a time—again if my memory serves correctly—when it was around midnight, all time had expired, there was no further debate on the bill, and it was simply read. Nobody heard it. There were several hundred Members here and we had a record vote. There was not one word of debate. I do not think there was any Member of the House who knew what they were voting on except for the code words of "homosexuality" or "gay rights."

The second time we adopted it, as I recall, was in the last Congress. I believe one person spoke on the amendment in addition to its author. I think—again if my memory serves correctly—it was the gentleman from California (Mr. JOHN L. BURTON). So there was effectively no debate at that time and, again, it was adopted by the House on a record vote.

Members know perfectly well that in the atmosphere of American politics today there are issues of extraordinary emotion. Members know perfectly well that the American political landscape is full of people, regardless of political affiliation, who are prepared to try to play on people's emotions and people's fears and people's insecurities to take advantage of those issues for their own political benefit.

I would beseech this House, when dealing with subjects of consequence, as this is to a very large number of citizens represented, may I say, in

roughly equal proportions by every single person who sits in this body, to think carefully at least for a moment—which would be one moment more than most of us thought before adopting these kinds of amendments in previous Congresses.

I think we have made some progress. I think the very fact that there has been some debate here, a reasonably calm and rational debate by the gentleman from Iowa (Mr. LEACH), the gentleman from Illinois (Mr. RAILSBACK), and others who have gotten up and asked the Members of this body to pay some heed to what they do before they act in the heat of political emotion. That is, in itself, an encouraging step forward.

Let me point out two things, one of which has been pointed out before. Existing law, which is repeated by this bill, prohibits any funds to be used, and I quote: "to provide legal assistance for any litigation which seeks to adjudicate the legalization of homosexuality." That is the law, and that would be reiterated again in the law if this bill were to become law itself.

That removes any question or keeps removed, as it already is removed under the law, any question of Legal Services attorneys becoming involved in efforts to overturn whatever State or municipal statutes there may be which ban homosexual activity or, indeed, to try to enact such statutes. That may be wise, that may not be wise, but that at the moment is the law and that is not at question here.

The second part of the gentleman's amendment, which has not been discussed here, I think makes it quite clear what the gentleman intends to do. Let me say to my colleagues that if they were to read in the RECORD of yesterday the statement of the gentleman from Georgia (Mr. MCDONALD) in support of his amendment, they would have no idea in the world of what the second part of his amendment does. The second part of it forbids the promulgation or enforcement of regulations proposed by the Legal Services Corporation on March 23 of this year. As they are described by the gentleman from Georgia (Mr. MCDONALD), one might be worried about those regulations. Let me quote from the gentleman in yesterday's RECORD:

> The regulations proposed on March 23, 1981, by the Legal Services Corporation, which the second part of my amendment seeks to terminate, have the effect of making certain that funds of this Government could not be expended unless they in fact did promote, defend, or protect the practice or acts of homosexuality. Because this is the apparent opposite of what should be done and the exact opposite of what the House last year declared they wanted done by a vote of 290 to 113, it is clear these regulations in their present form should not be promulgated either.

Let me repeat that the key phrase alleged by Mr. MCDONALD with respect to the regulations is that they "have the effect," he said, "of making certain that funds of this Government could not be expended unless they, in fact, did promote, defend, or protect the practice or acts of homosexuality."

Let me read my colleagues one sentence which tells what the regulations, in fact, do, and let us see if this is what my colleagues, as Members of this House, choose to vote against or to forbid being put into effect by an agency of this Government.

I read the introductory sentence in the proposed regulations from the Federal Register of March 23, the statement of purpose, which I can assure my colleagues is simply reiterated throughout the five pages of the regulation. It states:

> The purpose of this part is to prevent discrimination by Legal Services programs supported in whole or in part by Legal Services Corporation funds in the delivery of services or in employment on the basis of race, religion, color, sex, age, marital status, national origin, handicap, political affiliation, or sexual orientation.

The key phrase there in the long list of things on account of which discrimination is forbidden, including "sexual orientation," is to "prevent discrimination in the delivery of services or in employment" period. Those are the only subjects to which these regulations are addressed.

The CHAIRMAN pro tempore. The time of the gentleman from Massachusetts has expired.

(By unanimous consent Mr. STUDDS was allowed to proceed for 2 additional minutes.)

Mr. PRITCHARD. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I am happy to yield to the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Chairman, I want to strongly support the statement the gentleman from Massachusetts is making. I want to rise in support of the amendment of the gentleman from New York (Mr. WEISS) and to strongly oppose the gentleman from Georgia's (Mr. MCDONALD) amendment. I think the people in this Congress know what is happening here and that at least 90 percent of us know how we should vote on this. I only hope the Members of Congress vote the way they know they should vote.

Mr. STUDDS. Let me thank the gentleman for what he said. Let me share, I think, in his hope that the day will come in this land when it will not take particular political courage to say what the gentleman has just said, what other Members of this House have just said, if for no other reason than I think most Americans are decent and have commonsense and agree with what the gentleman has said. It ought not to take a superabundance of political courage to say what one knows in one's heart is right and what most of the people and their Representatives know perfectly well is right.

I do not believe, let me say in conclusion, for one moment that the Members of this House, if asked individually and personally, one at a time, would say that we ought to deny any possibility of being a recipient of services to an indigent person simply because of his or her sexual orientation. If that is not unconstitutional, it certainly ought to be. If it is not unconstitutional, it is wrong, and mean spirited, and it is unworthy of the Members of this House and of this country.

I would urge the defeat of the amendment of the gentleman from Georgia (Mr. MCDONALD).

□ 1100

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong opposition to the amendment offered by the gentleman from Georgia (Mr. MCDONALD).

Mr. Chairman, it is a pernicious amendment that really has nothing to do with homosexuality or homosexual rights at all—but an amendment that has everything to do with equal access to the services provided by the Legal Services Corporation.

H.R. 3480 already has a broad prohibition regarding LSC activities and homosexual rights. Section 11 amends section 1007(b) of the act to provide:

> No funds made available by the Corporation . . . may be used . . . to provide legal assistance for any litigation which seeks to adjudicate the legalization of homosexaulity.

I regret the committee felt it necessary to include such a restriction in this bill, because fundamental rights are at stake every day, for some 20 million homosexuals across America, but this provision does remove what some might view as a "political" issue—gay rights—from the scope of the Corporation's activities, which are to provide basic civil legal services to the poor.

It remains that homosexuals, as any other citizens in our country, face potential problems in housing, employment, domestic law, health, consumer complaints, and other issues. They deserve, no less than any other citizens, assistance to cope with these problems when they occur. That is the simple question posed by the McDonald amendment. It is not a matter of gay rights, but the ability of homosexuals to have access to the Legal Services Corporation—just as anyone else in America does.

But what does the McDonald amendment state?

First, it provides that no funds may be used to "provide legal assistance to promote, defend, or protect homosexuality." There is no difference between this language and the provision

already in the Committee bill. In this respect, the McDonald amendment is wholly redundant and unnecessary.

Second, it would block proposed rules issued by the Legal Services Corporation on March 23, insofar as they apply to homosexuals.

What do these rules do? Quite simply, they prohibit discrimination in the delivery of services and in employment by the Corporation on the basis of race, religion, color, sex, marital status, national origin, handicap, political affiliation, or sexual orientation.

The McDonald amendment, by barring this proposed rule, excludes homosexuals from having any access to legal services even if their legal needs have nothing to do with their sexual orientation.

Given the prohibitions already in this bill regarding litigation for homosexual rights, I urge the defeat of this amendment. It is a gratuitous and pejorative attempt to deny legitimate legal services to qualified individuals deserving of the basic protections of civil law.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I am pleased to yield to the gentleman from New York.

Mr. GREEN. Mr. Chairman, I thank the gentleman from California (Mr. WAXMAN) for yielding and commend him on his scholarly analysis of the pending amendments. I rise in support of the amendment by the gentleman from New York (Mr. WEISS) and in opposition to the amendment offered by the gentleman from Georgia (Mr. MCDONALD). The amendment by the gentleman from Georgia does not address gay rights at all. Instead, it is an active attempt to persecute a group of citizens. The basic purpose of this reauthorization is to provide legal assistance to those Americans who would not otherwise be able to afford it. This amendment is directly contrary to that notion that all Americans should be able to have their rights protected in the courts. I am appalled that we would try to single out any class of citizens and deny them their rights and access to the courts.

In addition, the amendment seems to be open to wide interpretation because of its wording. It would be very difficult to define what would be covered by the amendment. It is vague and would not provide adequate guidelines for its intended purpose of enforcement. An amendment which was almost identical was offered by the gentleman from Georgia to an appropriations bill in the last Congress. At that time the Justice Department wrote to a Member of the other body that—

> The amendment is ambiguous. However, if it is construed to deny legal assistance to homosexuals in circumstances where it would be provided to others, then it must be subjected to the constitutionally required due process scrutiny. The amendment must have a rational relation to a legitimate governmental purpose. . . . The legislative history in the House does not identify such a rational basis. In addition, the . . . amendment's broad phrasing could conceivably implicate First Amendment rights in at least some of its applications, whereupon a much more stringent standard of review would apply.

The gentleman from Massachusetts (Mr. STUDDS) was most reasonable and articulate in his remarks a few moments ago and I wish to associate myself with his comments. He recounted the history of this amendment in the 95th and 96th Congresses. To correct him on one small point, there were two Members of this body who spoke against the amendment in the last Congress, instead of only one as the gentleman had recalled. The gentleman from California (Mr. JOHN L. BURTON) spoke against the amendment at that time and I also urged its defeat, calling the amendment "shocking."

In conclusion, let me simply reiterate that it would be unconscionable for us to deny legal protection of rights to any class of citizens, whether it be because of their sexual orientation, race, religion, or other arbitrary factors. I urge adoption of the amendment by the gentleman from New York and rejection of the amendment by the gentleman from Georgia.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. WEISS) to the amendment offered by the gentleman from Georgia (Mr. MCDONALD).

The question was taken; and on a division (demanded by Mr. WEISS) there were—ayes 12, noes 11.

RECORDED VOTE

Mr. McDONALD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 151, noes 245, answered "present" 2, not voting 33, as follows:

[Roll No. 84]

AYES—151

Addabbo	Coyne, William	Fascell
Anderson	Crockett	Fazio
Aspin	D'Amours	Fenwick
Barnes	Danielson	Ferraro
Bedell	Daschle	Fiedler
Beilenson	Deckard	Findley
Benjamin	Dellums	Fish
Biaggi	DeNardis	Florio
Bingham	Derrick	Foglietta
Blanchard	Dixon	Ford (MI)
Boggs	Donnelly	Ford (TN)
Boland	Dorgan	Forsythe
Bolling	Downey	Frank
Bonior	Dunn	Gejdenson
Brodhead	Dwyer	Gilman
Brown (CA)	Dymally	Goldwater
Brown (OH)	Early	Gradison
Burton, Phillip	Edgar	Green
Chisholm	Edwards (AL)	Guarini
Clay	Edwards (CA)	Hall (OH)
Coelho	Erdahl	Heckler
Collins (IL)	Erlenborn	Heftel
Conte	Ertel	Hertel
Coyne, James	Evans (IN)	Howard
Hoyer	Moakley	Scheuer
Hughes	Moffett	Schneider
Hyde	Molinari	Schroeder
Jacobs	Murphy	Seiberling
Jeffords	Nowak	Shannon
Kastenmeier	Oakar	Sharp
Kildee	Oberstar	Smith (IA)
Kogovsek	Obey	Stark
Leach	Ottinger	Stokes
Leland	Panetta	Studds
Lewis	Patterson	Swift
Long (LA)	Pease	Synar
Lowry	Pepper	Tauke
Lujan	Peyser	Traxler
Lundine	Pritchard	Udall
Marks	Railsback	Vento
Martin (IL)	Rangel	Washington
Matsui	Ratchford	Waxman
Mattox	Reuss	Weaver
Mavroules	Richmond	Weiss
McCloskey	Rodino	Williams (MT)
McHugh	Rosenthal	Wirth
McKinney	Roukema	Wolpe
Mikulski	Roybal	Wyden
Miller (CA)	Russo	Yates
Mineta	Sabo	
Mitchell (MD)	Sawyer	

NOES—245

Akaka	Emery	Lent
Albosta	English	Levitas
Alexander	Evans (DE)	Loeffler
Andrews	Evans (GA)	Lott
Annunzio	Evans (IA)	Lowery
Anthony	Fary	Lungren
Applegate	Fields	Marlenee
Archer	Fithian	Marriott
Ashbrook	Flippo	Martin (NC)
Atkinson	Foley	Martin (NY)
Bafalis	Fountain	Mazzoli
Bailey (MO)	Fowler	McClory
Bailey (PA)	Frost	McCollum
Barnard	Fuqua	McCurdy
Beard	Gaydos	McDonald
Benedict	Gephardt	McEwen
Bennett	Gibbons	McGrath
Bereuter	Gingrich	Mica
Bethune	Ginn	Michel
Bevill	Glickman	Miller (OH)
Bliley	Goodling	Minish
Boner	Gore	Mitchell (NY)
Bonker	Gramm	Montgomery
Bouquard	Gregg	Moore
Bowen	Grisham	Moorhead
Brinkley	Gunderson	Morrison
Brooks	Hagedorn	Mottl
Broomfield	Hall, Ralph	Murtha
Brown (CO)	Hall, Sam	Myers
Broyhill	Hamilton	Napier
Burgener	Hammerschmidt	Natcher
Butler	Hance	Nelligan
Byron	Hansen (ID)	Nelson
Campbell	Hansen (UT)	Nichols
Carman	Hartnett	O'Brien
Carney	Hatcher	Parris
Chappell	Hefner	Patman
Cheney	Hendon	Paul
Clausen	Hightower	Petri
Clinger	Hiler	Pickle
Coats	Hillis	Porter
Coleman	Holland	Price
Collins (TX)	Holt	Pursell
Conable	Hopkins	Quillen
Corcoran	Horton	Rahall
Coughlin	Hubbard	Regula
Courter	Huckaby	Rhodes
Craig	Hunter	Rinaldo
Crane, Daniel	Hutto	Ritter
Crane, Philip	Ireland	Roberts (KS)
Daniel, Dan	Jeffries	Roberts (SD)
Daniel, R. W.	Jenkins	Robinson
Dannemeyer	Johnston	Roe
Daub	Jones (NC)	Roemer
Davis	Jones (OK)	Rose
de la Garza	Jones (TN)	Rostenkowski
Derwinski	Kazen	Roth
Dickinson	Kemp	Rousselot
Dingell	Kindness	Rudd
Dornan	Kramer	Santini
Dougherty	LaFalce	Schulze
Dreier	Lagomarsino	Sensenbrenner
Duncan	Latta	Shamansky
Dyson	Leath	Shaw
Edwards (OK)	LeBoutillier	Shelby
Emerson	Lee	Shumway

Shuster	Stratton	Whittaker
Siljander	Stump	Whitten
Simon	Tauzin	Williams (OH)
Skeen	Taylor	Wilson
Skelton	Trible	Winn
Smith (AL)	Vander Jagt	Wolf
Smith (NE)	Volkmer	Wortley
Smith (NJ)	Walgren	Wright
Smith (OR)	Walker	Wylie
Snowe	Wampler	Yatron
Snyder	Watkins	Young (AK)
Spence	Weber (MN)	Young (FL)
St Germain	Weber (OH)	Young (MO)
Stangeland	White	Zablocki
Staton	Whitehurst	Zeferetti
Stenholm	Whitley	

ANSWERED "PRESENT"—2

Burton, John Gonzalez

NOT VOTING—33

AuCoin	Harkin	Mollohan
Badham	Hawkins	Neal
Breaux	Hollenbeck	Pashayan
Chappie	Lantos	Perkins
Conyers	Lehman	Rogers
Cotter	Livingston	Savage
Dicks	Long (MD)	Schumer
Eckart	Luken	Solarz
Frenzel	Madigan	Solomon
Garcia	Markey	Stanton
Gray	McDade	Thomas

□ 1115

The Clerk announced the following pairs:

On this vote:

Mr. Gray for, with Mr. Solomon against.

Mr. Garcia for, with Mr. Rogers against.

Mr. Solarz for, with Mr. Livingston against.

Mr. Lehman for, with Mr. Madigan against.

Mr. Hollenbeck for, with Mr. Badham against.

Mr. COLLINS of Texas and Mr. RAHALL changed their votes from "aye" to "no."

Messrs. PEPPER, LUJAN, MOLINARI, and LEWIS changed their votes from "no" to "aye."

Mr. GONZALEZ changed his vote from "no" to "present."

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. WEAVER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I strongly urge a "no" vote on the McDonald amendment to the Legal Services reauthorization bill, H.R. 3480. This amendment is discriminatory to the extreme.

Proper redress of grievances depends entirely upon equal, fair, and impartial access to the law. Legal services based on full recognition of our citizens' right to due process of law is essential. It is a privilege that this democracy must protect. I can think of no better way to protect that privilege than to defeat the McDonald amendment.

Those who support the McDonald amendment are, in my opinion, attempting to deny equal access to the law to a group of citizens whose political or personal philosophies and ways of life they do not happen to agree with. Nothing could be more contrary to the spirit of our democracy.

Equal access to the law is one of the fundamental principles on which this Nation was founded. Therefore, I ask my colleagues, how can this body attempt to deny that principle of equal justice under the law to any group of citizens? I find this move to deny access to our legal system profoundly disturbing and contrary to this Nation's most basic precepts.

Those who are advancing the McDonald amendment are attempting to use the Legal Services Corporation as a forum for pressing their own political philosophies at the expense of millions of our citizens and to the point of jeopardizing the integrity and quality of our system of justice. Eligibility for legal assistance should not be based on whether a person's legal problems raise questions that are politically unpopular; especially now, at a time when this country is undergoing a reexamination of a body of laws that deeply affect each of us—laws concerning civil liberties, basic public benefits, and consumer and worker protection. The availability of high-quality legal representation is even more essential now, as these long-standing programs and policies face serious challenges and changes.

The Legal Services Corporation is the product of a wise decision by the Congress to attempt to insulate the provision of legal assistance to the poor from political considerations. A prohibition of the kind proposed by the McDonald amendment would subject poor persons seeking legal assistance to the test of whether their legal problem was politically acceptable. This is directly contrary to the intent of Congress when it established the Legal Services Corporation. I strongly protest any effort by this body to subject those who seek legal assistance to any sort of political litmus test. History has shown us, on far too many occasions, that discrimination and abuse closely follow limitations on access to justice. This must not begin here.

In the strongest possible terms, I urge my colleagues to oppose the McDonald amendment and support the reauthorization of the Legal Services Corporation.

Mr. BUTLER. Mr. Chairman, I move to strike the last word.

Mr. MOFFETT. Mr. Chairman will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Chairman, this debate is really about political power in our society and about who gets access to the system and who does not.

There are those among us who would argue that equal and fair distribution of justice can be entrusted to the invisible hands of a free market. But I ask you: If one man is denied justice by the social arrangements of his society, then can his society claim to be a just one?

Let me use a few vivid examples from the city that sits outside these doors. There is a man known as Tyrone. He was drafted into the Army in 1969 and there began exhibiting the first signs of schizophrenic behavior. This behavior causes him to hear voices which command him to strike out at people. Tyrone struck an officer and received a general discharge. He was ruled ineligible for veterans' benefits. Now he lives in the streets. His psychological condition is manageable with medication, yet he is not under the care of a VA doctor. He has no health insurance. He can afford to pay no attorney to have his discharge reviewed. And there are those who would tell us that Tyrone's case is not an appropriate one for a Legal Services Corporation attorney to undertake. What proportion of social justice is being allocated in these Halls to Tyrone and similarly situated American veterans? Is Tyrone's share equal to mine and yours?

The sleeping principles that fail to distribute social justice and victimizes Tyrone renders Steve powerless as well. Steve lives in this Capital City also. He sought help to cure a drug addiction and was told to report to the city's drug abuse diagnostic clinic. He arrived at 7:45 a.m. and found 23 other addicts in line. The city can provide drug detoxification for only 6 people a day. Steve and 16 others were turned away to fend for themselves. Those who would blame Steve for his drug addiction and accept no financial responsibility for his treatment ignore at their own peril the social costs of not heeding a cry for help from a $300-a-day heroin addict.

In an ironic twist, their good lives and property become a surety to finance the illness of one they chose to not help. Yet there are those among us who would tell us that a Legal Services Corporation attorney could not give of his time and talent to help Steve and others similarly situated or that Federal budget constraints make it impossible.

Is it necessary that the Government address the needs of Tyrone and Steve? Political Scientist Harry Eckstein argues that justice remains the principal function of government and is the only "awesome power" that remains to the State.

If the provision of social justice is the chief source of legitimization for democratic government, are Tyrone and Steve to expect a disproportinate allocation? If they are denied access to justice do we all not maintain, at best, mere access to something less than a just society?

There are those who would tell us that the November elections voiced the conviction of our people that the social programs of our Government are costly antagonists to our personal

freedom. They would tell us that we can no longer afford to provide access to insitutions of justice for those who cannot provide them for themselves. They would hide behind this argument to preserve themselves from their own fear that their relative position would diminish as others secure the blessings of justice. But Tyrone only wants his veteran's benefits. And Steve only wants help to become drug free. Steve and Tyrone have little voice in the deliberations of this assembly. But the silent screams of Tyrone and Steve and others in their condition will eventually become deafening and this great body will find it impossible to listen to the stupefying voices who would deny a truly just society to us all for the sake of saving a few dollars for a few who currently have a voice among the powerful.

Mr. BUTLER. Mr. Chairman, I am concerned about the present state of this amendment. I want to be clear in my own mind as to the intention of the gentleman who has offered it.

Would an admitted homosexual otherwise qualified for the services of the Legal Aid Corporation, be, by virtue of the fact that he is a homosexual, denied the services of the Corporation?

I yield to the gentleman from Georgia (Mr. McDONALD) so that he may answer the question.

Mr. McDONALD. Mr. Chairman, the amendment is not designed to stop homosexuals from getting a defense on traffic violations, et cetera.

The Legal Services Corporation is required to represent people in a certain economic class. The amendment states that funds cannot be used to protect homosexuality. It does not prohibit the use of funds to protect a homosexual per se.

No person need suffer discrimination if they keep their conduct in their private lives. A vote "yes" on the upcoming amendment will stop taxpayers' dollars from being spent to promote, protect or defend homosexuality as a lifestyle.

Mr. BUTLER. It is a fair statement, I think, to paraphrase what the gentleman has said, that he would not be denied the services of the Corporation.

Mrs. FENWICK. If the gentleman will yield, I still have questions, because there are more problems than traffic violations.

What I would like to know is: Suppose a homosexual is accused of a homosexual offense and he is indigent and qualifies and is eligible under the criteria. Certainly we cannot deny him legal services aid. Suppose it is a civil and not a criminal statute.

□ 1130

Mr. BUTLER. The gentlelady realizes of course that the Legal Services Corporation is limited to civil actions.

Mrs. FENWICK. I am talking about civil actions.

Mr. BUTLER. I would yield to the gentleman from Georgia to answer the gentlewoman's question.

Mrs. FENWICK. There have been famous civil actions between homosexuals that appeared in the newspapers just recently. Suppose one of them had no money. What can one do? Would no legal aid services be available if the case is a civil case involving homosexuality?

Mr. McDONALD. If there is a criminal case involved——

Mrs. FENWICK. Civil.

Mr. McDONALD. The homosexual involved may be able to gain a court-appointed attorney.

Mrs. FENWICK. Suppose it is a civil case?

Mr. McDONALD. In the case of a civil case the taxpayers' money would not be used to defend homosexuality or a homosexual's lifestyle.

Mrs. FENWICK. I am not saying homosexuality or lifestyle. I am saying an individual who is homosexual.

Mr. McDONALD. As long as the individual does not interject his lifestyle or interject homosexuality into the case, he may gain the support of the Legal Services Corporation.

Mrs. FENWICK. But if there is a conflict between two people, he may not have interjected his lifestyle into the public, but he may be in trouble with another individual.

Is the gentleman saying therefore that no one accused in a civil court who is a claimed homosexual can get defense on a cause involving a homosexual claim?

Mr. McDONALD. If the person does not inject the issue of homosexuality and if the issue does not involve litigation or promotion or protection of homosexuality——

Mrs. FENWICK. Suppose it has nothing to do with promotion? Suppose it has to do with the protection of a homosexual individual?

Mr. McDONALD. As long as that individual does not present homosexuality into the case as a point of defense or as a matter for the case to promote, then the person would fall under the Legal Services Corporation.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I will be glad to yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

I would like to ask the gentleman from Georgia (Mr. McDONALD) a question. I think we had better nail this down. What if a person were fired from his job because of his homosexual tendencies or appearance, even. Could not a Legal Services lawyer defend on the ground that this circumstance is not relevant or related to that person's job? The gentleman would not debar the defending of a homosexual so long as——

The CHAIRMAN pro tempore. The time of the gentleman from Virginia (Mr. BUTLER) has expired.

(At the request of Mr. HYDE and by unanimous consent, Mr. BUTLER was allowed to proceed for 2 additional minutes.)

Mr. HYDE. If the gentleman will continue to yield, it is the condition of homosexuality that the gentleman does not want defended or promoted, but the individual homosexual who may have a legal problem is to be distinguished from the cause or the lifestyle of homosexuality; is that not true?

Mr. McDONALD. That is the intention of this amendment.

Mr. HYDE. I thank the gentleman.

The CHAIRMAN pro tempore. The gentleman from Virginia (Mr. BUTLER) has 1 minute remaining.

(By unanimous consent, Mr. BUTLER was allowed to proceed for 2 additional minutes.)

Mr. BUTLER. I want to call the attention of the gentleman from Georgia to the second portion of his amendment dealing with the rules of the Corporation. I would like to make the gentleman aware that the rules which were promulgated, we are told by officers of the Corporation, were required by the laws of the District of Columbia which charters the Legal Services Corporation.

I would like to make perfectly clear on the record that it is the intention of the gentleman from Georgia to say that no such rules may be issued, the laws of the District of Columbia notwithstanding; is that correct?

Mr. McDONALD. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Georgia.

Mr. McDONALD. That is correct.

Mr. BUTLER. So it is the gentleman's intention that no rules in this area may be issued by this Corporation by this amendment?

Mr. McDONALD. That is correct.

Mr. PHILLIP BURTON. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to this amendment.

Mr. Chairman, I strongly oppose passage of the McDonald amendment. The amendment would place the House on record as denying full access to the legal system to a specific minority. Further, the vague, ill-considered language of the amendment would allow assults on the rights not only of homosexuals, but of anyone correctly or incorrectly identified as homosexual. This amendment is yet another in a series of malicious attacks on gay citizens throughout the Nation and in my home city of San Francisco.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment and I would like the opportunity to follow up on what the gentlewoman from New Jersey has said and ask the author of the amendment a couple of questions.

To follow up on what the gentleman from Illinois (Mr. HYDE) and the gentlewoman from New Jersey (Mrs. FENWICK) have asked, if an individual is discharged from his job because of homosexuality, alleged or otherwise, would the Legal Services Corporation be allowed to defend that individual if a case were brought on job discrimination?

Mr. McDONALD. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Georgia.

Mr. McDONALD. Not if homosexuality is used by the defendant as a legitimate defense of a lifestyle.

Mr. MILLER of California. If a person were discharged from a job because he was black, would the Legal Services Corporation be allowed to defend that individual?

Mr. McDONALD. If that individual falls within the certain economic class.

Mr. MILLER of California. But if the individual falls within that certain economic class and he has been discharged because of alleged homosexuality or homosexuality in fact, he would not receive the protection of Legal Services Corporation even if that person were indigent?

Mr. McDONALD. That is correct.

Mr. MILLER of California. If an individual were denied access to a supermarket to purchase food and the owner of the supermarket did not want to let him in because he was homosexual, would that individual, assuming the economic qualifications, have the right to services under the Legal Services Corporation?

Mr. McDONALD. Well, it is difficult to imagine such a case of someone not being allowed to buy goods at a supermarket, and I do not know how a homosexual going in to buy groceries might enter into the purchase of items in a supermarket.

Mr. MILLER of California. Let me ask the gentleman, if that is difficult for the gentleman to imagine, why does not the gentleman tell us what he imagines will be the effect of this amendment and what is the history and the evidence that causes this amendment to come to the forefront?

Mr. McDONALD. The amendment will not stop homosexuals from getting a defense on a traffic violation or other areas dealing with the law.

Mr. MILLER of California. What if the individual alleges the policeman gave the ticket because he does not like homosexuals?

Mr. McDONALD. I am not aware that that is a traffic violation.

Mr. MILLER of California. If the gentleman will listen to my question, if the person alleges that the traffic ticket was given to him because the officer does not like homosexuals, and that individual believes he has a case of discrimination, just as members of minority groups have alleged from time to time they have been harassed, they have been stopped, they have been searched and given tickets, that person would be precluded from acquiring the services of the Legal Services Corporation; is that correct?

Mr. McDONALD. In a traffic court, the merits of traffic are involved and not the matter of whether or not a person is a homosexual or not.

Mr. MILLER of California. I believe the person who is arrested is also entitled to a defense as to whether he is guilty of the offense or not.

Mr. McDONALD. I have already answered the person's statement or question that the matter of homosexuality is not a traffic offense and would not be in a traffic court.

Mr. MILLER of California. But the person would not be allowed that defense and if he raised that defense he would not be allowed the services of Legal Services Corporation attorneys; is that correct?

Mr. McDONALD. If the particular defendant in the case raised the defense that he was a homosexual and therefore his traffic violation was justified, maybe he was preoccupied with other things, then he would not be given the Legal Services Corporation protection.

Mr. MILLER of California. It is apparent to me, Mr. Chairman, with the laughter on the Republican side of the House, that they consider this blatant discrimination against individuals because of their sexual preference as a laughing matter, as a trite matter. But I would suggest to those individuals that as their constituents are denied the services of the Legal Services Corporation, that they in fact, in this amendment, are condoning a very blatant discrimination against individuals in this country, against the rights of individuals to have legal counsel, against the overwhelming objective of this legislation which is to protect poor people who have no other access to legal representation.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. MILLER) has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 3 additional minutes.)

Mr. MILLER of California. I would honestly hope that the House would not condone this kind of discrimination in a statute, when in fact there is little or no evidence as to the need for this kind of restrictive language.

I think we clearly are setting out a mandate for the Legal Services Corporation in what we would like them to do. I think this amendment is just unnecessary and I think it is a cheap shot at the issue of homosexuality.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding.

May I say that I regret very much that my friend in the well may have engaged in the same kind of activity that he is very much worried about the amendment contributing to. The gentleman is indicting that all of the Republicans are opposed. There were many Republicans who spoke frankly in favor of the Weiss amendment.

Having said that, however, I agree with what the gentleman is saying in respect to what may be some kind of job discrimination, promotion discrimination, cases where the alleged homosexual may be completely innocent and may not even receive any legal assistance from Legal Services when he or she may be indigent.

I think the gentleman has raised some very good examples of instances where this particular amendment could really deprive someone who may be completely innocent from any charges or any allegations.

I hope we reject the amendment.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

Let me try to answer the question the gentleman addressed to the gentleman from Georgia. I used to work in a legal aid society. If this amendment had been law then, I could not even give legal representation to such a person charged with a traffic violation so as to take the case to court to ask the judge hold that there was no traffic violation, because I would have to base my plea on the ground that the client's homosexuality was the basis for the discrimination. To that extent, I would be defending his homosexuality, so I would have to take the position that I could not represent him. In other words, if this amendment passes, the homosexual in this case could not obtain legal counsel to help him get the court to determine whether there was a traffic violation.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

The gentleman from Georgia (Mr. MCDONALD) and I just had a conversation. I hate to see us get into the highways and byways of an extremely complicated issue. This amendment is going to pass. Now that it is going to pass, we had better have some legislative history as to just what the gentle-

man from Georgia (Mr. McDONALD) means.

I am going to ask the gentleman from Georgia (Mr. McDONALD) this: Is the gentleman from Georgia saying that a homosexual is entitled to legal services so long as in the providing of those legal services the lifestyle of homosexuality itself, as distinguished from the individual person, is not promoted and attempted to be legalized, but the homosexual is entitled to a Legal Services lawyer; is that not so?

Mr. McDONALD. That is correct.

Mr. MILLER of California. Let me reclaim my time.

That is all well and good, except that the gentleman from Illinois (Mr. HYDE) started his remarks by saying how complicated this issue was. The point is that this amendment precludes homosexuals from raising what may be legitimate defenses in the cases of job discrimination, harassment by civil authorities, job promotion, discrimination in housing. This precludes them from raising a defense that is available to women, that is available to minorities, that is available to all of us.

The CHAIRMAN. The time of the gentleman from California (Mr. MILLER) has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 3 additional minutes.)

Mr. MILLER of California. So I think that is what we have to answer. I appreciate what the gentleman from Georgia (Mr. McDONALD) says is the point of this amendment, but that is not in fact what will happen if we adopt the amendment. By this statute we are specifically denying the right of a homosexual individual to raise a defense, a legitimate defense, a recognized defense in cases of discrimination.

But at the moment that individual seeks to raise that defense he is precluded from having an attorney offered to provide services. If that is what the people in this House want to put their mark on, I am very disturbed by that.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

I wonder if I can have the attention of the gentleman from Georgia. I think the gentleman from California makes a number of very important points. But there is another parameter to this that gave me great concern.

Take the situation of a tenant who is unjustly accused of being a homosexual by his landlord.

□ 1145

What we are saying, in effect, is that that individual cannot secure Legal Services aid to defend himself against that particular charge in a landlord-tenant context, because if the attorney were to advance a defense, first that it is untrue, but second of all, even if it were true it is an unconstitutional deprivation that Legal Services officer could not take the case under the language of the amendment.

I thank the gentleman.

Mr. FOWLER. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Georgia.

Mr. FOWLER. Mr. Chairman, I have heard my colleague from Georgia, Dr. McDONALD, and I have listened to my colleague from Illinois try to interpret the purpose of this amendment. And I know that we would get wide agreement in this House—as the committee tried to do—that we do not in any way, shape or form get into an area where this House recommends the promotion or defense of homosexuality itself. But that is not the effect of this amendment, and everybody in this House, if they will look at it—lawyer or nonlawyer—knows that. The amendment is simply unconstitutional on its face.

Let me invent a preposterous example of what could happen under this amendment. Let us suppose that a Member of Congress in a public building on the Capitol Grounds was accused of homosexuality and that his accused partner was an indigent. If the McDonald amendment passes, the Member of Congress could purchase any and all legal counsel and defend himself or herself against that charge. The indigent accused partner would be prohibited in any civil court, in any manner, contrary to the U.S. Constitution in the 5th and the 14th amendments, of having legal representation by the Legal Services Corporation.

The CHAIRMAN pro tempore. The time of the gentleman from California has again expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 5 additional minutes.)

Mr. FOWLER. Is that not the case, Dr. McDONALD?

Mr. McDONALD. In a criminal case, he gets a court-appointed lawyer.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Illinois.

Mr. RAILSBACK. For a clarification for the Members, that would likely be a criminal case. We are not talking about criminal cases. We are talking about only civil cases.

Mr. FOWLER. It would not, I say to the gentleman, would not in all circumstances be a criminal case. But without debating all of the possible civil ramifications of my example, move that same example to a question of being fired from a job or thrown out of a leased home if that is more comfortable for the gentlemen.

Mr. MILLER of California. I want to thank the gentleman from Georgia because I think be makes another point, and I do not think this is just a lawyer's hour, but if the charge of homosexuality is raised in the prosecution or in the defense of the landlord or in the defense of the employer, at that point that person has lost his rights to counsel.

If the employer says, "I fired this individual because this individual is a homosexual," then the Legal Services Corporation is put in the position of defending that, and they cannot defend that under this amendment; and the person is precluded from receiving legal counsel. So, you are taking millions of individuals in this country and precluding their right to legal services even though they are eligible because they are indigent. The flowery words of this bill guarantee those fundamental legal rights to every poor person in this country except for one class of people.

Why not do it for blacks? Why do it for women? Why not do it for students, because they drive landlords crazy too in college towns. Why do you not preclude their right to raise the issue that they are students, or that they are minorities, because that is what you are doing here for one group of people. You are putting on the books a statute which sanctions blatant discrimination against an individual because he has chosen a lifestyle which may be of no harm to anybody else at any time, but now can be used as a weapon by any landlord, by any employer who knows that the minute they raise the issue, the individual is precluded from a defense.

If that is how the House of Representatives wants to open this session by telling this country that we sanction discrimination against an individual to preclude him his day in court, God bless you, but not with my vote.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I regret that we have, I think, confused the legislative history on this amendment that, if one reads it, it is pretty forthright and pretty clear. Now, I have been talking to Mr. McDONALD, and I think—and I will ask him to agree with me or not—that this is his intention: An individual who is homosexual, an individual who is charged with homosexuality, who was dismissed from his job because he is a homosexual, for some reason or other is discriminated against in housing or whatever, is entitled to a poverty lawyer, a Legal Services lawyer.

The fact that he or she is homosexual is not disqualifying, but what the gentleman means, I believe, is that Legal Services Corporation shall not use their resources and assets to promote the cause of homosexuality as a

legitimate legal lifestyle by class action suits or by lobbying or that sort of thing. But people, as distinguished from causes, are entitled to be represented. There are jurisdictions where homosexual activity between consenting adults is legal, and certainly if someone were discriminated against because they were charged with doing something that is legal in a jurisdiction, the poverty lawyer could say, "Look, this is legal, this is not illegal, and there is not a basis for any penalty."

The gentleman would have no objection to that, would he?

Mr. McDONALD. No, that is correct.

Mr. HYDE. What the gentleman wants to stop is lobbying and class action suits to legitimate a lifestyle that the gentleman does not think the taxpayers want to be spending their money for?

Mr. McDONALD. That is correct.

Mr. HYDE. Nothing more and nothing less, is that correct, Mr. McDONALD?

Mr. McDONALD. That is correct.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New York. I am sorry, the gentleman from Massachusetts.

Mr. FRANK. The gentleman is forgiven. I move around a lot.

Mr. HYDE. That whole section of the country is a blur to me.

Mr. FRANK. I will forgive the gentleman his regional prejudice and say that I appreciate the job that the gentleman has done in rewriting the McDonald amendment. Would that the gentleman had in fact written it, but let me ask the gentleman from Georgia if he would have objection to writing down and making his amendment the words the gentleman from Illinois gave us? Why not then amend the language? We have the clerks right here. The gentleman from Illinois can offer that amendment rather than this and reduce the confusion.

Mr. HYDE. I reclaim my time.

The CHAIRMAN pro tempore. The gentleman from Illinois has the time.

Mr. HYDE. I thank the gentleman. I wish we would let well enough alone. We have a firm, unequivocal statement from the gentleman from Georgia as to what he means, and I think that is what the amendment says.

Mr. Chairman, I yield back the balance of my time.

Mr. WILLIAMS of Montana. Mr. Chairman, I move to strike the requisite number of words.

If I may have the attention of the sponsor of this amendment for a question, Members from both sides of the aisle have correctly expressed their concerns about the rights of homosexuals, but I would like to ask the gentleman a question concerning the rights of people who are not homosexuals.

My constituents are concerned about this, and I do not know the answer, so I would like the gentleman to give it to me. Here is the scenario: A constituent of mine who is not a homosexual but is an indigent is fired from his part-time job, and his employer gives as the reason that he believes that that person is a homosexual, and therefore unable to carry out his duties.

Now, can my constituent go to Legal Services Corporation, and can they serve him? He is not a homosexual; he has been accused of being one.

Mr. McDONALD. The answer to this would be yes.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS of Montana. I will be glad to yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, in the course of the colloquy between the distinguished gentleman from Illinois and the gentleman from Georgia, apparently there was some rewriting of the explanation of part I of the amendment. I wonder if the gentleman from Illinois and the gentleman from Georgia would engage in a colloquy to equally clarify part 2 of the amendment?

Now, part II of the amendment that the gentleman from Georgia has offered also says that no funds will be made available to promulgate or enforce the proposed rules of the Corporation which were published in the Federal Register on March 23. Mr. STUDDS had earlier read verbatim the provisions of those regulations, which said that, in essence, the Legal Services Corporation would be required to provide—let me read it:

No person shall be subjected by a recipient to discrimination in the provision of services or employment practices on the basis of race, religion, color, sex, age, marital status, national origin, handicapped, political affiliation, or sexual orientation.

The gentleman from Georgia has offered in part II of the amendment to delete that regulation. What is the impact of overriding those regulations? Would the gentleman from Illinois clarify that, please?

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS of Montana. Yes.

Mr. HYDE. I am reliably informed that the regulations referred to in part II are going to be withdrawn, so that part of the amendment is irrelevant.

Mr. WEISS. If the gentleman will yield further?

Mr. WILLIAMS of Montana. Yes.

Mr. WEISS. It has not yet been withdrawn by Legal Services Corporation. It is on the books right now.

Mr. HYDE. No, sir.

Mr. WEISS. The amendment of the gentleman from Georgia says that no funds will be made available to promulgate or enforce those proposed rules. What is his intention in offering that part of the amendment? Can the gentleman clarify that?

Mr. HYDE. If the gentleman will yield, I think at the time this amendment was drafted he felt that those were seriously going to be promulgated and become regulations, but the question is moot.

Mr. WEISS. If the gentleman will yield further, why in fact were they going to be the problem? What is the problem? Can the gentleman explain?

Mr. WILLIAMS of Montana. Reclaiming my time, that goes to the heart of my previous question, so if the gentleman could explain——

Mr. HYDE. Well, what was wrong with those regulations I honestly do not know. All I know is, the point is moot.

Mr. WEISS. Would the gentleman from Georgia explain? Would the gentleman from Georgia explain what his intention was?

The CHAIRMAN pro tempore. The time of the gentleman from Montana has expired.

(At the request of Mr. WEISS and by unanimous consent, Mr. WILLIAMS of Montana was allowed to proceed for 2 additional minutes.)

Mr. HYDE. Would the gentleman from Georgia consider a unanimous-consent motion to strike section II from his amendment?

Mr. WEISS. Will the gentleman yield?

Mr. WILLIAMS of Montana. I yield to the gentleman.

Mr. WEISS. Would the gentleman from Georgia explain what he meant by part II of his amendment, and why he refuses to withdraw it as the gentleman from Illinois has requested?

Mr. McDONALD. The purpose of this part is to prevent discrimination by Legal Services programs or in employment by legal aid societies on the basis of sexual orientation. This would apply to three different cases:

First. A homosexual wanting help on a traffic ticket.

Second. A homosexual attorney who wants to be hired by a legal aid society.

Third. A homosexual who needs help in a discrimination suit based upon employment or housing generally.

The first part of my amendment really addresses B and C—no funds can be used to promote, defend, or protect homosexuality.

□ 1200

Mr. WEISS. Mr. Chairman, will the gentleman yield for a moment?

Mr. McDONALD. Let me finish this first. Let me try to answer the gentleman's question.

Mr. WEISS. Mr. Chairman, I would be pleased to have the gentleman con-

tinue, but I would like some clarification.

The CHAIRMAN pro tempore. The Chair will state that the gentleman from Montana (Mr. WILLIAMS) controls the time.

Mr. WILLIAMS of Montana. Mr. Chairman reclaiming the balance of my time, I yield further to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Chairman, I had a great deal of difficulty—and perhaps other Members of the House did also—in understanding what the gentleman from Georgia was saying. Would he do us the courtesy of explaining in slow, clear language what he intended by part 2 of his amendment?

Mr. McDONALD. Mr. Chairman, if the gentleman from Montana (Mr. WILLIAMS) will yield, and if I may complete my statement for the gentleman from New York (Mr. WEISS), the first part of my amendment really addressed portions B and C—no funds will be used to promote, defend, or protect homosexuality. A homosexual could not seek legal aid if he was discriminated against based upon his sexual orientation by either a legal aid society or an outside employer, landowner, and so forth. It has been interpreted and written so that it would be interpreted to stop forced acceptance of open homosexual conduct. If an individual openly professes this conduct and is discriminated against, we do not want him to have legal aid in his defense to compel acceptance of his open conduct.

If, on the other hand, he keeps his conduct to himself and does not bring it into issue, then he can walk into any legal aid society as a private individual and get help on a traffic ticket or assault case or even be hired by them.

A homosexual who wants help on a traffic ticket can now be discriminated against. This sounds terrible but a crucial question must be asked. Who was responsible for bringing into issue the man's homosexuality? If the individual seeking help has done so, discrimination is consistent with our end. If the attorney from whom the help is sought injects the issue based upon conclusive information, a consistent end is still arrived at. If the attorney injects the issue based upon mere suspicion and the person is discriminated against, his position is no worse than one which any of us might find ourselves in simply because another individual doesn't like the way we look.

The long and the short of the matter is that those who openly profess and promote homosexual conduct do not deserve protection of that conduct under law. This is my intention. If they want to keep their conduct in their private lives and not bring it into issue publicly, they have the same rights as any other individual for protection under law whether it be help on a traffic ticket, a case of assault, robbery, or whatever.

My amendment stops any public promotion of homosexual conduct. Defeating the promulgation of the regulations has the same effect. Any individual who brings into issue his homosexual conduct cannot receive protection under law. If they keep their conduct to themselves, they obviously have the same rights of any other individual in society.

The CHAIRMAN pro tempore. The time of the gentleman from Montana (Mr. WILLIAMS) has expired.

Mr. WEISS. Mr. Chairman, I ask unanimous consent that the gentleman from Montana (Mr. WILLIAMS) be allowed to proceed for 2 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. DOUGHERTY. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to request that the gentleman from Georgia (Mr. McDONALD) resume his explanation of part 2 of his amendment.

Mr. McDONALD. Mr. Chairman, if the gentleman will yield, a homosexual who wants help on a traffic ticket can now be discriminated against. This sounds terrible, but a crucial question must be asked. Who was responsible for bringing into issue the man's homosexuality?

If the individual seeking help has done so, the discrimination is consistent with our end.

Mr. WEISS. Is that part 1?

Mr. McDONALD. This covers part 1 and part 2.

If the attorney injects the issue based upon mere suspicion and the person is discriminated against, his position is no worse than one which any of us might find ourselves in simply because another individual does not like the way we look.

The long and the short of the matter is that those who openly profess and promote homosexual conduct do not deserve protection under this amendment. This is my intention. If they want to keep their conduct in their private lives and not bring it into the courts, then they have the same rights as any other individual for protection under the law whether it be help on a traffic ticket, a case of assault, robbery, or whatever.

My amendment stops any public promotion of homosexual conduct. Defeating the promulgation of the regulations has the same effect. Any individual who brings into issue his homosexual conduct cannot receive protection under the law. If they keep their conduct to themselves, they obviously have the same rights as any other individual in society.

Mr. WEISS. Mr. Chairman, if I may respond further to the gentleman's explanation, as I read the regulation which the gentleman's amendment would prohibit from being funded or enforced, provides that no person "subjected * * * to discrimination in the provision of services or employment practices. * * *" It is "discrimination" that those regulations attempt to prohibit.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I am pleased to yield to my distinguished friend, the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, in listening to the statement and the reiteration of the statement by the gentleman from Georgia (Mr. McDONALD), what I am afraid has happened is that he has completely undone the value benefiting from the conversation he had with the gentleman from Illinois (Mr. HYDE), because he is now contradicting exactly what his answer was in response to the colloquy he had with the gentleman from Illinois. That is what, unfortunately, has happened.

That is what makes it important that we defeat this amendment.

Mr. WEISS. Mr. Chairman, I appreciate the gentleman's comments.

It should be obvious, Mr. Chairman, to all of us who consider ourselves to be rational, deliberative Members of this body that, on the basis of the explanations which have been offered and the contradictions in those explanations, we would violate our commitment to rational debate and action if we were to adopt this amendment. No one can tell with any certainty what the amendment means or intends. This amendment could prohibit the Corporation from providing legal representation in any case involving the rights of homosexuals and possibly any case involving a person of that sexual orientation or preference.

This is not the first time I have had to voice my strong objection to such discriminatory action in connection with the Legal Services Corporation (LSC). We have covered this ground before. However, this year, after extensive committee hearings, the Subcommittee on Courts, Civil Liberties, and the Administration of Justice has reported a bill which addresses many of the concerns expressed by Members about the appropriate role of LSC attorneys. Specific language is included in the bill before us which would prohibit "legal assistance for any litigation which seeks to adjudicate homosexuality." While I maintain my opposition to restrictions of this kind, it is clear that the bill already adequately reflects the sentiment held by many of my colleagues on this sensitive issue.

Yet the amendment offered by Mr. McDONALD goes well beyond the issue of whether or not to legalize homosexuality to an outright denial of legal assistance to a single group of potential LSC clients. By so doing, it violates both statutory requirements that govern the LSC's operation and constitutional guarantees to due process and equal justice under the law. In addition, the language of Mr. McDONALD's proposal is so imprecise that it would be difficult to define just what is covered by the amendment. Would it prohibit litigation on employment discrimination? Even in those jurisdictions which have enacted nondiscrimination ordinances? Would this not have the effect of the Federal Government enforcing its standards over those of the States and municipalities?

What about landlord-tenant cases? Could a landlord raise the tenants homosexuality or alleged homosexuality, even if it was irrelevant to the case, thereby preventing a Legal Services attorney from handling the case?

How would the LSC be expected to learn whether a person is a homosexual? Indeed, those who did reveal their preference might be discriminated against while those who kept silent received legal services. Will police power someday be needed to enforce the McDonald amendment?

At best, the language of the amendment is ambiguous. At worst, it is a direct assault upon the constitutional right to due process for one group of taxpaying citizens. It seems to me that this House has already placed more than enough restrictions on what was intended to be an independent vehicle for delivering legal assistance to the poor. Let us not destroy this vital link in our civil justice system with unworkable and discriminatory prohibitions. I urge my colleagues to oppose this dangerous amendment and to let the excellent and much needed work of the Legal Services Corporation continue without further impediments.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Georgia (Mr. McDONALD).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. McDONALD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 281, noes 124, not voting 26, as follows:

[Roll No. 85]

AYES—281

Akaka	Archer	Beard
Albosta	Ashbrook	Benedict
Alexander	Atkinson	Benjamin
Andrews	Bafalis	Bennett
Annunzio	Bailey (MO)	Bereuter
Anthony	Bailey (PA)	Bethune
Applegate	Barnard	Bevill
Blanchard	Hall, Sam	O'Brien
Bliley	Hamilton	Parris
Bonker	Hammerschmidt	Patman
Bouquard	Hance	Paul
Bowen	Hansen (ID)	Pease
Brinkley	Hansen (UT)	Perkins
Brooks	Hartnett	Petri
Broomfield	Hatcher	Pickle
Brown (CO)	Heckler	Price
Brown (OH)	Hefner	Pursell
Broyhill	Heftel	Quillen
Burgener	Hendon	Rahall
Butler	Hertel	Regula
Byron	Hightower	Rhodes
Campbell	Hiler	Rinaldo
Carman	Hillis	Ritter
Carney	Holland	Roberts (KS)
Chappell	Holt	Roberts (SD)
Cheney	Hopkins	Robinson
Clausen	Hubbard	Roe
Clinger	Huckaby	Rose
Coats	Hunter	Rostenkowski
Coleman	Hutto	Roth
Collins (TX)	Hyde	Rousselot
Corcoran	Ireland	Rudd
Coughlin	Jacobs	Russo
Courter	Jeffries	Santini
Coyne, James	Jenkins	Sawyer
Craig	Johnston	Schulze
Crane, Daniel	Jones (NC)	Sensenbrenner
Crane, Philip	Jones (OK)	Shamansky
D'Amours	Jones (TN)	Sharp
Daniel, Dan	Kazen	Shaw
Daniel, R. W.	Kemp	Shelby
Dannemeyer	Kindness	Shumway
Daschle	Kramer	Shuster
Daub	LaFalce	Siljander
Davis	Lagomarsino	Simon
de la Garza	Latta	Skeen
DeNardis	Leath	Skelton
Derrick	LeBoutillier	Smith (AL)
Derwinski	Lee	Smith (NE)
Dickinson	Lent	Smith (NJ)
Dicks	Levitas	Smith (OR)
Dingell	Loeffler	Snowe
Donnelly	Long (LA)	Snyder
Dorgan	Lott	Solomon
Dornan	Lowery	Spence
Dougherty	Lujan	St Germain
Dreier	Lundine	Stangeland
Duncan	Lungren	Stanton
Dyson	Madigan	Staton
Early	Marks	Stenholm
Edwards (OK)	Marlenee	Stratton
Emerson	Marriott	Stump
Emery	Martin (NC)	Synar
English	Mazzoli	Tauke
Erdahl	McClory	Tauzin
Ertel	McCollum	Taylor
Evans (DE)	McCurdy	Traxler
Evans (GA)	McDonald	Trible
Evans (IA)	McEwen	Vander Jagt
Evans (IN)	McGrath	Volkmer
Fary	McHugh	Walgren
Fields	Mica	Walker
Fithian	Michel	Wampler
Flippo	Miller (OH)	Watkins
Florio	Minish	Weber (MN)
Foley	Mitchell (NY)	Weber (OH)
Fountain	Moakley	White
Frost	Molinari	Whitehurst
Fuqua	Mollohan	Whitley
Gaydos	Montgomery	Whittaker
Gephardt	Moore	Whitten
Gibbons	Moorhead	Williams (OH)
Gingrich	Morrison	Wilson
Ginn	Mottl	Wolf
Glickman	Murphy	Wortley
Goodling	Murtha	Wright
Gore	Myers	Wylie
Gradison	Napier	Yatron
Gramm	Natcher	Young (AK)
Gregg	Neal	Young (FL)
Grisham	Nelligan	Young (MO)
Gunderson	Nelson	Zablocki
Hagedorn	Nichols	Zeferetti
Hall, Ralph	Nowak	

NOES—124

Addabbo	Beilenson	Bonior
Anderson	Biaggi	Brodhead
Aspin	Bingham	Brown (CA)
AuCoin	Boggs	Burton, John
Barnes	Boland	Burton, Phillip
Bedell	Bolling	Chisholm
Clay	Green	Porter
Coelho	Guarini	Pritchard
Collins (IL)	Hall (OH)	Railsback
Conable	Harkin	Rangel
Conte	Hollenbeck	Ratchford
Coyne, William	Horton	Reuss
Crockett	Howard	Richmond
Danielson	Hoyer	Rodino
Deckard	Hughes	Roemer
Dellums	Jeffords	Rosenthal
Dixon	Kastenmeier	Roukema
Downey	Kildee	Roybal
Dunn	Kogovsek	Sabo
Dwyer	Leach	Scheuer
Dymally	Leland	Schneider
Edgar	Lewis	Schroeder
Edwards (AL)	Lowry	Seiberling
Edwards (CA)	Markey	Shannon
Erlenborn	Martin (IL)	Smith (IA)
Fascell	Martin (NY)	Stark
Fazio	Mattox	Stokes
Fenwick	Mavroules	Studds
Ferraro	McCloskey	Swift
Fiedler	McKinney	Udall
Findley	Mikulski	Vento
Fish	Miller (CA)	Washington
Foglietta	Mineta	Waxman
Ford (MI)	Mitchell (MD)	Weaver
Ford (TN)	Moffett	Weiss
Forsythe	Oakar	Williams (MT)
Fowler	Oberstar	Wirth
Frank	Ottinger	Wolpe
Gejdenson	Panetta	Wyden
Gilman	Patterson	Yates
Goldwater	Pepper	
Gonzalez	Peyser	

NOT VOTING—26

Badham	Gray	Obey
Boner	Hawkins	Pashayan
Breaux	Lantos	Rogers
Chappie	Lehman	Savage
Conyers	Livingston	Schumer
Cotter	Long (MD)	Solarz
Eckart	Luken	Thomas
Frenzel	Matsui	Winn
Garcia	McDade	

□ 1215

The Clerk announced the following pairs:

On this vote:

Mr. Rogers for, with Mr. Lehman against.

Mr. Livingston for, with Mr. Lantos against.

Mr. McDade for, with Mr. Gray against.

Mr. Frenzel for, with Mr. Garcia against.

Mr. Winn for, with Mr. Matsui against.

Mr. Badham for, with Mr. Solarz against.

Mr. HORTON changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

ADDITIONAL RESTRICTIONS ON USE OF FUNDS

SEC. 11. Section 1007(b) of the Legal Services Corporation Act (42 U.S.C. 2996f(b)) is amended—

(1) by amending paragraph (6) to read as follows:

"(6) to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, including the dissemination of information about such policies or activities, except that this paragraph shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients;";

(2) by amending paragraph (8) to read as follows:

"(8)(A) to provide legal assistance with respect to any proceeding or litigation relating to abortion unless such abortion is necessary to save the life of the mother, or (B) to support in whole or in part any legal assistance activity of any attorney in connection with any proceeding or litigation relating to abortion unless such abortion is necessary to save the life of the mother, except that nothing in this paragraph shall prohibit the provision of legal advice to an eligible client with respect to such client's legal rights and responsibilities;";

(3) in paragraph (9) by striking out "or" after the semicolon;

(4) in paragraph (10) by striking out the period and inserting in lieu thereof a semicolon; and

(5) by adding at the end thereof the following new paragraphs:

"(11) to provide legal assistance for or on behalf of any individual who is known to be an alien in the United States in violation of the Immigration and Nationality Act or any other law of the United States, or convention or treaty to which the United States is a party, relating to the immigration, exclusion, deportation, or expulsion of aliens; or

"(12) to provide legal assistance for any litigation which seeks to adjudicate the legalization of homosexuality.".

Mr. KASTENMEIER (during the reading). Mr. Chairman, I ask unanimous consent that section 11 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. KASTENMEIER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time so that we may discuss a limitation of debate. I am sure it is the desire of this body that we conclude action on this today. We do not, I am informed, that we will not proceed on tomorrow to dispose of any untreated amendments. In light of the fact that the Committee of the Whole took nearly 2 hours on the last amendment, it is clear, I think, that some sort of orderliness in terms of the amount of time allocated to debate on amendments be reached.

With that in mind, and having consulted with Members of the minority and Members on my side, I would make the following unanimous-consent request. At this point I make no motion. This pertains only to section 11.

I ask unanimous consent all debate on amendments to section 11 do not exceed more than 20 minutes, one-half to be controlled by the proponents of the amendment and one-half by the opponents of the amendment, excepting in the case of the so-called alien amendments to be offered by the gentleman from Texas (Mr. KAZEN) and the gentleman from Florida (Mr. MCCOLLUM), in which case the debate on the those amendments do not exceed 40 minutes, those amendments and all amendments thereto on the question of aliens.

The CHAIRMAN pro tempore. A point of clarification from the standpoint of the Chair. Is the gentleman suggesting to limit debate on each amendment to section 11 and on any amendment thereto to 20 minutes, the time to be divided equally between the proponents and the opponents, and 40 minutes on the amendments being offered by the gentleman from Texas (Mr. KAZEN) and the possible substitute therefor of the gentleman from Florida (Mr. MCCOLLUM) and all amendments thereto?

Mr. KASTENMEIER. Yes. The request of 40 minutes pertains to both amendments, that is to say that they may be offered in tandem, but that the total amount of time allocated to the subject represented by those two amendments not exceed 40 minutes.

The CHAIRMAN pro tempore. And all amendments thereto.

Mr. KASTENMEIER. Yes.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. May I yield first to the gentleman from Texas?

Mr. KAZEN. For a point of clarification, in my instance with one of those amendments that the gentleman has said we could have 40 minutes on, what does that allow me as a proponent of one of the amendments?

Mr. KASTENMEIER. That would allow the gentleman or those speaking in the gentleman's behalf 10 minutes. That would allow the gentleman from Florida (Mr. MCCOLLUM) or those speaking in behalf of his substitute, if offered, 10 minutes and that would allow any opposition to either of those two amendments a total of 20 minutes, 10 minutes each. That would be the same as any other amendment.

Mr. MCCLORY. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. Yes; I yield to the gentleman from Illinois.

Mr. MCCLORY. Is it my understanding that the 20-minute time limitation applies to each amendment; each amendment would be subject to being debated for 20 minutes, with 10 minutes on each side.

Mr. KASTENMEIER. Exactly.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. ROUSSELOT. Mr. Chairman, I reserve the right to object.

The CHAIRMAN pro tempore. The Chair would point out to the Members that are discussing this, that the request addresses itself to each amendment and any amendment thereto, inclusive.

Mr. ROUSSELOT. Mr. Chairman, further reserving the right to object, could we have an idea how many amendments there are at the desk?

The CHAIRMAN pro tempore. The Clerk informs the Chair that there are four amendments to section 11, for the information of the gentleman from California.

Mr. ROUSSELOT. But this applies to the whole bill, how many total amendments.

Mr. KASTENMEIER. No, no, only to this section.

Mr. ROUSSELOT. Mr. Chairman, further reserving the right to object, why has the gentleman decided on 20 minutes? What is wrong with 30 minutes on each side?

Mr. KASTENMEIER. Well, if the gentleman will yield, that has been the suggestion. There are, I think, five amendments in total that are qualified, two by the gentleman from Ohio (Mr. ASHBROOK), one by the gentleman from Texas (Mr. KAZEN), one by the gentleman from Florida (Mr. MCCOLLUM) and one by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The CHAIRMAN pro tempore. The gentleman is correct. There are five amendments at the desk to section 11.

Mr. KASTENMEIER. I think in the case of a couple of those amendments, there will not be a great deal of controversy.

Mr. ROUSSELOT. Mr. Chairman, further reserving the right to object, does the gentleman himself resist the idea of 30 minutes for each side?

Mr. KASTENMEIER. In order that we can conclude today, I would hope that, I would prefer the 20 minutes per amendment, so that we could move on from this section, after having spent 2 hours on just one amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. ROUSSELOT. Reserving the right to object, Mr. Chairman, there are several people that have waited quite a while. As a matter of fact, I have not really participated much in this debate. We all have shown the same patience as the Chairman, but some of these others, such as the alien amendment, really, some of us consider to be rather crucial.

I wonder if the gentleman would object to the idea of 30 minutes for each side?

□ 1230

Mr. KASTENMEIER. May I inquire of the gentleman from California (Mr. ROUSSELOT) would he be agreeable to 1 hour devoted to the two amendments affecting aliens?

Mr. ROUSSELOT. I would tell the gentleman I would. Will the gentleman amend his unanimous-consent request in that way?

Mr. KASTENMEIER. I would. I would be agreeable to do that.

The CHAIRMAN pro tempore. The unanimous-consent request has been modified to 1 hour of debate on the amendment offered by the gentleman from Texas (Mr. KAZEN) and the

amendment offered by the gentleman from Florida (Mr. McCOLLUM) and all amendments thereto, 1 hour.

Is there objection to the unanimous-consent request of the gentleman from Wisconsin (Mr. KASTENMEIER)?

Mr. ASHBROOK. Mr. Chairman, reserving the right to object, I reserve the right to object not to object. In past Congresses I have pointed out many times this practice and how it has worked. As a matter of fact, many times in the early part of the debate when Members have asked for an additional 5 minutes, an additional 5 minutes, an additional 3 minutes, an additional 3 minutes, I have taken the floor had said what is going to happen when a few of us later on want to be recognized. The same thing happens. We get 1 minute, 2 minutes, 3 minutes.

I am not going to object, but I think as Members we ought to self-discipline ourselves to make sure these situations do not happen. I do not blame my colleague. I fully support what he is trying to do. I merely take this time to point out so many times in early debate we take 20 minutes when we could have used 5, and then we limit time later on. I agree with the gentleman.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. FISH. Mr. Chairman, reserving the right to object, I would sincerely hope that I do not have to object. The chairman of the subcommittee has pointed out there are two amendments dealing with alien recipients of legal aid. The gentleman is also aware that I have a perfecting amendment to the two amendments. I think inasmuch as we have spent 2 days sharply circumscribing the activities of attorneys, and we are presently facing a series of amendments that are aimed at limiting the eligible clients by up to 10 million, I would like to have my perfecting amendment be considered as one of the three in that hour so that I am guaranteed at least 20 minutes of that time.

Mr. KASTENMEIER. Will the gentleman from New York yield?

Mr. FISH. I yield to the gentleman. I am happy to yield.

Mr. KASTENMEIER. Of course I am aware of the gentleman from New York's amendment. I personally plan to support it. My expectation was that that amendment would be offered in the context of the 1-hour general debate, debate to the two other amendments, and that the gentleman would have time either as an opponent of the amendment, on one of the two amendments in their present form, and the gentleman's amendment is perfectly in order. I cannot imagine the gentleman would not have adequate time both to present his amendment and to debate it.

Mr. FISH. I know there are other people that wish to speak on my amendment. If it is not considered in the same stature as the two the Chairman mentioned, I just fear I may not get the one-third of the hour that is to be allocated to this subject matter.

Mr. KASTENMEIER. Of course, in the way of debate, if the gentleman would yield further on his reservation, it is difficult to determine the debate itself. The 1 hour may be used by those who have access to the time in various ways. But I would sincerely believe that the gentleman will have adequate time not only to early offer his amendment, to speak to it and have others speak to it in the context of the other two amendments.

Mr. FISH. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the unanimous-consent request of the gentleman from Wisconsin (Mr. KASTENMEIER)?

Mr. WALKER. Mr. Chairman, reserving the right to object, I have a couple of questions.

Under the proposal would we be prevented from offering motions to strike the requisite number of words in order to engage in debate that might not be directly related to the amendment?

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman.

Mr. KASTENMEIER. I would have to ask the Chairman if that would entitle the speaker to time other than that allocated under this request.

The CHAIRMAN pro tempore. If an amendment to section 11 were pending, under this request, a motion to strike the last word would not be in order, since time would be allocated.

Mr. WALKER. Further reserving the right to object, let me also ask the gentleman would there be anything wrong with the procedure of doing this on individual amendments?

The gentleman has made the point that a couple of the amendments seemed less controversial than others. Why not do it on each individual amendment as it comes up rather than en bloc, which would reserve more time for some of us?

We have a couple of things we may want to discuss that are not directly related to an amendment, and I would not want to do that and infringe on someone's amendment time under the gentleman's kind of procedure.

The CHAIRMAN pro tempore. The unanimous-consent request does not go to the section itself, but only goes to substantive amendments if offered; so it would be possible, if there are no other amendments pending, at the right time, to be recognized as the Chair has permitted to strike the requisite number of words.

Mr. KINDNESS. Will the gentleman yield under his reservation?

Mr. WALKER. I am glad to yield to the gentleman.

Mr. KINDNESS. In order to clarify a point, the time limitation sought at present relates to only section 11 of the bill, amendments thereto, and all amendments to those amendments which would, I believe, leave the opportunity for one of the things the gentleman was seeking to cover under section 12 or 13.

Mr. WALKER. I thank the gentleman for his contribution.

It is my understanding from the Chair, further reserving the right to object, that it does not cover the section but, rather, only the amendment to the section and we would still under the section have the ability, if an amendment was not pending, to strike the requisite number of words.

Mr. KINDNESS. I thank the Chairman.

Mr. WALKER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the unanimous-consent request of the gentleman from Wisconsin?

There was no objection.

AMENDMENT OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SENSENBRENNER: Page 11, line 25, strike out ", except that" and all that follows through "sponsibilities" on page 12, line 3.

The CHAIRMAN pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 10 minutes under the unanimous-consent request approved.

Mr. CHENEY. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Wyoming.

Mr. CHENEY. Mr. Chairman, one of the cornerstones of the foundation of our Nation is the concept of equal justice for all. It is an idea that our Founding Fathers fought for, an idea that many of our Founding Fathers died for.

And it is a dream we have come very close to realizing in the United States of America.

It is a goal that the Republican Party has a long and proud history of fighting for, from the very first days of our party's history. We firmly believe that no one in American society should be denied adequate legal representation in court actions due to a lack of financial resources.

President Reagan recognized this when he proposed that the Legal Services Corporation be allowed to expire September 30, 1981, and replaced with State and local programs in fiscal 1982 and fiscal 1983 at a $260 million annual level.

Such a step would break the budget ceilings set just last month in the Latta-Gramm resolution.

Such a move would also be a step backward, a failure to accept the painfully ample evidence that the Legal Services Corporation just has not worked. President Reagan wants to send the authority for and control of such legal assistance programs back to the local level, where local people understand their own problems best.

Mr. Chairman, the House Republican policy committee, of which I am chairman, supports President Reagan's move. We believe that there is a strong need for legal assistance for the poor, and we strongly support such a program.

Those services, however, can best be provided through programs such as social service block grants for State, regional, and local units of government, and tax incentives for private attorneys who represent the poor without pay.

The House Republican policy committee has adopted an official policy statement on this issue, which follows:

STATEMENT NO. 4—JUNE 11, 1981

Republicans have long supported legal assistance for the poor. No one in American society should be denied adequate legal representation in civil actions due to a lack of financial resources.

That was the aid envisioned seven years ago when the federal Legal Services Corporation was created. However, as it now exists, the Corporation is a severe distortion of the social service agency it was created to be.

Recognizing this, the Reagan administration has called for decentralization of the authority of the Legal Services Corporation and its transfer to state, regional and local units of government and local legal organizations, supported in large part through social service block grants to the states.

The House Republican Policy Committee supports such a move.

The existing Legal Services Corporation provides no assistance which cannot be supplied more efficiently and more directly by these local sources. The Corporation should be allowed to go out of existence when its current funding expires September 30.

While it was planned to provide needed legal services to the poor, the Corporation instead has incurred a great deal of criticism by becoming a center for social activists.

In fact, when questions were raised this year about the activities of the Corporation and prospects for terminating it completely, Legal Services Corporation staff members embarked on planning a massive lobbying campaign to save their jobs. Such lobbying with public funds is specifically prohibited by federal regulations.

The House Judiciary Committee, however, has reported favorably H.R. 3480, which would reauthorize the Corporation at an annual level of $260 million for fiscal 1982 and fiscal 1983. Such an action would violate the spending ceilings already adopted by the Congress in the Latta-Gramm bill.

Supporters of continuation of the Legal Services Corporation now contend that the past errors of the agency can be corrected through the adoption of a series of amendments accepted by the Judiciary Committee. The history of the Corporation over the past seven years, however, gives amply evidence that the Legal Services Corporation and its staff move tenaciously to do exactly what they want to do, not what the agency was created to do.

Significantly, in reporting the bill favorably, a majority of a divided House Judiciary Committee rejected an amendment placing an outright ban on most class action suits brought by the Corporation.

The states, regional and local units of government and individual law firms are fully capable of filling these needs in the field of civil law through tools such as legal aid programs and tax incentives for private attorneys who represent the poor without pay.

The House Republican Policy Committee opposes H.R. 3480 and urges all Republicans to vote against the bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

I will be brief. This amendment seeks to get the Legal Services Corporation out of the business of giving legal advice on abortions completely. The bill as reported from committee attempts to restrict the Legal Services Corporation from getting involved in abortion litigation.

However, an exception is included that nothing in that restriction shall prohibit the provision of legal advice to an eligible client with respect to such client's rights and responsibilities. That is a crevice which will be widened into a chasm by any ingenious Legal Service Corporation attorney.

For example, the provision does not preclude the Legal Services Corporation from taking an abortion rights case under the guise of giving legal counsel on a client's rights and responsibilities. Under the exception, legal counsel could be given to minor children seeking abortions without prior parental notification or consent.

This amendment will close this loophole completely, it will get the Legal Services Corporation completely out of the business of giving counsel on abortion no matter how it is stated. I would urge the amendment be adopted.

I reserve the balance of my time.

The CHAIRMAN. The gentleman has consumed 2 minutes.

The gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 10 minutes.

Mr. KASTENMEIER. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Ms. FERRARO).

Ms. FERRARO. Mr. Chairman, I rise in strong opposition to this amendment. I cannot believe what we are about to do is take away and actually flagrantly violate the purposes of the Legal Services Corporation.

The Corporation was established specifically to provide poor people with adequate legal representation and advice. What the gentleman is saying—and this should go, not to whether my colleagues support a woman's right to have an abortion or do not support it—abortion is legal in this country, the U.S. Supreme Court has ruled that it is legal, what the gentleman in effect is saying, is that a poor woman who is pregnant, who goes to Legal Services to find out whether or not she can, A, have an abortion and, B, whether or not she can have it done at Government expense, will be turned away and be told to seek responses to her inquiry elsewhere.

That to me seems a violent, aberration of what the purposes of this act are. It is also an extremely discriminatory action against poor women when that same type of advise is available to every other woman in this country.

I urge this body to please vote against this amendment as being a violation of a poor woman's legal rights, and discrimination against her simply because she is poor.

Mrs. FENWICK. Mr. Chairman, will the gentlewoman yield?

Ms. FERRARO. I yield to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. I thank my colleague for yielding. I would like to endorse the sentiments that have just been expressed and most urgently hope that this amendment will be defeated.

I cannot believe that in one area after another pitiful, helpless people, without money, may be denied legal aid. What is the point of the whole exercise if there is no legal adviser to tell a woman what rights she is entitled to under the law.

There are laws in this Nation and everyone should be able to get advice as to how those laws affect them, no matter what laws we are talking about. If it is a legal question, people have a right to advice and counsel.

I cannot believe that we are hearing such proposals in Congress.

I thank my colleague for yielding.

Ms. FERRARO. I thank the gentlewoman for her remarks and yield back the balance of my time.

Mr. KASTENMEIER. Mr. Chairman, I yield so much time as he may consume to the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. I appreciate the gentleman yielding. I rise in opposition to this amendment because I do not think it has a thing to do with abortion.

What it does have to do with, if we have a Legal Services Corporation, is whether one can get legal advice or not. We have now gone as far as we can and in this amendment to the bill before us we have gone a great deal further than we did last year in accommodating those people who are opposed to abortion. So there is no question about that aspect of it.

It was at the insistence of the gentleman from Kentucky that this was inserted in the bill. I have accommodated in my own view and urged support of substantially all of the amendments that have come along which I felt were designed to meet objections to this bill. But this is the time I feel like we must draw the line because we have gone too far.

What this does, in effect—it does not do it in effect, it does it in fact—it says that legal advice to an eligible client cannot be given with respect to such client's legal rights. That is going just too far.

If we are going to create a Legal Services Corporation to provide legal advice for the poor, then they ought to be able to come in and say to their lawyer, "What are my rights, what are my rights in regard to abortion."

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I am happy to yield to the gentleman from Kansas.

Mr. GLICKMAN. I think my colleague makes an excellent statement. Let us say a pregnant woman who is seriously ill, wants to get some legal advice as to what the law provides on abortion. The Legal Services lawyer could not even render that kind of advice, that no, you cannot get an abortion. He could not even talk to her about any issue related thereto, which is a clear deprivation of that woman's rights.

So I agree with the points made by the gentleman. I urge the rejection of the amendment.

Mr. BUTLER. I thank the gentleman for his contribution.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I am happy to yield to the gentleman from Illinois.

Mr. RAILSBACK. What my colleagues ought to know is once again we did tighten up the law relating to providing legal assistance for abortions. Some of us did not want to do that, but we did it because we are very much aware of the very stark political facts of life about trying to save the Legal Services, which many of us believe very strongly in.

I think the gentleman from Virginia (Mr. BUTLER) has hit the nail right on the head. This is going too far. We would completely prohibit Legal Services from offering legal advice, and what in the world is the matter with telling someone about what their legal rights are?

Mr. BUTLER. I thank the gentleman for his comments.

□ 1245

Mr. SAWYER. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I will be happy to yield to the gentleman from Michigan.

Mr. SAWYER. I thank the gentleman for yielding. I may say that I have consistently voted against the use of medicaid funds for optional abortions. But take a scenario: a woman comes into Legal Aid. She said her doctor has advised her that she is likely to die if she carries the pregnancy out to term. Does she have any right to get any public assistance? He would be here prohibited from telling her, sure, she would because her life is in danger. She may have no way to know that. Maybe the clerk handling the medicaid then does not know that either.

It just seems to me to stop people from knowing what the law is as we have cast it, rightly or wrongly, is going a step far beyond the question of abortion, or really any other issue.

Mr. BUTLER. I thank the gentleman.

Mr. AuCOIN. Mr. Chairman, I rise in opposition to Mr. SENSENBRENNER's amendment which would prohibit Legal Services' attorneys from providing advice relating to abortion to clients. This amendment is a cruel measure serving no purpose since H.R. 3480 already bans Legal Services' programs from becoming involved in any proceedings or litigation relating to abortion unless the life of the mother is at stake.

The U.S. Supreme Court has held that abortion is legal. What possible rationale can be advanced for prohibiting a Legal Services' attorney from informing an interested client as to the current state of the law? At best, the adoption of this amendment will cause low-income people to be shunted from agency to agency in their search for information and a solution to their problems. It would require that lawyers send clients who raise the issue of abortion to another agency without even answering their questions or explaining their legal rights. At worst, this amendment would totally prevent low-income people from learning the current status of the law as it relates to abortion. In many areas of our country, particularly in rural areas, there are no other agencies which could provide the information and advice that clients may seek. This amendment would prohibit a Legal Services' attorney from answering a mother's or father's question about whether a daughter could legally obtain an abortion or whether or not that daughter could seek and obtain an abortion without the parents' consent.

As well as seriously interfering with the rights of low-income clients to receive information, it would interfere with the Legal Services professional and ethical responsibilities. In the course of representing a client on another issue, questions about the law and that client's legal rights and responsibilities concerning abortion may arise; to prohibit an attorney from answering a client's questions and providing advice is an unwarranted interference with the attorney-client relationship. Further, in many areas of our country, such a prohibition would have the effect of insuring that the clients never get the information and advice sought and never get to any other source of such information. In many neighborhoods, clients will turn only to Legal Services as their legal resource and if that program cannot even refer them to another lawyer, they will have no way to find that lawyer.

Mr. KASTENMEIER. Mr. Chairman, I yield myself so much time as I may consume.

Very briefly, Mr. Chairman, the committee did take a significant step in curtailing the availability of legal services in terms of abortion. It did so in attempting to replicate what we though to be the House position. In the past, other than for a therapeutic abortion, Legal Services was forbidden to render legal assistance. However, we have now changed it so that such legal assistance may only be given with respect to representation in a proceeding or litigation to save the life of the mother. That has gone pretty far. That is in the bill itself.

What the gentleman from Wisconsin (Mr. SENSENBRENNER) now seeks to do, much further than that, is to forbid the Legal Services' programs or their attorneys to merely tell a person what his or her rights may be, knowing he cannot be involved in any proceeding or litigation in these matters.

As the gentleman from Virginia (Mr. BUTLER) has said, that is going too far. I hope the House rejects this amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. I thank my colleague for yielding.

Mr. Chairman, I have listened to the debate. The thing that strikes me, I will say to my friend, is that you have given the precise argument that was given in a losing case decided by the Supreme Court. You are saying precisely what Judge Dooley said in New York. It is my recollection the Supreme Court said that this body, the Congress, has a near absolute right to determine how taxpayers' money shall be spent. You are confusing a right that you say these people have who want to get an abortion with the Congress right to dispense and proscribe, however it sees fit within the realm of the Constitution and the limits of the Constitution, taxpayers' money. That is precisely what we are talking about here.

This body has a right. Do not let anybody tell you we do not have this basic right to determine what purposes taxpayers' funds shall be used. This body has a right to say taxpay-

ers' money shall not be spent in the precise way that my colleague from Wisconsin (Mr. SENSENBRENNER) would limit.

I well recall when this bill first came up. There are very difficult areas. As my friend, the gentleman from Virginia, Mr. Poff, who was one of our outstanding legislators, indicated at the time, any time you have an agency that has a judicial thrust with a legislative base—in other words, the legislature enacts a law and a group comes from that law which has a judicial function—obviously, there are difficulties, but again returns to where this agency gets its rights, where they get their money, where they get their being. They get it from the statutes that we pass, from the laws that we pass, from the taxpayers' moneys that we dispense. The Supreme Court is different, of course. It does not get its authority from us or by statute. It rights and responsibilities flow from the organic document which establishes alike this body—the Constitution.

So do not confuse rights of women who come in and want advice with the right that this body has to dispense or to not dispense taxpayers' money for the purposes we see fit.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. I thank the gentleman for yielding.

I think one of the things that the gentleman is missing, though, is that women are also taxpayers, and they pay equal taxes they are entitled to equal protection as citizens. I think when you look at the Pledge of Allegiance and everything else, we are talking about equal justice for all. If a pregnant woman's life is in danger and she seeks advice on her constitutional rights, I find it incredible you would deny her that advice. Since women pay equal taxes, women should be entitled to equal justice.

Mr. ASHBROOK. The obvious answer to that is the taxpayers sent all of us here. When the taxpayers send enough here who think the law should be your way, we will write it that way. If those whom the taxpayers sent here pass a law, it is the law of the land. It has happened about 98 percent of the time in my 20 years here with bills I do not like, for burdens I do not want, for mistakes I think have been made. I have voted as the taxpayer wanted, and I have not stood up and said my rights have been taken away. I have followed the law just as those individuals my friend is talking about must follow the law if we here today mandate it in the Sensenbrenner amendment and it becomes enacted.

The Constitution gives this body the right to dispense taxpayers' money, even in 98 percent of the cases I do not agree with.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield for one question?

Mr. ASHBROOK. I yield to the gentleman from California.

Mr. McCLOSKEY. I think the gentleman for yielding. The problem with this amendment is it provides you cannot even give advice on legal responsibilities. Suppose you have an abortionist come in who is indigent, putting his way through Stanford doing illegal abortions—like someone I know once did back in the late 1940's—you cannot even advise him of his responsibility not to do illegal abortions; am I not correct?

Mr. ASHBROOK. If that is what this body passes and it is constitutionally correct, that is the way it will be.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, there is opinion that the language that is contained in the bill before the committee provides a substantially bigger loophole in the provision of abortion legal advice than the present law does. Section 1007(b)(8) of the present Legal Services Corporation Act prohibits funds available to the Corporation to be used to provide legal assistance with respect to any proceeding or litigation which seeks to procure a nontherapeutic abortion or compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution.

H.R. 3480, section 11(8)(A), provides the exception which I described earlier in the debate on this amendment.

When this entire issue was debated in the Committee on the Judiciary, I asked the gentleman from Kentucky (Mr. MAZZOLI) whose opposition to legalized abortion is very well known in this body, whether the restriction contained in H.R. 3480 would prevent the Legal Services Corporation from engaging in abortion litigation. The gentleman from Kentucky (Mr. MAZZOLI) replied that it probably did not. That is substantially less restrictive than the present law which I just quoted. That is why this amendment is before the committee today, to take the exception out and hopefully to get the Legal Services Corporation out of the business of giving abortion advice through whatever device that they may decide is proper.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SENSENBRENNER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 160, noes 242, not voting 29, as follows:

[Roll No. 86]

AYES—160

Albosta	Hertel	Quillen
Applegate	Hightower	Regula
Archer	Hiler	Rinaldo
Ashbrook	Hillis	Ritter
Atkinson	Holt	Roberts (KS)
Bafalis	Hopkins	Roberts (SD)
Bailey (MO)	Hunter	Robinson
Barnard	Hyde	Rogers
Benedict	Ireland	Rousselot
Bereuter	Jeffries	Rudd
Bliley	Johnston	Santini
Boggs	Kildee	Schulze
Bouquard	Kramer	Sensenbrenner
Brinkley	Lagomarsino	Shelby
Byron	Leath	Shumway
Campbell	LeBoutillier	Shuster
Carman	Lee	Siljander
Carney	Lent	Skeen
Clausen	Loeffler	Skelton
Coats	Long (LA)	Smith (AL)
Collins (TX)	Lowery	Smith (NE)
Corcoran	Lujan	Smith (NJ)
Courter	Lungren	Smith (OR)
Craig	Madigan	Snyder
Crane, Daniel	Markey	Solomon
Crane, Philip	Marriott	Spence
Daniel, Dan	Martin (NY)	St Germain
Daniel, R. W.	Mavroules	Stangeland
Dannemeyer	McClory	Stanton
Daub	McDade	Staton
Davis	McDonald	Stump
Deckard	McEwen	Tauke
Donnelly	McGrath	Tauzin
Dornan	Miller (OH)	Taylor
Dougherty	Mitchell (NY)	Traxler
Dreier	Moakley	Trible
Dyson	Molinari	Vander Jagt
Edwards (OK)	Moore	Volkmer
Emerson	Moorhead	Walker
Emery	Mottl	Wampler
Evans (GA)	Murphy	Weber (MN)
Evans (IA)	Myers	Weber (OH)
Fields	Napier	Whitehurst
Gibbons	Natcher	Whitten
Goldwater	Nelligan	Winn
Goodling	O'Brien	Wolf
Gregg	Oakar	Wortley
Grisham	Oberstar	Yatron
Hagedorn	Parris	Young (AK)
Hansen (ID)	Pashayan	Young (FL)
Hansen (UT)	Patman	Zablocki
Hartnett	Paul	Zeferetti
Heckler	Perkins	
Hendon	Petri	

NOES—242

Addabbo	Brooks	Derrick
Akaka	Brown (CA)	Derwinski
Alexander	Brown (CO)	Dickinson
Anderson	Broyhill	Dingell
Andrews	Burgener	Dixon
Annunzio	Burton, John	Dorgan
Anthony	Burton, Phillip	Downey
Aspin	Butler	Duncan
AuCoin	Chappell	Dunn
Bailey (PA)	Cheney	Dwyer
Barnes	Chisholm	Dymally
Beard	Clay	Early
Bedell	Clinger	Eckart
Beilenson	Coelho	Edgar
Benjamin	Coleman	Edwards (AL)
Bennett	Collins (IL)	Edwards (CA)
Bethune	Conable	English
Bevill	Conte	Erdahl
Biaggi	Coughlin	Erlenborn
Bingham	Coyne, James	Ertel
Blanchard	Coyne, William	Evans (DE)
Boland	Crockett	Evans (IN)
Bolling	D'Amours	Fary
Bonior	Danielson	Fascell
Bonker	de la Garza	Fazio
Bowen	Dellums	Fenwick
Brodhead	DeNardis	Ferraro

Fiedler	Jones (TN)	Reuss
Findley	Kastenmeier	Rhodes
Fish	Kazen	Rodino
Fithian	Kindness	Roe
Flippo	Kogovsek	Roemer
Florio	LaFalce	Rosenthal
Foglietta	Leach	Rostenkowski
Foley	Leland	Roth
Ford (MI)	Levitas	Roukema
Ford (TN)	Lewis	Roybal
Forsythe	Long (MD)	Russo
Fountain	Lowry	Sabo
Fowler	Lundine	Savage
Frank	Marks	Sawyer
Frost	Marlenee	Scheuer
Fuqua	Martin (IL)	Schneider
Garcia	Martin (NC)	Schroeder
Gaydos	Matsui	Schumer
Gejdenson	Mattox	Seiberling
Gephardt	Mazzoli	Shamansky
Gilman	McCloskey	Shannon
Gingrich	McCollum	Sharp
Ginn	McCurdy	Shaw
Glickman	McHugh	Simon
Gonzalez	McKinney	Smith (IA)
Gore	Mica	Snowe
Gradison	Mikulski	Solarz
Green	Miller (CA)	Stark
Guarini	Mineta	Stokes
Gunderson	Minish	Stratton
Hall (OH)	Mitchell (MD)	Studds
Hall, Ralph	Moffett	Swift
Hall, Sam	Mollohan	Synar
Hamilton	Morrison	Udall
Hammerschmidt	Murtha	Vento
Harkin	Neal	Walgren
Hatcher	Nelson	Washington
Hawkins	Nichols	Watkins
Hefner	Nowak	Waxman
Heftel	Obey	Weaver
Holland	Ottinger	Weiss
Hollenbeck	Panetta	White
Horton	Patterson	Whitley
Howard	Pease	Whittaker
Hoyer	Pepper	Williams (MT)
Hubbard	Peyser	Williams (OH)
Huckaby	Pickle	Wirth
Hughes	Price	Wolpe
Hutto	Pritchard	Wright
Jacobs	Pursell	Wyden
Jeffords	Rahall	Wylie
Jenkins	Railsback	Yates
Jones (NC)	Rangel	Young (MO)
Jones (OK)	Ratchford	

NOT VOTING—29

Badham	Frenzel	Luken
Boner	Gramm	Michel
Breaux	Gray	Montgomery
Broomfield	Hance	Porter
Brown (OH)	Kemp	Richmond
Chappie	Lantos	Rose
Conyers	Latta	Stenholm
Cotter	Lehman	Thomas
Daschle	Livingston	Wilson
Dicks	Lott	

□ 1300

The Clerk announced the following pairs:

On this vote:

Mr. Broomfield for, with Mr. Thomas against.

Mr. Latta for, with Mr. Porter against.

Mr. Livingston for, with Mr. Frenzel against.

Mr. Lott for, with Mr. Gray against.

Messrs. KINDNESS, MICA, NICHOLS, RUSSO, and FITHIAN changed their votes from "aye" to "no."

Mr. LONG of Louisiana changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. WOLPE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in full support of the reauthorization of the Legal Services Corporation for another 2 years. The goal of the Legal Services Corporation is to effectuate justice—equal justice under the law—by making civil legal assistance available to those unable to afford legal counsel on their own. It is an attempt to reaffirm this Nation's belief that before the law all men stand equal. It is a goal that this Congress set for the Corporation in 1974. In my estimation the Corporation has been a remarkable success.

In past years, as appropriations or reauthorization bills for the Legal Services Corporation have been before this Congress, critics have come forth with what they consider "horror" stories about the operations of the Legal Services' programs across the country. Attempts have been made to characterize as typical the highly controversial case or the occasional instance of bad judgment by the Corporation or local program. I do not pretend to agree with all that each of the over 320 local programs have done, but I suggest to my colleagues that the "horror stories" we have heard during this debate, as in previous debates, are the rare exception and are in no way the norm.

Last year Legal Services' programs handled over 1.5 million legal matters for income-eligible clients—clients who for some reason or another came to legal aid for help. Many of these clients may have even been referred to Legal Services by our own professional staffs. Before we decide whether as a Congress and as a nation we should abandon a program to insure minimum access to justice for low-income persons, I suggest we look at what Legal Services really does:

This past winter on a 30-degree day, a mother and her 6-week-old child had no heat in their apartment; the landlord had turned it off. A local Legal Services lawyer invoked the law. The apartment had heat once again.

In Ohio, an 80-year-old woman was abandoned by her family at a migrant rest center because her family could no longer support her. She was referred to a local Legal Services' program. Her attorney learned that the widow had never applied for social security survivor's benefits. Despite her eligibility for them, she had never heard of social security benefits. She was reunited with her family and is assured of social security benefits for the rest of her life.

In New York State an elderly couple was referred to Legal Services after signing a contract to have their home insulated for more than $1,700. Independent estimates placed the cost at $400 or less. The Legal Services' attorney claimed unconscionability, and truth-in-lending violations. The insulating company canceled the contract and performed the job for $442 including finance charges.

In Missouri, a Legal Services' program recovered damages for a poor illiterate victim of a car dealer. The car dealer had sold a $300 truck for $1,700.

These are but four examples of the types of matters handled by Legal Services' attorneys as they seek to protect the legal rights of their clients. Most of these legal services involve matters one might expect to confront low-income persons. Roughly 30 percent of the cases involved family law problems, 14 percent concerned problems of consumer finance, 18 percent dealt with housing problems, and 17 percent centered on problems of income maintenance. These may appear to be mundane matters—but to the individual client like the four I just mentioned they are extremely important.

These few examples, real examples of how Legal Services affect the lives of this Nation's disadvantaged, demonstrate the need for continuation of the Legal Services program. I ask you, can we now say to that mother and newborn baby in Florida, to the elderly couple in New York, to the Michigan family in an unheated apartment, or to an 80-year-old woman in Ohio that they can no longer have legal assistance to enforce their rights? If we discontinue the Legal Services Corporation, that is in effect what will happen.

For many persons in this Nation, Legal Services demonstrates that our system can work. During his campaign and since he was elected, President Reagan has promised to make Government work for the people. The success of the 320 local legal aid programs in this country is a prime example of Government at its best. I urge all of my colleagues to support H.R. 3480 and reauthorize the Legal Services Corporation without further amendment.

(By unanimous consent, Mr. BROOKS was allowed to speak out of order.)

DONALD L. SCANTLEBURY

Mr. BROOKS. Mr. Chairman, it is my sad purpose in asking for this time to announce that Donald L. Scantlebury, Chief Accountant for the General Accounting Office, died this morning after a heart attack.

Mr. Scantlebury, who was 53, spent nearly half his life with the GAO where he established an enviable record of public service and dedication to the cause of good government.

Through his efforts, auditing and accounting standards have been developed and established throughout the Government that have led to greatly improved efficiency in Federal agencies and better control over fraud and waste. The standards he developed are also widely used in State and local governments. They will stand as an enduring monument to his life's work.

Mr. Scantlebury was born in Hampton, Iowa. He took a degree in business administration at Antioch College and completed the executive development program at the University of Michigan before starting his career as a certified public accountant in Iowa. In addition to being GAO's Chief Accountant, he headed its Accounting and Financial Management Division at the time of his death.

Mr. Scantlebury is survived by his wife, Mary; sons Mark and Glen, and daughters Maria Malloy and Sandy Williams. My deepest sympathy is extended to them.

□ 1315

Mr. PEYSER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will just take a minute. Over the last several years in the House we have, I believe, taken one action after another that has affected women on the abortion issue and affected them, I believe, in a very negative way.

However, I think the demonstration that we have just seen on the floor of the House today—and I congratulate Republicans and Democrats alike who joined in the overwhelming defeat of an amendment that on the very face of it was a denial of the most basic right of women in this country and of the Legal Services program.

I hope that maybe we can find more moderation in the kind of amendments that attack this program in not only dealing with women, but dealing with minorities and other groups that are in such desperate need of help.

I thank the Chairman for giving me this time.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair would inquire as to whether the amendment has been printed in the RECORD for 2 legislative days.

Mr. ASHBROOK. Mr. Chairman, the amendment has been printed in the RECORD as required by the rule.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 12, strike out lines 4 and 5 and insert in lieu thereof the following:

(3) by amending paragraph (9) to read as follows:

"(9) to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system;";

The CHAIRMAN. Under a prior agreement, by unanimous consent the gentleman from Ohio (Mr. ASHBROOK) is allocated 10 minutes for purposes of debate in support of his amendment.

Mr. ASHBROOK. Mr. Chairman, I ask unanimous consent that my amendment be modified to conform with the rules. The Parliamentarian informs me my amendment would strike out inadvertently lines 4 and 5 which are needed to amend permanent law.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. KASTENMEIER. Mr. Chairman, reserving the right to object, as I understand it, this is a technical amendment. It does not change the substance of the amendment the gentleman proposes to offer.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Ohio.

Mr. ASHBROOK. It is my understanding that the precise language is inserted, but at the proper place. As my colleague would indicate, I was striking lines 4 and 5. I am informed by the Parliamentarian that those are necessary to amend permanent law. My language therefore would go as subparagraph in section (3)(9). The precise language would be merely located where it should properly have been in the first place.

Mr. KASTENMEIER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio (Mr. ASHBROOK)?

There was no objection.

Mr. ASHBROOK. Mr. Chairman, I yield myself such time as I may consume.

My amendment is relatively simple and will take little explanation. It is one which I believe an overwhelming majority of my colleagues will be able to accept. I am simply trying to close yet another loophole in the present law which can be used by the Legal Services Corporation to promote its unpopular causes. If the amendment is adopted, the Legal Services Corporation will be specifically prohibited from pursuing forced busing cases in the courts.

My concerns about the present language in the law stem from the clause: "* * * except that nothing in this paragraph shall prohibit the provision of legal advice to an eligible client with respect to such client's legal rights and responsibilities." This language, of course, provides the Corporation with the loophole which would allow it to become involved in forced busing/desegregation cases.

Only 1 week ago, the House voted overwhelmingly in support of an amendment sponsored by the gentleman from Texas (Mr. COLLINS) which would prohibit the Department of Justice from pursuing forced busing cases in the Federal courts. The vote on the Collins amendment was 265 to 122. I believe that my amendment is the next logical step in the right direction. It would prohibit another taxpayer-financed Government agency from promoting a practice which is opposed by the vast majority of Americans, rich and poor, black and white.

Mr. Chairman, during the debate on the rule and again during the general debate earlier today, we were reminded of the many excesses and abuses committed by the Legal Services Corporation. Let us take a look at the Corporation's involvement in desegregation cases.

Perhaps the most well known of the LSC lawsuits occurred in Boston when LSC lawyers sued to remove South Boston High School from the jurisdiction of the elected members of the Boston School Committee and place it in receivership.

More recently—in fact, earlier this year—the Southwestern Pennsylvania Legal Aid Service was successful in obtaining a Federal court order in U.S. district court to force the Albert Gallatin Area School District to begin two-way busing of its kindergarten students. Kindergarten students!

Mr. Chairman, like my colleague before me, Mr. SENSENBRENNER, I am seeking to close a loophole which needs to be closed. The authority of the Legal Services Corporation should be limited, not expanded. I urge my colleagues to support the amendment.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, the Members on this side have read the gentleman's amendment. We believe that it is desirable and we accept it on this side.

The CHAIRMAN. The gentleman from Wisconsin (Mr. KASTENMEIER) is allocated 10 minutes under prior agreement by unanimous consent.

Mr. KASTENMEIER. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. I thank the gentleman for yielding.

I would merely like to point out, in opposition to this amendment that the gentleman from Ohio, that when he makes reference and seeks support for his amendment by making reference to the action taken by the House last week when this House voted to limit or actually to eliminate funding for the Department of Justice to pursue desegregation cases, that I believe that action has no relevance whatsoever to the issue at hand.

The question that we are considering now is whether legal services might be provided to a client whose fundamental rights might have been denied.

I am just suggesting that if the gentleman from Ohio seeks to rely on what he deems to be the support given him by the House last week, that cer-

tainly seems to be, in my judgment, invalid.

I oppose the amendment on the basis of the fact that this would, once again, be a deprivation of a right of an individual to even seek preliminary advice in cases where desegregation might be at issue.

Mr. KASTENMEIER. Mr. Chairman, I would like to say this about the amendment. The House committee has just rejected an amendment which eliminates the ability of the legal services programs to respond to requests of eligible clients for advice. This is just such an amendment. The original language that this seeks to amend is part of the 1974 act. It has remained constant since then.

□ 1330

I certainly do not criticize the gentleman from Ohio; I think his offering this amendment is consistent with his concern that there may have been an abuse in terms of the use of advice with respect to desegregation matters—but he does in fact use the same language except that he strikes, "except that nothing in this paragraph shall prohibit the provision of legal advice to an eligible client with respect to such client's legal rights and responsibilities;".

As Chairman RODINO suggested, I think that what is complained about does not justify making this deletion. I would certainly encourage the Legal Services Corporation to minimize their advice in terms of any deeper implication to parents. The committee has taken the action of removing the possibility of a class action against a public entity, a school board, earlier in our proceedings, so that this would seem to me to be overkill to try to also prevent needy parents from getting legal advice with reference to anything relating to desegregation of a public school.

I agree with the comments of my colleagues that for purposes of litigation there are other entities to help parents who may be concerned, and indeed we have prohibited from the beginning the ability of the Corporation to get into desegregation suits because we felt it was an unwise investment as far as resources were concerned, but I do think that the amendment of the gentleman from Ohio is unnecessary and ought to be rejected.

● Mr. GAYDOS. Mr. Chairman, I rise in support of the Ashbrook amendment to curtail the Legal Services Corporation's involvement in cases that lead to forced busing.

The Legal Services Corporation is something like our early efforts in rocketry—we built it with good intentions, we fired it with hope, and we hit something altogether different than the target we had in mind.

We aimed for equity in civil law and it hit our schools.

This does not mean the idea behind the rocket was necessarily a bad one.

It does mean the system needs a little guidance.

Mr. ASHBROOK's amendment will provide the guidance.

It will mark as out of bounds suits to bring on forced busing and consolidation of school districts that no one but Legal Services' lawyers want—not the minorities who are the unwilling recipients of the benefits of busing, in most cases, or the parents who ordered their lives around the neighborhood school.

There is much talk in Washington these days about signals, and in a way we all are in the Signal Corps.

This amendment will signal the well-intentioned lawyers in Legal Services that their job is to represent individuals who need help, and not to search and reach for broad, novel, and new applications of expanding law.

In the matter of schools, the people we represent quickly are beginning to understand that the court system of the United States is becoming a thing of much law and little justice. And they feel that justice should be the point.

Forced busing is universally unpopular with the people, and from the time it started, poll after poll has told us majorities of Americans of all races and classes reject the idea because it interferes with education, the only reason for having public schools.

Even the man whose studies and theory were instrumental in establishing court-ordered busing, Dr. James Coleman, of the University of Chicago, has backed away from the concept, or at least revisited it with a different point of view.

A few years ago he noted that a "high degree of disorder" seems to ride the buses into many classrooms, and recently he concluded that private schools do a better job of educating than public schools, in part because they are more orderly and disciplined.

So the current state of thought on education is that the absence of turmoil and the presence of order helps young people learn.

And what we would do by adopting Mr. ASHBROOK's amendment is to bring Legal Services up to the most current level of educational thought.

Thus we would provide the necessary guidance and direction for an idea that still is worth trying—having the system of justice live up to its title.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK), as modified.

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer a second amendment which was printed in the RECORD as required by the rule.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 12, line 16, strike out "or" after the semicolon.

Page 12, line 19, strike out the two periods and closed quotation marks and insert in lieu thereof "; or".

Page 12, insert the following after line 19:

"(13) to provide legal assistance in any litigation in which a local board of education responsible for the administration of public elementary or secondary schools, or any of its employees acting in an official capacity and within the scope of his or her authority, is a defendant.".

The CHAIRMAN. Under the prior agreement by unanimous consent, the gentleman from Ohio is allocated 10 minutes for debate in support of his amendment.

Mr. ASHBROOK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are at a time when financial resources are scarce at every level of government. Proponents of the Legal Services Corporation (LSC) argue that it is necessary purely for the purpose of providing minimally for legal services poor people desperately need.

If that is the true reason for the continued existence of the Legal Services Corporation, it is well served by my amendment. Resources the poor are said so desperately to need have been used by LSC, on its own initiative, to bring suits against local school officials to: First, prohibit States from requiring students to pass a test of their ability to read, write, and compute before they receive a high school diploma; second, require teachers of black students in inner-city schools to take courses in so-called black English; third, forbid schools from suspending or expelling disruptive students unless they conduct a quasi-judicial prior hearing complete with an outside hearing officer and with the school bearing the burden of proof; fourth, bar all corporal punishment of any student, regardless of circumstances; and, fifth, to ban the grouping of students according to ability or past performance if the grouping causes blacks to be overrepresented in some groups and underrepresented in others.

Each of these at best controversial initiatives is costly in other areas where fiscal and time pressure is already intense. They increase the case burden on the courts. More important, each such case requires State and local schools to defend themselves, adding to the 10 million man-hour burden already imposed on them by Federal regulations. However, one may feel about these issues personally, they do not fit into the image of a Legal Services Corporation devoted entirely to meeting the individual legal need of poor people.

By law, enforcement of rights of handicapped children under the Edu-

cation for All Handicapped Children Act is charged to the Civil Rights Office of the Department of Education. General civil rights enforcement has been assigned as well to the Department of Justice. In areas where Congress has decided to impose its will on local schools, it has specified agencies and appropriated funds for the purpose. In no case has the Legal Services Corporation been so specified. It has assumed these powers itself, set these goals itself, and appropriated funds for these activites by diverting them from individual legal services to poor people.

Those who honestly believe that the LSC exists to provide minimum counseling should be the first to vote to prevent the diversion of its funds to other purposes. Likewise, those favoring more aid to education should support my effort to prevent the LSC from using funds to force local schools to defend themselves at their own expense. Liberal supporters of LSC, according to their own arguments, have little reason to dispute the priorities represented by my amendment.

Nonliberals of either party have even less cause to oppose my amendment. I am trying to prevent not merely waste, but the use of public funds to impose on every school in this country policies which few if any conservatives or other nonliberals could approve.

Congress has imposed more than enough regulations upon our State and local schools through its constitutional power to legislate. We can at least stop the LSC in its extraconstitutional campaign for more such impositions on local educational autonomy.

Mr. Chairman, I reserve the balance of my time.

Mr. FRANK. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. Under the prior agreement, the gentleman from Massachusetts is allocated 10 minutes.

Mr. FRANK. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, this amendment is very different from the one that those of us on our side recently supported. What this would do, in my opinion, is very effectively remove the provision of legal services to a poor person in virtually any kind of a situation involving a school board. It could be an arbitrary action committed by a school board against, say, a minority or a handicapped person.

What I would like to do is just very briefly recite some of the cases that have been brought by legal aid lawyers.

One case involved handicapped students excluded from school or provided inappropriate education in violation of State and Federal laws. That was the case of Mills against Board of Education.

Another case involved children from poor families denied textbooks because their parents could not pay extra fees, in violation of State guarantees of free education.

Another case involved Native Alaskan students forced to leave homes and families in order to attend school located hundreds of miles away. That was Tobeluk against Lind.

Another case involved students whose church prohibited them from engaging in practices required by their schools.

Another case involved students who are the victims of misuse of Federal funds targeted for them.

There have been, in other words, a number of cases involving the poor relating to either discriminatory or arbitrary actions taken by a school aboard. The members of the subcommittee, in discussing the two amendments, decided that we could support the one Ashbrook amendment which dealt with the problem of desegregation because, for one thing, we found out that there had been no desegregation cases. We questioned the use of taxpayer's funds in some of those cases. However in the present case there is a clear record that there have been some arbitrary actions taken by school boards or by its employees that require redress.

So, this amendment, I believe, should be defeated, and I would urge my colleagues to defeat it.

Mr. FRANK. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Chairman, I served on a school board for 4 years before I came here, and if Members believe there is something implicitly special, holy, about school boards in this country, then I think that they are vastly mistaken. They make lots of mistakes, which affect poor kids and rich kids. A school board could improperly classify a student, let us say putting a child into a handicapped classification who should not be there. A teacher may improperly promote or not promote children from grade to grade. There are many children who are victims of school violence, who wanted to seek relief from the school system.

What we are saying in this kind of situations is that if you are rich, you can hire a lawyer and protest your rights but if you are poor, you cannot obtain legal redress.

I noted with interest that some of the proponents of this amendment are the same ones who believe that there are great problems with the public school system, and I believe there are great problems with the system, but we should not presume that school boards and their employees should be immune from the kind of equal access to justice as rich people are.

Just from my own experience, being a participant school system, I would tell the Members that the same problems exist there for rich kids as they do for poor kids, and I think that there ought to be equal access to redress of grievances that occur.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I thank the gentleman for yielding. I just want to identify myself with his remarks. I feel exactly as he does.

There is no real reason to separate out the school boards. I have received correspondence from a number of people in my district concerned with handicapped children who think it is pretty important to preserve this right.

I would also remind the gentleman and the membership that we have earlier in this legislation effectively prohibited class actions against governmental entities, which includes school boards. For that reason it seems to me that all of the things that concern people about abuse of litigation in this area have been satisfied, and now we are preserving what I think is the important part of it if we defeat this amendment.

Mr. GLICKMAN. I thank the gentleman.

Mr. ASHBROOK. Mr. Chairman, I reserve the balance of my time.

Mr. FRANK. Mr. Chairman, I yield myself 3 minutes.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Chairman, I am glad the gentleman from Virginia made the point, which really is central to this, that class actions by this bill are banned. So there cannot be, with or without this amendment, any class actions against school boards. What is left then, is that this amendment says that no impoverished person will be able to use Legal Services ever to sue any school board, any teacher, any schoolbus driver, any administrator, for anything. That is what it says. It is not a measure to control Legal Services Corporation; it is a measure to celebrate the infallibility of every local school district in America because, once again, we are not talking class actions; we are not talking large expenditures of money; we are not talking knocking out competency tests. We are talking about individual instances, only individual instances.

If a child is embroiled in some kind of a legal dispute in a school, and has poor parents, or a poor single parent, the Legal Services Corporation may not act on that child's behalf. It is not just the school board, it says any employee acting under the authority of the school board, and you do not know until the final decision whether or not

they are acting under board authority. So you cannot take the case.

So, if you assume that no poor child ever anywhere in America has a legitimate legal objection to the way he or she was treated by any teacher, by any schoolbus driver, by any janitor, by any employees of a school board, then the gentleman's amendment makes sense if you really believe in that degree of infallibility. If, on the other hand, you believe that there will be some instances—not when class actions should be brought—but when individual students might be legitimately in need of legal assistance because of some particular dispute, then you ought to vote down the amendment. There are no class actions, but if a handicapped child is improperly classified, if there is a dispute about racial or religious prejudice, if there is a dispute about whether or not someone is observing the silent prayer improperly or not, if a schoolbus driver were observed to be doing something improper, they could not sue.

□ 1345

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank the gentleman for yielding.

I would like to speak to this issue, because in my own district we had a case like this—a child classified as special ed. The parents were not too well off but well off enough to get to the Columbia Presbyterian Hospital in New York, where he was found to be above normal.

Now, what are we going to do if a child is classified as special ed, put in special ed classes year after year after year. The parents may be absolutely indigent; they have no attorney, and they cannot pay for hospital examinations. They have no access to neurologists or psychologists; there is no protection for that family.

Mr. Chairman, I must say that my colleague has made a good point, and I thank the gentleman from Massachusetts (Mr. FRANK) for his remarks.

Mr. ASHBROOK. Mr. Chairman, I yield myself 1 minute.

I will simply say that I want the cold, sterile RECORD to note that I have a smile on my face, and I want to say, with a smile on my face, that I am glad to learn that there had never been a right in this country vindicated and there has never been a poor person assisted before the Legal Services Corporation. Apparently we were absolutely in trouble until we had the Legal Services Corporation.

It absolutely and literally defies our imagination to think that all of these things would not have been accomplished, that no rights would ever have been vindicated, and that no justice would ever have been dispensed without the Legal Services Corporation. But I know that is not the case. I think what we are talking about is limiting legal services to those areas in this country where we should direct our attention.

I am simply saying that this is an area fraught with many problems. I could give the Members cases where they have gone into things as foolish as suing school boards to oppose minimum achievement tests. We want to keep them out of that. Rights are not going to go through the cracks.

Mr. Chairman, I say to the Members, vote for my amendment.

Mr. FRANK. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, the example the gentleman from Ohio (Mr. ASHBROOK) has given, whether with a smile or with a frown, was taken care of by the amendment offered by the gentleman from Texas; that is the minimum achievement test. That was a class action suit.

I do not claim that no right is ever vindicated or could not be vindicated without the Legal Services Corporation. I do say there is no rational basis for saying in individual cases that these sorts of cases should be excluded.

Yes; there has to be a limitation of resources, but why does the gentleman automatically assume that any harm done potentially to a poor child by a busdriver, a janitor, or a school teacher would automatically be less important than harm done somewhere else? That is what the gentleman says. We automatically exclude all the classifications where a school board or a school employee may be involved, and maybe they will get help privately and maybe they will not.

That is the reason some of us think there ought to be a Legal Services Corporation. We do not think the poor ought to be entirely dependent for the vindication of their rights on the private charity of lawyers. I hope it is there. But I do not think we should say to a poor 5-year-old or a poor 7-year-old who may have been victimized by a busdriver or a teacher or anybody working for the school that they have no place to get help. Maybe they will get help, and maybe they will not. They ought to have a place to get help for free, but if they do not, we say to them, "Then you're out of luck, kid."

Mr. Chairman, that is the effect of this amendment.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I think my colleague raises a legitimate point, but I counter with the same response I gave before to my colleague, the gentleman from Massachusetts, that I do not believe these rights could not be vindicated without the Legal Services Corporation.

Mr. FRANK. Mr. Chairman, I did not say that. I said maybe they will be and maybe they will not be. But, I said, if there is the legal services program, then the 7-year-old or 8-year-old who is abused by some busdriver, some gym teacher, or somebody else can go to Legal Services and get help for sure. If not, maybe there will be a private lawyer who can provide that same help, but then again, maybe there will not be.

I wish that all the private lawyers would do this for free, but I do not think the poor people of this country will be vindicated or have their rights protected because of my wishes or the wishes of the gentleman from Ohio. Yes; some will, but others will not be.

I suggest to the gentleman that there is no rational basis for excluding every schoolbus driver or every school board in America and every employee of every school board in America. Despite the gentleman's argument, they are not infallible.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. FRANK) has expired.

Mrs. CHISHOLM. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Ohio. The proposed amendment would effectively bar poor people from asserting legal rights and protections related to education which are provided under State law, which are guaranteed by the U.S. Constitution and which have been established by Congress.

In Brown against Board of Education the Supreme Court stated that—

> It is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the State has undertaken to provide it, is a right which must be made available to all on equal terms.

The question then arises as to whether an indigent child, or his or her parent, who cannot afford to pay an attorney, can really have an opportunity for an education on equal terms if they have no ability to seek legal redress?

If Congress were to pass this amendment, whenever the rights of an indigent child are violated by a school system, that child and his parents would no longer have a right to any assistance from a Legal Services office. The author of this amendment has pointed to the Ann Arbor, Mich. case involving a decision that required teachers to learn "black English," as an example of the potential danger of having legal services programs involved in the education area. I do not wish to debate the merits of this particular case because I believe that the decision could have and probably should have gone the other way. However, the issue here is not whether

Michigan Legal Services should have brought this suit but whether or not the indigent parents in Ann Arbor had a right to legal representation as they sought to protect their children's educational rights. Legal Services' involvement in education cases should not and must not be judged by this one case. We all can name court decisions which we disliked; however, we never suggest that the winning attorney be prohibited from representing other clients in similar cases. Yet this amendment seeks to place this restriction on the Legal Services Corporation.

The Corporation has been involved in many other important education issues. In two specific instances, Legal Services represented indigent parents who could not afford the public school "fees" charged by local school districts. These parents faced the possibility of having their children barred from public schools simply because they were too poor to pay the required fees. The State supreme courts, in both cases, found in favor of the indigent parents. In the case of Aldridge against Normandy School District, students whose religious beliefs prohibited them from engaging in various school activities were also successfully represented by LSC attorneys.

Further, when Congress enacted the Education for all Handicapped Children Act of 1975, we found that millions of handicapped youngsters were receiving inappropriate educational services. It is not surprising, then, that this area has been the most active one with respect to Legal Services work in the education field. In the period from October 1979 through March 1980, 45.7 percent of the requests for assistance to the Corporation's support center for education issues involved the special education area.

Legal Services attorneys have also secured relief with respect to the unlawful expenditure of Federal funds. In 1975, the Supreme Court ruled that students are entitled to procedural due process safeguards before expulsion from public school. Legal Services has represented students in their constitutional right to procedural due process of law. LSC attorneys have also been involved in cases concerning racial and sex discrimination in education.

I would point out to my colleagues, who are concerned about the busing issue, that legal services programs are already barred by statute from providing assistance in any proceeding or litigation related to school desegregation.

Finally, I would remind my colleagues that the right to a free appropriate public education is a basic constitutional right. If the amendment, offered by the gentleman from Ohio, were to pass, it would represent an effective denial of the right to an appropriate education for any indigent child who is placed in an inappropriate setting or whose rights are otherwise violated. This amendment is at war with the American legal principle of "equal access to * * * justice." People who could afford counsel could assert, in proceedings and litigation, Federal rights created by Congress, constitutional guarantees, and the protections of State law. Yet we propose to deny these same rights and protections to the poor.

Education has always been deemed the "great equalizer" in our country. The proposed limitation on the Legal Services Corporation would abandon this tradition by effectively denying poor people the ability to enforce their educational rights. Not only the poor, but democracy itself, must suffer from such a denial. I urge you to oppose this amendment as a threat to the democratic rights of the children of the poor in this country.

Mr. ASHBROOK. Mr. Chairman, I yield myself 1 minute of my time, and I will merely say that I do not know how they do things in Massachusetts, but in the situation the gentleman is talking about I would hope that this 7-year-old would, first of all, go to the parent or guardian, or, second, go to the teacher or principal, or, third, go the district attorney in the county where they live.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I answer the gentleman by saying, because the parent or the teacher may not be a lawyer, and because the teacher may be the transgressor, and the district attorney cannot get involved in a civil case. They cannot go to the district attorney. If they have a civil suit, the district attorney cannot help them because he cannot get involved in a civil suit.

What the gentleman is questioning is the whole basis for the Legal Services Corporation. I know that is the fact, so why not kill the whole bill? Let us not start picking it apart area by area, because there is no rational basis for that.

Mr. KOGOVSEK. Mr. Chairman, it is important to recognize the speciousness of the arguments of the proponents of this amendment.

The complaints about Legal Services' education litigation have cited several lawsuits as examples of abuses by Legal Services attorneys. Every case named was a case in which the courts found the legal rights of parents and students had been violated. In fact, when Legal Services attorneys have found it necessary to resort to litigation, those suits, far from being frivolous, have been successful at a much higher rate than lawsuits brought by the private bar generally. These complaints about education litigation are, therefore, not complaints about legal services for the poor. They are complaints about the courts. Poor people should not be punished by withholding future legal services because they have been successful in asserting their rights in the past.

Proponents also apparently complain about the alleged divisive and political impact of education litigation by Legal Services. In many cases, however, this litigation has had the opposite effect. A good example is litigation in Colorado, the Lujan School finance case, filed against the Colorado State Board of Education in 1977 by a group of attorneys, including Colorado Rural Legal Services. When the case was filed, many people felt threatened by this school finance case. The lawsuit was successful but there was a general fear that the case would result in less money for some school districts. Through media accounts of the case and the work of the parents, the public has begun to learn more about the way schools are financed and the problems school officials face due to the unequal finance system. Community leaders, representing school boards, professional and community educational associations, civic groups, parents, and local governments have now begun to view the case and issue as a way to improve schools. They have joined together in an effort to improve the schools and the initial fear of losing money has turned into support for quality education. What began as an effort of concerned parents, assisted by private and Legal Services attorneys, working together, has become a broad-based bipartisan statewide coalition, working to improve statewide education for all children.

For the past two decades, we have singled out the education of children from low-income families as a major priority; and we have created programs, such as title I, to address the needs of those children. It would be the height of perversity to then single out education as the one area where those same low-income families cannot pursue their rights—through the courts where necessary—concerning the education of those children.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 176, noes 219, not voting 36, as follows:

[Roll No. 87]

AYES—176

Albosta	Applegate	Bafalis
Alexander	Archer	Bailey (MO)
Anthony	Ashbrook	Barnard

Beard	Hartnett	Perkins
Benedict	Hendon	Petri
Bethune	Hightower	Pickle
Bevill	Hillis	Quillen
Bliley	Holland	Rhodes
Brinkley	Holt	Ritter
Broomfield	Hopkins	Roberts (KS)
Broyhill	Hubbard	Roberts (SD)
Burgener	Huckaby	Robinson
Campbell	Hunter	Roemer
Carman	Hutto	Rogers
Carney	Ireland	Roth
Chappell	Jeffries	Rousselot
Cheney	Johnston	Rudd
Coats	Kindness	Schulze
Coleman	Kramer	Sensenbrenner
Collins (TX)	Lagomarsino	Shaw
Conable	Leath	Shelby
Corcoran	LeBoutillier	Shumway
Courter	Lee	Shuster
Coyne, James	Lent	Siljander
Craig	Lewis	Skeen
Crane, Daniel	Loeffler	Smith (AL)
Crane, Philip	Long (LA)	Smith (NE)
Daniel, Dan	Lowery	Smith (NJ)
Daniel, R. W.	Lujan	Smith (OR)
Dannemeyer	Marlenee	Snowe
Daub	Marriott	Snyder
Davis	Martin (NC)	Solomon
Derwinski	Martin (NY)	Spence
Donnelly	McCollum	Stangeland
Dornan	McDade	Stanton
Dougherty	McDonald	Staton
Dreier	McEwen	Stump
Duncan	McGrath	Tauzin
Edwards (OK)	Mica	Taylor
Emerson	Miller (OH)	Traxler
Emery	Mitchell (NY)	Trible
Evans (DE)	Moakley	Vander Jagt
Evans (GA)	Moore	Walker
Fields	Moorhead	Wampler
Fountain	Morrison	Watkins
Gaydos	Mottl	Weber (MN)
Gibbons	Murphy	Weber (OH)
Gingrich	Murtha	White
Ginn	Myers	Whitehurst
Goldwater	Napier	Whittaker
Goodling	Natcher	Whitten
Grisham	Nelligan	Winn
Gunderson	Nichols	Wolf
Hagedorn	O'Brien	Wortley
Hall, Ralph	Oakar	Yatron
Hall, Sam	Parris	Young (AK)
Hammerschmidt	Pashayan	Young (FL)
Hansen (ID)	Patman	Young (MO)
Hansen (UT)	Paul	

NOES—219

Akaka	Conte	Fish
Anderson	Coughlin	Fithian
Andrews	Coyne, William	Flippo
Annunzio	Crockett	Florio
Aspin	D'Amours	Foglietta
Atkinson	Danielson	Foley
AuCoin	Daschle	Ford (MI)
Bailey (PA)	de la Garza	Ford (TN)
Barnes	Deckard	Forsythe
Bedell	Dellums	Fowler
Beilenson	DeNardis	Frank
Benjamin	Derrick	Frost
Bennett	Dicks	Fuqua
Bereuter	Dixon	Garcia
Biaggi	Dorgan	Gejdenson
Bingham	Downey	Gilman
Blanchard	Dunn	Glickman
Boggs	Dwyer	Gonzalez
Boland	Dyson	Gore
Bolling	Early	Gradison
Bonior	Eckart	Green
Bonker	Edgar	Gregg
Bouquard	Edwards (AL)	Guarini
Bowen	Edwards (CA)	Hall (OH)
Brodhead	English	Hamilton
Brooks	Erdahl	Harkin
Brown (CA)	Erlenborn	Hatcher
Brown (CO)	Ertel	Heckler
Burton, John	Evans (IA)	Hefner
Burton, Phillip	Evans (IN)	Heftel
Butler	Fary	Hertel
Byron	Fascell	Hiler
Chisholm	Fazio	Hollenbeck
Clay	Fenwick	Howard
Clinger	Ferraro	Hoyer
Coelho	Fiedler	Hughes
Collins (IL)	Findley	Hyde
Jacobs	Molinari	Schneider
Jeffords	Neal	Schroeder
Jenkins	Nelson	Schumer
Jones (NC)	Nowak	Seiberling
Jones (OK)	Oberstar	Shamansky
Jones (TN)	Obey	Shannon
Kastenmeier	Ottinger	Sharp
Kazen	Panetta	Simon
Kildee	Patterson	Smith (IA)
Kogovsek	Pease	Solarz
LaFalce	Pepper	St Germain
Leach	Peyser	Stark
Leland	Porter	Stokes
Levitas	Price	Stratton
Long (MD)	Pritchard	Studds
Lowry	Pursell	Swift
Lundine	Rahall	Synar
Lungren	Railsback	Tauke
Madigan	Rangel	Udall
Markey	Ratchford	Vento
Marks	Regula	Volkmer
Matsui	Reuss	Walgren
Mattox	Richmond	Washington
Mavroules	Rinaldo	Waxman
Mazzoli	Rodino	Weaver
McClory	Roe	Weiss
McCloskey	Rosenthal	Whitley
McCurdy	Rostenkowski	Williams (MT)
McHugh	Roukema	Williams (OH)
McKinney	Roybal	Wirth
Mikulski	Russo	Wolpe
Miller (CA)	Sabo	Wright
Mineta	Santini	Wyden
Minish	Savage	Yates
Mitchell (MD)	Sawyer	Zablocki
Moffett	Scheuer	Zeferetti

NOT VOTING—36

Addabbo	Frenzel	Lott
Badham	Gephardt	Luken
Boner	Gramm	Martin (IL)
Breaux	Gray	Michel
Brown (OH)	Hance	Mollohan
Chappie	Hawkins	Montgomery
Clausen	Horton	Rose
Conyers	Kemp	Skelton
Cotter	Lantos	Stenholm
Dickinson	Latta	Thomas
Dingell	Lehman	Wilson
Dymally	Livingston	Wylie

□ 1400

The Clerk announced the following pairs:

On this vote:

Mr. Badham for, with Mr. Mollohan against.

Mr. Chappie for, with Mr. Addabbo against.

Mr. Dickinson for, with Mr. Gray against.

Mr. Latta for, with Mr. Frenzel against.

Mr. Livingston for, with Mr. Horton against.

Mr. Lott for, with Mrs. Martin of Illinois against.

Messrs. RINALDO, NELSON, RUSSO, LUNGREN, VOLKMER, and CLINGER changed their votes from "aye" to "no."

Mr. FOUNTAIN and Mr. PASHAYAN changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. KAZEN

Mr. KAZEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KAZEN; Page 12, strike out lines 10 through 16 and insert in lieu thereof the following:

"(11) to provide legal assistance for or on behalf of any alien who has not been lawfully admitted for permanent residence in the United States unless the residence of the alien in the United States is authorized by the Attorney General; or"

The CHAIRMAN. In accordance with the prior agreement, under the unanimous-consent agreement, the gentleman from Texas is allocated 15 minutes in support of his amendment.

Mr. KAZEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment which I offer is a very simple amendment. It just prohibits legal assistance to any alien who is in this country illegally. Any other who is here legally would be entitled to assistance.

The bill, if you look at line 11 on page 12, prohibits legal assistance for or on behalf of any individual who is known to be an alien in the United States and so forth.

Under the rules which have been promulgated by the Corporation, a recipient does not have to ask any person that is seeking assistance whether or not he is an alien. The only way that he would know that the person is an alien is if the particular case were a deportation proceeding or any other matter involving immigration.

Now, we are talking, of course, about civil cases. This does not preclude an alien who is picked up by Immigration for a violation of law from having legal counsel.

What we are talking about here is extending legal services to our people, the people of this country, and to permanent aliens in this country who have the equal protection of our laws. The funds for this Corporation have already been cut by 25 percent; the chances are that the other body is going to cut even deeper into this program. If that happens, if these illegal aliens are continued to be served, there are not going to be enough attorneys to represent our people, the people for which this particular program was established.

It is very simple. In social security we now require some type of documentation to establish immigration status before a social security card is issued.

□ 1415

SSI programs require documentation on immigration status from the applicant. All persons are asked for their birth certificate or other acceptable proof of American citizenship and the alien usually provides the green card, which is fine. Applicants under the CETA program also need to show documentation as to their birth or immigration status. Applicants for AFDC need to provide documentation. Why not under this program and why can we not deny illegal aliens this service. We are not denying them access to the courts. We are just saying that the taxpayers shall not pay for these services.

I believe the bill itself in the next section, section 12, beginning on line 25, will probably solve the problem that we had in the past, not knowing that a person is an illegal alien, because the bill says:

The Corporation shall require each recipient to maintain documentation—

(1) demonstrating the eligibility of each person to whom such recipient provides legal assistance.

I think that language will take care of one of the shortcomings the bill has had in the past—that of not having to inquire as to whether the particular recipient is an alien or not.

Let me just ask the distinguished chairman of the subcommittee if I am correct in that interpretation. Will the gentleman look at page 12 at the bottom, beginning on line 24? I would ask whether or not from now on, in accordance with that provision, the attorneys for the Corporation must inquire, must require documentation from every applicant that comes before them and, therefore, ascertain whether they are in this country legally or not?

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I certainly will.

Mr. KASTENMEIER. That is my interpretation. That is to say that with section 12 in the bill adopted, and if any further amendment is adopted with respect to qualification of individuals, whether alien or otherwise, that there is an affirmative responsibility on the part of the legal services program to ascertain eligibility in terms of documentation with respect to citizenship of status.

Mr. KAZEN. I thank the distinguished chairman.

The only reason I brought this amendment to the floor today is because in my district in south Texas it has been brought to my attention that some of these legal aid attorneys have as much as two-thirds of their caseload as illegal alien clients, which I must say does not leave much for our people. I understand the distinguished gentleman from Florida has an amendment he is going to offer as a substitute for mine. We will debate that amendment later. What he does is enumerate the various types of circumstances under which a person may be denied legal assistance.

My amendment, I submit to the Committee, is very simple, very direct, and, in my opinion, catches every single possible circumstance that may come up, and we do not exempt anyone who has not been admitted legally to the United States, whether on a permanent basis or under the auspices or permission of the Attorney General of the United States.

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I am delighted to yield to the gentleman from New York.

Mr. GARCIA. I thank the gentleman for yielding. If, in fact, it is known when a person walks into one of these Legal Services offices that that person is not there legally, why is he or she not deported?

Mr. KAZEN. I cannot answer the gentleman. But up until now that attorney did not know whether or not a client was illegal because he did not have to ask.

Mr. GARCIA. If the gentleman will yield further, the gentleman from Texas has just said that two-thirds of the clients using that service in his district in south Texas are known to be in this category.

Mr. KAZEN. Let me back off. The information I get is that one of the attorneys said, "I do not have to ask under the rules and regulations, I do not have to ask a client whether or not he is an alien. I would suspect that I have a lot of alien clients, maybe as much as two-thirds of my caseload," is what he answered, simply because he gave as an excuse that they were not known aliens to him, and his interpretation, the Corporation's interpretation is that you do not have to ask them.

Unless it was a case dealing with deportation proceedings, he would not know. That is why I wanted this legislative history made on this floor and asked the distinguished gentleman from Wisconsin (Mr. KASTENMEIER), the chairman. The gentleman heard what he replied. If this remains in the bill then, under the next section, that lawyer must ask. He is bound to ask for documentation to show that the client is here legally.

Mr. GARCIA. Will the gentleman from Texas yield further?

Mr. KAZEN. Certainly I continue to yield.

Mr. GARCIA. I would like to backtrack with the gentleman from Texas. Starting on page 12, line 24, it is very clear, and the gentleman is the one who brought this up. The gentleman said, "The Corporation shall require each recipient to maintain documentation."

I assume before a person sits down for the first time that he or she must in some form demonstrate that they are entitled to those services?

Mr. KAZEN. The gentleman is correct. But this is the first time that that has happened. If I may take my time, the gentleman is correct, but before that happens we have to put the prohibition from the previous section in the bill.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. Certainly.

Mr. McCOLLUM. Mr. Chairman, I think there is an explanation. I agree with the gentleman from Texas (Mr. KAZEN) on this point, but there is a further problem involved in the language, "known to be an illegal alien."

We have Corporation attorneys interpreting that language to mean that no one is known to be an illegal alien until such time as an adjudicatory body or individual, a judge, or a judge of immigration, determines that they are either excludable or ready for deportation, and that defeats the entire purpose of prohibiting Legal Services to illegal aliens. They are not illegally known until that time, so I think the gentleman from Texas' point is well taken.

For that reason I rise to support him on this.

Mr. KAZEN. I thank the distinguished gentleman for his contribution.

Let me make one further point before I yield. I want to make my position clear. I am in support of this bill. I have always supported this bill. I have been in the Congress since we established this program. My constituents have more need for this program than probably the constituents of any district in the United States.

So I ask my colleagues please do not take what I am saying here on behalf of this amendment as being an attempt to try to derail this bill because, quite to the contrary, I want as much benefit as I possibly can get from this bill for my constituents.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I am delighted to yield to the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Is it not true, I would ask the gentleman in the well, that I showed him a lawsuit that had been recently filed in which the petition stated that these are Mexican nationals who are filing and who are now residing in Mexico as party-plaintiffs to the action to show the abuse that has been made?

Mr. KAZEN. Let me tell the gentleman that is correct. But being Mexican nationals does not automatically disqualify them. It is the residence here. They may be Mexican nationals living in the United States legally.

Mr. WHITE. Yes, but these were residents of Mexico, Mexican nationals, clearly, as stated in the petition itself, to show the gentleman is trying to close loopholes to try to bring this program for the benefit of the poor in this country.

Mr. KAZEN. I am sorry I took so much time, Mr. Chairman. I reserve the balance of my time.

The CHAIRMAN. Under the prior agreement, by unanimous consent, the Chair allocates 15 minutes to the gentleman from New Jersey (Mr. RODINO) in opposition to this amendment.

Mr. RODINO. Mr. Chairman, I will proceed for a few minutes and then reserve the balance of my time.

First of all, I would like to address myself to the gentleman who offered

this amendment. I know he offers the amendment in good faith. I know the problem of so-called illegal aliens is one that we have considered for a period of time

I would, however, like to point out to the gentleman that the amendment he offers would prohibit, in my judgment, any kind of assistance under the Legal Services Corporation to a person who is here not as a lawfully admitted permanent resident.

Having said that, I would like the gentleman to know that his excludes a number of people or groups of people who are here, have residence here, and who are not in illegal status. I would like to inquire of the gentleman, and would yield to him for the purpose of answering, whether or not it is his intention to preclude the rendering of legal services to individuals who are the spouses, children, or parents, of U.S. citizens who are eligible for permanent resident status.

Mr. KAZEN. Will the gentleman yield to me?

Mr. RODINO. I yield to the gentleman from Texas.

Mr. KAZEN. I would ask the gentleman: are they here with the sanction of the Attorney General? They have to be here some way.

Mr. RODINO. I would ask the gentleman how would the individual suggest to me that they come with the sanction of the Attorney General?

Mr. KAZEN. Are they here illegally?

Mr. RODINO. No, they are not.

Mr. KAZEN. Are they here legally?

Mr. RODINO. I would suggest to the gentleman that while I think he is trying to address a particular problem he goes far afield. Let me ask, would the gentleman preclude legal services to an individual who is the spouse of a permanent resident who has qualified for admission to the United States after having been before a consular officer, who is admitted here but is not a lawfully admitted permanent resident?

Mr. KAZEN. If the gentleman will read the rest of the amendment:

Unless the residence of the alien in the United States is authorized by the Attorney General or any agency of the United States.

All I want to make sure is they are here legally.

Mr. RODINO. I would like to remind the gentleman that while I am sure he is conversant with immigration law, the term "residence" has never been nailed down. It is very, very questionable as to whether or not the individual to whom I have referred would be an individual who has that kind of "residence" which has been authorized by the Attorney General.

Mr. KAZEN. Will the gentleman yield further?

Mr. RODINO. Surely I yield.

Mr. KAZEN. How would that spouse or whatever case the gentleman thinks about, how will they ever require the services of this Corporation? Would they not have, if it involves their departure from this country, if it involved a question of their stay in this country, would they not still have access to a court-appointed attorney?

Mr. RODINO. I beg to differ with the gentleman. There is no requirement that there be, in immigration cases, a court-appointed attorney. In deportation cases, aliens have the privilege of obtaining a lawyer, but the immigration law does not require the appointment of one.

I want the gentleman to know that that is the law.

Mr. KAZEN. All I am saying is this, Mr. Chairman, and you might know more of the immigration law than I do, and I concede you do, all I am saying is what we are trying to put into this amendment is the fact that if you are in this country illegally you are not entitled to legal assistance, just like you are not entitled to food stamps, just like you are not entitled to AFDC, just like you are not entitled to anything else under the programs in this country.

That is all I am saying.

□ 1430

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Texas.

Mr. WHITE. I thank the Chairman for yielding. As I understand the gentleman in the well (Mr. KAZEN) as his amendment has been presented, if an agency of the U.S. Government approves residence, whether the person is actually a resident or not, then he would be eligible for legal services. That is the criterion.

Mr. RODINO. I point out to the gentleman again that the term "residence" has not been defined and the immigration law does deal with the Attorney General's authority to grant it. The issue will not arise unless an individual has access to legal services.

Mr. WHITE. But the amendment does not say "actual residence"; it says "approved for residence." It does not say actual residence. It says approved for residence.

Mr. RODINO. The question as to residence is something that has not been clarified. There is no clear definition of residence. It will become an issue as to whether or not that person actually was a resident, and yet under the amendment this person would be denied access to legal counsel in order to establish that.

Mr. WHITE. The chairman cannot tell me that the State of New Jersey does not have a definition of residence. He cannot tell me that 50 States do not have individually a definition of residence just like the State of Texas does.

Mr. RODINO. The question of residence is something that we have got to establish under our immigration laws. I can tell the gentleman that the term is one that has been used, but it is imprecise, and issues may arise with reference to that very word.

Mr. WHITE. But I will state to the chairman to repeat the question is the trigger. He states residence, if he approves for residence. He does not necessarily define in his approval what residence is. Once having proof of residence, then he would qualify. It does not say actual residence in his amendment, as I understand the amendment.

Mr. RODINO. If I may go on, just let me point out that I believe this amendment would deny services to the following groups of people: Persons who have applied for political asylum in this country; persons whose U.S. citizenship is in dispute; Cuban and Haitian entrants who have been granted special legal status to remain in this country; spouses and children of permanent resident aliens; H-2 workers who have entered the country; persons needing legal assistance to document their eligibility for U.S. citizenship or resident alien status; persons who have been granted humanitarian parole; persons who claim derivative U.S. citizenship status; persons granted stays of deportation. All of these people would be precluded from even being able to establish that they may be here under "color of law."

I think that this amendment goes entirely too far and, therefore, I oppose it and oppose it strenuously.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Florida.

Mr. McCOLLUM. I thank the gentleman for yielding.

Mr. Chairman, I would like to speak in opposition to the amendment offered by the gentleman from Texas (Mr. KAZEN) if I might, please.

I have the same misgivings in large measure although not totally as the distinguished chairman of the Committee on the Judiciary (Mr. RODINO) of my committee has. As a member of the Subcommittee on Immigration, Refugees, and International Law of the Committee on the Judiciary, I have analyzed this problem at some length. I wish to commend, though, the gentleman from Texas (Mr. KAZEN) for recognizing the fact that there are literally millions of illegal immigrants in this country, illegal aliens who in fact are being represented by Legal Services counsel, and for recognizing the fact that Legal Services counsel literally are allowed today to represent those millions who would not be allowed representation under his particular proposal.

However, the enumerations of the chairman of the Committee on the Judiciary, the distinguished gentleman from New Jersey (Mr. RODINO), are there, but there are very peculiar

problems that we have in the inequities that go further into the language that the gentleman from Texas has.

Part of his language says that a person will not be allowed to receive benefits from Legal Services Corporation unless the residence of the alien is authorized by the Attorney General. It does not go any further than that. "Unless authorized by the Attorney General" would include a category of parolees which are all of the Cuban and Haitian people who have entered into this country under the Cuban and Haitian immigrant category.

It would include the many, many people the Attorney General paroles because he is not detaining them while awaiting exclusion hearings. I have great objection to that category being included, in addition to some of the others being excluded.

I have before the desk a substitute amendment, and I would like to offer that substitute at this time.

The CHAIRMAN. The gentleman has been recognized under time controlled by the gentleman from New Jersey.

Mr. RODINO. I yield to the gentleman for purposes of debate only, and I think the gentleman can offer his amendment on his own time.

AMENDMENT OFFERED BY MR. M'COLLUM AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. KAZEN

Mr. McCOLLUM. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. McCOLLUM as a substitute for the amendment offered by Mr. KAZEN: Strike the text of the amendment and insert in lieu thereof the following:

Page 11, line 5, insert "(a)" after "SEC. 11.".

Page 12, strike out lines 10 through 16 and insert in lieu thereof the following:

"(11) to provide legal assistance for or on behalf of any alien unless the alien is a resident of the United States and is—

"(A) an alien lawfully admitted for permanent residence as an immigrant as defined by sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15), (20));

"(B) an alien who is either married to a United States citizen or is a parent or an unmarried child under the age of 21 years of such a citizen and who has filed an application for adjustment of status to permanent resident under the Immigration and Nationality Act and such application has not been rejected;

"(C) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157, relating to refugee admissions;) or who has been granted asylum by the Attorney General under such Act; or

"(D) an alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)), or".

Page 12, after line 19, insert the following new subsection:

"(b) An alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of section 1007(b)(11) of the Legal Services Corporation Act, to be an alien described in subparagraph (C) of such section".

Mr. McCOLLUM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute for the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Under prior agreement, by unanimous consent, the gentleman from Florida (Mr. McCOLLUM) is allocated 15 minutes in support of his amendment.

Mr. McCOLLUM. Mr. Chairman, what this substitute amendment does that the amendment of the gentleman from Texas (Mr. KAZEN) does not do is to itemize those aliens that are eligible or would be eligible under the Legal Services Corporation Act. We have had a long history in this country of debate covering several years now under food stamps, medicare, and under aid to dependent children as to terminology that would exclude or not exclude certain categories of illegal aliens. The present language in the law reads that anyone who is known to be an illegal alien is not entitled to assistance. But that is a very vague and ambiguous terminology. Much like under color of law it is vague and ambiguous.

We have had varying interpretations that would virtually allow anyone to be able to receive benefits and assistance who is in this country. "Known to be an illegal alien" as indicated in the debate a few minutes ago on the primary amendment offered by the gentleman from Texas (Mr. KAZEN) has been intrepreted by many legal counsel to mean only someone in this country who has been adjudicated to be excludable, or has been adjudicated to be subject to deportation. If anyone has not been so adjudicated, that person would be entitled to legal services.

So the act itself and the present bill is absolutely unacceptable to those of us who believe the millions of illegal aliens in this country who are not paying taxes who are coming to this country getting benefits from us illegally, should be excluded and should be deterred from doing that.

What my amendment does is to delineate those in fact who would be eligible with an A, B, C, 1, 2, 3 category. Those people who would be eligible who are aliens in addition to our citizens would be those who are here under the Immigration and Nationality Act who have been granted status of permanent residence for immigration purposes. That is a great many people. I also include those who are here who are spouses, who are children, or who are parents of citizens of this country who are seeking the status of permanent residence to become citizens, and who under the priorities of our present law would virtually automatically become residents of this country and citizens in due course.

I believe they should have the category of assistance provided under this substitute amendment.

The next category that is included in my substitute is those people whom the Attorney General has granted asylum to and those people who are residents under the Refugee Assistance Act. They are all included. Also included are those whom the Attorney General has withheld deportation on, those people whom he has chosen not to deport because of fear of persecution for racial or religious or political reasons in the countries to which they would go.

What my amendment excludes are those people who are in fact in this country illegally, those whom the gentleman from Texas (Mr. KAZEN) wants to exclude and prohibit from getting services. The category that he overlooks that I think really is a travesty and is unacceptable is those people who are paroled by the Attorney General, particularly the Cubans and the Haitians, those from Colombia, Ecuador, and other countries who come into this country and then are let out of detention pending hearings on exclusion. Those people under the present law, those people under the amendment offered by the gentleman from Texas (Mr. KAZEN) who are paroled—and the Attorney General is doing that literally in the thousands right now and has been doing it—would be entitled to legal services unless my substitute is adopted.

We have 1,500 to 2,000 Haitians entering this country, and Cubans still, too, and Ecuadorians and Colombians, into the State of Florida each month at the present time. I would submit to my colleagues that my substitute needs to be adopted if we are going to be fair and exclude not only those who are subject to being deported but also those who are subject to being excluded under exclusion proceedings.

Let us make the illegal alien immigration procedure equitable and fair.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. At this time I yield to the gentleman from Florida.

Mr. SHAW. I thank the gentleman for yielding.

Mr. Chairman, I rise in enthusiastic support of the substitute amendment being offered by my colleague, the gentleman from Florida (Mr. McCOLLUM), and I commend him for it.

I think in order to really see the subtlety of the question, it is necessary for us to for one moment examine the problems we have in south Florida. We have a population that has swollen tremendously, without any notice, without any preparation, and without any planning on the part of the State of Florida. Within the short time that the Mariel boatlift went on, we found 125,000 added to the population of south Florida, 90,000 of which I believe are still permanent residents within Dade County. We have recorded some 28,000 Haitians who have come into south Florida within very recent years, and that is only estimated to scratch the surface.

As a result of what has happened, we have found that the courts that are working on the deportation exclusion proceedings are virtually clogged and cannot operate efficiently at all.

I think we have then to look at what effect this is having upon south Florida. It has created a tremendous amount of unemployment, unrest, and dissatisfaction. South Florida has found itself with crime statistics which are unbelievable and other problems that are interfering with the tourist industry and other industries which are so important to south Florida.

I examined the crime situation in Dade County in the last year and have found that murder is up 64 percent; robbery is up 103 percent; aggravated assault is up 33 percent; motor vehicle theft is up 61 percent. It goes on and on and on.

What the Government is doing is paying for both sides. We are paying to give defense to keep these people here and paying to try to get these exclusion hearings to get this thing moved along, and this is in spite of what I consider to be a statute that is already on the books that would prohibit the extension of this authority by the Federal Government, and I quote from title 8, United States Code, section 1632, which provides that the right of counsel shall not be at the expense of the Federal Government.

I think what we have here is what the heart of everyone in this body goes out to—all of the poor people from the Third World countries. But this cannot be considered as a matter of heart. We have to let our heads rule over our hearts and know that we are here to represent the people of this country. There is no right to become a resident of the United States, and I think this has to be decided on at this particular point.

So I would ask this House to represent the people of this country and pass meaningful legislation.

Mr. McCOLLUM. Mr. Chairman, at this time I would like to reserve the balance of my time, if I might at this particular moment.

□ 1445

The CHAIRMAN. The gentleman from Florida (Mr. McCOLLUM) has 8 minutes remaining.

Does the gentleman from New Jersey (Mr. RODINO) rise in opposition to the substitute?

Mr. RODINO. Mr. Chairman, I rise in opposition.

The CHAIRMAN. Under prior agreement, the gentleman is allocated 15 minutes in opposition.

Mr. RODINO. I would like to address the Chair as to the status insofar as the time that I had which I reserved on the Kazen amendment.

The CHAIRMAN. On the Kazen amendment, the gentleman has 3 minutes remaining, and on this substitute, the gentleman, of course, has 15 minutes allocated.

Mr. RODINO. I thank the Chairman.

I yield 3 minutes to the gentlewoman from New York (Mrs. CHISHOLM).

Mrs. CHISHOLM. Mr. Chairman, I rise in opposition to the proposed amendment. This provision, if adopted, would undercut one of the most fundamental principles of our democractic system—that all persons, and especially those without economic or political power, are entitled to access to our judicial and administrative systems to seek the protection of our laws. It is difficult to imagine a class of persons in this society more powerless than impoverished aliens, whether documented or undocumented. Aliens historically have been the victims of the harshest of discriminatory practices—the Chinese exclusion laws, the notorious Palmer raids, and the recent systematic violations of due process against Haitian and Salvadoran asylum applicants. Moreover, many are persons of color and are therefore doubly subjected to the prejudices and antagonisms that pervade many American communities. The integrity of our legal system, our international reputation, and indeed the very stability of many communities cannot tolerate either the reality or the perception that some members of society are inferior to others, and therefore, not deserving of full and equal protection against unlawful, unjust, and abusive practices.

The loss of Legal Services' representation in immigration proceedings could create an administrative nightmare. Immigration judges and the Justice Department agree that representation of aliens by Legal Services attorneys aids in assuring the fairness of immigration proceedings and assists in the efficient functioning of the administrative process. Both the Justice Department and the Commissioner of INS recognize that because of the complexity of our immigration laws it would be extremely difficult for Legal Services personnel to determine a client's immigration status as the proposed amendment would require. The Justice Department has stated that "determinations of status can only be made by immigration officers in the course of appropriate proceedings." To impose this function on Legal Services attorneys could lead to improper denials of service as well as being a costly administrative burden. Let me remind my colleagues that in the case of Salvadoran and Haitian asylum applicants, Legal Services attorneys are often the only attorneys allowed access to those persons wishing to claim asylum. If this amendment is adopted, as signatories to the U.N. protocol relating to refugees, the United States runs the risk of violating international treaty obligations if indigent persons, wishing to claim asylum, are denied due process of law in seeking to adjudicate their asylum claims.

The effective exclusion of an entire class of persons from our legal system can only breed disrespect for our laws and encourage illegal conduct. Because of their isolation and vulnerability to exploitation, aliens are more susceptible to unlawful employment practices, to refusals to comply with health and building codes, to negligent or inadequate medical care. U.S. citizens indirectly suffer these injustices in the resulting loss of job opportunities, lower wages, unsafe neighborhoods, and spread of disease. Even more important, U.S. citizens suffer from the blatant abuse of our laws and the creation of a class of persons who may impudently place themselves above the law, undermining our procedures for protecting the health, homes, and jobs of all persons.

This amendment is deceptively attractive to those who wish to discourage the unregulated flow of immigration to the United States, but it will in fact exacerbate the existing tensions and antagonisms within our communities, and take a great toll on U.S. citizens as well as immigrants and refugees. I urge my colleagues to reject this amendment.

Thank you.

Mr. RODINO. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. FISH).

Mr. FISH. I thank the Chairman for yielding.

AMENDMENT OFFERED BY MR. FISH TO THE AMENDMENT OFFERED BY MR. M'COLLUM AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. KAZEN

Mr. FISH. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. FISH to the amendment offered by Mr. McCOLLUM as a

substitute for the amendment offered by Mr. KAZEN: In the matter proposed to be inserted in lieu of matter on page 12, lines 10 through 16—

(1) strike out "or" at the end of subparagraph (C),

(2) strike out ", or" at the end of subparagraph (D) and insert in lieu thereof "; or", and

(3) insert the following new matter after subparagraph (D):

"(E) an alien who is present in the United States under color of law; or".

Mr. FISH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment offered as a substitute for the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. FISH. Mr. Chairman, my amendment simply adds a new section (E) to the pending substitute. Section (E) reads "an alien who is present in the United States under color of law * * *".

Mr. Chairman, my amendment is designed to insure that certain categories of aliens who are legally in the United States can continue to avail themselves of Legal Services assistance. In that respect, it meets the criteria of the gentleman from Texas (Mr. KAZEN) in that undocumented aliens are not included.

Let me stress that point: Undocumented aliens are not the subject of this amendment any more than they are the subject of the substitute offered by the gentleman from Florida (Mr. MCCOLLUM).

Color of law requires documentation and, hence, excludes surreptitious entrants unknown to the Immigration and Naturalization Service.

The amendment offered by the gentleman from Florida (Mr. MCCOLLUM) seeks to limit Legal Services Corporation representation to a very few classes of aliens: permanent resident, immediate relatives of U.S. citizens, refugees, and those whose deportation is withheld because of a fear of persecution should they be returned to their homeland.

While I can appreciate the concern of the gentleman from Florida (Mr. MCCOLLUM) and certainly understand his desire to specifically set forth in the law categories of aliens eligible for assistance, I would like to point out to the Members the pitfalls that I see in this approach.

First, I believe that a rigid listing of eligible aliens may serve to preclude legal aid for many who should be entitled to it. I will enumerate those shortly.

Because of the many gray areas in our immigration laws, there will be difficulty in attempting to enumerate eligible classes of aliens. Only "color of law" language is broad enough to insure coverage to all documented aliens.

The Immigration and Nationality Act provides a great deal of discretion to the Attorney General and to the Commissioner of the Immigration and Naturalization Service. If they ever exercise that discretion to withhold or indefinitely stay deportation of an alien, I believe that such an alien is entitled to legal assistance, notwithstanding the fact that he is not a permanent resident alien.

Who would my amendment cover? It would cover aliens paroled from outside the United States, a class not covered, not enumerated by the amendment offered by the gentleman from Florida (Mr. MCCOLLUM). Aliens paroled from outside the United States may come here for humanitarian reasons, reasons in the best interests of the U.S. Government, medical reasons, or to be witnesses at a proceeding.

This is a function of parole that would not be covered in the pending substitute.

Second, the substitute offered by the gentleman from Florida (Mr. MCCOLLUM) would not cover those aliens who have received assurances from the Immigration Service that they will not be deported from the United States. This is a very common practice. When an alien has filed a petition—simply because it takes months for the petition to be acted on—the Immigration Service will give assurances to the petitioner that they will not be deported. This would include all the beneficiaries of private bills introduced by Members of Congress; it would include fiances of American citizens; every beneficiary of any kind of petition that is pending in the thousands and tens of thousands by aliens who otherwise would be subject to deportation.

When the Service knows that eventually these petitions will be approved, they have a common practice of simply giving an assurance that deportation will not occur. This is a good system of dealing, with some humanity, to very real and personal problems.

My language provides, I believe, the necessary degree of flexibility which is needed in dealing with the technicalities and complexities relating to ones' status under the act.

Mr. Chairman, for days here this week we have considered proposals to circumscribe the activities of attorneys working for the Legal Services Corporation. For the first time today we are now facing a proposal to drastically reduce by numbers in the millions the eligible recipients for such aid.

What would my amendment, by simply adding "color of law" accomplish? It would put back the nonimmigrant class that are totally removed by the pending substitute, H-2 workers, foreign students, also all visitors for business or pleasure; but those are not the people we are concerned about who come here with money and would never turn to Legal Services.

The CHAIRMAN. The time of the gentleman from New York (Mr. FISH) has expired.

Mr. RODINO. Mr. Chairman, how much time do I have left?

The CHAIRMAN. The gentleman from New Jersey (Mr. RODINO) has 7 minutes remaining on the McCollum amendment and 3 minutes remaining on the Kazen amendment.

Mr. RODINO. There is no objection, is there, Mr. Chairman, to my combining the time so that I have 10 minutes and use it whatever way I wish?

The CHAIRMAN. The Chair does not object.

Mr. RODINO. Mr. Chairman, I yield 2 additional minutes to the gentleman from New York (Mr. FISH).

Mr. FISH. I thank the gentleman very much.

I think there is one other point that I want to make perfectly clear to the members of the committee so that we know what we are doing: that my amendment does not enlarge on the number of eligible clients. The categories that I restore through the language "color of law" are eligible clients of Legal Services today.

There is ample precedent for the language to be found in legislation and regulations dealing with AFDC, SSI, medicaid.

Mr. Chairman, Tuesday, during debate on Legal Services, many speakers stressed the issue of equal justice under law. I maintain that today we are coming back to that issue. The issue again is access to justice, access to our courts. Due process and equal protection guarantees of our Constitution protect persons, not just citizens; and the noncitizens in droves ruled out by the substitute of the gentleman from Florida pay taxes, are subject to military service, and are themselves liable for violations of civil and criminal laws of the United States and, as such, they too should be afforded equal protection of the law.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Chairman, I yield 3 minutes to the chairman of the subcommittee, the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Mr. Chairman, with some reluctance I take the floor, because I wish we were not on this subject today. It is a very difficult one and it is obviously one that vexes each one of us. The legal implications are murky.

Let me start by saying that I support the amendment offered by the gentleman from New York (Mr. FISH) adding "color of law" to the amend-

ment offered by the gentleman from Florida (Mr. McCollum).

I believe that the term "color of law" would, if the information supplied to me is correct, allow the coverage for services by the Legal Services Corporation to be provided to nonimmigrants, Cuban and Haitian entrants, those who apply for asylum, those who have had their departure extended, and cases where the Immigration and Naturalization Service has given assurances that it would exercise its discretion not to enforce a departure.

There is also another reason I support the amendment of the gentleman from New York (Mr. Fish) which has not been touched upon today in the debate.

As chairman of the Immigration Subcommittee, it is my hope—and I would suggest that it is the hope of all members of my subcommittee—that we do have an opportunity in this Congress to look at the entire subject of immigration and naturalization law for the purpose of reforming it. We are off to a good start, and I would say that the gentleman from Florida (Mr. McCollum), as author of one of the amendments before us, is a most diligent, effective, and productive member of our subcommittee. Also, the gentleman from Texas (Mr. Sam B. Hall, Jr.) who is on the floor, and is on our subcommittee, is very active. We have begun very well.

We have before us the report of the Select Commission on Immigration and Refugee Policy. Soon, I hope, we will have before us the views of the administration, based upon the task force report prepared by the Attorney General.

When we study the entire range of this subject, then we will have an opportunity to weave into it this question of whether or not certain legal services ought to be made available to certain categories of noncitizens.

I think if we act in advance of looking at the subject in totality, we may well make more difficult, if not make impossible, the task of passing a comprehensive piece of legislation.

We have not only before us the argument that the gentleman from New York (Mr. Fish) has made, based on the point which is certainly extraordinarily important—and that is whether or not people ought to have access to the legal system—we also have before us a very practical problem, and that is unless we are very cautious in moving forward piecemeal, we may find ourselves in a trap where we cannot look at the immigration law totally. I would, therefore, urge support of the amendment offered by the gentleman from New York (Mr. Fish) and urge opposition to the other amendments before the Committee of the Whole.

□ 1500

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. Rodino).

Mr. RODINO. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. Sawyer).

Mr. SAWYER. I thank the gentleman for yielding.

One thing that disturbed me about the amendment of the gentleman from Florida, and appears to me to be cured by the amendment that has been offered by the gentleman from New York (Mr. Fish), was that it would exclude the contract migrant workers who are brought in from places like Haiti totally legally.

It seems to me to have them here legally, working here and deprive them of access to our court system while they are here is totally improper. Therefore, I would be inclined very much to support the amendment offered by the gentleman from New York (Mr. Fish).

Mr. RODINO. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. Garcia).

Mr. GARCIA. I thank the gentleman for yielding.

I am not going to get into the legal terms because I think that was covered by my colleague from New York (Mr. Fish) and by the chairman of the committee.

But I would like to talk about some of the quotes that were made on this floor, by my two colleagues from Florida. I would hope that both of these gentlemen would look at the true picture, they speak of crime in south Miami, which has very little to do with this bill. And they talk about the millions who use legal aid.

Any person who would be listening to this debate would think that is all legal aid is doing, taking care of illegal aliens.

Well, the fact of the matter is that many of these people who are here illegally, the last place they want to go to is to any sort of forum that is part of the U.S. Government. I think that that is an important point because during the period of time when I, as chairman of the Subcommittee on Census and Population, tried my darndest to get everybody counted, it was impossible.

So I would like both sides of the aisle to understand that they are not—there may be exceptions, there will be one or two cases here or there—but overall the overwhelming majority of these people stay away from legal aid.

It was stated that illegals do not pay taxes, I would like the Chair to know if there is any group in this country who are paying taxes and not getting the services, are the illegals, they are afraid to file their W-2 forms. They are afraid to submit anything in writing to the U.S. Government, many of these people who are here illegally, fail to ask for a refund of their taxes, which I believe they are entitled to.

Then the third part, how does a person determine when they walk into a legal aid office in the city of New York who is a citizen, who is not a citizen?

If I walked into one of these offices, and speak in Spanish such as—Quiem me puede ayuda, yo no soy cuidadano? (Who can help me, I am not a citizen?) the point that I am trying to make is that many of the lawyers are not fluent in Spanish.

So that the question that we are addressing is unworkable in many instances.

The person at the other side of the desk, would not understand enough Spanish to truly understand the need of the person seeking assistance.

The CHAIRMAN. The time of the gentleman from New York (Mr. Garcia) has expired.

The Chair will advise that the gentleman from Texas (Mr. Kazen) has 2 minutes remaining.

The gentleman from New Jersey (Mr. Rodino) has 2 minutes remaining.

The gentleman from Florida (Mr. McCollum) has a total of 8 minutes remaining.

Mr. RODINO. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. Railsback).

Mr. RAILSBACK. Mr. Chairman, like many other Members, I have tried very hard to listen to the debate. But I must say that I have come to the conclusion that the Members would be well advised to follow the advice of the chairman of the Subcommittee on Immigration, Refugees, and International Law, who has given a great deal of his time.

The chairman of the full committee, not too long ago before he assumed the chairmanship, was the chairman of the Subcommittee on Immigration, Refugees, and International Law of the Committee on the Judiciary and then the ranking minority member, the gentleman from New York (Mr. Fish), I think, made a good case for all of us to support his amendment.

I would just hope that the Members would support the Fish amendment which I think really delineates and defines the scope about which all of us are concerned.

Mr. RODINO. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. McCollum).

Mr. McCOLLUM. Mr. Chairman, I think the unfortunate thing that has occurred is that the gentleman from New York has placed before us something more vague and ambiguous than the law presently existing. He has said that anyone who is under color of law

will be entitled to legal services. Anyone under color of law was determined by this body in 1977 in the debate over the Food Stamp Act to be too vague and too ambiguous to be in the law.

There had been that terminology used in the Food Stamp Act previous to that and there had been a number of court decisions rendering that virtually useless in determining illegal aliens.

It is my opinion that under this particular provision, if my substitute is amended by the effort of the gentleman from New York, there will be many illegal aliens besides those who I am concerned about in Florida who will be allowed to have legal services and there will be many ways in the court system to get around and to skirt the problem.

In 1977 in the Food Stamp Act—the law I traced and tracked when I drafted my substitute—visitors were excluded, foreign students were excluded from food stamps, many other people who were called nonimmigrant aliens were excluded from the right to receive benefits in this country because they were not citizens.

There was a very logical pattern for that as there is in this case when we talk about any service, legal services, food stamps, whatever it may be. That pattern is simply that these folks are here with no intent to remain permanently and they should not be provided with the services and the benefits that encourage them to stay here. They should have their own services if they come to this country, if they are visitors, if they are diplomats, or employees of diplomats or foreign students or whomever.

It is my judgment and the judgment of those supporting the McCollum substitute that the spirit of what happened in 1977 in the Food Stamp Act is embodied and should be followed by defeating the amendment of the gentleman from New York to my substitute.

Further, I would point out that there is no consitutional right declared by the Supreme Court for an individual to have civil law protection. Whatever we do under the Legal Services Corporation Act is strictly because we wish to do it in this body.

Constitutional rights are in the criminal law area only. We have an absolute right in this body to restrict whatever aliens we wish to restrict from receiving assistance.

There is an inherent unfairness in the amendment by the gentleman from New York to those who are involved in having to deal with aliens who are here illegally and who fall into the category of those seeking to be not deported, but those who the Immigration and Naturalization Service is seeking to exclude.

Now, there are two different types of illegal aliens: Those who are to be deported and those who are to be excluded. Those to be deported are the vast millions in this country who are here illegally who may not have been identified yet, but who are picked up by the Immigration and Naturalization Service once they are in the country. Those who are picked up by the Immigration and Naturalization Service when they enter this country are either detained or they are parolled subject to exclusion hearing.

My substitute amendment which would be defeated by the amendment of the gentleman from New York would simply allow for fairness to be put into this so that those who are paroled by the Attorney General awaiting an exclusion hearing would be treated the same way as those who are illegally here and are picked up for deporting. They are both in the same category. Neither one should be here. Their presence should not be encouraged and I seek fairness in the defeat of the amendment offered by the gentleman from New York.

Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, I do not mean to even take a minute. I simply want to ask a question.

Is it true as the gentleman from Michigan (Mr. SAWYER) I argued, that contract workers who come in to work as migrants on farms would not be covered under the bill and would not be eligible?

Mr. McCOLLUM. It is true that contract workers under the H-2 programs, temporary workers from foreign countries, would not be eligible for legal assistance under my substitute. However, it is not true that migrant workers would not be.

Most of our migrant workers in this country are not H-2 workers, they are a very small fraction. H-2 workers are nonimmigrant aliens, along with a list that runs sometimes double A through L that includes foreign government officials, employees of these foreign government officials, visitors for business or pleasure, aliens in transit through the United States, aliens in transit to United Nations headquarters, transients without visas, crewmen remaining with vessels or aricraft, crewmen discharged from vessels or aircraft, treaty traders, students and their families, representatives of international organizations, employees of G-1, G-2, G-3, and G-4 families, temporary workers which we are talking about right there, and also includes intracompany transfers, et cetera.

There is a whole laundry list of people who do not pay taxes in this country and who, in my judgment and the judgment of those supporting the substitute, should not be entitled to services just as they were not entitled to Food Stamp Act provisions and were excluded from that.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. I thank the gentleman for yielding.

I rise in support of the gentleman's amendment. I do so because I think it is time to clarify affirmatively the nature and the people who will receive the services of this Corporation.

Now we are not talking solely about representation before the administrative processes.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield for a clarification.

Mr. FASCELL. I yield to the gentleman from Florida.

Mr. McCOLLUM. Is the gentleman rising in support of the substitute or in support of the amendment offered by the gentleman from New York?

Mr. FASCELL. I am rising in support of the McCollum substitute. That is what I said, but I want to make it explicitly clear that I am supporting the McCollum substitute. I do so because, as I started to say, we are not talking about simply the representation of individuals in the administrative or judicial processes affecting their right to stay in this country. We are talking about all of the other services.

Now the problem that I have and the reason I rise in support of this amendment in its affirmative approach to the delineation, is this: One group, for example, of people, and I do not know how they got to this country and I cannot tell where they are domiciled, resident, documented or undocumented, but they are here, 10,000 of them from one country.

So they all go down and file whatever form it is that says, "I do hereby request political asylum."

No determination is made at that point, but that immediately triggers a whole series of administrative processes. After that is over, it does trigger, if the individual cares to, a whole series of judicial processes.

The question will be that subsequent to all of that and during that time an ultimate decision may be made that that person has no right to be here.

Are we then going to deny services because right now those 10,000 people are getting some help, as are another group of 10,000, as are another group of 10,000, and the lawful citizens can hardly get into the offices of the Legal Services to get the services that we are trying to provide them?

The CHAIRMAN. The Chair will advise that the gentleman from Texas (Mr. KAZEN) has 2 minutes remaining.

The gentleman from Florida (Mr. McCOLLUM) has 1 minute remaining.

The gentleman from New Jersey (Mr. RODINO) has 1 minute remaining.

The gentleman from New Jersey (Mr. RODINO) has the right to conclude debate.

The Chair recognizes the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Chairman, we have heard all of the arguments set forth. The substitute offered by the gentleman from Florida has a shopping list that he says should not receive services.

The gentleman from New Jersey says that shopping list should receive services.

My amendment says nobody who is not here legally should receive services.

My colleagues have their choice. Mine is a catchall amendment. Let me ask the gentleman from Kentucky if, under the provisions of his bill, illegal aliens are entitled to legal services.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I would yield to the chairman of the subcommittee for a final answer.

Mr. KAZEN. All right, because I have only 1 minute.

Mr. MAZZOLI. Then I would say that it would. The services would now be provided to a person whom one would call an illegal alien.

Mr. KAZEN. Does the chairman agree with that? Do I read section 11 that way, that no known alien shall be serviced?

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. That is correct and that is also present law under the appropriations.

Mr. KAZEN. Then it goes further in the next section and says they have to document their presence.

Now in the whole bill are illegal aliens allowed to receive services?

Mr. KASTENMEIER. Not if they are know to be here in an illegal status.

Mr. KAZEN. Now for the sake of legislative history, does every person who comes to a Legal Services Corporation lawyer have to show documentation that he is in this country legally?

Mr. KASTENMEIER. That person will now, I answer the gentleman, because of the requirements of section 12 requiring that documentation of eligibility.

Mr. KAZEN. So, therefore, taking the gentleman's bill as a whole, forgetting the amendments on the floor today, taking the gentleman's bill as a whole if none of the amendments pass, will the provisions of the bill, if it is passes, as the gentleman has it here, will the provisions of the bill allow illegal aliens to have service?

Mr. KASTENMEIER. The answer has to be "no" to the gentleman's question.

□ 1515

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. MCCOLLUM).

Mr. MCCOLLUM. Mr. Chairman, the main point of this whole debate is that the law at the present time is vague and ambiguous, and will allow illegal aliens to receive the services of this Corporation if an amendment is not adopted. It is my judgment that the McCollum substitute, which is offered and is on the floor subject to the amendment offered by the gentleman from New York (Mr. FISH) explicitly and in the best form of any proposal today, without any trappings, will in fact do what this body wants to do; that is, exclude illegal aliens from receiving services of the Corporation.

If we go along with the amendment of the gentleman from New York, we are going to allow legal services for many illegal aliens. It will not be fair or appropriate to those who are in the States, where there are those waiting in parole status that really should be treated the same as other illegal aliens. It is my sincere request in urging that those Members of the House considering this matter follow the Food Stamp Act of 1977 and the efforts that I have made very diligently to shape a law that is restrictive and yet fair, and vote against the amendment of the gentleman from New York and then vote for the McCollum substitute.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Chairman, I support the amendment offered by the gentleman from New York. I believe that when he uses the term "under color of law" he is using a term that is well understood under our immigration law. Therefore, he does do what the gentleman from Wisconsin has already stated, and that is to preclude legal services for individuals who are known to be illegal aliens. At the same time it preserves eligibility for legal aid for those people who are legally here under "color of law."

Mr. Chairman, I yield the balance of my time to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Chairman, I thank my chairman for yielding to me. I am very sympathetic with what really is the underlying problem here, a problem unique in south Florida. We are asked to make a drastic reduction of eligible recipients to meet this problem.

A tradeoff of 40,000 to 50,000 Haitians against 10 million nonimmigrants I think is far too one sided in a deal for this House to adopt.

Second, there is no basic rationable to the categories that the gentleman has asked us to exclude.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from New York (Mr. FISH) to the amendment offered by the gentleman from Florida (Mr. MCCOLLUM) as a substitute for the amendment offered by the gentleman from Texas (Mr. KAZEN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. FISH. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated. The Committee will resume its business.

RECORDED VOTE

The pending business is the demand of the gentleman from New York (Mr. FISH) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 141, noes 262, not voting 28, as follows:

[Roll No. 88]

AYES—141

Anderson	Early	Hollenbeck
Ashbrook	Edgar	Howard
Aspin	Edwards (AL)	Hoyer
Barnes	Edwards (CA)	Hyde
Bedell	Erlenborn	Jacobs
Beilenson	Ertel	Jeffords
Benjamin	Evans (DE)	Kastenmeier
Bingham	Evans (IN)	Kildee
Blanchard	Fazio	Kogovsek
Boland	Fenwick	LaFalce
Bonior	Ferraro	Leach
Brodhead	Fish	Leland
Brown (CA)	Foglietta	Lowry
Burton, John	Foley	Markey
Burton, Phillip	Ford (MI)	Marks
Chisholm	Ford (TN)	Matsui
Clay	Frank	Mavroules
Collins (IL)	Garcia	Mazzoli
Conte	Gejdenson	McHugh
Coughlin	Gephardt	McKinney
Coyne, William	Gilman	Mikulski
Crockett	Glickman	Miller (CA)
Danielson	Gonzalez	Mineta
Daschle	Gradison	Mitchell (MD)
de la Garza	Green	Moakley
Dellums	Guarini	Nowak
Dixon	Hamilton	Oakar
Downey	Harkin	Oberstar
Dunn	Heckler	Obey
Dwyer	Heftel	Ottinger
Dymally	Hertel	Panetta

Patterson	Roybal	Stokes
Pease	Sabo	Studds
Peyser	Sawyer	Swift
Pickle	Scheuer	Synar
Pritchard	Schneider	Vento
Pursell	Schroeder	Volkmer
Rahall	Schumer	Walgren
Railsback	Seiberling	Washington
Rangel	Sensenbrenner	Waxman
Ratchford	Shamansky	Weaver
Reuss	Shannon	Weiss
Richmond	Simon	Williams (MT)
Rodino	Smith (NJ)	Wirth
Rosenthal	Solarz	Wolpe
Rostenkowski	St Germain	Yates
Roth	Stark	Zablocki

NOES—262

Akaka	Evans (IA)	Marriott
Albosta	Fary	Martin (IL)
Alexander	Fascell	Martin (NC)
Andrews	Fiedler	Martin (NY)
Annunzio	Fields	Mattox
Anthony	Findley	McClory
Applegate	Fithian	McCloskey
Archer	Flippo	McCollum
Atkinson	Forsythe	McCurdy
AuCoin	Fountain	McDade
Bafalis	Fowler	McDonald
Bailey (MO)	Frost	McEwen
Bailey (PA)	Fuqua	McGrath
Barnard	Gaydos	Mica
Beard	Gibbons	Michel
Benedict	Gingrich	Miller (OH)
Bennett	Ginn	Minish
Bereuter	Goldwater	Mitchell (NY)
Bethune	Goodling	Montgomery
Bevill	Gore	Moore
Biaggi	Gramm	Moorhead
Bliley	Gregg	Morrison
Boggs	Grisham	Mottl
Bonker	Gunderson	Murphy
Bouquard	Hagedorn	Murtha
Bowen	Hall (OH)	Myers
Brinkley	Hall, Ralph	Napier
Brooks	Hall, Sam	Natcher
Broomfield	Hammerschmidt	Neal
Brown (CO)	Hance	Nelligan
Broyhill	Hansen (ID)	Nelson
Burgener	Hansen (UT)	Nichols
Butler	Hartnett	O'Brien
Byron	Hatcher	Parris
Campbell	Hefner	Pashayan
Carman	Hendon	Patman
Carney	Hightower	Paul
Chappell	Hiler	Pepper
Cheney	Hillis	Perkins
Clausen	Holland	Petri
Clinger	Holt	Porter
Coats	Hopkins	Price
Coelho	Horton	Quillen
Coleman	Hubbard	Regula
Collins (TX)	Huckaby	Rhodes
Conable	Hughes	Rinaldo
Corcoran	Hunter	Ritter
Courter	Hutto	Roberts (KS)
Coyne, James	Ireland	Roberts (SD)
Craig	Jeffries	Robinson
Crane, Daniel	Jenkins	Roe
Crane, Philip	Johnston	Roemer
D'Amours	Jones (NC)	Rogers
Daniel, Dan	Jones (OK)	Roukema
Daniel, R. W.	Jones (TN)	Rousselot
Dannemeyer	Kazen	Rudd
Daub	Kemp	Russo
Davis	Kindness	Santini
Deckard	Kramer	Schulze
DeNardis	Lagomarsino	Sharp
Derrick	Latta	Shaw
Derwinski	Leath	Shelby
Dicks	LeBoutillier	Shumway
Dingell	Lee	Shuster
Donnelly	Lent	Siljander
Dorgan	Levitas	Skeen
Dornan	Lewis	Smith (AL)
Dreier	Loeffler	Smith (IA)
Duncan	Long (LA)	Smith (NE)
Dyson	Long (MD)	Smith (OR)
Eckart	Lott	Snowe
Edwards (OK)	Lowery	Snyder
Emerson	Lujan	Solomon
Emery	Lundine	Spence
English	Lungren	Stangeland
Erdahl	Madigan	Stanton
Evans (GA)	Marlenee	Staton
Stenholm	Wampler	Wolf
Stratton	Watkins	Wortley
Stump	Weber (MN)	Wright
Tauke	Weber (OH)	Wyden
Tauzin	White	Wylie
Taylor	Whitehurst	Yatron
Traxler	Whitley	Young (AK)
Trible	Whittaker	Young (FL)
Udall	Whitten	Young (MO)
Vander Jagt	Williams (OH)	
Walker	Winn	

NOT VOTING—28

Addabbo	Dougherty	Molinari
Badham	Florio	Mollohan
Bolling	Frenzel	Rose
Boner	Gray	Savage
Breaux	Hawkins	Skelton
Brown (OH)	Lantos	Thomas
Chappie	Lehman	Wilson
Conyers	Livingston	Zeferetti
Cotter	Luken	
Dickinson	Moffett	

The Clerk announced the following pairs:

On this vote:

Mr. Mollohan for, with Mr. Badham against.

Mr. Hawkins for, with Mr. Chappie against.

Mr. Moffett for, with Mr. Dickinson against.

Mr. Lehman for, with Mr. Livingston against.

Mr. Gray for, with Mr. Thomas against.

Ms. MIKULSKI, Messrs. McKINNEY, MATSUI, FOLEY, VOLKMER, and GLICKMAN changed their votes from "no" to "aye."

Mr. GRAMM changed his vote from "aye" to "no."

So the amendment to the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1545

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. McCOLLUM) as a substitute for the amendment offered by the gentleman from Texas (Mr. KAZEN).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. KAZEN), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there additional amendments to section 11? If not, the Clerk will read.

The Clerk read as follows:

DOCUMENTATION OF ELIGIBILITY

SEC. 12. Section 1008 of the Legal Services Corporation Act (42 U.S.C. 2996g) is amended by adding at the end thereof the following new subsection:

"(f) The Corporation shall require each recipient to maintain documentation (1) demonstrating the eligibility of each person to whom such recipient provides legal assistance, and (2) of any activity referred to in subparagraph (A) or (B) of section 1007(a)(5) of this title. The Corporation shall periodically review such documentation, in a manner that protects confidential client information, to assure compliance with this subsection and shall include in each annual report prepared pursuant to subsection (c) of this section its findings with respect to such compliance.".

AMENDMENT OFFERED BY MR. GILMAN

Mr. GILMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair would inquire if the amendment has been printed in the RECORD for 2 legislative days.

Mr. GILMAN. The amendment has been printed.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. GILMAN: On page 13, after line 8, insert the following:

SEC. . The Legal Services Corporation Act (42 U.S.C. 2996 et seq.) is amended by redesignating sections 1013 and 1014 as sections 1014 and 1015, respectively, and by inserting after section 1012 the following new section:

"CIVIL ACTIONS

"SEC. 1013. (a) The Corporation may bring an action in the appropriate district court of the United States to compel the specific performance of any agreement between the Corporation and any recipient for the provision of legal services under this title.

"(b) The Corporation or the United States may bring an action in the appropriate district court of the United States for a temporary or permanent injunction or other appropriate relief for the purposes of compelling compliance by a recipient with the provisions of this title or with any rule, regulation, or guideline promulgated pursuant to this title.

"(c) A judgment or order in an action brought under this section shall not require the interruption of the provision of legal services to any eligible client in any action pending on the date of such decision or order, unless the court explicitly so states in such decision or order. If the court does explicitly so state, it shall attempt to make equitable arrangements for the provision of legal services to any eligible client affected thereby."

Mr. GILMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Chairman, before discussing the merits of my proposed amendment to the Legal Services Corporation Act Amendments (H.R. 3480), I would like to say just a few words about the bill in general and my past activities concerning the Legal Services Corporation. I also wish to express my appreciation to the members of the Subcommittee on Courts, Civil Liberties and the Administration of Justice, for their cooperation in our mutual efforts to strengthen and reform this measure.

Mr. Chairman, I support the concept of legal services to the indigent and while my constituents have encoun-

tered some difficulties with the performance of the Legal Services Corporation's grantee in my congressional district, the Mid-Hudson Legal Services, Inc., I am also aware that they have fulfilled a substantial role in providing access to the legal system for my region's indigent population.

There have been difficulties, indeed, at all levels of the Corporation and in many parts of the country, but I think that the appropriate response for this House would be to make the necessary corrections in the program while we have this opportunity before us. The President will, as we know, have a subsequent opportunity to appoint all 11 members of the LSC Board. Moreover, the personnel of the Corporation who are unwilling to carry out the wishes of the new Board can be replaced.

Many significant reforms have been made in this legislation by the Committee on the Judiciary: Provisions have been added limiting the local grantees' ability to receive attorneys' fees; providing standards enabling the awarding of attorneys' fees against the Corporation if a local grantee acts improperly; providing for negotiation, in most instances, before the filing of any lawsuit; increasing the representation of the organized bar on local boards of directors, and the like. With these improvements, I believe that the new legislation deserves a chance to work.

Turning to the amendment that I am now offering, I want to inform my colleagues that this is not precisely the same amendment I referred to in my "Dear Colleague" letter, although it was fully noticed in the CONGRESSIONAL RECORD.

This amendment would permit the Corporation to sue its grantees to insure the specific performance of its grant agreements with them. Currently, if a grantee decides that it would rather not obey a lawful request by the central Corporation, it can simply "resign" or threaten to "resign"—thus presenting the Corporation with a dilemma—whether or not to call the grantee's bluff.

The amendment would permit the Corporation or the United States to sue a grantee and obtain an injunction or other order to compel its compliance with the Legal Services Corporation Act and lawful regulations promulgated under that act. The amendment specifies that such an order would not interrupt the grantee's representation of an eligible client unless the court so specifies.

Under current law, while we appropriate extensive public funds to the Corporation and its grantees, no party committed to acting in the public interest, outside of the Corporation's structure, has the right to insist that the law be obeyed. Neither does the Corporation itself have the clearly established right to attempt to enjoin illegal behavior by one of its grant recipients.

Congress has previously established a precedent for such a remedy in providing for suits by the Attorney General to enforce the laws governing other quasi-governmental bodies, such as the Synfuels Corporation and Comsat.

Initially, in the consideration of this measure, I had thought that it would be appropriate to involve the States' attorneys general in this process of helping to enforce the LSC Act. But, after consultations with the sponsors of this bill, I have withdrawn that proposal for the time being.

Mr. Chairman, I believe that the Legal Services Corporation deserves another chance. I think that under the direction of a Board comprised entirely by appointees of President Ronald Reagan, with the extensive new tools we are giving the Corporation—including, with my amendment, the Federal Government as well—and with the new restrictions imposed upon the Corporation, we can expect an improved work product by the LSC and its grantees. If this experiment fails, then it will be virtually impossible for many of us to support reauthorization of this bill in the future.

Permit me to restate for my colleagues some of the new restrictions that are now included in this bill.

The new restrictions include:

First, establishment of criminal penalties for lobbying.

Second, no dissemination of information is allowed advocating or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, or demonstrations.

Third, no class action suits may be brought against governmental entities except in accordance with regulations to be adopted by the LSC Board which will be appointed by President Reagan.

Fourth, documentation must be maintained on the eligibility of clients, subject to regular review, and on all activities relating to legislative and administrative representation.

Fifth, new sanctions are permitted in case of any violation of the act—including suspension or termination of an employee or a local program by the President of LSC.

Sixth, new requirements for negotiation of disputes prior to filing of lawsuits are instituted.

Seventh, incentives to local programs to engage in lawsuits for the purpose of winning attorney fee awards are eliminated.

Eighth, it is made easier for persons against whom unsuccessful lawsuits are brought to recover the cost of their defense from the Corporation.

In summary, Mr. Chairman, the bill as reported, and as amended, makes important substantive changes in this program. I urge support of the amendment that I am offering at this time and if adopted, support for the entire bill.

Mr. Chairman, I understand that this amendment is acceptable to both sides of the aisle.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the gentleman.

Mr. RAILSBACK. Mr. Chairman, as the gentleman knows, we have had a chance on this side to carefully review this amendment.

What it does is really strengthens the enforcement power to make certain that the legal aid recipient is going to be in compliance.

We think that it improves the bill and we are pleased to accept it.

Mr. GILMAN. Mr. Chairman, I thank the distinguished ranking member (Mr. RAILSBACK) for his comments, for his support of my amendment and for helping to strengthen the bill in this manner.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman from New York yield?

Mr. GILMAN. I would be pleased to yield to the distinguished subcommittee chairman.

Mr. KASTENMEIER. Mr. Chairman, I, too, have examined this amendment. While at the outset I had wondered whether it was necessary, I do agree that it certainly does not harm the bill and does give the Corporation additional remedies to pursue to seek compliance. In that respect, the amendment is useful and I compliment the gentleman for it.

Mr. GILMAN. I thank our distinguished chairman for his support and I welcome his comments.

Mr. Chairman, I would just like to note that Congress had previously provided a precedent for such lawsuits by the Attorney General to enforce the laws governing other quasi-governmental bodies, such as Synfuels and Comsat.

I urge my colleagues to support this proposal for I believe it will ultimately help to strengthen the Legal Services measure.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. GILMAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair would inquire if the amendment has been printed in the RECORD for 2 legislative days.

Mr. SENSENBRENNER. It has been, in compliance with the rule, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. SENSENBRENNER: Page 13, insert the following section after line 2 and redesignate succeeding sections accordingly:

AUDITS

SEC. 13. Section 1009 of the Legal Services Corporation Act (42 U.S.C. 2996h) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) The Comptroller General and the General Accounting Office shall have the same authorities with respect to conducting audits of the Corporation as the Comptroller General and the General Accounting Office have with respect to conducting audits of all departments and agencies of the United States, including the authority to settle and adjust the accounts of the Corporation.".

Mr. SENSENBRENNER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Chairman, in order to correct a typographical error in the printing of the amendment in the RECORD, I ask unanimous consent that the amendment be inserted following line 8 on page 13, rather than following line 2, as printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The amendment, as modifed, reads as follows:

Amendment offered by Mr. SENSENBRENNER: Page 13, insert the following section after line 8 and redesignate succeeding sections accordingly:

AUDITS

SEC. 13. Section 1009 of the Legal Services Corporation Act (42 U.S.C. 2996h) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) The Comptroller General and the General Accounting Office shall have the same authorities with respect to conducting audits of the Corporation as the Comptroller General and the General Accounting Office have with respect to conducting audits of all departments and agencies of the United States, including the authority to settle and adjust the accounts of the Corporation.".

Mr. SENSENBRENNER. Mr. Chairman, this amendment gives the Comptroller General the authority to settle the accounts of the Legal Services Corporation, like the Comptroller General has over the accounts of all the departments and agencies of the Federal Government. At the present time, the Comptroller General does not have this authority; so if the Legal Services Corporation expends appropriated funds in violation of either the authorization or the appropriation statute, there is nothing that the Comptroller General can do to recover those funds for the U.S. Treasury.

I believe that the Legal Services Corporation should be placed under the same authority as the Comptroller General, as the other departments and agencies of the Government. Therefore, this amendment is necessary.

Mr. KASTENMEIER. Mr. Chairman, would the gentleman from Wisconsin yield?

Mr. SENSENBRENNER. I yield to my colleague, the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, we have reviewed the amendment on this side.

While I know the Corporation itself does not appreciate the amendment, I think the committee feels that in view of some of the issues raised in the past that it would be useful for the purpose of insuring that the Corporation do adhere to the spirit of the law as we have written it. This amendment does enable the GAO to have perhaps unprecedented but effective powers in compelling clients.

□ 1600

Mr. SENSENBRENNER. I thank my colleague from Wisconsin for his support.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to my colleague from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. I want to also commend the gentleman from Wisconsin (Mr. SENSENBRENNER). I would say we have had a chance to review the amendment and it is acceptable to us.

Mr. SENSENBRENNER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER), as modified.

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. PHILIP M. CRANE

Mr. PHILIP M. CRANE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair would inquire of the gentleman if the amendment has been printed in the RECORD for 2 legislative days?

Mr. PHILIP M. CRANE. Mr. Chairman, it has.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. PHILIP M. CRANE: On page 13, line 8, strike the period and replace it with the following: ", except that nothing in this Title shall be construed to allow a recipient to represent anyone other than an otherwise eligible individual person.".

Mr. PHILIP M. CRANE. Mr. Chairman, I ask unanimous consent that my amendment be modified consistent with the proposals made by my minority representative on the committee, the gentleman from Illinois (Mr. RAILSBACK).

The CHAIRMAN. The gentleman offering the amendment would have to submit some written verification.

Mr. PHILIP M. CRANE. Mr. Chairman, there is a copy of the committee's amendment of my amendment at the desk.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Amendment, as modified offered by PHILIP M. CRANE: On page 13, line 8, add the following sentence after "compliance.":

"The Corporation shall insure that representation of any person, group, or entity is limited to those persons financially eligible pursuant to section 1007(a)(2) of the Legal Services Corporation Act."

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois (Mr. PHILIP M. CRANE) to modify his amendment?

Mr. RAILSBACK. Mr. Chairman, reserving the right to object, as I understand it the gentleman has just asked unanimous consent to modify his amendment so that a group can be represented as long as all of the members of that group are eligible clients?

Mr. PHILIP M. CRANE. Will the gentleman from Illinois yield?

Mr. RAILSBACK. I yield to the gentleman.

Mr. PHILIP M. CRANE. That is correct. A group of eligible clients would, as the gentleman has indicated, have to be comprised exclusively of persons who were all, individually, eligible.

Mr. RAILSBACK. I just want to say I think that makes a substantial improvement in the gentleman's amendment. I know what the gentleman is trying to do and I generally approve of what he is trying to do.

I have had a chance to discuss the gentleman's amendment on this side, and it is acceptable.

Mr. PHILIP M. CRANE. I thank my colleague from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois (Mr. PHILIP M. CRANE) to modify his amendment?

There was no objection.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. PHILIP M. CRANE. I am happy to yield to my distinguished colleague from my sister State of Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. I thank the gentleman from Illinois. I have had a chance to examine the language which he and his colleague from Illinois (Mr. RAILSBACK) have worked out. I believe the language answers the reservations I might have previously had and, ac-

cordingly, I do support the gentleman's amendment.

Mr. PHILIP M. CRANE. Mr. Chairman, I thank the gentleman for that. In the interest of expediting business so hopefully we will finish the bill before the day is out, let me just assure my colleagues that my amendment did appear in the RECORD and the majority and minority on the committee have agreed with the content of it.

The objective is to address the original concerns for which the Legal Services Corporation when it was created; namely, serving the interests of the poor. And with the modifications made by my good friend and colleague from Illinois (Mr. RAILSBACK) I think it does that. It is in the interests of addressing the objectives of the original legislation and at the same time trying to save taxpayers' money.

I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. PHILIP M. CRANE) as modified.

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. KRAMER

Mr. KRAMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair will inquire if the amendment has been printed in the RECORD for 2 legislative days?

Mr. KRAMER. It has, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. KRAMER: Page 13, insert the following after line 8 and redesignate succeeding sections accordingly:

BUDGET REVIEW

SEC. 13. (a) Section 1005(e) of the Legal Services Corporation Act (42 U.S.C. 2996d(e)) is amended in paragraph (1)—

(1) by striking out "(1)"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof the following: ", except that the President and the Office of Management and Budget shall have the same authorities with respect to the review and submission of the budget of the Corporation as the President and Office of Management and Budget have with respect to review and submission of the budgets of all departments and agencies of the Government, including the authority regarding rescission of budget authority and deferrals of budget authority provided in sections 1012 and 1013, respectively, of the Congressional Budget and Impoundment Control Act of 1974 (31 U.S.C. 1402 and 1403)."

(b) Such section is further amended by striking out paragraph (2).

Mr. KRAMER. Mr. Chairman, I ask unanimous consent to delete from the amendment as read that part that follows the comma in paragraph (2) following the word "Government" and starting with the word "including" through the end of that sentence to the period.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado (Mr. KRAMER) to modify his amendment?

Mr. RAILSBACK. Mr. Chairman, reserving the right to object, am I correct that the gentleman has now asked unanimous consent to remove that language regarding the rescission of budget authority and deferrals of budget authority provided in sections 1012 and 1013 respectively of the Congressional Budget and Impoundment Control Act of 1974?

Mr. KRAMER. Will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Colorado.

Mr. KRAMER. Yes. I am asking unanimous consent to delete that language. It does not extend to subparagraph (b). It ends with 1403, the parenthetical, period, quote.

Mr. RAILSBACK. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado (Mr. KRAMER) to modify his amendment?

There was no objection.

The amendment, as modified, reads as follows:

Amendment, as modified, offered by Mr. KRAMER: Page 13, insert the following after line 8 and redesignate succeeding sections accordingly:

BUDGET REVIEW

SEC. 13. (a) Section 1005(e) of the Legal Services Corporation Act (42 U.S.C. 2996d(e)) is amended in paragraph (1)—

(1) by striking out "(1)"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof the following: ", except that the President and the Office of Management and Budget shall have the same authorities with respect to the review and submission of the budget of the Corporation as the President and the Office of Management and Budget have with respect to the review and submission of the budgets of all departments and agencies of the Government."

(b) Such section is further amended by striking out paragraph (2).

Mr. KRAMER. Mr. Chairman, this is really a very simple amendment, which I hope will not be particularly controversial. What it does is simply submit the Legal Services Corporation to the regular budget process by involving the Office of Management and Budget in the budget process of the Corporation, just as the OMB currently participates in the budget processes of most governmental agencies.

Today the Corporation enjoys a very unique status. It is one of the only activities funded as either a governmental entity or a quasi-governmental entity that is able to submit its budget directly to the Congress. Even the regulatory agencies do not enjoy, for the most part, this special status.

The argument has been made that the Corporation needs to be entirely independent of OMB because of the sensitive nature of its work in dealing with the poor. We find that other activities, for example the Community Services Administration and ACTION, which are also heavily involved in programs for the poor are, nevertheless, themselves subject to this regular budget process. Even independent agencies like the Equal Employment Opportunity Commission, which require considerable independence in order to responsibly and effectively review the actions of other Federal agencies, are subject to the OMB process.

So, I do not believe the distinction between the Legal Services Corporation and these other activities is really so great as to command the continuation of a special status for the Corporation—total exemption from the regular OMB process.

Because the Corporation currently submits its annual budget to Congress independently of OMB, program priorities and emphasis are set by the LSC without regard to possible duplication of services and to agency function overlap. In other words, there is no coordination because there is no accountability to OMB. I think there is a need to coordinate Legal Services with the many other related activities and services provided by other Government programs and agencies.

There are other Federal programs that provide legal services that go through OMB, such as the Older Americans Act and title XX of the Social Security Act, that benefit from such coordination. This can certainly be improved further if, in fact, we run the Corporation through OMB as well. Greater accountability through budget negotiations would not hinder access to routine legal services by low-income people. But I do believe that it would provide a very strong handle to control some of the more controversial activities of the Corporation. We would be able to make better use of the funds that we do allocate to this Corporation.

The LSC would be required to provide truly helpful legal services to those individuals that need them, the man on the street and the woman on the street who are often, I think—and the debate has shown—shortchanged as the Corporation reads off in directions which many amendments being offered here on the floor are seeking to bring into control.

Let me also give my colleagues some examples of the budgetary impact. In 1965, the Office of Legal Services was started in the Office of Economic Opportunity with a budget of $1,300,000. By fiscal year 1980 that budget was $300 million, or a 23,000-percent increase.

If my colleagues compare the history of the Corporation with that of all of the other programs under function 750 of the budget, I think they will see

some very startling differences, which point up the need for having the OMB involved in this budgetary process.

Let us compare the LSC to the FBI and the Drug Enforcement Administration. For fiscal year 1980, the DEA had outlays of $200 million, $100 million less than the LSC. In the same year, the LSC spent $300 million, exactly half of the $600 million in outlays of the FBI in fiscal year 1980.

These figures show, I believe, a highly misplaced set of priorities.

Let us look at the budget growth for a minute between the LSC, FBI, and DEA. Both the DEA and the FBI are subject to OMB. In the 5 years between 1976 and 1981, the last years for which figures are available, the DEA's budget increased 100 percent. The FBI's budget increased 20 percent. But, the LSC budget went from $100 million to $300 million, a 200-percent increase, 10 times the rate of increase for the FBI.

The CHAIRMAN. The time of the gentleman from Colorado has expired.

(By unanimous consent Mr. KRAMER was allowed to proceed for 1 additional minute.)

Mr. KRAMER. I would say if my colleagues compare this to the other programs in the function, which I have not mentioned, like the Immigration and Naturalization Service, the Customs Service, Judiciary, LEAA, Federal prison system, and the others, they will find that even the highest percentage of increase—which was the Judiciary's 100 percent—amounts to no more than one-half of the percentage increase that the LSC enjoyed, the only activity not subject to OMB.

I would submit that one of the reasons for the phenomenal growth in the Corporation's budget is the fact that it simply has not been annually reviewed in a meaningful way by the Office of Management and Budget.

We are not opposed to legal aid to the poor. What I think we need is to continue to keep our priorities straight and if we can get some control and some handle on the budget process of the Corporation, I think we will be taking an important step toward remedying the abuses that we have heard about on the floor and getting this newly structured Corporation off to a much better start so that it can be accountable not only to the American taxpayer, but better accountable to the poor American man and woman that the Corporation was set up to serve in the first place.

□ 1615

Mr. FRANK. Mr. Chairman, I move to strike the last word, and I rise to speak against the amendment.

Mr. Chairman, in the first place, I appreciate the gentleman's request that we strike the language giving OMB and the President rescission and deferral authority. But it seems to me that the only thing stricken is the language; he does not strike the authority. So the way this is presented, there is in this amendment a decision to confer on the executive branch rescission and deferral authority under the Budget Act, because striking the language does not change what you do; it just changes how explicit you are in how you do it. But it does it quietly, so we have this situation. In the first place, to argue that absent OMB control, there is no real control over the Legal Services Corporation is a tremendous denial of reality. We have spent 3 full days, very full days, looking at every single aspect of the Corporation. How anyone could have spent 3 days in this House this week and then argue that we need the OMB because otherwise this will just grow without being watched, I do not understand. There has been a very thorough scrutiny by the Congress, and that is appropriate.

The committee, of course, has proposed reducing the authorization. An amendment will be offered by the gentleman from Missouri filed in the RECORD to further reduce it. So the argument that we need the OMB to deal with the money is obviously wrong. There is no reason to submit it to OMB. We submit it to GAO. It will be subjected to GAO's rules. It will be subjected to the most intense, painful scrutiny.

I suspect at least a majority of the Members have said to me, "Look, guys, please knock it off." No one can claim that we have underexamined this program.

What we have got is not a regular agency. With the restrictions, we have a group of lawyers whose job it is to represent poor people, sometimes in an adversarial role against the Government. That is what is unique about this agency. They might have to fight the Social Security Administration to get someone on disability. They might have to fight the housing authority in their proper role. To pursue these individual cases, they may have to aggravate some Federal official. It may be a violation in some cases of a legal, ethical duty not to take the case.

What this would do is give the power to the OMB to freeze the whole operation by rescission or deferral.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding.

I really agree with what the gentleman has said, and I would like to point out that when the Legal Services Corporation was first constituted, it was by design that we specifically did not give OMB the review authority. The reason was, frankly, there were concerns about the independence of the Legal Services Corporation.

Second, we knew that they would have to go through the authorization process as well as the appropriations process. I think the members, by the way, of the Appropriations Subcommittee have done a very good job. The reason for the escalation has been we started out with the goal of trying to assure a minimum access to lawyers per 10,000 people all over the country. We have finally reached that goal at the $321 million level, discounting inflation.

Mr. FRANK. If I can reclaim my time, my recollection is from earlier hearings that the impetus for growth really came from Members of Congress, not from members of the Legal Services Corporation, and that it was the Members of Congress who felt their own areas were not well served, who made the pressure for that minimum access level.

Mr. RAILSBACK. I will agree with what the gentleman has said. I believe that the gentleman from Colorado (Mr. KRAMER) is very sincere and is trying to be constructive. I happen to disagree that this would help particularly when we just gave GAO—an arm of Congress, the right to do what they want OMB to also be able to do. I think that would be a mistake.

Mr. FRANK. The gentleman is correct. The point is the Government has its lawyers; it has the Department of Justice; the States have their attorneys general. They have been given specific performance rights under the amendment of the gentleman from New York to compel the Legal Services Corporation and its people to behave.

So with the executive branch and the Department of Justice, and the GAO, there are plenty of controls. The question we come down to is this: these lawyers are not supposed to work for the Federal Government. By their duty in some cases, not with class actions but in individual cases, they will oppose the policy of some people in the executive branch. It does not make sense to treat them the same as any other Federal agency.

What we should do is give them independence from the executive, as well as subject them to the most intense congressional scrutiny, subjected to the GAO, subjected to suit by the Department of Justice for specific performance, for the very, very real set of restrictions we have put on them. I do not think it is the best way to conduct the program for individual lawyers to allow this total control by the executive branch.

Mr. KASTENMEIER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment. I will be very brief.

Every action this House has taken in the last several days is predicated on

the notion that the Congress is retaining the authority to operate this agency in terms of what it stands for and what laws it will abide by. Furthermore, as has been indicated, we have, through the Gilman amendment—by placing the United States in a position as well as the Corporation itself, to enforce its own laws and regulations—and through the amendment relating to the General Accounting Office, an arm of the Congress, reinforced the notion that this will remain an independent agency subject to the will of the Congress.

I think it is a rather radical change and a very great mistake to change this agency back over into the executive branch and into David Stockman's office.

President Nixon, President Ford, and President Carter all have commented on the wisdom of the independence of this organization. If we had any notion about its responsibility in terms of the Congress, we have tried over the last several days to rectify it. But as the last act to attempt to put it back into the executive branch, make it submission to David Stockman—who has not been silent with respect to this agency—and put it back into the politics of the Presidential office is a very great mistake, and I hope the House today overwhelmingly rejects the amendment. The President, however, can name the 11-person Board of Directors.

Mr. SENSENBRENNER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I believe that those who are opposed to this amendment are confusing the function of the General Accounting Office with the function of the Office of Management and Budget. The function of the General Accounting Office is basically to postaudit an agency's activities to make sure that the funds are being spent for purposes authorized by law. The function of the Office of Management and Budget, however, is to prioritize the various agencies of Government to determine how much money should be appropriated to each of those agencies for every fiscal year.

Because the Legal Services Corporation is not subject to the Office of Management and Budget, which sets its budget into the overall scheme of things in terms of putting together the comprehensive Federal budget, it is kind of an animal off by itself. I think that is a mistake.

The gentleman from Colorado (Mr. KRAMER) attempts to correct that so that the Legal Services Corporation budget will be treated just like the budgets of all of the other Federal departments and agencies. I think that is the way it ought to be.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Colorado.

Mr. KRAMER. I appreciate the remarks of the gentleman from Wisconsin. Let me just ask, what, if anything, should be excluded in the OMB process? It seems to me that had the Legal Services Corporation been subject to the Office of Management and Budget since its inception, we would not have to take 2 or 3 days debating this very controversial reauthorization with the future of this Corporation still in doubt. The Corporation has become a candidate for elimination from existence and in this light, it certainly seems to me that the Corporation ought to be the first candidate, not the last, to be included in the OMB process.

Look at the growth of the Corporation. Look at the priorities that the Corporation has had during the last 5 years. If we are truly interested in getting a handle on this Corporation, in making it accountable to the American taxpayer, how can we totally exclude it from the normal budget process? Let us examine, in some specificity, what the true impact of including the Legal Services Corporation in the OMB process is.

The Congress will determine the authorization and appropriation levels, not the Office of Management and Budget. Under the Congressional Budget Impoundment and Control Act, if administration says, let us rescind x number of dollars, it cannot do that without the approval of Congress. Every rescission that is recommended by the President and the OMB must be approved by this body or it is absolutely null and void.

So how totalitarian are the restrictions we are placing on the Corporation by including it within the purview of OMB? We are simply making the Corporation accountable, and that is what this vote is all about. Do we or do we not want the Legal Services Corporation to be accountable to the American taxpayer?

Mr. SENSENBRENNER. I thank the gentleman from Colorado for his very excellent statement. I would just point out that it is this Congress that determines what the final appropriations will be for every Government agency, including the Legal Services Corporation. The Office of Management and Budget merely makes recommendations to the President who in turn makes recommendations to the Congress. So I do not see that giving the OMB some oversight over the Legal Services Corporation budget is going to be all that crippling to the Corporation's activities.

If the Office of Management and Budget makes a mistake, this Congress can correct that mistake. But I think that in terms of setting the priorities for the various governmental departments and agencies, the Legal Services Corporation ought to stand in line with all the rest of those Government departments and agencies. It should not be an animal to itself. It should not maintain its uniqueness, but it should have its budget reviewed like everybody else's budget.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Massachusetts.

Mr. FRANK. I thank the gentleman for yielding.

I forgot to mention that this amendment carries with it, despite the cosmetic cross-out, the right to rescind and defer. It is not simply a matter of oversight; it is a matter of rescinding and deferring.

Mr. SENSENBRENNER. I will reclaim my time.

The final decision on rescissions and deferrals is made by the Congress, not by the Office of Management and Budget.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. KRAMER), as modified.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. KRAMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 185, noes 210, not voting 36, as follows:

[Roll No. 89]

AYES—185

Archer	Dougherty	Hunter
Ashbrook	Dreier	Hutto
Bafalis	Duncan	Hyde
Bailey (MO)	Dunn	Ireland
Barnard	Edwards (AL)	Jeffries
Beard	Edwards (OK)	Jenkins
Benedict	Emerson	Johnston
Bereuter	Emery	Kemp
Bethune	English	Kindness
Bevill	Erlenborn	Kramer
Bliley	Evans (DE)	Lagomarsino
Bouquard	Evans (IA)	Latta
Brinkley	Fiedler	Leath
Broomfield	Fields	LeBoutillier
Brown (CO)	Findley	Lee
Broyhill	Forsythe	Lent
Burgener	Fuqua	Lewis
Butler	Gingrich	Loeffler
Campbell	Ginn	Lott
Carman	Goodling	Lowery
Carney	Gradison	Lungren
Cheney	Gramm	Madigan
Clausen	Gregg	Marriott
Clinger	Grisham	Martin (IL)
Coats	Gunderson	Martin (NC)
Coleman	Hall, Ralph	Martin (NY)
Collins (TX)	Hall, Sam	McClory
Conable	Hammerschmidt	McCollum
Corcoran	Hance	McDonald
Coughlin	Hansen (ID)	McEwen
Courter	Hartnett	McGrath
Coyne, James	Hefner	Mica
Craig	Heftel	Michel
Crane, Daniel	Hendon	Miller (OH)
Crane, Philip	Hightower	Montgomery
Daniel, Dan	Hiler	Moore
Daniel, R. W.	Hillis	Moorhead
Dannemeyer	Holland	Morrison
Daub	Holt	Mottl
Davis	Hopkins	Myers
Derwinski	Horton	Napier
Dornan	Huckaby	Nelligan

Nichols	Sensenbrenner	Tauke
Parris	Shaw	Taylor
Pashayan	Shelby	Trible
Patman	Shumway	Vander Jagt
Paul	Shuster	Walker
Petri	Siljander	Wampler
Porter	Skeen	Watkins
Quillen	Smith (AL)	Weber (MN)
Regula	Smith (NE)	Weber (OH)
Rhodes	Smith (NJ)	White
Ritter	Smith (OR)	Whitehurst
Roberts (KS)	Snowe	Whitley
Roberts (SD)	Snyder	Whittaker
Robinson	Solomon	Winn
Roemer	Spence	Wolf
Rogers	Stangeland	Wortley
Roth	Stanton	Wylie
Rousselot	Staton	Yatron
Santini	Stenholm	Young (FL)
Schulze	Stump	

NOES—210

Addabbo	Fithian	Nelson
Akaka	Flippo	Nowak
Albosta	Foglietta	O'Brien
Alexander	Foley	Oakar
Anderson	Ford (MI)	Oberstar
Andrews	Ford (TN)	Obey
Annunzio	Fountain	Ottinger
Anthony	Fowler	Panetta
Applegate	Frank	Patterson
Aspin	Frost	Pease
Atkinson	Garcia	Perkins
AuCoin	Gaydos	Pickle
Bailey (PA)	Gejdenson	Price
Barnes	Gephardt	Pritchard
Bedell	Gibbons	Pursell
Beilenson	Gilman	Rahall
Benjamin	Glickman	Railsback
Bennett	Gonzalez	Rangel
Biaggi	Gore	Ratchford
Bingham	Green	Reuss
Blanchard	Guarini	Rinaldo
Boggs	Hagedorn	Rodino
Boland	Hall (OH)	Roe
Bolling	Hamilton	Rosenthal
Bonior	Harkin	Rostenkowski
Bonker	Hatcher	Roukema
Bowen	Heckler	Roybal
Brodhead	Hertel	Russo
Brooks	Hollenbeck	Sabo
Brown (CA)	Howard	Sawyer
Burton, John	Hoyer	Scheuer
Burton, Phillip	Hubbard	Schneider
Byron	Hughes	Schroeder
Chappell	Jacobs	Schumer
Clay	Jeffords	Seiberling
Coelho	Jones (NC)	Shamansky
Collins (IL)	Jones (OK)	Shannon
Conte	Jones (TN)	Sharp
Coyne, William	Kastenmeier	Simon
Crockett	Kazen	Smith (IA)
D'Amours	Kildee	Solarz
Danielson	LaFalce	St Germain
Daschle	Leach	Stark
de la Garza	Leland	Stokes
Deckard	Levitas	Stratton
Dellums	Long (LA)	Studds
DeNardis	Long (MD)	Swift
Derrick	Lowry	Synar
Dicks	Lujan	Tauzin
Dingell	Lundine	Traxler
Dixon	Markey	Udall
Donnelly	Marks	Vento
Dorgan	Marlenee	Volkmer
Downey	Matsui	Walgren
Dwyer	Mattox	Washington
Dymally	Mavroules	Waxman
Dyson	Mazzoli	Weaver
Early	McCloskey	Weiss
Eckart	McCurdy	Whitten
Edgar	McHugh	Williams (MT)
Edwards (CA)	McKinney	Williams (OH)
Erdahl	Mikulski	Wilson
Ertel	Miller (CA)	Wirth
Evans (IN)	Mineta	Wolpe
Fary	Minish	Wright
Fascell	Mitchell (MD)	Wyden
Fazio	Murphy	Yates
Fenwick	Murtha	Young (MO)
Ferraro	Natcher	Zablocki
Fish	Neal	

NOT VOTING—36

Badham	Boner	Breaux
Brown (OH)	Hansen (UT)	Molinari
Chappie	Hawkins	Mollohan
Chisholm	Kogovsek	Peyser
Conyers	Lantos	Richmond
Cotter	Lehman	Rose
Dickinson	Livingston	Rudd
Evans (GA)	Luken	Savage
Florio	McDade	Skelton
Frenzel	Mitchell (NY)	Thomas
Goldwater	Moakley	Young (AK)
Gray	Moffett	Zeferetti

□ 1630

Mr. ANDREWS and Mr. RINALDO changed their votes from "aye" to "no."

Mr. MARRIOTT and Mr. ROEMER changed their votes from "no" to "aye."

So the amendment, as modified, was rejected.

The result of the vote was announced as above recorded.

□ 1645

The CHAIRMAN. Are there additional amendments at this point in the bill?

Mr. KINDNESS. Mr. Chairman, I move to strike the last word and the preceding comma.

Mr. Chairman, 2 days ago I stood in this well and expressed the concern which is shared, I believe, by a number of our colleagues to the effect that there is not really an adequate provision in the administration's proposal for the treatment of legal services as a part of the social services block grant approach to funding.

There was, as we all know, a number of programs to be folded into a social services block grant.

Then complaints were heard that Legal Services Corporation was proposed to be done away with and there would then be no provision for legal services for the poor. It was said, I understand in behalf of the administration, that yes, we would agree that the social services block grant funds could also be used for legal services for the poor, but there was no change in the figure attributable to those social services in that block grant program.

I understand that with diligent effort and discussion and negotiation that has been going on, there has been an agreement arrived at as to what the position of the administration will be, and is, with regard to that block grant for social services. In fact, there is $100 million allowable under the budget resolution which can be put into that block grant program so that legal services at the State level would not face the argument that the Congress and the administration really did not intend to include any money for legal services and therefore the State allocation would not include any.

I have talked to a number of our colleagues who have the same concern that we really do not want to see the authorization for Legal Services Corporation pass, but we do not want to see all Federal assistance for Legal Services for the poor to end.

For that reason, I ask for this time in order to engage in a colloquy with those who are involved in this concern and the minority whip, the gentleman from Mississippi (Mr. LOTT) is available, I believe, to participate to assure those who, like myself, would rather see this handled through a block grant approach.

Mr. McCLORY. Mr Chairman, will the gentleman yield?

Mr. KINDNESS. I would like to yield first, if I may, to the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. I thank the gentleman for yielding.

I would like to say that I certainly share the gentleman's feeling that this program should go in the block grant procedure. The gentleman and others here on the floor have indicated again and again that they are for legal services for the poor, but the block grant approach would provide that opportunity.

I have with me now a letter from the Director of the OMB, Dave Stockman, assuring me—and I can assure the House—that legal services would be included in the social services block grant and not just to have that program put in there and no money. He also has assured me that there would be $100 million to be included in the social services block grant.

So, I hope that at the appropriate time that the House will be given an opportunity to vote on this issue and I would certainly support such a move. But $100 million would be included in the social services block grant.

Mr. KINDNESS. The gentleman from Mississippi and I both realize that of course the legislative process has to work its will and we are not talking about some certainty, but we are talking about a certainty with respect to the position of the administration.

Mr. LOTT. That is correct and the leadership on this side of the aisle.

Mr. KINDNESS. The gentleman from Pennsylvania has expressed a concern in this regard.

I yield to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. I thank the gentleman for yielding.

I think it is important to recognize that we have established two things at this time with respect to legal services and the block grant. First of all, it has status under the social services block grant which means it is a fully authorizable activity at the State level.

Second, because of the decision of the OMB and the administration, we have put $100 million into the social service block grants with the idea that that would help fund legal services.

Now I think it is important also to recognize that the administration has

said in addition that if the program is reauthorized in this form it is going to be vetoed.

Therefore, it seems to me that some people who favor legal services ought to take a look at the opportunity to have legal services funded.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. KINDNESS) has expired.

(At the request of Mr. WALKER and by unanimous consent, Mr. KINDNESS was allowed to proceed for 4 additional minutes.)

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

I think it is important, given the possibilities of veto, to recognize that under the block grant approach, which is not a fiscal approach, it is an administrative approach, you would have an opportunity for legal services programs which are working well at the local level to be continued and not face the threat of a zero funding should that veto be sustained.

So, in large part, the block grant proposal which will be offered on the floor does give an opportunity for those of us who believe in legal services at the local level to see those programs continued but continued under a local authority.

I thank the gentleman for taking this time so that we can assure people that the block grant is real. It is being supported by the administration. It has money in it and it is the kind of thing that we can assure will bring about continued legal services for the poor.

Mr. KINDNESS. Will the gentleman concur that in the event that the block grant programs were to pass, for social services, with legal services included, that there would not be a limitation by any means of the State amount attributable to the $100 million for legal services, in fact, there would be a possibility or the potential of more?

Mr. WALKER. If the gentleman will yield further, I would say that the gentleman has just made one of the most important points. We have heard the proponents on the floor arguing for a couple of days how valuable this program is.

Yet, the funding that was coming out of the committee is limited funding.

Under the block grant approach, if this is one of the more important programs for poor people, it can be funded up to the full level of the block grant, if that were the choice of the States and localities. That is $3.9 billion.

Now no one expects it would get that much money, but the chances for getting more money than would be available under the authorization are substantial. So, therefore, I think the gentleman's point is very, very much appreciated because that is exactly the thing that the block grant allows, the kinds of flexibility to administer this program and allow it more money if it merits it.

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Arkansas.

Mr. BETHUNE. I thank the gentleman for yielding.

I heard the gentleman's statement in the well the other day and I thought it was very accurate. I think there is a very important point to be made here and that is that of all the debate we have heard over the last 3 days, we have learned in some districts it seems to work well and in some districts it does not seem to work well.

In my district, it seems to work reasonably well and I would like to see it continued, but I do not want to impress my will on other Members from across the country who do not think the program works well in their district. I am interested in getting some funds so that our operation in central Arkansas particularly can continue.

It occurs to me that the political reality is—and I have checked with people from the entire hierarchy at the administration—that the reality is the President will veto the bill upon the advice of all the senior staff if indeed the authorization measures passes which means there will be zero dollars for the central Arkansas legal services and the good work they are doing.

It occurs to me, the practical, political thing to do here, the reality of life is that we should go with this block grant approach. There will be additional money put into the block and as the gentleman from Pennsylvania so eloquently stated, there would be no limitation on the amount they could get from the block if the State wanted to give it to them.

I thank the gentleman for assisting me in working this out.

Mr. KINDNESS. The gentleman from Illinois (Mr. MCCLORY) will be offering a motion to recommit at a later time at the conclusion of the work of the Committee of the Whole.

The gentleman from Illinois (Mr. MCCLORY) might care to explain a bit about what that motion would be.

I would yield to the gentleman for that purpose if he desires.

Mr. MCCLORY. I thank the gentleman for yielding.

At the appropriate time, I will be offering a motion to recommit with instructions in the expectation that a bill would be reported back embodying a block grant program to provide legal services without limitation as to amount except for the appropriation for the social services block grant program.

I do have assurance, as the gentleman stated, that the administration is in support of that, in support of funding it and including it within the overall social service block grant program.

I thank the gentleman for his explanation.

Mr. SAWYER. Mr. Chairman, I move to strike the last word.

Well, it is kind of interesting that at the last hour, this campaign now emerges on the floor with this $100 million bait. I may say I have talked any number of times with Dave Stockman. First, they were dedicated to absolutely zeroing out this program. Now that they see some considerable support for the program building, they are willing to put another $100 million into the block grant, not for Legal Services, but just add another $100 million.

Now, bear I mind, we have 11 other programs that are bound into this block grant and they are all taking a 25-percent cut and they all have State bureaucracies in place that have been administering all those other programs.

Here we are putting a new kid on the block in there with no bureaucracy because no State has ever administered a legal agency aid program. If we put in another $100 million thrown into the block grant program, where do we think it is going to go? Certainly not to that program that has no bureaucracy in place and no constituency.

□ 1700

Also, let us just look at the bigger picture of what we do. We have one very small, very minute Federal bureaucracy, if we want to call it that, that delivers direct, without any middle men, to some 223 locally controlled, locally governed programs all over the country. What we are going to do is eliminate that small Federal bureaucracy and in turn cause the creation of 50 new State bureaucracies that do not exist today. Now, what kind of economic sense does that make?

If the States had bureaucracies in place, like they do in these other programs in the block grant, sure, it may make some sense to get rid of some Federal bureaucracy. Here, we are getting rid of a bureaucracy that cost less than 3 percent of the whole fund they are administering direct to locally controlled programs all over the country, but we immediately, if there is going to be any legal services money out of this block grant, the States have to put into place programs they administer. So, we say, "Look, we got rid of one, and now we sprouted a 50 hydra-headed creature out there, one in each State."

That does not make any sense to me. You might say you might get more than your share, but that is like saying, "Yes, I have got a bridge to sell."

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, the gentleman is right on target. The $100 million they are talking about, they have quite properly said is not even earmarked for legal aid. They come in at the very last minute. I do not happen to think that President Reagan himself knows exactly what he is going to do if we pass the Legal Services Corporation authorization. That is the information I get. I do know that some of his advisers are going to recommend—I know they are going to recommend—a veto. I was also told by David Stockman that we would have an opportunity to go down to talk the President into not vetoing it.

What the gentleman said about 50 State bureaucracies is right on target. Right now, in the case of juvenile justice, there are some States that have offices that deal with the Federal Government relating to juvenile justice. The same is true with some of the other social services. That is not true with respect to legal aid. We would literally not have anything in some States, or some States would have to create a brandnew bureaucratic apparatus.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding because I think his statement indicates that he does not understand how block grants work. Block grants do not necessarily bring about creation of bureaucracies at State level. They can be run at local levels. As the gentleman has pointed out, these programs are run at local levels. There is no reason why the State cannot pass the money through to these Legal Service offices at the local level. There is no need for individual bureaucracy.

There are full service agencies at State levels because we do recognize what the needs of the poor are. In fact, I think they can recognize better what the needs of the poor are than we can here in Washington.

So, I think the gentleman really does not understand how a block grant works if he makes the kind of statement he just made in the well.

Mr. SAWYER. The gentleman has difficulty understanding many things, but I think he does understand that one.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I would say to the gentleman that maybe one of the reasons he does not understand about block grants is that we really have not got the program in place. We do not have legislation before us, so we do not know exactly how it is going to fit into the whole program.

We do know, though, that no portion of the money is going to be earmarked for legal services. So, when it goes to my State the competition I know is going to be there. The vested interests there will compete for the money, already with a 25-percent cut out of them and the constituency developed over the years to compete for the funds. I have very real doubts about whether there will be a Legal Services program administered by my State if it is put in the block grant program.

There is a possibility with a reasonable transition period, and I would favor this. After we have had an opportunity to develop a State program, to supervise it, then maybe it would be the time for a block grant program, but to pull the rug out from under now would be wrong.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent Mr. SAWYER was allowed to proceed for 3 additional minutes.)

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Chairman, I thank the gentleman for yielding. I wish also to thank the gentleman for having an absolutely perfect analysis of what would happen here. This program would die the death of 50 bureaucracies just as surely as I am standing here.

I commend the gentleman's position. I thank him for making it, and I certainly commend it to my friends who might otherwise be tempted to vote for block grant. Do not be enamored of this new theory which has not even yet come into being. I would say the gentleman has hit it right on the head. I thank him for making his argument.

Mr. SAWYER. I may say that States have block grants on other things, and I have yet to see one that is not administered by a State bureaucracy. They do not just clip the check up into pieces and mail it out. They all have to have in place a bureaucracy.

Now, on these other programs they already have one, but in no State I am aware of has or ever has had any program administering anything that looked like a legal aid society. So, God help them if they do not get a bureaucracy because the other bureaucracies already in place are going to make up the 25-percent cuts out of that extra $100 million. If they do, they have got a new bureaucracy, so you are getting 50 new ones for one small old one, and that does not seem to me like a very good trade.

Mr. KINDNESS. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Ohio.

Mr. KINDNESS. Mr. Chairman, I thank the gentleman for yielding. I have a great deal of respect for the gentleman from Michigan's ability to analyze and deal with very complex subjects, and we work together on a lot of them, but I think we are seeing this one very differently in that there are in place the offices of attorneys general in all of the States that could serve in some cases. In other cases, one would hate to see them serve as the mechanism of the block grant moneys to be distributed.

In other States, there are other mechanisms that would be employed at the determination of the State legislature or Governor, however the block grant program is worked out. I think we are all a little bit concerned or uneasy about the uncertainty of what will occur with a block grant approach, but one thing that is rather certain is that there is not going to be a piece of legislation that gets to be law authorizing the Legal Services Corporation to continue unless this Congress overrides a veto if this bill passes both Houses. That is a kind of a more certain thing.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to my colleague from Michigan.

Mr. TRAXLER. Mr. Chairman, I thank my colleague from Michigan for yielding. The gentleman is exactly on point, and I wish to associate myself with his remarks. I think they are marvelous observations, and I commend him for them.

Mr. SAWYER. I thank the gentleman.

Mr. WALKER. Mr. Chairman, will the gentleman yield further?

Mr. SAWYER. I yield.

Mr. WALKER. I thank the gentleman for yielding, because I think perhaps it is interesting to point out in the gentleman's statement, as well as in the statement of the gentleman from Virginia, the point was made that these programs would not survive in competition with other programs.

I have heard an awful lot of statements made by the proponents of Legal Services Corporation over the last couple of days on the floor which indicate that this is a very fine program, working very well. I cannot imagine such a program, if it has that kind of merit, not surviving in competition.

Mr. SAWYER. If I may recapture my time, the reason it will not survive is because you already have big bureaucracies in place administering the other 11 programs that are going into the block grant, and other bureaucracies are already taking a 25-percent cut. Now, they would be very, very unusual bureaucracies if they did not dip into any extra money coming there, not represented or protected by any bureaucracy already in place in the State. That is the reason. It is not a question of the merit of the program vis-a-vis the merit of another program. People are very parochial about their programs, particularly bureaucrats whose jobs and those of their friends depend on the funding of their programs.

Mr. JOHNSTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have here a letter from a distinguished member of the bar from the State of North Carolina, and one of the founders of the Legal Services Corporation of North Carolina.

Now, we have an expression down there, "He who pays the piper calls the tune." I am assured that it is alive and well in its applicability to the Legal Services Corporation of North Carolina.

I would like to quote the letter at this point.

Mr. Chairman, the letter follows:

CLARK, WHARTON,
SHARP & MARAGHY,
ATTORNEYS AT LAW,
Greensboro, N.C., April 22, 1981.

Re Legal Services of North Carolina, Inc.

Mr. LAWRENCE MCN. JOHNSON,
Chairman, General Practice Committee, North Carolina Bar Association, Aberdeen, N.C.

DEAR LARRY: Thank you for inviting me to participate in the discussion of the General Practice Committee of the North Carolina Bar Association with regard to that Committee's recommendations to the Board of Governors of the Bar Association concerning the future of Legal Services of North Carolina, Inc. (LSNC). The give and take in that discussion enabled me to crystalize my own thinking with regard to LSNC and the provision of legal services to the poor in North Carolina generally.

I was on the North Carolina Bar Association Special Committee on Indigent Legal Services Delivery Systems which recommended the establishment of LSNC to the Board of Governors of the Association and was one of the drafters of the original charter and bylaws of LSNC. I have been a member of the Board of Directors of LSNC since its inception. In this letter, however, I do not purport to speak for the Board of Directors of LSNC or for any other member of that Board, and in fact other members of that Board may well be in strong disagreement with what I have to say herein. I write this letter strictly as a private citizen, albeit one who has had a better opportunity than most to observe the provision of legal services to the poor through LSNC.

At the outset let me say unequivocably that there must be some mechanism for the provision of legal services in civil matters to the truly indigent in this country. The time has past when the private bar can handle the need for these services on a pro bono basis. The question, then, is not whether there should be legal services in civil matters available to poor people, but how those services can best be rendered in a manner which is cost effective.

I am told that after our discussion your General Practice Committee voted to recommend to the Board of Governors of the Bar Association the continuation of "reasonable" funding for LSNC, provided the Act of Congress establishing the national Legal Services Corporation (LSC) was amended to prohibit recipients of federal funds (such as LSNC) from engaging in certain activities. I understand your committee also passed a resolution exhorting the private bar of North Carolina to become more involved in the affairs of LSNC in an attempt to exercise a greater degree of influence and control over its activities. Since I believe that a strong private bar is essential to the maintenance of our freedoms in this country I share your concern that the private bar maintain a substantial degree of control over a governmentally funded agency which is also in the business of rendering legal services to the public.

The purpose of this letter is to comment on two of the concerns of your committee. The first deals with the concern for control of the activities of LSNC. The second deals with the questions of "reasonable" funding.

CONTROL OF LSNC

The only really effective control over LSNC is that exerted by the corporation's Executive Director and staff. There are several reasons for this.

First, while lawyers (who do not have to be private practitioners) are required by the Act to make up 60% of the membership of the Board of Directors, the remaining 40% of the membership is chosen from persons who are or could be eligible clients of LSNC. For a number of reasons, any Executive Director of the corporation who desires to do so can influence greatly the vote of the client members of the Board. Since all lawyers never agree on anything, and quite frequently the lawyer members of the Board for one reason or another cannot attend Board meetings, it is generally a rather easy matter for the point of view of the Executive Director and staff to prevail. Obviously, this does not always have to be true, but to prevent it the lawyer Board members have to be eternally diligent. Since they have to make a living, lawyer Board members of LSNC do not have time for eternal diligence as to its affairs.

Second, any mechanism which seeks to provide a degree of control at the state level can always be overriden by federal regulations and federal bureaucrats. This was most clearly illustrated by the recent effort of the Executive Director and staff to make the composition of the lawyer members of the Board of Directors of LSNC more to their liking through a bylaw amendment. The charter of LSNC provides that the membership of that nonprofit corporation shall be the Board of Governors of the North Carolina Bar Association, and any bylaw amendment had to be approved by that Board of Governors. When the Board of Governors refused to approve the proposed by law amendment we were informed by the Executive Director of LSNC for the first time of a ruling by staff of LSC in Washington that the Board of Governors of the Bar Association could not, in compliance with LSC regulations, serve as the membership of LSNC and thus control is charter and bylaw amendments. There the matter stands at present, in a stalemate I presume. The Executive Director of LSNC stated before your General Practice Committee that the controversy over the composition of the lawyer members of the Board was a "dead" issue, and I trust that he is accurate in this. However, to my recollection (which could be wrong) no new lawyer Board members have been elected since 1978, despite a bylaw which requires an election of one-third of the Board each year. In any event, you should know that so far as the federal regulations are concerned the only power the Board of Governors of the Bar Association has with regard to LSNC is the power to appoint four of a fifteen member Board of Directors.

Third, lawyers are busy people. They do not get paid for services on the LSNC Board. And those on the Board of LSNC meet approximately once each quarter to consider matters brought before them by the Executive Director and staff. (Obviously, many matters never get brought to the Board's attention.) In the very nature of things the recommendations of staff must necessarily be followed (this is particularly true as to budgetary matters), since staff members should have the expertise and detailed knowledge to provide the guidance necessary to the Board of Directors.

By reason of all of these things it is apparent that the staff of LSNC, with the backing of the Staff of LSC in Washington, is the dominant controlling force in the operation of LSNC. With a staff of several hundred spread across the state, and a budget of nearly $7,000,000 (not counting around $2,000,000 spent on legal services offices in Winston-Salem, Charlotte and Durham), it is apparent that LSNC is a force in and of itself which will not effectively be controlled except through the political process. For this reason, if a degree of local control over legal services to the poor is deemed important, it seems to me the proposal of the Reagan administration for block grants to be administered by the states may have considerable merit. The states, so far as I know, have carried out their constitutional duty to provide legal services to indigents in criminal cases. I see no reason they could not adequately do so in civil matters.

FUNDING FOR LSNC

The other aspect of LSNC upon which I would like to comment concerns its funding. It is, in my view, inflationary and not cost effective. Funding for the current fiscal year for LSNC is close to $7,000,000, not counting Winston-Salem, Charlotte and Durham. The Board of Directors approved a budget for the central office, which does not put a single lawyer in court, of over $900,000. allocated to the Greeensboro office is a budget of over $800,000. Lesser, though substantially similar amounts, are scheduled to be spent in other major cities of the state. Thousands of dollars have been spent each year on consultants, on studies of various kinds, on financing attendance at a myriad of meetings for staff members and clients, and on the purchase of real property for LSNC offices. Salaries, to the best of my knowledge, are generally greater that can be offered by all but the larger firms in private practice and automatic increases are built in each year, not to mention the regular governmental cost of living increases. Non-lawyer salaries in the central office seem to me clearly excessive. Moreover, the

demand by the existing LSNC offices (central and field offices) is insatiable. Increases are scheduled in the budget each year for every office and despite increases every year in the amount of LSC funds sent to LSNC (present funding is over triple what is was in 1976-77), it has been difficult to get the existing offices to give up increases in order to open offices in the smaller cities and towns of the state.

I, for one, do not believe that effective legal services for poor people has to cost this much. That it does not, is best illustrated by the vastly lower cost per case to the State of North Carolina in carrying out its constitutional duty to provide counsel for indigents in criminal cases as opposed to the per case cost of the operation of LSNC. I do not have these figures at my fingertips, but the difference in cost is startling. Legal Services attorneys constantly argue that they do not have enough dollars to spend per poor person. The argument is that their budgets should be based upon the number of poor persons in the area they purport to cover—not upon the number of poor persons they actually serve.

This argument could have validity only if you concede that LSNC should be what its staff leadership apparently conceives it to be. That is a powerfully funded statewide organization whose purpose is not just to serve poor persons in specific cases, but is to bring about social changes which staff members conceive to be beneficial through education and organization of the poor community (called champerty if done by the private bar), lobbying, and political activity. If there is any doubt about whether the staff of LSNC conceives this to be its purpose, the doubter should review one of LSNC's many "studies," this one entitled "The State of the State, A Legal Services Perspective on the State of North Carolina," prepared for use at a statewide meeting of project directors, staff representatives and clients on October 30, 1979. This is a document which is not consecutively paginated, so is difficult to say how many pages it contains, but I would guess well over 2,000 typewritten 8 x 11 pages, at least two inches high. The introduction to the document indicates that it represents the "critical first step" in the strategic planning by which LSNC determines its mission, goals and objectives. It contains numerous papers in large part hostile to North Carolina and its institutions and deals primarily with called for social, political, judicial and legislative changes. Of some passing interest to you is the article in the volume entitled, "Analysis of Judicial System and the Organized Bar in North Carolina, which terms "lucky" the legislative defeat of the Bar Association's proposal for revision of the laws dealing with the collection of money judgments and exemptions.

For one staff member, writing in A Legal Services Perspective, accomplishment of an appropriate "long term goal would require a thorough re-examination of the present decision-making process in the United States and in the State of North Carolina. That decision-making process is based upon the concept of private property and profit. . . . [A]s legal services workers we want to be free to help organize and represent our client community in any and all helpful ways without having to play the 'legal services game.' Issue Paper Relating to the Food Stamp Program, etc.", by Steven R. Edelstein, Farm Workers Legal Services of North Carolina. This rather extreme view, I assume, is not typical of all staff members.

As a result of the October 30, 1979, meeting the LSNC staff presented to the Board for ratification the following statement of the missions and goals of LSNC:

"Mission: To enable poor persons to obtain and exert power in order to effect systemic change.

"Goals:

"1. Network of poor people throughout the State to engage in self-advocacy.

"2. Clients made aware of their own potential for self-advocacy and learn from us the skills and knowledge necessary to practice it.

"3. Legal Services staff acquire the motivation, competency and resources necessary to work with clients in order to achieve the mission.

"4. Clients have a more meaningful role in the governance and operations of Legal Services programs.

"5. Capability to develop alliances with non-poor people in order to attain the particular objectives being sought.

"Implicit goals:

"Certain steps were identified and discussed which the group understood would have to take place in any event in order for the mission and goals to have the best chance of succeeding. These are:

"Establish a process by which, from time to time, systemic change issues can be chosen.

"Make whatever changes are necessary in the composition and structure of programs in order to facilitate accomplishment of both this mission and the one adopted by the given field program.

"Increase the overall resources of Legal Services in North Carolina."

I could not attend the January 25, 1980, meeting at which the foregoing statement was presented for ratification, but I called in by telephone my objection thereto. At the January 25, 1980, Board meeting, the Board adopted the foregoing statement of goals, but changed the statement of LSNC's mission to read as follows:

"To represent poor persons within the legal system in order for poor persons to assert their rights and to obtain and exert power to effect institutional change."

I will not attempt to attack or defend the goals of LSNC which go beyond representation of individual indigent clients. The matter has never been adequately debated by the Board of Directors. There may be two sides to the question, at least so far as concerns lobbying and reasonable community education, but it seems to me that the use of tax dollars supplied by all the people in an aggressive attempt by legal services attorneys to change social institutions in a way they (and not necessarily their clients) deem appropriate is open to serious debate.

I do not have to get into this subject, because for me the program still costs far more than it should. As a taxpayer, I am tired of seeing money spent for community education specialists, legislative specialists, consultants and administrators who never go to court or see a client, for assistants to assistants of practically everything, for constant meetings and travel of doubtful utility to anybody, and for every other conceivable purpose the fertile minds of LSNC staff can conceive. And, notwithstanding what I deem to be excessive expenditure of funds, the money which has been made available to LSNC by LSC still cannot be spent. Every year, the Board of Directors have been called upon to fund some "one time" projects in order to use up surplus funds. At present LSNC has over $1,500,000 in the bank still unused. The Executive Director says that these funds have been "allocated," although I forget for what. One thing is for sure: No excess funds of LSNC allocated or unallocated have ever been used to reduce budget requests for the coming year.

In a time when government spending has pushed the cost of food, clothing and other necessaries out of the reach of many poor people (and made totally impossible the heretofore American dream of home acquisition), it seems absurd to allow a program which is supposed to help poor people to proliferate and accelerate the trend.

CONCLUSION

I recognize that this letter has been critical and has not proposed much in the way of constructive change. That is because I do not know that all the answers are at this time. As one of the founders of LSNC I am obviously disappointed in its performance. It has, I believe, performed some good service to poor people in this state. But in so doing it has too often for no good reasons sought to turn blacks against whites, poor against middle class and LSNC clients against the organized Bar. And the cost that is incurred in its activity cannot, in my view, be justified. If allowed to continue at the present rate, it will remain another governmental agency whose costs are out of control and continuing to escalate.

As indicated, I do not know the answers to the questions I raise. Perhaps, as Mr. Reagan apparently believes, the states can do a better job. Perhaps greater efficiency can be obtained through the use of private attorneys through a system of judicare. Or perhaps LSNC should continue, with legislative changes providing better control at the local level or prohibiting activities deemed inappropriate, with reduced funding. Reduced funding alone will cause LSNC staff and Board members to rethink priorities and pay attention to what its real purposes are and should be.

Yours very truly,

DAVID M. CLARK.

Mr. RAILSBACK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Connecticut (Mr. DENARDIS).

Mr. DENARDIS Mr. Chairman, I thank the gentleman from Illinois for yielding.

I rise in strong support of H.R. 3480, the legislation that is now before us, to reauthorize the Legal Services Corporation.

Mr. Chairman, I believe we have spent a great deal of time discussing this matter. I have listened carefully. I think it comes down to a division of opinion in this Chamber between those who fundamentally support this program and say so, those who do not and say it, and those who do not but will not say so, but have a series of amendments to try to weaken or destroy it.

I support this legislation because it achieves two goals which I believe are extremely important at this time in our history. First, passage of this bill will insure that the opportunity of legal assistance will continue for millions of low-income Americans who

otherwise would not have access to our legal system.

Second, we have taken action to continue this important program, while at the same time we have provided some needed reductions in Federal spending.

Mr. Chairman, in a nation where the rule of law and the workings of the legal system play such an important role, we dare not risk denying the opportunity to those in society who need and deserve assistance the chance to obtain legal aid simply because they lack sufficient financial resources. There is no denying the fact that the Legal Services Corporation has generated significant controversy by its past actions, but we have taken, I believe, the necessary steps yesterday and today to place needed restrictions on those activities in the bill before us.

I urge support for reauthorization.

Mr. ASHBROOK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong opposition to this legislation.

President Reagan has requested zero funding for the Legal Services Corporation. The Judiciary Committee has recommended that the Congress rebuke the President and authorize funding of $520 million for the next 2 fiscal years. I support the President's recommendation and oppose this legislation and would strongly urge that he veto this mistake if it is passed by the Congress and sent to his desk.

Several arguments are offered by proponents of this bill. Some suggest that by refusing to fund the Legal Services Corporation, we are in fact, denying legal aid to the poor. That is simply untrue. My colleagues fully understand that not one, single nickel of that $520 million is going to go to a poor person. The money is slated to go to thousands of Legal Services Corporation lawyers and support personnel who will undoubtedly continue to undermine, sidestep, and misinterpret the actions of the Congress of the United States.

Frankly, I am suprised at some of my colleagues who know full well that Legal Services Corporation is a genuine Federal boondoggle yet will vote to extend the life of the Coporation anyway, simply because it is considered in some circles to be a symbol of "aid to the poor." My colleagues understand that under the President's block grant program, Legal Services could be funded at the State level, at the direction of State officials, not at the direction of professional bureaucrat/political activists in Washington. Those who intend to vote for the reauthorization of this agency simply because some in the news media may categorize a "no" vote as a vote against the poor, I must say, are taking the easy way out. And they are undermining the President's efforts to restore some sense of responsibility to the Federal Government. A defeat for the President today could prove to be very damaging. If we are to buck the administration on this social program, why not on the next program slated for extinction? How many Legal Services Corporations must we vote to fund before the entire concept of block grants and local control goes right down the drain?

Some of my colleagues who intend to support reauthorization today suggest that the bill is well written, that Legal Services Corporation personnel will be outlawed from engaging in activities prohibited by the Congress. Mr. Chairman, in the past, Congress has voted to prohibit LSC involvement in a number of areas; yet each time we debate the future of this agency, we have to close more loopholes which the Corporation uses to promote its unpopular causes. Why should we believe that LSC will react any differently in the future? I, for one, believe that it will be business as usual for the Legal Services Corporation once the Congress finally reauthorizes it. Nothing I have seen leads me to believe differently.

As a member of the House Judiciary Committee, I have firsthand knowledge of the Legal Services Corporation's efforts to seek political change outside of the electoral process. It is a program which is fundamentally flawed. It is a program—taxpayer financed—of social activism.

In 1977, when the House was considering a bill to extend the life of the Legal Services Corporation, I urged my colleagues, as I am doing now, to defeat the legislation. I then pointed out that employees of the Corporation had been taxpayer-funded advocates and organizers of causes such as quotas in jobs and schooling, welfare rights, student protests, homosexual demands, proposals for graduated State income taxes, ERA, voting rights for prison inmates, rent strikes, antibusiness regulation, no-growth environmentalism, massive expansion of the food stamp program, Naderite "consumerism" State takeovers of local education, land use controls, and more. We lost that battle and today, we are again debating the fate of the Corporation. Little has changed.

To those of my colleagues who believe that the Legal Services Corporation has changed its ways, I would call attention to the views expressed by Congressmen SENSENBRENNER and HALL and myself in the Judiciary Committee report on H.R. 3480. Little, if anything, has changed. JIM SENSENBRENNER correctly points out that officials in the LSC were guilty, last year, of illegal lobbying. The General Accounting Office supports his charges. He points out that loopholes exist within the law, and within this legislation, which allow the Corporation to go its merry way. He is correct.

Perhaps the most sensational of LSC abuses are recorded by my colleague, SAM HALL, in his dissenting views on H.R. 3480:

Litigation to compel payment of SSI benefits to alcoholics;

Litigation to compel the New York City Transit Authority to hire former heroin addicts;

Successful Federal district court suit to compel New York to pay State welfare benefits to an illegal alien parent;

Successful Louisiana class action compelling Department of Corrections to pay inmate compensation to inmates of a State prison which has no income-producing programs;

In addition, Congressman HALL cites a suit against a California grower and perhaps the wildest yet—a lawsuit filed by the Hartford Neighborhood Legal Services in an effort to get payment from the State of Connecticut for a welfare recipient's sex change operation. And today, we are considering a bill to reauthorize the Legal Services Corporation.

Mr. Chairman, we have an opportunity today to defeat this authorization legislation. I would urge my colleagues to vote "no" and if the Congress should vote to reauthorize the Legal Services Corporation for another 2 years, at a cost to the taxpayers of $520 million, I would urge the President to veto the bill.

I yield back the balance of my time.

The CHAIRMAN. Are there further amendments to this part of the bill?

If not, the Clerk will read.

The Clerk read as follows:

FINANCING

SEC. 13. (a) Section 1010(a) of the Legal Services Corporation Act (42 U.S.C. 2996i(a)) is amended by inserting immediately after the second sentence the following new sentence: "There are authorized to be appropriated for purposes of carrying out the activities of the Corporation $260,000,000 for the fiscal year 1982, and $260,000,000 for the fiscal year 1983.".

(b) Section 1010(d) of such Act is amended to read as follows:

"(d) Not more than seven percent of the amounts appropriated pursuant to subsection (a) of this section for the fiscal year 1982 and any fiscal year thereafter shall be available in any such fiscal year for grants or contracts under section 1006(a)(3) of this title.".

□ 1715

Mr. VOLKMER (during the reading). Mr. Chairman, I ask unanimous consent that section 13 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair will inquire as to whether the amendment has been printed in the RECORD for 2 legislative days.

Mr. VOLKMER. Yes, it has, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER: On page 13 strike lines 15 and 16 and insert in lieu thereof: "$241,000,000 for the fiscal year 1982".

Mr. VOLKMER. Mr. Chairman, in the previous comments that just preceded the offering of this amendment and following the vote on the last amendment, I would like to say that we heard discussion as to whether or not we should have a block grant proposal or whether we should have a reauthorization bill. Personally I feel that we need to have a reauthorization bill, not a block grant proposal.

I also feel that on the proposal, as the gentleman from Michigan (Mr. SAWYER) has stated so well on the floor, for the first time now we hear that if we have a block grant proposal, we would have $100 million, and I do not feel that that is adequate. However, I do feel that the amount that is presently provided in the legislation is not needed. I feel that with the reductions that have been made through amendments on the scope of the activities of the recipients of the Legal Services Corporation, such as lobbying efforts, with full-time lobbyists, such as class action suits, and such as representation of illegal aliens and others, it is no longer necessary to have that full amount of $260 million.

I have offered this amendment, which provides for $241 million and which is a 25-percent reduction in the amount that was appropriated for the current fiscal year. I know that to some people that sounds very harsh. That means that a lot of people that they feel should be represented will not be represented.

However, I disagree, and I do not believe that that will be necessary. I believe, with the full amount of $241 million in the scope of services that the Legal Services Corporation has now to offer to the poor, that they can do an adequate job for that amount of money. Otherwise I would not offer the amendment.

I also feel that at this time, with the budget restrictions that we have and the reductions that must be made, in light of other reductions that are going to be made, it is appropriate that this amount be the amount authorized.

This amendment also restricts the authorization to a 1-year authorization. I provide that because I, too, believe that we have to get a handle on the Legal Services Corporation. There is no question about the fact that there have been abuses in the past. Some of us feel very strongly that those abuses should be corrected. Amendments have been adopted that I believe will assure that those abuses are corrected, and that the Legal Services Corporation does provide proper representation for the poor.

However, I question whether we should permit an authorization for 2 years. My feeling personally is that we should be willing to come back next year, and then let us take a look and let us see what they have actually done and let us see whether or not we should continue to fund it at this level or whether we need additional levels. This is what we call oversight. I think we need to have strong oversight of the Legal Services Corporation.

I think we also, on the other hand, need to see this in the event that this matter does become law, because I think there is that possibility. I believe that the President, if the House and the Senate do pass it with the corrections that are made in it, should at least be given the opportunity to sign it, and I am sure that there are Members from his own party who will try to impress upon him the need to sign this legislation. In the event that has been done, the administration then will be the one that will be administering it, and I think we need to look at it again in that light as to how it will be administered.

Therefore, I feel strongly that we should have a 1-year authorization, and that the amount of $241 million is appropriate. I feel that that is an adequate amount, as I said before.

I do disagree very, very strongly with those who will tell us, when we get back in the full House, that we need the block grant proposal. The gentleman from Illinois, as I understand it, will offer the block grant proposal, and I feel very strongly that that is the wrong way to go.

In the first place, they say that if we pass the authorization bill, then the President will veto it and we are not going to have anything. Well, if we pass what the gentleman from Illinois proposes that we pass, we are not going to have anything either, for the simple reason that there is no question—and I think every Member in here, at least the majority, will agree—that there will be no social services block grant legislation enacted into law by October 1, 1981, and I am sure that probably will not be enacted into law maybe by next spring, by a year from now.

So, Mr. Chairman, if we defeat this legislation and then put in a block grant social program, we are not going to have anything, and we would not have any money out there in any way at all to represent the poor.

Mr. McCLOSKEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this program started in 1965, when then-Attorney Lewis F. Powell, now a Supreme Court Justice but then head of the American Bar Association's House of Delegates, successfully appealed to the Federal Government to commence a legal services program for the poor. We did so. Now, as of this year, we are proposing to spend $321 million in assistance to the several hundred local legal aid societies that administer the program.

The program works fairly well in my district, but it seems to me that at a time when we are asking for a 20-percent budget cut across the board, it is entirely appropriate that the legal profession bear a 25-percent cut such as the gentleman from Missouri (Mr. VOLKMER) is offering.

I want to cite to the committee the facts suggesting that a 25-percent cut should easily be absorbed by one of the wealthiest professions in the country—a profession which both of my grandfathers practiced, which my father practiced, which I have practiced, and which my son practices today. I would like to describe the actual circumstances of the two counties I represent in California, San Mateo and Santa Clara Counties.

San Mateo County has a population of just under 600,000 with 35,000 people living below the poverty level. We have 1,330 lawyers, one for every 443 people and one for every 26 poor people in the area. Our county ranks in the top 1 percent of per capita income. Our Legal Aid Society, founded in 1954 with a budget of $25,000 as late as 1965, has grown until today its budget is almost $750,000, with nearly $600,000, or 80 percent, coming from the Federal Government.

If there is a 25-percent cut in that Federal assistance to this one bar association, we reduce by $150,000 the Federal funding. This means that if every lawyer in San Mateo contributed $120 worth of legal services or $120 in cash to the Legal Aid Society, the private bar could pick up the entire 25-percent cut.

In Santa Clara County the figures are similar. There we have 1.3 million people, with 3,300 lawyers. If each lawyer contributed only $60 to the Legal Aid Society in cash or in free legal services, the bar association itself could pick up the entire 25-percent cut.

No one questions the need for legal services to the poor. But at a time of national crisis, who should provide those services, the Federal Government or the legal profession? And in what proportion?

The Code of Professional Responsibility of the American Bar Association states:

Every lawyer, regardless of professional prominence or professional workload, should find some time to participate in serving the disadvantaged.

Sixteen years ago in 1965, there was no Federal program for legal assistance to the poor. There were, however, 248 private legal aid societies in the United States, entirely funded by the legal profession or by private donations. In the community where I practiced law, Palo Alto, Calif., the bar association as early as 1960 had set up its own legal aid office. A person unable to pay for legal servies was referred to this office by any number of civic or charitable organizations, and from that office referred, in rotation, to the next attorney on a list of those members of the bar (about half) who had agreed to participate in the service. The legal aid office called the attorney in question, made an appointment, and the individual involved presented himself at the appointed time with a slip from the legal aid office and $5. The attorney's responsibility in the process was to give whatever advice as might be warranted and to follow through with the representation required at no further fee. If costs were to be incurred, the attorney had no obligation; this remained the client's choice and obligation.

Admittedly, the system worked imperfectly, as today local legal aid societies, funded partially with Federal money, may not reach all potential members of the public who need legal help nor give each case the perfect attention and skill we would like to see.

In 1965, the Nation, for two decades, save for the Korean war years, had enjoyed a relatively balanced budget and a reasonably low rate of inflation.

In 1974, Congress created the Legal Services Corporation (LSC). Appropriations for legal services through the corporation started with an initial $71.5 million in 1975 million in 1975, and increased to $321 million in 1981.

During this same 7 years, however, Federal budget deficits skyrocketed, averaging roughly 13 percent of Federal revenues for the next 6 years. During those 6 years of average 13 percent budget deficits, inflation also became an increasingly grave problem. For the last 3 years, 1978, 1979, and 1980, inflation averaged over 11 percent per year. The figures are as follows:

[Dollars in billions]

Year	Deficit	Percent	
		Federal revenues	Inflation rate
1975	45	16	7
1976	66	22	5
1977	45	13	7
1978	49	12	9
1979	28	6	13
1980	60	11	12

Inflation, to at least some degree, is caused by Government spending policies. Deficit spending of 10 percent or more each year may not be the sole cause of double-digit inflation, but if Government spending can't be controlled, it seems fair to state that inflation cannot be controlled either. If Federal spending is to be controlled it seems clear that social services such as legal aid will have to take their share of cuts.

In the last 20 years Federal spending in the form of social service benefits, such as legal aid, has increased from 25 to 48 percent of the total budget. It is these benefits which have led to the budget deficits. To cut them back only one fifth would balance the Federal budget.

I would then start with that principle: that we must cut at least 20 percent from the total of all social benefits if we are to balance the budget and remove deficit spending as a contributor to inflation.

We have had 3 straight years of inflation over 10 percent. Ten-percent inflation means to a family of four the loss of purchasing power of about $800 a year. The lawyers and the bar associations of many States have spoken out almost unanimously against these cuts, but the cut in purchasing power to an average lawyer in California is at least $4,000 a year if we continue an annual inflation rate of 10 percent.

Therefore, this profession, one of the wealthiest in the country, in my judgment, ought to cheerfully bear a 25-percent cut in Federal assistance and be willing to pick up what has historically been recognized as a professional responsibility.

Mr. Chairman, let me quote the Code of Professional Responsibility of the American Bar Association, which states that, "every lawyer, regardless of professional prominence or professional workload, should find some time to participate in serving the disadvantaged."

If we want to save Federal support for local legal aid societies, in my judgment, we should accept the amendment offered by the gentleman from Missouri (Mr. VOLKMER) and have the private bar associations pick up the $80 million cut, from $321 million to $241 million. That is the least the legal profession can do for the country at this time of fiscal emergency.

Mr. Chairman, I do not speak in favor of the 1-year authorization. I would rather see a 2-year authorization bill. But I think the gentleman's amendment in every other respect is sound and ought to be accepted by the Committee.

AMENDMENT OFFERED BY MR. SAWYER TO THE AMENDMENT OFFERED BY MR. VOLKMER

Mr. SAWYER. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. SAWYER to the amendment offered by Mr. VOLKMER: Insert before the period: "and $241,000,000 for fiscal year 1983".

Mr. SAWYER. Mr. Chairman, the purpose of this amendment is obvious. I am inclined to accept the reduction figure of the gentleman from Missouri (Mr. VOLKMER), though I do it with some reluctance.

We had already cut 25 percent or approximately $61 million off the Carter 1982 budget, which has been the base mark for all of these 25-percent cuts, bringing it down to $260 million.

On the other hand, we did consider taking the current year, which is $321 million, and reducing that 25 percent, which would get us down to the $241 million. While that is an additional $19 million to the $60 million we had cut, we feel frankly that we are going to have a fight downtown, assuming that this House sees fit to pass the bill and that the Senate does, too. Quite obviously, based on the numbers they are talking about in the Senate, we are also going to have to compromise further.

Nevertheless, I am willing to go along with the $241 million, and I do not attempt to change that. But the gentleman does, in addition, reduce the time period down to 1 year. Now, we had already reduced it from 3 to 2 years, but to take it down to 1 year means we are all going to have the pleasure of being back in here 6 months from now and going through this entire same exercise.

I think that is unfruitful. I think it is a mistake, and, therefore, my amendment restores a like amount for the year 1983 so that we preserve the 2-year funding.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I think the gentleman once again is right. I think we can accept what really amounts to a 25-percent reduction of $321 million, which was the actual figure rather than the Carter proposal, which was something like $361 million.

I personally do not like to see it cut back the way that we have had to cut it back. I certainly favor the 2-year authorization at the $241 million level.

So, Mr. Chairman, I think the gentleman from Michigan is right.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the chairman of the subcommittee.

Mr. KASTENMEIER. Mr. Chairman, the gentleman from Michigan (Mr. SAWYER) is correct in describing the subcommittee action on the $241 million and the $260 million. We figured on $260 million because we thought that would be the minimum amount required.

I understand what the gentleman has said about the difficulty of selling $260 million downtown, and I do agree

that 2 years is absolutely essential, not only because in the past we have had it for 3 years, from 1974 to 1977 and then from 1977 to 1980, but, more importantly, we, this year, in this bill, have made enormous changes. And they are enormous changes.

□ 1730

You cannot expect an independent agency of this sort in 1 year to try to adapt to all this and then be subject to a whole flock more of amendments a year hence. A 2-year program has to be a minimum reasonably for any agency such as this Corporation to try to digest; so with some reluctance, but nonetheless with good sense expressed by the gentleman from Michigan, I support his amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. SAWYER) to the amendment offered by the gentleman from Missouri (Mr. VOLKMER).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. VOLKMER), as amended.

The amendment, as amended, was agreed to.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am sure this is no surprise to anybody, but I rise in opposition to H.R. 3480, a bill to authorize the Legal Service Corporation. The Legal Services Corporation at its inception in 1974 was designed to provide legal counsel for the poor.

It has not done so.

By giving the Legal Services Corporation more or less a free reign on spending and activity the Federal Government has involuntarily funded a galaxy of social projects with little or no attention paid to individual services, especially for the poor.

The Legal Services Corporation is fundamentally flawed and should be terminated. Legal Services has not been a poor people's program. It is not a program to impartially seek justice, but one which uses public funds to seek political change outside the electoral process—not just in courts, but through grassroots lobbying organizations, paid legislative agents, political publications, and lobbying the personnel of State and Federal agencies.

The LSC was suppose to take care of client problems concerning various civil problems; divorce, rent problems, counseling to people who want to sue or are being sued, and so forth. Instead, since its inception, employees of the Federal Legal Services Corporation have become taxpayer-funded advocates and organizers of such political causes as quotas in jobs and schooling, welfare rights, unions of the unemployed, student protests, Indian land claims, homosexual demands, voting rights for prison inmates, rent strikes and massive expansion of various Federal programs. All of these issues are important and must be debated in the future, but that is the job of the U.S. Congress, not the Legal Services Corporation.

There are more than a few documented cases of blatant misuse of public time and money by the LSC.

Just last January the LSC argued a case in Hartford, Conn., claiming that the State had an obligation to foot the $10,000 bill of a client's sex change operation.

In 1980 the West Texas Legal Services represented Iranian students at Texas Tech in Fort Worth to overturn a local denial of permit to march past the home of the Crown Prince of Iran.

Shortly after the election last November, a conference was held in Puerto Rico. It was financed to the tune of $100,000 by the LSC for 100 key officials and supporters to develop lobbying strategies against anticipated Reagan administration policies.

A former member of the Ku Klux Klan is being defended in Tennessee by the Legal Services Corporation. The case stems from the shooting of five elderly black women last spring.

The LSC has now organized an analyzing committee regarding Members of Congress and their attitudes, statements and voting records where they concern the Legal Services Corporation.

There are currently cases being argued that involve bilingual education, the acceptance of "Black English" as a foreign language and the inclusion of drug addiction and alcoholism as diseases that would qualify someone as being "handicapped" and thus protected from job discrimination.

Mr. Speaker, the list goes on and on. The Legal Services Corporation lawyers are not helping the poor, they are using them as a means to achieve a political end that suits their own political philosophy. If lawyers are hired by and report to the boards of directors of nonprofit corporations—as is the case with Legal Services lawyers—they are inevitably accountable to the members of those boards. Unlike the members of the board of the National Legal Services Corporation, who are appointed by the President, members of local boards are hired by local project attorneys and have no such accountability. They are, by and large, self-chosen and self-perpetuating. They adhere to local priorities. This is one reason why President Reagan's appointees to the Board of Directors will not change the direction of LSC activities. The other reason is that, by law, not 1 of the 320-plus grantee programs may be closed down merely because of policy differences with the LSC board.

Previous debates on this floor have centered on the need for more regulations to limit abuses in the Federal Legal Services Corporation. Such restrictions, even if tightly worded and enforced with integrity have not eliminated the kinds of abuses inherent to this program. As LSC president Dan J. Bradley said: "Even though the legal services community objects to restrictions, we have learned to live with them." It seems to me that the way the LSC lives with these prohibitions is simply to ignore them or to rationalize why the LSC does not comply with them. I have been listening to colleagues who once again are arguing for more restrictions. Certainly then the problems will go away. I would remind those who argue this that Congress attempted to correct certain oversights and various abuses on two occasions in the last 7 years, the last time being just last year. Neither one of these reform packages helped the situation. Why should we believe that 1981 will be any different?

For instance, the projects continue to provide legal services to illegal aliens in spite of congressional prohibitions of such activity. To justify their disregard for the law, the LSC's Clearinghouse Review stated in November 1979:

> The effects of this legislation will be very limited. It is apparent that the intent of Congress was to limit services only to aliens who have received a final judicial determination that they are not legally present in the United States.

To me, the LSC says, "go ahead and take the case; ask questions later."

It is not in the best interests of the poor for an attorney to devote a month's time researching a fine point of law, rather than representing 10 clients. If we take away the Legal Services Corporation's guaranteed Federal subsidy it is going to have to compete with other groups for State money. To survive, the LSC will have to become more cost efficient and will have to conform to reality and do the job they were intended to do. States will not be as lenient with their money as Washington tends to be. Also, it is going to be easier for State authorities to monitor the activities of local legal assistance programs.

According to a recent, 3-year overdue investigation done by Appropriations Committee staff, the GAO and the LSC delivery systems study LSC programs have expanded into many new areas of the country in disregard for existing locally funded programs, causing resentment in many States. According to the GAO, approximately 60 percent of all eligible poor people surveyed were unaware that free legal services were available in their communities. It appears that coordination between LSC projects and other local

providers of legal services is inadequate.

Legal assistance to the poor is a sound ideal consistent with the American values of equal justice for all, but the LSC does not promote the ideals it was set up to do. I find it hard to believe that sex-change operations, the rights of anti-Shah demonstrators, Indian land claims, or bilingual education are of major concern to the majority of this Nation's poor. As publications as diverse as the New Republic and the Wall Street Journal agree, Mr. Speaker, the LSC as it is presently set up has failed—it is not doing the job it was set up to do. For that reason I believe it should be abolished in favor of State or private run legal assistance programs. I urge my colleagues to vote against H.R. 3480.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I would be delighted to yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I would like to commend the gentleman from California for his statement.

There is one additional reason to vote against this bill and to support the motion to recommit which will be offered by the gentleman from Illinois (Mr. McCLORY). That reason is that the authorization contained in this bill is still $141 million above the conference report on the first budget resolution.

Mr. ROUSSELOT. How much is that again?

Mr. SENSENBRENNER. $141 million.

Mr. ROUSSELOT. Above the budget?

Mr. SENSENBRENNER. Above the budget resolution that this House agreed to no less than 6 weeks ago.

Mr. ROUSSELOT. I cannot believe that. This committee would come in with that kind of an authorization?

Mr. SENSENBRENNER. Yes, sir.

Mr. ROUSSELOT. Incredible. Well, that gives me another good reason to vote against it.

I appreciate the gentleman's comments.

Mr. SENSENBRENNER. If I may continue to have some of the time of the gentleman from California.

Mr. ROUSSELOT. Oh, absolutely.

Mr. SENSENBRENNER. I will be very brief. Seriously, coming in with an authorization that is $141 million above the budget resolution is inconsistent with that resolution. If the House wishes to be consistent with its earlier action, the motion to recommit by the gentleman from Illinois so that a block grant program for $100 million should be adopted. If the gentleman's motion is not adopted, then this bill should be rejected so that the budget is not busted.

Mr. ROUSSELOT. So we need to vote for the motion to recommit to stay within the budget.

Mr. SENSENBRENNER. Yes, sir.

Mr. ROUSSELOT. Well, I know many people ran on the thesis in the last campaign to keep the budget within trim; so I am sure that all those who supported the recent budget will vote for the motion to recommit.

Mr. SENSENBRENNER. They should.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. Well, I would be glad to yield to my colleague, the gentleman from Ohio.

Mr. SEIBERLING. Well, of course, the budget resolution, the only binding part of the budget resolution is the ceiling on total expenditures that each committee was directed to impose, or rather the reduction from the base level. As long as the Judiciary Committee has met that, then they have complied with the budget resolution.

The assumptions under which the Gramm-Latta bill was based are not binding on the committees. As a matter of fact, most of us when we voted did not even know what they were.

Mr. ROUSSELOT. Well, I will say to my colleague that is what a lot of our colleagues are saying from different committees. Hold everybody else's expenditures down but ours; so what I am saying to my colleague is if you want to help reduce the unwarranted increases in deficit, you will support the motion to recommit, because that keeps it more within line of the Gramm-Latta substitute.

Mr. SEIBERLING. That is not what I am saying.

Mr. ROUSSELOT. Did the gentleman vote for the Gramm-Latta substitute?

Mr. SEIBERLING. Certainly not.

Mr. ROUSSELOT. Oh, well, then I can understand why the gentleman would be opposed to it. The gentleman should vote against the motion to recommit.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words. I will not take 5 minutes.

I simply want to say that the Judiciary Committee has met the requirements of the Gramm-Latta substitute when it has made the cuts from the base line that the Gramm-Latta substitute mandated. Whether it took them out of this program or some other program within the jurisdiction of the subcommittee does not change that result, as long as they complied with the cuts; so that is the only point I am making.

I am willing to say one other thing, though. I doubt very much if the majority of the Members of the House, including a lot who voted for the Gramm-Latta substitute, had any idea what the premises were on which the figures were determined.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I thank the gentleman for yielding.

Budget issues have been raised here and I want to make it very clear as far as the Budget Committee is concerned in the budget process, that is not an issue and it should not be an issue. The fact is that this is an authorization bill, now targeted at $260 million. It then moves over to the appropriations process and in the Appropriations Committee you then deal with what are called 302 limitations which have been established as a result of the resolution that was adopted by the Congress. That resolution in the Appropriations Committee envisions funding at a $260 million level; so the reality is that that is not a problem in terms of the budget. Members are invited to vote their conscience.

Mr. SEIBERLING. I thank the gentleman.

Mr. GORE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the bill, and I will be brief.

Most of the public debate on reductions in Federal spending has centered on the philosophical issue of the proper role of Government in improving the lives of citizens. Program cuts are weighed against our desire to see Government play a positive role in society. These questions are of grave importance and our resolution of them will have profound implications for the living standards of all Americans.

But today the Members of the House consider a question that is even more fundamental. Simply put, the issue is whether we are going to allow basic constitutional rights to be swept away in the rush of current events. In debating whether and at what level to reauthorize the Legal Services Corporation, we are also debating whether and to what extent the constitutionally protected rights of due process and equal protection under law will be afforded millions of indigent individuals.

Our former colleague and current Director of OMB, David Stockman, has stated that poor persons do not have a constitutional right to the services of a lawyer. His statement indicates a misunderstanding of the Constitution and a disregard for the human needs of the less fortunate members of society. Such an attitude, which regrettably is now the official administration position, means that the administration is, at least in this case, turning its back on the poor.

Despite the compelling reasons for maintaining a strong and viable Legal Services Corporation, this legislation reduces funding for the Corporation drastically. Legal Services will bear its portion of the budget cuts. There will

be needs that will go unmet as a result of these cuts, but there will at least be some mechanism for handling the most serious cases. Legal Services' burdens should not be unduly harsh, because those burdens become the burdens of the people who are served.

The underprivileged have unique legal needs. As beneficiaries of Government assistance, these individuals have close contact with Government and the services it provides. They are particularly vulnerable to unfair treatment.

Recognizing these special needs, the administration has suggested that the private bar can greatly expand its pro bono work to handle cases for the poor. History, however, flatly contradicts such an assertion. Without a strong Legal Services Corporation, our judicial system will only pay lipservice to "due process" and "equal protection" guarantees. I urge my colleagues to consider the progress that has been made. We shall cut Federal spending, but we must not forsake the underprivileged.

Mr. FOGLIETTA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to support H.R. 3480. I have three reasons for supporting the continued funding of the Legal Services Corporation.

First, as an attorney, I have long been committed to the concept that every individual should be assured an opportunity to vindicate their legal rights.

Second, as a representative of my constituents, I have a responsibility to support their concerns. I have received a large volume of mail urging my support for the Legal Services Corporation. These letters have come from all elements of the community: from the bar association, individual attorneys, public spirited citizens, and Legal Services' clients.

Third, as a legislator, I feel that I have a direct interest in the continuation of a program which provides legal representation to implement the Constitution, which I am sworn to uphold, and the laws which Congress has enacted.

The present bill does not represent the Legal Services legislation which I had hoped to support. It makes severe reductions from present funding levels. It also imposes restrictions upon the scope of legal services which I find objectionable.

However, the issue in the present debate is the very survival of the Legal Services Corporation, and the nationwide system of Legal Services programs which it administers. President Reagan has recommended that the program be abolished. Conservative critics of the program are seizing this opportunity to put it out of business entirely, or so hamstring its operations that it ceases to be an effective force in advocating the rights of the poor and oppressed in our society.

H.R. 3480 is the result of extensive hearings before the House Judiciary Committee, and efforts to reconcile opposing views. While I do not agree with many of its provisions, I am supporting it because I believe that this is the best strategy to insure that free legal services will continue to be made available to those who cannot afford to pay an attorney.

Opponents of H.R. 3480 claim that they support the provision of legal services for the poor. They contend that the poor will have an opportunity to have their needs for legal services fulfilled through block grants. However, there is nothing in the block grant proposal which lends any support to this argument.

Under the President's block grant proposal, States will receive 75 percent of the current Federal funding for every program designated for inclusion in block grants, except legal services. Consequently, a State which wished to maintain a legal services program would have to further reduce other programs whose Federal funds have been cut by 25 percent, or support it through general revenues. Most States will find either option difficult or impossible.

State funding would make legal services programs subservient to governmental officials who are sometimes in an adversary relationship with its clients. The Legal Services Corporation Act of 1974 (Public Law 93-355) established the Corporation as an independent, nonprofit corporation so that it would be insulated from partisan pressures and deliver assistance solely on the basis of professional judgment. I believe that this independence must be maintained.

Our recent experience in Pennsylvania is a good example of why this is necessary. Pennsylvania is presently one of the few States which devotes a major share of its title XX funds to supporting legal services. About half of the financial support of Legal Services' programs in the State are derived from title XX, which is essentially a Federal social service block grant.

Just this week, the legislature enacted a budget which cut the allocation for legal services in half, and put the program on a 6-month basis. This decision may have been made in anticipation of Federal reductions in social services' programs. It has also been seen as retaliation for a lawsuit filed by Legal Services' attorneys on behalf of the State's welfare recipients, when welfare payments were cut off as the result of a legislative feud unrelated to welfare funding, which resulted in a delay in the passage of a supplemental appropriation for the department of public welfare. In either event, the result is that the funding for legal services in the Commonwealth of Pennsylvania is in double jeopardy—while the State has passed a budget which would terminate its title XX funding of legal services in 6 months, Congress is considering elimination of Federal funding for legal services, and passing the responsibility on to the States.

Poor people need lawyers as much, and often more desperately, than do those in higher income brackets. Legal protection from an abusing spouse can mean the difference between life and death. The resolution of a consumer problem can prevent a life threatening situation for a poor person facing eviction or a utility shutoff in winter. Resolution of a welfare eligibility determination may also be a life or death issue for a family with no other means of support. The overwhelming majority of matters handled by Legal Services' attorneys involve services which appear routine, but have enormous importance to the individuals involved.

Often, the legal services which the poor require involve access to Government programs. Attorneys may merely advise their clients of their eligibility for assistance under these programs, and make an appropriate referral. They may also have occasion to represent an individual client in eligibility determination. This type of representation will continue. However, we have passed an amendment which would prohibit Legal Services' attorneys from litigating eligibility issues which involve a class of clients who are denied benefits under a Government program.

Returning to the example of the recent welfare cutoff in Pennsylvania, this means that Legal Services attorneys could do nothing when all of the welfare recipients in the State were denied their welfare benefits. I am totally opposed to such restrictions. They are unfair to the poor, and they also tend to undermine the power of Congress. After all, the Federal rights involved are rights which we in Congress created. If we deny the truly needy the opportunity to vindicate these rights, we are providing them with a very insecure safety net.

AMENDMENT OFFERED BY MR. MINISH

Mr. MINISH. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair would inquire if the amendment has been printed in the RECORD for 2 legislative days.

Mr. MINISH. It has been.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. MINISH: Page 13, add the following after line 23 and redesignate the succeeding section accordingly:

INFORMATION TO CONGRESS

SEC. 14. The Legal Services Corporation Act (42 U.S.C. 2996 et seq.) is amended by redesignating sections 1013 and 1014 as sec-

tion 1014 and 1015, respectively, and by inserting after section 1012 the following new section:

"INFORMATION TO CONGRESS

"SEC. 1013. The Corporation, any recipient, and any employee of a recipient shall make available upon request to any committee or subcommittee of the Congress or to any Member of Congess any information which is not subject to the attorney-client privilege and which relates to the operations of the Corporation or such recipient, as the case may be.".

PARLIAMENTARY INQUIRY

Mr. HARTNETT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HARTNETT. Mr. Chairman, was the amendment presently under consideration printed in the Journal for 2 days prior to its introduction here this afternoon?

The CHAIRMAN. The Chair addressed that question to the gentleman who is proposing the amendment and the answer was yes.

Mr. MINISH. Mr. Chairman, I have an amendment. It is a rather simple amendment which is intended to insure that the Congress and its individual Members can receive sufficient information on the Legal Services Corporation in order to make informed decisions about its usefulness and its future.

The amendment provides that the Corporation, or a recipient or employee of a recipient of Corporation funds, must make available to committees, subcommittees, or Members of Congress routine information which is not subject to the attorney-client privilege.

I propose this amendment because of an experience I recently had with the Legal Services Corporation in my own district. As many of my colleagues know, I am a supporter of legal services and, in fact, I am a cosponsor of the authorizing legislation before us now. Recently, in an effort to evaluate the costs and benefits of legal services in my district, I asked our local director for some very routine information. Specifically, I asked for the names of employees, their salaries and the number of cases presently being worked on. I was under the impression that this was public information. I made this request for the first time on May 29; I repeated it many times after that, by telephone and by telegram. After an incredible amount of foot dragging and doubletalk by the local office, I finally got the information 2½ weeks later.

One of the things I try to do as a Member of Congress who has to vote on large authorizing and appropriating budgets, is to see how the specific programs affect my own district. This may provide somewhat imperfect information, but I think, in general, it gives me a good idea of how a program works throughout the country. When I am unable to obtain this information, and especially when it is withheld for no good reason, it makes my job of evaluation much, much more difficult. Therefore, I propose this amendment simply to make it clear that routine information of the type I requested should be available to Members of Congress.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. MINISH. I would be pleased to yield to the chairman.

Mr. KASTENMEIER. I am familiar with the problem the gentleman had with respect to gaining certain information to which he was entitled as a Member of Congress from one of the local programs.

I would say that I do not believe the amendment is necessary because current regulations require that local programs disclose information that is "a valid subject of public interest in the activities of a recipient."

In addition, the Legal Services Corporation itself is covered by the Freedom of Information Act, and the materials which the gentleman requested would have been available from either source the local program or the Corporation.

The gentleman is quite right to be outraged at the denial of such materials.

Mr. MINISH. Well, inasmuch as the distinguished committee chairman assures me that that information can be gotten without the amendment, Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. Are there further amendments?

The Clerk will read.

The Clerk read as follows:

TECHNICAL AMENDMENTS

SEC. 14. Section 1006(b) of the Legal Services Corporation Act (42 U.S.C. 299e(b)) is amended——

(1) in paragraph (1)(A) by striking out "section 1011" and inserting in lieu thereof "paragraph (5) of this subsection"; and

(2) in paragraph (2) by striking out "the provisions of section 1011" and inserting in lieu thereof "regulations promulgated pursuant to the last sentence of paragraph (5) of this subsection".

● Mr. SMITH of Iowa. Mr. Chairman, the issue before us today—of whether to continue to maintain a decently funded program of Legal Services. This issue separates the true constitutional conservatives from those who use the conservative label for conscience. True constitutional conservatives support legal services for the poor because they believe that where government is based on laws rather than the edicts of a few men, there must be access for all to the application of those laws to resolve conflicts and the poor must have a chance to use the laws, a requirement that one must comply with a law in order to assert certain rights can become an obstacle unless there is access to assistance in complying.

Accusations have been leveled against legal services lawyers that are based on inaccurate information, hearsay and sheer prejudice. They have been called "self-appointed social engineers" and "do-good troublemakers." They have been accused, usually erroneously, for illegal lobbying activities on behalf of social causes.

No one contends that the lawyers in the more then 300 locally controlled legal services programs are uniformly perfect. But is this reason to abolish the Legal Services Corporation or to cut it back to the point of ineffectiveness? It is no exaggeration to say that not all lawyers are above reproach, but no one is suggesting abolishing the profession or the bar. There have been examples, on occasion, of corrupt judges, but nobody is suggesting abolishing the courts.

The truth is that, as far as the poor are concerned, if we abolish legal services, as far as the poor people served are concerned, we might as well abolish the courts. Without lawyers to provide access to the courts and the law, the poor are, for all practical purposes, without legal rights.

Powerful corporations command the best that is available in legal talent and pays for them with funds that are deductible as business expenses. These tax losses amount to billions of dollars a year. Yet this bill would authorize no more than $260 million in funding of legal services for the poor.

There is little point in refuting every false accusation made against legal services. In most instances when asked for concrete examples of violations of law or propriety by Legal Services' lawyers, the accusers can cite none. In the few instances where the accusers deal with specifics, there is usually another more convincing side of the story.

In contradiction of the charge that LSC uses public funds for social engineering crusades, I would point out that 95 percent of Legal Services litigation in Iowa in the past year involved routine, noncontroversial matters such as traditional family-law problems, social security and income maintenance issues, consumer fraud and housing-law problems, civil rights, unemployment and health matters. Those matters which did not, would be largely if not entirely prohibited by the limitations in the bill.

There is an illusion on the part of some critics that no American citizen has the right to legal services that he or she cannot pay for. There is a further misconception that this system of providing legal help to poor people is unique to our country.

The truth of the matter is that a number of other western democracies do a much better job than we do of providing equal justice to the poor. England, the Netherlands, Canada and Sweden finance their systems much more adequately than we do. In countries such as Switzerland, England, France and Sweden, access of the poor to a free legal services is a legal right—either by statute or Constitution. To renege on our own limited commitment to the LSC at this time would be to send a signal to the other nations of the free world that this country—the oldest of the world's functioning democracies—no longer cares whether or not the poor in our society have equal justice.

Mr. President, the Preamble to the U.S. Constitution sets forth our Nation's four basic priorities—one of which is "to establish justice." If we deny equal justice to even "the least of these" in our society, we have failed in our sacred commitment. Even the right to vote is a hollow mockery if access to the justice system to protect it is denied to large numbers of Americans.●

● Mr. MATSUI. Mr. Chairman, 7 years ago, Congress with the authorization of the Legal Services Corporation, took a truly historic and courageous step in mandating the right to equal access for all Americans to our judicial system. Then, as now, deliberations over the status of the LSC represented a test case over this country's resolve in assuring equal justice for all citizens, including the financially needy, of this Nation. We stand today in judgment on the performance of this Corporation. It is my firm belief that this performance more than warrants the reauthorization of the Corporation. During the past 7 years, the Corporation's lawyers have assured the poor, the elderly, and the disabled representation in civil legal matters. Without these lawyers, these individuals could easily have become the victims of fraud, governmental abuse, and exploitation. The Legal Services Corporation has proved itself effective in meeting both the needs of its clients and performing in the selfless, public-oriented spirit on which it was founded.

In this period of budgetary restraint, what more could we ask of a program that spends less than 2 percent of its budget for central administration, and 90 percent of its funds on direct legal representation? Moreover, it pays its lawyers, on the average, less than $16,000 per year.

In these times of increasing family instability and child neglect, is it not essential that the Congress endorse a program that places significant emphasis on the handling of cases of adoption, parental rights, and spouse abuse for the economically disadvantaged?

During a time when many American people are clearly concerned with federally run programs and unresponsive Federal bureaucracies, what sense would it make to terminate a program controlled entirely by local boards of directors, made up of residents of the very communities they serve?

H.R. 3480 manages to coordinate all of these positive aspects of the Legal Services Corporation, while addressing legitimate complaints concerning aspects of the program. In the spirit of compromise, four major prohibitions on Legal Services Corporation activity have been incorporated into the bill. These include prohibitions against Legal Services Corporation lobbying and actions concerning class action suits, political- and abortion-related activities, and work strikes. The members of the House Judiciary Committee should be commended for presenting a bipartisan compromise, responsive to public suggestions both on the strengths and weaknesses of the Corporation.

The Legal Services Corporation stands as a symbol of the ideals and aspirations of equality and justice that are so uniquely American. While Soviet dissidents are denied fair legal protection from persecution and exile, this Government has chosen to guarantee affordable means of civil legal representation for all its citizens. Passage of H.R. 3480 would affirm this Nation's commitment to the simple proposition of due process and equal protection. To reject the continued funds of the Legal Services Corporation would constitute a congressional betrayal of our judicial system and the principle of equal access which serves as its foundation.●

● Mr. LAGOMARSINO. Mr. Chairman, we have been debating this bill for 3 days now, and despite the amendments which have been offered and adopted, and the rhetoric which has filled this Chamber, the bill is not much improved since we first took it up. The fact remains that the Legal Services Corporation, under this bill, will likely continue to be dominated by social activists, funded with Federal tax dollars.

Advocates of this program seem determined to test the taxpayers' tolerance to the limit. It has become not just an instrument for helping the poor but also one for hindering Government. It is the equivalent of a CETA program for activist law school gradutates. And to judge from some of the arguments LSC attorneys have propounded, perhaps they should go back for more study. A good example is the suit LSC lawyers brought against the University of California, to stop research on labor-saving farm machinery. How this helps the poor—who also eat—escapes me.

Like many Government programs, this one started out with a laudable goal: to provide needed legal services to those who could not otherwise afford it. Unfortunately, like many Government programs, it not only strayed from its mission but actually, in some cases even worsened the plight of those it was intended to help. As a result of the LSC program, pro bono work by private attorneys has become virtually a thing of the past. We are not speaking here of indigent defendants in criminal cases. Their right to competent legal representation is guaranteed in the courts and would continue; LSC, in any event, does not represent persons in criminal cases nor do I believe that ending the LSC program would disadvantage low income civil litigants. The surfeit of law school graduates in recent years has brought about profound changes in the legal profession. Low-cost legal clinics, group insurance and other innovations in law practice have placed the courts within much easier access of all. And where a client is truly indigent, pro bono service is a time-tested method of insuring quality representation. Indeed, the Congressional Budget Office estimates that if every attorney donated just 1 hour of services per week, the entire workload of the LSC could be handled. Legislation introduced by our colleague from Illinois (Mr. HYDE) which I have cosponsored, would allow attorneys to receive a tax credit for such services, which should provide adequate incentive to restore this time-tested and effective tradition.

The idea that the Federal Government needs a Federal program to meet every imagined social need is an idea whose time has passed. This is an area where voluntary or private efforts can be more effective than Federal programs. And for cases where the need remains unmet, the President has proposed that this service be funded through block grants provided to the States. I support that approach and sincerely believe it to be superior to the LSC approach.

The Federal program has become a bureaucracy and like any bureaucracy, it holds the potential for abuse and waste of public funds, as earlier this year when LSC attorneys from all over the country flew to the Caribbean for a "conference" on how to organize support for this very bill—with the travel and conference expenses paid for by the taxpayers. This is a program to help the poor?

Mr. Chairman, I urge a "no" vote.●

● Mr. CROCKETT. Mr. Chairman, I rise in strong support of the pending legislation on the floor, H.R. 3480, to reauthorize the Legal Services Corporation.

Access to the judicial system in our country is one of the most basic of American rights, and must be avail-

able to every citizen, regardless of economic situation or other criteria.

As a judge on the Detroit Recorders' Court for 12 years, I have substantial experience in the workings of our judicial system, and know the difference the Legal Services Corporation has made in making justice and good legal information available to the poor and disadvantaged. I urge my colleagues to vote for H.R. 3480, and against the weakening amendments being proposed to it.

The Reagan administration has proposed that the Legal Services Corporation get no funding for fiscal year 1982, thereby destroying this institution as a means of redressing the civil complaints of the poor. Critics of the programs use many tactics to attempt to dismantle the legal services programs, and charge that it is used for political purposes by "liberal" lawyers. This is a very distorted view of what the Legal Services Corporation does.

Legal Services' programs are designed to help the indigent client protect his legal rights—no more, no less. These are not legal rights that have been determined to exist by a "liberal legal services attorney." These are rights that are embodied in the Constitution, and the statutes enacted through our history at the Federal, State and local level. The role of the Legal Services attorneys is to insure that those legal rights are protected.

I have received numerous communications of support for this legislation, from individual attorneys, local and State Bar Associations, and the American Bar Association. In addition, numerous individual citizens have written me about their concerns that this program be continued.

Attorneys employed by the Legal Services Corporation's funded programs in Michigan currently provide representation to over 70,000 individuals each year. Most of those cases involve the resolution of disputes that are basic to the survival of the clients, including housing, food, clothing and income maintenance as well as domestic relations matters. Court intervention in these disputes can provide the basic level of justice the law requires.

Continued funding of the Legal Services Corporation as a categorical program at the Federal level is, I believe, absolutely crucial for the survival of these rights and services to the poor. It is clear from the historical record that States have been unwilling and the private bar unable to meet these needs in a consistent, substantial way. Indeed, in some cases the legal problems of the poor involve disputes with public officials at the State and local levels who make decisions about their housing, their income, their health care, their children and other vital areas of their lives. Effective, meaningful legal representation for these people sometimes necessitates legal action against State officials and programs. Certainly we cannot expect States to provide this legal representation.

Mr. Chairman, it is imperative that the needs of the poor be defended in our system or justice.

I implore my colleagues not to accept the false economy inherent in the Reagan administration's plan. I urge instead passage of H.R. 3480.●

● Mr. FINDLEY. Mr. Chairman, except for the rule on advance printing of amendments, I would have offered this amendment:

On page 14 add a new section 15 as follows:

"SEC. 15. Any client who is furnished legal assistance under the provisions of this Act and is not deemed exempt under the terms of this section shall be required to accept an offer from any political subdivision within which he or she resides to perform work on its behalf, or may seek an offer to perform work, with each hour of such work entitling the person to a portion of the legal assistance performed, or to be performed, equal in value to 100 per centum of the higher of the applicable State minimum wage or the Federal minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)). The Corporation shall promulgate such rules and regulations as may be required to permit political subdivisions, if such deem it appropriate, to tender offers of employment to nonexempt clients, and the Corporation shall establish a reasonable schedule of charges and/or an hourly charge for services provided to clients. Work shall not be required under this section to the extent that it either exceeds twenty hours a week or would, together with any other hours worked in any other compensated capacity by such person on a regular or predictable part-time basis, exceed thirty hours a week. Such work shall not include any that has the effect of replacing or preventing the employment of an individual not participating in the workfare program or that does not provide the same benefits and working conditions that are provided by the political subdivision to employees performing comparable work for comparable hours. In the event that any person fails to comply with the requirements of this section, that person shall not be eligible for legal assistance. Persons exempt from the workfare requirement are those who are (a) mentally or physically unfit; (b) under eighteen years of age; (c) sixty years of age or over; (d) subject to and currently involved for at least twenty hours a week in a work training program under a work registration requirement pursuant to Title IV of the Social Security Act, as amended (32 U.S.C. 602); (e) a parent or other member of a household with responsibility for the care of a child under age six or of an incapacitated person; (f) a parent or other caretaker of a child in a household where there is another person who is subject to the requirements of this subsection or is employed full time; (g) a regular participant in a drug addiction or alcoholic treatment and rehabilitation program; (h) a bona fide student enrolled at least half time in any recognized school, training program, or institution of higher education; or (i) anyone employed a minimum of thirty hours per week or receiving weekly earnings which equal the minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)), multiplied by thirty hours.".

Mr. Chairman, language of this amendment almost identical to workfare requirement contained in the Food Stamp Act, which was approved by Republicans and Democrats alike.

A work requirement is also being added as a condition for eligibility for AFDC, so extending it to the legal services program is consistent with administration program and with the mood of America.

Because of the broad administrative structure that will result from the work requirement under food stamps and AFDC, this additional requirement—so small in comparison—should not add any further administrative cost or burden.

Like the work requirement under food stamps, this one is optional for political subdivisions. They need not impose the work requirement if they choose not to.

The value of the legal services provided should be whatever amount is determined to be reasonable, and such amount can be set, if it is deemed appropriate, in consultation with State and national bar associations. Fees allowed to doctors for medical services provided to the poor have long been established, and it should not be any more difficult to determine a standard fee for a divorce than it is for the removal of a gall bladder.

The list of those exempt from this work requirement is broad and generous, including the young, the old, the disabled, those with small dependent children, and several other categories.

Whenever we talk about a Government program which provides services at taxpayer expense, somebody comes up with the criticism that this is just another Government handout. Perhaps it is. This is why placing a work requirement into the Legal Services Act is one way we can remove the "handout" stigma from yet another Federal program. It allows Government to get something in return for its money, but—even better—it gives those receiving the services the incentive to improve themselves, to provide society with help in return for aid. The community would also benefit, both from the work such a program would provide and from an improvement of attitude in those who participate. The communities which have tried programs with a work requirement tell us all parties benefit from workfare. It is a case of Government helping those who help themselves. When we help people this way, it is not a handout.●

The CHAIRMAN. Are there amendments to section 14? If not, the question is on the Committee amendment in the nature of a substitute, as amended.

The Committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOLEY) having assumed the chair, Mr. MCHUGH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3480) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes, pursuant to House Resolution 148, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the Committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. M'CLORY

Mr. MCCLORY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. MCCLORY. In its present form, yes, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

□ 1745

The Clerk read as follows:

Mr. MCCLORY moves to recommit the bill, H.R. 3480, jointly to the Committee on Education and Labor and to the Committee on Ways and Means with instructions to consider said bill in relation to the President's Legal Services proposals and to promptly hold hearings thereon.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois (Mr. MCCLORY).

Mr. MCCLORY. Mr. Speaker, while the debate on this legislation has been lengthy, the issues have not yet been fully joined. Proponents have stressed the necessity and propriety of providing legal aid to the poor, implying somewhat ingeniously that opponents oppose such legal aid. Opponents have recounted the difficulties of the program, and some have sought to remedy them by amendment, thereby likewise implying that this legislation is the only viable means for providing legal aid to the poor.

In such a debate, it is easy for the real issue to become obscured. That issue is not whether we will provide legal aid to the poor but how.

The administration has requested that the legal aid program be offered as part of social services block grants. In order to foil the administration's program, the leadership has scheduled its preferred legislation at this time so as to deny you the choice between the two means of delivering legal aid that are pending in the Congress. Must we accept an inherently defective framework for delivering legal services simply because it is the only item on the leadership's agenda for June 18—or is there a better way? Indeed, this legislation is beset with problems as is attested by the fact that 18 amendments were adopted in committee and 10 more on the floor.

My motion to recommit offers you the choice that you have been heretofore denied. I urge you to vote "aye" so that this legislation be referred to the same forum that is considering the administration's alternative.

That alternative deserves a chance. The fatal flaw of the program before us is the lack of accountability. We have in years past already issued a code of restrictions, which has been all to often ignored. Rewording those restrictions—as we have done once again in H.R. 3480—will not change a thing as long as the recipients of taxpayer dollars remain accountable to no one.

The administration's block grant program would go a long way in making those recipients accountable to someone close at hand. It is virtually impossible for a board of 11 to supervise the errant behavior or thousands of lawyers in hundreds of localities. But the solution is not the cancellation of legal aid; the solution is local control of legal aid. That is the administration proposal.

In a democracy, there is no greater wrong than the lack of accountability to the people. That is the wrong that H.R. 3480 proudly perpetuates. That is the wrong I wish to right.

Mr. SAM B. HALL, JR. Mr. Speaker, will the gentleman yield?

Mr. MCCLORY. I yield to the gentleman from Texas.

Mr. SAM B. HALL, JR. I would like to join with my colleague on this committee to recommend to my colleagues that this matter be recommitted to the committees that were indicated. I think it has been discussed adequately on all sides. I think the amendments have been fully discussed, and I would urge that this matter be recommitted.

Mr. MCCLORY. Mr. Speaker, I would like to emphasize there would be no limitation on funds for Legal Services while there would be $100 million added in the block grant program as a further accommodation to including Legal Services as part of the social service block grant program.

Let me emphasize that the local communities could allocate such sums as they want.

I do not think the debates here have demonstrated any great success of Legal Services Corporation. Inherent in it has been the conceptual defects I referred to, and I believe the direction in which we are moving is toward greater local control with more decisionmaking at the local level where the decisions are best made. The block grant program would provide that.

I am sure the two committees that are included in my motion to recommit would be able to come forward with the kind of block grant program that we could overwhelmingly support which in turn the President would sign and from which the American people could benefit.

I urge my colleagues' favorable vote on the motion to recommit.

Mr. KASTENMEIER. Mr. Speaker, I rise in opposition to the motion to recommit.

The motion to recommit says that the bill shall be committed jointly to the Committee on Education and Labor and the Committee on Ways and Means with an instruction to consider said bill in relation to the President's Legal Services proposals and to promptly hold hearings thereon. I do not suppose anything could be more surprising to those committees than this motion to recommit. I do not think there could be anything more insulting to this Committee—when I say this Committee I am talking about the House of Representatives—for them to work 3 long days, long days in perfecting H.R. 3480, to work the will of the House in the form of a Legal Services Corporation, that they want to operate for the next 2 years and to take the bill at this point in time and to consign it to two other committees. Incidentally, both committees, I understand, have rejected at least the President's block grant proposal. This is nothing more than a straight motion to recommit to kill the bill, up or down. That is all it is. It is not a vehicle for any plausible, reasonable consideration of this measure. We have already devoted ourselves to that and I hope, Mr. Speaker, the House will reject this motion to recommit out of hand.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the distinguished chairman of the Ways and Means Committee, the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in opposition to the motion of the gentleman from Illinois (Mr. MCCLORY).

As I understand it, under the gentleman's recommittal motion the bill would be referred to the Committee on Ways and Means and to the Committee on Education and Labor, instructing both committees to determine whether legal services should be

included in the administration's proposed social services block grant.

In the first place, such a referral is inappropriate because it violates the established legislative jurisdiction of the Judiciary Committee. The legal services program is under jurisdiction of the Judiciary Committee and, unless and until such time as the House takes the necessary steps to change this, it is highly inappropriate for any other committee to legislate in this area.

Procedurally it simply would not be possible for the Ways and Means Committee to respond to the instructions of the recommittal motion. We have already completed action on our reconciliation legislation, which included a careful review of the block grant measures proposed by the administration.

We are in the middle of markup on a tax bill and do not have the time to undertake the necessary hearings, subcommittee and full committee consideration that compliance with the motion would require. Furthermore, referral to Ways and Means for the purpose stated in the motion would most likely be a waste of time.

Through our Subcommittee on Public Assistance and Unemployment Compensation, the President's social service block grant proposal was carefully evaluated. With bipartisan and virtually unanimous agreement, the proposed consolidation of the title XX, child welfare services, foster care and adoption assistance programs was rejected. It is highly unlikely that the committee would now reverse itself and consolidate legal services with title XX and the other social service programs under Ways and Means jurisdiction.

It should be understood that Ways and Means is not necessarily opposed to block grants. In fact, in recent months the committee has worked very closely with representatives of the Nation's Governors to develop legislation reauthorizing the low-income energy assistance program in the form of a block grant to States. With regard to the administration's social service block grant, however, the consolidation of a large number of disparate programs would not improve State programs—it would mixup, dilute, and confuse State programs.

The Ways and Means Committee has completed action on its budget reconciliation package. We have already acted on the President's block grant proposals and are now in the middle of tax markup.

The President has been challenging Congress to have both a budget bill and a tax bill on his desk. The diversion of any days from tax markup or final House action on the reconciliation bill reduces the chances of Congress meeting the President's challenge.

I urge the members to vote against the recommittal motion.

Mr. KASTENMEIER. I thank the distinguished chairman for his remarks.

Mr. Speaker, let us reject this motion to recommit, pass the bill, and then get on to other business of the House.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and on a division (demanded by Mr. WALKER) there were—yeas 55, nays 63.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 165, nays 221, not voting 45, as follows:

[Roll No. 90]

YEAS—165

Alexander	Ginn	Myers
Andrews	Goldwater	Napier
Archer	Goodling	Nelligan
Ashbrook	Gramm	Nelson
Bafalis	Gregg	Nichols
Bailey (MO)	Grisham	Parris
Barnard	Gunderson	Patman
Beard	Hagedorn	Paul
Benedict	Hall, Ralph	Petri
Bereuter	Hall, Sam	Quillen
Bethune	Hammerschmidt	Regula
Bevill	Hance	Rhodes
Bliley	Hansen (ID)	Ritter
Brinkley	Hartnett	Roberts (KS)
Broomfield	Hefner	Roberts (SD)
Brown (CO)	Hendon	Robinson
Broyhill	Hiler	Rogers
Burgener	Hillis	Roth
Campbell	Holt	Roukema
Carman	Hopkins	Rousselot
Carney	Huckaby	Santini
Chappell	Hunter	Schulze
Cheney	Hutto	Sensenbrenner
Clausen	Hyde	Shaw
Clinger	Ireland	Shelby
Coats	Jeffries	Shumway
Coleman	Jenkins	Shuster
Collins (TX)	Kemp	Siljander
Conable	Kindness	Skeen
Corcoran	Kramer	Smith (AL)
Courter	Lagomarsino	Smith (NE)
Coyne, James	Latta	Smith (NJ)
Craig	Leath	Smith (OR)
Crane, Daniel	LeBoutillier	Snowe
Crane, Philip	Lee	Snyder
Daniel, Dan	Lent	Solomon
Daniel, R. W.	Lewis	Spence
Dannemeyer	Loeffler	Stangeland
Daub	Lott	Stanton
Derrick	Lowery	Staton
Derwinski	Lungren	Stenholm
Dornan	Madigan	Stump
Dougherty	Marriott	Taylor
Dreier	Martin (NC)	Trible
Duncan	Martin (NY)	Vander Jagt
Edwards (AL)	McClory	Walker
Edwards (OK)	McEwen	Weber (MN)
Emerson	McGrath	Weber (OH)
Evans (IA)	Mica	Whitley
Fiedler	Michel	Whittaker
Fields	Miller (OH)	Winn
Flippo	Montgomery	Wolf
Forsythe	Moore	Wortley
Fountain	Moorhead	Young (AK)
Gingrich	Morrison	Young (FL)

NAYS—221

Addabbo	Foglietta	Oberstar
Akaka	Foley	Obey
Anderson	Ford (MI)	Ottinger
Annunzio	Ford (TN)	Panetta
Anthony	Fowler	Patterson
Applegate	Frank	Pease
Aspin	Frost	Pepper
Atkinson	Fuqua	Perkins
AuCoin	Garcia	Pickle
Bailey (PA)	Gaydos	Porter
Barnes	Gejdenson	Pritchard
Beilenson	Gephardt	Pursell
Benjamin	Gilman	Rahall
Bennett	Glickman	Railsback
Biaggi	Gonzalez	Rangel
Bingham	Gore	Ratchford
Blanchard	Gradison	Reuss
Boggs	Green	Richmond
Boland	Guarini	Rinaldo
Bolling	Hall (OH)	Rodino
Bonior	Hamilton	Roe
Bonker	Hatcher	Roemer
Bouquard	Heckler	Rosenthal
Bowen	Heftel	Rostenkowski
Brodhead	Hertel	Roybal
Brown (CA)	Hightower	Russo
Burton, John	Holland	Sabo
Burton, Phillip	Hollenbeck	Savage
Butler	Horton	Sawyer
Byron	Howard	Scheuer
Chisholm	Hoyer	Schneider
Clay	Hubbard	Schroeder
Coelho	Hughes	Schumer
Collins (IL)	Jacobs	Seiberling
Conte	Jones (NC)	Shamansky
Coughlin	Jones (OK)	Shannon
Coyne, William	Jones (TN)	Sharp
Crockett	Kastenmeier	Smith (IA)
D'Amours	Kazen	Solarz
Danielson	Kildee	St Germain
Daschle	LaFalce	Stark
Davis	Leach	Stokes
de la Garza	Leland	Stratton
Deckard	Levitas	Studds
Dellums	Long (LA)	Swift
DeNardis	Long (MD)	Synar
Dicks	Lowry	Tauke
Dingell	Lujan	Tauzin
Dixon	Lundine	Traxler
Dorgan	Markey	Udall
Downey	Marks	Vento
Dunn	Marlenee	Volkmer
Dwyer	Martin (IL)	Walgren
Dymally	Matsui	Wampler
Dyson	Mattox	Washington
Eckart	Mavroules	Watkins
Edgar	McCloskey	Waxman
Edwards (CA)	McCollum	Weaver
Emery	McCurdy	Weiss
English	McHugh	White
Erdahl	McKinney	Whitehurst
Erlenborn	Mikulski	Whitten
Ertel	Miller (CA)	Williams (MT)
Evans (DE)	Mineta	Williams (OH)
Evans (GA)	Minish	Wilson
Evans (IN)	Mitchell (MD)	Wirth
Fary	Mottl	Wolpe
Fascell	Murphy	Wyden
Fazio	Murtha	Wylie
Fenwick	Natcher	Yates
Ferraro	Neal	Yatron
Findley	Nowak	Young (MO)
Fish	O'Brien	Zablocki
Fithian	Oakar	

NOT VOTING—45

Albosta	Gibbons	Mitchell (NY)
Badham	Gray	Moakley
Bedell	Hansen (UT)	Moffett
Boner	Harkin	Molinari
Breaux	Hawkins	Mollohan
Brooks	Jeffords	Pashayan
Brown (OH)	Johnston	Peyser
Chappie	Kogovsek	Price
Conyers	Lantos	Rose
Cotter	Lehman	Rudd
Dickinson	Livingston	Simon
Donnelly	Luken	Skelton
Early	Mazzoli	Thomas
Florio	McDade	Wright
Frenzel	McDonald	Zeferetti

□ 1800

The Clerk announced the following pairs:

On this vote:

Mr. McDonald for, with Mr. Mollohan against.
Mr. Badham for, with Mr. Gray against.
Mr. Chappie for, with Mr. Conyers against.
Mr. Dickinson for, with Mr. Zeferetti against.
Mr. Hansen of Utah for, with Mr. Kogovsek against.
Mr. Johnston for, with Mr. Wright against.
Mr. Livingston for, with Mr. Peyser against.
Mr. McDade for, with Mr. Moakley against.
Mr. Mitchell of New York for, with Mr. Lehman against.
Mr. Rudd for, with Mr. Hawkins against.
Mr. Thomas for, with Mr. Moffett against.

Until further notice:

Mr. Brooks with Mr. Jeffords.
Mr. Early with Mr. Molinari.
Mr. Florio with Mr. Frenzel.
Mr. Lantos with Mr. Pashayan.
Mr. Price with Mr. Skelton.
Mr. Albosta with Mr. Rose.
Mr. Donnelly with Mr. Simon.
Mr. Mazzoli with Mr. Luken.
Mr. Breaux with Mr. Bedell.
Mr. Harkin with Mr. Boner of Tennessee.

Mr. PORTER changed his vote from "yea" to "nay."

Mr. ANDREWS changed his vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. KASTENMEIER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 245, nays 137, answered "present" 1, not voting 48, as follows:

[Roll No. 91]

YEAS—245

Addabbo	Brodhead	Downey
Akaka	Brown (CA)	Duncan
Alexander	Burton, Phillip	Dunn
Anderson	Butler	Dwyer
Andrews	Byron	Dymally
Annunzio	Chisholm	Eckart
Anthony	Clausen	Edgar
Applegate	Clay	Edwards (CA)
Aspin	Clinger	Emery
Atkinson	Coelho	English
AuCoin	Coleman	Erdahl
Bailey (PA)	Collins (IL)	Erlenborn
Barnard	Conte	Ertel
Barnes	Coughlin	Evans (DE)
Beard	Courter	Evans (GA)
Beilenson	Coyne, William	Evans (IA)
Benjamin	Crockett	Evans (IN)
Bennett	D'Amours	Fary
Biaggi	Danielson	Fascell
Bingham	Daschle	Fazio
Blanchard	Davis	Fenwick
Boggs	de la Garza	Ferraro
Boland	Deckard	Findley
Bolling	Dellums	Fish
Bonior	DeNardis	Fithian
Bonker	Dicks	Foglietta
Bouquard	Dingell	Foley
Bowen	Dixon	Ford (MI)
Brinkley	Dorgan	Forsythe
Fountain	Marks	Russo
Fowler	Marlenee	Sabo
Frank	Martin (IL)	Savage
Frost	Martin (NC)	Sawyer
Fuqua	Matsui	Scheuer
Garcia	Mattox	Schneider
Gaydos	Mavroules	Schroeder
Gejdenson	McCloskey	Schumer
Gephardt	McCollum	Seiberling
Gilman	McCurdy	Shamansky
Ginn	McHugh	Shannon
Glickman	McKinney	Sharp
Gonzalez	Mica	Skeen
Gore	Mikulski	Smith (IA)
Gradison	Miller (CA)	Solarz
Green	Mineta	St Germain
Guarini	Minish	Stanton
Hagedorn	Mitchell (MD)	Stark
Hall (OH)	Moore	Stokes
Hall, Ralph	Mottl	Stratton
Hamilton	Murphy	Studds
Hatcher	Murtha	Swift
Heckler	Natcher	Synar
Hefner	Neal	Tauke
Heftel	Nowak	Tauzin
Hertel	O'Brien	Traxler
Hightower	Oakar	Udall
Hollenbeck	Oberstar	Vento
Hopkins	Obey	Volkmer
Horton	Ottinger	Walgren
Howard	Panetta	Wampler
Hoyer	Patterson	Washington
Hubbard	Pease	Watkins
Huckaby	Pepper	Waxman
Hughes	Perkins	Weaver
Hunter	Pickle	Weber (OH)
Jacobs	Porter	Weiss
Jenkins	Pritchard	White
Jones (NC)	Pursell	Whitehurst
Jones (OK)	Rahall	Whitley
Jones (TN)	Railsback	Whitten
Kastenmeier	Rangel	Williams (MT)
Kazen	Ratchford	Williams (OH)
Kildee	Regula	Wilson
Leach	Reuss	Wirth
Leland	Richmond	Wolpe
Lent	Rinaldo	Wyden
Levitas	Rodino	Wylie
Long (MD)	Roe	Yates
Lowry	Roemer	Yatron
Lujan	Rosenthal	Young (MO)
Lundine	Rostenkowski	Zablocki
Markey	Roybal	

NAYS—137

Archer	Fields	McEwen
Ashbrook	Flippo	McGrath
Bafalis	Gingrich	Michel
Bailey (MO)	Goldwater	Miller (OH)
Benedict	Goodling	Montgomery
Bereuter	Gramm	Moorhead
Bethune	Gregg	Morrison
Bevill	Grisham	Myers
Bliley	Gunderson	Napier
Broomfield	Hall, Sam	Nelligan
Brown (CO)	Hammerschmidt	Nelson
Broyhill	Hance	Nichols
Burgener	Hansen (ID)	Parris
Campbell	Hartnett	Patman
Carman	Hendon	Paul
Carney	Hiler	Petri
Chappell	Hillis	Quillen
Cheney	Holland	Rhodes
Coats	Holt	Ritter
Collins (TX)	Hutto	Roberts (KS)
Conable	Hyde	Roberts (SD)
Corcoran	Ireland	Robinson
Coyne, James	Jeffries	Rogers
Craig	Kemp	Roth
Crane, Daniel	Kindness	Roukema
Crane, Philip	Kramer	Rousselot
Daniel, Dan	Lagomarsino	Santini
Daniel, R. W.	Latta	Schulze
Dannemeyer	Leath	Sensenbrenner
Daub	LeBoutillier	Shaw
Derrick	Lee	Shelby
Derwinski	Lewis	Shumway
Dornan	Loeffler	Shuster
Dougherty	Lott	Siljander
Dreier	Lowery	Smith (AL)
Dyson	Lungren	Smith (NE)
Edwards (AL)	Madigan	Smith (NJ)
Edwards (OK)	Marriott	Smith (OR)
Emerson	Martin (NY)	Snowe
Fiedler	McClory	Snyder
Solomon	Taylor	Winn
Spence	Trible	Wolf
Stangeland	Vander Jagt	Wortley
Staton	Walker	Young (AK)
Stenholm	Weber (MN)	Young (FL)
Stump	Whittaker	

ANSWERED "PRESENT"—1

Burton, John

NOT VOTING—48

Albosta	Gibbons	McDonald
Badham	Gray	Mitchell (NY)
Bedell	Hansen (UT)	Moakley
Boner	Harkin	Moffett
Breaux	Hawkins	Molinari
Brooks	Jeffords	Mollohan
Brown (OH)	Johnston	Pashayan
Chappie	Kogovsek	Peyser
Conyers	LaFalce	Price
Cotter	Lantos	Rose
Dickinson	Lehman	Rudd
Donnelly	Livingston	Simon
Early	Long (LA)	Skelton
Florio	Luken	Thomas
Ford (TN)	Mazzoli	Wright
Frenzel	McDade	Zeferetti

□ 1830

The Clerk announced the following pairs:

On this vote:

Mr. Mollohan for, with Mr. McDonald against.
Mr. Peyser for, with Mr. Badham against.
Mr. Wright for, with Mr. Chappie against.
Mr. Brooks for, with Mr. Dickinson against.
Mr. Zeferetti for, with Mr. Hansen of Utah against.
Mr. Conyers for, with Mr. Johnston against.
Mr. Moffett for, with Mr. Livingston against.
Mr. Frenzel for, with Mr. Rudd against.
Mr. McDade for, with Mr. Thomas against.

Until further notice:

Mr. Early with Mr. Pashayan.
Mr. Florio with Mr. Molinari.
Mr. Breaux with Mr. Mitchell of New York.
Mr. Kogovsek with Mr. Jeffords.
Mr. Skelton with Mr. Bedell.
Mr. Moakley with Mr. Albosta.
Mr. Long of Louisiana with Mr. Boner of Tennessee.
Mr. LaFalce with Mr. Donnelly.
Mr. Hawkins with Mr. Ford of Tennessee.
Mr. Gray with Mr. Lantos.
Mr. Lehman with Mr. Luken.
Mr. Price with Mr. Mazzoli.
Mr. Harkin with Mr. Simon.

Mrs. ROUKEMA and Mrs. SNOWE changed their votes from "yea" to "nay."

Mr. COELHO and Mr. ROYBAL changed their votes from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING CLERK TO MAKE CHANGES IN SECTION NUMBERS, CROSS-REFERENCES, AND PUNCTUATION IN ENGROSSMENT OF H.R. 3480

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that the Clerk

be authorized to correct punctuation marks, cross-references, and section numbers as may be required in the engrossment of the bill (H.R. 3480) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill, H.R. 3480, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL 5 P.M., FRIDAY, JUNE 19, 1981, TO FILE REPORT ON H.R. 3603, FOOD AND AGRICULTURE ACT OF 1981

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until 5 p.m., Friday, June 19, 1981, to file a report on H.R. 3603, the Food and Agriculture Act of 1981, which was sequentially referred to the committee for a period ending June 19, 1981.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

PERMISSION FOR COMMITTEE ON THE BUDGET TO HAVE UNTIL 5 P.M., FRIDAY, JUNE 19, 1981, TO FILE REPORT ON OMNIBUS RECONCILIATION ACT OF 1981

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent that the Committee on the Budget may have until 5 p.m., Friday, June 19, 1981, to file a report on the bill entitled "The Omnibus Reconciliation Act of 1981."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

Mr. LATTA. Reserving the right to object, Mr. Speaker, may I ask my chairman a question about this deadline?

Does this give the minority ample time to file a report?

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. Yes, by 5 p.m., Friday, June 19, which is what we agreed to in the Budget Committee yesterday.

Mr. LATTA. That is what the gentleman and I agreed to.

Mr. JONES of Oklahoma. Yes; we agreed together.

Mr. LATTA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma (Mr. JONES)?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1257, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT, 1982

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 97-155) on the resolution (H. Res. 161) providing for the consideration of the bill (H.R. 1257) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3380, ARMED FORCES PAY ACT OF 1981

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 97-156) on the resolution (H. Res. 162) providing for the consideration of the bill (H.R. 3380) to increase the pay and allowances of members of the Armed Forces, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3519, DEFENSE DEPARTMENT AUTHORIZATION ACT, 1982

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 97-157) on the resolution (H. Res. 163) providing for the consideration of the bill (H.R. 3519) to authorize appropriations for fiscal year 1982 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, and for other purposes, which was referred to the House Calendar and ordered to be printed.

APPOINTMENT OF CONFEREES ON H.R. 3520, STEEL INDUSTRY COMPLIANCE EXTENSION ACT OF 1981

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3520) to amend the Clean Air Act to provide compliance date extensions for steelmaking facilities on a case-by-case basis to facilitate modernization, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan? The Chair hears none and, without objection, appoints the following conferees: Messrs. DINGELL, WAXMAN, SCHEUER, LUKEN, WALGREN, BROYHILL, MADIGAN, and BROWN of Ohio.

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask for this 1 minute for the purpose of inquiring of the distinguished majority whip the program for the balance of this week and next week.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, this concludes the business for this week. It would be my intention to ask unanimous consent that when the House adjourns tonight it adjourn to meet on Monday next.

On Monday, it is our intention to have general debate on H.R. 3238, the Public Broadcasting Act amendments. The rule has already been adopted, a 1-hour rule and the House would meet for general debate only on Monday.

If it is possible to obtain unanimous consent, which I shall also shortly request, Tuesday, June 23, will be considered as eligible for District of Columbia business. If that permission is granted, we will meet at noon on Tuesday. There are no suspensions and we will then, subject to permission, take up H.R. 2818, to extend District of Columbia borrowing authority and H.R. 2819, to increase annual payment for District of Columbia.

In addition to that, the House will consider H.R. 3238, the Public Broadcasting Act amendments and complete consideration and H.R. 2614, the DOD Supplemental Authorizations Act of 1981, to complete consideration.

On Wednesday and the balance of the week the House will meet at 10 a.m., and subject to a rule being granted, we would take up the Budget Reconciliation Act, if that is ready and if the rule is granted.

In the alternative, we would also possibly additionally take up H.R. 1257, the NASA authorization for fiscal year 1982, a 1-hour open rule; H.R. 3380, to increase pay and allowances of members of the Armed Forces, an open rule with 2 hours of debate; and H.R. 3519, the Department of Defense authorizations for fiscal year 1982, an open rule with 7 hours of debate.

The House will adjourn by 3 p.m. on Friday and at 5:30 p.m. on all other days except Wednesday, subject to the usual caution that conference reports may be brought up at other times and further announcements may be made later.

Mr. MICHEL. I thank the gentleman. I do not think I have any questions.

ADJOURNMENT TO MONDAY, JUNE 22, 1981

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourns to meet at 12 o'clock noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

REQUEST TO MAKE IN ORDER CONSIDERATION OF DISTRICT OF COLUMBIA BILLS ON TUESDAY, JUNE 23, 1981

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that on Tuesday, June 23, 1981, it may be in order to consider District of Columbia bills.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. PARRIS. Mr. Speaker, reserving the right to object, I wonder if the gentleman would explain to us the purpose of not having the District of Columbia handle its legislative matters on the normal District of Columbia day.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. PARRIS. I yield to the gentleman from Washington.

Mr. FOLEY. Well, it is an effort, as we have done on several occasions, in postponing votes and to allow Members some possibility of additional time. There is a possibility, as the gentleman knows, that air service interruption may occur on Monday morning, and in that event it was thought wise to allow some additional time for Members to return in case they would be involved.

□ 1845

Mr. PARRIS. Further reserving the right to object, Mr. Speaker, is it not likely that if air travel is interrupted on Monday, it will also be interrupted on Tuesday?

Mr. FOLEY. Yes, but of course Members from nearby areas would have other means of transportation to return. For those who come from greater distances, of course, it would be a problem, but those Members in nearby districts would have opportunities for alternative travel.

Mr. PARRIS. Mr. Speaker, the thing I am trying to get at, if the gentleman from Washington would accommodate me, is that the District days are the second and fourth Mondays of each month, and now we want to have the District of Columbia legislation on Tuesday.

The Speaker has the authority to defer votes on this legislation. I am just puzzled as to why we cannot do the normal business in the normal way.

Mr. FOLEY. If the gentleman will yield further, the problem is that on matters such as suspension bills that have votes on final passage only, it is possible to defer those votes, but on District of Columbia bills which are not brought up under suspension of the rules there could be amendments and separate votes on various amendments during the course of the consideration of the legislation which could not be so postponed. So, if we have them scheduled on Monday as the gentleman suggests is customary, there would indeed be the possibility of votes on Monday, and in order to accommodate the Members this unanimous-consent request is being made to permit deferral of votes until Tuesday.

Mr. PARRIS. Mr. Speaker, I have the highest possible regard for the gentleman from Washington, but on this matter, as a member of the committee, I object.

The SPEAKER pro tempore. Objection is heard.

FURTHER LEGISLATIVE PROGRAM

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, I would like to revise the announcement of the program, and announce that there will be District of Columbia business on Monday, and that Members must assume there will be votes on that day.

We had hoped to accommodate the Members, but the gentleman's objection makes that impossible. So, Members should be advised that the District of Columbia business will be in order on Monday and that votes may be taken on that day.

BRAILOVSKY TRIAL IS BREACH OF SOVIET SYSTEM OF JUSTICE

(Mr. FRANK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRANK. Mr. Speaker, the announcement today that Viktor Brailovsky had been tried and convicted in a Moscow court came, unfortunately, as no suprise. In the most significant Soviet show-trial since Anatoly Shcharansky was sentenced to 13 years in July 1978 Viktor Brailovsky has fallen victim to a grossly unfair system of justice.

Since Viktor Brailovsky was refused an exit visa in 1972, he has been organizing weekly gatherings of Jewish scientists who have lost their jobs—as Brailovsky did—after applying for a permit to emigrate. The purpose of the seminars was to discuss topics relevant to their professions in order that they might remain up to date with the latest developments in their professional areas of expertise. In addition, Brailovsky was involved in publishing a journal about Jewish life and culture in the Soviet Union for a period of 6 years before he was forced to cease publication.

Viktor Brailovsky's real crime was that as a Jew, he wished to observe his religious and cultural traditions, and, ultimately, that he wished to join his brother in Israel. It is disgraceful that the Soviet leaders are punishing him for this.

I call on the administration to protest the trial and conviction of Viktor Brailovsky in the strongest possible terms. I call on the Soviet Union to cease their relentless inhumanity.

DESIGNATION OF AUGUST 24, 1981, AS "DIA DE MEXICANOS AMERICANOS" (MEXICAN-AMERICAN DAY)

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROUSSELOT. Mr. Speaker, together with my colleagues, Representatives EDWARD ROYBAL, ROBERT MATSUI, Mr. WILLIAM DANNEMEYER and several Members of the California congressional delegation, I wish to recognize the fine efforts of our colleagues in the California State Assembly. Through a members' resolution introduced by Hon. Joseph Montoya, August 24, 1981, has been designated

"Dia De Mexicanos Americanos"—Mexican-American Day—in California to honor the significant contributions of Mexican Americans to the colorful history and romantic culture of the State of California.

The Mexican American of California is searching for ways to preserve and maintain his native original culture in his State. In so doing, the Mexican American maintains a sense of pride and value in society. Because of the desire of most Californians to express appreciation of Mexican American culture through the arts, music, architecture, and cuisine, to name a few, the day has come for official recognition. August 24, 1981, has been declared through State resolution as a holiday specifically to honor the Mexican American heritage. This day shall be known as "Dia De Mexicanos Americanos" in the State of California. This special day will recognize and exemplify all Mexican Americans who have made vital contributions in maintaining this beautiful heritage. Today, the California delegation has expressed their desire to honor the California Mexican Americans.

OMBUDSMEN FOR VA PATIENTS

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, the Government of the United States has no greater responsibility than to protect and defend the territory of our country and its vital interests against aggression. A strong national defense posture is indispensable to the well-being of our citizens and the continued existence of the freedoms and privileges enjoyed in this country. But democratic institutions have never had an easy time of it. During the painful evolution toward democracy from autocracy, from feudalism, from tyranny, the idea of political freedoms was challenged and advocates of democracy were everywhere persecuted. The French and American Revolutions signaled an historic shift, but these gains were made only at the expense of suffering and sacrifice. In modern times, sacrifice has been required to keep democratic nations free. Major wars have been fought between the forces of tyranny and the forces of freedom, and there can be no doubt that additional sacrifice will be required for our people to resist the forces of tyranny.

Having the responsibility to defend our Nation militarily, the Federal Government also must be generous in meeting the legitimate needs of our veterans—needs relating to readjustment assistance, educational benefits, compensation for veterans and their dependents, and medical treatment. Our programs to meet the needs of veterans must be of the highest quality possible. We should not tolerate shabby treatment or indifference. Caring for the veteran should be a national commitment which transcends short-term budgetary considerations. In the medical care field, concern is widespread that the VA hospital system has not been responsive to the legitimate needs of our veterans. Frustration about inadequate care at VA facilities has embittered many veterans—not only the recent Vietnam veterans, who have their own list of special complaints and concerns—and has made a mockery of our Nation's stated commitment to care for those who have borne the battle.

Mr. Speaker, I am today introducing legislation to address this concern about veteran complaints with the VA hospital system. My legislation is as simple and noncontroversial as it is brief. My proposal would provide for the placement at each VA medical facility a patient ombudsman to be appointed by the Comptroller General of the United States. These GAO employees would investigate patient complaints with respect to the adequacy of the health care and treatment furnished them and conduct additional investigations as are considered appropriate. The VA Administrator is directed to authorize these ombudsmen to have reasonable access to the patients and the records and books of VA medical facilities. My bill also stipulates that GAO should report to the Congress at least once a year summarizing the activities and investigations carried out by the ombudsmen and making recommendations for improving the health care and treatment being furnished in VA medical facilities.

Mr. Speaker, this is a small but significant step which will insure objective investigations of veteran health care and will provide our veterans with tangible evidence that the commitment to provide quality health care to those who have served honorably in uniform is taken seriously by the Congress. I urge all my colleagues to support this useful proposal. The full text of my bill follows for the convenience of my colleagues.

H.R. 3971

A bill to amend title 38, United States Code, to direct the Comptroller General to assign employees of the General Accounting Office to serve as ombudsmen for patients in Veterans' Administration facilities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter III of chapter 17 of title 38, United States Code, is amended by adding after section 628 the following new section:

"§629. Ombudsmen for patients in Veterans' Administration facilities

"(a) The Comptroller General of the United States shall assign one employee of the General Accounting Office to duty in each facility of the Veterans' Administration providing hospital care under this chapter. Each employee so assigned shall investigate complaints of patients in the facility with respect to the adequacy of the health care and treatment being furnished them and conduct such additional investigations as the employee considers appropriate with respect to the adequacy of the health care and treatment being furnished in such facility and shall report on such complaints and investigations to the head of the facility and to the Administrator. The Administrator shall authorize each employee so assigned to have reasonable access to the patients in such facility and to the records and books of such facility.

"(b) The Comptroller General may, whenever he deems it appropriate, and shall, at least once a year, submit a report to the Congress summarizing the activities and investigations carried out by ombudsmen under subsection (a) and making any recommendations for improving the health care and treatment being furnished in facilities to which such ombudsmen have been assigned.".

(b) The table of sections at the beginning of such chapter 17 is amended by adding after the item relating to section 628 the following new item:

"629. Ombudsmen for patients in Veterans' Administration facilities.".

BOLSTERING SECRETARY WATT'S SAGGING IMAGE

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. VENTO. Mr. Speaker, it seems that the Department of the Interior has a new mandate—to serve as the personal public relations firm for Secretary James Watt. Apparently, the Interior Department has finished all its public responsibilities and has now decided to branch out into new adventures.

Yesterday, I received this letter from Stanley W. Hulett, Assistant to Secretary Watt and Director of Congressional Liaison. Perhaps, I thought, this letter was in response to the unanswered questions which I submitted to the Secretary in May.

But no, this letter was much more urgent than that. Mr. Hulett was bringing to my attention a letter of great magnitude which offers the key to all of our environmental problems—Jim Watt is a great guy.

Mr. Speaker, we all know Jim Watt can give charming and witty responses. Many of us would prefer to hear those comments come from someone in Wyoming, rather than the Secretary of the Interior.

I question the propriety of this correspondence. Mr. Watt is on the rocks and this letter is a direct advertising campaign to bolster his sagging image. This campaign, I believe, is in direct violation of the prohibition on the use of Federal funds for lobbying purposes, and I am asking the appropriate committees to investigate this matter.

In this time of severe budetary constraints, how much Federal money is Mr. Watt spending on self-promotion? The Reagan administration managed to find private investors to keep the Sequoia afloat. Could they not find any way to raise the sinking James Watt?

At this time I insert the correspondence which I received from Mr. Hulett, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 15, 1981.

Hon. BRUCE VENTO,
House of Representatives,
Washington, D.C.

DEAR MR. VENTO: I am enclosing a letter from Horace M. Albright whom I have known and respected for many years.

Mr. Albright worked tirelessly and successfully with Stephen T. Mather to convince the country and the Congress to create the National Park Service in 1916. He is also remembered as the second Director of the Service where his ideas and leadership are an ingrained part of the tradition of the National Park Service. Even today, as you can tell from his letter, he is a strong and persistent advocate of the Service.

I believe his letter will be of interest to you.

Sincerely,

STANLEY W. HULETT,
Assistant to the Secretary
and Director of Congressional
and Legislative Affairs.

STUDIO CITY, CALIF., *May 25, 1981.*

Hon. JAMES G. WATT,
Secretary of the Interior,
Washington, D.C.

MY DEAR MR. SECRETARY: Not so long ago, you wrote me a fine letter that gave this old ninety-one year old national park pioneer immense happiness. It will be a cherished part of our family's heritage. I am grateful for your kindness and thoughtfulness in writing it.

I read your writings and listen to your spoken statements at every opportunity and with the keenest interest and satisfaction. Last week the television panel discussion of your plans and policies for the administration of the affairs of your department was an outstanding event of its kind. I greatly enjoyed the part your played in the discussions, especially your "charming and witty responses" to many of the questions. I admire your honesty and forthrightness. Of course, your expressions on national parks I thought most impressive—and convincing. When you use the words "jewels of our nation", it instantly calls to my mind Stephen Mather, for he used to say that our parks were the jewels in the crown of Miss Columbia (you are perhaps too young to remember that she was the symbol of our country rather than Uncle Sam)!

It is heartening to me to see that after 65 years, the purpose and dream for the Park Service is still alive and well and in safe hands.

With my every good wish for success in all your undertakings and with sentiments of highest esteem, I am

Sincerely yours,

HORACE M. ALBRIGHT.

THE COMMITTEE RATIO RACKET: A POLITICAL PROBLEM AND PUBLIC CONCERN

(Mr. BAILEY of Missouri asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BAILEY of Missouri. Mr. Speaker, today I continue discussion of the issue of House committee apportionment among the majority and minority parties of this body. Yesterday I detailed the evolution of committee apportionment from the 62d Congress to the current Congress. As the historical trends detailed, unequal apportionment of committee assignments, though a longstanding problem, reached epidemic proportions in the early 1970's with the unilateral decision by the majority to permanently fix committee ratios in their favor regardless of their overall margin in the House.

Quite simply, our House committee system today is stacked. While it is the majority who have pulled this power play, the issue of committee apportionment should be of equal concern to all of us, majority and minority alike. The day will come, sooner than the majority may like, when this House may be under the leadership of the Republicans. And the Democrats will find the ratio racket a bitter game when played with the handicap of their own ill begotten rules.

Mr. Speaker, it would benefit all of us to remember Thomas Jefferson's wise counsel in his 1801 inaugural:

All, too, will bear in mind this sacred principle, that though the will of the Majority is in all cases to prevail, that will to be rightful must be reasonable; that the Minority possesses their equal rights which equal law must protect, and to violate would be oppression.

COMMITTEE APPORTIONMENT: A CONCERN BEYOND PARTISANSHIP

Our distinguished colleague from Minnesota (Mr. FRENZEL) wrote an article for Commonsense last year in which he said:

Few institutions need change as much as the House of Representatives. Its anachronistic procedures, its gerrymandered jurisdictions, and its obscene spending habits all scream for reform.

The very nerve center of the House is its 22 standing committees with their 152 subcommittees. This is where legislation is evolved, where policy implementation is overseen, where the issues of the day—both major and minor—are debated, and where the decisions impacting on the economic welfare and basic security of this Nation are made. As Speaker Thomas B. Reed said in 1894:

The committee is the eye, the ear, the hand, and very often the brain, of the Assembly.

Yet, these very committees and subcommittees are today apportioned by the Democrats among the two parties of this House to insure such gross disparities that the will of the American voter at the poll is consistently subverted. At the beginning of the 96th Congress, for instance, the Republicans were undercounted on 9 standing committees, including Appropriations, Budget, Rules, and Ways and Means, and shortchanged on over one-third of the 152 subcommittees of those committees.

From another perspective, Republicans have gained 47 seats since the 1974 elections but for the past 6 years have not been allowed 1 additional seat on Rules or Ways and Means. The Democrats, despite their 56-percent majority in the current House still enjoy a 2-to-1 plus majority—or 69 percent—on Rules insuring effective veto power over the bills this Congress will consider. The Democrats also enjoy a 2-to-1 minus 1 ratio—or 66 percent—on Ways and Means thus holding excessive power over the fate of President Reagan's landmark tax reduction proposals. And on Appropriations, and Budget, the Democrats have maintained a 3-to-2 ratio—or 60 percent—effectively blocking Republicans from the two additional votes which they should have under equitable apportionment.

As the distinguished ranking minority member of Ways and Means (Mr. CONABLE) said earlier this year: "Elections should make a difference." That they do not is a sad commentary on the perversion of power and democracy in this body.

The issue of equitable committee apportionment is not a partisan issue. In the debate on the House rules for the 97th Congress, the Democrats justified their power grab by pointing to their treatment at the hands of the Republicans in the 83d Congress. The Republicans in the 83d Congress were responding in kind to their treatment by the Democrats in the 82d Congress. And on it goes.

Both parties have been at fault, but that is no justification for perpetuation of a bad practice. In the end it is the American voter who loses. In the end it is the American voter who goes to the poll only to find that vote warped by the House committee system. And in the end it is the American voter who discovers that the innocuous phrase "firm working majority" in actuality means that some votes in this country count more than others, despite our purported adherence to the principle of "one person—one vote" as the foundation of our democratic electoral system.

The Honorable Majority Leader Mr. WRIGHT says that the Democrats must maintain inequitable committee ratios if it is "to carry out the mandates that have been given to it by the American people." But the fact is the majority

has assigned itself a greater mandate than the American people actually gave. The gentleman from Texas even conceded that were he in the minority's position, he would be making exactly the same points as the Republicans. Such a statement clearly recognizes the injustice. But rather then reform it, the majority only worsens and perpetuates it.

As a March 1980 report on committee ratios prepared for our distinguished Republican from Iowa (Mr. LEACH) highlighted:

> Establishing committee ratios which adequately correspond to the political cast of the full House, in effect, disparages the basic principles of democratic representation. Party alignments in the House reflect the conscious choices made by the American electorate every two years. This popularly-decided division of partisan strength, one assumes, should be mirrored in all aspects of the congressional process. Yet the systematic skewing of ratios has discounted the effective participation of the minority at the focal point of legislative determination—the committee system * * *. Assigning the minority fewer seats that its overall strength in the House is equivalent to political disenfranchisement * * *.
>
> The question of committee ratios, which superficially may appear to be solely a political dispute, in truth, involves a serious attempt to correct a major flaw evident in our system of representation.

On behalf of the voters of this Nation, Mr. Speaker, and on behalf of Democratic justice, the time has come to permanently reform committee apportionment in this House. Tomorrow I will discuss various means of reform highlighting that the most appropriate reform would be that which would emerge from the consensus and conscience of the Members of this body. It is time we put our own House in order.

IN SUPPORT OF LEGAL SERVICES LEGISLATION, AS AMENDED

(Mr. EVANS of Delaware asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. EVANS of Delaware. Mr. Speaker, the debate this week over the Legal Services Corporation has concerned me a great deal. We have been faced with arguments from those who would continue the Corporation with no changes and those who would abolish it due to past abuses. I have been concerned about political activities and lobbying efforts as well as cases which have blatantly gone beyond the scope of the original intent of Congress. Amendments approved by this body in the last couple of days have, I believe, corrected the potential for such future abuses—and quite properly so. Consequently, I will vote today to reauthorize the activities of the Legal Services Corporation.

Central to our principle of equal justice under law is the right to be adequately represented by legal counsel. Our Nation's pledge of allegiance ends with the words "liberty and justice for all." It does not specify a few—or most—or a vast majority—but all.

This is what the Legal Services Corporation is all about. It is designed so that no American will be denied access to our legal system. The blindfold on the "lady of justice" is there for a very good reason. That blindfold symbolizes our society's commitment to assure that each of our citizens is treated in an impartial fashion by our administrative and judicial forums. I believe the services provided by the Legal Services Corporation are in many cases indispensable in our effort to insure that all citizens receive equal treatment under the law.

This is not a case where we can afford to completely terminate Federal spending. We cannot afford to take a massive step backward and revert to an era when the poor were routinely denied any semblance of equal access to our administrative and legal forums. We know that in previous times elderly Americans were denied their legal benefits; consumers were victimized by fraudulent business practices; tenants were denied their basic legal rights because of their inability to afford a lawyer. Without the type of assistance routinely provided by the Legal Services Corporation, our country would again effectively deny the binding principle of assuring the equality of each American before the law.

I look forward to the day when every practicing attorney accepts his or her social and professional responsibility to provide some time to represent, on a pro bono basis, those who cannot afford counsel. The lower level of funding in this bill is a clear signal from the Congress that we expect the legal profession to fulfill that responsibility. Until we reach that day, however, I believe it is our responsibility and duty to assure every American access to our judicial system. Although we are asking all Americans to sacrifice in order to revitalize our Nation's economy, we cannot—and must not—ask any American to surrender the right to equal justice under the law.

NATIONAL PORT AND NAVIGATION IMPROVEMENT ACT OF 1981

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. TRIBLE) is recognized for 15 minutes.

Mr. TRIBLE. Mr. Speaker, as the world's leading trading Nation since the end of World War II, America must give the highest priority to the development of our ports. Today, with my colleagues from Virginia, I am introducing the "National Port and Navigation Improvement Act of 1981." This bill is identical to legislation authored by the Junior Senator from Virginia, Mr. WARNER, and introduced in the other body today.

This legislation recognizes the vital importance of deep-draft commercial ports to our Nation's economy and security and to the world's economy and energy self-sufficiency.

We are an island Nation and depend on access to the seas for our well-being. There are, for example, 71 critical and strategic materials on which we must depend for our economic vigor and military might; 68 of these 71 materials are imported. And we can't bring cobalt for jet engines, or chromium for stainless steel, or titanium for missile components to our shores in airplanes. We must have ships and viable ports.

Moreover, we must be able to export American products to other nations of the world. The rising demand for American coal presents significant opportunities which can only be fully realized through enhanced port capabilities.

The United States has, for example, the opportunity to assume primacy in coal exporting. There has been a dramatic surge in worldwide demand for American coal. The nations of Western Europe and Japan want to rely more heavily on the coal available in the United States, rather than depend on uncertain Middle East oil supplies.

This development is of national importance. The economic gains—increased employment and investment, and a more favorable balance of payments—will have a national impact. In addition, the development of America's coal resources in Virginia, West Virginia, Kentucky, Ohio, Pennsylvania, and other States helps to make our Nation more energy dependent.

This valuable natural resource must pass through our ports and our ports have proved the weakest link in the chain of supply.

The capacity of America's ports to receive large coal colliers, load them, and turn them around without excessive delays is inadequate. The result is exceedingly long vessel backups at our ports. These delays are very costly. This threatens our position as a coal exporter, and could lead our trading partners to turn to other sources.

The solution to the problem of port capacity is to deepen the ports in this country to accommodate deepdraft bulk carriers.

The primary role the Federal Government can play in encouraging coal exports is to facilitate the dredging of access channels for ports with existing coal export facilities. Two questions must be resolved in regard to the Federal role in dredging:

First, who should bear the cost of these projects?

Second, how can we expedite these dredging projects?

The legislation I am introducing today addresses both these questions.

The proposed channel improvements at only four major coal ports—Hampton Roads, Va.; Baltimore, Mobile, and New Orleans—would alone cost about $1.5 billion in 1980 dollars.

Federal budget constraints suggest to me that we should shift part of the cost burden of dredging these and other ports away from the Federal Government. This legislation provides for cost sharing between the Federal Government and non-Federal parties. It calls for 60-percent Federal funding for the construction of deep-draft commercial navigation improvement projects and 75-percent Federal funding for operations and maintenance.

Port authorities or local and State governments would be authorized to issue low-interest, tax-exempt bonds to finance their part of the dredging costs. User fees could be imposed.

In addition to reducing Federal expenditures, cost sharing would insure greater overall efficiency and equity. The willingness of beneficiaries to cover costs is perhaps the best test of the economic merits of a water project. Moreover, I believe that as a general principle of equity, the beneficiaries of Government actions should bear the costs generated by those actions.

How can we expedite the most important dredging projects? Currently, dredging projects take decades to move through the various stages from project proposal to completion. This sytem seriously impedes the growth of U.S. bulk cargo capabilities.

If the benefits of coal exports are to materialize, quick action on dredging is essential. Measures to accelerate project implementation at the major coal harbors will require wide departure from normal authorization procedures.

The National Port and Navigation Improvement Act of 1981 establishes a process to congressionally authorize navigation improvements of the Nation's deep-draft commercial ports on an expedited and priority basis and provides a uniform procedure for judicial review of the navigation improvements. The bill does not, however, override any current environmental, congressional, judicial, or other review requirements. It merely speeds up the process so port improvement projects may be completed as expeditiously as possible.

This is generic legislation. The bill's various provisions apply to any of our Nation's 170-plus deep-draft commercial ports, regardless of the type of cargo which is exported or imported through its facilities.

Mr. Speaker, we can no longer afford the luxury of decade-long delays in port improvement projects. We must adopt a procedure that will permit us to undertake and expedite the dredging of our primary ports to accommodate deep-draft vessels. The National Port and Navigation Improvement Act of 1981 establishes such a procedure. This legislation will maintain America's competitiveness in the international market, contribute substantially to our balance of payments and improve our domestic economy. It is a measure which merits prompt congressional action.

PHASED NUCLEAR DISARMAMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. FISH) is recognized for 5 minutes.

● Mr. FISH. Mr. Speaker, imagine that we are sitting in this hallowed Chamber debating vital questions of the day. Suddenly, the civil defense alarm sounds its emergency call, which is 12 bells on the House clocks. The Speaker announces that we are under nuclear attack. The source is irrelevant.

Our much vaunted, yet untested, nuclear defenses fight off multiple- and single-warhead missiles in great quantity. However, three 5-megaton bombs manage to escape our counterattack and explode on a prime target, the White House.

Everyone in this room would be instantly killed by a huge, silent heat flash traveling at a speed of light and all of Capitol Hill would collapse under a supersonic shock wave and winds of 300 to 600 miles per hour. A similar fate would befall all living things around the perimeter of the Beltway. At the center of downtown Washington, everything would be vaporized, leaving a crater several hundred feet deep. A fireball 1½ miles in diameter would be created and would incinerate, at a temperature of 20,000 degrees Fahrenheit, anything that escaped the flash of heat.

Within a 10-mile radius, which contains the vast majority of the metropolitan area's population, over half of the people would be killed by the blast wave, 200-mile-per-hour winds, and fires; 40 percent would suffer severe burns, radiation sickness, and traumatic injuries. Any survivors would have no medical care, food, or water and would die a painful and lingering death, as the fire would feed on itself and might turn into a 1,200-square-mile firestorm, cooking and asphyxiating even those in shelters. Survivors of the shelters would be exposed to fallout and many would die within 2 weeks.

Some may think that many people survived Hiroshima, and that many would survive a modern attack. The single bomb dropped on Hiroshima had an explosive force of 15,000 tons of TNT. The largest nuclear bomb today has the force of 20,000,000 tons of TNT.

In an all-out nuclear attack, all major population centers would be hit, both here and in the Soviet Union. Such an exchange would be completed in 60 minutes and could change the entire atmosphere and all life as we know it on the Earth. With the potential destruction of the ozone layer, it could be a far different world, colder, contaminated by radiation, and unlivable for thousands of years.

I bring this to the attention of my colleagues to starkly remind them of what utterly vicious, ravaging, decimating annihilation the world would experience if a nuclear war ever occurred. It is literally beyond the comprehension of many people what pernicious potential we have created with the advent and continuing refinement of nuclear weapons.

In a call for a saner, safer world, I am introducing, along with my distinguished colleague, Congressman JONATHAN BINGHAM, a concurrent resolution calling for the phased mutual disarmament of all nuclear arsenals in all countries under strict supervision. The President should first propose to the Soviet Union a mutual reduction of a specified percentage in all categories of nuclear weapons. The Soviet Union has reiterated its willingness to reduce nuclear arms, and this would be a test of its commitment to that goal. Following such a mutual reduction, the President should call a conference of all existing nuclear nations, whose purpose would be to hammer out a program of percentage annual reductions, until all nuclear arms are eliminated from the Earth.

Our action is the result of the initiatives of the International Physicians for the Prevention of Nuclear War. This past March under their auspices a group of over 70 physicians from 11 countries met to discuss the medical consequences of nuclear war. Their conclusions were reprinted in the CONGRESSIONAL RECORD shortly after the meeting. We recommend that these statements on predictable and unpredictable effects on nuclear war, the role of physicians in the postattack period, and the social, economic, and psychological costs of the nuclear arms race as well as the conclusions of the conference be read by all my colleagues.

We wish my colleagues would think long and hard about the realities of a nuclear holocaust. It is something we try not to contemplate and tend to shrug off as an event that could never happen. But recognizing the dreadful realities, let us work to make certain that such a horrible, tragic war could

not be possible by calling for total nuclear disarmament.●

BARNES FAULTS DEFENSE OF SALVADOR WHITE PAPER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. BARNES) is recognized for 60 minutes.

● Mr. BARNES. Mr. Speaker, the administration's response to the stories published in the Wall Street Journal and the Washington Post criticizing the white paper on El Salvador clearly fails to lay to rest the doubts about the white paper.

A close reading of "son of white paper," released today, shows that many of the critics' charges are admitted by the administration. Others are inadequately refuted; based on publicly available documents, the press interpretations seem sounder than the administration's interpretations. Other criticisms are rebutted by referring to unavailable documents, so there is no way to judge, but administration misinterpretations of the public documents must create doubts about their interpretations of the secret ones. And other criticisms are left unanswered—for example, faulty translations from the Spanish, and the skepticism of Ambassador Robert E. White, who was in place at the time, about the purported arms flow and the final offensive.

That the Communist countries support the Salvadoran guerrillas is contested neither by me nor by the press. The United States has of course supported the Salvadoran military for decades, so it is hardly surprising that arms eventually started flowing to the left as well. It would have been astonishing if they had not.

But the impression of the white paper attempts to convey—that the Salvadoran revolution is armed and directed by Moscow and Havana and is a "textbook case of indirect aggression by Communist powers"—is clearly inadequately documented by the white paper. So are the allegations that 200 tons of Communist arms were delivered to the guerrillas; by its own admission, the administration based this estimate on "an intelligence community conclusion" based on other evidence, unavailable to us, and not on the documents.

The evidence in the white paper was from the beginning circumstantial on its face. It was only a matter of time until investigative reporters brought this out. It is a long leap from the observation that a representative of the guerrillas visited Communist countries, to the conclusion that everything he asked for was delivered, but it is a leap made by the white paper. It is an equally long jump from the statement that guerrilla representatives visited Havana to the assertion that the guerrillas have no autonomy and the Cubans are in charge, but the white paper nimbly makes that one, too. There is a huge difference between providing arms to a revolution, and directing and controlling that revolution. The white paper is unnecessary to demonstrate the former, and fails to demonstrate the latter.

The white paper argues that "Communist states" are attempting "to bring about the overthrow of El Salvador's established government and to impose in its place a Communist regime with no popular support." In fact, hearings of the Subcommittee on Inter-American Affairs, which I chair, have convinced me that neither the right, nor the left, nor the government have popular support. The white paper tries to obfuscate this reality. The white paper says "the Communists" have "deceived much of the world about the true nature of the revolution." So have we. It is time to face reality, not myths.

We are engaged in the wrong debate. As the Wall Street Journal article suggested, the debate over whether the white paper is adequate is different from a debate over whether our policy toward El Salvador is adequate. It is the latter question that we should be addressing. Instead of trying to force the situation in El Salvador to fit our preconceived ideological views, we should be debating how to respond to the situation which actually exists. That is difficult enough; we do not need to make it harder by misstating the situation. We face a local insurrection with deep historical roots, that countries hostile to us are seeking to exploit to their advantage. It is time for a rational debate on the appropriate response to that situation.

I have said and I continue to believe that the appropriate response is to join nearly every other interested party in seeking a political settlement that will provide avenues of political participation to those whose only recourse now is guns. Our Government has yet to commit itself to that approach. Until it does, the only prospect is continued civil war, and continued fertile fields of mischief for our adversaries.

The best way to turn the fantasies of the white paper into reality is to act as if they were true.

In the interest of facilitating debate, I am making available a point-by-point summary of the administration's response to the press stories, and my comment on each point.

POINT-BY-POINT COMMENTS ON THE ADMINISTRATION'S REBUTTAL

1. The Wall Street Journal charges that "much information in the white paper" is not supported by the documents.

The Administration's response is that the white paper "is not based on captured documents alone, and was never claimed to be."

Comment: The clear implication of the white paper is that the documents support the case made by the white paper. Other evidence is cited as corroborative, not as going beyond the documents. The conclusion of the white paper (Sec. IV) is explicitly based on the "foregoing record" of documentary evidence. Furthermore, the question is: is what is attributed to the documents actually supported by the documents? The answer is that it is not.

2. The Washington Post says, "The idea that the war in El Salvador is an internal, factional struggle does not appear in the . . . white paper."

The Administration's response denies this.

Comment: The white paper creates the clear impression that internal factors are no longer relevant by saying that the situation has been transformed into a clear case of communist aggression directed from abroad.

3. The Journal says the figure of 800 tons of promised arms is based on an extrapolation by Mr. Glassman.

The Administration admits that the figure is based on an extrapolation, but claims the extrapolation was actually made in guerrilla document itself.

Comment: The Administration is correct, but the extrapolation is not helpful in determining the amount of arms available to the guerrillas. The document in question says that, as of the end of September, 1980, only 4 tons of weapons had arrived in El Salvador out of the 130 tons which had arrived in Nicaragua, which in turn was only one-sixth of the amount that was eventually supposed to arrive in Nicaragua. (130 times 6 equals 780, or almost 800). This document says nothing about the amounts that finally made it to El Salvador.

4. The Post says there is no "concrete evidence" in the public documents to support the claim that 200 tons of weapons were delivered to El Salvador.

The Administration admits this, saying the estimate was based on other evidence.

Comment: The Administration does cite a document containing a delivery schedule as evidence, but admits it is "not definitive." In fact, in quoting from this document, the Administration omits a statement in the document that it would be "almost impossible" to adhere to the schedule.

5. The Post says that unreleased documents in fact show the guerrillas constantly complaining about not getting enough arms.

The Administration's response is that these documents are before November 1980, after which time the arms flow really started.

Comment: The document is cited in the Post as dated November 18. No year is given by the Post, but from the context it must be 1980.

6. The Post says the white paper makes it sound as if guerrilla emissary Handal got everything he wanted when he went to the Soviet Union.

The Administration's response is that the white paper just lists the commitments Handal received in the communist countries and "readers can draw their own conclusions."

Comments: That is precisely the problem. Readers must draw their own conclusions, because there is no evidence. The white paper does not give the impression that he got everything he wanted; there is no hint to the contrary.

7. The Post says the white paper makes it appear that the report on the Handal trip was written by Handal, when in fact it was not.

The Administration's response admits this, but says the implication was unintentional and the authorship is immaterial.

Comment: This may be true, but it casts doubt on other interpretations made by the white paper where we have no way of checking the facts.

8. The Post says the Handal trip report "is the only document that linked the Soviets directly to the Salvadoran civil war."

The Administration's response is that Documents B and D also make this link.

Comment: Document B is about a meeting in Mexico and it contains this sentence: "The last meeting was with the Soviet." Document D is about a Central American trip, and there is one line under the heading, "Managua" which reads: "Interview with CCCP (which the State Department translate in a glossary as meaning "USSR"). That "documentary evidence" hardly supports the charges about the Soviet involvement made by the white paper. The Soviets undoubtedly are involved, but the alleged nature and extent of their involvement is not supported by the documents.

9. The Journal says "Several of the most important documents . . . were attributed to guerrilla leaders who didn't write them. And it is unknown who did."

The Administration's response is that this is true but irrelevant.

Comment: As in point 7, any misintepretation calls other interpretations into question.

10. The Journal says a document attributed to Handal by the white paper appears from the handwriting to have been written by at least two different people.

The Administration's response is that changes in handwriting are due to changes in rapporteurs during the meeting, but that all statements attributed to Handal were made by him.

Comment: None.

11. The Post says the documents do not constitute conclusive evidence that Vietnam provided weapons to the Salvadoran guerrillas.

The Administration's response is that serial numbers on the M-16s discovered in Honduras en route to El Salvador leave "no doubt" that weapons from Vietnam have been shipped to the Salvadoran guerrillas.

Comment: None.

12. The Post says that a sentence dropped in the English translation of the Handal trip report (referred to in 7 above) suggests that the trip report was drafted by Cubans, and questions why a Cuban report was found among rebel documents in El Salvador.

The Administration's response is that the authorship of the report is immaterial, and that it "would not be unusual" for the report to be found in El Salvador, and that if the report is Cuban that is just more evidence of Cuban involvement.

Comment: Again, whenever a sentence is dropped in translation to create the impression that a document is something different from what it is, the question arises of what other selective uses of the documents were made that we have no way of checking. This is another case where the Administration admits the charge but denies its relevance. But a lot of mistakes, seemingly irrelevant in themselves, add up to a sloppy job.

13. The Journal says the white paper quotes Handal out of context to make it appear that he was referring to the unification of the Salvadoran armed movement when he was not.

The Administration's response admits this.

Comment: None.

14. The Post says the Soviets did not take the initiative in offering to give military training to Salvadoran youths, as the white paper implies.

The Administration's response admits this but denies its relevance, since the training was given in any case.

Comment: None.

15. The Post cites discrepancies in the documentation of weapons supposedly coming from Vietnam.

The Administration's response admits the discrepancies and attributes them to the "inadvertent" dropping of two lines from a translation.

Comment: None.

16. The Post says that an unreleased document indicates that the guerrillas' weapons needs were much more modest than indicated by the white paper.

The Administration's response is that the Post has misinterpreted the document.

Comment: There is no way to judge who is right without having the document in question. It is precisely the necessity of relying on Administration interpretations such as this one that makes the documented misinterpretations so troubling.

17. The Post says a document with notations indicating the guerrillas had "only 626 weapons for more than 9,000 men . . . was omitted from the documents released to the press."

The Administration's response is that there is no indication that this document contains a comprehensive list of weapons available to the guerrillas.

Comment: Same as 16.

18. The Post says unpublished portions of the documents indicate "difficulties the guerrillas are having getting arms out of Nicaragua."

The Administration's response in effect admits these difficulties, but says arms shipments from Nicaragua were stepped up in November of last year.

Comment: The Administration's response does not speak to the question raised by the Post: that one cannot automatically assume that everything that was offered in fact arrived.

19. The Post says there is no documentary evidence to support the claim of the white paper that Arafat promised arms to the guerrillas.

The Administration's response admits this, claiming the promises were "reported by other sources."

Comment: None.

20. The Journal says the documents do not prove that the Cubans made formation of a united guerrilla front a precondition for large-scale aid.

The Administration's response is that this claim is "fully substantiated by large amounts of intelligence reporting."

Comment: Again, the charge that the documents do not support the white paper is not denied.

21. The Journal says the authors of the white paper were probably making a determined effort to build a case, "no matter how slim the background material."

The Administration's response denies this.

Comment: Regardless of what the Administration was trying to do, the released background material is in fact too slim to support the conclusions drawn in the white paper.

22. The Journal says the claims of the white paper about a vast arms buildup "of almost blitzkrieg proportions" lose credibility because of "Mr. Glassman's admission" that he does not know the authorship of some of the documents "on which the white paper is based."

The Administration's response is that the white paper is not based solely on the documents, and that authorship is immaterial. The Administration says the documents and other sources do support the conclusion that "several Communist and radical states made commitments to supply the Salvadoran guerrillas substantial quantities of arms, munitions and other materiel which were delivered through Cuba."

Comment: This conclusion pulls back considerable from the claims of the white paper. No one doubts that some supplies were committed and delivered through Cuba. The implication of this statement that all supplies promised were actually delivered, however, is clearly not supported by the documents.

23. The Post says that in its political analysis, "the white paper ignores the moderate elements . . . who have joined the guerrilla cause."

The Administration's response is that the white paper was not intended to address the political questions, but that reference was in fact made to non-Marxist-Leninist parties that had joined the Front.

Comment: The Post article was not intended to address political questions, either; references to them are equally peripheral to both the article and the white paper. In fact, however, the white paper's only reference to the non-Marxist left is the statement that, "for appearances sake, three small, non-Marxist-Leninist parties were brought into the Front." This does, in fact, ignore the role of the non-Marxist left, an analysis of which would detract from the white paper's conclusion that El Salvador is merely a case of communist aggression.

24. The Journal suggests that the claims of the white paper are refuted by the ease with which the Salvadoran government put down the January offensive.

The Administration's response is that the guerrillas' poor showing is due to factors other than lack of arms.

Comment: None.

25. The Journal says that the existence of some of the documents was concealed from Embassy personnel in El Salvador.

The Administration's response denies this.

Comment: None.●

U.S. POWER SYSTEM NEEDS PREPAREDNESS PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. NELSON) is recognized for 5 minutes.

● Mr. NELSON. Mr. Speaker, on May 27, I introduced H.R. 3704 to require the Department of Energy, in consultation with the Federal Emergency Management Agency, to develop a plan to address the threat posed by widespread power outages in the event of a terrorist attack on our electric production and distribution system.

This legislation was prompted by an alarming report by the General Accounting Office.

Several Members have joined me in sponsoring this legislation and I welcome additional cosponsors.

On Wednesday, June 3, a Gannett daily newspaper, Today, located in

Cocoa, Fla., ran their lead editorial in support of this legislation.

Mr. Speaker, I insert this editorial at this point in the RECORD:

[From Today, June 3, 1981]

U.S. POWER SYSTEM NEEDS PREPAREDNESS PLAN

When Hurricane David left thousands of Brevardians without electric power for a day or two in 1979, we learned very quickly how nearly helpless we are without power. That fact was also dramatically demonstrated in the big New York City blackout of several years ago.

Because of modern society's massive reliance on electricity, power companies have become a natural target for terrorists or others bent on disrupting our society.

Congressman Bill Nelson has become so concerned about this situation that he has drafted a bill aimed at encouraging preparedness to deal with security and emergency disruptions. "The federal government is not now prepared to handle a long term national or regional disruption in electric power, from an act of war, sabotage or terrorism," Nelson quotes a General Accounting Office report.

If passed, Nelson's legislation would require the federal Department of Energy to develop an electrical emergency preparedness plan and submit it to Congress within 180 days.

The second-term congressman from Melbourne points out that his bill will create no new agency. Neither does it levy a new tax or involve a new federal spending program.

"We have been fortunate that an attack on our electric facilities hasn't occurred. But how long shall we continue to press our luck?" Nelson asks.

He notes that the GAO investigation determined that "a single, well-placed rifle shot could knock out a power substation and leave a key military facility without power. A more concerted attack, damaging just four substations, could disrupt power to an entire city for up to a year."

It is not a pleasant thought, but it is true that terrorist activities have been increasing all over the world. "Terrorists use bombings and assassination to attract attention, and such activity is becoming an increasing threat. Such attacks are frequent in Europe; New York has had an outbreak of bombing in airports and other facilities, and a terrorist recently attempted to kill the pope," Nelson reminds us.

Some may argue that individual power companies—especially the private, profit-making, investor-owned companies—should be responsible for developing their own emergency plans. Indeed, they should—and most do—for localized conditions. But there are about 3,500 utility companies operating almost 11,000 generating facilities across the country. This large number of potential targets, combined with their mutual effect through interconnections in vast regions, gives cause for a central—thus federal—preparedness plan. If nothing else, Nelson's proposal should lead to better coordination between the fragmented plans that may already exist here and there across the country.●

INFLATION-PROOF SAVINGS CERTIFICATE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. HARKIN) is recognized for 5 minutes.

● Mr. HARKIN. Mr. Speaker, today I am introducing the Inflation-Proof Savings Certificate Act, which I believe will significantly promote long-term savings.

The United States now has one of the lowest rates of saving of any industrialized country. There are many reasons for this low level of saving. However, the one which stands out most clearly is the belief that those who save end up with less than they started with in real dollars. Inflation and taxes ordinarily take away considerably more than the interest earned.

Even with the new instruments which have become available recently, such as the $10,000 6-month certificate and the money market funds, the aftertax reality is often a loss of value in real spending power.

At the same time, savings and loans and, to a lesser extent, banks have been having considerable difficulty making ends meet because of the high level of interest they are paying. Savings and loans which hold long-term mortgages in the 7 to 11 percent range are quickly becoming endangered. Many are already being merged because they have lost all of their net worth. If the present situation continues, the next year is likely to see the liquidation of major savings and loans.

The lack of savings in local banks and savings and loans and the very high interest rates being paid are causing stagnation in the housing industry and one of the worst periods for small businesses in general. How can a person start or expand a small business while paying 20 percent for the needed capital?

Clearly, we cannot reestablish the "Q" rule, tightly controlling interest rates. However, we can provide a financial instrument which will provide a savings incentive for the moderate- and middle-income family. That incentive must, at a minimum, include a return which insures that the principal is maintained in real aftertax dollars. At the same time, the note must be affordable to banks and savings and loans.

This bill establishes an exemption from income taxes of up to $2,000 in the case of a joint return—$1,500 for a single filing—for interest income acquired from an inflation-proof savings certificate. The certificates could be issued by banks, savings and loans, or credit unions and would have to be held for at least 3 years to acquire the tax exemption. The interest rate would be equal to the increase in the Consumer Price Index plus, perhaps, a small bonus.

Since the savings certificates would be tied to the Consumer Price Index and would not be taxable, the saver would know that the value of his or her funds would be preserved. The certificate would be tax deductible only if issued by a depository institution. We would therefore see all of the savings stimulated by this bill deposited in banks, savings and loans, or credit unions where they would generally be available to assist consumers and local business needs.

The bill further provides that the exemption would double if the note became due after the holder was over 65 years of age. Thus, a 55-year-old could acquire a 10-year certificate to qualify for the longer exemption. This will allow substantial savings for retirement.

The exemption provided would be in addition to other interest income exemptions and would itself be indexed to inflation.

I believe that an exemption of this type would substantially increase the amount of savings and would place those funds where they would do the greatest good for the economy.●

LEGISLATION REAUTHORIZING U.S. PROBATION SERVICE TO IDENTIFY AND TREAT DRUG-DEPENDENT OFFENDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. HUGHES) is recognized for 5 minutes.

● Mr. HUGHES. Mr. Speaker, I am introducing today a bill to reauthorize the U.S. Probation Service to contract for the identification and treatment of drug-dependent offenders. This bill will continue a highly praised program to provide services to approximately 5,000 Federal drug-dependent offenders who are released on parole or probation. This program consists of the identification by urine analysis of offenders who are using drugs, contracting for treatment services for those persons so identified, monitoring those persons while in treatment and monitoring the contractors.

At a hearing before the Subcommittee on Crime that I chaired this morning, several witnesses including Dr. John C. Ball and Dr. Robert L. Dupont, both formerly in charge of the Special Action Office on Drug Abuse Policy in the White House, and Frank J. Rogers, New York's commissioner of criminal justice services urged Congress to apply this program nationally.

Mr. Speaker, this bill continues authority given in October 1979 to the U.S. Probation Service that formerly was held in the U.S. Bureau of Prisons since 1969. The program has been very helpful in our effort to get a better handle on our drug abuse problems, and accordingly, deserves our continued support.●

INEQUALITY, HERE WE COME

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from Wisconsin (Mr. REUSS) is recognized for 20 minutes.

● Mr. REUSS. Mr. Speaker we all seem to be mesmerized by the big macroeconomic spectacular now on stage. Yet there is an issue at stake vastly more important than current budget or tax or monetary differences.

That issue is the American ideal of equality, as old as Thomas Jefferson and the Declaration of Independence.

The goal of equality is something we Americans have been groping for these 200 years, with most of our progress in the last 50.

Greater political equality came as we removed property qualifications for voting in the first half of the 19th century, and as more recently we enacted voting rights laws, extended the vote to women and 18-year-olds, adopted the principle of one-person-one-vote in our legislative apportionments.

Social equality was enhanced with the diminution of discrimination on the ground of race and sex in employment, public accommodation, education, housing. Our society, for all its faults, is vastly more tolerant today than it was 50 years ago.

But it is economic equality—not absolute equality of income and wealth, but avoiding extremes—that is most endangered today.

1929–67: FOUR OUT OF FIVE IMPROVE THEIR SHARE

With the Great Depression 50 years ago came a turning point in American economic life. Not only has there been a steady upward surge since then in the gross national product—a larger pie to slice.

Just as important, from 1929 to 1967, income distribution has grown steadily more equal. Income shares of the lower income four-fifths of American households went up during the 1929–67 period: the first two-fifths from 12.5 percent of total income to 14.2 percent; the third from 13.8 to 17.5 percent; the fourth from 19.3 to 24.8 percent. The top one-fifth declined, from 54.4 to 43.4 percent.

Today, the income brackets of these five household groups are $0–$7,000; $7,000–$13,500; $13,500–$21,500; $21,500–$32,000; and over $32,000.

Why did the size of the pie, and the shares of the bottom 80 percent, both improve so markedly during 1929–67? Certainly the expansionist policies of John Maynard Keynes, the progressive income tax, and low interest rates had something to do with it. An enlarged middle class provided the savings and investment needed for growth more effectively than a "bloated plutocracy" would have.

As a result of steady growth and improved distribution, the United States managed to hold together during depression and war. Progress toward economic equality went hand in hand with progress toward political and social equality.

SINCE 1967: BACK TOWARD INEQUALITY

Then, along about 1967, something happened. That something was the Vietnam war, and the guns-plus-butter economic policy which led to the dozen years of stagflation—unacceptable unemployment and inflation—that have been with us ever since. Though the economy continued to grow, the distribution of income went into reverse from its egalitarian trend of almost 40 years, and headed back toward greater inequality.

From 1967 to 1978, the most recent year for which we have statistics, the share in the national income earned by the poorest 20 percent of American households remained about even—3.6 to 3.8 percent. This static share is improved slightly by noncash transfer payments—such as food stamps and medicaid—which are not counted by the Census Bureau in its income distribution statistics.

But the second and third fifths found the going really tough. Their wages lagged behind inflation. And the institutions were rigged against them. They benefited by neither the transfer payments of the poor, nor the tax loopholes of the rich. They paid their payroll taxes on every dollar they made; today, for example, the top income bracket for the payroll tax—$29,700—approaches the upper limit of the fourth one-fifth. Because by and large they were not able to take advantage of itemized income tax deductions, they did not share such privileges of the affluent as the practical ability to deduct interest payments on home mortgages and contributions to charity. Interest on savings accounts or U.S. savings bonds was fixed by law at a miserable 5 percent, while large savers got the market rate.

The census series currently ends at 1978. Since then, the relative position of the second and third fifths has probably worsened. Since 1978, consumer prices have increased by over 26 percent, average weekly earnings by only 15 percent. For the affluent, "unearned income" provided a much better buffer. Dividend income increased by 26.2 percent between 1978 and 1980, interest income by 48 percent. These two items, nearly 14 percent of personal income, are significantly more concentrated in the upper income brackets than is wage income. As for executive compensation in profitmaking corporations, these increased by 17.5 percent in 1978, 16.8 percent in 1979, and 17.3 percent in 1980. To these must be added increased "perks" in the form of entertainment allowances, club dues, company cars, legal and financial counseling, stock options, insurance, and so on.

No wonder that from 1967 to 1978 the income shares of the second fifth declined from 10.6 percent to 9.7 percent, and of the middle fifth from 17.5 percent to 16.4 percent.

In 1978, for the first time since the census survey began in 1947, the share of the poorest 60 percent of American families fell below 30 percent of total income. Three-fifths of a nation thus lost all, and then some, of its post-World War II gains.

The fourth one-fifth stayed even at 24.8 percent. And the top fifth, recouping some of its earlier losses, rose from 43.4 percent to 45.2 percent. If the Census Bureau counted such upper-income sources of income as capital gains and executive "perks," the top 20 percent's share would have been even larger.

These shifts are not peanuts. In a $3 trillion economy, they amount to scores of billions of dollars a year. For example, if the second and middle fifths had received their historic peak income shares in 1978, household income would have been around $1,300 more.

TODAY: NEAR THE CELLAR IN THE INTERNATIONAL LEAGUE

Our backsliding since 1967 is particularly unwelcome when you compare income distribution in the United States with income distribution in the other industrialized democracies. A study made by the Organization for Economic Cooperation and Development in 1976 found that, both before and after taxes, the United States had the second greatest degree of inequality of the seven leading industrialized democracies. By and large, the United States was exceeded in its inequality only by France. West Germany, Canada, Sweden, the United Kingdom, and Japan were all more equal than we. More, the United States had the dubious distinction of having its poorest 20 percent with a lower share of total before-tax income than any other country, including France.

Incidentally, it will be noted that France is endeavoring to get out of the cellar position in the international league, as evidenced by the recent election of the more egalitarian Mitterrand government.

TOMORROW: INCOME DISTRIBUTION WILL BECOME STILL MORE UNEQUAL

It is we, the United States, who are now heading for the cellar position in the league.

We shall shortly be shaken by the volcanic disturbances in income distribution which the Reagan economic recovery program seems destined to bring about. Every aspect of that program—its cuts in social spending, its increase in military spending, its hail-to-the-rich tax policy, its high-interest-rate monetary policy—has the effect of transferring income shares from the bottom three-fifths or three-fourths of Americans to the wealthiest 10 percent.

This is both theory and the practice of Reaganomics. In the words of its chief theologian, George Gilder:

Forget the idea of overcoming inequality by redistribution. . . . A successful economy depends on the proliferation of the rich. . . . It will be said that their earnings are 'unearned' and 'undeserved'. But in fact. . . they are the heroes of economic life, and those who begrudge them their rewards demonstrate a failure to understand their role and their promise.

Here's how the four pillars of Reaganomics will worsen income distribution:

1. SOCIAL SPENDING CUTS

Sharply cut under the Reagan budget are all the traditional programs for the poor, the lowest one-fifth of income receivers—medicaid, food stamps, school lunches, housing, energy assistance, legal services, public service jobs, pneumonia immunization, neighborhood programs, education, day care, public service jobs.

"I made strenuous efforts to comb through the budget to find rich oxen to gore, but I didn't find many," Budget Director David Stockman told the Joint Economic Committee in February. He did, however, find a number of "middle-class oxen" to gore. Among slashes of particular interest to middle-income groups are passenger rail service, mass transit, energy conservation, student loans, economic aid, public television and radio, the arts and humanities, unemployment compensation, clean air, and clean water.

2. MILITARY SPENDING INCREASES

The Reagan program includes the fastest increase in military spending in our peacetime history. This will worsen the position of modest-income groups in three ways—regional, job oriented, and inflationary.

Regionally, military activity is concentrated in a few areas, particularly the South and West. Residents of other regions will be disadvantaged.

Employmentwise, defense industries tend to be capital-intensive, and to employ relatively larger proportions of high-skilled, white-collar workers. Thus a larger share of expenditures goes to upper income groups in the case of the military than for other kinds of Government spending.

Finally, military spending is particularly inflationary. For one thing, it has its greatest impact on just those areas of the economy where skilled manpower and materials are scarcest. For another, military spending, unlike the production of civilian goods, creates no purchasable commodity to satisfy the money demand of the workers and entrepreneurs who make the military goods.

3. TAX POLICY

Tax policy resulting from the Reagan program will work against the lower 60 percent of families in at least three ways.

First, the administration's tax cut, a variant of Kemp-Roth festooned from day to day with new preferences for the already affluent, is of great help to the rich, in George Gilder's phrase the "heroes of economic life." Under Kemp-Roth, a family with income of $150,000 in 1980 will find that its marginal rate drops from 64 to 49 percent by 1984. The cut in the top rate on unearned income from 70 to 50 percent will also help, as among other things it brings the maximum tax rate on capital gains down to 20 percent. That's a lower rate than a family earning $15,000 a year pays on wages.

But for moderate-income taxpayers, no appreciable tax cut is in sight. The administration proposes no change in the levels of the standard deduction, personal exemptions, and earned income credit. The effect of inflation-induced bracket creep and the scheduled increases in social security payroll taxes will largely cancel out the benefits of Kemp-Roth rate reduction.

For example, families with taxable incomes of $15,000 to $35,000 in 1980 will face about the same marginal tax rates in 1984, after 3 years of Kemp-Roth, as they do now. Accepting the administration's projections for inflation, the effects of inflation's pushing these families into higher tax brackets will be just offset by the proposed cuts in rates. At the same time, however, the social security tax rate will have jumped from 6.13 to 6.7 percent between 1980 and 1984, while the taxable wage base, now $29,700, will have risen at about the same pace as these families' earnings.

The rich, on the other hand, don't have to worry about bracket creep. The top brackets are wide, and above taxable incomes of $45,000—joint returns—there is simply no higher bracket to creep into. Earnings at these levels are also well above the social security wage base.

A fair tax cut would be one that offset the effects of inflation and social security tax increases, thus benefitting the majority of taxpayers.

A second tax effect of Reaganomics involves the shift of former Federal social programs to State and local governments. Such shifting of the burden from the progressive Federal income tax to regressive State and local property and sales taxes will worsen the position of lower and middle income families.

Finally, the administration has set its face against plugging the loopholes and preferences now in the Federal tax system, amounting to some $175 billion in fiscal 1982. Most of the benefits of these loopholes and preferences go to high-income taxpayers. Perpetuating the loopholes thus insures that income distribution will continue to deteriorate in the years ahead.

4. MONETARY POLICY

Supertight money, the fourth pillar of the Reagan economic program, fosters income inequality as surely as the spending and tax proposals.

By slowing growth, tight money and high interest rates bring unemployment, and this falls with particular severity on low- and moderate-income families.

High interest rates transfer income even more directly. Poor people lack creditworthiness, but middle-income people borrow heavily for home mortgages, consumer goods, health and education loans. Because it does not pay for most moderate-income taxpayers to itemize their deductions, they lack the ability of high-bracket borrowers to make the Treasury pick up half of their interest burden.

Just as the middle-income groups do most of the borrowing, so upper-income groups, having it to lend, do most of the lending. The higher the interest rate, therefore, the greater the transfer from middle-income groups to the upper-income groups. And if there is one thing the money markets are projecting with awful clarity, it is that high interest rates are going to be a permanent distinctive feature of Reaganomics.

So there is the past, the present, and the future—except to the extent that we do something about it—of income distribution. In the golden age of F.D.R. and Harry Truman, of Ike and J.F.K., we moved forward in the direction of greater equality. But since 1967, we have been moving backward. If Reaganomics has its way, we shall shortly be moving backward faster.

Americans, when they find out what is happening, will not like it.

From the economic standpoint, Reaganomics will shift income away from the average citizen and toward the speculator at the top so massively as to choke off the demand necessary to take off the market what our economy can produce. Unemployment is bound to increase.

Growth by itself—the advertised goal of Reaganomics—does not necessarily make for good distribution. But more equal distribution can help in making for growth, as the sparkling performance of Japan demonstrates.

From the social standpoint, when whole classes feel themselves endangered, bloodshed and revolution have been the outcome, as in France in the 1790's and Germany in the 1930's.

Were the American people last November really voting to abandon the dream of making America a more equal society? Perhaps we need a new referendum.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from Minnesota (Mr. OBERSTAR) is recognized for 5 minutes.

● Mr. OBERSTAR. Mr. Speaker, due to a longstanding commitment to speak in my district last night, I was absent for two recorded votes on amendments to H.R. 3480, the Legal Services Corporation reauthorization.

Had I been present, I would have voted "no" on the Kramer amendment (rollcall No. 82) and no on the Wilson amendment (rollcall No. 83). As a strong supporter of the Legal Services Corporation, I believe the adoption of these amendments was a mistake.●

SERMON DELIVERED BY RABBI JACOB CHINITZ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. SHANNON) is recognized for 5 minutes.

● Mr. SHANNON. Mr. Speaker, the recent Israeli attack on the Iraqi nuclear reactor has engendered considerable debate. But nothing that I have seen or heard on this subject is as moving as a sermon recently delivered by Rabbi Jacob Chinitz at Ohave Sholom Synagogue in Rockford, Ill. This sermon was delivered at a Yizkor, or memorial to the dead service, on the Jewish holiday of Shavuot.

PREEMPTING THE FATAL "FIRE"

(By Jacob Chinitz)

Forty years ago, when the Germans marched into East Poland, on the way to Russia, outside of the town of Dubno, they rounded up some Jews. The Jews were told to dig a ditch, into which telephone wires were going to be placed. When the ditch was completed, the Germans told the Jews to get undressed and stand at the edge of the ditch. One of the Jews, Zvi Zuker by name, realized that he and the others were going to be shot, and what they had dug was their own mass grave. The squads lined up and aimed their rifles. "Ready," "Aim,"—in the flash of a split second, Zvi decided upon a course of action. Just before the word "Fire" was ordered, he leaped into the ditch. Upon him fell the bleeding, shot Jews, who did not leap soon enough. For several long hours, until dark, he lay under the bleeding and the wounded, and then he extricated himself from the mass of dead protoplasm, made his way to his house, and washed the blood from his body for many hours. Forty years later, Zvi Zuker lives in Israel.

I read about this man in the Maariv, one of Israel's newspapers, but I have not read any reports of his reactions to Israel's bombing of Iraq's nuclear establishment. Could he possibly feel that the Jewish state did, in 1981, what he had done in 1941? Shortly before the Iraqis were scheduled to attain the power to say "Fire", Israel preempted the fatal order and remained alive.

The incident described in Maariv was replayed thousands of times between 1941 and 1945. If there were any Jews left in Europe after WWII they all figuratively, and often literally, crawled out of the mass Jewish grave. The article in Maariv was entitled: Haish Sheyatza Mikivro—The Man Who Came Out of His Grave. Israel itself constitutes a resurrection of the dead. At this moment of Yizkor, when we remember those who went to their graves and remained there, we should also remember those who went to their graves and emerged from them.

There are many in the world who regret the Jewish capability for the performance of a pre-emptive act. Not only do the enemies of the Jews refuse to recognize the compensation due to the victims of the Holocaust, they hold the statute of victims against the Jews. The Egyptian Ambassador, for example, spoke on TV of the Immorality of such acts performed by "those who suffered among the Jewish people and the people of Israel." It would be preferred by many that the Jews restrict themselves to prayer and study, and leave acts of violence to others, even if they be the enemies of the Jews. The Jew who leaps into the grave before he is shot, and then comes out alive, or the Jewish State which destroys a nuclear reactor before it can produce bombs to throw on Jerusalem and Tel Aviv, are resented.

The dead whom we remember at this moment would want us to keep their descendants, and the State of Israel, alive. They would want us to remember Zvi Zuker the living, and the three million living Jews of Israel. And they would prefer the shooting of the firing squads before the order to "Fire" can be given. Israel had not threatened to execute any of the Arab states. But most Arab states had threatened to destroy Israel. Israel's pre-emptive acts in Lebanon against the PLO, and its pre-emptive act in Iraq, keep and kept the fatal "Fire" from being ordered and carried out.

While we honor the dead, we also honor the living. Together with our Memorial Prayers, we utter the deathless proposition of our people: Am Yisroel Chai—The People of Israel Live.●

LEAVE OF ABSENCE

(By unanimous consent, leave of absence was granted to:)

Mr. GRAY (at the request of Mr. WRIGHT), for today, on account of a death in the family.

Mr. FRENZEL (at the request of Mr. MICHEL), for today, on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ROGERS) to revise and extend their remarks and include extraneous material:)

Mr. TRIBLE, for 15 minutes, today.

Mr. FISH, for 5 minutes, today.

(The following Members (at the request of Mr. FRANK) to revise and extend their remarks and include extraneous material:)

Mr. BARNES, for 60 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. NELSON, for 5 minutes, today.

Mr. HARKIN, for 5 minutes, today.

Mr. HUGHES, for 5 minutes, today.

Mr. REUSS, for 20 minutes, today.

Mr. OBERSTAR, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. AUCOIN, to revise and extend his remarks prior to the Sensenbrenner amendment in the Committee of the Whole today.

Mr. KOGOVSEK, to place his statement in opposition to the last Ashbrook amendment in the RECORD just prior to the last vote.

(The following Members (at the request of Mr. ROGERS) and to include extraneous matter:)

Mr. TAUKE.

Mr. ROUSSELOT in two instances.

Mr. DORNAN of California in two instances.

Mrs. FENWICK.

Mr. BROOMFIELD.

Mr. EVANS of Iowa.

Mr. WOLF.

Mr. CORCORAN.

Mr. MCCLOSKEY in two instances.

Mr. MICHEL.

Mr. PAUL in three instances.

Mr. FIELDS in three instances.

Mr. DERWINSKI in two instances.

Mr. BAILEY of Missouri.

Mr. SHUMWAY.

Mr. HORTON.

Mr. MOORE.

(The following Members (at the request of Mr. FRANK) and to include extraneous matter:)

Mr. SWIFT.

Mr. OTTINGER.

Mr. WOLPE.

Mr. ANTHONY.

Ms. FERRARO.

Mr. PANETTA.

Mr. BOLAND.

Mrs. BOUQUARD.

Mr. GEJDENSON.

Mr. MILLER of California.

Mr. COELHO in two instances.

Mr. OBERSTAR in two instances.

Mr. GAYDOS.

Mr. CONYERS.

Mr. SKELTON.

Mr. ECKART in two instances.

Mr. ROE.

Mr. RODINO.

Mr. COTTER.

Mr. WILLIAM J. COYNE.

Mr. MATSUI.

Mr. MOFFETT.

Mr. SANTINI.

Mr. SIMON.

Mr. SCHEUER.

Mr. WYDEN.

Ms. MIKULSKI.

Mr. DE LA GARZA.

Mr. WEAVER.

Mr. HIGHTOWER.

Mrs. SCHROEDER.

Mr. HARKIN.

Mr. HUGHES.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on June 17, 1981, present to the President, for his approval, a joint resolution of the House of the following title:

H.J. Res. 288. Joint resolution to correct Public Law 97-12 due to an error in the enrollment of H.R. 3512.

ADJOURNMENT

Mr. FRANK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 54 minutes p.m.), under its previous order, the House adjourned until Monday, June 22, 1981, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1629. A communication from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1981 and a budget amendment for fiscal year 1982 (H. Doc. No. 97-62); to the Committee on Appropriations and ordered to be printed.

1630. A letter from the Assistant Secretary of the Air Force (Research, Development and Logistics), transmitting notice of the proposed conversion to contractor performance of the grounds maintenance function at Vandenburg Air Force Base, Calif., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

1631. A letter from the Secretary of Agriculture, transmitting notice of a further delay in the submission of the report on migrant and settled farmworkers' housing, required by section 506(f) of the Housing Act of 1949, as amended (92 Stat. 2111); to the Committee on Banking, Finance and Urban Affairs.

1632. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting the Corporation's annual report for calendar year 1980, pursuant to section 17(a) of the Federal Deposit Insurance Act; to the Committee on Banking, Finance and Urban Affairs.

1633. A letter from the Secretary of Energy, transmitting the second annual report on progess made by State regulatory agencies and nonregulated utilities in carrying out their obligations regarding the Federal standards established by titles I and III of the Public Utility Regulatory Policies Act of 1978, pursuant to sections 116(b) and 309(b) of the act, together with the annual report on electric utility rate design activities, pursuant to section 206 of the Energy Conservation and Production Act of 1976, as amended; to the Committee on Energy and Commerce.

1634. A letter from the Secretary of Energy, transmitting a report on the study of the compliance problems of small electric utility systems, pursuant to section 744 of the Powerplant and Industrial Fuel Use Act of 1978; to the Committee on Energy and Commerce.

1635. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the State Department's intention to consent to a request by the Government of Italy for permission to transfer certain U.S.-origin military equipment to Saudi Arabia, pursuant to section 3(d) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1636. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to the Netherlands (Transmittal No. 81-45), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1637. A letter from the Under Secretary of the Interior, transmitting a report on the Department's activities under the Freedom of Information Act during calendar year 1980, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

1638. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new records system for the Navy, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1639. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new records system for the Defense Intelligence Agency, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1640. A letter from the Administrator of General Services, transmitting the annual report for fiscal year 1980 on records and information management activities of the Federal Government, pursuant to 44 U.S.C. 2904(10), to the Committee on Government Operations.

1641. A letter from the Administrator of General Services, transmitting a followup report on the recommendations contained in the 1979 annual report of the National Advisory Council on the Education of Disadvantaged Children, pursuant to section 6(b) of the Federal Advisory Committee Act; to the Committee on Government Operations.

1642. A letter from the Librarian of Congress, transmitting the annual report of the Library of Congress, including the Copyright Office, for fiscal year 1980, together with the annual report of the Library of Congress Trust Fund Board, pursuant to section 1 of the act of February 19, 1897, and section 7 of the act of March 3, 1925; to the Committee on House Administration.

1643. A letter from the Secretary of the Interior, transmitting the annual report covering calendar year 1980 on implementation of the Alaska Native Claims Settlement Act, pursuant to section 23 of the act; to the Committee on Interior and Insular Affairs.

1644. A letter from the Acting Comptroller General of the United States, transmitting a report and recommendation concerning the claims for reimbursement of six employees of the Pearl Harbor Naval Shipyard, pursuant to the Meritorious Claims Act of 1928; to the Committee on the Judiciary.

1645. A letter from the Secretary of Transportation, transmitting a report on the Department's contracts negotiated under the authority of 10 U.S.C. 2304(a)(11) and (16) during the period October 1, 1980, through March 31, 1981, pursuant to 10 U.S.C. 2304(e); to the Committee on Merchant Marine and Fisheries.

1646. A letter from the Administrator of General Services, transmitting the 1980 status report on public building projects authorized for construction, alteration and lease, pursuant to section 11(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

1647. A letter from the Special Assistant, Office of the Secretary of Defense, transmitting a report covering the months of October and November 1980 on Department of Defense procurement from small and other business firms, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Small Business.

1648. A letter from the Acting Comptroller General of the United States, transmitting a report on water-related research activities (CED-81-87, June 5, 1981); jointly, to the Committees on Government Operations, Agriculture, Interior and Insular Affairs, and Public Works and Transportation.

1649. A letter from the Acting Comptroller General of the United States, transmitting a report on New England's dependence on oil (EMD-81-58, June 11, 1981); jointly, to the Committees on Government Operations, Energy and Commerce, and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3559. A bill to provide the Consolidated Rail Corporation with the opportunity to become a profitable corporation, to provide for the transfer of commuter service presently operated by Conrail, and for other purposes; with amendment (Rept. No. 97-153). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report pursuant to sec. 302(b) of the Congressional Budget Act of 1974 (Rept. No. 97-154). Referred to the Committee of the Whole House on the State of the Union.

Mr. FROST: Committee on Rules. House Resolution 161. A resolution providing for the consideration of H.R. 1257, a bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes (Rept. No. 97-155). Referred to the House Calendar.

Mr. ZEFERETTI: Committee on Rules. House Resolution 162. A resolution providing for the consideration of H.R. 3380, a bill to increase the pay and allowances of members of the Armed Forces (Rept. No. 97-156). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 163. A resolution providing for the consideration of H.R. 3519, a bill to authorize appropriations for fiscal year 1982 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescibe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, and for other purposes (Rept. No. 97-157). Referred to the House Calendar.

SUBSEQUENT ACTION ON A BILL SEQUENTIALLY REFERRED UNDER TIME LIMITATION

Under clause 5 of rule X, the following actions were taken by the Speaker.

The Committee on Foreign Affairs consideration of the bill (H.R. 1957) extended for an additional period ending not later than July 15, 1981.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PATTERSON (for himself, Mr. SHUMWAY, Mr. LOWERY of California, Mr. ANDERSON, Mr. BADHAM, Mr. BEILENSON, Mr. BROWN of California, Mr. BURGENER, Mr. JOHN L. BURTON, Mr. PHILLIP BURTON, Mr. CHAPPIE, Mr. CLAUSEN, Mr. COELHO, Mr. DANIELSON, Mr. DANNEMEYER, Mr. DELLUMS, Mr. DIXON, Mr. DORNAN of California, Mr. DREIER, Mr. DYMALLY, Mr. EDWARDS of California, Mr. FAZIO, Ms. FIEDLER, Mr. GOLDWATER, Mr. GRISHAM, Mr. HAWKINS, Mr. HUNTER, Mr. LAGOMARSINO, Mr. LANTOS, Mr. LEWIS, Mr. LUNGREN, Mr. MATSUI, Mr. MCCLOSKEY, Mr. MILLER of California, Mr. MINETA, Mr. MOORHEAD, Mr. PANETTA, Mr. PASHAYAN, Mr. ROUSSELOT, Mr. ROYBAL, Mr. STARK, Mr. THOMAS, and Mr. WAXMAN):

H.R. 3958. A bill to provide for the minting of commemorative coins to support the 1984 Los Angeles Olympic Games; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. BYRON:

H.R. 3959. A bill to amend the Internal Revenue Code of 1954 to provide individuals a limited exclusion from gross income for interest on deposits in certain savings institutions; to the Committee on Ways and Means.

By Mr. HARKIN (for himself, Mr. COELHO, Mr. LEBOUTILLIER, and Mr. MURPHY):

H.R. 3960. A bill to amend the Internal Revenue Code of 1954 to provide that gross income does not include certain amounts of interest accrued by individuals on savings certificates which bear a rate of interest at least equal to the rate of inflation and which are held for at least 3 years; to the Committee on Ways and Means.

By Mr. HANSEN of Idaho:

H.R. 3961. A bill to amend the Immigration and Nationality Act to establish a program to permit nationals of Mexico to enter the United States to perform temporary services or labor; to the Committee on the Judiciary.

By Mr. HIGHTOWER (for himself and Mr. HANCE):

H.R. 3962. A bill to amend the Federal Water Pollution Control Act to restict the jurisdiction of the United States over the discharge of dredged or fill material to those discharges which are into navigable waters, and for other purposes; jointly, to Committees on Public Works and Transportation, and Merchant Marine and Fisheries.

By Mr. HUGHES:

H.R. 3963. A bill to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to extend the period for which funds are authorized to be appropriated; to the Committee on the Judiciary.

By Mr. JONES of Oklahoma:

H.R. 3964. A bill to provide for reconciliation pursuant to section 301 of the first concurrent resolution on the Budget for the fiscal year 1982; jointly, to the Committees on Agriculture, Armed Services, Banking, Finance and Urban Affairs, the District of Columbia, Education and Labor, Energy and Commerce, Foreign Affairs, Interior and Insular Affairs, Merchant Marine and Fisheries, Post Office and Civil Service, Public Works and Transportation, Science and Technology, Small Business, Veterans' Affairs, and Ways and Means.

By Mr. LEACH of Iowa:

H.R. 3965. A bill to amend the Peace Corps Act to establish a Peace Corps Academy; to the Committee on Foreign Affairs.

By Mr. LOTT:

H.R. 3966. A bill to amend title 38 of the United States Code to make certain individuals who served in the Armed Forces on active duty for training eligible for educational assistance and for home, condominium, and mobile home loan benefits; to the Committee on Veterans' Affairs.

By Mr. MATSUI (for himself, Mr. STARK, and Mr. BRODHEAD):

H.R. 3967. A bill to amend the Internal Revenue Code of 1954 to allow individuals to take into account business deductions in the calculation of withholding allowances; to the Committee on Ways and Means.

By Mr. MITCHELL of Maryland:

H.R. 3968. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income certain savings bonds received by an employee as a service award, and for other purposes; to the Committee on Ways and Means.

By Mr. MOTTL:

H.R. 3969. A bill to require the Postal Service to provide door delivery of mail to individuals residing in residential housing developments in city delivery areas unless the Postal Service has notified appropriate officials of the community in which the housing development is located of its intention to provide centralized neighborhood delivery or collection box delivery of mail to that area; to the Committee on Post Office and Civil Service.

By Mr. NELSON:

H.R. 3970. A bill to amend title 18, United States Code, to make a crime the use, for fraudulent or other illegal purposes, of any computer owned or operated by the United States, certain financial institutions, and entities affecting interstate commerce; to the Committee on the Judiciary.

By Mr. PANETTA:

H.R. 3971. A bill to amend title 38, United States Code, to direct the Comptroller General to assign employees of the General Accounting Office to serve as ombudsmen for patients in Veterans' Administration facilities; to the Committee on Veterans' Affairs.

By Mr. PATTERSON (for himself, Mr. LOWRY of Washington, Mr. GILMAN, Mr. SOLARZ, Mr. CONTE, Ms. OAKAR, and Mr. LAFALCE):

H.R. 3972. A bill directing the Secretary of the Treasury to consult with member countries of the international development banks for the purpose of targeting assistance by those institutions to needy people; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PEPPER (for himself, Ms. OAKAR, Ms. FERRARO, Mr. RATCHFORD, and Mr. BIAGGI):

H.R. 3973. A bill to amend title 39, United States Code, by strengthening the investigatory and enforcement powers of the Postal Service by authorizing inspection authority and by providing for civil penalties for violations of orders under section 3005 of such title (pertaining to schemes for obtaining money by false representations or lotteries), and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. RODINO:

H.R. 3974. A bill to amend title 28, United States Code, to provide improved retirement benefits for bankruptcy judges, and for other purposes; to the Committee on the Judiciary.

By Mr. SANTINI, (for himself, Mr. MARRIOTT, Mr. HANSEN of Utah, Mr. MURPHY, Mr. RAHALL, Mr. KOGOVSEK, Mrs. BYRON, Mr. RUDD, Mr. FORSYTHE, Mr. WORTLEY, Mr. HORTON, Mr. HUCKABY, Mr. SIMON, Mr. COLLINS of Texas, Mr. BUTLER, Mr. LIVINGSTON, and Mr. BEREUTER):

H.R. 3975. A bill to facilitate and encourage the production of oil from tar sand and other hydrocarbon deposits; to the Committee on Interior and Insular Affairs.

By Mr. SKELTON:

H.R. 3976. A bill to amend the Small Business Act; to the Committee on Small Business.

By Mr. TRIBLE (for himself, Mr. WHITEHURST, Mr. ROBERT W. DANIEL, Jr., Mr. ROBINSON, Mr. WAMPLER, Mr. BLILEY, Mr. PARRIS, Mr. WOLF, Mr. BUTLER, and Mr. DAN DANIEL):

H.R. 3977. A bill to declare and recognize the vital importance of deep-draft commercial ports to this country's economy and national defense, and the world's economy and energy self-sufficiency, and to establish a process to promote, finance and facilitate on an expedited and priority basis the improvment of deep-draft commercial ports in the United States in order to promote domestic commerce and U.S. export capabilities for coal, grain and other agricultural commodities, manufactured goods for export, iron ore and other commodities; jointly, to the Committees on Public Works and Transportation, and Merchant Marine Fisheries.

By Mr.ROE:

H.J. Res. 291. Joint resolution to provide for the designation of the 40th anniversary of the renewal of Ukrainian independence, June 30, 1981, as "Ukrainian Independence Day"; to the Committee on Post Office and Civil Service.

By Mr. ROUSSELOT (for himself, Mr. MATSUI, Mr. ROYBAL, Mr. CHAPPIE, Mr. CLAUSEN, Mr. DELLUMS, Mr. DREIER, Mr. EDWARDS of California, Ms. FIEDLER, Mr. MCCLOSKEY, Mr. MOORHEAD, Mr. PASHAYAN, Mr. PATTERSON, Mr. STARK, Mr. HUNTER, Mr. BURGENER, Mr. DANNEMEYER and Mr. ANDERSON):

H.J. Res. 292. Joint resolution honoring Mexican Americans for their cultural contributions to the State of California and joining with the California State Assembly in recognizing August 24, 1981, as "Dia de Mexicanos Americanos" in California; to the Committee on Post Office and Civil Service.

By Mr. SOLOMON:

H.J. Res. 293. Joint resolution to designate March 19, 1982, as "National Energy Education Day"; to the Committee on Education and Labor.

By Mr. FISH (for himself and Mr. BINGHAM):

H. Con. Res. 151. Concurrent resolution to express the sense of the Congress that nuclear war represents the world's greatest po-

tential health hazard and that all nuclear weapons in the world should be eliminated; to the Committee on Foreign Affairs.

By Mr. HERTEL:

H. Res. 164. Resolution to urge the President to demonstrate his commitment to international human rights by nominating an individual dedicated to the concept of human rights for individuals of all nations to the post of Assistant Secretary of State for Human Rights; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

133. By the SPEAKER: A memorial of the Senate of the State of California, relative to Continental Airlines; to the Committee on Public Works and Transportation.

134. Also, a memorial of the Legislature of the State of California, relative to hazardous waste; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. NELSON:

H.R. 3978. A bill for the relief of Space Systems Laboratories, Inc., of Melbourne, Fla.; to the Committee on the Judiciary.

By Mr. PRICE:

H.R. 3979. A bill for the relief of Claudine E. Abbott; to the Committee on the Judiciary.

By Mr. RANGEL:

H.R. 3980. A bill for the relief of Franchet Ludlow Byfield; to the Committee on the Judiciary.

By Mr. TRIBLE:

H.R. 3981. A bill for the relief of Comdr. Joseph A. Siebel; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1: Mr. NAPIER.

H.R. 52: Mr. ADDABBO, Mr. ANDREWS, Mr. BAILEY of Pennsylvania, Mr. D'AMOURS, Mr. DE LA GARZA, Mr. MOAKLEY, Mr. MOLINARI, Mr. NATCHER, Mr. O'BRIEN, Mr. PASHAYAN, and Mr. YATRON.

H.R. 810: Mr. JEFFRIES.

H.R. 845: Mr. FITHIAN.

H.R. 856: Mr. DELLUMS.

H.R. 859: Mr. DELLUMS.

H.R. 1034: Mr. HANSEN of Utah.

H.R. 1140: Mr. DASCHLE.

H.R. 1173: Mr. LUKEN.

H.R. 1400: Mr. LOTT.

H.R. 1596: Mr. BARNARD, Mrs. BOUQUARD, Mr. ERTEL, Mr. MCDADE, Mr. MARTIN of New York, Mr. MINETA, Mr. SHAMANSKY, and Mr. SIMON.

H.R. 1603: Mr. DERRICK.

H.R. 1698: Mr. YATRON, Mr. CROCKETT, Mr. DOUGHERTY, Mr. LOTT, Mr. MOFFETT, Mrs. BOUQUARD, Mr. MITCHELL of Maryland, Mr. WIRTH, Mr. WILLIAMS of Montana, Mr. FAZIO, Mr. CORRADA, Ms. FERRARO, Mr. WAMPLER, Mr. WHITEHURST, Mr. SOLARZ, Mr. SIMON, Mr. WON PAT, Mr. FASCELL, Mr. FUQUA, Mr. PEYSER, Mr. HAMMERSCHMIDT, Mr. MOTTL, Mr. PEPPER, Mr. PERKINS, Mr. FROST, Mr. RICHMOND, Mr. MARKEY, Mr. ROBINSON, Mr. SAVAGE, Mr. NOWAK, Mr. BEDELL, Mr. PHILLIP BURTON, Mr. WALGREN, Mr. SHANNON, Mr. GRAMM, Mr. ST GERMAIN, Mr. WOLPE, Mr. NEAL, Mr. DELLUMS, Mr. NAPIER, Mr. ANTHONY, Mr. BEVILL, Mr. BONKER, Mr. BREAUX, Mr. CORCORAN, Mr. D'AMOURS, Mr. DERWINSKI, Mr. DICKINSON, Mr. DIXON, Mr. DONNELLY, Mr. DOWNEY, Mr. DUNCAN, Mr. FLORIO, Mr. FOLEY, Mr. GILMAN, Mr. GINN, Mr. GORE, Mr. GUARINI, Mr. HUCKABY, Mr. MCDADE, Mr. MAVROULES, Mr. NICHOLS, Mr. OTTINGER, Mr. PRICE, Mr. PRITCHARD, Mr. REUSS, Mr. SABO, Mr. SANTINI, Mr. SCHEUER, Mr. SHELBY, Mr. SPENCE, Mr. STARK, Mr. WEAVER, Mr. YOUNG of Alaska, and Mr. ZEFERETTI.

H.R. 1805: Mr. DYMALLY.

H.R. 1914: Mr. LUNDINE.

H.R. 1918: Mr. HARKIN and Mr. BRINKLEY.

H.R. 2052: Mr. WAXMAN and Mr. MURTHA.

H.R. 2129: Mr. DAUB.

H.R. 2241: Mr. WYDEN.

H.R. 2331: Mr. PHILLIP BURTON.

H.R. 2372: Mr. IRELAND, Mr. LAGOMARSINO, Ms. MARTIN of Illinois, Mr. GUARINI, Mr. STANGELAND, Mr. BEILENSON, Mr. FORSYTHE, Mr. HUGHES, Mr. FROST, Mr. LOWERY of California, Mr. HAMMERSCHMIDT, Mr. PARRIS, Mr. PASHAYAN, Mr. GOLDWATER, Mr. ROEMER, Mr. DOUGHERTY, Mr. PEASE, Mr. COLLINS of Texas, Mr. TAUKE, Mr. CAMPBELL, Mr. CLINGER, Mr. WORTLEY, Mr. SIMON, Mr. STANTON, Mr. BEREUTER, Mr. HANSEN of Idaho, Mr. NEAL, Mr. MOFFETT, Mr. MARTIN of North Carolina, Mrs. HOLT, Mr. SOLOMON, Mr. HILER, Mr. LEE, Mr. BAFALIS, Mr. LONG of Maryland, Mr. GIBBONS, Mr. STARK, Mr. WON PAT, Mr. ROUSSELOT, Mr. PORTER, Mr. GINGRICH, Mr. HEFTEL, Mr. BARNES, Mr. MOORHEAD, Mr. RATCHFORD, Mr. HEFNER, Mr. KRAMER, Mr. PAUL, Mr. SMITH of Alabama, Mr. EMERSON, Mrs. SCHROEDER, Mr. BUTLER, Mr. MCKINNEY, Mr. MILLER of Ohio, Mr. JOHNSTON, Mr. WHITEHURST, Mr. EDWARDS of California, Mr. COELHO, Mr. FAZIO, Mr. ROBERT W. DANIEL, Jr., Mr. DUNN, Mr. GREGG, Mr. BURGENER, Mr. WEAVER, Mr. KINDNESS, Mr. LUNGREN, Mr. LEACH of Iowa, Mr. REGULA, Mr. LAFALCE, Mr. HOPKINS, Mr. AKAKA, Mr. BENEDICT, Mr. ECKART, Mr. FRENZEL, Mr. WEBER of Minnesota, Mr. LOEFFLER, Mr. HYDE, Mr. SHUMWAY, Mr. RAILSBACK, Mr. TRIBLE, Mr. MCCOLLUM, Mr. CRAIG, Mr. JAMES K. COYNE, Mr. LANTOS, Mrs. BOUQUARD, Mr. BARNARD, Mr. WEBER of Ohio, Ms. FERRARO, Mr. DAUB, Mr. DONNELLY, and Mr. BROWN of Ohio.

H.R. 2389: Mr. WOLF and Mr. COATS.

H.R. 2605: Mr. MITCHELL of New York, Mr. RICHMOND, Mr. LEBOUTILLIER, and Mr. KRAMER.

H.R. 2788: Mr. GINGRICH.

H.R. 2883: Mr. LAFALCE, Mr. WILLIAMS of Ohio, Mr. NEAL, Mr. TAUKE, Mr. WHITEHURST, Mr. MILLER of Ohio, Mr. RUDD, Mr. JOHN L. BURTON, and Mr. BEDELL.

H.R. 2936: Mr. BAILEY of Pennsylvania.

H.R. 3083: Mr. WILSON, Mr. GRAMM, and Mr. KINDNESS.

H.R. 3252: Mr. FORSYTHE, Mr. STUDDS, Mr. MCCLOSKEY, Mr. LOWRY of Washington, Mr. PRITCHARD, Mr. EMERY, Mrs. SCHNEIDER, Mr. SEIBERLING, Mr. MCKINNEY, Mr. CHAPPELL, Mr. FRENZEL, Mr. BEILENSON, Mr. WHITEHURST, Mr. FRANK, Mr. LAGOMARSINO, Mr. MARKEY, Mr. LEBOUTILLIER, Mr. RICHMOND, Mr. PETRI, Mr. BONIOR of Michigan, Mr. JEFFORDS, Mr. YOUNG of Missouri, Mrs. HOLT, Mr. VENTO, and Mr. TRIBLE.

H.R. 3300: Mr. EVANS of Iowa, Mr. MONTGOMERY, Mr. MCEWEN, Mr. MARRIOTT, Mrs. BYRON, Mr. MORRISON, Mr. STATON of West Virginia, Mr. APPLEGATE, Mr. DASCHLE, Mr. BONKER, Mr. BEARD, Mr. IRELAND, Mr. ROGERS, Mr. NEAL, Mr. DANNEMEYER, Mr. MCHUGH, Mr. DAUB, Mr. KAZEN, Mr. ALEXANDER, and Mr. PHILIP M. CRANE.

H.R. 3364: Mr. BAILEY of Pennsylvania, Mr. BARNARD, Mr. BADHAM, Mr. FORSYTHE, Mr. MARLENEE, Mr. MARRIOTT, Mr. MILLER of Ohio, Mr. MITCHELL of New York, Mr. OBERSTAR, Mr. PASHAYAN, Mr. PATMAN, Mr. SCHEUER, Mr. STATON of West Virginia and Mr. WHITEHURST.

H.R. 3375: Mr. COELHO, Mr. DWYER, Mr. NELSON, and Mr. PEPPER.

H.R. 3456: Mr. JENKINS, Mr. KINDNESS, Mr. ROE, Mr. LEBOUTILLIER, Mr. HYDE, and Mr. MURPHY.

H.R. 3471: Mr. BUTLER.

H.R. 3526: Mr. ROEMER.

H.R. 3575: Mr. BAILEY of Pennsylvania and Mr. BROWN of Ohio.

H.R. 3606: Mr. NOWAK, Mr. WOLPE, Mr. WHITEHURST, Mr. SOLOMON, Mr. BAILEY of Pennsylvania, Mr. BAFALIS, Mr. KINDNESS, Mr. CONYERS, and Mr. FRENZEL.

H.R. 3704: Mr. ALBOSTA, Mr. BONIOR of Michigan, Mr. BURGENER, Mr. MCCOLLUM, Mr. MICA, Mr. MURTHA, Mr. RINALDO, Mr. SUNIA, and Mr. YATRON.

H.R. 3721: Mr. HEFTEL.

H.R. 3901: Mr. ALBOSTA, Mr. MONTGOMERY, and Mr. DAVIS.

H.J. Res. 104: Mr. MITCHELL of New York.

H.J. Res. 125: Mr. HOPKINS and Mr. O'BRIEN.

H.J. Res. 230: Mr. CONYERS.

H.J. Res. 268: Mr. BIAGGI, Mr. DOUGHERTY, Mr. EDWARDS of Oklahoma, Mr. GOLDWATER, Mr. HARKIN, Mr. HERTEL, Mr. HYDE, Mr. RITTER, Mr. SOLARZ, Mr. STARK, Mr. WAXMAN, Mr. WEBER of Minnesota, and Mr. WOLPE.

H. Con. Res. 139: Mr. CAMPBELL.

H. Res. 101: Mr. PHILLIP BURTON, Mr. CROCKETT, Mr. GRAY, Mr. MINETA, and Mr. YATES.

PETITIONS, ETC.

Under clause 1 of rule XXII,

119. The SPEAKER presented a petition of the International Institute of Municipal Clerks, Pasadena, Calif., relative to funding of the National Historical Publications and Records Commission; to the Committee on Government Operations.

EXTENSIONS OF REMARKS

THE SUPREME COURT PROTECTS THE BALANCE

HON. ANTHONY TOBY MOFFETT
OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. MOFFETT. Mr. Speaker, yesterday the working men and women of America won an important victory in the battle for healthful working conditions.

The Supreme Court ruled that the safety of workers, and not the balancing of costs and benefits, was the primary function of the Occupational Safety and Health Act. The Court ruled that only the feasibility of protection should limit the degree to which workplace protections are offered.

Cost-benefit analysis has its place. OSHA will still be able to fashion rules for which compliance can be achieved in a cost-effective manner. But an important principle has been brought home by the Court decision; that is, that worker safety is not a fad, it is not a convenience of happier economic times, but it is a sine qua non of the American workplace.

I would ask that the following articles describing the decision be printed in the RECORD:

[From the Washington Post, June 18, 1981]

COTTON-DUST RULING MAY BE WARNING TO ADMINISTRATION ON STRATEGY

(By Cass Peterson)

The Supreme Court technically came out on the government's side yesterday in its cotton-dust ruling, but in the process it also may have invalidated one of the main devices by which the Reagan administration had hoped to lighten the federal regulatory burden on business.

In rejecting the application of cost-benefit analysis to cotton-dust standards, the court warned the administration that it may not always be able to achieve its deregulation goals in the job-health field by just rewriting the rules.

Instead of this shortcut, in some cases it is going to have to take the long way through Congress, a path far less certain to take the administration where it wants to go.

The administration's "shortcut" is President Reagan's executive order of February, calling for a "regulatory impact analysis" describing the potential costs and benefits of every major regulation, defined as those likely to cost $100 million or more.

High on the administration's list of targets for this cost-benefit analysis were federal standards limiting employe exposure to toxic substances, which industry had complained were too rigid and expensive.

In his "Dunkirk memo" to Reagan last November, Office of Management and Budget Director David A. Stockman recommended modifications in the standards for several toxic substances in the workplace, among them asbestos, chromium and cadmium.

The administration singled out the cotton-dust standards when it announced in March that it intended to review, and possibly relax, all federal standards limiting employe exposure to toxic substances.

In making the announcement, Thorne Auchter, head of the Occupational Safety and Health Administration, called cost-benefit analysis "an important tool in producing efficient regulation. . . . That's why we plan to apply cost-benefit analysis to the cotton-dust standard, to see how regulatory costs and benefits can be weighed in an actual case."

But the court ruled yesterday that the intent of Congress was to protect workers in any "feasible" way, and that any effort to balance the benefits of protection against the costs would be inconsistent with the law as passed by Congress.

An official of the administration's White House-level regulatory task force acknowledged that the decision was a setback for OSHA's deregulatory efforts, but said the government-wide effort to impose cost-effectiveness on regulation will continue.

"It would be fair to say that we're in some ways disappointed in it," said task force counsel C. Boyden Gray. "But it doesn't affect the overall effort."

Gray said the ruling "seems to preserve the executive order and the things we want to do at OSHA." The executive order, he noted, does not require cost-benefit analysis where forbidden by statute, on emergency regulations or on regulations being issued to satisfy court orders.

"The executive order says we can only do what's allowed by law," he said.

As far as the cotton-dust issue goes, he said, "The court has spoken on that. Cost-benefit analysis cannot be used under that statute."

In a statement yesterday, OSHA's Auchter claimed victory for both OSHA and for the cost-benefit principle.

The decision in the case, which had been submitted to the court under the Carter administration, "achieves a major goal, that is, it maintains the cotton-dust standards in effect, protecting textile workers," he said.

But at the same time, he said the court also supported the argument that "long-term profitability and competitiveness of the industry is an appropriate test in determining what is 'feasible.' . . . The court suggested that the agency may be required to use cost-effectiveness studies to determine what particular methods should be used to achieve the required levels of protection."

Auchter noted that the court "did not specifically exclude" cost-benefit analysis in areas other than health standards, and did not decide the legality of such analysis under other statutes.

The American Textile Manufacturers Institute, plaintiff in the cotton-dust suit, also attempted to put the best possible face on the ruling. A spokesman said the institute was "disappointed in the decision."

"We continue to believe, as does the administration, that cost-benefit analysis is an important element in achieving rational and cost-effective rule-making," said spokesman Jack Glawson.

"And the Supreme Court did not say otherwise. All that a majority of the court did say is that the Occupational Safety and Health Act does not require OSHA to engage in cost-benefit balancing when it sets health standards for toxic substances."

But AFL-CIO Secretary-Treasurer Thomas R. Donohue, whose union members in the textile industry will benefit from the court's ruling, said the ruling means "you can't invent a cost-benefit analysis and somehow inject it into the law." At a news conference yesterday, Donohue said the court "has hopefully put to bed the concept that the measure for the effect of a statute is cost-benefit analysis."

OSHA is still reviewing a number of standards for other toxic substances in the workplace, and administration officials yesterday were unwilling to speculate on whether those reviews will be halted or, if necessary, legislation introduced to permit cost-benefit analysis.

Meanwhile, lawyers were still debating the extent of the ruling—if, for instance, the court intended to permit the use of cost-benefit analysis in areas other than those concerning health standards.

"You can be sure this is not the last case to be litigated under the OSHA act," said a lawyer for the textile industry.

[From the Washington Post, June 18, 1981]

HIGH COURT REFUSES TO EASE LAWS ON JOB SAFETY, HEALTH

(By Fred Barbash)

The Supreme Court, rebuffing the Reagan administration in a decision with potential repercussions throughout the regulatory field, yesterday refused to ease stringent occupational safety and health laws to save money for business.

Deciding one of the most debated regulatory questions in a decade, the cost-benefit controversy, the court ruled that regulators are not required to temper worker protections against hazardous and poisonous substances to make their costs reasonable to industry.

The health of workers outweighs "all other considerations," Justice William J. Brennan wrote in the 5-to-3 decision upholding textile factory cotton dust exposure standards designed to combat brown lung disease.

Congress intended that compliance be "part of the cost of doing business," he said. "Any standard based on a balancing of costs and benefits . . . would be inconsistent" with the law, Brennan said.

The majority pointedly refused a Reagan administration request that the court withdraw from the controversy while the Occupational Safety and Health Administration experiments with cost-benefit analysis for regulated industries.

The decision did not say specifically that cost-benefit analysis is prohibited. But Brennan said it would be contrary to the intent of the law, and lawyers debated yesterday whether that wording could be read as a prohibition by lower court judges in future cases.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Unless Congress answers it, that question undoubtedly will set off a new round of court cases, which itself could sidetrack Reagan's regulatory program, in which cost-benefit analysis is a centerpiece.

Thorne Auchter, Reagan's new OSHA head, tried to hail the ruling as a victory, apparently because the agency defended the regulations before the Supreme Court during the presidency of Jimmy Carter.

Reagan's OSHA, however, announced in March that it would apply cost-benefit analysis to the cotton dust regulations and asked the justices to withdraw from the case. Brennan dismissed that request in a terse footnote yesterday.

The textile industry saw the decision largely as a defeat. "We're disappointed," said a formal statement from the American Textile Manufacturers Institute, which challenged the regulations.

"We're on cloud nine," said Florence Sandlin, a retired textile worker active in the Brown Lung Association in Greensboro, N.C., and the wife of a brown-lung disease victim. "We're going to celebrate."

Joining Brennan were Justices Byron R. White, Thurgood Marshall, Harry A. Blackmun and John Paul Stevens. Justice William H. Rehnquist, Justice Potter S. Stewart and Chief Justice Warren E. Burger dissented. Justice Lewis F. Powell, Jr., without explanation, did not participate.

Byssinosis, or brown-lung disease, is a chronic respiratory disease similar in its symptoms to emphysema. In its mild forms, it saps its victims of energy and often makes it impossible to work, walk for long distances or have sexual relations. In its most severe forms, it can cause heart ailments and kill. The industry estimates that fewer than 2 percent of its workers are victims. Non-industry studies put the figure at 25 percent.

The cause is cotton dust, the stem and leaf material that sticks to the cotton plant when it arrives at textile mills. As the plant is processed into yarn by high-speed machinery, the dust flies into the lungs of textile workers.

OSHA imposed requirements in 1978 to bring down permissible cotton dust levels from 1,000 micrograms per cubic meter of air to 200 micrograms for the most hazardous sections of the mills. That level is said to be the equivalent of a grain of salt in a box of air a meter (39.37 inches) long on each side.

Industry said that the equipment—giant vacuum devices and elaborate ductwork—required to meet that standard was too expensive and might even put smaller firms out of business. It also said there were cheaper ways of reducing the incidence of the disease, such as careful medical screening.

The textile manufacturers' institute and 12 major textile companies sued OSHA, saying the Occupational Safety and Health Act of 1970 required OSHA to redo its regulations to determine that the costs to industry bear a reasonable relationship to its benefits to workers.

It was the same theme struck by numerous other industries in other court challenge against OSHA regulations covering exposure to such substances as lead and benzene.

A panel of the U.S. Court of Appeals for the District of Columbia, in an opinion written by Judge David Bazelon, rejected the challenge to the cotton dust regulations and held that cost-benefit was not required.

Last term, the Supreme Court, ruling on OSHA's benzene regulations, met industry halfway by deciding that the law required a showing of "significant risk" to worker health in promulgating regulations. But it was unable to reach agreement on the cost-benefit issue.

Yesterday it did. Upholding all but one minor element of Bazelon's ruling, Brennan cited the section of the law governing regulations for toxic materials and harmful substances: OSHA, it says, "shall set the standard which most adequately assures, to the extent feasible . . . that no employe will suffer material impairment of health . . . ."

The dictionary, Brennan said, defines "feasible as capable of being done, executed or effected."

Congress "meant feasible and nothing else in using that term," Brennan said. "The legislative history demonstrates conclusively that Congress was fully aware that the act would impose real and substantial costs of compliance on industry and believed that such costs were part of the cost of doing business."

Congress "intended to impose such costs when necessary to create a safe and healthful working environment," he wrote. It did not "contemplate any further balancing by the agency . . . ."

The court did not offer a definition of "feasibility." OSHA had decided that industry could implement its proposed cotton-dust standards without a severe threat to its profitability. The study on which this decision was based was far less rigorous than the elaborate cost-benefit analysis in question.

But Brennan said that OSHA's effort is "certainly consistent" with the law. That question is expected to prompt more litigation.

Brennan did overturn one part of Bazelon's ruling. OSHA may not necessarily require that textile workers moved within a plant to avoid cotton dust be held harmless from any loss of benefits.

Rehnquist, joined by Burger, dissented from the majority ruling, stressing that it did not prohibit cost-benefit analysis. They repeated their theme, spelled out in earlier cases, that Congress should have answered these questions, not the courts.

Stewart said the case should have been settled without deciding the cost-benefit question. Rather, he said, he would overturn the regulations because OSHA had failed to justify its estimates of the cost to industry.

Textile industry lawyers found some comfort in the opinion. They said that cost-benefit analysis was not prohibited, though they conceded that would be a matter of debate. They noted that the court appeared to leave room for the use of cost-benefit analysis in determining which chemicals should be regulated, if not how to regulate them.

And OSHA officials underscored the court's statement that it was not ruling out a cost-benefit requirement for regulations of job safety unrelated to toxic and hazardous exposure.

In other action yesterday:

The court upheld the Government's application of one of the most widely used federal laws aimed at business corruption. Novia Turkette and others charged with narcotics trafficking challenged the Racketeer Influence and Corrupt Organizations (RICO) statute on the grounds that it was not meant for use against wholly illegitimate enterprises, such as narcotics rings.

They argued that the law was primarily designed to combat the infiltration of legitimate businesses by racketeers.

The U.S. First Circuit Court of Appeals ageed, and the Justice Department, saying that the ruling could damage its effort against racketeering, sought the reversal.

The court ruled 8 to 1 yesterday in *U.S.* vs. *Turkette* that the law applied to both legitimate and illegitimate enterprises. Stewart dissented.

The justices also ruled in a Connecticut case that inmates are not constitutionally entitled to a written explanation when a pardons board refuses to commute their sentence.

The issue was one of "entitlement" under the due-process clause of the Constitution. A lower court held in *Connecticut Board of Pardons* vs. *Dumschat* that, because the state's board of pardons often commuted life sentences, inmates had a protected "liberty interest" in the board's proceedings which mandated written explanations of denials.

Burger, in the 7-to-2 decision, disagreed. The fact that the pardon board often commuted sentences does not create a right to any sort of formal proceeding. "Statistical probabilities standing alone generate no constitutional protections."●

DIPLOMAT ASSASSINATED

HON. MILLICENT FENWICK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mrs. FENWICK. Mr. Speaker, last week another diplomat, at his post in Geneva, Switzerland, fell victim to assassination. This time it was a Turkish diplomat, the latest in a list that includes 19 Turkish diplomats and their wives and children murdered since 1973.

And so the sad story continues. Terrorists in every corner of the world, claiming one cause or another as justification, have made murder an all too usual political comment. There is no answer, perhaps, except in the hearts of human beings. No religion seems to be able to stamp out violence. No law seems to reach or discourage those who bomb day-care centers and marketplaces, who kill policemen and magistrates on their way to work, businessmen in their offices.

It seems to begin in the feeling that a cause that seems noble is reason enough to break the law, to violate personal or property rights. Until we get this clear, until we draw a straight line between lawful dissent and assembly on the one hand, and illegal assaults on persons or abuse of property on the other hand, we will never stamp out at the source the long ugly trail that leads in its extreme form to murder itself.●

CONGRESSIONAL SALUTE TO SELMA MASKERY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. ROE. Mr. Speaker, this month as the many schools throughout our land participate in commencement exercises and honor their graduates, in the Haledon public schools located in my congressional district the students and parents are including in their graduation ceremonies special plaudits and commendations to a distinguished member of the faculty, beloved teacher and good friend, the Honorable Selma Maskery, upon the celebration of a half century of teaching our young people in the public schools of New Jersey. I know that you and our colleagues here in the Congress will want to join with the superintendent of Haledon public schools, the Honorable D. Raymond Orsi, other members of the faculty, students, parents and her many, many friends in extending our warmest greetings and felicitations upon this milestone of achievement in the field of education.

Mr. Speaker, when you reflect upon the fact that the cultural, historical, and economic achievements, even the basic health, well-being and longevity of a state and nation depend in large measure upon how well we educate each generation charged with the trust of carrying out its responsibilities and traditions, we can indeed be proud of Selma Maskery's outstanding contribution to the quality of life and way of life for all of our people.

As we commemorate the golden 50th anniversary of Miss Maskery's outstanding service as an educator, with your permission, Mr. Speaker, I would like to insert the following tribute forwarded to me by Superintendent Orsi on behalf of the students and faculty of Haledon public schools in testimony to the great respect and esteem we all feel for the quality of her leadership and sincerity of purpose in ever seeking the highest standards of excellence on behalf of the youth of America. This citation, which provides a brief biographical sketch of some of the highlights of her biography in her career pursuits, is as follows:

SELMA MASKERY, TEACHER FOR 50 YEARS, A JOB WELL DONE

Whereas Selma Maskery has taught for fifty academic years in the public schools of New Jersey, and

Whereas those years have endeared her to more than 1,500 students who have received her instruction, and

Whereas the community has received untold benefits from her dedicated superior service to the Haledon Public Schools: Now, therefore, be it

Resolved, That Selma Maskery be honored and her name be entered in the CONGRESSIONAL RECORD of the United States of America as a fitting tribute to a teacher who has dedicated her life's work to educating young boys and girls.

Selma Maskery grew up in a family interested in the New Jersey Public Schools. After her father was elected to the local board, he served on numerous committees including buildings, grounds and finance. He was elected president of the board by his fellow board members.

Young Selma was an avid sports woman who participated on professional tours in golf. Born too early, she had to pursue a different style since the world had not recognized women on golf professional tours and the purses when available were too small even for first place winners.

Selma turned to education, one of the few professions open to women in the early thirties. She pursued her studies with vigor and achieved her New Jersey teaching certificate in 1931. Later, she graduated from Paterson State College and Fordham University, awarding her a Bachelors in Education and a Masters in Administration.

Selma Maskery has represented the Haledon Education Association for many years as membership chairperson and building representative. In prior years she held every office including president.

The Haledon PTA has utilized the services of Miss Maskery for fifty years. The executive committee honored her with a life membership pin presented to her for meritorious service. She continued to serve on the executive committee and rarely missed a meeting.

During the past few decades, Miss Maskery turned her attention to the area Woman's Clubs. She was a charter member of the Manchester Woman's Club and advisor to the Manchester Junior Woman's Club. Her efforts at the local district and State level assisted the group to achieve many noteworthy community efforts.

If there was work to be done, Selma Maskery could be counted to contribute her fair share. Some honored positions she has held are listed below. Along with the titles went many volunteer nights or work insuring the success of numerous community projects.

Charter Member and Past President of the Manchester Woman's Club; Charter Advisor to Manchester Junior Woman's Club; Past President of Junior Woman's Club of Paterson; Past President of Junior Executive Club of New Jersey; Past President of P.M. Club; Chairperson of numerous district and State Level Woman's Clubs; Annually presents the Selma Maskery Award and the Martha Maskery Award to local Junior Woman's Clubs.

As Selma Maskery taught her students, she instilled in them a moral code of behavior which became their code of living. Young people mature; size and appearance change; but, the moral fiber remains. As parents, this is passed to their children and their children's children. The geometric progression never stops.

The world in which we live is a better one because of Selma Maskery. The 1,500 children she taught are better for having spent a school year in her classroom. Friends of Selma Maskery want her to know they know this and thank her for her contributions to mankind.

Mr. Speaker, I am pleased to seek this national recognition of Selma Maskery and all of her good works. Her wealth of wisdom, understanding and expertise in her lifetime profession as an educator during this past half century have truly enriched our community, State, and Nation. We do indeed salute a beloved lady, esteemed educator, and great American—the Honorable Selma Maskery.●

THE SMALL BUSINESS DISASTER LOAN PROGRAM

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. SKELTON. Mr. Speaker, I rise to introduce a bill which simply keeps a promise previously made to a group that this country cannot afford to disregard—the farmer. Last summer, my State and many others in the Midwest were declared disaster areas due to record high temperature and record low precipitation. The farmers were particularly hard hit but they had hope that they would not lose everything because of the Small Business Administration which offered assistance to disaster victims through the disaster loan program. In March of this year, however, the rug was pulled out from under some of those who applied for this loan assistance when the rules for qualification were arbitrarily changed after many applications had been solicited and accepted for processing. In fact, some loans had already been made under the old regulations. This created a situation where one disaster victim received all the assistance he needed to stay in business while his equally qualified neighbor was turned down. My bill, Mr. Speaker, would rectify this situation by requiring that the Small Business Administration treat all victims of disasters declared before March 19, 1981, equally according to the regulations in force at the time of the damage.●

NCFA ENDORSES DEREGULATION OF INTEREST RATES

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. LAFALCE. Mr. Speaker, the Senate Banking Committee last month held 10 days of oversight hearings on the state of the financial industry. The hearings provided Government, industry, and consumer spokesmen with the opportunity to present their views on a variety of issues and set forth their legislative goals.

One of the issues that received considerable attention was preemption of usury ceilings on consumer loans. As you recall, Treasury Secretary Donald Regan endorsed legislative efforts to deregulate interest rates on consumer loans during his appearance before

the committee. Another witness who presented compelling testimony on the need to lift artificial constraints on the interest rate that can be charged on consumer loans was Robert B. Evans, senior vice president and general counsel of the National Consumer Finance Association.

Mr. Evans noted that usury limits are simply price controls imposed on the use of money. With deregulation and the restructuring of the Nation's financial institutions, Federal preemption of State usury ceilings is but a natural next step, he said. He pointed to the fact that Congress, various administrative agencies, and progressive State legislatures have already, to a large extent, recognized the social benefit of deregulating interest rates. A common justification for maintaining usury ceilings is that they protect consumers. But, Mr. Evans said, this argument fails to consider the panoply of State and Federal consumer protective statutes and regulations which have been enacted in the last two decades.

And, he noted, the costs of these consumer protections becomes part of the cost of credit; with restrictive ceilings, this also means restrictions in the extension of credit. Although some States have deregulated their interest rates, most States still have usury restrictions which effectively limit credit availability in periods of high money costs. This is particularly a concern of consumer finance companies because they pay market rates to purchase their funds.

Consumer finance companies thus find themselves at a competitive disadvantage because they must restrict credit to their customers—and providing credit is the sole relationship that exists. This contrasts with depository institutions, which may be able to retain customers through multirelationships.

I would like to insert excerpts of Mr. Evans' May 18 testimony in the CONGRESSIONAL RECORD because I feel it cogently lays out the arguments for acting expeditiously on this issue:

The excerpts follow:

Mr. Chairman and members of the committee: My name is Robert B. Evans, Senior Vice President and General Counsel for the National Consumer Finance Association (NCFA). NCFA represents over 700 companies operating more than 15,000 offices throughout the country. The consumer finance industry accounts for about one-fourth of all consumer credit, or $75 billion of the $300 plus billion outstanding.

NCFA appreciates this opportunity to present its views on major problems confronting the financial community. Our testimony covers eight issues; I will touch briefly on some on them today, but respectfully request that our full written statement be made a permanent part of these proceedings.

PREEMPTION

Without question, the central occurrence of this decade for the financial community is deregulation of the financial institutions themselves. With inflation as the prime mover, artificial barriers to competition in financial services have been lowered.

And, of course, there was no choice; they simply had to be.

As the capital market place demanded higher and higher returns to compensate for the underlying erosion in the dollar's value caused by inflation, money fled from administered-rate savings (most notably pass-book) to other investments such as gold, real property, art, and yes, money market funds. The upshot of all this was the demise of Regulation Q—and with it—the last vestige of control over savings rates.

Which brings us to our first issue: NCFA favors similar decontrol of all consumer credit rate ceilings, which in themselves are simply price controls upon the "use" of money. Federal preemption of usury ceilings is a natural step in the orderly progression of the deregulation and restructuring of the nation's financial institutions. Indeed, it follows that—if the largest group of creditors in the country may now charge market rates for the use of their funds—other creditor groups who borrow from them must be accorded the same privilege. This "largest group" consists of individual savers, the source of virtually all savings. With Regulation Q on its way to oblivion, and with it administered savings rates, the individual saver will be able to command market rates for his funds; naturally the financially institutions/intermediaries which employ these funds must be free to do the same or forego lending when market rates exceed any statutory ceiling. Virtually all consumer finance companies "purchase" their funds at market rates. Small independent finance companies are often dependent upon rediscount companies for funding at rates four percent or more above the prime rate. In some states, with a prime rate hovering at 19 percent, a $5,000 loan for a 60 month period is limited to an APR of:

	Percent
California	18.00
Colorado	18.00
Connecticut	19.89
Florida	18.60
Kentucky	19.93
Maine	18.59
Nevada	18.17
New Hampshire	18.00

In other states only smaller loans are available, e.g., in Michigan, which limits small loans to $3,000 at a maximum APR of 17.86 percent. In short, the rise of money costs effectively curbs lending in low ceiling states as capital flows to jurisdictions allowing a more favorable rate of return.

Unlike depository institutions, which may curb lending and continue to retain their customers through savings, checking or trust services, a consumer finance company's sole relationship to a customer is the extension of credit. Turning down a customer translates to losing that customer. Accordingly, preemption and therefore continuing ability to serve its customers is a vital issue for the consumer finance industry.

NCFA's support for federal intervention is grounded in the changes which have overtaken the consumer finance marketplace. First, many states have inadequate ceilings for small loans. Second, over 15 billion dollars of credit extended by finance companies is now in second mortgage lending; many states do not have rate ceilings that would enable profitable second mortgage lending by finance companies or any other creditor. Third, as will be discussed later, increasing resort to bankruptcy by consumers has added costs to doing business which—absent radical bankruptcy law reform—must be passed on as part of the cost of credit.

The newly proposed Interest Rate Deregulation Act of 1981, Rep. John LaFalce's (D-NY) H.R. 2501, preempts all state usury ceilings for business, agricultural and consumer credit transactions, subject to state override and retention of all state consumer protection provisions.

NCFA supports the LaFalce approach and urges this Committee to consider similar legislation. The consumer finance industry believes that it is essential that any federal preemption legislation: (1) Be drafted simply in order to ease compliance; (2) allow states a reasonable time to override the federal legislation; and (3) retain, undisturbed, state licensure, supervision and consumer protection statutes.

At the same time, we would urge that no new federal regulatory authority be created in any such legislation. Rate relief coupled with additional federal regulation would be limited relief, not only for the lender, but for the consumer, who would have diminished access to state and local agencies charged with consumer protection.●

DR. JOSEPH BIANCULLI—TRIBUTE TO A DISTINGUISHED CAREER

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. WILLIAM J. COYNE. Mr. Speaker, I want to take this opportunity to extend my congratulations and best wishes to Dean Joseph Bianculli, a distinguished member of the University of Pittsburgh faculty on his retirement. Dr. Bianculli is the former dean of the school of pharmacy and a professor at the University of Pittsburgh for 33 years.

His leadership has been recognized by his election to membership in several honorary societies, and especially by receiving the Alpha Zeta Omega Achievement Award for meritorious contributions to pharmacy and its allied sciences. In his capacity as professor and dean, Dr. Bianculli has educated thousands of students who are now successful professional practitioners in Pennsylvania and many other States throughout this country. Many of his former students have achieved high distinction as professional practitioners, and many have achieved national recognition in research, academics, and management.

Perhaps most important of all, Dr. Bianculli has won the respect and admiration of professional practitioners, scientists, and academic colleagues, many of whom were not his students, but who learned from the example he set.

Dr. Joseph Bianculli will be missed by faculty, students, and administrators at the University of Pittsburgh.

On behalf of his many friends, I want to thank him for helping to make the School of Pharmacy one of the finest in the Nation and to wish him the best of health and happiness in his new endeavors.●

NEWT AND INEZ DISCUSS SOCIAL SECURITY

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. GINGRICH. Mr. Speaker, Inez Tillson of Jonesboro, Ga., and I discussed President Reagan's proposed changes for social security. She was in my office for a senior citizen internship when the administration's changes for social security were first introduced. Inez interviewed me regarding some of the President's proposals that concerned her most.

INEZ. I'd like to ask you a few questions about Social Security. I understand that the President has made it part of his economic plan to cut Social Security by about ten percent. I wonder why President Reagan feels he needs to cut Social Security. Also, from a personal viewpoint, I wonder what will happen to my monthly payments. Will they be cut by ten percent?

NEWT. President Reagan, in his campaign, pledged that he would not cut any existing benefits. He's going to keep that pledge. No one who is currently on Social Security needs to worry that his payment will be cut in any way. The President's concern, looking toward the years ahead, is that more Americans are living longer—which we're grateful for, but that poses problems. The longer we live, through better medicines, the more money we are spending on retirement. The Social Security System faces, in that sense, a long-term crunch.

We're going to have to re-think part of retiring in America. We're going to have to decide how we're going to finance retirement. But if you're on Social Security now, you can rest assured that the President isn't going to cut your payments.

INEZ. I also hear that Social Security is in real trouble financially. That in a year or two, it will be completely bankrupt and will not have enough money to run. Is this because Social Security has taken on a lot of extra programs, such as scholarships given to children of people covered, such as benefits to the permanently and the totally disabled, and some other things which have been added? Is this the reason?

NEWT. There are several reasons why Social Security is in trouble. One, as I said, is that people are living longer and that there are more people retiring. Second, the great Baby Boom is over so we don't have as many new young people entering the workforce. The ratio of active workers to retired persons is dropping. Third, we have added a number of things, like disability and college scholarships, which weren't in the original plan. And finally, the cost-of-living annual increases have been pushed to ten, eleven, twelve percent higher than anyone had ever imagined. It just takes more money if you're going to increase benefits ten percent from one year to the next. Since the average worker's income has not gone up as fast as the cost-of-living, taxes have had to go up in order to pay for the Social Security System.

INEZ. I also learned today that some Social Security money is spent for vocational rehabilitation. It would seem that that money should come out of another fund.

NEWT. Social Security does fund a tremendous range of benefits, and I think that it should return to being simply a retirement program. Franklin Roosevelt developed it as a basis for people who're retiring, not as their total income, but as a basis that no American should fall below. I believe that we have to return the Social Security System to its basic function.

INEZ. Do you think this is what President Reagan is trying to do with his change in the program?

NEWT. President Reagan recognized that retirement is something which, hopefully, every American will reach. We want retirement to be a time in which people aren't frightened, but instead, will feel secure. In order to have a secure retirement, we have to have a secure Social Security System. President Reagan has recognized that it's going to require some changes.

I think this first set of proposals is the beginning of the dialogue, not the end. There will be plenty of hearings in Congress on the modifications. While people should pay close attention and should follow carefully the debates, no one should be alarmed that we're, in any way, going to dismantle the Social Security System. It will only be more sound and more secure at the end of President Reagan's administration.

INEZ. I read in the Washington Star that the President intends to eliminate what is called Double Dippers from government funds—a person who might be a retired civil service employee drawing an annuity and also drawing Social Security. Do you think it is fair for an employee who has paid into both of those programs to have one of them taken away?

NEWT. Inez, I don't exactly like the term Double Dipper. I think we have double achievers, and we want to encourage people to have many careers. Ronald Reagan, himself, has had a pretty successful second career as President of the United States. I often think of Colonel Sanders who only opened his first fried chicken outlet after he had retired. We want to encourage people to lead full, rich and healthy lives. Psychologically and physically, people are better off if they are active. I want, for example, to lift the current limits on how much you can earn and still draw Social Security because we want to encourage every American to be productive. In the long run, the answer to the so-called double dipping issue, and the answer to the whole federal employee question is to protect the federal employee's right to have his own pension, just as we do with General Motors or the University of Georgia. Then include them in Social Security, just as we do the people at the University of Georgia or at General Motors. That way everyone can work actively and agressively. If you happen to retire from the federal government, it would be like leaving General Motors to go work for the University System. You would move from one place where you had a vested interest to another place. It would give people a much better and fairer way to participate. They would have earned the benefits due them from a complete lifetime of participation in the Social Security System.

INEZ. I'm glad to hear you say that. You feel that people should be able to earn money after they're 65?

I've been earning money, but I've had to give back to Social Security part of it because I'd been earning above the maximum.

NEWT. Inez, my great grandmother lived to be 92. She was very, very active and healthy. My favorite aunt is now 83 years old, and I think she is more happy and physically better off because she stays active. We're going to see an age open up for us in which almost every American remains active; not just for the money but, for community involvement, for the excitement of life, for the opportunity to be creative and productive. We want to encourage that behavior rather than discourage it.

INEZ. I said to my friends that I plan to work as long as I can, whether it's for money or as a volunteer. I've laughingly said I'll be working when I'm 95, but we'll see.

NEWT. As I said earlier, I hope that ten years from now we can have you back in the Sixth District Congressional offices as a Senior Citizen Intern.

INEZ. One thing that we were talking about today in our session with the other Senior Citizen Interns was the idea of retiring at age 62. I, of course, did not retire until I was 65, but a friend of mine didn't wait. He said that he felt that he was coming out just as well even though the payments were 80 percent of what he would have gotten had he retired at age 65. How do you feel about that?

NEWT. The current Social Security programs which allow you to draw 80 percent for retiring at age 62 is clearly for men. Actually, there's a good argument for retiring at 62 because men don't live as long as women. Therefore, I guess a lot of guys figure they ought to retire early and get their 80 percent for those three extra years because they may not be around to draw 100 percent.

I think the original intent under President Roosevelt was not to build a system to encourage people to retire early. That's something that we've invented in recent years. We have to look at how to solve that problem. The government should never change retirement programs on people closer than five years to retirement. Someone who is currently 60, or 59 does not have the maneuvering room to re-think what he is going to do if we suddenly change the rules of the game. The government has got to learn to be more responsible in planning and must begin to look further down the road. If we're going to bite the bullet, it's important for those of us in Washington to bite the bullet early enough for those of you back home to digest it. It's unfair of us to change things so suddenly that we disrupt the lives of so many individuals who don't have the resources and the ability to change their lives as the government changes its rules.

We'll need to look at a lot of possibilities for the Social Security program in terms of the best retirement age, the percent of benefits for early retirement, what benefits ought to be in the program other than retirement. I want to do it with the commitment to Americans who are now in their late 50's and early 60's. We are not going to disrupt their lives in our planning. We are talking about changes for the future, not the immediate present.

INEZ. Some people retire at 62 because they're not really able to work. They're medically required to retire at 62. If the President follows through with his plans, they would certainly not have enough

money at 50 or 55 percent to live on. They would have to have some other income.

NEWT. One of the things we might have to look at is the addition of a disability or hardship clause which would allow 100 percent for people who were physically or mentally unable to continue. That is precisely the type of complexity the Congress has to look at while considering the President's proposal. We can't automatically rubber stamp it and say, "Yes. We'll do it." It's our job to pay very careful attention and look at the fine print to make sure we've thought about all these options.

INEZ. The whole program is so complex. Many of us don't understand all the workings of it.

NEWT. I'll go a step further. I doubt if anybody understands the whole system.

INEZ. Do you think that what we've talked about would get that 10 percent cut?

NEWT. I'm not sure what we'll do. I'd be willing to bet you there'll be a strong Social Security System in 1990. The retired Americans will be able to count on their government. The American people will keep its word to its parents and grandparents. What we're going to have to do here in Congress is work with President Reagan to try and find a solution that allows the taxpayer to continue working and buying a home and developing a life for his children. At the same time, the system should allow his parents and grandparents to retire with dignity. We don't know what the details will be, but our discussion has touched on the kinds of things we'll be looking at as we examine these programs.

INEZ. I think all members of Congress are going to get long letters about it.

NEWT. We should. There is no other program in America that affects more citizens than Social Security. Every citizen has a responsibility and an opportunity to pay attention to his government. He should tell those of us who represent his future how he would like for us to represent him.●

SOVIET JEWRY

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. SIMON. Mr. Speaker, for several years now, this body has participated in a Call to Conscience Congressional Vigil for Soviet Jewry. Our constant efforts to keep the plights of hundreds of Soviet Jews before the public eye is one of the more productive avenues we have available to maintain pressure on the Soviet Government to grant emigration to these many good people.

Today, I would like to bring to your attention the Khassin family. Gennady Khassin is a 44-year-old mathematician living in Moscow with his wife Natasha and their two daughters, 17-year-old Helen and 4-year-old Judith. They first applied to emigrate to Israel in 1976, to be reunited with Mr. Khassin's sister, and were refused. Since that time, Mr. Khassin has been dismissed from his teaching job at the university in Moscow. Repeated efforts to get their emigration request approved have been denied on the basis of "state interest". The Government refuses to let the Khassin family emigrate because Mrs. Khassin presumably worked with classified information many years ago.

At a time when our continued commitment to human rights as an integral part of our foreign policy appears to be in question, our support for the efforts of the Khassin family and the many other Soviet Jews who are being denied their freedom becomes even more critical. I hope that our efforts here in Congress combined with a strong U.S. presence in Madrid may soon bring the Khassin family's frustrating and unhappy search to a joyous end.●

TREASURY ALTERS TIMETABLE FOR TAX REGULATIONS ON FRINGE BENEFITS

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. COTTER. Mr. Speaker, yesterday I received a communication from Secretary of the Treasury Donald T. Regan regarding the issue of taxing fringe benefits such as airline passes and tuition for children of faculty members. The administration is backing off its stated intention to publish regulations to specify the tax treatment of various fringe benefits, and has moved the timetable for publishing these regulations from July 1981 to July 1, 1982. I have enclosed for the information of readers of the RECORD the text of a "Dear Colleague" letter distributed this morning, as well as the communication I received from Secretary Regan.

JUNE 17, 1981.

DEAR COLLEAGUE: In recent weeks, most Congressional offices have received numerous letters and other inquiries from individuals concerned about the tax treatment of fringe benefits. This concern and confusion has become more acute since the Congressional ban on the issuance of IRS regulations ended on June 1, 1981.

At the hearing on the Select Revenue Measures Subcommittee on May 13, both John E. Chapoton, Assistant Secretary for Tax Policy and Commissioner of the Internal Revenue Service, Roscoe L. Egger, Jr., testified. They indicated, at that time, the Administration's intentions to publish proposed fringe benefit regulations in July which would not be effective prior to January 1, 1982 and which would not be retroactive.

During the last two weeks, confusion has arisen among Members and the general public over statements made or reported to have been made by various members of the Administration as to their intentions in this matter. To clarify this situation I corresponded with Secretary of the Treasury Donald T. Regan, asking him to personally review this matter.

Secretary Regan, in a written statement, has stated that "no regulations altering the tax treatment of fringe benefits will be issued by the Treasury prior to July 1, 1982," and that "present administrative practice will not be changed during this period".

I hope this information is helpful to you and your staff, and I intend to keep you informed of further developments in this area.

Sincerely yours,

WILLIAM R. COTTER,
Chairman.

STATEMENT BY HON. DONALD T. REGAN

Widespread apprehension has resulted from the expiration on May 31 of the legislative moratorium on the issuance of final regulations and rulings with respect to fringe benefits. For this reason the Treasury has reconsidered its approach to this difficult problem. We have decided that no regulations or rulings altering the tax treatment of fringe benefits will be issued by the Treasury prior to July 1, 1982. As a result, present administrative practice will not be changed during this period. This decision will alleviate the uncertainty created by the expiring legislation and provide ample opportunity for the Treasury to work with the Congress at an appropriate time to develop an acceptable solution to existing interpretative and enforcement problems in this difficult area of the law.●

SUPPORT OF H.R. 3238, PUBLIC BROADCASTING ACT AMENDMENTS OF 1981

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. MATSUI. Mr. Speaker, diversity of ideas is essential to the preservation of our democratic system. Such diversity, however, is only possible with the broadest exchange of information and opinions. Commercial television and radio cannot be called upon exclusively to meet this need. The principal thrust of commercial broadcasting must be to respond to the needs of mass audience in order to sell its promoted products. While this mass approach is definitely a valid purpose, commercial broadcasters are unable nevertheless to respond to the myriad of individual needs of each community.

The Corporation for Public Broadcasting, coupled with its national network of local public broadcasting stations, alone possesses the programing flexibility to tailor shows to serve the unique characteristics of each community. The importance of these local stations to their communities can be best understood by a review of one station's performance. My personal bias requires me to select KVIE, the Sacramento-based public broadcasting station, to illustrate the contribution public broadcasting has made to local and regional broadcasting diversity.

Within the financial limitations of KVIE's production budget, every attempt has been made to respond to the viewing needs of the Sacramento

Valley. KVIE produces a number of programs which feature the unique attributes of California's capital city. For instance, "Sacramento Week in Review" is a closeup view of the most important political stories of the week; Spotlight features local concerns, with an emphasis on minority and women issues; and Arts Alive presents cultural information for the residents of California Central Valley.

If such diversity of local programing is to be preserved, public broadcasting must be maintained and be adequately funded. H.R. 3238 authorizes $160 million for the Corporation in fiscal year 1984, $145 million for fiscal year 1985, and $130 million in fiscal year 1986. More importantly, H.R. 3238 establishes a mandatory formula for the distribution of such funds, with 80 percent of the funds provided for television being allocated for community service grants for local stations.

If the American people are to be guaranteed new and varied choices in local broadcast programing, H.R. 3238 must be approved by the Congress. Any substantial retreat from strong congressional support from public broadcasting would constitute a disservice to maintenance of our democratic heritage of diversity of ideas. This we cannot allow to occur.●

THE OLYMPIC COIN ACT OF 1981

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. LOWERY of California. Mr. Speaker, I am pleased to cosponsor today, along with the entire California delegation, legislation to authorize the Secretary of the Treasury to enter into an agreement with the Los Angeles Olympic Organizing Committee to mint a series of U.S. coins commemorating the 1984 games to be held in Los Angeles.

This legislation is identical to S. 1230 recently introduced in the Senate by Mr. CRANSTON, Mr. HAYAKAWA, and others.

The act honors the 1984 games, its national significance, and provides the means for the Olympic Organization to raise funds, without tax revenues, to finance this spectacular event.

When enacted, details will be worked out between the Government and the LAOOC regarding price, schedule of payments, the number and type of coins, delivery, sources of silver, and gold, coin designs, and proportions of proof and uncirculated coins.

The legislation provides upper limits for minting $1 alloy, $10 silver, $50 gold, and $100 gold coins in several issues and designs. The LAOOC will pay all costs of minting, including costs of metals, fabrication, packaging, labor, and so forth, plus a 15-percent surcharge on manufacturing costs. This should result in many millions of dollars in profit to the taxpayers. Estimated Treasury costs will be paid up front so the Government will have no risk exposure. Therefore, appropriations are not necessary and budget waivers are not required.

The LAOOC will sell the Olympic coins to collectors and sports fans for a profit, and the net proceeds will be divided evenly between the LAOOC and the U.S. Olympic Committee to prepare our athletes and teams for world class competition.

This legislation is wholeheartedly supported by the LAOOC and the USOC. The LAOOC has considerable operating expenses connected with the Olympiad, including facilities, personnel, equipment, supplies, repairs, insurance, special considerations for the handicapped, medical services, housing, food, security, safety, scoreboards, timing mechanisms, print, and electronic media services, special youth programs, tickets, and their distribution, volunteer expenses, uniforms, publications, data processing, and dozens of other sports and administrative expenses. The USOC also requires a substantial budget to carry out its mission of preparing U.S. teams and players. It provides grants to the various governing bodies of amateur sports in this country as well as helping a host of athletic organizations like the Catholic Youth Organization, State High School Athletic Associations, the Special Olympics for handicapped, and so forth.

It is important to recognize that of the 147 National Olympic Committees in the world, the USOC is the only one that does not receive financial assistance from the Government. In 1984, the United States—as the host country—automatically qualifies in all games. This means we will be able to compete in sports in which we have not heretofore excelled.

The LAOOC is a nonprofit corporation that receives no Federal, State, or local government financial assistance. Its income is from ticket sales, radio, and television contracts, and licensing arrangements. The Olympic coin program will be most helpful in staging a first-class summer Olympiad.

Any surplus from all sources left over after the games will be split up among three groups: The USOC, amateur athletics in California, and various amateur athletic organizations in the United States.

In summary, this is an innovative way to assist the private sector to help the Olympics without tax dollars. I urge Members of the House to support this most worthwhile measure.●

ANNIVERSARY OF GENOCIDE DAY

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1981

● Mr. CORCORAN. Mr. Speaker, on this 40th anniversary of the Baltic holocaust I join with my colleagues in commemorating this tragic moment in history. June 14, 1941, now referred to as Genocide Day, represents one of the darkest days in the history of the Baltic States. By commemorating this tragic occurrence, we are able to show the world that we will not forget the events that led to Genocide Day and which still keep Latvia, Lithuania, and Estonia in bondage to the Soviet Union.

All Americans should stand by the people of Latvia, Lithuania, and Estonia, for they desire the basic freedoms we cherish. As Members of Congress, we should speak out against the inhumane acts of the Soviet Union and support the rightful independence of the Baltic States.

On this 40th anniversary of Genocide Day, it is appropriate that we renew our pledge to aid in restoring freedom to those who seek its rewards. We, the Members of the 97th Congress, must pledge to continue our support of Latvia, Lithuania, and Estonia in this struggle for the freedoms they have been denied.●

FEDERAL MEAT INSPECTION ACT ANNIVERSARY

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. DE LA GARZA. Mr. Speaker, 75 years ago, President Theodore Roosevelt signed the first Federal Meat Inspection Act into law. I want to bring this anniversary to the attention of the House, because I think we should all be reminded of the contribution our meat inspection system makes to our health, to our standard of living, and to the national economy.

The successful program we have today, based on effective cooperation between private industry and Government, grew out of two urgent needs.

Today, the safety and healthfulness of our meat supply is taken for granted by our people to such a degree that we seldom think of it. But before the passage of the first Inspection Act, this was not the case. There was wide public concern about the sanitation of some of the meat supply, and this gave rise to a second problem—the reluctance of some foreign countries to import our pork and beef because of a

perception overseas that the United States had severe animal disease problems.

In the last years of the 19th century, a potential expansion in beef and pork exports was stymied by the belief overseas that our country had an animal disease problem. An 1890 law tried to solve the problem by requiring inspection of certain products destined for countries which maintained restrictions. That action, however, did not go far enough to solve the problem.

The 1906 Meat Inspection Act removed that barrier to trade. It required inspection of animals at slaughter for signs of disease, and it required condemnation of any animals showing such signs. For the first time, the Federal Government, as well as the individual business, certified that only wholesome meat was leaving this country for foreign markets—and also that only wholesome meat was going to the American consumer.

Seventy-five years later, our foreign trade in meat is a healthy contributor to the balance of trade. USDA's Foreign Agricultural Service estimates that nearly 342 million pounds of American meat were exported to other countries last year. High U.S. inspection standards have helped make these exports possible.

Inspection has also contributed to reducing or eradicating animal diseases, particularly those which can spread to humans. This effort operates through two channels: USDA's Animal and Plant Health Inspection Service cooperates with State governments in identifying and controlling animal disease; and the inspection program makes sure that if diseased animals reach a slaughterhouse, their meat will not reach consumers.

The reduction in cattle tuberculosis is a striking example of success in these efforts. In 1918, an estimated 4.38 percent of cattle had tuberculosis. By 1980, the disease was found in only three-tenths of 1 percent of our cattle, and there were no human cases traced to the strain which affects cattle.

While the 1906 Inspection Act and its amendments over the years have contributed to these benefits of improved health assurance and increased trade, the most significant contribution made by the laws may be the way in which they have changed the perceptions of Americans in the marketplace.

In 1906, in the wake of Upton Sinclair's novel, "The Jungle," which exposed unsanitary conditions in the packing industry and spurred passage of the Inspection Act, many people approached the meat counter with the slogan, "let the buyer beware." Today we expect only wholesome meat products in accurately labeled containers, and we would be surprised and shocked by exceptions to that rule.

The 1906 law has been followed by a series of strengthening amendments produced by the House Agriculture Committee. In 1957, we passed an act providing mandatory inspection for poultry products as well as for red meats. In 1967, there was a major revision of the 1906 act. The new law, known as the Wholesome Meat Act, provided stronger assurances for consumers and more assurance for farmers and the meat industry that their products would be trusted. In 1970, we added another act dealing with custom slaughter plants.

With this foundation, we have long since laid to rest the images of "The Jungle." Americans today trust their meat supply, and this trust is due to inspection and to the commitment of private industry to giving its customers uniform and consistently high-quality products. The USDA's Food Safety and Quality Service is currently working to modernize and strengthen the meat inspection program, but the improvements we hope to see made would not be possible without the cooperation—and in some cases the technological support—of the meat industry.

I submit for the RECORD, as part of my remarks on this important anniversary of meat inspection, a copy of a letter which President Reagan has sent to the Secretary of Agriculture, John R. Block, expressing his congratulations on this occasion:

THE WHITE HOUSE,
Washington, May 19, 1981.

Hon. JOHN R. BLOCK,
Secretary of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: Please accept my congratulations on the 75th anniversary of the meat inspection program of the Department of Agriculture.

We Americans have come to take many things for granted, including the safety and wholesomeness of the meat and poultry we eat each day. Over the years the "U.S. Inspected and Passed" mark has given us this confidence and has served as a reminder of the important work of the Department of Agriculture.

In more than 7,000 plants across the country, USDA inspectors work side by side with industry, producing nearly 100 billion pounds of meat and poultry products each year. From packing house to processing plant, Federal inspection has protected consumers here and abroad and has contributed immeasurably to the development of the American meat and poultry industries.

To you and the Department and to all those in industry who produce the food of the Nation, I extend my warmest congratulations.

Sincerely,

RONALD REAGAN.●

BANKRUPTCY JUDGES' RETIREMENT

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. RODINO. Mr. Speaker, bankruptcy judges currently are the only U.S. judges who are not covered by the judicial retirement system. Their retirement benefits presently are derived from the civil service retirement system, which was not designed for persons appointed to Government service in middle age, as is generally the case with judicial appointees. Today I am introducing a bill that will remedy the inequitable treatment accorded judges of the U.S. Bankruptcy Court by enabling them to participate in the judicial retirement system. Retirement for bankruptcy judges under this bill basically is modeled after the retirement system provided for U.S. Tax Court judges.

Public Law 95-598—the Bankruptcy Reform Act—established a new administrative structure for bankruptcy cases and a new and functionally independent bankruptcy court system with expanded jurisdiction and powers. When this legislation was considered in the 95th Congress, the matter of a retirement plan for bankruptcy judges was postponed in order to insure timely action on the measure, but managers of the legislation in both Houses agreed that the unifinished matter of retirement would be taken up in the next Congress. That task still has not been completed.

Beginning in 1984, bankruptcy judges will be appointed by the President, with the advice and consent of the Senate, for a 14-year term. Judges appointed to the U.S. Bankruptcy Court, like all Federal judges, should be persons of maturity, experience, and ability. The inadequacy and inequity of the present retirement system will limit the availability of qualified persons to serve on the bankruptcy court. This is particularly troublesome in light of the expanded jurisdiction and increased workload of the Federal bankruptcy courts and the increased complexity of bankruptcy cases.

Under the bill which I am introducing today, the basic retirement system will give a judge one-fourteenth of the salary of the Office of Bankruptcy judge for each year that he has served as a bankruptcy judge after September 30, 1979—which date corresponds with the effective date of the expanded judicial functions set forth in the new Bankruptcy Code—and one twenty-eighth of the salary for each year served before October 1, 1979. This system compares with the U.S. Tax Court retirement system, under

which judges receive retirement pay at a ratio of 1 to 10, rather than 1 to 14, for years of service.

The objective of the bill is to provide an equitable plan for bankruptcy judges' retirement, to attract high-caliber individuals to the bankruptcy bench, and to retain on the bench the experience and ability of bankruptcy judges presently sitting.●

INTRODUCTION OF LEGISLATION TO AMEND SECTION 404 OF THE FEDERAL WATER POLLUTION CONTROL ACT

HON. JACK HIGHTOWER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. HIGHTOWER. Mr. Speaker, I have introduced legislation to amend section 404 of the Federal Water Pollution Control Act, the section dealing with dredge and fill activities.

This effort is to draw a line between what is in the national interest with regard to the need for oversight in dredge and fill activities and when that oversight becomes Government interference in the private business of citizens of this country.

The Clean Water Act was passed in 1972 in a needed effort to clean up the lakes and rivers of this Nation. The Congress assigned to the Army Corps of Engineers responsibility for providing permits for any work done on navigable waters. Dredging, fill work, and discharges on harbors, navigable rivers, and other areas used by the public need some oversight to make sure the work will not ruin the waterway for future use by the rest of the public.

What has happened is that the courts have taken the rather loose language and extended the authority to require permits over every possible body of water in the United States.

The Fish and Wildlife Service has successfully joined with the EPA to include playa lakes, common in my district, to the section 404 regulations. These are low places in the West that sometimes have water in them when it rains. If we could work things out to where it would rain enough to keep water in the playa lakes year around, my farmers and ranchers might be interested in giving the corps permit authority over them. At this time, it is silly to even talk about these lakes coming under the act.

The redtape involved has made the permit process drag on forever. The General Accounting Office has made a study of three district offices of the Corps of Engineers that reports an average processing time for permits ranging from 120 to 300 days. Often when people go in to see about applying for a permit, the redtape they face will turn them against applying for the permit. The costs involved by the process and by the delay are often fatal to needed projects. It is mandatory that we in Congress pull this law tight enough that the congressional intent can be followed. The Washington Post reported a story on April 7 of this year about a family in Appleton, Wis., that found themselves involved in a 22-month fight over 8 feet of backyard.

The law as it is now, with the courts interpretation and the zeal of the Government officials, any farmer wanting to dig a hole in a playa lake, or a homeowner that wants to fill part of a swamp in his backyard must go through the permit process. The permit applications can seldom be filled out without the help of a lawyer and an engineer.

This bill will define what constitutes navigable waters, will make the time for consideration of permit applications tighter where the application must be considered within the 90-day period, and it provides a system that States can assume the authority over waters other than those that are determined to be "navigable." The law now offers no incentive to the States to take this responsibility because they have the Corps of Engineers, Fish and Wildlife, and EPA sitting there to deal with on any issue or ruling.

I hope the Congress will take prompt action and provide a law that enables us to protect the lakes, rivers, and harbors and still allow people to live their lives without getting a permit before they landscape their backyard.●

IMPORTANCE OF EDUCATION FOR THE HANDICAPPED

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. SANTINI. Mr. Speaker, I commend my colleague from California for providing us this opportunity to talk about a subject that is near and dear to my heart, the education of the handicapped. As the parent of a handicapped child, I have had the opportunity to view first hand the results of Public Law 94-142, the law passed in 1975 to provide a "free and appropriate" education for the handicapped. I have been pleased with what I have seen.

There has been a great deal of misunderstanding about this law and its concept of "mainstreaming" the handicapped child into the public school system. It is important to note that mainstreaming does not require that all handicapped children be placed in classrooms with nonhandicapped children, but that each child be placed in the "least restrictive environment" consistent with his or her education needs. This has resulted in two big pluses—it has helped to dispel many of the fears and myths surrounding the handicapped, and it has helped to integrate the handicapped into the school system as they will one day have to integrate into society. Educating the handicapped in an environment that more resembles the "real world" has resulted in productive citizens who are better trained to live in the society they find when their formal education ends.

In addition, Public Law 94-142 has provided for early education for the handicapped. This early education not only prepares the handicapped for school but it also enables professionals to detect earlier any potential physical, mental, or emotional problem that can be corrected. As with medicine, early detection often prevents future complications and results in more individual success stories.

It is important to remember that the passage of Public Law 94-142 has produced numerous benefits not just for the handicapped, but for society as a whole. Approximately 10 percent of the population has some physical, mental, or emotional disability. Most of these people can make a real contribution to our economy, community, and Nation. Too often in the past we have forced those with a mental or physical limitation into an isolated and nonproductive role. Then we compel them to take from society. Public Law 94-142 creates an opportunity for those with physical limitations to give to their classmates their educational system and ultimately to their society.●

WHY WELFARE CAPITALISTS NEED A RUDE AWAKENING

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. TAUKE. Mr. Speaker, declining levels of productivity, investment, and savings continue to present us with serious economic problems. The need for a tax cut to stimulate activities in these areas has never been greater.

However, at the same time that the Federal Government is providing the business and industrial communities with incentives to modernize and update their facilities and equipment, it must also send a clear signal that it will not bailout inefficient and mismanaged industries—those that have not been able to meet the challenge of fair competition.

Inflation must be brought under control. So must Federal borrowing. And our so-called free-market econo-

my must be allowed to operate wherever possible and feasible. Various sectors of the business community, longtime advocates of less Government intervention and preservation of the free market, should not expect financial bailouts if their economic positions continue to deteriorate. Such bailouts are only counterproductive, as the attached article from the Washington Post so rightly points out. Unnecessary intervention only exacerbates inflation, destabilizes our credit markets, and rewards economic mediocrity and inefficiency.

The article follows:

[From the Washington Post, May 31, 1981]

HELP CURE INFLATION: LET A BIG BUSINESS GO BELLY UP SOON

(By Richard J. Whalen)

Late one Friday afternoon this summer, after the financial markets close and the brokers and traders scatter, the Dow Jones ticker may carry an arcane-sounding item like this: "Armageddon Industries, one of the nation's largest corporations, has had its commercial paper sharply downrated by credit agencies and is conferring with its bankers." What this will mean, quite simply, is that debt-ridden Armageddon has run out of cash.

Over that summer weekend, anxious bankers will use the resourceful White House telephone operators to track down high officials, and they will impart this message: "Armageddon will go belly up on Monday morning, the banks are very shaky, the unions will raise hell at the layoffs, and the markets will panic—unless Washington does something right now."

Will the president, the Treasury secretary, the Federal Reserve chairman and a handful of powerful congressional committee chairmen have the political wisdom and courage to withstand such pleas? We may soon find out, for a major financial crisis, likely to be marked by spectacular bankruptcies, appears headed our way. What Washington should do when it strikes is simple: nothing.

Wall Street is not convinced that Washington has that kind of political will. That's largely why the Street remains skeptical of the Reagan administration's economic program. Important as the Reagan steps to date have been, painful budget cuts, promised tax reductions and tighter monetary and credit growth have been insufficient by themselves to dispel Wall Street's fear that larger doses of inflation lie ahead.

Thus when a major corporation or bank begins to totter, as will likely happen with the prime rate climbing above 20 percent, Wall Street believes Washington will pull back from the brink and uncork yet another inflationary wave of money and credit to bail out all the illiquid companies and financial institutions. Indeed, one banker reportedly told Fed chairman Paul Volcker recently that if one of his bank's riskier loans goes bad, the government will have no choice but to save his corporate client and his bank. The government needs to deal that welfare capitalist a rude awakening, just as it has been shaking up the rest of the comfortable but unafforable American welfare state.

If Armageddon is not bailed out and goes bankrupt, it obviously will mean at least temporary suffering for some: The company will be reorganized and some of its assets sold, its incompetent executives and hapless employes will be out of work, stockholders will lose their investment, and the creditors and bankers most or all of their money. But, more important, a cleansing wave of fear will pass through the markets, flushing out similar debt-financed excesses that might have produced even worse suffering. This jolt of disinflation will create the sober expectation of more of the same, and prices and interest rates will soon reflect the new trend and the market's perception of it.

If, however, Armageddon proves to have helpful friends in Washington, prompting the Federal Reserve to open the discount window to the bankers and the Congress to push through an Emergency Loan Guarantee Act to "protect" all those jobs, financial panic may be averted. But it will be at the cost of a deepening cynical conviction that, in modern America, high inflation is forever.

If the economic system is again short-circuited by political intervention, the peril is that inflation soon will accelerate to hyperinflation, sending prices and interest rates soaring to once unimaginable levels. Would you believe a 35 percent prime rate? It sounds ridiculous. But only a few years ago, the present 20 percent prime seemed impossible.

Americans today are paying the highest "real" interest rates (adjusted for inflation) in perhaps a century and a half. Bank interest rates have soared to former loan-shark levels because lenders demand an extra-large "inflation premium" to protect themselves. The memory of past inflation inspires apprehension of worse to come. And it blights the future health of our economy by destroying the predictability of future savings and investment returns.

It also strikes terror in the hearts of bond dealers. A bond is a debt instrument (usually issued in $1,000 denominations) paying a fixed interest rate and redeemable at its face value at maturity. Soaring interest rates have caused the market values of bonds to plummet. So demoralized is the bombed-out long-term bond market, according to traders, that everything bought in the past 40 years shows a loss.

It is no secret why key Reagan policymakers regard the bond market as a crucial barometer of the economic climate and of the administration's prospects. The bond market, which is much larger in terms of total investment values than the stock market, is the indispensable source of funds to finance all levels of government and the most creditworthy U.S. corporations.

If the bond market collapses permanently, as many observers now believe it has, we will experience increasing difficulty in turning over our astronomical public and private debts. To maintain our precariously balanced debt structure, we may be tempted to follow the example of other nations and resort to deliberate hyperinflation to defraud our creditors.

To encourage investors to buy bonds, the Federal Reserve must convince them that inflation is being brought under control. This, of course, depends largely on the fiscal posture and borrowing requirements of the federal government. When confronted with chronic federal budget deficits and massive Treasury bond issues, the Fed's vaunted "independence" disappears.

Tradition and expediency dictate that the Fed must provide the markets with the liquidity required to accommodate the Treasury's needs and minimize the "crowding-out" of other borrowers. Such "monetarizing" of debt has been the driving force behind inflation since the mid-1960s.

Monetarist economist, led by Nobel Laureate Milton Friedman (a part-time Reagan adviser) and represented in the upper ranks of the administration by Treasury Undersecretary Beryl Sprinkel, are right to criticize the Fed for creating too much money in recent years. The grossly inflated statistics show an upward trend line as eloquent as Alps.

But the monetarists tend to become entangled in arcane technical and procedural arguments over day-to-day Fed management that obscure the demands of our situation of opportunity and peril. Even if the Fed succeeds in restoring a semblance of stability and predictability to closely watched weekly monetary statistics, this technical feat will not in itself alter the inflationary psychology of the bond market.

Because the root of our inflation is political, an act of political will in the face of crisis is needed—and there are encouraging signs that this need is recognized.

Fed chairman Volcker visited the White House the other day at his request to chat with President Reagan and his senior advisers. The unusual meeting bore witness to the policy consensus and political coordination that may soon bring a turning point in our economic history.

As Volcker remarks privately, for the past decade and a half a speculative bet on further inflation has been a sure thing, and he wants to upset that assumption. He also wishes to shake the complacency of bankers who once worried about their risky loans going bad but who now assume they can shift that burden to Volcker's shoulders if they get in serious trouble.

Ironically, the Fed's ability to protect or punish the imprudent is more limited than they imagine. Created in a much simpler political and financial environment 70 years ago, the Fed now lags behind the competitive and technical forces transforming the financial marketplace. Present-day markets are linked electronically on a global scale. The regulators are officially responsible, but scarcely in control.

When the New York Federal Reserve Bank's trading desk recently allowed the federal funds (interbank loan) rate to float freely, as the Fed had indicated it would, bank traders were shocked. "Mother wasn't there," says a top Fed official, "and the money markets panicked."

Panic, though frightening, can be therapeutic and profitable. The Rothschilds, who belong to the oldest school of banking, are said to have a family motto that sums up their centuries-old strategy: "Buy to the sound of cannons, sell to the sound of trumpets."

In the debt-burdened, inflation-besieged U.S. economy, the guns of a major corporate bankruptcy might well cause a liquidity panic in the markets. But markets swing between excesses, and the therapy of fear would quickly yield to the therapy of greed. Institutional money managers, pension fund trustees and other fiduciaries would hear a flourish of trumpets summoning them to buy bonds offering the highest rates of return in U.S. history, rates that some observers think might not be seen again in this century.

In the real world, a whiff of disinflation hangs over glutted markets for overpriced surplus commodities ranging from oil to suburban houses. To translate this trend into financial terms means knocking the inflation premium in half, and that will take more than supply-side rhetoric.

Washington is naive to suppose it can melt Wall Street's cynicism by offering attractively packaged promises, or even by devising a tax cut compromise featuring new investment incentives. All this could easily be undone, the Street suspects, and none of it marks an unmistakable end to inflationary business-as-usual.

There is only one certain way for Washington to gain Wall Street's attention and respect, and that is to scare the hell out of the sure-thing inflationary speculators and make them true-believing capitalists again. If Washington refuses the inevitable distress call, breaking the assumed bail-out pattern of more inflation, it will be rewarded with the biggest bond market rally in history.●

GENOCIDE DAY

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 11, 1981

● Mr. DAUB. Mr. Speaker, I would like to join my colleagues in recognizing the brave citizens of Lithuania, who have persevered so admirably in their struggle against the repression of the Soviet Union.

Prior to 1940, Lithuania, Estonia, and Latvia were recognized as sovereign nations in Eastern Europe. The occupation of these Baltic States and their subsequent division between Germany and the Soviet Union ended their short history of independence and self-determination.

This continued occupation is contrary to principle IV of the Helsinki accords which the United States supports. Therefore, we cannot simply close our eyes to this invasion of the past while the Soviets use it as motivation for further repression of other countries. We must express our support for the people of Lithuania who have given their lives and continue to resist the oppression of the Soviet Union.

I ask my colleagues who have not already done so, to join in this commemoration of a struggle which has been so courageously waged for the last 40 years.●

CLINCH RIVER BREEDER REACTOR: ITS ADVANCED DESIGN

HON. COOPER EVANS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. EVANS of Iowa. Mr. Speaker, as possibly the only Member of Congress with extensive practical experience in the design and construction of nuclear powerplants, including several years with the Atomic Energy Commission, I have followed the debate on completion to the Clinch River breeder reactor project with interest. As I pointed out in a "Dear Colleague Letter" today, the design of the CRBRP is current and incorporates many features which are the most advanced in the world. I believe it is important to provide some additional detail in support of that conclusion. While the opposite view is expressed by those opposed to the project, I have noticed a distinct lack of specifics in these criticisms. Any objective assessment of the facts concerning the CRBRP design will clearly show that the design has been continuously upgraded since the project was first authorized. I do not dispute that a new design begun from scratch today would incorporate some different design features. However, these changes would not be significant in relation to the objectives of the project and the associated costs would be enormous. The CRBRP will more than meet its design objectives for the specific reasons cited below.

The CRBR design relies heavily on LMFBR development and experience obtained to date both in the United States and in foreign countries, especially the firsthand expertise generated by the design, construction, and operation of the fast flux test facility. The design is based on the following objectives, which were identified as part of the congressional authorization for the project:

To help confirm and demonstrate the potential value and environmental desirability of the LMFBR concept as a practical and economic future option for generating electric power, and to demonstrate the value of this concept for conserving important nonrenewable natural resources.

To help verify certain key characteristics of breeder powerplants for operation in utility systems; that is, licensability and safety, operability, reliability, availability, maintainability, flexibility, and prospects for economy.

To develop technological and economic data for the benefit of Government, industry, and the public; to provide a broad basis of experience and information for commercial and industrial application of the LMFBR concept.

To use to the maximum practical extent the technology developed by Federal Government programs, recognizing that the project is an indispensable part of the Government's overall long-range LMFBR research and development program.

Design of the plant has proceeded in full recognition of the need for developing information and data applicable to larger follow-on plants, such as high-temperature design criteria which will assure reliable performance of LMFBR systems and components at high temperatures and also the effects of radiation on the properties and behavior of the structural materials in the design of the reactor systems and components. The principal innovations in the CRBR design are summarized below:

DESIGN CRITERIA

Structural design criteria for CRBRP design have been expanded to include requirements for more comprehensive high-temperature structural analysis techniques, extensive materials performance tests have been run under a wide variety of prototypic conditions, and significant advances have been made in the experimental and analytical capability which more accurately define the thermal-hydraulics conditions under which structures must perform.

In spite of the fact that the United States has lagged behind other countries in the construction of plants, the excellence of U.S. codes and standards and the pioneering work done by the CRBRP designers have established these codes and standards as reference for LMFBR's worldwide. In addition, the extensive materials tests in the LMFBR base technology program that are conducted in support of CRBRP, as well as those materials tests conducted by the CRBRP project itself, have resulted in a data base for materials evaluation and performance not available elsewhere.

IMPROVED REACTOR CORE RESTRAINT

The core restraint system used in CRBRP is the first designed with the knowledge of radiation effects on fuels and materials gained from extensive U.S. studies. This information has also been used in the fuel design, as well as in the design of the reactor core components to meet the high performance criteria required for LMFBR fuel. These developments have resulted in a design superior to LMFBR plants overseas, and which will be totally demonstrated for the first time in CRBRP.

ADVANCED CORE CONFIGURATION

Other developments in CRBRP reactor and core design are also noteworthy. All LMFBR plants thus far have used the classical two-enrichment-zone "homogeneous" core configuration in which the core is surrounded by a blanket of fertile uranium-238 which is converted to plutonium during plant operation. CRBRP will use a new and innovative "heterogeneous" core concept in which blanket assemblies containing the fertile uranium isotope are dispersed heterogeneously throughout the active core region. This configuration improves plant breeding performance and significantly reduces core fabrication costs. The heterogeneous core configuration also substantially improves safety characteristics, compared with conventional designs, resulting in safety margins that can be predicted with greater confidence. In addition, CRBRP's new core design increases the plant's versatility, allowing it to be used as a test bed to improve fuel performance for subsequent plants and results in significant reductions in core fabrication costs. This

design, when used for larger LMFBR's, will lead to breeding ratios in the vicinity of 1.43; that is, for every atom fissioned to produce power, 1.43 atoms of new fissionable material is produced, as compared, for example, to a breeding ratio of 1.18 for the French Superphenix LMFBR.

OTHER REACTOR DESIGN INNOVATIONS

Other CRBR advanced design features have been included in the reactor vessel support concept, core support structure with associated equipment, upper internal structure, reactor head concept and shutdown systems. Each will add significantly to the plant's reliability, maintainability, and overall safety, while at the same time reducing component costs and fabrication schedules.

Advances in the CRBRP steam generator design include features to reduce stress corrosion, a potential cause of minor leakage. For the sodium pumps, internal structures have been simplified and stress reduced. The pump shaft was also shortened by 8 feet, compared with the FFTF pump, increasing maintainability and reducing equipment cost. The design and fabrication of the intermediate heat exchangers take advantage of experience gained with FFTF and provide a better capability for extrapolation to larger units.

SAFETY AND KEY SYSTEMS DESIGN REVIEWS

A series of detailed systems reviews has been completed which assessed the safety and operation of key plant systems, with particular emphasis on lessons learned from the Three Mile Island accident. The reviews involved the following areas: Decay heat removal; sodium leaks in containment; inert gas processing; spent fuel transport, storage and cooling; thermal margin beyond the design basis; sodium/water reactions; containment isolation; control room layout; radioactive waste; and auxiliary cooling. These findings are being reflected in the plant design wherever appropriate.

The CRBRP design—initially based on guidelines generated from a consensus of technical, industrial and Government groups—has thus been continually updated to reflect technological developments in the United States and abroad. As a result, CRBRP represents the most advanced demonstration reactor design in the world. Its components are scaled by a prudent factor of approximately 3 relative to those of FFTF, and in turn the components of a large commercial plant will be increased by a factor of 3 relative to CRBRP.

Development of the LMFBR is well advanced overseas. For years, several foreign countries have been gathering valuable operating experience from demonstration reactors. While France will have a larger, commercial-sized plant in operation by 1984, it will not include many of the advantages that have been incorporated in the design of CRBR. The United States has been instrumental in advancing basic LMFBR technology since the inception of the program and, as has been shown, these advances have been incorporated into CRBR design. CRBRP thus offers the foundation on which to build a viable commercial LMFBR program for the United States, since it will provide, at the earliest possible date, the technical confidence and the practical operating experience necessary to move the LMFBR forward, keeping the breeder option open and ready for safe, efficient commercial application.

As you can see from the above discussion, the CRBR design can hardly be characterized as obsolete. The overwhelming evidence in support of CRBR's design adequacy combined with the lack of specifics by those criticizing its design, strongly suggests a lack of substance in these criticisms. I encourage my colleagues to follow the general consensus of the engineering and scientific communities and support the completion of this important project whose design is up to date and will meet the LMFBR program objectives.●

TRIBUTE TO FOCUS ON FAMILY

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. WOLF. Mr. Speaker, I would like to bring to the attention of my colleagues an organization that is dedicated exclusively to promoting the stability of the American family. The Focus on the Family, a nonprofit, Christian organization, was founded by Dr. James Dobson. It was created in 1977 in response to the enormous needs of husbands and wives and children who live in a society that is increasingly hostile to the basic family unit. Although Focus is a young organization, a virtual explosion of activities and programs has occurred since its inception, each designed to strengthen the institutions of marriage and parenthood. The inspiring work of this organization deserves our recognition.

The organization's founder, Dr. James Dobson, is a licensed psychologist, a practicing family counselor, and an associate clinical professor of pediatrics at the University of Southern California's School of Medicine. He is also presently serving on the attending staff for Children's Hospital of Los Angeles in the Division of Medical Genetics. Dr. Dobson is best known for his practical books for parents and teachers, seven of which have ranked among the "top 10" Christian best sellers. The first, "Dare to Discipline," was selected in 1972 as 1 of 50 books to be rebound and placed in the White House Library. Six subsequent writings have also been extremely successful, including "Hide or Seek," "What Wives Wish Their Husbands Knew About Women," "The Strong-Willed Child," "Preparing for Adolescence," "Straight Talk to Men and Their Wives," and "Emotions: Can You Trust Them?" Dr. Dobson and Dr. Richard Koch also coedited a graduate textbook entitled, "The Mentally Retarded Child and His Family," which has been called the most useful book in its field by the Menninger Clinic. Dr. Dobson's popularity has also been extended to television. He has appeared on various network television programs to discuss his writings, including guest appearances on the "Phil Donahue Show," Tom Snyder's "Tomorrow Show," "AM America," Barbara Walter's "Not for Women Only," the "Dinah Shore Show," and "Look Up and Live."

The first activity of Focus on the Family was a weekend presentation, with 1,200 participants, to parents in Santa Barbara, Calif. From that beginning in 1977 has come a ministry that now extends to national radio, television, counseling, literature publication, and related services. The clearest signal that the work of Focus would be continued and expanded comes with the more than 3,000 letters received weekly at the organization's headquarters in Arcadia, Calif., representing tens of thousands of enthusiastic recipients of Focus on the Family services.

The unprecedented response to Dr. Dobson's film series (even though it is not a direct product of this ministry) is also generating interest and requests for the other services of Focus on the Family. A film project consisting of seven films was released in 1979 and will be seen by at least 72,000 audiences (3 million people), promising an expanding influence across America. The series was awarded the Religion in Media Award for excellence in communication in 1980.

Focus relies heavily on electronic media. As of April 1, 1980, Focus presents a daily radio series on Mondays through Saturdays. The series features Dr. Dobson and his cohost discussing topics of relevance to family living. Dr. Dobson has also produced a series of 24 taped television programs. Focus distributed approximately 135,000 pieces of literature during 1980 and has made available copies of pamphlets, tapes, and books.

Focus on the Family has enjoyed a phenomenal growth since that initial seminar in 1977. In only a matter of months, it has become a significant force on the American scene, helping to sustain the family. Dr. James Dobson has obviously struck a respon-

sive chord as he speaks to the needs of the Christian home, as well as to families of other faiths, offering sound Biblical and psychological principles to strengthen the home. Focus on the Family is alarmed by the rapid deterioration of the American family and is attempting to make a significant contribution in a short amount of time to its survival. From my personal experience, I can endorse the work of Focus on the Family. The films and literature I have seen in connection with this work have made an important contribution to my life and my relationship with my family. I believe Focus on the Family can have the same influence on other individuals and groups who want to strengthen the American family all across the country.●

COMPROMISING POSITIONS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mrs. SCHROEDER. Mr. Speaker, many have asked where I got my tax information on the President's tax compromise. It was from Michael Kinsley's June 20, 1981, New Republic article which I will now insert in the RECORD for Members to read in full.

The article follows:

[From the New Republic]

COMPROMISING POSITIONS

(By Michael Kinsley)

Reacting to complaints that his tax cut proposal is too generous to the affluent, President Reagan has unveiled a revised version that gives a whole new meaning to the word "compromise." Among its new concessions to liberal sentiment: poor people would be able to leave estates of up to $600,000 without paying inheritance taxes; the unemployed could give $10,000 a year to each of their children without worrying about gift taxes; welfare mothers would save $2,500 on their oil windfall profits tax; blue-collar workers living abroad could earn up to $75,000 a year tax-free; and blacks earning over $60,000 a year would get a tax break on their investment portfolios. These and other "sweeteners" may tempt enough Democrats to support Reagan's plan to give him a majority in the House of Representatives. Speaker of the House Tip O'Neill accused the president of "stealing goodies" from the Democrats' own alternative tax plan. This gives you a pretty clear picture of political attitudes on Capitol Hill these days. Liberal citizens can only hope that the Democrats will come to terms before Reagan threatens to compromise further.

There have been three general criticisms of Reagan's tax cut proposal, one dubious and two valid. The dubious charge is that cutting people's taxes will spur inflation by overstimulating demand. The Reaganites argue, with much justice, that their proposed personal tax cut would merely prevent an unlegislated tax increase through inflationary "bracket creep," leaving taxpayers on average about where they started. No added stimulus there. What will cause inflation is Reagan's huge proposed increase in the defense budget, if he refuses to pay for it with a tax increase and fails (as he will) to cut an equal amount from domestic programs. In any event, the Democrats have now lost inflation as an argument against Reagan's plan, since the revised version of Reagan's plan would cost less next year than the alternative the Democrats are offering. Both sides now propose starting with a five percent personal tax cut in 1982, but the Democrats have added more costly ornaments.

The second criticism of Reagan's cut is that it is unfair. Despite the handsome symmetry of across-the-board reductions, this is perfectly true. Inflation has pushed people into higher tax brackets, but Reagan's plan doesn't adjust the brackets—it adjusts the rates in each bracket. Those well into the highest bracket suffer the least from "bracket creep," but get the biggest reduction. Inflation also has eroded the value of the standard and personal deductions, which have a much greater effect on the taxes of lower-income people, but Reagan proposes no adjustment in these. The benefit of Reagan's tax cuts for businesses also will go disproportionately to the better off. So if the average taxpayer would break even after Reagan's original three-year plan, this is because those richer than average would do better while those poorer than average would do worse.

The latest "concessions" to win Democratic support would make Reagan's design even more unfair. Raising the inheritance tax exemption from $175,000 to $600,000 is intended to appeal to small businessmen and small farmers. "Small" is one of the most frequently misapplied words in politics, and these figures should help put it in perspective. Raising the annual gift tax exemption from $3,000 to $10,000 means that a wealthy couple with two children can pass on $40,000 a year tax-free, thus further reducing their estate taxes when they die. High-bracket taxpayers also can reduce the income tax on their investment profits by "giving" these investments to young children with no other income. An investment adviser told the Wall Street Journal last week that Reagan's proposed gift tax change opens up "the best tax shelter available to individuals."

The Democrats were the first to propose an immediate reduction of the top tax rate from 70 percent to 50 percent. Reagan, who originally wanted to phase in this reduction over three years, has matched their offer. The top tax on wage income has been 50 percent since 1969, and it is often said to be unfair that investment profits can be taxed up to 70 percent. No one worried about that when the wage tax ceiling was imposed in 1969, and no one is proposing now to eliminate the unfairness by undoing that favor for the affluent, rather than by adding a new one. A 50-percent top tax rate on all income would not be unreasonable if it really meant 50 percent. But capital gains are three-fifths deductible, meaning that the top tax on this kind of income will be 20 percent. Any family wage-earner making more than $11,900 pays a higher marginal rate than that, but no one seems to find this disparity unfair.

The third and most devastating charge against Reagan's design is false labeling. It isn't a "supply-side" tax cut at all, if that means one designed for the biggest "feedback" in increased investment and productivity. Saving will continue to be a losing proposition and consumer borrowing will continue to be subsidized since the tax rules aren't indexed for inflation. Under these circumstances, modest general reductions in personal tax rates aren't going to generate much new investment capital. The lower taxes on investment income of the rich, and the new rules for business depreciation, also don't distinguish between productive investments, unproductive speculation, and tax shelters. The revised plan does correct the worst aspects of the original depreciation scheme, which would have provided negative tax rates (that is, the government pays you) on profits from some buildings, while offering no encouragement at all for the most promising high-technology equipment.

In light of all this, what on earth do congressional Democrats think they are doing? They act as if they feel obliged to oppose Reagan's plan without any clear idea why. They have made the most noise insisting on two years of cuts instead of three. This is hardly a dispute on principle. The Democrats do propose very modest increases in the basic deductions that affect low-income taxpayers. But otherwise, their main concern does seem to be what Speaker O'Neill calls "goodies": a reduction in the marriage penalty, higher ceilings on tax-free retirement savings, and so on.

The Democrats are missing a real opportunity to call Reagan's bluff. The opportunity comes from, of all people, William E. Simon, the right-wing financial guru, in a pamphlet issued this month by, of all places, the American Enterprise Institute, the conservative think tank. In Reforming the Income Tax System, Simon offers a plan that would make the tax code both fairer and friendlier to productive investment. It is virtually identical to a scheme proposed last year by The New Republic ("Saving Capitalism From Its Friends," TNR, 1980). The key is that after eliminating all the special rules that encrust the tax code, and by adjusting it to the reality of inflation, much lower tax rates could produce the same amount of revenue. "The many complex tax concessions for investment in the existing system could be replaced by a tax system that simply does not discourage investment," Simon writes. Today's tax code not only discourages investment but also irrationally discriminates between different kinds of investment.

Simon is honest enough to say that he opposes a progressive tax code—one that redistributes income along with raising revenue—on principle. But he's practical enough to offer a plan that would be about as progressive as our present Rube Goldberg arrangement. As Simon says, "our current tax system redistributes precious little income" anyway. Today we have the worst of both worlds: high marginal rates that throttle the economy, and little actual tax justice.

The Democrats say they are looking for "bold new ideas." If they were to propose a version of Simon's plan as an alternative to the Reagan tax package, conservative Republicans would either have to accept it or be awfully embarrassed. Either result would be a political triumph. Instead, by accepting the gist of Reagan's scheme, while staging a symbolic and probably futile opposition, they are arranging their own humiliation.●

THE TIME IS NOW TO WEED OUT DEFENSE WASTE

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. ECKART. Mr. Speaker, I sincerely hope that the promises of Mr. Weinberger and Mr. Carlucci will be fulfilled. Carlucci has said that it takes "relentless action on the part of top management" to win the war on military waste. His predecessors have tried—yet the waste persists.

Specific examples of waste and abuse abound. Groups as divergent as the Republican Study Committee and SANE have identified areas where the DOD can be more efficient. The Republican Study Committee's report lists 107 examples of what they term "unnecessary Federal expenditures." Included in their listing are things such as inefficient use of "material handling equipment" by the Navy, to poor Air Force implementation of its "work measurement of contractors productivity," resulting in $1 billion in unnecessary payments.

As Comptroller General, Elmer Staats engaged the GAO in a series of studies which demonstrated that Defense Department waste can be weeded out—if the will to do so is present. In a letter to Secretary of Defense Weinberger, dated January 21, 1981, Staats said:

> At stake are several billion dollars a year of savings which are urgently needed to offset essential increases in modernization, sustainability, and readiness.

Staats went on to list 15 selected improvements, in three categories: Logistical support economies, major procurement economies, and manpower issues. The GAO is beyond politics—it is designed to suggest ways in which our Government can be run more smoothly. The Secretary of Defense should take the GAO's recommendations and implement them—now.

It is embarrassing that the absence of a $2 firing circuit render several Navy missiles unusable, and that the Pentagon has had to pick up the tab for $1 billion in foreign arms sales because of sloppy billing practices. Unless these and other gross misuses of Federal dollars are stopped, public support for hefty defense spending could erode. How can we ask Americans to tighten their belts when we are not aggressively pursuing defense savings which could free up limited Federal dollars?

The great danger, says former Defense Secretary James Schlesinger, "is that in our current enthusiasm, we launch ourselves into procurement programs that create mortgages which we will not be prepared as a nation to (pay) * * * That is, regrettably, an outcome of high probability." (Newsweek, June 8, 1981, page 29.)

I salute the sponsors of the Special Order on Waste in the Defense Department for their foresight in helping to focus the Nation's attention on this important problem.●

THE POETRY OF TOM HADLEY

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. BROOMFIELD. Mr. Speaker, the beauty and natural wonder of Michigan, the Great Lakes State, have been the subject of authors and artists for generations.

As a Michigan native who, over a lifetime, has read many moving tributes to my home State, I can recall very few that capture its majesty and magnificence with more eloquence than the poetry of Thomas Erle Hadley.

A filmmaker and a Detroit-area television host in addition to being a poet, Tom Hadley is a lifelong resident of Oakland County, Mich., in my congressional district. His current home in Holly, Mich., is next to the house in which he was born.

Before his retirement, Tom Hadley was the architect of many of General Motors' automobile production plants in Michigan. But for many years, he and his wife, Arlene Cook Hadley, also toured North America extensively showing their nature films, primarily of Michigan, and lecturing for the Audubon Society.

Many of these films were featured on their television program, "Happy Valley," which appeared regularly on Detroit television during the late 1950's.

Mr. Speaker, on the occasion of Tom and Arlene Hadley's 55th wedding anniversary, which they will celebrate June 26, I would like to share two of Tom Hadley's most touching poems about our home State.

Those verses, "Michigan," and "Mighty Michigan," first appeared in 1966 in a collection of his poetry also titled, "Happy Valley."

MIGHTY MICHIGAN

Oh! Michigan was Mighty,
In a World of Wonderland,
When the Glacier Gods were moulding,
Out the Mitten and the Hand.

From the Northland came the Glaciers,
With their caps of snow and ice,
Soon to cover up a Southland,
That had been a Paradise.

As they traveled slowly Southward,
With their burden on their backs,
They were weighted with the Ages,
And they left a Trail of Tracks.

When they reached the Great Lakes Basin,
There was nothing there to show,
That a Lake was in the making,
Or that Life was soon to grow.

For the Ice Age covered Countries,
And the Time had not yet come,
When the Sun would warm the Earth Soil,
And the Glacier Gods succumb.

As they thrust their forefoot forward,
In the Soil that's down below,
They leveled off the landscape,
As they ground the Soil and Snow.

From the Southland came the Sunshine,
With it's Latent Powers of Life,
And the Glacier Gods were melted,
In the Struggle and the Strife.

And there the Struggle ended,
Where the waves wash on the shore,
For the Glacier Gods had melted,
In the Great Lakes reservoir.

Michigan was in the making,
And the Mitten and the Hand
Are the Tracks they left behind them,
When the Sun God took command!

MICHIGAN

With the Great Lakes on her shoulders,
And Superior for a hat,
She's the Empress of the Waters,
And an old Aristocrat.

She's the Land of Hiawatha,
And the Happy Hunting Grounds
Of an ancient tribe of Redmen,
Who have gone where game abounds.

She's the Land of Sky Blue Water,
With her stretch of sandy shore
Running close beside the Forest,
Where the waves wash evermore.

She's surrounded by the Waters
Of a Great Lakes Inland Sea,
Where the Sky and Water struggle
To gain God's Supremacy.

In her Basin she's the center
Of a Geologic Ring,
With the stratums cropping outward,
Like a stone splash in a Spring.

Where the circles form a Valley
Buried deep beneath the Drift,
With the mineral wealth a'waiting
For Mankind to lend a lift.

From the pressure of the Glaciers,
As they sat upon the Throne,
Came the Valley rock formation,
And the mineral rich Lodestone.

She's a Land of many contrasts,
From her Agricultural South,
To her Northern fringe of Forests,
Which grow to the River's mouth.

With her Forests in her Northland,
And her fertile fields below,
There's a chance for Mind and Body,
And the Spirit strong to grow.

For the Forests feed the Spirit,
And Industry feeds the Mind,
While the Agricultural area
Feeds the Body of Mankind.

She's the meeting place of many
Of the Old Triumvirate,
Who believe that Mind and Body,
And the Spirit rule our Fate.

She's the Empress of the Waters,
And She rules upon the Throne
Of a Geologic Greatness
That is Michigan's Alone!●

THE OLYMPIC COIN ACT OF 1981

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. PATTERSON. Mr. Speaker, today I have introduced the Olympic Coin Act legislation which authorizes the Secretary of the Treasury to enter into agreement with the Los Angeles Olympic Organizing Committee (LAOOC) for the design and minting of a series of coins commemorating the 1984 Summer Olympics in Los Angeles.

The proposed act authorizes the Secretary to mint a limited number of gold, silver, and copper-nickel coins with designs emblematic of the Olympic games and of amateur athletics. The precious metals—or the funds needed to purchase the precious metals—will be provided to the Secretary by the LAOOC. The funds advanced by the LAOOC for this purpose shall be deposited in a trust fund established and administered under the provisions of title 31, section 725s, United States Code. The act directs the Secretary to sell the coins to the LAOOC at a price which guarantees a profit to the U.S. Treasury; that is, the greater of the cost of manufacture of the coins plus a 15 percent surcharge, or the face value of the coins. No tax dollars shall be appropriated to carry out the provisions of this act.

The commemorative coins will be legal tender. However, so that they will not enter into general circulation as currency, they will be sold by the LAOOC to the general public at a price substantially in excess of their face value. The proceeds generated by the sale of the coins shall be divided equally between the LAOOC and the U.S. Olympic Committee and shall be used to help fund the 1984 Summer Olympic games and to support American amateur athletics.

The minting of commemorative Olympic coins was among the recommendations of the Presidential Commission on Olympic Sports. The Commission, established in 1975 by President Ford, was composed of representatives of the U.S. Olympic Committee and amateur athletic organizations, of noted amateur athletes, coaches, and sports broadcasters, and members from both Houses of Congress. The Commission met for 2 years and reviewed the status of amateur athletics in the United States to determine what steps, if any, should be taken to increase participation in American amateur sports and to assure that the United States will field its best possible teams at the quadrennial Olympic games. One major finding of the Commission was that U.S. amateur athletics badly needs additional funding to supplement the traditional sources of funding and to alleviate the burden of financing amateur athletic programs which now falls on the American educational system, on the families and friends of individual athletes, and on the nonprofit USOC and its affiliates.

The proposed commemorative coin program is a positive step which can and should be taken on behalf of amateur athletics in the United States. Passage of the Olympic Coin Act will signify that the Congress supports the ideals of international amateur competition and applauds the discipline and determination of the young men and women who strive for the honor of representing their country in competition with the best athletes in the world.●

HUMAN HEALTH EFFECTS FROM HERBICIDE EXPOSURE

HON. JAMES WEAVER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. WEAVER. Mr. Speaker, at recent Oregon field hearings of my Forests, Family Farms, and Energy Subcommittee, three physicians gave profoundly disturbing testimony on suspected negative human health effects from herbicide exposure. Their testimony was based upon symptoms and descriptions of ill effects provided by their own patients, as well as other anecdotal data. The repetition of these reported and observed effects has led them to suspect a pattern of ill effects related to herbicide exposure.

I am submitting the testimony of one of them, Dr. Joseph T. Morgan, to the CONGRESSIONAL RECORD. It reflects the deep concerns of myself and a great many of my constitutents as to the wisdom of the continued use of these chemicals in our forest watersheds. His statement is informative and disturbing, and based on his clinical experience. I urge my colleagues to consider it.

BAY CLINIC,
Coos Bay, Oreg., April 16, 1981.

Congressman JIM WEAVER,
Chairman, Subcommittee on Forestry,
U.S. House of Representatives.

DEAR CONGRESSMAN WEAVER: My name is Joseph T. Morgan, M.D. My address is 1750 Thompson Road, Coos Bay, Oregon 97420. I am a physician in the full-time practice of medicine, and I have practiced at the Bay Clinic in Coos Bay, a multispecialty group of fifteen physicians, for the past fifteen years. I graduated from the University of Colorado School of Medicine in 1960 and received training in pediatrics at St. Joseph's Hospital, Phoenix, Arizona, and at the University of Colorado Medical Center in Denver. I am board certified in pediatrics. I am a Fellow of the American Academy of Pediatrics, a member of the North Pacific Pediatric Society and of the Oregon Pediatric Society. I am a Fellow of the American Association of Clinical Immunology and Allergy, an Associate Fellow of the American College of Allergists, a member of the American Academy of Allergy, a member of the Western Society of Allergy and Immunology and a member of the Oregon Society of Allergy and Immunology. I am a member of the Oregon Medical Association and the Southwestern Oregon Medical Society. I am on the active staff of the Bay Area Hospital, Coos Bay. My practice consists of pediatrics and adult and pediatric allergy.

At this time I wish to voice some of my concerns about what I see as the potential for adverse effects on human health from exposure to herbicides. I became interested in this problem about five or six years ago as a result of experiences related to me by patients I have treated. I have not amassed any statistical data. I have not done any scientific studies or conducted any research. I am simply a practicing physician in a small city who is trying to help sick people regain their health, and what I have to say is based on my clinical experience.

There has been a tendency in recent years to criticize or dismiss as "anecdotal" anything that has not been proven in the laboratory or subjected to double-blind experimentation, but it should be pointed out that the history of medicine is largely built on the foundation of the one-to-one encounter of a patient with his physician.

When you hear an unusual story once, your reaction may be "isn't that an interesting observation, but there is probably no direct relationship." You hear the story again, and it may strike you that an unusual coincidence has occurred. And then you hear similar information a few more times from additional patients, and you may begin to wonder if it might not be more than coincidence. Eventually, after sufficient repetitions, you begin to realize that perhaps there can be a cause-and-effect relationship. This is what has happened with patients who have related to me their experiences with herbicide exposures. Over the past five or six years I have seen probably 50 or 60 individuals who have recounted a variety of problems coincident with such exposure. A number of individual cases have also been described to me by colleagues.

The circumstances have been varied. Some have been prolonged occupational exposures. Some exposures have presumably been brief. They have included home owners living near sites of aerial spraying for forestry and agriculture. They have included spray applicators. They have included home yard and garden use. Some of the exposures have been airborne, and some have presumably resulted from intake of contaminated water. In some instances information was volunteered by a patient in the course of a visit primarily for another reason. The symptoms experienced, the type of illness involved, varied from case to case. However, certain complaints were noted with some degree of frequency. The manifestations reported have included:

Headaches of various types; respiratory irritation, including burning of the nose, throat, or chest; running nose, coughing, wheezing, and chest pain; flu-like symptoms; abnormal tiredness; malaise—a term which means a general feeling of illness, sometimes accompanied by decreased appetite, restlessness, and decreased energy; weakness, sometimes localized, such as to the legs, and in some instances generalized.

Disturbances of the gastrointestinal tract, including nausea, vomiting, gas, bloating, cramps, diarrhea, and intestinal bleeding; paresthesias and numbness; impaired coordination; a feeling of difficulty concen-

trating and mental confusion; irritation of the mouth and gums; abnormal uterine bleeding.

Muscle and joint aches and pains; spontaneous bruising and bleeding, fluid retention with edema; a few cases of blood disturbances including thrombocytopenia purpura (deficiency of platelets resulting in abnormal bleeding), aplastic anemia (complete bone marrow failure), and multiple myeloma (a type of bone marrow cancer).

Some of the cases I have seen, if taken individually as isolated examples, might not lead one to conclude that a case could be made for a cause-and-effect relationship. But when all the information is considered, when the number of individuals involved is taken into account, then I believe that some credence must be given. In some cases the person had been in good health until an acute exposure occurred, following which there was illness. In some cases there was such a close relationship between reexposure and recurrence of symptoms, that it would be difficult for a reasonable person to come to any conclusion but that the herbicide was responsible. In a number of cases the reexposure was blind; that is, the individual had a recurrence of the same illness and did not learn until later that he or she had been reexposed.

One might ask if these observations can be proven. No, I cannot prove them by the criteria that would probably be required to satisfy skeptics. It is very difficult for the average practicing physician to even prove in the laboratory that an exposure has occurred, that the patient has herbicides present in his blood or urine or tissues. It is often very difficult to find a laboratory capable of readily running these tests. Several years ago I sent some specimens on a single patient to a commercial laboratory in California that does primarily agriculture determinations. The laboratory was criticized for even running the tests, since they were not a medical laboratory, and the accuracy of the results was attacked. Wanting to be sure of laboratory reliability, I decided to look for another laboratory. I contacted an acquaintance who at that time was with the Environmental Protection Agency in Denver. I was subsequently referred to a laboratory in Massachusetts with impeccable credentials. The laboratory gave me a quotation for a series of tests as follows: included would be determinations of levels of 2,4-D, 2,4,5-T, 2,4,5-TP, and TCDD on blood, urine, soil, and water. The price for this package was $3,200. They informed me that they would not even calibrate their equipment for a single test for less than $600. These prices would, of course, be totally prohibitive for the average person. In addition, since this was not a licensed medical laboratory, I could see no realistic possibility of medical insurance reimbursing the patient for any part of the cost.

There are some research laboratories that can perform these tests, but it is not always an easy proposition to get them done that way. Sometimes they, too, are restricted by limited funds. In other instances you are left feeling like you are begging on bended knee to have the tests done, and if your patient's particular problem sufficiently interests them, perhaps they will do it. Then, even if tests confirm exposure, in terms of herbicides being detected in body fluids or tissue, the significance of such findings can be argued. Two, 4-D might be identified in a blood specimen, for example, but there is the problem of ascertaining whether its presence is responsible for illness. In this regard there has been a very serious lag between clinical observations and the development of confirmatory medical laboratory tests. I fear that the absence of such tests has often been construed as evidence that no cause-and-effect relationship existed. I have often though it at best very naive and at worst presumptious or even arrogant to assume that because current scientific and medical knowledge does not account for a given phenomenon, therefore, the phenomenon does not exist.

We are gradually beginning to acquire some knowledge of how herbicides and related compounds affect the body. This appears to be mainly through a suppressive effect on various elements of a very complex system of the body called the immune system, which when functioning normally enables us to adapt to our environment, to the world around us. Failure of one or more parts of the immune system can result in a spectrum of illnesses ranging from allergy to cancer. At the present time many tests of immune function are not readily available to the average practicing physician.

A distinction needs to be made between toxicity and individual susceptibility, as the latter is often not appreciated. Some individuals claim illness after a single exposure to herbicides, yet other persons claim to handle and work with these compounds for years without ill effect. Toxicity, which could be referred to as the ability to act as a poison, implies a dose of a substance which will adversely affect a majority of those exposed. On the other hand many materials known to be toxic in greater concentrations are capable of causing severe reactions in highly susceptible individuals in much smaller amounts, amounts usually alleged to be harmless. This might be illustrated by thinking of it in terms of something similar to an allergy. A person who is not allergic to grass pollen, for example, can literally roll in a field of uncut grass without ill effect. A person with severe hay fever or asthma might experience an attack from simply inhaling a few grains of pollen that blow in the air some distance from the field. Moreover, usual procedures in toxicity testing tend to overlook or average out the phenomenon of individual susceptibility, so that establishment of an average toxic dose in no way affords protection to a highly susceptible individual.

I believe that most of the individual cases which have come to my attention in the past few years have involved 2, 4-D and, until their use was discontinued, 2, 4, 5-T and 2, 4, 5-TP, although a few other herbicide agents may also have been involved. There has been, of course, a great deal of controversy about the dioxin content of the phenoxy-herbicides and the fact that currently available 2, 4-D contains little or no dioxin. My clinical experience suggests to me that 2, 4-D is just as capable of being detrimental to certain susceptible individuals as 2, 4, 5-T and 2,4,5-TP, and that harmful potential exists irrespective of dioxin content.

Since becoming more aware of and more interested in the overall problem of possible health effects of herbicides, I have made some effort to study available information on the subject. Of particular interest was a publication entitled "The Other Face of 2,4-D," published by the South Okanagan Environmental Coalition, Penticton, British Columbia. This publication contains an extensive bibliography of available scientific and medical literature, most of which appears to me to strongly support the proposition of harmful health effects from herbicide exposure. A copy of this bibliography is enclosed.

It appears to me that there is sufficient evidence available to seriously question the safety of herbicides, and I believe that the burden of proof of safety must properly be on users of herbicides. I believe it morally unjustifiable to continue to expose the public involuntarily while awaiting proof of safety, because if those who now claim them to be harmless to human health are wrong, the potential exists for an untold amount of illness and suffering.

Very sincerely yours,

JOSEPH T. MORGAN, M.D.●

MFN STATUS AND THE EMIGRATION OF JEWISH ROMANIANS TO ISRAEL

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. DORNAN of California. Mr. Speaker, I wish to call to the attention of my colleagues the contents of a letter sent to me, and to several other Members, by Mr. Jacob Birnbaum, national director of the Center for Russian and East European Jewry.

In his letter, Mr. Birnbaum expresses his concern that the granting of most-favored-nation (MFN) status to Romania has adversely affected that nation's policy regarding the emigration of Jewish citizens to Israel. Before the United States granted MFN status to Romania, Mr. Birnbaum writes, some 350 to 450 Jewish Romanians were allowed to emigrate to Israel every month. Since Romania obtained MFN status, however, the level of Jewish emigration to Israel from Romania has fallen to an average of 56 persons a month during the first 4 months of this year.

Mr. Speaker, as my colleagues are aware, the classification "most favored nation" is somewhat misleading. A most favored nation is simply allowed to pursue a normal, unrestricted trade relationship—within the context of such regulations as those concerning the sale of military equipment—with the United States. The bestowal of MFN status, however, has often in the past heralded a significant change in our relations with a foreign power. The granting and renewal or MFN status indicates a willingness on the part of the United States to associate itself more closely—with a full appreciation of the economic and social consequences of such an association—with another nation.

The Trade Subcommittee on the Ways and Means Committee, which is chaired by my distinguished colleague Mr. SAM GIBBONS, will be conducting a review of Romania's Most Favored Nation status at hearings scheduled for Monday, June 22. I respectfully request that members of the Trade Sub-

committee carefully review the information with which Mr. Birnbaum has kindly provided me, and that the members assess Romania's policies toward Jewish emigration to Israel, as they examine the whole hierarchy of foreign policy considerations on which the granting of MFN status is based. I would also ask the subcommittee to investigate any link that may exist between the granting of MFN status to Romania, and that nation's marked reluctance, in recent years, to permit free emigration of Jewish Romanians to Israel.

I urge my colleagues to examine the negative nexus in this human rights issue.●

STRENGTHENING THE ABILITY OF THE U.S. POSTAL SERVICE TO DEAL WITH MAIL FRAUD

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. PEPPER. Mr. Speaker, I introduce for appropriate reference a bill to amend title 39 of the United States Code to strengthen the enforcement powers of the U.S. Postal Service to deal with schemes perpetrated through the mails which involve the obtaining of money by means of false representation. In essence, this bill corrects a serious oversight in that it would give the same subpena power to the Inspector General (Chief Postal Inspector) of the Postal Service that we have given to the Inspector General of every other Government agency.

The U.S. Postal Service has been in existence for over 200 years. There is no doubt but that it provides an invaluable service. Last year the Department was responsible for delivering over 100 billion pieces of mail and generated a cash flow of $18.5 billion, utilizing a total of 650,000 employees. While there has been some public resentment toward the Department of late because of the increase of first-class postage to 18 cents, the public should understand that their money buys a great deal more than mail delivery.

During the course of our investigation into the subject of frauds against the elderly over the past year, the House Select Committee on Aging has received testimony and great cooperation from the Chief Postal Inspector, the respected Kenneth Fletcher, and his staff. Mr. Fletcher has a total of 2,000 inspectors who are responsible for preventing mail fraud and keeping the mails free of nonmailable matters such as explosives, drugs, and guns. We have found that the Inspection Service does an excellent job given the limited resources and authority that they have. The problem of mail fraud and related offenses, that is obtaining money on the basis of false representations, has grown to epidemic proportions in the past few years. We became interested in the problem when we learned that over 60 percent of those victimized by mail order quackery artists were senior citizens.

In the course of our recent hearings, we received numerous examples of the successful work of the Inspection Service. Here are a few of them:

First, the Service helped to obtain a conviction against a man who promoted a guaranteed cancer cure which consisted of injectible bottles full of seaweed, vitamin B-12 and large doses of poisonous bacteria. The kit cost $700 and came with several hypodermic needles. Medical experts testified at the trial that illness or death could have resulted from the injection of this concoction into the bloodstream.

Second, the Service was able to stop the sales of a scheme which claimed to cure glaucoma, near and far sightedness with eye exercises. Senior citizens were told to discard their glasses and glaucoma medicine and to begin a regimen which included such destructive things as looking directly into the sun. Sadly, similar schemes are continuing in other States, and even though the scheme is identical, the Postal Service must show fraudulent intent in each case before the scheme can be stopped.

Third, the Service has blocked the sale of pills and products which were sold with the representation that they would restore sexual potency in men of any age.

Fourth, phony arthritis cures from water said to be from Lourdes which is really from a pond in California and has no curative powers, to cod liver and orange juice mixed with cereal concoctions have been removed from the market. Similarly, phony prostate cures made up of bee pollen, zinc, and pumpkin seeds have been banned.

Fifth, the Service blocked a scheme which advertised guaranteed weight loss of 30 pounds in 30 days. One ad brought in 5,000 orders a day at an average price of $22.50 each. In other words, the scheme was bringing about $112,000 a day. The promoters only costs were for the ad and for a brochure which described the taking of vitamins and common exercises.

Sixth, the Service has stopped numerous work-at-home schemes which suggest that for a small investment, a senior citizen can make millions stuffing envelopes or growing earthworms. One group of 300 Texas seniors was taken for $47,000 in a scheme to make wreaths. Obviously, there was no buyer for the wreaths or the stuffed envelopes or the earthworms.

Seventh, The Service also has jurisdiction of mail fraud in the interstate sales of land. We recently learned of a man who was taken for some $30,000 which he had received as part of his reparations for being in Dachau, the German concentration camp, by promoters who sold land in Florida which was underwater.

Eighth, the Service has also made criminal cases against insurance agents who have defrauded the elderly by the sale of multiple, duplicative and therefore worthless health insurance policies in supplementation of medicare. In a recent Massachusetts case, they discovered several senior citizens who had spent $40,000 or more for such worthless insurance. One woman of 93 had been sold maternity insurance; the names of other seniors were forged by means of tracing boxes on policies they had never ordered. At the same time, the Service has helped the insurance companies make cases against ambulance chasing attorneys or employees who seek to defraud the company on phony disability claims.

Ninth, the Service has blocked the sale of phony gold coins, of worthless stocks and stamps. They have intervened to stop the investment of thousands of dollars in phony business opportunity schemes. One case involved investment in a nonexistent farmer's cooperative. One senior taken for his life's savings in this fraud committed suicide. Another racket involves the sale of vending machine franchises. Senior citizens are told that following their investment all they have to do is visit the machines and collect the money. All too often the machines do not exist, do not work, and have to be repaired, or are located in out of the way places or contain products which are overpriced which no one wants.

Tenth, another pernicious scheme involves sending businesses invoices for advertising space which they allegedly have taken out in various minority oriented publications. The business had not agreed to take the ad in the first place but many feel they must pay rather than risk bad publicity. If a publication is received, it generally is nothing more than a list of those who fell victim to the scheme. Similarly, the Inspection Service has blocked several phony gift service rackets. These involve operators who read the obituaries and upon learning of a death, send invoices representing overdue bills to family members allegedly for gifts purchased some time before by the deceased.

Eleventh, finally, the U.S. Postal Inspection Service has worked successfully with the FBI and the U.S. attorneys offices around the country, particularly in the southern district of New York, to develop medicare and medicaid fraud cases.

If this sounds like an impressive track record, it is just that. We have found the Inspection Service to be one of the most efficient of Government agencies. But they are grossly under-

manned. The scope of mail order schemes and frauds has grown to staggering proportions. The Service has been candid with our committee in testifying that their enforcement efforts reach only the tip of the iceberg. No one has exact numbers but it is clear the size of the problem is enormous. In phony arthritis cures alone, the Arthritis Foundation estimates that a billion dollars a year is lost to such schemes which compares to only $40 million a year which the Government is spending on legitimate research. The Postal Service is also of the opinion that although huge in dollar volume, most of these schemes are perpetrated by a comparatively small number of individuals and corporations—that is as compared with the total number of firms that do business through the mails, the great majority of whom are legitimate. However, there is no question but that those in organized crime have begun to muscle their way into the mail order trade.

Our committee asked the Inspection Service what authority they had to make these investigations. We were told they use the mail fraud statute, title 18, section 1341, United States Code, which has been on the books for over 100 years. In this situation, the Department must first find evidence of criminal fraud, building a case which is solid enough to interest the U.S. Attorney's Office. Once the U.S. Attorney's Office is involved, then the full panoply of subpena and grand jury powers of that office are brought to bear on lawbreakers. It is important, however, to note that the Inspection Service must first build a convincing criminal case, and they have no special investigative tools, not even subpena authority, at their disposal. The second statute they have is title 39, United States Code, section 3005. If the Service can build a case strong enough to convince an administrative law judge after formal hearings that there are false representations in an advertisement relating to a product sold through the mails, the judge will issue an order which allows the Postal Service to intercept mail coming from you or I or anyone who had responded to the advertisement and return our money to us. Again, the Postal Service has to build a case with virtually no investigative tools with which to do it.

The obvious question is, How does the Service get anything done at all? The answer is it sends postal money orders in response to suspicious advertisements, obtains possession of the product, has the product tested by experts and compared with the representations made in the advertisement. If there are clear false representations, the Service approaches an administrative law judge. If the representations rise to the level of fraud, further investigations are undertaken until they have a case strong enough to take to the U.S. attorney. The key point is that the department must send away for the product and wait until it is received. It should be no surprise that the mail order pirates have learned this procedure. By way of avoidance, they place an ad, take orders for 2 months, mail the products and close down operations immediately, on or about the 60th day. By the time the Postal Service receives the product, the pirates have folded their tents and are selling the same or other products out of a different office, perhaps using different corporations or at least different names in different States. Even when they are caught and are under a judicial order, the pirates simply shift locations or they may discontinue use of the mails in favor of toll-free 800 telephone numbers as a way around the court order. There is little that either the courts or the Postal Service can do in this situation.

I want to emphasize that the only power the Postal Service has on its own is to demonstrate to an administrative law judge that there is false representation and after a hearing and court order, they can only block incoming mail from being delivered to the address indicated in the ad which was found to carry such misrepresentations. It is amazing to me that the Service has been able to accomplish as much as they have given these limitations. The irony is compounded in the fact that the Inspection Service is the prototype of Inspector General Offices that we have now established in every other Government department, and yet we have failed to give the Inspection Service even a scintilla of the powers that we have given to all of the other Inspectors General.

Mr. Speaker, I and the members of the House Select Committee on Aging would like to correct this great oversight and I would urge the immediate enactment of this bill that I am introducing today. The bill does three things. First, it would give the Chief Postal Inspector, who is the Inspector General of the Postal Service, subpena authority with respect to the enforcement of title 39 of the United States Code. Second, the bill gives the Inspection Service the authority to tender a postal money order at the address shown in a suspicious advertisement and immediately receive access to the product so that their evaluation by experts can begin at once. Third, the bill gives the Postal Service the right to approach an administrative law judge and after due process hearings, allow for the issuance of an order to the perpetrator not to engage in the described fraudulent scheme and punishing any violation or effort to evade such court order by court imposed fines up to $10,000 for each violation.

It seems to me that this is a very modest bill. It corrects an oversight in existing law. It does not cost the Government any money. It will not result in any new regulations on industry. On the contrary, improved enforcement operation by the Inspection Service will pay dividends in the form of fines and penalties to the Federal Treasury. Perhaps more important, the profiteers and charlatans who use the mails to defraud the poor, the uneducated, the weak and the elderly will be put on notice that they will face an inspection service not only with the heart to go after them but with the teeth and tools that it needs as well. I urge the immediate enactment of this legislation.●

BUDGET BUNCO

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. MICHEL. Mr. Speaker, it would appear that the Democratic leadership is seeking to make an end run around the budget proposals voted on last month. But everyone is wise to their little game, especially the people. The Democratic leadership could not beat Ronald Reagan in November so they tried to beat him on the budget vote. When they could not beat him on the budget vote, they tried to beat him in committee.

They are not going to get away with it. We are on the verge of making a breakthrough for the American taxpayer. All of the slick maneuvering and economic sleight of hand for which liberal Democrats have become notorious is not going to change things.

This is a new age, Mr. Speaker. Those who do not want to work in the interest of the vast majority of the people should not try to thwart the will of the people through what amounts to a "bunco game."

At this point I insert in the RECORD "Budget Bunco," from the Wall Street Journal, June 16, 1981.

BUDGET BUNCO

We suspected House Speaker Tip O'Neill was up to something when he so humbly accepted defeat last month on the resolution to cut some $36 billion from the fiscal 1982 budget. Now that the House committees have submitted their budget proposals, it is clear that Mr. O'Neill knew all along that like-mindedly liberal committee chairmen would find ways to slide around many of the cuts called for by the House majority and the President.

The committees last week approved budget reductions that ostensibly go beyond the administration's request in dollar terms and that are seemingly in keeping with the May 7 budget victory. In fact, however, the committees have employed the well-worn tactics of false savings, nonbinding "caps" on entitlements programs, off-budget financing and cutting the muscle of programs where the screams will be the loudest knowing the money will be restored. The result is

a budget scam typical of those of the 1970s that sent federal spending out of control. If it succeeds, we can expect continuing deficits through 1984.

The Office of Management and Budget yesterday published a 10-page analysis of the House Committee game. For instance, the House Agriculture Committee claims a $1.5 billion food stamps savings in fiscal 1982, even though it made none of the changes to tighten entitlements called for by the administration. The committee, as it has done for the two previous years, merely placed a spending "cap" on the program that will have to come off sometime next year when the program runs out of money and the only choice is between cutting off food to poor people or putting up more cash.

Other false savings include underestimates of the cost of such continuing programs as dairy price supports, housing rehabilitation loans and subsidized housing bonds, which could exceed House projections by $1.3 billion next year. The House counts as a savings $159 million in unobligated highway authority, even though the administration did not intend to spend the money anyway. The elimination of meal subsidies for child care center "suppers" is said to save $929 million, but the bill also specifies that "lunch may be served at any time during the day." Thus, no savings are likely from this change.

The Post Office and Civil Service Committee required a savings on federal pay increases of $11.3 billion over the fiscal years 1983 and 1984; but the OMB says that because the committee's "for all practical purposes repeals the President's authority to propose an alternative pay plan at lower rates of increase," the measure could actually increase the administration's budget by $11.3 billion over the two years.

The administration proposed a permanent cap on federal Medicaid spending—limiting growth to 5 percent next year and linking increases to the cost of living in subsequent years—and provided greater flexibility for states to reduce costs. The committees, on the other hand, cut the Medicaid increase to 3 percent next year but would allow the program to revert to its current open-ended structure by 1985.

In terms of off-budget financing, the committees would raise $3.9 billion in capital to finance the Strategic Petroleum Reserve, but this debt would not be included in the deficit. This bookkeeping charade is unlikely to make any difference to the credit markets.

The House committees also made severe cuts, which were not required by the administration, that will most likely be restored because they cut into the muscle of politically sacrosanct programs. For example, the Postal Service is instructed to close 10,000 of its 30,000 post offices for a savings of $100 million. The House committee recommendations also call for forced reductions in federal salary and expense funding that would mean, for example, that Social Security recipients would get their checks only once every three months instead of monthly. Who on the committee was so innocent as to think that would survive on the floor?

The strategy of Mr. O'Neill and his liberal colleagues is to derail the administration's drive to cut federal spending. If the current version of the reconciliation bill passed, the Senate would probably not accept it and hope of a single, comprehensive budget-cutting bill would be dashed.

House Republicans and conservative Democrats say, however, that there is a "fighting chance" that an alternate budget could pass the House in a floor fight. Reps. Gramm and Latta—who sponsored the May 7 bill—are working on a new budget which would be a compromise between the House committee proposals and Mr. Reagan's original requests. if approved by the House, the bill would likely be passed by the Senate in conference committee and would be signed by the President.

The House thus faces a pivotal decision between continuing the budgetary scams of the past decade and bringing federal spending again under control. Its vote is unlikely to be forgotten by the voters come November 1982.●

ACID RAIN RESOLUTION INTRODUCED

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. OBERSTAR. Mr. Speaker, today I introduced a House concurrent resolution expressing the sense of Congress that a North American Air Quality Commission be established to coordinate the enforcement efforts of the United States and Canada to reduce acid precipitation pollution and make recommendations to the Governments of Canada and the United States for the implementation of policies and the enactment of legislation to reduce acid rain.

I invite my colleagues who are concerned about this growing and critical problem to join me as cosponsors of this resolution.●

SECRETARY WATT'S DEPLORABLE ARROGANCE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. OTTINGER. Mr. Speaker, as my colleagues know, I have begun circulating a petition among Members of Congress calling on the President to dismiss Secretary of the Interior Watt.

The New York Times editorial of this morning describes Secretary Watt as "a Washington princeling who ignores Congress and the public and simply does as he likes." I urge my colleagues to review this editorial:

MR. WATT'S UNSEEMLY REGULATORY STRIP

Interior Secretary James Watt, thumbing his nose at Congress, is plunging ahead to reorganize the Federal agency that regulates strip mining. The merits of the reorganization are debatable, but Mr. Watt's tactics are not. By developing the plan without wide consultation and rushing to stay ahead of Congressional doubters, he displays a deplorable arrogance.

Secretary Watt wants to dismantle Federal regulation of strip mining. As a private attorney, he filed a brief supporting state and industry contentions that the Federal strip-mining act was unconstitutional. But the Supreme Court rejected that argument and unanimously upheld the act the other day. Now Mr. Watt aims to use his reorganization scheme to give states the major regulatory role.

The Watt plan would abolish five regional offices of the Federal Office of Surface Mining and substitute lesser state liaison offices and technical centers. The Federal staff would be cut by almost 40 percent, on the assumption that the states would increase their regulatory activities.

That would be all well and good if regulation remains as effective as Congress intended and if there is an orderly transition. But the transition is turning rough. Mr. Watt developed the plan without consulting key state, industry or Federal officials and then proposed it abruptly.

That prompted Representative Patricia Schroeder, Democrat of Colorado, to conduct a hearing that made plain that major coal states rely for support on the threatened Denver regional office. The testimony also suggested that the reorganization, contrary to declarations, would be costly and drive competent employees from Government service.

Believing that these are legitimate questions deserving more discussion, a House appropriations subcommittee barred Mr. Watt from using any money in the fiscal 1982 budget, which starts Oct. 1, to close the Denver office. It wasn't clear that the full committee or the full House and Senate would go along, But Mr. Watt took no chances. Abandoning his promise of an "orderly phase-in," he ordered the Denver and Kansas City offices closed by Aug. 31, before the budgetary restraint could take effect.

Such conduct makes Mr. Watt what he and his President profess to deplore: a Washington princeling who ignores Congress and the public and simply does as he likes.

Before it is too late, we must join together to stop these irresponsible activities. Mr. Watt has repeatedly boasted that "he can take the heat." It is a sad thing that our fragile environment may not be able to do so.●

AGRICULTURAL EXPORTS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. BONKER. Mr. Speaker, as chairman of the House Export Task Force, I would like to announce a meeting of the task force on Tuesday, June 23, at 2 p.m. in room 2172, Rayburn House Office Building, with the Secretary of Agriculture, John Block, to discuss agricultural exports.

The United States sold more food abroad last year—$40 billion worth—than at any time in its history, despite a partial embargo on sales to one of its biggest customers, the Soviet Union.

Currently, the U.S. exports the harvest from 1 out of every 3 acres under cultivation, and about one-fourth of farm income comes from these sales. Sixty-four percent of the Nation's wheat crop is exported, along with

one-third of the feedgrains, almost two-thirds of rice, and 39 percent of soybeans. Those exported bushels earn enough to pay about half of the U.S. oil import bill.

The United States accounts for 46 percent of the world wheat trade, 73 percent of the coarse-grain trade, and 24 percent of the rice trade. With the gap between foreign production and consumption growing at an estimated 4 million tons per year, the United States predominant role in global agricultural trade seems assured.

I cordially invite all those interested to attend this off-the-record meeting with Secretary Block to discuss this important export issue.●

MEXICAN AMERICAN DAY

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. ROUSSELOT. Mr. Speaker, together with my colleagues, Representatives EDWARD ROYBAL, ROBERT MATSUI, and the members of the California congressional delegation, I wish to recognize the fine efforts of our colleagues in the California State Assembly. Through a members' resolution introduced by the Honorable Joseph Montoya, August 24, 1981, has been designated "Dia De Mexicanos Americanos"—Mexican American Day—in California to honor the significant contributions of Mexican Americans to the colorful history and romantic culture of the State of California.

The Mexican American of California is searching for ways to preserve and maintain his native original culture in his State. In so doing, the Mexican American maintains a sense of pride and value in society. Because of the desire of most Californians to express appreciation of Mexican American culture through the arts, music, architecture, and cuisine, to name a few, the day has come for official recognition. August 24, 1981, has been declared through State resolution as a holiday specifically to honor the Mexican American heritage. This day shall be known as Dia De Mexicanos Americanos in the State of California. This special day will recognize and exemplify all Mexican Americans who have made vital contributions in maintaining this beautiful heritage. Today, the California delegation has expressed their desire to honor the California Mexican Americans.

H.J. Res 292

Joint resolution honoring Mexican Americans for their cultural contributions to the State of California and joining with the California State Assembly in recognizing August 24, 1981, as "Dia de Mexicanos Americanos" in California.

Whereas the California State Assembly has designated August 24, 1981, as "Dia de Mexicanos Americanos" in the State of California; and

Whereas for the first time in the history of California special effort is being made to assemble and recognize organizations of Mexican Americans as well as Mexican American individuals at the California Exposition and State Fair; and

Whereas the culture of California, in regards to the arts, music, architecture, language, cuisine, as well as other aspects, has been greatly enhanced by a long history of Mexican American heritage; and

Whereas a growing sense of ethnic, cultural, and historical awareness, not only among Mexican Americans but all California cultural groups, has increased the desire to preserve the Mexican American influence in California: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the California congressional delegation represented by Eugene A. (Gene) Chappie, Don H. Clausen, Robert T. Matsui, Vic Fazio, John L. Burton, Phillip Burton, George Miller, Ronald V. Dellums, Fortney H. (Pete) Stark, Jr., Don Edwards, Tom Lantos, Paul N. McCloskey, Jr., Norman Y. Mineta, Norman D. Shumway, Tony Coelho, Leon Edward Panetta, Charles Pashayan, Jr., William M. Thomas, Robert J. Lagomarsino, Barry M. Goldwater, Jr., Bobbi Fiedler, Carlos J. Moorhead, Anthony Charles Beilenson, Henry Waxman, Edward R. Roybal, John H. Rousselot, Robert K. Dornan, Julian Carey Dixon, Augustus F. Hawkins, George E. Danielson, Mervyn M. Dymally, Glenn M. Anderson, Wayne R. Grisham, Daniel E. (Dan) Lungren, Dave Dreier, George E. Brown, Jr., Jerry Lewis, Jerry M. Patterson, William E. Dannemeyer, Robert Edward Badham, Bill Lowery, Duncan Hunter, and Clair W. Burgener, joins with the California State Assembly in recognizing August 24, 1981, as "Dia de Mexicanos Americanos" in the State of California in honor of the cultural enrichment of all Californians by the influence of a Mexican American historical heritage.●

BILL TO ELIMINATE 5-MONTH WAITING PERIOD FOR SOCIAL SECURITY DISABILITY

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. SWIFT. Mr. Speaker, Representative BILL CHAPPELL and I have reintroduced a bill that will rectify a glitch in our present law. When the social security laws were written and it was established that disability patients would have to wait 5 months before receiving their benefits, nobody thought about those patients who would not live those 5 months—would not live long enough to receive any benefits. Mr. Speaker, today we are adding 100 sponsors to the bill which would waive the 5-month waiting period for those who are terminally ill and disabled.

This bill is important in spite of the new Reagan social security plan which would severely reduce the social security program. This bill is important in spite of the enormous budget cuts. It is an inequity to balance the budget with the benefits of those who are terminally ill. They rightfully pay into the system thinking they are covered should anything happen to them only to find out that they have to wait 5 months for any compensation. Too often their disability check arrives in time for their widow or widower to return it.

The average terminal illness costs $20,000. The terminally ill have increased costs because of needed medication, food supplements, and hospital expenses. Yet at a time in their life when they need it most, they are denied payment because we are balancing the budget at the expense of the dying.

A constituent of mine, the late Howard Dalton of Everett, Wash., keenly sensed the injustice and led a one-man campaign to right it. Dalton, himself, eventually a victim of lung cancer, witnessed others' anguish—a young woman, terminally ill and forced to quit work, struggling to pay for a $90 a week food supplement for her own chemotherapy. Although Howard didn't need the financial assistance himself, he fought steadfastly for others who did.

During the last Congress we came close to passing this measure. The Senate approved overwhelmingly the bill by a vote of 70 to 23. In the House, it had the support of over one-third of its Members. During the conference however, it was replaced by a $2 million study in which the Social Security Administration was to look into the needs of the terminally ill.

I recently wrote the Social Security Administrator a letter asking him some specific questions about the study, and I am sorry to report they have not even started it yet. I had hopes that the results of the study would help bring to light the injustice of our present system, and that this information would also provide new insight into the situation to warrant holding hearings on this bill. The study unfortunately will not even begin until 1983.

Mr. Speaker, we are introducing this bill again with the substantial support of the House—over 100 Members have cosponsored. All of these Members recognize the glitch—and that is what it is, a glitch—in our present system. Only by the elimination of this unfair requirement will those who have actually earned their benefits see any relief.●

ADDRESS OF AMBASSADOR ROBERT S. STRAUSS TO THE 1981 DEMOCRATIC CONGRESSIONAL DINNER

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. COELHO. Mr. Speaker, last evening, many of us had the privilege of hearing a distinguished American, Ambassador Robert Strauss, speak briefly about our Nation—its history, its present, and most importantly, its future.

He reminded us of the ideals we have had for decades and the purposes for which we find ourselves working. For those Members who were unable to hear Ambassador Strauss personally, I insert in the RECORD at this point the text of his remarks at the Democratic congressional campaign dinner.

ADDRESS OF AMBASSADOR ROBERT S. STRAUSS

Mr. Speaker, Senator Byrd, Senator Ford, Congressman Coelho, distinguished Governors, fellow Democrats and friends from across the country.

During this evening, I couldn't help but think of the ironies in our profession of politics. In particular, I thought of some ironies from our last campaign, and frankly, I was embarrassed and ashamed about some of the rhetoric we Democrats used—we should, in this great Party of ours, be setting an example for everyone—not stooping to the kind of rhetoric used by NCPAC, the Moral Majority and others.

We were mean-spirited—can you imagine only a few months ago—we said that if the Republicans were elected, they would take a meat-ax to sensitive federal programs that served this Nation and its people.

I think it was Mondale or Byrd—it wasn't me—who said Ronald Reagan might cut back on responsible student loan programs that enable decent, hard-working, middle income parents to send the children they love to college, if he was elected.

Tip O'Neill even said—it wasn't me—that they might even cut out the funds that enable poor people to be represented by lawyers to see that their rights were protected against other individuals or against their government.

I admit I was the one who said they might even destroy the programs that preserved some measure of decent life for those who live in the inner cities of America.

We said a Republican Administration might turn its back on the cause of Human Rights.

Some vicious members of the press even said—thank goodness it wasn't any of us—that if Ronald Reagan was elected, he might try to impair the Social Security system. How in the world could the press have written such stories?

In fact, as I watch this Administration announce new cutbacks in worthwhile programs each week, I can't help but say, "There you go again, Mr. President."

So let me try, for a few minutes, to put some things in perspective. The Democratic Party, as the largest and oldest political party on Earth, has known good times and bad. We have won and we have lost more elections than we can count. We have won and prospered and we have lost and it seems merely endured when we have lost.

But whether winning or losing, through good times and bad, we have never let our victories or defeats destroy our sense of values of what this country is all about. What makes its people tick. We care, or to put it a bit more crudely, we give a damn about this Nation, about its people and about the quality of life for those people.

Most of us in this room are fairly well-off. People frequently come up to me and say, "Bob, you're well-off financially and are successful with a lot of rich corporate clients and business associates. Why are you still a Democrat?" My answer is very simple—I remember when I wasn't successful and I hope I don't ever forget.

I am amused by people who talk about the necessity of the Democratic Party developing new coalitions so that we can come up with new ideas. My friends, new ideas do not flow to coalitions—coalitions follow ideas. So it is that the Democratic idea that an elected government can carry out the common purpose of a free people—of all its people—is still a basic idea and the programs that come from ideas will be Democratic Programs, developed by Democrats in the Congress.

And the fact that you are here tonight shows that each of you, individually, care. Of course, we Democrats have made mistakes—of course at times we tried to do too much. But as for me, I would rather err on the side of doing too much than too little. God, we've made a lot of them.

As Franklin Delano Roosevelt once said: "We seek daily to profit from experience, to learn to do better as our task proceeds."

Government can err—presidents do make mistakes, but the immortal Dante tells us that Divine justice weighs the sins of the cold-blooded and the sins of the warm-hearted in different scales.

Better the occasional faults of a government that lives in a spirit of charity than the consistent omissions of a government frozen in the ice of its own indifference.●

SALUTE TO THE AMVETS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. ANDERSON. Mr. Speaker, those people who are familiar with my record over the years know that I have been a staunch supporter of programs benefiting our Nation's veterans. It is only right that we should be of assistance whenever possible, to those who have helped this Nation in its hours of need. While pursuing legislation, I have often had the opportunity to work with AMVETS—American Veterans of World War II, Korea, and Vietnam. Twice before, I have inserted the history of the AMVETS into the CONGRESSIONAL RECORD. So many changes have been made in the membership of the House since I last shared the AMVETS history with my colleagues in 1977, that today I again commend it to the Members of the House of Representatives.

AMVETS has invariably been in the vanguard of progressive veterans' legislation. As important as this contribution has been to America, it is only one small part of the AMVET story.

THE AMVET STORY

Truly AMVETS was born in the midst of war, for it was in August 1943, with victory still two years away, that a new organization, later to be known as American Veterans of World War II, had its beginning. Overseas the tide of battle was turning. Allies had swept through North Africa and Sicily. In the Pacific fighting raged on New Guinea. Thousands of Americans had made the supreme sacrifice. Hundreds of others were being mustered out of uniform with battle wounds and medical discharges. These men who fought in history's greatest war found it natural to seek each other's company. They were united by similar experiences . . . in jungles, in the Arctic, in deserts, in mountains, at sea, and in the skies. Thus, out of such comradeship, AMVETS came to be.

Two independent veterans clubs in Washington, D.C.—one formed on the campus of George Washington University, the other among veterans employed by the government—joined together to sponsor a servicemen's party. By September 1944 other such veterans clubs organized throughout America—in California, Florida, Louisiana, New York, Oklahoma, Rhode Island, Tennessee, and Texas. On November 11, 1944, Veterans Day, an article entitled "12,000,000 in Search of a Leader" appreared in Collier's Magazine. This story, written by Walter Davenport, introduced the clubs and outlined their mutual aims—1. To promote world peace, 2. To preserve the American Way of Life and 3. To help the veteran help himself. In December, 18 leaders, representing these nine groups, met in Kansas City, Missouri. There a national organization was formed, and it was on December 9, 1944 the name "American Veterans of World War II" was chosen. The word AMVETS, coined by a newspaper reporter, soon became the official name. The "White Clover", a flower which thrives in freedom throughout the world, is symbolic of the struggle during World War II and is the adopted flower of AMVETS.

In October 1945, two months after the end of World War II, the first national convention was called in Chicago. In 1946 AMVETS petitioned Congress for a federal charter. AMVETS, having displayed dignity and sound approach to National problems, won the deep respect of Congress, and on July 23, 1947 President Harry S Truman signed AMVETS Charter. The words of the Senate Judiciary Committee echoed throughout the land: "the veterans of World War II are entitled to their own organization" and AMVETS being "organized along sound lines and for worthy purposes . . . having demonstrated its strength and stability, is entitled to the standing and dignity which a national charter will afford." President Truman also commented, "Were I a veteran of this war, I would prefer to have a veteran of World War II looking after my affairs, than a veteran of some other war." To this day no other World War II veterans group has been so honored.

When the war broke out in Korea in 1950 and again during the Vietnam crisis in 1966, AMVETS requested Congress to amend the charter so that those serving in the Armed Forces would be eligible for membership. On September 14, 1966, President Lyndon B. Johnson signed the bill redefining the eligibility dates for AMVET membership—

"Any person who served in the Armed Forces of the United States of America or any American citizen who served in the armed forces of an allied nation of the United States on or after September 16, 1940 and on or before the date of cessation of hostilities as determined by the government of the United States is eligible for regular membership in AMVETS, provided such service when terminated by discharge or release from active duty be by honorable discharge or separation." On May 7, 1975, President Ford signed Proclamation 4373 terminating the Vietnam era and the cessation of hostilities, effective May 8, 1975 the Armed Forces became a peacetime service. The result of the proclamation is that military personnel entering the service for the first time on or after May 8, 1975 are not eligible for AMVET membership.

The first National Headquarters for AMVETS was rented quarters at 724 Ninth Street, N.W., Washington, D.C. Then on April 18, 1952 President Truman dedicated the first AMVETS-owned National Headquarters. This building, a five-story townhouse, was located at 1710 Rhode Island Avenue, N.W. For fifteen years this building served Headquarters and the National Service Foundation. In 1965 AMVETS moved to a temporary location and the historic townhouse was torn down. On the same site appeared a modern three-story structure of marble and glass. On the 19th anniversary of the signing of the Congressional Charter, July 23, 1968, President Lyndon B. Johnson dedicated the new building. During the program a beautiful life-like bronze bust of the President was unveiled by Mrs. Johnson. The bust is now located in the lobby of National Headquarters. The printing, quartermaster, mailing, programs, membership, public relations, legislative, accounting departments and the offices of the National Service Foundation are housed in the headquarters building.

Hourly from Headquarters a Carillon, donated by Schulmerich Carillons, Inc., chimes and then at specific times musical classics resound through the area. These bells are significant of the other AMVET Carillons throughout the United States. The Memorial Carillon at Arlington National Cemetery to honor the memory of those who died in the service of their country was the first installation. This console is in the Arlington amphitheatre overlooking the Tombs of the Unknowns. It was on December 21, 1949 that AMVETS presented the Carillon to the nation with the message: "While these bells ring, safely rest, freedom lives." AMVET Carillons also are now located at Golden Gate National Cemetery, San Bruno, Calif.; USS Arizona Memorial, Pearl Harbor, Hawaii; Jefferson Barracks National Cemetery, St, Louis, Missouri; State Capitol, Salt Lake City, Utah; Truman Library, Independence, Missouri; Garden of Patriots, Cape Coral, Florida; Federal Building, Chicago, Illinois; Rock Island Cemetery, Rock Island, Illinois; National Cemetery, Marietta, Georgia; Hoover Library, West Branch, Iowa; County Court House, Peoria, Illinois; Camp Butler Cemetery, Springfield, Illinois and VA Cemetery, Houston, Texas.

The "Green Hats" of AMVETS have served the hospitalized veteran, the retarded child, the shoeless orphan, and the lonely serviceman. However, the granting of scholarships has been a major endeavor of AMVETS. Each year many scholarships are awarded deserving students. This program, originated in 1952, has awarded $250,000 in study grants. Positive Americanism, Youth Programs, Veterans Services, as well as participation in the World Veterans Federation, United Nations, All-American Conference to Combat Communism, and Freedoms Foundation at Valley Forge all means that AMVETS take a realistic approach to the problems of the day.

In 1954 the first AMVET Silver Helmet Award—a replica of the G.I. helmets of World War II—was presented to General George Marshall for his "enormous contributions to the United States in war and in peace." Subsequently Silver Helmets have been presented to other great Americans. Recipients include Presidents Hoover, Truman, Eisenhower, Kennedy, Johnson, Nixon and Ford; Pope Paul VI; Members of Congress, other Government officials, the clergy, military, professions, business and the entertainment world who have made a significant contribution to the welfare of our country and his fellow man. Presentation of the awards is made annually.

A network of trained National Service officers across the country provide free expert advice to veterans and veterans' dependents. Annually these officers handle thousands of claims and obtain various benefits for the deserving veterans. These involve hospitalization, disability compensation, and educational benefits.

AMVETS keep a watchful eye and take an active part in the legislation on "The Hill," based on the assumption that "the veteran will ultimately benefit from any measure that benefits the nation and, conversely, any program not good for the country as a whole cannot be good for the veteran." AMVETS are especially proud of their roles in the enactment of the "Korean G.I. Bill of Rights" and the "Cold War Bill of Rights." Domestic issues, national defense, and foreign relations are issues of importance and grave concern to AMVETS.

The AMVETS National Insurance Program provides a very complete portfolio of group plans including Life, Hospitalization, High Limit Medical Catastrophe, Income Protection, High Limit Accident, and Cancer. Expense insurance for members of AMVETS or the Auxiliary, Sons of AMVETS, Jr. AMVETS, and their family members. The associations and friendships of fellow AMVETS is without doubt the most valued benefit of AMVETS membership. In addition, participation in the many service programs whether it be Americanism, Civil Defense, Traffic Safety, or Rehabilitation, will provide a reward of real personal satisfaction. AMVETS is truly a family organization. Wives, mothers, sisters and daughters of AMVETS are eligible for membership in AMVETS Auxiliary, while sons and daughters between 7 and 17 years of age may join Jr. AMVETS. The Fun and Honor Group of AMVETS is known as the Sad Sacks, while its counterpart in the Auxiliary is the Sachettes. All male descendants, adopted sons, and stepsons of members of AMVETS and deceased members, or servicemen who died and who would have been eligible for membership in AMVETS (providing the applicant is not eligible for membership in the parent organization) and who is at least eighteen years of age, may join the Sons of AMVETS. Each subsidiary organization, including the National Service Foundation, is governed by its own Constitution and elects its own officers; however, all activities are geared to further the aims and purposes of the parent organization, AMVETS.

Time marches on, and AMVETS continue to work to attain world peace so that every man can live fearlessly under the free skies, to make the United States an ever better land of "freedom for all", and to help the veteran, his widow and orphan live happily as contributing members of society.

Mr. Speaker, a partial listing of AMVETS aims and purposes surely provides one with inspiration and can only evoke our best wishes for the continued success of this fine organization.

To serve our country in peace as in war; to build and maintain the welfare of the United States of America toward lasting prosperity and peace for all its inhabitants.

To encourage, in keeping with policies of our Government, the establishment of a concrete plan to secure permanent international peace and to assist in the maintenance of international peace.

To inspire our membership a sense of responsibility, and to develop leadership for the preservation of our American democratic way of life.

To help unify divergent groups in the overall interest of American democracy.

To train our youth to become purposeful citizens in a democracy with full knowledge of the responsibilities as well as the privileges of citizenship.

To cooperate with all fully recognized existing veterans organizations in the furtherance of the aims of World War II, Korea, and Vietnam veterans.

To insure the orderly return of the veteran to civilian life by protecting his rights as an individual while he is still in uniform.

To expedite and assist in the rehabilitation of the veterans by maintenance of employment services, sponsoring educational opportunities, and providing counsel of insurance, housing, recreation, personal problems, hospitalization, and veterans benefits.

To act as liaison agent between the veteran and the Government.

To provide an organization to encourage fellowship among all veterans of World War II.

To keep the public forever reminded that the veterans of World War II, Korea, and Vietnam fought or served to preserve peace, liberty, and democracy for their Nation.

I joined AMVETS in 1947, and am proud to be a life member of Post No. 2, Culver City, Calif.●

BALTIC HOLOCAUST

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. WOLPE. Mr. Speaker, this month marks the 40th anniversary of the Baltic holocaust, when, in 1941, the Soviet regime carried out the first

mass deportation of Baltic peoples from their homelands in Estonia, Latvia, and Lithuania to Siberian slave labor camps. These deportations were an initial stage in the complete occupation and annexation of the Baltic States by the Soviet Union. In the name of all those who died 40 years ago, I commend to the attention of my colleagues the following statement presented to me by Mr. Talivaldis Strautkalns, director of information for the Latvian Relief Association of Kalamazoo, Mich.:

DECLARATION

Each year at this time we recall the tragic events of June 17, 1940 when the Baltic States were occupied by Soviet troops and within 40 days forcibly incorporated in the Soviet Union.

The national sovereignties of Estonia, Latvia and Lithuania were trampled. The peoples of these nations were subjected to foreign domination. Atheism was extolled, religion attacked, agriculture collectivized, private property and industry nationalized, mass murder with a large number of inhabitants deported, non-Baltic peoples brought in.

Although the United States has never recognized the forcible annexation of Estonia, Latvia and Lithuania, and very recently the U.S. Congress affirmed this stand through H. Con. Resolution 200, we feel that more concrete steps should be taken by the Government of the United States in presenting the issue of self-determination to the Baltic States.

In this spirit, we—Estonian, Latvian and Lithuanian veterans of foreign wars request and urge the Government of the United States to use all means possible to ensure that:

1. The United States State Department formally pursue the matter of crimes against humanity committed by the leadership of the Soviet Union in the Baltic States.

2. The United States demands at international forums (for example, in the United Nations Security Council or General Assembly) and in bilateral talks with the Soviet Union the issue of self-determination of the Baltic States.

3. Positive and effective action from the Genocide Commission of the United Nations to deal with these flagrant and continuing violations of United Nations principles.

Estonian, Latvian and Lithuanian veterans of foreign wars in this declaration demand self-determination for the Baltic States, due to evidence which is overwhelming and conclusive that Estonia, Latvia and Lithuania were forcibly occupied and illegally annexed by the Union of Soviet Socialist Republics.

Baltic Veterans Organizations:

Ylo Anson, Chairman, Legion of Estonian Liberation, Inc.; Andrejs Sparnins, Chairman, Latvian Relief Assn., Inc., U.S.A.; Antanas Jonaitis, Chairman, The Lithuanian Veterans Assn., Ramove, Inc.●

NO TIME TO REMAIN SILENT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. BROWN of California. Mr. Speaker, Ernest Lefever was a poor choice for the human rights post at the State Department, but he did echo the present administration's views, and we should not ignore this fact. As one who has fought for human rights throughout my long political career, I am deeply concerned and distressed to see our country condoning the gross human rights violations in such countries as Argentina, Guatemala, and El Salvador, to name a few. We should not be a haven for these rightwing government terrorists, but condemn their behavior and remember that there are real people involved. Torture in one country is no different than the torture in another country.

I urge my colleagues to fulfill their responsibilities and to make the United States, not the symbol of repression, but the worldwide symbol of freedom and justice for all—just as it once was. I commend the following article to my colleagues for their evaluation, and urge them to speak out for the rights of all humanity, no matter where they live.

[From the Washington Star, June 15, 1981]

TIMERMAN SHATTERS THE SILENCE

(By Mary McGrory)

The rout of the Lefever nomination has produced a serious case of the sulks in the administration, but no rethinking, apparently, about human rights. Nor did the whole embarrassing episode generate the debate there should have been about the preposterous policy the cranky nominee so faithfully represented.

Senate Foreign Relations Chairman Charles H. Percy is being punished for his opposition. His choice for a judgeship is being held up.

The president's men are muttering that they will leave the human rights post vacant—so there.

But the nomination was not turned down by the Republicans because they had any thought of arguing about the administration's curious notion that torture and repression by right-wing governments is a matter for "quiet diplomacy" while official thunder is reserved for left-wing violations.

In the end, it seems, to use an old Senate phrase, they found Lefever "personally obnoxious."

Somehow, Republicans have it in their heads that all arguments were settled in November's vote, and that opposition to the president's nominees is both fruitless and tacky. Lefever went down because he told senators that opposition to him was "Communist-inspired" and then tried to deny it, and because he couldn't satisfactorily explain his financial relationship with a patron of his think-tank, and because his brothers said he was a racist.

But the fact that he would downplay human rights in a post especially created to promote them was almost peripheral. The president, the secretary of state, the ambassador to the UN, after all, have laid down the line that lecturing our dictator allies gets you nowhere, and that persecution is merely a social error in certain regimes.

It was a notion advanced by Ambassaor Jeane Kirkpatrick, in a Commentary article that smote presidential candidate Ronald Reagan with its brilliance and mastery.

Alexander Haig, as soon as he could, chimed in with the declaration that "international terrorism" had bumped human rights on the administration's priority list.

Some human rights advocates believe that it would be better to leave the post empty than to give it over to someone like Lefever. There is, however, a law that requires annual reporting on human rights records of various client nations and obliges the assistant secretary to pursue questions of human rights with the secretary of state. In the Reagan administration, which has warmly welcomed Argentina's president-dictator, General Viola, such exchanges might consist mainly of nods and winks.

But if Ernest Lefever could not spark discussion about human rights and foreign policy, one spectator at his hearings could and did. That was, of course, Jacobo Timerman, the former editor of La Opinion, and author of Prisoner Without a Name, Cell Without a Number, an account of his 20 months' imprisonment without charges by the government of Argentina.

Apologists for the administration at once picked up the whiff of danger. They raced forward to discredit him as the protege of an Argentine whom the military government suspected of financing the left-wing terrorists. William F. Buckley, Jr., a cheerleader for Chile's Pinochet, raised questions about Timerman's "stability."

It was the "blame the victim" game played with understandable vengeance. Timerman's compelling testimony had reduced to absurdity the conservative view that "authoritarian" torture is less reprehensible than the "totalitarian" kind. The distinction was lost on Timerman. The electric shocks to which he was regularly subjected seemed to have no ideology. His captors suspected him of complicity in a Jewish plot to take over the country.

To Sen. Paul Tsongas, D-Mass., the leader of the opposition to Lefever, the attacks on Timerman were reminiscent of the smear campaign against the four American women, three of them nuns, who had offended administration sensibilities by being murdered in El Salvador—and raised doubts about the government we are supporting there.

Timerman is getting the treatment in full measure. But he has done what he intended to do. He has raised questions about human rights. He has raised questions about anti-Semitism in a regime which Secretary Haig assured a House committee shares with us "a belief in God." He has challenged world Jewry to face the silence of the Jewish community in Argentina.

Timerman is finding a large audience for his book. He is, alas for his detractors, a better writer than any of them.

The administration can leave the human rights job at State empty. But it can't stop the discussion of human rights, which is at long last raging.●

LEGAL SERVICES CORPORATION REAUTHORIZATION

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. GEJDENSON. Mr. Speaker, today I had the opportunity to vote for the reauthorization of one of the most important and efficient federally funded programs currently operating in our Nation, the Legal Services Corporation.

The Legal Services Corporation was established in 1974 for the purpose of providing quality legal assistance to those who could otherwise not afford it. The Corporation currently provides funding for 323 civil legal assistance programs for the poor, which operate 1,400 offices throughout the country. In 1980, programs funded by the Legal Services Corporation handled 1.5 million cases.

President Reagan strongly opposed passage of this reauthorization bill. The administration wanted to include legal assistance in a social services block grant to the States. This plan would have provided no funding for legal services. If the States chose to provide legal assistance the money would have had to come from funding for other worthwhile programs which would have already sustained a 25-percent cut.

I believe that access to justice is too important to be left in such a precarious position. There are few who doubt that effective use of the judicial system requires the assistance of counsel. The elimination of the availability of counsel to individuals who cannot afford to hire an attorney is tantamount to saying that there is equal justice—for those who can pay for it.

Legal assistance embodies our highest ideals. It allows those who might otherwise look for other means to redress the injustices they have suffered to work within our judicial system. Our Government is one of laws. How can we ask people to live by these laws, while at the same time limiting their access to the system that determines and enforces these laws?

The administration has contended that its budget cuts were mandated by the people in last November's election. However, a CBS-New York Times poll, done at the end of April, showed that 83 percent of those polled believed that Federal spending for Legal Services should be kept the same, or increased.

Many commentators have pointed out that the administration's insistence that the Legal Services Corporation be abolished does not center on the need for mere fiscal austerity. The Legal Services Corporation operated on a budget of $321 million last year; a paltry sum when compared to total budget figures. Arguments have been made that Legal Services attorneys are too involved in bringing suits that reflect their personal ideologies. In fact, the great majority of cases handled by Legal Services attorneys are routine matters. Family, housing, income maintenance, and consumer problems comprise the bulk of the cases handled by Legal Services programs.

The House today voted to authorize $241 million for the Legal Services Corporation. I am pleased that this measure was successful, but I strongly feel that we should not have been in the position of being pleased about a cut of approximately one-third of the budget of this important program. I hope that this funding cutback will be distributed fairly among the programs throughout the country. I also hope that the Legal Services Corporation will be able to withstand this setback, and continue to provide aid in achieving the goal of equal access to justice.●

DEFERRING ACTION ON WATERWAY USER TAXES

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. WYDEN. Mr. Speaker, today I wrote a letter to President Reagan asking that he defer legislation imposing a waterway user tax.

I understand the President's objective is to raise additional revenues to bolster the economy. I don't think he is taking into account, however, the devastating impact such a tax would have on regional and national economies.

Senator MARK HATFIELD and Congressmen TOM FOLEY, LES AUCOIN, JIM WEAVER, LARRY CRAIG, DON BONKER, and MIKE LOWRY have joined me in signing this letter.

Below is the full text of the letter.

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 18, 1981.

Hon. RONALD REAGAN,
President of the United States,
The White House, Washington, D.C.

DEAR PRESIDENT REAGAN: As Members of the Pacific Northwest Congressional delegation, we are writing to urge you and your Administration to reconsider proposals for full cost recovery waterway user taxes.

We recognize the objective you have of raising additional revenues in a time of renewed fiscal responsibility. But we submit legislation affecting major transportation systems also must take into account a broader range of objectives, including improving the overall transportation system and our position in world markets.

While these increased taxes will raise additional revenues, they will do so at a significant cost:

Development of mature, energy-efficient waterway systems will be retarded;

Cargo movements will be diverted to foreign ports, hurting regional economies that rely on water-borne commerce;

Inflation will be fueled as the price of domestic goods and imports transported by waterway will be pushed higher; and

Exports, especially bulk commodities such as grain and coal, will be reduced because higher transportation costs make them less competitive in world markets, thus adversely affecting U.S. balance of payments.

In light of these impacts, we urge you to defer your proposals until a thorough analysis of the full repercussions for increasing waterway user taxes has been completed. Congress, in enacting user fees for the inland waterways in 1978 with the passage of Public Law 95-502, was unsure of the effects such taxes would have on the nation's transportation system and therefore mandated a comprehensive study of their impact. The Departments of Commerce and Transportation and other agencies are in the final stages of three years of work on this study which is scheduled to be delivered to Congress by September 30. We hope you will delay any consideration of your proposals until the study has been submitted, reviewed and commented upon by affected parties.

The Members of the Pacific Northwest Congressional delegation feel strongly that the waterway user tax issue must be seen in a broader perspective than simply balancing the budget or philosophically requiring full cost recovery from users.

Increasing waterway user taxes also must be seen as having a definite and adverse impact on the development of an important mode of transportation, on regional economies, on the national economy, on export expansions, national defense, and, ultimately, on relations with our major international trading partners.

Moreover, federal assistance is afforded to all major transportation systems in the United States—and should be because it enhances the productive capacity of the nation. Water transportation, which through inherent efficiencies, serves as a counterbalance to hold down rates in other transportation modes. It should not be singled out for a policy of full cost recovery until national transportation objectives have been established.

Coming from the Pacific Northwest, our concern is chiefly with the Columbia/Snake River System, one of the nation's emerging waterway systems which in a very real sense is becoming the "Northwest Passage" we have sought for decades.

There are 19 port districts on the navigable shallow-draft portion of the Columbia/Snake System. The largest is the Port of Portland, the West Coast's largest export port in terms of tonnage. The reason is because it is one of the finest transportation hubs, served by major Interstate highways, three railroads and the Columbia/Snake waterway system.

Northwest ports are representative of the divergent navigation needs of ports throughout the country. These ports include small and large ports; river and coastal ports; deep-draft and shallow-draft ports; ports which accommodate foreign exports and imports, as well as coast-wide and inland domestic trade, including breakbulk, containers, wheat, automobiles, bulks, agricultural products and forest products.

The Port of Portland projects the combined effect of shallow-draft and deep-draft charges would reach as high as $23,750 for a 50,000-ton ship loaded with grain for export.

Adding new construction costs of enlarging the Bonneville Lock and deepening the mouth of the Columbia would bring the total fees for that same grain ship up to $63,750.

Under S. 809/H.R. 2959 and S. 810/H.R. 2962, the Columbia/Snake system is subject to fees for both shallow and deep draft. The Port of Portland estimates a loss of 4 to 5 million tons of oceangoing cargo from Columbia/Snake River ports if these proposals are enacted. That loss would include containers, wood products, automobiles, dry bulks and grain. Products bound for export could easily be diverted by land transportation modes to Canadian ports which are free of taxes or fees.

The dropoff in cargoes would mean a $750 million loss to the Pacific Northwest economy, and potentially 15,000 fewer jobs. For a region already reeling with double-digit unemployment because of what high interest rates have done to the housing and timber industries, this additional blow would be staggering.

Possibilities for future investment also would be diminished. The Port of Portland alone is planning to invest an additional $300 million to expand facilities. Five port districts on the upper Columbia are working toward navigation capabilities to improve their local economies. The Pacific Northwest, which is capital short because of restricted markets for goods and desperately needs to diversify, will be denied its best option for long-term growth.

Excessive waterway user fees will have a negative impact on the national economy and will result in inflation, reduced balance of payments and severe economic dislocations.

Waterway transportation is in competition with truck and rail transportation and serve to hold down costs. If waterway rates are raised to cover user taxes, rail and truck rates can be expected to increase up as well.

Beyond that, exporters will be forced to absorb waterway user costs if they are to remain competitive in world markets. Since 43 percent of American exports are farm products, the burden will fall on the already beleaguered U.S. farmer.

Other low-value, high-tonnage bulk commodities also will feel the pinch—including coal, sand and gravel, fuels and fertilizers.

The American consumer won't escape, either. About 85 percent of the cargo moving in U.S. waterway systems is bulk raw materials or energy products used in the manufacture of consumer products.

Economic dislocations will occur because as cargo movements are diverted or discouraged, considerable public investment in existing waterway and port facilities will be used less and have less value in generating economic activity and jobs.

Mr. President, few issues are simple. We appreciate your efforts to find a more equitable way to finance the operation, maintenance and construction of waterway facilities. All we ask is that you not move ahead on these proposals until your Administration has examined the broad ramifications of increased waterway user taxes. Together let us seek our shared goal of revitalizing America's economy.●

TAX EXEMPTION FOR SERVICE AWARDS ACT OF 1981

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. MITCHELL of Maryland. Mr. Speaker, today I am introducing a bill that would encourage the use of U.S. savings bonds as service awards for employees.

Currently, many employees, especially those in State and local governments, receive pins or similar cachets as rewards for dedicated or extraordinary service. The high cost of these pins, however, is jeopardizing these programs. It is simply becoming too expensive to give a pin to everyone who deserves recognition.

Louis Goldstein, Maryland's distinguished comptroller of the treasury, has come up with an alternative for his employees. He would like to present U.S. savings bonds in lieu of pins to employees with exceptional service records. The system makes good sense. It would encourage savings, and for multiple winners it would be more appreciated. After all, while one pin is a nice momento, few people would want five pins.

Unfortunately, there is a problem with this proposed system. Under current Federal tax laws, these bonds must be included as taxable income. As a result, the recipient is forced to pay tax on his commendation, something that is not required if the award is a pin. Clearly, the taxation of these bonds discourages their use as service awards.

To solve this problem, Senator CHARLES MCC. MATHIAS and I are introducing similar bills that would exclude the value of U.S. savings bonds from Federal and social security taxation. We place a cap of $250 per year on the tax-free awards. Our bills do not change the taxability of the interest earned or the amortized value of the bonds included in estates.

There has been a great deal of talk recently about encouraging saving and investing. Our bills, in a small way, will help in that effort. They will encourage employers to award savings bonds and will lead others to invest in the future of our Nation. I ask each of my colleagues to join us in this effort to increase the sale of savings bonds and encourage their use as service awards.●

QUEENS BOROUGH BOARD OPPOSES NUCLEAR WASTES SHIPMENTS

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Ms. FERRARO. Mr. Speaker, the people of New York City are increasingly concerned over the possibility that recently adopted Federal regulations will soon result in the resumption of shipments of spent nuclear fuel through their city.

As you know, on January 19, the Department of Transportation published regulations that would overturn local and State restrictions on shipments of such hazardous radioactive materials. The New York City Health Code, which since 1976 has placed strict limits on such shipments, would be affected. The regulations are scheduled to go into effect February 1, 1982.

During the Public Works and Transportation Committee markup of H.R. 3403, the Hazardous Materials Transportation Act, an amendment which I offered was approved which would provide a means of shipping radioactive materials in the New York City area without endangering the lives of millions of New Yorkers. The amendment would prohibit the shipment of large quantity radioactive materials through any county with population density greater than 15,000 persons per square mile if alternative means of transportation, including barge or ferry transportation, were available. Only four counties in the country—Manhattan, Queens, Brooklyn, and the Bronx—would be affected.

Water transportation has been used successfully in the New York City area in the past, and it must be used again. The land route specified by the DOT regs would follow the Long Island Expressway through my district, over the Queensboro Bridge—which is in desperate need of repair—into midtown Manhattan and out over the George Washington Bridge. This route traverses the most densely populated counties in the country, needlessly exposing millions of Americans to severe peril.

The Borough Board of Queens on April 22 adopted unanimously a resolution urging the New York City Council to take whatever acton is necessary to prevent implementation of the DOT regulations and calling on the Congress to repeal the regs. I would like to share the resolution with my colleagues.

BOROUGH BOARD RESOLUTION

Introduced by Borough President Donald R. Manes, Chairman of the Borough Board:

Whereas, the United States Department of Transportation (USDOT) has enacted regulations which effectively remove New

York City's ban on the transport of large quantities of nuclear wastes over our highways;

Whereas, New York City's regulations, contained in Section 175.111 (1) of the New York City Health Code, provide a greater level of protection to the public than the regulations enacted by USDOT;

Whereas, said USDOT regulations were promulgated without due regard for the fact that transport of nuclear wastes by vessel is a feasible means of transport which provides a higher degree of safety than highway transport,

Whereas, due to the extreme population density in Queens and other parts of New York City, highway transport of nuclear wastes must not be permitted since the consequences of a major nuclear accident are too extreme to be tolerable, however remote the possibility: Therefore, be it

Resolved, That this Borough Board, at the initiative of Donald R. Manes, Borough President and Chairman of this Board, hereby urges the Council of the City of New York to take whatever action necessary in order to prevent implementation of the USDOT regulations permitting highway transports of large scale shipments of nuclear wastes;

Furthermore, be it resolved that this Borough Board urges the Council of the City of New York to approve the resolution introduced by Council Member Orlow at the request of Borough President Donald R. Manes, thereby calling upon the United States Congress to enact legislation repealing the USDOT regulations.●

SOVIET VIEWS OF THE WORLD BANK

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. PATTERSON. Mr. Speaker, I am placing in the CONGRESSIONAL RECORD today an article translated from the Soviet journal "Economic Gazette." I think many of my colleagues might find it interesting. It is a biting critique of the World Bank from the Soviet viewpoint. We sometimes hear in this country comments that the World Bank and the other multilateral development banks are financing socialism or not supporting U.S. interests. It is useful, therefore, to see what a real socialist country's spokesman think about these multilateral agencies.

Many of the charges in this article are distortions or misstatements which take things out of context. The author is absolutely correct, however, when he says that "the Bank has always been, and remains, a staunch defender of the capitalist economic system," and that it "assists in establishing a private-enterprise sector in the economies of developing countries."

Mr. Speaker, the World Bank and the other multilateral agencies are important elements of U.S. foreign economic policy. They are not perfect institutions. They can be improved. But it is important for us to understand what our opponents in the international system think of them before we contemplate any significant changes in U.S. policy toward the banks.

[Translation of article in "Economicheskaya Gazeta" ("Economic Gazette") No. 51, for December 1979]

SURVEY—IBRD—THE SERVANT OF MONOPOLY CAPITAL

(By V. Zholobov, B. Econ.)

The International Bank for Reconstruction and Development (IBRD) is taking an ever-increasing share in the neo-colonialist expansion of imperialism. Bourgeois apologists seek to prove that the institution renders effective help in the social and economic development of newly-independent countries. In particular, IBRD's President, Mr. Robert McNamara, has regularly called upon his hearers in numerous international forums to provide "assistance" to the developing countries in solving their far-from-easy financial problems. The facts concerning IBRD's real activities, however, show that the Bank has always been, and remains, a staunch defender of the capitalist economic system, is an important weapon of neo-colonialism, and assists in establishing a private-enterprise sector in the economies of developing countries.

DISCRIMINATORY APPROACH

The official purpose of the Bank and its affiliates—the International Development Association (IDA) and the International Finance Corporation (IFC)—is the financing of social and economic measures taken by their member countries, primarily the developing countries, in order to overcome their economic backwardness. This does not mean, however, that if any of those countries applies to the Bank for help, the latter will willing by accede to that request. The structure of IBRD is such that the Bank's final word is spoken by the United States, which can block any decision that it does not like, and compel the Bank to refuse help if the country applying for assistance is not acceptable, for some reason or other, to the ruling circles in America. It is in the light of this that the true purpose of IBRD's activity must be examined.

Figures depicting the activities of the "World Bank", the term by which IBRD is often referred to in the press of Western countries, may make a certain impression on the uninitiated reader. At the present time, 132 countries are members of IBRD, and the Bank's capital, which is made up of their contributions, amounts to $41 billion. The total amount of loans granted by the institution in 1978 reached a figure of $9.8 billion.

What is obvious, however, is the peculiar geographical distribution of the Bank's funds. As of June 30, 1979, three of the 132 countries belonging to it (Brazil, Indonesia and South Korea) had received about 20 percent of all the loans granted by the institution during the almost 30 years of its existence. During 1978, apart from the almost traditional loans made to these three, IBRD supplied a number of Latin-American capitalist countries, as also Morocco and the Philippines, with large funds. And this is understandable, for the countries mentioned act as bulwarks of private capital, particularly foreign capital.

The Bank does not even try to hide its discriminatory approach. IBRD's lending policy is aimed at shackling the newly-independent countries with a type of development that suits the purposes of international and national monopoly capital. On the hypocritical plea of "safeguarding the Bank's funds" its officials give preference to countries with "stable political regimes", a term that, more often than not, implies military regimes.

One of the affiliates of the World Bank Group—IFC—proclaims its basic object to be the financing of industrial undertakings in the private sector, and says so in its very Articles of Agreement.

The question of providing funds for undertakings in the public sector is, however, passed over because of their alleged unprofitability, and the high lending risk associated with them. During 1978, the majority of countries with a socialist philosophy—Ethiopia, Afghanistan and the People's Democratic Republic of Yemen, plus a number of others that seek primarily to develop the public sector of their economies—did not receive a single loan from IBRD or its affiliates.

Speaking before the U.N. General Assembly on behalf of the participants in the Havana Conference of Heads of State and Governments of the Non-Aligned States, Mr. Fidel Castro drew attention to the fundamental difference between the development assistance furnished to the newly-independent countries by the Socialist countries and the "help" provided by the imperialist States and their international organizations. Although the Socialist countries bore no responsibility for the economic backwardness of the developing countries, Mr. Castro emphasized, they were taking upon themselves the duty of assisting those countries in overcoming it, basing such actions on one of the underlying principles of their Socialist system-international solidarity.

OPPONENTS OF INDUSTRIALIZATION

The political prejudice displayed by the Bank is only one feature of its operations. Another is shown by the fact that even those recipients of IBRD loans which are well-regarded by the bank are not allowed to make independent use of the funds they receive to meet the needs of their national economies and populations, and achieve social and economic progress in overcoming age-old backwardness. In the case of these countries IBRD pursues a policy designed to keep them dependent on the World capital market, and sets its face against any progressive initiatives in the social and economic sphere.

A typical example in this respect is provided by the International Development Association (IDA). A great deal is said and written about the activities of this most important affiliate of IBRD, so far as its outwardly concessionary terms of lending are concerned. The way in which IDA credits are allotted by branch of activities, however, by no means attests to a wish on the part of the Bank to promote an increase in the rate of economic growth of the newly-independent States.

According to the data available, the funding of industrial undertakings constitutes less than 10 percent of all the loan operations engaged in by IDA. At the same time, about 20 percent of the Association's funds are invested in agriculture and more than a third in so-called infrastructure projects, mainly in the building of roads and the provision of means of communication. Here too the egotistical interests of imperialism show through most clearly—an undeveloped infrastructure, particularly the absence of roads and means of communication, presents the international monopolies with

fewer opportunities for plundering, on neocolonial lines, the economy of a developing country. The Bank comes to the aid of the monopoly corporations and out of its funds provides a basic infrastructure in economically backward countries.

IBRD tries to give a "theoretical" justification for its negative attitude towards the industrial development of the newly-independent States. The Bank's last report on World development (August 1979) contains, for example, the following frank admission: "Industrialization will not, on its own, provide a solution to the problems of the developing World. A more appropriate means of achieving the aims of national regeneration is to be found in the stimulation of the agrarian sector." Later in the report it is asserted that the only way of combatting rising unemployment may be merely to develop agriculture at a more rapid pace.

Regarded objectively, this new "theory" of IBRD's experts is designed to counteract the efforts of the developing countries to achieve economic independence. A faster rate of growth of the Gross National Product (GNP) and, on the basis of this, a rise in the standard of living are possible only by means of industrialization. By blocking the efforts of the developing countries to diversify their national economies, the "World Bank" is again compelling them to concentrate on supplying raw materials and agricultural products, with all the unfavorable results that this procedure entails, including a dependence on unstable trading conditions on the World market that provide opportunities for these countries' exploitation by the monopoly concerns of the West.

Meanwhile, an exceedingly serious situation prevails in these branches of activity. For example, small peasant holdings, employing primitive methods of cultivating the soil, are hardly able to furnish a means of livelihood. Such farms are suitable only for simple reproductive techniques; they cannot have incomes of any size, least of all when measured in foreign currency.

IBRD's attitude to this largest category of the populations of developing countries amounts to only one thing, a refusal to grant these countries loans calculated to improve the conditions of life of hundreds of millions of small peasants. The Bank's financial support is forthcoming only to benefit large landowners and farmers who are able to produce significant production surpluses. For example, rich stockraisers in Latin-American countries (Argentina, Uruguay and others) have received more than 70 percent of all the loans made by the Bank to assist the continent's agriculture.

THE MYTH OF "HELPING THE POOR"

According to IBRD's official returns, during the period from 1975 to 1979, 60 million people were covered by the Bank's lending programs drawn up under the slogan of the "Fight against Poverty". This apparently impressive figure, however, begins to melt away as soon as one takes a closer look at this total. It turns out that, in calculating the number of its "beneficiaries", the Bank bases itself on the aggregate population of the regions in which the projects financed by the Bank are located. In this connection the French periodical "Le Monde diplomatique" has said, not without sarcasm: "The use of this method of calculation may well result in making the overall figure of poor peasants benefiting from the Bank's projects exceed that of all the poor peasants in the World."

In practical terms, however, the Bank's attitude to the loan applications of the newly-independent States diverges radically from the widely-proclaimed aims of the "Fight against Poverty". When analyzing one or other of the projects proposed for financing, the Bank's experts show a marked tendency to consider the statistical and technical data involved before the social aspects of that project. Poverty is subjected, before all else, to a quantitative appraisal, its social roots not receiving their proper share of attention. The developing countries themselves, which might change this state of affairs, do not participate in the preparation of the project (for this purpose there are "Special Missions" from the Bank), although it concerns them first and foremost.

Such an approach on the part of the IBRD gives rise to criticism even in Western countries: "Distributing funds to stimulate investment while seeking to leave undisturbed the social structure in which lie concealed the basic causes of poverty, means conducting a policy that is calculated to reinforce the hegemony of an elite", remarks, with fully justified emphasis, "Le Monde diplomatique".

It is not surprising that the results of such a method of lending should be in direct contradiction to the declared aims of IBRD policy. The Bank's experts consider, for example, that irrigation projects increase employment in agriculture and serve to benefit small farmers and landless peasants. Under the conditions prevailing in the developing countries, however, such projects are of advantage only to the large landowners and produce an intensification of capitalist stresses in the countryside, where they polarize relationships, with a concentration of wealth on the one hand, and a sea of poverty on the other, the upshot of which is the ruin of the smallest farmers.

The following case is typical. A project in Bangladesh provided, apart from solutions to other problems, for the setting up of a cooperative of landless peasants. The Bank agreed to make a loan for the whole project, but the funds originally proposed for the organization of the cooperative were, in the end, converted into loans to well-to-do farmers, so as to enable them to pay wages to their workers. This can hardly be regarded as "Fighting Poverty".

If IBRD has done nothing to eradicate poverty, one can say quite definitely that, by means of its loans, the Bank does facilitate the enrichment, including the illegal enrichment, of the top echelons in the developing countries. Thus the "Wall Street Journal" has stated that, in Indonesia, between 10 and 15 percent of the funds received as loans from the Bank (at the present time more than $500 million a year) are embezzled.

The actual social effects of IBRD's activities are well demonstrated by taking the example of Brazil—a country that is a privileged customer of the Bank. According to data published in the British "Economist", the polarization of Brazilian society became sharply exacerbated between 1960 and 1977, i.e., over a period when relations between Brazil and IBRD were particularly close. This is evident from the changes that occurred in the distribution of combined personal incomes. The share received by the richest 5 percent of the population increased during these years from 27.7 to 39 percent of the whole, while that of the poorest 50 percent of the population fell from 17.7 to 11.8 percent. Thus, not without assistance from the IBRD, the poor become poorer still and there are ever more of them.●

LEGAL SERVICES CORPORATION

HON. W. HENSON MOORE

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. MOORE. Mr. Speaker, today I voted for H.R. 3480 as a means to continue the Legal Services Corporation, but I did so with reluctance for I want to insure it will focus entirely upon legal aid for the indigent and abandon reckless social activism at taxpayers' expense, as has taken place in the past. Today's bill reduces funding and increases the limitations on the uses of funds by the Legal Services Corporation which is great progress in the right direction. There is sound and legitimate reason for Government aid to persons and families who need but cannot afford basic legal advice and service. Child abuse, divorce, understanding contract terms and conditions, claims settlement and personal injuries are worthy services to be performed to insure all Americans have access to proper legal advice. To do otherwise is discriminatory treatment in our legal system. I have always supported legal representation for indigent people.

I have served on a legal aid board in Baton Rouge, La., for 5 years. I have given basic legal advice and service and know its importance to those who otherwise do not understand legal processes, rights, and obligations, or who cannot afford it. It is this ignorance and indigence which must be bridged and this purpose is the only duty the Legal Services Corporation should perform.

During consideration of H.R. 3480 I voted for every amendment to confine the duty of the Legal Services Corporation to these purposes as I have consistently done in the past.

The President has proposed its functions be transferred to local units of government via block grants. This process would allow each local government to provide and control legal services at the local level. I intend to support such a block grant as being the best means to insure the indigent are receiving legal aid, and that taxpayers' funds are not being used for social activism, but thus far such a grant has not advanced in the Congress. Therefore, to continue legal aid, I feel I must support this authorization bill as the only vehicle to continue to provide these needed services.●

OSHA ACKNOWLEDGES MAJOR REVERSAL OF POLICIES

HON. GEORGE HANSEN
OF IDAHO
IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. HANSEN of Idaho. Mr. Speaker, I submit for the RECORD a news release and a copy of a letter received from Assistant Secretary of Labor Thorne G. Auchter announcing conciliatory changes in policy in response to my letter protesting forced-entry of OSHA inspections.

HANSEN SECURES MAJOR REVERSAL OF OSHA POLICIES

WASHINGTON, D.C.—Congressman George Hansen (R-ID) has secured sweeping and unprecedented policy changes from President Reagan's new Administrator of Occupational Safety and Health which put an immediate end to forced-entry inspections and reverse OSHA's hostile relationship with business and industry.

The long-sought commitments received by Hansen came this week in response to letters he had written to Department of Labor Secretary Raymond J. Donovan and OSHA Administrator Thorne G. Auchter protesting forced-entry OSHA inspections of a construction firm. Assistant Secretary Auchter, responding for Secretary Donovan, stated, "that the circumstances in this case were not such that OSHA should have conducted the inspection over the employer's objections; rather, the agency's usual recourse to further judicial proceedings would have been more appropriate."

Auchter, noting the requirements of the Fourth Amendment and the *Barlow* decision, said, "I regret that this incident occurred, and, consequently, I have reemphasized the agency's general policy to all field personnel and have instructed that no departure from it is to be made without express National Office approval." The Idaho lawmaker quickly pointed out that this new adherence to due process will bring early and welcome relief to many firms currently under threat of arbitrary forced-entry inspections.

OSHA's new director emphasized that "this administration is committed to the belief that the advancement of occupational safety and health is a necessary protection of the American worker. He then confirmed to Hansen the Administration's revolutionary new policy of constructive cooperation with employers and employees in line with the Congressman's long-held position. "To achieve better safety and health," Auchter said, "the adversary spirit that has existed among OSHA, employers, and workers must be eliminated. This goal has my highest priority."

Hansen, the National Chairman of STOP OSHA, who over the years has battled that Agency's heavy-handed tactics and who led the fight to the U.S. Supreme Court of the successful Barlow case resulting in the necessity of OSHA inspectors to have a proper court order before invading the privacy of a business for inspection, said, "Counter-productive methods and attitudes under previous Administrations are finally going out the window. I am most gratified to see a new and more reasonable OSHA emerging."

Auchter advised Hansen that under this Administration a two-pronged approach will be taken to reduce the adversary relationship.

"First, OSHA will provide a better mix of programs to assist employers and workers who want to eliminate workplace hazards; for example, more emphasis will be given to consultation and education programs.

"Second, major improvements need to be made in the agency's enforcement programs. I have already taken steps to reduce state plan monitoring, and I will take a number of other steps to improve federal OSHA's relations with its state plans. . . . Targeting of federal inspections will also be improved. The agency currently is experimenting with different targeting schemes that will permit us to identify workplaces where the most serious hazards exist.

Auchter assured Hansen, "I am very concerned that OSHA compliance officers perform their duties in a professional manner at all times. I have ordered a complete review of the agency's field audit and compliance officer evaluation procedures to assure this."

Hansen, expressing appreciation for Auchter's responsive reforms, said, "Those who have fought OSHA's abusive tactics for so long have now won significant Agency concessions demonstrating a new attitude in the matter of safety priorities. Hopefully, we will now see OSHA abiding by legal and constitutional procedures," he said.

Hansen added that he planned to contact Secretary Donovan and Assistant Secretary Auchter again for further discussions regarding ways to make the new OSHA cooperation thrust even more beneficial to both employers and employees.

HON. GEORGE HANSEN,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN HANSEN: The Secretary has asked that I respond to your correspondence regarding OSHA's recent inspection activity at the B. B. Andersen Constuction Company site in Arkansas City, Kansas. I apologize for the delay in responding while I was becoming acquainted with the facts of the case and reviewing the various policies involved.

The Regional Administrator in Kansas City has provided me with the following factual information. Based on a formal complaint alleging serious hazards, and administrative search warrant was sought from the United States District Court for the District of Kansas. In accordance with established procedures, the warrant was sought prior to attempting an inspection since the company had previously made its position clear that no inspection would be permitted without a warrant. OSHA's application for a warrant was granted by the court which determined that the agency had established sufficient probable cause to perform an inspection. These actions were fully consistent with the Supreme Court's warrant requirements as expressed in its *Barlow* decision.

The compliance officers, upon arrival at the worksite, presented management representatives with the warrant. These company officials apparently refused to acknowledge its validity and asked the compliance officers to leave. The compliance officers began their inspection over the company's objections. No force was involved on either side. The inspection continued through that day. On the following day, the compliance officers returned to continue the inspection. Again the company officials asked them to leave. The inspectors continued the inspection but, again, no force was involved on either side.

Subsequently, attorneys representing B. B. Andersen Construction Company petitioned the court for a judgment declaring the inspection invalid and illegal. The court, however, affirmed that OSHA had acted properly and dismissed Andersen's petition.

In accordance with the requirements of the Fourth Amendment and the *Barlow* decision, OSHA may seek a warrant from a magistrate when an employer will not consent to an inspection. To obtain the warrant, OSHA must demonstrate administrative probable cause.

If issued, the warrant is a presumptively valid order of the court permitting the inspection to take place. Since a neutral magistrate has evaluated the appropriateness of OSHA's request when he issues a warrant, our expectation is that employers will honor it and allow the inspection to proceed. Although as a matter of law the Supreme Court itself has noted that government officials may lawfully use force in executing warrants, as a matter of policy OSHA declines to use force to carry out an inspection over an employer's objection. Instead, in the absence of exceptional circumstances, the agency will generally discontinue the inspection upon the employer's challenge and seek compliance with the warrant through judicial procedures in which the warrant's validity may be tested.

On the basis of my review of the facts in this case, I conclude that OSHA's prohibition against the use of force was not violated with respect to the Andersen inspection since physical force was never used or threatened. I do believe, however, that the circumstances in this case were not such that OSHA should have conducted the inspection over the employer's objections; rather, the agency's usual recourse to further judicial proceedings would have been more appropriate. I regret that this incident occurred, and, consequently, I have reemphasized the agency's general policy to all field personnel and have instructed that no departure from it is to be made without express National Office approval.

In closing I want to reiterate that this administration is committed to the belief that the advancement of occupational safety and health is a necessary protection of the American worker. To achieve better safety and health, however, the adversary spirit that has existed among OSHA, employers, and workers (as exemplified by the incident in Kansas) must be eliminated. This goal has my highest priority.

Under this administration a two-pronged approach will be taken to reduce this adversary relationship. First, OSHA will provide a better mix of programs to assist employers and workers who want to eliminate workplace hazards; for example, more emphasis will be given to consultation and education programs.

Second, major improvements need to be made in the agency's enforcement programs. I have already taken steps to reduce state plan monitoring, and I will take a number of other steps to improve federal OSHA's relations with its state plans including a review of the "benchmarks" issue. Targeting of federal inspections will also be improved. The agency currently is experimenting with different targeting schemes that will permit us to identify workplaces where the most serious hazards exist. Moreover, I am very concerned that OSHA compliance officers perform their duties in a professional manner at all times. I have ordered a

complete review of the agency's field audit and compliance officer evaluation procedures to assure this.

Sincerely,

THORNE G. AUCHTER,
Assistant Secretary.●

WORKER HEALTH AND SAFETY GET JUSTICE FROM COURT

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. GAYDOS. Mr. Speaker, as chairman of the Subcommittee on Health and Safety, I wish to bring to the attention of the House that this week virtually was regulation week before the U.S. Supreme Court, and that justice—as well as correct readings of congressional intent—was twice delivered in matters of worker safety and health, once to textile workers and once to miners.

In the most widely noticed decision, the Court held that safety and health regulation cannot be subordinated to a concept of cost-benefit analysis, which is unrecognized in statutory law, that the new administration is developing.

In a significant mining case, the court strongly endorsed warrantless inspections. The majority was 8 to 1.

The majority noted that no-notice inspections are essential to the effectiveness of the inspection program required by the Federal Mine Safety and Health Act of 1977.

In result, they agreed with the Congress and with the Mine Safety and Health Administration that there is an "overwhelming governmental interest in protecting the lives and health of mine employees."

The case involved the question of whether a previously little-regulated sector of mining could be subjected to warrantless inspection.

Taking note that the law establishes a regular schedule of inspections, the opinion reasoned that "mine owners cannot help but be aware" they are subject to regular and frequent inspection and went on to suggest the law was written that way because mining has a long history of "serious accidents and unhealthful working conditions."

The court this week did yeoman work in bringing intent into clear focus in safety and health law, and in framing the issues with which we will be dealing.●

PRESTIGIOUS SCIENTISTS FOR CLINICH RIVER BREEDER REACTOR

HON. MARILYN LLOYD BOUQUARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mrs. BOUQUARD. Mr. Speaker, many distinguished scientists support development of breeder technology, and believe that continuation now of the Clinch River breeder reactor project is essential to a healthy domestic nuclear industry. A number of these scientists, who are members of Scientists and Engineers for Secure Energy, Inc., SE_2, have written me on behalf of their organization to urge continuation of CRBRP. These 17 scientists, including two Nobel Laureates, are among the most distinguished American academicians. They state that the liquid metal fast breeder is "the only already proven technology which can serve as guaranteed insurance against possible, future energy crises," that "in many respects the CRBRP is the most advanced development project of its kind" and that its prompt pursual "can open the way for the United States and the world to acquire, by the turn of the century, a fully commercially applicable, advanced breeder technology at precisely the time when a massive introduction of such a resource may become necessary."

The concensus of the technical community is clearly in favor of completing this important facility in spite of what those opposed to CRBR would lead us to believe. The letter from SE_2 demonstrates this broad support. I include it for the information of my colleagues and hope that they will lend their support to the completion of CRBRP.

SCIENTISTS & ENGINEERS FOR
SECURE ENERGY, INC.,
New York, N.Y., June 2, 1981.

Hon. MARILYN L. BOUQUARD,
Chairwoman, House Subcommittee on Energy Research and Production, Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSWOMAN BOUQUARD: Scientists and Engineers for Secure Energy (SE_2) feel greatly honored by your request to acquaint the Subcommittee which you chair and other members of Congress with SE_2's views concerning the future of the Breeder Reactor Plant at Clinch River.

Today, a substantial majority of SE_2's membership is strongly in favor of continuous funding for this most important project. Rather than to repeat the detailed analysis which led us to support the ongoing development of the Liquid Metal Fast Breeder Reactor (LMFBR) technology in the United States—an analysis which by now must be quite well known to all interested parties—let us here summarize the main reasons which compel most members of the SE_2 Steering Committee, and many other experts within our organization, to come out on the side of the Clinch River Breeder Reactor Project (CRBRP).

(1) LMFBR is the only, already proven technology which can serve as guaranteed insurance against possible, future energy crises.

(2) At the time of possible, future deployment, LMFBR's will be a secure, and most probably economical way by which to convert nuclear power technology into a truly renewable energy resource of unlimited potential.

(3) In many respects, the CRBRP is the most advanced development project of its kind. If promptly pursued and properly followed up, it may open the way for the United States and the world to acquire, by the turn of the century, a fully commercially applicable, advanced breeder technology at precisely the time when a massive introduction of such a resource may become necessary.

(4) In view of recent political developments in certain Western countries, particularly France, the Clinch River Breeder Project may become the only reliable technological undertaking of its kind in the Free World.

Together, the four above points constitute a powerful case for the continuation of CRBRP. Incidentally, our support for the steady development of the LMFBR technology in this country does not in any way reduce our enthusiasm for the search for, and development of, alternative avenues for the secure generation of nuclear power. In particular, we fully endorse the call by Edward Teller for an ongoing assessment by a national body of technological experts of various known and promising technical options. Such work should yield practical proposals which could serve as useful guides for future Congressional and Administrative action. Nevertheless, we strongly believe that such an assessment of additional alternatives should proceed concurrently with the vigorous, and rapid, development of the Clinch River Plant.

The United States urgently needs the working experience and trained personnel which only an ongoing CRBRP can provide. We trust that the Congress will, in the best national interest, provide the required funds.

For the Scientists and Engineers for Secure Energy:

Robert K. Adair, Yale University; Manson Benedict, MIT; R. Creighton Buck, University of Wisconsin; Hans A. Bethe, Cornell University; Albert Gold, New York Polytechnic Institute; Robert Hexter, University of Minnesota; Dixy Lee Ray; Erich Isaac, City University of N.Y.; Frederick Seitz, Rockefeller University; Robert S. Mulliken, University of Chicago; Miro M. Todorovich, City University of N.Y.; Thomas Pigford, University of California, Berkeley; Alexander von Graevenitz, University of Zurich; James Rainwater, Columbia University; Alvin Weinberg, Oak Ridge Associated Universities; Norman C. Rasmussen, MIT; and Eugene Wigner, Princeton University.●

EXPLANATION AS TO MISSED VOTE

HON. WENDELL BAILEY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. BAILEY of Missouri. Mr. Speaker, due to official business away from the floor of the House of Representatives, I was unable to be present when the House voted on rollcall No. 73 which would prohibit the use of funds for the development of the neutron bomb. Had I been present, I would have voted "no" on rollcall vote No. 73—the prevailing side.●

CLINCH RIVER BREEDER REACTOR—BUILD IT NOW

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. FLIPPO. Mr. Speaker, one of the most important issues regarding the future energy security of this Nation which we will consider this year, is the future direction of the U.S. liquid metal fast breeder reactor (LMFBR) program. This energy development program is of such high potential benefit to the country, that I believe we must act decisively to support its continued development. We must act to assure that the programs's momentum is maintained, and that our technology base is strengthened through the conduct of a balanced program of plant development and supporting research and development.

The U.S. LMFBR program has historically been advanced by the design, construction and operation of developmental plants in progressively larger sizes supported by a strong research and development program and associated test facilities. U.S. LMFBR development began over 30 years ago with the experimental breeder reactor I (EBR-I). At this facility, electricity was produced for the first time by nuclear energy. A 20 MW(e) experimental breeder reactor II (EBR-II), also sited in Idaho, was brought into operation in 1964 and has operated successfully since that time. EBR-II continues to generate a wealth of operational and testing data, and generates electricity both for its own use and the commercial grid with a rather high plant factor.

A very significant recent milestone in the U.S. LMFBR program was the full power operation in December 1980 of the 400 MW thermal fast flux test facility (FFTF) in Richland, Wash. This plant is approximately six times larger than the EBR-II and represents the world's most advanced test facility for fast reactor fuels and other LMFBR equipment. Data already gathered from the FFTF have been most significant in verifying the operational and safety characteristics of sodium cooled breeders.

The next sequential step in LMFBR plant development is the design of the 350-MW electric (e) Clinch River breeder reactor plant (CRBRP). CRBRP is approximately three times the size of the FFTF, and it embodies the experience that was gained from the design, construction and early operation of the FFTF. The CRBRP design is almost 85 percent complete, research and development is over 95 percent and several hundred million dollars' worth of major equipment have been delivered or are on order. In March of 1981, the Department of Energy completed the conceptual design of a proposed 1,000-MW(e) large developmental plant (LDP). This plant, some 2½ times larger than the CRBRP, represents even further advances in the technology while building on the broad base of data that was generated from past projects. Thus, the LDP constitutes the next logical step in the U.S. LMFBR plant development. This deliberate and well-planned effort of proceeding in the stepwise fashion toward full commercialization enhances the likely technical success of the U.S. LMFBR program. However, proceeding with this large facility without completing CRBRP would entail excessive and unnecessary technical risk. The worldwide concensus is that scale-up factors of 3 to 4 are proven by experience to be acceptable while larger increases pose inacceptable risks.

A team of dedicated scientists and engineers, spread across the country with various industrial contractors, national laboratories and Government organizations, has been supporting LMFBR development in the United States over the past decades. Continued success of the program depends on the effective utilization of both the technical infrastructure and the technical data base that has been generated over the years.

The stepwise approach to developing LMFBR technology is quite similar to the methods which were employed by the National Aeronautics and Space Administration (NASA) in their manned space program. As you recall, in the early 1960's the manned space program was launched with the first missions of the Mercury program. Based on the successes in the Mercury program, NASA then moved to the Gemini program that was more complex and more challenging, but whose risks had been minimized by extensive work at the smaller scale with the Mercury spacecraft. Following the successes of Gemini space flights, NASA initiated the Apollo program that led to the tremendous success of the first manned lunar landing. NASA's programed sequential approach of Mercury, Gemini, and Apollo laid the groundwork for the Space Shuttle program, whose potential value to the Nation and mankind is now only dimly perceived even after an outstanding initial success.

Bringing any technology to a point where it can beneficially be used by society is necessarily a challenging task and is somewhat capital intensive. However, the potential benefit of developing the LMFBR is so significant that I cannot support efforts to slow down or abandon the program. The progression of the technology from EBR-I to EBR-II to FFTF to CRBRP to the LDP is similar to the approach used by NASA in the space program, as well as foreign governments in developing their LMFBR technology. I have every reason to believe that it will be successful for the development of the LMFBR. In the days that the Mercury program was initiated, few could have imagined the potential that the versatile Space Shuttle would offer us in the near future. If we are to continue a successful LMFBR program and realize its full potential, we must proceed with key elements of the program in the near term. As has been shown on other high technology projects, the availability and effective use of a trained technical staff is of utmost importance to the success of the endeavor and the sequencing of projects is the fundamental control mechanism in this process. Ideally, plant projects in the LMFBR program should be sequenced such that there is a smooth flow of engineering and critical technical skills from one project while retaining the "corporate memory" for this technology.

The U.S. LMFBR program in 1976 had an approach consistent with this philosophy, but the strategy was impaired by the efforts of the last administration to cancel the CRBR project and to defer indefinitely demonstration of the LMFBR technology. However, design of the CRBR project during the past 4 years continued largely based on Congress acknowledgment of the value of the design teams technical experience and expertise such that the design of the plant is now well over 80 percent complete. If CRBRP is canceled, these skilled designers will be lost both now and in the future. New engineers, scientists, and other support staff would have to be trained and taught the lessons that existing staff have learned on past plant projects and R. & D. programs. As we know too well, experience cannot be simply transferred via explicit written reports or instructions. Nothing substitutes for the skills and competence of an experienced cadre and their "corporate technical memory" represents billions of dollars of Federal and industrial investment.

I strongly support the LMFBR program and urge my colleagues to support the completion of the CRBRP. I maintain that we should proceed to develop the LMFBR technology by continuing a strong and balanced program of research and development, plant construction and operation. We have made a substantial investment in the breeder technology over the years and have developed a highly trained and dedicated cadre of industry, utility, and Government technical personnel. We need to maintain this infrastructure and keep the Government/industry team together in a manner that will assure that the technology is developed at a minimum risk and a minimum cost. The potential benefit of the U.S. LMFBR program is substantial. It offers such a signficant potential future energy source for this country, that I believe it deserves our full support. Full congressional support of the U.S. LMFBR program, I believe, will encourage the industry and utilities to continue to take an active role in the program and will enable them to firm up their plans for implementing the technology when they are deploying breeders needed to supplement existing energy sources.

But, the key point of my message is that we must get on with it now. We have come too far and recognized only a small portion of the total potential of the U.S. program. It would not be responsible on our part to waver now and not recognize the LMFR's full benefits. Let us start by supporting completion of the CRBRP!●

BUST THE MONEY TRUST

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. PAUL. Mr. Speaker, on June 8, Barron's newspaper carried an excellent editorial entitled "Bust the Money Trust." Pointing out that the New York Times attacked the Federal Reserve in 1913 by saying that the Federal Reserve Act "goes to the very extreme of establishing absolute political control over the business of banking," the editorial calls for the busting of the Fed money monopoly—and monopoly money—"has been tried and has failed. There must be * * * a better way." I heartily agree. To end inflation, we must end the Fed.

BUST THE "MONEY TRUST" AND END THE CENTRAL BANK'S INFLATIONARY BIAS

(By James Grant)

To commemorate the 150th anniversary of the founding of the American savings and loan industry (and presumably to celebrate thrift), the Postal Service has issued a new 18-cent stamp, which supersedes the obsolete 15-center. Owing to inflation and the near-disappearance of thrift, three savings and loan associations have had to shut their doors in the three weeks since the stamp's appearance. Two of them went belly up last week on the same day, the first such double-header in the annals of the Federal Savings & Loan Insurance Corp., which bails out depositors and which, if it had any class, would mail its insurance checks in envelopes bearing the S&L commemorative.

Bad news for thrifts, of course, is a variation on the long-running theme of bad news for interest rates and for the value of money. It is also part and parcel of the deplorable state of corporate finance, for example, the intelligence (courtesy of Salomon Brothers) that interest expense as a percentage of net profits before taxes last year reached 45%, a record high, vs. 14% in the 'Sixties. It is companion to recurring reports of the bond market's imminent demise.

The common thread of inflation news is the shortening of the shelf-life of money. Despite its strength abroad, the dollar at home keeps like fresh bread. Relatively few care to save it: the nation's savings rate is near a postwar low. The public this year might lay aside $100 billion, but the net credit demands of the federal government (on-budget deficit, off-budget financing, primary and secondary loan guarantees and loans by various government-sponsored agencies) bid fair to reach $150 billion. Ask a bond dealer how many bonds he owns and he will tend to answer, incredulously: "Own? Me, outright, unhedged?" He means that he owns as few as possible, because nobody is sure what the dollar will buy in three or 10 or 30 years' time. Thanks to the high incidence of confusion, and thus of market volatility, more interest-rate futures contracts were traded on the Chicago Board of Trade last month than contracts in wheat, corn or beans. All this leads back to the shifting value of money, which is neither less nor more than what the government says it will be.

In monetary affairs, "the government" is Congress, which spends, and the Federal Reserve, which expands credit faster than the growth in real output. If one were a criminal, the other would be an accessory, while millions of voters would be guilty of harboring a fugitive. It is fashionable for college professors and officials to pillory the Fed as if deficits and the government's off-budget assault on the capital markets didn't matter. They do.

What is startling about the Federal Reserve is its consistency. It was inflationary under William McChesney Martin, who once headed the New York Stock Exchange and talked a much better anti-inflation game than he played; under Arthur Burns, a conservative platitudinarian; under G. William Miller, a party loyalist; and under Paul A. Volcker, a professional central banker. It has bungled alike under the old operating procedure (in which the Federal funds rate was fixed) and the new (in which the target is so-called nonborrowed reserves). Between 1970 and 1980, while real national output grew a little more than 3 percent, the Fed was supplying new credit—expanding its own financial assets—at an average rate of 9 percent. The Federal Reserve, as Lewis E. Lehrman, former president of Rite Aid Corp., avers, has become the Interstate Commerce Commission of money.

The irony of the Federal Reserve—the inflationary defender of the nation's money—is underscored by a brief revisit to its origins in 1913. The Republic then was in one of its reformist phases: "It was a day when it was popular to be progressive," wrote Frank Kent (of The Baltimore Sun), "unpopular to be reactionary." Fresh in people's minds was the Panic of 1907, the losses it entailed, the issuance of clearing-house scrip that occurred, and the dominant role of J. P. Morgan in setting things right. Everyone agreed that the currency was "inelastic." A central bank, or reserve association, was on the agenda, one removed as far as possible from Wall Street.

Furthermore, a belief in the existence of a money "trust" had taken hold. "The great monopoly in this country is the money monopoly," proclaimed Woodrow Wilson, then Governor of New Jersey, in 1911. "So long as that exists, our old variety of freedom and individual energy of development are out of the question." This was the progressive line, but dissent was fierce. Sen. Elihu Root of New York led the attack: "At present I observe that this is in no sense an elastic currency," he said of the Federal Reserve bill. "It does not provide an elastic currency. It provides an expansive currency, but not an elastic one. It provides a currency which may be increased, always increased, but not a currency for which the bill contains any provision for compelling reduction."

The New York Times let fly: "The measure goes to the very extreme of establishing absolute political control over the business of banking." Rep. Carter Glass of Virginia brushed aside all these objections on grounds that (a) the gold standard would remain intact; (b) Federal Reserve notes, though formally an obligation of the government, would in fact be secured by gold and sound commercial paper, and (c) the Fed would be an "altruistic" institution, a public body above the corrupting influence of profit-making. Glass and Wilson, of course, carried the day. To United Cigar Stores, which on Dec. 24, 1913, took out newspaper advertisements to celebrate the signing of the bill, the Federal Reserve was a "Christmas gift."

Who can doubt that Root and The New York Times (and even, in a way, United Cigar Stores) have been vindicated? Sixty-seven years later, the nation is saddled with a fiat currency, persistent inflation and a very real "money trust." It is true that there has been no panic lately: savings nowadays are gradually wiped out by the ravages of inflation. Of political influence on the Federal Reserve Board, opinions vary. It strikes us as passing strange that adjusted Federal Reserve Bank credit—the Fed's financial assets, as adjusted for seasonal and technical effects—increased at the rate of 12.4% in the eight weeks prior to the Presidential election last fall and by only 0.5% in the eight weeks thereafter. A spokesman for the Federal Reserve Board in Washington calls the suggestion of favoritism a canard.

Be that as it may, the Fed has made a prophet of Elihu Root. An "elastic" currency has become expansive. Week by week the Fed puts in and takes out, but it never takes out as much as it puts in: the rate of growth of credit persists at 8%-9%. As for the board's "independence," at times—most times—it indeed appears to be independent of everything except its computer models and its staff. It is striking over the past decade what little difference the incumbent administration and the composition of the board have made. Arthur Burns, master of price controls and of the noninflationary speech, presided over eight years of extraordinary credit growth. And more or less the same thing has taken place under G. Wil-

liam Miller (who at least never pretended to much independence) and Paul Volcker.

As for the "monetarist" reforms of Oct. 6, 1979—under which the Fed was supposed to control the quantity of money by controlling the largest component of bank reserves—Lawrence K. Roos, president of the Federal Reserve Bank of St. Louis, sized them up in March: "Instead of more stable money growth, fluctuations in M1-B became more pronounced than at any time in the past two decades. Interest rate movements became equally erratic." That is, more of the same, but worse.

To a layman, the debate between the Fed and its technical critics is a mystery. The monetarists, the noisiest of the latter, insist that the Fed control the "money supply." But "money," as the layman correctly surmises, is an abstraction prone to periodic redefinition, constant revision and seasonal maladjustment. Albert E. Sindlinger, an economist and pollster, asks succinctly: "How can they control what they can't even count?" The monetarists contend that, whatever money is, the Fed can at least begin to control its balance sheet and to rescue the discount rate from its current subsidy level. So far, so good, but the argument goes farther. Government monopolies are bad, the monetarists say, but the money monopoly is good because there might one day be a sensible hand on the presses. They would (as they say) fix the supply of money and not incidentally count and define it, all the while resisting political blandishments. Never mind that this has never been done: they shall do it now. Barron's, as faithful and longstanding a critic of the Fed as any on the scene, sees increasingly little to choose from between paper-money monopolists. The latter-day "money-trust" has been tried and has failed. There must be (of which more next week) a better way.●

PRESIDENT REAGAN'S PROGRAMS REFLECT CONCERN FOR WORKERS

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. FIELDS. Mr. Speaker, I am pleased to bring to the attention of my colleagues a second interview with a respected black leader discussing the President's economic program for America.

Mr. Fred Brown, Sr., is codistrict leader of the 8th Assembly District in the Bronx. He is 1 of 30 black national advisers throughout the country who were appointed by President Reagan. He is also president of the New York State Conference of Black Republicans—the largest black organization in the State.

The full text of the interview follows:

[From News World, June 16, 1981]

BLACK LEADERS EVALUATE THE PRESIDENT'S PERFORMANCE

Q. What do you think of the Reagan administration's contention that the only long-term way to aid the poorer minority communities is through programs that stimulate productivity and curb inflation in the economy as a whole?

A. I think that's the correct posture. Look at past years. The Democratic programs for the minorities have been a distinct failure. Even the CETA jobs failed to give individuals a minimum income. The Democratic programs never solved the problems that they were intended to solve. Year after year, under Democratic administrations, they have continually played the game of economics. The funding aspect of these programs have been like waving carrots in front of those who are economically deprived. The Reagan administration has no intention of coming out for any hard and fast positions to hurt the poor.

Q. Are there adequate lines of communications between the black community and the Reagan administration? How does it compare to the Carter administration, when they had one specialist, Louis Martin, to serve as the liaison?

A. Those lines could be improved. Within the Reagan administration, we find that the people in policy-making positions are more accessible. This is contrary to the Carter administration.

Q. How is the spirit of the GOP different with Reagan at the helm, than during the Ford-Rockefeller era?

A. There is more spirit to the extent that there is a feeling of hope after four years of despondency under Carter. But something has to be done about the problem of inflation. No president has had the guts to tackle the problems of taxation. The feeling is prevalent that Reagan has the courage to carry it through.

Q. During the campaign, some Democratic civil-rights leaders, like Jesse Jackson, said the election of Ronald Reagan would mean a return to a racist America, setting back the clock of civil-rights gains. Do you believe this was an accurate prediction?

A. No, this is totally inaccurate. In fact, it's shocking in nature because the blacks have been the most loyal Democratic voters in this City and the Democrats have always taken them for granted, using them and abusing them.

Q. Has the Reagan administration gone too far in cutting funds for welfare recipients and minority programs, such as CETA, which is being eliminated?

A. The CETA program is a farce to the extent that the program is supposed to take minorities, train them and place them in the permanent sector. It's just another giveaway program that keeps the economically deprived poor.

Q. How do you rate President Reagan's performance to date?

A. He receives excellent marks, in my book. Mr. Reagan took a position during the campaign on budgetary cuts. He has accomplished them without compromising his position or integrity.

Q. What do you feel is Reagan's greatest accomplishment as president to date?

A. It's doing exactly what he said he would do during the campaign. By getting inflation under control, cutting the fat out, trimming the budget and getting the country moving again, Mr. Reagan shows that he means business.

Q. If you were an adviser to the president, what recommendations would you make to get the nation back on the track as far as the economy is concerned?

A. I would do exactly what Mr. Reagan is doing. I would cut taxes, take a harder look at those wasted programs that have not accomplished what they were intended to do. I would create a much larger job market through the private sector. Under past Democratic administrations, all we have seen is further decay in the cities.

Q. Should there be more blacks and Hispanics in the Reagan administration?

A. There is no question about that. But I believe that in due time this will be accomplished.

Q. Are you in favor of Reagan's plan to cut taxes across-the-board 10 percent a year for three years?

A. Definitely. It will stimulate the economy considerably. The middle-income wage-earner has been complaining about the tremendous taxes. This is one way of demonstrating that President Reagan has the workers' interest at heart and that he intends to do something about them.

Q. What is needed to aid the many struggling minority businesses located here?

A. We must accelerate Small Business Administration loans to these minority businesses. Another way is by giving them governmental contracts to make them financially independent so that they can enter the main stream of the American market as a manufacturer or producer.●

THE OLYMPIC COIN ACT OF 1981

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. SHUMWAY. Mr. Speaker, I rise to join my California colleagues in cosponsoring legislation to require the Secretary of the Treasury to enter into a negotiated agreement with the Los Angeles Olympic Organizing Committee to mint special coins commemorating the 1984 Summer Olympics.

The LAOOC, a California nonprofit corporation, was founded to conduct the XXIII Olympiad in Los Angeles. It does not seek Federal, State, or municipal funding but depends on income from licensing, tickets, and media contracts.

The Olympic Coin Act of 1981 authorizes the minting of a number of legal tender coins which will be sold to the USOC for sale to the public. All manufacturing costs plus a healthy surcharge will be paid the Treasury by the LAOOC. The taxpayers not only have no risk in this program but will realize a handsome profit.

After marketing expenses the LAOOC will divide its net income on a 50-50 basis with the U.S. Olympic Committee. The USOC it responsible for fielding teams and individual competitors for the Olypmics.

Every host country in modern Olympics has honored the games with special coins. I am certain the United States will too. The question, however, may arise as to the advisability of the Government not only manufacturing the coins but selling them as well.

I do not think the U.S. Government is capable of marketing worldwide. A successful program requires LAOOC and USOC participation.

Just several months ago the distinguished chairman of the House Subcommittee on Consumer Affairs and Coinage (Mr. ANNUNZIO), in discussing the Government effort to sell Carson City silver dollars said:

> This sale is one of the most horrifying examples of Government mismanagement I have seen in my 16 years as a Member of Congress.

It should be noted further that no organization, including the Federal Government, may use the Olympic seal without permission of the USOC. Also, U.S. Olympic coins may not be marketed in other countries without the approval of their own national Olympic committees.

A Government-only program would require appropriations and budget considerations with substantial exposure to the taxpayers. The LAOOC proposal, on the other hand, requires full payment before the mint may proceed with manufacture, thereby eliminating any risk to Uncle Sam.

The Government can be expected only to conduct a passive sales program by announcing the availability of the coins and filling mail orders. Under Government marketing, the Olympics could be expected to realize very little revenue.

Using modern techniques, creative advertising, and experienced marketing personnel, as well as dozens of established retail outlets, the LAOOC can contract for an aggressive sales program. It is anticipated that department stores, banks, credit card houses, specialty stores, and numismatic groups will be interested in the program under the LAOOC plan.

If the Government sells the coins to the public, there is an implied promise of it being a sound investment. Should the collector's investment depreciate for some reason the purchasers may, rightly or wrongly, criticize the Government for its role in marketing.

Finally, it is inappropriate for the Government to commit hundreds of millions of dollars of its financial resources to a risk venture that may or may not be successful. Taxpayers have a right to expect their money to be used only for governmental programs.

In a division of labor for this Olympic activity, the Government should do what only it can do—and do it well—mint coins. The private sector should do what only it can do—and best do—market products.

Together, the mint and the LAOOC can enjoy a successful venture which will benefit amateur athletics. I urge support for the legislation introduced by the California Delegation.●

THE WENDS—A UNIQUE ETHNIC GROUP IN TEXAS

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. PICKLE. Mr. Speaker, Lee County, in the 10th Congressional District, is best known today as a center of some feverish oil and gas exploration activity in central Texas. But Lee County has another distinction, as the spiritual capital of a fascinating ethnic group which came to America almost 150 years ago looking for religious freedom. The Wends came from Germany, but they had their own religion and language.

The Wends came looking for freedom and opportunity in America and found it in central Texas. Even though the Wends are disappearing as an identifiable ethnic group, many traditions, foods, and folklore live on.

Southwest Airlines magazine's June issue features a story on the Wends and their Texas settlements. The Wends have made a unique contribution to Texas life and have added to the cultural and ethnic diversity which has made our country great. So I am happy to present their story.

[From the Southwest Airlines Magazine, June, 1981]

A PLUCKY PEOPLE

(By Jack Maguire)

There are only a few of them left now—less than 100,000 in the world, and a seventh of these live in Texas. They call themselves Wends, and they may be one of the oldest ethnic groups anywhere. They migrated to Texas in 1854, but they claim to be direct descendants of Mazan, one of the sons of Noah, as in Noah and The Ark. The Wends have been a closeknit people since long before the dawn of Christianity.

Serbin, some 80 miles east of Austin in Lee County, is the Wendish capital. Wends also live in at least 10 other Central-Texas counties in communities ranging from Cat Spring, in the south, to Copperas Cove in the north. But it is Serbin, with its one store and the only Lutheran Church in America where sermons once were preached in Wendish, that is still considered "home." Over the years, a few families moved west to Eastland and Shackelford Counties, but Central Texas has remained the major settlement of the Wends for more than a century and a quarter.

In Germany, where the Wends came from, they are known as Sorbs. But these Serbs, as they prefer to call themselves, were not typical of the Europeans—Germans, Czechs, and Poles—who immigrated to Texas in the middle of the last century looking for cheap land and economic opportunity. This group came primarily for two reasons: to preserve their religious freedom and for the right to speak their Wendish tongue.

Descended from one of the earliest Slavic tribes, one that had developed a common language, the Wends once occupied much of Central Europe. Beginning in 1197, however, conquest by the Germans and the assimilation of other cultures decimated the true Wends. Finally they occupied only a small area along the River Spree. Their tiny kingdom, Lusatia, was no match for the neighboring German Empire which, in the mid-19th century, began pressuring the Wends to "Germanize."

The Prussian king insisted that they speak German instead of Wendish and change the spelling of their names to the German form. They were denied the right to do the skilled labor for which they were trained. When hired at all, they were paid less then their German counterparts. And in 1832, new Prussian laws aimed at agraian reform took away their lands.

For the most part, the Wends endured these injustices with inaction. However, when the Prussian government ordered the Wends to merge their Lutheran churches with the Evangelical Reformed Church into one Protestant body regulated by the state, it was time to rebel. Rather than dilute their pure Lutheran faith and give up their own language for German, many began talking about emigrating to the New World.

Their leader was to be the Rev. Johann Killian, a brilliant scholar and beloved pastor whose Lutheran faith was intractable. Rev. Killian had translated from German to Wendish many books, including Luther's Catechism and the Augsburg Confession. He also had written Wendish prayer books, sermons, tracts, and hymns. And he was dedicated to preserving the Wendish tongue against all assaults.

On March 25, 1854, a new Lutheran congregation was organized at Daubin, Prussia, with one purpose—to become the cornerstone of Wendish emigration. Rev. Killian was called to be the Moses for this 19th-century exodus to the Promised Land of Texas. A few Wends had come to Texas earlier, and another group had resettled in Australia. However, the glowing reports sent back to Lusatia by the Texas Wends apparently convinced Rev. Killian and his followers that the Lone Star State did, indeed, offer them an earthly Nirvana.

Just as Moses had warned the Children of Israel that hardships awaited them on the trek to the Promised Land, Rev. Killian told his flock that the long voyage to Texas would be anything but a vacation. Aware that disease and pestilence were prevalent and that many likely would die on the trip, he wanted as large a contingent as he could gather for the move. Nearly 600 Wends joined him the first week of September 1854, to move toward a new life in Texas.

The group went first to Liverpool, England, where Rev. Killian had managed to charter a ship, the *Ben Nevis*. It was a sturdy, three-masted vessel with as many amenities for travel as were available at the time. However, the ship was hardly under sail before tragedy struck in the form of cholera, and 15 of the company were dead by the time they reached Ireland.

At Queenstown, the ship put into port for quarantine and a thorough fumigation. It remained there for three weeks, as 23 others in the group died and were buried in Ireland. On October 22, 1854, the *Ben Nevis* sailed for Galveston and another 18 died at sea during that voyage. When the ship finally reached the Texas coast in early December, it was to encounter a yellow-fever epidemic raging in Galveston. One more died before the Wends could flee inland to the relative security of Houston.

While most of the survivors remained in Houston, two of the party went on to find a place for the settlement. They bought a league of land in Lee County on the banks of Rabbs Creek for 50 cents an acre and

sent word to Houston for the others to follow. They came, most of them on foot and a few in ox carts, stopping along the way to accept food and hospitality from Germans who already had settled in the area.

Once at the site of their new homes, their first order of business was to set aside 95 acres of the land for a church. Pastor Killian, who had stopped off in New Ulm until the new colonists could get settled, joined them to find a two-room combination parsonage and church awaiting him. He began holding services at once, and the new settlers, many of whom were located miles away, always managed to get there in their ox carts over nonexistent roads.

In the perspective of history, it does not appear that there was much in their "Promised Land" to inspire the settler's thanks. They arrived too late in the year to plant crops and so had to purchase most of their supplies from Brenham, 45 miles away. The next two years were drought years, and their crops failed. New illnesses attacked the colony, and more deaths followed.

Despite the hardships and sickness, however, the Wends continued to praise God for their good fortune. Texas gave them the two things they wanted most—the freedom to remain Lutheran and the right to speak their native language. Within two years, Rev. Killian had established a parochial school, the first and only Wendish school in the state, and plans were under way to build a new church.

In 1859, St Paul's Lutheran Church was a reality. It was a replica of the churches they had known in Lusatia—masonry walls three feet thick and the pulpit, located high above the altar. All of the work was done by the men of the community, and the wood was taken from the surrounding countryside. From the outside the church is barren, almost drab, but the interior is beautiful in its simplicity. After 122 years, it remains a center of Wendish life in Serbin.

St. Paul's and the other Lutheran churches established by the Wends around Texas remain a symbol of the religious freedom they were willing to leave their homeland to preserve. However, the native language that they hoped would always be spoken has all but disappeared. Songs are still sometimes sung in Wendish, and a few of the oldest residents speak a few words of the language. Over the years, however, German and English have become the spoken tongues of the Wends.

One who tried hard to preserve the language was John Andrew Proske, who deserves a footnote in history as America's first and only Wendish printer. Born in Prussia, he was 13 when he came with his family to Texas and worked for a while on his parents' farm. Later he learned the printing trade and started a newspaper, *Deutches Volksblatt.* Although most of the articles were in German, some were in English and Wendish, and thus the paper was one of the few trilingual publications in the world.

On August 29, 1929, Proske published a special edition of his paper on the 75th anniversary of the founding of Serbin. It is a date remembered in the community because it was also on that day that the last sermon in the Wendish language was delivered at St. Paul's Lutheran Church. In 1938, Proske sold his paper; later it was merged with one in Giddings. Now all of the Wendish type characters have been lost and the printed word in that language has become a lost art, at least in the United States.

Wendish traditions, however, live on. Even in today's pasteurized society, the true Wend likes his milk sour, and most families still have a wooden paddle they use to thin the clabber. Goose continues to be a favorite food, and Wendish farmers still know how to pluck that fowl's feathers to stuff mattresses, pillows, and comforters. Sauerkraut, long a delicacy in Wendish homes, is still made in the old family cook pot.

Although the old ways still are practiced among many residents, the Wends have become thoroughly Americanized over the last half-century. The coming of the automobile and the electric light changed the rural way of life so dear to the Wends of another day. As Germans, Czechs, Poles, and Anglos moved into what had once been all-Wendish communities, English became the predominant language. Intermarriages further decimate the group, and the true Wend has all but disappeared.

Through the Texas Wendish Heritage Society, however, many of the traditions of this unique ethnic group are being kept alive. And in communities like Serbin, Warda, Fedor, Loebau, Roeders Mill, and a dozen others, a little of old Lusatia, the homeland of the Wends, will exist in Texas for a long time to come.●

FOR REAL MONEY

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. PAUL. Mr. Speaker, following its brilliant editorial in the June 8 issue, "Bust the Money Trust," Barron's newspaper has surpassed itself by publishing another brilliant essay, "For Real Money." In this editorial, Barron's outlines its substitute for the Federal Reserve System: A true gold standard. Since this country once had a gold standard, and 100-year bonds could be sold at 4 percent interest under that standard, there is plenty of evidence supporting the desirability of perfecting that gold standard and establishing the reign of gold, rather than politicians, once again. By contrast, the period since the establishment of the Federal Reserve has included the longest and deepest depression in American history, the highest interest rates (more than twice as high as during the Civil War), the highest unemployment and mortgage loan rates, and repeated inflations and recessions. Anyone who examines the historical evidence for gold will have to agree with Barron's that we must have "real money."

FOR REAL MONEY

THE DOLLAR SHOULD BE AS GOOD AS GOLD

(By Robert M. Bleiberg and James Grant)

In keeping with the spirit of deregulation and economy in government, one of the most important federal commissions in Washington has never met and only lately has begun to assemble its personnel. Its unexpected mission is to weigh the future monetary uses of gold, a question that seemed closed forever with the gold window in 1971. For more than a decade, the nation's settled policy toward gold was that it had no monetary value whatsoever, except on occasion as a kind of ill-timed bait to bulls. According to one Administration after another, paper is money, the value of which shall vary according to the convenience of government—a doctrine as old as kings. Only lately has even the mildest organized dissent surfaced: in 1979, from the Senate Republican Conference, which asked that the issue be weighed again; and in 1980, in the Republican platform, which, without mentioning gold, made reference to the need for a "dependable monetary standard." Now the Gold Commission (sponsored by the doughty Jesse Helms, Republican Senator from North Carolina) will inquire into whether or not gold might make money respectable again.

A decade or more ago, on the eve of the great inflation, such an idea would have been unthinkable. Thus, in 1965, then-Secretary of the Treasury Douglas Dillon, apropos of the nation's gold reserve pronounced: "In the future, as in the past, the best assurance we can have that the supply of bank reserves will be neither so little as to stifle growth nor so large as to fuel inflation lies in a responsible and independent Federal Reserve System, functioning within a framework of responsible government." And in 1972, Rep. Henry S. Reuss (D., Wis.), sharing a light-hearted moment with then-Under Secretary of the Treasury for Monetary Affairs, Paul A. Volcker: ". . . [G]old should, as soon as possible, go the way of conch shells, stone wheels and beautiful slave girls as a method of holding reserves. . . ."

Ten years and billions of paper dollars later, gold has refused to go the way of conch shells—last year, reported Consolidated Goldfields Ltd., governments turned net buyers—but then neither has Rep. Reuss. Now the Congressman, as a member of the Gold Commission, will sit in judgment on the prospects for sound money. That's as if Prof. Irving Fisher, discredited prophet of the 1927-29 bull market, had been invited in 1932 to share his wisdom on the crash. In any case, the Commission will number 17, including seven members of the House and Senate (regrettably not including Sen. Helms), three from the Federal Reserve Board, two from the President's Council of Economic Advisers and four from private life. Chairman is the Treasury Secretary, Donald T. Regan. As we get wind of the appointments, only two gold stalwarts have been named—Rep. Ron Paul (R., Texas) and Lewis E. Lehrman, businessman and writer on central banking and the gold standard—but President Reagan is said to have wished them both godspeed.

Whatever the Commission finally decides, Barron's would like to go on record now. It strikes us that rarely in the past 15 years has the case for convertible money looked better or that for fiat money looked worse. This is an observation of fact. Treasury yields this year touched levels unheard of since the days before the Buttonwood Tree. Notwithstanding the recent and welcome respite from rising prices at home (and the dollar's unaccustomed strength abroad), something is plainly and fundamentally wrong. A compelling case for gold is the sorry performance of the system that by degrees, in 1914, 1934 and 1971, has displaced it.

The gold standard, pure and simple, is the fixing of the value of the dollar to a specific and unchanging weight of gold. At a price, the Treasury would buy all gold offered and

sell all gold bid for. Under the classical version of the gold standard, known as the gold-coin standard, the right of free conversion of paper and bullion would be available to holders of coins. The appeal of the system is its simplicity. If under the gold standard the demand for money roughly equalled the supply, people would hold paper because it weighs less. If, however, the supply of money exceeded the demand—if the Federal Reserve, for example, were buying the Treasury's debt out of thin air—people would let convenience go hang and queue up for gold.

In order to maintain its gold reserve, the Fed would have to stop creating credit. This signal to the monetary authority, as Lewis Lehrman points out, is unique and worldwide (if there *were* a monetary authority; there would not be a "legal tender" law). Gold, like any other commodity, seeks its best market. If its value were to fall here but rise in Great Britain, for example, coins and bullion would take ship for London, or be restacked in the vaults of somebody's bank. The beauty of the gold standard is the daily adjustments it permits. By contrast, under a fiat system, crises fester (witness the chronic imbalance in U.S. payments and the equally chronic federal budget deficit).

The case against gold seems to boil down to the following: the gold-coin standard was associated with periodic deflations at the turn of the century; a gold standard of any kind would redound to the gain of the two leading bullion producers, South Africa and the Soviet Union; there would be too much gold or not enough. Moreover (and broadly), the world has changed: in 1880–1913, for example, central banks of the gold-standard nations bought, or "monetized," very little government debt. And if that happy custom could be restored, why bother with gold? A paper standard would serve just as well.

Perhaps, but it never has before. The remarkable thing about the gold-coin standard is the stability of prices it yields. Thus in the U.S. between 1879 and 1913, when the annual volume of world gold production rose fourfold and the currency was fixed at $20.67 an ounce, the wholesale price index scarcely budged (taking five-year averages on either end). It is true that prices varied, sometimes by wide margins, from year to year, and that the mid-1890s brought one of the worst slumps in American annals. Yet one returns to the uncanny stability of prices over long periods. The monetary historian Edwin L. Kemmerer wrote of the U.S. experience under gold over nearly a century: ". . . [I]t is not a bad record. There is nothing that remotely equals it, as far as I know, in any managed paper-money experience." As for South Africa, nothing has suited her like the manic partnership of the Federal Reserve and Congress; a gold standard would remove the inflationary premium from the gold price and at the same time flush sizable hoards out of speculative hands. It strikes us that there would be enough gold. An unexpected finding in a study of the gold standard by Arthur I. Bloomfield ("Monetary Policy under the International Gold Standard: 1880–1914") is that the ratio of gold reserves to demand liabilities in Great Britain was probably less than 5 percent during the heyday of convertible sterling. Under a proper gold standard, almost nobody wants gold.

Concerning output from mines, Lehrman notes that it has tended to grow at 1½ percent–2 percent a year, on average, for hundreds of years, about in line with real economic growth, and a far cry from perennial expansion of Federal Reserve Bank credit of 8%–9%. Thus miners have made better central bankers than central bankers have. ". . . [A]ll this was achieved," wrote Bloomfield of the 1880–1913 experience, "in spite of a volume of international reserves that, for many of the countries at least, was amazingly small and in spite of only a minimum of international cooperation, or of international agreements or commitments, on money matters. This remarkable performance, essentially the product of an unusually favorable combination of historical circumstances, appears all the more striking when contrasted to the turbulence of the post-1914 financial experience. . . ." Bloomfield, incidentally, wrote in 1958.

If the gold-coin standard is worthy of us, are we worthy of it? Put another way, can we go on like this? The second answer is surely no. The point is well taken here that the date is not 1913, or even 1971, that the gold standard is only a technique and that nations in the past have subverted its discipline (and also its astonishing liberation of productive energies). When all is said and done, however, it remains true that gold-convertible currencies have tended to work and fiat-currency management to fail.

An oddity of the debate is that a gold standard is widely viewed as impractical, or quixotic, while unsecured paper is somehow seen as down-to-earth. In the light of the evidence, the presumption, we submit, should be the other way around. In 1972, Jacques Rueff, the distinguished French economist, was invited to testify before the Joint Economic Committee, which was holding hearings (Rep. Reuss presiding). Rueff, with his great charm, laid out the record of barren promises of reform of the U.S. payments deficit and suggested a Marshall Plan in reverse to relieve this country of some $51 billion in overseas official claims (a figure which now exceeds $115 billion). He said: ". . . I must state my conviction that, in the present circumstances, taking account of the existing situation in the world, the only practical solution is convertibility into gold. . . . Saying that, I don't want to be provocative. I know how deep is the anti-gold feeling in this country. But you asked for my views, and I must be sincere to you." Since that time Washington has monetized debt and demonetized gold, with results now dismally apparent on every hand. Isn't it time for a change?●

LINCOLN INSTITUTE STUDY ON POOR

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. FIELDS. Mr. Speaker, one of New York City's numerous dailies has recently printed an interview with Mr. Jay A. Parker, president of the Lincoln Institute for Reseach and Education. The Lincoln Institute is a nonprofit, independent, nonpartisan, public policy organization in Washington.

The institute was founded in 1978 to study public policy issues that affect the lives of black Americans. The findings of the institute are published in its quarterly journal, The Lincoln Review.

Mr. Speaker, I recommend this discussion to all who are truly interested in aiding the minority and poor population of this Nation, and providing them with liberating opportunities. Mr. Parker lucidly observes that the poor cannot be helped by making the country poorer. He also explains why the economic programs of the Reagan administration offer the brightest hope of opportunity and upward mobility for not only minorities, but for all Americans.

The interview follows:

[From the News World, June 15, 1981]

PRESIDENT PROVIDES NATION WITH VISION AND CLEAR THINKING

Q. What do you feel is the Reagan administration's main accomplishment to date?

A. Fundamentally, setting a new tone for the nation in the area of domestic policy and foreign policy.

The area of foreign policy is one of restoring our national defense and national security. Domestically, it is one of stabilizing our economy, revitalizing our economic condition and, specifically, the attempt to reduce the inflation rate and the high interest rates.

Q. What do you think of the administration contention that the only long-term way to aid the poorer minority communities is through programs that stimulate productivity and curb inflation in the economy as a whole?

A. As [Congressman] Jack Kemp R-N.Y., says: You can't help the poor by making the country poorer. Only if you develop a rising tide are you going to benefit everybody in the country. It has nothing to do with their level of income or their station in life.

The fact is that the state of the economy is disastrous. Something has to be done very quickly about it. There are very few housing starts out there now, the savings and loan business is at one of its lowest ebbs since the depression period, there is a general lack of confidence. This will not change until there is a certain amount of confidence. Wall Street has not responded yet. If Congress will respond to Reagan's proposal to revitalize the economy, it will go a long way in providing that confidence that the business community is looking for.

Consistent with this is reducing the inflation rate, which must be reduced radically, and the government must stop expanding the money supply and debasing the currency.

Q. Do you feel that there are adequate lines of communication between the Reagan administration and the black community? How does the Reagan approach compare to Carter's idea of having one minority specialist, Louis Martin, in the White House?

A. I find the whole notion of special assistant for minority affairs repugnant. I think we should be treated like Americans, and we should not be a special interest. It is not a matter of color or race or religion. It is a question of competence. It is a question of whether they are staunch patriots and whether they are going to represent my interests.

Q. How successful has the president been since he took office?

A. Very. The tone has been set, and that is the most critical thing. The president received the mandate on Nov. 4, 1980, and he

has moved ahead with that mandate, and he has taken his case to the American people. That fundamental confidence is there. Now it is just a question of implementing those things to clearly demonstrate to individuals—the consumer and also the business community—that we are moving in the right direction and things are going to be stable for a while.

The defense of our nation is going to be upgraded, fortified. That is very clear already—it is not even being debated at all. Not only is the tone there, but the substance.

But the questions of what to do about the economy, the specifics, have not been ironed out.

Q. During the campaign, some black leaders were charging that the election of Reagan would turn the clock back on the civil-rights gains. Do you feel this is happening?

A. Well, the fact of the matter is that it was being turned back already, simply because of the state of the economy, and the general state of affairs in our country. The economy, or course, has caused an erosion of much of the economic gains by blacks in this country, and inflation is probably the most discriminatory process that is going on right now. You actually have individuals being lopped off the bottom rung of the ladder because of the inflation rate today. Likewise the whole question of the relaxation in action against crime on the judicial and enforcement levels has also created a state of despair for a large section of the black community.

Q. Do you feel the administration has gone too far in cutting funds for welfare recipients and in cutting CETA programs and others that benefit the poor?

A. No, not at all. The government should not be in the business of providing long-term assistance to people, except for the Social Security system, which is supposed to pay for itself.

All these other programs should be handled at the state level. We have gotten so far afield that now there is the belief that the federal government has the responsibility for doing everything for everyone. And that is not the case and should not be the case. Reagan's block grant proposal will get the states and local communities involved in this process.

The old arguments presented by the Urban League and others can no longer be used about the block grant proposals. They [black civil rights leaders] are now finding that they will have to develop a relationship with governors, the state legislatures, mayors, city councilmen and the like.

This is an area that has been neglected by them for a large number of years. The Urban League, the NAACP and all the other national organizations have developed a strong lobbying operation in Washington, D.C., where they know all the pressure points, and have developed a network over the past 10 to 15 years. Now they'll have to go back to the basics and work at the local level, and they just don't have the organization to develop that.

Q. Do you feel that the need for these groups to work on the state level is part of their opposition to Reagan's proposal to give funds back to the states to spend as they see best?

A. That is the major part of it. That is the justification for it. They have developed such a sophisticated apparatus here in Washington, D.C., that they cannot justify walking away from it. It would just create too much of a hardship on them. They really have their act together here in Washington. The fact of the matter is that that is not the way it should be. That is why Washington has grown by leaps and bounds.

The justification for this central authority developed during the civil-rights era when it was clear that some states were not going to cooperate. Today you actually have more black elected officials in the South than in the North. You have more black elected officials in Mississippi, which was considered the worst state during that period, than in any Northern state. The situation has turned around 180 degrees. So there is no justification for the argument anymore that there is no way they can get their fair share at the state and local level.

This is something they have to come to grips with. The whole idea of "the Great Society" is dead. That pipeline in Washington is just not going to turn on the bucks anymore. It is the old notion that if you walk up to someone and offer them a billion dollars, they will seriously consider taking it, without considering the consequences. That is the sort of thing that happened during "the Great Society," and they were corrupted because the responsibility no longer existed at the local level. But we are going back to that responsibility again.

Q. What do you say to the argument that the Reagan administration is more interested in helping the rich than the poor?

A. It is a phony argument, a smokescreen, because the Reagan administration policy is one of generating that rising tide. The people who oppose the approach are those who are saying there is a shrinking pie, and we must concede that. The Reagan proposal is simply suggesting that there is an expanding pie and that we must realize a slice for everyone. That is the key.

The whole question of equal opportunity is one that presupposes opportunity. And that is what is missing in this whole discussion.

People somehow think that you can take a shrinking situation, and create more and better opportunities. This doesn't work. You have got to create more opportunity, more employment.

Q. Can you outline this "rising tide" philosophy more clearly?

A. The key is opportunity. I have been simply telling people that there are no opportunities out there. [Urban League head] Vernon Jordan told the University of Pennsylvania commencement on May 18 in a speech that there are very few opportunities out there, it is a mean, cruel world and all of that. That is the problem. We have got to get busy creating these opportunities. What to do about it? The only way to correct the situation is through the private enterprise structure.

Q. Do you feel the Reagan administration is correct in supporting the El Salvadoran and Guatamalan governments to protect the hemisphere from Marxist penetration?

A. I personally do. That is an American issue. It has nothing to do with black or white, it is all part of our military posture.

Q. How do you feel the administration has done on the appointment of blacks and Hispanics?

A. I really don't care whether they are black, Hispanic, white, plaid, male or female. I am only interested in the best person doing the job. I don't care if they are all black women, or white women, or black men or white men or a combination of all of the above.

I just have no time or patience for it at all. If I can find the genius who can get the inflation rate to a negative—and I am not pleased with simply getting it down to a low level, I want to get it to a negative for a period of time to give us some breathing room—and if that person can get the interest rate below 12 and then below 10, I don't care who he is or what he looks like. He can have horns and a tail. I just want to get it done.

People wanted someone to recognize a new vision and provide leadership once again which has been missing. That transcends all of this other Mickey Mouse nonsense that we engage in from time to time. That is why I applaud him for not having a special assistant for minority affairs. In the 1980s I don't think it is worthwhile. We will always have our ethnic communities, our different religions and the like. That is our diversity, the strength of America. But we are fundamentally Americans.

Q.—Are you in favor of Reagan's plan to cut taxes across the board 10 percent?

A.—Absolutely. I would like to see even deeper cuts in taxes and spending. We are only talking about cutting tax rates. Somehow this has not been driven home by the administration—all we are talking about is cutting back on the built-in rate of increase.

Q.—What about the argument that these tax cuts are going to hurt to the poor?

A.—Not at all. The argument is that the so-called working poor will not get as much of a tax cut, because there isn't as much of income. The notion stems from the idea that people can eat money, or put it in shoe boxes or something like that. But when people get more money at a very high level, they invest it or spend it. That money is going to work.

Q.—Is the administration doing enough to aid minority businesses in the inner cities like New York?

A.—The best thing that the administration can do, and the tone has been set for that, is going after and reviewing laws such as the Davis-Bacon Act, requiring workers on federally funded projects to be paid "prevailing wages." It has always been issues such as the minumum wage and progressive regulation which have served to discriminate against minority businesses.

In New York City alone, just the medallion to get a taxi cab is $65,000. In Philadelphia it is $33,000. Here in Washington it is just 100 bucks for the license to put your cab on the street. You'll see you'll have many more blacks driving cabs around here. What else more do you need?

The Davis-Bacon Act was proposed as a racial proposal in the 1930's during the Depression period just to keep black cheap labor out of the market and from competing with the white labor. And yet this has been supported and justified by organized labor in 1981. You'll never get Vernon Jordan and the others to address these questions.

Q. How do you rate Reagan's performance to date?

A. On a scale of one to ten, it is about 9. And that is only because I don't think that anybody is perfect. If he had had cooperation from Congress and from his own party and people like [Senate Finance Chairman Robert] Dole, whom I consider an obstructionist, and [House Speaker] Tip O'Neill and [Senate Foreign Relations Committee Chairman Charles] Percy, who I think is abominable, he could do better. These guys don't serve a useful purpose and have no benefit to the long-term interests of the black community and the country.

It is not just the Democrats but the Republicans. Bob Dole has caused some con-

cern to the Reagan administration all along, as to whether from his position as chairman of the finance committee he would go along with the president. He has proven to be a problem.●

SPECIAL MX IMPACT AID ASSISTANCE

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. SANTINI. Mr. Speaker, I am introducing special MX assistance legislation, and I would like to take a few minutes to describe what my bill is and why it should be enacted.

If MX is deployed on land, the consequences will be staggering wherever it is located.

As the Representative of the State which may well host a large portion of MX, I am particularly apprehensive about the impacts of the system on the land, the people, and the communities of my State.

If the Federal Government asks the great basin to bear the irreversible consequences of MX, we must ask it for an irrevocable commitment to help us mitigate those impacts. I would like to share with you why I feel special legislation is needed to facilitate MX economic assistance.

As a member of House Public Lands Subcommittee, I have spent the last year and a half reviewing the MX proposal in terms of the impacts on my State and the West. I am alarmed and I need your help.

MX will bring in at least 85,000 people during the peak year for construction. Regionally, this may be a small number, but in some Nevada rural counties the influx represents more than a 500-percent growth rate from the existing population. In MX's peak construction year, MX will create 60,000 jobs. But in the end, Nevada and Utah will be left with only 8,000 permanent civilian jobs. In peak years, MX will create a demand for 20,000 housing units. Yet, again after construction the MX housing demand will drop to 3,200.

The Department of the Interior reports that the most important impact of MX may well be inflation at every level. The DOI predicts that "Local government cost, especially labor and debt service will skyrocket." Capital shortages for local Great Basin governments will be severe. According to the Air Force's own Draft Environmental Impact Statement, "all counties in the deployment regions are ill-equipped, due to low tax bases and low property tax limitations, to raise the necessary moneys for infrastructure development." Because of the boom-bust nature of MX-generated growth, there is very little incentive for capital expenditures to meet peak construction demands. Again the Air Force says: "The potential for service level degradation in these areas is very high * * *."

Mr. Speaker, the bill I am introducing today will provide "targeted aid" for local communities affected by the deployment of the MX missile. This special MX economic assistance will come directly out of the Department of Defense's own budget and will flow to States and local areas to mitigate MX-generated impacts.

The communities of the Great Basin stand no chance of receiving timely impact aid for MX if they have to beg and borrow and plead with 14 different Federal agencies and 40 different programs for scarce Federal resources. In time of sever budget cuts for all domestic activities, these Great Basin communities will be literally swallowed if they have to compete with 48 other States and thousands of communities for diminishing dollars.

I would suggest that although sewers and schools do not rank alongside the MX missile as popular defense budget items, they are part of the same national defense responsibility and should be funded directly by the Department of Defense.

Mr. Speaker, the MX bill I am offering today is the product of many months of grassroots efforts by State and local representatives from Nevada and Utah. These local officials have worked diligently to draft a legislative product which will get the job done for the Great Basin.

Its concepts have been worked out in laborious detail with the Department of Defense and the Office of Management and Budget. This bill gives State and local governments the financial flexibility they need to mitigate MX impacts. At the same time, the bill gives the Federal Government the fiscal accountability it demands.

I believe my special MX assistance proposal provides a fair and reasonable mechanism for Great Basin governments to become partners with Uncle Sam in setting priorities for MX economic aid. I urge your support on this important piece of legislation. Thank you.●

LEASE SALE 53—THE DECISION IS CLEAR

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. PANETTA. Mr. Speaker, the decision on whether offshore oil exploration and production will be permitted along the central and northern California coast is expected from Secretary Watt by the end of this month. Far from being a parochial or narrow issue, the decision on lease sale 53 is awaited anxiously by many in Congress and by the other coastal States. The decision made with respect to lease sale 53 will be in a real sense the first test of the Secretary's commitment to the principles which he has espoused: The commitment to be a good neighbor and to give States a larger voice and greater responsibility in areas where they are affected by Federal policy. In many respects, the decision should be an easy one. The estimates of oil and gas in these basins are extremely low, only about a 10-day supply for the Nation at current rates of consumption. The risks to the environment, the fishing industry, and hundreds of local economies are very high. Clearly, both reason and the public interest demand a decision which will not open this pristine coastal area to unbridled development for a mere 10 days' worth of oil.

It is important to remember that the basins in question lie offshore some of the most unique and beautiful coastline in the entire world. Areas like Big Sur, Carmel, Santa Cruz, and Mendocino are renowned for the inspiration which they provide to resident and visitor alike. They are truly national treasures and must be protected from energy development which is not essential to maintaining other national values. It is also important to keep in mind that Californians are not opposed to offshore drilling per se. The State of California and the California delegation did not object to leasing of the 81 southernmost tracts of the Santa Maria basin, where resource estimates were high and the environmental risks were not as significant. California has a tradition of pioneering energy production in offshore drilling, but such development can not be pursued at any cost, it must be pursued responsibly.

In the best American tradition of resourcefulness and creativity, the local governments in the affected coastal areas have proposed an alternative to leasing in the northern four basins. This energy conservation production resolution, which has been unanimously passed by the counties of Santa Cruz, San Mateo, Marin, Humboldt, Sonoma, and Mendocino would require, through the implementation of county ordinances, conservation energy production which would be equivalent to the energy production available from the northern four basins through offshore drilling. This approach has advantages which go beyond the immediate concerns of lease sale 53 by making energy conservation an integral part of California's attempts to contribute to national energy independence. On behalf of California State and local officials, 19 members of the California delegation have joined me in urging President Reagan to meet with those bipartisan officials so that they may have the op-

portunity to express their concerns about the impact of this decision on their coastal jurisdictions and present their alternative conservation plan.

We are hopeful that the White House, in keeping with its commitment to listen to the views of State and local governments, will schedule a meeting with this bipartisan group before the decision on lease sale 53 is made. In spite of the recognized energy savings through conservation within the last few years, there is a tendency in some quarters to dismiss conservation as a merely symbolic effort. This is clearly not the case and I would like to share with my colleagues an article from the June 2, 1981, Washington Post.

A NEW ENERGY STRATEGY—CONSERVATION NEW POWERPLANTS POSTPONED OR CANCELED

(By Jay Mathews)

LOS ANGELES.—Sunset Ford's 13 acres of glistening automobiles used to gleam like a Hollywood movie premiere under arclights at midnight, a publicity and security device that helped make brightly lit car lots a symbol of Southern California.

In the last few months, however, Sunset Ford, with the encouragement of its local electric utility, has gone pitch dark at closing time. It has cut its use of electricity by 38 percent and installed radio-controlled switches on its showroom air conditioners, all symbolizing an unprecedented enthusiasm for conservation that is spreading to utilities and their customers all over the country.

Some West Coast utilities estimate that conservation has saved from 5 to 10 percent of their total electrical output. Others say they have been able to cancel or postpone plans to build new powerplants because they were no longer considered essential—because of conservation.

West Coast utilities, hardest hit by oil price increases and new constraints on nuclear power, have been the quickest to embrace new ways of saving energy. Portland General Electric Co. in Oregon has insulated nearly 16,000 electrically heated homes in the last three years, charging the owners nothing until they eventually sell the houses.

Pacific Gas and Electric Co. in Northern California has arranged low interest insulation loans for more than 23,000 homes. Southern California Edison has adjusted pumps on 100,000 swimming pools to reduce their drain on the system during peak daylight hours, a crucial matter in the conservation movement.

Eastern utilities have also begun to experiment. The New England Electric System has produced a plan to reduce its use of foreign oil from 73 percent to 10 percent in 15 years. The company proposes to conserve energy through such measures as remote control switch-offs on some consumers, burning trash to generate electricity and distributing 500,000 steel discs to cut hot water use in showers in half.

The Tennessee Valley authority has eagerly offered non-interest loans for home insulation to its customers. The Dallas Power and Light Co. began last month to offer large electric bill credit to customers who replaced broken down air conditioners with more efficient models.

The New England system found the decline in demand so great it decided it could scrap plans to build a huge nuclear plant at Charlestown, R.I., where they had been stymied in acquiring land anyway.

Pacific Gas and Electric ceased attempts to reopen a small nuclear plant near Humboldt, Calif., when it saw how successful the conservation effort seemed to be. The company also delayed by five years plans for a huge coal-fired plant in Solano County that would have provided enough energy to serve a city of 1.5 million people.

Although it is difficult to estimate how much conservation measures have saved nationwide, companies with the most aggressive programs put the amount at about 5 to 10 percent of their total output.

Pacific Gas and Electric Co. said it utilized the equivalent of 14.6 million barrels of oil in what would have been wasted energy in 1980, enough to provide 49,000 homes with electricity for 10 years.

Well-organized environmental groups on the West Coast have something to do with the surge here towards conservation, but several utility executives and economists say the principal motive is money. While America's consumers have been turning off lights and adjusting thermostats because of rising electric and fuel bills, utilities have seen the potential profits from building new power plants evaporate because of high interest rates and new environmental restrictions.

Conserving power, in many areas, has become cheaper than building new plants.

"The utilities look at it as dollars and cents," said Paul Greiner, a vice president of the Edison Electric Institute which represents investor-owned electric utilities. "If they can see a pay-back in one or two years, they'll do it."

Higher prices to consumers, said University of Wisconsin's economist Charles Cicchetti, have caused per capita use of natural gas to decline in recent years and per capita use of electric power to hold steady.

But in many areas, particularly California and the Pacific Northwest, Cicchetti said, "the utility cost is more than the price they can charge under regulations, so they are losing money on marginal sales, and conservation makes a lot of sense."

Some utility executives say the change has influenced what kinds of people seek jobs with them. Few top engineering graduates interested in construction work seek out utilities, because utilities can no longer afford to build new power plants. But applications from college and university graduates with interest and some training in conservation planning have multiplied rapidly. "We got 500 applications for one position," said Jim Mitchell, a spokesman for Southern California Edison.

Contractors are also adjusting rapidly to the changes. Prices have gone up for insulation in the Palm Springs area, where Southern California Edison has begun to offer no-interest loans.

The Tennessee Valley Authority had to alter its rules for no-interest insulation loans after home builders began to sell customers new houses at a discount without insulation and suggest new owners seek a TVA loan to finish the job.

In the Washington area, utilities say they have not been hit by an energy crunch quite as hard as on the West Coast and have not found the potential savings from conservation great enough yet to justify expenses such as subsidized loans for insulation.

The Virginia Electric and Power Co., however, has already reduced its projected peak demand for 1987 by 3,600 megawatts—the equivalent of four large generating plants that would have cost $7 billion.

Everard Munsey, a former Arlington County Board member now working for Vepco, said the company was encouraging conservation through higher rates in summertime, free inspections of homes to determine where insulation is necessary, guidance to builders on producing more energy-efficient housing and a program to encourage some industrial customers to generate their own power through use of steam and combustible by-products that are now wasted.

The company is also experimenting with remote-control water heaters, which could be turned off briefly during peak demand daylight hours by a radio signal or a signal sent over the electric power line itself.

Marcia Schnedler, a spokesman for Potomac Electric Power Co., said the utility does not plan to build a new power plant for at least 10 years. Pepco also is experimenting with radio-controlled water heaters and air conditioners and has begun to charge its largest customers a premium for power used in peak hours.

Cutting demand at peak hours reduces the need to build new plants at high interest rates, a principal stimulus for many of the utilities' conservation efforts.

"We're not as innovative as the West Coast utilities," Schnedler said, "but we are in a different position than they are." Pepco grew rapidly in the 1950s and 1960s; the growth in customers has slowed now. The company also initiated several conservation measures during the 1974 oil crunch that appear to have reduced the necessity for more conservation now.

According to Charles A. S. Hall and Cutler Cleveland at Cornell University, extrapolations of energy costs and gains from petroleum drilling indicate that drilling for domestic petroleum could cease to be a net source of energy by the year 2004 at low drilling rates and by the year 2000 or sooner at high drilling rates. The net yield will be less at higher drilling rates. Offshore drilling is a high energy intensive industry. As these scientists point out, in a recent article in Science magazine, "The time at which domestic petroleum will no longer, on the average, be a net fuel for the nation is not when all the wells run dry but rather at some point before that time when the energy costs of obtaining a barrel of oil is the same as the energy in that barrel." These findings underscore the importance of basing our energy decisions on the total picture. The evidence to date points to an increasingly prominent role for conservation as well as confirming the wisdom of targeting offshore oil exploration and development in areas where there is likely to be a high degree of success based on the resource estimates. Focusing in areas where the petroleum yield is likely to be significant makes a great deal of economic and energy sense, as does the proposal to meet energy needs through increased conservation. I am hopeful that after thoroughly reviewing the extensive documentation which has been gathered on lease sale 53, as well as current data on the energy costs of energy

production, the inability of the industry to fully utilize its current leases, and the unique coastal environment of the central and northern California coast, that secretary Watt will come to the decision that it is in the national interest for the northern basins to be excluded.●

THE 75TH ANNIVERSARY OF McGEHEE

HON. BERYL ANTHONY, JR.

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. ANTHONY. Mr. Speaker, Saturday, June 20, marks the 75th anniversary of the founding of McGehee, Ark. McGehee was founded in March 1906, by Abner McGehee, an Alabama-born cotton ginner and planter. Well, Alabama's loss was our gain, for Abner McGehee planted the seeds of growth and development in southeast Arkansas. This special city was transformed from a cottonfield by the railroad shops of the St. Louis, Mississippi River, and Iron Mountain rail lines which came there in 1905. Throughout its history, McGehee has been known in our part of the world for its agriculture production as well as for being a link on the railroad for North-South service to the Midsouth. Since its founding, some of Arkansas' finest leaders have hailed from McGehee. Its atmosphere of high morals, warmth, and pride seems to nurture the kind of people who end up returning that kind of character strength to the city. Today McGehee is a growing city of 6,000 who can testify to its efficiency, fortitude, and good old Arkansas spunk. The city of McGehee is a bright spot in the Fourth Congressional District of Arkansas. I would like for my colleagues to join me in celebrating the anniversary of this classic American town.●

IN OPPOSITION TO INCLUSION OF ADOPTION ASSISTANCE IN BLOCK GRANTS

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. OBERSTAR. Mr. Speaker, the use of block grants to eliminate many outstanding social programs in the name of local autonomy is a sham, but the sentencing of the Child Welfare and Adoption Assistance Act of 1980 to such an end is socially unacceptable and fiscally irresponsible.

The $10 million allocation for adoption assistance pales next to the $400 million per year of Federal AFDC payments to foster homes which care for the 100,000-plus children currently available for adoption. The adoption assistance program under the Child Welfare and Adoption Assistance Act has been successful not only in the placement of children in caring homes but in drawing attention to and help for the requirements of special needs children.

Whatever funding is trimmed from the adoption assistance program may well be added in the foster care column. While the mathematics may make little difference to some, it is the children who are the victims of this budget battle.

I recommend to my colleagues the following article from the May 30, New Republic and urge your opposition to the inclusion of the Child Welfare and Adoption Assistance Act into the block grant charade.

WILL WIDOWS BE NEXT?

Social legislation is rarely both humane and thrifty, but the Child Welfare and Adoption Assistance Act of 1980, which Congress may scuttle, was an exception. Under this law, subsidies are given to families who adopt children. This is good for the states because it helps reduce expenses for state-run foster homes. It is good for the families because it eases the financial burden of adoption, especially the burden of adopting a child with medical or psychological disabilities. And obviously it is good for orphans.

But the administration has persuaded the Senate Finance Committee to combine funds for this program with other social service funds in a block grant that reduces the total by 25 percent. According to a May 19 letter to the New York Times from Senate Finance Committee chairman Bob Dole, the block grant program stipulates that any state that reduces adoption assistance by more than 25 percent will lose federal money. But because the program no longer would be an entitlement program, but rather a series of "appropriated entitlements," it is now less likely that adoption assistance subsidies will increase to meet the real needs of families who adopt children. And most states likely will make the 25 percent reduction that the new law allows. As Daniel P. Moynihan, Democrat of New York, told his fellow senators on the Finance Committee before it voted to approve the block grant, "We are going to put these children in competition with the social welfare professionals and the administrators and the bureaucracies. . . . These children will lose out in the process."

Budget-cutting through block grants is shrewd policy. Senators and representatives don't want to seem like Dickensian villains, so nearly all of them voted for the Child Welfare and Adoption Assistance Act last year. How then could they turn around and reduce the ten million dollars that had been allocated for adoption assistance? By incorporating that money into a block grant and cutting 25 percent—it's up to the states to decide which 25 percent—from the total. A senator who voted to put adoption assistance into a block grant may now comfortably argue that the states should maintain payments to orphans at the expense of "welfare cheaters." The problem with this argument is that welfare cheaters do not obligingly separate themselves out from non-cheaters. They have to be found, which takes time and money. In the meantime, orphans will pay the price.

Cutting off adoption subsidies isn't just cruel; it's expensive. The Congressional Budget Office has estimated that the incentives for adoption provided in the Child Welfare and Adoption Assistance Act would reduce administrative costs for foster care by four billion dollars over five years. That may be optimistic, but many states with similar programs have brought these costs down significantly. In Oregon, for instance, subsidies to families of 509 children saved the state one million dollars in room and board over a period of three years. According to the North American Committee on Adoptable Children, the average cost per child per year in foster care is half that of the cost per child per year in institutional care. We all agree that family life is better than life in an orphanage. What the representatives and senators who settle this question in House-Senate conference next month should know is that it is also cheaper.●

DONALD L. SCANTLEBURY

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. HORTON. Mr. Speaker, last night, Donald L. Scantlebury, the Chief Accountant of the U.S. General Accounting Office and Director of its Accounting and Financial Management Division, unexpectedly passed away.

For the past 35 years, Don has served our country in various capacities in the GAO. He served with the Defense Division until October of 1964, and with the Field Operation Division as manager of the Washington Regional Office from October 1964 to June 1971.

He was past national president of the Association of Government Accountants, chairman of the steering committee of the joint financial management improvement program, and vice chairman of the National Intergovernmental Audit Forum. He was also a member of the Council of the American Institute of Certified Public Accountants and the executive committee of the National Council of Governmental Accounting.

He has received achievement awards from the Association of Government Accountants and the General Accounting Office, including GAO's highest award, the Comptroller General's Award. He was also the author of a number of articles on accounting and auditing subjects which have appeared in various professional publications.

In the years that I have been the ranking minority member on the House Committee on Government Operations, I have had many occasions to work with Don. During that time, the committee came to rely heavily on his expert advice and wise counsel con-

cerning Government financial and management issues.

Don Scantlebury has served the citizens of our country well. His presence will be missed.●

ON THE TUITION TAX CREDIT BILL, S. 550

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. DERWINSKI. Mr. Speaker, Frank Brown, professor of economics at DePaul University and chairman of the National Association for Personal Rights in Education (NAPRE), recently testified before the Subcommittee on Taxation and Debt Management of the Senate Committee on Finance, on the tuition tax credit bill, S. 550.

Professor Brown is an old friend of mine, and is well respected as a national spokesman on the subject of education. Therefore, I believe that his statement is worthy of special attention.

A REEXAMINATION OF PERSONAL RIGHTS

In urging government to make available an equitable share of the education tax dollar to all elementary and secondary school children, including those in church-related schools, the National Association for Personal Rights in Education (NAPRE), a 22-year old parental organization, emphasizes that our primary concerns are, first, with relationships, not between church and state, but between taxpaying parents and government, and, second, with the personal constitutional rights of parents and students to academic freedom and religious liberty in the distribution of the education taxes.

Unfortunately a U.S. Supreme Court majority has over the past few decades chosen to decide the question of the distribution of a share of these taxes to families in church-related elementary and seondary schools within the framework of church-state controversies and has in this connection developed three tests to determine the constitutionality of relevant legislation. Does the legislation have a secular legislative purpose? Does it neither enhance nor inhibit religion? Does it entail excessive government entanglement with religion?

We do not intend today to detail the specious reasoning of these three tests, but shall rather concentrate on a more fundamental error, namely, that the *Everson* opinion (Justice Hugo Black, 1947) from which these tests have evolved was itself tainted by gross misapplication to the division of education taxation of James Madison's Memorial and Remonstrance and Thomas Jefferson's "Bill for Establishing Religious Freedom in Virginia" and by unexamined appeals to religious controversies in Europe and colonial America.

Jefferson wrote his Bill, which was introduced into the Virginia General Assembly in 1779 and enacted with some amendment in 1786, to outlaw monopolistic tax support for any one church or any one religion. Madison wrote his Memorial in 1785 as part of a successful struggle to defeat in that year the efforts of the Episcopalian church to regain tax support for its ministers and churches. Not having sufficient political power to restore the tax monopoly which it had enjoyed in the pre-Revolutionary War period, the Episcopalian church had organized a coalition of Christian sects behind an Assessment Bill (1784) whose prime purpose was exclusive tax support for Christianity, with taxpayers being given the option of assigning their assessments to the religious society of their choice and with each such society, with two exceptions, authorized to make "a provision for a Minister or Teacher of the Gospel of their denomination, or the providing places of divine worship, and to none other use whatsoever."

These two documents overthrew what the people of the day understood to be an establishment of religion, namely, the practice of taxing the public for the exclusive support of the ministers and church buildings of one preferential church or religion, but Justice Black misapplied them to justify the denial of an equitable share of the education tax dollar to parents and students in church-related schools.

By no standard of scholarship can these documents uphold Black's views on the good way and the bad way of spending the schooling taxes, the good way by giving a monopoly to the state public schools and the bad way by giving tax equity to parents and students in church-related schools. By no standard of scholarship can the sometimes valid but often pesudo-scholarly attempt of Black in *Everson* to offer a definitive interpretation of the Establishment Clause support denial of tax equity to such parents and students.

Justice Black, in his appeal to religious controversies of the past, also overlooked the fact that the continuing American controversy over the schooling question is similar to those he described, because in the matter of schooling, which for many families is a matter of religious conviction, some powerful elements in this society have been able to politically enforce the view that the public school is a sufficiently valid tax-supported opportunity for all while many dissenters loudly and persistently dissent.

In its opposition to tax equity for children in church-related schools, the Black interpretation has also incorrectly cited the authority of the following expression from Jefferson's Bill—"That to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical." We submit that by any scholarly standards for the evaluation of the internal and external evidence of historical documents, Jefferson was here attacking a tax upon a citizen for the support of a preferred church or religion and that the Black interpretation wrenched this expression from context to deny a share of the education tax to students in church-related schools.

If Justice Black and his allies on the court did not get their justification for denial of tax equity to such students from Madison's Memorial and Jefferson's Bill, where then did they get it? We contend that their arguments are those of the dominant mid-19th century sects which, in establishing the state public school system,—a move influenced by many factors, not the least of which, as demonstrated by Professor Jorgenson of the University of Missouri and others, was Know-Nothingism, an intolerant Nativist crusade,—imposed on the American people a novel religious test whereby only those who would assent to the allegedly nonsectarian, but actually Protestant arrangement within the new state school would receive the benefits of the education tax, even their own.

Unfortunately many justices have brought to the court an unquestioning acceptance of the unwarranted claims of the public school. They accept this school as genuinely public, but, since all schooling is public in teaching academic subjects and private in imparting educational philosophies, there can no more be one public school than one public church. They accept this school as a secular institution, but there is no schooling that is not entangled pro or con with the ultimate commitments or religions of taxpayers. They accept this school as neutral and nonideological, but there is no neutral and nonideological schooling, a fact well-known to those who understand the schooling process. They accept the school as nonsectarian, but, in the division of a common tax, nonsectarianism has no more claim on the tax dollar than competing values. They have made some moves to de-Protestantize the public schools, but in the process have not moved toward educational neutrality but rather assisted in promoting secular humanism, an outlook on life which considers man to be the measure of the world and which is at swords' points with most religiously-oriented families.

This society needs a reexamination of the role of government (local, state, federal) in the distribution of the education taxation. Most members of the public school bloc seem to be terrified at any suggestion that they might have to compete on a democratic basis with other educators, but, as a force committed to freedom, our society should open up rather than keep closed opportunities for educational choice. It should keep in mind that the public school is the result not of academic excellence but of political power and that its tax monopoly is being held in place mainly by a U.S. Supreme Court majority which, in ignorance of the nature of schooling and of constitutional history, has usurped the valid authority of many legislatures which have sought to correct past injustices and to expand educational opportunity to all children, including those in church-related and other private schools.

Instead of concentrating so heavily on church-state issues, the reexamination should highlight the personal rights to academic freedom and religious liberty of parents and students. I should emphasize these personal rights under the First (Establishment Clause, Religious Freedom Clause), Fifth (liberty, property), and Fourteenth (liberty, property, equal protection of the laws) Amendments to the Federal constitution and relevant provisions of state constitutions. It should recognize that these personal rights of parents stand on their own constitutional merits and may not be minimized or destroyed by reason of any relationship between government and any church or school.

In this regard, since schooling is inextricably tied in with the religious commitments of many parents, the appropriation by government of a monopoly of the education tax for its own schools constitutes a violation of the Establishment Clause. However, by assuming that the public school is secular and neutral, the court has come to the grotesque conclusion that the Establishment Clause is violated not by the public school tax monopoly but rather by legislation trying to provide tax equity for long-suffering dissenters.

Again on the Establishment Clause our reexamination should make the necessary distinctions between the tax against which Madison and Jefferson inveighed and the tax involved in providing some measure of equity for families which might bring it to a church-related school. In the first case the state wills that the tax go to a specific preferred church or religion; in the second case the parent, and not the state, decides which school is to be the beneficiary.

The argument over the distribution of education taxes sometimes invokes the question of the secular function of the state. If secular function means that the state has obligations to see that the children of the society should learn reading, writing, and other academic subjects, then this definition can be accepted. But, if secular function is taken to mean that the state may tax a pluralistic public, including those who prefer religiously-oriented schools, and then offer the taxes only through a state school permeated with a secular humanism that is at odds with the values of many citizens, then this definition violates the religious freedom guarantees of state and federal constitutions.

Discussions of religious values in the schooling brings to mind one of the most significant changes in American education, namely, the present-day development of Christian schools. Their founders come for the most part from some of the religious sects which in the mid-19th century created the state public school as a nonsectarian Christian institution but now, disillusioned that their religious practices and values have been supplanted by secular humanism, they are leaving the public schools to form their own schools. Some critics attack these schools as racist, but, while some of them undoubtedly are, as are in fact some public and other private schools, it would be a grave mistake to ignore the reality that these schools are largely inspired by the desire of parents to provide an intensely academic and genuinely religious educational atmosphere for their children.

Our statement has necessarily concentrated on the religious rights of families in church-related schools, but it supports equally the academic freedom of families to have some sort of tax-supported choice to seek out worthwhile schooling for their children. This academic freedom is all the more important today in view of the tragic decline in educational standards brought about in many public schools, first, by the abandonment of traditional philosophies which consider the student as a person capable of developing intellectual habits of reasoning and judgment and the substitution therefor of an educational behaviorism that seeks to manipulate the child, and, second, by the expansion of accreditation procedures based on teaching methods rather than academic content.

In conclusion may we as a parental group active in the inner-city express our strongest support for the retention of the negative income or refundability provision of S. 550. The advocates of the public school tax monopoly maintain that the enactment of any sort of tax benefits to provide choice for parents, whether through S. 550, the tuition tax credit bill under discussion here today, or through some other method, will leave the poor stranded in low-level public schools. We think not. We think that the poor may well be the first to leave low-level public schools, as might be evidenced by the fact that already some 50,000 minority students are now enrolled alone in the Catholic schools of Chicago.

S. 550 is a step to educational freedom that is worth every cent.●

ST. GERTRUDE'S OF FAR ROCKAWAY, N.Y. 70TH ANNIVERSARY

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. SCHEUER. Mr. Speaker, St. Gertrude's Roman Catholic Church in the Far Rockaway section of my district will be commemorating their 70th anniversary on Saturday, June 20, with a dinner honoring two Rockaway community leaders: Mary Lu Plunkett and Sam Sperber. Donald R. Manes, the president of the Borough of Queens, has proclaimed June 20 St. Gertrude's Day in Queens County in honor of this small but dedicated congregation. I would like to share with my colleagues some of the heartwarming facts about the history of St. Gertrude's.

St. Gertrude's was founded in 1911, but did not have a permanent home until 1923 when the church was moved to the corner of Amstel Boulevard and Beach 38th Street. Father Fenarty became the first pastor of this small parish where Sunday collections averaged $14. First communion classes numbered 7, maybe 10. Children ready for the sacrament of confirmation were sent to a neighboring parish because St. Gertrude's did not have enough children to have their own ceremony.

Over the years, St. Gertrude's has been blessed with many distinguished and dedicated clergy, including Rev. Jerome Reddy who became Msgr. Reddy, the organizer of Catholic Charities for the Diocese of Brooklyn. The Rev. John F. Murphy was able for the first time to bring the parish out of debt. He called the chruch "The Little Cathedral of the Peninsula."

As the parish grew and the need for more assistance in serving the community became apparent, the concept of a team ministry was introduced. This enables parish members to be involved in the decisionmaking process by joining with the clergy in the parish council.

The team ministry has been successful in their work with a community that has grown in population but not in income. There is a lot of poverty in the area and many special needs which must be met regardless of race or religion. At present, a team ministry of Rev. William Rueger and seminarian Robert Lawsine, in conjunction with the parish council, operate a variety of services. Some of the social service programs initiated and run by St. Gertrude's are supper programs, a teen center, a summer day camp, food and clothing drives, a senior citizen center and counseling services.

Once again, St. Gertrude's has become a parish in debt—but always with a large heart, giving what it has to those in greater need, reaching out—an oasis for all in need.

Mary Lu Plunkett has demonstrated her concern and interest in the Rockaways by her willingness to devote time and energy to effectuate change in the area. Professionally, Mary Lu is the secretary to the Queens County Democratic Executive Committee, which is chaired by Donald R. Manes. As my Queens County colleagues will no doubt attest, any title short of "Ms. Democrat" will not suffice. Her lengthy service to the party has seen her weather the organizing of more dinners, cocktail parties, and meetings than I am sure she would care to remember. She is also a member of the Queens chapter of the American Cancer Society. Mary Lu resides in the Belle Harbor section of the Rockaway Peninsula with her husband John and here children Jamie and Steven and Steven's wife, Nancy.

Samuel Seymour Sperber has been a lifelong resident of the Rockaway community. Mr. Sperber grew up in Arverne where his parents, Esther and Hyman, owned a meat market for over 50 years. Sam attended Public School 42, Derech Emunoh Hebrew School, Far Rockaway High School, and Long Island University.

Since 1976, Sam has served as president of Dayton Towers Corp. Along with his volunteer work for St. Gertrude's, he also serves as the chairman of the Advisory Council, Mayor's Office for the Handicapped, president of AIDE (Advocates to Involved the Handicapped in Everything), and Deputy Grand Chancellor in the Knights of Pythias. In addition, Mr. Sperber has served as past chairman of the board of the Peninsula Regular Democratic Club, vice president of the Golden Age Council, and a founding member of the Alvin Marco Youth Foundation. His other affiliations include membership in the Golda Meir Chapter of Hadassah and the Rockaway Conference of Christians and Jews.

Sam Sperber resides in Rockaway along with his children Cindy, Michael, Laurie and her husband, Ron Tavlin. One of Sam's greatest joys in life is his first grandson, Ryan Evan.●

SAN MATEO COUNTY LEGAL AID SOCIETY

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. McCLOSKEY. Mr. Speaker, in the debate on the Legal Services Cor-

poration today, I made reference to the Legal Aid Society of San Mateo County, one of several hundred such organizations in the United States which receives funds from the Corporation.

A description of the Society's operations, prepared by my staff assistant, David Beaver, is appended for the RECORD.

Re: San Mateo County Legal Aid Society.

I spent a day and a half at the San Mateo County Legal Aid offices. (June 8 and 9) I talked with staff members, sat in on staff meetings and training sessions, and observed appointments with clients.

Mr. Peter Reid, Executive Director, and his staff were very helpful: answered all questions, and scheduled meetings to be more convenient.

Following are my brief analyses of each of several topical areas: Structure, Facility, Staff, Clientele, Caseload, and Community Outreach.

Also attached are Legal Aid Society newsletters, budget, and information pamphlet.

Of special interest is that every Society staffer said that inflation is hurting the poor more than anything else, and causing most of the problems. This backs up all your previous statements to this effect.

STRUCTURE

There are four Units, each with a Directing Attorney. They are: Domestic Unit (divorces, family violence), Senior Citizen Unit (age limit 60 years), Administrative Law Unit (welfare, social security, other government programs), and General Law Unit (consumer, debtor/creditor, landlord/tenant).

There don't seem to be many heirarchical conflicts. Directing Attorneys work with clients just as the paralegals do, and inter-unit referrals cause no problem. They're working on the problem of poor inter-unit communication.

At peak in 1960's, the Society had 5 branch offices; inflation and other (Prop. 13) cutbacks forced consolidation. Loss of personnel support from VISTA recently forced closure of Daly City branch. They admit that one center is most efficient, though not as convenient for citizens.

FACILITY

Society offices are in downtown Redwood City, on the main street. They are in an office suite above the Fox Theatre, built probably 1910. Entrance is single door off the street, into small reception area. Stairway and elevator to 2nd floor offices.

Office area is quite large—3 long hallways, with 25 small offices. Each full-time attorney or paralegal has own office, though part-time and summer employees share offices, or desks. There's a small conference room (seating 15 max.), law library, kitchen, and two large secretarial offices.

Facility is by no means plush: carpet is worn, and walls need painting. It is entirely adequate, however. They don't seem to be scrounging.

Each office is sufficiently equipped with desk, chairs, bookcase, other amenities. Again, not plush, but not "plywood on sawhorses" either. Most furniture looks 20 years old.

The telephone system is quite good: phone in each office, with intercom. Perhaps 30 in/out lines. Receptionist on first floor answers, screens, and refers all calls, in addition to handling foot traffic. (No advice is given over the phone.)

The secretarial offices are quite well-equipped: Xerox word processor, Selectric typewriters, complete filing system. 3 secretaries in Central Pool serve most attorneys. Senior Citizens Unit has own secretary/receptionist, and the four Directing Attorneys share another.

Law library has the basics: Legislative Digest, Calif. Reporter, Calif. codes, etc. courthouse is across the street, with more complete collection.

My general impression is that they haven't wasted any money on frills, but when justified (word processor, phones) they've spent what is necessary. Office is not overly crowded, but all available space is used. Facility perhaps best described as "adequate" or "sufficient."

STAFF

The Society employs 25 full-time and 6 part-time, of which 13 and 4 are attorneys, the rest paralegal and clerical. Some are VISTA volunteers, though not as many as in the past (VISTA cutbacks). Six law students were hired for the summer, at minimal pay. Volunteers and student interns have not been historically successful—training takes about 6 months to really be effective, and the students are not dependable, due to final exams and vacations.

This year's summer students were all assigned to landlord/tenant cases.

The least-qualified people are used wherever possible, so full attorneys' time can be spent where really needed. Paralegals are mostly in Administrative Law Unit, as work is more routine. All work is reviewed by a full attorney.

Spanish-speaking staff is actively recruited; there are 7 Spanish bilinguals in office. Interpreters are obtained from local groups, when necessary.

Turnover is high in lower positions, but most full attorneys stay for a long time—creates problem of few openings for advancement.

All staffers are relatively young: 4 senior attorneys are perhaps 35-40, the rest early 30's. Many have served in the Peace Corps, VISTA, or other such groups. All say that they get great satisfaction from their work, and the chance to help people; all have taken a personal involvement in the Center.

All are very up-to-date on laws and legislation in their specific field: each office is well-stocked with manuals and guides to housing law, or other relevant topic. Information, new case law, and other developments are regularly communicated, in discussions or in weekly case review sessions. Staff's experience shows in their knowledge of all aspects of the field, such as how specific landlords will act, how their counsel will build his case, how the judge will respond. With the large volume of cases, virtually every new case has an in-house precedent, and this experience is drawn upon.

Office atmosphere is quite informal, with good camaraderie.

All staff work very hard—little time wasted. 5 or 6 scheduled appointments per day for each, plus walk-ins and court appearances. A few seem really rushed and busy, but most are calmly productive.

Staff show personal concern for all clients, and always give the best assistance possible, regardless of amount of money involved. They rarely get too emotionally involved—even the most painful personal problems are treated as any other case.

CLIENTELE

Financial eligibility is set at LSC maximum allowable of 125% of poverty level. (Maximum because of high cost of living in area) Clients must live in San Mateo County. (These are the first screening questions asked when a client calls.) If client exceeds financial limit, case is not taken, although advice may be given, and sometimes a brief is prepared.

As all clients are low income, few have cars—most take SamTrans buses. Few have any significant assets, most are receiving some government aid. (If they aren't, they are encouraged to apply for any applicable program.) The clients I saw in my 2 days were more female than male, more minority races than Anglo, young (under 30) and with a family. (Generalizations) All showed respect for the presence of a lawyer, and most were either confused or helpless in the face of the complex legal process.

Many clients have additional complicating factors to their case—alcoholism, mental retardation, disability, very large families—these are the root causes of their poverty, and their legal problems.

No fee is charged to any client. They pay their own court expenses, unless they can get a Pauper's Exemption.

I was impressed that most clients, regardless of lack of sophistication or knowledge, understood and accepted that the legal process was slow and methodical, and that cases would often take weeks to solve. They didn't have the "do something now" attitude that could be expected.

CASELOAD

The following cases are not accepted: (1) Criminal matters; (2) those that would qualify for public defender or court-appointed atty; (3) potentially fee-generating (suits for damages, workmen's comp.); (4) bankruptcy (will advise, but will not prepare papers); and (5) wills.

Most non-qualifying cases are sent to Lawyer's Referral Service ($12/half hour). Receptionist screens all case intake and refers elsewhere if at all possible, to reduce workload. 1978 estimate was 5000 cases handled, 7000 referred.

Housing cases by far most common—mostly landlord/tenant (25-35 per week). Other significant areas are welfare, and family problems.

Number of landlord/tenant cases has almost tripled in last 2 years—efforts are being made to deal with all cases effectively. Most of these need very fast response (5-day eviction notices) and are handled as high priority. Regardless of workload, all emergency cases are taken immediately.

Cases are kept out of court when possible—negotiation is always the first alternative. In housing cases, they do all they can to keep tenant in home as long as possible.

Many cases are complicated by additional factors—it takes attorneys quite a while to unravel what really happened. Some have been years in the courts.

COMMUNITY OUTREACH

The Society makes strong effort to solve problems in the Community. They are restrained by LSC from political activity, but they do help people with rent control petitions, and routinely testify before local hearings on relevant matters. Currently suing Daly City, which turned back a Federal Housing Block Grant.

They also train local groups—Womens' Centers, Police, and counselors—how to handle specific problems, and what resources are available.

Example of community involvement is their working with police to encourage more

responsive handling of domestic violence; effort was quite successful.

There are two special-interest action groups in the office: one for Senior Citizens, one for battered women.

Newsletters and information sheets are distributed to most community centers and action groups—the primary sources of clients.●

SUPPORT REAUTHORIZATION OF LEGAL SERVICES CORPORATION

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. MILLER of California. Mr. Speaker, today Members of the House are considering a bill to reauthorize the Legal Services Corporation, an agency which is critical to the fundamental principle of equal access to the justice system in this country. The availability of legal representation for all, not just those who can afford to pay for it, is essential to assuring access to justice.

Justice Jesse Carter once wrote that the exercise of fundamental personal rights guaranteed by our Federal and State Constitutions is "not only guaranteed to those who have sufficient power and influence to enforce their recognition, but like the air and the sunshine, their beneficent attributes should be shared and enjoyed by the weak and humble and those who are struggling for their very existence." *Magill Brothers* v. *Building Service, etc.* (1942) 20 C. 2d 506, 522.

As Bernard F. Cummins, past president of the Contra Costa County Bar Association, has noted, "Legal Services fills an important need in our legal system by affording access to the courts to those often in acute need of legal redress, and who would otherwise be without adequate legal representation to exercise those fundamental rights discussed by Justice Carter."

Scores of organizations and individuals across the Nation have endorsed the continuation of the Legal Services Corporation. In California alone, 600 judges have petitioned the Congress to join them in endorsing the "concept of access to the justice system for all Americans" and "the reauthorization of the Legal Services Corporation to assure the continued delivery of legal services to poor people."

A broad range of agencies from the Contra Costa County Justice System have also joined together to strongly support the reauthorization and refunding of the Legal Services Corporation. The fact that there is agreement among such a wide range of justice system agencies—the board of supervisors, bar associations, judges, law schools, county attorneys, and law enforcement—demonstrates the importance of the continued commitment to legal services for the poor as an integral part of this country's justice system.

Correspondence from these groups follows:

In the Board of Supervisors of Contra Costa County, State of California

RESOLUTION NO. 81366

IN THE MATTER OF CONTINUED FUNDING FOR THE LEGAL SERVICES CORPORATION

Whereas the President of the United States has recommended that funds for the Legal Services Corporation be eliminated from the Fiscal Year 1982 budget and that the Legal Services Corporation be dissolved; and

Whereas this Board is deeply committed to the concept that all of our citizens have access to our justice system; and

Whereas our local Legal Services Corporation funded program, Contra Costa Legal Services Foundation, has helped provide desperately needed legal advice and representation to many of the citizens of our county who would otherwise not have had access to our judicial system; and

Whereas the need for civil legal services for the poor cannot be expected to be met, in Contra Costa County, as elsewhere, even to the minimal extent it is currently met without federal funding; and

Whereas we are concerned with the prospect that many of our citizens will be left with no access to legal advice or legal representation if legal services programs are eliminated: Now, therefore, it is hereby

Resolved, That:

1. The Board of Supervisors of Contra Costa County strongly support the reauthorization of the Legal Services Corporation.

2. The Board of Supervisors of Contra Costa County strongly opposes the elimination or reduction of federal funding to the Legal Services Corporation and requests that the national administration reconsider its plans on this matter.

3. The Board of Supervisors of Contra Costa County direct that copies of this Resolution be forwarded to Congressman George Miller and to other appropriate governmental officials at the first possible opportunity to advise them of the position and concerns of the Board of Supervisors on this matter.

Passed on March 31, 1981 by the following vote:

Ayes: Supervisors Fahden, Schroder, McPeak, Torlakson, Powers.

Noes: None.

Absent: None.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Board of Supervisors on March 31, 1981.

Witness my hand and the Seal of the Board of Supervisors affixed this 31st day of March, 1981.

J. R. OLSSON, *Clerk,*
(By Gloria M. Palomo,
Deputy Clerk.)

CONTRA COSTA COUNTY
BAR ASSOCIATION,
Walnut Creek, Calif.

RESOLUTION

The Board of Directors of the Contra Costa County Bar Association upon consideration of the proposed action of the Reagan administration to discontinue funding of the Legal Services Corporation has unanimously resolved to encourage President Reagan to reconsider such action. Such a decision can only have a detrimental effect on that large portion of American people who, but for the existence of the Legal Services Corporation, would have virtually no access to legal representation. Unfortunately, today, justice through appropriate legal representation often comes only at a significant cost. If the Legal Services Corporation is deleted, some very important protections will be taken from many of our citizens.

A free society will survive only if access to justice is available to all, not just to those who can afford to pay for it. Accordingly, we encourage President Reagan to reconsider the significant impact of such action and look elsewhere to impose budget cuts.

SUPERIOR COURT,
STATE OF CALIFORNIA,
Martinez, Calif.

RESOLUTION

The judges of the Superior Court of Contra Costa County, after considering the proposed action of the national administration to discontinue all funding of the Legal Services Corporation and to eliminate the program of legal services to the poor, have resolved that:

1. We subscribe to the concept of access to the justice system for all Americans.

2. We believe that legal services attorneys have helped provide access to our justice system for many citizens who would otherwise have had no avenue for the peaceful and lawful redress of grievances.

3. We believe that the professional representation by legal services attorneys of poor people who would otherwise not have full access to the justice system contributes to the orderly and efficient functioning of the court system.

4. We are concerned that many of our citizens would have virtually no access to legal advice or representation if legal services programs were eliminated.

5. Therefore, we strongly support the reauthorization of the Legal Services Corporation to help ensure a continued delivery of legal services to poor people and to assist in the effective administration of the courts.

We urge the national administration to reconsider its plan to eliminate the Legal Services Corporation.

Dated: April 2, 1981.

E. PATRICIA HERRON,
Presiding Judge.

CONTRA COSTA COUNTY,
OFFICE OF DISTRICT ATTORNEY,
Martinez, Calif., April 1, 1981.

Re Legal Services Foundation.

Hon. GEORGE MILLER III,
House of Representatives,
Pleasant Hill, Calif.

DEAR GEORGE: It appears that funds for legal services to the poor may be terminated. This is a shame.

Back in 1966-1967 when I was in private practice, I was chairman of the Legal aid section of the Mt. Diablo Bar Association. Legal aid at that time was on a voluntary basis. The Bar Association operated legal clinics at both the Walnut Creek Court and the Concord Court on alternate Wednesdays. These clinics were supposed to be staffed by volunteer private lawyers.

I found that a handful of lawyers had to do most of the work. I heard every conceivable excuse from the other lawyers in the Association why they could not be at the clinic and why they could not take on legal aid cases.

After a year of that, I became convinced that voluntary legal aid does not work. I was a proponent of, and, in fact, appeared before the Board of Supervisors, advocating the establishment of a funded legal aid service in Contra Costa County. The Legal Services Foundation was created.

It will be unfortunate if we go back to the way it was in 1966 and use volunteer legal aid. It didn't work then and it will not work in the future.

The disadvantaged need access to the justice system. Legal Aid is their vehicle—often their only voice.

I recognize the tremendous problems you have and the pressures of the Congress, but I hope you will do what you can to continue the funding to the Legal Services Foundation.

Very truly yours,

WILLIAM A. O'MALLEY,
District Attorney.●

GOLD, DOLLARS, AND PRIVATE CURRENCIES

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. PAUL. Mr. Speaker, I would like to call the attention of my colleagues to an essay that appeared in the June issue of Policy Report, a newsletter published by the Cato Institute in California. "Gold, Dollars, and Private Currencies" is a concise and incisive argument for the denationalization of money. Mr. White, the author of the article, points out that "Sound monetary policy is impossible in the same way that sound economic planning is impossible." In fact, monetary policy is a form of economic planning that is in the long run incompatible with a free society. We must seek the separation of the government from financial institutions, just as our fathers sought to separate the government from ecclesiastical institutions. Only if that is done can our free society hope to survive. The article follows:

GOLD, DOLLARS, AND PRIVATE CURRENCIES
(By Lawrence H. White)

The Federal Reserve System has quite properly come under heavy criticism in the last few years for its instrumental role in creating both the chronic inflation and the wild macroeconomic fluctuations from which the American economy suffers. This criticism has begun to take the form of a ground-level reconsideration of the theory of central banking. It is about time: A rethinking of the fundamental doctrines of monetary policy is long over due.

The most basic of the issues at hand is not whether the monetary authority should be compelled to follow some set of "rules" or should have discretionary control over the nation's money. It is not "this constitution" (one set of rules) versus "that constitution" (an alternative set of rules); it is not gold versus paper money. The fundamental issue is national monetary authority versus unhampered competitive market provision of currency. The idea of currency competition used to be called "free banking." It has recently been revived by F. A. Hayek, in the Wall Street Journal and elsewhere, under the name "denationalization of money."[1] Free banking was the leading topic of monetary controversy in Britain, the United States, and several European nations in the decades before national central banks, through political means, consolidated their positions as monopoly suppliers of base money.[2] The time is ripe for raising the question of competitive currencies.

There are at least three streams of thought on monetary policy.[3] There are (1) those who, like Milton Friedman,[4] would bind the monetary authority by means of an artificially designed set of rules of conduct, usually called by its proponents a "monetary constitution"; and (2) those who, like Keynesian writers, would allow the monetary authority practically unlimited discretionary power. There are also (3) those who, like Hayek, would do away with the monetary authority altogether. They would allow a market order to prevail in the monetary arena. Ludwig von Mises also belonged to this third tradition, the free banking tradition.[5]

ADVANTAGES OF COMPETITION

The case for a competitive currency system is akin to the case for competitive market provision of oil or any other commodity. It rests on the fact that a market system has two advantages over government monopoly: a price system for coordination and a profitability test for discipline. By means of an unhampered market price system a society can best turn the knowledge and initiative of millions of individuals to the satisfaction of consumer wants. A free market in privately issued currency would mean provision of the most desirable sorts of money from the consumer's perspective. There is every reason to believe that market currency would be the most convenient for transactions purposes, the most trustworthy, and—what makes it especially attractive—the most stable and likely to increase in purchasing power. An irresponsible issuer—one who inflated as much as the Fed has of late—would lose customers to his rivals. The Federal Reserve Board faces no such discipline.

Delegating control over the supply of currency to a monetary authority subjects us to the combined shortcomings of monopoly provision and central planning for the currency market: low quality product and unpredictable supply conditions from which there is no escape. Closing down the Federal Reserve System would yield benefits similar to those to be gained by closing down the Department of Energy. (Not that the Fed has never produced a dollar, in the same way that the DOE has never produced a drop of oil—quite the contrary. The Fed is more like a DOE that diluted the nation's gasoline in unpredictable ways.) Just as the best government energy policy is no energy policy, the best government monetary policy is no monetary policy.

Economists searching through the years for a "sound monetary policy" have been pursuing a chimera. "Sound monetary policy" is impossible in the same way that "sound central planning" is impossible. Hayek argues insightfully to the effect that central banking is a form of central planning: "A single monopolistic government agency can neither possess the information which should govern the supply of money nor would it, if it knew what it ought to do in the general interest, usually be in a position to act in that manner."[6] The proper volume and distribution of money for an entire nation can never be known to a single planning authority. The attempt by some economists to design a simple set of rules for optimal currency supply rests on enormous intellectual conceit. Only competition, to quote a nineteenth-century writer, can provide "the nice adjustment of the currency to the wants of the people".[7]

Many thoughful persons considering an end to the Federal Reserve fiat money system, either because of a principled adherence to a free society or because of an empirical recognition of the disruptive character of the system, have embraced the gold standard as a superior and viable alternative. They sometimes make the claim that the gold standard alone represents a "free market" monetary system or is alone consistent with a free society. It is therefore supposed to be incumbent on supporters of an unhampered market economy to call for redefinition of the dollar as so many grams of gold.

GOLD AND THE MARKET

Certainly an attractive feature of a gold-based monetary system is that it does not presuppose a monetary authority. The historical evidence indicates that the system works quite well without one. Competitive issue of bank currency on a gold-convertibility basis generates a stable and self-regulating monetary order.[8] The question of whether gold can justly claim today to be the free-market money, so that anyone calling for denationalization of money must be committed to gold, is worth examining. Discussion of such a question must by the nature of the case be conducted at a somewhat speculative level.

The free-market argument for gold runs something like this: (1) Gold spontaneously emerged as money in the Western world and persisted as money in the United States until its death at the hands of Franklin Delano Roosevelt in 1933; (2) the factors important for the emergence and persistence of gold are timeless; (3) therefore even today gold would spontaneously emerge as money in a competitive market setting. Any shortcomings in this argument must lie in claims (1) and (2). The trouble with (1) is that the historical record is not entirely lopsided on gold's behalf. The problem with (2) is that 48 years of being off the gold standard cannot be shrugged off. The past status of gold is not sufficient to guarantee its reestablishment as money.

The historical record is complicated by the fact that silver emerged and persisted as money jointly with gold. The triumph of gold over silver came at the hands of deliberate government policies or nondeliberate government price-fixing of the terms of trade between coins in the two metals. (The incidental fact that governmental mints monopolized the supply of coinage services does not, however, further weaken the market-chosen money status of the precious metals. The mints merely coined what the market process had already converged upon as media of exchange.)

The case for silver is strong enough that those who would have market determination of the monetary standard must be committed at least to allowing private issuers of gold and silver currencies to compete for patronage. They cannot preemptively enthrone gold. Once a competition among standards begins, however, there is no reason to limit the field to two candidates. The currency systems that private issuers might offer are many: (a) gold and gold-convertible currency; (b) silver and silver-convertible currency; (c) "symmetalic" curren-

Footnotes at end of article.

cy, wherein the currency unit is convertible into so many grams of gold plus so many grams of silver; (d) currency convertible into some nonmetallic commodity or basket of commodities, with token coinage; (3) convertible currency whose purchasing power is stabilized by indexation of the conversion rate, as envisioned by Irving Fisher;[9] (f) inconvertible currencies, perhaps purchasing-power-stabilized in the manner envisioned by F. A. Hayek;[10] (g) currency convertible into foreign government fiat currencies; and (h-z) as many others as monetary entrepreneurs might convince the public to hold.

Advocates of gold as free-market money must presume that gold would emerge from a competition among standards as the single predominant standard—why else advocate gold as such? Here we confront their argument's second shortcoming. The handicap that gold faces in the competition is that today, after 48 years of not being money, it is more or less just another metal. The "more" is what remains of its old reputation ("mystique" to those who don't understand it) as sound money. The "less" is its new reputation as a commodity whose purchasing power is subject to violent and erratic fluctuation.

It is true that gold still has the commodity usefulness and particular physical properties that enabled it (with silver) to emerge out of a state of barter as a universal medium of exchange, via the market process.[11] Gold coins are still portable, which is to say that they have a high ratio of purchasing power to bulk and weight, though today that ratio may be too high to make a full-bodied gold coinage convenient. They are nontarnishable and attractive and can be easily verified as genuine, though not so easily by today's populace as by that of the nineteenth century. But the question is not what would happen upon a return to a primitive premonetary situation. The arrow of time is irreversible. The question today is whether gold would outcompete other full-blown currencies. It is a question that cannot be answered until another question is settled: What becomes of that fiat dollar?

For any commodity to have become money—the most salable of commodities—it must have had prior exchange value. This is as true of the dollar bill as it was of gold. Before transactors began accepting it generally, they must have had reason to accept it at all. Gold was originally demanded for its ornamental value. The dollar bill derived its initial exchange value from its being a secure claim for—convertible into—gold. Only when paper currency was generally accepted in exchange was it possible for its issurer to suspend convertibility permanently and still retain the paper's exchange value.[12] Once the paper dollar became a general medium of exchange, the fact of its universal acceptance generated the self-reinforcing expectation-fulfillment process whereby it continued to circulate even after suspension. Each individual continued to accept dollars in the belief, ratified by experience so long as enough others acted likewise, that his dollars would be accepted elsewhere the next day.

It seems clear that neither gold nor inconvertible private currencies will emerge as money under present circumstances. Each transactor pursing his or her own self-interest finds it far too convenient to deal in a single standard for purposes of accounting and (so long as others are doing so) currency transactions. The persistence of the paper mark during the German hyperinflation between the wars seems to indicate that inflation must reach mindboggling proportions before alternative currencies can gain a foothold. It should be noted that the previously existing legal barrier to contracting in gold or other alternative currencies in the United States, the "Gold Clause" Joint Congressional Resolution of 5 June 1933, was removed by the Helms Amendment of October 1977.[13]

THE TRANSITION PROBLEM

A thorny question thus arises for those who would denationalize the American currency industry: how to make the transition away from the dollar standard. The dollar must initially be linked to any new standard, so that an unbiased competition among alternative new standards hardly seems possible. The route to a predetermined new commodity standard is straightforward: Have the Treasury lay in a stock of the commodity, establish convertibility of dollars into the commodity, withdraw Federal Reserve notes and token Treasury coins from circulation via conversion, and open the market to private issuers of coin and convertible banknotes. The route to a system of competing private inconvertible currencies is less clear. One way might be to do to the Federal Reserve note what Roosevelt did to gold: Have banks issue their own dollar-convertible hand-to-hand currency (these would be just like traveler's checks without the signatory bother and refundability) and coins, then suspend convertibility of these and other bank-issued near-monies (checking and savings account deposits, savings certificates, and so on) into Federal Reserve notes and confiscate the Federal Reserve notes in private hands. In any case some resolution would have to be found to an important problem that troubled American free banking advocates in the 1830s, that of discovering a means by which the federal government could avoid favoritism among privately issued currencies in its own fiscal dealings.

Were the first route taken and a new metallic or commodity standard initially adopted, it is no more likely that privately issued inconvertible currencies could gain a footing than it is that they can gain a footing against the fiat dollar. While the commodity serving as the new standard would have been chosen outside the market, as it were, monopoly competition from other commodities would not be foreclosed. It is not implausible to postulate that another metallic standard might eventually supplant the metallic standard initially chosen. Full-bodied coins of different metals might well circulate in parallel, it being convenient for portability reasons to mint coins of lower purchasing power from less precious metals. It might then be possible for different banks to market notes convertible into the different metals, whose exchange-values would float against one another. Out of that situation the market process might converge on notes convertible into a single metal as the general medium of exchange; the metal need not be the one into which the old Federal Reserve notes were converted. It is also conceivable that parallel standards would persist.

Were the second route taken and inconvertible currencies initially adopted, it is similarly unlikely that commodity-convertible currency would gain a footing against them. Since an issuer offering convertibility could not afford to pay interest on currency and deposits quite as high as that paid by competitive issuers of inconvertible money, having to hold commodity reserves where they hold only earning assets, he would have to attract customers on the basis of superior purchasing-power reliability. His notes would fluctuate in value, however, with the relative price of the commodity to which they were claims. Until that commodity became the monetary standard, it would not enjoy the stable demand facing a monetary commodity. Nor could he vary supply at will so as to offset the impact of demand changes on price. The notes would therefore probably not be reliable for purchasing-power stability.

Bank-issued private currencies would float against one another unless convertibility into some common medium, or purchasing-power stabilization in terms of some common commodity basket, were adopted. A pegged exchange rate system among rival issuers would clearly be in no issuer's self-interest under inconvertibility. A bank pledged to trade its rival's inconvertible notes at par could be forced to accumulate them ad infinitum by a more expansive rival, and in any event would have to hold costly reserves.

A joint-float arrangement might nonetheless emerge via an invisible hand or market process of the following sort. Each issuing bank would most likely find that it did better business by accepting the notes of other issuers at market value (rather than refusing them) from customers making deposits or repaying loans. A pair of issuers might next discover that both did better business by accepting one another's notes at a fixed parity, thereby sparing their mutual customers calculational difficulty and exchange risk.[14] Other issuing banks might later join them. These issuers would at the same time have to enter into a mutual clearing arrangement for settlement of accumulated balances of one another's liabilities. Each member bank would have to pledge to honor his liabilities at a rate fixed in terms of some common medium, so as to obviate the forced-accumulation problem. Adverse clearing balances would be liquidated by transfer of the clearing medium, loss of which would automatically signal to the relatively expansive issuer the need for greater restraint.[15] It is unlikely that, in this day and age, gold would be chosen as the clearing medium. Treasury bills, or some other low-risk earning asset that virtually all banks held to begin with, would more likely be used.[16]

THE POSSIBILITY OF INFLATION

It might be urged against a system of inconvertible private currencies that it leaves the money stock "unanchored," making any rate of inflation possible. It is true that the adverse clearing mechanism within a joint-float arrangement would not, in and of itself, check whatever rate of growth in nominal money stock was common to all issuers. Neither would issuers anywhere within a system of private inconvertible currencies be legally bound to noninflationary issuing policy. This problem in fact arises in any inconvertible currency system. It is with us under the Federal Reserve System. The nominal money stock in the United States today is "anchored" only by whatever constrains the Fed from expanding the monetary base. A commodity-convertible currency system, on the other hand, while it need not worry about an unrestrained expansion of base money, suffers purchasing-power drift with growth in the stock of the base-money commodity. The drift may be considerable under the impact of new ore field discoveries or breakthroughs in mining technology if the monetary base is metallic.

Under any standard the ultimate safeguard against chronic inflation is competition or potential competition from non-inflationary alternative standards. An open-entry system of private issue, whether of convertible or inconvertible currencies, offers the widest scope for competition among standards. This is true even though the choice of a transitional path away from the dollar will determine the standard likely to prevail for some time. The present system of preemptive state fiat issue, by contrast, leaves us nowhere to turn while the purchasing power of the dollar is progressively diluted.

The overriding goal of modern monetary reform, then, should be privatization of currency. To shine the spotlight on goals would be to divert attention from the primary issue. Reestablishment of gold convertibility for the U.S. dollar is neither a necessary condition for denationalization of money in the United States nor—if the most enthusiastic gold advocates be believed—a necessary condition for reemergence of the gold standard. That it is nowhere near a sufficient reform hardly needs arguing. To link currency to gold is not yet to divorce currency from the state. If the issue of currency is left as a monopoly in the hands of the national monetary authority, there remains much power for mischief despite the golden handcuffs. The historical record of the gold standard indicates that while it does provide a long-run check on the inflationary powers of a central bank, it does not prevent the central bank from engineering short-run expansions sufficient to generate severe business cycles. The long-run check, moreover, is only as good as the central bank's commitment to conversion at the traditional parity. State-sponsored central banks have been notoriously fickle in that regard, especially when confronted with state demands for wartime inflationary finance.

A gold standard, like any other standard, realizes its full potential for supporting a self-regulating monetary order only when coupled with a free banking system. A return to gold without an end to monopoly currency issue would at best be no more than half a victory. At worst it might foreclose the opportunity for full-fledged reform.

FOOTNOTES

[1] F. A. Hayek, *Denationalization of Money,* 2nd ed. (London: Institute of Economic Affairs, 1978). F. A. Hayek, "Toward Free Market Money," *Wall Street Journal,* 19 August 1977.

[2] Lawrence H. White, "The Free Banking Question in the British Monetary Controversies, 1822-1845," unpublished ms. (October 1980); Vera C. Smith, *The Rationale of Central Banking* (London: P. S. King, 1936).

[3] E.g., by John Hicks, "Monetary Theory and History—An Attempt at Perspective" in *Critical Essays in Monetary Theory* (Oxford: Clarendon Press, 1967).

[4] Milton Friedman, *A Program for Monetary Stability* (New York: Fordham University Press, 1960).

[5] Ludwig von Mises, *The Theory of Money and Credit,* new ed. (Irvington-on-Hudson, N.Y.: The Foundation for Economic Education, 1971), p. 312; idem, "Monetary Stabilization and Cyclical Policy" in *On the Manipulation of Money and Credit,* trans. Bettina Bien Greaves (Dobbs Ferry, N.Y.: Free Market Books, 1978).

[6] Hayek, *Denationalization of Money,* p. 98.

[7] Samuel Bailey, *A Defence of Joint-Stock Banks and Country Issues* (London: James Ridgway, 1840), p. 99.

[8] Lawrence H. White, "Free Banking in Scotland Prior to 1845," unpublished ms. (August 1979).

[9] Irving Fisher, *Stabilizing the Dollar* (New York: Macmillan, 1920).

[10] Hayek, *Denationalization of Money,* pp. 55-62.

[11] Carl Menger, *Problems of Economics and Sociology,* ed Louis Schneider (Urbana: University of Illinois Press, 1963).

[12] Note that under a system of plural competitive issuers of gold-convertible currency no one issuer can suspend convertibility and yet keep his paper in circulation. Any suspension is, moreover, an actionable breach of contract.

[13] See J. Huston McCulloch, "The Ban on Indexed Bonds, 1933-77," *American Economic Review* 70 (December 1980): 1018-21.

[14] Suggestive of this possibility is the fact that the major U.S. airlines voluntarily accept one another's tickets at face value.

[15] This process may explain the emergence of Boston's Suffolk Bank System for note-clearing in the early nineteenth century.

[16] Exchequer Bills were used to settle note-exchange balances during the free banking era in Scotland.●

PRESIDENT REAGAN'S TAX CUT PLAN IS CRITICAL TO OUR ECONOMIC RECOVERY

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. FIELDS. Mr. Speaker, President Reagan, in his nationwide press conference, noted that it is sheer demagoguery to suggest that his economic recovery program will help only rich Americans, at the expense of middle- and low-income taxpayers.

Mr. Speaker, I believe that the President has once again accurately reflected the sentiments of the American people who have suffered for far too long under the twin burdens of big Government and high taxes.

At a time when all Americans should be uniting to solve our economic problems, I am distressed that some of my colleagues spend more time unfairly attacking President Reagan personally, as well as his policies, than they do in working with the administration to create the better America I believe we all want.

The people living in my congressional district are tired of our past misguided economic policies which have resulted in their having to work more that 6 months a year to pay their ever-increasing taxes. They are tired of having to live with persistent double-digit inflation which is destroying their lives and making paupers of us all. And they are tired of having the Federal Government tell them how their hard-earned income should be spent.

The message the American people left with us November 4 is still loud and clear. The American people want less government; they want less taxation; and they want to give President Reagan's entire economic recovery program an opportunity to work.

Mr. Speaker, nearly 20 years ago, President John F. Kennedy, in a speech urging enactment of his own across-the-board tax cuts, said that "a rising tide lifts all boats."

Mr. Speaker, history has proven that President Kennedy was right not only about rising boats but about the enormous positive effects of significant marginal across-the-board tax cuts. I am convinced that if given an opportunity, President Reagan's tax program will restore economic prosperity to this great Nation and will allow each and every citizen to begin working for himself and his family once again.

The Reagan tax cut plan is not a welfare-for-the-rich scheme, but instead is one based on the sound economic principle which demands that those people who pay the majority of the taxes in this country receive the majority of the benefits. Under the President's plan, those individuals in the middle-income brackets, who now pay 72 percent of the tax burden, will receive 73 percent of the tax relief.

Mr. Speaker, you owe the American people an opportunity to enjoy the benefits of the President's tax cut plan. They deserve the freedom to choose for themselves how their money will be spent.

Mr. Speaker, at this point, I would like to enter into the RECORD an excellent article written by economist Paul W. McCracken which appeared in the June 10 edition of the Wall Street Journal.

The text of this article follows:

REAGAN'S TAX PLAN MAKES SENSE

(By Paul W. McCracken)

Would a tax reduction along the lines of the President's proposal be a fiscally responsible action in this session of the Congress? It is this part of the President's program that has produced the most skepticism.

In the static sense, those skeptical of the President's tax program would have a case for at least two reasons. The fact is the economists simply do not know for sure to what extent movements in the economy are caused by fiscal policy, by monetary policy, by "external shocks" or by destabilizing forces internal to the private economy itself.

On these matters the profession has been all over the map during the last several decades. At one time it was assumed that the task of those managing monetary and budget policies was to counter the tendency for the private sector "on its own" to ricochet from boom to bust. Then we decided that the private economy was reasonably stable except when drawn off course by erratic economic policies of government.

At one time we were sure that monetary policy did not matter much, and fiscal policy would deliver sustained prosperity. By a decade ago monetary policy occupied center stage, and the old conventional

Keynesian fiscal policy wisdom (as usually happens to old conventional wisdoms) was on the defensive. In recent years, however, the relationship between the money stock (however defined) and the pace of business activity began to blur—encouraging the agnostic view that what we know for sure about these matters remains limited.

With uncertainty about the relative influence on the economy of the Federal Reserve's monetary and credit policies and the government's fiscal policies, prudence would seem to dictate caution about sharp changes in any policy.

DANGEROUSLY LOW SAVINGS

Moreover, in our low savings economy, large budget deficits do crowd markets. The U.S. is now a dangerously low-savings economy, not only relative to such countries as Japan and the Federal Republic of Germany but relative to our own historical performance.

The problems with which economic policy must come to grips, however, are far more fundamental and dynamic than leaning against the zigs and zags of the normal business cycle.

The American economy seems to have lost its vigor, operating for years with rates of unemployment, inflation, and particularly gains in productivity and real income that compare unfavorably with our own history and with other economies of the industrial world.

The causes of this deteriorating economic performance are numerous and deep, but two are clearly related to the fiscal operations of government. One is that because of inflation and our archaic accounting conventions, the federal government is collecting corporate taxes on fictitious profits, thereby contributing to the low-investment tendencies of the economy. National income data suggest that we are understating the cost of capital currently expiring by about $17 billion per year. If the profits taxes paid on these nonexistent profits were instead going into more capital formation, the economy would be less afflicted with a productive plant that is now too small and too old.

Another basic source of our troubles is that we have gone too far in making income available without regard to whether the recipient earned it through productive activity that enlarges the output of goods and services. This process shows up in the federal government's budget. If projections in President Carter's January Budget Message (adjusted for the usual initial underestimates) were to be realized for fiscal 1982, the rise in total public spending at all levels of government would have been equal to half or more of the projected increase in the total national income.

The tandem strategy that says we must first hold down spending until a budget surplus is achieved before considering tax reduction is in a sense unexceptionable. We would thereby have won the right to a lower tax burden.

It also has a major flaw. It does not work.

Experience shows that this strategy leads not to a budget in the black, but to a budget with outlays and revenues both higher than would otherwise occur. It is a strategy that, particularly in recent years, has produced a public sector absorbing a large proportion of increases in the national income. It is the ineluctable end result because it is a strategy which in essence says that government has first claim on earnings, and those earning these incomes must make do with the remainder.

It makes sense, therefore, to try the opposite strategy. The thrust of public policy should be shifted toward giving higher priority to those doing the earning and producing and saving, with the public sector being required to accommodate to that part of their earnings that people are willing to have spent collectively. If that is to be the strategy, the trail should be blazed far enough ahead so that the private sector can have enough confidence to alter its long-range plans.

This is the real significance of a three-year tax proposal. The effort to limit the tax program to one year, if it were to be successful, would be a major victory in the effort to avoid that fundamental change in the direction of national policy so essential to start the process of economic revitalization.

This the "big spenders" understand well enough. If they can hold the tax structure essentially intact, they win. In the years ahead more money would then be spent on more public programs than if government commits itself to a tax reduction program with a multi-year time horizon—long enough so that people and businesses can start to make the basic plans that this arthritic economy needs. This is why conservatives genuinely concerned about budget deficits find that they are joined by the spenders in trying to limit the scope of tax reduction—the spenders also, of course, voicing concerns about deficits, which have caused them little loss of sleep for decades before this year.

In fact, the President's program might be criticized for its modesty. As for taxes on corporate income, the administration priced out its recommendations at a $2.5 billion tax reduction for this fiscal year and $9.7 billion for fiscal 1982. For an economy whose capital formation ought to be running $50 billion per year above current levels, if it is to get back on the track, these are not extravagant figures.

Moreover, if the National Income Accounts estimates are reasonably correct—that we are underestimating the cost of capital currently expiring by $17 billion per year—it is not until fiscal 1983 that the administration's tax program would get beyond eliminating this tax on phantom profits. It's a tax which we should never have been collecting in the first place. (It has been the most clear-cut case of a penalty tax on economic progress.)

INCORRECT IMAGE

Clearly the most controversial part of the President's tax program is the proposal pertaining to individual income taxes. The administration has been talking to conservative House Democrats about the possibility of fashioning a three-year cut with figures different than its original proposal of a 10 percent reduction in three successive years. Whatever three-year package results from this process, it is here that the image emerges of revenues going *down*.

For the sake of argument, we will work with the administration's original 10-10-10 proposal and address the opposition's assumption that revenues will go down a like amount, or 30 percent. This is not correct. The administration projected revenues from individual income taxes at $311 billion in fiscal 1983, 27 percent above the $244 billion realized in fiscal 1980.

What the President's proposal here does is little more than to neutralize the tendency for a progesssive tax rate structure over time to increase the proportion of the national income going for taxes as the national income rises (either because of inflation or rising real incomes).

We see this clearly by comparing the projections for future years by President Carter in his January Budget Message and President Reagan's projections. In fact, with the President's tax package the proportion of aggregate personal incomes going for individual income taxes in the next fiscal year would be about a half of one percent only below that in 1980, and with full implementation of the program by fiscal 1983 the proportion would be only one percentage point lower.

INDIVIDUAL INCOME TAX RECEIPTS AS PERCENT PROJECTED PERSONAL INCOMES

Fiscal year	Carter	Reagan
1980	11.7	11.7
1981	12.1	11.9
1982	12.6	11.1
1983	13.1	10.7
1984	13.8	10.6

Sources: Basic data from: "Budget Message of the President, January 1981" and "Fiscal Year 1982 Budget Revisions."

What 10-10-10 essentially does, in short, is to avoid an unlegislated increase in the proportion of people's earnings which would accrue to government from inaction. This is clearly evident in the Carter budget, which projected a persistent rise in the share of incomes going to the tax collector.

The President's tax program, in short, is an essential element in the strategy to regain control of spending as well as to revitalize the economy. The spenders understand this. Hopefully the conservatives will also.●

HYMAN BOOKBINDER SPEAKS OUT ON THE POLITICAL CHALLENGES AHEAD

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 18, 1981

● Mr. FRANK. Mr. Speaker, last month's edition of Moment magazine carried a particularly relevant interview with Hyman Bookbinder, the 31-year veteran of the Washington scene and now Washington representative of the American Jewish Committee. As a committed advocate of Federal programs to promote social justice and an insightful analyst of the current political climate, Bookbinder offers some helpful comments about the challenges of the new right and the task before those of us who value basic social reforms.

Hyman Bookbinder's comments about ways to combat the threat of the moral majority and about the continued viability of black-Jewish relations will be of interest to all Members.

I take this opportunity to congratulate the contribution of the American Jewish Committee under the direction of Hyman Bookbinder for its efforts to interject sound reasoning into this Nation's public policy.

The article follows:

Here it is, April, and the new Administration is off and running. What's the mood among the defenders of the old-time liberal religion, which, I presume, includes you?

Yes, I still proudly wear the label "liberal," even though it becomes less and less clear just what the label stands for. I think what we're finding, especially over the course of the last few weeks, is that the liberals really lost the election. In some ways, it's rather stark: budget cut proposals, confusion over human rights and things like that. But it's still too early; no absolute assessment is possible or is being offered at this point. And that's in part because the liberal leaders, in Congress and elsewhere, have not yet provided anything that resembles a coherent alternative. The battle is being waged on specific things, but no one is saying "This approach is better than what we now see coming from the Administration."

Doesn't that suggest that liberals have been without a comprehensive program for some time? This disarray is not merely political; it's ideological, too. The election merely revealed a condition that existed before the election, didn't it?

I wouldn't put it that way. With all the confusion and ambiguity that surrounds the so-called liberal program, I believe that even during these difficult, uncertain years, there was a basic liberal credo that has held up. I know that's unfashionable to say these days, but the idea that our complicated economic and social system requires a significant amount of federal intervention and involvement still holds true, despite the disappointments we've had over certain aspects of that intervention. The liberal believes that the major social goals—a greater measure of justice and equity, and so on—require a fairly active federal involvement. The other side—call it conservative, call it what you want—believes that the last 15 or 20 years prove that such intervention is not helpful. I personally, in my traditional view, hold to a position somewhere between these two: there is need for major intervention to secure social justice, but we've become lazy and unimaginative and uncreative in examining and evaluating and modifying specific programs as we go along. And that's given the whole idea of intervention a bad name.

But doesn't that suggest that it's time to go back to the drawing boards and rejustify the liberal program, a kind of ideological sunset act? For if what you're saying is correct, the last years of liberal power were fueled by inertia rather than by coherent approaches.

I think that's true, but another thing that's true and that modifies what you've said is that there really haven't been substantial failures in the programs the liberals have put forward these past years. I do not know of any major failure. What are the areas where there have been major failures, or major misconceptions? The generalized indictment comes because we look at America in 1980, in 1981, and we see that there's still a lot of unemployment, there's a growing underclass, there's a breakup of families—we look at these horrible, disturbing facts and then we come to a generalized assertion that everything we've done over the last 15 or 20 years has not prevented these conditions, and therefore the things we've done haven't been good. Is Social Security not a good thing? Is feeding the poor not a good thing? Is Headstart not a good thing? Is Medicare not a good thing? Is minimum wage not a good thing? I really don't know what it is that's considered not a good thing. It could be that what the critics are in effect doing, without realizing it, is saying that the trouble with all these programs is not that they were not good, but that they were not good enough. We are close to having eliminated the kind of poverty we used to find 16 years ago or so when I was involved in the Poverty Program. Of course, poverty is a relative thing. But we had a definition back then, in 1964, and if you take today the financial income and services in kind that the poor receive. I think we've done a good thing, and not a bad thing. We've reduced the number of people who are really, in fact, poor—homeless and hungry—to very, very few. I think America ought to be proud of that record.

Let's turn for a minute to Hyman Bookbinder. How long have you been in Washington?

Thirty-one years. I came at the beginning of the Korean War for what I thought would be a one year stint. I was a labor advisor to the Korean War Program. I was a legislative representative for the CIO and then the AFL-CIO—that was after I left government service in 1952, and then I went into the Kennedy administration in early 1961, where I served as a Special Assistant to the Secretary of Commerce. Then, in 1962, when Eleanor Roosevelt died, at the White House request, I took a leave of absence from government and spent the year organizing the Eleanor Roosevelt Memorial Foundation. At the end of about a year of that, the War on Poverty started, and I was asked to come back to government service in Washington where for three years I served as assistant director to OEO. At the same time, for two of these years, I am a Special Assistant to Vice President Hubert Humphrey.

Then, in '67, interestingly enough, a few months after the Six Day War, I was finally persuaded to leave government and to come join the American Jewish Committee. I might tell you—I'm sensitive to this now because I'll be celebrating my 65th birthday in a few weeks, and I've been doing some reflecting on these last years, and it might be suggestive of what happened in this town of Washington to remind you and remind myself—that the year before I came here, in 1950, I remember trying to have lunch with a black friend of mine, George Weaver, a man who ten years later became Assistant Secretary of Labor. When I tried to make a lunch date with him through a phone call from New York, and I suggested we go to the Statler, he said "no," and then I suggested the Occidental restaurant, and he said "no," and I finally realized what was going on and I was very embarrassed, and I said, "OK George, tell me where we can have lunch," and we ended up in a small Chinese restaurant. That was only thirty years ago.

I rather suspect that most people have only a very imperfect idea, if any at all, what it is that a Washington representative does.

In a way, since we like to think we're unique, we do it differently, but what we do is what a number of other people in this town do, people who represent Jewish and other public-spirited organizations. I serve as a two-way medium. I try to react to government and to other institutions in Washington, and be an advocate and an informant for views that we hold. And in the other direction, I try to keep our people informed about the thinking and the policies and the actions of government and of other major institutions. The word that describes that in common parlance is "lobbyist." I'm not a registered lobbyist, but that is in effect what I am. I'm an advocate, an explainer of policies, and, to the extent that we can participate in the shaping of policy on behalf of the AJC, that's what I do.

Crisis periods aside, what proportion of your effort is invested in Israel-oriented lobbying or advocacy?

It does fluctuate, as your question implies. I would say, with satisfaction on the one hand and with much dismay on the other, that activity on Israel's behalf clearly takes up the bulk of my time. I'm pleased because it's gratifying to play a role in shaping American policy towards Israel and in trying to improve the America-Israel relationship. I want to be involved in that; it is obviously our top priority, by far. On the other hand, it's disturbing that in the thirteen years I've been in this work, while there have been ups and downs in that relationship and in Israel's situation, Israel continues to be a crisis issue. Some days are quieter than others, but maintaining the proper attitude towards Israel and strengthening the bonds between our two countries is far and away the most important and the most time-consuming task we have.

There are, as you intimated a while back, a number of representatives of Jewish organizations who work in Washington. We hear a great deal about duplication and overlap, what kind of a relationship do you have with your colleagues who represent other Jewish agencies and organizations?

Mostly we work independently. We're together in that we try to meet often enough to exchange perceptions and information, and there I feel proud of the role I played in prompting the regular meeting of all the Washington reps back when I first started with AJC. It had not happened before. So we do have coordination of sorts, and we all work with AIPAC (America-Israel Public Affairs Committee), which is a unique organization, not a membership organization. It's a lobbying group, officially. And we all work with AIPAC, cooperate with AIPAC in thinking through the best possible legislative and political strategy on behalf of American-Israel cooperation. And we do work together in other ways, but we also have reflected on the Washington scene what is true of the Jewish community as a whole. I don't mean this in an accusatory way, but there is a good deal of institutional rivalry and competition. There are times it's disturbing—as when actions are taken or things are said as much to gain institutional credit as to advance our goals.

Reflecting on all these years, can you point to something you regard as your most satisfying success?

That presumes that I have a lot of successes to point to. I want to make an impersonal point here, and I hope it doesn't sound too self-serving if I say it in a personal way. I suppose the greatest satisfaction I have is that through these years and through these many, many great crises, whether it be the Yom Kippur War or the aftermath of Andy Young, or the UN vote, I have always insisted to myself, to all of my colleagues here in Washington or in New York and in the Jewish community generally that, predominant as the Israel issue is, we dare not ever abandon totally or significantly our other commitments—to social justice, to economic equality, to making America a better place for all people, including Jews. First, that's because we're called upon to do that out of our own tradition

and beliefs, and because it's right to do that. And also because our own efforts on behalf of Israel would be adversely affected if we were perceived as being solely a pro-Israel advocacy group. Therefore, busy as we might be, distressed as we might be over this emergency or that emergency affecting Israel, or even Jewish interests generally, we've got to be seen participating in the work of the Leadership Conference on Civil Rights, in the groups fighting poverty, in the groups fighting for civil liberties. If we expect people to be interested in our Jewish agenda, we've got to show an interest in other people's agendas—consistent, of course, with those agendas being compatible with what we generally believe.

That brings us to the vexing question of coalition. In the old days, the partners were clear—the trade union movement, the blacks, the Democratic party. That coalition, obviously, is in considerable disarray these days, and many Jews believe that it cannot be resurrected. It's not just the specific issues that have divided us, such as affirmative action; it's more a sense of fatigue, and a growing belief that the interest of the erstwhile partners—at least when narrowly defined—may not be truly compatible.

This may sound like a cliché, but we must never forget that Jews are not only Jews; we're also people. Jews are therefore not immune from general shifts regarding major issues in this country. And there has been a general fatigue and resentment and backlash regarding a wide range of black aspirations and civil rights issues. Jews are not immune from all that, from the resentment over the loud rejection of white participation in the civil rights movement. And Jews are not only people; they're white people, so Jews act like whites, and even when they don't, they are perceived to act like whites. But I believe that all the surveys, studies and analyses show that Jews still remain more pro-civil rights, pro-integration, pro-civil liberties, than other white Americans. I'm pleased about that, even as I am displeased by the degree of backlash that I note in the Jewish community.

You indicated that affirmative action is a major issue in the deterioration of the black-Jewish relationship, but on our Washington political scene I see much less of this disarray in the relationship between blacks and Jews than is reported elsewhere. The old political coalition of the civil rights movement is in fairly good shape here in Washington. The Leadership Conference on Civil Rights continues to function; we put aside controversial issues such as affirmative action, but we work together on things like fair housing, voting rights, implementation of the civil rights laws. Things aren't quite as bad here as they are in our communities.

And I only wish that the people back home, and the readers of Moment, would note and note well that with all the difficulties we've had with the Andy Young situation and Congressman Fauntroy in Washington and so on, the record over these years, including this last year, of the votes cast by black members of Congress on issues related to Soviet Jewry and Israel is almost perfect. They have a much better aggregate voting record on these so-called Jewish issues than do white members of Congress.

That's very interesting—and not well-known at all.

Moreover, there was a study done recently that deserves a fair amount of attention, a study that compares the voting records of various groups in Congress not just on Jewish issues, but across the board, in an effort to see which groups were closest and which were farthest apart. The correlation in voting records between the black members and the Jewish members is higher than between any other two racial or religious groupings in the Congress.

So what you're saying is that there's really no pressing need to seek out new coalition partners; the old coalition still has some life in it.

Absolutely. One of the dimensions of this problem is that there is disarray in the black leadership. There used to be a time, when A. Philip Randolph would speak out, or Roy Wilkins, and they were speaking for the black community, and usually they spoke out in ways that didn't raise any special problems for the Jews—I'm speaking now of those "golden" days of fifteen, twenty years ago. But now, more often than not, the media are interested in having a charismatic figure like Jesse Jackson presumably speak for the black community, and Jesse Jackson does indeed say distressing and sometimes hateful things. Many Jews are put off by that, and start to think of the black community as being Jesse Jackson. But I do not think he speaks for them.

Is there a generational thing at work here, too? Is the new generation as ready for coalition?

That's part of it. The fact that they're young means that they were not physically present and never saw the rabbis and the Jewish seminary students and the others who went down to Selma and participated in the early struggles. They know about that chapter only through assertions made by middle-aged people like myself, and that's not good enough.

But more important, there's a new assertiveness among the younger black leaders. Still I don't despair, as some others do, about the prospect that even the younger blacks will eventually see the appropriateness and the wisdom of cooperation and trust.

Does the prominence of Jews in the neoconservative movement bother the non-Jews you work with? Is that an issue?

Yes, especially on some recent issues like affirmative action or human rights—that curious new definition of human rights that distinguishes between "authoritarian" regimes and "totalitarian" regimes and all that jazz—I think we do see some of what you're suggesting. And there'll be more of it, because Jews are indeed prominent in neoconservative circles. But it's important to remember that they also remain prominent in liberal and even the way-out liberal circles.

But that's dog bites man; it's not as remarkable. One statement by a leading Jew on the advisability of working with the Moral Majority is likely to draw ten times more attention than a statement from an equally prominent Jew attacking the Moral Majority for its anti-pluralist bias.

Yes, you're probably right. But people should know that the whites involved in the Leadership Conference on Civil Rights are virtually all Jews. That still exists. And the Jews who are involved with these causes are also deeply involved in the Jewish community, so it shouldn't really be a secret. And I'm very pleased and very proud when I see that.

Would you want to say something about the Moral Majority?

In just a second. But it occurs to me that so far in this discussion I may have given the impression that I'm entirely naive, that I've seen no changes and that I see no problems, that there are no conflicts. I don't want to give that impression. There are indeed problem areas. And I don't even mean things like affirmative action, which are reflections of the problem and not the problem itself. The most basic problem is that over these last ten years the economy hasn't grown, and therefore it became so much more difficult for the minorities to make real progress, and there's been a competition for the opportunities there have been. And as the blacks became more confident and more assured in their racial identity, we also became more assertive of our Jewish identity. I'm not unaware of these basic trends and developments—but I do reject the notion that our agendas are that far apart, that our interests are so far apart, that our antagonisms are so great that we have to operate on the premise that black-Jewish cooperation is not possible any more. I reject that premise.

That's a helpful reminder. And now, the Moral Majority?

It's very difficult for the Jewish community to decide to what extent we have to modify our visceral reactions. I would hope that we can find a way to feel and to say that if the Moral Majority or other groups like that do in fact, for whatever reason that motivates them, have a position on Israel that's compatible with ours, that we say "glory be"—we're not going to reject their help. We'll welcome it, and commend them for having that view. But we ought also to note that they've come to that view not in order to do us a favor. It's their belief, and as long as it's compatible with us, fine. And in areas where we disagree, we would hope that they would not, as some people suggest, be tempted to change their own convictions on Israel because we disagree with them on prayers in the school or abortion rights or any other issues. And I would hope that individual Jews would continue to be able to express both of these attitudes.

I have no problem with those Jews or others who agree with the positions of the Moral Majority. I'm much less interested in discussing whether the Moral Majority has the right to do what it is doing than in discussing whether it is right in what it is advocating—and there, let's have honest and frank discussion about the issues. And on most of the issues, I think most Jews have some genuine disagreements. But over and above that, the principal problem that I find with the whole movement of militant evangelical advocacy is that, whether they mean it or not, and despite all their vehement protestations about not being anti-Semitic, they really are seeking a Christianization of America. And in that sense, they're anti-Jewish—not anti-Semitic in the traditional use of that word. When they say that Christian ideals are ipso facto American ideals, I think we've got to resist that, and I resent it. For them to say that there is a Christian test on the Panama Canal Treaty or SALT, there's an arrogance there that we've got an obligation to speak out against.

Generally, how would you summarize your reaction to the domestic policies of the new administration?

During these days and weeks of looking at the federal budget, I too make the usual comment first that I want to see an end to inflation, and I too think that government has gotten out of hand, and so forth, and I really do believe those things, but I must say that I am distressed at what I see, as the wholesale gutting of programs that will affect the opening up of opportunities for

our disadvantaged, whether they be black or white or Jewish— and there are many more disadvantaged Jews than many of us realize. But I have as well a very personal reaction to these things. I have never, not for a single day, permitted myself to forget my beginnings. When I was going to City College in New York, after my first year, if I had not then gotten a fifteen dollar a month federal stipend for work in the library, I would have had to drop out of college. That provided my the carfare and the lunch money that I needed, because my family could not have given me even the carfare. That made the difference between an education and no education.

And I am arrogant enough and proud enough of my life to think that maybe I've paid the society back for its investment in me. So anytime I see programs that reduce the effort we finally started making in this country to open up opportunities for people, to help them through their difficulties, I have not only a general philosophical resistance to it, but also a very personal reaction.●

SENATE — *Friday, June 19, 1981*

(Legislative day of Monday, June 1, 1981)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable CHARLES E. GRASSLEY, a Senator from the State of Iowa.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us bow together in prayer.

May we spend just a moment in silent prayer for Mr. Robert B. Dove, the Parliamentarian, and his family.

Father God, we have no secrets from Thee. Thou knowest our minds and hearts, our desires and aspirations and ambitions. Thou knowest those who are hurting today: the one who is discouraged; the one who feels like a failure and wants to quit; the one who is fearful and filled with self-doubt. Thou knowest the one with financial difficulty; the one who can find no relief from guilt; the one whose marriage is falling apart, whose children are on drugs or alcohol or alienated. Thou knowest those who are ill or whose loved ones are suffering.

Gracious Father, I pray that Thy Holy Spirit will minister to every hidden need in this large Senate family. Touch each life with love and healing and peace. In the name of the Great Physician. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 19, 1981.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate. I hereby appoint the Honorable CHARLES E. GRASSLEY, a Senator from the State of Iowa, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. GRASSLEY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. BAKER. Mr. President, I thank the Chair.

I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. BAKER. Mr. President, there are a number of items on the Legislative and Executive Calendars, and I invite the minority leader's attention to three items on the Calendar of General Orders. I am speaking of Calendar Order No. 172, Senate Resolution 152, a resolution regarding Bulgaria; Calendar Order No. 173, Senate Concurrent Resolution 18, a resolution relating to the Ukraine; and Calendar Order No. 175, Senate Concurrent Resolution 5, dealing with Dr. Brailovsky.

Mr. President, I would like to do these matters today if it is possible to do so, and I wonder if the minority leader can give me some view of the status of these items on his calendar.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, the three items are cleared on this side of the aisle, and we are ready to proceed.

Mr. BAKER. Mr. President, I thank the minority leader.

I then ask the Chair to lay before the Senate the three calendar items in the order I have just identified them.

ANNIVERSARY OF BULGARIAN STATEHOOD

The Senate proceeded to consider the resolution (S. Res. 152) relating to the 1,300th anniversary of Bulgarian statehood, which was reported from the Committee on Foreign Relations, with an amendment:

On page 2, strike lines 7 through 10.

The amendment was agreed to.

The resolution, as amended, was agreed to.

The amendments to the preamble were agreed to.

The preamble, as amended, was agreed to.

The resolution, as amended, together with the preamble, as amended, is as follows:

Whereas Bulgaria this year celebrates its one thousand three hundredth year of statehood, making it the oldest surviving state in Europe to have kept its original name;

Where in 1943 the people of Bulgaria resisted pressure from Nazi Germany to deport the country's some fifty thousand Jews to concentration camps: and

Whereas, because of the protection afforded by their people, the Bulgarian Jews were the only Jewish community in the occupied territories to survive as a whole within their native country: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Bulgarian people be congratulated on their one thousand three hundredth year of statehood; and

(2) they be further commended for their heroic and compassionate defense of the human rights of their Jewish community during the Nazi holocaust.

FREE EXERCISE OF RELIGION IN UKRAINE

The Senate proceeded to consider the concurrent resolution (S. Con. Res. 18) relating to the restoration of the free exercise of religion in Ukraine, which had been reported from the Committee on Foreign Relations, with amendments, as follows:

On page 2, line 3, strike "take"; and

On page 2, line 4, after "rights", insert "take".

● Mr. GOLDWATER. Mr. President, I am delighted that the Senate is about to pass Senate Concurrent Resolution 18, introduced by myself and Senators DECONCINI, DOLE, HATFIELD, HEINZ, HUMPHREY, JEPSEN, LUGAR, METZENBAUM, MOYNIHAN, SARBINES, SYMMS, WILLIAMS, and ZORINSKY. Our resolution urges diplomatic and other actions to help restore the free exercise of religion in Ukraine, where there is still a tremendous and undiminished spirit of freedom and longing for independence among Ukrainian nationals.

The Soviet slave masters have ruthlessly suppressed free religion and attempted to enforce atheism. The Soviet policy of massive and deliberate persecution of religious groups in Ukraine is, in my opinion, no less than a policy of genocide. Religious believers are spied on in their homes and virtually all dissident church leaders have been arrested.

Unfortunately, religious persecution is on the increase behind the Iron Curtain, especially in Ukraine, and the world must be reminded so that the right to believe will be aided and strengthened.●

The amendments were agreed to.

The resolution, as amended, was agreed to.

The amendments to the preamble were agreed to.

The preamble, as amended, was agreed to.

The resolution, as amended, together with the preamble, as amended, is as follows:

Whereas the Charter of the United Nations, as well as its Declaration of Human Rights, sets forth the objective of international cooperation "in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion . . . "; and

Whereas in the so-called Brezhnev Constitution of the Union of Soviet Socialist Republics, article 52 unequivocally provides

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

that "Freedom of conscience, that is, the right to profess any religion and perform religious rites or not profess any religion . . . shall be recognized for all citizens of the Union of Soviet Socialist Republics. Incitement of hostility and hatred on religious grounds shall be prohibited"; and

Whereas not just religious or civil repression but the attempted genocide—the absolute physical extermination—of both the Ukrainian Orthodox and Catholic Churches, and all other truly independent religions, in a nation of forty-five million persons brutally violates the basic civilized rights enunciated above: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the President of the United States of America shall in the name of human rights take immediate and determined steps to—

(1) call upon the Government of the Union of Soviet Socialist Republics to permit the concrete resurrection of both the Ukrainian Orthodox and Catholic Churches and other independent religions in the largest non-Russian nation both within the Union of Soviet Socialist Republics and in Eastern Europe; and

(2) utilize formal and informal contacts with Union of Soviet Socialist Republics officials in an effort to secure the freedom of religious worship in places of both churches and all other independent religions as their own constitution provides for; and

(3) bring to the attention of all national and international religious councils the nature of this Stalinist crime and perpetuated violation of basic human rights, with an appropriate appeal to the commitment of their resources toward achieving the objective of this resolution.

IMPRISONMENT AND TREATMENT OF DR. VIKTOR BRAILOVSKY

The Senate proceeded to consider the concurrent resolution (S. Con. Res. 5) expressing the sense of the Congress with respect to the imprisonment and treatment by the Government of the Soviet Union of Dr. Viktor Brailovsky, and for other purposes, which had been reported from the Committee on Foreign Relations, with amendments to the preamble.

Mr. PERCY. Mr. President, I would just like to underscore the humanitarian importance of the step we are taking today in passing Senate Concurrent Resolution 5, introduced by my Foreign Relations Committee colleague, Senator LUGAR, urging the Soviet Government to provide Viktor Brailovsky with proper medical care, release him from prison, and allow him and his family to emigrate.

Viktor Brailovsky is a computer scientist who has led an exemplary life as scientist, husband, and father. His attempts and the attempts of many others to emigrate to Israel have been consistent with the pledges contained in several international agreements signed by the Soviet Government, including the Helsinki Final Act.

Even as we act, Soviet authorities have over the last 2 days tried Dr. Brailovsky, and sentenced him to 39 months of internal exile. His health will be cruelly tested in Siberia. Reports from his family who attended the trial indicate that the Soviet prosecutor presented a weak case for its charge of anti-Soviet statements and activity. Witnesses called by the prosecution were hard pressed to find anything to say against this man. We hope that the Soviet authorities will reconsider.

Mr. LUGAR. Mr. President, today the U.S. Senate acts on a particularly important and timely humanitarian matter, the case of Soviet computer scientist Viktor Brailovsky. Senate Concurrent Resolution 5 calls on the Soviet Government to grant Dr. Brailovsky proper medical attention for his serious chronic liver and kidney disease, to release him from custody, and to allow him and his family to emigrate to Israel.

Even as we act, the Soviets have tried Dr. Brailovsky and sentenced him to 5 years of internal exile. Government witnesses summoned against him found the anti-Soviet statements and activities he was charged with difficult to corroborate in court. Dr. Brailovsky has led an exemplary personal and professional life, and his attempts to emigrate have been fully within procedures pledged by the Soviet Government in various international agreements including the Helsinki Final Act.

Mr. President, the Senate Foreign Relations Committee passed Senate Concurrent Resolution 5 unanimously on Tuesday afternoon. I call upon all Members of the Senate to support this resolution and to send a strong message of support for Dr. Brailovsky in his struggle against Soviet repression.

The concurrent resolution was agreed to.

The amendments to the preamble were agreed to.

The preamble, as amended, was agreed to.

The concurrent resolution, and the preamble, as amended, are as follows:

S. CON. RES. 5

Whereas the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights guarantee to all the right to freedom of thought, conscience, and religion, the right to hold opinions without interference, the right to freedom of expression, and the right to emigrate;

Whereas the Final Act of the Conference on Security and Cooperation in Europe commits the signatory countries to respect individual rights and fundamental freedoms, in particular to "deal in a positive and humanitarian spirit" with the applications of persons wishing to emigrate to rejoin relatives;

Whereas the Soviet Union signed the Final Act of the Conference on Security and Cooperation in Europe, is a party to the Universal Declaration of Human Rights, and has ratified the International Covenant on Civil and Political Rights;

Whereas Viktor Brailovsky was dismissed from his position as a doctor of computer science at the Institute of Electronic Control Machines in 1972 as a result of requesting permission to emigrate;

Whereas Viktor Brailovsky has been continually harassed by Soviet authorities for the past eight years;

Whereas Soviet officials have searched Viktor Brailovsky's home and confiscated invaluable scientific papers and Jewish cultural materials;

Whereas Viktor Brailovsky organized the Moscow Seminar for Jewish Scientists and published the unofficial Jewish journal, Jews in the U.S.S.R., for which he was arrested and kept under investigation in April of 1980;

Whereas Viktor Brailovsky bravely led a group of over two hundred and thirty other Soviet Jewish refusniks in an appeal to President Leonid Brezhnev for free emigration of Soviet Jews on the eve of the Madrid Conference in November 1980;

Whereas Viktor Brailovsky was arrested and imprisoned in connection with this activity and his other efforts to encourage free emigration;

Whereas Viktor Brailovsky was in ill health when arrested and has not been receiving proper medical treatment for a serious liver ailment while in prison;

Whereas Soviet authorities have commenced questioning and investigation of Viktor Brailovsky and have extended the period of investigation for two months due to his serious condition; and

Whereas Viktor Brailovsky is in need of immediate and adequate medical attention: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President, acting directly or through the Secretary of State, should—

(1) continue to express at every suitable opportunity and in the strongest terms the opposition of the United States Government to the imprisonment and treatment of Doctor Viktor Brailovsky;

(2) urge the Government of the Soviet Union to—

(A) release Doctor Brailovsky from prison and provide him with proper medical care, and

(B) permit Doctor Brailovsky and his family to emigrate to Israel to join his brother and his family, in accordance with the Final Act of the Conference on Security and Cooperation in Europe, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights; and

(3) inform the Government of the Soviet Union that the Government of the United States, in evaluating its relations with other countries, will take into account the extent to which such countries honor their commitments under international law, especially commitments with respect to the protection of human rights.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President with the request that he further transmit such copy to the Ambassador of the Union of Soviet Socialist Republics to the United States.

Amend the title so as to read: "Concurrent resolution expressing the sense of the Congress that the Soviet Union should provide proper medical care for Viktor Brailovsky and permit him and his family to emigrate to Israel, urging the President to protest the continued suppression of human rights in the Soviet Union and for other purposes.".

The title was amended so as to read:

"Concurrent resolution expressing the sense of the Congress that the Soviet Union should provide proper medical care for Viktor Brailovsky and permit him and his family to emigrate to Israel, urging the President to protest the continued suppression of human rights in the Soviet Union and for other purposes.".

THE EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, we have just been handed the Executive Calendar on which there are a number of nominations. I wonder if the minority leader is in position to give us a clearance report on those names at this time.

Mr. ROBERT C. BYRD. Mr. President, if the majority leader will indulge me momentarily.

Mr. President, the nominations on the first page of the Executive Calendar and on the second page of the Executive Calendar are cleared throughout, the first and second pages.

Mr. President, the nominations under the Nuclear Regulatory Commission and the Tennessee Valley Authority are cleared.

Mr. BAKER. I thank the minority leader. In view of that statement, Mr. President, may I say before I make the request I am about to, that I have one or two exceptions to the clearances the minority leader has given me, and I think we will be able to clear them, but I do not believe today.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that we go into executive session for the purpose of considering the nominations on the Executive Calendar today beginning with Small Business Administration, Paul Robert Boucher, of Virginia, and continuing through page 2, with the exception of Calendar No. 243, Daniel J. Terra, and including two nominations on page 4, Nunzio J. Palladino, of Pennsylvania, to be a member of the Nuclear Regulatory Commission, and Charles H. Dean, Jr., of Tennessee, to be a member of the Board of Directors of the Tennessee Valley Authority.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SMALL BUSINESS ADMINISTRATION

The legislative clerk read the nomination of Paul Robert Boucher, of Virginia, to be Inspector General.

Mr. WEICKER. Mr. President, I rise today in support of the nomination of Paul Boucher to be reappointed Inspector General of the Small Business Administration. The Committee on Small Business, of which I am chairman, unanimously reported out this nomination on June 2, 1981.

Mr. Boucher was first named to the Inspector General's post on June 28, 1979. He served in that position until January 20 of this year, at which time President Reagan removed all of the Inspectors General from their posts. Since that time, Mr. Boucher has been renominated by the President and is now serving in the capacity of Inspector-General-designee.

In the years since Mr. Boucher came to the Small Business Administration, he has impressed the committee with his dedication and hard work in attempting to make the SBA a more effective and more tightly run agency. I might add that this is no easy task. For years, the SBA has been a much-maligned and troubled agency, plagued by poor management and a steadily growing list of programs and problems.

It is the hope and intent of the Small Business Committee that this perception of the agency will change. As the Inspector General, Mr. Boucher should play a key role in effecting that change.

Based on past experience, I am confident that Mr. Boucher has the qualities necessary to perform this difficult task. He has shown that he is prepared to take the steps that need to be taken to clear up a problem and that he can do his job with toughness, independence, and professionalism.

It is without hesitation that I endorse his reappointment to the post of Inspector General for the SBA.

DEPARTMENT OF THE TREASURY

The legislative clerk read the nominations of Ann Dore McLaughlin, of the District of Columbia, to be an Assistant Secretary; and Peter J. Wallison, of New York, to be General Counsel.

NOMINATION OF ANN DORE M'LAUGHLIN TO BE AN ASSISTANT SECRETARY

● Mr. DOLE. Mr. President, on June 11, 1981, the Committee on Finance held a hearing on the nomination of Ann Dore McLaughlin to be Assistant Secretary of the Department of the Treasury for Public Affairs. As chairman of the committee, it is a privilege and a pleasure to report the committee's decision by a unanimous vote to report favorably on Ann's nomination.

Mr. President, the Committee on Finance has reviewed Ann's financial position, the results of the investigation by the FBI and the report of the Office of Government Ethics. We are confident that there are no problems in any of these areas.

Ann's background and experience make her eminently qualified for this position. A graduate of Marymont College, she also attended the University of London in 1961 and 1962.

Upon graduation she became a supervisor of network commercial scheduling for the American Broadcasting Co., in New York City. From 1966 to 1969 she was the director of alumnae relations at her alma mater. In 1971–72, Ann served as director of Communications for the Presidential Election Committee. Later she served as assistant to the chairman and press secretary to the Presidential Inaugural Committee.

After serving as director of the Office of Public Affairs of the U.S. Environmental Protection Agency, Ann returned to the private sector with the Union Carbide Corp. From 1977 to the present she headed her own consulting firm, specializing in public affairs, communications, consulting, and media relations.

Mr. President, it will take a person with Ann's credentials to effectively carry out the functions of the position to which she has been nominated. The Office of Public Affairs will play a vital role in informing the public as such key issues as the tax cut legislation. I have personally worked with Ann over the years and can personally attest to her ability and personal integrity. I urge the Senate to approve her nomination.●

NOMINATION OF PETER J. WALLISON TO BE GENERAL COUNSEL

● Mr. DOLE. Mr. President, on June 11, 1981, the Committee on Finance held a hearing on the nomination of Peter J. Wallison to be General Counsel of the Department of the Treasury. As chairman of the committee, it is a privilege and a pleasure to report the committee's decision by a unanimous vote to report favorably on Peter's nomination.

Mr. President, the Committee on Finance has reviewed Peter's financial position, the results of the investigation by the FBI and the report of the Office of Government Ethics. We are confident that there are no problems in any of these areas.

Peter has been nominated to fill a vitally important position in the administration. The General Counsel is the principal legal officer in the Treasury Department. He will be responsible for providing legal advice to the Secretary and others in the administration and the Congress on tax legislation and other critical issues on the legislative agenda.

Mr. President, I have known Peter Wallison personally for a number of years and I am certain he will do an outstanding job as General Counsel. He is both an able lawyer and a person of high personal integrity.

He brings excellent credentials and an impressive background to this position. Peter is a graduate of Harvard University and the Harvard Law School. Since his graduation from law school he has held positions in both public service and the private practice of law.

From 1969 to 1970 he was the senior staff associate on the President's Advisory Council on Executive Organization. In 1972, 1973, and 1974 he was a special assistant to Governor Nelson A. Rockefeller and served on the Commission on Critical Choices for Americans. From 1974 to 1977 he served as counsel to the Vice President of the United States. During this period he also worked in the Presidential campaign of 1976 as a general policy adviser. It was during this period that I had the pleasure of meeting Peter and working with him.

Currently, Peter is a partner with the law firm of Rogers & Wells in New York City. He is a member of the New York and Washington, D.C., Bar Associations and the policy committee of the American Council on Capital Formation.

Mr. President, Peter Wallison is well qualified to serve in the position of Gen-

eral Counsel of the Treasury. I urge the Senate to approve his nomination.●

DEPARTMENT OF STATE

The legislative clerk read the nominations of Ernest Henry Preeg, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Haiti; Theodore E. Cummings, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Austria; Robert Sherwood Dillon, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lebanon; Charles H. Price II, of Missouri, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belgium; and Maxwell M. Rabb, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Italy.

DEPARTMENT OF EDUCATION

The legislative clerk read the nominations of Vincent E. Reed, of the District of Columbia, to be Assistant Secretary for Elementary and Secondary Education; William C. Clohan, Jr., of West Virginia, to be Under Secretary of Education; Kent Lloyd, of California, to be Deputy Under Secretary for Management; and Robert Melvin Worthington, of Utah, to be Assistant Secretary for Vocational and Adult Education.

A FORTUITOUS CHOICE

Mr. ROBERT C. BYRD. Mr. President, the education of children is one of society's most important responsibilities, and our schools are among the most vital institutions in our country. For those reasons, the calibre, wisdom, and abilities of those who create your educational policies is a crucial matter.

I am, therefore, particularly proud to support President Reagan's nomination of my fellow-West Virginian, William Collins Clohan, Jr., as Under Secretary of Education for the Department of Education. For the past 3 years, Mr. Clohan has served as Minority Education Counsel on the staff of the Committee on Education and Labor of the House of Representatives. In that role, he became intimately acquainted with Federal educational legislation and procedures. Moreover, he established valuable relationships with educators and educational administrators that will serve him well in his appointed role in the Department of Education.

But Mr. Clohan's talents and skills go beyond the educational field. After graduating from the Air Force Academy, he was for several years an officer in the U.S. Air Force. Continuing his education at the same time, he earned a law degree from the Georgetown University Law Center. Thus, Mr. Clohan will bring to his new duties a wide and accomplished background that will enhance his value as a Federal educational policymaker and administrator.

Mr. President, Mr. Clohan's father is the mayor of the City of Martinsburg, W. Va., and is my friend. The President has made a wise choice in appointing Mr. Clohan as Under Secretary, and I strongly urge his confirmation by our Senate colleagues.

NUCLEAR REGULATORY COMMISSION

The legislative clerk read the nomination of Nunzio J. Palladino, of Pennsylvania, to be a member of the Nuclear Regulatory Commission.

Mr. BAKER. Mr. President, I am encouraged and delighted that today the Senate has confirmed the nomination by the President of Dr. Nunzio (Joe) Palladino to be a member of the Nuclear Regulatory Commission. The President has indicated his intention to name Dr. Palladino as the new chairman of the Commission, a selection I enthusiastically support.

Dr. Palladino's impressive credentials have been cited by a number of my distinguished colleagues in the confirmation hearings which were completed on Wednesday in the Committee on Environment and Public Works, and I will not repeat again his distinguished record of service, both in the nuclear industry, in academia, and for the government. Currently Dean of the College of Engineering at Pennsylvania State University, Dr. Palladino is a career nuclear engineer.

He is a man who understands the design and function of nuclear powerplants, and as a former member of the Advisory Committee on Reactor Safeguards which reviews all nuclear plants proposed for construction and operation in the United States, he is intimately familiar with the high standards of safety which must be maintained in our nuclear power program.

With Dean Palladino's appointment to the Commission, I am confident that we will begin the urgently needed process of facilitating and expediting the licensing of new nuclear powerplants, and indeed of all the essential elements of this administration's vigorous program for the development of the nuclear component of our country's energy future.

Mr. President, I also wish to commend the distinguished chairman of the Committee on Environment and Public Works (Mr. STAFFORD), and our distinguished colleague, the ranking minority member of that committee (Mr. RANDOLPH), for the thorough and expeditious way in which they have cleared this important nomination, because it is essential that the Nuclear Regulatory Commission proceed in its important work without fail, and without delay. I feel certain that I can speak for my distinguished colleagues on the Nuclear Regulation Subcommittee, the chairman (Mr. SIMPSON), and the ranking minority member (Mr. HART) when I express our enthusiasm in looking forward to cooperating with Dr. Palladino and the entire Commission as they continue their work under Dr. Palladino's chairmanship.

Mr. President, I would close by noting that as Senator from the State of Tennessee, I take special interest in the safe development and nurturing of the nuclear power program in this country, because the Tennessee Valley Authority has in progress the largest nuclear power construction program in the country. I believe I am not being inaccurate when I say that TVA is considered one of the leaders in the safe and responsible design and operation of all phases of electrical generation from nuclear energy. The Sequoyah facility for the training of nuclear powerplant operators is the most advanced in the country if not the world. I am confident that the Commission which Dr. Palladino will chair will always be able to look to TVA as a model of what our country's nuclear power program should be.

Mr. President, I offer my sincere congratulations and best wishes to Dr. Palladino as he assumes the heavy responsibilities of the chairmanship of the NRC. It is a job that will often be thankless, will always be demanding, but which offers the opportunity and responsibility to render the highest service to the country. I am confident Dr. Palladino will meet that challenge with the distinction that has been characteristic of his career.

TENNESSEE VALLEY AUTHORITY

The legislative clerk read the nomination of Charles H. Dean, Jr., of Tennessee, to be a member of the Board of Directors.

Mr. BAKER. Mr. President, I am delighted to speak in support of Charles H. Dean, Jr., as the Senate moves to confirm him as a member of the TVA Board of Directors. I want to thank the Committee on Environment and Public Works for moving swiftly to send his nomination to the floor. An organization as vital as TVA needs continuous leadership and the Committee recognizes that fact.

I heartily endorse Charles Dean for this leadership role at TVA. I have known Charles Dean for years. Because of my knowledge of his character, his leadership qualities, and his wide range of experience throughout the Tennessee Valley Region, I offer my strong support for his confirmation.

Since the first Board of Directors of TVA was selected in 1933, care has been taken to provide a wide range of experience and expertise on the board. Charles Dean comes to this position with experience ranging from agriculture to industrial development to public utility management and operation. He is also from the valley, which gives him added insight into the operations of TVA and its overall mission. He joins two other very capable Directors.

In my view, the members of the TVA Board of Directors must have management/administrative ability and have a willingness to encourage the overall im-

provement and development of the Tennessee valley region. The board members must have a commitment to environmental protection and conservation.

At this point in the region's development, the board members must believe in the TVA projects underway and work to insure their completion to provide for the surge of economic growth I believe will occur in the Tennessee valley region in the coming years. I know Charles Dean will serve TVA very capably in this leadership position by creating new and innovative approaches to achieving its overall mission.

Management skills and leadership are critical for the effective operation of as large and diverse an organization as TVA. Charles Dean is a proven manager. His experience as general manager at Knoxville Utilities board demonstrates very aptly his leadership qualities and his creative approach to problem solving.

Charles Dean is a regional leader in the public utilities field. He comes to the board as the first power distributor to be represented on the board. His position at the Knoxville Utilities Board, his service with the Tennessee Valley Public Power Association, and his contacts with other distributors give him unique insight into the operation of public utilities. This will serve him extremely well at TVA.

TVA is rapidly approaching its 50th anniversary—the progress we have made is monumental. The national importance of TVA is well known. The regional interests served by TVA are exemplary. TVA is the largest public power operation in the world. It has become a national leader in power generation, transmission, and related programs by coupling known technologies with new ideas and innovations. TVA is truly a national asset.

I know that Charles Dean will maintain and nurture this exceptional organization while providing the Tennessee Valley with the power it needs to grow and prosper.

The ACTING PRESIDENT pro tempore. The nominations are considered and confirmed en bloc.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominations were confirmed en bloc.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask that the President be immediately notified that the Senate has given its consent to these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I have no further need for my time, if any remaining under the standing order. I am prepared to yield it back or to yield it, if any remains, to the distinguished minority leader.

Mr. President, I yield back my time.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I yield now to Mr. FORD for such time as he may require and then to Mr. PROXMIRE for such time as he may require.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky.

HIGH INTEREST RATES

Mr. FORD. Mr. President, I thank the distinguished minority leader for allowing me to have this time. I will take only a few moments to make a statement that I wish to place in the RECORD and one I have been giving a great deal of consideration to for a long time, one I think that has been on the minds of my colleagues for months now, and an observance that I have made of one of our distinguished colleagues, in particular, Senator BOREN from Oklahoma.

Mr. President, I have noticed that for the past several days my colleague from Oklahoma, Senator BOREN, has taken to the Senate floor to hammer away at the need for immediate action to address the problems nearly every sector of our economy is experiencing as a result of continued high interest rates.

I think that every Member of this body on both sides of the aisle would do well to note his comments because they certainly hit home with me. There is no subject of more concern or one causing more anguish to my constituents than the unlivable interest rates that have been allowed to linger with us for all these many months.

There is a preoccupation both in the administration and in the Congress to deal with the inflationary problems we now face on a long-term basis. A great deal of effort has been directed toward reducing Federal spending, balancing the budget and developing a tax cut that will cool, instead of fuel, inflation.

At the same time, comparatively little attention has been given to those industries and individuals whose security and existence are being threatened by the pressures of the soaring costs of credit.

This raises a basic, elementary question that seems to have gotten lost in the shuffle: If we do not attempt to minimize the damage now—today—what will there be left to salvage with these long-range solutions that everyone is rushing to try and put in place?

The tremendous fluctuation and unprecedented level of interest rates is having a devastating impact on our lives. Just look at the latest economic indicators of the past few days:

New housing starts plunged 14 percent in May from April, the lowest level in a year. The issuance of new building permits in May came to a virtual standstill.

The Nation's industrial production rose by just 0.3 percent in May, according to the Federal Reserve.

Personal income rose only a modest 0.6 percent in May, an increase that was surely wiped out by inflation.

Excessive interest rates are at the root of each of these depressed indicators and these rates are not just a problem for the business community. Excessive interest rates hold adverse repercussions for virtually every sector of our economy, every section of the country, every resident of every State, every phase of our lifestyle.

The common perception in my State is that these outlandish interest rates are part of the problem, not the solution, and I am hard pressed to argue otherwise.

The thought of a 20-percent prime rate can do nothing but send chills down the spine of any businessman. I do not see how the average small businessman or farmer is managing to hold on.

His livelihood hangs in the balance every time he goes to the bank to renew his note. He has to go more often because no institution will give long-term farm or business loans. The only way a farmer can make it week to week is by going deeper and deeper in debt, using his land as collateral.

We talk about balancing the budget around here, but sky-high-interest rates make that difficult to do. Every time a business goes under because of high-interest rates, that increases unemployment. When unemployment rises, Federal tax receipts decline and Federal transfer payments increase.

When this happens, we just run round and round in one big endless circle.

Think about the number of workers, the number of families whose existence is intertwined with the fluctation of credit. In housing alone, there are primary contractors, plumbers, carpenters, masons, and other subcontractors. There are the realtors who sell the homes and the factory workers who build the stoves and appliances. There is the lumber industry which provides the raw materials for construction. The list could go on and on: The phone company, the utility company, and the water company.

But the point we need to understand is that these troubles are not restricted to an industry alone—these are problems for individuals, for decent, hard-working individuals who are just trying to earn a living and provide for their families.

I am not worried about the statistics. I am worried about the people that those statistics represent.

I want my colleague from Oklahoma, Senator BOREN, to know that the people of my State are not any different from the people he so ably represents. I want him to know that I think he is on the right track with what he is saying, and I commend him for speaking out.

I also want him to know that I intend to join him as often as possible in speaking on this subject, because he has advised his Senate colleagues that he will

speak on this subject daily until something is done to reduce interest rates.

Perhaps, just perhaps, we will be able to inspire a consensus that will provide urgently needed relief. Since this is not a partisan issue, I hope that our colleagues on both sides of the aisle will see fit to do likewise. And as the days and weeks come, may the consensus grow. May other colleagues join Senator BOREN and, in the end, we can find a way that we can reduce the interest rates and begin to see our economy turn again.

I thank the Chair and I thank the distinguished minority leader for allowing me this time.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I yield to Mr. PROXMIRE.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Wisconsin.

S. 951, DEPARTMENT OF JUSTICE AUTHORIZATION BILL

Mr. PROXMIRE. Mr. President, I intend to vote against S. 951, the Department of Justice authorization bill for fiscal year 1982.

I commend the distinguished floor manager of this bill, Senator THURMOND, and the distinguished minority floor manager, Senator BIDEN, for their outstanding efforts in bringing this legislation to the Senate floor. They have done a superb job.

I will vote against the bill, however, because it calls for spending in excess of the sum requested by the Reagan administration.

The bill, as reported by the Judiciary Committee, authorizes a total of $2.458,-605,000 for the activities of the Department of Justice in fiscal year 1982.

But this figure is $109,691,000 more than the $2,348,914,000 requested by the administration.

I cannot support this legislation because it has failed to stay within the total amount requested by the Reagan administration.

I say this despite the fact that the committee has added funds for worthwhile purposes, including, for example: First, conducting foreign counterintelligence; second, patrolling U.S. borders; third, adjusting the immigration status of eligible aliens; fourth, improving juvenile justice; and fifth, assisting State and local drug enforcement efforts.

Regardless of these commendable ends, Mr. President, in my view the overriding consideration must be fiscal discipline. We should hold the line on spending and support the President's request regarding fiscal year 1982 funding for the Department of Justice.

CAMBODIA CONFERENCE REINFORCES CASE FOR TREATY

Mr. PROXMIRE. Mr. President, Secretary General Kurt Waldheim has announced that the U.N. will hold a long-delayed conference on the status of Cambodia on July 13. Once again, the international community will try to calm the troubled waters of a country wracked year after year by campaigns of forced relocation and mass murder of genocidal proportions. Some 65 nations are expected to attend, but two of the central actors in this drama—Vietnam and the Soviet Union—probably will boycott the talks.

The Genocide Convention could offer a focus for such international efforts. To date, 87 nations have ratified the Convention, testifying to its potential value as a diplomatic lever for pressuring reluctant nations toward negotiations over this and similar issues. Ratification by the United States would let American representatives use the Treaty as a platform for calling for fuller investigation of such tragedies. Moreover, our ratification might well spur other countries to ratify, maintaining international interest in possible violations of the Convention like the episodes in Cambodia.

On a domestic level, ratification of the Genocide Convention offers the opportunity to found our own foreign policy efforts on a cornerstone of moral consensus. Ratification is not a partisan issue: every President since Harry Truman—Democrat and Republican—has endorsed its passage. Within the last few years, the American Bar Association has added its respected voice to the many diverse groups, ranging from the AFL–CIO to the B'nai B'rith, who have already called for ratification. Even the Department of Defense has endorsed the agreement together with its various reservations and understandings, arguing that ratification could in no way damage our national security interests.

Secretary of State Alexander Haig, at his confirmation hearing, strongly endorsed this ratification.

Finally, survey after survey has shown that the great body of the American people believe that human rights considerations should play a significant role in the making of our foreign policy.

Admittedly, ratification of the Genocide Convention would be a symbol, but it would be a symbol with a power of its own. It would provide leverage in initiating negotiations. Only through such negotiation can we hope to resolve the complex problems confronting the Cambodian people. And so long as there is hope, we owe it to the Cambodian people, and to our own sense of morality, to make every effort that we can.

Trusting that my colleagues will share my faith, I respectfully recommend their early consideration of the Genocide Convention.

The ACTING PRESIDENT pro tempore. The time allotted to the Senator from West Virginia has expired.

RECOGNITION OF SENATOR ROBERT C. BYRD

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from West Virginia is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Wisconsin such time as he may require.

Mr. PROXMIRE. Mr. President, I will only take 2 or 3 minutes of the distinguished leader's time.

REDUCING HIGH INTEREST RATES

Mr. PROXMIRE. Mr. President, the Senator from Kentucky discussed high interest rates and performed a real service in doing so. The Senator from Oklahoma has come to the floor frequently to discuss them.

As the former chairman of the Senate Banking Committee for 6 years, and as one who has a deep interest in our credit policies, I would agree that high interest rates are a very, very serious problem for this country. They are the cruel cutting edge of this inflation.

But it is not simply enough to inveigh against high interest rates. We ought to have policies to deal with them.

What do we do about them?

There are at least two actions we can take that will play a real role in bringing interest rates down. One is to get the Federal Government out of the credit markets. We have almost a 1 trillion dollar national debt, with an average maturity of less than a year.

What does that mean? That means it has to be borrowed over and over again every year. Of course, that drives the interest rates right up through the roof.

So, on the one hand for Congress to talk about getting high interest rates down and on the other hand to protest holding down spending is very inconsistent.

The second action we have to take is to recognize that we have high interest rates because the supply of capital, the availability of savings, is so limited. We have the poorest record of savings in this country now that we have had, as a percentage of income, since we started keeping statistics.

Also, it is poorer than in any other developed country in the world.

Mr. President, if we are going to get high interest rates under control, we have to provide an incentive in the law, a tax incentive, for savings.

One proposal, a very thoughtful proposal, by a distinguished economist is to exempt that part of income that is saved from income taxation until it is spent. This would have a decisive, clear effect on encouraging savings, and it would, in the judgment of most economists, sharply bring down interest rates. It would do so in an equitable and fair way. It would seem to me that this is the kind of positive action that this Congress can take to help interest rates under control.

Mr. President, I again commend the distinguished Senators from Kentucky and Oklahoma. I intend to join them next week in a further exploration of this matter.

Mr. President, I thank the distinguished minority leader and I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield back my time under the special order.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 5 minutes each.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BAKER). Without objection, it is so ordered.

MAKING STRIKE RELATED VIOLENCE A FEDERAL CRIME

Mr. GRASSLEY. Mr. President, Sunday, June 21, marks the 35th anniversary of the passage of the Hobbs Anti-Extortion Act, which was passed in response to the public's call for action against racketeering. This legislation makes acts of violence and extortion in interstate commerce a crime subject to Federal prosecution. The Hobbs Act has been used extensively to police misconduct by members and agents of labor unions.

Nevertheless, Mr. President, there is a situation to which the Hobbs Act does not apply: In the 1973 Supreme Court decision United States against Enmons, the basic issue was whether violence or the threat of violence occurring in the course of an otherwise legitimate strike would be a violation of the Hobbs Act. The court ruled that the act's definition of extortion as the "wrongful" use of actual or threatened violence does not take into account violence exerted in a strike for higher wages. The four dissenting judges in Enmons read the legislative history of the Hobbs Act quite differently from the majority, and believed that the use of violence to secure higher wages and other benefits is extortion and a violation of the act.

Mr. President, aside from the court's interpretation of the legislative history behind the Hobbs Act, I think I can safely say that the use of violence in obtaining any type of property is behavior that we want to extinguish. A change in this law is necessary, since local authorities do not have the resources to deal with serious instances of violence or extortion in connection with a labor dispute.

I was a member of the International Association of Machinists from 1962 until 1971, while I was a production worker at the Waterloo Register Co. in Cedar Falls, Iowa. I attended union meetings, once was on strike, and was elected to the safety committee for a short term. In all my dealings with my colleagues in the union, I never knew one who would approve of violence or who advocated violence to achieve any goal, and I fully believe that law and order should prevail.

Today, in commemoration of the anniversary of the Hobbs Act, S. 613, I am pleased to add my name to a bill which attempts to restore the act to its original intent. It is, indeed, time for the letter of the law to adhere to the spirit. We are long past due in honoring the words of Congressman Hobbs when he said:

Crime is crime no matter who commits it: and robbery is robbery and extortion extortion, whether or not the perpetrator has a union card.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 11:41 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3520) to amend the Clean Air Act to provide compliance date extensions for steelmaking facilities on a case-by-case basis to facilitate modernization; asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and has appointed Mr. DINGELL, Mr. WAXMAN, Mr. SCHEUER, Mr. LUKEN, Mr. WALGREN, Mr. BROYHILL, Mr. MADIGAN, and Mr. BROWN of Ohio as managers of the conference on the part of the House.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1441. A communication from the Assistant Secretary of the Air Force (Research, Development, and Logistics), transmitting, pursuant to law, a report with respect to converting the school bus service function at Ellsworth Air Force Base, S. Dak., and the decision that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC–1442. A communication from the Assistant Secretary of the Air Force (Research, Development, and Logistics), transmitting, pursuant to law, a report on a study with respect to converting the grounds maintenance function at Vandenberg Air Force Base, Calif., and the decision that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC–1443. A communication from the Chairman of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, the annual report of the Corporation for calendar year 1980; to the Committee on Banking Housing, and Urban Affairs.

EC–1444. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on contracts awarded under 10 U.S.C. 2304(a)(11) for the period October 1, 1980 through March 31, 1981; to the Committee on Commerce, Science, and Transportation.

EC–1445. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the 1980 status report of the General Services Administration covering public building projects authorized for construction, alteration, and lease; to the Committee on Environment and Public Works.

EC–1446. A communication from the Secretary of the Interior, transmitting pursuant to law, the annual report for calendar year 1980 under the Alaska Native Claims Settlement Act; to the Committee on Energy and Natural Resources.

EC–1447. A communication from the Deputy Assistant Secretary of Defense for Administration, transmitting, pursuant to law, a report on a new system of records under the Privacy Act; to the Committee on Governmental Affairs.

EC–1448. A communication from the Deputy Assistant Secretary of Defense for Administration, transmitting, pursuant to law, a report on a new system of records under the Privacy Act; to the Committee on Governmental Affairs.

EC–1449. A communication from the Under Secretary of the Interior, transmitting, pursuant to law, the Department's calendar year 1980 report on activities under the Freedom of Information Act; to the Committee on the Judiciary.

EC–1450. A communication from the Executive Director of the Pennsylvania Avenue Development Corporation, transmitting, pursuant to law, the Corporation's calendar year 1980 report under the Freedom of Information Act; to the Committee on the Judiciary.

EC–1451. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a followup report relative to recommendations made to the President by the National Advisory Council on the Education of Disadvantaged Children; to the Committee on Labor and Human Resources.

EC–1452. A communication from the Secretary of Education, transmitting, pursuant to law, a publication entitled "Research in Education of the Handicapped"; to the Committee on Labor and Human Resources.

EC–1453. A communication from the Special Assistant to the Secretary of Defense, transmitting, pursuant to law, a report on Department of Defense procurement from small and other business firms for October-November 1980; to the Committee on Small Business.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on Labor and Human Resources, without amendment:

S. 1278. A bill entitled the "Saccharin Study and Labeling Act Amendments of 1981" (Rept. No. 97–140).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs:

John J. Knapp, of New York, to be General Counsel of the Department of Housing and Urban Development.

NOMINATION PLACED ON THE CALENDAR

Mr. BAKER. Mr. President, I ask unanimous consent that the nomination of Robert Brown to be Inspector General for the Department of State, presently in the Committee on Governmental Affairs, be immediately discharged and then placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HELMS (for himself, Mr. HUDDLESTON, Mr. DOLE, Mr. ANDREWS, Mr. BOREN, and Mr. ZORINSKY):

S. 1395. A bill to extend the time for conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1982, and to eliminate the requirement that the Secretary of Agriculture waive interest on loans made on 1980 and 1981 crops of wheat and feed grains placed in the farmer-held grain reserve; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DOLE:

S. 1396. A bill for the relief of Julia Irene Moore; to the Committee on the Judiciary.

By Mr. BOREN:

S. 1397. A bill conferring jurisdiction on the Court of Claims to hear, determine, and render judgment on a claim of the Seminole Nation of Oklahoma; to the Committee on the Judiciary.

By Mr. DURENBERGER:

S. 1398. A bill to amend the Revenue Act of 1978 with respect to foreign tax credit adjustments for capital gains; to the Committee on Finance.

By Mr. DODD (for himself, Mr. DOLE, Mr. QUAYLE, and Mr. GRASSLEY):

S. 1399. A bill to encourage equitable contracts between sales representatives and their principals; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE:

S. 1400. A bill for the relief of Ms. Marlene Sabina Lajola; to the Committee on the Judiciary.

By Mr. RANDOLPH:

S. 1401. A bill for the relief of Emmanuel F. Hipolito, M.D.; to the Committee on the Judiciary.

By Mr. CANNON:

S. 1402. A bill to establish uniform National standards for the continued regulation, by the several States, of commercial motor vehicle width and length on interstate highways; to the Committee on Commerce, Science, and Transportation.

By Mr. MOYNIHAN:

S. 1403. A bill to amend section 376 of title 28, United States Code, in order to reform and improve the existing program for annuities for survivors of Federal Justices and judges; to the Committee on the Judiciary.

S. 1404. A bill to require that all human subjects used in experiments conducted by or for the Department of Defense be informed of the nature of the experiments and that a research review board make a written certification that such subjects have freely given their informed consent to participate in the experiments, and for other purposes; to the Committee on Armed Services.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HELMS (for himself, Mr. HUDDLESTON, Mr. DOLE, Mr. BOREN, Mr. ANDREWS, and Mr. ZORINSKY):

S. 1395. A bill to extend the time for conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1982, and to eliminate the requirement that the Secretary of Agriculture waive interest on loans made on 1980 and 1971 crops of wheat and feed grains placed in the farmer-held grain reserve; to the Committee on Agriculture, Nutrition, and Forestry.

REFERENDUM WITH RESPECT TO NATIONAL MARKETING QUOTA FOR WHEAT

Mr. HELMS. Mr. President, on behalf of myself and Senator HUDDLESTON, Senator DOLE, Senator BOREN, Senator ANDREWS, and Senator ZORINSKY, I am introducing a bill to extend the time for conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning June 1, 1982, and to eliminate the requirement that the Secretary of Agriculture waive interest on loans made on 1980 and 1981 crops of wheat and feed grains placed in the farmer-held grain reserve.

Mr. President, the measure we are introducing today would resolve two matters now pending in the agricultural sector which are quite important and timely.

One is to extend the time period for conducting a national referendum on wheat marketing quotas. In effect, this action would avert the necessity of conducting a costly and unneeded referendum by USDA.

The second matter is to repeal the mandatory interest waiver on loans for 1980 and 1981 crops of grain placed in the farmer-owned reserve program. Such a step is necessary so that the farmer-owned reserve may be opened for the immediate entry of 1981 crop wheat, which is even now being harvested.

WHEAT REFERENDUM

Our bill will extend the deadline for conducting a referendum on wheat marketing quotas to October 15, 1981, or 30 days after Congress adjourns, whichever is sooner.

Permanent legislation, which requires that a referendum on annual wheat marketing quotas be conducted by August 1, has been suspended by successive farm bills since 1970. The current farm bill expires this year, and the 1981 act now pending before the Senate will again suspend the requirement for quotas and a referendum. However, if the 1981 act is not enacted before August 1, USDA will be required to proceed with the referendum even though the results will probably be rendered moot. The Department of Agriculture estimates that the total cost of preparing for and conducting the referendum would be about $4.8 million.

The legislation we are proposing today extends the August 1 deadline so that there is a reasonable time period for Congress to consider the farm bill, and so that a costly and unnecessary referendum could be avoided. This measure is similar to legislation passed June 17, 1977, which postponed the wheat referendum that was scheduled for August 1, 1977. The administration has recommended enactment of legislation similar to this provision of the bill.

The time and money which such a referendum would consume would be better invested in dealing directly with the problems facing wheat farmers.

MANDATORY INTEREST WAIVER

In addition, our bill will repeal the requirement in current law that interest be waived on loans for 1980 and 1981 crop grain placed in the farmer-owned reserve program.

This provision is similar to S. 947 which was recommended by the administration. It has already been approved by the Senate Committee on Agriculture, Nutrition, and Forestry as part of the budget reconciliation process. However, this action needs to be taken immediately, without waiting for the budget process to be completed.

Secretary of Agriculture John Block has assured us that, as soon as the mandatory interest waiver on reserve loans is repealed, farmers would be allowed to enter 1981 crop wheat directly into the farmer-owned reserve. I commend Secretary Block for his decision. Without immediate entry, farmers would be forced to keep their grain out of the reserve during the next several months. Between now and October 31, under existing law, if large free stocks of grain depress market prices below target price levels, significant Government outlays in the form of deficiency payments would result.

The Secretary's action on the reserve should provide stronger prices for farmers in the marketplace and avoid the prospect of costly deficiency payments. In order for the reserve to function in this way, however, the mandatory interest waiver must be repealed, and there is no time to lose. Wheat harvest is already well underway across the South Central United States.

Both provisions of this legislation are timely and of benefit to the farmer and the taxpayer. I encourage my colleagues to expedite action on this measure in the Senate.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

S. 1395

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 336 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1336) is amended by striking out the last sentence and inserting in lieu thereof a new sentence as follows: "Notwithstanding any other provision hereof, the referendum with respect to the national

marketing quota for wheat for the marketing year beginning June 1, 1982, may be conducted not later than the earlier of the following: (1) thirty days after adjournment sine die of the first session of the Ninety-seventh Congress, or October 15, 1981.".

SEC. 2. Section 110(b) of the Agricultural Act of 1949 (7 U.S.C. 1445e(b)) is amended by deleting in clause (3) of the second sentence the phrase ", and the Secretary shall waive such interest on loans made on the 1980 and 1981 crops of wheat and feed grains".

By Mr. BOREN:

S. 1397. A bill conferring jurisdiction on the Court of Claims to hear, determine, and render judgment on a claim of the Seminole Nation of Oklahoma; to the Committee on the Judiciary.

CLAIM OF THE SEMINOLE NATION OF OKLAHOMA

● Mr. BOREN. Mr. President, I am today reintroducing legislation to confer jurisdiction on the U.S. Court of Claims to adjudicate a longstanding claim of the Seminole Nation of Oklahoma.

The history of this claim has been well summarized in a brief prepared by Mr. Paul Niebell, counsel for the Seminole Nation. In order that my colleagues may become familiar with the basis of the claim, I ask unanimous consent the text of Mr. Niebell's brief, together with the text of the bill, be printed in the RECORD.

There being no objection, the bill and brief were ordered to be printed in the RECORD, as follows:

S. 1397

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Act of August 13, 1946, as amended (50 Stat. 1049, 1052; 25 U.S.SC. 70k), or other provision of law, or decisions of any court, commission, or other agency of the United States, jurisdiction under the provisions of section 2, clause 5 of the Indian Claims Commission Act of August 13, 1946, as amended (60 Stat. 1049, 1050; 25 U.S.C. 70a), and under the other pertinent provisions of said Act, is hereby conferred upon the United States Court of Claims to hear, determine, and render final judgment on the claim of the Seminole Nation of Oklahoma for the amount, if any, due and owing to the said Seminole Nation of Oklahoma for the loss of its vested interests in one-half of all minerals underlying allotted Seminole lands in Oklahoma, and its vested interest in one-half of all royalties on all minerals produced from said Seminole lands, reserved to said Seminole Nation in the Seminole Agreement negotiated by the United States with said Seminole Nation of Oklahoma, dated December 16, 1897, and ratified by Congress by Act of July 1, 1898 (30 Stat. 567); and which vested interest was divested by the passage of section 11 of the Act of May 27, 1908 (35 Stat. 312), without the knowledge and consent of said Seminole Nation of Oklahoma.

MEMORANDUM RE: MINERAL RIGHTS CLAIM OF THE SEMINOLE NATION BY PAUL M. NIEBELL

The Seminole Nation was one of the Five Civilized Tribes that were forcibly removed by the United States from what were their ancestral homes east of the Mississippi River in the 1830s and settled in what was then Indian Territory, now a part of the State of Oklahoma. In their several treaties these tribes were granted the fee simple title to their lands in the West, the right of self-government, and solemnly guaranteed that their western lands would never be included in any State or Territory of the United States without their full and free consent (Art. 4, Treaty of Aug. 7, 1856, 11 Stat. 699).

However, the United States changed its policy towards these tribes in the early 1980s, and by Act of March 3, 1893 (27 Stat. 645), created the Dawes Commission to treat with these tribes for the division of their tribal estates among their members, with the ultimate purpose of creating a State of the Union which would embrace their lands. These tribes were reluctant to give up their own customs and way of life, and adopt the customs and laws of the white man, and for some years refused to treat with the United States.

Finally in 1897 (30 Stat. 567) an Agreement was made between the Seminole Nation and the United States by the terms of which the Seminoles agreed to give up their tribal fee simple title and allot the tribal lands to the individual members of the tribe. Certain provisions beneficial to the Indians were agreed to by the United States and were included in the Seminole Agreement. These provisions were:

"No lease of any coal, mineral, coal oil, or natural gas within said Nation shall be valid unless made with the tribal government, by and with the consent of the allottee and approved by the Secretary of the Interior.

"Should there be discovered on any allotment any coal, mineral, coal oil, or natural gas, and the same should be operated so as to produce royalty, one-half of such royalty shall be paid to such allottee and the remaining half into the tribal treasury until extinguishment of tribal government, and the latter shall be used for the purpose of equalizing the value of allotments; and if the same be insufficient therefor, any other funds belonging to the tribe, upon extinguishment of tribal government, may be used for such purpose, so that each allotment may be made equal in value as aforesaid."

The purpose of the above provisions was (1) to maintain tribal control over the mineral leases of said lands and thus afford protection to the individual allottees; and (2) to reserve to the tribe one-half of the royalty on minerals produced from the allotted lands for use in equalizing as nearly as possible the value each member of the tribe would receive from the tribal estate. Oil had been discovered in the Indian Territory before the Seminole Agreement was executed, and the Seminole delegates realized that some allottees may have oil under their allotments, and others would not. So one-half of the mineral royalties were to be placed into the tribal treasury so that the tribal officials could make adjustment in the value of the allotments of those members who were not fortunate enough to have oil deposits under their allotments.

By Section 28 of the Act of April 26, 1906, 34 Stat. 137, 148, the tribal existence of the Five Civilized Tribes and their tribal governments were continued in full force and effect for all purposes authorized by law, until otherwise provided by law.

In order to protect the Seminole allottee in the possession of his allotment, Section 8 of the Act of March 3, 1903, (32 Stat. 982, 1008), restricted the inalienability to the lifetime of the allottee, not exceeding 21 years from the date of the deed for the allotment.

In 1908 Congress had before it several bills to remove restrictions on the alienation of allotted lands of the Five Civilized Tribes in Oklahoma. H.R. 15641 was one of these bills. During hearings before the House Committee on Indian Affairs Indian representatives opposed this legislation. However, the House passed the bill without any reference to the Seminole mineral rights reserved to the Seminole Nation under the Seminole Agreement.

The Senate Committee on Indian Affairs held hearings on H.R. 15641, and recommended its passage with certain amendments. An amendment, adopted by the Senate, provided: "and all royalties hertofore accrued or hereafter arising from mineral leases by Seminole allottees heretofore or hereafter made shall be paid to the United States Indian Agent, Union Agency, for the benefit of the Indian lessor or his proper representative to whom such royalties shall hereafter belong; * * *"

The above amendment applied to the one-half interest in the mineral royalties reserved to the Seminole allottee, but did not apply to the one-half interest in such mineral royalties reserved to the Seminole Nation in the Seminole Agreement for equalization purposes.

Because of difference in the House and Senate versions the bill went to conference. The above Senate amendment was altered in conference to read as follows:

"That all royalties arising on and after July 1st, Nineteen Hundred and Eight, from mineral leases of allotted Seminole lands heretofore or hereafter made, which are subject to the supervision of the Secretary of the Interior, shall be paid to the United States Indian Agent, Union Agency, for the benefit of the Indian lessor or his proper representative, to whom such royalties shall thereafter belong; and no such lease shall be made after said date except with the allottee or owner of the land: *Provided:* That the interest of the Seminole Nation in leases or royalties arising thereunder on all allotted lands shall cease on June thirtieth, Nineteen Hundred and Eight."

The conference report of the House explained the change as follows:

"The main changes are as follows . . . Another provision provides for the disposal of the moneys arising from the rental of mineral lands in the Seminole Indian Reservation for the benefit of the Seminole Indians . . ."

The conference report tendered to the Senate was:

"Amendment No. 38 provides for the disposal of the moneys received as royalties under mineral leases of the lands in the Seminole Nation."

The Senate amendment, as altered in conference, became Section 11 of the Act of May 27, 1908, 35 Stat. 312, 316. This provision effectively destroyed the vested reserved right of the Seminole Nation to its one-half interest in the mineral royalties reserved to the Seminole Nation in the 1898 Seminole Agreement. This was done without the knowledge and consent of the Seminole Nation.

The Commissioner of Indian Affairs admitted in his 1908 report to the Secretary of the Interior that he initiated and secured this change in the provisions of the 1897 Seminole Agreement.

In a suit filed by the Seminole Nation before the Indian Claims Commission under the fair and honorable dealing jurisdiction of the Indian Claims Commission Act (Section 2, Clause 5, Act of August 13, 1946, 60 Stat. 1049), the Commission made findings of fact and entered a fully documented opinion on June 24, 1966 (17 Ind. Cl. Comm. 67-96), finding and holding that the United States was liable to the Seminole Nation for the wrongful action of the Commissioner of Indian Affairs, and the three Commissioners unanimously found (17 Ind. Cl. Comm. 67, 74-75):

"9. * * * Further, the Commissioner of Indian Affairs did not advance the entire Section 11 as whole before the Senate Committee on Indian Affairs, but offered the proviso separately and surreptitiously at a stage in the proceedings where no minutes were being maintained and where consequent debate was unlikely. And finally, the section

and proviso were apparently offered as a mere correction of a minor inconsistency and not as a major and far-reaching unilateral change in an existing agreement of treaty stature.

"10. This Commission concludes that the Commissioner of Indian Affairs must bear the onus for the sequence of events set out above and in the concurrent opinion this day issued, and that the defendant is ultimately responsible for the actions of its servant, the Commissioner of Indian Affairs. The acts of the Commissioner of Indian Affairs which underly the liability include the sequential offering of Section 11 and its proviso upon occasions when the Seminole Nation would be least able to counteract the offer; failure to afford the Seminole Nation any opportunity to be heard on the subject; and misrepresentation of the measure as a mere correction of a minor inconsistency. These acts were inconsistent with the concept of fair and honorable dealings contemplated by Clause 5 of Section 2 of the Indian Claims Commission Act of 1946."

In its interlocutory order the Commission directed "that the instant suit proceed on the single issue of proof of actual damages suffered by the Seminole Nation itself, as a direct consequence of the wrongful act of the defendant."

Under the Act of April 10, 1967, 81 Stat. 11, the tenure of office of the then three Commissioners of the Indian Claims Commission was terminated, and there was a complete change in the membership of the Commission, and the Commission was enlarged to five new members.

On March 10, 1969 evidence was presented to the new Commissioners of the actual damages suffered by the Seminole Nation as a result of the wrongful action of the defendant, as directed by the 1966 findings and opinion of the Commission. Instead of determining these damages, on May 31, 1972 (28 Ind. Cl. Comm. 117), a majority of the new Commissioners (three), rendered an opinion, omitting the detailed facts upon which the 1966 decision of the Commission upholding liability was based, and withdrawing the 1966 decision, and dismissing the petition in this case. The two dissenting Commissioners joined in a dissenting opinion written by Commissioner Blue, which stated in part as follows (28 Ind. Cl. Comm. 132, 135–136):

"The majority opinion is now vacating the 1966 interlocutory order and is dismissing the petition.

"In my opinion the findings of fact and opinion expressed by this Commission in 1966, in this case, are proper and justified, and should not be vacated or set aside."

* * * * *

"The majority relies to some extent on the two Court cases: *Fish* v. *Wise*, 52 F.2d 544 (10th Cir. 1931), *cert. denied*, 284 U.S. 688 (1932), and *Moore* v. *Carter Oil Co.*, 43 F.2d 322 (10th Cir. 1930), *cert. denied*, 282 U.S. 903 (1931).

"I don't think either of the above cases is applicable in the case before the Commission. Both cases were decided prior to the establishment of the Indian Claims Commission.

"The 1966 Commission's opinion followed an extensive inquiry; it was well reasoned and just. I do not think it should be vacated or set aside. We should proceed to consider the extent of the actual damages, if any, the Seminole Nation suffered."

An appeal to the Court of Claims failed, and the Supreme Court denied a petition for a writ of certiorari.

It is significant to notice that 5 out of 8 Indian Claims Commissioners who passed upon the facts in this case determined the issue of liability in favor of the Seminole Nation.

In their Memorial to Congress of January 6, 1930, the Seminoles reviewed the facts relative to their claim, and stated that "over 90 per cent of them have, by this action, been deprived of any participation in the value of the royalties arising to which they were entitled."

Honorable Joseph M. Dixon, First Assistant Secretary of the Interior, in a Memorandum, dated June 21, 1930, reviewed the facts relative to this claim of the Seminole Nation, and the above Seminole Memorial, and stated in part:

"I submit my differing 'memorandum' under the belief that a gross injustice was originally done the Seminole Indians by the allotment act of May 27, 1908.

"I have reread the proceedings in the House and Senate at the time the bill was passed, and also the conference committees' reports to the two Houses on that legislative item, so profoundly affecting the Seminole Indians, and have no hesitancy in saying that in the conference report on the Seminole bill, May, 1908, the conferees had no parliamentary or legal right to insert a new item in the bill which had not been agreed to or passed by either the Senate or the House, but evidently in the pressure of legislative business at the time, it was agreed to by both Houses without any real knowledge of what the ultimate intent or effect would be.

"I have no doubt that this legislation embodied in the conferees' report was enacted without the knowledge or consent of the Seminole Indians themselves, and that it in effect dispossessed the Seminole Indians of great mineral wealth, in which they had the undisputed legal title as owners of the land by purchase with their own moneys 40 years before.

"I have no doubt that Congress even under its plenary powers had no moral right to thus dispossess the Seminole Indians of this great mineral wealth."

* * * * *

"It has been suggested that Congress had the authority to enact the provisions of Section 11 of the Act of May 27, 1908, under the plenary power and authority of Congress over Indian tribal relations and property and various cases are cited. The cases cited confirm the administrative power of Congress, but nowhere does it appear that they confirm the power of Congress to divest the Indian of his property and give it to others without his consent and without adequate compensation, and this is the point of the present controversy upon which the Seminoles seek a decision of the Supreme Court of the United States."

The facts relative to the passage of Section 11 of the 1908 Act cannot be disputed, and are fully set forth in the original unanimous 1966 findings and opinion of the Indian Claims Commission, and are fully documented to the original sources where they are found.

The Seminole Nation respectfully requests that Congress take such action it seems necessary to settle finally this valid claim, and to compensate the Seminole Nation for the loss resulting to it and resulting from the wrongful action of the United States, its guardian, as set forth above.●

By Mr. DURENBERGER:

S. 1398. A bill to amend the Revenue Act of 1978 with respect to foreign tax credit adjustments for capital gains; to the Committee on Finance.

FOREIGN TAX CREDIT ADJUSTMENTS FOR CAPITAL GAINS

● Mr. DURENBERGER. Mr. President, I am introducing a bill in the nature of a technical correction relating to the determination of foreign source income, where one corporation realizes gain from the disposition of stock in a second corporation.

Mr. President, prior to the Tax Reform Act of 1976, it had been impossible for a domestic corporation to increase the limitation on allowable foreign tax credits by selling at a location outside the United States the stock of a second corporation. The capital gain on that sale was treated as foreign source income even though the corporation whose stock was disposed of derived all or substantially all its income from sources in the United States instead of from foreign sources.

In order to deal with this situation, the Tax Reform Act of 1976 amended code section 904 to provide that the gain from disposition of the stock of the second corporation would be U.S. source income unless, first, the stock was sold in the foreign country where the second corporation had derived more than 50 percent of its income for the immediately preceding 3 years, or second, the stock was sold in a foreign country that imposed at least a 10-percent tax on the gain from disposition of the stock, section 904 (b) (3) (C).

There is no apparent reason why gain from the disposition of stock of a corporation which derives most of its income from foreign sources should be treated as U.S. source income. Indeed, so long as the underlying earnings and earnings potential which give the stock its value are foreign source, it is only logical that gain on disposition of the stock should be treated as foreign source income also. This is true whether or not the corporation whose stock is sold may, by happenstance, have derived more than 50 percent of its income in one particular foreign country.

It is, for example, illogical to treat as foreign source income the gain from disposition of stock of a corporation which derived 51 percent of its income in foreign country A and 49 percent in the United States; and not to treat as foreign source income gain from the disposition of stock in a corporation which derived 100 percent of its income from sources outside the United States—one-third in each of foreign countries A, B, and C. Obviously, the gain should be foreign source in any case where the corporation whose stock is sold derived more than 50 percent of its income from sources outside the United States.

It is also obviously the case that there is no necessity to require that the country where the stock is sold impose at least a 10-percent tax on the gain. Capital gain taxes in foreign countries are usually less than in the United States and in some cases nonexistent. In those cases, a difference in the characterization of income based on the nominal distinction between a 10-percent and a 9-percent rate, or even a zero rate, is purely arbitrary.

In other cases, however, the capital gain tax rate in the country where the corporation derives most of its income may be higher than the U.S. rate. There is no rational reason for requiring a U.S. corporation to pay the highest possible foreign tax rate on the sale, or to make the sale in a country which imposes a tax of at least 10 percent. In both cases, the effect is merely to increase tax payments by U.S. taxpayers to foreign countries and to increase the amount of available foreign tax credit.

These defects in the Tax Reform Act of 1976 were recognized and partially

corrected by title VII of the Revenue Act of 1978, which dealt with technical corrections to the Tax Reform Act of 1976. Section 701(u)(2)(C) of the 1978 act added code section 904(b)(3)(D), which corrected the 1976 act insofar as concerns gain from the disposition of stock in a liquidation. Section 904(b)(3)(D) in effect provides that gain from the disposition of stock by means of liquidation of a foreign corporation will be treated as foreign source income if the liquidated corporation derived more than than 50 percent of its income from foreign sources for the immediately preceding 3 years.

This correction of the 1976 act eliminated the requirement that the corporation have derived more than 50 percent of its income in any one particular foreign country and eliminated the requirement that at least a 10-percent tax have been paid in the foreign country where the liquidation occurred. As previously discussed, section 904(b)(3)(D) represents the correct rule for determining the source of gain from the disposition by one corporation of stock of a foreign corporation outside the United States. Because the amendment made by the 1978 act was a technical correction of the 1976 act, it was made effective as of the effective date of the provision in the 1976 act which it corrected; that is, taxable years beginning after Deccember 31, 1975.

The 1978 act failed, however, to correct the 1976 act insofar as concerns gains from the disposition of stock in a foreign corporation when that disposition is in the form of a sale of stock instead of a liquidation. There is no apparent distinction between a liquidation of a corporation and a sale of at least 80 percent of the stock of the corporation. The same rule, the one provided by the technical correction in the 1978 act, should apply in both situations.

Mr. President, this bill amends section 701(u)(2)(C) of the 1978 act to provide that a sale of at least 80 percent of all classes of stock of a corporation would be treated the same as a liquidation.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1398

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 701(u)(2)(C) (relating to foreign tax credit adjustments for capital gains) of the Revenue Act of 1978 is amended—

(i) by inserting "AND GAIN FROM SALE OF STOCK OF CERTAIN FOREIGN SUBSIDIARIES" after "GAIN FROM LIQUIDATION OF CERTAIN FOREIGN CORPORATIONS";

(ii) by inserting "either" after "shall not apply with respect to";

(iii) by inserting "or a sale of at least 80 percent of the total number of shares of all classes of stock of a foreign corporation," after "to which part II of subchapter C applies"; and

(iv) by inserting "or sale" after "during which the distribution".

(b) EFFECTIVE DATE.—The amendments made by section (a) shall apply to taxable years beginning after December 31, 1975.●

By Mr. DODD (for himself, Mr. DOLE, Mr. QUAYLE, and Mr. GRASSLEY):

S. 1399. A bill to encourage equitable contracts between sales representatives and their principals; to the Committee on Commerce, Science, and Transportation.

SALES REPRESENTATIVES PROTECTION ACT

● Mr. DODD. Mr. President, today I am pleased to introduce the Sales Representatives Protection Act in the U.S. Senate. Identical language was introduced in the House of Representatives on May 7, 1981 as H.R. 3496. At present, H.R. 3496 has 126 cosponsors.

Last year, similar legislation was introduced in the House as H.R. 5099 and gained 158 cosponsors.

The Sales Representatives Protection Act establishes criteria for provisions which must be included in written contracts between sales representatives and the manufacturers whom they represent. By making explicit the rights, duties, and obligations of the parties to the written contract, this act will protect sales representatives from unfair and sudden separation from accounts which they have spent considerable time and money developing.

Sales representatives operate at a number of disadvantages not faced by most workers. Usually, they are not covered by their firm's retirement plans. Workmen's and unemployment compensation is usually not available. They spend long hours on the highway, facing ever-increasing fuel costs and the risk of accidents. And they depend on commissions, which rise and fall with their business volume, rather than a predictable salary, in order to live.

This bill will provide a measure of protection for sales representatives who also live with the fear of arbitrary and capricious separation from the major sources of their livelihood.

It should be pointed out that, while the Sales Representatives Protection Act sets general standards for written contracts, it does not require that any specific terms be included. The terms of the contract are still left up to the parties to the contract. Nor does this bill even require that a written contract be entered into.

No new agency will be created, and no new costs will be imposed on the Federal Government, by passage of this act. As a matter of fact, it is entirely likely that, to the extent that compliance with this act clarifies any agreement between the parties to a contract, any litigation which may result from disputes between the parties will be carried out more quickly and efficiently.

For the information of all interested persons, I ask unanimous consent that the text of this legislation and a summary of its provisions which was prepared by the Bureau of Wholesale Sales Representatives, a major supporter of this legislation, be included in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 1399

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Sales Representatives Protection Act".

STATEMENT OF FINDINGS

SEC. 2. The Congress hereby finds that—

(1) sales representatives invest their own time, resources, and skills in the development of their territories and markets for their principals;

(2) many sales representatives are compensated primarily by commission and do not generally have the benefits of collective bargaining, workmen's compensation, unemployment compensation, company-sponsored retirement, or pension plans;

(3) many sales representatives are subjected to wrongful termination from their accounts, reduction in the size of their sales territories, conversion of their accounts to house accounts serviced directly by their principals, and other abuses which deny them the full benefits of their labor;

(4) there are significant inconsistencies in the construction and application of the laws of the several States as they apply to relationships between principals and sales representatives and the termination of such relationships; and

(5) it is in the public interest to encourage the development of equitable contracts between sales representatives and their principals and for principals to provide reasonable compensation to sales representatives who are wrongfully terminated.

DEFINITIONS

SEC. 3. For purposes of this Act:

(1) The term "account" means a wholesaler, retailer, contractor, or other business establishment—

(A) which purchases any merchandise of a principal through a sales representative for resale; and

(B) to which the sales representative solicited orders on behalf of the principal for a period of not less than eighteen months immediately preceeding the termination of the sales representative by the principal.

(2) The term "commerce" means trade, traffic, transmission, communication, or transportation—

(A) between a place in a State and any place outside the State; or

(B) which affects trade, traffic, transmission, communication, or transportation described in subparagraph (A).

(3) The term "good cause" means—

(A) conduct on the part of a sales representative with respect to the principal of the sales representative which constitutes—

(i) dishonesty, fraud, or other illegal activity;

(ii) a material breach of the contract between the sales representative and the principal;

(iii) failure to put forth a good faith effort to obtain orders for the merchandise of the principal;

(iv) gross negligence in the performance of the duties of the sales representative; or

(B) a marketing area withdrawal.

(4) The term "marketing area withdrawal" means the withdrawal of merchandise, or a line of merchandise, directly or indirectly, by a principal from a particular marketing area during a continuous period of at least one year.

(5) The term "principal" means any person who—

(A) engages in the business of manufacturing, producing, assembling, or importing merchandise for sale in commerce to an account which purchases the merchandise for resale;

(B) utilizes sales representatives to solicit orders for the merchandise; and

(C) compensates the sales representatives, in whole or in part, by commission.

(6) The term "sales representative" means any person (other than an agent-driver or commission-driver) who engages in the business of soliciting, on behalf of a principal, orders for the purchase at wholesale of the merchandise of the principal.

(7) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

TITLE I—CONTRACTS BETWEEN SALES REPRESENTATIVES AND PRINCIPALS

CONTRACT TERMS

SEC. 101. (a) Any written contract conforming to this title between a sales representative and a principal under which the sales representative solicits orders for the merchandise of the principal shall—

(1) specify the rate of commission or any other form of compensation to be paid by the principal to the sales representative;

(2) specify the minimum term of the contract;

(3)(A) specify, in accordance with subsection (b)(1), the number of days of written notice the principal shall give the sales representative before terminating or failing to renew the contract without good cause; or

(B) specify, in accordance with subsection (b)(2), the amount of payment which shall be made in lieu of the written notice pursuant to subparagraph (A);

(4) specify the number of days of written notice, or the amount of payment which shall be made in lieu of written notice, the principal shall give the sales representative before the principal effects a marketing area withdrawal;

(5) include a description of the sales territory assigned to the sales representative and a statement of whether the territory will be an exclusive territory of the sales representative with respect to the merchandise, or line of merchandise, of the principal;

(6) include provisions relating to the ownership of any samples furnished by the principal to the sales representative for use in business;

(7) specify the number of days after an order for the merchandise of the principal is transmitted to the principal within which the principal shall notify the sales representative whether the order has been accepted or rejected;

(8) include terms under which the sales representative will receive copies of shipping documents which relate to merchandise shipped by the principal to an account of the sales representative; and

(9) include terms under which the sales representative will be allowed to solicit orders for the merchandise of other principals.

(b)(1) The notice specified in subsection (a)(3)(A) shall not be less than thirty days for each year the sales representative involved has solicited the account involved, except that the notice shall not exceed a maximum of not less than ninety days.

(2) The payment specified in subsection (a)(3)(B) shall be paid not later than thirty days following the date of the termination involved. Such payment shall not be less than one-twelfth of the average annual compensation of the sales representative for the period during which the sales representative solicited the account during the preceding five years, multiplied by the lesser of (A) the total number of years that the sales representative solicited the account; or (B) three years.

DUTIES OF PRINCIPAL

SEC. 102. Any principal who enters into a contract with a sales representative under which the sales representative shall solicit orders for the merchandise of the principal shall—

(1) inform the sales representative, within a reasonable time to be specified in the contract, of the receipt of each order by the principal from an account of the sales representative;

(2) furnish the sales representative, within a reasonable time to be specified in the contract, copies of all invoices and credit memorandums issued with respect to sales in any assigned geographic territory of the sales representative;

(3) furnish the sales representative monthly statements of commissions due the sales representative; and

(4) provide to the sales representative, upon the written request of the sales representative—

(A) an accounting showing each sale made by the principal in the preceding twelve months in any assigned geographic territory of the sales representative, except that such accounting may not be required more frequently than once during each twelve-month period;

(B) information with respect to any specific matter which is related to any claim by the sales representative against the principal for a commission; and

(C) access to the records of the principal for the purpose of verifying specific information supplied under subparagraphs (A) and (B).

TITLE II—INDEMNIFICATION

EXEMPTION FROM INDEMNIFICATION REQUIREMENTS

SEC. 201. No action for indemnification under this Act may be brought by a sales representative against a principal if the sales representative and the principal have entered into a written contract which conforms with the requirements established in title I.

INDEMNIFICATION REQUIREMENTS

SEC. 202. (a) Any principal who, without good cause, terminates a sales representative from an assignment to solicit orders on behalf of the principal shall indemnify the sales representative in accordance with section 203.

(b)(1) Any principal who—

(A) reduces, without good cause, the size of the geographical territory assigned to a sales representative; or

(B) reduces the rate of commission paid to a sales representative; or

(C) reduces the number of accounts assigned to a sales representative within a geographical territory;

shall be subject to the requirements established in paragraph (2).

(2) Any principal who carries out any reduction specified in subparagraph (A), (B), or (C) of paragraph (1) shall indemnify the sales representative involved in accordance with section 203 if—

(A) any such reduction (or any combination of such reductions) results in a decrease in the dollar amount of commissions paid by the principal to the sales representative for the twelve-month period following such reduction or combination of reductions; and

(B) such decrease is equal to or greater than twenty-five per centum of the dollar amount of commissions paid by the principal to the sales representative for the twelve-month period immediately preceding such reduction or combination of reductions.

(3) The calculation of any decrease in the dollar amount of commissions paid by a principal to a sales representative under paragraph (2) shall disregard any portion of such decrease which is directly attributable to nonperformance of the sales representative, an act of God, an act of war or insurrection, a strike, or an action by any agency of government.

COMPUTATION OF INDEMNITY

SEC. 203. Any principal required under section 202 to indemnify a sales representative for the loss or reduction of commissions from any account shall be liable to the sales representative in an amount equal to one-sixth of the average annual compensation of the sales representative for the period during which the sales representative solicited any such account during the preceding five years, multiplied by the total number of years (not to exceed ten years) that the sales representative solicited any such account.

PAYMENT OF INDEMNITY RESULTING FROM SETTLEMENT

SEC. 204. (a) Following the making of a binding agreement to settle a claim by a sales representative against a principal for an indemnity under this title, and before any action is brought under section 301(a), the principal involved—

(1) shall pay the amount of the settlement to the sales representative not later than thirty days after the date of the agreement; or

(2) if the amount of the settlement is greater than $3,000, may elect to pay the amount in the manner specified in paragraph (1) or in the manner specified in subsection (b).

(b)(1) A principal electing under subsection (a)(2) to pay the amount of a settlement in excess of $3,000 under this subsection shall pay not less than 40 per centum of the amount to the sales representative not later than thirty days after the date of the agreement.

(2) The principal also shall, at the time of the payment specified in paragraph (1), give the sales representative two negotiable notes, each for one-half of the balance of the amount of the settlement. One such negotiable note shall (A) be due not later than twelve months after the date of the agreement; and (B) bear interest at the highest rate of interest paid by the United States on notes issued by it during any three-day period including such date.

(3) The second such negotiable note shall (A) be due not later than 24 months after the date of the agreement; and (B) bear interest at the highest rate of interest paid by the United States on notes issued by it during any three-day period including such date.

(c) Nothing in this section shall restrict or invalidate any right or remedy established in sections 301 and 303.

TITLE III—MISCELLANEOUS PROVISIONS

PROCEDURAL REQUIREMENTS

SEC. 301. (a) An action to enforce any rights or liabilities created by this Act may be brought in a district court of the United States without regard to the amount in controversy or in any other court of competent jurisdiction.

(b) In the case of an action arising under this Act which is brought in a district court of the United States, the action may be brought in the judicial district where all the plaintiffs reside in addition to any other judicial district provided by law.

(c) No action may be brought under this Act later than six years after the right to the action arises.

(d) In any action brought by any sales representative against any principal under this Act, the burden of proof on the issue of whether the principal acted without good cause shall rest on the principal.

(e) In any successful action brought by a sales representative under this Act, the court may award reasonable attorney fees and the cost of the action to the sales representative.

(f) Payment of indemnification under this Act shall be deemed to be a payment of wages and salary under section 507(a)(3) and (4) of title 11, United States Code.

(g) The right to indemnification arises on the date the principal has completed the actions specified in section 202 and does not terminate upon the death of the sales representative.

WAIVER PROHIBITED

SEC. 302. Any provision in any contract between any sales representative and any principal requiring the sales representative to waive any of the provisions of this Act shall be void.

EFFECT ON STATE LAW

SEC. 303. Nothing in this Act shall invalidate or restrict any right or remedy of any sales representative under the law of any State.

SUMMARY OF THE SALES REPRESENTATIVES PROTECTION ACT (SRPA)

The purpose of SRPA is to make available a federal remedy for sales representatives in interstate commerce who presently must endeavor to traverse a maze of inconsistent and conflicting state laws. SRPA requires no budgetary appropriation, no funding, and no involvement of any federal agency. Enactment would not increase the cost of government.

SRPA's remedy is a claim to an indemnity that may be adjudicated under limited conditions and only where the sales representative has represented the principal for at least 18 months. The remedy is not available where the parties have entered into a conforming written agreement. A conforming agreement must provide for a minimum of 30 days notice for each year of representation up to a maximum of 90 days notice where the relationship is terminated without good cause. Other items to be negotiated by the parties and addressed in a conforming contract are:

Commission rate
Term of the contract
Territory assigned
Ownership of samples
Time period to accept or reject an order
When shipping documents are to be furnished
Whether or not additional lines may be carried.

Under such a contract, the principal must inform the sales representative of receipt of orders, furnish copies of invoices, credit memos, and monthly statements of commissions due, and, upon request of the sales rep, provide an annual accounting and access to the records.

If a contract conforming to the first paragraph was not negotiated, any principal who

1. terminates a sales rep without good cause, or who
2. causes a decrease in the sales rep's earnings of 25% or more by
   a. reducing the sales rep's territory
   b. converting accounts serviced by the sales representative to house accounts, or
   c. reducing the commission rate

is subject to a claim for indemnity. To calculate the indemnity, determine the sales rep's average annual commissions earned by soliciting the lost accounts or commission for the principal for the past 5 years; divide by 6 and multiply by the number of years (not to exceed ten) that the sales rep solicited the accounts on behalf of the principal.

If a written contract conforms to the provisions noted in the first paragraph, an indemnity claim is not available to the sales representative.●

By Mr. CANNON:

S. 1402. A bill to establish uniform national standards for the continued regulation, by the several States, of commercial motor vehicle width and length on interstate highways; to the Committee on Commerce, Science, and Transportation.

UNIFORM MOTOR VEHICLE STANDARDS ACT OF 1981

● Mr. CANNON. Mr. President, today I am introducing a bill to provide for a more rational system of standards for commercial motor vehicle length and width limits throughout the country. This is an issue that has been before Congress for many years, and the time certainly seems ripe for a final resolution.

The problem that this proposed legislation is intended to address is the inconsistent and nonuniform standards for vehicle size imposed by the various States of the Union. The bill would result in a uniformity of motor vehicle size standards throughout the country.

I am not proposing this bill simply for the sake of uniformity, however. Rather it is because the existing system of conflicting State regulation is a very costly one that results in wasted fuel and places an unreasonable burden on interstate commerce. In February 1979, the Transportation Research Board of the National Academy of Sciences found that the nonuniformity of State laws relating to truck size cost the American public as much as $2.8 billion annually and wasted up to 875 million gallons of fuel annually. The reason is that unduly restrictive limits on truck size and weight result in the creation of inefficient operations. Moreover, in order to avoid States with stiff restrictions, truckers will drive hundreds of miles out of their way, wasting both fuel and money.

The economic effect of nonuniformity is really not in dispute. Rather, the issue has largely been focused upon issues of highway damage and safety. The issue of highway damage is not pertinent to this legislation because it does not affect truck weights in any way. The issue of truck safety is an issue, but one that I am convinced has been satisfactorily dealt with.

In the first place, the limits that would be set in this legislation are ones that meet the requirements of the overwhelming majority of States in the Union. There is absolutely no evidence that has been presented to Congress or anyone else that I am aware of that shows a poorer safety record in the States with the higher limits. Moreover, this issue has recently been exhaustively litigated extensively in the Federal courts, resulting in an opinion by the U.S. Supreme Court that goes into great detail in support of the view that larger truck sizes exactly similar to those set forth in this bill are just as safe as the smaller sizes.

Hence, this bill would greatly increase the efficiency of the motor carrier industry, without jeopardizing safety. It has three basic parts. First it would set a uniform limit for commercial motor vehicle widths at that which every State currently allows for motor buses, namely, 102 inches. This is only the standard, however, if the traffic lanes are sufficiently wide to allow safe operation of the vehicles. That width is 12 feet. The second part would set a uniform standard for the most common truck on the road—the single tractor-trailer combination. The limit would be 60 feet in overall length, no more than 45 feet of which could be the actual trailer itself. This provision then allows adequate size, but assures that the drivers will not get squeezed out by truck cabs that are too small. The final provision holds that States may no longer bar "doubles" from interstate highways. These are trucks where two units are connected to the tractor. The overall length for such combinations would be set at 65 feet. These are precisely the types of vehicles which the Supreme Court found to be just as safe as the traditional single tractor-trailer combination.

It seems to me that the Supreme Court's opinion on this issue should be required reading for anyone with concern about either the safety issue or the economic arguments involved.

The Senate Commerce Committee has held hearings on the issue in the last two Congresses and the record clearly supports this proposal. Perhaps the most controversial part is the limitation on trailer size. I suspect that drivers may think this provision does not go far enough and that truckers will think it goes too far. I want both sides of this issue to present all the evidence they can to support their views. We may have to make some exceptions for specialized transportation services, but I am committed to the concept of setting aside sufficient space for a reasonable separation between the trailer and the cab, as well as sufficient room for the cab itself.

Mr. President, I ask unanimous consent that the bill and Supreme Court decision be printed in the RECORD.

There being no objection, the bill and Supreme Court decision were ordered to be printed in the RECORD, as follows:

S. 1402

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Uniform Motor Vehicle Standards Act of 1981".

FINDINGS AND PURPOSE

SEC. 2. Congress finds and declares that—

(1) All communities in the United States depend directly or indirectly upon commercial motor vehicles for freight transportation services, and at least 39,000 of these communities receive freight service from no other mode of transportation.

(2) The width and length of equipment used in commercial motor vehicle freight transportation is subject to regulation by the several States, and such regulation is inconsistent and without uniformity between the several States.

(3) Nonuniformity of State regulation of commercial motor vehicle width and length has caused, and continues to cause, excessive and unnecessary fuel consumption, time consuming litigation, increased consumer costs, and lost productivity in freight transportation.

(4) The continued State regulation of commercial motor vehicle width and length, in the absence of National standards for such regulation, constitutes an undue burden on interstate commerce.

(5) The purpose of this Act is to establish uniform National standards for the continued regulation, by the several States of commercial motor vehicle width and length on interstate highways.

COMMERCIAL MOTOR VEHICLE WIDTH REGULATION

SEC. 3. No State shall establish, maintain, or enforce any regulation of commerce which imposes a limitation of less than 102 inches on the overall width of commercial motor vehicles operating on any segment of the National System of Interstate and Defense Highways, or any other qualifying Federal-aid highways as designated by the Secretary of Transportation, with traffic lanes designed to be a width of twelve feet or more.

COMMERCIAL MOTOR VEHICLE LENGTH REGULATION

SEC. 4. (a) No State shall establish, maintain, or enforce any regulation of commerce which imposes a limitation of less than 60 feet on the overall length of commercial motor vehicles operating in truck tractor-semitrailer combinations or a limitation of less than 65 feet on the overall length of commercial motor vehicles operating in any other combination of units on any segment of the National System of Interstate and Defense Highways or any other qualifying Federal-aid highways as designated by the Secretary of Transportation: *Provided*, that the total length of any single unit in such combinations not be greater than 45 feet, unless such unit was manufactured prior to the date of enactment of this Act.

(b) No State shall prohibit commercial motor vehicle combinations consisting of a truck tractor and two trailing units on any segment of the National System of Interstate and Defense Highways or any other qualifying Federal-aid highways as designated by the Secretary of Transportation. No State shall establish, maintain, or enforce any regulations of commerce which imposes a limitation of less than 65 feet for such motor vehicle combinations on such highways.

(c) For the purposes of subsections (a) and (b) the overall permissible lengths for commercial motor vehicles shall not include additional length required by energy conservation devices or designs.

ACCESS TO THE INTERSTATE SYSTEM

SEC. 5. No State may enact or enforce any law denying reasonable access to commercial motor vehicles subject to this Act to and from the interstate highway system and the Federal-aid primary system and terminals and facilities for food, fuel, repairs, and rest.

ENFORCEMENT

SEC. 6. The Secretary of Transportation, or, on the request of the Secretary, the Attorney General of the United States, is authorized and directed to institute any civil action for injunctive relief as may be appropriate to assure compliance with the provisions of this Act. Such action may be instituted in any district court of the United States in any State where such relief is required to assure compliance with the terms of this Act. In any action under this section, the court shall, upon a proper showing, issue a temporary restraining order or preliminary or permanent injunction. In any such action, the court may also issue a mandatory injunction commanding any State or person to comply with any applicable provision of this Act or any rule issued under authority of this Act.

[SUPREME COURT OF THE UNITED STATES, No. 79–1320]

RAYMOND KASSEL ET AL, APPELLANTS, *v.* CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE.

On Appeal from the United States Court of Appeals for the Eighth Circuit, March 24, 1981.

JUSTICE POWELL announced the judgment of the Court and delivered an opinion in which JUSTICE WHITE, JUSTICE BLACKMUN, and JUSTICE STEVENS joined.

The question is whether an Iowa statute that prohibits the use of certain large trucks within the State unconstitutionally burdens interstate commerce.

I

Respondent Consolidated Freightways Corporation of Delaware (Consolidated) is one of the largest common carriers in the country. It offers service in 48 States under a certificate of public convenience and necessity issued by the Interstate Commerce Commission. Among other routes, Consolidated carries commodities through Iowa on Interstate 80, the principal east-west route linking New York, Chicago, and the West Coast, and on Interstate 35, a major north-south route.

Consolidated mainly uses two kinds of trucks. One consists of a three-axle tractor pulling a 40-foot two-axle trailer. This unit, commonly called a single, or "semi," is 55 feet in length overall. Such trucks have long been used on the Nation's highways. Consolidated also uses a two-axle tractor pulling a single-axle trailer which, in turn, pulls a single-axle dolly and a second single-axle trailer. This combination, known as a double, or twin, is 65 feet long overall.[1] Many trucking companies, including Consolidated, increasingly prefer to use doubles to ship certain kinds of commodities. Doubles have larger capacities, and the trailers can be detached and routed separately if necessary. Consolidated would like to use 65-foot doubles on many of its trips through Iowa.

The State of Iowa, however, by statute restricts the length of vehicles that may use its highways. Unlike all other States in the West and Midwest, App. 605, Iowa generally prohibits the use of 65-foot doubles within its borders. Instead, most truck combinations are restricted to 55 feet in length. Double,[2] mobile homes,[3] truck carrying vehicles such as tractors and other farm equipment,[4] and singles hauling livestock,[5] are permitted to be as long as 60 feet. Notwithstanding these restrictions, Iowa's statute permits cities abutting the state line by local ordinance to adopt the length limitations of the adjoining State. Iowa Code § 321.457(7). Where a city has exercised this option, otherwise-oversized trucks are permitted within the city limits and in nearby commercial zones. *Ibid.*[6]

Iowa also provides for two other relevant exemptions. An Iowa truck manufacturer may obtain a permit to ship trucks that are as large as 70 feet. Iowa Code § 321E.10. Permits also are available to move oversized mobile homes, provided that the unit is to be moved from a point within Iowa or delivered for an Iowa resident. *Id.*, § 321E.28 (5).[7]

Because of Iowa's statutory scheme, Consolidated cannot use its 65-foot doubles to move commodities through the State. Instead, the company must do one of four things: (i) use 55-foot singles; (ii) use 60-foot doubles; (iii) detach the trailers of a 65-foot double and shuttle each through the State separately; or (iv) divert 65-foot doubles around Iowa.

Dissatisfied with these options, Consolidated filed this suit in the District Court averring that Iowa's statutory scheme unconstitutionally burdens interstate commerce.[8] Iowa defended the law as a reasonable safety measure enacted pursuant to its police power. The State asserted that 65-foot doubles are more dangerous than 55-foot singles and, in any event, that the law promotes safety and reduces road wear within the State by diverting much truck traffic to other States.[9]

In a 14-day trial, both sides adduced evidence on safety, and on the burden on interstate commerce imposed by Iowa's law. On the question of safety, the District Court found that the "evidence clearly establishes that the twin is as safe as the semi." 475 F. Supp. 544, 549 (SD Iowa 1979). For that reason,

"There is no valid safety reason for barring twins from Iowa's highways because of their configuration.

"The evidence convincingly, if not overwhelmingly, establishes that the 65 foot twin is as safe as, if not safer than, the 60 foot twin and the 55 foot semi. . . .

"Twins and semis have different characteristics. Twins are more maneuverable, are less sensitive to wind, and create less splash and spray. However, they are more likely than semis to jackknife or upset. They can be backed only for a short distance. The negative characteristics are not such that they render the twin less safe than semis overall. Semis are more stable but are more likely to rear end another vehicle." *Id.*, at 548–549.

In light of these findings, the District Court applied the standard we enunciated in *Raymond Motor Transportation, Inc.* v. *Rice*, 434 U. S. 429 (1978), and concluded that the state law impermissibly burdened interstate commerce:

"[T]he balance here must be struck in favor of the federal interests. The *total effect* of the law as a safety measure in reducing accidents and casualties is so slight and problematical that it does not outweigh the national interest in keeping interstate commerce free from interferences that seriously impede it." 475 F. Supp., at 551 (emphasis in original).

The Court of Appeals for the Eighth Circuit affirmed. 612 F. 2d 1064 (1979). It accepted the District Court's finding that 65-foot doubles were as safe as 55-foot singles. *Id.*, at 1069. Thus, the only apparent safety benefit to Iowa was that resulting from forcing large trucks to detour around the State, thereby reducing overall truck traffic on Iowa's highways. The Court of Appeals noted that this was not a constitutionally permissible interest. *Id.*, at 1070. It also commented that the several statutory exemptions identified above, such as those applicable to border cities and the shipment of livestock, suggested that the law in effect benefited Iowa residents at the expense of interstate traffic. 612 F. 2d, at 1070–1071. The combination of these exemptions weakened the presumption of validity normally accorded a state safety regulation. For these reasons, the Court of Appeals agreed with the District Court that the Iowa statute unconstitutionally burdened interstate commerce.

Iowa appealed, and we noted probable jurisdiction. — U. S. — (1980). We now affirm.

II

It is unnecessary to review in detail the evolution of the principles of Commerce Clause adjudication. The Clause is both a "prolific sourc[e] of national power and an equally prolific source of conflict with legislation of the state[s]." *H. P. Hood & Sons, Inc.* v. *DuMond*, 336 U. S. 525, 534 (1949). The Clause permits Congress to legislate when it perceives that the national welfare is not furthered by the independent actions of the States. It is now well established, also, that the Clause itself is "a limitation upon state power even without congressional implementation." *Hunt* v. *Washington State Apple Advertising Commission*, 432 U. S. 333, 350 (1977). The Clause requires that some aspects of trade generally must remain free from interference by the States. When a state ventures excessively into the regulation of these aspects of commerce, it "trespasses upon national interests," *Great Atlantic & Pacific Tea Co.* v. *Cotrell*, 4244 U. S. 366, 373 (1976), and the courts will hold the state regulation invalid under the Clause alone.

The Commerce Clause does not, of course, invalidate all state restrictions on commerce. It has long been recognized that, in the absence of conflicting legislation by Congress, there is a residuum of power in the State to make laws governing matters of local concern which nevertheless in some measure affect interstate commerce or even, to some extent, regulate it." *Southern Pacific Co.* v. *Arizona*, 325 U. S. 761, 767 (1945). The extent of permissible state regulation is not always easy to measure. It may be said with confidence, however, that a State's power to regulate commerce is never greater than in matters traditionally of local concern. *Washington Apple Commission*, *supra*, at 350. For example, regulations that touch upon safety—especially highway safety—are those

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Footnotes at end of article.

that the Court has been most reluctant to invalidate." *Raymond, supra,* at 443; accord, *Railway Express Agency, Inc.* v. *New York,* 336 U.S. 106, 109 (1949); *South Carolina State Highway Department* v. *Barnwell Brothers, Inc.,* 303 U.S. 177, 187 (1938); *Sproles* v. *Binford,* 286 U.S. 374, 390 (1932); *Hendrick* v. *Maryland,* 235 U.S. 610, 622 (1915). Indeed, "if safety justifications are not illusory, the court will not second guess legislative judgment about their importance in comparison with related burdens on interstate commerce." *Raymond, supra,* at 449 (BLACKMUN, J., concurring). Those who would challenge such bona fide safety regulations must overcome a strong presumption of validity." *Bibb* v. *Navajo Freight Lines, Inc.,* 359 U. S. 520, 524 (1959).

But the incantation of a purpose to promote the public health or safety does not insulate a state law from Commerce Clause attack. Regulations designed for that salutary purpose nevertheless may further the purpose so marginally, and interfere with commerce so substantially, as to be invalid under the Commerce Clause. In the Court's recent unanimous decision in *Raymond,*[10] we decline to accept the State's contention that the inquiry under the Commerce Clause is ended without a weighing of the asserted safety purpose against the degree of interference with interstate commerce." 434 U.S., at 443. This "weighing" by a court requires—and indeed the constitutionality of the state regulation depends on—"a sensitive consideration of the weight and nature of the state regulatory concern in light of the extent of the burden imposed on the course of interstate commerce." *Id.,* at 441; accord, *Pike* v. *Bruce Church, Inc.,* 397 U.S. 137, 142 (1970); *Bibb, supra,* at 525–530; *Southern Pacific, supra,* at 770.

III

Applying these general principles, we conclude that the Iowa truck-length limitations unconstitutionally burden interstate commerce.

In *Raymond Motor Transportation, Inc.* v. *Rice,* 434 U.S. 429 (1978), the Court held that a Wisconsin statute that precluded the use of 65-foot doubles violated the Commerce Clause. This case is *Raymond* revisited. Here, as in *Raymond,* the State failed to present any persuasive evidence that 65-foot doubles are less safe than 55-foot singles. Moreover, Iowa's law is now out of step with the laws of all other midwestern and western States. Iowa thus substantially burdens the interstate flow of goods by truck. In the absence of congressional action to set uniform standards,[11] some burdens associated with state safety regulations must be tolerated. But where, as here, the State's safety interest has been found to be illusory, and its regulations impair significantly the federal interest in efficient and safe interstate transportation, the state law cannot be harmonized with the Commerce Clause.[12]

A

Iowa made a more serious effort to support the safety rationale of its law than did Wisconsin in *Raymond,* but its effort was no more persuasive. As noted above, the District Court found that the "evidence clearly establishes that the twin is as safe as the semi." The record supports this finding.

The trial focused on a comparison of the performance of the two kinds of trucks in various safety categories. The evidence showed, and the District Court found, that the 65-foot double was at least the equal of the 55-foot single in the ability to brake, turn, and maneuver. The double, because of its axle placement produces less splash and spray in wet weather.[13] And, because of its articulation in the middle, the double is less susceptible to dangerous "off-tracking,"[14] and to wind.

None of these findings is seriously disputed by Iowa. Indeed, the State points to only three ways in which the 55-foot single is even arguably superior: singles take less time to be passed and to clear intersections; they may back up for longer distances; and they are somewhat less likely to jackknife.

The first two of these characteristics are of limited relevance on modern interstate highways. As the District Court found, the negligible difference in the time required to pass, and to cross intersections, is insignificant on 4-lane divided highways because passing does not require crossing into oncoming traffic lanes, *Raymond, supra,* at 444, and interstates have few, if any, intersections. The concern over backing capability also is insignificant because it seldom is necessary to back up on an interstate.[15] In any event, no evidence suggested any difference in backing capacity between the 60-foot doubles that Iowa permits and the 65-foot doubles that it bans. Similarly, although doubles tend to jackknife somewhat more than singles, 65-foot doubles actually are less likely to jackknife than 60-foot doubles.

Statistical studies supported the view that 65-foot doubles are at least as safe overall as 55-foot singles and 60-foot doubles. One such study, which the District Court credited, reviewed Consolidated's comparative accident experience in 1978 with its own singles and doubles. Each kind of truck was driven 56 million miles on identical routes. The singles were involved in 100 accidents resulting in 27 injuries and one fatality. The 65-foot doubles were involved in 106 accidents resulting in 17 injuries and one fatality. Iowa's expert statistician admitted that this study provided "moderately strong evidence" that singles have a higher injury rate than doubles. App. 488. Another study prepared by the Iowa Department of Transportation at the request of the State legislature, concluded that "[s]ixty-five feet twin trailer combinations have *not* been shown by experiences in other states to be less safe than 60 foot twin trailer combinations *or* conventional tractor-semitrailers" (emphasis in original). *Id.,* at 584. Numerous insurance company executives, and transportation officials from the Federal Government and various States, testified that 65-foot doubles were at least as safe as 55-foot singles. Iowa concedes that it can produce no study that establishes a statistically significant difference in safety between the 65-foot double and the kinds of vehicles the State permits. Brief for Appellant at 28, 32. Nor, as the District Court noted, did Iowa present a single witness who testified that 65-foot doubles were more dangerous overall than the vehicles permitted under Iowa law. 475 F. Supp., at 549. In sum, although Iowa introduced more evidence on the question of safety than did Wisconsin in *Raymond,* the record as a whole was not more favorable to the State.[16]

B

Consolidated, meanwhile, demonstrated that Iowa's law substantially burdens interstate commerce. Trucking companies that wish to continue to use 65-foot doubles must route them around Iowa or detach the trailers of the doubles and ship them through separately. Alternatively, trucking companies must use the smaller 55-foot singles or 60-foot doubles permitted under Iowa law. Each of these options engenders inefficiency and added expense. The record shows that Iowa's law added about $12.6 million each year to the costs of trucking companies. Consolidated alone incurred about $2 million per year in increased costs.

In addition to increasing the costs of the trucking companies (and, indirectly, of the service to consumers), Iowa's law may aggravate, rather than ameliorate, the problem of highway accidents. Fifty-five foot singles carry less freight than 65-foot doubles. Either more small trucks must be used to carry the same quantity of goods through Iowa, or the same number of larger trucks must drive longer distances to bypass Iowa. In either case, as the District Court noted, the restriction requires more highway miles to be driven to transport the same quantity of goods. Other things being equal, accidents are proportional to distance traveled. See App. 604, 615.[17] Thus, if 65-foot doubles are as safe as 55-foot singles, Iowa's law tends to increase the number of accidents, and to shift the incidence of them from Iowa to other States.[18]

IV

Perhaps recognizing the weakness of the evidence supporting its safety argument, and the substantial burden on commerce that its regulations create, Iowa urges the Court simply to "defer" to the safety judgment of the State. It argues that the length of trucks is generally, although perhaps imprecisely, related to safety. The task of drawing a line is one that Iowa contends should be left to its legislature.

The Court normally does accord "special deference" to state highway safety regulations. *Raymond, supra,* at 444, n. 18. This traditional deference "derives in part from the assumption that where such regulations do not discriminate on their face against interstate commerce, their burden usually falls on local economic interests as well as other States' economic interests, thus insuring that a State's own political processes will serve as a check against unduly burdensome regulations." *Ibid.* Less deference to the legislative judgment is due, however, where the local regulation bears disproportionately on out-of-state residents and businesses. Such a disproportionate burden is apparent here. Iowa's scheme, although generally banning large doubles from the State, nevertheless has several exemptions that secure to Iowans many of the benefits of large trucks while shunting to neighboring States many of the costs associated with their use.[19]

At the time of trial there were two particularly significant exemptions. First, singles hauling livestock or farm vehicles were permitted to be as long as 60 feet. Iowa Code §§ 321.457(5), 321.457(3). As the Court of Appeals noted, this provision undoubtedly was helpful to local interest. Cf. *Raymond, supra,* at 434 (exemption in Wisconsin for milk shippers). Second, cities abutting other States were permitted to enact local ordinances adopting the larger length limitation of the neighboring State. Iowa Code § 321.457 (7). This exemption offered the benefits of longer trucks to individuals and businesses in important border cities[20] without burdening Iowa's highways with interstate through traffic.[21] Cf. *Raymond, supra,* 446–447, and n. 24 (exemption in Wisconsin for shipments from local plants).[22]

The origin of the "border cities exemption" also suggests that Iowa's statute may not have been designed to ban dangerous trucks, but rather to discourage interstate truck traffic. In 1974, the legislature passed a bill that would have permitted 65-foot doubles in the State. See n. 6, *supra.* Governor Ray vetoed the bill. He said:

"I find sympathy with those who are doing business in our state and whose enterprises could gain from increased cargo carrying ability by trucks. However, with this bill, the Legislature has pursued a course that would benefit only a few Iowa-based companies while providing a great advantage for out-of-state trucking firms and competitors at the expense of our Iowa citizens." App. 626.[23]

After the veto, the "border cities exemption" was immediately enacted and signed by the Governor.

It is thus far from clear that Iowa was motivated primarily by a judgment that 65-

Footnotes at end of article.

foot doubles are less safe than 55-foot singles. Rather, Iowa seems to have hoped to limit the use of its highways by deflecting some through traffic.[24] In the District Court and Court of Appeals, the State explicitly attempted to justify the law by its claimed interest in keeping trucks out of Iowa. See n. 9 and accompanying text, *supra*. The Court of Appeals correctly concluded that a State cannot constitutionally promote its own parochial interests by requiring safe vehicles to detour around it. 612 F. 2d. at 1070.

In sum, the statutory exemptions, their history, and the arguments Iowa has advanced in support of its law in this litigation, all suggest that the deference traditionally accorded a State's safety judgment is not warranted. See *Raymond, supra*, at 444, and n. 18, 446–447.[25] The controlling factors thus are the findings of the District Court, accepted by the Court of Appeals, with respect to the relative safety of the types of trucks at issue, and the substantiality of the burden on interstate commerce.

Because Iowa has imposed this burden without any significant countervailing safety interest,[26] its statute violates the Commerce Clause.[27] The judgment of the Court of Appeals is affirmed.[28]

FOOTNOTES

[1] For an illustration of the differences between singles and doubles, see *Raymond Motor Transp., Inc.* v. *Rice*, 417 F. Supp. 1352, 1363 (WD Wis. 1976) (three-judge court), rev'd, 434 U.S. 429 (1978).

[2] Iowa Code § 321.457 (6). The 60-foot double is not commonly used anywhere except in Iowa. It consists of a tractor pulling a large trailer, which in turn pulls a dolly attached to a small trailer. The odd-sized trailer used in the 60-foot double is not compatible for interchangeable use in other trailer combinations. See App. 23, 276–277, 353, 354.

[3] Iowa Code § 321.457 (4).

[4] *Id.*, § 321.457 (5).

[5] *Id.*, at 321.457 (3). After trial, and after the Court of Appeals' decision in this case, Iowa amended its law to permit all singles to be as large as 60 feet. 1980 Iowa Legis. Serv. 80–87 (West).

[6] The Iowa Legislature in 1974 passed House Bill 671, which would have permitted 65-foot doubles. But Iowa Gov. Ray vetoed the bill, noting that it "would benefit only a few Iowa-based companies while providing a great advantage for out-of-state trucking firms and competitors at the expense of our Iowa citizens." Governor's Veto Message of March 2, 1974, reprinted in App. 626. The "border-cities exemption" was passed by the General Assembly and signed by the Governor shortly thereafter.

The Iowa Transportation Commission, pursuant to authority conferred in Iowa Code § 307.10 (5), subsequently adopted regulations that would have legalized 65-foot doubles, provided that the legislature enacted a ban on studded snow tires. The Iowa Supreme Court declared these regulations void because their promulgation was impermissibly tied to legislative action. *Motor Club of Iowa* v. *Department of Transportation*, 251 N. W. 2d 510 (1977).

[7] The parochial restrictions in the mobile home provision were enacted after Governor Ray vetoed a bill that would have permitted the interstate shipment of all mobile homes through Iowa. Governor Ray commented, in his veto message:

"This bill . . . would make Iowa a bridge state as these oversized units are moved into Iowa after being manufactured in another state and sold in a third. None of this activity would be of particular economic benefit to Iowa." Governor's Veto Message of March 16, 1972, reprinted in App. 641.

[8] Defendants, appellants in this Court, are Raymond Kassel, Director of the Iowa Department of Transportation, Iowa Governor Robert D. Ray, and state transportation officials Robert Rigler, L. Stanley Schoelerman, Donald Gardner, Jules Busker, Allan Thoms, Barbara Dunn, William McGrath, Jon McCoy, Charles W. Larson, Edward Dickinson, and Richard C. Turner.

[9] See *Consolidated Freightways Corp.* v. *Kassel*, 475 F. Supp. 544, 551 (SD Iowa 1979); *id.*, 612 F. 2d 1964, 1068, 1069–70 (CA8 1979). In this Court, Iowa places little or no emphasis on the constitutional validity of this second argument.

[10] JUSTICE STEVENS took no part in the consideration or decision of *Raymond*.

[11] The Senate last year passed a bill that would have pre-empted the field of truck lengths by setting a national limit of 65 feet. See S. 1390, reprinted in 126 Cong. Res. 3309–3314, 96th Cong., 2d Sess. (Feb. 20, 1980). The House took no action before adjournment.

[12] It is highly relevant that here, as in *Raymond*, the state statute contains exemptions that weaken the deference traditionally accorded to a state safety regulation. See § IV, *infra*.

[13] Twin trailers have single axles; semis, by contrast, have tandem axles. The axle configuration of the semi aggravates splash and spray. The forward tire creates upward wind currents in the same place that the rear tire creates downward wind currents. The confluence of these currents occurs at a point just above and between the tandem axles. The resulting turbulence then is blasted outward, carrying spray with it. App. 95–93.

[14] "Off-tracking" refers to the extent to which the rear wheels of a truck deviate from the path of the front wheels while turning.

[15] Evidence at trial did show that doubles could back up far enough to move around an accident. App. 103.

[16] In suggesting that Iowa's law actually promotes safety, the dissenting opinion ignores the findings of the courts below and relies on largely discredited statistical evidence. The dissent implies that a statistical study identified doubles as more dangerous than singles. *Post*, at 9. At trial, however, the author of that study—Iowa's own statistician—conceded that his calculations were statistically biased, and therefore "not very meaningful." Tr. 1678; see App. 669–670, Tr. 1742–1747.

The dissenting opinion also suggests that its conclusions are boistered by the fact that the American Association of State Highway and Transportation Officials (AASHTO) recommends that States limit truck lengths. *Post*, at 7, 13. The dissent fails to point out, however, that AASHTO specifically recommends that States permit 65-foot doubles. App. 602–603.

[17] Moreover, trucks diverted from interstates often must travel over more dangerous roads. For example, east-west traffic diverted from Interstate 80 is rerouted through Missouri on U.S. Highway 36, which is predominantly a two-lane road.

[18] The District Court, in denying a stay pending appeal, noted that Iowa's law causes "more accidents, more injuries, more fatalities and more fuel consumption." App. 579. Appellant Kassel conceded as much at trial. *Id.*, at 281. Kassel explained, however, that most of these additional accidents occur in States other than Iowa because truck traffic is deflected around the State. He noted, "Our primary concern is the citizens of Iowa and our own highway system we operate in this state." *Ibid.*

[19] As the District Court noted, diversion of traffic benefits Iowa by holding down (i) accidents in the State, (ii) auto insurance premiums, (iii) police staffing needs, and (iv) road wear. 475 F. Supp., at 550.

[20] Five of Iowa's 10 largest cities—Davenport, Sioux City, Dubuque, Council Bluffs, and Clinton—are by their location entitled to use the "border cities exemption." See 1970 Census of Population: United States Summary, at 1–136, 1–137.

[21] The vast majority of the 65-foot doubles seeking access to Iowa's interstate highways carry goods in interstate traffic through Iowa. See App. 175–176, 560.

[22] As noted above, exemptions also are available to benefit Iowa truck makers, Iowa Code § 321E.10, and Iowa mobile home manufacturers or purchasers, *id.*, § 321F.28(5). Although these exemptions are not directly relevant to the controversy over the safety of 65-foot doubles, they do contribute to the pattern of parochialism apparent in Iowa's statute.

[23] Governor Ray further commented that "if we have thousands more trucks crossing our state, there will be millions of additional miles driven in Iowa and that does create a genuine concern for safety." App. 628.

[24] The dissenting opinion insists that we defer to Iowa's truck-length limitations because they represent the collective judgment of the Iowa legislature. See *post*, at 5, 10, 13, 14. This position is curious because, as noted above, the Iowa legislature approved a bill legalizing 65-foot doubles. The bill was vetoed by the Governor, primarily for parochial rather than legitimate safety reasons. The dissenting opinion is at a loss to explain the Governor's interest in deflecting interstate truck traffic around Iowa.

[25] *Brotherhood of Locomotive Firemen* v. *Chicago, R. I. & P. R. Co.*, 393 U.S. 129 (1968), in its result, although perhaps not in all of its language, is consistent with the conclusion we reach today. There, the Arkansas 'full-crew' laws were upheld against constitutional challenge because the Court easily perceived that they made nonillusory contributions to safety. See *id*, at 136–138. Here, as in *Raymond*, there was no such evidence. This case and *Raymond* recognize, as the Court did in *Brotherhood*, that States constitutionally may enact laws that demonstrably promote safety, even when those laws also burden the flow of commerce.

[26] As noted above, the District Court and the Court of Appeals held that the Iowa statutory scheme unconstitutionally burdened interstate commerce. The District Court, however, found that the statute did not discriminate against such commerce. 475 F. Supp., at 553. Because the record fully supports the decision below with respect to the burden on interstate commerce, we need not consider whether the statute also operated to discriminate against that commerce. See *Raymond, supra*, at 446–447, n. 24. The latter theory was neither briefed nor argued in this Court.

[27] JUSTICE REHNQUIST in dissent states that, as he reads the various opinions in Iowa's law on the basis of the analysis in *Raymond*." *Post*, at 14, n. 10. It should be emphasized that *Raymond*, the analysis of which was derived from the Court's opinion in *Pike* v. *Bruce Church, supra*, was joined by each of the eight Justices who participated. Today, JUSTICE BRENNAN finds it unnecessary to reach the *Raymond* analysis because he finds the Iowa statute to be flawed for a threshold reason.

[28] Consolidated's complaint sought only a declaration that the Iowa statute was unconstitutional insofar as it precluded the use of 65-foot doubles on major interstate highways and nearby access roads. App. 10–11. We are not asked to consider whether Iowa validly may ban 65-foot doubles from smaller roads on which they might be demonstrably unsafe.●

By Mr. MOYNIHAN:

S. 1403. A bill to amend section 376 of title 28, United States Code, in order to reform and improve the existing program for annuities for survivors of Federal Justices and judges; to the Committee on the Judiciary.

JUDICIAL SURVIVORS ANNUITIES REFORM ACT OF 1981

● Mr. MOYNIHAN. Mr. President, I am introducing today the Judicial Survivors' Annuities Reform Act of 1981. This bill which is identical to one introduced by Representative SAWYER of Michigan would provide for increased payments by Federal judges into the annuity fund and increased benefits to their surviving spouses and minor children. The bill would raise the contribution rate of judges from 4½ to 5½ percent of annual salary and the annual "computation factor" [1] to 1½ percent instead of the present 1¼ presently used in setting annuity amounts. In addition the bill would authorize a maximum annuity amount equivalent to 55 percent of salary instead of the current 40 percent and set a floor of 30 percent of salary as a minimum benefit.

[1] Currently a surviving spouse's annuity is determined by multiplying 1¼ of the "average annual salary" by the total number of years of "allowable service."

Benefits for surviving children under the age of 22 would be raised to a maximum of approximately $5,500 from the current $1,548. At present there are twelve children eligible for such benefits.

Mr. President, at a time when Federal judges are resigning at a record rate, I believe this amendment can provide an important incentive to attract and keep superior legal talent on the bench.

I ask unanimous consent that a comparison of the current plan and that contained in this bill be printed in the RECORD.

There being no objection, the comparison was ordered to be printed in the RECORD, as follows:

FEDERAL JUDICIAL SURVIVORS' ANNUITY SYSTEM

	CURRENT PLAN	PROPOSED PLAN
1. Participation	Any judge of the United States, including its territories and possessions, the Director of the Administrative Office of the U.S. Courts, the Director of the Federal Judicial Center, and the Administrative Assistant to the Chief Justice of the Supreme Court is eligible to participate. Election to do so must be made within six months of appointment to office, and such election is irrevocable.	
2. Benefits:		
(a) Spouse annuity:		
(i) Eligibility	The surviving spouse of a judicial official who dies after serving at least 18 months and who was married at least 1 year prior to death will receive a benefit payable for life or until remarriage.	
(ii) Annual amount	1½ percent of average compensation for each year of creditable service, excluding service in the executive branch which exceeds 15 years, plus ¾ percent of average compensation for service in the executive branch which exceeds 15 years.	1½ percent of average compensation for each year of creditable service.
	Maximum benefit equals 40 percent of average compensation and is reduced by 10 percent of any portion of the deposit for prior service (see item 4) unpaid as of the judge's death.	Minimum benefit equals 30 percent of average compensation. Maximum benefit equals 55 percent of average compensation.
(b) Dependent children annuity:		
(i) Eligibility	Any surviving children of a judicial official who dies after serving at least 18 months, who have not attained age 18 (or 22 if in school) or who are incapable of self-support, will receive a benefit payable until attainment of such age or termination of the condition rendering them incapable of self-support.	
(ii) annual amount	If the widow(er) is still alive, each child receives an annual annuity equal to the lesser of: (a) $1,548; or (b) $4,644 divided by the number of children.	If the widow(er) is still alive, 10 percent of average compensation for each dependent to a maximum of 20 percent.
	If the widow(er) is deceased, each child receives an annual annuity equal to the least of: (a) The annuity which the widow(er) would have received if still alive, divided by the number of children; (b) $1,860; or (c) $5,580 divided by the number of children.	If the widow(er) is deceased, 20 percent of average compensation for each dependent to a maximum of 40 percent.
3. Cost of living adjustment	For each full increase of 5 percent in the salaries of U.S. judges, survivor annuities are increased by 3 percent.	
4. Contributions:		
(a) Employee	A participant contributes 4½ percent of salary, if in active status, or of retirement income, if on age or disability retirement. For judicial service rendered prior to inception of the plan, and for certain periods of p ior nonjudicial government service, a participant may also deposit 4½ percent of salary earned during those periods, together with interest at the rate of 3 percent year after Dec. 31, 1947, and 4 percent per year prior thereto. No deposits are required for military service. Under the proposed plan the contribution rate would be raised to 5 percent; however, for judges already in the present system, the contribution rate would not be made retroactive.	
4. CONTRIBUTIONS (Cont'd.):		
(b) Employer	The U.S. Government makes matching contributions of 4½ percent of total participant compensation each pay period.	To be determined actuarially.
5. Return of contributions	(i) If a participant resigns from office or (ii) if at death there is no eligible surviving spouse or surviving child, the sum of the participant's contributions, together with interest at the rate of 3 percent per year after Dec. 31, 1947, and 4 percent per year prior thereto, shall be (i) returned to the participant or (ii) payable to the participant's estate.	
6. Definitions:		
Creditable service	Service creditable for purposes of determining the survivor benefit includes all judicial and congressional service, military service not exceeding 5 years, and certain other service with the executive branch of the Federal Government.	
Average compensation	Average compensation is the highest 3-year average of judicial compensation prior to death. ●	

By Mr. MOYNIHAN:

S. 1404. A bill to require that all human subjects used in experiments conducted by or for the Department of Defense be informed of the nature of the experiments and that a research review board make a written certification that such subjects have freely given their informed consent to participate in the experiments, and for other purposes; to the Committee on Armed Services.

GI MEDICAL RESEARCH PROTECTION ACT OF 1981

● Mr. MOYNIHAN. Mr. President, I am today introducing for the consideration of my colleagues the GI Medical Research Protection Act of 1981. It is a simple and straightforward legislative proposal to insure that the rights and health of our country's military personnel are safeguarded with respect to medical tests and similar experiments performed on human subjects.

If the Congress means to maintain the All-Volunteer Armed Forces, as I believe it does, it is vital that we provide assurances to military personnel—and potential recruits—that their basic rights and health will not be endangered unnecessarily. Of course there can be no guarantees that life in the military service will be risk free. Soldiers, sailors, airmen, and marines know full well that they may be asked at any time to give their lives in defense of America. They have accepted this necessary risk as a condition of service. The United States does, however, have an obligation to these men and women not to be careless with their health and safety—an obligation, Mr. President, that has not always been fulfilled.

My colleagues are no doubt familiar with the most outrageous instances of abuse of servicemen by the institutions of our military in the name of scientific research: Those Army men who were during the late 1950's and 1960's, given doses of LSD when all its effects were undocumented. Those soldiers who during the 1940's were intentionally exposed to the effects of early above-ground tests of nuclear weapons to see what effect it would have on them. In both these cases, many of the individuals involved have suffered permanent physical and psychological disability and even early death. And the tragedy has all-too-frequently been compounded by the shameful reluctance of the institutions and agencies responsible to acknowledge their responsibility to compensate the individuals.

I would like to emphasize at the outset that it is not my intention to curtail responsible research activities by the Department of Defense, or any other agency of the Federal Government. The

advancement of knowledge depends upon free inquiry and requires a minimum of constraints on the research enterprise. Yet the overriding considerations remain that people must whenever possible be protected from harm by research in which they may be subjects, and that when real risk of harm remains a part of research, people should only participate who understand and consent to accept that risk.

The need for legislation explicitly to provide such protection to military personnel has been made manifestly clear by a series of reports which appeared during December and January in the Buffalo Evening News. Written by Modesto Argenio and Anthony Cardinale, these articles reveal yet another instance of gross abuse of the rights and health of unwitting servicemen. During the early 1940's, according to the News, the U.S. Navy conducted large-scale experiments at several locations to measure the effect on sailors of previously untested sulfa drugs. Now, more than 35 years later, many of the 600,000 Navy men involved have learned that the sulfa drugs may be responsible for a variety of medical problems which plague them. The tragedy in this is that they were for the most part healthy men who were not aware at the time that they had agreed to participate in a potentially unsafe sulfa drug test program.

In fact, Mr. President, there is some question about whether they ever consented at all, whether or not they were fully informed or not. There is no documentation, there are no records, and after 35 years, well, memories differ. House and Senate investigations of this particular situation must certainly be conducted in order to determine what compensation may be due these men. This Nation surely owes them at least that much. The Navy and the Department of Defense will, one hopes, cooperate fully with congressional investigations into the sulfa drug testing program.

More important at this point, however, is that such a thing should not be allowed to happen again. Especially at a time when it is imperative that we attract the highest calibre of men and women into our Armed Forces, and when the evidence is mounting that we have not been successful, we must at least be able to assure them that they will have this basic protection. The people upon whom the rest of us depend for our very survival should not be compelled to participate in experimental medical test programs without being reasonably informed of the potential risks.

The legislation I am proposing today would prevent a recurrence of such an abuse of Armed Forces personnel by insuring that only those men and women who had freely given their informed consent to participate could be included in any medical research experiments conducted under the auspices of the Department of Defense. Before a researcher could use any money appropriated to the Defense Department for any research endeavor using human subjects, he or she would be required to document, to the satisfaction of an independent three-person review board that would be established, that informed consent to participate had been obtained from all human subjects.

My bill borrows heavily from the discussion of informed consent in the report by the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research to the Secretary of Health and Human Services last year. Members of the Senate may recall that Congress established this Commission in title II of the National Research Act of 1974 (P.L. 93-348) and instructed it to "conduct a comprehensive investigation and study to identify the basic ethical principles which should underlie the conduct of biomedical and behavioral research involving human subjects," and then to "develop guidelines which should be followed in such research to assure that it is conducted in accordance with such principles."

The Commission concluded its investigation a year ago. HHS has recently published in the Federal Register the final product of this exhaustive review of science, ethics, and American law and government: Agency regulations that will henceforth govern research funded by HHS. The usual process in matters of this sort has been completed: Draft regulations were published, criticism by interested members of the public was solicited and reviewed, the regulations were modified, and then finalized in the Federal Register of January 26, 1981.

One failure of this process, unfortunately has been that the very reasonable guidelines drawn up by the National Commission were made to apply only to research funded by HHS. Although the Commission had suggested that their recommendations be made to apply to all U.S. Government-sponsored or -financed research, there is currently no obligation for other agencies, including the Department of Defense, to abide by these guidelines. My proposal, which reflects the substance of these HHS regulations, would extend the greater protection of these guidelines to persons who may be involved in experiments conducted by DOD researchers—principally American military personnel. This bill would also give these guidelines the force of law, and human subjects the greater certainty of protection that comes from an act of Congress.

Anyone desiring to use DOD money to conduct research using human subjects would first have to obtain written certification from a three-person Department of Defense Research Review Board that all human subjects had been properly informed of the risks involved and that they had consented, in writing, to participate. This is a simple, not at all onerous requirement, which I do not think will pose any difficulty for those undertaking research activities. It will insure that only genuine volunteers will participate as subjects, and it will provide for the necessary documentation to substantiate or refute any later complaints or lawsuits that may arise.

The bill I am today introducing is offered as a working draft. I expect that it will be revised and improved upon by my colleagues as they consider this important matter, and I welcome all constructive suggestions that may be forthcoming.

Mr. President, I ask unanimous consent that the newspaper articles from the Buffalo Evening News which prompted this proposal be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

600,000 "GUINEA PIGS" TOOK SULFA DRUGS

(By Modesto Argenio and Anthony Cardinale)

The U.S. Navy ordered more than 600,000 healthy sailors and Marines to take sulfa drugs during a World War II experimental program, and today many of these aging veterans may be suffering sulfa-induced kidney disease and other ailments, an exhaustive investigation by The Buffalo Evening News disclosed.

In a mandatory program carried out at naval training bases across the United States, the Navy attempted to stem the spread of respiratory diseases in crowded barracks by requiring trainees to swallow sulfa pills every day.

The program may have backfired, leaving the unwitting subjects to reap a sad harvest decades later.

Most of the men were not told what they were taking. No choice was given. Some men who resisted were punished. Some who suffered immediate bad reactions were forced to undergo further sulfa testing.

Most importantly, the Navy ignored the advice available in medical journals at the time about the dangers of sulfa drugs and did not even take precautions that might have minimized the damage. Nor did it note in the men's medical records their participation in the program, unless they immediately suffered a skin rash or other side effect.

As a result, there are thousands of Navy and Marine veterans now in their late 50s and early 60s living in probably every city in the country unaware of the possible cause of their medical problems. And there are those who have died.

During the winter of 1943-44, more than 600 of the 600,000 men suffered immediate reactions, and at least 10 died, according to Navy documents obtained by the Buffalo Evening News during its lengthy investigation.

The mandatory program was repeated at the same training bases during the winter of 1944-45, but no figure is available on how many more men were given drugs. The two-year program may have affected a million men.

Discovery of the official Navy documents, when studied alongside the many military and civilian medical journals that warned at the time of the dangers of sulfa drugs, may be as significant as the Agent Orange controversy of the Vietnam War in questioning the adequacy of veterans' benefits.

The Navy has steadfastly denied the existence of the program. But late in The News investigation, a Navy official, confronted with a key document, admitted that the document was declared obsolete in 1954, and "all copies were subsequently ordered disposed of."

Out of the scores of Navy and Marine veterans contacted over a two-month period, The News found at least a dozen men who served at those bases and either remember taking the "big white pills" daily or suffered subsequent kidney-related problems, or both.

One of them is William J. Carrig of the Town of Tonawanda. A Marine Corps veteran who served at a Navy base in Norman, Okla., during the 1943-44 sulfa program, he remembered suffering almost immediate internal problems and is convinced sulfa drugs were responsible for the loss of a kidney in 1954.

The Navy disagrees, and has repeatedly denied in writing, that Mr. Carrig ever took part in any sulfa program. The Navy flatly told him there had been no such program—

until it was confronted with its very own document, the one it had "ordered disposed of."

The document contains reports of the sulfa program's results during 1943–44 at naval bases at Sampson, N.Y.; Bainbridge, Md.; Davisville, R.I.; Chicago; Norman, Okla.; Memphis, Tenn.; and Farragut, Idaho.

Unfortunately, the reports give no clue to the identity of the men involved, and the Navy has responded to requests under the Freedom of Information Act for master lists by stating that they are not available.

The "obsolete" sulfa reports, published by the Navy in 1944, detail the first year of an unprecedented mandatory military program designed to control the outbreak of contagious streptococcus infections among wartime trainees.

The United States produced 10 million pounds of sulfa in 1943—enough drugs to have treated every man, woman and child in the nation. Sulfa was considered the "miracle drug" and would hold the medical world enthralled until the mass development of penicillin.

As the drug industry churned out this staggering surplus of sulfa drugs, it looked forward to the results of testing by the armed forces, which, in effect, had a captive audience of cooperative subjects—young enlisted men training for history's greatest war.

But as early as the first year of the program, when Navy officers began lining up enlisted men each day at drinking fountains and ordering them to swallow sulfa pills, stark warnings were appearing in medical journals about sulfa's dangers.

Listings of titles of articles about sulfa drugs covered several pages of 1940s medical indices, and just the titles dealing with sulfa's toxic qualities filled three columns of small type as the Navy's sulfa program hit top speed in mid–1944.

The articles warned about skin reactions, allergic complications, ulcers, liver problems, and particularly urinary tract and kidney disfunctions in patients who were being treated with sulfa drugs.

Yet the Navy went ahead, set up special units and administered sulfa on a daily basis to hundreds of thousands of enlisted men who had nothing wrong with them. It also continued to use large doses of sulfa as therapy for those who became sick during training.

A typical trainee in the sulfa program would swallow a gram of sulfadiazine daily for three months or more for a total of more than 3 ounces.

Yet one medical journal in June 1944 warned that the kidneys' tiny tubes could be blocked by sulfa crystals "after even a day's administration of customarily 3 grams" to sick patients.

On the plus side, it must be acknowledged that the sulfa program apparently did what it set out to accomplish. The Navy heralded it as 85 percent successful in ridding the barracks of such debilitating infections as scarlet fever, tonsillitis, rheumatic fever and respiratory complaints.

It stemmed a frightening epidemic during the war and saved the Navy hundreds of thousands of lost man hours. Doubtlessly, it also saved many lives; certainly more than the 10 that the Navy documents admit were lost during the experiment.

But there was a price to pay.

Something peculiar began to emerge on the medical charts as the sulfa program went into its second winter. Not only was sulfa ineffective against pneumonia, but its widespread use was accompanied by the appearance of strains of infections that were resistant to sulfa.

The prospect of diseases that, in essence, would grow stronger after sulfa treatment was a bit frightening.

After the war, in another Navy document obtained by The News, it was revealed that some of the naval training units in the tests actually experienced an *increase* in streptococcal infections during the sulfa program—and then had a *decrease* when the sulfa was stopped.

The authors of these later Navy reports then began to express guarded alarm that some of the men who received sulfa as a disease preventive might have developed a sensitivity to the drug. If so, they might suffer dangerous allergic reaction from sulfa if it was used late overseas, when they really needed it for an illness or a battle wound.

The Japanese surrender in August 1945 did not end the problems arising from the two-year sulfa program. It merely ended the Navy's participation in the potentially tragic drama it had set in motion.

From what The News has been able to learn, the Navy did not conduct any follow-up survey to track the whereabouts and medical condition of the hundreds of thousands of men returning to civilian life.

The men were not officially told that they had been subjects in a sulfa program.

They were not warned of precautions they still might have been able to take to minimize future health complications.

And of course, there was no thought given to veterans' benefits in years to come.

The men were eager to be discharged with a minimum of fuss and paperwork. Even Marine Corporal Carrig, who had suffered a nightmare of abdominal pains during most of his enlistment, routinely signed the papers declaring his health sound.

Not until 1951, when the Town of Tonawanda veteran checked into a veterans hospital and talked to a urologist about his kidneys, did he hear about the dangers of sulfa crystals to the kidney. And when the Veterans Administration removed a kidney in 1954, it gave him no explanation of how his ailment had come about.

In 1977, after Mr. Carrig's health had worsened and his larynx was removed, he wrote to Washington about the wartime sulfa program. The Navy wrote back and said it had conducted no such program.

PERSISTENT REPORTERS WON "WAR" WITH NAVY

Last July reporter Modesto Argenio fielded a phone call from a reader with whom he never had had any contact. The man asked to speak to Argenio only because he was familiar with his byline.

Today The News starts publication on Page One of the results of that phone call—an important six-part series, entitled "The Bitter Pill."

The articles, sparked by the call from a Town of Tonawanda World War II Marine Corps veteran, William J. Carrig, were most difficult ones to research and write. It was a costly endeavor for The News in terms of manpower, time and talent, but we pursued the story because we felt it had to be told.

That the series ever came to fruition is a tribute to Argenio's reportorial instincts, which didn't allow him to dismiss the initial phone call, and to the persistent determination of Argenio and reporter Anthony Cardinale. They cut through government red tape, read thousands of pages of documents, wrote dozens of letters, made innumerable calls, suffered countless frustrations.

Even more important was the refusal of Argenio and Cardinale to accept at face value denials by the Navy nor to cease their difficult quest for facts obscured by the passage of almost four decades since the story actually started.

Carrig, in his original call to Argenio, said he was convinced he and thousands of other servicemen had been used as unknowing guinea pigs during World War II sulfa drug experiments. Those experiments, he was certain, had led to his later poor health, including the loss of a kidney.

Argenio started meeting with Carrig, reviewing the voluminous records the veteran had accumulated on his own case. The material seemed overwhelming and his thesis was staggering—more than 600,000 men had been involved in the 1943–44 sulfa program. The News reporters later learned that hundreds of thousands more were involved in 1944–45.

Before taking the facts to his editors, Argenio asked Cardinale for his reaction. The two reporters had been close friends since entering St. Bonaventure in the fall of 1960. The two had worked together on many stories, including a 10-month investigation in 1975 of the nursing homes scandal, which produced 50 stories and won a major state reporting prize.

Together they interviewed Carrig extensively, read more of his documents, and came away convinced he was reliable. With confidence in Carrig reinforced, the two reporters outlined the situation to Ed Cuddihy, News assistant managing editor and city editor.

In early October, Argenio and Cardinale were given the green light to proceed full tilt on the story and were relieved of most of their normal duties.

Freedom of Information requests were filed with the Navy. To date, no meaningful responses have been received. In order to find others who possibly were involved in the Navy experiment, notices were published in The News Reporter's Notebook. These brought forth a flood of calls, but none was too productive. Most of the men had at best hazy recollections of events more than 35 years ago in Navy training camps.

But pieces were starting to fall in place. One vet who had served at the right place and time had lost a kidney a decade later, as Carrig had. A Lakeview reader offered a list of 145 names of former members of his outfit, most of whom had trained at one of the eight bases The News reporters had learned were involved in the sulfa experiment. More than 50 of these ultimately were contacted.

The going was slow and discouraging. Records of the men had been scattered. The men themselves had moved so many times it was difficult to trace them. The reporters uncovered the names of two doctors involved in the Navy sulfa program. One finally was located in Michigan, but the doctor, now in his 80s, was evasive and obtuse.

The Navy itself did not cooperate. It steadfastly denied ever having conducted a sulfa experiment program. Despite written denials by the Navy of any knowledge of the program, the reporters had in hand two 1940 Navy documents that told in graphic detail how the men were coerced to take sulfa daily, punished if they refused, and retested again and again if they suffered a bad reaction. Some 620 bad reactions and 10 deaths were acknowledge in these documents.

The team set out to determine if scientific knowledge existed in the early 1940s about the possible detrimental effects of sulfa. The State University of Buffalo Health Sciences Library computer produced the needed leads to the material. The reporters found column after column of fine print, listing titles of articles about the toxic nature of sulfa—titles published in medical journals in 1943–45.

The files of Argenio and Cardinale kept growing. And what they described as "bureaucratic fatigue" kept mounting. Each time they neared the point of total exasperation they would meet again with Bill Carrig, whom they describe as a courageous, determined man who wouldn't give up, wouldn't take "no comment" from officialdom as a final answer.

By late November it became clear what material they had gathered would be suitable for publication. From Nov. 21 to Dec. 5,

the two reporters assembled their material in story draft form. Then they spent a week reworking it and seeking reactions from "experts" to certain parts of it.

Editor Cuddihy read and reread the package and on Dec. 16 ordered a major rewrite of the majority of the material. The reporters had gotten too close to the story they had followed for so long.

The result, started today, is not an open-and-shut series. Rather, The News sees it as a beginning, opening the way for actions by:

1—The Navy, to reform its procedures for future actions.

2—The Veterans Administration, to release yet more medical records it has denied Carrig about his kidney removal.

3—The medical profession, to come up with more useful advice on just what all this means to the hundreds of thousands of veterans who took part.

Like the Agent Orange situation, perhaps the sulfa program calls for government exploration of what should be done for those who can prove they were involved and had had negative health ramifications as a result.

And there are questions that need answers:

1—If the Navy had to use sulfa as a respiratory disease preventative in the training bases, why didn't it tell the men involved they were being given sulfa?

2—Why did not records of the men indicate they had been involved in the program?

3—Why was a followup survey of the men not made after they were discharged?

4—Why does the Navy continue to deny the sulfa program existed. Is it a coverup or the case of the left hand not knowing what the right hand was doing?

We'd suggest a thorough reading of "The Bitter Pill," starting today and ending Sunday. It may not be a glamour topic. It may have little sex appeal. But the subject matter is important, and the questions it raises are significant.

WAR BROUGHT SULFA, SUFFERNG TO MARINE

(By Modesto Argenio and Anthony Cardinale)

The scene is etched into William Carrig's memory. He lives it and relives it, a nightmarish recollection that has him convinced he was an unsuspecting guinea pig in Navy sulfa drug tests more than three decades ago.

One of the bases in the drug experiment was at Norman, Okla., where the Navy in late 1943 had commissioned a new Air Technical and Training Center to train sailors and Marines headed for the war in the Pacific.

Navy pharmacist mates and officers had herded about 75 enlisted men to a huge swimming pool there one morning for what they said was routine training.

The session turned out to be far from routine.

There was a huge diving tower along the side of the pool, and in the water was an obstacle course. Submerged barrels, hoops, and wooden contraptions formed a maze used to test the aquatic stamina of the recruits.

But this time, the rules for the test were strikingly different. The recruits were ordered to swim until they were exhausted, and even then, many weren't allowed to leave the pool. Many became ill in the water.

Mr. Carrig, a Marine Corps veteran, recalled:

"It wasn't our regular day to swim, I remember that. But when you're 18, you don't ask questions. You follow orders.

"There were Marines and Navy guys in there, which was unusual. We used to swim with our own guys, but they said we were going to have some competition. You know—Marines against Navy.

"We jumped in off the tower, but after awhile they wouldn't let us out."

The "they" were pharmacist mates and officers in uniform who were patrolling the sides of the pool.

Bill Carrig spoke haltingly, ingesting air through the opening that was once his larynx to make sounds, to form words:

"There were guys throwing up and getting sick in the water, but they'd let the guys out only when they were totally exhausted. If you came to the side, they'd push your hands off the edge and say, 'Keep swimming.'

"Guys were swallowing dirty water. It was a mess. To be honest it didn't make any sense to me then . . ." His voice, now hoarse, trailed off.

He recollected, faintly that the filter in the pool had been shut off, and that both Marines and sailors were given blue swimming trunks to wear, thus making competition an unlikely motive. The whole episode took about an hour.

Years later, when more by chance than choice he felt he had confirmed his suspicion that he had been used in the sulfa experiments, he broke down.

"I was at my mother's house when I read the report," he recalled. "I started to cry."

The report, tucked away in U.S. Navy files for nearly four decades since the end of World War II, hit him like to thunderbolt. It told of at least 600,000 sailors and Marines being administered daily doses of sulfa drugs while at U.S. training bases in 1943 and 1944.

The words jumped from the pages of the document, Navmed 284: "The Prevention of Respiratory Tract Bacterial Infections by Sulfadiazine Prophylaxis in the U.S. Navy." They told of the drugs, the complications, the swimming pool, and the recruits—who were sitting ducks for infections.

Suddenly Bill Carrig wondered whether the ordeal in the pool was a deliberate attempt to lower the men's resistance and expose them to each other's germs—and to see if the sulfa really worked.

While the Navy Bureau of Medicine and Surgery was quick to label the tests a success, there were hints—even in the 1940s—that the servicemen were suffering unexpected side effects.

Today, nearly 40 years later, Bill Carrig and many other veterans who saw combat duty are looking at those drug tests as one answer to why they have been plagued with strange, unaccountable diseases and loss of organs.

For Mr. Carrig, a former VFW commander who worked his way up to a supervisory position at the Chevrolet Town of Tonawanda plant, the toll has been staggering: Thirteen operations. The loss of a kidney. The removal of two ribs. Asthma. Emphysema. And, in 1977, removal of his cancerous larynx.

His diary of health problems begins almost immediately after he was discharged, supposedly fit and trim, from the Marine Corps.

But not until he discovered Navmed 284 did Mr. Carrig begin to thread together answers to the litany of "whys?" that tormented him.

He is convinced he was one of those guinea pigs who fell prey to the unanticipated bad side effects of sulfadiazine, side effects that have wracked his body.

He had been assigned to Norman, Okla., to learn metalsmithing.

While he was at Norman for nearly 6½ months, he came down with an ear infection. Twice a week, for about seven or eight weeks, he reported to the medical facility, where he was given white pills, which he contends were sulfa.

He also was given similar-looking pills along with other members of his metalsmithing class. The procedure was strange:

"Each afternoon when we came back from class, as we entered the barracks to dress for the evening meal, the first sergeant and a couple of Navy medical personnel handed each man two pills, checked his dog tags and ordered us to take the pills.

"We lined up by the water cooler. They would then look into our mouths using a flashlight to make certain the pills were swallowed."

Those pills too, he says, were sulfa.

By his own account, by the time Mr. Carrig left Norman for Camp Miramar, Calif., where the Navy and Marines had a staging area for overseas replacements headed for the Pacific theater, he had taken 295 grams of sulfa, or 10.3 ounces. His research, he says, has shown that as little as .08 grams can cause serious injury.

That was 1944, but it was only the beginning of Bill Carrig's painful medical trek.

He was 17 in August 1943 when he left the little Pennsylvania town in which he was born, enlisted in the Marines and was sent to boot camp at Parris Island, S.C. He was—as were most Marines—in top physical shape. His military medical records confirmed that.

About 18 months later, as he headed for the South Pacific, he suffered some physical setbacks. The illness at Norman was first. Then at Camp Miramar he was hospitalized three times for severe abdominal pains.

At first medics attributed it to passing a kidney stone. But the pains continued. He had them on board ship, the USS Extria.

"The doctor said it was appendicitis and wanted to operate on the officers' ward room table. I said 'no way.' If I didn't have appendicitis in Miramar, I told him, I didn't have it then."

The pains continued.

The ship convoy continued westward: Pearl Harbor, the Johnson Islands and finally the Marshall Islands. Pvt. Carrig was dropped off with other replacements at Roi-Namur, two tiny islands in the Marshall chain.

The pains—the doubling over—intensified. But the cause remained a mystery to medical authorities. During the next six months, Mr. Carrig made five visits to sick bay.

"I was beginning to tell that the medics thought I was a screw-off trying to get out of the service and they didn't want to help me. I didn't want to be called a malingerer so I stopped going to sick bay," he recalled.

Bill Carrig, Marine Corps service number 551234, fought the good fight. His service records attest to it. He was assigned to Marine fighter squadrons and went through the invasion of Okinawa:

But all that time there was a secret war going on within him. The pains were unbearable, he said. "I knew only God or a hand grenade would relieve my pain," he said.

He turned to liquor, wine and "torpedo juice," the 190-proof alcohol from Navy torpedo gyros.

A warrant officer suggested an easy out: take a punch at an officer and get court-martialed.

"There was no way I could live with that stigma," he says.

And the pain grew worse.

"We were in the troop ship, USS Afoundria, for the Okinawa invasion. I had no booze or anything else, so I went to sick bay. Same old story. No help. So I just lay around suffering. I was learning to control pain by laying in certain positions and by forcing it out of my mind. This worked at times."

On Okinawa, a burly staff sergeant suggested another pain relief: "He told me using morphine serettes from our first aid kits would help. They did. And I took to stealing morphine from any first aid kit I could find."

His war records list stops at Yontan airfield and Chumu Bay on Okinawa, before Omura, northeast of Nagasaki, Japan.

Cpl. Carrig was honorably discharged from active duty at Cherry Point Marine Station in North Carolina on March 14, 1946. According to medical records, he was in good health and had no claim against the government.

Few men—thankful to be alive and eager to go home—were willing to waste even min-

utes that might hold up their service discharges in 1945.

UNEXPLAINED ILLNESS RESULTED IN HUNT FOR TEST RECORDS

(By Modesto Argenio and Anthony Cardinale)

William Carrig's search for proof that Navy sulfa testing was done and that he was an unwitting guinea pig in the tests has left a trail of documents and years in its wake.

The Navy insists it has no records of the tests, but both Mr. Carrig and The Buffalo Evening News have documented that the tests did take place and that more than 600,000 men were involuntarily given doses of sulfa.

For Bill Carrig, the phantom began to take shape in 1951.

He was suffering pains—mysterious and medically unexplained then—that were so bad he began regular visits to the Altoona, Pa., Veterans Hospital.

Finally, there was a diagnosis: His left kidney had been almost totally incapacitated. There was no evidence why, at least not until a urologist, Dr. Albert D. Kapcar, began asking him about those white pills he took at Norman, Okla.

It was Dr. Kapcar, Mr. Carrig says, who first told him about the sulfa drug tests. Today, in response to a News inquiry, Dr. Kapcar could not recall the incident or Mr. Carrig.

"I am sorry, but I have no recollection," wrote the physician. "This was about 30 years ago and I have no records to go by; (I) do not remember the case at all."

Bill Carrig remembers, however. It was Dr. Kapcar, he says, who showed him medical articles on the development of sulfa drugs. In those journals, one of the side effects of sulfa hit home; the drug has a tendency to crystallize in the kidneys unless steps are taken to keep it dissolved.

And, Mr. Carrig states unequivocally in an affidavit, it was Dr. Kapcar who laid it on the line:

"He said to me, "You were used in sulfa drug experiments. You were badly misused after those experiments." ".

In 1964, at Aspinwall, Pa., Veterans Hospital, he had his kidney removed. During surgery, his lung collapsed.

Bill Carrig received a 30 percent medical disability from the Veterans Administration, and he worked hard at Chevy. He and his wife Zelda, raised five children.

They lived in the Town of Tonawanda for two decades, and Mr. Carrig, working his way up to the position of general supervisor of material and production control at Chevrolet's metal castings plant, chalked up 27 years with GM.

He is a past commander of Post 2472 of the Veterans of Foreign Wars.

In 1977, however, his past came home to haunt him—probably for the rest of his life. A one-time heavy smoker, he developed cancer of the larynx.

His larynx was surgically removed and, after what doctors said was an amazingly short time, Mr. Carrig learned the esophageal method of speech: inhaling air through a hole in the esophagus to form words. He was vice president of the New Voice Club of the Niagara Frontier.

Despite receding gray hair, Mr. Carrig looks trim and fit today. At 55, he has bulldog features, a square jaw, broad shoulders, and a ramrod bearing for a man about 5 feet 9 inches tall.

He had no proof, he says, that he was used in the sulfa drug testing until 1977. Beginning that spring, as he lay in bed thinking, he finally decided to act.

"It was then that I started asking myself why I was like this. Why all the operations? Why the problems?"

He began to keep a journal, a log, a personal history. He remembered Dr. Kapcar's comments. And he began visiting medical libraries—the State University of Buffalo, VA hospitals, the National Institute of Health in Washington.

Using the Freedom of Information Act, he also went to the Navy and its Bureau of Medicine and Surgery for information.

"Until the Freedom of Information Act, I wasn't allowed to see my own medical records," he said.

The road to information wasn't smooth.

There were the expected runarounds and delays. Some infuriated him. Like the 129 days the VA claims it took for a letter to reach his Town of Tonawanda home from downtown Buffalo.

The Navy's denials of the drug testing, carefully worded but emphatic, made him hot under the collar.

But he wasn't deterred.

His own x-rays and medical records, he estimated, weighed between 25 and 30 pounds. They included what he estimates were 360 x-rays. The VA, in disputing some of Mr. Carrig's disability claims, puts the number of x-rays at closer to 200.

The Navy at first disputed Bill's claim that information on sulfa drug tests was omitted from the men's medical records. But at the same time, it admitted that sick-call logs from the Norman training center for January to March 1944 "cannot be located in files."

It went even further—and denied that the sulfa program ever was.

Capt. C. E. Brodine, the Navy's special assistant for medical research and development, wrote from Washington on July 1, 1977:

"A review of the research files of this Bureau fails to reveal evidence of an approved research study involving the use of sulfa drugs conducted at the Naval Air Technical Training Center, Norman, Okla., at any time during your active military service."

Bill Carrig's military service record, obtained from the Marine Corps, has this entry:

Noman ATTC: December 20, 1943 to June 29, 1944.

And a Naval report, Navmed Report 284, says in part that "mass prophylaxsis" involving sulfadiazine took place at Norman between Feb. 17 and May 30, 1944.

The Sulfa program, aimed at preventing respiratory diseases, was conducted at eight major Navy-Marine training bases: Norman; Sampson, N.Y.; Farragut, Idaho; Great Lakes Naval Training Center, Chicago; Bainbridge, Md.; Davisville, R.I., Memphis, Tenn., and Navy Pier, Chicago.

It was done over a six-month stretch. Then it was repeated the following winter.

Capt. T. J. Carter, head of the Navy's Division of Preventive Medicine, extolled the undertaking in 1944:

"This project, it is believed, is the largest controlled investigative study ever undertaken and is marked by productive results and guideposts which will surely find their way into the history of preventive medicine."

Four decades later, as Bill Carrig and other veterans have tried to piece together shattered lives brought on by shattered bodies, the Navy was pleading ignorance.

On Jan. 30, 1978, yet another of the top brass was denying the tests ever occurred. Lt. Cmdr. Robert E. Broach, a lawyer and special assistant to the surgeon general of the Navy for medico-legal affairs in the Bureau of Medicine and Surgery, wrote:

"A detailed review has been conducted of all research projects sponsored by the Bureau during the period 1944–46.

"Also identified in this review were naval activities involved in authorized research studies relating to sulfa drugs.

"No such study sponsored by the Bureau was conducted at the Naval Air Technical Training Center, Norman, Okla., during that time."

Why the denial?

Back in 1944, Capt. Carter, in an apparent afterthought to the glowing introduction to Navmed 284, wrote in part: "Inevitably, development was troubled by errors, although little time was lost in their correction."

In its own investigation. The News found that even as the Navy was dispensing sulfa drugs like candy to more than 660,000 recruits, other branches of the service were shying away from using sulfa drugs as a preventative.

There were signs of bad side effects, of drug resistances and even deaths.

There were other woeful consequences, a bitter harvest that Bill Carrig feels he and many other World War II vets are silently reaping today.

NAVY IGNORED WARNINGS ON THE DANGERS OF SULFA

(By Modesto Argenio and Anthony Cardinale)

The Navy's failure to keep records of 600,000 to 1 million healthy servicemen it required to take sulfa drugs during World War II has made it all but impossible for surviving veterans today to claim benefits for sulfa-related illnesses.

And the Navy's virtual cover-up of the sulfa program—by destroying Navy publications and later denying that it ever conducted the program—almost guaranteed that any veteran making inquiries in later years would be kept in the dark.

But one of those men made inquiries and refused to take "no" for an answer. Marine veteran William J. Carrig of the Town of Tonawanda has spent the past three years fighting the government for his own records, records he is entitled to.

Mr. Carrig, now 55, recalls receiving sulfa drugs while in training at a Navy base in Norman, Okla., whose sulfa program had more of the trappings of a reckless experiment than those at other bases. Only 18 years old at the time, he complained of abdominal and urinary problems almost immediately.

A decade later, the persistent problem was solved with the removal of a kidney. Mr. Carrig is convinced that sulfa crystals in the kidney caused the years of pain.

The Navy went ahead with its sulfa drug program in 1943 despite published reports at the time that sulfa was dangerous to the kidneys and the urinary tract.

In its attempt to control the outbreak of respiratory infections at stateside training stations, the Navy required trainees to swallow sulfa pills every day, often under threat of punishment. Participation in the program was not noted on military records unless the trainees were among the more than 600 men who had adverse reactions. Ten of them died.

Despite warnings in medical journals, the Navy did not even tell most of the men what the pills were, nor did it bother to inform them of some simple precautions that were then known to the medical profession.

The systematic administration of sulfadiazine, a sulfa compound, to Navy and Marine trainees at eight bases during the first winter, 1943–44, is recounted in a fat document obtained by The News during its investigation.

"The Prevention of Respiratory Tract Bacterial Infections by Sulfadiazine Prophylaxis in the U.S. Navy" was published in 1944 by the Bureau of Medicine and Surgery of the Navy Department.

Known as "Navmed 284," the document lists 620 severe reactions to the drug, including 10 fatalities, but does not name any of the men.

The section dealing with Bill Carrig's base in Oklahoma contains many details that, in retrospect, point to a cavalier attitude on the part of those running the sulfa program.

Officers at Norman admitted in the report

that "blood chemical determinations were not made to ascertain the presence of residual effective level before the next regular dose was administered."

Such a check might have revealed sulfa crystals in some of the men's urine.

The officers at Norman also made sure men going off base on weekend liberty did not lose any sulfa from their systems. These men were given extra sulfa before leaving the base.

But the most poignant part of the Norman section of Navmed 284 has to do with the men who complained of bad reactions to the drug.

"No deaths occurred," the Navy reported. "In several cases, patients were interviewed and examined who complained of gastrointestinal disturbances.

"In each case, some other factor was disclosed and the drug was not discontinued in a single instance because of real or fancied gastrointestinal symptoms"—including the abdominal complaints of Bill Carrig.

But they had another problem at Norman. Fifty-one trainees suffered skin rashes, some erupting so badly that the rash looked like German measles.

Instead of dismissing the 51 men from the program, the report says, "an attempt was made to confirm the original impression (of sulfa allergy) by reproducing the lesion after an interval of from seven to 14 days.

"Of these 51 cases, the dermatitis was reproduced later in 17 instances by the administration of small daily amounts of the drug. In most cases, the eruption reappeared after 1 or 2 grams . . ."

Still, the Navy was not satisfied that these men should be dropped from the experiment. After one to four weeks, 15 of them were given sulfanerazine, a derivative of sulfadiazine. This time, only three of them had a bad reaction.

If any of the trainees were aware of the dangers of the white pills they were taking each day, there was not much they could do. But some of them did try.

At Norman, where 8,000 Navy and Marine trainees received sulfa, "all sorts of subterfuge were uncovered by tactful investigation," according to Navmed 284. This was the base where Bill Carrig recalled standing in line at the barracks water fountain and having his mouth inspected with a flashlight after he swallowed his sulfa tablet.

"Examination of the oral cavity following ingestion of the tablets was employed at some of the musters," the Navy reported. "Fear of untoward reactions was not a significant motive among those failing to cooperate."

Mr. Carrig thinks a few of the men may have suspected the white tablets contained saltpeter, a compound that reduces sex drive.

NAVMED 284 goes on to describe the sulfa program's first winter at other Navy bases across the country. It must be noted that despite this detailed report, the Navy has denied knowledge of these tests.

At Great Lakes Training Center in Chicago, 188,000 enlisted men received sulfa during the winter of 1943–44. There were 384 adverse reactions, five of them so bad that the men lost much of their skin. Three men died, two of them age 18, one of them 22 years old.

Six men died at the training station in Farragut, Idaho, where 80,000 men received sulfa daily. All six deaths resulted from granulocytopenia—a chemically-induced blood deficiency marked by severe depression of the bone marrow, prostration, chills, swollen neck and sore throat often with ulceration.

The five who had been on sulfa (and the one who had not) all died after receiving sulfa in the hospital. The Navy report concluded that "therapeutic doses of sulfonamide aggravated a severe disease process initiated by (sulfa) prophylaxis."

In other words, giving men sulfa drugs as a preventive could cause a drug poisoning that got only worse when treated with more sulfa drugs. The military was in the grip of a sulfa fad.

Sulfa compounds continued to be used liberally by the Navy in treating personnel who got sick. And it was used by all branches of the armed forces for wounds suffered in the field.

It must be remembered that penicillin had been discovered but could not yet be mass-produced during the war. And so the nation's chemical industry produced a record 10 million pounds of sulfa in 1943, and the Navy apparently used it almost as casually as aspirin.

Thousands of other healthy trainees were given sulfa daily: at Memphis, Tenn., there were 61 bad reactions; at the Navy Pier, Chicago, 131 reported sick; at Bainbridge, Md., 85 reactions, one fatal; and at Davisville, R.I., the seasoned Seabees put up a struggle, and 10 percent of them had their liberty cards taken away.

At the training center in Sampson, N.Y., in the Finger Lakes region, 63,392 enlisted men received sulfa with no fatalities reported.

"The dispensing of tablets was under the direct personal supervision of each company commander and company clerk," Navmed 284 states. "A check-off list ensured that each man received his two tablets, and he was required to swallow them with water in the presence of the company commander.

"No one was excused from taking the drug unless he possessed a certificate from the medical officer of his unit indicating that he was sensitive to sulfonamide."

The News tried to obtain copies of the "check-off lists"—including names of the men—but the U.S. Navy said it was unable to locate them.

Officers at Sampson did not report how many adverse reactions occurred, but said they were usually skin eruptions, with a few cases of genitourinary system reactions.

Their report concluded, however, that "urinary complications were virtually nonexistent," and "persons may be given small daily doses of sulfadiazine prophylactically (as a prevention) over a long period of time without the danger of producing renal (kidney) impairment."

And yet, while that program still was going on, many articles in medical journals warned of the contrary.

The January 1944 issue of the Journal of Urology warned that sulfa crystals could cause blockage in the kidneys and that the mounting popularity of sulfa against infections was alarming. It suggested that if sulfa was needed as therapy for patients, sodium bicarbonate should be swallowed to keep the crystals dissolved.

The News interviewed more than 50 veterans who served at those bases during the sulfa program. None of them recalled taking baking soda with the "white pills," or even being given the simple warning that they should drink extra water while on sulfa.

As early as May 1943, the Annals of Internal Medicine had an article warning of kidney problems and speculating about sulfa damage to the brain and central nervous system.

The Canadian Medical Association Journal warned in May 1944 that sulfa damage to the kidneys could be fatal. It, too, suggested baking soda during sulfa therapy.

Among many other warnings were two articles in the June 1944 issue of the Kentucky Medical Journal that should at least have dampened the Navy's enthusiasm for extending the sulfa program second winter.

"When sulfadiazine was first introduced we had many reports proclaiming the fact that renal pathology did not occur," wrote Dr. Eunice S. Greenwood of Louisville, "but in the last year we have had to change our views . . .

"By the end of 1942, six fatal cases of anuria (failure to excrete urine) from this drug were reported. Others were reported for 1943 . . ."

Dr. Greenwood noted that the November 1943 issue of U.S. Army Medical Reports recommended that even on the battlefield—where emergency use of sulfa could save lives—all casualties should receive only one dose of 4 grams of sulfadiazine and no more until hospitalization.

And yet, at most of the bases discussed in Navmed 284, the preventive dose was 1 gram a day for three months or more, for a total of 90 grams, or about three ounces.

Furthermore, the other article in the Kentucky Medical Journal warned that blockage of the kidneys by sulfa had been observed "after even a day's administration of customarily 3 grams" to a patient.

The Navy received direct warnings from the medical community.

Dr. T. Duckett Jones of Boston, reviewing preliminary findings by the Navy in the Sept. 9, 1944, issue of the Journal of the American Medical Association, warned that the men might be made sensitive to sulfa by continued use—so that perhaps some day, when they really needed sulfa on the battlefield, they would have an adverse reaction to it.

After the first six months, the Navy concluded that the use of sulfa during the first winter had been 85 percent effective in preventing respiratory tract infections. During winter months, such a program could be expected to save "a day per man per month" in sick bay.

The program also probably saved many lives of men who would have come down with a fatal infection of such a disease as scarlet fever, rheumatic fever or spinal meningitis.

But the second winter—1944–45—brought unexpected problems to the sulfa program, and the Navy reaped the whirlwind for having ignored simple precautions. It is not known how many men were involved in this second winter's program, but it may have been nearly as high as the 600,000 men the Navy admits it gave sulfa during the first winter.

The problems during the second winter are revealed in a 1949 monograph, "The Epidemiology of Hemolytic Streptococcus During World War II in the U.S. Navy."

The book, published by Williams and Wilkins Co. of Baltimore, was authorized by two former Navy officers who had played prominent roles in the wartime sulfa program.

Dr. Alvin F. Coburn, a nationally known authority on streptococcal diseases, was the Navy commander who had organized the program for the Navy; after the war, he joined Northwestern's Rheumatic Fever Research Institute.

Dr. Donald C. Young, as a lieutenant commander, had run the sulfa program at Norman, Okla.; after the war he became medical director of the Communicable Disease Service of Detroit's Herman Kiefer Hospital.

Dr. Young was the officer who Bill Carrig said he recalls at the swimming pool that day in 1944, when he and other trainees were forced to stay in the water until they were exhausted.

By the winter of '44–'45, the Navy was experiencing what it called a "loss of effectiveness" of the sulfa program. It traced this to the appearance and spread of strains of disease that were resistant to sulfa drugs.

Had the sulfa program actually induced the development of sulfa-resistant strains? Coburn and Young agonized in their report over this possibility. Six months after the program began, they boasted, all the germ

specimens taken from patients with acute throat infections proved to be sensitive to sulfa—except those found at Farragut, Idaho.

Sulfa had already proven to be nearly useless in preventing pneumonia at Farragut and other bases. In fact, pneumonia had increased five-fold during the program at Norman.

But now something was happening at Bainbridge, Md., that indicated the sulfa program might be giving birth to a sulfa-proof strain. Late in the second winter of sulfa use, some specimens of resistant disease were discovered in the men.

Then, in January 1945, a resistant strain appeared at San Diego training center—where sulfa had not been used. But many men could have carried the strain with them from the eight other centers as they headed overseas by way of San Diego.

Next, a resistant strain popped up at Norman . . . and then at Memphis. But Coburn and Young concluded that "it was not possible to determine from the available evidence" whether the sulfa program had backfired and caused these strains to emerge.

The sulfa program was not effective at Great Lakes in late 1944. In fact, two of the camps there actually showed a sharp rise in sick rates during the program, then a drop when it was discontinued.

At Farragut, the men in a group receiving sulfa daily showed more infections than the control group that did not. At one point during 1944, medical officials at the program's headquarters in Bethesda, Md., concluded that so sulfa dosage would have proved effective at Farragut.

In 1945, Coburn and Young reported, "outbreaks occurring throughout the Navy were caused chiefly by strains indistinguishable from those which had been identified at Farragut."

They concluded:

"The solution of this key problem must await more fundamental work on the genetics and the metabolism of the streptococcal cell."

Thus ended a two-year sulfa program described by the Navy as "the largest controlled investigative study ever undertaken." The program's "productive results" were destined to "find their way into the history of preventive medicine."

But no one bothered to keep track of the men in the program and what happened to them afterward. Nor has the Navy made it possible for veterans to resurrect the raw data, much less to obtain reimbursement for damages suffered from a program virtually disavowed by its sponsors a generation later.

LETTERS OF DENIAL

The Navy didn't mince words in twice insisting that there were no sulfa-drug tests conducted at training bases during the late stages of World War II. The denials are in letters from 1977 and 1978. The News, however, obtained a copy of yet another document—a Navy report called Navmed 284—that contradicted those denials. Navmed 284 not only confirmed the tests, but also hinted at some of the negative side-effects suffered by otherwise healthy sailors and marines given sulfadiazine.

DEPARTMENT OF THE NAVY,
Washington, D.C., June 1, 1977.

WILLIAM J. CARRIG,
40 Harding Street,
Kenmore, N.Y.

DEAR MR. CARRIG: This is in reply to your letters of 23 March 1977 to the Chief, Bureau of Medicine and Surgery, and the Commandant, Marine Corps.

A review of the research files of this Bureau fails to reveal evidence of an approved research study involving the use of sulfa drugs conducted at the Naval Air Technical Training Center, Norman, Oklahoma at any time during your active military service.

At the time of your active service, regulations required an official entry be made in health records of all personnel participating in medical research projects. A review of your original health record which has been retrieved from the Federal Records Center does not indicate that you participated in an experiment involving the use of sulfa drugs.

I regret that we have not been able to provide you with more information on this matter.

Sincerely,

C. E. BRODINE,
Captain, Medical Corps, U.S. Navy, Special Assistant for Medical Research and Development, by direction of the Surgeon General.

DEPARTMENT OF THE NAVY,
Washington, D.C., January 30, 1978.

Mr. WILLIAM J. CARRIG,
40 Harding Avenue,
Kenmore, N.Y.

DEAR MR. CARRIG: This is in further reply to your inquiries to the Bureau of Medicine and Surgery and the Naval Medical Research and Development Command wherein you requested information regarding what you contended were experiments dealing with sulfa drugs conducted at the Naval Air Technical Training Center, Norman, Oklahoma, during 1944.

All the information held by the Bureau of Medicine and Surgery pertaining to your medical treatment while in the Marine Corps has been furnished to you by previous correspondence of June 1, July 29, and August 26, 1977. A detailed review has been conducted of all research projects sponsored by the Bureau during the period 1944–1946. Also identified in this review were naval activities involved in authorized research studies relating to sulfa drugs. No such study sponsored by the Bureau was conducted at the Naval Air Technical Training Center, Norman, Oklahoma, during that time.

ROBERT E. BROACH,
Lieutenant Commander, JAGC, USN, Special Assistant to the Surgeon General for Medico-Legal Affairs.

CONCLUSION

MASS CHEMOPROPHYLAXIS: THE U.S. NAVY'S SIX MONTHS' PROGRAM FOR THE CONTROL OF STREPTOCOCCAL INFECTIONS

(By Commander Alvin F. Coburn (MC) V(S), U.S.N.R.)

Altogether, throughout this program more than 600,000 Naval trainees received daily doses of sulfadiazine to protect them from respiratory diseases. The results of 6 months' observation permit an appraisal of this prophylatic measure. Before attempting to weigh the advantages and disadvantages of this strategy for attacking respiratory pathogens, one must first understand the nature of the problem at the Naval training activities that instituted this Straptococcal Control Program.

VETERANS WHO RECALL TAKING SULFA TABLETS TELL OF NAVY ROUTINE

(By Modesto Argenio and Anthony Cardinale)

The Buffalo Evening News has found several World War II veterans who remember being handed sulfa pills very day and being required to swallow them at Navy training bases.

The News also located several Navy and Marine veterans who don't remember the sulfa pills but who served at those bases during that time, and later suffered kidney-related problems. Some of them had received sulfa as treatment for illnesses.

Finding any of the more than 600,000 veterans was often difficult, because the U.S. Navy destroyed records and even denied the existence of the sulfa disease-prevention program in later years.

By failing to note on medical records each serviceman's participation in the 1943–45 sulfa program, and by destroying original records and removing a published report from circulation, the Navy effectively short-circuited the men's chances of learning about possible dangers and later receiving compensation for damages.

William Carrig, 55, of the Town of Tonawanda, was the first veteran to contact The News. He served at Norman, Okla., during the sulfa program and immediately suffered abdominal pains. The mysterious ailment became chronic, and a decade later a kidney was removed.

His best friend at Norman, Donald Gerard of Mishawaka, Ind., remembered the white "horse pills" but didn't suffer any ill effects. The sulfa program there was from Feb. 17 to May 30, 1944.

As Mr. Carrig described it, the men were lined up at the drinking fountain when they returned to their barracks from class each day, were handed two large white pills and swallowed them. He said a first sergeant checked their mouths with a flashlight to make sure they complied.

A Medina man who was at Norman at the time, Burt G. Raymond, said he was in one of the Marine barracks, and it was quarantined for two months because of an outbreak of spinal meningitis.

"One man died eight bunks away from me," Mr. Raymond recalled. "Another man died, but he was downstairs."

His barracks received special attention, he said, and the men were told the pills they were taking were sulfa drugs.

"The first sergeant was there, with a doctor and a pharmacist's mate," he said. "We'd line up and step forward. The doctor would throw the pill in your mouth, and the sergeant was there right by the water fountain and made sure you didn't hide it under your tongue and that you swallowed it."

Were the men warned of the dangers of sulfa drugs or advised to drink extra water; and take baking soda?

"I doubt it seriously," Mr. Raymond said. "Today I would ask questions, but then—when they said take it, you took it. They socked that sulfa to us every day, three times a day."

A friend of his, A. Wayne Goodman of Indianapolis, also remembered the pills.

"We had to stand in line, and each guy had to open his mouth, and they made sure you took it," Mr. Goodman told The News. Neither he nor Mr. Raymond suffered any apparent side-effects from the sulfa.

Other area men served at the Navy base at Sampson, N.Y., during its sulfa program from Dec. 1, 1943, to April 1, 1944.

James J. Harkins of 51 Neumann Parkway, Town of Tonawanda, had a kidney removed in 1955, the year after Bill Carrig lost his. He doesn't remember the sulfa-prevention program at Sampson, but he does recall receiving sulfa drugs later on, in San Francisco, when he came down with a bad cold.

The News investigation found that the Navy was liberal in its use of sulfa drugs for therapy as well as using it as a preventive against infections for more than 600,000 trainees.

Even in 1943–45, military and civilian doctors were warning not only of the dangers of sulfa, but of the possibility that some men receiving it as a prevention might become sensitive to it, so that when they received it later for a battle wound or an illness, it could cause serious damage.

"I started having trouble right after coming out of the Navy," Mr. Harkins said. "I

took a lot of those pills at 'Frisco, and I didn't know what they were at the time."

Mr. Harkins said he doesn't know what damaged his kidney and isn't receiving any service disability.

Carl Hazen of 52 Moore Ave., Kenmore, told The News he remembers "getting pills at the water fountain" both at Sampson, where he was stationed from November 1943 to January 1944, and at the Navy training center in Memphis Tenn., where a sulfa program was conducted from Feb. 1 to April 1, 1944.

"Every day, at noon muster, they gave you the pills and made sure you swallowed them," he said of his Norman days. "You didn't get past muster if you didn't take them.

"In Memphis, we had to take some too. I was there from January to May or June 1944, going to gunnery school."

Mr. Hazen has had heart surgery in recent years but doesn't recall any health problem that might be traced back to sulfa.

Brendan Komenda of Lackawanna, who has suffered kidney problems and two heart attacks, said he didn't recall the disease-prevention program while he was at Sampson but did receive sulfa drugs for pneumonia on that base. Navy documents unearthed by The News reveal that sulfa was used as a preventive and a treatment for pneumonia but eventually proved virtually useless against pneumonia.

Mr. Komenda, who is the training officer at the U.S. Navy Reserve facility on Porter Avenue, said his kidneys have bothered him since the war, but he has always blamed it on injuries suffered when two of his ships went down in the Pacific. Now he is not so sure.

John Bates of 331 Chelsea Place and Dominic Bifaro of Blasdell were stationed at Sampson during part of the sulfa program and don't recall taking the pills. Mr. Bates has had urinary infections, and Mr. Bifano has suffered hypertension and has had heart surgery since then.

Kenneth Perry of the Town of Tonawanda, who served at Sampson and Norman during those years and has had urinary problems, said he wasn't aware of sulfa pills, but "they threw a lot of pills at you, and I wouldn't be surprised if they used us for guinea pigs."

The News received responses from veterans across the country who served at Navy bases where sulfa programs were conducted.

John D. Tall of Newark, Del., who is on a kidney dialysis machine, served part of his Navy service at Bainbridge, Md., where there was a sulfa program from Dec. 13, 1943, to April 2, 1944.

Mr. Tall vividly remembers taking large white pills and being told it was preventive measure. He says he remembers being lined up every morning and receiving the pills.

An emphysema victim who has also had heart surgery, Mr. Tall spent 77 days in intensive care with kidney failure and lost a great deal of weight. His doctors cannot determine why his kidneys have failed.

Lewis Munschy called from Fresno, Calif., and said he was stationed at Farragut, Idaho, which The News learned had a sulfa program from Dec. 5, 1943, to April 1944. He was in the hospital with a fever.

"I got kidney stones from it," Mr. Munschy said of the sulfa drugs. "I was overseas when I got shot up. I was in a field hospital in Guam. They doped me up until I passed it, and they told me it might have been a sulfa crystal."

Booth H. Pendell of Kingston, N.Y., remembers taking sulfa pills at Sampson in early 1944. He has had high blood pressure since then.

"We knew they were sulfa," he said. "We had to take them to avoid getting the flu bug. I cannot say we were forced to take them, but they gave them to us once a day and while we were standing in line."

One Navy veteran who was contacted in Dallas, Texas, angrily asked whether the News intended to tell how many lives were saved by the Navy's sulfa program.

But as he talked, he admitted that he had asked his wartime friends about the issue, and that one of them remembered. The friend had been absent without leave, he said, and when he returned his punishment was to "stand in the chow hall line and pass two big old white pills out" to each man.

The Dallas man refused to reveal when and where this happened, or to put his friend in contact with The News.

DOCTORS STYMIED IN TRACING EFFECTS ON SULFA "VICTIMS"

(*Warning—This drug may cause severe toxic reactions and irreparable damage . . .* Label on sulfa bottle.)

(By Modesto Argenio and Anthony Cardinale)

What should veterans know today about the effects of sulfa drugs if they think they were among the more than 600,000 Navy and Marine trainees in the Navy's sulfa program during World War II?

That question is not easy to answer.

The Navy has done nothing to keep track of these men or to warn them of possible long-range effects of taking sulfa pills every day for an average of three months.

In fact, the Navy told a Buffalo-area veteran 35 years later that it never conducted such a program.

Eli Lilly Inc. still produces sulfadiazine, the sulfa compound chosen by the Navy for its wartime test program. The drug can be obtained only by prescription.

The chilling warning on the label states that sulfadiazine "may cause severe toxic reactions and irreparable damage." It advises that the patient "maintain adequate fluid intake" and that the blood be examined daily for signs of anemia or leukopenia, and the urine be checked for blood.

"Constant supervision of the patient is essential," the warning concludes. A pharmacist contacted by The Buffalo News during its inquiry had some sulfadiazine in stock. He said this batch was made in 1976, and the demand for it is very small.

During its investigation, The News researched in medical journals and consulted kidney experts about the effects of sulfa drugs. The News attempted to answer the following questions for the benefit of thousands of veterans across the country:

—If a trainee swallowed 3 ounces of sulfadiazine in three months in 1943, '44 or '45, how long might it take for sulfa crystals in his kidneys to dissolve?

Once the crystals were dissolved, could they have left behind any damage that could contribute to kidney and related problems 10 years later? In 20 years? After 35 years?

If so, what should the Navy have told the men at the time they were required to take sulfa pills daily? What could the men have done after the war, if the Navy had revealed the nature of the experiment then? What, if anything, can the men do today?

Dr. Hemchandra M. Pandit teaches physiology at D'Youville College. His doctorate degree is in biology. He took part in kidney research at Buffalo General Hospital from 1966 to 1968, and he has studied the effects of sulfa drugs.

He worked in a leper colony in Bombay, India, from 1957 to 1962 and notes that sulfa drugs still are used effectively against that disease.

For several weeks, Dr. Pandit has been examining the evidence available in the case of William J. Carrig, the Town of Tonawanda Marine veteran who lost a kidney 10 years after being in the Navy's sulfa program at Norman, Okla.

In addition to the 3 ounces of sulfadiazine taken during the Navy's disease-prevention program, Mr. Carrig also received from Navy doctors 7 ounces of sulfa for a serious ear infection.

Dr. Pandit is intrigued by Mr. Carrig's claim that sulfa damage led to the loss of his kidney, and he now believes there's a good chance he is right. But he speaks cautiously, noting that many of the medical records—including the biopsy of the removed kidney—still haven't been released by the Veterans' Administration.

"Let us be honest," Dr. Pandit said. "I was not there; we cannot say it caused the problem."

The passage of time and the absence of crucial records make it difficult to reconstruct Bill Carrig's lifetime medical history and to rule out other factors that may have contributed to the problem, he said.

The effects of sulfa on the human body are complex.

"When you take sulfa," Dr. Pandit said, "certain enzymes in the body are inhibited. Sulfadiazine inhibits the biochemical reactions of bacteria so they won't reproduce."

Sulfa drugs can damage the body in two ways. One, by crystallizing in the kidneys. Two, by introducing toxic agents into the blood.

The kidneys usually are the central region to be damaged, Dr. Pandit said, but many other organs are affected by the kidneys, including the heart and the brain. Thus, many illnesses may directly be caused by sulfa.

"Sulfa also causes aplastic anemia," he said. This is a blood deficiency caused by defective functioning of blood-forming organs, such as the bone marrow.

At the very least, Dr. Pandit said, the Navy should have advised the men to drink extra water. But once the damage was done, could the Navy be blamed for the loss of a kidney 10 years later?

"It could take 10 to 20 years to lose a kidney," he replied. "Think of a child suffering rheumatic fever. He can go until his 30s and 40s before discovery of a heart murmur."

Once it's too late to "flush it out" by drinking water and taking medication, what can the veteran do to minimize the consequences of having taken so much sulfa?

"Have a urine test," Dr. Pandit said. "And a kidney function test. They inject dye into the blood, and if there's an obstruction, it can be seen by X-rays."

Other medical sources have pointed to the danger of sulfa allergies. The April 1945 issue of the Navy Medical Bulletin contained an article on "Abuse of Sulfonamides." Capt. Richard A. Kern expressed alarm at the Navy's use of sulfa compounds to treat minor ailments.

"Above all," he wrote, "such promiscuous use of sulfonamides may lead to a considerable number of cases of sensitization, rendering future use of the drug dangerous at a time when its help is desperately needed, as for example in the treatment of a pneumonia or dressing of a battle wound."

He "strongly condemned" the routine use of sulfa for acute catarrhal fever because it could bring on allergy to sulfa.

"The sulfonamides are excellent sensitizers," he wrote. "Fifteen percent of the population is allergic. This means that at some time in the lives of these people, they exhibit an obvious manifestation of allergy, such as asthma, hayfever, allergic eczema or urticaria."

Bill Carrig says asthma was the main reason for his early retirement from the Chevrolet plant in the Town of Tonawanda. His physician listed bronchial asthma along with his laryngectomy as the cause of his disability.

The News posed the same questions to Dr. Sidney Anthone, who with his brother, Dr.

Roland Anthone, is recognized as a leading kidney surgeon in the Buffalo area.

The one-gram daily dose of sulfadiazine for three months by the Navy was "not a huge dose and is a very acceptable dose for an adult, even over three to five months," he said. But he stressed the importance of monitoring the patient's reactions to it.

Urine samples should be examined for evidence of sulfa crystals he said. This is something the Navy did not do routinely for the hundreds of thousands of healthy men receiving sulfa daily, The News has found.

Dr. Anthone said those who experience crystallization of sulfa in the kidneys usually are sulfa-free within a few months as the crystals dissolve in the urine. And so he was cautious when asked about possible long-range damage.

"I don't believe that there would be any ill effects of sulfa intoxication 20 to 40 years later if no such reaction was evident at the time the drug was taken," Dr. Anthone said.

But because the great sulfa craze of the 1940s has been reduced to a trickle in the medical world today, doctors aren't normally called upon to look for sulfa as a culprit in kidney disease.

To supplement his own medical experience with sulfa, Dr. Anthone conducted a computer search of articles about sulfa intoxication of the kidneys. He drew attention to an article written by Drs. Louis Weinstein, Morton A. Madoff and Charles M. Samet in the New England Journal of Medicine.

The article on "The Sulfonamides," or sulfa drugs, warns of the extensive list of bad reactions they can cause.

"They involve nearly every organ system, often in multiple fashion and to a varying degree. Some of those reported are bizarre, and it is frequently difficult to determine, from isolated case reports, whether they have been directly related to the drug."

Without a doubt, sulfa drugs "are capable of inducing reactions some of which are very severe and even fatal," the article continues.

"The systematic administration of sulfonamides may be complicated by the appearance of manifestations resulting from injury to the urinary tract. Although the incidence of these reactions has decreased in recent years because of the development of compounds of greater solubility and of sulfonamide mixtures, these still occur often enough . . ."

If the sulfa drug does not remain dissolved in the urine, the article warns, it can deposit crystals in the kidneys, pelvis, ureters or bladder and lead to irritation and obstruction of the urine. These, in turn, "lead to irreversible tubular changes and death."

As to how long sulfa damage might remain in the body, the article states that "sulfonamide crystalluria of serious degree may be overlooked during life and noted only at post-mortem examination."

Among other side effects have been goiter, hypothyroidism, arthritis, and neuropsychiatric disturbances, it adds. The risk of rashes, fever, blood dyscrasias, urinary-tract complications and liver damage was listed as 6.5 percent of those treated with sulfadiazine.

At this stage of its investigation, The News has not found a medical authority who can specifically answer the questions relating to servicemen who were subjected to the Navy's sulfa program during World War II.

However, one ray of hope for veterans who want to know the answers may have escaped the Navy's policy of not noting the men's participation in the program in their medical records.

According to documents obtained by The News, the Navy did make a notation in medical records whenever an enlisted man sufferred an immediate reaction to sulfa drugs. They simply noted that the serviceman was sensitive to sulfa drugs.

While the records don't mention the sulfa experiments—or how it was learned that the man was sulfa sensitive—the Navy could screen all the medical records of Navy and Marine enlisted men from that period. It could then send a notice to each "sulfa-sensitive" veteran that he may have been part of the sulfa program. That's a small but potentially significant step.

This gesture might prove to be too little too late. But if it can help make a better life for one former serviceman—and if the armed forces can learn a lesson from the Navy's mistakes—the effort will have been worthwhile.

RIGHT TO KNOW WAS TORPEDOED IN NAVY SULFA TEST

(By Modesto Argenio and Anthony Cardinale)

As many as a million American veterans used in a World War II Navy sulfa drug experiment may never know for sure that they were subjected to the drugs.

They may never be able to cut through the military's red tape or to reconstruct the volumes of destroyed or misplaced records, or to halt the passage of precious time to piece together lives contaminated by the experiment.

The Navy, despite repeated requests from The Buffalo News, would shed little light on the tests.

In fact, there is evidence of an attempt to cover up the sad consequences of the experiments. Some veterans, like ex-Marine William Carrig, of the Town of Tonawanda, believe that's the case.

The Navy, for its part, has been evasive, claiming ignorance because of misplaced or destroyed records and at one point denying information requests in classic "Catch-22" language.

Some of the doctors involved in the tests refused to answer questions even though they are now leading lives as private citizens. They referred inquiries to the Navy.

The bottom line is this: there is significant evidence that the sulfa tests, while well-intended, may have backfired, leaving a national legacy of legions of veterans in the dark about their involvement in the tests.

The men who may have suffered the consequences are effectively short-circuited from getting a fair share of compensation.

Mr. Carrig puts it this way: "Every day, the evidence grows thinner. Every time one of us dies, that's one less bit of evidence."

In its official correspondence, the Navy point-blank denies ever testing sulfa on U.S. servicemen.

Yet Washington's archives contain documents detailing the tests.

And in dozens of News interviews, veterans say they remember the sulfa pills they were given at training bases.

Bill Carrig's claim is simple and represents, in microcosm, the gut issue for fellow sailors and Marines tested.

He contends he was among the more than 600,000 sailors and Marines who were given large doses of sulfadiazine in the Navy's tests.

The sulfa tests, he charges went awry and have since triggered among veterans many chronic sicknesses and sometimes mysterious diseases that are difficult to account for.

As The News previously reported, the Navy insists no such tests ever occurred.

The Navy told this to Mr. Carrig on Jan. 30, 1978, when Lt. Cmdr. Robert E. Broach flatly insisted that "no such study" of sulfa drugs ever took place in 1944 at the Norman, Okla., training base. The base, since mothballed and deeded in part to the University of Oklahoma and in part a municipal industrial park, was where Mr. Carrig underwent metalsmith training.

Yet a 1944 report—issued by the same Navy Bureau of Medicine and Surgery for which Lt. Cmdr. Broach works—details the sulfadiazine program.

The report describes how more than 600,000 trainees were given doses of the drug over a six-month period in 1943–44.

One of the co-authors of the report, a doctor, was hesitant to discuss the sulfa tests. Despite repeated requests for assistance in examining the results of the tests. The News team was referred to the Navy by Dr. Donald C. Young.

It was Dr. Young and Dr. Alvin F. Coburn, a specialist in treating streptococcus diseases, who wrote ringing praises of the tests.

Dr. Young, in a Nov. 12 letter to The News, wrote: "I was a member of an independent epidemiology unit at Norman, Okla. We did not participate in the medical activities of the station."

He would not elaborate and instead referred requests for records to "the senior medical officer of the station, the office of the station hospital, senior medical officer or the office of the Surgeon General in Washington, D.C."

But Norman, Okla., like Sampson, N.Y., and many of the other bases at which the tests were conducted, has been closed for years. The News tracked down key documents in this case despite Navy denials.

The Navy gave The News a spate of "technical denials" of requests for information, insisting on Nov. 5 that "frankly, it is highly unlikely that those records still exist in any retrievable form."

It went even further when The News appealed the denials. The Navy, in similar language, insisted that "a review of our files and records has failed to locate the document you have referred to."

Yet, The News found one key document—Navmed Report 284—available through medical school libraries and the National Institutes for Health, another government agency. A computer search at the State University of Buffalo revealed where the document could be found.

The Navy did admit—for the first time in The News investigation—that the document was an "official" Navy pamphlet. But it said this document was declared obsolete in 1954, and "all copies were subsequently ordered disposed of."

Excerpts from that report appear with this article. They clearly identify it as a Navy publication and one of its authors as Dr. Young.

Still earlier this month Dr. Young tersely rejected additional requests to discuss the sulfa tests:

"I was a member of an independent investigative unit.

"I had no contact with the officers and enlisted men.

"The information you desire should be obtained from official Navy medical documents."

At the very least, The News has found evidence that sulfa was recorded as being used for therapy in Norman, Okla., by the Navy. The Navy provided medical care for Marines, and Bill Carrig's personal medical records reflect that care.

Abstracts obtained by Freedom of Information requests show that while he suffered from an ear infection, otitis media, in February 1944, he was laid up in Dispensary Number 32 at the Norman base.

There he was treated with sulfa, according to his medical history. He received several ounces of sulfa.

Later, while en route to the Pacific, he was again treated with sulfa drugs, the records show.

While on board ship heading for the Marshall Islands, he contracted catarrhal fever, a flu-like illness that the Navy was on record as treating with massive doses of sulfa.

While shipboard records contain—surprisingly—no notations on what steps doctors took to care for Mr. Carrig, the diagnosis is unequivocal:

"Enteritis, acute, catarrhal, cause undetermined."

Other aspects of the shipboard records also contain surprises. Medical routing slips—"buck slips" that routinely show up in the reams of paperwork in any military administrative endeavor—were stamped with "Secret" classifications.

Mr. Carrig is at a loss to explain why. The Navy, likewise, didn't explain the classified imprint. Nor did it explain why the "Secret" stamps were later crossed out and the word "Declassified" printed over them.

The Navy's apparent reluctance to delve into the sulfa testing led to a classic "Catch-22" situation. On three occasions during its investigation the News asked the Navy's Bureau of Medicine and Surgery to:

—Supply the names of some of the approximately 600,000 men on whom sulfa was tested.

—Disclose any long-term bad effects the drugs had on the men.

—Explain why there apparently was a failure to note the sulfa testing on the personal medical records of sailors and Marines.

Each request was turned down as the Navy cited what it called "technical" denials.

The News appealed to the Navy office of the Judge Advocate General.

The Navy turned down the appeal on the grounds that, contrary to its own ruling, there was no technical denial in the first place and therefore an appeal was out of order.

Capt. Matthew J. Gormley III, acting deputy assistant judge advocate general, wrote:

"A careful review of your appeal has resulted in the determination that the inability of the Bureau of Medicine and Surgery 'to locate any records fitting the description of those you seek' is not a 'technical denial' and is therefore not appealable."

He concluded:

"Accordingly, it is considered that there is nothing to appeal in this instance."

Bill Carrig is convinced the Navy has a deliberate "desire not to locate records." He says three years of his own research have assured him that "the experiments were conducted and not recorded."

In an attempt to shed light on the tests, he asked U.S. Attorney General Benjamin Civiletti to help in 1979.

The result was a formal but not very informative reply from a junior Justice Department official.

Mr. Carrig also has been upset at the encounters he has had with the Veterans Administration. The VA has given him a runaround and has only grudgingly allowed him to examine some of his own medical records, he says.

Compounding the confusion behind the sulfa experiments is the relationship between the Navy and the "independent investigative unit" that was testing the drugs. Attempts to clarify the links have been frustrated, with the Navy claiming inability to document the tests and Dr. Young remaining tight-lipped.

There is other evidence in medical publications, however, that the Navy and the military had territorial interests in sulfa.

As early as 1948, researchers reported that in the waning days of the war, the nation did indeed go sulfa-crazy.

Dr. Elmore H. Northey, in a tract published as part of a monograph series issued by the American Chemical Society, notes the depth of investment in sulfa.

The United States produced 10,005,307 pounds of sulfa drugs in 1943 alone, he noted. That was enough to care for almost every man, woman and child. Dr. Northey noted:

"If we assume that an average course of treatment requires 35 grams of drug, this would mean that an incredible number of patients (129,000,000) could have been treated with the drugs produced in 1943."

Obviously, not all those people required sulfa treatment.

Where did the drugs actually go?

Much of it went to the Armed Forces both ours and those of our allies. But much of it was also getting duty. Why?

In the face of this peak production of sulfa, Dr. Northey noted, penicillin was being developed and mass-produced. It was among along with a host of antibiotic drugs that were replacing sulfa on a large scale.

There is no doubt, he adds, that sulfa saved many lives.

It is not the family of sulfa drugs that is at issue today. Rather it is the bitter aftertaste left with American veterans who, having paid the price of war, now are left to wonder whether they were unsuspecting tests subjects.

They, among so many, have earned the right to know.

NEWS SERIES STIRS MEMORY OF SULFA TESTS

(By Modesto Argenio and Anthony Cardinale)

More than two dozen local veterans of World War II have called The Buffalo Evening News to say they, too, were in the Navy's sulfa drug program, described in the series "The Bitter Pill."

The six-part series, which ended Sunday, exposed the 1943–45 experimental program in which the Navy attempted to control respiratory infections at its training bases by requiring the men to swallow sulfa tablets daily.

Many of the veterans who called The News said they either suffered immediate reactions to the drug or later came down with illnesses that might be blamed on sulfa.

One of the men, George Rease, of 50 Merrimac, said he suffered a serious skin rash after taking sulfa pills at the Navy base at Sampson, N.Y., and was given a yellow card excusing him from further participation in the disease-prevention program.

"The above-named person is sensitive to sulfonamides," the card states. "This individual reacted unsatisfactorily to prophylactic (preventive) doses of sulfadiazine consisting of one (1) gram daily. Further administration of sulfonamides is contraindicated."

Mr. Rease said he had to show the card at noon each day in order to pass roll call without taking another sulfa pill.

"I came down with a very bad skin rash," Mr. Rease said. "Great big sores. It lasted 10 days. We used to have to line up for noon chow and stand at the water fountain and take pills. They opened your mouth and checked to see we took it."

Seven months later, he continued, he began suffering cramps. The mysterious attacks laid him up for nine months in various naval hospitals and plagued him after he received a medical discharge.

"I had very severe cramps on board ship," Mr. Rease said. "I lost quite a bit of weight in Philadelphia Naval Hospital for three months. They didn't find anything."

Later, while stationed at Boston, he suffered cramps again and spent three months at Chelsea Hospital, he said. Transferred back to Sampson, he was hospitalized another three months and was discharged. Another attack in 1948 sent him to Sisters Hospital in Buffalo, and the problem has continued through the years, he said.

Another local veteran who served at Sampson has offered The News the first evidence that somebody in the Navy made an attempt to note in medical records that the men were involved in the sulfa program. George Ciancio, 95 Canterbury Lane, Kenmore, said he saw his records and copied something that intrigued him.

"Nobody has these," he said. "I just out of curiosity copied it verbatim and typed it."

The piece of paper he copied said: "This man has received 1 gram of sulfadiazine daily for 5 weeks as a prophylaxis."

The Navy should have been wise enough to make that notation in the records of all the men participating, he said.

"I was in the medical corps in the Navy," Mr. Ciancio said. "I don't really recall taking the sulfa pills. Whenever we gave sulfa (as treatment in hospitals) we always gave sodium bicarbonate with it."

The baking soda was then known as a precaution that would prevent the sulfa from crystallizing in the kidneys. The News investigation still has turned up no veterans who recalls receiving that advice while taking sulfa in the Navy's mandatory preventative program.

Mr. Ciancio said he suffered leg cramps and back pains in basic training and was assigned light duties. The pains continued after the service, he said, and he has been treated for high blood pressure.

Another local man who was a medical corpsman at Sampson told The News he recalls giving the sulfa to the men.

"I am quite perturbed at the Navy's denial of the forced use of sulfa," wrote Donald J. Doyle of Boston, N.Y. "I administered sulfa to recruits on a daily basis without the supervision of a medical officer.

"I was ordered to put on report any man who refused to take the sulfa. These recruits were severely reprimanded and given extra duty. They only refused once."

He never had to report anyone, and he never saw adverse reactions to the drug, he said. But other corpsmen told him "the side-effects they observed, from body rash, hives, eyes swollen shut, abdominal distress and difficult urination."

In addition to the sulfa preventative program, he said, the Navy used sulfa drugs indiscriminately in its hospitals and dispensaries.

Pasquale Scarpello, of 504 Plymouth Ave., told the News he took sulfa drugs at the base in Norman, Okla., because of an outbreak of spinal meningitis in a Marine barracks.

"Then we were really, really forced to take the sulfa," he said.

He said he suffered no ill effects, but he has had a series of heart attacks since 1960.

Ralph Goodwin, 3375 Genesee St., Cheektowaga, said he remembered a quarantine at the naval base at Bainbridge, Md., where the sulfa program was also conducted.

"I was a platoon leader," he said. "I happened to get hold of a packet of the sulfa drugs. It had fine writing like you see on some counter drug like aspirin. I read what can happen to you—it scares the hell out of you, excuse the language.

"I told my platoon, 'Fake it and make believe you're taking it. Hold it in your hand and just drink water.' They listened to me."

Mr. Goodwin said he began suffering ulcers after he was discharged. The ulcers bothered him for three years and he feels "sulfa had a lot to do with it." Since 1966 he has suffered asthma and emphysema, he said.

John D. Schreiber, 33, Melant Drive, Orchard Park, trained at Great Lakes, Ill., and recalled how the sulfa program was administered.

"Each evening, just before 'lights out,' we lined up," he wrote. "A corpsman gave each of us two sulfa pills, and we worked our way to the drinking fountain. There a chief petty officer, our commanding officer, watched us put the pills in our mouths and wash them down."

Mr. Schreiber recalled that 15 to 20 of his fellow trainees came down with scarlet fever. Then we went overseas.

"At Okinawa, I picked up a bad rash on my face and hands," he continued. "It would form a crust on my skin. It would bleed . . .

Once, after I came home, I lost a week of work for the same thing."

Another Great Lakes trainee, Chester F. Bulan, 125 Hertel Ave., told The News he was in the sulfa program but didn't suffer any ill effects. A member of American Legion Post 1010 and Disabled American Veterans 188, he said he wants to see veteran groups put pressure on the Navy, to release all available information on the program.

James Geary of Harrisonburg, Va., was visiting Buffalo for the holidays when he saw the series in the News. He called and said the Navy was distributing sulfa pills almost like candy while he was stationed at Farragut, Idaho.

"They had these little bowls of pills in the cafeteria," he recalled, "and even the civilian employees at the base were encouraged to take them as a prevention."

Mr. Geary was an officer and spent two years at Farragut, a large training base that experienced the worst epidemic of respiratory diseases in the Navy. During its second winter the sulfa program backfired, according to Navy documents.

"The germs thrived on this drug," he said. "The germs that survived the drug were the ones that reproduced and became immune to it."

One veteran who recalls becoming ill and breaking out in rashes after receiving daily doses of one gram of sulfa for nearly three weeks was Fred Winship of Gowanda.

His records show that he was first administered the pills on March 24, 1944 at Sampson. He has a document dated April 9, 1944 from the chief medical officer excusing him from taking any more sulfa because he had become sensitive to it.

For Rocco Porcellio of Lackawanna, the Navy was a way of life for longer than World War II. He made it a career, putting in 21 years before retiring. But he vividly remembers being given the sulfa pills at Sampson, and at Navy Pier, Chicago.

And he remembers that it was not a matter of choice.

"They told us the big white pills were for cat fever. I remember we were given them as we left the mess hall. There were two doors, but one was locked and you could only go out through the other.

"When you got there, there were pharmacist mates with the pills and the flashlight. And there were two SPs to make sure you took 'em."

Mr. Porcellio said he has suffered allergies and kidney problems but has never known why.

The News obtained Navy documents describing the unprecedented sulfa program at eight bases. More than 600,000 enlisted men were given sulfa daily during the first year. No figures were given for the second winter, 1944–45.

The bases and dates were:

Sampson, N.Y.—E, F, and G units, Dec. 1, 1943 to April 1 1944, and again January to May 1945.

Norman, Okla.—A, B, D (Marines) and E units, Feb. 17 to May 30, 1944.

Bainbridge, Md.—Dec. 13, 1943 to April 2, 1944, and January to April 1, 1945.

Memphis, Tenn.—Feb. 1 to April 1, 1944, and January to March 1945.

Farragut, Idaho—Dec. 5, 1943 to April 1944.

Great Lakes, Ill.—Dec. 1, 1943, to April 15, 1944, and October 1944 to Feb. 1, 1945.

Navy Pier, Chicago—Feb. 8 to March 1944.

Davisville, R.I.—(Seabees) Nov. 15, 1943 to March 1944.

THE BITTER PILL—NAVY'S FLAWED SULFA PROGRAM

It is an alarming, tragic story that has been revealed in The News' six-part series on the Navy's World War II sulfa program. It is a story that cries out for answers, especially as to how such a massive experimental program could have been virtually covered up all these years, with no thought of the thousands of unknowing servicemen whose health may have been impaired.

One can understand the well-intended motivation behind the project, which involved giving daily doses of sulfa drugs to 600,000 or more healthy Navy men during World War II.

The Navy was trying to control respiratory diseases in crowded barracks, and it thought that sulfa, the new so-called "miracle drug," might be the answer. The Navy did succeed in controlling scarlet fever and some respiratory diseases and undoubtedly saved lives. But the side-effects of the drug may also have caused several deaths and serious kidney and other diseases in thousands of servicemen.

The worst aspect of this undertaking was the laxity with which such a broadly based experimental program was carried out. Other branches of the service were at the time shying away from the routine use of sulfa drugs because of the serious reactions that had been discovered. Medical journals at the time gave warnings of the hazards of using the drug. But the Navy forged full speed ahead, making no attempt to take note of the program in the individual medical records of the unknowing servicemen or to make any follow-up check on their health. Because of its hazards, sulfa today is used only in a limited way, and warnings of the toxic nature of the substance are on the label.

Also inexcusable was the Navy's attempt to quietly forget about the whole episode. Painstaking research efforts by News reporters Modesto Argenio and Anthony Cardinale were repeatedly rebuffed by Navy officials, who said they had no record that any such preventive program had taken place. But when The News produced a copy of a Navy document describing the venture, officials said that it had been declared "obsolete" and destroyed long ago.

This whole matter should now be further explored—either by Congress or by a presidential commission—to find out how this could have happened and to establish guidelines for the future. In addition, there is the terrible injustice done to thousands of servicemen who may unwittingly have gone through life with various resulting medical problems. While the Navy admits to no record to the sulfa program, it does have records of any men who suffered immediate reactions to the drug. As many as possible should be tracked down by the Navy so that they can be assisted with possible medical problems or with disability compensation.

A thorough investigation of this tragically mishandled episode should help to guarantee that such a thing never happens again.

CONGRESS SHOULD PROBE SULFA

The News' series, "The Bitter Pill," telling of the tragic effects of the Navy's use of sulfa drugs in World War II, has prompted forthright calls for action by two area congressmen. Both Rep. John J. LaFalce, D-Town of Tonawanda, and Rep. Henry J. Nowak, D-Buffalo, have called for congressional probes of the wartime program and have sent copies of The News' series to various committee chairmen and federal departments.

From 1943 to 1945 the Navy used the new sulfa "miracle drug" in an experimental program to try to control respiratory diseases in crowded barracks. It had some beneficial results, but, tragically, the dangerous side-effects of the drug may have caused death or disease among the more than 600,000 healthy Navy men involved in the program.

Noting that medical journals at the time had warned of these dangerous side-effects, Rep. LaFalce declared: "The series of articles seems to indicate that the Navy chose not to heed these warnings and instead proceeded into a large-scale and basically uncontrolled experimental program, heedless of the consequences."

Mr. Nowak said that "the most important question must be what remedial action can be taken to assist the veterans who unwittingly participated in a program that may have contribtued to or caused serious health problems." Rep. Nowak urged Navy Secretary Edward Hidalgo to investigate the case with a view to developing a remedial program.

One of the most disturbing aspects of the program is that thousands of veterans may have suffered from side-effects of the drug without any knowledge of the cause of their illnesses. And, as Rep. LaFalce noted, many who suspected the cause of their ailments "have been frustrated in their efforts to gain assistance from their government or even acknowledgment that the program existed." Since The News' series was published, scores of veterans have come forward and given further information about the program.

Beyond assisting afflicted veterans with medical treatment or disability compensation, the congressional investigations should help to provide guidelines in order to prevent such dangerous experiments in the future.

AGENT ORANGE VICTIMS OFFER TO JOIN FORCES IN BATTLE OVER SULFA

(By Modesto Argenio and Anthony Cardinale)

Vietnam veterans fighting for compensation for effects from Agent Orange exposure said today they wish to join forces with World War II veterans who may have suffered from the Navy's sulfa program.

The sulfa disease-prevention experiment with more than 600,000 servicemen was exposed in a six-part series in The Buffalo Evening News last week and attracted the attention of Edmund E. Miller and John Crockett.

Mr. Miller, 30, of 292 Herkimer St., said during an interview that sulfa damage should be added to the list of items on the agenda of the Concerned Veterans of Western New York.

"I read about the sulfa in the paper and I said, 'Them too,' " Mr. Miller said. "Nothing surprises me now. What they got away with after using Agent Orange, they probably figured they slid by with this too."

The News series, "The Bitter Pill," revealed for the first time how the Navy systematically gave sulfa pills daily to healthy trainees without their permission, without safeguards and without keeping proper records for following up the men's medical fate.

Mr. Miller said he and Mr. Crockett, whose group is affiliated with the Disabled American Veterans, will open an office in a week or two at the State University of Buffalo to answer Vietnam veterans' questions about such problems as Agent Orange and delayed stress syndrome.

They are among 125 area Vietnam veterans who are suing the government and chemical manufacturers for a host of ailments they say have slowly emerged from their exposure to Agent Orange, a toxic defoliant the military used to spray the jungles of Vietnam.

Mr. Miller said the office in Room 211 of Townsend Hall on UB's Main Street Campus can handle sulfa inquiries from Navy and Marine veterans of 1943–45 as well and can send out forms requesting a copy of one's military medical records.

The telephone number of the office will be 831–2369, but Mr. Miller also invited World War II veterans to call him at his home, 883–2673, until the office officially opens.

"These are old-timers, and some of them are going to want to go to the Veterans Administration for help on this sulfa thing," Mr. Miller said. "Don't—for heaven's sake—don't go down there to the VA. I've been jerked around there nine years."

Mr. Miller's proposal delighted William J. Carrig, the Town of Tonawanda Marine vet-

eran who first came to The News with the story of his experience with the Navy sulfa program.

Mr. Carrig said he plans to confer with Mr. Miller and has already been in touch with another veterans' action group that is concerned with compensation for radiation damage suffered by servicemen during atomic testing and during the cleanup in Hiroshima and Nagasaki after the Japansee surrender.

"When you think of the groups of different men involved in different hazards in the U.S. armed forces," Mr. Carrig said, "it's pathetic. This was unnecessary. So unnecessary. If we can prevent these things from happening in future generations, it will be worthwhile."

Mr. Miller acknowledged that there have been many misunderstandings between veterans of World War II and the Vietnam War but said it's about time for them to get together.

"We've got to fight together to get what we need," he said.

"We'll help them find out about sulfa, and they can help us get what we need for Agent Orange."

Mr. Miller is scheduled to speak to a meeting of American Legion commanders on Jan. 29 and intends to include sulfa damage on his list of concerns.

His group is currently circulating petitions asking the government to provide funds for non-VA medical research into the effects of Agent Orange and to provide quality medical treatment for more than 2,000 Vietnam veterans who came home with exposure. The same kind of research and treatment should be provided veterans suffering sulfa damage, he said.

LaFalce Asks Probe of Sulfa Tests

Rep. John J. LaFalce, chairman of the House subcommittee on general oversight, called today for a "detailed investigation" of the U.S. Navy's World War II sulfa program by five powerful congressional committees, plus the Defense Department and the surgeon general.

The town of Tonawanda Democrat called "haphazard" the Navy's attempt to control barracks infections by systematically using sulfa drugs on from 600,000 to a million healthy Navy and Marine trainees from 1943 to 1945.

The experimental program was disclosed in a six-part series, "The Bitter Pill," by The Buffalo Evening News last week. The News discovered many medical journals from the 1940s containing warnings of the dangers of sulfa drugs.

"The series of articles seems to indicate that the Navy chose not to heed these warnings and instead proceeded into a large-scale and basically uncontrolled experimental program, heedless of the consequences," Rep. LaFalce said.

Rep. LaFalce strongly criticized the Navy's failure to keep track of the massive drug testing program and to alert veterans of potential long-term side effects they may suffer.

The News series revealed how the Navy systematically ordered healthy trainees to take sulfa pills daily without sufficient safeguards and without keeping detailed records for following up the men's medical condition later on.

The Navy's sulfa testing program, he charged was "haphazard and left in its wake many innocent victims."

Rep. LaFalce said the questions raised by The News disclosures, "concerning as they do a large group of men who joined in the greatest and most difficult military struggle the world has ever known, deserve the attention of all Americans."

He declared that "a thorough investigation can help us guard against ill-advised and improperly controlled health tests like these in the future.

"Further, we may learn the true extent of the problem: How many veterans have had side effects and how serious are they.

"Finally, such an investigation may help lead to remedies and just compensation for those veterans who were innocent victims of this haphazard testing program."

Mr. LaFalce asked for specific investigations by the House Committee on Veterans Affairs, the health subcommittee of the House Commerce Committee, the Senate Committee on Veterans Affairs, the Senate Health Committee and the General Accounting Office.

He noted that "sulfa drugs were relatively new when the tests were performed. It was clear to medical researchers that these drugs could be very helpful in preventing or treating various diseases . . . But many medical researcers at that time also worried that sulfa drugs like so many generally beneficial things, could have side effects which might reduce or eliminate the desirability of using them."

Mr. LaFalce pointed to the strong evidence that the Navy engaged in questionable testing of sulfa drugs, possibly subjecting unsuspecting recruits to side effects that the congressman said could have "impaired their health and well being."

He voiced concern in a series of letters to five congressional committees, the Defense Department, the surgeon general, the Veterans Administration, the Department of Health and Human Services and the General Accounting Office, which is the investigative arm of Congress.

Since the series appeared, scores of Western New York veterans have come forward and said they recalled being given the sulfa pills and suffered reactions immediately or have been plagued with mysterious illnesses since then.

Rep. LaFalce told Rep. G. V. Montgomery, chairman-designate of the House Committee on Veterans Affairs:

"During the past several days, I have become aware of a potentially explosive issue which could involve nearly a million Navy veterans of World War II. I am writing to draw your attention to this most serious matter and to urge that your committee institute an investigation as soon as possible after the new Congress convenes."

Rep. LaFalce, who is a ranking member of a number of House financial committees, including the Committee on Banking, said he forwarded copies of the copyright Buffalo Evening News series to the congressional committee chairmen and federal department heads.

He told them:

"No doubt the Navy's intentions were good, but questions raised by this testing program and its aftermath are disturbing indeed.

"Why weren't those tested notified of their 'guinea pig' status?

"Why didn't the Navy at least make note of a recruit's participation in the testing program in his medical records?

"Why, nearly 40 years later, has the Navy been—or at least seemed to be—less than forthcoming when asked about details of the program and its aftereffects?"

Rep. LaFalce said he was most disturbed by "the probability that a great number of recruits who involuntarily and unknowingly participated in this program have suffered from side effects that have impaired their health and well being.

* * * * *

"No doubt some, like those Vietnam veterans who were exposed to Agent Orange, have no idea of the cause of their illnesses.

"And even those who suspect that their problems began during this experiment, as The News series shows, have been frustrated in their efforts to gain assistance from their government or even acknowledgment that the program existed and might have contributed to their problems."

Nowak Asks for Probe of Sulfa Tests

Washington.—Rep. Henry J. Nowak called on the secretary of the Navy Wednesday to conduct an inquiry into "the serious and disturbing questions" raised by a Buffalo Evening News series on the Navy's use of sulfa drugs on more than 600,000 healthy servicemen during World War II.

The Buffalo Democrat sent copies of the series, "The Bitter Pill," to Navy Secretary Edward Hidalgo and Rep. G. V. "Sonny" Montgomery, incoming chairman of the House Veterans Affairs Committee, asking both for an investigation.

"Based on the circumstances detailed in The News' series," Mr. Nowak wrote, "the most important question must be what remedial action can be taken to assist the veterans who unwittingly participated in a program that may have contributed to or caused serious health problems.

"I respectfully request that you expeditiously initiate an inquiry into the serious and disturbing questions raised by this series of articles, with the goal of developing appropriate remedial measures for adversely affected veterans."

Quoting a signed column by Murray B. Light, editor and vice president of The News, the congressman asked the Navy secretary and Rep. Montgomery these questions:

1.—If the Navy had to use sulfa as a respiratory disease preventative in the training bases, why didn't it tell the men involved they were being given sulfa?

2.—Why did not records of the men indicate they had been involved in the program?

3.—Why was a follow-up survey of the men not made after they were discharged?

4.—Why does the Navy continue to deny the sulfa program existed?

Rep. Nowak said the sulfa program may be likened to the Agent Orange problem of the Vietnam War, and cited the need for a government program to help those veterans who can prove they were exposed to sulfa and suffered health damage because of it.

Rep. Nowak's call for a Navy investigation came within hours of a request from Rep. John J. LaFalce, chairman of the House Subcommittee on Oversight, for a "detailed investigation" of the sulfa program by five congressional committees, plus the Defense Department and the surgeon general.

Number of Vets Linking Sulfa, Ailments Grows

(By Modesto Argenio and Anthony Cardinale)

Nearly 100 area veterans have called or written to The Buffalo News in response to its recent series, "The Bitter Pill" and most are convinced they were harmed by the Navy's sulfa drug program during World War II.

The Navy and Marine veterans remembered being required to take sulfa pills daily as a preventative measure against various diseases in the crowded barracks.

Some of them recalled suffering immediate reactions to the toxic drug—from skin rashes and sores to swollen hands and feet.

Others recited health problems they have suffered since leaving the service. These include urinary disfunctions and loss of a kidney and development of allergies.

An Ashland Avenue man told an entirely different story about how the Canadian Navy administered its own sulfa program during the war. George Chase said he served in the Canadian Navy and it observed all the precautions that the U.S. Navy should have observed.

"When we took sulfa," Mr. Chase said, "we marked the time we took it. And we took a

tablet containing bicarbonate of soda. If you got three sulfa pills, you took three of the other pills too.

"If you went back and didn't have that written down, you got hell. Even on board ship in the North Atlantic they did it the same way. They told us these were powerful drugs and not to be played with. We were told to drink a lot of fluids too."

Taking fluids and baking soda were two precautions mentioned in medical journals available to Navy officials at the time, The News investigation disclosed.

Robert Crandle of Hamburg has lost a kidney and feels it was because of the sulfa drugs he was required to take in the U.S. Navy's base at Sampson, N.Y.

"I recall the pills very well," he said, "I thought it was saltpeter. Nobody seemed to know exactly what they were for. I had my left kidney taken out on Oct. 3, 1979. I didn't know I had a kidney problem."

Mr. Crandle was rushed to the hospital with congestive heart failure, and surgeons found that pressure on his heart was caused by a blocked kidney that hadn't functioned for a long time.

Anthony DeBergalis of Sloan, a Marine veteran, said he is certain he received sulfa pills as a preventative at Camp Pendleton, Calif. from September to December 1944. Navy documents unearthed by The News hadn't mentioned this base.

"They told us it was salt pills," Mr. DeBergalis said. "Because of the heat we needed salt pills. But they used to be small; the pills I'm talking about were larger.

"I broke out in a rash all over my body. I was in St. Margarita Ranch Hospital about five weeks with big sores. Fifteen to 20 of us had the same thing in that ward."

Mr. DeBergalis said he has had a problem of blood in his urine for many years. But an examination in 1979 didn't reveal the cause.

James Hibit of Clarence told The News he received sulfa at Sampson and suffered "a tremendous reaction." His feet and hands swelled to three times their normal size, he said. He was treated with adrenaline shots. Later, he added, he developed allergies, and he still receives anti-allergy shots each month.

Robert G. Gillette of 49 Kirkover St. recalls receiving what the Navy called "your horse pills" during basic training at Great Lakes, Ill. They took the pills at 5 a.m. before breakfast. He remembered two trainees who refused to take them.

"They had to run around the drill field eight or nine times," he said. "They took the sulfa after that."

Mr. Gillette said he broke out in a light skin rash immediately. Later, in a submarine at Midway in the Pacific, a wrist swelled up and he was taken to a Quonset hut hospital for surgery.

Since 1968 he has had persistent kidney or bladder troubles, he said, adding: "Something is wrong with me, and I don't know why."

Joseph Girome Jr. of 2299 Fillmore Ave. said he received sulfa drugs on a naval ship, the U.S.S. *Alaska*, late in the war and suffered hives that required treatment for a year after he was discharged.

"I never was told," he said. "We were mess cooks and because of dysentery the pharmacist mate gave sulfa to us. They just gave them to you and you took them."

His hands and feet swelled, he said, and he received adrenaline shots two or three times a day to counteract the allergic reaction. Since then he has continued to suffer allergies, he said.

Anthony Gullo of 48 Tioga St. said he suffered stomach trouble for 32 years since receiving sulfa daily at Sampson. He has a Navy card stating that he is allergic to sulfa.

"I kept getting cramps and they sent me to the dispensary," he said. "I'd go back again and again. After boot camp, they operated on me for appendicitis—and it wasn't that. I've had all kinds of tests and they still don't know why."

Mr. Gullo added that he has had kidney trouble for the past 15 years and wonders if it was the sulfa.

Navy Gave Sulfa to Recruits in 1970, Veteran Reports

(By Modesto Argenio and Anthony Cardinale)

Evidence has surfaced that the U.S. Navy was forcing sulfa drugs on healthy trainees as late as 1970, long after the end of its World War II sulfa program involving more than 600,000 trainees.

The Buffalo Evening News, which exposed the Navy's 1943–45 program last month in a series, "The Bitter Pill," has found two men who claim sulfa tablets were handed out to basic trainees at Great Lakes, Ill., in 1970.

Great Lakes Training Center was one of the eight bases identified in Navy document obtained by The News as a site where sulfadiazine was distributed daily to wartime trainees in efforts to control an outbreak of respiratory diseases.

The Navy gave sulfa to 188.000 enlisted men at Great Lakes during the winter of 1943–44. There were 384 adverse reactions to the drug—three of them fatal.

Thomas J. Garrett, 30, of Amherst, one of nearly 200 veterans who have responded to the series, claims he was ordered to give sulfa tablets to his fellow basic trainees in July 1970.

A former counselor of youths troubled with drugs, Mr. Garrett said he joined the Navy to become a medical corpsman. During basic training, he was offered "your chance to learn how to be a corpsman," he said.

"They gave me a bottle of sulfa and said to pass it out to the men," Mr. Garrett told The News. "They lined up next to the fountain with the company commander. I'd swear my medical reputation on it—they were sulfa. I passed them out. It was a constant thing for two weeks on a daily basis."

Mr. Garrett said this happened at Camp Barry, which had been part of Great Lakes during World War II and served as a reception area for incoming recruits when he arrived.

Asked why the Navy used sulfa drugs during July, he said he was told the pills would prevent dehydration during long marches in the heat.

"That's not so," Mr. Garrett quickly added. "I studied toxicology, and that's absolutely false. Sulfa definitely will leave crystals (in the kidneys)."

As during World War II, the Navy failed to warn the men to drink extra liquids and take bicarbonate soda to keep the sulfa dissolved in the kidneys, he said.

"One guy broke out in hives," Mr. Garrett told The News, but he wasn't sure it was the sulfa. "The next day, some of the men couldn't walk, they were sick. Some had nausea and diarrhea and abdominal cramps. They were bent right over."

Trainees who failed to take the sulfa pills in 1970 were placed on report for disciplinary action, Mr. Garrett said.

"They had to do calisthenics or swab down the decks with a toothbrush if they didn't take them," he said.

The News contacted one of Mr. Garrett's fellow basic trainees, Petty Officer Frank Corder, a medical corpsman who is stationed at the Navy Reserve Center in Adelphi, Md. Mr. Corder said he too was at Camp Barry but arrived earlier, in May 1970.

"Yes, I remember it," he said. "It was mandatory. It lasted two days. They never told us why. 'Just take it.' It was an ungodly figure—70 of us in our company. That was just one day's worth of people coming in. Others came in the next day."

The sulfa couldn't have been intended as a preventative, he said, because there weren't any diseases in his company.

Sulfa Tests Prod Moynihan To Call for GI "Bill of Rights"

(By Modesto Argenio and Anthony Cardinale)

New York State's senior U.S. senator Saturday proposed the enactment of a servicemen's "Bill of Rights" so that the Navy's testing of sulfa drugs on more than 600,000 healthy recruits will never happen again.

Sen. Daniel Patrick Moynihan asked the Defense Department to cooperate with Congress in a non-partisan effort to pass what could be historic legislation that would explicitly bar the use of servicemen as "guinea pigs."

The New York Democrat asked Caspar Weinberger, the incoming Secretary of Defense for the Reagan administration, to give top attention to proposed investigations into the testing of drugs on servicemen.

Sen. Moynihan, in a letter to Mr. Weinberger, said that disclosures by The Buffalo News in its recent series, "The Bitter Pill," must be followed up by investigations in both the House of Representatives and the Senate.

He called upon Mr. Weinberger to instruct the Navy to cooperate fully in the coming investigations into its use of sulfa drugs on from 600,000 to a million healthy servicemen during World War II.

Sen. Moynihan said he plans to introduce a historic measure that would put into law a "Bill of Rights" to protect members of all the armed forces from being used as unwitting subjects in drug experiments.

Such a "Bill of Rights" would require the military to inform servicemen of what drugs they are being given, keep complete records of what each received, and make these documents available to them upon request.

Sen. Moynihan's action follows moves in the House by Rep. John J. LaFalce, D-Town of Tonawanda, and Henry J. Nowak, D-Buffalo, calling for investigations into disclosures made in the Dec. 23–38 News series.

In his letter to the incoming secretary of defense, Sen. Moynihan said he was concerned about "the health and legal rights" of military personnel.

"The Buffalo Evening News in an investigative piece has recently brought to light disturbing information about an experimental drug testing program conducted by the Navy on its own men during World War II," he wrote.

"Over 600,000 men apparently were given untested sulfa drugs without having been advised properly of the risks involved and without any medical follow-up after their discharge from the Navy.

"A variety of health problems and early deaths have been apparently linked to these tests. House and Senate investigations of this situation must certainly be conducted in order to ascertain exactly what has happened and what compensation may be due these men.

"This Nation owes them that much, and I urge that the Navy be instructed to cooperate fully with the congressional inquiries into these sulfa drug testing programs.

"Vastly more important, however, is that such a thing not be allowed to happen again. I intend to explore the feasibility of legislation that would codify a military service personnel bill of rights.

"Such an undertaking would clearly require the full and active cooperation of the Department of Defense. I therefore ask that you join me at the very outset of what I know will be a non-partisan effort to ensure that the legal rights of military personnel are clarified and enforced.

"I am enclosing the entire series from The Buffalo Evening News about the sulfa drug testing program. I commend them to you. It is a most thorough report from a most renowned newspaper."

Two powerful veterans lobbies also have demanded that investigations be launched into the use of sulfadiazine—just one of a family of so-called miracle drugs—on healthy sailors and Marines during the World War II.

While Navy documents obtained by The News point to claims of early successes for what was intended as a disease-prevention program, there was also evidence that the effort showed signs of backfiring.

Recruits given the drugs at first seemed to ward off a variety of respiratory and other diseases that were crippling eight major Navy training bases in the United States.

However, after a time, the men showed signs of bad side-effects such as skin problems and extreme negative reactions. Some died.

A former Marine, now living in the Town of Tonawanda, conducted a one-man crusade to bring the tests to light.

The Navy has yet to respond to repeated requests for detailed information on the sulfa program and on the identities of the men involved.

Nearly 200 veterans, though, have responded to The News series by calls, letters and visits to the newspaper and have given their personal accounts of involvement with sulfa drugs while in the service.

At the insistence of the national leaders of both the American Legion and the Veterans of Foreign Wars—groups representing more than 5 million veterans—the Veterans Administration and key congressional committees have been alerted to the drug episodes.

NAVY CONSIDERS INVESTIGATION OF SULFA PROGRAM

WASHINGTON.—Vice Adm. J. William Cox, surgeon general of the U.S. Navy, today promised Rep. Henry J. Nowak "a substantive reply" to his inquiries about disclosure that the Navy ordered more than 600,000 healthy servicemen to take sulfa drugs during World War II.

The Buffalo Democrat had asked on Jan. 1 that the Navy and the House conduct inquiries into "the serious and disturbing questions" raised by The Buffalo Evening News series "The Bitter Pill."

Rep. Nowak said that Vice Adm. Cox briefly advised him today that his letter "has been received and is under study" and that a reply will come by Feb. 17.

At the same time, Rep. Nowak was informed by the chairman of the House Veterans Affairs Committee that the Armed Services Committee should take the lead in a congressional investigation of the Navy's use of sulfa drugs during the war.

Rep. Nowak had forwarded The News series to Rep. G. V. "Sonny" Montgomery, D-Miss., chairman of the Veterans Affairs Committee, asking him to investigate and to explore "what remedial action can be taken to assist the veterans who unwittingly participated in a program that may have contributed to, or caused serious health problems."

Rep. Montgomery agreed that "a series of questions raised by The News articles needs to be answered by the Navy." But, he said, "the appropriate format would be a hearing conducted by the Committee on Armed Services, which has jurisdiction over the Navy.

"Based upon the results of such a hearing," he added, "a determination can then be made as to whether or not the Committee on Veterans Affairs should take any action."

Rep. Montgomery said he has forwarded the series to that committee's chairman, Rep. Melvin Price, D-Ill., and asked him to take action. Rep. Nowak said he, too, is writing to Rep. Price to ask for an investigation.

A similar response was sent by Rep. Montgomery to Rep. John J. LaFalce, D-Town of Tonawanda, who on Dec. 31 called for an investigation by five powerful congressional committees, the Defense Department and the U.S. surgeon general.

Martin J. Fitzgerald, director of the Office of Congressional Relations of the Comptroller General, has informed Rep. LaFalce that his request for an inquiry by the General Accounting Office has been referred to the Human Resources Division.

Sen. Daniel P. Moynihan, D-New York, announced on Saturday that he has sent The News series to Defense Secretary Casper Weinberger requesting cooperation in a nonpartisan effort to pass a historic servicemen's medical bill of rights. Such a law would disclose what drugs were being given and mandate proper record-keeping for future reference.

MOVEMENT GROWS FOR SERVICEMEN'S BILL OF RIGHTS

(By Modesto Argenio and Anthony Cardinale)

The need for a servicemen's medical bill of rights has been reinforced by Army, Navy, Marine, and Air Force veterans who have come forward to tell of being ordered to take sulfa drugs during the late 1950s, the 1930s, and the early 1970s.

The use of sulfa pills on healthy servicemen by all four branches of the armed forces took place long after the Navy's sulfa disease-prevention program of World War II, in which from 600,000 to a million healthy servicemen took the drug.

A flurry of telephone calls to the Buffalo Evening News—following its series, "The Bitter Pill,"—indicates not only that the Navy learned nothing from its World War II mistakes, but that the other services later fell into the same trap.

After reading for the first time about the Navy's little-known World War II program—and about veterans who feel their health was harmed by it—Senator Daniel P. Moynihan announced on Saturday a plan to draft a historic bill of rights for military personnel.

The New York Democrat sent The News series to Caspar Weinberger, President Reagan's secretary of defense, and urged him to instruct the Navy to cooperate fully in investigations by the Senate and House. So far the Navy has refused to acknowledge the sulfa tests, despite a 1944 Navy document obtained by The News.

Senator Moynihan's bill would require the military to inform servicemen of what drugs they were being given and to keep complete records that could be made available on demand.

The latest round of phone calls was sparked by a News story on January 14 in which Thomas J. Garrett, 30, of Amherst, and Petty Officer Frank Corder of Adelphi, Md., said they recalled sulfa drugs being given to healthy trainees during basic training in 1970.

Naval officers at Great Lakes, Ill., apparently made the same mistakes in 1970 as they had during the World War II sulfa program at that base and at least seven others across the country. Both men said they were not properly warned of the dangers of sulfa, advised of precautions to take, or given a record of sulfa use for future reference.

Air Force veteran Richard Wysocki of 85 Bryson Street told The News he was given sulfa drugs from April to July 1956 while in basic training at Lackland Air Force Base in Texas.

"Every time we went on a march, they told us to take these pills to keep from dehydrating," Mr. Wysocki said. "We got it from the time we got there until we left. We used to take extra pills on bivouac.

"I got diarrhea from it," he said. "I got very bad kidneys—I probably can't prove the service did it. But I never had that problem before the service."

Army veteran Stephen E. Wilson of Clarence said he was required to take sulfa pills in July 1961 when he was in basic training as a member of the National Guard at Fort Dix, N.J.

He suffered no ill effects at the time, he said, but in 1973 he had kidney stones, and again in 1978. His doctor doesn't know what caused it, he said.

Navy veteran Bernard Holland of the Town of Tonawanda said he received sulfa drugs in August 1966 during basic training at Great Lakes and suffered an immediate reaction.

"That night," he said, "I had extreme fever and chills and my blanket was soaked from sweating. A guy had handed them out in a big container. When you're 18, you don't ask too many questions."

Another Navy veteran, Dale Galley of Cheektowaga, said he received sulfa at Great Lakes in July 1969 and began to have kidney stones in 1971.

"They told us it was a new form of sulfa drugs," Mr. Galley said. "There was a big scare over spinal meningitis and we took it as a prevention. Naturally we gobbled it down. This went on for about two months."

He had kidney stones while stationed at Jacksonville, Fla., and later while on board the USS Franklin D. Roosevelt, he said. Since returning home, he has had two attacks of kidney stones, most recently last August.

"I had dye tests," he said. "The doctor's report shows multiple kidney stones in both kidneys. What I'd like to know is: how do we form a group to get to the bottom of this?"

Larry Frasca of Blasdell was at Great Lakes for basic training in February 1969 and remembers receiving sulfa drugs.

"We thought it was saltpeter," he said. "Ever since, I always get kidney problems in the winter—kidney infections. I never really noticed until 1973. First I got sharp pains in the side. Now, I've had a kidney infection for the last month. The X-rays found nothing.

"I just called them up (at the Veterans Administration) and said I'd have to file a claim. The woman said, 'You've been sick only two weeks and you want to file a claim? If you really want to . . .' You know what I think? They'll do anything to save a buck."

A fourth Navy veteran, Joseph Guadagno of West Seneca, said he received sulfa drugs in October 1969 at Great Lakes. Like the other Navy men, he said it happened at Camp Barry, an old part of the base used for receiving new recruits.

"I was forced to take the drugs," Mr. Guadagno said. "They just told us it was for dehydration. The guy that gave it to me told me it was sulfa."

He suffered no ill effects, he said. But he confessed, "I kept it between my fingers and drank water (in front of the officers) because I was skeptical of it. I took it just a couple times."

Marine veteran James Bernas of Cheektowaga told The News the men in his basic training company were given sulfa drugs from February to April 1970 at Parris Island, S.C.

"They came with a large brown bottle," he recalled. "I said I was allergic to penicillin and sulfa, so they gave me instead some streptomyacin daily, but I didn't take it. Later I found out they didn't even enter it in my records."

Mr. Bernas said the officers explained there were so many recruits coming from all over that they feared an outbreak of diseases.

"They forced the other guys to take the sulfa," he said. "One guy walked up and down, and we all stood in front of our beds. They said it tasted pretty terrible—chalk-like. If you didn't take it, you had to go down and see the company commander."

A Marine reserves veteran, Thomas Rinaldo of Kenmore, said he received sulfa during boot camp in 1971. He immediately suffered

kidney problems, but it took him nearly six years to obtain a discharge from the reserves.

"Once I got in the service, I developed bad kidney stones," he said. "I never had them before in my life. I got them three, four, five times a year."

The kidney stones became serious in 1972, and the next year he had surgery to replace a blocked tube from one kidney. But the Marines continued to require him to report one weekend a month and two weeks each summer.

"My doctor said I should be out after the operation," Mr. Rinaldo said, "but this Navy doctor (in the reserves) said my problem wasn't in the medical book so I couldn't get out. That made me mad, because they knew what I had—and a page was missing from their medical book.

"Then a new Navy doctor came in 1976. He let me out that day. I still don't know if I'm eligible for benefits. My doctor told me I'd eventually lose that kidney. He has an analysis of the kidney stones. He said there were sulfa crystals in there."

Few of the veterans who contacted The News managed to see their own medical records while in the service. Albert P. Hujer, a Lockport teacher, remembers breaking out in a violent rash that blistered and bled after he was given sulfa for catarrhal fever while at the Sampson, N.Y. Navy base in 1944.

He later became a pharmacist's mate but even then his own medical records were kept under lock and key. "We were told we'd get court martialed if we pried into our records," he said. Because of his later kidney infections, he is now petitioning to get those records from government archives.

VETS CAN SEEK EVALUATION FOR DRUG DAMAGE

(By Roland Powell)

WASHINGTON.—The Veterans Administration announced today it is launching a special evaluation program at all its hospitals for veterans claiming they were harmed by military sulfa programs.

VA Administrator Max Cleland announced the plan in a letter to Rep. John J. LaFalce, D-Town of Tonawanda, who had called for an investigation of disclosures by The Buffalo Evening News series, "The Bitter Pill."

The congressman responded today that the plan is a good start but that the VA should do more. He asked how the VA plans to inform veterans of the hazards of the secret 1943–45 sulfa program and of the treatment that will soon be available.

Mr. LaFalce has asked the VA and several powerful congressional committees to investigate after The New series Dec. 23–28 revealed that more than 600,000 healthy sailors and Marines were required to take sulfa drugs daily during World War II and that many of them might be suffering kidney disease and other ailments as a result.

Mr. Cleland said the VA is concerned about the issue and would work with the Navy to "investigate the matter appropriately." He wrote:

"The chief medical director has initiated a cooperative dialogue with the surgeon general of the Navy to ensure a coordinated effort. He is also having developed a medical evaluative procedure to be followed at our medical centers if veterans request evaluation for alleged sulfa toxicity resulting from administration of this drug in 1943 and 1944.

"This matter is being brought to the attention of all our medical center directors with the request that they immediately report any such cases to Central Office."

The VA administrator told Rep. LaFalce that his inquiry was the first such notification the agency has had about the issue.

He said that subsequently the American Legion requested information concerning William J. Carrig of the Town of Tonawanda, a Marine Corps veteran, who told The News he suffered internal problems after taking the drug during the 1943–44 program and believed it was responsible for his loss of a kidney in 1954.

Mr. Cleland said the records showed Mr. Carrig had his kidney removed at the Buffalo Veterans Hospital but "he has never, to our knowledge, asked the VA to evaluate him for sulfa toxicity.

"To date, our Buffalo VA Medical Center has received no requests from veterans seeking to be examined for sulfa side effects as a result of The Buffalo News articles. To our knowledge no veterans have requested such an examination at any of our medical centers."

Replying to the VA letter, Rep. LaFalce said he was pleased to learn the medical evaluation program was being developed for veterans who suspected they received sulfa during their service, and he asked for detailed information on that procedure once it was established.

While that was good news, the congressman said, he expressed concern that "nowhere in your letter do you outline how veterans are to be informed of the possible health risks associated with the exposure to sulfa drugs or how they are to be informed of the VA Medical Center treatment that will soon be available."

Mr. LaFalce said:

"The importance of informing veterans of the risks and possible treatments is paramount, and I believe that the VA, working in conjunction with the Navy Department, has an affirmative responsibility to identify as many veterans who may have been exposed as they can so that these individuals can be alerted to any possible health risks and the availability of follow-up testing.

"I hope you will institute such an identification and notification process as soon as possible."

Rep. LaFalce also asked the VA to provide him information on how many veterans seek medical treatment at VA centers, information he said would be useful in a potential congressional investigation of the sulfa drug problem.

Reps. LaFalce and Henry J. Nowak, D-Buffalo, have asked congressional committees to hold hearings. Their requests have been acknowledged, but so far no hearing dates have been set.

Sen. Daniel P. Moynihan, D-New York, has asked Defense Secretary Caspar Weinberger to order the Navy to cooperate in Senate-House investigations. He also asked for nonpartisan support of a proposed Servicemen's Medical Bill of Rights covering all the armed forces.

Since the series appeared, The News has been flooded with letters and telephone calls from veterans saying they recalled the mandatory sulfa disease-prevention program and suspect their kidney problems are a result of it.

The News also has disclosed that sulfa drugs have been used sporadically on healthy basic trainees since World War I not only by the Navy but also by the Army, the Marines and the Air Force. Some veterans claimed they were ordered to take sulfa as recently as the early 1970s and now have kidney ailments.

CONGRESS SETS SULFA PROBE BY TWO PANELS

WASHINGTON—Senate and House Armed Services committees have agreed to look into allegations that some Navy and Marine Corps veterans of World War II may have been harmed by being forced to take sulfa drugs.

A series of articles in The Buffalo Evening News in December revealed that many of the 600,000 veterans who took the drugs may have suffered ill effects, possibly including kidney disease.

A number of congressional committees as well as the Navy were asked to investigate.

It was decided the lead committees in such an inquiry should be those dealing with the armed services.

Rep. Melvin Price, D-Ill., chairman of the House Armed Services Committee, today advised Rep. John J. LaFalce, D-Town of Tonawanda, he had asked the investigations subcommittee to look into the matter.

He said The News series by Modesto Argenio and Anthony Cardinale had been turned over to the staff of the subcommittee chaired by Rep. Richard White, D-Texas, and that the Navy "has been requested to furnish the subcommittee with a report on the program."

Similarly, Sen. John Tower, R-Texas, chairman of the Senate Armed Services Committee, also contacted Mr. LaFalce and expressed appreciation to him for calling Sen. Tower's attention to the matter.

Sen. Tower said that as chairman of the committee with jurisdiction over the Navy he had asked the service to provide him with a report on "the results of the investigation conducted by The Buffalo Evening News."

When that report is received, Sen. Tower said the committee then would decide what further steps it should take.

A major reason for seeking the Armed Services committees' involvement was that they might be in the best position to force a response out of the Navy, one which to date has been slow in coming.

SULFA PROBE BY CONGRESS MAY SPUR PUBLIC HEARINGS

(By Modesto Argenio and Anthony Cardinale)

The decision of two powerful congressional committees to investigate allegations that healthy sailors and Marines were forced to take sulfa drugs during World War II could pave the way for public hearings. Congressional sources told The Buffalo Evening News today that the decision of the Senate and House armed services committees to look into the allegations "is a major breakthrough in terms of a thorough examination of the problem."

The chairmen of both committees wrote Rep. John J. LaFalce, D-Town of Tonawanda, to confirm plans for the inquiries.

Sen. John Tower, R-Texas, told Rep LaFalce, 'I have requested the Department of the Navy to provide the committee with a report on the results of the investigation conducted by The Buffalo News."

The News series, "The Bitter Pill," which appeared last December, told that 600,000 or more veterans had been given sulfa drugs in an experiment in 1943–45 and that many later suffered kidney diseases and other ailments.

Some servicemen, according to documents obtained by The News, died during the tests.

Rep. Melvin Price, D-Ill., chairman of the House Armed Service Committee, took a step toward formalizing a congressional investigation by ordering his own Investigations Subcommittee to examine the results of The News series.

The Navy already has promised that it will have some sort of reply on the test program by Feb. 17.

Although the tests were conducted decades ago, concern over the long-term effects on veterans and servicemen has grown.

Sen. Daniel Moynihan, D-New York, who has begun work on a medical Bill of Rights for servicemen, today released a follow-up on his request for an investigation by the Defense Department.

Timothy J. Russert, Sen. Moynihan's counsel, said the Senator fully intends to press "onward" with his own bill of rights plan because this is "a matter of greatest urgency."

He has informed Secretary of Defense Casper Wineberger that "such a thing not be

allowed to happen again," the Senator's aide added.

Rep. Price told Rep. LaFalce that he expects the Navy Department to furnish a full report on the sulfa tests to Investigations Subcommittee chairman Rep. Richard White, D-Texas.

Major veterans organizations, including the American Legion and the Veterans of Foreign Wars, have also demanded investigations of the sulfa program.

And the Veterans Administration has begun to solicit veterans who believe they may have been unwitting subjects.

The Navy has said that it is unable to supply The News with the names rosters of men involved in the tests. The tests were conducted at eight Navy training bases and involves sailors, Marines and Seabees.

PENTAGON PROBING SULFA TESTS; TRACING OF SUBJECTS EYED

(By Modesto Argenio and Anthony Cardinale)

The Department of Defense, reacting to The Buffalo News series "The Bitter Pill," says it is attempting to determine when and where the Navy used sulfa drugs on healthy servicemen and whether it's feasible to track the men down.

The recent series revealed that from 600,000 to a million Navy and Marine trainees received sulfa daily during World War II as a disease preventative. Several of them died during the program, and many veterans have said they are suffering medical complications.

Senate and House committees are considering scheduling hearings as a result of the series, but they are awaiting a report from the Navy as requested by Rep. John J. LaFalce, D-Tonawanda, and Rep. Henry J. Nowak, D-Buffalo.

The surgeon general of the Navy has promised them "a substantive reply" by Tuesday.

The first clues of the Defense Department's approach to the investigation were provided in a letter to Rep. LaFalce this week.

Acting General Counsel Leonard Niederlehner noted that it is difficult to reconstruct the events of nearly four decades ago, but the Navy's Bureau of Medicine and Surgery is making "intensive efforts" to gather and evaluate facts about sulfa use.

"We are informed that the bureau hopes to complete its initial investigation by Feb. 17, 1981," he wrote. "The bureau's objective is to answer two questions by that date: When and where was the sulfa testing program conducted, and is it feasible to determine which military members received the drug."

The news disclosed the dates and locations of eight Navy training bases where sulfa treatment was mandatory for enlisted men. The data was available from Navmed 284, published in 1944 by the Bureau of Medicine and Surgery, and from a book published in 1949 by two former Navy officers who had played prominent roles in the program.

Without recording names of servicemen, these documents recount how upwards of 600,000 healthy men were ordered to take sulfa drugs at these bases:

Sampson, N.Y.—Dec. 1, 1943, to April 1, 1944, and January to May 1945.

Norman, Okla.—Feb. 17 to May 30, 1944.

Bainbridge, Md.—Dec. 13, 1943, to April 2, 1944, and January to April 1, 1945.

Memphis, Tenn.—Feb. 1 to April 1, 1944, and January to March 1945.

Farragut, Idaho—Dec. 5, 1943 to April 1944.

Great Lakes, Ill.—Dec. 1, 1943 to April 15, 1944, and October 1944–Feb. 1, 1945.

Navy Pier, Chicago—Feb. 8 to March 1944.

Davisville, R.I.—Nov. 15, 1943 to March 1944.

Navmed 284—which the Navy at first denied publishing, and later acknowledged it had "declared obsolete" in 1954—spelled out how men were lined up daily and ordered to swallow sulfa, how some were punished for resisting, and how 620 men suffered serious medical reactions—at least 10 of them fatal.

The News disclosed that the Navy didn't properly inform the men they were taking sulfa, didn't offer them a choice, didn't advise them to drink extra water and take sodium bicarbonate, didn't note their participation in their individual records, didn't do follow-up checks on their health, and years later denied the program had ever existed.

The Veterans Administration in a major development on Jan. 28 announced that it was launching a special evaluation program at all its hospital for veterans claiming sulfa damage. But it noted that no veterans had ever complained about the virtually unpublicized 1943–45 sulfa program.

Rep. LaFalce responded to VA Administrator Max Cleland:

"Nowhere in your letter do you outline how veterans are to be informed of the possible health risks associated with the exposure to sulfa drugs or how they are to be informed of the VA Medical Center treatment that will soon be available.

"The importance of informing veterans of the risks and possible treatments is paramount, and I believe that the VA, working in conjunction with the Navy Department, has an affirmative responsibility to identify as many veterans who may have been exposed as they can, so that these individuals can be alerted to any possible health risks and the availability of follow-up testing.

"I hope you will institute such an identification and notification process as soon as possible."

The task of informing veterans has also been undertaken by the national commanders of the American Legion and Veterans of Foreign Wars. The Legion is asking veterans to call its Washington office at 202–861–2700 for help in documenting claims to the VA.

The VFW has also urged veterans to call their closest VA office and schedule an appointment for a medical evaluation if they feel their health was impaired by any military sulfa program.

Since publishing "The Bitter Pill" and follow-up stories. The News has learned that the Army, Navy, Marines and Air Force sporedically used sulfa on healthy recruits during initial days of basic training during the late 1950s. 1960s and early 1970s. Many of the men claim they have suffered kidney damage.

Servicemen's Medical Bill of Rights has been proposed by Sen. Daniel P. Moynihan, D-New York, covering all the armed services. Such a law would require that servicemen be told what drugs they are taking, be given a choice, and receive a written record of it for future reference.

While prevention of future misuse of sulfa and other drugs by the military can be controlled by the passage of a law, it will be a great deal more difficult to compensate veterans who claim they already have been harmed by such programs.

Claims for treatment or compensation will hinge on whether the Navy can—and will—determine from its files which veterans were in the sulfa program and how to contact those still alive today.

Navy documents obtained by The News indicate that a notation was made in medical records whenever a trainee suffered an immediate reaction to the sulfa. The Navy simply noted in the individual's records that he was sensitive to sulfa.

Although these records don't mention the sulfa program—or how it was learned that the trainee was sensitive to sulfa—this notation in records of men who served at those bases during those years may provide a starting point for locating men who may have been harmed by the program.

In his letter to Rep. LaFalce this week, Mr. Niederlehner said that once the current Navy investigation is completed, the bureau will continue to collect "pertinent information," especially any correlation between sulfa disease-prevention programs and adverse physical side-effects.

He went on to say that since World War II the Defense Department "has taken significant steps to protect its members from forced involvement in medical experiments.

"Each military department provides by regulation that only volunteers who have given their informed written consent may participate in studies involving risks beyond the hazards of their normal duties. Moreover, a study may not be conducted unless it satisfies the rigorous standards prescribed by regulations and is approved by a review group composed of professionals with appropriate training and background."

In addition, a directive to govern all research activities involving human subjects is being prepared by the Office of the Undersecretary of Defense for Research and Engineering, Mr. Niederlehner continued.

This directive would make applicable to the Defense Department the Department of Health and Human Services' rules protecting human sub'ects in research. The Defense Department has already issued instructions on the investigational use of drugs.

These include the requirement that a professional review board approve each study and that any clinical investigation not classified on national security grounds adhere to the drug-testing regulations of the Food and Drug Administration.

"I want to reiterate," he concluded, "this department's continuing commitment to safeguard the rights of all service members to choose freely whether to volunteer for medical studies and to be assured that studies in which they do participate are carefully planned and safely administered."●

ADDITIONAL COSPONSORS

S. 170

At the request of Mr. PACKWOOD, the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of S. 170, a bill to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions.

At the request of Mr. MOYNIHAN, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 170, supra.

S. 255

At the request of Mr. MATHIAS, the Senator from Nevada (Mr. CANNON) was added as a cosponsor of S. 255, a bill to amend the patent law to restore the term of the patent grant for the period of time that nonpatent regulatory requirements prevent the marketing of a patented product.

S. 517

At the request of Mr. BENTSEN, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 517, a bill to amend the Clean Air Act to provide for further assessment of the validity of the theory concerning depletion of ozone in the stratosphere by halocarbon compounds before proceeding with any further regulation of such compounds, to provide for periodic review of the status

of the theory of ozone depletion, and for other purposes.

S. 550

At the request of Mr. PACKWOOD, the Senator from Alabama (Mr. DENTON) was added as a cosponsor of S. 550, a bill to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition.

S. 888

At the request of Mr. PACKWOOD, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 888, a bill to provide effective programs to assure equality of economic opportunities for women and men, and for other purposes.

S. 969

At the request of Mr. ROTH, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 969, a bill to establish a national export policy for the United States.

S. 1125

At the request of Mr. MATHIAS, the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1125, a bill to eliminate the reduction in social security benefits for spouses and surviving spouses receiving certain Government pensions, as recently added to title II of the Social Security Amendments of 1977.

S. 1131

At the request of Mr. DANFORTH, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 1131, a bill to require the Federal Government to pay interest on overdue payments and to take early payment discounts only when payment is timely made, and for other purposes.

S. 1172

At the request of Mr. JEPSEN, the Senator from North Carolina (Mr. HELMS), the Senator from Texas (Mr. TOWER), and the Senator from Idaho (Mr. SYMMS) were added as cosponsors of S. 1172, a bill to amend the Internal Revenue Code of 1954 to eliminate the holding-period requirements for capital gains treatment.

S. 1229

At the request of Mr. MOYNIHAN, the Senator from Tennessee (Mr. SASSER), and the Senator from Maine (Mr. MITCHELL) were added as cosponsors of S. 1229, a bill to continue through December 31, 1982, the existing prohibition on the issuance of fringe benefit regulations.

S. 1326

At the request of Mr. SASSER, the Senator from North Dakota (Mr. ANDREWS), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Oklahoma (Mr. BOREN) were added as cosponsors of S. 1326, a bill to amend title 38, United States Code, to authorize a service pension of up to $150 per month for veterans of World War I and for certain surviving spouses and dependent children of such veterans.

S. 1348

At the request of Mr. SASSER, the Senator from Oregon (Mr. HATFIELD) and the Senator from Kentucky (Mr. HUDDLESTON) were added as cosponsors of S. 1348, a bill to amend the Internal Revenue Code of 1954 to clarify certain requirements which apply to mortgage subsidy bonds.

S. 1368

At the request of Mr. HUMPHREY, the Senator from North Carolina (Mr. EAST) was added as a cosponsor of S. 1368, a bill to amend the Internal Revenue Code of 1954 to provide that services performed for camps by certain students who generally are not eligible to receive unemployment compensation will not be subject to the Federal unemployment tax.

SENATE JOINT RESOLUTION 74

At the request of Mr. MATHIAS, the Senator from Nevada (Mr. CANNON) and the Senator from Florida (Mr. CHILES) were added as cosponsors of Senate Joint Resolution 74, joint resolution designating the week of October 4 through October 10, 1981, as "National Diabetes Week."

SENATE JOINT RESOLUTION 89

At the request of Mr. KENNEDY, the Senator from Maine (Mr. MITCHELL) was added as a cosponsor of Senate Joint Resolution 89, joint resolution on the hunger strike in Northern Ireland.

SENATE RESOLUTION 65

At the request of Mr. DURENBERGER, the Senator from Vermont (Mr. STAFFORD) and the Senator from Pennsylvania (Mr. HEINZ) were added as cosponsors of Senate Resolution 65, resolution to promote alternative nonanimal testing procedures.

AMENDMENT NO. 77

At the request of Mr. BIDEN, the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of amendment No. 77 intended to be proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 78

At the request of Mr. BIDEN, the Senator from Missouri (Mr. EAGLETON) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of amendment No. 78 intended to be proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 82

At the request of Mr. BIDEN, the Senator from Missouri (Mr. EAGLETON) and the Senator from Texas (Mr. BENTSEN) were added as cosponsors of amendment No. 82 intended to be proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 83

At the request of Mr. BIDEN, the Senator from Missouri (Mr. EAGLETON) and the Senator from West Virginia (Mr. ROBERT C. BYRD) were added as cosponsors of amendment No. 83 intended to be proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 84

At the request of Mr. BIDEN, the Senator from Missouri (Mr. EAGLETON) and the Senator from Georgia (Mr. NUNN) were added as cosponsors of amendment No. 84 intended to be proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 85

At the request of Mr. BIDEN, the Senator from Georgia (Mr. NUNN), the Senator from Missouri (Mr. EAGLETON), and the Senator from Texas (Mr. BENTSEN) were added as cosponsors of amendment No. 85 intended to be proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 86

At the request of Mr. BIDEN, the Senator from Missouri (Mr. EAGLETON) and the Senator from Arkansas (Mr. BUMPERS) were added as cosponsors of amendment No. 86 intended to be proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 88

At the request of Mr. BIDEN, the Senator from Missouri (Mr. EAGLETON), and the Senator from Arizona (Mr. DECONCINI) were added as cosponsors of amendment No. 88 intended to be proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 89

At the request of Mr. BIDEN, the Senator from Florida (Mr. CHILES), the Senator from Missouri (Mr. EAGLETON), and the Senator from Georgia (Mr. NUNN) were added as cosponsors of amendment No. 89 intended to be proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 91

At the request of Mr. BIDEN, the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of amendment No. 91 intended to be proposed to S. 951, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

SENATE RESOLUTION 155—RESOLUTION RELATING TO THE 50TH ANNIVERSARY OF RADIO CITY MUSIC HALL

Mr. MOYNIHAN submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 155

Whereas, in 1932, the Radio City Music Hall in New York City opened its doors to a public longing for the uplift and optimism that emanated from its stage, and

Whereas, for five decades, the musical

stage shows and Rockettes dance troupe presented at the Radio City Music Hall have been universally acclaimed, though they are uniquely American in origin and character, and

Whereas, America's greatest motion pictures have premiered and played at Radio City Music Hall, and

Whereas, Radio City Music Hall has been declared an architectural landmark, and

Whereas, the majesty of the Radio City Music Hall and the magic of its performing arts have enchanted audiences drawn from all over America and the world: therefore, be it

Resolved, That the Senate hereby acknowledge the fiftieth anniversary of Radio City Music Hall in 1982, and expresses the appreciation and admiration of the Nation for all those who have performed in or managed the Radio City Music Hall and who have thereby contributed significantly to the cultural achievement of the United States.

● Mr. MOYNIHAN. Mr. President, today I am introducing a resolution to salute the 50th anniversary of Radio City Music Hall. Fifty glorious and memorable years of the showplace of the Nation, to be sure, are cause for celebration. I also ask unanimous consent to include in the RECORD a short history of the institution. I hope that the entire Senate will join me in marking this occasion in our Nation's history of cultural achievement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RADIO CITY MUSIC HALL, 1932–1982—FIFTY GLORIOUS, MEMORABLE YEARS

Considering its present world renown and the affection its patrons have heaped upon it throughout its 50-year history, Radio City Music Hall today is an international institution. Fittingly enough, back in 1930 when the Rockefellers were building their Center, it was first named the International Music Hall. At that time, John D. Rockefeller, Jr.—against all the financial odds of those strained economic times—stuck out his chin and decided to build a world center of entertainment. To his credit, he called upon the best minds to formulate the plans, among them Samuel L. Rothafel—better known as Roxy—the famed motion picture entrepreneur who then staged the spectacular shows at the Roxy Theatre.

Roxy had managed the largest theatres in the world at the time, and the new Music Hall was to be the largest. He thought big, and he thought lavishly. This new palace would fulfill his ultimate dream—to present a new form of live stage entertainment so spectacular that it would eclipse the motion picture itself.

It was Roxy who supervised the building of Radio City Music Hall and who, it is said, gave the architects the idea for its famed arched ceiling. While he was on an ocean liner returning from Europe where he had studied the latest theatre construction, Roxy marveled at the sight of the setting sun over the water. Inspired, he decided that this was how he wanted his new showplace to look.

Roxy made his ideas known to the architects, including the design supervisor, the young Edward Durell Stone. And one of the greatest American designers of the day—Donald Deskey—was called upon to produce, with his artist-associates, the glowing Art Deco interior.

The "Showplace of the Nation" opened on December 27, 1932. The public immediately fell in love with the place. It was elegant; it was quiet; it was sensational in its loftiness; and it was American.

The lavish stage show that Roxy had envisioned soon shared the bill with the motion picture—the new talkies that had captured the public's fancy. There was no better place to showcase a motion picture than in this king-of-theatres. Lines of patrons queued up around the block eager to fill the 6,200 seats. Where could one go for a better show? After all, beside the motion picture, there was the world's largest Wurlitzer theatre organ, the Symphony Orchestra, the Corps de Ballet, and the fabulous Rockettes.

For more than four decades the greatest motion pictures graced the huge screen on the world's largest stage. And they played the Music Hall first—films like King Kong, Of Human Bondage, Sunset Boulevard, An American in Paris, The Philadelphia Story, True Grit, Mary Poppins, and Disney's all-time classic, Snow White and the Seven Dwarfs. The Academy Award films number in the dozens. It was at Radio City that audiences were introduced to Bette Davis, Cary Grant, Katharine Hepburn, and the magic of Fred Astaire and Ginger Rogers.

During those years, more than 255 million people purchased admissions making the Music Hall—by far—the most popular, single entertainment attraction in the world. But in the 1970s the public's interest began to change and, with it, the kind of entertainment they sought. By 1978 there were plans to close the theatre forever. But the public wouldn't have it.

Plans for the restoration of the Hall were announced in April 1979 by Robert F. Jani, a newly appointed president of Radio City Music Hall Productions, Inc. The interior had been declared a landmark and that meant that all the carpets, draperies, wall coverings, and furnishings had to be maintained in their original design. In an incredible one-month period, every piece of fabric was either replaced or restored, the bronze doors and marble pillars polished, and even the 24-carat gold ceiling in the Grand Foyer completely cleaned.

Fortunately, the unique stage machinery, unknown in other theatres, was in mint condition. The three huge stage elevators, the revolving turntable, the orchestra lift that can traverse the stage, the three-ton gold contour curtain—largest ever created, still make the Hall the most perfectly equipped in the world.

The new Radio City Music Hall Entertainment Center reopened on May 31, 1979 with a new format of 90-minute live stage shows, ironically, a return to Roxy's original plan. The first musical spectacular, A New York Summer, played to over 600,000 people. This was followed by It's Spring featuring the Vienna Choir Boys, A Rockette Spectacular starring Ginger Rogers, Manhattan Showboat which saluted 100 years of American entertainment, and America, a special tribute to the nation. And, of course, there is the traditional and universally acclaimed Christmas Show, now the Magnificent Christmas Spectacular.

In addition, the Entertainment Center presents concepts by top performing artists, among them Linda Ronstadt, Chuck Mangione, Ella Fitzgerald, Anne Murray, Diana Ross, Peter Allen, and Frank Sinatra. In February 1981, the Center hosted the nationally televised Grammy Awards, presented by the Academy of Recording Arts and Sciences.

Radio City Music Hall Productions, Inc. has established itself as a multi-faceted entertainment enterprise. Since its formation the Rockettes have appeared in Las Vegas, San Francisco, Dallas, Miami, and London. Three of the Music Hall's spectaculars have been taped as major television specials, and a soundtrack album has been made in Radio City's own recording studio.

It is only fitting, then, that in its Golden Jubilee year tribute be paid to this magnificent institution that has meant so much to so many. Radio City Music Hall Entertainment Center reigns today as one of the most extraordinary—and magical—theatre palaces in the world.●

SENATE RESOLUTION 156—RESOLUTION RELATING TO ENGROSSING AND ENROLLING OF BILLS

Mr. MOYNIHAN submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES 156

Whereas the number of bills, acts, and resolutions introduced in the Senate has greatly increased, and

Whereas the length and complexity of measures adopted has similarly increased, and the language of legislation grows ever more distant from the language of the people, and

Whereas this development has both resulted from and in turn has caused increasing dependence of the Senate on professional staff, and

Whereas the staff having done the work, it is the inevitable and natural tendency of Senators to leave the matter at that, and

Whereas, if continued, this can only bring the legislative process into disrepute, and the laws also; be it therefore

Resolved, That it is the sense of the Senate that no bill shall be engrossed or enrolled which a majority of Members present and voting for the particular measure cannot attest to having read.

AMENDMENTS SUBMITTED FOR PRINTING

DEPARTMENT OF JUSTICE AUTHORIZATION ACT, 1982

AMENDMENT NO. 96

(Ordered to be printed.)

Mr. HELMS proposed an amendment to amendment No. 69 to the bill (S. 951) to authorize appropriations for the purposes of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 97

Mr. BIDEN (for himself, Mr. KENNEDY, Mr. NUNN, Mr. BUMPERS, Mr. CHILES, and Mr. DECONCINI) submitted an amendment intended to be proposed by them to the bill S. 951, supra.

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH. Mr. President, the Senate Committee on Governmental Affairs will hold a hearing on S. 1080, the Regulatory Reform Act of 1981, S. 344, the Agency Accountability Act of 1981, and S. 1360, the Regulatory Negotiation Act of 1981 on Tuesday, June 23, 1981 at 10 a.m. in room 3302 of the Dirksen Senate Office Building. For further information, please contact Dan Bensing at 224–4751.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. COHEN. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Senate Select Committee on Indian Affairs.

The hearing is scheduled for June 23, 1981, beginning at 10 a.m., in room 1114, Dirksen Senate Office Building. Testimony is invited regarding S. 1088, a bill to promote the goal of economic and social self-sufficiency for American Indians, Hawaiian Natives, and Alaskan Natives.

S. 1088 was introduced in the Senate on April 30, 1981, and was referred to

the Select Committee on Indian Affairs. The Committee reported the bill on May 15, 1981, with the understanding that a hearing would be held with further consideration of the bill at a business meeting, if necessary, before the bill is considered on the Senate floor. Testimony of Indian witnesses was received on June 10th. June 23rd hearing will be limited to administration witnesses only.

For further information regarding the hearing, you may contact Timothy C. Woodcock, staff director, or Jo Jo Hunt, staff attorney, on 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be deemed to have met during the session of the Senate on Thursday, June 18, to hold hearings on the Israeli air strike and related issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FISCAL DISPARITIES

● Mr. DURENBERGER. Mr. President, since coming to the Senate in 1979 I have attempted to build a record on the distressing problem of fiscal disparities, a problem of increasing, but unrecognized importance. Such disparities arise in numerous forms and yield to no single comprehensive solution. That is why it is imperative that we become aware of their many manifestations and begin to think about the range of solutions available to us.

On May 13 the Subcommittee on Intergovernmental Relations, which I chair, held hearings on Federal allocation formulas and fiscal disparities. At that time I pointed out two particular instances where disparities among governments' ability to raise revenues from their own resources base hold the potential for great disruption in the delivery of public services, for social and economic hardship, and more far reaching, the potential for strained relations among governments perhaps leading even to regional economic warfare.

One such case is widespread and familiar to any of my distinguished colleagues from States with old industrial central cities surrounded by growing and increasingly affluent suburbs. As business and middle-class citizens have fled the central cities for the haven of suburbia, they have left behind a stagnant city populated by the poor and the elderly. The dwindling of the city's tax base has meant that in order to maintain an adequate level of public services for its citizens, it has been forced to tax its even smaller tax base at an increasingly higher rate.

Another instance of fiscal disparities is of fairly recent origin, and is attributable directly to the enormous increases in the cost of energy. By simple good fortune, some States have located within their geographic boundaries large mineral and energy deposits which give these States potentially great tax wealth capacity, while other less energy rich areas increasingly must endure substantially greater tax burdens to raise the same amount of revenue. Compounding this is the ability of some of these States to levy enormous severance taxes on the extraction of the energy resources which can be exported wholely or in part to the citizens of energy dependent States.

Today, Mr. President, I call to the attention of this body yet another instance of fiscal disparities, this time a case particularly difficult to deal with. Those of my colleagues from States with twin border cities will recognize immediately the disparity likely to arise when two cities share the same socioeconomic environment but must exist in drastically different fiscal/legal environments because each happens to be in a different State. Minneapolis, St. Paul are not the only twin cities in my home State of Minnesota.

Three other of our cities are twins with sister North Dakota cities, and each is presently suffering from the disparities that arise when artificial political divisions overlie a larger social and economic system. The twin cities I am referring to are Fargo-Moorhead, Grand Forks-East Grand Forks, and Breckenridge-Wahpeton. Compound all of this with the fact that our Minnesota cities' North Dakota siblings are able to benefit from the vast energy revenues flowing into North Dakota, and you have indentified a situation that might easily lead to the deterioration of the "poor-sister." There is good evidence that this invidious process has already begun in the case of Moorhead.

In a recent front page article in the Minneapolis Tribune the situation in the Red River Valley I refer to was described in detail. I urge my colleagues to read the article closely.

The State of Minnesota is working hard to find answers to the difficult problems posed by this unfortunate situation. We faced similar problems in the Minneapolis-St. Paul metropolitan area and were able to alleviate the fiscal disparities by passing the Minnesota Fiscal Disparities Act of 1977, a model approach to addressing urban/suburban disparities. But the present situation presents much more difficult problems because most of its causes lay outside the reach of the Minnesota Legislature. In the case of metropolitan fiscal disparities in the seven county twin cities area it was possible for the citizens of Minnesota to make the hard choices, bite the bullet, and solve their own problems. In the present case, no matter how willing the citizens of Minnesota may be to help their fellow citizens by such measures as tax abatements, foregoing increased gasoline taxes, and so forth, the heart of the problem will persist. Because the cities of North Dakota are able to provide services with revenue generated by the energy windfal, it is possible for them to keep income, property, and sales taxes low, and keep their Minnesota sisters at a permanent comparative disadvantage in the competition for business and residents.

This is but one example of the types of fiscal disparities that confront us. I am sure my fellow Senators will become sensative to what is happening, because this is an area of growing national concern.

Mr. President, I ask that the Minneapolis Tribune article be printed in the RECORD.

The article follows:

MINNESOTA HAS THOSE OLD "BORDERLINE BLUES"

(By Steve Berg)

And from his window high up in City Hall, Morris Lanning can look down at the Red River, a muddy little stream that forms the border between Minnesota and North Dakota, and he can look out at the buildings of downtown Fargo just a few blocks away.

The city across the river is bustling with new businesses, new jobs, new houses, new people.

Lanning's town looks green and prosperous. But that's a facade, he says. Moorhead and the other border towns of East Grand Forks and Breckenridge are being bled white by high taxes and by people with good, old-fashioned Minnesota common sense who have come to realize that they can live and do business much more cheaply by crossing a bridge to North Dakota.

North Dakota's income taxes are about two-thirds less; its sales tax one-fourth less; its workers' compensation insurance rates 50 percent less. Even with the freeze imposed on border gasoline taxes last week by the Minnesota Legislature, the North Dakota gasoline tax is one-fourth less. And its local property taxes, aided this year by $104 million paid to the state by coal and oil companies, are going down, not up.

To those who watch business, the consequences seem graphic.

Moorhead grew hardly at all over the last decade, while the population of Fargo and West Fargo shot up by 22 percent. More than a dozen companies have jumped the border in the last five years and nearly all new firms are picking the North Dakota side of the river. Moorhead's troubled public school system is losing pupils at triple Fargo's rate and has had to close nearly half its schools in the last five years.

"We've had people suggest that I organize a pick and shovel brigade and dig a big trench on the east side of town to re-route the river," Lanning said, reflecting the sentiments of many here that if you can't beat North Dakota, you might as well join it.

"We could fill in the old river bed and turn it into the longest golf hole in the country," he said, laughing the same way he does when suggesting that Minnesota can solve its budget crisis by selling Moorhead to North Dakota for $600 million.

"With all the Norwegians in Moorhead (Lanning is one) we would raise the collective I.Q. of North Dakota by about 10 points," he quipped.

Disparities are nothing new between Fargo and Moorhead.

At the turn of the century, Fargo was dry and Moorhead had 52 saloons. Eventually Moorhead "reformed" and grew into a pleasant, cozy college town in which one-third of its residents were students at Moorhead State University or Concordia College.

Moorhead people have always been fiercely loyal to their city, believing it a bit more prestigious to live in Minnesota, a state of lakes and trees, rather than in North Dakota, a state with a sagebrush image and a reputation for fewer services and poorer schools.

"People have been willing to pay more for the so-called Minnesota quality of life," said Willis Kingsbury, Moorhead's community development director.

"Maybe some of that was valid in the past," he said, "but Fargo-Moorhead is really one community and I challenge anybody to show me how the schools or the quality of life is any better on one side of the river than on the other. Now it's the people of Moorhead who are caught in the wrong part of town."

Although tax disparities have existed for years, they suddenly seem more important for two reasons, he said. Inflation makes them more significant to people. And North Dakota is using its energy resources to widen the tax gap.

"We're living next to a new generation OPEC state," Kingsbury said.

This year North Dakota will collect an estimated $104 million from energy companies for the privilege of taking coal, oil and natural gas from its land.

As a result, collections from corporate income taxes are expected to drop by 15 percent and personal income taxes by 31 percent. The state is so rich it refused to raise gasoline taxes and other fees to maintain its highways and chose instead to use money from its general fund.

A new tax on crude oil will pump more money into education—$14 million more next year. The state's revenue from energy taxes could triple by 1983 when it expects to collect $304.6 million, fueling fears here that North Dakota could eliminate its income tax altogether.

That kind of wealth coupled with a populace that traditionally has not demanded the services Minnesotans have makes it easy for North Dakota to provide lucrative tax incentives for business.

A recent study by Alexander Grant & Co., a Chicago accounting firm, rated North Dakota the fourth best state in which to do business (after Mississippi and the Carolinas). It ranked Minnesota 37th. As Moorhead businessmen are fond of pointing out, the muddy little Red River is only 50 yards wide between their town and Fargo.

The cases of Moorhead, East Grand Forks and Breckenridge, are not nearly so dramatic as the exodus from "Taxchusetts" to neighboring New Hampshire or the rebellion over California taxes. There's no real rebellion here. People are just slipping quietly across the river and smiling more at tax time.

Craig Johnson is one.

Johnson grew up in Sidney, Mont., moved to Moorhead 10 years ago to attend Concordia College and married a Minnesota woman from White Bear Lake. They lived in a Moorhead apartment. When it came time to buy a house last year, the Johnsons could have bought a comparable house for about $15,000 less in Moorhead. But they chose to cross the river and move into a two-story brick house in north Fargo.

"It came down to taxes," said Johnson, 28, tax manager for a Fargo accounting firm. "Had everything been equal, we would have preferred to stay in Minnesota. My wife, especially, feels an attachment. She almost cried when we had to put on the North Dakota license plates. But I see us both moving up in our careers and making more money. Taxwise, it just doesn't make sense to live in Minnesota."

Johnson backed up his opinions by hauling out two sets of tax forms. In Minnesota, a family of four with the husband earning $30,000 a year and wife earning $15,000 would pay $2,700 in income taxes, he figured. In North Dakota, the same family would pay $820.

If the family lived in a home valued at $100,000, it would pay a property tax of $1,924 a year in Moorhead (that includes a $650 homestead exemption) and $1,450 in Fargo, according to figures supplied by city tax offices. The total tax savings in North Dakota: $2,354.

Many of those jumping the border or selecting the North Dakota side when first moving into the community are like the Johnsons, young and prosperous.

Victor Schramm has been a Moorhead home builder for 47 years. Now he specializes in building custom homes in the $100,000 to $250,000 range.

"Fifteen years ago, I never built in Fargo," he said. "Now, 90 percent of my business is over there." Schramm said he has built only one home in Moorhead in the last five years. He said, "It's lucky for Moorhead that interest rates are so high, otherwise more people would be moving."

Border patterns also are reflected in the schools where enrollment in Moorhead has dropped three times faster than in Fargo. In the last five years, Moorhead has closed six of 13 schools and laid off more than 100 teachers. Last week, the school board had to borrow $1 million to finish the term. No schools have closed in Fargo and West Fargo is planning a new school.

Some fear that more liberal welfare laws in Minnesota will further complicate the border towns' problems. "We don't want to become a welfare dump," said Mike Casper, city clerk in Breckenridge, a city losing out to Wahpeton, N.D., just across the river.

The business exodus has been more dramatic.

Leon Simon's father first opened a furniture store in Moorhead 55 years ago. Now Simon's only Moorhead outlet is a small odds and ends store open only part of the year. His two big stores are in Fargo.

"It became apparent that more of my affluent customers were not going to be living in Moorhead," he said. "It makes sense to be where your customers are."

A large furniture manufacturer dictated that one of his new stores be located near West Acres, Fargo's large regional shopping center. His other Fargo store was simply a good business deal.

Simon dislikes the notion that he has deserted Moorhead. He still owns a bank and two neighborhood shopping centers here. Still, he has moved his official residency to Florida. "My accountant told me I couldn't afford to live here anymore," he said, "that I'd be crazy to live in Minnesota."

Again, people here prefer to talk about the numbers.

A survey of 11 companies that had jumped the border from Moorhead to Fargo during the last five years showed that most relocated because of high income and property taxes and high workers' compensation payments.

A fast food restaurant valued at $375,000 would pay a property tax of $16,600 in Moorhead, for example, but only $6,688 in Fargo, according to the survey. In Moorhead, the owner of a trucking firm would pay $1,923 in workers' compensation premiums for every driver making $16,700 a year. In Fargo he would pay $410.

"Despite what the Legislature did this session, we figure workers' compensation rates would still be three times higher in Minnesota," said Curtis Aanenson, vice president of Old Dutch Foods, Inc., which is moving one of its potato chip plants from East Grand Forks to Grand Forks. Old Dutch plans to double its work force in North Dakota.

"We would like to have stayed in Minnesota," Aanenson said. "If you're going to move to Alabama and Mississippi it seems like such a big move. But going just across the river is relatively easy."

Old Dutch is the 27th business that has closed in East Grand Forks in the last five years. Eleven of those have moved to North Dakota.

"For a town our size, we should have three or four times the business," said Don Schneider, the East Grand Forks community development coordinator. "It feels bad."

North Dakota's official attitude to the plight of the Minnesota border towns could be symbolized by the shrug of a shoulder. After all, the state has always felt like a colony of Minnesota, particularly of the banks and grain companies of the Twin Cities.

"We've been shipping truckloads of money to Minnesota for generations," said North Dakota Gov. Allen Olson, who led a business recruiting mission to the Twin Cities earlier this month and who campaigned on improving his state's business prospecting. "Minnesota is good fishing, and I'm not talking only about fish."

Bob Everson, director of Fargo's industrial development corporation, is more sympathetic, "What Minnesota is doing to its business is nothing short of slaughter," he said. "Sure, Moorhead companies are coming over here, but we wouldn't think of recruiting them. This is a family affair."

It may be more of a family affair if the efforts of Moorhead and the other border towns fail to ease disparities. Most do not give much credence to the notion that Moorhead would actually try to secede from Minnesota, but answers to such questions are often left dangling and people recall the mid '50s when a flood control project changed the course of the Red River and a small part of Moorhead suddenly became Fargo.

"I love Minnesota," said Moorhead's Mayor Lanning. "I'm not ready to bail out yet. But remember that North Dakota once got a piece of Moorhead, and . . ." ●

THE EMERGENCY DEPARTMENT NURSE

● Mr. INOUYE. Mr. President, the hospital emergency departments of our Nation vigilantly provide 24-hour health care services ranging from aspirins for the common cold to cardiac resuscitation for the unexpected heart attack victim.

The emergency department nurse is a central health professional figure whether the situation is routine or life threatening. The emergency department nurse is the one that negotiates the boundaries between the hospital and community; often guiding the patient and family through the sometimes traumatic maze of hospitalization; or simply providing direct care and information which alleviate the need for hospitalization.

To patients and families, the emergency department nurse is becoming a more familiar face. In fact, between 1954 and 1978, public use of hospital emergency departments increased a dramatic 706 percent compared to a population increase of 34 percent.

The explanation for this striking figure includes the predictable: Increased crime and improved prehospital emergency medical service which delivers more "live" victims to the hospital. The surprising explanation, which most emergency centers say account for 50 to 70 percent of all clients, is that an increasing number of people now turn to the emergency department for assistance with minor medical problems and/or questions concerning health education.

This client population does not require physician emergency department care; but relies heavily on the expertise of the emergency departments in every State in cities, this population includes many high risk groups: The elderly, children, minorities, and the poor.

These 60,000 nurses employed in 6,500

emergency departments in every State in the country are rarely recognized for their contributions to the health care of our Nation. Who are they? What do they do?

The emergency department nurse is a registered nurse; that is a graduate of an approved nursing education program authorized by the State to prepare persons for licensure. After successful completion of the program, this graduate must then meet various State requirements for licensure in the State in which he or she wishes to practice. The majority, and an ever-increasing number of emergency department nurses, are prepared at the baccalaureate level in university programs accredited by the National League of Nursing.

By the progressive nature of the development of nursing education, nurses are currently being educated to care for the majority of minor health care problems seen in emergency departments. For even more advanced theoretical foundations and expanded skills, many emergency nurses are seeking masters and nurse practitioner education. I might add, they still must meet the State licensing requirements.

In addition, a certification examination has also been constructed and implemented which evaluates a nurse's knowledge about emergency care. This, in turn, provides a mechanism to insure the employer and the client that this nurse has the necessary baseline of knowledge and skill in emergency care.

The emergency department nurse usually functions in the following manner. When the client enters an emergency department, the nurse conducts a preliminary assessment to determine the nature of the client's condition—critical or noncritical and the degree of severity. If the client arrives by ambulance and is wheeled in on a stretcher, it is usually critical and the assessment will often require the application of advanced pathophysiological knowledge and lifesaving techniques in collaboration with physicians.

Furthermore, the nurse will provide psychological and emotional support to the client and family experiencing this crisis. On the other hand, if the assessment concludes that the client is noncritical, the nurse will collect the necessary information from the client, make a nursing diagnosis and complete the appropriate nursing intervention.

Some examples of nursing interventions are health education, reassurance, first aid information or minor medical care and community resource information. Primary health care problems of prevention and health promotion are becoming priority agenda items for the emergency department nurse. Research is providing direction for instructional content and techniques to prepare the emergency department nurse for her role as a health care provider. A physician may not be involved in this health professional/client interaction.

The working environment of hospital emergency departments can be described as high risk and high stress. Yet, even with the shortage of nurses, 88 percent of all hospitals unable to fill their full-time nurse positions, only 1 percent of the hospitals are unable to fill their emergency department nursing positions. In fact, many hospitals report a 12 to 18 month waiting list for nurses desiring to work in emergency care.

The stress of the setting is real; but the constant challenge to heal is equally real and professionally stimulating. The emergency department nurse is continuously challenged to organize and integrate advanced nursing knowledge and skills, to formulate, then implement a nursing intervention and finally evaluate the effectiveness of that intervention.

There are many other challenges: the synchronization of a collegial relationship with their physician partners; the peak experience of saving lives, and then with equal care and skill, working with the homeless alcoholic; the continual contact with distraught families and sometimes distraught communities; and the hourly opportunity to provide health education working with community resource agencies.

The emergency department nurses are meeting these challenges and contributing to the improvement of health care for today and tomorrow. For I believe that major improvement in our Nation's health care does not solely depend on the sophistication of technologies for the treatment of diseases. We cannot overlook the development of more effective strategies for health promotion and disease prevention such as demonstrated by emergency department nursing care.

The role of emergency department nurse affects the nurse's overall life perspective. This health professional experiences life very differently than the majority of the world. While most Americans eagerly anticipate the national holidays, the emergency department nurse is dreading the inevitable car accidents and deaths. Rain and snow mean slippery roads. Spring and summer bring more drownings, criminal assaults and rapes. At times death operates like a revolving door; but the emergency department nurse continues healing, comforting, and health promoting activities that provide significant intrinsic satisfaction.

Let me emphasize that the hospital emergency department is no longer a fearful place, associated only with stretchers, blood, and death; but, mostly through the efforts of the emergency department nurse, it is becoming a place of health education, patient advocacy and health promotion. I wish to acknowledge the emergency department nurse's outstanding contribution to the health care of the American people.●

LEARNING UNLIMITED

● Mr. LUGAR. Mr. President, I would like to submit for the RECORD an article from the Washington Post which examines one Indianapolis high school's approach to alternative education. The students are taking an active part in establishing their own curriculum, and the results are very positive.

The article follows:

LEARNING UNLIMITED: INDIANA SCHOOL'S EXPERIMENT ASKS STUDENTS TO CONTRACT FOR WHAT THEY WANT TO STUDY

(By Dan Morgan)

INDIANAPOLIS.—For most of the 3,200 students attending big, affluent, suburban North Central High, school this year meant going to class, joining a sorority, worrying about tests, thinking about college.

But for about 400 of North Central's students, it meant a chance to break away from that traditional routine.

Senior Vicki McBride spent an hour a week with a mentally retarded 8-year-old child, an experience that forced her to come to grips with her own feelings about sickness and suffering.

Shelley Herman, a junior who describes her reading skills as only average, negotiated a written "contract" with her English teacher to read 1,000 pages of literature in six weeks and had the contract witnessed by her parents.

For other students "school" meant working in last fall's state political campaigns, conducting a telephone interview with a top aide to Office of Management and Budget Director David A. Stockman, meeting at the home of a classmate to discuss religious differences between Jews and Christians, and taking a course from a school secretary with no formal teaching credentials.

These departures from traditional schooling were all part of this year's curriculum in Learning Unlimited, an alternative educational program that will go into its eighth year at North Central next September.

In many respects, programs such as these seem strangely out of place today in U.S. secondary education, which seems otherwise to be beating a hasty retreat from the innovation and change of the last two decades.

Alternative education was popular a few years ago. But many public schools, responding to parental concerns, are moving away from experiments tried in the 1960s and 1970s and back to more traditional methods. Budget cuts have dampened enthusiasm for bold new programs.

Educational "frills," ranging from driver education to creative writing, are under attack by proponents of a "back-to-basics" approach to schooling. And influential spokesmen of the political New Right are attacking schools for exceeding their mandate in discussing sex, values and morals in the setting of the classroom.

Ironically, though, some educational reformers have never been more optimistic about the prospect for change. They maintain that programs such as Learning Unlimited contain just the ideas, techniques and concepts needed to revitalize the American public high school and save it from its increasingly vociferous critics.

These programs, say the reformers, can show the way to deal with teacher "burnout" and provide more options inside the public school system for concerned parents.

"We view the trend [of public opinion] as a boon to alternative education," says Gary Phillips, a former juvenile probation officer who helped found Learning Unlimited. He now directs the national School Improvement Project, which receives funds from the Charles K. Kettering Foundation of Dayton and Eli Lilly Endowment of Indianapolis.

"Along with 'back-to-basics' there is concern for accountability, more examination of what schools do, and a search for alternatives," Phillips maintains.

"Since I got out of high school in 1957, schools have not changed very much," Phillips goes on. "But society has changed. We have kids who 'out-know' their teachers. We

have kids getting information in other ways. Teachers tell me that students are more apathetic, that schools are less important to them, that there is less family support, that homes are more chaotic, that students have a different attitude to authority. But when I ask the teachers what they are doing differently, they say, 'not much.' "

Similar doubt about the adaptability of the American high school was expressed in a controversial study, called "Giving Youth a Better Chance," published in 1979 by the Carnegie Council on Policy Studies in Higher Education. It recommended that large high schools be broken up into smaller units and proposed such radical changes as reducing classroom time to three days a week to allow more time for work experience and community activities.

In Phillips' view, educators misunderstand public opinion if they think most parents want schools to teach mastery of facts rather than deeper skills and attitudes that could last a lifetime.

He contends that the current interest in religious and private schools shows that parents want schools to be concerned with values and spiritual matters that go beyond book learning. And he is convinced that the public high school of the future will provide new opportunities for community and parental involvement.

Phillips says he has been given a mandate by Kettering and Lilly to "change the American high school"—a monumental task that he predicts will take at least 10 years. At this stage he is directing several modest experiments, including one at a large, minority-dominated Indianapolis public high school. The next step, which will come in several years, will be to build a national network supporting extensive change, he says.

The Learning Unlimited experiment was one outgrowth of an effort in the early 1970s to improve the quality of education at North Central, an affluent school in suburban Washington Township that even then ranked as one of the most successful high schools in the country.

Phillips and his faculty were given broad freedom to try new techniques that would attract not only potential dropouts but also the "silent majority" of successful but unchallenged students.

What has come out of this is a high school within a high school whose methods would shock many conventional teachers and administrators.

Students sit in on planning meetings with teachers, answer the telephones, or go off with a teacher for a "family group" meeting at a local fast-food shop. Others conduct "tele-lectures"—telephone interviews. They have had writer Studs Terkel, the mayor of Indianapolis and Lillian Carter's Secret Service man on the line.

They have also grilled speakers representing the Moral Majority, the American Nazi Party and the Communist Party of the U.S.A. at "town meetings."

But the core of the program today is "individualized learning," a lofty concept that is brought down-to-earth by the requirement of student contracts. These contracts, which are negotiated with teachers, define the students' objectives for each course.

Students are expected to identify their own weak points and set up a challenge that can strengthen them. In line with Learning Unlimited's view that all kinds of personal development have a bearing on educational achievement, contracts often contain a component that is not directly academic, such as working with retarded children, learning how to change a tire or going on a "walkabout," or experience being away from home.

The contract system is meant to shift some educational responsibility from the school to the youngster—to "transfer ownership of education to where it belongs," as Phillips puts it. But it is also intended to fit the challenge to the need of the student.

Phillips says he believes "ownership" should be extended to failure as well as success. At North Central he offered students with behavior problems an option of writing contracts in which they "chose to fail" as a means of forcing them to accept responsibility for their actions.

At the other extreme are highly gifted students, such as Jonathan Tanner, for whom the program has had benefits. A brilliant but somewhat shy student who was recently accepted by Harvard, Tanner contracted to take alternative gym because "I'm not really a great athlete . . . but in the alternative program you were rated on how hard you try rather than how good you are to begin with."

Tanner also signed up for a government class with Learning Unlimited teacher Bob Faris and set himself the goal of improving his ability to work in a group. With Faris's help Tanner became involved in several ambitious projects in which he worked with classmates on computers, and instructed the class on how redistricting was likely to work in Indiana based on his analysis of census data.

Over the years the program has had its share of criticism. In its early days, other North Central faculty members sometimes complained that Learning Unlimited teachers raided their classes looking for promising students. Faculty members acknowledge that the program also attracted more than its share of hippies and drug users in its early period.

Even today, Learning Unlimited students say, other North Central students sometimes joke that the program is for "freaks" and that it was less academically challenging than conventional school courses.

A senior quoted without identification recently in the student newspaper said of the program: "I cheated on tests, did no homework and received an 'A' for the semester . . . I majored in McDonald's."

But those familiar with the program take sharp issue.

"We tell the other kids how much fun we're having visiting coal mines or helping retarded kids and they say since you're having so much fun you must be cheatin' at something," was one student's answer to the criticism. "They don't understand it, so they knock it. I'm just as glad because otherwise they'd all want to be in."

Shelley Herman, now a junior, says students who criticize the program lack the self-motivation required to succeed in it. Herman says she was bored with school until she joined the program.

For others, Learning Unlimited seems to be providing a sanctuary from the impersonality and social pressures that are present at any big high school.

"I feel close and comfortable to people here," said a girl. "I come to them with my problems and I don't feel I'm imposing."

For teachers, Learning Unlimited has provided flexibility and freedom from bureaucracy. English teacher Mike Cupp says he was nearing "burnout" at a junior high school when he moved to Learning Unlimited. Now he says he stays friends with some of his students years after they graduate.

For parents, the appeal of the program is that it offers a different kind of educational experience for their children at the end of the same bus ride, rather than at a private school, or at some other high school.

One indication of the program's overall acceptance was the decision of the township to assume the costs of continuing the program after the Lilly Endownment funds ran out four years ago.

Jim Ellisberry, the assistant principal in charge of Learning Unlimited, acknowledges that evaluating the program is not simple. "We're dealing with outcomes that are difficult to measure," he says. "It's a lot easier when you're dealing just with Scholastic Achievement Test scores."

A 1976 study of grades and test scores attained by students in and out of the program found no significant difference.

More important in Ellsberry's view are two other surveys. One in 1978 asked Learning Unlimited students and a control group from the regular school how they rated their high school experience in developing such attributes as appreciation of beauty, managing time, acquiring information, social relationships and ability to direct themselves. Learning Unlimited students ranked their program higher to a significant extent.

A doctoral study conducted by Tom Gregory of Indiana University asked graduates of 20 Midwest high schools to outline what they thought an ideal secondary program should be and then compare it with their own experiences. The difference between ideal and reality was smallest in the sample of Learning Unlimited graduates.

Whether the experiences of an affluent suburban school can be transferred to the nation's deeply troubled big-city schools is another question.

However, Gary Phillips insists that he is developing a process and a concept that can be transferred, and already has been on a limited basis.

At George Washington High School, an inner-city school attended mainly by minorities, 73 out of 88 teachers have volunteered to give up one free period a week to work on ways to "make the school a better place."

One experiment has involved bringing in five executives from the local General Motors plant as part-time teachers. Officials of the plant had complained about the caliber of youth hired locally.

But in their initial approaches to the students, Phillips said, the executives ran into problems of their own. When they lectured the students about the importance of hard work they got a cold response.

Only when they changed their teaching tactic to give the students a chance to describe how they would set up their own business (a professional basketball team) did the class come alive with a discussion about hiring, the need for supporting services and loans.

Phillips cites this to illustrate his belief that schools can succeed if they work with the forces that influence youth rather than fight against them.●

PROGRAMS ADMINISTERED BY THE HERITAGE CONSERVATION AND RECREATION SERVICE

● Mr. JACKSON. Mr. President, on May 31, the Secretarial order abolishing the Heritage Conservation and Recreation Service (HCRS) went into effect. I think it is appropriate to take a few minutes and reflect on the status of several of the important programs administered by HCRS—formerly the Bureau of Outdoor Recreation (BOR).

I would not want the relatively quiet demise of this Bureau to be construed as acquiescence on the part of this Bureau to be construed as acquiescence on the part of this Senator to the demise of programs such as the land and water conservation fund, the historic preservation fund, the surplus property for parks program and the program providing recreation planning assistance to public and private utilities. In my view, these programs are as important and viable today as they were when they were established. Regardless of who administers them, it is important that they not

be allowed to atrophy and that their significant benefits to all Americans are not lost forever.

With regard to the land and water conservation funds, approximately $5 billion has been appropriated since 1965 with 40 percent of these funds made available to Federal land managing agencies, 59 percent to States on a matching basis, and 1 percent for the administration of the program. Through fiscal year 1980, more than 2.8 million acres have been purchased by the National Park Service, the Forest Service, the Fish and Wildlife Service, and the BLM. Since 1965, about 27,500 State projects have been completed using the 50–50 matching funds and more than 2 million acres of land have been protected at the State level.

In my own State of Washington, the land and water conservation fund has assisted over 390 city, county, and State recreation projects. The $48.6 million in Federal funds awarded since 1965 have been matched by Washington State and its local governments for a total investment in recreation of over $97.2 million. The largest acquisition project in the history of the land and water conservation fund created the L. T. Murray Wildlife Recreation Area in Washington State.

In 1977, the fund contributed to the purchase of St. Edwards Seminary from the Catholic Church and provided a 300-acre urban State park with over 3,000 feet of waterfront on Seattle's Lake Washington; 1.5 million people in the Seattle metropolitan area enjoy this new facility. In fact, it was designated 1977's outstanding LWCF project by the Secretary of the Interior.

Even with these impressive statistics, the backlog of both congressionally authorized but unacquired lands and State projects grows. As our population and park- and recreation-related visits increase, we should not be turning away from the LWCF but should be making a concerted effort to meet the recreation needs of the American people through proven programs such as this.

In response to this growing backlog and growing recreation need, the administration has proposed no funding in fiscal year 1982 for the State grant program and only $45 million for Federal land acquisition. I have stated on several occasions that I find this proposal inadequate and am pleased that the Senate Energy and Natural Resources Committee has seen fit in its reconciliation recommendations to go on record in support of additional funding for the LWCF.

In this regard, Mr. President, I should note that the committee also recommended additional funding for the historic preservation program, another successful program administered by the HCRS and transferred to the National Park Service.

The historic preservation fund grants-in-aid are the major means by which the Federal Government promotes preservation of the Nation's historic and cultural heritage and aids the public and private sectors in integrating their activities with historic preservation. The popularity of this program is evidenced by the fact that State historic preservation officers receive approximately $200 million of preliminary project applications each year. These projects are frequently the catalyst for significant private investment. Similarly, the General Accounting Office has stated that:

> Reducing the historic preservation fund from $32 to $5 million in fiscal year 1982—as President Reagan has proposed—would cut off Federal funding of State historic preservation offices and, therefore, greatly reduce their role in the National Archeology Program, which costs about $100 million annually and is not working well. Because of a lack of Federal direction and criteria on determining whether an archeological site is of national significance. Federal agencies could spend billions of dollars over the next 10 to 30 years on archeological studies, many of which may not be necessary. State historic preservation offices could play a greater role in helping Federal agencies determine whether archeological properties are significant and eligible for listing on the National Register of Historic Places.

Like the land and water conservation fund and the historic preservation fund, the other programs I mentioned are vitually important and have the support of the American people. So, too, they deserve the support of the Congress.

In summary, Mr. President, I just want my colleagues, the public, and the administration to know that as far as I am concerned the end of HCRS does not mean the end of the many worthwhile programs administered by HCRS and its predecessor, the BOR. I will continue to monitor these programs carefully and give them the support I think they deserve.●

DEATH OF JOHN S. KNIGHT

● Mr. GLENN. Mr. President, I was deeply saddened to learn of the death of John S. Knight from a heart attack he suffered Tuesday in his hometown of Akron, Ohio.

History will undoubtedly regard Mr. Knight as one of the leading forces of 20th century American journalism, both for his intelligence and integrity as an editor and for his success in creating one of the largest and most-respected newspaper chains in America.

I was a great personal admirer of Mr. Knight. He was more than a manager of news operations. He was a man of definite and well-considered opinions which I came to respect.

Mr. Knight's newspaper career began more than 60 years ago in a sportswriting position at the Akron Beacon Journal.

Within 4 years, Mr. Knight became the paper's managing editor. Within another 9 years, he became its publisher. From these posts be began instilling the principles of responsibility and excellence in his newspaper. These trademarks d'stinguish the Beacon Journal today, and will undoubtedly continue to do so for many years to come.

By the early 1940's, Mr. Knight had expanded his newspaper holdings, purchasing two papers in Miami and one in Detroit. Following acquisitions in Chicago, Philadelphia, and Macon, Ga., the Knight newspapers merged with the California-based Ridder chain to become one of the largest newspaper groups in this Nation.

As an editorial writer, Mr. Knight had the courage to take unpopular stands, such as his early opposition to U.S. involvement in the Vietnam war. It was his series of articles against this involvement that led, in large part, to his winning of the Pultizer Prize for editorial writing in 1968.

And yet, in spite of his position as head of a growing newspaper group, Mr. Knight never dictated editorial policy to his newspapers. Instead, he earnestly supported the editorial independence of each member of the Knight-Ridder chain.

It is significant to note that Mr. Knight's personal life was marred by tragedy. He was a widower three times. One of his sons was killed in World War II. Another died of a brain tumor. And, a grandson was fatally wounded during a violent mugging in 1975.

It is difficult, if not impossible, to state how deeply Mr. Knight will be missed by the city of Akron and the Beacon Journal. He was completely committed to both. He gave freely of his time and personal fortune to many worthwhile and charitable civic causes. He also maintained a heavy involvement with the daily operation of the Beacon Journal. In fact, I understand that Mr. Knight was in the newsroom shortly before his death on Tuesday to discuss an item appearing in that day's paper.

As the Beacon Journal so precisely stated for all of us in its eulogy of Mr. Knight, "(We) will never forget his lifelong dedication to excellence."●

OLDER AMERICANS EMPLOYMENT OPPORTUNITIES WEEK

● Mr. DURENBERGER. Mr. President, in designating the week of September 6–12, Older Americans Employment Opportunities Week, Congress will reaffirm its committment to the older worker. Labor Day week is an especially appropriate week for us to celebrate the achievements of older Americans and encourage continued support for their employment opportunities. At a time when all America's resources are being closely appraised, we cannot afford to ignore one of our greatest resources—our older workers.

We need only look to the White House to see a man well past retirement age doing an excellent job. At 70, Ronald Reagan is handling the most grueling job in Government. In the private sector, his 70th birthday would have marked the point of mandatory retirement. Instead, it marked the beginning of a new phase in his public service, and a new beginning for all Americans.

My friend and fellow Minnesotan, Warren Burger, is another older American serving the public well past normal retirement age. The Chief Justice will celebrate his 74th birthday this September as the highest official in our judicial system. As Chief Justice of the Supreme Court, he carries out his weighty responsibilities with wisdom and prudence. How much poorer would this Nation be if we

deprived ourselves of men such as Warren Burger?

We cannot afford to dismiss the benefits of age too lightly. These men and hundreds of men and women like them are contributing to the welfare of our country well past the magic age of 65. But there are equally able Americans who see retirement not as a retreat, but as defeat. Through mandatory retirement regulations, veiled job discrimination, and other barriers, many would-be older workers are forced out of the job market. This is an unacceptable situation. If this resolution does anything, it will reassert the positive contributions older workers have to give.

The opportunity to continue working is just as important as the opportunity to retire. We all gain when the older worker has the option of continued employment whether he or she stays in the same position, or chooses other alternative employment possibilities. We gain a senior citizen who is more economically self-sufficient. We gain a senior citizen who is a supporting member of our economy. We gain a senior citizen who feels a sense of purpose and usefulness.

We need to focus on what we in Congress can do to encourage employment opportunities among the older members of the work force. Through the interest and efforts of my colleague, Senator HEINZ, we on the Special Committee on Aging will continue to explore employment options for older workers. The needs and opportunities for older Americans is a challenge that grows 1,400 people stronger every day. I look forward to meeting this challenge and feel that this resolution is a vocal step in the right direction.●

VIOLENCE SPAWNED BY THE KU KLUX KLAN

● Mr. GRASSLEY. Mr. President, in recent weeks I have become particularly concerned about reports of growing violence spawned by the Ku Klux Klan, and have expressed those concerns in this body.

Despite the upsurge of this racially-divisive group, one would think that a State such as Iowa, with a minuscule minority population, would escape such movements fueled by bigotry. Earlier this month, however, the Cedar Rapids Gazette cited fears of Klan activity in the Cedar Rapids area, and called for a response shaped by both justice and reason. As noted by the Gazette, it would be tragic either to ignore discrimination against any ethnic group, offering no impediment to such practices, or to fuel racial tensions through overreaction.

As an example of a sane, judicious response to pockets of injustice which yet exist in our society, I would like to insert the following June 13, 1981, Cedar Rapids Gazette editorial in the RECORD.

The editorial follows:

RELAXING RACIAL STRAIN

Mainly on the strength of claims alleging price discrimination against blacks at a Ku Klux Klan-supporting tavern on the southeast side, an uncharacteristic adversary situation based on race has started to unfold in Cedar Rapids. As background, there have been events that led some members of the black community to feel mistreated by some members of the city's Police Department.

Two mistakes should be avoided by officials and complainants in handling these grievances. One mistake would be to disregard them—let the problem drift and passively await events. The other would be to puff up the problems into something bigger than they are.

On the matter of police relationships, a mechanism has been formed to bring both sides together periodically for looking at and working out whatever differences arise. If both are willing to communicate and follow through, a gradual accommodation should clear the smoke.

On the tavern matter, its separate elements of possible price discrimination and of Ku Klux Klan entanglement should be distinguished and kept suitably apart.

If blacks were charged more for beer than whites, as contended, that would be a violation of the federal Civil Rights Act's public accommodations section. Proof, as laid out one way or the other through legal proceedings now actively in the investigative stage, is what will settle that part of the case and bring whatever changes may be called for under law.

Fund solicitation for the KKK and personal support by management or patrons for that cause are something else. While high on bigotry and low on wisdom, that activity is not illegal. It does invite contempt and scorn from most of us. But KKK support alone is no ground for suppression, confrontation, license revocation, picketing or any other kind of interference with law-abiding people's rights to think or advocate whatever they choose.

Until the Klan's small pimple on the local body politic grows into something active—doing things that breach the peace, infringe on others' rights or otherwise defy the law—the only attack it may warrant is verbal. Mere support should not be blown up into something it is not. Or given an urgency completely out of scale and with its size.

"Don't go by what they say—just what they do" is always sensible advice. Sufficient patience all around to let the gears of justice move as they're supposed to—and have started to—is the No. 1 need among all concerned now. Stalled off also by a shared resolve to keep the gears in motion till the necessary settlement arrives, worse mistakes than any made so far can stay out of the works.●

THE OECD AND THE INTERNATIONAL TRADE IN SERVICES

● Mr. INOUYE. Mr. President, yesterday the organization for economic cooperation and development (OECD) concluded a ministerial meeting to discuss trade and development issues of interest and concern to its members.

One of the issues which the U.S. delegation raised at the meeting was trade barriers in the international trade in services. This trade consists of the commerce in nontangibles and includes such vital activities as transportation, financial services, communications, engineering and construction, tourism, and many other activities.

Our service trade constitutes approximately 30 percent of our total international turnover in goods and services. It provided the United States with a current account surplus of approximately $34 billion in 1980, a sum that some observers claim is understated since accurate statistics are not available. The surplus was, however, large enough last year to give us a small official surplus in our current account and to make up for a disappointingly large deficit in the merchandise account.

This sector, however, is quite vulnerable to protectionism since most service industries are stringently regulated. These controls originate in domestic regulation and are designed to promote certain national goals, often including protection of domestic industries. This is particularly true in certain important industries such as telecommunications and data processing, which many countries restrict for political, social, or economic reasons.

The OECD ministerial meeting was important because it marked the first time at which the United States seriously raised the issue of the international trade in a multilateral forum although it was raised briefly at the Tokyo round multilateral trade negotiations. Our Government presented to the OECD ministers a statement of U.S. objectives for trade negotiations in services.

Because the U.S. Government is giving this issue such a high priority, I believe that we in the Congress should focus on the initiatives the U.S. Trade Representative Bill Brock made in Paris at the OECD meeting.

Ambassador Brock and his staff are to be congratulated for their work in this area. I hope that the U.S. effort can restrain foreign protectionist proposals in this sector. At the same time, I also hope that the administration will give this area even greater attention and resources and provide American service firms strong support in their export efforts.

I ask that the following items be printed in the RECORD at this time: First, a press release which accompanied the approval by the Cabinet level Trade Policy Committee of the U.S. Government Work Program on Trade in Services; second, the text of the work program; third, the U.S. statement of objectives presented at the meeting.

The material follows:

OFFICE OF THE
U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, D.C.

BROCK URGES SERVICE INDUSTRIES TO EXPORT

United States Trade Representative Bill Brock today challenged U.S. service industries to be "aggressive and persistent" in marketing their product overseas, as he released the U.S. Government Work Program on Trade in Services.

Brock said, "Services trade is the frontier for expansion of export sales.

"Aggressive cultivation of foreign markets by U.S. service industries is as critical to our economic recovery as is increased export of goods," the Administration's chief trade policy spokesman said. The work plan was approved at a recent meeting of the Cabinet-level Trade Policy Committee.

Services include engineering and construction, banking, accounting, shipping, insurance, movies, advertising, commercial aviation, communications and many others.

The work program has five components: (1) full use of existing bilateral arrangements with other governments to resolve current trade problems brought to the govern-

ment's attention by the private sector; (2) inclusion of services in the review of U.S. export disincentives; (3) domestic and international preparations for future multilateral trade negotiations on services; (4) review of domestic legislative provisions relating to the achievement of reciprocity for U.S. service industries; and (5) review of the adequacy of U.S. statistics on trade in services.

Services industries employ seven of every ten working Americans and represent up to two-thirds of our gross national product. Accurate data on trade in services do not exist, but the actual value of U.S. service industry exports probably well exceeds the approximately $35 billion in annual sales currently reported in government statistics.

Brock also released a statement of U.S. objectives for trade negotiations in services which has been made available to the Organization for Economic Cooperation and Development (OECD). Under the auspices of the OECD, a number of studies are underway to identify barriers to trade in services and examine other key issues in this sector.

U.S. GOVERNMENT WORK PROGRAM ON TRADE IN SERVICES

Trade in services has become increasingly important to the United States, both in terms of its growing volume and in terms of its support of the export of U.S. goods. Trade in services leads to the same economic gains for the United States as trade in goods, and U.S. objectives regarding trade in services are generally the same as U.S. objectives regarding trade in goods. Congress laid the foundation for similar treatment of trade in both goods and services in the Trade Act of 1974.

Many U.S. service industries are experiencing major trade problems, both as a result of foreign barriers and as a result of U.S. policies that unduly burden U.S. exports. In recognition of the growing importance of U.S. trade in services and the relative lack of existing mechanisms for dealing with the trade problems in services, trade issues relating to services will be given a high priority in the Administration's trade program. Set out below is a work program that has five components: (1) full utilization of existing bilateral arrangements with other governments to resolve current trade problems brought to the government's attention by the private sector, (2) inclusion of services in the review of U.S. policies that burden U.S. exports, (3) domestic and international preparations for future multilateral trade negotiations on services, (4) review of domestic legislative provisions relating to the achievement of reciprocity for U.S. services industries, (5) review of the adequacy of U.S. statistics on trade in services, with the purpose of recommending possible improvements.

Any of the work that is carried out in services needs to take account of some relatively unique qualities in many service sectors and service occupations. A number of services, are considered critical to economic, social and national security goals, and governments have traditionally felt the need to regulate these industries to assure broad societal goals. These goals can also be used, however, as a shield for protectionist ends, and it is a legitimate purpose of trade policy to seek to minimize such abuses.

Full utilization of existing bilateral channels for resolving current trade problems in services:

Every effort will be made to deal with pressing current trade problems through bilateral contacts with responsible foreign officials. Where services are covered by bilateral treaties of Friendship, Commerce and Navigation (FCN treaties) or bilateral agreements covering certain service sectors (e.g., aviation), the government will seek full enforcement of such provisions. Where no existing provisions exist, consultations will take place in the context of the overall bilateral commercial relationship with the country concerned.

Bilateral efforts can frequently lead to satisfactory solutions to trade problems in services, even though there are currently few effective international agreements on trade issues in services. Bilateral discussions of current trade issues in services moreover can help to establish a better understanding of the nature of trade barriers in services. In the absence of formal international agreements, however, the possibilities for the successful resolution of trade problems in services will vary considerably country by country and sector by sector. A more satisfactory outcome will require the negotiation of broader and more effective international agreements on trade in services.

Inclusion of services in the review of U.S. policies that burden U.S. exports:

The Administration will give specific consideration to U.S. service industries in the review of export policies which is now underway. Some U.S. service industries have indicated that a number of U.S. government policies pose a more formidable barrier to exports than do barriers imposed by foreign governments. The three policies most frequently mentioned in this regard are the taxation of Americans working abroad, the Foreign Corrupt Practices Act, and the enforcement of anti-trust policies.

Special attention will also be given to coverage of services in export assistance activities, including the work of the foreign commercial service. Services is also covered in the export trading company legislation now being considered by the Congress.

Domestic and international preparations for future multilateral negotiations on trade in services:

The Administration will assign a priority to domestic and international efforts to lay the groundwork for future multilateral negotiations on trade in services. Such negotiations will be aimed to reduce barriers to trade in services and to establish international rules for fair trade in services and procedures for effective enforcement.

In the Trade Act of 1974, Congress established a mandate for the negotiation of international agreements limiting non-tariff barriers to trade in services. Some progress was made during the Multilateral Trade Negotiations (MTN), but the task proved too difficult for a comprehensive treatment in the context of those negotiations. Since the conclusion of the MTN, the government has initiated consultations with the private sector and with other countries in the OECD and the GATT, for the purpose of identifying the major barriers to trade in services and formulating an agenda for future negotiations.

The analytical work to date has established that trade in services is hampered by a wide variety of barriers. Indepth analysis of these barriers is now needed in order to determine what might be negotiated. Before officials in other countries are prepared to commit the necessary resources for such an in-depth analysis, they will need a political signal from ministers. The United States is therefore seeking a political endorsement of the work on services by the OECD Ministerial in June. In order to help guide the discussion of a possible ministerial statement on services, the U.S. has circulated a Statement of Objectives for Trade Negotiations in Services. This paper has been prepared in consultation with the private sector and the Congress. (See attachment)

Review of domestic legislative provisions relating to the achievement of reciprocity for U.S. services exports:

The Administration, in consultation with the Congress, will review domestic laws aimed to achieve reciprocal treatment of U.S. service exports. The purpose of this review will be to assure the availability of domestic legal tools for effectively pursuing reciprocity and the development of a coherent U.S. approach to reciprocity in services.

Over the past few years Congress has added reciprocity provisions for services both in trade legislation (Section 301 of the 1974 Trade Act authorizing the President to retaliate against unfair foreign trade practices) and in legislation dealing with the regulation of certain service industries (e.g., aviation and banking). Legislation now pending before Congress would provide additional reciprocity provisions in other service sectors (e.g., communications). A number of states have enacted reciprocity provisions in connection with regulatory activities under their jurisdiction.

An evaluation of the reciprocity provisions that have been in effect for some time could provide useful insights into the design of new provisions. It could also provide the basis for possible amendments of existing provisions.

Review of the adequacy of U.S. statistics on trade in services:

The Administration will review the adequacy of U.S. statistics on trade in services. To a considerable extent, official data on international trade in services fails to cover a number of key services and inadequately measures exports and imports of other services. To prepare the ground for a comprehensive review, several agencies have awarded external research contracts to two outside firms who are currently analyzing the gaps in existing data and possible sources of additional data. When those contracts are available, steps will be taken to establish a private advisory panel and an interagency committee for the purpose of recommending improvements in official data.

OBJECTIVES FOR TRADE NEGOTIATIONS IN SERVICES

INTRODUCTION

Trade in services will be a key issue for the 1980s. Trade in services is of growing importance to the economies of the OECD countries, both in terms of the volume of that trade and in terms of its relationship to trade in goods. Some service sectors such as data processing and telecommunications are among the most dynamic sectors of our economies, and will be one of the major sources of increased productivity in our economies over the coming decade.

Governments need to identify what their overall objectives should be for future work on trade in services.

I. Premises

Trade in services among nations can contribute to the same economic benefits as trade in goods, including economic efficiency, economic growth, increased domestic employment and productive investment.

In the past 30 years, trade in services has increased substantially. While accurate data on trade in services do not exist, the value of international transactions in services (excluding dividend and interest payments) more than doubled in the decade from 1960 to 1970 and again from 1970 to 1975.

Trade in goods and services are closely interrelated. Growth of trade in services can stimulate growth of trade in goods and vice versa. At the same time, when restrictions are placed on trade in services, there can be negative effects on trade in goods and on the achievement of a country's macroeconomic objectives.

Over the past several decades, a body of international rules and procedures has development with respect to trade in goods which contributes to the maintenance of a free and open multilateral trading system. For the most part, these rules and procedures have not specifically applied to trade in services. Since services increasingly affect the achievement of national and international

economic goals, however, there is a need to assure that nations set, as specific objectives, the liberalization of trade and the achievement of fair competition in services.

Efforts to liberalize international trade and to improve international cooperation in services must take account of some relatively unique qualities in many service sectors and service occupations. A number of services, for example, are considered critical to economic, social, and national security goals. Banking, insurance, transportation, and communications fall into this category. Governments have traditionally felt the need to regulate these industries to assure that the interests of consumers and broader societal goals are properly protected. A number of service occupations such as doctors, lawyers, and accountants provide services that require a high degree of reliability and governments have felt the need to regulate those professions. Any liberalization efforts in services need to give full recognition to these unique aspects of services.

Legitimate government policies, however, can be administered on a discriminatory basis, either intentionally or unintentionally and become a shield for purely protectionist goals. Governments should be willing to agree on rules and procedures which will ensure that regulations designed to achieve legitimate economic, social, and national security goals are adopted and implemented in a manner which is the least distortive of trade.

Future international work on trade issues in services should be based on the premise that if governments do not develop a system of cooperative practices for trade in services and, if they do not expand to trade in services principles and procedures which have been accepted with respect to trade in goods, they will not have adequate means to assure an orderly expansion of economic relationships in services. In the absence of such efforts, intergovernmental tensions can be expected to increase and the multilateral system for economic cooperation in other areas could be weakened.

II. Status

At present, no coherent international framework exists for resolving trade problems in services. Some services are covered by bilateral agreements covering these services or by multilateral agreements providing for cooperation at the technical level. For the most part, however, governments must rely on bilateral contacts on a case by case basis to resolve individual trade problems. While such consultations in an overall commercial context can help to resolve some issues, there are some real limitations to what can be accomplished without a more organized negotiating process for exchanging commitments.

There is relatively open trade in many areas of services, but there is also a disturbing trend toward increased restrictiveness in some areas. This trend is emerging at a time when there are strong protectionist pressures affecting trade in goods. Restrictions on trade of goods, however, fall within the international discipline of the GATT, which provides an element of international constraint on national actions. There is not the same degree of discipline at this time in trade in services as on trade in goods.

The provisions of the OECD "Code of Liberalization of Current Invisible Operations" provide a measure of discipline on national restrictions on services. The effectiveness of the instrument is limited, however, by the many reservations and exceptions to the code and, like all OECD instruments, by the absence of enforcement procedures. As a result, in recent years, it has not proven to be an effective vehicle for removing restrictions.

Services are also included in the OECD Declaration of International Investment and Multinational Enterprises and in the OECD Code of Liberalization of Capital Movements. These commitments in the area of investment offer further guidance on the treatment accorded the service sector by OECD member countries.

In addition, services are covered by the OECD Trade Declaration; member countries have declared their determination "to pursue efforts to reduce or abolish obstacles to the exchange of goods and services" and to "avoid restrictive measures in the trade field, and on other current account transactions which might create snowballing effects; have an adverse impact on inflation, productivity and growth potential; or inhibit the dynamic development of world trade and its financing . . ." It has been difficult, however, to give operational meaning to this statement.

In the last year the OECD Trade Committee has undertaken a study of trade in services with the assistance of the Maritime Transport Committee, the Insurance Committee and the Committee on Capital Movements and Invisible Transactions (CMIT). This study is designed to identify barriers and examine the key issues in trade in services. The Trade Committee has also agreed to begin a discussion of general goals in services.

Work has also been initiated in the Committee on Capital Movements and Invisible Transactions to review the OECD Code of Liberalization of Current Invisible Transactions and to identify possible revision to the code that would make it more effective. In the Working Party on Information, Computer and Communication policies, work is underway to examine the economic implication of transborder data flows.

The GATT Consultative Group of 18 has also begun work on trade in services, starting initially with a review of the GATT articles as they relate to services trade.

III. Objectives

Future work on trade in services should be guided by the following objectives:

A. Develop bilateral and multilateral approaches to consultations and negotiations on trade issues in services:

Which would draw trade issues in services into the same kind of bilateral commercial consultations process and ministerial discussions used in goods trade.

Which would build on past commitments embodied in the OECD Trade Declaration, and the OECD "Code on Liberalization of Current Invisible Operations."

B. Seek a mutual exchange of commitments on the liberalization of barriers to services trade:

Which make best use of existing procedures and instruments for addressing the problems of service industries.

Which would reduce or eliminate quantitative or qualitative restrictions.

Which would reduce the use of discriminatory tariffs and other discriminatory measures.

C. Establish a set of principles for trade in services:

Which would give all countries an equivalent opportunity for exchanging commitments on a reciprocal basis.

Which would include acceptance of nondiscriminatory treatment in the adoption or application of governmental regulations affecting services.

Which would recognize the validity for services of such accepted trade principles as transparency, due process, right of access to domestic judicial review and right to pursue issues through government channels when private efforts fail.

Which would encourage governments to consider the trade effects of regulations and seek to minimize trade distortion to the extent possible.

D. Establish procedures for effective implementation of trade rules in services:

Which would provide for regular multilateral consultation on issues.

Which would provide for dispute settlement procedures.

Which would include provisions for effective enforcement of any agreements.

Which would provide araringements for subsequent negotiations on additional commitments.

IV. Future steps

In order to further international cooperation in services, governments of OECD member countries at the Ministerial level

A. Should reaffirm as their goal the commitment in the Trade Declaration of 1980 "to pursue efforts to reduce or abolish obstacles to the exchange of . . . services" and request the organization to systematically examine commerical practices which distort international trade in services, with a view toward determining the most effective means for reducing or eliminating such practices.

B. Should reinforce the commitment in the Trade Declaration of 1980 to "avoid restrictive measures in the trade field," including services, and charge the organization with the task of giving operational meaning to this commitment.

C. Should encourage member countries to fully utilize informal means of consultation to resolve difficulties adversely affecting current trade in services.●

SENATOR BAUCUS' MARATHONS

● Mr. LUGAR. Mr. President, as an ardent supporter of physical fitness, and of running in particular, I would like to take this moment to recognize, formally, the achievements of my distinguished colleague, Senator MAX BAUCUS of Montana. Since the days of Pheidippides in ancient Greece the marathon has been the most grueling of all athletic endeavors. Mr. BAUCUS is the first U.S. Senator to enter, and to complete the entire 26 miles 385 yards of the modern marathon.

By his very presence in these Chambers, he has shown himself to be a better man than Pheidippides, who, upon completion of that very first marathon, expired. To avoid a similar fate, Senator BAUCUS trained extensively for his marathons, running hundreds of miles in preparation. Having completed three marathons, Senator BAUCUS is an extraordinary example for all Americans interested in physical fitness, and I commend him to my constituents as well as to the people he serves in Montana.

I ask that these articles pertaining to Senator BAUCUS' marathons be entered in the RECORD.

The articles follow:

BAUCUS SETS SIGHTS ON MARATHON

HELENA, MONT.—Montana Democrat Max Baucus hopes to become the first U.S. senator to finish a full marathon.

Baucus was easily elected to the Senate in 1978 after serving two terms in the U.S. House.

He knows he's not going to win his next race: all 26 miles, 385 yards of the Governor's Cup Marathon here June 2.

But he says he will finish what he starts.

"A few members of the House of Representatives have run marathons," Baucus said. "But I'll be the first U.S. senator to finish one—at least as far as I know."

Baucus has been training diligently for the race, logging 45 miles per week from February through March.

This month, he has increased his running

regimen to 60 miles per week, including a few 20-mile runs.

"I feel terrific. I think I can make it. I only want to finish," he said.

"I've been lucky. I expected sore muscles and other such problems, but other than a few blisters, I feel good."

Baucus, 37, says he has lost 22 pounds in the past eight weeks.

"I didn't figure this would happen," he said. "I've just been running more and eating less, but I mostly credit the running."

To prime for the marathon, Baucus competed May 5 in a seven-mile race in Missoula. He covered the distance in just over 50 minutes, which was more than eight minutes faster than his time in the same race last year.

Baucus has been getting some expert advice in preparing for the marathon.

He had lunch recently with Bill Rodgers, who has won the Boston Marathon the past two years and is acknowledged as America's best marathoner, and Joan Benoit, winner of the 1979 women's division in the famous Boston run.

SENATOR BAUCUS HOOKED ON RUNNING

(By Sen. MAX BAUCUS)

"I'm getting hooked on this nonsense . . . Running, that is . . ." For the past several years I had engaged in intermittent jogging like the Missoula run each spring. But in the back of my mind, was that nagging question: Could I make 26 miles, 385 yards.

I wasn't really planning on trying to answer that question, to be brutally honest. So, my 1978 campaign manager, Bob Fitzgerald, answered it for me. In a lighthearted moment, he challenged me to run in the 1979 Governor's Cup Marathon last June. Later I wondered whether I was in a light-headed mood, but I accepted.

Bob began training in earnest after the election. He ran in the Honolulu marathon in December 1978. I began in earnest to be a U.S. Senator. And, then I realized that if I was going to enter the Governor's Cup, I had to finish the Governor's Cup. And, to finish, I was going to have to train.

In the late winter months I began to make time in my schedule for running, at 6 a.m. four to five times a week. After being on the potluck, cookies and coffee campaign trail for 14 months, it was tough at first. But I tried to remember coach Bobby Knight's (Indiana Hoosiers basketball) admonition that everyone has the will to win, but few people have the will to prepare to win. So, on through the rainy, snowy streets of Washington, D.C. I continued to train.

I always thought I would finish a 26-miler, but when I got right down to the starting gun's sound, I felt my palms grow noticeably moist. It's so easy to say what one will do, it's something else to have done it. But the crowds along the way cheered me immeasurably and were in fact much of the reason I was able to hold it together mentally through the race. I had mixed thoughts in the early stages of the race. I felt I would try to go for a fast time. By the middle stages, I hoped I could just finish and not embarrass myself, and in the last few miles, I became elated because I knew I would finish. I think I even managed a quasi-sprint at the end, finishing my first 26-miler in a fog but quietly appreciative of that adventure. I intend to run again this year and to do it faster.

I also ran in the Marine Corps Marathon in Washington last October—somehow starting in the front row. I noticed all the runners around me weighed a good deal less than I and after that I just tried to avoid getting trampled by the long, lean hungry ones directly behind me. All's well that ends well, though. I finished in three and a half hours, cutting ten minutes off my Governor's Cup time.

After two marathons and several 10K races, I have learned some facts about runners. After being soundly beaten by many women in all my races, I asked the inevitable question: Why aren't women allowed to race the 5,000 meter, 10,000 meter and 26-mile marathon in the Olympics?

The reason I heard didn't seem to make sense, and so along with Sen. Nancy Kassebaum of Kansas, I cosponsored a bill to allow women to participate in these races at the 1984 Olympics. There are a lot of champions waiting in the wings and I can hardly wait to see them get their chance to live up to their potential.

I look forward to running in the Governor's Cup again this year. The bonds of friendship gained while racing are something I cherish. It is as much a part of the adventure as the running itself. These days I'm a sea-level runner but am anxious to get back to Marysville for the start of the 1980 Governor's Cup. I'm more anxious, though, to see you all at the end of Last Chance Gulch . . . winners all.

ZEZOTARSKI AND DANZER TAKE GOVERNOR'S CUP

HELENA.—Stan Zezotarski of Helena became the first two-time winner of the Governor's Cup Marathon Saturday, and Anne Danzer, also of Helena, set a women's record with her first-place finish.

Zezotarski, 26, crossed the finish line 2:29.33, some five minutes slower than his record-breaking time in 1980. He almost didn't run this year because of injuries suffered in the April 20 Boston Marathon.

Danzer, 33, who finished third last year, came in with a time of 2:56.26, wiping out the 2:58.34 mark set last year by Jenny Tuthill.

Following Zezotarski in the marathon were Jim Walker of Bozeman in 2:32.59; Dave Coppock, Missoula, 2:37.38; Cyle Wold, Kalispell, 2:38.02; and Tim Tayne, Bozeman, 2:38.36.

The other top female finishers were Patricia Decker, Whitefish, 3:21.05; Bobbie Dixon, Helena, 3:26.17; Mary Peet, Billings, 3:27.51; and Marian McCall, Bozeman, 3:29.25.

The 26-mile, 385-yard course began at Marysville in the mountains northwest of Helena. The 20-kilometer run started along the marathon route and the shorter races were run within the city. All races finished near the Federal Building in downtown Helena.

The following were unofficial winners and times in other events:

20-kilometer, Scott Descheemaeker, Bozeman, 1:05.55; and Cheryl Johnson, Helena, 1:16.42;

10-kilometer, Tony Banovich, Butte, 35:54; Christine Hoth, Billings, 40:11;

5-kilometer, Mike Houlihan, Bozeman, 15:18, Lynn Creek, Bozeman, 18:22.2;

Masters, Bill Foulk, Bozeman, 2:40.38; and Carolyn Woodbury, Missoula, 3:39.44.

Johnson's time set a record in the 20-kilometer run.

Awards were presented by Gov. Ted Schwinden at a noon awards ceremony. The race was co-sponsored by Montana Blue Shield and Helena's Last Chance Runners.

The races drew 2,100 entries, 200 more than last year's race.

A special award went to Mike White as a marathon winner in the wheelchair division. White participated last year in his wheelchair in the 10-kilometer event. A second special award also went to Sen. Max Baucus, D-Mont., the only U.S. Senator who runs marathons, organizers said. He has now completed three Governor's Cup marathons.

Jenny Goodwin of Surfer Paradise in Queensland, Australia, was given a special award for coming the longest distance to run in the race. Goodwin ran in the 5-kilometer race.●

THE WCBS FIRST AMENDMENT PROJECT

● Mr. MOYNIHAN. Mr. President, WCBS–TV in New York City has put together an outstanding series of programs that deals with an enormously important question: The role of the first amendment of the Constitution in the United States today.

From the very beginning, our Nation has been marked by a fervent passion for liberty. For us, the idea of freedom has never been a hollow, lifeless concept. It has been a reality. And so it must remain.

But if we are to preserve the freedoms embodied in the first amendment, all of us must come to a greater appreciation and understanding of them. As long as they remain mere abstractions, they are endangered. People must grasp the importance of these freedoms as integral and essential parts of their lives. Then they will survive; then they will be cherished as they should be.

WCBS–TV is doing what needs to be done. Through its "First Amendment Project," it is educating its viewers in an imaginative and effective way about the history, meaning, and enormous importance of the freedoms guaranteed by the amendment. All of us who care about freedom will benefit from the fine work of WCBS–TV, which, I am quite sure, will instill in many people a deep and abiding commitment to liberty.

A few days ago, Edward M. Joyce, the vice president and general manager of WCBS–TV, explained the purpose of his station's 3-week first amendment project. Mr. Joyce said:

> The freedom of expression made possible by the first amendment to the Constitution is among all nations unique to the American experience. We appear to be in the era of its re-examination. If as a result of our project, the public better understands the issues at stake, we will feel we've made a significant contribution.

I am confident that WCBS–TV will succeed in meeting its goals as stated by Mr. Joyce. The 3-week program that the station has assembled is very impressive and comprehensive, exploring a wide variety of issues through several different formats.

A highlight of the WCBS–TV project will be a simulated trial debating the right of the press to use confidential sources. This issue is considered by many constitutional experts and observers to be one of the most important first amendment debates of our time. Mr. Floyd Abrams, the distinguished constitutional attorney, will defend the right of the press to use unnamed sources. Arguing that the use of confidentiality by the press should be limited will be William Rusher, editor of the National Review.

The project started on Monday, June 8, with a series of editorials dealing with first amendment issues such as regulation of journalists, shield laws, and book banning. The station will also broad-

cast a first amendment announcement specially produced for this project.

Another creative element of the series of "Freedom Thoughts," is dealing with important first amendment legal cases and issues. They will be presented by prominent people such as Tom Wicker, associate editor of the New York Times; Harrison Salisbury, journalist/historian; Terence Cardinal Cooke of the New York Archdiocese; Coretta Scott King, president of the Martin Luther King Center for Social Change, and others.

On two consecutive Sundays, the station's weekly religious program, will focus on church/State and Church/media relations. The Reverend Daniel C. Fore, spokesman for the moral majority in New York, and Father Robert Drinan, former U.S. Representative from Massachusetts and currently professor of law at Georgetown University Law Center, will join correspondent Dave Marash for a discussion on this controversial topic.

Book banning is the subject. Tracing the case in which a local school district banned nine books from its school library in 1976, the program examines whether the school board was within its constitutional rights to ban the books from the school library.

WCBS–TV will also broadcast the made-for-TV-movie "Fear on Trial," for the first time on local television.

I heartily congratulate the management and staff of WCBS–TV for undertaking "The First Amendment Project." It is another example of the station's well-known commitment to public service. I hope that other stations around the country will take note of what WCBS–TV has done. It is worthy of imitation.●

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

DEPARTMENT OF JUSTICE AUTHORIZATIONS, 1982

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the pending business, S. 951, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 951) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 70 TO AMENDMENT NO. 69

The ACTING PRESIDENT pro tempore. The pending question is on amendment No. 70 to amendment No. 69.

Time for debate on this amendment is limited to 3 hours—1 hour under the control of the Senator from Connecticut (Mr. WEICKER), 1 hour under the control of the Senator from North Carolina (Mr. HELMS), and 1 hour under the control of the Senator from West Virginia (Mr. ROBERT C. BYRD).

Mr. HELMS. Or his designee.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, it is my intention to speak for a few moments, and then such time as the Senator from North Carolina cares to have he will have. But I remind my colleagues that this morning we will be voting on the Weicker amendment and that amendment states:

. . . except that nothing in this act shall be interpreted to limit in any manner the Department of Justice in enforcing the Constitution of the United States, nor shall anything in this act be interpreted to modify or diminish the authority of the courts of the United States to enforce fully the Constitution of the United States.

Mr. President, this amendment has absolutely nothing to do with busing. It has to do with the separation of powers, that concept of the division among the legislative, executive, and judicial branches of Government. It has to do with the concept of checks and balances, and it has to do with the measure of freedom any branch has from incursion by any other branch.

The amendment which it amends prohibits an entity of the executive branch of Government from pursuing the enforcement of the law, specifically that aspect of enforcement which is the seeking of a remedy.

As such, I feel that the amendment which the Weicker amendment amends is patently unconstitutional.

I said many times yesterday and throughout the week that advocacy for the principle contained in the Weicker amendment should have been the primary responsibility of the President of the United States or more particularly the Attorney General of the United States. It is not the legislative branch that is being inhibited. The incursion does not incur on the legislative branch. It is the executive branch whose powers are being eroded.

And the President has the duty of not only representing and effectuating his views and the views of his party, but he also has the constitutional duty as President of the United States to protect and to preserve the powers of his Office. That is totally separate and apart from whatever his philosophies might be.

In the absence of either the President or the Attorney General performing that defense, it has fallen on the shoulders of the Senator from Connecticut and others of his colleagues to see the Constitution of the United States preserved to the greatest possible extent.

Mr. President, I am not here this morning to go through all the reasons that were quite carefully and extensively enumerated yesterday as to why I think the Weicker amendment should be passed, but it certainly would be a shock, I think, to anyone outside this Chamber to be confronted with the fact that the Senate of the United States did not reaffirm the constitutional duties of the Department of Justice and the courts of the United States.

Aside from the constitutional issue, the civil rights issue is of course, enormously important.

I have tried during the course of this debate to educate my colleagues and those in the public to the fact that civil rights is not just a matter of race, not just a matter of black or white; rather civil rights is a matter that pertains to every one.

It usually comes into play on behalf of the most disadvantaged elements of our society, which means that it will be used in our time, in our generation by women, by the elderly, by the disabled and retarded, by those of different ethnic and racial background who are in a minority, be that American Indians or Hispanics. These are the more immediate problems for this generation in this time.

But civil rights is not something that belongs to a few persons marching down the street in the advocacy of their self interests. The civil rights that we talk about are constitutional rights that belong to every one of us.

That is the other point that I have tried to make during the debate.

So there we have it to the extent of trying to preserve the Constitution in terms of the constitutional structure of Government, separation of powers, and preserve the constitutional rights of each of us, which rights have no meaning in the absence of remedy.

It does no good to any person aggrieved if the wrong established is impossible of correction.

Many will complain that the remedies have either been too vigorous or too sweeping. But who are we to judge in retrospect as to how sweeping was the illegality? Those matters were decided by other of our fellow citizens serving as jurors and judges in other times.

Certainly any one of us as a matter of historical perspective would agree that race discrimination was broad, it was oppressive, it was all consuming, it was devastating, and few will argue as a matter of present perspective that in different ways that discrimination still goes on.

We become free as a nation when all are free. We become strong as a nation when the weakest among us has full access to this Constitution.

It is to those matters that I have tried to address myself. It is to that which the amendment addresses itself.

If this body wants to go on record as opposing the remedy of busing, so be it.

At the same time, this body can also reaffirm its faith, its belief, its commitment to the Constitution of the United States by voting for my resolution.

The distinguished Senator from Pennsylvania (Mr. SPECTER) is on the floor and has indicated a desire to address some remarks on this matter, and I now yield to him 5 minutes.

The PRESIDING OFFICER. (Mr. COHEN). The Senator from Pennsylvania.

Mr. SPECTER. I thank the Senator from Connecticut.

I wish to speak in support of Senator WEICKER'S amendment. As I read his proposed amendment it was my initial thought that it was a self-evident proposition that would not need to be introduced and voted upon because it recites conclusions which I think are obvious.

It provides:

[E]xcept that nothing in this Act shall be interpreted to limit in any manner the Department of Justice in enforcing the Constitution of the United States nor shall anything in this act be interpreted to modify or diminish the authority of the courts of the United States to enforce fully the Constitution of the United States.

This statement is simple and direct in saying two things:

First, it provides that Congress shall not legislate to limit the Department of Justice's enforcement of the U.S. Constitution. This is the obvious constitutional responsibility of the Department of Justice and, in my opinion, something that Congress cannot limit through legislation.

The executive branch of the Government created by the Constitution has its responsibility to enforce the Constitution, and that is a constitutional mandate which is not subject to limitation by Congress.

The second part of the proposed amendment recites that nothing in the act shall be interpreted to diminish the authority of the U.S. courts to enforce fully the Constitution of the United States.

Before hearing the extensive debate on this subject in the course of the last 2 days, and before coming to the U.S. Senate just a few months ago, it would have been my view that such a statement would realistically be superfluous; it is long past the point of debate that the U.S. courts have the authority and the responsibility under the Constitution to enforce the Constitution.

But if these points need to be emphasized, then I think it is my responsibility to lend support to Senator WEICKER by saying it is my opinion that there should be no doubt about the authority and responsibility of the Department of Justice to enforce the Constitution and the authority and responsibility of the U.S. courts to enforce the Constitution.

It is my further thought that we may not do indirectly what cannot be done directly, and that it would be inappropriate to limit through the power of the purse and through the appropriations process the wherewithal for the Department of Justice to move forward to discharge its constitutional duty as the Department of Justice sees fit.

The genius of the American governmental system under our Constitution for almost 200 years has been the separation of powers. The Constitution explicitly vests in the executive, through the executive article, certain powers, among them the power to enforce the Constitution, and explicitly vests in the judicial article the authority of the judiciary to enforce the Constitution.

Congress and the U.S. Senate have their own powers, and plenty of them, but not sufficient to interfere with or contradict the powers which have been given to the executive or the judicial branches.

So any effort to interfere with the executive or the judiciary, in my view, conflicts with the mandates of the Constitution.

These principles, it seems to me, are applicable, whatever one's views may be on busing.

In the State of Pennsylvania, where the issues of integration and the issues of conflict on racial matters and tensions which have existed in the cities and towns in Pennsylvania——

The PRESIDING OFFICER. The Senator has consumed 5 minutes.

Mr. WEICKER. I yield such further time as the Senator may require.

Mr. SPECTER. I thank the Senator. I shall be relatively brief.

The point I was making was that the issue of integration, race relations, is a critical one, and one which has consumed a great deal of the time and attention of the people of Pennsylvania.

On the issue of busing the people of Pennsylvania are not satisfied with busing, and there is widespread opposition to busing. The predominant view among blacks and whites is that the answer is quality neighborhood education. There is widespread opposition to busing.

But I do not view this proposed amendment as one on busing. Senator HELMS has spoken and has criticized the consequences of busing in the United States. I think there is a great deal to be said in criticism of what busing has meant. But, notwithstanding the consequences of busing, it is my judgment that the courts cannot be limited if the courts decide that busing is an appropriate remedy. That is not for the Senate and not for the Congress to say.

If the Attorney General of the United States elects to seek a remedy of busing—although there has been strong indication that he does not intend to do so in this administration—again, it is not for Congress and not for the Senate to say whether we like busing or dislike busing, and I emphasize that the balance of opinion has been in opposition to what busing has meant.

I would like to make two other points very briefly, and I appreciate the time yielded to me. One is that the Attorney General, as the Nation's chief law enforcement officer, is a quasi-judicial official and, as such, he is vested with broad discretion. The position of Attorney General is not unlike that of a State attorney general or the county prosecutor or the district attorney. It is difficult to define in many respects whether the Attorney General or a law enforcement official really belongs in the judicial branch or in the executive branch. By definition he has been placed in the executive branch, but he has broad quasi-judicial power.

The discretion that a law enforcement officer must exercise, I would suggest, may not appropriately be limited through the appropriations process, and I say that with some experience as a prosecuting attorney. The discretionary judgments which have to be exercised inhere uniquely in that person who has that responsibility. That is another reason why I do not think it is appropriate, aside from the constitutional issue, for the Congress to tell the Attorney General, who has that quasi-judicial authority and discretion, how he should act.

The final point that I would like to make relates to the availability of busing as a remedy, which availability would encourage settlement among the parties. The litigation process is such that, absent the likelihood of settlement, the courts cannot possibly take care of the enormous volume of litigation which is presented to them. The possibility of the remedy of busing is sufficiently extreme to encourage those who do not wish to have that as a possible judicial order to exercise extraordinary care to find a solution and a compromise short of busing.

If busing is to be eliminated as a possible judicial solution, then the settlement process and the reconciliation process will be dealt a severe blow. So that even those who are opposed to busing have said that its availability as a potential remedy is very important in the litigation process to encourage innovative thinking and agreement among the parties, and to find ways short of busing to achieve the goal of integration to which this country is dedicated.

I thank the Senator from Connecticut for yielding.

Mr. WEICKER. Mr. President, I thank the distinguished Senator from Pennsylvania for his remarks. Coming from one who has spent a great deal of his life in the area of justice and probably knows it as well as any Member on this floor, I very much appreciate his support and his perceptive remarks.

Mr. JOHNSTON. Will the Senator from Delaware yield me 10 minutes?

Mr. BIDEN. I yield 10 minutes to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I rise in opposition to this amendment because I think it totally guts the Helms amendment. Now, to be sure, the Helms amendment does not prevent busing and is not a massive assault upon busing, but simply upon the power of the Justice Department acting individually to bring and maintain such actions.

This kind of language in the Weicker amendment has a long history. Indeed, language very similar to it, if I recall correctly, was inserted in the Civil Rights Act of 1964. The Senate will remember that, in the Civil Rights Act of 1964, for the first time the Justice Department was authorized to bring and maintain these kinds of actions. Prior to the Civil Rights Act of 1964, constitutional rights were considered to be individual rights, maintainable only by the individual; that the Justice Department was not authorized to champion those rights.

So along comes the Civil Rights Act of 1964 where the Congress said, "We will give to the Justice Department that right and authority and power." At the same time, the Congress very clearly, they thought, put a provision actually defining desegregation, saying, "Desegregation means the assignment of students to public schools and within such schools without regard to their race, color, or re-tion," et cetera, "and shall not mean the assignment of students to public schools in order to overcome racial imbalance."

The Congress thought that they were very clearly defining desegregation as not to deal with the question of racial bal-

ance and the kind of language that is contained in the Weicker amendment was inserted, apparently very innocent language.

The Court, however, used the Weicker language to nullify the rest of it and to order massive busing, to order a change in racial balance. That is why I say it guts completely the Helms amendment.

There are, indeed, as the distinguished Senator from Pennsylvania said, two parts of the Weicker amendment. I quite agree that the second part relating to the power of the courts, that is that nothing shall be "interpreted to modify or diminish the authority of the courts of the United States to enforce fully the Constitution of the United States," that is a statement with wh'ch no one can disagree. I think it is totally logical as it appears in this amendment and is not objectionable.

What is objectionable is the first sentence which states that nothing shall limit the power of the Justice Department to enforce the Constitution of the United States.

Now, again, Mr. President, this is something that is not required by the Constitution. It is not inherent in the Constitution. It is not an article three power of the Justice Department. It is a Congress-created power, created in the Civil Rights Act of 1964 for the purpose of relieving the NAACP legal defense fund and others of what was really an enormous burden of bringing and maintaining suits to desegregate schools all across the country, and particularly at that time in the South: a power, which I must say, Mr. President, was needed to be granted, because otherwise we would have not made any progress in desegregation, a goal which I very strongly support and pursue.

However, Mr. President, we have gone from the ridiculous to the sublime, or should I say we have gone from what is a laudable goal and a good purpose to that which is ridiculous and absurd.

If I may tell you, Mr. President, how this power of the Justice Department has worked in practice in my State, I think my colleagues will understand why I feel so strongly about the Justice Department. Rapides Parish, or county as it would be in another State, is located in the central part of Louisiana and the Justice Department, not private plaintiffs, were pushing for further relief in the school desegregation case in Rapides Parish, La.

At the behest of the leadership in Rapides Parish, both black and white—and that leadership includes the most prominent members of the black community, elected members of the school board—they asked me and my other colleagues in the congressional delegation to intercede with the Justice Department to try to prevent what the Justice Department was asking for, which was massive, long distance, cross-parish busing. And so we went to the Justice Department and asked, first, for a delay and, second, for some relief from the order which they were seeking.

Now the interesting thing at this time, Mr. President, was that it was not the private plaintiffs. The private plaintiffs were individuals who brought the suit back in the 1960's who had long since passed out of the school system, gone and graduated. There was, in effect, no private plaintiffs left. What this was was a suit, then, in effect, between the Justice Department and the Rapides Parish School Board.

And just who was the Justice Department representing? Black students, black parents in Rapides Parish? Oh, no. Oh, no, Mr. President, they were there present and represented and asking the Justice Department not to do it. "Don't do it, Justice Department," appealing to their elected representatives.

But the Justice Department—a rouge elephant gone amuck with their own agenda, representing no one, not representing the majority of the people in the country, not representing black citizens in Rapides Parish, not representing anybody but their own agenda, their own inbred desire to propose and get busing to the maximum extent regardless of the circumstances—said "No."

I was flabbergasted. I was flabbergasted that, with the kind of showing we made, with the kind of united community support, we would not get any help.

So they went to the court and the court felt obliged to order massive busing.

What kind of bus route? Thirty to forty miles one way. Mr. President—thirty to forty miles. Can my colleagues understand what thirty to forty miles means? Can you undersand why I am on this floor trying to restrict busing? That is one direction. That might be 70 miles round trip.

You saw it on CBS News. They tried to close the Forest Hills School there. It was on CBS News night after night. You remember, Mr. President. They formed a private school with black and white teachers and black and white students. Can you imagine that?

Here the Justice Department is, over the wishes of black citizens of Rapides County, La., closing a school, saying, "You have to be bused 35 or 40 miles," and, and jointly, the students have to set up their private school.

Mr. President, if that is not the height of the ridiculous, I do not know. Why do the people not feel cut off from their Government by that kind of high-handed governmental action? We have to reign in the Justice Department. That is what the Helms amendment does. It says, "Justice Department, you are not representing anybody and quit asking for busing."

Whether it is going to be effective in doing that, I do not know, but I do know that the Weicker amendment denudes the meaning of the Helms amendment totally and completely, just as the same kind of language in the Civil Rights Act of 1964 denuded the nonracial balance language of the Civil Rights Act of 1964.

I invite my colleagues to look at the case of Swann against Board of Education, a 1970 case, from the U.S. Supreme Court, which says precisely that.

So, Mr. President, we are not taking away constitutional rights. Those rights do not and never did exist under the Constitution. There is a whole line of cases to the effect that those kinds of rights are individual rights which must be individually maintained and brought and vindicated. That is the way it has always been, for 200 years, up until the Civil Rights Act of 1964.

All the Helms amendment is saying is that for this year, in this appropriation, we are going to restrict that right, not to bring suits for desegregation but simply for the purpose of bringing suits for busing, directly or indirectly for busing.

The PRESIDING OFFICER. The Senator has consumed 10 minutes.

Mr. JOHNSTON. Mr. President, I am now in control of the time. I yield myself 1 additional minute.

Mr. President, this would not restrict the right of the Justice Department to bring a suit for unconstitutional action under the 14th amendment. For example, if there were a question of discriminatory assignment of teachers, the Justice Department, acting under the Civil Rights Act of 1964, could bring, maintain, and appeal a suit involving 14th amendment rights provided they did not relate to busing.

All the Helms amendment does is restrict that right, and perhaps not even effectively so. But at least it constitutes a very strong signal, a very strong expression of intention by this Senate and by the House as well, which has already passed it, that the Justice Department should not continue to bring and maintain suits for cross-town busing.

For that reason, Mr. President, I would hope that my colleagues will vote against the Weicker amendment.

The PRESIDING OFFICER. Who yields time?

Mr. WEICKER. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. First of all, I would like to bring to the attention of my colleagues, more particularly the distinguished Senator from Louisiana, section three of article II of the Constitution of the United States, which enumerates the duties of the President, more particularly the executive branch of Government—

He shall—

Not he might—

He shall take care that the laws be faithfully executed.

It is very simple and very direct. It does not make any difference as to whether or not there is any Civil Rights Act of 1964 or whatever other legislation is passed. The laws shall be faithfully executed. "He shall take care that the laws be faithfully executed."

How can he take care that the laws be faithfully executed when the agency of that branch that has that responsibility is removed from such activity?

Mr. JOHNSTON. Is the Senator asking a question?

Mr. WEICKER. I would be glad to have a response.

Mr. JOHNSTON. Mr. President, that language, I quite agree, is susceptible to that interpretation. However, there is a long line of cases going back I do not

know how far—I would be glad to get those for the Senator—which say, in effect, that constitutional rights are personal rights which must be personally brought. That was the whole reason for that provision in the Civil Rights Act of 1964 authorizing the Attorney General to intervene on behalf of individuals.

The 14th amendment due process and equal protection rights were simply so interpreted by the Supreme Court.

So while that language may be susceptible of that interpretation, that is not the way the Supreme Court has interpreted. As the Senator knows, what the Supreme Court says is law.

Mr. WEICKER. The Senator is absolutely correct. The Supreme Court has spoken. That is now the law of the land. Brown against the Board of Education, Charlotte against Mecklenburg. And so is the Civil Rights Act of 1964.

And the President is obligated. "He shall take care that the laws be faithfully executed."

I would suggest, by virtue of the Helms amendment, that becomes an impossibility, with the absence of money necessary to see that the law shall be faithfully executed. I might add the Helms amendment is not a issue here right now, but clearly, the Helms amendment is an end run of the Constitution.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WEICKER. I yield myself 1 more minute.

I do not in any manner, shape, or form, I want it clearly understood, portray the language of the Weicker amendment as being innocent language. It is not meant to be innocent language. It means exactly what it says, and in terms of what flows therefrom it is very tough and very specific language.

It says that the Justice Department shall enforce the Constitution of the United States, and "nor shall anything in this act be interpreted to modify or diminish the authority of the courts of the United States to enforce fully the Constitution of the United States."

There is nothing innocent about that.

If, indeed, a proponent of the Helms amendment can stand on the floor of the Senate and say such language guts the Helms amendment, enforcing the Constitution of the United States by either the Justice Department or the executive and the judiciary, if, indeed, it is as he says it is, how does that speak for the quality of the Helms amendment?

Here you have words from a proponent of the Helms amendment that enforcing the Constitution would gut the Helms amendment.

I would hope so. I would hope so.

Mr. President, I will, in a minute, suggest the absence of a quorum, which, by agreement with Senator HELMS, will have the time for the quorum call charged equally to both sides.

It is my understanding that others desire to speak on the amendment at this time and, that being the case, I shall not ask for the quorum call. I see the distinguished Senator from Maine on his feet. I am delighted to yield 10 minutes to the distinguished Senator from Maine.

The PRESIDING OFFICER (Mr. SPECTER). The Senator from Maine is recognized.

Mr. COHEN. I thank the distinguished Senator from Connecticut for yielding. I want to express my support for his amendment.

Mr. President, the Supreme Court of this country has ruled that mandatory or forced busing shall be used as a means to achieve racial balance in our schools; in other words, to open up to black children the same educational opportunities that are available to children whose skin is white. I find myself in a somewhat unique situation in that I am in agreement with the Senator from Delaware as well as in agreement with the Senator from Connecticut (Mr. WEICKER).

I am in agreement with the Senator from North Carolina and the Senator from Delaware in that I find that busing has proved to be artificial, ineffective, and ultimately, an unfair means of achieving what the Supreme Court has ruled to be a constitutional guarantee. But on the procedure, I find myself in complete agreement with the Senator from Connecticut.

I know, Mr. President, that frequently, it has been said that we simply cannot legislate morality in this body. We cannot make people more moral through legislation. I have heard that argument made, although I point out that we are about to legislate on issues involving prayer, abortion, capital punishment, and the promotion of family values. I submit that these issues involve deep philosophical views and moral values that we will undertake to legislate upon in the coming weeks and months.

Whether or not we can legislate morality or force people to become more moral, it seems to me that we can insist that we, as Americans, live up to what our Constitution requires and guarantees. The Supreme Court has ruled that involuntary busing is one option, maybe even the last option, that should be used to achieve a measure of racial balance in our public school systems. As I indicated before, I think experience has demonstrated the inadequacy and unfairness of the vehicle of busing. It has produced anger, violence, and hatred, and a good deal of hypocrisy, I might add, on the part of legislators, who have stood in the House and the Senate and argued in favor of forced busing while enrolling their own children into private school systems in order to avoid the pangs of forced busing.

The value derived by black children who have been given access to white schools cannot be measured or quantified, at least not for decades or generations to come. Whatever value history might assign to it, that judgment necessarily will have to take into account the hours lost on the buses that my friend from Louisiana has talked about, the 30 and 40 miles in one direction, the hours spent in those buses, and the silent agony endured by black children and white children, I might add, endured because of the community hatred that has been inflamed. Equality of educational opportunity is guaranteed under the Constitution and in my judgment, it is not going to come about, is not going to become a reality, until such time as there is a reduction in the disparity of economic opportunity in this country for American blacks that has existed in the past and continues to exist today.

For years, for decades, blacks were denied access to full citizenship, to the right to vote, to the job market, to trade unions, to restaurants, hotels, motels. Yes, even to baseball diamonds—as Satchell Page and Jackie Robinson will tell you. So they raised their voices and asked the Court for what they said the Constitution entitled them to.

The Court said separate is not equal. You cannot take people who are similarly situated and treat them differently. In response, Congress passed legislation.

We said no, you cannot turn your back on a black person at the coffee table because of the color of his skin. You cannot turn him out into the street from a hotel or motel because of the texture of his hair. And you cannot deny him access to the polls, you cannot refuse to rent or sell a house to him, based upon the pigment in his skin.

Finally, the Court said, you cannot by design or indifference effectively consign their children to schools in the ghetto.

As I indicated earlier, I agree with the Senator from North Carolina and the Senator from Delaware that busing is an unwise educational—certainly an unworkable social—policy. That is in distinction to the Senator from Connecticut. I think it is unfair to force the housing of children beyond the neighborhoods where they and their parents live. On the substance, I am in agreement with Senator BIDEN and Senator HELMS. On the procedural issue, again, I come back to Senator WEICKER.

There are ways to change the rulings of the Court. If we do not like a ruling of the Supreme Court as far as the constitutional guarantees are concerned, we can do a number of things. We can file a new lawsuit challenging the prior decision. The Court has been known to change its mind. Stare decisis is not cast in concrete. We can do that as one means of changing the ruling of the Court.

We could, I suppose, if we could not change the ruling, seek to change the composition of the Court. That might come about in a matter of weeks or possibly months, new people coming onto the Court who have different viewpoints, different philosophies. So we can change the ruling or change, indeed, the composition of the Court, or we can ultimately change the Constitution itself if we do not like the ruling of the Supreme Court.

We are about to consider a constitutional amendment on the right to life. We have already adopted in both Houses of Congress an equal rights amendment. There will probably be an amendment to the Constitution requiring a balanced budget. So if we really want to change the Court's ruling, there are other constitutionally recognized means of doing so.

But what we have chosen by going the route suggested by Senator HELMS is not the traditional method. We are saying we

do not like the Court's ruling, but instead of seeking to change the ruling or changing the composition of the Court or changing the Constitution itself, we are going to pass a law that is going to prevent the Justice Department from enforcing a constitutionally guaranteed right.

Now, maybe this is constitutional. Sam Ervin says it is so, and maybe he is right. I certainly do not purport to stand on equal footing with respect to his knowledge of the Constitution, so maybe it is constitutional. But I think it is an invidious way to deal with the Constitution itself.

Today the issue is one of busing, and I ask my colleague from Connecticut, I suppose it would be possible for Congress to pass a law dealing with, let us say, an amendment offered to a bill that any school district that receives Federal funding may, in its discretion, consider the institution of voluntary nondenominational prayer in its school system, and that the Justice Department shall be precluded from bringing any lawsuit to challenge or contest that particular decision by a local school district. I assume that once we let this particular genie out of the bottle, this precedent out of the bottle, then it could apply to any of the critical and very serious and controversial social issues that this body is going to be deliberating upon in the coming weeks and months.

Today it happens to be busing; tomorrow it certainly could be prayer or capital punishment or any of the other very controversial social issues that are raging throughout this country and this Congress.

So it is not simply a matter of procedure that the Senator from Connecticut is raising.

It is not simply a procedural versus a substantive issue here, because in this case, procedure becomes substance. They become indistinguishable, they merge. So I think we should be aware of our act today. It might be popular, and I dare say if we took any of the opinion polls, they would show an overwhelming majority, both black and white, people in this country are opposed to forced busing. So current opinion would dictate the result that Senator HELMS and Senator BIDEN hope to achieve.

We should be aware of this act today because it is so popular, because it satisfies current opinion; but I believe it sacrifices something very precious in the process, something that is fundamental to protecting our constitutional freedoms.

I was reading last evening some of Loren Eisley's works and came across the following statement. He said:

> Our religious and philosophical conceptions change so rapidly that the theological and moral exhortations of one decade become the wastepaper of the next epoch. The ideas for which millions yielded up their lives produce only bored yawns in a later generation.

Mr. President, I hope we will not treat the separation of powers under our Constitution with a bored yawn. Our Constitution has to have an anchor, not just sails filled with the wind of popular opinion.

Mr. WEICKER. Mr. President, I thank the distinguished Senator from Maine for his very eloquent presentation of this matter. I know it certainly comes from the heart as much as the mind.

Mr. President, I suggest the absence of a quorum, with the time to be deducted from all three sides.

The PRESIDING OFFICER (Mr. COHEN). Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I yield to the distinguished Senator from Iowa such time as he will require.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. I thank the Senator from North Carolina for yielding.

Mr. President, I rise in support of the amendment by the Senator from North Carolina and opposed to that amendment of the Senator from Connecticut.

The issue of racially oriented forced school busing raises a number of very serious questions which we are addressing here throughout this past week in the debate on this legislation.

First, is busing in which children are chosen for their school assignment based totally upon the color of their skin constitutionally permissible?

Second, has busing achieved its goal of improving the quality of education for minorities?

Third, is it better to spend limited school district funds on buses, drivers, and gasoline than on teachers salaries and textbooks?

Finally, is the Federal Government acting properly within the scope of our Federal system of government when the Justice Department and the Federal courts attempt to impose their judgments over that of locally elected officials, in the operation of school districts where no intentional acts of discrimination are found?

The answers to each of these questions is obviously "No." Busing has been a failure. It has been well intentioned, but nevertheless a runaway, costly failure. It is well past time that Congress pull in the reins on the Justice Department and prevent it from doing any more of the extensive damage to our educational system and neighborhood schools than it has already done.

I thank the Senator for yielding and yield back to the Senator from North Carolina.

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, may I inquire as to how much time the Senator form North Carolina has remaining?

The PRESIDING OFFICER. The Senator has 55 minutes and 35 seconds remaining.

Mr. HELMS. I thank the Chair.

Mr. President, let me at the outset pay my respects to my distinguished friend from Connecticut. He and I have done battle from time to time in this Chamber, and there have been times when both of us have been highly enthusiastic in defense of our respective positions.

In this case I do not question his sincerity, but I do believe that he is sincerely wrong.

Let us get a few things straight at the outset:

The Helms amendment in no way is violative of the Constitutiton. If I believed that for one moment I would not have offered it. It deprives no one of his rights.

To the contrary, it responds to a growing outcry across this country by the vast majority of Americans, black and white, who are sick and tired of seeing their children hauled across cities and counties just to satisfy the whim and caprice of some Federal judge or bureaucrat.

What we have now in terms of forced busing and the participation by bureaucrats in the Justice Department is a travesty that has been manifest throughout the Federal Government for years. Career bureaucrats protected by Civil Service say, in effect: "We do not care what the policy of the administration is. We do not care what the wishes of the American people may be. We are going to continue our activist roles, and we are going to use the money of the taxpayers to force upon them governmental actions which are injurious to their welfare."

Mr. President, this has to stop. And this amendment simply goes to the heart of the question, shall these lawyers and bureaucrats in the Justice Department, who have been there from administration to administration to administration, be permitted to continue to go around this country and promote forced busing? This Senator says no, and I believe I have the support of the American people in saying it.

The Helms amendment does not proscribe to any degree anyone's rights. It simply says to the Justice Department, "You shall no longer go out and promote forced busing."

That is a clear enough message, and I think it is a long overdue message.

The House of Representatives has already by an overwhelming majority endorsed the Helms amendment and now is the time for the Senate to do likewise. The Senate did it last year. True enough the then President (Mr. Carter) vetoed it with a self-serving declaration right before election. But he was wrong, and I think to some degree that may have been a part of his defeat this past November because in vetoing my legislation he was violating something very dear to the people of this country and depriving them of a remedy to which they were entitled, and which Congress had approved.

As for my able friend from Connecticut, I say again that I do not doubt his sincerity, but there were times during his extended remarks that I looked around this room to make sure that we were not in the Supreme Court cham-

ber instead of the Senate Chamber. The Senator from Connecticut was declaring what was constitutional and what was not. Almost always he said, "I know," as if his view of the Constitution was final and not subject to debate. I felt obliged to note at one point that the problem with a lot of folks, as Will Rogers once said, is that they know things that are not so.

Now, the Helms amendment was drawn with the assistance, the approval, and the endorsement of a number of fine constitutional lawyers including one down in North Carolina named "Sam J. Ervin, Jr." I have consulted other constitutional authorities; without exception they have said that the Helms amendment is absolutely constitutional. So the Senator from Connecticut is no final authority on the Constitution.

The Weicker amendment is an obvious effort to gut the Helms amendment. It is like the boy who went fishing and he caught a little fish. He had him in his hand and had his pocketknife out and said: "Do not wiggle, little fish. I am not going to hurt you; I am just going to gut you."

That frankly is what the Senator from Connecticut wants to do. He says he is not going to hurt my efforts to stop forced busing. He is merely going to gut them. I do not believe this Senate will be misled.

Mr. President, the protests for the past couple of days in this Chamber, some of them bordering on sanctimony, have been quite interesting.

For example, one Senator yesterday engaged the Senator from Connecticut in a series of prearranged questions about the Helms amendment. The Senator almost pontificated as he declared that my amendment is unconstitutional. He was agreeing with the Senator from Connecticut. It was interesting that the Senator who was asking the prearranged questions has never sent one of his several children to a public school. Not one of his children has ever been bused. His children all have attended expensive private schools. That is his business—until he takes the position that children from families not as wealthy as the Senator's must endure the tyranny of forced busing.

So you will understand, Mr. President, why the Senator from North Carolina was less than impressed with the pious protestations of the Senator from Massachusetts.

Mr. President, all three of my children attended public schools. I have four grandchildren. Two of them are old enough to go to school and they ride the bus to public schools. They are bused across town. But my opposition to forced busing, Mr. President, predated by many years my grandchildren's being the victims of forced busing.

So, Mr. President, I must say when I hear all of these protestations about the unconstitutionality of the Helms amendment, "Sorry, Senator, but I don't agree with you."

Neither does Senator Sam Ervin nor the distinguished Senator from Louisiana (Mr. JOHNSTON) who is a crackerjack lawyer. Neither do countless other constitutional authorities.

So I hope Senators who may be listening on their loudspeakers will understand that the constitutional arguments they have heard from Senators WEICKER, KENNEDY, and others just do not hold water. I hope Senators also will understand that the Weicker amendment, offered by the distinguished Senator from Connecticut, is purely and simply an attempt to gut the efforts to remove from the bureaucrats and lawyers in the Justice Department any justification for their continuing to go out across this country to promote forced busing.

By adopting the Helms amendment this Senate will join the House in saying, "Stop it."

When this issue was before the Senate last year, Mr. President, I recall going to the telephone and talking with Senator Ervin because the very same arguments were being made then that are being made today, "Oh, the Helms amendment is unconstitutional."

I remember that conversation last year with Senator Ervin very well. I called him. I said, "Senator, tell me one more time, is this amendment constitutional?" He said, "Absolutely."

Following that, Senator Ervin went public. The headline in the Raleigh News and Observer, for example, reads "Sam Ervin '100 Percent' Behind Anti-busing Bill by Helms."

Mr. President, I ask unanimous consent that this news story from the Raleigh News and Observer be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SAM ERVIN "100 PERCENT" BEHIND ANTI-BUSING BILL BY HELMS

MORGANTON.—Former Sen. Sam J. Ervin Jr., D-N.C., says he agrees with the anti-busing legislation Sen. Jesse A. Helms, R-N.C., introduced last week.

"I approve of Helms 100 percent," said 82-year-old Ervin, who retired from the Senate in 1974 after a 20-year stint that culminated in his heading the Watergate hearings.

"When you bus you have to divide children, and some can be sent to neighborhood schools," he said. "But the second group is denied that right. It's not equal protection because two groups are being treated differently.

"Also, when busing is ordered, the school board must take the second group and transport them elsewhere, solely on the basis of race."

Ervin and Helms said Saturday that they had consulted on the bill before it was introduced so any constitutional problems could be worked out.

Although constitutional scholars have said the bill, if passed today, would face a challenge in the courts, both men still believe the legislation will legally put an end to busing.

"I agree with Helms. I think busing is the worst tyranny ever perpetrated on America," Ervin said.

The bill, attached as a rider to a large appropriations bill, won approval Thursday on a vote of 42-38, with 21 Democrats and 21 Republicans behind it.

"I'm no lawyer, and before I got into this thing I consulted with Sam Ervin to check the constitutionality," Helms said in a telephone interview from Washington. "He told me he tried to do the same thing when he was in the Senate, and there was no way opponents could contrive that Congress doesn't have the authority to do so."

Although busing is already widespread in the South, the legislation may affect school systems in other areas that have registered federal orders to desegregate.

Sen. Lowell Weicker, R-Conn., said he holds little hope of mustering enough support to stop the bill, co-sponsored by Helms and J. Strom Thurmond, R-S.C.

If approved, political observers say there is little chance President Carter will veto it because it is tied to such a large appropriations bill.

Ervin also said Saturday he has high hopes for the Reagan administration and new conservative Republican majority in the Senate.

Ervin said he would like to see the Senate balance the budget "since the Democrats didn't have the intelligence to do it."

He said he isn't worried about Reagan appointing several former Nixon and Ford appointees to key Cabinet positions. Ervin, whose chairmanship of the Watergate hearings helped end the Nixon administration, said Nixon's only crime was Watergate and that involved only a handful of people in his administration.

Of Henry Kissinger, Ervin said, "I just don't like his style of diplomacy," and blamed him for much of the current turmoil in Iran. Kissinger "went around the world whispering into the ears of foreigners that we'd support them," Ervin said.

(Mr. D'AMATO assumed the chair.)

Mr. HELMS. I thank the Chair.

Along about the same time, Mr. President, the Greensboro Daily News carried a story headlined "Helms Gets Ervin OK On Antibusing Law." In that story are contained several observations by Senator Ervin which are entirely relevant to the debate here today just as they were relevant to the debate last year.

So that the RECORD can be complete I ask unanimous consent, Mr. President, that the story in the Greensboro Daily News also be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HELMS GETS ERVIN OK ON ANTI-BUSING LAW

(By Bob Hiles)

When U.S. Sen. Jesse Helms, R-N.C., introduced anti-busing legislation last week he had the blessing of one of the nation's leading constitutional experts, former U.S. Sen. Sam J. Ervin, Jr., D-N.C.

Both Ervin and Helms said Saturday night they had consulted on the bill before it was introduced so any constitutional snags could be worked out.

And despite the claims made Saturday morning by constitutional scholars that the bill, if passed Monday, would face a challenge in the courts, both Helms and Ervin stood by their beliefs that the legislation will legally put an end to busing.

"I'm no lawyer, and before I got into the thing I consulted with Sam Ervin to check the constitutionality," Helms said in a telephone interview from his Washington, D.C., residence. "He told me he tried to do the same thing when he was in the Senate, and there was no way opponents could contrive that Congress doesn't have the authority to do so."

Helms said when he addressed the full Senate Thursday, the day the bill won preliminary approval, "I told Senators (Jacob) Javits (D-N.Y.), (Edward) Kennedy (D-Mass.) and (Lowell) Weicker (R-Conn.) that they didn't have any argument with

me, but with one of the greatest constitutional authorities in the country, Sam Ervin.

"I read part of the notes I made of my conversation with him (Ervin)," said Helms. "He was a great senator, and I trust him."

Ervin, who retired from the Senate in 1974 after a 20-year stint that culminated in his chairing the Watergate hearings, said Saturday, "I approve of Helms 100 percent."

Contacted in his home in Morganton, the 82-year-old Ervin said he tried several times to pass legislation which would put an end to busing for integration. "In those days you couldn't get out of the committee. But I still say when a federal court orders busing it violates the equal protection clause of the Constitution in two ways.

"When you bus you have to divide children, and some can be sent to neighborhood schools. But the second group is denied that right. It's not equal protection because two groups are being treated differently.

"Also, when busing is ordered, the school board must take the second group and transport them elsewhere, solely on the basis of race.

"I agree with Helms," the still feisty Ervin said, "I think busing is the worst tyranny ever perpetrated on America."

Helms said although busing is already the widely prescribed remedy to achieve desegregation in the South, the bill will aid schools in other sections of the country. Also, desegregation plans are subject to periodic review, "and this bill will enable local school boards to do something else," he said.

"The public schools have just about been destroyed in terms of effectiveness, and it is time for a fresh start to build up the quality of education," said Helms.

Helms said his office "has received hundreds of telegrams from all over the Nation from people saying 'thank God' there will be an end to busing."

The appropriations bill, with the anti-busing rider, was approved 42–38 Thursday, with 21 Democrats and 21 Republicans supporting it. However, it still must pass in overall appropriations vote Monday.

Weicker, a strong opponent of the anti-busing legislation, said he had little hope of mustering enough support to stop the bill which was co-sponsored by Helms and Sen. Strom Thurmond, R-S.C.

If approved, Washington observers say there is little chance the Carter administration would use a veto to stop it, since it is tied to such a huge appropriation. Attorney General Benjamin Civiletti has said the anti-busing bill is unnecessary and infringes on his department's authority to conduct litigation to achieve compliance with constitutional demands.

Come January, however, Civiletti will be out of a job, and a Reagan appointee may have a different view of the bill.

Ervin, a Democrat who at times differed with Helms during their two years together in the Senate, said Saturday he has high hopes for the Reagan administration and the new Republican Senate majority.

"I voted a straight Democratic ticket," Ervin said. "But four years ago Jimmy Carter ran to balance the budget, and wound up adding more to the federal deficit than Nixon."

Ervin is a longtime supporter of a constitutional amendment requiring a federally balanced budget. He said he'd like to see the newly elected conservatives get the nation out of debt "since the Democrats didn't have the intelligence to do it.

"It has been obvious for years the federal government should have either reduced expenditures, or levied enough taxes to pay the bills," said Ervin. "If they had levied taxes, though, the people wouldn't have stood for it."

He said "any individual or nation that makes debts it doesn't intend to pay is just dishonest."

Ervin, long known for being outspoken on almost any subject, also had comments on former President Gerald Ford, ex-Secretary of State Henry Kissinger, and President Carter's campaign defeat.

Ervin said he isn't upset that Reagan is drawing heavily on former Nixon and Ford appointees to fill key cabinet positions. The man who ruled over the Watergate hearings said Nixon's only crime was Watergate, and that involved only a handful of people in his administration.

As for Ford, "He was a good man but not the brightest to ever be president."

And if he had his druthers, Ervin would "not want to see Henry Kissinger" land a job with the Reagan Administration. "I just don't like his style of diplomacy."

Ervin said Kissinger should bear much of the blame for the current crisis in Iran, because he "went around the world whispering in the ears of foreigners that we'd support them."

When asked about President Carter's defeat, Ervin said, "I think he stole a page from Lyndon Johnson's notebook, when he painted Barry Goldwater as a warmonger, Carter thought he could scare people into voting for him."

The ploy backfired, he said.

Mr. HELMS. I thank the Chair .

I wish I had the time, Mr. President, to read and emphasize what Senator Ervin said. What he said is precisely the same that has been said by other constitutional lawyers around this country.

We did not fly into the stratosphere to draft this amendment. I am not a lawyer. I have more sense than that, Mr. President. [Laughter.] When I run into a constitutional question, I seek the advice of good constitutional lawyers. In preparing this amendment I sought and received advice from constitutional scholars.

Let us take a few moments to reiterate the intent and scope of the Helms amendment. I was intrigued yesterday when my very good friend, whom I love and respect, Senator HATFIELD, attempted to relate the Helms amendment with an effort made by Senator HATFIELD and Senator McGovern some years ago with respect to cutting funds for the Vietnam war. Senator HATFIELD lamented the fact that his effort was not approved, and he reached the conclusion that inasmuch as his and Senator McGovern's position did not prevail on constitutional grounds that likewise the Helms amendment should not prevail.

The difference is that national defense is in the Constitution. Forced busing is not in the Constitution, Mr. President. It is not even in the Civil Rights Act of 1964 which was invoked here so many times during the last 2 or 3 days.

As Senator Hubert Humphrey, bless his departed soul, said many times, it was never intended for that act to include forced busing.

Now, Hubert and I many times were in adversary position on this floor. I remember the countless times that he stood there and I stood here and we disagreed and debated full tilt. Most times he would win, sometimes I would, but that did not matter. We always walked off this floor arm in arm.

I remember the last time Hubert came on this floor. He was so sick and frail. He knew it was his last time. We knew it was his last time, and he knew that we knew. He came down this aisle, and he shook hands with the leadership.

I was standing right back there, Mr. President, and he left at this point and came around and put his arm around me and said, "I love you." And I loved him. He knew that I did.

We disagreed legislatively, but Hubert Humphrey is a man whose memory I shall always treasure.

It has been asserted during the debate on this matter that the amendment "could be interpreted in its widest sense as preventing the Department of Justice from initiating any investigation of discrimination."

Mr. President, that simply is not so. As a matter of fact, I have repeatedly maintained that the point of this amendment is to exercise the power and the responsibility of Congress under section 5 of the 14th amendment to determine what is a proper remedy and what is not a proper remedy for the enforcement of its provisions.

So, Mr. President, my amendment, which the Senator from Connecticut seeks to gut, emphatically says that mandatory busing, forced busing in common parlance, is not a proper remedy under the terms of the 14th amendment, and anybody who can read the document I hold now in my hand, the Constitution of the United States, and draw any conclusion that there is anything unconstitutional about my amendment is straining his credibility.

My amendment does not go further than to declare that forced busing is not a proper remedy. And that is something that the Senate has a right to do, that this Senate has a duty to do, and that the vast majority of Americans want this Senate to do.

It does not, let me repeat, go further than that to prohibit the Justice Department from engaging in all activity to prevent discrimination. We are talking only about forced busing in this amendment. Any broader interpretation of the Helms amendment is neither necessary nor reasonable.

Now let us get down to brass tacks. It is a tested rule of statutory construction, Mr. President, that a legislative provision should be construed in a fashion so as to make it constitutional rather than to force upon it an interpretation which is obviously unconstitutional. As much as the distinguished opponents of my amendment may wish to construct an application for it which is unconstitutional, the fact remains that the amendment speaks only, only of prohibiting the Department of Justice from going into Federal court to promote and establish forced busing. And as far as this Senator from North Carolina is concerned, any broader application of the provision is beyond its language and its intent and any attempt to stretch its meaning beyond that is totally irrelevant.

Having said all that, Mr. President, I deny that the question is not on forced busing. Certainly, we are talking about forced busing. I would not have intro-

duced the amendment if I had not been interested in stopping forced busing. So to say that we have some little constitutional argument going on here and that is all, is just not accurate. Mr. President, there are certainly two constitutional sides to this argument. I say again that if I am required to make a judgment, make a choice, I shall accept the judgment of Sam Ervin just as quickly, at least, as I will that of any Member of the Senate as presently constituted.

Senator WEICKER says his amendment has nothing to do with busing. I say to the Senator that it has everything to do with busing. His amendment would leave that door ajar just a bit so Justice Department lawyers and bureaucrats could assist pro-forced busing zealots to rush to the courts and try to figure out what Congress really meant when it passed this bill with both the Helms amendment and the Weicker amendment.

So, Mr. President, let no Senator misunderstand what my good friend from Connecticut is doing.

The Weicker language could be seized upon by activist lawyers in the Justice Department, protected by civil service, and others as a basis for continuing to promote forced busing. And it is time we halted unequivocally the legal advocacy of mandatory busing by any underling in the Justice Department.

The Weicker amendment would cloud and possibly undermine the objective we hope to accomplish in passing the Helms amendment. This is the motivation behind the Weicker amendment and it should be defeated.

The Senator from Connecticut was defeated on this issue last year by a vote of the Senate and, if anything, the reasons to oppose his amendment this year are even more compelling.

The Senator from Connecticut claims that his amendment will simply insure that the Constitution is upheld. In so representing, he has overstated the scope and effect of the language in the Helms amendment. My amendment does no damage to the Constitution, and anyone who feels that it does is confusing the question of constitutional protections and the power of the Congress to limit actions and expenditures by the Justice Department. The current language does not limit any court-ordered remedy; it simply redirects the thrust of the remedies favored and advocated by the Department.

It is important that this point be emphasized. The Helms amendment is not a limitation on the jurisdiction of any court. Neither is this provision a limitation on the Justice Department's authority and directive to pursue discrimination in education. The Justice Department is still free, in fact, still obligated, to eliminate discrimination. The current language of the amendment very simply contains another directive to the Department, to supplement the many directives which we have earlier given the Department. We are simply telling the Department that, as it continues its efforts against discrimination, it is to seek alternative remedies, instead of forced busing. Such a directive is, without doubt, within the power of Congress.

The true issue in the Weicker amendment is not of constitutional dimension; it is an issue of whether or not we want to make the Department more responsive to the desires of the American people, who obviously favor more reasonable, yet equally effective remedial approaches to proven instances of de jure discrimination. To claim that the Helms amendment impedes the authority to fight discrimination is simply clouding the issue.

Mr. President, the question before the Senate is the Weicker amendment. His amendment is not necessary for any constitutional protection. It is simply an attempt to undo the Helms amendment. The Weicker amendment is superfluous at best and confusing or contradictory in any other light. We have an obligation to make sure that the Department acts in an effective and reasonable way. If we do less, we are not providing the accountability which the American people deserve. I oppose the Weicker amendment because I believe it seriously undercuts a needed and reasonable directive to the Justice Department.

So, Mr. President, the issue here is not who knows more about the Constitution than someone else. The issue is how much longer are we going to allow the Federal bureaucrats in the Justice Department to torment the little children of this country and in the process continue to destroy the quality of education in America.

If it is not clear to all Senators now, I do not know when it will be clear, that forced busing has done more to destroy confidence in and support of the public schools of America than any other device since public schools came into existence.

So, Mr. President, let the record be clear: The issue we confront now is the responsibility of Congress to determine what is and what is not a proper remedy to enforce the mandates of the 14th amendment, and that is what the Helms amendment does. The Helms amendment reaffirms the intent of Congress that busing is unacceptable as a remedy.

Mr. President, the vast majority of the American people agree that it is unacceptable. Every poll I have seen shows that the vast majority of Americans, black and white, minority and majority, are fed up with seeing their children hauled right past a neighborhood school, in some cases hauled as far as 15 or 20 miles away, consuming gasoline, spending tax dollars, lowering the quality of education, creating hostility, and diminishing the capability of the teachers to educate our children.

In my conversation with Senator Ervin last year, he discussed the Civil Rights Act of 1964. He was a Member of this body at the time that law was enacted. He stated that the only regulation intended under that act—and it was clear that this was the case—was to prohibit invidious segregation. He said that the act says:

> That no officer of the Federal Government and no court should require the transportation of children for the purpose of achieving racial balance.

I wrote down something else Senator Ervin said.

He said:

> Oceans of sophistry—

And that is what we have been hearing throughout all these busing debates—

> oceans of sophistry cannot wash away the plain fact that busing of schoolchildren deprives those who are being bused of their right under the equal protection clause to attend the school nearest their homes.

So what we have been doing with this folly of forced busing is violating the equal protection clause, and in doing so we have wasted hundreds of millions of dollars, and the Lord knows how much fuel and time. For what? Absolutely nothing, Mr. President.

I asked Senator Ervin about the Supreme Court decision on which some of the arguments heard yesterday and today have been based, and he said:

> The Supreme Court by intellectual dishonesty and an intellectually dishonest ruling ignored the equal protection clause.

Now, Mr. President, let me read from a Senate document containing a statement by Senator Ervin. This bears the date of Tuesday, February 19, 1974. It was published by the Senate Subcommittee on Constitutional Rights of the Committee on the Judiciary. Senator Ervin said this in his opening statement that morning:

> During the 19 years I have served in the U.S. Senate, I can think of no group of people who have stood in greater need of relief from Government tyranny than the thousands of innocent, little schoolchildren who are being bused to schools many miles away from their neighborhoods in order to satisfy the social theories of Federal bureaucrats and to comply with constitutionally unsound federal court orders. Under the guise of enforcing the 14th amendment's "equal protection" clause, these bureaucrats and Federal courts have undermined any reasonable understanding of the fundamental principle of "equal protection of the law." Although there are pious assertions to the contrary, what has in fact occurred is the assignment and transportation of schoolchildren to public schools on the basis of race in order to achieve a certain, specified "racial balance." In my sincere opinion, this is absolutely contrary to "equal protection of the law."

Those were the words of Sam Ervin in February 1974, and they are just as true today as they were in the day that that distinguished North Carolinian uttered them.

I hope some Senators may be listening on their loudspeakers in their offices because the plain truth is that we are not talking about a constitutional issue here. We are talking about the responsibility of this Congress, specifically this Senate, to determine what is a proper remedy to enforce the mandates of the 14th amendment.

Nobody wants to violate the Constitution, but this Senator and some others want to protect the rights of some innocent little children who have been used as pawns in a shell game. I think the American people spoke pretty clearly on November 4 and said, in effect, that enough was enough and part of it was with respect to schoolbusing.

So let us have no more of this business about: "I know what the Constitution is and everybody who disagrees with me is proposing to violate the Constitution." It is not so.

They need not try to argue with me. Let them argue with Sam Ervin. And I will take his judgment at least as quickly as I will take the judgment of anybody in this Senate as presently constituted.

Mr. President, notwithstanding all that has been said, the bottom line on this issue is whether this Senate is going to face up to its responsibility and its right under the Constitution to determine what is a proper remedy to enforce the mandates of the 14th amendment.

That is all that is at issue. Nothing else matters.

I go back to my reference to our former distinguished colleague from North Carolina, Senator Sam Ervin. I very much doubt there will be any question about Senator Ervin's being one of the great constitutional scholars of our time, and he absolutely rejects the notion that we are somehow violating the Constitution with the Helms amendment.

At this point, I ask unanimous consent to have printed in the RECORD an article entitled "The Supreme Court's Abuse of Power," written by another distinguished legal scholar, Prof. Lino Graglia of the University of Texas Law School.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE SUPREME COURT'S ABUSE OF POWER

(By Lino A. Graglia)

Do we have an imperial judiciary? To put the question in more manageable form: What at this time, in our system of government, are the actual effective limits on what our judges can do? Specifically, what are the limits on what the Supreme Court can do, acting in the name of constitutional law? We know that judges can order the reapportionment of our legislatures, state and federal; remove most restrictions on the availability of abortion and on the distribution of materials historically considered obscene; prohibit prayers and devotional Bible reading in public schools; and require the transportation of public school children in order to increase racial mixing in the schools. And we now know that a judge can even require that a neutered male be permitted to compete in the women's division of the United States Open Tennis Tournament. The British Parliament, it used to be said, can do anything but make a man a woman; this limitation it appears, does not apply to our judges. The list could easily be extended, but this is surely enough to show that the question is a serious and important one.

The basic theoretical limit on the power of courts—the basic argument used to reconcile judicial power with elected, representative government—is of course, that judges can do no more than apply and, if need be, interpret the law; pre-existing, authoritatively established statements of rules and requirements. As Justice Roberts put it in the famous statement in the *Butler* case (1936), judges in constitutional cases merely place the challenged statute alongside the relevant constitutional provision and see whether the two square. (A carpenter could do it.) Justice Roberts wrote:

"When an act of Congress is appropriately challenged in the courts as not conforming to the constitutional mandate, the judicial branch of the government has only one duty; to lay the article of the Constitution which is invoked beside the statute which is challenged and to decide whether the latter squares with the former. All the court does, or can do, is to announce its considered judgment upon the question. The only power it has, if such it may be called, is the power of judgment."

Now, that statement was made in a case that illustrates almost as well as any that this is not what judges do. Nearly all present-day students of the matter will agree that Justice Roberts somewhat undestated judges' power of choice. But (a modern defender of judicial power will argue), although the frequently litigated provisions of the Constitution are very general and indefinite, they do provide the basic principles that, properly understood, indicate the "correct" decision on specific constitutional questions.

The fact is, however, that a serious constitutional question is such not because it involves a basic principle of value but because it involves several such principles or values in conflict. In virtually all cases that actually come to the Supreme Court for decision, there is nothing in the Constitution to indicate how the conflict of principles or values should be resolved. As a practical matter, the Constitution is simply irrelevant to constitutional law except that it provides the peculiar phrases—typically "due process," "equal protection"—used to state the ultimate conclusions reached. If this is a surprising statement, it is only because belief that the Constitution contains answers to all questions of social policy is an article of our secular religion—it is not for nothing that judges wear black robes and the Supreme Court sits in a temple—or, for the more sophisticated, because the statement violates a widely accepted, though grossly misleading, convention concerning our references to the work of judges.

The irrelevance of the Constitution to constitutional law can be easily demonstrated. For example, there was a time when "the Constitution" permitted the assignment of children to schools according to race in order to separate the races. There was then a time when "the Constitution" prohibited such assignment. There was then a time (the present) when "the Constitution" was adduced as *requiring* the assignment of children to schools according to race—but, now, in order to mix the races. In all of this time, of course, the Constitution was not changed in any relevant respect.

To take another example from the same area of law, school segregation was held unconstitutional in the *Brown* case because it was found to violate the Equal Protection clause of the Fourteenth Amendment.

Another case decided at the same time involved school segregation in the District of Columbia, under the jurisdiction of the Federal Government, to which the Fourteenth Amendment does not apply. The unavailability of the Equal Protection clause—the supposed basis of *Brown*—of course made no difference in the result reached. The Supreme Court simply found that school segregation in the District of Columbia violated the Due Process clause of the Fifth Amendment—an amendment adopted in 1791 as part of a Constitution that recognized black slavery. If the Fifth Amendment had also been considered unavailable for some reason, school segregation in the District of Columbia would undoubtedly have been found to violate some other constitutional provision—although the Constitution is very short, it is extremely general and vague, as befits a Constitution but does not befit a provision of law enforceable by judges.

Taking an example from another area, the Constitution specifically, in four places, recognizes capital punishment, but some justices have nonetheless taken the position that capital punishment is constitutionally prohibited, and a majority of the justices have found it constitutionally permissible only in very limited circumstances—have found that it is unconstitutional, for example, as a punishment for rape.

As a final example—looking at the situation from the other side, so to speak—one of the most specific and definite provisions of the Constitution is the provision prohibiting states from impairing the obligation of contracts. It is clear that this provision was intended to prevent the states from adopting debtor relief laws, and this was considered so important that it is one of the very few limitations on state power written into the original Constitution. Yet when a debtor relief law came before the Court in the *Blaisdell* case in 1934—in my opinion the most clearly unconstitutional statute ever to come before the Court—the Court held it constitutional. I do not want to seem to be objecting to that decision, in which the political process was allowed to prevail; I cite it only to illustrate that the provisions of the Constitution, even the clearest, do not bear on constitutional decisions, except as they provide the explanations offered by the Court. It is indeed possible to imagine a legislative or other official act that could be realistically said to violate a constitutional provision, but such legislation is almost never enacted—and, as the *Blaisdell* case illustrates, in the extremely rare cases where it is enacted, it is not necessarily held unconstitutional.

If, as should be clear, the Constitution does not in fact significantly determine or limit the Supreme Court's power, what, if anything does? Another basic justification often offered for the Court's apparently unlimited power in our supposedly democratic system of government is, surprisingly, that the Court has no "real" power at all. Even if it is not significantly limited by the Constitution, this argument goes, the Court controls neither the sword nor the purse, and the effectiveness of its decisions therefore depends "ultimately" on its "moral authority."

The Court is thus often likened to a very respected and influential teacher or spiritual leader. However, as Clinton McCleskey has pointed out in *Judicial Review in a Democracy: A Dissenting Opinion*, the views of teachers and preachers are not ordinarily enforced by the power of the state. Little Rock can attest that the enforceability of Supreme Court decisions does not depend upon the Court's ability to persuade its opponents, and that the Court has an effective call, if need be, upon the bayonet. It seems easy for many to forget that a Supreme Court decision is not less enforceable or effective because the Court's opinion is demonstrably incoherent, its reasoning illogical, and its factual statements inaccurate. Few people read Supreme Court opinions, and fewer still study them critically and compare the facts as stated by the Court with the facts shown in the record of the case. In any event, what it means to be supreme is that your views prevail even when you are clearly wrong. As Justice Jackson said, in a concurring opinion in *Brown* v. *Allen*, the Supreme Court is not final because it is infallible, but it is infallible for all practical purposes because it is final.

The claim that the Supreme Court's power derives from and is limited by moral principles, or by a supposed need on the justices part to maintain unusually high standards of integrity, is no less fictional than the claim that it derives from or is limited by the provisions of the Constitution. The Court's freedom from authoritative determinations that it has erred has the effect on Supreme Court justices that is predicted by Lord Acton's dictum concerning the tendency of power to corrup.

As Thomas Jefferson never tired of reminding us, judges are not more than other rulers: immune from the effects of the possession of power.

"Our judges [he wrote to William C. Jarvis in 1820] are as honest as other men, and not more so. They have, with others, the same passions for party, for power, and the privilege of their corps. Their maxim is '*boni judicis est ampliare jurisdictionem*,' and their power the more dangerous as they are in office for life and not responsible, as the other functionaries are, to the elective control."

Indeed, because in our legal theory judges are not authorized simply to announce their policy views, but are required to claim a constitutional basis for their decisions invalidating the acts of other officials—a basis that typically does not in fact exist—the practice of judicial review is inherently inconsistent with candor. In effect, judges finding unconstitutionality must demonstrate what cannot be demonstrated, and wide departures from usual standards of accuracy and rationality are the inevitable result. How wide these departures are at any given time depends on how much the judges are willing to attempt, and for more than two decades now our judges, as already noted, have been willing to attempt a very great deal. As a result, they have been forced to explain and justify their actions with opinions that can make no claim to intellectual coherence or respectability, and they have engaged in practices—preversions of legislation, misstatements of fact, and patently fallacious reasoning—that would, if they were engaged in by any other government officials, be considered scandalous and lead to demands for impeachment.

The Supreme Court's almost total freedom from the restraints of honesty and rationality can be demonstrated, and the nature and source of constitutional law can be understood, only by detailed study of the Court's actual performance in specific areas of constitutional law. No area serves better for this purpose than the area of race and the schools, where the Court's decisions have led to a constitutional requirement that public school children be transported out of their neighborhoods and away from their neighborhood schools in order to increase racial mixing or "balance" in the schools. In 1954, in the *Brown* case, the Court held that segregation is unconstitutional. As important as that case was and is for its holding, it is far more important for the fact that it basically changed the views of the country, and specifically of judges, as to the proper role of judges in our system of government. *Brown* was less a traditional lawsuit than an attempt to bring about a social revolution through the courts. The success of that revolution, some ten years later, inevitably led to the belief that there is nothing that courts cannot or should not do. This new view of its power and position led the Supreme Court in 1963, in the *Green* case, to move from *Brown's* prohibition of segregation to the vastly more ambitious and questionable requirement of integration.

Brown's prohibition of segregation had, by 1968, proven very disappointing to some. The assignment of children to schools in order to keep the races apart—and, indeed, all legally required racial separation—had come to an end by 1968, but in the schools of the South, as in the schools of the North, much racial separation continued to exist. The idea therefore arose to *require* by law that the races be mixed—that is, to compel a greater degree of integration than results from the prohibition of segregation and the use of non-racial methods of assignment. Legally compelled integration, however, faced a major and perhaps insurmountable obstacle, the need to overcome the very principle that had been the justification of *Brown's* prohibition of segregation. *Brown* could be and was explained and justified as simply a prohibition of all racial discrimination by government. Compulsory integration, however, requires that racial discrimination by government be made not only permissible but mandatory.

Compulsory busing for racial balance takes place in this country, despite great popular opposition, not because of the Supreme Court's moral authority, but, on the contrary, because of the Court's relative freedom from moral restraints. There is no logical difficulty in distinguishing between racial discrimination to separate the races and racial discrimination to mix them, or in holding that the Constitution prohibits the former but requires the latter. As a practical matter, however, such a holding was impossible—even the power of the Supreme Court is, of course, not absolute. After many years of emphatic insistence that racial discrimination by government is constitutionally prohibited, the Court could hardly announce all of a sudden that racial discrimination is sometimes constitutionally required.

The Court, however, did not permit this difficulty to stand in its way. In law all things are possible (for example, the changing of a man to a woman), for all that is necessary is to change the meaning of words. The Court simply determined to impose a requirement of integration in fact, by what it ordered to be done—but, simultaneously, to deny that it was doing so, to insist that the requirement was only "desegregation," the ending and undoing of the segregation prohibited in *Brown*. To this day the Court has never admitted—in fact, has consistently denied—that there is a constitutional requirement of integration as such; in theory there is no constitutional objection to the existence of all or nearly all black and all or nearly all white schools within a school district or in close geographical proximity.

This strategy—insisting that the requirement was not integration but only desegregation—had enormous advantages for the Court. First, it appeared to confine the requirement to the South and, therefore, served to minimize the attention and concern of the North. A constitutional requirement of desegregation would obviously be applicable only where there was or had been unconstitutional segregation. Second, denying that there was a constitutional requirement of integration obviated all need to attempt to justify such a requirement on its own merits—either in terms of any constitutional principle, or in terms of the benefits that might be thought to result. Finally and most importantly, instead of having to attempt the unappealing and unpromising task of justifying a constitutional requirement of racial discrimination, the Court was able to claim that it was merely continuing to enforce *Brown's* prohibition of racial discrimination.

The only difficulty with the Court's "desegregation" (or "remedy") rationale for compulsory racial mixing was that it did not comport with what the Court was doing in fact. Each succeeding case made clearer that the Court was not requiring merely the ending or undoing of the segregation prohibited in *Brown*, but was requiring integration or racial balance for its own sake, the ending of racial separation in the schools regardless of how that separation was caused. A true requirement of desegregation would result today in no or almost no transportation of pupils in order to undo racial separation, because existing racial separation in the schools is not the result of racial discrimination by school authorities but is simply and clearly the result of residential racial concentration. In short, the Court has perpetrated a fraud, has done by deception what it felt it could not do honestly. This hardly disputable fact did not, however, cause the Court's decisions to be less binding, effective, or enforceable. Busing for racial balance pure and simple continues to take place throughout the country.

That gross misrepresentations of fact and patently fallacious reasoning in the Supreme Court's opinions do not detract from the efficacy of its decisions may be illustrated by consideration of two of the Court's major decisions on race and the schools, *Swann* v. *Charlotte-Mecklenburg Board of Education*, the Court's first busing case, and *Keyes* v. *School District Number One, Denver, Colorado*, which brought compulsory integration and busing to the North. In *Swann* (1971) the Court, as always, insisted that the requirement was not integration but only desegregation. The "objective," the Court said, was to see that "school authorities exclude no pupil of a minority race from any school system, directly or indirectly, on account of race."

What the Court required in fact—the assignment of children to schools other than their neighborhood school according to race in order to increase racial mixing—was, of course, the exact opposite of this. The exclusion of pupils, minority as well as majority, from schools because of their race was in fact not prohibited but required. Thus, a requirement of racial exclusion was justified by the Court in no other way than by insisting that racial exclusion was prohibited—a justification that can suffice only when offered by a decision-maker subject to no review and no contradiction.

Similarly, the Court stated in *Swann* that the busing it required was needed to "accomplish the transfer of Negro students out of formerly segregated Negro schools and the transfer of white students to previously all-Negro schools." In fact, however, most of this busing could not be so explained. Most of the schools out of which blacks were being bused were never segregated black schools; they either had been segregated white schools that became heavily black because of the growth of the black population after segregation ended, or had been built in the first place after segregation ended and therefore had never been segregated at all. The justification offered by the Court for what it was doing was simply inapplicable to the facts of the case before it.

The Court also stated that the busing ordered by the District Court was justified because of, first, the District Court's express finding, approved by the Court of Appeals and not challenged here, that a dual school system had been maintained by the school authorities at least until 1969; [and] second, its finding, also approved by the Court of Appeals, that the school board had totally defaulted in its acknowledged duty to come forward with an acceptable plan of its own, notwithstanding the patient efforts of the District Judge who, on at least three occasions, urged the board to submit plans.

This important statement is incorrect in every respect. First, the board had not maintained a dual system until 1969, but had abolished the dual system by 1965 at the latest. The District Court had so held in 1965, and that holding was affirmed by the Court of Appeals sitting *en banc* in 1966. Second, the board had not "totally defaulted" in submitting a desegregation plan. It had submitted a plan that would have achieved a higher degree of racial balance than can be found in almost any school system in the country—that would, for example, have made every high school majority white. The Board's plan, at least with regard to the high schools and junior high schools, more than complied with every standard stated by the Court in *Swann* itself.

Finally, the District Court had not found that the Board had "totally defaulted," and the Court of Appeals, of course, had not approved any such finding. In fact, the Court of Appeals majority was so complimentary of the Board that the dissenting Court of Appeals judges criticized the majority for "implying that the actions of this Board had been exemplary."

Most important, the Supreme Court in

Swann affirmed a District Court busing order on the basis of supposed findings by the District Court that the District Court did not in fact make. The District Judge did not purport to require busing to eliminate the dual system (which, as the Court of Appeals held in 1966, had been eliminated by 1965). The District Judge, much more ingenuous than the Supreme Court, openly stated that in his view busing was required simply because "the rules of the game had changed," and under the new rules, as he understood them, racially balanced schools were constitutionally required to improve black academic performance. He believed, on the basis of testimony by education "experts," that a "dramatic improvement" in black academic performance could be "produced" by "transferring underprivileged black children from black schools into schools with 70 percent or more white students." The Supreme Court, never mentioning black academic performance, simply ignored the District Court's actual basis of decision and pretended that the District Court had ordered busing to undo racial separation resulting from prior unconstitutional segregation.

Finally, the Supreme Court faced here a very serious problem in dealing with the 1964 Civil Rights Act. With that Act, Congress adopted *Brown's* prohibition of racial discrimination by government as a matter of national legislative policy. A very important feature of the Act was that it authorized the Attorney General of the United States to bring desegregation litigation. The Act explicitly provided, however, that "desegregation" meant the assignment of students to schools "without regard to race," and did not mean assignment "to overcome racial imbalance."

The Act also provided, redundantly, that it did not authorize the transportation of students from one school to another to achieve racial balance, and, finally, that it did not prohibit the assignment of students to schools on any basis other than race. The assignment and transportation of students to schools on the basis of race in order to achieve racial balance was, of course, exactly what the Supreme Court in fact required in *Swann*. While it purported to do so pursuant to the Constitution and not pursuant to the Act, the Act was clearly an embarrassment; the Court did not want to seem to be acting contrary to the congressional policy expressed in the Civil Rights Act. The Court therefore simply stated that the Act's definition of desegregation and its strictures on seeking racial balance were applicable only to the so-called de facto segregation of the North and were inapplicable to the South where racial separation in the schools had been explicitly required by law.

This "interpretation" of the Act is, to put it as charitably as possible, totally without basis in the Act or in its legislative history.

The Act's repeated explicit provisions that it could not be used to seek racial balance were written in at the insistence of Representatives from the South in order to protect the South. Far from being concerned with making the Act inapplicable to "de facto segregation" (racial separation or imbalance not required by law), Congress believed that a racial balance requirement would be unconstitutional because it would require racial discrimination by government in school assignment, and that, everyone thought, had been prohibited by Brown.

Senator Humphrey, the Senate floor manager of the bill that became the Civil Rights Act, stated:

"While the Constitution prohibits segregation, it does not require integration. The busing of children to achieve racial balance would be an act to effect the integration of schools. In fact, if the bill were to compel it, it would be a violation, because it would be handling the matter on the basis of race and we would be transporting children because of race."

A clearer example of judicial perversion of an act of Congress would be impossible to find. Not only were the Act's limitations made meaningless, but the Act became, in the hands of the administrative agencies (HEW's Office of Education and the Civil Rights Commission) and the courts, the essential tool for the imposition of the very racial balance requirement that Congress had sought to ensure could not be imposed.

The Court's opinion in Keyes is at least the equal of its opinion in Swann for defiance of logic and misrepresentation of matters of fact. If, as the Court continued to insist, the constitutional requirement was not integration but only desegregation—the ending or undoing of unconstitutional segregation—how one might wonder, could the requirement be applied to Denver, which had never required segregation? Indeed, the Colorado Constitution had from the beginning explicitly prohibited school segregation; Colorado, and Denver in particular, with very small black populations until the 1950s, had always been leaders and models in civil rights matters. The almost unbelievable fact is that Denver was found to violate the Constitution and was required to bus schoolchildren for racial balance not because it had ever practiced segregation but because it had been exceptionally committed to increasing integration.

Despite Brown's and the Colorado Constitution's prohibition of all racial discrimination, in the early 1950s the Denver school board voluntarily undertook the practice of racial discrimination to increase racial mixing in the schools. The board required that race be taken into account in school decisions, that schools be located and attendance boundary lines drawn so as to increase integration.

A more impressive display of misrepresentation, irrationality, and abuse of power would be difficult to find in the work of any other institution of government. If it should be found in any other institution, it would undoubtedly lead to widespread censure and demands for corrective action. The best evidence, perhaps, of the invulnerable position and enormous power the Supreme Court has now achieved in our system of government—of the existence, that is, of an imperial judiciary—is the fact that the Court apparently remains free from such censure and such demands.

No more schools were thereafter built in northeast Denver, an area of black residential concentration. In a final display of its commitment to integration, the board then decided to require busing, and not only the busing of blacks into white neighborhoods, which might have been accepted in Denver, but also the busing of whites into black neighborhoods. Predictably, this was too much for even the citizens of Denver, and they promptly elected a new school board, which rescinded the busing requirement before it could be put into effect. However, in the American system of government as it currently operates, a victory at the polls remains a victory only so long as it is not disapproved by the courts—a function performed in some other systems by the military. A suit was brought challenging the rescission, and a federal District Judge held it unconstitutional on the paradoxical ground that a measure to increase integration, although not constitutionally required, may not, once it has been voluntarily adopted, constitutionally be repealed. He ordered that the schools of northeast Denver be racially balanced as if the busing requirement had not been rescinded.

The Supreme Court in *Keyes* did not adopt the District Judge's theory that voluntary measures to increase integration may not be halted—indeed, in a later case it explicitly rejected that theory. As in *Swann*, the Court, instead, simply ignored the actual basis of the District Judge's decision and pretended that he had found that the Denver school board had racially discriminated to separate the races, despite the District Judge's explicit statement that he had *not* found racial discrimination apart from the rescission. The Court thereupon in effect instructed the District Judge that he had not gone far enough in ordering busing, that he should have ordered the elimination of majority black schools not only in northeast Denver, but also in central Denver, the other area of black residential concentration. The District Judge could do this, the Court said, by finding that the majority black schools in central Denver were the result of the racial discrimination by the board that the District Judge had supposedly found in northeast Denver.

The logical and factual defects in the Supreme Court's opinion include that 1) the District Judge had *not* found racial discrimination by the school board in northeast Denver except on the basis of his rescission theory; 2) such discrimination, even if it had been found, could not possibly have been why the schools in central Denver were majority black prior to the time that the schools in northeast Denver became majority black; 3) far from having racially discriminated to separate the races, the Denver school board had voluntarily undertaken to increase racial mixing, and found itself in constitutional difficulty only because of those efforts; and 4) the existence of majority black schools in central Denver was in any event obviously the result, not of racial discrimination by the board, but of residential patterns.

Mr. HELMS. There is another whom I would mention today. His name is Raoul Berger. Dr. Berger is professor emeritus of Harvard Law School.

Dr. Berger, I believe, would identify himself as substantially to the political left of JESSE HELMS, but he is a man whom I admire and respect because he does know constitutional law and he is regarded as one of the top constitutional scholars of this land.

I wish I could hear a debate between Raoul Berger and LOWELL WEICKER. Both of them are articulate, both of them are intelligent, and both of them are forthright. But I daresay that Raoul Berger would win. I have a letter from Dr. Berger dated November 29, 1980. It says:

DEAR SENATOR HELMS: The enclosed, a nutshell summary of my "Government by Judiciary: The Transformation of the Fourteenth Amendment" (Harvard Press, 1977), affords constitutional footing for proposed school-prayer, anti-busing, affirmative action measures, which in truth seek to effectuate the original intention of the framers of the Fourteenth Amendment.

Now, what does Raoul Berger say? Bear in mind, Mr. President, that about 10 or 11 years ago Raoul Berger was on the other side of this argument as to whether Congress had a right to proscribe the courts, whether Congress has got a right to say, "You shall not do more of this."

Dr. Berger made a 180-degree turn. Let me read what he said in an address before the National Organization on Legal Problems of Education, a speech he made on November 14 last year in Boston:

There is widespread dissatisfaction with the judicial takeover of functions confided by the Constitution to the States and the people. Concern over federal intrusion into the field of education, for example, busing, affirmative action, judicial administration of a school system, is but one facet of the problem. Others are perturbed by judicial administration of prisons which in effect supplants legislative discretion in making budgetary allocations. Still others decry interference with local control of pornography, abortions, the local administration of criminal law. The people reluctantly obey such decrees because they are told so the Constitution requires.

I might parenthetically state that is exactly what Senator WEICKER is doing. He is giving his opinion, and I respect his opinion, even though I do not agree with it. But because he does not like something does not automatically make it unconstitutional.

I think we ought to listen to the counsel of Raoul Berger and Sam Ervin and other constitutional scholars who are so recognized when they say that LOWELL WEICKER is a good guy but he is wrong.

Let me continue on what Dr. Berger said in his speech in Boston on November 14, 1980. He asked the question:

But what if the requirement is that of the justices rather than that of the Constitution?

Ah, Mr. President, there is the point. Some of us have been saying for years that the Federal courts have been legislating instead of adjudicating. That is precisely what has happened, and this Senate and House of Representatives are long overdue in putting their respective feet down and saying, "No more. This is a tripartite system of government. We are the representatives of the people. We have a right, we have a duty, to put an end to the demonstrable folly of forced busing which has been tormenting little children for no purpose whatsoever except to satisfy the whim and caprice of some Federal judge somewhere or some Federal bureaucrat or a whole nest of them in the Justice Department."

So the pending Weicker amendment is not an innocuous amendment. It seeks to create some question as to whether the Senate really means it when it says "Stop this forced busing," or at least "Stop the Justice Department bureaucrats from promoting it."

Mr. President, I say again, the Senate spoke last year on this question of Justice Department bureaucrats and lawyers promoting forced busing. The House has spoken on it.

My dear friend from Connecticut says, "Well, I have a little amendment here that just may be innocuous and I want to slide it in." I cannot let him slide it in without a fight, because it will leave the door ajar to all sorts of contests in the courts as to what Congress really meant when it said the Justice Department shall no longer promote forced busing.

Let me also address myself to what a rather distinguished citizen of this country has said about what he calls the pet crusades of orthodox liberals.

He is the distinguished scholar and professor of economics, Thomas Sowell.

Let me read you what Thomas Sowell says. The headline, "A Black 'Conservative' Dissents." The subheadline is, "Busing and affirmative action may be a pet crusade of orthodox liberals, but, a black scholar contends, neither in fact does much real good."

Mr. Sowell begins by saying:

Being a black "conservative" is perhaps not considered as bizarre as being a transvestite, but it is certainly considered more strange than being a vegetarian or a bird watcher. Recently a network television program contacted me because they had an episode coming up that included a black conservative as one of the characters, and they wanted me to come down to the studio so that their writers and actors could observe such an exotic being in the flesh.

Am I a black conservative? It is hard enough to know what a "liberal" or a "conservative" is without the additional racial modifications. Supposedly a "conservative" is satisfied with the status quo, but in more than 40 years of listening to people, ranging from welfare recipients to the President of the United States, I have never come across this mythical being who is satisfied with the status quo.

Mr. President, I am fascinated with the entire article and I would enjoy reading it into the RECORD, but I am not going to do that.

Mr. President, I ask unanimous consent to have this article printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. The point Dr. Sowell made is one that surely should be obvious to all Senators. That point is simply, is it not time to listen to the American people? Let us not obfuscate the real question by saying, "I happen to know that it is unconstitutional to say to the Justice Department, 'you cannot promote forced busing any more.' "

This Congress has the right to proscribe remedies for the enforcement of the 14th amendment, but I will leave that debate to the constitutional lawyers. The debate about constitutionality is not between JESSE HELMS and LOWELL WEICKER, but it is between LOWELL WEICKER and Raoul Berger. I am not a lawyer. But I have an instinctive understanding, I think, of what is right for this Congress to do. And certainly, what is right for this Congress to do at this moment is not to tamper with the position strongly taken by both the Senate and the House to tell the Justice Department and all of its bureaucrats and all of its lawyers that, "No longer will you promote forced busing."

Senator WEICKER has said over and over again during the past couple of days that his amendment has nothing to do with busing. Senator WEICKER'S amendment to my amendment is designed solely to gut my efforts to stop forced busing. And I say to Senator WEICKER that his amendment has everything to do with busing. His amendment would leave the door ajar so that Justice Department lawyers and bureaucrats can assist pro forced busing zealots to rush to the courts and try to confuse the issue of what Congress really meant when it passed this bill with both the Helms amendment and the Weicker amendment.

That is what it would do. It would muddy the water. It would tone down and leave in a confused state the declaration that this Senate should and must make, that the Justice Department shall not further promote forced busing. And that is the reason I urge Senators to oppose the Weicker amendment to the Helms amendment, because no Senator should misunderstand what my good friend from Connecticut is attempting to do.

The little fish is in the Senator's hand and he is saying, "Hold still little fish. I'm not going to hurt you; I'm just going to gut you."

The Weicker language if adopted will be seized upon by those activist lawyers down in the Justice Department—the ones who have been here from administration to administration to administration, protected by civil service—the Weicker language would be seized upon by these and others as a basis, however specious, for continuing to promote forced busing. And it is time we stopped unequivocably the advocacy of mandatory busing by any underling in the Justice Department. The Weicker amendment would cloud and possibly undermine the objective we hope to accomplish in approving the Helms amendment.

Mr. President, the issue in this debate is not which Senator knows more about the Constitution than another. The issue is, How much longer are we going to allow the Federal bureaucrats in the Justice Department to torment the little children of this country and in doing so continue to destroy the quality of education in America?

If it is not clear to Senators now, I do not know when it is going to be clear that forced busing has done more to destroy confidence in and support of the public schools of America than any other device since public schools came into existence.

I could recite countless instances in which this is true, including many in my home town.

I would mention a decision by a Federal judge in Mecklenburg County, which had as part of its provision what lawyers say in Latin "reductio ad absurdum."

Do you know, Mr. President, that the zealots in that case caused that judge to assign a school bus to one student? That school bus went to one end of the county in the morning and picked up one child, hauled him all the way across Mecklenburg County to his school, and brought him back in the evening. One school bus, one driver, one student, for a distance, as I recall, of about 27 miles a day.

And for what? No wonder the people of this country are fed up. No wonder that in poll after poll after poll they say, "Stop it," blacks and whites alike.

And in my conversation with Senator Ervin last year, he discussed the Civil Rights Act of 1964, which has been often alluded to in this debate. Senator Ervin was a Member of the Senate at the time the law was enacted. He stated that the only regulation intended under that act—and it is clear that this is the case—

the only regulation intended under the act was to prohibit invidious segregation.

He quoted it:

That no officers of the Federal Government and no court should require the transportation of children for the purpose of achieving racial balance.

And this was confirmed, countless times on this floor, by Senator Humphrey, who was one of the leading architects of the Civil Rights Act of 1964.

I wrote down something that Senator Ervin said that day last year when I talked with him. He said:

Oceans of sophistry cannot wash away the plain fact that busing of school children deprives those who are being bused of their right under the equal protection clause to attend the school nearest their homes.

So what we have been doing, Mr. President, with this folly of forced busing is violating the equal protection clause and in doing so we have wasted literally hundreds of millions of dollars. Lord knows how much fuel, gasoline, how much time, and for what constructive purpose, Mr. President? None.

I asked Senator Ervin about the Supreme Court decision on which some of the comments heard yesterday and today on this floor have been based. Senator Ervin said:

The Supreme Court, by intellectual dishonesty and an intellectually dishonest ruling, ignored the equal protection clause.

Mr. President, let me now read from a Senate document containing a statement by Senator Ervin. This bears the date of Tuesday, February 19, 1974. That was the last year Senator Ervin was a Member of this body. It was published by the Senate Subcommittee on Constitutional Rights of the Committee on the Judiciary. Senator Ervin said this in his opening statement:

During the 19 years I have served in the U.S. Senate I can think of no group of people who have stood in greater need of relief from government tyranny than the thousands of innocent little school children who are being bused to schools many miles away from their neighborhoods in order to satisfy the social theories of Federal bureaucrats and to comply with a constitutionally unsound Federal court order. Under the guise of enforcing the 14th amendment's equal protection clause, these bureaucrats and Federal courts have undermined any reasonable understanding of the fundamental principle of equal protection of the law.

I continue to quote Senator Ervin:

Although there are pious assertions to the contrary, what has in fact occurred is the assignment and transportation of school children to public schools on the basis of race in order to achieve a certain specified racial balance. In my sincere opinion, this is absolutely contrary to equal protection of the laws.

I have quoted Senator Ervin at some length because what he has said is identical to what many, many other constitutional authorities have told me.

Mr. President, let us have no more of this business about "I know what the Constitution is and everybody agrees the Helms amendment is a proposed violation of the Constitution."

It is no such thing. This is not the Supreme Court; this is the U.S. Senate.

Mr. President, that is about all I have to say. This Congress has the right and the duty to prescribe remedies for the enforcement of the 14th amendment. I am going to leave the debate to the constitutional lawyers. I am not a lawyer. But one thing is clear: The debate about constitutionality is not between JESSE HELMS and LOWELL WEICKER or JESSE HELMS and TED KENNEDY or JESSE HELMS and JOHN CHAFEE or JESSE HELMS and MARK HATFIELD or JESSE HELMS and MAC MATHIAS. This is not the Supreme Court. This is the U.S. Senate.

Our duty here is to take a look at the equal protection clause and note that countless thousands of children have been denied their rights by the tyranny of forced busing. Our duty here is to be responsive to the pleadings of the vast majority of the American people who say, "Enough is enough."

Our duty here is not to be misled by an amendment that would cleverly gut my efforts to put an end to forced busing. Our duty here is to put an end to the actions of bureaucrats in the Justice Department who have been going out and promoting forced busing. If we do not have the right to do that duty, Mr. President, I do not know that we can legitimately profess to have the right to represent our people.

I have an instinctive understanding, I think, of what is right for this Congress to do. I am not imposing my morality on anybody. I heard as much about abortion and prayer in school yesterday as I heard about busing. I had to look to make certain which amendment was pending.

We are talking about busing, forced busing, and the judgment we will make when we vote on the Weicker amendment and the Helms amendment is whether we are going to fish or cut bait.

Mr. President, if we are against forced busing, if we want to respond to the pleas of the American people, the Weicker amendment will be defeated and the Helms amendment will be approved.

EXHIBIT 1

A BLACK "CONSERVATIVE" DISSENTS

(By Thomas Sowell)

Being a black "conservative" is perhaps not considered as bizarre as being a transvestite, but it is certainly considered more strange than being a vegetarian or a bird watcher. Recently a network television program contacted me because they had an episode coming up that included a black conservative as one of the characters, and they wanted me to come down to the studio so that their writers and actors could observe such an exotic being in the flesh.

Am I a black conservative? It is hard enough to know what a "liberal" or a "conservative" is, without the additional racial modifications. Supposedly a "conservative" is satisfied with the status quo, but in more than 40 years of listening to people, ranging from welfare recipients to the President of the United States. I have never come across this mythical being who is satisfied with the status quo. I know of no statistical research, or even casual observations, that would lead to the conclusion that so-called "conservatives" are more content, complacent or less outraged than people who carry the label "liberal." Some of the angriest people I know are called "moderates." Since truth-in-labeling laws do not apply to politics, there is little than can be done about all this.

Once it is realized that "liberal" and "conservative" are simply arbitrary designations for opposing political teams (more elegant but no more meaningful than "Dodgers" and "Mets"), we can turn to the substance of the issues between them. From this point of view, a so-called "conservative" is nothing more than a dissenter from the prevailing liberal orthodoxy. A "radical" would simply be someone who carries the liberal orthodoxy to further extremes.

Why would a black man dissent from the prevailing liberal orthodoxy, and especially on such racial issues as busing, "affirmative action" and the like? The question itself shows how pervasively the mass media have stereotyped and filtered the news. Most black people oppose busing. Polls that showed a black majority in favor of busing a few years ago have begun to show black pluralities and, finally, an absolute majority of blacks against busing. What is rare is to see any black opponent of busing in the media. The media-created black "spokesman" usually shares media-created values. The impression is insinuated that such "spokesmen" represent the "grass roots," or "authentic" ghetto blacks, while black dissenters from the liberal orthodoxy are from a remote "middle class" fringe. This impression must be insinuated, because there is little evidence for it—and a tremendous amount of evidence to the contrary. Many of the most fiery "militants" are middle-class Negroes now trying to live down their past by being blacker-than-thou, like true converts.

When the Supreme Court struck down state-imposed segregation in 1954, the decision was justifiably hailed as the climax of a struggle of many decades against Jim Crow laws and gross discrimination in the availability of public services, including education as a crucial necessity. Two more decades of bad faith, foot dragging and evasions produced ever tighter judicial control, culminating in court-ordered busing to achieve racial "balance." In short, we have arrived at a position that was not implicit in the original decision, and in many ways goes counter to the original concern for insuring individual constitutional rights without regard to color or other group characteristics.

The prevailing liberal orthodoxy insists that busing is essential for black children to receive their constitutional rights—and that they are to have their rights if it kills them. King Solomon is said to have chosen the true mother of a disputed infant by asking the two women concerned whether each would agree to having the baby cut in half to satisfy their rival claims. It was perhaps the first confrontation between principles of humanity and statistical "balance." Fortunately, King Solomon did not rely on H.E.W. guidelines for a solution.

Remarkably little attention has been paid to the black children who are supposed to benefit from busing. Certainly, little attention has been paid to the facts about their educational or phychological well-being before or after court-ordered "integration." It was assumed from the outset in 1954 that separate schools are inherently inferior. Anyone familiar with the history of numerout all-Jewish or all-Oriental schools could have exposed this for the sheer nonsense it was, and there are also a number of all-black schools that would have exposed this fallacy. All-black Dunbar High School in Washington had an average I.Q. of 111 in 1939, compared with the national average of 100—and this 15 years before sociological stereotypes were enshrined as the "law of the land."

The really crucial assumption behind involuntary busing is that some tangible benefit will result—presumably to black children, but, one would hope, to white children as well, and to the cause of racial understanding and mutual respect. The hard evidence does not support any of these assumptions. One can select isolated pieces of data to support the assumptions, but at least as much evidence can be found showing declining academic performances, lower self-esteem by

black children and greater racial antagonism on the part of both black and white children after busing is imposed.

Busing is not a policy but a crusade. For a policy, one can ask, "Does it work?" "At what cost?" "What is the human impact?" For a crusade, the relevant questions are: "Whose side are you on?" "Is your courage failing?" "Can we dishonor the sacrifices of those who went before by turning back now?" The last thing a crusader wants to hear is cost-benefit analysis. And if the crusader is a white liberal whose only children are in private schools, his courage knows no bounds.

One of the last refugees of those who admit the sorry academic and social record of involuntary busing is the so-called "hostage" theory of integration. According to this view, the only chance black children have for getting a fair share of educational resources is to be mixed in with white children, so that discrimination is thwarted. This assumes that it is easier for courts to control racial "balance"—in the face of "white flight"—than to control dollars and cents paid from a central fund. It also assumes a greater educational effect from differences in per-pupil expenditures than existing studies substantiate.

Finally, there is the simple vested interest of civil-rights lawyers and leaders who have a heavy personal stake in pursuing the courses of action that brought them success and prominence in the past. There is nothing peculiar in this. It is, in fact, all too human. Generals have long been known for fighting the last war. In view of history, it may be too much to expect any organization to stop on a dime and then head off in another direction in high gear. But it is not too much to expect the rest of us to be able to see when a given approach has made its contribution, served its purpose and become counterproductive. We certainly need not repeat the mistake of Vietnam by sacrificing the younger generation to spare leaders the embarrassment of losing face.

The question may once have been "segregation" versus "integration" but it is that no longer. Neither Federal, state nor local government may segregate any longer. "Racial balance," however, is in most cases a will-o'-the-wisp, as changing neighborhoods, private schools and exodus to the suburbs repeatedly defeat the numerical goals of busing. In some cases, there is more racial separation in the classroom after years of busing than before. As for "integration" in some more meaningful social and psychological sense, going beyond racial body count, compulsory transportation is the least likely process for achieving that goal. It is a tragic commentary on the liberals' misunderstanding of their fellow human beings that they cannot grasp the difference between the effects of voluntary interracial association and involuntary placement in the same buildings. It is true that, prior to the 1954 Supreme Court decision, much evidence showed greater tolerance and better educational results for black children when going to schools—usually neighborhood schools—with white youngsters. But these were black and white schoolchildren who chose to live and go to school in the same neighborhood, and who grew up around one another—not strangers confronting strangers in an atmosphere of compulsion, anxiety and heightened racial defensiveness.

The grand delusion of contemporary liberals is that they have both the right and the ability to move their fellow creatures around like blocks of wood—and that the end results will be no different than if people had voluntarily chosen the same actions. It is essentially a denial of other people's humanity. It is a healthy sign that those assigned these subhuman roles have bitterly resented it, though it may ultimately prove a social and political catastrophe if heavy-handedness finds a target in blacks as scapegoats.

The same statistical approach to human problems found in the busing controversy is applied to the labor market in the Federal "affirmative action" program. There is also the same heavy reliance on assumptions, the same disregard of facts and the same crusading assurance that whatever one does in a noble cause is right.

One of the first things that is done in many noble causes is lying. "Affirmative action" is no exception. The racial, ethnic and sex quotas that are set under "affirmative action" hiring are denied by calling them "goals" and attempting to make elaborate scholastic distinctions between the two. We are told that "goals" are not "really" quotas because goals are flexible while quotas are rigid. But this revision of the English language ignores both facts and usage. "Quota" is no new or exotic word the liberal missionaries must explain to the heathen. There are immigration quotas, import quotas, production quotas and all kinds of other quotas—and whether those quotas happen to be met or not during a particular time period, no one denies that they are quotas. Quotas are quantitative rather than qualitative criteria. Everybody knows that, and that is precisely what critics object to.

"Affirmative action" quotas are supposed to compensate minorities and women for past injustices, but before any benefit can compensate anybody for anybody, it must first be a benefit! There is very little hard evidence that "affirmative action" has that net effect, just as there is very little hard evidence that busing benefits black schoolchildren. Black income as a percentage of white income reached its peak in 1970—the year before mandatory quotas ("goals and timetables") were established—and has been below that level ever since (due largely to the recession). In short, blacks achieved the economic advances of the 1960's once the worst forms of discrimination were outlawed, and the only additional effect of quotas was to undermine the legitimacy of black achievements by making them look like gifts from the Government.

Undoubtedly, here and there some individuals have gotten jobs they would never have been eligible for otherwise. But however striking such examples might be, the overall picture depends on two other factors—what proportion of the labor force such people constitute, and the extent to which "affirmative action" has the offsetting consequence of actually reducing job opportunities for minority or female applicants. Since quotas apply not only to hiring but also to pay and promotion, some employers choose to avoid later problems by minimizing the initial hiring of nonwhite or female applicants. This is particularly true where there is a substantial risk that any applicant—of whatever race or sex—may have to be let go later on. For example, in the academic world, the "up-or-out" promotion system means that the top universities are constantly firing many junior faculty members at the end of their contracts, without any explicit "fault" being alleged. The legal and political dangers in applying this policy to minorities and women give universities an incentive either to avoid hiring minorities and women or to sidetrack them into special administrative jobs where this policy does not apply. Other industries also create "special" or "token" jobs for similar reasons, with the same net effect of reducing the career prospects of minorities and women—as a result of Government pressures designed to have the opposite effect.

Despite a tendency to consider women as a "minority," both the history and the present situation of women are quite different. Contrary to a fictitious history about having come a long way, baby, women today have less representation in many high-level positions than 30 or 40 years ago. In earlier times, women made up a higher proportion of doctors, academics, people in Who's Who, and in professional, technical and managerial positions generally. If you plot on a graph the proportion of women in high-level jobs over the past several decades, and on a parallel graph the number of babies per woman, you will see almost an exact mirror image. That is, as women got married earlier and earlier and had more and more babies, their careers declined. In recent times, as the "baby boom" passed and both marriage rates and child-bearing declined, women have started moving back up the occupational ladder relative to men—though in many cases not yet achieving the relative position they held in the 1930's. This upturn was apparent before "affirmative action" quotas.

If you go beyond the sweeping comparisons of "men and women" that are so popular, it is clear that marriage and childbearing have more to do with women's career prospects than employer discrimination. In 1970—before mandatory "goals and timetables"—single women in their 30's who had worked continuously since high school averaged higher earnings than single men in their 30's who had worked continuously since high school. In the academic world, single women with Ph.D.'s achieved the rank of full professor more often than single men who received their Ph.D.'s at the same time—and this again, before quotas.

These are among the many facts ignored by proponents of "affirmative action." Such facts are relevant to policy but they do not support a crusade, which requires an identifiable enemy, such as male chauvinist employers. A much stronger case can be made that career women are discriminated against in the home, where they are expected to carry most of the domestic burdens, regardless of their jobs. But there is no crusade to mount, and no political mileage to be made, from advising women to go home and tell their husbands to shape up. Both messiahs and politicians have to be able to promise people something, and very often that involves misstating the original problem, in order to make the promise sound plausible.

The grand assumption that body count proves discrimination proceeds as if people would be evenly distributed in the absence of deliberate barriers. There isn't a speck of evidence for this assumption, and there is a mountain of evidence against it. Even in activities wholly within each individual's control, people are not evenly distributed: The choices made as to what television programs to watch, what games to play, what songs to listen to, what candidates to vote for, all show the enormous impact of social, cultural, religious and other factors. One-fourth of the professional hockey players in the United States come from one state; more than a quarter of all American Nobel prize winners are Jewish, more than half of all professional basketball stars are black. Can one state discriminate against the other 49?

Can Jews stop Gentiles from getting Nobel prizes, or blacks keep whites out of basketball? Obviously there are reasons of climate, tradition and interest that cause some groups' attention to be drawn strongly toward some activities, and that of other groups toward other activities. It need not even involve "ability." Some groups that have been tremendously successful in some activities have been utter failures in other activities requiring no more talent. Even such an economically successful urban group as American Jews had an unbroken string of financial disasters in farming, while immigrants from a peasant background succeeded, even though peasant immigrants could not begin to match the Jews' performance in an urban setting. As a noted historian once said, "We do not live in the past, but the past in us."

It takes no imagination at all to see the heavy weight of the past among both minorities and women. Even those minority and female individuals who are able to take advantage of higher educational opportunities do not specialize in the same fields as others,

but disproportionately choose such fields as education and the humanities—where most people are poorly paid, regardless of sex or race. There are good historical explanations for such choices, but these are not necessarily good economic reasons. However, unless we are prepared to deny free choice to the supposed beneficiaries of "affirmative action," it is arbitrary social dogma to expect an even distribution of results.

Should we do nothing? That is the bogeyman of unbridled discrimination that "affirmative-action" spokesmen try to scare us with. But we were not doing "nothing" before quotas came in. The decade of the 1960's saw some of the strongest antidiscrimination laws passed anywhere, backed up by changing public opinion and by a new awareness and militancy among minorities and women. The dramatic improvement in the economic position of blacks was just one fruit of these developments. Despite the tendency of "affirmative action" proponents to conjure up images of discrimination in decades past, the question is, what existed just before the quotas, and what has happened since? That is the relevant question, and the answer shows a mountain laboring to bring forth a mouse—and often not succeeding. As we have seen, the ratio of black income to white income has never been as high since mandatory quotas as it was just before such "goals and timetables."

Why is "affirmative action" so ineffective despite all the furor it stirs up? Simply because its shotgun statistical approach hits the just and the unjust alike. Just as the crime does not consist of demonstrable discrimination against someone, but of a failure to meet governmental preconceptions, so the punishment does not usually consist of penalties imposed at the end of some adjudicatory process but of having to go through the process itself. For example, the University of Michigan had to spend $350,000 just to collect statistics for "affirmative action." For all practical purposes, that is the same as being assessed a $350,000 fine without either a charge or proof of anything. Most "affirmative action" proceedings do not end up in proof of guilt or innocence, or in any penalty though many end up settled by "peace with honor" in the form of elaborate plans, with good intentions spelled out in statistical detail: 1.3 more black accountants per year, 2.7 more female chemists, etc. If King Solomon had operated under "affirmative action," he would have promised each women 0.5 children, and gone back to business as usual.

It has long been known that the road to hell is paved with good intentions, and that is where they lead in this case. And since many of the quotas were virtually impossible of achievement from the outset, there is even less reason than usual to expect much from such statements under such pressures. Just as in television the medium is the message, so under "affirmative action" the process is the penalty. And since this penalty falls on the guilty and the innocent alike, it provides no reason for even the worst bigot to change. Nor will it exempt even the purest heart from the harassments of bureaucrats. Indiscriminate penalties do not produce change but only resentment. As in the case of busing, resentment against Government heavy-handedness is often misplaced as hostility to the supposed beneficiaries. The fact that there is really very little benefit to any group only completes this tragic farce.

One of the reasons why many programs that don't work still keep going strong is that they sound so noble. Moreover, championing the disadvantaged is not only an inspiration but an occupation. To be blunt, the poor are a gold mine. By the time they are studied, advised, experimented with and administered, the poor have helped many a middle-class liberal to achieve affluence with Government money. The total amount of money the Government spends on its many "antipoverty" efforts is three times what would be required to lift every man, woman and child in America above the official poverty line by simply sending money to the poor. Obviously, there are a lot of middlemen who get theirs: administrators, researchers, consultants, staffers, etc. These are the army of people who "take care" of the poor in a variety of ways. Such caretakers are the modern equivalent of the missionaries who came to do good and stayed to do well. It is no accident that the highest income counties in the United States are in the suburbs of Washington, D.C. Poverty is the cause of much of that affluence.

Central to the costly "caretaker" approach to helping the poor—by paying money to someone else—is an image of the poor as too helpless to make it with mere money. A picture is said to be worth a thousand words, but this particular image is worth billions of dollars to the caretaker class. Public resentment at the tax cost of the "antipoverty" establishment takes the form of disenchantment with the poor and minorities, though most of the money ends up in the pockets of people who are neither.

Like every army, the army of caretakers requires both material and moral support. The taxpayers supply the material support. The moral support comes from those who accept the image of the helpless poor and who project that image—and the corresponding "need" for caretakers—through the mass media, in the colleges, and to a captive audience of millions in "social studies" in the public schools. Since many who project such an image are themselves products of years of the same kind of sociopolitical conditioning, something very close to perpetual motion has been created.

The image of the helplessness of the poor is repeatedly invoked to defeat proposals for income maintenance, educational vouchers and any other reforms that would enable the poor to make their own decisions and eliminate the caretakers. How helpless are the poor? And—since I am speaking as a black "conservative"—specifically, how helpless are blacks?

History shows that one of the most massive internal migrations in this country has been the movement of millions of blacks out of the South in the last two generations, in order to seek a better life for themselves. This was a spontaneous decision of millions of individuals, not organized by indigenous "leaders" nor promoted by outside caretakers. Going even further back in history, to 1850, the census of that year showed that most of the half-million "free person of color" were literate, despite (1) being denied access to public schools in most parts of the country, (2) being forbidden by law to go to any schools in many Southern states, and (3) having very low incomes and occupations and few opportunities to cash in on the education. Private and even clandestine schools for blacks existed all over the United States in 1850, most of them supported by blacks themselves out of meager incomes.

Today, many ghetto blacks in cities across the country are sending their children to Catholic schools—though the blacks in question are usually Protestants—in order to seek better education than the public schools provide. For example, it has been estimated that more than 10 percent of all black children in Chicago go to Catholic schools. If educational vouchers were to make education free at both private and public institutions, would black parents be too helpless to make a choice among the various schools available to them? Or is the real problem that many caretakers in the educational bureaucracies would find themselves out of a job?

At a time when every silly trend in education is proclaimed in the media as an "innovation," the struggle of thousands of poor black families to send their children to private school is a nonevent for those who shape public opinion. Where these private schools are Catholic, they are often in ghetto neighborhoods abandoned by earlier Catholic immigrant minorities, and it is not uncommon today for the bulk of the student body in these schools to the non-Catholic. Some of the Catholic schools have achieved remarkable educational success with black students, at far lower cost per pupil than the public schools. But it isn't news.

Indeed, black advancement in general isn't news. The research team of Scammon and Wattenberg was roundly denounced in the media when it reported very substantial gains of blacks across a broad front, in education, income, occupation and housing in the decade of the 1960's. In olden times, messengers were sometimes killed for bringing bad news to the king. Today those who bring good news are in jeopardy, for they are threatening the whole caretaker industry and undermining an image supported by the caretakers' allies in the media and in politics.

How unusual is a so-called "black conservative"? Not very. Being an exception to a media image is not being an exception in real life. The real opinions of flesh-and-blood black people have repeatedly been found to be completely different from the "black" opinions of media-selected "spokesmen."

An Ebony magazine poll comparing the views of blacks with those of college students found blacks consistently more "conservative" than the college students. The great majority of blacks considered this country worth defending against foreign enemies and rejected violence as a means of achieving social change. A Gallup poll found that a substantital majority of blacks regard the courts as too lenient on criminals. Still another survey found that more than three-quarters of the blacks described themselves as "sick and tired" of hearing attacks on "traditional American values."

So being a black "conservative" is not quite as distinctive as it might seem.

Mr. President, I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I intend to take about a minute or so and then yield back the remainder of my time. If the Senator from North Carolina and the Senator from West Virginia wish to do so, we can get to the matter of the vote.

The Weicker amendment. let me read it in its entirety—nothing omitted, nothing added:

Except that nothing in this act shall be interpreted to limit in any manner the Department of Justice in enforcing the Constitution of the United States, nor shall anything in this act be interpreted to modify or diminish the authority of the courts of the United States to enforce fully the Constitution of the United States.

Twice in the last 10 years, I stood on the right side of the well and I raised my right hand and I swore the following oath:

I, Lowell Weicker, do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

"I swear that I will support and defend the Constitution of the United States." The Weicker amendment does no more than make sure that the same oath that I took, the same allegiance

that I swore, the same direction that I set for myself is assured both the executive and the judicial branches of the Government. The choice, then, in a matter of minutes, is between the Constitution of the United States, or a de facto Constitution, that consists of the opinions of this day, this time, this Senate. Such politicking, philosophizing will be gone in a short time. This, the Constitution, has to last.

That is the issue, Mr. President.

Mr. President, I am prepared to go ahead and yield back the remainder of my time.

The PRESIDING OFFICER. Do all Senators yield back their time?

Mr. THURMOND. Mr. President, I rise in support of the amendment offered by the Senator from North Carolina, of which I am a cosponsor, to prohibit the Justice Department from bringing or maintaining suits that indirectly or directly require the transportation of any student to a school other than the one nearest the home of the student.

This amendment was recently adopted by the House by an overwhelming vote of 265 to 122. Language similar to the pending amendment was passed by the Congress last year, but was vetoed by President Carter.

Mr. President, the American people do not support the forced busing of schoolchildren away from their neighborhoods. A recent Harris poll found that 74 percent of Americans feel that busing to other parts of town is "too hard on the children." Busing is unpopular among both whites and blacks. It forces children to be transported away from their neighborhoods and homes in the name of achieving racial quotas. What really is at stake is quality education for all our children.

The pending amendment is a step in the right direction. It will take the Department of Justice out of the business of intervening in what is a local problem—achieving a quality education for all citizens.

Mr. President, I ask unanimous consent that a few articles on this subject be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Star, Dec. 1, 1980]

THE MESSAGE IS LOUD: END RACIAL BUSING

(By James J. Kilpatrick)

Solid majorities in both the House and the Senate have been doing their best to send the federal courts a message on racial-balance busing. Regardless of what happens in the pending appropriations bill for the Justice Department, sooner or later that message will be emphatically delivered.

What the Congress is saying, loud and clear, is that the people are fed up with this evil and futile business. If the message from the expiring 96th Congress does not get through, be assured that the incoming 97th Congress will shout it out. And an incoming president will join in the cry.

This is where we stand on racial balance busing: Both houses have agreed to language that would prohibit the Justice Department from using public funds "to bring any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home." An exception is made for handicapped children.

PRACTICAL EFFECT

In one sense, to be sure, there is less to this amendment than meets the eye. The language would not prevent private litigants, such as the National Association for the Advancement of Colored People, from petitioning for a busing odrer. The language would not prevent a district judge from imposing such an order on his own. The only practical effect would be to halt the Justice Department from advocating forced busing as the government's choice of desegregation remedies.

During the course of Senate debate, Connecticut's Lowell Weicker made the absurd argument that it is no busines of the Congress to speak to judges. "Why should Congres interpose itself in the judicial process?" he demanded.

The short answer is that Congress, not the courts, holds the power of the purse, and Congress, not the courts, has power to pass appropriate legislation to enforce terms of the 14th Amendment. The anti-busing provision is fully within the constitutional powers of the legislative branch.

Beyond this, the provision expresses sound public policy. Ultra-liberals and other social engineers are fond of saying airily that there is nothing new about "busing." After all, before courts began issuing their busing orders, 10 million children already were riding buses to school every day. The contention is specious. In the old days children were bused to get them to school. Today millions of children are being forced into buses for another reason entirely—to achieve an arbitrary racial balance.

Such busing is morally wrong. To cart children around a city solely because of the color of their skins is racism, blatant and overt racism, precisely as evil as the racially segregated busing of 26 years ago.

Such busing is educationally wrong. No convincing evidence yet has been produced to show that busing helps black children as a group. The findings of Dr. James S. Coleman, who once was an advocate of this remedy, have caused him to back away from the optimistic predictions he made in 1966.

Racial-balance busing adds to disciplinary problems; It makes the involvement of parents more difficult; it diminishes public support for public schools; and it diverts large public sums from the business of teaching.

There is overwhelming evidence that court-ordered busing, in the end, simply does not work. Justice is blind, they say, and surely federal judges are blind to reality when they suppose they can reorder the lives of unoffending families by judicial fiat. Judges may work all night to fashion decrees, school by school, intended to put precisely 50.3 per cent white skins and 49.7 per cent black skins in a classroom, but the skins will not stay put.

In city after city, the phenomenon of "resegregation" swiftly has developed. Dismayed by disciplinary problems, both white and black families flee the public schools. Enrollments drop, and everything—parents, children, schools and communities—often is worse off than before.

Through his attorney general, President Carter has indicated he will veto the Justice appropriations bill. Let him. He has the power to do so. But in one form or another, the message will return.

[From the South Carolina (State), Apr. 5, 1981]

FORCED BUSING IS BECOMING PERMANENT, POOR SOLUTION

(By D. L. Cuddy)

"You know what? I'm against forced busing, too!" That remark was made by a young intellectual black principal while I was addressing a meeting (in Raleigh, N.C.) of the local Fellows of the George Washington University Institute for Education Leadership.

The principal's pronouncement was based on the fact that the burden of busing has fallen predominantly on blacks. In a school system where the black-white ratio is 30–70, for example, 70 percent of the black students must be bused to achieve racial balance, but only 30 percent of the white students must be bused.

And if the purpose of forced busing is to achieve societal integration, increasing numbers of blacks are beginning to wonder if the required movement of their children to integrated schools during the day, and back to segregated neighborhoods at night, isn't becoming a permanent "solution" to the problem of racial discrimination rather than the temporary solution forced busing was originally designed to be.

Decades ago, "freedom of choice" was a slogan ussed by many whites largely for the purpose of maintaining segregated schools, with black schools usually of inferior quality. To correct this situation, the federal government logically was asked to assist blacks in receiving guaranteed equal educational opportunities. From that request, however, the federal government embarked on a policy that at least tacitly supports the racist view that black students cannot learn unless they are seated next to whites.

As one who attended a racially integrated school in the South in 1952 (two years prior to the Supreme Court's Brown decision), and who taught in both predominantly black as well as predominantly white neighborhoods, I can say two things regarding black-white educational relationships.

First, in schools where educational excellence rather than social promotion is emphasized, there appears to be less racial discrimination.

Second, during my public school teaching career, I had more disciplinary difficulty with spoiled students from affluent neighborhoods than I did with economically deprived, yet educationally motivated, black students in the same school. While the Scholastic Aptitude Tests scores for white students have been declining for approximately the past 17 years and many white youths have seemed determined to ruin their lives with drugs, black students whose parents have emphasized educational achievement have had a golden opportunity to excel.

From time to time, I meet several of my black former students and now find that one works at the local state university, one at a television station, one is working toward her college degree in psychology, and I believe one is now an officer in the Air Force.

The point here is that, with government protection guaranteeing equal educational opportunities, blacks can perform as well as whites; but neither blacks nor whites want the government to adopt the principle that it can force people to do that which they do not want to do (e.g., forced sterilization, euthanasia).

While blacks desire federal protection against discrimination so that they may attend whatever school they wish, go to any public establishment they choose and live wherever they please, blacks do not want government implementing a policy that, for example, would require the break-up of black neighborhoods, forcing the residents against their will to disperse throughout the white community. Blacks as well as whites have pride in their neighborhoods and realize the importance of neighborhood schools.

What of the contention, though, that we live in a world where blacks and whites must live together, and abandonment of forced busing might lead to a return to a segregated, albeit voluntarily, society?

It should be emphasized here that the problem is not busing, but rather "forced" busing. There is nothing wrong with students voluntarily requesting to be bused to schools outside their neighborhoods. There

is nothing wrong with school systems developing districts within which black neighborhoods already exist so that an integrated school system may occur naturally.

And although "magnet" schools are undesirable for many because they tend to develop elitist attitudes among students, a majority of the American people might favor instead of forced busing an approach where students of all races voluntarily would choose to attend secondary schools offering programs fitting students' special interests.

Concerning the government's role, it is entirely proper for the government to guarantee that each school receive proportional financial support, and that teachers include all races and be of equivalent ability in each school. There is also nothing wrong with government offering developers incentives to construct housing projects on the outlying growth areas of urban communities that would allow racial representation.

As indicated earlier, the problem is "forced" busing. And blacks increasingly seem to be voicing their opposition to this apparently permanent federal policy, the burden of which falls predominantly on the children and their race.

[From the Washington Post, Mar. 17, 1981]

LOS ANGELES VOTES TO END ITS SCHOOL BUSING PROGRAM

(By Jay Mathews)

LOS ANGELES.—The Los Angeles School Board voted today to dismantle a mandatory school busing desegregation program, a nationally unprecedented act expected to give a significant psychological boost to antibusing groups throughout the country.

By a 5-to-0 vote, the board told the school staff to be ready by April 20 to allow any child now being bused for racial balance to return to his or her neighborhood school.

Several teachers and parents, including some opponents of busing, said the early switch would bring chaos and asked the board to wait until the next school year, but board members said they thought parents ought to have a choice as soon as possible.

Some young, white supporters of the busing plan yelled "for shame, for shame!" from the audience as the board took the vote in a packed meeting hall. But the action reflected a popular political movement in the city and seemed likely to have influence even outside California.

"I think the time has come for a reevaluation of pinning all the hopes and dreams of the civil rights movement on busing," said school board president Roberta Weintraub in an interview. She said the board's success in overturning a two-year-old court ordered busing system might have the same nationwide impact as California's real estate tax reduction plan known as Proposition 13.

Some court-ordered desegregation schemes, such as in the southern California community of Inglewood, have been dismantled in the past, but only after enormous growths in minority populations have made them pointless. Attorneys for both sides said today this is the first case they know of in which busing for racial balance has been stopped while a substantial number of white pupils—about 23 percent—still remained in the schools.

Fred Okrand, an American Civil Liberties Union attorney who has represented parents and groups supporting the desegregation plan, said he would challenge the reversal in the courts. But most attorneys interviewed said they expect the U.S. Supreme Court to support the antibusing forces, at least in this case.

Despite the morale boost the Los Angeles case gives to antibusing forces outside California, it provides few if any helpful legal precedents. The program—which buses 23,346 pupils throughout the crazy quilt school district, sometimes as far as 25 miles—began because California's courts took an unusually broad view of what constitutes illegal school desegregation.

The courts held that segregation was illegal even if it was unintentional. A statewide antibusing measure, called Proposition 1, sought to bring California law into line with federal law, which generally permits court ordered busing only in cases where intentional segregation has been proven.

An appellate court ruled that Proposition 1 was constitutional and last week the state Supreme Court dominated by judges usually in favor of desegregation, astounded all sides in the case by declining to review the appellate court's decision.

The school board's only black member, Rita Walters, said last week she was "appalled and horrified." She said the turnabout "built the walls of segregation ever higher and pulls us further apart." Today, Walters was in Washington on board business and did not vote.

The percentage of white pupils in the school district has been declining steadily, both before and after the busing plan began. Whites made up about 50 percent of students in 1970 when a Superior Court judge ruled the schools were segregated, and declined to 37 percent in 1976 and to 23 percent this year. Experts blame white flight from districts affected by the busing scheme for some of the decline, but say that declining birth rates and enormous increases in immigration of Hispanic families also helped bring the change.

Superior Court Judge Paul Egly, who has supervised the busing plan, has spoken publicly of its importance as a symbol of concern for the education of blacks and Hispanics in the city. Over the weekend, he denounced the reversal of the plan and today dropped out of any further consideration of the case.

From its beginnings in 1963, the effort to desegregate the Los Angeles city schools has followed a course as bizarre and unpredictable as the city itself. The crucial blow to the busing law was Proposition 1, which passed by a 2-to-1 statewide vote in 1979. But the scheme was severely handicapped from the start by having to serve a district that stretches in odd chunks and corridors more than 40 miles from the Pacific coast north to the Santa Susana mountains. The district encompasses the barrios of east Los Angeles and the spectacular seaside hills of the Pacific Palisades, the port neighborhoods of San Pedro and the tract homes of the San Fernando Valley.

After lengthy court battles, the school board proceeded in 1978 with a desegregation scheme for its half-million pupils. It relied on special "magnet" schools devoted to the arts or other special skills and on automatic transfers for any pupils in poor neighborhoods who wished to attend better equipped schools far from their homes—all programs that are expected to continue.

But the plan also included a busing program affecting about 57,000 pupils—23,000 who rode buses, and 34,000 in the receiving schools. This last element galvanized the predominantly white northwest part of the city, particularly the San Fernando Valley, into a potent antibusing force.

One antibusing parent, Bobbi Fiedler, was first elected president of the school board and then elected as a Republican member of Congress. Elections soon gave the school board a strong antibusing majority.

[From the U.S. News & World Report, Inc., 1981]

PRO AND CON ON SHOULD FORCED BUSING BE ENDED?

(Interview with Dennis L. Cuddy)

Yes—Blacks should have the right "to attend any school of their choice."

Q. Mr. Cuddy, why do you feel school busing for racial desegregation should be stopped?

A. Because forced busing, as a permanent solution to the problem of how to integrate society, is discriminatory against blacks. For example, to achieve integration in a city that is 70 percent white and 30 percent black requires the busing of 70 percent of those of the minority race, but only 30 percent of the white students.

In addition, it becomes more difficult for the minority students who are bused to participate in extracurricular activities before and after school. And their usually poor parents are deterred from attending parent-teacher meetings or their son's or daughter's athletic or cultural events in schools on the other side of town.

Lastly, there's the loss of respect and responsibility for the school's condition and leads to increased vandalism by those of both races.

Q. Proponents of busing say it has lessened discrimination. Wouldn't there be a danger that this trend might be reversed?

A. No. The question assumes that forced busing is the only means of maintaining an integrated society, but that's not true. It is doubtful that those blacks living or working in predominantly white neighborhoods would move to predominantly black neighborhoods simply because forced busing was terminated.

We should continue to have an integrated society and maintain the right of blacks to attend any school of their choice, to go to any public establishment they please and to live wherever they desire.

So, if a certain percentage of black parents do not want the government telling them that they must send their children to schools outside of their neighborhood, the government should not be able to overrule the parents.

Q. How would you enforce the right of blacks to attend schools of their choice?

A. It should be made legally incumbent on every school system to provide equal educational opportunities in all schools. Then relatively few students would choose to leave their own neighborhood schools.

Q. Job opportunities for minorities have increased since busing for integration began. Can't this be attributed at least in part to the better education blacks are receiving?

A. Well, forced busing is not the only way blacks can obtain a quality education. As one who attended an integrated school in the South before the Supreme Court's 1954 Brown decision, I can attest to that.

Marva Collins, a Chicago teacher, and the All Saints School in Harlem, among others, have shown that economically deprived minority students can score higher than the national average on tests.

As for job opportunities for blacks, those who strive for educational excellence will be able to obtain employment in almost any major American industry today and have tremendous opportunities for advancement. This is not because American industry has suddenly felt a magnanimous attitude toward minorities, but because executives realize that it is in their own economic self-interest to hire the most qualified person, regardless of race.

Q. Another reason busing is said to be ineffective is that it is not required between separately administered city and suburban school districts. Why shouldn't this be tried?

A. In countywide school systems, such busing is already occurring, and I have nothing against the city school system expanding to include the county. My only questions are: What about those black parents who feel their children can be guaranteed an equal educational opportunity in their own neighborhood school? Why would they want their children bused across town every day just to attend a school with a certain percentage of white children?

Q. Since most black spokesmen adamantly

insist on school busing, wouldn't an end to busing deepen racial animosities between blacks and whites?

A. No, because the original purpose of mandated busing was to guarantee equal educational opportunity for all children, regardless of race. Thus, turmoil will only result if blacks are denied equal opportunity.

And may I suggest that whenever black leaders have appealed to the innate sense of justice and fairness in most white Americans, black Americans have had far greater success in achieving their goals than when they have appealed for something on the basis of race alone, which usually results eventually in a reactionary white backlash, unfortunately.

Q. How would you stop busing—by amendment to the Constitution, legislative action by Congress or some other means?

A. If it can be shown that equal educational opportunity exists for every child within a school system, then the courts will have no grounds for ordering continued forced busing of black and whites against their will.

Q. Is there any merit in voluntary programs such as that proposed by the government for St. Louis, which would give college-tuition payments to those who participate in busing programs?

A. Yes. Voluntary or incentive or options approaches are the best vehicles for achieving integration. Furthermore, you might try magnet schools—where those desiring college-preparatory instruction go to particular schools, those interested in technical education go to other schools, and those in the arts to still other schools.

But if we are not willing to try the incentive or voluntary approaches, then we must ask whether society would next adopt other unacceptable authoritarian programs. I definitely recommend the nonauthoritarian approach to integration as long as all students are guaranteed an equal opportunity to receive a quality education.

(Interview With William L. Taylor)

No—"Busing has been a very useful tool in correcting wrongs."

Q. Mr. Taylor, why do you favor the continuation of school busing?

A. First of all, it is a matter of the Constitution and the laws of this country. The Supreme Court has found that busing is an indispensable tool in some communities to eliminate the wrong that has been done to minority students through enforced segregation.

Secondly, despite all the furor over it, busing has been a very useful educational tool, as well as a legal tool in correcting wrongs. Researchers tend to agree that when you establish classrooms in which advantaged children are in the majority, there is a favorable educational environment for all children. Busing makes this possible.

Q. How do you answer the objection that parents of bused children are unable to participate in the activities at distant schools and bused students cannot engage in extracurricular programs?

A. Those claims are not generally true. After the Charlotte-Mecklenburg, N.C., busing plan was put into effect, for example, 10,000 parent volunteers came into the schools—far more than before. Black parents in other communities have told me that while the black school was closer, they actually felt more involved, more able to have an influence on the education of their children in the integrated schools. It is physically inconvenient in some cases, but that is not the only factor.

Q. What about incidents of racial strife?

A. When desegregation begins, sometimes there is conflict. But when you look at these communities a few years later, you often find there has been a large degree of acceptance.

Q. Haven't blacks who stayed in neighborhood schools done as well academically as those who were bused?

A. There is a good deal of evidence to the contrary. One researcher who is hostile to desegregation examined a voluntary program in Boston some years ago. He found that black children who went from the central city to suburban schools were getting into better colleges and doing better than black children who went to city schools.

In Louisville, Ky., despite substantial conflict as a result of busing, black students have made significant gains in achievement. And white students' education has not suffered in any way.

The desegregation process is giving people the chance to participate fully in this country, to realize their own potential. And that, I think, is what it's really all about.

Q. Aren't some inner-city schools becoming more black and some suburban schools more heavily white, despite busing?

A. The most successful programs involve a metropolitan area or county. That is true in many parts of the South, including all Florida counties, the city of Charlotte and Mecklenburg County, the city of Nashville and Davidson County, and Louisville. In these places, desegregation has not led to white flight.

As to Northern cities, the move toward suburbanization has been going on for 40 or 50 years. But if you look at two cities, one in which desegregation has occurred and one in which it has not occurred, five years after the desegregation order you're likely to see the same patterns of migration.

So if we're concerned about racial apartheid in our metropolitan areas, the answer is not to limit school desegregation but to do something about the basic conditions that give rise to apartheid.

Q. Should the courts take more-drastic steps, such as requiring busing between suburban and city school districts?

A. Well, if you prove there has been widespread deliberate segregation, you will get that kind of a remedy. The Supreme Court has ruled that not only must it be proved that segregation occurred, but also that it affected the whole metropolitan area. That's been proved in Wilmington, Del., and Indianapolis. It has not been proved to the Court's satisfaction in a couple of other cases, principally Detroit and Atlanta.

Q. In view of antibusing sentiment in Congress and President Reagan's opposition to busing, is there really any likelihood of strengthening busing laws?

A. Frankly, I don't think there's much prospect of a legislative remedy right now. Indeed, there are initiatives to try to cut back, through the use of legislation or constitutional amendments, the remedies that the courts have afforded.

The time of greatest progress in this country was when the courts, Congress and the executive branch all worked together in the 1960s, and recognized that this isn't just a political popularity contest. These issues are crucial to the future of our country.

Q. How practical is the Justice Department's proposal for St. Louis, which would give college-tuition payments to those who volunteer to be bused out of their neighborhoods?

A. Generally speaking, voluntary measures are certainly to be welcomed. The Justice Department plan draws on a Wisconsin statute that provides reimbursement both to school districts that send students, and school districts that receive students. That has had modest success in Wisconsin. In St. Louis, the added wrinkle is the tuition payments to students. There are all kinds of questions of equity than can be raised. What about students who are not college bound? I don't think anyone expects that it will deal with the basic condition of segregation that exists in that metropolitan area.

There are a number of voluntary efforts that have proved very useful. In Boston, there is a program under which some 3,000 minority students of all incomes have enrolled in suburban schools. There are counterparts in Connecticut, Rochester, N.Y., and other places. But these programs are not equitable in the sense that white students don't enroll in minority schools.

(By request of Mr. MATTINGLY, the following statement was ordered to be printed in the RECORD:)

● Mr. NICKLES. Mr. President, I rise in support of amendment No. 69 which states that the Department of Justice cannot use any of the sums authorized by this act to require the transportation of any student to a school other than the one closest to his own home, unless the student has special educational needs.

I believe, Mr. President, that despite the good intentions behind the court decisions and legislation of the last 27 years that have required busing for the purpose of desegregation, the overall result of such a policy has been failure.

However, I do not stand here just to represent my own thoughts on this matter. Public opinion polls on this issue have made an interesting statement on behalf of the American people in regard to integration and the use of busing to achieve that end, an ever growing number of Americans believe that a good education means one which brings together students of all races. In other words, Americans favor integration. Yet, there is substantial opposition to busing as the means to achieve desegregation in the school system. Why?

Because busing has not proven to bring enough gains toward the end goal of desegregation to offset the costs of this policy.

The price has included such things as higher transportation costs as Senator HELMS pointed out in his remarks on Tuesday. At a time when inflation and escalating oil prices are driving up such costs for the schools anyway, this burden becomes very heavy. Yet, such a financial burden might be affordable if the results of busing were positive. But they are not.

Instead of concentrating on improving the quality of education that all students receive, all those involved with education—students, parents, teachers, and administrators—are coping with the loss of the neighborhood school, community fragmentation and polarization, and racial quotas.

No wonder the public schools are in turmoil. No wonder student achievement tests are declining. We have, in effect, told them that their priority is not education, it is getting the right numbers of blacks and whites.

I believe that it is time to recognize that we have made a mistake. Busing has not proven to be the answer to the common goal of integration. There have got to be other incentives and ways. It is time to assist schools in their efforts at education, not put roadblocks in their path. Therefore, I support this amendment which limits the Department of Justice's activities in regard to busing.●

(By request of Mr. CRANSTON, the following statement was ordered to be printed in the RECORD:)

● Mr. HART. Mr. President, I support Senator WEICKER's amendment to provide that nothing in this legislation will limit the Department of Justice or the courts of the United States from fully enforcing the Constitution. It is a necessary amendment because the amendment of Senator HELMS would impose an unprecedented prohibition on the Government's ability to enforce our Constitution and civil rights acts.

I oppose the Helms amendment because it would prohibit the Justice Department from bringing any type of action which could result in a judicial order requiring busing.

But busing is not the real issue here. The real issue is whether Congress can prevent the executive branch from carrying out its constitutional duty to enforce the Constitution and the laws of the United States.

For the last two decades the Justice Department has been the most important force for desegregation efforts. Statistics last year showed the Department has been responsible for 544 of the 711 school districts under desegregation orders. Although private litigants can still bring segregation cases, if the Justice Department cannot enter a case which could result in busing, there will in practice be very little prosecution. The constitutional prohibition against segregation will stand, but the means to establish the right, and the remedy, will be gone.●

Mr. THURMOND. I am now ready to yield back our time.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask that it be charged against my time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Connecticut. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BAKER. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from California (Mr. HAYAKAWA), the Senator from Oklahoma (Mr. NICKLES), the Senator from New Hampshire (Mr. RUDMAN), the Senator from New Mexico (Mr. SCHMITT), the Senator from Wyoming (Mr. SIMPSON), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Arkansas (Mr. BUMPERS), the Senator from Arizona (Mr. DECONCINI), the Senator from Colorado (Mr. HART), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Montana (Mr. MELCHER), the Senator from Ohio (Mr. METZENBAUM), the Senator from Arkansas (Mr. PRYOR), the Senator from Tennessee (Mr. SASSER), the Senator from Mississippi (Mr. STENNIS), the Senator from Massachusetts (Mr. TSONGAS), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

On this vote, the Senator from Colorado (Mr. HART) is paired with the Senator from Arizona (Mr. DECONCINI).

If present and voting, the Senator from Colorado would vote "yea" and the Senator from Arizona would note "nay."

On this vote, the Senator from Hawaii (Mr. MATSUNAGA) is paired with the Senator from Tennessee (Mr. SASSER).

If present and voting, the Senator from Hawaii would vote "yea" and the Senator from Tennessee would vote "nay."

Mr. ROBERT C. BYRD (after having voted in the negative). Mr. President, on this vote, I have a live pair with the distinguished Senator from Ohio (Mr. METZENBAUM). If he were present and voting he would vote "aye." I have already voted in the negative. I, therefore, withdraw my vote.

Mr. COHEN (after having voted in the affirmative). Mr. President, on this vote, I have a live pair with the distinguished Senator from Texas (Mr. TOWER). If he were present and voting he would vote "nay." I have already voted "yea." Therefore, I withdraw my vote.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 30, nays 45, as follows:

[Rollcall Vote No. 159 Leg.]

YEAS—30

Baucus	Gorton	Mitchell
Boschwitz	Hatfield	Moynihan
Burdick	Heflin	Packwood
Chafee	Heinz	Pell
Cranston	Inouye	Percy
Dixon	Jackson	Pressler
Dodd	Kennedy	Riegle
Durenberger	Leahy	Sarbanes
Eagleton	Levin	Specter
Glenn	Mathias	Weicker

NAYS—45

Abdnor	East	Long
Andrews	Exon	Lugar
Armstrong	Ford	Mattingly
Baker	Garn	McClure
Bentsen	Goldwater	Murkowski
Biden	Grassley	Nunn
Boren	Hatch	Pro mire
Byrd, Harry F., Jr.	Hawkins	Quayle
	Helms	Randolph
Cannon	Hollings	Roth
Chiles	Humphrey	Symms
D'Amato	Jepsen	Thurmond
Danforth	Johnston	Warner
Denton	Kassebaum	Zorinsky
Dole	Kasten	
Domenici	Laxalt	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Robert C. Byrd, against.
Cohen, for.

NOT VOTING—23

Bradley	Melcher	Stafford
Bumpers	Metzenbaum	Stennis
Cochran	Nickles	Stevens
DeConcini	Pryor	Tower
Hart	Rudman	Tsongas
Hayakawa	Sasser	Wallop
Huddleston	Schmitt	Williams
Matsunaga	Simpson	

So Mr. WEICKER's amendment (No. 70) was rejected.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. McCLURE. I move to lay that motion on the table.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 169

(Subsequently numbered amendment No. 93.)

(Purpose: To forbid the Department of Justice from bringing or maintaining any action to require, directly or indirectly, the mandatory busing of schoolchildren)

Mr. HELMS. Mr. President, I sent to the desk an amendment and ask it be stated, an amendment to the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 169 to amendment numbered 69.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. WEICKER. Mr. President, will the clerk please read the amendment which has just been sent to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

In lieu of the language proposed to be inserted by the amendment of the Senator from North Carolina, insert the following:

minus $37,653,000;

(C) financial assistance to joint State and joint State and local law enforcement agencies engaged in cooperative enforcement efforts with respect to drug related offenses, organized criminal activity and all related support activities, not to exceed $12,576,000, and to remain available until expended: $50,229,100;

(D) No part of any sum authorized to be appropriated by this Act shall be used by the Department of Justice to bring or maintain any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HEINZ). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, might I have the attention of the distinguished Senator from North Carolina, the author of the pending amendment, the Senator from Connecticut, who is on the floor, and other Senators, as well?

Mr. President, could we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, it seems unlikely to me, after consulting with several Senators, that we are going to be able to complete consideration of the Department of Justice authorization bill. Indeed, it seems unlikely that we are going to be able to dispose of this next amendment in the time that remains to us this afternoon. As a result, it is almost certain that we will be on this bill when the Senate reconvenes on Monday.

I understand that certain Senators might wish to have their amendments pending this afternoon for the balance of the time remaining to the Senate and on Monday morning when we return, if necessary. In order to provide a schedule of activities for the Senate that appears to accommodate the convenience of most Senators and to assure us of the most progress on this measure, I would like to propose this unanimous-consent request:

UNANIMOUS-CONSENT AGREEMENT

SENATE TO CONVENE AT 11 A.M. MONDAY

Mr. President, I ask unanimous consent that if and when the Senator from North Carolina withdraws his amendment, the Senator from Louisiana be recognized then to offer an amendment and that debate continue on that amendment until no later than 2 p.m. today, at which time the Senate would stand in recess until the hour of 11 o'clock a.m. on Monday next; that on Monday at 11 o'clock, after the recognition of the two leaders under the standing order and the recognition of any Senators under special orders which may be entered, there be a brief period for the transaction of routine morning business of not more than 30 minutes in length in which Senators may speak for not more than 5 minutes each; and that at the end of the period for the transaction of routine morning business on Monday, the Senate resume consideration of the pending amendment, which would be the Johnston amendment.

Mr. President, that is my request.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, might I just request of the majority leader, in view of the fact that we are confronted with the possibility of a traffic controllers strike and we may have difficulty getting back in here, that the consideration of the proposed Johnston amendment might not commence before 1 o'clock.

Mr. BAKER. Mr. President, I would be reluctant to do that. I do not think, as a practical matter, that we are going to have any votes much before that time. We have no time agreement except for what I have just provided as time for debate on the Johnston amendment this afternoon. There will be no time agreements on Monday.

But given the present state of affairs, let us see if this would suffice. I recognize the problem identified by the Senator from Connecticut and I will do my best to accommodate the schedule of every Senator, especially the disrupted schedule of Senators if that should occur. But I would not want to enter an order that it would be at 1 o'clock.

ORDER FOR RECOGNITION OF SENATOR ROBERT C. BYRD AND SENATOR BAKER ON MONDAY

Mr. President, before the order is granted, I ask unanimous consent that on Monday next there be a special order in favor of the distinguished Senator from West Virginia, not to exceed 15 minutes, and the senior Senator from Tennessee not to exceed 15 minutes.

The PRESIDING OFFICER. Does the Senator wish that incorporated in the unanimous-consent request?

Mr. BAKER. Yes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, I thank the Chair. I thank the Senator from Connecticut, the Senator from North Carolina, and the Senator from Louisiana.

Mr. President, pursuant to that order, I suppose the next question is whether or not the Senator from North Carolina intends to withdraw his amendment.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VITIATION OF ORDER FOR THE RECOGNITION OF SENATOR JOHNSTON

Mr. BAKER. Mr. President, I ask unanimous consent that the order entered previously with respect to the recognition of the Senator from Louisiana (Mr. JOHNSTON) in the event that the amendment offered by the Senator from North Carolina was withdrawn, and all the other aspects of that order, be vitiated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, I might say the reason for that is that I find that the arrangements that appeared to have been worked out for the Senator from Louisiana to offer an amendment instead of the amendment offered by the Senator from North Carolina did not materialize. Since the remainder of that order had been predicated upon a time agreement for the remainder of this day for debate on the Johnston amendment that will not be offered, I find it necessary to revise that request which I do in the following manner.

ORDERS FOR MONDAY

ORDER FOR RECESS OF THE SENATE UNTIL 11 A.M., MONDAY, JUNE 22, 1981

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11 a.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR ROBERT C. BYRD AND SENATOR BAKER

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order there be a special order for the recognition of the Senator from West Virginia (Mr. ROBERT C. BYRD) for not to exceed 15 minutes and the senior Senator from Tennessee (Mr. BAKER) for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY, JUNE 22, 1981

Mr. BAKER. Mr. President, I ask unanimous consent that on Monday, after the execution of the time for Senators under the standing order and the special orders, there be a period for the transaction of routine morning business not to exceed 30 minutes in length in which Senators may speak for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE SENATE TO RESUME CONSIDERATION OF S. 951, DEPARTMENT OF JUSTICE AUTHORIZATIONS, 1981, ON MONDAY, JUNE 22, 1981

Mr. BAKER. Mr. President, I ask unanimous consent, then, that at the close of morning business the Senate resume consideration of the pending measure at which time the second Helms amendment just offered will be the pending amendment and that the Senator from North Carolina be recognized for the purpose of continuing that debate.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I have no objection, I simply wish Senators to be alert to the last request that, namely, Mr. HELMS be recognized when the Senate resumes consideration of the Helms amendment.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. Does the Senator reserve the right to object?

Mr. JOHNSTON. Mr. President, reserving the right to object, I very much wish to be recognized to call up my amendment, but I recognize that I would probably not be recognized anyway, and I hope this matter can be worked out over the weekend so that we will know where we are going. So I shall not object.

Mr. BAKER. Mr. President, let me say, if I may, that I can assure the Senator from Louisiana that if he is the first Senator seeking recognition this Senator will urge the Chair, indeed, to the extent that I may do so insist that the Chair recognize whatever Senator first seeks that recognition on whichever side of the aisle he may be located, for nothing is more fundamental to the procedure of the Senate than equality of that opportunity and other opportunities that are jealously guarded by the rules.

When we were in the minority that right was always and unfailingly protected by the then majority, and I can

promise the Senator from Louisiana that I will protect that right on behalf of the present minority.

Mr. ROBERT C. BYRD. I have no objection. I applaud the distinguished majority leader for the position he has taken.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. JOHNSTON. Mr. President, reserving the right to objection, this is only for the purpose of telling the distinguished majority leader that he is entirely correct. He has been scrupulously fair in carrying out the rules and the spirit of the Rules of the Senate, and I meant the Senator no implication to the contrary.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, it is 5 minutes before 2 p.m., and it is my intention to shortly ask the Senate to go into recess. I see no purpose to be served by continuing this debate today.

HELMS AMENDMENT NO. 96

Mr. President, therefore, if there is no further need to debate the Helms amendment at this time, I ask unanimous consent that there now be a period for the transaction of routine morning business not to exceed 15 minutes in which Senators may speak.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

Mr. WEICKER. Mr. President, reserving the right to object, I did not understand in the initial request or the initial proposal of the amendment by the Senator from North Carolina whether he had asked for the yeas and nays on his amendment. This might be a suitable time to do that.

Mr. HELMS. The yeas and nays have not been requested I say to my friend, and I hope that they will not be requested so we can leave viable the possibility of working out something with the Senator from Louisiana. Of course, that is a determination to be made by each Senator.

Mr. WEICKER. I sat here patiently, while indeed I had no objection to the Senator calling up his amendment and was glad to hear about it and tried to accommodate him and the Senator from Louisiana had his amendment, and we had a meeting of minds that resulted in the determination, maybe, that the amendment of the Senator from North Carolina is superior to that of the Senator from Louisiana.

Things are rather fluid. They are rather fluid out there, and I am just one of those fellows who wishes to have his sights on something. I have a feeling that this is getting a little too fluid.

On the other hand, as I said, I was amenable to having a discussion here. I do not want to interfere with something.

Mr. HELMS. Mr. President, if the Senator will yield, the amendment that the Senator from Louisiana (Mr. JOHNSTON) wishes to propose is not a substitute. It is a second-degree amendment.

Mr. WEICKER. I understand that.

Mr. HELMS. But the Senator used the word "substitute."

Mr. WEICKER. I agree with the Senator on that.

Clearly, whether it is the amendment of the Senator from North Carolina or the amendment of the Senator from Louisiana, it then makes what is referred to as the Helms amendment unamendable. That is what we are referring to.

Mr. HELMS. Of course.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

Mr. WEICKER. Mr. President, I wonder if the majority will suspend for 30 seconds while I consult with my staff on this. This is new matter to me.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, let me say before we do discontinue this conversation that this request now pending is that there be a period for the transaction of routine morning business.

Mr. WEICKER. I have no objection to that.

Mr. BAKER. Mr. President, I restate that request at this time.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

The Chair hears none. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I thank the Chair for its action and for the deliberate manner in which it executed that action.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, there are a number of matters that may be disposed of which are housekeeping measures.

ORDER FOR SENATE OFFICIALS TO TAKE CERTAIN ACTION DURING THE RECESS

Mr. BAKER. Mr. President, I ask unanimous consent during the recess of the Senate over until Monday, June 22, that messages from the President of the United States and the House of Representatives may be received by the Secretary of the Senate and appropriately referred, and that the Vice President, the President pro tempore and the Acting President pro tempore be permitted to sign duly-enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECORD TO REMAIN OPEN UNTIL 5 P.M. TODAY

Mr. BAKER. Mr. President, I ask unanimous consent that the RECORD remain open until 5 p.m. today for the introduction of bills, resolutions, statements, petitions, and memorials.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT COMMITTEES HAVE UNTIL 5 P.M. TODAY TO FILE REPORTS

Mr. BAKER. Mr. President, I ask unanimous consent that all committees have until 5 p.m. this day to file reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF CERTAIN SENATORS ON TUESDAY, JUNE 23, 1981

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order of Tuesday, June 23, the following Senators be recognized for not more than 15 minutes each: Senators BOREN, BENTSEN, ROBERT C. BYRD, CRANSTON, CHILES, SASSER, MELCHER, PRYOR, BAKER, and STEVENS.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS ON WEDNESDAY, JUNE 24, 1981

Mr. BAKER. Mr. President, I ask unanimous consent that on Wednesday, June 24, after the recognition of the two leaders under the standing order, the following Senators be recognized for not to exceed 15 minutes: Senators BOREN, PROXMIRE, EXON, JACKSON, MITCHELL, RANDOLPH, METZENBAUM, DECONCINI, BAKER, and STEVENS.

The PRESIDING OFFICER. Without objection, it is so ordered.

HIGH INTEREST RATES

Mr. BOREN. Mr. President, again I want to take the floor today, as I have done on the past 3 days, to call the attention of my colleagues to the serious problem which exists in our country and the immediate threat posed to the health of key segments of our economy caused by the effect of high interest rates.

As I have indicated, I intend to speak each day until the administration and those responsible for making policy in this area come forward with a program to deal with what will become a serious and grave crisis in this country if we continue to put off action to head it off.

I am very pleased that my colleague, the Senator from Kentucky (Mr. FORD), announced today he would join me in this daily series of remarks on this subject on the Senate floor. It is my hope that other Members of the Senate, who feel as we do that a great crisis threatens if action is not forthcoming by the administration, will also join us in this effort to awaken the entire country to the problem posed in the short run by the effect of high interest rates in critical areas.

Mr. President, we cannot afford to close our eyes to the signs of the mounting danger. The signs are all around us. The withdrawal of depository reserves in the Nation's thrift institutions amounted to $28 billion in 1980, and have continued at

the same pace in the first quarter of 1981.

The second quarter figures will soon be out, and I expect them to be every bit as alarming as those which have preceded them.

This constitutes the greatest reduction of monetary reserves in the history of the United States.

High interest rates also have deprived all but a tiny percentage of the people of this Nation of an opportunity to buy a home or to conduct personal and business financial planning.

For example, the increase of mortgage interest rates from 9 to 14 percent in the last 5 years adds nearly a quarter of a million dollars on a $60,000 house with a 30-year mortgage—a quarter of a million dollars onto the cost.

Mr. President, I will not take much more time but I again point out to my colleagues that current interest rates have produced one of the deepest housing and industrial collapses since the 1930's. Homebuilders are experiencing the highest rate of bankruptcy in 45 years.

As I have already indicated, thrift institutions are suffering gigantic profit losses, and unemployment in the construction industry is now twice the national average.

How long will this go on. Mr. President, before all of us in this Congress and in the administration unite to take action?

I again urge the President, the Secretary of the Treasury, and the key economic advisers of the administration to take note of this emergent crisis and to take action before it is too late.

I yield the floor.

EXTENSION OF COMPLIANCE DATES FOR STEELMAKING FACILITIES

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3520.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

H.R. 3530

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 3520) entitled "An Act to amend the Clean Air Act to provide compliance date extensions for steelmaking facilities on a case-by-case basis to facilitate modernization", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Dingell, Mr. Waxman, Mr. Scheuer, Mr. Luken, Mr. Walgren, Mr. Broyhill, Mr. Madigan, and Mr. Brown of Ohio be the managers of the conference on the part of the House.

Mr. BAKER. Mr. President, I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. STAFFORD, Mr. DOMENICI, Mr. CHAFEE, Mr. RANDOLPH, and Mr. MITCHELL conferees on the part of the Senate.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. RANDOLPH. Ordinarily when conferees are appointed it is not a matter of comment by Senators in the Chamber. But this conference, which will attempt to cope with the problems of a steel industry that is in dire need of the opportunity to adjust itself and to not face the extreme costs of some $800 million within a bracket of time, is one where it is very important that the Senate conferees and the House conferees come to grips as quickly as possible with the differences in the bills.

The bills do not have differences, as I see it, that cannot be brought into a consensus. I am sure that the able Senator from Pennsylvania, as well as the 47 Members of the Senate steel caucus, who are very knowledgeable on the problems of the steel industry, will agree that this is a highly important matter. That is the reason I take the time to say that there are conferences that go on and on. This conference, as I see it, must come to a very quick decision. I think there is no problem in doing that, but I just say for the RECORD that this industry needs that which will come to it from the passage of this legislation in its final form.

The PRESIDING OFFICER (Mr. ABDNOR). The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, will the Senator yield? I would like to associate myself with the comments of my good friend and colleague, the senior Senator from West Virginia. I also want to thank him and the chairman of the committee, Senator STAFFORD, for the very thoughtful, considerate but, nonetheless, expeditious way in which the Environment and Public Works Committee has handled this legislation.

The Senator from West Virginia is entirely correct in saying that the passage of this legislation is of a very urgent and timely nature. The fact of the matter is that there are differences between the House and Senate bills. In this Senator's judgment they are not major differences, they are not insuperable differences by any means, and with good fortune and good will on both sides we should be able to resolve those differences quickly and fairly to all sides.

It would be this Senator's hope, as expressed by the Senator from West Virginia, that we might indeed see progress and, hopefully, things can move along with such rapidity that we might even get a conference report before we go out for the July 4 recess. That would be extremely helpful.

Mr. RANDOLPH. We must do that. I say this with the majority and minority leaders on the floor at this time, both of whom are knowledgeable in the field of which we speak.

They are members of the Senate steel caucus and they know the facts. It is a situation which calls for action within the Senate which, in no wise, would tear down any legislation that is on the books. It was agreed to through the labor unions, through the environmentalists, through the operating companies, and carefully considered within our committee, as you know, as well as on the other side of the aisle. The very able chairman of our Committee on Environment and Public Works, Senator STAFFORD, has been instrumental in moving this legislation forward. His knowledge of environmental matters and his cooperation have enabled us to bring this measure to within one step of becoming law.

This legislation is necessary for a strengthened steel industry so vital to America.

Mr. HEINZ. Mr. President, if the Senator will yield further, I think the Senator is entirely correct.

I will not detain the Senate longer, except to say that the consequences of not passing this bill and getting it to the President just as quickly as possible could be extremely severe. We are talking about an extension of the deadline that is not very far away. Without the extension of that deadline, the fact is that the steel industry will be without the capital to modernize and become more competitive. And, subject as we are to increasing international competition, it becomes a matter of absolute survival of the steel industry as we know it today to get rapid action on this. Otherwise, even if the Senate and the House should agree and extend this deadline some date into the future, it would not do any good. The time for action is now.

I concur with everything the Senator from West Virginia has said.

Let me just say, on a personal note, that I just greatly appreciate everything the Senator from West Virginia has done to move this bill ahead. He has been in the forefront of the negotiations that took place last year between the Carter administration and the steel workers, the environmentalists, and the industry. I think it is fair to say, Mr. President, that without his able guidance and support and his able chairmanship of the steel caucus and his tremendous continuing interest in this matter, we would not be at the happy point today that we could be having this colloquy.

Mr. RANDOLPH. Mr. President, I think it is important for me to say that I am interested in the cooperative effort of the Senate on a matter of this kind. The work that has been done has not been done in the spirit of a section of the country. But with this industry facing up to an expenditure of $800 million if action is not taken now, that would not be in the best interest of the steel industry which, frankly, could not do the job in that time frame and at the same time carry out needed modernization. It would not be in the best interest of the United States.

And in a spirit of comity, but more in a spirit of unity and the desire to serve through this body and the other body, the best interest of the economy of America, I hope we will act and act quickly.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, could I inquire of the distinguished minority

leader if he might be in a position on his side to consider further nominations on today's executive calendar? I would invite his attention to the following nominees: Calendar Order No. 218, Thomas O. Enders, who I believe he indicated was cleared on his calendar this morning and has just been cleared on our side; all of the nominations appearing on page 3 under new reports, and on page 4 under U.S. Army, and all of the nominations placed on the Secretary's desk in the Air Force and Navy.

Mr. ROBERT C. BYRD. Mr. President, the nominations referred to by the distinguished majority leader have been cleared with the minority and is ready to proceed.

Mr. BAKER. I thank the minority leader.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of considering those nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF STATE

The assistant legislative clerk read the nomination of Thomas O. Enders, of Connecticut, to be an Assistant Secretary.

FEDERAL MARITIME COMMISSION

The assistant legislative clerk read the nomination of Alan Green, Jr., of Oregon, to be a Federal Maritime Commissioner.

DEPARTMENT OF THE INTERIOR

The assistant legislative clerk read the nomination of Daniel N. Miller, Jr., of Wyoming, to be an Assistant Secretary.

Mr. McCLURE. Mr. President, on June 18, the Committee on Energy and Natural Resources favorably reported the nomination of Daniel N. Miller, Jr. to be Assistant Secretary of the Interior for Energy and Minerals. The vote was 20 to 0. The committee's vote followed a nomination hearing held on June 16.

I am pleased to note, Mr. President, that Dr. Miller is very well qualified to be Assistant Secretary of the Interior for Energy and Minerals. He has been educated and trained as a petroleum geologist. Since 1969 he has served as the State geologist of Wyoming. In that capacity, he was also director of the Wyoming Geological Survey and a commissioner on the Wyoming Oil and Gas Conservation Commission. From 1963 to 1969 Dr. Miller was a professor of geology and chairman of the department of geology at Southern Illinois University. He also has 10 years of experience in the petroleum industry as a geological consultant and a senior exploration geologist.

Dr. Miller's educational background is particularly well suited to the position he will hold. He holds B.S. and M.S. degrees from the Missouri School of Mines and Metallurgy, and a Ph. D. degree with a major in geology from the University of Texas.

In his testimony before the committee, Dr. Miller expressed a realistic view of the challenges he will face when he assumes his new duties. He stated:

I have no simplistic solutions with regard to our national energy and mineral strategy, and I have no misconceptions about the complexities of the problems involved. But, as Assistant Secretary for Energy and Minerals, I can assure you that I will pursue this subject with vigor to make certain that Government is not the problem.

Dr. Miller also referred to several basic policy objectives that he regards as positive steps that can lead to a sound fuel and minerals policy. He told the committee:

In the short time I have been associated with the Department of the Interior, I have had an opportunity to see a few of the programs that relate to changes in regulatory reform, land management policies, and accelerated leasing schedules. In my view, these programs and a series of bills expected to be introduced during the 97th Congress are the first positive steps that the Nation has taken in years that directly address the energy and minerals issues before us. They can lead to a better understanding of our overall national resource position, and, from there, hopefully to a strong but flexible fuel and minerals strategy that will sustain a growing economy. I concur with these objectives, and the programs to implement them will receive my complete support.

Mr. President, on behalf of the Committee on Energy and Natural Resources, I am very pleased to recommend Senate approval of the Presidential nomination of Daniel N. Miller for the position of Assistant Secretary of the Interior for Energy and Minerals.

DEPARTMENT OF ENERGY

The assistant legislative clerk read the nomination of Shelby Templeton Brewer, of Maryland, to be an Assistant Secretary; and J. Erich Evered, of Nevada, to be Administrator of the Energy Information Administration.

NOMINATION OF SHELBY T. BREWER TO BE AN ASSISTANT SECRETARY

Mr. McCLURE. Mr. President, the nomination of Shelby T. Brewer to be Assistant Secretary of Energy for Nuclear Energy was favorably reported on June 18 by the Committee on Energy and Natural Resources. The vote was 20 to 0. Dr. Brewer's nomination hearing was held on June 16. He has fully complied with the committee's rules requiring submittal of a detailed information statement, and I am prepared to recommend Dr. Brewer's confirmation.

Dr. Brewer most recently has served as Director, Office of Plans and Evaluation, Office of Nuclear Energy in the Department of Energy. In this capacity, he has been responsible for strategic, implementation, and fiscal planning for nuclear fission energy programs in DOE. Before the creation of DOE in October 1977, Dr. Brewer served as chief of program planning and assessment in the liquid metal fast breeder reactor program in the former Energy Research and Development Administration. From 1971 to 1975, Dr. Brewer was a manager in U.S. civilian nuclear power programs in the Atomic Energy Commission. He was a consulting engineer at Stone & Webster, responsible for reactor containment design, from 1968 through 1971.

From 1964 through 1968, Dr. Brewer held a number of positions on the staff at the Massachusetts Institute of Technology, including director and chief project engineer for the organic reactor project, and research associate for the fast reactor test facility.

From 1960 through 1964, Dr. Brewer served as an officer in the U.S. Navy. For two of these years he was in charge of a division aboard the aircraft carrier U.S.S. *Randolph*. From 1962 to 1964, he served as director of the Departments of Nuclear Reactor Physics and Nuclear Reactor Engineering at the U.S. Naval Nuclear Power Staff in New London, Conn.

Dr. Brewer received his B.A. degree in humanities from Columbia University in 1959 and his B.S. degree in mechanical engineering from the same institution in 1960. He received his M.S. and Ph. D. degrees in nuclear engineering from the Massachusetts Institute of Technology in 1966 and 1970, respectively. Dr. Brewer is a member of the American Nuclear Society, Sigma XI, and the American Association for the Advancement of Science. He is the author of numerous papers and articles in the fields of fission reactor physics and engineering, strategic energy planning, and management control.

It is evident from Dr. Brewer's professional background that he has both technical expertise and substantial management experience. He is highly qualified for the position of Assistant Secretary for Nuclear Energy.

Dr. Brewer will be responsible for the planning and implementation of DOE programs for civilian nuclear reactor research and development. He will also plan and manage the naval reactor development program. In addition, the Office of the Assistant Secretary recently has been given new responsibilities. When the DOE was reorganized earlier this year, the Office of Uranium Resources and Enrichment was transferred to the Assistant Secretary for Nuclear Energy.

The responsibilities of the Assistant Secretary are obviously very demanding and very challenging. I am confident, Mr. President, that Dr. Brewer has the background and the ability to carry out those responsibilities with the degree of vigor and considered judgment that they demand.

During his testimony before the committee, Dr. Brewer expressed his views about the appropriate role of the Federal Government in the continuing development of our commercial nuclear power industry. He also outlined the priorities that industry and the Federal Government should establish in undertaking the necessary development activities. Dr. Brewer stated:

Our priority goal must be to stabilize nuclear policy for periods of time commensurate with the long leadtimes characteristic

of nuclear technology. The U.S. Government role should be to create and sustain a policy environment in which long term objectives beneficial to the Nation can be achieved by the native genius in the private sector, which in turn must be a partner in defining and achieving these objectives. Nuclear power development should not be regarded indefinitely as the ward—the responsibility—of the Federal Government. The Federal Government should be a reliable partner, but not an indulging or nagging parent.

Where a Government role in research and development is necessary—as in long term, high risk, high national benefit programs beyond the normal planning horizon of the private sector—it should be conducted in accordance with the doctrine of "management by objective." That means that we should know where we want to go and when we want to get there before we set out on the journey. It means that all costs and effort charged to that objective must be relevant to that objective. It means that Federal programs and projects should be conducted by planning, budgeting, and management linked to well-defined national objectives, rather than bottoms-up service to a plethora of interesting, but sometimes peripheral research and development activities.

I suggest, then, that industry and the Federal Government focus sharply on a few large national objectives rather than a host of small disaggregated efforts which do not add up to a national mission. In my view, there are five overriding priorities:

1. to remove institutional and regulatory impediments constraining the continued deployment of the light water reactor;

2. to proceed deliberately and swiftly to fulfill the Federal Government's responsibility to safely dispose of high level wastes;

3. to stabilize Government policy concerning reprocessing of light water reactor spent fuel and to attract renewed commercial interest in this technology;

4. to proceed to scale up breeder technology to unit sizes of commercial applicability; and

5. to restore U.S. credibility and strength in international nuclear commerce.

Mr. President, on behalf of the Committee on Energy and Natural Resources, I am very pleased to recommend Senate approval of the Presidential nomination of Shelby T. Brewer for the position of Assistant Secretary of Energy for Nuclear Energy.

NOMINATION OF J. ERICH EVERED TO BE ADMINISTRATOR OF THE ENERGY INFORMATION ADMINISTRATION

Mr. McCLURE. Mr. President, on June 18 the nomination of J. Erich Evered to be Administrator of the Energy Information Administration of the Department of Energy was favorably reported by the Committee on Energy and Natural Resources. The vote was unanimous, 20 to 0. The committee's vote followed a nomination hearing held on June 16.

As Administrator of the Energy Information Administration of the Department of Energy, Mr. Evered would be responsible for the collection, analysis and publication of a broad variety of energy-related data for use within DOE, other executive departments and the Congress, and for use by the public. Included in the information collected by the EIA is data on reserves, production, demand and consumption of various forms of energy. The EIA obviously plays a vital role in the formulation of national energy policies.

Mr. Evered has extensive experience in the areas of energy resources technology and management, and he also has congressional experience. He is a petroleum engineer and geologist, having earned a combined degree in geological engineering from the University of Oklahoma in 1974. The degree program included training and field work related to coal, oil shale, uranium and other energy sources in addition to a concentration in oil and gas exploration and production technology. Since graduation he has worked for both a major oil company and an independent oil company. His responsibilities ranged from oil and gas reserve calculations to the design and supervision of drilling and well completions.

In 1976 Mr. Evered joined the Washington staff of the late Senator Dewey F. Bartlett of Oklahoma for the duration of the 95th Congress as his energy advisor and legislative assistant. In that role he analyzed and advised Senator Bartlett on the significant energy legislation being dealt with at that time. The legislation included the Natural Gas Policy Act, the Fuel Use Act, the Department of Energy Organization Act, the OCS Lands Act Amendments, and the Surface Mining Control and Reclamation Act. I note, Mr. President, that Mr. Evered had the opportunity to work closely with many members and staff of the Comimttee on Energy and Natural Resources, since Senator Bartlett was a committee member.

Upon Senator Bartlett's retirement, Mr. Evered left Washington to join CER Corp., an energy resource consulting and project management company based in Las Vegas, Nev. Directing the geologic and engineering staffs at CER, he managed projects involving oil and gas reserves and property evaluation, as well as research into technologies for development of tight sands gas resources.

Mr. Evered's background in the energy industry obviously will have substantial value as he carries out his duties as Administrator of the EIA. As he told the committee:

One of the most important attributes I will bring to the Energy Information Administration is a broad-based understanding of the energy industry. My positions have required an ability to develop and synthesize relevant and timely energy information in order to make political and corporate decisions—separate but similar decisionmaking processes. Having worked for a Senator during what many refer to as the "Energy Policy Congress," I have a clear understanding of the significant issues and believe that I can provide new insights to guide the analytical staff of EIA.

Mr. President, Mr. Evered has fully complied with the committee's requirement regarding submittal of a financial disclosure report and a detailed information statement. On behalf of the Committee on Energy and Natural Resources, I am pleased to recommend Senate approval of the Presidential nomination of J. Erich Evered for the position of administrator of the Energy Information Administration of the Department of Energy.

IN THE U.S. AIR FORCE

Lt. Gen. Bryce Poe II, U.S. Air Force to be general.

Lt. Gen. James P. Mullins, to be general.

IN THE ARMY

Maj. Gen. Sinclair Lewis Melner, to be lieutenant general.

Maj. Gen. Nathaniel Ross Thompson, Jr., to be lieutenant general.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE AND NAVY

The assistant legislative clerk read sundry nominations placed on the Secretary's desk in the Air Force and the Navy.

Mr. BAKER. Mr. President, I ask unanimous consent that the nominations just identified be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I understand that the distinguished chairman of the Environment and Public Works Committee is on his way to the floor to discuss a matter in morning business. I, therefore, suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMEMORATING THE 45TH YEAR OF THE RANDOLPH-SHEPPARD ACT

Mr. STAFFORD. Mr. President, JENNINGS RANDOLPH, one of the ablest Senators that I have ever been associated with in this body, was a Member of the U.S. House of Representatives some 45 years ago tomorrow, the 20th.

At that time, a very important bill was signed into law known as the Randolph-Sheppard Act, which principally established an opportunity for people who were handicapped in their eyesight to have business establishments, in effect, in the Federal buildings of this country.

Mr. President, June 20 marks the 45th anniversary of the signing of the Randolph-Sheppard Act by President Frank-

lin Delano Roosevelt. This act requires that priority be given to blind individuals in the operation of vending facilities in Federal buildings and on Federal properties. The law is a tribute to the efforts of my friend and colleague, Senator JENNINGS RANDOLPH of West Virginia, to provide economic opportunities to the blind citizens of this country. Throughout his long career in the Congress, JENNINGS RANDOLPH has worked to improve the lives of blind Americans.

JENNINGS RANDOLPH has always recognized that blind individuals have the same hopes and goals as sighted people. Blind citizens want to work and to contribute to their community. It is this recognition that has guided him throughout his legislative career and has prompted him to labor for legislative solutions to the challenges that face blind Americans.

Realizing that something needed to be done to provide blind persons with an opportunity to become a part of the American marketplace, on January 24, 1935, the then Representative RANDOLPH introduced H.R. 4688, the original blind vendor bill. The measure authorized the operation of vending stands in Federal buildings and was the first national placement program for blind individuals. He worked with the late Senator Morris Sheppard of Texas to assure that this legislation would become law.

On June 20, 1936, the bill was signed into law (Public Law 74–732) by President Franklin Roosevelt. In 1974, the West Virginian successfully guided passage of amendments designed to further clarify the priority to be given to the blind vendor, to establish guidelines for the operation of programs, to include provision regarding the sharing of vending machine income with the blind vendor, and to establish guidelines for the uniformity of treatment of blind vendors by all Federal departments and agencies.

This law today serves as a cornerstone in the rehabilitation programs for our blind citizens. Thousands of blind Americans have earned their livelihoods by operating facilities. In 1979, there were 3,960 Randolph-Sheppard operators. Gross sales for the program were $224,300,000, and the average vendor income was $13,400. This law assists blind individuals in becoming self-supporting, taxpaying citizens. It also provides a vital role in demonstrating to the public that blind persons are capable and productive workers. The Randolph-Sheppard Act has served to open the doors of both Government and industry to men and women with other handicaps.

For 45 years this program has served our country and its blind citizens well. Blind vendors return in taxes and economic activity far more than the initial small investment required to establish their business operation. The blind individual has the opportunity to contribute to not only his economic well being, but also that of the country.

As a former chairman of the Subcommittee on the Handicapped and now as ranking minority member of the subcommittee, JENNINGS RANDOLPH has continued his efforts on behalf of blind Americans. His belief in the capability of the individual, whether or not a disability is present, led him to work for the enactment of the Randolph-Sheppard Act, and this belief will continue to guide his actions on behalf of the handicapped in the future.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

"LUCKLESS STRANGER" OR "AMERICAN HERO"

Mr. MATHIAS. Mr. President, a few days ago I received a letter from Mr. James D. Robb of Centreville, Va., which was cosigned by 80 Maryland and Virginia friends and coworkers of Gilbert Layton, who was killed in an automobile accident May 22 near Bowie, Md. I bring this to the attention of the Senate for several reasons, but principally to note that Gilbert C. Layton, 51, of Crofton, Md., was a printer and photocompositor at the Government Printing Office, whose work included preparing and printing the CONGRESSIONAL RECORD.

Mr. Robb's letter, in addition to noting that Gilbert Layton, helped to publish the daily Journal of the Congress of the United States, expresses anguish and outrage over a feature article in the Washington Post of June 6, 1981, about the driver of the automobile which crashed head-on into Mr. Layton's car killing both drivers instantly. The Post story describes Mr. Layton only as "a luckless stranger" whose car happened to be on the wrong road at the wrong time.

In a letter to the editor of the Post, Mr. Robb and the friends and neighbors of Gil Layton, express their views on Chip Brown's story. It is not my intention to criticize Mr. Brown or the Post, but I think it is only just and right that Gil Layton not go to his grave unremembered. Because the CONGRESSIONAL RECORD was in effect Gil Layton's own newspaper, I would like to insert excerpts of Mr. Robb's letter in the RECORD at this point:

> Gil epitomized what President Reagan referred to when he referred to American heroes in his inaugural address. He was the type of hard working family man. He married his high school sweetheart. He learned his trade as a printer in a small weekly newspaper in his home state of New Jersey. He served his country, serving in the Korean Conflict. He was honorably discharged, reaching the rank of Tech Sergeant. He came to Washington seven years ago when he got an appointment at the Government Printing Office as a linotype operator. He moved over to the photocomposition division when the GPO converted most of its composition to computerized typesetting.
>
> I don't ever recall Gil losing his temper although I am sure that he must have. His quiet manner made him one of the most likable people one would ever want to meet. I honestly know of no one who disliked him.
>
> I am thankful that I had the privilege of knowing and working with him and his memory will always be with me.
>
> This is the man that should be on America's front pages.

ASSEMBLY OF THE NORTH ATLANTIC TREATY ORGANIZATION

Mr. MATHIAS. Mr. President, it was my great privilege to be a member of the delegation from the U.S. Senate which recently attended the Assembly of the North Atlantic Treaty Organization.

The Assembly, as Senators know, is a representative group of legislators from all of the partners in the NATO alliance who come together periodically to discuss the problems of the alliance from the perspective of the various parliamentary bodies within the NATO community.

This year the Assembly was held in Italy. It had an unusually large attendance, and I believe that the large attendance was the result of some concerns that were felt by the alliance partners.

There are times when the NATO meetings are imbued with a sense of confidence, with a sense of security, which results from our joint efforts, but this meeting was of particular importance because it touched upon some of the problems and insecurities of the alliance that have not yet been solved.

Mr. President, the alliance, of course, faces, with the rest of the world, the unprecedented challenges of our time. The global population, which is already at a historic high level, is still soaring and will continue to grow, perhaps by as much as 50 percent before the end of the century.

The natural resources of this planet are being exhausted.

Nuclear weapons are proliferating.

These are the common problems of mankind.

Within the NATO alliance we have some special difficulties. There is a gap in the perception of our intramural problems between those NATO partners who are located east of the Atlantic Ocean and those of us who are located west of the Atlantic Ocean.

For that reason, I believe that this year's NATO assembly was of special significance because it laid upon the table this difference of perception. Note, Mr. President, that I do not say difference of opinion, I say difference of perception. because I think that is, in large part, what is at stake. These issues are now visible for the partners to see, to examine, to further discuss and, most importantly, to resolve.

They lie, I think, particularly in two areas. One is the feeling among Europeans that the United States does not understand sufficiently the political necessity in Europe of an ongoing effort in the area of arms control. On the other hand, among Americans, there is the feeling that our friends in Europe have too little appreciation of the special economic problems that are plaguing the United States at this time.

These issues have been discussed in a very comprehensive and objective way in an editorial that appeared in The Economist on June 6, 1981. The Economist has

set forth the arguments with precision, and I believe that the editorial would be of great assistance to Senators as they contemplate the decisions that we must make this summer in connection with national defense and with the provision for the NATO alliance. We should all be aware of the arguments that the editors of The Economist have made.

Mr. President, I ask unanimous consent that the editorial from The Economist may be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DID YOU SAY ALLIES?

The relationship between western Europe and North America, alias the Atlantic alliance, is in the early stages of what could be a terminal illness. The alliance has been in trouble plenty of times before, but this time is the worst yet. Guess who says this about Europe:

"Yes, there is a danger of neutralism. It is the result of a desire to let go, of an immense weariness. That makes me despair."

No, not a right-wing American, but the new Socialist foreign minister of France. Mr. Cheysson was talking mainly about the British, but what he said applies to many other Europeans too. And the Americans should not think it is all the fault of the feeble Europeans. Seven months ago they dismissed their own ineffectual President Carter, but that has not solved their part of the problem. The new Reagan administration has started to rearm America, which is essential; but it has not yet produced a policy which will rally the alliance around a rearmed America.

Like most illnesses, what has gone wrong with the western alliance is the result of an underlying condition, an immediate cause, and an over-hasty diagnosis.

The underlying condition is (a) the fact that the growing strength of western Europe s economies in the 1960s and early 1970s never managed to embarrass the Europeans into taking a suitably larger share of the burden of the west's defences off the shoulders of the relatively declining American economy, so that (b), when everybody's economies ran into trouble in the later 1970s, the Europeans were so accustomed to low defence spending that they were desperately reluctant to buy more defence at the cost of less welfare. Their tongues talked of independence from America; their purses preferred continued dependence. The Europeans' faltering 1977 promise to raise defence spending by 3 percent a year was not enough to remove this valid cause of American complaint.

This underlying condition has now been inflamed by the immediate cause of the present problem. The two parts of the alliance have reacted in sharply different ways to the belated discovery that Russia has been piling up its own military strength for the past 15 years, and is willing to use it. The Americans, being the people they still are, have responded with a rearmament programme and a fuzzy cloud of anti-Soviet rhetoric. The Europeans, being the people circumstances have made them, have tended to mutter that the Soviet build-up may not mean what the Americans think it means or, if it does, that the Americans will have to cope with it. The result, in the Gulf and in the nuclear protection of Europe, is that Europe's economically unjustified military dependence on America is growing even more lopsided.

PUSHING EACH OTHER APART

Enter the over-hasty diagnoses. The conclusion hot-heated right-wing Americans draw from all this (including some people in the Reagan administration) is that Europe is defecting from the alliance. That is, at worst, an exaggeration. Mr. Cheysson is right, the ingredients of neutralism are there: a weary reluctance to make hard choices, a flinching away from nuclear problems, a consequent temptation to give Russia most of the benefit of the doubt. These things have eaten deep in Denmark, in Holland, perhaps in Belgium too. But in the big European countries neutralism is still confined to a minority inside the main parties of the left. Even in Britain, the battle for the Labour party is not yet won or lost. With good leadership, Europe's neutralism can be kept in its corner.

The opposite mis-diagnosis, by hot-headed left-wing Europeans, is that Mr. Reagan's America is charging off in pursuit of an ideologically Quixotic foreign policy. This too is hardly borne out by the evidence. Mr. Reagan was supposed to be pro-Israeli, but his administration's first actions in that part of the world have been to discourage an Israeli attack on Syria's missiles in Lebanon and to make a (botched) offer of reconnaissance aircraft to Israel-loathing Saudi Arabia. Mr. Reagan was supposed to be pro-South African, but he has merely offered the South Africans a concession or two on Namibia in the hope of speeding them out of that territory. Even in El Salvador he seems to have recognised that shouting at Russia is not enough to solve the problem. In only one important respect are those raised European eyebrows justified. The Reagan administration has a rearmament programme: but it has yet to reveal whether rearmament is meant to be part of a wider policy, or an end in itself.

The danger facing Mr. Reagan is that these two misdiagnoses will eventually prove each other right. The American, suspecting European betrayal, will veer away into an attempt to do everything themselves. The Europeans, not being sure where America intends to lead, will increasingly decline to follow. The two halves of the alliance are pushing each other apart. It is Mr. Reagan who has to take the lead in stopping this. No European politician—not the beleaguered Mrs. Thatcher, nor the tattered Mr. Schmidt, nor the brand-new President Mitterrand—can do it for him. Only Mr. Reagan has the necessary authority, because only the United States has the necessary reservoir of will. The attempt has to be made at once, before 1981 is out.

FIVE BRIGHT MEN TO START A REFORMATION

The first step is to find a kernel of transatlantic agreement. The best way of doing this is to appoint a small group of intelligent men known to, and trusted by, the main Nato government: say one American, a German, a Briton, a Frenchman (if Mr. Mitterrand is willing) and someone from a smaller Nato country.

These men should be neither current holders of high office, who are too busy, nor retired prime ministers, who will be too preachy. They should not, God forbid, be chosen because they are as acceptable in Copenhagen as in Washington. What they need to be is men who know the subject like the back of their hands, know the people they will be arguing with, and above all know their own minds. Their instructions will be to criss-cross the alliance for a couple of months, and then write a brief report (10,000 words maximum?) which sets out, not some bland consensus of what they have heard in 15 capital cities, but their own view of what needs to be done and what most of the alliance might just be persuaded to do.

The next step, when their report is ready, is for President Reagan to call a summit meeting either of the whole alliance or—perhaps better at this stage of the proceedings—of its four or five biggest members (again including France if Mr. Mitterrand is willing). With that 10,000-word report as a starting-point, he would ask his fellow-summiteers to draw up a short list of proposals which would amount to a radical reform of the Atlantic alliance. This would involve some uncomfortable decisions for both the Americans and the Europeans. Here are three suggestions for the reformation programme.

First. The statistics of the Soviet military build-up make it clear that the Americans are right to urge more counter-armament. But the Europeans who are thus being urged to accept more taxes and/or less welfare are entitled to insist that this should be only one component of a wider policy designed to ensure, if humanly possible, that the need to rearm has some limits. The Europeans may be realising that the cheap and easy postwar period is finally over; but they want to be reassured that this is not the start of a pre-war period.

This does not mean resuming the whole range of detente-era negotiations with Russia, most of which either helped Russia or achieved nothing. It probably does mean resuming the Salt nuclear-weapons negotiations. If the Reagan administration could show that, without Salt, the United States would be able to recapture the sort of nuclear superiority it possessed in the 1950s, a lot of Europeans would be relieved to return to the shade of that nuclear umbrella. But if you look at the sort of nuclear weapons that America can build over the next 10 years (and those Russia can build), it seems almost impossible that the easy superiority of the 1950s—when America could hit Russia without being seriously hit back—can be recaptured.

Mr. Jimmy Carter's abortive Salt-2 treaty—which gave Russia at least a theoretical chance of hitting America without being hit back—has to be put right. But if the 1950s cannot come again, next year should see the start of a new Salt negotiation that will ratify something like nuclear equality: a state of mutual nemo me impune lacessit. That will limit the amount of money that has to be spent on new nuclear arms (thereby making more available for non-nuclear ones). It will also keep alive the hope that, one day, a more amenable Russia can be talked to about other things as well.

2. But nuclear equality means that Russia cannot be allowed to have superiority in the non-nuclear weapons which nuclear equality enables it to use. The Europeans have to take a fairer share of the cost of the rearmament programme this calls for. The table on this page shows how unequally the weight now falls on American shoulders. The load has to be redistributed. The rational way of doing this is not an annual squabble about some annual percentage increase in every country's existing defence budget. That merely perpetuates the present imbalance.

The rational way is to sit down and start again from scratch, trying to agree how big an army, navy and air force "the west" would need to defend its territory, and to protect its vital interests outside that territory, if "the west" were a single unit. That should probably include the protection of the west's oil lifeline from the Gulf, since the Americans will not forever go on making a large (even if diminishing) contribution to the defence of Europe itself if the Europeans will make no contribution to the protection of the area from which America now gets only 10% of its oil but western Europe gets 60%. When the total military requirement is known, it should be possible to start making a more sensible allocation of the jobs to be done, and the cost of doing them, among the countries that make up "the west". It would be idle, of course, to expect a share-out of computer-like rationality. But something rather more computer-like than today's higgledy-piggledy Nato should be attempted.

3. If the Europeans are to put up more money for guns, however, they will want a bigger voice in the making of the policies which those guns ultimately serve. To quote the eloquent Mr. Cheysson again: "For pity's sake, let us talk about what we are and what we fight for".

The Reagan administration has promised to consult its allies, but all administrations promise that. A mechanism is needed to make consultation inescapable. One possibility is a series of ad hoc working groups, like the five-country committee (from America, Britain, France, West Germany and Canada) which has been negotiating with South Africa about Namibia. Another idea is a small permanent secretariat, consisting of fairly senior officials from the foreign, defence and economics ministries (and intelligence agencies?) of the four or five main members of the alliance. Such a body would not need to have an office in one particular capital; consultation can be done by electronics nowadays. The details of the mechanism are not difficult to work out. But first it has to be accepted that "consultation" means something more regular and rigorous than today's system of voluntary exchanges between foreign ministries which too often find themselves snapping their fingers and crying, "Ah! I meant to tell you!"

An alliance reformed along these lines would give both parts of it what they chiefly want. The Americans would have a heartier European shoulder behind the military wheel. The Europeans would have a better idea of where the wheel was rolling. Each would mistrust the other less. Let President Reagan address himself to it in the second half of 1981.

Mr. MATHIAS. Mr. President, I yield the floor.

POSSIBILITY OF AIR TRAVEL DIFFICULTIES

Mr. BAKER. Mr. President, I think the Senate is about ready to stand in recess now. Under the order previously entered, we shall shortly recess until 11 a.m. on Monday next.

I take this opportunity to remind all Senators that there is a distinct possibility of an interruption in air travel over the weekend as a result of a possible strike of the air controllers to begin Sunday night. I urge Senators to take account of that prospect in making their travel plans, especially those plans to return to the city.

Mr. MATHIAS. Mr. President, will the distinguished majority leader yield?

Mr. BAKER. Yes, I yield, Mr. President.

Mr. MATHIAS. I listened with great care to his warning about travel arrangements and I wish to assure the majority leader that the Senator from Maryland will have minimal difficulty with air travel in his return to the capital on Monday morning.

Mr. BAKER. Mr. President, as usual, the Senator from Maryland has set an example for the rest of us to follow.

However, I do urge Senators to take account of the fact that there may be a controller strike on Monday morning and to try to arrange their travel plans so they may return to the city in time for the beginning of the session of the Senate at 11 a.m. on Monday. If any Senator on this side of the aisle has difficulty in returning to the city, I very much hope that Senator will notify the leadership so we can have a good account of where our Members are and to do the best we can to try to minimize the absentee list.

PROGRAM FOR NEXT WEEK

Mr. BAKER. Mr. President, on Monday at 11 o'clock, after the recognition of the two leaders under the standing order, there is an order for the recognition of the Senator from West Virginia (Mr. ROBERT C. BYRD) and the Senator from Tennessee (Mr. BAKER) for not to exceed 15 minutes each. Following that, there will be a period for the transaction of routine morning business.

DEPARTMENT OF JUSTICE AUTHORIZATIONS

Following that, Mr. President, according to the order previously entered, I believe the Senate will automatically resume consideration of Calendar Order No. 118, the Department of Justice authorization bill. At that time, Mr. President, the Senator from North Carolina will be recognized to resume debate on his amendment No. 96, which is an amendment to his underlying amendment No. 69. I hope that the Senate can complete action on the Department of Justice authorization bill sometime during the day on Monday.

BUDGET RECONCILIATION

On Monday, or perhaps on Tuesday but more probably on Monday, it will be the intention of the leadership on this side to ask unanimous consent or, if necessary, to move to consideration of the budget reconciliation bill, S. 1377, Calendar Order No. 171. There is a statutory time limitation on that bill of 20 hours and all Senators are urged to take account of the several provisions relating to the special nature of a reconciliation bill before the Senate. I expect, Mr. President, that those 20 hours will be consumed, and the Senate will proceed to the passage of the budget reconciliation bill sometime on Thursday or Friday, certainly. In any event, it is my determination to finish the reconciliation bill before we adjourn for the Fourth of July recess.

FARM BILL

Mr. President, it is my hope as well that, after consulting with the minority leader and assuming that a satisfactory arrangement can be made, we can set a time certain for passage on the budget reconciliation bill and then to lay down the farm bill and make it the pending business, at least for opening statements, with the full expectation that the farm bill will still be pending when we return from the Fourth of July recess. Senators will be apprised of the business of the Senate for a reasonable period of time in advance under that arrangement. I shall confer with the minority leader in the course of the day on Monday on these matters. I expect to have a further announcement to make during the day on Monday after these conferences have been undertaken.

RECESS UNTIL MONDAY, JUNE 22, 1981, AT 11 A.M.

Mr. BAKER, Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until Monday next.

There being no objection, the Senate, at 2:37 p.m., recessed until Monday, June 22, 1981, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate June 19, 1981:

COUNCIL OF ECONOMIC ADVISERS

Jerry L. Jordan, of New Mexico, to be a member of the Council of Economic Advisers, vice Stephen M. Goldfeld, resigned.

IN THE AIR FORCE

Lt. Gen. William H. Ginn, Jr., U.S. Air Force (age 52), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Robert W. Bazley, [redacted] FR, U.S. Air Force.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 19, 1981:

DEPARTMENT OF EDUCATION

Vincent E. Reed, of the District of Columbia, to be Assistant Secretary for Elementary and Secondary Education, Department of Education, vice Thomas Kendall Minter, resigned.

William C. Clohan, Jr., of West Virginia, to be Under Secretary of Education, vice Steven A. Minter, resigned.

DEPARTMENT OF STATE

Thomas O. Enders, of Connecticut, a Foreign Service officer of the class of Career Minister, to be an Assistant Secretary of State, vice William Garton Bowdler, resigned.

SMALL BUSINESS ADMINISTRATION

Paul Robert Boucher, of Virginia, to be Inspector General, Small Business Administration (reappointment).

DEPARTMENT OF ENERGY

Shelby Templeton Brewer, of Maryland, to be an Assistant Secretary of Energy (Nuclear Energy), vice George W. Cunningham, resigned.

DEPARTMENT OF THE INTERIOR

Daniel N. Miller, Jr., of Wyoming, to be an Assistant Secretary of the Interior, vice Joan Mariarenee Davenport.

FEDERAL MARITIME COMMISSION

Alan Green, Jr., of Oregon, to be a Federal Maritime Commissioner for the term of 5 years expiring June 30, 1986, vice Leslie Lazar Kanuk, term expiring.

DEPARTMENT OF STATE

Ernest Henry Preeg, of Virginia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Haiti.

DEPARTMENT OF EDUCATION

Kent Lloyd, of California, to be Deputy Under Secretary for Management, Department of Education, vice John B. Gabusi.

DEPARTMENT OF STATE

Theodore E. Cummings of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Austria.

DEPARTMENT OF EDUCATION

Robert Melvin Worthington, of Utah, to be Assistant Secretary for Vocational and Adult Education, Department of Education, Vice Daniel B. Taylor, resigned.

DEPARTMENT OF STATE

Robert Sherwood Dillon, of Virginia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lebanon.

Charles H. Price II, of Missouri, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belgium.

Maxwell M. Rabb, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Italy.

DEPARTMENT OF ENERGY

J. Erich Evered, of Nevada, to be Administrator of the Energy Information Administration, vice Lincoln E. Moses, resigned.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

DEPARTMENT OF THE TREASURY

Ann Dore McLaughlin, of the District of Columbia, to be an Assistant Secretary of the Treasury, vice Joseph Laitin, resigned.

Peter J. Wallison, of New York, to be General Counsel for the Department of the Treasury, vice Robert H. Mundheim, resigned.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Sinclair Lewis Melner, xxx-xx-x... xxx... U.S. Army.

IN THE AIR FORCE

General Bryce Poe II, U.S. Air Force (age 56), for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be general

Lt. Gen. James P. Mullins xxx-xx-xxxx FR, U.S. Air Force.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Nathaniel Ross Thompson, Jr., xxx-xx-xxxx U.S. Army.

NUCLEAR REGULATORY COMMISSION

Nunzio J. Palladino, of Pennsylvania, to be a member of the Nuclear Regulatory Commission for the term of 5 years expiring June 30, 1986, vice Joseph Mallam Hendrie, term expiring.

TENNESSEE VALLEY AUTHORITY

Charles H. Dean, Jr., of Tennessee, to be a member of the Board of Directors of the Tennessee Valley Authority for the term expiring May 18, 1990, vice Robert N. Clement, term expired.

IN THE AIR FORCE

Air Force nominations beginning Irving Freedman, to be lieutenant colonel, and ending James W. Fischer, to be lieutenant colonel, which nomination were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 9, 1981.

Air Force nominations beginning David C. Billow, to be lieutenant colonel, and ending Calvin M. Ichinose, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 9, 1981.

IN THE NAVY

Navy nominations beginning Ronald J. Abler, to be commander, and ending Mabel L. Wallis, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 9, 1981.

Navy nominations beginning Bruce R. Dailey, to be ensign, and ending Robert T. Dufort, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 9, 1981.

HOUSE OF REPRESENTATIVES—*Monday, June 22, 1981*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore (Mr. WRIGHT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, D.C., *June 19, 1981.*

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore on Monday, June 22, 1981.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

When a man's ways please the Lord, be makes even his enemies to be at peace with him.—Proverbs 16: 7.

Grant, O Lord, that we may see all our strivings and actions in ways that are pleasing to You and give peace to those with whom we minister. We recognize that we are not able through our own power or insight to build lives of perfection or to be confident that our efforts are always consistent with Your kingdom. Yet, instill in us by Your grace and remind by Your spirit that You are our Creator and Redeemer and that You will bless even our weak efforts to bring understanding and concord among all people. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate insists upon its amendment to the bill (H.R. 3520) entitled "An act to amend the Clean Air Act to provide compliance date extensions for steelmaking facilities on a case-by-case basis to facilitate modernization," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. STAFFORD, Mr. DOMENICI, Mr. CHAFEE, Mr. RANDOLPH, and Mr. MITCHELL to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 823. An act to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purposes;

S. 923. An act to amend chapter 207 of title 18, United States Code, relating to pretrial services;

S. 1195. An act to provide for continuing participation by the United States in the International Bank for Reconstruction and Development, the Inter-American Development Bank, and for other purposes;

S. Con. Res. 5. Concurrent resolution expressing the sense of the Congress that the Soviet Union should provide proper medical care for Viktor Brailovsky and permit him and his family to emigrate to Israel, urging the President to protest the continued suppression of human rights in the Soviet Union and for other purposes; and

S. Con. Res. 18. Concurrent resolution relating to the restoration of the free exercise of religion in Ukraine.

OUR LACK OF AIR DEFENSE

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, today, I wish to speak about a problem that poses a threat to our Nation.

It is our lack of air defense, that is, our inability to effectively warn against and defend against an enemy bomber attack. During the past several years, our capability to defend the airspace of the continental United States against a Soviet bomber attack has been significantly and unilaterally reduced.

Our air defenses began to weaken during the mid-1960's when the Pentagon decided that we should concentrate less on a philosophy of defense and more on a philosophy of offensive weapons. Offensive weapons alone, it was thought, would deter an attack against the United States. Defense positions, it was also thought, would weaken deterrence. Thus, the so-called doctrine of mutual assured destruction was born. Consequently, air defense, antiballistic missiles, civil defense, and other aspects of a once strong strategic defense began a slow death.

History and geography have been kind to America. The two major wars of this century have been fought far from our shores. Our own homeland was isolated from these conflicts and was invulnerable to attack. For this reason, we have not fully understood the need for defense.

Today, I am pleased to announce that the chairman of the House Armed Services Committee has agreed to my recent request to hold full committee hearings on the issue of the need for a stronger national air defense system. After the full committee holds its hearings, the investigations subcommittee of the Armed Services Committee will follow up with more detailed hearings.

These hearings are a major step in bringing the crucial issue of air defense to the attention of Members of Congress and the entire Nation. My hope is that these hearings will be the first step in assuring that America becomes secure from the threat of enemy air attack.

ASSISTANT SECRETARY FOR TERRITORIAL AND INTERNATIONAL AFFAIRS

(Mr. SUNIA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SUNIA. Mr. Speaker, some weeks ago, I stood at this well and asked that the White House and the Secretary of the Interior continue the post of Assistant Secretary for Territorial and International Affairs.

I am, therefore, very pleased to report that the administration will continue the post—and I must commend Secretary Watt for this important decision.

The nominee for the post, Mr. Pedro San Juan, is a new name to me. He is being questioned by some territories which feel he is inadequately conversant in the ways of the Pacific territories. Mr. Speaker, there are plenty of territorial experts in the Department of the Interior—and the territories do not need another.

What the territories are in urgent need of is a dedicated advocate, a mover, and a doer, someone who can make things happen in the territories.

These things do not call for a professor in political and social sciences of the Pacific, just someone who can go to the right place and get support. I want to see San Juan be that kind of person, a leader. I am giving him the chance to prove himself before I condemn him.

I welcome Mr. San Juan to the territorial administration leadership and wish him luck in his upcoming confirmation hearings in the Senate.

RECONCILIATION PROGRAM OF THE COMMITTEE ON EDUCATION AND LABOR

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Thank you, Mr. Speaker.

Mr. Speaker, last week in the Committee on Education and Labor, the Democrats on the committee, joined by a great many of their Republican colleagues, finally reported out in the reconciliation a program that was going to prove, and does prove, very beneficial to a number of programs of great concern to all of us.

Two of them, guaranteed student loans and the Head Start program, have both been restored in a way that enables them to function and carry out the purpose of the program.

It is my understanding, Mr. Speaker, that there now is, among some Members on the Republican side of the House, an effort being made to offer an amendment that would weaken once again the guaranteed student loan program.

It is my hope that my colleagues on the Republican side will think carefully on this issue and recognize that Republicans as well as Democrats on the committee voted to reinstate this program.

REAFFIRMING GOVERNMENT'S COMMITMENT TO USE GOODS AND SERVICES OF PRIVATE ENTERPRISE

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, today I will introduce a House joint resolution, based on a just-completed General Accounting Office study, which reaffirms the Federal Government's commitment to use, whenever possible and economically feasible, the goods and services of private enterprise.

Through a greater reliance on the private sector, taxpayers can save nearly $3 billion annually. There are many instances in which private businesses could produce products and provide services at a lower cost than the Government currently does.

Small business would also benefit from the proposal I am introducing as $2 billion would flow to this vital segment of our economy every year. It is imperative for Congress to take steps such as this to create an environment in which American business enterprises can prosper.

When Government prevents private sector participation in the provision of public services, real competition ceases to exist and the U.S. taxpayer must carry the burden. This resolution would finally allow Government services to be provided in the most efficient and cost-effective manner through the removal of restraints on private sector competition.

SEVERE STORM WARNINGS ACT OF 1981

(Mr. WINN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WINN. Mr. Speaker, once again tornadoes and severe storms have taken their toll in this country. This last weekend in Lawrence, Kans., a tornado hit down. One man died, 29 people were injured, and there was approximately $8 million worth of damage.

I would like to remind my colleagues that I have circularized a "Dear Colleague" asking their support of Severe Storm Warnings Act of 1981, of which I am the prime sponsor.

Again, it does not cost the Federal Government any money. It simply asks the six governmental agencies that are involved in weather forecasting to get their act together and see if we can develop and use the technology available to give the people of this Nation better warning systems so that we will be able to stop or at least help prevent the loss of lives and property in this Nation.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C., *June 22, 1981.*

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted in the Rules of the House of Representatives, I have the honor to transmit a sealed envelope from The White House, received in the Clerk's Office at 3:10 p.m. on Friday, June 19, 1981 and said to contain a message from the President wherein he transmits the eleventh special message for Fiscal Year 1981 under the Budget Impoundment Control Act of 1974.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

□ 1215

PROPOSALS TO RESCIND AND DEFER, AND REVISIONS TO PREVIOUSLY REPORTED DEFERRALS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 97-63)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

(For message, see proceedings of the Senate of today, Monday, June 22, 1981.)

PUBLIC BROADCASTING AMENDMENTS ACT OF 1981

Mr. WIRTH. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3238) to amend the Communications Act of 1934, to extend certain authorizations of appropriations contained in such act relating to public broadcasting, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado (Mr. WIRTH).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3238, with Mr. SKELTON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Colorado (Mr. WIRTH) will be recognized for 30 minutes, and the gentleman from Texas (Mr. COLLINS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Colorado (Mr. WIRTH).

Mr. WIRTH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am very pleased to bring before the House today H.R. 3238, the Public Broadcasting Amendments Act of 1981. This has been the subject of rigorous examination by both the Subcommittee on Telecom-

munications and the full Committee on Energy and Commerce. I am pleased to report that we are in substantial agreement as to public broadcasting's structure and responsibilities in the years ahead—a consensus that would not have been possible without the help of the distinguished ranking minority member, Mr. COLLINS of Texas, and the others who have played such a constructive role, including HENRY WAXMAN, AL SWIFT, BILLY TAUZIN, MARC MARKS, and TOM TAUKE. I am deeply grateful to the entire subcommittee for the work that has been accomplished in this difficult budget cutting time for public broadcasting.

Mr. Chairman, public broadcasting today faces the most severe challenge to its ability to continue to serve the American people since the Corporation for Public Broadcasting was established in 1967. It is a challenge that has been posed by the Reagan administration's budget recommendations for CPB, which call for a reduction in funding from the current $172 million in fiscal year 1982 to $100 million by fiscal year 1985.

All of my colleagues should fully understand that this committee—both sides—is committed to placing a fair share of the need to reduce the size of the Federal budget on public broadcasting.

Public broadcasting should not be immune from cuts, but should not take more than its fair share either. H.R. 3238 has, I believe introduced in the Congress in a bipartisan fashion, fully reflects the mandate that public broadcasting takes its share, but not more so that public broadcasting can be destroyed.

This economic agenda has spawned a searching reexamination by our committee, and by all of public broadcasting, of the system's needs and priorities. The Federal commitment to public broadcasting has reached a watershed. The level of funding under current appropriations is considerably above the authorization levels provided in the bill. Our clear responsibility is to help this fragile but dynamic alternative to commercial broadcasting cope with the stringent fiscal restraints we are imposing. Our overriding concern, in facing this issue, was to protect the two most important commitments we have traditionally made through the Corporation for Public Broadcasting: Basic support to public television and radio stations across the country, and the encouragement of the very best in quality programing intended for national distribution. There is a symbiotic relationship between them, and there is no need to abandon either goal.

It is no secret that public broadcasting has been plagued by chronic tensions between the stations and CPB, between television and radio, and between localism and responsiveness to national interests and needs. To an extent, these differences have been healthy—characteristic of the pluralism that public broadcasting is all about. In the past, these differences have been accommodated by CPB so long as the Federal appropriations were high enough to address all of these separate goals. But this is no longer the case. It was abundantly apparent during out hearings that, given the imminence of the budgets cuts, each interest would understandably seek to protect itself—but unfortunately at the expense of the others.

The emergence of such a struggle, at this delicate and critical moment, would render a profound disservice to public broadcasting, paralyzing its ability to respond effectively to the challenges before it, and also harming the people public broadcasting serves—viewers and listeners throughout the country.

Accordingly, we needed to devise an approach that would resolve these arguments once and for all, that would equitably distribute these budget reductions throughout public broadcasting, and that would provide mechanisms to encourage greater efforts toward unity and coordination within public broadcasting.

I am encouraged by the result of our efforts. First, under the terms of this bill, there is a much smaller chance that any public television or radio station will be forced off the air. Second, we have maintained support for national programing. Third, we have again insured public broadcasting's insulation from political interference in programing decisions. Fourth, we have permitted the stations to explore promising new sources of outside revenues. Fifth, we have underscored our support for independent producers. Sixth, we have fully maintained the accountability of public broadcasting to the public itself. And seventh, we have reiterated our support for equal employment opportunity.

But most importantly, through the allocation formula provided for in the bill, we have guaranteed that every available dollar is expended as efficiently and effectively as possible. Public broadcasting's survival over the next decade depends on this basic imperative.

The budget cuts we are recommending will force public broadcasting to make difficult choices. But uppermost in the minds of the managers of the system must be the eloquent guidance offered by E. B. White nearly 15 years ago:

> Noncommercial television should address itself to the ideal of excellence, not the idea of acceptability * * *. It should be the visual counterpart of the literary essay, should arouse our dreams, satisfy our hunger for beauty, take us on journeys, enable us to participate in events, present great drama and music * * *. It should restate and clarify the social dilemma and the political pickle. Once in a while it does, and you get a quick glimpse of its potential.

Public broadcasting's potential endures, no less than E. B. White's call to conscience. Pubic broadcasting's purpose is nothing less than to bring the very best of America's abundant creative talent into our homes with programs that inspire, provoke, teach, and entertain. It is to do so without fear or favor, with no criteria other other than excellence. It is to undertake what commercial broadcasting either cannot or will not.

I profoundly hope that this legislation, even given the fiscal constraints we face, contributes to this effort. We have sought to do no less.

Mr. Chairman, I am pleased to summarize briefly the provisions of H.R. 3238:

First, the Corporation for Public Broadcasting is reauthorized for fiscal years 1984-86 at $160 million, $145 million, and $130 million, respectively.

Second, the public telecommunications facilities program is reauthorized for fiscal years 1982-84 at $25 million, $20 million, and $15 million, respectively.

Third, for the first time, stations are permitted to lease out their facilities for commercial uses, but only if these activities do not interfere with the provision of public broadcasting services.

Fourth, to increase unity within public broadcasting, two representatives of public television stations and two from public radio are placed on the 15-member CPB Board of Directors.

Fifth, to encourage the appointment of outstanding individuals to the CPB Board, provision is made for the development of a list of such people for consideration by the President.

Sixth, to provide more effective utilization by the Corporation of its funds, the Treasury is directed to disburse the appropriation to CPB on an annual basis.

Seventh, to resolve longstanding conflicts over the allocation of CPB's budget, H.R. 3238 establishes a formula that specifies funding for CPB's activities as well as support for television and radio, both locally and nationally.

Eighth, public broadcasting stations that do not receive Federal funds are permitted to editorialize.

Ninth, to attract greater private support for public broadcasting programs, stations are authorized to broadcast the logos of program underwriters.

Tenth, to help assist the stations in obtaining greater sources of outside income, they are explicitly authorized to provide services, facilities, and products for remuneration.

Eleventh, to further explore these options and their implications, H.R. 3238 establishes a comprehensive

study on alternative financing for public broadcasting.

Mr. Chairman, all the provisions of this bill are fully discussed in the committee's report accompanying the bill, House Report 97-82, and I wish to reiterate that, in addition to our debate today, it is the definitive legislative history on this bill.

Again, Mr. Chairman, I am proud of our work on this legislation. It is a prudent and responsible proposal. It has obtained great support within public broadcasting. It should be approved by this House. At this point I include the following:

PURPOSE OF THE LEGISLATION

The legislation serves five primary purposes:

(1) To provide for the efficient allocation of Federal funding for public telecommunications, by means of an allocation formula, at a time when Federal support of the program will be declining;

(2) To facilitate and encourage the efforts of public broadcasting licensees to seek and develop new sources of non-Federal revenue, which will be necessary for the long term support of the system as Federal funding is reduced;

(3) To continue at a reduced authorization level (via the Corporation for Public Broadcasting) long term Federal funding (5-year advance authorization) for non-commercial public telecommunications to provide continued insulation against political interference in programming decisions;

(4) To continue at a reduced authorization level (via the Commerce Department's National Telecommunications and Information Administration) the public telecommunications facilities program in order to further plan, construct and expand public telecommunications facilities for the purpose of providing public telecommunications services to as many citizens of the United States as possible;

(5) To enhance dialogue and cooperation between the Corporation for Public Broadcasting and the public broadcast licensees by providing for the selection of representatives of public radio and television stations to the CPB Board, and to otherwise improve the selection process of Board members.

SUMMARY OF THE LEGISLATION

(1) Facilities program. The Public Telecommunications Facilities Program, administered by the National Telecommunications and Information Administration, is reauthorized at the following levels: $25 million for FY 1982; $20 million for FY 1983; and $15 million for FY 1984. This is a reduction from the present $40 million authorization. The bill repeals the existing prohibition on facilities being used for any commercial purpose, provided, however, that such new uses do not interfere with the primary mandate of recipients to provide public telecommunications programs and services. In addition, the maximum Federal contribution for facilities planning grants is reduced from 100 percent to 50 percent.

(2) Telecommunications Demonstration Program. (Department of Education). The legislation does not reauthorize this program.

(3) Corporation for Public Broadcasting (CPB). The bill reauthorizes funding for the Corporation for Public Broadcasting for FY 1984-1986 at $160 million, $145 million, and $130 million, respectively, compared to the present authorization of $220 million. The system of 5-year advanced authorization is thus continued.

The legislation provides for the appointment to the Corporation's Board by the President of two representatives of public television stations, and two representatives of public radio stations. A new procedure is also established for the purpose of filling vacancies to the Board, whereby the President's appointees to the CPB Board should be selected from a list of qualified individuals submitted by CPB, and such a list would include any individuals submitted for consideration by the public broadcast stations.

(4) Financing of Public Broadcasting. The legislation devises a formula for the efficient allocation of Federal funds appropriated for expenditure by the Corporation for Public Broadcasting. The statutory formulation provides for the following allocation:

(a) Not more than 5 percent of the money appropriated for CPB will be available for the administrative expenses of the Corporation;

(b) Not less than 5 percent of appropriated funds is available for research, training, educational support, engineering, payment of interest on indebtedness, satellite costs, and the payment of programming royalty and copyright fees. Expenditures for these matters or for the CPB's administrative expenses cannot exceed 10 percent of the funds appropriated for the Corporation.

(c) Of the remaining sum, which will equal at least 90 percent of appropriated funds, 75 percent is to be expended for public television, and 25 percent is to be expended for public radio.

(d) Of the funds to be allocated to public television, 80 percent of those funds are to be paid directly to the television stations in the form of unrestricted Community Service Grants (CSG's). The remaining 20 percent of the funds allocated for public television are to be expended by CPB on national television programming.

(e) Of the funds to be allocated to public radio, at least 50 percent of those funds are to be paid directly to the radio stations in the form of CSG's. Up to 50 percent of the remaining funds allocated for public radio are to be expended by CPB on national programming.

(f) Under this formula, the operating expenses relating to interconnection will be assumed by the stations.

The legislation also provides that the United States Treasury will distribute appropriated funds to the Corporation on an annual, rather than quarterly, basis.

(5) Logograms, Advertisements, and Editorials. The legislation permits public television and radio stations to broadcast logograms identifying the underwriters of programming, but a logogram announcement may not interrupt regular programming. The bill prohibits public broadcast stations from broadcasting any advertisements. It is further provided that no non-commercial broadcast licensee which receives Federal funds from CPB is permitted to editorialize.

(6) Income Producing Activities. Public broadcast stations are explicitly authorized to provide services, facilities, or products in exchange for remuneration, provided, however, that no Federal funds may be used to subsidize such activities, and that such activities do not interfere with the provision of public telecommunications services. Stations are not allowed to broadcast advertisements. The legislation requires the public stations to establish an accounting system that identifies the revenues derived from and the costs related to the provision of such commercial services. Stations are not allowed to broadcast advertisements. In addition, the bill provides for a study to be undertaken in order to identify additional sources of revenue for public broadcasting.

ALLOCATION OF FEDERAL FUNDS UNDER H.R. 3238

	Fiscal year 1984	Fiscal year 1986	Fiscal year 1981 CPB actual
Total available funds	160.0	130.0	167.8
CPB (10 percent):			
Administrative expenses, contingency	8.0 (5%)	6.5	8.03
			.59
Interest, satellite copyright, research, training of minorities, educational support, engineering	8.0 (5%)	6.5	12.16
Total CPB	16.0 (10%)	13.0	20.78 (12%)
Television and radio (90 percent): Balance after CPB	144.0	117.0	147.02
Television (75 percent)	108.0	87.75	111.78 (76%)
* CSG's and interconnection (80 percent)	86.4	70.2	86.5 (77%)
** National program fund (20 percent)	21.6	17.55	25.28 (23%)
Radio (25 percent)	36.0	29.25	35.25 (21%)
* CSG's interconnection expansion, improvement (15 percent minimum)	18.0 min.	14.62 min.	21.15 (60%)
** National programing (50 percent maximum)	18.0 max.	14.62 max.	14.1 (40%)
* Total station support	104.4 (65%)	84.82 (65%)	107.65 (65%)
** Total programing	39.6 (25%)	32.17 (25%)	39.38 (23%)

CORPORATION FOR PUBLIC BROADCASTING AUTHORIZATION AND APPROPRIATIONS HISTORY

(In millions of dollars)

Fiscal year—	Authorization	Appropriation
1969	9	5.0
1970	20	15.0
1971	35	23.0
1972	35	35.0
1973	45	35.0
1974	55	47.5
1975	65	62.0
1976 [1]	110	87.5
1977	103	103.0
1978	121	107.2
1979	140	120.2
1980	160	152.0
1981	180	162.0
1982	200	172.0
1983	220	172.0

[1] Includes transition quarter.

Mr. COLLINS of Texas. Mr. Chairman, I yield 10 minutes to the gentleman from Iowa (Mr. TAUKE).

Mr. TAUKE. Mr. Chairman, I think it is appropriate to begin these remarks by commending the chairman and ranking minority member, together with the other members of the subcommittee, for the deliberate consideration which has been given to this public broadcasting measure.

We are facing difficult times in many areas of our economy, but I think it is fair to say that, in view of those difficult times, the subcommittee has done a great service in developing this legislation which deals fairly, in my judgment, with public broadcasting.

There have been differences of viewpoint on our subcommittee and on the committee about the content of this legislation. I am generally supportive of the measure because I believe that we have struck the proper balance between the desire to hold down expenditures at the public level while at the same time preserving the important services of public broadcasting.

It is very difficult to anticipate what economic conditions will be like in 1984, 1985, and 1986. Yet, that is what, in essence, we are asked to do in this legislation because we are making authorization levels for 1984, 1985, and 1986. It is essential that we plan that far in advance in order to retain the independence of the public broadcasting system. That method of forward authorization was established for that purpose, of maintaining the independence of the system, and while it is very good from that standpoint, it does make it difficult for those who are trying to make projections into the future.

Because of my confidence in the ability of the subcommittee to turn around under the policies proposed by the administration, I have not gone as far as the administration would like in terms of cuts in the authorization levels. However, I do think it is important to note that we have made very substantial cuts in those authorization levels, from $220 million for the operation of the public broadcasting system this year, down to $160 million in 1984, $145 million in 1985, and $130 million in 1986.

We have also made cuts in the facilities, the telecommunications facilities program, moving from $40 million authorization for the current fiscal year to $25 million for the 1982 fiscal year, $20 million for the 1983 fiscal year, and $15 million for the 1984 fiscal year. I am hopeful that these cuts will be considered substantial and adequate by the full House when we are considering this legislation.

But, because we have made substantial cuts in the public broadcasting system funding, we are faced with another very serious problem. That is, how do we keep these stations on the air, how do we continue to extend public broadcasting services to the people of our country? In order to address that issue, the subcommittee has looked at several income-producing avenues. We have authorized in this legislation the use of logos on public broadcasting in order to encourage corporations and others to provide funds for the operation of public broadcasting facilities and for programing. We have also authorized the use of public broadcasting facilities on a rental basis by outsiders who may wish to use those facilities, and in that way we hope to generate some income for the public broadcasting system and for the stations.

I believe, however, there is one other thing we should do in order to insure the financial stability of public broadcasting in the future. When we in the subcommittee considered this issue of providing for the financial stability of public broadcasting in the future, we considered the possibility of institutional adverstising as a means of future income for public broadcasting.

My good friend, the gentleman from Texas (Mr. COLLINS) offered an amendment which would have provided for institutional advertising.

□ 1230

In the discussion of that amendment, it became clear that we really had very little information on hand that would provide us with the data that we need in order to make a good decision about advertising on public broadcasting. We did not know how much revenue it would generate. We had no idea what impact it would have on programing. We had little idea about what other impact it would have on audience participation and so on; so, as a result, the subcommittee was reluctant to adopt an institutional advertising provision in this legislation.

What we have done, however, I think, is develop an amendment, which I intend to offer, which I think has general support in the subcommittee and committee, which would provide for an experiment on advertising on public broadcasting stations.

What we intend to do is allow for an 18-month period during which up to 10 public radio licensees and up to 10 public television licensees would have the opportunity to offer advertising during programing on their stations. These advertisements could not interrupt regular programs. The advertisements would be limited to 2 minutes at any one time. The advertisements would have other limitations placed upon them.

For example, there would be no political endorsements permitted through these advertisments. After this 18-month period, the blue ribbon commission that would be established to conduct the experiment would make a report to Congress to indicate what the impact had been of advertising on the public broadcasting stations and what the impact had been on the audiences, programing, and what sources of revenue had come to the station as the result of this experiment.

With this information, I think we would be able to make sound decisions in the future as to the direction we should go on advertising on public broadcasting.

I can assure my colleagues that I have some of the same concerns and misgivings about advertising on public broadcasting that I am certain many of them do; but I think until we conduct a proper experiment, in order to determine the impact of advertising on public broadcasting, it will be very difficult for us to discuss this issue any more intelligently in the future than we have been able to do so in the past.

So I urge support for the legislation that is before us, and I hope that the House will see fit to endorse the advertising experiment that I will be offering.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. TAUKE. Yes, I would be happy to yield.

Mr. WIRTH. Just at this point in the RECORD, Mr. Chairman, I want to commend the gentleman from Iowa for some very, very creative work. We have, as the gentleman has clearly pointed out, terribly delicate areas here between what is commercial broadcasting, what is public broadcasting, and what we know about experiments.

The gentleman has put together an amendment, working with the majority and the minority, that I believe we all agree to, that provides a limited experiment, and which will give us the data upon which to make judgments in the future.

I have here the gentleman's summary of the amendment, which I ask him if he would like to include in the RECORD at this point.

Mr. TAUKE. I would be pleased to have it included in the RECORD.

Mr. WIRTH. Mr. Chairman, without objection, perhaps we could include the description of the Tauke amendment to H.R. 3238, a demonstration program regarding advertising, which is the limited amendment discussed by the gentleman from Iowa, that I believe we will all agree to tomorrow during the amendment process.

The Tauke amendment requests the Corporation for Public Broadcasting (CPB) to select up to ten public television licensees and up to ten public radio licensees from a voluntary pool for the purpose of establishing an experimental program to determine the effect and impact of advertising on public broadcasting outlets. The report given Congress no later than October 1, 1983.

The 18-month test will study the influence and effect of advertisements on programming, audience response and reaction, and the acceptance of this new advertising outlet to businesses and organizations.

The selection of stations to participate will be done on a representative geographic distribution nationwide. The selection will also ensure representation of radio and TV licensees providing formats to audiences of various sizes.

PROVISIONS

(1) Participation is entirely voluntary on the part of the licensees. The CPB will make selections from those licensees wanting to take part in the study.

(2) Up to ten public television licensees and up to ten public radio licensees may take part in the experiment.

(3) The CPB will make selections based upon guidelines ensuring representation by: (A) Geographical distribution on a nationwide basis; (B) Licensees serving audiences and markets of various sizes; (C) Licensees with operating budgets of various sizes; (D) Licensees holding different types of broadcasting licenses; and (E) Public radio station licensees with different types of programming formats.

(4) The study will run for 18 months, beginning no later than January 1, 1982, and ending no later than June 30, 1983.

(5) The Temporary Commission on Alternative Financing for Public Telecommunications (TCAFPT), a blue-ribbon panel established in H.R. 3238, will oversee the study.

(6) Upon completion of the study, a report will be issued to Congress no later than October 1, 1983, detailing the results of the study and making recommendations as to the feasibility of continuing advertising on public broadcasting outlets.

(7) The study will incorporate both institutional advertising and product advertising. The TCAFPT will determine which form of advertising will be carried by individual licensees taking part in the experiment.

(8) The broadcasting of either religious or political announcement is prohibited.

(9) Strict guidelines are included regarding paid announcements used during the study: (A) Advertisements may not interrupt regular programs; (B) Advertisements may only be broadcast at the start or end of programs; (C) Advertisements may not exceed two minutes in duration; and (D) No more than four minutes of advertising may be broadcast during any one hour.

(10) The broadcasting of advertisements which espouse particular viewpoints on matters of national or local interest are prohibited.

(11) The TCAFPT will prescribe regulations to specify types of advertisements, using the above guidelines, which may be broadcast.

(12) The Federal Communications Commission (FCC) has the sole authority to determine, in the case of a dispute, if any advertisements broadcast violate the standards contained in the amendment or those established by the TCAFPT.

(13) The TCAFPT will prescribe regulations relating to the sale of broadcast time by individual licensees.

(14) The TCAFPT will prescribe regulations relating to the placement of announcements by individual licensees.

Mr. TAUKE. Mr. Chairman, I thank the chairman for his remarks. I again wish to commend the chairman, the ranking member, and the other members of the subcommittee and the committee for their cooperative and very excellent work on this legislation.

Mr. COLLINS of Texas. Mr. Chairman, I yield myself 20 minutes.

Mr. Chairman, tomorrow a bill will come before us that has been debated extensively. I want to commend the chairman of our subcommittee, the gentleman from Colorado (Mr. WIRTH) who has worked long and hard on this bill; however, we still have coming before us tomorrow several points on which we are not in agreement.

I do not know how it is in any particular hometown, but down in Texas, inflation is the No. 1 concern. Inflation is caused by the Federal Government spending too much money—by Congress passing spending bills that are excessive. Last year the national debt was increased $80 billion. As Congress continues to print more money, the value of money goes down and prices go up. This bill breaks the line on the Reagan budget by authorizing $160 million for fiscal 1984. Now we have a chance to either fish or cut bait. The question is, Are we going to hold the line? Are we going to stop spending? Are we going to cut back or not? You as Members of Congress have an opportunity to stand up and be counted and to bring this bill back into line with President Reagan's budget proposal.

Well, you say that the difference between the committee's proposal and President Reagan's budget is only $50 million but $50 million is 45 percent more than the Reagan budget calls for.

What we are talking about is 1984. That is 2½ years in advance, 2½ years from now. We want public broadcasting to make an orderly transition toward sound funding. We have given them 2½ years. If the Corporation were a private business and you told them to get their budget in line, they would get it in line next month. They would not sit and waste time; but in the Government we do not move very fast, and we do not expect others to move very fast. Therefore, the President's budget gives the Corporation 2½ years to get its budget in line.

It is amazing to me, because of the extensive hearings and the significant principle that is involved here, how few people really understand what is going on. As I came over to the floor, I went back to my legislative section. I asked them, "Have we had one single letter that has said, 'Jim, would you cut back on that spending bill?' "

I said, "I just want to know if we had one."

We have not heard from anybody.

I tell you, if I went to San Francisco to one of those fine seafood restaurants, people, there would tell me they are concerned with inflation. If I were at a farm in Franklin County, Tex., out in east Texas, and asked "What are you concerned with?" they would say, "We are concerned with stopping spending by Congress." If I were in Cape Cod, Mass., they would tell you to cut spending.

You can look up at the press galleries and you will see that they are empty. There is nobody from the press interested in this. The only people interested in it are the people who receive these funds.

Now, believe you me, we have heard from them. They are probably the only ones that are listening to this broadcast right now. They know what is going on because they are the ones that will receive less Federal money.

Somebody needs to speak for the American people. When we are talking about cutting funding on educational projects, when we are talking about cutting funding on hospitalization, on medical needs, on basic essentials, when we go down the line and talk about cutting funding, why can we not cut funding in public broadcasting?

Tomorrow, we will ask you to consider several amendments. First, we will ask you to vote to discontinue funding for new public broadcasting facilities. Public TV is now accessible to 90 percent of the public. Now, that includes what they get in broadcasting and what they get on cable; but if you are already reaching 90 percent, do we need to finally get that last guy sitting out there on a mountain in Alaska? Did you know that Alaska has the highest per capita income in this country? They have a lot of things going for them in Alaska. It just might be that we should not be using Federal money to give Alaska another public broadcast station. We can hardly afford to keep in operation the facilities we already have. We certainly ought to cut out funds for expanding facilities even further.

Another feature in this bill will be disastrous. The bill says that when we give the Corporation money, we are going to give it annually in advance—annually in advance.

Now, just imagine what that will do. That will make bankers out of them. Now, they understand inflation. They

know what it means. These people in public broadcasting are smart. They want to get all the money in advance, then they want to sit down there and put it out at an interest rate of 18 to 20 percent. Now, if that is not the most stupid thing we have recommended this month, I want to know what is.

There is no justification, there is absolutely no justification in paying this money annually in advance. The reason we did it, the committee wanted to find a way to sweeten up the bill for a segment of the industry, and I can understand why they want to sweeten it up, but frankly, we are living in a sour financial climate. It is time we took a sour attitude on these things instead of trying to figure out how we can sweeten the budget at the expense of the American people. Therefore, we will offer an amendment that asks you to pay them quarterly instead of paying them annually in advance and letting them make a profit on the American taxpayers.

Another amendment that we will offer—the President has asked that we do not place a 45-day limit for appointments. They want to consider every board member carefully and extensively. If you will notice, when President Reagan, the great leader who in history I think is going to prove to be the greatest President this country has ever seen, when he started naming the people to fill different positions, he did not act in haste; he is still appointing—here it is June.

I would tell you, as far as I am concerned, I would a lot rather that he take his time and name good men and women than run down there and try to name somebody by next Monday.

There is an old saying down in Texas. Davy Crockett said it. He said, "Be sure you are right, then go ahead."

Now, they said they want to be sure they have time to make good appointments and that seems logical to me.

In summary, I ask for your support on three basic amendments.

First, cut back on the Reagan budget level. In other words, cut from $160 million to $110 million. If you said you supported the budget, vote for the budget tomorrow. Vote to bring it back to $110 million.

Second, when we are trying to support existing facilities, let us not add more facilities and make and overcomplicate the problem worse than it is.

□ 1245

Third, let us reject the suggestion of paying annually in advance. Let us go back to quarterly. Let us to back and give the money as we go along instead of having the Federal Government borrow to give money annually.

Now, what it all boils down to is this: It boils down to the fact, Are we going to balance the budget in Congress? Are we going to balance the budget?

Remember, last year this Congress spent $80 billion more than it took in—$80 billion more. Even if we made every suggested cut, such as this one, if we made every one of these cuts, we would still spend $35 billion more than we did last year. In other words, if we do everything we can, we are going to end up increasing the debt $115 billion this year.

So the least we can do is vote for a cut when this bill is put to the floor.

Now, those Members who said they wanted a balanced budget, stand up and vote. Those Members who believe that President Reagan is on the right track, that the big problem in this country is to end inflation, stand up and vote.

There are some essential things in this country. We need the health and we need the security. But one group that must cooperate, one group that must help us, is public broadcasting. They must get by on less funding.

Mr. Chairman, on the floor, the House discusses inflation and how to end it. Inflation is the No. 1 concern of America. Congress with its overspending has caused 14 percent national inflation.

But Congress with courage in voting to cut spending can end inflation—we voted for budget cuts.

Here is the bill that spells out a cut in spending. In the Commerce Committee, they turned their back on cutting spending. We will ask you to join in my amendment to reduce the 45 percent excess in the authorized funding in this bill. Cut 45 percent excess so that we can do our part to meet the Reagan budget.

We call on the Members who voted for a sound budget to cast their vote for ending inflation by voting on my amendment that will cut back the 45 percent excess in funding that is now in the authorization.

Our priority today is to control Federal spending. The President's position on public broadcasting reauthorization reflects the overriding importance of this administration's basic budgetary goals. For this reason, we are obligated, using H.R. 3238 as our vehicle, to help create an environment in which public broadcasting stations can become more self-sufficient and place less reliance on Federal tax dollars.

Today's public broadcasting environment is much different than it was some 20 years ago when the Government assumed responsibility for creating a noncommercial television service. Public broadcasting, both radio and television, is now part of our mass media, and we believe it can grow and flourish without Federal assistance.

To the Members of Congress, it is time to reduce public broadcasting's dependence on the Federal purse so that this country can get on with the business of economic recovery. With these budgetary goals in mind, there are four issues that must be addressed.

THE LEVEL OF PUBLIC BROADCASTING'S AUTHORIZATION EXCEEDS THE ADMINISTRATION'S PROPOSAL

The administration strongly recommends termination of funds for the public telecommunications facilities program and reduction in the level of Federal appropriations for the Corporation for Public Broadcasting. Both of these proposed budget cuts are in line with those that have been proposed for a number of special purpose Federal support programs. In short, public broadcasting has not been singled out for unduly harsh treatment by the administration.

The administration believes that CPB should bear its fair share of budget cuts that will affect a variety of special programs and constituencies. When all the pressures on the Federal tax dollar are taken into account, we simply cannot endorse a higher authorization for public broadcasting than was recommended in the President's budget proposal.

ELIMINATION OF THE PUBLIC TELECOMMUNICATIONS FACILITIES PROGRAM

The public telecommunications facilities program is one of a number of special purpose grant and aid programs proposed for elimination by the President. This cutback is part of a general elimination of special purpose grant programs which is necessary to achieve more control over Federal expenditures.

The facilities program was established in 1962 at a time when there was little noncommercial broadcasting. The facilities program was an important pioneering effort that was extremely successful in getting public broadcasting off the ground. It was intended to do just that—to provide seed money so that public broadcasting facilities could be established to bring an alternative broadcast service into the homes of Americans. Federal funding of public broadcasting facilities has accomplished its mission and has been successful in providing a sound and lasting base.

Somewhat over 90 percent of the public currently has access to public TV, either from broadcast stations or cable systems. Currently, public radio reaches 70 percent of the country, and with completion of facilities currently under construction, coverage would increase to 75 percent. Taking into account the number of stations that could be activated if all frequencies were available, coverage would increase to only 80.6 percent under existing FCC rules. Terminating the facilities program now would not, therefore, affect this existing high level of substantial service. Additionally, Federal funds have always been only a

part of public broadcasting's capital improvement financing.

There are many ways in which the Federal Government can continue to help public telecommunications entities meet their future development needs without direct Federal payment. For example, current restrictions on the noncommercial use of facilities could be relaxed. Eliminating the facilities program, therefore, should not precipitate any immediate difficulties for public broadcasting entities. With our need to exercise fiscal restraint, there is no justification for continuing to fund public broadcasting facilities. In fact, the Government has an even greater reason to create an environment in which these services can carry on without Federal dollars.

ANNUAL DISBURSEMENT OF FUNDS TO PUBLIC BROADCASTING

Unnecessary Federal spending does not conform to the mandate given to the Congress by the President. In this time of increasing inflation, the Federal Government can ill afford the U.S. Treasury borrowing at high interest rates so that CPB can receive annual Government funds which then accrue interest.

It is clear that for the next few years, this country will need to substantially reduce Federal spending. To ask the Government to borrow at high interest rates in order for public broadcasting to be subsidized above its appropriation level is contrary to President Reagan's efforts to reduce Federal spending.

To assert more control over Federal spending, we urge a return to the 1978 act's quarterly disbursement method. With the critical need to manage Federal funds more efficiently, we believe that a quarterly system is the most effective way to see this is accomplished.

FORTY-FIVE-DAY TIME LIMIT FOR THE PRESIDENT TO APPOINT CPB BOARD MEMBERS

The administration recognizes that public broadcasting is entering one of the most critical stages of its development. Because the economy must be pulled into line, some areas previously funded must be reevaluated and given national priorities. Although Federal dollars for public telecommunications is one of the targeted areas for reduction, the administration is still concerned that public telecommunications entities deliver quality services. Consequently, the administration is opposed to placing a time limit on the President's ability to appoint members to the CPB board.

In any event, were a time limit to be imposed, 45 days is insufficient to conduct extensive background checks and interview candidates. Additionally, it does not allow sufficient time to expand the search if necessary.

While filling CPB vacancies quickly may satisfy the CPB board, it may not always be in the best interest of public broadcasting's best service to the country. We believe Presidential consent has always been important, and will be even more important in the years ahead.

We endorse several amendments which we feel will greatly improve this legislation.

However, at a time when all Federal programs are undergoing intense scrutiny and budget cutbacks, we feel the funds authorized in this bill are excessive and are beyond the level of Federal support needed to insure the continuation and growth of public broadcasting. We support the following amendments which would bring funding authorized by the bill within President Reagan's budget.

The Collins of Texas amendment to reduce authorizations for the Corporation for Public Broadcasting (CPB) from the levels in the bill—$160 million for fiscal year 1984, $145 million for fiscal year 1985, and $130 million for fiscal year 1986—to $110 million for fiscal year 1984, $100 million for fiscal year 1985, and $100 million for fiscal year 1986.

It should be emphasized that this reduced level of Federal funding would not take effect until fiscal year 1984, which would give public broadcasting stations time to plan for it. In addition, the bill provides for allocation of a higher percentage of CPB funds directly to the stations, and it allows stations to engage in several types of activities designed to bring in revenues from private sources. Public broadcasting stations will thus have 2 years to use this new authority to adjust to reduced Federal funding.

The Collins of Texas amendment to terminate the public telecommunications facilities program of the National Telecommunications and Information Administration, authorized in the bill at $25 million for fiscal year 1982, $20 million for fiscal year 1983, and $15 million for fiscal year 1984. The facilities program provides matching grants to establish and expand public broadcasting stations. We feel that this program has essentially fulfilled its purpose. Public broadcasting reaches approximately 90 percent of the American public, and spectrum limitations and geographic distribution of the population make expansion of service difficult.

The Bliley amendment to retain quarterly disbursement of funds to CPB, rather than change to annual disbursement. In order to provide CPB with its full appropriation at the beginning of the fiscal year, as this bill would require, the Government would be forced to borrow at prevailing high interest rates. CPB could invest this money and earn interest on it from the beginning of the fiscal year until it is distributed to stations. This is nothing more than a backdoor way to increase CPB's budget outside of the authorization and appropriation process. We favor the retention of the present system of quarterly disbursement.

These amendments are supported by the Reagan administration and will restore this legislation to the administration's budget plan. We urge your support for them on the House floor.

As the Congress recognizes and prepares for dramatic advances in communications technology, a greater diversity of news, entertainment, and other information is becoming available. Therefore, the market failure premise on which Federal support for public broadcasting is based is no longer valid. Because Federal spending is literally out of control, the public broadcasting reductions proposed by the administration are even more necessary.

Broadcasting is changing. In a few years, cable will be a dominant factor in home reception. Public broadcasting has an opportunity now to make the transition toward independence.

Mr. WIRTH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do not want to get, at this point, into debate on the various amendments. I just wanted to point out for the record, as the gentleman from Iowa (Mr. TAUKE) has pointed out, that the authorization bill in front of us cuts the Corporation for Public Broadcasting's authorization by 40 percent. The administration would like to cut it by 100 percent. And I just think that that is not appropriate for the some 50 million viewers across the country, which are increasing every year, to cut a program as valuable and as increasing in interest as public broadcasting, to cut it by 100 percent.

I cannot find very many programs in the budget that are cut by even 40 percent, as we have already done in this. I think the Corporation for Public Broadcasting has taken its fair share.

I was also interested in the comments of the gentleman from Texas about borrowing money for the purpose of paying it out with respect to the annual disbursement of CPB funds. I did not know that we were here to debate the Reagan tax cut package which, I understand, does exactly this—by borrowing some $50 billion; by going into the capital markets—that is, borrowing money for the purpose of paying out a tax cut. But that is not what we are here to debate.

Mr. Chairman, I yield 5 minutes to our esteemed colleague from the State of Washington (Mr. SWIFT) who has been so very helpful in putting the bill together.

Mr. SWIFT. I thank the gentleman from Colorado for yielding.

It seems to me that one of the things that has been happening a great deal in the committees and on the floor of this House, Mr. Chairman, when we talk about spending cuts, is to obscure the fact that we are really

debating how much to cut, not whether or not to cut.

I think it is important to point out on the record clearly that the bill before us cuts spending enormously.

The amount authorized for the year 1984 is less than that appropriated for this year. The trend clearly has been in the past, in the funding of public broadcasting, on the rise. Each year, with inflation and other needs, it has increased. This decreases it sharply so that in 1984, the first year that we would be authorizing under this bill, it would drop below 1981 appropriations. The authorization would be below 1981 appropriations.

And then what is the trend after 1984? Well, we go from $160 million; to 1985, $145 million; to 1986, to $130 million. The trend is clearly down.

We are arguing here not whether or not we must reduce spending; we are arguing here how much you can reduce it and have public broadcasting survive.

One of the points that has been made here is that 90 percent of the people have public broadcasting available to them. And the suggestion was made that it may be some outpost in Alaska that is being overlooked and should we really spend any money for it.

The committee took testimony from McCarthey Coyle, from a group interested in public broadcasting, that pointed out to us that the State of Montana, the entire State of Montana, has no public broadcasting service at all. Not just a little outpost hidden away behind a large mountain in the State of Alaska.

In addition to which, the facilities program which would help the State of Montana is not only used to create additional stations; in fact, it is used to enable the stations that are in existence to serve better.

An example: In Tacoma, Wash., an educational station there had its tower blown down in a terrible wind. It is now on the air with a jerry-rigged tower. It has no money to rebuild the tower. It is covering a tiny fraction of its service area. And without sufficient facilities funding, it is not likely to ever be able to return to covering its full service area for which it is licensed. In other words, the money that we are spending in that particular service area is not even being spent efficiently, or it is possible that it could not be spent efficiently, because of cuts too great in the area of facilities funding.

The bottom line, Mr. Chairman, that I am trying to make here is that the bill, as reported out of the committee, cuts severely into the authorization of funding for public broadcasting. We believe that it is a responsible cut; we believe that public broadcasting must share in the overall cuts that are going on across the board in this Congress and across all Government programs. We concur with that and have responded by coming up with an authorization for 1984 that is less than the appropriation for 1981, and an authorization which goes down each year of the 3 years authorized rather than the traditional up.

But we also believe that the funding at this very substantially reduced level is funding that will permit public broadcasting to survive and to continue to serve well the people in this country.

Mr. WIRTH. Mr. Chairman, I yield 6 minutes to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Chairman, it looks as if it is no more than coincidental that I should follow my distinguished fellow Texan from Big D, or Richardson, Tex., and yet I had no idea because I had not realized that he was active on this committee level. And I noticed that the chairman was quite puzzled about my distinguished Texan's introduction of the matter of the President's tax package into this discussion.

I think there ought to be two things that, as a Texan, I ought to point out here, one, that our distinguished colleague from Dallas is running pretty hard for the U.S. Senate at this time, and so we have to understand these things. These are parochial things, but they bring a little enlightenment as to the reasons, perhaps.

The other thing is our philosophies. I come from San Antonio, which in Dallas is considered across the tracks from Big D, so to speak, and I am delighted, though, because my concern that I have expressed for at least 10 or 12 years on public broadcasting, I know now where to go, and it was enlightening to hear his remarks.

But I must point out to the distinguished chairman of the subcommittee that my distinguished colleague from Texas and I differ philosophically, and his philosophy is well established in Texas and respected, and all. But he is like Dorothy Parker's "Little Hen."

Higgledy-piggledy, my little white hen,
She lays eggs only for gentlemen;
I can't persuade her with pistol or lariat
To come across for the Proletariat.

The public broadcasting bill we have before us makes the best out of a very bad situation. I can only support this bill because there is no better alternative.

In every nation of the world, there is a clear commitment to public broadcasting. The present administration, however, wants to end that commitment for our citizens. It wants to turn public broadcasting into a kind of high-toned commercial network, through the universal device of its budget cuts. Public broadcasting merits a better fate than this; it is a venture that is only now coming into its own, only now beginning to realize its potential. It is no threat to the commercial networks; it is purely and simply a public service that cannot be rendered in any commercially feasible way. It is the one and only remaining true public trustee of the airways that belong to the public. This bill offers us at least the hope of maintaining public broadcasting as the true public service operation that it is, and I support it for that reason.

The assumption is that every community in the country of any significant size has a reasonably good public broadcasting service. That is not true. San Antonio is a good example of a major city that lacks adequate public service broadcast facilities.

The station serving San Antonio is KLRN, and it began as an adjunct to the educational station in Austin. The trouble with KLRN is that its signal is too weak to serve San Antonio. It cannot attract public support to improve itself because it cannot reach the people it serves. The only way the station can build the support it needs is to provide better service, and that will take new facilities. The administration, however, has frozen grants for new facilities. Unless action is taken, San Antonio will remain without adequate service.

The public broadcasting station in San Antonio uses a transmitter facility at Canyon Lake, some miles northeast of the city. Only 10 percent of the people in the station service area are able to get a class A picture. Maybe 30 percent get a class B picture. In short, more than half the people in the KLRN service get no service at all.

The only way to improve this would be to build new transmitter facilities in a central location. This would cost $1.5 million, and KLRN is seeking a 50-percent grant to build the needed facility. But the application has been frozen since February.

The administration is telling us that we have to do with 40 percent less money for public broadcast facilities. San Antonio is one clear case that tells us the need is far from met. There is no way to overcome the service gaps that exist within the kind of money the administration is willing to spend on public broadcasting. And the money required is not great—less than the cost of a modern fighter airplane or two, to provide adequate facilities support for the whole country.

The committee rightly recognizes that there is a need to insulate public broadcasting from special interest influences—political, commercial, or any other kind. Past administrations have tried to exercise control over what is broadcast, and that was fair warning: Congress cannot be too careful in its efforts to be sure that public broadcasting operates free of political pressure, the kind of pressure that too

easily comes with the quick and brutal revisions of budget and financial policy sought by the present administration.

I realize and recognize that with budget cuts there must be efforts to find new ways of financing public television. Yet San Antonio's case makes clear that this financing cannot be found unless service is better, and service cannot be improved unless the administration is willing to let funds already appropriated for that purpose be used, and additional money is spent to complete the public broadcast system to some reasonable degree of quality. As for financing continued operations, I urge the Committee to stick to its course of not being bullied into any plan that would make public broadcasting a pale imitation of commercial broadcasting, nor any plan that would open public broadcasting to censorship or political pressure from any source, nor any plan that would lead to the demise of the independence that makes American public broadcasting the artistic and journalistic prize that it is. Where we have a good thing going, we should keep up our commitment to it, and public broadcasting is one of those good things.

Mr. WIRTH. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the Committee on Energy and Commerce, the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. I thank my distinguished colleague and friend, the gentleman from Colorado (Mr. WIRTH), the able and distinguished chairman of the subcommittee, for yielding to me. I wish to commend him for an outstanding job well done on this piece of legislation.

Mr. Chairman, I rise in support of H.R. 3238, the Public Broadcasting Amendments Act of 1981. This bill reauthorizes the Corporation for Public Broadcasting for fiscal years 1984, 1985, and 1986 at $160 million, $145 million, and $130 million, respectively. These figures represent substantial reductions from current funding levels—by 1986 real dollar funding for public broadcasting will be less than 50 percent of the present funding level.

Thus, this bill provides that public broadcasting will more than share in the general budget reductions for federally funded programs. There will be amendments offered to cut funding for public broadcasting even more deeply, and I urge the Members to reject those amendments, for they would insure the demise of public broadcasting as a high quality source of diverse and alternative programing. The committee bill provides the minimum level of funding necessary to avert that catastrophe.

The committee bill also contains important provisions that would permit public broadcasting stations to engage in revenue-raising activities to supplement reduced Federal funding. These activities could be undertaken if they would not interfere with the provision of public broadcasting or interfere with program content or quality. The bill permits the stations to offer services, facilities, and products on such basis. Moreover, a carefully drawn amendment will be offered to permit product and institutional advertising on a limited, experimental basis to ascertain its revenue potential and to determine whether such advertising can be undertaken without adversely affecting the fundamental mission of public broadcasting to provide a high quality and diverse source of alternative programing.

The bill also establishes for 1 year a temporary Commission on Alternative Financing for Public Telecommunications to identify and monitor revenue-generating activities designed to keep public broadcasting on a rising curve in terms of both quality and diversity of programing and availability to increasing numbers of citizens. The temporary Commission would have balanced membership, including station input, to insure representation of the full spectrum of views on issues vital to the future of public broadcasting.

Mr. Chairman, the committee bill assures that, in spite of deep funding cuts, public broadcasting will not be consigned to second-rate status, but instead will have the opportunity for continued growth and improvement in quality. I want to compliment Mr. WIRTH, the chairman of the Telecommunications Subcommittee of the Committee on Energy and Commerce, for the outstanding job he has done in balancing difficult and competing concerns to preserve the integrity of public broadcasting with reduced dependence on Federal funding.

Mr. Chairman, I urge support of the committee bill.

Mr. WIRTH. I thank my chairman for his remarks. Mr. Chairman, I yield 7 minutes to the gentleman from New York (Mr. PEYSER).

□ 1300

Mr. PEYSER. Thank you, Mr. Chairman, I appreciate having this time.

I listened with great interest to the first speaker, the gentleman from Texas (Mr. COLLINS), on the floor. I also listened with great interest to the second speaker, the gentleman from Texas (Mr. GONZALEZ). It just proves that Texas is a very big State and has a very great variety of interest represented.

However, I am really concerned over the discussions I have heard on public broadcasting because in the report itself, actually in the minority views of the report, it speaks of the fact that public broadcasting and public television are serving a tremendous amount of the public. That is exactly what it says in here and this is the minority report that is signed by the gentleman from Texas (Mr. COLLINS).

I agree with that. The inference that I was getting from the gentleman's (Mr. COLLINS) talk was that really public broadcasting did not reach a great many people and it was sort of a way of keeping some people working and spending a lot of the taxpayers' money and not doing a great deal.

But the facts are that public broadcasting is one of the major communications, telecommunication methods we have in this country of the public being able to view programs that are not necessarily tied into advertisers or tied into the commercial field.

I think it is important in our country that we do have a viable public broadcasting system, both in television and in radio. It gets, as my friend said, to a matter of priorities. I am wondering, when we talk about priorities and how the taxpayers' money is spent, how the vote, particularly on the Republican side of the House, may go when we in a few weeks' time are going to raise the question of the elimination of programs such as the sugar program, and the peanut subsidy programs that has also enjoyed considerable support on the Republican side of the House. Yet, these are programs that run into billions of dollars of the taxpayers' money. The question is whether we ought to be spending that kind of money to serve a handful of people who operate the peanut farms under allocated programs.

You know, in this country today it is pretty amazing, but unless you have a special governmental allocation you cannot even grow peanuts. It is against the law. Now, that does not make sense to me that we should be spending money on these kinds of programs, far more money, incidentally, than we are talking about in public broadcasting or public television.

It is also interesting for me to note that one of the great expenditures in this country today, probably when we get down to it, second only to defense, is the amount of money we spend on medical programs and hospital costs. Yet, a year ago on the floor of this House we had the opportunity of passing a cost containment bill for hospitals to hold down hospital costs. I am sure everybody is fully aware of the implications of hospital costs. Yet, when that came to a vote on which we should have hospital cost containment, much of the Republican side voted against it, including my good friend, the gentleman from Texas (Mr. COLLINS).

Now, here was a chance of really saving a lot of taxpayers' dollars, and yet they voted against it.

I think what we have to begin to recognize the things that are important to people of this country today. Certainly, one of the things vitally important to them are things like inflation, things like the high interest rate, and many programs like education. I put public broadcasting as part of that.

One of the things in the report from the minority suggests that we shift into dignified advertising on public broadcasting. I am not quite sure what dignified advertising is.

But if what we are really suggesting is that we turn public broadcasting over to another form of commercial advertising in competition with private industry, that would seem to be counterproductive to what the Reagan administration would certainly want to support and most Representatives in this House would want to support.

So I suggest that saying that they can make their money up through advertising, dignified or otherwise, is really very misrepresentative of what is being presented and should not be considered.

So, Mr. Chairman, in closing I would like to say that public broadcasting serves a major function in this country. It is of the utmost importance. We truly should be thinking of increasing funds for public broadcasting for the public good and not decreasing it. It is my hope that when the vote comes on the amendment of the gentleman from Texas (Mr. COLLINS), that it will be soundly defeated and the bill itself will be passed.

I yield back the balance of my time.

The CHAIRMAN. The Chair announces that the gentleman from Colorado (Mr. WIRTH) has 3 minutes remaining, and the gentleman from Texas (Mr. COLLINS) has 9 minutes remaining.

Mr. COLLINS of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have enjoyed hearing my two friends with their statements. One of the real privileges in the House is to hear the distinguished gentleman from San Antonio (Mr. GONZALEZ). He is a legend in Texas. Some of his remarks were interesting. He said the gentleman from Texas, referring to me, was interested in the bill because he had other political aspirations.

I would like to remind the gentleman that if ever there is an unfavorable and unpleasant position to take, it is to take the position on which I now stand. I have not heard one soul speak on behalf of my position, not one letter or phone call. But the people interested in public broadcasting, every one of them knows about my position. In politics, you like to get where the noise is. I heard the distinguished gentleman from New York (Mr. PEYSER), who is a great friend. He was talking about priorities and how we need this. I was reminded of the mayor of New York City, Mayor Koch, who served with us for many years here. Now that he has moved up to the city of New York as mayor, he is much, much more objective. What the mayor says now, he says he cannot understand how we spend money down here. He says it does not make sense, there is no logic to it. I have not heard him on public broadcasting, but if I asked the mayor of New York City what was the most important thing in New York City, was it the sewer, the garbage, or public broadcasting, he will tell you that the most significant problem is what to do about the sewer system and mass transit. Public broadcasting would be so far down on the list you would not get to it until you get to page 38 on his list.

Today, the problems this Nation faces require that we set priorities.

My good friend from Washington, who is one of the finest Members with whom I have ever served, hardworking, very objective, very diligent, referred to my statement where I said that on some of the mountains in Alaska the Eskimos cannot hear public broadcasting. Then he came back with the illustration of Montana and said that it does not have public broadcasting. When the gentleman said that, I started jotting down what the people of Montana are concerned with. I just listed 10 subjects, but I will tell you, if you stood in Billings, Mont., today and said list for me the things you consider important, you would stand there a long time before they would tell you, we want public broadcasting in Montana. I will tell you what they would do. They would tell you the same thing they do on Main Street in Dallas, Tex. They would say what we want is to end inflation, stop spending in Washington. The second thing they would probably tell you is that taxes are too high. Because that guy on Main Street knows 43 cents out of every dollar today is going to taxes. He will tell you that he is worried about national defense, and he will say that should be a priority. You talk to the lady and she will tell you education of her children is a top priority and she is concerned about that. One that really concerns me is social security. The reason social security is in trouble is because we have inflation and because we are not building those reserves. We need to concentrate on social security. We also need to work on highways for a developing State like Montana.

Up in Montana they also talk about national parks.

I just started down the line. What I am saying is this: In the Congress we have priorities; I do not know how it is in your hometown, but when we get ready to cut that budget, let us just cut back where we can afford to cut. In 1978, the funds that we gave public broadcasting were $107 million. It was only a couple of years ago when we gave them $107 million, and they lived with it. What we are saying is, let us cut back to $110 million, which is more than they were getting in 1978. When I said that, my staff said, well, remember inflation, it takes more. I said, what caused inflation? What caused inflation is Government spending, so if we will just simply bring down all this spending, $110 million will be what $110 million used to be. We must face up to it and the place to start is with the public broadcasting bill.

Mr. Chairman, I reserve the balance of my time.

● Mr. WAXMAN. Mr. Chairman, I am pleased to be a cosponsor of H.R. 3238, and want to express my appreciation to the chairman of the subcommittee, TIM WIRTH, for his outstanding leadership on this bill.

I know personally of the deep commitment he has to public broadcasting. I have thoroughly enjoyed working with him on this legislation, and look forward to supporting his efforts in the years ahead.

Public broadcasting faces a serious crisis. It has been precipitated by the drastic budget reductions proposed by the Reagan administration.

These cuts threaten the very ability of public broadcasting to survive. They will result in substantially less support for public television and radio stations across the country—and may ultimately drive some off the air altogether. They will severely impair the ability of the Corporation for Public Broadcasting to develop new and exciting programing—to the detriment of audiences across the country who are seeking alternatives to commercial broadcasting.

It has therefore fallen to our subcommittee to draft a bill that will help public broadcasting effectively face the Reagan administration's budget cuts. Accordingly, we believed it important, first, to provide greater budget authority for CPB than the administration requested and, second, to take firm steps to protect CPB's two highest concerns—support for the stations and for national programing.

At the same time, we have maintained access by independent producers to public broadcasting, and reiterated the reform adopted in 1978 relating to public broadcasting's accountability: The requirements for open books and records, the establishment of community advisory boards, and so forth.

In my judgment, however, there are not sufficient funds available—even under the amendment I will offer tomorrow to cap CPB's authorizations at $160 million—for public broadcasting to meet the needs Congress recognized in 1967.

The funding levels in this bill simply will not insure the completion of the facilities program—essential if all Americans are to be able to receive public television and radio signals.

The funding levels in this bill simply will not permit CPB's program fund to expand in the years ahead—even though it is needed more than ever before. The program fund was established, at our urging, to encourage the development of programs that would not be undertaken by anyone else. The existence of an unrestricted pool of money is essential to the success of this effort. The reductions in funds for this program will adversely affect program development.

The Reagan budget cuts have also forced a reassessment of the wholly noncommercial status of public broadcasters. If stations are to stay on the air—in spite of the unwillingness of the administration to provide an adequate Federal commitment to public broadcasting—we have no other choice but to open new opportunities to generate outside revenue. Accordingly, H.R. 3238 enables the stations to lease out their facilities for commercial use. It also permits the broadcast of a program underwriter's logo. And a comprehensive study of the advertising issue, including a limited experiment with several television and radio stations, will be completed within 2 years.

Commercial activities in public broadcasting, however, are a two-edged sword. Additional revenue will certainly be generated—but at what cost to public broadcasting's independence and integrity? Will the search for dollars compromise its creative genius? Will there be strings attached to the money that is given to public broadcasting so that the most courageous and needed programs are not funded for fear of controversy—or simply fear itself?

These are the questions that public broadcasting executives must face. The values involved are all too fragile and all too vulnerable to commercial pressures. It will take enormous vigilance throughout public broadcasting for the system to retain the creative freedom it now enjoys.

I reject the contention that public broadcasting must remain pure—but poor. Nevertheless, the managers of public broadcasting must appreciate the public trust that is at stake here. We are making your job extraordinarily more difficult by not providing sufficient levels of funding. But that simply makes your responsibility all the greater. I urge you not to fail.

Mr. Chairman, I yield back the balance of my time.●

The CHAIRMAN. The gentleman from Texas has 4 minutes remaining and the gentleman from Colorado has 3 minutes remaining.

Mr. COLLINS of Texas. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. WIRTH. Mr. Chairman, if the gentleman from Texas (Mr. COLLINS) has no further requests for time, I have no further requests for time and I would yield back the balance of my time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SWIFT) having assumed the chair, Mr. SKELTON, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 3238) to amend the Communications Act of 1934, to extend certain authorizations of appropriations contained in such act relating to public broadcasting, and for other purposes, had come to no resolution thereon.

Mr. PANETTA. Mr. Speaker, I am inserting in the RECORD today a "Dear Colleague" sent by the gentleman from Ohio (Mr. REGULA), the ranking Republican on the Budget Committee's Reconciliation Task Force, and myself, summarizing the work of the committees under the reconciliation process.

In total, the committees have reported reductions in almost 250 programs. Also, 85 percent of the programs targeted for cuts by the President and the Latta-Gramm resolution have been reduced.

I would urge Members to consider the work of the committees and what they are reporting to the House in making any judgments with regard to what I assume will be a proposal to cut spending further. The letter follows.

DEAR COLLEAGUE: The June 12 deadline for submission of legislation reducing spending was formally met by fourteen House committees, and the fifteenth committee has submitted majority and minority packages, both of which meet that committee's reconciliation target. The Congressional Budget Office has calculated the savings that would be achieved by the legislation submitted and in almost every case the committees met or surpassed the reconciliation instructions set in the first budget resolution. Also, the total savings figure of $35.1 billion in outlays for fiscal year 1982 has been surpassed by $2.4 billion.

The total reductions directed for all committees and the reductions submitted are as follows:

[In millions of dollars—fiscal years]

	Instructions to committees			Committee submission		
	1982	1983	1984	1982	1983	1984
Budget authority	50,694	57,599	66,016	54,705	61,412	67,986
Outlays	35,116	46,312	55,572	37,489	46,551	55,587

Attached is a summary of the reduction achieved by each committee package and a description of what programs were reduced.

Sincerely,

LEON E. PANETTA,
Chairman, Reconciliation Task Force.

RALPH REGULA,
Ranking Republican, Reconciliation Task Force.

SUMMARY

AGRICULTURE

[In millions of dollars—fiscal years]

	Instructions to committee			Committee submission		
	1982	1983	1984	1982	1983	1984
Budget authority	2,208	3,006	3,671	2,247	2,917	3,907
Outlays	2,521	2,842	3,525	2,596	3,552	4,382

The reconciliation submission of the Committee was approved in a formal mark-up on June 9.

The package includes cuts in the dairy price support program, the food stamp program, CCC administrative expenses, rural water and waste grants, the P.L. 480 program, USDA salaries and expenses, USDA conservation programs and the Farmers Home Administration's Rural Development and Agricultural Credit Insurance Funds. The Committee also approved the elimination of the first year interest subsidy for the grain reserve and user fees for inspection of grain, tobacco and cotton.

ARMED SERVICES

	1982	1983	1984	1982	1983	1984
Budget authority	966	899	511	966	897	513
Outlays	966	899	511	966	897	513

The reconciliation submission of the Committee was approved in an executive session on June 10.

The package achieves savings through a once-a-year COLA for military retirees (subject to similar benefits being enacted for civilian retirees), stockpile sales and open enrollment in the military survivor benefit plan.

BANKING, FINANCE, AND URBAN AFFAIRS

	1982	1983	1984	1982	1983	1984
Budget authority	13,177	15,572	17,827	13,207	17,476	19,490
Outlays	640	1,398	2,369	760	1,870	4,264

The reconciliation submission of the Committee was approved in a full committee markup on June 9.

The package includes reductions in subsidized housing, Export-Import Bank, CDBG, UDAG, rural housing loans, National Consumer Cooperative Bank, HUD grants (neighborhood self-help development assistance grants, Section 701 planning assistance grants), Solar Energy Conservation Bank, Section 202 Housing for the Elderly and Handicapped, FmHA housing grant programs, FEMA flood studies and reductions in salaries and expenses for eight agencies and bureaus. HUD Section 312 Rehabilitation loans and the Congregate Services program are terminated in the committee package, and contributions to the Inter-American and Asian Development Banks are reduced.

DISTRICT OF COLUMBIA

	1982	1983	1984	1982	1983	1984
Budget authority	39	56	72	39	56	72
Outlays	40	64	69	40	64	79

On June 10 the Committee approved language placing a $155 million per year ceiling on capital loans to the District of Columbia.

EDUCATION AND LABOR

	1982	1983	1984	1982	1983	1984
Budget authority	12,099	14,907	18,341	12,321	15,323	19,095
Outlays	10,084	13,522	17,020	9,768	13,632	16,848

The full Committee marked-up its reconciliation legislation on June 9 and June 10.

The package includes reductions in the following programs: Special milk; summer feeding; school lunch; juvenile justice; vocational education; other education programs; student assistance; guaranteed student loans; impact aid; CETA PSE; CETA training; the National Endowments for the Arts and Humanities; Youth Conservation Corps; Vocational Rehabilitation; runaway youth; child abuse; Indian Education; Headstart; Institute for Museum Services; Work Incentive (WIN); Community Services Employment for Older Americans; elderly nutrition; ACTION; and services for Cuban-Haitian refugees. The Committee has also proposed a user fee which would be used to finance the Black Lung Trust Fund.

The Committee expressed its disapproval of the proposed cuts by a vote of 23–4.

ENERGY AND COMMERCE

	1982	1983	1984	1982	1983	1984
Budget authority	5,385	5,980	6,285	7,336	7,026	5,919
Outlays	5,184	6,315	7,036	6,274	7,554	6,580

Although the Committee met and adjourned without formally reaching a decision on a reconciliation package, separate majority and minority packages have been submitted to the Budget Committee and both meet the reconciliation targets set in the first budget resolution. The numbers above reflect the majority package.

FOREIGN AFFAIRS

	1982	1983	1984	1982	1983	1984
Budget authority	250	275	300	250	275	318
Outlays	130	200	300	172	247	300

The reconciliation submission of the Committee was approved in a full Committee meeting on June 9.

The package includes reductions for American Schools and Hospitals Abroad, International Organizations and Programs, international narcotics control, international disaster assistance, Inter-American Foundation, Peace Corps, assessed contributions to international organizations, the Board for International Broadcasting, the International Communications Agency, Arms Control and Disarmament Agency and the P.L. 480 Food For Peace Program.

INTERIOR AND INSULAR AFFAIRS

	1982	1983	1984	1982	1983	1984
Budget authority	755	736	714	1,095	690	993
Outlays	309	504	594	818	771	922

The reconciliation submission was approved by the Committee in a formal session on June 11.

The package includes reductions for the Department of the Interior, the Indian Health Service, Water Resources Council and uranium supply activities under the Department of Energy. Also included are significantly increased user fees for uranium enrichment and filing and leasing fees for noncompetitive oil and gas lands.

MERCHANT MARINE AND FISHERIES

	1982	1983	1984	1982	1983	1984
Budget authority	339	439	562	242	317	341
Outlays	207	411	551	105	287	328

The reconciliation submission was approved by the Committee on June 10.

The package includes a repeal of the merchant seaman entitlement for health care and the deauthorization of the MARAD Construction Differential Subsidy 1982 program, and reduction of the 1983 and 1984 program. Program oilspill liability legislation and an ocean dumping user fee are also included.

POST OFFICE AND CIVIL SERVICE

	1982	1983	1984	1982	1983	1984
Budget authority	4,737	6,304	7,390	5,246	6,463	7,203
Outlays	5,163	6,324	7,371	5,309	6,629	7,418

The Committee voted on June 9 to report its reconciliation package with a recommendation that it not be approved.

The package includes a provision to cap Federal pay in fiscal years 1982–1984, a provision to reduce the civil service pay of retired military personnel, the elimination of dual pay for civil servants who are on leave for active duty in the National Guard or Reserves and a provision directing the Postmaster-General to develop a plan to achieve $100 million in savings.

PUBLIC WORKS AND TRANSPORTATION

	1982	1983	1984	1982	1983	1984
Budget authority	6,346	5,122	6,241	6,374	4,929	6,036
Outlays	1,218	3,565	5,720	1,647	3,550	5,691

The Committee did not have a formal mark-up, but has submitted a package that reduces obligations for federal highway programs, cuts highway safety grants, urban mass transit construction grants, the Economic Development Administration, Regional Commissions EPA sewage and wastewater grants, EPA research and development, Corps of Engineers-related projects, a TVA energy project, Airport Development and Planning Grants and the Civil Aeronautics Board. The package also includes an oil-spill liability user fee.

SCIENCE AND TECHNOLOGY

	1982	1983	1984	1982	1983	1984
Budget authority	78	90	102	1,581	1,741	1,852
Outlays	39	59	83	751	1,437	1,740

The Committee approved its reconciliation package in a formal session on June 11.

The package includes reductions in the Department of Energy, EPA research and development, and FAA research engineering.

SMALL BUSINESS

	1982	1983	1984	1982	1983	1984
Budget authority	526	564	554	526	564	554
Outlays	390	541	533	390	541	533

The Committee approved reconciliation legislation in a formal markup session on June 9.

The package includes cuts in SBA business loans and disaster loans.

VETERANS AFFAIRS

	1982	1983	1984	1982	1983	1984
Budget authority	110	108	106	110	108	106
Outlays	110	108	106	116	113	110

The Committee transmitted on June 11 a report reflecting savings recommendations agreed to at a March 26 meeting.

The package provides for the termination of VA flight and correspondence benefits and VA class II dental benefits. Also included is legislation limiting non-service-connected burial benefits to those veterans whose income (and spouse's) did not exceed $20,000 in the year prior to the veteran's death.

WAYS AND MEANS

	1982	1983	1984	1982	1983	1984
Budget authority	4,677	4,954	5,158	4,268	4,097	3,443
Outlays	9,241	10,559	11,248	9,240	7,431	8,440

A Committee bill containing spending reduction legislation was reported on June 10.

The Committee package proposes reductions in Social Security, Trade Adjustment Assistance, Unemployment Compensation, Public Assistance, Child Support Enforcement, Low-income energy assistance, Supplemental Security Income, Social Services Training, and Medicare.

□ 1215

RAILROAD INVESTMENT INCENTIVES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. EVANS) is recognized for 5 minutes.

● Mr. EVANS of Iowa. Mr. Speaker, the strength and continued vitality of our Nation's economy depends on a reliable and efficient transportation system. Our railroads are an important element of that national network, yet there are few of us here today who would deny that the problems facing

many of our railroads are more serious than at any time in our Nation's history.

One of the most serious long-term aspects of this problem has been the decay of the physical condition of many roadbeds due to deferred maintenance and inadequate capital investment. Our railroads have repeatedly become caught in a cycle wherein revenue problems lead to maintenance reductions, which result in loss of traffic, and this is turn leads to further revenue problems. Capital investment, which could be used to offset the effects of this vicious cycle, has been discouraged by the rail industry's low rate of return on investment.

The railroad industry has demonstrated that it has the ability to overcome obstacles which threaten continued operation, and recent legislative actions have provided some relief in regulatory procedures, rate determination, and abandonment decisions. These measures are not sufficient, however, to overcome the burden of over $4 billion in deferred maintenance which our railroads are carrying as we enter this decade. Nor will they do much to help attract the $16 billion in new investment that the U.S. Department of Transportation has projected will be needed by 1985.

Mr. Speaker, the railroads of this country are not alone in their efforts to solve these problems. In my own State of Iowa there are numerous examples of efforts by the State and local governments, shipper groups, and many public and private organizations to provide support and assistance to insure adequate rail service. The same is true in many other Midwestern States and across the country. However, these efforts have not been enough to reverse this tide of railroad failures. The important element which is missing from these efforts is the private capital needed to repair and rehabilitate the neglected roadbeds over which these railroads operate.

Congress must provide the tools and incentives our railroads, our local governments, and our financial institutions need to attract the large amounts of capital needed to carry out this task.

Today I am introducing three bills which will help provide these badly needed incentives.

The first of these measures establishes a procedure for groups of investors to purchase materials such as ties and rails to be used for railroad rehabilitation projects and lease these materials to railroads. The bill further provides that such a lease arrangement qualifies for favorable tax treatment to provide incentives for railroad investments.

The second measure extends the Federal income tax exemption on industrial revenue bonds used for transportation projects to include the rehabilitation of railroad property. Bonds have and will continue to play a vital role in efforts by many of our States to provide assistance for rehabilitation efforts. This bill will provide additional support for efforts to market these bond packages.

The third measure provides that the investment credit for railroad property be refundable in cases where the railroad has operated at a loss or has been only marginally profitable and is therefore unable to take the regular investment credit deduction. This would extend the same incentives which are currently available to more profitable railroads to those lines which need them most.

Each of these measures represents an effort to redirect and focus existing tax practices on an effort to solve a problem facing one of our basic industries. Our railroads employ a large number of workers. They provide the best means of moving large quantities of bulky products on land and are highly energy efficient. In the face of huge investment needs, their earnings are not adequate to attract new capital.

Our rail beds are truly a national asset. Unfortunately one does not have to look far in any part of this country to find a rundown branch line or a main line operating at reduced speeds for safety reasons. We have an opportunity to provide additional tools to help in the effort to rebuild our Nation's railroads. Mr. Speaker, I urge you and my fellow Members of this House to consider the need for this legislation carefully, and I welcome your support.●

REAUTHORIZING THE LEGAL SERVICES CORPORATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. McKINNEY) is recognized for 5 minutes.

● Mr. McKINNEY. Mr. Speaker, last week, the House passed H.R. 3480, reauthorizing the Legal Services Corporation, by a vote of 245 to 137. I am proud to have been among the supporters of this legislation, and I commend my colleagues on the Judiciary Committee for their success in drafting the bill. This measure represents a balanced compromise between the need to reduce Government spending and our obligation to provide legal assistance to those persons unable to afford legal counsel. The bill also includes several appropriate restrictions on activities which may be funded through the Legal Services Corporation. With these conditions, the House has approved a measure which achieves a savings over previous authorization levels, and which allows this vital program to continue to serve truly needy individuals.

The Legal Services Corporation has traditionally enjoyed broad, bipartisan support. Regardless of political affiliation or philosophy, it is generally agreed that citizens of this Nation should have the ability to protect their rights through legal representation. Last year, the Legal Services Corporation handled 1.5 million cases involving low-income people who could not otherwise exercise their right to equal justice under the law. Further, most of the Corporation's cases are related to basic needs: 30.3 percent are cases involving domestic relations, such as divorce, child custody, support payments, and spouse abuse; 17.6 percent are housing-related, such as landlord/tenant conflicts; 17.2 percent revolve around income maintenance programs such as food stamps and social security; and 13.7 percent are related to consumer finance difficulties, such as loans, contracts, and bankruptcy. Less than 1 percent of cases are class action suits, and H.R. 3480 included a provision restricting the filing of such suits against State, local or Federal governments until the National Board of Directors adopts new guidelines for such suits. I believe that with this assurance that the Legal Services Corporation's main function will be to serve needy individuals, this bill deserved our support.

While the Judiciary Committee has been cognizant of the problems which confront the Corporation and its grantees, it was forced to balance their needs against the serious fiscal crisis which faces the Nation and the need to reduce overall Government spending. The 1982 authorization figure of $260 million represents a 25-percent cut over the Carter-proposed budget, and will result in a reduction in Legal Services Corporation services. However, the Corporation's excellent record of cost effectiveness merits its reauthorization as a separate entity. Less than 3 percent of the Legal Services Corporation's budget, is spent on administrative expenses, and the average salary for Legal Services Corporation lawyers is far below that of those in the public or private sector. About 85 percent of all cases are resolved out of court, and of the 15 percent which actually result in litigation, Legal Services Corporation attorneys and their clients win 80 to 85 percent. This high quality of service to low-income people cannot be abandoned.

The ability of our citizens to have access to the courts, regardless of income, is fundamental to our national commitment to the principle of equal justice under the law. We must not be satisfied with the perception of equal justice—we must demonstrate our firm commitment to its permanent realization by supporting an independent Legal Services Corporation. I commend my colleagues who reaffirmed

their commitment to the ideal of adequate legal representation for all by voting for H.R. 3480.●

KING CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes and to revise and extend his remarks and include extraneous matter.

Mr. GONZALEZ. Mr. Speaker, I rise to resume my concern expressed over the last 2½ years with respect to the apparent unbroken control and domination of our society by what I call "king crime." The reign of king crime proceeds undiminished in our country, and specifically the atrocious cases of the attempted murder—or assassination—of the assistant district attorney for the western district, at that time, James Kerr; and the murder—or assassination—of the district judge for the western district, John W. Wood, on the last day in May 2 years ago; both crimes are unresolved.

The reason I first raised my voice in the attempted assassination of James Kerr was that, again locally, I had expressed concern over the course of years about the intrusion willy-nilly and undiminished by any ability of the law inforcement agencies on any level to successfully attack, much less reduce or control, the incidence of sophisticated crime that had finally led to, in my book, the first assault on one of the branches of our Government, the judiciary. So that, when the attempted murder of James Kerr was reported by the newspapers in November of 1978, which will be 3 years this coming November, it did no more than emphasize what I had predicted over the course of months.

But, it was not only demoralizing and shocking, that subsequent to that attempt at predicting and follow-through, the murder of Judge Wood would occur exactly 6 months after the attempted murder of James Kerr. Now, in the meanwhile, and really the only voice speaking out on this in an official capacity locally, State, or national, was mine.

After the attempted murder of James Kerr, I went to the highest level, the President, and managed to meet with his chief domestic adviser, who brought in three men. One was a representative of the Drug Enforcement Agency; one of the Justice Department; and one of the counterparts on the White House staff. About the only thing that was done to follow through was my suggestion that the day was long overdue that there should at least on the Federal level be coordination. Forget about coordination between Federal, State, or local law enforcement agencies, but just coordination in the affected areas in the departments and agencies on the Federal level.

This amounted to about five, believe it or not; the Drug Enforcement Agency, the Justice Department, the FBI, the Immigration and Naturalization Service, the Border Patrol, and Customs—and believe it or not, the Department of Agriculture.

I pointed out, and only after I pointed out in specific instances where it was obvious that this lack of coordination was unpardonable, and I pointed out in specific areas where there would be cases where one agency, actually either in the air through airplane or helicopter, would be following a traffic pattern of dope pushing internationally into the United States, while the Drug Enforcement agents on the ground were oblivious to that fact, and the Justice Department in total ignorance, and the FBI not even knowing what the other law enforcement agencies were doing.

So, something did rev up as of December 1978, but not too much; and then seeing that the case was going to lapse into forgetfulness, I then took this forum in the beginning of the Congress in 1979 to speak out on the attack on Kerr, and after making a number of speeches which I felt stretched the limit of toleration, I ceased, but only after, as the record will show, I had had a conversation and a visit and for the first time met the assistant district attorney, James Kerr, in May exactly 4 days before the assassination of Judge Wood. The reason I met Mr. Kerr was that the Justice Department decided to award him some kind of a medal that the Justice Department gives to people in its service for valor or something, and he had to come to Washington. One thing he did out of his kindness and courtesy was to ask the Attorney General that I be present when he was given this medal, but I could not be there because it conflicted with a meeting of the House of Representatives, and I have always made it a point since my election that if the House is in session, I would be present and accounted for.

So, I then invited Mr. Kerr to have breakfast with me the following day, which was the Thursday preceding the May 30 date of the assassination of Judge Wood. To my surprise, I discovered for the first time, through the person of James Kerr, that he was still under surveillance, and in fact had been detached from duty and was hiding out under protection of U.S. marshals, but that the protective custody that had been extended Judge Wood had been removed for over 3 months at the insistence and request of Judge Wood, who considered it an intrusion and an intolerable situation for the daily presence of the agents in his residence and all, were objected to.

I became alarmed, and asked Mr. Kerr to please immediately communicate with Judge Wood and tell him that I felt it was critical that he reimpose and ask for a resumption of U.S. marshal custody. Well, the rest is history, because I go back to my district every weekend, and I flew back that weekend not knowing whether or not Mr. Kerr would communicate with Judge Wood.

On Tuesday morning, because Tuesday was the day following Memorial Day holiday, I was still in San Antonio, I was the first person called by the newspapers upon the notice of the shooting death of Judge Wood at about 8:15 in the morning outside of his living area. Why they called me, I guess, was because I was the only one that had been talking out and predicting these attempts. They wanted a comment, and I said, "how can I comment? I do not know any of the details other than that this is a shame, I am shocked, I am dismayed, I am depressed that a judge should have lost his life this way."

I said, "I would say this: Just from the meager facts you have given me, there is no question that this is a well thought-out and long-planned affair, and given the nature of the meager facts provided, I would say that it is inexcusable that Judge Wood should have been exposed to death."

I said, "That is gone, though," and I said, "the only thing we can do now is go back and make sure that both crimes are pursued until the perpetrators from the hit level to those who engineered and ordered it are brought out, exposed, punished, because if we do not—if we do not this will be an abject confession that American society is completely proscribed, surrendered, prostrate before the dominance, the wilfullness, and the sophisticated crime of organized crime."

I had pointed out, and I have done so repeatedly from this forum, that this crime is so sophisticated, so well organized, that it has for years penetrated the Government, the political, on the highest level; and the pattern of traffic just on the international dope traffic—and I am the only one who has spoken out on the peculiar nature of this traffic beginning a few years before the attack on James Kerr, in which I pointed out that in a matter of less than 1 year they are moving into this sector of organized crime, or the syndicate, as I call it, and that is the trade in stolen automobiles or vehicles and parts thereof, and particularly the stolen trade of these vehicles into Mexico in exchange for, in return for the flow of dope and drugs.

In fact, the business has become so sophisticated that a certain make or model of a car brings a certain equivalent amount in a given drug, whether it is cocaine or brown Mexican heroin

or marihuana. A 1980 Chevrolet pickup will mean so many thousands of kilos of marihuana.

I pointed out in detail the three screens in this traffic. This traffic continues unabated. It is more than $1½ billion illegal business. It is costing America much just in terms of dollars, but when you couple that with the heinous crime of the unprecedented murder of a Federal judge, which 2 years and 1 month after its perpetration there has not even been an indictment even though there have been a *lot of noises* in the press. That is one good thing, let me say this. I do not mock that because I was afraid that through overlooking, or through silence, this case would follow the case of Jimmy Hoffa. Let us not forget that Jimmy Hoffa's body has not even been found, much less resolved a resolution of that case. I predict that unless again we give the highest priority and insistence on the Judge Wood case, it too will go into the dust of history and oblivion as the present status of the Jimmy Hoffa case. These cases have grevious implications to each and every one of us, because in effect, it is the death knell of our liberties, of our democratic form.

□ 1330

For as in the case of political assassination, in which again I was frustrated in trying to get the Congress to accept the responsibility they are in, over 10 years of political violence on the highest level and political assassination, which has impacted our Government, which has impacted our democracy, and yet you would not think so. Even the shocking attempt on President Reagan should be a clear alarm bell in the middle of the night that we have not done our job on this level; but more important than that is the assassination of Judge Wood is the first and up to now successful attack and consequent intimidation of the third branch of our Government, the judiciary.

Let me point out that since that murder, there have been millions and millions and millions of dollars spent just to provide the continuing protective custody of the judiciary in that district and all of the agents of the judiciary, just that fact alone.

So that I had ceased from speaking because I thought, well, with the formation of a special grand jury and this special grand jury has met and it has had tremendous headlines; in fact, just week before last Newsweek had a big story, and what did it say? It said, why, we have information showing that whoever it was that murdered Judge Wood got paid $1 million for doing it.

Yet when I introduced a resolution, all it was was a sense of the House. It was not an appropriation. It was not asking that we commit the money. All it was that it would be the sense of the House that the President should let the Justice Department know that he would be willing to make up the $3 million available to the Justice Department for the purpose of obtaining information leading to the arrest and the conviction of those responsible.

You would think they would receive reports. The only time two colleagues, both of them minority Members, expressed support they were called by the Member who represents that section of town, where Judge Wood was murdered, and bawled out and compelled to withdraw support, why? I do not know to this day, for I have certainly not injected politics into this matter. If I had, I would never have spoken, for both Judge Wood and James Kerr were and are Republican.

PADEREWSKI—POLISH PIANIST AND PATRIOT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, I rise to call to the attention of my colleagues the 40th anniversary of the passing of Ignacy Jan Paderewski, the great statesman, composer, patriot, and pianist of Polish descent.

Paderewski was born on November 18, 1860, at Kurylowka in Podolia, Russian-occupied Poland, where he began a brilliant career in music. He was playing the piano at age 3, composing at age 7, and had already graduated from the Warsaw Conservatory and was teaching music at the age of 18.

Not only was Paderewski a great statesman, but he was great patriot, and at every opportunity and at every forum at his disposal, he always delivered the inspiring message of his vision of a strong and independent Poland.

When World Was I broke out in 1914, he dedicated himself to the cause of Polish independence. Through his efforts, enormous sums of money were collected and a powerful pro-Polish movement in the United States gained impetus.

At the conclusion of World War I, Paderewski returned to Poland and succeeded in forming a coalition government of which he became Prime Minister. He withdrew from politics in 1921 and retired to California where he continued his musical career, but when Germany attacked Poland in 1939, Paderewski became President of the new Polish Parliament in exile.

Paderewski died in the United States in 1941. His body was buried at his estate in Switzerland and "his heart is temporarily interred at the Mast of the Maine Memorial at Arlington National Cemetery to be one day returned to a free and independent Poland."

I am glad to have this opportunity to call attention to the outstanding career of Paderewski both in music and politics. On this anniversary of Paderewski's death, it is appropriate that we remember and honor him, for he kept alive the vision of a free Poland through some of Poland's most turbulent years, and rededicate ourselves to those principles of freedom and self-determination which he supported so staunchly.

A brief biography of Paderewski follows:

IGNACY JAN PADEREWSKI (1860-1941)

Ignacy Jan Paderewski, Polish pianist, composer and statesman, was born on November 18, 1860, at Kurylowka in Podolia, Russian Poland. He began to play the piano at age three, and to compose at seven; he graduated into an instructorship at the Warsaw Conservatory at the age of eighteen. He also studied music in Berlin, and Vienna where he was a pupil of the great Theodor Leschetizsky.

Following debuts in Vienna (1887), Paris (1889), London (1889) and New York (1891), Paderewski quickly gained world reknown which made him the highest-paid instrumental artist in history and placed his name alongside that of Franz Liszt as one of two greatest pianists of all time. His first considerable work was the Opera Manru, played first at Dresden on May 29, 1901, and in 1902 in New York. The Minuet in G, originally one of six humoresques for piano solo, has come to rival that of Beethoven in popular favor.

Paderewski's unprecedented success as a pianist all over the world never caused him to forget his own country, and to the Poles of America he delivered the following inspiring message: "The vision of a strong and independent Poland has always been the lodestar of my existence. Its realization is still the great aim of my life."

When World War I broke out in 1914, he dedicated himself to his country's service. He was president l'honneur of a non-party group of Poles who organized a "General Committee of Assistance for the victims of the War in Poland." Paderewski established branches in Paris and London; he went to the United States, where he remained four years, giving numerous concerts and championing the cause of Poland. He collected enormous sums and created a powerful pro-Polish movement in the U.S. The value of his propagandist work was realized when, on January 22, 1917, President Wilson alluded to a "united, independent and autonomous Poland."

After the victory of the allies, Paderewski returned to Poland on December 23, 1918. He declared himself independent of all political parties and succeeded in forming a coalition ministry, of which he became prime minister. He went to Paris on April 6, 1919, as Poland's first delegate to the Peace Conference.

He abandoned his political career in 1921, and retired to his California estate and resumed his musical career. Many recordings and one motion picture (The Moonlight Sonata, 1936) have preserved samples of his unique art for posterity.

Later, he established his home in Morges, Switzerland. When Germany attacked Poland in 1939, and President Moscicki fled for Romania, Paderewski was asked to succeed him, but declined because of ill health.

In January, 1940, in France, he became president of the new Polish Parliament in Exile. In December of 1940, Paderewski came to the United States and died seven months later on June 29, 1941. His body was buried at his estate in Switzerland and his heart is temporarily interred at The Mast of The Maine Memorial at Arlington National Cemetery to be one day returned to a free and independent Poland.●

SENTENCING OF BRAILOVSKY PROTESTED AT MADRID CONFERENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FASCELL) is recognized for 5 minutes.

● Mr. FASCELL. Mr. Speaker, outlasting all expectations, the Madrid review meeting of the Conference on Security and Cooperation in Europe is still in session. The 35 delegations are attempting to reach an agreement on a concluding document that will foster progress in the military security, economic, and humanitarian fields. Since the beginning of the review meeting, the objectives of the U.S. delegation and our allies at Madrid have remained the same, our commitment to the Helsinki process has been sustained, and our resolve to achieve a substantive result, steady. Approaching their eighth month of deliberations, the U.S. delegates mark painstakingly slow progress, but have not lost sight of the fact that the meeting holds a significance beyond its utility as an international forum for negotiation; that the Helsinki Final Act has a meaning beyond its usefulness as an international negotiating instrument. All along, the U.S. delegation has felt a responsibility to use the review meeting and the Helsinki accord to make improvements in the lives of people. We have felt a special responsibility for the victims of Soviet oppression, and throughout the course of the meeting have made a point of identifying them by name in illustration of the principles for which they are made to suffer.

On November 13, 1980, precisely 2 days after the opening of the Madrid meeting, Viktor Brailovsky, a prominent Jewish activist and internationally respected cyberneticist, was arrested in Moscow. His arrest was thought by many to be a signal from the Soviet Government that it would not permit the Helsinki conference to be used to pressure the U.S.S.R. on human rights. By raising the Brailovsky and other cases time and again at the meeting, the United States and other Western countries signaled back the clear message that unless the Soviet Union adhered to its human rights commitments under Helsinki, it would continue to face harsh international criticism.

As slowly as the months of deliberation have gone for the negotiators in Madrid, they must have seemed infinitely longer to Dr. Brailovsky, who spent them in pretrial detention in Moscow's Butyrskaya investigation prison. After 7 months of waiting, the 1½-day trial began, closed to all but Mrs. Brailovsky and son Leonid. Friends, foreign diplomats from the United States, Canada, and Great Britain, foreign press, and the relatives of other imprisoned dissidents and of human rights activists, including the mother of Anatoly Shcharansky and wife Andrei Sakharov, stood vigil in the rain outside the court building.

Dr. Brailovsky was tried under article 190-1 of the RSFSR Criminal Code, "circulation of fabrications known to be false, which defame the Soviet state and social system." The evidence brought against the defendant read more like an indictment of the hypocrisy of the Soviet authorities. The charges centered on the unofficial journal "Jews in the U.S.S.R.", which Dr. Brailovsky coedited from 1973-79 and on two letters he wrote to the U.S. Congress and President Carter in 1976 seeking support for the imigration movement of Soviet Jews. Also cited were the now famous Sunday scientific seminars for ostracized refusenik scientists, which had been taking place in the Brailovsky apartment for 3 years. Inevitably, Dr. Brailovsky was found guilty and sentenced to 5 years of internal exile, reduced in actual time to be served to 3 years and 3 months of exile in consideration of his having spent 7 months in pretrial custody. The conviction is bitterly ironic and Kafkaesque, for Dr. Brailovsky did nothing more than tell the truth. As a man of integrity and of science, he simply described the Soviet reality around him accurately.

Appropriately, the Western delegations who began their work last November in Madrid protesting Dr. Brailovsky's arrest, spoke out once again to protest his trial and sentence. Last Friday, June 19 in plenary session, the United Kingdom, the United States, and the Soviet representatives engaged in a heated 40-minute exchange on human rights, which had been precipitated by the mentioning of the Brailovsky trial by the British delegate.

When the sixth anniversary of the signing of the Helsinki Final Act is observed on August 1, it is uncertain whether the Madrid meeting will still be in session. With certainty, however, Dr. Brailovsky will have reached his place of internal exile; countless other refuseniks will remain far from Israel; scores of Soviet political prisoners will be in confinement; and, Sakharov will remain banished to Gorky. But come August 1, whether across a conference table in Madrid, on the floor of Congress, in the eyes of the Western public and pages of the Western press, or in the dreams of refuseniks and in the hearts and conscience of Soviet human rights activists and political prisoners, the human rights principles embodied in the Helsinki Final Act will live on.●

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members be permitted 5 legislative days in which to extend their remarks and to include therein extraneous material on the bill, H.R. 3238, Public Broadcasting Act amendments, which was considered earlier today.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DANIELSON (at the request of Mr. WRIGHT), for this week, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. ROUKEMA) to revise and extend their remarks and include extraneous material:)

Mr. EVANS of Iowa, for 5 minutes, today.

Mr. MCKINNEY, for 5 minutes, today.

(The following Members (at the request of Mr. WIRTH) to revise and extend their remarks and include extraneous material:)

Mr. SHAMANSKY, for 15 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. FASCELL, for 5 minutes, today.

Mr. ECKART, for 60 minutes, on June 23.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. ROUKEMA) and to include extraneous matter:)

Mr. ARCHER.

Mr. JEFFORDS.

Mr. KEMP.

Mr. KRAMER.

Mr. CLINGER.

Mr. COLLINS of Texas in three instances.

Mr. LOTT.

Mr. DERWINSKI in three instances.

Mr. NAPIER.

Mr. EMERY.

Mr. DORNAN of California.

(The following Members (at the request of Mr. WIRTH), and to include extraneous matter:)

Mr. LEHMAN in three instances.
Mr. GARCIA.
Mrs. CHISHOLM.
Mr. STOKES.
Mr. HAMILTON in five instances.
Mr. MCHUGH.
Mrs. SCHROEDER.
Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. BROWN of California in 10 instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in five instances.
Mr. SKELTON.
Mr. HUBBARD.
Mr. LAFALCE.
Mr. PEYSER.
Mr. WAXMAN.
Mr. LOWRY of Washington.
Mr. PEPPER.
Mr. UDALL.
Mr. BONKER.
Mr. MILLER of California.

SENATE BILL AND CONCURRENT RESOLUTION REFERRED

A bill and concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 823. An act to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purposes; to the Committee on the Judiciary; and

S. Con. Res. 18. Concurrent resolution relating to the restoration of the free exercise of religion in Ukraine; to the Committee on Foreign Affairs.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 33 minutes p.m.), the House adjourned until tomorrow, Tuesday, June 23, 1981, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1650. A letter from the Assistant Secretary of the Air Force (Research, Development and Logistics), transmitting notice of the proposed conversion to contractor performance of the school bus service function at Ellsworth Air Force Base, S. Dak., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

1651. A letter from the Secretary of Education, transmitting proposed final regulations governing research in education of the handicapped, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

1652. A letter from the Secretary of Transportation, transmitting a final rule requiring the retrofit of Department of Transportation specification 105 tank cars with self-couplers, pursuant to section 16(b)(2) of Public Law 96-423; to the Committee on Energy and Commerce.

1653. A letter from the General Counsel, Department of Energy, transmitting notice of a meeting relating to the international energy program to be held on June 29 in Paris; to the Committee on Energy and Commerce.

1654. A letter from the Assistant Secretary of State for Congressional Relations, transmitting Presidential Determination No. 81-10, finding that it is important to the security interests of the United States to furnish certain assistance to El Salvador from amounts appropriated for assistance to Israel and Egypt for fiscal year 1981, pursuant to section 614(a)(1) of the Foreign Assistance Act of 1961, as amended; to the Committee of Foreign Affairs.

1655. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

1656. A letter from the Executive Director, Pennsylvania Avenue Development Corporation, transmitting a report on the Corporation's activities under the Freedom of Information Act during calendar year 1980, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

1657. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of proposed changes in an existing records system of the Office of the Secretary of Defense, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1658. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new records system for the Office of the Secretary of Defense, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1659. A letter from the Assistant Secretary of Human Development Services, Department of Health and Human Services, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1660. A letter from the Assistant Secretary for Human Development Services, Department of Health and Human Services, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1661. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, pursuant to section 212(d)(6) of the act; to the Committee on the Judiciary.

1662. A letter from the Chief Scout Executive, Boy Scouts of America, transmitting the 1980 annual report of the organization, pursuant to section 8 of its charter; to the Committee on the Judiciary.

1663. A letter from the Administrator, U.S. Small Business Administration, transmitting the first annual report of the Presidential Advisory Committee on Small and Minority Business Ownership, pursuant to section 7(j)(3)(A) of the Small Business Act, as amended (92 Stat. 1764), and Executive Order 12190; to the Committee on Small Business.

1664. A letter from the Secretary of Energy, transmitting the third quarterly report on biomass energy and alcohol fuels, covering the period ended March 31, 1981, pursuant to section 218(a) of Public Law 96-294; jointly, to the Committees on Agriculture, Energy and Commerce, and Science and Technology.

1665. A letter from the Acting Comptroller General of the United States, transmitting a report on health systems plans (HRD-81-93, June 22, 1981); jointly, to the Committees on Government Operations and Energy and Commerce.

1666. A letter from the Chairman, U.S. Commission on Civil Rights, transmitting a report on civil rights of American Indians, pursuant to section 104(c) of Public Law 85-315; jointly, to the Committees on the Judiciary and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Filed June 19, 1981*]

Mr. DELLUMS: Committee on the District of Columbia. H.R. 3518. A bill to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communications Agency, and the Board for International Broadcasting, and for other purposes; with amendment (Rept. No. 97-102, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 3603. A bill to provide price and income protection for farmers, assure consumers an abundance of food and fiber at reasonable prices, continue food assistance to low-income households, and for other purposes; with amendment (Rept. No. 97-106, Pt. 3). Referred to the Committee of the Whole House on the State of the Union.

[*Pursuant to the order of the House on June 18, 1981, the following report was filed on June 19, 1981*]

Mr. JONES of Oklahoma: Committee on the Budget. H.R. 3982. A bill to provide for reconciliation pursuant to section 301 of the First Concurrent Resolution on the budget for the fiscal year 1982 (Rept. No. 97-158). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON A BILL SEQUENTIALLY REFERRED UNDER TIME LIMITATION

Under clause 5 of rule X, the following actions were taken by the Speaker:

[*Omitted from the Record of June 19, 1981*]

The Committee on Post Office and Civil Service discharged from consideration the bill (H.R. 1311) and was committed to the Committee of the Whole House on the State of the Union and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ATKINSON:

H.R. 3983. A bill to amend title 38 of the United States Code to provide hospital and medical services under title 38 to certain individuals who served in the Yugoslavian armed forces during World War I or World War II; to the Committee on Veterans' Affairs.

By Mr. EMERSON:

H.R. 3984. A bill to amend the Bankruptcy Act regarding farm produce storage facilities, and for other purposes; to the Committee on the Judiciary.

By Mr. EVANS of Iowa:

H.R. 3985. A bill to amend the Internal Revenue Code of 1954 to make the investment credit for railroad property refundable; to the Committee on Ways and Means.

H.R. 3986. A bill to amend the Internal Revenue Code of 1954 to provide that the interest on certain obligations issued to finance the acquisition or rehabilitation of railroad facilities shall be exempt from Federal income tax; to the Committee on Ways and Means.

H.R. 3987. A bill to amend the Internal Revenue Code of 1954 to encourage the rehabilitation of railroad track; to the Committee on Ways and Means.

By Mr. MONTGOMERY (by request):

H.R. 3988. A bill to amend title 38, United States Code, to make adjustments and improvements in the vocational rehabilitation and education programs administered by the Veterans' Administration, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. DREIER:

H.J. Res. 294. Joint resolution to clarify and reaffirm that it is the basic policy of the Government of the United States to rely on the competitive private enterprise system to provide needed goods and services; to the Committee on Government Operations.

By Mr. PEPPER (for himself, Mr. RINALDO, Mr. ANDREWS, Mr. AUCOIN, Mr. BAFALIS, Mr. BAILEY of Pennsylvania, Mr. BINGHAM, Mr. JOHN L. BURTON, Mr. COELHO, Mr. CORCORAN, Mr. CROCKETT, Mr. DE LA GARZA, Mr. DICKS, Mr. DOUGHERTY, Mr. DOWNEY, Mrs. FENWICK, Mr. FORD of Michigan, Mr. FORSYTHE, Mr. FRENZEL, Mr. FROST, Mr. GREEN, Mr. GORE, Mr. HAMMERSCHMIDT, Mr. HANSEN of Idaho, Mr. HERTEL, Mr. HOLLENBECK, Mrs. HOLT, Mr. HOPKINS, Mr. HORTON, Mr. HOWARD, Mr. HUGHES, Mr. JOHNSTON, Mr. LANTOS, Mr. LONG of Maryland, Mr. MCCLORY, Mr. MADIGAN, Mr. MARKS, Mr. MITCHELL of New York, Mr. MOAKLEY, Mr. MOTTL, Mr. MURPHY, Mr. NAPIER, Mr. NEAL, Mr. OTTINGER, Mr. PASHAYAN, Mr. RAHALL, Mr. RATCHFORD, Mr. RICHMOND, Mr. ROE, Mr. ROYBAL, Mr. SANTINI, Mr. SCHEUER, Mr. SOLOMON, Mr. VENTO, Mr. WINN, Mr. WIRTH, Mr. WYDEN, and Mr. ZEFERETTI):

H.J. Res. 295. Joint resolution to authorize and request the President to designate the week of September 6, 1981, through September 12, 1981, as "Older Americans Employment Opportunity Week"; to the Committee on Post Office and Civil Service.

By Mr. OBERSTAR (for himself, Mr. BARNES, Mr. BEDELL, Mr. BEILENSON, Mr. BONIOR of Michigan, Mr. BONKER, Mr. D'AMOURS, Mr. ECKART, Mr. EDGAR, Mr. EDWARDS of California, Mr. FASCELL, Mr. FOGLIETTA, Mr. FORSYTHE, Mr. FOWLER, Mr. FRANK, Mr. FRENZEL, Mr. GREGG, Mr. HOLLENBECK, Mrs. HOLT, Mr. HORTON, Mr. MITCHELL of New York, Mr. MOAKLEY, Mr. VENTO, Mr. WEISS, Mr. WINN, Mr. OTTINGER, Mr. MINETA, Mr. KILDEE, Mr. MARKEY, and Mr. GIBBONS):

H. Con. Res. 152. Concurrent resolution expressing the sense of the Congress concerning the establishment of a North American Air Quality Commission; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

135. By the SPEAKER: Memorial of the Legislature of the State of Nevada, relative to eligibility of mobile homes for loans under the U.S. Housing Act of 1937; to the Committee on Banking, Finance and Urban Affairs.

136. Also, memorial of the Senate of the State of Michigan, relative to the Occupational Safety and Health Administration; to the Committee on Education and Labor.

137. Also, memorial of the Legislature of the State of Nevada, relative to Americans missing in Vietnam; to the Committee on Foreign Affairs.

138. Also, memorial of the Assembly of the State of New York; relative to Ireland; to the Committee on Foreign Affairs.

139. Also, memorial of the Legislature of the State of Nevada, relative to balancing the Federal budget; to the Committee on Government Operations.

140. Also, memorial of the Legislature of the State of Nevada, relative to the transfer of unreserved, unappropriated public lands to the State in which the lands are located; to the Committee on Interior and Insular Affairs.

141. Also, memorial of the Legislature of the State of Nevada, relative to repeal of Federal estate and gift taxes; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. PRICE introduced a bill (H.R. 3989) for the relief of Lidia Jaramillo Cameron, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4: Mr. STUMP, Mr. BLILEY, and Mr. LOWERY of California.

H.R. 52: Mr. HUBBARD, Mr. KAZEN, Mr. LONG of Maryland, and Mr. ROBINSON.

H.R. 248: Mr. WOLPE.

H.R. 747: Mr. LUKEN.

H.R. 1005: Mr. SAM B. HALL JR., Mr. HEFNER, and Mr. EVANS of Indiana.

H.R. 1053: Mr. BURGENER, Mr. CARMAN, Mr. CARNEY, Mr. EMERSON, Mr. HANSEN of Utah, Mr. MCDONALD, Mr. PATTERSON, Mr. PRICE, and Mr. SILJANDER.

H.R. 1177: Mr. DOUGHERTY.

H.R. 1300: Mr. ROTH.

H.R. 1400: Mr. PATTERSON and Mr. NELLIGAN.

H.R. 1596: Mr. CONYERS.

H.R. 1854: Mrs. COLLINS of Illinois.

H.R. 2467: Mr. BENJAMIN and Mr. HERTEL.

H.R. 2617: Mr. MAZZOLI and Mr. WOLPE.

H.R. 2967: Mr. GILMAN.

H.R. 3116: Mr. LAFALCE, Mr. ROSENTHAL, Mrs. BOUQUARD, Mr. CORRADA, Mr. LEHMAN, Mr. STOKES, Mr. GOODLING, Mr. DASCHLE, and Mr. KOGOVSEK.

H.R. 3204: Mr. ERDAHL, Mr. DASCHLE, and Mr. WOLPE.

H.R. 3205: Mr. ERDAHL, Mr. DASCHLE, and Mr. WOLPE.

H.R. 3225: Mr. LIVINGSTON.

H.R. 3269: Mr. GINN, Mr. ST GERMAIN, Mr. MARTIN or New York, Mr. BARNARD, Mr. ENGLISH, Mr. CAMPBELL, Mr. DICKINSON, and Mr. PICKLE.

H.R. 3393: Mr. MURPHY.

H.R. 3396: Mr. BINGHAM.

H.R. 3504: Mrs. COLLINS of Illinois, Mr. DYMALLY, Mr. FAUNTROY, Mr. PEPPER, Mr. SUNIA, Mr. DWYER, and Mr. SIMON.

H.R. 3550: Mr. CONYERS, Mr. DUNCAN, Mr. FAUNTROY, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. FOWLER, Mr. GINGRICH, Mr. HORTON, Mr. JACOBS, Mr. LANTOS, Mr. LEBOUTILLIER, Mr. MITCHELL of Maryland, Mr. RANGEL, Mr. ROE, Mr. RICHMOND, Mr. SUNIA, Mr. WILSON, Mrs. CHISHOLM, Mr. FROST, Mr. OTTINGER, Mr. PANETTA, And Mr. RALPH M. HALL.

H.R. 3582: Mr. BRODHEAD, Mr. CONYERS, Mr. DUNCAN, Mr. FAUNTROY, Mr. FOGLIETTA, Mr. FOWLER, Mr. FORD of Tennessee, Mr. FRENZEL, Mr. GINGRICH, Mr. HORTON, Mr. JACOBS, Mr. LEBOUTILLIER, Mr. MITCHELL of Maryland, Mr. RANGEL, Mr. RICHMOND, Mr. ROE, Mr. SUNIA, Mr. WILSON, Mrs. CHISHOLM, Mr. CROCKETT, Mr. OTTINGER, Mr. PANETTA, Mr. EDWARDS of Oklahoma, Mr. DIXON, Mr. RALPH M. HALL, and Mr. DAUB.

H.R. 3607: Mr. PHILLIP BURTON, Mr. CONYERS, Mr. CORRADA, Mr. CROCKETT, Mr. FASCELL, Mr. MURPHY, Mr. NEAL, Mr. RICHMOND, and Mr. ROE.

H.R. 3613: Mr. HEFTEL, Mr. LEHMAN, and Mr. CONYERS.

H.J. Res. 125: Mr. HANSEN of Utah.

H.J. Res. 253: Mr. BEILENSON, Mr. BRODHEAD, Mr. CLAY, Mr. CONYERS, Mr. FAUNTROY, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. GINGRICH, Mr. HORTON, Mr. JACOBS, Mr. LANTOS, Mr. LEBOUTILLIER, Mr. MITCHELL of Maryland, Mr. MOLINARI, Mr. RANGEL, Mr. RICHMOND, Mr. ROE, Mr. SUNIA, Mr. WILSON, Mrs. CHISHOLM, Mr. CROCKETT, Mr. FROST, Mr. OTTINGER, Mr. PANETTA, Mr. UDALL, Mr. RALPH M. HALL, and Mr. YATRON.

H. Con. Res. 118: Mr. AKAKA, Mr. ANNUNZIO, Mr. ARCHER, Mr. ASHBROOK, Mr. ASPIN, Mr. BAILEY of Pennsylvania, Mr. BEDELL, Mr. BEVILL, Mr. BOLAND, Mr. BOLLING, Mr. BONKER, Mrs. BOUQUARD, Mr. BREAUX, Mr. BROWN of Colorado, Mr. JOHN L. BURTON, Mrs. BYRON, Mr. CHAPPELL, Mr. CHAPPIE, Mr. COLLINS of Texas, Mr. CONYERS, Mr. CORCORAN, Mr. JAMES K. COYNE, Mr. WILLIAM J. COYNE, Mr. PHILIP M. CRANE, Mr. CROCKETT, Mr. DASCHLE, Mr. DELLUMS, Mr. DONNELLY, Mr. DREIER, Mr. DUNN, Mr. EARLY, Mr. EDWARDS of Oklahoma, Mr. ENGLISH, Mr. ERTEL, Mr. EVANS of Georgia, Mrs. FENWICK, Mr. FISH, Mr. FITHIAN, Mr. FOLEY, Mr. FORD of Michigan, Mr. FRENZEL, Mr. FUQUA, Mr. GLICKMAN, Mr. GOLDWATER, Mr. GRADISON, Mr. GRAY, Mr. GUARINI, Mr. HATCHER, Mr. HAWKINS, Mrs. HECKLER, Mr. HEFTEL, Mr. HERTEL, Mr. HOLLENBECK, Mrs. HOLT, Mr. HORTON, Mr. HUGHES, Mr.

HUNTER, Mr. IRELAND, Mr. HOYER, Mr. JONES of North Carolina, Mr. KEMP, Mr. KOGOVSEK, Mr. KRAMER, Mr. LAFALCE, Mr. LANTOS, Mr. LEE, Mr. LELAND, Mr. LONG of Louisiana, Mr. LUKEN, Mr. MICA, Mr. MINETA, Mr. MOLINARI, Mr. MOTTL, Mr. NEAL, Mr. NOWAK, Mr. PATTERSON, Mr. PAUL, Mr. PEASE, Mr. PERKINS, Mr. PORTER, Mr. PURSELL, Mr. REUSS, Mr. RODINO, Mr. ROEMER, Mr. ROSENTHAL, Mrs. ROUKEMA, Mr. ROUSSELOT, Mr. ST GERMAIN, Mr. SAWYER, Mrs. SCHNEIDER, Mr. SHAMANSKY, Mr. SHAW, Mr. SIMON, Mr. SMITH of New Jersey, Mr. SOLARZ, Mr. STUDDS, Mr. TAUZIN, Mr. TRIBLE, Mr. VOLKMER, Mr. WALGREN, Mr. WASHINGTON, Mr. WATKINS, Mr. WEBER of Minnesota, Mr. WHITEHURST, Mr. WILLIAMS of Ohio, Mr. WILLIAMS of Montana, Mr. WILSON, Mr. WINN, Mr. WORTLEY, Mr. YOUNG of Alaska, and Mr. ZEFERETTI.

H. Con. Res. 130: Mr. CLAY, Mr. CONYERS, Mr. FAUNTROY, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. GINGRICH, Mr. HORTON, Mr. JACOBS, Mr. LEBOUTILLIER, Mr. MITCHELL of Maryland, Mr. RANGEL, Mr. RICHMOND, Mr. ROE, Mr. SUNIA, Mr. WILSON, Mrs. CHISHOLM, Mr. FROST, Mr. OTTINGER, Mr. PANETTA, Mr. EDWARDS of Oklahoma, Mr. DIXON, Mr. RALPH M. HALL, and Mr. YATRON.

H. Con. Res. 132: Mr. BEILENSON, Mr. CLAY, Mr. CONYERS, Mr. FAUNTROY, Mr. FOGLIETTA, Mr. GINGRICH, Mr. FORD of Tennessee, Mr. HORTON, Mr. JACOBS, Mr. LEBOUTILLIER, Mr. MITCHELL of Maryland, Mr. RANGEL, Mr. ROE, Mr. RICHMOND, Mr. SUNIA, Mr. WILSON, Mrs. CHISHOLM, Mr. CROCKETT, Mr. FROST, Mr. OTTINGER, Mr. PANETTA, Mr. EDWARDS of California, Mr. DIXON, and Mr. RALPH M. HALL.

H. Res. 143: Mr. WYDEN, Mr. RICHMOND, Mr. RAHALL, Mr. WEISS, Mr. FOGLIETTA, Mr. HORTON, Mr. PEYSER, Mr. COELHO, Mr. LUJAN, Mr. SCHEUER, Mr. PEPPER, Mr. NAPIER, Mr. DWYER, Mr. LEHMAN, Mr. FRENZEL, Mr. MURPHY, Mr. SCHUMER, Mr. HARKIN, Mr. BEDELL, Ms. FERRARO, and Mr. DYSON.

PETITIONS, ETC.

Under clause 1 of rule XXII,

The SPEAKER presented a petition of the Erie County Legislature, New York, relative to Americans missing in Southeast Asia, which was referred to the Committee on Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3238

By Mr. TAUKE:

—Page 18, after line 20, insert the following (and redesignate the subsequent section accordingly):

(2) The Commission shall reconvene after the termination of the demonstration program conducted under section 12 for the purpose of carrying out the functions of the Commission specified in section 12(e). The Commission shall terminate at the end of the ninety-day period following the date of the submission of the report required in section 12(e).

DEMONSTRATION PROGRAM REGARDING ADVERTISING

SEC. 12. (a) The Temporary Commission on Alternative Financing for Public Telecommunications established in section 11 shall establish a demonstration program in accordance with this section for the purpose of determining the feasibility of permitting public television station licensees and public radio station licensees to broadcast advertising announcements.

(b)(1)(A) The Commission shall establish the demonstration program as soon as practicable after the date of the enactment of this Act. The Commission shall permit public broadcast station licensees to begin the broadcasting of qualifying advertising not later than January 1, 1982, except that such licensees may begin such advertising before such date if the Commission completes the establishment of the demonstration program before such date.

(B) Such broadcasting of qualifying advertising shall be carried out during the eighteen-month period beginning January 1, 1982 (or beginning on such earlier date as may be authorized by the Commission under subparagraph (A)), except that such broadcasting of qualifying advertising shall terminate not later than June 30, 1983. The demonstration program shall terminate at the end of such period.

(2)(A) The Corporation for Public Broadcasting, in consultation with the Commission, shall select not more than 10 public television station licensees and not more than 10 public radio station licensees to participate in the demonstration programs.

(B) Such selection shall be made from among licensees which have expressed to the Corporation a desire to participate in the demonstration program, except that any public television station licensee or public radio station licensee which is represented on the Commission under section 11(b)(3) shall not be eligible to participate in the demonstration program.

(C) If a licensee elects not to participate in the demonstration program, after receiving notice of its selection from the Corporation, then the Corporation shall select an alternate licensee.

(D) The exemption from income tax of any public broadcast station licensee under section 501(a) of the Internal Revenue Code of 1954, relating to exemption from taxation, shall not be affected by the participation of such licensee in the demonstration program.

(3) The Corporation shall make selections under paragraph (2), to the extent practicable, in a manner which ensures that—

(A) a representative geographical distribution of public broadcast station licensees will be achieved;

(B) licensees serving audiences and markets of various sizes will participate in the demonstration program;

(C) licensees with operating budgets of various sizes will participate in the demonstration program;

(D) different types of licensees will participate in the demonstration program; and

(E) in the case of public radio station licensees, licensees with different types of programming formats will participate in the demonstration program.

(c) Each public television station licensee or public radio station licensee which is selected by the Corporation for Public Broadcasting under subsection (b) shall be authorized to broadcast qualifying advertising in accordance with subsection (d).

(d)(1)(A) Except as provided in subparagraph (B), any qualifying advertising announcement which is broadcast by any public television station licensee or any public radio station licensee may be broadcast only at the beginning or at the end of regular programs, and may not interrupt regular programs.

(B) In the case of any regular program which is 2 or more hours in duration, any public radio station licensee may broadcast (subject to paragraph (2)) a qualifying advertising announcement during the program, but only (i) during a break in the program scheduled for station identification; or (ii) at other times which will not unduly disrupt the program.

(2) Any qualifying advertising announcements which are broadcast consecutively by any public television station licensee or any public radio station licensee may not exceed 2 minutes in duration. Such licensees may not engage in any such consecutive broadcasts of qualifying advertising announcements more than once during any thirty-minute period.

(3)(A) The Commission shall prescribe regulations which specify the types of advertisements which may be broadcast by licensees during the demonstration program. The Commission may authorize licensees participating in the demonstration program to broadcast institutional advertisements and advertisements relating to specific products, services, or facilities. Licensees shall not be authorized or required to broadcast any advertisement which—

(i) is intended to promote any opinion or point-of-view regarding any matter of public importance or interest, any political issue, or any matter relating to religion; or

(ii) is intended to support or oppose any candidate for political office.

(B) The Federal Communications Commission shall have authority to determine in disputed cases whether any advertising announcement shall be considered to be qualifying advertising for purposes of this section.

(4) The Commission shall prescribe regulations which establish requirements relating to the sale of broadcast time for advertisements during the demonstration program. Such regulations may authorize—

(A) the assignment of broadcast time for advertisements through a system of random selection;

(B) the sale of broadcast time for advertisements which will be broadcast at the beginning or at the end of particular programs, or during particular portions of the broadcast day; or

(C) any other method for the sale of broadcast time which the Commission considers appropriate.

(5) The Commission shall have authority to prescribe regulations under paragraph (3) and paragraph (4) which establish different criteria and requirements applicable to the various licensees participating in the demonstration program, to the extent the Commission considers the establishment of such different criteria and requirements to be necessary to assist the Commission in preparing the report, and making the recommendations, required in subsection (e).

(6) Any issue regarding compliance with the provisions of this subsection shall be resolved by the Federal Communications Commission in accordance with its authority under the Communications Act of 1934 (47 U.S.C. 151 et seq.).

(e)(1) The Commission, as soon as practicable after the termination of the demonstration program under subsection (b)(1)(A), shall analyze the results of the demonstration program and shall submit a report to each House of the Congress regarding the demonstration program. Such report shall be submitted not later than October 1, 1983, and shall include—

(A) an examination of whether qualifying advertising had any influence or effect upon programing broadcast by the public broadcast station licensees involved;

(B) an analysis of the reaction of audiences to the broadcasting of such qualifying advertising;

(C) an examination of the extent to which businesses and other organizations engaged in the purchase of broadcast time for the broadcast of qualifying advertising;

(D) an analysis of whether the broadcasting of qualifying advertising had any impact upon the underwriting of programs; and

(E) any other findings or information which the Commission considers appropriate.

(2) Such report also shall include such recommendations for legislative or other action as the Commission considers appropriate, including a recommendation regarding whether public broadcast stations should be permitted to broadcast qualifying advertising on a permanent basis.

(f) For purposes of this section:

(1) The term "Commission" means the Temporary Commission on Alternative Financing for Public Telecommunications established in section 11.

(2) The term "demonstration program" means the demonstration program established by the Commission in accordance with this section.

(3) The terms "public broadcast station", "public television station", and "public radio station" have the same meaning as the term "public broadcast station" in section 397(6) of the Communications Act of 1934 (47 U.S.C. 397(6)).

(4) The term "qualifying advertising" means any type of advertising specified by the Commission under subsection (d)(3)(A).

Page 15, after line 17, insert the following new paragraph (and redesignate the subsequent paragraphs accordingly):

(2) The Commission, in addition to carrying out the functions established in this section, shall carry out the functions assigned to the Commission under section 12.

Page 16, line 8, strike out "paragraph (2)" and insert in lieu thereof "paragraph (3)".

Page 16, line 12, strike out "paragraph (2)" and insert in lieu thereof "paragraph (3)".

Page 17, line 3, strike out "subsection (b)(2)" and insert in lieu thereof "subsection (b)(3)".

Page 18, line 18, strike out "(j) The" and insert in lieu thereof "(j)(1) Except as provided in paragraph (2), the".

SENATE—*Monday, June 22, 1981*

(Legislative day of Monday, June 1, 1981)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

Almighty God, Thou art the Sovereign Lord of the universe. The planets in their courses obey Thee. Our spaceship Earth rotates and revolves according to Thy prescribed plan. Our most sophisticated space science is totally dependent upon Thine universal order.

Thou art the Sovereign Lord of history. The millennia, the centuries, the decades, the years, and the hours unfold according to Thy plan.

History's events, good or evil, serve Thy purpose.

Thou dost work in everything for good to those who love Thee and are called according to Thy purpose.—Romans 8: 28.

Thou art the Sovereign Lord of the nations. Empires rise and fall according to Thine economy. But Thou dost not work in a vacuum, Thou dost Thy work through people who seek Thy will. Help all in authority in this Nation to realize that Thy wisdom, Thy power are available to those who seek Thee. The problems we face are not too big for Thee. Nothing is too hard for Thee. Nothing is impossible to Thee. Thou dost hold the whole world in Thy hand.

Gracious God, give to the Senators and those who labor with them Thy wisdom and Thy power for this day. Let Thy will be done in this place as it is in heaven. In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. BAKER. Mr. President, I thank the Chair. I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I have no need for my time under the standing order. I will be happy to yield my time or any portion thereof to any Senator or to yield it back.

Before I do that, I point out there is a period for the transaction of routine morning business already ordered, following the recognition of the two leaders under the standing order and after the execution of the two special orders.

Mr. President, I might say, as well, that I have no need for my time under the special order, and I will be pleased to yield all or any part of that time to any Senator.

Does the minority leader have any need for any additional time?

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished majority leader. I have no need for additional time.

Mr. BAKER. I thank the minority leader.

Mr. President, does the Senator from Maryland have any need for part of my time?

Mr. MATHIAS. The majority leader is very kind this morning, but the Senator from Maryland has no immediate need for time.

Mr. BAKER. Or the Senator from Idaho? My time seems to be unwanted.

ORDER VITIATING TIME OF THE MAJORITY LEADER

Mr. BAKER. In view of that, Mr. President, I ask unanimous consent that the time allocated to me under the special order be vitiated.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE FOR THE NEXT SEVERAL DAYS

Mr. BAKER. Mr. President, before I yield back my time remaining under the standing order, I wish to say one thing: I hope we can finish the Department of Justice authorization bill today. When we resume consideration of that bill the Helms second-degree amendment, a substitute amendment for the Helms first-degree amendment, will be the pending business.

After we do that or, if necessary, prior to the completion of the Department of Justice authorization bill, it is necessary for us to proceed to the consideration of the budget reconciliation bill which is on the calendar and available for action today, as I understand it.

I hope to be able to confer with the minority leader today, with his consent, to talk about whether we go to the reconciliation bill this afternoon or tomorrow.

It is not my intention to begin consideration of that bill until well into the day today in any event, but it is my hope that we can proceed to consider that bill either by consent or by motion late today or in any event early tomorrow.

Mr. President, shortly I shall also inquire of Senators on this side of the aisle about the number of amendments they have and whether they will require rollcall votes. A number of Senators are necessarily absent from the floor, at least for a part of the day today, and I would like to ascertain as best I can what amendments will be called up, how many will require rollcalls, and at least explore the possibility of arranging those votes, if any, which are ordered to accommodate the maximum convenience of Senators.

So if those who hear me now will let us know of their intentions in that respect, it would materially assist the leadership in trying to schedule the activities for today and tomorrow.

With that statement, Mr. President, I yield back my time remaining under the standing order.

SECRETARY DREW LEWIS

Mr. BAKER. Mr. President, I would like to take just a moment of the Senate's time this evening to extend my congratulations and my appreciation to Secretary Drew Lewis of the Department of Transportation on the successful culmination of his negotiations to avert a job action by the Nation's civilian air traffic controllers.

I have known Secretary Lewis for some time and therefore was not at all surprised by the resolution of negotiations with the air controllers. Secretary Lewis personifies the proper blending of patience, tenacity, flexibility, mediation, and conciliation so necessary to successfully negotiate such sensitive and crucial matters.

There surely could be no more sensitive and crucial a matter, Mr. President, than that of the air traffic controllers. As one who flies often, both in commercial and private aircraft, I full well understand and appreciate the magnitude of their duties.

Furthermore, as one who advances and supports the budgetary restraints mandated by President Reagan, I am equally cognizant and dedicated to a higher degree of fiscal integrity at the Federal level.

On both scores, I believe Secretary Lewis has succeeded. Following his personal supervision of some 44 hours of final negotiations, a contract was tentatively agreed upon which will both substantially address the concerns of the air traffic controllers and also remain within the budgetary guidelines specified by the President.

For that accomplishment—the avoidance of a labor dispute which could have severely impaired so many facets of American life—I again, for myself, and for all Members of this body and all Americans, wish to express my genuine admiration and sincere appreciation to Secretary Lewis. His was a difficult job done exceedingly well.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Senator from West Virginia.

DANGERS TO THE BUDGET PROCESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed an article which appeared in the Washington Post on yesterday, written by Mr. Stuart Eizenstat calling attention to the dangers to the budget process of including in the reconciliation bill legislation which has no budgetary impact but which otherwise would be brought to the floor in the usual course of things and debated and amended in accordance with whatever needs exist.

I think it was a good article and touched upon a subject that Senator PROXMIRE spoke on last week and in connection with which I had a few remarks. I recommend it to the attention of my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE HILL'S BUDGET STAMPEDE: MISUSE OF THE 1974 REFORMS COULD TURN CONGRESS INTO A RUBBER-STAMP PARLIAMENT

(By Stuart E. Eizenstat)

The fate of Congress' bipartisan efforts to implement reforms in its budget-making process proves the Washington axiom that all solutions create new problems.

The Congressional Budget and Impoundment Control Act, enacted in 1974 to give Congress more power over the federal budget, is now being used in ways that will lead to precisely the opposite result: reduced congressional control and a shift of substantial additional power to the executive branch. Moreover, misuse of a once little-known provision in the act called "reconciliation" is doing exactly what Congress sought to avoid: undermining the role of its authorizing and appropriating committees and creating laws with inadequate consideration of the consequences.

Unless this misuse of "reconciliation" is curbed, members of Congress, of whatever political persuasion, will soon discover that they have dramatically altered the method by which Congress has legislated since the earliest days of the republic.

This is not an argument about defeating the Reagan administration's program; Congress has ample opportunity to act on the president's proposals. Nor is it an argument against providing presidents with more authority; as someone who served two presidents in the White House, I have considerable sympathy with the need for enhanced presidential power.

But the dramatic consequences of the budget actions soon to be taken by Congress in the reconciliation bill should occur only after careful consideration, with deliberate and well understood legislative procedures, not by short-circuiting critical parts of the legislative process.

The unintended uses to which "reconciliation" are being put; the possibility of a substitute, sponsored by David Stockman's Office of Management and Budget, being passed by the House within two weeks and undoing the work of House committees, and the hasty inclusion of substantive changes in authorizing laws without any budget savings—all undermine the intent of the 1974 budget act.

That law, one of the most important pieces of legislation in our history dealing with the structure of American government, was enacted a month before President Nixon's resignation, for two overriding reasons. First, Congress felt the president had unconstitutionally refused to spend money it had appropriated, thus weakening Congress's control of the purse strings. Second, Congress wanted to restore the capacity it had lost to the presidency to establish clear budget priorities, to reassert control over burgeoning spending and to adjust its decisions better to prevailing economic conditions.

Nowhere in that law or its history can anyone find an intent to short-circuit congressional control of spending and taxation—certainly not in its "reconciliation" provision. Indeed, the legislative history makes it clear that Congress intended to rely on its authorizing committees for policy decisions and on its appropriating committees to control spending—jobs they had performed well in the past.

A reconciliation was a process to be used late in the congressional term to reconcile actions taken by congressional committees on individual bills with overall and binding budget figures set in the second budget resoluton. As the Senate report accompanying the budget act noted, reconciliation permits "effectively the changes, if any, directed in the second required budget resolution."

The first budget resolution, setting earlier budget targets in mid-May, was not to be binding. It certainly was not intended to preempt the appropriations process. As the House report accompanying the act stated, the "first concurrent resolution on the budget would set tentative targets . . . to guide Congress during its subsequent consideration of the various spending bills," and it "would not restrict the processing of appropriations measures through Congress."

In fact, Congress explicitly rejected efforts to make the first resolution binding. As the House report again stated, after Congress "reviewed the many problems associated with early ceilings, we agree that targets offer the most workable approach to genuine spending control." This was in no small part because early spending limits "downgrade the utility of the appropriations process."

The budget act itself could not be more clear: Only after the second, binding resolution is enacted in September are the tax-writing, appropriating and authorizing committees to adjust revenue or spending programs. These changes are reported to the Senate or House Budget Committee, which "shall report to its house a reconciliation bill or reconciliation resolution, or both, carrying out all such recommendations without any substantive revision."

Yet this entire mechanism, designed to protect the integrity of the legislative process while allowing Congress to exert more control over the budget, has been overextended. The Congress is now, in June, working under a binding "reconciliation" provision included in the first budget resolution—even though there is nothing to "reconcile" at this early stage in the process.

How can this remarkable turnabout have occurred? While it may be legal—based on a catch-all provision in the budget act related to the first May budget resolution—it was never the intent of the budget act for binding reconciliation to be included with the first resolution.

Doing so is bad policy—but by no means a partisan one. Except for a fleeting use in 1976, it was the Carter administration in 1980 which first proposed—and a Democratic-controlled Congress which first accepted—use of a binding "reconciliation" at the early stage of the budget process. I doubt that anyone in the Carter administration foresaw this one-time action last year as precedent for what is being done now.

Stockman's OMB, through a reconciliation provision in the first budget resolution crafted by Reps. Phil Gramm (D-Tex.) and Delbert Latta (R-Ohio), has carried matters to new lengths:

Gramm-Latta is binding not merely for one fiscal year, as was the Carter bill, but for three. Thus Congress will be unable to review its decisions effectively for the foreseeable future.

Reconciliation instructions proposed by President Carter affected only appropriations bills and entitlement programs leading to direct budget savings. The Gramm-Latta instructions go further, directing congressional committees to reduce basic authorizations. This forces reductions in appropriations through the authorization process.

Stockman, together with some House members is preparing a substitute for the reconciliation bill now being compiled by the House Budget Committee, resulting from the cuts made by individual committees. This substitute is being written without a single congressional committee hearing. Known as "Son of Gramm-Latta," it would not only cut the budget differently from the responsible House committees but would include substantive proposals—such as block grants eliminating scores of federal programs—without such changes ever having passed through a committee.

These problems, moreover, are being compounded by the decisions of several congressional committees to use the reconciliation bill to make other substantive legislative changes unrelated to spending cuts. These include denying federally assisted housing funds to rent-control cities, amending major energy legislation, altering controversial environmental policies and significantly modifying the Community Development Block Grant program. Since a reconciliation bill is virtually veto-proof, it becomes a convenient place for such substantive legislation.

If Congress follows through with the Gramm-Latta reconciliation and accepts an OMB-sponsored reconciliation substitute, the effect would be dramatic. First, Congress would be throwing into question its independence in fashioning the budget, which more than any other measure reflects the priorities, values and direction of the nation.

Second, passage of a Stockman-sponsored substitute on the House floor would create something akin to a parliamentary system, in which the prime minister's legislative package is voted on with little committee action and limited capacity for modification. Here, the White House's basic legislative package, potentially including significant changes in the welfare system, Social Security and jobs programs, would be passed as part of the budget process, with limited floor amendments or floor debate under the terms of the budget act. (In the Senate, of course, one effect of this would be to prevent filibusters.)

In short, Congress would be forced to make the most sweeping changes in a generation in the substance of federal programs without going through the historic deliberative process to assure sound results or paying heed to the work of its own committees.

Third, the sound role played by the appropriations committees over the years will be significantly undercut. The Gramm-Latta reconciliation in effect says that the appropriations committees cannot be trusted to control spending and that Congress is incapable thereafter of reconciling appropriations bills to the budget.

Fourth, the budget committees would in effect become "super committees"—precisely what Congress sought to avoid in the 1974 budget act. The House report on that act specifically stated that the budget commit-

tees "must not be given extraordinary power in the making of budget policies." The budget committees have successfully walked a fine line through the budget process in their relationship with other committees. Altering this would be a serious mistake.

Last, joining reconciliation to the first budget resolution restricts Congress' ability to adjust to the inevitable changes in economic conditions which directly affect the budget.

At this point, the current reconciliation process has gone too far and too many committees have put extraordinary effort into complying with its directives to try to stop it in is tracks. But a number of steps can and should be taken.

"Son of Gramm-Latta" should not be accepted. Disapproval should not be for partisan reasons but because it further distorts the budget process and threatens the authority of every congressional committee, regardless of party majority. As with any other legislation, some amendments may be appropriate to the reconciliation bill. But if some believe the package as a whole is so unsatisfactory as to warrant restructuring, that should be done in the committees with the knowledge and experience to do the job properly, not by the blunt instrument of a floor substitute.

In addition, reconciliation in the future should not be be permitted to be used for changes in basic authorizations unrelated to budget savings and should not be a repository for substantive legislation. Next, the appropriations committees' process must be respected; appropriations committee chairmen are able men dedicated to budget discipline.

Finally, reconciliation in subsequent years should return to its rightful place—in the second budget resolution. It would be unfortunate if this could only be done by having to amend the 1974 act itself, which potentially would open the entire process to substantive changes. It would be preferable for Congress simply to reject any future proposal to include a reconciliation provision in the first budget resolution.

The new budget process has been built with bipartisan support. Its discipline is critical in an era of limited fiscal resources. But the process itself will be imperiled if reconciliation continues to be extended beyond its original design, threatening the authority and expertise of authorizing and appropriating committees. The budget act is too important for the nation's long-term economic vitality to be endangered by whatever short-term advantage may accrue to OMB and its allies by use of the reconciliation process in ways Congress never intended.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

RECOGNITION OF SENATOR ROBERT C. BYRD

The PRESIDENT pro tempore. Under the previous order, the Senator from West Virginia (Mr. ROBERT C. BYRD) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Wisconsin (Mr. PROXMIRE).

Mr. PROXMIRE. Mr. President, I thank my good friend, the Democratic leader.

ARMS SALES POSE HAZARD TO U.S. PREPAREDNESS AND SPUR ARMS RACE

Mr. PROXMIRE. Mr. President, the rush is on—the rush to renew U.S. arms sales around the world. Having passed out of the era of paper restraints imposed by the Carter administration, the new policy seems clear. We will sell weapons to anyone, anywhere for any reason. We will sell to friend, foe, democratic, totalitarian, rich or poor. Distinctions make no difference.

Where we once sought to keep high technology weapons out of South America, now we seek to introduce them. Concerns over the nuclear proliferation attempts by Pakistan no longer stand in the way of arms sales there. If foreign sales have an adverse effect on U.S. defense readiness, then we look the other way and pretend they do not.

How ironic it is. Under the Carter administration there was strong rhetoric against arms sales but they continued almost at the same levels as before. Now even the rhetoric is gone and the green flag has been waved to the defense contractors to sell, sell, sell.

Never mind the long-term consequences of arms sales to the People's Republic of China—just start exporting. Forget nuclear nonproliferation, after all it is not our business anyway, the President said. So what if the new French Government has expressed interest, for the first time in memory, in restricting arms sales—it is time for us to accelerate.

In terms of sales to the Third World, the non-Communist nations sell twice as much as the Communist bloc. The United States and the Soviet Union supply about an equal amount. But within the Western nations, the United States outsells the French by 2.5 to 1; the British by 4 to 1; the West Germans by 25 to 1; the Italians by 30 to 1.

The type and amounts of equipment delivered to the Third World are staggering. The Soviets ship tanks in great quantity while the United States specializes in major surface vessels, and armored personnel carriers. Both nations export vast quantities of artillery, combat aircraft and surface-to-air missiles.

One of the truisms about arms shipments is that eventually they are put to use. Sometimes for self-defense. More often they are used to suppress local populations or to invade neighboring nations.

It is not only a policy without a plan but it can be a detriment to our own defense needs. We short change our own defenses in order to sell abroad and when we do sometimes our most sophisticated and valuable weaponry falls in the hands of our adversaries. We spent billions developing the F–14 and its Phoenix missile only to have it compromised to the Russians in Iran.

If we are not careful the same will happen with our newest fighter—the F–16—which apparently we intend to spread around the world. This is a shortsighted and dangerous policy.

Mr. President, I ask unanimous consent that a table and article from the New York Times of Sunday, June 21, 1981, be printed in the RECORD.

There being no objection, the material was ordered to be printed, in the RECORD, as follows:

THE HARDWARE STORE IS OPEN AND CUSTOMERS COME RUNNING

(By Judith Miller)

WASHINGTON.—The Reagan Administration has still not announced a policy on weapons sales, but last week it demonstrated that deeds can speak louder than words. Laying aside the policy of restraint preached by President Carter, within 24 hours it announced new arms-supply arrangements with China and Pakistan. A week before, plans were disclosed to sell F–16 jet fighters to Venezuela.

Under Secretary of State James L. Buckley, providing an advance glimpse of the new policy, told aerospace company representatives last month that sales of American weapons abroad "complement and supplement our own defense efforts and serve as a vital and constructive instrument of American foreign policy." In contrast to the Carter Administration's putdown of arms sales as "inherently evil or morally reprehensible," Mr. Buckley said, the new Administration would use arms transfers as an instrument of "facing up to the realities of Soviet aggrandizement." He said the goals of the new policy included enhancing the "state of preparedness of our friends and allies," revitalizing American alliances, fashioning "more coherent" policies affecting East-West relations and "buttressing our own defense production capabilities."

ADMINISTRATION GOALS MAY CONFLICT

The Buckley speech, though short on detail, outlined general standards for evaluating foreign requests for weapons. In assessing such requests, Mr. Buckley said, the Administration would consider the military threat facing the recipient, how the weapons would affect stability in tense regions and how effectively the recipient could use the arms.

Critics of the Carter policy, which ultimately came to be honored in the breach as much as in the observance, praised the new approach. But the sales of F–16's to Venezuela and Pakistan stirred concern and debate in foreign policy circles. Some analysts argued that the sales were questionable precisely because they appeared inconsistent with the Administration's goals as stated by Mr. Buckley. Pakistan and Venezuela had not previously had jet aircraft as advanced as the F–16's; officials privately wondered whether the planes could be quickly or effectively absorbed by either nation's military forces. Moreover, the officials added, the sales risked fueling regional tensions, in direct conflict with another of the Administration's stated goals.

The Air Force, in particular, objected that the F–16's were not an appropriate response to the military threats facing Pakistan, and certainly were not appropriate for Venezuela, which had sought 16 to 24 of the planes. The sales, the Air Force and the Office of Management and Budget also argued, might increase the cost of the planes and delay deliveries to American forces. Concern about the impact of the sales was expressed in an internal document prepared in April by the Defense Department's Office of Program Analysis and Evaluation. According to the memorandum, foreign sales of F–16's were having "an adverse effect on the readiness of U.S.A.F. [Air Force] units." Aerospace companies, the document said, were raiding United States military forces "for officers able to provide the training and support commitments that accompany such sales."

"This may be very good for G.D.," the document stated, referring to General Dynamics, builder of the planes, "but it seriously threatens U.S.A.F. F–16 support ability." The Pentagon memo also warned that the sale of the F–16's to Venezuela—Peace Delta, as the project is called—might "generate demands from other countries in the region that they also must have F–16's as a symbol of U.S. esteem and trust."

As the document had forecast, proponents of the sale of F–16's to Pakistan argued that the Administration could not offer smaller, less costly F–5 fighters, although many officials believed they were better suited to Pakistan's military requirements, because it had just approved the sale of F–16's to Venezuela.

Even more serious concerns were generated by President Reagan's decision to supply "lethal" arms to China. Senior officials argued privately that the announcement would "confirm the worst fears" of hard-liners in the Kremlin, thereby intensifying the chill in Soviet-American relations and possibly reducing the Administration's ability to deter Soviet military intervention in Poland.

PEKING OPPOSES JETS FOR TAIWAN

Other controversial arms sales under consideration include proposals to sell advanced jets to South Korea, Taiwan and Austria. Resistance in Congress to at least some of the sales is expected. Last week, for example, the entire House Foreign Affairs Subcommittee on East Asia, headed by Representative Stephen J. Solarz, Democrat of New York, signed a letter to President Reagan urging him, "in the light of our national interest," not to sell the FX fighter plane to Taiwan. Peking has adamantly opposed the deal. The Administration also faces stiff opposition to plans to sell Saudi Arabia AWACS electronic surveillance planes and equipment that would expand the capabilities of its American-supplied F–15 fighter planes. Many Congressmen fear that the Saudi sales would damage Israel's security.

Administration officials respond that many of these sales were initiated by the Carter Administration, which they argue was ultimately forced to abandon the substance, if not the rhetoric, of restraint. The Carter policy, which portrayed arms sales as an "exceptional" foreign policy instrument, was widely criticized. Opponents on the left complained that the policy was hypocritical. The Administration countered that some sales were required to support allies and friends as well as to reduce trade deficits and to pay for oil imports. Conservative critics saw the restraints as naive and detrimental to American weapons producers.

Indeed, when the Carter Administration at first exercised restraint, other countries did not follow its lead. Negotiations to make the restraints multilateral stalled in 1978 and weapons sales to the third world by the Europeans and the Soviet Union soared. In a 1980 report, the Senate Foreign Relations Committee concluded that, while the Carter Administration had effected modest reductions in United States arms exports, the policy had been "oversold." The committee advocated a "balanced policy," which would combine "elements of restraint with an understanding that prudent arms transfers can serve important foreign policy and national security functions." Administration actions last week left some officials asking whether the pendulum had swung too far.

THE ARMS MERCHANTS
WEAPONS SALES TO THE THIRD WORLD[1]
[In millions of current U.S. dollars]

	1974	1975	1976	1977	1978	1979
Total	23,521	22,329	21,394	27,356	24,198	29,978
Non-Communist total	16,581	17,979	14,254	17,606	20,458	19,258
United States	11,921	11,614	10,669	9,976	11,268	10,388
France	2,030	2,300	1,025	2,800	2,500	4,000
Britain	760	1,400	630	1,550	1,800	2,420
West Germany	725	790	360	1,170	2,220	400
Italy	425	990	220	960	1,360	360
Other	720	885	1,350	1,150	1,310	1,690
Communist total	6,940	4,350	7,140	9,750	3,740	10,720
Soviet Union	5,900	3,600	5,900	9,000	2,900	9,800
Other	1,040	750	1,240	750	840	920
Dollar inflation index (1974=100)	100	109	118	127	136	148

[1] Foreign data are for calendar year; U.S. data for fiscal year. Prices include sale of weapons, construction, military assistance and spare parts. Third World category excludes Warsaw Pact, NATO countries, Europe, Japan, Australia, and New Zealand.

TYPES OF WEAPONS DELIVERED (1973–79)

	United States	Soviet Union	Western Europe
Tanks and self-propelled guns	7,007	12,565	2,395
Artillery	4,341	5,675	975
Armored personnel carriers and armored cars	14,071	10,545	3,425
Major surface ships	89	7	24
Minor surface ships	162	135	264
Submarines	19	9	24
Guided missile boats	0	82	30
Supersonic combat aircraft	1,452	2,950	475
Subsonic combat aircraft	924	580	57
Helicopters	1,352	940	1,500
Other aircraft	973	385	945
Surface-to-air missiles (SAM's)	8,935	19,495	945

Source: U.S. Government.

SOCIAL SECURITY—A SUPERB ACCOUNT

Mr. PROXMIRE. Mr. President, yesterday's Washington Post included an article by Spencer Rich which is about the best and most balanced account of the problems of the social security system, the proposals put forward by President Reagan and Secretary Schweiker, and the extent to which the problems have been exaggerated.

It is a superb account.

Spencer Rich has followed this issue closer than almost any other national reporter. As usual his report is thorough, objective, and accurate. He has read the documents, followed the hearings, and interviewed the experts. As is true of so many issues and problems, a thorough understanding of them leads almost automatically to the answers.

There is a problem with the social security system. But it is nothing as large as the President and the Secretary have stated. There are answers to the problem as well. But they need not be as draconian as the administration proposed.

For both an articulate and superb outline of the problem and some of the answers, I commend Spencer Rich's article "Social Security: Patching Up The Safety Net" to the Senate and the public.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOCIAL SECURITY: PATCHING UP THE SAFETY NET

(By Spencer Rich)

Social security, which will pay out $164 billion in cash aid to 36 million people next year, is the nation's largest and most successful social program.

But while Social Security has done marvelous things for America, rescuing the aged from poverty and protecting the disabled from destitution, it is in trouble.

Nobody looking at the deficit projections for the old-age trust fund is complacent. A year or so down the road, the fund simply won't have enough income from the payroll tax to meet all its obligations.

That wasn't the way it was supposed to be when Congress in 1977 legislated a stiff new schedule of payroll taxes, the largest peacetime tax increase of any type in history. That increase was widely trumpeted as guaranteeing that the old-age and disability trust funds would stay in balance well into the next century.

Now, only four years later, the program is facing a funding crisis with predictions that some time in 1982, the cash window for the old-age program will be closed, and tens of millions of people whose economic security absolutely depends on Social Security will get truncated benefits or none at all.

"The question before Congress is whether the 36 million Americans who currently depend on the Social Security system can count on any check at all less than two years hence," Office of Management and Budget Director David Stockman warned a House subcommittee recently.

"The most devastating bankruptcy in history will occur" some time in the fall of 1982, he predicted.

That is pretty strong language and a great national debate has now begun over just how sick the system is, how it got that way and how to fix it.

J. J. Pickle, the Texas Democrat who heads the House subcommittee on Social Security, repeatedly has said he believes the old-age and disability trust funds are going to need about $100 billion more over the next five years than will be produced by the payroll tax that is levied 50–50 on employers and employees.

Two of the nation's most unyielding opponents of cuts in Social Security, former commissioner Robert Ball and former HEW secretary Wilbur Cohen, think this figure is way out of line, far too high, based on an exceptionally pessimistic view of developments in the national economy.

And the administration, in what can only be called a fit statistical schizophrenia, has declared that the economy will do so well that, actually, Social Security will need only about $11 billion extra over the next five years to pay all benefits and build up trust fund reserves a bit—but then has turned around and asked for $82 billion in cuts.

Social Security has become the main income transfer mechanism in the economy, taking billions of dollars each year from workers through the payroll tax and transferring the money to those forced out of work by disability and age and to survivors of workers who died.

It operates on a pay-as-you-go basis, keeping only enough money in the trust funds to pay a quarter or half a year's benefits. The taxes of people working today are used to pay off the benefits of the generation now retired; and when today's workers retire, their benefits will be paid by the next generation of workers.

Eligibility and monthly benefit amounts are related to how much a person earned in jobs covered by Social Security during his working life; but, unknown to most people, the benefit structure is highly progressive, favoring lower-income workers.

A person who worked all his life at around the minimum wage will have benefits under existing law equal to about 55 percent of his final year's salary prior to retirement. One who worked for average pay during his lifetime (about $13,800 a year at present) will have benefits of about 41 percent of his final year's pay. And one who worked at the maximum taxable wage all his life will get benefits equal to about 28 percent. (The system was designed to provide part of a person's income in retirement, but not all of it.)

On the other hand, the tax structure is regressive, weighing more heavily on the low-income person because there is a ceiling on taxable wages.

This year, for example, the ceiling is $29,700. A worker earning $10,000 a year pays 6.65 percent of his earnings, or $665, in Social Security taxes. But a worker earning $50,000 only pays 6.65 percent of the first $29,700, or $1,975 in Social Security taxes. His tax on his overall $50,000 income is only 3.95 percent. And of course, he gets credit only for the $29,700 on which he paid.

Until 1972, there was no provision in law

for automatic annual cost-of-living increases for Social Security beneficiaries and it was the common practice of Congress in the 1950s, 1960s and early 1970s to raise benefits periodically, often in election years, to help keep benefits up with inflation. This was easy to do, even without massive tax increases, because the system, having started only in 1935, didn't yet have a full complement of beneficiaries on the rolls.

Partly because of these increases and partly because of the "maturing" of the system and the widening of the scope of benefits brought more people onto the rolls, the number of elderly people below the poverty line fill dramatically. In 1959, the poverty rate for people 65 and over was 35.2 percent; by 1979, it was about 15 percent.

Social Security had more to do with lifting people out of poverty than all other programs combined; in 1976, it was estimated, three-fifths of the elderly got at least half their income from Social Security payments. That doesn't even count millions of younger people who are on the rolls because they are disabled or are the children or dependents of disabled or deceased workers; all told, one American in seven is dependent on Social Security.

Partly to restrain its own instincts for increasing benefits, since the elderly were becoming an increasingly potent political bloc (and more so today), Congress in 1972 moved to put the system on automatic pilot, providing for automatic "indexing" (annual increases based on wages and costs of living) of both taxes and benefits.

The cost-of-living feature for persons who are already retired and receiving benefits is an absolutely crucial security protection for the aged and disabled, who generally are less able to work and have fewer ways to make up income loss when inflation hits. It guarantees that the value of your Social Security benefit will not shrink to a pittance because of inflation, as is often the case with private pensions which seldom have an automatic cost-of-living provision.

The underlying assumption of the indexing decision was that productivity in the United States would continue to increase rapidly and that wages would therefore rise faster than prices each year. That would provide Social Security with enough tax income from wages to pay for anticipated benefits.

But this hasn't happened. Basically, the reason Congress and the president are facing a crisis is that the planners in 1977 made a terrible booboo, not just those in the Social Security administration but all the top economists government-wide.

They simply failed to foresee the soaring inflation and high unemployment that began only a year or two after President Jimmy Carter had happily placed his signature on the 1977 Social Security bill.

With price increases outrunning wages, indexed benefits began growing much faster than expected; and with unemployment higher than expected, payroll tax income to the system grew proportionately slower.

This collapse in the growth of productivity in the economy is unusual and isn't expected to continue long, but for the moment it has produced Social Security's short-term problem, the one evoking all the immediate hysteria; a shortfall of money in the old-age and survivors' insurance trust fund a year or so down the road.

But there is also a long-term problem, though it won't become serious until after the turn of the century. As the post-World War II baby boomers move through the system and eventually retire starting in 2005, there will be a huge load of beneficiaries and a relatively shriveled active labor force (because of low birth rates after the boom ended) to support them. Today the aged constitute about 11 percent of the population; this will rise to about 16 percent in the first quarter of the next century.

Today there are about three active workers contributing payroll taxes into the system for each retiree; by the end of the first quarter of the next century, the ratio is expected to be 2 to 1.

Since Social Security is essentially a pay-as-you-go system, this could mean a crushing tax burden on the active labor force to support the retirees. Of course, the demographics could change and the picture could turn out to be less troublesome than it now looks, especially since people will also have fewer children to support and might find it easier to pay taxes to support the elderly; but the outlook is certainly for heavy burdens.

These developments set the stage for President Reagan's call for sharp reductions in Social Security benefits for those first going on the rolls after the end of this year. Instead of raising more money by raising payroll taxes or by infusing general Treasury revenues into the trust funds to meet the deficit, Reagan prefers to cut benefits by $82 billion over the next 5 years.

The Reagan proposals include, for starters: elimination of the $122 a month minimum benefit; elimination of the student benefit (normally a dependent minor goes off the rolls at age 18, but he can keep on another four years if in college), and elimination of the $255 lump-sum burial benefit in some cases. In addition, Reagan would:

Change the basic formula for future retirees, so that a worker making the average salary would have an initial benefit equal to about 38 percent of his final month's wage instead of 41 percent. This represents a cut of about one-twelfth in basic benefits. It would save many billions and is the biggest saver among all the Reagan proposals.

Sharply reduce eligibility for Social Security disability insurance, cutting back the program by about a third and forcing many disabled to seek welfare.

Drastically reduce benefits for persons choosing to retire in the future before reaching 65. At present, an individual retiring at 62 (the minimum age) gets benefits equal to 80 percent of the amount he'd get at 65. The Reagan plan cuts this to 55 percent. Combined with the basic benefit formula change, this proposal would mean some future age-62 retirees would receive 43 percent less in monthly benefits than under current law and some would retire with a benefit permanently cut to only one-fifth of their final paycheck.

Carry out a Reagan campaign pledge and remove altogether by 1986 the current $5,500 annual limit on what a retiree of 65 or over can earn without any loss of Social Security benefits. The added cost to the trust funds would be offset by the proposed cuts.

Most of these changes would not affect people already on the rolls, and would apply only to future retirees, a point repeatedly stressed by Reagan. But the elimination of student benefits and minimum benefits and a three-month postponement of the 1982 cost-of-living increase would be applicable to those already on the rolls as well as to future retirees.

The Reagan proposals brought a firestorm of protest from Cohen, Ball and organizations representing millions of workers and beneficiaries.

Cohen and Ball called the cuts savage and Draconic and far deeper than needed just for the solvency of the system.

The whole argument turns, essentially, on what you expect to happen in the economy, and on that, Cohen and Ball would seem to have a point even if you don't swallow their whole argument.

Take the short-run problem first. Reagan's official, optimistic projection is that unemployment will be dropping below 6 percent by 1986 and inflation to 4.2 percent by 1986.

Under the administration's own calculations, if indeed this proves to be the case, then Social Security will be able to pay all benefits and build the trust funds rapidly up to a 17 percent reserve merely by allowing borrowing among the three trust funds and finding $11 billion in cuts or new revenues from 1982 to 1985. Yet the administration has asked for cuts that will total $82 billion over those years. It says the extra $70 billion could be used to build the trust funds up to an even larger reserve.

Let's say they really don't have that much confidence in their rosy projections. Under their most pessimistic scenario, unemployment will be nearly 10 percent in 1983 and inflation won't drop below 10 percent until 1986; in that case, Social Security would need roughly $111 billion in new funds or cuts over the next five years to stay solvent and build up trust fund reserves substantially.

SOCIAL SECURITY TAXES: EMPLOYER AND EMPLOYEE (EACH)

Year	Rate (percent)	Maximum taxable wage	Maximum amount paid
1967	4.4	$6,600	$290.40
1970	4.8	7,800	374.40
1975	5.85	14,100	824.85
1978	6.05	17,700	1,070.85
1980	6.13	25,900	1,587.67
1981	6.65	29,700	1,975.05
1982	6.70	[1] 32,100	[1] 2,150.70
1984	6.70	[1] 39,000	[1] 2,613.00
1985	7.05	[1] 42,300	[1] 2,982.15
1986	7.15	[1] 45,600	[1] 3,260.40

[1] Estimated.

But this short-run scenario seems unduly pessimistic. Inflation and unemployment already are both substantially lower than envisioned in the pessimistic scenario. Unless Reagan wrecks the economy, things will be better in the 1980s than the pessimistic scenario assumes.

In short, the administration is probably asking for too big a cut to meet the immediate crisis (and, of course, you could also meet it by raising taxes or infusing general revenues instead of cutting). Interestingly enough, Stockman all but conceded that the $82 billion figure may be too high when he told a congressional committee that the real size the next five years probably will be somewhere between the $11 billion figure and the $111 billion.

The same analysis holds for the long-range deficit. There is very little reason to use either the most optimistic demographic and economic assumptions or the most pessimistic in judging the system's financial condition beyond the turn of the century.

The pessimistic assumptions, after all, assume virtually no growth in the productivity of the economy for the next few years and an extremely low rate beyond that.

As in the past, the Social Security Administration has made its long-range forecasts using the middling projections, as seems the most prudent, but then, inexplicably, it has asked for cuts totaling almost exactly twice as much as needed to cover the projected long-range deficit.

For both the short term and long term, the administration justifies its request for cuts bigger than really seem to be needed by saying an extra margin of safety is being sought, in case the economy turns out worse than hoped.

That is a reasonable argument, but the proposed cuts are so far out of proportion to what seems to be needed except in the most pessimistic case (they even allow for cancellation of part of the scheduled 1985 So-

cial Security tax increase) that one suspects there is something more at work here.

One suspicion is that what Reagan is really seeking to do here is balance the overall federal budget at the expense of Social Security benefits. Stockman actually has made no secret of the fact that he expects horrendous difficulties in balancing the budget and that Social Security can make a contribution to this process. Secretary of Health and Human Services Richard S. Schweiker, on the other hand, has denied that general federal budget matters were involved in his recommendations on Social Security, saying he simply wanted to have an extra margin of safety in case the economy turns sour. Yet the suspicion remains.

There is something more. Some of the economists and advisers clustering around the Reagan administration seem to have an ideological vision of Social Security as properly a leaner system than now, relating benefits more to how much you pay in and eliminating what are called "welfare aspects" of Social Security, such as a variety of special dependents' benefits, the minimum benefit, the student benefit and aspects of disability eligibility that are based on age and skills as well as physical impairment for work.

Stockman and Schweiker have repeatedly said that to fill some of the protective gaps left by cuts they propose, there is a welfare system and there is no reason why people should be getting Social Security benefits of some types as a matter of right when protection for them exists on a need-tested basis in the welfare world.

The Reagan package, in short, seems to be fashioned in part on the basis of a world view that sees the system as having grown too large, and as attempting to do too much, and therefore as costing too much. Administration talk of Social Security's role in the "safety net" seems to emphasize the retirement benefits received by a worker as the primary benefit in the system and regard much else as merely "fringe benefits."

Both Schweiker and Stockman have expressed the view that one of the problems of Social Security is that too many fringe benefits have been loaded onto it in recent years in the laudable, but ultimately unmanageable, hope of providing virtually everyone with true economic security of a sort.

They argue that the student benefit is one example; another, the minimum benefit which goes in some cases to well pensioned civil servants who get plenty from federal civil service pensions and worked in Social Security-covered employment only a few years. They say disability benefits should go only to those with the most severe physical ailments; others can go on the charity disability welfare program entailing a needs and income test.

They say the basic level of benefits under current formulas are a little too rich. They say people who want to retire at 62 and enjoy leisure while others are laboring until 65 must pay the financial penalty.

Only by cutting back these "fringe" benefits will it be possible to guarantee financing for what must remain the primary function of the system, they argue: a basic pension for retirees.

Critics of the administration proposals have counter-arguments on most of these contentions: Ball, for example, has said that a recent study shows that 57 percent of those who retire at 62 actually do so because they are in ill health, and another 14 percent because they are out of work and can't find jobs.

This being so, they argue, a proposal that would cut back early retirement monthly benefit levels as much as two-fifths from present law and leave a benefit equivalent to only 20 percent of what the individual earned before retirement is not merely an adjustment but a tremendous rip in the safety net.

Others argue that two-thirds of those receiving student benefits are of relatively low income and may have to discontinue education if student benefits are killed at the same time that guaranteed and direct college loans are being cut back as part of Reagan's proposed cuts in education programs.

There are already considerable signs that members of Congress believe the Reagan plan overreached and asked for too much. The Senate, on a 96-to-0 vote, signaled a few days after the Reagan plan was announced that it would not accept it and Reagan had to offer a promise to compromise to help calm things down. Undoubtedly, Reagan's proposals have left a residue of suspicion and enmity among affected groups and in general among opponents of social program cuts.

But in the long run, the political damage may not be too great. There is generally a perception that something must be done, that it may require either higher tax burdens or some surgery (if much less than he asked), and that some bipartisanship is needed to fashion a solution. If he can reach a genuine compromise with Congress, everybody may be so happy the problem is solved that he may get off relatively lightly.

THE LEGACY OF THE HOLOCAUST PASSED ON

Mr. PROXMIRE. Mr. President, the first worldwide gathering of victims of the holocaust ended June 18 as 5,000 survivors of Hitler's death camps transmitted a legacy of the holocaust to their children. The New York Times reported on June 19 that the survivors united at Jerusalem's Wailing Wall to remember the horror which killed 6 million Jews. In the face of what many survivors see as revisionism and growing antisemitism, they passed on a legacy to keep the memory of the Holocaust alive in succeeding generations.

The legacy was read aloud to the gathered survivors. It began:

> We take this oath! We take it in the shadow of flames whose tongues scar the soul of our people. We vow in the name of dead parents and children. We vow, with our sadness hidden, our faith renewed. We vow, we shall never let the sacred memory of our perished six million be scorned or erased.

The purpose of this testament is not simply to mourn for the nightmare of the past. It warns that man is still capable of inhumanity, and courageously condemns such actions. Their legacy looks to the past to remind us that the future may hold new horrors.

The survivors of the most horrible genocide campaign the world has witnessed have united to tell us to learn from the holocaust. They unite to tell us that the world can be better if we will make it so.

Mr. President, I ask my colleagues what our legacy to future generations will be. Are we to leave to our children a heritage of indifference and irresponsibility? If genocide is committed in the future, are our children to have a crippled stance in stopping it? The answer must be a resounding no.

The holocaust survivors have passed to their children the responsibility to remember the past and protect the future. I ask that this Senate consider its responsibility to help end the crime of genocide. I urge swift adoption of the Genocide Convention.

Mr. President, I thank my good friend, the Democratic leader, and yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I yield my time to any Senator who wishes to have the time.

Mr. President, I yield back the remainder of my time under the special order.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. SYMMS). Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond 30 minutes with statements therein limited to 5 minutes each.

THE UTILITY OF THE SOLAR ELECTRONIC PROPULSION SYSTEM

Mr. HEFLIN. Mr. President, on Sunday, June 7, 1981, an article entitled "What Earthly Purpose to Peeking at Planets?" by Edward P. Stafford, a former Special Assistant for External Affairs at NASA, and a naval aviator for 25 years, was published in the Washington Star. This article is one of the most cogent arguments I have read in quite some time explaining why it is important for us to continue our study of our solar system and highlights some of the lessons that we hope to learn from this endeavor. As Mr. Stafford states—

> The ways in which new knowledge from the planets will combine to create new benefits to humanity and what those benefits will be are as unknowable as the future. The only certainty is that they will come.

I ask unanimous consent that the entire text of this article appear at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HEFLIN. The Solar System Exploration Committee at NASA is currently pondering this Nation's planetary exploration program. I have given the committee the benefit of my views on this subject and I would like to take just a minute to share with the rest of the Members of this body my thoughts along these lines. I was particularly grateful to be given the opportunity to give my views in writing to the Solar System Exploration Committee since, as I understand it, the charter of that Committee is to develop and recommend to NASA a plan for solar system explorations for the remainder of the century.

Mr. President, we have all witnessed the spectacular discoveries of the *Voyager* spacecraft as they flew by Jupiter and Saturn. My pride in what this country has been able to accomplish in planetary exploration was at its peak with the recent pictures from Saturn. This Nation has been at the forefront of planetary exploration and I hope the Congress will view its responsibility as

one that will result in a continued U.S. preeminence in this area.

Obviously, Mr. President, I am not a planetologist and cannot provide scientific rationale or my views on planetary explorations. However, I have been exposed to numerous eloquent testimonies before the Senate Science, Technology, and Space Subcommittee and I have talked to quite a number of experts in this field and I do have an opinion. This Nation has undertaken a vigorous planetary program to date and I feel that we are capable of becoming the first nation on Earth to develop a comprehensive understanding of the solar system. This understanding has already permitted increased knowledge not only of the other planets, but also of our Earth. There are many benefits for mankind that will be derived from a comprehensive knowledge of our neighbors and the way the solar system has evolved. We have also benefited from the technological advances that were made to enable our spacecraft to make the significant discoveries and transmit them back to Earth over billions of miles. As I have studied our planetary exploration program, I have come to the conclusion that—faced with a hiatus of 7 years from the last launch to the next planetary launch—our position of international leadership, scientific and technological benefits, and public pride is now in serious jeopardy. The American team of planetary scientists and engineers is in real danger of dissipating. The Soviet Union and France are embarking on joint ventures to Venus and Haley's Comet, and Europe and Japan are developing deep space probes and a significant space science capability. I have an increasing concern that just as we are beginning cooperative ventures with others in the world, our dedication to planetary exploration begins to falter.

The current administration's plan provides that Galileo, ISPM, and VOIR will provide a return to deep space but not until 1985. Galileo and ISPM, initiated in fiscal year 1978 and 1979 have been delayed from their original launch dates by 3 years. These delays have pointed up the fact that our space transportation system capabilities, both schedule and performance, were not attained when needed.

As a result of this, NASA now recommend replacing the shuttle upper stage to meet the higher requirements associated with the new launch dates. I do not want to belabor the well known history of these two projects, but there is a very good lesson we should have learned: We counted on schedule and launch vehicle performance of new and complex systems. The conditions changed—spacecraft weight grew, launch vehicle performance was low and delays in launch opportunities resulted. We in the Congress must keep this lesson firing in our minds as we try to find a proper balance between capabilities, flexibility, and requirements.

I would now like to borrow a portion from a recent statement of Dr. Al Cameron, chairman of the Space Science Board to the House Subcommittee on Space Science and Applications. In that testimony, Dr. Cameron stated that the major bodies of the solar system divide naturally into three distinct classes: The large, low-density outer planets; the smaller, high-density inner planets; and the primitive bodies—comets and asteroids. A comprehensive study of our solar system should be based upon a strategy of exploration of all three classes. To date, our program has focused quite naturally on our neighboring planets—the inner planets and recently the outer planets. Galileo will add significantly to our knowledge of one of the outer planets—Jupiter. While, as Mr. Stafford also points out in his article, we have not yet completed our studies of the inner planets and have just begun to study the outer planets, we should now begin to focus attention on the third element of Dr. Cameron's triad—the primitive bodies.

I am certainly not advocating this focus be to the exclusion of continued studies of the inner and outer planets. I do believe, however, that we are at a decisive point in our planning for the future because of the recent decision by the Congress to continue the funding for the solar electric propulsion system (SEPS), despite a recommendation by the administration that it be canceled. According to the testimony I have heard, I conclude that without SEPS there is no capability to undertake serious studies of the "primitive bodies"—comets and asteroids, and very little, if any, capability to continue studies of the outer planets beyond Galileo. It is for this reason that I feel the Congress wisely chose to continue funding and defer rather than cancel SEPS. Deferring SEPS provides us the opportunity to maintain this option for a period of time, but the restoration of full development status may depend upon the signals the Congress sends about the direction NASA should take in the latter part of the eighties' and early nineties'. I personally believe that an aggressive plan to utilize SEPS for exploration of comets, asteroids and outer planets should be seriously considered by NASA, and I so informed the Solar System Exploration Committee.

As I understand the background, SEPS technology has been in development for over 20 years, yet if this technology is permitted to be terminated due to, as the administration puts it, lack of an approved mission—we will have been shortsighted indeed Mr. President, I would just like to quote from a letter from Prof. Eugene H. Levy from the University of Arizona where he serves in the Department of Planetary Sciences, Lunar, and Planetary Laboratory to Congressman BOLAND dated May 27, 1981. Professor Levy states—

Clearly, development of solar electric propulsion is inevitable; the United States will need it in the relatively near future. It is not rational to wait until the first mission for which it will be needed is also started. Recent experience has shown us that such a policy is not wise and can lead to unconstrained cost growth as a result of unforeseen delays in propulsion development.

Mr. President, I ask unanimous consent that the entire text of Professor Levy's letter also be printed at the conclusion of my remarks. I think that Professor Levy makes the case very forcefully and I certainly want to associate myself with his position.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HEFLIN. In my judgment, the people of this country will not easily understand why NASA, despite all its capabilities and foresight, has permitted this Nation to be a sideline viewer for the upcoming return of Haley's Comet. We have all but missed this opportunity, but will we have a logical plan that will translate to the public that we are moving forward with an aggressive exploration plan for other comets, the asteroids, and outer planets? I am convinced that we should aim high, for if we do not do it now, our ability to achieve future goals may be beyond our reach. We must go forward to reclaim the momentum in planetary exploration for our scientists, engineers, and the Nation.

As a final word, Mr. President, I think that Members of this body at large, not just members of our Space Subcommittee should help shape the future course of solar system exploration by urging NASA to adopt a plan that results in this Nation having the capability to complete Dr. Cameron's triad. The next initiative, it seems to me, should be to explore the primative bodies—comets and asteroids. Such a plan is required now to let our planetary scientists and engineers, and the general public know that we intend to excel.

EXHIBIT 1

[From the Washington Star, June 7, 1981]

WHAT EARTHLY PURPOSE TO PEEKING AT PLANETS?

This month another spacecraft focuses its electronic eyes on Saturn and begins to beam its images back to Earth.

This Voyager—the second—is still some 60 million miles from the ringed planet but it is closing fast. Very fast. About 50,000 miles an hour. And it will speed up as the big planet's gravity continues to pull it in. By early August Saturn will loom so large to Voyager's narrow-angle camera that it can be no longer be captured in a single frame.

At 11:24 p.m. EDT on August 25, the spacecraft will flash past the outer rings at a distance of 23,600 miles with all its sensors busy gathering as much data as they can. On its way out of the Saturn system Voyager will observe six of the planet's 15 known moons.

During the final days of August and the first week in September a lot of dramatic pictures of Saturn will appear on newsstands and TV screens, and the accompanying captions and stories will be widely read. There will be considerable interest accompanied by a certain amount of pride in what we have been able to accomplish, which is to send an extension of our own intelligence with great precision hundreds of millions of miles out into space to make highly accurate scientific observations.

But by mid-September, except for a relatively few scientists, Voyages II's encounter with Saturn will have faded from public attention, remembered, if at all, as an interesting, isolated space spectacular.

But that memory will be wrong. Interesting, yes. Spectacular, in its own way. But certainly not isolated. Because although it is not generally recognized, the rendezvous of Saturn and Voyager is just one incident in a carefully planned, progressive, systematic

exploration of the solar system, aimed, in the long run, at improving the human lot on planet Earth.

Voyager II is only the present link in a chain of planetary explorations which extends 22 years into the past and unless it is severed by the budget axe, far out into the future. Voyager II itself was part of that past and will be part of that future, budget axe or no budget axe. It sailed through the mini-solar system of Jupiter in the summer of '79, and with luck in the winter of '86 it will give us our first close look at remote Uranus, twice as far from the sun as Saturn, a frigid, greenish gas-ball spinning around the sun on its side.

With still more luck, it could even reconnoiter yet more distant Neptune, the eighth planet from the sun, in the fall of '89. Luck in the case of Voyager means the continued functioning of its generators, its computers, its instruments and its radio.

Voyager II is very much part of a plan. Its mission from the beginning was to follow its traveling companion, Voyager I, through the systems of Jupiter and Saturn, picking up scientific data the first spacecraft missed and taking another look at objects or happenings of special interest, and then to head out for Uranus and Neptune. The mission of Voyager I was to learn as much as possible about Jupiter, Saturn, and their moons, period.

But both Voyagers fit into a master plan conceived back in 1965 which calls for exploring the planets in three stages: reconnaissance, or a first quick look to see what the planet is really like; exploration—closer, larger study, usually by orbiting spacecraft; and intensive study—getting the answers to specific and important questions about the planet—what is it made of, how is it changing and why, what kind of an atmosphere does it have, does it have a magnetic field as Earth does, and the most interesting question of all, does any form of life exist there?

The two Voyagers come under the heading of exploration. A couple of Pioneers with much less capable instruments did the reconnaissance of Jupiter and Saturn back in the middle '70s.

But when Voyager II arrives at Uranus, and later at Neptune, it will definitely be a reconnaissance, the first man-made device ever to approach those distant, icy worlds. And when (and if) Voyager II focuses its sensors on Neptune and what they "see" is transmitted back to Earth (it will take five and a half hours to get here at light's speed of 186,000 miles a second) we will have completed reconnaissance of eight of the Sun's nine planets; only the frozen rock of Pluto, far out on the fringe of the solar system, will remain unvisited.

Already we are in the exploration stage at Venus, as well as at Jupiter and Saturn, having probed its caustic atmosphere at four locations and mapped its permanently invisible surface from a radar orbiter.

At Mars we have advanced to intensive study with the Viking-lander laboratories and their orbiting partners.

Sometime in 1985 the Space Shuttle will launch another exploratory mission to Jupiter, not a flyby like the Voyagers, but an orbiter which will stay and observe for some 20 months, and a probe to enter and sample the giant planet's swirling atmosphere.

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A better radar will go to Venus to map its surface in more detail. There is talk of a follow-up flight to Mars which would return a sample of its enigmatic soil for analysis here on Earth. Scientists expect that by around 1990 materials and instruments will have been developed which will enable us to land sensors on the 900-degree surface of Venus and the 600-degree rocks of Mercury.

In the early '90's the planets will be lined up in a way that will give us a chance for a first look at Pluto and a second (or first) inspection of Neptune.

CONTINUING ADVENTURE

It is an exciting and continuing scientific adventure, perhaps the greatest ever. We have discovered sulfuric acid clouds, crushing pressures and hellish temperatures on Venus, long thought to be our sister planet and imagined by many to be populated with exotic, intelligent beings. We have found no canals but dried-up water courses on the rusty surface of Mars, and mountains and canyons which dwarf anything on Earth. We have analyzed the red planet's soil with landed laboratories and found more questions than answers.

We have witnessed sulfur-belching volcanic eruptions on Jupiter's moon Io, the only active volcanoes in the solar system other than those on Earth. We have seen lightning flashing through the banded ammonia clouds of Jupiter, observed "braided" rings at Saturn which seem to defy the known laws of orbital mechanics, repeatedly penetrated with impunity the belt of asteroids between Mars and Jupiter, dispatched four spacecraft (the Pioneers and the Voyagers) on eternal journeys among the stars—the first man-made objects to leave the solar system.

Interesting. Exciting. Even fascinating to many of us. But expensive. And how does all this improve the human lot on Earth? "What's in it for me?"

More than you think.

For starters, planetary exploration can teach us to preserve our beautiful and varied planet as the only home for mankind in all the universe. Venus is about the same size and age as Earth and only a little closer to the sun, yet a man stepping out of a spacecraft on Venus would be simultaneously crushed by pressures about the same as those 3,000 feet down in the sea, and fried by temperatures above the melting points of lead and zinc.

What happened? Apparently there was a buildup of carbon dioxide in the atmosphere which trapped the heat from the sun—the so-called "green-house" effect. We are putting a lot of carbon dioxide into our own atmosphere by burning coal and oil. Can the same thing happen here? Knowledge of what happened on Venus can show us how to prevent it.

LIFELESS, RUSTY DESERT

Mars is smaller but otherwise much like Earth and only a little farther from the sun. Apparently it once had an atmosphere perhaps as dense as ours, and surface water like that in which life on Earth began. Now the Martian atmosphere is thin and tenuous and the surface water is gone. Mars is an apparently lifeless, rusty desert. What happened? Can it happen here? Studies of Mars can answer both questions and perhaps prevent disaster.

Observation of the evolution, geology and movement of the crusts of other planets and their moons can give us a better understanding of those same elements on Earth—and thus a better ability, among other things, to predict earthquakes and to pin-point likely locations of oil, coal and mineral deposits.

Studies of cloud movements and weather patterns on other planets are giving us new insights into how the weather works at home—new insights mean more accurate, longer-range forecasts with perhaps an eventual ability to control some aspects of our weather.

In the long run it may well be that access to the rest of our solar system will mean access to a new and literally limitless supply of materials and energy at just about the same time our own planet is running out.

But in the end the exploration of the solar system, by Voyager II, its predecessors and successors, will improve the human lot in precisely the way it has always been improved, by the simple enlargement of human knowledge. The ways in which new knowledge from the planets will be combined to create new benefits to humanity, and what those benefits will be, are as unknowable as the future. The only centainty is that they will come.

That is the real meaning of the endless odyssey of Voyager II as it accelerates towards Saturn this summer.

EXHIBIT 2

THE UNIVERSITY OF ARIZONA,
Tucson, Ariz., May 27, 1981.

Hon. EDWARD P. BOLAND,
House of Representatives,
Washington, D.C.

DEAR MR. BOLAND: I understand that your Committee will shortly undertake to review the desirability of including funds for continued development of the Solar Electric Propulsion System in the current NASA appropriations bill. I would like to submit my views for your consideration in this matter. While I am writing as an individual I am, at the same time, drawing heavily on conclusions and recommendations of the Committee on Planetary and Lunar Exploration of the Space Science Board and on deliberations of the NASA Solar-System Exploration Committee.

It is essential that the planning and development of launch and propulsion capabilities be carried out with a view to the long-term requirements and objectives of our continuing space activities in all areas of national importance. The low-thrust, solar electric propulsion system will provide a unique operational capability, complementary to the shuttle and upper stage combination and will, together with them, give the United States access to a large part of the solar system for scientific and technological endeavors.

While I have no doubt that such low thrust propulsion systems eventually will find important use also in Earth orbital applications, for maneuvering large space structures that will not have the mechanical rigidity to withstand the stress of acceleration by conventional rockets, here I want to concentrate on the need for this propulsion capability to realize the United States' objectives in space science.

The United States presently occupies a leading, but rapidly eroding, position in space science. This erosion of our position is the result of shrinking national foresight through several recent administrations. If we are to arrest this erosion and recover, then we must plan in a sensible way for future needs. Several major steps in capability are offered by low thrust propulsion systems; these include: substantial increases in spacecraft capacity, freedom from many launch window constraints that are common with conventional ballistic vehicles, and the ability to reach important but otherwise inaccessible objects. The capabilities of solar electric propulsion would facilitate, in a major way, our ability to carry our investigations of comets, asteroids, Mercury, Saturn, and Mars.

It is not now clear to me what level of vigor we will be able to look forward to in U.S. scientific programs over the next ten or twenty years, but it is clear what many of the major questions are. For example, we have made great progress in understanding the nature of our solar system and we expect that large and unique steps toward understanding its origin can be taken by detailed study of comets and asteroids—the best preserved known remnants of the original stuff from which we are made. Any reasonable national science policy will meet the challenge posed to us by these primitive bodies; a low-thrust propulsion system, such as SEP, is essential to that endeavor.

Clearly, development of solar electric propulsion is inevitable; the United States will need it in the relatively near future. It

is not rational to wait until the first mission for which it will be needed is also started. Recent experience has shown us that such a policy is not wise and can lead to unconstrained cost growth as a result of unforeseen delays in propulsion development. I believe that you yourself were early in pointing out such a possible danger to the Galileo mission during the development of the space shuttle. We should learn from our past experiences. When problems arise in development of new technologies they can be signals, of shortcomings in the way we do things; but they also are signals that we are undertaking technical challenges that are worthy of our abilities and that will provoke those abilities to growth. We have seen that happen many times in our space programs. However, it is important that we proceed in a way that rationally minimizes the extended influences of unforeseen problems. Beginning development of solar electric propulsion now would be the right step.

Sincerely,

EUGENE H. LEVY,
Associate Professor.

WASTE, FRAUD, AND ABUSE REDUCTION ACT

Mr. HEFLIN. Mr. President, I rise today to speak in favor of a bill that I believe is long overdue, the Waste, Fraud, and Abuse Reduction Act of 1981. I strongly commend my colleague from Wisconsin, Senator KASTEN, for his leadership in this important area and I am pleased to be a cosponsor of this legislation.

Waste, fraud, and abuse within the Federal Government costs the American taxpayers untold billions of dollars each year—this is not money that goes to feeding the poor or to defending our Nation—this fraud and waste represents billions of dollars that is simply lost as far as the public good is concerned. This type of irresponsibility and corruption cannot be allowed to continue.

The Waste, Fraud, and Abuse Reduction Act is a simple, sensible, and systematic way to put waste and fraud in check. Further, this bill will encourage—not discourage—senior Government personnel to report waste and abuse when they see it.

Under the terms of the bill, the Congress would withhold a certain percentage of each Federal agency's funds at the beginning of each fiscal year. Each agency would then have 4 months to report to the Congress on their antiwaste, antifraud, and antiabuse efforts. Following a careful review of these efforts, Congress could lift the "hold" on the funds or return these funds to the Treasury if the antiwaste efforts were insufficient.

Senator KASTEN likes to call this his 2-percent solution because the percentage withheld at the beginning of each year would be 2 percent. While I enthusiastically support the concept involved here, I cannot help but wonder if the percentage could be raised. This is a matter that I will explore for later discussion on this legislation.

The Senate Budget Committee has estimated that this bill could save American taxpayers as much as $7 billion in fiscal years 1983 and 1984. I believe these savings could be achieved even sooner and be even more substantial if action were taken on this important legislation quickly.

Some Members of this body may be concerned that this legislation would infringe upon the normal appropriations process, thus interfere with the Congress constitutional duty to appropriate moneys. I do not share those concerns because the bill is carefully designed not to infringe upon this responsibility.

The Waste, Fraud, and Abuse Reduction Act does not single out any one agency, but would apply to all Federal agencies in an equal manner. Each agency would have to prove that it is doing its best to fight waste and fraud.

Mr. President, the American people are fed up with paying high taxes and then seeing their hard-earned tax dollars wasted by a big and uncaring, wasteful Government. We must take action to see that waste within the Federal Government is stopped. I believe this legislation will do much to accomplish this goal.

NOTICE OF INTENTION TO SCHEDULE CERTAIN MEASURES

Mr. BAKER. Mr. President, as we did last week, I wish to call attention to certain items that might be dealt with by unanimous consent or under brief time agreements if available so that Members may be aware of these measures and the possibility that we will take action on them.

I have not yet had an opportunity to confer with the minority leader on this subject, but I shall do so shortly. I urge all Senators to assume that the five calendar items I am about to list are likely to be disposed of very promptly:

Calendar Order No. 37, S. 271, the Communications Act, from the Commerce Committee; Calendar Order No. 103, S. 816, the so-called Pfizer bill, from the Judiciary Committee; Calendar Order No. 167, Senate Resolution 87, a sense of the Senate resolution in respect to social security, from the Finance Committee; Calendar Order No. 174, Senate Resolution 144, a resolution regarding Lebanon, from the Foreign Relations Committee; and Calendar Order No. 176, Senate Resolution 141, a sense of the Senate resolution, from the Judiciary Committee dealing with crime.

Mr. President, I do not propose to deal with these matters now, but Senators should be on notice that the leadership may attempt to move these bills either by unanimous consent or on short time limitations in the immediate future.

AUTHORIZING APPEARANCE AS AMICUS CURIAE BY THE SELECT COMMITTEE ON ETHICS

Mr. BAKER. Mr. President, I sent to the desk a resolution. This has been cleared on the minority side for immediate consideration. I ask unanimous consent for its immediate consideration.

THE PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 157) to authorize appearance as amicus curiae by the Select Committee on Ethics.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the resolution.

The resolution (S. Res. 157) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 157

Whereas, Article I, Section 5, Clause 2 of the Constitution empowers the Senate to consider allegations of misconduct by its members, and the Senate has authorized and obligated the Select Committee on Ethics to investigate such allegations;

Whereas, the Committee is conducting a preliminary inquiry into the conduct of Senator Howard W. Cannon in connection with the sale of a parcel of land owned by the Teamsters Union Central States Southeast and Southwest Areas Pension Fund;

Whereas, for this inquiry the Committee subpoenaed the Department of Justice to produce, in executive session, electronic surveillance recordings obtained by the Department;

Whereas, the Department of Justice agreed to provide the recordings, under an arrangement with the Committee that the contents of the recordings will not be disclosed publicly at this stage of the Committee's proceedings, and will not be disclosed at any later stage without due notice to the Department;

Whereas, the defendants in *United States* v. *Allen M. Dorfman, et al.*, No. 81 Cr. 269, pending in the United States District Court for the Northern District of Illinois, have moved the court for an order which would, in effect, direct the Department of Justice not to comply with the Committee's subpoena;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978 (2 U.S.C. §§288b(c)), 288e(a), and 2881(a) (Supp. III (1979)), the Senate may direct its Counsel to appear as amicus curiae in the name of a committee of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to appear as amicus curiae, in the name of the Select Committee on Ethics of the United States Senate, in *United States* v. *Allen M. Dorfman, et al.*, for the purpose of presenting the right of the Committee to obtain, by its lawful process, evidence it deems necessary for its proceedings.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WHY CONGRESS BARRED BRIBERY ABROAD

Mr. PROXMIRE. Mr. President, on June 18, 1981, the New York Times published an article by Karin M. Lissakers, a senior associate at the Carnegie Endowment for International Peace, titled "Again, Why Congress Barred Bribery Abroad."

Ms. Lissakers' article is well worth reading because it reminds us of the

strong foreign-policy reasons why bribery overseas is such a disaster and why the Senate should oppose S. 708—which is now pending in the Senate Committee on Banking, Housing, and Urban Affairs—proposed legislation to amend the Foreign Corrupt Practices Act, which, in my judgment, would effectively gut, destroy, our prohibitions against bribery abroad.

I ask unanimous consent that Ms. Lissakers' article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AGAIN, WHY CONGRESS BARRED BRIBERY ABROAD

(By Karin M. Lissakers)

Judging from the debate over proposals to water down the Foreign Corrupt Practices Act of 1977, the Congress has forgotten just why it forbade the bribery of foreign government officials by United States corporations and required internal accounting controls adequate to ensure that such illegal payments would not be made.

A bill offered by Senator John H. Chafee, Republican of Rhode Island, would narrow the accounting requirements and limit corporate liability. The Administration has recommended eliminating the accounting requirements and easing the definition of bribery. Testifying Tuesday before the Senate Banking Committee, John S.R. Shad, chairman of the Securities and Exchange Commission, took middle ground.

Passage of the law was not, as critics now charge, a misguided desire to impose American standards of ethics and morality on other countries. Nor did Congress assume that the prohibition on bribery would be cost-free in terms of lost business opportunities. Rather, Congress acted because it had become convinced, after an exhaustive investigation and a year-long series of hearings by a Senate Foreign Relations subcommittee chaired by Frank Church that the damage to the United States' foreign-policy interests from permitting these corrupt practices to continue far outweighed any short-term gains in exports and overseas-investment opportunities.

Senate hearings in 1975–76 revealed, among other things, that the Lockheed Corporation had paid more than $106 million in secret "commissions" to promote its foreign sales, including $7 million to a well-connected Japanese "agent" who was also the head of a fanatic right-wing youth movement. Lockheed also made large secret payments to Prince Bernhard of the Netherlands to influence his recommendations as inspector general of the armed forces concerning fighter-plane purchases by the Dutch Government. Exxon funneled more than $50 million to Italian political parties and Cabinet members to buy favorable tax and energy legislation. The Northrop Corporation had agreed to pay, to a mysterious Swiss company, 1.5 percent of all its overseas earnings for the sale of the F–5 but testified that it did not know who the company's shareholders were, or what services the fee would entail.

The act was not directed at "baksheesh" given to minor functionaries but at the wholesale buying, by American companies, of cabinet ministers, chiefs of armed forces, and legislators in Europe, in Asia, in the Middle East, and in Latin America, which was revealed in those hearings. Mr. Church summed up the act's foreign policy rationale this way: "While bribes and kickbacks may bolster sales in the short run, the open participation of American firms in such practices can in the long run only serve to discredit them *and* the United States. Ultimately, they create the conditions which bring to power political forces that are not friends of ours, whether a Qaddafi in Libya or Communists in Italy." (Or, it could now be added, a Khomeini, in Iran.) Mr. Church also noted: "Morality in the business community is not our responsibility, nor is enforcing the law in other lands. What this Government and this Congress must concern itself with are the very real and serious political and economic consequences that spreading corruption can leave for U.S. interests both at home and abroad."

Before the Congress decides to gut the law, it should ask itself whether it serves our security interests to have North Atlantic Treaty Organization allies and other friendly governments base their arms-procurement decisions on the size of bribes offered by various arms manufacturers rather than on defense needs; whether democratic forces are strengthened when American corporations participate in the subversion of the legislative and electoral processes of other countries by pumping hidden millions of dollars into the Swiss bank accounts of officials and the coffers of political parties and parliamentary groups; whether our efforts to promote economic development in third-world countries are helped when these countries pay an extra 10 or 20 or 50 percent for needed imports because kickbacks are part of the deal; and whether American business is well-served when hidden bank accounts, dummy corporations, and false filings are considered a normal part of doing business and when honest corporations are left without legal protection against shakedowns and extortion by corrupt foreign officials.

There is pending in the United Nations a draft treaty on corrupt practices that would protect the competitive position of American business abroad without sacrificing our broader foreign-policy interests. The Administration's energies would be better directed at seeking adoption of an international agreement in the United Nations or in the Organization for Economic Cooperation and Development to parallel our own tough and apparently effective anticorruption law.

ORDER OF PROCEDURE

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I say, "Good morning" to the Chair, and I thank the Chair for recognizing me.

I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CRIPPLING EFFECTS OF HIGH INTEREST RATES

Mr. BOREN. Mr. President, again today I want to take the floor as I have for the last 4 days to call the attention of my colleagues to the crippling effects that high interest rates are having on the key productive sectors of our economy.

As you know, I intend to address this crucial problem each day on the floor of the Senate until the administration and responsible policymakers devise a program to combat these outrageous interest rates which are continuing to strangle the productivity of our Nation.

Mr. President, we simply cannot delay action on this matter any longer. We do not have to look very hard to find examples of the effects interest rates are causing. The industry of agriculture in America, one of the most productive and vital segments of our economy, is likewise feeling the tremendous burden of high interest rates.

Total interest costs in agriculture have doubled in the last 4 years to reach an all time high of $14 billion. The interest costs on a $45,000 PCA loan at 15 percent amounts to $6,750 per year. Cattle feeders are paying $35 a head per year just in interest charges on the money borrowed to pay for the steers. Interest charges on a $400 heifer calf brought today would be $160 for 2 years. The charge, then, for 100 replacement heifers would be $16,000. Assuming the heifers produce 90 calves for sale in the fall of 1983, the interest cost per calf to the farmer would be $178. The figure does not even include the interest he pays as a percentage of other production costs such as fertilizer, equipment, and feed, which has gone up 27 percent in the last year alone.

Mr. President, interest rates are forcing 25,000 fulltime farmers out of work a year. The word farmer in America used to mean a person who worked all day on his own farm to make a living for his family. For another 75,000 farmers each year, farming is becoming their secondary source of income. How long can our farmers continue to produce for us under these disastrous conditions?

Again, I urge the President, the Secretary of the Treasury, those in the Federal Reserve, and the economic advisers of the administration to take note of this national emergency and to resolve the crisis while we still have farmers who are willing to produce.

I yield the floor.

PUBLIC OPINION ON THE FEDERAL JUDICIARY

Mr. THURMOND. Mr. President, the Heritage Foundation recently commissioned a public opinion study which was performed by Sindlinger and Company, Inc. The study assessed public attitudes toward the Federal judiciary and public opinion of the proper role of the Federal judiciary under the Constitution.

I believe the results of the study are valuable in understanding the extent of decline in public confidence in our Federal court system.

I also believe that the Federal judiciary itself could reflect profitably on public attitude toward the Federal courts. Perhaps through the process of self-examination the Federal courts might see fit to take the lead in returning their activity to the limits of Federal judicial authority specified in the Constitution.

I ask unanimous consent that the results of the study conducted for the Heritage Foundation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A STUDY CONDUCTED FOR THE HERITAGE FOUNDATION BY SINDLINGER & CO., INC., MEDIA, PA.

	Total			Male			Female		
	Sample	Percent	Proj. (thousands)	Sample	Percent	Proj. (thousands)	Sample	Percent	Proj. (thousands)
Base—Total adults interviewed	2,713	100.0	165,991	1,322	100.0	80,520	1,391	100.0	85,471
Question 1: In the United States, the appointive method is used for Federal judges—that is, they are appointed for life. This, however, is not so for State judges. The majority of States provide that State judges must be reconfirmed periodically, in some States, by popular election. In your opinion, do you think that Federal judges should be reconfirmed periodically?									
1. Yes	1,999	73.7	122,277	1,027	77.7	62,552	972	69.9	59,725
2. No	441	16.3	26,978	223	16.9	13,582	218	15.7	13,395
3. Don't know	273	10.1	16,736	72	5.4	4,385	201	14.5	12,351
Question 2: Would you, yourself, support the direct election of Federal judges?									
1. Yes	1,853	68.3	113,343	959	72.5	58,410	894	64.3	54,932
2. No	512	18.9	31,328	246	18.6	14,983	266	19.1	16,345
3. Don't know	348	12.8	21,320	117	8.9	7,126	231	16.6	14,194
Question 3: It is almost unheard of for Congress to impeach a Federal judge. In your opinion, do you think that Congress should at least scrutinize the rulings of Federal judges in order to insure that they do not go beyond the bounds of the Constitution?									
1. Yes	2,345	86.4	143,460	1,161	------	------	1,184	85.1	------
2. No	104	3.8	6,364	49	------	------	55	4.0	3,380
3. Don't know	264	9.7	16,161	112	------	------	------	10.8	9,340
Question 4: Would you prefer to have a sensitive issue like busing, abortion, and voluntary prayer decided in State courts or Federal courts?									
1. State courts	1,671	61.6	102,230	829	62.7	50,492	842	60.5	51,737
2. Federal courts	614	22.6	37,560	311	23.5	18,942	303	21.8	18,618
3. Both courts	112	4.1	6,854	52	3.9	3,167	60	4.3	3,687
4. Don't know	316	11.7	19,347	130	9.8	7,918	186	13.4	11,428
Question 5: When the Supreme Court considers a case, would you favor requiring a two-thirds "supermajority" of the Court to declare a State or Federal law unconstitutional?									
1. Yes	2,177	80.2	133,151	1,146	86.7	69,800	1,031	74.1	63,351
2. No	392	14.5	24,022	121	9.2	7,370	271	19.2	16,652
3. Don't know	144	5.3	8,819	55	4.2	3,350	89	6.4	5,469
Question 6: Should we allow Congress to overturn a Supreme Court ruling by a two-thirds majority vote?									
1. Yes	1,482	55.0	91,290	720	54.5	43,854	772	55.5	47,436
2. No	807	29.7	49,366	411	31.1	25,035	396	28.5	24,333
3. Don't know	414	15.3	25,336	191	14.4	11,653	223	16.0	13,302
Question 7: Would you favor elimination of "intervenor funding" whereby Federal agencies pay attorneys to present their views in regulatory hearings?									
1. Yes	1,490	54.9	91,135	779	58.9	47,447	711	51.1	43,688
2. No	567	20.9	34,697	265	20.0	16,141	302	21.7	18,557
3. Don't know	656	24.2	40,159	278	21.0	16,932	378	27.2	23,226
Question 8: Would you favor limiting the authority of Federal regulatory agencies to initiate lawsuits against businesses and citizens?									
1. Yes	1,742	64.2	106,549	909	68.8	55,365	833	59.9	51,184
2. No	392	14.5	24,002	158	12.0	9,623	234	16.8	14,378
3. Don't know	579	21.4	35,440	255	19.3	15,531	324	23.3	19,908
Question 9: Would you favor congressional efforts to withdraw Federal court jurisdiction over cases involving issues such as busing?									
1. Yes	2,206	81.3	134,973	1,072	81.1	65,293	1,134	81.5	69,679
2. No	396	14.6	24,222	205	15.5	12,486	191	13.7	11,736
3. Don't know	111	4.1	6,796	45	3.4	2,741	66	4.7	4,055
Question 10: Do you support the current proposal to abolish the federally funded Legal Services Corporation, a program costing $321,000,000 in the current fiscal year?									
1. Yes	1,407	51.9	86,075	705	53.3	42,940	702	50.5	43,135
2. No	723	26.6	44,226	371	28.1	22,597	352	25.3	21,629
3. Don't know	583	21.5	35,691	246	18.6	14,983	337	24.2	20,707
Question 11: Do you feel the Federal judiciary reflects your personal views?									
1. Yes	281	10.4	17,186	149	11.3	9,075	132	9.5	8,111
2. No	2,096	77.3	128,247	1,010	76.4	61,517	1,086	78.1	66,730
3. Don't know	336	12.4	20,558	163	12.3	9,928	173	12.4	10,630

U.S. INTEREST IN SOUTHEAST ASIA

Mr. THURMOND. Mr. President, It is most appropriate today to draw the attention of the Senate toward Southeast Asia in view of the statement yesterday by Secretary of State Alexander Haig that the United States would "shore up those who are under threat and danger" in that area.

As perhaps the last Member of Congress to visit South Vietnam and Cambodia before their fall to Communist forces, and as one who deplores the mass murders in Cambodia and the enslavement of the people in South Vietnam, I believe more attention is needed by the United States in Southeast Asia.

In keeping with this interest, I wish to draw to the attention of my colleagues an article written by Brig. Gen. J. D. Hittle, a retired Marine officer, entitled "A Continuing Conflict in Southeast Asia."

General Hittle is a former Assistant Secretary of the Navy and holds a master's degree in oriental history. His article is perceptive and worthy of the attention of Members of the Congress.

General Hittle's article appeared in the June 1, 1981, issue of the Navy Times, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A CONTINUING CONFLICT IN SOUTHEAST ASIA

(By Brig. Gen. J. D. Hittle, USMC (Ret.))

The tragic drama of U.S. surrender in Vietnam may be over, but the end of the continuing conflict in Southeast Asia isn't even in sight.

There are, of course, a lot of local and side issues involved in the continuing turmoil in Southeast Asia, but the basic source of trouble is the continuing and relentless expansionist policies of the Soviet Union.

It is all too clear that our run-out solved nothing. We could, and did get out of war, but the realities of strategy, geography and Russian aggression have made it impossible for the United States to escape from the consequences of our voluntary defeat.

The anti-war zealots and faint hearts urged that Vietnam be left to the Viet-

namese, Laos to the Laotians and Cambodia to the Cambodians. They poo-pooed the possibility of a red reign of terror in Vietnam, a genocidal effort to exterminate the hill people who trusted us in Laos, or a bloodbath in Cambodia. But, as history has so rapidly and lamentably written, all this has come to pass. Wishful dreaming won't change a single blood- or tear-soaked fact.

The inescapable fact that has emerged from our surrender is that, whether we like it or not, we cannot as a nation isolate ourselves from what has happened and what is happening in Southeast Asia. The reason is a simple one: Southeast Asia was, and is, inextricably intertwined with the survival of the United States and our allies.

At the southern end of the peninsula are the Straits of Malacca. This is the narrow-water corridor, the choke point, through which streams the Mideast oil that fuels the fires of Japanese industry. The endless procession of ships through the straits carries, too, much of the other materials from the Persian Gulf/Indian Ocean basin on which Japanese, United States and other free world economies depend.

No wonder the Malacca Straits have been high on the Kremlin's target list for so long! That narrow-water corridor is what so much of the Vietnam war was all about. Vietnam, Cambodia and Laos comprise what was once French Indochina. From Moscow's standpoint, this area was the strategic stepping stone to control in Southeast Asia.

U.S. surrender opened the floodgates to continuation of the Russian advance in Southeast Asia. The result is that the red tide of conquest is now pushing against the borders of Thailand. Thailand, as the result of the U.S. surrender in Vietnam, has been thrust into the front-line role in defense of what remains free in Southeast Asia. In terms of basic strategy, Thailand has a crucial role in free world defense against modern Russian imperialism.

As the result of her geographic position, Thailand is the central barrier that blocks continuation of Russia's expansion through Southeast Asia. Thus, the dark clouds of growing crisis swirl lower over Thailand's long and imperiled Laotian and Cambodian border lands.

The deadly seriousness of Thailand's situation—and that of the United States as well—was sharply underlined by recent reports from Cambodia. Cambodia, according to news stories from Phnom Penh, is no longer solely a Vietnamese operation backed by Moscow. Now that the Vietnamese aggressors have pushed the Pol Pot Red Khmer butchers into the mountains, Russia has openly moved into Cambodia. Press reparts say that "advisers" are there in the hundreds. The Russian embassy there has issued press notices outlining plans for social, economic and agricultural reconstruction. What wasn't highlighted was military rebuilding.

There are also press reports that diplomatic sources in Thailand say Russia began shipping arms by sea to the Cambodian port of Kampong Sam and by air from Vietnam. Phnom Penh has announced that Cambodians have been sent to Russia for pilot training.

What Moscow is now doing in Cambodia follows the familiar pattern of Russian exploitation and development of a new satellite. It means that Moscow is consolidating its position in Cambodia, just as it has been doing in Laos and earlier in Vietnam.

Such consolidation of the Russian position in the nations bordering Thailand offers nothing but growing peril for that nation. The strategic equation is plain and uncomplicated: If Russia pushes further into the Southeast Asian peninsula, Moscow must take or neutralize the Thai barrier.

If the Thai barrier falls, the Russian thrust through Southeast Asia would become two-pronged. One would turn southward toward Malaysia and Singapore and the Straits of Malacca beyond.

But, what so many overlook is Thailand's strategic role in the struggle for control of the vital Persian Gulf/Indian Ocean area. A glance at the map tells why. Thailand stands astride the eastern approaches from the Russian-backed Cambodia-Laos-Vietnam area to Burma.

So, the second prong would branch northwestward against Burma, and Burma, in Moscow's sphere, would give Russia control of the eastern rim of the strategic Bay of Bengal and the land approaches to Bangladesh, the northern border area of India and Pakistan. Such a pattern of Russian expansion would, if successful, mean the outflanking of the Persian Gulf/Indian Ocean area from the East. Just because such a pattern is so large doesn't mean it is empty theory. Russian strategy is global. Nations and continents are but intermediate objectives.

When viewed in this geopolitical context, it can be said with reason that seldom in history has such a crucial strategic role been forced on a nation by others' actions as that which U.S. surrender and Russian persistence have assigned to Thailand.

Like other dramatic developments, this, too, has an ironic twist. In the latter 1800s, England and France were locked in a fierce competition of colonial expansion in Southeast Asia. France was focusing on Laos, Vietnam and Cambodia. England had her sights on exploitation of Singapore, Malaysia, and Burma.

This put the two powers on a collision course. The diplomatic maneuvering was intense and complicated. But, a simple geographic fact was recognized. It was the location of Thailand. That country was in the key position as a buffer between French goals in Indochina and the British objectives in Malaysia and Burma. It was in the British and French interests to have such a buffer. The result was that Thailand was permitted to remain independent, outside of and separating the French and British spheres.

The sad twist of history is that the strategic geography that was so much of the reason for Thailand's independence then, is the source of so much of Thailand's peril today.

But Thailand's critical role in the Russian-United States confrontation is not a mere accident of history. This idea of Russian goals in Southeast Asia and Thailand's strategic role in the U.S.-Russian confrontation is not hindsight.

It has been clearly predicted in these words: "It requires no sage to predict events as strongly foreshadowed . . . It seems to me that the people of America will have brought within their embrace the multitudes of islands of the great Pacific . . . and I think, too, that eastward and southward will her great rival of future aggrandizement (Russia) stretch her power to the coast of China and Siam (Thailand) and thus . . . will meet once more, in strife or friendship, on another field. Will it be friendship? I fear not."

The speaker was Commodore Matthew C. Perry, USN. The place was New York City. The year was 1856.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ELEVENTH SPECIAL MESSAGE FOR FISCAL YEAR 1981—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE RECESS—PM 60

Under the authority of the order of the Senate of June 19, 1981, the Secretary of the Senate, on June 19, 1981, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, was referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Labor and Human Resources, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Environment and Public Works.

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report 6 new proposals to rescind a total of $321.0 million in budget authority previously provided by the Congress. In addition, I am reporting 13 new deferrals totalling $220.1 million, and revisions to five previously reported deferrals increasing the amount deferred by $78.1 million.

The rescission proposals affect programs in the Departments of Agriculture, Education, Health and Human Services, and Housing and Urban Development as well as the Environmental Protection Agency. The deferrals affect programs in the Departments of Agriculture, Defense, Health and Human Services, Interior, and State as well as the National Foundation on the Arts and Humanities.

The details of each rescission proposal and deferral are contained in the attached reports.

RONALD REAGAN.

THE WHITE HOUSE, *June 19, 1981.*

MESSAGE FROM THE HOUSE

At 11:17 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill in which requests the concurrence of the Senate:

H.R. 3480. An act to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

HOUSE BILL REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3480. A bill to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes; to the Committee on Labor and Human Resources.

BILL PLACED ON CALENDAR

The Committee on the Judiciary was discharged from the further consideration of the bill (S. 736) to provide for the control of illegally taken fish and wildlife, and the bill was placed on the calendar.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services, without amendment:

S. 1408. An original bill to authorize certain construction at military installations for fiscal year 1982, and for other purposes (together with additional views) (Rept. No. 97-141).

S. Res. 159. Original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1408; referred to the Committee on the Budget.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BOREN:

S. 1405. A bill entitled the "Carl Albert Congressional Research and Studies Center Endowment Act"; to the Committee on Labor and Human Resources.

By Mr. LUGAR (for himself, Mr. GARN, Mr. PROXMIRE, and Mr. D'AMATO):

S. 1406. A bill to amend the Depository Institution Deregulation and Monetary Control Act of 1980; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PRYOR (for himself, Mr. HEINZ and Mr. CHILES):

S. 1407. A bill to amend title 39, United States Code, by strengthening the investigatory and enforcement powers of the Postal Service by authorizing inspection authority and by providing for civil penalties for violations of orders under section 3005 of such title (pertaining to schemes for obtaining money by false representations or lotteries), and for other purposes; to the Committee on Governmental Affairs.

By Mr. THURMOND (from the Committee on Armed Services):

S. 1408. An original bill to authorize certain construction at military installations for fiscal year 1982, and for other purposes; placed on the calendar.

By Mr. HEINZ (for himself, Mr. CHILES, Mr. DOMENICI, Mr. PERCY, Mrs. KASSEBAUM, Mr. COHEN, Mr. GRASSLEY, Mr. DURENBERGER, Mr. DOLE, Mr. DENTON, Mr. D'AMATO, Mrs. HAWKINS, Mr. QUAYLE, Mr. PRESSLER, Mr. COCHRAN, Mr. DANFORTH, Mr. GLENN, Mr. MELCHER, Mr. PRYOR, Mr. BRADLEY, Mr. BURDICK, Mr. DODD, Mr. WILLIAMS, Mr. MOYNIHAN, Mr. BAUCUS, Mr. CRANSTON, Mr. FORD, Mr. DECONCINI, Mr. SASSER, Mr. BENTSEN, Mr. CANNON, Mr. LUGAR, Mr. CHAFEE, Mr. HAYAKAWA, Mr. HATCH, Mr. MATHIAS, Mr. INOUYE, Mr. MCCLURE, Mr. SPECTER, Mr. SYMMS, Mr. WARNER, Mr. KASTEN, Mr. TSONGAS, Mr. SARBANES, Mr. STENNIS, Mr. ZORINSKY, Mr. EAGLETON, and Mr. KENNEDY):

S.J. Res. 92. Joint resolution to authorize and request the President to designate the week of September 6, 1981, as "Older Americans Employment Opportunity Week"; to the Committee on the Judiciary.

By Mr. HAYAKAWA (for himself, Mr. HATCH and Mr. NICKLES):

S.J. Res. 93. Joint resolution to clarify that it is the basic policy of the Government of the United States to rely on the competitive private enterprise system to provide needed goods and services; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOREN:

S. 1405. A bill entitled the Carl Albert Congressional Research and Studies Center Endowment Act; to the Committee on Labor and Human Resources.

CARL ALBERT CONGRESSIONAL RESEARCH AND STUDIES CENTER ENDOWMENT ACT

● Mr. BOREN. Mr. President, today I am delighted to introduce legislation which will provide support for the newly founded Carl Albert Congressional Research and Studies Center at the University of Oklahoma.

The center was established in 1979 by the Oklahoma State regents for higher education and the board of regents of the University of Oklahoma. This action was taken pursuant to a joint resolution of the Legislature of the State of Oklahoma. The Carl Albert Center is devoted to research, instruction, and to the development of scholarly resources on the U.S. Congress. It performs two related functions: First, the development of the University of Oklahoma Congressional Archive, currently one of the largest in the country, numbering the papers of 25 Representatives and 12 Senators, with commitments from several more; second, the development of academic programs on the graduate and undergraduate levels in congressional studies in cooperation with the department of political science of the University of Oklahoma. In addition, the center sponsors conferences, lectures, and other related academic activities.

While the center focuses its attention on the Congress, it does so in the broadest sense. Incorporated into the mission of the center is the study of the structure, personnel, history, processes, and policies of the Congress. In addition, since the Congress is a legislative institution, study of State and foreign legislative experience is germane to the mission of the center. In the broadest sense, the center seeks to foster in an understanding of the role of representative democracy in the modern world.

As Speaker THOMAS P. O'NEILL, JR., said at a dinner honoring Speaker Albert in Oklahoma City recently, Congress has been called the "Forgotten Branch" of government, often ignored by scholars and the press. "The Presidency has been studied obsessively by academics the world over but little of this interest has spilled over to the Congress," he said.

Students are being graduated from universities throughout this Nation with shallow knowledge about the "people's branch" of government.

I have received letters expressing strong endorsement of this legislation from eminent professors from over the Nation. Dr. Charles O. Jones, Maurice Falk professor of politics at the University of Pittsburgh, commented:

The U.S. Congress remains the model by which legislatures throughout the world are measured. It is essential that units like the Carl Albert Center prosper. The student orientation of the Center itself deserves special notice. Congress has been heavily criticized in recent years—often deservedly so. We need to teach young people the strengths of the institution, thereby encouraging them to enter politics themselves.

Dr. Gilbert C. Fite, Richard B. Russell, professor of American history at the University of Georgia, wrote:

The Carl Albert Center is ideally situated and organized so that the role and importance of Congress can be systematically studied in greater depth. The Center has access to one of the most extensive collections of papers and files of Congressmen and Senators outside of Washington. Funds are needed for a wide variety of specific and useful activities at the Center, all of which will enhance our understanding of Congress and its role in American political and economic life.

Professor Walter Rundell, Jr., of the University of Maryland's department of history, wrote:

Having been a president of the Society of American Archivists, I know how effective it is to have students, both graduate and undergraduate, making regular use of archival collections. Such collections that exist within an academic structure have a high rate of use, thus offering excellent justification for their financing.

Currently, I serve as vice president of the United States Capitol Historical Society, which has cooperated with the Catholic University of America in offering graduate work in Congressional studies. Our program, one of the first in the country, has filled a definite need, but by no means exhausts the possibilities for such academic work. The geographic setting of the Albert Center, with its two-fold purposes, enables it to perform great national services.

This center provides an excellent opportunity to improve the study of Congress. It is fitting that it carries the name of a preeminent scholar of the Congress—the only living former Speaker. Speaker Albert has granted both the people of his State and his country a lifetime of uncommon service and leadership. As Speaker of the U.S. House of Representatives—1 of 47 in history—his light of moral guidance shone with transcending strength during one of the most turbulent periods in our Nation's history. Those of us who had the privilege to

know this rare man, and observe him in action, will never forget, nor fail to appreciate, his unfaltering integrity. At a moment when our Nation cried out in despair, he stepped forward and humbly offered his assistance. His life has been, and continues to be, truly inspirational.

This bill does more than merely acknowledge Speaker Albert's beneficience; it will allow the congressional research and studies center bearing his name to continue to prepare tomorrow's governmental leaders for the great task they are destined to inherit. These young people, and others like them, are hostages to the future we are presently forging. They represent our most solid hope for a better America. If we support the Carl Albert Research Center, we will participate in an active tribute to a most worthy statesman, and will foster in many of our youth an appreciation for tenacity, courage, and ethical idealism in the political profession.●

By Mr. LUGAR (for himself, Mr. GARN, Mr. PROXMIRE, and Mr. D'AMATO):

S. 1406. A bill to amend the Depository Institutions Deregulation and Monetary Control Act of 1980; to the Committee on Banking, Housing, and Urban Affairs.

CREDIT DEREGULATION AND AVAILABILITY ACT OF 1981

● Mr. LUGAR. Mr. President, I introduce today the Credit Deregulation and Availability Act of 1981. I am pleased to be joined by the distinguished chairman of the Senate Banking, Housing, and Urban Affairs Committee, Senator GARN; the distinguished former chairman of the committee, Senator PROXMIRE; and the distinguished Senator from New York, Senator D'AMATO, in this important and timely initiative.

This legislation completes the process begun last year by the Congress in the area of home mortgage interest rate ceilings and business and agricultural credit. Congress saw the distorting and economically damaging impact that State home mortgage interest rate ceilings were having on buyers, sellers, and builders of residential real estate. A similar picture was painted for the business and agricultural credit situation. The Congress must now look beyond these sectors to all remaining areas of our economy. Any purchaser, seller or manufacturer of items dependent on the availability of consumer credit understand the problems now posed by State consumer credit ceilings.

Mr. President, restrictive interest rate ceilings have been discussed in the past as a local problem with certain States receiving substantial attention for their harsh limits and procedural difficulties in modifying them. Such discussions simply are not valid. Restrictive interest rate ceilings are a problem of national scope and importance. Consumers and industries nationwide are being severely damaged by the paucity of credit that has resulted from consumer credit interest rate ceilings.

Industries critical to the economic well-being of Indiana, such as the auto and recreational vehicle manufacturers, are finding their businesses stagnating because of the inability of consumers in other States to obtain financing. These industries, as well as manufacturers of other big-ticket items, are unable to market their products because of the lack of available financing. By the same token, consumers who desire to purchase these items and who are willing to pay higher rates, simply cannot get credit and are thereby deprived of these products.

As a result of the evidence from my own State of Indiana, I sensed that the conditions created by restrictive interest rate ceilings were of nationwide significance. Therefore, in preparation for the recently completed Senate Banking Committee oversight hearings on financial industry issues, I requested the witnesses to comment on usury and the impact of State consumer credit interest rate ceilings. The response to this request confirmed my beliefs. The testimony substantiated the fact that usury ceilings tend to distort financial markets and depress the economy. In addition, I found that there is overwhelming support for us to continue the process begun in the last Congress by completely preempting State usury laws for all credit transactions.

Today, I introduce the "Credit Deregulation and Availability Act of 1981" which accomplishes this objective. This bill completely preempts all State usury ceilings on consumer credit and also eliminates the Federal ceiling that controls the rate of interest that can be charged by Federal credit unions. It continues the precedent set by the Depository Institutions Deregulation Act of 1980 in the area of mortgage credit and thereby frees up the market for all types of consumer credit transactions.

The bill also completes the process begun in the last Congress for business and agricultural credit. While the law enacted last year only went so far as to establish an alternative Federal rate limitation for a 3-year period, this bill completely deregulates the rates that can be charged for business and agricultural credit and lets the free market operate.

I want to stress for the benefit of my colleagues that this bill follows precedent by giving the States 3 years to reject the Federal preemption. Just as in the Deregulations Act of 1980, States are given the prerogative to assert control over the rates that can be charged by institutions within their boundaries and reestablish interest rate ceilings if they so choose. In addition, the legislation very carefully carves out those States that have already rejected last year's Federal preemption and does not reimpose Federal preemption on them.

Finally, I wish to make it very clear that while the bill preempts State consumer credit interest rate laws, it does not interfere with the State's right to establish and regulate consumer protections, licensing requirements, and standards of supervision. These State laws are not preempted by the legislation, and States are free to change these laws or even enact more stringent consumer protection and licensing laws as they deem appropriate.

As I stated earlier, the Senate Banking Committee's oversight hearings firmly convinced me of the seriousness and national nature of the interest rate regulation problem. Just as persuasive were the general economic arguments questioning the efficacy of interest rate ceilings and establishing the fact that such rate regulation is counterproductive in competitive markets. However, probably as telling as anything is the number and diversity of witnesses who favored the abolition of such ceilings.

The administration, through Treasury Secretary Regan, stated that they favor preemption for all loans in the manner prescribed in the Deregulation Act. It is the administration's opinion that "usury ceilings only distort financial markets and credit flows and do not reduce the cost of credit in the economy. Instead, these ceilings simply alter or hide the cost and result in credit being allocated by nonmarket criteria."

The Federal Home Loan Bank Board supports Federal preemption of State interest rate limitations on business, agricultural and consumer credit transactions. They believe that "usury ceilings have a generally depressant effect on the economy of a State where market interest rates exceed the usury ceiling." More importantly, restrictive usury ceilings are preventing savings and loans from taking advantage of their new authority to engage in consumer lending, which is very unfortunate since such short-term loans could help provide the asset-side flexibility important to the viability of the thrift industry.

The National Credit Union Administration and the Comptroller of the Currency also support full preemption legislation. Both have stated that they are concerned about the adverse effects that usury ceilings have upon the availability and allocation of credit, particularly during periods of high interest rates. They recognize that consumers are better served by the removal of usury ceilings, since such ceilings "start a process of credit rationing where the least qualified borrowers find it increasingly difficult to secure credit." Resultantly, both consumers and businesses suffer.

Industry support for Federal preemption of usury ceilings is also very significant. During the oversight hearings, numerous trade associations representing banks, thrifts, credit unions, finance companies, retailers, auto dealers, bank card companies, et cetera, spoke out in opposition to State interest rate regulation and in support of Federal action to eliminate such laws. Their testimony also substantiated the need for rate relief by providing striking evidence as to the detrimental effects that restrictive ceilings are having upon various industries and consumers.

The National Auto Dealers Association estimates that approximately 30 percent of all consumer retail finance contracts are being turned down by financial institutions. In many cases, the inability of a bank to charge the going rate, and not the credit worthiness of an individual, has resulted in a refusal to extend credit. At current interest rates, personal auto loans are unattractive, due to usury law limitations, to banks in 36 States, which account for about 59 percent of all auto

sales. The attrition rate of small business auto dealers is staggering. As of last January, over 2,000 dealers had closed their doors in the prior 16-month period and over 125,000 dealership employees had lost their jobs.

The credit card industry is faring little better. VISA showed a net loss of $335 million in 1980 and because of the high cost of funds is expecting to show a continuing loss during 1981. Retailers are experiencing the same problem due to the high cost of funds. As stated in their testimony:

It is fair to say that the majority of retailers must borrow at interest rates several points in excess of the rates they are permitted to charge on their receivables.

Finance companies are also feeling the effect of these price controls imposed upon the use of money. Small independent finance companies are often dependent upon rediscount companies for funding at rates 4 percent or more above the prime rate. With a prime hovering around 19 percent, the cost of funds for these companies can be 23 percent or more. It is impossible to make ends meet, let alone make a profit, in those States that limit the interest on consumer loans to 18 or 19 percent.

These are just a few of the examples of the effect of usury ceilings on the availability of consumer credit and their impact upon consumers and businesses. The Senate Banking Committee intends to gather more evidence on the scope and nature of this problem through additional hearings to be held in the near future. I fully expect that those hearings will continue to evidence extremely widespread and diversified support for the specific legislation I, and my cosponsors, are introducing today.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the bill and the analysis were ordered to be printed in the RECORD, as follows:

S. 1406

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Credit Deregulation and Availability Act of 1981."

TITLE I—BUSINESS AND AGRICULTURAL CREDIT

SEC. 101. Section 511 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (94 Stat. 161; Pub. L. 96–221) is amended to read as follows:

"SEC. 511. (a) The provisions of the constitution or the laws of any State prohibiting, restricting, or in any way limiting the rate, nature, type, amount of, or the method of calculating or providing or contracting for interest, discount points, a time price differential, finance charges or other fees or charges that may be charged, taken, received, or reserved shall not apply in the case of business or agricultural credit.

"(b) 'Agricultural credit' means credit extended primarily for agricultural purposes to a person that cultivates, plants, propagates, or nurtures an agricultural product. 'Agricultural purposes' include the production, harvest, exhibition, marketing, transportation, processing, or manufacturing of an agricultural product and the acquisition of farmland, real property with a farm residence and personal property and services used primarily in farming. 'Agricultural product' includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish and any products thereof, including processed and manufactured products and any and all products raised or produced on farms and any processed or manufactured products thereof.

"(c) 'Business credit' means credit extended primarily for business or commercial purposes, including investment, and any credit extended to a person other than a natural person.

"(d) 'Credit' includes all secured and unsecured loans, credit sales, forbearances, advances, renewals and other extensions of credit.".

SEC. 102. Section 512 of the Depository Institutions Deregulation and Monetary Control Act of 1980 is amended to read as follows:

"SEC. 512. (a) Except as provided in subsection (b) of this section, the provisions of this part shall apply with respect to business and agricultural credit extended on or after April 1, 1980.

"(b) The provisions of this part shall not apply to any business or agricultural credit extended in any State after the effective date (if such effective date occurs on or after April 1, 1980, and prior to three years after the effective date of the Credit Deregulation and Availability Act of 1981) of a State law or a certification that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the provisions of this part to apply with respect to credit extensions subject to the laws of such State, except that such provisions shall apply to any credit extended on or after such date pursuant to a commitment to extend such credit which was entered into on or after April 1, 1980, and prior to such later date.

"(c) Credit shall be deemed to be extended during the period to which this provision applies if such credit extension—

"(1)(A)(i) is funded or made in whole or in part during such period, regardless of whether pursuant to a commitment or other agreement therefor made prior to April 1, 1980;

"(ii) was made prior to or on April 1, 1980, and bears or provides for interest during such period on the outstanding amount thereof at a variable or fluctuating rate; or

"(iii) is a renewal, extension, or other modification of an extension of credit made prior to April 1, 1980, and such renewal or extension or other modification is made during such period with the written consent of any person obligated to repay such credit; and

"(B)(i) has an original principal amount of $25,000 or more ($1,000 or more on or after the date of enactment of the Housing and Community Development Act of 1980 or any amount on or after the date of enactment of the Credit Deregulation and Availability Act of 1981); or

"(ii) is part of a series of advances if the aggregate of all sums advanced or agreed or contemplated to be advanced pursuant to a commitment or other agreement therefor is $25,000 or more ($1,000 or more on or after the date of enactment of the Housing and Community Development Act of 1980 or any amount on or after the date of enactment of the Credit Deregulation and Availability Act of 1981); or

"(2) is a renewal, extension, other modification or use of a credit agreement or extension made during such period, including an agreement entered during that period that contemplates future extensions of credit from time to time in which the charges that are assessed for or in connection with credit are calculated from time to time, in whole or in part, on the basis of the outstanding balance and the credit is extended not later than eighteen (18) months after the effective date of the State law or certification.".

TITLE II—CONSUMER CREDIT

SEC. 201. Title V of the Depository Institutions Deregualtion and Monetary Control Act of 1980 (94 Stat. 161; Pub. L. 96–221) is amended by adding at the end thereof the following new subpart:

"Part D—CONSUMER CREDIT

"SEC. 531. The provisions of the constitution or laws of any State prohibiting, restricting, or in any way limiting the rate, nature, type, amount of, or the manner of calculating or providing or contracting for covered charges that may be charged, taken, received or reserved shall not apply to an extension of consumer credit made by a creditor.

"SEC. 532. (a) As used in this part, the terms set forth below shall be defined as follows:

"(1) 'Covered charges' means—

"(A) interest, discount points, a time price differential, fees, charges or any other compensation paid to the creditor or arising out of the credit agreement or transaction for the use of credit or credit services. The term shall not include, however, fees, charges or other amounts paid to the creditor or arising out of the credit agreement or transaction that are paid or arise solely as the result of the failure or refusal of the debtor to comply with the terms and conditions of the debtor's agreement with the creditor; and

"(B) fees or charges paid for the availability of credit, payment mechanism services, or for similar purposes, including periodic, transaction and access fees.

"(2) 'Credit' includes all secured and unsecured loans, credit sales, forbearances, advances, renewals and other extensions of credit, all without regard to the nature of any property that might secure its repayment.

"(3) 'Creditor' means any person that regularly makes extensions of consumer credit, which, for purposes of this definition, shall include extensions of credit that are subject to the provisions of Section 501(a) of this title. A person is not a 'creditor' with respect to a specific extension of consumer credit if, except for this part, in order to assess or collect covered charges in connection with that transaction, the person would be required to comply with licensing requirements imposed under State law, unless such person is licensed under applicable State law and such person remains, or becomes, subject to the applicable regulatory requirements and enforcement mechanisms provided by State law.

"(4) 'Extension of consumer credit' means any credit extended to a natural person primarily for personal, family, or household purposes, except that it does not include credit subject to the provisions of Section 501(a) of this title.

"SEC. 533. (a) Except as provided in subsection (b) of this section, the provisions of section 531 shall apply with respect to any extension of consumer credit made by a creditor on or after the effective date of the Credit Deregulation and Availability Act of 1981.

"(b)(1) The provisions of section 531 shall not apply to any extension of consumer credit in any State made on or after the effective date (if such effective date occurs on or after the effective date of the Credit Deregulation and Availability Act of 1981 and prior to a date three years after such effective date) of a State law or a certification that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such

State does not want the provisions of this part to apply with respect to extensions of consumer credit subject to the laws of such State, except that such provisions shall apply to any consumer credit extended on or after such date pursuant to an agreement to extend such credit which was entered into on or after the effective date of the Credit Deregulation and Availability Act of 1981 and prior to such later date.

"(2) Credit shall be deemed to have been extended during the period to which this provision applies, if it—

"(A) is funded or extended in whole or in part during such period, regardless of whether pursuant to a commitment or other agreement therefor made prior to that period;

"(B) was made prior to such period and bears or provides for covered charges that may vary or fluctuate during that period;

"(C) is a renewal, extension, or other modification of a credit extension made before such period and such renewal, extension or other modification is made during such period with the written consent of any person obligated to repay such credit; or

"(D) is extended in accordance with an agreement entered during that period that contemplates future extensions of consumer credit from time to time in which the covered charges are calculated from time to time, in whole or in part, on the basis of the outstanding balance and the credit is extended not later than eighteen (18) months after the effective date of the State law or certification.

"(c) Any law or certification adopted by a State or its voters pursuant to subsection (b) of this section may specify that portion of the extensions of consumer credit made in such State, or those types or kinds of covered charges, to which the provisions of Section 531 will not apply.

"SEC. 534. The Board of Governors of the Federal Reserve System is authorized to publish Board interpretations regarding the scope and application of section 531 of this part. Upon its own motion or upon the request of any creditor, State, or other interested party which is submitted to the Board in accordance with procedures it establishes, within sixty days the Board shall issue an official interpretation regarding the scope of section 531 and its relationship to specific provisions of State law, or shall make public a Board determination (accompanied by an appropriate explanation) that the question presented does not involve a significant issue or does not affect a substantial number of creditors or extensions of consumer credit.".

TITLE III—FEDERAL CREDIT UNIONS

SEC. 301. Section 1757(5)(A)(vi) of the Federal Credit Union Act is amended to read as follows: "rates of interest shall be established by the board of directors of the Federal credit union;".

TITLE IV—EFFECTIVE DATE

SEC. 401. The effective date of this Act shall be the date of enactment of this Act.

SECTION-BY-SECTION ANALYSIS

This bill would amend Title V of the Depository Institutions Deregulation and Monetary Control Act of 1980 to extend the preemption of various state usury ceilings.

TITLE I—BUSINESS AND AGRICULTURAL CREDIT

Section 101.—Existing law preempts state rate ceilings in business and agricultural credit extensions of $1,000 or more, subject to an overall rate limitation of 5 percent over the Federal Reserve discount rate including any surcharges then in effect. This section eliminates that federal rate ceiling on business and agricultural purpose credit transactions. In addition, it eliminates the $1,000 threshold amount that now must be involved in order for the federal preemption provision to be available. The section also adds definitions that describe the types of credit to which this section applies. These definitions would assure that all credit not specifically covered by existing section 501 (a) of Title V of the Depository Institutions Deregulation and Monetary Control Act of 1980 or by section 531 of the Title (which is added by Section 201 of this bill) would be covered by this section. In addition, "credit" has been defined to include all types of credit, which, of course, would include refinancings.

Section 102.—This section makes the business and agricultural credit provision permanent, subject to the right of a state to reject the federal preemption within three years of the passage of this bill. State rejection of the federal preemption that has taken place since April 1, 1980 would still be effective. This bill would not reimpose federal preemption in those states that have rejected it. Under existing law, the agriculture and business purpose credit preemption will expire on March 31, 1983. In addition, this section contains certain transitional provisions that reflect existing provisions in the law. In a change from existing law, the section would add a transition provision that would apply if a state acted to reject the federal preemption. Under this change, the federal preemption will continue to apply to certain activities in connection with credit agreements entered during the preemption period so long as the credit is extended within eighteen months of the state law or certification rejecting the federal preemption.

TITLE II—CONSUMER CREDIT

Section 201.—This section adds a new Part D to Title V of the Depository Institutions Deregulation and Monetary Control Act of 1980. The new Part D consists of sections 531, 532, 533, and 534.

Section 531 preempts all state usury laws in connection with extensions of consumer credit made by a creditor. The section depends heavily on the definitions contained in section 532. In effect, this provision does away with all rate ceilings and mechanisms that attempt to limit the rates or types of charges that may be assessed in connection with consumer credit transactions. The provision does not extend to state consumer protection laws that deal with restrictions, limitations or prohibitions against certain types of creditor activity, which are unrelated to enumerated charges assessed in connection with credit transactions. That is true even if the state provision only applies to specific transactions that may be partially defined by the level or type of charges being assessed. For example, a state law providing that credit transactions with an interest rate in excess of 18 percent cannot be secured by real estate or a law that limits attorneys fees in those transactions would continue to apply.

Other state provisions that would not be affected by this provision include: state laws or regulations that restrict the use of the rule of 78ths in connection with calculating rebates upon the prepayment of credit transactions that involve a precomputed charge; provisions limiting or prohibiting the use of penalties that are imposed solely as a result of the voluntary prepayment in full of a credit transaction; provisions dealing with refinancing responsibilities when a transaction involves a balloon payment; and requirements that contracts use plain English.

In addition to these types of specific provisions, at a more general level the preemption does not extend to: state licensing provisions, even if an element of the licensing standard involves the type or level of charges assessed (for instance, a state requirement that persons extending credit at more than 18 percent must be licensed, would not be affected by the bill); state limitations on the amount or term of a credit transaction; or state limitations on specific charges for goods or services even though they may be sold in conjunction with an extension of credit (for example, state insurance regulatory provisions, including those dealing with permissible premiums for insurance sold in connection with credit extensions, would remain unaffected by the bill).

In effect, section 531 contains the preemptive language and therefore describes the extent of the federal preemption. As noted above, matters that do not fall within its scope are not preempted. This coverage combined with the limitations in the "covered charges" definition contained in the next section, leave intact the states' consumer protection regulatory structures except as they relate to covered charges.

Section 532 provides a series of key definitions that are used in describing the preemptive effect and scope of the bill.

The term "covered charges" identifies the types of charges that are displaced by the bill, and, to an extent, it also limits the preemptive effect of the bill. It is divided into two parts, reflecting the fact that certain charges are assessed for the use of credit while others may more appropriately be characterized as charges for specific services including payment mechanisms that may or may not involve extensions of credit. Both types of fees and charges are preempted under the legislation. Excluded from the definition are fees and charges that arise solely from the debtor's failure to comply with his or her obligations under the credit agreements. As a result, since the preceding section preempts only "covered charges", state limitations on the maximum amount of late charges would not be affected.

The definition of "credit" is similar to that contained in the business and agricultural preemption provisions, simply to make clear that all credit as it is commonly known would be included. The coverage, of course, extends to all kinds of credit extensions, including those secured by any lien on real estate, as well as refinancings.

The term "creditor" refers to persons that regularly make extensions of consumer credit including mortgage credit. In effect, this provision will apply to virtually all persons who are engaged in extending consumer credit. The second sentence deals with the fact that in many states restrictions are tied directly to the interest rate of the credit transaction and licensing provisions. For example, a state may provide that any person who wants to extend credit at a rate in excess of an 8 percent rate contained in the general usury law must be licensed. A lender that wants to make a loan at a rate in excess of 8 percent, for instance 12 percent, must have a license to do so. Various restrictions, including certain "consumer protection" provisions, may be required of those who obtain licenses in order to charge the higher rate. A total preemption would do away with the general usury law and thus the need for a creditor to obtain a license. Since the lender would not need a license, the lender would not have to follow the consumer protection provisions. For that reason the term "creditor" as used in the bill does not include persons who, but for this bill, would have to be licensed under state law in order to assess charges at a specific rate, of a particular nature or type, or in a specific amount or manner, unless that person complies with applicable state licensing requirements. In the example described above, the lender wishing to make a loan at a rate of 12 percent would still have to be licensed and thus follow consumer protection provisions required of licensees. This assures that consumer protections that apply only to licensed creditors will continue to be applied as they are now. For purposes of determining whether licensing would be re-

quired, the rates used would be those in effect in the state before the bill was adopted, subject, of course, to those rates later being changed by the states. Just as is now the case, those who must be licensed would conform to state law requirements as they are interpreted, implemented and enforced by state governments. Requirements relating to covered charges that are preempted by the bill, of course, would not be followed. Persons who are not required to be licensed (because of the type of credit they extend, the rates they charge for credit or otherwise) would not be affected in any way by this part of the creditor definition.

Finally, the term "extension of consumer credit" defines the types of transactions to which the provision will apply. It adopts the general test that all credit extended primarily for personal, family or household purposes is to be included in this preemption.

Section 533 gives the states the right to reject the federal preemption at any time within three years of the date that the bill becomes effective. This section also includes several transitional provisions that answer questions about transactions undertaken at the beginning of the preemption period and, in one case, after a state has rejected the federal preemption. The transitional provisions dealing with the beginning of the preemption period are drawn largely from provisions contained in current law in connection with the preemption of rate ceilings in business and agricultural credit. The transitional provision dealing with activities after the state rejects the federal preemption provides for a phasing-out of the federal preemption. It applies only in the case of open-end credit transactions and then only in connection with credit extended within an eighteen-month period following the state action.

This provision will allow for an orderly transition for creditors who have issued credit cards under the terms and conditions permitted during the preemption period, thus permitting them the time necessary to modify or eliminate those programs if required by the reimposition of usury ceilings. This section also provides that a state may, in addition to an outright rejection of the federal preemption provisions, provide that only certain types of transactions or charges are taken out from under the federal preemptions. It is anticipated that, in order to be effective, state provisions to displace the federal preemption must be clear and precise as to the areas in which the state law has replaced the preemption, with uncertainty being resolved in favor of continued preemption.

Section 534 provides authority to the Board of Governors of the Federal Reserve System to publish official Board interpretations regarding the coverage of the preemption provision. The authority is limited to official Board interpretations in order to permit creditors and other interested parties to have access to a non-judicial interpretative mechanism but to limit the role of the Board to those issues of significant concern to affected parties. As a result, it is anticipated that there will not be a significant regulatory impact due to the use of this interpretative power, which should be used only to resolve clear questions of coverage under the Act.

TITLE III—FEDERAL CREDIT UNIONS

Section 301.—This section amends the Federal Credit Union Act to bring it into conformity with the basic Congressional determination reflected throughout the bill that artificial governmentally-imposed rate ceilings are inappropriate. That conclusion is no less sound for federal ceilings than it is for state ceilings. Rates that may be charged by federally-chartered credit unions are set by federal law. This section reflects that federal as well as state imposed ceilings should be removed, with the rate structure for a particular credit union being determined by its own board. Without this amendment, federally-chartered credit unions would be the only type of creditor still subject to rate ceilings. Thus, this section assures that federal credit unions are not placed at a competitive disadvantage vis-a-vis other creditors.

TITLE IV—EFFECTIVE DATE

Section 401.—This section specifies the effective date of the Act as the date of enactment.●

● Mr. GARN. Mr. President, I rise today as a cosponsor of the Credit Deregulation and Availability Act of 1981 in order to voice my support for this measure that is being introduced by the Senator from Indiana. I believe it is time for the Congress to complete the process begun last year, by deregulating the interest rates that can be charged for consumer credit and by eliminating the restrictions that apply to the Federal preemption of interest rate ceilings on agricultural and business credit.

In the last Congress, as part of the Depository Institutions Deregulation Act of 1980, State usury ceilings on first mortgage credit were preempted in order that funds would be available for consumers wishing to purchase a home. In addition, the Federal law preempted State rate ceilings on agricultural and business credit, to the extent of establishing an alternative Federal ceiling of 5 percent above the discount rate. While the mortgage preemption was permanent, subject to the right of States to reimpose ceilings during a 3-year period, the alternative Federal ceiling for business and agricultural credit is due to expire on May 31, 1983.

I am relating this bit of legislative history in order to refresh the memories of my colleagues as to the extensive precedent for this bill that is being introduced today. It is also important to recognize that the combination of the provisions of the Deregulation Act and the provisions in this bill will remove usury ceilings for all types of credit and thereby permit interest rates to be set by the marketplace.

The Deregulation Act that was enacted last year is also relevant to this legislation for another reason. That law provides for the phase out of interest rate ceilings on deposit accounts, eventually resulting in the complete decontrol of depository institutions' liabilities. It is inherently obvious that financial institutions will never be able to pay market rates on their deposit accounts, if they are not permitted to charge market rates for credit.

This point was emphasized by Treasury Secretary Regan when he indicated, in recent oversight hearings held by the Banking Committee, that the administration favors the preemption of usury ceilings for all loans. He stated that it is unfortunate that the "Federal Government has * * * removed controls on depository institution liabilities faster than it has decontrolled their asset powers." Secretary Regan went on to say: "The most pressing need at this time is for further decontrol of asset powers, to enable depository institutions to better utilize the high cost deposits * * *."

This bill would carry out the views of the administration, and the position of the Congress as evidenced by the enactment of the Deregulation Act last year, by eliminating all remaining usury ceilings.

In order to complete the deregulation of usury ceilings for agricultural and business credit, this bill abolishes the Federal ceiling of 5 percent over the discount rate, as well as the $1,000 threshold, that were contained in last year's legislation. The Federal Reserve Board has always had strong reservations about using the discount rate for indexing permissible loan rates, since it imposes a short-term rate on markets that often involve long-term lending and because it singles out an administered rate which is a tool of monetary policy for a purpose that should be market-oriented. The bill also makes the preemption permanent by eliminating the May 31, 1983 expiration date, subject, of course, to the right of the States to reassert authority over interest rates within their jurisdiction.

The main thrust of this legislation, however, is the removal of usury ceilings for all consumer credit. Enactment of this bill will free up the credit market for consumers with all types of needs, rather than just for homebuyers. First, it permits the market to establish the rate that is charged by Federal credit unions by removing the Federal rate that is contained in the Federal Credit Union Act. It makes infinite sense for the Congress to begin by eliminating the one usury ceiling that is solely within our own jurisdiction. Second, it preempts State usury ceilings governing consumer credit. It is very important, though, to recognize that States retain the authority to override the Federal preemption, provided they take action within 3 years.

Usury ceilings, which are merely "price controls" on money, have become economically counterproductive. During the recent Banking Committee oversight hearings, we heard time and time again about the adverse effects that restrictive usury ceilings have upon consumers, industries and the economy. Interest rate ceilings depress the economy, distort financial markets and result in the unavailability and allocation of credit.

These views on the adverse impact of such ceilings are shared by many industry groups, as well as the administration, the Comptroller of the Currency, the Federal Reserve Board, the Federal Home Loan Bank Board, and the National Credit Union Administration. Even the Federal Trade Commission, while questioning whether there is sufficient competition in credit markets to regulate rates in the absence of rate ceilings, has recognized that "* * * there is substantial evidence that unrealistically low usury rates restrict the supply of credit * * *."

There is no doubt in my mind that the credit market is extremely competitive. There are numerous sources of consumer credit, including banks, finance companies, retailers, credit unions, auto dealers, secondary financing sources, and as of last year even savings and loans. In

fact, interest rate controls obstruct competition as more and more creditors are forced to abandon the marketplace and as new competitors are discouraged from entering the credit market.

In the oversight hearings, the National Auto Dealers Association cited some alarming facts. Commercial banks are now getting out of the auto financing business, resulting in the issuance of automobile credit shifting from commercial banks to finance companies. Even more frightening is the fact that during a 16-month period preceding last January, over 2,000 auto dealers had to close their doors. In my own State of Utah, which has a fairly stable economy, there were 34 changes in ownership of dealer franchises, out of 170 new car dealers, during 1980. That is a 20 percent turnover rate. I am also aware that during a 90-day period late last year, 10 percent of the auto dealers in New Mexico went out of business.

Another example of the anticompetitive impact of usury ceilings is the effect that such ceilings are having upon the ability of the thrift industry to take advantage of the consumer lending authority granted them during the last Congress. As stated in the July 1980 "Report of the Interagency Task Force on Thrift Institutions," thrifts have little incentive to diversify into consumer lending so long as restrictive rate ceilings make such lending unprofitable. The Federal Home Loan Bank Board is supporting usury preemption as one of the measures to assist the ailing thrift industry, since short-term loans would help to diversify their asset portfolios.

Usury ceilings should be eliminated because of the impact they are having in the marketplace. Rather than protecting consumers against an industry that is not competitive, which is one of the principal arguments in support of such price controls, we find that the credit industry is highly diversified and competitive and usury laws are instead having a contrary, anticompetitive impact. Within this very competitive credit market, consumers are free to shop around for an acceptable rate of interest. In fact it has been 12 years since we passed the Truth in Lending Act which assists consumers in making these market choices.

In conclusion, I want to emphasize two very important aspects of this bill. Although this legislation preempts State usury ceilings, it preserves the States' right to reject the Federal action and reimpose rate limitations of any amount and in any form. This is identical to the approach that was contained in the preemption provisions of last year's Deregulation Act. Just as important, is the fact that this bill does not interfere in any way with State consumer protection and licensing laws. Substantive contract and consumer protection law remains solely within the jurisdiction of the individual States. This bill merely eliminates the restrictions on rates or types of charges that may be assessed for credit.

I join Senator LUGAR in voicing my unequivocal support for this measure we are introducing today.●

By Mr. PRYOR (for himself, Mr. HEINZ, and Mr. CHILES):

S. 1407. A bill to amend title 39, United States Code, by strengthening the investigatory and enforcement powers of the Postal Service by authorizing inspection authority and by providing for civil penalties for violations of orders under section 3005 of such title (pertaining to schemes for obtaining money by false representations or lotteries), and for other purposes; to the Committee on Governmental Affairs.

POSTAL SERVICE AMENDMENTS OF 1981

● Mr. PRYOR. Mr. President, today I am introducing legislation which I hope will represent a major breakthrough in protecting our Nation's citizens from fraudulent mail practices through the strengthening of the enforcement powers of the U.S. Postal Service in dealing with mail fraud. This measure will correct the serious limitations currently placed on the Postal Inspection Service which prevent effective investigation of schemes which involve the obtaining of money by means of false representations.

The need for this legislation has been well documented. Mail fraud has grown in epidemic proportions in the last few years and has cheated citizens out of billions of dollars. Ongoing investigation done by staff of the House Select Committee on Aging under the able direction of my distinguished colleague, Chairman CLAUDE PEPPER, has uncovered numerous examples of this type of fraud. We have found cases where elderly citizens have paid $700 for guaranteed cancer cures that turned out to be a set of hypodermic needles and injectible bottles full of seaweed, vitamin B–12, and large doses of poisonous bacteria.

Other common fraudulent ads include those for phony gold coins, bogus land deals, worthless work at home schemes, cures for glaucoma, pills and products to restore sexual potency, and phony arthritis cures from water said to be from Lourdes, but actually from a pond in California.

As a member of the Special Committee on Aging, I was particularly alarmed to learn that over 60 percent of the victims of these frauds are elderly citizens, most of whom are living on fixed incomes and are literally counting their pennies. The Arthritis Foundation estimates that a billion dollars a year is lost in phony arthritis cures alone.

In order to investigate these cases of fraud, the postal service must send a postal money order for the suspected item and have the product tested. If false representation is apparent, the service must solicit the judgment of an administrative law judge as to whether the representations constitute fraud. If considered fraudulent, the service must conduct further investigation until the case is strong enough to be taken to the U.S. attorney.

By the time the postal service recognizes a suspected quack offer, orders the product and submits it for testing, the companies have often closed down their operation or moved it to another State. Even if the company is still in existence, the postal service's only recourse under present law is to ask for a hearing and a court order to block incoming mail from being delivered to the address advertised.

This legislation would correct current law in the following ways. First, it would give the chief postal inspector, the inspector general of the postal service, subpena authority with respect to enforcement of title 39 of the United States Code. Second, in addition, the bill gives the inspection service the authority to tender a money order and immediately receive the suspicious product in order that their investigation may begin at once. Third, the bill gives the postal service the right to approach an administrative law judge and after due process hearings, allow for a court order prohibiting engagement in fraudulent schemes. Companies violating this order would be subject to a fine of up to $10,000 for each violation.

Congressman CLAUDE PEPPER, the distinguished chairman of the House Select Committee on Aging, has introduced an identical measure in the House of Representatives.

Mr. President, I urge prompt enactment of this measure in order to correct this oversight.●

● Mr. HEINZ. Mr. President, as chairman of the Senate Special Committee on Aging I am proud today to be an original cosponsor in the Senate of a measure which would help protect the elderly as well as all citizens by improving the ability of the U.S. Postal Inspection Service to combat mail fraud.

A similar measure is being introduced by my distinguished counterpart, CLAUDE PEPPER, chairman of the House Aging Committee.

Our postal service has about 650,000 employees who last year, in some 40,000 facilities, handled nearly 100 billion pieces of mail. For that same period it generated cash receipts of nearly $18.5 billion. This volume constitutes a full half of the world's mail. Operations of the post office affect millions of people daily.

Most of the mail carried by the postal service consists of personal correspondence and business related materials. While the vast majority of mail is for legitimate purposes, some is not. This latter type, is used by unscrupulous con artists, charlatans, and quacks to defraud our citizens of their hard earned money. Testimony by Postal Inspection Service personnel suggests these frauds, estimated to involve billions of dollars per year, are on the increase.

While these schemes affect all citizens, they are of particular consequence to the elderly. Postal authorities estimate that 60 percent of mail fraud is perpetrated upon older Americans. Although many of the elderly are far from rich, as a group their income approaches $150 billion per year. The elderly are under siege by armies of predators using a staggering array of schemes to spirit away the cash of their victims.

Low individual incomes can limit an older American's mobility. Fear of street crime and poor health also contribute to the elderly's reduced mobility and increased reliance on mail order sales.

Physical impairments or chronic illness, which afflict 86 percent of our seniors, make them more susceptible to phony claims that offer relief and restored youth. Many cheats and swindlers target the elderly because they often die before prosecutorial proceedings or are too frail to serve as witnesses.

The Inspection Service serves the inspector general function for the post office. It has developed a good track record of combating those who abuse the mails. Noting that the elderly are prime targets for the unscrupulous mail order swindlers, service officials have designated the area of postal crimes against the elderly one of their highest priority programs. The national complement of some 2,000 postal inspectors, 2,500 uniform security personnel, administrative support personnel and six forensic science laboratories are highly respected by their peers in the law enforcement community.

The Inspection Service has effectively put an end to innumerable schemes which were costly and potentially dangerous to the elderly consumers they targeted. Phony work at home, travel, investment, and land deals have been exposed and prosecuted. Some of these schemes netted orders amounting to tens of thousands of dollars daily. Quack remedies sold through the mails which have offered relief from cancer, arthritis, failing vision, and poor hearing have also been successfully ended. Frauds amounting to millions of dollars in potential losses are stopped each year. In addition, many of our elderly have been protected from dangerous quack home remedies.

While the Postal Inspection Service has accumulated an impressive track record, much more needs to be done. The service reports several obstacles impede its efforts to obtain an even greater number of successful prosecutions and to permanently ban those convicted of wrong doing from reestablishing their fraudulent operations by simply changing their name or address. This bill would abolish the impediments which prevent even more effective enforcement of postal laws; provide those tools necessary to assist in the prompt gathering of evidence; and close a technical loophole which permits offenders to reactivate their schemes.

Currently, the Inspection Service does not have subpena authority which is routinely granted to all other inspector generals. In order to evaluate whether a product measures up to its advertised claims, the service must send for it in much the same way as a citizen does. Once the product is received, which can be 3 months or more, they must have it evaluated by experts and then approach an administrative law judge or a U.S. attorney for action.

The critical factor is the delay caused by the service having to wait to receive the product before their investigation and enforcement efforts can begin. Those who prey upon the elderly know the nature of this procedure. As a result, they commonly place an ad, take orders for several months, and fill all the orders at one time as they close down their business operation, sometimes reopening under another name someplace else. By the time the Inspection Service receives the product the perpetrators and their assets have vanished.

This bill, which gives the chief postal inspector subpena authority, is one very good solution to this problem. In addition, the bill gives the Postal Service the authority to appear at the address mentioned in a suspicious ad, present a postal money order for the amount of the purchase, and receive immediate access to the product.

A third item in the bill would give the service the authority to move, after a proper due process hearing, and obtain an order barring named individuals from further engaging in the scheme which was the subject of a prior action. Violations of this order could be met with civil penalties up to $10,000 for each violation.

This measure is a responsible approach to a serious problem. The bill adds no new significant costs to the Treasury. This new authority will go a long way toward providing the Inspection Service with the tools necessary to move promptly and effectively against those who victimize our Nation's elderly. I urge my colleagues in the Senate to join in sponsoring this measure and assuring its timely passage.●

● Mr. CHILES. Mr. President, today I am introducing a bill with my colleague Senator PRYOR to strengthen the ability of the postal service to halt fraudulent mail schemes.

The bill we are introducing would give the chief postal inspector subpena authority and immediate access to materials which are being advertised through the mail which the postal inspector has reason to suspect are being misrepresented to consumers. The bill also provides authority for the postal inspector to issue an order to an advertiser to stop activity, and to impose civil penalties of up to $10,000 for each violation of the stop order. These actions could only be taken after appropriate due process hearings.

Using the authority of mail fraud statutes under current law, the Postal Inspection Service has done its job of investigating suspected mail fraud very well in the past. Most cases have been initiated by complaints from consumers who have been bilked out of their life savings by confidence men and dishonest promoters. With the additional authority this bill would give to the chief postal inspector, however, many investigations could be greatly speeded up. In many cases, fraudulent mail-order schemes could be stopped—and the consumer protected—without having to go through the costly and time-consuming criminal court system.

There is certainly precedent for this action. I have been a very active supporter of the inspectors general in all Federal departments and agencies. Legislation which I sponsored in 1978 created statutory inspectors general in 14 major departments and agencies. Last year, Senator PRYOR and I introduced legislation to grant civil penalty authority to the inspector general of the Department of Health and Human Services.

This civil penalty legislation, which will allow HHS to much more effectively combat medicare and medicaid abuse, has been approved by both the Senate Finance Committee and the House Ways and Means Committee and should shortly become law. Earlier this month, I introduced a bill, S. 1327, to give each of the other statutory inspectors general authority to take civil action and to impose civil penalties.

The bill Senator PRYOR and I are introducing today proposes to provide the Inspector General of the Postal Service with the same tools proposed for all other inspectors general.

One of the most vivid examples of how useful this legislation could be was illustrated by testimony I took as chairman of the Special Committee on Aging on fraudulent sales of health insurance policies to the elderly. In one scheme, a group of swindlers in a rural Texas area were virtually printing bogus health and life insurance policies and selling them to elderly women who were afraid of the rising costs of health care. They were, unfortunately, quite easily talked into turning over their life savings to these "insurance salesmen." They were even selling worthless automobile warranty policies—to elderly who did not own cars and who believed they were buying insurance policies.

A very aggressive investigation by the local district attorney finally led to the prosecution and indictment of this group of thieves. The district attorney said at the time he would never have been able to obtain conviction without the help of postal inspectors. It took months before the investigation could be taken to the U.S. attorney, and many more elderly fell victim to this scheme during this lengthy time period. If the legislation we are proposing today had been law at the time, this scheme might have been stopped by postal inspectors as soon as they saw what was going on.

Elderly are frequently victims of mail-order schemes. And once they fall victim, they are often hit again and again. According to the chief postal inspector:

> It is an unfortunate fact, and a commentary on the heartlessness of these fraudulent operators, that an elderly person once victimized derives no immunity thereby from further exploitation. He or she may well be added to a list of proven easy marks to be targeted again by the same fraudulent operator or his associates.

Examples of schemes which regularly recur with elderly persons as victims abound: Insurance policies are written with fictitious beneficiaries, then allowed to lapse after high commissions are collected. Worthless vacant lots are sold to elderly persons who are told they are buying paid-up insurance policies, or interest in a guaranteed real estate venture. Complicated home improvement schemes are devised with fictitious financing arrangements, and then no repairs. Mass mailings solicit homebound elderly people to work at home stuffing envelopes, or other forms of piecework, for a promised payment of very generous wages—but once the required "registration fee" is paid nothing more is heard. Phony "miracle cures" for illness and disabling conditions are also often sold through the mail.

Those who conduct such fraudulent business with the help of the U.S. mails are quick, and often manage to elude detection and prosecution by frequently moving their base of operations. The additional authority which this bill would give to postal inspectors will act as a strong deterrent to this fraud.●

By Mr. HEINZ (for himself, Mr. CHILES, Mr. DOMENICI, Mr. PERCY, Mrs. KASSEBAUM, Mr. COHEN, Mr. GRASSLEY, Mr. DURENBERGER, Mr. DOLE, Mr. DENTON, Mr. D'AMATO, Mrs. HAWKINS, Mr. QUAYLE, Mr. PRESSLER, Mr. COCHRAN, Mr. DANFORTH, Mr. GLENN, Mr. MELCHER, Mr. PRYOR, Mr. BRADLEY, Mr. BURDICK, Mr. DODD, Mr. WILLIAMS, Mr. MOYNIHAN, Mr. BAUCUS, Mr. CRANSTON, Mr. FORD, Mr. DECONCINI, Mr. SASSER, Mr. BENTSEN, Mr. CANNON, Mr. LUGAR, Mr. CHAFEE, Mr. HAYAKAWA, Mr. HATCH, Mr. MATHIAS, Mr. INOUYE, Mr. MCCLURE, Mr. SPECTER, Mr. SYMMS, Mr. WARNER, Mr. KASTEN, Mr. TSONGAS, Mr. SARBANES, Mr. STENNIS, Mr. ZORINSKY, Mr. EAGLETON, and Mr. KENNEDY):

S.J. Res. 92. Joint resolution to authorize and request the President to designate the week of September 6, 1981, as "Older Americans Employment Opportunity Week"; to the Committee on the Judiciary.

OLDER AMERICANS EMPLOYMENT OPPORTUNITY WEEK

Mr. HEINZ. Mr. President, I am pleased to introduce today, along with over 50 cosponsors, a joint resolution to authorize and request the President to designate the week of September 6 through 12, 1981 as "Older Americans Employment Opportunity Week." The chairman and ranking minority member of the House Select Committee on Aging, Representatives CLAUDE PEPPER and MATTHEW RINALDO, are introducing this resolution today in the House of Representatives.

This resolution is important for several reasons. First, older workers represent a large but neglected national resource. Only 22 percent of individuals over age 60 are presently employed. National polls and research findings indicate that many more would like to find full- or part-time jobs, but feel that the opportunity is not there. They are capable and often need job earnings to meet income needs in a period of high inflation.

Second, some employers are turning to older workers as a resource—recognizing that their skills and experience are of great value in the workplace. They are initiating hiring, retraining, second-career and job retention programs for older workers. Other employers, however, do not perceive older workers in such a positive light and often practice, consciously or unconsciously, age discrimination against them.

The resolution will call attention to both the potential of older workers and some of the problems which block employment opportunity for them. Special programs will be held around the country to mark this important week and to encourage employers to generate employment opportunities for older persons. Labor organizations, industry groups, and membership organizations which represent older Americans will be involved in this effort. Employers will become more aware of older workers as a resource and older workers will become more aware of job opportunities and job retention options. The results of the promotion will be of benefit to older workers, employers, and the Nation as a whole.

In addition, expanding job opportunities for older Americans who wish to continue working is one of the best long-term solutions to our present retirement income and social security financing problems. The Special Committee on Aging recently held a hearing on "Early Retirement: Implications for Social Security" at which experts, and representatives of labor and management testified. There was a clear consensus among all witnesses that we in the Congress should be more active in promoting employment opportunities for older workers.

Mr. President, I realize that this resolution is just a small step toward achievement of this goal, but it is a step that is worth taking now to help dramatize the need for action. As chairman of the Special Committee on Aging, I will be working actively toward the development of substantive policies to further greater employment opportunities. I believe that we can no longer ignore the vast potential contribution that these Americans are capable and desirous of making to our society. I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 92

Whereas our Nation's citizens over age 65, now representing over 11 percent of our population with this rate expected to increase steadily over the coming years and decades, constitute a major national resource;

Whereas increasing numbers of our older citizens, being willing and able, are looking for opportunities to gain employment, or remain in the work force in order to serve their communities and the Nation;

Whereas older citizens, having accomplished so much in the past for the Nation and who continue to contribute to the Nation's productivity and service to others, should be encouraged to continue in employment roles that utilize their strengths, wisdom, and skills;

Whereas career opportunities reaffirm the dignity, self-worth and independence of older persons by facilitating their decisions and action, tapping their resources, experience, and knowledge, and enabling their continued contribution to society;

Whereas it has been demonstrated through title V of the Older Americans Act of 1965, which supports a part-time program for older Americans, that older workers are extremely capable in a variety of job roles;

Whereas recent studies conducted by the United States Department of Labor and other organizations indicate that, in many cases, employers prefer to retain older workers or rehire former older employees due to their high quality job performance and low rates of absenteeism; and

Whereas Congress recognizes the importance of the continued participation of senior citizens in our Nation's work force and encourages expanded careers and greater job opportunities for these individuals by increasing the awareness of the valuable experience and wisdom offered by our Nation's elders: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the week of September 6, 1981, through September 12, 1981, as "Older Americans Employment Opportunity Week", and calling upon—

(1) our Nation's employers and labor unions to give special consideration to older workers with a view toward promoting expanded career and employment opportunities for older workers who are willing and able to work and desire to remain employed and to retired seniors who wish to reenter the work force;

(2) voluntary organizations to examine the many fine service programs which they sponsor with a view toward expanding the important service roles older workers are engaged in;

(3) the United States Department of Labor to give special assistance to older workers through job training programs sponsored by the Comprehensive Employment and Training Act, job counseling through the United States Employment Service and additional support through its Older Worker Program; and

(4) the citizens of the United States to observe this week with appropriate programs, ceremonies, and activities.

● Mr. CHILES. Mr. President, today I have the privilege of cosponsoring a Senate joint resolution requesting the President to designate the week of September 6, 1981, through September 12, 1981, as "Older Americans Employment Opportunity Week." The more we study and investigate the desires and preferences of older persons, the more we learn that increasing numbers of older persons want to remain involved in productive activity well beyond the traditional age of retirement.

With the arrival of the 1978 amendments to the Age Discrimination in Employment Act, Congress ushered in a new era for America's older workers. The mandatory retirement age for Federal employees was eliminated completely, and the age in the private sector was raised from 65 to 70.

Mr. President, with the legal door now open to end mandatory retirement, and with vast numbers of today's workers due to reach their retirement years at the beginning of the next century, we must begin now to create new opportunities for the older worker. In the spring of 1980, I chaired a new series of hearings for the Special Committee on Aging on "work after 65: options for the 80's." We reviewed a 1978 national survey, conducted by the Harris poll, which provided detailed information about the desire of older persons to have expanded work oportunities—and sometimes also about the frustration which they feel in not being able to work.

Current employees and current retirees were asked what they would prefer as their retirement-work situation. About 25 percent of each group said they would prefer some kind of part-time work after retirement. But in a followup question, only 8 percent of the already-

retired persons said they were in fact able to find part-time employment. Interestingly, the survey also asked all retired persons: "Assuming you would have had an adequate amount of retirement income, what would you have preferred to do when you reached retirement age?" Forty-nine percent of the current retirees responded that they would prefer work.

Mr. President, the witnesses at these hearings included psychologists, economists, labor force experts, and presidents and vice presidents of corporations with long histories of retaining and hiring older workers. All the witnesses agreed on a basic fundamental principle: not only do many older persons want to remain active on the job, but they are able, productive, enthusiastic, and flexible workers. The major missing piece to this jigsaw puzzle is simply opportunity. It is for these reasons, Mr. President, that I strongly urge my colleagues to support this resolution calling for the designation of the week of September 6 through 12, 1981, as "older Americans employment opportunity week."●

● Mr. DURENBERGER. Mr. President, in designating the week of September 6–12, Older Americans Employment Opportunities Week, Congress will reaffirm its commitment to the older worker. Labor Day week is an especially appropriate week for us to celebrate the achievements of older Americans and encourage continued support for their employment opportunities. At a time when all America's resources are being closely appraised, we cannot afford to ignore one of our greatest resources—our older workers.

We need only look to the White House to see a man well past retirement age doing an excellent job. At 70, Ronald Reagan is handling the most grueling job in Government. In the private sector, his 70th birthday would have marked the point of mandatory retirement. Instead, it marked the beginning of a new phase in his public service, and a new beginning for all Americans.

My friend and fellow Minnesotan, Warren Burger, is another older American serving the public well past normal retirement age. The Chief Justice will celebrate his 74th birthday this September as the highest official in our judicial system. As Chief Justice of the Supreme Court, he carries out his weighty responsibilities with wisdom and prudence. How much poorer would this Nation be if we deprived ourselves of men such as Warren Burger?

We cannot afford to dismiss the benefits of age too lightly. These men and hundreds of men and women like them are contributing to the welfare of our country well past the magic age of 65. But there are equally able Americans who see retirement not as a retreat, but as defeat. Through mandatory retirement regulations, veiled job discrimination and other barriers, many would-be older workers are forced out of the job market. This is an unacceptable situation. If this resolution does anything, it will reassert the positive contributions older workers have to give.

The opportunity to continue working is just as important as the opportunity to retire. We all gain when the older worker has the option of continued employment whether he or she stays in the same position, or chooses other alternative employment possibilities. We gain a senior citizen who is more economically self-sufficient. We gain a senior citizen who is a supporting member of our economy. We gain a senior citizen who feels a sense of purpose and usefulness.

We need to focus on what we in Congress can do to encourage employment opportunities among the older members of the work force. Through the interest and efforts of my colleague, Senator HEINZ, we on the Special Committee on Aging will continue to explore employment options for older workers. The needs and opportunities for older Americans is a challenge that grows 1,400 people stronger every day. I look forward to meeting this challenge and feel that this resolution is a vocal step in the right direction.●

By Mr. HAYAKAWA (for himself, Mr. HATCH and Mr. NICKLES):

S.J. Res. 93. Joint resolution to clarify that it is the basic policy of the Government of the United States to rely on the competitive private enterprise system to provide needed goods and services; to the Committee on Governmental Affairs.

PRIVATE INDUSTRY TO SUPPLY GOVERNMENT WITH GOODS AND SERVICES

Mr. HAYAKAWA. Mr. President, I introduce today, together with my colleague in the House, DAVID DREIER of California's 35th District, a joint resolution that reaffirms the policy now embodied in the Office of Management and Budget Circular A–76. Senators ORRIN HATCH and DON NICKLES are original cosponsors.

The joint resolution states:

It is the policy of the Government of the United States to rely on competitive private industry to supply the products and services it needs whenever competitive industry prices are available.

For some years I have observed the tendency of the Federal Government to assume and retain functions that should be left to the private sector of the economy. Though it has long been the government's policy to rely on the private sector for goods and services, that policy has not been applied equally throughout all branches of the government.

As a result, Federal employees, according to the GAO's estimates, perform 11,000 commercial or industrial activities that could be done by private firms. Taxpayers pay near $19 billion for these goods and services, and in doing so they directly subsidize competiton for private industry.

There are certain government functions that must be performed by the government, such as formulating policy. But I do not believe government resources should be used to duplicate functions that are properly available from the private sector at a lower cost.

This may sound like a philosophical problem, but to the owner of a small business it is a matter of economic survival. Struggling with inflation, interest rates and excessive regulation, the last thing a small business owner needs is competition from the government financed by tax moneys.

Let me give some examples of the government activities that duplicate efforts of the private sector: Printing and binding, data entry and processing, food service, laundry service, audio-visual production, library services, and research.

If the $19 billion spent on such goods and services were channeled into the private sector rather than into government agencies, three important things would happen:

First, the government would get the same services at reduced cost. That is because private enterprise has an incentive government agencies do not have: The profit motive. The Small Business Administration has conservatively estimated that $3 billion of that $19 billion could be saved.

Second, private industry would benefit by increased business that would stimulate the whole economy.

Third, and this is important, government workers and resources would be freed to concentrate on functions that must be performed directly by the government. In this time of increasing demands on government resources, this increased efficiency will help preserve or even increase the level of government service provided to the public.

The General Accounting Office has prepared a report, for release today, that examines the extent of government competition with the private sector. The GAO and the Office of Management and Budget agree that congressional action is needed to establish as a matter of policy throughout the government that private industry should be used to supply goods and services whenever that is practical and proper.

This is not a shift in government policy; it is a clarification of government's relation to private enterprise and a clarification of a policy that has been subject to varied interpretations and shifts in emphasis over the years.

As a further exploration of this issue, on Wednesday, June 24, the Small Business Subcommittee on Advocacy and the Future of Small Business—of which I am chairman—will open a series of hearings examining the effects of government competition on small business. We will examine specific industries in which that competition is a significant problem, and we will hear from owners of businesses that have been crippled or threatened with extinction by government decisions to provide similar goods and services.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 93

Whereas it is the function of Government to establish Federal policies and manage Federal programs established by or pursuant to law; and

Whereas it is the function of the private enterprise system, which is the primary source of national economic strength, to provide goods and services needed in that endeavor; and,

Whereas optimum efficiency, economy, and productivity can be achieved if the Govern-

ment relies on competitive procurements from private enterprise for its needed goods and services; and

Whereas in a democratic free enterprise system, the Government should not compete with its citizens: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the general policy of the Government of the United States to rely on competitive private enterprise to supply the products and services it needs whenever competitive industry prices are available. This policy shall be administered by the Director, Office of Management and Budget in coordination with the Administrator, Office of Federal Procurement Policy.

ADDITIONAL COSPONSORS

S. 46

At the request of Mr. THURMOND, the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 46, a bill to amend title 5 of the United States Code to permit present and former civilian employees of the Government to receive civil service annuity credit for retirement purposes for periods of military service to the United States as was covered by social security, regardless of eligibility for social security benefits.

S. 85

At the request of Mr. BENTSEN, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 85, a bill to amend the Internal Revenue Code of 1954 to exempt independent producers and royalty owners from windfall profit tax on the first 1,000 barrels of daily production.

S. 1175

At the request of Mr. BOSCHWITZ, the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of S. 1175, a bill to amend the Internal Revenue Code of 1954 to exclude fringe benefits from the definition of gross income.

S. 1214

At the request of Mr. BOSCHWITZ, the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of S. 1214, a bill to amend the Internal Revenue Code of 1954 to eliminate the limitation on the interest deduction for interest paid or accrued on investment indebtedness.

S. 1235

At the request of Mr. D'AMATO, the Senator from Alabama (Mr. DENTON), the Senator from Florida (Mrs. HAWKINS), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 1235, a bill to exempt certain matters relating to the Central Intelligence Agency from the disclosure requirements of title 5, United States Code.

S. 1237

At the request of Mr. HEFLIN, the Senator from Louisiana (Mr. LONG) was added as a cosponsor of S. 1237, a bill to provide grants to the 1890 land-grant colleges, including Tuskegee Institute, for the purpose of assisting these institutions in the purchase of equipment and land, and the planning, construction, alteration, or renovation of buildings to strengthen their capacity for research in the food and agricultural sciences.

S. 1310

At the request of Mr. BOSCHWITZ, the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of S. 1310, a bill to amend the Internal Revenue Code of 1954 to provide certain community development, employment, and tax incentives for individuals and businesses in depressed areas.

SENATE JOINT RESOLUTION 74

At the request of Mr. MATHIAS, the Senator from Missouri (Mr. DANFORTH) was added as a cosponsor of Senate Joint Resolution 74; a joint resolution designating the week of October 4 through October 10, 1981, as "National Diabetes Week."

SENATE RESOLUTION 158—RESOLUTION TO HONOR UNIVERSITY CITY, MO., ON ITS 75TH ANNIVERSARY

Mr. DANFORTH (for himself and Mr. EAGLETON) submitted the following resolution, which was referred to the Committee on the Judiciary:

S. RES. 158

Whereas, this year the people of University City, Missouri, celebrate the seventy-fifth anniversary of the city's incorporation;

Whereas, from its beginnings, University City, Missouri, has been a leader in devising progressive, innovative, and successful responses to perplexing municipal problems;

Whereas, in 1920, University City, Missouri, pioneered in the field of city planning by creating a City Plan Commission, and, through planning, secured, for the residents of the city, beautiful and functional parks, quiet and tree-lined residential streets, and a unique commercial district commonly known as the Loop;

Whereas, in 1947, the City of University City, Missouri, became the first municipality in St. Louis County to adopt a home rule charter providing the council-manager form of government;

Whereas, the City of University, Missouri, distinctive among cities for racial, ethnic, and religious diversity of its populace, has fostered harmony and unity in the community; and

Whereas, University City, Missouri, is an example for the Nation in achieving fair and open housing and integrated schools, and in providing an extensive program of services for its senior citizens; Now, therefore, be it

Resolved, That the Senate honors the City of University City, Missouri, and its people and leaders during their Diamond Jubilee celebration and commends the City of University City, for exemplary achievements and continuing leadership in urban planning and development.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the City of University City, Missouri.

● Mr. DANFORTH. Mr. President, on behalf of myself and my senior colleague from Missouri, Senator EAGLETON, I am pleased today to offer a resolution in honor of the people of University City, Mo., a city which celebrates its 75th anniversary this year.

University City is a place of extraordinary ethnic, religious, and racial diversity. However, this diversity—which has meant conflict and strife for many cities—has been a source of strength for the people of University City. University City stands as an example for the Nation for the achievements it has made in securing open housing and integrated schools, for the harmony and unity that characterize the city. It has not been a city without problems—but it has faced its problems and emerged stronger for the experience.

Novelist Stanley Elkin once observed, University City "looks like what cities are supposed to look like." Above all, it is a nice place to live.

I ask unanimous consent that Stanley Elkin's homage to University City, "Why I Live Where I Live," be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows;

WHY I LIVE WHERE I LIVE

(By Stanley Elkin)

Because, to me, it has always looked like what cities are supposed to look like. Like silhouette architecture in funny papers. Moon Mullins's downtown, Krazy Kat's, warehouse style, a wholesale modality, the furrier's provenance, the jeweler's. Gilt lettering in upper-story windows. And brick from the golden age of brick. Bricks so high it could be the dumping ground of brick, stacked as counter on a wondrous roll. And because grand juries seem as if they would meet here, returning true bills, parsing corruption: racketeers whose rackets are old-timey and flagrant and tinged with muscle—teamster stuff, laundry trucks that don't leave the garage, taxis crippled and tampered axles under the trucks that bring the milk, the bread, the paper. Vending-machine brutalities. Soft-drink killings.

And because I'm an American of the vaguely professional class, a tenured academic, the least mobile of men, and you live where they ask you in this business and get maybe two or three solid offers in a working lifetime, and because I've been luckier than most or less brave perhaps and have only received one—two if you count the feeler, pursued halfheartedly on both our parts, from the University of California in Santa Barbara thirteen years ago, and we tried it for a summer and didn't much like it, my wife because it made her nervous to go for bread at eighty miles an hour and me because, as I say, I'm not brave and didn't know if I'd like my friends.

Which is really why I live where I live.

I live in University City, Missouri, a block from the St. Louis limits. (The city of St. Louis is self-contained as an island, exists in no county, is, in a way, a kind of territory, a sort of D.C., a sort of Canal Zone, gerrymandered as Yugoslavia, its limits fixed years ago, before the fact, staked out, one would guess, by a form of sortilege, a casting say, of vacant lots, working farms and nineteen miles of the Mississippi River into the equation, the surveyor's sticks and levels and measures doing this tattoo of the possible, of the one-day-could-be, shaping a town like a stomach, stuffing it with ellipses, diagonals, the narrows of neighborhood.) University City is not so much a suburb as St. Louis's logical western addendum. There are over ninety incorporated municipalities surrounding St. Louis, closing it off like manifest destiny, filling it in like some jigsaw of the irrefutable, Mondrian's zones and squares like a budgeted geometry. And I live where I live because of the civilization here.

On the third Tuesday of every month there is a salon at the home of Eli and Lee Robins. The Insight Lady is there (I shall not blow her cover here but can tell you that she is a heroine of song and story, prose and poetry, and, like her husband—you couldn't drag her name from me—the older man and downtown lawyer Albert Lebowitz, a native) putting out her insights like hair or finger-

nail. Deans are there, chairmen of departments in street clothes. It's all very brilliant.

Eli's spread (both he and his wife are scientists, but the money is Texas) is smaller, I think, than the palace at Versailles but much grander than Madame Récamier's. And because, like me, he is a multiple sclerotic, much of the house is tricked out in the customized hardware of the handicapped, all the expensive gym-crackery of safety: stands of parallel bars like private roads, handles that bloom from the doorways like a steel ivy, cunning chair lifts like an indoor Aspen, Eli's electric cart, Eli's motor pool. We gather on these Third Tuesdays in the smaller of the two living rooms, the library really but with its phones hard by the furniture—I want to sit on the leather chair and call the couch—it could be some plush boiler-room operation. There are discrete files, the latest in dictating equipment, everything state-of-the-art, everything convenient; and for dark reasons I am at home in this house. (I'm crippled too.) And once a month, at the Robinses', I feel free to go public, to clumsy my coffee on the furniture, to crumb the carpet and ash my neighbors as myself. But chiefly to talk. At the top of my voice at the top of my form, vicious, a gossip, clever as a fag, with, to save me, only this: that I am never the hero of my ancedotes but always—I'm crippled too—the fall guy, whiner take all. (On New Year's Eve of 1963, before Eli's disease, before my own, Joan and I were invited to a party at the Robinses'. I had not really known about them, that they lived in a house as big as all outdoors. I had assumed that I assume about everyone I meet, that their backgrounds are the same as mine, that we drive the same cars, get the same mpg, earn the same salaries, and blue is our favorite color. That we're all each other's doppelgängers—how otherwise could we meet in this life?—that we all serve the same conditions, that we share the world like weather. The main party was going on in the larger of the living rooms, a room like a grand salon on an ocean liner, and though there might have been a hundred people in it, I swear to you it looked empty. We left just after midnight, and outside our third-floor walk-up Loop apartment building I kicked dents in the door of our '62 Chevrolet Biscayne. I ripped the ring off the steering wheel. I rent my clothes like an Orthodox. Why not? This was grief, this was grief too. It was years before we went back. When we owned our own home. When disease had collateralized us, when demyelination had doppelgänged us again.)

And this is the point, I think. I live where I live for the odd safety there really is in numbers. Are the crippled as comfortable in Santa Barbara? Could I aspire to Eli Robins's fail-safe gewgaws, his remote-control life, his disease's nifty setup like a model railroader's?

I have been keeping track now since the first Third Tuesday and have never seen the same hors d'oeuvre twice. And that's another thing about St. Louis, about University City. It is the hors d'oeuvre hub and honeypot of the world, its quiche capital. The deli is lousy and the entrées only middling—I mean its steaks and roasts, its chops and chickens—but there are knives, forks, spoons, and stars in its appetizers and something in its soups to float your heart. (It could be the water. Nowhere I have ever been is it ofter. In the shower soap comes apart in your hands. It lathers like spindrift, froths and foams like the trick floors of discos. You're clean five to ten minutes sooner than you are in New York or California.)

There is, I think, an appetizer vision, the aperitif heart, something in the soul or character that bumps up hunger without the means or even desire to satisfy it, a teaser temperament—*forshpeiz* forsooth, foreplay forever. All I know is that I love that hour to hour and a half before we go in to dinner (it's no longer Third Tuesday; we're at Martha Rudner's, at the Stangs', the Teitlebaums', the Gasses', the Pepes'), when the pâtés are passed, the barbecue chicken wings, the plates of pot stickers, the stinging dips and smarting cheeses, all that spicy consubstantiation, the lovely evening's high season of high seasoning, and the talk is general and the gazpacho melts in my mouth. And I live where I live, could be, because I am such a good guest, comfortable in other people's houses as a man in his club and under no obligation to bring wine, flowers, houseplants, the candy gifts and door-prize alms (empty-handed even in a hospital room), taking hospitality for granted as a Greek in an epic, never the first to leave though always the first to leave the dinner table, eschewing tea, coffee, the sugar-silted linen and the sedimental crumbs, no coffee klatcher but the Brandy-and-Soda Kid himself, cordial at cordials and drawn by a drawing room.

Inviting the others, ready to do business, calling "Come here, come here, the fire's still going. Bring your cups. Come where it's comfortable." And I live where I live because they come when I call them—well, what are friends for?—and know things I don't. And because I love to hear Julie Haddad, the Deep Throat of real estate, give the latest market quotation on a neighbor's house, or not *even* a neighbor's, a stranger's, someone the next town over, and Patty Pepe explain the complicated peerage of west-county Jews.

I don't mean gossip in the ordinary sense. There is little hanky-panky where I live. In the twenty years I've lived here only one of my friends has been divorced. No one seems to have affairs. Missouri lust is career-oriented, not sexual. It's one on oneself, not one on one. We want Nobel Prizes, things within Pulitzer's gift, National Book Awards, grants, honors, invitations, hosannas. We talk the ego's bottomless line. Or *I* do. And I live where I live because there are people who will listen to me speak Self like a challenge dance. Not boasting, understand, not look-Ma-no-hands but something involuntary, reflexive as perspiration, not loose lip, loose *tooth*, worrying away at this sweet-and-sour tooth I have in this city whose specialty is appetizer and whose shape on a map looks like a stomach. I sound awful but it's not what you think.

I haven't seen Bill Gass for a month, say. I bring him out, I draw him forth like a man doing card tricks, I work him close up as a Vegas mechanic, my sleight-of-mouth circumstances and the opening bid of my own poor itinerary in my juggler's distracted jabber. The same with Steve Teitlebaum, John Morris, Howard Nemerov, the same with everybody. (Not boasting, understand. *I* know where I've been. I need to know where *these* guys are.) All right, it *is* what you think; but win or lose, it clears my air.

And *this* occurs to me. The estimated population of the city of St. Louis on January 1, 1980, was 479,000, that of the greater metropolitan area, 2,410,628. I've lived here twenty years and have only two friends who work downtown. How many people living in Houston could say the same? Who in greater Omaha could? Who in Chicago? Boston? the Bronx? (Who, for that matter, in St. Louis?) When I moved here in 1960, the city's population was just over 750,000. Urban flight shapes my skyline. It cozies connection and snugs my skyscrapers. It's good, I mean, for the architecture and, the city emptied out, lends a scaled-down look to things. Downtown seems someplace foreign. Or no. *Not* foreign. An American city, but an American city like some Brechtian projection. St. Louis like the City of Mahagonny. And I live where I live because there's nothing beautiful to look at in the store windows. Because reality looms in them like a loss leader, furniture people as low company or the circumstances of people on fixed incomes, the fashions dated as nurses' uniforms, a dry-goods sort of town, a hardware one. And I look. I do. Once or twice a month, at night, in the warmer weather, we cruise downtown's empty streets. We park, we window-shop.

Me, most of my friends, we don't dress well. We are barely presentable. And if we're out of the shower ten minutes quicker than New Yorkers, we're out of the bedroom fifteen. We are not laid back. Laid back is studied, sandaled and lightly leathered, capped and cute. It goes with the hairdo. We don't have hairdos. I'm fifty years old and dress like someone on *Bowling for Dollars*, like a guy driving cross-country. Third Tuesdays *and* downtown. The sweet-and-sour heart.

And I live where I live because I am comfortable, because the climate is equable, because the movies come on time but the theater is a road show, second company, because the teams are dull but we get all the channels, because there can't be four restaurants in the city that require jackets and ties and there's a $25,000 ceiling on what city employees may earn and I make more than the mayor, the head of the zoo. Because I feel no need to take the paper. Because I feel no need.

And finally because nowhere I have been do so many other people seem to live so well. St. Louis, and University City too, is a city of sealed neighborhoods, gated as railroad crossing of blocked-off streets and private places chartered as nation, zoned as meteorological maps, the enclaves and culs-de-sac of stalled weather. Not fortress but subdivision America, everything convenient, stone's-throw as Liechtenstein. My subdivision, Parkview, is separated from Ames Place, the subdivision just west of it, by a walk called the Greenway (I could throw a ball into it, but it's almost a mile by car—the closed-off streets, the wrought-iron gates that are opened on some complicated schedule I have never been able to learn), and, like so many other of the city's private neighborhoods, it is very beautiful. The houses are large. They are brick or stone, two stories or three, with slate roofs, red-tiled, green. Eighty percent of the homes were built between 1906 and 1915 in Gustav Stickley's Craftsman Style. No two are alike, but I have a sense of snowflake disparities, a fraternal-twin aesthetics.

One Third Tuesday a few months back I was telling the Insight Lady's husband that there was nothing I really wanted anymore, that I was just about consumered out. I have a videotape recorder, the TV camera that goes with it, a pool (Parkview looks like something out of *Meet Me in St. Louis*, but we're pooled now as Beverly Hills), quad, the middle-class works. It wasn't time yet to go into the electric golf cart; there was nothing I wanted. Well, maybe *one* thing, but . . . I described plaques I had seen on houses in London where authors had lived. A few weeks later Al brought over a replica of what I'd described. A dark lead slab with raised copper letters:

STANLEY ELKIN
1967–

He drilled holes into the brick for the screws and mounted it on my house.

I'm waiting for Joan. We're going to Bobby's Creole for the barbecue shrimp and then to a movie. I'm sitting on the top stair, next to the railing, at the foot of our walk. Across the street is a triangular park with its honey locusts and tall old pines and oaks. I look toward Pershing at the beautiful homes, seventy-five years old some of them, good as new, better. How lovely. I think. How fortunate we are. Up and down my street, Westgate, the houses make a long gentle convex. Three blocks off, beyond the northern gates, is Delmor Boulevard, a sort of student village, the shops recycled, periodically changed as marquee, head shops where

kosher butchers once thrived, the Varsity theater with its 3-D festivals, the Tivoli, which changes its double bill nightly, health food stores and bike shops, record stores, book, boutiques and the co-op grocery, the open-air market, a gallery, Bobby's Creole, where we're going. An odd nostalgia seems to hang over it all, a sawdust chic, grubby and moving. There's a store that sells old movie posters and Blueberry Hill, a pub where the serious darts players go. I lived off Delmar once, as I do now, when it was a ghetto for Orthodox Jews. But one sort of earnestness is not so different from another. Kids', old folks'. I've come a long way from St. Louis. Three or four blocks.

I live where I live. I have a plaque that says so. I wait for my wife and feel fine, within the gates, enjoying for as long as the tenure holds my tucked-in, deck-chair life.●

● Mr. EAGLETON. Mr. President, the city of University City, Mo., will celebrate its 75th anniversary of incorporation during 1981. It is a fitting tribute that we pay to the citizens of University City in adopting this resolution commemorating the city's diamond jubilee.

University City has distinguished itself in numerous ways throughout its history. It was a leader in progressive government; it pioneered the field of city planning; it has traditionally maintained a high-quality, livable environment for its diverse citizenry; and it holds the promise of future leadership in these and many other fields.

Mr. President, I ask that we adopt this resolution congratulating all of University City on its achievements.●

SENATE RESOLUTION 159—ORIGINAL RESOLUTION REPORTED WAIVING THE CONGRESSIONAL BUDGET ACT

Mr. THURMOND, from the Committee on Armed Services, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 159

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1408, a bill to authorize certain construction at military installations for fiscal year 1982, and for other purposes.

Such waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 1408 as reported by the Committee on Armed Services.

AMENDMENTS SUBMITTED FOR PRINTING

DEPARTMENT OF JUSTICE AUTHORIZATION ACT

AMENDMENT NO. 98

(Ordered to be printed and to lie on the table.)

Mr. BIDEN (for himself and Mr. HEFLIN) submitted an amendment intended to be proposed by them to the bill (S. 951) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AGRICULTURE AND FOOD ACT OF 1981

AMENDMENT NO. 99

(Ordered to be printed and to lie on the table.)

Mr. LUGAR (for himself, Mr. PELL, Mr. TSONGAS, Mr. COHEN, Mr. DANFORTH, Mr. DURENBERGER, Mr. HAYAKAWA, Mr. JEPSEN, Mr. PERCY, Mr. STAFFORD, Mr. HATFIELD, Mr. RIEGLE, Mr. LEVIN, Mr. HUMPHREY, Mr. BOSCHWITZ, Mr. GARN, Mr. GORTON, Mr. HATCH, Mr. HEINZ, Mr. QUAYLE, Mr. SPECTER, and Mr. GRASSLEY) submitted an amendment intended to be proposed by them to the bill (S. 884) to revise and extend programs to provide price support and production incentives for farmers to assure an abundance of food and fiber, and for other purposes.

PRICE SUPPORT PROGRAM FOR PEANUTS

● Mr. LUGAR. Mr. President, today I am submitting an amendment to S. 884 that would eliminate the current system of acreage allotments and poundage quotas for peanuts and substitute a straight-forward loan support program parallel to those for corn, wheat, soybeans, rice, and other crops.

Twenty-one of my colleagues have joined me in my efforts to free peanut farmers, processors, and consumers from the highly restrictive peanut program. My amendment also has the support of the AFL–CIO, U.S. Chamber of Commerce, and the National Taxpayer's Union.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 99

On page 197, beginning with line 13, strike out all down through line 2 on page 212 and insert in lieu thereof the following:

REPEAL OF EXISTING PROGRAM

SEC. 701. (a) Effective beginning with the 1982 crop of peanuts, part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1357–1359), relating to peanuts, is repealed.

(b) Effective beginning with the 1982 crop of peanuts, the Agricultural Act of 1949 is amended—

(1) by strikng out "and peanuts" in section 101(b); and

(2) by striking out "peanuts," in section 408(c).

PRICE SUPPORT FOR PEANUTS

SEC. 702. Effective beginning with the 1982 crop of peanuts, section 201 of the Agricultural Act of 1949 (7 U.S.C. 146) is amended—

(1) by inserting "peanuts," after "honey," in the language preceding subsection (b); and

(2) by adding at the end thereof a new subsection (g) as follows:

"(g) the price of the 1982 and subsequent crops of peanuts shall be supported at such level as the Secretary considers appropriate, taking into consideration the eight factors specified in section 401(b) of this Act, the cost of production, any change in the index of prices paid by farmers for production items, interest, taxes, and wage rates during the period beginning January 1 and ending December 31 of the calendar year immediately preceding the crop year for which the level of support is being determined, the demand for peanut oil and meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets, but not less than $ per ton.".

On page 212, line 7, insert ", as amended by section 702," before "is amended".

On page 212, line 12, strike out "(g)" and insert in lieu thereof "(h)".

On page 213, line 23, insert ", as amended by section 702," before "is".

On page 214, line 6, strike out "(h)" and insert in lieu thereof "(i)".●

OMNIBUS RECONCILIATION ACT OF 1981

AMENDMENT NO. 100

(Ordered to be printed and to lie on the table.)

Mr. MOYNIHAN (for himself, Mr. CRANSTON, Mr. BRADLEY, and Mr. BOREN) submitted an amendment intended to be proposed by them to the bill (S. 1377) to provide for reconciliation pursuant to title III of the first concurrent resolution on the budget for fiscal year 1982 (H. Con. Res. 115, 97th Congress).

NOTICES OF HEARINGS

SUBCOMMITTEE ON THE CONSTITUTION

Mr. HATCH. Mr. President, I would like to announce that the Subcommittee on the Constitution, of which I am chairman, will hold public hearings to examine the Freedom of Information Act and proposed legislation to amend the act. The first two hearings will be held on July 15, 1981 at 9:30 a.m. and July 22, 1981 at 9:30 a.m. in room 2228 Dirksen Senate Office Building.

The Freedom of Information Act, first passed in 1966 and amended in 1974, has done much to promote public confidence in government. Nevertheless, a number of problems have threatened to undermine the benefits of FOIA. For instance, some legitimate law enforcement and intelligence activities have been impaired. Individuals and businesses cannot adequately protect their trade secrets from unfair disclosure to competitors. And the administrative burden of time and money has been much greater than ever anticipated when the bill and its amendments were passed.

Several bills addressing these problems have been referred to the Subcommittee on the Constitution. Senator DOLE has introduced S. 1247 to help submitters of information to government agencies protect their business secrets from disclosure. Senator D'AMATO has introduced S. 1235 to add certain exemptions for classified CIA files. And I have introduced S. 587 which will provide exemptions for law enforcement agencies for information such as personnel rosters, and confidential investigative techniques. In addition, this bill deals with a number of administrative prob-

lems arising out of the Freedom of Information Act.

The hearings will afford a comprehensive overview of the act, and will not be limited in scope to the bills that have been mentioned. The subcommittee expects to receive additional recommendations concerning the act.

Individuals and organizations interested in presenting oral testimony at the hearing should submit their request to be heard by telephone, to be followed by a formal written request to Randall R. Rader, counsel, Subcommittee on the Constitution, 108 Russell Senate Office Building, Washington, D.C. 20510; telephone (202) 224-4906. The initial telephone request must be received by the subcommittee not later than the close of business June 30, 1981. Notification to those scheduled to appear will be made by telephone as soon as possible after the filing deadline. For those who wish to file a written statement for inclusion in the printed record, five copies must be submitted by the close of business, September 4, 1981.

SUBCOMMITTEE ON FEDERAL EXPENDITURES, RESEARCH, AND RULES

Mr. DANFORTH. Mr. President, on July 2, 1981, the Subcommittee on Federal Expenditures, Research and Rules of the Committee on Governmental Affairs will hold a field hearing in Kansas City, Mo., to identify problems which Federal contractors encounter in doing business with the Federal Government. The hearing will be held in the chambers of the Jackson County Legislature on the second floor of the Jackson County Courthouse and will begin at 9 a.m.

The following witnesses will testify at that hearing:

WITNESSES

CONSTRUCTION INDUSTRY

Mr. William Dunn, Sr., President and Chairman of the Board, J. E. Dunn Construction Company; Chairman, Minority Business Advisory Council, Kansas City Area HUD Office; First Vice President, Associated General Contractors, Kansas City Chapter.

Mr. Charles Garney, President, Garney Companies, Incorporated; President, The Heavy Constructors Association of The Greater Kansas City Area.

Mr. Bruce Patty, Partner, Patty Berkebile Nelson Associates Architects, Incorporated; Regional Director, Central States, American Institute of Architects.

STEEL AND ELECTRONICS INDUSTRIES

Mr. Robert Zimmerman, Vice President for Marketing, Wilson Electric, Incorporated.

A representative from Armco, Incorporated.

SMALL BUSINESS

Mr. James Brettell, Executive Vice President, Libby Corporation.

Mr. Donald J. Loeb, President, Rite-Made Paper Converters, Inc.

Mr. Eric Dunkley, President, Eric's Foods, Incorporated.

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

Mr. DURENBERGER. Mr. President, I would like to announce that the Subcommittee on Intergovernmental Relations of the Governmental Affairs Committee has scheduled a hearing on S. 1042, a bill to amend the Intergovernmental Personnel Act of 1970 as amended. The hearing will be conducted at 2 p.m. in room 3302 Dirksen Senate Office Building on June 24, 1981. Those wishing to submit written statements to be included in the printed record of the hearing should send five copies to Ruth M. Doerflein, clerk, Subcommittee on Intergovernmental Relations, room 507 Carroll Arms Building, Washington, D.C. 20510.

For further information on the hearing, you may contact Susan Fritschler of the subcommittee staff at 224-4718.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Envionmental Pollution of the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Monday, June 22, at 2 p.m. to hold a hearing on clean water legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate today, June 22, to hold nomination hearings on Eugene V. Rostow to be Director of ACDA.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE INFLUENCE OF THE U.S. CONSTITUTION ABROAD

● Mr. HATCH. Mr. President, the Subcommittee on the Constitution of the Judiciary Committee, of which I have the honor to serve as chairman, has been involved in preliminary planning for the 200th anniversary of the U.S. Constitution in 1987. A major part of this commemoration of our bicentennial is a study of the influence of this, the world's oldest constitution, on the constitutions of the other 157 nations of the world. I am pleased to report to you on the progress of this important mission.

The project's findings will be published ad seriatum in journals and reviews throughout the world from 1983 to 1986, and will be combined into several major commemorative volumes in 1987. These studies will also be the basis for the summary analytic volume to be prepared by Albert P. Blaustein, professor of law, and Jay A. Sigler, professor of political science, both of Rutgers University.

More than 75 scholars from more than 50 countries have already joined editors Blaustein and Sigler in this project. Professor Blaustein is coeditor of the 15-volume work "Constitutions of the Countries of the World" and its companion six-volume work, "Constitutions of Dependencies and Special Sovereignties," as well as the author of "The American Lawyer," "Desegregation and the Law," and "Civil Rights and the Black American." Professor Sigler's works include "The Legal Sources of Public Policy: American Rights Policies," and "Contemporary American Government." Professors Blaustein and Sigler have also coedited "Independence Documents of the Nations of the World," published in 1977 to commemorate the bicentennial of our Declaration of Independence.

Professor Blaustein was a consultant in the preparation of the Bangladesh Constitution of 1972 and the Peruvian Constitution of 1978. He was special counsel to Prime Minister Abel T. Muzorewa at Lancaster House in 1979 in preparation of the new Zimbabwe Constitution.

WORLD-WIDE SCHOLARS

Many of the scholars who have joined this project also participated in drafting the constitutions of their own countries. They include Kamal Hossain (Bangladesh), former minister of law and chief architect of the Bangladesh Constitution; Julian Santa Maria (Spain), who played such an important part in drafting the new Spanish Constitution; Joseph Cooray (Sri Lanka) who later became a justice of the Sri Lanka Constitutional Court; Domingo Garcia-Belaunde (Peru), S. O. Gyandoh, Jr. (Ghana), D. J. Murray (Kiribati) and D. I. O. Eweluka (Nigeria) among others. Isi Foighel (Denmark), who chaired the drafting of the Greenland Constitution, will write on his native Denmark.

Among the high-ranking legal dignitaries are Chief Justice Enrique M. Fernando, the scholarly leader of the Philippines' Supreme Court; Venezuela Minister of Justice Guillermo Andueza; Thailand's Minister of Justice Marut Bunnag; Sudan's ex-Attorney General Zaki Mustafa; Japan's Supreme Court Justice Massami Ito; Nepal's Secretary of the Ministry of Law and Justice Dhruba Bar Singh Thapa, and W. S. Plavsic of the Prime Minister's Office in Belgium.

Because of the special relationship between the U.S. Constitution and France's constitutional history, the final French Study will be written in five parts. Three outstanding scholars have already agreed to participate. Jacques Godechot will cover the period of the French Revolution and Napoleon I (1789) to 1815); Odile Rudelle will write on the Third Republic (1871 to 1946), and Judge Jean-Luis Debre will write on the Fifth Republic (1958 to present). Scholars are still being sought for the period between Napoleon I and Napoleon III and for the post-World War II constitution of the Fourth Republic.

The German study, which will trace the influence of the American Constitution in the early German states, including Brandenburg, Wurttemberg and Bavaria, as well as the unified German will be prepared by a team of German and American scholars headed by Notre Dame Law Professor Donald P. Kommers.

Other outstanding scholars include:

John W Poulos (Afghanistan). University of California at Davis; Jorge R. A. Vanossi (Argentina), University of Buenos Aires; Alex C. Castles (Australia), ex-dean University of Adelaide Law School; Felix Ermacora (Austria). University of Vienna, a member of the

United Nations Human Rights Committee; Amir Ul-Islan (Bangladesh), an outstanding practitioner; J. Vanderlinden (Belgium, Zaire), Free University of Brussels; Leo E. Rose (Bhutan), University of California at Berkeley; Ahmad Ibrahim (Brunei, Malaysia, dean of the University of Malaya Law School; Bill Ramsden (Botswana, Lesotho, Swaiziland), University of the West Cape, South Africa; David Steinberg (Burma), legal counsel, U.S. AID, and Filip Reyntjens (Burundi, Rwanda), University of Antwerp.

Clare F. Beckton (Canada), Dalhousie University; M. Necati Munir Ertekun (Cyprus), president's office, Cyprus; James C. N. Paul (Ethiopia), founding dean, University of Addis Abbaba, now at Rutgers; Dr. Renaldo Galindo Pohl (Ecuador); Michel Ajami (Gabon), National University of Omar Bonga; Upendra Baxi (India), former dean, University of New Delhi; S. N. Jain (India), director, Indian Law Institute; Changiz Z. Vafai (Iran), now with Columbia University School of International Affairs; Amos Shapira (Israel) University of Tel Aviv; Giovanni Bognetti (Italy), University of Pavia, and Lawrence W. Beer (Japan), University of Colorado.

H. W. Okoth-Ogendo and Kivutha Kibwana (Kenya), University of Kenya; A. Peter Mutharika (Malawi), Washington University, St. Louis; M. P. Jain, 2d, Asmi B. Abdul Khalid (Malaysia), University of Malaya; John G. Hangin (Mongolia), Indiana University; Ger. F. M. Van Der Tang (Netherlands), Erasmus University; Roger S. Clark (New Zealand), Rutgers University; Rafi Raza (Pakistan), a former minister; Leslie Wolf-Phillips (Pakistan), London School of Economics and Political Science; Waclaw Szyszkowski (Poland), University of Mokolaja Koperniku W. Toruniu, and Marcelo Rubelo de Sousa (Portugal), University of Lisbon.

S. Jayakumar (Singapore), University of Singapore; W. S. Marcus Jones (Sierra Leone), University of Fourah Bay; Martin R. Ganzglass (Somalia), now a Washington, D. C. attorney; Mohamud Ali Turyare (Somalia), attorney; Ellison Kahn (South Africa), former dean of law, University of Witswaterrand; F. E. M. Mitrasing (Suriname), University of Suriname; Amibal Luis Barbagelata (Uruguay), University of Uruguay; John N. Hazard (U.S.S.R.), Columbia University; Douglas Pike (Viet Nam), legal adviser, U.S. State Department; Smiljko Sokol (Yugoslavia), University of Zagreb; L. S. Zimba (Zambia), University of Zambia, and G. R. J. Hackwill (Zimbabwe), University of Zimbabwe.

I now want to call to the attention of my colleagues a summary of this important project.

THE INFLUENCE OF THE UNITED STATES CONSTITUTION ABROAD

Scholarly studies and public celebrations are planned for the commemoration of the 200th anniversary of the U.S. Constitution, drafted in 1787 and ratified in 1789. For this has been the most successful constitution in the history of the world and its bicentennial is an occasion for worldwide recognition.

While most of the studies will be directed toward the impact of the Constitution upon the American people, there is an international role which likewise demands study.

For this was the first single-document constitution, and it is by far the longest lived. The whole world has looked to the U.S. experience as a possible precedent to be considered in each country's own constitution-making.

There is a desire and need to examine and report on the ways in which the U.S. constitutional guidelines were accepted, adopted, adapted, avoided, and abjured during the two centuries past. By studying and analyzing the U.S. model in a multiplicity of foreign contexts we will inevitably gain greater insights into the meaning of our Constitution and its continuing viability. And the explanation of how the U.S. Constitution influenced the other constitutions of the world should contribute to its continuing influence.

PLANNED PUBLICATIONS

There will be two final publications: First, a one-volume, 500–600 pages, comprehensive study, publication date: Fall 1986; and second, a two-volume, 1,500–2,000 pages, library reference documentary, collecting the nation-by-nation analyses which will form the research background for the study, publication date: Fall 1987.

The country-by-country analyses will be published ad seriatum as completed in scholarly reviews devoted to law, history, and political science.

THE PROJECT

Objective scholarship is the one indispensable guidepost for this project. This will not be a public relations exercise in American aggrandizement.

But scholarship must not neglect the fact that the making of a constitution is one of the most critical events in nationhood. And the drama must not be lost in the footnoting.

Nor can the students of the influence of the U.S. Constitution limit their thinking to the spread of democratic ideals which had their first successful flowering in this country. The very concept of a single-document constitution is peculiarly American. And on the eve of the 200th anniversary of the U.S. Constitution, only 6 of the world's 165 nations are without such a charter: the United Kingdom, Canada, New Zealand, Israel, Oman, and Saudi Arabia.

Even in the totalitarian states—even in the nations which totally deny their citizens any real individual freedoms—there is often a U.S. influence. This influence is manifested in institutional and structural contributions: The concept of federalism, a presidential system, an electoral college, or a separate national judiciary appointed by the President with the approval of a parliamentary upper chamber.

The studies will not be speculative; they will be grounded upon hard data. Since the past two decades have constituted an unparalleled era of constitution making, many of the draftsmen are still alive, and their experiences will provide a priceless source of information in the preparation of the monographs.

The monographs will include consideration of:

First, misapplication and misunderstandings about the U.S. model;

Second, competition between the U.S. model and other models;

Third, successes and failures in the application of the U.S. models; and

Fourth, application of the U.S. model in actual practice as well as theory. Specifically, thought will be given to the following:

First, the U.S. Constitution as a symbol;

Second, the borrowed concept of "constitution workshop";

Third, the idea of a single-document constitution;

Fourth, the separation of powers;

Fifth, checks and balances;

Sixth, American-style federalism;

Seventh, bicameralism;

Eighth, enumerated legislative powers;

Ninth, the electoral college;

Tenth, the presidential system;

Eleventh, the amending process;

Twelfth, judicial review;

Thirteenth, the idea of a bill of rights; and

Fourteenth, specific bill of rights safeguards and prohibitions.

I will be looking forward to the progress of this important project in the months and years ahead.●

LONG-TERM HEALTH CARE

● Mr. COCHRAN. Mr. President, rising health care costs continue to be a very serious problem, especially for older citizens who require long-term care in nursing homes.

Federal programs should be reviewed very carefully by Congress to insure that the costs are reduced as much as possible and that those who must have Government assistance to meet essential health care needs are not neglected.

Mr. J. Donald Jernigan, senior vice president of Mediplex, Inc., has written a paper calling for more effective cooperation in this effort between Government and industry. His ideas deserve the careful consideration of Congress as we work to improve our response to citizen needs for long-term health care.

I ask that a copy of "Care for the Aged and Infirm—Where Do We Go From Here?" be printed in the RECORD.

The material follows:

CARE FOR THE AGED AND INFIRM—WHERE DO WE GO FROM HERE?

America is the greatest nation on the face of the earth! We have been and are a nation which can solve the various problems with which we are confronted from the invention of the colt revolver to replace the one-shot musket to the blast off from Cape Canaveral of "Columbia".

We have been a nation of new people, new ideas, new things, new development to conquer the frontiers which loom upon the horizon. We have emphasized these new things in a culture of our own development which has emphasized youth over maturity, the tangible over the intangible, the passing over the permanent. One illustration should suffice: The American Automobile. Henry Ford made one basic mistake in that he made a car that would last. In fact, it lasted so well that the market for cars did not develop until someone got the idea that cars should

not be made to last and the designs should be changed as often as possible to enhance the market. It is interesting to note that new, 1964 Ford Falcons are still being made in Argentina!

In our generation we have witnessed a changing America. Our frontiers have been conquered; our resources are being depleted; our factories have grown old; our air and water have been contaminated and we are growing old. Old, yes, a greying America. This has been brought about through research in medicine with dedicated doctors, scientists, nurses, technicians, etc. who have pledged themselves to one goal: The preservation of life. This has created havoc with the social security system since people were supposed to retire at 65 and die soon thereafter.

The Nursing Home Industry has been no less dramatic! In 1962 the writer was commissioned to design his first Nursing Home project in Florence, Alabama.

This project was an 80-bed facility since 40-beds constituted a "nursing unit" at that time. This was later changed to 50 beds per nursing unit and in some cases the only restricting factor is to be within a certain distance of the nurses station. Shortly after completing this project it became evident that a need for additional beds existed. However, it was thought that the need would begin to decline within 5 years or so. Such has not been the case. Instead there has continued to be a growing need which has escalated at an alarming rate.

Since the writer's main area of experience has been in the State of Alabama, it will be referred to as a typical basis for remarks. However, it should be pointed out that all States have similar laws and policies.

In 1955, Alabama passed the Medical Clinic Act which provided for municipal-type, tax-free bonds to provide for the financing of medical facilities which included Nursing Homes. Most States have similar laws. This provided for the resources to build the facility.

Developers, including the writer and his associates began to seek out areas where a real need existed checking with the city officials and the local Department of Pensions and Security (welfare recipients). This was before the day that a "Certificate of Need" law was in effect. There was no difficulty in over-bedding since the various developers simply stayed clear of each other in a given area.

This was also before the day of Medicaid with all of its accompanying governmental regulations and "red tape". And, it should be noted that quality care was given at a flat-rate of $275.00 per month! It should also be noted that Family Supplementation was an integral part of the reimbursement program not only utilizing patient resources with government assistance but also having a certain portion of the cost paid by the family of the patient which is only natural and proper and should have never been terminated by HEW.

Lo! and behold!, the Federal Government through the Department of Health, Education, and Welfare came riding upon the scene on a white horse: enter Medicaid. This occurred somewhat around 1970 and the various States then jumped on behind the saddle, holding on for dear life and donned a white hat singing the praises of this "manna from Heaven."

With the coming of the "Certificate of Need" law the States became party to, if not solely responsible for not only "restricting" over-bedding but actually "fostering" and encouraging the building of additional beds by certifving that additional beds were needed. This was often done disregarding the true need in a given area by relying solely on a preconceived statistical formula. Cases may be cited where several nursing homes in a certain area all had some empty beds and most, if not all, were losing money and since a "cost basis" was used for determining the per diem reimbursement rate, it is obvious that Medicaid was not being maximized to reach the greatest number of people.

For many years, nursing homes in Alabama had one level of care which was generally referred to as "Skilled" and even with the coming of Medicaid there was still the element of family supplementation. At this time the total cost per month for a nursing home patient was around $450.00 which was generally paid as follows:

Personal Resources	$100–150
Family Supplementation	100–150
Medicaid balance	200
	450

It is easy to see that the cost of the Medicaid program was well under control, especially in view of the fact that some 70–80 percent of the funds were Federal with 20–30 percent furnished by the State.

Several restrictive and costly factors were introduced by various governmental agencies which have continued to escalate the costs of Medicaid along with the continued increase of the minimum wage, increasing utility costs, increasing food costs, etc.

To name a few of the restrictive and costly factors, the following general areas will be dealt with in detail following their enumeration:

1. Life Safety Code Requirements.
2. Elimination of Family Supplementation.
3. Licensing of Nursing Home Administrators.
4. De-certification of Skilled to Intermediate.
5. Income Ceiling to Qualify for Medicaid.
6. Influx of Mental Health Patients.

1. Life Safety Code Requirements. We all agree that the elderly should be in a safe, clean environment. We all know that the old "rest home" of 30 years ago, which were two-story converted homes for the most part, were fire-traps and had to be eliminated but to require the multitudinous changes to the physical plant, some of which were preposterous served one ultimate purpose: The Medicaid rate was increased.

2. Elimination of Family Supplementation. This was the grandiose scheme of the HEW "do-gooders" to supplant the average nursing home resident who had a family sponsor paying part of the cost with lower income people, both white and black who had very little, if any personal and family resources; thus putting the entire cost on the back of Medicaid. By this time, with inflation, increase of minimum wage and extensive life safety code work, the average monthly rate was around $650.00 which looked something like this:

Personal Resources	$150
Family Supplementation	0
Medicaid	500
	650

Even a grade-school student can see the dramatic change in the cost of the Medicaid program.

3. Licensing of Nursing Home Administrators. While we in the nursing home field have no real argument against the licensing requirement for nursing home administrators, it is strange indeed that hospital administrators have no such requirement. Now, some States are moving toward increasing the requirements for licensing which basically does one thing: increase the cost of Medicaid. At one point in time (somewhere around 1965) some nursing home administrators were actually being paid less than the directors of nurses with some salaries as low as $550.00 per month, or around $6,000.00 to $7,000.00 annually. In contrast with this now, in order to secure and keep the services of a qualified, licensed nursing home administrator the salary range is from $16,000.000 to $20,000.000 annually or roughly triple the cost of 1965. Shove Medicaid up one more notch.

4. De-Certification of Skilled to Intermediate. But you inquire "How could this possibly increase the cost of Medicaid?" By increasing the number of beds available! The States have varied levels of care and in Florida for example, there are three basic levels of care: Skilled, Intermediate I and Intermediate II. Alabama chose to have two: Skilled and Intermediate. When Intermediate care came upon the scene there was a deliberate and systematic "De-Certification" of some 3,000 Skilled patients in Alabama, simply to comply with an arbitrary goal of some bureaucrat. Initially this was intended to "save money" by paying less for Intermediate Care and by paying this "out of another pocket" but in due time it simply came back under the umbrella of Medicaid with additional beds being built to care for the State-Certified increasing Intermediate Care level of need.

5. Income Ceiling to Qualify for Medicaid. This was an imposed requirement by the State of Alabama, which not only disenfranchises the middle-class "backbone" of our society, but also increases the cost of Medicaid in Alabama. It works like this: By arbitrary decree, if one has worked hard all of his life, paid his taxes and has been a good citizen and has, for example, a monthly retirement from all sources of "X" number of dollar (has ranged from $258.00 in 1975 to $421.00 at present) he or she is actually ineligible for Medicaid in Alabama. This means that the hard-working, honest, decent middle-class American who may need nursing home care cannot receive it unless his family, friends or church pay the monthly difference. In contrast to the arbitrary disenfranchisement of Alabama citizens, Tennessee makes no limiting restriction but takes any amount of personal resources and supplements the difference which is only fair, equitable and democratic alternative. But you ask, "How does this cost the Medicaid program more?" Very simply this: It is safe to assume that those disenfranchised Alabama citizens are cared for in the home using their limited resources to pay for a live-in practical nurse, while the nursing homes are filled with those who have little or nothing. I would certainly not advocate "throwing out" anyone by totally eliminating the Intermediate Care Program which the States have created but I would suggest that the law of "Supply and Demand", if it had not been tampered with by some bureaucrat would have resulted in one-half of nursing home patients being below the State-imposed ceiling to qualify for Medicaid and one-half being above the ceiling. Let us make a few assumptions as follows:

1. Assume 10,000 Medicaid Nursing Home Patients in the State of Alabama.

2. Assume the average cost of $750.00 per month.

With these assumptions, let us consider two situations; one with all patients below the State-imposed ceiling and one with only one-half below the ceiling and the other one-half above this ceiling.

Situation I (All patients below the ceiling):

10,000 Medicaid at $750.00/month	$7,500,000
Personal Resources at $150.00/month	1,500,000
Medicaid costs	6,000,000

Situation II (Half below and half above ceiling):

½ Below Resources at $150.00	750,000
½ Above Resources at $500.00	2,500,000
Medicaid costs	4,250,000

Thus, the Medicaid Program for Nursing Home Care in the State of Alabama would cost $1,750,000.00 less per month simply by reinstating the disenfranchised citizen. It is safe to assume a time factor to accomplish this but it would be a gradual step in the right direction. Of course, you may make your own calculations as to the exact amount of the State portion of this savings.

6. Influx of Mental Health Patients. When the Federal court ordered that Bryce and other State institutions remove certain type of residents who could be transferred to nursing homes, the nursing home industry "opened their arms" to cooperate with the State in a critical situation and proceeded to make additional beds available as required realizing that the cost of caring for a nursing home patient was less that half the cost in the State-operated institution. This was done with the thanks and blessings of the State. But, again, obviously, the cost of the Medicaid Program had to go up as Mental Health was intended to come down.

Over the past few years numerous attempts have been made to relay findings and recommendations to State officials as follows: A written report of the Medicaid dilemma was hand carried to the Governor in 1975 which stated some of the problems and trends in the nursing home field with several suggested remedies, among which were: (a) A moratorium on building additional beds until the problem of permanent and adequate funds was resolved; (b) A reinstatement of the disenfranchised Alabama citizen who happened to come above an arbitrary figure to qualify for Mediciad; and (c) Work to have HEW restore family supplementation. To this date no changes have been made.

Most States have had problems with Medicaid funding over the years in spite of the fact that from 60–80 percent is being paid by the Federal Government. Now, with the stated purpose of President Reagan's Administration to cut back on costs in order to keep our Ship of State afloat, it is obvious that the Nursing Home Industry must expect their share of limited spending. With the stated purpose of putting a "cap" on the Federal portion of Medicaid it becomes obvious that a greater percentage of the costs must be borne by the States even if "Zero" new beds were built. And yet, the States continue to Certify that new beds are needed. Unbelievable!

It is obvious that we cannot stick our heads in the sand and expect the problem to go away! If we are to solve the problem which we are perfectly capable of doing as a nation, it will require the concerted effort and cooperation of the Federal Government, the State Governments and the Nursing Home Industry.

First of all, let us consider the facts which are before us:

Fact No. 1: We have a Greying America. Each day that passes 4,000 people in the U.S. reach the age of 65. Each day that passes, 3,000 people in the U.S. over the age of 65 die, thus we are netting an increase of 1,000 per day!

Fact No. 2: Limited Personal Resources. Most nursing home patients have very limited resources available to help with their care.

Fact No. 3: Limited Medicaid Eligibility. As hereinbefore stated. (In Alabama)

Fact No. 4: No Family Supplementation Permitted. This was phased out by HEW.

Fact No. 5: No Funding for Lower Level Care. Custodial Care which will be addressed in possible solutions to the problem.

Fact No. 6: Present State Funding Problems. A constant recurring problem with some States talking about elimination of ICF beds (which they have certified to be needed) or with some States applying an illegal percentage of Medicaid patients in a given facility.

Fact No. 7: Federal CAP on Medicaid. Plan as stated by Reagan Administration.

Fact No. 8: Resultant Increased State Deficits. All rising costs borne by the States.

Fact No. 9: Continued Increase in Number of Beds. States continue to issue Certificates of Need which escalates Medicaid costs.

Fact No. 10: A Projected Collapse of the Industry. Unless Facts No. 1 thru No. 9 are properly addressed immediately the entire industry could collapse within two years.

The situation which confronts the Nursing Home Industry is not a pleasant one but of greater concern and consequence is the problem with what to do with the growing multitudes in Greying America. One thing for certain is that America is not going to put the elderly and the infirm "out into the street". Therefore, we must find ways and means to solve the problem and we must act decisively and with all haste. It will require the cooperation of Federal, State and Industry officials to address the problems with all of the attendant ramifications.

While all the answers may not be readily apparent, it is believed that the proposals which follow could be a partial solution.

Asterisks denote:

*Federal Legislation Necessary.

**State Legislation Necessary.

A proposed pathway out of the wilderness:

Step No. 1: Limit the Growth of High-Cost Beds.

* **Immediately cease to issue any Certificates of Need for whatever reason. An immediate moratorium, if you please. Revoke any and all outstanding Con's that have not been fully implemented, meaning specifically unless permanent mortgage funds have been secured and at least $100,000.00 spent. In Mississippi alone, the number of beds increased from 10,659 in 1977 to 13,413 in 1979 or approximately 25 percent, or 12½ percent each year. This cannot continue with a concurrent solvency of the Federal and State Governments.

Step No. 2: Provide Funding for a Lower Level of Care.

*Custodial Care specifically which is nonnursing home care. The Physical plant could be much less costly. The charges for this level of care should be approximately one-half the cost of Nursing Home care. Patients who might need some nursing oversight could be attended to by a Home Health Care Nurse.

Step No. 3: Nursing Home Bed Needs Met by Resultant Vacancy.

As patients are transferred from existing Nursing Homes to a lower level of care, the resulting vacancies will provide for the growing needs for the Nursing Home care without building new more expensive beds. Thus, the growth which seems to be inevitable can be at one-half the cost to the Medicaid Program.

Step No. 4: Multiple Use of Existing Facilities.

*** Some States require a "Distinct Part" for Medicare and Medicaid Skilled Patients while others permit "Dual Certification" but in no case can any part of the building be used for purposes other than Nursing Care. Suppose, for example, that a portion of an existing facility could be used for custodial patients while the remaining portion(s) could be used for SNF and/or ICF patients. If this were permitted, it would be possible to fill all facilities which would lower the per diem.

Step No. 5: No Limit on Medicaid Eligibility.

**Make all Americans eligible for Nursing Home Care under Medicaid. For those in Alabama for example who have some $500.00 per month who cannot now qualify, use that $500.00 to help pay the $900.00 to $1,000.00 monthly cost.

Step No. 6: Restore Family Supplementation.

*** Families who can pay should pay a portion of the cost of care for their relatives. It could be related to a percentage of the cost such as 25 percent for example. If the total charges per month are $900.00, then the family portion would be $225.00.

Step No. 7: Nursing Home Care Insurance.

Encourage Insurance Companies to design plans for supplemental coverage as determined actuarily. Several plans could be made available to provide ¼, ½ of full coverage as subscribed. This could be the long-range plan to keep Medicaid afloat in the years ahead.

Step No. 8: Actuarial Studies.

With the facts presented on a Greying American, it is time that actuarial studies be made to determine among other things, the following:

(a) What are the projected numbers of elderly who will need Nursing Home Care each year for the next 20 years considering the expected attrition?

(b) Are patient resources expected to increase, decrease or remain fairly constant? This could have a significant impact on the future.

The following table of assumptions should give some food for thought:

Table No. 1—New Nursing Home Beds—1982:

Assume 50,000 new Medicaid Nursing Home Beds in the U.S.

Assume a total cost of only $30.00 per day.

The total additional cost for 1982 will be $547,500,000.

Assume present average Patient Resources of $200/Month.

Assume that this could be increased to $300/Month.

Assume Family Supplementation of $225/Month.

Present situation:

50,000 × 30 × 365	$547, 500, 000
Patient Resources	120, 000, 000
Total Medicaid Cost	427, 500, 000

Possible situation:

50,000 × 30 × 365	$547, 500, 000
Patient Resources	182, 500, 000
Family Supplementation	135, 000, 000
	317, 500, 000
Total Medicaid Cost	230, 000, 000

A possible savings of $197,500,000 per year! However, it should be remembered that the increased cost to medicaid is what is addressed in this table.

Table No. 2—Total Nursing Home Beds—1982:

According to information from the National Center for Health Statistics there were 1,383,600 Nursing Home patients in the U.S. in 1977. If the increase in the number of Nursing Home beds in Mississsippi from 1977 to 1979 is typical for the nation at 12 percent ± per year we may make the following assumptions:

Total Nursing Home Beds in the U.S. 1977, 1,383,600.

Total Nursing Home Beds in the U.S. 1978, 1,549,632.

Total Nursing Home Beds in the U.S. 1979, 1,735,588.

Total Nursing Home Beds in the U.S. 1980, 1,943,858.

Assume a present total of beds, 2,000,000.

Assume 60 percent Medicaid Beds, 1,200,000.

Assume $30/Day × 12,000,000 × 365 = $13,140,000,000.

Average Federal Medical Assistance percent = 60.1474 (say 60%).

Average State Medical Assistance percent = 40 percent.

Assume 20 percent could be Custodial = 240,000.

Present situation "A":

	In billions
1,200,000 Medicaid × 30 × 365	$13, 140
Patient Resources (at 200/Month)	2, 880
Total Medicaid cost	10, 260
60 percent FMAP	6, 157
40 percent SMAP	4, 104

Situation "B"—Restore family supplementation:

	$10,260
225 x 12 x 1,200,000	3,240
Total Medicaid cost	7,020
60 percent FMAP	4,212
40 percent SMAP	2,808

Situation "C"—20 percent custodial:

	7,020
240,500 x 15 x 365 (Amount saved)	1,314
Total Medicaid cost	5,706
60 percent FMAP	3,424
40 percent SMAP	2,282

By utilizing restored family supplementation and providing for custodial care the total medicaid dollars could be reduced by 4.5 billion dollars annually which would translate into the following:

FMAP (Federal)—2.7 Billion Savings.

SMAP (State)—1.8 Billion Savings.

Needless to say, this would allow for an annual growth of 12 percent in Nursing Home beds for several years before ever reaching the present "cap" as proposed.

CONCLUSION

It is obvious that we are faced with following alternatives:

1. Continue the impossible spiral in costs which will require increasing taxes, Federal and State.

2. Close all existing facilities and move the patients into the street.

3. A cooperative plan by Federal, State and Industry to equitably meet the needs of the Greying Americans.

The Federal and State Governments have gone on record as being opposed to Item 1.

The American conscience will not even entertain the consideration of Item 2.

It is evident that we really have only one alternative. We must immediately pursue every possible avenue to:

1. Analyze where we are.

2. Project where we are going.

3. Design a multi-faceted Health Care delivery system.

4. Change or modify laws both Federal and State to accomplish the desired ends.●

TRIBUTE TO ROBERT STRANGE McNAMARA

● Mr. SARBANES. Mr. President, when Robert S. McNamara steps down at the end of this month as President of the World Bank, his 13 years of service and leadership at that important institution leading the way for economic development will come to an end, but the public service of Robert McNamara will endure.

In every activity he has undertaken Mr. McNamara has been a dynamic force for leadership and public service. Bob McNamara is a dedicated public servant, taking on and excelling in the most demanding assignments. In an interview published in yesterday's New York Times, Mr. McNamara reaffirmed his commitment in these words:

I am willing to do anything that will be of assistance to either our government or other governments. I do believe in public service. I am interested in it, excited about it.

Whatever Bob McNamara undertakes, I am certain his leadership will exert a profound beneficial influence, for he is a true leader. Again his own words are most appropriate:

I see my position as being that of a leader. I am here to originate, to stimulate new ideas and programs. You've got to do things differently or else you're not improving them.

During his tenure the World Bank has enjoyed the most exciting, pioneering period of its history, thanks to Bob McNamara's dynamism. In his statement at the time of his resignation, Mr. McNamara noted that—

The World Bank has become by far the world's largest and most influential international development institution . . . responsible for providing economic advice and financial assistance to 100 developing countries with a combined total population of some 3.5 million people.

Perhaps of even greater significance than the growth measured in numerical terms was a change in emphasis from "economic programmes and investments directed simply towards maximising the rate of overall economic growth, to programmes and investments directed towards achieving that growth with equity." To meet these important goals Bob McNamara has guided the World Bank providing material assistance from the more subtle aspects of development such as education, public health, and rural development.

This focus of resources and technical assistance on the poor, raising their productivity and hence their output and real income will perhaps stand as one of Bob McNamara's most enduring contributions. The discovery that the resources of the Bank could be directed toward helping the poor and society simultaneously, is indeed his greatest accomplishment.

Bob McNamara will continue to serve as an adviser and board member to some of our most important institutions. I know we will all continue to benefit from his advice and counsel in the years ahead.●

GI BILL OF 1981

● Mr. ARMSTRONG. Mr. President, in this time of economic crisis at home, and rising tension abroad, we no longer can afford to ignore a simple, practical, proven measure which will save us money while it strengthens our defense.

President Reagan is prepared to go to historic and heroic lengths in his efforts to slow inflation and to get our economy growing again. The cutbacks he has proposed in domestic Federal spending are unprecedented in postwar American history. Already, the wails of anguished special interest groups are being heard throughout the land.

The President also is striving manfully to rebuild our shattered defenses in the face of an ominously growing Soviet threat. He has announced plans to spend the mind boggling sum of $1.2 trillion on defense—more than the United States has spent on defense from the birth of our Republic through the Korean war—in the next 5 years alone.

Few doubt the need for a defense buildup approaching the magnitude the President has proposed, but many fear we can not spend so much on defense in so short a time without catastrophic consequence for the President's plans for fighting inflation and stimulating economic growth.

Our defense needs are legion: We are building new fighter aircraft at a rate below the rate at which older aircraft are being retired from service; our Navy has shrunk by a third at a time when its commitments have grown; the Soviet Union has four times as many tanks as we have, and is producing new tanks at a faster rate then we are.

But our most critical defense need—overshadowing all the others—is for more and better military manpower. History has shown us time and time again that good people can get a lot of mileage out of inferior equipment. But all the military hardware in the world is only so much icing on a hot cake without the right numbers of the right kind of men and women to operate it.

The President has shown his appreciation of the primacy of the military manpower problem by giving his enthusiastic support to a substantial increase in pay and benefits for our career servicemen and women, especially our long-suffering noncommissioned officers (NCO's).

This pay increase will be expensive—about $4.2 billion in the next fiscal year—but is absolutely essential if we are to retain the servicemen with the special skills and experience required to operate the sophisticated equipment we have become increasingly dependent upon.

The proposed October pay raise largely will resolve the problem of retention, which has been the lion's share of the military manpower problem. But there will remain, especially in the Army, the increasingly serious problem of recruitment.

This is more a problem of recruit quality than it is of quantity. We are obtaining enough volunteers to maintain authorized peacetime strengths. The problem is that many of these volunteers have neither the aptitude nor the attitude required to properly perform their military duties.

Equally ominous for the Armed Forces of a democracy is the increasing disparity in the sociological mix of the enlisted grades from society as a whole. Our Army is becoming an army of the poor and the black defending a society that is predominantly white and middle class.

There are many, including the editors of the Wall Street Journal, who believe this problem cannot be solved without a return to peacetime conscription. But I believe they are mistaken.

The chief cause of the manpower problem has not been a return to our historic tradition of a volunteer military in peacetime, but years of pay caps, pay compressions, and neglect from Congress and preceding administrations that have driven military wages so low that patriotic servicemen have had to choose between their duty to their country, and their duty to their families.

The recruitment problem stems from a different source: The attitude of many of the architects of the All-Volunteer Force that service in the Armed Forces is a job like any other job, and that the ranks can be filled by young men and women responding to "marketplace incentives," chiefly cash up front.

Such a notion is insulting to our servicemen and women and dangerous to the security of our country.

If we describe service in the Armed

Forces as little different from clerking at the five-and-dime or pumping gas at the local filling station, then the upwardly mobile young men and women we need so badly will continue to ignore military service in favor of better paying jobs.

But if we present military service as a patriotic duty; as a rewarding, fulfilling experience in itself, and as a means of obtaining a step up on the ladder of success, then we will be able to obtain, voluntarily, the citizen-soldiers we require to keep our defenses strong.

What we require to make the Volunteer Force work is an incentive to convert the latent patriotism of our young people into a visit to the recruiting station; some reasonable compensation for deferring their career objectives for the 2, 3, or 4 years required to discharge their obligation to serve their country.

We need a new GI bill of rights.

It must be emphasized that the GI bill is not an untested theory, but a tried and proven alternative to both continued reliance on "marketplace incentives," and a return to the draft.

The plunge in recruit aptitude did not begin, as draft advocates suggest, when the draft ended in 1972; it happened after Congress terminated eligibility for the Vietnam-era GI bill in 1976.

The fourth quarter of the year is usually the poorest recruiting period for the Armed Forces. But the period between October 20, 1976, when termination of eligibility for the GI bill was announced, and December 31, when termination went into effect, was the best recruiting quarter in the history of the AVF.

We cannot say we didn't know this would happen. In September 1974, the Army took a comprehensive survey at Armed Forces entrance examining stations throughout the country. That survey revealed termination of the GI bill would reduce the pool of potential Army recruits by as much as 36.7 percent, all right off the top.

Prof. Charles Moskos of Northwestern University, the distinguished military sociologist who has done more and better work in this area than any other, estimates a properly drafted GI bill would increase by 50,000 to 100,000 the number of high-quality volunteers entering the Armed Forces each year, more than enough to offset the shortages that have plagued the Army in recent years, and to replace 15,000 to 20,000 volunteers in the lowest mental category with volunteers of greater aptitude.

And as it strengthens our defenses, a new GI bill will be saving taxpayers hundreds of millions of dollars.

It is almost as expensive not to have a GI bill as it is to have one. The Army is very concerned about its problem of attrition—servicemen who are found unfit for military service and are given administrative discharges prior to completion of their term of obligated service. High school dropouts attrit at half the rate of high school graduates, and college-eligible high school graduates attrit at only a fraction of the rate of high school graduates as a whole. The General Accounting Office estimates that each serviceman who attrits costs taxpayers $12,000. But the estimated per capita cost of providing a 4-year GI bill is only $10,000. So each time we replace a potential attritee with a GI-bill-motivated volunteer, we will be saving the taxpayer money.

Moskos estimates the countervailing savings to the Department of Defense as a result of enactment of a new GI bill could be as high or higher than $750 million a year. This includes savings through reduced attrition, plus savings in training costs—smarter people are easier to train; fewer disciplinary problems—high school graduates get into trouble less frequently than dropouts; and lower costs relating to the provision of benefits to dependents of married junior enlisted personnel—high school graduates are far more likely to be single.

Estimates for the stabilized annual outlays for the GI bill, by contrast, range from $750 million a year to $1.5 billion a year, depending on the level of benefits provided and estimates of their utilization. This means the net cost of the GI bill would range from zero to $750 million a year—about one-sixth of what we are now spending on the six direct loan and grant programs administered by the Department of Education.

But it would take at least 6 or 7 years for the GI bill to reach that stabilized annual cost. There would be no cost at all for 2 years, since potential beneficiaries would all be in the service earning their entitlement. Outlays would begin at about $200 million in the third fiscal year after enactment, and rise by slightly greater than that amount each year for 4 years, until there were four classes of beneficiaries in school at the same time.

The countervailing savings, on the other hand, would begin almost immediately. This means that for at least 4 and possibly for 5 years the annual savings resulting from enactment of a new GI bill would be greater than the outlays for it. It would take 8 or 9 years before the total outlays for the GI bill would overtake the savings it would generate.

In the long run, of course, the GI bill cannot help but be a good deal for the taxpayer. No definitive research has been done in this area, but those most knowledgeable guess that beneficiaries of the World War II GI bill ultimately will return to the Federal Treasury in higher tax payments as a result of their greater earning power about three times what it cost to provide them with their education. While we cannot expect anything approaching a commensurate return for a new GI bill—the economic, if not the psychic, benefits of a college education having declined since then—we have no reason to suppose that today's GI bill-educated veterans will not return to the Treasury more than what it cost to educate them.

Enactment of a new GI bill can do the Nation yet another service: it could be the first step in establishment of a system of voluntary national service, which would pay the Nation big dividends in areas far removed from the national defense. If we can move to a system of affirmative action where society's rewards and honors are based not on inherent characteristics such as race or sex, but on service to the Nation performed, that alone would be reason enough for it. When we add to this distant goal the fact that a new GI bill can solve our military recruitment problem without a wrenching and divisive resort to peacetime conscription, and can save us up to $3 billion in the next 2 critical fiscal years, it is easy to understand why enactment of a new GI bill of rights is the most important piece of defense legislation Congress can adopt this year.

HOUSING CRISIS DUE TO HIGH INTEREST RATES

o Mr. SASSER. Mr. President, this Nation's housing industry has been devastated by the continuing high level of interest rates we have experienced since October 1979 when the Federal Reserve Board embarked on its present tight money policy.

I have spoken out early and often on the need to bring interest rates down and thereby ease the housing crisis we are now experiencing.

My own State of Tennessee should be building about 60,000 housing units a year to meet the needs of a growing and changing population.

But in 1979, we fell about 20,000 units short of that goal and in 1980, we missed this goal by about 27,000 units. And unless our interest rates come down, we will continue to miss that mark, further denying the opportunity for young and middle-class Tennessee families to own their homes.

Mr. President, the American people are looking to the Congress and the President to take effective action in alleviating the housing crisis. That is the message contained in a recent editorial by the Nashville Banner which I ask to be printed at the conclusion of my remarks.

So let us move forward with the monetary and financial policies that are so necessary to bring down high interest rates and bring new life to the Nation's housing industry.

The editorial follows:

[From the Nashville Banner, June 5, 1981]

We Are in a Housing Crisis, and Washington Must Act

This Nation's burgeoning housing crisis continues its perilous route with the disclosure that in April the average cost of a new house reached an appalling record $84,000. At prevailing mortgage rates of 15.25 percent, the monthly principal and interest payment on that average house, with 10 percent down and a 25-year mortgage, would be $943.49.

The Census Bureau and the Department of Housing and Urban Development found the average price of a new house somewhat lower in the South—$76,100. But elsewhere, regional averages exceeded the national figure. In the Northeast, it was $94,700. In the West, it was $91,400. And in the North Central states, the average was $90,700.

Inflation has increased the cost of the government's "constant house" of 1,700 square feet from $54,200 in 1977 to $79,900 after the first quarter of this year, and to $84,000 by April, when new-house sales fell 14 percent from March to 42,000, the second lowest monthly figure in 11 years, according to the National Association of Home Builders.

The rising costs of material and labor, plus steep interest rates for money to finance construction, have put Tennessee in an un-

precedented housing crisis for the next five years, unless 60,000 dwellings are built each year, said E. V. King, executive director of the Tennessee Housing Development Agency.

Statewide housing starts—private homes, apartments and mobile homes—dropped to 33,200 in 1980 from 40,500 in 1979, a THDA report shows. In 1978, there were 49,200 dwellings built in the state. Contributing to the growing housing shortage is the increase in apartment rents as availability of vacant apartments declines.

Mr. King said that "to cope with the housing shortage, a lot of young people are going to stay at home and live with their parents instead of renting or buying a home. And there will be an increase of people living together who are unrelated, but who can't find affordable living space. The long-term effect is not a good thing because in overcrowded conditions over a period of time people act out their hostilities in more violent terms."

Tennesseans with the lowest incomes will have the least chance to get adequate, affordable housing, said THDA research coordinator Carl R. Siegrist, Jr. His view was reinforced by Bob Sheehan, director of economic research for the home builders association, who said fewer than 3 percent of American families can afford to buy the average house. The main cause is the rise in new-home mortgage rates—247 percent in the past 11 years (as against a 104 percent rise in monthly earnings) plus escalating costs of material and labor, fueled by inflation, which caused new house costs to double in the past seven years. In January, the house that cost $76,300 could have been purchased for $38,900 in 1974.

The result is that developers are making great efforts—including "bargain" prices—to sell what they have rather than anything new. "As long as you have high interest rates, people are not beating on the doors to buy," commented Michael Sumichrest, the chief economist for the home builders association. "Financing is hard for buyers to get. It's not a very good way to do business."

In a full-page advertisement appearing in newspapers recently, the National Association of Realtors praised President Reagan for his leadership in attempts to slow government spending and thus help overcome inflation. The Realtors hope for a 2 percent decrease in inflation, a lowering of interest rates by 1 to 2 points, the provision of 2 milliion additional new homes, creating the opportunity for an added 4 million families to upgrade existing housing and producing 1 million new jobs and a balanced budget by 1984, which, they said, "would put us on the road to beat inflation and provide housing for many more Americans."

The Realtors pointed out that the nation is "desperately short of housing. We entered the 1980s more than a million houses behind. By the end of this year, we'll be short by more than 2 million. Just to keep pace with new families formed in the '80s, Americans must build at least 2 million homes each year."

Last year, the Realtors said, competition for housing and for financing drove up the typical home buyer's monthly payment from $460 to $630—a 35 percent increase long since eclipsed this year.

"Clearly, the dream of home ownership is fading for most Americans who don't already own a home," the Realtors said. "The battle for spending reductions is also the battle to earn tax relief. Tax relief must be tied to spending reductions to reduce the deficit and lower inflation and interest."

The Metro Department of Codes Administration said that in February residential construction permits in Nashville were for only 60 living units to cost $3.2 million, compared to 106 permits in February last year at $3.9 million. The slump in housing is taking a growing toll, not only in Nashville but nationwide, from sawmills to cement plants, from appliance stores to real estate firms.

Members of Congress on both sides of the aisle must agree there is a housing crisis of major proportions. Unless the pressures that have been building in recent years are relieved, the growing crisis will not abate and indeed may easily become explosive. The place to start is in Washington, and the time to start is now.●

STATE AND LOCAL GOVERNMENTS NEED AUTHORITY TO GO FORWARD WITH MORTGAGE REVENUE BOND PROGRAM

● Mr. SASSER. Mr. President, on June 9, along with Senators BAKER, BUMPERS, PRYOR, PELL, and PACKWOOD, I introduced legislation to amend the Mortgage Subsidy Bond Tax Act of 1980 in order to permit State and local governments to proceed with the issuance of mortgage revenue bonds for single and multifamily homes. Since June 9, Senators CHAFEE, MELCHER, DURENBERGER, ABDNOR, and HUDDLESTON have joined in cosponsoring S. 1348.

The importance of this legislation is highlighted by a recent analysis of the tax-exempt housing bond situation by Mr. Grady Haynes, chairman of the Tennessee Housing and Development Agency (THDA).

Mr. Haynes has served on THDA since 1973 and has been chairman of THDA since 1980. Grady Haynes has also been a former president of the Tennessee Building Materials Association and is a past president of the National Lumber and Building Materials Dealers Association. Grady Haynes knows the housing business, and his analysis of the need for the passage of S. 1348 attests to that fact.

Mr. President, I ask that Mr. Haynes' statement, "The Use of Tax Exempt Housing Bonds to Finance Single Family Housing," be printed in the RECORD at this point.

The statement follows:

USE OF TAX EXEMPT HOUSING BONDS TO FINANCE SINGLE FAMILY HOUSING

(By Grady R. Haynes)

The nation's low and moderate income homebuyers—and housing industry—would benefit under legislation introduced recently in Congress.

Sponsored by a bipartisan group of lawmakers, H.R. 3614 and S. 1348 offer technical "clean up" amendments to the Mortgage Subsidy Bond Tax Act passed in 1980. The legislation addresses several areas in the new bond law which have prevented housing finance agencies from issuing any bonds for single family housing this year.

The inability of the agencies to sell housing bonds has been a major contributing factor to the extremely low value of 1981 housing starts in our country. During 1979 and 1980, about $9.5 billion in housing bonds were issued each year to finance the purchase of single family homes for low and moderate income families. And, by this time last year, over $5 billion of these bonds had been issued. However, this year's "zero" bond-issuance has combined with high interest rates to seriously stymie low and moderate income homebuyers and the housing industry.

Relief for those homebuyers and the housing industry is being proposed through the "clean up" legislation—H.R. 3614 introduced by Rep. John Duncan (R-Tn.) and S. 1348 introduced by Sen. Jim Sasser (D-Tn.). Cosponsors on the Senate bill include Sens. Howard Baker (R.-Tn.), Dale Bumpers (D-Ark.), Bob Packwood (R-Oregon), Claiborne Pell (D-R.I.), and David Pryor (D-Ark.).

The federal law that became effective January 1, 1981 limits the total amount of tax exempt housing bonds issued by any state to finance single family housing to the greater of $200 million or 9% of the average of the total mortgages made to finance single family housing in a state over the past three years.

When this bill was debated in Congress, it was estimated that $188 billion worth of single family mortgages were originated throughout the country during the calendar year of 1979. If one assumes that this represents the average of the last three years—then Congress intended to permit $16.9 billion worth of these bonds to be issued this year. This would finance the purchase of approximately 325,000 homes (new and existing)—after the price restrictions under the new act are applied.

The total impact of bond-financed loans on the housing industry will be even greater than the numbers indicate because many of these loans will be used to finance the sale of low-priced existing homes, releasing the equity that has been accumulated by the present owner. The equity, in turn, will be used to purchase a better used home, or a new home—thereby increasing the sale of homes in all price categories. This "ripple" effect can be easily confirmed by any agency that has used housing bonds to finance single family housing in the past few years. Many Tennessee private lenders who originate and service THDA single family loans estimate they will make at least one larger regular loan for each Agency loan they originate. The very large dollar volume of equity released from the sale of existing homes is often overlooked by economists and its effects on the housing industry have been greatly underestimated.

With average rates for regular mortgage financing now a little over 16%, very few families can afford to meet the required monthly mortgage payments. If single family bonds could be issued by housing agencies at this time, their interest rate would be from 11.5% to 12%. The exact interest rate would be determined by the price the agency receives for its bonds, reflecting the condition of the bond market on the day of the sale. At the lower rates, many more families would be able to qualify to purchase their home.

The quick passage of H.R. 3614 and S. 1348 should be urged—and given top priority—by everyone in the shelter industry. It should also continue to receive bipartisan support in Congress.

While some states and local governments have not yet issued any housing bonds for single family homes, nearly all of the state housing agencies are now in a position to quickly get their programs underway. Many local governments also have their programs ready. Thus, low and moderate income homebuyers will find relief and the housing industry will get a big and quick boost—as soon as the "clean up" legislation passes and the necessary regulations are issued by the Treasury Department.

Mr. SASSER. Mr. President, I would urge that any Senator wishing to cosponsor S. 1348 contact Cathy Anderson of my staff at 224-9546.●

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired.

DEPARTMENT OF JUSTICE AUTHORIZATIONS, 1982

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, S. 951, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 951) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes.

AMENDMENT NO. 96 TO AMENDMENT NO. 69

The PRESIDING OFFICER. Under the previous order, the Senator from North Carolina (Mr. HELMS) is recognized.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DANFORTH). Without objection——

Mr. CHAFEE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to call the roll.

Mr. HELMS. Mr. President, I did not understand the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island objected.

Mr. HELMS. I see. Very well.

The PRESIDING OFFICER. The clerk will continue with the quorum call.

The assistant legislative clerk continued to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 951, to which are pending two amendments offered by the Senator from North Carolina.

Mr. HELMS. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, may I ask the Chair what is the pending business.

The PRESIDING OFFICER. The pending business is S. 951 to which are pending two amendments offered by the Senator from North Carolina.

Mr. HELMS. I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATHIAS). Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 96 (AS MODIFIED)

(Purpose: To prohibit the Department of Justice from maintaining suits involving directly or indirectly, the mandatory busing of schoolchildren and to establish reasonable limits on the power of courts to impose injunctive relief involving the transportation of students)

Mr. HELMS. Mr. President, I send to the desk a modification of the pending amendment and ask that it be stated.

The PRESIDING OFFICER. The Senator may modify his amendment.

The modification will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes a modification of his amendment numbered 96.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modified amendment is as follows:

In lieu of the language proposed to be inserted by the amendment of the Senator from North Carolina, Mr. Helms, insert the following:

minus $37,653,000;

(C) financial assistance to joint State and joint State and local law enforcement agencies engaged in cooperative enforcement efforts with respect to drug related offenses, organized criminal activity and all related support activities, not to exceed $12,576,000, and to remain available until expended: $50,229,100;

(D) No part of any sum authorized to be appropriated by this Act shall be used by the Department of Justice to bring or maintain any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped.

Section 2.5. (a) This Section may be cited as the "Neighborhood School Act of 1981."

(b) The Congress finds that—

(1) court orders requiring transportation of students to or attendance at public schools other than the one closest to their residences for the purpose of achieving racial balance or racial desegregation have proven an ineffective remedy and have not achieved unitary public school systems and that such orders frequently result in the exodus from public school systems of children which causes even greater racial imbalance and diminished support for public school systems;

(2) assignment and transportation of students to public schools other than the one closest to their residences is expensive and wasteful of scarce supplies of petroleum fuels;

(3) the assignment of students to public schools or busing of students to achieve racial balance or to attempt to eliminate predominantly one race schools is without social or educational justification and has proven to be educationally unsound and to cause separation of students by race to a greater degree than would have otherwise occurred:

(3½) there is an absence of social science evidence to suggest that the costs of school busing outweigh the disruptiveness of busing;

(4) assignment of students to public schools closest to their residence (neighborhood public schools) is the preferred method of public school attendance and should be employed to the maximum extent consistent with the Constitution of the United States.

(c) The Congress is hereby exercising its power under Article III, section I, and under section 5 of the Fourteenth Amendment.

LIMITATION OF INJUNCTIVE RELIEF

(d) Section 1651 of title 28, United States Code, is amended by adding the following new subsection (c):

"(c)(1) No court of the United States may order or issue any writ directly or indirectly ordering any student to be assigned or to be transported to a public school other than that which is closest to the student's residence unless—

"(i) such assignment or transportation is provided incident to the voluntary attendance of a student at a public school, including a magnet, vocational, technical, or other school of specialized or individualized instruction; or

"(ii) the requirement of such transportation is reasonable.

"(2) The assignment or transportation of students shall not be reasonable if—

"(i) there are reasonable alternatives available which involve less time in travel, distance, danger, or inconvenience;

"(ii) such assignment or transportation requires a student to cross a school district having the same grade level as that of the student;

"(iii) such transportation plan or order or part thereof is likely to result in a greater degree of racial imbalance in the public school system than was in existence on the date of the order for such assignment or transportation plan or is likely to have a net harmful effect on the quality of education in the public school district;

"(iv) the total actual daily time consumed in travel by schoolbus for any student exceeds 30 minutes unless such transportation is to and from a public school closest to the student's residence with a grade level identical to that of the student; or

"(v) the total actual round trip distance traveled by schoolbus for any student exceeds 10 miles unless the actual round trip distance traveled by schoolbus is to and from the public school closest to the student's residence with a grade level identical to that of the student."

DEFINITION

(e) The "school closest to the student's residence" with "a grade level identical to that of the student" shall, for purpose of calculating the time and distance limitations of this Act, be deemed to be that school containing the appropriate grade level which existed immediately prior to any court order or writ resulting in the reassignment by whatever means, direct or indirect including rezoning, reassignment, pairing, clustering, school closings, magnet schools or other methods of school assignment and whether or not such court order or writ predated the effective date of this legislation.

SUITS BY THE ATTORNEY GENERAL

(f) Section 407(a) of title IV of the Civil Rights Act of 1964 (Public Law 88-352, section 407(a); 78 Stat. 241, section 407(a); 42 U.S.C. 2000c-6(a)), is amended by inserting after the last sentence the following new subparagraph:

"Whenever the Attorney General receives a complaint in writing signed by an individual, or his parent, to the effect that he has been required directly or indirectly to attend or to be transported to a public school in violation of the Neighborhood School Act and the Attorney General believes that the complaint is meritorious and certifies that the signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief, the Attorney General is authorized to institute for or in the name of the United States a civil

action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder."

(g) For the purpose of this Act, "transportation to a public school in violation of the Neighborhood School Act" shall be deemed to have occurred whether or not the order requiring directly or indirectly such transportation or assignment was entered prior to or subsequent to the effective date of this Act.

(h) If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

(i) It is the sense of the Senate that the Senate Committee on the Judiciary report out, before the August recess of the Senate, legislation to establish permanent limitations upon the ability of the federal courts to issue orders or writs directly or indirectly requiring the transportation of public school students.

Mr. WEICKER. Mr. President, I ask for the yeas and nays on the amendment as modified.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, the distinguished and able Senator from Louisiana (Mr. JOHNSTON) and I conferred over the weekend with a number of other Senators, including the Senator from North Carolina (Mr. EAST), the Senator from Utah (Mr. HATCH), the Senator from South Carolina (Mr. THURMOND), the Senator from Delaware (Mr. BIDEN), and others; and I have agreed to accept the amendment of the Senator from Louisiana as a modification of my amendment.

It occurs to me that the Senator from Louisiana might wish to discuss the provisions of his amendment at this time; and when he has done that, I will want to pose a few questions to him.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. I thank the distinguished Senator from North Carolina.

Mr. President, this amendment, which is offered on behalf of myself and the Senator from North Carolina, as well as Senators HATCH, THURMOND, EAST, STENNIS, BENTSEN, CANNON, MATTINGLY, EXON, ANDREWS, LAXALT, NICKLES, JEPSEN, and DECONCINI, is a compromise amendment to that I had originally intended to offer.

Mr. President, at this point, I ask unanimous consent to have printed in the RECORD, for the purpose of comparison, the original amendment I had intended to offer.

Mr. WEICKER. Mr. President, reserving the right to object, what is it? I was in conversation.

Mr. JOHNSTON. I asked unanimous consent to have printed in the RECORD, for the purpose of comparison, the original amendment I had intended to offer.

Mr. WEICKER. I have no objection.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the end of the amendment to the bill add the following new section:

"Section ——. (a) This section may be cited as the "Neighborhood School Act of 1981."

(b) The Congress finds that—

(1) court orders requiring transportation of students to or attendance at public schools other than the one closest to their residences for the purpose of achieving racial balance or any racial composition have been an ineffective remedy and have not achieved unitary public school systems and that such orders frequently result in the exodus from public school systems of children which causes even higher racial imbalances and less support for public school systems;

(2) assignment and transportation of students to public schools other than the one closest to their residences is expensive and wasteful of scarce supplies of petroleum fuels;

(3) the pursuit of racial balance or racial composition at any cost is without constitutional or social justification and that the assignment of students to public schools or busing of students to achieve racial balance or to attempt to eliminate predominantly one race schools has been overused by courts of the United States and is in many instances educationally unsound and causes separation of students by race to a greater degree than would have otherwise occurred;

(4) assignment of students to public schools closest to their residence (neighborhood public schools) is the preferred method of public school attendance and should be employed to the maximum extent consistent with the Constitution of the United States.

(c) The Congress is hereby exercising its power to enforce, by appropriate legislation, the provisions of fourteenth amendment.

LIMITATION OF INJUNCTIVE RELIEF

(d) Section 1651 of title 28, United States Code, is amended by adding the following new subsection (c):

"(c)(1) No court of the United States may order or issue any writ ordering directly or indirectly any student to be assigned or to be transported to a public school other than that which is closest to the student's residence unless—

"(i) such assignment or transportation is provided incident to attendaance at a 'magnet', vocational, technical, or other school of specialized or individual instruction;

"(ii) such assignment or transportation is provided incident to the voluntary attendance of a student at a school; or

"(iii) the requirement of such transportation is reasonable.

"(2) The assignment or transportation of students shall not be reasonable and a court of the United States shall not directly or indirectly issue any writ ordering the assignment or transportation of any student if—

"(i) there are reasonable alternatives available which involve less time in travel, distance, danger, or inconvenience;

"(ii) such assignment or transportation requires a student to cross a school district having the same grade level as that of the student;

"(iii) such transportation plan or order or part thereof is likely to result in a greater degree of racial imbalance in the public school system than was in existence on the date of the order for such assignment or transportation plan or is likely to have a net harmful effect on the quality of education in the public school district;

"(iv) the total actual daily time consumed in travel by schoolbus for any student exceeds by 30 minutes the actual daily time consumed in travel by schoolbus to and from the public school with a grade level indentical to that of the student and which is closest to the student's residence; or

"(v) the total actual round trip distance traveled by schoolous for any student exceeds by 10 miles the total actual round trip distance traveled by schoolbus to and from the public school closest to the student's residence and with a grade level identical to that of the student.".

DEFINITION

(e) The "school closest to the student's residence" with "a grade level identical to that of the student" shall, for purpose of calculating the time and distance limitations of this Act, be deemed to be that school containing the appropriate grade level which existed immediately prior to any court order, decree or writ resulting in the reassignment by whatever means, including rezoning, reassignment, pairing, clustering, school closings, magnet schools or other methods of school assignment and whether or not such court order, decree or writ predated the effective date of this legislation.

SUITS BY THE ATTORNEY GENERAL

(f) Section 407(a) of title IV of the Civil Rights Act of 1964 (Public Law 88-352, section 407(a); 78 Stat. 241, section 407(a); 42 U.S.C. 2000c-6(a)), is amended by inserting after the last sentence the following new subparagraph:

"Whenever the Attorney General receives a complaint in writing signed by an individual, or his parent, to the effect that he has been required directly or indirectly to attend or to be transported to a public school in violation of the Neighborhood School Act and the Attorney General believes that the complaint is meritorious and certifies that the signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief, the Attorney General is authorized to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder."

(g) For the purpose of this Act, "transportation to a public school in violation of the Neighborhood School Act" shall be deemed to have occurred whether or not the order requiring directly or indirectly such transportation or assignment was entered prior to or subsequent to the effective date of this Act.

(h) If any provision of this Act, or the application thereof to any person or circumstance, is held in valid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

Mr. JOHNSTON. Mr. President, the amendment, as offered, exercises the power of Congress under section 5 of the 14th amendment and under article III of the Constitution.

Section 5 of the 14th amendment authorizes Congress to enforce, by appropriate legislation, the provisions of the 14th amendment. Article III provides that Congress shall provide for a system of inferior Federal courts and may provide for the jurisdiction of the Supreme Court, with such exceptions and with such regulations as Congress may provide.

These two provisions of the Constitution, we believe, give Congress wide latitude in what we are permitted to do in terms of enforcement of the 14th amendment.

The 14th amendment, of course, prohibits any State from denying any person of due process or equal protection. These operative words have been used by the Supreme Court, first, in the case of Brown against Board of Education, in 1954, to provide for the desegregation of schools.

Later in 1970 and 1971, the Supreme Court in the Green and Swann cases originating in North Carolina provided, in effect, that you must go beyond simple desegregation and eliminate, "root and branch" was the phrase, segregation in schools. The Court went further, in effect, to say that this elimination of segregation would require in some instances the busing of children.

Mr. President, this was a brave experiment of the Court, taken as against a background of the overriding national need to eliminate segregation, a goal to which I and I think the overwhelming majority of the Members of this Senate are committed. We want and are steadfast in our desire to do away with segregation in public schools and to permit access of all students on an equal and just basis to educational opportunities.

However, Mr. President, the brave experiment of the Green and Swann cases and its progeny has not worked, and it is time that this Congress recognize that this has not worked. It has not worked not only educationally, but it has not worked to achieve that goal of desegregation of public schools.

Mr. President, because of the Green and Swann cases and because of the extent to which the Supreme Court has gone, American education is now in turmoil. In my own State of Louisiana in Rapides Parish, or county, as it would be called in other States, what I call the brave experiment of school desegregation has been carried to the absolute ridiculous extreme of having children bused by court order between 30 and 40 miles in one direction, resulting in not only massive opposition of white students but massive opposition of black students as well, to the extent that in this particular area—and my colleagues will remember on CBS news when this was a running feud stretching over some weeks—the black and white students together formed a private school with black and white teachers in order to avoid this order of 30- to 40-mile busing.

So, Mr. President, in order to avoid that kind of ridiculous result what we have done is exercised those powers under section 5 of the 14th amendment as well as under article III of the Constitution to put limits on the degree to which courts can order this busing.

Mr. President, I allude to the fact that the Judiciary Committee is in the midst of hearings on this matter. We have had on my bill, and the original form of this amendment was offered as a bill in this Congress with a number of coauthors as S. 528, hearings in the Judiciary Committee. Nevertheless, the Judiciary Committee is continuing with hearings on this very difficult subject matter.

And it is the feeling of the many members of that Judiciary Committee, including Senator HATCH, that given more time with further hearings and with further consideration of this matter a more definitive resolution of this whole matter can be arrived at, so it is in that sense that Senator HATCH and Senator EAST have asked that we include the following provision as the last provision of this amendment:

It is the sense of the Senate that the Senate Committee on the Judiciary report out before the August recess of the Senate legislation to establish permanent limitations upon the ability of Federal courts to issue orders or writs directly or indirectly requiring the transportation of public school students.

This means that if this amendment passes and becomes law then the Judiciary Committee will be charged before the August recess with reporting out legislation which will be more definitive in nature, the shape of which I believe, Mr. President, will probably prohibit busing altogether, also using two provisions just referred to, that is, section 5 of the 14th amendment as well as article III of the Constitution.

Mr. President, the amendment as offered provides that after making certain findings as to the nonworkability of busing, findings of fact which the Constitution and the Supreme Court has said on a number of occasions that Congress is particularly well suited to do, we make certain findings of fact to the effect that busing has not been an effective remedy, to achieve desegregation of public schools because of the phenomenon of white flight and also because it is unsound education.

We further provide that no court may issue an order directly or indirectly ordering any student to be assigned to any school other than the school closest to his place of residence, unless, first, that the assignment is incident to the voluntary attendance of the student at the school, or second, that the requirement of transportation is reasonable. So in effect what we have done is prohibit court orders for busing unless that assignment is reasonable.

We further define "reasonable" to provide that the assignment or transportation of students shall not be reasonable if, first, there are reasonable alternatives which involve less time and travel, distance, danger or inconvenience; second, such assignment or transportation requires a student to cross a school district having the same grade level as that of the student, and by crossing a school district we mean to go from A, across B to district C. That would be prohibited and would be declared to be unreasonable. And, third, that such transportation plan or order or part thereof is likely to result in a greater degree of racial imbalance in the public school system than was in existence on the day of the order or is likely to have a net harmful effect on the quality of education.

What this means of course is that if the courts in their experience—and they are qualified I think to make these kinds of adjustments—should determine that to order busing to a certain extent would not result in desegregation, that the students would be likely not to go as they were in Rapides Parish when they closed the Forest Hill School, then the court in that instance is prohibited from ordering the busing because it would be declared unreasonable.

We further provide, Mr. President, that the assignment or transportation of students shall not be reasonable if the total actual daily time consumed in travel by school bus for any student exceeds 30 minutes, unless such transportation is to and from a public school closest to the student's residence with a grade level identical of that of the student, or if the total actual round trip distance traveled by school bus for any student exceeds 10 miles unless the actual round trip distance traveled by school bus is to and from the school closest to the student's residence with a grade level identical to that of the student.

We further define the school closest to the student's residence with a grade level identical to that of the student for purpose of calculating these time and distance limitations to be deemed to be that school containing the appropriate grade level which existed immediately prior to any court order or writ resulting in the assignment by whatever means directly or indirectly including rezoning, reassignment, pairing, clustering, school closing, magnet schools or other methods of school assignment and whether or not such court order or writ predated the effective date of this legislation.

To explain briefly what this means, Mr. President, we provide that you cannot bus where the total actual time exceeds 30 minutes or 10 miles round trip, 30 minutes or 10 miles. We provide that you can exceed 30 minutes or 10 miles if the transportation is to the school closest, with the appropriate grade level and we define school closest with the appropriate grade level to be that school with that grade level which existed prior to the court order if they are now under court order. So that, for example, if in 1980 a court ordered a school closed as, let us say, in Rapides Parish, La., so that that school is now closed that school would, nevertheless, be considered to be the school closest for the purpose of this amendment in calculating what the school closest is.

Further we provide, Mr. President, that the Attorney General of the United States is empowered to enforce the limitations of this amendment in precisely the same way as the Attorney General now enforces the provisions of the Civil Rights Act of 1964; that is to say upon the receipt of a complaint by any student that he is being bused in excess of the limitations of this amendment, then the Attorney General is empowered to bring a suit or to intervene in a suit in behalf of that student to prevent that busing.

In effect, what this means, Mr. President, is two things: It is, first, the Attorney General can enforce the personal right of that student who is now given a right not to be bused in excess of these distances; and, second, it provides, in effect, for a retroactive effect; that is, if

there were a court order last year or 5 years ago which provides for this busing and if that busing is in excess of the limits provided in this amendment, then the Attorney General or indeed the student on his own behalf could bring a suit or intervene in a suit to seek that relief.

We make it explicitly clear that the amendment will have retroactive effect by providing that for the purpose of this act transportation to a public school in violation of the Neighborhood School Act shall be deemed to have occurred whether or not the order requiring directly or indirectly such transportation or assignment was entered prior to or subsequent to the date of this act.

We further provide, of course, for a severability provision so that if any provision of this amendment in any particular circumstance is rendered illegal or unconstitutional the remaining provisions of the amendment will not be affected.

Mr. President, I think it is a very fair and appropriate question to ask why this amendment; if in effect busing has been shown to not be workable as we believe the overwhelming evidence so revealed, why was the amendment in the first instance and why this amendment as a compromise amendment does not prohibit all busing in all circumstances?

Mr. President, there is a great difference of opinion among legal scholars as to what the proper reach of the powers of Congress are under the Constitution. There are some legal scholars who believe that Congress under section 5 of the 14th amendment may use those operative words "enforce by appropriate legislation" to select among remedies for the court to use but may not prohibit all remedies whatsoever with respect to school busing.

That is to say that the Congress in exercising its fact-finding power, in its power to select remedies, may, as in this instance, provide that the court is not stripped of either jurisdiction or power to order busing within these limits, but that to go further than that and to prohibit all busing would, according to some legal scholars, be illegal, be ultra vires the power of the Congress under the Constitution to make such an order.

So what we have done on this amendment, this compromise amendment, which is broadly supported in this Senate, would be to establish reasonable limits to tell the Supreme Court that what they have done has not worked but that the remedies still left and provided for in this amendment are likely to work. And we believe, Mr. President, that that would be appropriate under the Constitution so to do.

As I mentioned, there are other legal scholars, Mr. President, who believe that the Congress, under section 5 of the 14th amendment, has the power completely to prohibit busing and further that the Congress under article III of the Constitution has the power completely to withdraw jurisdiction from the lower Federal courts and from the Supreme Court itself in ordering that busing.

The last clause of this amendment which directs the Judiciary Committee to report out further legislation before the August recess will resolve that dispute insofar as the Judiciary Committee can come up with a consensus—and I believe that they can, and they will resolve that legal question in reporting out that legislation prior to August.

So it is not intended that this amendment be the final word and the final action of this Congress. Indeed, my colleague, Senator HATCH, refers to the amendment as an interim amendment and the amendment which he would report out of the Judiciary Committee as a definitive amendment. However characterized, it is very clear—and I want to emphasize this intent—that the passage of this amendment, if it should pass, and I trust it will, not only does not foreclose the Judiciary Committee from further and more definitive action but that in fact it is anticipated and in fact it is mandated in this very amendment that further action of the Judiciary Committee occur.

Mr. President, I have some further remarks but I see my distinguished colleague from North Carolina on his feet who may want to ask some questions, so at this point I would yield for such questions as he may have.

Mr. HELMS. Mr. President, I thank the distinguished Senator from Louisiana.

Let me say at the outset to my friend that I perceive that there is a great body of opinion not only in this Senate but across the country that forced busing should not be a remedy; that is to say, the majority of the American people are fed up to here with seeing their children and, in my case, grandchildren being hauled across cities and counties just to satisfy the whim and caprice of some Federal judge or some bureaucrat.

But the amendment which the distinguished Senator from Louisiana would have offered, and which I agreed with him over the weekend to accept as a modification to the pending amendment, is certainly a prudent, interim step. And I trust that it will take care of the problems with which he is peculiarly and uniquely conversant in his own State.

But just to nail this down for the legislative history, Mr. President, I would like to ask the distinguished Senator from Louisiana several questions.

The Senator has alluded to the fact that the pending amendment differs in a few respects from S. 528, the Neighborhood School Act.

For instance, it is correct, is it not, that the Senator has added a new section defining a "school closest to the student's residence."

How does the Senator define a "school closest to the student's residence"?

Mr. JOHNSTON. We define a school closest to the student's residence as that school with the appropriate grade level which existed immediately prior to the rendering of a court order. We further make clear that the court order we refer to may precede the effective date of this act.

So that if the court order was rendered in 1970 or 1965 or whenever rendered, if it either called for busing or the reassignment of students, you, nevertheless, use that school or consider that school which had the appropriate grade level closest to the student's residence as being the benchmark for consideration and definition of the school closest to the residence of the student.

Mr. HELMS. I thank the Senator.

Now, I notice on page 3, I believe it is, of the unprinted amendment, the section of the Senator's amendment which enumerates unreasonable assignment or transportation of students includes the word "or" at the end of subsection IV. What were the reasons that the Senator had in mind for adding this?

Mr. JOHNSTON. Well, that is to make it clear that we are using the disjunctive in each of these tests so that busing will be considered to be unreasonable if it exceeds either the time limitations, that is, the 30 minutes, or the distance limitations, which is the 10 miles, or indeed if it violates either of the other three tests, which are reasonable alternatives, crossing of the school districts in that it is likely to result in a greater degree of racial imbalance, or to have a net harmful effect on public education.

So if any of these factors exist, it will be declared unreasonable and be beyond the limits of permissible court orders.

(Mr. ANDREWS assumed the chair.)

Mr. HELMS. I thank the Senator. Mr. President, I am not leading the witness, but, as I say, I do want the legislative history on the amendment as modified to be absolutely clear.

I would further ask the able Senator from Louisiana this question: Noting that the Senator's amendment contains a new section which refers to "transportation to a public school in violation of the Neighborhood School Act," I would ask the Senator why was this section added and what is its meaning?

Mr. JOHNSTON. In subsection (f) we empower the Attorney General, when he receives a complaint that a student has been bused directly or indirectly in violation of the Neighborhood School Act, we wanted to make very clear what that phrase "violation of the Neighborhood School Act" meant. And what it means and how we have spelled it out is that it means violation, whether or not that court order causing the violation was entered prior to or subsequent to the effective date of this legislation. So in effect, it makes it retroactive.

Mr. HELMS. I thank the Senator.

I have no further questions.

Mr. MATHIAS. I have a question, if the Senator would yield.

Mr. HELMS. If the Senator would withhold for one moment.

Mr. MATHIAS. Surely.

Mr. HELMS. The key to all of this discussion on this floor is to be found, I believe, in a sense of the Senate statement that is the concluding portion of the amendment as modified. It reads:

It is the sense of the Senate that the Senate Committee on the Judiciary report out, before the August recess of the Senate, legislation to establish permanent limitations upon the ability of the Federal courts to issue orders or writs directly or indirectly requiring the transportation of public school students.

I thank the Senator and I yield the floor.

Mr. MATHIAS. I am glad the Senator

from North Carolina did have an opportunity to make that last statement, because it leads directly into the question that I want to propound to the Senator from Louisiana. I believe that the Senator from North Carolina, as he so often does, has put his finger on the real gravamen of this whole issue. This is where it turns.

I would assume that when the Senator from Louisiana proposes language which says "The Judiciary Committee shall report," that could, of course, be a favorable report or it could be an unfavorable report, but that is in the womb of time. We do not know that yet.

But what I think is important to probe at this point is the basic, fundamental foundation upon which the Senator from Louisiana's amendment rests.

Now, some of the questions that the Senator from North Carolina has asked have dealt with some of the embellishments to this structure, some of the decoration that may appear upon the cornices and up near the roof. Let us get down to the foundation.

I believe the Senator from Louisiana said that his amendment rested on article III of the Constitution of the United States, did he not?

Mr. JOHNSTON. Well, I would say primarily upon section 5 of the 14th amendment, but also upon article III. If I had to choose between the two, I would, as we did in S. 528, choose section 5 of the 14th amendment.

However, I must say that we added in as part of the compromise the powers under article III, which to me are less clear but nevertheless somewhat persuasive.

Mr. MATHIAS. Well, I would agree that finding the authority for this amendment in article III would be less clear. In fact, I would find it very unclear.

I wonder what part of article III the Senator from Louisiana was referring to which seems to give any basis for such language.

Mr. JOHNSTON. Well, the pertinent operative part of article III provides that:

> The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.

It further provides for jurisdiction of the Supreme Court. Then it provides that:

> In all other cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

So what we have is a broad grant of power here to the Congress to establish or not establish lower Federal courts and to provide for a further jurisdiction in the Supreme Court under such regulations and such exceptions as the Congress may make.

This has been interpreted to mean, and I think on its face means, that the Congress may withdraw jurisdiction in whole or in part from lower Federal courts.

In fact, for example, in the Norris-LaGuardia Act, Congress withdrew the power of lower Federal courts to issue injunctions in labor disputes. That was upheld by the Supreme Court as being an appropriate exercise under article III.

It seems to me, Mr. President, that that upholding of the Norris-LaGuardia powers—and I cannot recall the name of the case at this point, but I can provide it to the Senator later—is precisely on point as to showing that article III does give to Congress that power to remove jurisdiction.

The real question is, it seems to me, not whether Congress has the power to remove that jurisdiction but whether, in fact, that removal of that jurisdiction conflicts with the Fifth Amendment. That is the real question, it seems, not whether or not we have the power to remove the jurisdiction. In the later case, I think it is very clear we have that power.

Mr. MATHIAS. Let me ask the Senator from Louisiana to read section 2 of article III, which says that "the judicial power shall extend to all Cases, in Law and Equity, arising under this Constitution," and so on.

I would read that as vesting in the judicial branch of Government the immutable not only right but duty to hear cases which involve constitutional questions. If the courts should determine that this is a constitutional question, then the language that the Senator from Louisiana has proposed would, in effect, be nullable, would it not?

Mr. JOHNSTON. I say to the Senator that while that language in section 2 of article III might be susceptible of that interpretation, if tortured just a bit, the courts have, in fact, said that that is not what it means. Indeed, a school desegregation case—excuse me. The power of the Congress to provide for jurisdiction has simply been recognized by the courts.

Mr. HATCH. Will the Senator yield on this precise point?

Mr. JOHNSTON. Yes, I yield.

Mr. HATCH. There is little controversy, in my opinion, Mr. President, that the constitutional power to establish and dismantle inferior Federal courts has given Congress complete authority over their jurisdiction. This has been repeatedly recognized by the Supreme Court in *Sheldon et al.* v. *Sill*, 49 U.S. 441 (1850); *Kline* v. *Burke Construction Co.*, 260 U.S. 226 (1922); and *Lockerty* v. *Phillips*, 319 U.S. 182 (1943).

This amendment would be only a slight modification of lower Federal court jurisdiction. These inferior Federal courts would no longer have the authority to use one remedy among many for a finding of a constitutional violation.

They would still have full authority to hear segregation cases and would still have full authority to enjoin any Government action violating the Constitution, or full authority to recommend other remedies for the offense. The only thing they could not do is require, directly or indirectly, mandatory busing.

So I think the Senator from Louisiana is more right.

I would hasten to add that this bill does not, however, restrict in any way the authority of State courts to enforce the Constitution as they wish, neither does it restrict in any way the power of the Supreme Court to review State court proceedings and insure full enforcement of constitutional guarantees.

In short, this is a very, very narrow amendment. It only withdraws a single remedy which Congress finds inappropriate from the lower Federal courts. This is not nearly as expansive an abridgement of Federal court jurisdiction as Congress has seen fit to undertake in the past.

It is hardly as expansive as the 1839 law to remove from Federal court jurisdiction the decisions of the Secretary of the Treasury on tax disputes; 5 U.S. Statutes 339.

It is not nearly as significant in terms of economics as the 1867 statute providing that "no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court"; 14 U.S. Statutes 475.

It is not as controversial as Congress 1932 decision as the Senator from Louisiana has pointed out, in the Norris-LaGuardia Act to deprive Federal courts of the power to issue injunctions in labor disputes; 29 U.S.C. 107.

In 1934 Congress used the Johnson Act to qualify the power of the courts to enjoin public utility rates ordered by State agencies; 28 U.S.C. 1341. In 1942, Congress limited injunctions under the Emergency Price Control Act to an emergency court of appeals; 50 U.S.C. 901.

Finally in 1974, Congress barred court challenges to the Alaska pipeline for crude oil based on environmental grounds alone, which is something all of us remember as being very recent; 43 U.S.C. 1651. This is not nearly so sweeping as these past uses of article III of the Constitution. This merely deals with a single remedy, a single remedy that hardly anyone can say has worked smoothly, or worked at all.

The Constitution gives Congress power to set remedies for constitutional violations by vesting in us the authority to make laws "necessary and proper," to use constitutional terms for the carrying out of constitutional mandates.

I might add on this issue, for too long has Congress been silent. The courts have filled that vacuum with a remedy for racial discrimination that is in itself discriminatory.

I think it is time for Congress to speak, although I have my problems with this amendment, as the distinguished Senator from Louisiana knows. It is soft speaking but at least it will clarify that busing or discriminatory assignment of students to public schools is not an appropriate remedy for racial discrimination.

I might add that the distinguished Senator from Louisiana has made it abundantly clear that this is a temporary amendment. It is put on this particular bill in good faith that it will resolve conflicts and problems until our committee can come up with an amendment that, hopefully, will be a broad consensus amendment that the majority of the Members of the Senate can approve.

I do not, however, see any problems with constitutional arguments regard-

ing the favorability of this type of amendment.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from Utah for his exegesis on the legality, the power of Congress under article III to restrict jurisdiction. I think it is abundantly clear, as his more full and definitive statement of cases has indicated.

I do say one thing: he stated this is a temporary amendment. It is not, of course, temporary according to its terms; it is temporary only in the sense that we ask, mandate, the Committee on the Judiciary to come up with a more definitive version, which we all hope will resolve these questions of the full reach of the power of Congress under section 5 of the 14th amendment and article II.

Mr. MATHIAS. But is it not true—the Senator from Louisiana says it is abundantly clear. I am sure it is abundantly clear to him and the proponents of the amendment. But is it not true that there is a kind of general limitation which exists over all congressional language, when it has to be viewed in its relationship to the comprehensive powers that are contained within the Constitution?

In other words, we relate the exercise of the specific grant of congressional authority to, say, limitations that are contained in the Bill of Rights. Is that not true? There may be a perfectly clear exercise of congressional authority granted by the Constitution, but it has to be exercised in conformance with the restrictions of the Bill of Rights.

Mr. JOHNSTON. The Senator is correct. When I say it is perfectly clear that Congress has the power to establish lower Federal courts and provide for their jurisdiction, I do think that is clear. As I said earlier, the central question is the reach, how far we can go in doing that as against the fifth amendment, which provides for due process, and, of course, the Supreme Court has said that the due process provisions of the fifth amendment are co-extensive for purposes of civil rights with those of the 14th amendment.

Mr. MATHIAS. So that, as we view these different powers that check and balance each other in this remarkable document, the Constitution, we do have to consider how they work amongst themselves, for and against themselves.

Mr. JOHNSTON. The Senator is entirely correct and I shall candidly tell him that the reason I did not take a more direct approach of prohibiting busing altogether is, frankly, that my view at this time, without the benefit of the hearings that will transpire in the Committee on the Judiciary between now and the August recess, it was my fear and my tentatively held opinion that to prohibit any form of busing would run into the restrictions of the fifth amendment.

Accordingly, this amendment does allow the court not only those remedies which the distinguished Senator from Utah referred to—that is, the power of the State courts to issue orders without any restrictions, the power of the court to do anything other than busing—and, indeed, it does not restrict their power up to the 10-mile and 30-minute limitations.

Mr. MATHIAS. Mr. President, I think the Senator from Louisiana obviously is familiar with the language that is the point of *Williams* v. *Rhodes*, 393 U.S. 23, 29 (1968) which has held that the Constitution is filled with provisions that grant Congress or the States specific power to legislate in certain areas. These granted powers are always subject to limitation that they may not be exercised in a way that violates other specific provisions of the Constitution.

So I think that what the Senator said and what we both agree on, apparently, is that although Congress creates the Federal courts and assigns them certain jurisdictions under cases that arise under the Constitution, Congress does not thereafter have a total and unrestricted authority to curtail that jurisdiction when such curtailment might violate other parts of the Constitution.

Mr. JOHNSTON. The Senator is entirely correct, but let me, at this point, point out that the right to bus or the duty to bus, should I say, was one that was created in—I believe the first case was Swann against Charlotte-Mecklenburg. It seems to me that was 1971. And Green against Board, I think, was 1969. Prior to that time, school busing or the assignment of students to schools other than that closest to their residence was not considered by the court to be a constitutional right. Brown against Board of Education dealt with desegregation and access to public schools.

It was only in those two cases and their progeny that this right and duty was discovered by the Supreme Court. Let me point out this central fact, though: The Supreme Court relied heavily on James Coleman's 1966 study on equal educational opportunity survey, also known as the Coleman report. What proof Coleman found was that black and white students do better in an integrated situation. So, using the findings of that study, the Supreme Court said, "We can help integration, we can help education by busing."

However, the overwhelming evidence accumulated since this brave experiment has been tried shows that precisely the opposite has resulted.

First, Mr. Coleman himself reversed himself, and in a recent study conducted by Mr. Coleman, he pointed out that busing does not help the educational experience but, rather, results in white flight from central cities.

The Senator will recall that, after Mr. Coleman came out with his second study criticizing busing, pointing out that it resulted in white flight, that, in turn, sparked a series of other studies. There are now hundreds of studies on the issue and almost all of them come to that same conclusion, that it has not worked.

The Armour study, by David J. Armour in 1978, is a study of court-ordered mandatory desegregation in large school districts with significant minority enrollment. He found precisely what I have pointed out, that school busing simply does not work; that it results in massive white flight.

In Boston, for example, in 1972, there were 57,000 whites. By 1977, it was down to 29,000. A decline about 60 percent—that is, 16,000 students—was due to the busing, according to the studies.

So, Mr. President, what we found is that the newly discovered right to bus, newly discovered in 1970 and 1971, has always been found not to work and not be effective.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a statement I delivered before the Judiciary Committee on this subject.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF THE HONORABLE J. BENNETT JOHNSTON

"THE NEIGHBORHOOD SCHOOL ACT"—INTRODUCTION

Mr. Chairman and distinguished members of the Committee, I am indeed pleased to have the privilege of appearing before you in support of S. 528, the "Neighborhood School Act of 1981", which would place reasonable limits on the amounts of busing that Federal Courts may order. I believe, and I am prepared to present evidence to support that belief, that mandatory court-ordered busing, used to excess, threatens the twin goals of desegregation and quality education.

THE NEIGHBORHOOD SCHOOL ACT

The Neighborhood School Act amends the "all writs" provision of section 1651 of Title 28 of the United States Code to specify that Congress intends to establish an exclusive framework for fashioning corrective school desegregation remedies. The corrective framework applies whether federal courts exercise powers to adjudicate school discrimination cases under the Constitution, a federal statute or common law.

There is no dearth of remedies to eliminate the "vestiges" of state-imposed segregation. However, the remedies least likely to guarantee Fourteenth Amendment rights to students are excessive involuntary assignment and transportation of students by court order. The Neighborhood School Act takes three new and unique approaches to these problems.

First, the Act puts time and distance limitations upon the busing to be ordered by a court. The total daily time consumed in travel by school bus by any student may not exceed by thirty minutes the time in travel to the school closest to the student's residence. In other words, courts would only have authority to require up to fifteen minutes one way on a school bus over and above the time necessary to get to and from the school closest to the student's residence.

The bill also puts a distance limitation of 10 miles round trip or five miles one way as the maximum additional distance beyond the school closest to the student's residence. Both the time and distance limitations are to be calculated by the route traveled by the school bus and not on the map.

A second provision of the bill prohibits court-ordered student assignments or busing where such orders are likely to result in a greater degree of racial imbalance or a net harmful effect on the quality of education.

The third feature of the bill is authorization of the Attorney General to enforce the rights guaranteed by the Neighborhood School Act. If a student is bused or about to be bused in violation of these provisions, the student or his parent can complain to the Attorney General. If he is financially unable to maintain the legal proceedings in his own right, the Attorney General is authorized in the name of the United States to vindicate his rights to the same extent as he is empowered to do with respect to school desegregation cases.

Specifically, section 2 of the bill contains a series of Congressional findings relative to the efficacy of busing as a desegregation remedy and concludes that the assignment

of students to their "neighborhood public school" is the "preferred method of public school attendance and should be employed to the maximum extent consistent with the Constitution of the United States." To implement this congressional policy, section 3 provides that:

"No court of the United States may order or issue any writ ordering directly or indirectly any student to be assigned or to be transported to a public school other than that which is nearest to the student's residence . . ."

An exception to this general prohibition is provided for transportation that is required by a student's attendance at a "magnet", vocational, technical, or other specialized instructional program that is "directly or primarily" related to an "educational purpose" or that is otherwise "reasonable". A transportation requirement could not be considered reasonable, however, if alternatives less onerous in terms of "time in travel, distance, danger, or inconvenience" are available. The cross-district busing of students would also be deemed unreasonable, as would a transportation plan that is "likely" to aggravate "racial imbalance" in the school system, or to have a "net harmful effect on the quality of education in the public school district." Most importantly, section 3 would make it unreasonable, and therefore bar the courts from ordering the transportation of any student that exceeds by thirty minutes or by ten miles the "total actual time" or "total actual round trip distance" required for a student's attendance at the "public school closest" to his or her residence.

The Neighborhood School Act relies on Congress' broad powers under section 5 of the Fourteenth Amendment to provide a framework within which violations of the Equal Protection Clause may be remedied. As such, the legislation does not preclude courts from determining whether State action violates the equal protection rights of individuals as students or from enjoining official policies of school construction or student assignment that result in the intentional separation of the races. The Act does not affect the authority of the courts to enforce remedies involving the reassignment of students between schools or the reformulations of attendance zones which do not place a greater burden on any affected child. Other commonly employed remedies—voluntary student transfers, the establishment of "magnet schools," and the remedial assignment of faculty and staff would continue to be available. Simply stated, what the Neighborhood School Act does is to recognize that conditions of segregation caused by unlawful State action can be effectively remedied without resort to coercive measures involving extensive reassignment and transportation of students under court order.

SCOPE OF CONGRESS' POWERS UNDER SECTION 5

There can be little doubt that the Neighborhood School Act is a legitimate exercise of Congressional prerogatives under § 5 of the Fourteenth Amendment which affirmatively grants to Congress the power to enforce "by appropriate legislation" equal protection and due process guarantees. The Court has long recognized the critical role of Congress in the enforcement of Fourteenth Amendment rights. The most recent and comprehensive discussions of Congress' § 5 powers are found in Katzenbach v. Morgan and Oregon v. Mitchell. In Morgan, the Court upheld § 4(c) of the Voting Rights Act of 1965, which invalidated a New York literacy requirement for voting as applied to Spanish-speaking Puerto Rican residents, despite the Court's own earlier refusal to find that State literacy requirements violated equal protection. Justice Brennan, writing for the majority, characterized § 5 as a broad grant of independent power to Congress to "determin(e) whether and what legislation is needed to secure the guarantees of the Fourteenth Amendment." Of particular significance was the Court's deference to Congress' judgment in framing remedies for constitutional violations:

"It was for Congress, as the branch that made this judgment, to assess and weigh the various conflicting considerations—the risk or pervasiveness of the discrimination in governmental service, the effectiveness of eliminating the State restriction on the right to vote as a means of dealing with the evil, the adequacy or availability of alternative remedies, and the nature and significance of the state interest that would be affected by the nullification of the English literacy requirement as applied to residents who have succesfully completed the sixth grade in a Puerto Rican school."

The remedial standards in S. 528 could hardly find firmer constitutional support than in Morgan's broad formulation of Congress' § 5 powers.

Oregon elaborated further on the scope of congressional authority to enforce the Fourteenth Amendment in a challenge to a provision of the 1970 Voting Rights Amendments granting 18-year olds the right to vote in State and Federal elections. While rejecting 5 to 4 the application of the act to State elections, Morgan's recognition of Congress' power to remedy State dentists of equal protection survived intact. Writing for the Court, Justice Black opined that "t(o) fulfill their goal of ending racial discrimination and to prevent direct or indirect state legislative encroachment on the rights guaranteed by the amendments, the Framers gave Congress power to enforce each of the Civil War Amendments. These enforcement powers are broad." Similarly, Justice Douglas concluded that "(t)he manner of enforcement involves discretion; but that discretion is largely entrusted to Congress, not to the courts." Stressing Congress' superior fact-finding competence, Justices Brennan, White, and Marshall urged judicial deference to congressional judgments regarding the "appropriate means" for remedying equal protection violations.

"The nature of the judicial process makes it an inappropriate forum for the determination of complex factual questions of the kind so often involved in constitutional adjudication. Courts, therefore, will overturn a legislative determination of a factual question only if the legislature's finding is so clearly wrong that it may be characterized as 'arbitrary,' 'irrational,' or 'unreasonable.'"

Finally, Justice Stewart, joined by the Chief Justice and Justice Blackmun, conceded equally broad § 5 powers to Congress to "provide the means of eradicating situations that amount to a violation of the Equal Protection Clause," and to impose on the States "remedies that elaborate upon the direct command of the Constitution."

Section 5 of the Fourteenth Amendment and its case law progeny thus provide clear support for the busing restrictions contained in S. 528. The emphasis in Morgan and Oregon on Congress' special legislative competence in balancing State interests against equal protection demands is significant, particularly in light of the findings in § 2 of the bill. Issues concerning the harms and benefits of busing for integration purposes certainly qualify as "complex factual questions" and their resolution by Congress commands judicial deference. Not only is Congress best equipped to hold hearings and conduct investigations to determine the facts, it is best able to "assess and weigh the various conflicting considerations" associated with busing. A recent study of the bill by the American Law Division of the Library of Congress reached this same conclusion:

"Of significance in evaluating these limits may be the language in the Swann decision which permits the district courts to deny busing when 'the time or distance of travel is so great as to risk either the health of the children or significantly impinge the educational process.' The Swann Court also acknowledged that the fashioning of remedies is a 'balancing process' requiring the collection and appraisal of facts and the 'weighing of competing interests', a seemingly appropriate occasion under Morgan for Congressional intervention. In addition, busing is only one remedy among several that have been recognized by both the courts and Congress to eliminate segregated public schools. Thus, the findings in § 2 of the bill relative to the harms of busing, particularly if supported by other evidence in congressional hearings or debate, may comport with the emphasis of Justice Brennan's opinion in Oregon on Congress's superior fact-finding competence, and therefore be entitled to judicial deference. By contrast, the dissenters in Morgan found § 4(e) of the Voting Rights Act failed to qualify as a remedial measure only because of the lack of a factual record or legislative findings."

These principles are particularly applicable here where Congress is not attempting to alter a substantive right under the Equal Protection Clause, but merely addressing remedies the courts may impose on segregated school districts.

The Neighborhood School Act in no way attempts to "restrict, abrogate, or dilute" the guarantees of the Equal Protection Clause in a fashion inconsistent with the Morgan and Oregon rationale. Nor would it result in a dilution of rights recognized by the Court any more than the expansion of the rights of Puerto Ricans in Morgan diluted, to some extent, the rights of English-speaking voters. The Act does not in any way promote the separation of races or the perpetuation of segregated public schools. Instead, by mandating judicial resort to remedies in the schools, the bill would effectively expand the rights of privacy and liberty of all students involved.

The Neighborhood School Act is not attempting to prescribe how the Court should decide a substantive issue. Nor does it purport to bind the Court to a decision based on an unconstitutional rule of law. S. 528 is entirely neutral on the merits of any asserted claim of a denial of equal protection effected by segregation. It is only after a decision is rendered mandating desegregation that the bill becomes operative, and then only to restrict the use of one remedy among alternative remedies. As stated by Professor Hart:

"The denial of any remedy is one thing . . . but the denial of one remedy while another is left open, or the substitution of one for another, is very different. It must be plain that Congress had a wide choice in the selection of remedies, and that a complaint about an action of this kind can rarely be of constitutional dimension."

Therefore, Congress' constitutionally vested powers to enforce the Fourteenth Amendment and to regulate the jurisdiction and forms of remedies of the courts of the United States provide ample support for the restrictions on the use of busing remedies prescribed by S. 528. Such legislative action, instead of constituting an intrusion into the judicial domain, is rather a healthy exercise of congressional powers in the political scheme envisioned by the Constitution. If the protective system of checks and balances is to retain its vitality in our constitutional system, congressionally legislated remedies for denials of equal protection must be accorded substantial deference by the courts. This is particularly true where, as in the case of S. 528, the enactment is strongly supported by provisions of the Constitution independent of the Equal Protection Clause. Congress is uniquely competent to determine the factors relevant to the right to a desegregated education, and in resolving the conflicting considerations concerning the

scope of remedies. Its judgment as to necessary restrictions on the use of busing as a remedy should thus be upheld.

BUSING HAS PROVED TO BE AN EXTREMELY UNPOPULAR AND INEFFECTIVE REMEDY

It is not the intent of this bill to turn back the clock. Congress remains committed to the cause of civil rights and to equal protection of the laws. But in the decade since busing came into general use as one of several tools for implementing court-ordered desegregation, Congress and the American people have learned some things about schools and our society that we did not know before. A body of information has been developed through the increasingly sophisticated techniques used by social scientists in examining our institutions. With this testimony I am submitting a bibliography prepared by the Congressional Research Service of 501 books and articles which have appeared on this subject since 1976. In preparation for these hearings, members of my staff have attempted to familiarize themselves with all major studies which deal with the issue of mandatory busing; copies of those we believe to be the most significant are available for your consideration. You can see from this mass of material that refinements in gathering and interpreting statistics and designing projection models have brought us to a point in history where, to paraphrase Marshall McLuhan, the measurement is the message: it is becoming increasingly clear that people perceive mandatory, court-ordered busing as harmful, both to children and to the concept of quality education, that they act on these perceptions and that their actions effectively nullify the objective of court orders by increasing white flight and the resegregation of schools.

FINDINGS ON THE POLLS

If there is a single conclusion which can be drawn from the polls about public attitudes toward busing, it is that a very large percentage of the American people opposes it. For example, the same question was asked by the National Opinion Research Center (NORC) at the University of Chicago yearly between 1970 and 1978. The question read: "In general, do you favor or oppose the busing of (Negro/Black) and white children from one district to another." The percentage of persons opposing such busing in this nine year span never dropped below 75 percent. Other surveys taken over the last decade show a remarkable consistency in attitude:

From the Gallup Poll (October 8–11, 1971):

In general, do you favor or oppose the busing of Negro and white school children from one school district to another?

Favor, 17 percent. Oppose, 77 percent.

From the Harris Survey (March, May, August 1972):

Would you favor or oppose busing school children to achieve racial balance?

March: Favor, 20 percent; Oppose, 77 percent.

May: Favor, 14 percent; Oppose, 81 percent.

August: Favor, 18 percent; Oppose, 76 percent.

From the Gallup Poll (November 1974):

I favor busing school children to achieve better racial balance in schools.

Favor, 35 percent. Oppose, 65 percent.

From the Gallup Poll (May 31, 1975):

Do you favor busing of school children for the purpose of racial integration or should busing for this purpose be prohibited through a constitutional amendment?

Favor, 18 percent. Prohibit, 72 percent.

From the Harris Survey (July 8, 1976):

Do you favor or oppose busing children to schools outside your neighborhood to achieve racial integration?

All: Favor, 14 percent; Oppose, 81 percent.

Whites: Favor: 9 percent; Oppose 85 percent.

Blacks: Favor: 38 percent; Oppose, 51 percent.

From the CBS News Poll (August 22, 1978):

What about busing? Has that had a good effect, a bad effect or no effect at all on the education of the children involved?

[In percent]

	All	Parents	White	Black
Good	12	12	9	35
Bad	50	48	54	27
No effect	18	20	18	19
Depends	5	4	4	7
No opinion	15	10	15	12

From the California Poll (conducted statewide throughout California, September 21, 1979):

Do you favor or oppose school busing to achieve racial balance?

[In percent]

	Favor strongly	Favor moderately	Oppose moderately	Oppose strongly
State	8	10	18	60
Whites	5	8	19	64
Blacks	31	19	16	32
Hispanics	12	12	16	57

From the Gallup Poll (February 5, 1981):

Do you favor or oppose busing to achieve a better racial balance in the schools?

[In percent]

	Favor	Oppose	No opinion
National	22	72	6
White	17	78	5
Black	60	30	10

Boston has experienced six years of court-ordered busing. In the Globe poll of June 2 and 3, 1980, citizens of Greater Boston were asked:

Has court-ordered busing in Boston's public schools generally resulted in better or worse education for black children?

[In percent]

	Better	Worse	Not much effect	Do not know
Greater Boston	17	28	36	19
Whites	16	29	36	19
Blacks (Boston)	18	10	56	16

Would you prefer to spend tax money to improve public schools in largely black neighborhoods, or have black children transported to schools in largely white neighborhoods?

[In percent]

	Improve	Transport	Do not know
Greater Boston	80	10	10
Whites	80	9	11
Blacks	81	9	10

Los Angeles experienced two years of state-mandated busing. In the Los Angeles Times poll of November 9–13, 1980, Los Angeles residents were asked:

Do you approve or disapprove of forced busing to achieve racial integration?

Approve, 18 percent. Disapprove, 75 percent. Not sure/refused, 7 percent.

In a special election of November 1979, California voters by a two to one majority approved an amendment to the California constitution ending state-mandated busing. You are probably aware that the Supreme Court of California upheld its constitutionality on March 11 of this year, and on April 17, the Court of Appeals permitted local officials to dismantle the busing program in Los Angeles, allowing children to return to their local schools.

It must be emphasized that most Americans, black and white, support the idea of equality of educational opportunity. The same polls which indicate the pervasive dislike of mandatory busing show a high level of support for genuinely integrated schools, those in which there are substantial opportunities for contact between majority and minority students.

Gary Orfield, author of the extensive study Must We Bus? and himself a supporter of mandatory busing, concedes that increasing white support for integrated schools has been a clear pattern in studies of public opinion over the decades. He specifically cites a series of Gallup Polls done between 1959 and 1975 which indicate dwindling public opposition, especially in the South during the 1960's, the region and the period in which massive integration was concentrated. (Gary Orfield. Must We Bus? Segregated Schools and National Policy. 1978. p. 109)

WHITE FLIGHT: THE COLEMAN CONTROVERSY

When a large number of white pupils leaves a public school system, the resultant pupil mix can be so heavily tilted toward minorities that desegregation is no longer possible. This is the "white flight" phenomenon identified by Dr. James S. Coleman and described in his Urban Institute paper Trends in School Segregation 1968–73. It had long been known that middle-class families had been moving out from the large older cities into suburbs, leaving urban school districts with increased percentages of minority students, but Coleman was the first to indicate that school desegregation contributed significantly to the declining white enrollman's massive 1966 study, the Equal Educational Opportunity Survey (known as the Coleman Report), had provided the rationale for the use of busing as a tool to promote desegregation, and proponents of activist desegregation policies attacked him bitterly. In August of 1975, a Symposium on School Desegregation and White Flight was convened, funded by the National Institute of Education and hosted by The Brookings Institution. Although Coleman was a participant, the papers which emerged from the conference consisted entirely of rebuttals of his position. Reynolds Farley criticized his findings, and his claim that desegregation accelerated white flight was denounced by Robert Green of Michigan State and Thomas Pettigrew of Harvard who charged that Coleman had been selective in his choice of school districts and that their own reanalysis revealed no correlation.

There were three major criticisms of Coleman's study: that his conclusions were invalid because he did not look at enough districts; that "white flight" from central cities is a long-term phenomenon independent of desegregation; and that desegregation does not cause it because the same level of loss can be observed in cities whether or not they have court-ordered desegregation.

The most serious challenge to Coleman's findings was mounted by Christine Rossell whose own study, she held, demonstrated that school desegregation causes "little or no significant white flight, even when it is court-ordered and implemented in large cities." She said that her data contradicted almost every claim Coleman had made. But Rossell's later and more detailed analyses yielded results consistent with Coleman's. In fact, both Rossell and Farley have admitted publicly that Coleman's original findings were essentially correct; Pettigrew and Green, whose critique relied heavily on the original Farley and Rossell studies, have not been heard from. Contrary to popular

and even, in some cases, scholarly opinion, Coleman's 1975 report has not been discredited, although the agencies which expedited publication of the early critiques, the National Institute for Education, Brookings and the Harvard Educational Review, have been slow to publicize the later studies establishing his credibility.

WHITE FLIGHT: THE ARMOR STUDY

David J. Armor's 1978 study of court-ordered mandatory desegregation in large (over 20,000) school districts with a significant minority enrollment uses a demographic projection technique to estimate what the white enrollment would have been in the absence of desegregation. Armor found massive white flight: A substantial (double the rate projected as normal) anticipatory effect in the year before busing was to begin; a first-year effect four times as great; and a long-term effect four years later of twice the projected rate of loss. In the majority of districts, half the white loss over a 6-8 year period is due to court-ordered desegregation efforts. White flight accelerates the "tipping" process by which minorities become the majority in a school district and desegregation becomes resegregation:

"Before the desegregation action in Boston (1972), there were 57,000 white students but by 1977, there were only 29,000. Of this total decline of 28,000, about 16,000 (or three fifths) is attributable to desegregation activities. As a direct result of court-ordered busing, Boston became a majority black school district in 1975. It is interesting to note, also, that minority enrollment stopped growing rather suddenly in 1975 . . . This shows that black flight—which has not been studied—may also be a phenomenon in court-ordered desegregation . . ."—David J. Armor. White Flight, Demographic Transition and the Future of School Desegregation. The Rand Corp. August 1978. p. 24.

Statistics for various school districts undergoing court-ordered desegregation involving some degree of busing show substantial declines in white enrollment. The Los Angeles Times reported that between the fall of 1979 and the fall of 1980 (when the Los Angeles desegregation plan was extended to more grades than before), white enrollment in the Los Angeles school district dropped by 18,515 students or 12.8 percent. Minority enrollment grew by 1.2 percent. (Los Angeles Times, October 2, 1980). St. Louis offers an example of significant white enrollment losses between 1979 and 1980 (when mandatory reassignment of some students began). In the fall of 1979, non-black enrollment was 16,444. By the fall of 1980 that number had dropped to 13,244, a loss of 21 percent. (Data provided by analyst on the staff of the St. Louis School Board.)

Armor cautions that the white flight phenomenon comprises more than relocation of family residence:

". . . there are three major processes which can give rise to white flight from public schools: (1) residential relocation outside the district; (2) transfer of children from public to private schools; and (3) failure of new area residents to replace regular outmigrants who are leaving the area for reasons unrelated to desegregation . . . some white flight effects are manifested by the slowing down of white growth rather than the acceleration of white decline."—Armor (1978) p. 15.

In metropolitan desegregation cases, he indicates, "private school transfers may well comprise a significant portion of white losses." In my own state of Louisiana, a court-ordered busing plan last year resulted in the establishment of a private school in Rapides Parish. Interestingly, the private school has black and white students as well as black and white teachers.

Armor concludes that "court-ordered desegregation, coupled with normal demographic trends, is producing increasing ethnic and racial isolation in many larger school districts. If this trend is to be stopped or reversed, other remedies need to be considered."

ALTERNATIVES TO BUSING

Other remedies do exist. Armor, discussing San Diego, states that voluntary methods worked well in that case, and may offer a viable alternative to busing in larger cities. Innovative programs, such as the extended day program in the Mary E. Philips Magnet School in Raleigh, N.C., achieve their purpose of voluntary integration while meeting the needs of single parents, working couples and their children. ("Extended Day Program in a Public Elementary School." Children Today. May-June 1979. p. 6-9).

The polarizing nature of busing plans and their requisite expense deflect attention and energy from the issue of educational quality. Improving the quality of the schools may well serve to desegregate those schools and their neighborhood, voluntarily, more permanently and with less tension, than is possible with pupil reassignment.

In some districts, the desegregation of the schools has not become a principal objective of either the white or black communities. David L. Kirp, in analyzing the history of the Oakland (California) school system over the past two decades, found that the issue of desegregation was handled politically within the district and was not taken into the courts. "As a result, race and schooling politics in Oakland—including current disinterest in desegregation—reflect the popular will as well as any politically derived solution may be said to do so." ("Race, Schooling and Interest Politics: The Oakland Story." School Review. August 1979. p. 307). The outcome was largely a reallocation of money and power within the school system, securing for Oakland's black community a "measure of distributive justice."

Other urban school districts are seeking to improve their educational facilities, increase minority hiring and develop magnet schools instead of attempting to desegregate mandatorily student enrollment.

"The theory of Atlanta's educational leaders is that equal educational opportunity can be achieved through high quality education. If they are right, and if they can create the kind of productive, effective schools that all parents want, the system could become a showplace for urban American schools and a magnet pulling back the children of those who fled the city during the past two decades."—Diane Ravitch. "The 'White Flight' Controversy." Public Interest. Spring 1978. p. 149.

The alternatives to mandatory busing for desegregation include the development of magnet schools (schools established with special programs and curricula designed to attract students of all races), open enrollment policies, and majority to minority transfers (students of a majority race at one school are permitted to transfer to schools where they will be in the minority).

On May 4, 1981, the Department of Justice proposed a plan for desegregating schools in the city of St. Louis which would reward students who voluntarily transferred between black inner-city schools and white suburban schools with a free college education at a state university or college. The proposal tacitly concedes that further busing and court-ordered desegregation plans would be counterproductive in producing truly integrated schools in St. Louis.

ALTERNATIVE LEGISLATIVE APPROACHES WILL NOT WORK

Unlike other legislative proposals in the Senate and the House, the Neighborhood School Act does not run the same constitutional risks.

A. The "Student Freedom of Choice Act"—S. 1005:

Senator Helms and others would attempt to give students "freedom of choice" in selecting any school in their public school district, including the school closest to the student's residence. Senator Helms would do so by limiting the jurisdiction of federal courts to do otherwise. The operative language of his bill is found in section 1207 as follows:

"No court of the United States shall have jurisdiction to make any decision, enter any judgment, or issue any order requiring any school board to make any change in the racial composition of the student body at any public school or in any class at any public school to which students are assigned in conformity with a freedom of choice system. . ."

Article III, section 1, of the Constitution grants the Congress power to create courts inferior to the Supreme Court and to provide for their jurisdictions. S. 1005 reasons, in effect, that since Congress has the power to create or abolish courts and to grant, withhold or revoke jurisdiction, it has the lesser power to grant or deny remedies to Federal courts or to minimally alter some of their equitable remedies.

In an exhaustive law review article entitled "Congressional Power to Restrict the Jurisdiction of the Lower Federal Courts and the Problem of School Busing," 46 Georgetown Law Journal 839 (1976) Professor Ronald D. Rotunda concluded:

"Congress asserted power to abolish any or all of the lower federal courts does not include the authority to engage in narrow, individualized, interstitial removal of jurisdiction. Because both the due process clause of the Fifth Amendment and various provisions within Article III restrict congressional power to limit jurisdiction of the federal courts, the proper test of constitutionality is whether the withdrawal affects substantive constitutional rights. Under this test, Congress cannot use a jurisdictional limitation to restrict a substantive right. Congressional attempts to prohibit busing only in those cases where Congress thinks the lower court has erred would violate Article III by imposing a rule of decision on particular cases. Any broader anti-busing statute would violate the due process clause of the Fifth Amendment by forbidding busing even when it is the only means of enforcing the constitutional right to integrated schools."

B. The "Racially Neutral School Assignment Act"—S. 1147:

Senator Gorton's bill, the "Racially Neutral School Assignment Act", would preclude any assignment of any student to any school which occurs in a race conscious manner. In effect, both the school boards and the federal courts would be required to ignore the race of a student for making school assignments in every circumstance. Furthermore, no court could order the assignment of a student to a school other than a school closest to the student's residence and which provides "an appropriate grade level and type of education for the student."

Senator Gorton's bill flies in the face of Swann and a host of other decisions which established the requirement that school authorities are "clearly charged with the affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination would be eliminated root and branch." Swann requires that where there is racial imbalance in public schools brought about by discriminatory state action that there be race consciousness in dismantling the dual school system. Swann specifically requires busing where necessary and stated "we find no basis for holding that the local school authorities may

not be required to employ bus transportation as one tool of desegregation." 402 U.S. at 30.

Furthermore, the Court has suggested that the "assignment of students on a racial basis" is indispensable to the decisions and judgments in desegregation cases. In McDaniel v Barresi, 402 U.S. 39, 41 (1970), the Court concluded that "(any) other approach would freeze the status quo that is the very target of all desegregation processes."

CONCLUSION

Over the past ten years, however, busing has become the judicial instrument of choice. In many instances courts have issued busing orders which they knew would not work and which they knew would result in white flight because they felt compelled by prior decisions to do so.

The studies of Coleman and Armor represent a demographic finding of fact. In 1971, the Supreme Court prescribed a legal remedy, busing, for what it had identified as a social malady, a failure to provide equality of educational opportunity. But the remedy when applied produced a crippling side effect: resegregated public schools with fewer students overall in attendance. If a doctor were to discover that the medicine he had given a patient had, instead of curing the patient, produced an unexpected and serious reaction, he would stop the medication and attempt to find a safer, more effective treatment. If he didn't change the medication and the patient died, you can bet that someone would sue him for malpractice.

The medication now being prescribed by the Court for the patient has proven to cause more harm than the disease itself. Senators Helms and Gorton, on the other hand, do not prescribe any medication at all for the patient's affliction and prefer the patient to continue in pain without relief. The Neighborhood School Act, however, recognizes that medication can in fact relieve the patient's constitutional affliction. The Act does not prescribe twenty aspirin where only two will heal. In effect, the Neighborhood School Act acts as a good doctor by prescribing sufficient medication to give the patient relief, but not too much to kill him.

Nobody is going to sue the Congress for malpractice, but that doesn't lessen our responsibilities to the American people. A mistake has been made, and now that we are aware of the damage that has been done, we have an obligation to correct it.

Mr. JOHNSTON. Are there further questions?

Mr. President, I should like to point out one thing—the opinion of the American people with respect to busing.

I recognize that constitutional rights and minority rights cannot be subject to a plebiscite, cannot be denied by the "to's" and "fro's" of opinion polls. However, the opinion of people with respect to busing becomes the fact insofar as the workability of that remedy is concerned. When the American people, in overwhelming numbers, disapprove of busing it is a fact that should be considered by both Congress and the courts.

If there is a single conclusion which can be drawn from the studies about public attitudes toward busing, it is that a very large percentage of the American people oppose it.

For example, there have been opinion polls yearly between 1970 and 1978, and the percentage of those opposing busing never fell below 72 percent.

For example, Gallup in 1971, 77 percent opposed; Harris in 1972, between 76 and 81 percent; Gallup in 1975, 72 percent opposed; Harris in 1976, 81 percent opposed; Gallup in 1981, 72 percent opposed.

The effective opinion expresed in the California poll of September 1979, in which 78 percent opposed busing, has already been translated into law. In November 1979, the voters approved an amendment to the California constitution ending State-mandated busing.

In Boston, after 6 years of court-ordered busing, the Boston Globe poll of June 2 and 3, 1980, indicated that, by a 4 to 1 majority, both blacks and whites said they preferred to improve the schools rather than to bus children.

The interesting thing is that many of these polls also asked the correlative question as to whether or not people approve of integrated education. By overwhelming numbers, they did. The American is not saying that they want to turn back the clock and resegregate the schools; nor are we saying, in sponsoring this amendment, that we want to turn back the clock and resegregate the schools.

To the contrary, the authors of this amendment have the same commitment to integrated education that the American people have, but we also have the same commitment to oppose busing that the American people, by more than 70 percent, consistently oppose busing.

Mr. HATCH addressed the Chair.

Mr. JOHNSTON. Does the Senator want the floor, or does he wish me to yield for a question?

Mr. HATCH. I should like to make some remarks.

Mr. JOHNSTON. I yield the floor.

The PRESIDING OFFICER (Mr. KASTEN). The Senator from Utah.

Mr. HATCH. Mr. President, I appreciate the intelligent approach that the distinguished Senator from Louisiana has taken through the years toward trying to resolve this serious dilemma in America. I appreciate his willingness to work with me in trying to come up with some solution that will ultimately produce a reasonable approach to this problem, which has become a monumental problem in America.

Mr. President, during the 5 days of hearings on the subject of "school busing and the 14th amendment" held by the Constitution Subcommittee, Prof. Lino A. Graglia, constitutional law professor at the University of Texas, offered a concise formulation of the problem now before the Senate. He stated:

This is an area in which what the courts say they are doing and what they do in fact are often two quite different things. It is an area in which words are often used to mean the opposite of what they are ordinarily understood to mean; for example, a constitutional prohibition of the assignment of children to school on the basis of race can turn out to be a constitutional requirement that children be assigned to school on the basis of race.

Since the momentous Brown decision in 1954, the Constitution, in theory at least, has prohibited segregation compelled by law. In other words, schoolchildren must be assigned to schools without any regard to their race. To use a familiar phrase, the Constitution is color blind. Each student or citizen is to have equal consideration regardless of his race.

Congress put this noble policy into effect with the Civil Rights Act of 1964. The 1964 act explicitly states that "desegregation" is "the assignment of students to public schools and within such schools without regard to their race."

Unfortunately, as Professor Graglia notes, the Federal courts have not carried out the intent of the Constitution or Congress. Instead of considering each child in a school district as merely a student, Federal courts have divided students into two classes, black students and white students. When they find the numerical ratio between the classes unsatisfactory, some black students or some white students will be hauled to a distant school away from their past friends simply because they are black or white. I submit, Mr. President, that this notion of numerical or statisical justice is no justice at all. It is precisely the injustice that the Brown case and the 1964 Civil Rights Act were supposed to have terminated. We are not going to put an end to racial discrimination by perpetuating distinctions based on race. School busing is nothing more than assigning children to public schools on the basis of race. I repeat, Mr. President, we cannot end discrimination by discriminating.

The Senate has discussed before the ill effects of this discriminatory school busing policy. I will mention only in passing that the hearings in the Constitution Subcommittee have substantiated that mandatory busing is defeating its own purpose by creating in fact greater separation between the races; that busing disrupts social peace and racial harmony; that it seriously interferes with private (and constitutionally protected) decisions of parents to educate their children as they please; and that it diverts resources which could otherwise improve the quality of public education. Still, most important in my mind, it is inconsistent with constitutional guarantees that individual rights shall not be abridged on the basis of race, color, or national origin.

This brings me to the reasons that I feel the Johnston amendment is not adequate to solve this problem. In the first place, the amendment admits that the pursuit of "racial balance * * * is without constitutional or social justification." With this statement, as already noted, I wholeheartedly agree. Forced busing to achieve an amorphous concept of racial balance is discrimination on the basis of race, which is repugnant to the Constitution. Yet the amendment proceeds to authorize the practice within distance limits of 10 miles and time limits of 30 minutes round trip. Thus, if a student lives within those limits, he can still be bused simply because he is black or white. In other words, students can be discriminated against on the basis of where they live as well as their race and color.

Moreover, the Johnston amendment underestimates the resourcefulness of courts to construct exceptions and loopholes through which to drive school buses. Such simple prohibitions as are found in Brown and the 1964 act against

consideration of race have been stretched into racial balance busing schemes. Therefore, I can easily foresee the words of the Johnston amendment about the school that would normally be attended and the time and distance limits coming back from the bench as an authorization of Congress for expanded busing. However, I do not believe that is the intent, and I know that is not the intent of Senator JOHNSTON or of anybody else in the Chamber.

As I have mentioned before, however, I am not entirely comfortable that this amendment is even before the Senate. In my Constitution Subcommittee we have held five hearings on this subject area—two on busing itself, three on Federal court jurisdiction restrictions. When a committee is making no effiort to act on legislation, I can see the justification for taking the issue directly to the floor for some, albeit hasty, consideration. This is not, however, such an instance. Not only has my subcommittee held extensive hearings, the Separation of Powers Subcommittee has examined busing in hearings.

We need time to consider in detail proposals such as this Johnston amendment. We should examine carefully whether this approach will encourage rather than remedy white flight, for instance. This proposal may have misjudged the determination of parents to withdraw their children from schools impacted by racial balancing schemes. This proposal could set up virtual "no man's lands" on the borders of the geographical boundaries set by the 10 mile requirement. It could cause more racial dislocation than now exists. We need to consider that question in the reasoned atmosphere of hearings with expert witnesses to advise the Senate about the consequences of its actions. That hearing process, as I have stated, is underway, and well underway.

Due to my serious reservations about this Johnston amendment, I am enthusiastic about agreeing with my colleague to have a bill to finally return to a completely nondiscriminatory policy before the Senate for a vote within 30 davs. Moreover, I am pleased to encourage the Senate to make that agreement binding in the form of a resolution which we can attach to this Justice Department authorization bill, S. 951.

As chairman of the Constitution Subcommittee, I will insure that our subcommittee reports legislation with sufficient leadtime to comply with this resolution. Already the subcommittee has held 2 days of hearings on the school busing controversy and another 3 days of hearings on the merits of withdrawing lower Federal court jurisdiction under article III of the Constitution. Understanding the urgency of complying with the agreement embodied in this resolution and the urgency of resolving the entire process of discriminatory busing before the conclusion of the student's summer recess, the Constitution Subcommittee will meet its obligation to the Senate and to the students of the Nation.

We will work very hard with Senator EAST's Subcommittee on Separation of Powers, of which I also am a member, to try to resolve these problems. Senator EAST is very capable and certainly will do everything in his power, I am sure, to assist in this effort.

Mr. President, I express my gratitude to Senator HELMS for bringing the busing question to the attention of the Senate with his amendment and to Senator JOHNSTON for his role in setting up this agreement. I believe Senator JOHNSTON has worked long and hard to try to resolve these problems because he has some horrendous difficulties in his State, particularly in and around the city of Shreveport.

I believe that both these Senators and all other Senators—such as Senator ROTH, Senator GORTON, Senator BIDEN, and others—may be confident that their special recommendations for a final resolution of the busing problem will receive full consideration in the Subcommittee on the Constitution and the Subcommittee on Separation of Powers. When we report a measure in 30 days or less, our final product will be stronger for the slight pause to consider the implications of all the testimony and recommendations. Already in the few brief months of the 97th Congress, we have had more hearings on the school busing controversy than were held for years. Those efforts and the diligent work of the Senators on the floor today will soon bear fruit under the 30-day agreement.

Although I agree with Senator JOHNSTON's characterization of this amendment as being temporary in the sense that we intend to bring out a more comprehensive bill on this subject hopefully which will be a consensus bill, this amendment, if enacted, will become law at least during the lifetime of this authorization bill. This Johnston amendment is a step in the right direction, although I do raise these concerns and I have only raised a few of the concerns that have bothered those of us who deal with the Constitution almost on a daily basis in our subcommittee.

On the other hand, with the understanding that everyone should understand that we are going to work together, and that Senator JOHNSTON, my colleague from Louisiana, has agreed to work with us in trying to arrive at a definitive conclusion and consensus amendment, I am happy to support this amendment on the basis of what has been said here today.

I trust we can solve this problem completely in later legislation. I do not think anyone is well served by the law or the situation as it presently exists. The courts are not the appropriate branch of Government to legislate in this area and, unfortunately, they have done a lot of legislating in this area. I think it is time to do what we know has to be done to end discrimination and be fair and reasonable to the children of this Nation.

Although others may have sound opinions differing from my own, I for one am going to work very hard to come up with a bill that might put this controversy to rest at least for the remainder of our lives. One never knows. We have had many bills and amendments around here; sometimes they work and sometimes they do not. I do have concerns about the Johnston amendment's ability to resolve this crisis, but until we get the other bill out this amendment has merit as a temporary remedy for discriminatory busing.

I yield the floor.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator and I thank him for his cooperation along with the Senator from North Carolina (Mr. HELMS), the Senator from North Carolina (Mr. EAST), as well as their competent staff and those of the Judiciary Committee.

It is a most complicated and difficult subject. There are no final and full answers because many of these murky constitutional areas have not been fully explored by the courts. It is a leap of faith to try to design an amendment which achieves the result which we all want and yet will pass muster constitutionally. I believe that this amendment will do so.

I also believe that further hearings and further consideration in the Judiciary Committee can improve on this result as well, and I will indeed work with the distinguished Senator from Utah in trying to fashion a more definitive approach to the bill. In the meantime this is not temporarily legislation with an expiration date but it is legislation which will do the job until we can do something that is even better.

Mr. HATCH. I agree. The provision in here to allot 30 days certainly to come up with new legislation and to bring it to the floor I think is a wise provision. It should have passed and I think we can hopefully within that time arrive at definitive conclusions.

Mr. STENNIS. Does the Senator yield the floor?

Mr. HATCH. I yield, and I thank my friend from Mississippi for allowing me to make these remarks.

Mr. STENNIS. I thank the Senator for the time he used.

Mr. President, am I recognized?

The PRESIDING OFFICER (Mr. COCHRAN). The Senator from Miss'ssippi.

Mr. STENNIS. I thank the Chair.

Mr. President, I thank the Senator from Louisiana who is the main proponent of this amendment itself which I have joined in and thank the Senator from Utah for his splendid work in this field where he has a special and highly important committee assignment. In fact, this whole subject matter of school busing is now, in the light of new developments and experience of a few year, has taken on a very advanced viewpoint which is developing here progressively and in a fine way, being better understood and will be better practiced. Good has come from the new system already in a large degree.

Several years ago, I wish to refer to the fact that I introduced a very simple amendment in this field of integration of schools which was not immediately at the minute understood and led to criticism of my motives, but when the debate was over the amendment passed by a rather sizeable margin. My amendment was just a few lines long and said that the Department shall apply a uni-

form pattern throughout the 50 States with reference to the integration of the schools. That is all it said. And it stood up to quite a tussle and a good deal of noise, but it passed by a large vote. The major parts of it survived the conference, and that amendment was cited and quoted in part by the Supreme Court of the United States within the last 12 months I think it was, or recently anyway, as it relates to this problem.

I do not claim any credit for that. I had an unpublished report, an unpublished survey that gave the facts and figures for each of those 50 States which showed the reflection of the pattern with reference to integration of public schools and showed it was being done on a sectional or regional basis.

That amendment becoming law outlawed such a pattern and led to new steps forward.

I talked to the Senator from Louisiana about this amendment before and commended him very highly for his thought of not trying to outlaw the busing of children for integration because of racial patterns, but merely to regulate. The Supreme Court has rather firmly and definitely set up the constitutional grounds, basis, and foundation for the busing. So he conceived the idea of not trying to abolish it but to try to proscribe it, limit it, regulate it and bring it within the parameters of reason and commonsense. And in that way it is a great step forward for the pattern of integration. This amendment does not try to abolish or curtail the integration of schools, not in the least. To the contrary, it paves the way there for a more effective pattern, conclusions, and practices of doing the very matter of integrating the schools, with the result that great sums of money, literally billions of dollars, over time will be made available to pay for the operation of the school inside the classroom, one might say, to pay better salaries for the teachers, to pay for better accommodations, to pay this, that, and everything that is necessary to the educational part that goes to make up the school life, rather than expending these terrible sums of money in places by the unnecessary long distance and complicated busing patterns.

So it is encouraging in every way as we see the chance here to move forward in this field where the price of education is becoming more and more, of course, in some ways with the limited productivity, limited sums of money that can be exacted to pay taxes.

The vote in the House of Representatives just a few days ago in this same field shows the unmistakable judgment now in the light of this experience we have had in the last few years what is now sound, accepted, and desired by the people, the parents and the children themselves for a more orderly pattern for the integration and for the busing of the children.

Basically I have always felt that the neighborhood school is part of the neighborhood, and it is part of American fundamental constitutional rights. If the parents want the children to go to the neighborhood school, then they have the fundamental right. That is where to do so. That is where the churches are. That is where the social life is. That is where the workday is, so to speak, and everything about American life centers around and I hope and pray it will always to a large degree center around that community. Now to take the children out and carry them off somewhere else into another community not only robs them of that basic right of them and their parents but it takes from them their best chance to get an understanding of life and an understanding of the books, too.

Mr. JOHNSTON. Mr. President, will the Senator yield at that point?

Mr. STENNIS. I am glad to yield to the Senator.

Mr. JOHNSTON. Mr. President, I am glad the Senator made that point because one of the underlying theses of this amendment, the Neighborhood School Act of 1981, is the importance of parents' access to the public schools. We have found through the years that it is through the PTA's, through the parents participating in school activities, supporting the schools, being there and having that community support that schools flourish and move forward.

So by putting limitations here, 15 minutes and 5 miles, we guarantee that the school will be within that time and distance access that will make it possible for parents to be close to their children, and without this kind of limitation the courts have not insured that access.

For example, in East Baton Rouge Parish we found that over half the schools in the elementary level in the court order just recently issued, yet to be implemented, over half of those children are bused at distances which exceed by a great distance the amount provided here. As a matter of fact, out of 76 elementary schools I believe it is 38 or 39 which exceed these limitations and in fact require busing exceeding an hour. This is not only wasteful of the students time, requiring young students to be on school buses for that long, but it takes them out of their neighborhood, out of the area of their family, and it puts them far beyond the reach of parents to participate in the PTA and in other school activities.

So I thank the Senator for making that point which was so important to the Neighborhood School Act of 1981.

Mr. STENNIS. I thank the Senator for his remarks.

I did not have to read anything in a book from any survey that anyone had made or an opinion that someone else had given. I have this knowledge and see these things happen and reach these conclusions because of where I have lived and conditions there, and I never have lived in any other county. I know what the day-to-day life is and what the problems are and I know the progress that has been made and I know, also, of what some of the children and the parents had to give up and what being taken away from their community meant, and the way to solve these matters is now, regardless of what was the truth in the old days and my friend here from Connecticut I have great respect to him and I listened to his arguments over and over, he is sincere, he is able, and knowledgeable in every way and he covers the ground he stands on but in this matter that related to these neighborhood schools and the so-called matters that go along with heavy mixing of the people, the races or whatever you want to call it, I am the product of experience there, and I am proud of the progress that we have made. I cherish the gifts that have been made there at some of these schools, the vocational shops that send me little things that they make themselves, and so I know where the problems are.

And I am very happy that something in this direction as on foot. There is no trickery in this; there is no bombs in it. It is reality. It is life. I believe we are going to make some headway.

Mr. President, I am pleased to cosponsor the amendment proposed to S. 951 by the distinguished Senator from Louisiana (Mr. JOHNSTON). I support it strongly. I want to again commend the able Senator from Louisiana highly on the fine work that he has done in fashioning this amendment and bringing it before the Senate. It offers a logical and reasonable solution to a problem which has plagued this Nation for several years.

I support this amendment because I strongly believe that mandatory busing for the sole purpose of bringing about racial balance is unproductive and drains our finances and other valuable resources. In addition, it tramples upon and ignores the basic and fundamental right of children to attend a neighborhood school in their own communities. It is now crystal clear, Mr. President, that there is a great and pressing need to resort to approaches other than busing to bring about adequate, equal, and effective educational opportunities. Mandatory busing has not been fully effective, either from a racial or an educational standpoint, and in many cases it has proved to be counterproductive. The Johnston amendment addresses itself squarely to these issues.

The amendment would establish reasonable limits on the power of courts to require busing. For this purpose it prohibits the assignment or transportation of students to public schools other than the one closest to their residence for the purpose of achieving racial balance if there are "reasonable alternatives available which involve less time and travel, distance, danger, or inconvenience." The amendment also prohibits courts from ordering busing if the actual time or distance exceeds by 30 minutes or 10 miles, respectively, the ride to the school closest to the student's residence.

Survey after survey has shown that the American public opposes mandatory busing. Sociologists and educational experts have long since reached a consensus that extensive busing of students solely for the purpose of desegregating schools exacerbates the social and racial problems and accelerates the flight of whites from urban areas. More and more educational experts, sociologists, civil rights leaders, and policymakers are concluding that mandatory busing is not only costly and educationally disruptive but, more often than not, it fails to achieve any substantial part of its objective.

Forced busing, Mr. President, is very costly. Its enormous and endless expense results in the waste of our finances and other resources. In addition, it has undermined our educational process and is destroying confidence in the public education system.

We have expended enormous sums of money over the past several years for the sole purpose of busing our school children for long distances for the purpose of achieving so-called racial balance. The billions of dollars which have been needlessly expended in the acquisition and maintenance of buses, the purchase of gasoline, parts and supplies, the payment of the salaries of the drivers, mechanics, and other personnel, and the payment of other expenses of busing have in large measure been wasted. This money could have been expended with far better results in enhancing, improving, and enriching the educational program by employing more and better teachers, purchasing needed books, supplies, and equipment, constructing school buildings and other facilities, and in otherwise bettering and building up our school systems. The waste of funds and other resources which has resulted from forced busing is truly tragic.

Finally, Mr. President, the forced busing of children has trampled upon the basic, fundamental, and constitutional rights of children to attend schools in their own communities, and upon the rights of parents to have their children attend neighborhood schools. The transportation of school children, many of a tender age, for long distances from their homes to distant schools has caused inconvenience and hardship far out of proportion to the benefits which have ensued.

The pursuit of racial balance in public schools at any cost is without constitutional or educational justification. The assignment and busing of children to public schools to achieve such racial balance has been greatly overused. It is, as I have already pointed out, in many instances educationally and socially unsound and has caused the racial segregation and separation of students to a greater degree than would have otherwise resulted.

For these and other reasons, Mr. President, I support the amendment offered by the Senator from Louisiana. It is time that we address ourselves to the needs of our educational system, that we end the destructive, costly, and negative practice of forced school busing, and that instead we devote our attention and our efforts toward improving the quality of education for students of all races.

Before closing, Mr. President, I want to point out that on June 9, 1981, by a vote of 265 yeas to 122 nays, the House of Representatives adopted an amendment which in effect forbids the use of funds for any action to require directly or indirectly the transportation of students to a school other than that nearest the student's home. While this is somewhat different than the terms and provisions of the Johnston amendment, the purposes and aims of these amendments are identical. If the Senate adopts the Johnston amendment, as I hope and believe it will, there should be little or no problem in reaching an agreement in conference.

I strongly urge my colleagues to vote for the pending amendment.

I thank the Senator again for the work he is doing.

Mr. JOHNSTON. I thank the distinguished Senator from Mississippi.

Mr. STENNIS. Mr. President, I yield the floor.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

WHITE FLIGHT: THE COLEMAN CONTROVERSY

Mr. JOHNSTON. Mr. President, when a large number of white pupils leaves a public school system, the resultant pupil mix can be so heavily tilted toward minorities that desegregation is no longer possible. This is the "white flight" phenomenon identified by Dr. James S. Coleman and described in his Urban Institute paper "Trends in School Segregation 1968–73." It had long been known that middle-class families had been moving out from the large older cities into suburbs, leaving urban school districts with increased percentages of minority students, but Coleman was the first to indicate that school desegregation contributed significantly to the declining white enrollments in public schools. Ironically, Coleman's massive 1966 study, the equal educational opportunity survey, known as the Coleman report, had provided the rationale for the use of busing as a tool to promote desegregation, and proponents of activist desegregation policies attacked him bitterly.

In August 1975, a symposium on school desegregation and white flight was convened, funded by the National Institute of Education and hosted by the Brookings Institution. Although Coleman was a participant, the papers which emerged from the conference consisted entirely of rebuttals of his position. Reynolds Farley criticized his findings, and his claim that desegregation accelerated white flight was denounced by Robert Green, of Michigan State, and Thomas Pettigrew, of Harvard, who charged that Coleman had been selective in his choice of school districts and that their own reanalysis revealed no correlation.

There were three major criticisms of Coleman's study: That his conclusions were invalid because he did not look at enough districts; that white flight from central cities is a long-term phenomenon independent of desegregation; and that desegregation does not cause it because the same level of loss can be observed in cities whether or not they have court-ordered desegregation or busing.

The most serious challenge to Coleman's findings was mounted by Christine Rossell whose own study, she held, demonstrated that school desegregation causes "little or no significant white flight, even when it is court-ordered and implemented in large cities." She said that her data contradicted almost every claim Coleman had made. But Rossell's later and more detailed analyses yielded results consistent with Coleman's. In fact, both Rossell and Farley have admitted publicly that Coleman's original findings were essentially correct; Pettigrew and Green, whose critique relied heavily on the original Farley and Rossell studies, have not been heard from. Contrary to popular and even, in some cases, scholarly opinion, Coleman's 1975 report has not been discredited, although the agencies which expedited publication of the early critiques, the National Institute for Education, Brookings, and the Harvard Educational Review, have been slow to publicize the later studies establishing his credibility.

WHITE FLIGHT: THE ARMOR STUDY

Mr. President, David J. Armor's 1978 study of court-ordered mandatory desegregation in large—over 20,000—school districts with a significant minority enrollment uses a demographic projection technique to estimate what the white enrollment would have been in the absence of desegregation. Armor found massive white flight: A substantial—double the rate projected as normal—anticipatory effect in the year before busing was to begin; a first-year effect four times as great; and a long-term effect 4 years later of twice the projected rate of loss. In the majority of districts, half the white loss over a 6- to 8-year period is due to court-ordered desegregation efforts. White flight accelerates the "tipping" process by which minorities become the majority in a school district and desegregation becomes resegregation. Here is what Armor says:

> Before the desegregation action in Boston (1972), there were 57,000 white students but by 1977, there were only 29,000. Of this total decline of 28,000, about 16,000 (or three fifths) is attributable to desegregation activities. As a direct result of court-ordered busing, Boston became a majority black school district in 1975. It is interesting to note, also, that minority enrollment stopped growing rather suddenly in 1975 . . . This shows that black flight—which has not been studied—may also be a phenomenon in court-ordered desegregation. . . .

Statistics for various school districts undergoing court-ordered desegregation involving some degree of busing show substantial declines in white enrollment. The Los Angeles Times reported that between the fall of 1979 and the fall of 1980, when the Los Angeles desegregation plan was extended to more grades than before, white enrollment in the Los Angeles school district dropped by 18,515 students or 12.8 percent. Minority enrollment grew by 1.2 percent. St. Louis offers an example of significant white enrollment losses between 1979 and 1980, when mandatory reassignment of some students began. In the fall of 1979, nonblack enrollment was 16,444. By the fall of 1980 that number had dropped to 13,244, a loss of 21 percent.

Armor cautions that the white flight phenomenon comprises more than relocation of family residence. He states:

> ". . . there are three major processes which can give rise to white flight from public schools: (1) residential relocation outside the district; (2) transfer of children from public to private schools; and (3) failure of new area residents to replace regular outmigrants who are leaving the area for reasons unrelated to desegregation . . . some white flight effects are manifested by the slowing down of white growth rather than the acceleration of white decline."

Mr. President, these distinguished studies and this statistical evidence in this quite place in the U.S. Senate stands in stark contrast to what court-ordered busing means in human terms and in educational terms out in what is called the field. The field, in my case, Mr. President, is my own State of Louisiana.

I can tell my colleagues that education in Louisiana at this point, in large areas of my State, is in absolute turmoil because of what Federal judges have seen as their duty, under the rule of the Supreme Court, to order massive cross-town busing.

The attorney for the Baton Rouge Parish School Board appeared when this matter was considered before the Judiciary Committee. He pointed out—and he represents virtually all of the parishes now being brought under court order in Louisiana and has been in this business for a long time—that the experts employed by the Justice Department, when they are brought into a case to give advice, that their rule of thumb is that every school in a parish or county must be integrated with a 15-percent error rule.

That is the plan which they will offer in each case. That is, if you have an all-white school, it must be integrated to within 15 percent, plus or minus error differential. The same thing is true with all-black schools. The same thing is true with all schools.

The problem is, Mr. President, due to our residential housing patterns across this country and in my State in particular, in order to achieve that kind of level of mixing it requires massive, long distance, cross-town busing. That is precisely what has been ordered in the Baton Rouge Parish, that is precisely what has been ordered in Rapides Parish, and that is the sword of Damocles that hangs over the heads of school districts in my State as well as school districts around the country.

What is happening is that on a massive basis the process of white flight is beginning. You can say, "Well, those who wish to go, let them go. Good riddance, if they have racism in their soul or whatever other kind of motive, unsavory motive, let them go." But the problem is, Mr. President, that with the white flight comes the demise of the quality of education. It makes it that much more difficult to get a bond issue approved financing public education. It makes it more difficult, indeed, to have an integrated experience because if, as the Armor study and the Coleman study shows, the white students in massive number leave, then there are many, many fewer numbers with which to integrate.

So, Mr. President, what I am trying to do in this amendment is to stem the tide, in effect to save public education, to save the quality of education, in my State and across the Nation. It may not be a perfect amendemnt. It is criticized by some because it goes too far and by others because it does not go far enough. What it does do is to put a rule of reason, Mr. President, on the issue of busing. To the extent that busing is allowed in this amendment, it will be allowed within the context of the neighborhood in which the student is located.

It will not be beyond the reach of parents to participate in the school with PTA's or other extracurricular activities.

I would hope that my colleagues would approve this amendment and that it could be enacted into law rapidly.

Mr. President, I see the distinguished Senator from Connecticut, and at this point I yield the floor.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. NICKLES. Mr. President, I support amendment No. 96, as modified, which prohibits the mandatory busing of students for the purpose of integration.

I believe, Mr. President, that despite the good intentions behind the court decisions and legislation of the last 27 years that have required busing for the purpose of desegregation, the overall result of such a policy has been failure.

However, I do not stand here just to represent my own thoughts on this matter. Public opinion polls on this issue have made an interesting statement on behalf of the American people in regard to integration and the use of busing to achieve that end. It seems that an ever-growing number of Americans believe that a good education means one which brings together students of all races. In other words, Americans favor integration. Yet, there is substantial opposition to busing as the means to achieve desegregation in the school system. Why? Because busing has not proven to bring enough gains toward the end goal of desegregation to offset the costs of this policy.

The price has included such things as higher transportation costs as Senator HELMS pointed out in his remarks on Tuesday. At a time when inflation and escalating oil prices are driving up such costs for the schools anyway, this burden becomes very heavy. Yet, such a financial burden might be affordable if the results of busing were positive. But they are not.

Instead of concentrating on improving the quality of education that all students receive, all those involved with education—students, parents, teachers, and administrators—are coping with the loss of the neighborhood school, community fragmentation and polarization, and racial quotas.

No wonder the public schools are in turmoil. No wonder student achievement tests are declining. We have, in effect, told them that their priority is not education, its getting the right numbers of blacks and whites.

I believe that it is time to recognize that we have made a mistake. Busing has not proven to be the answer to the common goal of integration. There have got to be other incentives and ways. It is time to assist schools in their efforts at education, not put roadblocks in their path. Therefore, I support this amendment which limits the Department of Justice's activities in regard to busing.●

Mr. JOHNSTON. I ask unanimous consent that the amendment offered as an amendment to the pending amendment be printed.

The PRESIDING OFFICER. The amendment will be printed.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MURKOWSKI). Without objection, it is so ordered.

The question is on the amendment of the Senator from North Carolina, as modified.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 5:25 P.M.

Mr. BAKER. Mr. President, it is clear to me that nothing further can be done at the moment. There are other matters that are in negotiation now to try to expedite the progress of the Senate on the matters before it at this time and those matters that will shortly be before the Senate.

I have just talked to the minority leader and he is agreeable to this recess.

I ask unanimous consent, Mr. President, that the Senate now stand in recess until 5:25 p.m.

There being no objection, the Senate, at 4:52 p.m. recessed until 5:25 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mrs. KASSEBAUM).

Mr. BAKER. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. KASSEBAUM). Without objection, it is so ordered.

"MEET THE PRESS" INTERVIEW WITH CYRUS VANCE

Mr. PELL. Madam President, yesterday former Secretary of State Cyrus

Vance was interviewed on NBC's "Meet the Press" program, where he made a number of interesting observations on several important foreign policy issues.

I was particularly struck by his comments on the administration's decision to change the earlier policy, followed by the three previous administration, by expressing the Reagan administration's willingness to transfer lethal military equipment and technology to the People's Republic of China. I agree with former Secretary Vance that this decision is "needlessly provocative" in our relations with the Soviet Union. As I stated on the floor of the Senate on June 17, a decision of this importance should have been preceded by public discussion and consultations with Congress before the Chinese were informed of this change of policy.

Madam President, I ask unanimous consent to have printed in the RECORD the full text of the "Meet the Press" interview.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

[From "Meet the Press"]

Guest: Cyrus R. Vance, former Secretary of State.

Moderator and executive producer: Bill Monroe, NBC News.

Panel: Bill Monroe, NBC News; Henry Bradsher, Washington Star; Jack Rosenthal, New York Times; and Marvin Kalb, NBC News.

Mr. MONROE. This is Bill Monroe inviting you to Meet the Press with Former Secretary of State Cyrus Vance.

(Announcements.)

Mr. MONROE. Our guest today on Meet the Press is Cyrus Vance, Secretary of State under President Carter until he quit in opposition to the unsuccessful Iran rescue mission. Mr. Vance was an architect of the SALT II arms limitation treaty, now shelved by the Reagan Administration. Currently practicing law in New York, he has just returned from a trip to the Soviet Union.

Mr. Vance, President Reagan has been in office now five months and he has been emphasizing, as he said he would, improving American military strength and taking a tough line with the Soviet Union. What is your overall assessment of the Reagan foreign policy so far?

Mr. VANCE. I regret I must say that it is more of a posture in many important areas than it is a policy. In my judgment that is dangerous. It is necessary to have a clearly thought out policy in key areas.

For example, I do not see any policy insofar as relationships with the Soviet Union is concerned. I do not see a clear policy with respect to the Middle East. The Reagan Administration has indicated that the thrust of their policy would be to try and put together an alliance addressed against the Soviet Union without addressing the question of the Palestinian issue. In my judgment, it is impossible to deal with the real problems of the Middle East unless you deal with the Palestinian issue. It will not do to try and wish it away or to put it on the back burner.

Again, in Southern Africa, I fail to see a policy on the part of the Reagan Administration there. Again, I think it is a posture rather than a policy.

Mr. MONROE. I think we may want to come back to some of the questions you have raised, but let me ask you right now about a more specific subject. Do you believe that Israel was in violation of U.S. law when it attacked the Iraqi nuclear reactor using American planes?

Mr. VANCE. I agree with the action taken by the Reagan Administration in condemning the attack on the reactor outside of Baghdad. I also agree with the statement made by Miss Kirkpatrick that the condemnation was warranted because Israel had not exhausted the diplomatic means available to it to ease, do away with, the concerns and fears which understandably Israel has.

I have been one who for many years has been deeply concerned about the security. I worked during my time in the Administration and continue to work to see that that security and wellbeing are protected.

However, I must say that I do not believe that the action was taken, in the longrun, will advance the security of Israel. In the shortrun, it may have an effect. But in the longrun, I think it will not, because one must address the underlying problem, the overriding problem, of the Palestinian issue in the Arab-Israeli conflict. And I think, insofar as addressing that problem is concerned, the action which was taken makes it more difficult rather than more easy.

Mr. MONROE. Mr. Vance, you are a former Secretary of State, also a lawyer. Did Israel violate U.S. law, in your opinion?

Mr. VANCE. That is a determination which the Administration is going to have to make in conjunction with the Congress. And I believe that we should wait until we see what the Administration has to say on this.

Mr. MONROE. Thank you, Mr. Vance. Our reporters on Meet the Presss today are Henry Bradsher of the Washington Star, Jack Rosenthal of the New York Times, and Marvin Kalb of NBC News, regular member of the Meet the Press panel. We'll be back with our questions in a minute.

(Announcements.)

Mr. MONROE. We'll continue the questions for Cyrus Vance with Henry Bradsher.

Mr. BRADSHER. You just referred to the efforts of the Administration when you were Secretary of State to resolve the Arab-Israeli conflict. That led to Camp David which then produced a treaty between Israel and Egypt and further talks which seemed to have bogged down by the time you left office a year ago. Why did that effort bog down and what do you think should be done now to resume the movement on trying to resolve the Arab-Israeli question?

Mr. VANCE. The effort bogged down because I think that all of us would agree that the most difficult issue is the resolution of the Palestinian question. The first step in building a structure toward a Middle East peace was taken in the agreement which was reached between Israel and Egypt on the Sinai and I think it was a very important step. But we will never have a lasting peace until we solve the second half of the problem, namely, the Palestinian question. It is deeply entwined in passions, roots, that run very deep among all the parties to the negotiations.

Having run into difficulties, as one would expect, those had to be put aside pending the Israeli elections. The Israeli elections will soon be held and after that I think it is imperative that the negotiations be resumed and resumed promptly.

Mr. BRADSHER. But are you saying that the talks which came out of Camp David on the Palestinian issue still have some promise, that they still can be pushed and might result in a settlement?

Mr. VANCE. I think they still have some promise and we will have to see what the position of the new Israeli government is as to how they will wish to proceed. As you know, under the current Israeli government, the emphasis was on the autonomy talks. It may well be that if the Labor government comes to power, the emphasis will be shifted from that to discussion of the territorial compromise, in other words, a territorial adjustment of the differences between the parties. So I think one cannot say at this point, until we see who is elected, what the direction of those talks will be.

Mr. MONROE. Mr. Rosenthal?

Mr. ROSENTHAL. Mr. Vance, the Carter Administration put substantial emphasis on human rights and even so, places like Korea and the Philippines turned out to be exceptions. Now the Reagan Administration draws its line between authoritarian governments and totalitarian governments. Is that a tenable distinction and what line would you now draw for establishing human rights policy?

Mr. VANCE. I really do not think that that is a tenable distinction. I find it hard to say that this semantic distinction is going to make it possible to deal more effectively with the human rights problems. I think what we must keep very much in the forefront of our mind is that the issue of human rights is an issue that is international in its nature. This has been recognized by most of the nations of the world, by their signing of various agreements which indicate that they recognize that that is the fact.

Therefore, I think that what we should be doing now is not trying to downgrade the issue of human rights but to continue to have it as a central part of our foreign policy. It is necessary that we keep this issue very much at the forefront of our foreign policy and it is important as to how we are perceived by other nations in this regard.

We ought to stand in the world for human rights and not merely for human rights when human rights is convenient. I would submit, Mr. Rosenthal, that the human rights policy carried out during the Carter Administration, although it had difficulties and problems, was a sound policy and a policy which did have positive effects.

I would point only to the recent statements made by Mr. Timmerman from Argentina who said very clearly that what the United States did in the field of human rights saved thousands of Argentinians from torture and from death.

Mr. MONROE. Mr. Kalb?

Mr. KALB. Mr. Vance, when you quit in April of 1980, were you aware at that time that the U.S. was trying to set up an intelligence sharing operation with the Chinese?

Mr. VANCE. Mr. Kalb, I have made it a practice, always, never to talk about things which relate to U.S. intelligence and I am going to adhere to that now.

Mr. KALB. Okay, then I won't pursue that. Could you—you have just returned recently from Moscow?

Mr. VANCE. Yes.

Mr. KALB. Could you tell us your own view on whether the Soviet Union, according to one line of thought in Washington, anyway, seems to be giving up on the Reagan Administration as a reliable partner in a sense of developing a spirit of cooperation between the super powers?

Mr. VANCE. I think it is a real question in Moscow, as to whether or not there is any possibility of resuming serious negotiations between the Soviet Union and the United States.

And let me say that I do not think that that has been helped at all, indeed, I think it has been hurt by the action which was taken the other day, when it was announced that the United States intends to sell lethal weapons to The Peoples Republic of China.

Mr. KALB. Do you think, sir, that there may be a relationship between that decision and a Soviet increased willingness to intervene in Poland?

Mr. VANCE. Let me first say a word more, if I might, about the decision, and then I'll answer your question.

Mr. KALB. Please.

Mr. VANCE. I think that the decision was needlessly provocative. I think it smacks of

bear-baiting rather than dealing seriously with the problems. The purpose of diplomacy is to try and influence action on the part of other parties. I think that the action that was taken in saying that we are going to sell lethal weapons will not have any positive influence with respect to the Soviet Union. Indeed, I think it can have only a negative influence.

What's more, I think that we may end up, having taken this decision, alienating both parties, because it remains to be seen as to how much will actually be sold to the Chinese and we may end up with the worst of both worlds, namely, both parties feeling that a decision has been taken which they are greatly opposed to.

Now, coming back to your question, will it have any effect on Poland? Let me say that I think that that decision reduces any leverage which we may have with the Soviet Union, and therefore I think in that sense it probably does have some effect.

Mr. KALB. Do you think we had any leverage, at this point:

Mr. VANCE. Very little, but some.

Mr. MONROE. Mr. Vance, in the matter of the Polish situation, what would you do about it that the Administration is not now doing? They have issued one warning after another that if the Soviets move in Poland there will be grave troubles over a period of years. What else do you think the Administration could do?

Mr. VANCE. I think the Administration has made it very clear what our policy is with respect to Poland. I do not think there is any misunderstanding about our position insofar as the Soviets perceive it.

Mr. MONROE. Well, you say the Administration has made its policy very clear. A moment ago, you said the Administration had more of a posture than a policy. What would you say to the argument that the kind of posture or policy this Administration has—President Reagan says it is a clear policy and he does not need a speech to make it a policy—what would you say to the argument that their posture is exactly the kind of posture people hoped for, certainly conservatives hoped for, from the Carter Administration, the feeling that the Carter Administration was too weak, did not build up military strength, did not stand up to the Soviet Union?

Mr. VANCE. I believe that the decision as to what happens in Poland will be made and should be made by the Polish people among the three principal groups, Solidarity, Party, and the Church. And I think that for us, at this point, to do anything more, is probably counterproductive. I do think the Soviets understand what we have said we are prepared to do, what the seriousness of this will be, not only insofar as the United States is concerned, but I think they also understand the seriousness of what an intervention would mean to the entire world.

So that at this point, I do not suggest anything else that the United States ought to be doing, at this point.

Mr. MONROE. But to some extent you are reaffirming Administration policy? You are saying they have a clear policy in Poland?

Mr. VANCE. I think it is clear, yes.

Mr. MONROE. Mr. Bradsher?

Mr. BRADSHER. Is there really a policy on arms control, though? We are now four months into the new Administration. When your Administration, when the Carter Administration was two months old, you made new arms control proposals. They didn't get very far, but within four months you had the talks going on the track that led to the 1979 Strategic Arms Limitation Treaty. Now the Administration hasn't even gotten around to formulating a position and is talking about the end of the year. Why is this so difficult? What are the problems now and do you feel that they are dragging their heels as the Soviets accuse them of doing?

Mr. VANCE. I do not believe that they have a policy yet with respect to arms control, and by "they," I mean the current Administration in the United States. And I believe this is bad and unfortunate. I think it is important that we do promptly start discussions with the Soviet Union. The clock is ticking. SALT I has expired, by its terms, even though it is being de facto observed. SALT II has not been ratified. And the pace of development of weapons is proceeding at a rapid pace.

Mr. BRADSHER. Do the Soviets——

Mr. VANCE. If we miss this opportunity to start serious discussions again, we may well find that we have missed it and that time has gone by.

Mr. BRADSHER. Do you feel that the Soviets are sincerely interested in controlling and even reducing armaments or do they want to just somehow stop things where they are with what they now feel is a fairly comfortable position for themselves?

Mr. VANCE. It is awfully hard to say what is in their minds. My own view is that they are seeking rough parity, rough equality, as we have been, and I think negotiations resumed on that basis could make some progress.

Mr. MONROE. Mr. Rosenthal?

Mr. ROSENTHAL. Mr. Vance, in the New York Times last February, you wrote an article advocating reform of the political campaign system, and in the article you wrote, "The long period of highly charged electioneering results in the shelving of some policy decisions until after the campaign. Other decisions may be influenced by the politics of reelection." Doesn't that mean that Jimmy Carter put his reelection ahead of his principles and his policies?

Mr. VANCE. I think that whoever is in office under the current system which we have, with the extended primary system which runs over a period of many months, leads quite naturally to a situation in which difficult decisions are often put aside and not acted on and other decisions are made and are affected by the political winds of the moment. So I think that that happens with whoever happens to be in office. And that's why I believe that one of the imperative problems that we face is the problem of reforming the system so as to shorten it and make it possible to lessen the chance of those kinds of things happening.

Mr. MONROE. Mr. Kalb?

Mr. KALB. Mr. Vance, I'd like to ask you about our relations with Israel for a moment. In light of recent developments, do you feel that the United States should now be seeking, in conjunction with the Congress, the Administration and the Congress, some new definition of that relationship?

Mr. VANCE. I think it is important that we have a clear understanding with Israel as to our objectives and their objectives. I think they should also clearly understand that our commitment to their security is firm and will remain firm. I think they should also understand that it is our belief that it is necessary to have flexibility on both sides if there is to be progress in resolving the remaining issues that have to be resolved.

Mr. KALB. Do you sense that there has been, in recent months and years, an erosion of U.S. support of Israel?

Mr. VANCE. To a degree, there has been some erosion, but I do not think that is permanent. I think it happens from time to time that there are ups and downs in the relationships between our two countries. But I don't think anybody should be misled that there is any lessening in the fundamental friendship and concern in the United States for the wellbeing and security of Israel.

Mr. KALB. Well, one of the Senators on the Foreign Relations Committee said this past week that we ought to be drawing a distinction between our commitment to Israel and our feelings about the leadership of Israel, as though, in a democracy, that were a possible distinction that could be drawn. I was wondering what your own view is on that? Is that a possible distinction? Should one do that?

Mr. VANCE. No. I think it is very hard to do that. I think a country is governed by its leadership and you take it as it is governed by its leadership.

Mr. MONROE. Mr. Vance, the Reagan Administration obviously feels that in certain areas of turmoil, such as in Central America, they can do better than the Carter Administration by coming in more forcefully, with military aid, for example, to forces looked on as friendly to us, such as in Guatemala, the new allocation of trucks, and El Salvador. Do you think they might get better results than you did?

Mr. VANCE. I don't think so. I think that we have to take a very clear and hard look at what the nature of the problem is and what its causes are—and if the causes of the problems are economic, social, and political, and those are the causes that have to be dealt with if you are going to get a solution. If we try to militarize the solution rather than seeking a political solution, we may make it more difficult for the people of El Salvador to achieve a solution. That view is shared by the whole spectrum of Latin American countries, from left to right, and they are the ones who are the immediate neighbors. And I think this is something that we ought to take into account. When we see the whole political spectrum saying to us, from Latin America, this is a political problem, it must be solved as a political problem, we ought to listen.

Mr. MONROE. Thank you, Mr. Vance, for being with us today on Meet the Press. I'll be back in a minute with a look at letters.

(Announcements.)

Mr. MONROE. Next Sunday on Meet the Press, another headline figure in the news will be our guest.

Now, this is Bill Monroe, saying goodbye for Cyrus Vance and Meet the Press.

HIGH INTEREST RATES

Mr. FORD. Madam President, as part of our continuing discussion on high interest rates and the calamitous effect they are having in nearly every segment of our society, I focus on the agricultural sector.

There is no other group whose life and well-being revolves so much around borrowed time and money. Yet, the contribution farmers make is vital to the well-being of the Nation as a whole and that is why something must be done to ease the burden placed on them as the result of continued high costs of credit.

To put their predicament in perspective, let me just tell you about a current situation that exists in my State.

Last summer, a severe drought devastated crops and destroyed livestock over large portions of my State and throughout the South and Midwest. Total agricultural losses exceeded $1 billion in some States and hundreds of counties were declared disaster areas.

In Kentucky alone, agricultural income was reduced by $500 million. Corn and soybean yields dropped 29 percent below 1979 levels.

This year, farmers in a number of areas are experiencing just the opposite problem—too much rain. Several areas

of the country have been ravaged by flooding. Farmers have been unable to work their fields because of excess water, and the deadline for planting many crops in hope of harvest is past.

Madam President, I draw attention to these problems of nature because they illustrate just how precarious a farmer's life can be. No matter how efficient, no matter how diligent, and no matter how innovative a farmer may be, all his work may be in vain if nature does not cooperate. For this reason, the farmer faces a most uncertain set of circumstances upon which to make business decisions, and the last thing he needs is the headaches caused by the fluctuation of interest rates.

Until lately, the cost of credit to farmers has been fairly stable. A farmer could plan a yearly budget with a pretty good idea of his expenses, yet even during these times the profit margin for the farmer, especially the small family operation, was razor-thin.

The increased cost of credit in recent months has cut dramatically into that profit margin, if not eliminating that margin entirely.

During stable times, a farmer can meet increased production costs by corresponding increases in productivity.

However, there is no simple way for dealing with the soaring costs of credit. More often than not, the farmer either goes deeper in debt to raise the money necessary to plant his crop, sells his land, or leaves the farm entirely.

As these high interest rates continue, the options available to most farmers—especially smaller operations—dwindle down to the last two I mentioned, and when this happens our country is the poorer for it.

I only hope, Madam President, that we can find a way—and soon—to lift this burden from the back of our farmers before it is too late.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRASSLEY). Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I invite the minority leader's attention to the following statement.

We have cleared on our Executive Calendar the nomination of Daniel J. Terra, of Illinois, to be Ambassador at Large for Cultural Affairs; and Robert I. Brown, of Virginia, to be Inspector General of the Department of State, as well as John J. Knapp, of New York, to be General Counsel of the Department of Housing and Urban Development. I wonder if the minority would be in a position to clear those nominations for consideration at this time?

Mr. ROBERT C. BYRD. Mr. President, the minority has cleared the nominations to which the distinguished majority leader has alluded and, in addition thereto, the nomination of Mr. Lawrence F. Davenport, of California, to be an Associate Director of the ACTION agency and is ready to proceed.

Mr. BAKER. I thank the minority leader.

Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering the nominations of Daniel J. Terra, Robert I. Brown, and John J. Knapp.

There being no objection, the Senate proceeded to the consideration of executive business.

DEPARTMENT OF STATE

The PRESIDING OFFICER. The clerk will state the nominations.

The assistant legislative clerk read the nomination of Daniel J. Terra, of Illinois, to be Ambassador at Large for Cultural Affairs.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominee was confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The assistant legislative clerk read the nomination of Robert I. Brown, of Virginia, to be Inspector General of the Department of State and the Foreign Service.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nomination was considered and confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The assistant legislative clerk read the nomination of John J. Knapp, of New York, to be General Counsel of the Department of Housing and Urban Development.

Mr. GARN. Mr. President, as chairman of the Senate Banking Committee, I am pleased that Mr. John Knapp's nomination as General Counsel of HUD has been brought to the floor today. In the completed questionnaire submitted to our committee, Mr. Knapp disclosed that he was the subject of an SEC investigation while serving as counsel for the National Kinney Corp. He voluntarily supplied the Banking Committee with copies of the complaint and the consent decree which were filed simultaneously by the SEC.

Mr. Knapp was not named as a defendant in the complaint, but the SEC alleged that he made numerous untrue or misleading statements to an official of the American Stock Exchange who was investigating unusual trading activity and price rise in National Kinney stock.

Although the SEC did not proceed with any enforcement action and accepted the filing of a consent decree in which National Kinney agreed to make full and fair disclosure with exchanges in the future, the Banking Committee chose to examine the case in great detail.

Copies of all pertinent pleadings, dispositions, affidavits and documents were obtained from the SEC's investigation file and reviewed with the attorneys from the SEC who had handled the case. Summaries of the case from the SEC and the American Stock Exchange were also obtained.

Two separate hearings were held by the Banking Committee on the nomination—one with Mr. Knapp alone and the other with representatives of AMEX. During these hearings, John Knapp admitted to the committee that he was unaware of his standard of disclosure as outlined in Geon against SEC. He did not understand the distinction between release of information to the public versus disclosure to the listing representative.

Knapp further admitted to AMEX and to the SEC that he had knowledge of business discussions prior to his conversations with AMEX representative. He did not disclose them because he estimated that they would not produce any agreement—indeed, in the final analysis, they did not.

The SEC's position was that John Knapp had a duty to respond fully and fairly to inquiries from its listing exchange. His duty does not depend on the listing representative asking the right question. He must volunteer all information which may have a material impact on the company which a reasonable investor might consider important.

A review of the AMEX contact sheets which were prepared contemporaneously with its employees' conversations reports that Mr. Knapp "stated there was no unannounced corporate developments to account for the activity." Furthermore, the language on the employee's check list read:

> I asked whether or not there were any material corporate developments which have not been announced which might have caused the activity.

So there is some independent evidence to support Mr. Knapp's version of the conversations.

After reviewing materials sent to AMEX by the committee, AMEX responded in a letter that:

> There is no significant difference in the . . . versions of the conversations and events which took place regarding the Kinney stock; rather any inconsistencies appear to rise out of the different interpretations (given) to such conversations and the different views . . . held concerning the responsibilities which flow from such different interpretations.

This was confirmed by testimony at our second hearing.

There is no evidence of any inside trading, profit or potential profit by Knapp or any other official of Kinney. Mr. Knapp should have been more forthcoming with AMEX during his conversa-

tions with Digges, and he has admitted such to this committee.

In difficult circumstances, Mr. Knapp was unfamiliar with the full extent of his duty and was mistaken in not openly discussing the possible causes of the unusual trading with AMEX.

His judgment of the speculativeness of the discussions to enter the casino business, however, proved correct, since no agreement was ever reached.

Under the circumstances, the SEC was satisfied with a consent decree that Kinney would make fully fair and accurate statements in communications with the exchange. They did not seek to prove that Mr. Knapp intentionally made untrue and misleading statements of material facts concerning corporate developments. After an extensive review of the case and two separate hearings, a poll of our committee was taken and 14 out of 15 Members voted in favor of confirming Mr. Knapp. After careful consideration, I urge the Senate to confirm Mr. Knapp as General Counsel of HUD.

Mr. PROXMIRE. Mr. President, I have indicated to the leadership my opposition to John Knapp. I certainly will not ask for a rollcall and I am sure he will be confirmed, but I think it is very important that we make a record on this nominee.

This nominee appeared before our committee on Banking, Housing, and Urban Affairs.

My difficulty stems from Mr. Knapp's failure to be forthcoming, as required by law, with American Stock Exchange officials in a matter involving unusual trading in the stock of National Kinney Corp. at a time when Knapp was general counsel of Kinney.

Let me set forth the salient facts briefly. Every company listed on the AMEX signs a listing agreement that is designed to insure a fair and orderly market. The AMEX Co. guide, which is also agreed to by each listed company, states that:

In order to insure such a marketplace, every listed company . . . (must) make available to the public information necessary to informed investing and to take reasonable steps to insure that all who invest in its securities enjoy equal access to such information.

The AMEX agreement and the securities law provide for fuller and earlier disclosure to the AMEX than to the public. This is done in an attempt to balance a corporation's need for privacy in negotiations with the exchange's need for full information in order to regulate trading on its market.

Thus, a company need not disclose information to the public unless that information would be material to a person trading stocks.

On the other hand, a company basically must tell the exchange whatever it knows when asked by the exchange. This requirement is embodied in section 14 of the AMEX listing agreement, which reads as follows:

The corporation will furnish to the Exchange on demand such information concerning the Corporation as the Exchange may reasonably require.

This dichotomy in disclosing information has been ratified in case law with respect to the antifraud provisions of the Securities Exchange Act of 1934. In the leading case of *S.E.C.* v. *Geon Industries, Inc.*, 351 F. 2d 39, 50 (2d Cir., 1976), the court articulated the greater obligation to provide information to an exchange as follows:

If the issue here were whether Bloom or Geon violated Rule 10b–5 (issued pursuant to the Securities Exchange Act of 1934) by failing to issue a public statement on February 22, we would agree they did not; there was too great a danger that such a statement would induce selling that might prove to be unwarranted. . . . Gromet (the exchange representative) was not in the position of a stockholder or a registered representative; he was charged with the responsibility of maintaining orderly trading on the exchange on which Geon had listed its shares.

Thus, the court ruled that Bloom and Geon violated rule 10b–5 by not disclosing such information to the exchange official.

In the case at hand, in the fall of 1979, officials of Kinney were discussing the possibility of getting into the casino gambling business.

Although Mr. Knapp was not involved in the negotiations, he appears to have been generally kept informed as to their progress. All of a sudden, on September 17, there was dramatic unexplained movement in the stock. After an average daily volume of trading on NKC of about 7,000 shares a day for the prior 50 days, the volume shot up to 85,311.

On September 18, after the volume soared to 107,500 and the price moved up 50 percent over the price of 2 days before, Mrs. Juanita Diggs, of the AMEX called Mr. Knapp to see if he could explain the movement.

Mr. Knapp, who had been the principal spokesman for Kinney in responding to such inquiries since 1971 and was their general counsel, told her that he knew of no corporate developments that could account for the sudden change in trading and price. He told her this even though he was aware that Kinney had been investigating getting into the gambling business for several months.

On September 24—when the volume soared to 134,000—mind you, this was stock that normally traded at 7,000 shares a day—they had 134,000 shares traded after several days of more moderate trading, its price reached $3⅝, up 75 percent over September 14—Mrs. Diggs again called Mr. Knapp and he again repeated that he had no knowledge of events that could account for the changes.

Finally, on September 28—after volume reached 129,600 and the price reached $5, an increase of 150 percent over September 14—Mrs. Diggs called Mr. Knapp once again and, this time, he finally requested a halt in trading.

Thereafter, the SEC initiated an investigation in this matter to determine if Mr. Knapp had violated section 10b–5 of the Securities Exchange Act by failing to disclose to the American Stock Exchange the information he had at the time of Kinney's entry into the casino gambling business.

In his deposition to the SEC, Mr. Knapp testified that he felt that the negotiations were too preliminary to reveal, particularly in light of the fact that Mrs. Diggs was unaware of any rumors on the AMEX floor. But the company guide clearly states that a company must make inquiries to determine whether rumors or other conditions exist requiring corrective action, and Mr. Knapp's inquiry of Mrs. Diggs hardly fulfills this standard. As Lee Cutrone, assistant vice president of the AMEX testified on June 11, 1981, before the Committee on Banking, Housing, and Urban Affairs:

We recognize a company's right to negotiate in private, and we're as concerned about making preliminary announcements as anybody else. The point is when the market seems to be reacting, the question is how private are those negotiations and do we need some kind of announcement. Or in absence of an announcement, should trading be going on.

Ultimately, the SEC and Kinney settled the matter with a consent order. In the SEC complaint, which the company neither admitted nor denied in the consent order, the SEC charged that—

Mr. Knapp made numerous untrue statements of material facts and omitted to state material facts, necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading concerning, among other things, corporate developments of Kinney . . .

Obviously, as Mr. Knapp admitted at the June 11 hearing, the SEC does not issue consent orders unless it feels there is a need for one and in this case the SEC did not feel that his answers to Mrs. Diggs met at the necessary legal standards.

In his testimony before the committee, Mr. Knapp contended that he was not aware of the Geon case and that he did not tell Mrs. Diggs about the negotiations during their first two conversations because the negotiations were in a preliminary state that he felt did not rise to the level of materiality necessary to make public disclosure. In fact, Mr. Knapp's assessment of the negotiations proved correct as there was no final agreement. But this is not the point. The point is that Mr. Knapp had a different obligation to disclose information to the Exchange than he had to disclose to the public—one based upon the Amex's responsibility to run a fair and orderly market—and he failed to meet that obligation. His explanation as to why he called for a halt in the trading during the third conversion—that the price was too high and people could get hurt—applied almost equally at the time of the second conversion. People probably did get hurt because of Mr. Knapp's failure to disclose this information earlier.

The SEC officials who investigated the case believed—as indicated by the complaint—that Mr. Knapp consciously made numerous untrue statements of material facts to the AMEX representative.

I repeat: This man, who has been nominated to be general counsel of the Housing and Urban Development Agency, one of the largest agencies in our Government, with a multibillion budget and thousands of employees, was found by the SEC to have consciously made numerous untrue statements of material facts to the AMEX representative.

Mr. Knapp need not have feared that the AMEX might reveal information about the negotiations publicly which would undermine them. Amex officials testified at our hearings that they could have done other things to protect the investors than disclose the information about the gambling negotiations. These other actions could have protected both the integrity of the market and the privacy of the negotiations.

In short, I believe that Mr. Knapp protected his company at the expense of his statutory obligation to the public. This is what concerns me. How will he respond as a public official, particularly as one whose obligations go well beyond his "clients," the Reagan administration, to Congress and the public at large?

On the basis of the record, I have my doubts, Mr. President, I hope I am wrong about Mr. Knapp. He has the intelligence to do a good job as general counsel of HUD. If he takes his experience to heart and responds forthrightly and openly to inquiries from Congress and the public, he will make a valuable contribution to his own growth and to HUD.

I believe this matter is so serious that it should be called to the attention of the full Senate aloud, which I have done today. I hope, as I have said, Mr. Knapp will take this to heart, because this kind of coverup is precisely what got this country into difficulties a few years ago.

Mr. BAKER. Mr. President, I know of no further debate on this nomination.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of John J. Knapp, of New York, to be General Counsel of the Department of Housing and Urban Development?

The nomination was confirmed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I announce, for the benefit of Senators, that it now appears that we are in the final moments of preparation for proceeding to the consideration of the budget reconciliation bill. Certain items are still in preparation—or, rather, certain revisions are being undertaken to conform the request I will make shortly, with the understanding of all parties.

While we are waiting for that, I ask unanimous consent that there now be a brief period for the transaction of routine morning business, not to exceed 10 minutes, in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

REVISION OF ORDERS FOR THE RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. BAKER. Mr. President, are there special orders for the recognition of Senators tomorrow?

The PRESIDING OFFICER. There are.

Mr. BAKER. Will the Chair apprise me of the names and the times allocated to the Senators?

The PRESIDING OFFICER. Fifteen minutes each to Senators BOREN, BENTSEN, ROBERT C. BYRD, CRANSTON, CHILES, SASSER, MELCHER, PRYOR, BAKER, and STEVENS.

Mr. HOLLINGS. Mr. President, will the distinguished majority leader add 5 minutes for me?

Mr. BAKER. I am about to ask unanimous consent, I say to the Senator from South Carolina, to reduce the time ordered for Senators under the special orders. I will be glad to provide 5 minutes for the Senator, and I will assure him that I will yield it to him out of my time, if I may do that.

Mr. HOLLINGS. Surely.

Mr. BAKER. First, Mr. President, I ask unanimous consent that the time allocated to the Senator from Alaska (Mr. STEVENS) and the Senator from Tennessee (Mr. BAKER) be reduced from 15 minutes to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I ask unanimous consent that the time allocated to the eight Senators who precede us on the list—I have discussed this with the minority leader—be reduced pro rata, so that the time equals 60 minutes. I believe that will be 7½ minutes each.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object—and I shall not object—this request, I am told by staff—at my request to staff—has been cleared with Senator BOREN and the Senators who are in league with him, so that the reduction by half—namely, to 7½ minutes for each Senator—is agreeable.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, shortly, I will request that the Senate grant an order to proceed to the consideration of the budget reconciliation bill at 10:30 a.m. tomorrow. However, until the final details and amendments are completed and a unanimous-consent request is agreed to, I will withhold that request.

For the moment, once again, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER REDUCING THE TIME OF THE LEADERSHIP UNDER THE STANDING ORDER

Mr. BAKER. Mr. President, I have conferred with the distinguished minority leader on this. I ask unanimous consent that on tomorrow the time allocated to the two leaders under the standing order be reduced to 1 minute each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER ASSIGNING THE CONTROL OF TIME UNDER SPECIAL ORDERS

Mr. ROBERT C. BYRD. Mr. President, while the distinguished majority leader is on the subject of special orders for in the morning, is he agreeable to getting an order to the effect that the 1 hour which is to be divided among eight Democratic Senators be under the control of Mr. BOREN?

Mr. BAKER. Yes.

Mr. President, I am pleased to do that.

I ask unanimous consent that the hour allocated to eight Senators under special orders tomorrow be aggregated and assigned to the control of the distinguished Senator from Oklahoma (Mr. BOREN), and I ask unanimous consent as well that the 20 minutes allocated to the two Senators on this side be aggregated and assigned to the control of the Senator from Alaska (Mr. STEVENS).

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERNATIONAL RECORD CARRIER COMPETITION ACT OF 1981

Mr. BAKER. Mr. President, I am told that there is clearance on both sides of the aisle to proceed now to the consid-

eration of Calendar Order No. 37, S. 271, the Western Union bill. I inquire of the minority leader if he is prepared to proceed to that at this time.

Mr. ROBERT C. BYRD. Mr. President, I am so prepared.

Mr. BAKER. I thank the minority leader.

Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 37, S. 271.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 271) to repeal section 222 of the Communications Act of 1934.

There being no objection, the Senate proceeded to consider the bill.

UP AMENDMENT NO. 170

(Purpose: To clarify certain provisions relating to international record carriers)

Mr. BAKER. Mr. President, I send to the desk an amendment by the distinguished Senator from South Carolina (Mr. THURMOND) and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), on behalf of Mr. THURMOND, proposes an unprinted amendment numbered 170.

Mr. BAKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, strike lines 1 through 7 and substitute the following:

"SEC. 3. In addition to its responsibilities pursuant to the Communications Act of 1934, the Federal Communications Commission shall require domestic telegraph carriers to provide communications facilities to any international telegraph carrier which makes a reasonable request for such services or facilities upon terms and conditions which are just, reasonable, equitable, nondiscriminatory, and in the public interest.

"SEC. 4. Nothing in the Communications Act of 1934 shall be construed to prohibit the entry of international record carriers into the domestic market, and the Federal Communications Commission is directed to act expeditiously upon all applications filed by international record carriers to provide domestic telex service pursuant to the Communications Act of 1934.

"SEC. 5. The Federal Communications Commission shall exercise its authority under the Communications Act of 1934 to continue oversight over the establishment of just, reasonable, equitable, and nondiscriminatory distribution formulas for unrouted outbound telegraph or record traffic and the division of revenues. This provision shall cease to have any force or effect at the end of the three year period beginning on the date of enactment of this Act.

"SEC. 6. Notwithstanding any other provision of law, the Federal Communications Commission shall not be authorized to act upon any application to provide international telegraph or record service which is filed by a domestic telegraph carrier pursuant to the Communications Act of 1934 until 120 days after the date of enactment of this Act."

Mr. THURMOND. Mr. President, I am pleased to lend my support to S. 271, the International Record Carrier Competition Act of 1981. I believe that with the amendments I offer today, it is a much improved bill, and one to which I feel I can lend my support.

As you know, Mr. President, the Committee on the Judiciary has initiated a series of hearings on the issue of monopolization and competition in the telecommunications industry. In the first of those hearings, we addressed the competitive impact of Western Union's entry into international markets. We took extensive testimony and developed what we consider to be a thorough record and examination of the issues. As a result of this hearing, I have concluded that S. 271 is a commendable move in the direction of deregulation, a goal which I wholeheartedly support. The amendments that are offered today are designed to support that goal by helping to foster competition in international and domestic record services.

The amendments provide a new section 3 to S. 271. This provision recognizes the Commission's obligations under the Communications Act to insure Western Union's interconnection with the international record carriers. This new section adds further emphasis to Congress' insistence that the Commission act to insure that the international carriers are provided adequate interconnection on fair, reasonable, equitable, and nondiscriminatory terms. This section is not meant to go beyond the existing provisions of the Communications Act, but is intended to reinforce the standards set in it.

The new section 4 reflects a concern raised during our hearings that the FCC has failed to act upon pending domestic telex applications, filed by international record carriers. This troubles me, Mr. President. Entry by these carriers into the domestic market would serve to promote competition both domestically and internationally. I do not believe that the FCC should authorize entry by Western Union into international markets without permitting entry by the international carriers into the domestic record market.

The new section 5 simply reiterates Congress' concern that the FCC continue to oversee the formula by which unrouted international messages are distributed, and revenues divided. This is the formula by which Western Union is required to distribute unrouted traffic to each international record carrier in proportion to the routed traffic that each international record carrier generates. FCC oversight must always result in a formula that is just, reasonable, equitable, and nondiscriminatory. This provision shall cease to have any force or effect at the end of the 3-year period beginning on the date of enactment of this act.

Finally, a new section 6 reflects the concern that the present position of Western Union in the domestic market not provide it any unfair advantages when section 222 is repealed. This section seeks to assure that the international carriers will have an opportunity to get a "head start" before Western Union is released by the FCC into the international arena. Thus, the amendments provide that the FCC must wait 120 days before acting upon any application filed by Western Union to enter the international record market.

In order to give full force to the spirit of the 120 day head start, the FCC is administered to actively utilize this period to move quickly on the applications filed by the international carriers to provide domestic telex service. It seems likely that 120 days is not an adequate time period for the international carriers to overcome Western Union's domestic competitive advantage, but it will be totally ineffectual if through regulatory delay, there is no effective period at all.

There is one final point that I would like to clarify. There has been some concern expressed by international carriers that other legislation under consideration by the Commerce Committee affecting the domestic common carrier industry would repeal provisions of the Communications Act that affect international telecommunications. I have been assured by the Commerce Committee that neither S. 898, the Telecommunications Competition and Deregulation Act of 1981, nor any other legislation which they are considering at this time, will affect international telecommunications issues in any way that will interfere with the substantive safeguards provided in S. 271, as amended.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee on behalf of the Senator from South Carolina.

The amendment (UP No. 170) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 271), as amended, was passed, as follows:

S. 271

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Record Carrier Competition Act of 1981".

SEC. 2. Section 222 of the Communications Act of 1934 is repealed.

SEC. 3. In addition to its responsibilities pursuant to the Communications Act of 1934, the Federal Communications Commission shall require domestic telegraph carriers to provide communications facilities to any international telegraph carrier which makes a reasonable request for such services or facilities upon terms and conditions which are just, reasonable, equitable, nondiscriminatory, and in the public interest.

SEC. 4. Nothing in the Communications Act of 1934 shall be construed to prohibit the entry of international record carriers into the domestic market, and the Federal Communications Commission is directed to act expeditiously upon all applications filed by inter-

national record carriers to provide domestic telex service pursuant to the Communications Act of 1934.

SEC. 5. The Federal Communications Commission shall exercise its authority under the Communications Act of 1934 to continue oversight over the establishment of just, reasonable, equitable, and nondiscriminatory distribution formulas for unrouted outbound telegraph or record traffic and the division of revenues. This provision shall cease to have any force or effect at the end of the three-year period beginning on the date of enactment of this Act.

SEC. 6. Notwithstanding any other provision of law, the Federal Communications Commission shall not be authorized to act upon any application to provide international telegraph or record service which is filed by a domestic telegraph carrier pursuant to the Communications Act of 1934 until one hundred and twenty days after the date of enactment of this Act.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OMNIBUS RECONCILIATION ACT OF 1981

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 171, S. 1377, a bill to provide for reconciliation pursuant to title III of the first concurrent resolution on the budget for fiscal year 1982.

Further, Mr. President, I ask that today no action be taken relative to S. 1377, except for the disposition of a so-called leadership amendment to strike extraneous subject matter from the bill, that such amendment be the only amendment in order today, and that the amendment not be divisible; further, Mr. President, that the time on the leadership amendment and on all other amendments in the first degree be reduced to 1 hour; that the time on all amendments in the second degree, debatable motions, appeals, points of order, if submitted, be reduced to one-half hour, and that no unanimous-consent agreement relative to these reductions or any other time limitations on amendments be deemed to waive the germaneness requirements imposed for a reconciliation bill under the Budget Act.

Further, Mr. President, I ask that at no later than 10:30 a.m., tomorrow, June 23, 1981, the Senate resume consideration of S. 1377.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1377) to provide for reconciliation pursuant to title III of the First Concurrent Resolution on the budget for fiscal year 1982 (H. Con. Res. 115, Ninety-seventh Congress).

There being no objection, the Senate proceeded to consider the bill.

UP AMENDMENT NO. 171

Mr. BAKER. Mr. President, I send to the desk a leadership amendment cosponsored by the distinguished minority leader and me, the distinguished chairman of the Budget Committee, Senator DOMENICI, and the ranking member, Senator HOLLINGS.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) for himself, Mr. ROBERT C. BYRD, Mr. DOMENICI, and Mr. HOLLINGS, proposes an unprinted amendment numbered 171.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 146, delete lines 24 through 37.

On page 165, delete everything beginning on line 23 through and inclusive of page 168, line 19.

On page 183, delete lines 11 through 35.

On page 184, delete lines 24 through 35.

On page 288, delete lines 27 through 31.

On page 322, delete lines 30 through 34.

On page 170, on line 9, strike the phrase, ", nor may there be obligated budget authority,".

On page 170, strike line 10, beginning with the word "nor" and continuing through "$1,298,813,000".

On page 171, on line 23, strike the phrase ", nor may there be obligated budget authority,".

On page 171, on line 24, strike the phrase "nor shall outlays be in excess of $23,000,000,".

On page 169, line 5, strike beginning with the second comma and continuing through the end of the sentence and insert "in excess of $1,590,000."

On page 171, strike lines 29 through 30, beginning with the word "nor" and ending with the word "authority" and insert in lieu thereof, "budget authority".

On page 172, strike lines 9 through 10, beginning with the word "nor" and ending with the second "$5,000,000", and insert in lieu thereof, "in excess of $5,000,000".

On page 172, strike lines 24 through 25, beginning with the word "nor" and ending with "$8,523,293,C00", and insert in lieu thereof, "in excess of $8,762,069,000".

On page 184, strike lines 15 through 16, beginning with the word "nor" and ending with the word "$36,387,000" and insert in lieu thereof, "in excess of $31,552,000."

On page 184, strike lines 1 through 2, and insert in lieu thereof "in excess of $21,038,000."

On page 182, strike lines 22 and 23, beginning with the word "nor" and ending with "$4,518,601,000", and insert in lieu thereof, "in excess of $3,881,224,000".

On page 188, strike lines 20 through 22, and insert in lieu thereof:

"(d) Notwithstanding any other provision of law, there is authorized to be appropriated not to exceed $322,000,000 for fiscal year 1981 for programs of the Economic Development Administration."

On page 188, strike lines 26 through 29 and insert in lieu thereof:

"(b) Notwithstanding any other provision of law, there is authorized to be appropriated not to exceed $22,838,C00 for fiscal year 1981 to the Secretary of Commerce for programs for regional development."

On page 186, strike lines 29 through 36.

On page 189, strike lines 9 through 12 and insert in lieu thereof:

"(b) Notwithstanding any other provision of law, there is authorized to be appropriated for fiscal year 1981 not to exceed $14,700,000 to the President for area development programs of the Appalachian Regional Commission."

On page 189, strike lines 14 through 19.

On page 75 strike lines 38 through 40 and insert in lieu thereof,

"SEC. 323–12. Notwithstanding any other provision of law, the authorizations for appropriations for programs and activities administered by the Secretary for Housing and Urban Development in fiscal year 1981 are reduced by $5,552,000,000".

On page 181, strike lines 31 through 32, beginning with the word "nor" and ending with the word "be".

Mr. BAKER. Mr. President, with the reconciliation bill now before us, the Senate stands at the edge of an enormous legislative achievement. This measure responds to the demands of the American electorate that Federal spending be contained and controlled. It answers affirmatively the strong majority of voters who want the size of Government to be reduced. It is a vigorous, positive reply to the mandate of 1980.

Such a redirection is long overdue. And reconciliation is an appropriate mechanism for that purpose. Without a reconciliation process, the changes set forth in this bill would have been delayed, diluted, or would never have occurred.

Reconciliation is a means of looking at those changes in a total package rather than in a series of separate bills whose spending and programmatic implications are considered in isolation of one another. Packaging these measures provides a necessary coherence to our policy redirection. Without reconciliation, neither packaging nor coherence would have been possible.

Aside from its salutary impact on the budget, reconciliation also has implications for the Senate as an institution. So long as a preponderance of its subject matter has a budgetary impact, a reconciliation bill could contain nonbudgetary amendments to substantive law, and still be protected under the Budget Act. That notwithstanding, I believe that including such extraneous provisions in a reconciliation bill would be harmful to the character of the U.S. Senate. It would cause such material to be considered under time and germaneness provisions that impede the full exercise of minority rights. It would evade the letter and spirit of rule XXII.

It would create an unacceptable degree of tension between the Budget Act and the remainder of Senate procedures and practice. Reconciliation was never meant to be a vehicle for an omnibus authorization bill. To permit it to be treated as such is to break faith with the Senate's historical uniqueness as a forum for the exercise of minority and individual rights.

For principally these reasons, I have

labored with the distinguished minority leader, with the chairmen and ranking minority member of the Budget Committee, and with other committee chairmen to develop a bipartisan leadership amendment. This amendment will strike from the bill subject matter which all these parties can agree is extraneous to the reconciliation instructions set forth last month in House Concurrent Resolution 115. What will remain in the bill is directly responsive to these instructions, has a budgetary savings impact, and plainly belongs in a reconciliation measure.

The reconciliation bill which remains will strike the proper balance. It will make use of a controlled and expedited procedure to advance with coherence a budget package, and it will do so with due respect shown for the institutional concerns of the Senate. It will meet the requirements of the American people for prompt and substantive action, while avoiding the kind of overreaching that could have damaged the Senate and the budget process.

May I add, Mr. President, that I wish to extent my deep appreciation to the distinguished minority leader, the distinguished ranking minority member of the Budget Committee, the distinguished chairman of the Appropriations Committee, to the distinguished chairman of the Budget Committee, the chairman of the Energy Committee, and to other committees that have been most directly involved in this effort.

Mr. President, I believe it is in the very best traditions of the Senate that we strive on a bipartisan basis to try to make this system work rather than to try to make it fail to work.

I believe it is a good job. It is a full bipartisan effort to accomplish a stated purpose. I congratulate all Senators for their participation, and express my personal appreciation for their support and assistance.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. BAKER. I yield to the distinguished minority leader.

Mr. ROBERT C. BYRD. Mr. President, if the reconciliation bill is adopted in its present form, it will do violence to the budget reform process. The reconciliation measure contains many items which are unrelated to budget savings. This development must be viewed in the most critical light, to preserve the principle of free and unfettered debate that is the hallmark of the U.S. Senate.

The Congressional Budget and Impoundment Control Act of 1974 is a forward-looking measure that provides the Congress with the means to discipline itself with respect to Federal spending. Developed by former Senators Muskie and Bellmon, the budget process had been finely tuned by their successors, the distinguished Senator from New Mexico (Mr. DOMENICI) and the distinguished Senator from South Carolina (Mr. HOLLINGS.)

I have a personal familiarity with the Budget Act. I was chairman of the Rules Subcommittee of the Committee on Rules and Administration when the act was conceived. That subcommittee spent a great deal of time closing the loopholes in the nascent budget process. And I believe that we were successful in making the reconciliation process tightly restrictive. The provisions in the Budget Act that spell out the reconciliation process allow the Senate to make difficult decisions on Federal spending.

The ironclad parliamentary procedures governing the debate of the reconciliation measure should by no means be used to shield controversial or extraneous legislation from free debate. However, language is included in the reconciliation measure that would enact routine authorizations that have no budget impact whatsoever. In other cases, legislation is included that makes drastic alterations in current policy, yet, has no budgetary impact.

These gratuitous additions to the money-saving provisions of the reconciliation bill constitute a violation of the intent and spirit of the budget process, and impose a strain on the most important rules of this legislative body.

One practical effect of the extraneous language is to bypass the normal legislative process. The tried-and-true process of hearings, markups, floor debate, and floor amendment would be thrown into a cocked hat.

The authorizing committees would simply load their legislation willynilly on to each year's reconciliation bill. Such measures would be insulated from troublesome amendments, from the possibility of lengthy debate or a filibuster, and the chairmen and ranking members and the members of the Budget Committee would be helpless because that committee has no authority to add to or take away from the recommended revisions of the bills that are submitted to the Budget Committee by the authorizing committee.

The reconciliation bill, if it includes such extraneous matters, would diminish the value of rule XXII. The Senate is unique in the way that it protects a minority, even a minority of one, with regard to debate and amendment. The procedures that drive the reconciliation bill set limits on the normally unfettered process of debate and amendment, because policy matters that do not have clear and direct budgetary consequences are supposed to remain outside its scope.

The integrity of the budget process in the future is not bright if the Senate allows the process to be subverted in this fashion. What controversial measure will not be viewed as a future candidate for inclusion in a reconciliation bill? Perhaps a wholesale reform of the election process will find its way into reconciliation legislation or a major reorganization of the executive branch.

Under those circumstances, the legislative process could become an abomination. The rights of the minority and of each Senator would be trampled. It is not a strictly partisan minority that would be injured. It may well be that a regional minority of Senators is threatened with some bill that would do great harm to their area of the country. Should that be included in reconciliation, they would be powerless to stop or even slow its enactment. And the public would have even less chance to comment on the extraneous provisions, as the hearing process is short circuited by these procedures.

Amendments to the reconciliation bill are sharply limited. A single Senator, or a minority of Senators, would find it difficult to go through a giant reconciliation bill piecemeal and remove extraneous language during the 20 hours to which the bill is limited.

Therefore, I strongly believe that the Senate as an institution should take pains to avoid this pitfall. While it may seem convenient to circumvent the usual legislative process, I can think of no surer way to cause intolerable strains on the ability of the budget process to function efficiently and wisely. For that reason, I am cosponsoring a bipartisan amendment with the majority leader to delete some of the extraneous language from the reconciliation bill.

Another disturbing aspect of this reconciliation bill is the obligation limitations, many of which will have the effect of rescinding funds already appropriated, without benefit of the normal rescissions process. The caps on obligations might be called legislative impoundments. Even though the Congress has appropriated funds through the regular process, the obligation limitations prevent an agency from spending the money.

Obligation limitations of this kind essentially undo congressional appropriations action without adequate opportunities for debate and amendment. If Congress has appropriated certain funds, or made a rescission that is not as large as the administration has requested, the obligation limits provide OMB with impoundment authority. An appropriation or rescission is normally made only after extensive hearings and markups by the Appropriations Committees of both sides, followed by ample floor debate and amendment. The obligation caps that impound funds have been included in reconciliation without much notice or fanfare.

As a member of the Appropriations Committee, I am not sanguine about the use of a technique that would ratify an administration's rescission requests in a way that circumvents the normal and appropriate rescissions process. The Congress made a number of decisions in the newly enacted supplemental appropriations and rescissions bill that are undermined completely by obligation limitations in the reconciliation bill.

The strain of imposing backdoor rescissions and impoundments, when added to the blow to the legislative process and Senators' rights caused by the inclusion of many nonbudgetary matters in reconciliation bills, can cause the ultimate demise of the budget process. It will transform the legislative process and the budget process with it into a fiction and an empty exercise. It will reduce the rights of each Senator, particularly those in a minority. Rule XXII governing cloture will become a sham. The principle of free debate and unlimited amendment will be discarded.

We must avoid practices that will plunge the Senate into an exercise in irresponsibility. We must maintain the

integrity of the budget process and of the U.S. Senate.

The amendment offered by the majority leader and me omits several nonbudget related authorizations which should also be stricken from this bill. The fact that they were not included in the amendment should not be construed as accepting their inclusion in the bill. Negotiations are currently proceeding on these items, which include several communications deregulation provisions from the Commerce Committee, and a long list of housing provisions from the Banking Committee.

I expect that, at some point, there will be an effort to strike these items from the bill as well.

I congratulate the distinguished majority leader on the concern that he has expressed and on his efforts to remove from this bill the nonbudgetary items to which I have referred and to which he has referred. It was our hope that we could include other items that, for the moment, are not in our amendment.

I know that he shares with me the concern that the budget process may be undermined by this approach. I compliment him on the efforts that he is making to protect that process.

We have gone as far as we can go in this amendment, but we have not gone as far as we should go. That is not the fault of the majority leader, nor anyone in particular that I would want to single out. But it is something that we are going to have to give our closest attention to because, while it may be a convenience for any particular Senator today, or group of Senators or for any particular special interest in the country, to have a certain provision in this rescission bill, it may be that their ox will be gored the next time around and then it will not be so convenient for them, nor will it bode well for the budget process.

I thank the distinguished majority leader.

Mr. BAKER. I thank the minority leader.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, S. 1377, the Omnibus Reconciliation Act of 1981, is an historic piece of legislation. This bill will achieve the largest budget savings of any bill considered by this body.

This reconciliation bill represents the combined efforts of 13 Senate committees which have labored mightily over the past several weeks. These committees have reported savings in budget outlays of $1.6 billion in fiscal year 1981, $39.6 billion in fiscal year 1982, $46.1 billion in fiscal year 1983, and $54.0 billion in fiscal year 1984. In total, the savings in this bill will lower Government spending during the next 4 years $141.1 billion below what it would be without the changes in law included in S. 1377.

The bill before us was mandated by the first budget resolution, House Concurrent Resolution 115. That resolution noted the need to control Federal spending by invoking the reconciliation procedures contained in the Budget Act. The reconciliation provision of the first budget resolution instructed these 13 Senate committees to report changes in laws to achieve savings of $1.5 billion in fiscal year 1981, $35.2 billion in fiscal year 1982, $46.4 billion in fiscal year 1983, and $55.7 billion in fiscal year 1984. Over the 4-year period, the instructions required savings of $138.9 billion.

All of the committees deserve credit, Mr. President, for reporting savings which, in total, exceed the instructions by $2.3 billion over the fiscal year 1981 through 1984 period. These figures exclude the Appropriations Committee, which has already achieved its savings.

Mr. President, before proceeding further, let me note how far the Congress has come in the past year in controlling Federal spending. Last year, very few people thought the Congress was serious about controlling spending. In fact, until last year, reconciliation was an unknown word. There were those who said it would not work. But we made it work. We took an untried theory and turned it into a practical means for reducing Federal spending. In that first effort, the Congress, controlled by Democratic majorities in both Houses, I might add, passed the first reconciliation bill, saving over $6 billion in spending that otherwise would have occurred.

I am pleased that the Republicans have taken up where the Democrats left off. Along with the distinguished chairman of the Budget Committee, Senator DOMENICI, I cosponsored the original reconciliation resolution this year, Senate Concurrent Resolution 9 which was introduced on February 24, 1981. At that time I said that reconciliation will show that Congress has the will to cut spending. The bill before us now proves that the Congress does, indeed, have that will. We have heard the cries of the people for reduced spending, for cuts in Government programs, and we have responded. There can be no clearer sign of our desire to reduce Government spending than passing S. 1377.

It should be noted that all of the Senate committees have worked diligently on this bill. This bipartisan effort has produced a bill which, in total, exceeds its savings instructions. The chairman and ranking minority members deserve special credit for their efforts.

Especially deserving of credit is the chairman of the Budget Committee. Through his perseverence and tireless efforts, the Senate has before it a historic bill.

From my experience as chairman of the Budget Committee during the reconciliation process last year, I can assure the Senate that the chairman's task is not a small one. This bill is a tribute to the chairman and to the bipartisan spirit which has characterized the work of the Budget Committee and staff on this reconciliation bill.

While the bill exceeds its overall targets, I am concerned that some committees did not make the changes that are necessary to achieve their required savings in future years. The greatest shortfall is in the Governmental Affairs Committee, whose legislation falls short of its instruction by a total of $10.8 billion in fiscal years 1983 and 1984. I will support any amendment to rectify this shortcoming.

In summary, Mr. President, this bill is necessary if we are to reduce Government spending, lower the Federal deficit, and improve the economy. The bill is not a cure-all by itself, but it is an important and necessary step, and one that I fully support.

It is quite a task to consider these measures under limited time and still get specific issues resolved in order to come up with these savings. I again commend the committees and their chairmen and ranking members.

When the committees reported their legislation to the Budget Committee, we immediately noted that some of the committees had succumbed to the temptation of including in reconciliation authorizing legislation that had no budgetary connection whatsoever. In some cases not only did it yield no reduction in the budget, but, in some instances, it infringed upon the jurisdiction of other committees, especially, the Appropriations Committee. The Budget Committee unanimously agreed upon this language in reporting the bill:

> The Budget Committee believes that the inclusion of non-budgetary provisions in the Reconciliation bill is inconsistent with the spirit and letter of the Budget Act, damages the credibility of the Budget process, and could have the effect of circumventing rule XXII of the Standing Rules of the U.S. Senate. The Committee, therefore, has authorized the Chairman and Ranking Member to consult with the Chairmen and Ranking Members of committees which have submitted legislation, and with the Leadership, to identify any clearly extraneous matter in the bill, and to reach an agreement on any amendments which may be necesary to eliminate such matter from this bill. The Committee recommends that such amendments as agreed upon be adopted by the Senate.

This evening, Mr. President, I wish to thank our distinguished majority leader and our distinguished minority leader on their leadership in this particular score.

They, by introducing this amendment to strike clearly extraneous matter from the bill, are setting a precedent which will preserve the integrity of the U.S. Senate. The amendment shows the Senate's commitment not have any provisions in a reconciliation bill that contain no reconciliation connection, do not achieve budget savings or infringe upon another committee's jurisdiction.

We have eliminated provisions from several committees—save those pointed out by the minority leader just a moment ago—that should not be in reconciliation. In the instance of the Banking Committee it should be noted that the housing bill passed the U.S. Senate in the last 2 weeks. That is why we are negotiating on whether it is extraneous matter or not.

Let there not be any question about the position of the U.S. Senate on these matters. We are setting this precedent with respect to clearly extraneous matter so that the reconciliation process is not abused and the credibility of the budget process damaged.

I thank Senator BAKER and Senator BYRD. They have been working around the clock.

Having handled one of these reconciliation bills myself—between eight committees and some $8 billion—I appreciate the difficulty of trying to reconcile the approaches taken by 13 different committees and with that taken by the Appropriations Committee—which has already achieved its savings. To go through each of these items, is not easy and the chairman of the Budget Committee, Senator DOMENICI, has done a magnificent job. He deserves the gratitude of all of us in the Senate for his working this matter out and bringing the bill to the Senate.

I wholeheartedly join with the majority leader and the minority leader on this consent agreement so that we establish the precedent of not using the budget process, particularly the reconciliation process, in an incorrect fashion.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 171) was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I thank the distinguished ranking minority member of the committee and the former chairman of the committee who has had so much to do in making it possible to reach this point in our consideration.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from South Carolina (Mr. HOLLINGS) and commend him on the diligence he has shown in this respect and the concern that he has expressed with regard to the inclusion of the nonbudgetary matters in this bill. He has zealously guarded the integrity of the budget process. I know it is with great concern that he views what is happening here.

I wish to personally express my own gratitude to him for the service he has rendered. The Senate is in his debt.

The PRESIDING OFFICER. The distinguished majority leader is recognized.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, is there an order for the convening of the Senate on tomorrow?

The PRESIDING OFFICER. There is an order to convene the Senate at 9 a.m.

Mr. BAKER. Mr. President, I know of no further business to come before the Senate today.

PROGRAM

Mr. BAKER. Mr. President, on tomorrow, the Senate will convene at 9 a.m. There is a series of special orders which will end at 10:20 a.m. It is the intention of the leadership at that time, or prior thereto if circumstances dictate, to provide for a reasonable period for the transaction of routine morning business.

Under the order previously entered, the Senate will resume consideration at 10:30 a.m. of S. 1377, the reconciliation bill. It is expected that there will be several votes during the day tomorrow.

It is also expected that the Senate will be in reasonably late tomorrow in order to try and complete action on this measure before the Senate goes into recess for the Fourth of July period.

RECESS UNTIL 9 A.M. TOMORROW

Mr. BAKER. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9 a.m. tomorrow.

The motion was agreed to; and the Senate, at 7:16 p.m., recessed until Tuesday, June 23, 1981, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 22, 1981:

AGENCY FOR INTERNATIONAL DEVELOPMENT

W. Antoinette Ford, of Michigan, to be an Assistant Administrator of the Agency for International Development, vice Joseph Coolidge Wheeler.

Francis Stephen Ruddy, of Texas, to be an Assistant Administrator of the Agency for International Development, vice Goler Teal Butcher, resigned.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

William E. Mayer, of California, to be Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, vice Gerald L. Klerman, resigned.

VETERANS' ADMINISTRATION

Robert P. Nimmo, of California, to be Administrator of Veterans' Affairs, vice Joseph Maxwell Cleland, resigned.

U.S. SYNTHETIC FUELS CORPORATION

Robert A. G. Monks, of Maine, to be a member of the Board of Directors of the U.S. Synthetic Fuels Corporation for a term of 3 years, vice Frank Savage, resigned.

Victor M. Thompson, Jr., of Oklahoma, to be a member of the Board of Directors of the U.S. Synthetic Fuels Corporation for a term of 4 years (new position).

C. Howard Wilkins, of Kansas, to be a member of the Board of Directors of the U.S. Synthetic Fuels Corporation for a term of 5 years, vice Joseph Lane Kirkland, resigned.

Victor A. Schroeder, of Georgia, to be a member of the Board of Directors of the U.S. Synthetic Fuels Corporation for a term of 6 years (new position).

IN THE AIR FORCE

Gen. Richard H. Ellis, U.S. Air Force (age 61), for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be general

Lt. Gen. Thomas M. Ryan, Jr. [redacted] FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Robert F. Coverdale [redacted] FR, U.S. Air Force.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Paul Scott Williams, Jr. [redacted] U.S. Army.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 22, 1981:

DEPARTMENT OF STATE

Daniel J. Terra, of Illinois, to be Ambassador at Large for Cultural Affairs.

Robert L. Brown, of Virginia, to be Inspector General of the Department of State and the Foreign Service (new position).

The above nominations were approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

John J. Knapp, of New York, to be General Counsel of the Department of Housing and Urban Development, vice Jane McGraw.

EXTENSIONS OF REMARKS

REPUBLICAN MALARKEY

HON. PATRICIA SCHROEDER
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mrs. SCHROEDER. Mr. Speaker, we hear a lot of Republican talk nowadays, especially from the White House and the Department of the Interior, that if only the Federal Government would dry up and blow away the State and local governments and the private sector would work together to resolve our country's problems and meet our every energy need.

Of course it is all malarkey. One need not look any further than the State of Colorado to see what is really happening. The corporate lobbies fight the State and county governments tooth and nail against severance taxes, against pollution controls, and for unrestricted development.

Fortunately, we have a Governor to keep them, and their allies in the Republican-controlled legislature, at bay.

The following essay, from the June 14, 1981, Denver Post, has all the details.

[From the Denver Post, June 14, 1981]

GOVERNOR LAMM: SETTING AN EXAMPLE IN STATESMANSHIP

(By Aaron Harber)

The Republican Legislature in Colorado has been known for its antagonism against Democratic Gov. Richard D. Lamm ever since he took office in January 1975. Recent events, however, took this crusade to new heights, and the citizens of the state are suffering as a result of the Republicans' incessant attacks on the executive branch.

The current situation typifies the course the Republican leadership has taken over the past several years: contradictions in policies, sponsorship of self-serving legislation, and perpetration of blatant fallacies when arguing public policy. It is time for the constituents of elected officials such as Carl (Bev) Bledsoe, Ralph Cole, Cliff Dodge, Steve Durham, Ronald Strahle and Ted Strickland to realize what these men are doing to the state and how frequently they are doing it.

Examples of Republican inadequacies abound. The twisted logic used by many of them has resulted in a state where growth is uncontrolled and unmanaged. Pollution is becoming more widespread. Crime and social problems increase. Hazardous wastes proliferate and remain untreated. Transportation services decline in quality and increase in cost to the consumer. Highways deteriorate.

Governor Lamm, on the other hand, has recognized the problems which exist and has called for a partnership with the Legislature to jointly seek and implement solutions to the state's problems. He has been met by attacks on his office and programs.

In a recent essay, state Sens. Dodge and Durham went so far as to criticize Lamm for not "making any concrete recommendations." Yet Lamm long ago proposed a means to find solutions, an agenda for that process and specific suggestions for the resolution of problems. His "Colorado Agenda for the '80s" has all but been ignored by the Republican Legislature. His constant extension of an olive branch to the Republicans has been consistently met by childish sniping and a brand of retaliatory politics which can only by characterized as intimidatory.

Lamm has recognized the need to offer detailed proposals. On one such issue, he suggested that Colorado save funds for public investments in transportation, water conservation and sewer services, local community infrastructure (schools, roads, jails) in rapid-growth and energy-impacted areas as well as for maintenance of deteriorating public buildings and facilities. His conclusions were a result of the recommendations from the bipartisan Blue Ribbon Panel.

Lamm has recommended the Legislature create a Colorado Development Fund to finance long-term capital needs and has received the support of Colorado executives who are beginning to realize the damage being wrought by the Republicans.

What has the Republican response been? Instead of supporting the Blue Ribbon Panel's idea to create a state Capital Needs Commission, House Speaker Bledsoe "has threatened corporations in the state with a 50 percent income tax increase if some of their executives persist in supporting" the legislation backed by Lamm.

Typical of many Republican contradictions, Bledsoe denied any political motives to his move and claimed, "I don't think a lot of people want to use their tax money for development in boom areas of the state when they're living in depressed areas." Yet, when Lamm called on the Legislature to increase severance taxes so energy and mining companies would pay a greater share of the expenses associated with these businesses, the Republicans killed the measure.

Contrary to Republican claims, Lamm's capital fund proposal did not include any increase in taxes. He only recommended that the state's surpluses be put aside for future needs. The Republicans, however, while espousing themes of "free enterprise" from one side of their mouths, continue to allow for the gross subsidy by Colorado taxpayers of energy and mining interests.

Furthermore, recent events demonstrate that special interests will pay as little as they can for the right to profit in our state. For example, Garfield County, location of Union Oil Co.'s planned oil shale plant, has found the company very uncooperative despite Union's request that the county help pay for the plant's pollution control equipment. According to County Commissioner Jim Drinkhouse, in a recent Associated Press story, "It's common knowledge we are having trouble getting Union Oil to mitigate impacts."

To make a ridiculous situation even worse, however, Republican legislators passed a bill which would have reduced taxes on oil and gas companies and would have taken away $9 million annually from local governments already in serious financial trouble. Fortunately, Lamm vetoed the measure.

To top it all off, mineral special interests (including AMAX lobbyists) battled fiercely and successfully this year to kill any chance for a severance tax increase.

Pleading that the value of the company's activities was not rising significantly, AMAX argued that any increase would be unfair and burdensome. Yet Colorado's tax remains very low as compared to other states. It is not assessed as a percentage of value and, hence, decreases in worth every year—again, cheating citizens today and in the future of any opportunity to be adequately remunerated for the state's wealth or for our costs, sacrifices, and expenditures made on behalf of natural resource companies.

Being realistic, Lamm does not expect AMAX to openly support an increase in taxes. The company and every other business in the private sector have been created to be profitable. What counts is the bottom line.

And what will that leave us with? A strip-mined, pocked, polluted state with inadequate water resources, a depressed economy and high unemployment. And, probably, a Republican Legislature!

So, what has the Republican position been? Durham and Dodge, hiding behind the pretense of protecting the "the taxpayer," rallied against gasoline and severance tax increases. Not only do they not want highway users to pay for road maintenance, they claim "any severance tax increase will only be passed through to consumers". How much of the molybdenum mined by AMAX do the Republicans think Coloradans consume? It is certainly not 100 percent. A more realistic figure might be ½ of 1 percent! That would mean Coloradans would subsidize 99 percent of more of the expenditures made by the state on behalf of such mining concerns, if Republican "logic" were allowed to prevail.

The governor, despite the Republican jihad, continues to offer specific concepts and programs to Coloradans. For example, he recommended that the loss of agricultural land in the state be slowed. Noting "the Front Range alone has lost 1,300,000 acres from agriculture to other uses," Lamm recommended creation of "planned open space" for recreation, wildlife, preservation of historical and scenic places, protection from floods, and important farm and ranch uses. He recommended creation of a state transportation department (Colorado is the only state in the country without one), development of planned transportation networks, economic incentives to promote rural economic development, better planning for water usage, job training programs directly affiliated with the private sector, improvement of health care services and regulation to help minimize costs and the institution of a complete hazardous waste treatment program (characterized by Lamm as currently the weakest of any state in the nation). It has been the Legislature—not the governor which has not only dropped in the ball, but is headed in the wrong direction.

It is Lamm who is truly espousing free market theories.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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He called for the end of subsidies to the energy companies which are expected to extract almost $30 billion in profits from shale development over the next 30 years and billions more from other natural resources. Only Lamm is asking, "Why shouldn't these companies pay their own way?" He asks why utility rate payers should subsidize the construction of power plants and facilities for energy development.

Senators Dodge and Durham attempt to placate the public by characterizing their brand of dirty "hardball" politics as simply "a natural outgrowth of our system of government with its separation of powers and checks and balances."

What is worse is that their personal attacks on the governor's office have negative implications for all of us—no matter what our party affiliation may be. These attacks do not affect just Dick Lamm—they compromise the office he holds. We all know if a Republican were governor, these attacks probably would not have occurred.

The Republican-led efforts to reduce the governor's already small staff, put the state controller under their direction, eliminate the biennial gubernatorial call, and extend sunshine legislation for elected public officials to ridiculous extremes—the governor's cabinet—while ignoring the Sunshine Law when meeting among themselves, are all examples of personal politics.

And what have the Republicans in the Legislature given us this year? Some of this session's "gems" include a bill to allow the Public Service Co. to raise its rates prior to formal approval from the Public Utilities Commission; reductions in health care for those least able to afford adequate medical services; higher interest rates on loans and a weakened Colorado consumer code; a one-year delay of a weak pollution emissions control program and the absence of any program to improve air quality; a bill permitting more billboards to deface the landscape, and increases in property taxes in some areas without the currently required approval of voters.

The obvious question is, "Where has any concept of statesmanship or public stewardship gone?" Such concepts are certainly missing in the Republican Legislature.

It is time the Republicans learned that they are not meant to be the executive branch of government. After over six years and two elections they should realize that their false portrayal of Lamm as a poor governor is not credible.

It is also time for the public to send a message to Cole, Dodge, Durham and their colleagues, that they should start tackling—rather than avoiding—Colorado's problems.

They have been warned many times, but continue to fail us, the citizens of Colorado. Let them accept Lamm's olive branch. There is enough room for both the governor and the Legislature to take credit for the successes they can forge together.●

AGRICULTURAL EXPORTS MEETING RESCHEDULED

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. BONKER. Mr. Speaker, I wanted to inform members of the House Export Task Force that Tuesday's meeting with Agriculture Secretary Block has been canceled due to a last-minute Cabinet meeting called by the President. This important meeting on agriculture exports will be rescheduled for September. The task force will send out notices when a date has been determined.●

FRONTIERS IN SCIENCE AND TECHNOLOGY

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. FUQUA. Mr. Speaker, the great political debate of our time seems narrowly focused on the areas of Federal spending and taxation. While these subjects are certainly important to the Nation and its people, we are in imminent danger of letting our industrial base further erode through our benign neglect of that which produced America's former dominance in the world of international commerce—research and development.

For America to regain its industrial vigor, our industry and universities, with Government encouragement, must regain an innovative initiative through the marshaling of our human potential in science and engineering.

The enclosed article by George Bugliarello, president of the Polytechnic Institute of New York and Chairman of the Advisory Committee for Science and Engineering Education of the National Science Foundation, appeared in the June 17 edition of Christian Science Monitor.

I commend Mr. Bugliarello's arguments to my colleagues as a concise statement of a national need which, if met by Congress, can have a more profound effect on our economy than all the taxing and spending proposals that we will consider in the coming decade:

THE "MOST EXCITING" FRONTIERS IN SCIENCE AND TECHNOLOGY

(By George Bugliarello)

Despite our glittering success with the space shuttle, the United States is plunging into the 1980s in very poor shape technologically. With the exception of information processing and chemicals, our technological leadership is beginning to flag.

Japan, for example, a country with very few natural resources, posted a real-term GNP advance of approximately 4.5 percent for 1980 while the US registered a decline of .2 percent. What is not widely known is that in recent years Japan has been educating slightly more engineers than has the United States—despite the fact that Japan has only one half our population. West Germany and the Soviet Union are also producing much higher percentages of engineers and applied scientists. These facts do not bode well for our future.

Our half-million engineers and scientists involved in research and development are the thin resource on which we are relying to face the industrial competition not only of Japan, which alone has some 400,000 R&D engineers and scientists, but also that of West Germany, France, the United Kingdom and the rest of the industrial world. On top of this we must face military competition with the USSR and its more than one million scientists and engineers engaged in research and development.

The US must begin now to regain the kind of technological boldness which was last exhibited in the days of the Sputnik reaction. There are two basic approaches we can take. We can educate more engineers and applied scientists—a valid, but slow process.

Or, we can devise a new research strategy to maximize the creative potential of our applied scientists and engineers. We can achieve the latter by launching a program of aggressive and systematic exploration of the boundaries between the traditional areas of applied science, particularly the boundaries between the leitmotifs of our technology—materials, energy, information, and systems.

In a true sense, the most exciting and potentially productive frontiers in science and technology are to be found at the junctions of these four areas of research. Einstein demonstrated this by showing the relations between energy and mass. In practical terms, America's future technological leadership is dependent on the extent and quality of its research in such interdisciplinary fields as metal fabrication, software, microprocessors, energy, and genetic engineering.

The point is that in none of these areas is Japan or any other country ahead of us. If we develop a national program that focuses on these research opportunities, we can regain our momentum in technology. If government, industry, and education truly join efforts, inroads can be made in the important areas of energy, materials, information, and systems. From these inroads will come the rebirth of our economy and our technology.

To achieve this we must systematically (1) identify the promising interdisciplinary opportunities through joint efforts of industry, government, and the universities; (2) adequately fund scientists and engineers to research them; and (3) apply the new insights that will be gained directly to the industrial advantage of the country.

If we Americans desire to make the 1980s work for us, we must apply our science and engineering research efforts to the broad, fundamental issues of materials, energy, information, and systems. It is in this no-man's-land between the traditional disciplines that we will find the breakthroughs that will fuel a new era of American technological leadership.●

PHARMACY CRIME

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. LEHMAN. Mr. Speaker, for the past several years pharmacies have increasingly become prime targets for robbers and burglars attempting to obtain drugs. Pharmacists in all areas of the country, in every neighborhood, live with fear of being assaulted. The number of armed robberies of pharmacies has increased over 33 percent this year. Pharmacists, who are engaged in

serving the needs of the public, deserve the protection of the Federal Government.

Joel Huntington, a veteran Fort Lauderdale pharmacist, who has been robbed several times by gunmen seeking drugs, was quoted in the Fort Lauderdale Evening News as saying, "This is getting to be a dangerous profession."

The increased use of narcotic drugs, coupled with the high cost and poor quality of drugs on the street, has resulted in the rising incidence of drugstore robberies. The customers, too, are often innocent and helpless victims, as in the case of John Huff of Fort Lauderdale, who was hit by a stray bullet in the attempted robbery of Your Pharmacy in Fort Lauderdale this past December.

On February 6, 1981, I introduced a bill, H.R. 1816, which would provide strict penalties for any attempted or actual burglary or robbery of a pharmacy. This legislation provides that anyone attempting to obtain narcotic drugs or other controlled substances from pharmacies by force or by breaking and entering, would be fined up to $5,000, or imprisoned from 2 to 20 years, or both. If the person were armed while committing the crime, he or she would be fined up to $10,000, or imprisoned from 5 to 25 years, or both. If anyone were killed or maimed during the commission of the crime, there would be a mandatory term of imprisonment of at least 10 years.

I have sponsored legislation to make these crimes a Federal offense, not with the notion that the Federal Government can cure all ills, but in recognition of the fact that these crimes have been dramatically increasing as the Federal Government has endeavored to stop the availability of illegal drugs. Assistance, therefore, should be given to supplement the resources of State and local governments, and hopefully to provide a greater deterrent to such vicious drug-related crimes.●

A BALANCE IN HUMAN RIGHTS POLICY

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mrs. CHISHOLM. Mr. Speaker, I wish to call my colleagues attention to an article appearing in the New York Times, on June 9, 1981, by Robert Cox which addresses the issue of human rights, an issue which we must all have as an increasing concern in today's world.

The Reagan administration seems to feel that the U.S. human rights policy can be neatly divided into little boxes by the form of government which is perpetrating human rights abuses. The administration feels that we can afford to smile approvingly at anti-Communist governments that in reality promote the same terrorist practices, internally, that we so adamantly argue are practiced by Communist countries in the promotion of "international terrorism." Cox discusses the experiences of Jacobo Timerman, whose victimization by the rightwing Argentine Government, is now widely known. His article reminds us that when we speak of the human rights of individuals, we cannot make arbitrary distinctions between totalitarian and authoritarian, democratic and communistic, or leftist and rights countries.

When human suffering, torture, and injustice occur, it is no longer our option but our obligation, as a nation that espouses the principles of freedom, to stand up for the basic rights of the individual. Our support of human rights must not depend on a nation's ideology but on the basic premise and ideal of freedom, justice and liberty for all. I have submitted the Times article for review by my colleagues.

TIMERMAN SHOWS THAT "AUTHORITARIAN GENERALS" ARE KEEPERS, CAPTIVES OF A "TOTALITARIAN BEAST"

(By Robert Cox)

CAMBRIDGE, MASS.—Jacobo Timerman, expelled from Argentina and stripped of his citizenship and most of his property by the military regime, is demonstrating that writing well is the best revenge.

In a searing document, his book "Prisoner Without a Name, Cell Without a Number," he has revealed the secret world of terror in Argentina. The book is so powerful that he has achieved something I thought impossible: He has made the people of the United States care about Argentina.

Etching in blood, sweat, and tears the torture he underwent in mind, body, and soul, through a year's imprisonment and subsequent house arrest for a total period in captivity of 30 months, he has grabbed public opinion by the scruff of its neck and taken it to where the totalitarian beast lives.

Mr. Timerman has torn off the flimsy veil of respectability with which the upholders of the new orthodoxy in United States foreign policy hoped to dress up the Argentine regime. The smiling authoritarian generals have been revealed in his book, and in a series of dramatic news-media encounters, as the keepers and the captives of the totalitarian beast that lurks in the darkness of the security forces where Nazism lived on after World War II.

It is a new kind of totalitarianism. It does not strut. It skulks. There are no swastikas on armbands for public view. No mass rallies or ranting speeches. The dreaded symbols—the portraits of Hitler—are kept for the torture chambers and cell blocks where only the prisoners, victims of the new fascism, can see them.

Mr. Timerman has revealed the nature of the regime. Can a regime that has sent at least 6,000, probably 10,000, and maybe more people through secret death camps be described as authoritarian? When the torturer turns up the voltage because he has a Jew on the bedsprings, or a guard gives another Jew a methodical kick every time he passes his bound form, are these acts merely characteristics of "a moderately repressive regime?"

Clearly, Mr. Timerman must be discredited. Otherwise, the pretty little theory that, for foreign policy purposes, the world can be divided up into clear categories, goes by the board. The new orthdoxy under which tyrannies that appear to be anti-Communist can be euphemistically described as authoritarian is dangerous for the United States and the world because it demands witting or unwitting self-deception.

To consider the Argentine Government authoritarian denies reality. If labels must be applied, Argentina could best be described as feudalistic and anarchic; it is divided by the rivalries of the separate fiefdoms represented by the armed forces, with their various free-wheeling intelligence services and the beleaguered, powerless Presidency. The tragedy stems from the fact that central authority, and the responsibility that goes with it, has never been established by the moderates in the military who have held nominal power since the March 1976 coup.

Self-delusion in Argentina is understandable. In a country cowed by justified fear, it is safer to hope for the best and to pray that the moderates will eventually win out and establish the moderately repressive regime that the new United States foreign policy orthodoxy would like to persuade us already exists.

It is unmasked reality, not misleading jargon, that United States foreign policy must address—this is the message that public opinion has extracted from Mr. Timerman's testimony. The reservations expressed about Mr. Timerman by defenders of the doctrine that would make the distinction between totalitarian and authoritarian regimes crucial to the Administration's human rights policy are irrelevant to the central issue of Mr. Timerman's revealed truth. But if some lobbyist seems to be working up a campaign of character assassination by feeding understandable doubts, I would like to try to clear up some of these peripheral questions.

Like most people with more than a passing acquaintance with Argentina, I too was astonished that in his book Jacobo Timerman made no mention of David Graiver, who was his friend and financial backer at La Opinión, the daily newspaper that Mr. Timerman published. Mr. Graiver, who is reported to have died in a plane crash in Mexico in 1976, has been accused of acting as a financial agent for the left-wing terrorists called the Montoneros, and most of his close relatives are still in jail in Argentina. The military has never revealed what has been proved against Mr. Gravier and the charge against him remains in the realms of supposition, no more reliable nor damaging than the rumor that the current President, Lieut. Gen. Roberto Viola, was given a gold watch by Mr. Graiver. If the military would make public the results of its investigations into Mr. Gravier's activities, the sewer of slander and libel that has sullied many prominent Argentines would be cleared up and the country would be healthier. The truth is that the allegation that Mr. Graiver handled the terrorists' blood money led the Nazi-minded hardliners in the military to the conviction that there was a Jewish-Marxist-liberal (in the Argentine sense, a liberal is a civilized conservative) conspiracy linking all their enemies. Mr. Timerman was kidnapped when this collective psychosis was at its height, and scores of completely

innocent and some very eminent people disappeared for a short time. Mr. Timerman, although all charges against him were dropped, remained in prison, where he was probably unaware of the intensity of the smear campaign launched against him because of his perfectly legitimate relationships with Mr. Graiver.

Another charge against Mr. Timerman is that he exaggerates. His critics call his torturers thugs, as though they were unrepresentative. Yet, he says he saw Gen. Carlos Suarez Mason, then the commander of the most powerful military garrison, watching a torture session. I can vouch for the lunatic fervor with which Mr. Timerman's tormentors pursued their anti-Semitic quest for proof of the Jewish-conspiracy theory because I was close to his family throughout his ordeal and what they told me then coincides completely with the account in the book.

Mr. Timerman's political views, which have always been "parlor pink," seem to be as annoying to the right as Aleksandr I. Solzenhitsyn's majestic moralizing is to the left. But Mr. Timerman emerges as a committed democrat and as a profound humanist. He is a man who has always, as far as I know, had an equal loathing for all forms of totalitarianism. I have never heard him call any left-wing totalitarian regime authoritarian, for example.

The totalitarian nature of the military regime will prevent his book and his message, which is that the respect for human rights transcends ideology, from reaching the Argentine people. The worst form of censorship—self-suppression—has been imposed by state terrorism for five years. So the Argentine people will remain ignorant of the fact that the true rulers are the men who run the clandestine jails and operate torture machines. Even the decent but weak military leaders at the top seem to live in fear of the creatures of the Argentine netherworld.

A few days ago, I received a letter from a couple whose son was kidnapped by security forces in August 1979. About a dozen young people disappeared then, but this was a case with a difference. The young people were allowed to telephone from their secret jails from time to time and to write letters to their families. Two young mothers among the kidnapped were allowed one day to visit their children. These communications continued until March 1980, and then stopped abruptly. Before I left Argentina, at the end of 1979, I tried to use quiet diplomacy on behalf of the missing young people. I spoke to the interior minister, the army's secretary general, even the President, Lieut. Gen. Jorge Rafael Videla. I left lists of their names and the circumstances of their abductions with top Government officials. I published nothing because the families believed that the Government and military leaders would transfer their children from the secret death camps to the law courts, military or civil, if they were allowed to do so without publicity. One couple concluded that their son has been murdered. Now they have asked me to publicize the case. I will not name them because I fear that they might be driven from Argentina or murdered by the real totalitarian rulers.

Can Washington afford to support a regime that—three years after the defeat of left-wing terrorism, in a country that has not suffered a major left-wing terrorist attack since late 1979—has the built-in instability of secret killers loose in its security organizations?

If an authoritarian Government is established, the pros and cons of the "K Doctrine" (for Jeane J. Kirkpatrick, its originator) can be debated. Mr. Timerman's ideology of concern for human rights and opposition to both leftist and rightist totalitarianism is, after all, based on a compelling experience of evil whose very horror lies in the fact that no authority in Argentina will even acknowledge its existence.●

H.R. 3925—CHARITABLE CONTRIBUTIONS BY CORPORATIONS

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. ARCHER. Mr. Speaker, on June 16, I introduced H.R. 3925. This legislation would increase the percentage limitation on the deductible charitable contributions by a corporation from 5 percent of the corporation's taxable income to the lesser of: First, 10 percent of the corporation's taxable income; or second, 5 percent of the corporation's taxable income plus $100,000. This bill is identical to the legislation I first introduced in the House in the 94th Congress (1976) and its necessity is even more compelling today.

The Internal Revenue Code of 1954 allows for a deduction of 5 percent of a corporation's taxable income for charitable contributions. Since the time when this became law, economic conditions and inflation have severely limited the role that this sector of our economy could play in meeting the growing needs of charitable groups. As individuals and companies attempt to deal with inflation, charitable contributions are among the first items in their budgets to be cut back.

We now also are taking actions in the current budget debate which will cut the amount of public funds flowing to charitable organizations. An estimate of the direct loss of Federal revenues going to these voluntary groups has been set at a minimum of $27 billion over the next 3 years. While perhaps $5 billion of this loss can be made up through more vigorous solicitation, the majority of these funds will have to be found through other new sources if these groups are to continue their work and service.

H.R. 3925 will provide a new avenue of support by increasing the incentives for business to play a larger role in the support of nonprofit organizations.

The idea that the corporation operates in a greater society and that this society must be healthy in order for the corporation to operate, is integral to the concept of corporate philantropy. In this light, the concept is altogether consistent with the system of free enterprise. The support of charities is in the best interest of the donating corporation, as well as that of the public sector. When the corporation chooses to support a particular institution, it utilizes the option of directing its own money for the purpose of social change. It also takes advantage of the opportunity to support that institution which best reflects those ideas which the corporation, its shareholders, and the general public, support. And it improves the public image of industry as well.

The necessity for increasing corporate contributions should be obvious. Present law is unnecessarily restrictive and limits charities' ability to seek new funding sources. This should have been apparent in the past, but economic realities and budget cutting make it all the more obvious today.

My proposal would add a new dimension to charitable solicitations and corporate philantropy. It encourages the private sector to take on a larger share of the support charitable groups so desperately need. I urge my colleagues to consider this bill and to join in supporting its passage.●

DISTORTING THE TRUTH

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. FRANK. Mr. Speaker, one very encouraging political trend is the growing number of principled conservatives who are repudiating the illegitimate, dishonest campaign tactics of many groups in the New Right. One of the most blatant offenders against truth and fairness in campaign practices is the National Conservative Political Action Committee. In a recent editorial, the Boston Herald American noted that NCPAC's "record of deliberate distortion and its director's shocking rationalization of lying" are "immoral tactics" which constitute an "assault on the all too fragile fabric of representative government."

The Boston Herald American is a nonpartisan newspaper which often speaks for responsible conservative policies. It has been a strong supporter of President Reagan's economic program, and because it is, so often a voice for intellectually honest, conservative principles. I believe the Herald American's cogent denunciation of NCPAC is courageous and important and I ask that it be printed here.

NCPAC's RECORD

NCPAC—The National Conservative Political Action Committee—is going after liberal candidates these days just as the labor unions, Americans for Democratic Action (ADA), COPE, and other such groups set their sights on Republicans.

Nothing wrong there. What's fair for the goose and all that. But NCPAC, being newer at this rough game than its liberal adversaries, is not as sophisticated in its play. As the

Washington Star points out, NCPAC has been playing entirely too much hardball of late.

Last year, for example, in its campaign to unseat Sen. Thomas Eagleton of Missouri, NCPAC told the voters that he had voted for a $75 million aid package for Nicaraguan Sandinistas. Actually, he never voted for this aid and openly opposed it on three separate occasions.

NCPAC also accused Sen. Eagleton of voting against production of the neutron Bomb. Again, not true.

More recently in Oklahoma, NCPAC represented to the voters that House Budget Committee Chairman James Jones of Tulsa supports reduced defense spending and increased spending on social and welfare programs. These insinuations are true with respect to the Reagan budget but false in relation to the Carter budget, which is at issue where 1982 cuts and increases apply.

Politics being politics, a certain amount of roughhouse might be written off to exuberance and honest error. But we must suspect the worst in light of the insolent assertion of NCPAC's director, Terry Dolan, that "a group like ours could lie through its teeth and the candidate it helps stays clean." No wonder the new chairman of the Republican party, Richard Richards, was moved to say the other day that unaccountable political groups can "create all kinds of mischief."

In reality, NCPAC's record of deliberate distortion and its director's shocking rationalizing of lying are more than mere "mischief." Such immoral tactics are an assault upon the all-too-fragile fabric of representative government. And despite Dolan's arrogant claim of immunity for his candidate from any sort of lie, the political history of this country cries out otherwise. Such contempt for the voters' intelligence and integrity cannot be concealed in the long run. Indeed, Sen. Eagleton's re-election last year, despite NCPAC's wicked stabs against him, ought to tell Dolan and everyone else that decency draws some limits, even in politics.●

FAMILY PROTECTION ACT

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. PHILIP M. CRANE. Mr. Speaker, the Family Protection Act is of paramount importance for the preservation of the American family. Myriad Federal actions undertaken in recent decades threaten to sap the family's inherent cohesiveness and stability. It is essential that we dedicate ourselves to reversing this process of disintegration.

The proliferation of Government intervention in every phase of life—from taxation to employment to production—now extends into the realm of family life. The Federal Government presumes to dictate the innermost workings of every family in America, regulating such matters as procreation, education, and moral instruction. The trend of supplanting parental authority with governmental authority creates a dangerous precedent. Our Government has taken the first step down the road to totalitarianism. In totalitarian regimes families are abolished by the separation of children, who are torn from their homes to become wards of the state. This approach, as practiced by socialist countries, is obviously an anathema to every principle upon which the United States was founded. Yet, by its constant interference, the Federal Government has been assuming the trappings of these totalitarian dictatorships.

Resolute measures must be taken to reverse this trend. The creeping expansion of Federal control into every nook and cranny of family life must be halted. Legislation that acknowledges and confirms the sanctity of the family is essential. Such legislation must recognize that parents, rather than bureaucrats or self-proclaimed experts, are the best judges of suitable behavior for their children, their spouses, and their family as a whole. Directives from Washington cannot possibly duplicate the bonds of love and caring unique to families.

The Family Protection Act is just the type of legislation which is so desperately needed. The act will insure the legal rights of parents to direct the moral upbringing of their own children. It will assure them of greater access to and responsibility in the educational system which shapes their childrens' minds. This act will revitalize the nuclear family through such measures as tax exemptions for multigenerational households. In the key areas of religion, education, and taxation, this bill serves to promote principles of family independence and personal responsibility.

For the sake of the American family, I heartily endorse the Family Protection Act. For the sake of our society as a whole, I strongly support this act—our society can only be as viable as the families that comprise it. The Family Protection Act reaffirms the value of the American way of life, and the value of the family unit that plays such an integral role within it. I applaud the efforts of Senators PAUL LAXALT and ROGER JEPSEN and the very distinguished Representative from Alabama, ALBERT LEE SMITH in their valiant efforts to bring this matter to the national attention. By sponsoring this resolution, my esteemed colleagues demonstrate their dedication to the preservation of our heritage.●

WEAPONS ARE NOT A POLICY

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. McHUGH. Mr. Speaker, at his recent press conference President Reagan responded to concerns about his failure to deliver a major foreign policy address since being inaugurated by suggesting that the absence of such a speech did not necessarily reflect the absence of a policy.

That is undoubtedly true. However, in the absence of a speech by the President, the foreign policy of this administration can only be properly understood by a close examination of its actions.

As one of those who has been following the deeds of this administration as well as its words, it has become increasingly clear to me that one major element of the Reagan adminstration's foreign policy involves a return to the notion that arms sales can buy the friendship and loyalty of foreign governments, and that such sales should thus be considered a routine instrument of American foreign policy. In recent days, for example, the administration has announced major new arms agreements with China and Pakistan.

This represents a major change in policy, and one that I hope the Congress will examine closely. For, as the New York Times pointed out in its lead editorial last Friday, such sales carry distinct risks. As the Times put it:

Buying influence can also buy new trouble, particularly if the transaction embroils the United States in regional quarrels between, say, India and Pakistan, or associates it with a narrowly based regime whose insecurity is as much domestic as external, like the Shah's in Iran. Most dangerously, it can distort the priorities of both the receiving nation, which might be much better served by economic aid, and of the United States, which might have higher objectives, like containing the spread of nuclear weapons.

The latter point is especially noteworthy. At a time when the Reagan administration is asking Congress to eliminate direct loans for economic development by the EDA and the Appalachian Regional Commission, and to cut back drastically on subsidized student loans, it is also asking us to appropriate almost $1 billion to subsidize arms sales to foreign governments at interest rates as low as 3 percent. I hope that we will carefully consider whether American interests are really well served by cutting back or eliminating investments domestically in higher education and economic development in order to finance arms sales abroad.

Mr. Speaker, for the benefit of those of my colleagues who may not have seen this editorial, I am inserting a copy into the RECORD at this point.

[From the New York Times, June 19, 1981]

WEAPONS ARE NOT A POLICY

In one sense, the President is right. He needs no foreign affairs speech to prove that his Administration has a distinctive tendency abroad. It is plainly buying friends with weaponry, wherever it seems even loosely to help contain the Soviet Union.

This week brought two high-risk additions to the list: an offer of arms to China—Communist China—and a $3 billion aid package for Pakistan. These commitments have their own eloquence. They argue that Washington considers Soviet military expansion to be the greatest challenge abroad, and that American arms can deter it and make the recipients reliable partners of the United States. It is supply-side diplomacy, asking altogether too little in return.

There is no doubt that weapons buy influence, and an American reach into remote societies. They may add to a regime's feelings of security. They certainly benefit the American arms industry. And sometimes, if denied, they would be eagerly supplied by other nations, notably France.

But the coin of weaponry has another side. Buying influence can also buy new trouble, particularly if the transaction embroils the United States in regional quarrels between, say, India and Pakistan, or associates it with a narrowly based regime whose insecurity is as much domestic as external, like the Shah's in Iran. Most dangerously, it can distort the priorities both of the receiving nation, which might be much better served by economic aid, and of the United States, which might have higher objectives, like containing the spread of nuclear weapons.

All of these risks very clearly apply in Pakistan. The case for military aid is considerable. Given its fragile domestic structure, Pakistan is indeed threatened by the Soviet invasion of Afghanistan—if not by the Red Army then by the cross-border traffic in armed Afghans. And President Zia has been tempted to try appeasing Moscow. A major American arms deal may end his wobbling, and with a side benefit: Pakistan's new long-range F-16's could allow it to build on its military ties to Saudi Arabia and add a further source of support for the House of Saud.

And perhaps the new American influence can indeed be used to discourage Pakistan from following India in the construction of a nuclear bomb. Mr. Reagan implies that his carrots will work better in this respect than Jimmy Carter's stick. It would be comforting to know that he aims to try.

But to believe that the influence gained will be wisely used to promote some thought-out American purposes, one has to overlook the new Administration's manifest instincts in approaching authoritarian regimes. Whether weighing their intrinsic strength or human rights offenses or need for weaponry, Mr. Reagan has been a soft touch for any that proclaim themselves anti-Soviet.

Even more explicit conditions would only diminish the risks of his arms deals. Nations like Pakistan and China can have independent military purposes—toward India or Vietnam, for instance—that may not serve American interests. The implications of these deals are so serious that Mr. Reagan does, after all, have to spell out his purposes—and limits. Failing that, Congress has a duty to examine not only the fine print in these deals but their relation to the wider objectives that the United States intends to pursue.●

VLADIMIR AND IZOLDE TUFELD

HON. KEN KRAMER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. KRAMER. Mr. Speaker, today, in joining several of my colleagues by participating in the Congressional Call to Conscience Vigil for Soviet Jewry, I would like to bring to the attention of this body the case of Izolde and Vladimir Tufeld.

The Tufelds first applied for exit visas to emigrate to Israel to join their son, Igor, in 1977. Both were fired from their jobs and have been unable to work since. On the grounds of secrecy, three subsequent applications have also been denied.

Vladimir and Izolde Tufeld have both received poor medical care in the Soviet Union. After being hospitalized when he suffered a heart attack in 1977, Mr. Tufeld was again hospitalized in May 1979 for severe back pains. Even though a spinal operation was recommended at that time, he was released without having had surgery in July when the hospital closed for the summer. On being readmitted in August, Mr. Tufeld was informed that due to the development of kidney problems, surgery was unthinkable. Vladimir Tufeld continues to suffer extreme pain and spends most of his time bedridden.

Izolde Tufeld is considered in very grave medical condition. For the past 2 years she has suffered from severe headaches, loss of hearing, and difficulty in performing tasks such as speaking, eating, and walking. In the course of her illness, she had been told that it would be 2 years before a CT scan would be available and that treatment rested on the diagnosis obtained through such a scan. Mrs. Tufeld has only recently received the necessary CT scan and has been diagnosed as having a very large benign tumor which will require two very serious operations. The surgeon assigned to do the surgery did allow Mrs. Tufeld to spend the time between the diagnosis and surgery at home as he had to attend a medical conference and would not return to Moscow until mid-June. To date, it is not known whether Izolde Tufeld has undergone the surgery critical to her health.

In addition to the applications for exit visas to emigrate to Israel, the Tufelds have requested permission to leave the Soviet Union to seek proper medical care as well as permission to visit their son in Israel.

On May 22, 1981, I sent a telegram to OVIR, V. S. Obidin, appealing for a compassionate and humane review of Mrs. Tufeld's request to visit her son in Israel immediately due to the rapid deterioration of her medical condition.

It is my hope that the continuing efforts of Members of this body on behalf of Soviet Jews will provide positive resolutions to the plight of Izolde and Vladimir Tufeld and others like them who have been denied access to an environment which encourages the practice of their beliefs.●

SOLAR POWER SATELLITES—ENERGY FOR THE FUTURE

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. GINGRICH. Mr. Speaker, Darrell Preble of Jonesboro, Ga., recently sent me his thoughts on America's choices for energy in the future. Mr. Preble talks about solar power satellites as one of our best energy resources. I wanted to share his comments with my colleagues.

The hopes and dreams of America rode on the wings of Columbia yesterday. The smooth reliable capabilities demonstrated by the reusable space shuttle have potentiated several critical energy programs for America. Chief among these is the solar power satellite (SPS).

A just released Rand Corporation study concludes that America has already used the majority of oil available in the 50 states. They project that by the end of this century petroleum shortages will be critical world-wide. By that time SPSs could be making a tremendous contribution to energy supplies. Once the first SPS is demonstrated, and this could be done within ten years, SPSs could provide as much energy as we could use by the turn of the century. There is no other technology that could provide this quantity of energy as cleanly or safely.

The guiding principles of this public discussion state that "The governments role is NOT (emphasis theirs) to select and promote favored sources of energy." Billions have been spent and budgeted for nuclear reactor and fusion studies, and I believe well spent, yet funding for the SPS for the current fiscal year is zero. ZERO. That seems to be favoritism to me.

A massive three year DOE comparative study of seven major energy sources, including coal, nuclear power and the SPS was released in December 1980. It found ". . . no barriers that would preclude SPSs from being a part of a future energy alternatives plan.". Obviously zero funding is one unforeseen barrier. For a department that in the past has elicited a slight bias in favor of nuclear power that statement is far more positive than disinterested observers would have expected. Past funding for the SPS under the Carter administration has been at $5 million per year. The Committee on Space recommends a $30 million SPS budget per year for continued studies and design. This seems to be a most reasonable sum for such a promising technology.

Current studies of the industrialization of developing nations project severe problems in several areas. One of these is energy production and management. We cannot fail to be concerned about the impact of their energy demands on the global environment.

Yet if the Third World is to make progress in improving their standard of living they must generate and consume more energy. The energy problems of America are amplified when we consider the entire world, as we must . . . We must show them the way toward safe, clean, and abundant power supplies.

Climatologists now believe world fossil fuel use is producing sufficient carbon dioxide to warm the world's atmosphere. Burning larger quantities of fossil fuels poses a threat to world weather and thereby its food supply. This effect is insidious and slow to reverse. Desertification is already an acknowledged world wide problem. Yet increased fossil fuel burning, which is inevitable for the immediate future, can only aggravate this problem. Further heating could cause melting of the polar ice packs, with problems that begin by raising sea level 200 feet. A nuclear powered Third World poses a different set of problems of no less concern.

As nuclear power becomes common worldwide the environmental impact will become more severe. Discount for a moment the threat of nuclear terrorism, the diversion of nuclear waste to weapons use, and the spread of nuclear weapons technology, if you can. There are more serious problems with nuclear power. First there is the thorny issue of waste disposal—where and how can these poisonous wastes be kept out of the biosphere? Plutonium is not only radioactive, it is among the most chemically poisonous agents known. Unlike any other chemical poison it is not biodegradable. It has a half life in excess of 100,000 years.

To truly help world energy supplies hundreds or thousands of nuclear power plants would have to be built. These plants can only aggravate atmospheric heating and desertification. Finally, diminishing fresh water stocks and growing demand for them in numerous applications, from modernized plumbing to raising food for a growing population, severely limit available nuclear power sites. Nuclear power requires huge quantities of fresh water.

There is a technology now available that uses no water in operation, has no waste disposal problems, does not heat the atmosphere, (since it is not generated on earth) and will not run out for ten billion years. This is the SPS. If it is primarily constructed from lunar or asteroidal material its environmental impact will be closer to zero than any other competing technology.

We have a spectacular opportunity when the asteroid Anteros passes only 5 million miles from earth in 1985. A NASA advisory group has already studied the feasibility of blowing it up. Rather than vaporizing it, I suggest we move it to one of the libration points between the earth and moon, refine its ore with solar power, and convert it to an SPS cluster and space colony. We cannot fail to act boldly to solve our impending energy crisis now when we have the time to do so. The only clean, safe, and virtually endless supply of energy is the sun itself. If the oil companies would like to know where to invest their billions in profit let them invest in SPSs. I can imagine no safer or more lucrative long term investment. India has recognized this fact and allocated $15 million for study and design of SPSs. Can we do less? It is irresponsible not to pursue every avenue of research that promises a solution. We are the only nation, praise the Lord, that has the means and power to solve the energy problem—but do we have the courage and will?●

LEGAL SERVICES CORPORATION

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. PEYSER. Mr. Speaker, on Thursday evening, June 18, my presence as speaker at a commencement in my congressional district necessitated my absence on the vote on final passage of the Legal Services Corporation. Had I been present, on Roll No. 91 I would have voted "yea."●

NONPROLIFERATION LOOPHOLES

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. MARKEY. Mr. Speaker, in remarkable testimony before the Senate Foreign Relations Committee on June 19, 1981, a former inspector for the International Atomic Energy Agency discussed in detail Iraq's aggressive efforts to build an atomic bomb capability using the nuclear reactor destroyed by Israel.

The former inspector, Mr. Roger Richter, also testified that the inadequacies of IAEA safeguards and inspections were so great that they were totally incapable of detecting covert production of plutonium at the Iraqi reactor for use in nuclear weapons.

Mr. Speaker, since the only barrier between atoms for peace and atoms for war is the system of inspections administered by the International Atomic Energy Agency, I believe that Mr. Richter's testimony raises grave national security questions for the United States.

Mr. Richter wrote 1 year ago our U.S. State Department mission to the IAEA that:

The available information points to an aggressive, coordinated program by Iraq to develop a nuclear weapons capability during the next five years.

As a nuclear safeguards inspector at the IAEA, my concern and complaint is that Iraq will be able to conduct this program under the Auspices of the nonproliferation treaty and while violating the provisions of NPT. The IAEA safeguards are totally incapable of detecting the production of plutonium in large-size material test reactors under the presently constituted safeguards arrangements. Perhaps the most disturbing implication of the Iraqi nuclear program is that the NPT agreement has had the effect of assisting Iraq in acquiring the nuclear technology and nuclear material for its program by absolving the cooperating nations of their moral responsibility by shifting it to the IAEA. These cooperating nations have thwarted concerted international criticism of their actions by pointing to Iraq's signing of NPT, while turning away from the numerous, obvious and compelling evidence which leads to the conclusion that Iraq is embarked on a nuclear weapons program.

Mr. Richter resigned from the IAEA in order to testify before the Senate Foreign Relations Committee. His background in nuclear engineering is extensive and I submit that part of his testimony which describes his professional experience. I urge all of my colleagues to read his extremely important testimony, copies of which are available from my office. Following is Mr. Richter's testimony on his professional history.

By way of background Mr. Chairman, I want to inform the committee of my relevant experience in the field of nuclear engineering. I hold a B.S. in metallurgical engineering and M.S. in nuclear engineering from the Polytechnical Institute of New York and the University of Maryland. The latter degree was attained under the auspices of the U.S. Atomic Energy Commission select intern program. I have been employed by the U.S. AEC, ERDA and DOE from June 1968 until February of 1978. During this time I was involved in nearly all aspects of the technology associated with nuclear fuel engineering, reactor irradiations and nuclear waste disposal.

While working for the Atomic Energy Commission, I have served as project engineer for the national program to develop advanced fuel for breeder reactors, as a site representative at the General Electric breeder reactor headquarters in Sunnyvale, California and the Westinghouse nuclear component manufacturing facility also in Sunnyvale.

I have also authored a report for the U.S. Department of Energy San Francisco, Operations Office which was written at the request of the Federal Reserve Bank, on the economic impact of passage of proposition 15, an initiative which could have shut down the nuclear plants in California. This report was criticized by proponents of the initiative as being too pro-nuclear.

On the basis of these relevant experiences, I was offered a position as a nuclear safeguards inspector with the IAEA in February of 1978.

At the IAEA I initially served as an inspector in the Euratom section. I was a principal inspector at the nuclear fuel reprocessing facility in West Germany and at fuel fabrication facilities in both West Germany and Italy. I subsequently replaced the lone American inspector in the south and south/east section when he returned to the United States. I have been an active inspector in the south and south/east section for the past two years until my resignation on June 16, 1981. In this capacity, I have inspected small research reactors in Australia, Greece, Indonesia, Israel, the Philippines, Turkey and Yugoslavia. I have had considerable inspection experience with the heavy water power reactors RAPPS-1 & 2 in Kota, India and the General Electric supplied light water reactors in Tarapur, India and at the nuclear fuel fabrication complex in Hyderabad, India.

I was recently involved in the final negotiations on behalf of the IAEA with the Government of India on the safeguard approach to the Prefre nuclear fuel reprocessing facility, located at the Tarapur site. I was to have been a key inspector in the implementation of the forthcoming inspections at the Prefre reprocessing plant later this year. I had in fact been offered, and I recently ac-

cepted, a five year extension of my present contract with the IAEA.●

JOHN S. KNIGHT

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. SEIBERLING. Mr. Speaker, last week one of America's greatest journalists, Mr. John S. Knight, passed away at the age of 86. Mr. Knight, founder and editor emeritus of the Knight-Ridder newspapers, was a lifelong resident of Akron, Ohio. Therefore, I was privileged to count him as one of my constituents and, more important, a friend.

An exceptionally beautiful service was held in his memory on Saturday at St. Paul's Episcopal Church in Akron. The large building was filled to overflowing. Distinguished people from all over the country, as well as Akron residents, came to pay a final tribute to a great American.

A most eloquent and suitable eulogy was delivered by Mr. Lee Hills, a director and retired editorial chairman of Knight-Ridder newspapers.

John S. Knight touched so many people in his long and illustrious career that it would have been impossible for any building to hold them all, even if they could have attended a memorial service.

In the belief that others would like to read Mr. Hills' most fitting tribute to this great man, I enclosed the full text of the eulogy following these remarks:

[From the Akron Beacon Journal, June 21, 1981]

WHEREVER KNIGHT SAT "WAS HEAD OF THE TABLE"

(Here is the complete text of the eulogy for John S. Knight, editor emeritus of Knight-Ridder Newspapers. It was written by Lee Hills, Knight-Ridder director and retired editorial chairman, and delivered by him at a memorial service Saturday at St. Paul's Episcopal Church, Akron.)

We are gathered here to bid our last farewell to a remarkable man—father, brother, professional colleague and friend to us all.

It is difficult not to be sad in the face of the terrible finality of death. But let's put that aside. Instead, let us be joyous, let us celebrate the fact that we witnessed a life lived long and well.

I stand here very humbly aware of the awesome assignment that I have to translate the deep emotions of the heart into language in some meaningful way.

John Shively Knight was not a person you would easily forget. Our memories of him are vivid and lasting.

It was fitting that he left us quickly and peacefully in this city where he began his illustrious career almost 60 years ago.

He loved Akron and its people, and especially his co-workers at the Beacon Journal, and I know all of you felt the same about him.

Jack Knight was a strong and forceful leader. He exuded confidence and what we call "presence," which enhanced his qualities of wisdom and intellect. He was not a person you overlooked. Wherever he sat was head of the table. By sheer strength of character, he achieved extraordinary stature.

He was interested in everything. He loved horse racing, football and dancing, politics and world affairs with genuine relish. He was a natural athlete and a champion golfer. He knew how to calculate the odds, whether in dice or in newspaper acquisitions. He played the percentages and he always played to win.

Jack had some flashes of his flamboyant and gifted father, C. L. Knight, and the caring and grace and humanity of his sensitive mother, Clara. It was a combination that made him a source of inspiration for those whose lives he touched. The more you knew him, the more you respected him.

He was equally at ease with presidents and printers, princes and preachers. He was a keen businessman with a hard-boiled, handsome flair that attracted both men and women.

His personal life was marked at various times by great happiness and, yes, great tragedy, but he met the latter with courage of the highest order. He suffered sadness without surrender. He did not talk about it, but those close to him knew the strong thread of religious belief that ran through his life and of his many generous acts of charity.

If you read that his heart caused his death, don't believe it. There was nothing wrong with his heart, and it never failed him or anybody else. Indeed, he had a giant heart. His manner could sometimes be crusty and his wit caustic, but we remember him as a kind, warmhearted, dear friend. The heart governs understanding, and that was his special quality. It also ruled his unfailing sense of responsibility and public trust. He knew that ideals and traditions are not automatically carried on, so he worked to perpetuate them through others.

Jack Knight would not want us to linger long over his fabulous achievements. But he was a Renaissance man. He did it all:

Entrepreneur, reporter, sportsman, business executive, a writer of clarity and grace, publisher, philanthropist, columnist—but first and last an editor. Nothing else was a close second with him. In fact, he was at his office critiquing his papers the day he died.

He believed fiercely that newspapers must be independent editorially and economically, and that is the way he ran his. He practiced his profession of journalism with passion, energy and courage. He was an independent thinker. It is impossible to fit him into any slot. He loved being unpredictable.

He served his country in a variety of special missions. He repeatedly turned down bids to enter politics, and received countless letters from readers urging him to run for president. Over the years he was showered with honors.

His strong sense of integrity touched the lives of hundreds of journalists and millions of readers. He left a legacy of excellence.

In a career spanning most of this century, Jack Knight leaves an impressive mark on American journalism. As founder of today's most widely read newspaper group, his will be a continuing presence. Those who come after him have the guidance to continue the standards he set.

Jack's last five years were crowned with great happiness, brought by Betty Augustus Knight.

He not only loved Betty with all his heart—it was a joyful thing to see them together—but he also revered her in a way that made this a marriage of rare beauty.

He gave her full credit and proudly proclaimed himself the "new Knight"—he was patient, sweet, lovable, contented and agreeable—well, up to a point. When I commented one day that he was never irascible any more, he said he would probably prove me wrong in 24 hours. He did. He picked up one of his papers and complained the type was entirely too small to read. That was typical. Jack would fret and stew over some minor annoyance, but if an editor or general manager really blew a big one when he was trying to do his best, Jack would usually comfort rather than scold him.

Betty brought a whole new dimension into Jack's life, and her large and loving family became part of it.

After she died last New Year's Day, he didn't get over it. He could not talk about her without a tear.

And so, Jack, we are here today to say goodbye to you as we did so recently to Betty.

We honor you not with tears but with unforgettable remembrance.

We shall miss you personally as a friend.

We shall miss you professionally as a colleague.

You were one of us. We admire and respect you.

We love you, Jack, and we will treasure your memory.●

TAX CUTS: A REMEDY FOR INFLATION

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. KEMP. Mr. Speaker, the Heritage Foundation has over the past few months been studying the impact of President Reagan's economic proposals. There analysis has consistently been clear—and convincing. I particularly want to commend a study by Policy Analyst Peter G. Germanis, "Tax Cuts: A Remedy for Inflation" to your attention. As we reach the crucial point in the debate over a tax cut, it is very important to understand his essential thesis: that tax cuts are not a cause for inflation, but a cure.

The article follows:

TAX CUTS: A REMEDY FOR INFLATION

BACKGROUND

President Reagan's proposal to reduce federal income tax rates 30 percent over three years has sparked a sharp controversy. Proponents of the tax proposal assert that a reduction of marginal tax rates would revitalize the economy by producing non-inflation economic growth. Critics of the plan, on the other hand, contend that such a policy would serve only to exacerbate inflationary pressures within the economy.

KEYNESIAN ASSUMPTIONS

Opposition charges that the Reagan income tax cut would be inflationary are based on the Keynesian assumption that consumption is a constant proportion of additional disposable income, and that a reduction in taxes would inevitably lead to demand-pull inflation by setting off a multiplied spending process. These critics, howev-

er, have been unable to explain why it would be inflationary when people spend their own money, but not when the government spends for them. If the tax cut is accompanied by a spending reduction, then any increase in disposable income from the tax would be offset by a corresponding reduction in income for recipients of federal payments. In the event of a deficit, bonds are sold to the private sector, thereby taking money from the purchasers of bonds and transferring it to the Treasury. There is no added demand on the economy because purchasing power has simply been shifted from one group to another.

Moreover, the primary objective of supply-side economics is not to stimulate aggregate demand, but to increase incentives to earn more taxable income. Lower marginal tax rates are designed to encourage work and increase savings as well as investment by making leisure, consumption, and tax shelters relatively more expensive. The reduction in tax rates is actually expected to raise total tax revenues through expanding production and, consequently, an enlarged tax base. Inflationary pressures would decrease because there would be a greater supply of goods and services relative to the supply of money. High taxes have actually contributed to inflation by discouraging production without limiting the growth of the money supply.

A tax cut would only be inflationary when the Federal Reserve finances any resulting deficit by creating new money. Opponents of the proposed tax cuts claim that the projected deficits of the program in the early years would be pernicious to the economy. These deficits, they argue, would increase government borrowing. The increased demand for funds would raise interest rates, and thereby inhibit economic activity in the private sector because private borrowers would be displaced. This, in turn, would fuel inflation by compelling the Fed to monetize the debt. Conventional Keynesian analysis, however, again ignores the effects of incentives altered by the tax proposal. By increasing after-tax income, the reduction in tax rates would have an immediate positive impact on savings. This growth in savings could be used to cover these deficits without putting pressure on interest rates or on the Fed to print money. Then, as revenue reflows begin reducing the deficit, the additional private savings would add further stimulus to the economy.

KENNEDY TAX CUT

The current Reagan tax proposal is often compared to the Kennedy tax cut of 1964, which was similar in intent. In the 1963 Economic Report of the President, President Kennedy pointed out that reducing taxes is a key to reviving the economy, even if it results in a deficit:

"Tax reduction . . . sets off a process that can bring gains to everyone, gains won by marshalling resources that would otherwise stand idle—workers without jobs and farm and factory capacity without markets. Yet many taxpayers seem prepared to deny the nation the fruits of tax reduction because they question the financial soundness of reducing taxes when the Federal budget is already in deficit. Let me make clear why . . . reducing taxes is the best way open to us to increase revenues . . . [U]ntil we restore full prosperity and the budget-balancing revenues it generates, our practical choice is not between deficit and surplus but between deficits born of waste and weakness and deficits incurred as we build our future strength."

By reducing individual and corporate tax rates, the Kennedy program produced substantial improvements in employment, output, wages, savings, and investment. As a result, the tax cut was self-financing. Because the average taxpayer is in a much higher tax bracket today, reducing tax rates should have an even greater influence on savings. This growth in savings, together with budget cuts and revenue reflows, should insure the success of the Reagan economic program in restoring real economic growth.

CONCLUSION

Finally, rising rates of inflation and unemployment, together with declining productivity, have created a climate ill-suited to economic growth. Because expectations play such an essential role in the long-term decision-making process of both businesses and individuals, it is important that the Reagan proposal is not viewed as just a one-year tax cut, but rather a multi-year plan. If enacted, a multi-year reduction in tax rates would produce greater benefits more rapidly by improving the prospects for real rewards from productive activities. Such a cut would restore confidence and encourage economic activity by breaking the "cycle of negative expectations." President Kennedy once said: "An economy hampered by restrictive tax rates will never produce enough revenue to balance the budget—just as it will never produce enough jobs or enough profits."●

REMEMBER THE CUB AIRPLANE

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. CLINGER. Mr. Speaker, June 15, 1981, marked the 50th anniversary of the Piper Cub, one of the greatest innovations in the field of aviation technology.

The original design of the Cub was conceived by C. G. Taylor of Taylor Bros. Aircraft in Bradford, Pa. Though Taylor Bros. Aircraft went into bankruptcy during the early thirties, as did so many companies at that time, William G. Piper had already purchased some shares in the corporation and, with his assistance, the company was reorganized as a partnership known as Taylor Aircraft Corp. It was the prospects of the future of the "Cub" that influenced Piper to maintain his interest in the company. Taylor's small, high-wing, two-place monoplane could pioneer a new era in aviation, as, under the then prevailing depressed economic conditions, it would fit into the financial reach of airport operators. In the late thirties, the partnership between Taylor and Piper was dissolved, and also the company was forced to relocate due to a disastrous fire which destroyed the Bradford plant. William Piper bought an abandoned silk mill in Lock Haven, Pa., and from thence the fortunes grew.

During the early years of World War II, our country was in need of a civilian pilot reserve to form the core of a military air force. Piper alone had the production capacity to meet this need, and, as a result, four out of five World War II pilots had their original training in Piper Cubs. One of the Cub conversions, the L–4, earned the respect of being one of the world's most effective warplanes. They were used by the thousands during World War II all over the world as air observation posts, not only for spotting enemy posts, but also as photo reconnaissance aircraft. Famous generals, including Patton, Bradley, Marshall, and Clark, have used the little airplane for transportation and personal assessment of tactical situations. Even Winston Churchill has flown in the ubiquitous L–4. In 1961, a panel of four men, including Jimmy Doolittle, selected the Piper Cub as one of an even dozen aircraft that had had the greatest impact on the course of human flight. Today, as the Super Cub, the design holds the record for being the longest run aircraft in man's history.

It is my honor to represent the 23d District of Pennsylvania, which has produced individuals such as C. G. Taylor and W. T. Piper, whose vision, imagination, and determination have significantly contributed so much to our Nation's growth and history. I salute the Piper Cub on the occasion of its 50th anniversary.●

ROBERT RABEN

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. LEHMAN. Mr. Speaker, I am pleased to bring to the attention of my colleagues in the House of Representatives, Robert Raben, an outstanding high school senior from North Miami Beach, Fla., who has been named 1981 National Youth of the Year by the National Exchange Club.

This honor has been accorded to the 17-year-old Mr. Raben in view of his excellent academic record—he has been a member of the National Scholastic Honor Society for 4 years; for his original essay entitled, "America, My View"; and also for his equally impressive extracurricular activities. Robert, president of the student government of North Miami Beach Senior High School, created and organized a project to tutor, counsel, and otherwise aid Cuban refugee children.

The son of Mr. and Mrs. Murray Raben, Robert was chosen from among 37 regional winners in the nationwide competition, and will receive a $3,000 college scholarship in addition to the National Youth of the Year plaque at Las Vegas, Nev., on July 9, 1981.

Such promising scholastic and civic leadership by a young American is a

source of hope and pride to all of us. I wish to join with his friends and family in congratulating Robert.

The text of his award-winning essay follows:

AMERICA—MY VIEW

The United States of America. These five words conjure up in my mind some of the most noble precepts ever attained by man. Liberty, freedom, individuality and pride are the foundations upon which our nation was formed and developed, but the most lasting and righteous precept of them all is inherent in the second word of our title; unity. Cohesive, unified and together, the United States of America is the largest group of humans ever to congregate to form a perfect union, and to live and die for it for over two hundred years. It is these noble truths, unity and righteousness, that I envision as my view of America.

There is a pulse in this great nation, it pumps from the Alaska pipeline to the Texas ranges to the Maine coast. This pulse has been formed by generations of diverse peoples who envisioned a greater life and risked their lives to attain it. This pulse has been continued by countless years of hard labor by American workers and businessmen. This same pulse has perservered through trying times—division among its ranks, foreign aggression, and government corruption—to form a unified nation that constantly strives for the highest ideals known to man. My America, better than all the nations of the world, has the unique ability to survive all of its trying times and walk out of them stronger, more brave, and dignified. Since the early 1800's, when the Barbary Pirates were finally stopped from their world pillaging by America, to World War II, when America fought bravely to shake the bonds of foreign aggression, this cohesive union of fifty states has continually played a crucial role in the world as policeman and defender, while maintaining to the best of its ability the respect and admiration of all nations.

Although we are a nation comprised of differing, often conflicting, cultures, my America creates through its democratic heritage a single ideal to live by; that all men are created equal. All Americans are important cogs in the wheel of our future, and it is only in this nation where all can have the chance for success. Achievement in America knows no color lines, practices no one religion, or speaks just one voice; it is something every single one of us has the right and potential to attain. It is only in this nation that a haberdasher, a peanut farmer and an actor can attain the highest office in the land, for it is only in America where all citizens have a truly equal opportunity.

Another ideal that America calls its own and makes me proud to be a part of is righteousness. Not only do we look out for our own social welfare, but in this day of foreign aggression and hostility we still continue to clothe, feed and lend guidance to millions of people throughout the world. The humanity with which we try to manage our foreign policy, coupled with the high moral precepts advocated in these policies, leaves America no rival in the world for admiration, awe and respect.

In essence, America to me is a dream that a persecuted band of religious men held, our forefathers improved, and countless generations have passed on to each other to create the union we have today. Imbedded in our soul are noble American ideals—liberty, hard work, morality, and justice—and in my America it is a God-given privilege to be able to hold these ideals deep in my heart and pass them on to future generations. This, with God's help, is something I intend to do.●

THE BOYS FROM SYRACUSE

HON. GEORGE C. WORTLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. WORTLEY. Mr. Speaker, this last March the 174th Tactical Fighter Wing commonly known as The Boys From Syracuse, became the first Air National Guard unit deployed to Europe with the A-10 Thunderbolt 11. This was a joint NATO exercise between the Forces of the United States and the Federal Republic of Germany; it was nicknamed "Coronet Sail." The exercise was a great achievement and brought distinction to the 174th Tactical Fighter Wing.

On Saturday, February 28, two C-141 transports and one DC-8 arrived in Fursten Feldbruck, West Germany, packed with tons of equipment. All personnel were then transported to Lechfeld Airbase, Bavaria. Meanwhile, eight A-10's left Hancock Field from Syracuse, N.Y. During the flight, the pilots set a new flight endurance record for the A-10. They went 12 hours and 15 minutes of continuous flight with three air-to-air refuelings. Eventually, they landed in Lechfeld Airbase to meet the rest of the unit.

Not only were the exercises a success, but "the boys" gained valuable experience and were able to enjoy some German hospitality. The German weather was equally as hospitable. The rain, drizzle, fog, and snow made the Syracuse unit feel right at home. But, as could be expected of a unit coming from the Syracuse area, these weather conditions had no adverse affects on the 174th's performance. During the exercise, the 174th's pilots flew 237 sorties in 449 hours of flight time. The Germans were also quite impressed with the exhibition of quick turnaround capabilities of ANG ground personnel.

The purpose of the deployment was "to familiarize Guard members, aircrews, and support personnel with the unique aspects of operating outside the continental United States," said Brig. Gen. Paul A. Schempp, 174th TFW commander. General Schempp was quite impressed with the entire exercise. He reported:

I consider the overall performance of both units outstanding. I was totally impressed with the professional capability and sincerity of all the German Air Force personnel. And the men and women of the 174th have again proved, as they did during numerous inspections back home, that the unit is capable of rapid deployment to any area of the world in which we may be needed.

Mr. Speaker, the 174th Tactical Fighter Wing has obviously shown us the result of hard work and dedication. "The Boys From Syracuse" should be commended for their recent achievement outside the continental United States. We in Syracuse are proud of them because in this exercise they have shown the professionalism of our forces thereby bringing honor to our country.●

EMORY M. SNEEDEN

HON. JOHN L. NAPIER

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. NAPIER. Mr. Speaker, I would like to take this opportunity today to recognize and pay tribute to an outstanding American who has contributed greatly to his Nation through a lifetime of distinctive service in academic, Government, military, and legal circles.

Emory M. Sneeden, former chief counsel to the Committee on the Judiciary, U.S. Senate, and now associate dean of the University of South Carolina School of Law, is no stranger to Capitol Hill. From 1975 until 1977, the Wilmington, N.C. native served as legislative and administrative assistant to U.S. Senator STROM THURMOND of South Carolina. During this period he specialized in antitrust legislation and served as Senator THURMOND's counsel on the Antitrust and Monopoly Subcommittee of the Committee on the Judiciary of the Senate.

When Senator THURMOND became ranking minority member on the Committee on the Judiciary, Mr. Sneeden was appointed to the position of minority chief counsel and staff director of the Subcommittee on Antitrust and Monopoly and to the position as chief minority counsel to the full committee.

Following this period of significant service to the U.S. Senate, Mr. Sneeden was appointed associate dean and lecturer-in-law at the University of South Carolina School of Law. From here he took leave from 1979 through March 1981 to serve as chief minority counsel and chief counsel for the Committee on the Judiciary of the U.S. Senate.

While on Capitol Hill, Mr. Sneeden became noted for his legislative initiative. He spearheaded major staff assignments including: labor law reform; prohibition to unionization of the military; the Hart, Scott, Rodino Antitrust Improvements Act; the Antitrust Enforcement Act of 1978; horizontal and vertical divestiture proposals addressing the petroleum industry in 1977-78; the Criminal Code, the soft drink bottler's bill; the Antitrust Procedural

Improvements Act of 1979, Pfizer against India, and others.

Senators STROM THURMOND, MAX BAUCUS, BIRCH BAYH, DAVID L. BOREN, DENNIS DECONCINI, ROBERT DOLE, J. JAMES EXON, BARRY GOLDWATER, ORRIN G. HATCH, HOWELL HEFLIN, EDWARD M. KENNEDY, PATRICK J. LEAHY, RICHARD G. LUGAR, CHARLES MCC. MATHIAS, JR., HOWARD M. METZENBAUM, and many others have all commended Mr. Sneeden for his legislative staff abilities. And, during the 2d session of the 96th Congress, Mr. Sneeden was commended for his service as chief minority counsel in a resolution unanimously passed by the Senate Committee on the Judiciary.

Mr. Sneeden's academic credentials include a bachelor's and a jurist doctor's degrees from Wake Forest University, North Carolina. In 1961, he was awarded a certificate from the Hague Academy of International Law, The Hague, The Netherlands; and, in 1972, he graduated from the management program for executives of the University of Pittsburgh's Graduate School of Business.

His legal abilities have enabled him to become a member of the bars of the Supreme Court of South Carolina; the U.S. Court of Military Appeals, the U.S. Supreme Court, and the U.S. Army Court of Military Review.

In the finest traditions of the true American work ethic, Emory M. Sneeden's professional outreach continues to gain momentum with each passing day. Recently he felt compelled to enter the lecture circuit to share his knowledge and expertise. As a member of the American Enterprise Institute, he spoke in opposition to the proposed unionization of military personnel. Shortly thereafter, he delivered a major address, entitled "The Congressional Counsel and a Look Into the Future," before the American National Standards Institute's 60th anniversary evaluation and forecast. Mr. Sneeden has also highlighted the role of the congressional counsel and legislative affairs during seminars for the Brookings Institute's seminar for business executives; the Grocery Manufacturers of America, and the League of Republican Women of the District of Columbia. Earlier this year, Mr. Sneeden served as a seminar speaker at Harvard University's School of Law and the John F. Kennedy School of Government. He discussed the past and future of the U.S. Senate Judiciary Committee.

Emory M. Sneeden has served wherever his Nation needed him most. No man can receive the Legion of Merit 3 times, be awarded the Air Medal, Senior Parachute Badge, Republic of Vietnam Parachute Badge, and 18 other military citations without being where the action is.

In World War II, Mr. Sneeden entered the U.S. Army as a private and served in a parachute field artillery battalion in the Pacific theater. His early Army assignments included service as a gunner, battery commander, company commander, defense counsel, and prosecutor. When the Korean war broke out, Mr. Sneeden traded in his civilian attire and again donned the Army's olive drab for an active duty assignment. Following the Korean action, he transferred from the infantry to the Judge Advocate General's Corps. And, when the Vietnam conflict erupted, Emory M. Sneeden felt dutybound to participate in the resolution of that threat to democracy.

After graduation from the U.S. Army War College in 1970, General Sneeden served as personnel chief to the Judge Advocate General's Corps and later as the executive to the Judge Advocate General of the Army. He was promoted to brigadier general while serving as a senior counsel to the Commander XVIII Airborne Corps, Fort Bragg, N.C., and eventually was appointed Chief Judge of the Army, a position in which he served admirably until retiring in 1975.

It is almost impossible to believe that during such an exciting and action-packed life, Mr. Sneeden has found time to write. However, his publications encompass: "Illinois Brick—Do We Look to the Courts or Congress, XXIV The Antitrust Bulletin"; "Oil and Coal: A Political Football"; "Swann Oil Energy Digest"; and a prepared statement filed with the Committee on the Judiciary when appearing as a witness on the proposed amendments to the Clayton Act hearings on S. 300, the Antitrust Enforcement Act, 96th Congress, 1st session. Presently, he's preparing a law review article which will focus on the decision of the U.S. Supreme Court in Pfizer, Inc. et al. against Government of India, which was decided January 1977.

Therefore, I take great pride in recognizing and commending Emory M. Sneeden for his lifetime of service to his State and Nation. His dedication to his profession, integrity and selfless devotion to duty serve as an encouragement to all Americans. Capitol Hill will sorely miss Emory M. Sneeden.

I wish Gen. Emory Sneeden—patriot, soldier, able lawyer, and public servant—much success as he resumes his position in the private sector as the associate dean at the University of South Carolina School of Law, and as he serves "of counsel" in the distinguished South Carolina law firm of McNair, Glenn, Kondouras, Corley, Singletary, Porter, Dibble.●

VERIFY REPORTS OF AMERICAN POW'S AND MIA'S

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. LAGOMARSINO. Mr. Speaker, the persistent reports of American POW's and the bodies of American MIA's still being held in Southeast Asia require us to continue our efforts to verify these reports and obtain the release of any Americans still alive or their remains.

A recent editorial from the Santa Maria, Calif., Times urges the administration to pursue the POW question. I strongly support that request and hope that the Reagan administration will continue to do everything it can to resolve this bitter reminder of the war in Southeast Asia.

MUST PURSUE POW QUESTION

Congressman Robert Lagomarsino has confirmed that the bodies of three missing in action (MIA) servicemen in Vietnam are being returned by the Hanoi government. This comes at a time when the Vietnamese government had previously denied the presence of any more bodies as well as at a time the Central Intelligence Agency is conducting clandestine operations designed to free Americans still being held prisoner in Southeast Asia.

Officially, the U.S. government discounts the possibility that any American servicemen remain prisoners in Southeast Asia. But the two recent raids into Communist Laos by unidentified mercenaries, presumably Lao guerrillas operating from bases in Thailand, tell a different story.

The raiders entered Laos at the behest of the CIA. Their mission was to locate a mysterious camp deep in the Laotian jungle and to rescue any Americans who might be prisoners there.

As it happened, the raiders failed to reach the camp on their first attempt. When they tried again, they found no evidence of Americans at the camp, which appeared to be a Laotian government detention center for political prisoners.

According to U.S. intelligence sources, satellite photographs of the camp yielded some indications that Americans might be there. If they were, they must have been moved before the second raid occurred.

But the Reagan Administration has more than satellite photos to suggest that American servicemen may still be imprisoned in Laos and Vietnam. The Pentagon's Defense Intelligence Agency had compiled testimony from nearly 300 Indochinese refugees who claim to have seen Americans in Vietnam or Laos since the Communist takeover of 1975.

We urge the administration to spare no effort in attempting to verify these reports and, where credible evidence exists, to mount further rescue attempts. If there was any lingering doubts about the veracity of Vietnamese officials and their word that no U.S. servicemen remain there, those doubts should have been erased with the release of the MIA bodies.●

OLDER AMERICANS EMPLOYMENT OPPORTUNITY WEEK

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. PEPPER. Mr. Speaker, in today's political and economic climate of shrinking resources and mounting uncertainty, our Nation is fortunate to have one resource upon which we can count: the older American worker. Utilizing the talent and experience of these workers may be one of the best ways to solve the present crises in retirement income programs and social security.

To date, the resource of the older worker has not been effectively tapped. Only 22 percent of those aged 60 and over are currently working. Despite this, national polls show that most retired Americans would prefer to be working, either full or part time. Many older workers leave their jobs unwillingly. Even those who retire willingly often find that they cannot make ends meet or are bored in retirement. Finding a job is very difficult for older workers. Once out of the labor force, older workers remain unemployed for twice as long as their younger counterparts.

Employers are beginning to recognize the value of hiring and retaining older workers. Programs such as jobsharing, flexitime, retraining, and part-time jobs are being made available to entice these workers to remain on the job. These employees provide a high level of productivity, knowledge, expertise, and a job well done in return for the opportunity to remain employed.

Providing employment opportunities for the older worker is an important and necessary goal not only for today but also for the future. For this reason, I and Mr. RINALDO, along with 56 of our colleagues in the House, today join with Senators HEINZ and CHILES in introducing a joint resolution to draw attention to the older worker and to encourage employers to generate employment opportunities for these workers. Specifically, we are requesting that the President designate the week of September 6-12, 1981, as "Older Americans Employment Opportunity Week." During this week, special programs would be scheduled around the country to inform employers and the public about older worker resources and to educate older persons about available employment opportunities. The outcome should be increased visibility of the need for employing older workers, a better understanding among employers of the benefits of employing older Americans, and wider employment options for those older individuals who would like to make a contribution to society.

The text of the resolution follows:

JOINT RESOLUTION

To authorize and request the President to designate the week of September 6, 1981, through September 12, 1981, as "Older Americans Employment Opportunity Week".

Whereas our Nation's citizens over age 65, now representing over 11 percent of our population with this rate expected to increase steadily over the coming years and decades, constitute a major national resource;

Whereas increasing numbers of our older citizens, being willing and able, are looking for opportunities to gain employment or remain in the work force in order to serve their communities and the Nation;

Whereas older citizens, having accomplished so much in the past for the Nation and who continue to contribute to the Nation's productivity and service to others, should be encouraged to continue in employment roles that utilize their strengths, wisdom, and skills;

Whereas career opportunities reaffirm the dignity, self-worth and independence of older persons by facilitating their decisions and action, tapping their resources, experience, and knowledge, and enabling their continued contribution to society;

Whereas it has been demonstrated through title V of the Older Americans Act of 1965, which supports a part-time program for Older Americans, that older workers are extremely capable in a wide variety of job roles;

Whereas recent studies conducted by the United States Department of Labor and other organizations indicate that, in many cases, employers prefer to retain older workers or rehire former older employees due to their high quality job performance and low rates of absenteeism; and

Whereas Congress recognizes the importance of continued participation of senior citizens in our Nation's work force and encourages expanded careers and greater job opportunities for these individuals by increasing the awareness of the valuable experience and wisdom offered by our Nation's elders: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the week of September 6, 1981, through September 12, 1981, as "Older Americans Employment Opportunity Week", and calling upon—

(1) our Nation's employers and labor unions to give special consideration to older workers with a view toward promoting expanded career and employment opportunities for older workers who are willing and able to work and desire to remain employed and to retired seniors who wish to reenter the work force;

(2) voluntary organizations to examine the many fine service programs which they sponsor with a view toward expanding the important service roles older workers are engaged in;

(3) the United States Department of Labor to give special assistance to older workers through job training programs sponsored by the Comprehensive Employment and Training Act, job counseling through the United States Employment Service and additional support through its Older Worker Program; and

(4) the citizens of the United States to observe this week with appropriate programs, ceremonies, and activities.●

THE OLYMPIC COIN ACT OF 1981

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. LOTT. Mr. Speaker, I am today adding my name as a cosponsor of H.R. 3958 and am pleased to join the entire California delegation in supporting this important legislation.

This bill would require the Secretary of the Treasury to enter into an agreement with the Los Angeles Olympic Organizing Committee to strike a series of special coins to commemorate the 1984 games to be held in Los Angeles, Calif. The coins would be fully paid for by the LAOOC plus 15 percent of the manufacturing costs as a profit to the taxpayers.

H.R. 3958 sets ceilings on the numbers and denominations of legal tender commemorative coins, leaving details to be worked out between the Secretary of the Treasury and the LAOOC.

Since every host country in modern Olympics has minted special coins to honor the Games, there is reason to expect Congress not to break tradition. However, there will be discussion among Members over competing coin proposals.

The distinguished chairman of the Subcommittee on Consumer Affairs and Coinage (Mr. ANNUNZIO) has introduced legislation, H.R. 3879, which would permit the U.S. Mint to manufacture 25 million $1 silver coins for sale to the public by the Treasury Department. The net proceeds would be equally divided between the U.S. Olympic Committee and reducing the national debt.

The entire California delegation, on the other hand, introduced H.R. 3958 which would authorize upper limits of 56.4 million $1, $10 silver, $50 gold, and $100 gold coins. The marketing would be accomplished by the private sector.

There appears to be two basic differences in the approaches: One is more limited in size and scope than the other, and one utilizes the Federal Government rather than the private sector as the marketing agent.

In the hopes the critical differences between the bills can be better understood, I want to outline, in question and answer form, some important facts which argue for support of H.R. 3958.

A CRITICAL COMPARISON BETWEEN H.R. 3958 (CALIFORNIA DELEGATION) AND H.R. 3979 (ANNUNZIO)

QUESTION AND ANSWERS

Q. Which bill is supported by the Los Angeles Olympic Organizing Committee?

A. H.R. 3958.
Q. Which bill is supported by the United States Olympic Committee?
A. H.R. 3958.
Q. Which bill has been introduced in the Senate and is supported by senior Members of the Senate Banking Committee?
A. H.R. 3958.
Q. Which bill has been introduced by *all* the California Delegation?
A. H.R. 3958.
Q. Which bill will raise more money for amateur athletics?
A. H.R. 3958.
Q. Which bill fully protects the U.S. taxpayer and requires no Treasury financial exposure?
A. H.R. 3958.
Q. Which bill guarantees the U.S. Treasury a profit of 15% of its manufacturing costs?
A. H.R. 3958.
Q. Which bill places the marketing risks involved in the private sector rather than the taxpayer?
A. H.R. 3958.
Q. Which bill provides funds for the Olympic group in Los Angeles responsible for staging the 1984 Games as well as revenues for the USOC to train our athletes?
A. H.R. 3958.
Q. Which bill already has approval to use the official Olympic Seal of the Games which is protected by international law and an Act of Congress?
A. H.R. 3958.
Q. Which bill has the smallest markup (face value vs. retail sales price) for its coins?
A. H.R. 3958.
Q. Which bill allows for a variety of designs?
A. H.R. 3958.
Q. Which bill contemplates gold as well as silver coins?
A. H.R. 3958.
Q. Since the USOC must negotiate international sales with other national olympic committees, which bill can best market overseas?
A. H.R. 3958.
Q. Which bill does not require congressional appropriations and Budget considerations?
A. H.R. 3958.
Q. Which bill would result in an automatic guarantee to the Olympic movement $50 million regardless of the success of the coin program?
A. H.R. 3958.
Q. Which bill sets a tougher standard for private groups asking the Mint to manufacture commemorative coins and therefore discourages future programs?
A. H.R. 3958.
Q. Which bill can use wholesale outlets and retail organizations like credit card companies, department and specialty stores, mail order houses, banks and other private firms to sell coins?
A. H.R. 3958.
Q. Which bill terminates the minting of Olympic coins in 1984, the year of the Games?
A. H.R. 3958.
Q. Which bill provides for aggressive advertising and modern sales management?
A. H.R. 3958.
Q. Which bill allows Treasury flexibility through a negotiated contract with the Olympic organization?
A. H.R. 3958.●

THE PEOPLE RESPOND

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. GARCIA. Mr. Speaker, I am inserting into the CONGRESSIONAL RECORD a statement which exemplifies the concern people are feeling over the proposed budget cuts. President Reagan's economic plan would not affect every segment of this society equally; minorities and the poor would have to shoulder the greatest suffering while businesses and the rich would be favored disproportionately. As part of my continuing crusade against the inequities in the proposed economic plan, I am inserting today's statement to show that there are still citizens who are concerned over the impact of this plan.

BOY SCOUTS OF AMERICA,
GREATER NEW YORK COUNCILS,
New York, N.Y., March 23, 1981.

Hon. ROBERT GARCIA,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN GARCIA: We are extremely concerned that there may be reduced funding for the Summer Food Program. Through this program, we provide nutritionally balanced meals to poverty level youth who attend our summer camps.

Our organization helps youth develop their character, physical abilities and sense of citizenship. It is difficult for us to achieve our goals when a youth is hungry or is not receiving a properly balanced diet. On a first hand basis, we can attest to the fact that reductions in this program would lead to poverty level youth being denied a basic right of being well fed.

Sincerely,

RALPH DARIAN,
Scout Executive.

DAY CARE COUNCIL OF NEW YORK, INC.,
New York, N.Y., April 7, 1981.

Hon. ROBERT GARCIA,
Cannon House Office Building,
Washington, D.C.

DEAR CONGRESSMAN GARCIA: Attached you will find some statistics which we collected and analyzed for your use. If the Reagan Administration proposal for block grants with a 25 to 30 percent fiscal cut are adopted, we should know the effect it will have on human services, particularly day care. Therefore, the Council put together an impact statement to show how the cuts will effect children, families, jobs and what the cost will be to the taxpayer. As you well know, day care is an employment related program and the impact of the cuts on the localities will have enormous fiscal implications.

If you have any questions or we can be of further help, please call me at (212) 687-9052. We hope the enclosed material will be useful to you.

Most sincerely,

JOYCE BLACK,
President.

Enclosure.

NEW YORK STATE EMPLOYMENT
AND TRAINING COUNCIL,
Albany, N.Y., April 3, 1981.

Hon. ROBERT GARCIA,
U.S. House of Representatives,
Longworth House Office Building,
Washington, D.C.

DEAR MR. GARCIA: As part of the continuing effort by the New York State Employment and Training Council to keep you informed of recent developments regarding the CETA program in New York State, attached you will find a copy of a letter I wrote, on behalf of the State Employment and Training Council, to Mr. Raymond J. Donovan, Secretary of Labor. The letter deals with the allocations for CETA Title IID and Title VI, which were recently revised by the Employment and Training Administration. These revisions have effectively preempted Congressional action and have caused such extensive disruption in the employment and training system that a responsible and sensitive phase-out of CETA public service employment programs is no longer possible. Due to the revised allocations, large-scale layoffs are impending throughout the State during the coming months. I hope that the attached letter clearly communicates to you the severe adverse impact the implementation of the revised allocations is having.

Also attached for your information is an updated schedule for the Community Hearings that will be conducted by the SETC throughout the State during April. These hearings are concerned with the public reaction to the proposed cuts in CETA public service employment programs; we hope you will be able to attend.

If you have any questions regarding any of the enclosed material, or if you desire any additional information, please feel free to contact Mr. Michael Cunningham, SETC director, at the above address or phone (518) 457-2270.

Sincerely,

WILLIAM A. JOHNSON, Jr.
Chairperson.

Attachment.

NEW YORK STATE EMPLOYMENT
AND TRAINING COUNCIL,
Albany, N.Y., March 30, 1981.

Hon. RAYMOND J. DONOVAN,
Secretary of Labor,
U.S. Department of Labor,
Washington, D.C.

DEAR SECRETARY DONOVAN: My colleagues on the New York State Employment and Training Council and I were pleased to learn that the national office has assumed the administration of unemployment insurance benefits. As you know, this issue was very important to us and we appreciate your sensitivity.

Unfortunately, a new problem has arisen that has serious negative consequences. The recent transmittal of revised Title IID and Title VI allocations (Title IID effective immediately, Title VI pending Congressional action) is causing extensive disruption within the employment and training community. The message of this transmittal is that the elimination of public service employment is now viewed by the United States Department of Labor as an accomplished fact *before* Congressional action. It is inconceivable to us that such a stance in any way represents the best interests of either the employment and training system or the clients it is mandated to serve.

There is no guarantee that all of the President's proposed budget cuts will be approved by Congress, and we feel that it is counter-productive at best for any government agency to assume otherwise. Our Council feels that the proposed elimination of CETA public service employment programs represents a gravely misguided policy, and we are firmly committed to opposing it. We have reason to believe that many members of Congress share our commitment. We have also seen evidence of strong public support for CETA public service employment programs: according to a poll recently conducted by ABC News and the Washington Post, 70 percent of the respondents favored maintaining or increasing these programs. With these facts in mind, it is entirely possible that CETA public service employment will survive the current mood of budgetary austerity.

But if this does not turn out to be the case, if Congress supports the President in his determination to eliminate public service employment programs, then the employment and training community still has an ethical responsibility to ensure that the phase-out is conducted with foresight and sensitivity. Sadly, the recently announced funding reductions make this impossible.

The revised allocations are having an immediate and profound effect on prime sponsors throughout New York and around the Nation. Many prime sponsors are already beginning to issue lay-off notices. Several other New York State prime sponsors will be unable to carry their participants beyond a few months more. This action has effectively ruled out an orderly phase-down and has seriously impaired the transitioning of participants into other appropriate situations. Agencies which in the past have provided unsubsidized employment for an estimated 30 percent of the public service employees may not be able to accept participants at the rate now, since these potential employers are facing uncertain futures depending on Federal budget action. Positive transitions have occurred in the past because they were staggered and planned well in advance. This is no longer possible because of the accelerated phase-out.

We may not agree with all of the philosophies espoused by the new administration, but surely we can all agree that we have an obligation to maintain the integrity of the employment and training delivery system. However, the latest Employment and Training Administration action will compromise this integrity. In addition to the return of many employed workers to the welfare rolls from which they came, an immediate effect is the elimination of experienced employment and training staff. These skilled professionals could not only have contributed to the orderly transition of those in public service employment, but also to the achievement of the administration's future goals. We strongly urge that these massive, severe cuts in allocations be reconsidered at this time, so that a secure and responsible phase-out can be achieved.

I hope you will carefully consider the points we have discussed. We do want to work with you in improving the administration of the CETA system, as well as in the design and implementation of programs to provide the disadvantaged with a way out of the welfare system of dependency; however, we can only do this if the delivery system has sound financial support. If this support is ensured, I think that together we will be able to fulfill both the President's policies and the needs of our most disadvantaged fellow citizens.

Sincerely,

WILLIAM A. JOHNSON, Jr.●

INDIAN TRIBES: A CONTINUING QUEST FOR SURVIVAL

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. LOWRY of Washington. Mr. Speaker, this week the U.S. Commission on Civil Rights issued a report entitled "Indian Tribes: A Continuing Quest for Survival." The report is a comprehensive review of the status of Indian rights under treaties and other laws of this country. The preface to the report quotes a former associate solicitor of the Interior Department, Felix Cohen, in his remarks on the importance of Indian rights:

> Like the miner's canary, the Indian marks the shift from fresh air to poison air in our political atmosphere * * * our treatment of Indians, even more than our treatment of other minorities, reflects the rise and fall of our democratic faith.

Those words were written in 1953, and they are still true today. Now, based on the actions of the last Congress in its deliberations on Indian fishing in the Northwest, I must conclude that the barometer of our democratic faith is rising, for these are the recommendations of the Commission concerning that emotional issue in our region:

> Congress should provide for enhancement of the salmon resource, diminution of the inflated non-Indian fishery, the development of tribal fishery management capacity, and increased coordination between the various State, tribal, and Federal entities with jurisdictional responsibility.

This statement is virtually a summary of the actions of the Northwest delegation in the Northwest Salmon and Steelhead Enhancement and Conservation Act (Public Law 96-561), which passed with the unanimous support of the delegation. That law was a responsible attempt to answer the real problems of the resource in the face of environmental deterioration, and yet that law still maintained the human rights of Native Americans. All parties to that difficult negotiation deserve commendation for their measured response to this emotional issue.

The Commission on Civil Rights has done a fine job in its report, and I recommend it to the attention of my colleagues.●

WANTED: FIRE VOLUNTEERS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. LaFALCE. Mr. Speaker, we live in an age when many Americans say they no longer have heroes. In my opinion, we need not look far from our own communities if we are to find individuals who give freely of their time and risk their lives to protect their neighbors' lives and property.

The volunteer firefighter, whose lineage goes back as far as 1736 and the first American volunteer company which was founded by Benjamin Franklin, remains a hero to the millions of Americans whose lives and property are safeguarded by his or her courage.

Although their volunteer efforts touch virtually every community in our Nation, the average citizen probably knows very little about the special duties and challenges that face the volunteer firefighter and his organization. The article which follows outlines the outstanding work of the almost 900,000 volunteers who are the daily heroes of our communities. The article also points out the need for more volunteers, better financial support from the communities they serve, and improved training. Given the sacrifices made on behalf of their fellow Americans, the volunteer firefighter deserves all of the recognition and support we can muster.

The article follows:

[From the Buffalo News, May 31, 1981]

WANTED, FIRE VOLUNTEERS

(By Frederick M. Winship)

America's volunteer firefighting service—a problem-plagued holdover from colonial times—will be able to survive if recruiting can be stepped up and training improved.

That's the consensus of experts in the field contacted by UPI in a survey of the nation's largest and most dangerous volunteer effort. More injuries occur in firefighting than in any other occupation. More than 100 fire-related deaths of firefighters are reported annually.

Of the nation's 28,200 fire departments, 22,450 are totally volunteer and 4,455 are a mix of volunteers and paid firemen with volunteers predominating 5 to 1. Only 1,295 departments are staffed by paid career firemen only. Almost all of them are located in urban centers of 250,000 or more population. Even New York City has a few volunteer companies.

VFDs protect half of America's population. It's plain to see that survival of the volunteer firefighting system is vital to the nation's safety and health.

In addition to fighting fires and combating arson, the nation's 889,250 volunteers provide the only emergency rescue and ambulance services in thousands of communities, where there are often twice as many ambulance calls as fire alarms. Almost 80 percent of the Emergency Medical Services care in the nation is provided by local fire

services and many volunteers have basic paramedic skills.

In most school systems firemen provide the only instruction primary school children ever get in fire safety and survival.

VFDs have increased as the annual number of fires reported by the National Fire Protection Association has risen from 2.4 million in 1965 to nearly 3 million in 1980 for a total property loss of $5.7 billion, compared to only $1.8 billion 15 years ago. There have been 4,200 new volunteer and paid fire departments established since 1965, on an average of 200 a year, and the majority are all-volunteer.

However, many Americans still picture the local firehouse, sometimes owned by the company itself rather than the community, as a late Victoran macho club, a gathering place for poker and pool-playing blue-collar workers who'd rather while away their leisure hours with the boys and the company's dalmatian mascot than with their families.

"That's not true anymore," said Marion Cole, a spokeswoman for the National Fire Protection Organization in Boston, which provides technical and educational material to fire companies across the nation. "It used to be a much more social thing, a fun thing, than it is now. Now it's serious business with a lot of problems to be solved."

The blue-collar makeup of volunteer companies is still the general rule but there are a lot of volunteers from the professions and a small but growing number of women. One of the white-collar volunteers in North Brunswick, N.J., is Dr. Robert G. Kahrmann, dean of continuing education at New Jersey's Seton Hall University.

"Yes, there are a lot of problems," said Kahrmann, who has written many articles for firefighters' publications and is considered an expert on VFDs.

"Volunteerism in firefighting peaked in this country in the 19th century and has diminished considerably in the past 20 years. Many towns won't admit it, but they're hurting for lack of recruits. And there are too many volunteers who work during the day, some of them in communities other than where they live, to provide adequate response to alarms."

E. James Monihan, a volunteer for 23 years and now president of the National Volunteer Fire Council representing VFDs in 22 states, confirms this.

"There's generally a turnover of about one-third annually," Monihan said. "A company has to take in about six new men to get a good one."

One difficulty, as Monihan sees it, is that the $50,000 benefit paid by the federal government to public-service officers for death in the line of duty must go to firemen's dependents, which means the estates of bachelor firemen get nothing, thereby discouraging bachelor volunteers. The National Volunteer Fire Council is trying to correct this.

The explosion of bedroom communities around cities compounds the difficulty in recruitment because commuting workers do not have the sort of civic pride and sense of community responsibility that nourishes volunteer firefighting and has given volunteers the sobriquet, "the unique breed."

"They may give money but not time," said Monihan. "They just want to be taken care of."

Kahrmann lamented the lack of training required of most volunteers who generally spend only a few evening hours each week at the firehouse studying and rehearsing firefighting and lifesaving techniques.

Less than 20 percent of the nation's companies have physical-fitness programs. Less than 50 percent require periodical medical checkups. Heart attacks are the leading type of fatal injury to firefighters, accounting for about 40 percent of deaths, and they are occurring earlier in firemen's lives.

New York State recently established a minimum of 229 hours of training for companies of five or more paid firemen. Dr. Gerald W. Lynch, chairman of the special task force which recommended this minimum, said volunteers need the same amount of training.

"The state can't force volunteers to comply but we hope they will want to meet these standards out of pride for their own protection," said Lynch, who is president of New York's John Jay College of Criminal Justice.

"Volunteers should know how to combat fires in these mushrooming high-rise buildings and how to detect arson. Volunteers make up 85 percent of the firefighting force in this state and the big problem is that a lot of them work."

Kahrmann said: "Very honestly, the training of volunteers is limited, a hit or miss operation depending on the fire department. There's a lot of pressure at state and county levels all over the country to get training going, mainly because of the increase in arson. If you don't get the evidence of arson at the site, you can't do very well in court."

The VFD's of Delaware are leaders in setting minimum training hours for volunteers. Departments determine their own minimums according to their own needs, and these are now running between 200 and 300 hours.

Kahrmann also mentioned lack of adequate equipment—even air masks—as one of the most prevalent shortcomings of VFD's, although mutual-aid arrangements with companies in neighboring communities can partially make up for this.

New high-rise buildings in areas protected by companies that formerly needed only 65-70 foot ladders poses another challenge. Even in big cities, ladders reach to only the 8th or 9th floors at most.

"We have 35 foot ladders because the maximum average height of buildings here is 35 feet," said truck company employee Ronald N. Huter, a volunteer and former chief of the 40-man Mountainside, N.J., fire department. "If they build much higher we will just have to let buildings burn down to our level."

It is difficult to provide practical training in high-rise firefighting, he said. Departments often get permission to burn condemned buildings in order to give their men practical experience. This is not possible in the case of newly built high rises which are potential towering infernos.

Huter said the biggest problem of all is money for adequate equipment. Tax money pays for most of Mountainside's equipment, but the men supply their own jackets, pants, helmets and boots and do a lot of the equipment maintenance themselves.

A standard pumper with hose costs $100,000 or more. The addition of big aerial ladder trucks and snorkel equipment ($250,000 and up) would be an impossible financial drain on Riverside's 2,500 inhabitants.

According to expert estimates, it takes a department of 50 firemen working three shifts to field an initial minimum response of 13 men to a residential fire. Since paid firemen earn from $15,000 to $23,000 a year, according to the International Association of Fire Chiefs, it would cost any community wishing to pay for a minimal fire force $750,000 to over $1 million.

"You can see that an all-paid fire department would be a very expensive project for almost any community," said Kahrmann. "Volunteers, however, are doing well for their communities and are generally keeping up their strength. There was a question that they'd survive the 1970s but they did, and I think they'll survive the '80s."

VFDs also got good marks from William F. Seifried, deputy administrator of the National Fire Academy at Emmetsburg, Md., which was created by the federal government in 1974 to upgrade the training of firemen.

"You get various degrees of professionalism in fire departments," Seifried observed. "I think some volunteer departments are more professional than paid departments."

Seifried said volunteers make up about 10 percent of the student body at the academy, which had 2,100 graduates in 1980. He said about four percent of the student body are women.

Volunteer fire companies still depend on house-to-house collection of donations, chicken dinners and dances to raise funds, just as they have since Benjamin Franklin founded the first volunteer fire company in America in Philadelphia in 1736.

Municipal taxes and state grants help meet some companies' budgets. Federal funds go mostly into training and research programs that have been greatly strengthened in the past decade, although there are federally guaranteed loans and matching grants available to VFDs who know how to go about getting them.

Some communities levy a special tax on top of the regular municipal property tax to support their VFDs. This runs from 4 cents for every $100 of property evaluation to 7 or 8 cents. The money is usually spent on equipment.

The VFD in Bloomington, Minn., one of the best in the country, is in an ideal situation. It has no money problems, according to Chief George Hayden, a bank vice president. The city ungrudgingly provides an adequate working budget of $350,000 and contributes $1 million annually to a pension program for the 130-man corps. There is a waiting list of eager prospective firemen, A-1 training and physical fitness programs, and up-to-date equipment.

Property owners could afford to be more generous in their donations to VFDs in view of the fact that the better their fire protection the lower their fire insurance rates, the experts say. Firefighting adequacy is one of the main considerations of rating companies in drawing up fire suppression ratings for America's towns and cities. From these ratings, insurance rates are set for communities by insurance companies.

The U.S. Fire Administration claims that lack of business management by trained managers is one of the major weaknesses of VFDs. They are institutions with budgets in the hundreds of thousands of dollars and need just as much expert advance planning and utilization of current business practices as hospitals or cultural centers, according to officials who have set up USFA educational courses in this area. Public apathy ("people don't think about the problems of fire departments until they've had a fire") and widespread failure to enforce construction fire codes which require architectural safeguards, sprinkler systems, and, increasingly, smoke detectors is most often blamed for the United States' fire death rate, the highest in the world.

It is twice that of England, France, Sweden and Norway and five times that of

Switzerland and the Netherlands. Residential fires are the main source of U.S. fire deaths.

Don Flinn, manager of the International Association of Fire Chiefs, claims fire codes are "generally influenced by the construction industry" which seeks to cut building costs. There are 18,000 separate state, county and municipal fire codes, often contradictory, and weak enforcement may be weakened even further by municipal budget cutbacks caused by inflation.

"There is a slowing—even abandonment—of code enforcement in many places," said Flinn, assistant fire chief of Silver Spring, Md.

The nation's high civilian fire death rate—7,780 in 1979, the last available figure—may be due partially to the fact that volunteers report to fires from their homes or jobs when summoned by fire siren, phone, pocket radio or beeper, whereas a paid company staffs the firehouse at all hours and can get to the site quickly with the necessary equipment.

"Some parts of our district are 11 miles from the station," said Monihan, of Lewes, Del., a hospital administrator when he isn't fighting fires. "If there is a crew in the station it takes about two minutes to get there, but generally there is no one in the station. During the day the men are working at their jobs and you get really stripped. Most VFDs simply have to have a bigger corps today than would normally be needed."

Three to five minutes is considered good response time to a fire alarm, one which will minimize damage and loss of life. The all-volunteer Purchase, N.Y., fire department that responded to the Stouffer's Inn fire last January took 7 to 10 minutes, according to the Westchester County, N.Y., district attorney's office. That fire took 26 lives. The local fire code required no sprinklers and the inn had none.

Arson is an activity that has increased the U.S. fire death rate dramatically and it increasingly claims the attention of VFDs. According to the U.S. Fire Administration, the known cost of arson to the nation annually is 700 lives and $1.3 billion in property losses, but many arson fires are never identified as such. This agency is making a major effort to develop arson investigation courses for firemen and create arson task forces in fire departments in all 50 states.

Investigation of arson requires close cooperation of fire company personnel with police, public prosecutors, and insurance investigators. Police have jurisdiction over arson investigation in many communities, but Joseph Morland, acting U.S. fire administrator, feels this is wrong.

"It should rest in the fire service," he said, pointing out that firemen are usually the first to get to a fire when evidence of arson, needed for conviction of arsonists, is most likely to be found.●

FEDERAL FAT: MORE ON THE DAVIS-BACON ACT

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. HAGEDORN. Mr. Speaker, in the June 9 edition of the Christian Science Monitor, correspondent Brad Knickerbocker reports on the growing support for repeal of the Davis-Bacon Act. The fact is, there are no good reasons for keeping this law on the books, and many for getting rid of it. As we hem and haw over taking the necessary corrective action—repealing the act—Davis-Bacon continues to waste American tax dollars, and continues to contribute to the inflation we are trying to control.

DAVIS-BACON ACT: SIX BILLS IN CONGRESS WOULD REPEAL IT

One of the pillars of U.S. labor law is headed for major change, if not outright demise. This is the Davis-Bacon Act, depression-era legislation that regulates wage rates for government construction projects.

Critics say the law costs taxpayers at least $1 billion each year, maybe more when indirect inflationary effects are added in. Labor leaders warn that workers would be "victimized and exploited" without Davis-Bacon, and their congressional supporters have promised an all-out battle—including a filibuster if necessary—if the law is attacked. But given movement in the more conservative Congress and recent actions (private as well as public) by the White House that may not be enough to prevent the law's opponents from predominating.

Enacted in 1931, the Davis-Bacon Act says federal construction project wages should be based on "prevailing" local wages. Passed during the depression, it was designed to prevent itinerent groups of workers—exploited by labor contractors who had no trouble rounding up unemployed men—from underbidding local employers.

Since then, the law has been expanded to include many federally assisted construction projects, such as highways, sewers, housing, transportation systems, recreation facilities, and airports, totaling at least $35 billion a year.

Numerous studies have shown that workers paid under Davis-Bacon rules actually receive considerably higher than average compensation.

The General Accounting Office (GAO) has estimated that unnecessary construction costs due to the act cost the public more than $700 million a year, and much more when the inflationary impact on the economy is considered. Others say it adds more than $5 billion to the cost of federal construction.

In a report to Republican congressmen last October, the GAO estimated that the law would increase the cost of Washington's "Metro" rail system by 6.8 percent, or $149 million.

Part of the problem apparently is the way the U.S. Labor Department figures "prevailing wages." For example, it considers any single wage group comprising at least 30 percent of the total to be the average. Often this means union workers who bargain collectively for higher wages. Non-union workers thus are not weighted proportionately.

Others charge that Davis-Bacon discriminates against minorities, women, and young people by requiring contractors to pay higher wages and use fewer trainees.

Since 1931, it is pointed out, many more labor protection measures have become law including minimum wages and unemployment compensation. On average, construction workers are paid considerably more than the average manufacturing worker and have seen their wages rise much faster than inflation in recent years.

Still, labor leaders insist the law ought to be retained.

In Senate testimony earlier this year, Robert Georgine, president of the Building and Construction Trades Department of the AFL-CIO, said: "There is still a compelling need for this law because, without it workers will be subjected not to just losing a few dollars in wages but to flagrant abuses . . . it is a reality that workers are still victimized and exploited."

The GAO has recommended that it be repealed.

There are six repeal bills on Capitol Hill. Such measures have failed before, but they are now given a better chance.

President Reagan has strongly criticized Davis-Bacon, but during his campaign said he opposed outright repeal.

Secretary of Labor Raymond J. Donovan has offered administrative changes. A complete administrative rewrite of the law is due by the end of the month.

Significantly, White House officials last week privately told key GOP senators they will not block congressional efforts to remove Davis-Bacon provisions from important federal aid bills covering large construction projects.●

AIR DEFENSE HEARINGS TO BE HELD

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. SKELTON. Mr. Speaker, today, I wish to speak about a problem that poses a threat to our Nation. It is our lack of air defense, that is, our inability to effectively warn against and defend against an enemy bomber attack. During the past several years, our capability to defend the airspace of the continental United States against a Soviet bomber attack has been significantly and unilaterally reduced.

Our air defenses began to weaken during the mid-1960's when the Pentagon decided that we should concentrate less on a philosophy of defense and more on a philosophy of offensive weapons. Offensive weapons alone . . . It was thought . . . would deter an attack against the United States. Defense positions . . . it was also thought . . . would weaken deterrence. Thus, the so-called doctrine of "mutual assured destruction" was born. Consequently . . . air defense, antiballistic missiles, civil defense, and other aspects of a once strong strategic defense began a slow death.

History and geography have been kind to America. The two major wars of this century have been fought far from our shores. Our own homeland was isolated from these conflicts and was invulnerable to attack. For this reason, we have not fully understood the need for defense.

The history of another island power may help us to understand our own situation a little better. In the 1930's the British were terrified of the prospect of a strategic air war with Germa-

ny. Like us Americans in more recent times, the British resisted the idea of relying on a strategy of air defense unless that defense could be made airtight. They wanted the kind of hermetic defense that Britain's naval supremacy had provided in the days before the rise of air power. Since air defense would always be imperfect, the British sought their perfect security in the "balance of terror." Accepting the perversely comforting belief that "the bomber will always get through," the British built a large bomber force they thought would deter German air attacks. They did not build fighters to defend against German bombers.

This British peacetime mentality dissolved in 1938 and 1939 as the likelihood of war increased. Eyeball to eyeball with a tangible threat of war, the British began to feel that reliance on bombers to deter the Germans was a dangerous game. Under the impact of this cold slap of reality, the British began to emphasize fighters rather than bombers. They worked hard to develop radar, which was the key ingredient of an effective air defense, and they began to prepare in earnest for civil defense.

Fortunately, the basic elements of an air defense system were in place by the summer of 1940, and the British were able to win the air battle that followed the fall of France with the Spitfires and Hurricane fighters they had built. Many German bombers did get through, but defense, imperfect as it was, proved to be a more reliable guarantor of security than did the "balance of terror," their bomber force.

In the 1960's our American air defense had 2,600 interceptor fighter planes. Today we have about 275 and these are dangerously outdated. In the 1960's we had a radar system against a bomber attack that was extremely difficult to penetrate. Today it is so filled with holes that even drug smugglers flying unsophisticated aircraft are constantly sneaking through. In the 1960's air defense had more than 1,000 surface-to-air (SAM) missiles as an added defense against a bomber attack. Today we have none.

Contrary to the popular belief of the 1960's and 1970's . . . the threat of a Soviet bomber attack against the United States is quite real and is potentially devastating. Today, as we stand here we are not ready to deal with such an attack on the United States by the new Soviet supersonic backfire bomber.

There are three basic requirements for the air defense of the United States: (1) Air defense surveillance systems must provide sufficient tactical warning of an enemy attack to enable the President to communicate with our military forces and the weapons system so survival measures can be taken. (2) Our air defense forces must be able to engage the enemy and limit the damage from air attack. (3) Finally, our air defense should be able to monitor U.S. airspace and take action against potentially hostile intruders.

I would like to read to you the Air Forces' report on our ability to meet these three basic requirements:

"Because of major gaps in our air defense radar systems, existing North American radars cannot assure sufficient tactical warning to enable the President of the United States . . . his communications systems and our B-52 bombers to take necessary survival measures before enemy bombers and/or cruise missiles could hit us. Furthermore, even if we had the warning, the current fighter force would not be able to successfully engage the enemy bombers because the bulk of our fighters lack a lookdown, shootdown capability. In light of these critical shortcomings, the Soviet Union has the potential to carry out an essentially 'no warning' air attack against key installations."

Thus, a bomber attack against the United States could extensively damage our wartime command and control and our own B-52 bomber bases causing such national disarray that we would be vulnerable to an immediate missile attack.

On the other hand, the picture is not all bad because there are improvements planned for our air defense radar systems.

The 1982 Federal budget contains funding for an effective over-the-horizon backscatter (OTHB) radar for coverage of northeast and northwest coastal approaches to North America. The northeast system should be ready for operation by the mid-1980's. The northwest system should be operational a few years later. The 1982 budget also has some funds for research into using the over-the-horizon backscatter for the northern approaches, the shortest and most likely route for Soviet bomber attack. Right now, we don't know if it can be used to guard against an attack from across the North Pole . . . so . . . in the event the OTHB cannot be used as a northern radar system, we plan to upgrade our current and rapidly deteriorating distant early warning or DEW line. This DEW line is the radar system used to guard against a bomber attack. The DEW line radar system drapes across the Arctic wastelands from the Aleutians, across Canada, to the Atlantic, and it was designed to be a tripwire against incoming enemy bombers. However, it is a 1950's system, based on 1950's technology. As I mentioned a moment ago, this radar system is presently filled with gaps and can be penetrated.

As you can see, there is a major problem even with the upcoming improvements in our air defense radar systems. What happens before over-the-horizon backscatter is operational and before the DEW line is improved? The answer is not encouraging. We will remain vulnerable to enemy bombers until the mid and late 1980's

Now let us look at an equally important and, yes, equally outdated part.

With the bulk of the air defense fighter force like our DEW line radar more than 20 years old and only marginally effective against current threats, modernization of these fighter aircraft is one of our most pressing needs.

The present assigned fighter force is comprised of F-106's, F-101's, and F-4's. They represent 1950's technology in radar, weaponry, and performance. These aircraft have limited search volume and range and do not have a look-down, shoot-down capability necessary to engage advanced bombers such as the Backfire. Furthermore, the F-106's, the bulk of the fighter force, are becoming increasingly difficult and costly to maintain. Advanced fighter aircraft, such as our F-15, must be procured and dedicated to the air defense mission in order to provide a credible defense against air attacks and to discourage the Soviets from embarking on a substantial expansion of its long-range bomber force, because to do so would be useless against a strong American F-15 force. At this moment, there are only two F-15's assigned to the air defense of the continental United States.

In recent years, we have been blinded by the illusion that all enemy destructive forces will be coming in by intercontinental ballistic missiles. This thinking brought about basic changes in our national policy in the mid-1960's. This illusion caused us to scale down our defense against possible enemy bomber attack. The illusion, if it continues, could invite undreamed of destruction.

The current arms race is geared toward weaponry. In addition to the purchase of new weapons, I propose that the United States begin a national defense system aimed at protection. A proper strategic defense, which includes air defense, is what we need and what we must have. Such an upgraded strategic defense would stabilize the protection of our Nation. It would make it too costly for another country to inflict substantial damage, thus, a policy of strategic defense would reinforce our policy of deterrence.

Our current defense strategy is designed for a two-power world with the concentration on destruction. Such a strategy is useless in a world where more nations than the United States and the U.S.S.R. have nuclear weapons and bombers. In a world that acknowledges more than two nuclear powers, the new strategy must stress

protection or defense just as much as it stresses offensive destruction.

Today, I am pleased to announce that the chairman of the House Armed Services Committee has agreed to my recent request to hold full committee hearings on the issue of the need for a stronger national air defense system. After the full committee holds its hearings, the Investigations Subcommittee of the Armed Services Committee will follow up with more detailed hearings.

These hearings are a major step in bringing the crucial issue of air defense to the attention of Members of Congress and the entire Nation. My hope is that these hearings will be the first step in assuring that America becomes secure from the threat of enemy air attack.●

OUR RELATIONSHIP WITH THE CARIBBEAN ISLAND NATIONS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. LAGOMARSINO. Mr. Speaker, last week, I participated with a number of my colleagues in discussions with Mexican parliamentarians of a variety of topics of great interest to both our Nations. One of particular importance is our relationship with the island nations in the Caribbean. It has been apparent for some time that considerable financial assistance and inducement for private investment are necessary to help stabilize that region's economy and political structure.

A recent editorial in the Santa Barbara News-Press, a prominent newspaper, in my district, describes in clear and compelling terms the need for such help.

[From the Santa Barbara News-Press, June 9, 1981]

AID FOR LITTLE ISLANDS

There are so many problems, projects and plans to be worked out between Mexico and the United States that two days of meetings between the countries' leaders are barely enough to establish an agenda for future discussions.

And then there is an additional topic of concern to both of these countries: the Caribbean islands. Beautiful as they are from the decks of cruise ships, these islands have more than their share of poverty and the great social and political problems that poverty breeds. They need help. They can't live well on the tourists alone. They need more agricultural and industrial production of their own, and their people need better health care and better schooling. In their present condition, they are susceptible to influences from afar.

The future of the Caribbean is of vital concern to both the United States and Mexico. But Mexico's own internal economic problems probably will not allow it to extend much help to the islands. Help for the Caribbean must come mainly from the United States, and it is encouraging to note that the Reagan administration is showing a beginning understanding of the need.

Vice President George Bush recently said that the islands' "very independence may depend on such assistance" as increased trade and private investment to "expand their economic opportunity."

Within the circle of advisers around President Reagan, there is talk of a sort of Marshall Plan of aid for the Caribbean. With our own government's belt-tightening requiring most of the attention these days, the form of help that we can give to the islands is ripe for some debate. We hope, though, that a solid assistance plan will emerge in the coming months.

We mustn't forget the hard lesson implicit in Fidel Castro's giving Cuba to Moscow, And, as the Soviets' chief errand boy in this hemisphere, Castro will continue to do all he can to strengthen friends on the smaller islands.

The islands are so small that assistance in the range of tens of millions—paltry compared with the billions that Congress routinely deals with—might well work wonders for those needy communities.

An example of what might be done is in Jamaica. Edward Seaga beat a pro-Cuba government there last fall and became prime minister. He wants strong ties with the United States, and the administration has already committed $69 million in assistance to help solve Jamaica's economic problems. Building on that example, the Reagan administration can work out a logical plan of aid, a microcosm of the Marshall funds that helped Europe recover from World War II. And Reagan himself is in position to urge private industry to contribute its resources, injecting some of its own vitality into the islands.

Neglect of the Caribbean could easily turn out to be extremely costly to us.●

THE ADMINISTRATION'S DRAFT CLEAN AIR PROPOSAL

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. WAXMAN. Mr. Speaker, all of those interested in the Clean Air Act—industry and environmental lobbyists, Members of Congress, and concerned citizens across the country—have been awaiting for some time the administration's proposal for amendments to the act.

I have recently obtained a draft of the proposal the administration intends to submit at the end of the month. I believe it is in the public interest to release it to you today.

I wish to caution all of you that this is only a draft. But it provides the most definitive indication to date of the direction Jim Watt and the Cabinet Council apparently want to go. It may not be the final version, but it reflects the dangerous directions the administration is contemplating.

In a word, the proposal would end the Federal Government's decade-long commitment to cleaning the air in our Nation's cities. If this proposal becomes law, over 140 million people who live in dirty air areas will be permanent victims of air pollution levels that threaten health.

This proposal goes well beyond the changes that industry has publicly advocated. It goes far beyond Vice President Bush's publicly expressed goal of midcourse corrections. This proposal is nothing less than a blueprint for the destruction of our clean air laws.

If this proposal is put forward as formulated, it will only delay the passage of truly needed changes to the law. This proposal will cause a furious and acrimonious battle that is to no one's advantage.

I am today writing President Reagan to urge that he reject these radical proposals. If this administration is serious in its expressed desire to work with Congress, it will foresake these drastic proposals in favor of a more responsible set of recommendations that retain the basic structure of the Clean Air Act.

There is, after all, no reason for fundamental changes to the current law. It has done much to improve air quality across America without hindering our economic and energy development. The President's Commission on Coal and the National Commission on Air Quality both found that we can vastly increase our use of domestic energy reserves without sacrificing the Clean Air Act.

This law also enjoys the broad support of the American people. Only last week, the Harris survey released a poll indicating that 86 percent of the American people want to keep a strong Clean Air Act.

But this draft proposal, being considered at the highest levels of the administration, drastically limits the Federal Government's ability to protect the public health of the American people from air pollution.

It does away with the Federal program to clean up our cities—such as Los Angeles—where the air is the dirtiest.

It entirely repeals the Federal secondary air quality standards, designed to protect America's agriculture from environmental damage.

It will permit the States, on their own, to relax pollution control requirements for industry, setting off an ugly process where industrial growth will go to the dirtiest bidder.

Even when cleanup technology is available, and needed, industry would be no longer required to use it.

These proposals would do nothing to alleviate the ominous threat to the environment of acid rainfall.

They turn back the clock on auto pollution standards, actually allowing cars in the future to pollute more than many of those being sold today.

These proposals make it much more difficult for even the Federal Govern-

ment, not to mention private citizens, to enforce the law.

All of these proposals contradict the basic policies that have served us well over the past decade: First, that we should make sure that new sources of pollution should be as clean as possible. Second, that we should not allow the States to compete with each other for industry by offering lenient pollution control policies. Third, that measures must be taken to control interstate and international air pollution.

Air pollution is a problem that cannot be controlled by the States alone, and is a problem that will not be controlled by industry. The only effective guarantee of a clean environment is that made by the Federal Government. These proposals would effectively repudiate that guarantee.

It is also my understanding that, in addition to what I have mentioned, the administration is also considering basing ambient air quality standards on cost of compliance, rather than health. The complete abolition of deadlines to achieve public health standards, may also be proposed.

The administration's philosophical approach to pollution control appears to be no longer based on what happens to the health of the American people, but what the cost might be to industry. The welfare of the American people clearly comes second.

I urge all those concerned with these issues to make their views known. Possibly then this administration will understand that the American people do not want to live in a land poisoned by pollution, irreversibly covered by a blanket of factory smoke and auto exhaust that threatens their well-being.

The following summarizes the key policy shifts in the administration's draft proposal for amending the Clean Air Act.

SUMMARY

NONATTAINMENT PROGRAM

The proposal repeals the nonattainment program in the Act and substitutes a program which eliminates the following concepts contained in the law:

Lowest achievable emission rate technology (LAER) would no longer be required for new sources in nonattainment areas.

Offsets would not be required for new sources in nonattainment areas.

To obtain a new source permit, an owner would no longer have to be in compliance with the Act at its existing sources in the state.

Emission limitations for existing sources would no longer be subject to EPA approval.

There would be no sanctions for failure to submit an approvable state plan to EPA.

EPA would no longer be required to promulgate an adequate control plan for a state if the State fails to submit such a plan.

Reasonably available control technology (RACT) would not be required in nonattainment areas unless attainment could not be achieved by 1987.

No deadlines would exist for installation of reasonably available control technology (RACT).

The Act would no longer require annual incremental reductions in emissions.

Automobile inspection maintenance would not be required in any area of the country.

The concept of nonattainment would be eliminated.

In place of the existing nonattainment program, the Administration's proposal would only require state plans to include:

A statement of the amount of reductions in emissions needed for attainment;

An identification of the class of sources from which reductions are to be obtained;

A procedure for establishing emission limitations adequate to attain and maintain primary standards.

State plans would be presumed valid. If a state plan did not demonstrate attainment by 1987, then the state would be required to impose RACT on all sources of the pollutant for which the state cannot demonstrate attainment. This requirement would apply only to those parts of the state that did not demonstrate attainment.

Reasonable further progress would be defined as "a regular improvement in air quality in the state over a period of time".

A 1987 attainment goal would be set, but EPA could issue orders extending compliance dates for individual sources beyond 1987.

NEW SOURCE PERFORMANCE STANDARDS

New coal-fired power plants would be allowed to burn low-sulfur coal rather than use scrubbers to control sulfur dioxide as much as possible. The proposal would alter the process for establishing new source performance standards under the Act by repealing the percent reduction requirement and the technology requirement for new sources. The proposal would also significantly relax technology control requirements for other sources as well.

New sources would be able to avoid standards entirely by offsetting the increase in new source emissions against an equivalent reduction in emissions of the same pollutant from other sources elsewhere within the same plant site. This means that some new sources could be constructed in both clean and dirty air areas without any pollution control.

Major new or modified sources meeting new source performance standards at the time the source received its permit would be relieved from any additional emission limitations for 10 years after the date the permit was issued. Combining this provision with the new source offset could result in the construction of new sources without any controls whatsoever for ten years.

NONFERROUS SMELTERS

The Administration would indefinitely postpone the requirement to comply with the national ambient air quality standards for sulfur dioxide by January 1, 1988 for certain nonferrous smelters.

PREVENTION OF SIGNIFICANT DETERIORATION

The program for prevention of significant deterioration in areas presently meeting air quality standards would be substantially eliminated except for national parks and wilderness areas.

Class II and Class III increments would be eliminated.

Air quality monitoring would be removed from the program.

Only major new projects would consume annual increments.

Fugitive emissions, no matter how close to a national park or wilderness area, could be excluded from increment consumption and control.

SECONDARY STANDARDS

Federal secondary standards promulgated to protect public welfare would be repealed.

States would be free to adopt welfare standards as they chose, or to adopt no standards at all.

Air pollution levels in clean air areas, except Class I areas, would be allowed to deteriorate to primary ambient air quality standards.

The limited protection the secondary standards afforded from acid rain would be eliminated.

HAZARDOUS AIR POLLUTANTS

The proposal weakens the existing law covering airborne carcinogens and other highly toxic air pollutants by incorporating cost considerations and risk assessment in the standard setting process.

The Administrator is given the discretion to dismiss health risks to both exposed individuals and populations.

The technology forcing aspect of the existing law is abandoned in favor of reliance on only existing demonstrated technology to control toxic pollutants.

ENFORCEMENT

The proposal would delay compliance with the Act by making civil actions to enforce the law discretionary and allowing EPA orders to be issued which extend well beyond the attainment dates for air quality standards.

Mandatory civil actions for permanent or temporary injunctions, or to assess and recover penalties of not more than $25,000 per day or both would no longer be required by the Act.

Enforcement orders would not be required to contain firm deadlines for compliance with the Act. Compliance would only have to be achieved as expeditiously as practicable.

NONCOMPLIANCE PENALTIES

Under the proposal noncompliance penalties are no longer required for noncomplying sources.

The Administrator is only given the discretion to assess and collect a noncompliance penalty for sources violating requirements of an applicable implementation plan.

The Administrator is given broad discretion to determine the magnitude of a penalty assessment.

The validity, amount and appropriateness of a noncompliance penalty assessment would not be subject to judicial review.

INTERSTATE AIR POLLUTION

Interstate air pollution is defined in a manner to exclude the phenomenon of acid rain.

Federal intervention would not be permitted unless the interstate air pollution prevented attainment and maintenance of a primary national ambient air quality standard. Since these standards protect health only, States could not use this procedure to get Federal intervention to prevent acid rain.

A cumbersome two-tiered procedure is established for resolving interstate air pollution disputes.

MOBILE SOURCES

The proposal significantly relaxes the automobile tail pipe emission standards contained in the Clean Air Act.

The statutory standard for carbon monoxide would be relaxed from 3.4 grams per vehicle mile to 7.0 grams per vehicle mile for passenger cars.

The statutory standard for nitrogen oxides would be relaxed from 1.0 to 1.5 grams per mile for 1983 and later passenger cars.

Vehicles operated at high altitudes would not be required to meet the same exhaust standards as vehicles operated at low altitudes.

Averaging of emissions from a class or category of motor vehicles would be allowed to avoid enforcement of emission standards applicable to a particular automobile class.

JUDICIAL REVIEW

The proposal would repeal D.C. Circuit venue for challenges to a long list of nationally applicable actions.

Lawsuits challenging nationally applicable actions—primary ambient air quality standards or new source standards for example—could be filed in any of the Courts of Appeal in the country.

A random selection process would be utilized to determine the proper forum.●

A TRIBUTE TO CHARLES SHIPMAN PAYSON

HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. EMERY. Mr. Speaker, on June 27, 1981, an event will be held in my congressional district, to honor an outstanding citizen, Mr. Charles Shipman Payson, in recognition of his many contributions to the State of Maine. The event is sponsored by "The State of Maine Campaign," and will be held in the city of Portland.

It is a privilege and an honor to bring to the attention of my colleagues in the Congress, Mr. Payson's lifetime of service to the State and his dedication to Maine's cultural enrichment. His legacy is one of devotion to others and an unyielding dedication to the betterment of his community.

Mr. Payson's principal gift in recent years has been the 17 masterpieces by Winslow Homer as a gift to the Portland Society of Art. In order to insure that these masterpieces are properly housed, Mr. Payson challenged the greater Portland community to build a wing on the present museum. For this purpose, he initially donated $5 million, and has since provided an endowment of an additional $5 million. His philanthropy was of significant help to two other institutions last year when he donated $400,000 to the Maine Maritime Academy, and $100,000 to the Portland School of Art.

The building now under construction is the design work of I. M. Pei & Partners of New York City. It will undoubtedly be an outstanding architectural work of art in addition to serving thousands of Maine people and visitors to our State.

I know that my colleagues will join me in paying tribute to Mr. Charles Shipman Payson for his unselfish contributions to his fellow man. He is truly a great American.●

MAINTAIN YOUR COMMITMENT

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. HUBBARD. Mr. Speaker, even though I had the encouragement of the administration and many of my constitutents to do otherwise, I recently voted against the Reagan budget proposals because I felt the needs of this great country could have best been met by enactment of the budget alternative submitted by the House Budget Committee. Mr. John T. Mitchell, 1414 South Brook Street, Louisville, Ky., has written a very timely and thoughtful letter maintaining that our commitment and the commitment of this Nation must be to the needs of the poor and underprivileged. I feel that Mr. Mitchell's letter is one which should be shared with my colleagues and I wish to do so at this time.

DEAR CONGRESSMAN HUBBARD: I watched with interest your interview on the Today Show this morning, and could appreciate the dilemma you expressed as to whether to vote your conscience or to vote the polls. May I submit to you that, if we want our Representatives to vote the polls, we might as well use machines. President Reagan often points to his "mandate" that he received from the voters on Election Day. I urge you and your colleagues not to adopt President Reagan's mandate. He has his mandate; you have yours. You were elected on a Democratic platform, and the Democratic platform is your mandate. You cannot, therefore, adopt a new mandate that someone else happens to have received at a later date.

In the second place, your preference for the Democratic budget seems to be based on your thorough study of both proposals and your knowledge of the devastating effects of President Reagan's proposals on the poor. You acknowledged as much in your interview. May I suggest that, even if your mail is running 2-1, a lot of that, if not most of it, can be attributed to the intense lobbying campaign that the President has lodged, which you, yourself, testified to having felt the direct impact of. Let him wine you and dine you, but please maintain your commitment and the commitment of this Nation to the needs of the poor and underprivileged.

Best wishes,

JOHN T. MITCHELL.●

THE RETIREMENT OF AMBASSADOR YONG SHIK KIM

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. DERWINSKI. Mr. Speaker, I wish to call the attention of the Members to the retirement of His Excellency, Yong Shik Kim, the Republic of Korea's Ambassador to the United States.

Ambassador Kim has served his country here in Washington for the last 4 years. At the time he commenced his service, United States Korean relations had reached a low ebb. He has been largely responsible for the developments that have occured since then, which have seen United States-Korean relations reach a persistently strong, trustworthy, and respectful stance.

Ambassador Kim is probably his country's most effective diplomat. He began his service in June 1949, shortly after the creation of the Republic of Korea, as a consul in the Korean Consulate in Hong Kong. Later that year he moved to Honolulu as consul general. In November 1951, during the Korean war, he was named Minister Extraordinary and Plenipotentiary and became chief of the Korean mission to Japan.

In May 1957, Yong Shik Kim was posted to Paris as Minister and chief of the Korean mission to France. In July 1959, he was named head of the Korean mission to the European Headquarters of the United Nations, and other international organizations, in Geneva, Switzerland, with the rank of Minister Extraordinary and Plenipotentiary.

A year later, in August 1960, his Government recalled him to Seoul where he became the Republic of Korea's Vice Minister of Foreign Affairs. In May 1961, Yong Shik Kim returned to Europe with the rank of Ambassador to the United Kingdom. Concurrent with his duties in London he was also accredited as Korean Ambassador to the Governments of Sweden, Norway, and Denmark.

In August 1962, Ambassador Yong Shik Kim returned to Asia as Korea's envoy to the Philippines.

He served in Manila until being recalled to Seoul in March 1963, to become the Minister of Foreign Affairs. In December 1963, he became a special Minister Without Portfolio in the Cabinet.

His country sent Ambassador Yong Shik Kim next to New York in May 1964, as Ambassador Extraordinary and Minister Plenipotentiary to head the Korean mission to the United Nations. At the same time he was concurrently accredited as Ambassador to the Canadian Government in Ottawa.

In December 1970, President Park recalled Ambassador Yong Shik Kim to Seoul to serve as his special assistant for foreign affairs and for the second time he became Korean Foreign Minister in June 1971. He served in the foreign ministry until December 1973 when President Park named him Minister of the National Unification Board.

In October 1974, Ambassador Yong Shik Kim returned to London to become his country's Ambassador to Britain for the second time. In May 1977, Ambassador Yong Shik Kim was transferred to Washington as Ambassador of Korea to the United States of America.

Major conferences he attended are as follows:

Chief negotiator of the second and third Korea-Japan diplomatic normalization talks.

Member of the Korean delegation to the talks on the Korea-United States Mutual Defense Treaty (1973).

Chairman of the Korean delegation to the United Nations General Assembly, New York—1963, 1965, 1971, 1972, and 1973.

Chairman of the Korean delegation to the Non-Nuclear Power Conference (1968), Geneva, Switzerland.

Chairman of the Korean delegation to UNCTAD (1972).

Chairman of the Asian Pacific Counsel (1973).

His list of accomplishments are many, and his impact has been largely seen in all aspects of his country's ties with the United States. I wish to congratulate Ambassador Kim for the excellent job that he has done in Washington, and wish him the very best in his future endeavors. The people of Korea and the United States owe this dedicated diplomat a fervent thank you for a job well done.●

AMNESTY INTERNATIONAL

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. UDALL. Mr. Speaker, recently, representatives from the group, Amnesty International, brought to my attention, the ongoing case of Mr. Miguel Angel Muyala Buffa who is currently imprisoned in Uruguay, allegedly under false pretenses. I commend to the attention of my colleagues, a letter to the President of Uruguay on behalf of Mr. Muyala Buffa:

Dr. APARICIO MENDEZ,

Exmo. Sr. Presidente de la Republica, Casa de Gobierno, Plaza Independencia. Montevideo, Uruguary.

DEAR MR. PRESIDENT: I am writing on behalf of Amnesty International, who has brought to my attention the case of Mr. Miguel Angel Muyala Buffa who is currently incarcerated in the Penal de Libertad, (Establecimiento Militar de Reclusion No. 1, Libertad, Dept. de San Jose, Uruguary).

Mr. Muyala Buffa is a 42-year-old salesman from Montevideo, Uruguay who was arrested on May 26, 1980 in his home. Allegedly, his political beliefs do not conform to those of your government but reportedly he has not committed or advocated any acts of crime or violence. He was imprisoned under the law of National Security which brings civilians under the jurisdiction of the country's military justice system. As of this date, he has not been tried; but the charge, subversive association, calls for a penalty of between three to eighteen years imprisonment.

Amnesty International has informed me that they have received reports of worsening conditions in the prison since September of 1979, with prisoner provocation and harassment being two of their greatest concerns.

Amnesty International is in the process of contacting you to urge you for the release of Mr. Muyala Buffa and I urge you to look into this matter, to assure that Mr. Buffa's rights have not been violated. Thank you.●

ENERGY IN NEW ENGLAND: TRANSITION TO THE 1980's

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. JEFFORDS. Mr. Speaker, I have joined with several of my New England colleagues today in releasing a report by the New England Congressional Institute entitled "Energy in New England: Transition to the 1980's."

This report documents a dramatic shift in the energy habits of New Englanders between 1978 and 1980. During those years, the region decreased its energy use by 6.5 percent. The use of renewable sources of energy such as wood, hydro, and solar went from being 5.4 percent of our energy mix to 6.3 percent.

These trends have allowed us to begin to ease a dependence on oil that is unsurpassed in the Nation. During the period of study, oil went from supplying 80 percent of our needs to 72.9 percent.

Possibly most important is the fact that these consumption patterns were accompanied by strong economic growth, dispelling the notion that energy conservation and renewable energy development are synonymous with hardship and doing with less. Between 1978 and 1980, real personal income in New England increased 4.6 percent. This evidence, though short term, implies that New England can continue to experience healthy economic growth with very little future growth in energy demand.

Nowhere is the rapid change in energy use more apparent than in my State of Vermont. We are particularly proud of our record of adjusting to the energy crisis. Not only are we heavily dependent on oil, but we use more oil from precarious foreign sources than any other region of the country. Vermonters have recognized that we are at the end of the energy pipeline and have made rapid adjustments.

In 1976, Vermont used almost 174 million gallons of No. 2 heating oil. According to our State energy office, we used 132 million gallons in 1979, a drop of more than 20 percent.

To a great extent, this revolutionary change is due to a commitment to use our indigenous energy sources. As of 1979, 63.8 percent of Vermont households were using wood for some portion of their heating needs. Wood use went from an estimated 265,000 cords in 1976 to 483,000 cords in 1979. Wood provided 4.5 percent of our State's energy needs in 1975 and grew to 10.7 percent by 1979.

Installations of solar energy systems have approximately doubled every year since 1975. We now have more than 1,000 systems installed and, according to our State energy office, almost another 1,000 will be installed in 1981.

One of the most encouraging findings of the New England Congressional Institute's study is that we have only scratched the surface of our potential to use the region's indigenous sources. The institute estimates that even if energy consumption holds steady, by 1985 renewable sources will account for 13 percent of New England's energy needs if present trends continue and planned hydro, solid waste, peat, and alcohol fuel capacity are met.

Clearly the primary impetus for this change in the energy habits of our region is the dramatic rise in the price of energy over the last few years. Average retail prices for energy products in New England rose 75 percent between 1978 and 1980, compared to 64 percent nationwide. As energy prices increased, consumers have used less, invested in energy-saving capital goods such as efficient homes and automobiles, and met their energy needs by substituting lower cost fuels.

In addition to the cost factor, many New Englanders have made adjustments to insure their energy security. In addition to being cost-effective, consumers have realized that use of coal, renewable and conservation improvements can help to insulate them from price rises and supply disruptions.

A third factor contributing to these changes has been a number of Federal, State, and local energy programs which provide information, technical assistance, and financial incentives. Programs such as the schools and hospitals program, the energy extension service, vanpool programs, and audit programs, operated by the State energy office, have aided New Englanders in saving energy. In the six New England States, 41,000 low-income homes have been helped through the low-income weatherization program. Finally, Federal and State tax credits, bonding authorities and loan programs have supplied New Englanders with financial incentives for making conservation and renewable energy improvements.

In Vermont, for example, a household installing a solar hot water system would be able to get technical assistance from the State energy office as well as a 40-percent Federal tax credit and a 25-percent State tax credit.

There is no reason why other regions of the country cannot experience the same successes in the energy area that New England has. The members of the New England Congressional Caucus have put together a platform outlining many steps that we feel would spur conservation and renewables nationwide. The history of such programs have shown that they are an extremely cost-effective method of Government expenditure.

While there is plenty of room for budget cutting in the Department of Energy and some reorientation of funds within the DOE, budget is a must, there is no question that many of the programs that this Congress and the administration have proposed to eliminate are the ones that have helped New England make such great progress. Examples include the weatherization program, conservation tax credits, near-term wood energy programs to help small woodlot owners, the investment tax credit for hydro and many others.

I would urge my colleagues to peruse the fine report prepared by the capable staff of the New England Congressional Institute and to review the energy platform of the caucus. There is no reason why New England should not share its wisdom with other regions of the country.●

THE SOVIET ECONOMY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. HAMILTON. Mr. Speaker, the Assistant Secretary of State for European Affairs, Lawrence S. Eagleburger, appeared at a hearing on June 10 on U.S. policy toward the Soviet Union, Yugoslavia, and the countries of Eastern Europe.

One of the issues the Subcommittee on Europe and the Middle East of the Committee on Foreign Affairs has been trying to assess is, how Soviet domestic factors, particularly economic ones, influence the foreign policy decisionmaking process.

Assistant Secretary Eagleburger was asked some questions regarding the Soviet economy but chose to submit written answers to those and other questions. Even though his written answer to the question on Soviet economic problems was brief, I thought it would be worthwhile to share that analysis with my colleagues.

The answer follows:

SOVIET ECONOMIC PROBLEMS

Q. Provide an analysis of Soviet economic problems.

A. The U.S.S.R. is facing serious economic problems as it enters the 1980's. The Soviet growth model which relies on ever increasing inputs of labor and raw materials is no longer relevant. The GNP growth rate has been declining steadily since 1976. In 1979 and 1980, it averaged only 1.1 percent on an annual basis.

In the industrial sector, growth is stagnating. The infrastructure is simply inadequate to support a large, advanced industrial economy. As a result of transportation bottlenecks, raw materials shortages, slowing oil production, decreasing labor and capital productivity, a fall-off in investment, and declining labor force growth, the U.S.S.R. has begun experiencing shortfalls in the production of such key industrial commodities as steel, oil, coal, construction materials and chemicals.

Some of the most serious problems are being experienced in agriculture. In 1980, farm output dropped by 6 percent. The effects of two consecutive poor harvests coupled with endemic organizational weaknesses and perennial underinvestment have left the Soviets with the grim prospect of large-scale grain and food imports for the foreseeable future.

The outlook for the Soviet consumer is equally dim. As analysis of the guidelines for the 1981-85 Five Year Plan reveals that consumption will continue to receive low priority relative to defense and heavy industry. There will be little significant progress in terms of providing an adequate diet, suitable housing and quality consumer durables for the population.

Although the problems described above are serious, it would be a mistake to conclude that the Soviet system is about to fall or that the Soviets are prepared to undertake large-scale reform. It does mean, however, that the U.S.S.R. has numerous weaknesses which, through the appropriate application of linkage, offer the West some opportunity to influence Soviet behavior.●

HANDGUN BODY COUNT

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. LEHMAN. Mr. Speaker, the handgun body count for the month of April totaled 550. Eleven of the victims were innocent children. This is an appalling statistic. Equally appalling is the number of handguns being purchased by people who claim to fear the violence in our society—a new one is purchased every 13 seconds. There are now 60 million handguns in circulation. The shocking prevalence of these millions of handguns can turn any dispute or quarrel into a deadly assault.

Sydney J. Harris in his May 15 column in the Miami Herald calls it "pistolence". He says,

It is people with guns who kill. The homicide rate in every civilized nation in Europe is only a mere fraction of ours in the United States—not because people there are less violent, but because the means of this violence have been denied them. "Pistolence" is what is plaguing our country, killing innocent people, spreading fear, if not panic, throughout the cities and countryside both. We may never eliminate violence from the human scene. We can, if we want to, insure that the means of fatal violence—the gun—is at least as hard to get as a driver's license.

The list follows:

HANDGUN BODYCOUNT—APRIL 1981

ALABAMA (8)

David Chambers, Henry Coleman, Nathaniel Howard, Alex Kiser, Frank McDowell, Ray Thrower, Ruby Thrower, Patricia Whited.

ARIZONA (1)

Clarence Sebring.

ARKANSAS (2)

Jenetta Vails, Darrell Rogers.

CALIFORNIA (72)

William Anthony, Robert Bishop, Jr., Anthony Backso, Simon Camacho, Patrick Clark, Patrick Dalby, Roberta Deroode, Tom Dill, Dorsey Downs, Robert Diepenbrock, Arthur Ellison, Joe Felix, John Garcia, Willie Guerrero, Louis Gutierrez, Gregg Hankawa, Virginia Henry, Donald Herfter, Sr., Patricia Jefferson, Gregory Jenkins, Keith Kurz, Robert Lane, George Lusko, Gilbert Macias, Jennifer Macias, Monica Macias, Karina Madrigal, Pable Madrigal, Ricardo Madrigal, Pamela Madison, Maria Magana, James Mangilelli, Antonio Marical, Nathan Markowitz, Wendy McDaniel, Avedis Mikaelian, Alfonso Millan, Steven Neff, Lewis Neises, Fred Nunn, Fidel Nuno, Kim Hee Ok, Geneva Poole, Kuner Poole, Marcus Reed, Robert Richards, Martin Rivas, Elpidio Rodarte, Jose Rodriguez, Lamar Rogers, Matthew Santos, Joe Scott, William Sears, Lee Sheets, Ella Shephard, Jemmie Shepherd, Phil Shinham, Phillip Taper, Joey Taylor, Jesus Useda, Angelina Valencia, Raymundo Valdez, Robert Westerdale, Kenneth Wilkes, Elmo Williams, Clarence Witters, Unidentified male (4), Unidentified female.

COLORADO (19)

Daniel Barney, Charles Catalano, Joleen Daddario, Charles Damast, William Dew, George Diamond, Paul Grillo, Ramiro Hernandez, Joe Lewis, Daniel Ortega, Dan Patterson, Frank Pepper, Douglas Schauer, Judy Scotland, Robert Sykora, Laurie Vigil, Robert Vigil, Unidentified male (2).

CONNECTICUT (2)

John Coit, Cynthia Raynor.

D.C. (2)

Derrick Johnson, Carlos Torres.

FLORIDA (72)

Luis Acuna, George Allred, Cornelia Alvis, William Alvis, Teddy Ames, Maria Amores, Pablo Arrechea, Billy Ball, Gregorio Barbon, Johnny Chandler, Richie Wolf, Archie Cobb, Bernice Collins, Floyd Cone, Kenneth Corle, Patricia Corle, Mary Curtis, Delores Davis, Juan Doe, Gary Doyno, Reynaldo Espinosa, Ramon Figueroa, Bailey Garcia, Luis Garcia, Wilson Graham, Sherwin Greenberg, William Hargrave, Alanso Hart, Antonio Herrera, Edward Hovan, Bertha Hunter, Eugene Hunter, Alfred Johnson, Charles Key, Marc Ladic, Robert Lane, Frank Linton, "Lucky," Cesar Amores, Ginger Mackert, Robert McDermon, Charles McKee, Magnolia McKinzy, Elizabeth Nelson, Walter Nellums, Raul Nieves, Frances Nunez, Luis Nunez, Jose Ortega, Bradford Price, German Quinones,

Mirizm Quinones, Benjamin Quintana, Jerry Ready, Ira Robinson, Ariel Rodriguez, Marvin Samuel, Patricia Selznick, Gilbert Selznick, Ronald Sims, Pedro Soriano, Michael Stephens, Herminia Suarez, Mark Timmons, Raul Valdes, Aristides Vargas, Antonio Cervantes, Herman Williams, Samuel Wright, Unidentified male (2), Unidentified female.

GEORGIA (11)

Coletha Covington, John Dudley, Jr., Marsha Dudley, Jean Henry, Henry Jackson, Sylvia Kersey, Kenny Peterson, Willie Rainey, Frank West, Charles White, John Brown.

ILLINOIS (75)

Kim Armstrong, Marcella Baker, Augustin Benavidez, Terrell Brown, Virgie Brown, Robert Caldwell, Limari Castro, Edward Cathey, Walter Clark, Robert Colwell, William Davis, John DeJohn, Rubolph Durden, Kenneth Elbert, Nikieta Emory, Robert Ford, Greg Ford, Henry Frantz, Robert Fullove, John Gardner, Jr., Richard Gibson, David Gulley, Michael Hall, Marcus Harris, Howard Hayes, Wilfred Hernandez, Calvin Herring, Charles Hersey, Jr., Theodore Hubbard, Jimmy Hughes, Eddie Hunt, James Jaeger, Lanny James, Michael Jamison, Leronzo Jones, William Jones, Robert Kendall, Rodney Lewis, Ernest Marsh, David Mathus, Charles McClain, Hezekiah McGee, Michael Merriweather, Alphonse Murrell, Bernard Nauseda, Thomas Nicoli, Billy Oldham, Manuel Orazco, Eduardo Perez, Barbara Pieslecki, Joseph Porter, Bartolo Quinones, Lawrence Racich, Harrison Rice, Paul Rivera, Lasaro Rodriguez, Michael Rogers, Michael Sinclair, Dale Skalla, Rickey Stewart, Willie Tidwell, Kevin Tuchel, Alfonso Urdiales, Thomas Vallee, Maurice Vargas, Jennifer Watson, Tammy Watson, Michael Werderits, Herman Winkfield, Mary Winkfield, David Wright, Unidentified male (2), Unidentified female (2).

INDIANA (8)

Sidney Bailey, Willie Byrd, James Douglas, Dimple Gray, Lee Jackson, Henry Johnson, Christopher Jones, Ernest Powell.

KANSAS (2)

Vicki Hernandez, Ismael Soto.

LOUISIANA (14)

Nartee Carter, James Godsey, Russell Landry, Argenis Luzardo, Clesme Melancon, Helen Melancon, Thomas Melbert, Delores Reddish, Richard Seal, Theodore Shephard, Climmie Smith, Charles Walker, Georgiana Williams, Unidentified male.

MARYLAND (10)

Ernest Brown, Lynn Cunningham, David Durham, Judge F. Fishman, Catherine Glenn, James Keys, Thomas Schifanelli, Howard Smith, James Wise 3rd, William Whylie.

MASSACHUSETTS (3)

Kathleen Downey, Valerie Lackey, Diane Martin.

MICHIGAN (30)

Reyanaldo Almandarez, William Barrett, Gary Chipman, Frank Cogswell, Calvineata Cunningham, Demirs Dabner, Carl Dafney, James Darrah, Ernest Franklin, Ellias Gianakas, Calvin Hudson, Henry Jackson, King Johnson, Robert Kendrick, Katherine Krueger, Andre Lewis, Michael Mays, Joseph McGlory, Harold Mendel, David Moulton, Henry Seals, Gary Smith, Mary Smith, Wolley Smith, Lynn Strong, Deborah Walker, Richard Williams, Jeremiah Wilson, Paul Woodson, Unidentified male.

MINNESOTA (3)

Grace Buss, David Stockman, Lynn Wedner.

MISSOURI (16)

Aaron Bell, Lawrence Bonner, David Chester, Mary Clifton, Bernard Freeman, Robert Fuller, Tony Gipson, David Gulley, Bruce Hegger, Eugene Johnson, Dwayne Mitchell, Woodrow Lynch, William Moats, Emmie Thomas, Unidentified male, Unidentified female.

NEVADA (1)

Alex Wall.

NEW HAMPSHIRE (1)

William McShea.

NEW JERSEY (3)

Arthur Ellison, Harold Hunt, Ibrahim Wanas.

NEW MEXICO (2)

Charles Gray, Frank Miller.

NEW YORK (25)

Richard Andujar, John D'Agnese, Vincent Bennett, Jaime Bermudez, Elmore Brunda, James Burke, Janet Burke, Angeline Christophe, Richard Godken, Susan Langley, Karen Marsh, Maurice Kelly, Horace McNair, John Montesano, Kenneth Ortiz, Richard Rainey, Serge Richardson, Yolando Ridore, Emily Segelstein, Bob Taylor, Carmelo Torres, Marcello Torres, Marcelino Vicente, William Weimmer, Unidentified male.

NORTH CAROLINA (15)

Grady Bentley, Bonnie Cobb, Lewis Drakeford, Clifford Gilmore, Donald Huggins, Jack Hunter, David McDonald, Ethel McNeill, James Reinhardt, Larry Riley, John Salzer, Baxter Toler, Joseph Walter, Larry Williams, Unidentified male.

OHIO (31)

Joseph Abram, Jr., Carl Blankenship, Paul Brown, Donna Coleman, Dana Collins, Mrs. Bobby Coleman, Ronald Cooper, Donald Cottrell, Milton Cramer, Ronald Dixon, Ernest Hackett, Sean Kearney, Randall Kellar, Gerald King, Arthur Locher, Woodrow Lynch, Juanita McCoy, Robert McCoy, Sr., Virginia McGuire, James Millay, Peter Sadac, Holly Semer, Elbert Sohm, Diane Taylor, Robert Taylor, Frankie Thomas, Joseph Thompson, Catherine Vajusi, Jacqueline West, Ralph Woodgeard, Unidentified male.

OKLAHOMA (11)

Anita Byron, Lola Douthit, Latanya Hill, William Iverson, Dewitt Merrell, Dora Merrell, Jeffrey Olson, Linda Ridener, Virgil Rogers, Mavis Williams, Bryan Wood.

OREGON (2)

Robert Henry, Beverly Holley.

PENNSYLVANIA (14)

Andrew Austin, Charlotte Black, Terrence Gault, Robert Gill, Sr., Bernadette Hathaway, Iris Hileman, Carter Knight, Derrick Miles, Marcy Reed, Ernest Richards, Vincent Stewart, Robert Turman, Leslie Yarbough, Unidentified male.

SOUTH CAROLINA (4)

Elbert Burton, Norma Comas, Reginald Valentine, Unidentified male.

TENNESSEE (10)

Noah Bryant, Larry Carroll, Charlie Clark, Carl Harris, Sr., Herbert Isabell, Roy Pace, Clara Postell, Jim Quilliam, Eva Ray, Randolph Smith.

TEXAS (48)

Brett Alexander, Howard Alexander, Arturo Astran, Albert Autman, John Bailey, Christopher Baker, Jean Berg, Marie-Louise Bert, Dorothy Blackburn, John Brier, Teresa Carrillo, David Castillo, Emilea de la Cruz, David de la Rosa, Guadalupe Rosa, Mary Delgado, Margo Domino, Robert England, Hilario Flores, Oliver Flores, Mike Garlington, Daniel Guillory, Jr., Bobby Hyder, Tyrone Jackson, Valentin Jalomo, LaMerle Jenkins, William Johnson, Sammy Kirby, Thelma Lopez, William Maitzen, Joseph McClain, Richard McDonald, James McMillian, Billy Moore, Gerald Norris, Linda Parham, Ricky Ray, Hoyt Rector, Richard Ricks, Nasha Ridley, Daniel Ruiz, Bacycle Salmon, Allen Smith, Amy Stanley, Manuel Suarez, Karen Still, Gloria Warner, Deputy Malcolm Watkins.

UATH (4)

Randall Beall, Julie Hunt, Tim Hunt, Steve Kenan.

VIRGINIA (11)

Patricia Anderson, Charles Booher, David Durham, Wade Farthing, Charles Hollifield, William Jackson, John Manness, Roy Manness, Wesley Robinson, Teddy Sparks, Franklin Sumpter.

WASHINGTON (7)

Richard Chamberlain, Hazel Craft, Ronald Nelson, Randy Pleasant, Russell Stephens, Dixie Lee Wilson, Donald Younger.

WEST VIRGINIA (2)

Amos Francisco, Robert Weaver.

WISCONSIN (8)

Inez Addison, Jimmie Addison, Chun Guthrie, Johnnie Isabell, Gerald Jacobsen, Albert Morgan, Octavia Veres, Frank Veres.

WYOMING (1)

David Billings.●

WAR ON THE WEST

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. MILLER of California. Mr. Speaker, for the last several years we heard a great deal about the Carter administration's war on the West, a nebulous charge which boiled down, in many cases, to challenging irresponsible management of public lands and resources, pork barrel water projects, and the giveway of taxpayer-owned oil and gas resources at bargain basement rates.

Today, there is a far more serious war on the West occurring, and little has been written about it. It is a war which threatens to destroy the public lands and resources which every Presidential administration in this century—particularly beginning with the prowestern Republican administration of Theodore Roosevelt—have sought to preserve for our use and for future generations of Americans. Today we have an administration whose chief guardian of the public lands and resources assures us that preservation of our West for the future is not a high national goal because "there may not be that many future generations."

Secretary Watt has already taken some very unwise actions to reduce the Federal preservation role in the West. Fortunately, the House Interior Committee voted not to reduce the crucial land and water conservation fund which is financed by offshore oil and gas revenues—which Mr. Watt assures us are going to increase substantially. But the agency which administered the LWCF, the Heritage Conservation and Recreation Service (HCRS) died an untimely and unjust death on May 31.

Perhaps more than any other agency, HCRS was responsible for preserving the resources of the West. I would like to cite some of its outstanding achievements in recent years:

PACIFIC SOUTHWEST REGIONAL OFFICE

Administered $120 million in grants under the Land and Water Conservation Fund for 700 state and local projects to plan, acquire, and develop public recreation areas and facilities.

Administered 31 grants under the Urban Park and Recreation Recovery program totaling $11.3 million.

Completed two field studies in San Francisco and Los Angeles as part of the National Urban Recreation Study.

Updated the Pyramid Lake Recreation Study for the Secretary of the Interior to include recommendations on recreation use and preservation of Pyramid Lake while enhancing the welfare of the Paiute Indian tribe.

Approved 25 new composite plans by the U.S. Forest Service which authorize the acquisition of 48,000 acres of key recreation lands within national forests.

Approved five composite plans authorizing the Bureau of Land Management to acquire 14,000 acres of recreation lands with Land and Water Conservation Funds.

Administered 24 federal surplus property transfers to state and local governments for parks and recreation purposes.

Facilitated the negotiation of seven cooperative management agreements between military bases and local park and recreation agencies.

Reviewed several developments that could affect the San Francisco watershed.

Surveyed 30,033 miles of 700 rivers under the HCRS nationwide rivers inventory, with 3,739 miles identified as having potential for inclusion in the National Wild and Scenic Rivers System.

Conducted an intensive study of the Stanislaus River above the New Melones Dam to determine its potential for inclusion in the national system.

Completed a regional trails assessment that included 10 public meetings and comments from 1,300 people.

Administered the designation of two National Recreation Trails, and nine more have been recommended for designation.

Participated in the review of 237 potential national natural landmarks using panels of expert scientists to evaluate each site; 88 were recommended and one designated.

Administered a $146,000 Land and Water Conservation Fund grant to California and a $200,000 grant to Arizona to develop comprehensive and systematic natural diversity inventories.

Cosponsored the Western States Heritage Conference attended by all levels of the public sector, private interests, and academicians from the 14 western states.

Developed an assistance program of publications, training, demonstration projects, and consultation to help local recreation departments meet future recreation needs with reduced budgets. Over 120 workshops have been given on subjects such as "Coping with Change and Limited Dollars" and "Recreation Futures in an Era of Limits."

Assisted in the creation of the California Consortium—a partnership between HCRS, the California State Park and Recreation Department, and the California Park and Recreation Society—to provide for the collective delivery of recreation technical assistance.

In particular, I want to cite the very fine work of the Service in developing the environmental impact statement which resulted in the addition of five northern California rivers to the Federal Wild and Scenic Rivers System. This action, which was strongly supported by the State of California, protects these rivers from destructive development by either State or Federal agencies at the behest of heavy water users in California who have long lusted after the Eel and the other rivers as sources for even more heavily subsidized irrigation water. I want to note that in keeping with President Reagan's own longstanding opposition to damming the Eel, as evidenced by his veto of such a proposal when he was Governor of California, Secretary Watt recently announced his support for the wild rivers designation.

I also want to insert in the RECORD a recent article by Meg Maguire, the former deputy director of the Heritage Conservation and Recreation Service in which she illustrates its achievements and challenges the ill-wisdom of the Reagan administration in dismantling this important agency.

[From the Christian Science Monitor, May 20, 1981]

RESCUING AMERICA'S HERITAGE

(By Meg Maguire)

A year ago Mt. St. Helen's erupted in Washington state. Now a volcano of a different sort is erupting in Washington D.C.—at the Office of Management and Budget, in the Congress, and in the federal agencies. Viewed from the air it is spectacular—Reagan Rhetoric full of assurances that nothing important will be sacrificed. Viewed on the ground, it's Reagan Reality—a mud slide indiscriminately burying an irreplaceable heritage.

Reagan says he's for sound conservation of our country's resources, for state and local determination, for efficiency in federal management, for careful study and thought before reorganizing the bureaucracy. But at the Department of the Interior he has done just the opposite by virtually eliminating three grant programs and the agency that administered them.

The three programs—the Land and Water Conservation Fund (LWCF), the Historic Preservation Fund (HPF), and the Urban Park and Recreation Recovery Program (UPARR)—have assisted state and local governments in acquiring land and in rehabilitating some of the country's finest parks and historic sites. They were administered by a small, highly professional agency, the Heritage Conservation and Recreation Service (HCRS), which managed no federal land or facilities, but worked directly with state and local governments on their priority projects within the framework of national agenda. The grant programs were among the most efficiently run in the federal government, with low administrative overhead and a computerized information system that even the budget examiners admired.

All this was wiped out with no analysis of what had been accomplished, what the consequences would be for the country, or how the long list of critical needs would be addressed in the future. Interior officials still have not addressed very basic questions about their plans for integrating the remnants of HCRS into the National Park Service when the secretarial order takes effect May 31. Nor has the administration made clear what, if any, portion of the "savings" is being turned back to the states in a block grant or what the administration's intent is after 1982. Just beneath the Reagan Rhetoric lies the Reagan Recklessness.

The sole reason for these actions seems to be that poor America—wealthiest country in the world—can no longer afford to preserve its beauty and accomplishments for posterity. Ironically, these actions will save only $293 million in FY 1981 and $582 million in FY 1982 over the already austere Carter budget. This is close to the $500 million annual "payment in lieu of taxes" program abandoned by the Carter administration, which Reagan plans to reinstate. This money will go almost exclusively to the Western states as reimbursement for lost taxes due to federal ownership of land. Furthermore, the legislatively designated funding source for LWCF and HPF is not scarce tax dollars but burgeoning offshore oil revenues—"conscience money" earmarked to be reinvested onshore for preservation of land and historic resources. Over time, through a steady infusion of a rather conservative 50 percent federal match, both these programs have assisted in acquiring for public use four million acres of state, local, and national parks and recreation areas; development of 19,000 recreation projects in 14,000 communities; and restoration of thousands of historic buildings and districts. More than 20,000 communities have been assisted by these two programs. Today every state has a plan and set of priorities that depend on the federal government kicking in half the money to protect irreplaceable land and historic sites.

The Urban Park and Recreation Recovery Program (UPARR), part of President Carter's urban policy, acknowledged the critical need to reinvest in the nation's deteriorating urban parks. UPARR was the first national public works effort to focus exclusively on conserving, rather than replacing, existing infrastructure. As America ages and adopts strategies to refurbish bridges, rebuild sewers, and resurface streets, the parks program can serve as a model of how to target the money and measure the results.

During its short life UPARR has already encouraged hundreds of cities and towns to restore old WPA recreation centers and crumbled Olmstead parks, renovate pools and playgrounds in aging neighborhoods, and make long-needed improvements in park management.

The accomplishments of HCRS through both grants and technical assistance produced handsome tangible results—projects which meant communities were substantially better after the ribbon was cut; places to be visited now and a hundred years from now.

All over the country people will tell you that without the grant money fron Interior, the bulldozer would have destroyed their local historic district or cut through a fine old grove of trees or eliminated a village green. Without these program, the ability to leverage private sources of funding and form partnerships with diverse interests would have been limited. Without these programs, hundreds of millions of dollars of land would not have beeen donated to local and state park systems in Texas, or Missouri or Idaho; many riverfronts from Detroit to Jacksonville to Boston would have less public access; and one of the most dramatic and farsighted pieces of land use legislation in our history would probably not have been adopted for the 1-million-acre New Jersey Pinelands. Without these programs, the rape and ruin boys would have destroyed a whole lot more of America than they have, all in the name of economic growth, private initiative, and getting Uncle Sam off our backs.

For each project that has been completed there are scores of others being planned in Memphis, Toledo, East St. Louis, and Anchorage. Communities have learned that such projects are not postponable frills. They serve as powerful stimulants for private real investment; as producers of substantial revenues from tourism; and as models of energy conservation. For example, it takes 23 percent less energy to rehabilitate an old building than to build a new one.

The real issue here is the future of our national heritage. Americans have both the burden and blessing of stewardship for their diverse land and their rich culture. The national government can't deny its responsibility in the name of states rights or tax reductions or budget cuts. In our parks, wildlife refuges, wild and scenic rivers, historic districts, Indian burial grounds, scenic trails, barrier islands, and beaches there is a fragile legacy that outstrips even the federal highway system, or the MX missile, or, yes, even the arts.

What is the Reagan alternative? Let the private sector do it? Well, there isn't much evidence in American history that greater private and corporate wealth will benefit the public through well-targeted largesse. True, there have been philanthropic giants who left mansions and mountains, but today's benevolence requires a different form on a much grander scale.

Maybe the Republicans will use their influence to get the oil companies voluntarily to establish a $3 billion-$5 billion trust fund with some of their colossal profits. The interest could be plowed back into securing and restoring the special natural and historic places of this country. This seems like a reasonable idea at first, but is it the appropriate role for business to define the public agenda and charge consumers enough to pay for the nation's necessities and their product too? Or is this not precisely the role of our national government? Why then not tax the oil companies more heavily and earmark a portion of the profits made from exploiting America's oceans and earth to save her heritage? That, of course, is precisely what was done in 1965 and 1966 when the Land and Water Conservation Fund and the Historic Preservation Fund were established.

The heritage grant programs at Interior are superb examples of America doing something right and doing it well. Before the budget volcano obliterates everything in its path, they should be rescued.●

AMERICAN VALUES: LEADERS VERSUS THE PUBLIC

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. DORNAN of California. Mr. Speaker, on May 15 of this year, The Wall Street Journal presented the findings of an opinion survey conducted by Research and Forecasts Inc. and published by the Connecticut Mutual Life Insurance Co. Entitled "The Connecticut Mutual Life Report on American Values in the 1980's: The Impact of Belief," the survey compared the attitudes of the general public on specific moral issues with the attitudes of those regarded as leaders of key American institutions. The leadership groups included religion, business, the military, the news media, government, education, law and justice, and science. The moral issues encompassed abortion, pornography, homosexuality and lesbianism, adultery, divorce, cohabitation before marriage, sex before the age of 16, and working wives and mothers.

The results of the survey are astounding. They reveal how incredibly out of sync the moral values espoused by most of the leadership groups are with the moral values of the general public. The leadership groups most out of sync with the moral values of the general public are law and justice (lawyers and judges), science, the news media, education and government. The leadership groups most closely in tune with the moral values of the general public are religion, the military, and business.

Mr. Speaker, the Connecticut Life Insurance survey underscores what many perceptive observers of contemporary America have been arguing all along: that our culture is in the throes of a moral revolution. The traditional moral consensus or public philosophy which has characterized our Republic from its founding—the Judaeo-Christian tradition—has been under frontal assault for some time now by the self-appointed keepers of the public conscience, the "new elite," who see themselves as enlightened and forward-looking and who comprise, for the most part, the leadership groups of the news media, law and justice, science, education, and government. Those who espouse traditional moral values are looked upon by the "new elite" as uninformed, unenlightened, and unsophisticated. In addition, they are viewed as being insensitive to the complexities and nuances of contemporary, pluralistic society. As a result, the new elite has, under the guise of "pluralism," attempted to supplant traditional values with a new orthodoxy based upon secular humanistic values (secular humanism being a polite euphemism for atheism). Pluralism in the ethical realm is nothing other than relativism pure and simple—the "you do your thing, I'll do mine" ethic whereby what was formerly considered a moral evil or sin is now looked upon as simply an "alternative lifestyle." Lesbianism, homosexuality, child pornography, sadomasochism, casual sex, and adultery are, according to the new orthodoxy, no longer to be condemned but tolerated and even glorified as personal preferences that have only beneficial effects upon society because they allegedly further "freedom of choice." Of course, the rhetoric of pluralism is used only during the transition from traditional orthodoxy to the new secular humanism orthodoxy. Once the new orthodoxy appears able to be effectively enforced by the elite vis-a-vis the news media, the courts, the educational establishment, science, and by various government officials, talk of pluralism vanishes and groups which espouse traditional, Judaeo-Christian values are vehemently denounced as "single-issue voters" who are bent upon "imposing" their values on other members of society. Conveniently ignored is the fact that the new elite is increasingly imposing its own secular values on society by means of the most unrepresentative institutions of society: the bureaucracy and the courts. Those who have the temerity to challenge the new elitist consensus are, as previously noted, looked upon as unenlightened, unsophisticated, and, in a perverted sense, immoral, for only that is considered moral which is so defined by the new elite. All traditional values are suspect and must be challenged and eradicated.

No society can long survive without a public orthodoxy or moral consenses. Ethical relativism under the guise of pluralism—everyone doing his/her own thing—has no relation to reality. If it did, then the madman Hitler was simply "doing his thing" when he slaughtered 6 million Jews. but the word knew better, and the Nuremberg trials condemned Hitler and his German SS for "crimes against humanity." There was a recognition among civilized people that a transcendent, objective morality exists and serves as a standard against which human conduct can be judged.

What becomes of a society which seeks to rid itself of a belief in God and of a correlative belief in a transcendent, objective moral order? The evidence from the laboratory of human experience is incontrovertible: the concentration camps of the Gulag Archipelago in the Soviet Union as well as those of Nazi Germany, the liquidation of millions of human beings under the atheistic, totalitarian regimes of China and the Soviet Union, the genocide in Cambodia, the tragic

boat people of Vietnam and Cuba, and the nearly 50 million abortions a year worldwide. The society which rejects belief in God and objective, transcendent values forges its own chains of tyranny—whether the tyranny of brutal military force or the tyranny of oppressive governmental laws and regulations which intrude into every facet of life. And the ultimate fate of such a society is antilife: self-destruction. As the Scriptures warn us: "Those who hate me [God] love death."

Mr. Speaker, American culture and, indeed, Western civilization, is in the throes of a mortal struggle, a struggle between life and death. The outcome of that struggle is yet in doubt. It will determine whether our great Republic will continue to hold certain truths to be self-evident—that we are created by an omnipotent God and governed by unchanging moral laws that have been fashioned by God for our well-being—or whether our Republic will follow the road of tyranny and self-destruction by espousing a purely man-made ethic, a creation of the human will which refuses to acknowledge any intelligence or law superior to itself. The Connecticut Mutual Life Insurance opinion survey shows us that there is yet hope for the American Republic. The general public, unlike many of its leaders, still upholds traditional, Judaeo-Christian values. it is time the out-of-sync leaders learn in no uncertain terms the whirlwind they are reaping. The future of America and the West depends on it.

At this time, Mr. Speaker, I would like to submit the fascinating findings of the Connecticut Mutual Life report for the RECORD and for careful study by my colleagues, as well as by all concerned citizens.

LEADERS AND THE PUBLIC: DIFFERENT OPINIONS

Connecticut Mutual Life Insurance Co. of Hartford recently published an opinion survey that attempted to gauge American values as indicated by individuals' opinions toward personal relationships, work, religion, community life, and political participation. One part of the study, conducted by Research and Forecasts Inc., compared the attitudes of the general public on specific subjects with the attitudes of people regarded as leaders of key American institutions. The following is a selection of those comparative attitudes on moral and social issues. The first table, however, is about leadership itself.

RANKING OF CHARACTERISTICS THAT MAKE A GOOD LEADER

Column A: What the public seeks.

Column B: What leaders think the public seeks.

Column C: What leaders themselves seek.

	A		B		C	
	Rank	Percent	Rank	Percent	Rank	Percent
Honesty	1	50	4	36	4	48
Intelligence	2	26	9	12	1	57
Inner strength	3	18	5	30	8	14
Leadership ability	4	14	2	51	2	55
Integrity	5	12	6	23	3	51
Religious conviction	6	12	7	14	9	8
Caring for people, sincerity	7	11	3	42	5	34
Courage	8	5	8	14	7	25
Competence	9	4	1	52	6	28

LEADERSHIP GROUPS ON ABORTION

Is abortion morally wrong or is this not a moral issue?

	Morally wrong	Not a moral issue
General Public	65	35
Religion	74	26
Business	42	58
Military	40	60
News media	35	65
Government	29	71
Education	26	74
Law and Justice	25	75
Science	25	75

LEADERSHIP GROUPS ON PORNOGRAPHIC MOVIES

	Morally wrong	Not a moral issue
General Public	68	32
Religion	87	13
Business	70	30
Military	54	46
Education	50	50
Government	47	53
News Media	46	54
Science	45	55
Law and Justice	41	59

LEADERSHIP GROUPS ON PRE-MARITAL SEX

	Morally wrong	Not a moral issue
General Public	40	60
Religion	77	23
Business	38	62
Military	28	72
Education	27	73
Government	23	77
News Media	20	80
Science	20	80
Law and Justice	17	83

LEADERSHIP GROUPS ON HOMOSEXUALITY

	Morally wrong	Not a moral issue
General Public	71	29
Religion	73	27
Military	58	42
Business	51	49
News Media	38	62
Government	36	64
Education	30	70
Law and Justice	30	70
Science	27	73

LEADERSHIP GROUPS ON ADULTERY

	Morally wrong	Not a moral issue
General Public	85	15
Religion	96	4
Military	80	20
Business	76	24
News Media	72	28
Government	70	30
Science	65	35
Education	62	38
Law and Justice	60	40

LEADERSHIP GROUPS ON LIVING WITH SOMEONE BEFORE MARRIAGE

	Morally wrong	Not a moral issue
General Public	47	53
Religion	72	28
Business	37	63
Military	36	64
Education	30	70
News Media	24	76
Government	23	77
Law and Justice	19	81
Science	19	81

LEADERSHIP GROUPS ON SEX BEFORE 16

	Morally wrong	Not a moral issue
General Public	71	29
Religion	79	21
Business	69	31
Military	59	41
Government	55	45
News Media	54	46
Education	46	54
Law and Justice	46	54
Science	41	59

LEADERSHIP GROUPS ON LESBIANISM

	Morally wrong	Not a moral issue
General Public	70	30
Religion	74	26
Military	60	40
Business	53	47
News Media	37	63
Government	35	65
Law and Justice	30	70
Education	28	72
Science	26	74

LEADERSHIP GROUPS ON DIVORCE

Should divorce in this country be easier or more difficult to obtain than it is now?

	More difficult	Remain same	Easier
General Public	52	27	21
Religion	59	34	7
Business	27	55	18
News Media	27	51	22
Military	27	53	20
Government	21	53	26
Science	20	52	28
Education	19	62	19
Law and Justice	19	53	28

LEADERSHIP GROUPS ON WORKING MOTHERS

A woman with young children should not work outside the home unless it is financially necessary.

	Agree	No opinion	Disagree
General Public	72	5	23
Religion	64	8	28
Military	55	9	36
Business	54	14	32
Education	46	16	38
News Media	42	10	48
Science	40	10	50
Government	39	9	52
Law and Justice	32	10	58

LEADERSHIP GROUPS ON MARRIED COUPLES WITH YOUNG CHILDREN REMAINING TOGETHER

Do you feel that an unhappily married couple should stay together if they have young children?

	Yes	No
General Public	36	64
Religion	50	50
Education	40	60
Military	38	62
Business	35	65
Science	31	69
News Media	25	75
Law and Justice	21	79
Government	18	82

LEADERSHIP GROUPS ON MARRIED WOMEN WORKING

Do you approve or disapprove of a married woman earning money if she has a husband who is capable of supporting her?

	Approve	Disapprove	No opinion
General Public	75	20	5
Law and Justice	94	2	4
Science	92	4	4
News Media	92	3	5
Business	89	4	7
Education	89	2	9
Government	89	2	9
Military	86	4	10
Religion	76	12	12

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HUMAN RIGHTS—LEV ELBERT: THE RIGHT TO EMIGRATE

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. BONKER. Mr. Speaker, as part of the Congressional Vigil for Soviet Jews, I would like to add my voice to many of my distinguished colleagues' in behalf of the persecuted, the silenced, and the imprisoned in the Soviet Union. As the delegates in Madrid continue to review the Helsinki accords with the Soviet Union, this is a particularly important time to examine one of the many cases of human rights violations in the Soviet Union. I would like to bring the case of Lev Elbert, a Soviet civil engineer, to the attention of my colleagues.

Lev Elbert's story is drearily familiar—like so many other Soviet Jews, professionals, scientists, and dissidents, he applied to emigrate from the Soviet Union to join relatives in Israel. He was refused in 1976, 1978, and 1980—and since his original application for an exit visa, he has been harassed, arrested and detained, and slandered. His wife Hanna, a cardiologist, was mugged and beaten. Lev lost his job. And each time he reapplied to leave the Soviet Union, the authorities had another trumped-up reason for denying him.

I often wonder why the Soviet Union continues to detain its Lev Elberts. Would not Lev and so many others like him be less trouble to the Soviet bureaucrats, KGB thugs, and police if they were allowed to leave the country? As long as Lev Elbert is hounded, persecuted, and refused the right to emigrate, he stands as a living reminder of the numerous violations of human rights in the Soviet Union. And as long as these human rights violations continue, those of us that can speak have an obligation to do so.

It is my great hope that the Soviet authorities will allow Lev Elbert and his family to join their relatives in their chosen home of Israel.

I wish to thank my distinguished colleague from Maryland (Mr. BARNES), for chairing the Congressional Vigil for Soviet Jews this year, and for bringing the many cases to the attention of the Congress.●

SOVIET JEWISH EMIGRATION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. HAMILTON. Mr. Speaker, on June 10, 1981, the Foreign Affairs Committee's Subcommittee on Europe and the Middle East, which I chair, held a hearing on U.S. policy toward the Soviet Union, Yugoslavia, and the countries of Eastern Europe.

Ambassador Lawrence S. Eagleburger, Assistant Secretary of State for European Affairs, was the witness at that hearing. The hearing covered a wide range of critical topics in this most important area of our foreign policy. Assistant Secretary Eagleburger has submitted written responses to some questions he was unable to answer during the hearing.

One response which I thought would interest my colleagues concerns comparative yearly levels of Jewish emigration from the Soviet Union and recent trends.

The information follows:

SOVIET JEWISH EMIGRATION

Question. What are the statistics this year and what are the trends for Jewish emigration from the Soviet Union?

Answer. Thus far this year, approximately 5,800 Jews have been permitted to leave the Soviet Union. After a temporary increase in February for the 26th Communist Party Congress, monthly emigration figures have declined to approximately 1,150 per month. Should emigration continue at this rate, the 1981 total would be approximately the same as that observed in 1976—14,000. This would represent a drop of some 33 percent from the 1980 total of 21,500.

Soviet motivation for the decline in emigration is not clear nor is there a clear pattern on which to base predictions of future trends. At present, however, there is no indication that monthly emigration figures will decline much further and, as the February increase suggests, monthly figures can be increased very suddenly should the Soviets choose to do so.

APPENDIX I.—JEWISH EMIGRATION FROM THE U.S.S.R., 1968–80

Year	Visas for Israel issued in Moscow	Left the U.S.S.R.	Arrived in Israel	Went to other destinations	First affidavits sent from Israel.[1]
1968	379	229	231	.....	6,786
1969	2,902	2,979	3,033	.....	27,301
1970	1,046	1,027	999	.....	4,830
1971	14,310	13,022	12,819	58	40,794
1972	31,478	31,681	31,652	251	67,895
1973	34,922	34,733	33,477	1,456	58,216
1974	20,181	20,628	16,816	3,879	42,843
1975	13,139	13,221	8,531	4,928	34,145
1976	14,138	14,261	7,279	7,004	36,104
1977	17,159	16,736	8,348	8,483	43,062
1978	30,594	28,865	12,192	16,867	107,212
1979	50,343	51,333	17,614	34,056	128,891
1980	20,319	21,472	7,570	14,078	32,335
Total	250,910	250,187	160,561	91,060	630,414

[1] An affidavit ("vyzov" in Russian) is valid only for 1 year. If the permission is not granted within 1 year from the date of issue in Israel, the applicant usually applies for a second (third, fourth, etc.) affidavit.

	Left the U.S.S.R.	Went to other destinations
1981:		
January	850	638
February	1,407	1,185
March	1,249	1,071
April	1,155	976

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MUSHY-MINDEDNESS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. ROSENTHAL. Mr. Speaker, the Reagan administration has cast serious doubt on its ability to be faithful to the facts as it manages American foreign policy in the Middle East.

During several briefings before the Foreign Affairs Committee and in the other body, the responsible officials of the Department of State have adamantly refused to supply straight answers to the questions put by members from both parties as to: the ultimate intention of the Iraqi nuclear program, the capacity of the Osirak reactor to produce a bomb, the purposes of the large uranium purchases of the Iraqi Government, the effectiveness of IAEA inspection of the Iraqi nuclear facilities, and the role which Iraq has played in the Middle East during the past 30 years.

Why the obfuscation? What purpose is served by denying or suppressing the true state of affairs in the Middle East and the sound data which our own intelligence agencies have collected?

The curious performance of the Department of State in dealing with the Israeli raid was the subject of a Wall Street Journal editorial of Friday, June 19, 1981, which I wish to share with my colleagues:

MUSHY-MINDEDNESS

Do we really have to endure the spectacle of the French, the international nuclear proliferation cops and a U.S. Under Secretary of State assuring us the nice cuddly Iraqis would never dream of building an atomic bomb? Statements from these sources over the last two days have been the height of the mushy-mindedness that is the root of so much instability in the world today.

On what planet have these folks been living? We are talking here about the nation that started the world's most recent war. Just prior to invading Iran, Iraq gave us a lesson in the power of international treaties; President Hussein neatly dispatched the 1975 Algiers Agreement on the Iran-Iraq border by standing up in the Iraqi parliament and declaring it "null and void." The invasion was also a blatant violation of the same principles of international law that apply as the U.S. and Iraq negotiate on how harshly the UN should condemn Israel. And unlike most of the belligerents in the original 1948 Arab-Israeli war, Iraq has never signed an armistice and remains officially in a state of war with Israel.

Now, this same nation buys a huge French research reactor for which there is no apparent use in the Iraqi desert. It rebuffed French attempts to change the design so that it would not require weapons-grade uranium. The reactor was designed for irradiating materials into isotopes for medical research and the like, and Iraq has been out buying natural uranium, which can be irradiated into plutonium for bombs. It has been buying "hot cells" from Italy, which are used to separate plutonium from uranium. Do we have to draw a picture?

Asked at a congressional hearing whether he agrees the Iraqis were building a bomb, Under Secretary of State Walter Stoessel answered by addressing the actions not of Iraq but of the State Department bureaucracy, "No, we have made no definitive conclusions on that." Of course, more than six years after India actually exploded a bomb made with the help of U.S. nuclear materials, the State Department has come to no conclusions about cutting off nuclear cooperation. We wonder whether the State Department is capable of reaching a "definitive conclusion" that water flows downhill?

Meanwhile Sigvard Eklund, head of the International Atomic Energy Agency, goes even further in giving the Iraqis a clean bill of health. His inspectors visited the plant in January and found that the weapons-grade uranium had not yet been made into a bomb; if they did get together enough to make a bomb, fashioning it would take as little as 7 to 10 days. If the Iraqis were irradiating uranium into plutonium, Mr. Eklund continues, his inspectors would surely notice on one of their yearly two-day visits. Before they can inspect, of course, they need visas from the Iraqis.

Anyway, we are further assured, there are always the French. We are now made privy to a secret agreement under which the Iraqis pledge not to kick out French scientists until 1989. If the French observers of Iraqi experiments detected bomb making, French atomic energy head Michel Pecueur assures us, France planned to cut off fuel supplies immediately. He asks us to believe that after looking the other way in selling the reactor, building it and fueling it with weapons-grade material, France would suddenly turn decisive. A French GS-13 would blow the whistle, triggering a French embargo against uranium shipments to Iraq and an Iraqi embargo against oil shipments to France.

Given these attitudes by the agencies and nations most directly involved in policing the spread of nuclear weapons, is it any wonder that Israel should decide to take its own security into its own hands. With the IAEA, the U.S. State Department and the like not stopping the spread of nuclear weapons but providing protective coloration for it, there is no reason to expect the Israelis to desist from using the means they have in their hands to knock out the Iraqi bomb. At the UN and elsewhere, we are now engaged in a fatuous debate about the morality of the Israeli decision, which is like a debate over the morality of night following day.

Of course the world would be a better place if Israel were not flying fighter-bomber strikes at its neighbors; the Israeli raid is indeed a disturbing symptom of gathering instability in the Middle East and elsewhere. But if we do not want small nations like Israel to take desperate gambles in pursuit of their own security, the alternative is building a more stable world by the efforts of the democracies in general and the U.S. in particular. Our feckless efforts at an anti-proliferation policy are merely one aspect of the irresolution we have displayed since Vietnam. One of the great sources of instability today is the triumph of mushy-mindedness so evident in the apology for the Iraqi bomb program.●

IN RECOGNITION OF THE SAN JOSE MANAGEMENT STUDY TASK FORCE

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. MINETA. Mr. Speaker, the call for increased fiscal accountability and efficiency in government has become the clear public mandate of the 1980's.

I would like to take this occasion to recognize the efforts of a dedicated group of public and business leaders in San Jose who have responded to this mandate. They are the San Jose Management Study Task Force, sponsored by San Jose city officials, the San Jose Chamber of Commerce, and the Santa Clara County Manufacturing Group.

Recommendations made by the task force are expected to save the city of San Jose millions of dollars in the next few years. The savings will be realized with no reduction in the level of city services. In the coming months, task force members will donate approximately $750,000 worth of executive time to a series of management training seminars for city staff members.

Since the effort began in January 1980, 60 of the San Jose area's top business executives have donated more than 9,000 hours, conservatively valued at $750,000, to the study of city operations suggested by the municipal administration.

All of the executives who were asked to join the task force agreed to do the job. In return, the city agreed to implement final task force recommendations. City officials and the task force executive committee will continue to meet to review progress toward final implementation.

When San Jose officials called on the private sector for expert assistance in improving city management operations, the response by the Silicon Valley business community was both swift and enthusiastic. The San Jose Management Study Task Force was born in a spirit of full cooperation between municipal and business leaders, working toward the common goal of improved cost control, efficiency of service, and more effective resource management.

The San Jose Management Study Task Force was directed by an operations board chaired by Dean Emeritus Charles J. Dirksen, a consultant to the University of Santa Clara Graduate School of Business. Other operations board members included Vice Chairman Ronald R. James, president and chief executive officer of the San Jose Chamber of Commerce; Vice Chairman Peter B. Giles, president of the Santa Clara County Manufacturing Group, and Don K. Winterhalter of IBM Corp., task force executive director.

Day to day task force operations were the responsibility of an executive committee, comprised of the following community leaders:

Roy H. Beaton, senior vice president and group executive, Nuclear Group, General Electric Co.; Albert Bowers, president and vice chairman of the board, Syntex Corp.; Halsey C. Burke, chairman and president, Burke Industries; Pamela Buttery, partner, Wolf-Sesnon-Buttery, a development company; Howard W. Campen, retired county executive, Santa Clara County; Philip S. Devirian, Jr., vice president, FMC Corp.; Robert A. Fuhrman, president, chairman of the board, Lockheed Missiles & Space Co.; Joe M. Henson, vice president, General Products Division, IBM Corp.; Harry C. Kallshian, retired, general manager, South Bay Area Pacific Telephone; James P. Miscoll, senior vice president, Bank of America; McKenzie Moss II, president, Bank of the West; David Packard, chairman of the board, Hewlett Packard Co.; Stanley I. Siegal, partner, Price Waterhouse & Co.; Robert C. Wilson, chairman and president, Memorex Corp.; Jay W. Weinhardt, president, San Jose Water Works.

Ex officio members of the executive committee: Janet Gray Hayes, mayor of San Jose; Francis T. Fox, city manager, city of San Jose.

Mr. Speaker, I ask you and all our Members in the U.S. House of Representatives to join me in commending the San Jose Management Study Task

Force for their outstanding job and hard efforts.●

HUMAN RIGHTS—MORE ON JACOBO TIMERMAN AND HIS DETRACTORS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1981

● Mr. BONKER. Mr. Speaker, on the evening of June 14, 1981, Jacobo Timerman, a former prisoner of conscience in Argentina, addressed the annual general meeting of Amnesty International, U.S.A.

Mr. Timerman who was the publisher of La Opinion before his arrest and brutal torture by the Argentina military regime told the Amnesty gathering * * *.

I am a former political prisoner persecuted for his ideas, a former Jewish prisoner tortured for his origins, a survivor of the Clandestine prison of Argentina. I do not come to present theories. I come to give personal testimony. . . . those who used to be openly opposed to the struggle for human rights, now choose to employ mechanisms of deception but not of opposition. While the people affirm the necessity of fighting for human rights, they create diplomatic and political theories, like the thesis of "quiet diplomacy," or the theory of different strategies that should be employed in individual cases, or the difference between authoritarian and totalitarian governments. What they are trying to do is to replace the idea of human rights with a mere tactical or strategic exercise, that is, to sterilize the basic idea, and create a kind of travesty which dictators on the right and the left quickly interpret as an unlimited license to trample on human rights.

I have had the opportunity to meet with Mr. Timerman on several occasions and in the last few weeks that he has been in the United States, in my judgment, he has done more than anyone else to help us understand the real meaning and value of our human rights policy.

As the controversy over his remarks continue, I commend to the attention of my distinguished colleagues Mr. Timerman's speech.

I am grateful to Amnesty International of the U.S.A. for inviting me to speak to this meeting. I speak for myself, as another person in the struggle for human rights, and appreciate this opportunity to present my own views.

Every person who gets out of prison feels an immediate impulse and an urgent need to reconstruct his life. It is not very probable that he can achieve it, because prison has destroyed many of his inner mechanisms. His second impulse, therefore, is to try to construct a new life. For this he needs privacy and the emotional support of his family.

But the prisoner who has been released as a result of the efforts of thousands of people feels other obligations as well. I obtained my liberty as a result of the struggle of organizations and individuals who generously give their time to a world campaign for human rights.

I would like to spend my time in Israel, dedicated to the beautiful adventure of reconstructing a Jewish State, a Democratic and peaceful Israel, participating in the enormous endeavor of correcting history and ending the most terrible aggression against human rights recorded by history, the endless barbarism of anti-Semitism. But I have continued to travel around the world and to add my voice to the cry for human rights.

I have taken part in almost all the international meetings of journalists and publishers which have been held in the 20 months since I was released from prison—to tell the world of the first case in memory of a genocide of journalists—the kidnapping by the Argentine Armed Forces of 100 journalists and their subsequent total disappearance. I have participated in conferences devoted to the problem of the disappearances, especially the International Colloquium held in the French Senate at the beginning of this year under the auspices of the International Federation of Catholic Lawyers. In all those ceremonies in which I have been honored by the Jewish institutions of the United States for my struggle for the security of the Jewish community of Argentina—the American Jewish Committee, the United Jewish Appeal, Haddasah, the United Synagogue of America, the Anti-Defamation League of B'nai B'rith—I have presented the case of human rights violations in Argentina. And I have participated in the international campaign for the freedom of the Soviet dissident Ida Nudel, in close cooperation with the sister of that great woman, Mrs. Elena Friedman.

In my house in Tel Aviv, we organized the press conference that Mrs. Friedman gave in Madrid, shortly before the beginning of the Helsinki deliberations at the end of last year, and I maintained the firm position that we must confront the pressure of U.S. State Department officials who insisted on the cancellation of the press conference. Those bureaucrats felt that it might provoke the Soviet Union into deciding not to permit the inauguration of the Madrid gathering. We were abandoned by all those who should have participated in that press conference, but there were two persons, in addition to Mrs. Friedman, who insisted that it was necessary to confront the Soviet Union with the denunciation of the case of Ida Nudel.

One of my most precious awards is the letter sent to me by Ida Nudel's sister, saying: "I am filled with gratitude for the important and timely advice you gave us in a difficult period of decision when we were in Madrid."

My presence here is in response to the same motives. I am not a perfect orator. My English is faulty. I am not an expert on human rights. I am a former political prisoner persecuted for his ideas, a former Jewish prisoner tortured for his origins, a survivor of the clandestine prisons of Argentina. I do not come to present theories. I come to give personal testimony. And I do so before this assembly because I am grateful to Amnesty International, and because this Assembly represents the men and women who maintain the integrity of the humanitarian, moral and political principles that gave birth to the United States of America—principles which, in the midst of tremendous upheavals, have guided the course of the history of this Nation and this people.

During this long journey of meetings, conferences and ceremonies, I have observed that no one any longer dares to deny the need for governments and private institutions to defend the human rights of individuals and societies. No one, openly, denies that violations of human rights exist under different political regimes, and that it should be condemned, halted, neutralized. Perhaps one of the greatest successes of the marvelous institution that is Amnesty International is its ability to demonstrate that there is no organization today—labor union or professional association, scientific or sports group, cultural or artistic council—that does not have a department or committee dedicated to the protection of human rights, and it is also a great triumph to show that those who used to be openly opposed to the struggle for human rights, now choose to employ mechanisms of deception but not of opposition. While the people affirm the necessity of fighting for human rights, they create diplomatic and political theories, like the thesis of "quiet diplomacy," or the theory of different strategies that should be employed in individual cases, or the difference between authoritarian and totalitarian governments. What they are trying to do is to replace the idea of human rights with a mere tactical or strategic exercise, that is, to sterilize the basic idea, and create a kind of travesty which dictators on the right and the left quickly interpret as an unlimited license to trample on human rights.

Curiously enough, the thesis of authoritarian governments which are friendly and should be protected, and totalitarian governments that should be openly accused because there is no hope of winning their friendship, does not originate in the recent semantic adventures of American conservatives. It was the Soviet Union that perfected the idea in the case of Argentina. The Soviet Union has been the only important world power never to formulate one single protest against the violation of human rights in Argentina. It has been the Soviet Union that was blocked in the United Nations every attempt by democratic countries to investigate violations in Argentina, to condemn these violations. Every time the Argentine drama was to have been considered by the United Nations Commission on Human Rights, the Soviet Union, with the help of the automatic majority that controls the institutions of the U.N., put forth such a variety of fantasies that even an American delegate was moved to say: "Abuse of human rights is abominable, but we want the same standards applied everywhere." Another delegate, Richard Shifter, said that if the U.N. Commission on Human Rights is worthy of its name, it should be guided by "one standard in assessing violations of human rights and fundamental freedoms." Unfortunately the Reagan administration wishes to modify this policy and apply a double standard.

I have also been able to demonstrate that the conservative ideologues who apply the Soviet semantics, also, in the case of Argentina, apply the mathematical machinations of the directors of the Argentine Communist Party. The Argentine Communists maintain that the support of the so-called moderate military in Argentina has permitted an improvement in the situation of human rights, and they devote themselves to making a count of how many disappearances there are today and how many there were before. That is like feeling sufficiently satisfied with the changes introduced in Russia after the death of Stalin, especially

the vindication of many of those murdered by the regime, and at that point considering the matter closed.

The theorists of quiet diplomacy make their reckonings in the following way. Since the Reagan administration has occupied the White House, there has not been one single disappearance in Argentina, giving the impression that this was achieved through silent negotiations with the Argentine military. But if the Argentine military are able to stop the wave of disappearances, that means that they are the kidnappers. How is it possible, then, to maintain absolute silence over the fate of 15 to 20,000 persons whom they kidnapped? Isn't there any moral or religious problem in this to worry the proponents of silent negotiations?

Quiet diplomacy then compares the absence of disappearances in 1981 with the 28 disappearances in 1980, and takes pride in the great success of the present American administration.

But, in my opinion, if we accept this mathematical formula, we can also say that the Carter administration reduced the disappearances from 15,000 to 28, which from the arithmetical point of view is an even greater triumph.

What the new theorists of human rights evidently intend is to pervert the whole concept, emptying it of its moral content. The current President of Argentina, General Roberto Viola, who is so content with quiet diplomacy, was Chief of Staff and Commander in Chief of the Army when thousands of persons disappeared. Since he assumed power, last March, he has not taken a single step to respond to the requests of the families of the disappeared persons, nor a single step to resolve the problem of those imprisoned without charge and without trial, nor to change the situation of those who were illegally condemned by military courts that were created by laws put into force by the same officers, in contravention of the Argentine constitution.

All the former political prisoners with whom I have spoken, whether they be Russians in Israel, Chileans in France, Uruguayans in Spain—insist that the only formula that exists for an effective struggle for human rights is a permanent public denunciation of violations formulated by governments, or private institutions, or the press.

From my own experience, I believe that the most effective action is always that of private institutions supported by the press. And I remember that on a visit I made to the Museum of the Ghetto Fighters, north of the city of Haifa, there is the original telegram sent by the Swedish diplomat Raul Wallenberg from Budapest, when he was struggling to save the Jews that Eichmann was sending to the gas chambers of Auschwitz. The telegram, dated the 29th of July, 1944, directed to London and Washington via Stockholm, reads: "Foreign press publicity eased the situation here. We need more." I think that all the newspapers in the world, all the written and spoken press, should distribute that telegram of Raul Wallenberg to all journalists, so that they may always keep it in mind.

My experience has also shown me that if there is a government that is disposed to have a human rights policy defined as such, this policy will put that country in a prominent position, a position which becomes transformed into a permanent defense of its own interests. In this sense, those of us who were imprisoned, those who are in prison still, will never forget President Carter and his contribution to the battle for human rights. Those who attack his policy as too weak, do so because they cannot find other arguments and must revert to hyprocrisy. Those who attack his policy as ineffective, do so because they are seeking a strategy to destroy the policy of human rights and they do not dare to say so openly. Those who say that this policy did not defend the interests of the United States, are trapped by the same obsessions of those who consider that the United States was too generous with the Marshall Plan and that it did not suit American interests.

Once again I shall return to this point. No one dares to dispute the validity of the struggle for human rights. But totalitarians of right and left, pragmatic conservatives, all are seeking a way to change the strategies as a way of neutralizing this struggle.

It is not the only formula that they have copied from the Soviets. I remember the campaigns unleashed by the Soviet Union against the intellectuals who became disillusioned with Russia. The French writer Andre Gide, the Hungarian Arthur Koestler, the Rumanian Panait Istrati, to recall only a few. On returning from the Soviet Union, and after the publication of their books, they were accused of being police agents, mercenaries, arms traffickers, decadent bourgeois.

The same policy is followed today by the theorists of quiet diplomacy with the prisoners who are released from jail and declare themselves in favor of an open struggle against the violation of human rights—a struggle that should include all nations, condemn all regimes, those of the left and those of the right, those who call themselves friends and those presumed to be enemies. There should be no double standard, because this double standard is part of the strategy of Fascists and Communists alike. On this point, Amnesty International has surely been the organization that has maintained an independent position with the most courage and which has withstood most of the attacks. Luckily, it is a strong and solid institution. Much more difficult is the situation of individuals who must readapt their lives after being badly battered, in part destroyed, in prison. They feel obliged to denounce what they have seen, But feel themselves attacked by theorists who utilize lies and defamation with the same virulence and immorality as the Communist parties of the Third International used them against the intellectuals who were disenchanted by the Soviet Union between the two wars.

But the fact is that we are here. And we are all over the world. Under different designations, in the framework of different institutions or religions or political identities, there are millions of us who are dedicated to this struggle for human rights. Because we are convinced that the defense of these rights is the basis of humanity, the basic principle for which life may be preserved. They cannot murder all of us. They will not be able to torture everyone. They cannot frighten everyone. They cannot deceive everyone, not with false strategic promises, not with false mathematical calculations, not with semantic adventures. The struggle to which we are committed has had, and still has, moments of beauty, sacrifice and glory, that no campaign of attrition, no psychological action, can destroy. Think of the great human epic of the Mad Mothers of the Plaza de Mayo, meeting every Thursday in front of the Casa de Gobierno in Buenos Aires, asking about their children. Imagine them in that plaza, surrounded by "gorillas" in uniform and in civilian clothes, hand in hand, insulted, pawed, pushed, beaten, kidnapped—and none of the valiant generals who ordered the murder of their children dares to confront them. The Argentine President does not dare to receive them. No officer has the courage to assume the responsibility for what he did. Perhaps these soldiers have studied history better than we did. Many conservative theorists do not wish to compare them to the Nazis, and none of those who signed the death warrants of 15,000 persons, thinking of Nuremberg, dares to take responsibility for what he did.

I could give many examples of sacrifice and struggle. Lawyers, threatened with death, have not abandoned their clients. Reporters on the only free newspaper in Argentina, the Buenos Aires Herald, bearing up under harrassment, threats, humiliations, accept the challenge of being the only free voice in the nation—young staff members born in England, showing more Argentine patriotism than the army officers.

Thousands of stories. I should like to recount two of them. The efforts of Rabbi Marshall Meyer to enter the jails, the humiliation inflicted on him by the guards, his attempts to discover the whereabouts of the disappeared persons. The emotion I felt when he visited me for the first time, and how he helped the Catholic prisoners—whom the priest in the prison did not even want to visit on Sundays. At that time, Rabbi Meyer represented for all of us—Catholics, Jews, believers and atheists—something stronger than religion. He represented the total idea of humanity.

And let me read you a paragraph from an article by Professor Fritz Stern of Columbia University that appeared in Foreign Affairs.

Professor Stern writes in the July 1978 edition, after returning from a visit to Argentina: "The Argentine dictatorship faces pockets of opposition from within. The Church, it would appear, it is far from indifferent to the violations of human rights. It serves as an occasional shield for those outside as well: Prominent lay Catholics told me—and individual Jews confirmed it—that the Jewish community of some 400,000 people, which feels a collective sense of beleaguerment, turns first of all to the hierarchy when a specific threat to Jewish rights appears."

These two examples clearly show the depth of solidarity, as they also show that solidarity can confront and resolve problems of every kind created by the violation of human rights. It has an effectiveness which penetrates all nations, which confronts all governments, which worries all regimes.

When we make a count of all the violations that occur in the world today, especially the terrible creations of the inventors of new crimes—the disappearances in Argentina, the boat people and the re-education camps of Southeast Asia— it seems that the task of Amnesty is impossible, interminable. Perhaps it is interminable. But it is possible, and for twenty years, Amnesty has been able to prove it.

We have been called together by the men and women of Amnesty International of the United States. This country has witnessed important battles for civil liberties and human rights—fought under many different names and under many different political and religious symbols. The most admired heroes, the names repeated throughout the world, are the names of American born in this land. Just a few weeks ago, in this country, in this city, one more battle for human rights was won, and a group of semantic ad-

venturers was prevented from deceiving the people of the United States about the true meaning of human rights. This one event demonstrates the force of this idea in America, the depth to which it has penetrated the conscience of the American people. And it does not much matter what attitude the government adopts, because the strength and the vitality of the struggle will be represented by the American people and by its Congress, and by its humanitarian organizations.

Many times we have conquered fear. We have conquered confusion. We shall also conquer brutality.

I salute the men and women of Amnesty International.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, June 23, 1981, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 24

9:00 a.m.
Select on Intelligence
To hold a closed briefing on intelligence matters.
S-407, Capitol

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Michael J. Fenello, of Florida, to be Deputy Administrator of the Federal Aviation Administration.
357 Russell Building

*Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold oversight hearings on the activities of the Department of Commerce in the areas of strategic minerals and materials.
235 Russell Building

*Governmental Affairs
Energy, Nuclear Proliferation, and Government Processes Subcommittee
To hold oversight hearings to review policy in context of the Nuclear Non-Proliferation Act of 1978.
3302 Dirksen Building

Labor and Human Resources
Business meeting, to mark up S. 755, authorizing funds for fiscal year 1982 for Federal alcohol and drug abuse programs, S. 1085, authorizing funds for fiscal years 1982, 1983, and 1984 for the Head Start program, S. 1086, authorizing funds for fiscal years 1982, 1983, and 1984 for programs of the Older Americans Act, S. 1087, authorizing funds for fiscal years 1982 and 1983 for programs under the Domestic Volunteer Service Act, S. 1090, authorizing funds for fiscal years 1982, 1983, and 1984 for support services and research programs relating to adolescent pregnancy, and S. 1132, authorizing funds for fiscal year 1982 for direct services planning, advocacy, legal representation, research, demonstration, and special projects for the developmentally disabled.
4232 Dirksen Building

10:00 a.m.
Armed Services
To hold hearings on potential effects of proposed reductions in impact aid on various school districts and on the dependent children of military personnel enrolled in public schools.
6226 Dirksen Building

Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on the needs of American consumers in the coming decade.
1318 Dirksen Building

Energy and Natural Resources
Public Lands and Reserved Water Subcommittee
To hold hearings on miscellaneous legislation relating to land conveyances, studies, boundary changes, and exchanges, S. 146, S. 187, S. 188, S. 512, S. 634, S. 656, S. 763, S. 764, S. 794, and H.R. 618.
3110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To resume oversight hearings on the implementation of the municipal wastewater treatment construction grants program of the Clean Water Act, and to hold hearings, on S. 975, revising and extending for 1 year certain provisions of the Federal Water Pollution Control Act, and on other related measures.
4200 Dirksen Building

Small Business
Advocacy and the Future of Small Business Subcommittee
To hold hearings on Government competition with small business.
424 Russell Building

10:15 a.m.
Judiciary
Business meeting, to consider pending calendar business.
2228 Dirksen Building

2:00 p.m.
Environment and Public Works
To continue oversight hearings on the implementation of the Clean Air Act.
4200 Dirksen Building

Governmental Affairs
Intergovernmental Relations Subcommittee
To hold hearings on S. 1042, abolishing the Intergovernmental Personnel Act grant program.
3302 Dirksen Building

Judiciary
To hold hearings on the nomination of William B. Reynolds, of Maryland, to be Assistant Attorney General for Civil Rights, Department of Justice.
2228 Dirksen Building

2:30 p.m.
Select on Intelligence
Closed briefing on intelligence matters.
S-407, Capitol

Special on Aging
To resume oversight hearings on the social security system, focusing on cost-of-living adjustments.
6226 Dirksen Building

JUNE 25

9:00 a.m.
Appropriations
Defense Subcommittee
To resume closed hearings on proposed budget estimates for fiscal year 1982 for the Defense Establishment, focusing on the National Security Agency.
S-406, Capitol

Governmental Affairs
Intergovernmental Relations Subcommittee
To hold oversight hearings on the activities of the Advisory Commission on Intergovernmental Relations.
Room to be announced

*Veterans' Affairs
Business meeting, to mark up S. 917, increasing the rates of disability compensation for disabled veterans, and the rates of dependency and indemnity compensation for their survivors; S. 911, authorizing the payment of a special pension to the survivor of persons awarded the Medal of Honor; S. 779 and S. 112, bills providing for memorials to honor the memory of certain deceased members of the Armed Forces; S. 266, implementing procedures and guidelines for the interagency sharing of health resources between the Department of Defense and the Veteran's Administration; amendment No. 62, providing for greater coordination and sharing of the medical facilities of the Veteran's Administration and the Department of Defense, of S. 636, proposed Veterans' Administration health care amendments; and S. 415 and S. 416, bills increasing the maximum amount of specially adaptive equipment assistance to certain service-connected disabled veterans, and on other related proposals, including S. 915, S. 1297, S. 1315, S. 1316, and S. 1317.
412 Russell Building

9:30 a.m.
Energy and Natural Resources
*Energy and Mineral Resources Subcommittee
To hold hearings on S. 1073, authorizing an additional lands lease to the holder of an oil shale lease for purposes that the lessee demonstrates are necessary for such operation.
3110 Dirksen Building

*Environment and Public Works
To continue oversight hearings on the implementation of the Clean Air Act.
4200 Dirksen Building

Judiciary
Security and Terrorism Subcommittee
To resume hearings on the origin, direction, and support tactics of terrorism.
2228 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the national ocean policy study on the substance of Senate Resolution 147, calling for a moratorium of indefinite duration on the commercial killing of whales.
235 Russell Building

Commerce, Science, and Transportation
Consumer Subcommittee
To continue hearings on the needs of American consumers in the coming decade.
1318 Dirksen Building

11:00 a.m.
Governmental Affairs
Business meeting, to mark up S. 892, providing for continued authority of the Federal Grant and Cooperative Agreement Act, H.R. 1371, determining the rate of interest to be paid during specified periods on amounts due contractors on claims against the Government, S. 10, providing for creation of a Commission to design a blueprint for improving governmental performance at the Federal level and throughout the intergovernmental system, S. 1249, providing tools and incentives to the Federal Government in its efforts to collect debts owed the United States, S. 1224, strengthening and clarifying the congressional franking law, and S. 678, requiring that any extension of the ZIP code be part of a voluntary service option with a reduced rate.
3302 Dirksen Building

Labor and Human Resources
Labor Subcommittee
Business meeting, to mark up S. 398, permitting certain employees to work a 10-hour day in the case of a 4-day workweek; S. 351, providing for the transfer of surface sand, stone, and gravel operations from jurisdiction under the Mine Safety and Health Administration to the Occupational Safety and Health Administration; and S. 496, eliminating the jurisdiction of the Mine Safety and Health Administration of independent construction contractors who are engaged by mine operators to build structures on the surface of a mine site.
4232 Dirksen Building

2:00 p.m.
Environment and Public Works
Business meeting, to consider the nominations of A. Alan Hill, of California, and W. Ernst Minor, of Ohio, each to be a member of the Council on Environmental Quality.
4200 Dirksen Building

Foreign Relations
To resume hearings on the Israeli air strike on a nuclear reactor in Iraq.
4221 Dirksen Building.

JUNE 26

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To hold hearings on miscellaneous tax measures, S. 721, S. 791, S. 532, S. 979, and S. 169.
2221 Dirksen Building

Judiciary
Security and Terrorism Subcommittee
To continue hearings on the origin, direction, and support tactics of terrorism.
2228 Dirksen Building

1:30 p.m.
Judiciary
Courts Subcommittee
To hold hearings on alternative methods to improve Federal court reporting procedures.
2228 Dirksen Building

JULY 7

9:30 a.m.
Commerce, Science, and Transportation
*Aviation Subcommittee
To hold hearings on proposed legislation to provide for an early phaseout of the Civil Aeronautics Board.
235 Russell Building

Labor and Human Resources
Aging, Family and Human Services Subcommittee
To hold hearings on the primary intervention in addressing societal problems.
4232 Dirksen Building

Small Business
Innovation and Technology Subcommittee
To resume hearings on S. 881, to stimulate technological innovation and to increase economic productivity by using small businesses more effectively in Federal research and development programs.
424 Russell Building

10:00 a.m.
Finance
Social Security and Income Maintenance Programs Subcommittee
To hold hearings on certain financial issues relating to the social security system.
2221 Dirksen Building

JULY 8

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To continue hearings on proposed legislation to provide for an early phaseout of the Civil Aeronautics Board.
235 Russell Building

Small Business
Innovation and Technology Subcommittee
To continue hearings on S. 881, to stimulate technological innovation and to increase economic productivity by using businesses more effectively in Federal research and development programs.
424 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance and Monetary Policy Subcommittee
To hold joint oversight hearings with Finance's Subcommittee on International Trade on U.S. trade policy.
2221 Dirksen Building

Energy and Natural Resources
*Energy and Mineral Resources Subcommittee
To hold hearings on S. 859, providing for uniform treatment of certain receipts under the Mineral Leasing laws.
3110 Dirksen Building

Finance
International Trade Subcommittee
To hold joint oversight hearings with Banking, Housing, and Urban Affairs Subcommittee on International Finance and Monetary Policy on U.S. trade policy.
2221 Dirksen Building

2:00 p.m.
Finance
Social Security and Income Maintenance Programs Subcommittee
To continue hearings on certain financial issues relating to the social security system.
6226 Dirksen Building

JULY 9

9:00 a.m.
Commerce, Science, and Transportation
To resume oversight hearings on the implementation of the Motor Carrier Reform Act (Public Law 96-296).
235 Russell Building

*Veterans' Affairs
To hold hearings on the prospective nomination of Robert P. Nimmo, of California, to be Administrator of the Veterans' Administration.
412 Russell Building

9:30 a.m.
*Commerce, Science, and Transportation
*Aviation Subcommittee
To continue hearings on proposed legislation to provide for an early phaseout of the Civil Aeronautics Board.
5110 Dirksen Building

10:00 a.m.
Veterans' Affairs
To hold hearings on the prospective nomination of Allan B. Clark, Jr., of Texas, to be Deputy Administrator of the Veterans' Administration.
412 Russell Building

11:00 a.m.
Veterans' Affairs
To hold hearings on the nomination of Frank S. Sato, of Virginia, to be Inspector General, Veterans' Administration.
412 Russell Building

2:00 p.m.
Finance
Social Security and Income Maintenance Programs Subcommittee
To continue hearings on certain financial issues relating to the social security system.
6226 Dirksen Building

JULY 14

9:30 a.m.
Small Business
To hold hearings on small businesses' participation in the production element of the defense sector.
424 Russell Building

Select on Ethics
To hold hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 15

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings to review the Federal Trade Commission's regulations of certain professions.
235 Russell Building

*Veterans' Affairs
To hold oversight hearings on procedures for the adjudication of certain claims, and to hold hearings on S. 349, providing for limited judicial review of the administrative action of the Veter-

ans' Administration, and for reasonable fees to attorneys representing legal counsel for veterans.
412 Russell Building

Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To hold hearings on S. 1166, to provide grants to States for low-income weatherization assistance programs.
3110 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 16

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To continue hearings to review the Federal Trade Commission's regulations of certain professions.
235 Russell Building

Judiciary
Constitution Subcommittee
To resume hearings on Senate Joint Resolution 41, proposed constitutional amendment prohibiting the United States or any State from making or enforcing any law which makes distinctions on account of race, color, or national origin.
2228 Dirksen Building

*Veterans' Affairs
To continue oversight hearings on procedures for the adjudication of certain claims, and to hold hearings on S. 349, providing for limited judicial review of the administrative action of the Veterans' Administration, and for reasonable fees to attorneys representing legal counsel for veterans.
412 Russell Building

Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 17

9:30 a.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 20

9:30 a.m.
Select on Ethics
To resume hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 a.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 21

9:30 a.m.
Select on Ethics
To continute hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 a.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 22

9:30 a.m.
Veterans' Affairs
To hold hearings on S. 5, S. 7, S. 25, S. 26, S. 48, S. 105, S. 248, S. 417, and S. 742, bills providing educational assistance to members of the Armed Forces.
412 Russell Building

Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

10:00 a.m
Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To hold hearings on S. 506, reinstating and validating certain numbered U.S. oil and gas leases.
3110 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 23

9:30 a.m.
*Veterans' Affairs
To continue hearings on S. 5, S. 7, S. 25, S. 26, S. 48 S. 105, S. 248, S. 417, and S. 742, bills providing educational assistance to members of the Armed Forces.
412 Russell Building

Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 24

9:30 a.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6224 Dirksen Building

JULY 27

9:30 a.m.
Select on Ethics
To resume hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Select on Ethics
To resume hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 28

9:30 a.m.
Labor and Human Resources
Aging, Family and Human Services Subcommittee
To hold hearings on adoption services in the United States.
4232 Dirksen Building

Select on Ethics
To continue hearings on matters involving senator Williams.
6226 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 29

9:30 a.m.
*Veterans' Affairs
Business meeting to mark up S. 349, providing for limited judicial review of the administrative action of the Veterans' Administration, and for reasonable fees to attorneys representing legal counsel for veterans.
412 Russell Building

Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m. Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 30

9:30 a.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 31

9:30 a.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

SEPTEMBER 16

9:30 a.m.
*Veterans' Affairs
Business meeting to mark up S. 5, S. 7, S. 25, S. 26, S. 48, S. 105, S. 248, S. 417, and S. 742, bills providing educational assistance to members of the Armed Forces.
412 Russell Building

SEPTEMBER 22

11:00 a.m.
Veterans' Affairs
To hold hearings on fiscal year 1982 legislative recommendations of the American Legion.
318 Russell Building

79-059 O - 85 - 51 Part 10

CANCELLATIONS

JUNE 24

10:00 a.m.

Governmental Affairs

To hold oversight hearings on the Federal Government's film making procedures.

3302 Dirksen Building

Labor and Human Resources

Education, Arts and Humanities Subcommittee

To resume hearings on S. 1103, authorizing funds through fiscal year 1986 for elementary and secondary education programs, and providing educational support at the State and local level.

4232 Dirksen Building

JUNE 25

10:00 a.m.

Governmental Affairs

Energy, Nuclear Proliferation, and Government Processes Subcommittee

To continue hearings on proposed legislation authorizing funds for programs of the Nuclear Non-Proliferation Act.

Room to announced

SENATE—*Tuesday, June 23, 1981*

(Legislative day of Monday, June 1, 1981)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

God of creation, we praise Thee for Thy wisdom in giving the power of reproduction to opposites. Out of male-female union comes human life; out of positive and negative poles come light and power. We so easily disregard this principle in the realm of ideas. We reduce issues to either-or, assuming that when there is disagreement, one is right, the other wrong; and we forfeit the truth that may emerge from conflicting ideas.

We thank Thee for the creative dynamics of opposition, that when two disagree, both may be right, or both wrong. Help us to appreciate the possibility that there are three sides to a question: My side, the other's side, and the right side. In disagreement grant us the humility and patience to seek together the right.

God of light and wisdom and truth, help us to understand that diversity is the essence of unity. Different notes produce harmony; different colors produce a picture; different shapes produce symmetry. Give patience to Thy servants of the public that out of their struggle may come light and wisdom and truth. In the name of Him who is the light of the world and truth incarnate. Amen.

RECOGNITION OF THE ASSISTANT MAJORITY LEADER

The PRESIDENT pro tempore. The assistant majority leader is recognized.

THE JOURNAL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that, following the time allocated to the two leaders under the standing order, as reduced, and the special orders entered for this morning, there be a period for the transaction of routine morning business not to extend beyond 10:30 a.m., in which Senators may speak for not more than 5 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMENDATIONS FOR PARTICIPANTS IN FAA-AIR TRAFFIC CONTROLLERS NEGOTIATIONS

Mr. STEVENS. Mr. President, I wish to take this opportunity to commend those who participated in the negotiations between the Federal Aviation Administration and the Professional Air Traffic Controllers Organization over the weekend.

In particular, Secretary Drew Lewis, and Administrator Lynn Helms deserve great credit for their dedicated and diligent efforts in reaching a compromise which is both comprehensive and fair. Robert Poli, the PATCO leader deserves equal commendation for the final result. These men and their staffs spent over 40 hours negotiating last weekend including a 19-hour stint that ultimately resolved the issues. From all reports, each of them handled the discussions with skill and diplomacy.

Mr. President, I know that the last 72 hours were extremely hard on everyone involved. There was a lot at stake and a tremendous amount of pressure on those working toward a solution but each of them held up admirably. Not only did they put in a tremendous amount of time at the negotiating table, but they also found time to keep our offices and the public apprised of the progress.

They faced a tough problem, but I sincerely believe that the solution maintains the Federal Aviation Administration's commitment to safety while taking into consideration the uniqueness of the job done by the controllers and recognizing the controllers' dedication and hard work.

The agreement they reached is still subject to ratification by the members of the Professional Air Traffic Controllers and review by Congress. However, I am sure that the controllers will be pleased with the efforts of Robert Poli on their behalf. It appears that he is a tough negotiator.

It is also obvious from talking to many of my colleagues, that Congress and the public will see the resolution as both fair and equitable. Secretary Drew Lewis and Administrator Helms did an excellent job in keeping the negotiations going.

They were able to reach a solution which represents the public interest and protects our commitments to air safety.

Mr. President, these two men are a tremendous asset to this administration. President Reagan made a pledge to bring in the best people available. If the actions of these two public servants are any indication of the rest, I would say that the President has fulfilled his goal. This Nation owes them both and their staffs a tremendous debt.

● Mr. ANDREWS. Mr. President, I would like to join Senator STEVENS in commending the fine work that was done by Secretary of Transportation Drew Lewis, FAA Administrator J. Lynn Helms and PATCO president Robert Poli in negotiating the air traffic controllers' contract. After many tedious hours of discussion the negotiators came up with a reasonable, workable package which should benefit not only the air traffic controllers, but also the traveling public. All parties involved should be pleased with the work of their representatives.

The air traffic controllers have a special responsibility, performing extremely rigorous duties of a strenuous nature. This contract is definitely a step in the right direction for improving the working conditions of these employees.●

OUR OUTSTANDING U.S. POSTAL SERVICE

Mr. STEVENS. Mr. President, recently there were news accounts relating comments by the Postmaster General, William Bolger, regarding the possibility that he would have to request a postage increase for first-class stamps, from 18 to 23 cents. I hope such an increase is unnecessary and I strongly urge the Postmaster General to make every effort to avoid it, if at all possible.

I also hope that the Congress will take note of such a possibility and not impose restrictions on the operation of the Postal Service that would prevent productivity gains capable both of absorbing the pending budget cuts and of containing future postage increases. The cost of a first-class stamp is high—but despite the current 18-cent price tag, it brings to us the best postal service in the world today.

Striking evidence of the continuing quality of mail delivery came to my attention recently, when Jim and Dixie Rynearson, good friends of mine from Sitka, Alaska, relayed to me an experience with the U.S. Postal Service which ought to give pause to those hasty to criticize its operation.

The Rynearsons had requested, by phone, an important item essential for the operation of their business to be sent from St. Lawrence Island. St. Lawrence Island is 60 miles from the Russian shore and 1,200 miles northwest from Sitka.

The very next day, they received, in the mail, the item they had ordered from St. Lawrence Island. The postal staff had taken extra precaution to make sure that it made the correct flights. And, let me tell you, there are not very many flights in and out of St. Lawrence Island.

So, a letter coming from near the Russian border to the old Russian capital of the United States traversed some 1,200 miles in a day. That is pretty good service. Considering that they are paying 18 cents for letter mail, that is a very good buy.

In fact, it is the best postal buy in the world, save Canada. And, if it were not for the fact that the Federal Government of Canada derives approximately

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

28 percent of its postal budget from general revenues, compared to a U.S. contribution of less than 1½ percent, the price of their stamp would be significantly higher than the United States.

Of the 14 leading free world nations, only Canada, the United States, and Italy have a postage rate less than the equivalent of 20 cents in U.S. currency. The U.S. letter rate is less than half the first-class rate of France, West Germany, Sweden, Austria, and the Netherlands, and almost half of what the British and Japanese pay for similar service.

Certainly, service is of concern to all of us. We often hear about a letter that took several days or a week to get to its destination. I am sure that there are even worse horror stories.

However, 95 percent of first-class mail, deposited before 5 p.m. and destined for local metropolitan area delivery, is delivered the next day.

By the way, this class of mail makes up more than 65 percent of all first-class mail. Mail destined for locations outside the metropolitan area, but within a 600-mile radius, meets the postal service standards of second day delivery 86 percent of the time, and 87 percent for 3-day delivery, which is 600 miles or beyond.

Of course, when dealing with almost 110 billion pieces of mail, even 5 percent of delayed metropolitan area mail will mean a lot of unhappy patrons and will generate many complaints.

There are many factors involved in the bargain we all purchase every day when we send mail. The largest factor, the most important factor, is the postal employees themselves, whether they be top management or down the line to the local postmaster, the carrier, mail handler, clerk, or mechanic—all segments of the postal work force have contributed greatly.

Employee productivity in the U.S. Postal Service is phenomenal when you compare it with private industry. Last year, employee productivity increased 5.5 percent. That was 2.5 percent higher than the U.S. Postal Service's goal. Since postal reorganization in 1970, there has been a 34-percent increase in productivity. In the same period of time, the average annual productivity in private industry was 1.3 percent, or 15 percent over a 10-year period.

In 1970, 741,000 postal employees delivered 85 billion pieces of mail. In 1980, 667,000 employees, or 74,000 fewer employees, handled 106.3 billion pieces of mail. No other postal employees in the world are as productive.

However, public service appropriations budget cuts of $344 million already targeted by the Senate will require the Postal Service to be even more productive. I was pleased to learn that Postmaster General William Bolger's reaction to the suggested cuts was that his department will bite the bullet and absorb the cuts, primarily through increased productivity.

We need more examples of leadership which digs in and attempts to live with the cuts and absorb them rather than telling the American public that an agency simply cannot face budget cuts.

We all know that cuts must be made—it is just a matter of how they are administered and how one goes about attempting to live with them while providing the service that the public expects. I commend Postmaster General Bolger for his forthright and cooperative attitude in that regard.

The mailing public has responded favorably to the operation of the Postal Service, its rates, service, and productivity. The Postal Service is not a static operation.

In fiscal year 1980, bulk mail volume jumped by 6.5 billion pieces, the largest single year increase in postal history. Included in this increase was a 2.4-percent rise in parcel post volume. This is the first increase in parcel post in 14 years.

The largest factor in the increase in mail volume was the growth of the U.S. Postal Service's presort program, which now accounts for more than 11 percent of all first-class mail. First-class presort means the mailer who utilizes this service can reduce postage by 2 cents per piece.

This increase in presort, whether it is first- or third-class mail, reflects the fact that in the last 4 years the Postal Service has made 13 regulation changes designed to increase customer participation in the presort mail program.

The pending ZIP+4 proposal is just another change in the regulation encouraging the expanded use of discount mail, and has tremendous potential for future cost savings.

On balance, the U.S.P.S. track record is outstanding. Despite great increases in volume, and the number of homes and businesses receiving mail, postal rates remain comparatively low, service reliable, and productivity high. No other Federal or private system provides 40,000 service outlets. Our U.S. post offices do. And, we all know that each post office provides innumerable postal and nonpostal services, many of them well beyond the call of duty.

For example, the postal service is a site for selective service registration, for the ordering of gold medallions sold by the Treasury Department and, in many States, including Alaska, for the distribution of food stamps.

In addition, post offices accept passport applications, sell duck stamps and supply alien registration cards. In many communities, the post office is the symbol of the Federal Government, in spite of the fact that the U.S.P.S. is technically a quasi-independent agency.

There is no question that there are mistakes, such as delayed letters, damaged packages and curt employees. We have all heard those complaints and I do not know that we will ever stop hearing them. But I think we ought to give credit where credit is due—we have without question the outstanding postal service in the world, regardless of how measured.

I do not hesitate to criticize the Postal Service where justified. I do not hesitate for a moment to pursue a constituent's complaint against the Postal Service when warranted.

But I also do not forget the outstanding service provided by postal employees and the tremendous operation that is the U.S. Postal Service.

Mr. President, I yield to the acting minority leader.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, in behalf of the minority leader, I shall yield back 1 minute in just a minute.

THE RULE OF LAW

Mr. PROXMIRE. Mr. President, let us take a look at one of the fundamental principles on which our Government is based: the rule of law.

The Founding Fathers of this Nation worked to form a political system which would insure justice, avoid domestic and foreign violence, promote the people's welfare, and secure the blessings of liberty for future generations. At the same time, though, the leaders of this young Nation knew that they must limit the powers of the Government so that no one man, no one branch of Government, no one faction could ever gain undue power.

This is the dilemma of responsible government and we solved it by applying the fundamental principle of the rule of law. Our ideals of representative democracy, free speech and expression, and leadership by open election with universal suffrage were all put into action through law.

Laws make up the concrete foundation that supports the institutions of our country. Laws are the lifeblood of democracy, healing our wounds and solving our problems when the citizens agree to change them. Men can change the law—but we will never change the fact that no man in our Nation is above the law. Existing law, mutually agreed upon, rules over men and brings order to society.

Yes, the laws can be changed. But the rule of law over men is the constant principle that has made America the peaceful and prosperous country that it is today.

I believe in the rule of law. I believe that we must apply the same principle, whenever possible, to the community of nations. We can see the benefits that have come from our past efforts in this direction. Multilateral agreements such as the GATT have been giant steps forward toward global peace and cooperation.

Mr. President, I support the Genocide Convention because it confirms our belief that the rule of law can stop destruction. This convention can help to

deter and punish the destruction of entire groups of people—national, ethnic, racial, and religious groups. We must never relent in our efforts to make men and nations accountable for their actions to some higher authority. The Genocide Convention provides this authority. It provides a law to rule over anyone, anywhere, who attempts the murder of an entire specified group of human beings.

The world is not yet safe from madmen and murderers. I urge my colleagues to affirm their belief in the rule of law by voting to ratify the Genocide Convention. Let us join the international community in condemning the act of genocide and making it unlawful as well as immoral.

Mr. President, I yield back the remainder of the minority leader's time.

RECOGNITION OF SENATOR BOREN

The PRESIDENT pro tempore. Under the previous order, there will now be 1 hour under the control of the Senator from Oklahoma (Mr. BOREN).

Mr. PROXMIRE. Mr. President, I understand that the distinguished Senator from Oklahoma is on his way. He shall be here shortly. On his behalf, I yield such time as the Senator from Texas may require.

The PRESIDENT pro tempore. The Senator from Texas is recognized.

HIGH INTEREST RATES

SAVINGS INCENTIVES FOR HOUSING

Mr. BENTSEN. Mr. President, I rise to address the need to target tax incentives for savings at the housing industry, a subject that has far-reaching consequences for the economic well-being of our Nation. Let me put this need in perspective by focusing first on the issue of savings in general before turning to the plight of housing. I am convinced of the need to generate a sharp increase in savings and investment to restore a healthy rate of productivity growth to the American economy. This is a difficult subject for the Congress to address for several reasons: First, any action taken this year to improve our savings and productivity record will not pay off for years in the future. Also, the subjects of savings, investment and productivity do not tend to catch the public attention or enjoy the press appeal that other topical social issues have.

In past years, these factors would be two strikes against quick congressional action. But, the times have changed. Both in the Congress and at the White House, a new awareness exists of the perilous state of our economy and the weakness of its foundation. In part, this new awareness reflects the path-breaking work initiated under my chairmanship by the Joint Economic Committee in 1979. The JEC took a long, hard look at our economic foundation and the experience of our own and foreign economies in dealing with the new and persistent phenomenon of stagflation.

That look was an eye opener for us. It showed that the great, robust, and muscular American economy had feet of clay. It was an economy with some bright spots—like the computer and aircraft industries—but with many more weak, underfinanced, and increasingly uncompetitive sectors. It revealed in many ways, a society that was living off its principal rather than its interest. It was dissaving, not investing. It was spending today rather than saving for tomorrow.

It was a sobering review and one that called for major, remedial action to turn around our poor productivity performance and rebuild our Nation's foundation—its ability to continually enlarge the standard of living for all Americans. The steps to bring about that remedial action have become known as supply-side economics—the focus of economic and tax policy on steps designed to boost our Nation's productivity and production capability.

Let me review what the JEC discovered about our Nation's fundamental economic health:

POOR DOMESTIC PRODUCTIVITY RECORD

The most basic indicator of a society's ability to improve economic conditions is productivity growth. Without rising per-worker output, no society will experience rising living standards. At zero productivity growth, the only increase in one person's per capita income will occur at the expense of a decline in someone else's. It is a zero-sum game. Since the late 1960's, productivity in America has moved steadily downward, and finally reached zero in the late 1970's. I asked the Bureau of Labor Statistics earlier this year to prepare a table of U.S. productivity data and productivity indices from six other nations. I ask unanimous consent that the BLS table be printed at this point in my remarks, as table I.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE I.—AVERAGE ANNUAL PERCENT CHANGE IN PRODUCTIVITY RELATIVE TO GROSS DOMESTIC PRODUCT [1]

Country	1950–67	1967–72	1973–79	1977–79	1950–79
Japan	7.4	9.2	3.4	4.6	6.9
Germany	5.0	4.8	3.1	2.9	4.8
Italy	5.3	5.0	1.7	2.9	4.8
France	4.7	4.5	2.9	3.0	4.3
Canada	2.5	2.8	.4	−.5	2.1
United Kingdom	2.2	3.0	1.1	1.8	2.3
United States	2.4	1.1	.3	−.1	1.7

[1] Measured by growth in real domestic product per employed person, using own country price weights.

Source: Bureau of Labor Statistics.

Mr. BENTSEN. Table I is revealing for two reasons, Mr. President. First, it starkly portrays the slide in our Nation's productivity growth—from an average annual level of 2.4 percent from 1950 to 1967, to only 0.3 percent from 1973 to 1979. In the past 3 years, this alarming trend continued with no letup. In fact, our Nation's productivity actually fell from 1977 through 1980. Recent data from the first quarter of 1981 are more encouraging. Unfortunately, these data largely reflect the beneficial impact on productivity of the miniboom we experienced in December through February, rather than a reversal of our disappointing long-term trend of declining productivity growth.

This table also reveals that most of our major international competitors have maintained healthy productivity growth despite our own collapse. These nations, from the United Kingdom to Japan, were able to weather the stresses and strains of OPEC, rising food prices, and the other ills we have experienced in the last decade far better than our own Nation.

The lesson is clear—and I know many of my colleagues here are in agreement with me on this point: We must pursue policies designed to boost productivity whenever and wherever possible. And one place to find these policies is overseas.

The JEC review made some interesting discoveries in comparing our domestic and foreign economic conditions.

POOR DOMESTIC SAVINGS AND INVESTMENT

Mr. President, the most striking finding was that the U.S. savings and investment rate was well below that of any foreign competitor. Economists have long realized the importance played by investment in raising labor productivity. But no one suspected that its influence was so sharp and important. The JEC found that a strong link exists between saving and productivity, and that the poor U.S. productivity record in good measure reflects our relatively poor savings and investment record in the past decade. The Department of Commerce summarized United States and foreign savings and investment data for me in February, covering the period 1970 through 1978. And, I ask unanimous consent for that data to be printed as table II in my remarks at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE II.—INVESTMENT AND PERSONAL SAVINGS RATES IN THE UNITED STATES AND OTHER INDUSTRIALIZED COUNTRIES, 1970–78

[In percent]

Country	Investment rate [1]	Personal savings rate [2]
United States	17.5	6.6
Great Britain	18.8	12.3
Italy	20.4	[3] 21.3
Netherlands	22.4	14.7
Canada	22.7	8.8
West Germany	23.1	14.9
France	23.3	17.1
Japan	33.2	[3] 20.5

[1] Gross fixed private and nonmilitary government investment as a percent of gross national product.
[2] Savings as a percent of disposable personal income.
[3] 1970–77; 1978 data not available.

Source: U.S. Department of Commerce, International Economic Indicators, September and December 1979.

Mr. BENTSEN. Mr. President, the highlight—or low point—of this table is the discovery that our savings rate dur-

ing the 1970's was lower than any of our major international competitors. In fact, it was scarcely one-third that of Japan and Italy and barely one-half that of the United Kingdom and West Germany. As a direct result, of course, our investment rate, excluding military outlays, was also the lowest.

This low investment is directly responsible for our poor productivity performance. Coupled with the surge in labor force growth which occurred in the 1970's—as working women became a permanent fixture across our country—our lagging investment virtually guaranteed little or no growth in labor productivity. In fact, Department of Commerce data revealed that the average annual growth in labor supply exceeded net additions to our capital stock from 1974 to 1979. As a result, the U.S. capital: Employment ratio has actually fallen since 1974.

I wish, Mr. President, that I could say we have identified the problem and are well on the path to solving it. Half of that job is done, but only half. We are no further along the road to rebuilding productivity than we were in 1979 when the full scope of the problem was first identified. For example, business plans to boost real spending on new plant and equipment—after allowing for inflation—by only 1 percent in 1981. That low rate will not even offset the existing deterioration in the existing capital stock, much less permit a start toward replacing our aging stock with new plant and equipment. It is an alarming indicator, but certainly one we have seen frequently before.

WHAT CAN BE DONE TO INCREASE SAVINGS?

As Congress wrestles with the administration's tax proposal, I believe it should give priority attention to stimulating our low rate of savings, investment, and productivity. As my colleagues know, the administration is seriously concerned with doing just that. A substantial portion of the administration's tax reduction proposal before the Congress, in fact, is intended to spark investment by firms in new plant and equipment and to stimulate savings.

I believe the incentives for capital investment to be enacted this year by Congress will go a long way toward improving the willingness of firms to expand investment in plant and equipment. But, I am not convinced that the broad brush stimulus to individual savings contained in the administration's tax proposal is adequate. A more targeted savings approach is needed, as well, in light of our dismal current situation and to provide the funds which firms will need for investment. In addition, care must be taken to see that any savings incentives does more than merely shuffle funds from one form of savings to another. The only certain way to do that is to target any savings incentive in such a fashion as to spark major economic activity. In that way, net new savings will flow into the economy as employment and incomes rise in response to the targeted savings incentive. New savings will be created, rather than a mere movement of the same savings from one form to another.

With this in mind, I have become convinced that one of the most effective targeted savings incentive the Congress can enact now is to direct savings into the housing industry. Such a step would bolster that badly deflated sector and spark a major economic boom. In turn, that boom would guarantee that new savings are created.

THE CRISIS IN HOUSING

There is no one, Mr. President, who doubts the deep peril confronting our housing industry today:

Housing starts is the most widely acknowledged indicator of the economic health of housing. In 1979, over 2 million housing starts were made by domestic builders. Today, the annual rate of such starts is 1.15 million—an incredible 43 percent below the 1979 rate.

Unemployment in the construction industry is 16.3 percent, well over double the 7.6-percent rate for the entire Nation.

Over 1 million jobs in construction and housing have been lost since 1979.

The reasons for this housing depression are widely acknowledged, as well:

The supply of mortgage money has dried up as mortgage lenders, particularly savings and loan associations and mutual savings banks, have suffered historic and staggering deposit losses—$28 billion alone in 1980.

The cost of mortgage money has soared above 16 percent, pricing all but a handful of Americans out of the housing market entirely.

The fundamental result of this housing depression has been to deny employment and adequate housing to our citizens. The soaring mortgage rate has all but eliminated the opportunity for renters, for example, to buy a home and realize that key component of the American dream. The average price of a new home now exceeds $69,000. Only 5 percent of those families who now rent could afford the monthly payments on that average priced home. Even if they could put 20 percent down, principal and interest financing costs on a $55,000 mortgage would exceed $700 a month, with insurance and taxes still to be added. By comparison, that same mortgage could be financed for $300 less per month if mortgage rates—through some miracle—declined to 8 percent.

I believe, Mr. President, that there is no debate on the impact which a reduction in mortgage rates would have on housing demand. Well over 2 million households are formed each year in our Nation, and some 700,000 housing units are lost through fire and old age. An enormous demand for housing exists at lower mortgage rates. A reduction in mortgage rates would spark a major resurgence in housing demand and supply that would result in millions of new jobs and billions of additional income and savings flowing into our economy. In fact, according to a recent analysis by the Wharton Economics Forecasting firm for the JEC, a targeted tax incentive for housing would boost productivity and fight inflation as well as creating an economic boom.

A COMBINED HOUSING AND SAVINGS PROPOSAL

This is an opportunity that the Congress should not let pass. We confront a unique opportunity to rebuild two critically imperiled industries—housing and thrift institutions—while also generating new savings in the most effective possible fashion by creating an economic boom that generates new income and savings.

It is an opportunity that the administration is not willing to utilize. Just yesterday before the Senate Finance Committee, administration Treasury officials opposed tax provisions to target savings into the housing industry and to help thrift institutions. I believe that is a mistake. Ignoring the deep financial problems of the thrifts will not make them disappear. And their problems are major:

Their cost of capital now exceeds earnings, with the result that reserves are being eroded rapidly.

Over 260 savings and loans institutions are on the troubled institutions list, more than double the 1980 level.

The thrifts suffered a $6.6 billion deposit loss in April, alone.

Over administration objections, the Senate Finance Committee yesterday took a first, but tentative step toward helping the housing and thrift industries. The committee voted to include an all-savers certificate in the tax reduction bill now being drafted. It was a halting step, however I am convinced that a more effective provision—building on the all-saver certificate concept adopted by the Finance Committee yesterday—can and will be enacted by the full Senate.

The all-saver concept is designed to combine a housing and savings incentive in one package. That is a sound approach. It combines the case of a savings certificate with a favorable tax treatment of interest earned on the certificate. It is designed, as well, to lower the cost of funds to depository institutions—the key step in reducing the cost of mortgage funds to potential borrowers and sparking a boom in the housing industry.

The provision adopted yesterday, however, is too broadly targeted to provide a big kick to either savings or the housing sector. Based on experience over the past 2 years with 6-month money market certificates, almost 60 percent of all deposits generated by the new certificates will not go to the housing sector. That is a sobering appraisal. It means that barely one-third of the funds will eventually end up helping housing. I intend to propose an amendment to the tax bill later this summer, in fact, to remedy this shortcoming.

Mr. President, let me make one final comment: I introduced S. 701, the Home Mortgage Incentive Act, last spring. It has 35 cosponsors and is endorsed by a variety of housing groups, including the National Association of Realtors and the National Homebuilders Association. I believe that very broad support demon-

strates the deep concern of the entire Senate with the plight of housing and its intention to see that lower cost mortgage money is made available to that industry and to potential homeowners. I urge the administration to join with my colleagues in translating that intention into reality. The Finance Committee has cracked open the door. It is now up to the administration and the Senate to open the door completely by combining a tax incentive for saving with effective relief for homeowners and the housing industry.

Mr. President, I am delighted to see in the Chamber the Senator from Oklahoma, who has taken a major interest in dealing with the crisis in housing and the thrift institutions, and who has been in the forefront of the fight to encourage savings in this country. I am delighted to yield the floor to the Senator, who has put together this morning a dialog with a number of Senators who share deep concern with high interest and mortgage rates and the poor rate of savings in this country.

Mr. BOREN. Mr. President, I thank the Senator from Texas. I commend him again for the constructive contribution he has made toward finding a solution to this very serious problem.

Yesterday, in the Finance Committee, the distinguished Senator from Texas made a valiant effort to pass a proposal that would have made a very significant impact and would have helped turn around the slowdown in the construction industry, would have helped make housing affordable again to young couples in this country, and would have targeted a very significant portion of those funds which would be generated in terms of new savings to the thrift institutions, where the problem is most serious. I am sorry he did not prevail in that effort, but I commend him for making that effort.

I hope that before action on the tax package is complete, the Senator from Texas will succeed in the effort he is making, because it is an effort that is in the interest of our country and one that is sorely needed at this time.

Several others have joined us on the floor this morning to talk about the looming crisis caused by the short-term effects of high interest rates. At this time, I yield 10 minutes to the distinguished former chairman of the Committee on Banking, Housing, and Urban Affairs, the Senator from Wisconsin (Mr. PROXMIRE), for his comments.

Mr. PROXMIRE. Mr. President, I thank my good friend from Oklahoma, and I congratulate him on organizing this opportunity for us to speak out on high interest rates, with respect to the devastating effect they are having on industry and employment in this country and what we can do about it.

Also, I compliment the Senator from Texas. I endorse every word he has uttered this morning. He is right.

We have had a number of chairmen of the Joint Economic Committee since that committee was established some 30 years ago, including the distinguished Paul Douglas, who was probably the most eminent economist to serve in the Senate; but nobody has made more contribution to economic understanding and cooperation in the Senate than has Senator BENTSEN. For the first time in the history of that committee, both the Republican and Democratic members of the committee have agreed on policies for this country, under the leadership of the distinguished Senator from Texas. What he is doing this morning is carrying through on that excellent beginning and that excellent tradition.

Mr. BENTSEN. I thank the distinguished Senator from Wisconsin. As chairman of that committee, he built a very good base for what I was able to do.

Mr. PROXMIRE. I thank the Senator.

Mr. President, the Senator from Texas has already made the powerful case that high interest rates are having an appalling effect on housing, on the automobile industry, on the small businessman, and on the farmer throughout this country.

I should like to speak briefly, in the first place, about why we have to concentrate on this particular area. We know there are many reasons for the high interest rates, but some of them are extremely stubborn and hard to get at and will take years to overcome.

In the first place, there are huge Federal deficits and increased Federal borrowing which is a big element in causing high interest rates. The fact is the Federal Government borrows a trillion dollars a year. Because we have a trillion-dollar national debt with a maturity that averages less than a year, so that trillion has to be borrowed over again every year.

In the second place, that deficit has been increasing every year sharply. As we know, in 1980, we had an enormous increase in the national debt. Of every $100 of additional savings we achieved in our economy in 1980, $17 of that was absorbed by additional Federal borrowing because of the deficit.

That was only the beginning of it because the off-budget borrowing by the Federal Government represented another enormous amount. In total, the Federal Government increased their borrowing by some $124 billion; so $35 out of every $100 of new savings was borrowed by the Federal Government.

The result of that, of course, was that of all the new savings provided by individual citizens and corporations, and so forth, in this country, the individual borrower, the private borrower in the private sector was able to borrow only $65 of that $100.

In the event we balance the budget, in the event we have no net increase in off-budget borrowing, there would be a 50-percent increase in the funds available for the private sector borrower to borrow. There is no question that interest rates would be lower, much lower. My estimate is that the Federal Government itself would find interest rates so much lower that we could save $25 billion in service costs on the national debt, but that is only part of it.

The most important part, of course, is that in the private sector the home buyer instead of having to pay an average of 15 percent, a disgracefully high interest rate on his mortgage, could borrow at around 10 percent and in the private sector instead of having a prime rate of 20 percent it would be probably half that and maybe even less. All this would flow from a balanced budget and no increase in net off-budget borrowing.

So we certainly have to recognize that the Federal Government itself must reform these policies. Unfortunately, we are not going to do that this year and probably not next year. Some of us, but unfortunately far from a majority of us, would adopt these policies right now, this year, cold turkey.

I introduced amendments to balance the budget in 1979, 1980, and 1981. These all lost. So this fiscal situation will not improve for some time.

In the second place, we have restrictions that discourage savings, restrictions that are imposed by the Federal Government that prohibit, makes it a crime for a commercial bank or a savings and loan association to pay more than something like 5¾-percent interest to people who put their money in a savings account and save it.

We did change the law last year. We phased out that restriction, but we phased it out over a period of 6 years. That is not going to increase savings very fast. So if we are going to get action we have to take the kind of action the distinguished Senator from Oklahoma, the distinguished Senator from Missouri (Mr. DANFORTH) and others have advocated, and that is to provide a tax incentive for savers to save money.

There are a number of interesting and effective proposals that have been made. One has been made by the distinguished Dr. Thorow of Columbia University, a brilliant young economist, who proposes that we exempt from income taxation that portion of people's income that they save up to a certain point, maybe $5,000, maybe $10,000. As Dr. Thorow points out this would have an immediate and dramatic effect in increasing savings. What a reward. It would mean if you made $30,000 and saved $10,000 of that that $10,000 would not be taxed until you spent it, and that is the kind of incentive that we should provide.

However, we have to work with what we have and we have several very excellent proposals before us.

There is one, for example, by the distinguished Senator from Missouri which is cosponsored by a number of other Senators including this Senator. This is called a survival bill for thrift institution. It is not a direct housing bill. But it does help housing by keeping the thrifts that finance housing viable.

By allowing tax-free treatment up to $2,000 for couples on 1-year certificates paying 70 percent of the Treasury bill rate, this bill lowers thrift cost of funds substantially and basically increases the present tax-free treatment to savers from $400 which it is now to $2,000 for 1 year.

Now it is a particularly helpful bill because it targets that savings toward an industry which, as the Senator from Texas pointed out, needs it urgently, and that is the housing industry. At the same time it is broader than some other measures.

Commercial banks, most of which are not housing oriented, will be able to offer the certificates also, but money market funds will not be able to do so.

As the Senator from Texas pointed out, the commercial banks traditionally have been making housing loans but got out of them lately, and this would greatly help to get them back into it.

Because of their close identification as depository institutions, commercial banks would not be left out of a program such as this. The flow of funds out of insured institutions to money market funds will abate with this legislation.

There is no question in my mind that if we can enact a bill like the Danforth bill or another excellent bill the distinguished Senator from Oklahoma proposed, the Boren bill, it will help and help substantially and help now.

What we need, Mr. President, as I pointed out, is certainly a long-term policy of balancing this budget, however painful this may be, getting the Federal Government out of the credit market, however difficult it may be, and at the same time we need to act now. We need to act this year. We need to prevent a situation, that finds us with a pathetic 1.1 million housing starts this year, and consequently enormous unemployment in this industry. Many fine, able, efficient homebuilders are falling out of the industry and cannot be replaced. We need to stabilize that industry, and this kind of legislation would do it.

Mr. President, I thank my good friend from Oklahoma very much and congratulate him on his leadership on this matter.

As a former chairman of the Committee on Banking, Housing, and Urban Affairs, I can tell him that this is something that our committee will look at very closely and try to supplement in any way we can, and I can tell him also that on the basis of the hearings we had on the thrift industry, the savings and loans urgently need this kind of assistance. They are not going to fail. People do not have to worry about losing their money. But we are going to cripple the housing industry unless we give them the kind of assistance that the Senator from Oklahoma proposes.

The PRESIDING OFFICER (Mr. MATTINGLY). The Senator from Oklahoma.

Mr. BOREN. Mr. President, I thank my distinguished colleague from Wisconsin for his contribution to this discussion and his concern. He certainly is correct in pointing out the problems that we have that are caused by high Government spending, how it impacts the interest rate as the Government comes into the credit market, as he has already pointed out.

I just picked up the figures for this year. The Federal Government this year will pay $64.6 billion in interest, up 23 percent from the prior year. To put this into perspective, we are spending on interest on the national debt alone this year 56 percent of the amount of the total defense budget of this country; 56 percent of the amount of the total defense budget is being paid on interest. If interest rates on a 3¾ year U.S. Government security remain at their current level of 12.5 percent, it will be costing us approximately $120 billion a year to service the national debt of this country.

So it is a very serious problem that has caused Government to compete in the credit market forcing up interest rates for others, as Senator PROXMIRE has pointed out, and this, of course, has plunged the construction industry into a deep depression. It has caused the number of bankruptcies in the construction industry to reach an all-time high, the highest since the great depression.

Mr. President, we have been joined in the Chamber by the distinguished Senator from Tennessee (Mr. SASSER) who as our colleagues will remember has come to this Chamber again and again to talk about the problems caused by high interest rates, the threat that high interest rates pose to the economic health of this country.

No single Member of this body has done as much to alert all of the Members of Congress and the people of the country to the dangers posed by short term high interest rates, and at this time I yield such time as he needs to the Senator from Tennessee.

Mr. SASSER. Mr. President, I thank the Senator from Oklahoma for yielding to me, and I wish to take this opportunity to commend him for the leadership that he has shown this morning in putting together what I think is a very productive dialog, focusing hopefully the attention not only of this body but also the attention of the administration and the attention of the country on the damage that the erroneous high interest rate policy is wreaking on our economy.

I am pleased to join with my democratic colleagues to call the attention of the American public to what is happening to our economy as a result of what I consider to be highly erroneous high interest rate economic policies being pursued by the Federal Reserve Board, among others.

I have spoken out early and often on this subject, and I have been a constant critic of the high-interest rate policy. I did not believe that the policy of high interest rates would work when first adopted by the Federal Reserve Board in October 1979, and I still do not believe that high interest rates will lead us on the road to economic recovery. On the contrary, I submit that they ultimately will lead us down the road of economic ruin.

I have attempted to speak out against high interest rates in a number of ways. I held the first Senate Budget Committee hearing on the economic impact of high interest rates back in November of 1979. At that time I must say I felt like somewhat of a lonely voice in the wilderness. The economists were telling me that high interest rates were not inflationary, that the interest rates, at that time going up into the range of 14 percent, were necessary to cool off an overheated economy.

Well, Mr. President, it certainly cooled off an overheated economy and led us directly into the recession of 1980.

In April of 1980 I released a Congressional Research Service study which detailed the lack of agricultural representation on the Federal Reserve Board and on the Board's regional banks, which further highlighted my concern about the Board's need to be more diverse and have more practical views about the interest rate situation.

In late 1980 I offered a specific resolution, with a number of other Democratic colleagues, ordering an immediate congressional study of high interest rates.

I reintroduced that resolution on the very first day of the 97th Congress, along with the cosponsorship of several of my Democratic colleagues.

The Senate debated a modified form of this interest rate resolution on May 13 and, Mr. President, we rejected this resolution, unfortunately, by a vote of 57 to 37, on an almost straight party line vote.

Well, Mr. President, as one Senator I am not prepared to give up in this fight against high interest rates. The people of my State have urged me on in an effort to overturn the current policies of high interest rates and tight money, and I intend to continue in that fight until we reach the day when we abandon economic policies that are based on high interest rates and all the economic suffering that they entail.

Well, some have contended that high interest rates and tight money will hold down inflation. Unfortunately, the facts show otherwise. When high interest rate policies were fully unveiled by the Federal Reserve Board of October of 1979, the inflation rate was running at 12 percent. In the last 19 months since October of 1979 the annual inflation rate has run at 12 percent or more. In 12 of those months we have pursued high interest rate policies, and the prime rate has exceeded 20 percent on separate occasions during that time.

Mr. President, I ask unanimous consent that an accompanying table showing that tight money policy has done little to dampen down our inflationary fires be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

PRIME RATE AND CONSUMER PRICE INDEX RELATIONSHIPS, OCTOBER 1979 TO APRIL 1981

[In percent]

Date	Prime lending rate (average rate)	Consumer price index (annualized average rates of increase)
1979:		
October	14.25	12.0
November	15.38	12.0
December	15.38	14.4
1980:		
January	15.25	16.8
February	15.50	16.8
March	18.13	16.8
April	19.50	10.8
May	16.25	10.8
June	13.00	12.0
July	11.50	0
August	11.25	8.4
September	12.75	12.0
October	13.75	12.0
November	16.25	13.2
December	20.00	12.0
1981:		
January	20.75	8.4
February	19.50	12.0
March	18.25	7.2
April	17.75	4.8

Mr. SASSER. Well, what have high interest rates done to the economy? They have literally devastated the housing industry. They have crippled the automobile industry—10 percent of the automobile dealers in this country went bankrupt last year.

They have held down long-term-business investment and contributed to the record business failure rate in this country.

High interest rates have created a massive crisis of confidence in our savings and loan industry.

Let me spend just a few moments noting some of the gruesome statistics that attest to the economic damage of high-cost credit.

Average housing prices have risen to a record $84,000 due to a depressed housing industry.

Mortgage rates run at about 16 percent all around the Nation, and only about 2 to 4 percent of the American homebuying public can afford to buy a home.

The depression in the housing industry means that we produce slightly over 1 million units of housing a year, 1.2 million units of housing less than we need.

What this means is that we are going to have a pent-up housing demand in the years ahead that will sow the seeds of future housing inflation, and also deprive many of our younger Americans of fulfilling the dream of owning their own home.

Just this past month housing starts dropped by 14 percent. Housing inventories are reaching record levels, and as much as one-third of the Nation's homebuilding force may have left the field.

We are witnessing the dismantling of the housing industry in this country, piece by piece, without any great concern by the Federal Reserve Board or apparently by the Reagan administration.

Consider, if you will, the economic loss entailed by this policy. If we could bring interest rates down by 3 or 4 points, we could easily produce 600,000 additional housing units. The building of these houses would result in 860 million man-years of construction activity, and the economic activity produced by this homebuilding would shave some $7 billion off the budget deficit.

The carnage of high interest rates in other parts of the economy is equally disconcerning. The savings and loan industry which is intimately tied to the homebuilding industry is teetering on the verge of economic collapse as a result of high interest rates.

In the first quarter of 1980, these institutions recorded a loss of some $900 million. And Alan Greenspan, former chairman of the Council of Economic Advisers indicates that overall losses for this industry may total $5.5 billion in 1981 and reach some $7 billion in 1982. And these figures represent earnings losses; actual outflows reached a record high in April of this year: $4.6 billion. During all of 1980, outflows equaled $28 billion.

In short, everywhere we look, we find that high interest rates have caused economic distress in some very key sectors of our economy, we simply cannot permit that to continue.

HIGH INTEREST RATES AND ECONOMIC RECOVERY

Stubborn adherence to a tight money policy is also hurting our chances for economic recovery as well.

Both the Brookings Institution and the Congressional Budget Office have indicated that the current tight money policy of the Federal Reserve Board may only permit a nominal growth of gross national product (GNP) of about 10 percent in the years ahead.

But, consider the economic projections of the Reagan administration, they project a GNP growth rate of 11.1 percent this year, 12.8 percent in 1982, 12.4 percent in 1983, and 10.8 percent in 1984.

Thus, there is a conflict between the administration's fiscal policy and its monetary policy. And if the CBO and Brookings Institution are right in their projections, the current monetary policy will produce a gross national product shortfall of some $590 billion between now and 1984. And if inflation runs at a level of 10 percent, we will have no real growth in GNP at all.

I ask unanimous consent to have printed in the RECORD a table showing comparative 1981–84 GNP growth rate projections.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

1981–84 GNP GROWTH RATES—ADMINISTRATION AND CONGRESSIONAL BUDGET OFFICE (CBO) ASSUMPTIONS COMPARED

[In billions of dollars]

Year	Administration GNP projection	CBO GNP projection [1]	Difference
1980	2,629	2,629	0
1981	2,920	2,892	−28
1982	3,293	3,181	−111
1983	3,700	3,499	−201
1984	4,098	3,849	−249
Cumulative difference, 1981–84			−589

[1] Assumes monetary targets of the Federal Reserve Board will permit an annual nominal GNP growth rate of 10 percent per year.

Mr. SASSER. Also if the administration's interest rate projections are off, Federal Government interest payments will be $45 billion more than the administration projects between now and 1983. Both these facts indicate how hard it will be for the administration to hold down budget deficits, if it continues to back current high interest rate policies.

Business recovery is especially hurt by high interest rates and tight credit. It used to be that there was about a two- or three-point spread between the rate of inflation and the prime rate. On the basis of such a relationship and due to the fact that prime rates were relatively stable in the past, American businessmen could make stable long-term investment decisions.

But what do we find now? The average prime rate has been below 14 percent in only 5 of the 19 months since our high interest rate policies have been in effect. And during that time we find that the spread between the prime rate and the rate of inflation as measured by the changes in the Consumer Price Index has ranged from 1 percent in October of 1980 to a whopping 12 percent in April of 1981.

There is no stable relationship between the prime rate and the rate of inflation. And the business community has reacted predictably. They have bid up interest rates since they never know from 1 day to the next what the prime rate will be.

That, Mr. President is no way to run this economy.

TURNING AWAY FROM HIGH INTEREST RATES

Mr. President, we can turn away from high interest rates in a number of ways.

We can have immediate passage of tax legislation that will provide for more savings incentives that will help put back much-needed capital into the housing industry and into our savings and loan institutions.

We can encourage policies that will move us to a balanced budget as soon as possible, thereby taking fiscal pressure off our financial markets and doing away with the fear that continued budget deficits will lead to high interest rates.

But, in the final analysis we must keep a constant spotlight on the economic damage that high interest rates are doing to our economy. I have done this with my interest rate resolution which we debated in the Senate on May 13. We are taking similar action by the floor statements we are making here today.

But in the final analysis, the Congress must point the way in taking appropriate legislative action and urging the Reagan administration and the Federal Reserve Board to turn away from a reliance on a high interest rate policy to cure our economic ills.

Such a policy simply will not work and the American people know it.

Mr. BOREN. Mr. President, I again thank the Senator from Tennessee not only for his remarks this morning but also for the constant vigilance he has shown about the danger to our economy and economic health of this country posed by high interest rates.

He has truly been a leader in calling the attention of the country to this problem. I want to thank him again for joining us this morning.

At this time I want to yield to another Senator who has raised his voice many times and who has offered constructive suggestions to help bring down the interest rates in critical areas in this country, the Senator from Montana (Mr. MELCHER), and I yield to him at this time as much time as he requires.

Mr. MELCHER. I thank my friend from Oklahoma. I want to compliment him on arranging for this forum on the Senate floor to discuss this most important issue.

Mr. President, I am concerned that high interest rates are the single greatest economic problem this country faces today, and I hope that our discussion serves to focus the attention on this problem that it truly deserves.

High interest rates cause economic damage:

They increase unemployment, reduce Government revenue, and increase the cost of Federal programs, and State and local projects, including public schools.

Interest payments on the Federal debt, the fastest rising item in the Federal budget, contribute to the deficit and divert funds needed for other vital programs.

Exorbitant interest rates have created a depression in the housing industry. In housing, high interest rates contribute to a triple dose of inflationary pressure—through a housing shortage that drives up prices and rents; through higher purchase prices reflecting the added cost of interest on the construction loans; and through higher monthly payments and rents for the life of the mortgage. That means young families are deprived of the opportunity to buy a home for themselves.

High interest rates have caused chaos in the livestock feeding industry—particularly cattle.

Needed investment in modernization of American industry is shortchanged as businesses are confronted by 20-plus percent interest rates. Productivity improvements are postponed, perpetuating higher unit costs and impairing the ability of American industry to compete.

High interest rates contribute to higher food prices and the sharp increase in farm bankruptcies.

Most of the discussion so far has related to the current plight of the housing industry. This is no accident. Housing and related industries like forest products are being ravaged by the Federal Reserve Board's policy of creating artificially high interest rates.

I just returned, late last night, from western Montana, the heart of my State's forest products industry. While I was there, I had the opportunity to talk directly to Montana's loggers and others in the forest products industry. The truth is that the forest products industry is on thin ice economically. If high interest rates continue for 2 more months, the forest products industry will be gradually closing down operations because lumber is not selling.

Forest products were not the only sector of the economy that I saw in trouble. Agriculture is also being hit hard. The combination of poor prices and high interest rates is causing tremendous losses for farmers and ranchers. For example, in the cattle industry, 20,000 ranchers and feedlot operators went out of business last year alone.

I believe that President Reagan must become concerned about the high interest rate policies of the Federal Reserve Board. Chairman Volcker's policies threaten the very heart of President Reagan's plan for economic recovery. Everything we have done so far in Congress to implement the President's economic recovery program, and everything we may do in the future, will be nullified unless interest rates are brought down—and brought down right now.

When interviewed about interest rates recently, Secretary of the Treasury Regan said that they were likely to stay in the 20-percent and above range for many months. He went on to say that such high rates were a medicine and that, while the medicine may not taste good, he was sure that it would improve the health of the patient. And the patient he is talking about is the economic body of this country, the collection of all industries, all businesses, all citizens, big and small.

As a former practicing veterinarian, let me assure my colleagues and assure the Secretary of the Treasury that it is not so simple as to just say, "Well, it is tough medicine to swallow." If you prescribe the wrong medicine or too much of it, or administer it in the wrong manner, the patient may well die rather than be cured.

I believe that is just what is happening to many segments of our economy as a result of the medicine of high interest rates.

Let me applaud the efforts that Senator BOREN, the Democratic leader, and other of my colleagues are making to get the word out about the damage high interest rates are causing.

I am convinced that this is the only way to get action on this problem. That is also why I am launching a series of public forums, starting this Thursday, to document the impact of high interest rates on various sectors of the economy. I am being joined in this effort by Senators BOREN, PRYOR, SASSER, and ZORINSKY.

The first of these public forums will focus on the impact high interest rates are having on agriculture. We will receive testimony from all of the major farm organizations, rural banking interests, the Farm Credit Administration and the Department of Agriculture. Hopefully, we can shed some new light on just what interest rates are doing to the agricultural economy.

I also plan to hold public forums throughout the summer on what interest rates are doing to other sectors of the economy, such as housing, automobiles, and the steel, copper, and other metals industries.

There is much more that could and needs to be told in this story of high interest rates.

I will conclude by pointing out that the Washington Post editorial last Sunday repeats what many of us have been saying for the past 3 years. The editorial said that relying on high interest rate policies to control inflation will result in a dismaying amount of economic wreckage along the way to that goal.

I believe there are better ways to reach the goal we all seek of controlling inflation, and I believe we must put an end to high interest rate policies within the next 60 days.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, I yield to the distinguished Senator from Nebraska, Mr. Exon.

Mr. EXON. Mr. President, I thank my colleague for yielding.

Mr. President, today we have two extremely important items before us on the floor of the U.S. Senate.

One item is the reconciliation bill, which will help hold down Government spending over the next few years. Passage of the reconciliation bill will lower the profile of the Federal Government in our economy, and we hope it will result in lower Federal deficits, lower inflation, and lower interest rates.

The second item before us is interest rates themselves. It is appropriate that we talk about interest rates and Government spending simultaneously, since the two matters are obviously related. But it is entirely possible that high interest rates will do so much damage to our economy that it may never fully recover to enjoy the benefits of fiscal restraint in spending.

We are living in dangerous times economically. The prime interest rate has reached three unprecedented peaks in the last 15 months. The first peak was reached at 20 percent in early April of 1980, after which it fell to 11 percent in July. Thereafter, interest rates rose again until December when the prime rate reached 21.5 percent, after which it declined to 17 percent this past April. Since the middle of April, we have seen several increases in the prime rate, and it is uncertain where we are headed from this moment forward. The optimism of the past 2 weeks was broken a few days ago with the fluctuations in the Federal funds rate and only yesterday large banks went back up to 20 percent in the prime.

Mr. President, I ask unanimous consent that timely articles from the New York Times of June 10, 1981, and from the Washington Post of this morning be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. Even the most casual observer must notice a very dangerous pattern in these interest rate fluctuations: The peaks in the prime rate are coming more frequently, and even the bottoms of the interest rate troughs are progressively higher. Indeed, it is most difficult to think of a 17-percent prime interest rate as a valley instead of as a mountain.

Further, the Federal Reserve Board does not have a good record in controlling monetary growth during 1980 and 1981. The variations in the money supply compared to the Federal Reserve targets have contributed to the general financial instability.

Yet, the prevailing national mood seems to be optimistic. The administration assures us that inflation and interest rates will go down. Little mention is made of the fact that the administration itself has significantly adjusted its optimistic schedule for these predicted reductions. Adding to our optimism, some sectors of our economy can pass along high interest rates as just another cost of doing business, and unprecedented and unforeseen buying demand on the part of the public has sustained parts of the economy and even produced surprising real economic growth. Too little

notice has been taken of those sectors of our economy which cannot pass along the costs of high interest rates. Although some businesses are able to accommodate themselves to each new interest rate peak, many farmers and small businessmen throughout the country are on the verge of ruin.

Other industries, such as the housing industry and savings and loan associations, are in trouble because they are structured on the premise that short-term interest rates will be lower than long-term interest rates. Our country's current attitude, that we can live with high interest rates in the short term, but that they will surely subside in the future, is a condition in which these industries simply cannot survive.

So it is appropriate that we interrupt our proceedings on the reconciliation bill, Mr. President, in order to focus attention on high interest rates and the damage they are doing to untold businesses and lives throughout our country. We must take heed of the danger signs that are so apparent, but which seem to escape our attention. With each new peak in interest rates, we conclude the worst is over and that we have some new magic policy which will right our economic ship of state for future smooth sailing on an everlasting even keel. Whether it is suggestions of credit controls, lower money supply targets, or the administration's current fiscal strategy, we are blinded to the dangers of the future by each new promise of the present.

The initiatives of the Finance Committee of yesterday are encouraging. I am concerned that the administration seems to be taking a less than leadership role in this crisis. However well-intended, their actions have convinced none but themselves that whistling in the dark in self-assurance is the answer.

Mr. President, today we could well be near a turning point in the economic history of our Nation. I believe it is time for us to admit that many segments of our economy are already in a state of crisis, and our country could be dangerously close to the edge of hyperinflation and a crisis of confidence in our financial institutions. I am, therefore, pleased to join with my colleagues in alerting the Senate and the country to both the reality of the damage already done by high interest rates and to the even greater danger that could lie ahead.

I am not as sure as some who maintain that a little faith will heal it all. The administration had best begin addressing the confiscatory interest rates as a major crisis now and should be today giving priority consideration as to what the White House might do in assisting the Congress in this effort.

EXHIBIT 1

[From the New York Times, June 10, 1981]

SAVINGS UNITS: PRESSURE GROWS

(By Leonard Silk)

The nation's savings and loan associations and other thrift institutions are facing a serious threat to their survival. Unless interest rates come down sharply—and stay down—in the coming year, hundreds of thrift institutions will either have to be rescued by the Federal Government or allowed to go under.

Insured thrift institutions lost an estimated $900 million during this year's first quarter, as a result of the necessity of paying very high interest rates to attract or hold money on deposit, while receiving the bulk of their income from long-term mortgage loans made at far lower rates.

Nevertheless, money has been pouring out of the thrift institutions into other higher-paying assets, such as money market funds. During April, the savings and loans lost a record $4.6 billion in net deposits, which came on top of outflows of $2.1 billion in March. While savings bank deposits and their certificates of deposit are insured up to $100,000, some depositors were apparently nervous about getting paid off promptly in case of failure, and some holders of uninsured deposits or "jumbo" C.D.'s of more than $100,000 may have moved their funds in quest not just of higher yields but of greater security.

More serious losses lie ahead for the thrift industry unless interest rates come down a lot more than they have so far. Alan Greenspan, chairman of the Council of Economic Advisers under former President Gerald R. Ford and an adviser to President Reagan, believes that the thrift industry is facing the worst losses in its history.

In a fresh analysis, Mr. Greenspan's economic consultant firm, Townsend-Greenspan Inc., concludes that even if interest rates recede to their April 1981 levels, about one percentage point below where they are now, total pretax losses of the savings institutions would keep rising, from $900 million in the first quarter to $1.9 billion in this year's final quarter, with prospective losses totaling $5.5 billion in 1981 and $7 billion in 1982.

That sounds bad enough, and would mean failure for scores of institutions. But if money market rates climb still higher in the coming year, the losses of the thrift units, Mr. Greenspan warns, "would escalate to truly horrendous proportions."

Nine out of 10 savings and loans, he says, are currently in the red on income account, though only a few have run out of book equity. However, that number is likely to increase rapidly in the months immediately ahead.

If thrift institutions had to liquidate their existing assets at current market values, only a few would have any equity left. The Federal Savings and Loan Insurance Corporation estimates the book value of the savings and loans' total assets at $600 billion, of which five-sixths consists of mortgages. Townsend-Greenspan estimates that their $500 billion mortgage portfolio, if sold at market, would produce a book loss of $100 billion.

Adjusting savings and loan balance sheets to current values would reduce the thrift industry's net worth from a current book level of $31 billion to a market deficit of approximately $70 billion.

On the extreme assumption that the industry had to liquidate its mortgage portfolio at current values, it would thus be $70 billion short of covering its liabilities. Of that amount, some $20 billion in liabilities is not insured by the Federal Savings and Loan Insurance Corporation. Whatever the legalities, it seems virtually certain that the United States Treasury would make good on the insurance of deposits up to $100,000. That now means the Treasury's contingent liability is approximately $50 billion—plus another $5 billion to cover losses at mutual savings banks.

The best hope for avoiding such a drain on the Treasury would be a decline in interest rates, which would remedy the thrift institutions' imbalance between asset and liability maturities and income flows. A 3.5 percentage point decline from the current level of rates would, according to the Greenspan estimate, wipe out the current deficit and put the thrift industry overall back on a break-even status.

If the Administration pursues a fiscal policy that is excessively stimulative and keeps pressure on the Federal Reserve to control inflation basically by tightening the money supply, interest rates are likely to stay high and volatile, exacerbating the dangers to the savings and loans and mutual savings banks. The Administration would then, in all likelihood, be driven to employ one or another rescue device, such as the issuance of "letters of credit" for obtaining loans from the Treasury, or Federal warehousing of lower-yielding mortgages, to shore up the thrift industry.

The Reagan Administration is not eager to face up to the very real dangers confronting the savings industry; it is loath to undertake a huge rescue operation, and instead is looking for gimmicks and escape devices. These would require the ingenuity of a financial Harry Houdini, and none may exist. If interest rates stay high or move higher, a Federal bailout of enormous size may be needed to provide time for the restructuring of the thrift industry, and to hold down the damages to depositors.

The fundamental cure—lower inflation and lower interest rates—is the preferred solution, but it needs to come reasonably soon.

[From the Washington Post, June 23, 1981]

TWO BANKS RAISE PRIME RATE BACK TO 20 PERCENT

(By James L. Rowe, Jr.)

NEW YORK, June 22.—Amid a blizzard of official predictions that interest rates soon will decline, two large banks raised their prime lending rate back to 20 percent, joining most other major lending institutions, which never lowered the rate.

Citibank, New York's largest, and Chemical Bank, also of New York, raised the key business lending rate because of a sharp jump last week in the so-called federal funds rate, the interest banks charge each other for overnight loans of excess reserves and a rate that largely can be controlled by the Federal Reserve, the nation's central bank.

Even as Citibank and Chemical Bank were raising their prime lending rates, Vice President George Bush, Treasury Secretary Donald Regan and Federal Reserve Vice Chairman Frederick Schultz predicted that the near-record interest rates will decline.

Regan said that the Federal Reserve is in the process of getting the growth of the money supply "under control," and that more stable money growth will result in lower rates. He would not say how extensive the decline would be, however, in an appearance before an American Stock Exchange conference in Washington.

Bush, however, at the same conference, said high interest rates will "come down rapidly" as soon as the public recognizes that President Reagan is "determined to grab control of the budget and of the deficit."

As if to vindicate the official predictions, short-term interest rates in the so-called open market—where banks and businesses alike raise funds—declined today.

The federal funds rate, which rose as high as 21 percent last week and started today in the 19¾ percent range, dropped back to about 18¼ percent late this afternoon, according to Thomas Kane of the Bank of New York. The decline was helped by the Federal Reserve itself, which at 11:45 a.m. injected funds into the banking system. To

inject funds into the system, increasing the ability of banks to make loans, the central bank buys government securities. When it wants to restrict the amount of lendable funds, the Fed sells securities.

Other short-term rates fell, too. The rate on one-month certificates of deposit declined from about 18:50 percent Friday to 18.15 percent today, according to K n, and the rates on six-month certificates fell from around 16.45 percent to 16.10 percent. Certificates of deposit are a major source of funds for big banks.

"Citibank and Chemical were a little premature with their prime-rate cuts," said an official of a major bank that did not cut its prime rate. Chemical last week cut its key business lending rate to 19 percent, then edged back to 20 percent in two steps.

The prime rate is the interest charge on which banks base most of their lending to businesses. Big, credit-worthy companies that need funds for a short time often pay less than the prime rate, while smaller or less credit-worthy companies often pay more.

Leif Olsen, chief economist at Citibank, said sharp increases in interest rates last Wednesday and Thursday impelled the nation's second biggest bank to return to the 20 percent level.

Interest rates have been raised and lowered for the last year, principally because of the Federal Reserve's concentration on controlling the growth of the money supply (essentially checking accounts and cash) rather than interest rates.

The Fed's Schultz, who also spoke at the Amex conference, said interest rates should become less volatile as economic policies of the Fed and the Reagan administration begin to reduce inflation.

Mr. BOREN. Mr. President, I thank my colleague from Nebraska. I only hope the administration and the country will heed the remarks he has presented this morning.

Mr. President, I yield such time as he might require to the distinguished Senator from the State of Washington, Senator JACKSON, who, for many, many months, has been discussing with all who would listen to him the problems caused by high interest rates and the critical threat to areas of our economy.

Mr. JACKSON. Mr. President, I thank my good friend from Oklahoma for his generous remarks.

INTEREST RATES AND THE TAX BILL: HELP FOR THRIFTS AND HOUSING

The United States is suffering from the worst inflation in history.

As a result, interest rates are at unprecedented high levels.

Main Street America—business, farmers, thrift institutions, the housing and automobile industries—cannot cope much longer. Indeed, for millions of Americans it is not a matter of coping any longer. They are out of business or out of work.

I believe the American people find it absolutely outrageous that the administration is offering the most massive tax cut measure in our history and it does not contain a single provision addressing the most fundamental economic problem in this country today.

And that is the problem of high interest rates.

What does the administration's tax bill do to address these urgent issues? Nothing.

There are no incentives to save, there are no provisions to bring down interest rates, and there is no help to the ailing housing industry.

Mr. President, the thousands of thrift institutions in this Nation—the savings and loans, mutual savings banks, and credit unions—where individuals save for their future and loans are made for houses and consumer goods, are on the ropes.

They are experiencing unprecedented losses:

Through April of this year, savings institutions lost $1 billion. One estimate indicates 90 percent of all S. & L.'s are now losing money.

More than 260 S. & L.'s are under special watch by regulatory agencies because of their uncertain financial situation. One-third of the 4,500 savings and loans will be merged or out of business within 5 years, according to the estimate of one industry analyst.

In Washington State, which is typical of the problem nationwide, thrift institutions watched as $328 million in deposits was moved to better investments in just the first 4 months of this year.

The problem, simply stated, is that two-thirds of all home loans on the books of thrift institutions carry interest rates of 10 percent or less while they are having to pay 15 percent and more for new money.

Savings and loans are the only institution in America dedicated exclusively to home mortgages. Can it be any wonder why it is the housing industry is gasping for breath when the savings and loans have no pulse whatsoever?

It is very possible that if high interest rates continue, a large number of those institutions will fail. That would bring with it a great strain on the resources—to the tune of billions of dollars—of the Federal insurance corporations which support them.

Closely related to thrift institutions is the housing industry which is on its knees. Every study indicates we need at least 2 million new housing units each year to keep pace with demand and yet, last year, just 1.3 million units were built. Last month housing starts fell another 14 percent to an annual adjusted rate of only 1.1 million units.

The number of people out of work because of this slowdown exceeds 1 million and the lost economic activity last year alone topped $4.5 billion.

Mr. President, with today's high interest rates, the only people who can afford to buy decent housing are the ones already well-housed.

First-time home buyers—young families, minorities, and households headed by women—need an income in excess of $29,000 to buy a $50,000 home. I do not know where you find family housing priced at $50,000—but that is the figure they use.

The fact is that the average income in this country today is $21,000—far below what is necessary to buy even modest housing with today's inflation and interest rates.

The number of families waiting to buy housing is growing like a bubble waiting to burst.

It is a disgrace that we have millions of Americans in need and otherwise able to buy housing—and at the same time thousands of builders sidelined, though willing and able to build them houses.

And as housing goes, and to only a slightly smaller degree, as the auto industry goes, so goes the country.

The health of the housing industry affects not only construction workers—16.3 percent of whom were unemployed last month—but industry after industry and business after business.

Because housing is down we have seen the closing of major forest products plants and appliance factories in many parts of the country. The furniture business, textiles, hardware, glass, small lumber yards, tiling, synthetics, plumbing, and dozens of related industries rise or fall as the housing industry prospers or declines.

In my home State of Washington, I see vivid examples everywhere. Vacancy rates in many areas are well below 10 percent, yet apartment construction is off 31 percent from 1980, itself a bad year. Construction of single family housing in my State is down 14 percent from the disastrous year of 1980.

This is not a pretty picture, but it is one we can and must deal with.

There are several things that are important to do:

First, and foremost, we must work to get inflation under control. The Federal Reserve Board cannot do this alone.

The Federal Government is using fully half of the credit available today. Interest payments on the Federal deficit will exceed $100 billion this year.

We must reduce the deficit and the Federal Government's claims on credit so interest rates will fall, housing and related industries will recover, and confidence in our ability to manage the economy will be restored.

Second, we need to increase the savings rate so that there are sufficient funds for investment in new and expanded businesses and in housing.

Third, we need to take action to make sure that our thrift institutions remain solvent and vigorous, both to provide funds for housing and consumer needs but also to preserve this country's system of a large number of diffused and competing financial institutions.

This year Congress has made a gigantic effort to cut spending. This will help. But because of the size and nature of the proposed tax cuts, the budget will be hopelessly out of balance through fiscal year 1983.

The assumptions are so optimistic that the projected surplus for fiscal year 1984, when a $1 billion surplus was estimated, has no credulity. In the absence of major changes the Reagan administration can say "goodby" to a balanced budget during its term.

There are constructive things we can do:

First, a number of House Ways and Means Committee members are proposing that the 3-year, 30-percent tax cut proposal be scaled back.

This would help reduce the Federal deficit during the next 18 months and make the tax cut in the third year contingent upon meeting the optimistic inflation rate, interest rate, and growth rate projections on which the administration budget figures are based.

The point is that we would have to earn the third-year tax cut. In that year, the tax cut would be triggered to go into effect if, in fact, the economic projections were generally fulfilled.

If the supply-side economics work—as the administration so confidently—I believe overconfidently expects—then we would go forward with the third-year tax cut.

This approach makes good sense and I commend it to the Senate.

Second, it is essential that we include in the tax bill incentives to save, incentives which are targeted to increase the availability of mortgage money.

This is a glaring deficiency in the administration's tax proposal. There are no direct incentives to save. Instead they rely on the general proposition that a big tax cut skewed to the upper ends of the income scale will result in an increase in savings and investment.

Mr. President, with inflation raging, and the cost of food, clothing, housing, fuel, and utilities increasing each month, can anyone honestly believe the average American family is going to take the extra $5 or $10 a week, which they might expect from a general tax cut, and place it in a savings account earning interest several points below the rate of inflation?

That is what the supply-siders believe. Doonesbury's creator, Garry Trudeau, characterized it best when, with tongue-in-cheek, he did a cartoon strip showing what the tax cut would mean to an average family: a weekly trip to the local McDonald's.

Maybe he was being a bit optimistic of the benefits.

A number of sound proposals to provide savings incentives are being advanced in both the House and Senate. Any of them would provide help and attract investors back to the thrift institutions. The deposits would be put to work providing financing for housing, automobiles and consumer goods.

Among the proposals are:

Senator BOREN's bill to permit 3- and 5-year savings certificates with interest tax free. Savings and loans would have to earmark the deposits for new housing mortgages.

Senator BENTSEN's bill providing an exclusion from gross income for interest earned on savings deposits which are used by financial institutions for residential mortgage lending purposes. Another would allow special 1-year Treasury bill rate. Interest, up to $1,000 per individual or $2,000 for a couple filing jointly, would be tax exempt.

Another proposal would permit IRA-type accounts for families to save for a downpayment on their first home and to save money for the education of their children.

Senator MOYNIHAN is suggesting that the FDIC and the FSLIC take over old mortgages from thrift institutions for 3 years to give the industry time to recover.

Still other proposals would direct credit to the most urgent areas, such as housing and automobiles, by requiring large downpayments or other discouragements to lower priority purchases or investments.

The list goes on and on. There are more than 100 bills pending in the Congress to provide tax incentives for savings and investments. Their objective is basically the same: to increase the savings incentive, to put people back to work, to make credit affordable, and to build homes.

The tax bill must include some savings and investment incentives. To date, the only measure acceptable to the administration has been a simple extension of the existing exemption of $200 interest/dividend earnings for a single taxpayer and $400 for married taxpayers filing jointly.

The administration's status quo position fails to address the urgent and immediate needs of the thrift institutions, the home builders and buyers, the small saver, and related industries.

Surely, it is within the wisdom of both the House and Senate tax-writing committees—and the administration—to find ways to both spur savings and to help the thrift institutions without resorting to massive bailouts or a fundamental change in our diverse and competitive financial institutions.

The alternatives are very costly—financially and socially. They are also undesirable.

It could lead to the merger of thrift institutions over State lines, as some have proposed. We could end up, as in most other industrial nations, with only a handful of big banks—out of touch with local needs.

It could mean the concentration of financial power into the hands of those who would likely be unsympathetic to the plight of farmers, small businessmen and women, local industry, and Main Street in general.

I think we can do better.

Mr. President, an incentive for savings is long overdue. The need is great. The time to act is now, the vehicle is the proposed tax bill.

Mr. BOREN. Mr. President, I thank the Senator from Washington for his remarks this morning. He is certainly correct in saying that the administration has held back. Even the modest action of the Finance Committee of yesterday in providing for a 1-year program for tax-exempt savings certificates, only a 1-year program, in no way targeted to help housing in one of the most critically affected areas of the country, even that modest program brought an expression of opposition from the administration.

I think all of us have the right to ask how long are we going to let this go on, and how many more billions will have to be withdrawn from the thrift institutions—$28 billion last year, with over 250 on the troubled list. How long will that have to go on before we have action? Only 3 percent of the people of the country are able to qualify to buy new homes.

The housing industry, as the Senator has pointed out, is in desperate condition because of the high interest rate policy. How long will we have to wait?

It behooves all of us in the Congress—the White House is lagging behind—all of us in the Congress from both parties to take the lead and to bring the administration to realize the critical nature of the situation which we face.

I thank him for his remarks this morning and his contribution to our effort.

Mr. JACKSON. Mr. President, I thank the distinguished Senator from Oklahoma once again for his leadership, his drive and his determination to get a truly bipartisan effort going here when the tax bill is on the floor. I salute him.

(Mr. HATCH assumed the chair.)

Mr. BOREN. Mr. President, at this time I yield to the junior Senator from Illinois, Senator DIXON, who, since he came to this body the beginning of this year, has fully recognized the problems facing the people of the country in high interest rates. He came fresh from a recent election, being very close to the people during that period of time. He has brought his experience with him to this body and he is sharing that experience with us. I am pleased to yield at this time.

HIGH INTEREST RATES A PROBLEM

Mr. DIXON. Mr. President, the housing industry is in serious trouble. Nationally, housing starts are down approximately 300,000 units from last year's inadequate levels and over 700,000 units from 1978 levels. In some parts of Illinois, the situation is even worse: Housing starts are down to less than one-third of 1978 levels.

High interest rates have made it difficult for potential buyers to afford what little new housing is being built and have created problems for those trying to sell their homes. Mortgage rates are now approximately 15½ percent, a level that would have been considered unbelievable not very many years ago.

Rapid inflation and economic stagnation have combined over the last few years to drive up housing prices to levels that have forced many potential buyers out of the market.

Home ownership has always been a large part of the American dream. However, with housing prices up over 11 percent last year, that dream is fading for a rapidly increasing number of Americans. At the same time, the need for housing is rapidly increasing. With the post-war "baby boom" generation now in the market, we need to provide more housing, not less.

To solve the problems facing the housing industry will require action in a number of areas—including action by Government.

Even in an era of less Government, it is important to remember that Government has an important role to play in helping to create conditions under which private industry can supply the housing stock that is needed.

One of the chief problems facing the housing industry has been a shortage of mortgage funds caused by problems in the thrift industry, the savings and loans, mutual savings banks, and other depository institutions that supply mortgage funds.

Mr. President, as I am sure everyone is aware, the savings and loan industry is facing serious difficulties. Fully 40 to 60 percent of all S. & L.'s experienced operating losses in 1980. Further operating losses are expected for this year. More than half of their over $570 billion in loans are at fixed rates of 9½ percent or below, a problem for years to come if inflation continues unabated. Their share of new consumer savings has plunged to 13 percent in 1980, down from 52 percent in 1976.

The result of the growing capital formation problem was predictable—the thrifts' ability to meet the demand for mortgage funds declined sharply. The share of new residential mortgages provided by S. & L.'s declined from 43 percent in 1979 to an unprecedented low of 37 percent in 1980.

Other problems have contributed to the thrifts' current difficulties.

Regulatory reform is popular right now, and I support the elimination of unnecessary Federal regulation. Many S. & L.'s, however, seem to feel that deregulation has added to their problems and made it more difficult for them to supply necessary capital to the housing market.

Deregulation is designed to permit the thrift industry to evolve into "consumer banks." It gives them expanded power to compete against commercial banks. It permits them to offer new services, such as NOW accounts. To gain these advantages, though, they had to give up the protection of interest rate ceilings and their interest rate differential over banks.

Many savings and loans now argue that it was a bad bargain. One of the most difficult problems facing the Banking Committee, on which I serve, will be the question of how to mitigate the adverse impacts of deregulation on S. & L.'s without returning to the old regulatory scheme.

High interest rates, inflation, and expectations of future inflation have forced mortgage lenders to look to new types of financing mechanisms. It is becoming increasingly difficult to get a conventional mortgage at any interest rate. New financing concepts—variable-rate mortgages, wraparound mortgages, adjustable-rate mortgages with graduated payment features, price-level-adjusted mortgages, known as PLAM, and negative amortization schemes such as the "California Plan"—are getting increasingly serious attention.

They all have their place. They are all designed to meet the demands for housing capital in an inflationary era. They all share a disadvantage, however. They all serve to institutionalize inflationary expectations. They are not real solutions to the problems afflicting either the thrift industry or the private housing market in general. They are merely Bandaids, designed to cope with the symptoms, rather than the real underlying problems.

The problem all these exotic financing schemes are trying to cope with is the problem of high interest rates. Only when interest rates can be lowered, and stabilized at those lower levels, will the need for alternative financing schemes subside, thus returning some order to the housing market.

The Federal Reserve Board is attempting to deal with the problem by slowing the rate of monetary growth. Chairman Volcker, in testimony before the Senate Banking Committee, stated that the Board intended to reduce the targets for monetary growth rates by 0.5 percent. Now that sounds like a modest goal, and it is true that lower rates of monetary growth can lead to lower interest rates in the long run. In fact, there are those who argue that we should place almost total reliance on the Fed to reduce inflation and interest rates, through its control over the money supply.

I wish to express a few words of caution about that approach, however. First, Mr. President, it is important to note that the Federal Reserve's control of the money supply is not precise. In fact, the Fed missed its target last year, and that target was not a single number, but rather a range—3½ to 6 percent.

Second, if the Fed does hit the target for this year, the decline in the monetary growth rate would not be 0.5 percent, but could be as much as 2 full percentage points, or even more—a decline in the rate of monetary growth of more than 40 percent. Such a rapid decline could have severe adverse consequences for the housing industry as well as for the rest of the economy.

Mr. President, it is important to remember that, although the longrun effect of lower rates of growth in the money supply can be lower inflation rates and lower interest rates, the shortrun effect is likely to increase interest rates. As the lower rate of monetary growth chokes off the supply of credit, interest rates would have to climb to reduce credit demand. The housing industry is especially vulnerable in this area, and can ill afford further shocks. With the prime rate at 20 percent already, there is clearly no room for large increases in interest rates without severe further damage to the already traumatized housing industry and, indeed, to the whole economy.

What I am trying to suggest is not that restraint on the part of the Fed is undesirable, but that the Fed alone cannot reduce inflation and interest rates without unacceptable economic costs. Similarly, changes in the thrift industry's regulatory scheme cannot alone solve the thrifts' problems and restore stability to the Nation's housing markets.

Mr. President, it is worth noting that the thrifts are in trouble because they did precisely what they were chartered to do—lend long and borrow short. Economic instability and persistent inflation have combined to make that strategy—in years past the foundation for low-cost home financing—a sure recipe for financial disaster.

Deregulation and new kinds of mortgages will help. Monetary restraint on the part of the Fed will be of assistance, but is not alone a total solution to the thrifts' problems. Reducing inflation and interest rates requires the use of all available economic tools: Regulatory, monetary, and fiscal.

Mr. President, the Senate Finance Committee is currently marking up a tax bill based on President Reagan's proposal for an across-the-board tax cut of 25 percent over 3 years for individuals and an acceleration and simplification of depreciation for businesses. I support the President's objectives. I agree that the American economy needs a tax cut to help restore its former vitality. However, the administration's tax proposals are not without problems.

I am concerned that a 3-year across-the-board tax cut may be inflationary. I am particularly concerned, and I believe many other Members of the Senate and the House of Representatives share this concern, that the tax cuts are not targeted sufficiently toward increasing incentives for consumer savings. Provisions tailored toward creating additional necessary investment capital are needed to help minimize the tax bill's inflationary potential.

Mr. President, the administration's across-the-board approach may provide some assistance to the ailing thrift and housing industries over the long haul, but I am afraid that far too many thrifts may not survive long enough for that trickle down remedy to be effective. What is needed is a provision that will assist the thrifts in obtaining capital now—lower-cost capital that will ease their financial problems and permit them to begin to issue mortgages at lower rates.

What is needed is a provision tailored toward increasing consumer savings. Americans currently save less than residents of almost every other industrialized nation.

The link between savings and tax relief should be direct to maximize the savings potential of any tax measure. We cannot afford to merely hope that consumers will save part of any tax relief made available. We need to structure that relief to encourage them to do so.

Special relief should be targeted for the housing industry. Americans will save more if they are sure that their savings will assist them in obtaining a home. Homeownership is among the most important goals of most Americans. They now see that goal as slipping out of their reach. Nothing is more important than making it possible, once again, for ordinary Americans to own their own home.

The provision should be designed to help put downward pressure on interest rates. High interest rates, as I have already stated, have had terrible consequences for the thrift and housing industries. However, other segments of the economy, in particular small businesses, have also been hurt badly by continuing high interest rates.

Mr. President, I am a cosponsor of several measures with these objectives. I shall not attempt to describe them all

in detail. They are all well-thought-out proposals designed to meet some or all of the problems that I have discussed.

I believe that it is imperative that the tax bill that the Senate will soon consider contain a proposal designed to stimulate savings. I am pleased that the Finance Committee, in its meeting yesterday, has chosen to adopt such a proposal. While it does not meet all the objectives I have outlined, it does help insure that the Senate will have the opportunity to enact a tax bill that meets the objectives of encouraging savings, helping the thrift and housing industries, and putting downward pressure on interest rates.

Mr. President, I believe that any provision that meets these objectives will find broad support on the Senate floor. I am sure that it will also command wide support out in the country.

(The following occurred during the preceding remarks:)

The PRESIDING OFFICER (Mr. MATHIAS). The time of the Senator from Oklahoma under the special order has now expired.

Mr. BOREN. Mr. President, I discussed this with the majority representative on the floor a moment ago to see if I might be yielded 3 minutes out of the time given to the Senator from Maryland under the special order so that the Senator from Illinois might conclude and the Senator from Florida might be able briefly to express his feelings on the subject we are discussing. I ask unanimous consent that 3 minutes of the time previously set aside for the Senator from Maryland might be yielded me for that purpose.

The PRESIDING OFFICER. Without objection, 3 minutes from the time of the special order for the Senator from Maryland is allotted at this point to the Senator from Oklahoma.

(Conclusion of earlier proceedings.)

Mr. BOREN. I thank my colleague from Illinois for his remarks and for a very worthwhile addition to the discussion this morning.

Mr. President, I shall defer my own remarks, since we shall be speaking again in the morning on this problem and, hopefully, making a constructive contribution toward its solution.

At this time, I yield to my colleague from Florida (Mr. CHILES) who has been a leader in this effort to bring down short-term high interest rates. He is a person who has a vast knowledge and, I think, a very sound perspective on economic policy in this country. I yield the remaining time to the Senator from Florida.

Mr. CHILES. Mr. President, I thank the Senator from Oklahoma. I congratulate him on his efforts to put together this colloquy and this movement to try to see that we do something that will provide some savings for this country, will provide for housing for the country, and will also, at the same time, protect our thrift institutions.

Mr. President, I associate myself with the remarks of this distinguished Senator from Illinois, who, I think, made a very, very fine, constructive statement on this problem.

Mr. President, I rise today to express my concerns about key sectors of our economy that find themselves in difficult straits due to inflation and high interest rates. I am deeply concerned that this situation threatens to grow even worse unless this administration and this Congress take action in the near future to get a handle on inflation and to improve our ability to save and invest.

My concerns focus on two industries that are especially sensitive to these economic factors. I am speaking, of course, about the housing and thrift industries. The situation in these industries today is not irreversible but it certainly cannot be left unattended for any length of time.

The stakes we have in helping to solve their underlying economic ills are high. Riding on the outcome of the current situation is not only the health of many thrift institutions and the maintenance of a productive housing industry but also the belief in the long-held dream that Americans will be able to avail themselves of adequate housing at a reasonable cost.

The fact that these two industries are experiencing difficulty is well documented. The thrift industry for example is experiencing a serious outflow of funds. The reasons for this outflow are numerous but the bottom line is that in 1980 alone, thrifts lost some $28 billion in deposits.

With a substantial portion of their assets in low-yielding, long-term mortgages, thrifts are having difficulty making ends meet when their cost of funds, fueled by high interest rates, have soared.

This means that for the institution and the homebuyer alike, mortgage funds are drying up and what money is available for mortgage lending is prohibitively expensive. Regrettably, this situation has resulted in the merger of several ailing institutions and has placed over 200 others on a troubled institutions list.

It has also meant that thousands of prospective homebuyers are left out in the cold because they cannot afford current mortgage costs. If mortgage funds are scarce and rates are high, then trouble in the housing industry cannot be far behind. I am afraid this is exactly what has happened. I do not think there is any better illustration of this fact than the remarkable decline in housing starts over the last few years.

In 1979, for example, housing starts exceeded 2 million. In 1980 that number was down to 1.3 million and today the annual rate of housing starts is barely 1.15 million. It does not take a math major to figure out that this is a dramatic reduction in such a short period of time.

The fallout from this housing slump is widespread. Since the housing industry is heavily composed of small businesses, each relying on the other for work, there has been a substantial increase in unemployment. This can easily be seen by looking at such housing related industries as timer, cement, and furniture.

When times are bad for housing, they are bad for the other industries. Also, the decline in housing construction seriously threatens our ability to provide adequate housing in the years to come. I have heard it said that in order to insure adequate housing stocks in the next 10 years, we will have to build an average of 2.3 million units a year.

Certainly, continuation of the current levels for any length of time will leave us with a woefully inadequate housing supply in the next decade.

If this is the case, the cost of housing today will seem like a drop in the bucket to the next generation entering the housing market. Building up a shortfall of supply relative to demand can only mean higher prices and more inflation in the future.

In my view, before we can expect to see any long term changes in the condition of either industry we must make some fundamental changes in the way we manage our economy. The first thing we need to do is get inflation under control. To do this we must continue our efforts to reduce the Federal deficit, and apply a monetary policy that carefully limits growth in the money and credit supplies.

I applaud President Reagan's efforts to slash Federal spending and work toward a balanced budget in 1984. I have consistently supported the President in this effort and firmly believe that it is a critical first step to economic recovery.

However, I am concerned that he may have something akin to not being able to see the forest for the trees. He essentially has the right view of the forest but there is a big tree in the middle that is having some problems and needs some specific attention.

Within the tight budget targets we all agree upon, I believe that we need to make provisions to help the housing and thrift industries.

I hope in the future the President steps back a little and views the individual needs of these industries and realizes that their problems themselves can have a profound economic impact. In the area of monetary policy I realize that some of my colleagues part company with me in believing that a carefully structured policy of limited growth in the money and credit supplies is also essential in the inflation battle.

I do, however, believe that it is essential that the Federal Reserve Board continue on its announced course of carefully limiting money and credit.

I also believe that tax policy can play an important role in the inflation battle and can be a major factor in the rapid recovery of the thrift and housing industries. If we are going to foster noninflationary economic growth, then we have to design our specific tax policies in a way to increase savings, investment, and productivity.

As I mentioned, I have supported the President's spending cuts for 1981 and 1982 and I support his tax cut initiatives for these years.

However, I am concerned about legislating in advance extra tax cuts for 1983 and 1984 that exceed the spending cuts so far requested by the President. That leaves open the possibility for large inflationary deficits down the road. These

inflationary deficits are counter productive to our efforts to get the economy back on its feet and will lock us into high interest rates that are equally devastating for the home lender, homebuilder, and homeowner.

I have therefore come to like the idea of a 2-year tax cut, with the third year's cut dependent on some sort of trigger, tied to the performance of the economy and the budget. We can give the President an opportunity to put his plan into effect and see whether it works, to see whether inflation and interest rates actually come down.

But it will also give us a chance to stop the third round of tax cuts if it looks like they are going to increase the deficit and drive up inflation.

I am also pleased to see that the President has modified his tax plan to pick up several of the proposals which many of us in the Senate have been advocating. The President now proposes to reduce the estate tax and the marriage penalty in addition to making improvements for individual retirement accounts and Keogh plans. He did not, however, include in his tax plan any proposal that would significantly expand funds available for mortgage lending.

If we expect the situation in the housing and thrift industries to improve in the next few years, then we must act now to insure that sufficient funds are available to our mortgage lending institutions at a reasonable price.

What this requires is an overall tax plan that promotes savings and directs these savings into these institutions.

Also, we must seek to shift funds away from non-productive tax shelters and inflation hedges. Without this new inflow of savings, we will continue to see thrift institutions strapped for funds and all but a handful of home buyers priced out of the mortgage lending markets.

Already in this Congress a number of good bills have been introduced that would provide for a new, tax exempt savings certificate designed to attract funds back into mortgage lending institutions and away from the basically non-productive financial instruments that have become so popular in recent years.

I am extremely pleased to see the Congress take the initiative in this area and I'm equally distressed that the administration has balked at such efforts to date. Hopefully, it will come around and realize the seriousness of the situation faced by the thrift and housing industries and will accept the fact that we have a responsibility to act positively in this matter.

I was pleased to note late last night that the Senate Finance Committee took the first step toward helping these industries in the absence of any administration recognition of the problems they face. While I do not sit on the Finance Committee, I understand that they approved a plan, known as the All-Saver Act, that would create a tax exempt savings certificate designed to help housing and promote thrift in one package.

I have cosponsored legislation of this type and I believe that it is one useful approach that will help stimulate savings while providing depository institutions with less expensive funds. My concern with this plan is that it may not be specifically targeted enough.

I know that many of us here in the Senate have been interested in the concept of providing such a savings certificate by having it tied to housing in some specific way. That way we could be sure that the funds generated by the certificate would flow to those institutions primarily interested and involved in home mortgage lending.

This, I think, may more adequately assure that we will be targeting these funds to the industries that need them the most for the limited duration of the savings certificate. What I think is important to keep in mind is that these certificates will not be issued and maintained indefinitely. According to the Finance Committee plan they would only be issued for a 1-year period ending at the end of September next year.

Consequently, we need to make sure that we get the most bang for our buck and insure the areas of our economy that need the stimulation the most will get it. I understand that an amendment will be offered when the tax bill reaches the floor to specifically tie the savings certificate to housing. I know that I am interested in this idea and I am sure that many of the other 30 Senators who have cosponsored such legislation will also give it careful consideration.

I hope that review of the issue before us today will serve to focus attention on these critical areas of our economy. I also hope it will spur us to take the necessary action to help cure their underlying economic ills. Once we take these actions, I believe we will be well on our way to restoring the health of these industries and the belief that homeownership is more than just a dream for the vast majority of Americans.

Mr. HOLLINGS. Mr. President, I would like to discuss for a few moments this morning one of the most serious and most immediate problems affecting this Nation: High interest rates. I do not need to remind my fellow colleagues of the disastrous impact that high interest rates have on the economy, the small businessman who cannot obtain funds to expand production, the many young families who are unable to meet the monthly payments on a new home, the thrift institutions which are caught in a profit squeeze as the cost of new savings skyrocket and they are unable to fulfill their responsibility to finance residential construction. These problems are well known.

What may be less well known is the impact of high interest rates on the Federal budget. The Federal Government, as well, is at the mercy of high interest rates. It is proper that we address the question of higher interest rates on the very day that the reconciliation savings are also being considered.

The immediate and most direct impact of higher interest rates is on interest payments required to finance the public debt. Much of this debt is short term and thus must be refinanced frequently at ever higher interest rates. In fiscal year 1980 interest payments were $65 billion, but will rise to around $80 billion in fiscal year 1981, an increase of nearly 25 percent. These increases can dramatically limit the funds available for defense needs or social programs.

Interest rates, and more specifically mortgage rates, are included as an element of the Consumer Price Index (CPI). Higher interest rates raise the CPI and hence increase the cost of Federal indexed programs. Approximately 30 percent of Federal outlays are explicitly indexed to the CPI or other measures of inflation.

High interest rates endanger the financial soundness of the many thrift institutions. Since the Federal Government insures the depositors, any rash of bankruptcies could place additional strains on budgetary resources.

And finally, higher interest rates severely restrict the pace of economic growth. Housing construction is perhaps the hardest hit, but investment spending and consumer spending, particularly for durable goods, are also affected. Slow economic growth means slow growth in tax revenues, larger payments for unemployment compensation and other transfer programs, and larger budget deficits.

The Senate has spent a great deal of time and energy preparing a reconciliation bill that saves about $36 billion in fiscal year 1982. These spending cuts represent a major departure from "business as usual" in Washington, D.C. I intend to wholeheartedly support those cuts. However, it would be desirable if those cuts could be augmented by other reductions in spending as a result of declines in interest rates and higher tax receipts brought on by an expanding economy. However, large personal tax cuts cannot be made consistent with a fiscal program that takes seriously its commitment to reduce the rate of inflation and lower interest rates. For some time now the Federal Reserve has been diligent in its fight against inflation. But they cannot go it alone. It is high time that fiscal policy carried part of that burden. A smaller tax cut than the President's recent compromise package is needed to restore fiscal responsibility to the budget process and to participate in a program to reduce inflation and interest rates.

In essence we must decide between substantive tax relief coupled with large Federal deficits and continuing inflation, or smaller tax relief coupled with lower interest rates, a balanced Federal budget, and an expanding economy.

The small businessmen wanting to expand and the young families hoping to buy their home are asking for lower interest rates.

Mr. President, I have had correspondence with the distinguished Secretary of the Treasury, Donald T. Regan, in connection with high interest rates and, more specifically, the plight of the savings and loan institutions.

A week ago last Monday, we had a conference at the White House with the President and Secretary Regan in attendance. At that time, the administration expressed its concern about the savings and loan institutions; and the comment was made by the distinguished

Secretary of the Treasury, talking for the administration, "Yes, we are prepared to move quickly to prevent any significant loss."

Then the Secretary went on to observe that if assistance were given to the savings and loan industry, banks and other financial institutions would also want special provisions.

The inference from that statement, for many of us in attendance, was that the distinguished Secretary of the Treasury was looking upon the savings and loan institutions as nothing more than regular banking institutions; since we are now bringing private enterprise, free enterprise, and competition back to American financial institutions, the savings and loans should compete.

Yes, they should compete; but Congress has always given special provisions to the savings and loan institutions so that they can support the construction of homebuilding in this Nation. They were given an advantage; they were allowed to pay their depositors slightly higher interest rates; using that advantage they have grown into a multibillion dollar institution throughout the country—supporting home construction, of course, and working very, very successfully.

Now we have these new money market funds, which have drained the savings and loan institutions. The contention—and I believe it is well taken—is that money market funds have an unfair advantage. They are not required to put up non-interest-bearing reserves. They are not controlled by the Federal Reserve. In the past 2 months, $6 billion have been drained out of the savings and loan institutions in America.

I had stated that in a news release and in some public statements I made. Secretary Regan wrote that he was disappointed to hear that I had criticized his comments.

I have the highest regard for Secretary Regan. I voted for the confirmation of his nomination. I am proud of that vote. I believe he is a capable fellow. He has quite a record, a very enviable record of success in business and industry, particularly in finance. I respect him for his judgments. In his letter he writes of a lack of confidence. He says:

> I urge you to work with us to strengthen this industry and to prevent an unwarranted lack of confidence in its future.

That is exactly what I am trying to do. I believe that the lack of confidence could be due in part to his role in creating the very culprit, the money market funds, that has caused a good part of the grief of the savings and loan institutions.

He has stated that he is prepared to move quickly should other efforts to help savings and loans not be sufficient. Look at the record. The public is moving now. They are moving their deposits out of the savings and loan institutions into other institutions. It is not Secretary Regan or Senator HOLLINGS or any other individual doing any moving. It is due to the advantage that the money market funds have over the savings and loan institution. The lack of confidence in the savings and loans is being demonstrated every day.

I believe it is proper that we recognize the fundamental difference, the tremendous contributions made by the savings and loan institutions to the economy of this country. We believe in homeownership.

In other nations—such as West Germany, France, and others—people live in apartments. What some other countries do is not comparable. We are proud of this difference, and I believe we should not wait until the savings and loan institutions go broke to move in with financial assistance; but, rather, we should move in with a policy now that recognizes the financial facts of life.

Mr. President, I ask unanimous consent to have printed in the RECORD some brief remarks on interest rates, my letter to the President, the letter I received from the Secretary of the Treasury, and my letter to the Secretary of the Treasury.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., June 16, 1981.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I appreciate your courtesy in including me among the participants in yesterday's discussions on your Economic Recovery Program legislation. I wish to expand on one subject discussed briefly—my concern over the health of our nation's thrift institutions, the savings and loan associations and mutual savings banks.

As I'm sure you appreciate, these thrift institutions are structurally ill-equipped to cope with prolonged periods of high interest rates. Under the terms of their Government charters, the banking and the tax laws, they have invested almost exclusively in long-term home mortgage loans, many at rates of 6%, 7%, and 8%. Meanwhile, their source of funds—retail savings deposits—have become increasingly short-term and market rate (13% to 18% in the months since your election); almost two-thirds of savings and loan deposits are now market sensitive. When unable to hold and compete for deposits, these institutions must turn to even more expensive borrowings from their Federal Home Loan Banks and commercial banks. (In March and April alone the S&Ls experienced a $6.6 billion outflow of deposits.)

The squeeze between what they pay the public for deposits and earn on their mortgages is eating away at the accumulated reserves of these institutions. Nine out of ten companies are operating "in the red". I see where Alan Greenspan has projected losses of $5.5 billion in 1981 and $7 billion in 1982 if interest rates average at April 1981 levels. (New York Times article enclosed.) Industry-wide, that would consume one-third of the reserves of the business and force hundreds, maybe thousands, of companies out of business.

Since the Federal Government stands behind 90 percent or more of the deposits in these institutions (through FDIC and FSLIC insurance of accounts), the prospect of their liquidation is of very real concern to those of us on the Senate Budget Committee. The resources of the Federal Savings and Loan Insurance Corporation are only $6 billion. If the FSLIC is forced to liquidate hundreds of companies it will soon exhaust its resources. Selling off the assets will be of little help since the mortgages are worth only 60¢ or 70¢ on the dollar. There is no question in my mind that the Treasury eventually would have to make good on the familiar advertising promise: "Your deposit is insured by an agency of the Federal Government." Greenspan estimates the Treasury's contingent liability at approximately $55 billion—a figure which, obviously, would throw your efforts and ours to conquer inflation into disarray.

It would be nice if we could shrug and say that one of the privileges of doing business in a free enterprise system is the freedom to fail. Unfortunately, financial institutions are not like hardware stores; the public's money and savings—not to mention the Government's obligations—are at stake. Furthermore, the public cannot be expected to differentiate among institutions if one area gets in operational trouble; a loss of confidence in one category, thrifts, could quickly spread to banks.

Nor is the impact of S&L failure limited to S&Ls. We are not talking about just an S&L problem, or a banking problem. We are talking about something fundamental to the economy. We are talking about jobs in a wide diversity of economic enterprises. On the viability of S&Ls will depend the degree of home and commercial construction, and we all know how vital construction activity is to the overall performance of the American economy. Depleted S&Ls translate immediately into young people denied the dream of owning their own home. That translates into lost jobs in the building trades industry. And with fewer homes and other buildings goes diminished demand for lumber, for steel, for concrete, for home appliances, for furniture, and right on down the line to the light bulb going into the newly-built socket. No question about it—in relegating the S&L problem to the back-burner, we are guaranteeing economic doldrums, lost jobs, losing this perhaps last golden chance to turn the economy around.

In my opinion, the Congress, the Administration and the regulatory agencies cannot ignore further the rapidly deteriorating condition of the thrifts, given the "contingent liability" so graphically described by Alan Greenspan. An immediate decline of 3.5% in short-term interest rate levels would avert the problems according to Greenspan—but, despite the present downward trend on Wall Street, few among us would be so bold as to rely on that happening.

There are a number of steps which can be taken now to solidify the condition of these companies and the public's confidence in our financial institutions.

One of the major sources of the deposit loss by these institutions has been the competition from the money market mutual funds. Though uninsured, these alternatives to savings deposits—with their liquidity and current market rates—have accumulated over $120 billion outside the banking system; they have grown by almost $50 billion since January 1. At a minimum, the Federal Reserve should be empowered to exercise reserves control over money market funds as it does over the regulated depositories (including, as of last year, the S&Ls and credit unions). Since the money funds invest almost half of their resources in overseas and commercial paper markets, their unfettered investment discretion complicates, and frustrates, the exercise of the Fed's monetary policies.

At the regulatory level, propping up the bottom line is a far less expensive way of dealing with the thrifts' earnings problem than liquidating bankrupt companies. Though admittedly this is a temporary expedient (considering the resources of the FSLIC), Chairman Pratt of the Home Loan Bank Board has talked about a "capital maintenance program" of repayable cash in-

fusions. This looks promising—at least in terms of "buying time" until interest rates work down to reasonable levels. In a few years, the new rules of the Comptroller of the Currency and the FHLBB regarding flexible mortgage plans hold the promise of reforming the mortgage loan portfolios of the thrifts so that they move more closely with short-term market developments. What is needed now are steps to bridge the gap until that time arrives.

I would also urge the Administration to look carefully at the proposal (S. 985) of my colleagues John Heinz and Daniel Moynihan to permit the exchange of low-yielding mortgages for non-marketable subordinated notes from the FSLIC and the FDIC. This could be targeted to the companies in greatest difficulty (thanks to mortgages acquired under anachronistic usury laws) with the institutions permitted the "swaps" required to redeem the mortgages when their health is restored.

The most promising and timely proposal I am aware of is in the tax area.

It is known as the "All Savers Act" and has been introduced by a bipartisan group led by John Danforth in the Senate as S. 1279 and as H.R. 3456 in the House. It would authorize, for one year, a special savings account at banks, savings banks, savings and loans and credit unions, the interest on which would be excludable from Federal income tax to $1,000 (for individuals) and $2,000 (joint returns). Unlike other savings incentives plans, this certificate would recognize the tax advantage to the purchaser by pegging the rate to 70 percent of comparable one-year Treasury bills; savers in the 30 percent tax bracket and above would realize competitive market rates of return. Importantly, the 70 percent feature would assure lower cost of funds for the depository institutions and thereby enable credit to resume for housing, small business, and agriculture—the obvious victims of today's high interest rates. The establishment of an identifiable, separate account will give depositories something they can advertise to encourage the public to save rather than spend, in contrast to the $200/$400 exclusion of current law (which is "invisible" until tax returns are prepared).

The Joint Committee on Internal Revenue Taxation estimates a "static" revenue loss from the All Savers Act which is somewhat less than the permanent extension of the $200/$400 exclusion now part of your Administration's tax proposals. Of course, as you understand so well, incentives for capital formation hold "supply-side" benefits disregarded in any static revenue loss projections. The limited duration of the plan also serves to "bridge the gap," as I spoke of earlier, until our Economic Recovery Program convinces the money markets that inflation is truly under control.

While the hard-pressed thrift institutions are not the sole beneficiaries of the All Savers Act, it is clear that the promise of lower-cost funds directly addresses their situation.

I know that there is substantial bipartisan support in the Congress for the All Savers Act. It would be a popular refinement to your initiatives in the area of tax incentives for savers and help immensely to avert the "contingent liability" posed by the gathering difficulties of the thrift institutions.

I urge you to give serious consideration to including the All Savers Act in your tax package. Likewise, I ask you to add your Administration's voice to those who support S. 985 and legislation to enable the Federal Reserve to include money market funds in the conduct of monetary policy.

Again, I appreciate your willingness to work with the Congress in confronting inflation and high interest rates—our nation's number one economic problem.

Respectfully,

ERNEST F. HOLLINGS.

THE SECRETARY OF THE TREASURY,
Washington, D.C., June 18, 1981.

Hon. ERNEST F. HOLLINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HOLLINGS: It was with considerable surprise that I read comments attributed to you expressing "disappointment" because of an alleged lack of concern on my part for the thrift industry.

As I said, when we met with the President on Monday, I am extremely sensitive to the problems confronting the thrift industry and we are monitoring this situation closely. It is our view that the independent regulators have adequate authority and resources to deal with industry problems at the present time. However, should this situation change, we are prepared to move quickly to prevent any significant loss of confidence in the industry and to protect the public fully should some institutions have difficulties.

In addition, I am working, in my capacity as Chairman of the Depository Institutions Deregulation Committee, to stem withdrawal of funds from thrift institutions by permitting them to pay competitive rates of interest on their deposits. We are also encouraging the regulators in their efforts to prepare legislation which would increase the asset powers of these institutions.

I am confident that the industry will emerge from this temporary period of difficulties even stronger and more able to compete with other financial institutions for deposits and the provision of services.

You may be sure that this Administration does not expect, nor will it permit, the demise of a vital component of our financial system. I urge you to work with us to strengthen this industry and to prevent an unwarranted lack of confidence in its future.

Sincerely,

DONALD T. REGAN.

U.S. SENATE,
Washington, D.C., June 22, 1981.

Hon. DONALD T. REGAN,
Secretary of the Treasury,
Washington, D.C.

DEAR MR. SECRETARY: When concern was expressed over the financial plight of the savings and loan industry at the conference on last Monday, your response generally was to the effect, ". . . yes, we are prepared to move quickly to prevent any significant loss . . ." and then you added the observation that any provisions made for the savings and loan or thrift industry would immediately be countered by the banks and other financial institutions also wanting special provisions.

Many Senators discussed your reaction and as a result there will be quite a colloquy on the floor of the Senate to try to get the Administration's attention. The industry itself and its supporters feel that it is you who has the lack of confidence in its future. Righly or wrongly, the feeling is that you invented the money market funds and that the savings and loan industry being another competitor in the financial world should be made to compete and should sink or swim on its own without provisions. The fact is the S & L's are special institutions, made so by law. They provide over 90 percent of the financing for private home construction and the banks and money market funds are not going to be attracted into this field. Now come your money market funds with an unfair advantage of no reserves, etc., draining the savings and loans to the point of bankruptcy and you are telling them to compete. If it were on an equal basis, I am sure they could compete but as a matter of public policy, we set them up differently as a "building and loan institution." Your comments have indicated a lack of appreciation for this fact. The problem is not merely financial, to move in when a few go broke. The problem is to make them whole and to position them financially so that we can continue with home construction. These moves ought to be made now and to refuse to do so on the basis that others may ask is a terrible mistake. The American people and the business community can easily see what is happening and I implore you to move immediately to strengthen this industry so that we can have confidence.

With kindest regards, I am

Sincerely,

ERNEST F. HOLLINGS.

SAVINGS AND LOAN ASSOCIATIONS

Mr. EAGLETON. Mr. President, the Nation's savings and loan industry is celebrating its 150th anniversary this year. The first S. & L. began in 1831 in Philadelphia as a small, local building club whose main purpose, then as now, was to finance housing. But unfortunately, the industry is doing little celebrating as it continues to reel from last year's earning figures which were the worst in the industry's history.

In my own State of Missouri, the 17 federally insured S. & L.'s belonging to the Kansas City Savings and Loan League increased their net income in 1980 by $283,000—compared with $9.1 million reported in 1979 and $11 million in 1978. In the St. Louis area, 15 S. & L.'s lost more than $22 million in net income last year; three associations are in danger of exhausting their net worth within 18 months if current trends continue.

Thus far in 1981, the situation for thrift institutions has deteriorated even further. In both January and February, the net return on assets was negative, indicating that the industry as a whole was losing money. The latest figures for April show that the hemorrhaging continues, as the industry reported a record loss of $4.6 billion. So stunning was the April outflow that the Federal Home Loan Bank Board, which tabulates the statistics, delayed the release of the numbers in order to recheck them.

Mr. President, it would certainly not be an exaggeration to say that this industry—which is the principal source of funding for the homebuilding industry—is taking a battering. Small savings and loan associations, particularly, are being hit hard. In fact, a Business Week article of several months ago gloomily prophesied that small financial institutions may become as endangered a species as the family farm. In 1980, the Federal Home Loan Bank Board gave approval to 97 mergers of S. & L.'s. That number compares with 37 mergers in 1979. For 1981, the figure is expected to reach 200 as more small S. & L.'s are unable to sustain themselves in an environment where they borrow on volatile floating interest rates and lend on much lower fixed rates.

The typical thrift institution these days earns about 9 percent interest on its outstanding loan portfolio. But it must pay out over 15 percent interest on 6-month money market certificates and 12 percent on 30-month certificates. It also faces hard competition from money market mutual funds. With interest rates fluctuating as they are, it is small wonder that there is such turmoil in the financial markets.

The new monetary policy put in to place on October 6, 1979 has had a substantial impact on the situation now confronting the thrifts. In 1952, the

Treasury Department and the Federal Reserve reached an agreement that monetary policy would be maintained independently under the jurisdiction of the Fed. Between 1952 and October 6, 1979, then, management of short-term interest rates was the characteristic feature of monetary policy. The success of the Federal Reserve in managing interest rates had an impact on a major sector of the economy, housing, which was extremely sensitive to interest rates. When market rates exceeded interest rate ceilings imposed by regulation Q, money flowed rapidly out of S. & L.'s—known as disintermediation—causing a severe slump in the housing industry.

In 1978, with the introduction of 6-month money market certificates, rising short-term interest rates no longer caused the loss of deposits from associations nor triggered a decline in housing; instead, they eroded profits. By the fall of 1979, the extreme volatility of the economy prompted a radical change in monetary policy: The Fed announced intentions of abandoning its previous policy of interest rate management and focusing on limiting the growth of the supply of money.

Consequently, short-term interest rates no longer reflected monetary policy but rather mirrored a spectrum of economic and financial forces. Without the Fed buffering the markets against these other forces, interest rates have varied far more than they have in the past. Thus, much stress is being put upon financial institutions from radical changes in interest rates.

Confronted by unprecedented interest rate levels and wide swings in rates, investors are understandably reluctant to make commitments for the long term. Uncertainty about the future also has prompted an increase in liquidity and a shift, to a certain extent, from financial assets to tangible assets. The net result: A decline in the personal savings rate. Thus, the low volume of total savings and extreme interest rate volatility have put the thrifts at a double disadvantage.

The present scenario for savings and loan associations is pessimistic; the future looks even gloomier, if we continue this course unabated. While the opportunity to shift from fixed-rate mortgages to variable-rate mortgages will offer beleaguered thrifts some respite, it will be years before fixed-rate obligations—which fall mostly in the 8.5-percent to 9.5-percent range—can be worked out of their portfolios.

S. & L.'s need to get their heads above water. Either interest rates need to drop dramatically or someone, somehow has to bail them out. Concern is growing as to whether or not governmental insurers would have the resources and the liquidity to deal with a barrage of insolvencies. We are still wrestling with the consequences of the Penn Central disaster a decade ago and last year's Chrysler rescue. A banking industry consultant stated in the April 13 issue of New York magazine:

Ten years from now we will have a remarkably different financial structure, but it will have been accomplished through crisis rather than forethought.

We cannot allow that to happen. Thrift institutions are an important component of our economy as well as the main supplier of home mortgage funds; we must take precautions to insure their viability and stability.

Yesterday, the Finance Committee considered several proposals before it that seek to aid the savings and loan industry. As you know, Mr. President, the committee voted 20 to 0 to accept an amendment by Senator DANFORTH which would create a tax-exempt savings certificate that would pay savers 70 percent of the rate on 1-year Treasury bill.

In addition to adopting the Danforth proposal, the Finance Committee repealed the $200/$400 interest and dividend exemption enacted by Congress in 1980 so as to mitigate the revenue loss to the U.S. Treasury. In fact, if I interpret the figures correctly, the revenue loss is more than mitigated, that is, the U.S. Treasury will gain more revenue by reason of yesterday's Finance Committee actions than it will lose. Note the following table:

[In billions of dollars]

	Fiscal year—		
	1982	1983	1984
Repeal $200/$400 exemption, Jan. 1, 1982	+0.623	+3.259	+3.388
Begin all savers certificate, Oct. 1, 1981	−.509	−2.427	−1.748
Net	+.114	+.832	+1.640
Total revenue gain	$2.586		

I am pleased that the Finance Committee has acted so promptly to give much needed relief to this troubled industry. At this time, I would like to strongly endorse this bill and urge my colleagues to act expeditiously in passing this legislation.

IT IS NOT NECESSARILY SO ABOUT HIGH INTEREST RATES

● Mr. LEVIN. Mr. President, I read with great interest an article by Mr. John Winthrop Wright that appeared in the New York Times, June 21, 1981. Mr. Wright, president of Wright Investors' Services, discusses the relationship between interest rates, inflation, and the tremendous influx of Eurodollars into the U.S. economy. The article will, I hope, contribute to this important discussion on the economy and interest rates. I ask that this article be printed in the RECORD.

The article follows:

IT IS NOT NECESSARILY SO ABOUT HIGH RATES

(By John Winthrop Wright)

The Reagan Administration, in conjunction with the Congress, has a mandate to increase productivity, improve the nation's standard of living, reduce wasteful Government spending and interference with the free enterprise system and stabilize monetary values. These objectives cannot be achieved unless there is a re-education of the Federal Reserve Board and the American public in the true causes of inflation and the effective control of money and credit.

There is no way that the waste of our manpower through unemployment can be reduced or the productivity of our workers increased while interest rates are significantly above 8 percent. Until interest rates are reduced to a level at which it is profitable for small, medium and large businesses to borrow capital, unemployment will increase, Government expenses for unemployment and welfare will grow, while taxable revenues fall.

United States interest rates rose above the 8 percent level on a sustained peacetime basis for the first time in 1973. Since then, the prime rate has averaged 10 percent and long-term corporate bonds 9 percent, compared with 4 percent and 3 percent, respectively, for the preceding 25 postwar years. These rates, if continued, will destroy the American economic system because of the following effects:

They take from the poor and add to the rich.

They diminish the producers and expand the lenders.

They inhibit and diminish long-term capital investment, productivity, research and development, production and development of new sources and efficient applications of energy.

They do not encourage capital formation and its productive applications.

They bankrupt small businesses, increasing the concentration of economic productive power, drastically reducing effective, competitive price cutting.

Our nation has been drastically misinformed and misled by officials who have made it an article of faith that inflation has been the result of excessive monetary growth; that high interest rates can cure inflation, and that because they say so, interest rates cannot safely be cut and Americans must suffer a decline in their standard of living.

Let me respond to these doctrines with the documented truth that gives a much different picture.

Although inflation can be caused by excessive monetary growth, there has been no such excessive growth in the United States during the last decade. Instead, while the gross national product rose 37 percent in constant dollars, the nation's money supply (M-1B) declined by 3 percent.

Money and credit are the essential lubricants of our economic system. In the past 10 years, money supply has contracted by one-third relative to G.N.P.—far more than can be explained away as a result of faster check clearing and other modern contributions to the "velocity" of circulation.

Tight money and high interest rates in the early 1970's spawned the prolific growth of Eurodollars, dollar credits and dollar deposits created by foreign-domiciled banks including the foreign branches of American multinational banks. Indeed, since they came on the scene, Eurodollars have grown to $550 billion, compared to about $400 billion for the nation's basic money supply.

By 1973, the huge upsurge of Eurodollars doubled the dollar value of world commodity prices, causing world-wide inflation and setting the stage for the Organization of Petroleum Exporting Countries. And the subsequent increase in the price of OPEC oil was more than 1,000 percent, while the G.N.P. price deflator rose only 76 percent.

In my opinion, the rise in the price of energy alone more than accounts for all of the United States inflation. The inflationary result of rising energy costs cannot be measured only in terms of its magnitude as a raw material component of G.N.P. Energy is also part of the cost of every other component and the cost of producing every component rises with the cost of energy.

High interest rates, instead of curing inflation, have stimulated it. They add to the costs of every business, to all forms of product distribution and to all types of consumer purchases. They are themselves a significant secondary cause of inflation. The interest rate rise in 1974 caused by tight monetary policies of the Federal Reserve, created the second-greatest recession in this century. The

1974–75 recession increased welfare and unemployment costs and decreased Government revenues so much that our Federal deficit from 1975 through 1978 totaled $226 billion and became the greatest and most inflationary deficit in our history.

Finally, interest rates can be reduced safely and promptly. Adequate money and credit can be supplied, provided that there is selective control in the application of credit. The Fed has the power and the ability, without significantly increasing its bureaucracy, to limit credit, which contributes to inflationary consumer demand, and to increase substantially credit available for "supply-side" capital investment in the development of new sources of energy, in increased production of goods and services and in cost-reducing equipment and technology.

A system of variable reserve requirements related to the mix of bank loan portfolios can produce a communion of profit-making interest between our banks and our national economic objectives. What is lacking is simply the mental effort to devise the plan and the will to put it into action.

One more thing concerning Eurodollars. Although they are not obligations of the United States or of American domestic banks, they can and do buy goods and services for dollars anywhere in the world, including inside the United States. For nearly 10 years, Eurodollar growth has added to American import costs and thus to domestic inflation by depressing the foreign exchange value of the dollar. This was and is because foreigners, and American multinational corporations, can acquire dollars by borrowing them from foreign-domiciled banks instead of selling their foreign currencies in exchange for dollars.

Today, Eurodollars are coming to the United States for investment. When they arrive here, these Eurodollars inflate the domestic money supply accordingly because they then become deposits in American banks. For our Federal Reserve Board to counter this by restricting the current money supply correspondingly is simply to deprive Americans of money and credit in order to offset the supply of Eurodollars coming into the United States from foreign investors.●

DEMOCRATIC CONFERENCE RESOLUTION ON HIGH INTEREST RATES AND THRIFT INSTITUTIONS

Mr. ROBERT C. BYRD. Mr. President, today the Senate Democratic conference endorsed unanimously, with one abstention, a resolution urging that something be done about high interest rates, the crumbling housing industry, and the financial plight of thrift institutions.

This resolution was developed by Senator DAVID BOREN, in cooperation with Senators BENTSEN, TSONGAS, MELCHER, JACKSON, CHILES, NUNN, BRADLEY, METZENBAUM, and others. It reflects the very deep concern among Senators on this side of the aisle that Government policy cannot continue to sanction the status quo of high interest rates, with their devastating impact on economic progress.

I ask unanimous consent that the resolution adopted by the Democratic conference today be printed in full in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

DRAFT CONFERENCE RESOLUTION ON HIGH INTEREST RATES AND THRIFT INSTITUTIONS

Whereas there is an immediate threat posed to the health of key segments of our economy caused by the effects of high interest rates; and

Whereas the Administration has thus far failed to heed the signs of trouble by devising a program to prevent a critical situation from developing; and

Whereas it is far better to prevent a serious situation from developing rather than trying to deal with it after it has become critical; and

Whereas the serious and immediate nature of the problem is clear for all to see from the following set of facts:

(1) the withdrawal of depository reserves in the Nation's thrift institutions amounted to $28 billion in 1980 and have continued at the same pace through the first quarter of 1981. This constitutes the greatest reduction of monetary reserves in the history of this country.

(2) high interest rates have deprived all but a tiny percentage of all the people of the Nation of the opportunity to buy a home or conduct personal and business financial planning,

(3) on an annualized rate basis, housing starts have declined almost 2 million this year, pushing the unemployment rate in the construction industry to twice the national average,

(4) high interest rates have already eliminated one million jobs, and have placed farmers and small business people who must finance inventories on credit in desperate circumstances: Now, therefore, be it

Resolved, That the Senate Democratic Conference urges the President and the Administration to take notice of the serious and immediate nature of the threat to our national economy and further urges that a program be devised to our national economy and further urges that a program be devised to keep the situation from becoming more critical through the use of some or all of the following actions:

(1) increase the national pool of funds available for savings and investment through the use of appropriate tax exemptions on interest earned in an effort to assist hard-hit financial institutions and to reduce the cost of home mortgages through lower interest rates, helping to stimulate the construction industry and to restore the dream of home ownership for all Americans,

(2) take appropriate regulatory action to assure equal competitive opportunity for all financial institutions,

(3) take appropriate action on existing regulatory statutes to improve the regulatory agencies' ability to address financial institutions' difficulties and,

(4) urge the Administration to take such steps as are possible to lower the current high rate of interest which is severely damaging personal and corporate savings and investment planning.

S. 1413—THE REGULATORY FLEXIBILITY AND EXPANDED POWERS ACT OF 1981

Mr. TSONGAS. Mr. President, financial analysts have known it for a long time, and now it is breaking into news reports and public awareness. The fact is that these are very hard times for our Nation's thrift institutions—the savings and loans, mutual savings banks, and cooperative banks—and for some of our commercial banks. Depending on money market conditions in the coming months, many of these institutions could go out of business.

Mr. President, in light of this urgent situation, I am today introducing the Regulatory Flexibility and Expanded Powers Act of 1981. This bill provides bank regulators with additional flexibility to deal with the problems of financial institutions. It also expands the activities in which thrifts can participate. I believe that we must debate these two issues: more flexibility for regulators, and additional powers for thrifts.

Thrift institutions lost almost $900 million during the first quarter of 1981. Faced with high interest rates and relentless inflation, savers are forced to look for the best available rate of return. Many thrifts are finding that their increasing cost of money cannot be balanced by their mortgage portfolios, which were built during years of inflation-free expectations. Mr. President, I ask unanimous consent that a New York Times article by Leonard Silk, which highlights the problems of these banks, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 10, 1981]

SAVINGS UNITS: PRESSURE GROWS

(By Leonard Silk)

The nation's savings and loan associations and other thrift institutions are facing a serious threat to their survival. Unless interest rates come down sharply—and stay down—in the coming year, hundreds of thrift institutions will either have to be rescued by the Federal Government or allowed to go under.

Insured thrift institutions lost an estimated $900 million during this year's first quarter, as a result of the necessity of paying very high interest rates to attract or hold money on deposit, while receiving the bulk of their income from long-term mortgage loans made at far lower rates.

Nevertheless, money has been pouring out of the thrift institutions into other higher-paying assets, such as money market funds. During April, the savings and loans lost a record $4.6 billion in net deposits, which came on top of outflows of $2.1 billion in March. While savings bank deposits and their certificates of deposit are insured up to $100,000, some depositors were apparently nervous about getting paid off promptly in case of failure, and some holders of uninsured deposits or "jumbo" C.D.'s of more than $100,000 may have moved their funds in quest not just of higher yields but of greater security.

More serious losses lie ahead for the thrift industry unless interest rates come down a lot more than they have so far. Alan Greenspan, chairman of the Council of Economic Advisers under former President Gerald R. Ford and adviser of President Reagan, believes that the thrift industry is facing the worst losses in its history.

In a fresh analysis, Mr. Greenspan's economic consultant firm, Townsend-Greenspan, Inc., concludes that even if interest rates recede to their April 1981 levels, about one percentage point below where they are now, total pretax losses of the savings institutions would keep rising, from $900 million in the first quarter to $1.9 billion in this year's final quarter, with prospective losses totaling $5.5 billion in 1981 and $7 billion in 1982.

That sounds bad enough, and would mean failure for scores of institutions. But if money market rates climb still higher in the coming year, the losses of the thrift units, Mr. Greenspan warns, "would escalate to truly horrendous proportions."

Nine out of 10 savings and loans, he says, are currently in the red on income account, though only a few have run out of book equity. However, that number is likely to increase rapidly in the months immediately ahead.

If thrift institutions had to liquidate their existing assets at current market values, only a few would have any equity left. The Federal Savings and Loan Insurance Corporation estimates the book value of the savings and loans' total assets at $600 billion, of which five-sixths consists of mortgages.

Townsend-Greenspan estimates that their $500 billion mortgage portfolio, if sold at market, would produce a book loss of $100 billion.

Adjusting savings and loan balance sheets to current values would reduce the thrift industry's net worth from a current book level of $31 billion to a market deficit of approximately $70 billion.

On the extreme assumption that the industry had to liquidate its mortgage portfolio at current values, it would thus be $70 billion short of covering its liabilities. Of that amount, some $20 billion in liabilities is not insured by the Federal Savings and Loan Insurance Corporation. Whatever the legalities, it seems virtually certain that the United States Treasury would make good on the insurance of deposits up to $100,000. That now means that the Treasury's contingent liability is approximately $50 billion—plus another $5 billion to cover losses at mutual savings banks.

The best hope for avoiding such a drain on the Treasury would be a decline in interest rates, which would remedy the thrift institutions' imbalance between asset and liability maturities and income flows. A 3.5 percentage point decline from the current level of rates would, according to the Greenspan estimate, wipe out the current deficit and put the thrift industry over all back on a break-even status.

If the Administration pursues a fiscal policy that is excessively stimulative and keeps pressure on the Federal Reserve to control inflation basically by tightening the money supply, interest rates are likely to stay high and volatile, exacerbating the dangers to the savings and loans and mutual savings banks. The Administration would then, in all likelihood, be driven to employ one or another rescue device, such as the issuance of "letters of credit" for obtaining loans from the Treasury, or Federal warehousing of lower-yielding mortgages, to shore up the thrift industry.

The Reagan Administration is not eager to face up to the very real dangers confronting the savings industry; it is loath to undertake a huge rescue operation, and instead is looking for gimmicks and escape devices. These would require the ingenuity of a financial Harry Houdini, and none may exist. If interest rates stay high or move higher, a Federal ballout of enormous size may be needed to provide time for the restructuring of the thrift industry, and to hold down the damages to depositors.

The fundamental cure—lower inflation and lower interest rates—is the preferred solution, but it needs to come reasonably soon.

Mr. TSONGAS. These problems are very harmful to major sectors of our economy. The housing and construction industry is reeling. Unable to afford current financing, consumers and businesses put off buying homes and commercial buildings. Housing starts this year are far below 1980. To the construction industry, it is an economic disaster. To a growing family, it is a personal hardship.

I know that there are those in the housing industry—and in the Congress as well—who sincerely believe that unless thrift institutions are mandated to make fixed rate mortgage loans, housing will suffer. This view has a superficial appeal. But a close examination of the history of the thrift industry reveals that the very inflexibility of thrift institution investments has aggravated earnings rates and crippled thrifts in bidding for money against nonfinancial intermediaries such as the money market funds. This has literally dried up mortgage credit in some areas for months at a time.

Savings banks and savings and loan associations are our specialists in residential mortgage lending. They know the business and do it well. I am not afraid that these institutions, given broader powers, will turn away from housing. Housing loans will still be a dominant part of these institutions' portfolios, but future home lending will no doubt be tied to more interest sensitive mortgage notes, and the ability to make other interest sensitive investments, such as consumer and commercial loans, will give the thrifts the ability to moderate the dramatic and steep declines in mortgage credit availability which now occur during periods of tight money.

It is well known that the Federal financial regulatory agencies—acutely aware of the thrift industry's dilemma—sent draft legislation to the House and Senate Banking Committees. This legislation would authorize more flexibility for the regulators to deal with and to prevent financial institution failures. This so-called "regulators' bill' met with resistance in both the industry and the Congress because of certain controversial elements. After meeting with staff of the regulatory agencies, I have become convinced that increased regulatory flexibility is essential to the soundness and safety of our financial institutions.

Therefore, title I of this bill is comprised of the regulatory agencies' suggestions for streamlining and expanding their ability to deal with problem thrifts—the so-called "regulators' bill". I recognize that a number of these suggestions are controversial. I do not endorse each proposal. However, I believe that the issues addressed by this bill deserve public consideration and debate, and that the essential principles stated here are worthy of adoption.

TAX INCENTIVES PLUS REGULATORY CHANGES

A close look at the thrift industry reveals an immediate extreme problem, and also a longrun dilemma. In the short run, thrifts face deposit losses and money cost increases which are destroying earnings and could, if trends accelerate, translate into a liquidity squeeze. Over the long run, they face a more profound dilemma—surviving as a specialized industry in an age where consumers demand a wide range of services and where volatile interest rates make specialized portfolios risky at best.

To strengthen the thrifts, we must provide tax incentives and regulatory changes for both the immediate problems and the long-term dilemma. A sound future, then, is based on four initiatives:

First, tax incentives for short-term relief. It is vital for Congress to authorize a saving certificate to attract relatively inexpensive funds to thrift banks. Both yesterday's act'on in the Senate Finance Committee and today's Senate Democratic resolution reflect the need for this to occur.

Second, regulatory changes for short term relief. Federal regulators believe that this is also extremely important over the next 18 to 24 months, and I support their stance. The Federal Reserve, the FHLBB, and the FDIC all played a role in drafting the "regulators' bill" to allow greater flexibility for regulators and insurers. Th's will improve their ability to insure safety and soundness in the banking industry.

For the long term, nothing will help the thrifts and our Nation as much as increasing America's personal savings rate. Compared to the rate of Japan, Germany, and other competitors or to our own recent past, our present savings rate—below 5 percent—is absurd. The tax change that will help change this in the long run is to allow universal IRA accounts. This is the third policy initiative.

At the same time, over the long run, the thrifts desperately need to be able to structure balanced portfolios to afford them the best chance of surviving. Therefore, thrift institutions need new powers—the fourth and final basis of renewed competitiveness.

For thrifts to have a strong future, all four policies must be pursued.

ADMINISTRATION ATTITUDE

The Reagan administration has called the "regulators' bill" unnecessary. Presidential advisers seem to believe that the problems of our financial institutions will go away if only their supply-side economic theories are adopted. And one need only review the projections of their economic forecaster, the Claremont Economic Institute, to see how they could believe such is the case. The Institute predicts the prime rate will tumble to 8 to 9 percent by 1983 and that inflation will be below 5 percent—an environment of relatively easy adjustment for thrifts.

Unfortunately, no other economic forecaster is nearly as optimistic. Chase Econometrics sees the prime in 1983 at 13.7 percent. Data Resources predicts a 1983 prime rate above 13 percent. Wharton Econometrics sees the prime at 15.5 percent in 1983. If the other forecasters are closer to the truth, then many more thrift banks will find themselves closer to the brink.

I, for one, question whether we ought to play Russian roulette with the fate of a large segment of our country's financial institutions in the hope that Arthur Laffer has found an economic elixir.

We should never underestimate the role that public confidence plays in the maintenance of an orderly marketplace. The prospect of hundreds of financial institutions being declared insolvent in a short period of time is one that America has not faced since the 1930's. Deposit insurance or no, if this scenario unfolds, the public will get a clear signal that something is drastically wrong. Maybe confidence would be maintained, but it is impossible to predict accurately what investors would do.

The point is, we do not want to be forced to find out. And we need never come to the point, if we are prepared to deal responsibly with the problem now.

We are told that the Reagan administration opposes a so-called "bail-out" for financial institutions. But what Treasury Department experts ignore is that the

Federal Government is already obligated to protect the soundness of financial institutions through our deposit insurance programs.

Without summoning up doomsday scenarios, I think we must recognize that the plight of our thrift industry is serious, too serious for us to delay coming to grips with the problem for partisan reasons. There are some who ask, "Why not let the Reagan administration take on a tough one? Let's see how long it takes them to get their act together, or fall flat on their face." Such a reactive approach to minority status cuts the political risk, but it does nothing to change the dangerous reality. With the health of a large section of our financial institutions industry at stake, and with the Reagan administration lagging, I believe we must lead the way with legislation.

BILL DESCRIPTION

Mr. President, title I of this bill provides the regulatory modifications that the bank regulators believe are an essential component to any plan to deal with both the short and long term problems of the thrifts. Regulatory authorities are convinced that, by expanding the powers to the regulators to loan to thrifts, or to merge or otherwise assist them, they will be able to meet any foreseeable problems in the next 18 to 24 months.

As I stated earlier, I do not at this time endorse each and every provision in this bill. Nevertheless, I am convinced that these issues must be addressed. Included in the regulatory changes are the following:

First, the FDIC is given expanded authority to make loans to purchase the assets of or make deposits in any insured bank.

Second, the FHLBB may waive the notice requirement for thrift acquisitions that exists under the present statute if the Board finds that an emergency exists.

Third, the FHLBB may require the conversion of charter from mutual to stock to permit merger or acquisition of thrifts.

Fourth, the FSLIC has broadly expanded powers to make loans to, to make deposits in, to purchase the assets of, to assume the liabilities of or to make contributions to insured institutions.

Fifth, the FSLIC, where it deems necessary, shall permit mergers of institutions across State lines as well as across industry lines.

Sixth, the FHLBB is given expanded access to the Treasury loan window, an increase from $750,000,000 to $3,000,000,000.

Seventh, loan access to the Treasury is also increased for credit unions as are powers to merge credit unions.

Eighth, the FDIC is also granted the authority, under extraordinary conditions, to merge large thrifts (greater than 0.12 percent of the assets of all U.S. banks) across State and industry lines.

Title II of this bill would authorize expanded powers for Federal mutual savings banks. Last year, when the Congress considered the Depository Institutions Deregulation and Monetary Control Act of 1980, I introduced an amendment which ultimately became section 408 of that bill. This amendment authorized federally chartered mutual savings banks to invest up to 5 percent of their assets in commercial, corporate and business loans and to accept demand deposits in connection with a commercial, corporate or business relationship. Responding to this initiative, State legislatures in a number of States, including the Commonwealth of Massachusetts, have adopted similar expansions of powers for savings banks. Savings banks in other States have started applying for Federal charter in increasing numbers.

Title II of the bill I introduce today has the same rationale as last year's amendment. Thrift institutions must be given greater flexibility and more powers if they are to deal with our rapidly changing economic environment.

Banks in Massachusetts are in far better condition than their counterparts in the thrift industry elsewhere precisely because they have been in the forefront of change. They were the first to have NOW accounts, which were invented at the Consumer Savings Bank in Worcester. Also, Massachusetts savings banks historically have had more liberal investment powers than other thrifts. Their relatively strong net worth positions today testify to the efficacy of broader powers.

Title II would continue the process of strengthening and modernizing savings banks. Specifically, title II would:

First, delete the present limitation on the equity, bond, and consumer loan investment authority of Federal mutual savings banks, which restricts such investments to the 5-year average immediately preceding conversion.

Second, remove current limitations on commercial lending and substitute a single provision derived from—and similar to—the 10 percent (of capital stock and surplus) loan limitation to any one borrower imposed on national banks by 12 U.S.C. 84.

Third, permit acceptance of demand deposits from individuals as well as corporations.

Fourth, increase authority to invest in service corporations to corporations jointly owned by mutual savings banks as well as by savings and loan associations. It would also increase investment authority from 3 percent of assets to 10 percent of assets.

Fifth, clarify the FDIC obligation to indemnify the FSLIC on the occasion of the conversion of a State-chartered FDIC-insured savings bank to a Federal mutual savings bank.

Mr. President, I had hoped to introduce today a companion title to title II, which would have been "Title III: Lending, Investment, and Operating Authority of Federal Savings and Loan Associations". I have met at length with representatives of the Federal Home Loan Bank Board and discussed the need to broaden the powers of savings and loan associations. I am encouraged that the Bank Board is preparing legislation along these lines, and rather than attempting to present an independent version of an S. & L. powers bill at this time, I will wait for the Board to complete work on its proposals to modernize S. & L. operations.

Both titles II and the S. & L. powers, which I plan to attach to this bill shortly, will help to bring about a long overdue update of our thrift institutions. It has been nearly a decade since the Hunt Commission proposed increased flexibility for thrift institutions. Over that period, there have been many attempts to expand thrift powers. Most of these efforts have failed.

NO TIME FOR DELAY

Mr. President, some public officials may be reluctant to talk about this impending crisis. Admittedly, erosion of public confidence in these institutions can make matters worse. But the heart of the matter is not a confidence game. It is the basic inability of thrifts to be competitive and profitable.

If 1980 and 1981 have taught us anything, it is that financial reforms delayed since the early 1970's have cost us dearly. We have lost a decade. Some thrifts that might have survived given broader powers are no longer with us, and there is a clear danger that more will go out of business. Mr. President, this urgent situation means that we can no longer delay debate on basic changes in the thrift industry and its regulation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1413

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as "The Regulatory Flexibility and Expanded Powers Act of 1981".

TITLE I—FINANCIALLY DISTRESSED DEPOSITORY INSTITUTIONS

ASSISTANCE TO INSURED BANKS

SEC. 101. Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(o)) is amended to read as follows:

"(c)(1) In order to reopen a closed insured bank or, when the Corporation has determined that an insured bank is in danger of closing, in order to prevent such closing, the Corporation, in the discretion of its Board of Directors, is authorized to make loans to, purchase the assets of, or make deposits in such insured bank upon such terms and conditions as the Board of Directors may prescribe, when in the opinion of the Board of Directors the continued operation of the bank is essential to provide adequate banking service in the community.

"(2) Whenever severe financial conditions exist which threaten the stability of a significant number of insured banks, the Corporation, in the discretion of its Board of Directors, is authorized to make loans to, purchase the assets of, or make deposits in any insured bank so threatened upon such terms and conditions as the Board of Directors may prescribe, if it is probable such action will substantially reduce the risk of loss or avert a threatened loss to the Corporation.

"(3) Any loans and deposits made pursuant to the provisions of this paragraph may be in subordination to the rights of depositors and other creditors.".

LOANS TO INSURED BANKS

SEC. 102. The first paragraph of section 13(e) of the Federal Deposit Insurance Act

(12 U.S.C. 1823(e)) is amended to read as follows:

"Whenever in the judgment of the Board of Directors such action will reduce the risk of loss or avert a threatened loss to the Corporation and will facilitate a merger or consolidation of an insured bank with another institution or will facilitate the sale of the assets of an open or closed insured bank to and assumption of its liabilities by another institution, the Corporation may, upon such terms and conditions as it may determine, make loans secured in whole or in part by assets of an open or closed insured bank, which loans may be in subordination to the rights of depositors and other creditors, or the Corporation may purchase any such assets or may guarantee any other institution against loss by reason of its assuming the liabilities and purchasing the assets of an open or closed insured bank. Any insured national bank or District bank, or the Corporation as receiver thereof, is authorized to contract for such sales or loans and to pledge any assets of the bank to secure such loans. As used in this subsection, the term 'institution' means an insured bank or an association or bank insured by the Federal Savings and Loan Insurance Corporation.".

FDIC ASSESSMENTS

SEC. 103. Third sentence of section 7(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)) is amended—

(1) by striking out "and" the second place it appears: and

(2) by inserting before the period at the end thereof the following: "; and (4) any lending costs for the calendar year, which shall be the difference between the rate of interest earned, if any, from each loan made by the Corporation pursuant to section 13 after January 1, 1981, and the Corporation's average investment portfolio yield for the calendar year".

WAIVER OF NOTICE REQUIREMENTS

SEC. 104. (a) Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended by inserting before the semicolon at the end thereof a period and the following: "Notwithstanding any other provision of this Act, if the Board finds that an emergency exists which requires it to act immediately on any application under this subsection involving a thrift institution, the Board may dispense with the notice and hearing requirement of this subsection and the Board may approve or deny any such application without notice or hearing".

(b) Section 2(i) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(i)) is amended—

(1) by striking out "or" before "(3)"; and

(2) by inserting after "shares" the following: "or, (4) a Federal stock savings bank or savings and loan association organized under section 5(o) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(o))".

(c) Section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended by inserting after "application" the following: "(except an application filed as a result of a transaction to be accomplished under section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2))".

FEDERAL STOCK SAVINGS INSTITUTIONS

SEC. 105. (a) Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) is amended by adding at the end thereof the following:

"(o) Notwithstanding any other provision of this section or section 402 of the National Housing Act or State law, and consistent with the purposes of this Act, the Board may authorize (or in the case of a Federal association, require) the conversion, on an equitable basis, of a mutual savings and loan association or mutual savings bank into a Federal stock savings and loan association or Federal stock savings bank, or charter a Federal stock savings and loan association or Federal stock savings bank to acquire the assets of, or merge with such a mutual institution under the rules and regulations of the Board. The Federal Savings and Loan Insurance Corporation shall insure the accounts of any federally chartered stock savings bank. The Board may condition its approval of the conversion or acquisition of a mutual savings bank under this subsection that was previously insured by the Federal Deposit Insurance Corporation upon the receipt from the Federal Deposit Insurance Corporation of reasonable indemnification of the Federal Savings and Loan Insurance Corporation for losses that may be incurred by the latter during a period not to exceed five years as a consequence of its insuring the accounts of such institution, as agreed to by the Corporations. In addition to engaging in any investment or activity permitted a Federal mutual savings bank under this section, a Federal stock savings bank created pursuant to this subsection may, to the extent authorized by the Board, but subject to the limitations of subsection (a) hereof, continue to engage in any activity in which the institution which it acquires was engaged on December 31, 1977, and retain and make any investments of a type that the institution that it acquires held on that date. Authorizations under this subsection may be made only to assist an institution in receivership, or if the primary Federal supervisor has determined that severe financial conditions exist which threaten the stability of an institution and that such authorization is authorization is likely to improve the financial condition of the institution, or when either of the Corporations has contracted to provide assistance to such institution under section 406 of the National Housing Act or section 1823 of the Federal Deposit Insurance Act.".

(b) Section 403 (a) of the National Housing Act (12 U.S.C. 1726 (a)) is amended by inserting after the first time the word "associations" appears in the first sentence the following: ", Federal stock savings banks,".

(c) Section 2 (d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1462 (d)) is amended by inserting immediately before "or" the first time it appears the following: ", Federal stock savings bank,".

ASSISTANCE TO THRIFT INSTITUTIONS

SEC. 106. (a) Section 406(f) of the National Housing Act (12 U.S.C. 1729(f)) is amended to read as follows:

"(f)(1) In order to prevent the default of an insured institution, or in order to restore an insured institution in default to normal operation, or, when severe financial conditions exist which threaten the stability of a significant number of insured institutions, or of insured institutions possessing significant financial resources, in order to lessen the risk to the Corporation posed by an insured institution under such threat of instability, the Corporation is authorized, in its sole discretion and upon such terms and conditions as it may determine, to make loans to, to make deposits in, to purchase the assets or securities or to assume the liabilities of, or to make a contribution to, such an insured institution or such an insured institution so threatened.

"(2) Whenever an insured institution is in default or, in the judgment of the Corporation, is in danger of default or, whenever severe financial conditions exist which threaten the stability of a significant number of insured institutions, or of insured institutions possessing significant financial resources, and in order to lessen the risk to the Corporation posed by an insured institution under such threat of instability, the Corporation is authorized, in its sole discretion, in order to facilitate a merger or consolidation of such insured institution with another insured institution or the sale of assets of such insured institution and the assumption of its liabilities by another insured institution, and upon such terms and conditions as the Corporation may determine, to purchase any such assets or assume any such liabilities, or make loans or contributions to, or deposits in, or purchase the securities of, such other insured institution, or guarantee such other insured institution against loss by reason of its merging or consolidating with or assuming the liabilities and purchasing the assets of such insured institution in or in danger of default, or under threat of instability. The Corporation may provide any party acquiring control of, merging with, consolidating with, or acquiring the assets of an insured institution under section 408(m) of this title with such financial assistance as it could provide an insured institution under this subsection.

"(3) No assistance shall be provided pursuant to this subsection in an amount in excess of that which the Corporation finds to be reasonably necessary to save the cost of liquidating, including paying the insured accounts of, such insured institution in or in danger of default, or under threat of instability, but if the Corporation determines that the continued operation of such institution is essential to provide adequate savings or home financing services in its community, such limitation upon the amount of assistance shall not apply.".

(b) Section 406(b) of the National Housing Act (12 U.S.C. 1729b) is amended to read as follows:

"(b) In the event that a Federal savings and loan association is in default, the Corporation shall be appointed as conservator or receiver and as such (1) is authorized (A) to take over the assets of and operate such association, (B) to take such action as may be necessary to put it in a sound and solvent condition, (C) to merge it with another insured institution, (D) to organize a new Federal association to take over its assets, (E) to proceed to liquidate its assets in an orderly manner, or (F) to make such other disposition of the matter as it deems to be in the best interest of the association, its savers, and the Corporation, and (2) shall pay all valid credit obligations of the association. The Corporation shall pay insurance as provided in section 405. The surrender and transfer to the Corporation of an insured account in any such association which is in default shall subrogate the Corporation with respect to such insured account, but shall not affect any right which the insured member may have in the uninsured portion of his account or any right which he may have to participate in the distribution of the net proceeds remaining from the disposition of the assets of such association.".

EMERGENCY THRIFT ACQUISITIONS

SEC. 107. (a) Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by adding at the end thereof the following:

"(m) Notwithstanding any other provision of State or Federal law, except as provided in subsections (e)(2) and (1) hereof, the Corporation, upon its determination that severe financial conditions exist which threaten the stability of a significant number of insured institutions, or of insured institutions possessing significant financial resources, may authorize, in its discretion and where it determines such authorization would lessen the risk to the Corporation, an insured institution that is eligible for assistance pursuant to section 406(f) of this Act, to merge or consolidate with, or to transfer its assets and liabilities to, any other insured institution, or may authorize any company to acquire control of said insured institution or to acquire the assets or assume the liabilities thereof. Mergers, consolidations, transfers, and acquisitions under

this subsection shall be on such terms as the Corporation shall provide. In considering authorizations under this subsection, the need to minimize financial assistance required of the Corporation shall be the paramount consideration, but the Corporation shall also make a reasonable effort to authorize transactions under this subsection in the following sequence: First, institutions of the same type within the same State; second, between institutions of the same type in different States; third, between institutions of different types in the same State; and fourth, between institutions of different types in different States. Notwithstanding any other provision of this section, no transaction subject to this subsection and involving a commercial bank or bank holding company shall be permitted without the prior approval of the Corporation and of the Board of Governors of the Federal Reserve System.".

(b) Section 408(e)(2) of the National Housing Act (12 U.S.C. 1730a(e)(2)) is amended by inserting in the first sentence after the term "subsection" the following: "or any transaction under subsection (m) of this section,".

(c) Section 408(a)(1)(A) of the National Housing Act (12 U.S.C. 1730a(a)(1)(A)) is amended by adding after the word "cooperative" the words "or savings".

(d) The provisions of subsections (a) and (b) of this section shall cease to be effective five years after the date of enactment of this Act.

ASSISTANCE TO FEDERAL HOME LOAN BANK MEMBERS

SEC. 108. Section 16 of the Federal Home Loan Bank Act (12 U.S.C. 1436) is amended by inserting "(a)" after "Sec. 16." and adding at the end thereof the following:

"(b) Notwithstanding subsection (a) or any other provision of this Act, if the Board determines that severe financial conditions exist threatening the stability of member institutions, it may suspend temporarily the requirements under subsection (a) that a portion of net earnings be set aside semiannually by each Federal Home Loan Bank to a reserve account and permit each Federal Home Loan Bank to declare and pay dividends out of undivided profits. Thereafter, dividends shall be paid in accordance with subsection (a).".

BORROWING AUTHORITY

SEC. 109. (a) Section 402(d) of the National Housing Act (12 U.S.C. 1725(d)) is amended by striking the period at the end of the first sentence and adding the following: ", except that interest on loans from the Federal Home Loan Banks shall be not less than their current marginal cost of funds, taking into account the maturities involved, and loans from the Federal Home Loan Banks shall be adequately secured, as determined by the Board.".

(b) Section 402(1) of the National Housing Act (12 U.S.C. 1725(1)) is amended—

(1) by striking out "$750,000,000" and inserting in lieu thereof "$3,000,000,000";

(2) in the first sentence, immediately after the word "source", by inserting the following: ", except the Federal Home Loan Banks"; and

(3) in the first sentence, immediately after the first time the word "loan" appears after the first colon, by inserting "from the Treasury".

INSURANCE FUND RESERVES

SEC. 110. Section 404 of the National Housing Act (12 U.S.C. 1727) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following:

"(h) Notwithstanding any other provision of this section, the Corporation, upon its determination that extraordinary financial conditions exist increasing the risk to the Corporation, may terminate distribution of shares of the secondary reserve and utilize said reserve on the same basis as the primary reserve. If otherwise authorized, the Corporation may resume such distribution upon its determination that said conditions no longer exist.".

ASSISTANCE TO CREDIT UNIONS

SEC. 111. Section 203 of the Federal Credit Union Act (12 U.S.C. 1783) is amended—

(1) by inserting "or (4)" after "paragraph (1)" in subsections (d)(2) and (d)(3) and by adding at the end of subsection (d) the following:

"(4) Notwithstanding the limitation contained in paragraph (1), the Secretary of the Treasury is authorized to lend such additional amounts as are authorized in advance in appropriation Acts, not to exceed $400,000,000.";

(2) in subsection (e) by inserting "from the Secertary of the Treasury" after "loans" the first time it appears therein; and

(3) by adding at the end thereof the following:

"(f) In addition to the authority to borrow from the Secretary of the Treasury provided in subsection (d), if, in the judgment of the Board, a loan to the fund is required at any time for carrying out the purposes of this title, the fund is authorized to borrow from the National Credit Union Administration Central Liquidity Facility.".

CREDIT UNION MERGERS

SEC. 112. Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended—

(1) by redesignating subsections (d) and (e) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (c) the following:

"(d) Notwithstanding any other provision of this Act, other Federal law, or any State law, the Board may authorize a merger or consolidation of an insured credit union which is insolvent or is in danger of insolvency with any other insured credit union or may authorize a purchase and assumption by an insured credit union of all or any part of the assets and liabilities of any other insured credit union which is insolvent or in danger of insolvency if the Board is satisfied that an emergency requiring expeditious action exists with respect to the credit union, that other alternatives are not reasonably available, and that the public interest would best be served by approval of such merger, consolidation, or purchase and assumption. Any merger, consolidation, or purchase and assumption of an insured credit union approved under this section shall not operate or serve as the basis for any additional expansion of the continuing or acquiring insured credit union's field of membership.

"(e) Notwithstanding any other provision of this Act or any State law, the Board may authorize a purchase and assumption of all or any part of the assets, liabilities, and insured accounts of an insured credit union which is insolvent or in danger of insolvency, by a federally insured financial institution other than a credit union. For purposes of this authority, insured accounts of the credit union may upon consummation of the purchase and assumption be converted to insured deposits or other comparable accounts in the acquiring institution, and the Board and the National Credit Union Share Insurance Fund shall be absolved of any liability to the credit union's members with respect to those accounts.".

CENTRAL LIQUIDITY FACILITY ADVANCES

SEC. 113. Section 307(a) of the Federal Credit Union Act (12 U.S.C. 1795) is amended—

(1) by striking out the word "and" at the end of paragraph (15);

(2) by striking out the period at the end of paragraph (16) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(17) advance funds to the National Credit Union Share Insurance Fund under such terms and conditions as may be established by the Board.".

EXTRAORDINARY ACQUISITIONS

SEC. 115. Subsection (e) of section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)) is amended—

(1) by inserting "(1)" after "(e)";

(2) by redesignating the second paragraph as paragraph (4); and

(3) by inserting the following after paragraph (1):

"(2)(A) Whenever an insured bank that had total assets equal to or greater than 0.12 percent of aggregate assets in United States offices of insured banks (as determined from the most recently compiled Reports of Condition filed by insured banks) is closed and the Corporation is appointed Receiver, then, the Receiver may, in its discretion and upon such terms and conditions as it may determine, and with such approvals as may elsewhere be required by any State or Federal courts and supervisory agencies, sell assets of the closed bank to and arrange for the assumption of the liabilities of the closed bank by an insured depository institution located in the same State as that in which the closed bank was chartered but owned by an out-of-State bank or bank holding company. Notwithstanding subsection (d) of section 3 of the Bank Holding Company Act of 1956 or any other provision of law, State or Federal, the acquiring institution is authorized to be and shall be operated as a subsidiary of the out-of-State bank or bank holding company; except that an insured bank may operate the assuming institution as a subsidiary only if specifically authorized by law other than this paragraph.

"(B)(i) In determining whether to arrange a sale of assets and assumption of liabilities of a closed insured bank under the authority of this paragraph (2), the Receiver may solicit such offers as is practicable from any prospective purchasers it determines, in its sole discretion, are both qualified and capable of acquiring the assets and the liabilities of the closed bank.

"(ii) If, after receiving offers, the highest acceptable offer is from a subsidiary of an out-of-State bank or bank holding company, the Receiver shall permit the highest acceptable offerer of any existing in-State insured depository institutions and subsidiaries of in-State bank holding companies to submit a new offer for the assets and liabilities of the closed bank. If this institution reoffers a greater amount than the previous highest acceptable offer, then the Receiver shall sell the assets and transfer the liabilities of the closed bank to that institution.

"(iii) If there is no acceptable offer received from an existing in-State depository institution or subsidiary of an in-State bank holding company, or if there is no reoffer greater than the highest acceptable offer, then the Receiver shall permit the highest acceptable offeror of the subsidiaries of the insured banks chartered in States adjoining the State in which the closed bank was chartered and bank holding companies whose banking subsidiaries' operations are principally conducted in States adjoining the State in which the closed bank was chartered (if its offer was not the highest received by the Receiver) to make a new offer for the assets and liabilities of the closed bank. If this subsidiary reoffers a greater amount than the previous highest acceptable offer then the Receiver shall sell the assets and transfer the liabilities of the closed bank to that institution.

"(iv) If no offer under subparagraph (ii) or (iii) is received which exceeds the original highest acceptable offer, then the Receiver shall sell the assets and transfer the liabili-

ties of the closed bank to the highest acceptable offeror.

"(C) In making a determination to solicit offers under subparagraph (B), the State bank supervisor of the State in which the closed insured bank was chartered shall be consulted. The State bank supervisor shall be given a reasonable opportunity, and in no instance a period of less than twenty-four hours, to object to the use of the provisions of this paragraph (2). If the State supervisor objects, the Receiver may use the authority of this paragraph (2) only by a unanimous vote of the Board of Directors. The Board of Directors shall provide to the State supervisor, as soon as practicable, a written certification of its determination.

"(D) The Receiver shall not make any sale under the provisions of this paragraph (2)—

"(i) which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States; or

"(ii) whose effect in any section of the country may be substantially to lesson competition, or to tend to create a monopoly, or, which in any other manner would be in restraint of trade; unless it finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

"(E) Nothing contained in this paragraph (2) shall be construed to limit the Corporation's powers in paragraph (1) to assist a transaction under this paragraph.

"(F) As used in this paragraph (2)—

"(i) the term 'Receiver' means the Corporation when it has been appointed the receiver of a closed insured bank;

"(ii) the term 'insured depository institution' means an insured bank or an association or bank insured by the Federal Savings and Loan Insurance Corporation;

"(iii) the term 'existing in-State insured depository institution' means an insured depository institution that is chartered in the same State as the State in which the closed bank was chartered;

"(iv) the term 'in-State bank holding company' means a bank holding company whose banking subsidiaries' operations are principally conducted in the same State as the State in which the closed bank was chartered; and

"(v) the term 'out-of-State bank or bank holding company' means an insured bank having its principal place of banking business in a State other than the State in which the closed bank was chartered or a bank holding company whose banking subsidiaries' operations are principally conducted in a State other than the State in which the closed bank was chartered.

"(3) The provisions of paragraph (2) of this subsection shall cease to be effective five years from the date of its enactment. The expiration of the effectiveness of paragraph (2), however, shall have no effect on the continued legality of any sale or operation authorized while it was effective.".

TITLE II—LENDING, INVESTMENT, AND OPERATING AUTHORITY OF FEDERAL MUTUAL SAVINGS BANKS

CHARTERING

SEC. 201. Section 5(a)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(a)(1)) is amended to read as follows:

"(a)(1) In order to provide local mutual thrift institutions in which people may invest their funds and in order to provide for the financing of homes, the Board is authorized, under such rules and regulations as it may prescribe, to provide for the organization, incorporation, examination, operation, and regulation of associations to be known as 'Federal Savings and Loan Associations', or 'Federal mutual savings banks' (but only in the case of institutions which, prior to conversion, were State mutual savings banks located in States which authorize the chartering of State mutual savings banks, provided each conversion is not in contravention of State law), and to issue charters therefor, giving primary consideration to the best practices of local mutual thrift and home-financing institutions in the United States. An association which was formerly organized as a savings bank under State law may not convert from the mutual to the stock form of ownership. An association which was formerly organized as a savings bank under State law may, to the extent authorized by the Board, continue to carry on any activities it was engaged in immediately prior to conversion and to retain or make any investments of a type it held on that date, and such an association which was formerly organized as a savings bank under State law shall only be permitted to establish branch offices and other facilities in accordance with the limitations imposed by State law controlling applications of a savings bank organized under such State law, provided that such an association: (A) shall be exempt from any numerical limitations of State law on the establishment of branch offices and other facilities, and (B) may, in any case, subject to the approval of the Board, establish branch offices and other facilities in its own standard metropolitan statistical area, its own county, or within thirty-five miles of its home office, but only in its State of domicile. An association which was formerly organized as a savings bank under State law shall be subject to the requirements of State law (including any regulations promulgated thereunder and any sanction for the violation of any such law or regulation) in effect at the time of conversion, in the State of its original charter—

"(i) pertaining to discrimination in the extension of home mortgage loans or adjustment in the terms of mortgage instruments based on neighborhood or geographical area, and

"(ii) pertaining to requirements imposed under the Consumer Credit Protection Act, if the Board determines that State law and regulations impose more stringent requirements than Federal law and regulations.".

COMMERCIAL LENDING

SEC. 202. Section 5(a)(2) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(a)(2)) is amended to read as follows:

"(2) A Federal mutual savings bank may make commercial, corporate, and business loans. The total obligations to any Federal mutual savings bank of any person, copartnership, association, or corporation shall at no time exceed 10 per centum of the net worth of such Federal mutual savings bank. The term 'obligations' means the direct liability of the maker or acceptor of paper discounted with or sold to such Federal mutual savings bank and the liability of the endorser, drawer, or guarantor who obtains a loan from or discounts paper with or sells paper under his guaranty to such Federal mutual savings bank and shall include in the case of obligations of a copartnership or association the obligations of the several members thereof and shall include in the case of obligations of a corporation all obligations of all subsidiaries thereof in which such corporation owns or controls a majority interest. Such limitation of 10 per centum shall be subject to such exceptions as the Board shall by regulation prescribe from among those exceptions provided for national banks in section 5200 of the Revised Statutes or elsewhere.".

DEMAND DEPOSITS

SEC. 203. Section 5(a)(3) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(a)(3)) is amended to read as follows:

"(3) Federal mutual savings banks may accept demand deposits from any source whatever.".

SERVICE CORPORATIONS

SEC. 204. Section 5(c)(4)(B) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(4)(B)) is amended to read as follows:

"(B) Service Corporations.—Investments in the capital stock, obligations, or other securities of any corporation organized under the laws of the State in which the home office of the association is located, if the entire capital stock of such corporation is available for purchase only by savings and loan associations or mutual savings banks of such State and by Federal associations having their home offices in such State, but no association may make any investment under this subparagraph if its aggregate outstanding investment under this subparagraph would exceed 10 per centum of the assets of the association, except that not less than one-half of the investment permitted under this subparagraph which exceeds 1 per centum of assets shall be used primarily for communty, inner-city, and community development purposes.".

CONVERSION INDEMNIFICATION

SEC. 205. Section 26 of the Federal Deposit Insurance Act (12 U.S.C. 1831c) is amended to read as follows:

"Sec. 26. With respect to any State-chartered insured mutual savings bank which converts into a Federal mutual savings bank or a Federal stock savings bank or merges or consolidates into a Federal mutual savings bank or a Federal stock savings bank, the Corporation shall indemnify the Federal Savings and Loan Insurance Corporation against any losses incurred by it which arise out of losses incurred by the converting bank, as follows: 100 per centum of such losses incurred by the Federal Savings and Loan Insurance Corporation during the first three years after conversion, 75 per centum during the fourth year, 50 per centum during the fifth year, and 25 per centum during the sixth year. The Corporation, at its discretion, may provide a greater degree of indemnification where circumstances warrant. The Corporation and the Federal Savings and Loan Insurance Corporation shall, within six months after enactment hereof, mutually agree on what shall be treated as 'losses incurred by it which arise out of losses incurred by the converting bank' for purposes hereof and, failing such agreement, the General Accounting Office shall prescribe the meaning of those terms. The General Accounting Office shall also have the authority to arbitrate and its decision shall be final and binding, as to any dispute between the Corporations relative to this section. Any conversion, merger, or consolidation covered by this section shall not be deemed a termination of insured status under section 8(a) of this Act.".

GENERAL POWERS

SEC. 206. Section 5(a) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(a)) is amended by adding at the end thereof the following:

"(5) A Federal mutual savings bank may carry on all activities which are authorized to bank holding companies under section 4(c)(8) of the Bank Holding Company Act of 1956 or elsewhere, as such powers are defined by the Board.".

RECOGNITION OF SENATOR MATHIAS

The PRESIDING OFFICER (Mr. HATCH). The Senator from Maryland has 7 minutes.

RETIREMENT OF ROBERT S. McNAMARA AS PRESIDENT OF THE WORLD BANK

Mr. MATHIAS. Mr. President, we all have a special affection for our classmates, those who are contemporaries,

the people of our own time, of our own generation, and those who have shared our trials and troubles, as well as our days of sunshine and success. In a very real sense, Robert McNamara is my classmate in Washington, since we came to town together in January 1961. My service in the other body began early in that month, when the 87th Congress convened. Bob McNamara arrived a few days later, in the wake of a blizzard, when John F. Kennedy was inaugurated as President of the United States on the 20th of January.

In the intervening years, Mr. President, we have shared many experiences and I have benefited from his counsel, his advice, and his broad knowledge. In those same years, we have grown to know each other well. Our wives became good friends, my wife, Ann, and his wife Margie. So, it has been a close and a rewarding association.

In those years, Bob McNamara served with great distinction as Secretary of Defense and then became president of the World Bank.

Now, Mr. President, Robert S. McNamara will retire as president of the World Bank at the end of this month after more than 13 years in that office. Robert McNamara has made an extraordinary contribution in those 13 years, not only to the Bank, but to all mankind. He has made the Bank a powerful force for development in poor countries, helping the poorest people in the world grow their own crops, obtain safe drinking water, and educate their children.

Under the leadership of Robert McNamara, the World Bank has grown from a modest institution, with $1 billion in financial commitments in fiscal year 1968, to a major factor in development financing, extending $11.5 billion in financing during the Bank's most recent fiscal year. The World Bank today is supervising more than 1,600 projects—with a total value of some $100 billion—in 100 countries.

But the tremendous growth of the World Bank is not, in my opinion, Bob McNamara's most impressive contribution. What stands out most, is his unceasing effort to promote growth with equity, to insure that development improves the lives of the people who need it most.

Bob McNamara calls the attack on absolute poverty "the most fundamental struggle of all." Absolute poverty, he says:

• • • is a condition of life so limited by malnutrition, illiteracy, disease, high infant mortality, and low life expectancy as to be beneath any rational definition of human decency.

Bob McNamara has made the clearest possible statement of where the priority in development ought to be placed:

To reduce and eliminate massive absolute poverty lies at the very core of development itself. It is critical to the survival of any decent society.

Bob McNamara is personally responsible for shifting the emphasis of the Bank's programs toward meeting the basic human needs of the 800 million absolute poor who live literally on the margin of life. His persistent effort to demonstrate that equity and growth can be achieved together—that there is no necessary trade-off between the two—is paying off. The developing countries have realized steady, and in some cases, remarkable, economic growth in the past 15 years, while at the same time improving the living conditions for the poor. As more countries and institutions adopt the McNamara philosophy of development, we can look forward to still more rapid alleviation of the worst conditions of poverty.

The Bank-supported projects which exemplify Bob McNamara's approach range from rural health and family planning programs in Bangladesh to dairy cooperatives in India to rural roadbuilding, irrigation, and electrification in Mexico, to building a water supply system for Manila in the Philippines. Such projects provide direct and lasting benefits to millions of poor people.

Mr. President, Bob McNamara is leaving the World Bank, and he will be sorely missed by all who have an interest in development, but the McNamara philosophy and the McNamara focus on growth with equity will continue at the World Bank and elsewhere. The unfinished work of eliminating absolute poverty will be finished, and the world will remember that it was Robert S. McNamara who took the critical steps.

Mr. President, I ask unanimous consent to have printed in the RECORD an article which appeared in the New York Times with reference to Mr. McNamara's retirement.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 21, 1981]

MCNAMARA WARNS UNITED STATES OF PERILS IN REDUCING AID TO WORLD'S POOR

(By Leonard Silk)

Robert S. McNamara, who will retire this month after 13 years as president of the World Bank, believes the economic and political interests of the United States will be seriously injured if it retreats further from commitments to aid the poor people of the third world.

In an interview in his office in Washington, Mr. McNamara said Congress was "on the verge of repudiating" agreements made by the Carter Administration, and endorsed by the Reagan Administration, to contribute $658.3 million toward a general increase for the World Bank and $3.2 billion over three years to the sixth replenishment of the International Development Association, the bank's affiliate, which lends to the poorest countries.

"WE ARE BANKRUPT TODAY"

"With respect to I.D.A.," he said, "essentially we are bankrupt today. At the end of next week, the end of our fiscal year, we will have about $1 billion of I.D.A. credits approved by our board, but for which we have no commitment authority, and hence no authority to sign."

And, he added, "those are for projects that are to deal with these very basic problems," of poverty and financial crisis, "the solution to which will benefit not only the developing countries but the United States."

If the United States fails to support the development affiliate, Mr. McNamara said in the interview last week, other countries, acting under a trigger clause tied to the United States contribution will withhold their support, and the affiliate will collapse.

While the Republican-dominated Senate, following the White House endorsement, has voted the full authorization of $3.2 billion for the development affiliate, the Democratic-led House Banking and Currency Committee has cut the authorization to $1.9 billion.

But since there is actually little support for even the truncated bill among Republicans or Democrats in either the House of Representatives or the Senate, it may be excluded from the huge reconciliation bill that ultimately emerges from Congress.

Thus, with just over a week to go in his present job, Mr. McNamara is worrying and working down to the wire. At 65, he looks thin and fit; his eyes are bright and restless behind silver-rimmed spectacles. He is deeply tanned, both from his wanderings in the hot countries of the third world and from the tennis courts of Washington; last week, however, he was wearing a surgical harness on his right arm, having just broken his wrist playing tennis.

He still works in shirt-sleeves, donning a jacket only for picture-taking. He seems as passionately involved in his job as he did when President Lyndon B. Johnson accepted his resignation as Secretary of Defense in 1968 during the Vietnam War and backed him for the presidency of the World Bank. This post has always been held by an American, and Mr. McNamara's successor will be A. W. Clausen, former chairman of the Bank of America, with headquarters in San Francisco, which was also Mr. McNamara's hometown.

It was President Carter who named Mr. Clausen to the post, with Mr. Reagan's concurrence, although the extent of the Reagan Administration's commitment to the World Bank's aid program remains in doubt.

ROLL-CALL VOTE SHUNNED

So unpopular is foreign aid with voters, at a time when even domestic food stamp and welfare programs are being slashed, that the Democrats in Congress are loath to support foreign aid on a roll-call vote, lest they be attacked by their Republican rivals as "big foreign aid spenders."

The crucial factor that will determine whether the authorization of aid for the World Bank Group dies in Congress or passes is likely to be the pressure exerted by President Reagan and his lobbyists on Capitol Hill on behalf of the bill.

But the White House appears reluctant to fight hard for foreign aid, hoarding its capital for what it regards as more urgent causes. Some high Administration officials, such as David A. Stockman, the director of the Office of Management and Budget, are on record as favoring deep cuts in foreign aid, including funds for the World Bank.

WIDE-RANGING TALK

In last week's interview, Mr. McNamara talked extensively on a wide range of economic, political and technical subjects, rarely consulting notes for data. But the McNamara personality is not computerlike but a blend of precision and emotion. He himself speaks of the need to combine "a soft heart and a hard head."

His uppermost immediate concern is to rescue and strengthen United States support for the World Bank. He said he believed American economic and political interests would be seriously injured if this country retreated further from its earlier commitments to aid the poor people of the third world, which appears likely as Congress wranges over economic legislation.

"The United States contribution to development assistance," he said, "is disgracefully low; it has declined in relation to national income 90 percent since the Eisenhower Administration at a time when national income in real terms per capita has more than doubled. It is today the 15th lowest among the major industrial nations. There is no other large industrial nation providing as low a proportion of its national income to development assistance; it is disgraceful."

"A HARD-HEADED LOOK"

Mr. McNamara declined to criticize the Reagan Administration for not lending the bank stronger support. "The Administration," he said, "is a reflection of the views of the American people." But he said: "I think our people have failed to recognize in the last 10 or 20 years what has happened to the world today they live in. They do not understand how our nation should respond to these changes in ways that address its national interest. I am not talking about 'do-goodism' now. I am talking about taking a hard-headed look at where the nation's interests lie."

Mr. McNamara said that if the United States slashed its support for poor countries, the country would be penalized in the following areas:

Inflation, because the World Bank finances production of essential commodities, the scarcity of which could raise world price—foodstuffs and energy, for example.

Economic growth, because third world countries absorb roughly a third of United States exports. If lack of financial support erodes this market, domestic production and employment could be badly hurt.

Strategic interest, because lower rates of economic and social advance in the developing countries are almost certain to bring political instability damaging to the United States, adding to its military costs and adversely affecting its national security.

Mr. McNamara, who will leave the World Bank in July, is in a sense the last of the generation of post-World War II crusaders for a better world order to hold high public office. It was a group who combined a militant anti-Communism with a concern for world economic development.

COMMISSIONED PENTAGON PAPERS

Although Vietnam was for a time called "McNamara's War"—it was he who commissioned the Pentagon Papers, which explored the origins of the war—he declined in the interview to give his present views on the American involvement in Vietnam saying: "I have not talked about my period in Vietnam, and I am not going to start today. I may some time, but not while I am in this institution. It is inappropriate for an international civil servant to do that."

With both the cold war and the drive for social and economic reform at home and abroad in their background, Mr. McNamara and others like him have been attacked from the left as self-interested capitalists pretending to be socially responsible and from the right as socialists undermining the free-enterprise system.

Mr. McNamara considers such charges to be baseless and ignorant as applied to himself and the institution he has headed. When asked about the assertion made by some on both the right and the left that the World Bank is supported by American commercial bankers as a kind of bailout operation for banks that lent too heavily to the developing countries, Mr. McNamara responded:

"On the contrary, it's supported by individuals in this country who understand that our own economy will suffer, not the banks. The banks are intelligently managed; their loans to developing countries are a relatively small percentage of their total loans outstanding; they have appropriate reserves in relation to them; they are concentrated in some of the strongest developing countries. Brazil, for example, is a very rich country, even if it does at times have liquidity problems. Over the long run the banks aren't going to lose a lot of money on Brazil.

"So the charge that this bank is moving in ways that are designed to bail out U.S. commercial banks is absurd. This bank is, however, moving in ways that are consistent with the broad economic interests of the U.S. And if this bank is prevented from continuing to move in those ways, not only will the developing countries be hurt, and particularly the poorest people in those countries, but the U.S. economy will be hurt, and the American people will be hurt."

CRITICISM REJECTED HARSHLY

Mr. McNamara rejects harshly the criticism, offered by a host of conservatives, including some within the Administration, that the World Bank is undermining private enterprise and promoting socialism. He called the accusation an extreme hindrance to the bank's operations, especially in the United States.

"They are ignorant," Mr. McNamara said of the conservative critics. "They are ignorant of what the bank is doing. The bank in a very real sense is the largest single source of financing of private enterprise in the developing world, without qualification."

Mr. McNamara noted, for instance, that more than 30 percent of the bank's financing went to agriculture, almost all of it for financing individual, private farmers. He said the bank urges developing countries to increase their efficiency by relying on the price system to direct resources and to stop subsidizing the urban centers at the expense of the poor rural people. "We consistently urge real interest rates," he added, "that is, avoidance of interest subsidies, in order to stimulate savings and assure a directing of capital investment to situations where there will be a real rate of return. We consistently advise against, and as a matter of fact we'll refuse to loan for investment in utilities, public utilities, electric companies, water companies, railroads where the tariffs, the prices, are not set to yield profits, real rates of return so that they are self-sustaining investments."

He feels that the bank has made great strides in its attack on absolute poverty. The most obvious accomplishment of the bank under this administration, he said, had been to increase its annual commitments of loans from $1 billion in 1968 to $13 billion in the fiscal year ending June 30, which has meant, after allowing for inflation, quadrupling or quintupling its real lending. But the most important accomplishment, he feels, was learning to focus resources and technical assistance on the poor, raising their productivity and hence their output and real income.

With the statistical exactness for which he has long been noted, first as a Harvard Business School professor, then as a statistical controller in the United States Air Force during World War II and as president of the Ford Motor Company, Mr. McNamara reeled off the rates of return from investments in antipoverty programs in Bangladesh, Pakistan, Burundi and other poor countries. These rates of return ranged as high as 50 percent and averaged 19 to 20 percent on invested capital.

GREATEST ACCOMPLISHMENT

This, he feels, was his greatest accomplishment: the discovery that the bank could help the poor and society simultaneously.

It is with some regret that Mr. McNamara will leave his post at the World Bank. "I don't want to quit yet, either," Mr. McNamara said. To that end, he has already accepted a number of appointments to the boards of nonprofit institutions, including the Brookings Insttiution, the Ford Foundation, the Urban Institute and the California Institute of Technology, as well as the boards of such corporations as Royal Dutch/Shell, Corning Glass and The Washington Post.

"I am going to divide my time roughly 50-50 between the public and the private sectors," he added. "I hope to be active in continuing to advise both our Government and other governments in fields that I may have some competence in. I am not wealthy, but I don't have to choose my activities on the basis of compensation, and I don't care about status or prestige. I am willing to do anything that will be of assistance to either our Government or other governments. I do believe in public service, I am interested in it, excited about it. Foreign governments have asked me to provide advice and I will be doing so. And I am not going to accept compensation. I'm just going to do it when I feel like it, and when it will be helpful."

Has he any disappointments as he looks back over his performance as president of the World Bank?

He said he had, among them "the deferral of certain actions that I had hoped to initiate." One of them would have been a ratio change—a higher proportion of lending relative to the bank's capital. Another, he added, "would have been an expansion of our research program, a very substantial expansion, because I think that through that we would increase the world's understanding of the development program and how to accelerate it, with advantage to all parties."

He said his greatest disappointment was that "we and others have failed to inform the people of the industrial countries of the nature and magnitude of the changes in the relationships among nations, economically and politically, over the last decade"—especially their greater interdependence.

"For that reason," he said, "we have failed to show them where their own narrow interests lie. We have failed to convince them that there is a plus-sum game as part of which they can move to assist the developing countries to achieve economic and social advance with benefits to both the developing and industrialized countries."

"Now that is my strong belief," he added. "It is a belief I think is shared by most of my associates, and by many others outside the institution, and it is that failure which I think is leading to less than rational action by many of the nations, particularly the United States."

Mr. MATHIAS. Mr. President, I ask unanimous consent to have printed in the RECORD remarks delivered by Mr. David Rockefeller at a dinner in honor of Robert S. McNamara in New York City on March 19.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

DAVID ROCKEFELLER REMARKS

Ladies and gentlemen, your presence here tonight is a more eloquent tribute to Bob McNamara than I could ever fashion.

Such a gathering of distinguished leaders in many fields who have played pioneering roles in our country over several decades can only mean, Bob, that your voice, which at times must have seemed to you to be "crying in the wilderness," has, in fact, been heard—and by men and women whose opinions count.

You have made us all aware of the awesome magnitude of the problems that beset millions of human beings living in impoverished countries of Asia, Africa and Latin America. You have warned us that what we have seen in these areas in the immediate past must be viewed as a prologue to a decade that could be characterized by a crescendo of crises from mass starvation in one region to political anarchy and civil war in another.

But we have heard you and that is why we are here tonight to pay to you our profound respects.

Before turning the evening over to you, however, I feel compelled to express my own deep concern that your message has not been fully understood by important segments in our society—even by many in our government—who must understand if our country is to act responsibly.

Speaking as a banker, whose bank participates daily in the vast international exercise of global financial intermediation, I hear you saying that we Americans must re-double our efforts to improve the investment climate where new wealth, new jobs, new growth are so desperately needed.

Speaking as an American, with a deep belief that the democratic design of our culture contains the power to keep the peace of the world and to enrich the world by creating greater opportunities, I heard you saying that we have been drifting in this gravely important area.

Speaking as an individual who believes that the duty of the older generation is to preserve common sense, while the Young discover new knowledge. I hear you saying that what you want to see done is only common sense.

I share that conviction, Bob, and would like to take just a few moments to add my own thoughts on this subject.

First, let me say that the new Administration has my wholehearted support in its efforts to tame the overblown Federal budget and stem the drain of productive capital into unproductive programs. In my view, the Federal budget simply must be cut if, once and for all, we are to reverse the inflationary curse that has plagued our nation for more than a decade.

In the foreign policy area, as in the domestic area, the President rightfully has asked that we think first of our own national self-interest.

And it is here that I would fervently hope the Administration will profit from the wisdom of Bob McNamara and will heed his words. Specifically, in this regard I would suggest that we reexamine, in a comprehensive way, the proper role of the United States in the world economy, to see if we are contributing what we should be contributing to enhance our own best interest.

Such a reexamination, I believe, could take the form of a blue ribbon panel of diversified American opinion makers. Bob McNamara, himself, had a similar idea in inspiring the Brandt Commission, and it certainly served a useful purpose. But, I would see the need at this time for a commission concerned solely with answering the most pressing international questions as they relate to United States interests and policies. I feel this body should seek answers to such questions as:

What are our proper responsibilities to the nations of the Third World?

And how can we exercise these duties in our own best, self-interest?

In the process, we must carefully reassess our nation's role both in bilateral programs and in our dealings with multilateral agencies like the World Bank, IDA, the Export-Import Bank and the regional development banks of Asia, Latin America, and Africa.

This reassessment should consider the costs of such programs—certainly—but it must also focus on the impact these programs have on our competitiveness in world markets, the development of jobs in the world, and the creation of a constructive climate for global investment.

The re-examination I am calling for should take place within a broad context of foreign policy. The international financial system, of course, is linked closely with the international security system. We should address this relationship and what it means for the organization and magnitude of our foreign aid programs.

The re-examination I am calling for should also take place within the context of domestic economic policy. Paul Volcker has pointed out on many occasions that sometimes we try to separate "foreign" economic policy from "domestic" economic policy as though one were on Mars and the other on Venus. Economic policy, Paul says—and I think correctly—should be seen as the bridge between domestic policy and foreign policy.

Finally, if the re-examination I am suggesting is to be productive, it must have credibility and therefore should be undertaken by the best minds in this country. For the consequences of our action—or our inaction—in this field of foreign aid and economic development will be great indeed.

Our relationships with the Third World will inevitably be of growing importance as this decade proceeds. And it seems to me we would be wise to address this reality sooner in a comprehensive way rather later in a catchup fashion. This, I believe, is very much a part of the lesson we can learn from what Bob McNamara has been telling us for so many years.

But Bob, I'm trespassing on your time. We came here not to bury you with words. But to praise you and hear what you have to say. What you have been talking about for so long has moral and social implications. It equally should be of concern to us for its political, economic, and military implications.

And for my part this evening, I did want to take just a few moments to urge that our distinguished friends and guests raise their voices in support of yours to stress the urgent importance of, first, helping to solve the problems you have so eloquently brought to light and, second, of working to improve relations with those countries of the world whose future will be so critical to our own national self-interest in the years ahead.

● Mr. HEINZ. Mr. President, it is with great pleasure that I join my colleagues in honoring Mr. Robert S. McNamara. Mr. McNamara has had a long and most distinguished career as a professor, business executive, lieutenant colonel in the U.S. Air Force, Secretary of Defense for 7 years, and president of the World Bank for the past 13 years.

Since 1968 when he became president of the World Bank, the Bank has grown tremendously in both capability and importance. Under Mr. McNamara's expert guidance, annual financial commitments have risen sharply. In the past 13 years the Bank has experienced an 11-fold expansion in lending operations. Today, the World Bank is the largest development agency in the world, providing financial and technical assistance to over 100 developing countries.

We have all benefited from his outstanding contributions to his profession and our country. Mr. McNamara's illustrious service to the Nation deserves our highest praise.●

● Mr. INOUYE. Mr. President, it is with great pleasure that I join my colleagues in a tribute to Robert McNamara, the president of the World Bank. When this man—the incomparable international civil servant—retires from the World Bank later this month, he will have served for 13 years as its president.

During his tenure in office, Robert McNamara has set a standard of excellence which must assuredly now become the goal for all who aspire to recognition as truly international servants of the people. His unique vision of economic development, his truly exceptional managerial ability, and his tireless efforts in service of the poor of the world have led the World Bank to its preeminent position in international development finance. The World Bank, under Robert McNamara's leadership, has become the most effective institution for meeting the enormous task of bringing a decent life to those living in absolute poverty.

Lending by the World Bank has risen from the $1 billion annual program in 1968, when Robert McNamara joined the Bank, to $11.5 billion in the fiscal year ending June 30, 1980. Today, the Bank is supervising more than 1,600 projects in about 100 countries. The total value of these projects approaches $100 billion.

The World Bank—this single institution—is now responsible for providing economic advice and financial assistance to more than a hundred developing countries with a combined total population of some 3½ billion people.

Robert McNamara has met this responsibility by recognizing—and leading us also to see—that economic growth is not necessarily economic development. His contributions are many but, perhaps, the most notable has been his tenaciously held belief that the poor must be engaged in the process of development, that they must be participants and not just the objects of change, if economic growth is to mean economic progress.

He taught us that the lesson of the past 30 years, indeed of all of history, is that there is more to economic development than increasing the wealth of nations. He caused us to address the central issue, to recognize that, fundamentally, economic progress is nothing more, nor less, than the improvement of the human condition. Nations might grow in wealth and power, but, to him, if they could not meet the basic human needs of their individual citizens, they could make no claim to economic progress.

Mr. President, Robert McNamara believed and still believes that, if we are to have peace, if we are to have justice, the world must face the reality that 800 million people among us live in absolute poverty, their lives enclosed by hunger and disease. He knew, and he never lost sight of the fact, that the one workable solution to this most pressing problem was raising the productivity of the poor.

For this, for his dedication to the poor of the world and for his ability to transform visions into practical programs which insure that the poor have access to basic education, primary health care, and safe drinking water, we honor him. We, who share his views and his hopes for the betterment of mankind, will sorely miss his leadership at the World Bank. We know that his voice will not be stilled and that he will continue to give advice and counsel to us. And, for that, we thank him.●

A TRIBUTE TO ROBERT S. M'NAMARA, PRESIDENT OF THE WORLD BANK

Mr. LEAHY. Mr. President, the retirement of Robert S. McNamara as president of the World Bank marks the end of 13 years of exceptionally distinguished service to one of the most important, respected and successful international institutions. At a time when concerned leaders everywhere are increasingly ready to focus their attention on the searing poverty of 40 percent of this globe's inhabitants, the World Bank offers hope and inspiration that we have within our power the means to mitigate this enormous suffering. No person has given substance to the idea that some-

thing can be done more than Mr. McNamara. The record of accomplishment under his direction deserves our study. The inspiring contribution of Mr. McNamara merits our applause.

During Mr. McNamara's presidency bank lending grew from $1 billion in 1968 to $11.5 billion in 1980. The Bank now supervises more than 1,600 projects in 100 countries. This record of expansion was established against a backdrop of world economic depression, the energy crisis, extraordinary expenditures on armaments, and a widening gap between the rich nations and poor nations. It reflects not only Mr. McNamara's conviction that the bank must dedicate itself to improving the lot of the "absolute poor," but also his success in projecting management techniques adequate to mobilizing the vast economic and social data generated by the Bank as part of its diagnosis of an economically ailing and politically volatile planet.

Over the span of a decade and more Mr. McNamara argued forcefully an uncomfortable but compelling message:

> Development is clearly not simply economic progress measured in terms of gross national product. It is something much more basic. It is essentially human development, that is the individual's realization of his or her own inherent potential.

Under McNamara's supervision the World Bank transcended the limitations traditionally associated with a bank. Increasingly he came to preside over a development agency dedicated to the idea that, in his own words:

> The rich and the powerful have a moral obligation to assist the poor and the weak.

McNamara then went on to demonstrate that the poverty which constitutes everyday reality for 800 million people can be relieved by reshaping development strategies. In such fields as basic education and primary health care the Bank has promoted the concept that essential public services must be made available as widely as possible. In place of emphasis upon a simple maximization of growth McNamara urged concentration upon investments most beneficial to the very poorest members of the society. His message, and the effective implementation of that message, constitutes Mr. McNamara's enduring monument.

I join my colleagues in expressing profound regret that the World Bank will no longer have the benefit of Mr. McNamara's leadership. I rejoice nonetheless that we can use this occasion to remind ourselves that man possesses the resources and technology to meet this world's overriding need for cooperation, vision, and determination in directing international development. Mr. McNamara's vision has become our counsel. My fellow Vermonters join me in this testimony to Mr. McNamara and to the institution he served so well.

Mr. LEVIN. Mr. President, Robert McNamara has brought the same dynamic energy and drive to the job of President of the World Bank as he has to all of his other distinguished positions—from Harvard Business School professor to Ford Motor Co. executive to U.S. Secretary of Defense.

In his 13 years as World Bank President, Mr. McNamara has become a great champion of the poor all over the world. Under his leadership the Bank began to emphasize programs promoting rural development for the poorest people; such as, rural water projects, basic education, primary health care, and rural agriculture improvement projects.

Mr. McNamara has repeatedly reminded us of our responsibilities to the poor. He has pointed out that the promotion of economic progress and the reduction of human suffering worldwide will ultimately bring us a more stable and more humane world.

As a specific example of his leadership, consider Mr. McNamara's approach to educational loans. Previously, development bankers had argued that loans for education were considered consumption, so they couldn't be given. Under Mr. McNamara, the development economists have won out, arguing that output does rise from education, nutrition, and health loans. And these loans are now an integral part of the Bank's program.

But Mr. McNamara was more than a concerned humanist. He was also an efficient businessman. Even taking into account inflation, World Bank lending has also broadened the geographical distribution of the loans. Today, the Bank is supervising more than 1,600 projects in about 100 countries—projects with a total value of about $100 billion. Equally significant is the fact that the Bank has almost tripled its profits from 1978 to 1980, never experienced a loan loss, and enjoys an excellent worldwide credit rating.

We will miss Robert McNamara's strong leadership as president of the World Bank. But we should applaud the excellent work he has done, and the improved programs which his compassion for humanity has brought to the World Bank.

TRIBUTE TO ROBERT M'NAMARA

Mr. HART. Mr. President, Robert McNamara's name has become synonymous with that of the World Bank during the past 13 years of his stewardship. His energy, driving force and dedication on behalf of the world's poor will be sorely missed upon his retirement June 30. Thomas Paine's words my country is the world are an apt description of this outstanding public servant's outlook, which has so benefited the people of developing nations.

Most Americans are content to have succeeded in one or two careers during a lifetime. But Robert McNamara has given long and dedicated service to a variety of careers, both in business and Government.

When he assumed the presidency of the World Bank, in 1968, he shifted the focus of the institution from the traditional emphasis on large, engineering-style projects to one favoring smaller-scale efforts destined to reach and affect the individual more directly.

Under his leadership, the Bank sought to double both its loans to the poor countries and its borrowing efforts in the wealthy ones, and shaped its economic development policies to attack he personal poverty of the poorest 40 percent of the world's population. In practical terms, this meant financing rural and urban projects of low skill, labor-intensive dimensions, related directly to the daily life of the people in the areas of schooling, health, nutrition, farming, and family planning. These kinds of projects are in their own way more difficult to accomplish than building powerplants and road networks.

Robert McNamara has campaigned vigorously to persuade the industrial nations to increase their level of aid, and the United States has been one target of his attempt at consciousness-raising. He has argued convincingly that, in this economically and politically interdependent world, it is in the United States' best national interest to give more generously to the poorer countries, for they provide the fastest growing markets for export and a stimulus to U.S. trade and employment. This argument is moot in addition to humanitarian and moral considerations, of course. He has tried to combat the erroneous impression held by some Americans that the United States is doing more than we should in the size of our contributions; in fact, we give $20 per capita for economic development, while most other industrial countries give twice as much. We would do well to heed his warning that we will face a much worse set of social and political problems in the developing world later if we as a nation do not do more now.

It is natural that an activist like Robert McNamara will attract criticism, and he has had his share throughout his different public roles. He has been accused of being an "internationalist, a citizen of the world," an accusation he deserves to be proud of. He has been accused of overreaching, of pushing the Bank too far by those afraid that it may lose its borrowing power; yet, as the poet Browning once said, "Ah, but a man's reach should exceed his grasp, or what's a heaven for?" and his mission to alleviate world poverty has been a most worthy one.

It is fortunate indeed that Robert McNamara will not retire from public life, but will leave the presidency of the World Bank for service on nonprofit institutions as well as corporate boards. From his new vantage point, I am sure he will continue to speak out against shortsighted temptations, such as the erection of trade barriers, reduction of foreign aid and isolation from the developing world's needs.

I look forward to hearing his voice and benefiting from his wisdom in the years to come.

THE RETIREMENT OF ROBERT S. M'NAMARA AS PRESIDENT OF THE WORLD BANK

Mr. MATSUNAGA. Mr. President, I rise to pay tribute to a prominent American, Robert S. McNamara, who is resigning from the presidency of the World Bank after 13 years of service in that trusted office. No doubt all of us in the United States, and indeed the entire world, will suffer a loss upon the retirement of this gifted and dedicated public servant.

Robert McNamara has had a long and distinguished career from which millions of Americans have benefited. As Secre-

tary of Defense under Presidents Kennedy and Johnson, Robert McNamara brought great personal integrity and keen management skills to the Pentagon, serving the Nation with honor and distinction during seven of our country's most trying years. I might also note, Mr. President, that he accepted that office of public trust at no small sacrifice to himself, foregoing, according to some reports, an estimated $13 million in stocks and options in the Ford Motor Co. of which he had just been made President, to serve in a then $25,000 per year post.

Since leaving the Pentagon, Robert McNamara has devoted his unique talents to the World Bank, achieving remarkable successes both for that institution and in the lives of all those that it serves. Perhaps even more important and praiseworthy than the more than tenfold increase in annual lending achieved by the World Bank during his tenure at the helm, has been Robert McNamara's passionate and unrelenting advocacy on behalf of the poorest and neediest nations. As a self-appointed champion of underdeveloped countries, and conscience of the wealthier nations, Mr. McNamara is largely responsible for shifting the focus of the World Bank, and in doing so has helped to bring necessary, sensible, and purposeful aid to impoverished peoples. In this endeavor, Mr. McNamara has helped immensely to help establish good will between the industrialized nations and the Third World.

Mr. President, it is on rare occasions that we have the opportunity to pay tribute to a man who has served as effectively in both war and peace, in both government and nongovernment positions of power and trust as has Mr. Robert McNamara. Accordingly, I am extremely pleased to have the opportunity to do so at this time, and wish Bob many years of contentment in a richly deserved retirement that I know will be both active and well spent, and most probably—like his entire life—dedicated to the service of others.

A TRIBUTE TO ROBERT M'NAMARA UPON HIS DEPARTURE FROM THE PRESIDENCY OF THE WORLD BANK

Mr. BRADLEY. Mr. President, at the time of his appointment as Secretary of Defense under the Kennedy administration, Robert Strange McNamara said:

I had once told Henry Ford that I was interested in public service. At some particular point I felt I would have to do it if I was asked. You just can't go on saying 'No' all your life.

More than 20 years later, it is clear that Robert McNamara forgot how to say "No" to the question of public service. We have benefited immeasurably from his decision to continue that service as president of the World Bank.

After a sterling academic career, a distinguished contribution to the Army Air Force in World War II as a statistical controller, and a "whiz kid" climb to the presidency of the Ford Motor Co., McNamara turned to public service. He served as Secretary of Defense under the Kennedy and Johnson administrations during an embattled period for our Nation. Throughout his tenure, he was an early and important force behind strategic arms negotiations with the Soviets. He also pressed hard for civilian control over the Military Establishment.

After working as a dominant figure in the Kennedy and Johnson cabinets for nearly a decade, McNamara made what many considered to be a drastic switch to the presidency of the World Bank. He brought to the bank, vast energy, a driving sense of mission, an unshakable faith in the power of reason to solve insoluble problems, and a compassion for humanity.

Assuming the presidency, he proposed nothing less than a new offensive on world poverty, with the Bank to double its lending over the next 5 years.

The Bank, in operation since 1946, started with 28 member nations and concentrated on making or guaranteeing loans for post-WWII reconstruction and development. Now the bank has 134 member nations and the emphasis has shifted to loans to the developing countries.

Bankers feared the sort of expansion that McNamara wanted might mean less profitable, riskier loans, imperiling the Bank's hard-won reputation for soundness. They were wrong.

In the past 13 years, McNamara has become a leading spokesman for the cause of economic development. The former Pentagon chief weighs more heavily the role of economic development in assuring world peace, suggesting that security might best be advanced by promoting economic progress and reducing human misery.

Mr. McNamara's leadership during his 13 years as president of the World Bank, has made the Bank the proud and central international economic institution it is today. His name virtually is synonymous with the developmental ideals that underlie the Bank's activities.

Whenever we think of dedication to human betterment, economic progress for the world's less advantaged, and an economic order that is fair and therefore stable, we think of the work of Robert McNamara. There is no more valuable legacy that a retiring president can leave an institution, and the people it serves.

It does not overlook Mr. McNamara's dedication to the process of development to observe that his work has made the World Bank more than a development institution in the narrow sense. The Bank has emerged as a mighty pillar, essential to maintaining the stability of the world economic order.

It has become an institution that not only advances development among the poor and aspiring nations, but promotes broad world economic growth by strengthening the basis for productive economic transactions among nations.

The Bank makes this broader contribution because Robert McNamara understood from the start that development is not a process isolated from the growth of the larger world economy. Development achievements and failures in the nonindustrialized countries shape the prospects for economic growth and stability in the industrialized world.

Development is not just a poor country issue; for sound economic and political reasons, it is an issue in which rich nations have a large stake.

Markets in the developing world have become the most dynamic source of growth for U.S. exports. During the 1970's, U.S. exports to these countries climbed at a yearly rate of 18 percent, compared with a yearly rate of only 15 percent growth in U.S. exports to other industrialized countries.

Developing countries now buy nearly 40 percent of total U.S. exports, purchases which account for more than one-half million jobs in the United States. Sales to these countries are greater than our sales to the European Community and Japan combined. And the United States has enjoyed large surpluses in its balance of trade in manufactured products with developing countries.

They are also important customers for U.S. services exports, contributing substantially to the U.S. surplus in the services account in recent years.

These figures describe only our trade interactions with the developing world. The United States also has a large private investment stake in these countries, amounting to some $50 billion in direct investment and some $86 billion in credits from U.S. banks. Further, we rely heavily on developing countries for our supply of minerals, many of which are critical to our economy and defense capability.

Finally, it is important to remember that the United States continues to have a political stake in the long-term stability and friendship of the developing world. These nations are, and will continue to be, major arenas of competition between the United States and the Soviet Union.

Many of them are passing through sensitive stages of political development. Their ability to generate new wealth and distribute it equitably will determine their ability to develop stable democratic institutions and participate in the free world economy.

The World Bank acts to reinforce the very processes of growth and stability which support U.S. global interests. Not only does U.S. business grow in response to the increased aggregate demand generated by development, but World Bank figures show that since its inception in 1946, Bank loans have directly generated some $6.4 billion in contracts to U.S. companies.

This is certainly a hefty return on the $935 million which the United States has contributed to the Bank since that time. And since 1946, U.S. firms have won about 25 percent of the annual value of contracts offered under Bank projects.

The Bank also has stepped up lending for energy development projects, a process which strongly serves U.S. interests in increased world energy production and in diversifying the sources of energy supply to the United States and its allies.

I regret that President Reagan has withdrawn U.S. support for the creation of an energy lending affiliate at the Bank. I believe that a focused effort to support the proliferation of world energy sources would accelerate the pace at

which our own energy security objectives are realized.

But I hope the Bank will continue to increase its energy lending because of the contribution source proliferation can make toward alleviating the balance-of-payments and adjustment problems that hinder healthy economic development in so many countries.

Finally, those who criticize the Bank for serving political interests unrelated to the foreign policy concerns of the United States, should note the support the Bank lends to countries in which the United States has demonstrated a special interest. While serving U.S. interests alone is not, and should not, be the purpose of the Bank, the effect of its lending pattern nevertheless has been to support countries in which the U.S. shows a special interest. Four of the 10 largest bank borrowers—India, Indonesia, Turkey, and the Philippines—are also among the 10 largest recipients of U.S. bilateral aid.

Further, the other six largest Bank borrowers are also recipients of U.S. bilateral aid. Clearly, Bank lending policies are far from incongruous with our own political objectives.

The Reagan administration has placed special emphasis on the role of the private sector in advancing the development process in low- and middle-income countries. Mobilizing the private sector for development historically has been an American theme.

I agree with President Reagan that today this emphasis is particularly warranted.

Therefore, I hope the President will reaffirm U.S. support for the World Bank as an institution critical to the maintenance of a stable and healthy economic order, a prerequisite to robust activity in the private sector.

The key function performed by the Bank in the world economy today is not to supplant private entrepreneurship, but rather to support private international transactions. Its lending activities—projects creating economic infrastructure, helping to eradicate poverty, supporting social sector investments, facilitating energy and other mineral developments, and most recently programmatic lending to assist countries to undertake the structural adjustment necessary to stabilize their economies—strengthen the structural base of the world economy.

The kind of lending done by the World Bank must occur for world economic growth to occur, and much of it would not take place without the World Bank.

It is in this context that the work of Robert McNamara should be understood. He has been instrumental in creating a pillar of the world economy, not a poverty agency. And his emphasis on projects to eradicate poverty was inspired by sound economic calculation as much as basic humanitarianism. The criteria applied to assess these projects are hard economic criteria—success in generating output, income, and productivity.

Surely there are fair criticisms that can be leveled at Bank projects, procedures and philosophy. For one, I think more should be done to mobilize private capital through the International Finance Corporation and through the practice of cofinancing, and particularly for investment in energy resource development.

I am sure that Mr. McNamara looking back can think of failures and looking forward can recommend improvements. But the bottom line is a clear verdict: A historic contribution has been made by the World Bank under the stewardship of this extraordinarily gifted man.

We will not forget his wise leadership, and I hope he will not forget to continue to share with us his wisdom as we search for ways to share a better world.

Mr. President, I think it would be fitting on this occasion to ask unanimous consent that there be inserted in the RECORD an excellent, realistic assessment of the contributions and shortcomings of World Bank lending by Dr. Robert Ayres, a senior fellow of the Overseas Development Council. The article appears in the current issue of the magazine Foreign Policy. I ask unanimous consent that the article be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BREAKING THE BANK

(By Robert L. Ayres)

Reagan administration budget cutters now stand poised for attack on one of the conservatives' long-standing pet peeves: foreign aid. The principal target of the impending assault is the assistance supplied by the United States to the Third World through multilateral development banks, chiefly the World Bank (International Bank for Reconstruction and Development) and its soft-loan affiliate, the International Development Association (IDA).

The World Bank uses capital from member country subscriptions as collateral for the sale of bank securities on international capital markets, making loans from these funds on near-commercial terms for economic development projects in middle-income developing countries. IDA depends on contributions from its wealthier member countries for the bulk of its resources, which it uses to grant credits to the low-income nations of the Third World. At immediate issue is the fate of two agreements signed by the Carter administration, one providing for a $658.3 million U.S. contribution toward a proposed general capital increase for the World Bank; the second authorizing $3.2 billion for the sixth replenishment of IDA.

In his now-famous foreign aid retrenchment memo of Janary 27, 1981, David Stockman, director of the Office of Management and Budget (OMB), fired the administration's opening salvo. Stockman proposed that the United States revoke its pledge to the sixth replenishment of IDA and reduce its contribution by one-half. He further proposed that the United States cease to provide paid-in capital to the World Bank and instead attempt to pursue bank objectives through guarantees of commercial borrowing.

In the face of sharply critical foreign reaction, Secretary of State Alexander Haig, Jr. took exception to the memo, arguing that the suggested course of action would severely cripple a traditional arm of U.S. policy. He effected a tenuous compromise: The United States would stretch out its donations to the bank's capital increase over a six-year period and make its contributions to IDA in three graduated payments, instead of depositing three uniform sums, as originally planned.

The vigor with which the administration intends to support even its own reduced commitments remains in doubt, however. The authorizing legislation has already stalled on Capitol Hill, possibly portending an indefinite hold on expanded U.S. participation; for Congress is unlikely to appropriate the earmarked $1.85 billion in a single fiscal year (1983), as now proposed. Neither the State Department nor the White House has pushed the issue hard.

These proposed cutbacks mask a long-building ideological assault on the World Bank. In a series of scathing editorials, the *Wall Street Journal* attacked the institution for supporting "harebrained schemes" and proposed severe economies. Edwin J. Feulner, Jr., president of the conservative Heritage Foundation and head of a Reagan transition team on development assistance, charged in a recent *New York Times* article that the World Bank is "subsidizing utopianism." Pointing to loans for collective farming in Tanzania, Feulner charged that American taxpayers should not have to pay for the bank's "little experiments in so-called social progress." These criticisms call into question not only the expenditure of several billion dollars but also the future of U.S. development assistance programs and the role of multilateral lending institutions in these programs.

A BAD BUSINESS BARGAIN?

When Robert S. McNamara assumed the presidency of the World Bank in 1968, the joint new loan commitments of the bank and IDA totaled $953.5 million. In fiscal 1980, with new loan commitments of $11.5 billion, the bank had become the world's largest official supplier of development finance. Conservative critics claim that the World Bank has grown too big and too fast, that it has usurped the international development effort at the expense of bilateral assistance programs and regional development banks (e.g., the Inter-American Development Bank), and that future growth along these lines is financially impossible. But their quantitative objections mask more fundamental disagreements over the general goals and management of the bank.

The conservatives are particularly critical of the bank's qualitative reorientation during the McNamara presidency. Beginning with his Nairobi address to the bank's Board of Governors in September 1973, McNamara focused attention on the glaring dimensions of world poverty, outlining a comprehensive strategy for rural development and proposing, two years later, a strategy for alleviating urban poverty in the developing world.

The bank responded with new directions in its lending activities. From 1974 to 1978, more than 50 per cent of the bank's lending for agricultural and rural development went to projects in which "more than half of the direct benefits are expected to accrue to the rural poor." Concern with problems of urban poverty led to lending for low-cost housing projects and slum upgrading in the cities of the developing world. Lending also increased sharply for small-scale industrial development, primary and non-formal education, health, nutrition, and population planning activities.

According to the bank's conservative critics, such poverty-oriented projects represent giveaways, welfare programs, money wasted on projects with marginal rates of return. The OMB memo claimed that IDA "in recent years has placed a major emphasis on programs fostering income redistribution," with the implication that this emphasis was incorrect. Some of the criticisms are overtly ideological, claiming that the bank's loans go to support socialist schemes in developing countries. The memo argued that IDA "has supported state planning efforts in some countries" and "has not been vigorous in using the leverage inherent in its large lending program to press recipients to redi-

rect their economies toward a market orientation."

Conservatives also contend that the World Bank is a bad business bargain for the United States. Contracts for the provision of goods and services under bank projects are awarded through international competitive bidding. Critics allege that procurement of U.S. goods and services is insufficient. They argue that U.S. firms do not receive enough export promotion; hence, the bank is not a good buy for the United States. The country should place greater emphasis on the role of its private investment in the economic development of developing countries and much less emphasis on official development assistance.

Another major objection conservatives pose is that the bank is not sufficiently subject to U.S. influence and is therefore ineffective as a means of carrying out American policy. They argue that the United States lacks the ability to effect major changes at the bank because the institution is insufficiently accountable to either donor or recipient countries, particularly the former. Under McNamara, the bank allegedly escaped the control of both the Congress and the executive branch. Conservatives contend that U.S. aid policy must be made more responsive to American interests, either through a return to bilateral assistance directly under the aegis of the State Department or by sharply improving mechanisms designed to insure the accountability of the bank.

INVESTMENT IN GROWTH

In the context of the staggering external financial problems of the developing countries following the international economic shocks of the 1970s, the World Bank's allegedly explosive rate of expansion has far from kept up with increased need. The internal growth rates the conservatives hold so important, in fact, are inextricably linked to balance of payments considerations and attendant needs for external finance. In order to support a 3.5 per cent growth in per capita gross domestic product, the least developed countries will require $11 billion in external capital a year during the 1980s and $21 billion annually during the 1990s. The external capital needs of the middle-income developing countries may be as high as $155 billion annually by 1985 and $250 billion in 1990. As large as the bank has grown, it still provides only about 1 per cent of these total external capital needs.

The argument that the World Bank operates a vast welfare program neglects both the relative emphasis it places on antipoverty activities, compared with the more traditional projects that remain the bank's main priority, and the fundamental rationale behind the McNamara-era projects. Although any effort to ascertain the precise allocation of lending between traditional projects for infrastructure investments and poverty-oriented projects is fraught with methodological difficulties, considerably more than one-half and perhaps as much as two-thirds of combined bank and IDA lending remains traditional. Far from granting welfare to developing countries, the traditional programs play a key role in building the basic facilities that pave the way for profitable private investment. In constructing a productive base, they also help restore international economic and financial equilibrium. Furthermore, the bank helps transfer financial resources at a time when non-oil-producing countries are in desperate need of them.

At the same time, those recent projects explicitly designed to alleviate poverty are consistent with long-standing bank emphasis on economic growth. In an earlier day, the institution's economists believed the main route to growth lay in development of basic economic infrastructure—roads, dams, ports, steel mills, and telecommunications facilities. Experience and research gradually changed this perception. At least part of the key to growth was seen to lie in social sector investments, human resource development, assistance to small-scale farmers and industrial establishments, and in the many links that poverty alleviation has to growth. The basic goals of all these projects are defined in terms of output, income, and productivity, not welfare.

The bank's rural development projects, for example, are designed to raise the output and income of small rural producers, integrate them into the market economy and, thus, make subsistence or near-subsistence farmers into commercial producers. In support of this approach, bank officials cite an accumulating body of evidence indicating that the production of small holdings can make substantial contributions to alleviating food deficits in many countries. The evidence so far obtainable from the bank's project performance audits, albeit limited, also indicates acceptable, if not more than adequate, rates of return from the completed rural development projects. In one project in Colombia, for example, the yields achieved for all crops in the targeted area were greater than those obtained with the existing methods. These projects have also produced important research findings of relevance to small farmers, some relating to appropriate technology; others, to fertilizer use, new varieties of plants, and cropping patterns.

In some instances, the bank's rural projects have had an impact well beyond the confines of the project itself, illustrating the leveraging role of the bank in recipient countries. Again, in Colombia, the bank's nationwide rural development project brought about important changes in public sector investment planning for rural development. The project led to the preparation of a new credit manual by the Colombian authorities substantially liberalizing the types of guarantees required for loans to small-scale farmers.

Like the rural development projects, the bank's urbanization projects define their goals in such sound business terms as affordability, cost recovery, and replicability. Although the point of these new urban projects is to make housing available to those now too poor to afford the traditional public sector housing units, the bank desires full or near-full cost recovery. This recovery may take any number of forms, including mortgage payments, rental fees, and user charges. Such cost recovery is the key to replicating the projects without requiring outright subsidies from the public treasuries of developing countries.

The most publicized bank initiatives in urban development are its basic urbanization projects, which blend new housing and slum upgrading. The bank's first project in El Salvador offers a good example of a low-cost housing project, providing 7,000 serviced lots and 3,500 basic dwellings to poor residents in four cities. Slum upgrading projects have proven especially successful in the Tondo slum in Manila, Philippines, and in Jakarta, Indonesia. Both entail provision of basic urban infrastructure, including water supply, human waste disposal, drainage, footpaths, and roads. As of 1979, 1.25 million poor urban dwellers lived in housing or housing sites supplied through bank-assisted projects and 4.5 million were helped through slum upgrading projects.

NO SOCIALIST RECIPES

Perhaps no element of the conservative critique is as fanciful as the notion that the World Bank is propagating socialism in these developing countries. This criticism betrays a lack of understanding of two key features of the bank's work: its "country dialogues" with members concerning the general contours of their economic policies and the underlying political rationale of the bank's poverty projects.

An important ingredient of the bank's work is production of country economic reports and memorandums on its borrowing countries. These are the culmination of frequent interactions between bank staff and officials in recipient countries. In these interactions—and in the reports emanating from them—the bank urges upon developing countries the institution's preferred development strategies and policies. An analysis of the bank's country economic studies reveals a consistent set of institutional preferences that are a long way from adding up to socialist recipes.

If the bank has a dominant ideology, it is best defined as neoliberalism, using liberal in the classical sense of the term. The principal objective of its neoliberal policies is economic growth. The principal routes to growth are seen to lie, domestically, in capital accumulation via savings and investment and, externally, through export expansion and diversification. Ingredients of neoliberalism that derive from these basic goals include fiscal and monetary probity; removing obstacles to free-market determination of prices, wages, interest rates, and user charges for public services; a sound currency; external economic equilibrium; export dynamism; and a favorable investment climate. Deviations from any of these elements constitute deviations from World Bank norms. Even when the bank operates in putatively socialist countries, such as Tanzania or Yugoslavia, efforts are made to encourage policies along the lines suggested by the institution's prevailing neoliberal philosophy.

Most bank officials reject the notion that these initiatives embody an ideology. In their view, the bank is neutral, advocating sound economic and financial management, technocratically orchestrated and applicable to any kind of economic system—be it capitalist, socialist, or something in between.

Moreover, the underlying political rationale behind the bank's poverty focus is the pursuit of political stability through what might be called defensive modernization. This strategy rests on an assumption that reform can forestall or pre-empt the accumulation of social and political pressures if people are given a stake in the system. Reform thus prevents the occurrence of full-fledged revolutions. In rural areas, defensive modernization, if successful, will create a small-holder sector closely integrated with the national economy. Bank projects will encourage subsistence farmers to become small-scale market producers. With economic ties to other sectors, the farmers will be loath to link their interests to those of the not yet modernized and will hesitate to disrupt the national economy for fear of losing their own markets. In urban areas, the policy is expected to create or fortify an individualistic class of small-scale industrialists, entrepreneurs, and the newly employed.

Because conservatives have lately made much of the World Bank's "utopian" work in Tanzania, it is worthwhile to make brief mention of what the bank has really urged on the Tanzanian government. Tension has always marked the relationship between Tanzanian officials and the bank. In 1974 an agricultural study conducted by the bank led to confrontation with the Tanzanian government because the bank's criticisms of the ujaama (villageization) policy and its espousal of a production-first strategy apparently were perceived as giving low priority to income distribution and the governments's rural equity goals.

COMPARISON OF AID RECIPIENTS

[In millions of U.S. dollars]

Bank and IDA cumulative lending: 1948 to 1980[1] (10 largest recipients)						U.S. bilateral economic assistance 1980[2] (10 largest recipients)
Bank		IDA		Bank/IDA		Total
Brazil	5,313.7	India	8,285.2	India	11,055.8	Egypt 1,813.4
Mexico	4,113.6	Bangladesh	1,454.2	Brazil	5,313.7	Israel 786.0
Indonesia	3,056.0	Pakistan	1,244.9	Mexico	4,113.6	India 231.9
South Korea	2,948.5	Indonesia	931.8	Indonesia	3,987.8	Turkey 198.1
India	2,770.6	Egypt	783.6	South Korea	3,059.3	Indonesia 196.8
Colombia	2,761.4	Tanzania	538.7	Colombia	2,780.9	Bangladesh 175.4
Yugoslavia	2,684.1	Sudan	522.5	Yugoslavia	2,684.1	Sudan 96.6
Turkey	2,407.4	Kenya	408.3	Turkey	2,585.9	Philippines 84.6
Philippines	2,389.9	Sri Lanka	369.6	Philippines	2,512.1	Pakistan 72.7
Thailand	1,960.4	Ethiopia	368.1	Pakistan	2,128.9	Jordan 70.4

[1] Computed from World Bank Annual Report, 1980.
[2] U.S. International Development Cooperation Agency.

A 1976 bank mission produced a report that again aroused the government's hackles. Some Tanzanian officials believed the authors of the report were more concerned with criticizing basic Tanzanian social goals than with constructive discussion. For example, Tanzanian officials judged the bank's concern about the sound performance of public sector enterprises in this light. The bank's work in the agricultural sector led to periodic discussions with the ministry of agriculture—discussions recalled by the ministry's pragmatists as helpful in pursuit of output and efficiency goals. Moreover, the bank's first rural development project in Tanzania appeared to increase social and economic differentiation among project villages, counter to the leveling emphases of the *ujaama* policy.

Such stories are by no means limited to the bank's work in Tanzania. The bank long struggled to commit Brazilian authorities to a positive real rate of interest on agricultural loans; engaged in fruitless efforts to increase the efficiency of public sector enterprises in Mexico; tried to encourage an increase in user charges in all recipient countries; and has worked in almost all developing nations on behalf of open trade, import liberalization, and similar policies.

COSTS AND BENEFITS

A related criticism charges that, program content aside, the Bank aids countries hostile to U.S. interests. But sober consideration of the list of the 10 largest World Bank and IDA borrowers reveals a who's who of developing countries in terms of their historical and contemporary importance to U.S. foreign policy interests, as shown in the accompanying tables. Conservative critics would be hard pressed to argue that World Bank and IDA support for these 10 countries is inconsistent with U.S. interests. Judged solely on the basis of where the bank has put its money, the United States seems to have been an effective advocate of its interests at the bank.

Those singing the praises of bilateral aid on the grounds that it is more likely to go to countries of importance to the United States should note that four of the 10 largest bank borrowers—India, Indonesia, Turkey, and the Philippines—are also among the 10 largest recipients of U.S. bilateral assistance funds in 1980 and have received almost 18 percent of total bank loan commitments since 1948. Six of the 10 largest IDA borrowers are also found on the bilateral list—Bangladesh, Egypt, India, Indonesia, Pakistan, and Sudan. More than 60 percent of total IDA credits since 1948 have gone to these six countries.

The apparent aberrations (from the conservative point of view) can be readily explained. The bank has greatly reduced lending to Ethiopia since the overthrow of the late Emperor Haile Selassie. The conservatives had to swallow Yugoslavia under the late President Josip Broz Tito as preferable to Yugoslavia under Moscow. Sri Lanka is one of the world's best examples of a growth-with-equity development strategy.

The "numerous occasions" of bank lending to Vietnam turn out to number one IDA credit of $60 million in fiscal year 1979 for construction of an earth dam and associated irrigation works. Similarly, IDA lending to Laos numbered just three credits totaling $32 million for rural rehabilitation and irrigation. IDA lending to South Yemen since fiscal 1970 adds up to only 0.1 per cent of all cumulative World Bank and IDA lending to date. The bank made no new loans to Salvador Allende Gossens's Chile, sharply curtailed lending to Peru following nationalization of the International Petroleum Company, and made no loans to Peronist Argentina from 1973 to 1976. Meanwhile, it has continued lending to socialist deviants such as Romania and Yugoslavia—countries not unimportant to U.S. foreign policy—although on strict per capita income grounds these countries should have graduated from bank assistance. The institution's actions may indeed be wrong, but not for the reasons cited by the conservatives.

The conservative argument that the bank is not a good buy for the United States is insufficiently attentive to the increasing importance of the developing countries to U.S. economic interests. The critics should consider the readily available data. U.S. exports to developing countries, for example, have expanded at an average annual rate of 19.2 per cent over the past decade, compared with an expansion of 15.6 per cent for exports to developed countries. In 1979 American exports to developing countries totaled more than $60 billion or almost 35 per cent of total U.S. exports.

But the debate about the economic costs and benefits of U.S. participation in the multilateral development banks has increasingly focused upon the more specific question of what U.S. firms obtain in procurement under bank projects compared with how much the United States contributes in bank capital subscriptions and IDA replenishments. In December 1980 a member of a Reagan transition team on development assistance contended that "Bank advocates should find other, more solid grounds on which to argue for Bank programs. There are such grounds, but relative benefits to the American private sector is not one of them."

Resort to the contribution/procurement ratio as the main criterion for assessing the benefits and costs of participation is simplistic since it completely ignores the overall importance of the growth of developing country economies to U.S. private sector trade and investment. Even so, the equation works in favor of the United States.

World Bank procurement figures show that while the United States has contributed $935 million to the bank since its inception in 1946, bank loans to other countries have generated $6.4 billion in contracts to American companies. Since 1946 U.S. firms have secured about 25 percent of the annual value of the contracts offered under bank projects. Recently that figure has slipped—in 1979 American firms obtained 16.8 percent of the value of contracts.

Although it is true that U.S. contributions to IDA since 1960 have totaled $3.2 billion and U.S. enterprises have obtained only $1.15 billion in contracts under IDA projects, this discrepancy may result from a tendency of a contracts in former colonies to go to former colonial powers, or from the absence of a U.S. comparative advantage in providing the goods and services required by IDA projects, or from the relatively high percentage of local procurement by IDA projects—not from an institutional bias against buying American. Even with the inclusion of IDA, the ratio of contributions to procurement favors the United States. A recent Treasury Department assessment concluded that the U.S. current account suplus over the life of all of the multilateral development banks was approximately $11 billion.

This contention that the bank is not responsive to the interests of its largest single contributor stems partly from a sense that the bank is administratively out of control. But this perception is only partially correct at best. There is certainly no lack of information produced by the bank about its development projects and other activities. For example, the project appraisal reports meticulously describe every proposed development project, including anticipated economic and financial rates of return. The country economic reports and memorandums reveal the bank's assessment of each of its developing member countries. The project performance audits on completed projects assess implementation. All of these reports are regularly supplied to the executive directors of the bank. Through the U.S. executive director, they are available to Treasury Department officials, members of Congress, and other government policy makers.

The problem is to systematize access to such information to improve the U.S. Government's own procedures for insuring the accountability of the bank. The paltry staffs of the executive directors are inadequate to perform an oversight function, and the part of the Treasury Department that deals with the bank is likewise understaffed and insufficiently knowledgeable about the details of the bank's work.

Conservatives argue that the bank is inherently less capable of pursuing U.S. interests than is the United States through its own agencies and, particularly, private enterprise. Private investment has a role to play in development, but its own set of institutional demands makes it a poor substitute for official development assistance. The need for flattering quarterly reports and competitive profit margins constrains even the most socially concerned businessman. Private investment enters a country only when there is something profitable to invest in and especially when the poor are not poor any longer. Investment is much less likely to take place in desperately poor countries or even in poverty areas within moderately well-off countries, such as rural Mexico or northeast Brazil. It gravitates toward the more advanced, technologically sophisticated areas. Private investors are unlikely to engage in rural development of the Sahel or in non-formal education in Brazil.

M'NAMARA'S LEGACY

Rebuttal of the conservative critique of the bank does not imply, however, that McNamara leaves a legacy that is an unmixed blessing. A number of problems require attention as A. W. Clausen, the new bank president, assumes command. It is to these problems that the United States should direct its attention.

Some of these have to do with McNamara's antipoverty directives. For example, substantial organizational, managerial, financial, and political problems within the recipient countries themselves have beset the new

projects. Although many governments of developing countries tolerate minor efforts to help the poor, they balk at larger efforts. A more effective program might alter criteria for the country allocation of funds, channeling the bulk of the bank's antipoverty resources into countries with a serious commitment to relieving poetry and not just into antipoverty projects in countries without such commitment. Moreover, the governments of developing countries are not always the most effective agencies for implementing these projects. The bank should explore lending through non-governmental intermediaries with greater local expertise—voluntary organizations, non-profit foundations, and local activist groups of the poor.

The bank's top-down approach to development, however, would frustrate this modification of its traditional role. Although the bank has 26 resident missions in individual member countries and three regional missions, these encompass only about 6 percent of the total professional staff. The vast majority of the bank's important decisions are made in Washington, D.C., depending on information provided by traveling missions. It is questionable whether this approach can provide the sustained picture required for bank decision making.

The new antipoverty projects also require greater staff resources per dollar loaned than more traditional agricultural and industrial projects. The Latin American region of the bank found that implementation of its newer rural projects increased the required amount of supervisory time by almost 80 percent per project a year. Thus, the bank must reconcile growing supervisory demands with demands that it limit growth of its professional staff.

Other problems stem from the quantitative expansion of the bank. Under McNamara, the number of projects approved per staff member has increased. Commitments for each staff member expanded from $1.59 million in fiscal year 1968 to $1.95 million in fiscal year 1978, resulting in what some members of the bank's staff association refer to as the "assembly line approach" to project preparation. Pressure has increased to meet the yearly quantitative goals—to the detriment of project development and supervision, some believe.

Finally, the effort to expand the transfer of needed resources is frustrated by the bank's low gearing ratio. At present, the bank's articles of agreement stipulate that the amount of outstanding loans cannot exceed the bank's total capital plus reserves (a one-to-one ratio). A two-to-one ratio, as recommended by the Brandt Commission, would enable the bank to double its lending without requiring additional capital subscriptions from its member countries. Another avenue worthy of exploration is increased co-financing, in which private commercial banks join in bank loans. Such leveraging of bank funds would substantially increase the aggregate transfer of resources to developing countries without increasing the amount of resources transferred by the bank itself.

These and related problems suggest that the international community must address two central tensions in the bank's work. The first is that between the bank's role as a bank and its role as a development agency. Many bank officials are quick to point out that the institution is first and foremost a bank. It makes loans. It has to be concerned about credit worthiness of borrowers, interest rates, and amortization schedules. Even in antipoverty projects, bankers' criteria stand out: in rural projects, the requirement of a positive rate of interest on loans to small farmers; in urban projects, the requirement of full cost recovery from the direct beneficiaries.

But, in fact, the World Bank has always been something more and something less than a real bank. In addition to providing loans, it gives technical assistance, supports research and experiment, extends financial help to high-risk poor countries, and encourages the exchange of ideas through its publications. If the bank is to continue its involvement in antipoverty activities, it must become even less of a bank and more of a development agency, acquiring the skills necessary for efficient administration of such projects. It might draw more heavily on organizations with existing local expertise, such as the U.S. Inter-American Foundation.

A closely-related tension in the bank's current work exists between McNamara's goal of substantially increasing the aggregate amount of resources transferred by the bank and his goal of orienting the bank to play a predominant role in the world antipoverty effort. Many developing countries depend on the bank's transfer of resources as an indirect means of maintaining equilibrium in their balance of payments. But the bank's role in transferring resources is best fulfilled through traditional infrastructure projects requiring substantial capital outlays. Poverty-oriented projects are typically smaller in their commitment of resources, more time consuming, more staff-intensive, and more difficult to implement. The bank will face increasing trade-offs between its role as a transferrer of resources and as poverty alleviator. It must find ways to harmonize its roles so that economic growth and financial equilibrium are not attained at the expense of the antipoverty projects that are crucial to long-run growth.

Congress and the executive branch need to look closely at the World Bank and initiate a careful examination of current policies and administrative practices. The United States should review the whole range of international institutions with an eye to using them more effectively. But a long-term concept of U.S. security interest—not a simplistic guns or butter dichotomy—should guide reform of these institutions. More than 600 million people will live in absolute poverty in the year 2000, even under the most favorable assumptions about growth and distribution in developing countries. Opting out of the struggle against world poverty is one certain way of insuring that a military focus will guide U.S. activity abroad. The Reagan administration thus bears a heavy responsibility. It can approach the bank from an ideological point of view, but in the process it will cripple a valuable institution. Or it can use its skeptical approach to development to reform an institution that on the whole has well-served U.S. interests.

Mr. KENNEDY. Mr. President, I am proud to join my colleagues in today's tribute to Robert McNamara. Since his appointment as President of the World Bank, Robert McNamara has been tireless in the effort to alleviate world poverty and promote international development. His ideas, his vigor, and his leadership have made the World Bank a powerful development of international development.

Under his tenure, the World Bank has achieved enormous growth. In 1968, the World Bank made $1 billion in aid commitments; in fiscal 1981 alone the Bank made $8 billion in aid commitments for 127 projects.

Equally important has been Robert McNamara's leadership in shifting the emphasis of World Bank projects away from capital-intensive projects and into programs, such as population control, health care, agriculture, and education, which can promote both economic growth and economic equity. Bob McNamara's deep commitment to meeting fundamental human needs has improved the lives of millions of people.

In this time of necessary budgetary restraint, America must not retreat from the enormous progress forward meeting fundamental human needs that has been achieved. Nor must we waver in our commitment to Third World development. The American people must have no illusions of the national security implications of failing to resolve world poverty. As Robert McNamara has correctly stated—

U.S. contributions to the World Bank and International Development Association are for projects that deal with the basic problems of poverty and financial crisis, the solution of which will benefit not only the developing countries but the United States.

Failure to improve the economic and social well being of Third World nations will only enhance the opportunity for political instability to fester throughout the developing world. Instead of falling prey to the fallacious belief that foreign aid is merely an American handout, let us recognize the costs of failure and begin today to pursue a bipartisan policy appropriate to the true dimension of the threat.

Yet today America is on the verge of turning its back on Third World development. In a recent interview with the New York Times, Robert McNamara stated that—

The United States contribution to development assistance is disgracefully low; it has declined in relation to national income 90 percent since the Eisenhower Administration at a time when national income in real terms per capita has more than doubled. It is today the 15th lowest among the major industrial nations. There is no other large industrial nation providing as low a proportion of its national income to development assistance; it is disgraceful.

It is disgraceful when America fails to meet this fundamental challenge to our national security.

It is disgraceful when the world's greatest Nation abdicates its responsibility to enhance the economic well-being of those less fortunate.

Let us resolve that we will meet the challenge posed by the Third World. To do so will help America in meeting the challenge of inflation, contribute to economic growth, and enhance America's national security. To do so will leave no doubt that America is truly capable of providing international leadership.

In his final annual address to the World Bank last fall, Robert McNamara stated that—

None of us, of course, can pretend that our understanding of the complexities of the poverty problem is complete. We are still learning.

In the years ahead, let us not forget the example of Robert McNamara, a man who has made a profound contribution to America and the world.

Bob McNamara has been a very close personal friend of mine and of the entire Kennedy family. He and his extraordinary and courageous wife Margaret, whose death was a great loss to America and to the reading is fundamental pro-

gram to which she had dedicated her life, were a deep source of advice and inspiration to me.

Today I reaffirm my commitment to carrying on the work that Bob McNamara has started.

Mr. PELL. Mr. President, at the end of this month, the United States and other nations of the world will lose the services and skills of a distinguished American, a highly respected international civil servant, when Robert S. McNamara steps down as President of the World Bank after 13 years of service. I think that the Minister of Finance from Tanzania, Amir Jamal, a colleague of McNamara, best summed up the contributions of Bob McNamara to the world community:

Above all, Robert McNamara has been a voice of compassion, of conscience and of competence. He leaves behind a legacy of . . . programs whose quality and character have become increasingly responsive to the fundamental needs of developing societies.

Under Mr. McNamara's stewardship, the World Bank has grown in capability and importance. The level of financial assistance extended by the Bank to the developing world has expanded dramatically. In 1968, when Robert McNamara joined the World Bank, it was only capable of lending $1 billion for development projects. Today, only 13 years later, the Bank's lending capacity has increased elevenfold, thanks largely to the tenacity of its President.

In addition to its quantitative growth, the nature of the World Bank's lending has changed under the enlightened leadership of its President. As before, the Bank provides loans to projects which build highways, electric power facilities, and other traditional infrastructure—investments once thought the key to promoting development. In addition, the Bank now funds projects for agricultural and rural development which directly touch the poorest people in the developing world. This is in recognition of McNamara's firmly held belief that if absolute poverty is to be eradicated any time soon, developing countries must devise policies which directly attack the causes of poverty.

Bob McNamara has always been quick to point out the moral imperative for assisting the 40 percent of the world's population that is poor—some 800 million people. He has also spoken of the pragmatic reasons for doing so. It is his belief—a belief I share—that "we cannot build a secure world upon a foundation of human misery . . . and that force alone does not guarantee security." He has cautioned us that—

A nation can reach a point at which it does not buy more security for itself simply by buying more military hardware. There are far better ways of contributing to global security.

One way is by fostering economic growth and development in the developing world.

Mr. President, I would be remiss if I did not also point out to my colleagues the services which Mr. McNamara rendered directly to this country in the course of his long and distinguished career. In 1943, McNamara took leave from his job as assistant professor at Harvard University to assist in the war effort as a consultant. He was instrumental in establishing a statistical control system to manage the flow of men, money, and materiel for the Eighth Air Force. This system was crucial to the war effort. By the end of the war, he had become a commissioned officer in the U.S. Air Force—a lieutenant colonel—and was awarded a Legion of Merit. After the war, McNamara joined Ford Motor Co. to assist Ford with its serious managerial and statistical control problems. In late 1960, after only 14 years with the company, he became its president and chairman of the board. However, within a month he was once again asked to serve his country—this time as Secretary of Defense for President John Kennedy. It was from this position some 8 years later that McNamara resigned in order to take up his duties at the World Bank.

Clearly, Mr. President, such a distinguished career of public service could not go by without this body extending its heartfelt thanks to Robert S. McNamara for his many deeds. I, for one, express my gratitude to him; once again extend my heartfelt sympathy over the loss of his wife, Margaret, earlier this year; and wish him well in his future endeavors.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order there will now be a period for routine morning business, not to extend beyond 10:30 a.m. with Senators permitted to speak therein for 5 minutes each.

NOTICE OF DETERMINATIONS BY THE SELECT COMMITTEE ON ETHICS

Mr. WALLOP. Mr. President, it is required by paragraph 4 of rule 35 that I place in the RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Mr. John Ritch, of the Foreign Relations Committee staff, to participate in a workshop sponsored by a foreign educational organization, the Friedrich-Ebert-Siftung (Foundation), in Bonn, West Germany, on June 19 and 20, 1981.

The committee has determined that participation by Mr. Ritch in the program in West Germany, at the expense of Friedrich-Ebert-Siftung (Foundation), is in the interests of the Senate and the United States.

The Select Committee on Ethics also has received a request for a determination under rule 35 that will permit a Senate employee to participate in a program at the Graduate School of American Studies of Tamkang University in Taipei, Taiwan, from June 26 to July 4, 1981. The employee is Ms. Kathryn Taylor of the staff of the Committee on Foreign Relations.

The committee has determined that participation by Ms. Taylor in the program at Tamkang University is in the interests of the Senate and the United States.

HOUSE OILSPILL LEGISLATION

Mr. MITCHELL. Mr. President, the State of Maine is blessed with abundant marine resources. These resources are the backbone of some of our most important industries; many Maine citizens depend on water resources for their livelihood, whether it be from fishing, tourism, or other marine-related activities. Maine has long recognized the value of these resources for our way of life and has taken effective steps to protect them. However, there are some in Congress who would deprive Maine and other States of the ability to continue to protect these resources. Last week, the House Committee on Merchant Marine and Fisheries and the House Public Works Committee included in their reconciliation bills an entire piece of legislation dealing with oilspills. I have several serious concerns about this action. They are both procedural and substantive.

The use of a bill relating only to budgetary matters as a vehicle for the enactment of substantive legislation is unprecedented. The Senate Environment Committee, of which I am a member, has also been working on oil pollution legislation. We are content, however, to let the legislative process work its will, and to submit our work product to the full Senate for its scrutiny once we report out the bill.

Mr. President, the Senate will not have such an opportunity if these pieces of legislation remain a part of the House reconciliation bill. We will be presented with a take it or leave it proposition in conference for the first time. And the reconciliation conference report is given extraordinary procedural treatment. There is a statutory limit of 10 hours on debate; no amendments are permitted; and there is no way to prevent the conference report from being enacted into law no matter how onerous its contents may be to any Member of the Senate or House.

Mr. President, the oilspill bill written by the House committees is onerous. It would preempt the oil pollution program established by the State of Maine in 1969, and successfully implemented since then. The Maine coastal conveyance law imposes strict liability for the discharge of oil into any coastal waters, estuaries, tidal flats, beaches and lands adjoining the State, or into any river, stream, sewer, surface water drain, or other waters of the State. There is no limitation on a party's liability except the extent of the damage caused by an oilspill. The law establishes the Maine coastal fund, financed through a 1-cent-per-barrel fee on oil off'oaded at a Maine port. The fund provides for the cleanup of oilspills, and for compensation to third parties for damages to real or personal property, or loss of income directly or indirectly as a result of an oil discharge. The Maine law has been used

effectively to clean up several spills, including the oil spilled last year when the coastal tanker *Christian Reinhauer* ran aground on Metinic's Ledge. Maine's oil spill law is an essential element in the State's ability to carry out its responsibility to protect its natural resources.

The Maine statute remains one of the strongest in the country. But since the Maine law imposes liability only for spills into the State waters and the Maine fee is imposed only on oil contained in vessels which come directly into Maine ports, it does not deal with tankers which pass through the Gulf of Maine en route to or from other American ports. I recognize, and the State of Maine recognizes, the need for a comprehensive Federal law to provide minimum protection from oil pollution damage. There are gaps in the protection provided against oilspills by Federal law now. Although there is a proliferation of Federal oilspill liability and compensation statutes already, there is no comprehensive oil pollution law which provides coverage under all situations.

I support the enactment of a Federal oil pollution statute. But I believe that any State wishing to impose a greater degree of protection than is provided under the Federal law for its resources must be permitted to do so. I could not in good conscience support legislation that preempts Maine's ability to compensate its citizens and protect its resources more fully than would any Federal law in the event of an oilspill. I will oppose any and all efforts to impose such a Draconian and potentially devastating regime on the State of Maine.

As I stated before, the vehicle for this onerous legislation is the House budget reconciliation bill. I have conferred with the chairman and ranking member of the Budget Committee, Senators DOMENICI and HOLLINGS, on the inclusion of substantive legislation on budget bills. I have expressed my unrelenting opposition to this precedent in general and to the oil spill bill in particular. I have urged them to oppose all nonbudgetary items in the budget legislation, and they have agreed that this is the appropriate action.

I have also consulted with my colleagues, the chairman and ranking Democrat on the Environment and Public Works Committee, about my extreme concerns with this oil pollution legislation. They share these concerns, and we have agreed to oppose this action of the House committees and the House of Representatives as a whole should they act upon it. They have agreed to join me in efforts to protect the prerogatives of States against the heavyhandedness represented by the preemption of States rights to protect their resources more than the Federal Government does.

The Senate bill, S. 681, that I have cosponsored, contains no preemptive language. It would permit any State to impose the degree of protection for its resources that it desires. To make the intent of the Senate unequivocal, Senator STAFFORD and I have introduced an amendment that states—

> Nothing in this Act shall be construed or interpreted as preempting any State from imposing any additional liabilities or requirements with respect to oil pollution, spills, discharges, or other releases within such State.

Mr. President, I would like to discuss now the specific ways in which H.R. 85 would affect the State of Maine.

Maine could no longer have a fund to pay for cleaning up oilspills or to compensate persons who have incurred economic loss from an oilspill. The Federal funds would become the only source available for the recovery of cleanup costs, damages arising from injury or destruction of real or personal property, loss of use of real or personal property, injury to or destruction of natural resources, loss of subsistence use of natural resources, loss of profits or impairment of earning capacity due to injury or destruction of property or natural resources and loss of tax revenue due to injury of property.

Mr. President, this makes those injured by an oilspill completely dependent on the Federal Government for recourse. If the Federal fund is inadequate, under the House bill that is just too bad. The injured party will simply have to bear the cost of that oil spill himself. If the Federal Government decides that the economic injury is not deserving of compensation from its fund, that is just too bad for the person who has suffered the economic loss. If the Federal fund is slow to compensate victims, the State is not permitted to retain its oil pollution fund, the immediate loss may be sufficient to ruin coastline businesses. Later recovery may be completely inadequate to rehabilitate a region's economy, but that is just too bad, under the House bills.

The harm to natural resources will simply have to be dealt with at a later date. And, Mr. President, if an oil spill occurs which is not deemed deserving of a Federal cleanup response, that is just too bad. The State could not respond itself, except to buy cleanup equipment.

Even if the Federal compensation fund were under some circumstances available for a particular damage claim, there is no assurance that the amount of money in the fund will be adequate to cover such claims. The total amount that will be collected during the 3-year life of this fund is approximately $300 million, which must necessarily be adequate to reimburse parties for all damages incurred when compensation for claims is not forthcoming from a responsible party, or where the responsible party cannot be identified, or is not liable for the damage.

Mr. President, recent history is replete with incidents of massive oilspills. In December of 1976, the *Argo Merchant* ran aground 27 miles southeast of Nantucket Island, spilling 8.5 million gallons of fuel oil. The entire Cape Cod coastline was threatened with devastation, which would have occurred had the oil not been blown out to sea. However, the mere threat of millions of gallons of oil washing ashore was sufficient to alert New Englanders to the enormous potential harm of oilspills.

The expense to the United States just to monitor this disaster was approximately $2 million.

The devastation of natural resources that was feared from the wreck of *Argo Merchant* actually occurred 2 years later when the *Amoco Cadiz* went aground off the coast of France. The 240,000-ton supertanker lost its entire cargo of 67 million gallons of oil. Total claims for damage to real and personal property and to natural resources, still pending in an Illinois Federal District Court, are over $1 billion.

The House report itself states that approximately 11,000 oil pollution incidents occur in U.S. waters each year. I ask unanimous consent to have printed at this point in the RECORD a chart from the report of the House Merchant Marine Committee, showing major oil pollution incidents in U.S. waters, and another chart showing major oil pollution incidents in non-U.S. waters, and the cleanup costs associated with these spills.

There being no objection, the charts were ordered to be printed in the RECORD, as follows:

FIGURE 1.—MAJOR U.S. OIL POLLUTION INCIDENTS

Date	Incident	Cleanup costs	Location	Amount spilled (gallons)
June 1979	Ixtoc I	$7,500 000	Gulf of Mexico	20,000 bbl/day, June 1979 to March 1980.
December 1979	Lee Wang Zin	$2,100 000	Southeast Alaska	100,000.
November 1979	Burma Agate	$1,500 000	Galveston	10,668,000 (burned, evaporate recovered).
January 1979	ESSO Bayway [1]	$1,500,000	Texas	270,000.
March 1978	Global Hope	$2,608,113	Massachusetts	83,300.
February 1978	Tank barge ATC 133	$1,691	Chesapeake Bay	25,600.
December 1976	Argo Merchant	$1,826,609	Nantucket	7,500,000.
Do	Sansinena	$1,000,000	Los Angeles	844,000.
June 1976	Oswego Barge	$8,492,000	St. Lawrence River	312,270.
February 1976	Tank Barge STC 101	$122,300	Chesapeake Bay	250,000.
April 1975	Butane barge [2]	$1,000,000	Louisiana	1,700,000.
December 1975	Z-102	$685,069	Puerto Rico	322,518.
January 1975	Corinthos	$2,512,115	Philadelphia	
June 1974	Barge ABC 2311 [2]	$914,127	Lower Mississippi	1,100,000.
January 1974	Barge [2]	$3,500,000	do	1,800,000.
March 1973	Zoe Colocotroni	$677,660 [1]	Puerto Rico	1,000,000. [3]
October 1971	Amoco Oil [2]	$15,400,000 (mainly correctional drilling)	Gulf of Mexico	

Date	Incident	Cleanup costs	Location	Amount spilled (gallons)
January 1971	Oregon Standard [2]	$6,000,000	San Francisco	930,000.
December 1970	Shell Platform [2]	$35,000,000 (mainly correctional drilling)	Louisiana	2,200,000.
February 1970	Chevron [2]	$15,000,000 (mainly correctional drilling)	Gulf of Mexico	1,400,000.
January 1969	Santa Barbara	$10,400,000	California	3,360,000.
March 1968	Ocean Eagle	$500,000 + $1,500,000 (salvage) [2]	Puerto Rico	3,500,000.

[1] Meyers, Robert, Exxon Co., U.S.A. 1981. "Response to the Esso Bayway oil spill," in proceedings: 1981 Oil Spill Conference. American Petroleum Institute Publication No. 4334.
[2] "Certain Financial Aspects of Prevention and Control of Oil Spills," report prepared by the Environment Committee of the Organization for Economic Cooperation and Development (OECD), February 1981.

Note: The statistics in figure 1 were compiled by committee staff from a variety of reliable sources. It is difficult, however, to develop fully accurate, complete and uniform statistics for oil spill incidents which have occurred in widely varying locations over a period of more than 10 years. Although the numbers above are believed to be accurate, it should be recognized that differences in methods of defining and assessing cleanup costs, conducting cleanup operationst and handling damage claims can result in dollar figures which may distort the comparative seriousness of particular oil pollution incidents. It should also be noted that the cost of correctional drilling is borne directly by the owner or operator. Correctional drilling is needed to re-open the well and is not, in that sense, a cleanup cost. However, correctional drilling does reduce both cleanup and damage expenses because it cuts off the pressure at the point of the blowout.

Source of all other figures is U.S. Coast Guard.

FIGURE 2.—MAJOR OIL POLLUTION INCIDENTS IN NON-U.S. WATERS

Date	Incident	Cleanup costs	Location	Amount spilled (gallons)
January 1981	Deifovos [1]	$900,000 (excepted)	Norway	
August 1980	Hosei Maru [1]	$1,440,000 (total damages and clean up)	Japan	90,000
June 1980	Furenas	$984,500	Denmark/Sweden	56,000
March 1980	Tanio [1]	$13,000,000 spent to date, $60,000,000 expected	Brittany	2,000,000
January 1980	Showa Maru [1]	$52,000	Japan	26,000
March 1979	Kurdistan	$5,860,000	Canada	2,250,000
September 1989	Yanxilas	$605,000	Denmark	56,000
January 1979	Betelgeuse	$1,297,440	Ireland	7,600,000
June 1979	Vera Berlingieri	$1,584,000	Italy	1,500,000
March 1979	Miya Maru No. 8	$490,000 (damages and clean up)	Japan	150,000
February 1979	Antonio Gramsei	$25,760,000	U.S.S.R.	1,400,000
December 1978	Esso Bernicia	$6,720,000	Shetland, United Kingdom	450,000
October 1978	Christos Bitas	$3,659,996	South Wales	1,100,000
May 1978	Eleni V	$6,962,597	United Kingdom	1,400,000
March 1978	Amoco Cadiz [2]	$100,000,000; $75,000,000 to $125,000,000 (damages), unsettled claims $3,000,000,000.	Brittany	65,000,000
October 1976	Boehlen	$31,899,000	do	2,800,000
January 1976	Olympic Bravery	$1,043,725	do	350,000
December 1975	Erik K. Fornstrom	$139,400	Japan	600
February 1970	Arrow	$3,100,000	Nova Scotia	1,970,000
January 1969	London Harmony	$1,045,000	Sweden	56,000

[1] Oil Spill Intelligence Report, an international weekly newsletter from the Center for Short-Lived Phenomena and Cahners Publishing Co., various issues 1980–81.
[2] National Oceanic and Atmospheric Administration.

Note: The statistics in figure 2 were compiled by committee staff from a variety of reliable sources. It is difficult, however, to develop fully accurate, complete and uniform statistics for oil spill incidents which have occurred in widely varying locations over a period of more than 10 years. Although the numbers above are believed to be accurate, it should be recognized that differences in methods of defining and assessing cleanup costs, conducting cleanup operations, and handling damage claims can result in dollar figures which may distort the comparative seriousness of particular oil pollution incidents. It should also be noted that the cost of correctional drilling is borne directly by the owner or operator. Correctional drilling is needed to re-open the well and is not, in that sense, a cleanup cost. However, correctional drilling does reduce both cleanup and damage expenses because it cuts off the pressure at the point of the blowout.

Source of all other figures is "Certain Financial Aspects of Prevention and Control of Oil Spills" report prepared by the Environment Committee of the Organization for Economic Cooperation and Development (OECD), February, 1981.

Mr. MITCHELL. Surely, none of the authors of H.R. 85 believe that their bill will provide adequate resources to cover such damages. Yet, they are also removing at the same time the ability of any State to provide additional economic compensation for damage to natural resources. If the purpose of this legislation is to provide a comprehensive system of compensation for damage caused by oil pollution, what justification is there for rejecting one source of compensation which if available could only make recovery more comprehensive?

Mr. President, there are other problems that arise from the preemption of States, with respect to liability of parties responsible for oilspills. H.R. 85 would prevent a State from pursuing a party responsible for an oilspill, even if the Federal Government chooses not to pursue that party. The bill also contains limits on the extent to which the party may be held liable. Those limits are based on the tonnage of a vessel, not the damage that is caused by a spill from that vessel. To the extent that the damage incurred exceeds those limits, the victim of economic loss may go uncompensated. I recognize the policy reasons behind the placement of Federal limits on a party's liability. But I fail to recognize why we would deny a State the ability to further pursue that party if it means the difference between restoring damaged natural resources or leaving them unproductive. The State of Maine's oilspill statute contains no limit on liability. A party is liable to the extent of the actual damage caused. This is simply another way in which H.R. 85 would prevent States from protecting their resources. The House bill dictates to the States the manner in which the economic loss from an oilspill must be allocated. Under their scheme, it is the damaged party who bears the burden of loss that exceeds the limits of liability, not the party who spilled the oil. This is inequitable and totally unacceptable.

Mr. President, the House oilspill bills represent the ultimate in overbearing Federal presence that this administration so abhors. This bill would make the people of Maine powerless to act in their own interest. This bill threatens the livelihood of our State and I will not stand by idly while some in Congress make the judgment that such oppression is good public policy. It is not good, and it does not benefit the public in Maine.

I believe that we do need a uniform national solution to the threat of oilspills. But I do not believe that we need to negate the laws of Maine and the many other States that have acted to protect their water resources long before the Federal Government became interested in doing so. We can have a Federal law that permits States to participate in solutions also. It is said in the House committee report that preemption is necessary to avoid duplicative sources of compensation. I see nothing wrong with providing duplication when that is what the problems call for.

No area of this country should find itself with less protection after Federal oilspill legislation is passed. Different States may have different needs and priorities. States should be able to make the judgment that protection of their coastlines is crucial to their tourist and fishing industries. At the same time, the overall laws governing oilspill liability should be expanded and strengthened in order to provide adequate funds for compensating victims of large catastrophes. It is in this spirit of cooperative federalism that I have approached the issue. I would commend that approach to my colleagues also, when the Senate considers oilspill legislation. Until then, I would urge every Member of the Congress to reject the substantive legislation that has been made part of the budget bills and may be enacted in a manner that prevents Members from acting to protect the interests of their States.

VERMONT ARMS LIMITATION RESOLUTIONS

Mr. LEAHY. Mr. President, I ask unanimous consent to insert into the RECORD copies of resolutions approved by a number of Vermont communities on town meeting day last March. These resolutions reflect the deep concern of a broad cross-section of Vermonters that nuclear arms control constitutes one of the most serious problems facing the

United States today. I share their concern.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

VERMONTERS ARE ASKING TO HALT THE NUCLEAR ARMS RACE

As residents of Vermont, we ask the members of our Vermont Congressional delegation to introduce into Congress a resolution calling for an immediate nuclear weapons freeze (US and USSR), and we ask them to call upon the Administration to negotiate with the USSR a permanent moratorium on nuclear weapons.

The United States and the Soviet Union should immediately and jointly stop the nuclear arms race. Specially, they should adopt an immediate, mutual freeze on all further testing, production and deployment of nuclear weapons and of missiles and new aircraft designed primarily to deliver nuclear weapons.

TOWN OF ANDOVER, VT.,
OFFICE OF TOWN CLERK,
Chester, Vt., March 12, 1981.

Senator PATRICK LEAHY,
U.S. Senate,
Washington, D.C.

As residents of Vermont, we ask the members of our Vt. Congressional delegation to introduce into Congress a resolution calling for an immediate nuclear weapons freeze (U.S. & U.S.S.R.) and we ask them to call upon the Administration to negotiate with the U.S.S.R. a Permanent Moratorium on nuclear weapons.

74 votes cast—59 yes; 15 no.

SHEILA PLUMB,
Town Clerk.

TOWN OF BAKERSFIELD, VT.

AMENDMENT

The following Article was inadvertently left out of the Warning of the Town of Bakersfield.

Article 29a. To see if the Town will vote to have the State Senators and other representatives from this district be advised to introduce a resolution in the Vermont State legislature advising the Vt. Congressional Delegates to the United States Congress to request the President of the United States to propose to the Soviet Union a mutual nuclear weapons moratorium by which the United States and the Soviet Union agree to halt immediately the testing, production and deployment of all nuclear warheads, missiles and delivery systems with verification safeguards satisfactory to both countries.

Dated at Bakersfield, Vermont, County of Franklin, this 4th day of February, 1981.

ROBERT GERVAIS,
JACK GOSS,
SCOTT HASTINGS,
Selectmen of Bakersfield.

CITY OF BURLINGTON

In the year one thousand nine hundred and eighty-one, resolved by the City Council of the City of Burlington, as follows:

That the following question be placed upon the ballot of the Annual City Meeting to be held March 3, 1981:

Shall the State Senators and other representatives from this district be advised to introduce a resolution in the Vermont State Legislature, advising the Vermont Congressional delegates to the United States Congress to request the President of the United States to propose to the Soviet Union a mutual nuclear weapons moratorium by which the United States and the Soviet Union agree to halt immediately the testing, production and deployment of all nuclear warheads, missiles and delivery systems with verification safeguards satisfactory to both countries?

TOWN OF DUXBURY

The inhabitants of the Town of Duxbury, Vermont who are legal voters in said Town and Town School District meetings are hereby notified and warned to meet at the Dillingham Grange Hall in the Town of Duxbury, Vermont, on Tuesday, March 3, 1981 at nine o'clock in the forenoon to act upon the following: (Ballot boxes shall open at nine o'clock a.m. and close at seven o'clock p.m.)

20. Shall the State Senator from this District be instructed to introduce a resolution in the State Senate:

A. Requesting the President of the United States to propose to the Soviet Union a mutual nuclear weapons moratorium by which the United States and the Soviet Union agree to halt immediately the testing, production and deployment of all nuclear warheads, missiles and delivery systems.

B. Requesting Congress to transfer the funds saved to civilian use.

Article 20. A motion to pass over this Article was not passed. Motion made and carried to adopt this Article as written. The Article read as follows:

Shall the State Senator from this District be instructed to introduce a resolution in the State Senate:

A. Requesting the President of the United States to propose to the Soviet Union a mutual nuclear weapons moratorium by which the United States and the Soviet Union agree to halt immediately the testing, production and deployment of all nuclear warheads, missiles and delivery systems.

B. Requesting Congress to transfer the funds saved to civilian use.

TOWN OF FAIRFIELD

FAIRFIELD, VT.,
March 17, 1981.

Senator PATRICK LEAHY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR LEAHY: At our annual Town Meeting held on March 3rd a motion was made to recommend to you as our representative, to encourage the limitation of nuclear armaments.

Sincerely,

G. F. LONGWAY,
Town Clerk.

TOWN OF FLETCHER

Art. 20. Will the Town vote to instruct the Selectmen to borrow money, if necessary, to match State money for permanent roads?

Art. 21. Will the Town vote to have the names and amounts of Delinquent Taxpayers printed in the Town Report?

Art. 22. Will the Town vote what to spend Revenue Sharing money for? (Approx. Amount $18,604.00)

Art. 23. Will the Town vote a sum of money to be used in paying current expenses and such appropriations as may be voted at said meeting?

Art. 24. Will the Town vote a sum of money to help support the Target Area Development Corporation?

Art. 25. Will the Town authorize the Selectmen to appoint for a (1) year term, an Energy Coordinator?

Art. 26. Will the Town vote to exclude the transportation, storage or disposal of radioactive wastes from nuclear reactors and weapons in the land, air or water of the Town of Fletcher?

Art. 27. Shall the State Senators and other representatives from this district be advised to introduce a resolution in the Vermont State Legislature, advising the Vermont Congressional delegates to the United States Congress to:

Request the President of the United States to propose to the Soviet Union a mutual nuclear weapons moratorium by which the United States and the Soviet Union agree to halt immediately the testing, production and deployment of all nuclear warheads, missiles, and delivery systems with verification safeguards satisfactory to both countries? (Ballot)

Art. 28. To transact any other business of the Town that may properly come before this meeting.

Art. 29. To adjourn Town Meeting.

REGINALD TINKER,
GORDON GILLIAN,
RICHARD STREETER,
Town of Fletcher Selectmen.

TOWN OF JERICHO

We the undersigned registered voters of Jericho, Vermont, wish the following referendum to be placed on the Warning (agenda) of March 3rd, 1981.

Shall the State Senators and other representatives from this district be advised to introduce a resolution in the Vermont State Legislature, advising the Vermont Congressional delegates to the United States Congress to:

Request the President of the United States to propose to the Soviet Union, a mutual nuclear weapons moratorium by which the United States and the Soviet Union agree to halt immediately, the testing, production and deployment of all nuclear warheads, missiles and delivery systems with verification safeguards satisfactory to both countries?

TOWN OF MILTON, VT.

Article XII. Shall the State Senators and other representatives from this district be advised by the Selectmen on behalf of the Town to introduce a resolution in the Vermont State Legislature, advising the Vermont Congressional delegates to the United States request the President of the United States to propose to the Soviet Union a mutual nuclear weapons moratorium by which the United States and the Soviet Union agree to halt immediately the testing, production and deployment of all nuclear warheads; missiles and delivery system with verification safeguards satisfactory to both countries.

TOWN OF MORETOWN

A request to the Honorable Governor Snelling, Senator Stafford, Senator Leahy, Representative Jefford, and State Senators and representatives.

We, the undersigned citizens of Moretown, Vermont, respectfully request that you utilize the influence of your respective public offices to take immediate steps against the further development of nuclear, biological and chemical weapons. We ask that you actively support policies—such as those being promoted by the cooperating group of American and Soviet scientists and medical doctors—for the mutual reduction of tension and the limitation of weapons systems which could spell doom for ourselves and our children.

We are not all of the same mind regarding the peaceful utilization of nuclear power; however, we do share a common view that steps must be taken to reverse the present, multi-billion dollar trend in the development of ever more deadly nuclear and biochemical weapons.

In addition to the signed resolution, the town of Moretown passed a motion as follows:

Resolved that the Town of Moretown instruct its senators and representatives to introduce legislation to instruct the Vermont congressional delegation to request that the President of the United States take immediate steps to support a mutual nuclear moratorium with the Soviet Union, with verification safeguards satisfactory to both nations.

TOWN OF MOUNT HOLLY
MOUNT HOLLY, VT.,
March 11, 1981.

Senator PATRICK LEAHY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR LEAHY: At the Mount Holly annual town meeting on March 2, 1981, the townspeople passed the following measure:

"To direct the members of our Vermont Congressional delegation to support a resolution calling for an immediate and mutual * * * (U.S. and U.S.S.R.) and ask them to call upon the administration to negotiate with the U.S.S.R. a permanent moratorium on nuclear weapons."

Sincerely yours,

JUDSON S. LYON,
Selectman for the Board of Selectmen.

THE TOWN OF NORWICH, VT.
March 4, 1981.

Senator PATRICK J. LEAHY,
Russell Office Building,
Washington, D.C.

DEAR SIR: A record of the Annual Town Meeting of town of Norwich, Vermont: Article XXVIII. To see if the Town of Norwich will vote to ask the members of the Vermont Congressional delegation to introduce a resolution in the United States to propose to the Soviet Union a mutual * * * by which the United States and the Soviet Union agree to halt immediately the testing, production and deployment of all nuclear warheads, missiles and delivery systems (by petition). Motion made to accept the article. Seconded. Voted in the affirmative—155 yes, 13 no.

Sincerely,

CLAIRE MENARD,
Assistant Clerk.

ANNUAL TOWN MEETING
RICHMOND, VT.

The legal voters of the Town of Richmond, Vermont, are hereby notified and warned to meet at Camels Hump Middle School, in said Town, on Tuesday, March 3, 1981, at 10:00 o'clock in the forenoon, voting for Town Officers to be by Australian Ballot, such voting to close at 7:00 o'clock in the afternoon, to transact the following business:

Article 1. To receive and act upon the reports of the Town Officers.

Article 2. To see if the Town will vote to pay it's Real Estate and Personal Property Tax to the Town Treasurer, in quarterly installments, with due dates being August 15, November 15, February 15, and May 15.

Article 3. To see if the Town will authorize the Selectmen to borrow money when needed, to meet current expenses and indebtedness of the Town.

Article 4. To see if, the Town will authorize the Selectmen to borrow money to match advance State Aid Money.

Article 5. To see if the Town will authorize the Selectmen to acquire by gift or purchase, land for a municipal forest, to produce wood products, maintain a wildlife habitat, protect water supplies, provide forest recreation and for conservation education purposes.

Article 6. To see if the People in the Town of Richmond will vote to establish a three-year term for the Office of Town Clerk to take effect in 1982 as provided in 17 V.S.A. Sec. 2646 subsection (2).

Article 7. To see if the People in the Town of Richmond will vote to establish a three-year term for the Office of Town Treasurer to take effect in 1982 as provided in 17 V.S.A. Sec. 2446 subsection (3).

Article 8. To see if the voters in the Town of Richmond will vote to ask the members of our Vermont Congressional delegation to introduce into Congress a resolution calling for an immediate nuclear weapons freeze (US and USSR), and we ask them to call upon the Administration to negotiate with the USSR a permanent moratorium on nuclear weapons.

TOWN OF RIPTON
RIPTON, VT., *March 11, 1981.*

Hon. PATRICK J. LEAHY,
U.S. Senator, Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR LEAHY: On March 2, 1981 at the Annual Town Meeting of Ripton, Vermont those present and voting carried a non-binding resolution by a vote of 27 to 18 instructing the Vermont Congressional Delegation that the Town favors a Congressional Resolution requiring the President of the United States to propose to the Soviet Union a mutual * * *, immediately halting the testing, production and deployment of all nuclear warheads, missiles and delivery systems; and requesting Congress to transfer the funds that would have been used for those purposes to civilian use.

Sincerely,

DOROTHY S. GELINAS,
Town Clerk.

CITY OF ST. ALBANS, VT.

Article 2: Special city tax.—Shall the voters of the City of St. Albans approve the operational budget for Municipal expenses for the calendar year 1981? Said Special City Tax being 43¢ (forty-three cents) ($264,450.) upon the dollar of the Grand List.

Article 3: Special city school tax.—Shall the voters of the City of St. Albans approve the operational budget for the City School for the year 1981–1982 School Year? Said tax being $1.21 (one hundred twenty-one cents) ($744,150.) upon the dollar of the Grand List.

Article 4: Grants.—Will the legal voters of the City of St. Albans approve in total a tax of 4¢ (four cents) ($23,230) for the purpose of issuing Grants: the Senior Citizens Center, Mental Health Service, Historical Museum, Franklin County Home Health Agency, Target Area Development Corporation, Youth Diversion, Franklin County Citizens Association of Retarded Citizens and Christmas Decorations?

Article 5: Recreation.—Will the legal voters of the City of St. Albans approve a tax for Recreation purposes? Said tax being 8¢ (eight cents) ($51,608.) upon the dollar of the Grand List.

Article 6: Mayor and alderman expenses.—Will the legal voters of the City of St. Albans amend Section 8, of the Act No. 229, of the Act of 1965, relative to the Charter of the City of St. Albans, to allow the Mayor and each Alderman to receive compensation for expenses incurred to an amount not to exceed $25.00 per month?

Article 7: Bond issue.—Shall a General Obligation Bond for the City of St. Albans be issued for the purchase of Capital Equipment, ie: a Fire Department Ladder Truck at a cost of $170,000.00; and the purchase of a Sewer and Catch Basin Cleaner at a cost of $90,000.00; the aggregate sum of $260,000.00 which Bond Issue will amortize over a period of Fifteen (15) years?

Article 8: Nuclear arms moratorium.—Shall the State Senators from this district be advised to introduce a resolution in the Vermont State Legislature, advising the Vermont Congressional Delegates to the United States Congress to:

Request the President of the United States to propose to the Soviet Union a mutual nuclear weapons moratorium by which the United States and the Soviet Union agree to halt the testing, production and deployment of all nuclear warheads, missiles and delivery systems with certification safeguards satisfactory to both Countries?

TOWN OF THETFORD,
THETFORD CENTER, VT.,
April 7, 1981.

Senator PATRICK LEAHY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR LEAHY: Enclosed please find a copy of the Warning for Thetford's Annual Town and School District Meeting. Also enclosed is a copy of the Minutes of said meeting in regard to Articles Fifteen and Sixteen.

Sincerely,

EMILY E. HOOD, TC.

MINUTES OF THE THETFORD, VT.—MARCH 3, 1981

Article XV. Motion made on the referendum by petition that the Town of Thetford direct the Representative from District Number Orange—3 and the Senator from Orange County to introduce resolutions in the Vermont State House of Representatives and Senate to:

(1) Request the President of the United States to propose to the Soviet Union a mutual nuclear weapons moratorium by which the United States and the Soviet Union agree to halt immediately the testing, production and deployment of all nuclear warheads, missiles, and delivery systems, and

(2) Request Congress to transfer the funds saved to civilian use.

Seconded. Peter Blogett spoke to this article.

Notion to amend the article by striking out all reference to the Soviet Union and substituting other members of the world nuclear community. Seconded. Motion was lost.

Article XV was carried.

TOWN OF WATERBURY

Article 24: The Moderator read the article. Robert Curtis moved that we pass over this article. There were several seconds. After debate Erwin Severance moved the question. There were several seconds and the motion to move the question was put to a voice vote and carried unanimously.

A voice vote was then taken on the motion to pass the article. The chair was in doubt as to the result and called for a show of hands. The motion to pass over did not carry.

The motion was made and seconded that the Town vote to instruct the State Senators from Washington County, to introduce a resolution in the State Senate requesting the President of the United States to propose to the Soviet Union a mutual nuclear weapons moratorium by which the United States and the Soviet Union agree to halt immediately the testing, production and development of all nuclear warheads, missiles and delivery systems and to request Congress to transfer the funds saved, to civilian use.

Gleason Ayers moved to amend the motion to have the vote be by ballot and that the results of the ballot be transmitted to the State Senators. The amendment was seconded by Robert Curtis. The amendment was put to a voice vote and the Chair was in doubt as to the result. A show of hands was called for and again the Chair was in doubt. A second show of hands was called for with the following result: Aye 68, No. 52. The amendment was declared to have carried.

Robert Curtis moved to amend the motion by striking the words "to transfer the funds saved to civilian use" and substitute for them the words "that the savings be used to reduce the income tax". The amendment was seconded by Brian Garland, put to a voice vote and carried on a split vote.

Charles Adams moved to amend the motion by adding after "Soviet Union" the words "and all other nations with nuclear

weapons capabilities". The motion was seconded by Robert Curtis, put to a voice vote and carried unanimously.

The main motion as amended was then put to a ballot vote with the following results: Total vote cast: 162. Necessary for choice: 82. Aye 113, No. 49. The motion as amended carried.

TROY STATE UNIVERSITY

Mr. HEFLIN. Mr. President, as our school year comes to a close across the country so do we close the curtain on extracurricular activities in our schools. The end of the school year brings with it a time for rejoicing over deserving recognition for outstanding achievement.

I want to call to my colleagues attention the outstanding athletic achievements of Troy State University of Troy, Ala.

I ask unanimous consent that the Troy State University "Sport News" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TROY STATE UNIVERSITY SPORTS NEWS

The year 1981 was one of extraordinary success for the athletic teams of Troy State University. The school's women's basketball team won their first state championship; its track team won the Gulf South Conference title; its baseball team won both the GSC championship and the NCAA Central Region tournament for the second consecutive year and went on to a fourth place finish in the national tournament; and the golf team won the Gulf South Conference tournament by 35 strokes and finishd third in the national tournament.

Women's basketball coach Joyce Sorrell, baseball coach Chase Riddle, track coach Rick Stetson, golf coach Milke Griffin and the young people who played under them this year are all worthy of commendation and congratulations for their championship performances this season.

Troy State won the Gulf South Conference All-Sports Trophy this year for the second straight time, an unprecedented achievement. The league's highest honor, representative of the best overall athletic program in the conference, had never been won two years in a row by any other league member. Troy State has won the trophy four times in the last seven years, more than any other GSC school.

For that, athletic director Robert Stewart and University President Ralph W. Adams receive our congratulations.

Understandably, Troy State placed a number of student athletes on all-America teams. Willie Tullis, the quarterback of the TSU football team, was a first-team all-America selection. Denise Monroe, a forward on the basketball team; pitcher Danny Cox, shortstop Kevin McDaniel and designated hitter John Brower of the baseball squad: Selby Andrews, a high jumper, and Steve Venable, a 1500 meter man, all took all-America honors; and golfer Paul Perini (Pe-REE-Nee), the national individual champion in 1980, made the all-America squad for the second straight year playing in the national tournament while severely injured. His teammates Mark Stiggleman and Robb Mihelic (Mi-HAY-lick) joined him in this honor.

Championship performances by these young people and their teammates bring great pride to the people of Alabama. The competition among our state schools is fierce at all levels, but when one school rises above the others and goes on to national competition, everyone becomes a fan of that school. We are proud of the achievements of Troy State University, we salute the school for its past success and wish its teams the best of luck in the upcoming 1981–82 year.

THE TULE ELK IN CALIFORNIA

Mr. CRANSTON. Mr. President, the Bureau of Land Management's fifth annual report to the Congress on the Tule elk in California reached me recently, and I call it to the attention of my colleagues and all who are interested in the conservation of wildlife. It is a remarkable document about a remarkable and rare animal. The story it tells is of a rare dwarf elk on the verge of extinction at the hands of man, but now prospering through one of the finest Federal-State wildlife management efforts we have yet seen.

As author of legislation that formed the basis for this partnership effort in wildlife conservation. I am pleased at the news the BLM report brings. And I am more hopeful than ever that similar actions can be undertaken successfully for other species.

About this time in 1969—my first term in the U.S. Senate—I received a call from my friend Buela Edmiston, a renowned wildlife advocate and Californian, alerting me to an impending hunt of Tule elk in the Owens Valley. Less than 300 animals then roamed the valley, the only free roaming, unfenced survivors—unhybridized—of a species formerly common to the Sacramento and San Joaquin Valleys. There were those who liked the little elk—and those who did not, including ranchers who suffered crop and fence damage. Public hunts became both a means of controlling the elk population and, coincidentally, an outlet for hostilities.

Buela, citing wide public opposition to the hunts, asked me what at the Federal level could be done. In October of 1969 I introduced legislation to authorize a feasibility study of the desirability of establishing a national wildlife refuge for the elk. In succeeding Congresses similar legislation was introduced in both Houses of the Congress. In the meantime, the California State Legislature enacted a prohibition on the taking of tule elk—thus ending the hunts—until the total statewide population exceed 2,000 animals and unless suitable habitat could not be found. Five years later, urged on by the caring and persistence of citizens and officials of Government, the Congress enacted legislation providing Federal participation in preserving tule elk populations in California.

Through this 1976 statute, we have a a Tule Elk Interagency Task Force—comprising eight Federal and State agencies—working with seven private organizations concerned with wildlife. to analyze a management proposal for each tule elk herd in California, list priority projects to preserve and enhance tule elk herds, evaluate suitable habitat, look toward the potential and feasibility of achieving and maintaining 2,000 tule elk in California, and prepare a statewide management plan for the elk and its habitat.

The success of this cooperative effort is evidenced through the BLM's thorough report, to which I refer, which details the health and habitat condition of 14 tule elk herds, 13 of them now outside the Owens Valley. The total population of all herds is approximately 893 animals—well below the 2,000-statewide mandated level, but up some 200 percent over the herd figure when I introduced my bill in 1971.

The BLM report, Mr. President, is not simply a compilation of statistics. It is a caring, compassionate blueprint for the recovery of the tule elk. The condition and status of each herd is delineated as to nature and condition of the habitat, number and condition of the elk, effects of actual or proposed land-use practices, status of the management plan, and recommendations to preserve the elk.

The report summarizes several relocation proposals, based upon the criterion that tule elk—

Will continue to be relocated to diverse habitat types within their historic range under conditions that call for their continued adaptation to environmental factors.

Site criteria include geographic range, vegetation, climate, water, the potential for conflicts with man, range interaction with deer, potential for maintenance of natural populations, and an emphasis on the ability to maintain pure stock.

I am deeply pleased, Mr. President, to have played a role in the legislative effort that has led to the tule elk conservation program. To my mind, the survival of animal and plant species is of paramount importance to the survival of us all. I compliment the Bureau of Land Management, and the many citizens and organizations involved in the tule elk effort, for the enthusiasm and determination that has made this a success story in wildlife conservation.

OKLAHOMA HOUSE URGES RENEWED RECOGNITION OF REPUBLIC OF CHINA

Mr. THURMOND. Mr. President, I ask unanimous consent that the following Resolution No. 1017 that was adopted by the Oklahoma House of Representatives be made a part of the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION No. 1017

"Whereas, the Republic of China and the United States have been close friends and allies for thirty-five years; and

"Whereas, both the Republic of China and the United States have representative forms of government; and

"Whereas, former President Carter withdrew recognition of the Republic of China; and

"Whereas, President Reagan, during his campaign, expressed a desire to renew our recognition of the Republic of China; and

"Whereas, President Reagan has not yet taken steps toward renewing our recognition of the Republic of China.

"Now, therefore, be it resolved by the House of Representatives of the 1st session of the 38th Oklahoma Legislature:

"Section 1. The Oklahoma House of Representatives memorializes the President of the United States and the Congress of the United States to renew recognition of the Republic of China.

"Section 2. Copies of this Resolution shall be dispatched to the President of the United States, the Speaker of the House of Representatives and the President Pro Tempore of the Senate of the United States, and the Oklahoma Congressional Delegation."

INCENTIVE STOCK OPTIONS BILL

Mr. CRANSTON. Mr. President, I am pleased to join in cosponsoring S. 639, the Incentive Stock Option bill. This legislation, introduced by my colleagues Senator BENTSEN and Senator PACKWOOD, would restore the stock option as a viable form of employee compensation. I believe this bill can play a critical role in our efforts to improve productivity by providing the means for young companies to attract and retain the human capital necessary to succeed in today's highly competitive economy.

As you are aware, Mr. President, new, small and independent businesses must provide significant incentives to attract talented managers and employees from the larger and more secure corporations. Founders of a new enterprise have often found that offering a share of ownership, in the form of stock options, can be a successful inducement. But changes in tax laws have had a severe negative impact on the ability of growing companies to take advantage of the stock option.

The tax obstacles to stock options result from the fact that employees are now required to pay ordinary income taxes on the paper profit or spread between the option price and the market price at the time they purchase the stock.

An employee often is forced to sell some of the stock in order to pay the taxes, thus reducing his share of the company ownership and defeating the very purpose of the stock option plan.

Moreover, if the market value at the time of sale has fallen since the time of purchase, the employee ends up paying a tax based on a paper profit which is never actually realized.

As a result of these drawbacks, prospective employees are not interested in stock options and can only be attracted by higher salaries or other cash incentives which small businesses and new enterprises are less able to offer than larger, established corporations.

Incentive stock options have fallen into disuse and our whole economy, not just innovative companies, has suffered as a result. The legislation I have cosponsored will correct this adverse situation. Under the bill, an employee pays only capital gains taxes on the difference between the option price and the price he receives at the time he sells the stock. No tax would be paid when the employee exercises his option to purchase the stock.

Restoring the favorable tax treatment of incentive stock options will provide important productivity incentives. A stock option only has value to the employee if the price of the company's stock increases through increased sales and profits. Thus, the employee has a vested interest to conduct the enterprise efficiently and to seek out opportunities for business expansion. These combined actions will result in greater productivity and the creation of new jobs.

While the benefits of incentive stock options are most frequently discussed in relation to small, expanding enterprises, these options also promise to revive older businesses and industries whose opportunities are being ignored in favor of more glamorous "growth" industries. As the older industries and businesses level off and decline, the communities in which they are located also suffer. The problem often is not one of economics but of disinterested and, perhaps, inept management. Incentive stock options can stimulate a revival by recruiting dynamic and capable employees to help run the enterprise.

The substantial economic benefits of the incentive stock option proposal were recognized last year by the delegates of the White House Conference on Small Business who endorsed the concept and by the members of the Senate Finance Committee who included the provision in the Tax Reduction Act of 1980 (H.R. 5829). I was an original cosponsor of the stock options bill in the 96th Congress.

Finally, I would like to point out that after modest revenue losses in the first years of enactment, the incentive stock option will actually increase revenues to the Treasury.

Under present tax law, businesses can deduct nonqualified stock options as a business expense. On the other hand, employee income from incentive stock options is not deductible to the corporation. Therefore, substituting incentive stock options for nonqualified options will result in increased revenue to the Treasury from increased business taxes.

Mr. President, I am convinced that S. 639 is a good bill which will help to promote efficiency and innovation in our economy. I urge my colleagues to consider it favorably.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

OMNIBUS RECONCILIATION ACT OF 1981

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1377, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 1377) to provide for reconciliation pursuant to title III of the First Concurrent Resolution on the budget for fiscal year 1982 (H. Con. Res. 115, Ninety-seventh Congress).

Mr. BAKER. Mr. President, for the time being, I designate the distinguished chairman of the Budget Committee as the manager of this bill to control the time under the act on this side.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. Mr President, I do likewise with respect to Mr. HOLLINGS, the ranking member of the Budget Committee. I yield time under my control to him for the time being.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I am very proud to have the opportunity to present to the Senate S. 1377, the Omnibus Reconciliation Act of 1981. This bill will cause us to save over $190 billion in budget authority and over $141 billion in outlays in fiscal years 1981 through 1984.

That is over 60 percent of total Federal spending in 1972—the year I was elected to the U.S. Senate.

S. 1377 is the culmination of one of the most extraordinary undertakings in Senate history. On March 10, President Reagan sent to Congress his plan for economic revitalization. We are here, barely 3 months later, to consider a massive bill in direct response to that plan.

In the intervening 3 months, Congress has had first to agree on a budget resolution which included reconciliation instructions to 14 committees of the Senate. Then the instructed committees met to respond to their instructions.

To give you an idea of the responsiveness of the committees which were instructed, they have submitted recommendations that are before the Senate today, which would save more than the amounts contained in the Senate's instructions.

Each committee had to draft actual legislative language to achieve these savings. Just look at the bill before us, Mr. President. It speaks eloquently to the monumental undertaking involved in the writing and compilation of this massive rewrite of existing law.

Once the legislation was drafted, and the report language written, each of the instructed committees submitted its recommendations to the Budget Committee. Every Senate committee met the June 12 deadline for those submissions.

The role of the Budget Committee—at this point in the reconciliation process—is ministerial in nature. We made no substantive change in the legislation, nor in the report language. Indeed, the law prohibits our making any substantive revision to the submission of any Senate committee.

This bill is the product of the committees of jurisdiction—of those who are the institutional experts of all of the laws which will be changed by this legislation.

There are those who have said, Mr. President, that Senate committees could not produce a worthy product in so short a time. I challenge that assertion, Mr. President. As chairman of the Budget Committee I have had the benefit and the time, short as it was, to thoroughly analyze most of this bill, and I commend

to the Senate the work of all our committees.

Any Senator may find fault with some of the recommendations of some committees. Whatever minor shortcomings anyone may identify in this bill, however, it is clearly and overwhelmingly an affirmative response to the instructions Congress gave to make unprecedented reductions in current spending.

To those who say that this bill contains extraneous matter, or that the bill has been abused by some committees by the insertion of nonreconciliation material, I must point out four facts: First, of the programmatic changes in this bill as reported, more than 94 percent of the changes produce savings, while only 6 percent produce spending increases of any magnitude; second, every single title in this bill produces savings of a huge amount; third, of the sections in the reported bill, 86 percent produce, or are necessary to the production of, savings in spending; and fourth, and finally, as instructed by the Budget Committee, Senator HOLLINGS and I met with the chairmen and ranking members of other committees and with the leadership, and agreed on an amendment which struck the matter we all agreed was purely extraneous to budgetary savings; and the Senate agreed to an amendment by voice vote last night to that account.

Any Senator may still offer an amendment to strike any provision which he or she finds offensive, of course, and the Senate will decide if our amendment overlooked any material it should have struck. But I must say again, Mr. President, by any measure, the committees of the Senate have made the massive savings we asked them to make—and this bill is clearly what it purports to be: a reconciliation measure.

On March 23 the Senate Budget Committee unanimously ordered reported Senate Concurrent Resolution 9, which revised the second concurrent resolution on the budget for fiscal year 1981, to provide for reconciliation to achieve the savings proposed in the President's plan for economic recovery. The Senate passed Senate Concurrent Resolution 9 on April 2, by a vote of 88 to 10.

On April 29, by a bipartisan vote of 15 to 6, the Budget Committee ordered reported Senate Concurrent Resolution 19, the first concurrent resolution on the budget for fiscal year 1982. The Senate passed that resolution on May 12, by a vote of 78 to 20. We adopted the conference report on the first budget resolution on May 21, by a vote of 76 to 20. It is that conference report which contains the reconciliation instructions pursuant to which the bill before us was reported.

Clearly, the Senate has had several opportunities this year to express its views on the spending reductions proposed by the President—and in each case the Senate has responded by endorsing those spending cuts by overwhelming, bipartisan, majorities.

The question before the Senate today is: Are we committed to the fiscal policy reforms necessary to cure our economy of the stranglehold of stagflation—high unemployment, high inflation, high interest rates—which will otherwise sap us, as a nation, of our basic vitality?

I know many of our colleagues fought for reconciliation in the individual authorizing committees on which they serve, Mr. President. To all of those and the chairman and ranking members who worked so hard on it, obviously, I, as chairman of the Budget Committee, extend my congratulations and compliments. I know that many of those on the authorizing committees will discuss today, and tomorrow, and perhaps for the rest of the week, some of the problems that portions of this bill present to them. We will discuss some problems that they present to us. But these discussions and our criticisms of minor portions of this bill should not obscure the essential nature of the bill—a historic savings measure produced by the individual committees of the Senate, using their best judgment and their oversight responsibilities to the fullest. This bill will, when enacted, drastically reverse a 25-year trend in the growth of Federal spending. This reversal is absolutely necessary to the health of the Nation's economy.

I will not repeat the scenario of votes that have already occurred here in the Senate, bipartisan in nature, overwhelming majorities, wherein this Senate agreed with that premise. It could not have been produced without the reconciliation process; and, for that reason, I am pleased to be able to put this landmark legislation before the Senate in my role as chairman of the Budget Committee.

Let me take a moment in closing, Mr. President, to say a word about Senator HOLLINGS and to extend to him my thanks.

Senator HOLLINGS is the ranking member of the Budget Committee. He managed the first reconciliation bill ever signed into law last year. The Senate Budget Committee tried reconciliation the year before that, as I remember, I say to my good friend from Florida who is now managing the bill on the minority side, and we even proposed it 2 years ago, the process of reconciliation. At that point, the House was not interested. But last year, as it became more and more obvious that we would not control spending without the kind of congressional instruction to the committees that comes and culminates with reconciliation, we tried it, and it worked.

Senator HOLLINGS managed that bill. Few, if any, Members of this great body have proved themselves more steadfast advocates of responsible Federal spending and responsible Federal spending decisions than Senator HOLLINGS. Senator HOLLINGS' support has been essential to our committee's ability to bring this measure to the Senate floor.

Let me also extend my thanks to the distinguished majority leader. He has worked long and hard with us and with other Senate committee chairmen and ranking members and with the minority leader. Without his staunch support and his wise counsel we could never have produced the reconciliation instruction, let alone this incredible piece of legislation that is before us because the Congress of the United States instructed its committees, individually as committees, to report their parts of this bill.

With the support of those I have just mentioned, and many others in this body who have become convinced that some dramatic process is necessary if we are going to bring fiscal irresponsibility back to the level of responsibility, and if we are going to change 25 years of spending patterns in this country, to all of those I give my thanks but, more importantly, I think the American people will know where this effort came from and they will be watching the votes in the days that ensue to see if we are really ready now to do what we have been urging on ourselves, what we have almost ordered ourselves to do.

I have every reason to expect that the Senate will complete work on S. 1377. I have every reason to hope we will finish our conference, as the President has asked, before the August recess. Then we can go home knowing we have delivered this first critical installment of the President's economic plan and our promises to the people of this country. This bill deserves our support, Mr. President, and I urge all my colleagues to vote for it and to be careful and cautious before they attempt to dramatically alter the pattern of savings that is so distinctly and so obviously brought in this bill, brought forth by the respective committees of this Congress within the areas of their jurisdiction and in ways and means that they found acceptable to a majority on each committee to accomplish the instructions that were given to them.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, I thank the distinguished chairman of the committee, the Senator from New Mexico, for his very fine statement. My understanding is that the Senator from South Carolina, the ranking member, is on his way to the Chamber, and I am sure that he will have some opening remarks he would wish to make.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ANDREWS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HAYAKAWA). Without objection, it is so ordered.

Who yields time?

Mr. DOMENICI. How much time does the distinguished Senator desire?

Mr. ANDREWS. Two minutes.

Mr. DOMENICI. I yield such to the Senator.

Mr. ANDREWS. Mr. President, today, we begin another important step in the budget process, the consideration of the Omnibus Reconciliation Act of 1981. This act, comprised of the work of the 13 authorizing committees, illustrates the real progress being made toward solving the economic problems facing our country.

The demands of the American people

have been heard and acted upon. While some committees still may have further cuts to make, for the most part, the paring down of the Federal budget is moving forward according to the instructions of this Congress. Where sacrifices have been asked of the American people, they are the result of careful consideration and will not, I hope, place an undue burden on any segment of the population.

Many longstanding and essential rural programs such as Farmers Home Administration's limited resource loans for farm ownership and operation, subsidized water and waste disposal loans, and access by REA to the Federal Financing Bank have been retained. In the areas of health care and medical research, vital programs have been retained. All this has been accomplished while still meeting spending goals of the Budget Committee.

I believe the Senate is giving an important message to the American people. In the wake of these cuts, important programs they depend on are not being abandoned. Rather, we are trying, and I believe successfully, to answer the real needs of the people while relieving them of the tax and regulatory burdens previously thrust upon them.

Mr. President, I congratulate my colleagues on a job well done and hope the budget process will continue to move forward swiftly, thoughtfully, and profitably.

● Mr. GRASSLEY. Mr. President, today we will begin consideration of a bill that will enable the Congress of the United States of America to achieve savings of $40 billion in outlays for fiscal year 1982. This bill, the omnibus reconciliation bill of 1981, is the first of its kind, for it is the first concerted effort by all the committees in Congress to review and set their spending priorities for this and the next few budget years.

This bill is the Senate's report of spending priorities that are the result of months of effort by all the committees involved. A similar study of Federal spending programs has also been underway in the House. With a few exceptions, this Senate version contains most of the spending and policy changes that were recommended by President Reagan in March. These recommendations have received a thorough review by all members of this legislative branch, and it is in this bill that we will report our judgment of these proposals.

With all due respect to the efforts of our colleagues in the other body, I believe that we in the Senate have managed to formulate a bill that achieves real savings for fiscal year 1982 and the outyears. We have accepted the President's recommendations wherever they were feasible, and in instances where we have felt that alternatives were necessary we have found alternative provisions that provide real savings in Federal spending. We did not report measures that would merely provide false savings, such as an authorizing cap on entitlement programs without corresponding changes in the eligibility structure which actually determines the program costs. We all know that such false economies are only in the short run. In no time at all these programs would require legislative changes to lift the cap and provide more spending authority.

The Senate reconciliation bill has also been carefully constructed so as to not impose budget cuts that would tear the safety net and harm the truly needy. In their zeal to fulfill their reconciliation instructions, some authorizing committees in the other body have managed to cut 30 million hot meals for the elderly, cut 4,000 Head Start classrooms and 68,000 Head Start students, and reduce the funds for administration in the Treasury so that monthly benefit checks could only go out once every quarter. Surely our respected colleagues in the House cannot expect us to seriously consider these drastic cuts. These reductions were not recommended by the President, nor are these cuts included in this bill.

Because this reconciliation bill is unprecedented in its scope, it has been the target of much criticism and controversy. There are those critics that insist that the Budget and Impoundment Control Act of 1974 never intended for reconciliation to be used on such a grand scale. The act, however, clearly intended to shift the budgetary "power of the purse" from the executive to the legislative branch. Reconciliation is the only enforcement mechanism in the budget process that Congress has to maintain its fiscal spending policies. The President has the power of veto over Federal spending bills, and his executive agencies determine the rate at which programs will spend out.

Congress, however, has no formal control over outlays. By practice, spending had increased at the whims of both branches without any restraint. As I have discussed earlier, however, it is from the cumulative efforts of all committees in Congress and Congress as a whole that we are able to bring about this reconciliation bill, which will provide large-scale spending restraint that this economy so badly needs. The President certainly recommended that Congress pursue a course of action that would lead to these savings, but it is only through the actions of all congressional committees—from the Budget Committee, the individual authorizing committees, and the appropriations committees—that these savings will actually be achieved. Reconciliation bills such as this one can only be initiated, approved, and enacted by the Congress. As such, this bill is the will of Congress and the American people.

Though this bill and the purpose it attempts to achieve have my full support, there are a few items that I do not find acceptable. Some committees have found themselves above the will of Congress, and have not found ways to achieve the savings required of them. In this Chamber in the next few days, I do not doubt that we will be able to help them do so. Other committees have found it difficult to enact the specific policy reforms that both the President and the Congress found necessary to recommend. Though these recommendations were not binding on the authorizing committees—and indeed, these committees were encouraged to evaluate their own spending priorities—several of my colleagues and I think that omission of these policy reforms should be avoided.

In this regard, I am particularly concerned that the original block grant proposals have not survived the reviewing process of the authorizing committees. Through these block grants, State and local governments would have added authority and discretion to set their own priorities with regard to Federal programs. This would have provided long-term savings to the Federal Government, and in turn to the American people, since local governments could have chosen to administer only those programs that truly benefited their constituencies. Over the past months, my constituencies have informed me that this is the preferred method over the one that is contained in this bill.

During the next 20 hours of debate on this reconciliation bill of 1981, I will join the efforts of my colleagues to provide alternatives and solutions to the rough spots in this piece of legislation. The reconciliation process has been criticized as one that gives to large a concentration of power to the Budget Committees and provides a route to short circuit substantive policy debate on the issues involved. The next 20 hours will show that this is nonsense. The Congress as a whole and as individual authorizing committees has had 4 months to deliberate and debate the specific issues involved in this bill.

Now, in our consideration of this bill, Congress will once again discuss the pertinent facts and relative merits of all provisions in this reconciliation measure. As a member of the Senate Budget Committee and a member of two authorizing committees, I have participated in all these deliberations, and look forward to this next step in the process. In this bill we are seriously addressing the problem of fiscal restraint. In this bill we have the opportunity to achieve real savings and to stem the booming growth in Federal spending. I for one, intend to pursue this goal, and I urge you, my colleagues, to do the same.●

Mr. McCLURE. Mr. President, on Thursday it will have been 4 months since President Reagan came to Capitol Hill and spoke to a joint session of the Congress about the economic crisis facing America. I am again reminded of the truth in his words that:

> We can no longer procrastinate and hope things will get better. They will not. If we do not act forcefully, and now, the economy will get worse.

What followed was a bold new course of action by the Congress to rescue our Nation from economic and social ruin within 12 weeks of initial Senate approval of the reconciliation instructions in Senate Concurrent Resolution 9. On an unexcelled, expedited schedule the authorizing committees have brought to the Senate floor the necessary legislation to achieve the objectives of President Reagan's program for economic recovery. In the process the Senate has met its constitutional responsibilities for the formulation of national policy.

The legislation before us takes the ini-

tial steps toward revitalizing our Nation's energies and bringing efficiency to Government. We have the opportunity to achieve, once again, a healthy, growing economy with full employment and without inflation.

The issue before us is getting this country moving again—restoring the American dream—not just for a select few but for all Americans. We must not think of this exercise in terms of individual hardships and losses; rather we must think of it as taking the necessary forceful steps to foster economic growth and full employment.

All of us are aware of the punishing consequences of inflation. All of us are aware of the need to promote economic recovery at substantially reduced inflation rates. And all of us are aware of the need to reverse the cancerous combination of sustained inflation and economic distress which continues to drain the vitality out of the American economy.

We must capture control over the Federal budget. We must take the necessary steps to reduce the Federal budget that have plagued us for years. The Omnibus Reconciliation Act of 1981 represents the initial legislative initiative in this effort.

Throughout this process it has been my judgment that it would be possible to ultimately fashion a package of budget changes that would achieve the goals and objectives of President Reagan's program for economic recovery, although not necessarily an identical package to that proposed by the President. Some of the required changes have been painful and we therefore have had to assure equity in the distribution of consequences of the necessary change. The Committee on Energy and Natural Resources therefore undertook a detailed review of the administration's budget proposals. The recommendations of the committee, in some instances represent a redirection of energy and natural resource programs within its jurisdiction.

Mr. President, section 304 of House Concurrent Resolution 115 required that:

The Senate Committee on Energy and Natural Resources shall report changes in laws within the jurisdiction of the committee sufficient to require reductions in appropriations for programs authorized by that committee so as to achieve savings in budget authority and outlays as follows: $1,331,000,000 in budget authority and $94,000,000 in outlays for fiscal year 1981; $3,714,000,000 in budget authority and $3,398,000,000 in outlays for fiscal year 1982; $3,660,000,000 in budget authority and $3,627,000,000 in outlays for fiscal year 1983; and $3,604,000,000 in budget authority and $3,711,000,000 in outlays for fiscal year 1984.

Section 304 of the resolution further require first that the Committee on Energy and Natural Resources, no later than June 12, 1981, submit its recommendations to the Committee on the Budget and second, that those recommendations be sufficient to accomplish the savings required by section 302(5) of the resolution.

On May 13, 1981, the Committee on Energy and Natural Resources approved its recommendations to the Senate Budget Committee.

The committee's recommendations in the aggregate, satisfy these requirements through the combination of three separate and distinct legislative actions: First, in the energy function, the committee recommends removing the strategic petroleum reserve (SPR) program, with the exception of facilities acquisition and construction, permanently from the Federal budget. Such an action was assumed in the formulation of the committee's reconciliation instruction.

Second, also in the energy function—as well as other functions affected by Department of Energy civilian programs—the committee recommends pursuant to section 660 of the Department of Energy Organization Act the establishment of authorization ceilings by appropriations accounts for programs and projects within the Department of Energy—except for the portions of the SPR program taken off-budget—for fiscal years 1982, 1983, and 1984.

Third, in the natural resources areas, for the first time, the committee recommends ceilings on the aggregate appropriations for each department or agency limiting the total amount which may be appropriated for programs within the committee's jurisdiction. This approach was adopted because many of the natural resource programs have no express funding authorization or authorities based on such sums as are necessary. The committee did not allocate these ceilings among individual programs or organizational elements within the departments or agencies, although the committee's report includes recommendations regarding priorities in certain specific instances.

Several comments relating to these individual actions are pertinent to consideration of these recommendations. Specifically, the combination of these three actions in the aggregate would require savings and reductions which fully satisfy the instructions of the House Concurrent Resolution 115. These savings are discussed in the committee's letter of transmittal and report language.

I ask unanimous consent that the letter of transmittal appear at this point in my remarks:

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON
ENERGY AND NATURAL RESOURCES,
Washington, D.C., June 10, 1981.

Hon. PETE V. DOMENICI,
Chairman, Committee on Budget,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Committee on Energy and Natural Resources, pursuant to section 304 of House Concurrent Resolution 115, the First Concurrent Resolution on the Budget—Fiscal Year 1982, transmits herewith its recommendations to achieve specified savings in budget authority and outlays compared to "current policy" in fiscal years 1981, 1982, 1983 and 1984. The recommendations of the Committee were approved with a quorum present in a business meeting on May 13, 1981.

Section 302(5) of H. Con. Res. 115 requires that:

The Senate Committee on Energy and Natural Resources shall report changes in laws within the jurisdiction of that committee sufficient to require reductions in appropriations for programs authorized by that committee so as to achieve savings in budget authority and outlays as follows: $1,331,000,000 in budget authority and $94,000,000 in outlays for fiscal year 1981; $3,714,000,000 in budget authority and $3,398,000,000 in outlays for fiscal year 1982; $3,660,000,000 in budget authority and $3,627,000,000 in outlays for fiscal year 1983; and $3,604,000,000 in budget authority and $3,711,000,000 in outlays for fiscal year 1984.

Section 304 of the Resolution further requires (1) that the Committee, no later than June 12, 1981, submit its recommendations to the Committee on the Budget and (2) that those recommendations shall be sufficient to accomplish the savings required by section 302(5) of the Resolution. On behalf of the Committee, we submit that this transmittal, and the Committee's recommendations included in it, satisfy fully the requirements of sections 302(5) and 304 of the Resolution by accomplishing the specified savings and reductions by the changes in law within the Committee's jurisdiction included in the recommendations. The resultant savings, compared to the "current policy" base provided by your Committee by letter dated April 30, 1981, are as follows:

For fiscal year 1981 the recommendations of the Committee would achieve savings of $2,100,725,000 in budget authority and $250,888,000 in outlays compared to "current policy" for programs wholly or partially within the jurisdiction of the Committee;

For fiscal year 1982 the recommendations of the Committee would achieve savings of $6,624,716,000 in budget authority and $5,305,695,000 in outlays compared to "current policy" for programs wholly or partially within the jurisdiction of the Committee.

For fiscal year 1983 the recommendations of the Committee would achieve savings of $5,799,301,000 in budget authority and $5,220,473,000 in outlays compared to "current policy" for program wholly or partially within the jurisdiction of the Committee; and

For fiscal year 1984 the recommendations of the Committee would achieve savings of $3,887,568,000 in budget authority and $4,303,473,000 in outlays compared to "current policy" for programs wholly or partially within the jurisdiction of the Committee.

The Committee's recommendations in the aggregate, satisfy those requirements through the combination of three separate and distinct legislative actions: First, in the energy function, the Committee recommends removing the Strategic Petroleum Reserve (SPR) program, with the exception of facilities acquisition and construction, permanently from the Federal budget. The Committee's legislative proposal for this action would amend the Energy and Policy Conservation Act to accomplish that objective. The SPR legislative proposal included in the recommendation, is identical to the provisions of S. 998, as reported by the Committee on May 13, 1981 (S. Rept. 97–82, Calendar 107).

Second, also in the energy function (as well as other functions affected by Department of Energy civilian programs), the Committee recommends pursuant to section 600 of the Department of Energy Organization Act the establishment of authorization ceilings by appropriations accounts for programs and projects within the Department of Energy (except for portions of the SPR program taken off budget) for fiscal years 1981, 1982, 1983, and 1984. The Committee's recommended DOE authorization provisions would adopt a new streamlined procedure for the DOE annual authorizations in the outyears, which are modeled after S. 2332, 96th Congress, as passed by the Senate last year. The DOE authorization in the recommendation is identical to that contained in S. 1021, as reported by the Committee on May 13, 1981 (S. Rept. 97–81, Calendar No. 106).

Third, in the natural resources area, for the first time, the Committee recommends ceilings on the aggregate appropriations for

each Department or agency limiting the total amount which may be appropriated for programs within this Committee's jurisdiction. The Committee adopted this approach because many of the programs in this area have no express funding authorization or authorize "such sums as are necessary." The Committee did not allocate these ceiling amounts among individual programs or organizational elements within the Departments or agencies, although the Committee's report includes recommendations regarding priorities in certain specific instances.

As noted, the combination of these three actions in the aggregate would require savings and reductions which satisfy fully the instructions of the H. Con. Res. 115. These savings are discussed in the Committee's transmitted materials. Generally, the recommended SPR action would result in savings which exceed significantly the Budget Committee's assumption for that program. Taking into consideration the action on SPR, the recommended DOE authorization action would result in savings greater than those assumed under the instruction. The recommended natural resources action also would result in savings slightly greater than those under the Budget Committee's assumptions but the aggregate recommendation would equal the Reagan Budget in fiscal year 1982. The three actions would have approximately the same budget effects in fiscal years 1983 and 1984, based on extrapolations of the Committee's fiscal year 1982 recommendations.

Several comments relating to these individual actions are pertinent in the further consideration of these recommendations. In the SPR program, the Committee in its recommendations adopted a proposal authorizing direct Treasury Department financing for the SPR off-budget to satisfy the reconciliation instructions. As you undoubtedly recall, the Committee in its March 1981 report to the Budget Committee recommended that, "in the case of funding for the Strategic Petroleum Reserve, that the committee will move expeditiously to consider and report an alternative off-budget funding mechanism. When such an alternative mechanism is developed by the Committee on Energy and Natural Resources, or any other Committee, and is enacted into law, we will support an appropriate reduction in authorizations and appropriations for the Strategic Petroleum Reserve." The Budget Committee and the Senate, as discussed in the transmitted materials, rejected that approach on several occasions in actions leading to final adoption of the instruction in H. Con. Res. 115. The Committee responded to the instruction by holding a total of four days of hearings, with almost 1,000 pages of testimony and 30 witnesses, including the Secretary of the Treasury, the Secretary of Energy and the Director of the Office of Management and Budget. In the hearings and in three days of business meetings devoted to this agenda item, the Committee thoroughly reviewed nine major options, with multiple sub-options, for removing the SPR program from the Federal budget and satisfying the reconciliation instruction.

It is the considered judgment of the Committee that the transmitted recommendation accomplishes, in the best possible manner, the dual objectives of (1) continued, predictable implementation of this critical program and (2) off-budget financing. Costs of the program for the economy and the American taxpayer are minimized, while necessary funding for the program is provided in an assured and timely fashion. A copy of the Committee's hearing record, which supports these conclusions overwhelmingly, is enclosed for the information and review of the Budget Committee.

With regard to the DOE authorization, the Committee allocated a small portion of the SPR savings to several program areas, such as energy supply R&D, energy conservation, and energy regulation, which were the subject of severe budget reductions or terminations in the fiscal year 1981 and 1982 DOE request in the Reagan Budget. This reallocation reflects the Committee's views with regard to priorities related to those programs and will provide the Appropriations Committees the latitude to consider funding for those specified priorities.

It also is important to note that, while the Committee generally recommends the Reagan Budget totals for DOE appropriations accounts, the Committee did not terminate certain programs proposed for termination in the Reagan Budget. In the case of the Alcohol Fuels program the Committee recommendation assumes zero funding in fiscal years 1982 through 1984. In the case of the Solar Energy and Energy Conservation Bank, the Committee recommendation supports reduced funding in fiscal year 1982 and does not authorize funding in fiscal years 1983 and 1984. In large measure, then, the Committee's limitations on authorization provide latitude to the Appropriations Committees, within appropriations accounts limits for DOE, to make final decisions on competing priorities for programs and projects.

In the natural resources area, the Committee's recommendations in the aggregate equal the Reagan Budget for programs within the jurisdiction of the Committee. The recommended individual limitations on appropriations for each Department and agency differ from the Reagan Budget. The Committee recommends restructuring natural resource priorities by the reallocation of $210 million of savings as increases in the Land and Water Conservation Fund (LWCF), the Historic Preservation Fund (HPF), and the Youth Conservation Corps (YCC), and corresponding reductions elsewhere, such as in the Forest Service and certain DOI programs. Also, the Committee's legislative recommendation does not include the proposals of the Administration which were assumed by the Reagan Budget for programs such as the LWCF and Payments in Lieu of Taxes (PILT). The report language accompanying the legislative recommendation expresses the Committee's views on the allocation of available funds among certain programs in DOI. Consequently, final decisions on the allocations within the totals, as in DOE, are left to the Appropriations Committee.

The Administration's legislative proposal for LWCF was received and was the subject of initial hearings prior to the Committee's action on these recommendations. The Administration's legislative proposal for PILT was received after the Committee's action and is still pending hearings. These Administration proposals may be the subject of further legislative consideration and action by this Committee. In any event, the Committee recommends aggregate limitations on appropriations consistent with the Reagan Budget, despite the differences in the apportionment of funds among Departments and agencies whose programs are within the jurisdiction of the Committee.

In summary, the Committee's recommendations satisfy fully and exceed the instructions contained in H. Con. Res. 115. The recommendations reflect an extensive and thorough consideration by this Committee of the Reagan Budget, the Budget Committee's reconciliation assumptions and other identified alternatives for achieving the required savings. We therefore urge the full support of the Budget Committee and the Senate for the legislative actions and related report items included in the enclosed recommendations.

Sincerely yours,

HENRY M. JACKSON,
Ranking Minority Member.
JAMES A. McCLURE,
Chairman.

Mr. McCLURE. Mr. President, our goal must be to direct Federal energy and natural resource programs to release the creativity and individual initiative of the American people to sustain economic growth. In examining the proposed budget for programs within the Department of Energy, we paid close attention to pursuing a course that assures our national security.

We must remove the uncertainty that has plagued private energy investments. We must formulate long-term solutions to our current energy problem that rely on expansion of domestic supplies. We also must steadily reduce our oil import dependence.

The recommended SPR action would result in savings which significantly exceed the Budget Committee's assumption for that program. The recommended action on SPR, along with the recommended action on DOE authorization, would result in savings greater than those assumed under the reconciliation instructions.

For the SPR program, the committee recommendation adopts a proposal authorizing direct Treasury Department financing for the SPR off-budget to satisfy the reconciliation instructions.

As you will undoubtedly recall, Mr. President, when the budget reconciliation resolution for fiscal year 1981 was approved by the Senate, the instruction to the Committee on Energy and Natural Resources assumed an off-budget mechanism would be enacted for financing at least $3 billion of SPR funding for each of fiscal years 1982, 1983, and 1984.

I, as does the committee, support the objective of finding an off-budget funding mechanism. In our March 20 report to the Senate Budget Committee, the Energy and Natural Resources Committee stated:

The committee supports President Reagan's budgetary totals for programs within the jurisdiction as contained in the administration proposed budget for fiscal year 1982. Further it is the sense of the committee, in the case of funding for the strategic petroleum reserve, that the committee will move expeditiously to consider and report an alternative off-budget funding mechanism. When such an alternative mechanism is developed by the Committee on Energy and Natural Resources, or any other committee, and is enacted into law, we will support an appropriate reduction in authorizations and appropriations for the strategic petroleum reserve.

However, during consideration of the SPR by the Budget Committee and the Senate, this approach was rejected, leading to final adoption of the instruction in House Concurrent Resolution 115.

Importantly, the Budget Committee supported the objective of the SPR on economic as well as national security grounds. The Budget Committee did not dispute the fact that the SPR can provide insurance against the economic dislocations, protection against international blackmail, and a source of fuel supplies for our military in the event of wartime mobilization. On these points we are in agreement. Where we were in disagreement was whether an off-budget financing mechanism to raise the necessary funds to purchase petroleum was already known.

The Committee on Energy and Natural Resources was concerned that prolonged congressional considerations of alternative SPR funding mechanism must not jeopardize the objective of assuring that the fill rate of at least 230,000 barrels per day as proposed by the President is guaranteed.

However, the committee also was concerned that if achievement of this goal was to be successful a safety net would be required that insured that the current SPR concept would be maintained and the reserve would be filled in fiscal years 1981 and 1982 to the levels supported by the President. For this reason Senator WARNER and I introduced S. 998 which supported a combination of measures to assure these dual objectives. At the time S. 998 was introduced we were aware that it might not be the ultimate solution for accomplishing the instruction in the reconciliation resolution. Nevertheless, the bill served to focus the committee's deliberations on alternative SPR funding mechanisms.

The committee responded to the instructions by holding a total of 4 days of hearings, with almost 1,000 pages of testimony and 30 witnesses, including the Secretary of the Treasury, the Secretary of Energy, and the Director of the Office of Management and Budget.

Mr. President, I ask unanimous consent that a summary of those hearings appear at this point in my remarks.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF WITNESSES' TESTIMONY

GENERAL OBSERVATIONS

The great majority of all witnesses who appeared before the Subcommittee testified that in their opinion the most preferable way to finance the SPR would be to have the Reserve funded by the Government on-budget in accordance with past practice.

It was also the opinion of a majority of the witnesses, political realities being what they are, that if the Senate did not reverse its prior decision to not fund the SPR on-budget then the next least costly method for the Reserve to be financed would be by the Government issuing securities in its regular financing activities off-budget. Witnesses agree that such financing could be accomplished by the Federal Government in an off-budget manner under current statutory law and normal financing practices by the Department of Treasury.

Most witnesses were favorable to S. 998 only to the extent that the bill provided for an orderly transition to off-budget financing for the Strategic Petroleum Reserve by authorizing interim financing which allowed the SPR to be continued to be filled in an uninterrupted fashion.

Many witnesses took the position that any alternative financing mechanism should provide that the fill rate for the SPR be very flexible to allow the administrators of the program to be able to adjust their purchases of oil for the Reserve as market conditions dictate.

Most witnesses agreed that the SPR program should continue unabated while an alternative financing mechanism was implemented. It was agreed that the most desirable method was that which was easiest to implement, provided the sums needed to fill the SPR. allowed for an uninterrupted continuation of the program, did not differ radically from the present funding methods of the SPR, and filled the SPR at the lowest possible cost to the Government and the public.

Many of the witnesses believed that a "safety-net" was necessary—a large amount of funds to be available in reserve to be used to purchase oil when the market conditions dictate. However there was disagreement as to what would be the most effective safety net concept.

Where the witnesses disagreed was in the type of mechanism and security to be utilized to accomplish what most thought necessary.

A few witnesses agreed that a security backed by the appreciation in the price of oil ("oil bond") could be used, however most witnesses argued that an oil bond established new precedent, possibly would not receive sufficient funds to fill the Strategic Petroleum Reserve, created a conflict of interest with the program, fueled inflation as it was premised on the rise in the price of oil and presented an enormous contingent liability to the Federal Government as the securities redemption price may be based on the increased world oil price.

Some witnesses argued that a direct tax on petroleum products was the most direct, effective way to finance the Strategic Petroleum Reserve. Later testimony by Treasury Secretary Regan called into question the ability of a tax to provide "a steady source of income, a ready source of income" for the program. Also, Administration testimony questioned the economics of adding another tax into the burden of what they viewed as an already over-taxed public.

Some witnesses argued for the creation of either a private petroleum reserve or that private industry should voluntarily contribute its stocks to the reserve with appropriate financial incentive being offered to industry. There was conflicting testimony argued that voluntary contribution may not provide needed petroleum products when needed and in amounts necessary to relieve the economic burden in all parts of the United States.

Based upon these witnesses statements, the Committee staff prepared an option paper for its May 8 hearing with Administration officials which listed all of the options in narrative form which the staff was aware of was outlined.

The options for the alternative funding of the filling of the SPR before the Subcommittee were:

1. Full, on-budget financing of the SPR.
2. Declare the SPR to be off-budget.
3. Private Strategic Petroleum Reserve.
4. Regulatory approaches.
5. U.S. Government issues bonds to fund the SPR.
   a. Sale of bonds to the public.
   b. Borrowing from the Federal Financing Bank.
6. Dedicate Federal revenues.
7. Access to previously appropriated funding authority.
8. Taxes dedicated to SPR oil purchase.
   a. Refinery tax.
   b. Consumer tax.
   c. Btu energy tax.
   d. Import fee on all crude oil and petroleum products.
   e. Wellhead and mine tax.
9. Supplemental sources of SPR oil acquisition.
   a. Storage of State Royalty Oil.
   b. Modification of the tax accounting basis for existing private firm inventories.
   c. Voluntary contributions to the SPR.
   d. Other Federal policies, including tax incentives.

On May 8th the Administration, represented by the Secretary of the Treasury, Donald T. Regan, Secretary of Energy James Edwards and Director of the Office of Management and Budget David Stockman appeared before the Subcommittee to present its position on S. 998 and other alternative financing mechanisms for the funding of the SPR.

The Administration disapproved of any alternative proposals for private financing of the Strategic Petroleum Reserve which would require the private sector to build up petroleum stocks as such measures are of dubious legality and are out of step with the free market approach of the Administration and the traditional notions of Federal responsibility.

Government financing of the Strategic Petroleum Reserve with conventional debt instruments, according to the Administration must be accomplished in a way that minimizes the impact on financial markets and on the economy.

Nor programs financed either on or- off-budget it is essential that the most efficient and orderly debt management practices be adopted.

Secretary Regan in closing stressed the position of the Administration in debt financing for the filling of the SPR, "[A]ny legislation to authorize debt financing of the SPR should provide for a back-up source of funds such as authority to borrow from the Treasury to insure the Government's ability to make good on its debt and thus to insure the lowest possible financing costs for the taxpayer."

OMB Director Stockman in his prepared remarks indicated that the Administration believed that any alternative funding mechanism which used royalty oil and NPR receipts to finance the SPR would violate the Budget Resolution totals.

The Administration in its testimony repeatedly stressed the point that the impact on the financial market of bonds issued by the Treasury to finance on-budget deficits was absolutely no different than the impact on the financial market of bonds issued to finance off-budget expenditures.

Moreover, the Administration indicated that the funding method for off-budget financing of the SPR would not be any different than that which exists for several programs currently being financed off-budget by the Federal Financing Bank.

The Administration in its testimony indicated that it was committed to insure a fill rate for the SPR of at least 230,000 barrels per day, however, that commitment can be met only if Congress adopts a funding mechanism which allows for a safety net of ready funds to be available to insure the uninterrupted contination of the SPR.

Testimony by the Secretary of Energy noted that the Strategic Petroleum Reserve provides America with many safeguards and benefits as it:

Prevents minor interruptions from causing economic dislocations;

Maintains market supply at a level sufficient to prevent excessive upward price pressure;

Enables us to meet critical defense, health and safety needs;

Mitigates regional shortfalls;

Allows us to meet IEP commitments;

Provides us a more negotiating position in dealing with producer countries.

The Administration, in Secretary Regan's testimony, took the position that if the SPR was to be funded by an off-budget mechanism such mechanism must be developed to provide the most efficient and assured method of financing at the lowest possible cost to the taxpayer.

In Secretary Regan's opinion, "any Strategic Petroleum Reserve financing should be accomplished through the use of conventional debt instruments fully backed by the credit of the United States."

It was the Administration's position that "oil bonds" with maturity values indexed to the price of oil were simply not feasible for a multi-billion-dollar program such as the Strategic Petroleum Reserve as such highly speculative securities could not be sold in sufficient quantities at reasonable costs to raise the sums needed for the Strategic Petroleum Reserve within the required timeframe.

The Administration opposed an alternative funding mechanism like that set forth under S. 707 as it would—

Only provide an annual fill rate of 25 million barrels;

Be an inflexible mechanism incapable of taking advantage of changing market conditions;

Create a new regulatory program for industry;

Be discriminatory in nature as it would impose a mandatory requirement only on importers of oil;

Constitute a hidden tax.

The Administration proposed a solution to the funding problem of the SPR program when OMB Director Stockman before the Subcommittee said: ". . . simply pass a law that does not count the money. Make it off-budget. Create an off-budget account with the financing authority that would have the power to go directly to the market, or the Secretary has indicated, to use debt in order to finance these purchases."

While the Administration stated that while they desired the entire budget should be on-budget, they recognized that there were three very good reasons that justified the funding of the SPR in an off-budget manner:

(1) The world Petroleum market is highly volatile in nature, subject to rapid changes in petroleum supply and price, and therefore difficult to project and budget for the requirements of the Strategic Petroleum Reserve.

(2) Unlike a normal budget expenditure for goods and services which are depreciating in value the purchase of oil for the SPR is the purchase of an appreciating asset—a swap of assets, dollars for oil not unlike the U.S. purchases of gold in the past. Moreover this asset will eventually be converted back to dollars when the Strategic Petroleum Reserve is ultimately sold and thus the purchase of oil for the Strategic Petroleum Reserve is a temporary conversion of one asset to another.

(3) If there was a drawdown of the Strategic Petroleum Reserve it would create an enormous but deceptive receipt into the budget which would soon be followed by an outlay to purchase oil to rebuild the Reserve resulting in an enormous outlay.

The Administration in closing indicated that it would be happy to work with the Committee and its staff to develop appropriate legislation for creating an alternative off-budget funding mechanism for the filling of the Strategic Petroleum Reserve.

The Committee availed itself of the Administration's offer during the marking-up of S. 998 and received suggested amendments to the bill along with very helpful technical support and assistance from the Administration.

After reaching agreement with the Administration on the new provisions of the amendment to S. 998 the Committee reported S. 998 as amended.

Mr. McCLURE. Mr. President, in addition to the hearings, 3 days of business meetings were devoted to this matter. The committee thoroughly reviewed nine major options, with multiple suboptions, for removing the SPR program from the Federal budget and satisfying the reconcilation instruction.

It is the considered judgment of the committee that the transmitted recommendation accomplishes, in the best possible manner, the dual objectives, first, continued, predictable implementation of this critical program, and second, off-budget financing. Costs of the program for the economy and the American taxpayer are minimized, while necessary funding for the program is provided in an assured and timely fashion. A copy of the committee's hearing record, which supports these conclusions overwhelmingly, has been made available today.

With regard to the DOE authorization, the committee allocated a small portion of the SPR savings to several program areas, such as energy supply R. & D., energy conservation, and energy regulation, which were the subject of severe budget reductions or terminations in the fiscal years 1981 and 1982 DOE request in the Reagan budget. This reallocation reflects the committee's views with regard to priorities related to those programs and will provide the Appropriations Committee the latitude to consider funding for those specified priorities.

It is important to note, Mr. President, that, while the committee generally recommends the Reagan budget totals for DOE appropriations accounts the committee did not terminate certain programs proposed for termination in the Reagan budget. In the case of the alcohol fuels program the committee recommendation assumes zero funding in fiscal year 1982 through 1984. In the case of the solar energy and energy conservation bank, the committee recommendation supports reduced funding for fiscal year 1982 and does not authorize funding in fiscal years 1983 and 1984. In large measure, then, the committee's limitations on DOE authorization provide latitude to the Appropriations Committees, within appropriations accounts limits, to make final decisions on competing priorities for programs and projects.

Similarly, in the area of production and use of our natural resources, we must set a path which reduces our energy and mineral dependence. We must focus on the critical questions of strategic and critical mineral supplies so as to avoid a minerals crisis which would threaten our national security.

In this regard, the Committee on Energy and Natural Resources has the responsibility to insure that the Congress in making public land allocation decisions also supports the land managing agencies with the proper insulation for their decisions.

The lands in limbo era must come to an end. Proper planning within reasonable time limits and with foreseeable results is OK. But endless planning and futile EIS exercises that result in 30-pound documents that sit on a shelf are meaningless exercises that must be ended.

The Department of the Interior and the Department of Agriculture have not only land managing responsibilities but they also have policy responsibilities nationwide. However, in many cases, it is budget decisions that are the primary drivers in land management and land use policy decisions. The committee thus looked carefully at established funds, their program uses, and possible new uses and reductions.

The committee's recommendations in the aggregate in the natural resources area equal the Reagan budget for programs within the jurisdiction of the committee. The recommended individual limitations on appropriations for each Department and agency differ from the Reagan budget, however. The committee recommends restructuring natural resource priorities by the reallocation of $210 million of savings as increases in the land and water conservation fund (LWCF), Youth Conservation Corps (YCC), and historic preservation fund, with corresponding reductions elsewhere, such as in the Forest Service and certain DOI programs. Also, the committee's legislative recommendation does not include the proposals of the administration which were assumed by the Reagan budget for programs such as the LWCF and payments in lieu of taxes (PILT). Our report language accompanying the legislative recommendation expresses the committee's views on the allocation of available funds among certain programs in DOI. The final decision on the allocations of funds within the totals is left to the Appropriations Committee, as for DOE.

But more importantly, the committee's natural resources recommendation would result in savings slightly greater than those under the Budget Committee's assumptions; nevertheless the recommendation in the aggregate would equal the Reagan budget in fiscal year 1982. The recommendations also would have approximately the same budget effects in fiscal years 1983 and 1984, based on extrapolation of the committee's fiscal year 1982 recommendations.

In other words, the committee's recommended limitations on aggregate appropriations are consistent with the Reagan budget, despite the differences in the apportionment of funds among departments and agencies whose programs are within the jurisdiction of the committee.

Mr. President, I ask unanimous consent that a summary of the recommendations of the Committee on Energy and Natural Resources appear at this point in my remarks.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF RECOMMENDATIONS

The recommendations of the Committee on Energy and Natural Resources encompass programs and activities of the following Departments and agencies either wholly or partially within the jurisdiction of the Committee.

Funds appropriated to the President.

Advisory Council on Historic Preservation.

Alaska Land Use Planning Commission (Inactive).

Department of Agriculture, including the U.S. Forest Service and the Alcohol Fuels and Biomass Energy Program.

Department of Commerce (certain National Oceanic and Atmospheric Administration activities).

Department of Defense (certain Recreational Resources activities).

Department of Energy civilian programs.

Department of Housing and Urban Development (the Solar Energy and Energy Conservation Bank and certain community development programs).

Department of the Interior.

Department of Transportation (certain U.S. Coast Guard Programs).

Department of Treasury, including the Energy Security Reserve (certain Alcohol Fuels and Biomass Energy Programs and the U.S.

Synthetic Fuels Corporation), and certain U.S. Customs Service Programs.

General Service Administration.

National Science Foundation (Shared).

Office of the Federal Inspector for the Alaskan Natural Gas Transportation System (Shared).

Pennsylvania Avenue Development Corporation.

United States Holocaust Memorial Council.

These programs encompass 16 of the broad functional areas utilized by the Congressional budget process. The principal functional areas of concern to the Committee are:

250—General Science, Space and Technology;

270—Energy; and

300—Natural Resources and Environment.

Other areas of partial concern are:

053—Atomic Energy Defense Activities;

400—Transportation;

450—Community and Regional Development;

800—General Government; and

850—Revenue Sharing and General Purpose Fiscal Assistance.

The recommendations of the Commitee on Energy and Natural Resources would—

(1) for fiscal year 1981, establish limitations of the aforementioned Departments and agencies on the aggregate obligation of budget authority and expenditure of budget outlays for programs wholly or partially within the jurisdiction of the Committee: the exceptions are the Department of Commerce and the National Science Foundation because in these two instances the jurisdiction of the Committee encompasses only a minor portion of the programs or activities (See discussion below);

(2) for fiscal year 1982 through 1984, establish limitations on the aggregate appropriations for Departments and agencies whose programs are wholly or partially within the jurisdiction of the Committee (See discussion below);

(3) beginning with fiscal year 1982, support additional funding for (a) the Land and Water Conservation Fund for Federal programs and assistance to States; (b) the Historic Preservation Fund, and (c) the Youth Conservation Corps, by the reallocation of funds from within the aggregate Environment and Natural Resources functional total for programs within the jurisdiction of the Committee on Energy and Natural Resources (See discussion below);

(4)(a) authorize appropriations to the Department of Energy for fiscal year 1982 for certain of its civilian programs and activities and (b) establish a basis for simplifying and improving the annual authorization process for fiscal year 1983 and subsequent fiscal years, pursuant to the Department of Energy Organization Act (See discussion below);

(5) establish an off-budget mechanism for financing certain Strategic Petroleum Reserve activities; the exception being construction or acquisition of facilities which would be separately authorized under the aforementioned DOE authorization; and

(6) consistent with the President's proposed budgets, reduce the authorizations for (a) the biomass energy and alcohol fuels programs of the Department of Energy and the Department of Agriculture pursuant to Title II of the Energy Security Act and (b) the Solar Energy and Energy Conservation Bank pursuant to Title V of the Energy Security Act, except for $50 million in fiscal years 1982.

These recommendations are reflected in the accompanying statutory language in the judgment of the Committee on Energy and Natural Resources, adoption of these recommendations would satisfy the instruction to the Committee as set-forth in sections 302 (5) of the conference agreement on (H. Con. Res. 115).

FISCAL YEAR 1981

The instruction to the Committee on Energy and Natural Resources for fiscal year 1981 contained in House Concurrent Resolution 115 (sec. 203 (5)) is that the Committee shall report changes in laws within its jurisdiction sufficient to require reductions in appropriations for programs authorized by the Committee so as to achieve savings of $1.331 million in budget authority and $91 million in outlays for fiscal year 1981.

The recommendations of the Committee for fiscal year 1981 would achieve savings of $2,100,725,000 in budget authority and $250,888,000 in outlays compared to "current policy" for programs wholly or partially within the jurisdiction of the Committee. The recommendation of the Committee thus encompass the supplemental budget requests, rescissions, and deferrals for fiscal year 1981 as transmitted to the Congress by the President. The resultant savings from the Committee's recommendations consist of these components (1) general program reductions from "current policy" as proposed by President Reagan in the amount of $1,100,725,000 in budget authority and $240,288,000 in outlays; (2) reduction in the authorization for the Solar Energy and Energy Conservation Bank pursuant to Title V of the Energy Security Act to support the rescission of $1,000,000,000 in budget authority and $10,000,000 in outlays; and (3) reductions in the authorizations for biomass energy and alcohol fuels programs pursuant to Title II of the Energy Security Act to support the rescission of $740,500,000 in budget authority and $17,500,000 in outlays to the Department of Energy and $505,000,000 in budget authority and $3,000,000 in outlays to the Department of Agriculture.

FISCAL YEAR 1982

The instruction to the Committee on Energy and Natural Resources for fiscal year 1982 contained in House Concurrent Resolution 115 is that the Committee shall report changes in laws within its jurisdiction sufficient to require reductions in appropriations for programs authorized by the Committee so as to achieve savings of $3,714 million in budget authority and $3,398 million in outlays.

The recommendations of the Committee for fiscal year 1982 would achieve savings of $6,624,716,000 in budget authority and $5,305,695,000 in outlays compared to "current policy" for programs wholly or partially within the jurisdiction of the Committee. The resultant savings from the Committee's recommendation consist of four components: (1) general budget reductions from "current policy" as proposed by President Reagan in the amount of $2,401,804,000, in budget authority and $1,313,576,000 in outlays; (2) an adjustment in President Reagan's proposed budget in the amendment of $36 million in payment in lieu of taxes by the Bureau of Land Management which was not assumed by the Budget Committee for the formulation of the reconciliation instruction (S. Con. Res. 9); (3) a reduction in the authorization for the Strategic Petroleum Reserve in the amount of $3,704,912,000 in budget authority and $3,473,619,000 in outlays due to the establishment of an off-budget financing mechanism for certain Strategic Petroleum Reserve activities; and (4) the reallocation of $568.5 million of the savings resulting from the action of the Committee on the Strategic Petroleum Reserve (a) in the amount $518.5 million among various other Department of Energy programs and activities as an indication of areas which the Committee believes should receive greater emphasis and (b) in the amount of $50 million in budgt authority and outlay for the Solar Energy and Energy Conservation Bank pursuant to Title V of the Energy Security Act (See discussion below).

In addition the Committee recommendations supports the reallocation of funds from within the aggregate Environmental and Natural Resources functional total for programs within the jurisdiction of the Committee on Energy and Natural Resources to support additional funding for (a) the Land and Water Conservation Fund for Federal programs and assistance to States; (b) the Historic Preservation Fund; and (c) the Youth Conservation Corps (See discussion below).

Environmental and natural resources (function 300)

The recommendations of the Committee include a reallocation of funds within the aggregate Environment and Natural Resources functional total proposed by President Reagan for programs wholly or partially within the jurisdiction of the Committee in the amount of $210 million in budget authority and outlays during fiscal year 1982.

The resultant total fiscal year 1982 authorizations for the effected Department and agency programs were then projected on the basis of the same assumptions in arriving at the recommendations of the Committee for fiscal years 1983 and 1984.

The recommendation of the Committee supports additional funding for (a) the Land and Water Conservation fund for Federal programs and assistance to States; (b) the Historic Preservation Fund; and (c) the Youth Conservation Corps, as set forth in Table 5A.

The corresponding offsetting reductions ($210 million) within the jurisdiction of the Committee would effect programs of the Advisory Council on Historic Preservation, the U.S. Forest Service, and certain activities of the Department of the Interior which fall within the budgetary function. The final judgment on such offsetting reductions will be made by the Appropriations Committee; however, the Committee on Energy and Natural Resources recommends that such reductions not occur in the following appropriations accounts: the Water and Power Resources Services Water Reclamation Trust Fund, the Bureau of Land Management's Oregon and California Grant Lands and Range Improvement Funds, the Office of Surface Mining Reclamation and Enforcement's Abandoned Mine Reclamation Fund, the National Parks Service's Permanent Appropriations, the Bureau of Mines' Contributed Funds, the U.S. Forest Service's Permanent Appropriations and Trust Funds and Recreation User Fee program of the Department of Defense. Moreover, in arriving at its recommendation, the Committee on Energy and Natural Resources assumed that such appropriations accounts would not be affected when calculating the offsetting reductions.

The Committee agreed to make these reallocations in an effort to insure that additional funds would be made available for certain programs not recommended for funding (or recommended for limited funding) in President Reagan's proposed budget.

The Committee notes that President Reagan's fiscal year 1932 budget request includes a $105 million for badly needed rehabilitation and restoration projects within units of the National Park System. Under the budget request, this money is to come from the Land and Water Conservation Fund. To use LWCF funds for this purpose will require that the LWCF Act be amended. This amendatory legislation (S. 910) has been transmitted to the Committee and a hearing has been held. A final decision on this amendment may not be made by the Committee or the Congress prior to the action of the Appropriations Committees.

Although no final action has been taken on the Administration's proposal to amend the LWCF, the Committee expects this $105 million to be retained in the functional total and assumes that it will be made available for traditional LWCF projects or, alter-

natively, made available through the appropriations process to the appropriate Park Service budget account specifically to carry out rehabilitation, renovation, and maintenance projects. Neither of these actions requires an amendment to existing law.

TABLE 5A

	1982 administration budget request as amended	Increased as proposed by Senator Heinz and adopted	Aggregate amount recommended by the Senate E. & N.R. Committee in 1982
Land and water conservation fund:			
Federal programs	$150,000,000	$55,000,000	$205,000,000
Assistance to States	0	100,000,000	100,000,000
Historic preservation fund	4,700,000	25,000,000	29,700,000
Youth Conservation Corps	0	30,000,000	30,000,000
Total	154,700,000	210,000,000	364,700,000

Department of Energy authorizations for fiscal years 1982, 1983, and 1984 (subtitle D, part 2)

The recommendations of the Committee on Energy and Natural Resources include as Subtitle D, Part 2, the text of S. 1021, the Department of Energy Authorization Act for fiscal year 1982—Civilian Application, as reported by the Committee on May 15, 1981 (Senate Report No. 97–91). As stated in said report:

"The Committee believes that the approval of this measure will provide adequate authority for the operations of the Department and will establish a basis for more effective oversight of the Department in subsequent years."

The recommendation of the Committee would establish a new approach to annual authorizations of appropriations for the civilian programs of the Department of Energy. The bill as amended by the Committee has four titles.

Subpart A authorizes appropriations for fiscal year 1982. It also establishes a basis for authorizing the current total estimated costs for each construction project initiated in prior fiscal years and it authorizes several new construction projects which may be initiated in fiscal year 1982 or future years and establishes a total cost ceiling for such project. The major provisions of this subpart are as follows:

(1) Appropriations for fiscal year 1982 are authorized for Operating Expenses and for Plant and Capital Equipment for each of the appropriation accounts which involve civilian programs of the Department of Energy.

The authorized amounts are those requested by the Department of Energy except where noted herein.

(2) Construction projects initiated in prior years are continued with an authorization of the current total estimated cost. Appropriations for such project falls within the aggregate amounts authorized for the relevant appropriations accounts. A ceiling on the total authorization of appropriations for each project is established.

(3) New construction projects are authorized to be initiated in fiscal year 1982 within the aggregate amounts authorized for the relevant appropriations accounts. Authorization limitations are established at the total current estimated costs of such projects.

The fiscal year 1982 appropriations are authorized in sections 534A and 534B on the basis of the appropriation accounts which are utilized in appropriation Acts.

In each instance, the Appropriation Committee would be provided the latitude to fund line items within those appropriation accounts as they determine. The ceilings established by this measure apply only to the total for each such account.

The construction projects which are authorized by this measure in section 534C are thereby made eligible for funding in fiscal year 1982 (and subsequent fiscal years) within the aggregate amounts authorized for the relevant appropriation accounts. No additional appropriations are authorized by section 534C. However, the amounts specified in section 534C for each project are the maximum appropriation authorized for fiscal year 1982 out of the authorized total estimated cost. The total estimated costs indicated for each project in the DOE budget books establish ceilings on the total amount that may be appropriated for each such project over time. In the event that a project would require additional appropriations to complete that would exceed the authorized ceiling, such ceiling would have to be revised in future authorizing acts. Similar ceilings on the appropriations for total estimated Federal share of the costs are established for previously authorized projects by subsection 534B(c).

In the case of the Strategic Petroleum Reserve, the Committee action part 2, the Department of Energy Authorization Act of fiscal year 1982—Civilian Programs, reflects a reduction in the authorization based on the Committee action on part 3, Strategic Petroleum Reserve Amendments Act of 1981. Under certain activities of the Strategic Petroleum totaling $3,704,912,000 would be placed off-budget for the purpose of financing program activities including program direction, planning, and oil acquisition. This part authorizes $314,908,000 for the facilities acquisition and construction.

Within President Reagan's overall total for civilian programs of the Department of Energy, the Committee reallocated $518.5 million of savings resulting from part 3, among various other appropriations accounts as an indication of areas which the Committee believes should receive greater emphasis. The intent of the Committee was to indicate support for certain categories of programs that had been excised or drastically reduced in the proposed budget. For example, the Committee increased Energy Supply and Research Development by $60.8 million for potential allocation by the Senate Appropriations Committee in program categories such as Ocean Sciences, including OTEC and undersea cable: Geothermal, including Raft River and capital expenditures for the Herber Binary project; Electrical Energy Systems; Fusion; Solar, including advanced concepts. Also the Committee increased operating expenses for Fossil Energy Research and Development by $80 million for distribution in program categories such as MHD, H-coal, Oil Shale, Enhanced Gas Recovery and fuel cells. In addition, the Committee increased operating expenses for Energy Conservation by $350 million for such program categories as Building Sciences, including residential/commercial retrofit and urban waste; Industrial; Transportation; State and Local, including the weatherization program. The Committee also increased funds for the Energy Information Administration by $1.7 million for such programs as the Financial Reporting System as required by section 205(h) of the Department of Energy Organization Act. The Committee also increased Energy Regulation by $26 million for such programs as compliance, including the Office of Enforcement and Office of Special Counsel.

In addition the Committee allocated $50 million of the savings resulting from part 3 to the Solar Energy and Energy Conservation Bank; however, this action is reflected separately in the Committee's recommendation on reconciliation to the Senate Budget Committee.

The Committee provided within the Energy Conservation account up to $336 million for state and local programs. Within this $336 million there are authorized to be appropriated such funds as are necessary to implement S. 1166, the "National Home Weatherization Act" or comparable legislation. The Committee assumes the $336 million figure is a ceiling and expects that if not all the $336 million are appropriated for state and local programs, including S. 1166, then the funds will be available to other programs in the Energy Conservation account.

The total amount of the appropriations authorized by part 2 for fiscal year 1982 for the civilian programs of the Department of Energy would be $5,598,344,000.

Subpart B authorizes amounts to be appropriated for each appropriations account in fiscal year 1983 and subsequent fiscal years in the amount which has actually been appropriated for each account in the prior fiscal year plus 10 percent. It should be noted that this authorization is not an overall 10-percent inflator or index. In each fiscal year, 10 percent latitude to the Appropriations Committee would be provided over the prior year level of actual appropriations.

In fiscal year 1983 and subsequent years, the annual authorization measures would address only major departures from prior year levels of general activity, major new initiatives, new proposed construction projects starts and changes in estimated total costs for ongoing construction projects.

Strategic petroleum reserve (subtitle D, part 3)

The recommendations of the Committee on Energy and Natural Resources also include as Subtitle D, Part 3, the text of S. 998, the Strategic Petroleum Reserve Amendments Act of 1981, as reported by the Committee on May 15, 1981 (Senate Report No. 97–92). As stated in said report, "The objective of the amendment is to establish an off-budget financing mechanism for funding the Strategic Petroleum Reserve. The amendment creates a separate account in the Treasury for funding the Strategic Petroleum Reserve. A total of $21.9 billion would be authorized for financing the Strategic Petroleum Reserve through the account. The Treasury would fund the account by using the lowest cost financing available. Additional receipts for the sale of petroleum products in any drawdown and distribution of the Strategic Petroleum Reserve would be deposited into the account. It should be noted that the term 'petroleum products' used in this section and in later sections is a defined term under the Energy Policy and Conservation Act (Section 3(3)) and includes crude oil in the definition."

The Secretary of Energy would use the account to obligate funds in accordance with existing law to implement (with exception of the acquisition or construction of facilities) Strategic Petroleum Reserve program activities.

Section 538C(b) mandates the President to seek to fill the Reserve at an average rate of at least 300,000 barrels per day. On December 12, 1980, a similar mandate was enacted in Public Law 96–514. The Committee does not expect this requirement in and of itself to require the submission of a proposed amendment to the Strategic Petroleum Reserve Plan. However, as the Administration alters its plans for the Strategic Petroleum Reserve program so as to accommodate the 300,000 barrel-per-day mandate of part 3, the provisions of EPCA which address the content of the Strategic Reserve Plan and amendments to the plan may well require the submission of amendments to the plan. Existing law provides that the Secretary of Energy shall to the greatest extent practicable acquire crude oil for the Reserve in a

manner consonant with the objectives set out in law. The Committee believes that their objective interpreted as a whole, do not prevent the Secretary from filling the Reserve at a rate of 300,000 barrels per day.

Section 538G requires a quarterly report on Strategic Petroleum Reserve.

In adopting the off-budget financing approach under S. 998, the Committee intends that oversight of the Strategic Petroleum Reserve program will be accomplished through the review mechanisms of existing law and facilitated by the quarterly reports to Congress required by section 538G. Section 159 of the Energy Policy and Conservation Act also provides for congressional review of a Strategic Petroleum Reserve Plan and amendments to that plan, which are subject to disapproval by either House of Congress under the procedures of section 551 of the Energy Policy and Conservation Act. The Committee expects that prior to taking any significant actions not contemplated in the existing approved Strategic Petroleum Reserve Plan in "designing, constructing, and filling the storage and related facilities of the Reserve" the Secretary will submit proposed changes to the Congress as amendments to the Strategic Petroleum Reserve Plan. The Committee further expects that in submitting any proposed amendment to the Strategic Petroleum Reserve Plan, the Secretary will include in the submittal a statement containing the information described in section 159(d), but this statement need not include matters outside the scope of the proposed amendment. Through this amendment process the Congress can exercise timely oversight over the Strategic Petroleum Reserve Program, despite the use of off-budget financing.

It is clear that the 300,000 barrel-per-day mandate included in part 3 will necessitate changes in the Administration's plans for acquisition of storage capacity for the Reserve. The Committee suggests that the Administration consider, among other approaches, the possibility of leasing storage capacity, so as to permit a rapid increase in capacity. Existing law already provides clear authority to lease facilities, and the creation of the Strategic Petroleum Reserve Account in part 3 should facilitate from a budgetary standpoint the use of long-term as well as short-term leases of facilities.

The Committee in adopting section 538H did not intend any implication that existing law is insufficient to support an arrangement between a State and Federal Government for the storage of petroleum products in the Strategic Petroleum Reserve. Rather, the provisions adopted in this section would facilitate such an arrangement by waiving the normal procurement laws and regulations and, by providing other supplemental authorities to the Secretary.

In adopting section 168(c), the Committee recognized that some unexpended, obligated balances of fiscal year 1981 appropriations might carry over and appear as outlays in fiscal year 1982. To avoid this result, section 168(c) operates so as to place such carryovers off-budget by using the Strategic Petroleum Reserve account for these outlays.

FISCAL YEAR 1983

The instruction to the Committee on Energy and Natural Resources for fiscal year 1983 contained in House Concurrent Resolution 115 is that the Committee shall report changes in laws within its jurisdiction sufficient to require reductions in appropriations for programs authorized by the Committee so as to achieve savings of $3.660 million in budget authority and $3.627 million in outlays for fiscal year 1981.

The recommendation of the Committee for fiscal year 1983 would achieve savings of $5,799,301,000 in budget authority and $5,220,473,000 in outlays compared to "current policy" for programs wholly or partially within the jurisdiction of the Committee on Energy and Natural Resources.

The resultant savings from the Committee's recommendation for fiscal year 1983 are based upon these three components: (1) projection of the general program reductions from "current policy" as proposed by President Reagan; (2) projection of the fiscal year 1982 recommendation of the Committee regarding Environment and Natural Resources programs; and (3) reductions in the on-budget authorization for the Strategic Petroleum Reserve in the amount of $3,187,723,000 in budget authority and $3,644,996,000 in outlays due to the establishment in fiscal year 1982 of an off-budget financing mechanism for certain Strategic Petroleum Reserve activities.

FISCAL YEAR 1984

The instruction to the Committee on Energy and Natural Resources for fiscal year 1984 contained in House Concurrent Resolution 115 is that the Committee shall report changes in laws within its jurisdiction sufficient to require reductions in appropriations for programs authorized by the Committee so as to achieve savings of $3,604 million in budget and $3,711 million in outlays.

The recommendations of the Committee for fiscal year 1984 would achieve savings of $3,887,568,000 in budget authority and $4,303,473,000 in outlays compared to "current policy" for programs wholly or partially within the jurisdiction of the Committee.

The resultant savings from the Committee's recommendation for fiscal year 1984 are based upon three components: (1) projection of the general program reductions from "current policy" as set forth in fiscal year 1983 recommendation of the Committee; (2) projection of the fiscal year 1982 recommendation of the Committee regarding environment and natural resources programs; and (3) reductions in the authorization for the Strategic Petroleum Reserve in the amount of $2,046,405,000 in budget authority and $2,264,480,000 in outlays due to the establishment in fiscal year 1982 of an off-budget financing mechanism for certain Strategic Petroleum Reserve Activities.

Mr. McCLURE. I must emphasize, Mr. President, that the Committee on Energy and Natural Resources has recommended the establishment of limitations on the aggregate appropriations for those departments or agencies whose programs are within the jurisdiction of the committee. In some instances, however, jurisdiction over the affected programs is shared with other committees.

For example, in the case of Forest Service programs, the recommended limitation would apply to several appropriation accounts which have been aggregated only for the purpose of this reconciliation measure. The underlying authorizations are provided for in numerous individual statutes which have been enacted over many years. Some of them have originated with the Committee on Energy and Natural Resources; others have originated with the Committee on Agriculture, Nutrition, and Forestry; and still others reflect a joint effort of both committees.

This is particularly the case for programs funded from the forest management, protection, and utilization appropriations account under more than 20 separate statutory authorities. Consequently, the committee was unable to segregate or apportion the total funds within this account between the authorizing committees for budget reconciliation purposes. Instead the approach taken was to establish a limitation on aggregate appropriations wholly or partially within its jurisdiction recognizing that this particular account is shared with the Agriculture Committee.

The committee recognized that the actions it took as part of its recommendations for inclusion in the Omnibus Reconciliation Act of 1981 will not, and indeed should not, serve as a precedent for referral of any subsequent legislation that may be introduced affecting Forest Service programs. Rather the referral of individual bills will continue to be subject to the Standing Rules of the Senate or any agreement that may be reached on an ad hoc basis.

Mr. President, in summary, the committee's recommendations satisfy fully, and indeed exceed, the instructions contained in House Concurrent Resolution 115. The recommendations reflect an extensive and thorough consideration by the Committee on Energy and Natural Resources of the Reagan budget as well as the Budget Committee's reconciliation assumptions and other identified alternatives for achieving the required savings.

Mr. GORTON. Mr. President, it is a pleasure to join my colleagues in endorsing the Omnibus Reconciliation Act of 1981—S. 1377. On March 25, the Senate began its consideration of Senate Concurrent Resolution 9. Since then the Members of the Senate have been occupied with implementing a change of course for Federal spending which we chose overwhelmingly in adopting Senate Concurrent Resolution 9. The Omnibus Reconciliation Act accomplishes the purposes of our action of 3 months ago.

I am pleased that the process has not been an entirely partisan endeavor. On the contrary, Members from both sides of the aisle—recognizing the need to slow the growth of Federal spending in order to curb inflation and to restore productivity to the American economy—have joined to make certain that the goals we set for ourselves will be carried out. I commend my colleagues for their diligent work. Our efforts are in the best interests of our Nation and will benefit all Americans.

Mr. HELMS. Mr. President, the Energy and Natural Resources Committee has included in its budget reconciliation recommendations, provisions that would place a cap on certain Forest Service programs approximately 4.4 percent below the funding levels in President Reagan's proposed budget. As explained in the Budget Committee report, the Committee on Energy and Natural Resources adopted a broad approach in designing legislation to meet its reconciliation instructions and aggregated the total authorized appropriations in six accounts relating to the Forest Service that have been identified for budgetary purposes as either wholly or partially within the jurisdiction of the Energy Committee. The total amount in these accounts was then reduced by approximately $61 million in each of the fiscal years 1982, 1983, and 1984.

The identified accounts are: Forest management, protection and utilization, Youth Conservation Corps; timber sal-

vage sales; rangeland improvements; other general appropriations; and Forest Service permanent appropriations.

Although the specific allocation of the reductions on a program level will have to be made by the Appropriations Committee, the Energy Committee included in the report a recommendation that the reductions not be made in the Forest Service permanent appropriations account. The effect of this action, then, is to allocate the majority of the reductions to the forest management, protection, and utilization account, since the President's budget for the four other accounts includes only $6,500 for fiscal year 1982.

Mr. President, as chairman of the Committee on Agriculture, Nutrition, and Forestry, the action of the Energy Committee is of great interest to me because the forest management, protection, and utilization account is also within the jurisdiction of the Agriculture Committee. Furthermore, the list of authorizing statutes included by the Energy Committee in the definition of programs under this account includes many statutes that are within the jurisdiction of the Agriculture Committee, some of which have just recently been amended by my committee.

For instance, the list includes the cooperative Forestry Assistance Act of 1978, the Department of Agriculture Organic Act, the Forest and Rangeland Renewable Resources Research Act of 1978, and the Multiple Use, Sustained Yield Act of 1960, among others.

My concern is that this action by the Energy Committee may have a significant impact on Forest Service programs under the jurisdiction of the Agriculture Committee without the members of that committee being given an opportunity to first consider its merits. More importantly, I am concerned that this action by the Energy Committee not become a jurisdictional precedent for the future referral of bills to these two committees.

Mr. President, I welcome the statement of the distinguished chairman of the Committee on Energy and Natural Resources that the action of his committee is limited to serving the purposes of this budget reconciliation process and that it is not intended as a precedent for purposes of the referral of legislation to the two committees involved.

I thank the distinguished chairman of the Energy Committee for clarifying this matter.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 172

Mr. DOMENICI. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 172:

On page 169, on line 5, after "1981," insert "there is not authorized to be appropriated".

Mr. DOMENICI. Mr. President, this amendment corrects a drafting error in the leadership amendment which was passed last night. The intent of this amendment is simply to correct that error. I believe it has been cleared with the distinguished minority manager.

Mr. HOLLINGS. Mr. President, we have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 172) was agreed to.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I yield myself 1 minute.

Mr. President, I wish to acquaint Senator HOLLINGS with the fact that in his absence this morning, while he was attending a very important meeting with respect to better exchange of ideas between State and local governments and the National Government, I thanked him, in my opening remarks, for the tremendous effort he has put forth, from the first reconciliation bill that we brought here, all by itself, as he will recall, in response to the President's request that we expedite the budget cutting process.

I went through the history, so far as reconciliation was concerned, telling the Senate of the involvement of the Senator from South Carolina over the years and how proud I was to associate with him on this measure. I referred to the fact that he had had the privilege of trying it for the first time last year, against very difficult odds, and I recalled that he was one of those who tried to do it the year before.

As the Senator recalls, the Senate tried the year before last and, of course, the the House of Representatives would have nothing to do with it then, and then last year they finally agreed and we had the first in what I hope will culminate with this one in a series of efforts to use extraordinary ways to ask our committees, using their own jurisdiction, to help with this fiscal responsibility process. I wanted the Senator from South Carolina to know that I said that in his absence.

Mr. HOLLINGS. Mr. President, I thank the distinguished chairman of our Budget Committee.

Senator DOMENICI is my friend and it seemed wrong on yesterday, having worked as hard, as diligently, and as effectively as he has to identify all the extraneous provisions of this bill so that we could have that leadership amendment, that it had to be called up in his absence. I am sure he understood the reason and we are all grateful to him for his leadership on this score. No one has done a greater job than Senator DOMENICI on this budget.

I think the first order of business—and I am sure the Senator from New Mexico will agree—is to try to expedite this reconciliation bill. Time is running: we are limited to 20 hours. I have before me a list of some 27 possible amendments. Last evening, we cut back the time, under a unanimous-consent agreement, from 2 hours to 1 hour on each amendment. But if all the amendments I have on this side of the aisles are offered, that would more than consume the 20 hours permitted under the bill. So I hope—and I am sure the chairman of the Budget Committee will agree—that we work together and try to keep Senators in the Chamber and that this be given the first priority. I am sure the distinguished chairman of the Finance Committee is in a most important markup. But if we are going to call up these amendments, Senators are going to have to come to the floor. So rather than consuming time in quorum calls, I would prefer to work with the Senator from New Mexico to keep a few amendments backed up so we can do a little planning. That way the Members will be able to more effectively use the limited time we have to debate the merits of the amendments.

Mr. DOMENICI. I agree.

Mr. HOLLINGS. Maybe if Senator RIEGLE could call his amendment I am sure Senator DOLE will come to the Chamber.

Mr. DOMENICI. We are ready. Let Senator RIEGLE proceed. We have advised our good friend, the chairman of the Finance Committee, and he or someone he designates, perhaps the chairman of an appropriate subcommittee, will be here shortly, but we are ready to let the Senator proceed.

Mr. HOLLINGS. Surely.

Mr. RIEGLE. Mr. President, let me say that I wish to try to accommodate the Senator from Kansas, the chairman of the Finance Committee, who is in a markup this morning on the tax bill, and we have waited some period of time. I suspect that he may not come over until we actually start.

So, I think under those conditions that perhaps we should start and then in due course if he wants to come and speak on this we will all certainly be accommodating in whatever way is required to see to it that he has a chance to participate fully on the other side of the issue.

UP AMENDMENT NO. 173

(Purpose: To limit the repeal of the minimum benefit to new beneficiaries)

Mr. President, at this time I send an amendment to the desk for myself and a number of other Senators, including those who are in the Chamber, Senator KENNEDY, and others, and we will likely be adding additional cosponsors before we vote on this matter.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan (Mr. RIEGLE) for himself, Mr. ROBERT C. BYRD, Mr.

BRADLEY, Mr. SASSER, Mr. KENNEDY, and Mr. PRYOR and other Senators, proposes an unprinted amendment numbered 173:

On page 194, beginning with line 34, strike out all through page 196, line 21, and insert in lieu thereof the following:

(g) This section and the amendments made thereby shall be effective only with respect to benefits payable under title II of the Social Security Act to individuals who first become entitled to benefits under such title after July 1981.

COSPONSORS OF MR. RIEGLE'S AMENDMENT

Mr. Robert C. Byrd, Mr. Bradley, Mr. Sasser, Mr. Kennedy, Mr. Pryor, Mr. Sarbanes, Mr. Mitchell, Mr. Hart, Mr. Randolph, Mr. Matsunaga, Mr. Levin, Mr. Long, Mr. Chiles, Mr. Moynihan, Mr. Bentsen, Mr. Metzenbaum, Mr. Cannon, and Mr. Glenn.

Mr. RIEGLE. I thank the reading clerk. The reason I had the amendment read as brief as it is was that it helps illustrate the fact that what we are dealing here with in dealing with minimum benefit under social security is reluctantly accepting the requirement, the inevitable pressure here to stop paying the minimum benefit to future persons who otherwise would qualify but to draw the line and to continue to maintain that benefit for those who currently receive it.

So, this unprinted amendment seeks to restore the minimum benefit under social security for those who now receive that benefit. I repeat it would not provide that benefit prospectively into the future for new persons who otherwise would come on the rolls and qualify for it.

The date of eligibility then, the cutoff date becomes, August 1, 1981. So if this amendment is adopted anyone who would become entitled to that benefit after that date, August 1, 1981, would no longer be entitled to receive the minimum benefit but all those who currently receive it or who become eligible before that date would continue to receive that benefit as it presently exists in the law.

I might say that we have debated this issue before on the floor and there are a number of key points that need to be made in the course of this debate. I anticipate that other Members will come over at the various points to indicate their feelings on the issue.

I think it is important for us to note that the people who receive the minimum benefit under social security are those who are on the bottom rung of the social security ladder, the minimum benefit being $122 a month, and the people who receive that in many instances are people in very modest financial circumstances. Income from the minimum benefit, in many cases, is absolutely vital to their ability to just maintain themselves in their present financial circumstances.

It is estimated that of the 3 million people who presently receive the minimum benefit roughly 75 percent are women, elderly women. One-and-a-half million of those 3 million people are 70 years old or older. There are a half million who are over the age of 80 and in fact there are more than 80,000 who are 90 years old or older. Some of these are up in their late nineties, numbering in the several hundreds, who will be affected by this reduction in their benefits.

I think it is a harsh, unwise, and unfair policy to suddenly deny these benefits to the current recipients, to those who have already retired. Over the years they have counted on this very modest income in making their retirement decisions and in attempting to plan their future to try to make ends meet.

The people who now receive this benefit have retired under a given set of rules and now what is being proposed is that we come along and we change those rules and we rip away that part of the system from them and others in this situation.

So I think the first point that needs to be made is that if this change goes through, if the new administration succeeds in cutting off the minimum benefit under social security for those who presently receive it, it clearly breaks faith with the workers of this country, it breaks faith with those who are affected. I think it also sounds the note loud and clear that other changes will now come along down the track from those who want to propose dismantling the social security system.

This elimination of the minimum benefit today is just the first step toward a serious effort to dismantle the social security system. That is not an idle charge. Since the effort has come forward to eliminate, the minimum benefit on social security we have also seen the attack on the annual cost-of-living adjustment, the COLA factor. More recently the proposal which made frontpage news for several days across the country was the very ill-advised recommendation of the Reagan administration to fundamentally change the early retirement provisions under social security.

That was such an outrageous proposition that this Senate went on record—I think the vote was 96 to nothing—in opposition to any kind of hasty or sweeping change of that kind.

So the proposal here to eliminate the minimum benefits is really a part of a broader strategy to begin the systematic dismantling of the social security system in this country, and which is evidenced by at least these two other very substantial attacks we have seen in recent weeks.

I might say, too, with respect to the older people who would lose this minimum benefit, many of them are in very modest financial circumstances, and if the social security benefit is taken away, it is clear that many of these people are going to be forced onto welfare.

At age 88 or 94 or 97, having come this far in life and having avoided the dole, having stayed off the dole and off public welfare, it is both the premise and the supposition, and actually the effect of this change in the law to force those people onto the welfare system. They will become wards of the State, welfare clients, and have to go through all of the problems and the indignities at that late stage in life, of having to go on public welfare, to go on public assistance, in order to try to replace this meager income that most of them are using to meet the most minimal basic everyday needs that people experience.

So this change is not going to save the Government very much money. It certainly is going to force these people through a traumatic experience that is completely unnecessary, and it is heartless and it just is wrong.

I think everyone here would know that in order for people to be forced onto welfare because of the elimination of the minimum social security benefit, that there is an assets test, there is a means test, and so people, and especially these very elderly people, are going to have to go through this difficult tortured process of facing the fact of going on public assistance, going on welfare, at this late stage in their lives.

In addition to that, to try to make this change in such an abrupt way, on such an abrupt basis, turns out to be a bureaucratic nightmare. For an administration who came into power pledged to the efficient management of Government, it is very hard to square that particular stated purpose with what will actually have to take place if we fail to pass my amendment today. The way the bill reads now this change, the elimination of the social security benefit, has to occur by August 1, which is only 6 weeks away.

It has been estimated by the Department of Health and Human Services that they will have to expend something on the order of 10,000 man-hours of work just to go through the process of recalculating these benefits and decide who qualifies, who does not, and to go through the entire system and to change the system so that the new amounts of money would go out at the proper levels and those who would not receive checks would be removed from the rolls.

It is clear that cannot be done by August 1. So what is going to happen? What will happen here is, unless our amendment is adopted, the checks will go out to people who are not really entitled to receive them, if this change goes through, and some weeks or months down the line there is going to have to be an adjustment so people who get this money, and I assume most of them are going to have to spend it because most of them are in very tight financial circumstances, they are going to spend the money the Government has sent to them, and then they are going to get a notice saying, "By the way, we made a mistake. We should not have sent you that money. We want you to send it back."

So if the person does not have it to send back, there presumably will be some kind of an offset or people who will not get any benefit at all presumably are going to have to somehow come up with the money. I am not quite sure how that is going to be done, and I am not sure how some poor bedridden person somewhere, 95 years old, caught in this situation because of the absolute idiocy of the bureaucratic situation here is expected to respond to that situation. There is no good answer to it, frankly, and I think even those who want to change the system will concede that is a real problem.

I think it is clear from the reaction of the public in recent weeks to the Reagan administration attacks on the social security system, that most people, really an overwhelming majority in the country, see the social security system as one

of our most important and basic and fundamental institutions in the United States. Clearly it is a system that will be facing serious challenges in the years ahead.

I think the future of our social security system rests to a very large degree on the willingness of those still in the work force to continue to contribute their taxes to support the system.

I think that willingness depends on workers knowing that when their turn comes, when they are in a retirement situation, and they have paid into this system based on an expectation of future benefits, that those benefits are going to be maintained and not ripped away at the whim of some new administration that comes along or is ripped away because somebody here in the Senate or on the Budget Committee suddenly decides that this is a great way to try to shift around the budget impact by removing these benefits that people have paid for and which they have a right to expect.

I think the ability of people to have faith and confidence in the social security system is going to be badly damaged if we continue to allow this kind of an assault on the system itself.

As I say, this is only one of three different attacks we have seen just within the last short period of time.

I ask unanimous consent that Senator RANDOLPH be added as a cosponsor at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. I yield to the Senator from Massachusetts 5 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I join with the Senator from Michigan in proposing this particular amendment.

As the Senator from Michigan very well pointed out, we did debate this issue at some length during the previous budget consideration. But I do think it is essential that we have an opportunity to discuss the importance of this amendment again with our colleagues in the Senate.

And, hopefully, the social security recipients who will be affected by these budget cuts, some 36 million of them in this country, will know about this debate. And I hope working people and young people who will be affected by social security over the future will also hear about this debate and discussion.

Mr. President, in his February message to the Congress of the United States, President Reagan used these particular words:

> I know that exaggerated and inaccurate stories about these cuts have disturbed many people, particularly those dependent on grant and benefit programs for their basic needs. Some of you have heard from constituents, I know, afraid that social security checks, for example, were going to be taken from them. I regret the fear that these unfounded stories have caused, and I welcome this opportunity to set things straight. The full retirement benefits of the more than 31 million social security recipients will be continued, along with an annual cost-of-living increase.

That was on February 18, 1981.

On October 21, 1980, directly quoting the President during his debate with President Carter, he said:

> No one presently dependent on social security is going to have the rug pulled out from under them and not get their check.

Well, Mr. President, I believe if we accept the position in the proposal that is before the Senate now we are effectively pulling the rug out from under the neediest people in our society—elderly people, widows, the disabled—those who are dependent upon the minimum benefit. We are running contrary and in conflict with the assurances which the President of the United States has given to the senior citizens of this country who are dependent on this particular measure.

I join in with my colleagues with a sense of deep concern. If we fail to accept the Riegle amendment we are effectively breaching our contract with the senior citizens of this Nation who are most dependent upon this minimum benefit.

What we are saying is that this may very well just be the beginning of additional cuts in the social security system—cuts which I believe are unwarranted, and unjustified. The case has not been made to any committee in the U.S. Senate that the difficulties or the financial situation of the Social Security Trust Fund are so immediate that these particular cuts are warranted and justified.

As a matter of fact, we have information to the contrary.

Not long ago, in a Senate forum which was sponsored by the Human Resources Committee, we listened to four former heads of the social security system. We listened to Mr. Schottland, who was head of the social security system under Dwight Eisenhower. We listened to Mr. Ball, who was head of the social security system under President Kennedy. We listened to Mr. Driver, who was head of the social security system under President Carter. And we listened, as well, to Mr. Gwirtzman, who was the chairman of the President's committee to examine the integrity of the social security system. That committee report to the Congress was just 6 months ago.

Each and every one of these expert witnesses refuted the administration's recommendations on the minimum benefit and the administration's other proposals on social security. They said it was unwise, unjust, and unfair, both in terms of social security compact concept that exists between the Federal Government and those that have paid into the social security system, and with regard to financial integrity of the social security system——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. Mr. President, will the Senator yield me 5 additional minutes?

Mr. RIEGLE. Mr. President, I yield 5 minutes to the Senator from Massachusetts.

Mr. KENNEDY. They did indicate that we in the Congress ought to permit borrowing from the different trust funds in order to maintain the financial integrity. Some of the trust funds are in surplus, particularly the medicare trust fund. We could meet our responsibilities to the Social Security Trust Fund if we were to take those particular steps. But they rejected categorically this particular proposal. I believe that we should reject the proposal that is before the Senate at this time by supporting the Riegle amendment.

Mr. President, I think it is worthwhile to point out that no one can tell us here on the floor of the U.S. Senate the real effort that will be made by social security recipients to try and take advantage of the SSI program in order to recoup some of their losses under social security.

The argument will be made that hundreds of thousands of those that will be cut from the minimum package will be able to make up their loss of income with SSI. What they do not point out is that there is an income test under SSI. Individuals who had worked many years ago in the 1950's and 1960's counted on this minimum benefit and, of course, are unable to go back to work at the present time. We all understand that. So their opportunities for employment are certainly nonexistent today. Maybe they have been able to save the $1,600, $1,700, $2,000 in their own savings accounts. Well, the fact remains that the liquid assets test under SSI, effectively excludes them from supplementing their income or being eligible for SSI.

There is no means test in social security, but there is a means test in SSI. There are those that tell us, "Well, these individuals will be just as well off with the reduced benefit program that is being recommended to the Senate today. We are really not affecting many of our elderly because they can come into SSI." The elderly people ought to understand that if they exceed $1,500 in the bank, which they may have saved over a lifetime, that they will not be eligible and they will not be able to benefit from this particular SSI transfer. So they are being shortchanged in that area.

There has been no examination, no hearings, and no calculations, other than the broadest kind of estimates, about what the real damage will be to those individuals.

We are, Mr. President, unless we accept the Riegle amendment, doing a very grave disservice to hundreds of thousands of our neediest people in our society—the senior citizens in our society. I do not believe this particular program is warranted or justified.

It basically, runs contrary to the longstanding historic commitments that the Federal Government has had with the working people of this Nation. It is, I believe, a breach of trust with our seniors.

Just the transfer itself, the recomputations required by the computers, will cost some $250 million this year; effectively a third of all the alleged savings for this particular year, not even including, as the Senator from Michigan

points out, the additional costs in terms of welfare.

It seems to me, Mr. President, that unless we accept the Riegle amendment we are saying to the seniors of this country, "Beware, this is the beginning of further cuts in social security." It is a basic and fundamental violation of what I consider to be perhaps the most important agreement that has ever been reached between the Federal Government and the people of this Nation, and that is the integrity of the social security system.

We all know that at some time or other we depend upon the word of the Federal Government. What Member of this body would vote to change the financing rules for elections, to reduce spending limits and make them retroactive?

Mr. President, it seems to me that we should not at this time break that trust and that confidence which has been achieved over scores of years with our seniors. The only way that that integrity and that respect can be maintained is by accepting the Riegle amendment. I hope that it will be accepted.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I wish to thank the Senator from Massachusetts for his very profound and moving comments on this issue, and for his leadership in this entire area, meeting and understanding and responding to the needs of senior citizens and very particularly with respect to the vital role that social security plays in our society and its importance in terms of something that people across the land know they can depend upon, know that it is there, and know that it is secure.

When the Senate was asked the other day to respond to these hasty recommendations by the Reagan administration to severely damage the early retirement aspects of social security, this Senate went on record unanimously against those proposals and to not act in haste in starting to dismantle or damage the social security system. I think we did so because of the profound feeling across the country that the people have about the importance and the vital nature of this system.

Mr. President, I ask unanimous consent to add as additional cosponsors Senators MITCHELL, MATSUNAGA, LEVIN, LONG, CHILES, MOYNIHAN, BENTSEN, HART, METZENBAUM, and also ROBERT C. BYRD, with the specific request that, in the case of the distinguished minority leader, he be shown as the prime cosponsor and that his name be listed following mine on the list of cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I understand that the Senator from Colorado would like to speak. I yield to the Senator from Colorado.

Mr. HART. Mr. President, I thank the Senator from Michigan for yielding.

I wish to identify myself very strongly with this amendment and to add a word of support and encouragement to the Senator from Michigan for taking the lead on this, and also to associate myself with, I think, the compelling and convincing remarks of the Senator from Massachusetts, Senator KENNEDY.

I hope the Senate will see fit to support and adopt this amendment. I think it makes eminent good sense and it certainly is what a nation that is fair and just would want its Congress to do.

Mr. RIEGLE. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SYMMS. Mr. President, I yield myself such time at I may need.

This is not the first time that the distinguished Senator from Michigan (Mr. RIEGLE) has focussed our attention on the social security minimum benefit. During floor debates on the reconciliation instruction 3 months ago, the Senator opposed the President's proposal to eliminate the minimum benefit on the grounds that it would harm millions of elderly poor persons.

At that time, a great deal of controversy and concern surrounded the proposal, partly because there was so much misinformation circulating. Senator DOLE tried to set the record straight.

Three months later, after having given this proposal careful consideration and after having amended it in committee to protect the elderly poor even further, I will try to set the record straight again.

First of all, and I think this is significant, there is widespread agreement that the minimum benefits should be eliminated. It is widely recognized that the minimum benefit—which pays an amount in excess of what the worker would have earned using the regular benefit formula—no longer achieves its original purpose.

When enacted, the minimum benefit was intended to provide retirement income for workers with very low wage histories and for those elderly persons whose employment had taken place primarily before social security covered their work.

Times have changed. Today, people who have worked their lifetimes under social security at low wages receive a benefit based on the regular benefit formula that exceeds the minimum benefit.

Elderly poor people receive no extra income from the minimum benefit because their Federal assistance payments from SSI are reduced dollar for dollar on account of other sources of income.

The result is that today, the minimum benefit provides a windfall gain to people with short work histories under social security—such as those with long periods of civil service employment.

This has been well documented in separate studies by the CBO and GAO. The proposal to eliminate the minimum benefit, therefore, comes to us from the President, the GAO, and even the House reconciliation bill.

The only real question centers on whether or not the minimum benefit should be eliminated for those now receiving it—whether they, too, should have their benefits recalculated to reflect actual earnings in covered employment.

The concern is whether or not there would be, as often alleged, a large group of elderly poor who would be adversely affected by this change. The best estimates of HHS show that even under the President's proposal, there would not be.

According to HHS, there are only about 300,000 out of the 3 million minimum beneficiaries who could be poor and adversely affected by an elimination of the minimum benefit. Even this group may not be poor, however. Anyone 65 or older who is poor is eligible to receive SSI. If the minimum benefit is eliminated, their SSI payments would rise dollar for dollar.

The Finance Committee provision, an important modification of the President's proposal, makes it even more certain that the elderly poor would not be adversely affected. Under the Finance Committee provision, anyone 60 to 64 who meets the SSI eligibility requirements, would be eligible for a special SSI payment even though they are not yet 65.

To insure that they experience no reduction in income, the amount of this payment would be equal to the difference between the minimum benefit they had been receiving and their newly calculated benefit. This means that no minimum beneficiaries 60 or older who are poor must experience a loss of income.

I think the facts speak for themselves. The amendment to eliminate the minimum benefit only for future recipients reduces savings by roughly $900 million while doing nothing to help the elderly who are truly in need.

Moreover, this amendment would create a serious problem of inequity. Someone who retired, say, last year or last month, would receive a different social security benefit than someone retiring next year with virtually identical earnings history.

I think that is one of the most important points that we are talking about here today. I am confident that the Senate Finance Committee provision offered a reasonable and fair compromise.

I think more important, Mr. President, if we are going to start breaking into this reconciliation proposal today, what we are going to be doing is sending a signal that the Congress of the United States is not going to carry out the intention in all of the talk and all of the things we have heard in the past year and early on this year to actually try to get a handle at some point and in some way on Federal expenditures.

Of course, all of these particular votes are not necessarily easy votes, but I think this is one case where it would certainly be an error for this body to accept the Riegle amendment. I know that my friend from Michigan offers it most sincerely, but I think that he, himself, would have to admit it would be difficult to explain, if the Riegle amendment passes, that we have two classes of recipients of minimum benefits out here. What is the explanation to the person who retires on the 1st of August or after the 1st of August? Why should they be different from someone who retired, say, on the 4th of July? How can we come up with anything that would be equitable in that particular case?

I think for the reasons stated, this bill is the most equitable solution and it will

not leave those people without support and help and a safety net who are truly in need.

I reserve the remainder of my time, Mr. President.

Mr. RIEGLE. Mr. President, may I inquire as to how much time remains on this side?

The PRESIDING OFFICER. Three minutes.

Mr. RIEGLE. I wonder if the ranking minority member would yield 5 minutes? I have only 3 minutes left.

Mr. HOLLINGS. Let me do that.

Mr. RIEGLE. And would he yield 5 minutes to the Senator from Florida?

Mr. HOLLINGS. I do not want to set a precedent, but so that all Senators will know, I have a list of over 20 amendments each from the majority and minority side, and I know there may be other amendments. I am really yielding time that others might have to use on their own amendments. I am glad to do it, but let us not set that as a precedent. I think in our caucus we will have to discuss cutting back further on the time for each amendment.

Mr. CHILES. Will the Senator make it 6 minutes and yield 3 minutes to me and 3 minutes to the Senator from Michigan?

Mr. HOLLINGS. All right.

Mr. CHILES. I thank the distinguished Senator from South Carolina.

Mr. President, I have spoken on this matter, as a number of us have, on several occasions. I think I can do it quickly. What really concerns me when we start talking about this minimum payment is that we are talking about—and I have listened to all the numbers and I have studied those numbers myself, and I listened to all the hearings last year from all the commissions—approximately 1.2 million people. We are talking about over 3 million people who get the minimum benefit. I think 1.2 million of those people are below the poverty lines. So we are talking about those people.

Yes, there is something those people can do. Yes, they can be taken care of. It is a very simple thing: They go on welfare. That is exactly what they do.

We are talking about people who in the main are over 70 years old and most are over 75. Most are getting the minimum benefit because in my particular State a lot are farmers and they did not get into the program until after they were over 50.

They are people who just went out and worked on the land. They did not know much about payrolls or anything else. When they were 50, they were told they had to pay social security on themselves and they did. They did what the Government told them.

They were told over the years that they were going to get certain benefits. That was more than they paid in, but we are the ones that did it. this Congress. Many of us were responsible. I proposed the amendment that froze the minimum payment about 2 or 3 years ago, to try to save some money.

At that time we began to try to pare down our appetites. But it was us and our predecessors who gave this kind of benefit, who allowed these farmers over 75 years of age to retire and now we are going to say to those people, "You are not going to get a Government check any more. We are cutting that off. You just go sign up for welfare; it can take care of you."

Think of these people. They do not sign up for food stamps because they have too much pride. They have the idea that they have a check coming from something that they paid into. The system started late. That is why they did not get into it earlier.

I will be dadgummed if I do not think we can find the money somewhere else, in some other program that we can save in, and not tell these people, "You can go get welfare; that is all you deserve. We have decided we are going to save some money now and we are going to change our whole way of acting. We are going to put this Government on a firm basis. We are going to pay out a lot of money for a lot of other things, but we are not going to take care of you, so you go get welfare."

Mr. President, it seems to me we can say, yes, we are going to cut out the minimum benefit for people, we are going to say we cannot change these things. But, for goodness' sake, to go back and tell these people, "We are going to cut you off, you go back and get welfare"—my Lord, that is like sending these people to the poorhouse. That is how they would feel. They know about the poorhouse. That is what used to happen to them before we started changing things in this country.

I am not willing to do that. As I say, I would find some other way to save this money.

Mr. RIEGLE. Mr. President, before the Senator from Arkansas speaks, it is important for the Senate to know that, if the Senate accepts our amendment to maintain this minimum benefit for those who now receive it, the overall spending levels will still be below the Reagan budget request. In other words, we still will have saved more money than the President asked us to save. So. by inserting the money in this amendment back into the budget. we are not going above the totals the President asked for. As a matter of fact, we are below his totals and it is important that no one misunderstand that point.

Mr. PRYOR. Mr. President, I very much appreciate the ranking minority member on the Budget Committee giving me this 2 or 3 minutes. I would be glad to yield back my time to the distinguished Senator from Florida, who so eloquently addressed this issue, if he desires it.

Also, I thank the distinguished Senator from Michigan, who has brought this issue to the floor this morning.

Mr. President, when we were all back in school we learned about the full faith and credit clause of the Constitution. I am certain most law students today are familiar with this clause. This clause is a vital part of that Constitution which we revere so much.

Mr. President. today we are addressing an issue which is akin to the full faith and credit clause of the Constitution.

We are addressing what I consider to be a solemn trust which we must not breach with the people—a commitment which must not be broken with those who are, today, drawing the minimum social security benefit. Those with whom we have contracted in recent generations, for a guaranteed benefit in their retirement years.

This is exactly, Mr. President, what this amendment offered today by the Senator from Michigan is addressing. It is that commitment. It is that feeling that Congress does not breach that faith. It must not destroy that commitment or that promise that it has made to these individual citizens who are drawing this minimum social security benefit.

Mr. President, this amendment is sound, it is right. We have heard arguments from the other side as to why it should not be enacted. But, Mr. President, once again, we must look at the overall promise this amendment restores and at the catastrophic result if this amendment is not passed and if it is not part of this reconciliation process.

Mr. President, I yield back the remainder of my time to the Senator from Michigan if he wishes it.

Mr. RIEGLE. I thank the Senator for doing so, Mr. President. I just want to make two points very briefly.

The first point is with respect to the question of the Senator from Idaho when he asked earlier about the difference between people in different categories here. The difference is exactly as spoken by the Senator from Florida a moment ago. That is. that people who made retirement decisions 10 years ago, 15 years ago, 6 years ago, 20 years ago, depending upon the ability to rely on the social security payment in the future, cannot go back to work.

The motion that, somehow or other, they can go back and undo a retirement decision because. now. suddenly, we have changed our mind and want to rip this benefit away is just not practical.

I would say further that, today, in the Committee on Finance. we are marking up the tax bill. That room is so crowded with people pressing their own special interests that you cannot even get into the room. You have to stand in line down the hallway just to get a chance to get into the room. The reason that is important to note. Mr. President. is that the old people in this country who rely on the minimum social security benefit are not able to come here and lobby for themselves. That is one of the reasons they were the first ones put on the Reagan hit list, and they are on the hit list here today unless we change that today by the force of my amendment. The House of Representatives. to their credit has already done so, they have made this restoration. We ought to here.

I reserve the remainder of my time.

Mr. SYMMS. Mr. President. I yield myself such time as I may need.

I just want to say again, Mr. President, that it is no wonder that the budget of the United States is so astronomically out of shape. I hear my friends here making the argument that we are going to keep on giving this money out whether or not it is a fair and equitable system. We do know that those people who are truly in need are going to get dollar-for-

dollar SSI benefits to replace the minimum benefit.

So we cannot stand in here and make the argument that, somehow, we are going to take money away from those people in true need.

We know there is an equity problem here, Mr. President. But what are we going to do? Are we going to keep on spending $2.9 billion in this amendment that the Senator from Michigan offers, whether it is right or wrong, just because, sometime a Congress, years past, agreed to do this. If we are going to do that, Mr. President, then we have no hope of ever bringing this budget under control. We have no hope.

That, too, has an impact on senior citizens, because inflation is more devastating to the senior citizens than, probably, any other group of citizens in the United States if you want to lump a group together. It cuts right into the purchasing power of their income. Most of us would agree that the inflation got started right here, in this Capitol building, by giving the Government permission to print money and expand the currency, and the volumetric expansion of money supply causes the general price levels to rise. That is what is hurting the senior citizens, Mr. President.

So I urge the membership of this body to vote down this amendment and I do not, in any way, take away from the sincerity of the Senator from Michigan who offers it, because I know he does offer it in sincerity.

I just say again, that dollar for dollar, those people in true need will be getting SSI benefits to replace the minimum benefit. But this amendment will cost $2.9 billion in 3 years.

Mr. President, I reserve the remainder of my time.

Mr. RIEGLE. Will the Senator yield for a question?

Mr. SYMMS. Yes, Mr. President.

Mr. RIEGLE. I thought I heard him say earlier that there are 300,000 people who will lose out, even by his estimates. I do not agree with those projections, but that is 300,000 people who would not be protected. Did I hear him say that? I am just wondering what he sees happening to those people, or do we just discard those?

Mr. SYMMS. I say to my friend from Michigan that those are 300,000 that are unaccounted for. They may be rich, they may be poor. The statisticians could not keep track of them.

Mr. RIEGLE. But what happens to them? Maybe some are wealthy. I would assume that because the majority of the country is not wealthy, most of them are probably not wealthy, most of them are poor. Assuming some are poor, what happens to them?

Mr. SYMMS. Mr. President, I just say back, before I reclaim my time from my friend from Michigan, I guess we could say that the majority of people are wealthy or not wealthy. But it is all a question of compared to what? It is all a question of compared to whom?

I think that, by and large, all groups of people in the United States, compared to the run of the ladder in other places, are much better off. But they will not continue to be better off if Congress cannot get hold of the purse strings, if we are going to go ahead and spend $2.9 billion that we have to borrow and we have an opportunity here to make a correction that is going to be equitable. It is not equitable to say that I am going to retire or a senior citizen is going to retire on the 30th of July, so he gets the benefit. The next day, the 1st of August, someone else retires and he does not get the benefit. What is equitable about that? Are we going to come in here and offer another amendment to keep the minimum benefit going to the 30th of September or until Christmas? Is that what the amendment is?

Mr. RIEGLE. Let me try to respond to that, Mr. President. I do not think anyone says there is a way to achieve perfect equity in the system, whether it is this amendment or other amendments. The question is whether somebody who made a retirement decision 10 years ago and is now relying on this benefit, who has counted on it and whose standard of living requires it, whether yanking that away from that person now without ever indicating that that might happen, is more inequitable than the kind of inequity the Senator talks about. I think it is. I think that is a greater inequity.

Mr. SYMMS. It is compared to what? Here is the situation: The senior citizen who is poor and over 60 is going to get SSI benefits, dollar for dollar, to replace the minimum benefit. So these people who are accountably poor are going to get it.

Mr. President, I reserve the remainder of my time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The time will be charged against the Senator's time on the amendment.

Mr. HOLLINGS. How is the time to be charged? We have just about run out of time on the minority side.

Mr. SYMMS. I yield myself 1 minute.

Does the Senator want to agree on a time to vote?

Mr. HOLLINGS. We are waiting for the distinguished Senator from Arkansas, and he should be here about 12:25. Let us check on that.

Mr. RIEGLE. Mr. President, I suppose I have 1 minute or 20 seconds remaining.

Mr. HOLLINGS. I yield 5 minutes on the bill to the Senator from Michigan.

Mr. RIEGLE. I thank the Senator from South Dakota. I assure him that we want to move expeditiously, because, as he correctly points out, a number of other amendments are standing in line today.

Mr. President, I ask unanimous consent that the names of Senator CRANSTON, Senator SARBANES, and Senator TSONGAS be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, first, I draw attention to the fact that we now have approximately 15 cosponsors of this amendment. I believe that is a very significant showing of support on this issue and the importance of this issue to the country.

I say to the Senator from Idaho, who is my friend—that I do not make my comments in any personal way, as he knows—it is very easy for those who might be in reasonably good financial circumstances to assume that other people out there who are living right at the margin and who are literally wondering how they are going to survive financially, day to day, will somehow get by. Given the high inflation he speaks about, given the high cost of food and shelter and medical care, especially for elderly people—many of these people are absolutely frightened to death.

They are out there struggling to make ends meet, and finding it harder and harder to do that. The first group that has been targeted aid has gone on the hit list is that group on social security, that group least able to go out and fend for themselves.

Bear in mind that more than 80,000 of these people are over the age of 90. Three-quarters of them are women. What is it we actually expect them to do? What is the answer?

It is one thing if we are able-bodied and more or less in the prime of life, as U.S. Senators, and we talk about how easy it is to cope. But what if somebody is 97 years old and is alone? What are they to do? The fact is that there is no answer here. The proponents do not come forward with an answer.

The unspoken answer is, "Well, look, that's the way it works out. We can't do everything for everybody." That is the theory.

We looked at this problem many years ago. The reason we established a minimum benefit was that we felt it was important, within the overall construction of the social security system, that it be done and that people in that circumstance have some basis upon which to depend on a future benefit as they try to map out their plans for remaining financially sufficient throughout their lifetime.

Part of the answer we hear is that we should let them go on welfare. It is one thing to say "SSI." That makes it sound nice and easy. But the Senator from Florida used a more meaningful phrase when he talked about people having to face the prospect of the poorhouse. That is what we are talking about here. I hope there are still a few shreds of compassion left around here.

It is not as if we are not going to save a lot of money next year. This proposal is within the amounts the President has asked for. We are under his targets. We have cut deeper than he has asked us to cut. We can make this restoration and still be below the Reagan budget numbers.

Let there be no confusion about that. We have gone beyond what the President has asked for in the way of a cost-cutting goal, and I believe that is significant. It is a significant step we have taken. But let us not tell these poor, old folks, who are the least able to fend for themselves, that they must come down here and lobby and elbow their way into the committee rooms and ask for our consideration. Let us not make them the first people to me damaged by this hit list mentality. I believe that is wrong.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, how much time remains in opposition?

The PRESIDING OFFICER. Seventeen minutes in opposition.

Mr. DOMENICI. Is the majority leader prepared to speak at this point?

Mr. BAKER. Mr. President, will the Senator yield me 3 minutes?

Mr. DOMENICI. I yield.

Mr. BAKER. I thank the distinguished chairman of the committee.

Mr. President, service in the Senate is always beset with difficulties and inconvenient judgments to be made on behalf of the people of this country. But that responsibility is the paramount responsibility and fundamental trust of every Member of this body, to do those difficult things that must be done, for the greatest good for the people of the United States.

Few things rank in importance on the domestic scene with the saving of the social security system and bringing it back from the edge of the abyss of insolvency. Unless we face that responsibility, unless we do those difficult things we are required to do, unless we face reality, we surely will pay the price at the hands of the public for the failure of our trust in the formulation of the public policy of this country. Social security and the elimination of minimum benefits as suggested by the Finance Committee clearly fall within that category of different subjects.

Mr. President, we are not here dealing with the question of our compassion for the elderly and the poor. We are dealing, rather, with the solvency of the system and our trust and responsibility to virtually every American who now shares or will share in the future in the protection of the social security system.

So, please, let us not limit this debate to the measure of our compassion and concern. Please let us not narrow our focus to the point where we ignore the future consequences of an action such as this, which may be taken because it is momentarily attractive and expedient politically.

Mr. President, if we do not face up to this responsibility in this first amendment to this reconciliation bill, if we do not support the committee of the Senate which has made to us this recommendation for salvaging the solvency of this system, if we do not do that difficult and politically nonexpedient thing that is required of us to provide for the future good of Americans, if we do not do the difficult thing that is now placed before us, I have grave doubt that we will be able to do it for the remainder of this year.

It is an attractive amendment, beguiling in its political consequences, but it is destructive to the most fundamental responsibility we have as Senators, and that is to preserve and protect this country and her population against the insolvency of a system that guarantees the security of virtually every citizen.

Mr. President, I urge the defeat of this amendment.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the names of Senator CANNON and Senator GLENN be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I thank the distinguished majority leader for his remarks. They go right to the point.

I yield myself 3 minutes to explain further the issue as I see it.

Obviously, Mr. President, this is a substantive matter within the jurisdiction of the Finance Committee. The Finance Committee voted 18 to 2 to report their reconciliation instructions, and those instructions, in the form of this bill, included the recommendation on the $122 unearned social security benefit. That is point No. 1.

Second, the funds that Senator RIEGLE wants to restore amount to less than three-tenths of 1 percent of the total direct spending outlays under the authority of the Finance Committee.

This was a further attestation to them as substantive lawmakers' confidence that this was one that they should change. They had a myriad of other direct and entitlement spending that they could have addressed. This one is only three-tenths of 1 percent, and yet they found it necessary, among all of those, to say this one should terminate.

Third, it is important for us to understand that this is unearned social security. These beneficiaries are entitled to this base because Congress said: "We will make an exception and they do not have to earn it as others in social security must."

If they come off the rolls they will get what they earned as others have. In addition, most of them will be entitled, if they meet the poverty criteria of this country, to an equal amount from that system which was not intended to be supported by social security funds but rather the SSI system which was permitted to help those in need. If there are such they will get that money instead.

This is not a new issue. The GAO in 1979 studied this minimum benefit and they found that at least 74 percent of those who received the minimum benefit do not depend significantly on social security for their support. Those who do, as I indicated, are going to be eligible for SSI.

Remember, Mr. President and Members of the Senate, that we did not say to those who want to receive unearned social security minimum benefits that they had to be poor. We did not say they could not qualify if they had another pension. That is what GAO is talking about. Seventy-four percent who received the benefit do not depend significantly on it for their support.

What does that mean? That means they have found a way to get this minimal social security, not in the way we intended for those who are poor and did not have enough time to work to qualify for it. Ingenuity has caused these others to go and qualify even if they had a Federal pension, if they had private pensions, if they had military pensions, because we created this unearned benefit based upon a very short work history or even a cash pay-in. The intention was to cover those who had not enough time to come under social security and were poor.

In closing, I want to commend the Committee on Finance. There was one group of Americans who might have indeed had a problem. The age definitions for SSI, income supplement, was 65. They found there just might be some who were getting this unearned social security who were between 60 and 65, and by definition that few would not qualify for SSI. They altered the SSI so they would not fall without that income. But obviously our clear intent would cover them for they would have to have the poverty level that SSI requires.

So I wholeheartedly agree with our majority leader. Cutting anything is not easy. Making the social security system solvent over the long haul is not going to occur with just this vote. But this was one of those up-front votes recommended a number of times by other people besides this President, which is going to indicate whether we are going to have the courage to bring this budget under control.

It is a first test of whether we are going to approach the social security solvency in other areas yet to be addressed by the substantive committees of Congress.

For if this one will not go, if this one will not pass, then which ones will? The Senate has voted on at least two occasions to support assumptions in the reconciliation instruction and in the First Budget Resolution to the Committee on Finance saying, "Yes, do this one."

I acknowledge it is within their jurisdiction as to whether they want to or not, the jurisdiction of that committee. They did. They chose to by a rather overwhelming vote.

My final remark is, in addition to those made by our leader with reference to fiscal responsibility, everyone should know if this one fails, unless we can find some other savings the Committee on Finance, which has been marvelous in its response to the institution which asked them to save a given amount of money, will not have achieved their requisite instruction totals, and we will be back to saying which committees are going to do it. If Finance did not, because we break their proposal here, then who will, who should?

When this issue has been before us enough times, voted on enough times, so that when we finally get down to that last "t", that is changing the law with language in a piece of legislation, and we will say "No," I do not think that is what we ought to do today. I do not think that is what we ought to do in the days to come, the next 2 or 3, on this reconciliation instruction when our substantive committees have made their best recommendations.

Mr. MITCHELL. Mr. President, I rise in support of the amendment that the Senator from Michigan has offered. Restoration of the minimum social security benefit would reverse one of the most seriously flawed budget cuts proposed by the administration.

The concerns raised by the proposed elimination are typical of those raised by the administration's recent social security proposals. These proposals have

shaken the confidence that the elderly and many working men and women have in the social security system. Although the administration contends that its proposals would not affect current social security recipients, this proposal directly affects current beneficiaries. The termination of the minimum benefit would break commitments made to existing and future beneficiaries. Often in many cases, recipients of the minimum benefit are those with the lowest wages in their work history.

Not only does this proposal place a substantial burden on those least able to adjust to it, it also creates a significant administrative burden on the Federal Government. The Department of Health and Human Services has estimated that recalculating the benefit for existing beneficiaries will require 3,200 work-years this year and 7,300 work-years in 1982. This additional work effort is wasteful and it is even questionable that HHS could accomplish it under existing budget constraint.

Mr. President, I congratulate Senator RIEGLE for his persistence in attempting to present this inequitable proposal from being enacted into law. I urge my colleagues to support this amendment. His proposal is a reasonable compromise between eliminating the minimum benefit and making no change.

Mr. LEVIN. Mr. President, I support the amendment offered by my colleague Senator RIEGLE.

I would like to ask the Members of this body to give serious thought to the psychological effects on many of our elderly should we not adopt the amendment before us today—the results of not adopting this amendment would be horrendous.

Mr. President, we are talking about eliminating benefits to current recipients—those already on the rolls, many of whom are medically indigent, have no close family members and cannot work. We are telling many of them they must now go on welfare, or that they simply must make it on a lower fixed income.

Mr. President, we are talking about 13,678 beneficiaries who are over the age of 95; 66,396 are between the ages of 90 and 94; 66,552 are between 86 and 89; 248,534 are between 80 and 84; 410,376 are between 75 and 79; 508,226 are 70 to 74 years of age.

These are the people who will be affected—the people that are being told that the Government has changed its mind about them—that it has decided not to honor its commitment to them.

Mr. President, it is hard to believe that this Senate would support such a clear breach-of-contract with the elderly citizens of this Nation. What have we come to when we find it necessary to renege on a commitment made to millions of older Americans who have reached the twilight of their years? I say let them live these years with dignity and peace of mind, and with the reassurance that their Government can be depended on to keep its promises.

Mr. BENTSEN. Mr. President, I am pleased to join Senator RIEGLE as cosponsor of the pending amendment to retain the minimum social security benefit for persons currently receiving it. As Senator DOLE noted on March 30 when we last discussed this provision, the social security programs are complex and potential ramifications of major changes in the programs can be difficult to explain in brief remarks on the Senate floor. However, as a member of the committee charged with jurisdiction over the social security programs, I would be remiss if I did not take a few minutes to review with my colleagues some information that may be useful in reaching a decision about how to vote on this amendment.

Social security beneficiaries whose average lifetime earnings in covered employment are low, receive a minimum benefit—or Primary Insurance Amount (PIA)—which is higher than what they would receive if their benefit level was computed on the basis of the regular earned income formula. Low average benefits can result either from work at a low wage over a long period of time or from only a few years attachment to the program.

The minimum benefit has been a feature of the social security program since its earliest days, and was originally adopted as an administrative cost savings device and as a means of providing a very modest monthly income to annuitants. However, because the administrative difficulties associated with calculating small accounts have been minimized with the advent of computerized recordkeeping, and because alternative financial assistance programs are now available, the Social Security Amendments of 1977 froze the minimum benefit at $122 per month for new entrants into the program.

Presidents Carter and Reagan each proposed that the minimum benefit be eliminated for future beneficiaries, an approach with which I concur, however, the current administration has gone one step further and recommended that the benefits received by current beneficiaries be recomputed based on actual earnings. According to the Social Security Administration, implementation of the President's proposal retrospectively will mean that the average minimum beneficiary would experience a 40-percent reduction in his or her monthly benefit amount.

The administration's argument for recomputation of benefits draws heavily from a 1979 GAO study which found that for the year 1977, many minimum benefit recipients were attached to the social security rolls for a short time only and have alternative sources of income. For instance, spouse's earnings, Government pensions, and private personal resources.

The conclusion, then, is that the social security minimum benefit constitutes a windfall for these annuitants—a luxury we cannot now afford to pay out of Government coffers. Additionally, the administration points out that minimum benefit recipients are not drawing the social security benefits as a consequence of earned income—instead they receive a stipulated amount, sometimes higher than what they would have been entitled to had their attachment to the program and earnings been computed on the basis of the standard formula applied to regular program participants. OMB estimates that adopting the administration's approach would save $1 billion in fiscal year 1982 and $1.1 billion in fiscal year 1983, mostly from implementation of the retrospective aspect of the proposal.

However, it should be stressed that many persons now on the minimum benefit have been receiving social security for years and retired long before alternative pension programs were as generous as they now are. There is reason to believe that the GAO study of 1977 entrants into the program is not an accurate reflection of persons who entered the rolls 20 or 30 years ago—a conclusion with which the GAO study authors agree. Furthermore, it is generally acknowledged that while other welfare programs (such as SSI) may pick up a portion of those persons who lose income through benefit recalculation, it is also true that we know little about the assets and financial condition of the 1.8 million beneficiaries expected to fall into this group. Estimates have been made by the Social Security Administration, but it should be emphasized that these figures are approximate and that no one can give a more accurate picture without first reviewing the records of each beneficiary attached to this program.

Finally, Secretary Schweiker, in testimony before the Finance Committee indicated that manual review of the minimum benefit recipient's files would require between 8,000 and 10,000 man years and cost in excess of $225 million, thereby reducing the anticipated "savings" associated with enactment of the President's proposal.

Nationwide, there are approximately 36 million social security recipients; 3 million, or 1 in 12 are minimum benefit annuitants. A substantial number of these annuitants are quite elderly, in fact, the Social Security Administration indicates that approximately 950,000 are 75 years old or older. If we accept the accuracy of the administration's estimates regarding the numbers of persons likely to be affected by the retrospective aspects of this reconciliation provision—and there is reason to believe the projected figures are overly optimistic—then understanding the following breakdown of affected recipients by alternative financial resources becomes critical.

Of 3 million total recipients, 1.2 million are expected to experience no reduction in monthly benefit amounts because 1 million are duly entitled and their spouses will receive a dollar for dollar increase to replace the loss of minimum benefit. For an additional 200,000 beneficiaries their "earned" benefit is anticipated to equal what they are receiving under the minimum benefit, therefore no reduction in monthly benefit amounts is likely. However, the financial alternatives for the remaining 1.8 million persons estimated by the administration to lose benefits are less well understood.

Specifically, 1 million, according to the OMB, may be able to turn to SSI to make up the loss in income; 450,000 to 500,000 may receive a dollar for dollar increase in SSI payments as they experience a drop in their minimum benefit payment; 80,000 individuals not now eligible for SSI could become eligible; 450,000 to 500,000 who are assumed to be

eligible for SSI but who, for some reason are not receiving it, could apply for this program; and 800,000 persons are unaccounted for. With respect to this group, it cannot be estimated with any precision how many of these individuals potentially without alternate sources of income would be seriously harmed by the proposal because information about the assets and living arrangements of elderly social security minimum benefit recipients is far from complete.

Mr. President, as you may recall, under my chairmanship the Joint Economic Committee last year undertook a wide ranging study of pension systems, including the social security program. The JEC study—among others—documents the need for substantial restructuring of the social security program as a means of stabilizing its fiscal condition.

However, because of the broad implications of even minor reforms in the social security system, it is my belief that changes in the program should be made only after measured, deliberate and thorough evaluation of the probable consequences of implementing those changes.

My commitment to elimination of wasteful and unnecessary Federal spending is a matter of public record and, as many of my colleagues know, I share the administration's view that the social security system is in serious difficulty. Nevertheless, I do not believe that restructuring individual elements of the program should be attempted without benefit of hearings and in isolation from other social security program reforms. Instead I urge my colleagues to support this amendment and thereby allow the Finance Committee to examine this proposal and its potential ramifications just as the committee will consider many other recommendations for insuring the long term stability of the social security system.

While we in the committee may ultimately agree that recalculation of the minimum benefit is warranted, this proposal has not undergone adequate review and could, if implemented, result in the very precipitous and unduly harsh ramifications for beneficiaries that we here in the Senate recently resolved to avoid as we search for ways to insure the stability of our Nation's largest retirement program.

Mr. BRADLEY. Mr. President, the reconciliation bill before the Senate would eliminate the social security minimum benefit, effective this August. Three million older Americans would be affected by this wholesale slashing of benefits. Once again, budgetary savings are being built upon the sacrifices of the low-income elderly and the much heralded social safety net grows smaller with each new set of administration proposals. Mr. President, I cannot support such misguided efforts at budget cutting.

The minimum benefit under social security is not an overly generous amount. The 1977 amendments froze the benefit at $122 per month, or roughly $30 a week. Many recipients are those whose average lifetime earnings in employment covered by social security are low, the result of many years at low-paying jobs. Opponents of the program point out that there are those collecting the minimum benefit who have spent relatively few years in covered work but at relatively high wages. They cite the evidence of double-dippers who collect Federal or State government pensions on the basis of a civil service career and the minimum benefit, due to a short work record in jobs covered by social security. They use this example to justify eliminating the entire program. However, a GAO study in December 1979 concluded that only 15 percent of those receiving the minimum benefit fit the description of the double-dipper. Nonetheless, it seems that the remaining 85 percent, including many low-income lifetime workers, face the loss of the minimum benefit because of this small group of double-dippers. This rationale can only be read as a modern example of guilt by association.

The opponents of the minimum benefit also argue, in defense of their proposal to eliminate the program, that approximately 1.2 million of the current beneficiaries—the truly needy—would not have their net benefits reduced, due to offsetting increases in benefits under the SSI program and other income supports, such as food stamps for which they would be eligible by virtue of their reduced incomes.

Mr. President, to suggest that the elderly will make up this loss in income by searching through our maze of social welfare programs for the benefits their newly lowered incomes qualify them for is both dishonest and cruel. The evidence indicates that the elderly are poor users of the services intended for them, for a variety of reasons ranging from problems in securing transportation and coping with application forms to pride and their sense of self-esteem. We should not require those elderly with little savings, after a lifetime of work, to make new initiatives to receive equivalent benefits to those they now receive automatically under the minimum benefit provision. If savings must be made from this program, then it should be phased out by closing it to new retirees. Current recipients should be protected.

Mr. President, that is exactly what Senator RIEGLE's amendment would do. The savings will not be as great as they would be from total elimination of the program, but neither will the suffering of the older Americans dependent on this benefit. For these reasons, I urge all my colleagues to support this important amendment.

Mr. ROBERT C. BYRD. Mr. President, today the Senate is considering the question of whether to take the social security minimum payment away from retired Americans through the budget process. The amendment before the Senate offered by the distinguished Senator from Michigan (Mr. RIEGLE) would not extend the minimum benefit to future social security retirees, but it would preserve the payment for current retirees.

Three million Americans currently receive the minimum social security benefit. More than 500,000 Americans, age 80 or older, have been receiving the minimum payment for 15 years or longer. Failure to adopt the amendment being offered by the Senator from Michigan will send a chilling message to these people.

We will be telling them that they are no longer entitled to the benefits promised them by the social security system when they made their retirement plans. We will be telling them that if they need assistance, they should apply for welfare.

When Mr. Reagan accepted the Republican nomination for the Presidency, he told the American people:

> It is essential that the integrity of all aspects of social security be preserved.

In his campaign, as the Republican nominee for the Presidency, he said:

> The integrity of the social security system will be defended by my administration and its benefits will once again be made meaningful.

When the President came before the Congress to campaign for his budget cuts, he told us that no budget savings would be made by cutting social security retirement benefits, and that they would be preserved as part of the Nation's safety net.

The minimum payment was designed to provide an adequate monthly check for the neediest social security retirees. It was designed as a safety net under social scurity—to keep elderly Americans from living their retirement years in poverty. Eliminating the payment would plainly send some social security retirees falling through the President's safety net.

The social security system is based on trust, confidence, and dependability. Without these essential qualities, the system loses its integrity. Taking away basic benefits from those who have already retired or are approaching retirement age destroys the system's integrity. It is cruel, and it is inhumane.

Last month, after the administration called on the Congress to immediately slash benefits for those men and women planning to retire at age 62—the Senate unanimously went on record against such a plan. The principles at stake today are not very different from those argued last month. The issue is whether the Congress will act to unfairly and precipitously cut social security retirement benefits. We are talking about a smaller group of retirees today than we were talking about last month, but we are discussing what amounts to the same question.

We are talking about the same system—so vital to the well being of the Nation's elderly—and we are talking about the system's integrity and purpose

I reject the idea that has been proffered by the administration that the neediest social security retirees should be asked to abandon the system and turn to the welfare system.

I support a balanced budget. But the Federal budget cannot be balanced on the backs of the Nation's elderly.

Mr. DOMENICI. Mr. President, how much time do we have?

The PRESIDING OFFICER (Mr. EAST). The Senator has 5 minutes and 10 seconds remaining.

Mr. RIEGLE. Mr. President, is the Senator ready to conclude? I want to

make a final comment. I have a minute left, and then we would be prepared to go ahead and vote.

Mr. DOMENICI. Mr. President, I will reserve my time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. How much time do I have left?

The PRESIDING OFFICER. One minute and ten seconds.

Mr. RIEGLE. Mr. President, I want to express several points quickly. First, if the amendment presently before us that I am proposing with 20 cosponsors passes we are still below the Reagan budget totals in terms of what he has asked us to cut. I think that is a significant fact.

Perhaps even more significant is this: I was not here in 1935 when we passed the social security legislation. I was not here in 1941 when we began to pay the benefits out under this system.

Workers over the years, through the forties, the fifties, the sixties, the seventies, those workers and their spouses made decisions in terms of planning for their future based on solemn commitments that were made by this Government, and the money that was put into this system was put in on the basis that those promises would be kept. This is a vote today as to whether or not we break that promise. That is what it is all about, and make no mistake about it.

These people who are out there today, most of them very old, 75 percent women, over 80,000 of them above the age of 90, most of them in poor health, to suggest that they have some other place to turn is really outrageous. We know better than that. Their plans down through the years were based on those commitments made by predecessor Senates and Congresses that were here before we were.

Yes, it may be necessary to phase this out in the future if there is no other way. But to go back and to penalize these people who have depended on those over the decades is just wrong. There are other places we can make savings. Why target the weakest people, those least able to defend themselves and fight back in this country? Why? Because they are an easy target.

Contrary to earlier statements by others, it is not easy to offer this amendment. People can shed crocodile tears in voting against it. It is tough to vote for it, but I invite them to vote for it.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. DOMENICI. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. No, they have not.

Mr. RIEGLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, parliamentary inquiry. Is there any time remaining on the side of the proponents?

The PRESIDING OFFICER. The time of the proponents has expired.

Mr. DOMENICI. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Michigan. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Nevada (Mr. LAXALT) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON) is necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) would vote yea.

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The result was announced—yeas 45, nays 53, as follows:

[Rollcall Vote No. 160 Leg.]

YEAS—45

Baucus	Ford	Metzenbaum
Bentsen	Glenn	Mitchell
Biden	Hart	Moynihan
Boren	Hawkins	Pell
Bradley	Heflin	Pressler
Bumpers	Huddleston	Pryor
Burdick	Inouye	Randolph
Byrd, Robert C.	Jackson	Riegle
Chiles	Johnston	Sarbanes
Cranston	Kennedy	Sasser
DeConcini	Leahy	Specter
Dixon	Levin	Tsongas
Dodd	Long	Weicker
Eagleton	Matsunaga	Williams
Exon	Melcher	Zorinsky

NAYS—53

Abdnor	Goldwater	Nickles
Andrews	Gorton	Nunn
Armstrong	Grassley	Packwood
Baker	Hatch	Percy
Boschwitz	Hatfield	Proxmire
Byrd, Harry F., Jr.	Hayakawa	Quayle
	Heinz	Roth
Chafee	Helms	Rudman
Cochran	Hollings	Schmitt
Cohen	Humphrey	Simpson
D'Amato	Jepsen	Stafford
Danforth	Kassebaum	Stennis
Denton	Kasten	Stevens
Dole	Lugar	Symms
Domenici	Mathias	Thurmond
Durenberger	Mattingly	Tower
East	McClure	Wallop
Garn	Murkowski	Warner

NOT VOTING—2

Cannon	Laxalt

So Mr. RIEGLE's amendment (UP No. 173) was rejected.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HOLLINGS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, could we have order in the Chamber?

The PRESIDING OFFICER. The Senate will be in order.

RECESS UNTIL 2 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate stand in recess until 2 o'clock this afternoon and that the time not be charged against the bill.

There being no objection, the Senate, at 12:56 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COHEN).

The PRESIDING OFFICER. Who yields time?

UP AMENDMENT NO. 174

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 174:

On page 180, on line 11, add a period after "Act" and delete the remainder of the sentence.

On page 180, amend lines 14 to 16, to read as follows:

"SEC. 168. (a) During the fiscal year ending September 30, 1982, the Secretary of the Treasury, to the extent provided in appropriations Acts, is directed to provide funds to the strategic petroleum reserve account as are necessary to meet the obligations created under section 167(b): *Provided, however,* That the aggregate amounts of such funds during the fiscal year ending September 30, 1982, may not exceed $3,704,912,000 plus any funds deposited under section 167(a).

Mr. McCLURE. Mr. President, I yield myself such time as I may consume. I understand this amendment has been cleared by the leadership on our side of the aisle.

The amendment concerns off-budget financing of the strategic petroleum reserve. In my earlier comprehensive statement I reviewed the legislative history of the Strategic Petroleum Reserve Amendments Act of 1981. Concern has been for finding an off-budget financing mechanism beginning with fiscal year 1982. Subtitle D of title V sets forth the recommendations of the Committee on Energy and National Resources on the strategic petroleum reserve.

Under our proposal, funding of certain SPR activities would be undertaken by the Federal Government off-budget to satisfy the reconciliation instructions to the committee. As the Budget Committee's report observes, the legislation fulfills the technical requirements of the Energy Committee's instruction. However, the provisions to achieve savings in the strategic petroleum reserve program violate the spirit of the Budget Act in two respects:

First, the SPR oil acquisition functions continue to be Federally-financed, but are placed off-budget. Second, funding for the program is not subject to annual appropriations. The latter provision violates Section 401(a) of the Budget Act.

The Energy Committee's proposal shifts the Strategic Petroleum Reserve account from on-budget to off-budget status, but continues to use Federal dollars to fund oil acquisitions. While moving the program off-budget will reduce on-budget outlays, and thus reduce the federal deficit, the costs of the program will still increase the national debt by $9 billion by 1984, and will result in substantially increased interest costs to the Treasury.

The SPR legislation does not meet the intent of the reconciliation instruction, which was to require private or alternative financing for the Strategic Petroleum Reserve.

As chairman of the Committee on Energy and Natural Resources I am disturbed by this Budget Committee report language; however, in the spirit of reconciliation, I offer this amendment.

Mr. President, this amendment would take the SPR financing off-budget for fiscal year 1982.

It would "sunset" at the end of fiscal year 1982 unless subsequently extended by the Congress.

It would authorize the use of such "off-budget" financing mechanism only to the extent provided in appropriation acts.

The amendment would authorize "off-budget" the amount of funds, $3,704,-912,000, proposed by President Reagan for SPR activities other than facilities construction and acquisition during fiscal year 1982.

It assumes SPR financing would remain off-budget during fiscal years 1983 and 1984; therefore, the reconciliation instructions to the Committee on Energy and Natural Resources would be met, although final congressional approval of the specific funding mechanism for fiscal years 1983 and 1984 would be deferred.

By this action, we would address the Budget Committee's concerns, but more importantly we will have the opportunity to compare firsthand the advantages and disadvantages of "on" and "off" budget financing.

Mr. President, this particular question is not newly before the Senate. We have visited it a number of times this year and in the past. It is not new to the Energy and Natural Resources Committee, either. We have visited the problem a number of times, also.

My first attempt in the committee was to get the committee to approve an off-budget financing mechanism but the committee turned thumbs down on it very quickly by saying it should be on-budget.

We then, by a substantial vote in the committee, transmitted that decision to the Budget Committee and to the floor of the Senate. When we got to the floor of the Senate, we were told in no uncertain terms, "No, you won't; you will put it off-budget." That action was led by the Budget Committee.

We then went back, after the vote of the Senate, and tried to find the mechanism by which we could finance it off the budget. Despite the several suggestions that have been made, and after extensive hearings chaired by the distinguished Senator from Virginia (Mr. WARNER), we did conclude that there was no certainty in off-budget financing mechanisms that did not also include the use of Federal Treasury obligations; that, indeed, we might be playing a form of Russian roulette with something that is far too important for the security of this country to hazard that kind of doubt concerning the ability to finance; and that, while some obligations might well sell in the private market, it might well be that they would not sell in sufficient quantities in the private market.

The more we looked at it, Mr. President, the more we came back to the same conclusion ultimately that we had started from, that there was no certainty in the alternative funding schemes and we must have certainty in the financing mechanisms for the strategic petroleum reserve.

So both Senator WARNER and myself introduced the original legislation (S. 998) that had a series of alternatives. But we concluded after extensive hearings that for now, all we could do was do the thing that was obvious.

That is to make certain that the SPR was financed, to make certain that the purchases could go forward, and to make absolutely positive that there would be no lapse in the purchases for the strategic reserve, that is absolutely vital to the security of this country.

After having reviewed that action, the Senate Budget Committee again suggested that what we had done, while it met the letter of the Senate budget resolution, did not meet its spirit because we had not found a way to do this without costing anything. We have not found a way to do this without costing anything. We have asked a number of people if there is an alternative. So far, that answer has not come forth loud and clear.

Therefore, Mr. President, this amendment is simply a way of saying that for the year 1982, it will be off-budget. It will be financed as we outlined and this will give us the opportunity to see whether or not there is another mechanism that can be made to work with certainty and not with the opportunity or the likelihood of some kind of chance taking place that would make it impossible to finance the oil acquisitions for the strategic reserve. The amendment provides for that off-budget mechanism for fiscal year 1982.

Also, Mr. President, it responds to another criticism raised by the Budget Committee that being off budget but not subject to appropriation made it subject to a point of order under the Budget Act. This would provide that the authorized amount off budget funding would need to be provided in appropriations acts.

Mr. President, I think it is a workable way around the dilemma which all of us face of how to make certain the money is there to finance the acquisition of this oil and, at the same time, give us the opportunity to see if we can find an alternative mechanism for 1983 and beyond.

Mr. President, I yield 5 minutes to the Senator from Virginia.

Mr. WARNER. Mr. President, I support the amendment. The Committee on Energy, the subcommittee of which I am a chairman, held a total of 5 days of hearings which resulted in over 1,000 pages of testimony. I draw my colleagues' attention to the copies on each desk in the Chamber at this time.

Thirty witnesses, including the Secretary of the Treasury, the Secretary of Energy, and the Director of the Office of Management and Budget, appeared. The committee devoted 3 days of business meetings to this item and thoroughly reviewed nine major options, with multiple suboptions for removing the SPR program from the Federal budget and satisfying the reconciliation instruction. The SPR proposal in title V of the bill is the product of that effort.

Mr. President, it is the considered judgment of the committee that the proposal accomplishes in the best possible manner the dual objectives of first, continued predictable implementation of this critical program; and second, off-budget financing.

Costs of the program for the economy and the American taxpayer are minimized, while necessary funding for the program is provided in an assured and timely fashion.

The amendment would limit the program to fiscal year 1982, would set a funding limit consistent with the 1982 program of $3.7 billion, and would require an appropriations action to trigger the program. The amendment therefore would remove the $22 billion direct spending authorization in the reported bill and substitute a fiscal year 1982-only program.

The bill as reported by the committee attempted to provide a total solution to the SPR funding issue for the foreseeable future.

The $22 billion would, based on current planning, support oil purchases for the SPR through fiscal year 1986.

The committee decided in effect to end the annual controversy over SPR funding by this action. This amendment will reverse that decision by constraining the committee's approach to 1 year.

Consequently, all of the interested parties in this issue will have a full opportunity to revisit the committee's decision in appropriations action this year and in additional authorization next year.

This amendment constitutes an accommodation of the concerns of the Appropriations Committee, the Budget Committee, individual Senators, and my committee.

The amended bill would insure that the SPR program can proceed with the oil purchases proposed originally by the President for fiscal year 1982, while preserving our options for continued consideration of the financing issue.

It is important to emphasize at this time the critical nature of the SPR program and the necessity of our commitment to it this year and in subsequent years.

Since the amended bill is limited to fiscal year 1982, and since the budget resolution and the budget limits in this bill contemplate off-budget financing, we must be most careful that the program does not become a hostage or even worse, a victim, of the budget process in the months and years ahead.

The Energy Committee and this Senator are committed to insuring that the program does not fall hostage or victim, but rather proceeds aggressively to establish a 750-million-barrel strategic reserve for this country.

Mr. President, I urge that our colleagues support this amendment.

Mr. McCLURE. Mr. President, I reserve the remainder of my time.

Mr. JOHNSTON. Will the Senator from Idaho yield for a question?

Mr. McCLURE. I am happy to yield to the Senator from Louisiana for a question.

Mr. JOHNSTON. Mr. President, I won-

der if my distinguished colleague from Idaho can tell me what the total DOE budget is for 1983? Am I correct that it is $5.6 billion?

Mr. McCLURE. That is approximately correct.

Mr. JOHNSTON. And the estimated amount for SPRO in 1983 is $4.3 billion?

Mr. McCLURE. I do not remember the figure for 1983. The figure for 1982 is $5.88 billion-some, so it is close to $6 billion for 1983.

Mr. JOHNSTON. In the neighborhood of $6 billion, plus or minus $1 or $2 million?

Mr. McCLURE. Yes.

Mr. JOHNSTON. So this resolution does not increase the allocation to the Budget Committee.

Mr. McCLURE. The Senator is correct.

Mr. JOHNSTON. So that means we would have to take out of the $5.6 billion allocation to the Budget Committee about $4 billion, out of existing programs.

Mr. McCLURE. Mr. President, let me say to the Senator that for 1982, that is not the case. For 1983, a decision will have to be made. That decision will have to be made in the budget actions next year.

Mr. JOHNSTON. That decision not having been made, we would have to take $4-point-something billion out of a total allocation of $5.6 billion.

Mr. McCLURE. As a matter of fact, the amendment does not say it would be on-budget for 1983 and 1984.

Mr. JOHNSTON. What does it say, Mr. President?

Mr. McCLURE. It is silent with respect to that.

Mr. JOHNSTON. Then we either put it on-budget or we do not bill SPRO.

Mr. McCLURE. Or we make another decision, Mr. President.

Mr. JOHNSTON. We decide to do it in another way.

Mr. McCLURE. This amendment affects 1982 specifically. It does not change the language adopted by the committee with respect to 1983 and 1984.

Mr. JOHNSTON. I thank the Senator.

Mr. President, I wonder if the Senator from South Carolina would yield me 5 minutes?

Mr. McCLURE. Mr. President, I reserve the remainder of my time.

Mr. HOLLINGS. Is the Senator for the amendment?

Mr. JOHNSTON. I am opposing the amendment.

Mr. HOLLINGS. Oh, definitely. I just wanted to make sure.

Mr. JOHNSTON. Mr. President, I hesitate to get up and oppose my distinguished friend from Idaho, with whom I am usually in agreement, and also my friend from New Mexico, but I have been a member of the Budget Committee and of the Energy Committee and of the Appropriations Committee and chairman of the Energy and Water Subcommittee of that committee for some time. I have dealt with SPRO now for any number of years, I guess, ever since it was created in 1975. Each year, Mr. President, we hear the same arguments.

On the one hand, we hear the arguments that say we must fill SPRO, it is a matter of highest strategic necessity. I agree with that argument. Then we come to budget season and the Budget Committee and the Committee on Appropriations look at these big, juicy targets—this year some $3.8 billion, as I recall. They look at how much that would fund in terms of food stamps if you are a food-stamp man, or in terms of all this broad panoply of Federal programs, and each year, it is deja vu and we cut down on SPRO.

Mr. President, instead of having three-quarters of a million barrels in place now, as we had planned initially, we have 151 million barrels of oil in SPR.

So I proposed, after all these years of seeing that process go on in the Energy Committee, that we confront the problem directly and simply put SPR off budget; that we display the numbers in the budget each year but not count it against the totals in the Budget Act. As I recall, the Energy Committee reported that bill with one dissenting vote—overwhelmingly.

Mr. President, this proposal solves the problem, it is true, for 1982 but gives us the same misery for 1983 and 1984. Any of the alternatives for those years will be a worse choice than what we have now.

Those alternatives are, first of all, to not fund SPR. I believe that virtually everyone in this body agrees that we need to fund SPR, that we need to fill it at the rate of at least 300,000 barrels a day. We have voted repeatedly on this floor to do that. I do not believe that is a viable alternative.

The second alternative is to put SPR on budget. The figures I have for 1983 estimate it at $4.3 billion; in 1984, $3.9 billion. It is in the neighborhood of $4 billion a year. If you put that on-budget, you have a big target for everyone to shoot at.

For those who want to fund every activity of Government, look at that $4 billion and point out that it funds only a very few days of national oil supply. I do not recall what the figure is. It is only 3 or 4 days.

Or, alternatively, Congress will face up and say, "Yes, we need the $4 billion," which will mean that instead of having to cut these huge amounts the Reagan administration has identified already, they must be cut in addition, over and above those cuts already specified, and we will have to come up with another $4 billion. If you think it is easy to come up with another $4 billion in cuts, I assure you it is not. I believe Congress has come to the realization that that is not so.

The final alternative is to come up with some new gimmick. Is this a gimmick, what we have at the present time?

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. JOHNSTON. Mr. President, I will act as though I am in control of the time and yield myself 2 additional minutes.

It is true, as Senator WARNER pointed out, that we did have all these hearings on this matter. But after all these hearings were held, the Senate committee came to the conclusion to write the law exactly as it is now, without this amendment, with one dissenting vote. The reason for that was that we heard testimony from the Secretary of the Treasury; the Director of OMB, Alice Rivlin, and others who pointed out that the cheapest to the Treasury, the most direct method, the method by which the Government gets the best control of the strategic reserve is to do it under the aegis of the Government—not with oil bonds, not under one of these other methods. Each of the other methods constitutes a higher cost to the Treasury in borrowing.

If you go oil bonds, they cost between 1 percent and 2 percent more, depending on how it is structured, than if you go T bills, which is the method of financing identified here.

The effect on the credit markets is precisely the same. If you are going to the credit market for bonds as opposed to T bills, you are still draining from that credit market the same number of dollars.

So it is absolutely clear that if you want to finance this matter off-budget, do as we have done thus far and plainly say it is off-budget. Then you get maximum Federal control and maximum savings to the Treasury. If you want to put it off budget by one of these other schemes—we looked at all of them, and none made sense—none has the advantages the present system has. If you go in those directions, you are hurting the Treasury and hurting control.

I hope we will not adopt this amendment, which would give us great misery for 1983 and 1984.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. I yield to the distinguished Senator from Washington.

Mr. JACKSON. Mr. President, the amendment offered by Senators McCLURE and DOMENICI is a step backward from the committee bill. The effect of this amendment is to leave expenditures for SPR oil acquisition off-budget in fiscal year 1982, as the Committee on Energy and Natural Resources intended, but to revert to on-budget treatment of these expenditures in fiscal year 1983 and thereafter.

I recognize the need to compromise as part of the legislative process. However, the amendment fails to make the necessary changes in the funding ceilings for the Department of Energy for fiscal years 1983 and 1984 to accommodate on-budget SPR funding. These SPR requirements, estimated by DOE at $4.3 billion in fiscal year 1983 and $3.9 billion in fiscal year 1984, cannot be met if the DOE is held to the overall ceilings contained in the reconciliation bill before us.

Thus, we are only setting ourselves up for another game of Russian roulette with the SPR next year when we begin the fiscal year 1983 authorization process. The testimony to the Committee on Energy and Natural Resources has been nearly unanimous in opposing this approach. Every knowledgeable witness has advised the committee to provide adequate and consistent Federal funding for the SPR and to reduce Federal support only after and only to the extent that an alternative funding scheme has proven itself reliable.

The McClure-Domenici amendment

ignores this very basic and very sound policy advice. It reopens an argument that we all thought the Committee on Energy and Natural Resources had settled and directly, in my view, threatens the most valuable energy security program we have with inadequate funding in fiscal year 1983 and beyond.

Mr. McCLURE. I yield 3 minutes to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, I support the Domenici-McClure amendment. It is far from a perfect amendment, as both the Senator from Louisiana and the Senator from Washington have described.

Clearly, everyone who came before the Energy Committee confirmed that the best way to finance the building of the strategic petroleum reserve on-budget was to make that decision and bite the bullet. That did not happen. The Energy Committee decided that it would move to finance off-budget and set up the conflict course from which we now try to extricate ourselves by the McClure-Domenici amendment.

Mr. President, I believe that one of the subsidiary benefits of the McClure-Domenici amendment is what my colleagues have described as one of its weaknesses, and that is that next year at this time, we will be discussing what should be the disposition of the strategic petroleum reserve.

One of my arguments for putting it on-budget was that that question would have to be faced annually. One of the subsidiary benefits from facing the question of filling the strategic petroleum reserve annually would be that the public might focus on the degree of vulnerability we have in this country because of our dependence on insecure sources of foreign oil.

So the Domenici-McClure amendment allows us the possibility of continuing the education function, which is as important to a Senator as is the legislative function, particularly in areas of national security, such as the strategic petroleum reserve.

Mr. President, although this amendment is not perfect in all its details, I have to support it, and I strongly urge my colleagues to support it, because I am afraid if it is not adopted, there will be nothing else moving through Congress this year, and the reserve will not be filled. So I support this amendment and urge my colleagues to do so.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, will the Senator from Idaho yield 5 minutes to me?

Mr. McCLURE. I yield.

Mr. DOMENICI. Mr. President, I support the McClure compromise amendment.

I believe that my position heretofore has been well known. I favor SPR. I have been concerned as anyone else about our failure to be able to build an adequate strategic reserve in the event of a major disastrous cutoff. However, at the same time, I have had a genuine concern as to whether or not there were alternate ways to finance it. By "alternate," I had in mind ways that would preclude the taxpayers and the American Government from having to pay for this reserve.

I acknowledge that to this point there have been many suggestions about how we might do that. I acknowledge that I have my own ideas as to how we might do that. But I also have to acknowledge that this committee, a committee of jurisdiction chaired by the distinguished Senator from Idaho (Mr. McCLURE), has tried its best during the short period of time we had, as part of this reconciliation process, to come up with ways to comply with the instruction that Congress gave it, to take SPR off-budget.

I believe that the committee has genuinely tried to say, "We don't only want to taket it off budget; we have to find some ways to finance it so that it will not continue to be a burden on the taxpayers as part of the general obligations of the Treasury."

However, I also must acknowledge that, to this point, they have been unable to find such. That is not just by a close vote. By an overwhelming majority of the committee, they have found that it is urgent that we continue SPR. They have found that we cannot find a salutary and acceptable way to fund it off budget without Federal involvement, and I, for one, have no alternative. When they say that, I respect their judgment.

I was concerned about a couple of things. Say, we cannot find a way to finance it without the Federal Government and then take it off budget, in toto and laterally, and not even have it subject to appropriations. The chairman of the committee knows I would have had to oppose that. That approach would not have even had it subject to appropriations.

So I think what he has done, working with our distinguished leader, Senator BAKER, and others, is to come up with something that recognizes the dilemma we are in. We have a bill before us now that did not give them a lot of time to go into alternatives, although they spent 5 days.

They now suggest in this amendment, which incorporates the idea, whatever it is, we will appropriate the money. That takes care of one serious problem. It is not just an item out there languishing that we have been trying to cure as part of the budget process, that spends money, uses Treasury notes but we do not account for it, taking care of that by making it subject to appropriations.

Then they have done the next best thing, and I think we should support it. They have said, "Put SPRO on in this manner subject to appropriations, but do it for only 1 year," giving the Congress of the United States and their jurisdictional committees an opportunity to get this reconciliation package passed, make the moneys that are needed for SPRO available, insist that they be appropriated, but to do it for only 1 year, leaving the decision of whether there is a mix of ways to finance it that we have not yet thoroughly explored, get some other alternatives and options in, and give us the full legislative year, the remainder of this one, a significant portion of next year, to explore those.

That basically takes care of the major problem we have. We should not expect a committee with a matter as difficult as this, that has been bandied around from one side to the other, from those who say you do not need it at all to those who want it off budget with no accounting at all, to those who want it all on budget and in the normal manner and put in there rigidly for the next 3, 4, or 5 years, that is the gamut we have been through, with everything in between and many problems of management and preparation that have festered this.

One additional minute, Senator.

Mr. McCLURE. I yield 1 additional minute.

Mr. DOMENICI. So what this compromise does is it takes care of the technical objection because it is subject to appropriation. It adequately provides for SPRO for the entire year of 1982, along with the 1981 moneys that have been handled heretofore.

We can begin the fill and continue it with certainty.

Conversely, it gives those who feel genuinely that there must be another way an opportunity during the next legislative months to see if they can convince this committee that is genuinely interested and has jurisdiction to try to convince the administration and others to see if there is an alternative.

So while I started hoping we could do better, I am convinced on short notice that we cannot. I am convinced there are alternatives, but I am convinced in a short period of time we cannot put those together.

So I urge we adopt this compromise supported by the distinguished chairman, by our leader, Senator BAKER, and I am pleased to join them in this amendment.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, just one comment, and that is, with all due respect to the distinguished Senator from New Mexico, who helped formulate the language contained in our budget report. This language not only was in violation of section 401(a) of the Budget Act by not being subject to annual appropriations, but we also——

The PRESIDING OFFICER. The Senator will suspend until the Senate Chamber is in order. There is much too much conversation going on on the floor.

The Senator from South Carolina.

Mr. HOLLINGS. The major objection and the misgivings that we all must have and should have is that it is off-budget, and it more or less formalizes or dignifies the approach here of having it off-budget. It sort of gives it some credence or some acceptability.

We have got to have truth in budgeting, and while I realize that putting this account back on the budget will increase the Federal deficit by $3.3 billion, the mere transposition of the account from on-budget to off-budget is just no answer to excessive Federal spending, and it is on that basis that I continue to oppose this amendment.

I was hoping we would have a substitute amendment—and perhaps we will at the end of the time on this particu-

lar amendment—to try to get SPRO funding back on budget.

In the meantime, I would be glad to yield to any of the Senators who want to be heard on this particular score.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, it is my understanding that there is a perfecting amendment which will be offered. Pending the arrival of the Senator from Ohio who will offer that perfecting amendment, allow me to respond to this extent: Certainly the Senator from South Carolina is right that it would be better to have this matter contained on budget and stated in the budget. That has been my position all along.

But the Senate has voted three times to say it is going to be off budget. You know I can express my own opinion stubbornly and repeatedly around here. But when I have not got the votes I will try to do what the majority of the Senate instructed our committee to do, and they instructed our committee in the first budget resolution for fiscal year 1982 to take it off budget; so we did what the Budget Committee said for us to do; and we did it in the best and most constructive way we could figure out. If somebody else has a better idea we are willing to hear it.

On 5 days we had hearings; we listened to witnesses who came before us; and we ended up with the best of solutions that came forward available to us pursuant to the instructions given to us in the first budget reconciliation.

Mr. HOLLINGS. Mr. President, will the distinguished Senator yield?

Mr. McCLURE. I would be pleased to yield.

Mr. HOLLINGS. The distinguished chairman of the Energy Committee was acting in good faith about it. However, it was not the intent of the Budget Committee to place it off budget.

The intent was to have it financed privately. That was the intent in the Budget Committee's instructions. Now, we do not have a private support plan, although we heard from the Senator from Kansas and others within the discussion in the Budget Committee it was possible. Based on that discussion, we said, "Let us allow that all-wise Energy Committee and its brilliant chairman—a great private enterpriser—work out a way to do just that."

Mr. McCLURE. Let me say to my friend we did our best to find that kind of a mechanism. But ultimately the arguments of the Senator from Louisiana, the Senator from Washington, the Senator from New Jersey prevailed, that the higher priority in this instance was to make certain that the reserve would be filled, and unless we could come up with a mechanism that assured the financing we could not make that assurance.

We were not able to come up with that mechanism. We could not come up with that degree of financing, so we came up with the least costly method and in conjunction with the instructions under the first concurrent resolution and the reconciliation that were given to us with respect to our package.

What I am afraid is now our alternative is either we put it back into the budget, which would throw awry the targets given to my committee—I could not very well go back and open up that entire area and take $3 billion out of the targets that were given to us, simply could not do it, and unless the first budget resolution were opened up to change the targets for our committee, then I would not be able to enroll any legislation in the remainder of this session until the second concurrent resolution was adopted.

Mr. HOLLINGS. That is right.

Mr. McCLURE. I might just as well tell the members of my committee to go home and go fishing until the second concurrent resolution for fiscal year 1982 is adopted because our hands are tied. We cannot legislate. So you put us into a straitjacket in the first budget resolution, and we are trying to find a way to work under it.

The other part of it is that at the same time the Senate has repeatedly said there can be no higher priority to this country than getting the strategic reserve filled. I think a great many people are now more comfortable than they were immediately following the Israeli raid on Iraq, in which we thought there might again be an outbreak of hostilities in the Middle East as a result of that and another oil embargo. Where would we be today had we gotten into that? Where would we be 2 years from now or a year from now or 3 years from now unless we not only get better production of energy in our own country but also a strategic reserve on which we can draw in time of a petroleum emergency?

So there is an urgency in getting this done. It does have a priority. We have found a way by which we can live under the first concurrent resolution and still meet the objectives of filling the strategic petroleum reserve.

I reserve the remainder of my time.

Mr. HOLLINGS. Mr. President, the Congress must accept its responsibility and realize that we can no longer avoid the real issue, either funds equal to the real cost of oil acquisition must be appropriated or they should not.

I would admit the Budget Committee's instruction to the distinguished Senator from Idaho and the Senate Energy Committee was premature. At the time, I think too much emphasis was being placed on reducing the budget without regard to establishing a valid alternative financing mechanism.

I would, therefore, recommend, Mr. President, that the Senate Energy Committee give its opinion to the Senate Budget Committee prior to markup of the second budget resolution and then we can change those levels if necessary. Also, if it is the opinion of the Senate Energy Committee that an alternative mechanism does not exist, the Budget Committee should then move, and I would move, to place the funds on budget.

At the same time, I think we should make absolutely sure that the Appropriations Committee crosswalk is amended to permit on-budget financing. Based on the current schedule of the Appropriations Committee, I would assume this issue could be resolved prior to causing any unnecessary hardship to the appropriations process.

But to try to put this activity off-budget does not resolve the problem or in any way reduce the cost of oil acquisition. On- or off-budget the cost of oil for SPR will still be in the range of $35 per barrel, and the cost to the U.S. Treasury will be the same. The difference is in one way the budget process is being preserved, whereas in the other way it is not.

While I do not want to go as far as Robert Samuelson, who recently said it would be, and I quote "criminal negligence" not to fill the reserve, I do feel it is a priority item. If the experiences of the last 8 years have taught us one lesson it is that the oil market is extremely volatile and, perhaps, more so today than ever before because of the degree of instability in the Middle East. Therefore, if the U.S. economy and our national security are to be protected, it behooves us to fill the strategic petroleum reserve at the quickest rate of fill. If the budget process is to be preserved, it behooves us to keep this account on budget and to accommodate a direct appropriation for the reserve.

I fully realize that the language included in the Senate Energy Committee's submission and in S. 998 reflect the administration's preference for the financing of SPR. However, in this particular case, I hope that a bipartisan Senate will come to agreement that placing SPR off-budget is more than just a mere bookkeeping difference. It is a violation of the spirit and intent of the Congressional Budget Act.

One thing we have grave misgivings about are the constant news conferences we have stating that the President asked for so many dollars and "oh, what a wonderful Congress we are, we have given him $2 billion or $3 billion more than he asked for," knowing all along it was just an accounting entry. We just transferred it to the other side of the page, in another book.

So those who are going to try to maintain the integrity of the budget process, and I think we have good integrity under Senator DOMENICI's leadership and the leadership of the majority and minority leaders, should demand that we do not just casually pass this as a solution to the problem.

The effort made by the Senator from Idaho and his Energy Committee has been under the most difficult circumstances. But the real crux of the matter was that we had hoped it would be private financing. But barring that, we were not so much exercised by the procedure because we certainly can change that within the Appropriations Committee, but we are more exercised by telling the people that you have either cut this much in spending or you have not. We cannot all go around saying it is vital, we are going to spend it, but we are just not going to account for its spending.

and that should be brought forth very clearly here today as we consider these amendments.

I will be glad to yield to the Senator from Idaho.

Mr. McCLURE. Mr. President, I thank the Senator for yielding. There are a couple of points that I think might be made. If the author of the perfecting amendment would like to offer the amendment, I would be prepared to yield back the remainder of my time.

Mr. President, two points need to be made. One is that the strategic reserve, or any reserve of commodities, is a slightly different breed of cat from the standpoint of balancing the budget. While now we may have the budgetary drain, at some time in the future there may be a withdrawal from the reserve which will place this oil into market channels at a time of emergency. Presumably, if there is such an emergency, it will come out in large volumes and very quickly. Under standard accounting procedures, the proceeds would be a receipt to the Treasury and, therefore, available for expenditure. All of a sudden the budgetary accounting would become terribly skewed. Indeed there might well be a reason for us to insulate the budget from that effect at the time of the sale of this commodity.

There is also another one which we are facing right now in this budget. We have strategic reserves of minerals. We have already seen in this resolution the decision made for budgetary reasons, not for national security reasons, to sell every ounce of silver in the strategic stockpile, to reduce it to zero, in spite of the fact that numbers of people can testify to the strategic necessity for having that mineral available to our industrial processes. I am not talking about monetary or jewelry or flatware or hollowware. I am talking about it as an industrial metal that is necessary to us. Yet we are going to sell every ounce that we have in order to offset budget expenses, even though the money is not available to pay for anything except the acquisitions to the strategic stockpile.

That is not the first time that this has been tried with the strategic reserve. It has been tried in every administration since I have been here, for economic reasons, not security reasons. There will be a temptation with oil in the reserve, at times when things look very good, to sell off a little of that oil to relieve the pressure on the budget.

There is a justification for moving off budget. In order to avoid that temptation, I say very clearly to those who might like to tinker with the budget in that way, "Do not assume you can sell the oil and buy something else with it."

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. McCLURE. I yield.

Mr. JOHNSTON. The Senator will recall that one of the witnesses before the committee, and it might have been the Secretary of the Treasury, was asked about the method by which the Government used to buy gold and whether or not the expenditures for gold were put into the budget as an expenditure. Of course, he replied that was not displayed as an expenditure because it is simply converting from one form of assets to another. Does the Senator find that rather persuasive, that oil is just as good as gold, and, as a matter of fact, probably a better investment?

Mr. McCLURE. I would not say it is better but certainly not less important to our country right now or in the immediate future.

Mr. JOHNSTON. Its value is at least as steady as any other form of assets?

Mr. McCLURE. Yes, indeed it is. As a matter of fact, when you look at what we have done to the strategic stockpile of minerals, altering gold, going up and down like a roller coaster, to fit political and economic necessities of the budget rather than national security requirements of our country, there is certainly a reason for us to take a look at oil and saying, "All we are doing here is setting a reserve of an asset that may be necessary sometime in the future."

Mr. JOHNSTON. Under the leadership of the distinguished Senator from Idaho——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HOLLINGS. I yield additional time to the Senator from Idaho and the Senator from Louisiana.

Mr. JOHNSTON. As chairman of the Energy Committee, I will ask the chairman, Is that not precisely what we did, citing those precise reasons, with only one dissenting vote?

Mr. McCLURE. The Senator is correct. After we tried initially to put it on budget, we were under reconciliation instructions to put it off budget. We looked for the opportunity to finance it out of private investment, out of non-Federal funds.

I might say to my friend from South Carolina that even if we succeeded in doing that, in macroeconomic terms it still has the same economic impact unless the Federal deficit is used to finance the increased monetary supply.

Mr. JOHNSTON. I would like to say that I think the Senator from Idaho makes a very powerful argument, that if we knew precisely and exactly what we were doing in our committee under his leadership, we did the right thing, if we are going to come back with those same old bad choices we had, that we faced before, when we looked at all the alternatives and found this was the best alternative. I hope we will go along with what the Senator says, that is, his argument that we ought to leave it like it is and not pass this amendment, rather than go along with his amendment.

Mr. HOLLINGS. Mr. President, the Senator from Idaho gets into one of the fundamentals involved in budgetary and governmental finance. The great vice and the great threat we have is those who want to insulate their programs from Government. I have experienced earmarking programs at the State level and here at the Federal level. Regarding the skewing that the distinguished Senator from Idaho said could happen if we started selling the oil and the Government obtained receipts, I would like to enjoy some of that skewing. I would like to see the problem of the Government having too much money be the Government's problem for a change. I would not mind that problem.

What I do mind is just exactly that, as he says, now that we have the problem we move it away from Government and try to move it off budget.

It was just like last year when we tried to balance the budget only to find when we got to the second budget resolution later in the year that we had a deficit. I will conclude my remarks because the distinguished Senator from Ohio is here and ready to present his perfecting amendment. However, in concluding, let me say that when we got to that particular point last year there was discussion of moving TVA off-budget to get a $2 billion savings. TVA came in with a presentation and they had all these persuasive arguments, just like those for placing the strategic materials stockpiling account and the SPR account off-budget.

I could give you all kinds of beautiful arguments that were made to get this governmental endeavor away from government so that all you would have to contend with is your appointments. Then they will sit down and spend your money. There would be no need to bother them further because they would be off budget.

That is really the worst thing that could occur, and that is what is occurring in the Senate Energy Committee proposal. We are falling into the trap of saving "There ain't nobody here but us chickens." Let us get this thing out of the way and account for this Government activity on-budget.

Is the distinguished Senator from Ohio prepared to move?

Mr. METZENBAUM. I am prepared to proceed when all time is yielded back.

Mr. McCLURE. I yield back the remainder of my time.

Mr. HOLLINGS. We yield back the remainder of our time on the amendment of the Senator from Idaho.

UP AMENDMENT NO. 175 TO UP AMENDMENT NO. 174

Mr. METZENBAUM. Mr. President, I call up an amendment which is at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 175 to the McClure unprinted amendment numbered 174:

At the end of the pending amendment, add the following:

"Notwithstanding any other section, all funds appropriated to fill the Strategic Petroleum Reserve shall be included in the totals of the United States Budget."

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, we have a law on our books called the Truth in Lending Act. This amendment might very well be described as the truth in budget act because this amendment will put the SPR back on budget where it belongs for the year 1982. Quite simply, this is an amendment to maintain the integrity of the process. I give my good friend from Idaho credit and respect for

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offering his amendment which would provide for putting SPR back on the budget for the outyears. But as far as 1982 is concerned, which is the year with which we are really dealing, it is off budget. My amendment says to the American people, "We will have truth in budgeting."

I urge my colleagues on both sides of the aisle, liberals and conservatives, to support this effort.

I believe this move to put SPR back on budget has considerable latent support. Everybody I have talked to believes it is unfair that the Energy Committee can get around the budget reconciliation instructions simply by moving SPR off budget. If you can do that in the Energy Committee, you can do it with respect to any other single item in the budget. Just move it off budget and then you can balance the budget. You have lived within the reconciliation rules.

But it simply cannot be justified as a valid budget move. That is why I feel it is so vital that we put this accounting back in the budget.

In offering this amendment, I believe I am actually taking the side of the Senate Energy Committee, of which I am a longstanding member. I believe the Energy Committee has been placed in a box by the Budget Committee, on which I also serve, and by the Senate as a whole during debate on the reconciliation instructions bill. In its March 15 report to the Budget Committee, the Energy Committee voted 19 to 1 against an amendment that would assume that we can fund SPR through the private market. The Energy Committee has searched for such a private financing alternative but they have not found a way to fund SPR without using Government funds.

You cannot do it by make-believe, you cannot do it by mirrors, and you cannot do it by calling it something else. But the Budget Committee in its wisdom chose to ignore that report. Instead, it adopted the language proposed by one of its members which assumed a savings of $3.8 billion could be made by developing a private financing plan for SPR.

When the reconciliation instructions bill reached the floor in late March, several Members offered amendments to put money back in the budget for SPR.

Mr. President, a parliamentary inquiry. How much time have I available on my amendment?

The PRESIDING OFFICER (Mr. GORTON). The Senator has 11 minutes, 48 seconds.

Mr. METZENBAUM. I thank the Chair.

All of those amendments were defeated. Senator STEVENS offered an amendment to restore $11.5 billion to the budget simply to keep the fill rate of SPR at the current level. That amendment was defeated.

Senator MCCLURE, the distinguished chairman of the Senate Energy Committee, offered an amendment to restore $3 billion to SPR by taking that amount from other Senate committees. That amendment was defeated.

Senator BRADLEY offered an amendment to simply add the full amount of $3 billion back into the budget. He argued that no private financing scheme had yet been developed. But that amendment was defeated.

In short, the Energy Committee told the Budget Committee and the Senate as a whole that it had not figured out a way to fund SPR through the private market; yet the Senate insisted.

Faced with this arbitrary instruction, the Senate Energy Committee tried its hardest to find a way to develop a private financing plan to fill SPR.

On May 8, the Senate Energy Committee held a fifth hearing on the subject and invited the administration's three wise men, Secretary of Energy Edwards, Treasury Secretary Regan and OMB Director Stockman, to testify.

Mr. Regan gave us his expertise on a scheme to develop financing through the private market. He certainly has been successful in that effort in his private life.

I think it is fair to say that Mr. Regan found such financing alternatives problematical at best.

Despite the intensive efforts to bring some of the best financial minds to bear on this problem, we have not been able to figure out a way to finance SPR in the private market.

Then Mr. Stockman, the administration's greatest budget balancer, testified. Under questioning by the Senator from Oklahoma (Mr. NICKLES), Mr. Stockman admitted that the administration would prefer to have the full $3.8 billion on budget.

Since the Energy Committee had not found a private financing plan, Mr. Stockman said it would be fine with him if the energy committee simply moved the whole SPRO account off-budget. Mr. Stockman told the committee:

> Let us face this problem for what it is: It is a bookkeeping argument. We have our auditors from the House and the Senate. Let us create a set of books that will allow us to go forward, to fill the strategic petroleum reserve, and do it in a way that does not disrupt the normal budget process.

Mr. Stockman, I say to you that if that is the way to balance the budget, then we should not have been hassling around here for months on end trying to balance the budget; we should have just put everything off budget and we would have totally solved the problem.

That would have been so simple. All we had to do, according to him, is create a set of books to allow us to go forward.

Wonderful, Mr. Stockman. Then the poor people of this country will not fail to get food and they will not fail to permit kids to go to college. And the senior citizens will not fail to get social security. And the women who are trying to find jobs and will not be able to because you are closing down the day-care centers—we can bring all of those things back with a simple bookkeeping entry.

Thank you, Mr. Stockman.

Mr. President, I find it astounding that the esteemed Director of the Office of Management and Budget would describe this issue as a mere "bookkeeping" argument. I find it hard to believe that he is so willing to acquiesce to congressional will in this matter, to not argue for the administration's position of keeping this on-budget. He certainly has not been so demure on other issues.

The fact is Mr. Stockman was encouraging the Energy Committee to take $3.8 billion and put it off budget because that is the only way that the administration will meet its total budget target of cutting $37 billion in 1982 and additional savings targets in the outyears.

Yes, Mr. President, the Energy Committee accepted the encouragement of Mr. Stockman, because the Energy Committee really had no choice. If it moved the $3.8 SPRO account on budget, the Energy Committee would need to cut even deeper into the Energy and Interior functions, which have already been cut substantially deeper than instructed.

But there is another choice. Dare we speak it? Dare we mention it? Yes, I think so. There is another choice—to be honest with the American people.

But do not say that too loudly. Do not be honest with the American people and say it too loudly.

Mr. President, we could tell them that the strategic petroleum reserve is vital to the national security of this country, just as vital as the $40 billion increase in defense spending that we have approved for fiscal year 1982. We could keep SPRO on-budget—just as the administration originally requested. We could keep it on-budget, just as we do with all but a few programs in the entire Federal Government.

But that means we would increase the deficit by an additional $3.8 billion. Yes, there is a price for being honest. We would have to admit that we are actually spending money.

Instead, by going off-budget, we are engaging in a subterfuge for purely political reasons.

The Congress and the administration know full well that we should not take SPRO off-budget. There is no sound justification. It violates the budget process and sets a bad precedent for future situations when we face equally tough choices.

We are not fooling the financial markets, Mr. President.

Mr. President, do you think that Wall Street does not know that on-budget and off-budget means the same Government burrowing through the Treasury in order to buy the oil to keep this country rolling? Do you think we are fooling anybody except ourselves and the American people?

Mr. President, I want to say that we have so many billions of dollars that are off-budget right now and this Congress has been unwilling to face up to that issue. We have talked about it. We have a special task force on the Budget Committee, we have attempted to move forward and, in all fairness, the Committee on the Budget has recognized the problem. Some of the strongest, most conservative spokespersons on the other side of the aisle have concerned themselves with this issue of going off-budget. But in this instance, we have to balance the budget. At least, we cannot afford to be more than $38 billion out of balance.

So what are we going to do, Mr. President? This cute game we are playing is we are going to bring it back into the picture for 1983 and 1984. But for 1982,

let it hang out there somewhere. Fool the American people. Kid them a little bit more.

It is time, Mr. President, to quit kidding the American people. It is time for us to bite the bullet. It is time for those who are always so ready to talk about cutting back on spending and those who are willing to talk about production incentives and those who are willing to talk about a thousand and one other issues to have some integrity in the process, and that means accepting this amendment to put the $3.8 billion appropriation for SPR on budget.

Mr. President, I reserve the remainder of my time.

Mr. HOLLINGS. Will the distinguished Senator yield me a couple of minutes?

Mr. METZENBAUM. I certainly do.

Mr. HOLLINGS. Mr. President, the Senator from Ohio speaks with expertise. When I took over the Budget Committee a year ago from Senator Muskie, it was at that time that Senator METZENBAUM, in a bipartisan move, had taken over the study of off-budget accounts to determine how to bring them back on budget. In fact, Republicans, Democrats, all Members have been concerned with working in the budget process, including the distinguished Senator from Idaho, a former member of our committee, to get these off-budget accounts on-budget so we would have a panoramic view of all responsibilities and all costs to the Government. We continued that investigation when I took over the committee and the Senator from Ohio did an outstanding job as its chairman.

Also, the record should be corrected. The Budget Committee did not direct the Energy Committee to place SPRO off-budget. Three times, on the contrary, we have asked the Energy Committee to see about private financing for the particular program. But there has never been, if we are making a record of our Budget Committee and the budget process, a vote to get it off the budget.

The contrary is true and it has been summed up by the Senator from Ohio, and I implore the Senate to support his amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Idaho.

Mr. McCLURE. Mr. President, I rise in opposition to the amendment of the Senator from Ohio. I think the Senator from Ohio would know and the Senator from South Carolina would know that I understand this amendment. The amendment would return the strategic petroleum reserve on budget for fiscal year 1982.

As floor manager and chairman of the Committee on Energy and Natural Resources, I oppose the amendment for the following reasons:

First, without taking strategic petroleum reserve off budget, the committee would not meet its reconciliation instructions. This amendment does not change those instructions.

Second, the amendment does not change the functional totals of the first budget resolution for fiscal year 1982. Therefore, under section 305 of House Concurrent Resolution 115, the Appropriations Act, which would provide a final on-budget amount for strategic petroleum reserve, could not be enrolled until after the Congress has completed action on the second concurrent budget resolution for fiscal year 1982.

In other words, Mr. President, the Interior appropriations bill for fiscal year 1982 could not be enrolled until late this year. In fact, if there is any delay in getting the second resolution, the Interior appropriations bill could be a victim of this amendment. Consequently, all the provisions contained therein would be held hostage until final congressional action on the second concurrent resolution for fiscal year 1982.

Third, other bills of the Energy Committee and the Appropriations Committee could similarly be held hostage or made a victim of this amendment.

Mr. President, I say to the Senator from Ohio that the argument is a great one. I have made it myself. But the Senate voted otherwise, not once but three times. And now to come in here at this date and say, now put it back on-budget, when we have no opportunity to change the targets of the first concurrent resolution, no way to relieve ourselves of the absolutely mandatory provision of the Budget Act that says we cannot enroll the bills, simply says to the Interior Appropriations Subcommittee, "You are out of business for a year." That is not responsible legislation.

I sympathize with the Senator from Ohio. I understand the Senator from South Carolina. Those arguments could have prevailed earlier, at the time we were voting in the Senate as to whether or not to take them off budget. But we were instructed to take them off budget. The Senate voted to take it off budget. To put it back on budget now is simply to say SPR will not be filled. There will be no appropriation for SPR if this amendment is adopted. We could not even enroll it if we wanted to, under this amendment.

So let us not be fooled by what the effect of the amendment is. The emotion is right; the intellect is right—up to a point. That point fails when you fail to look at the effects of the Budget Act and the first concurrent resolution and the instructions contained in that first concurrent resolution, to which I have made reference, House Concurrent Resolution 115.

So, while I sympathize, while intellectually I agree, this cannot be done now. Simply, that is the fact.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I will respond briefly.

First of all, I point out that this matter can be handled, because we will get to the second budget resolution prior to the time the appropriations bill is finally brought to a conclusion. So we would not have any difficulty in achieving that objective.

Having said that, I emphasize to the Senator from Idaho that what we are really talking about is integrity. We are talking about honesty. He is the pinnacle of those words in the Senate, and for him now to be willing to accept this process bothers me, and I am sure it bothers him.

The fact is that we are talking about $3.8 billion being off budget. All the Senate said was that you should find a way in the Energy Committee to finance it off budget by private financing. But you have not done that, and cannot do it; and no matter how you slice it, it means going to the money markets and borrowing that $3.8 billion.

One of the major thrusts of this administration's program is to cut down borrowing so that, in turn, we can bring down the cost of money and, as a consequence, roll back the inflationary spiral. Senators who believe in doing that should vote "yes" for this amendment. Senators who believe in leveling with the American people should vote "yes" for this amendment.

Mr. President, I reserve the remainder of my time.

Mr. McCLURE. Mr. President, again I say that I understand the Senator from Ohio. I have made those arguments, myself, in the past, both in the Budget Committee and on the floor.

However, I remind the Senator from Ohio and other Members of the Senate that efforts were made, when we had Senate Concurrent Resolution 9, the predecessor to House Concurrent Resolution 115, before us, to do just what he is trying now to do, and we failed. We tried three different times, on three different amendments.

The Senator from Alaska (Mr. STEVENS) offered an amendment which would have restored $1.5 billion to the budget for financing SPR. It was defeated by a vote of 23 to 71. I say to the Senator from Ohio that I voted for it.

The Bradley amendment would have added $3 billion to the budget for financing of SPR, and it was defeated by a vote of 17 to 81.

An amendment offered by me would have added $3 billion for financing SPR, with offsetting reductions elsewhere in the budget. I argued for it, and I voted for it. The Senate turned it down. The Senator from Ohio, I might add, voted against it.

So if we are talking about honesty and forthrightness, about being right up front, let us admit that the stage was set earlier, partly by the action of the Senator from Ohio, but obviously by a large majority of the Senate, to make it impossible for us to do what he now insists we should do.

So if we are going to be up front and honest and dare not tell the American people the truth, except in a whisper, let me whisper: There are those who voted against this proposal earlier and put us in the box we are in now.

That, I say to the Senator, is the truth.

I hope the Senate will join me in rejecting the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Fifteen seconds.

Mr. METZENBAUM. And the Senator from Idaho?

The PRESIDING OFFICER. Eight minutes and seven seconds.

Mr. METZENBAUM. If the Senator from Idaho is prepared to yield back the remainder of his time, I am prepared to ask for a rollcall vote.

Mr. McCLURE. I am prepared to yield back the remainder of my time.

Mr. METZENBAUM. Mr. President, I yield back the remainder of my time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Ohio (UP No. 175) to the amendment of the Senator from Idaho (UP No. 174). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Nevada (Mr. LAXALT) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "nay."

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON) is necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) would vote "yea."

The PRESIDING OFFICER. Is there any Senator in the Chamber wishing to vote?

The result was announced—yeas 39, nays 58, as follows:

[Rollcall Vote No. 161 Leg.]

YEAS—39

Armstrong	Dixon	Mitchell
Baucus	Dodd	Moynihan
Bentsen	Exon	Nunn
Biden	Glenn	Pell
Boren	Grassley	Proxmire
Bradley	Hart	Pryor
Bumpers	Hatch	Randolph
Burdick	Hollings	Sarbanes
Byrd, Harry F., Jr.	Inouye	Stennis
	Kennedy	Tsongas
Byrd, Robert C.	Leahy	Williams
Chiles	Levin	Zorinsky
Cranston	Matsunaga	
DeConcini	Metzenbaum	

NAYS—58

Abdnor	Hayakawa	Percy
Andrews	Heflin	Pressler
Baker	Heinz	Quayle
Boschwitz	Helms	Riegle
Chafee	Huddleston	Roth
Cochran	Humphrey	Rudman
Cohen	Jackson	Sasser
D'Amato	Jepsen	Schmitt
Danforth	Johnston	Simpson
Denton	Kassebaum	Specter
Dole	Kasten	Stafford
Domenici	Long	Stevens
Durenberger	Lugar	Symms
Eagleton	Mathias	Thurmond
East	Mattingly	Tower
Ford	McClure	Wallop
Garn	Melcher	Warner
Gorton	Murkowski	Weicker
Hatfield	Nickles	
Hawkins	Packwood	

NOT VOTING—3

Cannon	Goldwater	Laxalt

So Mr. METZENBAUM's amendment (UP No. 175) was rejected.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 174

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Idaho. (Putting the question.)

The amendment (UP No. 174) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I yield 1 minute to the Senator from Washington.

Mr. JACKSON. Mr. President, the Senate is engaged in a process which is without precedent in our history and which, I believe, was not even remotely envisioned by the authors of the Congressional Budget Act of 1974. Yet, in broad political terms, what we are doing has almost overwhelming support among the public. The public appears ready to resort to radical reductions in Federal spending. They know that the economy is in trouble and they sense that we have to try something new to improve things. One of the things we are trying is cutting the budget. Indeed, this notion did not originate with President Reagan. Budget cutting was a major preoccupation of President Carter's administration.

I support cutting the budget. It is clear the Congress supports cutting the budget. We should get on with it, because we need to find out soon whether or not these radical cuts in Federal spending will lead to the kind of results in the economy we hope will come about.

However, there is no guarantee that what we are doing will make things better. We are in danger of losing sight of this. The bill before us goes far beyond simply cutting the budget in fiscal year 1982. If we adopt this bill we are locking into law binding spending ceilings not only for fiscal year 1982, but also for fiscal years 1983 and 1984. If what we are doing now does not make things better, we will be in a much weaker position to change directions in these out years even if the evidence shows us we should change.

This is my principal objection to the reconciliation bill before us. Perhaps my colleagues on the Budget Committee understand better than I do what the sources of our economic woes are, and, in addition, are better than I am at predicting the future. This reconciliation bill reflects much more certainly in these matters than I can accept.

I do not know what 1983 and 1984 are going to be like. I am sure that any projection we make now will be wrong. Therefore, I do not think it wise to establish binding limits on the Congress which can only be changed, in the worst instance, by a two-thirds vote of each House.

I do not consider the references in this bill to fiscal years 1983 and 1984 to be at all prudent or appropriate. We have rushed into this too precipitously and we will regret it.

I congratulate Senator McCLURE, the chairman of the Committee on Energy and Natural Resources, for his cautious approach to the reconciliation process. He has led the committee to as responsible a position as the constraints of the reconciliation process would permit.

Unfortunately, in the House the administration, through the Office of Management and Budget, is proposing changes in energy law which are far more radical than the ceilings set forth in the recommendations of the Senate Committee on Energy and Natural Resources. Moreover, these changes do not affect only fiscal years 1982 through 1984. They are permanent.

Under the OMB-designed "Broyhill substitute," which the House will consider within the next few weeks, massive, permanent alterations in our energy laws would be made. Most of these proposed alterations would totally repeal authority for programs encouraging energy conservation and the use of alternative energy resources. Changes in law would be made which have never been discussed in any hearing in the House or in the Senate.

In the form reported to the House Rules Committee, the Broyhill substitute:

Repeals the basic authority for the building energy performance standards (BEPS) for new residential and commercial buildings;

Repeals the basic authority to establish energy efficiency standards for new home appliances;

Repeals the authority for the residential conservation service, under which large utilities are required to offer conservation services to their residential customers;

Repeals the low income weatherization program;

Repeals the schools and hospitals weatherization grant and technical assistance program;

Repeals the energy extension service;

Repeals the electric and natural gas utility rate standards under the public Utilities Regulatory Policies Act (PURPA);

Repeals the authority for the program providing grants to States supporting State energy conservation programs and State energy offices;

Establishes a brand new 2-year energy conservation and supply block grant program funded at $200 million to replace all State grant programs. No hearings have been held in either House on this legislation. The programs replaced by the block grant were proposed to be funded at over twice this level by President Carter's fiscal year 1982 budget;

Repeals basic authority for commercialization, marketing and demonstration programs for electric and hybrid vehicles, ocean thermal energy conversion, photovoltaics and municipal waste energy, and

repeals basic authority for the small hydro and geothermal loan guarantee programs;

Limits funding for Department of Energy compliance activities so as to effectively preclude prosecution of major oil company overcharge cases;

Exempts new and existing hydroelectric projects under 15 megawatts from certain Federal Power Act licensing requirements, again, with absolutely no hearing record to justify the exemption;

Repeals the appropriate technology grants program;

Repeals section 301 of the Fuel Use Act, which prohibits electric utilities from using natural gas as a fuel after 1990; and

Significantly modifies nuclear power reactor licensing requirements.

Adoption of this substitute unamended by Congress would amount to a nearly complete turn away from past efforts to increase the efficiency with which we use energy in the United States and to incorporate new alternative sources of energy into our supply mix. It would make significant changes in laws affecting hydropower and electric utilities without anywhere near adequate congressional review of the proposed legislation. Some of these changes may be desirable, but under the procedure envisioned by OMB we will not get to discuss this until after the legislation is enacted.

The Senate ought to refuse to go along with this procedure. In the event that the House sees fit to adopt the Broyhill substitute or legislation similar to it, I will urge the Senate to insist on a conference and in conference refuse to accede to the adoption of provisions which repeal fundamental energy authorities.

I hope that my colleagues of the majority party will join me in pledging not to accept repeal of substantive energy laws in the reconciliation process. To do so is to invite fundamental weakening of the Senate's committee system, and ultimately a fundamental weakening of the role of Congress.

Mr. HOLLINGS. Mr. President, the Senator from New York, who disappeared——

Mr. DOMENICI. Mr. President, it has been agreed upon now that the next amendment will be an amendment offered by the distinguished senior Senator from New York with reference to some matters on finance, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. DOMENICI. I withhold that.

Mr. President, I believe the distinguished Senator from New York is here and I am prepared to yield to him.

Mr. President, could we have order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask the distinguished Senator from New York if he intends to use the entire time that has been agreed upon for his amendment.

Mr. MOYNIHAN. Mr. President, may I ask the distinguished chairman, is the agreed-upon time the hour?

Mr. DOMENICI. Yes.

Mr. MOYNIHAN. Mr. President, I do not believe it will be necessary. There are a number of Senators who wish to speak; the distinguished Senator from Texas wishes to speak.

I wonder if I could ask the chairman if he would not allow us to make our case as succinctly as we feel necessary and to enable all those persons desiring to speak an opportunity to speak.

Mr. DOMENICI. Mr. President, I say to my good friend from New York that to the extent that he is able to do that in less than the allotted time, we will certainly attempt to do it in less than the time allotted in opposition.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

AMENDMENT NO. 100

(Purpose: To maintain current law with respect to child welfare services, adoption assistance, and foster care payments)

Mr. MOYNIHAN. Mr. President, I have amendment No. 100 at the desk and I ask for its immediate consideration. It is a technical amendment which I submitted earlier.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN), for himself, Mr. CRANSTON, Mr. BRADLEY, and Mr. BOREN, proposes amendment numbered 100.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out part I of title VII and insert in lieu thereof the following:

PART I—BLOCK GRANTS FOR SOCIAL SERVICES

SHORT TITLE

SEC. 781. This part may be cited as the "Social Services Block Grant Act."

TITLE XX BLOCK GRANTS

SEC. 782. (A) Title XX of the Social Security Act is amended to read as follows:

"TITLE XX—BLOCK GRANTS TO STATES FOR SOCIAL SERVICES

"PURPOSES OF TITLE; AUTHORIZATION OF APPROPRIATIONS

"SEC. 2001. For the purposes of consolidating Federal assistance to States for social services into a single grant, increasing State flexibility in using social service grants, and encouraging each State, as far as practicable under the conditions in that State, to furnish services directed at the goals of—

"(1) achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

"(2) achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

"(3) preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving rehabilitating, or reuniting families;

"(4) preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care; and

"(5) securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions; there are authorized to be appropriate for each fiscal year such sums as may be necessary to carry out the purposes of this title.

"PAYMENTS TO STATES

"SEC. 2002. (a)(1) Each State shall be entitled to payment under this title for each fiscal year in an amount equal to its allotment for such fiscal year, to be used by such State for services directed at the goals set forth in section 2001, subject to the requirements of this title.

"(2) For purposes of paragraph (1)—

"(A) services which are directed at the goals set forth in section 2001 include, but are not limited to, child care services, protective services for children and adults, services for children and adults in foster care, services related to the management and maintenance of the home, day care services for adults, transportation services, family planning services, training and related services, employment services, information, referral, and counseling services, the preparation and delivery of meals, health support services and appropriate combinations of services designed to meet the special needs of children, the aged, the mentally retarded, the blind, the emotionally disturbed, the physically handicapped, and alcoholics and drug addicts; and

"(B) expenditures for such services may include expenditures for administration (including planning and evaluation) and personnel training and retraining directly related to the provision of those services (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions).

"(b) The Secretary shall make payments in accordance with section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213) to each State from its allotment for use under this title.

"(c) Payments to a State from its allotment for any fiscal year must be expended by the State in such fiscal year or in the succeeding fiscal year.

"(d) A State may transfer up to 10 percent of its allotment under section 2003 for any fiscal year for its use for that year under other provisions of Federal law providing block grants for support of health services, health promotion, and disease prevention activities, or energy or emergency assistance (or any combination of those activities). Amounts allotted to a State under any provisions of Federal law referred to in the preceding sentence and transferred by a State for use in carrying out the purposes of this title shall be treated as if they were paid to the State under this title but shall not affect the computation of the State's allotment under this title. The State shall inform the Secretary of any such transfer of funds.

"(e) A State may use a portion of the amounts described in subsection (a) for the purpose of purchasing technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, or administering programs funded under this title.

"ALLOTMENTS

"SEC. 2003. The allotment for each State for any fiscal year shall be an amount which bears the same ratio to $2,243,000,000 as the total amount allotted to such State (without regard to any reallotment), or in the absence of an allotment, the total amount obligated to such State, or in the absence of such an allotment or obligation, the total amount paid to such State (as determined by the Secretary on the basis of claims for payment submitted by the State, and approved by the Secretary, on or before April 1, 1982) for fiscal year 1981 under this title (as in effect on September 30, 1981), and for social services in accordance with section 1108(a) of this Act, bears to the total amount so allotted, obligated, or paid to all States under those authorities for fiscal year 1981.

"STATE ADMINISTRATION

"SEC. 2004. Prior to expenditure by a State of payments made to it under section 2002 for any fiscal year, the State shall report on the intended use of the payments the State is to receive under this title, including information on the types of activities to be supported and the categories or characteristics of individuals to be served. The report shall be transmitted to the Secretary and made public within the State in such manner as to facilitate comment by any person (including any Federal or other public agency) during development of the report and after its completion. The report shall be revised throughout the year as may be necessary to reflect substantial changes in the activities assisted under this title, and any revision shall be subject to the requirements of the previous sentence.

"LIMITATIONS ON USE OF GRANTS

"SEC. 2005.(a) Except as provided in subsection (b), grants made under this title may not be used by the State, or by any other person with which the State makes arrangements to carry out the purposes of this title—

"(1) for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility;

"(2) for the provision of cash payments for costs of subsistence or for the provision of room and board (other than costs of subsistence during rehabilitation, room and board provided for a short term as an integral but subordinate part of a social service, or temporary emergency shelter provided as a protective service);

"(3) for payment of the wages of any individual as a social service (other than payment of the wages of welfare recipients employed in the provision of child day care services);

"(4) for the provision of medical care (other than family planning services, rehabilitation services, or initial detoxification of an alcoholic or drug dependent individual) unless it is an integral but subordinate part of a social service for which grants may be used under this title;

"(5) for social services (except to an alcoholic or drug dependent individual or rehabilitation services) provided in and by employees of any hospital, skilled nursing facility, intermediate care facility, or prison, to any individual living in such institution;

"(6) for the provision of any education service which the State makes generally available to its residents without cost and without regard to their income;

"(7) for any child day care services unless such services meet applicable standards of State and local law; or

"(8) for the provision of cash payments as a service (except as otherwise provided in this section).

"(b) The Secretary may waive the limitation contained in subsection (a) (1) and (4) upon the State's request for such a waiver if he finds that the request describes extraordinary circumstances to justify the waiver and that permitting the waiver will contribute to the State's ability to carry out the purposes of this title.

"REPORTS AND AUDITS

"SEC. 2006. (a) Each State shall prepare reports on its activities carried out with funds made available (or transferred for use) under this title. Reports shall be in such form, contain such information, and be of such frequency (but not less often than every two years) as the State finds necessary to provide an accurate description of such activities, to secure a complete record of the purpose for which funds were spent, and to determine the extent to which funds were spent in a manner consistent with the reports required by section 2004. The State shall make copies of the reports required by this section available for public inspection within the State and shall transmit a copy to the Secretary. Copies shall be provided, upon request, to any interested public agency, and each such agency may provide its views on these reports to the Congress.

"(b) Each State shall, not less often than every two years, audit its expenditures from amounts received (or transferred for use) under this title. Such State audits shall be conducted by an entity independent of any agency administering activities funded under this title, in accordance with generally accepted auditing principles. Within 30 days following the completion of each audit, the State shall submit a copy of that audit to the legislature of the State and to the Secretary. Each State shall repay to the United States amounts ultimately found not to have been expended in accordance with this title, or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this title.

"(c) For other provisions requiring States to account for Federal grants, see section 202 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4212).

"CHILD DAY CARE SERVICES

"SEC. 2007. (a) Subject to subsection (b), sums granted by a State to a qualified provider of child day care services (as defined in subsection (c)) to assist such provider in meeting its work incentive program expenses (as defined in subsection (c)) with respect to individuals employed in jobs related to the provision of child day care services in one or more child day care facilities of such provider, shall be deemed for purposes of section 2002 to constitute expenditures made by the State in accordance with the provisions of this title for the provision of child day care services.

"(b) The provisions of subsection (a) shall not be applicable with respect to any grant made to a particular qualified provider of child day care services to the extent that (as determined by the Secretary) such grant is or will be used to pay wages to any employee at an annual rate in excess of $6,000, in the case of a public or nonprofit private provider, or at an annual rate in excess of $5,000, or to pay more than 80 per centum of the wages of any employee, in the case of any other provider.

"(c) For purposes of this subsection—

"(1) the term 'qualified provider of child day care services', when used in reference to a recipient of a grant by a State, includes a provider of such services only if, of the total number of children receiving such services from such provider in the facility with respect to which the grant is made, at least 20 percent thereof have some or all of the costs for the child day care services so furnished to them by such provider paid for under a program conducted pursuant to this title; and

"(2) the term 'work incentive program expenses' means expenses of a qualified provider of child day care services which constitute work incentive program expenses as defined in section 50B(a)(1) of the Internal Revenue Code of 1954, or which would constitute work incentive program expenses as so defined if the provider were a taxpayer entitled to a credit (with respect to the wages involved) under section 40 of such Code.".

(b) Section 1101(a)(1) of such Act is amended by adding at the end thereof the following new sentence: "Such term when used in title XX also includes the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

CHILD WELFARE SERVICES AUTHORIZATION LEVELS

SEC. 783. (a) Section 420(a) of the Social Security Act is amended by striking out "$266,000,000" and inserting in lieu thereof "$122,250,000".

(b) Section 426(a)(1)(C) of such Act is amended by inserting before the semicolon at the end thereof the following: ", but the amount authorized for grants for training under this subparagraph shall not exceed $4,500,000 for any fiscal year".

CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT

SEC. 784. (a)(1) Section 1 of the Social Security Act is amended—

(A) by inserting "and" before "(b)" the first time it appears, and

(B) by striking out "and (c)" and all that follows through "self-care,".

(2) Section 3(a) of such Act is amended—

(A) by amending paragraph (4) to read as follows:

"(4) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."; and

(B) by striking out paragraph (5).

(3) Section 3(c) of such Act is repealed.

(b)(1) Sections 402(a)(5), 402(a)(13), 402(a)(14), 402(a)(15), 403(a)(3), 403(e), and 406(d) of such Act as in effect with respect to Puerto Rico, Guam, and the Virgin Islands are repealed.

(2) Sections 402(a)(5), 402(a)(15), and 403(a)(3) of such Act as they apply to the fifty States and the District of Columbia shall be applicable to Puerto Rico, Guam, and the Virgin Islands.

(3) Section 403(a)(3)(A) of such Act is amended by inserting "(or, in the case of Puerto Rico, Guam, and the Virgin Islands, 60 per centum)" after "75 per centum".

(4) Section 248(b) of the Social Security Amendments of 1967 (Public Law 90-248) is repealed.

(c) Section 402(a)(15) of such Act is amended—

(1) by striking out "as part of the program of the State for the provision of services under title XX"; and

(2) by striking out "or clause (14)".

(d) Section 403(a)(3) of such Act is further amended by striking out "service described in section 2002(a)(1)" and inserting in lieu thereof "service described in section 2002(a)".

(e)(1) Section 1001 of such Act is amended by striking out "and of encouraging each State" and all that follows through "self-care".

(2) Section 1003(a) of such Act is amended—

(A) by amending paragraph (3) to read as follows:

"(3) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local

agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."; and

(B) by striking out paragraph (4).

(3) Section 1003(c) of such Act is repealed.

(f) Section 1008(a) of such Act is amended in the matter preceding paragraph (1) to read as follows:

"(a) The total amount certified by the Secretary of Health and Human Services under titles I, X, XIV, and XVI, and under parts A and E of title IV (exclusive of any amounts on account of services and items to which subsection (b) applies)—".

(g) Section 1115(a) of such Act is amended—

(1) in the matter preceding paragraph (1), by striking out "XIX, or XX" and inserting in lieu thereof "or XIX";

(2) in paragraph (1), by striking out "1902, 2002, 2003, or 2004" and inserting in lieu thereof "or 1902"; and

(3) in paragraph (2)—

(A) by striking out "1903, or 2002" and inserting in lieu thereof "or 1903", and

(B) by striking out "or expenditures with respect to which payment shall be made under section 2002,".

(h) Section 116 of such Act is amended—

(1) in subsections (a)(1) and (b), by striking out "XIX, or XX" and inserting in lieu there of "or XIX";

(2) in subsection (a)(3), by striking out "1904, or 2003" and inserting in lieu thereof "or 1904"; and

(3) in subsection (d), by striking out "XIX, XX" and inserting in lieu thereof "or XIX".

(i) Section 1124(a) of such Act is amended—

(1) in paragraph (1), by striking out "XIX, and XX" each place it appears and inserting in lieu thereof "and XIX"; and

(2) in paragraph (2)—

(A) by inserting "or" after the semicolon at the end of subparagraph (B);

(B) by striking out "; or" at the end of subparagraph (C) and inserting in lieu thereof a period; and

(C) by striking out subparagraph (D).

(j) Section 1126(a) of such Act is amended by striking out "XIX, and XX" and inserting in lieu thereof "and XIX".

(k) Section 1128(a) of such Act is amended—

(1) in paragraph (2)(A), by striking out "or title XX,"; and

(2) in paragraph (2)(B), by striking out "or title XX".

(l)(1) Section 1401 of such Act is amended by striking out "and of encouraging each State" and all that follows through "self-care".

(2) Section 1403(a) of such Act is amended—

(A) by amending paragraph (3) to read as follows:

"(3) in the case of any State; an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivisions; plus

"(B) one-half of the remainder of such expenditures."; and

(B) by striking out paragraph (4).

(3) Section 1403(c) of such Act is repealed.

(m)(1) Section 1601 of such Act is amended—

(A) by inserting "and" before "(b)" the first time it appears; and

(B) by striking out "and (c)" and all that follows through "self-care,".

(2) Section 1603(a) of such Act is amended—

(A) by inserting "and" after the semicolon at the end of paragraph (2)(B);

(B) by amending paragraph (4) to read as follows:

"(4) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health and Human Services for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

"(B) one-half of the remainder of such expenditures."; and

(C) by striking out paragraph (5).

(3) Section 1603(c) of such Act is repealed.

(n) Section 1616(e)(2) of such Act is amended by striking out ", as a part of the services program planning procedures established pursuant to section 2004 of this Act,".

(o) Section 1619 of such Act is amended—

(1) by striking out "titles XIX and XX" each place it appears and inserting in lieu thereof "title XIX", and

(2) by striking out "title XIX or XX" and inserting in lieu thereof "title XIX".

(p) Section 1620(c) of such Act is amended by striking out the matter following the end of paragraph (7).

OTHER CONFORMING AMENDMENTS

SEC. 785. Section 3(f) of the Social Security Amendments of 1974 (Public Law 93-647) is repealed.

EFFECTIVE DATE

SEC. 786. Except as otherwise explicitly provided, the provisions of this part, and the repeals and amendments made by this part, shall become effective on October 1, 1981.

STUDY OF STATE SOCIAL SERVICE PROGRAMS

SEC. 787. The Secretary of Health and Human Services shall conduct a study to identify criteria and mechanisms which may be useful for the States in assessing the effectiveness and efficiency of the State social service programs carried out with funds made available under title XX of the Social Security Act. The study shall include consideration of Federal incentive payments as an option in rewarding States having high performance social service programs. The Secretary shall report the results of such study to the Congress within one year after the date of the enactment of this Act.

Mr. MOYNIHAN. Mr. President, the purpose of this amendment is to restore to the Social Security Act titles IV(b) and IV(e) and the adoption assistance provisions which are law today and which provide for the care of children in foster homes, including orphanages of sizes under 25 persons.

Mr. DOMENICI. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The Senate is not in order. The Senate will be in order.

The Senator from New York.

Mr. MOYNIHAN. Mr. President, if I may repeat, these provisions are titles IV(b) and IV(e), which does today, as the Social Security Act has done since its enactment in 1935, provide that any child placed in foster care by a State agency is entitled, as a matter of right, to have a share of his or her maintenance paid for by the Federal Government in much the manner the Federal Government shares the cost of families of dependent children in what we more generally know as the AFDC program.

There are 110,000 of these children. Nearly 90 percent of them are minority children. Many of them, although not the larger number, are orphans.

Title IV(b) of the Social Security Act provides, as it has done since 1962, for child welfare services. These have a variety of purposes, one of which is to provide for the placement of children in foster homes but, simultaneously, to see if that cannot be avoided through the reestablishment of the original home environment or the successful adoption of a child for whom there are no parents.

In 1980, after 4 years of deliberation, this Senate, by voice vote—I believe there were no dissenting votes—established a new program called the child welfare adoption assistance program. Only two Members of the House of Representatives—a vote of 401 to 2—voted against that bill. We set about as a national goal minimizing the number of children placed in foster homes. Children get lost in foster homes. Perhaps it is something that cannot be helped, but it is increasingly a problem.

In a country, Mr. President, where 50 percent of the children born today will live in a one-parent family before they are 18, a third of the children born today will be on public assistance before they are 18, we set out to establish adoption allowances which would enable low-income families to adopt children. Rather more specifically, to enable families where a foster child has been brought in and, where an attraction or relationship arises, we set out to make adoption less burdensome. Before we passed Public Law 96-272 last year, for low-income families to adopt such a child meant to lose all such support that comes from State and local government. Adoption allowances enable that support to continue.

I know how strongly Members of this Senate feel that we should retain these rights for those persons who have as little voice and as little influence as any group you could describe in our society.

I know that the Senator from Texas, my friend and colleague on the Finance Committee, was as troubled as I was when this decision to repeal these important programs was made with but little debate and less notice. I believe that he would like to speak at this point to this matter. It is one that has to engage us all. We hope not to raise our voices but, rather, to speak quietly in the hope that the other Members in this Chamber would listen intently. I am happy to yield to the Senator from Texas.

Mr. BENTSEN. I am very pleased to join in this amendment with Senator MOYNIHAN and Senator BOREN.

I have not had any orphans call on me. I, actually, have not had any adoptive parents call. But I happen to feel very strongly that this is not the time—when we are concerned about parental guidance, family ties, and trying to give some direction to the life of children—to turn our backs on 100,000 plus children by putting a limitation on Federal assistance for foster care, adoption assistance, and child welfare services.

The passage 1 year ago of Public Law 96–272, the Adoption Assistance and Child Welfare Act of 1980, represented the culmination of several years of effort by individuals, agencies, and organizations who are deeply concerned about the state of the child welfare system in this country.

The law restructures Federal policy by providing States incentives to move away from a system that encouraged the use of foster care—expensive both financially and socially—to a system that encourages stability and permanency for eligible children. For the first time, through this piece of legislation, an adoption assistance program was established to help families meet the costs associated with adopting the hard to place, often handicapped, child. But perhaps the most innovative aspect of the law is the use of incentives to promote reform.

States are funded at an increased level so that they might institute mechanisms to identify children in foster care, follow each of these children during their attachment to the welfare system, establish a statewide information network to help place children, and develop preplacement services to assist the child and the family during a sometimes difficult transition period. Funding to the individual States is reduced if the requirements of the law go unmet.

The net effect of the changes made by 96–272 is to reorder priorities and restructure incentives with respect to the care of needy children. In essence, through enactment of the Adoption Assistance and Child Welfare Act, the Federal Government has made a commitment to keep children in their homes when feasible, to return them to their parents when possible, to facilitate adoption for children without parents or whose parents are unable to care for them, and to utilize foster care only as a temporary alternative until a more permanent arrangement can be made.

The reconciliation bill now before you threatens the very existence of these much needed reforms by altering the entitlement status of the program thus jeopardizing the incentive system: and by forcing fledgling children's services to compete for funding with other more well established programs combined into a social services block grant.

This particular program just will not survive if we do that.

Even the most fiscally minded Member of this Senate would acknowledge that there can be no more important payoff in the investment of the taxpayers' money than that which we gain by providing parental guidance for these children, by helping the adoption procedure to see that these children are put in homes where they are loved, where they are cared for, where there are people who will give them family ties, and where they can be taught the basic values that are so necessary in our lives.

If we are to meet the challenges of our changing social structure where the value of human life is being debated in public forums: When the number of teenage girls having children is growing at an alarming rate—children bearing children—when changing standards are testing the very fabric of American home life; I believe we in the Congress cannot afford to step away from a national commitment to support those programs that strengthen families, encourage them to be cohesive and provide the kind of guidance our children need and desire.

Finally, Mr. President, as I said earlier, mine is a very personal interest in preserving the integrity of this legislation. As a parent who took an adoptive child—a chosen child—into my home more than 20 years ago, I urge each of my colleagues to lend their support to this amendment that the financial barriers to adoption might be reduced to enable the hard to place needy child and his parents to experience the extraordinary gift of love that a family fortunate enough to have a chosen child can experience.

As indicated earlier, CBO estimates the cost associated with passage of this amendment at $87 million, bringing the total anticipated expenditure for these programs to $467.5 million in fiscal year 1982. While most of us agree that reductions in Government spending are necessary, in my view the relatively modest increase in funding called for by this amendment is a small price to pay for what is surely an investment in the future of this Nation's most precious resources—its children.

I thank the Senator for yielding.

Mr. RANDOLPH. Will the Senator yield?

Mr. MOYNIHAN. I believe the Senator from Massachusetts has asked to speak next.

Mr. President, before the Senator from Massachusetts proceeds, I have two modifications at the desk.

Also, I ask that Senators KENNEDY, BOREN, CRANSTON, BRADLEY, BENTSEN, LEVIN, and our distinguished Democratic leader, Senator ROBERT C. BYRD, be added as cosponsors.

The PRESIDING OFFICER. The amendment will be so modified. Without objection, the additional cosponsors are noted.

The modification reads as follows:

Section 783(a) of such amendment is amended by striking out "Section 420(a) of the Social Security Act is amended by striking out $266,000,000 and inserting in lieu thereof $122,250,000" and inserting in lieu thereof "Section 420(a) of the Social Security Act is amended by striking out "for each fiscal year the sum of $266,000,000" and inserting in lieu thereof "for Fiscal Year 1982 the sum of $122,250,000 and such sums as may be necessary in succeeding fiscal years."

On page 19, after line 7 insert:

(q) Section 474(a) of such Act is amended by striking out "as defined in section 1905 (b)" each place it appears and inserting in lieu thereof "as determined for purposes of section 1118".

Mr. KENNEDY. Mr. President, I welcome the opportunity to join with my colleague, the Senator from New York, in urging that the Senate accept his amendment. I had intended to speak on this amendment, Mr. President, to give my reasons for supporting it. But I do not think the case can be any more eloquently or beautifully or compellingly made than it already has in a letter I received from Jim and Connie Moretz. I will ask the Senate's patience while I read this letter, which states the arguments on the amendment of the Senator from New York better than any prepared speech possibly could.

I commend the very important and eloquent remarks of my friend, the Senator from Texas, in support of this amendment as well.

APRIL 27, 1981.

DEAR SENATOR KENNEDY: I am writing to you concerning an issue that is very close to my heart. It involves P.L. 96–272, the Adoption Assistance and Child Welfare Act of 1980, and P.L. 95–266, The Adoption Opportunities Act of 1978, which is due to be re-authorized and refunded this spring.

The Reagan Budget includes this in a block grant and this program (P.L. 95–266) is not slated for refunding. P.L. 95–266 has been instrumental in finding permanent homes for some of our nation's 500,000 children in foster care, especially those children with special needs and/or of a minority.

In March 1980, my husband and I adopted this beautiful Hispanic little girl. She has multiple handicaps resulting from her being a fetal alcohol syndrome child. It was necessary for us to receive a monthly subsidy and also medical, psychological, and orthodontic subsidy in order to include Sarah into our family.

There are other families like ours who have the skills, love, and desire to include a special needs child in their families, but who cannot afford to do so without subsidy.

Many children will be forced to remain in the foster care system indefinitely if subsidy becomes unavailable to adoptive parents. Many children will spend 18 years in foster care—usually in many different homes. They will never have their own family, grandparents for their children, a home to return to for holidays, or a family to give them love and a support system throughout their lives. All of this often affects their ability to parent and to form lasting relationships, so the cycle continues.

And, Senator Kennedy, this beautiful little boy is our son, Nicholas. He came to us as a foster child and 15 months later, we joyfully adopted him. Nicholas has cystic fibrosis, and he may not live to be an adult. Nicholas has brought such love and joy to our family. All of the Nicholases of this world deserve a forever family. Children who are chronically ill need the stability of an adoptive family even more than a healthy child. However, these children are hard to place because of their illness/handicaps, the daily care needed, their prognosis, and the expenses involved in meeting their special needs.

Nicholas' adoption is also subsidized on a monthly basis and includes complete medical and dental coverage. Without this subsidy, we could not provide the services Nicholas needs to stay alive and to have his life be one of quality.

We have recently applied to adopt another non-Anglo special needs child. She will be our 6th child. Most likely, we will need subsidy for her also.

Please understand that my husband and I understand the realities of the foster care system very well. We have been specialized foster parents for over 4 years. We have cared for mildly to severely handicapped

children. We know that even the best foster home is no substitute for a permanent home.

Together P.L. 96-266 and P.L. 96-272 offer America's over half-million vulnerable children in foster care their best hope for permanency. Both of these programs will save tax dollars as well as children's lives!

Senator Kennedy, I urge you to encourage the removal of P.L. 96-266 and P.L. 96-272 from the block grant and to help them be funded as part of the federal budget for 1982.

Thank you for your time and your concern.

Sincerely,

JIM and CONNIE MORETZ.

Mr. President, I think that that letter probably states as well as it could be stated here, on the floor of the Senate, the reason for supporting this amendment. I have followed the very difficult times that parents have, particularly those with special needs of children. It makes no difference whether they are handicapped children or mentally retarded children. Without this direct kind of support and subsidy, families like Jim and Connie Moretz would not have been able to adopt Sarah and Nicholas. This program was supported overwhelmingly in recent years by Republicans as well as Democrats. If we fail to adopt Senator MOYNIHAN's proposal, I believe we shall undermine one of the very effective and important, humane, and decent actions that the Congress and the Government of the United States have taken in recent times. These programs permit families in this country to share their love and their affection with children who would otherwise be homeless. I hope that the Senate will support this compassionate and decent amendment.

Mr. MOYNIHAN. Mr. President, I thank very much the distinguished senior Senator from Massachusetts and I should like in particular to thank John and Connie Moretz, who wrote to him with such knowledge and conviction.

I make the point that this large new effort has only begun. It has not been put in place yet. Scarcely did we ever think of reconciliation legislation as a means to repeal one of the major pieces of social legislation of this time.

Mr. President, no Member can speak more eloquently of such matters than the senior Senator from West Virginia (Mr. RANDOLPH), to whom I yield such time as he may desire.

(Mr. WARNER assumed the chair.)

Mr. RANDOLPH. Mr. President, I am very grateful to my able colleague from New York (Mr. MOYNIHAN) for yielding to me at this time.

I gladly speak for his valid amendment, which I strongly support and cosponsor. I have discussed with other Members the rightness of our affirmative vote. Listening to our understanding colleague from Texas (Mr. BENTSEN), and our compassionate colleague from Massachusetts (Mr. KENNEDY), I too will be personal. The element of family, love in family, have been stressed.

A few months ago, Mr. President, Mary Randolph died, our helpmate who meant so much to me in our marriage lasting more than 48 years. For several years before 1933, when we were married, she worked in placement and adoption of children in foster homes. Her diaries, tell poignantly the experiences she had with children in need of permanent homes. In the early twenties in West Virginia, there were not as many bridges over streams as we would have liked—Mary would leave her little two-door car Ford, put on her swimsuit and walk waist deep or swim across those rivers in the hill country, to help a mother, in one instance, who had a husband who, for one reason or another, had left a mountain home without warning.

There were 11 children and no means by which this mother, although she loved them, could properly care for them. Mary worked to place those children in a proper environment.

It was not an easy or, let us say, a quickly accomplished task. Letters received from those children when they were older, told of the joy they had in the homes into which, by careful planning, they were given the opportunity to live and to learn and to believe and to contribute in the character and strength of their adoption families.

Mr. President, an honorary college degree was given to Mrs. Randolph in 1978 for public service. Mary Wood, remembering her girlhood problems and appreciation, came to be with Mrs. Randolph. She was grateful for the compassion and understanding as she was placed in the good surroundings, in a home of love. Mary Wood lives in the hill country of West Virginia. She and her husband have children. She expressed the fact—which is a beautiful fact—that had someone not cared, she would have had an unhappy life with, perhaps, an existence that would have been cold and possibly cruel. From a frightened little girl she grew to be a fine woman.

When the Senator talks (Mr. MOYNIHAN), with compassion and with judgment, we realize that this amendment helps us to do what we should do. Let us think of our responsibilities—not as Democrats or Republicans, but as fathers and mothers to help little children, to see that they smile again because of those caring elders.

Mr. President, this adoption policy can only be done when we, in a sense, will help to do away with haphazard placements. Let us have orderly process, the practical process, the compassionate process, embodied in this amendment.

Mr. MOYNIHAN. I thank the Senator for his beautiful statement in memory of his beloved lifetime companion, Mrs. Randolph. He can speak of a Mary Wood and the Moretzes can speak of the children they have adopted, but the children cannot speak for themselves.

I am sorry to say that the lobbies are empty today, the lobbies are empty. The distinguished Visitors' Gallery has no distinguished visitors. There are but few members in the Press Gallery, only a scattering of friends in the Senators' Gallery.

The children are not here. They cannot get here. They have not sent us telegrams. They have no law firms representing them.

Later today, we are taking up tax legislation. A quarter of the bar of Washington is outside the Senate Finance Committee room right now, attending, with the most meticulous concern, to the slightest change in the financial advantages of their clients.

There is not a person in that lobby thinking of these children. There have been three exceptions, and I should like to make their names known. The Junior League of America testified against this modification with compassion and understanding, as an organization of young mothers who are active in child adoption, welfare, and foster care. The other two organizations are the Children's Defense Fund and the Child Welfare League.

I am authorized to say by the National Governors Association and the National Association of Counties that they wish their support for this amendment to be known, simply to give this new law a chance, and not to rip from the Social Security Act the rights of children.

One of the more distinguished Governors to grace this body in our time has been the young and irresistably magnetic Governor of Oklahoma, who now is the junior Senator from Oklahoma. Here is a man who has dealt with this problem as the head of a State, as one who must make these hard, difficult decisions. I know that he wishes to be heard, and I believe this body wishes very much to hear him.

I am happy to yield 5 minutes to the Senator from Oklahoma.

Mr. BOREN. Mr. President, I thank my colleague from New York, and I appreciate very much his kind comments. I wish to pay tribute to him for the attention he has shown to this issue. Had it not been for the fact that he brought it to the attention, first, of the Finance Committee and now of the entire Senate, I am afraid that this change could have been made without due notice and due consideration.

I commend the Senator from New York for his sensitivity and his careful following of this issue and his sincere concern for the young people of our country, which this amendment certainly illustrates.

The PRESIDING OFFICER. The Chair is reluctant to interrupt; but, out of an abundance of caution, the Chair advises the distinguished Senator from New York that he has 27 seconds remaining but has yielded 5 minutes to the Senator from Oklahoma.

Mr. MOYNIHAN. I thank the Chair for his courtesy. The manager on the minority side asked me to handle the time, and I yield 5 minutes from the bill to the Senator from Oklahoma.

Mr. BOREN. I again thank the Senator from New York, and I thank the Chair.

Mr. President, I am proud to join in offering this amendment, which has been submitted by my friend and colleague, the Senator from New York.

As many of my colleagues are aware, I have long been supportive of the block grant approach to Federal funding of social programs. As the Senator from New York mentioned, I did have an opportunity to serve in the Governor's office in the State of Oklahoma; and as a former Governor, I am convinced that State governments, in most cases, can more effectively and compassionately ad-

minister Federal programs when free from Federal regulation.

Some Federal programs, however, are so important as to require funding outside the context of a single block grant approach. Three of these programs are foster care, adoption assistance, and child welfare services.

As my colleague from New York has already indicated, the foster care and adoption assistance programs were significantly strengthened by the enactment just last year of Public Law 96–272, under the leadership of the Senator from New York. As described in the conference report, that legislation, this act, known as the Adoption Assistance and Child Welfare Act of 1980, included incentives encouraging "greater efforts to find permanent homes for children either by making it possible for them to return to their own families or by placing them in adoptive homes."

This program has the potential to meet a long-standing need in our society by helping to provide a stable and loving home life to those children who would otherwise suffer uncertainty and isolation throughout their formative years. It would be a mistake, Mr. President, to suspend our support of this program before we have even had time to examine its effect. For this reason our amendment retains crucial elements of Public Law 96–272.

In order to continue to encourage adoption of these children, Mr. President, I urge adoption of this amendment.

Mr. President, the Senator from New York mentioned earlier that the National Governors Conference has endorsed this amendment. Again, that is a body composed of people who believe in local government, who, in most cases, believe that great flexibility should be given to local units of government. I am sure they adopted a resolution of support and took a position of support for the same reason I support this amendment.

All of us who have served as Governors, who have been seated in the Governor's chair, recognize that when you have limited funds, there are all sorts of pressures brought to bear for the expenditure of those funds. Groups are highly organized. The letter writing campaigns are waged. Media campaigns are waged.

It is my fear, Mr. President, that if we, in essence, leave the fate of the children of this country, the orphaned children, those in foster homes, those who should be considered for adoption, those who are badly in need of permanent homes as they grow up—if we leave their fate to the process of brokering between these highly organized groups, it is my fear that they will fall through the cracks.

In conscience, I cannot fail to support this amendment. I hope that every Member of this body, on both sides of the aisle, will pause to reflect on the meaning of this amendment, will think long and hard about the children who are affected by it. I know there is not a Member of this body who, if confronted with an individual or personal situation of a child in need, would not try to help that child.

I hope that we will look at this issue in a very personal way, that we will not look at it as statistics on a page, but that we will think of it in human terms, that we will think about that child tossed from one foster home to another, who needs a permanent home; that we will think about asking that child and his fate to compete with the organized groups in the country for the few dollars that are available in social services programs.

I believe that if each of us would pause to consider the issue in that light, this amendment would be adopted overwhelmingly.

There is a tendency, in considering issues such as this, to become partisan, to send out the word that we have a bill, that the bill overall is a good bill, and that, therefore, we should resist every amendment to it.

This is a great deliberative body, Mr. President, and to earn that title and to continue to earn that title, it is certainly imperative that we use our independent judgment, our sensitivities, and weigh each and every amendment ourselves.

I cannot help believe that if the President and members of this administration fully understand the import, the magnitude, and the effect of the change which has been proposed, they, also, would want to join the Senator from New York and others in supporting this amendment.

I urge each and every Member of the Senate to examine his or her own conscience, his or her individual conscience, think of these children who cannot be here who have not been able to wage a letter-writing campaign, who do not have computers at their disposal, who do not have the capability of holding press conferences in their own behalf, think of their welfare, think of their interests and support the amendment of the Senator from New York.

Mr. MOYNIHAN. I thank my friend from Oklahoma for his approving remarks.

Mr. President, I ask unanimous consent that the distinguished senior Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Chair.

Mr. DANFORTH. Mr. President, I rise to oppose the amendment offered by the Senator from New York.

First, addressing myself to the very persuasive, even gripping arguments that were made by the Senators from New York, West Virginia, and Oklahoma, about the empty galleries, and so on, the Finance Committee has not proposed that suddenly adoption assistance or child welfare services or foster care be abolished, that Government no longer care about the children.

That has not been the point of the Finance Committee's position. Instead, the issue is whether or not a greater amount of flexibility is going to be allowed to State governments to address these three very important concerns.

As a matter of fact, in the bill as it stands now, the Finance Committee has mandated that as a condition for participating in the block grant program, the States will have to provide adoption assistance, child welfare services, and foster care.

So, Mr. President, really the question is not whether we are turning our backs on needy children. The question rather is at what level of Government will we vest the lead responsibility for caring for needy children.

So often, I think we have gotten ourselves in a trap of feeling that we in Washington have a monopoly on compassion, that we in Washington have a monopoly on providing for those who are in need, that we feel that if there is any problem that exists anywhere in the country come to Washington and get a solution for it and we will tell you in detail how to handle every problem there is.

Mr. President, I spent 8 years of my life in State government, serving as the attorney general of my State of Missouri, and spending a tremendous proportion of that time, I might add, in trying to deal with the Federal bureaucracy, and I did not notice any lack of compassion on the part of those who worked for the State of Missouri and Jefferson City, and I doubt if there is any lack of compassion among State officials in Albany. State legislators, as a matter of fact, are closer to their constituents than we can ever hope to be. They have smaller constituencies and their legislative bodies are located closer to the people and are more accessible to the people.

So I do not think that there is any reason to believe that somehow we in Washington are the compassionate people and those in Albany or Jefferson City, or wherever, somehow are cold hearted and unconcerned.

We have indicated in this legislation that we are going to insist as a condition of participating in the block grant program that States do conduct adoption assistance, child welfare services, and foster care programs.

Mr. MOYNIHAN. Mr. President, will the Senator yield for a question?

Mr. DANFORTH. I yield.

Mr. MOYNIHAN. Is it not the case that the amounts of money provided are 25-percent less than had been provided before?

Mr. DANFORTH. That is correct.

Mr. MOYNIHAN. So that even if the programs should go forward in this general package they will be substantially reduced?

Mr. DANFORTH. I think that one thing that is offered by changing the form of grants from categorical to block grants is flexibility, flexibility for States to spend their funds that are available to them in ways that they believe are most effective in their own parts of the country.

What the Governors have told me and I am sure many other Members of the Senate when they have come here, and they have spent a lot of time here in the last 4 or 5 months, is "Look, if you are going to be restrictive in the Federal

budget, if you at the Federal level are going to be providing a tighter hand on the Federal dollar, if we are going to start moving out of the period of expansionism in Federal funding, then at least give us the latitude, give us the freedom at the State level to spend those funds that are available on purposes which we feel are important, rather than forcing us through categorical grant programs to divert the available funds on those programs that we think are relatively cost ineffective."

Mr. MOYNIHAN. May I ask one additional question of the distinguished Senator from Missouri?

Mr. DANFORTH. Yes.

Mr. MOYNIHAN. He has heard me state in this case the National Governors' Association has asked this amendment be supported. But also may I ask him: Did he hear me or any of us concerned about this matter speak of State governments as being characterized by a lack of compassion or concern? He did not, I think. I think we spoke to the fact that for a half century children in foster care have had in the Social Security Act an entitlement which now is to vanish. We did not speak with any intent to suggest an inadequate concern at the State level. As a matter of fact, foster care by definition only takes place when the State government places the child in that situation.

Mr. DANFORTH. I think that one of the basic arguments that is and may be the most prevalent basic argument that is made when categorical grants are debated as opposed to block grants is that if we are really going to care for needy children, if we are really going to care for children who are adopted, then of necessity it has to be in the form of categorical grants.

I can remember a debate which was held on the floor of the Senate last year concerning a bill that had been introduced by Senator CRANSTON relating to domestic violence, and in connection with that bill there was a debate as to whether or not instead of having yet another categorical grant program for domestic violence we should not shift exactly the same amount of funds into title 20 of the Social Security Act where the States are expressly given the option of running exactly the same kind of program.

The argument that waged for hours at that time was, "Well, if you really are concerned about battered wives and brutalized grandparents, and so on, we have to have a categorical grant program."

So the emotion-charged argument—and that was certainly going on without the last half-hour here on the floor of the Senate—is always made to champion the categorical grant program.

But I can tell you that as a child of the State government myself I can recount innumerable episodes when it was the State officials who were concerned about the needy and the oppressed and the disadvantaged, and where it was the Federal officials, through their manipulations, who were threatening not only the morale but the whole functioning of the State program.

So I hope the Senator from New York will agree with me that we are not talking indeed in context of this amendment about where the compassion is. I hope the Senator from New York will agree with me that it is equally possible to be compassionate and to favor the block grant concept as it is to favor the categorical grant concept.

Mr. MOYNIHAN. I respond to the Senator with the utmost brevity. I agree completely with him.

Yet it is the fact that last year we responded to a real need to change a situation in our country. The three provisions, three programs, involved here, adoption assistance, foster care maintenance, and child welfare services, all in combination were established. Before Congress acted only two States had all three, New York and California. That was the fact. Very few States had adoption assistance, for example.

I return to the proposition, and no more, that there is something noble about the Social Security Act having for a half century provided an entitlement to these children, and something unattractive about our taking it away.

I speak more to this body that what seemed appropriate in 1935 should not somehow seem unnecessary in 1981.

Mr. DANFORTH. Mr. President, I would like to make only two points and then yield some time to the Senator from New Mexico.

The first point is that, of course, under the legislation as it now stands there is in fact a mandate that States must assume responsibility within the context of the block grant for adoption assistance and child welfare services and foster care, so that the concern that Senator MOYNIHAN pointed out would be taken care of.

The second point, Mr. President, the final point I would like to make, is simply this: The classic argument in Government has been since before our country became a Republic where are governmental decisions to be made? That concern was the great consuming passion of our Founding Fathers. They were not so much concerned with the question of what decisions would be made by Government but they were concerned about the structure of decisionmaking. They were concerned about the relationship between the legislative, executive, and judicial branches, and they were concerned about the relationship between the Federal and State governments. In fact, the 10th amendment to the Constitution was expressly designed to try to assure the continuing role of State governments in making decisions, governmental decisions.

Somehow over a period of time we have lost sight of the question of a process, and we have concentrated so much on the results that we, at the Federal level, believe are important that we have preempted decisionmaking responsibility which we used to believe was important at the State level.

I would only say this, Mr. President, and that is that the whole question of the locus of decisionmaking has in itself been a matter of basic, fundamental value in this country, a matter of consuming passion on the part of those who established the kind of system we are to have, and that is the basic question, I think, of categorical grants versus block grants because in the form of categorical grants we have tended to make State governments and local governments not so much decisionmakers but rather implementers of programs which we devise here in Washington.

We make the decisions, we fund the programs, and we expect the local and State levels of government to, in turn, administer our programs under our terms.

One of the issues before the American people in the election last November had to do with the role and scope of the Federal Government. In fact, that might have been the most important issue that was faced by the American people. It was not simply a matter of the size of the bureaucracy or its cost or the amount of forms people have to fill out but, rather, it was a concern that the American people had that somehow they were losing control of what Government decided, and to the extent that we in Washington determined how every dollar is to be spent, to the extent that we develop hundreds of categorical programs with thousands and thousands of pages of regulations detailing precisely how the programs are to be operated, then we are exacerbating that concern; then we are making it increasingly obvious to the American people that we really did not hear the message of last November and that we in Washington intend to continue to manage their affairs.

The people at the State level and the people at the local level have just as much compassion as we have, and particularly at a time of budgetary stringency, economy as well as political philosophy mandate that we provide them at the State level with a greater amount of flexibility in making their own decisions.

Mr. President, I yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. How much time remains for the proponents of this measure?

The PRESIDING OFFICER. There remain 11 seconds to the proponents.

Mr. DOMENICI. How much time do we have in opposition?

The PRESIDING OFFICER. Thirteen minutes and 40 seconds.

Mr. DOMENICI. I indicate that unless there is some objection from our side after a few more moments we are prepared to yield back our time.

Have the yeas and nays been ordered?

Mr. MOYNIHAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. Mr. President, if the distinguished chairman will yield, we are short a little time here. We need a

couple of minutes for the Senator from California and the Senator from Michigan. I can yield it off the time on the bill. While the Senator is arranging for the time will he yield it?

Mr. DOMENICI. It does not matter because it is going to come off the bill anyway. How much additional time would you like?

Mr. CRANSTON. Four minutes.

Mr. HOLLINGS. Four minutes for the Senator from California, and 3 minutes for the Senator from Michigan (Mr. LEVIN).

Mr. DOMENICI. I would suggest, then, if it is all right with the distinguished Senator from South Carolina, that we allow those Senators to speak, take it off my time in opposition, and then I will use whatever time remains.

Mr. HOLLINGS. I appreciate that very, very much. Thank you a lot.

Mr. CRANSTON. I appreciate the cooperation of all Senators.

Mr. President, I strongly support the amendment of the distinguished Senator from New York and the distinguished Senator from Oklahoma to strike the provisions of the Finance Committee's reconciliation legislation which repeal the adoption assistance and Child Welfare Act of 1980—the landmark foster care and adoption assistance legislation enacted last year.

Mr. President, this legislation was developed after years of careful study and deliberation. It represented a bipartisan effort to reform a foster care system that had gone astray from its original purpose—the temporary care of abused and neglected children. The foster care program had become a nightmare, a limbo where innocent children were taken from their families and left to drift for years on end. Children without families were left in cold, barren, and sometimes inhumane institutions while families willing and eager to open their homes and their hearts to these children were told there were no children available for adoption.

Mr. President, our foster care system—started with every good intention—has become a national disgrace. Countless studies by public agencies such as our own General Accounting Office and numerous private, blue ribbon commissions, have documented over and over the incredible abuses which permeate foster care in America.

Mr. President, I speak as one Senator who became personally and deeply committed to the effort to reform the foster care system and to free the thousands and thousands of young children caught in foster care limbo. In previous Congresses, I have chaired numerous hearings where witness after witness described the foster care system as:

A system where over half the children in foster care had been away from their families for more than 2 years and had in that period of time at least four different caseworkers;

A system where caseworkers too frequently did not even know where some foster children were or how long they had been there;

A system where, one GAO study found, 45 percent of the families of children in foster care had not even been visited by caseworkers; and

A system where some 50,000 children, legally free for adoption, are kept as wards of the State, not because there are no families willing to adopt them, but because no one has bothered to try to match these children with the thousands of families ready and willing to adopt even the most handicapped child.

Mr. President, I listened to witness after witness describe the efforts they had made to try to break through the system, to try to save a child who had touched their hearts and their lives, a child they wanted to love and to give a home. And I heard over and over how our foster care system keeps these children locked into the foster care limbo, how we pay unlimited amounts to keep children in foster care and nothing to help them move into adoptive homes, and how very few dollars are made available for services to help reunite children with their own families or help prevent their removal in the first place.

Mr. President, Congress acted last year to reform this system. We enacted a law aimed at breaking the cycle of long-term foster care, a law aimed at helping families stay together rather than needlessly breaking them up. It was a good law, a bipartisan law. Yet, the measure before us today would repeal that law, would strike from the United States Code the legislation that so many worked so hard to achieve—legislation that was and continues to be so urgently needed.

Mr. President, those who argue in favor of repealing this legislation justify their action under the guise of "budgetary" economies. What budgetary economies, I ask my colleagues, can justify this course of action? What savings will accrue from allowing families to be broken up and stay broken up?

The answer is none. Quite to the contrary, the evidence is overwhelming that implementation of Public Law 96–272 will result in enormous savings over time to the Federal taxpayers. Numerous demonstration projects which have operated throughout the Nation over the past few years have proven over and over that the approach utilized in Public Law 96–272 is not only humane, but is cost-effective.

Mr. President, in California, a pilot project operating in San Mateo County has in its first 2 years achieved a 33-percent reduction in foster care placements and a savings of $264,000. Similar projects in Nashville, Tenn., New York City, and in over a dozen other cities throughout the Nation have achieved similar results. Last fall, the Department of Health and Human Services projected that if Public Law 96–272 was implemented as scheduled, we would see nationwide a 30-percent reduction in foster care by fiscal year 1984 and a net savings of $1 billion over that period of time.

Mr. President, this is a highly cost-effective program—both in terms of the children and families involved and in terms of real dollars. I strongly urge that we do not undo the tremendous work that went into passage of Public Law 96–272. We owe it to the children whose lives will be so greatly affected by what we decide. For their sake, for their future, for our Nation's future welfare, I urge support of the amendment.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I yield 3 minutes of my time off the amendment to the Senator from Michigan.

Mr. LEVIN. Mr. President, I thank my friend from New Mexico for his generosity.

Mr. President, I support this amendment. We are talking about 110,000 children who are currently in AFDC foster care. These are what we call "special needs" children—they are older children, many have physical or mental handicaps. Unfortunately, these children—because of their special conditions—are the most likely to be placed in foster care and the least likely, in the absence of adoption assistance, to be placed in permanent homes.

Attempts to place these children in adoptive homes without a subsidy have often failed because many families cannot afford the expense required to adequately meet the special medical or other needs of such children.

Mr. President, with the present need to contain the Federal budget, this is an especially important program. The adoption assistance program not only redirects funds to a more efficient child placement scheme, it saves money; because the children who receive this assistance are children who otherwise would remain in more extensive foster care arrangements. As we all know, long-term foster and institutional care are much more costly than subsidized adoption programs and are also not nearly as good for children. The national average cost of maintaining a child in a foster care institution is over $7,000 a year. The national average foster care payment for children placed with families is about $1,500 a year.

Mr. President, last year, when I was actively involved in working out these provisions on the floor, I received many letters from people who were directly affected by it.

I would like, with the remainder of my time, to read a portion of one letter from a lady in Annandale, Va., dated October 22, 1979. She and her husband adopted seven special needs children. They had a total family of 12. She wrote as follows:

> Five years ago we adopted two teenagers who had spent six years in foster care. These children had experienced severe abuse and neglect and the transition to family life wasn't an easy one. Our son in particular required intensive counselling and psychiatric treatment. He was hospitalized for testing twice. For nearly a year my husband and I made twice monthly visits with our troubled son to a family therapist. The cost of transportation, time off from work and babysitting for our other children were added to the $40.00 per hour charge for the professional services. The total cost to our family ran to nearly $3,000.00 to care for our son's severe emotional problems. Yet, we have never received any kind of financial help. We quite literally spent our summer vacation money for two years to provide the treatment required.
>
> We are not alone in this predicament. Many concerned middle income families who

adopt find themselves "to rich" to qualify for adoption subsidy for their special child, but "too poor" to provide the special services their children frequently need to make the adoption successful. Yet, had these same children remained in foster care, they would have received all the necessary services through Medicaid. This makes no sense at all and acts as a serious barrier to adoption of waiting children.

Mr. President, I hope we can help a truly needy group and, in the process, help ourselves by reducing the costs of institutionalization of these children who so desperately need to find homes.

Again, I thank my friend from New Mexico and I thank the Chair.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, how much time remains?

The PRESIDING OFFICER. There are 4 minutes remaining on this amendment.

Mr. DOMENICI. Mr. President, I yield myself 2 minutes.

Mr. President, first, I wish to compliment the Finance Committee and Senator DANFORTH who spoke for them here today. That committee, in terms of the instructions that the Senate and the House gave to them, have done an admirable job, not only with reference to saving money but in the area that we are talking about today there can be no doubt that for years a block grant approach to social services has been recommended. This committee stopped talking about it and did it and I commend them for it.

Second, I am here listening to all the wonderful things that we do with the social programs and the implicit converse of all the terrible things we will do if we do not. I just wonder who is going to mention what has happened to the American taxpayer, what has happened to our Government's inability at the national level to deliver these hundreds and hundreds of programs with any kind of certainty, with any kind of frugality. Why is that not being talked about?

This budget that we are trying to save money on in this year will exceed $660 billion. I wonder how many speeches have been made on this floor over the past 25 years where we have found some social problem in America and we were certain a few hundred million dollars, a new Federal agency, and we would solve that. Well, the time has come when we know the delivery system is clogged. We cannot even deliver what we manage.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. DOMENICI. Mr. President, I yield myself 2 additional minutes.

But, in addition to that, this $660 billion, filled with all of these messages of solving problems for people, will now go to $740 billion, Mr. President, if we do not change laws like these—not this specific one, $70, $80, or $90 million, but if we do not change some laws, it will go from $660 to $740 billion.

There will be plenty of people who can come to the floor after that is all finished, if we did not save one penny, if we did not change one program, and they will find something wrong in America that they can invent a program for, that they can say to the taxpayers of this country, "Just a few hundred more million of your dollars and we will solve another problem."

So the time has come when we have to look at the basics—taxation at the highest level in history; spending at the highest level in history; and the American people saying, "Don't you know that you are not doing as much good as you think? Don't you want to trust someone else like our States? Give them a block grant. Let them try." But, most of all, they are saying, "If you don't cut something, look what is happening to us. Look what is happening to our country. Look what is happening to our tax bill. Look what is happening to our economy. Look what is happening to inflation."

So you cannot cut without cutting. You cannot reform without experimenting.

You cannot have block grants as good as this committee worked on it, careful, attentive, making sure that the States have certain guidelines—you cannot have it and not have it. That is what we have today. They want it, but not so sure about $80 million worth of it. "Yes, we want to save money, that 25 percent, but not in this program. We ought to leave it alone. It is sort of one of the latecomers to the big, big entourage of hundreds of programs."

So I would urge that here, again, we support the Finance Committee, in all deference to my good friend from New York. This is one that will save some dollars and that has little chance of harming anyone. If we compound it, amendment after amendment here, we will certainly conclude helping no one and hurting the taxpayer. We are here precisely to do the contrary. I yield back the remainder of my time.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. DOMENICI. Have we any time remaining?

The PRESIDING OFFICER. The Senator has 30 seconds remaining.

Mr. MOYNIHAN. Will the Senator agree that the one new program, the adoption assistance, adopted for 1982, was for $10 million?

Mr. DOMENICI. I agree with the Senator.

Mr. BRADLEY. Mr. President, I am pleased to cosponsor the amendment offered by Senators MOYNIHAN and BOREN that would maintain foster care, adoption assistance and child welfare services as identifiable Federal programs.

Mr. President, last year the Congress passed the Adoption Assistance and Child Welfare Act of 1980 (Public Law 96-272) by an overwhelming majority. This landmark legislation is designed to improve the welfare of children in foster care, or at risk of foster care placement through greater emphasis on services to prevent or remedy the need for long-term foster care.

Surveys conducted for the Department of Health and Human Services indicate that there are about 500,000 children living in foster care in the United States, including 100,000 who have been separated from their families for more than 6 years. Studies have shown that if children remain in foster care for 1 to 2 years, the probability of their ever returning home decreases substantially. It is all too easy to understand why these children have come to be known as lost in foster care.

Why has this situation arisen? Foster care tends to be a crisis-oriented system in most States. The immediate problems of placing children in foster care receive the most attention. Also States have used most of their funds, including the Federal money provided under title IV-B child welfare services and AFDC foster care, to pay for the room and board of children in foster care.

Relatively few resources are left over for the critical counselling, day care and other services which could prevent the family crises which give rise to foster care placement in the first place. Nor are resources generally available for the services and personnel required to restore children to their families or, in cases where a return to the family will not be possible in the future, to arrange for their permanent placement in adoptive homes.

The legislation we passed last year was designed to remedy these problems by providing to the States additional resources for preventive services, services to return foster care children to their families when possible, and assistance to arrange for their adoption where a return to the family is impossible.

The legislation also created a new program to provide Federal financial assistance for the first time to families adopting hard-to-place AFDC and SSI eligible children, including older, handicapped, and minority children. Medicaid coverage for these children, which under the old law ended at the time of adoption, was continued, thereby easing some of the exceptional financial burdens for health care the adoptive family would otherwise face.

Mr. President, these changes—these innovations—have been widely hailed. They offer a real chance for improvements in the system of foster care and in the welfare of those children who are vulnerable to foster care placement. They must not be thrown away—lost in the oblivion of a large block grant.

More than $500 million in Federal-State money is now being spent to maintain children in foster care. It is estimated that implementation of the 1980 law will result in a significant reduction in the number of children in foster care and will promote permanent placements for children who do not have the possibility of returning to their homes. These are most humane objectives.

Mr. President, we owe it to these children to maintain these programs in their newly improved form.

I urge all my colleagues to join in support of this amendment.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from New York. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON) and

the Senator from Massachusetts (Mr. TSONGAS) are necessarily absent.

The PRESIDING OFFICER (Mr. LUGAR). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 46, nays 52, as follows:

[Rollcall Vote No. 162 Leg.]

YEAS—46

Baucus	Ford	Melcher
Bentsen	Glenn	Metzenbaum
Biden	Hart	Mitchell
Boren	Hatfield	Moynihan
Bradley	Heinz	Nunn
Bumpers	Hollings	Pell
Burdick	Huddleston	Pressler
Byrd, Robert C.	Inouye	Pryor
Chiles	Jackson	Randolph
Cranston	Johnston	Riegle
DeConcini	Kennedy	Sarbanes
Dixon	Leahy	Sasser
Dodd	Levin	Stennis
Durenberger	Long	Williams
Eagleton	Mathias	
Exon	Matsunaga	

NAYS—52

Abdnor	Gorton	Percy
Andrews	Grassley	Proxmire
Armstrong	Hatch	Quayle
Baker	Hawkins	Roth
Boschwitz	Hayakawa	Rudman
Byrd, Harry F., Jr.	Heflin	Schmitt
Chafee	Helms	Simpson
Cochran	Humphrey	Specter
Cohen	Jepsen	Stafford
D'Amato	Kassebaum	Stevens
Danforth	Kasten	Symms
Denton	Laxalt	Thurmond
Dole	Lugar	Tower
Domenici	Mattingly	Wallop
East	McClure	Warner
Garn	Murkowski	Weicker
Goldwater	Nickles	Zorinsky
	Packwood	

NOT VOTING—2

Cannon	Tsongas

So Mr. MOYNIHAN'S amendment (No. 100), as modified, was rejected.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 176

(Purpose: Deletes language limiting obligations and prohibiting OMB apportionment of funds for D.C. capital improvement loans)

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. DOMENICI. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an unprinted amendment numbered 176:

On page 280, line 33, strike everything after "1983" through the quotation mark on line 38.

Mr. HATFIELD. Mr. President, this is a technical amendment which keeps the same commitment in the resolution on reconciliation. It strikes the language that relates to the role of the OMB in the matter of allocating these funds for the capital improvement loans for the District of Columbia.

I have checked this out with the subcommittee chairman on the Governmental Affairs Committee, Mr. MATHIAS, and with the chairman of the committee, Senator ROTH, as well as with the managers of the bill on the floor, Senator HOLLINGS and Senator DOMENICI, and I believe they are willing to accept it.

Mr. DOMENICI. Mr. President, we are prepared to accept the amendment. It has been worked out by the distinguished chairman of the Appropriations Committee with the chairman and ranking minority member of the authorizing committee. As I understand it, Senator HOLLINGS has no objection.

Mr. HOLLINGS. That is correct.

Mr. DOMENICI. We are prepared to accept it.

Mr. HATFIELD. I yield back my time.

Mr. DOMENICI. I yield back any time I have.

Mr. HOLLINGS. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment (UP No. 176).

The amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 177

(Purpose: To delete language imposing obligation limitations on funds for Federal highway programs and insert authorization ceilings in lieu thereof.)

Mr. HATFIELD. Mr. President, I send a second amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an unprinted amendment numbered 177.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 184, strike lines 38 through 41, and on page 185, strike lines 1 and 2, and insert in lieu thereof the following:

SEC. 601. (a) Notwithstanding any other provision of law, there is authorized to be appropriated for Federal-aid highways and highway safety construction programs for fiscal year 1982 not to exceed $8,100,000,000, for fiscal year 1983 not to exceed $8,600,000,000, and for fiscal year 1984 not to exceed $8,800,000,000.

Mr. HATFIELD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will please come to order.

Mr. HATFIELD. Mr. President, this amendment does precisely the same thing as in the reconciliation resolution. It puts a limitation on the Federal highway and highway safety construction program for fiscal year 1982. The only thing that changes is that it does this with authorization language rather than the obligation limitation language. This keeps the traditional role of the Appropriations Committee.

I have checked on this with Senator RANDOLPH and with the leadership on both sides of the aisle, and it has been worked out to their satisfaction.

Mr. DOMENICI. Mr. President, I have no objection to this amendment.

I say for the record that when I previously mentioned that it had been worked out with the Senator from the Public Works Committee, I was in error. This is the amendment that was worked out with them. The previous amendment was worked out with the chairman and ranking minority member of the Committee on Governmental Affairs.

Mr. HOLLINGS. I have no objection.

Mr. BENTSEN. Mr. President, reserving the right to object, there has been too much noise over here for me to hear the Senator.

Will the Senator advise me what he has done with reference to the authorization obligation?

Mr. HATFIELD. What has been done in the reconciliation resolution is a redundancy. It has had an authorizing level and an obligation limitation.

In the appropriations process we do this anyway, but by the same token we feel that we need to maintain the Appropriations Committee's program by abiding by the authorization limitation but giving us the flexibility to work within that.

So, consequently, what we are doing is keeping the same precise figures, but we are removing the redundancy by giving both an authorizing level and an obligation level.

Mr. BENTSEN. I thank the distinguished Senator and withdraw my objection.

Mr. HATFIELD. Mr. President, I yield back the remainder of my time.

Mr. DOMENICI. Mr. President, I yield back my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HOLLINGS. We yield back our time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Oregon.

The amendment (UP No. 177) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I thank the Senator from New Mexico and the Senator from South Carolina for their assistance.

Mr. DOMENICI. I thank the Senator for the help he has been on this amendment and others for clarification.

UP AMENDMENT NO. 178

(Purpose: To delete the section of S. 1377 which would eliminate residential care institutions from eligibility for child nutrition programs)

Mr. LEAHY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont (Mr. LEAHY) for himself, Mr. BRADLEY, Mr. PRYOR, Mr. DIXON, and Mr. KENNEDY proposes unprinted amendment numbered 178:

On page 33, strike out lines 4 through 14; and redesignate sections 185 through 191 as sections 184 through 190, respectively.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. LEAHY. I yield.

Mr. DOMENICI. I was wondering if the Senator from Vermont might share with us how much time he might require. Under the unanimous-consent agreement the Senator has 1 hour. I wonder if he thinks it will take that long.

Mr. LEAHY. I advise my friend from New Mexico that having heard the schedule of a number of Senators here I will try to be as brief as I can on this in the hope that we might be able to finish in anywhere from 5 or 10 minutes.

I wish to reserve my rights in case others want to speak. I intend to be quite brief about it.

Mr. DOMENICI. I say to the Senator whatever time he saves I will tell him we will save that much also by yielding our time so that we will save double.

I thank the Senator.

Mr. LEAHY. I thank the Senator.

Mr. President, I offer this amendment on behalf of myself, Mr. BRADLEY, Mr. PRYOR, Mr. DIXON, and Mr. KENNEDY. It is an amendment on residential child care institutions.

Mr. President, it is hard in these budget debates to see the human impact of our cuts. We talk about savings; we talk about reductions as we should. But in this rush to redirect the Federal budget, we must not lose sight of those most vulnerable, most in need of our support. The amendment Senator BRADLEY and I are proposing reaches out to a special group—children who are in orphanages, homes for the mentally retarded, emotionally disturbed or abused children, and hospitals for the chronically ill. This amendment, quite simply, would assure that these nonprofit children's institutions remain eligible to participate in child nutrition programs in fiscal year 1984 and beyond.

This reconciliation bill would terminate these institutions from participation in the school lunch and breakfast programs effective in fiscal year 1984. The fiscal year 1984 cost of this amendment is $73 million in budget authority and $69 million in outlays. The latest available data indicate that approximately 150,000 children are served by over 4,000 of these institutions.

The Committee on Agriculture, Nutrition, and Forestry voted to eliminate residential child care institutions from child nutrition programs only after it appeared that the committee would fall short of its overall targets for fiscal year 1984 authorization savings. The committee had already completed markup of child nutrition programs without this provision, achieving more savings in these programs than was assumed in the first concurrent resolution on the budget for fiscal year 1982.

As it turns out, the additional savings from this provision are not needed to meet the committee's reconciliation targets. In fiscal year 1984, the committee achieved a savings surplus of $91 million in business administration and $99 million in outlays more than enough to accommodate this amendment.

Residential child care institutions were made eligible for Federal child nutrition programs in 1975. The Senate report (Report No. 94–259) accompanying the legislation, stated the following:

Testimony received at the public hearings on the child nutrition legislation indicated that these children, who are often institutionalized through no fault of their own, receive less nutritional support than children attending public schools. The Committee believes that all children should have the same access to the child nutrition programs.

Most of the children in these institutions would be eligible for free or reduced price lunches under the National School Lunch Act if they attended public schools. Termination of these institutions from participation in child nutrition programs would result in these children, who are among the most troubled, abused, and neglected in the country, receiving less support from the Federal Government than almost all other children.

The major justification provided for eliminating Federal assistance for these institutions is the States should resume the responsibility for feeding these children that they had prior to 1975. There are several responses to this argument:

First, a major reason why Federal assistance was extended to these institutions in 1975 was evidence that children in these institutions were not being well fed. In many instances, children were receiving substandard meals and the quality of meals and services in these institutions were seen as steadily declining.

Second, there is good reason to believe that the States would be able to provide less assistance in 1984 than they did in 1975. Not only are many State budgets in far worse shape now than they were in 1975, but the budget adopted by Congress for fiscal year 1982 and future years would result in deep deductions in Federal support to States for social programs. Given the many cutbacks in benefits and services which States will have to implement, it cannot be assumed that adequate funds will be found to support food services at these institutions.

Third, the National Governors' Association opposes the termination of assistance to residential child care institutions. In a May 19, 1981, letter to Senator HELMS, Gov. James B. Hunt, chairman of the Committee on Human Resources, stated the following:

It is our understanding the Committee also may consider eliminating federal support for child nutrition programs providing meals to children in residential child care institutions. Some states will be unable to secure funds to provide similar support for private nonprofit child care institutions. Further, the elimination of federal funding for these programs in state-funded institutions generally will necessitate the reduction of funding for other aspects of residential services for the unfortunate children residing in these institutions in order to make up the loss. At a time when inflation and other budgetary pressures already are creating serious problems for child care institutions, this would be a painful additional blow.

Finally, Mr. President, the elmination of residential child care institutions was not recommended by the Reagan administration.

These nonprofit institutions provide a valuable service and deserve our support. I personally know of the fine work being done by the New England Kurn Hattin Homes in Westminster and Saxtons River, Vt. This outstanding institution provides special care for neglected and handicapped children. To throw other homes, such as Kurn Hattin, off the national school lunch and school breakfast program would work a cruel hardship on these most vulnerable children. It is a mistake. And I urge adoption of this amendment.

Mr. President, I yield to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I rise to support the amendment of the Senator from Vermont to strike the provisions that prohibit residential institutions caring for the orphan, handicapped, and abused children from participating in the child nutrition program.

The cost of this amendment in a budget that cuts some $50 billion next year is small. It would add, as the Senator from Vermont has pointed out, only $69 million in outlays in 1984. But the implications of not making this change are significant.

First, these savings are not needed. The committee only agreed to this change, after first rejecting it, when it appeared that the budget targets could not be met. If the $69 million were added to the Agriculture Committee they would still exceed their goal by some $30 million. But even more important, by accepting this unnecessary change in the Senate will send a chilling message to every corner of this country. We will say to thousands of children forced to live in institutions that we no longer care about them; that we are writing them off.

If these same children were living at at home and attending public schools they would get a free or reduced-price lunch. But, because they are in an institution, shut away from the rest of us, we turn our backs.

Some say that the State should provide for these children, but let us look at the record. The States have had their chance. Until 1975 the States were responsible and the overwhelming evidence, collected through days of hearings, is that these children were not well fed. Many were living in substandard conditions and were fed poor quality food. Nothing indicates that the States are prepared to do a better job today.

Governor Hunt on behalf of the National Governors' Association wrote Senator HELMS to indicate his deep concern. He predicts that many States will just cut back on other much needed services for these children to make up for the loss of Federal help.

So. Mr. President. I hope that the amendment by the Senator from Vermont will be accepted.

Mr. DOMENICI. Mr. President. I yield to the distinguished chairman of the Ag-

riculture Committee as much time as he needs on this amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, I am pleased to cosponsor Senator LEAHY'S amendment to restore fiscal year 1984 funding for nutrition programs in orphanages and institutions for mentally retarded and disabled children.

A provision has been included in the omnibus reconciliation bill that would eliminate these residential child care institutions from participation in the school lunch and breakfast programs beginning in fiscal year 1984.

Approximately 150,000 children currently reside in over 4,000 of these institutions. They would be the big losers if this shortsighted provision is not struck from this bill.

Residential child care institutions were made eligible for Federal child nutrition programs in 1975. Congress provided for their participation in light of evidence that these children, who are often institutionalized through no fault of their own, received less Federal nutritional support than children attending the public schools.

Moreover, most of these children would have been eligible for free or reduced price lunches under the National School Lunch Act if they attended public schools.

By the 1975 vote, Congress intended to assure that these children would have the same access to the child nutrition programs as those benefiting from the school lunch program in the public schools.

What, then, is the justification for this provision to eliminate Federal nutrition assistance for these institutions? The principal reason is budgetary. The Committee on Agriculture voted the provision only after it appeared that the committee would not achieve the spending reductions required under the reconciliation instructions for fiscal year 1984.

However, as it turns out, the additional savings from this provision are not needed to reach the fiscal year 1984 totals. In fact, the committee has accumulated an excess of savings over the instructions level of $91 million in budget authority and $99 million in outlays in fiscal year 1984, more than enough to accommodate this amendment, with costs of $73 million in budget authority and $69 million in outlays. Budgetary arguments no longer stand against this amendment.

Some would argue that these excess savings should nonetheless be preserved, using the same justification initially advanced for eliminating Federal nutrition assistance for children in these institutions:

That the States should resume the responsibility they had prior to 1975 for feeding these children. While it is not surprising to hear this refrain when shifting funding burdens back to the States is so popular, I find its application to programs providing nutrition aid to this population of troubled, abused and neglected children unconscionable.

A major reason for extending Federal assistance to children in these institutions in 1975 was the evidence that these children were receiving meals that were substandard in nutritional quality and that continued tightening in State budgets offered little prospect of improvement.

There is good reason to believe that the States will be even less able to provide adequate nutritional assistance in 1984 than they did in 1975.

Not only are many State budgets in far worse shape today than they were 6 years ago, but the legislative changes contained in this bill will mean dramatic reductions in Federal support to States for all social and health programs.

Given the many cutbacks in benefits and services which States will have to make, we cannot assume that funds will be reallocated from other purposes to replace the lost child nutrition moneys for these institutions. To make up the loss, or at least part of it, State governments will have to reduce funding for other services for children residing in these institutions.

Finally, Mr. President, not even the administration, with its passion for budget-cutting, has recommended the elimination of Federal support for child nutrition programs in residential child care institutions.

Mr. President, the merits of providing nutrition assistance to children in orphanages and in homes for the emotionally disturbed, mentally retarded, and disabled are clear.

The budgetary arguments for eliminating these institutions from the school lunch program are no longer valid. Because these children deserve our support, I urge all my colleagues to join in voting for this amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I think the distinguished Senator from Oklahoma (Mr. BOREN) has a modification of the Leahy amendment which he may wish to propound at this time. For that purpose, I yield to the able Senator.

Mr. BOREN. I thank my colleague from North Carolina.

Mr. President, I would, if it is agreeable to the Senator from Vermont, like to ask him to modify his amendment and to insert into his amendment the provision of an amendment which I intended to offer later which would have the effect of exempting from the changes in the eligibility standard the disabled and the elderly over age 60.

This would assure that the cuts we are making in the program would not apply to those two categories, the elderly and disabled, since they really have no way of going out and seeking work to protect themselves.

I would like to ask the Senator from Vermont, with leave from the Senator from North Carolina who yielded to me, if that would be agreeable to him to so modify his amendment.

Mr. LEAHY. Mr. President, as I understand it, this is the amendment the distinguished Senator from Oklahoma had earlier on the original authorization bill.

Mr. BOREN. The Senator is correct. It would be exactly the same amendment.

Mr. LEAHY. Mr. President, I move to modify my amendment to include the amendment of the distinguished Senator from Oklahoma. I would send that modification to the desk.

Mr. DOMENICI. Would the Senator withhold on that?

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

Mr. DOMENICI. I understand that.

Mr. LEAHY. Mr. President, I am perfectly willing to withhold for a moment.

Mr. DOMENICI. Mr. President, I just do not want to have the amendment as modified be subject to a point of order. I would like somebody to make sure that the modified amendment is still technically correct.

Mr. LEAHY. Mr. President, I ask unanimous consent that the amendment as modified be germane.

Mr. DOMENICI. Mr. President, reserving the right to object, and I do not intend to object, I would ask the distinguished Senator from Vermont if he would withdraw his unanimous-consent request and submit his modification. I do not intend to raise any technical issues with reference to it.

Mr. LEAHY. Mr. President, I withdraw the unanimous-consent request. I hereby modify my amendment to include the amendment by the distinguished Senator from Oklahoma.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (UP No. 178), as modified, is as follows:

On page 33, strike out lines 4 through 14; and redesignate sections 185 through 191 as sections 184 through 190, respectively.

On page 15, strike out lines 2 through 9 and insert in lieu thereof the following:

"SEC. 155. (a) Section 5 of the Food Stamp Act of 1977 is amended by—

"(1) striking out everything before 'adjusted annually' in the first sentence of subsection (c) and inserting the following:

'The income standards of eligibility shall be—

'(1) for households containing a member who is sixty years of age or over or a member who receives supplemental security income benefits under title XVI of the Social Security Act or disability and blindness payments under titles I, II, X, XIV, and XVI of the Social Security Act, 100 per centum, and

'(2) for all other households, 130 per centum, of the nonfarm income poverty

guidelines prescribed by the Office of Management and Budget'; and

"(2) inserting 'for purposes of determining eligibility and benefit levels for households described in subsection (c)(1) and determining benefit levels only for all other household after 'household income.' in the first sentence of subsection (e).".

Mr. BOREN. Mr. President, this amendment would exempt the elderly and disabled from income eligibility guideline changes included in the Omnibus Reconciliation Act of 1981. The Senate has already gone on record agreeing to this amendment during the floor consideration of the food stamp and commodity distribution amendments of 1981.

Thus, the amendment I offer today is simply a technical amendment conforming to the Senate's prior decision.

I am pleased that my colleagues, Senator PRYOR, of Arkansas, and Senator LEAHY, of Vermont, are joining me as cosponsors of my amendment.

According to CBO's estimate, this amendment would cost only $20 million in fiscal year 1982. Even with this exemption, savings in food stamps would exceed those assumed in this legislation.

Since the Agriculture Committee has more than met its budget requirements, there should be no reason to oppose this amendment because of the cost.

The cost has already been well compensated for. Indeed, an amendment I proposed and the Agriculture Committee adopted calling for a reduction in staff in the Department of Agriculture will save $66 million in fiscal year 1982. This provision alone pays for the much needed exemption for the elderly and disabled.

It is essential that we maintain current eligibility guidelines for the elderly and disabled. I do not believe that the citizens of my State or the citizens of this country want us to remove over 67,000 elderly and disabled persons from the food stamp program.

While I do believe there is much fraud and abuse in this program and while I feel that the able-bodied persons should work, I do not believe we should pull the rug out from under those persons who cannot go out and get a job to make up for cuts in this program. The citizens of this country expect us to see that those who are truly needy have an adequate diet.

I would urge my colleagues to realize that this amendment is fiscally responsible and it is offered in a spirit of budgetary conservatism, but it is what I would call compassionate conservatism. I think that is what the people of the country are calling for and that is what the hour calls for.

I would urge the adoption of this amendment.

Mr. PRYOR. Mr. President, the Senate Committee on Agriculture, Nutrition, and Forestry has worked diligently to reduce spending in the food stamp program. We all accept the fact that reductions in our Federal programs must be made if we are to come to grips with the inflationary spiral which currently plagues our country. The committee spent many hours to insure that waste is curtailed in the food stamp program. I fully supported the committee's efforts and applaud our distinguished chairman for his conscientious leadership.

On June 10, 1981, during Senate debate on the reauthorization of the food stamp program, I joined with Senator BOREN in sponsoring an amendment which would exclude the elderly and disabled from the 130-percent gross income eligibility limit which was agreed upon by the Agriculture Committee and subsequently adopted by the Senate.

Mr. President, of the more than 22 million persons enrolled in the food stamp program, approximately 1.9 million, or 9.1 percent, are aged 60 or over.

I believe we all agree that this group is among the most needy of the recipients of food stamp benefits. The elderly and disabled have been crippled by rapid rises in the cost of food, energy, and health care.

Operating on a fixed income, it is becoming increasingly difficult for many of our elderly to make ends meet. I do not believe it is the intent of the Senate or of the citizens of this country, to place an undue burden on the one segment of our society which can least afford it.

Should our elderly and disabled be forced to adhere to the new income eligibility standards many of these citizens would become ineligible for food stamp benefits. The new gross income limit for a two-person household for receipt of food stamps is $616. This limit will place an unnecessary and, in many cases, insurmountable burden on the elderly and disabled living on fixed incomes.

It is expected that the new income eligibility standards will remove approximately 5 percent of all individuals from the food stamp roles. Our best estimates suggest that, with no exclusions, this 5 percent will include approximately 140,000 elderly and disabled individuals—the two groups most ill prepared to face such drastic benefit reductions.

Mr. President, this amendment was agreed to by the Senate during discussion on this topic and I now encourage the Senate to include this amendment in the budget reconciliation package to reflect the wishes of the Senate.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, the Boren language which just has been incorporated into the Leahy amendment is essentially a conforming one to insure that the provisions affecting food stamps contained within the reconciliation legislation are the same as those contained within S. 1007 which passed the Senate on June 10.

At that time the Senator from Oklahoma offered a similar amendment which we accepted. I am pleased to again accept the amendment to exempt the elderly, blind, and disabled from the gross income limit of 130 percent of poverty which is established for all other households.

Elderly, blind, and disabled households would continue to have their eligibility determined by using the deductions to which they are entitled.

The Congressional Budget Office has estimated that the lost savings due to exempting the elderly, blind, and disabled will be $20 million, $21 million, and $22 million in fiscal years 1982–1984. Without the exemption, the savings would have been $130 million or more in each fiscal year.

This is a conforming amendment with which we are in agreement.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I ask for the yeas and nays on the underlying Leahy amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LEAHY. Does that mean the vote would be on my amendment as modified?

The PRESIDING OFFICER. The Senator is correct. The vote would be on the Leahy amendment as modified.

Mr. LEAHY. Mr. President, my understanding is that the two amendments combined are virtually within the budget. I would ask the distinguished Senator from New Mexico if that is correct.

Mr. DOMENICI. Mr. President, before I respond, let me ask my good friend from Vermont, I really did not understand that this was going to be the procedure. It is, obviously, any Senator's right to ask for a rollcall vote.

Mr. LEAHY. I am perfectly willing to have gone through it by voice vote.

Mr. DOMENICI. Mr. President, the purpose for negotiating was to work out an arrangement wherein we had an amendment that was acceptable. That is why we did that. Now I understand we are going to have a rollcall. I ask the Senator from New Jersey if that is correct.

Mr. BRADLEY. Mr. President, I did ask for the yeas and nays, but I will suggest the absence of a quorum and we can talk about it.

Mr. LEAHY. Mr. President, if the Senator would withhold for a moment just to make sure technically we have this correct. I ask unanimous consent that the Senator from Oklahoma (Mr. BOREN) be added as a cosponsor of the overall amendment.

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. HOLLINGS. Both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call to be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, I withdraw my request for the yeas and nays on the underlying Leahy amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I wonder if the distinguished Senator from Vermont will tell us how much time he would need on his amendment, and perhaps the Senator from Oklahoma will also.

Mr. LEAHY. Mr. President, I will just take a minute, if I can have recognition.

Mr. DOMENICI. I yield the floor.

Mr. LEAHY. Mr. President, I think the special two amendments I have in mind are very important. We are speaking about the handicapped, the elderly, those within orphanages, at a time when we are, through a number of other social programs, quite properly trying to encourage adoption, quite properly trying to encourage the care and help for the handicapped, especially the handicapped children. This is just one small step that will make that possible. I would hope, Mr. President, that the Leahy amendment, as amended by Senators BOREN, BRADLEY, KENNEDY, and others, would be accepted by the Senate. I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I commend the Senator from Vermont and the Senator from Oklahoma. We are willing to accept the amendment.

As to the Boren amendment, the Senate is well aware of it. It is the same amendment that he successfully applied on the food stamp, which eliminates work requirements for handicapped and senior citizens. I understand that is acceptable to the chairman of the Agriculture Committee.

The basic Leahy amendment, as reconciled, would have changed the program in 1984, not for the years 1982 and 1983. It is our understanding that when you combine the two there is very little variance from the instruction to the Agriculture Committee. That occurs only in 1984 and it is a very small amount. It is budget authority only. We will recap that on numbers, but we are satisfied that that is the case. Based on that, the majority is willing to accept the amendment, as modified. I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. LEAHY. I yield back the remainder of my time.

Mr. HOLLINGS. We yield back the remainder of our time.

The PRESIDING OFFICER. All time has been yielded back. Without objection, the amendment is agreed to.

The amendment (UP No. 178), as modified, was agreed to.

Mr. LEAHY. I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DISCRETION FOR SBA GUARANTEED LOANS

Mr. BOSCHWITZ. Mr. President, over the last 10 years the Federal Government has become a greater participant in the credit markets as a lender. The Government's largest involvement has been through guaranteed loans. One of the major goals of the economic recovery program is to reduce the Government's role in the credit markets. The budget cuts we are considering today, among other things, reduce the amount of loans guaranteed by the Government.

The Small Business Administration will be doing its part. In fact, the Small Business Committee has reported legislation which will reduce SBA's loan-guarantee authority by nearly 25 percent to $4 billion for each of the fiscal years 1982 through 1984.

Concern has been expressed that reducing the level of guarantee authority will result in a corresponding reduction in the number of loans to small businesses. In light of this budget crunch, it may be possible for SBA to make an equal, or even greater, number of loans, if the SBA guarantees a lesser percentage of the loans.

Under current law, SBA has the discretion to guarantee up to 90 percent of a loan it makes. This guarantee percentage is a maximum, presumably for use in limited, but necessary, cases. Unfortunately, a 90-percent guarantee appears to be more the rule than the exception.

The following shows the percentage SBA has guaranteed of loans made:

	Percent
1971	83.6
1976	86.3
1977	86.5
1978	86.7
1979	87.0
1980	87.4

This shows that SBA has been increasing the amount of loans it guarantees, and thus expanding its role in the credit market.

I firmly believe that every effort should be made for agencies like SBA to be fiscally responsible. One such effort would be reduce the percentage of a loan guaranteed. At this point, I am not suggesting that the maximum guarantee of 90 percent be lowered by statute; there have been no hearings or debate in the Senate on this idea. Before the maximum guarantee percentage is lowered, or a minimum guarantee percentage is required, the Small Business Committee should thoroughly examine the idea so a reasoned recommendation can be made.

In the meantime, SBA should use its discretion under its existing authority to reduce the guarantee percentage to the extent feasible. The judicious exercise of this discretion will allow SBA to help meet the credit needs of small businesses in the smaller credit markets of rural areas, while retaining flexibility for businesses in areas with larger credit markets. By so doing, risk can be appropriately shared by SBA, lenders, and borrowers. Mr. President, I am confident that many of my colleagues on the Small Business Committee, and in the full Senate, recognize the need for this discretion.

Mr. NICKLES. Mr. President, the Small Business Administration business loan program, particularly guaranteed loans are a prime example of a cooperative effort between the public and private sector. It is the largest and oldest Small Business Administration loan program. Since its inception, basic lending purposes have remained virtually unchanged. However, loan ceilings, maximum maturity, interest rates, and the guaranteed loan level have varied to adapt to economic conditions and the needs of small business.

This flexibility in setting these loan specifications has been the responsibility of the agency. It is important that we continue to allow the Small Business Administration to set these specifications, particularly the guaranteed loan rate.

If we are to maintain our Small Business Administration business loan program and afford the guaranteed loans to an expanding small business community, it is imperative that we give the Small Business Administration the ability to regulate the level at which guaranteed loans are guaranteed.

The responsibility of meeting the credit needs of small business should remain in the private sector through commercial lending institutions.

In the Senate Small Business Committee March 15 report to the Budget Committee, it was stated that the Small Business Administration must be strengthened and restructured to utilize its available resources in more effective and efficient ways. This can be achieved by shifting to the private sector a greater portion of the responsibility for administering nondisaster loan assistance and reallocating a greater portion of the agency's resources in the nonlending activities. In addition, the committee encourages modest shifts from direct lending to guarantee lending programs.

By shifting from direct loans and guaranteed loans, the Small Business Administration can better facilitate the credit market by freeing-up funds for private use. Additionally, direct loan servicing has added to administrative costs and reduced the effectiveness of the Small Business Administration.

I fully support the current policy which allows the Small Business Administration to set the levels at which loans are guaranteed. Further, I encourage the Budget Committee and the conferees to adhere to this policy during conference and establish a workable guaranteed loan program.

SMALL BUSINESS COMMITTEE RECONCILIATION LEGISLATION

Mr. BOSCHWITZ. Mr. President, the Small Business Committee has reported legislation, included in the Omnibus Reconciliation Act, which achieves the savings required by the reconciliation instructions. The committee achieved these savings by making some hard choices on SBA programs. The committee included a provision which I believe will substantially affect the actual spending required by SBA.

While I do not believe that the provision should be included in the Reconciliation Act, it is not technically in violation of the instructions. I do feel, however, that my colleagues in the Senate, as well as the Members of the House of Representatives, should be aware of the effect of that provision. For that reason, I ask unanimous consent that the additional views in the report of the Small Business Committee be included in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

ADDITIONAL VIEWS ON SMALL BUSINESS COMMITTEE RECONCILIATION INSTRUCTIONS

The Committee's decision to report the Pryor bill (S. 865) as part of the reconciliation package violates the spirit of the Budget Act and the nation's expectations of fiscal responsibility.

The Committee was required by the reconciliation instructions to report legislation which would achieve the following reductions, in millions:

	Budget authority	Outlays
1981	−97	−67
1982	−526	−309
1983	−564	−541
1984	−554	−533

The Committee has met this requirement by making some difficult decisions for changes in existing SBA programs. The largest amount of these reductions are achieved from changes in the disaster loan program and substantial reductions in direct loan programs. We concur in these difficult decisions.

However, the Committee approved an additional measure, the Pryor bill, which has the practical effect of offsetting the reductions achieved. The Pryor bill would change the disaster regulations published by SBA on March 19, 1981. This bill is not an attempt to achieve the reductions required by the reconciliation, but rather to address regulations which are perceived as inequitable. We believe that the equities of the regulations should be addressed separately and prevail on their own merits. We do not believe the bill should be considered as part of the reconciliation package.

We are also concerned about the impact the Pryor bill will have on spending by SBA. An estimated $573 million would be needed in FY 1981 to fund additional obligations if the bill is enacted. However, this $573 million does not show up as additional spending in this bill because of a technicality. The "baseline" for FY 1981, from which we are to subtract our savings, was estimated some time ago, and includes $780 million for a supplemental request that subsequently was withdrawn. Even though this money has remained in the baseline, it was not expected to be spent. The Pryor bill, however, has the effect of taking up most of this un-allocated $780 million and means that we now in fact will have to spend this money.

The bottom line is that the Pryor bill will require SBA to spend money it otherwise would not have spent. Of the $2,030 million SBA has available to fund disaster loans, all but $143 million has been obligated or will be needed to fund loans for disasters that have already been declared. The $143 million remaining is a "reserve" for future disasters and is available to fund obligations under the Pryor bill. Once this "reserve" is depleted, additional appropriations will be necessary. Any additional appropriations, for SBA or any other agency, will exceed the binding budget ceiling for FY 1981. It will also require additional reductions in SBA's direct loan programs for FY 1982 that would result in a 68 percent reduction in direct loans for FY 1982. For these reasons, we feel that the Pryor bill should not be approved, nor included, as part of the reconciliation package.

HEALTH SERVICES BLOCK GRANT REPORT LANGUAGE IN S. 1377

Mr. STAFFORD. Mr. President, I would like to call the attention of the Senate to a printer's error on page 874 of Senate Report 97–139 which is accompanying the Omnibus Reconciliation Act of 1981, S. 1377.

This part of the report deals with the health services block grant that was adopted by the Labor and Human Resources Committee as part of its reconciliation proposal.

In the second paragraph of the report language submitted by the Committee on Labor and Human Resources the following sentence is incorrect and misleading as to the intent of the committee:

In requiring that States must make a grant to existing centers for fiscal years 1982 and 1983, the committee intends to give States broad flexibility as a "back door" means of arbitrarily causing an existing center to close.

The sentence as submitted to the printer and stating the committee intent reads as follows:

In requiring that States must make a grant to existing centers for fiscal years 1982 and 1983, the committee intends to give States broad flexibility in determining the grant amount. However, the States may not use this flexibility as a "back door" means of arbitrarily causing an existing center to close.

Mr. President, this is an important point which I feel should be corrected before we pass S. 1377.

ORDER OF PROCEDURE

The PRESIDING OFFICER. Who seeks recognition?

Mr. BAKER. Mr. President, I seek recognition.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. I thank the Chair.

Mr. President, I would like to inquire of the distinguished managers of the bill, and other Senators who may be on the floor, as to what amendments are available now and perhaps might be offered if we stay, so that we can try to establish a time to recess the Senate over tonight and reconvene in the morning.

Before Senators answer, I might say that it appears that the Senate will need to convene at 8 o'clock in the morning. There are a number of special orders. I very much want to get back to the consideration of this bill at 9 o'clock.

Might I inquire of Senators how many amendments they have and if any of them might be disposed of in a brief time tonight, or if they have a preference for them to go over until the morning?

Mr. DOMENICI. Will the Senator yield?

Mr. BAKER. I yield.

Mr. DOMENICI. Might I first inquire of the Chair how much time of the 20 hours has expired?

The PRESIDING OFFICER. Six hours have been used in debate as of now.

Mr. DOMENICI. Mr. President, in response to the question of the majority leader, in behalf of Senator HATCH and others, he would like to offer two amendments, a technical amendment, which I believe has been circulated, and a substantive amendment with reference to outyear student aid programing. I have agreed with him that he could take both of those up. the one being technical as the first matter of business in the morning. I would like to share that information with the majority leader. I made that agreement.

Mr. BAKER. Do any other Senators have amendments that might be considered this evening?

Mr. LEAHY. Mr. President, I had a series of actually three amendments. We have just had two that were accepted. Because they were accepted, it puts a slightly different light on the third one, which is the summer feeding program. Ordinarily, I would not have brought that one up tonight. Maybe it would be better to bring it up tomorrow. It will involve some debate. I suspect there may be some slight changes made in it tonight. As to my own requirement for time, I will not take more than 10 or 12 minutes on it when I do bring it up, but I prefer to bring it up tomorrow.

Mr. BAKER. Could I inquire of the distinguished managers on both sides whether they would rather proceed tonight with the suggested amendment by the Senator from Vermont or the first thing in the morning.

Mr. HOLLINGS. I thank the distinguished majority leader. Mr. President, tomorrow morning would be preferable. We have been shoving to keep the consideration going here in the Senate. The combination of the last two amendments sort of leaves us emptyhanded for a moment. I did have a long list.

Incidentally, the list consists of some 40 amendments from both sides. We are combining some of them, like a couple of amendments a minute ago by the distinguished Senator from Oregon on the part of the Appropriations Committee, and I am sure that some of these can be combined. But we do have a number of amendments that will come on Conrail, on EDA, and Cuban and Haitian refugees. I have a lot of notes for tomorrow. I am sure we can line them up for the morning.

Maybe the majority and minority leaders would like to discuss further time limitations. We only have 14 hours left. Six hours have been consumed and we have 14 hours for 40 amendments.

Mr. BAKER. Mr. President, I thank the Senator from South Carolina. I get the impression that the Senate would be better served if we go out shortly and come in early in the morning.

Let me say, by the way, that I have had conversations today with the distinguished minority leader, with the minority manager of the bill, and the majority manager of the bill about the possibility of reducing time on amendments from 60 minutes, which is the unanimous-consent limitation now in effect, to 40 minutes. I will not now put that request because, to be absolutely candid about it, I had neglected to clear that through our process on this side.

Senators should be on notice now that, in the morning, before we turn to consideration of this bill, I should like to put that request so anyone who has an objection to it should let us know before 9 o'clock in the morning.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, before we proceed, so that this time we are now using not be charged against the bill, I ask unanimous consent that there now be

a brief period for the transaction of routine morning business to extend not more than 15 minutes, in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY

ORDER FOR RECESS UNTIL 8 A.M. TOMORROW

Mr. BAKER. Mr. President, if there are no other amendments to be offered tonight, I ask unanimous consent that when the Senate completes its business tonight, it stand in recess until the hour of 8 o'clock in the morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, are there special orders for the recognition of Senators in the morning?

The PRESIDING OFFICER. There are orders for the recognition of 10 Senators.

CHANGE IN ORDER FOR RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. BAKER. Mr. President, are there 15 minutes allocated to each Senator under special orders?

The PRESIDING OFFICER. That is correct.

Mr. BAKER. Mr. President, I am advised by a written memorandum that all Senators except the Senator from Oklahoma (Mr. BOREN), the Senator from West Virginia, the distinguished minority leader (Mr. ROBERT C. BYRD), the Senator from Arkansas (Mr. BUMPERS), and the Senator from Florida (Mr. CHILES) are willing to have their special orders vitiated.

Mr. President, I ask unanimous consent—and I have just concluded an informal conversation with the minority leader and I believe he agrees with this request—that the special orders for the recognition of Senators in the morning be vitiated with the exception of the Senator from Oklahoma (Mr. BOREN), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Arkansas (Mr. BUMPERS), and the Senator from Florida (Mr. CHILES), and that the time allocated to those Senators be aggregated and assigned to the control of the Senator from Oklahoma (Mr. BOREN).

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

REDUCTION OF LEADERSHIP TIME TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that the time for recognition of the two leaders under the standing order be reduced to 2 minutes each on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE TOMORROW

Mr. BAKER. Mr. President, I inquire of the Chair, after the discussion of the special orders just provided for, is it the opinion of the Chair that the Senate will automatically resume consideration of the pending measure?

The PRESIDING OFFICER. The Senate would resume consideration of the pending measure.

Mr. BAKER. Mr. President, I yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I wonder if I might ask the distinguished minority leader if they might help Senator HOLLINGS and me in this manner: When we do come back to the bill, as I understand it, there will be a technical amendment by Senator HATCH. I do not think that will take very long. Then there is a student assistance amendment and I assume that will take perhaps the full hour. Then Senator LEAHY would like us to consider his summer feeding amendment.

Beyond that, we have no one who has indicated that they are ready precisely after that to go. We would like the leaders to encourage the Senators to start telling us which ones are then ready, not by way of agreeing tonight, but so we shall know.

Mr. BAKER. Mr. President, I assure the Senator from New Mexico that I shall certainly assist in that. I advise the cloakroom on our side to notify Senators that there are 14 hours remaining for debate on the bill and that if there are amendments to be offered, they should offer them tomorrow and not wait until the following day—as a matter of fact, there might not be a following day—and that they should do them in the morning and not in the afternoon. I, for one, do not want to be in the unhappy position of having Senators come and very properly complain that there is no time left.

So I hope, Mr. President, that Senators will present themselves promptly and offer their amendments as soon as possible, and certainly do so in cooperation with the two managers of the bill, the first thing in the morning.

RETIREMENT OF JUSTICE POTTER STEWART

Mr. KENNEDY. Mr. President, Justice Potter Stewart's announcement last week that he would retire from the Supreme Court signals the close of a remarkable judicial career on the Nation's highest court.

He was the first of his World War II generation to reach the Supreme Court. For more than two decades, Justice Stewart's presence has graced the Court and brought his special abilities of insight and understanding to bear on many of the Nation's most challenging issues. Throughout these years, he has made lasting contributions to American constitutional law, particularly in the critical and complex areas of civil rights and civil liberties under the first amendment and the 14th amendment.

In so many ways, the judicial career of Potter Stewart has reflected the Supreme Court at its best. His opinions were often widely publicized and quoted—probably no other Justice found his words cited more often by the New York Times in its "Quotation of the Day." With his brilliant legal mind, his rare gift of expression, and his remarkable common touch, Justice Stewart had an uncommonly persuasive capacity to make the law both right and seen to be right.

His legal abilities were matched by a personal warmth and engaging sense of humor that enabled him to play a skillful mediating role in the controversies of the Court, and that earned him countless friends in the larger world beyond the Court. He was a very human Justice who never let the beginning of a new October term intrude on the start of a world's series in which his Cincinnati Reds were playing.

Most of all, Potter Stewart will be remembered as a Justice who loved the law and who skillfully helped to steer the Court, the Constitution, and the country safely through the difficult passages of the past two decades. I wish him a long and happy life in his retirement and with his family. And I also hope that President Reagan may find a way in the future to draw on his talents in further service to the Nation that he has already served so well.

BAN ON SATURDAY NIGHT SPECIALS UNDER THE HANDGUN CRIME CONTROL ACT

Mr. KENNEDY. Mr. President, the Handgun Crime Control Act of 1981—which I have introduced in the Senate (S. 974) and which Chairman RODINO of the House Judiciary Committee has introduced in the House of Representatives (H.R. 3200)—contains provisions that ban the manufacture, assembly, and sale in the United States of Saturday night specials, the cheap handguns often used by criminals whose only purpose is to kill or maim another human being.

The bill accomplishes this result by extending the ban on importation of such handguns under the existing law to the domestic manufacture, assembly, or sale of these weapons.

Thus, the bill would close the loophole in current law that permit parts for Saturday night specials to be imported into the United States for later assembly and sale in this country. It also prohibits the domestic manufacture and sale of such weapons.

The bill makes no change in the definition of Saturday night specials under existing Federal law and regulations, which have worked well in the limited area of preventing the importation of these weapons. The time has come to close the loopholes that still permit such weapons to be manufactured and sold in the United States, or to be assembled and sold here from foreign-made parts. That goal can be achieved by applying the familiar and workable provisions and procedures of existing law on imported Saturday night specials to all such weapons.

I ask unanimous consent that a background memorandum on the application of the law to Saturday night specials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BACKGROUND MEMORANDUM ON THE APPLICATION OF THE HANDGUN CRIME CONTROL ACT OF 1981 (S. 974/H.R. 3200) TO SATURDAY NIGHT SPECIALS

The procedures under the Kennedy-Rodino "Handgun Crime Control Act of 1981" (S. 974/H.R. 3200) for banning the manufacture, assembly, and distribution of Saturday Night Specials are identical to the pro-

cedures under existing federal law and regulations for banning the importation of such weapons. The effect of the Kennedy-Rodino bill in this area is to extend the import ban to the two types of Saturday Night Specials not covered by law—(1) those manufactured and sold in the United States, and (2) those assembled in this country from imported parts.[1]

Specifically, section 102(1) of the bill amends chapter 44 of title 18 of the United States Code [2] by adding a new provision that bans the further manufacture or transfer of any handgun (other than a curio or relic) unless it is a model that has been approved by the Attorney General. The transfer prohibition applies both to commercial and private transfers. Section 105 of the bill, amending the same statute, adds a new section 930 to title 18 with the following principal provision:

The Attorney General shall approve for manufacture, assembly, importation, sale, or transfer any handgun model if the Attorney General has caused to be evaluated and tested representative samples of such handgun model, and has found that such handgun model is *generally recognized as particularly suitable for or readily adaptable to sporting purposes.* (Emphasis added.)

In its essential feature, the "sporting purpose" standard, the bill is identical to the provision in existing law that prohibits the importation of such weapons.[3]

The bill provides that in the case of handguns acquired by law enforcement agencies the sporting purpose test may be waived, and it sets forth certain procedures regarding notification to Federal licenses, and to the general public, of determinations made under the provision. The Attorney General is specified as the official responsible for defining handguns subject to the prohibition, since a separate provision of the bill would transfer the authority for enforcing most Federal firearms controls from the Treasury Department to the Justice Department.

[1] Domestic manufacturers produced 2,167,000 handguns in the United States in 1979. Approximately ten percent of this production consisted of handguns assembled from foreign parts on a domestic frame or receiver. Table I provides data on the source of these parts for the period 1976–1980.

[2] Title IV of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by Title I of the Gun Control Act of 1968; 18 U.S.C. 921 *et seq.*

[3] The 1968 legislation bans the importation of firearms across the board but permits the Secretary of the Treasury to exempt any firearm that "is generally recognized as particularly suitable for or readily adaptable to sporting purposes", 18 U.S.C. 925 (d)(3). The legislative history indicates that Congress intended the Secretary to exercise his statutory prerogative to ban the importation of handguns that do not meet this test.

Thus, the Kennedy-Rodino bill would carry forward the set of criteria used to define Saturday Night Specials under existing law. While complex, this definition is familiar, workable, and widely understood

The term "Saturday Night Special" has been used for many years to refer to handguns that are cheap, inaccurate, unsafe, easily concealed, and widely used in the commission of crime. While not mentioned in the legislation itself, the term received consideration of gun control legislation in 1967 and 1968. It is mentioned several times in the Senate report on the Omnibus Crime Control and Safe Streets Act of 1968 in connection with the firearm import prohibition of the Act. In fact, the report itself clearly identified the type of handguns to which the import ban would apply as Saturday Night Specials:

Substantial numbers of firearms that are sold via the mail-order route in the United States are foreign imported firearms, either of the military surplus category or the category of inexpensive, small-caliber firearms, which have been termed "unsafe" and as "Saturday night specials."

Our law enforcement officials have testified that from 50 to 80 percent of the crime guns that are confiscated each year are foreign imports of either of the above categories of weapons.[4]

Although neither the House nor the Senate report on the Gun Control Act of 1968 explicitly referred to Saturday Night Specials, the section-by-section analysis in the Senate report recalls the reasoning behind the import restrictions established by the Safe Streets Act and retained by the Gun Control Act.

The standards set forth in this subsection for the importation of firearms are designed and intended to provide for the importation of quality-made sporting firearms, including pistols, rifles, and shotguns, such as those manufactured and imported by Browning and other such manufacturers and importers of firearms.

It was made clear at the hearings that the imports which provided perhaps the greatest aggravation to big city crime were extremely cheap .22-caliber revolvers made largely in Europe for the US market. The difficulty of defining weapons characteristics to meet this target, without discriminating against sporting quality firearms, was a major reason why the Secretary of the Treasury has been given fairly broad discretion in defining and administering the import prohibition.[5]

The tests now used by the Department of the Treasury to determine whether a handgun is suitable for sporting purposes, and therefore may be imported, were developed by a panel of experts appointed by the Secretary of the Treasury after enactment of the 1968 legislation. These tests, which are referred to as "factoring criteria" or the "point system" (see Table II), are applied in a two-step procedure.

First the handgun must fulfill certain prerequisites relating to physical dimensions and safety features.

Second, the handgun is rated according to numerous specific characteristics such as length, weight, caliber, frame construction, and safety features. For each of these characteristics, the handgun is assigned a certain number of points. To qualify under the test, a pistol must receive a total of 75 points and a revolver must receive a total of 45 points.

Although cost is not one of the specific characteristics by which handguns are tested, higher-priced weapons tend to be assigned a larger number of points.

In addition to the factoring criteria used by the Treasury Department under current law, two other definitions of Saturday Night Special should be noted—one devised by the Treasury Department's Bureau of Alcohol, Tobacco, and Firearms and one employed in a bill once sponsored by Representative Dingell.

The Bureau of Alcohol, Tobacco, and Firearms adopted a three-factor test for its 1979 Firearms Trace Project, which traced handguns used in crimes in eighteen major metropolitan areas during the period January 1 to September 30, 1979. Under this test, a Saturday Night Special was defined as a handgun "with a barrel length of 3 inches or less, a caliber of .32 or less, and an initial cost factor of $50 or less." The results of the project (see Table III) showed that of 20,201 handguns used in crimes during the period studied, 5,418, or 27 percent, were Saturday Night Specials. Among the jurisdictions in the study, the percentage ranged from 13 percent in Denver to 39 percent in Rochester.

The Dingell handgun control bill, which was first introduced in the 91st Congress, would have prohibited the manufacture, importation, or sale of any handgun failing to meet certain requirements for the metal used in the weapon's construction. Under the bill, any handgun whose basic structural components had any of the following characteristics would have come under the prohibition:

Made of any material with a melting point less than 1,000 degrees Farenheit;

Made of any material with an ultimate tensile strength less than 55,000 pounds per square inch; and

Made of any powdered metal with a density less than 7.5 grams per cubic centimeter.

This approach was based on the view that most cheap handguns would meet one of these three descriptions. Several states have enacted laws using these or similar criteria in restricting handgun commerce.

[4] S. Rept. 1097, 90th Congress, p. 78.

[5] S. Rept. 1501, 90th Congress, p. 38.

TABLE I.—U.S. IMPORTS OF HANDGUN PARTS, 1976–80

Source	1976	1977	1978	1979	1980
West Germany	$605,000	$1,085,000	$2,050,000	$2,824,000	$2,610,000
Italy	795,000	1,235,000	1,248,000	1,670,000	2,203,000
Brazil	2,000	1,000	89,000	364,000	799,000
Spain	142,000	108,000	196,000	240,000	394,000
Belgium	164,000	143,000	237,000	127,000	80,000
Japan		16,000	90,000	48,000	42,000
Philippines	49,000	76,000	127,000	63,000	40,000
India				(1)	9,000
Other	49,000	16,000	46,000	23,000	25,000
Total	1,806,000	2,680,000	4,082,000	5,360,000	6,200,000

[1] Less than $500.

Source: Compiled by the U.S. International Trade Commission from official statistics of the U.S. Department of Commerce.

TABLE II.—FACTORING CRITERIA FOR HANDGUNS USED BY THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS IN THE DEPARTMENT OF THE TREASURY

PISTOL
PREREQUISITES

1. The pistol must have a positive manually operated safety device.
2. The combined length and height must not be less than 10 in with the height (right angle measurement to barrel without magazine or extension) being at least 4 in and the length being at least 6 in.

Individual characteristics (qualifying score is 75 points)	Point value
Overall length: For each ½ in over 6 in	1
Frame construction:	
Investment cast steel or forged steel	15
Investment cast high tensile strength alloy or forged high tensile strength alloy	20
Weapon weight with magazine in place and weapon unloaded: Per ounce	1
Caliber:	
.22 short and .25 automatic	0
.22 long rifle and 7.65 mm to .380 automatic	3
9-mm parabellum and over	10
Safety features:	
Locked breech mechanism	5
Loaded chamber indicator	5
Grip safety	3
Magazine safety	5
Firing pin block or lock	10
Miscellaneous equipment:	
External hammer	2
Double action	10
Drift adjustable target sight	5
Click adjustable target sight	10
Target grips	5
Target trigger	2

REVOLVER
PREREQUISITES

1. Must pass safety test.
2. Must have overall frame (with conventional grips) length (not diagonal) of 4½ in minimum.
3. Must have a barrel length of at least 3 in.

Individual characteristics (qualifying score is 45 points)	Point value
Barrel length (muzzle to cylinder face):	
Less than 4 in	0
For each ¼ in over 4 in	½
Frame construction:	
Investment cast steel or forged steel	15
Investment cast high tensile strength alloy or forged high tensile strength alloy	20
Weapon weight (unloaded): Per ounce	1
Caliber:	
.22 short to .25 ACP	0
.22 long rifle and .33 to .38 S. & W.	3
.38 special	4
.357 magnum and over	5
Miscellaneous equipment:	
Adjustable target sights (drift or click)	5
Target grips	5
Target hammer and target trigger	5

Safety (drop) test: A double action revolver must have a safety feature which automatically (or in a single action revolver by manual operation) causes the hammer to retract to a point where the firing pin does not rest upon the primer of the cartridge. The safety device must withstand the impact of a weight equal to the weight of the revolver dropping from a distance of 36 in in a line parallel to the barrel upon the rear of the hammer spur, a total of 5 times.

Source: ATF form 4590 (5 74).

Note: The Bureau of Alcohol, Tobacco and Firearms reserves the right to preclude importation of any revolver or pistol which achieves an apparent qualifying score but does not adhere to the provisions of 18 U.S.C. 925(d)(3).

TABLE III.—HANDGUNS USED IN CRIMES

[Percent in parenthesis]

Metropolitan area	Total handguns	Type[1]		Caliber		Barrel length		Retail cost			Saturday Night Specials[2]
		Revolvers	Pistols	.32 or less	Over .32	3 in. or less	Over 3 in.	Under $50	$50 to $100	Over $100	
All jurisdictions	20,201(100)	14,979(74)	5,252(26)	9,747(48)	10,454(52)	14,728(73)	5,473(27)	8,551(42)	4,330(22)	7,320(36)	5,418(27)
Atlanta	512(100)	417(81)	95(19)	263(51)	249(49)	363(70)	149(30)	278(54)	80(16)	154(30)	176(34)
Boston	445(100)	296(67)	149(33)	225(51)	220(49)	316(71)	129(29)	143(32)	88(20)	214(48)	93(21)
Chicago	7,963(100)	5,888(74)	2,075(26)	3,885(49)	4,078(51)	5,905(74)	2,058(26)	3,410(43)	1,900(24)	2,653(33)	2,232(28)
Cincinnati	934(100)	715(77)	219(23)	548(59)	386(41)	729(78)	205(22)	490(52)	212(23)	232(25)	320(34)
Cleveland	332(100)	252(76)	80(24)	106(32)	226(68)	233(70)	99(30)	118(36)	80(24)	134(40)	49(15)
Dallas	538(100)	418(78)	120(22)	275(51)	263(49)	424(79)	114(21)	330(61)	58(11)	150(28)	200(37)
Denver	60(100)	38(63)	22(37)	20(33)	40(67)	27(45)	33(55)	16(27)	7(12)	37(61)	8(13)
Detroit	2,173(100)	1,683(77)	490(23)	1,009(46)	1,164(54)	1,492(69)	681(31)	874(40)	438(20)	861(40)	548(25)
Kansas City	598(100)	414(69)	184(31)	317(53)	281(47)	408(68)	190(32)	267(45)	104(17)	227(38)	168(28)
Miami	1,177(100)	844(72)	333(28)	398(34)	779(66)	1,035(88)	142(12)	430(37)	203(17)	544(46)	238(20)
New Orleans	577(100)	437(76)	140(24)	240(42)	337(58)	374(65)	203(35)	293(51)	108(19)	176(30)	151(26)
New York City	888(100)	617(69)	271(31)	467(53)	421(47)	758(85)	130(15)	409(46)	173(20)	306(34)	287(32)
Philadelphia	1,037(100)	762(73)	275(27)	550(53)	487(47)	747(72)	290(28)	368(36)	282(27)	387(37)	249(24)
Rochester	204(100)	155(76)	49(24)	128(63)	76(37)	152(75)	52(25)	109(53)	32(16)	63(31)	79(39)
St. Louis	1,373(100)	1,076(78)	297(22)	661(48)	712(52)	837(61)	536(39)	556(41)	280(20)	537(39)	318(23)
San Francisco	230(100)	157(68)	73(32)	106(46)	124(54)	192(83)	38(17)	81(35)	55(24)	94(41)	53(23)
Santa Ana	167(100)	91(54)	76(46)	78(47)	89(53)	134(80)	33(20)	54(32)	32(19)	81(49)	37(22)
Washington, D.C.	993(100)	689(69)	304(31)	471(47)	522(53)	602(61)	391(39)	325(33)	198(20)	470(47)	212(21)

[1] For this study, handguns with a rotating cylinder are classified as revolvers; all others are classified as pistols.

[2] For this study, a Saturday Night Special was defined as a handgun with (1) a barrel length of 3 in. or less; (2) a caliber of .32 or less; and (3) a retail cost of $50 or less.

Source: Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, "1979 Firearms Trace Project" (July 7, 1980).

MESSAGE FROM THE HOUSE

At 3:54 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3991. An act to amend the Food Stamp Act of 1977 to increase the authorization for appropriations for fiscal year 1981, and to amend Public Law 93-233 to continue, through August 1, 1981, the cash-out of food stamp program benefits of certain recipients of Supplemental Security Income.

HOUSE BILL PLACED ON CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3991. An act to amend the Food Stamp Act of 1977 to increase the authorization for appropriations for fiscal year 1981, and to amend Public Law 93-233 to continue through August 1, 1981, the cash-out of food stamp program benefits of certain recipients of Supplemental Security Income.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1454. A communication from the Assistant Secretary of Defense (Comptroller), transmitting, pursuant to law, amendments to the report on contract award dates for the period May 15 through August 15, 1981; to the Committee on Armed Services.

EC-1455. A communication from the Acting Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), transmitting pursuant to law, a report concerning the Selected Reserve recruiting and retention incentives contained in certain sections of the United States Code; to the Committee on Armed Services.

EC-1456. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Food For Development Program Constrained By Unresolved Management and Policy Questions"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1457. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report on the status of a report concerning the need for and condition of housing available for migrant and settled farmworkers; to the Committee on Banking, Housing, and Urban Affairs.

EC-1458. A communication from the Secretary of Transportation, transmitting, pursuant to law, proposed rules regarding the retrofitting of certain railroad cars; to the Committee on Commerce, Science, and Transportation.

EC-1459. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to terminate certain functions of the Civil Aeronautics Board, to transfer other functions of the Board to the Secretary of Transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-1460. A communication from the Acting Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report on sales of refined petroleum products and sales of retail gasoline for March 1981; to the Committee on Energy and Natural Resources.

EC-1461. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, notice of a meeting related to the International Energy

Program; to the Committee on Energy and Natural Resources.

EC–1462. A communication from the Under Secretary of the Interior, transmitting, pursuant to law, notice of leasing system for Oil and Gas Lease Sale No. A66, Gulf of Mexico; to the Committee on Energy and Natural Resources.

EC–1463. A communication from the Secretary of Transportation, transmitting, pursuant to law, a biennial report on activities on Railroad-Highway Demonstration Projects, dated December 1980; to the Committee on Environment and Public Works.

EC–1464. A communication from the Acting Assistant Legal Advisor for Treaty Affairs of the Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to June 18, 1981; to the Committee on Foreign Relations.

EC–1465. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, notice of a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC–1466. A communication from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC–1467. A communication from the Assistant Secretary of Health and Human Services, transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC–1468. A communication from the Assistant Secretary of Health and Human Services, transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC–1469. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Civil Servants and Contract Employees: Who Should do What for the Federal Government"; to the Committee on Governmental Affairs.

EC–1470. A communication from the Chairman of the United States Civil Rights Commission, transmitting, pursuant to law, a report of the Ohio Advisory Committee evaluating the policies and practices of the Cincinnati Police Department; to the Committee on the Judiciary.

EC–1471. A communication from the Director of the National Institute of Corrections, transmitting, pursuant to law, the fifth annual report of the Institute; to the Committee on the Judiciary.

EC–1472. A communication from the General Counsel of the Legal Services Corporation, transmitting, pursuant to law, the calendar year 1980 report of the Corporation under the Freedom of Information Act to the Committee on the Judiciary.

EC–1473. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, recommending favorable consideration of claims by certain employees of the Pearl Harbor Naval Shipyard; to the Committee on the Judiciary.

EC–1474. A communication from the Acting Commissioner of the Immigration and Naturalization Service, transmitting, pursuant to law, 703 reports on visas accorded third and sixth preference classification; to the Committee on the Judiciary.

EC–1475. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Health Systems Plans: A Poor Framework for Promoting Health Care Improvements"; to the Committee on Labor and Human Resources.

EC–1476. A communication from the Chief Scout Executive, transmitting, pursuant to law, the 1980 Annual Report to Congress of the Boy Scouts of America; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DURENBERGER, from the Committee on Governmental Affairs, without amendment:

S. Res. 160. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with repect to the consideration of S. 43; referred to the Committee on the Budget.

By Mr. DURENBERGER, from the Committee on Governmental Affairs, without amendment:

S. 43. A bill to amend the Congressional Budget Act of 1974 to require the Director of the Congressional Budget Office to prepare and submit, for every bill or resolution reported in the House or the Senate which has certain specific economic consequences, an estimate of the cost which would be incurred by State and local governments in carrying out or complying with such bill or resolution (Rept. No. 97–142); referred to the Committee on the Budget for not to exceed thirty days of continuous session.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. ROTH, from the Committee on Governmental Affairs:

James A. Belson, of the District of Columbia, to be an Associate Judge of the District of Columbia Court of Appeals for the term of fifteen years;

Warren Roger King, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of fifteen years;

Richard Stephen Salzman, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of fifteen years; and

Reggie Barnett Walton, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of fifteen years.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WALLOP:

S. 1409. A bill to authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WALLOP (for himself and Mr. D'AMATO):

S. 1410. A bill to amend the Internal Revenue Code of 1954 to treat deductions for research and experimental expenses attributable to activities conducted in the United States as allocable to income from sources within the United States; to the Committee on Finance.

By Mr. THURMOND:

S. 1411. A bill to amend subchapter II of chapter 73 of title 10, United States Code, to eliminate certain inequities in the Survivor Benefit Plan provided for under such subchapter, to improve such plan by authorizing certain new options for participants in such plan, and for other purposes; to the Committee on Armed Services.

By Mr. D'AMATO (for himself and Mr. HAYAKAWA):

S. 1412. A bill to amend the Internal Revenue Code of 1954 to make permanent certain rules relating to travel expenses of State legislators; to the Committee on Finance.

By Mr. TSONGAS:

S. 1413. A bill to provide flexibility to the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation and the Federal supervisory agencies to deal with financially distressed depository institutions, and to increase the lending, investment, and operating authority of Federal mutual savings banks; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CRANSTON (for himself, Mr. CANNON, Mr. HAYAKAWA, and Mr. LAXALT):

S. 1414. A bill to clear title to certain lands along the California-Nevada boundary; to the Committee on the Judiciary.

By Mr. JEPSEN:

S. 1415. A bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities; to the Committee on Labor and Human Resources.

S. 1416. A bill to amend the National Labor Relations Act to provide for a freedom of choice in labor relations for full-time and part-time secondary and college students by exempting them from compulsory union membership, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WALLOP:

S. 1409. A bill to authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, and for other purposes; to the Committee on Energy and Natural Resources.

IMPROVEMENTS TO BUFFALO BILL DAM AND RESERVOIR, WYOMING

Mr. WALLOP. Mr. President, today I am introducing a bill which would authorize substantial improvements to Buffalo Bill dam in northwest Wyoming. When first constructed, between 1905 and 1910, it was the highest dam in the world and was named a National Engineering Landmark. Now, more than 70 years later, we are seeking to take advantage of modern technology by raising the dam an additional 25 feet and increasing the firm yield by 74,000 acre feet annually.

This is not a new proposal. After 1969, when Congress authorized the Department of Interior to study the feasibility of modifying Buffalo Bill dam, the project was caught in the web of bureaucracy and suffered like so many other proposals of the seventies from a paralysis by analysis. The study was substantially completed in May, 1974, but by August 1975, it was still under review and had not yet been transmitted to Congress. It had by that time, however, become stale and needed to be revised. A partial report was issued by 1977, but the bulk of the report still has not been completed even though more than 10 years have been passed since its authorization.

I firmly believe that the raising of the Buffalo Bill dam is an economic and environmentally sound water storage project. Congressionally authorized water projects are under bitter attack as being pork-barrel and an example of unnecessary Federal expense. Yet, as recently noted in the June 8 edition of U.S. News and World Report, the cost of the subway system now under construction in this

city is $10 billion, which is about $1 billion more than has been spent on western water projects in the past 80 years.

I support Congress pledge for fiscal responsibility but this does not mean that Congress is trying to eliminate Federal spending entirely. Rather, Congress should be encouraging projects which will maximize the Federal investment. I believe that this project is consistent with that goal.

While the project will generally benefit agriculture, it will also profit the entire area. This bill does not authorize the construction of a new project; instead it develops the full potential of an already existing facility. The primary objective of this bill is to raise the dam by 25 feet, permitting the storage of excessive spring runoff. Active conservation storage would be increased by over 270,000-acre feet, providing a firm yield of 74,000-acre feet annually which will be used for irrigation, outdoor recreation, fish and wildlife conservation, and for municipal and industrial purposes.

The State of Wyoming has on a number of occasions expressed an interest in acquiring water for municipal and industrial development. The Cody Canal Irrigation District and the Shoshone River water users have discussed the possibility of contracting for a water supply with the Bureau of Reclamation. In accordance with reclamation laws, repayment contracts for reimbursable costs must be negotiated prior to the initiation of construction of the facilities.

In studying the feasibility of this project, several alternatives were considered including nondevelopment. The findings concluded that the most efficient use of the resource would be to increase the storage by raising the dam. The total demand for anticipated water uses will require all the additional water which can be supplied from the existing facility. It was also determined that it would not be possible to provide an equal amount of additional storage in the same locality at the same costs.

Another element of the project is the rehabilitation of the hydroelectric generating plant located at the dam site. The existing five megawatt powerplant is obsolete. The new megawatt plant will increase power production to 20 million kilowatt hours annually. The raising of the dam itself, will increase the production potential of the new equipment by 17 percent. Energy exploration and development, specifically harnessing our available resources, will top the list on the domestic agenda for the rest of the century. Water has tremendous existing potential for generating electric power. Upgrading and retrofitting existing plants, rather than building new ones, is a very sound approach considering our current budget-trimming atmosphere.

A benefit which is impossible to measure precisely is that of mitigation of the effects of future droughts. This winter was unseasonably dry for most of the United States, but for westerners, who are no strangers to the problem, the prospect of a drought is especially disasterous. The detriments resulting from the lack of water can be avoided through the wise and efficient use of the resources such as will be provided by this proposal.

The increased reservoir size will require the construction of dust control dikes to maintain environmental quality and saddle dikes to prevent unnecessary flooding. The construction of a visitors center would be authorized on the left abutment of the dam. In addition to being included on the National Register of Historic Places, and being declared a National Historic Civil Engineering Landmark by the American Society of Civil Engineers, Buffalo Bill dam is located along a major access route to Yellowstone National Park. Over 500,000 visitors enter the park through this entrance every year. The National Park Service has recommended that the size of the visitors center be adequate to handle the peak day of 1,350 visitors. The extension of the existing dam, and construction of the visitors center may be done in such a way as to not detract from the architecture of the original structure, nor from its spectacular setting in the gorge.

The modifications included in this bill have been supported by the people of Wyoming for many years. They represent an economic and environmentally sound approach to the development of additional water and hydropower. This is exactly the type of project we need to support in these days of fiscal austerity.

By Mr. WALLOP (for himself and Mr. D'AMATO):

S. 1410. A bill to amend the Internal Revenue Code of 1954 to treat deductions for research and experimental expenses attributable to activities conducted in the United States as allocable to income from sources within the United States; to the Committee on Finance.

ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES

Mr. WALLOP. Mr. President, I am today introducing a bill to amend section 861 of the Internal Revenue Code providing that all R. & D. expenses made in the United States shall be allocated to U.S. source income rather than being allocated in part to foreign source income. This legislation would remove an artificial disincentive that encourages U.S. corporations to transfer part of their R. & D. activities from the U.S. to foreign countries.

Presently sections 861 and 862 provide for the allocation of deductions between United States and foreign source income to calculate taxable income from each such source. To the extent deductions are allocated to and reduce foreign source income, they reduce allowable foreign tax credits. Regulations issued by the Internal Revenue Service under sections 861 and 862 provide complex and highly theoretical rules respecting the allocation of R. & D. expenditures incurred in the United States to foreign source income.

However, the allocation of these expenditures are not recognized in the foreign jurisdictions from which the foreign source income is derived. The result, therefore, is often double taxation of such foreign source income and, more significantly, a disincentive to the expansion of R. & D. activities in the United States. There are several reasons for this result.

First, no other country in the world requires its taxpayers to allocate expenses incurred in the home country to foreign source income to determine the amount of foreign tax credit allowable. Hence foreign companies, unlike U.S. companies, are not subject to comparable double taxation. This gives them a significant competitive advantage over U.S. companies and provides an incentive for locating R. & D. overseas.

In the case of R. & D. expenses, the operation of these two basic disadvantages is particularly costly to companies, especially high technology, state-of-the-art companies, and runs counter to the national interest. Subjecting companies to double taxation with respect to a portion of their R. & D. expenditures because of a quirk in the U.S. law stands in shocking contrast with the widespread concern over the inadequate levels of R. & D. being performed in the United States and the concern over sagging U.S. productivity in the face of foreign competition.

Furthermore, very attractive incentive programs offered by many foreign countries attract R. & D. from the United States. For example, Japan targets high potential industries with developmental subsidies, accelerated depreciation and soft loans for R. & D. All businesses are allowed a 20-percent tax credit for R. & D. increases. Germany grants low interest loans for R. & D. tax free cash grants for investment in R. & D. facilities, and special depreciation for R. & D. plants and equipment.

The point is that sections 861 and 862 presently are an incentive for transferring R. & D. to foreign countries, since by doing so, a U.S. taxpayer can avoid double taxation and benefit from R. & D. incentives offered by many countries. The combination, therefore, of the disincentive to do R. & D. in the United States, because a portion of it will give rise to double taxation, combined with the incentives to do R. & D. abroad creates a situation where U.S. companies must weigh carefully some of the nonfinancial advantages of continuing to concentrate all their R. & D. in the United States against the clear financial advantage of transferring some of their R. & D. abroad.

Second, the decrease in allowable foreign tax credit (double taxation) which results from the allocation of U.S. R. & D. expenses to foreign source income under sections 861 and 862 cannot be mitigated under any existing tax treaty. The result is that U.S. taxpayers are subject to double taxation.

The U.S. Department confirms the serious problem involved here. A paper published by Treasury's Office of Tax Analysis in December 1980 states in part:

By denying U.S. corporations a full deduction for domestic R & D expenses against domestic income and by assigning some portion to foreign source income, where it often is not allowed as a deduction by foreign

tax authorities, the apportionment can effectively deny any tax deduction for a part of R & D expenses. Corporations engaging extensively in international business or in the production of technology-intensive products may, in some cases, be subject to a significantly higher over-all tax on their worldwide income.

Another extremely serious problem is the difficulty inherent in developing basic guidelines for applying in an equitable manner the very general allocation principles of sections 861 and 862 to the millions of international transactions that thousands of U.S. companies engage in over many years. In fact, equity is impossible to achieve unless each set of transactions is treated as a separate case.

For example, under the current section 861 regulations, R. & D. must also be calculated using broad product categories, so that, to illustrate, R. & D. on intercontinental ballistic missiles can be allocated to the dividend income of a foreign subsidiary producing engine valves, because both fall in the transportation category.

Two other results of this particular deficiency are important to note. First, the cost of maintaining the accounting system required to meet the sections 861 and 862 requirements runs in to the millions of dollars for a company of any significant size. Second, the cost to the Government of auditing this one section of the law must also run into the millions of dollars. This cost to the Government is particularly questionable, because the revenue gain from the application of sections 861 and 862 is relatively very small.

In fact, Treasury claimed there would be no gain in revenues when the present rules were put into effect in 1977, and a recent estimate from the Joint Committee on Taxation of the revenue loss resulting from the allocation of all U.S. R. & D. against U.S. source income, as proposed in this bill was only $108 million in fiscal 1982, increasing gradually to $136 million in 1985.

In light of this kind of cost/benefit situation as well as the disincentive for domestic research and development, section 861 should be amended. This bill does so by simply excluding domestically performed R. & D. from the application of section 861. All R. & D. which is conducted in the United States would be deducted solely from U.S. source income. I feel that the need to remove this R. & D. handicap is so urgent in light of the need to support increases in U.S. technology, economic growth, productivity and foreign trade, that action should be taken immediately to correct this situation. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1410

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 861 of the Internal Revenue Code of 1954 (relating to income from sources within the United States) is amended by adding at the end thereof the following new subsection:

"(g) ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.—

"(1) IN GENERAL.—For purposes of subsection (b) and section 862(b), all amounts allowable as a deduction for qualified research and experimental expenditures shall be allocated to income from sources within the United States and deducted from such income in determining the amount of taxable income from sources within the United States.

"(2) QUALIFIED RESEARCH AND EXPERIMENTAL EXPENDITURES.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified research and experimental expenditures' means amounts—

"(i) which are research or experimental expenditures within the meaning of section 174, and

"(ii) which are attributable to activities conducted in the United States.

"(B) TREATMENT OF DEPRECIATION, ETC.—Rules similar to the rules of subsection (c) of section 174 shall apply."

(b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1980.

By Mr. THURMOND:

S. 1411. A bill to amend subchapter II of chapter 73 of title 10, United States Code, to eliminate certain inequities in the Survivor Benefit Plan provided under such subchapter, to improve such plan by authorizing certain new options for participants in such plan, and for other purposes; to the Committee on Armed Services.

MILITARY SURVIVOR BENEFIT PLAN

Mr. THURMOND. Mr. President, last year the U.S. Congress and the American public became aware of the serious career personnel retention crisis in our Armed Forces. I am pleased to state that the Senate Armed Services Committee initiated the legislation which dramatically increased the basic pay and allowances of our armed services personnel to attract and retain qualified individuals in our services. The level of military compensation had fallen so far below the accepted cost of living, as measured by the Consumer Price Index in today's era of inflation, that this year we must again look seriously at military compensation and make appropriate adjustments.

We have not yet resolved our military personnel retention problem; we have just taken the initial steps to assure that the American military man and his family receive a standard of living equal to that of other Americans. Already, in this Congress, numerous measures, including my own S. 7, have been introduced. S. 7 will provide an educational benefit incentive program designed to make military service attractive to our youth and retain those trained and experienced noncommissioned and petty officers who form the hard core of our dedicated military force.

Mr. President, there remains one element of the military compensation package that demands equitable correction despite our past efforts. I speak to the issue of the military Survivor Benefit Plan (SBP). The 92d Congress enacted landmark legislation in establishing the military survivor benefit plan with the passage of Public Law 92–425 on September 21, 1972. The new law gave military careerists survivor benefits on a cost-sharing basis for the first time. Civilian employees of the government had enjoyed these benefits for the previous 24 years.

The military survivor benefit plan was patterned afer the civil service program. Supposedly, the two plans were equitable. But, from the beginning, the military plan contained inequities due to the uniqueness of a military career and the difficulties in comparing benefits between the two groups of Federal employees.

Mr. President, I sincerely believe if we are to achieve a career force of highly trained, experienced and dedicated personnel we must address all facets of military compensation. The assurance of an equitable survivor benefit plan is not the least of the elements of the compensation package which would retain the desired career personnel.

The greatest single problem facing the armed forces today is the loss of middle managers—senior NCO's and junior officers. The survivor benefit plan was originally established to help stem this flow out of the service, characterized by defense spokesmen as a hemorrhage, which is critically incapacitating the services. In light of this fact, I most urgently request support for my proposal to remove more inequities by reconstituting the military survivor benefit plan as a meaningful incentive for military careerists.

The Congress has endeavored to resolve the basic inequities of Public Law 92–425. In 1976, the House of Representatives sent us a bill which would have corrected most of the flaws. Unfortunately, it was received shortly before adjournment and too late for adequate study. As a result, only two provisions, which had previously been made law for civil service retirees, were passed.

Mr. President, in September 1977, the Senate received another bill from the House. It was received more than a year before the adjournment of the 95th Congress. In this case, the Senate had ample time to act; however, the Armed Services Committee could not schedule hearings until August 17, 1978. This left insufficient time to resolve discrepancies in cost estimates submitted by the Office of the Secretary of Defense and by the Congressional Budget Office. Once again, the inequities in the survivor benefit plan were only partly resolved with the passage of Public Law 95–397.

In the 96th Congress, the distinguished former chairman of the Subcommittee on Manpower and Personnel, Senator NUNN, endeavored to address these inequities by scheduling further hearings on my bill, S. 91. Senator NUNN requested that the Department of Defense prepare a study, including an independent actuarial analysis and cost estimates for specified provisions and other data by a civilian firm of actuaries. He set the deadline for submission of that report as no later than February 1, 1979. The subcommittee received the independent actuary's report on May 16, 1979.

Further, the previous administration recommended that a new actuarially neutral survivor benefit plan be established for military personnel. This recommendation set off a new subcommit-

tee study of the current plan which again resulted in a piecemeal action on the correction of the inequities addressed in my bill by the passage of Public Law 96–402 on October 9, 1980. Only a few of the inequities were removed.

Mr. President, to enable the Congress to finally correct the remaining inadequacies in the survivor benefit plan for military widows/widowers, I am introducing a bill which addresses these remaining deficiencies. This bill contains provisions from several bills I have introduced in the past, plus a few additional minor provisions. These provisions include those elements in previous Senate and House bills which were not accepted in previous sessions of Congress due primarily to the lack of time and because of cost discrepancies. Several of the provisions are directly related to the inequitable integration of the military member's militarily earned social security with his survivor's benefit annuity.

ELIMINATE SOCIAL SECURITY OFFSET BASED ON WIDOW'S OWN EARNINGS

Mr. President, this bill would eliminate the offset entirely for widows who receive social security payments based on their own earnings. It just does not make sense to impose the offset when widows have earned social security benefits on their own by many years of hard work, and they are drawing nothing from entitlement based on the active duty of their husbands.

ELIMINATE OFFSET FOR WIDOW WITH ONE CHILD

It would also eliminate the offset when there is one dependent child. This seems only fair because existing law exempts widows with two or more children.

In the passage of Public Law 95–397 in 1978, the Congress approved a provision whereby the social security offset would not be implemented in the instance where the military widow continues to work after attaining age 62. Therefore, I cannot rationalize why a nonworking widow or widower and one child should endure the loss of income due to the offset.

LIMIT SOCIAL SECURITY OFFSET TO 50 PERCENT WITH 40-PERCENT CAP

Mr. President, in the last session of Congress one of the inequities which caused the greatest dilemma was the 100 percent social security offset to the survivor benefit plan for the widow at age 62. My bill, S. 91, in the last session of Congress would have reduced this offset to 50 percent. After extensive hearings and study, the Subcommittee on Manpower and Personnel reached a compromise, whereby the social security offset would not reduce the survivor benefit plan by more than 40 percent. This provision became a part of Public Law 96–402.

Although this 40-percent cap helped some and should be retained, it still causes an inequity to a great many retirees. A combination of the 50-percent offset with a 40-percent cap will provide a more equitable solution.

Mr. President, when the military SBP was established in 1972, the Department of Defense recommended a 50-percent offset, arguing that the service member's contribution to social security should be returned to his survivor, under any circumstances. Eight years of experience have proven the Defense Department's recommendation to be correct.

The military survivor benefit plan was adapted from the civil service survivor plan with an implied cost-sharing formula of 60 percent by the individual and 40 percent to be borne by the Government. Until SBP was modified in the last Congress, certain noncommissioned officer participants were paying over 300 percent of the cost because of the effect of the social security offset, and many officer participants were paying almost 200 percent. Even with the modification, a guarantee that beneficiaries will receive not less than 60 percent of the full annuity for which their sponsors paid, E–7's are paying over 70 percent of the cost, and O–5's are paying 98 percent. Due to the indexing now applied to the social security program, by the year 2000 some participants will be paying well over 100 percent of the cost.

Since 1972, the survivor benefit plan has acquired over one and a quarter billion dollars in revenue for the U.S. Treasury. In other words, the Government has been making a profit from the military survivor benefit plan. Consequently, costs involved in removing inequities will not be excessive.

Nearly one-half of all military retirees do not participate in the survivor benefit plan. Many who elect not to participate do so with the realization that their survivor's annuity will be reduced, and in some cases almost nullified, by an offset of 100 percent of social security benefits attributed to military service. The bill I am introducing will reduce the offset to 50 percent of the militarily earned social security benefits while maintaining the 40 percent cap.

OPTION IN REINSTATING SBP COVERAGE FOR NEW SPOUSES

The present survivor benefit plan provides for a suspension of deductions from retired pay in the event of divorce or death of a spouse. But, in the event of remarriage, the coverage is automatically restored by operation of law whether or not the military retiree requires or desires it. The 95th Congress recognized that another marriage, occurring later in life, would probably take place under significantly different circumstances. In Public Law 95–317, the civil service retiree was given the option to elect, 1 year after remarriage, whether or not to reinstate survivor coverage for his new spouse. This seems to be a highly desirable provision, and it is incorporated in my bill.

OPTION TO WITHDRAW WHEN THERE IS NO LONGER A SPOUSE BENEFICIARY

Another curious result occurs when a retiree changes from spouse and child coverage to child only coverage in the event of divorce or death of a spouse. The Comptroller General has held that when this occurs, the deduction must be recomputed on an actuarial basis using the member's age and that of the youngest child. This has resulted in very large increases, as much as 60 percent, in the required deduction from retired pay. In situations such as this, where the retiree clearly did not expect such a result, the Secretaries of the Military Departments should be given authority to permit withdrawal from the plan. My bill will also authorize a participant to redesignate an insurable interest beneficiary, if the current beneficiary predeceases the participant.

ELIMINATE SOCIAL SECURITY OFFSET BEING DEDUCTED TWICE FROM SBP

It concerns me that double jeopardy exists for certain widows of military retirees who qualify for their own government pension after December, 1982. Section 334 of the Social Security Amendments of 1977 (Public Law 95–216) directs the reduction in the social security benefit of a wife or widow on a dollar-for-dollar basis by the amount of any public retirement benefit she receives based on her own public employment (Federal, State, local) that is not covered by social security.

Section 1451(a), title 10, United States Code (Public Law 95–425) requires a reduction in a widow's SBP annuity when she reaches age 62 and is entitled to a social security survivor payment. An earlier date applies when a widow has one dependent child in her care. The reduction is, of course, based only on active military service performed by her late husband after December 31, 1956.

There are an unknown number of wives/widows who will qualify for a government pension after December, 1982. Many of these have husbands who retired from active service after 1956, and who have elected coverage under the survivor benefit plan. In these situations, their widows' social security survivor benefit will be reduced (in most cases eliminated) because of the 1977 Social Security Amendments. In addition, their SBP annuity will be offset because of the social security survivor entitlement which will not exist. It is my understanding that the SBP offset will be required under the present wording of 10 U.S.C. 1451. Therefore, my bill proposes to amend the law to prevent double jeopardy in such cases.

ELIMINATE OFFSET FOR RESERVISTS PRIOR TO OCTOBER 9, 1980

My bill also corrects the treatment of the social security offset for the Reservist whose active duty is for less than a thirty-day period. Public Law 96–402 removes this offset for the future. I cannot, in all equity, understand why it should not also be applied to the previous service by Reservists.

Mr. President, Public Law 96–402 eliminates from the computation of social security offset under the survivor benefit plan (for widow or widower of a reservist) any periods of active duty of 30 or less continuous days for which the Reservist received a refund of social security taxes (excess FICA) because of maximum social security coverage (based on maximum taxable earnings) from private employment.

The Public Law 96–402 covers only periods of active duty performed subsequent to effective date of the law, October 9, 1980.

Reservists who performed periods of active duty of 30 consecutive days or less, subsequent to 1956 up to the effective

date of Public Law 96-402, are not covered under this new provision of the law. Consequently, their survivors are subject to the social security offset based on military earnings for that period, despite the fact that they paid FICA on the maximum taxable earnings in private employment.

Mr. President, to make the law equitable to all reservists, the social security offset against SBP should be eliminated from all Reserve survivor benefit plan annuities for periods of active duty of 30 continuous days or less, regardless of when the duty was performed. Revised payments should be effective from the date of enactment, with no retroactive provisions to repay the offsets applied to annuities prior to that date. The bill which I am introducing today will remove this inequity.

I remind my distinguished colleagues, as I did 4 years ago, that my proposal will merely improve the existing survivor benefit plan, so that it will provide widows, or widowers, of military retirees with a program equivalent to the one provided for survivors of decreased civil service retirees. These are widows who suffered the rigors of military life, who made the necessary sacrifices, met the challenges and kept the family together while their husbands served in wars and emergencies.

Mr. President, I believe it is incumbent on the Congress to assure military personnel that a military career can be as rewarding and satisfying as a career in the private sector. To do this, we must not only provide for equitable pay and allowances now; we must provide the careerist with meaningful benefits in retirement. The assurance that the careerists's surviving spouse will receive an equitable portion of the careerist's retired pay will be a most meaningful retention tool.

Mr. President, I urge my distinguished colleagues to join me in removing the inequities in the survivor benefit plan in the first session of the 97th Congress.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1411

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1450 of title 10, United States Code, is amended—

(1) by inserting "subsection (l) and" before "section 1449"; and

(2) by adding at the end thereof the following new subsections:

"(l) In any case in which the marriage of a person participating in the Plan is dissolved by divorce, or in which the spouse of such person dies, and such person subsequently remarries, such person may irrevocably elect, within one year after the date on which such person is remarried, whether or not to provide an annuity for the new spouse. An election under this paragraph to provide a new spouse an annuity shall be effective on the first day of the first month beginning one year after the date of the remarriage.

"(m) In any case in which a participant in the Plan has elected under section 1448(b) of this title to provide an annuity to a natural person with an insurable interest in the participant and such person predeceases the participant, the participant may designate another natural person with an insurable interest in the participant as beneficiary under the Plan if the participant (1) has no spouse or dependent child, and (2) notifies the Secretary concerned in writing within 90 days after the death of the first named beneficiary that the participant wishes to name a new beneficiary and provides such other information as the Secretary concerned may require.".

SEC. 2. (a) Section 1451(a) of title 10, United States Code, is amended by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following.

"(2) Except as provided in paragraph (3), when the widow or widower reaches age 62, the monthly annuity shall be reduced by an amount equal to 50 percent of the amount of any survivor benefit to which the widow or widower is entitled under title II of the Social Security Act (42 U.S.C. 401 et seq.) based solely upon service by the person concerned as described in section 210(l)(1) of such Act (42 U.S.C. 410(l)(1)) and calculated assuming the person concerned lives to age 65, except that in no case may the monthly annuity be reduced below an amount equal to 60 percent of the monthly annuity as determined under paragraph (1).

"(3) No reduction shall be made under paragraph (2) in the amount of the monthly annuity payable to any widow or widower under this subchapter if a reduction is being made under section 202(b)(4) of the Social Security Act (42 U.S.C. 402(b)(4)) in any monthly periodic benefit payable to such widow or widower which is based upon such widow's or widower's earnings while in the service of the Federal Government or any State (or political subdivision thereof).

"(4) In the computation of any reduction made under paragraph (2), there shall be excluded any period of service described in section 210(l)(1) of the Social Security Act (42 U.S.C. 410(l)(1)) which involved periods of service of less than 30 continuous days for which the person concerned is entitled to receive a refund under section 6413(c) of the Internal Revenue Code of 1954 (26 U.S.C. 6413(c)) of the social security tax which such person had paid.".

(b) No person shall be entitled, by virtue of the amendment made by subsection (a), to any refund of reductions which were made before the effective date of this Act in the amount of the monthly annuity paid under subchapter II of chapter 73 of title 10, United States Code, and which were made on account of periods of military service of less than 30 continuous days for which the person concerned was entitled to receive a refund under section 6413(c) of the Internal Revenue Code of 1954 (26 U.S.C. 6413(b)) of the social security tax which the person concerned had paid.

SEC. 3. Subsection (b) of section 1452 of title 10, United States Code, is amended—

(1) by striking out "The" at the beginning of such subsection and inserting in lieu thereof "(1) Subject to the provisions of paragraph (2), the"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of this subchapter, any person who has a dependent child, but does not have an eligible spouse, may discontinue participation in the Plan if such person formerly had a spouse who was eligible for an annuity under this subchapter and such spouse is dead or the marriage between such spouse and such person has been dissolved by divorce or annulment. The Secretary concerned shall discontinue the participation of any such person in the Plan upon receipt of a written request from such person containing such information as the Secretary concerned shall prescribe.".

SEC. 4. The amendments made by this Act shall become effective on the first day of the second calendar month following the month in which this Act is enacted.

By Mr. D'AMATO (for himself and Mr. HAYAKAWA):

S. 1412. A bill to amend the Internal Revenue Code of 1954 to make permanent certain rules relating to travel expenses of State legislators; to the Committee on Finance.

TRAVEL EXPENSES OF STATE LEGISLATORS

● Mr. D'AMATO. Mr. President, today I am introducing a bill to restore and make permanent expired provisions of the Internal Revenue Code relating to the travel expenses of State legislators. Mr. HAYAKAWA has joined me as a cosponsor of this legislation.

Prior to January 1, 1981, State legislators were able to treat their legislative district as their tax home. This entitled State legislators to deductions for living expenses on legislative days when the legislator was required to stay away from home overnight on legislative business. With the expiration of this provision, however, the tax home for State legislators will be defined as their principal place of business. For most State legislators this is their State capital. Thus, their travel and living expenses necessary to the performance of their duties would no longer be deductible.

This situation is unfair treatment of our fellow legislators. I have, therefore, introduced a bill to modify and make permanent the expired provisions of the Internal Revenue Code. Under my bill a State legislator could elect to consider his or her legislative district as a tax home. A legislator making such an election would be treated as having expended an amount equal to the greater of his or her State per diem or the Federal per diem in that State capital on each legislative day. The maximum deduction, however, would be 110 percent of the Federal per diem. The bill would also deem an electing legislator to be away from home on legislative business on each legislative day.

Finally, my bill would apply retroactively to January 1, 1973. This would eliminate the confusion over these provisions created by the recent tax court decision in the case of *Eugene A. Chappie* v. *Commissioner*, 73 T.C. 823 (1980).

Mr. President, this bill is necessary to restore fair and just tax treatment to our fellow legislators. I urge that it be passed without delay. I also ask unanimous consent that my bill be printed in full at the close of my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1412

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) STATE LEGISLATORS' TRAVEL EXPENSES AWAY FROM HOME.—

"(1) IN GENERAL.—For purposes of subsection (a), in the case of any individual who is a State legislator at any time during the taxable year and who makes an election under this subsection for the taxable year—

"(A) the place of residence of such individual within the legislative district which he represented shall be considered his home.

"(B) he shall be deemed to have expended for living expenses (in connection with his trade or business as a legislator) an amount equal to the sum of the amounts determined by multiplying each legislative day of such individual during the taxable year by the greater of—

"(i) the amount generally allowable with respect to such day to employees of the State of which he is a legislator for per diem while away from home, to the extent such amount does not exceed 110 percent of the amount described in clause (ii) with respect to such day, or

"(ii) the amount generally allowable with respect to such day to employees of the executive branch of the Federal Government for per diem while away from home but serving in the United States, and

"(C) he shall be deemed to be away from home in the pursuit of a trade or business on each legislative day.

"(2) LEGISLATIVE DAYS.—For purposes of paragraph (1), a legislative day during any taxable year for any individual shall be any day during such year on which—

"(A) the legislature was in session (including any day in which the legislature was not in session for a period of 4 consecutive days or less), or

"(B) the legislature was not in session but the physical presence of the individual was formally recorded at a meeting of a committee of such legislature.

"(3) ELECTION.—An election under this subsection for any taxable year shall be made at such time and in such manner as the Secretary shall by regulations prescribe."

(b) The amendment made by subsection (a) shall apply to taxable years beginning on or after January 1, 1973.●

By Mr. TSONGAS:

S. 1413. A bill to provide flexibility to the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the Federal supervisory agencies to deal with financially distressed depository institutions, and to increase the lending, investment, and operating authority of Federal mutual savings banks; to the Committee on Banking, Housing, and Urban Affairs.

REGULATORY FLEXIBILITY AND EXPANDED POWERS ACT OF 1981

(The remarks of Mr. TSONGAS on this legislation appear earlier in today's RECORD.)

By Mr. CRANSTON (for himself, Mr. CANNON, Mr. HAYAKAWA, and Mr. LAXALT):

S. 1414. A bill to clear title to certain lands along the California-Nevada boundary; to the Committee on the Judiciary.

CLEAR TITLE TO CERTAIN LANDS ALONG THE CALIFORNIA-NEVADA BOUNDARY

Mr. CRANSTON. Mr. President, on behalf of Senator CANNON, Senator HAYAKAWA, Senator LAXALT and myself, I am introducing a bill to clear up land title questions related to the California-Nevada boundary.

By way of background, Mr. President, there are certain lands in the vicinity of the California-Nevada border which were granted to the States by the Federal Government. Most of the lands have long since passed from the States to private owners and many of them have been developed. For more than a century, everyone—including the Federal Government—has assumed and relied upon the validity of the land titles.

However, as a result of the 1980 U.S. Supreme Court decision in the case of California against Nevada relocating the California-Nevada interstate boundary, these lands now fall within the other State. Serious questions are being raised about the legality of these titles which are based on a State's grant of land subsequently determined to be outside its jurisdiction.

I understand that altogether there are an estimated 11,115 acres affected by the Supreme Court decision. The vast majority of the land is now located in California, and the most valuable property—involving 2,458 separate parcels and 1,265 acres—is in the Lake Tahoe Basin.

Both the California Department of Justice and the California Land Title Association have advised me that litigation to resolve this question would likely be protracted and costly and hardly desirable. Instead, they have requested the legislation I am introducing today.

The bill would validate the States' transfers of lands subsequently determined to be outside their boundaries and confirm the land grants as having been properly made. There are no known situations in which California and Nevada separately conveyed the same parcel of land to different owners.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1414

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that—

(1) thousands of acres of real property transferred by the United States to California or to Nevada on or before July 7, 1980, are now located within the other State according to the boundary between them established by the United States Supreme Court in the case of *California* v. *Nevada*, 433 U.S. 918 (1980),;

(2) each State has accepted such transfers as valid, and commencing some one hundred and twenty-five years ago conveyed substantially all of the property into private ownership;

(3) the original title of each State and political subdivision thereof and subsequent private parties has been treated as good and valid for all governmental and private purposes;

(4) it is imperative that certainty of title to and ownership of the real property be established as soon as practicable in order to avoid any undue hardship on the States of California and Nevada and affected private parties; and

(5) litigation is not an appropriate means of resolving the above questions of title and ownership of the affected real property in that it would result in unprecedented and unnecessary burdens and expenses on the courts of the United States, California and Nevada, as well as on private property owners.

SEC. 2. Grants and all other transfers of all real property to California by the United States on or before July 7, 1980, by a statute, clear lists, selection, patent, or any other means, pursuant to any statute listed or referred to in section 4 of this Act, which real property is located in the State of Nevada according to the boundary between California and Nevada as defined in the case of *California* v. *Nevada*, 433 U.S. 918 (1980), are hereby confirmed, from and after the date of any such grants or other transfers, as having been made properly.

SEC. 3. Grants and all other transfers of all real property to Nevada by the United States on or before July 7, 1980, by a statute, clear list, selection, patent, or any other means, pursuant to any statute listed or referred to in section 4 of this Act, which real property is located in the State of California according to the boundary between California and Nevada as defined in the case of *California* v. *Nevada* 433 U.S. 918 (1980), are hereby confirmed, from and after the date of any such grants or other transfers, as having been made properly.

SEC. 4. Statutes of the United States pursuant to which real property has been granted or otherwise transferred by the United States to one or both of California and Nevada include the Acts of Congress approved September 4, 1841 (5 Stat. 453); September 28, 1850 (9 Stat. 519); March 3, 1853 (10 Stat. 244); July 2, 1862 (12 Stat. 503); March 21, 1864 (13 Stat. 30); July 4, 1866 (14 Stat. 85); March 2, 1867 (14 Stat. 541); June 16, 1880 (21 Stat. 287); August 19, 1894 (28 Stat. 422); and any other Act of Congress pursuant to which such a grant or other transfer was made.

By Mr. JEPSEN:

S. 1415. A bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations or to refrain from such activities; to the Committee on Labor and Human Resources.

RIGHTS OF WORKERS

Mr. JEPSEN. Mr. President, I send a bill to the desk and ask that it be read and referred to the appropriate committee.

The bill I am introducing today amends section 7 of the National Labor Relations Act and section 2 of the Railway Labor Act by deleting provisions which mandate an individual to join or pay money to a labor organization in order to obtain or maintain employment.

Mr. President, the issue of "right to work" is not new to this Chamber, the Congress, or the American people. The issue centers on the question about whether, as a condition of employment, an individual must join an organization; specifically a union organization. The greater question is whether individual liberty really prevails in America for the American worker.

The right to work issue is not an attack on the labor movement, nor is it intended to hinder the livelihood of the American labor movement or the great achievements that American workers have contributed to the growth and productivity of the U.S. economy.

Labor unions, along with the cooperation of management, have done a great deal to improve the quality and safety of the workplace. More importantly, many of the achievements and advances in labor have been accomplished because of the organization, power, and determination of the people associated with the labor movement.

Nevertheless, one of the major flaws within the labor movement is their uncompromising and steadfast belief and practice that the American worker not only has the right to join a labor union,

but must be compelled to join a labor union as a condition of employment or continued employment.

The right to work, although it is not a constitutionally protected right, is nevertheless, a right a society such as ours must preserve and protect. The right of association and the freedom to associate or not to associate are protected and guaranteed by the first amendment to the U.S. Constitution. Unfortunately, the opponents of right to work are of the opinion that this constitutional right, this fundamental guarantee, does not apply to those who seek employment in America.

In deference to the opponents of right to work, there was a time when public labor policy considered nearly anything and everything a union did as either illegal or prohibitive.

Today, however, we are faced with the fact that many people believe that unions have become uniquely privileged institutions to which the general rules of laws do not apply.

Mr. President, presently 20 States which have right-to-work laws, including: Alabama, Arizona, Arkansas, Florida, Georgia, Iowa, Kansas, Louisiana, Mississippi, Nebraska, Nevada, North Carolina, North Dakota, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, and Wyoming. Other States lean toward the right-to-work issue, including: Delaware, Idaho, New Hampshire, New Mexico, and Vermont.

Ironically, in the 20 right-to-work States, the AFL–CIO is doing proportionately better in terms of attracting new members and sustaining its membership compared to the old line industrial States in which right-to-work laws are not in effect. The right-to-work law not only protects an individual's right, but in those States which support right-to-work laws, the economy is generally healthier.

Collectively, the 20 right-to-work States had, as of 1978, an average unemployment rate of 5 percent, while the average rate for the remaining States was 6.2 percent. My home State of Iowa, which has had a right-to-work statute since April of 1947, is a good example. Between 1969 and 1979, manufacturing employment in my State increased by 14.2 percent, adding approximately 33,300 jobs. In contrast, construction employment in Iowa added over 6,000 jobs for a gain of more than 14 percent. In nonagricultural employment from 1967 and 1977, Iowa experienced a 30-percent increase in employment. During that same period, an Iowan's per capita personal income increased $4,000 for an increase of 123 percent.

According to the National Right-to-Work Committee, compulsory unionism States are continuing to lose jobs. Specifically:

In 30 states wage earners are still not protected against compulsory unionism. Union officials in those states possess vast powers to force workers to pay money to the union in order to keep their jobs.

But workers in those states have lost more than their freedom alone. They're losing jobs, too. Every year. By the thousands.

Between 1969 and 1979, compulsory unionism states endured a net loss of 271,000 manufacturing jobs. (Bureau of Labor Statistics, U.S. Department of Labor) that's over a quarter of a million workers without jobs—and the loss of almost $4 billion dollars which they would have earned in 1979 alone.

Furthermore, the National Right to Work Committee noted that—

New York led the list of compulsory unionism losses with a deficit of 371,900 jobs. That amounts to a loss of one out of every five manufacturing jobs that existed in 1969—a loss due largely to compulsory unionism and its attendant burdens.

Over the same period workers in Pennsylvania, New Jersey, Maryland and Illinois—all compulsory unionism states—suffered the loss of more than one out of every ten manufacturing jobs.

But workers in all 20 right to work States have enjoyed dramatic increases in manufacturing jobs during the last decade. Five right to work States have seen job increases of over 50 percent, and nearly half of all right to work States have increased manufacturing employment by over one-third.

Mr. President, I reemphasize again: our laws protect the issue of association and fundamental freedom under our Constitution.

In regard to economic growth, productivity and prosperity in general, freedom is essential if such prosperity is to long endure.

Employees in right-to-work States have found that freedom and prosperity go hand in hand. Specifically, according to the Bureau of Labor Statistics, U.S. Department of Labor, "from 1969 to 1979, right to work States created a net total of 1,087,000 manufacturing jobs," kept their jobless rate nearly 2 percentage points below compulsory unionism States throughout the seventies and posted a net population gain of over 9 million Americans between 1970 and 1979.

Right-to-work States have produced lower unemployment, a lower cost of living and increased job opportunities which translate into more jobs, improved employee benefits, and greater prosperity for individual workers.

According to the National Right to Work Committee and data from the Department of Labor, Bureau of Labor Statistics, the following States had either a net gain or net loss in manufacturing jobs between 1969 and 1979. I ask that this table of statistics comparing the gain of jobs in right-to-work States with the loss of jobs in compulsory unionism States be inserted into the RECORD.

RIGHT TO WORK STATES

Texas, up	269,500
Florida, up	109,400
North Carolina, up	104,700
Tennessee, up	59,400
South Carolina, up	57,000
Mississippi, up	53,100
Georgia, up	50,800
Kansas, up	50,400
Alabama, up	50,000
Arkansas, up	48,800
Arizona, up	48,200
Virginia, up	42,100
Iowa, up	33,300
Utah, up	33,100
Louisiana, up	32,400
Nebraska, up	12,400
Nevada, up	11,500
South Dakota, up	11,000
North Dakota, up	7,600
Wyoming, up	2,900
Total gain, jobs	1,087,600

COMPULSORY UNION STATES

California, up	339,300
Wisconsin, up	71,600
Colorado, up	65,600
Oklahoma, up	53,400
Minnesota, up	50,600
Kentucky, up	47,100
Oregon, up	46,900
Washington, up	27,100
Idaho, up	18,700
New Hampshire, up	18,100
New Mexico, up	14,400
Vermont, up	7,400
Arkansas, up	5,300
Rhode Island, up	4,400
Montana, up	2,800
Hawaii, down	1,600
Maine, down	1,700
Missouri, down	2,500
Delaware, down	3,400
West Virginia, down	5,000
Indiana, down	11,400
Maine, down	12,300
Connecticut, down	37,300
Maryland/District of Columbia, down	40,600
Minnesota, down	42,000
Ohio, down	88,200
New Jersey, down	93,200
Illinois, down	138,600
Pennsylvania, down	193,400
New York, down	371,900
Total loss of jobs	271,000

Finally, according to the 1980 Opinion Research Corp. poll, 73.8 percent of the American people surveyed favored a right-to-work proposal. That is nearly three-quarters of the American people who agree that it is wrong to force workers to join or support a labor union against their will. It is wrong because it violates the fundamental principle of individual liberty and freedom of choice. The American people, true to their heritage and national pride, remain dedicated to the principles of individual freedom regardless of whether it is practicing one's religion or exercising one's right to work.

Therefore, I strongly urge serious consideration of this bill. With the new leadership in the Senate and the new sense of direction now in the Congress and the administration, we can greatly facilitate passage of this much-needed law.

Mr. President, I send to the desk various articles and additional commentary on the issue of right to work for insertions into the RECORD, which was provided to me by the National Right to Work Committee. Mr. President, this material was submitted to me in 1979, therefore some of the references may be out of date.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD along with the previously mentioned material.

There being no objection, the bill and material ordered to be printed in the RECORD, as follows:

S. 1415

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 7 of the National Labor Relations Act is amended by striking out "except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in section 8(a)(3)".

(b) Section 8(a)(3) of such Act is amended by striking out all of section 8(a)(3) after "labor organization" the first time it appears and substituting a semicolon.

(c) Section 8(b)(2) of such Act is amended by striking out everything after "subsection (a)(3)" and substituting a semicolon.

(d) Section 8(f) of such Act is amended by striking out clause (2), and by redesignating clauses (3) and (4) as (2) and (3), respectively.

SEC. 2. The Railway Labor Act is amended by striking out section 2, Eleventh, thereof.

CALIFORNIA

Teachers forced to pay retroactive "agency shop" fees for a ten month period for which there was no collective bargaining agreement.

Union officials sue three employees who refused to pay "agency shop" fees.

CLEAR EXTORTION—RETROACTIVE "AGENCY SHOP"

The NEA knows no limit when it comes to extorting money.

Three Los Altos, California, teachers have filed charges against the Los Altos Teachers Association (LATA) and the Los Altos School District, for having been forced as a condition of continued employment to pay "agency shop" fees for a ten-month period for which there was no collective bargaining contract!

Even though the union contract was not agreed to until May 16, 1977, the NEA affiliate demanded teachers John Broadwood, Beverly Chamberlain, and Barbara Nutt to pay "agency shop" fees dating back to July 1, 1976.

Forced to financially support this unwanted representative, the three teachers agreed to pay fees incurred from the day the master contract took effect, but contend that a retroactive "agency shop" is a mockery of their freedom of association and forces them to finance union operations against their will.

The National Right to Work Legal Defense Foundation, a non-profit organization which provides free legal aid to victims of compulsory unionism, has entered the case on the teachers' behalf and filed unfair labor practices with the California Educational Employment Relations Board.

"This is a clearcut case of union greed run amuck," National Right to Work Legal Defense Foundation Chairman Thomas J. Harris said. "Repeatedly, the National Labor Relations Board has established the fact that retroactive fees are illegal. Yet here we are again with a money-hungry teacher's union using its compulsory unionism wedge to separate employees from their hard-earned money."

NEA-UNION RETROACTIVE "AGENCY SHOP" FEE BANNED

SACRAMENTO, CALIF.—As a result of a National Right to Work Legal Defense Foundation lawsuit, a Hearing Officer of the California Public Employment Relations Board (CPERB) has ruled against NEA-Union officials for forcing teachers to pay retroactive "agency shop" fees.

The case arose May 16, 1977, when the Los Altos Teachers Association-Union (LSTA), an NEA-Union affiliate, and Los Altos School District concluded an "agency shop" contract requiring teachers to pay compulsory union fees dating back to July 1, 1976.

Teachers, John Broadwood, Beverly Chamberlain, and Barbara Nutt, paid the union $10.07 as the prorated portion of the "agency shop" fee for the period May 16, 1977 to June 30, 1977, but refused to knuckle under to the union's back-dues scam. When the School District threatened to fire them, the teachers paid the fees under protest and sought the aid of the Foundation, an organization that protects individuals from union extortion.

Citing Colonie Fibre Co., Inc. 71 NLRB 354 at 356 (1946), CPERB Hearing Officer, Gerald Becker, ruled, "to require payment of past dues as a condition of employment would have a seriously detrimental effect upon freedom of organization . . . Legalization of this practice would provide a device for effectively constraining those who would not have remained members . . . at a time when they are under no obligation to do so.

COURT RULES IN FAVOR OF "RIGHT TO CHOOSE"

SACRAMENTO, CALIF.—A Superior Court Judge has ruled that Lemoore and Avenal High School employees do not have to pay union officials for their jobs.

Earlier this year, the California School Employees Association-Union (CSEA) sued three employees for refusing to pay "agency shop" fees, which were not authorized under the collective bargaining agreement.

Citing the ambiguity of the contract, the judge wrote that the case "must be resolved in favor of the persons (non-members) who are not parties to the agreement and who did not participate in or have any say in the drafting of said agreement."

Because it "deprives the employee of the right to choose whether he desired to capitulate and pay a service fee or terminate his employment," the court concluded that the labor agreement is "unenforceable."

ILLINOIS

"Outstanding" teacher fired for refusing to support the local NEA affiliate.

ILLINOIS TEACHER ILLEGALLY FIRED FOR REFUSING TO PAY "AGENCY SHOP" FEES

The Illinois Office of Education has ruled that the concerted action between a school board and union in firing a teacher who refused to pay "agency shop" fees was illegal and unconstitutional under state law.

Mrs. Susan LaVine, a foreign language teacher, had been fired March 21, 1977, by the Lyons Township Board of Education on the trumped-up charges of "deficient and unsatisfactory performance as a teacher."

James Stack, a hearing officer called in to decide the dispute overturned the firing because LaVine had really been charged with not forking over illegal "agency shop" fees to the Lyons Township Faculty Association-Union (LTFA), an affiliate of the National Education Associate-Union (NEA).

NEA-union affiliate imposed illegal and unwanted representation

Stack ruled that "The Board, by reason of the School Code and Constitution, was wholly without authority of jurisdiction to discharge LaVine . . . That the Board has recognized the Association as the agent for all its certified employees is in fact, in law, a nullity unless the Board had the authority to recognize the Association," which it did not.

The union-school ploy was further exposed when it was revealed that complimentary evaluations had been written about LaVine by the head of the foreign language department. Stack also characterized the Board as having assumed that the union had the power to force its representation on teachers.

LaVine rejected NEA-union compulsion

LaVine had been a voluntary member of the union, but resigned when its officials demanded to be paid tribute. The union then went after her to collect compulsory "agency shop" fees equal to full union dues. Of the $122 coerced fee, $84 was given to the Illinois Education Association-Union (IEA), $30 to the NEA-Union, while only $8 was retained by the local LTFA.

"A crushing defeat for the NEA-union"

Susan Staub, Staff Director of Concerned Educators Against Forced Unionism (CEAFU), said, "The citizens of Lyons Township should be shocked that their school board worked in cahoots with union officials to deprive them and their children of LaVine's teaching.

"If the school board isn't going to protect its teachers from union racketeering, it may as well hand over the town's children to them, too.

"It's a crushing defeat for the NEA-Union because they used LaVine as a test case for forcing the rest of the state's teachers to support them. And they found out that they're not going to get away with it!"

MAINE

Teachers win state Supreme Court ruling banning "agency shop" fees.

COURT BANS AGENCY SHOP FOR TEACHERS

The Main Supreme Court has ruled that public employees who choose not to join a municipal union can't be forced to pay the equivalent of union dues.

The decision struck down the use of most "agency shop" clauses in state municipal contracts.

In an agency shop, employees do not have to join a union, but they must pay the union the cost of being represented in contract negotiations. That cost has generally been figured as the same as the dues that union members pay.

The court's decision Friday, written by retired Chief Justice Armand A. Dufresne (doo frain') Jr., stemmed from a dispute in Fairfield between the Teachers Association and the district's board of directors.

The teachers' contract included an agency shop clause under which the school board—after receiving authorization from a non-member of the teachers' union—would deduct the equivalent of dues from the teacher's salary and turn it over to the union.

But several teachers who had refused to join the union also refused to hand over any money. The teachers' union demanded that the board fire the recalcitrant teachers, but the board refused.

Dufresne wrote that the "forced payment of dues or their equivalent under an agency shop clause is tantamount to coercion" toward union membership.

From an article appearing in the Evening Express, Portland, Maine, November 19, 1977.

MASSACHUSETTS

Teachers forced to pay for union officials' entertainment.

"AGENCY SHOP": A FREEWHEELING EXPENSE ACCOUNT

MASSACHUSETTS.—Excessive "agency shop" fees are being pocketed by officials of the Education Association-Union of Worcester (EAW) in violation of that state's General Laws that limit compulsory fees to an amount "proportionately commensurate with the cost of collective bargaining and contract administration".

Officials of the Massachusetts Teachers Association-Union (MTA) and National Education Association-Union (NEA) are living high on the hog and shoving the expenses to EAW "non-members" who must help pick up the tab as a condition of employment. "Non-members" are assessed EAW "agency shop" fees, full dues of the MTA and NEA as well as everything else from airplane tickets to a parking ticket.

A prohibited practices suit has been lodged against the union with the state's Labor Relations Commission by the National Right to Work Legal Defense Foundation, an organization that protects individuals from extortion stemming out of compulsory unionism.

The tables show what "non-members" are paying for; what the union's officials call "justified" collective bargaining and contract administration costs:

$114.00, individual MTA & NEA union dues. Dues are used for the training and staffing of NEA UNISERV, legislative efforts, political action, public relations, and legal defense.

1975–1976

$1,392.00, advertising: Worcester Telegram & Gazette.

$998.00, annual MTA meeting: Sheraton-Boston Hotel.

$64,224.00 automobile depreciation: To maintain a fleet of 50 cars for the MTA staff. Cars are allowed to be used privately, without restriction, throughout New England.

$391,888.00, building expenses: Maintenance on the MTA's headquarters, yet 4 floors of the MTA building are rented out. "Agency shop" payers are also assessed for EAW's rent and building maintenance.

$5.00, central district court: Parking ticket.

$5,375.00, convention & travel expenses: Airplane tickets, room and board, $650 apiece for six EAW teachers and one administrator to attend the NEA Convention.

498,000, Polish Naturalization Independence Club: EAW meeting for political candidates.

$32,650.00, salary: Gerald E. Coleman, EAW Executive Secretary.

$109,000.00, strike expenses: MTA assistance to New Bedford Education Association-Union (NBEA).

Susan Staub, Staff Director of Concerned Educators Against Forced Unionism (CEAFU), said "the Worcester situation typifies the abuse that 'non-union' teachers are forced to face throughout the nation."

Said Staub, "It's time that legislators proned to granting the NEA 'agency shop' legislation in return for campaign support wake up to the fact that 'agency shop' is a personal welfare scheme".

MICHIGAN

Veteran Detroit Educator Fired at AFT demand.

Eastern Michigan University employee fired over non-union support.

Two Garden City teachers forced to pay illegal political and strike fees.

Tenured teacher appeals firing to Tenure Commission.

Substitute teachers blackballed.

Teacher, head football coach, next in line to be fired.

VETERAN MICHIGAN TEACHER FIRED FOR REFUSING TO PAY UNION DUES

To ensure school boards don't forget who runs education, the Detroit Federation of Teachers-Union (DFT AFL-CIO) forced the Detroit Board of Education to fire a teacher for refusing to pay them "agency shop" (non-member) fees.

Dr. Parks was a tenured teacher with more than 40 years experience. The fact that she loved her students, obtained a doctorate to better serve them, and stayed in Detroit when many of her colleagues fled to the suburbs, meant nothing under the agency shop provision of the contract.

Under that contract, Detroit's teachers must pay fees to union officials for the privilege of teaching as a condition of employment. The legislature gave the DFT-Union the power to "exclusively" represent every teacher in the city, and subsequently denied individual employees the right to bargain and represent themselves.

Dr. Parks, a counselor at Cody High School, had been a voluntary member of the National Education Association-Union (NEA) during the 1960's and even served on the board of its Detroit affiliate.

Then, in 1969, the DFT-Union won the "exclusive" rights to Detroit's teachers. And, in 1970, the president of the NEA-Union declared his union's intention to "control who enters, who stays, and who leaves the profession." That goal was further strengthened in 1972 by his successor, who bragged of raising a political war chest of $5-$10 million. She said, "Put this money with our people and we would not only be compatible with any existing political force, but we would be the greatest of political forces. . . . We are the biggest striking force in this country, and we are determined to control the directions of education."

As both the NEA and DFT Unions made it clear that the school boards and taxpayers were to stay out of the education business, Dr. Parks resigned from her union in protest.

Six hundred Detroit teachers joined her in challenging the DFT-Union's demand for compulsory unionism. They filed suit and enlisted the aid of the National Right to Work Legal Defense Foundation—an organization that protects individuals from extortion stemming from compulsory unionism.

In May, 1977, their case reached the United States Supreme Court, which ruled unanimously that "non-members" cannot be forced to fund a union's political and ideological initiatives. The Court then sent the case back to the Michigan courts for the fashioning of relief for non-members.

Dr. Parks said that she would comply with the Court's decision by paying the forced fees in escrow while the Wayne County Circuit Court determined the real cost of collective bargaining. But the DFT-Union officials refused to wait and demanded that the Board fire Dr. Parks—which it did on March 11, 1978.

Dr. Parks, an Advisory Board member of Concerned Educators Against Forced Unionism, had her firing appealed to the Michigan Tenure Commission, as neither her qualifications nor her ability had been questioned in relation to the School Code.

The Commission ruled that the Tenure Act was indeed passed to "prevent the wholesale dismissal of teachers or even individual replacement of a teacher as a result of a whim or caprice," such as agency shop firings.

However, no sooner had the Commission made its ruling than the NEA-Union appealed the decision on the grounds that the Michigan Employment Relations Act, which authorizes compulsory unionism, should be controlling every aspect of education. Dr. Parks is still "fired."

Responding to the situation, Dr. Parks has stated:

"The bottom line of the 'agency shop' issue is whether the public or whether union officials control our schools. A person should have the right to join or not to join an organization and no private organization should have the right to force payment from a public employee. Educators must not be denied their freedom of choice.

"I'm saddened somewhat for myself, because working with Detroit's children has been an important part of my life. But more importantly, I'm saddened for my profession.

"If Union officials—who function outside the control of the public—can determine who has the privilege of teaching America's young, where then, is democracy, where is responsibility, where is academic freedom? We can't surrender our schools to the dictates of union bossism and then expect our children to respect individual human rights."

The firing of Dr. Parks is a blatant warning by union officials that public school teachers are to be responsible to them—not to taxpayer elected school officials. We believe that private organizations should not be funded at the taxpayer's expense.

School board negotiators must not give in to demands for "agency shop" no matter how much union officials are willing to trade off in order to attain it. Our schools and teachers should not be for sale.

FOUNDATION LAWSUIT WINS BENEFITS FOR VICTIM OF COMPULSORY UNIONISM

As a result of a National Right to Work Legal Defense Foundation lawsuit, the Michigan Employment Security Commission (MESC) has ruled that refusal to pay "agency shop" fees does not constitute "misconduct connected with work."

The case involved Ruth Alford, a curator of herbarium and insects at Eastern Michigan University, who was fired for refusing to support the United Auto Workers Union (UAW) in 1976. The University then attempted to block Alford from receiving unemployment benefits, contending that she voluntarily quit her job or was guilty of misconduct.

Benefits awarded to fired Alford

The MESC, however, ruled that Alford was entitled to unemployment benefits because she did not "voluntarily quit" her job and that she was not guilty of misconduct by breaking the compulsory unionism provisions of her contract.

Alford, rated an exemplary employee, had worked for the University since 1968, eight years prior to the imposition of unwanted monopoly bargaining representation by the UAW-Union. In 1976, after she refused to support the union, UAW officials demanded University Personnel Director Wayne Douglas fire Alford, which he did, with just six days notice.

"I am bitter about 'agency shop'," says Alford. "It's wrong, wrong, wrong . . . It violates my deep personal rights of freedom of association and freedom of speech.

"Anyone should have the right to join a union voluntarily, but they shouldn't be compelled. The whole thing is insane. The only criteria they gave me for holding my job was whether I would pay the union—nothing else mattered—the job that I did, the time I have spent on the job. Nothing. If that isn't extortion, then what is?"

Susan Staub, CEANFU Staff Director, commented, "Increasingly the courts are providing relief to employees victimized by compulsory unionism. Although 'agency shop' is legal in Michigan, an important precedent has been established with the awarding of benefits to an employee who refused to be cowed by union officials. Individual rights come before a bad law."

MICHIGAN COMMISSION RULES AGAINST FORCED POLITICAL DUES AND STRIKE FEES

In the first of three lawsuits brought against NEA-Union officials, the Michigan Public Employment Relations Commission (PERB) has ruled against forcing teachers to pay political dues and strike fees.

The two other suits, one brought by the National Right to Work Legal Defense Foundation, the other by the Federal Election Commission (FTC) under pressure from the National Right to Work Committee, charge NEA-Union officials with massive election law violations.

On May 24, 1978, Judge Joseph B. Bixler of the Michigan PERB ruled in favor of Paul and Lore Chamberlain, two tenured Garden City teachers who refused to pay strike assessments of $75 and $10 to the Garden City Education Association (GCEA), an NEA-Union affiliate, as well as $6.50 in political dues to the Michigan Education Association-Union (MEA) and NEA-Union.

Since 1975, the GCEA-Union has been trying to fire the Chamberlains for not paying the political and strike dues and the full "agency shop" fee of $261 apiece. The Chamberlains did pay GCEA dues of $25 but drew the line on funding the MEA and NEA unions. The Garden City School Board stood firm and refused to bow to the GCEA-Union's demands to fire the teachers.

National Right to Work legal defense foundation and FEC sue NEA-Union

In the second suit, on May 8, 1978, the Foundation filed suit on behalf of the Chamberlains in United District Court for the District of Columbia, charging the GCEA-Union, MEA-Union, and NEA-Union with violating the Federal Election Campaign Act which makes it illegal for union officials to extort political fees from non-union teachers as a condition of employment.

This lawsuit was lodged because the FEC had failed to fully act on a 1977 complaint initiated by the Chamberlains against the NEA-Union. The FEC did charge the NEA-Union and 17 state affiliates with forcing

their members to pay compulsory political dues, but made no move to protect "non-members" from dues extortion. Both suits ask that NEA-Union officials return the money and pay a civil penalty of $10,000 or 200% of the monies collected.

Charged by the FEC as NEA-Union "collection agents" are: the NEA-Union, NEA-PAC, California Teachers Association-Union, Connecticut Education Association-Union, Idaho Education Association-Union, Illinois Education Association-Union, Kansas-NEA-Union, Kentucky Education Association-Union, Massachusetts Teachers Association-Union, Michigan Education Association-Union, Nebraska State Education Association-Union, New Hampshire Education Association-Union, Pennsylvania State Education Association-Union, Rhode Island Education Association-Union, South Dakota Education Association-Union, Vermont Education Association-Union, Wisconsin Education Association Council-Union, and the Wyoming Education Association-Union.

It is openly rumored in Washington, D.C. that the FEC is a tool of union bosses. Not only did the FEC fail to safeguard the rights of NEA-Union "non-members", but it was only after the Foundation obtained a Federal Court order that the FEC sued the NEA-Union at all. Further, the Commissioner and immediate past president of the FEC, Thomas E. Harris, is former associate general counsel to the AFL-CIO, and an outspoken advocate of compulsory unionism.

Right to Work officials blast FEC

Commenting on the case, Right to Work Foundation Chairman, Thomas J. Harris said, "It's a shame that the Chamberlains have had to go into court at all. The union clearly violated the law and the FEC clearly had a charter to act against the union. But the Chamberlains had to sue the FEC to enforce the law and now have to go to court against the union themselves because of the FEC's halfhearted measures."

CEAFU Staff Director Susan Staub said, "Here are NEA-Union officials holding themselves above the law by ignoring the fact that compulsory political dues are unconstitutional. It's quite clear that they are only concerned with seeking more and more power through compulsory unionism, not the education of the nation's children."

COMMISSION RULES AGAINST ILLEGAL NEA-UNION FEES

LANSING, MICHIGAN.—The Michigan Employment Relations Commission (MERC) has ruled that employees cannot be fired for refusing to pay union political dues and fees to support illegal strikes.

The decision is Michigan's answer to the 1977 U.S. Supreme Court decision, *Abood v. Detroit Board of Education*, which states that it is unconstitutional to force employees to pay anything but collective bargaining costs. The Court, however, had left open the proper procedural remedy for employees who object to supporting union political and ideological causes.

The MERC ruling, which will serve as a precedent for other states, prohibits union officials from charging outrageous collective bargaining costs and orders union officials to prove in court or before an administrative agency what the "fees" should be. Until that moment is determined, the union cannot use, even temporarily, any part of an objecting employee's money.

The case arose in 1975, when two tenured teachers, Paul and Lori Chamberlain, refused to pay political dues to the Garden City Education Association-Union (GCEA), the Michigan Education Association-Union (MEA), and the National Education Association-Union (NEA), as well as an illegal $75.00 assessment to support a strike in another school district.

TEACHER PROTECTED

In a decision this week which could have far-reaching effects on the nation's educators, the Michigan State Tenure Commission has ruled that under the state's Tenure Act, teachers cannot be fired for refusing to pay "agency shop" fees to unions of which they are not members.

The Commission ruled 3–2 that Kathryn Jackson, a tenured teacher in the Swartz Creek Community School System, could not be fired for refusing to pay "agency shop" (non-member) fees to the Swartz Creek Education Association-Union, an affiliate of the National Education Association-Union. Mrs. Jackson, who is not a member of the union, had asserted that the payment of forced fees violated her freedom of association, freedom of speech, and her right to work.

In its decision to dismiss the charges against Mrs. Jackson, the Commission said, "At no time throughout the appeal has the Appellant's moral conduct or ability to teach been questioned. Moreover, she has not been charged with insubordination nor has it been contested that students did not learn. The Commission determines that nonpayment of 'agency shop' fees or dues does not meet the standards of reasonable and just cause for discharge within the meaning of the Tenure Act. The action of the Appellee in discharging Appellant was improper, and is reversed accordingly."

Susan Staub, staff director of Concerned Educators Against Forced Unionism, the education division of the National Right to Work Committee, said, "This decision has national significance. Tenured teachers all across the country will be able to cite the Michigan ruling as legal precedent for giving tenure predominance over union 'agency shop' demands. If upheld by the courts, it will, in effect, be a national Right to Work law for tenured teachers."

The Jackson case began on December 9, 1974, when the Swartz Creek Board of Education voted to bring charges against her for not paying the "agency shop" fee. In lieu of regular union dues, "agency shop" fees are charged to teachers who choose not to join the union. In most cases, union dues and "agency shop" fees are the same amount.

The Charges then were presented to Mrs. Jackson and on January 9, 1975, her hearing was held. On January 13, 1975, the Board of Education voted to fire Mrs. Jackson.

Mrs. Jackson appealed the Board's decision to the Michigan State Tenure Commission on January 22, 1975. Due to the nature of her discharge, the Board voted to permit Mrs. Jackson to continue teaching in Swartz Creek until a final decision had been reached.

In its presentation to the Tenure Commission, the Board argued that since Mrs. Jackson had signed an individual teaching contract which was subject to the collective bargaining agreement authorizing "agency shop" fees, she should be fired.

Mrs. Jackson countered that the Board's decision to fire her was "harsh" and "far in excess of the charges" against her. She also argued that her firing was not for reasonable and just cause in accordance with the laws of the State of Michigan.

The Commission has now safeguarded the rights of competent tenured teachers with many years of quality teaching from the "whims" of union officials, whose chief concern is in collecting "agency shop" fees, not teaching America's children.

MICHIGAN OFFICIALS BLACKBALLING SUBSTITUTE TEACHERS

Officials of the Michigan Education Association-Union (MEA) are blackballing non-union substitute teachers who don't submit to their illegal strike demands.

In a letter to a non-striking substitute teacher, MEA-Union executive director, Herman Colemen, and president, Keith Geiger, wrote: "the union has a policy to deal with strike-breakers which may be applicable to you should you seek and gain employment in a school district where MEA, or one of its locals, is the bargaining agent.

"Although the MEA does not have control over the process for hiring teachers, rest assured that we will exert whatever influence we do have to discourage your employment in any Michigan school district."

Susan Staub, CEAFU Staff Director, termed the action "a deplorable abuse of individual freedoms and a first hand lesson to students in criminality."

NEA-UNION TO HAVE MICHIGAN TEACHER FIRED

Michael Young, a tenured teacher and head football coach at Buchanan High School in Michigan, is next in line to be fired for refusing to pay NEA-Union "agency shop" fees.

The Buchanan Board of Education has begun dismissal proceedings against Young in response to the union's demand that he be fired for refusing to support the NEA-Union affiliate with "agency shop" fees equal to full union dues. His qualifications and experience are irrelevant to the union.

Young, who teaches history, sociology, and government, believes union support should be voluntary. "I'm not opposed to unions as such," he says, "because in some cases they are needed . . . I'm just philosophically opposed to this situation. By my stand on this thing . . . they (school board) are being forced to fire me because the union is asking the board to uphold its contract."

Young: "I'm also a pretty good dishwasher"

The case is expected to be appealed to the Michigan Tenure Commission which last March ruled that tenured teachers cannot be forced to support unions.

But, adds Young, "I can be morally and philosophically committed for so long. When it comes to putting food on the table, I'll eventually have to forget about coaching football. I guess I'm also a pretty good dishwasher."

Susan Staub, CEAFU Staff Director, termed the NEA-Union backed firing of Young as a "grave injustice to Buchanan's students who have had the services of an educator with years of dedicated and qualified teaching.

"To fire a teacher', said Staub, "for refusing to support a private organization—a union whose goals are political in nature—is abhorent to the concept of academic freedom."

MINNESOTA

Former local education association president challenges compulsory unionism in court.

THE ULTIMATE THREAT TO ACADEMIC FREEDOM

Leon Knight is a college teacher, an officer of the Minnesota Democratic Party and an unabashed liberal. He is also opposed to compulsory unionism—which places him on the enemies list of the National Education Association.

In 1968–69, Knight served as president of the faculty association at North Hennepin Community College in surburban Minneapolis. He fully supports the right of everyone to join and participate in labor unions. But he draws the line at compulsory affiliation.

"The big difference," he says, "between the faculty association I headed up and the union there now is the issue of voluntary versus compulsory."

After the faculty association became an affiliate of the militant NEA, the association backed legislation requiring compulsory union fees for public employees. Once passed, it was decided all faculty members would have to pay a fee to keep their jobs. Knight's liberal philosophy wouldn't allow him to go along.

"The idea of academic freedom," he explains, "the idea of the dissident person, the idea of a person who marches to a different drum, is very precious. And yet unionism is coming in and saying I must march to that drum."

"If they can determine," he stresses, "not what I teach in the classroom, but whether I teach at all, that is the ultimate threat to academic freedom."

Leon Knight went to court to protect his Constitutional rights. With the help of the National Right to Work Legal Defense Foundation, he and 19 other members of the Minnesota Community College system brought suit against the NEA and its local affiliates. The suit challenges the forced representation and compulsory fee provisions of Minnesota's Public Employment Labor Relations Act.

Leon Knight was fortunate. He found help. But how many other Leon Knights in America haven't?

The National Right to Work Legal Defense Foundation is helping everyone it can. It is currently assisting individual workers in more than 75 cases involving academic freedom, political freedom, freedom from union violence, and the right to work for government without paying a private organization for that privilege.

For more information on how you can help American educators like Leon Knight write: The National Right to Work Legal Defense Foundation, Suite 600, 8316 Arlington Boulevard, Fairfax, Va. 22038.

NEW YORK

Educators speak out against "agency shop."

NEW YORK: CEAFU CALLS FOR END TO "AGENCY SHOP" LAW

CEAFU Director Susan Staub has called for an end to Al Shanker's attempt to make "agency shop" fees "permanent and mandatory."

As a result of the law, passed on a two-year trial basis in 1977, tens of thousands of public employees are being forced against their will to bankroll unions and their political activities. Tony Russo, New York City's Director of Labor Relations, estimates that the "agency shop" law is providing union officials with an additional $38 to $45 million annually.

Senator Fred Eckert, who has introduced a repeal measure, said that union officials want the " 'agency shop' for the money and power it brings." And according to Jerome Lefkowitz, Deputy Chairman of the Public Employee Relations Board (PERB), union officials want a permanent "agency shop" law so they don't have to explain to employees "what it gave up" in order to obtain it.

"The State University of New York is a good example why the law should not be reenacted," said CEAFU Director Susan Staub. "Only 30 percent of the faculty belong to the union, yet the remaining 70 percent are forced to pay 'agency shop' fees to keep their jobs."

One New York City teacher who asked not to be identified told the New York Times he wanted to resign from the UFT-Union because it refused to act on a grievance he wanted to process. Now, he said, there is no point in quitting. "What's the sense in resigning if you're going to have to pay anyway," he said. Says Senator Eckert, "They (union officials) get all the money. A guy quits and they still get his money. You deprive him of his choice to join or not, which is the best way to influence the union."

Individual freedom, public control at stake

Two teachers at Churchville-Chilli Elementary School outside Rochester are two more examples of how the "agency shop" has disrupted their profession. Gretchen Haag, a fourth grade teacher, said, "I don't like the union being able to come in and tell us they have the authority to take money out of our paychecks." And said first grade teacher Susan Baer, "I don't think anyone has the right to force me to support any organization, especially one I don't agree with or want to belong to."

"The public is the loser when its own employees can be forced to pay tribute against their will to private union officials as a condition of employment," says Westbury, Long Island educator Larry von Hake.

"Although union officials," concluded Staub, "spend millions in attempting to reenact the 'agency shop' law, the freedom of choice can be restored if citizens make it clear to their Assemblymen and Senators that compulsory unionism is not in the best interest of New York and that they should vote against any extension of the 'agency shop' law for the state's public employees."

OHIO

Teachers sued by union officials over nonpayment of "agency shop" fees.

JUDGE RULES AGAINST "AGENCY SHOP"

A lawsuit lodged by NEA-Union officials against six Ohio teachers for not paying forced union fees under an "agency shop" contract backfired when the judge ruled that an "agency shop" is illegal in Ohio.

The case evolved out of Niles township where the Niles Education Association-Union (NEA), an NEA-Union affiliate, sued the teachers in Municipal Court of Trumbell County to collect "agency shop" fees equal to full union dues.

The teachers, led by Donald Bofenkamp, contended that the "agency shop" fee was in violation of Ohio statutes (forced fees are not legislatively authorized in the state), the Ohio Constitution, and the Constitution of the United States.

The teachers further asserted that the forced fees were used by the union's bosses for political and ideological purposes against their will, which has been established as unconstitutional under the United States Supreme Court's ruling in Abood/Warczak in 1977.

"Agency shop" serves no "governmental purpose," judge rules

In exonerating the teachers, Judge Charles Zubyk wrote, "It is the fundamental right of an individual to decide whether or not he wishes to become or remain a member of the association. The individual teachers in the instant case neither expressly nor impliedly authorized the Board of Education to enter into an agency shop contract.

"Since the agency shop provision of the collective bargaining agreement is not the individual contract of the six non-union teachers, the Plaintiff is not entitled to recover against the Defendant teachers. The act of the Board in entering into an agency shop agreement as executed is the equivalent of declaring a 'Union Shop' for all teachers in the public school district, does not accomplish a governmental purpose and is ultra vires and invalid."

Commenting on the case, CEAFU Director Susan Staub said, "The decision has national significance because the courts are increasingly cracking down on compulsory unionism demands. Just within the last few months, the state of Michigan has ruled that tenure protects teachers from union 'agency shop' fees and the state of Kentucky ruled against 'exclusive representation' in May.

"We are hopeful that Ohio's legislators will realize the significance of this decision by continuing to reject union 'agency shop' demands."

PENNSYLVANIA

Union officials demand firing of educators who resigned union membership.

TEACHERS WIN DECISION NOT TO SUPPORT UNION

Two teachers backed by the National Right to Work Legal Defense Foundation stung NEA-Union officials on June 19 when the Supreme Court of Pennsylvania refused to reverse a decision upholding the right of tenured teachers to support or not support a union.

Following the State Supreme Court's lead, Caryl Kline, Pennsylvania Secretary of Education then ruled on July 14 that to allow "an otherwise competent teacher to be dismissed for nonpayment of Association dues is unreasonable since it does not even have an indirect relationship to the educational purpose of schools."

The case arose when the Uniontown Education Association-Union, an NEA-Union affiliate, demanded the school board fire Daniel Zack and Warren Langley for resigning from the union.

Zack and Langley threatened

A highly rated teacher, Zack dropped his union membership in 1973 after the union ordered a dues increase and refused to answer questions concerning what, if any, services would be improved.

Warren Langley joined with Zack in leaving the union and seeking the help of the Foundation, an organization that provides free legal aid to victims of compulsory unionism abuse, after listening in on one of many threatening phone calls made to Zack by the union's officials.

The school board caved in to the union's demands and voted to fire the two teachers on the trumped-up charges of "persistent and willful violation of the school laws of Pennsylvania." However, the Board allowed Zack and Langley to continue teaching pending appeals of their firings to the courts.

On May 20, 1976 the Court of Common Pleas ruled in favor of the two teachers, saying that "failure to pay dues cannot be considered to constitute persistent and willful violation of the school laws." The union then appealed the decision to the Pennsylvania Commonwealth Court and to the state Supreme Court, both of which sided with Zack and Langley. After the Secretary of Education concurred with the Supreme Court's decision not to hear an appeal, Zack and Langley were effectively reinstated in their jobs.

Staub hails decision

Susan Staub, CEAFU Staff Director, termed the decision an important precedent.

"The courts have determined that a tenured teacher has the right to resign from a union that doesn't represent his or her interests.

"Mr. Zack and Mr. Langley are highly rated teachers, yet the union's officials wanted them out of the classroom solely because they no longer wanted to be union members."

RIGHT TO QUIT NEA-UNION UPHELD

Harrisburg, Pennsylvania—The Pennsylvania Supreme Court has divided three to three and affirmed a Commonwealth Court ruling upholding the right of teachers to resign from unwanted unions.

The case involved Elaine Hoppe, who refused to pay forced fees to the Dauphin County Technical Association-Union (DCTA) under a maintenance of membership provision which forces teacher union members to remain members for the duration of a collective bargaining agreement.

The Commonwealth Court ruled unanimously that Hoppe could not be fired because the School Code does not list refusal to pay forced fees or maintenance of union membership as reasons for termination of tenured teachers.

Previously, in separate but related action, the Pennsylvania Supreme Court in June let stand a 1976 Common Pleas Court ruling which states that "failure to pay dues cannot be considered to constitute persistent and willful violation of the school laws."

TENNESSEE

Union officials forced educators to strike against their will.

COERCIVE LAW SPARKS VIOLENCE

Teacher faces bodily harm

Told she'll be "planted" for disobeying NEA-Union orders to illegally strike, Mrs. Penny Cole, a Tennessee elementary school teacher, nonetheless, vows to keep teaching "until they fix me to the point where I can't work."

Violent teacher strikes have erupted in Tennessee since last year's passage of S.B. 2016, a compulsory representation law. The Executive Secretary of the state NEA-Union and author of the bill, conned the legislature into believing that S.B. 2016 would "solve the problems people in other states have been failing to solve, causing them to go on strike."

Mrs. Cole, a mother of four and a dues-paying member of the Memphis Education Association-Union (MEA), is bravely fighting the union and crossing the picket line at Longville Elementary School in order to teach fourth, fifth, and sixth grade students who are one and two years behind academically and can't afford to lose a day of school.

Although scared and disillusioned, Mrs. Cole says she decided to accept the Board of Education's proposed contract and defy the MEA for two reasons: (1) that she doesn't believe in strikes, illegal or legal and (2) that she wanted a contract with the board of education, not the MEA-Union.

Cole: A nervous wreck, constantly threatened

"They said they would be planting me if I crossed the picket line again," says Cole, who now rubs her hands and takes a deep breath before answering her phone. The union's tactics have also included unsigned letters labeling her a "coward" and threats as she crosses the picket line staffed by once "sweet and nice friends." Her best friend now calls her "scab."

"A couple of mornings I thought about not going in, but they would think they scared me off," says Cole. "I feel if they have a right to stand in (a picket line), why don't I have a right to stand in a classroom. What they're doing with these scare tactics is they're giving me strength to work. I'm very stubborn. I don't like to be ordered around. I like to come to a conclusion together. I'm a heck of a lot stronger now than I was two weeks ago. Water is just going to roll right off my back."

Minority forced majority to strike

Susan Staub, CEAFU Director, said that her organization "hopes that the media attention given to Mrs. Cole will suffice to protect her from any further harm and that the citizenry will act to repeal the 'exclusive representation' provisions of the teacher bargaining law which has resulted in repeated violence.

"That law has enabled NEA officials to call an illegal strike even though only a minority of teachers in Memphis (42 percent) voted to reject the proposed contract and strike. The law simply gives union officials the power to run rough-shod over the majority—both nonmembers and members—and the taxpaying public which the law was supposed to protect."

VIRGINIA

NEA "unification" assailed.

[From a letter appearing in the Times-Dispatch, Apr. 13, 1977]

EDUCATOR DIDN'T AGREE WITH ASSOCIATION POLICIES

Hundreds of teachers and counselors in Richmond and the surrounding areas pulled out of the NEA, VEA and REA, after many years of membership, when unification was voted in by the VEA. We did not agree with their political activities and their militant tactics. Many of us still belong to other professional organizations to help promote the educational process. And some of us also contribute annually to the National Right to Work Legal Defense Foundation to help assure workers and professional educators the freedom of work without joining a union.

Many teachers and counselors refuse to be identified with the NEA, VEA and REA, but we still "love kids" and we still want the freedom to choose what organization to join. As for me, I shall continue to join and/or contribute to the personnel and guidance associations, and the National Right to Work Legal Defense Foundation. This way I have a part in promoting the educational progress and I shall continue to have the "freedom to choose to join or not to join a union!"

MARY WOODS EDWARDS,
Coordinator of Guidance,
George Wythe High School.

WISCONSIN

Union officials strike over "agency shop."

NEA attempts to silence educators who speak out against "agency shop."

BEHIND THE BITTEREST TEACHER STRIKE IN U.S. LABOR HISTORY

(By Roger Weihing)

(Ed. Note: Roger Weihing, a Wisconsin farmer, is president of the Hortonville, Wisconsin, School Board. In April 1974, the school board was forced to fire 84 of the community's 89 teachers for illegally striking. That strike and the ensuing court battles received a great deal of national attention, and ultimately came before the U.S. Supreme Court (Hortonville Joint School District No. 1 v. Hortonville Education Association), where the court ruled in favor of the school board. One fact that was overlooked about this, one of the longest, bitterest and most publicized teacher strikes in American labor history, was that compulsory unionism was one of the key issues in the dispute. Here, in an exclusive feature, Mr. Weihing gives his views on the compulsory unionism issue.)

When the members of our local school board reluctantly decided to fire virtually our entire "teaching" staff, we knew Hortonville was in for some miserable times. We didn't realize how miserable then, but as I look back on it, I think we'd all do it again—without hesitation—because some principles are worth fighting for, no matter how tough the battle.

The Right to Work is one of those principles. It's one that the Hortonville School Board stood for throughout those difficult times leading up to the strike, when officials of the Hortonville Education Association (HEA) were unremitting in their demands for a compulsory "agency shop".

During the entire time we were negotiating with our teachers' union, before they ordered their illegal strike, the one thing union officials demanded over and over, in preference to all types of improved benefits, was a compulsory "agency shop". HEA, a local affiliate of the National Education Association (NEA), was willing to trade off anything so that all the teachers in Hortonville would be forced to pay dues to the union or lose their jobs. It was incredible.

Now we all know what compulsion means to a union's officials. It means power, pure and simple. It's hard to believe, though, that it's so important that they will sacrifice the very benefits they exist to fight for. But the Hortonville case proves it's true.

The first thing we have to realize is that, prior to the strike, while union officials were repeatedly demanding compulsory unionism, over 95% of the faculty already voluntarily belonged to the union and paid dues. (The total faculty of Hortonville then was 89; 85 of them belonged to the union.)

Was it that important to collect dues from four more teachers? The union's "negotiators" certainly thought so.

Look at some of the benefits union officials tried to trade off in exchange for compulsion. For the 1972–73 school year, HEA officials offered to give up their request for dental insurance if they could have a compulsory "agency shop."

In the same year, they offered to drop their demand for smaller class sizes—something national union officials always tout as one of their most important objectives—for compulsory dues from that tiny minority of Hortonville's teachers who had elected to be free spirits.

The next year, the same thing again—union officials offered to give up additional increases in their health insurance if we would only grant them total control by giving in on compulsory unionism.

Do you think the teachers in Hortonville were really interested in giving up dental insurance, additional health insurance or, above all, smaller class sizes, so union officials could collect dues from those few teachers?

I doubt it. But even if the teachers really would rather have their colleagues pay compulsory dues than have their teeth insured, the board would still have to say "no".

And members of the Hortonville School Board have said "no" again and again to compulsion. We can't bargain away individual rights. We're an elected board; we have to answer to the community that chose us, our neighbors, and just as important, we have to answer to ourselves.

In Hortonville, we think a teacher, like every other American, is entitled to be his or her own boss when it comes to individual rights. If a teacher, or anybody for that matter, wants to join a union, that's fine. If they don't that's just as fine. If you have the right to join a union, you must have the right not to. One is not a right without the other.

Can we fire a teacher just on the basis of whether he or she pays dues to a union? Is that how we should choose teachers for our children? NEA says "yes". The Hortonville School Board says "no".

[From the Washington Star, Dec. 21, 1976]

WHERE PUBLIC EMPLOYEE UNIONS CAN TAKE US

(By James J. Kilpatrick)

On the evening of Dec. 6, 1971, a little more than five years ago, the Board of Education of Madison, Wis., held a regularly scheduled, public meeting. A local school teacher by the name of Albert M. Holmquist made a two-and-a-half-minute speech. And thereby hangs this tale.

It is an ominous tale about public employe unionism in a free society. We should listen to the overtones.

A majority of the teachers in Wisconsin's School District 8 were members of a labor union, Madison Teachers, Inc. (MTI). Off and on throughout 1971, the union and the Board of Education had engaged in collective bargaining. One of the sticking points was MTI's demand for a "fair share" provision in a contract for 1972.

The term is misleading. "Extortion" is a more descriptive word.

The union teachers were demanding that non-union teachers pay the union the same fees and dues they would pay if they belonged to the union—their "fair share" of the cost of collective bargaining. The non-union teachers, mind you, did not want to be represented by MTI; and they bitterly resented the prospect of having to pay the union as the price of holding their jobs.

Holmquist, a leader of the non-union teachers, had circulated a petition asking the Board of Education to have the "fair share" proposition studied by an impartial committee. More than 400 District 8 teachers had signed the petition.

Remember that the board's meeting that evening was in no sense a negotiating session with MTI. It was a public meeting, open

to any concerned citizen. Three to four hundred union teachers were there.

The union's president spoke at length. When it appeared that Holmquist wanted to speak, the union's business manager tried to dissuade him. Holmquist would not be dissuaded. He made his brief pitch, presented his petition, answered a single question, and sat down.

Incredibly, the union later filed a complaint with the Wisconsin Employment Relations Commission, charging the Board of Education with an unfair labor practice by permitting Holmquist to speak. What is even more incredible is that this ludicrous complaint was upheld by the commission. It found the board guilty; and the finding affirmed by the Supreme Court of Wisconsin.

The tale has a happy ending. Two weeks ago the U.S. Supreme Court unanimously reversed the Wisconsin decision. In a stinging opinion by Chief Justice Burger, the court held that "to permit one side of a debatable public question to have a monopoly in expressing its views to the government is the antithesis of constitutional guarantees." Non-union teachers, the court ruled, still have their First Amendment right of free speech.

The Union's effort to gag a dissenter, and to punish the board for even listening to him at a public meeting, is characteristic of a public employe union's concept of collective bargaining. Once such a union gains recognition as an exclusive bargaining agent, dissenters can speak to the union bosses, but they cannot speak to their employers about wages, hours and working conditions. Any such speech, in the arrogant view of the union zealots, creates danger of chaos.

We must think upon these things. Public employe unions are the fastest-growing in the land. Many—perhaps most—are responsible outfits. Some are not. And when a public union's power to negotiate embraces the power to strike, the concept of government by the people is imperiled. At such a point—and the point may not be far down the road—public servants cease to be servants. They become our masters instead.

[From the Philadelphia Inquirer, Aug. 18, 1980]

WHY SHOULD TEACHERS HAVE TO JOIN A UNION?

(By Mary Larkin Dugan)

I may lose my job this year.

I've been teaching English for 13 years. No serious complaints about my work, other than the occasional why didn't I get an A?" Yet I may be fired, and the irony, as I see it, would be a rich one: I'd be done out of my job by the very people of whom teachers usually expect protection: The Education Association.

Here's the situation: Pennsylvania is a right-to-work state, but there's a bill (S.B. 1445) hanging fire in our General Assembly which would allow public employes' unions to opt for what is called an agency shop. If a teacher or policeman or whoever does not want to join the union, fine—but he or she must still pay the dues.

The idea is that, as the union is representing you in negotiations for salary, etc., you should be willing to bear your part of the cost of all this. Well, sure, that's only fair—and I've joined regularly for just this reason.

But now they'd like to make us all join. Obviously, this would bolster union security. But what happens then to the "worker security" of those of us who would not want to join the union in such circumstances? The same sort of thing that happened in Europe to dissenters from the established churches up until about 1700: We'd be punished. Back then, you paid a fine or went to jail. In the present case, the school board would be forced to fire us.

To be sure, there is a provision for people with religious scruples; dues may be given sounds pretty high-handed to me. Anyway, I don't have what you could call religious scruples—just a strong distaste for being taxed by someone other than the government or being forced to join anything.

What all this reminds me of is the bad old days before tenure, when a local politico could squeeze a yearly fee out of a teacher as the price of a job. Now, thanks in part to the teachers' unions, you can't be fired for refusing to pay kickbacks or for any other frivolous reason.

Teachers, like anyone else, should stand or fall on the basis of job performance—not because they attend the Episcopal Church, support the Democratic Party, are somebody's cousin—or pay union dues. Obviously, union membership has a bit more to do with a person's job than does his church or political affiliation. The element of coercion, though, overshadows any differences in the two situations. We don't want to be pushed around by employers; how, fundamentally, can it be any better to be pushed around by the union?

Vastly preferable is the present setup, in which the Education Association entices members by a combination of moral obligation—you owe the union for the help it gives you—and assorted plums, like liability coverage and other types of insurance, good travel buys, and low-interest loans. For ethical and practical reasons, joining the Association is a wise move.

Dropping out of the association, besides, is not something you do lightly. Most people stay in year after year, largely from a feeling of obligation and probably force of habit but also because leaving would mean buying new insurance, paying more for a car loan, or shelling out the full fare to Amsterdam instead of boarding a cheap NEA charter flight.

Each Education Association though, is like a one-party system in a way. It could hardly be otherwise; what a mess it would be if the teachers had to decide continually which of two or more groups would represent them. And, little as anyone relishes a one-party arrangement, this one is not too restricting, really if your voice carries the added volume of being able to dissent by a final "I quit!" If you can't resign, you still have a voice, certainly, but it's lost some decibels.

A parallel would be with church membership or support of the United Fund. Many people choose to help these organizations because of benefits to themselves or to the community. Besides that, there is moral pressure to keep up your end.

But some people get from these institutions much more than they give. So should we pass a law making it illegal to send your kids to Sunday School unless you've put a certain amount in the collection plate? And, further, what if there were only one church to go to?

Or consider this: If I support the Democrats, as I usually do, and they lose here in Chester County, as they usually do, this does not mean I must therefore give my support, financial and political, to the Republicans. Provision is made, as often as possible, for the dissenting minority.

Certainly, the majority rules, but we keep a traditional fondness for consensus politics on the back burner. This means we don't alienate the dissenters by grinding them under. If they can't always have their way, they can at least have their say.

Under the law as it stands, having our say means for teachers the right to register our feelings loudly and clearly by the last-ditch step of giving up association membership. Under an agency shop this would put us out of a job. Clearly, there ought to be some intermediate step between speaking your mind and losing your job.

Finally, though, I guess it all comes down to personal taste or pride or something like that. Unions are supposed to enhance the dignity of the worker, but how is your dignity enhanced if you're pushed into joining? Dignity must imply some freedom of choice and must accordingly suffer to the extent that freedom is diminished or appropriated.

When I began teaching I had to sign a loyalty oath, a lapse of morals or maybe taste that has always rankled and which is the equivalent in insult value and sheer wasted paper of requiring an oath that you will not teach unless fully clothed. And now comes this agency shop thing. My attitude is similar to Groucho Marx's "I wouldn't join any club that would have me as a member." Carrying this a step further, I don't want to join any club that forces me to be a member.

By Mr. JEPSEN:

S. 1416. A bill to amend the National Labor Relations Act to provide for a freedom of choice in labor relations for full-time and part-time secondary and college students by exempting them from compulsory union membership, and for other purposes; to the Committee on Labor and Human Resources.

STUDENT'S FREEDOM OF CHOICE ACT OF 1981

Mr. JEPSEN. Mr. President, I rise today to reintroduce the Students' Freedom of Choice Act of 1981, a bill I introduced in 1979 as S. 1577 during the 96th Congress. The proposed bill would amend section 8(a)(3) of the National Labor Relations Act, as well as the Railway Labor Act. It would exempt fulltime students employed on a part-time or temporary basis from joining a union as a condition of employment.

Mr. President, consider the restrictions placed on the working student. Many students today cannot work more than 12 weeks out of the year, but they are forced to pay the same union dues required of year-round employees.

Passage of the Students' Freedom of Choice Act would eliminate three of the major inequities in the current system.

First, qualified students would be protected from discrimination if they choose not to join a union during seasonal employment.

Second, they would no longer be paying for many of the benefits covered by union dues—including health insurance, pension plans, vacation, sick pay—that they never receive. In effect, Mr. President, the unions receive a windfall subsidy from America's students without providing any services in return.

Finally, in a time of spiraling education costs and limited student loans, students working to defray their educational expenses should be heartily supported, instead of being burdened with the economic disincentives provided by compulsory unionization.

Immediate action is necessary. Many students work during the summer, and they have strong feelings in support of right to work legislation. Surveys show that 79 percent of all U.S. citizens between the ages of 18 and 29 oppose the compulsory unionization of public employees, and 69 percent of that same group oppose the compulsory unionism of industrial workers.

The Students' Freedom of Choice Act of 1981 clearly supports the right of an employee who is a student to join or not

to join a union. Any attempt to deny that right violates the constitutional guarantee of freedom of association granted in the first amendment, and it impinges upon other personal freedoms. There is also the practical consideration that student's short tenure of employment generally excludes him from any union benefits which he is forced to pay through mandatory dues.

Students should be exempted from paying union dues. This bill will provide that exemption and guarantee a student's right to work.

Mr. President, I welcome and encourage the support of my colleagues and ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1416

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Students' Freedom of Choice Act of 1981".

SEC. 2. Section 8(a)(3) of the National Labor Relations Act (29 U.S.C. 141) is amended by striking the semicolon at the end thereof and substituting a colon and the following: *"Provided further,* That no employer shall justify any discrimination against any employee for nonmembership in or failure to provide financial support to a labor organization if the employee is a student enrolled or registered to be enrolled in a full-time program of secondary, vocational, or higher education.".

SEC. 3. Paragraph eleventh (a) of section 2 of the Railway Labor Act (45 U.S.C. 15) is amended by striking the period at the end thereof and substituting a colon and the following: *"Provided further,* That no employer shall justify any discrimination against any employee for nonmembership in or failure to provide financial support to a labor organization if the employee is a student enrolled or registered in a full-time program of secondary, vocational, or higher education.".

ADDITIONAL COSPONSORS

S. 294

At the request of Mr. GLENN, the Senator from Minnesota (Mr. BOSCHWITZ) was added as a cosponsor of S. 294, a bill to establish an Interagency Committee on Arson Control to coordinate Federal anti-arson programs, to amend certain provisions of the law relating to programs for arson investigation, prevention, and detection, and for other purposes.

S. 344

At the request of Mr. LEVIN, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 344, a bill to increase the accountability of, policy coordination by, and management of priorities by agencies through an improved mechanism for congressional oversight of the rules of agencies.

S. 351

At the request of Mr. WALLOP, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 351, a bill to amend the Federal Mine Safety and Health Amendments Act of 1977 to provide that the provisions of such act shall not apply to the surface mining of stone, clay, and sand work.

S. 395

At the request of Mr. WALLOP, the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Idaho (Mr. MCCLURE) were added as cosponsors of S. 395, a bill to amend the Internal Revenue Code of 1954 to provide estate and gift tax equity for family enterprises, and for other purposes.

S. 569

At the request of Mr. JEPSEN, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 569, a bill to amend the Internal Revenue Code of 1954 to provide an investment tax credit for certain soil and water conservation expenditures.

S. 701

At the request of Mr. BENTSEN, the Senator from Wisconsin (Mr. PROXMIRE), and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 701, a bill to amend the Internal Revenue Act of 1954 to provide for the exclusion from taxation of interest earned on deposits which are used for residential mortgage lending purposes.

S. 708

At the request of Mr. CHAFEE, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 708, a bill to amend and clarify the Foreign Corrupt Practices Act of 1977.

S. 752

At the request of Mr. BAUCUS, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 752, a bill to amend the Internal Revenue Code of 1954 to provide for the awarding of reasonable court costs and certain fees to prevailing parties in civil tax actions, and for other purposes.

S. 756

At the request of Mr. HOLLINGS, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 756, a bill to amend the Military Selective Service Act to provide for the reinstitution of the registration and classification of persons under such act and to reinstate the authority of the President to induct persons involuntarily into the Armed Forces, and for other purposes.

S. 888

At the request of Mr. PACKWOOD, the Senator from Illinois (Mr. DIXON) was added as a cosponsor of S. 888, a bill to provide effective programs to assure equality of economic opportunities for women and men, and for other purposes.

S. 1073

At the request of Mr. GARN, his name was added as a cosponsor of S. 1073, a bill to amend section 21 of the act of February 25, 1920, commonly known as the Mineral Leasing Act.

S. 1131

At the request of Mr. DANFORTH, the Senator from Ohio (Mr. GLENN) was added as a cosponsor of S. 1131, a bill to require the Federal Government to pay interest on overdue payments and to take early payment discounts only when payment is timely made, and for other purposes.

S. 1140

At the request of Mr. BENTSEN, the Senator from New Jersey (Mr. BRADLEY) was added as a cosponsor of S. 1140, a bill to improve productivity and promote capital investment in small business and for other purposes.

S. 1214

At the request of Mr. BOSCHWITZ, the Senator from New York (Mr. D'AMATO) was added as a cosponsor of S. 1214, a bill to amend the Internal Revenue Code of 1954 to eliminate the limitation on the interest deduction for interest paid or accrued on investment indebtedness.

S. 1279

At the request of Mr. DANFORTH, the Senator from New York (Mr. MOYNIHAN), the Senator from New Mexico (Mr. DOMENICI), the Senator from Idaho (Mr. SYMMS), the Senator from Wisconsin (Mr. KASTEN), the Senator from Mississippi (Mr. COCHRAN), the Senator from South Dakota (Mr. ABDNOR), the Senator from Missouri (Mr. EAGLETON), the Senator from Ohio (Mr. GLENN), the Senator from Ohio (Mr. METZENBAUM), the Senator from Vermont Mr. (LEAHY), and the Senator from Idaho (Mr. MCCLURE) were added as cosponsors of S. 1279, a bill to amend the Internal Revenue Code of 1954 to exclude from gross income a certain amount of interest earned on the all-savers certificate offered only at savings institutions.

S. 1298

At the request of Mr. WALLOP, the Senator from North Dakota (Mr. ANDREWS) was added as a cosponsor of S. 1298, a bill to amend the Internal Revenue Code of 1954 to extend certain tax provisions to Indian tribal governments on the same basis as such provisions apply to States.

SENATE JOINT RESOLUTION 29

At the request of Mr. HEINZ, the Senator from New York (Mr. MOYNIHAN) and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of Senate Joint Resolution 29, a joint resolution to authorize and request the President to issue a proclamation designating the calendar week beginning with the first Sunday in June of each year as "National Garden Week."

SENATE JOINT RESOLUTION 73

At the request of Mr. GLENN, the Senator from Oklahoma (Mr. BOREN) was added as a cosponsor of Senate Joint Resolution 73, a joint resolution to designate the week beginning June 1, 1981, and ending June 7, 1981, as "Management Week in America."

SENATE JOINT RESOLUTION 83

At the request of Mr. CHAFEE, the Senator from Illinois (Mr. DIXON) was added as a cosponsor of Senate Joint Resolution 83, a joint resolution to authorize and request the President to call a White House Conference on Education not later than January 15, 1982, and for other purposes.

SENATE RESOLUTION 139

At the request of Mr. ANDREWS, the Senator from South Dakota (Mr. PRESSLER) and the Senator from Alabama (Mr. DENTON) were added as cosponsors of Senate Resolution 139, a resolution to assure the access of farmer-owned refining businesses to crude oil at reasonable prices.

SENATE RESOLUTION 153

At the request of Mr. HEINZ, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of Senate Resolution 153, a resolution to require full adherence to U.S. Trade Agreements.

AMENDMENT NO. 100

At the request of Mr. MOYNIHAN, the Senator from Texas (Mr. BENTSEN), the Senator from Michigan (Mr. LEVIN), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of amendment No. 100 proposed to S. 1377, an original bill to provide for reconciliation pursuant to title III of the first concurrent resolution on the budget for fiscal year 1982 (H. Con. Res. 115, 97th Congress).

SENATE RESOLUTION 160—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. DURENBERGER, from the Committee on Governmental Affairs, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 160

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 43, the State and Local Government Fiscal Note Act of 1981. Such waiver is necessary to permit consideration of an additional fiscal year 1982 authorization of appropriations for the Congressional Budget Office to carry out the purposes of S. 43.

Such waiver is necessary as S. 43 was not reported before May 15, 1981, as required by section 402(a) of the Congressional Budget Act of 1974. The subject matter of S. 43 would not appropriately be taken up as part of the reconciliation process which necessarily received first priority by the Committee before May 15, 1981. However, and especially in consideration of the proposed changes in the structure of Federal assistance to State and local governments included in reconciliation and other measures reported by committees, the Congress should not further delay the implementation of the budget procedures required by S. 43.

SENATE RESOLUTION 161—RESOLUTION RELATING TO IMPACT AID

Mr. HUMPHREY (for himself, Mr. HATCH, Mr. STAFFORD, Mr. DENTON, Mr. NICKLES, Mrs. HAWKINS, Mr. KENNEDY, Mr. MELCHER, Mr. PELL, Mr. RANDOLPH, Mr. WILLIAMS, Mr. COHEN, Mr. DECONCINI, Mr. EAST, Mr. BURDICK, Mr. HAYAKAWA, and Mr. FORD) submitted the following resolution; which was referred to the Committee on Labor and Human Resources:

S. RES. 161

Whereas, Impact Aid has assisted local school districts in providing educational opportunities to children of parents who live and work on untaxed Federal property;

Whereas, the program has allowed children across the nation to receive a quality education despite local losses of property tax revenue from Federal nontaxable properties such as military bases, and Indian reservations;

Whereas, the proposed $200 million authorization for Impact Aid would severely affect support for all federally impacted areas;

Whereas, the proposed cuts in Impact Aid funding have stimulated confrontations in various States with local school districts threatening to charge the children of military personnel tuition;

Whereas, the proposed cuts seriously threaten the educational opportunities of children living on Indian reservations;

Whereas, it is imperative that the morale of the military be maintained, and that military personnel not be forced to pay tuition to educate their children in elementary and secondary public schools, and similarly, native Americans on the reservation must not be forced to pay for their children's public education;

Whereas, negotiations between the Secretary of Education and the Secretary of Defense are currently being conducted on the issue of Impact Aid for local schools serving military bases; and

Whereas, negotiations between the Senate Committee on Armed Services and the Senate Committee on Labor and Human Resources are currently underway on the issue of Impact Aid for local schools serving military bases. Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) military personnel should not have to pay tuition for elementary and secondary public education for their children;

(2) native Americans on the reservations should not have to pay tuition for elementary and secondary public education for their children;

(3) local school districts serving regions where a substantial percentage of the students come from homes where parents live and work on Federal property or live on Indian reservations should be financially assisted in meeting the educational needs of such students;

(4) the negotiations between the Department of Defense and the Department of Education are a positive step toward resolving this difficulty;

(5) the negotiations between the Senate Committee on Labor and Human Resources and the Senate Committee on Armed Services are a positive step toward resolving this difficulty;

(6) the Select Committee on Indian Affairs and the Secretary of the Interior should be a party to the negotiations; and

(7) a compromise which will lead to an equitable solution to the Impact Aid dilemma is in the best interest of the United States.

IMPACT AID

● Mr. HUMPHREY. Mr. President, I rise to offer this resolution today because I believe this country will soon face a serious crisis if action is not taken to insure that local school districts will be able to educate the children of our military personnel. For the past 30 years, impact aid has provided an answer for local school districts to the problem of property tax revenue losses from Federal ownership of large parcels of land in their school districts. For military personnel, Indians on our Nation's reservations, and tenants in subsidized housing this program has provided support for the basic education of their children.

The threatened loss of this funding has stimulated court confrontations and threats by elementary and secondary schools to charge the children of military personnel tuition. It has already been made painfully clear to this body that the past several decades have dealt harsh, almost intolerable, blows to the morale of our military personnel.

Fortunately, we are finally taking action to improve military pay and benefits so our fighting force can once again be respected in our country and around the world.

To once again impose an unreasonable burden on these personnel by singling them out to charge their children tuition is a blow we can ill afford to administer. Indeed, it is a blow we can not deliver to our local school districts or citizens. These districts have depended on impact aid to substitute for the property tax loss incurred by large holdings of untaxable Federal property. When these revenues are removed along with impact aid, our school districts will have nowhere to turn for the funding to deliver basic education.

It would be singularly unfair to increase the property taxes of other residents to insure the education of the children living on Federal reserves. To once again look to other citizens to make up this deficit is a burden our Government cannot expect them to assume.

Similarly, our local school districts serving the children of our American Indians must be properly funded. To withdraw this support from the education of reservation children would be a breach of faith with this country's Native Americans and their local school districts.

I have been heartened by the receptivity of the distinguished chairman of the Armed Services Committee, Senator TOWER, to address this unexpected dilemma head on. He has scheduled hearings in our committee for Wednesday to evaluate the dimensions of the problem and options for dealing with it. I am confident that through the concerted efforts of my colleagues on Armed Services and Labor and Human Resources, a just solution can be reached.●

AMENDMENTS SUBMITTED FOR PRINTING

OMNIBUS RECONCILIATION ACT OF 1981

AMENDMENT NO. 101

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS submitted an amendment intended to be proposed by him to the bill (S. 1377) to provide for reconciliation pursuant to title III of the first concurrent resolution on the budget for fiscal year 1982 (H. Con. Res. 115, 97th Congress).

AMENDMENT NO. 102

(Ordered to be printed and to lie on the table.)

Mr. PERCY (for himself and Mr. DIXON) submitted an amendment intended to be proposed by them to the bill S. 1377, supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON EMPLOYMENT AND PRODUCTIVITY

Mr. QUAYLE. Mr. President, the Subcommittee on Employment and Productivity will hold regional hearings on employment and training issues in Orlando,

Fla., July 17; Boston, Mass., July 24; Indianapolis, Ind., August 5 and 6; Salt Lake City, Utah, August 12 and 13.

The hearings will be on the general subject of the employment and training system in the United States. The purpose of these hearings is to develop necessary background information for the subcommittee and the Congress before it considers the appropriate legislative response to the fact that the authorization of appropriations for CETA expires next year.

A list of major issues that are of particular concern to the subcommittee is provided in the May 19, 1981, CONGRESSIONAL RECORD, pages 10199-10200.

Persons interested in testifying at these hearings should submit a written request to Bob Guttman, 4230 Dirksen Senate Office Building, Washington, D.C. 20510.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. SYMMS. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, June 23, at 2 p.m., to hold a hearing on the pending CEQ nomination.

Mr. PROXMIRE. Mr. President, it is my understanding that the Democratic leader, Senator ROBERT C. BYRD, has checked with the minority and has no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. SYMMS. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, June 23 at 10 a.m., to hold hearings on S. 1080, the Regulatory Reform Act.

Mr. PROXMIRE. Mr. President, on that, those hearings also, the minority has no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

DRAFT ADMINISTRATION CLEAN AIR BILL

● Mr. HART. Mr. President, a draft of the administration's clean air bill has been made public before being formally presented to Congress. While there is still time for the administration's policymakers to change their minds, all of us who care about the air we breathe should speak out strongly against this proposal. If we are unable to convince the administration to abandon this ill-conceived bill, we will be forced into a protracted, all-out fight—which will not serve anyone's interests.

The draft bill would repeal or relax 115 provisions of the Clean Air Act, involving every important part of the law. Among the most significant changes in the draft are: Elimination of the requirement that States must meet national air quality standards as rapidly as possible; shifting the burden of proof to the Environmental Protection Agency to prove a State's clean air plan is adequate; elimination of Federal sanctions if a State fails to adopt a clean air plan and elimination of EPA's responsibility to draft a plan in that case; relaxation of the requirements for how EPA sets all types of emission standards; virtually unlimited authority to EPA and the States to grant exemptions from emission standards; and the elimination of automatic penalties for emission standard violators.

These proposed changes would make the Clean Air Act optional. Whether anything is done to clean up our air would be completely within the discretion of the EPA Administrator and State governments. The result almost certainly would be dirtier, not cleaner, air.

The effect on our State of these and other reforms proposed by the administration in this draft will be enormous. Elimination of high altitude emission standards and the requirement for State inspection and maintenance programs alone will delay for many extra years the time by which the Denver metropolitan area will meet national air quality standards. The proposal would also remove most of the protections for the cleaner parts of our State, which face substantial energy development.

This draft represents decisions made at the Cabinet level by the "clean air" task force as of June 12. Still under review at that time were three additional issues which could have even greater effects on the revision of the law:

Whether to establish an economic test for setting air quality standards;

Whether to roll back automobile emission standards even further; and

Whether to eliminate all Federal requirements that new facilities use pollution controls.

The administration has declined to comment on this draft bill and its provisions, and it may be that some of them were only "trial balloons" which will never again see the light of day. I hope that is the case, and that the administration will reconsider its position.

There is room for legitimate, reasoned reform of the Clean Air Act. This spring, the National Commission on Air Quality made 109 recommendations to streamline the act while still retaining important public health protections. Similar approaches have been endorsed by responsible industry groups nationwide.

This draft proposal, on the other hand, does not propose reform. It does not suggest refinement. It would repeal the Clean Air Act.

The American people want fewer burdensome and inefficient Government regulations. But they also want cleaner air. Achieving both will be difficult, but it can be done.

I urge the administration to abandon its draft bill, and instead approach revision of the Clean Air Act in a responsible fashion.

Mr. President, I ask to insert in the RECORD at this point a detailed comparison of the administration's draft bill with the current Clean Air Act, showing the 121 significant effects the draft bill would have on the current law. The comparison shows that the draft administration bill would repeal 54 specific provisions of the law; relax 61 other provisions; strengthen 4 provisions and add 2 new provisions.

The comparison follows:

COMPARISON OF DRAFT ADMINISTRATION CLEAN AIR BILL WITH CURRENT LAW

CLEAN AIR ACT	DRAFT ADMINISTRATION BILL
Secondary air quality standards	
1. EPA shall establish secondary national air quality standards to protect the public welfare.	1. Repealed. Existing secondary standards are revoked.
2. States shall adopt implementation plans for meeting secondary air quality standards.	2. Repealed. Existing plans shall be revoked within 60 days.
State implementation plans (SIP's)	
3. States have 9 months after EPA sets an air quality standard to adopt SIPs for meeting the standard.	3. Relaxed. EPA would set a deadline for state adoption of SIPs.
4. States must meet national air quality standards "as expeditiously as practicable."	4. Repealed.
5. The deadlines for meeting air quality standards are (1) December 31, 1982, for current standards; and (2) three years after the standard is established for new standards.	5. Relaxed. The deadlines are (1) December 31, 1987, for current standards; and (2) five years after the standard is established for new standards.
6. States may get extensions from the deadlines (1) until December 31, 1987, for the ozone and carbon monoxide standards, upon a demonstration that meeting the 1982 deadline "is not possible . . . despite the implementation of all reasonably available measures;" or, (2) for two extra years for a new standard, if EPA determines— The necessary pollution control technology is not available; and The state has adopted all reasonably available controls.	6. Relaxed. If a state demonstrates that meeting a deadline "is not practicable," there would be no requirement to meet the standard.

CLEAN AIR ACT	DRAFT ADMINISTRATION BILL
Secondary air quality standards	
7. States must have public hearings on their proposed SIPs.	7. Repealed.
8. SIPS must contain emission limitations and compliance schedules for specific facilities of pollution.	8. Relaxed. Instead, SIPs can contain just a procedure to be used to establish emission limitations and compliance schedules.
9. States must establish permit systems for all new major facilities of air pollution to the extent necessary to meet air quality standards.	9. Relaxed. States can only establish permit systems for the major facilities subject to mandatory new source review.
10. States must require companies to monitor their pollution.	10. Repealed.
11. Companies getting clean air permits must pay the costs of reviewing and enforcing their permits.	11. Repealed.
12. States must review new facilities subject to Federal "new source performance standards" to make sure they will not violate air quality standards.	12. Repealed.
13. SIP's must provide adequate controls to ensure facilities in one state do not violate air quality standards and limits in another state.	13. Repealed.
14. SIP's take effect when approved by EPA.	14. Relaxed. SIP's take effect unless disapproved by EPA.
15. EPA has 4 months to approve or disapprove a SIP.	15. Relaxed. EPA must object within 3 months or the SIP takes effect.
16. EPA shall approve SIP's if they meet statutory criteria.	16. Relaxed. EPA shall not object to SIP's if they meet statutory criteria, but (unless the SIP projects attainment of an air quality standard after 1987) EPA "shall presume" SIP's are adequate.
17. EPA shall establish a Federal SIP for any state which does not have an EPA-approved SIP.	17. Relaxed. EPA establishment of a Federal SIP is discretionary.
18. SIP's may be suspended in emergencies, as determined by (1) the President, if it is an energy emergency, or (2) the Governor, if it is an economic emergency. EPA may terminate either category of emergency.	18. Relaxed. The state government determines whether there is an emergency.
19. The determination of an emergency must be made according to statutory criteria.	19. Relaxed. State governments would have discretion to determine what constitutes an emergency.
20. The period of an emergency suspension of a SIP cannot exceed 4 months.	20. Relaxed. The period cannot exceed one year.
Nonattainment	
21. States must adopt all reasonably available controls in areas more polluted than the national air quality standards ("nonattainment areas").	21. Relaxed. States must adopt all reasonably available controls only in areas which the states project will not meet by 1987 the standards.
22. States must improve each year the air quality in nonattainment areas.	22. Relaxed. States must make only "regular improvement in air quality over a period of time."
23. States must adopt automobile inspection/maintenance programs in areas projected to not meet by 1982 the ozone and carbon monoxide air quality standard.	23. Repealed.
24. Before allowing construction of a new facility in an area projected to not meet by 1982 the ozone and carbon monoxide air quality standards a state shall determine that the overall benefits of the source outweigh its social and environmental costs.	24. Repealed.
25. A new facility in a nonattainment area must arrange to "offset" its pollution by reductions from other facilities in the area.	25. Relaxed. The facility can get a permit so long as it does not impede reasonable further progress toward the standard.
26. A company locating a new facility in a non-attainment area must demonstrate that its other facilities all comply with pollution control requirements.	26. Repealed.
27. A new facility in a nonattainment area must use the "lowest achievable emission rate."	27. Relaxed. The facility would only have to meet only either of two weaker requirements, the Federal "new source performance standard" or "best available control technology.
28. EPA shall withhold air pollution control grants and the Department of Transportation shall withhold highway construction grants, in nonattainment areas where states have not adopted adequate SIP's.	28. Repealed.
29. All Federal agencies shall comply with SIP's.	29. Repealed.
30. The Urban Mass Transit Administration and the Department of Housing and Urban Development shall consider the air quality needs of nonattainment areas when they allocate Federal funds.	30. Repealed.
31. States with nonattainment areas may adopt the tougher motor vehicle emission standards adopted by California under its special exemption.	31. Repealed.
New source performance standards (NSPS)	
32. New source performance standards shall require the use of technology (not just the use of clean fuels).	32. Repealed. The existing standards for coal-fired powerplants are revoked.
33. NSPS, once approved in final form, apply to all facilities which began construction after the standards were proposed.	33. Relaxed. The standards apply only to facilities beginning construction after the standards are finalized.
34. Any modification to an existing facility is subject to NSPS if the modification increases emissions.	34. Relaxed. Modifications are not subject to NSPS if they are offset by new emission reductions elsewhere in the facility.
35. EPA may issue waivers from NSPS.	35. Relaxed. States may also issue waivers.
36. Waivers from NSPS may last only for 7 years after they are issued, or for 4 years after the facility begins operation, whichever is earlier.	36. Relaxed. If issued by EPA, waivers can last for the life of the facility. If issued by a state, waivers can last for 10 years after they are issued; or for 7 years after the facility begins operation, whichever is earlier.
Hazardous air pollutants	
37. Hazardous air pollution standards apply to all facilities beginning construction after the regulations are proposed.	37. Relaxed. The standards apply only to facilities beginning construction after the regulations are finalized.
38. Hazardous air pollution standards apply to all facilities emitting the hazardous pollutants.	38. Relaxed. The standards apply only to the categories of facilities EPA determines produce a "significant risk" of serious illness.
39. EPA has to set standards limiting emissions of a pollutant within 6 months after officially identifying it as a hazardous air pollutant.	39. Repealed.

COMPARISON OF DRAFT ADMINISTRATION CLEAN AIR BILL WITH CURRENT LAW—Continued

CLEAN AIR ACT	DRAFT ADMINISTRATION BILL
Hazardous air pollutants—Continued	
40. Hazardous air pollutant standards shall provide an ample margin of safety to protect the public health.	40. Relaxed. The standards shall require the best technology which has been adequately demonstrated (considering its costs) and any additional control EPA determines is necessary to protect against unreasonable health risks (considering possible health effects and control costs).
41 EPA must set emission standards for officially designated hazardous pollutants.	41. Relaxed. EPA can defer the setting of standards if no emission controls have been adequately demonstrated and if the lack of controls will not cause an unreasonable risk to the public health.
42. Existing facilities must meet hazardous emission standards 90 days after they are established.	42. Relaxed. The standards take effect within two years, as determined by EPA.
Enforcement and inspections	
43. EPA orders for a facility to comply with clean air standards shall require compliance by a date EPA determines is reasonable.	43. Strengthened. The time for compliance must be within one year after the order is issued.
44. EPA may bar the construction of a new facility in a nonattainment area where the state is not carrying out an adequate SIP.	44. Relaxed. EPA may bar the construction of a new facility only if it does not have a state permit.
45. EPA shall seek a court order and/or a fine whenever a major facility is not complying with clean air standards.	45. Relaxed. EPA action would be optional.
46. EPA may extend for 3 years the date by which facilities must meet clean air standards if they are unable to meet the standards earlier.	46. Relaxed. There is no time limit on an extension.
47. Extensions can only be granted from requirements in SIPs.	47. Relaxed. Extensions can also be granted from "new source performance standards" and from hazardous air pollutant standards.
48. Extensions can only be issued if facilities are "unable" to meet standards.	48. Repealed.
49. There must be opportunities for public hearings before extensions can be granted.	49. Repealed.
50. To get extensions for the use of innovative technology, facilities must need the extensions to use the technology.	50. Repealed.
51. To get extensions for the use of innovative technology, the facilities must demonstrate that meeting the standard would be impracticable.	51. Repealed.
52. An extension for the use of innovative technology can last for only 5 years.	52. Repealed.
53. Facilities can get extensions because they are converting to coal if the conversions are ordered by the Federal government or because of a natural gas curtailment.	53. Relaxed. Any facilities converting to coal can get extensions.
54. Initial extensions for coal conversion can last only until December 31, 1980.	54. Repealed.
55. Any additional extensions for coal conversion can last only for 5 years.	55. Repealed.
56. Extensions for coal conversion may not be granted to facilities which then would exceed the national air quality standards.	56. Relaxed. Extensions can be granted for facilities in nonattainment areas if the standards are not being exceeded "significantly."
57. EPA may establish priorities for the allocation by manufacturers of their pollution control systems for facilities converting to coal.	57. Repealed.
58. EPA must hold a public hearing before granting a coal conversion extension to a facility in a nonattainment area.	58. Repealed.
59. A coal conversion extension can be granted to a facility in a nonattainment area only if the facility would affect infrequently the level of air pollution in the area.	59. Repealed.
60. A coal conversion extension can be granted to a facility in a nonattainment area only if there is "reasonable statistical assurance" the extension will not cause any additional violations of natural air quality standards.	60. Repealed.
61. A coal conversion extension can be granted to a facility in a nonattainment area only if the extension will have an insignificant effect on air pollution levels in the area.	61. Relaxed. Extensions can be granted so long as they will have only an insignificant effect on violations of the national air quality standards.
62. Coal conversion extensions require the approval of just EPA.	62. Strengthened. States would have to concur before extensions take effect.
63. A facility getting a coal conversion extension must meet interim requirements of progress in reducing pollution.	63. Relaxed. A facility which eventually will close down instead of meeting clean air standards does not need to make any interim improvements.
64. EPA shall revoke an extension if the facility becomes able to meet clean air standards.	64. Repealed.
65. EPA shall hold public hearings before revoking extensions.	65. Repealed.
66. Extension granted before passage of the 1977 Clean Air Act Amendments shall remain in force.	66. Repealed.
67. N/A	67. New Provision. The decisions to grant or revoke coal conversion extensions are not subject to judicial review.
68. N/A	68. New Provision. Existing extensions can be modified to comply with the new statutory provisions.
69. Final decisions by EPA under the Clean Air Act can be reviewed only in the U.S. Court of Appeals for the District of Columbia.	69. Relaxed. EPA requirements to maintain records and monitor emissions can be reviewed in U.S. district courts.
Smelters	
70. The authority of EPA to allow smelters to be exempt from sulfur dioxide emission standards expires January 1, 1981.	70. Repealed. EPA may extend the exemptions indefinitely.
Noncompliance penalties	
71. EPA is required to collect noncompliance penalties from facilities violating clean air standards.	71. Relaxed. EPA action would be optional.

CLEAN AIR ACT	DRAFT ADMINISTRATION BILL
Noncompliance penalties—Continued	
72. Violations of emission requirements make a facility subject to noncompliance penalties.	72. Strengthened. Violations of reporting requirements may also make a facility subject to noncompliance penalties.
73. The amount of noncompliance penalties shall be based on the economic value to the facility of its failure to meet the clean air standards.	73. Relaxed. The amount of penalties shall be based on the nature, circumstances, and gravity of the violation; the ability of the violator to pay; the degree of culpability and prior violations by the owner; and any other factors, including the economic value of the noncompliance.
74. There is no arbitrary limit on the amount of noncompliance penalties.	74. Relaxed. Penalties cannot exceed $25,000 per day.
75. EPA cannot adjust the amount of noncompliance penalties; they must reflect the economic value of noncompliance.	75. Relaxed. EPA has unlimited discretion to reduce or refund the amount of the penalties.
76. EPA can enforce the noncompliance penalty program in states not implementing their own programs under EPA delegation.	76. Repealed.
77. Facilities shall be subject to noncompliance penalties for the period beginning from the date of EPA notice that they are violating clean air standards.	77. Repealed.
78. Facilities failing to pay noncompliance penalties shall be required to pay additional penalties equal to 20 percent of the original penalties.	78. Repealed.
Tall stacks	
79. The only facilities which can use tall stacks or other techniques to disperse pollution instead of actual pollution reduction measures are those facilities using the dispersion techniques before 1970.	79. Relaxed. Any dispersion techniques used before 1977 can be substituted for pollution reductions.
80. The effect of stack heights on the amount of pollution calculated to come from smokestacks is limited by a precise statutory formula.	80. Relaxed. EPA shall determine the limit.
Interstate air pollution	
81. States must notify other states of all facilities within its borders which might contribute to violations of the national air quality standards in the other states.	81. Repealed.
82. A state may seek an EPA finding that pollution from a facility in another state contributes to violations of the national air quality standards in the first state.	82. Relaxed. A state must negotiate with the other state for at least 6 months before it can seek EPA intervention.
83. A local government may petition EPA for a determination that the interstate spread of air pollution is unlawful.	83. Repealed.
84. A facility cannot emit pollution which EPA determines is contributing to violations of a clean air increment in another state.	84. Repealed.
85. A facility cannot emit pollution which EPA determines is contributing to a violation of a secondary air quality standard in another state.	85. Repealed.
86. EPA shall find that the interstate spread of pollution is unlawful if it meets statutory criteria.	86. Relaxed. The burden is on the complaining state to show that the interstate spread of pollution is unlawful under statutory criteria.
87. A facility cannot emit pollution which EPA determines is contributing to a violation of a primary national air quality standard in another state.	87. Relaxed. A facility cannot emit pollution which is contributing to a violation of a primary national air quality standard in another state if EPA determines the pollution is unreasonably interfering with the state's ability to meet the air quality standard, considering the degree of pollution controls required by the complaining state, the costs and effects of reducing the interstate pollution, and other factors.
88. EPA shall decide whether the interstate spread of pollution is unlawful within 60 days of receiving a state's petition.	88. Relaxed. EPA must decide within one year .
89. If EPA determines that its interstate spread of pollution is unlawful, a facility must reduce its emissions according to limits and schedules established by EPA.	89. Relaxed. The state shall establish the limits and schedules, which shall take effect unless disapproved by EPA within 90 days. EPA shall establish its own limits and schedules if it disapproves those established by the state.
90. The interstate spread of pollution must be halted within 3 years after EPA finds it unlawful.	90. Repealed.
Prevention of significant deterioration	
91. New facilities in areas cleaner than the national air quality standards ("PSD areas") may be built only after getting a clean air permit if they are (1) within certain categories of facilities and have the capacity to emit 100 tons of a single pollutant per year, or (2) have the capacity to emit 250 tons of a single pollutant per year.	91. Strengthened. Any new facility with the capacity to emit 100 tons of a single pollutant per year must get a permit.
92. Existing major facilities in PSD areas must get a clean air permit before being modified if the modification increases by any amount the pollution from the facility.	92. Relaxed. Only modifications which have the net effect of increasing pollution by 100 tons of a single pollutant per year must get permits.
93. A public hearing must be held before a PSD permit is issued or denied.	93. Relaxed. The public must be given a reasonable opportunity to comment.
94. Any facility or modification to any existing facility must use "best available control technology" ("BACT") to control all pollutants, regardless of the quantity emitted.	94. Relaxed. BACT is required only for pollutants which will be emitted in quantities of at least 100 tons per year.
95. BACT shall be expressed as a specified emission limit.	95. Relaxed. BACT may be expressed as a work or design practice instead of as an emission limit.
96. BACT requires the use of actual pollution control methods in addition to production processes.	96. Relaxed. BACT may require just production processes instead of pollution control methods.
97. BACT must be at least as strict as the minimum Federal "new source performance standard," ("NSPS"), if any has been established for that type of facility.	97. Relaxed. BACT is equal to NSPS when a NSPS has been established.

COMPARISON OF DRAFT ADMINISTRATION CLEAN AIR BILL WITH CURRENT LAW—Continued

CLEAN AIR ACT	DRAFT ADMINISTRATION BILL
Prevention of significant deterioration—Continued	
98. A PSD permit review shall include an analysis of the air pollution effects of growth caused by the new facility.	98. Repealed.
99. The operator of a new facility in a PSD area must monitor the air pollution from the facility.	99. Repealed.
100. A PSD permit shall be granted within one year after an application is filed.	100. Repealed.
101. All PSD areas except mandatory Class I areas shall be Class II areas (unless redesignated by states) and shall be subject to moderate limits on the amount of additional pollution which will be allowed.	101. Repealed.
102. States may redesignate most PSD areas as Class III areas, subject to generous limits on the amount of additional pollution.	102. Repealed.
103. States may redesignate as Class II or Class III those PSD areas which were designated as Class I under EPA's initial PSD regulations.	103. Repealed.
104. The combined pollution from all new facilities and modifications to existing facilities on which construction began after January 6, 1975, shall not exceed the increment of additional pollution specified for each class of PSD area.	104. Relaxed. Only the pollution from new facilities and modifications to existing facilities on which construction began after August 7, 1977, shall count as part of an annual increment, and short term increments shall be limits on the amount of additional pollution from a single facility (instead of limits on the cumulative additional pollution of all new facilities).
105. Emissions from facilities which have switched fuels under Federal order, and emissions from facilities outside the United States, shall not count as part of any PSD increment.	105. Repealed.
106. Particulate emissions from construction or other temporary activities shall not count as part of any PSD increment.	106. Relaxed. Any fugitive emissions and temporary emissions shall count as part of a PSD increment only as required by EPA.
107. A PSD permit decision shall be based on one year's monitored data on existing air quality and on an analysis of meteorology and other factors.	107. Repealed.
108. EPA shall establish requirements to prevent the significant deterioration of air quality with respect to regulated pollutants other than sulfur dioxide and particulates.	108. Repealed.
Visibility	
109. States shall adopt plans to prevent the future visibility impairment and to remedy any existing visibility impairment in mandatory Class I PSD areas.	109. Repealed.
110. Existing major facilities less than 15 years old which emit pollution impairing visibility over mandatory Class I areas shall be required to install "best available retrofit technology" to reduce the visibility impairment.	110. Repealed.
Motor vehicle emission standards	
111. EPA can relax the statutory emission standards for heavy trucks for 3 year periods.	111. Relaxed. EPA may relax the standards for any period of time.
112. Any relaxed standards for heavy trucks shall require the degree of control possible by technology reasonably expected to be available.	112. Relaxed. A relaxed nitrogen oxide standard shall require the degree of control possible by diesel trucks using technology reasonably expected to be available.
113. The carbon monoxide emission standard for automobiles shall be 3.4 grams per mile.	113. Relaxed. The standard shall be 7.0 grams per mile.
114. The oxides of nitrogen emission standard for automobiles shall be 1.0 grams per mile.	114. Relaxed. The standard shall be 1.5 grams per mile.
115. Beginning in 1984, new automobiles shall meet the national emission standards regardless of the altitude at which they are sold.	115. Relaxed. EPA may establish separate high altitude emission standards for automobiles but the standards must be less stringent than the national emission standards.
116. EPA has general authority to establish motor vehicle emission standards, including high altitude standards.	116. Relaxed. After making certain findings, EPA may establish separate high altitude emission standards for any motor vehicles, but the standards must be less stringent than the national emission standards.
117. EPA, after pre-market testing, shall issue to motor vehicles before they may be sold certificates, that they comply with national emission standards.	117. Relaxed. Instead of pre-market certification, motor vehicles may be sold if they are to be subject to an in-use compliance program with these elements: The vehicles will be tested to determine their actual emissions; Manufacturers will be assessed a nonconformance penalty determined by EPA if the emissions from their vehicles exceed the national emission standards; and, emissions from their vehicles are below the national emission standards.
118. The authority to allow the adjustment of motor vehicles in high altitude areas shall not apply in a high altitude state not meeting auto-related national emission standards unless the state has an automobile inspection and maintenance program.	118. Repealed.
Judicial review	
119. Law suits challenging nationally-applicable EPA decisions under the Clean Air Act may only be filed in the U.S. Court of Appeals for the District of Columbia.	119. Relaxed. Suits may be filed in any U.S. Court of Appeals.
Conflicts of interest	
120. EPA officials with financial interests in companies subject to clean air regulations shall file and make available to the public reports of those interests.	120. Repealed.
121. No person employed by a company subject to clean air regulation may be an employee of EPA.	121. Repealed.●

AMERICA'S STRATEGIC CHALLENGE IN SOUTHEAST ASIA

● Mr. LUGAR. Mr. President, while political and military struggles are no strangers to Southeast Asia, Soviet conduct through its Vietnamese surrogate constitutes an increasingly dangerous threat to the security of our friends in that region. Important Western political and economic interests are at stake in the region as well.

The administration believes, and I concur, that a strong and self-reliant Thailand is central to the future stability of Southeast Asia. If we are to meet the Soviet challenge, we must not only strengthen our own military forces, but also must give urgent attention to the security and economic requirements of Thailand and our other Southeast Asian friends and allies whose strength and support are essential to prevent further expansion of Soviet influence.

Secretary of State Haig's visit to the Association of Southeast Asian Nations (ASEAN) meeting in Manila on June 18, 19, and 20, has been an important sign of American interest in the region. Some of the reasons for American interest in the region have been spelled out expertly in a study by Daniel C. Arnold and Michael A. Daniels. I ask that their study entitled "America's Strategic Challenge in Southeast Asia" be reprinted in full.

The study follows:

AMERICA'S STRATEGIC CHALLENGE IN SOUTHEAST ASIA

As they enter the decade of the eighties, the nations of non-communist Southeast Asia find themselves facing an increasingly grave security threat. This threat comes from two sources: internal subversion and aggression from Vietnam. Internal subversion is a problem which has beset the governments of non-communist Southeast Asia since the early fifties. Leaving aside Burma, which must be considered in a separate category from ASEAN, active communist insurgencies are underway today in Thailand, Malaysia and the Philippines. None pose a serious threat at the moment to the existing governments, yet all are destabilizing elements within their respective societies and have long-term potential for growth. These domestic insurgencies constitute a serious drain on national resources and could be utilized as vehicles for intervention by the neighboring communist states or other outside powers.

More threatening in the immediate future is the possibility of external aggression. This is a threat which is directed most clearly at Thailand but also carries serious implications for the other nations of peninsular Southeast Asia. The source of concern is Vietnam, which has an army of 200,000 men in Kampuchea and more than 40,000 men in Laos, with large well-equipped units operating along the Thai border. It is this more immediate threat that will be examined by this paper.

While political and military struggle is no stranger to Southeast Asia, today's confrontation is complicated by the Sino-Soviet dispute, the use of proxy forces, the growing numbers of refugees, whose support is a political as well as a humanitarian problem, the intense conflict between the Asian communist nations and a direct face-off between a reasonably coherent yet comparatively weak ASEAN bloc and an aggressive Soviet-Vietnamese alliance. The potential for widespread conflict is thus significantly greater today than it has been for many years, and so too are the likely economic, political and military implications of such conflict for the West. As such, it is this array of security concerns that may well pose some of the most difficult challenges for the new Reagan Administration.

Before proceeding, however, it would be useful to examine the origins of this latest round of bloody confrontation in Southeast Asia. For centuries, the Vietnamese have coveted control over the whole of Indochina, and an Indochinese Federation under Vietnamese Communist leadership has been a major objective of Hanoi for fifty years. The genesis of the current leadership's aspirations goes back to the Vietnamese-led struggle against the French for independence in Indochina.

This objective was made clear in an early party document which stated that there was no place for a Lao or Kampuchean revolution on its own. The communists were able to exploit nationalist sentiments to gain popular support in the battle for independence against the French. This led to their victory at Dien Bien Phu and the Geneva Convention of 1954. The Geneva Convention provided for the independent and non-communist nations of South Vietnam, Laos and Cambodia and set the stage for the next phase of Vietnamese strategy: the overthrow of the non-communist governments and their replacement by communist regimes. This objective was achieved by the end of 1975.

On April 16, 1975, Vietnamese-supported communist forces occupied Kampuchea's capital, Phnom Penh, thus bringing an end to the U.S.-backed government of Lon Nol and establishing the Khmer Rouge government of Democratic Kampuchea (DK). In clear violation of the Paris Accords, Saigon was attacked and seized by North Vietnamese and Viet Cong forces two weeks later, on April 30th. The unification of North and South Vietnam was completed in August 1976 with the establishment of the Socialist Republic of Vietnam (SRV). De facto control over Laos was complete in December 1975, with the dissolution of the internationally recognized coalition government and the proclamation of the Lao People's Democratic Republic (LPDR). Hanoi's control over Laos was formalized with the signing of a 25-year Treaty of Friendship, Cooperation and Mutual Assistance on July 18, 1977.

Thus, shortly after the U.S. withdrawal from Southeast Asia in 1975, it appeared that Vietnam's long-sought objective of effective control over Indochina was well on its way to becoming a reality. However, Vietnam failed in its attempts to subvert the Khmer leadership and thereby extend the same control over Kampuchea that it had over Laos. The reasons for this are clear. The major factor was the unyielding nature of the Khmer Rouge leadership, with its extremely radical and nationalistic policies. Another factor was Vietnam's falling out with the People's Republic of China (PRC), followed by strong Kampuchean backing of Peking's foreign policy and increased Chinese aid to Phomn Penh.

Disputes between Kampuchea and Vietnam soon erupted, mainly over the issues of alleged unclear frontier delineation and the large number of Kampuchean refugees that were fleeing the Pol Pot regime. Tensions increased between the two former communist allies to the point where serious clashes erupted in early 1977. Sporadic fighting continued throughout the year and into 1978, with Kampuchea drawing support from the PRC and Vietnam becoming more closely associated with the Soviet Union, while at the same time becoming increasingly distant from China.

In July 1978, Vietnam became a member of COMECON, and in November of the same year signed a 25-year Soviet-Vietnam Treaty of Friendship. Armed with the support of the Soviet Union, Vietnam invaded Kampuchea under the guise of coming to the aid of the Kampuchean National United Front for National Salvation (KNUFNS), which was a Vietnamese-organized and controlled creation, in order to overthrow the legal albeit oppressive Khmer Government. A People's Republic of Kampuchea (PRK) was proclaimed, followed by the now all too familiar signing of a Treaty of Friendship, thus attempting to legitimize the continued Vietnamese military occupation of Kampuchea.

Two months later, after repeated border skirmishes between the PRC and Vietnam, China invaded Vietnam. Casualties for both sides were heavy and caused severe damage to Vietnam's economy. Nonetheless, despite the combination of this damage and the continuing resistance of Khmer Rouge forces, there is no indication that Vietnam is willing to consider withdrawal from Kampuchea or Laos. In fact, there is a serious question whether Vietnam will stop its conquests here or be tempted to extend its influence elsewhere in the region, either through armed invasion or support for local insurgencies.

Thailand is now the front line state facing the Soviet-Vietnamese military alliance in Southeast Asia and would be the next target of direct or indirect aggression. Of the five member states of ASEAN (Thailand, Malaysia, Singapore, Indonesia, and the Philippines), Thailand is the closest to Vietnam, and only Thailand shares a common border with Vietnamese-occupied and controlled Kampuchea and Laos. For the moment Thailand's relations with Laos are not hostile despite the more than 40,000 Vietnamese troops in that country. Nonetheless, there are currently 150,000 Laotian refugees on Thai territory. Increasing the potential for external aggression is the claim that Laos has long laid to northeast Thailand, and the cultural and racial affinity between the Lao and the inhabitants of that region.

The most immediate threat, however, comes from Kampuchea, where more than seventeen Vietnamese divisions are attempting to consolidate military and political control over that country. It is important to note that through most of the last several hundred years, Kampuchea has served as a buffer between the two dominant powers of the region—Vietnam and Thailand. The Thais therefore view with alarm the sudden appearance of a large and well-equipped Vietnamese army adjacent to Thailand along a long and often ill-defined border. Although Thailand has attempted to remain neutral in the volatile Kampuchean conflict, for strategic reasons it is opposed to the unification of Indochina under Vietnamese authority and has therefore continued with ASEAN and the United Nations to recognize the Democratic Kampuchean government as the lawful government of Kampuchea.

This situation is greatly complicated by the unstable conditions prevailing along the the Thai-Kampuchean border. Beginning in the summer of 1979, large numbers of Kampuchean refugees began entering Thailand, fleeing from the famine and warfare that had overwhelmed their country. For six months Thailand was virtually alone in coping with this influx. The eventual cooperation of a number of friendly governments and of the United Nations High Commissioner for Refugees (UNHCR), the International Committee of the Red Cross (ICRC), the United Nations Childrens Fund (UNICEF), the World Food Program (WFP), and a variety of private voluntary organizations led to a multilateralization of the support effort and now the basic human needs of Kampuchean refugees are being effectively met. With the humanitarian problem under control, however, an equally grave political problem remains.

As many as 200,000 Khmer are living in Thailand, primarily in camps administered by the UNHCR. These camps, the largest of which (Khao I Dang) hold 115,000, are located on or adjacent to the border. The border zone itself is under the authority of the Thai military, which maintains general se-

curity. Straddling the border, in an arid no-man's land, are a series of large squatter camps under the authority of the Khmer Serei, a loosely organized group of non-communist elements. While food and medical assistance is delivered to these camps, neither the Thai army nor the United Nations has any established presence there. Their 600,000 residents live under the authority and whim of the different camp leaders, who are notoriously corrupt and are given to fighting among themselves as much as against the communists. On a number of occasions, fighting has broken out between the Khmer Serei and the Thai army.

Also in the border area are separate camps occupied or dominated by the Khmer Rouge. At least 55,000 Khmer Rouge soldiers are known to be operating inside Kampuchea, many in areas contiguous to the Thai border. A number of violent clashes have occurred between Khmer Rouge and Khmer Serei units, with considerable destruction and loss of life. More dangerous, however, is the large-scale fighting now taking place between Khmer Rouge and Vietnamese units. This fighting could at any time spill across the border into Thailand.

The most dangerous threat to Thai security thus comes from the large Vietnamese army poised just across the frontier. It is debatable whether the Vietnamese are prepared at this time to undertake a full-scale invasion of Thailand. More likely are limited incursions such as punitive raids or a series of hot pursuit operations. This would bring Vietnamese forces into direct contact with the Thai army, which would be forced to protect and defend Thailand's territorial integrity. Depending on the length and nature of such incursions, these engagements could possibly lead to U.S. involvement under the Manila Pact commitments.

This is a threat which is likely to increase rather than recede. Far from being invincible, the Vietnamese army is in tenuous control of Kampuchea. The Khmer Rouge clearly retain the military balance of power in Kampuchea. Nighttime travel in the rural areas is dangerous and in many areas of the country Vietnamese troops are restricted to garrison duty. The Vietnamese, armed with Soviet and captured American equipment are finding much as the United States did in Vietnam, that technological superiority is not necessarily a viable answer to protracted guerrilla warfare. The Khmer Rouge, on the other hand, are believed to have stockpiles of Chinese-supplied food and equipment sufficient to last for many years. There is no reason to believe that they will give up their struggle.

A quick Vietnamese "mopping up" of Khmer Rouge opposition is therefore not feasible. Barring a political settlement, which for the moment is equally unlikely, warfare in Kampuchea will continue for the foreseeable future. This means that large numbers of Kampuchean refugees will be forced to remain in or near Thailand and that Khmer Rouge forces will continue to retreat to Thai territory for refuge and recuperation. As Vietnamese frustration inevitably mounts, the danger of punitive military action against Thailand will correspondingly increase. The Thai-Kampuchean border remains a volatile and extremely explosive area.

As previously mentioned, internal subversion has long been a threat to the non-communist nations of Southeast Asia. By far the most serious insurgent problem in the region exists in Thailand, where some 12,000 armed guerrillas are active. The activities of the Communist Party of Thailand (CPT) have since early 1979 been hampered by a loss of outside logistics and material support caused by the intra-communist fighting in neighboring Kampuchea. The CPT has been disrupted and its operations scaled back. A resumption of outside support in the future is not unlikely, however, considering the close proximity of two Vietnamese controlled communist regimes and the basic infrastructure of the CPT within Thailand, which remains intact. Rural and possibly urban insurgency thus remains a serious threat to Thailand's stability in the long-term.

The whole of Southeast Asia is threatened today not only by Vietnamese imperialism but also by the broader wave of Soviet expansionism. While Hanoi, undoubtedly buoyed by the defeat of the U.S., is acting out of a sense of manifest destiny in its drive to dominate Southeast Asia, the Soviet Union is utilizing Vietnam as a dependent client and surrogate in order to pursue its global strategic objectives within the region.

To this extent, the Soviet Union is providing Hanoi with as much as $6 million per day in military and economic assistance. Vietnam's own economy is so weak that the maintenance of its armies of occupation in Kampuchea and Laos would be impossible were it not for such Soviet support. It is this tremendous amount of material support provided by the Soviet Union, as well as its moral backing of Hanoi, that in great part is determining the current balance of power in the region. The humanitarian assistance provided by the West for Kampuchean relief has also aided the Vietnamese. From late 1979 through 1980, Western donor nations contributed over $450 million to this program, of which the U.S.'s direct contribution amounted to almost $130 million. Private Western donations from voluntary organizations amounted to more than $100 million more. Those organizations that derive their support from the U.S. are indirectly being subsidized by the U.S. taxpayers because of their tax free status. While a portion of this assistance went to support refugees in Thailand, much of it has been used to help rebuild a shattered Kampuchea. Vietnam and Laos receive Western aid as well, much of which comes from U.S. funds, including those channeled through the United Nations. While the vast outpouring of Western generosity has gone a long way towards saving much of Kampuchea from starvation, it has allowed Vietnam to continue to occupy that nation with little responsibility for the welfare of the Kampuchean people.

Furthermore, humanitarian aid has repeatedly been diverted by the Vietnamese to feed the Vietnamese Army. It is paradoxical that to the extent the U.S. and other nations provide humanitarian support to the Vietnamese and to the Khmer puppet Heng Samrin, that aid supports and thereby permits the Vietnamese to pursue their own order of priorities which unfortunately emphasize external military adventurism rather than improving the welfare of their people.

In order for Vietnam to consolidate its power, and for the Soviet Union to further project its power throughout the region and beyond, control over Thailand is mandatory and the likely next order of business. Geographic considerations alone do not reveal Thailand's full value of the Soviet Union and Vietnam. Thailand, one of the world's leading agricultural exporting nations, possesses a treasure of natural resources, many of which remain untapped, including potash, tin, tantalum (a strategic alloy used in the manufacture of aircraft), zinc, oil shale and offshore natural gas and oil.

Most, if not all of Asia's leaders, believe that if Thailand falls, it would be only a matter of time before Malaysia and Singapore met a similar fate, either through direct Vietnamese aggression or by increased support from Hanoi for internal communist subversion. Even if the non-communist governments were able to remain in power, they would be susceptable to "Finlandization." Communist control over peninsular Southeast Asia, be it *de jure* or *de facto* would have serious destabilizing effects upon Indonesia and the Philippines, both of which have a long history of communist insurgencies. Control over peninsular Southeast Asia would also permit the Soviet Union to command the strategic Strait of Malacca and be in a better position to interdict the vital neighboring Sunda, Lombak, and Makassar straits as well as other sea lanes vital to Australia and New Zealand. Finally, Soviet-Vietnamese domination over Southeast Asia would contribute to the Soviet objectives of containing the PRC and replacing the U.S. as the predominant influence in the region.

In pursuit of its broader strategic objectives, the Soviet Union has wasted little time in moving into the region militarily. The Soviet naval presence in Southeast Asia began in early 1979. Soviet ships did not play a direct role in the conflict between the PRC and Vietnam, apart from shuttling supplies and personnel along the coast of Vietnam to Haiphong. The primary mission at the time was intelligence collection and monitoring. In addition, the ships probably were intended to deter any possible Chinese naval action against Vietnam and to provide a visible sign of Soviet commitment. Despite the subsequent Chinese withdrawal from Vietnamese territory in early March 1979, the Soviet naval presence in Vietnam and the South China Sea has assumed an increasing air of permanence.

Since early 1979, there have been an average of 16–18 surface units of the Soviet navy on station in Vienamese waters and the South China Sea, with the force built around 4–5 major surface combatants and having up to three Intelligence Collectors. Submarines probably number around 5–6 units at any one time and include both conventional and nuclear powered vessels. The number of ships, especially combatants, can increase sharply for short periods of time due to units passing through the area on their journey to and from the Indian Ocean. In late October 1980, a 4,500 ton floating drydock was reported to have been brought to Cam Rahn Bay. This, together with repair ships already assigned to the area, can give a maintenance capability similar to that existing in support of the Soviet Indian Ocean Squadron, thus indicating a possible Soviet intention to accord the same degree of permanence to the South China Sea Squadron.

Apart from ships, Soviet naval TU–95 (Bear D) maritime reconnaissance aircraft have been deployed for regular operations out of Cam Rahn Bay. At present it is likely that the principal mission of Soviet naval forces in Southeast Asia is to act as an instrument of state policy in peacetime, as well as a deterrent against the PRC and to give credibility to the Soviet-Vietnamese Treaty of Friendship.

The potential of the Soviet military presence, in the region was brought home with great clarity in October 1980 when a Soviet naval task force suddenly left Cam Rahn Bay and entered the Gulf of Thailand. It made a two-day sweep in the centre of the Gulf, moving relatively close to Thai territorial waters as well as offshore oil/gas platforms. This force comprised the Guided Missile Aircraft Carrier MINSK, the Kara-class Guided Missile Cruiser PETROPAVLOVSK, the Krivak-class Frigate LETUCHKY and the Intelligence collector DEFLEKTOR. As a by-product of this political show of force, the Russians were able to utilize detection equipment on the DEFLEKTOR to gather comprehensive data on Thai radar and warning systems covering the Gulf area. This information has doubtless been made available to the Vietnamese. In the meantime, the Soviet Union is making a serious effort to develop the Vietnamese Navy into an effective proxy force. Since November 1978, the U.S.S.R. has already delivered at least 22 naval craft to the SRV, including one W-class submarine,

two Petya-class frigates, two Osa-class missile boats and 12 other fast attack/patrol craft. The combination of increased Soviet naval capability in the region and Soviet upgrading of Vietnam's naval capability is ominous.

The implications for the United States are clear. These are:

1. Control over an agricultural and resource-rich region.—Thailand is a significant agricultural producing nation and contains many valuable natural resources. So too, do the other member nations of ASEAN. For example, Indonesia produces roughly 1.6 MMb/d of oil, of which approximately 1.3 MMb/d is exported, primarily to Japan and the U.S., and has significant reserves of natural gas as well. Indonesia also has deposits of tin, and is rich in wood resources and rubber. Malaysia is rich in rubber, wood and tin, while having some deposits of petroleum. The Philippines has deposits of copper and other minerals as well as timber and other agricultural products. The coming years have been predicted by many as an era of "resource wars." If such a prediction comes to pass, communist control over this region of wealth would be disastrous.

2. Control of Singapore in particular.—Singapore is the world's fourth largest port and the second largest non-U.S. refining center after Rotterdam, producing 918,000 b/d. As such, its natural deep water harbor and its strategic location astride the Strait of Malacca make it particularly valuable. Singapore also ranks fourth as a noncommunist center for petroleum product exports and is the seat of the Asian petroleum spot market. Finally, Singapore is a major bunkering facility, serving the Indian and Pacific Oceans.

3. Control over strategic straits and sea lanes.—Communist control over peninsular Southeast Asia would make it far easier for the Soviet Union to control the adjacent strategic waterways, hence cutting major sea lanes connecting Europe and the Middle East to Japan and industrial northeast Asia, as well as those connecting the Asian subcontinent and the Pacific basin to the Western Hemisphere. This of course would have a severe effect, especially on Japan, South Korea and Taiwan, whose economies are almost totally dependent upon open sea lanes for exports of manufactured goods and imports of petroleum and other raw materials. To illustrate the importance of the strategic straits within the region, it is estimated (based on extrapolations from previous trends) that 6.6 MMb/d of oil pass through the Straits of Malacca, Sunda and Lombak—of which 4 MMb/d goes to Japan, 2.1 MMb/d to other Far East countries and about 500,000 b/d to the U.S. west coast and South America.

4. Disruption of communications and U.S. naval activity.—Our trading partners and allies such as Japan, South Korea, New Zealand, and Australia would be severely challeged by communist control over these strategic waterways. Finally, U.S. naval activity out of Subic Bay and the adjacent Pacific area would be seriously challenged.

The Reagan Administration is faced with serious strategic challenges within the region. Both friend and potential foe will be watching for signs of U.S. resolve at this critical juncture. By way of conclusion, in support of non-communist, and therefore American, vital interests the Reagan Administration should consider the following measures:

1. Strengthen Thailand through significantly increased military and economic assistance.

2. Increase economic and military assistance as necessary to the other ASEAN nations to further their stability while they continue economic and social development.

3. Rapidly build up the U.S. Navy and increase its presence in the region.

4. Strengthen regional bases and acquire additional facilities as needed. Negotiations with Australia should continue for such contingencies.

5. Persuade Japan to increase its defense budget so as to contribute to regional security and hence protect its vital interests.

6. Consult and collaborate with the PRC on matters of regional security.

7. Act to ensure that international organizations and U.S. relief agencies discontinue economic assistance to Vietnam while that country continues to occupy Kampuchea and Laos.

8. Actively support the ASEAN Foreign Ministers' call to the United Nations Secretary General to convene an International Conference on Kampuchea on the basis of United General Assembly Resolution 35/6.

9. While efforts to achieve unity in the leadership of Khmer nationalist elements are matters for the Khmer people, the United States should actively support the current efforts to develop a coalition of non-communist Khmer leaders and the Khmer Rouge with the goal that this United Front could be established before the next United Nations General Assembly, and that this in turn would lead to an acceptable alternative to the Vietnamese controlled puppet regime. An acceptable alternative i.e., coalition government could recognize Vietnam's legitimate security concerns in the hope of expediting Hanoi's withdrawal.

10. Explore the feasibility of U.S. participation in a Southeast Asia-Pacific defense arrangement.●

MOBILE HOMES: AN ALTERNATIVE FOR AFFORDABLE HOUSING

● Mr. CHILES. Mr. President, in today's world of soaring inflation and unprecedented interest rates, affordable and decent housing for Americans is becoming a crucial problem. One of the alternatives which has become more and more popular is the mobile home. For example, in my home State of Florida, about one out of nine individuals lives in a mobile home.

In Florida, we have a gentleman who has developed some of the more innovative methods for improving the design of mobile homes and for making such homes more affordable to potential buyers. Sydney Adler is one of the leaders in housing for retirees in Florida, as well as in the entire Nation. As president of Design Communities in Brandenton, Fla., Mr. Adler has been successful in convincing residents, savings and loans associations, developers, and local officials that mobile homes are a viable and practical asset and should be assigned mortgage assistance like other more conventional housing. Florida has come a long way in this regard and now provides for long-term mortgages for the mobile home as well as for the land on which the unit sits.

In an article he authorized in Manufactured Housing Dealer, Mr. Adler gives a history of the growing status of mobile homes in the housing and financing industries. The article also gives Mr. Adler's views as a developer about how to make the mobile home a more attractive alternative for the resident as well as for the developer.

Mr. President, I would like to share Mr. Adler's article with my colleagues. I ask that it be printed at this point in the RECORD.

The article follows:

THE PIONEER OF SUBDIVISIONS ADDRESSES—DEVELOPING THE MH SUBDIVISION

(By Syd Adler)

When I started my first mobile home subdivision, Trailer Estates, with 1,450 spaces, in Bradenton, Florida in 1954, the mobile home averaged 8 x 32 feet. Lots in our subdivision were 40 x 60 and sold for $898. Average investment in the home and lot set-up including carports, concrete, etc., was eight to nine thousand dollars.

Today, 25 years later, these same homes and lots are selling for an average of $25,000. Trailer Estates is one of the best answers to the question, "How long will a mobile home last and will it hold its value?"

Here is a development with 25 year old mobile homes that are selling for 300 percent more than the people originally paid for them.

When I started Trailer Estates, we made market studies of the Sarasota/Bradenton area and found that the buyers of lots and mobile homes were mainly from areas in the North and Midwest who were looking for a way to move from a bigger home to a smaller one. They wanted the pride of land ownership and a small piece of property to take care of.

As our industry continued to grow, we went to the 12wide, the 20wide, the 24wide, the 28wide and the 36wide. The industry realized we were no longer in the interim housing business.

Our industry has been a single level industry; the manufacturer being concerned with getting the unit to the dealer; the dealer concerned with selling it to a consumer, and the consumer concerned with finding a place for the mobile home.

This condition is changing as we find dealers interested in parks; manufacturers interested in parks, and lenders recognizing the importance of the environment in which a mobile home is placed in determining what it will lend.

As the homes have continued to grow in size and cost, as rents have continued to rise in rental parks, the mobile home subdivision, condominium and PUD concept are and will become more and more an important factor in the industry's growth. For this growth to continue, we must look at mobile homes as permanent housing and consider the environment in which the mobile home will be placed.

Street dealers must set their lots up as model home centers and developers must recognize that the living unit and home are interdependent parts and, that to successfully sell our new homes, we must integrate the total sales package.

Lenders must look at our industry as a form of permanent housing meeting the needs of the under $40,000 home market. It's this large segment of middle class America that the mobile home industry can supply with housing.

My current development, Lake Mountain Estates, in Boulder City, Nevada, is one of the most advanced housing concepts in the mobile home industry. Not only from its location, its development, but in its marketing and its financing.

It is a terraced hillside development with over 90 percent of the lots having a view of Lake Mead. It is served by city utilities and services. Developed as a PUD, in which the streets, utility lines and common areas are owned by the home owners association, the lots are deeded in fee title to the property owner.

In all the years that I have been developing land, I have always found it to my advantage to work with local area dealers. Consequently, Coulter Mobile Home Sales in Las Vegas is responsible for the setting-up, landscaping, and the joint marketing of the land and home package.

No one can purchase a lot at Lake Mountain Estates without purchasing the total living package of mobile home, land, landscaping and appurtenances to the mobile home.

The price range of the total package runs from $45,000 to $80,000 and the development is surrounded by conventional housing selling from $125,000 up. As in Florida's Trailer Estates, surrounded by an FHA housing subdivision, these developments are proving that a good mobile home subdivision is totally compatible with conventionally constructed housing.

The average cost of the first section of Lake Mountain Estates is just under $7,000 a lot for the physical development of the property, excluding land. The development has approximately four lots to the acre, a low density, but one required by the terrain of the land. Minimum lot size is 6,000 square feet. The average lot sales prices is $16,600 or about twice the cost of land and development.

This is a gross profit figure, from which you would have to deduct construction loans, interest, administrative costs, advertising and promotion.

When the consumer buys a unit of land and mobile home at Lake Mountain Estates, he purchases the entire package from Lake Mountain Estates, Inc., a Nevada corporation.

At time of purchase, a contract is signed and a deposit is placed in escrow with a local title insurance company. The insurance company handles the transaction exactly as they would the sale of any conventional house.

At closing, all money goes into an escrow account, that portion applicable to the mobile home is paid to the mobile home dealer, and that portion applicable to the land is paid to Lake Mountain Estates, but as far as the consumer is concerned, he is not buying from two separate sellers.

With this concept, we were able to get, for the first time, a HUD exemption on the sale of land. HUD accepted the fact that a mobile home, even though personal property in Nevada, qualified the property as an improved residential lot with an accepted structure.

A finance package was developed in which a single note is executed by the purchaser, secured by two security instruments, a deed of trust or mortgage on the real property, and a chattel mortgage on the mobile home. The note bears 12 percent simple interest rate, payable over 25 years with 20 percent down.

This represents a major break-through in having a lender provide permanent house financing in a state which requires the mobile home to remain personal property.

The title company handles the entire transaction including the recording of the mortgage or deed of trust for the lender, obtaining the releases from the construction loan, recording the deed to the purchaser, preparing the closing statement and disbursing the funds to the mobile home dealer and the land developer.

From an administration standpoint, we receive a closing package of the closing statement, a disbursement of money into our operating account, payment to the construction loan land lender and the disbursement of any other costs, thereby making the handling of money and documents totally controlled simply and efficiently.

It is our feeling that the need for developments such as Lake Mountain Estates in the under $40,000 home market is unlimited throughout the country. These developments need not be large and may or may not have leisure areas, depending on the market being served.

The developer must convince local governmental agencies that this is an alternative form of permanent housing and that zoning should be permitted. We can exhibit, through our past developments, that this type of development is an asset to any community and serves a need in these inflationary times.

We have no qualms of restricting our developments to lot sizes of 6,000 square feet or about five to an acre, or meeting all municipal road and development requirements.

If the community is reluctant to maintain the roads, we will establish a PUD or condominium form of development, where the city or the county is relieved of the responsibility of maintenance. The development should be restricted to selling totally set-up units and not just vacant land as they should be permanent housing developments.

An important ingredient in making these developments successful is strong rules and regulations, which can be established either as deed restrictions or included in the PUD or condominium documents.

The developer must control the set-up; the units that go into the development; the landscaping and total environment so that the quality of the development remains constant from beginning to end. In other words, the total approach to the development must be that of a permanent housing community.

The amenities provided on the individual lots or in the leisure areas must be compatible to competition from conventional housing.

It is important that the developer maintain control of the development until it is sold out so that if PUD or condominium form of ownership is used, the developer should remain in control of the homeowners association.

The same rules and regulations that make a mobile home park successful must be used in land ownership developments. We are dealing with a form of high density housing, which requires greater policing and control than homes placed on large lots.

Excited as I was 25 years ago with providing home oriented retired persons with smaller houses on smaller lots, I am even more excited now in the growth of our industry in providing smaller or larger housing on smaller or larger lots to the vast middle class in this country, who will not be financially able to handle the cost of conventional housing.

The future of the industry, the opportunities for both mobile home dealers and developers is greater than it's ever been but it's going to take a concerted effort on all industry levels, manufacturer dealer and land developer, to make this become a reality.

However, the true success of this reality will come through the competitive consumer financing package for the total housing unit.●

STATUE OF KOMITAS, ARMENIAN HERO

● Mr. LEVIN. Mr. President, this past weekend I had the honor of helping to dedicate a statue memorializing the 1½ million Armenians who perished in this century's first genocide. The statue, located in a prime area of Detroit's riverfront, pays tribute to an Armenian folk hero, Komitas, and through him to Armenians throughout the world.

While the Armenian community took a leading role in raising the funds for the memorial, and while the city of Detroit donated the land, all people and all communities can now make at least a spiritual contribution to the symbolic promise of the statue: a promise that says we will never forget this tragedy and we will never permit another like it to take place.

Mr. President, I want to take this opportunity to publicly congratulate Moe Assarian, who as chairperson of this effort demonstrated the skill, patience, tenacity, and generosity that all of us who know him have come to expect; and I also want to express my personal appreciation to Alex Manoogian, the recognized leader of the world Armenian community, for all his efforts not only on this project, but on so many other issues of concern for his community and our country.

Mr. President, I ask unanimous consent to place in the RECORD at this point the remarks I delivered at the dedication of the memorial to the Armenian martyrs.

REMARKS OF SENATOR LEVIN

The monument we dedicate today is a physical symbol of the strength of the Armenian people and the endurance of your love and our love for them. In the selection of Komitas, we have a symbol which is both profoundly powerful and richly ironic.

The power comes from the passion of the man and the purpose of his life. His contribution to the intellectual life and musical enjoyment of all people was immense. His songs reflected the pure expression of his people and his scholarship preserved and strengthened a heritage by purifying the music of his church and making it consistent with its historic traditions. He contributed to our pleasure. He enriched our appreciation of the world.

But his contributions were prematurely stilled. The same passion that infused his work made him particularly sensitive to the terror and tragedy that he saw. The sight of death, the experience of deportation, the loss of friends, family and, finally, an entire people was too much for him. And while he lived for many years thereafter, he never again could sustain, in a world of chaos, the sense of order taht his work demanded.

There is, however, an irony in the symbolism of Komitas' life and the memorial to it that we dedicate today. His work, and in essence his life was ended by the genocide he was forced to witness. But it is precisely that work that life and even that genocide that we today vow will never be allowed to die, but rather will survive in our memories and the very architect of our city.

This monument is our monument of memory—a monument which cannot be extinguished. This is our monument of faith like a candle whose light burns with the intense fire in the eyes of Armenian martyr. This is our monument of commitment whose very stone proclaims that we who survive will instill meaning in the loss of our departed by rededicating ourselves to the needs of Armenians throughout the world. And finally, this monument helps us provide an answer to Hitler's penultimate mocking insult of the Armenian genocide.

In the 1930's when Hitler began planning and implementing his holocaust, he was asked how history would judge him and he replied that he didn't worry about that because, after all, he said, who remembers "the extermination of the Armenians."

Today we answer that question for Detroit and Michigan. We remember the 1½ million Armenians who perished in this century's first genocide. We remember. We remember the Armenians and through that memory, they and we will triumph.●

SIMILAR IMMIGRATION PROPOSALS

● Mr. HUDDLESTON. Mr. President, during the last several months, a Cabinet-level task force has been reviewing

our immigration and refugee problems in order to make policy recommendations to President Reagan. Copies of the option paper prepared for the President have been obtained by various newspapers and articles describing the preferred options have appeared in recent weeks. If we assume that these articles are correct in their information on the option paper, it is interesting to note the similarity between the Cabinet's recommendations and the Immigration and National Security Act of 1981, S. 776, which I introduced 3 months ago on March 24, 1981.

According to the New York Times on May 30, 1981, the report recommends enacting "legislation prohibiting employers of four or more employees from knowingly and willfully hiring ilegal aliens." S. 776 would also make it illegal for employers to knowingly hire illegal aliens. Most experts agree that the only effective way of controlling the flow of millions of illegal aliens is to take away the one thing they come to this country for—jobs.

The method recommended for verifying employment eligibility would be to require job applicants "to show identification, including a new, counterfeit-resistant social security card * * *." My bill would establish a verification system using a new improved social security card. However, my bill provides for a simplified call-in procedure which is similar to that now utilized by thousands of businesses for verifying credit card purchases. A verification system such as this is necessary in order to give employers a simple and certain means of verification. The social security number is the most logical system to use since it is already an established national system.

The Times article goes on to state that:

In the final draft, the panel also recommends a "moderate increase" in the enforcement budget of the Immigration and Naturalization Service.

S. 776 beyond a "modest" increase and specifies an increase in the Border Patrol to 6,000. Although the degree of the increase may differ, there is agreement that there is a need to beef up the law enforcement personnel of INS.

The report next recommends that there be a general amnesty for illegal aliens who were present in the country before January 1980. S. 776 contains an amnesty provision, but one which is much more restrictive than the general one recommended in the report. Amnesty should not be a reward for those illegal aliens who knowingly violated our immigration laws to enter this country. Nor should it encourage illegal aliens with minimum ties to this country to remain. The provision in my bill is based upon the premise that only those who meet the criteria for immigration under our present immigration laws be qualified for amnesty.

Another article in the Washington Post on June 12, 1981, reported that:

The presidential task force has decided to recommend that the Reagan administration take drastic action to prevent any new flood of Cuban and Haitian refugees into Florida * * *

A section of S. 776 would require the administration to develop a plan for dealing with mass asylum situations such as we have experienced in Florida. If such a plan had been in existence before the recent Cuban influx, I do not believe that we would be faced with the problem of what to do with the 125,000 Cubans who flooded our shores. Nor should we be experiencing the continuing arrival of large numbers of Haitians.

If these newspaper reports are accurate, it appears that the Reagan administration is ready to recommend major and necessary revisions on our immigration laws which closely resemble those in S. 776. If these are the recommendations which the administration makes to Congress, I believe that they will find strong bipartisan support and a willingness to move forward with them.

The only significant difference between the recommendations that these newspapers describe is the number of legal immigrants to be admitted each year and the process of deciding which are admitted. Under our present immigration system, each country is limited to a quota of 20,000 immigrants to the United States each year. This quota was established in order to treat ethnic and national groups fairly and not to give preference to any one group.

The recommendation outlined in the New York Times would retreat from this equity concept and give special treatment to one country—Mexico. And this preference would be accomplished with a little sleight-of-hand. The administration's proposal would raise the per country quota for our two closest neighbors, Mexico and Canada, to 40,000 per year each. However, since immigrants from Canada normally number around 15,000 a year, Mexico would be allowed to "borrow" the extra numbers from Canada. This means that Mexico would end up with a yearly quota of about 65,000 while all other countries would still be allowed only 20,000. Under this formula, the Hispanic portion of the population would rise from its present level of 6.5 percent to 10.4 percent in 2030.

The important thing that the task force report does not point out is that if this policy had been in effect last year, legal immigration to the United States would have been 853,000 rather than 808,000. Nor does it point out that it would be possible to have an immigration flow of 800,000 or more under this system. This normal flow would be in addition to the "leakage" of illegal aliens which Father Hesburgh has stated will occur regardless of the type of enforcement system we have in place.

Adding 853,000 immigrants to our population each year is the same as creating a city the size of Phoenix or San Diego every year in this country. This, of course, is in addition to our normal growth rate without immigration and does not include the additional population generated by the children of immigrants. If we continue our present course, annual immigration in excess of 800,000 would add at least 35 million people to our population in the next 20 years. This would be the same as adding approximately five cities the size of New York over that same period of time.

I believe that a much more rational approach is to set a total immigration ceiling which is generous but which does not impose these excessive population burdens on the citizens of this country. I chose the number 350,000 because it is reasonable, it far exceeds the number of immigrants admitted by any other country in the world and probably exceeds total world immigration for permanent settlement. Furthermore, within the next 25 years, it will mean that we would have 20 million less in our population than if the immigration number were 800,000. This difference in population increases to about 50 million less by the year 2057.

The drain that this increased population will have on scarce resources, energy, housing, jobs, food, and governmental services will be substantial. With unemployment standing close to 8 million today, I believe that we need to seriously consider the open ended immigration system the administration is ready to recommend.

It is apparent that the administration is also ready to recommend a trial guest worker program. The proposal mentions 50,000 per year. S. 776 is neutral on the issue of guest workers. Those who support my bill could either oppose or support a guest worker proposal.

Mr. President, I believe that on the whole, the administration appears to be off to a good start in finding workable solutions to our serious and escalating immigration problems. However, we cannot afford to waste any more time studying this problem. It has been studied and delayed too long. It is imperative that we get on with passing the necessary legislation which will restore control to our immigration system.●

THE STATE OF INTELLIGENCE

● Mr. GOLDWATER. Mr. President, on April 28, the Director of the Central Intelligence Agency, Mr. William Casey, spoke before the annual meeting of the U.S. Chamber of Commerce. He made an exceedingly good speech, one that I think my colleagues would enjoy reading, and I ask that it be printed at this point in my remarks.

The speech follows:

INTELLIGENCE REPORT

(By Morris I. Leibman)

THE STATE OF INTELLIGENCE

Some thirty-five years ago I was there at the creation of modern American intelligence, sending observers behind German lines in World War II and planning the organization of the first American peacetime intelligence service. Now, about a third of a century later, I've spent three months looking over the American intelligence community that has evolved from that embryo and talking about how it measures up to today's needs and how it might be improved.

Over the years Dick Helms and my other predecessors have changed intelligence and made it far more than a simple spy service. They developed a great center of scholarship and research, with as many doctors and masters of every kind of art and science as any university campus.

They have produced a triumph of technology, stretching from the depths of the oceans to the limits of outer space, using photography, electronics, acoustics and other technological marvels to learn things totally hidden on the other side of the world. In the

SALT debate, for example, Americans openly discussed the details of the Soviet missiles which are held most secret in the Soviet Union, but are revealed by our intelligence systems.

All this has produced a staggering array of information, a veritable Niagara of facts. But facts can confuse. The wrong picture is not worth a thousand words. No photo, no electronic impulse can substitute for direct, on-the-scene knowledge of the key actors in a given country or region. No matter how spectacular a photo may be, it cannot reveal enough about plans, intentions, internal political dynamics, economics, etc. There are simply too many cases where photos are ambiguous or useless, and electronic intelligence may drown the analyst in partial or conflicting information. Technical collection is of little help in the most important and difficult problem of all—political intentions. This is where clandestine human intelligence can make a difference.

We started a clandestine intelligence service in OSS. Over the years it has proven itself. It has served the nation well. It has also received slings and arrows which it did not deserve. I am personally dedicated to supporting it and strengthening it.

Of late, a good deal of the criticism of our intelligence has been leveled at the analytical function. The necessity of analysis is obvious. Collection is facts. Just as houses are made of stones, so is collection made of facts. But a pile of stones is not a house—and a collection of facts is not likely to be intelligence.

Much of the criticism is based on unrealistic expectations of what an intelligence service can do. We produce good current intelligence and good intelligence on military and economic capabilities. But if one reduces all intelligence analysis to the predictive function, and then looks for a 1000 batting average, no intelligence organization will measure up. We are interested in foreknowledge, but we do not have a pipeline to God. Nor do we have a crystal ball. In short, the CIA does not have powers of prophecy. It has no crystal ball that can peer into the future with 20-20 sight. We are dealing with "probable" developments.

Also, it is one thing to deal with something that is knowable but unknown by us. It is another thing to deal with something that is unknown and unknowable. Often intelligence is expected to predict what course a country will take when the leaders of that country themselves don't know what they will do next.

If we can't expect infallible prophecy from the nation's investment in intelligence, what can we expect? We can expect foresight. We can expect a careful definition of possibilities, and ascertainment of what can be known by testing, observation, professional analysis which probes and weighs probabilities, assesses their implications and assists the policymakers in devising ways to prepare for and cope with the full range of probabilities. The President does not need a single best view, a guru, or a prophet; the nation needs the best analysis of the full range of views and data it can get.

The process of analysis and arriving at estimates needs to be made as open and competitive as possible. We need to resist the bureaucratic urge for consensus.

We don't need analysts spending their time finding a middle ground or weasel words to conceal disagreement. Their time needs to go into evaluating information, searching and evaluating meaning, expressing both their conclusions and their disagreements clearly. The search to unify the intelligence community around a single homogenized estimate serves policy makers badly by burying valid and meaningful differences, forcing the intelligence product to the lowest or blandest common denominator. This search for consensus cultivates the myth of infallibility. It implicitly promises a reliability that cannot be delivered. It too frequently deprives the intelligence product of relevance and the policy maker of the range of possibilities for which prudence requires that he prepare.

The time has come to recognize that policy makers can easily sort through a wide range of opinions but cannot consider views and opinions they do not receive. The time has come to recognize that CIA, DIA, NSA, and every other element of the intelligence community should not only be allowed to compete and surface differences, but be encouraged to do so.

And the time has come to recognize that the intelligence community has no monopoly on truth, on insight, on initiative in foreseeing what will be relevant to policy. For that reason, we are in the process of reconstituting a President's Foreign Intelligence Advisory Board made up of strong and experienced individuals having a wide range of relevant backgrounds.

In addition to that, we ask scientists and a wide variety of experts, scholars and practitioners to serve on advisory panels to address special problems and we contract with think tanks and a wide variey of business corporations to do specialized research for us. So to get the intelligence we need, we must call up all the intelligence information and scholarly resources of the nation.

We will need to do even more of this in the future to cope with the intelligence requirements of our increasingly complex and dangerous world as it generates new threats. In the OSS, we were doing pretty well if we knew where the enemy was and how he was redeploying his forces. For the first twenty years of our peacetime intelligence most of th effort went to understanding the production and capabilities of weapons. It is only in the last decade that it has dawned upon us that we have been threatened and damaged more by coups and subversion and economic aggression than by military force. We will still devote a large slice of our effort to military estimates and rely very heavily on them in formulating our defense budget and force structures. But they will have to be supplemented by increased efforts to assess economic vulnerabilities and technological breakthroughs and to identify social and political instabilities and how they can or are being targeted by economic and political means, by subversion, by terrorism, by propaganda, and by other means of destabilization. To meet these challenges fully we will have to call upon the private sector of additional assistance.

So much for the kind of intelligence capabilities we have and need to develop. Let me now give you some of the specifics of the problems we face.

Our first priority is still the Soviet Union. It has been the number one adversary for 35 years. It is the only country in the world with major weapons systems directly targeted at the United States which could destroy the U.S. in half an hour. For that reason alone, it remains the number one target.

Today we live in a world of increasing nationalism, increasing terrorism and vanishing resources. These three realities illustrate the new kinds of problems of concern to intelligence.

First, the tide of nationalism is running strong in the less-developed countries of the free world. There is hostility and negativism toward free enterprise. There are potential dangers there for American, European, and even Japanese multinational corporations. Local politicians cannot always manage this distrust of foreigners. Free enterprise from abroad suddenly appears as foreign domination or neo-colonialism. It is difficult to predict when and where this hostility will break out.

Nationalism is not new. Its manifestations range from restrictive policies to outright expropriation. What is new today is that it is accompanied by global economic distress. This is caused by the explosive growth in energy costs—in both the industrialized countries and the less-developed ones.

The enormous cost of fueling economic activity is forcing the less-developed countries into austerity and no-growth policies. They are running out of credit. They cannot meet the very high interest rates required. All this intensifies instability.

One form of instability that I'm afraid we'll see more of around the world is terrorism—hijacking, hostage-taking, kidnapping, assassination, bombing, armed attack, sniping, and coercive threats—mindless acts of violence designed to create a political effect—regardless of the innocence of the victims.

Last year also marked the first time that a large number of deadly attacks were carried out by individual nations. This is a dangerous development. It is one thing for a demented individual or a private group of fanatics to resort to terror. For a nation to resort to it with all the resources it can command is another—and much more serious—matter.

It is a grim story. What do we do about it? At CIA, international terrorism has been high on the list of intelligence priorities for some time. Defensive tactics are taught to key personnel serving abroad. Many business corporations have been searching for defensive measures to protect their people. What must be done is to adopt a firm policy and develop a strategy for dealing with terrorism before a crisis situation arises—when the terrorists hold all the cards. We all must maintain an awareness of the constant threat of terrorism and learn how to react quickly and decisively. Terrorists must learn that there is little or no payoff where Americans and American interests are involved.

Another factor threatening international stability today is our long-term and increasing dependence on fewer critical resources worldwide. Until recently, availability of natural resources has been taken for granted.

Roughly a decade ago, we received a jolt. Shifting geopolitical patterns, coupled with rising Third World nationalism, sharply tempered our expectations. The oil crisis of 1973 was the first time we could actually see and feel the crushing impact of international "non-military warfare" strike us squarely where it hurts the most—in our pocketbooks and in our life-styles.

That crisis still haunts us with a new reality. Others, well away from our borders, can now place their hands on our economic throttles and on our economic throats. International tensions and threats are not limited to military ones. There are other power projections far more subtle because they are largely unseen and thus not readily perceived. Senator Goldwater has warned of the dangers of being caught short without an adequate game plan to deal with it. We would lose access to the minerals chromite, cobalt, tantalum and others, as Senator Goldwater told us.

It would mean massive shocks to our economic system and current life-styles. Without these minerals, we cannot make TV sets or computers or heart-lung machines or produce high-grade stainless steel for a thousand uses. The implications for our defense capabilities are just as grim. No supersonic jets and no sophisticated submarines.

In the future, we can expect to be in competition with the Soviet Union for both oil and non-fuel minerals. They have both in Siberia, but the technologies developments needed and the cost will make it prohibitive for some time to come. In response, the Soviet Union is moving toward a policy of selective and strategic dependency on foreign resources. This is an alternative to the exceptionally high capital costs of their extending their own self-sufficiency.

Add to this a growing trend in the Third World in which ownership and control of natural resources are changing from commercial to state dominance. This historic change provides the political environment for Soviet access to Third World natural resources. Soviet support for state ownership and control in the Third World creates a potential for non-market state trading corporations through which the flow of minerals can be organized as barter. This expansion of non-commercial mineral resource control, combined with Soviet power-projection capabilities is raising acute concern about Soviet access strategy in the case of Persian Gulf oil and South African minerals. And I can spell out to you how that is being developed.

Let me now conclude with a quick word about accountability. It is often said that intelligence is not accountable. Nothing could be further from the truth. It has always had to answer fully to the President, in varying degrees to the Congress, the National Security Council, the Office of Management and Budget, and the Intelligence Oversight Board. In the past few years, we have witnessed an expanded intelligence oversight role for the Attorney General and the Courts.

Today our relations with the two permanent Congressional intelligence committees are excellent. We are responsive to their concerns, as we should be. In turn, their attitude is one of "what can we do to help you accomplish your mission?" Our response has been to ask them to help us protect necessary secrecy, with such legislation as may be appropriate.

The first bill along these lines was passed by Congress last October. It deals with intelligence oversight and how it is to be exercised. For us, it means that we have to report important activities, at most, to two instead of eight committees. Congress realized that it is very difficult to keep something secret when up to 200 people have to be cut in on it. We are down to about 20 now.

The second legislative bill that would help us is not yet passed—it is designed to protect the secret identities of intelligence officers and agents under cover. It is really outrageous that dedicated people engaged or assisting in U.S. foreign intelligence activities can be endangered, and are endangered, by a few individuals whose avowed purpose is to destroy the effectiveness of intelligence activities and programs duly authorized by Congress. That is what a few misguided individuals are doing. It must be stopped.

Third, we need an exemption from the Freedom of Information Act. There is too much information released that should remain secret. This law is a poor law in that it allows anyone to request information on the activities of our intelligence agencies. It also costs intelligence agencies millions of dollars and ties up our personnel who could or should be doing work on intelligence.

Recently, on one request, we spent $300,000 to meet an FOIA request from Mr. Philip Agee, a renegade from the CIA who goes all around the world publicly exposing those he thinks are CIA people. This causes continuous concern to other intelligence services who cooperate with us, and it causes our people to fear exposure all around the world.

If the KGB wrote us—and we assume that they do—we would have to respond in ten days. Do we really want to turn the CIA into a purveyor of information for the world rather than a supplier of intelligence to our policymakers?

Secrecy is essential to any intelligence organization. Ironically, secrecy is accepted without protest in many areas of our society. Physicians, lawyers, clergymen, grand juries, journalists, income tax returns, crop futures—all have confidential aspects protected by law. Why should national security information be entitled to any less protection?●

HOW MUCH SUBSIDY IS FAIR?

● Mr. EAGLETON. Mr. President, the Senate Water Resources Subcommittee has begun a series of hearings on waterway user charges. It is, therefore, an appropriate time to share with my colleagues the remarks made by Mr. Thomas J. Barta, president of The Valley Line Co., St. Louis, Mo., at the Transportation Conference held in Jefferson City, Mo., on April 16, 1981.

Mr. Barta points out that there is no disagreement that the industry should share a portion of the costs associated with maintaining the navigation facilities. The question is rather: How much of a share is equitable when competitive modes continue to receive heavy Government subsidies? After all, Congress made a significant departure from established policy when it levied the barge fuel tax in 1978. The 4 cents per gallon tax began last fall and will rise to 10 cents per gallon in 1985.

Furthermore, the 1978 law also mandated a study to assess the impact of the water-way user fees on regional and national economies, as well as on competing transportation modes. The study should be completed shortly. Congress would be ill-advised to enact higher user charges without the benefit of the study findings.

I ask that the full text of Mr. Barta's speech be printed in the RECORD.

The speech follows:

[Remarks of Thomas J. Barta]

COMPETITIVE EQUITY IN FINANCING GOVERNMENT TRANSPORT OUTLAYS

I appreciate the opportunity to join with the Missouri Highway and Transportation Department to discuss current transportation issues.

This ought to be a session with few complaints.

In the first place, as a state, Missouri has one of the most highly developed networks of highways, railroads, and pipelines of any state in the union. It is, in addition, bordered by the Mississippi and Missouri Rivers and therefore enjoys the competitive pressures of barge transportation.

If Missouri's agricultural and industrial economy are flourishing, one reason may be that its underlying transport facilities provide shippers with so many choices and with the efficiencies which come from so much healthy competition.

There is, I think, something else to celebrate. While rail and barge traditionally have been and still are vigorous competitors in recent years, we are noticing an increasing trend to rail-water cooperation. We tend to be each other's best customers. Railroads bring coal and grain to the river banks and barges take it from there. Chemicals, fertilizers and many other commodities come up from the Gulf by barge and the railroads take the traffic from the river bank.

The consumer gains from transportation at a low rate. The barge lines get a healthy chunk of the business. The railroads make more money out of better utilization of their equipment.

Missouri is seeing heavy private investment going into transport facilities. We are all familiar with the steady growth of grain exports. I read this week that, according to a new study barges provide more than 50 per cent of the transportation for corn to all export points in the U.S., while rail accounted for another 36.7 per cent. Barges were even more dominant for soybeans, providing more than 60.8 per cent of the transportation for all export shipments. Grain exports are growing at the rate of 7 per cent a year.

The prising price of OPEC oil and the urgent desire of European and Asian nations to liberate themselves from too great a dependency on oil has created a boom in coal. Along the Mississippi River and its tributaries lie enough coal reserves to keep the lights burning in Europe and Asia far into the forseeable future.

Export coal has been mostly used in steelmaking up to now. But last year we began to see a brand new market for steam coal—coal to be used by electric utilities for generating electricity for homes and industry.

The United States is being called the "Saudi Arabia" of coal reserves and the prospects are for new markets for U.S. coal amounting to hundreds of millions of tons. And tens of millions of tons of new traffic for the Mississippi River.

In response to the steady expansion of grain exports and the new markets for coal exports, the barge industry is pouring new money into barge facilities, rail-to-water transfer facilities, new fleets of barges and everything that goes with continued expansion. My own company has on order 240 barges for $78,000,000.

Our session this morning is intended to aid in future planning. You will be glad to know that the barge lines at least—and I believe the railroads too—are committing investment to meet future demands for the traffic.

Whatever private enterprise can do to meet demand, it will do.

But there is one issue which I believe will require the best thinking of all of us in the coming decade and I would like to share with you some of my thoughts on the subject.

It is simply the extent of the role of government—the Federal government particularly—in transport and how that role will be financed in the future.

I don't suppose there are many in this room who do not support the President's program to reduce the budget, to rely more heavily on the market place rather than on government regulation, and to release the private energies of the people to solve our problems.

We've all been talking long enough about reducing the role of government and certainly yesterday—the deadline for income tax filing—was a reminder if any were needed of the heavy weight of government on all of us. And now the Reagan Administration has given us an opportunity and a program. We may think the details can be improved, but we can agree with the thrust.

As I read what the Administration is saying, they are open to having their program improved. They are also committed to being even-handed in their approach.

Most of the transport modes have been given substantial Federal assistance from time to time. Certainly the economy of Missouri has been a major beneficiary of the development of the Mississippi River System. We have all known since the dispute over the reconstruction of Locks and Dam 26 at Alton, Illinois above St. Louis, Mo. that the government would be seeking increased taxes from users of the waterways.

Waterway user charges were adopted in 1978 and began late in 1980 with a fuel tax of 4¢ a gallon. This was to escalate to 10¢ a gallon by 1985. Any further escalation would come only after Congress had a chance to consider and evaluate the results of a comprehensive study of impacts of such taxes on local and regional economies and also on the question of competitive equity between modes.

Now the proposal is to eliminate any Federal aid to commercial barge traffic this year.

A bill has been introduced which would require user fees to "provide for full recovery of operation and maintenance and construction costs" on the inland waterways after October 1, 1981.

Let me assume the role of someone trying to sell this proposition to the barge industry and to the State of Missouri. It seems to me I have to have assurances on a number of points if I am to have any chance of success.

The objective is for barge commercial traffic to pay a much heavier tax, one that is 7 to 8 times the present tax.

In an economy full of a variety of Federal aids, all of which have a competitive effect, there is no justification for barge commercial traffic paying a heavy tax and not competitive rail commercial traffic. If I say to my friends in the barge industry that all traffic will pay and competitive equity will be assured, I remove a natural objection. If I say your traffic will pay beginning in October of this year, but aids to your competitors may or may not be eliminated some time in the future or their traffic may or may not be required to pay as well, then I have a considerable problem.

Clearly there must be firm linkage between a charge on barge commercial traffic and a charge on rail commercial traffic for federal aids if the pledge of even-handed treatment is to be observed.

Next, I will have to assure my friends in the barge industry that commercial barge traffic will not be charged for more than its proper share of the costs of building and maintaining the waterways. Navigation is one product in a multi-purpose Federal program to manage the nation's water resources.

Congress set out on its water resource development program with many broad national interest objectives. One of these is national defense. Another is regional development, a purpose which has been highly successful. Besides these are the more mundane objectives such as recreation, environmental protection, fish and wildlife preservation, water supply and quality, power production, flood control, irrigation and industrial cooling.

It would be difficult to be precise about making allocations, but a reasonable approximation is certainly possible and necessary to convince those willing to pay a heavier tax that they are not being unfairly burdened by costs which should be assigned elsewhere.

We have become accustomed to the fuel tax, but the legislation introduced gives the Secretary of the Army authority to prescribe fuel taxes, license fees, lockage fees, congestion fees, and charges related to segment costs among other different types of taxes as well as an unspecified combination of such taxes.

This is no small matter. It costs about $5 million a year for operations and maintenance of the Missouri River. Traffic is light on the Missouri—only 1.5 billion ton miles were performed in the latest year for which we have figures. Recovery of that cost would require a charge roughly equivalent to $4.95 per barge mile. Traffic is far heavier on the Lower Mississippi and the charge there would have to be only 27 cents a barge mile to recover all operations and maintenance costs.

Some in the government believe that a number of rivers, the Missouri included, would be closed to traffic under the segment charge approach. Far away in Washington, they have no problem with closing the Missouri.

But clearly some more thought should be given to the discriminatory effect of the segment approach before the executive branch is allowed to make such a judgment. At the same time, the alternative, requiring commercial traffic on the lower Mississippi to cross-subsidize the Missouri, poses questions I would have difficulty in answering.

I doubt anyway, as a practical matter, if anyone can sell a proposal to delegate to the executive branch the power of establishing specific amounts and levels and types of taxes. The Congress has never given the executive branch a blank check of this kind and it may even be unconstitutional for it to try to do so.

In the original waterway tax program was a provision for an extensive study to get a handle on what the impact on localities, regions, industries and agriculture would be of various tax levels. These studies are in progress but will not be completed until late in the year. They should be expedited and made available for local and regional comment and evaluation as soon as possible.

The fact is of course that the American genius is for combining principles and pragmatism. Increasing Federal revenues through charges for Federal activities has many supporters. At the same time, pragmatism will tell us that long range goals of national defense, regional development and the over-riding need to contain inflation must also be considered. It would not help the public much to find that barge rate increases due to a heavy tax led to rate increases by all their competitors. The consumer might save something in government outlays from the barge tax but lose many times that amount from price hikes elsewhere—a penny-wise and pound-foolish proposition if ever there was one.

If we were to come out for a much heavier tax, what would we get for it? That's a very good question. In the White House before Christmas, there was a conference on coal exports. Customers from all over the world wanted to know how soon the U.S. seaports could be improved to take ships capable of carrying 150,000 tons of coal. New expedited procedures might produce 55-foot channels in three years, the conference was told. The head of the French delegation said he thought three years was much too long.

He doesn't know us very well. Navigation projects take so long to complete—15 to 25 years—as to be a national scandal.

If I tried to sell a much heavier tax, my friends in the barge industry would want to know how to expedite the needed projects and eliminate those costly years of delay.

These are the questions that someone willing to pay more would naturally ask about a proposal that increases the tax seven or eight times.

But by far the most difficult question is the one over competitive equity. A tax that is demonstrably inequitable is not only difficult to sell, but gathers many enemies.

It is not so far clear from the legislation just how much the Administration hopes to collect from commercial barge traffic. One figure mentioned on February 18th was $325 million.

Federal subsidies take many forms, but they have one thing in common—they all require Federal outlays and all have a competitive effect.

One rail program alone, officially labelled a subsidy in the Reagan budget, and clearly having a competitive effect of relieving the railroads of substantial labor costs, is a provision for $350 million in 1981 and in 1982 to save the pension program of the railroad industry from bankruptcy. The $350 million subsidy applies indefinitely and the amounts could even be $100 million or more higher a year.

The revised Administration budget for 1981 includes appropriations for $510 million for operational assistance to Conrail, which serves a region accounting for over 40 per cent of total U.S. manufacturing activity. Conrail exchanges over 70 per cent of its traffic with western, southern and other eastern railroads. Hence the true beneficiary of the Conrail subsidy is the rail system as a whole.

There are many other Federal subsidy and subsidy-effect programs involving railroads. But these two alone are in the revised budget for $860 million with no provision for recovery.

From the standpoint of sound economic and public policy, there is no more reason to recover one form of Federal outlay than the other. But if Federal outlays benefitting barge commercial freight are to be recovered, the same policy should apply at the same time to rail commercial freight.

The fuel tax applied to waterways, now at the rate of 4 cents a gallon and rising to 10 cents a gallon by 1985, should also be applied to railroads.

Any escalation of the tax on each mode should keep pace.

If a fuel tax of 10 cents a gallon were applied to rail freight, it would yield about $400 million, an amount far less than the annual subsidies of $860 million now flowing to railroads from only two Federal programs.

In the huge Federal budget, a barge tax linked to a rail tax would provide even-handedness and consistency and open up a new source of revenues that the budget had not contemplated. All to the good.

We see many benefits all around. For the railroads, the pension deficit is more securely funded and a reasonable interim solution is provided for the Conrail problem.

For the barge lines, a heavier tax which leads to expediting needed river improvement projects would certainly have merit. We hope never again to see the costly delays we experienced in the replacement of Locks and Dam 26.

Clearly, in the 1980's, we must come to grips with the financing of Federal participation in commercial transportation. At the same time, the program must be even-handed.

At the moment, a few more months of factual research and evaluation are needed.

It is more important to get it right than start it in October.●

LAURENCE TRIBE TESTIMONY ON COURT STRIPPING

● Mr. HART. Mr. President, numerous bills have been introduced in the current session of Congress which seek to invalidate certain Supreme Court rulings on controversial social policy issues by amending the Constitution. These legislative proposals seek to incorporate personal, moral and religious views of an ideologically extreme nature into the basic constitutional structure which should underlie and guide all policymaking. Such an approach would shield policy issues from the workings of the normal legislative process, thus subverting a fundamental principle of democracy on which this Nation is based. The only reassuring aspects of this approach, however, are the obstacles it will have to surmount which the Founding Fathers wisely built into the Constitution. A constitutional amendment must receive support from two-thirds of each House of Congress and from the legislatures of three-fourths of the States.

An even more disturbing strategy for legislating morality is now spreading, however. More than 20 bills have been introduced to strip Federal courts, including the Supreme Court, of jurisdiction over a variety of controversial issues. This attempt to shortcut procedures for amending the Constitution is especially dangerous because it can succeed without the scrutiny of State legisla-

tures and the American public, requiring only majority support in the Congress.

These legislative proposals seek to nullify the power of judicial review which allows Federal courts to interpret and enforce constitutional rights, safeguarding them from legislative encroachments. Such legislative initiatives to restrict the Supreme Court's jurisdiction should be opposed whether or not one agrees with the Supreme Court's rulings on the substance of the various issues.

In recent testimony before the House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice, Laurence Tribe, a foremost constitutional law expert, offered a detailed, step-by-step argument demonstrating how current attempts to strip the Federal courts of jurisdiction are unconstitutional and destined to undermine the separation of powers provided by our Constitution. I ask this testimony be printed in the RECORD and urge each of my colleagues in the House and Senate to study it carefully.

The testimony follows:

CONGRESS' POWER TO CREATE GAPS IN THE JURISDICTION OF FEDERAL COURTS

(By Laurence H. Tribe)

Mr. Chairman and Members of the Subcommittee: I am honored to appear at the Subcommittee's invitation to testify concerning the constitutional limits on Congress' authority to curtail the jurisdiction of federal courts to enforce constitutional rights. In this statement, I will set forth the general framework of principles governing the constitutionality of such measures, and will attempt to apply that framework to the sixteen bills which are pending before the Subcommittee and which illustrate quite well the range of issues presented.

INTRODUCTION

Grave misgivings are inevitably stirred when the opponents of specific constitutional rulings suggest that such rulings be changed not by constitutional amendment—with the participation of state legislatures, and subject to requirements of concurrence by extraordinary majorities—but by ordinary statutes limiting court jurisdiction and enacted by a mere majority of the House and Senate. Some of these misgivings come into focus only when we recall that the practice of elaborating and enforcing constitutional provisions through an independent judiciary—a practice inaugurated for the United States in *Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137 (1803)—is one that few nations in the world follow. The 1961 Constitution of South Africa, for example, expressly provides in Section 59(2) that, with only the most limited exceptions, "[n]o court of law shall be competent to enquire into or to pronounce upon the validity of any Act passed by Parliament. . . ." A noted student of South African law and politics observes:

"As a result of the new Constitution's firm adherence to legislative supremacy, and the restriction of the courts' testing rights to [a few limited] matters. . . . Parliament has been able to ride roughshod over individual liberty without fear of judicial obstruction." J. Dugard, "Human Rights and the South African Legal Order" 35 (Princeton Press, 1978). Thus the technique of circumventing constitutional safeguards through carefully crafted jurisdictional withdrawals approved by mere legislative majorities has, to say the least, disturbing antecedents.

In this country, of course, the continuing availability of state courts as forums for the enforcement of federal constitutional rights, and the tradition of at least some voluntary compliance with the norms entailed by such rights, render jurisdictional withdrawals a good deal less threatening than they might otherwise be. Yet the transparent expectation of those who propose such withdrawals is precisely that state courts will in fact prove less receptive than their federal counterparts have been to assertions of those rights that the proposed statutes deliberately single out for removal from the protective reach of the federal bench. Moreover, if our history is one in which federal rights have at times been taken quite seriously indeed even without federal compulsion, it is also a history in which federal rights have at other times depended upon such compulsion for their very survival. For these among other reasons, the inquiry into what limits, if any, are imposed by the United States Constitution upon Congress' restriction of federal court jurisdiction assumes more than merely theoretical interest.

Despite wide differences of view as to just what limits the Constitution does in fact impose on Congress' power, virtually all students of the subject begin from a shared promise any federal court in which a purported jurisdictional restriction is asserted at least has jurisdiction to decide whether or not the purported restriction is itself constitutional.[1] In the exercise of this threshold jurisdiction—this power, and indeed duty, to review the constitutional validity of any statutory creation of gaps or fissures in a federal court's subject-matter or remedial jurisdiction—a court will encounter both internal and external constitutional constraints, the first set stemming from the nature and sources of the affirmative authority Congress must invoke in legislating controls over federal courts; the second, deriving from independent limits and prohibitions imposed by the Constitution upon all federal legislation.

Within each of these two categories of constitutional constraints, the internal and the external, some of the most significant limits will, of course, be implicit rather than explicit in the constitutional text. This should come as no surprise, for "[t]he tacit postulates" of the constitutional plan "are as much engrained in the fabric of the document as its express provisions." *Nevada* v. *Hall*, 440 U.S. 410, 433 (1979) (Rehnquist, J., joined by Burger, C. J., dissenting). The remaining task is to describe the constraints themselves and to illustrate their operation by examining the bills now before the Subcommittee.

INTERNAL LIMITS

1. Congress' jursdiction-defining powers with respect to the Supreme Court in particular are internally limited by the substantive role that the Constitution assigns to the Court. The reach of the Supreme Court's original jurisdiction ("all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a Party") is, of course, fixed by Article III (as limited in turn by the Eleventh Amendment), and can be neither expanded nor contracted by an Act of Congress. That was, indeed, the precise holding of *Marbury* v. *Madison*.

As to the Supreme Court's reviewing authority, there is general agreement that Congress' power under Article III to regulate, and make exceptions to, such appellate jurisdiction, while undoubtedly very broad, "must not be such as will destroy the essential role of the Supreme Court in the constitutional plan."[2] Whatever the reach of that necessarily vague principle, it is difficult to believe that the principle would not at least bar, for example, the abolition of Supreme Court jurisdiction to review any state court order that is, will be, or was, subject to review by the highest court of the state. Stripping the Supreme Court of its power under the Supremacy Clause to enforce constitutional rules directly against recalcitrant state courts—a power firmly established in *Martin* v. *Hunter's Lessee*, 14 U.S. (1 Wheat.) 304 (1816)—would generate a clash of sovereigns so irreconcilable as to imperil the Union,[3] by gutting the Supreme Court's capacity to preserve the unity and supremacy of federal law.[4] The seminal cases of ex parte McCardle, 74 U.S. (7 Wall.) 506 (1868), and ex parte Yerger, 75 U.S. (8 Wall.) 85 (1868), are certainly not to the contrary, since they together establish only that Congress may extinguish one avenue to the Supreme Court for appellate review of a constitutional claim when other avenues for bringing that claim to the Court for review remain open.

2. Congress's jurisdiction-defining powers with respect to all Article III courts are also internally limited to Article III's implicit concept of the "judicial power," and by basic principles governing the separation of powers among the three branches of the National Government.

The judicial power described by Article III, Chief Justice Marshall declared in *Marbury* v. *Madison*, is the power to "decide . . . [cases] conformably to the law, [including] the Constitution. This is of the very essence of judicial duty." This duty is, in turn, inherently incompatible with congressional authority to direct an Article III court to arrive at the outcome desired by Congress whether or not regarded by such a court as consistent with the Constitution and laws of the United States; the Supreme Court so held in *United States* v. *Klein*, 80 U.S. (13 Wall.) 128 (1872), ruling that Congress may not dictate the rule of decision for a particular case, even in the guise of a jurisdictional regulation.

The nub of the matter is that courts sworn to uphold the Constitution in their discharge of adjudicative responsibility cannot be required, in deciding a case otherwise properly before them, to ignore any question they regard as crucial to a correct decision under law, and certainly cannot be forced to "close their eyes on the constitution, and [Congress'] law. *Marbury* v. *Madison*, 5 U.S. at 178.

Yet just such a requirement would be imposed, for example, by H.R. 2365 and H.R. 2791, both of which purport to strip the Supreme Court and the lower federal courts of jurisdiction over all questions going to the constitutional validity of statutes that treat males and females differently in military registration, induction, training, or service. Whenever an Article III court endowed with subject-matter jurisdiction over a controversy deems any such military-personnel statute relevant to the correct outcome, these proposals would in effect instruct that court automatically to proceed as though the statute's constitutional validity made no difference—to "close [its] eyes on the constitution, and see only the law." Such an instruction violates both Article III and Article VI.

That Congress may control the timing and the context for federal judicial review of its own statutes[5] does not imply that Congress may place its favorite laws behind a shield wholly impenetrable by federal judicial review. For Congress to do so would impermissibly condemn those federal judges before whom such enactments become relevant in pending cases to serve as instruments of constitutional disregard and defiance. Authorized to decide a case, an Article III court must decide it constitutionally—or not at all. See *United States* v. *Nixon*, 418 U.S. 683, 704–05 (1974).

Beyond this internal requirement of adjudication according to a court's best effort to address all questions necessary to decision, to do so in accord with law, and to regard the Constitution as the "supreme law of the land"—beyond this, both the Supreme Court

Footnotes at end of article.

and all inferior courts created pursuant to Article III are charged to resolve only actual cases or controversies, and are concomitantly barred from merely offering "opinions in the nature of [legal] advice." *Muskrat* v. *United States*, 219 U.S. 346, 362 (1911). See also Correspondence of the Justices, Letter from Chief Justice John Jay and the Associate Justices to President George Washington, August 8, 1793. To "constitute a proper 'controversy,'" an "asserti[on] [of] a right [must be] susceptible of judicial enforcement." *Maryland* v. *Louisiana*, 49 U.S.L. Week 4562, 4565 (U.S. Supreme Court, May 26, 1981).

It follows that Congress may not be so truncate the jurisdiction of an Article III court as to empower it to "decide" a legal controversy while denying it any means to effectuate its decision—or even, as in the ordinary declaratory judgment, at least to alter the concrete situation of the parties or the range of options open to them. Congress' broad authority to regulate the panoply of available remedies, in other words, stops short of the power to reduce an Article III court to a disarmed, disembodied oracle of the law lacking all capacity to give concrete meaning to its decision that one party won and the other lost.

This much, at least, is implicit even in Article III's bar to adjudication at the behest of a party lacking any concrete stake in the outcome of the proceeding.[6] For a party advancing a legal argument in a court that has been rendered impotent in any meaningful degree to remedy the wrong complained of lacks, by definition, any stake beyond a citizen's purely theoretical curiosity about how the case turns out.

Thus, for example, H.R. 73 and H.R. 900—both of which would unconditionally deprive inferior Article III tribunals of authority to "issue any restraining order" or "temporary or permanent injunction" (and, in the case of H.R. 900, of authority to issue any "declaratory judgment" as well) in any case arising out of a law restricting abortions—seem inconsistent with Article III. For an Article III tribunal thus defanged, but nonetheless seized of jurisdiction to "decide" a pregnant woman's anticipatory challenge to the validity of an abortion ban under which she is threatened with a criminal fine if she exercises her rights as defined by *Roe* v. *Wade*, 410 U.S. 113 (1973), is reduced to whistling in the wind: if it rules the ban invalid and the threat unconstitutional, as it should, it might as well send the woman its regrets. For the tribunal is forbidden to come to her aid in an anticipatory way—while there is still time—even without any showing that the state courts would, or even might, provide timely relief in proceedings of their own. On the contrary, the expectation quite clearly is that the states will not do so—even though the pending statutes, H.R. 73 and H.R. 900, would at least leave open the possibility of the Supreme Court's appellate review of such state court refusals. The point, it should be emphasized, is not that H.R. 900 and H.R. 73 guarantee that the pregnant woman's rights will be rejected in every court to which she goes for preventive relief; the point is that these restrictions would leave Article III tribunals with no way to compel the timely vindication even of the rights such tribunals find to be unconstitutionally jeopardized; and they in no way link this power vacuum to grounds for supposing that state courts will vindicate the rights on their own or will be forced to do so by the Supreme Court before it is too late. A federal court placed in such a predicament has been emptied of the essential attributes of judicial power contemplated by Article III:

"[For] Congress . . . to confer the jurisdiction and at the same time nullify entirely the effects of its exercise are not matters heretofore thought, when squarely faced, within its authority." [7]

Similarly, H.R. 869, H.R. 1079, and H.R. 1180 would purport to strip all Article III courts of jurisdiction to "require the attendance at a particular school of any student because of race, color, creed, or sex," and H.R. 761 would extend this ban to an ouster of jurisdiction "to make any decision, or issue any order, which would have the effect of requiring any individual to attend any particular school"—evidently for any reason. This latter provision, insofar as it tells federal courts what "decision[s]" they may and may not make regardless of their view of the applicable law and facts, plainly contravenes *United States* v. *Klein*, *supra*. And all four provisions, insofar as they purport to rule out various pupil-assignment remedies regardless of whether any other decree could give effect to the court's constitutional determination [8] appear to violate the requirement that decisions made by Article III tribunals not be doomed to futility from the start.

The same may be said with respect to H.R. 114, which attempts to strip all inferior federal courts of jurisdiction, directly or indirectly, to "modify" the effect of any state court order so long as that order is or was reviewable by the state's highest judicial body. If a federal court concludes that such an order was entered in violation of the Constitution; that opportunities to challenge and modify it within the state's judicial system were and remain constitutionally inadequate; and that the individual whose rights the order violated, now a party properly before the federal court, will continue to be unconstitutionally prejudiced by the order unless it is promptly modified by that federal court, then following the mandate of H.R. 114 would render the court powerless to give its conclusion any effect whatever.

The view has at times been expressed that Congress is bound not only to equip whatever federal courts it creates with subject-matter and remedial jurisdiction sufficient to satisfy the implicit demands of Article III but also to create such lower federal courts in the first instance (how many? where?) and to vest them with all the jurisdiction that Article III allows, see *Martin* v. *Hunter's Lessee*, 14 U.S. at 330–31, at least to the degree that the effective protection of constitutional rights under modern conditions so requires.[9] The consistent rejection of this position—a position perhaps rendered more plausible by the Civil War Amendments than it was when Justice Story announced it in Hunter's Lessee—might be thought to preclude its adoption now. But such rejection of the Story view should not be permitted to obscure the underlying principle—one never rejected by any court—that no Article III tribunal that Congress elects to create, whether under constitutional compulsion or otherwise, may be crippled from birth with a defect of design fatal to the tribunal's capacity to fulfill a function indispensable to the "judicial power of the United States."

EXTERNAL LIMITS

3. That Congress jurisdiction-defining powers—in common with all other powers entrusted by the Constitution to the National Legislature—are limited externally as well as internally may at times be forgotten, or obscured by sweeping dicta about plenary authority, but is undeniable all the same.

[T]he Constitution is filled with provisions that grant Congress or the States specific power to legislate in certain areas; these granted powers are always subject to the limitation that they may not be exercised in a way that violates other specific provisions of the Constitution." [10]

Thus, whatever its "power to give, withhold, and restrict the jurisdiction of [Federal] courts . . . , [Congress] must not so exercise that power as to deprive any person of life, liberty or property without due process of law or to take private property without just compensation," *Battaglia* v. *General Motors Corp.*, 169 F.2d 254, 257 (2d Cir. 1948), cert. den., 335 U.S. 887 (1948) footnote omitted, or to contravene any other provision in the Bill of Rights, or in the Bill of Attainder Clause or the Ex Poste Facto Clause of Article I, Section 9, or in any other independent limitation or constraint imposed by the Constitution or its amendments upon affirmatively authorized Federal legislation. Were the law otherwise, Congress could freely deny access to Federal courts to all but white Anglo-Saxon Protestants, or to all who voted in the latest election for a losing candidate.[11] If such consequences are to be prevented, it must be the case that Acts of Congress are accorded no special immunity from independent constitutional limits on national legislation simply because such Acts are cast in jurisdiction-defining terms; the power to define and control the jurisdiction of Federal courts is no talisman, somehow dissolving otherwise fatal constitutional limits on what Congress has chosen to do.

As with the internal limits upon the power of Congress to control jurisdiction, these external limits may derive from the interstices and implications of the text, structure, and history of the Constitution as well as from its explicit terms. Ex parte Garland shows as much,[12] and nothing in the logic of the situation counsels a more restrictive cannon of constitutional interpretation here than in the identification of internal limits.

4. Among the external constraints the Constitution imposes upon all federal legislation, including legislation that regulates judicial authority, is the principle that no law may unjustifiably deter or disadvantage the exercise of a constitutional right. The Supreme Court recognized decades ago that constitutional rights could be jeopardized and ultimately destroyed not only by laws directly forbidding or penalizing their exercise but also by laws making their exercise the occasion for withholding or withdrawing benefits or privileges that would otherwise be available.[13] "It is inconceivable that guaranties embedded in the Constitution of the United States may . . . be manipulated out of existence," [14] by using the invocation of such guarantees as a trigger for suspending access to a valued service that government would otherwise have extended. The fact that the service is one government could have chosen to abolish altogether is immaterial; it is the choice to withdraw something *selectively* when particular constitutional rights are exercised that marks a law as an indirect burden upon such exercise. And whenever a law has this character, it automatically becomes constitutionally suspect. Such a law is per se void to the extent it is *intended* to prevent or penalize the exercise of a constitutional right.[15] And, to the extent the law's tendency to deter or disadvantage such a right is but an unintended and incidental consequence of the measure, the law is valid only if demonstrably necessary to the attainment of a compelling governmental purpose—a purpose with respect to which the law is neither underinclusive nor overinclusive.[16]

5. One particularly pernicious device through which a law might deter or disadvantage the exercise of a right is the technique of making the right's exercise ineligible for a generally available form of governmental protection.

The kind and degree of protection to provide—the combination of executive and judicial enforcement authority to confer—is left, in the first instance, to the judgment of the legislature. But so fundamental is "the right of every individual to claim the protection of the laws, whenever he receives an injury," [17] that such pro-

Footnotes at end of article.

tection cannot be suspended or reduced so as to abandon the enjoyment of selected rights to a jeopardy from which others are shielded. Government even bears responsibility for the private intimidation or harassment of citizens that it invites, whether directly [18] or indirectly [19]—including the abuse that it encourages by suspending or withholding ordinarily available devices of law enforcement.[20] Even more plainly, the Federal Government is accountable for the public harassment or persecution of citizens that predictably results when it declares open season on them by placing the rights they seek to exercise in a "free-fire" zone, one that is expressly ineligible for the usual panoply of executive and judicial mechanisms for enforcing such rights through making state and local officials civilly and criminally liable for their abridgment. At least when surrounding rights are fully protected through such mechanisms, "denying the equal protection of the laws includes the omission to protect, as well as the omission to pass laws for protection." *United States* v. *Hall*, 26 Fed. Cas. 79 (C.C.S.D.Ala. 1871).

Congress' sweeping authority to define federal torts and crimes, for example,[21] would confront an insuperable constitutional obstacle were that authority to be deployed in such a way as to protect from hostile state and local governmental activity only such constitutional rights as might meet political favor with the electorate at any given time. Thus, 42 U.S.C. § 1983 currently subjects to civil liability in federal court all who, under color of state law, deprive individuals of their constitutional rights; and 18 U.S.C. § 241 now makes criminal the willful deprivation of such rights by state and local officers, among others, who "threaten or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution . . . , or because of his having exercised the same." Such harassment is not immunized from federal prosecution by the theoretical existence of state remedies against it.[22] Nor is such harassment immunized by the fact that it takes the form of arrests, searches, seizures, or interrogations under a patently void statute—one that could not possibly lead to a valid conviction; indeed, precisely such harassment is currently subject to preventive relief by federal injunction. See *Younger* v. *Harris*, 401 U.S. 37, 47–49 (1971).

Now imagine what would happen if Congress were to amend 18 U.S.C. § 241 to make it inapplicable, or to limit its punishment to nominal fines, whenever the "right or privilege" that had been subjected to threat or intimidation was the right to an abortion, or the right not to have even "voluntary" prayers conducted in one's public school, or any other of a short list of rights of which a majority in Congress happened to disapprove. It is unthinkable that such a law would, and unimaginable that it should, be upheld—not because Congress' reach in enacting it would have exceeded its grasp (Congress' power to define federal crimes and to regulate their punishment is at least as "plenary" as many of its other powers and is, if anything, broader than its power to control federal judicial jurisdiction) but because in its reach Congress would have collided with the rights that it had selectively sought to disadvantage.[23]

The same would follow if Congress were to withdraw from the reach of 42 U.S.C. § 1983 the right to bring up one's children without undue public intrusion, or the right to end a pregnancy, or indeed any other specific right, thus subjecting to federal civil remedies at law and equity all actions under color of state law depriving citizens of their constitutional rights—except for the rights thereby left by Congress to fend for themselves. The fact that Congress' exclusion of selected rights might involve a limit on the judicial branch rather than, or in addition to, the executive branch, obviously makes no constitutional difference so far as the external constraints on Congress' powers are concerned.

The deployment of Congress' affirmative authority so as to expose disfavored rights to an increased risk of state suppression is equally invalid regardless of whether Congress bases such affirmative authority on its power to enforce the Fourteenth Amendment under Section 5, on its Necessary and Proper Clause power to set substantive and procedural limits on the Executive Branch, or on its Article I and III powers to determine the subject-matter and remedial reach of federal judicial authority within the sphere made potentially available by Article III itself.[23a]

Exactly the same analysis would apply if the federal protection out of which Congress sought to carve a set of disfavored rights involved not a mechanism for imposing civil or criminal *liability* in federal court upon those state officials who willfully interfere with the exercise of rights, but a mechanism for enjoining in federal court all state interference with such rights. Congress' focused deletion of a right such as abortion from the list of rights eligible to receive protection through this federal injunctive mechanism—especially if coupled with the inclusion of abortion funding, and perhaps of police inaction against abortions, as targets against which the injunctive mechanism would expressly be made available [24]—would be exactly as infirm, constitutionally, as would a congressional enactment specifying that police and others who arrest or threaten women seeking abortions are to be immune from the federal criminal punishment to which other rights violators (including, if H.R. 900 were to become law and be upheld, those who run public abortion clinics) are subject under 18 U.S.C. § 241.

Thus H.R. 73 and H.R. 900, which would forbid federal district courts to issue injunctions or restraining orders in cases arising out of bans on abortion or on abortion funding, are both in hopeless conflict with the Constitution's external limits on Congress' powers—a conflict that is, of course, exacerbated by the fact that these laws would permit (and perhaps require) federal courts to award injunctions against state officers in exactly the same lawsuits, involving the same courts and parties and issues, if sought on behalf of the unborn to halt state aid to abortions or to end a state policy of allowing abortions to go unprosecuted.

Superficially distinguishable—but, on closer inspection, not genuinely so—are the proposed statutes that would prevent federal judicial action restrictive of "voluntary" prayer in public schools. These statutes purport to eliminate federal court jurisdiction to hear or to review any case arising out of any state law or rule "which relates to voluntary prayer in any public school or public building." Read literally, this language appears to deny federal judicial access equally whether the prayer-related state rule in the case forbids voluntary prayer, makes it optional, requires schools to provide for it, or "relates" to it in some other way. Yet the impetus behind these denials of federal-court access to school prayer cases has come exclusively from proponents of voluntary prayer (who feel aggrieved by federal court decisions rejecting their position) and not at all from opponents of such prayer who are concerned that federal courts have been too willing to permit (or even to require) that opportunities for such voluntary prayer be provided in public schools. Indeed, five of the bills (H.R. 72, H.R. 326, H.R. 989, H.R. 1335, and H.R. 2347) contain preambles that expressly describe their purpose as that of preventing federal courts from ruling voluntary prayer unconstitutional and enjoining it as such. Although the remaining two bills (H.R. 408, H.R. 865) contain no such language, their silence on the point cannot obscure the one-sided aim and effect of these measures. That observation leads to a broader point, one developed in the following section.

6. "Jurisdictional gerrymandering"—the practice of excising disfavored rights from generally available forms of federal protection—cannot be saved by a mere appearance of neutrality. In *Hunter* v. *Erickson*, 393 U.S. 385 (1969), a city charter amendment prevented the city council from "implementing any ordinance dealing with racial, religious, or ancestral discrimination in housing without the approval of the majority of the [city's] voters." Id. at 386. The amendment drew no distinctions among racial and religious groups, subjecting "Negroes and whites, Jews and Catholics . . . to the same requirements if there is housing discrimination against them which they wish to end." Id. at 390. Despite this appearance of neutrality, in which "the law on its face treats Negro and white, Jew and gentile in an identical manner," Id. at 391, the Court had no hesitation in recognizing "the reality . . . that the law's impact falls on the minority." Id. Although subsequent decisions might be understood to require a showing of discriminatory intent before such racially differential impact, even in access to a governmental forum, triggers strict judicial scrutiny,[25] there is no doubt that even wholly inadvertent and incidental burdens on the exercise of an independently secured constitutional right continue to require compelling justification. (See Section 4, supra.) Thus, the patently illusory neutrality of the school prayer statutes, for example, would not spare them from evaluation under a requirement of precise fit and compelling necessity—a requirement that they could not, in all likelihood, meet. Similarly, the arguable neutrality, as a facial matter, of the pending bills that purport to withdraw federal judicial power to assign students to particular schools—either with reference to race, creed, color, or sex (*see* H.R. 869, H.R. 1079, H.R. 1180) or on any basis whatever (*see* H.R. 761)—would be unlikely to obscure their discriminatory impact and structure.

7. To whatever extent courts might be reluctant to rely on judicial findings of forbidden congressional motive to invalidate jurisdictional restrictions that are neutral on their face and that are too ambiguous in their effects to be struck down on that basis alone,[26] the most that might follow is that some of the restrictions at issue might squeak by in the courts—not that they are constitutional.

Congress' duty to comply with the Constitution's mandates derives not from the risk that courts may otherwise strike down Congress' enactments but from the oath binding every Member of Congress "to support this Constitution." See Article VI. Whatever courts might say as to some of the measures analyzed in this statement, the Members of Congress surely can have no doubt that all of the jurisdictional restrictions now pending before them are designed, obviously and transparently, to circumvent constitutional rulings of the Supreme Court by a method less onerous than the amendment procedure set forth in Article V. Doubtless aware of this forbidden aim, Congress should, I believe, regard itself as duty-bound to reject the pending measures—whatever its predictions as to how courts might rule on each of them.

8. Conversely, any congressional decision to enact jurisdictional limitations believed to be unconstitutional, in the expectation that the Supreme Court or another federal court will promptly strike the limitations down, would be completely irresponsible.

Footnotes at end of article.

Such a decision by Congress might be motivated by a wish to curry favor with some constituents while passing the buck for constitutional enforcement to the federal judiciary—which can then be dramatically criticized, in feigned surprise and with calculated political effect, for imperialism and hyperactivity. Or such a congressional decision might instead be motivated by a hope that federal judges, frightened by Congress' assault upon their jurisdiction and fearful of even worse attacks to follow, would either be cowed into (erroneously) upholding unconstitutional limits on their own jurisdiction or pressured into (hypocritically) reversing those decisions—on such issues as abortion, busing, prayer, gender-neutral military registration, and the like—that provoked the public's dissatisfaction and its spasms of legislative rebuke to the courts. Whatever Congress motive for enacting legislation that it knows (or ought to know) is unconstitutional, and whatever the eventual reaction of the federal courts, the cost of such cynical manipulation of the Constitution as our most fundamental and unifying body of law—the cost in reduced credibility for already wounded institutions and in diminished power for already weakened sources of normative guidance—is bound to be far too high to make the gambit worthwhile.

9. Even when entirely constitutional and well intended the restructuring of federal court jurisdiction to achieve substantive ends should be undertaken only with the greatest caution and after the clearest possible showing of need and efficacy.

Even on the most optimistic of assumptions, state courts, recognizing themselves as still bound by the Constitution and as constrained to follow the Supreme Court's still authoritative decisions construing it, would either replicate the very rulings that had inspired jurisdictional restructuring, thereby freezing the law unwisely but otherwise rendering the shift from federal to state courts too inconsequential to have been worth the effort; or would move in dozens of different directions in their understanding and elaboration of the governing constitutional norms, thereby destroying a vital uniformity on matters governed not by fifty distinct bodies of state law but by one constitutional rule.

Unless such diversity is secretly desired as a way of overturning a constitutional ruling that one dislikes when one cannot muster enough support to amend the Constitution itself, its virtue is difficult to fathom in dealing with the one document that, above all others, binds the Nation into a legal whole.

Thus, the Supreme Court has found it intolerable even for federal constitutional restraints on matters as localized as police interrogation to vary from state to state.[27] It is still less tolerable, surely, for a person's ability to vindicate a right under the First Amendment's Religion Clauses, or under the Fifth Amendment's Due Process Clause, to vary with the geographical terrain. If there is any question as to which ours must be not fifty laboratories but "one nation, indivisible," that question is the fundamental meaning of these genuinely constitutive features of our policy—the provisions that make ours an open society aspiring to equal justice under law.

Although it is not beyond imagination that such state-by-state fragmentation—even at a level where national unity means so much—might be worth risking for some transcendent benefit, the circumstances in which such a benefit could be realiably achieved through jurisdictional abacadabra seem most unlikely to obtain. Thus the presumption against the enactment even of constitutionally valid gerrymanders of federal court jurisdiction ought to be extremely heavy—especially when one adds the caveat that such jurisdictional measures, in their motivation as well as in their structure and impact, must invariably raise the gravest of constitutional questions.

FOOTNOTES

[1] *See, e.g.*, Hart, "The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise in Dialectic," 66 Harv. L. Rev. 1362, 1387 (1953).

[2] Hart, 66 H.L.Rev. at 1365.

[3] *See* O. Holmes, *Collected Legal Papers* 295 (1920).

[4] *See* A. Hamilton, *The Federalist* Nos. 22, 81; J. Madison, *The Federalist* No. 39; *Cohens* v. *Virginia*, 19 U.S. (6 Wheat.) 264, 416–18 (1821); Ratner, "Congressional Power Over the Appellate Jurisdiction of the Supreme Court," 169 U. Pa. L. Rev. 157, 160–167 (1960).

[5] *See, e.g., Yakus* v. *United States*, 321 U.S. 414 (1944); *Lockerty* v. *Phillips*, 319 U.S. 182 (1943).

[6] *See Baker* v. *Carr*, 369 U.S. 186, 204 (1962)

[7] *Schneiderman* v. *United States*, 320 U.S. 118, 168–69 (1943) (Rutledge, J., concurring). Cf. *Sterling* v. *Constantin*, 287 U.S. 378, 403 (1932) (Hughes, C.J.)

[8] Cf. *North Carolina* v. *Swann*, 402 U.S. 43 (1971) (invalidating state statute that rules out busing remedy even where needed to correct *de jure* segregation).

[9] *See* Eisenberg, "Congressional Authority to Restrict Lower Federal Court Jurisdiction," 83 Yale L.J. 498 (1973).

[10] *Williams* v. *Rhodes*, 393 U.S. 23, 29 (1968) (emphasis added).

[11] *But see Ex parte Garland*, 71 U.S. (4 Wall.) 333 (1867) (former Confederate sympathizers cannot be denied access to advocates in cases before federal courts).

[12] *Id.*

[13] *See, e.g., Frost & Frost Trucking Co.* v. *Railroad Commission*, 271 U.S. 581, 593–94 (1926).

[14] *Id.*, quoted with approval in *Western and Southern Life Insurance Company* v. *State Board of Equalization of California*, 49 U.S.L. Week 4542, 4546 (U.S. Supreme Court, May 23, 1981).

[15] *See United States* v. *Jackson*, 390 U.S. 570, 581 (1968); *Shapiro* v. *Thompson*, 394 U.S. 618, 631 (1938); *Frost & Frost Trucking Co.* v. *Railroad Commission*, 271 U.S. at 593–94.

[16] *See Shapiro* v. *Thompson*, 394 U.S. at 634; *Memorial Hospital* v. *Maricopa County*, 415 U.S. 250, 258 (1974); *Sherbert* v. *Verner*, 374 U.S. 398, 404–07 (1963). *See also Thomas* v. *Review Bd. of Indiana Employment Security Div.*, 101 S. Ct. 1425, 1431 (1981).

[17] *Bodie* v. *Connecticut*, 401 U.S. 371, 374 (1971); *Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137, 163 (1803).

[18] *See Lombard* v. *Louisiana*, 373 U.S. 267 (1963) (property owners invited to invoke facially neutral trespass laws against blacks during sit-ins at restaurants).
(1958) (compelled disclosure of membership

[19] *NAACP* v. *Alabama*, 357 U.S. 449, 462 (1958) (compelled disclosure of membership lists made government responsible for predictable private abuse that would result).

[20] *See Gregory* v. *Chicago*, 394 U.S. 111 (1969); *Feiner* v. *New York*, 340 U.S. 315, 326–27 (1951) (Black, J., dissenting); Z. Chafee, *Free Speech in the United States* 245 (1948).

[21] *See, e.g., United States* v. *Hudson & Goodwin*, 11 U.S. (7 Cranch) 32 (1812) (federal courts have no authority to punish conduct without congressional enactment specifically defining the conduct as criminal).

[22] *See Screws* v. *United States*, 325 U.S. 91 (1945) (state police who beat black suspect to death may be federally prosecuted under 18 U.S.C. § 242 for willful deprivation of suspect's constitutional rights under color of law notwithstanding possible state prosecution for murder).

[24] Whatever such a law's other aims, it would fit too poorly (to pass muster under strict scrutiny) any objective other than the forbidden one of deterring or penalizing the rights excluded.

[23a] A contrary illusion might be fostered by the fact that Congress' control over the Supreme Court's appellate jurisdiction, at least, rests on Article III's express reference to congressionally created "exceptions." But this circumstance has no bearing on the external limits on the power in question, nor is there even any reason to suppose that the Necessary and Proper Clause, say, confers less affirmative authority over its range of subject matters than the Exceptions Clause does over its.

[24] *See*, e.g., H.R. 900, Section 1, which would achieve this result (unless struck down) by declaring fetuses to be among the "persons" to whom the state's duties of equal protection extend.

[25] *See, e.g., Washington* v. *Davis*, 426 U.S. 229 (1976).

[26] Cf. *United States* v. *O'Brien*, 391 U.S. 367 (1968).

[27] *See Oregon* v. *Hass*, 420 U.S. 714, 719 (1975).●

ILLEGAL ALIENS RECEIVE GOVERNMENT PAYMENTS

● Mr. HUDDLESTON. Mr. President, when informed people talk about the problem of illegal aliens, one of the experts most often referred to is David North. For many years, Mr. North has been steadily digging into this issue and he is constantly publishing scholarly work which also have a practical aspect to them.

One of Mr. North's newest studies, "Government Records," sheds new light on the impact of illegal aliens on our economy. The major contribution of this study is that it shatters an old myth which claims that illegal aliens do not apply for transfer payment—benefits from the Government—because they fear coming into contact with Government officials. The study shows conclusively that illegal aliens make extensive use of the unemployment insurance system and possibly are heavy users of the welfare system.

Of those illegal aliens who were a part of the study, 49 percent had filed and 35 percent had collected unemployment insurance benefits. Furthermore, the report details how Los Angeles County is saving as much as $49 million a year by checking questionable welfare applications through INS. One can reasonably assume that if illegal aliens are using the systems in California, they are also using similar systems in other States where they are concentrated.

The North study also covers several other aspects of the illegal alien problem, one of which debunks the myth that illegals stay in the U.S. labor market for very short periods.

This study demonstrates that, by controlling the escalating illegal alien problem, we can save millions of dollars in misuse of transfer payments. At the present time, I have the only bill pending in the Senate, S. 776, the Immigration and National Security Act of 1981, which would provide an effective way of stopping the flow of illegal aliens. I believe that the study provides new justification for this bill.

The length of the study precludes me from putting it in the RECORD in its entirety. However, I ask that the executive summary and chapter 8 of the study be printed in the RECORD and urge my colleagues to obtain and read the full study.

The material is as follows:

GOVERNMENT RECORDS

(By David S. North)

EXECUTIVE SUMMARY

Objectives: to secure data on the interaction between illegal immigrants and the U.S. labor market and various income transfer programs (such as unemployment insurance) by examining governmental records.

Methodology: Two different kinds of reporting systems were used; they were workload data, i.e., records of government accomplishments (such as numbers of minimum wage investigations); and individual earnings, taxes, and benefits records. Group data were sought from individual records of 580 illegal immigrants who had been apprehended by the Immigration and Naturalization Service in February, 1975. The 580 were chosen as the study group because their apprehension reports bore legible Social Security numbers.

Findings: The conventional wisdom is that illegal immigrants (1) stay in the U.S. labor market only briefly, (2) rarely seek income transfer payments, (3) are likely to pay taxes, and (4) are paid below-average wages. Data on the study group contradicted the first two statements and affirmed the second two. It should be noted, however, that this study group, like all other illegal immigrant study groups, cannot be regarded as a random sample of the illegal alien population (as one cannot draw such a sample from an unknown population). More specifically, government records indicated that this study group had the following characteristics:

A high rate of return to the formal segment of the labor market after apprehension. Of the 192 members of the study group apprehended in California, 147 (77%) subsequently had earnings recorded by the California state unemployment insurance (UI) system. Slightly lower rates of return were reflected nationwide in data from the Social Security and Internal Revenue systems.

A high rate of filing for unemployment insurance benefits. Of the 147 who had been covered by California UI, 72 (49%) filed, and 51 (35%) collected. No member of the study group (whose median birth year was 1950) sought Social Security benefits.

Sustained contact with the U.S. labor market and tax systems. Some of the individuals had filed income tax returns as many as nine years before, and as many as four years after, their 1975 apprehension.

A low rate of acquiring legal status in the U.S. According to post-1975 INS records, of the 580 members of the study group, only 49 were converted to permanent resident aliens and four acquired U.S. citizenship.

Workload data provided by several government agencies on a national basis indicate:

Rising indices of illegal immigration throughout the 1970s;

Increasing duration of the stays of apprehended illegal migrants in the nation's cities; and

Continuing patterns of low wage levels for illegal immigrants including sub-legal levels. (This finding was based on both the Department of Labor workloads data and the individual earnings records.)

National workload data on the subject are not available, but local data from Los Angeles County (California) indicate that the county human resources agency identifies tens of thousands of illegal immigrants seeking welfare benefits annually and thereby saves at least $50,000,000 a year.

CHAPTER EIGHT—ILLEGAL MIGRANTS AND WELFARE PROGRAMS IN LOS ANGELES COUNTY, CALIF.[1]

We have not (yet) had an opportunity to seek group data on the interactions between the 580 members of the study group and welfare programs, such as Aid to Families With Dependent Children (AFDC) and Food Stamps, but interesting workloads data on this subject have been gathered for years by the Los Angeles County Department of Public Social Services (the human resources agency).

In California the human resources agencies administer a cluster of income transfer programs, including the federally-funded Food Stamp program; county supported General Assistance; and AFDC and Medicaid, which have mixed federal-state-local funding bases. Applicants for all programs move through a standard eligibility determination process. One has to be a resident of the state and have the right kind of problems (too little income, too many mouths to feed) to be eligible for one or more of the programs. Illegal migrants are not eligible for any of them.

Everyone seeking benefits is asked to document his or her eligibility; birth certificates for the native born; naturalization papers for foreign-born citizens; alien identification cards (green cards) for aliens. The aliens are asked to copy down information from the green card, such as their name, date and place of birth, and alien number for verification by the Immigration and Naturalization Service (INS).

That request made to the alien welfare applicants saves millions of dollars a month. In the 12 months ending June 30, 1980, 19,088 applications for benefits were withdrawn by aliens in Los Angeles County after that request was made;[2] presumably they were illegals. (It is also possible that some are legal residents, but have illegals in their households, or simply have a strong dislike for INS.) The number of aliens withdrawing claims in Los Angeles has risen in recent years, but the percentage of alien claims withdrawn[3] has remained fairly steady at 17–18%.

After the self-identified illegals withdraw their claims, about 7,000 or so alien applications remain to be processed each month. Theoretically, each application could be sent to the local INS district office for verification, but that would be a sea of paper. What does happen is that county welfare workers sort out the more suspicious applications (filed, for example, by persons who say that they have lost their green card and cannot remember its number). Several hundred such forms are sent to INS each month for checking.

An INS clerk running a computer terminal sorts out the easiest cases—those known to the computer as being legal residents. The rest are invited to come to the INS office to prove their legal presence. If INS finds them illegal, or if they do not respond to the invitation, they are taken off the welfare rolls. In the year ending June 30, 1980, according to County records, 2,135 of the referred applicants approved their legal status to INS, while another 2,405 turned out to be illegals. The 2,405 welfare cases actually identified by INS were merely the tip of the iceberg; the bulk of those denied benefits, 19,088 of them, identified themselves as ineligible rather than facing an examination by INS.

Each application denied or withdrawn saves the taxpayers $215.76 per month or $2,589.12 per year, the County estimates. If one multiplies $2,589.12 by 19,088 cases, the result is $49,421,123.55. That sum, in 1977, would have more than funded the entire, year-long AFDC programs in the states of Montana, Nevada, South Dakota, and Wyoming combined.

The $49,000,000 cost-saving estimate is a conservative one, for two reasons: first, it is the savings for denying 12 months of benefits. It has been estimated by other knowledgeable sources that a typical successful L.A. County welfare application triggers a 19-month period of benefits payments. If one were to factor in this element, the savings for a year's group of denials would be worth more than $75,000,000.

Secondly, the $49,000,000 in savings ignores the 2,405 illegal migrants who were determined to be illegal by INS. The overburdened INS office takes, on average, close to six months to handle these welfare checks. But even if the savings for these 2,405 were calculated assuming only six months of benefits saved, that would be an additional $3,000,000 or so a year.

Presumably, given a slightly larger staff for the project (say one more investigator and one more clerk, costing the government about $50,000 a year) the INS turn-around time on these cases could be cut from six to, say, two months. This would save $2,077,920 a year (4 months x $216 per month x 2,405 cases). But given the bizarre economics of federal budget making, the INS office cannot secure the extra $50,000 to save $2,077,920. In fact, recently INS has been saying that it may have to drop the program completely.

There are, of course, non-financial problems associated with the program. Some persons in need presumably are sent away hungry; others rejected by the system may turn to lives of crime; some others, because of lack of Medicaid eligibility, may not seek needed medical care.

Generally, however, the alien identification program appears to be simple and effective. Only a few persons years in staff time are spent on it; scores of millions of dollars are saved annually. If the word gets around that in California, at least, welfare benefits are hard to obtain if one is there illegally, it may deter some small part of the stream of illegal migration.●

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[1] Funding for research reported here was provided by the Laurel Foundation, and is gratefully acknowledged. This chapter is derived in part from the appendix to North, *Immigration and Income Transfer Policies in the U.S.*

[2] Los Angeles County, Department of Public Social Services, "Quarterly Report on Alien Status Verification Activity on Aliens Who Apply for Welfare," (Los Angeles: Aug. 14, 1980).

[3] The Los Angeles county agency regards these claims as denied (rather than withdrawn) in its reporting system.

THE DETERIORATING CONDITION OF THE WESTERN ALLIANCE

● Mr. ROTH. Mr. President, I have for some time been disturbed by the deteriorating condition of the Western alliance. Despite the obvious and ominous growth in Soviet military capabilities far beyond anything they would need for legitimately defensive purposes, and despite the demonstrated Soviet willingness to use military force beyond its borders, the industrial democracies are plagued with uncertainty and discord on how to meet this threat. While the United States has undertaken a tremendously expensive program to rebuild our defenses, the allies have not even met their own commitments to increase defense expenditures by 3 percent per year. And the prospects are for even lower rates of growth in the immediate future.

This week's Economist magazine contains an unusually incisive and well-written account of this sad state of affairs. Furthermore, the Economist goes beyond the usual hand wringing to make an excellent suggestion as to how to begin to reverse the drift apart among the allies. The Economist suggests that a small group of eminent and trusted men and women be appointed to urgently examine the state of the alliance, and within a few months to make recommendations for consideration at a special summit meeting of the heads of government.

Mr. President, I believe that this suggestion deserves wide publicity and serious consideration. I therefore ask that it be printed in the RECORD.

The article follows:

DID YOU SAY ALLIES?

The relationship between western Europe and north America, alias the Atlantic alliance, is in the early stages of what could be a terminal illness. The alliance has been in trouble plenty of times before, but this time is the worst yet. Guess who says this about Europe:

Yes, there is a danger of neutralism. It is the result of a desire to let go, of an immense weariness. That makes me despair.

No, not a right-wing American, but the new Socialist foreign minister of France, Mr. Cheysson was talking mainly about the British, but what he said applies to many other Europeans too. And the Americans should not think it is all the fault of the feeble Europeans. Seven months ago they dismissed their own ineffectual President Carter, but that has not solved their part of the problem. The new Reagan administration has started to rearm America, which is essential; but it has not yet produced a policy which will rally the alliance around a rearmed America.

Like most illnesses, what has gone wrong with the western alliance is the result of an underlying condition, an immediate cause, and an over-hasty diagnosis.

The underlying condition is (a) the fact that the growing strength of western Europe's economies in the 1960s and early 1970s never managed to embarrass the Europeans into taking a suitably larger share of the burden of the west's defences off the shoulders of the relatively declining American economy, so that (b), when everybody's economies ran into trouble in the later 1970s, the Europeans were so accustomed to low defence spending that they were desperately reluctant to buy more defence at the cost of less welfare. Their tongues talked of independence from America; their purses preferred continued dependence. The Europeans' faltering 1977 promise to raise defence spending by 3 percent a year was not enough to remove this valid cause of American complaint.

This underlying condition has now been inflamed by the immediate cause of the present problem. The two parts of the alliance have reacted in sharply different ways to the belated discovery that Russia has been piling up its own military strength for the past 15 years, and is willing to use it. The Americans, being the people they still are, have responded with a rearmament programme and a fuzzy cloud of anti-Soviet rhetoric. The Europeans, being the people circumstances have made them, have tended to mutter that the Soviet build-up may not mean what the Americans think it means or, if it does, that the Americans will have to cope with it. The result, in the Gulf and in the nuclear protection of Europe, is that Europe's economically unjustified military dependence of America is growing even more lopsided.

PUSHING EACH OTHER APART

Enter the over-hasty diagnoses. The conclusion hot-headed right-wing Americans draw from all this (including some people in the Reagan administration) is that Europe is defecting from the alliance. That is, at worst, an exaggeration. Mr. Cheysson is right, the ingredients of neutralism are there: a weary reluctance to make hard choices, a flinching away from nuclear problems, a consequent temptation to give Russia most of the benefit of the doubt. These things have eaten deep in Denmark, in Holland, perhaps in Belgium too. But in the big European countries neutralism is still confined to a minority inside the main parties of the left. Even in Britain, the battle for the Labour party is not yet won or lost. With good leadership, Europe's neutralism can be kept in its corner.

The opposite mis-diagnosis, by hot-headed left-wing Europeans, is that Mr. Reagan's America is charging off in pursuit on an ideologically Quixotic foreign policy. This too is hardly borne out by the evidence. Mr. Reagan was supposed to be pro-Israeli, but his administration's first actions in that part of the world have been to discourage an Israeli attack on Syria's missiles in Lebanon and to make a (botched) offer of reconnaissance aircraft to Israel-loathing Saudi Arabia. Mr. Reagan was supposed to be pro-South African, but he has merely offered the South Africans a concession or two on Namibia in the hope of speeding them out of that territory. Even in El Salvador he seems to have recognised that shouting at Russia is not enough to solve the problem. In only one important respect are those raised European eyebrows justified. The Reagan administration has a rearmament programme; but it has yet to reveal whether rearmament is meant to be part of a wider policy, or an end in itself.

The danger facing Mr. Reagan is that these two misdiagnoses will eventually prove each other right. The Americans, suspecting European betrayal, will veer away into an attempt to do everything themselves. The Europeans, not being sure where America intends to lead, will increasingly decline to follow. The two halves of the alliance are pushing each other apart. It is Mr. Reagan who has to take the lead in stopping this. No European politician—not the beleaguered Mrs. Thatcher, nor the tattered Mr. Schmidt, nor the brand-new President Mitterrand—can do it for him. Only Mr. Reagan has the necessary authority, because only the United States has the necessary reservoir of will. The attempt has to be made at once, before 1981 is out.

FIVE BRIGHT MEN TO START A REFORMATION

The first step is to find a kernel of transatlantic agreement. The best way of doing this is to appoint a small group of intelligent men known to, and trusted by, the main Nato governments: say, one American, a German, a Briton, a Frenchman (if Mr. Mitterrand is willing) and someone from a smaller Nato country.

These men should be neither current holders of high office, who are too busy, nor retired prime ministers, who will be too preachy. They should not, God forbid, be chosen because they are as acceptable in Copenhagen as in Washington. What they need to be is men who know the subject like the back of their hands, know the people they will be arguing with, and above all know their own minds. Their instructions will be to criss-cross the alliance for a couple of months, and then write a brief report (10,000 words maximum?) which sets out, not some bland consensus of what they have heard in 15 capital cities, but their own view of what needs to be done and what most of the alliance might just be persuaded to do.

The next step, when their report is ready, is for President Reagan to call a summit meeting either of the whole alliance or—perhaps better at this stage of the proceedings—of its four or five biggest members (again including France if Mr. Mitterrand is willing). With that 10,000-word report as a starting-point, he would ask his fellow-summiteers to draw up a short list of proposals which would amount to a radical reform of the Atlantic alliance. This would involve some uncomfortable decisions for both the Americans and the Europeans. Here are three suggestions for the reformation programme.

1. The statistics of the Soviet military build-up make it clear that the Americans are right to urge more counter-armament. But the Europeans who are thus being urged to accept more taxes and/or less welfare are entitled to insist that this should be only one component of a wider policy designed to ensure, if humanly possible, that the need to rearm has some limits. The Europeans may be realising that the cheap and easy postwar period is finally over; but they want to be reassured that this is not the start of a pre-war period.

This does not mean resuming the whole range of detente-era negotiations with Russia, most of which either helped Russia or achieved nothing. It probably does mean resuming the Salt nuclear-weapons negotiations. If the Reagan administration could show that, without Salt, the United States would be able to recapture the sort of nuclear superiority it possessed in the 1950's, a lot of Europeans would be relieved to return to the shade of that nuclear umbrella. But if you look at the sort of nuclear weapons that America can build over the next 110 years (and those Russia can build), it seems almost impossible that the easy superiority of the 1950's—when America could hit Russia without being seriously hit back—can be recaptured.

THE UNEQUAL ALLIANCE IN 1980

	Defense spending			Size of Armed Forces	
	Total (billions)	Per head	As percent of gap	Men (thousands)	Per thousand population
NATO:					
The big spenders:					
United States	$142.7	$644	5.5	2,050.0	9.2
Britain	24.5	437	5.2	329.0	5.9
France	20.2	374	4.0	495.0	9.2
West Germany	25.1	410	3.3	495.0	8.0
The small spenders:					
Italy	6.6	115	2.3	366.0	6.4
Denmark	1.4	274	2.1	35.0	6.9
Canada	4.2	177	1.8	79.0	3.3
Luxembourg	.05	134	1.1	.7	1.8
The rest (average)[1]	2.6	168	3.4	175.0	11.3
Japan	9.0	75	.9	241.0	2.1
Soviet Union	[2] 165	[2] 620	[2] 11-13.0	3,568.0	13.4

[1] The rest of NATO means Turkey, Greece, Portugal, Belgium, Holland, Norway: Iceland has no defence force.

[2] CIA figures.

Sources: based on IISS and NATO. All figures 1980 except Russia's (1979).

Mr. Jimmy Carter's abortive Salt-2 treaty—which gave Russia at least a theoretical chance of hitting America without being hit back—has to be put right. But if the 1950s cannot come again, next year should see the start of a new Salt negotiation that will ratify something like nuclear equality: a state of mutual *nemo me impune lacessit*. That will limit the amount of money that has to be spent on new nuclear arms (thereby making more available for non-nuclear ones). It will also keep alive the hope that, one day, a more amenable Russia can be talked to about other things as well.

2. But nuclear equality means that Russia cannot be allowed to have superiority in the non-nuclear weapons which nuclear equality enables it to use. The Europeans have to take a fairer share of the cost of the rearmament programme this calls for. The table on this page shows how unequally the weight now falls on American shoulders. The load has to be redistributed. The rational way of doing this is not an annual squabble about some annual percentage increase in every country's existing defence budget. That merely perpetuates the present imbalance.

The rational way is to sit down and start again from scratch, trying to agree how big an army, navy and air force "the west" would need to defend its territory, and to protect its vital interests outside that territory, if "the west" were a single unit. That should probably include the protection of the west's oil lifeline from the Gulf, since the Americans will not forever go on making a large (even if diminishing) contribution to the defense of Europe itself if the Europeans will make no contribution to the protection of the area from which America now gets only 10% of its oil but western Europe gets 60%. When the total military requirement is known, it should be possible to start making a more sensible allocation of the jobs to be done, and the cost of doing them, among the countries that make up "the west". It would be idle, of course, to expect a share-out of computer-like rationality. But something rather more computer-like than today's higgledy-piggledy Nato should be attempted.

3. If the Europeans are to put up more money for guns, however, they will want a bigger voice in the making of the policies which those guns ultimately serve. To quote the eloquent Mr. Cheysson again: "For pity's sake, let us talk about what we are and what we fight for".

The Reagan administration has promised to consult its allies, but all administrations promise that. A mechanism is needed to make consultation inescapable. One possibility is a series of ad hoc working groups, like the five-country committee (from America, Britain, France, West Germany and Canada) which has been negotiating with South Africa about Namibia. Another idea is a small permanent secretariat, consisting of fairly senior officials from the foreign, defence and economics ministries (and intelligence agencies?) of the four or five main members of the alliance. Such a body would not need to have an office in one particular capital; consultation can be done by electronics nowadays. The details of the mechanism are not difficult to work out. But first it has to be accepted that "consultation" means something more regular and rigorous than today's system of voluntary exchanges between foreign ministries which too often find themselves snapping their fingers and crying, "Ah! I meant to tell you!"

An alliance reformed along these lines would give both parts of it what they chiefly want. The Americans would have a heartier European shoulder behind the military wheel. The Europeans would have a better idea of where the wheel was rolling. Each would mistrust the other less. Let President Reagan address himself to it in the second half of 1981.

CHANGING THE CONSCIENCE OF AMERICA

● Mr. LEVIN. Mr. President, for many years I have admired the philosophy of Mordecai Kaplan, a theologian who founded a school of Jewish thought called reconstructionism. My admiration is based in part on the way reconstructionists approach the ethical dimensions of social issues. An editorial in the April 1981 issue of Reconstructionist magazine explores some of the ethical implications associated with the various budget issues we are considering. The editorial urges us to be aware of the fact that we will be debating more than economic theories; we will be deciding the direction that our society will take as well.

Mr. President, we would do well to look at this editorial and keep it in mind as we consider the various components of the reconciliation bill. Accordingly, I ask that the text of that editorial appear in the RECORD at this point.

CHANGING THE CONSCIENCE OF AMERICA

The revolt against the merciless cutting of the budget has begun; apparently the honeymoon period has also been cut. In the halls of Congress, the revolt is peaceful. What is not yet certain is that the revolt on the streets, in the ghettos, among the unemployed, among those who cannot see hope in their futures will be equally peaceful. Dissent explodes into violence when the atmosphere changes, when people no longer attribute their distress to bungling or inefficiency, and identify it with the deliberate policies of their leaders.

For it is now evident that the Reagan administration is intent upon turning the nation around, transforming its purported goals, rarely achieved to be sure, of narrowing the gap between the haves and the have-nots, favoring the rich and the privileged at the expense of the poor and needy. Everyone would concede that the budget needs to be balanced, or at least set upon the road toward its balancing; at the very least, no one would deny that the "fat" ought to be cut out. But citizens of compassion would vehemently submit that the current administration's program reflects a peculiar notion of where the "fat" lies.

For a man who, during his election campaign, invoked the memory of Franklin D. Roosevelt, it is passing strange that he seems callous to those who are poorly fed, poorly clothed and poorly housed. FDR was accused of being a traitor to his class; no one seems to be directing that charge at Ronald Reagan. He and his aides are indignant when free luncheons are given to children of a family receiving food stamps; they grow livid at the thought that legal aid is made available to the poor who cannot afford the services of a lawyer and are not acquainted with their rights. But somehow they look the other way when tax shelters protect the wealthy, and loopholes of all kinds enable the rich to avoid taxes. They do not hesitate to deny artists and musicians, and scholars seeking opportunities for research the funds needed for their enterprises; but they blandly continue to subsidize tobacco growers (whcse product has been officially declared a hazard to the health of the republic).

Cutting the fat out of welfare programs appears to be a sacred duty; but inefficiency and waste in the military may be denounced only at the peril of being dubbed a traitor.

All of this is being done, ostensibly, with the blessing of the American people, for was not Ronald Reagan elected by a landslide? We submit that the President jumps to an unwarranted conclusion. It is true that he swept the country last November; but it does not necessarily follow that the victory gave him *carte blanche*. It was not a mandate to change the conscience of America. For more than a generation we have been moving in the direction of greater social justice, toward the acceptance of the thesis that society as a whole is responsible for the well-being of all its citizens. A whole generation grew up in believing in the classic Jewish principle of *kol Yisrael arevim zeh va'zeh*, that what happened to one of us happened to all of us, that the "bell" tolled for everyone. We believe in one world; at least, we believed in one nation, indivisible, with justice for all.●

GUN CONTROL ACT AMENDMENTS NEEDED NOW

● Mr. SASSER. Mr. President, approximately 2 months have passed since the introduction of "A Bill to Protect Firearm Owners' Constitutional Rights, Civil Liberties, and Right to Privacy," a bill which I have cosponsored. I am pleased to be able to say that over half the Senate has, in those 2 months, elected to sign on to this needed legislation. We may look forward to passage of this bill, but I feel that it is desirable to discuss now the need for this legislation and its historical context.

The primary thrust of this bill is aimed at amending the Gun Control Act of 1968 to change its most onerous provisions and institute guarantees of gun owners' civil liberties which were omitted from the act. To understand how those guarantees were omitted, we should examine the historical background of the 1968 act.

What ultimately became the 1968 Gun Control Act originated in 1963, as a relatively modest measure to require police notification before mail-order firearm purchases. Over the following years, as the gun control controversy expanded, so did the proposed legislation. It finally came to the floor in 1968 in a politically charged atmosphere. Those who sought extensive Federal regulation of gunowners fought for registration and permit systems; those who opposed it primarily fought against these proposals. The Gun Control Act was not a coordinated piece of legislation, but a hodgepodge of proposals which neither side particularly wanted, inserted piecemeal as the legislative battle see-sawed back and forth. No sooner was it enacted—as part of the Omnibus Crime Control and Safe Streets Act—than a new push was started for amending the bill.

A second piece of legislation, entitled the Gun Control Act of 1968, was passed, which amended various provisions of the first bill, making it apply to rifles and shotguns as well as pistols, creating a collectors' licensing system, amending provisions for review of license denials, and generally clouding the issue to a still greater degree. The end result was a strange piece of legislation. Among its other unusual features:

Four classes of persons are prohibited from purchasing or receiving firearms (section 922), and six classes of persons are forbidden possession of firearms (section 1201). But only two of these classes overlap, and even here the classes are defined in different language: the result is that most of the groups

forbidden receipt of firearms are not forbidden possession and vice versa.

The section limiting possession by persons convicted of an offense punishable by more than one year provides that a pardon ends the prohibition—but the drafters of the section limiting receipt of a firearm by the same class forgot to insert a similar provision. Accordingly, the Seventh Circuit has held that a person given a full pardon is allowed to possess a firearm, but commits a felony when he receives it to begin possession. (*Thrall* v. *Wolfe*, 503 F.2d 313 (7th Cir. 1974).)

The Act makes it a federal felony to "engage in the business" of dealing in firearms without a special license but fails to give any guidelines of any sort on what "engage in the business" means. This is vital to legitimate gun collectors, who often swap or sell a few firearms out of their collection. Courts have repeatedly held that, in absence of a legislative definition, there is no minimum profit, no requirement of advertising, employment of others, or premises used for business. The jury is simply instructed that the defendant should be convicted if they find he did "any business" in firearms. One court has even claimed that the display of a firearms collection in a glass case is listed among the characteristics associated with a "firearms business venture," so that a normal collector's display at a gun show is itself evidence of violation. (*United States* v. *Jackson*, 352 F. Supp. 672 (D. Ohio 1972) *aff'd* 480 F.2d 927 (6th Cir. 1973).)

The Act requires a federally-licensed firearms dealer to keep records of his inventory and sales, and does not require private citizens to do so. But it says nothing about what a dealer who has a private collection, not in his business inventory, should do if he sells a part of that collection as a private citizen. The agency enforcing the gun laws itself cannot make up its mind on this issue, but the persons who pay are law-abiding gunowners. In 1972, that agency formally ruled that a dealer did not have to record in his inventory personal firearms, even if they were on his business premises, if they were marked not for sale. It then proceeded to prosecute several dealers whom its agents enticed into selling guns from their private collection. At their trials it argued that its ruling, if read carefully, only said personal firearms did not have to be recorded in the inventory, not that their sale did not have to be recorded in sales records. But even while one of these prosecutions was pending, the head of the agency stated, in writing, that the dealer may "maintain a private collection independent of the business inventory and lawfully dispose of such firearms without entering the transaction in the business records." When confronted with this statement by its acting director, the agency responded that (1) the director was mistaken as to the law and (2) since mistake of law is no defense under the Act, the fact that the dealer here had the same misunderstanding is no protection to him! If this were not enough, since that date the agency's director has been quoted again as advising dealers that they may indeed have a private collection and sell from it off their business premises! No one seems to know what a dealer should do in this case—except that if he wrongly guesses the agency's position this month, he will be prosecuted on federal felony charges.

The vague and often inconsistent commands of the Gun Control Act would be a serious enough imposition to the citizens of this Nation, but they are compounded by two general problems. The first is that every violation, no matter how trival or technical, is a Federal felony. Not only are those who violate subject to 5-years imprisonment in a Federal institution plus a $5,000 fine, they lose most civil rights—to vote, hold office, and so on—even if their honest nature leads the judge to impose no real punishment. More than this, they totally lose the right to possess any firearm for the remainder of their lives. While a person who knowingly and intentionally commits a barehanded murder or robbery can theoretically get an administrative "relief from disability," enabling him to own firearms, a person convicted of a minor and unintentional Gun Control Act technically cannot—another of the harmful quirks of that legislation.

The second general problem is that most sections of the Gun Control Act require no proof of intent in order to obtain a conviction. The requirement of proof of criminal intent has been ingrained in our legal system from its beginnings; Blackstone went so far as to state that a crime without criminal intent was unknown to the common law of England. In *Morisette* v. *United States*, 342 U.S. 246 (1952), our Supreme Court went so far as to read an intent requirement into a statute where Congress has failed to insert that requirement. It stated that to do otherwise would "radically change the weight and balances of the scales of justice," and that the effect would be to "ease the prosecution's path to conviction, to strip the defendant of such benefit as he derived at common law from innocence of evil purpose, and to circumscribe the freedom heretofore allowed juries." Id. at 263.

The Morisette court's condemnation of this as a "manifest impairment of the immunities of individuals" was expanded a few years later when the Court added that "were it otherwise, the evil would be as great as it is when the law is written in print too fine to read or in a language foreign to the community." *Lambert* v. *California*, 355 U.S. 226, 230 (1957). Unfortunately, the Congress failed to place intent requirements in most of the provisions of the Gun Control Act. In *United States* v. *Powell*, 513 F.2d 1249 (8th Cir. 1975), the court went so far as to say that, in an "engaging in the business" prosecution, reliance on an attorney's opinion that the conduct was lawful is no defense.

The 90th Congress most definitely did not have to enact such a complicated gun control law, but the combination of the language they chose in the Gun Control Act and the interpretations the courts have placed upon that language had exactly that effect. Commands so vague that even the head of the agency charged with their enforcement cannot define them combined with the doctrine that "ignorance is no excuse" produce a law custom-made to ensnare law-abiding citizens who exercised their right to own and use arms. This opportunity fitted in perfectly with the bureaucratic expansion of the enforcing agency, the Bureau of Alcohol, Tobacco and Firearms (BATF).

Between 1968 and 1972, for instance, the Bureau was able to expand its employment of special agents from 985 to 1,622. Before the Gun Control Act, the agency had only been able to employ 214 agents for firearms enforcement; 5 years later it was able to thus employ almost a thousand.

But the BATF apparently found that enforcing the law against genuine criminals—for example, convicted felons who illegally owned firearms—was not suitable to mass production of arrests that could be used as a "numbers game" to justify still more employment of agents.

Instead, it has engaged in frequent entrapment of licensed dealers and private collectors. They were easily located, were not evasive or even expecting undercover approaches. They had no criminal intent, but the law did not require proof of such for charges or conviction. The broad language of the act and the vagueness of its commands insured that they could easily be lured into a technical violation.

Collectors were approached by agents who purchased two, four, or six guns from their collection. They were then raided, charged, and their collections confiscated on "engaging in the business of dealing in guns" charges. Dealers were approached by nonresidents of their States, to whom they could not sell. When they turned down the nonresident, a resident agent with valid identification claimed to be a relative and bought the firearm legally "for" the nonresident. The dealer was then charged with a "straw man" sale. Other dealers were induced to make sales from their personal collections, then charged with having sold without proper recording, as I described earlier. In many areas, a virtual reign of terror came to dominate legitimate gun owners and collectors.

To date, three Senate and one House hearings have documented the extent of these abuses. These have established, among other things, that approximately 75 to 80 percent of BATF criminal firearms charges were being brought against individuals who had no criminal intent; that BATF itself admits barely 10 percent of its firearm charges are on "felon in possession" or "sale to felon" charges; that an assistant director of the Bureau had indicated in a private memorandum to the director that he "shuddered to think" that their errors might lead to conviction of innocent citizens; that agents have repeatedly confiscated collector-grade firearms, deliberately dropped them on concrete floors, stored them in damp areas, and otherwise damaged them; that in aggravation of this, agents have often refused to return seized firearms even after their owner has been acquitted, after grand juries refused to find even "probable cause" to believe he had broken the law, or after the Bureau itself dropped charges.

These were not minor acts; in several cases the agents calmly informed individuals that the Bureau did not have to pay legal expenses, the individuals did, and if they sued to assert their rights, the expense would be beyond their means. BATF, to be sure, claimed to have "reformed," but the hearings document that, after the reforms, the percent of cases brought against felons in possession dropped and the value of seized firearms rose, indicating seizure of more collectors' items, not fewer.

In short, this legislation is vitally needed. We must remove the opportu-

nity for such abuses, and minimize the incentive for new ones by providing liberal remedies for firearm owners who successfully assert their rights. This bill would achieve these goals with a series of provisions, which I can briefly discuss here.

First, prosecution for unintentional violations would be ended. Now the Government must prove, beyond a reasonable doubt, that a violation was willful before it can obtain a conviction. A technical violation, by one who did not intend to break the law, can no longer form the basis of life-wrecking felon status.

Second, this bill would narrow and clarify the most vague commands of the Gun Control Act. The vague command that one refrain from engaging in the business would be clarified by a definition of that term as pertaining to engaging in the repetitive sale of firearms for the primary motive of profit, and as expressly excluding firearms hobbyists who dispose of their collection. This more nearly approaches what we commonly think of as a dealer—not a collector who exhibits his firearms and swaps or sells in pursuit of a hobby.

Another provision would recognize that a licensed dealer may have a private firearms collection, separate from his inventory, and so long as he keeps it separate may act as a private collector in acquiring, keeping, and disposing of it. No longer will those with a license be treated as second class citizens who even dispose of their own property in a manner permitted an ordinary, unlicensed citizen.

Yet another provision would coordinate the different sections listing persons banned from receiving or possessing firearms. As I mentioned earlier, existing law in this area is an ill-coordinated hodgepodge of different provisions—persons prohibited from owning guns may not be prohibited from receiving them, and vice versa, a pardon may permit a person to possess but not to receive, and so on. This bill coordinates these provisions into clear-cut commands: seven classes of persons, including all convicted felons who have not received pardons, reliefs from disabilities, or expungement of cases, are banned from possessing, owning, receiving or transporting firearms. The same rules on pardon, relief, and expungement apply to all such restrictions.

Third, this bill would remove the opportunity and incentive for harassment and civil rights violations. If a citizen is acquitted, confiscated firearms cannot be withheld based on the charges of which he has been found innocent. Nor can firearms be withheld if the agency seizes them and refuses to bring charges within 120 days. The BATF has in the past seized firearms from an individual and, to cover the fact that the firearms were not involved in any violation, claimed that he "intended to use" them at some unspecified later date. This bill would remove the "intended to use" language from the confiscation section, allowing seizure only where the Bureau can establish firearms actually were used in violation of the law.

Given that the Government seizure of valuable private property without compensation, jury trial, requirement of proof beyond a reasonable doubt or any other safeguards normally accorded one whom the Government seeks to punish, is a procedure whose constitutionality skates upon thin ice to begin with, a limitation to property actually involved in violations is surely the minimum that justice requires.

As a means of enforcing these restrictions, the bill contains provisions that, where the owner of firearms must sue for their return, he is automatically entitled to a reasonable attorney's fee if successful. I see no reason why a citizen may have his property taken by the Government, win a finding that its taking was illegal and be saddled with legal fees while fighting a Government agency whose fees are paid from his pocket and those of every taxpayer.

Finally, this bill would remove several sections of the act which have been used for abuse and which constitute needlessly broad and wasteful restrictions. The most important of these is the ban on interstate firearm sales. When the Gun Control Act was being debated, it was initially proposed to ban interstate sales where the effect was to circumvent local laws—for example, where the buyer resided in an area where the acquisition of the gun would be illegal.

These proposals were rejected at the 11th hour due to drafting difficulties and instead a general ban on all interstate transfers—even where no local law existed that could be circumvented—was imposed. This, in turn, was altered by various exceptions—for firearms passing by will and devise, transferred to a dealer, replacement firearms, sales between contiguous States—but only of certain firearms and with special forms—and so forth. The result is to make inadvertent Federal felons out of honest citizens who transfer or give a firearm to a friend or relative who lives across a State line, even where they violate no State laws in so doing.

This bill would replace this exception-riddled general ban with a simple, clear, and rational rule: an interstate transfer is legal if it violates no State or local law in the place of the sale and the place to which the buyer intends to take it. If it breaks local laws in either of these places, it is illegal.

Another provision of the bill ends ammunition recordkeeping, another provision hastily inserted in the Gun Control Act. Even the agency enforcing the law has admitted that ammunition recordkeeping is of no measurable crime-fighting value and, with billions of rounds sold each year, the paperwork burden is enormous.

A third provision permits agents to enter the premises of dealers for record searches only where they have reasonable cause to believe a violation has occurred or there is evidence of such to be found. All too often, in the name of generating "makework" for appropriations time, or harassing a dealer, agents have spent hours or days examining his records without any reason to expect evidence of violation. We must remember that a firearms dealer, like any citizen, is entitled to his fourth amendment protection against search and seizure without probable cause. If an ordinary businessman is entitled to this protection when enforcement of OSHA is involved—and our Supreme Court has ruled that he is—I see no reason why the fact that he has chosen to transact firearms business should create an exception in the Bill of Rights.

In summary, I think this legislation is badly needed, to prevent future abuses of this type, to force the enforcing agency back toward real criminals and away from law-abiding gun owners, and in general to coordinate and add some reason to a hastily drafted and poorly formed statute. I am tired of the abuses which have been committed in its name—tired of having citizens without criminal intent being charged with felonies, tired of having honest collectors' museum-grade firearms seized as if they were likely to be used in crime, tired of agents who withhold firearms after their owners have been acquitted of all charges, tired of hearing that "ignorance of the law is no excuse," when the law is so vague the directors of the enforcing agencies admit ignorance of its provisions.

The 90th Congress acted hastily in drafting the legislation as it now stands; I suggest it is our duty in the 97th to end forever the violation of our Constitution and laws in the name of its enforcement.●

OPERATION DRIVER EXCELLENCE

● Mr. EAGLETON. Mr. President, on May 15–17, 1981, 36 young men and women from around the country participated in one of the finest programs available to teenagers to heighten their safe driving skills, the 15th National Finals of Operation Driver Excellence. This event was held at the Holiday Inn North in St. Louis.

I am impressed with Operation Driver Excellence, for it offers a positive response to one of the more perplexing problems of the present day, namely, the daily loss of life on America's roads and highways.

The program's cosponsors, the American Veterans of World War II, Korea and Viet Nam (AMVETS) and the Dodge Division of the Chrysler Corp., have over the years developed a response that stresses that safe driving is not always good enough, and that only a skillful driver is a safe driver.

Operation Driver Excellence has been designed by AMVETS and Dodge to emphasize skillful driving and recognizes those most skillful in this area.

Every spring AMVETS and Dodge take their program to thousands of high schools across the land. Eligibility rests on the successful completion of a certified high school driver education course. Students who meet the criteria participate in a three-phase competition which includes an over-the-road test in actual highway traffic, a written test on driving laws and theory, and a specially designed skills course to measure response to driving emergencies.

Those who win the local competitions

test their skills in the State finals. State champions and one chaperone are awarded a weekend trip to the national finals.

The 36 students who won trips to the 15th Annual National Finals in St. Louis were the best young drivers in the United States.

The driving competition, held at the Northwest Plaza Shopping Center, saw these 36 teenage driving champions wheel their loaned Dodge automobiles through suburban St. Louis traffic and the highly complex skills course. After more than 6 hours of tough competition, a national safe driving champion was crowned.

AMVETS and Dodge make sure that everyone wins in Operation D.E. I wish to personally congratulate each of the 36 State champions who took part in the national finals. By participating, these fine young Americans have heightened public awareness of the need for safe driving standards on the part of all Americans.

Douglas D. Schmidt, a 16-year-old sophomore at Northeast High School in Lincoln, Nebr., topped the field of State driving champions and won the coveted title of 1981 National Safe Driving Champion. His award-winning performance earned him a new Dodge Aries-K car and a $2,000 AMVETS scholarship. The AMVETS State D.E. chairman in Nebraska was Schmidt's father, Duane.

Second place and a $1,500 scholarship went to Joey Mahon, 16, of Greenwood High School in Greenwood, S.C. The AMVETS D.E. chairman in South Carolina was Paul Jordon. A third place finish earned Raymond Thomas Cerwinski, 18, of St. Aloysious High School in Newark, N.J., a $1,000 scholarship. The D.E. chairman in New Jersey was George Decker, junior scholarships of $750 and $500 went to James A. Capwill, Jr., 17, of Solon High School in Solon, Ohio; and Joel Roy Kantor, 17, of Charles W. Woodward High School in Rockville, Md., respectively. The D.E. chairmen in Ohio and Maryland were Ernest Bloomfield and Hugh Warner.

All of the National Finalists received commemorative trophies, D.E. wristwatches and jackets.

The national finalists listed alphabetically by State were: Mike T. Eder, Alaska; Bobby W. Martin, Arizona; Reza R. Farrokhi, California; Danny Fahey, Colorado; Debra Scholoss, Connecticut; George D Shaw, Washington, D.C.; Joseph L. Hamilton, Florida; Sharon K. Morris, Georgia; Edward Karpinski, Illinois; Michael Osmon, Indiana; Adrian L. Blumhagen, Iowa; Ray Dick, Kansas; Stephen Sangalli, Kentucky; Georgia Skrmetta, Louisiana; James A. Hatch, Maine; Mark B. Windham, Massachusetts; Ruben Ovalle, Michigan; Faye D. Dulaney, Mississippi; Daniel Smith, Jr., Missouri; Andre Koehler, New York; Danny R. Craven, North Carolina; Lee D. Leadbetter, North Dakota; Brad Borlin, Oregon; Mark A. Sampson, Pennsylvania; Dave Humphrey, Rhode Island; William C. Rhodes III, Tennessee; Brett Macy, Vermont; Todd Banks, Virginia; Mark E. McDonald, West Virginia; Ken Ebert, Wisconsin; Kelly Anderson, Wyoming. The students were escorted to St. Louis by their high school driver education instructors or their parents.

The sizable AMVETS delegation at the event was led by their National Commander, Ernest F. Pitochelli of Johnston, R.I. Administration of the program was conducted by James R. Ramsburg, AMVETS national program director, with able assistance from the Missouri home State representative, William Thompson of St. Louis.

The program was supervised by AMVETS National Highway Traffic Safety Commission, chaired by Robert Medairos of Massachusetts. Other members of the commission include Vice Chairman Donald Fournier of Illinois; Roger Christ of Michigan; Jerry Hartman of Ohio; Leon Gubala of New York; and Fred Bogatay of Pennsylvania.

The Dodge Division was officially represented by Walter M. Jajuga, St. Louis truck sales manager. Thomas F. Houston, manager of Dodge public relations, handled media liaison for the event.

Judging on the over-the-road test and the skills course was done by the Missouri State Police with expert assistance from local police officers.

Mr. President, the participants had a special guest at their victory banquet the evening of Saturday, May 16. My good friend, Missouri Lt. Gov. Kenneth Rothman, made a special guest appearance to congratulate the national finalists.

As I have said, I have been most favorably impressed with Operation D.E. in that the program is noble in purpose and it draws participants of the highest caliber. I should point out that Operation D.E. is a classic example of what American citizens can do on their own to address a serious national problem.

Mr. President, all who participated in this worthy project, whether at the local, State, or National level, came away with a better understanding of safe driving practices and techniques and they have heightened the public's awareness of a very serious national problem. I encourage the "partners in safety," AMVETS and Dodge, to continue to provide this unique program for the young drivers of our Nation in the years to come.●

RESOLUTION ADOPTED BY THE NATIONAL GUARD ASSOCIATION OF ARIZONA

● Mr. GOLDWATER. Mr. President, recently, the National Guard Association of the State of Arizona adopted a resolution honoring America's soldiers, sailors, airmen, and marines who served honorably in the Vietnam war. Recognition for these veterans is long overdue.

That conflict is fortunately many years behind us but the veterans who served their Nation so well are very much with us. We are in the throes of dealing with many of their problems which did not go away with the termination of hostilities. The very least that we can do is to express our sincere appreciation for the service they gave when their country called on them.

I ask that the resolution adopted by the National Guard Association of Arizona on May 30, 1981, be printed at this point in the RECORD.

The material is as follows:

Phoenix, Ariz., June 19, 1981.

NATIONAL GUARD ASSOCIATION OF ARIZONA,

Hon. BARRY GOLDWATER,
U.S. Senator,
Washington, D.C.

Re: Resolution Honoring America's Soldiers, Airmen, Sailors, and Marines Who Served Honorably in the Vietnam War.

DEAR SENATOR GOLDWATER: Enclosed is a Resolution adopted by the National Guard Association of Arizona at its Annual General Conference on 30 May 1981.

We think that the Resolution is timely, appropriate, and a message not only to those who served in the past, but also a message to those who may be called upon to serve in the future.

We respectfully ask that you consider the intent and tone of this Resolution, and that you act to perpetuate its message.

Respectfully submitted.

JOSEPH E. ABODEELY,
Chairman, Resolutions Committee, National Guard Association of Arizona.

RESOLUTION NO. 2

Whereas, several years have passed since America's military involvement in the Vietnam war, but not so many years have passed that the soldiers, airmen, sailors, and marines who served their country in that war will forget the sacrifices they made serving their country; and

Whereas, the soldiers, airmen, sailors, and marines served valiantly and effectively in a war unlike any other in which U.S. forces engaged because the U.S. military's involvement in Vietnam was directed toward fighting a limited war of counter-insurgency rather than fighting a conventional war of terrain acquisition and occupation; and

Whereas, the American public became satiated with the horrors of the prolonged war after being informed by media coverage of the horrors of that war; and anti-war sentiment and Congressional leaders influenced the President to quickly withdraw U.S. military forces from Vietnam because Congress would no longer support U.S. military action there; and U.S. soldiers, airmen, sailors, and marines returned to the United States without a victory for their country; and

Whereas, the veterans of the Vietnam War who carried out the policies of the Administration who sent them to Vietnam did not lose the war, and it is unjust to blame any single group for the outcome of that war, but especially unjust to blame those who honorably served their country; and

Whereas, Vietnam veterans have been unfairly treated by some members of the American public by being called derogatory names when the vast majority of their service was highly professional and honorable; and the media has unfairly portrayed Vietnam veterans as psychopathic losers of an unpopular war; and the Government has unfairly treated Vietnam veterans by granting amnesty to deserters and draft evaders, by upgrading previously less than honorable discharges, and by failing to show a concerted interest for these veterans by granting appropriate Vietnam veterans benefits or memorials or other forms of recognition due the veterans of our Nation's longest, most costly, and most difficult war; and

Whereas, President Reagan so appropriately stated America's need to rethink the Vietnam experience;

"It is time we recognize ours was, in truth, a noble cause. A small country, newly free from colonial rule, sought our help in

establishing self-rule and the means of self-defense against a totalitarian neighbor bent on conquest.

"There is a lesson for all of us in Vietnam. If we are forced to fight, we must have the means and determination to prevail. We dishonor the memory of 50,000 young Americans who died in that cause if we give way to feelings of guilt as if we were doing something shameful"; and

Whereas, it is only just and right that we all remember and recognize the many sacrifices made by those soldiers, airmen, sailors, and marines who honorably and valiantly served in Vietnam;

Now, therefore, be it resolved, by the National Guard Association of Arizona assembled in annual general conference this 30th day of May, 1981 that

(1) All Vietnam veterans who honorably and valiantly served in America's longest, most costly, and most difficult war are to be commended for their honorable and dedicated service to their country;

(2) This Association supports and encourages the creation of a monument at the State Capitol or other suitable location which recognizes and expresses appreciation for the service of the soldiers, airmen, sailors, and marines who honorably and valiantly, and under the most difficult of circumstances, served their country in the Vietnam war;

(3) This Association supports the creation of a similar monument at our Nation's Capitol and at other locations throughout the Nation;

(4) This Association supports President Reagan's statements regarding considering the Vietnam veterans' "noble cause" so as not to dishonor those who died;

Be it further resolved, that this Resolution be sent to the Arizona Congressional delegation, the National Guard Association of the United States, and the Arizona State Legislature for consideration and adoption.●

SENATOR LEVIN PINPOINTS DRAWBACKS ON REINSTATING THE DEATH PENALTY

● Mr. LEAHY. Mr. President, on June 12, the Washington Post published a very fine article by our distinguished colleague from Michigan, Senator CARL LEVIN, on the drawbacks of reinstating the death penalty. Senator LEVIN has obviously given a great deal of thought to the propensity of our criminal justice system to make errors and to apply capital punishment in inappropriate circumstances.

As a former prosecutor with substantial experience in murder and other serious felony crimes, I want to be sure Senator LEVIN's point is not lost on us. No matter how well qualified the trial judges, or how well intentioned the juries, our criminal justice system is run by people, and people make mistakes. Regardless of the procedures used to determine cases in which the irrevocable penalty of death will be applied, innocent people will be condemned to die. Senator LEVIN forcefully makes this point in his article. I ask that the article be printed in the RECORD.

The article follows:

DEATH PENALTY: ERRORS HAPPEN

(By CARL LEVIN)

This week, the Senate Judiciary Committee approved a bill to reinstitute the death penalty for certain federal crimes. As a lawyer with some experience in capital cases, I hope the bill "dies."

A primary reason to oppose the death penalty is the fear that innocent people will be executed. Proponents of capital punishment suggest that such "mistakes" are rare. But as the gubernatorial commutations, in "high-profile" cases such as those of Sacco-Vanzetti and the Haymarket defendants indicate, they do take place. Even more frequent is, our experience with situations in which innocent people escaped execution only through fortuitious circumstances unrelated to the judicial system's ability to correct error.

One example comes from my experience with the Public Defender's Office in Detroit. There I was assigned to the case of Charles Clark, convicted of murdering a store-owner in 1937 and serving a mandatory life sentence because Michigan had previously abolished the death penalty.

In the years following his conviction, Clark persisted in proclaiming his innocence. Despite the hardships of prison life, he rejected gubernatorial offers to commute his sentence, explaining that acceptance would be an implicit admission of guilt.

I was intrigued by the case. I read the trial transcript and concluded that there was a good possibility that Clark actually was innocent. An investigator was assigned to find the murdered store-owner's daughter who, as the only eyewitness, had played a critical role at the trial.

When we talked with her, it became clear that she really had never been able to identify Clark as the killer or even place him at the scene. Her testimony, she explained, was the result of a detective's telling her at a lineup, "that's the man who shot your father," rather than her own recollection.

With the only evidence against him removed, a new trial was ordered, and soon thereafter Charles Clark left prison a free and officially innocent man. There is some comfort to be derived from the absence of the death penalty in Michigan, a fact that allowed Charles Clark to savor his ultimate vindication.

But this case demonstrates that our criminal justice system is fallible. It is designed, operated and maintained by imperfect human beings. Although we cannot allow the fear of error to paralyze us, we should avoid acts that make error irredeemable.

The issues associated with capital punishment go beyond the question of clear error. Our judicial code does more than establish innocence or guilt—it also seeks to evaluate relative levels of culpability. Thus we distinguish between murder in the first and second degrees. And in the bill now before the Senate, we catalog conditions that mitigate against imposing the death sentence.

These gradations of guilt attempt to recognize and respond to the diversity of human motives and the difficulty of determining individual intent. The inherently imprecise nature of this determination ensures that errors will be made in assessing the degree of guilt and imposing the appropriate punishment.

The Judiicary Committee's acceptance of proposals that allow the members of the jury to disagree about what specific aggravating factors justify the death penalty, as long as they agree that some aggravating factors were present, simply highlights this problem.

One can argue about the death penalty's deterrent effect, its morality or the fairness of its application. But one cannot argue against its ability to take the life of an innocent person or that it can be applied inappropriately in cases in which some degree of guilt is firmly established.

It is simply unwise and unconscionable to deprive ourselves of the ability to correct errors. The fatal flaw of the death penalty is that it denies us that opportunity.●

RURAL CO-OPS, AGRICULTURE, AND REAGAN

○ Mr. BAUCUS. Mr. President, I represent the State of Montana. There are many in my State who support President Reagan vigorously; indeed, I have made no secret of the fact that I support many things he is trying to do.

Yet, among his strongest supporters, there are many in Montana who are very, very concerned about the direction and the philosophy behind Mr. Reagan's energy and agricultural programs.

In brief, his energy program seems to be one of terminating as much renewable resource work as possible, while spending as much as possible on nuclear. There is no balance, simply an end or near end to such efforts as alcohol fuels, conservation, and solar, while increasing nuclear spending wherever possible.

In agriculture, under the banner of "privatization," Mr. Reagan seems determined to undermine all the rural programs that have helped make our agricultural industry the envy of the world and have brought basic health, education, and other services to rural America.

The National Rural Electric Association is in a good position to see some of the impacts of Mr. Reagan's proposals for agriculture and energy. I believe my colleagues would find two short articles from this association's Rural Electric Newsletter interesting, and I ask that these articles be printed in the RECORD at the conclusion of my remarks.

I hope that the supporters of Mr. Reagan here in the Senate—especially those from rural States—read these articles and use their influence to turn Mr. Reagan away from his present course both in agriculture and in energy.

American agriculture depends upon the family farm, and our energy security depends upon a reasonable balance of our energy priorities. I would strongly urge Senators from rural parts of our country to closely scrutinize Reagan energy and agricultural initiatives. We should base our judgments upon the impacts of these policies on our regions and on the Nation; we should not base our judgment on any blind assumptions, ideological litmus tests or grand rhetoric about potential rewards of unrestrained capitalism.

The articles follow:

[From Rural Electric Newsletter, Feb. 20, 1981]

THE DARK SIDE OF SUPPLY SIDE

(By J. C. Brown)

"Supply side" economics, which is being pushed by OMB's David Stockman and the Wall Street Journal, was for many years known as the "trickle-down" theory.

Prior to the Great Depression, Presidents Harding, Coolidge and Hoover put together eight straight years of supply side economic policies.

The theory is that government makes bad economic decisions. If, on the other hand, you give private enterprise the tax breaks, subsidies (Harding tossed in oil wells), or just leave it alone, and hold government to the role of providing for the national defense, people will invest in industry, which will employ workers to produce goods, which will be offered at attractive prices regulated by competition, and the employed workers will buy these goods, creating even greater profits which will encourage further

investment in producing those things which business believes there's a market for.

It works—but not well enough to serve the total national interest—which must be measured in the well-being of a nation's people.

Investment quite logically goes to industries and enterprises which promise the highest return on the dollar. This much, of course, is not theory. That's the way intelligent people with money behave. And this behavior extends upward to conglomerates and multi-national corporations, which explains why they frequently close down profitable factories in small towns which they once had bought eagerly. They could make still more profit somewhere else or in some other line—Europe, Caribbean condominiums, Ringling Brothers Circus.

Franklin Roosevelt, among others, observed that supply side economics failed to afford a lot of people a quality of life they not only desired but which even the supply siders conceded was desirable.

Such as:

Rural electrification. Prior to government's entry into financing rural electric systems, investment capital was not available to build rural lines or power plants to serve rural power systems. Investors quite accurately observed that rural rates would have to be exorbitant in order to provide a rate of return available in urban areas. Government assumed a role which Stockman's band of supply siders abhors. It directed capital to rural areas.

Education. Public school education was the result of public direction of capital into a service which did not attract private capital. In more recent years, government, by guaranteeing loans, elevated its goals to help students who otherwise would not receive a higher education.

Transportation. Railroads long ago recognized there was no money in people (especially rural ones) and set about abandoning them in favor of freight, except where government interceded. Thus, you can't take the train from Elkin to Ronda anymore.

Housing. Twenty years ago, no matter how prosperous you were, if you were a farmer and wanted to build a home, you put up 50% of the money and mortgages the whole farm in order to borrow the rest. Only when government started guaranteeing loans for poor and moderate-income families (under Farmers Home Administration) could rural people build houses on a parity with urban people.

Services. Almost always until the 1950s, and to some extent still, rural people could not readily buy electric appliances or get them serviced. Entrepreneurs found thickly populated, urban areas more profitable. Thus, rural electric cooperatives often merchandised appliances and even financed them. Rural people get just as sick as urban people but there aren't enough doctors in rural practice. Rural communities, operating as government, sometimes succeed in establishing clinics and attracting doctors; but most doctors who choose rural America aren't making economic decisions.

In summary, Stockman's supply side economics is bad news for areas and people which aren't attractive to investment capital. And for the most part, those are rural areas and rural people.

[From the Rural Electric Newsletter, June 12, 1981]

THE "PRIVITIZATION" OF THE PUBLIC

(By Les Nelson)

(EDITOR'S NOTE: The following article is excerpted from the "Alkali Ed" column of the June issue of Wisconsin Rural Electric News.)

A guest speaker at a board meeting of the Cooperative Finance Corporation back in March was one Lawrence Kudlow, chief economist in the Office of Management and Budget in Washington. Kudlow, a former Wall Street banker, is one of the molders and shapers of the Reagan administration's economic policy.

Kudlow talked in general terms about the new monetary and budgetary policies, and then answered a few questions.

Allen Beadles, a Jump River Electric Co-op director who also serves on the CFC board, brought back a tape of Kudlow's presentation. I've heard it, and I wish I hadn't because now I feel obligated to describe it, not an easy task.

SCORNFUL? CONTEMPTUOUS? DISDAINFUL? ARROGANT?

All of the above, and more. Insolent, flippant, or just downright disrespectful.

I'm glad this is an opinion column and not strictly a report, because many of the words Kudlow spoke, on paper, do not convey his attitude as effectively as his tone of voice.

I could give you a random quote and you might say, "Well, what's so bad about that?" For example:

"This is our approach to the incentivization of the American economy—or maybe we should call it the re-incentivization. We wish to increase after-tax rates of return on work effort and investment, and it is our old-fashioned view that if there is something in it financially, people will want to do it."

A lot of his presentation was like that, sprinkled with words such as "incentivization," "privitization" and "obligational authority," but not offensive.

But then came the question-answer session, and an answer that will be one of the more durable entries in the history of the rural electrification program.

"Don't start with agriculture," Kudlow said with a groan in his voice. "I mean you get into those credit programs and all of those government subsidies. What we've been doing with agriculture is absolutely fantastic, and there's no way we should be in this business. I mean if the market can't sustain it, then we shouldn't do it. You just can't ask us (at least, this Administration; I know you've asked past ones and you may ask future ones); you can't ask us to assume that we have to finance an on-going operation that the private money market would not, I mean, as a banker, I could tell you that makes bad financial decisions, and as a government policy marker, I just have to apply the same principles. And we're going to do more of this. We've just scratched the surface. Let me tell you, this credit budget stuff is one of the biggest obscenities in the entire budgetary structure."

That last sentence, about the "biggest obscenities," was so bad that CFC omitted it from a typed transcript of the presentation, apparently for fear of causing hard feelings.

I think we need some hard feelings. When we have a banker talking to us like that about government credit programs, we need some hard feelings.

Government credit programs were created only because there were needs that bankers could not or would not meet. If the government conducted itself by banking principles, then those needs would not be met.

So now we are going to have "privitization." I remember a time when the banks were so privatized they had to be shut down by the U.S. government for their own protection. I remember a time when the biggest word in banking was foreclosure. Privitization was a very small word at that time.

I don't believe the bankers are much more willing or able to meet the needs of rural America now than they were then. Neither is a government which applies their principles.●

SOUTHEAST ASIAN AID

● Mr. HAYAKAWA. Mr. President, I wish to commend our Secretary of State on his successful visit to Manila and his extensive meetings with the foreign ministers of the Association of Southeast Asian Nations.

Secretary Haig has told our friends in Asia that the United States is ready once again to bear the burdens that history has placed on our shoulders, and is prepared to "shore up those who are under threat and danger." I enthusiastically welcome that stand.

We will soon be meeting to discuss the foreign aid authorization bill for fiscal year 1982 and I would like to suggest that all of us take some time between now and then to consider how we can back up Secretary Haig's pledge to our friends and allies in Asia.

While we are doing so, we will learn that the five members of ASEAN have, since the Vietnamese invasion and occupation of Kampuchea (Cambodia) 2½ years ago, held to a unified position on two points. The first is that Vietnamese troops must be withdrawn from Cambodia before peace can come to that country. The second is that Thailand stands at the front line of Communist expansion activities in Southeast Asia.

They hold this position for a simple reason: A Cambodia occupied by Vietnam is a direct threat to the territorial integrity of Thailand and the other ASEAN states.

ASEAN is a group of developing nations whose prerequisite for economic advancement is peace and stability in Southeast Asia. So long as a foreign army occupies Kampuchea and controls the Khmer people, the security of Thailand is threatened and peace is imperiled throughout the region.

It is not difficult to see the force behind Vietnam's activities in Cambodia: It is the Soviet Union. Russia's invasion of Afghanistan and Vietnam's invasion of Cambodia are closely linked. Vietnam's eventual success or failure in subjugating all of Cambodia will directly affect Soviet influence in Southeast Asia and the Indian Ocean area. Thailand, in its frontline position, sees the threat to itself and the region clearly. A complete Vietnamese victory in Kampuchea would lead to further expansionist adventures by Vietnam; the first target would be Thailand. For this reason, Thai leaders are now working to strengthen the country's defense capabilities.

It is because Thailand is the country most threatened today by Soviet and Vietnamese activities that other ASEAN countries consider it the frontline state and view U.S. security assistance to the Thais as a clear measure of American commitment to the security of the rest of ASEAN. By maintaining this assistance to Thailand, the United States enables it and the other members of ASEAN to hold to a firm position on the Cambodian problem in international bodies and to stick to a unified call for the withdrawal of Vietnamese troops for Cambodian soil.

ASEAN governments have ample evidence to back up their fears of further Vietnamese adventurism. During the past

5 years Hanoi has declared that ASEAN members are not independent states but colonies of capitalist countries, that their peoples would someday force all ties with the United States to be severed, and that the Kampuchean revolution would serve as a model for future so-called liberation movements in other Southeast Asian countries. By revolution they mean the Vietnamese invasion of Kampuchea, a distinction not lost on the leaders of ASEAN countries.

Nor is it lost on them that, instead of rehabilitating its economy since its military victory in 1975, Vietnam has increased its armed forces by eight divisions, has pronounced its army "invincible," and has geared its government, economy, and society to the pursuit of only one national activity: war.

It is with this in mind that I note that the security of Thailand is crucial to keeping peace in Southeast Asia and to protecting American interests there.

This administration has affirmed our commitment to Thailand under the Manila Pact, as has every administration since the pact was signed in 1954, and we will soon be talking about how we can back up our assurances with concrete contributions.

When we are considering the sums involved in bolstering Thailand's security, we should weigh the alternatives in cost if Vietnam is successful in launching its war machine into Thailand and causing instability there.

Instability in Thailand would be a direct threat to the security of the Straits of Malacca, and to the three countries along whose shore it runs, Malaysia, Singapore, and Indonesia. It is through the straits that trade passes between the Pacific and Indian Oceans, between east Asia and the Middle East, Africa, and Europe. It is also through the straits that the "energy lifeline" from the Middle East reaches the second largest economy in world after our own, Japan's as well as the Philippines, Hong Kong, Taiwan, and South Korea.

Knowing these facts, and knowing as we do that the Soviet Union is busy building up its fleet in the Pacific, the South China Sea, and the Indian Ocean, we can easily imagine the economic disruption that would occur in the event of instability in Malaysia, Singapore, or Indonesia. We can also easily weigh the costs of much disruption against the cost of allocating funds for the purpose of maintaining the security of Thailand, a long-time friend and ally.

Finally, when we are considering the amounts requested for Thailand during our discussions of foreign aid authorizations for fiscal 1982, we should keep in mind Secretary Haig's pledge to the ASEAN leaders in Manila—that the United States of America is prepared to shore up those under threat and danger. We can start by giving concrete support to Thailand in its efforts to hold the line against Communist expansion activities in Southeast Asia.●

DOES THE U.S.S.R. SUPPORT INTERNATIONAL TERRORISM

● Mr. DENTON. Mr. President, I should like to bring to the attention of my colleagues an article entitled "Does the U.S.S.R. Really Support International Terrorism," written by Senator JOHN EAST. This article was printed in the June 13, 1981, issue of Human Events. As Senators are aware, Senator EAST has been very supportive of the efforts of the Subcommittee on Security and Terrorism, of which I am chairman.

I ask consent that this very informative article be printed in the RECORD.

The article follows:

DOES THE U.S.S.R. REALLY SUPPORT INTERNATIONAL TERRORISM

(By Senator JOHN P. EAST)

Approximately one week after Ronald Reagan was inaugurated as President of the United States, Secretary of State Alexander Haig, in his first press conference on January 28, affirmed that the Soviet Union is "involved in conscious policies which foster, support and expand international terrorism." National Security adviser Richard V. Allen has also stated that there is "ample evidence" of Soviet support for terrorism.

These statements by high-level government officials represent perhaps the first time that the United States government has officially accused the Soviet Union of supporting international terrorism. The evidence for this involvement is not new, however.

As long ago as 1975, Brian Crozier, director of the Institute for the Study of Conflict in London, testified before the Senate Internal Security subcommittee that the Soviets were deeply involved in the support for and training of terrorist cadres throughout the world.

Robert Moss, John Barron, and Miles Copeland, to name but a few, are among the many prominent and respected journalists who have developed compelling evidence in the last 10 years of Soviet involvement over a lengthy period of time. More recently, Samuel T. Francis has summarized and analyzed this evidence in a monograph entitled *The Soviet Strategy of Terror*, published early this year by the Heritage Foundation, Herbert Romerstein, in a monograph just published, *Soviet Support for International Terrorism*, also presents evidence for the allegation, based on both Soviet and terrorist primary sources.

Finally, Claire Sterling, an internationally respected journalist, has recently published *The Terror Network*, which shows in massive detail the role of the KGB and other Soviet or Soviet-satellite services in the fostering and support of international terrorism.

Yet, for some reason, the thesis that the Soviets support terrorism remains controversial. Although much of the evidence was available to the mass media throughout the 1970s, there was virtually no discussion of the Soviet role in major newspapers in this period. One reason for this black-out was purely ideological.

Both liberals as well as some government officials wished to promote detente with the Soviet Union. A basic assumption of detente was that the USSR is no longer a serious "revolutionary force," that it has matured into a "great power" which has responsible international commitments and goals and is no longer pursuing the goal of Marxist destabilization and revolution.

Of course, conservatives were all along skeptical of detente and of these claims for the Soviet Union. Long before the Soviet invasion of Afghanistan, we were pointing out the discrepancies between the carefully cultivated image of the Soviet Union as a "responsible power" in the West and the brutal realities of Soviet behavior.

Soviet assistance to North Vietnamese aggression in Indochina, the escalation of Soviet espionage efforts against the United States, Soviet and Cuban military involvement in southern Africa and the Horn of Africa, the Soviet military and naval buildup, reported Soviet violations of SALT I, and even the repetition of aggressive themes and slogans by Soviet leaders—all these were ignored or covered up or explained away by the proponents of detente, but were continually exposed and emphasized by conservative foreign policy spokesmen.

Because liberals and the far left exhibit a strong tendency toward "peace at any price" and were enthusiastic about "an end to the Cold War," they often refused to look at the evidence or to consider its implications. Because high-level diplomats and policymakers in previous administrations had a vested political interest in the policy of detente, the U.S. government itself refused to deal with what was becoming a serious threat to national security.

Instead of recognizing and responding to the growing Soviet threat, we entered into a decade of withdrawal and restrictions on our own intelligence services and foreign policymaking capacities.

The Church and Pike committees investigated our intelligence services and created a "black legend" of the CIA as "a rogue elephant out of control," in the words of former Sen. Frank Church. The Levi guidelines on domestic security investigations for the FBI, restrictive executive orders for the CIA and other parts of the intelligence community, the expanded Freedom of Information Act and the Privacy Act, the Foreign Intelligence Surveillance Act of 1978, internal dissension and demoralization in the intelligence community itself, and the collapse of the internal security apparatus in the executive and legislative branches and at many local law enforcement levels as well—all these undermined our ability even to know about and analyze, let alone respond effectively to, the dangers of Soviet military escalation, covert action, espionage, terrorism and propaganda.

Of course, the proponents of detente cannot admit that the Soviets support terrorism. To admit this well-documented fact would imply that the Soviets are actively engaged in promoting violent revolutionary attacks on Western society—in other words, that the Soviet Union is not a "mature" or "responsible" power eager to become an es tablished member of the international community.

Yet it is also true, on one level, that the Soviets do want to be accepted by the other responsible states of the West. The Kremlin desires respectability as well as the diplomatic and economic benefits that acceptance would bring.

Thus, on one level, the Soviets must pose and present themselves as a nation-state just like any other (just as the Communist party of the United States poses as a legitimate political organization like the Republican or Democratic parties), while on another level the Soviets continue to appeal to and support violent revolutionary movements all over the world and to undermine Western stability and strength.

This second level of Soviet policy is clear not only from accumulated evidence of its results for the world, but also from the propaganda statements of the Soviet Union's Marxist-Leninist leadership. Yet, because the revolutionary work of the Soviet Union is in contradiction to its image as a responsible government, Soviet support of revolutionary movements is usually disguised through secrecy and camouflage.

So it is with Soviet support of terrorism. Less than a month after Secretary Haig's press conference, Soviet Defense Minister Dmitri Ustinov responded with a vitrolic attack in *Pravada* on February 21, denying Soviet support of terrorism. Said Ustinov:

"Here they [the United States] are in effect equating terrorism with the people's just struggle for national, economic and social liberation. But terrorism is an instru-

ment of extremism and neo-fascism, one of the most terrible manifestations of the moral and political crisis of capitalist society and the embodiment of lawlessness, while the national liberation struggle is progressive in nature and its legitimacy has long been recognized by the international community and confirmed by U.N. decisions. . . .

"The aim of imperialism's latest act of political sabotage is clear: to discredit the national liberation movements, with which the Soviet Union and the other Socialist countries are in solidarity."

Now there are several significant features of this seemingly strong disavowal of terrorism by a top Soviet leader. First, Ustinov defines terrorism as "an instrument of extremism and neo-fascism" and relates it to the decadence of capitalism—that is, he manages to limit terrorism to the political right and to the West. Thus, under this concept of terrorism, the Soviets have no difficulty in denying that they support it. Obviously, the Marxists of the Kremlin are opposed to the political right and the "decadence" of capitalism.

Second, Ustinov distinguishes between terrorism (which is bad) and "national liberation movements" (good). The Soviets support the latter and regard them as "progressive," while the imperialists of the decadent West opposes them and label them as terrorist.

Thus, it is not entirely accurate to say that the Soviets are simply lying when they condemn terrorism in statements such as Ustinov's. Rather, the Soviets have managed to design their own "Newspeak," or political language, by which they can develop definitions and manipulate language and values to support terrorism themselves covertly, deny that they do so, and then cast the blame for terrorism on the West.

This Soviet manipulation of language is, of course, a distortion of the truth. The term "terrorism," as it is used in the West, refers to violence directed against civilian or non-combatant persons or institutions for political purposes, whether it comes from the right or the left.

One of the clearest examples of Soviet support for terrorism is the so-called "national liberation movement," the African National Congress (ANC), an appendage of the South African Communist party, the official publications of which are printed in East Germany. The leader of the ANC is Oliver Tambo, and its campaign of terrorism and sabotage against South Africa is directed by a native-born Lithuanian, Joseph Slovo, a member of the Communist party who is headquartered in the Marxist ally of the Soviet Union, Mozambique.

In January 1980, three operatives of the ANC attempted to raid a bank in Pretoria. They took 25 persons hostage and murdered a 19-year-old teller and another hostage before they themselves were killed by the police. The terrorists used AK-47 rifles in their attack. In June 1980 the ANC detonated bombs at the coal-oil conversion plants at Sasolburg in South Africa.

These and similar incidents are clear examples of terrorism—not guerrilla warfare (in which regular military units are engaged in combat with irregular, non-military forces).

Yet a recent article in an official organ of the South African Communist party, *The African Communist*, denied that the ANC campaign of violence is terrorism; rather, the terrorist attack is described as "effective and sustained guerrilla operations including a nationwide sabotage campaign reminiscent of the early '60," and the terrorism of the ANC is described as a "liberation struggle."

The Soviets and their terrorist surrogates therefore admit that they support terrorism; they simply do not call it by that name, and they reserve that term for their enemies.

The Soviets describe many of the terrorist movements that they support as "national liberation movements" and regard them as "progressive." There are many examples of this deliberately confusing practice from terrorist organizations themselves, as well as from the Soviets.

One of the most dangerous terrorist groups now operating in the United States is the Puerto Rican FALN—the abbreviation for the Spanish name, "Armed Forces of National Liberation." It was FALN that claimed credit for the bombing of Fraunces Tavern in New York City in January 1975, when several individuals were killed. Another example is the infamous "Tupamaros" of Uruguay, the official name of which is the "Movement for National Liberation."

Just as members of organized crime syndicates like to call their activities—vice, narcotics, extortion, fraud—by the name of "business," so the perpetrators and supporters of terrorism like to call their activities "liberation." There is no reason to take either euphemism seriously.

Unfortunately, some who have been critical of the Administration's counter-terrorist policy have failed to understand this trick of language.

Arthur Schlesinger, Jr., writing in the Wall Street Journal on Feb. 23, 1981, states that "Abundant evidence exists that the Soviet Union trains people for 'wars of national liberation'—i.e., insurrections and guerrilla wars—but that is not what the Secretary [Haig] was talking about."

Mr. Schlesinger has apparently fallen victim to Soviet disinformation; he takes the Soviet distinction between terrorism and "national liberation" seriously, although in the case of self-proclaimed "national liberators" such as the ANC, FALN, the Tupamaros, and dozens of other terrorist groups, including the PLO and its components, there is no objective difference in their activities and the targets of their violence.

The inability to cut through the Newspeak and propaganda line of the Soviets and the terrorists has apparently become imbedded in the CIA itself.

On March 29, the New York Times and the Washington Post both reported that a draft National Intelligence Estimate (NIE) of the CIA cast doubt on the Soviets' support of terrorism. One source was quoted as saying that the NIE (which was classified but leaked to the press some time before it was completed) "strongly disagrees with Reagan and Haig's contention that the Soviet's are behind international terrorism." Many of my colleagues and I, as well as many professional experts who are familiar with the evidence for the Soviet-terrorist connection, were initially dismayed by these reports. If abundant evidence for the connection exists and is available in the public record, why could the CIA not rely on this as well as on other, classified information?

William Colby himself, the former director of the CIA, recently confirmed that the Soviets are deeply involved in terrorism in several ways in his testimony before the Subcommittee on Security and Terrorism on April 24. If Mr. Colby is persuaded of Soviet complicity in terrorism, why is the current CIA skeptical?

I tend to agree with what some of the critics of the leaked National Intelligence Estimate have called "definitional" problems in the CIA's approach to terrorism and with what one official of the Defense Intelligence Agency reportedly called the "weasel-worded" conclusion of the NIE.

In the first place, the confused and largely erroneous distinction between national liberation movements and terrorism appears to befuddle the minds of many journalists, academic experts and even some CIA analysts. As I have tried to show, there is no necessary difference between the two, and many of the so-called "national liberation movements" that the Soviets support engage in and rely on terrorism.

A second reason for the alleged CIA skepticism may lie in the exaggerated claim that the Soviets are "behind" terrorism. But one of the several authorities who have written about the Soviet link to international terrorism claims that the USSR formally directs terrorists. There is no reason to believe, on available evidence, that international terrorism is centrally controlled by the Soviets or by anyone else.

What the Soviets do—and what Communists have historically done—is *support* terrorism, feed on and manipulate and pervert for their own ulterior ends the grievances and complaints that motivate political violence and insurgency.

It is true that world terrorism would not be anywhere near as dangerous or as effective without the training, supply and propaganda support given it by the Soviets, but it is doubtful that the Kremlin or the KGB actually gives the orders for terrorist groups or operations. The source cited by the New York *Times* therefore set up a strawman argument when he denied that the Soviets are "behind" (that is, control, cause, or direct) terrorism.

Finally there is a problem of the meaning of "evidence." Under the Carter Administration, say experienced and recently retired CIA officers, the standard of evidence that CIA insisted on was not the *preponderance of circumstance*, but rather *proof beyond a reasonable doubt*. While this standard is proper and necessary in a formal criminal prosecution, it is inappropriate and unnecessary for investigative and intelligence purposes.

Terrorist activities and the support given them by the Soviets are often illegal and clandestine. Hence, it is difficult to collect evidence for the relationship, and even circumstantial evidence is hard to come by. Some of it may not be legally admissible in an American court of law and some may not be absolutely definitive. Yet the bulk of the evidence for Soviet support of terrorism is compelling to any reasonable person.

Moreover, much of the evidence, collected over the past decade, is cumulative; that is, over a period of time, it reveals a pattern of activities, each part of which may not be compelling but the overall implications of which are clear.

When the evidence from one part of the world is added to evidence from other parts and other periods of time and considered in the light of publicly available Soviet and terrorist statements and propaganda, these implications lead inescapably to the conclusion that the Soviets are and for some time have been deeply involved in the support of international terrorism.

An intelligence service is one of the most important institutions modern governments have for the protection of their national security, and it is especially important for the United States today. We do not possess the military and economic strength that we once had, and during the time it will take to rebuild our military and economic strength, a strong intelligence service capable of collecting information about our adversaries and analyzing, predicting and neutralizing future crises and hostile political forces is indispensable in an era of increasing challenges.

The CIA for over 30 years has done valuable work for the United States, but we must recognize that it has sometimes failed us in the accuracy of its analyses and estimates. As The Heritage Foundation's *Mandate for Leadership* points out, CIA estimates have been wrong on such questions as the stability of Iran under the shah, the Egyptian attack on Israel in 1973, the Arab oil embargo, the Italian opening to the left" in the 1960s, and, most seriously of

all, the size, scope and purpose of the Soviet buildup of strategic forces for nearly 15 years.

Whatever the reasons, then, for the CIA's inability to substantiate Secretary Haig's allegations of Soviet support for terrorism, I find it difficult to take the estimate seriously in the light of well-documented evidence to the contrary and in view of previous CIA errors. What I do take seriously—and what I urge President Reagan and CIA Director William Casey to ponder long and deeply—are the past failures of the CIA and the present laws and executive orders that so often prevent American intelligence from fulfilling its mission.●

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I am advised that the Senator from Virginia (Mr. HARRY F. BYRD, JR.) and the Senator from Wisconsin (Mr. PROXMIRE) wish to speak for approximately 15 minutes each yet this evening. I ask unanimous consent now, Mr. Fresident, that the time for the transaction of routine morning business be extended by 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I yield the floor.

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. JEPSEN. Mr. President, will the Senator from Virginia yield 30 seconds?

Mr. HARRY F. BYRD, JR. I yield to the Senator from Iowa.

ANNIVERSARY OF TAFT-HARTLEY ACT OF 1947

Mr. JEPSEN. Mr. President, today is the 34th anniversary of the Labor Management Relations Act of 1947, more commonly referred to as the "Taft-Hartley Act." It was on June 23, 1947, that Congress passed legislation under 14(b) of the act which provided that—

> Nothing in this act should be construed as authorizing the execution of application of agreements requiring membership in a labor organization as a condition of employment in any State or territory in which such execution or application is prohibited by State or territorial law.

In short, the language of section 14(b) became the focus of what has become known as the "right to work" controversy. In summary, the Federal law permits union security agreements in section 8(a)(3) which establishes compulsory unionism as a condition of employment unless such agreements are prohibited under section 14(b) by State law.

Repeal of section 14(b) would remove the authority of States to prohibit union security agreements to mandate compulsory unionism.

Therefore, it is with a great sense of history and equal sense of dedication to the issue of "right to work" that, today, I have introduced two legislative items amending the Taft-Hartley Act of 1947 on this historic day.

VOTING RIGHTS: END FEDERAL INTRUSION

Mr. HARRY F. BYRD, JR. Mr. President, I wish to express my strong opposition to S. 895, a bill which would extend the provisions of the Voting Rights Act until 1992.

The proposed 10-year extension would perpetuate the burden unjustly laid upon several States, including Virginia, by the act's passage in 1965.

The act was targeted principally at the South under an oddly contrived formula which took into account the use of voting or literacy tests and the percentage of the voting age population which registered or voted in the 1964 elections.

Let me make clear at the outset that I am addressing today the temporary requirements of sections 4 and 5, which establish and mandate preclearance for certain States.

Virginia was one of six Southern States which, along with Alaska and parts of four other States, originally were subjected to the preclearance provisions of section 5.

It requires officials in covered areas to submit proposed changes in local election procedures to the Justice Department for approval. Thus even the most trivial change—changing registration hours, for example—must be approved by the Attorney General of the United States.

If the Attorney General objects to a proposed change, the State or locality has but one recourse: An appeal to the U.S. District Court for the District of Columbia.

This requirement clearly was unprecedented in our history and virtually turned upside down the constitutional distinctions between State and Federal powers.

Mr. Justice Black, in a trenchant dissenting opinion in the case of South Carolina against Katzenbach, asserts:

> . . . Section 5, by providing that some of the states cannot pass state laws or adopt state constitutional amendments without first being compelled to beg federal authorities to approve their policies, so distorts our constitutional structure of government as to render any distinction drawn in the Constitution between the state and federal power almost meaningless. One of the most basic premises upon which our structure of government was founded was that the Federal Government was to have certain specific and limited powers and no others, and all other power was to be reserved either "to the States respectively, or to the people." Certainly if all the provisions of our Constitution which limit the power of the Federal Government and reserve other powers to the States are to mean anything, they mean at least that the States have power to pass laws and amend their constitutions without first sending their officials hundreds of miles away to beg federal authorities to approve them.

(For full text, see appendix I.)

Under section 5, an affected State or locality must in effect prove that a proposed election law change is not discriminatory in intent or effect. This is a reversal of that traditional American principle that presumes innocence until guilt is proven.

The act places a disproportionate burden on Southern States and, despite extensions in 1970 and 1975 which expanded coverage to other areas, the onus of the preclearance requirement still falls chiefly on the South.

Some critics of the act contend that its scattered application is its principal flaw. They say the act should be expanded to cover the entire Nation.

I disagree. Wherever it is applied, the act constitutes unwarranted and unreasonable Federal intervention in the electoral processes of the States and localities.

In my judgment, the act clearly violates the constitutional authority of the States to set voter qualifications and to prescribe electoral methods. Article I, section 4 states in part:

> The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof . . .

Supporters of the act are fond of citing the 17th amendment, which grants Congress the power to enforce voting rights "by appropriate legislation."

But that provision does not alter the primary authority of the States with respect to voting and elections.

Any congressional action which overrides the States' authority should be justified only by extraordinary circumstances. And it should be of strictly limited duration.

Yet now, after nearly 17 years and two extensions, Congress is again being asked to continue this exceptional Federal intrusion into the affairs of States.

And what extraordinary circumstance exists to justify 10 more years of Federal control of matters vested in the States? In Virginia—I shall not presume to speak for the other covered States—there is none.

Mr. President, former Senator Sam J. Ervin, Jr., who served a long and distinguished career in this body from 1954 through 1974, during which time he served on the Senate Judiciary Committee and is considered one of the foremost students of the Constitution in the country, recently forwarded me a copy of an article he has written. (This was inserted in full in the CONGRESSIONAL RECORD by Senator THURMOND on April 2, 1981, beginning at page S3334.) Although the subject matter of that statement relates to another issue, in his footnote 41 he discusses the South Carolina against Katzenbach decision at some length and the violence perpetrated upon the Constitution as a result of it. (See appendix II.)

In 1965, Virginia used a simple literacy test which required objective information such as age, address, and occupation. That was the only requirement for voting.

In 1961, the U.S. Commission on Civil Rights reported that blacks in Virginia "encounter no significant racially motivated impediments to voting." That was 1961, 20 years ago, that the Civil Rights Commission reached that conclusion and so stated.

Clearly, the State's literacy require-

ment did not impose a significant hurdle to voting by black or white. Indeed, the Justice Department never attempted to prove that voter discrimination existed in Virgiina.

In fact, the act was triggered in Virginia, not so much by reason of its nondiscriminatory literacy test, but because although more than 50 percent of its voting age population was registered, less than 50 percent voted in the 1964 Presidential election.

Thus the presumption of past discrimination which the act unjustly lays on Virginia is the result of an arbitrary mathematical formula.

Under the act, States may "bail out" of coverage by meeting certain requirements. Accordingly, in 1973, Virginia applied to the District Court for the District of Columbia to be released from coverage.

The court concluded that Virginia met the requirements specified in section 4 (d) of the act, but denied the request because Virginia had allowed "past educational disparities," arising from a dual school system 10 years before the enactment of the Voting Rights Act.

This ruling went far beyond the scope of the act, which was designed to deal solely with discrimination in voting and not educational or other types of discrimination.

Mr. Anthony F. Troy, a former attorney general of Virginia, has shared with me part of a legal memorandum relating to constitutional questions generated by the Voting Rights Act, which I now submit. I commend it to the reading of my colleagues, and I will submit it for printing in the RECORD (appendix III).

States covered by the act must obtain preclearance of even the most minor changes in election procedures. This involves untold volumes of unnecessary paperwork and labor.

I think "unnecessary" is the proper word, as the Justice Department tables of the number of submissions and objections listed in appendix IV very graphically illustrate.

Between 1975 and 1980, all areas covered by section 5 submitted 28,800 proposed changes to the Justice Department. The Department raised objections to only 526, or 1.8 percent of them.

The six Southern States and 39 counties in North Carolina covered by the original act submitted 10,612 changes during the same 5-year period. Some 386, or 3.6 percent, were objected to.

Virginia has made 2,913 submissions since the act took effect, to which only 14 objections were raised. That is less than one-half of 1 percent. Since 1975, there have been only two objections.

According to a congressional research service study, the rate of objections is declining. The study states, "The rate of objections to proposed election law changes submitted by southern jurisdictions was 45 percent less during the period 1975 through 1980 than during that of 1965 through 1974."

The act also provides that Federal examiners may be sent to covered areas to register voters. Between 1965 and 1974, the Justice Department sent examiners to 73 counties in the South, and they registered 170,000 voters.

Between 1975 and 1980, examiners registered only 655 persons in two counties. These figures hardly suggest a pervasive pattern of discrimination in the Southern jurisdictions.

No examiners have ever been sent to Virginia, evidently because there has been no need for them.

According to the CRS study:

> It appears that, apart from two counties, black citizens in the Southern States have not encountered significant difficulty in registering to vote during the past 5 years.

The report further states, "The Voting Rights Act effected the greatest increase in black registration during the first five years of its implementation."

In 1965, according to CRS, roughly 30 percent of the qualified blacks in the Southern States were registered to vote. In 1967, 52 percent were registered.

After noting the initial gains in registration, the report adds, "But black registration in these seven States as a whole has increased little if at all during the past 8 years despite the banning of literacy tests, Federal preclearance of election law changes, listing of qualified voters by Federal examiners, and supervision of eelctions by Federal observers."

The burden which section 5 imposes on the affected jurisdictions is considerable, and I understand the 60-day period the Department of Justice has to consider a preclearance request has frequently resulted in hampering, rather than enhancing, voter registration.

For example, the registrar in my hometown of Winchester, Va., tells me that she is frequently asked to provide a registrar for voter registration drives sponsored by civic groups.

The groups typically ask several weeks before the drive begins, thus running afoul of the 60-day requirement. She also said her ability to hold registration drives twice yearly at the local high school has been hampered by the need to furnish hours and dates 60 days beforehand. That leaves little room for flexibility when the inevitable scheduling conflicts arise.

Many registrars have told me that they receive more requests to extend registration hours and deadlines as elections draws near and public interest in them mounts.

However, the requests often come too late to meet the 60-day preclearance requirement. Thus the act frustrates, rather than advances, its stated goal.

In Winchester, it was also necessary for the registrar to obtain the attorney general's approval to move her office from the second floor to the basement of the same building, and of course, any change in office hours must be similiarly cleared here in Washington, D.C. under this so-called Voting Rights Act.

Another example involves the Friendship Fire Co. in Winchester, which built a new station and was no longer available as the polling place for Friendship precinct. Preclearance was required to change the precinct voting place to the nearby War Memorial Building.

All preclearance applications must first go to the local Commonwealth's attorney or prosecutor, thus adding to his or her workload.

It is a ridiculous situation, Mr. President.

Some years back in the city of Suffolk, Va., the city decided to stop renting a trailer to serve as a precinct voting place. City officials cited the cost and noted that there was a permanent voting place just a quarter mile away in the next precinct.

However, the Justice Department objected to the consolidation, saying it could make it more difficult for blacks in the trailer precinct to vote.

So the city electoral board, registrar, and attorney, armed with photographs, maps, and supporting documents, traveled to Washington to make their case for the quarter mile move.

The Justice Department relented and allowed the consolidation. Yet it is inconceivable to me that the Federal Government should take such an interest—a very suspicious interest—in a simple, commonsense precinct consolidation in Suffolk, Va.

In a more serious case in Richmond, Va., the act caused a 5-year delay in elections.

The city in 1969 annexed part of an adjoining county and the following year, a council election was held on an at-large basis, with both old and new residents voting. The next year, after the Supreme Court ruled in Perkins against Matthews that annexation was covered by the act, Richmond submitted its annexation to the Justice Department for approval.

The Department objected, and instructed the city to switch to a ward system, in which councilmen are elected from single-member districts.

Yet earlier that year, the courts and the Justice Department had approved a plan for election of five delegates to the State legislature on an at-large basis. In addition, a floater seat for Richmond and an adjoining county was approved.

The city reasoned that if the addition of new citizens was nondilutive in a State legislative election, the same would hold true of a councilmatic election.

The Justice Department would not budge, however, and it blocked an election scheduled for May 1972. The matter was in litigation for 5 years with no elections until it was settled in 1977.

I am certain that almost every community covered by the act can report similar incidents of bureaucratic interference.

Incidents like these are typical of the kind of problems that arise whenever the Federal Government intrudes in the business of States and localities. They illustrate why we must return to the States their proper sovereignty over local elections.

Those who are now clamoring for the extension of the Voting Rights Act hint darkly of dire consequences should it be allowed to die.

They claim the affected jurisdictions will adopt more "subtle" methods to deny the vote to members of minority groups.

Changes from district to at-large representation, gerrymandering and an-

nexation will be used, they charge, to dilute minority voting power and so deny them their constitutional right to vote.

Such allegations are as mistaken as they are insulting. Virginians, like people across the Nation, have been touched by the vast social changes of the last several decades. They are not, as some would have us believe, standing by, ready to march backward into the past the moment the act expires.

These charges are an affront to the registrars and electoral boards of Virginia communities who have worked diligently to engage citizens in the electoral process.

Should Virginia not be allowed to demonstrate that her commitment to the voting rights of all her citizens is equal to that of any State?

Regardless of whether the act is extended, State and local officials in Virginia will continue to encourage all citizens to participate in every aspect of public life.

Just as Virginia does not relegate any of her citizens to second-class status, there should be no State in America reduced to second-class status.

It is high time, then, that Congress remove the stigma of discrimination imposed on Virginia by the preclearance provisions of the act.

Mr. President, I detect a self-righteous attitude among some who would continue the act, a desire to punish certain States for supposed past sins.

This attitude is all the more repugnant when expressed by some whose own States are not covered by the act, despite their less-than-perfect record regarding discrimination.

Why have Virginia and a handful of other States been singled out for special treatment? In his memorandum, Mr. Troy suggests a reason. I quote:

> By restricting the special burdens of the Act just to a minority of its member states, the majority in Congress has isolated itself from political retribution and political responsibility for its actions.

The measure that would extend the act until 1992, S. 895, also proposes to amend section 2 of the original act. This provision, according to the bill's sponsors, would "clarify" the burden of proof in voting discrimination cases in light of the Supreme Court's ruling in City of Mobile against Bolden.

In an eminently sound decision, the Court held that an election law which has the effect of diluting the black vote violates the Constitution only if the law was enacted for the purpose of abridging black voting power.

Yet under section 5 of the act, the Federal Government, through administrative action, may object to an election law even if it was enacted without any intent to discriminate, but merely has the effect of limiting the voting power of a minority group.

Mr. President, I am convinced that those who support extension of the act have lost sight of its original purpose—to eliminate discrimination at the polling place.

I think the proposed amendment in S. 895 demonstrates that a new goal has been set—to achieve proportional representation on the basis of racial and ethnic groups.

Let us consider how this specious doctrine of proportional representation works. Imagine a city whose tax base has been eroding, whose inner core has been deteriorating and whose more affluent citizens have been fleeing to the suburbs.

For city officials, annexation would surely be a rational response to their plight. Yet, annexation could increase the white population and so have the effect of diluting black voting strength. Thus, the decision to annex—while based on sound economic judgment—could be construed as discriminatory under the act.

In my judgment, this is stretching the meaning of discrimination—and the concept of voting rights—past the breaking point.

The Constitution guarantees the right of citizens to vote, not the right to vote in a block.

Democracy in America is not based on the rights of groups, but on the rights of individuals.

In my view, those obsessed with visions of diluted minority voting power are being unduly pessimistic. Their argument ultimately rests on the false—and racist—premise that whites will not vote for qualified minority candidates.

The steadily rising number of minority officeholders in areas where whites are a majority suggests that is not the case.

Whether or not one agrees with the original premise upon which the act was based—that voting tests were an evil requiring, as the Supreme Court put it, "uncommon exercise of Congressional power" to justify short-term remedial action—the fact remains that the short term has passed.

The proposed extension would continue coverage of Virginia and other areas another 10 years, or a total of 27 years. That is more than a generation—hardly a short-term remedy.

Whether or not the original legislation was justified, the act surely has served its avowed purpose by now. The continuation of its so-called temporary sanctions cannot be justified.

As a simple matter of prudent Government, Federal oversight of State and local functions must not be allowed to continue.

The voting rights of all citizens can be protected without relying on law of dubious constitutionality. The courts are the proper recourse for anyone who feels his or her right to vote has been abridged.

In a recent opinion, Supreme Court Justice Lewis F. Powell argued that the preclearance provisions of the act violate the constitutional distinctions between State and Federal power.

He added:

> The right freely to vote must be safeguared vigilantly. If a State law denies or impairs this right, in violation of the Constitution or a valid federal law, the courts are the proper and traditional forum for redress.

The distinguished chairman of the Senate Judiciary Committee, Senator THURMOND, has stated that the preclearance requirement for the covered States would not end automatically if no extension is enacted.

Eliminating the act would give covered States the right to be freed of the preclearance requirement by demonstrating in court that no discriminatory test or device had been used since 1965.

I vigorously oppose the extension of the so-called Voting Rights Act and I urge my colleagues to do likewise.

It is an imposition on Virginia and a few other States that is unjust, unfair, and unreasonable and constitutes a dangerous centralization of power in the Federal Government.

Mr. President, I ask unanimous consent to have printed in the RECORD a number of documents dealing with the so-called Voting Rights Act.

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

[Appendix I]

SOUTH CAROLINA V. KATZENBACH

OPINION OF BLACK, J.

Mr. Justice Black, concurring and dissenting.

I agree with substantially all of the Court's opinion sustaining the power of Congress under § 2 of the Fifteenth Amendment to suspend state literacy tests and similar voting qualifications and to authorize the Attorney General to secure the appointment of federal examiners to register qualified voters in various sections of the country. Section 1 of the Fifteenth Amendment provides that "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." In addition to this unequivocal command to the States and the Federal Government that no citizen shall have his right to vote denied or abridged because of race or color, § 2 of the Amendment unmistakably gives Congress specific power to go further and pass appropriate legislation to protect this right to vote against any method of abridgment no matter how subtle. Compare my dissenting opinion in *Bell* v. *Maryland*, 378 U.S. 226, 318. I have no doubt whatever as to the power of Congress under § 2 to enact the provisions of the Voting Rights Act of 1965 dealing with the suspension of state voting tests that have been used as notorious means to deny and abridge voting rights on racial grounds. This same congressional power necessarily exists to authorize appointment of federal voting registrars. I also agree with the judgment of the Court upholding § 4(b) of the Act which sets out a formula for determining when and where the major remedial sections of the Act take effect. I reach this conclusion, however, for a somewhat different reason than that stated by the Court, which is that "the coverage formula is rational in both practice and theory." I do not base my conclusion on the fact that the formula is rational, for it is enough for me that Congress by creating this formula has merely exercised its hitherto unquestioned and undisputed power to decide when, where, and upon what conditions its laws shall go into effect. By stating in specific detail that the major remedial sections of the Act are to be applied in areas where certain conditions exist, and by granting the Attorney General and the Director of the Census unreviewable power to make the mechanical determina-

tion of which areas come within the formula of § 4(b), I believe that Congress has acted within its established power to set out preconditions upon which the Act is to go into effect. See, *e.g., Martin* v. *Mott,* 12 Wheat. 19; *United States* v. *Bush & Co.,* 310 U.S. 371; *Hirabayashi* v. *United States,* 320 U.S. 81.

Though, as I have said, I agree with most of the Court's conclusions, I dissent from its holding that every part of § 5 of the Act is constitutional. Section 4(a), to which § 5 is linked, suspends for five years all literacy tests and similar devices in those States coming within the formula of § 4(b). Section 5 goes on to provide that a State covered by § 4(b) can in no way amend its constitution or laws relating to voting without first trying to persuade the Attorney General of the United States or the Federal District Court for the District of Columbia that the new proposed laws do not have the purpose and will not have the effect of denying the right to vote to citizens on account of their race or color. I think this section is unconstitutional on at least two grounds.

(a) The Constitution gives federal courts jurisdiction over cases and controversies only. If it can be said that any case or controversy arises under this section which gives the District Court for the District of Columbia jurisdiction to approve or reject state laws or constitutional amendments, then the case or controversy must be between a State and the United States Government. But it is hard for me to believe that a justiciable controversy can arise in the constitutional sense from a desire by the United States Government or some of its officials to determine in advance what legislative provisions a State may enact or what constitutional amendments it may adopt. If this dispute between the Federal Government and the States amounts to a case or controversy it is a far cry from the traditional constitutional notion of a case or controversy as a dispute over the meaning of enforceable laws or the manner in which they are applied. And if by this section Congress has created a case or controversy, and I do not believe it has, then it seems to me that the most appropriate judicial forum for settling these important questions is this Court acting under its original Art. III, § 2, jurisdiction to try cases in which a State is a party.[1] At least a trial in this Court would treat the States with the dignity to which they should be entitled as constituent members of our Federal Union.

The form of words and the manipulation of presumptions used in § 5 to create the illusion of a case or controversy should not be allowed to cloud the effect of that section. By requiring a State to ask a federal court to approve the validity of a proposed law which has in no way become operative, Congress has asked the State to secure precisely the type of advisory opinion our Constitution forbids. As I have pointed out elsewhere, see my dissenting opinion in *Griswold* v. *Connecticut,* 381 U.S. 479, 507, n. 6, pp. 513–515, some of those drafting our Constitution wanted to give the federal courts the power to issue advisory opinions and propose new laws to the legislative body. These suggestions were rejected. We should likewise reject any attempt by Congress to flout constitutional limitations by authorizing federal courts to render advisory opinions when there is no case or controversy before them. Congress has ample power to protect the rights of citizens to vote without resorting to the unnecessary circuitous, indirect and unconstitutional route it has adopted in this section.

[1] If § 14(b) of the Act by stating that no court other than the District Court for the District of Columbia shall issue a judgment under § 5 is an attempt to limit the constitutionally created original jurisdiction of this Court, then I think that section is also unconstitutional.

(b) My second and more basic objection to § 5 is that Congress has here exercised its power under § 2 of the Fifteenth Amendment through the adoption of means that conflict with the most basic principles of the Constitution. As the Court says the limitations of the power granted under § 2 are the same as the limitations imposed on the exercise of any of the powers expressly granted Congress by the Constitution. The classic formulation of these constitutional limitations was stated by Chief Justice Marshall when he said in *McCulloch* v. *Maryland,* 4 Wheat. 316, 421, "Let the end be legitmate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, *which are not prohibited, but consist with the letter and spirit of the constitution,* are constitutional." (Emphasis added.) Section 5, by providing that some of the States cannot pass state laws or adopt state constitutional amendments without first being compelled to beg federal authorities to approve their policies, so distorts our constitutional structure of government as to render any distinction drawn in the Constitution between state and federal power almost meaningless. One of the most basic premises upon which our structure of government was founded was that the Federal Government was to have certain specific and limited powers and no others, and all other power was to be reserved either "to the States respectively, or to the people." Certainly if all the provisions of our Constitution which limit the power of the Federal Government and reserve other power to the States are to mean anything, they mean at least that the States have power to pass laws and amend their constitutions without first sending their officials hundreds of miles away to beg federal authorities to approve them.[2] Moreover, it seems to me that § 5 which gives federal officials power to veto state laws they do not like is in direct conflict with the clear command of our Constitution that "The United States shall guarantee to every State in this Union a Republican Form of Government." I cannot help but believe that the inevitable effect of any such law which forces any one of the States to entreat federal authorities in far-away places for approval of local laws before they can become effective is to create the impression that the State or States treated in this way are little more than conquered provinces. And if one law concerning voting can make the States plead for this approval by a distant federal court or the United States Attorney General, other laws on different subjects can force the States to seek the advance approval not only of the Attorney General but of the President himself or any other chosen members of his staff. It is inconceivable to me that such a radical degradation of state power was intended in any of the provisions of our Constitution or its Amendments. Of course I do not mean to cast any doubt whatever upon the indisputable power of the Federal Government to invalidate a state law once enacted and operative on the ground that it intrudes into the area of supreme federal power. But the Federal Government has heretofore always been content to exercise this power to protect federal supremacy by authorizing its agents to bring lawsuits against state officials once an operative state law has created an actual case and controversy. A federal law which assumes the power to compel the States to submit in advance any proposed legislation they have for approval by federal agents approaches dangerously near to wiping the States out as useful and effective units in the government of our country. I cannot agree to any constitutional interpretation that leads inevitably to such a result.

I see no reason to read into the Constitution meanings it did not have when it was adopted and which have not been put into it since. The proceedings of the original Constitutional Convention show beyond all doubt that the power to veto or negative state laws was denied Congress. On several occasions proposals were submitted to the convention to grant this power to Congress. These proposals were debated extensively and on every occasion when submitted for vote they were overwhelmingly rejected.[3] The refusal to give Congress this extraordinary power to veto state laws was based on the belief that if such power resided in Congress the States would be helpless to function as effective governments.[4] Since that time neither the Fifteenth Amendment nor any other Amendment to the Constitution has given the slightest indication of a purpose to grant Congress the power to veto state laws either by itself or its agents. Nor does any provision in the Constitution endow the federal courts with power to participate with state legislative bodies in determining what state policies shall be enacted into law. The judicial power to invalidate a law in a case or controversy after the law has become effective is a long way from the power to prevent a State from passing a law. I cannot agree with the Court that Congress—denied a power in itself to veto a state law—can delegate this same power to the Attorney General or the District Court for the District of Columbia. For the effect on the States is the same in both cases—they cannot pass their laws without sending their agents to the City of Washington to plead to federal officials for their advance approval.

In this and other prior Acts Congress has quite properly vested the Attorney General with extremely broad power to protect voting rights of citizens against discrimination on account of race or color. Section 5 viewed in this context is of very minor importance and in my judgment is likely to serve more as an irritant to the States than as an aid to the enforcement of the Act. I would hold § 5 invalid for the reasons stated above with full confidence that the Attorney General has ample power to give vigorous, expeditious

[2] The requirement that States come to Washington to have their laws judged is reminiscent of the deeply resented practices used by the English crown in dealing with the American colonies. One of the abuses complained of most bitterly was the King's practice of holding legislative and judicial proceedings in inconvenient and distant places. The signers of the Declaration of Independence protested that the King "has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public Records, for the sole purpose of fatiguing them into compliance with his measures," and they objected to the King's "transporting us beyond Seas to be tried for pretended offences." These abuses were fresh in the minds of the Framers of our Constitution and in part caused them to include in Art. 3, § 2, the provision that criminal trials "shall be held in the State where the said Crimes shall have been committed." Also included in the Sixth Amendment was the requirement that a defendant in a criminal prosecution be tried by a "jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law."

[3] See Debates in the Federal Convention of 1787 as reported by James Madison in Documents Illustrative of the Formation of the Union of the American States (1927), pp. 605, 789, 856.

[4] One speaker expressing what seemed to be the prevailing opinion of the delegates said of the proposal, "Will any State ever agree to be bound hand and foot in this manner. It is worse than making mere corporations of them. . . ." *Id.,* at 604.

and effective protection to the voting rights of all citizens.[5]

[Appendix II]

By ignoring Title IV of the Act in the *Green Case* and nullifying it in the *Swann Case*, the Supreme Court exhibited its determination to impose the personal notions of its members in respect to matters having racial implications upon the people of our country, anything in the Constitution and laws of the United States to the contrary notwithstanding.

This is undoubtedly a drastic assertion. Its truthfulness is fully corroborated, however, by these additional decisions of the Supreme Court:

a. *South Carolina v. Katzenbach*, (1966) 383 U.S. 301.

b. *Katzenbach v. Morgan*, (1966) 384 U.S. 641.

c. *Jones v. Alfred H. Mayer Co.*, (1968) 292 U.S. 409; *Sullivan v. Little Hunting Park, Inc.*, (1969) 396 U.S. 229; *District of Columbia v. Carter*, (1973) 409 U.S. 418 (dicta); and *Tillman v. Wheaton-Haven Recreation Association*, (1973) 410 U.S. 431.

d. *Johnson v. Railway Express Agency*, (1975) 421 U.S. 454; *Runyon v. McCrary*, (1976) 427 U.S. 160; *McDonald v. Santa Fe Trail Transportation Company*, (1976) 427 U.S. 160.

e. *United States Steel Workers of America v. Weber*, (1979) 443 U.S. 193.

These decisions have been hailed in some quarters as enlightened judicial achievements. It would be more consonant with truth to call them amazing judicial performances. In each of them the Supreme Court committed linguistic mayhem or judicial verbicide on words of the Constitution, or words of an Act of Congress, or on words of both to reach their amazing rulings.

The explanation of these rulings is to be found in a story which may be apocryphal. Representative Timothy J. Campbell, who had been sent to the House by Tammany, sought to persuade President Grover Cleveland to sign into law a pet bill which he had induced Congress to pass. The President demurred on the ground the bill was unconstitutional. Congressman Campbell responded to the President's objection with this rhetorical question: "What's the Constitution between friends?"

When all is said, the Supreme Court did constitutional evil in these rulings to achieve ends it deemed beneficial to blacks and the country. These decisions were not concerned with the assignment of students to state schools. For this reason, I hold my comments on them to a minimum.

To understand the drastic impact of two of them, *South Carolina v. Katzenbach*, and *Katzenbach v. Morgan*, upon constitutional government in America, it is necessary to understand what the Constitution decrees concerning the power to prescribe qualifications for voting.

The Power to prescribe qualifications for voting for state officers is reserved to the state by the Tenth Amendment. The power to prescribe qualifications for voting for federal officers is conferred upon the state and denied to Congress by these provisions of the Constitution: Article I Section II, Clause 1; Article II, Section I, Clause 2; and the Seventeenth Amendment.

The constitutionality of the highly praised, but completely devious, Voting Rights Act of 1965 was upheld in *South Carolina* v. *Katzenbach*. In reaching this astonishing decision, the Supreme Court was compelled to make and did make these rulings.

a. That the absolute prohibition of congressional bills of attainder embodied in Article I, Section IX, Clause 3, and the due process clause of the Fifth Amendment afford no protection to a State, or its officers, or its citizens in their corporate or collective capacity.

b. That the power of Congress to enforce by appropriate legislation the Fifteenth Amendment's prohibition of racial discrimination in voting confers upon that body the autocratic authority to suspend for at least 5 years the constitutionally guaranteed powers of politically selected Southern States to prescribe qualifications for voting for both state and federal officers.

c. That the constitutional doctrine of the equality of the states is a worthless shibboleth which is effective only at the precise moment of a State's admission to the Union, and does not prevent Congress from robbing a state thereafter of constitutional powers other states exercise and thus reducing it to the status of an inferior state.

d. That Article III, Section II, Clause 2, empowers Congress to close to the politically selected Southern States condemned by the bill of attainder violative of due process all federal courts in the land except the United States District Court for the District of Columbia, and to vest in that faraway court exclusive jurisdiction of all cases in which the condemned states seek relief from the autocratic provisions of the Act.

South Carolina v. *Katzenbach* is irreconcilable with *United States* v. *Lovett*, (1946) 328 U.S. 303, and Ex Parte Milligan, (1866) 4 Wall. (U.S.) 2, 120–121.

The *Lovett Case* rightly invalidated a congressional bill of attainder applying to federal executive officers suspected of subversive leanings. The *Milligan Case* rightly ruled that the Constitution is an unalterable law for rulers and people alike at all times and under all circumstances, and that no notion involving more pernicious consequences was ever invented by the wit of man than that any of its provisions can ever be suspended.

Consistency may be either a jewel or the hobgoblin of little minds and fools. But it is neither to Supreme Court Justices.

The Supreme Court adjudged in *Katzenbach* v. *Morgan* that the power vested in Congress by Section 5 of the Fourteenth Amendment to enforce the equal protection clause by appropriate legislation confers on Congress the contradictory power to nullify the equal protection clause. In that case, the Supreme Court made a ruling irreconcilable with the provisions of the Constitution governing the power to prescribe qualifications for voting, and its own sound interpretation of equal protection clause in *Lassiter* v. *Board of Education of Northampton County*, (1959) 360 U.S. 35. It declared that Section 5 of the Fourteenth Amendment empowered Congress to do these things:

a. To nullify a New York law which established a qualification for voting, namely, literacy in the English language, which was in harmony with the equal protection clause.

b. To substitute for the nullified New York law a federal qualification for voting, which Congress was forbidden to establish by all of the provisions of the Constitution governing the power to prescribe qualifications for voting.

The opinion which undertakes to rationalize this linguistic mayhem or judicial verbicide is intriguing, despite the disconsolation it gives to those who, like Chief Justice Marshall, believe the Supreme Court ought to interpret the Constitution to mean what it says.

It is simply this: When Congress exercises its power to legislate under Section 5 of the Fourteenth Amendment, the Supreme Court cannot inquire whether the congressional legislation offends the equal protection clause. It is limited to determining whether the legislation is calculated to prevent the state from violating the equal protection clause in the future.

Americans who cherish local government ought to pray that Congress will not carry the illogical ruling in *Katzenbach* v. *Morgan* to its logical conclusion. If it did, Congress would prevent all future violations of the equal protection clause by enacting legislation denying states the power to make, enforce, and interpret laws.

The Supreme Court ruled in *United States Steel Workers* v. *Weber* that an employer in an industry covered by Title VII of the Civil Rights Act of 1964 is authorized by it to discriminate in favor of black employees and against more senior white employees, notwithstanding Title VII expressly forbids all racial discrimination in all industries covered by the Title.

Jones v. *Alfred H. Mayer Company* may be described as the bellwether of the decisions cited in subdivisions 3 and 4. It was decided in 1968, and the other decisions merely follow its indefensible lead.

Undoubtedly the decision in the *Mayer Case* and the decisions which follow it have committed the most monstrous linguistic mayhem or judicial verbicide on the Constitution and Acts of Congress in the annals of America.

By these forbidden processes, the Supreme Court Justices have arrogated to Congress and themselves virtually unlimited power to punish every individual who refuses to make a contract with or to sell property to another individual anywhere in America if his refusal is motivated by racial discrimination or racial preference. In so doing, they reflect their purpose to eradicate by constitutional and legal perversions racial prejudice and racial preferences from the minds and hearts of Americans.

To confer their newly invented power on Congress and themselves, the Justices revamp the history and objectives of the Thirteenth Amendment and the Civil Rights Act of 1863 (42 U.S.C. Sections 1981, 1982); place upon that Amendment and that Act constructions totally repugnant to every word in them; and repudiate sound Supreme Court decisions of the past which span a period of 100 years and demonstrate the invalidity of the new construction.

It is worthy of note that some of the litigants argued for the same distorted construction of the Constitution in the Civil Rights Cases of 1883. The Supreme Court wisely rejected their argument by observing that these litigants were "running the slavery argument into the ground."

The Supreme Court further declared in those cases: "When a man has emerged from slavery, and by the aid of beneficent legislation has shaken off the inseparable concomitants of that state, there must be some stage in the progress of his elevation when he takes the rank of a mere citizen, and ceases to be the special favorite of the laws, and when his rights, as a citizen or a man, are to be protected in the ordinary modes by which other men's rights are protected." (109 U.S. 3, 27 L.Ed. 835, 844.)

One of America's most profound constitutional scholars, Charles Fairman, makes some cogent comments on the Mayer Case in his illuminating book "Reconstruction And Reunion 1864–88, Part I." This book is Volume VI of the *History of the Supreme Court of the United States*, which is being financed by the Oliver Wendell Holmes Devise.

Fairman states that in the Mayer Case, the Supreme Court "appears to have had no feeling for the truth of history" and "allowed itself to believe impossible things." (p. 1258)

To illustrate what "believing impossible things" is, Fairman invokes Chapter 5 of "Through the Looking Glass" by Lewis Car-

[5] Section 19 of the Act provides as follows: "If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby."

roll, the creator of Alice in Wonderland, and recounts the colloquy which occurs between Alice and the Queen after the Queen had been telling Alice how to remember "things that happened the week after next."

"I can't believe it," said Alice.

"Can't you?" the Queen said with a pitying tone. "Try again: draw a long breath, and shut your eyes."

Alice laughed. "There's no use trying," she said, "one can't believe impossible things."

"I daresay you haven't had much practice," said the Queen. (pp. 1298–1299, footnote 160.)

I cite and quote these observations of Fairman by the permission of The MacMillan Company, which holds the copyright of his book.

Disciples of linguistic mayhem or judicial verbicide glibly assert it proves that the Constitution is a living document. Not so. It proves that the Constitution is dead, and that Americans are being governed by the personal notions of Supreme Court Justices rather than by constitutional precepts.

Nobody denies the good intentions of the Justices. They undoubtedly believe their linguistic mayhems or judicial verbicides are superior to the handiwork of the Founding Fathers.

[Appendix III]

LEGAL MEMORANDUM BY ANTHONY TROY ON CONSTITUTIONALITY OF THE VOTING RIGHTS ACT

III. THE CASE FOR UNCONSTITUTIONALITY

A. Constitutional provision involved

Congress based its power to prescribe the federal controls in the Voting Rights Act on the second section of the fifteenth amendment. Section 1 of that amendment provides that: "[t]he right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude."

Section 2 adds: "Congress shall have power to enforce this article by appropriate legislation."

That second section must form the basis for any attack on the Voting Rights Act. The Supreme Court held in *South Carolina* v. *Katzenbach*, 383 U.S. 301 (1966), that a state does not itself have standing to challenge the Act under the Due Process Clause of the fifth amendment, the Bill of Attainder Clause of Article I, or the principle of Separation of Powers. Nor does a state have standing as the parent of its citizens to invoke those constitutional provisions against the federal government, 383 U.S. at 323–24. To the extent those provisions are relevant, the Court held they may be considered:

"only as additional aspects of the basic question presented by the case: Has Congress exercised its powers under the Fifteenth Amendment in an appropriate manner with relation to the states?"

383 U.S. at 324.[1]

B. General overview

The Supreme Court's reaction to Virginia's constitutional arguments will depend primarily on its perception of the intrusion imposed by section 5. In the view of Congress, Section 5 did no more than impose a slight administrative inconvenience on the states. *See 1975 House Hearings* at 760–62 (questions posed by Congressman Parker to Attorney General Miller and Deputy Attorney General Troy). So long as Congress viewed section 5 in that way—simply as a matter of administrative convenience—it was quite easy to extend the controls imposed by that section with very little consideration of the basis or the need for those controls.

If the Court views section 5 in much the same way as Congress, its reaction is likely to be the same. The Court traditionally defers to the legislature, unless it considers some fundamental principle to be involved.[2] Virginia must impress on the Court that section 5 of the Voting Rights Act does intrude on fundamental constitutional principles, and that close scrutiny of the legislative scheme is required.

C. Nature of the intrusion

Section 5 does involve far more than just questions of administrative conveniences. That section poses the most basic questions concerning the role intended for the States by the Constitution. The right of a state to govern itself in local matters without begging prior approval from federal administrative officials would seem to be one of the predicates of our system of representative government. Indeed, as Justice Black pointed out in *South Carolina* v. *Katzenbach*, the power of prior review over state legislation was one denied by the framers of the Constitution even to Congress:

"The proceedings of the original constitutional convention show beyond all doubt that the power to veto or negative state laws was denied Congress. On several occasions, proposals were submitted to the convention to grant this power to Congress. These proposals were debated extensively and on every occasion when submitted for vote they were overwhelmingly rejected." 383 U.S. at 360–61.

Yet, Congress—denied that power itself—in section 5 of the Voting Rights Act has delegated that same power to intrude into the state legislative process to others. Moreover, that intrusion occurs not in an area within the primary domain of Congress under the Constitution, such as commerce, but in an area where primary power traditionally and under the Constitution belongs to the States.

The Supreme Court has consistently recognized that primary power over voting—to determine the qualifications for electors and to set the procedures for elections—is granted by the Constitution of the States. For example, in *Carrington* v. *Rash*, the Court took care to note that:

"There can be no doubt . . . of the historic function of the States to establish, on a nondiscriminatory basis, and in accordance with the Constitution, . . . qualifications for the exercise of the franchise. Indeed, '[t]he States have long been held to have broad powers to determine the conditions under which the right of suffrage may be exercised.' . . . 'In other words, the privilege to vote in a State is within the jurisdiction of the State itself, to be exercised as the State may direct, and upon such terms as to it may seem proper, provided, of course, no discrimination is made between individuals in violation of the Federal Constitution.'" 380 U.S. 89, 91 (1965), quoting from *Lassiter* v. *Northampton Electon Bd.*, 360 U.S. 45, 50 (1959) and *Pope* v. *Williams*, 193 U.S. 621, 632 (1904).

The Court in recent years has emphasized the importance of the right to vote, and the inability of the States to restrict that right in a manner violating the specific prohibitions of the Constitution. Nonetheless, the Court has continually reaffirmed that primary power over voting rests with the States, not Congress. In *Oregon* v. *Mitchell*, 400 U.S. 112 (1970), the Court struck down the provision of the 1970 Amendments to the Voting Rights Act reducing the voting age to 18 in state elections. Congress power to enforce the Civil War Amendments by "appropriate" legislation, the Court found, did not grant Congress power to substitute its own judgment in the area of voter qualifications for that of the States. The power to fix voter qualifications at least in state and local elections is vested by the Constitution in the States:

"It is obvious that the whole Constitution reserves to the States the power to set voter qualifications in state and local elections, except to the limited extent that the people through constitutional amendment have specifically narrowed the powers of the States." 400 U.S. at 125, at 294.

Indeed, four Justices in that case (Harlan, Stewart, Berger, and Blackmun) believed that the constitutional power of the States to set voter qualifications extended to federal elections, and that Congress was without power to invalidate states laws establishing voter qualifications even in those elections.

D. Basis for upholding the section 5 controls in South Carolina v. Katzenbach

In upholding the constitutionality of the 1965 Voting Rights Act in *South Carolina* v. *Katzenbach*, the Court recognized that section 5 was an exceptional intrusion into state power. That section posed the only point of disagreement in the Court. Justice Black did not question the power of Congress, based on the extensive evidence of the actual manipulation of literacy tests, to ban those tests or to authorize the appointment of federal examiners. In his opinion, however, section 5 just went too far:

"Congress has here exercised its power under § 2 of the Fifteenth Amendment through the adoption of means that conflict with the most basic principles of the Constitution. . . . Section 5, by providing that some of the States cannot pass State laws or adopt state constitutional amendments without first being compelled to beg federal authorities to approve their policies, so distorts our constitutional structure of government as to render any distinction drawn in the Constitution between State and Federal power almost meaningless. . . . A federal law which assumes the power to compel the States to submit in advance any proposed legislation they have for approval by federal agents approaches dangerously near to wiping the States out as useful and effective units in the government of our country." 383 U.S. at 358, 360.

The majority did not disagree with Justice Black's characterization of section 5, or with his description of the potential impact of that section. It disagreed only with his conclusion that such a distortion of the federal system could never, under any circumstances, be justified. The Court upheld section 5, stating:

"This may have been an *uncommon* exercise of Congressional power, as South Carolina contends, but the Court has recognized that *exceptional conditions* can justify legislative measures *not otherwise appropriate*." 383 U.S. at 334 (emphasis added).

In short, section 5 controls, although not otherwise appropriate and constitutional, were justified only by exceptional conditions. The Court found those exceptional conditions in the evidence before Congress of "pervasive" and "flagrant" violations of the fifteenth amendment primarily through the "discriminatory application of voting tests." 383 U.S. at 311. That evidence demonstrated further that where such discriminatory application of tests had been found, judicial decrees often were not alone effective to prevent the evil from recurring:

"Even when favorable decisions have finally been obtained, some of the States affected have merely switched to discriminatory devices not covered by the federal decrees or have enacted difficult new tests. . . ." 383 U.S. at 314.

Section 5 was designed to prevent those states that had shown a bent for purposefully disenfranchising voters through the manipulation of voting tests from achieving the same result through other means after

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Footnotes at end of article.

the tests were suspended. The Court found this to be an appropriate response by Congress "under the compulsion of these unique circumstances." 383 U.S. at 335.

E. Explansion of section 5 since South Carolina v. Katzenbach

The nature and degree of federal intrusion imposed by section 5 has increased considerably since *South Carolina* v. *Katzenbach*. That section has now been interpreted to require federal approval for every change in voting rules or procedures, no matter how minor or beneficial. *Allen* v. *State Board of Elections*, 393 U.S. 544 (1968). Moreover, that section has been extended beyond changes in voting rules and procedures to require prior federal approval for any state legislative change that could even arguably have an impact on black voting power. *See Perkins* v. *Matthews*, 400 U.S. 379 (1971). The District Court for the District of Columbia has even held recently that a state is not free to implement a legislative change after receiving approval from the Attorney General. Even after that approval, the state can be forced by a private party into the long and expensive process of defending its law before the court in the District of Columbia. *Harper* v. *Levi*, —— F.2d —— (U.S. App. D.C., Nos 73–1766, 73–2035, July 24, 1975).

Perhaps most significant, it appears fairly clear now that even valid, constitutional state laws might not pass muster under section 5. Federal administrative and judicial officials under section 5 can review, condition, and even invalidate state laws which would not violate the strictures of the fourteenth or fifteenth amendments, and indeed which have been expressly held valid under those amendments. Compare *Holt* v. *City of Richmond*, 459 F.2d. 1093 (4th Cir. 1972), *cert. denied*, 408 U.S. 931 (1972), and *Chavis* v. *Whitcomb*, 403 U.S. 124 (1971), with *City of Richmond* v. *United States*, ———— U.S. ———— (June 24, 1975). The consequences of that power must be drawn in focus. We have indicated that the Supreme Court in *Oregon* v. *Mitchell* held that Congress itself does not have the power in attempting to enforce the fourteenth and fifteenth amendments to invalidate state laws setting voter ages. Under section 5 of the Voting Rights Act, however, federal officials delegated by Congress are now given the power to invalidate just such state laws—even though passed by the state after lengthy consideration free of any impermissible racial motive.

It might be argued with some force that Congress—itself denied the power to invalidate constitutional state voting laws—cannot under any circumstances delegate that same power to others.[3] Of course, this is neither an appropriate time nor the appropriate case to raise an unconstitutional delegation argument. The important point here is simply that section 5 is indeed an extraordinary intrusion into state power justified, if at all, only by "exceptional conditions."

F. Basis for imposing section 5 controls on Virginia

The "exceptional" conditions found by the Court in *South Carolina* v. *Katzenbach* to justfy imposition of section 5 controls simply did not exist in Virginia.[4] In its former action Virginia proved a total absence of any discriminatory application of its former literacy test. Without exception, that test—which was little more than a requirement that a prospective registrant sign his name and address—was applied in a completely fair and nondiscriminatory manner. That fact was never disputed by the Justice Department, and simply confirmed the conclusion previously reached by the U.S. Commission on Civil Rights in 1961 that blacks "encounter no significant racially motivated impediments to voting" in Virginia. In short, Virginia has proved that it was free from discrimination in its voting process once, and it is willing to do so again.

Virginia is subjected to intrusive federal control of its voting process not because of any manipulation of that process, but solely on the basis of past educational disparities. Disparities in such factors as pupil/teacher ratios, teachers' salaries and certifications, and value of school property, are presumed to have resulted in a significant, racially discriminatory abridgement of the franchise. Moreover, that presumption is irrebuttable. Virginia cannot even show that, in fact, an abridgement did not occur.[5] Educational disparities in themselves, and as a matter of law, are preclusive. Moreover, those educational disparities, which now form the basis for imposing section 5 voting controls on Virginia, did not take place in the 1960's or even the 1950's. Rather, it is sufficient under this new basis for section 5 controls that disparities existed at the first part of this century when a substantial portion of the electorate had gone to school.

G. Past educational disparities do not justify section 5 voting controls

The Voting Rights Act of 1965 was aimed at a specific and fundamental abuse—the discriminatory application of tests to bar blacks from voting. *See Hearings on H.R. 6400 before Subcom. No. 5 of the House Com. on the Judiciary*, 89th Cong., 1st Sess., Ser. 2 at 6–7, 16 (1965) ("1965 *House Hearings*") (testimony of Attorney General Katzenbach); *South Carolina* v. *Katzenbach*, 383 U.S. at 312, 331. The coverage formula in section 4(b) of the Act was carefully drawn to mark those areas where there was a significant danger that such discriminatory application of tests had occurred. *See 1965 House Hearings* 105: *South Carolina* v. *Katzenbach*, 383 U.S. at 329. And, "this was the evil for which the new remedies [of the Act] were specifically designed." 383 U.S. at 331.

Specifically, the Act imposed three special remedies on those areas where the discriminatory application of tests were presumed to have occurred: First, voting tests—the vehicle of discriminatory abuse—were prohibited. Second, in order to assure future fairness in the voting process, the Attorney General was authorized to appoint Federal Examiners. Third, because the Justice Department's experience showed that jurisdictions in which discriminatory administration of tests had been found often enacted new tests or similar devices to bar blacks from voting fo'lowing a federal court order, an additional control was considered necessary. Accordingly, under section 5 of the Act those states that were presumed to have applied their literacy tests in a consciously discriminatory fashion were prohibited from changing their voting qualifications without prior federal approval. Section 5, in short, was specifically designed to prevent those states that had manifested an intent to consciously manipulate their electoral process to bar blacks from voting from achieving the same results through other means after their tests were suspended. Absent that intent—absent any evidence of affirmative discrimination in the voting process—section 5 controls are not justified.

The court recognized in *South Carolina* v. *Katzenbach*, that section 5 controls—involving such a basic intrusion into the power granted to the States by the Constitution—require more than just some conceivable, rational basis to be sustained. Rather, the legislature must demonstrate compelling and "exceptional" conditions to justify those controls. Here not even a logical basis can be found, however. One might argue that a certain logic would exist if Congress, on the basis of evidence of past educational disparities, were to impose prior federal review of all state legislation with respect to education. No logic can be found, however, in imposing prior review of voting legislation on a state that has demonstrated a total absence of any prior abuses in that process, solely because of disparities in education occurring in the state during the first part of this century.

The plain fact is that section 5 review of voting changes was specifically designed to deal with conscious discrimination in voting, not with educational or other types of discrimination. Educational disparities—regrettable though they are and no matter how relevant they might be in determining whether to eliminate literacy tests in the future—are simply not the type of affirmative and exceptional discriminations in voting that justifies federal intrusion into the state voting process.

Moreover, Congress recognized that fact—at least with respect to states not already covered by the Act.

Several amendments were offered during the 1975 debates to extend the impact of section 5 controls beyond the already covered jurisdictions. Senators Talmadge, Nunn, and Stennis offered amendments that would have extended those controls to all the states. Senator Stone offered an amendment to impose those controls on any jurisdiction in which the Attorney General found the situation serious enough to warrant suit under section 3 of the Act. Senator Tunney, floor manager of the Bill that was finally enacted, strenuously opposed those amendments, and they were rejected.

Senator Tunney repeatedly emphasized that Congress could constitutionally impose section 5 controls only on the basis of compelling and exceptional conditions showing serious violations of voting rights:

"Mr. TUNNEY. . . . It is clear from the majority opinion in South Carolina against Katzenbach . . . that you have to have a serious violation of voting rights in order to impose a special remedy such as preclearance. . . . The Chief Justice wrote:

"The act suspends new voting regulations pending scrutiny by Federal authorities. . . . This may have been an uncommon exercise of congressional power, as South Carolina contends; but the court has recognized that exceptional conditions can justify legislative measures not otherwise appropriate."

"There is no indication that there are exceptional circumstances in other parts of the country so as to justify what is clearly an exception to the provisions of article I, section 4, of the Constitution." 121 Cong. Rec. 24142 (July 22, 1975).

Senator Tunney specifically rejected the suggestion that educational discrimination constituted the type of exceptional condition that would justify section 5 voting controls:

"Mr. TUNNEY. . . . The Supreme Court has made it very clear that to have an intervention like that by the Federal government in the state election process, there have to be exceptional circumstances. . . .

"*We are talking about voting discrimination here. We are not talking about educational discrimination or other forms of discrimination. We are talking about voting discrimination.*" 121 Cong. Rec. 24222 (July 23, 1975) (emphasis added).

Senator Tunney and others reaffirmed that point repeatedly in opposing the amendments to extend section 5 controls beyond the already covered states:

"Mr. TUNNEY. . . I would like to point out . . . that in Oregon versus Mitchell, the Supreme Court struck down the 18-year-old vote as unconstitutional as it related to State elections. Preclearance is a much greater intrusion into the State election process.

"Almost certainly, this amendment is unconstitutional under the Oregon case. Now, the constitutional precedents are very clear that the only way we can have this kind of

Footnotes at end of article.

intervention by the Federal Government in local elections is if we have a severe constitutional abridgement of another right, namely, the 15th amendment right to vote. . . .

"This has nothing to do with busing, this has nothing to do with economic discrimination of another kind in other parts of the country. There may be that discrimination, we all know it and none of us are hypocrites on that point. We know that on various matters.

"But voting rights have not been abridged the way they have in other regions of the country on the basis of race or on the basis of color." *Id.* at 24225–26 (emphasis added).

Senator Brooke also emphasized that section 5 controls did not relate to educational discrimination:

"Mr. BROOKE. . . . We are not talking about busing. We are talking about voting. . . .

". . . *we are not talking about busing, and we are not talking about school systems. We are talking about voting.* We are talking about the Voting Rights Act of 1965."

Mr. NUNN. If the Senator would read the court decisions, he would find that a device under this act, a part of the triggering mechanism, is defined as a dual school system.

Mr. BROOKE. That is specious, as the Senator from Georgia very well knows. *Id.* at 24226–27 (emphasis added).

That educational discrimination certainly existed in the areas not covered by the Act was admitted. As Senator Kennedy stated:

"There is discrimination in the North, as well as in the South. As the result of the finding of a judgment, the Federal district court in Boston, Mass., such discrimination was found in the public school system." *Id.* at 24229.

Senator Kennedy emphasized, however, that the controls in the Voting Rights Act could only be justified by discrimination of another type:

"The Constitution is quite clear in pointing out that determining the time, manner, and place of elections will be reserved for the several States. In reviewing those legal decisions which uphold the voting rights cases, it is quite clear that they stated that it was only with the obstruction of the basic and fundamental right to vote guaranteed by the 15th amendment, that the court has recognized the power of Congress to be able to initiate procedures or requirements that would strike down the various tests and devices and other voting procedures which have been used as means for discrimination." *Id.* at 24229.

Again as Senator Javits emphasized:

"The structure of the law depends for its constitutionality on the fact that there has been a history in given areas based upon the triggering device of patterns or practices of the denial of voting." *Id.* at S. 13395.

The view consistently stated above, that intrusive federal oversight of the state electoral process must be based on discrimination in that process, is correct. A State which is free of substantial discrimination in its electoral process cannot be subjected to section 5 controls because of past educational disparities—regrettable though they might be. And, that reasoning is certainly as applicable to States in the South, as in the North.[6]

H. The imposition of section 5 controls on Virginia is entirely arbitrary and inappropriate

As the statements quoted in the previous section indicate, Congress was well aware when it considered the 1975 Amendments, that educational inequality was not an exceptional circumstance confined just to the South. Indeed, Congress based its permanent ban on literacy tests primarily on the finding that educational inequalities were prevalent throughout the country. Whether defined in terms of unequal expenditures, segregated schooling, or unequal literacy rates, the problem of unequal educational opportunity is national in scope. Congress refused however, to impose section 5 controls on states in the North and West where that problem existed. That problem, it concluded, did not justify the far-reaching intrusion of federal control of the electoral process. It could not then, on the basis of that same condition, impose those controls on Virginia.

Jurisdictions are exempted from or subjected to section 5 controls in the first instance as a consequence of the mathematical coverage formula in section 4(b) of the Act. That formula "triggers" section 5 controls with respect to any state or political subdivision that maintained a "test or device" and in which less than 50 percent of the total voting age citizens—black and white—had either registered to vote or voted in the Presidential elections of 1964 or 1968.[7]

That formula has never been justified simply as a mathematical line drawn by Congress to determine when section 5 controls should apply. The Supreme Court in *South Carolina* v. *Katzenbach* refused to hold that Congress had the power to place the sanctions of the Act on some jurisdictions, but not on others, simply on the basis of mathematical disparities in voting statistics. Rather, the Court upheld that formula precisely because it had been carefully drawn to mark just those areas where there was a significant danger of voting discrimination through the discriminatory application of literacy tests—the precise evil the Act was designed to correct. Specifically, the Court found that Congress had been confronted with evidence of such purposeful voting discrimination in the great majority of the states falling under the formula, and was "therefore entitled to infer a significant danger of the evil in the few remaining states and political subdivisions covered by § 4(b) of the Act." 383 U.S. at 329.

It was not enough to the Court, however, just that the formula was rational. States still could not be subjected to the sanctions of the Act simply on the basis of a mathematical formula. The formula in effect established a presumption that literacy tests had actually been applied in a discriminatory manner. But the states falling within the formula must be given an opportunity to rebut that presumption. As to those states—such as Virginia—for which there was no evidence of such purposeful manipulation of literacy tests, the Court stated that it was nevertheless permissible to impose the remedies of the Act "at least in the absence of proof that they have been free of substantial voting discrimination in recent years." 383 U.S. at 329–30. Moreover, the Court made it clear that the procedures for relief from the Act were not intended to be a nullity, stating that the burdens imposed by these procedures were "quite bearable." 383 U.S. at 332.

The Court's reasoning in upholding the statutory formula in *South Carolina* v. *Katzenbach* demonstrates that, as now applied to Virginia, that formula is inappropriate.[8] Whatever logic the formula had to mark areas of actual voting discrimination, is not present with respect to educational discrimination.

As Congress has found, disparities in educational expenditures and in literacy rates, as well as segregated schooling, existed throughout the nation. If a distinction exists between the type of educational inequalities that occurred in those areas within the coverage formula that requires section 5 controls, and the type of inequalities that occurred in jurisdictions outside the formula that make those controls unnecessary, Congress has not suggested it. Nor can any such rational distinction be found.[9]

In short, the mathematical coverage formula in the Act was not intended to and does not mark out a distinct type of educational inequality particularly appropriate for section 5 controls. That formula was designed to indicate areas of flagrant and purposeful voting discrimination—the evil that the remedies of the Act were designed to strike—not areas of educational discrimination. With respect to educational inequalities the formula is simply an arbitrary mathematical line for treating the same problem differently in different jurisdictions.

As now applied, the coverage formula in section 4(b) of the Act is directly at odds with the Court's holding in *South Carolina* v. *Katzenbach*. The Court upheld the formula in that case not only because it marked those areas where the problem of voting discrimination was most likely to have occurred, but because it did not exempt other areas, known to Congress, where the same problem had also occurred.

South Carolina had attacked the formula for failing to trigger several states for which there was certain evidence of voting discrimination through means other than voting tests. Attorney General Katzenbach advised Congress that the racial discrimination in voting in those states, not involving the widespread use of the tests, did not require the extraordinary remedies of section 5 of the Act. Congress adopted that advice, and the Court upheld it:

"Congress had learned that widespread and persistent discrimination in voting during recent years has typically entailed the misuse of tests and devices, and this was the evil for which the new remedies were specifically designed. . . . Legislation need not deal with all phases of a problem in the same way, so long as the distinctions drawn have some basis in practical experience. . . . *There are no states or political subdivisions exempted from coverage under § 4(b) in which the record reveals recent racial discrimination involving tests and devices. This fact confirms the rationality of the formula.*" 383 U.S. at 331 (emphasis added).

The record before Congress in 1975 was quite different. To the extent that educational inequalities are considered "racial discrimination involving tests and devices", the record before Congress in 1975 revealed such discrimination in the great majority of state exempted from coverage under section 4(b). With respect to that discrimination, the coverage formula does not distinguish between distinct phases of the problem, but treats the same problem in different ways.

The Justice Department might contend that the language used by the Supreme Court to uphold the Act's coverage formula in *South Carolina* v. *Katzenbach*, was largely gratuitous and that, although not called upon to do so in that case, the Court could just as well have held that the 50 percent figure in the formula was itself an appropriate basis upon which to key section 5 controls. The Department might make two arguments to support that position.

First, the Department might argue that 50 percent voting participation is relevant to the problem of voting discrimination. Voting participation at least 12 percent below the national average does indicate a problem that Congress was empowered to address.

Second, the Department might argue that even if the formula is nothing more than a mathematical line for dealing with only a part of the same problem, Congress was authorized to draw that line. Congress might well have decided that national application of section 5 controls would impose too great an administrative burden upon the Justice Department.[10] Moreover, the remedies Congress did enact, the Department would argue, are not invalid merely because Congress

Footnotes at end of article.

might have gone further. *See McGowan* v. *Maryland*, 366 U.S. 20 (1961) (upholding a Maryland statute which exempted retailers in certain counties from the statewide prohibition of sales of certain articles on Sunday); *Salsburg* v. *Maryland*, 346 U.S. 545 (1954) (upholding Maryland law making illegally obtained search and seizure evidence admissible in only certain counties of the state); *Williamson* v. *Lee Optical Co.*, 348 U.S. 483 (1955) (refusing to invalidate an Oklahoma statute imposing certain requirements upon opticians but not upon sellers of ready-to-wear glasses); *Railway Express Agency, Inc.* v. *New York*, 336 U.S. 106 (1949) (upholding a New York City traffic regulation prohibiting advertising on trucks except for advertisements of products sold by the owner of the truck).

There are several answers to these arguments.

First, with respect to the argument that the 50 percent figure is itself relevant to voting discrimination:

1. Of all the figures that might have been chosen by Congress, the one contained in the formula is the least relevant to voting discrimination. That figure is not directed at the registration or voting participation of any particular race. Rather, a state is triggered by the Act if less than half of its *total* voting age citizens voted. In Virginia in 1964, far less than half of the white voting age citizens voted. 1965 *Senate Hearings*, at 1472; "What Happened To The South?", Release of the Southern Regional Council, Inc., at 11 (November 15, 1964). Virginia, in short, would have been triggered by the formula even if not a single black resided in the state.

2. Statistics showing the gap between black and white registration or voting might arguably be relevant. In that respect, however, Virginia stands up quite well compared to the rest of the nation. The registration rate of black citizens in Virginia was 10 percent lower than the rate among whites just prior to the enactment of the Act. 1975 House Hearings at 242–43 (Ex 17 & 18 to testimony of Assistant Attorney General Pottinger). But there was a differential of 11.5 percent in the nation as a whole in 1968, the year following passage of the Act. U.S. Bureau of the Census, Current Population Reports, Series P–20, No. 208 (1970). Moreover, the gap between black and white registration and voting rates in areas exempted from the Act's coverage was actually greater than that in the South. In 1972, there was a differential between black and white voting rates of 10.8 percent in the North and West, and of 9.2 percent in the South. In that same year the gap between black and white registration rates in the North and West was 7.9 percent, but only 5.8 percent in the South. U.S. Bureau of the Census, Voting and Registration in the Election of November 1972, Series p. 20, No. 253 (1973). In short, voting statistics, if they are by themselves relevant to trigger section 5 controls, indicate that the Act is being misapplied.

Second, with respect to the argument that Congress is empowered to remedy only those parts of a problem that, for reasons of scarce resources or for some other reason, it wishes to address:

1. The cases relied upon to support that argument could be distinguished on their facts. Justification could be found for the classification made by the legislature in each of those cases. Indeed, the Court in *South Carolina* v. *Katzenbach* cited the decisions in *Lee Optical* and *Railway Express* to support its conclusion that Congress, in enacting the Voting Rights Act to deal with the primary problem of discriminatory application of voting test, did not have to deal directly with discrimination not involving such tests. Distinguishing between states on the basis of whether or not they employed a literacy test is a far cry, however, from drawing a line between states, each of which employed a literacy test and engaged in educational "discrimination", solely on the basis of whether more than 50 percent of their total voting age population voted in a particular election. The second classification is nothing but mathematical.

2. More important, the several cases relied upon deal with the area of economic regulation. In that area the Court has traditionally, and quite properly, deferred to the legislative classification if any reason can even be conceived of that would justify it.[1] Such deference to the legislature is not appropriate here, however. Section 5, providing for prior federal review of state legislative action intrudes on the most fundamental rights granted the States by the Constitution. As the Court held in *South Carolina* v. *Katzenbach*, that intrusion must be justified by compelling and "exceptional" circumstances. Certainly, the convenience of the Justice Department is not sufficient. Indeed, the Court recently rejected administrative convenience as a justification where far less basic principles were involved.

In *Cleveland Board of Education* v. *Lafleur*, 42 U.S.L.W. 4186 (1974), the Court struck down School Board rules that required pregnant teachers to take maternity leave for a fixed period before and after delivery. Justice Stewart speaking for the majority, stated:

"The school boards have argued that the mandatory termination dates serve the interest of administrative convenience since there are many instances of teacher pregnancy, and the rules obviate the necessity for case-by-case determinations. Certainly, the boards have an interest in devising prompt and efficient procedures to achieve their legitimate objectives in this area. But as the Court stated in *Stanley* v. *Illinois* . . . '[T]*he Constitution recognizes higher values than speed and efficiency.*' " *Id.* at 4190–91 (emphasis added). *See also Vlandis* v. *Kline*, 412 U.S. 411 (1973); *Stanley* v. *Illinois*, 405 U.S. 645 (1972).

3. There is another reason, perhaps the most important, why close scrutiny of the legislative scheme is particularly necessary here. The danger of just such legislation as this was alluded to by Justice Jackson in his concurring opinion in *Railway Express:*

"The framers of the Constitution knew, and we should not forget today, that there is no more effective practical guaranty against arbitrary and unreasonable government than to require that the principles of law which officials would impose upon a minority must be imposed generally. Conversely, nothing opens the door to arbitrary action so effectively as to allow those officials to pick and choose only a few to whom they will apply legislation and *thus to escape the political retribution that might be visited upon them if larger numbers were affected.*" 336 U.S. at 112–13 (emphasis added).

It can be strongly argued that Justice Jackson's warning was never more directly in point. By restricting the special burdens of the Act just to a minority of its member states, the majority in Congress has isolated itself from political retribution and political responsibility for its actions. The classification Virginia complains of is not only arbitrary in itself, it is the vehicle by which arbitrary action is allowed to continue. Conversely, so long as the impact of the Act is arbitrarily restricted to just a minority of the states, Virginia has no effective voice in Congress to argue its case. It is precisely in this situation that careful review of the Congressional action is not only appropriate—it is necessary.

FOOTNOTES

[1] Although the Court defined the question strictly in terms of § 2 of the fifteenth amendment, it appears that the basic principles incorporated in the other constitutional provisions mentioned—including the principle of equal protection—would enter into the Court's determination of that question. The term "appropriate" in § 2 of the fifteenth amendment is certainly as broad as the "due process" language of the fifth amendment which, the Court has held, includes equal protection guarantees. *See Johnson* v. *Robinson*, 415 U.S. 361, 364–65, n. 4 (1974); *Shapiro* v. *Thompson*, 394 U.S. 618, 641–42 (1969); *Bolling* v. *Sharpe*, 347 U.S. 497 (1954). *See also Griswold* v. *Connecticut*, 381 U.S. 479 (1965), in which Justice Douglas indicated that constitutional provisions must be read together and that specific constitutional guarantees "have *penumbras*, formed by emanations from those guarantees that help give them life and substance." 381 U.S. at 484.

[2] Perhaps the strongest statements of judicial deference are found in the opinions testing legislative classification in the economic field under the Equal Protection Clause. The Court will sustain the classification if "any state of facts can be conceived of" that would support it—even though the legislature itself might not have considered those facts. *See, e.g., McGowan* v. *Maryland*, 366 U.S. 420, 426 (1961); *Madden* v. *Kentucky*, 309 U.S. 83, 88 (1940); *Lindsley* v. *Natural Carbonic Gas Co.*, 220 U.S. 61, 78–79 (1911). Under that standard the Court has upheld classifications which, at least on their face, appear blatantly discriminatory. *See Goesart* v. *Cleary*, 335 U.S. 464 (1948) (permissable to prohibit women from serving liquor, unless the barmaid's father owns the bar); *Knotch* v. *Board of Pilot Comm.*, 330 U.S. 552 (1947) (permissable to confine pilotage on the Mississippi River only to relatives of previous pilots).

On the other hand, where the Court considers the classification to involve fundamental principles, such as the right to vote or to travel, it is quite willing to substitute its own judgment for that of the legislature. In those cases the Court demands, and rarely finds, a "compelling interest" to sustain the classification. *See, e.g., Kramer* v. *Union Free School Dist.*, 395 U.S. 621 (1969); *Levy* v. *Louisiana*, 391 U.S. 68 (1968).

[3] The unconstitutional delegation argument might have some merit in an appropriate case. In *Katzenbach* v. *Morgan*, 384 U.S. 641 (1966), the Court held that Congress had the power under the enforcement clause of the fourteenth amendment to invalidate a specific state law with respect to voting which had not been, and probably would not have been, judicially held to violate the amendment. "That case," as Justice Stewart later said in *Oregon* v. *Mitchell*, "gave Congressional power . . . the furthest possible legitimate reach." 400 U.S. at 296. Even under the broad holding in *Morgan*, one might argue that if power to invalidate otherwise constitutional state law exists, it exists only in Congress and cannot be delegated to federal officials, whether executive or judicial. Indeed, as Professor Cox has pointed out, the justification for permitting Congress to "expand" the Constitution beyond the judicial interpretation is based precisely on the ability of Congress as a legislative body to assess and determine factual questions beyond the competency of the judiciary. A. Cox, *The Role of Congress in Constitutional Determinations*, 40 Cin. L. Rev. 199, 229 (1971).

[4] One might argue that even the same condition that justified the imposition of section 5 controls initially did not justify their

reimposition in 1975—that discriminatory manipulation of voting tests in 1965 at the latest does not justify continuous federal supervision of the state voting process through 1982. That argument is for others to raise, however. In Virginia, there was no manipulation.

[5] Thus, Virginia's proof in its former case that far less than one percent of those applying were denied registration on account of the test, and that black registration almost doubled over the relevant period, was to no avail. The District Court, while commending Virginia "for its good faith efforts in voter registration in the sixties," found that Virginia had not, *"and probably cannot,* rebut the evidence that many potential black voters stayed at home and never even tried to register out of the fear of rejection. . . ."

[6] One might argue on the basis of the above statements that Congress did not intend to impose section 5 controls on Virginia solely on the basis of educational disparities, and that Virginia's proper remedy is not an original action in the Supreme Court but a new action under section 4(a) of the Act raising that contention. Of course, Virginia would not object to a Supreme Court holding that educational disparities do not bar relief to a jurisdiction otherwise free of discrimination in the use of its literacy test—whether that holding is based on statutory interpretation or on the extent of Congress' power under the Constitution. It would be inefficient in the long run, however, to force Virginia to sue again under section 4(a) of the Act. Whether the Act applies solely on the basis of educational disparities must finally be settled by the Supreme Court in any case. Moreover, it would be difficult to contend, despite the statements quoted in the text, that Congress did not intend that Virginia should remain covered by the Act. Attorney General Miller's proposed amendment allowing Virginia an avenue of relief was rejected. The point is that in rejecting that amendment and intending Virginia to remain under the Act, as the debates make clear, Congress was acting irrationally and arbitrarily.

[7] Virginia was "triggered" under that formula because the Attorney General determined that it maintained a literacy test, and because less than half of its total voting age population voted in the 1964 Presidential election. Over 50 percent of Virginia's voting age citizens were registered in 1964, and more than half actually voted in the 1968 Presidential elections.

The 1975 Amendments also triggered section 5 controls with respect to jurisdictions with a significant language minority if less than half the voting age citizens voted in the 1972 Presidential election. See *supra,* p. 1, n.

[8] It must be emphasized that Virginia does not contend that the Act's coverage formula is no longer appropriate to mark those areas where there is a significant danger that purposeful discrimination in the voting process had occurred. As the Court pointed out, the evidence before Congress showed that the great majority of states falling within that formula actually had engaged in such purposeful discrimination. The possibility exists that the others might have as well. Virginia, however, did not. Section 5 controls are imposed on it solely because of past educational disparities.

[9] It must be emphasized that no such valid distinction can be found in the types of school segregation. *De jure* segregation occurred both in states within the formula and in many states outside the formula. Moreover, to the extent that segregation is important because of its presumed impact on the ability to meet a literacy test, no rational distinction can be made between *de jure* and *de facto* segregation. Segregation, no matter what the cause, it is argued, has a presumed discriminatory impact on the franchise.

[10] Senator Tunney's primary argument in opposition to the extension of section 5 controls to uncovered states was that those controls could not constitutionally be based on the type of discrimination—including educational discrimination—found in the uncovered states. He did argue, in addition, that extension of those controls to other states would unduly tax the administrative resources of the Department of Justice. 121 Cong. Rec. S13371 (daily ed. July 23, 1975).

[11] Even in the area of economic regulation, however, there is some limit on the Court's deference to the legislature. In *Morey* v. *Doud,* 354 U.S. 457 (1957), the Court invalidated an Illinois statute that exempted a specifically named company from regulations on the sale of money orders. *See also Dukes* v. *New Orleans,* 501 U.S. 706 (5th Cir. 1974); *Adams* v. *Park Ridge,* 293 F.2d 585 (7th Cir. 1961).

[APPENDIX IV]

NUMBER OF CHANGES SUBMITTED UNDER SEC. 5 AND REVIEWED BY THE DEPARTMENT OF JUSTICE, BY STATE AND YEAR, 1965 TO SEPT. 30, 1980

State	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	Total
Alabama	1	0	0	0	13	2	86	111	60	58	299	349	153	146	142	262	1,682
Alaska [1]	0	0	0	0	----	0	0	0	----	----	0	3	0	25	1	1	30
Arizona [2]	0	0	0	0	0	0	19	69	33	28	52	228	180	311	163	552	1,636
California [3]	----	----	----	----	----	0	0	6	1	5	0	382	99	105	8	57	663
Colorado [3]	----	----	----	----	----	----	----	----	----	----	0	12	4	34	147	31	228
Connecticut [4]	----	----	----	----	----	----	----	----	----	0	0	0	0	0	0	0	0
Florida [3]	----	----	----	----	----	----	----	----	----	----	1	57	8	46	28	22	162
Georgia	0	1	0	62	35	60	138	226	114	173	284	252	242	444	371	600	3,002
Hawaii [3]	0	0	0	0	0	0	0	0	0	0	0	6	0	0	0	3	9
Idaho [3]	0	0	----	----	----	0	0	0	0	0	0	0	0	0	0	1	1
Louisiana	0	0	0	0	2	3	71	136	283	137	255	303	460	254	336	313	2,553
Maine [4]	----	----	----	----	----	----	----	----	----	0	0	3	0	0	0	0	3
Massachusetts [4]	----	----	----	----	----	----	----	----	----	0	0	11	0	3	0	0	14
Michigan [4]	----	----	----	----	----	----	----	----	----	----	0	1	0	0	0	0	1
Mississippi	0	0	0	0	4	28	221	68	66	41	107	152	114	126	112	105	1,144
New Hampshire [4]	----	----	----	----	----	----	----	----	----	0	0	0	0	0	0	0	0
New Mexico [3]	----	----	----	----	----	----	----	----	----	----	0	65	----	----	----	----	65
New York [3]	----	----	----	----	----	0	4	----	----	84	78	106	96	72	27	24	491
Oklahoma [3]	----	----	----	----	----	----	----	----	----	----	0	1	0	0	----	----	1
North Carolina [3]	0	0	0	0	0	2	75	28	35	54	293	125	183	156	89	138	1,178
South Carolina	0	25	52	37	80	114	160	117	135	221	201	419	299	212	138	156	2,366
South Dakota	----	----	----	----	----	----	----	----	----	----	0	0	0	2	4	0	6
Texas	----	----	----	----	----	----	----	----	----	----	249	4,694	1,735	2,425	2,917	3,110	15,013
Virginia	0	0	0	11	0	46	344	181	123	186	259	301	434	314	267	447	2,913
Wyoming [3]	----	----	----	----	----	----	0	0	0	1	0	0	----	----	----	----	1
Total	1	26	52	110	134	255	1,118	942	850	988	2,078	7,470	4,007	4,675	4,750	5,822	33,278

[1] Entire State covered 1965–68; selected election districts covered 1970–72; since 1975 entire State covered.
[2] Selected county (counties) until 1975; entire State now covered.
[3] Selected county (counties) covered rather than entire State.
[4] Selected town (towns) covered rather than entire State.
---- Not covered for years indicated.

NUMBER OF CHANGES [1] TO WHICH OBJECTIONS HAVE BEEN INTERPOSED, BY STATE AND YEAR, 1965 TO SEPT. 30, 1980

State	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	Total
Alabama					10	1	3	9	1	6	16	16	1	3	1	2	69
Alaska																	0
Arizona									1		2	2				3	8
California												3	2				5
Colorado																	0
Connecticut																	0
Florida																	0
Georgia				6			12	18	15	22	84	12	34	8	5	10	226
Hawaii																	0
Idaho																	0
Louisiana					2		36	13	6	10	5	52	1	3		8	136
Maine																	0
Massachusetts																	0
Michigan																	0
Mississippi					4	1	20	4	7	2	16	7	8	2	3	3	77
New Hampshire																	0
New Mexico																	0
New York										4	1						5
Oklahoma																	0

NUMBER OF CHANGES[1] TO WHICH OBJECTIONS HAVE BEEN INTERPOSED, BY STATE AND YEAR, 1965 TO SEPT. 30, 1980

State	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	Total
North Carolina							10				8		37	3	1	3	62
South Carolina								7	7	30	1	11	8	7	5		76
South Dakota														1	1		2
Texas											1	48	13	22	26	15	125
Virginia						1	6	1		3	1				1		13
Wyoming																	0
Totals	0	0	0	6	16	3	87	52	37	77	135	151	104	49	43	44	804

[1] Some submissions include more than 1 change affecting voting. Thus, the number of changes to which objections have been interposed exceeds the number of submissions which have resulted in objections.

The PRESIDING OFFICER (Mr. STEVENS). The Senator from Wisconsin is recognized.

CBS—THE DEFENSE OF THE UNITED STATES

Mr. PROXMIRE. Mr. President, the five-part series by CBS on "The Defense of the United States" was one of the most remarkable educational programs ever aired on television. It condensed the wealth of complex issues facing this country into a summary with very little distortion or bias. By juxtaposing Government officials with nongovernmental experts, the viewer was presented with a range of facts and issues sufficiently broad to encompass all views.

Let me quote what Time magazine said about that program:

> The picture that will remain longest in most viewers' minds will doubtless be the simulation of a 15-megaton thermonuclear fireball devastating Omaha. The $87,000 worth of special effects lavished on that sequence conveyed as much vivid horror as any megabucks sci-fi movie. But it would be a pity if that memory distracted attention from other merits of the CBS News series "The Defense of the United States," which aired for an hour on each of five successive nights last week. Complex issues, like that of high-technology vs. simpler weapons, usually the preserve of scholarly tomes, were tackled head-on—and in prime time. The series was not only the longest and most expensive network documentary ever but perhaps the most thoughtful and incisive TV examination of the American military as well.

Perhaps the most significant contribution of this program was the resulting attitude that one can be a critic of defense programs without being labeled, as some are so quick to do, antidefense. In fact, the responsible critic is the Pentagon's best friend. Every dollar of tax funds lost in some wasteful defense program is not only an economic loss but a potential threat to the safety of our Nation.

It is a shame that more people do not understand that fundamental fact. To be critical of defense waste is not to be antidefense. Those who look the other way at waste in defense programs do our Nation no lasting good. We should be as diligent with our defense dollars as we are with education, health, or transportation—perhaps even more so since so much rides on the outcome.

That is why "The Defense of the United States" was so important. It pointed out the problems as well as the challenges. It did not deny the threats this Nation faces. It did not neglect to focus on Soviet programs and the realities of Soviet industrial production rates. If exposed those issues head on. Given Soviet dominance in numbers of weapons, should the United States continue to concentrate its resources in declining numbers of more sophisticated weapons? And what of the byproduct of this single-minded adherence to state-of-the-art technology? Those few aircraft that we can produce, with their astronomical prices, are grounded 50 percent of the time with costly repairs. Our aircraft carriers are not rated as operationally ready. Our Army divisions are not fully combat ready. Training is inadequate. Pay is inadequate. Overly complex weapons do not work on the battlefield. Hardware becomes an intellectual substitute for tactics and strategy.

I have branded this cycle—the high unit price/lower quantity purchase cycle—our own unique form of unilateral disarmament. We goldplate our aircraft and give them increasingly sophisticated equipment coupled with new missions. They get heavier with each new black box. Each new mission demands additional weight here and there. Each pound of weight adds to the cost and degrades the performance. As the cost goes up the annual purchase request goes down. Every time the annual purchase rate goes down, the unit price goes up due to economy of scale efficiencies.

The end result is fewer planes acquired in any given year than the number lost in accidents and due to attrition. The Air Force gets smaller. No less than two former high Pentagon officials have now stated that at the rate we are going, 1 day we will have one exotic plane in the inventory that will do everything but the pilots will have to take turns flying it.

That is unilateral disarmament as surely as if it were Government policy. And the Government encourages it by bailing out contractors who bid so low that they cannot produce on time or at the agreed-upon price. We cave in to the demands of shipbuilders who hold the Nation's defense ransom to their economic demands. We turn a blind eye to cost overruns because, after all, where else would we get the defense goods we need. Any civilian private corporation president who operated his company on such a basis would not last a year.

It is to the credit of CBS that "The Defense of the United States" has opened the door to a broad public debate on these conventional arms issues.

As Time magazine said:

> CBS was on target with its main point, however. While not opposing President Ronald Reagan's plan for a $1.3 trillion military buildup over the next five years, it emphasized that money alone will not ensure a strong defense, and called for a national debate on just what the dollars should be used to buy.

But the program did not stop there. It did not neglect to inform and educate the viewer on the realities of nuclear warfare. The opening program examined the effects of a 15-megaton nuclear warhead exploding over Omaha. The facts of nuclear warfare, when presented on paper as statistics, make for cold reading. But the visual effect of the simulated explosion provokes the mind into action. Is nuclear war winable? Is it survivable? Would the survivors envy the dead? How long would it take for a nation to reconstruct its industrial base—if ever?

There is a school of thought that deterrence needs to be reinforced from time to time. Otherwise the technicians gain control with their paper calculations as to how many and how much would survive a strike of a given size on a certain day with particular characteristics. And after this calculation is made, all the caveats, all the ifs, ands, and buts, are forgotten and it becomes policy. The assumptions are stated in public as if they were certain facts. "A first strike would knock out all of our ICBM's and not allow us a sufficient retaliatory capability."

"Only 10 million would die in a limited nuclear strike."

"A limited nuclear strike could be contained."

"Given enough protection, U.S. industry will survive a nuclear war."

Mr. President, you can hear these absolute statements ring throughout our society. Absolute statements about a subject where there are no absolute facts. Calculations where the assumptions, much like our budget process, are mere guesses as to what would happen. Yet, the conclusions carry the authority of fact.

This CBS program. "The Defense of the United States," brings us back to reality by reinforcing the perceptions of the dangers and risks of nuclear war and the need to remain strong enough so that no one will ever take that chance.

Mr. President, as much as I have lauded this program, I think it is only just that a few words of disappointment should be offered—much in the spirit of the series itself, which was so balanced.

The series did not provide much insight into the role of women in the All-Volunteer Force, and what was examined was shallow in its presentation.

Sure, some drill sergeants do not want women in their platoons. That is to be expected. But how about the significant accomplishments of women in uniform? Women fly some of our most advanced aircraft. They maintain our most sophisticated equipment. They are specialists in electronics, in intelligence, in tactics. The test should be—Who can do the job?—not sex or race. And that point simply was not made.

Another absent, yet critical defense issue was the role of the National Guard and Reserves. The best air force in the world may not be the Russians, or the Israelis, or the United States Air Force. What is it? It probably is the Air National Guard. Not many people realize that. These units are better trained, more experienced and better prepared than the regular Air Force. Overall the National Guard, particularly the Army National Guard, supplies 40 to 50 percent of the combat capability of the total force. To overlook that element is to forget about one-half of our Nation's defenses.

Overall Mr. President, "The Defense of the United States," deserves plaudits and commendation. It should be replayed so that those who missed it would have another opportunity, even though it did capture 30 percent of the audience in prime time.

I hope they have a rerun with that program. In fact, I hope they have reruns several times so that those who missed it will have another opportunity, even though it captured 30 percent of the audience in prime time.

Apropos of that, Time, the issue of June 29, 1981, observed:

CBS's message reached a surprising number of viewers. Heavily promoted, the first two programs in the series outdrew the movies and entertainment shows spotted against them, attracting 30 percent of the viewing audience. That is a virtually unheard-of performance for a documentary.

The $1 million in production costs and 9 months of time were well spent.

Mr. President, I ask unanimous consent that an article from Time magazine about the defense of the United States be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE TELLING OF THE PENTAGON—IN A 5-HOUR DOCUMENTARY, CBS INCISIVELY PROBES U.S. DEFENSE

The picture that will remain longest in most viewers' minds will doubtless be the simulation of a 15-megaton thermo-nuclear fireball devastating Omaha. The $87,000 worth of special effects lavished on that sequence conveyed as much vivid horror as any megabucks sci-fi movie. But it would be a pity if that memory distracted attention from other merits of the CBS News series The Defense of the United States, which aired for an hour on each of five successive nights last week. Complex issues, like that of high-technology vs. simpler weapons, usually the preserve of scholarly tomes, were tackled head-on—and in prime time. The series was not only the longest and most expensive network documentary ever but perhaps the most thoughtful and incisive TV examination of the American military as well.

Putting the documentary together cost roughly $1 million and took nine months; Executive Producer Howard Stringer at one point or another brought in some 80 CBS News people. Camera crews roamed from the Egyptian desert to Moscow; correspondents interviewed everyone from Secretary of Defense Caspar Weinberger to a raw recruit getting his flowing locks shorn into a G.I. cut (asked why he had joined the Army, he replied laconically, "Can't find no jobs"). Walter Cronkite, in his first reportorial appearance since retiring as anchorman of the CBS *Evening News*, journeyed to Moscow and brought back some Soviet TV footage never before seen in the U.S. One sequence depicted draftsmen, incongruously garbed in what looked like chefs' aprons and hats, drawing up what appeared to be missile blueprints (the Soviets refused to specify what was going on) while a piano boomed classical music in the background.

Visually, the series was nearly always interesting, from its pictures of U.S. officeworkers wearing gas masks and rubber gloves while pecking away at typewriters during a chemical-warfare exercise to a shot of a live American MIRV (three nuclear warheads mounted on the nose of a Minuteman III missile). Understated ironies abounded. A fresh-faced American missileman exclaimed with Boy Scout enthusiasm that his task of getting ready to launch a Minuteman at a Soviet target gave him "more responsibility than I could obtain in a civilian world." Commenting on film showing a C–5A cargo plane losing a wheel during a landing, a Lockheed official remarked. "With respect to the wheel coming off, I don't like that."

Most striking was the consistent intelligence of the commentary by six on-camera reporters headed by Dan Rather. After the series opened with a bang over Omaha, illustrating the horrors of even a "limited" use of strategic nuclear weapons, Part 2 examined U.S. and Soviet preparation for tactical nuclear war in Europe and questioned whether the resulting devastation would allow the word victory to retain any meaning. The third segment explored manpower and readiness issues, ranging from the low retention rate of Navy petty officers to the reinstitution of the draft (favored by many training officers although opposed by the Administration); it also made a plea for increased spending on spare parts and realistic training to enhance the flashy weapons. The fourth followed the metamorphosis of the Navy's F–18A Hornet from a $5 million fighter into a $30 million, all-purpose plane and questioned whether the military would not be better off with less complex, more reliable weapons that could be turned out faster in much larger quantities. In the last hour, Cronkite tried to tot up the strengths and weaknesses of the U.S.S.R.

There were some disappointments. CBS could not get interviews with any of the U.S. Joint Chiefs of Staff, and former President Jimmy Carter canceled an appointment after a camera crew had arrived in Plains, Ga. "The reason given," says Stringer, "was that his advisers decided this was an 'inappropriate forum.'" Cronkite found the Soviets so uninformative that he was reduced to interviewing Alexander Bovin, a journalist who is said to be a speechwriter for Leonid Brezhnev, and exploring Moscow's motives by taping a long bull session with Western correspondents.

Inevitably, given the difficulties of jamming such complicated issues into five hours, the series had some regrettable omissions and some too-sweeping conclusions. CBS did not examine the possibility of fighting a European war without nuclear weapons or whether the 11.7% military pay boost last fall and another big one scheduled for Oct. 1 have eased manpower problems. Correspondent Ed Bradley criticized plans to spend $17 billion in 1982 on the four-service Rapid Deployment Force "when all they needed to do was send in the Marines." Matters are not quite that simple: Marine units are indeed organized and trained for quick assaults, but Army units that might be assigned to the R.D.F. would have more staying power for a long campaign because of their heavy equipment.

CBS was on target with its main point, however. While not opposing President Ronald Reagan's plan for a $1.3 trillion military buildup over the next five years, it emphasized that money alone will not ensure a strong defense, and called for a national debate on just what the dollars should be used to buy. The Pentagon huffed that "the series turned out to be an editorial rather than a documentary." Even so, Pentagon Spokesman Henry Catto Jr. applauded CBS "for its seriousness of purpose."

CBS's message reached a surprising number of viewers. Heavily promoted, the first two programs in the series outdrew the movies and entertainment shows spotted against them, attracting 30% of the viewing audience. That is a virtually unheard-of performance for a documentary. In this case, effort, quality and thought did more than draw critical plaudits; they produced something that would sell.

Mr. PROXMIRE. I do think this fine program has raised the level of dialog on defense, and probably has done as much to improve our defense as any action that has been taken in a long, long time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

RECESS UNTIL 8 A.M. TOMORROW

Mr. SYMMS. Mr. President, I move, in accordance with the previous order, that the Senate stand in recess until 8 a.m. tomorrow.

The motion was agreed to; and the Senate, at 6:31 p.m. recessed until Wednesday, June 24, 1981, at 8 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, June 23, 1981*

The House met at 12 o'clock noon.

The Reverend Paul Baresel, United Methodist Church of Pine Bush, Pine Bush, N.Y., offered the following prayer:

Almighty God, whom we each worship by many expressions. This body gathers from many backgrounds and experiences. Though in many ways it is a house of diversity, it is one house. It is a house of many interests, dreams, and goals. We pause in this moment of prayer to ask Your blessing upon all who meet here and all who share the responsibilities of its duties.

May Your grace and strength touch every mind and heart that all interests and differences will be expressed with openness and honesty. That these differences will become strengths by being points of sharing, which ultimately become ways of respecting and unifying all; to ways of upholding the dignity of all people, upholding justice without compromise, and a call for peace which is the basis of freedom and human respect of all people.

Grant, O God, that we may never waste this opportunity which is precariously given. May we never lose sight of the responsibility which is ours, and may we set our minds and all effort to the unfinished business of freedom and human dignity, in our Nation and the world. Amen.

THE JOURNAL

The SPEAKER. The Chair examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1193. An act to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes.

THE REVEREND PAUL BARESEL

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, today I have the distinct pleasure of introducing to my colleagues in the House Rev. Paul Baresel of the United Methodist Churches of Pine Bush and Walker Valley, N.Y. Reverend Baresel has come from our 26th Congressional District in New York State to give the opening prayer to the House today.

It has been my pleasure to work with Reverend Baresel in the 9 years that he has led the Methodist Church in Pine Bush-Walker Valley. Reverend Baresel has been an inspiring force behind many of the counseling and health facilities and narcotics rehabilitation programs that have been brought to this rural section of the State. Reverend Baresel's outstanding work in drug rehabilitation, his voluntary work in the ambulance corps, in which he was an active volunteer, is well known throughout our region, and his realistic approach to the problems of his parishioners has endeared him to the entire community and to our entire southeastern New York region.

Reverend Baresel's religious training was off to a late start—as a representative of the telephone company in the United Nations, Reverend Baresel came under the influence of the esteemed Dag Hammarskjold and decided to pursue a life of ministry. Since then he has enriched the lives of all those with whom he comes in contact.

I am deeply honored and very pleased to introduce to my colleagues Rev. Paul Baresel.

LEGISLATION INTRODUCED TO ELIMINATE TOBACCO PRICE SUPPORT PROGRAM

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, today I have introduced a bill to eliminate the tobacco price support program.

This bill would eliminate the very restrictive tobacco allotment system and repeal the tobacco loan program.

This legislation would do several things. It would get the Government out of the tobacco business, help tobacco farmers by lowering the cost of production, generate an extra $700 million in Government revenue each year, save the Government $100 million in subsidized loans, and reduce regulation and bureaucracy.

At the same time, this bill would not affect the price of a pack of cigarettes.

The Tobacco Deregulation Act of 1981 would solve many of the problems of the tobacco industry, encourage competition, and help to balance the Federal budget.

REQUEST TO CONSIDER H.R. 3990, FOOD STAMP ACT AMENDMENTS OF 1981

Mr. DE LA GARZA. Mr. Speaker, I call up the bill (H.R. 3990) to amend the Food Stamp Act of 1977 to increase the authorization for appropriations for fiscal year 1981, and to amend Public Law 93-233 to continue, through September 30, 1981, the cash-out of food stamp program benefits of certain recipients of supplemental security income, and ask unanimous consent that the bill be considered in the House.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. CARNEY. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

COMPENSATION OF LOCALITIES FOR TAX-EXEMPT FEDERAL PROPERTIES

(Mr. ROBERT W. DANIEL, JR., asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, I am cosponsoring legislation, known as the National Payments in Lieu of Taxes Act of 1981, which would provide equitable treatment to localities that have a large Federal presence.

This bill, introduced by my distinguished colleague from Virginia, G. WILLIAM WHITEHURST, would allow localities to identify all eligible Federal properties and assess them at the same tax rate as other properties within the jurisdiction.

The value of the Federal Government's holdings has been estimated at almost $280 billion, making it the single largest landlord in the United States. Over half of this value is in buildings, with the other half divided between structures and facilities, and land.

Currently, a locality receives a full real estate tax payment if Federal employees or any federally related commission, board or agency is located in a leased building. If the workplace is federally owned, however, the local government receives nothing, even though local services, such as police, fire, and sanitation, are still provided.

While military and other Federal installations contribute significantly to local economies by providing employment opportunities for community residents, tax-exempt Federal proper-

ty also causes local governments to lose a substantial portion of their tax base. A Federal payment in place of taxes would assure equitable treatment of both leased and federally owned workplaces.

After all, Federal installations, particularly military bases, are intended for the welfare of the entire Nation. It is unfair to ask local governments with Federal property to bear more than a fair share of the cost.

There currently are at least 57 ad hoc programs of payment in lieu of taxes in existence. But piecemeal application of these programs is unfair because some local governments receive payments to make up for lost revenues, while other governments do not.

A comparison of the private Newport News Shipyard with the Government-run shipyard in Portsmouth illustrates the need for a National Payments in Lieu of Taxes Act. Newport News receives revenues from property taxes paid by the privately owned Newport News Shipbuilding and Drydock Co. The city of Portsmouth, however, receives no compensation for the loss of property tax revenues for the federally owned Norfolk Naval Shipyard, despite the fact that both facilities perform virtually the same function.

The National Payments in Lieu of Taxes Act of 1981 has been suggested as one answer to the possible cuts in the Nation's impact aid program. The program, established in 1950, was designed, in part, to compensate localities with a Federal presence for the tax base loss.

Property taxes are the local schools' largest single source of income, helping to pay for such things as teachers' salaries, classroom teaching aids, and programs after school.

This proposed legislation will fairly compensate local governments deprived of local tax revenue because of an installation which serves the entire Nation.

SUPREME COURT APPOINTMENT

(Mrs. HECKLER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. HECKLER. Mr. Speaker, the announcement last week of Supreme Court Justice Potter Stewart's retirement marked the conclusion of a distinguished judicial career. It also presents the President with a unique opportunity to demonstrate this administration's commitment to American women.

The appointment of a woman to serve on the Supreme Court would be more than an act of mere symbolism—it would add a vital new perspective to the Court, better enabling it to make decisions that affect every one of this Nation's citizens.

Such an appointment would be long overdue. Since 1789, 101 men have served on the Supreme Court—from John Jay to John Paul Stevens—brilliant jurists all, but not one woman among their number.

Last summer, at the national convention that nominated President Reagan, I first recommended to him that he nominate a woman to the Supreme Court if he were to assume the Presidency. I, along with millions of other Americans, were heartened by his acceptance of the need to make such an appointment, which is stated repeatedly during the campaign.

Now the President has been presented with the first opportunity to make such an appointment. Last Friday I urged him, in a telegram, to seize this moment to fulfill his campaign pledge—to nominate a woman to take Justice Stewart's place on the Court—not as an act of symbolism, but as an act of sound policy that would strengthen the Court, strengthen our system of justice, and strengthen our society.

The moment is due to a woman on the Court; and there are now more than 700 women judges, and tens of thousands of women attorneys, across the Nation.

To fail now to appoint a woman to the Court is to imply that none of these women meet the high standards of the Court; that among those judges and attorneys can be found none of the great legal minds of our Nation; and that the disposition of some of the most crucial issues of the day should be assigned to a group that lacks the perspective and insights of one-half of our citizenry.

I do not believe the Supreme Court should remain an institution "for men only"—not when there are many superbly qualified women across the country, willing and able to continue the great traditions of John Marshall, Louis Brandeis, and Oliver Wendell Holmes.

I believe the time has come to see a woman on the Highest Court—and I urge all my colleagues in this House to join me in urging the President to make that vision a reality.

NASA AUTHORIZATIONS FOR FISCAL YEAR 1982

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 161 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 161

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1257) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 1257, it shall be in order to take from the Speaker's table the bill S. 1098, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 1257 as passed by the House.

The SPEAKER. The gentleman from Texas (Mr. FROST) is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Missouri (Mr. TAYLOR), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 161 is an open rule providing for the consideration of H.R. 1257, the fiscal year 1982 NASA authorization. The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology.

The rule provides for no waivers of points of order against the bill but does provide that after passage of H.R. 1257 it shall be in order to take from the Speaker's table S. 1098 and that it shall then be in order to strike out all after the enacting clause of the Senate bill and to insert in lieu thereof the text of H.R. 1257 as passed by the House.

Mr. Speaker, H.R. 1257 authorizes $6.133 billion for the National Aeronautics and Space Administration activities in fiscal year 1982. Of the total amount authorized, $2.23 billion is earmarked for the Space Shuttle program, the largest ongoing program under the auspices of NASA. In addition, the authorization funds space science, exploration, and astronautics programs which are part of the NASA mission.

Mr. Speaker, this is a simple open rule and I would urge my colleagues to adopt it so that we may proceed to the consideration of H.R. 1257.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, House Resolution 161 is an open rule providing 1 hour of general debate for the consideration of

the National Aeronautics and Space Administration authorization bill for 1982.

This is a simple, straightforward open rule with no waivers on points of order and no restrictions on amendments.

Under the rule, H.R. 1257 will be read for amendment under the 5-minute rule, and one motion to recommit is provided for. After the passage of the bill, it shall be in order to take from the Speaker's table the Senate companion bill, S. 1098, and to consider that bill in the House with a motion to insert the provisions of H.R. 1257 as passed by the House.

H.R. 1257 authorizes $6.133 billion for a dozen specific NASA activities for the next fiscal year, for construction of facilities, and for research and program management.

Mr. Speaker, of the total amount authorized in the bill, $4.915 billion is for research and development; $1.114 billion is for research and program management; and $104 million is for construction of facilities.

The authorization level contained in the bill is $11.1 million above the President's request for fiscal year 1982, despite the fact that it fails to authorize necessary funding to maintain scheduled progress in the Space Shuttle launch commitments.

Since this is an open rule, allowing any germane amendments to be offered, there is no controversy over the adoption of the resolution.

Mr. Speaker, less than 3 months ago America and the world watched in awe as the Space Shuttle *Columbia* made its maiden voyage. From its thunderous launch to its gentle touchdown 54 hours later, *Columbia*'s historic flight was a triumph of American science and technology.

America's leadership in space is due in large part to the efforts of our colleagues on the Committee on Science and Technology, through comprehensive authorization legislation such as the bill we are about to consider.

I support this rule so the House may proceed to consider the bill.

□ 1215

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 399, nays 0, answered "present" 1, not voting 31, as follows:

[Roll No. 92]

YEAS—399

Addabbo	Daub	Hansen (ID)
Akaka	Davis	Hansen (UT)
Albosta	de la Garza	Harkin
Alexander	Deckard	Hartnett
Anderson	Dellums	Hatcher
Andrews	Derrick	Hawkins
Annunzio	Derwinski	Heckler
Anthony	Dickinson	Hefner
Applegate	Dicks	Heftel
Archer	Dingell	Hendon
Ashbrook	Dixon	Hertel
Aspin	Dorgan	Hightower
Atkinson	Dornan	Hiler
AuCoin	Dougherty	Holland
Badham	Downey	Hollenbeck
Bafalis	Dreier	Holt
Bailey (MO)	Duncan	Hopkins
Bailey (PA)	Dunn	Horton
Barnard	Dwyer	Howard
Barnes	Dymally	Hoyer
Beard	Dyson	Hubbard
Bedell	Early	Huckaby
Beilenson	Eckart	Hughes
Benedict	Edgar	Hunter
Benjamin	Edwards (AL)	Hutto
Bennett	Edwards (CA)	Hyde
Bereuter	Edwards (OK)	Ireland
Bethune	Emerson	Jacobs
Bevill	Emery	Jeffords
Biaggi	English	Jeffries
Bingham	Erdahl	Johnston
Blanchard	Erlenborn	Jones (OK)
Bliley	Ertel	Jones (TN)
Boggs	Evans (DE)	Kastenmeier
Boland	Evans (GA)	Kazen
Boner	Evans (IA)	Kemp
Bonior	Evans (IN)	Kildee
Bonker	Fascell	Kindness
Bouquard	Fazio	Kogovsek
Bowen	Fenwick	Kramer
Brinkley	Ferraro	LaFalce
Brodhead	Fiedler	Lagomarsino
Brooks	Fields	Lantos
Broomfield	Findley	Latta
Brown (CA)	Fithian	Leach
Brown (CO)	Flippo	Leath
Brown (OH)	Florio	LeBoutillier
Broyhill	Foley	Lee
Burgener	Ford (TN)	Lehman
Burton, John	Forsythe	Lent
Burton, Phillip	Fountain	Levitas
Butler	Fowler	Lewis
Byron	Frank	Livingston
Campbell	Frenzel	Loeffler
Carman	Frost	Long (LA)
Carney	Fuqua	Long (MD)
Chappell	Gaydos	Lott
Chappie	Gejdenson	Lowery
Cheney	Gephardt	Lowry
Chisholm	Gibbons	Luken
Clausen	Gilman	Lundine
Clay	Gingrich	Lungren
Clinger	Glickman	Madigan
Coats	Goldwater	Markey
Coelho	Gonzalez	Marks
Coleman	Goodling	Marlenee
Collins (IL)	Gore	Marriott
Collins (TX)	Gradison	Martin (IL)
Conable	Gramm	Martin (NC)
Conte	Gray	Martin (NY)
Corcoran	Green	Matsui
Coughlin	Gregg	Mattox
Courter	Grisham	Mavroules
Coyne, James	Guarini	Mazzoli
Coyne, William	Gunderson	McClory
Craig	Hagedorn	McCloskey
Crane, Daniel	Hall (OH)	McCollum
D'Amours	Hall, Ralph	McCurdy
Daniel, Dan	Hall, Sam	McDade
Daniel, R. W.	Hamilton	McEwen
Dannemeyer	Hammerschmidt	McGrath
Daschle	Hance	McHugh
Mica	Reuss	Stark
Michel	Rhodes	Staton
Mikulski	Richmond	Stenholm
Miller (CA)	Rinaldo	Stokes
Miller (OH)	Ritter	Stratton
Mineta	Roberts (KS)	Studds
Minish	Roberts (SD)	Stump
Mitchell (NY)	Robinson	Swift
Moakley	Rodino	Synar
Molinari	Roe	Tauke
Mollohan	Roemer	Tauzin
Montgomery	Rogers	Taylor
Moore	Rose	Thomas
Moorhead	Rosenthal	Traxler
Morrison	Rostenkowski	Trible
Mottl	Roth	Udall
Murphy	Roukema	Vander Jagt
Murtha	Rousselot	Vento
Myers	Roybal	Volkmer
Napier	Rudd	Walgren
Natcher	Russo	Walker
Neal	Sabo	Wampler
Nelligan	Santini	Washington
Nelson	Schneider	Watkins
Nichols	Schroeder	Waxman
Nowak	Schulze	Weaver
O'Brien	Seiberling	Weber (MN)
Oakar	Sensenbrenner	Weber (OH)
Oberstar	Shamansky	Weiss
Obey	Shannon	White
Panetta	Sharp	Whitehurst
Parris	Shaw	Whitley
Pashayan	Shelby	Whittaker
Patman	Shumway	Whitten
Patterson	Shuster	Williams (MT)
Paul	Siljander	Williams (OH)
Pease	Simon	Winn
Pepper	Skeen	Wirth
Perkins	Skelton	Wolf
Petri	Smith (AL)	Wolpe
Peyser	Smith (IA)	Wortley
Pickle	Smith (NE)	Wright
Porter	Smith (NJ)	Wyden
Price	Smith (OR)	Wylie
Pritchard	Snowe	Yates
Pursell	Snyder	Yatron
Quillen	Solomon	Young (AK)
Rahall	Spence	Young (FL)
Rangel	St Germain	Young (MO)
Ratchford	Stangeland	Zablocki
Regula	Stanton	Zeferetti

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—31

Bolling	Foglietta	Mitchell (MD)
Breaux	Ford (MI)	Moffett
Conyers	Garcia	Railsback
Cotter	Ginn	Savage
Crane, Philip	Hillis	Sawyer
Crockett	Jenkins	Scheuer
Danielson	Jones (NC)	Schumer
DeNardis	Leland	Solarz
Donnelly	Lujan	Wilson
Fary	McDonald	
Fish	McKinney	

□ 1230

The Clerk announced the following pairs:

Mr. Ginn with Mr. Railsback.
Mr. McDonald with Mr. Sawyer.
Mr. Solarz with Mr. Hillis.
Mr. Jones of North Carolina with Mr. McKinney.
Mr. Mitchell of Maryland with Mr. Philip M. Crane.
Mr. Fary with Mr. DeNardis.
Mr. Conyers with Mr. Fish.
Mr. Scheuer with Mr. Schumer.
Mr. Moffett with Mr. Foglietta.
Mr. Crockett with Mr. Danielson.
Mr. Donnelly with Mr. Jenkins.
Mr. Garcia with Mr. Savage.
Mr. Ford of Michigan with Mr. Wilson.
Mr. Breaux with Mr. Leland.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON RULES TO HAVE UNTIL MIDNIGHT, WEDNESDAY, JUNE 24, 1981, TO FILE RULE ON H.R. 3982, OMNIBUS RECONCILIATION ACT OF 1981

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight, Wednesday, June 24, to file a rule on H.R. 3982, the omnibus reconciliation bill.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Massachusetts?

Mr. LOTT. Mr. Speaker, reserving the right to object, I reserve the right to object for the purpose of inquiring, first, I could not hear for sure if the gentleman said midnight tonight or midnight when?

Mr. MOAKLEY. Midnight Wednesday, June 24.

Mr. LOTT. Does the gentleman at this point have any indication of what might be in the rule so that the Members of this body might have the benefit of what we are being asked to permit the midnight filing on June 24?

Mr. MOAKLEY. Mr. Speaker, if the gentleman will yield; no, at this present time, as the gentleman well knows, the list of witnesses is quite long. Many witnesses are going to testify and the rule has not yet been formulated; but the chairman of the Committee on Rules felt that it would take until tomorrow afternoon at least to get through the list of witnesses. That is why the request for the rule for Wednesday instead of tonight.

Mr. LOTT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TODAY, TOMORROW, AND THURSDAY, JUNE 23, 24, AND 25, 1981, UNDER THE 5-MINUTE RULE

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Investigations and Oversight of the Committee on Public Works and Transportation be permitted to sit today, tomorrow, and Thursday, while the House is considering amendments under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

Mr. WALKER. Mr. Speaker, reserving the right to object, I reserve the right to object to inquire of the gentleman whether or not this has been cleared with the minority and whether they are in concert with the gentleman on this.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I would be glad to yield to the gentleman under my reservation of objection.

Mr. LEVITAS. I thank the gentleman for yielding.

This matter has been discussed with the minority at great lengths. We are having some extremely important oversight hearings involving the financial and productivity crisis in public transit in America today. It is a bipartisan effort to deal with this problem.

The request that the gentleman from Georgia is making has been discussed and cleared with the minority.

Mr. WALKER. Mr. Speaker, further reserving the right to object, they do agree with the gentleman on this request?

Mr. LEVITAS. Mr. Speaker, will the gentleman yield further?

Mr. WALKER. I would be glad to yield to the gentleman.

Mr. LEVITAS. The minority concurs and solicits me to make this request.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

REQUEST TO CONSIDER H.R. 3990, FOOD STAMP ACT AMENDMENTS OF 1981

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture and the Committee on Ways and Means be discharged from further consideration of the bill (H.R. 3990) to amend the Food Stamp Act of 1977 to increase the authorization for appropriations for fiscal year 1981, and to amend Public Law 93-233 to continue, through September 30, 1981, the cash-out of food stamp program benefits of certain recipients of supplemental security income and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. CARNEY. Reserving the right to object, Mr. Speaker, if I may ask of the chairman, the gentleman from Texas, for a fuller explanation as to why this unusual move is taking place.

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. CARNEY. I would be glad to yield to the gentleman.

Mr. DE LA GARZA. I would be very happy to comply with the gentleman's request. I appreciate the gentleman's cooperation in this effort.

Mr. Speaker, this extraordinary procedure is being used in order to comply by the Agriculture Committee with a request by the President of the United States and his Director of the Office of Management and Budget relative to the 1981 budget for food stamps and further to continue to allow States to cash-out food stamps for the elderly, as is done in this instance by the State of California.

The funds have already been appropriated under the supplemental appropriation bill which has been enacted but which had a proviso that it would not be operative until authorizing legislation is approved.

This is to comply with that request and that proviso in the supplemental appropriation bill.

Furthermore, the urgency is that if this bill is not enacted by July 1: First, the Secretary of Agriculture will have to issue the 30-day notices to the States that food stamp recipients' benefits will be reduced; and second, the State of California will face on July 1 the termination of the authorization which allows them to handle this cash-out peculiar to California.

In order to comply with the request of the President and of the Director of the Office of Management and Budget, we have taken a procedure which I admit is extraordinary, but nonetheless within the rules of parliamentary procedure in order to comply with those requests.

Mr. CARNEY. May I ask of the gentleman from Texas, if my memory serves me correct, the bill will be subject to an hour's debate; is that correct?

Mr. DE LA GARZA. The gentleman is correct. If the bill is allowed to be discussed, there will be an hour's debate which I intend to divide with the minority for purposes of debate. The gentleman is correct.

Mr. CARNEY. Mr. Speaker, I have one other question. Why can this bill not be brought up on suspension?

Mr. DE LA GARZA. The reason for not bringing the bill up on suspension is that the Democratic Caucus rules have a proviso that if a waiver is given, the bill cannot be brought up for 4 days, and in order not to abridge that rule we have to go the unanimous-consent route.

Mr. LOTT. Mr. Speaker, will the gentleman yield,

Mr. CARNEY. I will be glad to yield.

Mr. LOTT. On the question why it is not being brought up on suspension, first, I would like to say we appreciate the job that the distinguished chairman of the Committee on Agriculture is doing and he will be working with the gentleman from Missouri trying to resolve this question; but it is an unusual procedure.

Are we being told here now that this cannot be brought up on suspension,

because of a rule of the Democrat Caucus which limits bills that can be brought up on suspension to under $100 million or something like that?

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. CARNEY. I will be happy to yield.

Mr. DE LA GARZA. We have two limitations. The rules of the House have a 3-calendar-day rule that it must sit for 3 calendar days. The caucus also has a 3-day rule and a 4-day rule.

I am very happy to report to the gentleman under such circumstances that this was a proviso for the protection of the minority, that if there is any waiver of the $100 million rule that the bill must sit in order to allow the minority sufficient time to peruse the legislation. That is why we ask the indulgence of the minority at this time in order to comply with the requests of our President and our Director of the Office of Management and Budget that we take such extraordinary measures, notwithstanding the Democratic Caucus rule for the protection of the minority.

Mr. LOTT. Mr. Speaker, if the gentleman will yield further, to whom does the gentleman from Texas refer, if I might ask, when he talks about the Democratic Caucus rules protecting the minority. Is the gentleman talking about Republicans or the minority within the Democrat Party?

Mr. DE LA GARZA. I am speaking of the old minority, what used to be the Republican minority.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. CARNEY. I would be glad to yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague yielding.

Can the chairman of the Committee on Agriculture tell us if this unanimous-consent request is granted, will there be an hour's debate and is it also possible to offer amendments?

Mr. DE LA GARZA. It is my understanding that the time that is allowed is solely for discussion and it will be for debate ony.

Mr. ROUSSELOT. So that it is not possible to offer amendments?

Mr. DE LA GARZA. The gentleman is correct. Now, there will be an opportunity for a motion to recommit, as always, in legislation of this kind.

Mr. ROUSSELOT. Are there any committee amendments?

Mr. DE LA GARZA. No, there are not. The bill passed the committee unanimously by voice vote. There is no objection at all in the committee, and I again state, if the gentleman will allow me the repetition, the money has been appropriated.

□ 1245

The supplemental bill carried the funds, but with the proviso that I have espoused for quite a long time, that all funds appropriated be subject to authorization. Otherwise, had not that proviso been in the supplemental bill this would be moot, it already would have been appropriated.

Mr. ROUSSELOT. I thank the gentleman. I would ask if the gentleman will yield further.

Mr. CARNEY. I am glad to yield to my colleague.

Mr. ROUSSELOT. I appreciate my colleague yielding. Can my colleague, Mr. DE LA GARZA, tell us, he made mention of California and the special provision relating to that. The reason that is necessary, the gentleman has stated, is because that right expires on July 1. Second, if we do not continue that provision it will be very expensive for the Federal Treasury, will it not?

Mr. DE LA GARZA. If the gentleman will yield to me, yes, that is correct. Both the State of California and the Federal Treasury.

Mr. ROUSSELOT. So an additional reason that it is necessary to vote on this as quickly as possible is because there is a substantial savings involved if we do pass it. If we do not, as of July 1, it will be a rather expensive provision; is that not correct?

Mr. DE LA GARZA. If the gentleman will yield, as always the gentleman is eminently correct.

Mr. ROUSSELOT. I thank my chairman.

Mr. WALKER. Mr. Speaker, will the gentleman yield to me?

Mr. CARNEY. I am glad to yield to my colleague from Pennsylvania (Mr. WALKER).

Mr. WALKER. I thank the gentleman for yielding.

I have tried to listen to the discussion. It seems to me that we are being asked to approve a very, very unusual procedure. We are being asked first of all to accept the unanimous-consent request to take the bill up. Then we are being asked, without notice, to debate this bill for one-half hour on each side. As a result, some of us are totally unprepared as we come to the floor to discuss the issue.

We are being asked to accept the fact that the administration is for this. I have no reason to doubt the chairman's word on that fact, but the only documentation I have seen of it is with regard to the supplemental bill which we know they favor because the rescissions were in there.

We are being asked to take a lot of this on a matter of emergency because the State of California finds itself in an emergency kind of situation and so on. The emergency is partially the result of bringing this up at the time when we are proceeding toward recess, and that particularly bothers me because I think that what we constantly see in this House is we are asked to enact very, very substantial amounts of money, constantly, right as we get down toward a recess time. It has happened time and time again over the last couple of years, that we are told that we have to act on this, it is a couple of billion dollars of money, and we are going to be asked to do it right before we go home on recess.

I am just very much disturbed by this procedure. I do not see why we cannot figure out a way to bring it up under the regular procedures of the House, consider the issue on its merits, consider the issue based upon a lot of information that many of us would like to have available before we vote on $1.7 billion.

I thank the gentleman for yielding.

Mr. CARNEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas (Mr. DE LA GARZA)?

Mr. JONES of Oklahoma. Mr. Speaker, reserving the right to object, I am concerned about this for several reasons that have been stated earlier. The Budget Committee does not know if this recommendation does, indeed, exceed the ceilings and breach the budget.

We learned about this last night; that is, the Budget Committee staff did. The Congressional Budget Office is in the process of trying to determine whether there is a breach of the ceiling or not.

I understand, however, that the administration has recommended that these changes be made and I assume that the administration has taken into account the budget consequences. Is that correct? I would like to ask the distinguished chairman of the committee if my understanding is correct.

Mr. DE LA GARZA. Will the gentleman from Oklahoma yield to me?

Mr. JONES of Oklahoma. I am happy to yield to the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. The gentleman is correct. I have a letter from the White House dated June 18, 1981, addressed to the Speaker wherein the President requests this legislation; he sets out therein, that the details of this proposal are set forth in the enclosure, and the enclosure is a letter from the Executive Office of the President, the Office of Management and Budget, the Honorable David A. Stockman, in which he states, and I quote:

> I have carefully reviewed the proposals contained in this document and am satisfied that these requests are necessary at this time. I recommend, therefore, that these proposals be transmitted to the Congress.

Mr. JONES of Oklahoma. Mr. Speaker, given those comments by the chairman and the fact that the preliminary indication I have just been handed from CBO indicates that there is no breaching of the 1981 ceiling, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas (Mr. DE LA GARZA)?

Mr. LATTA. Mr. Speaker, reserving the right to object, this indicates what happens when we put a cap on food stamps. We have had several caps put on food stamps during the history of this program.

In 1980 and 1981, we had caps on the food stamp program. During that period of time we had an increase of 55 percent in the cost of this program.

Shortly, we are going to have before this House another question on caps. When we had the reconciliation bill before the House Agriculture Committee, the administration requested that we change the basic law. Under existing law, when we come to the end of the money, we are faced with a situation like this: We must reduce food stamps notwithstanding the proportion of need. We can no longer give food stamps to one-tenth—one-tenth of the total population of this country. One-tenth is now eligible for food stamps under the existing law.

Everybody in this House at the time we passed the food stamp law initially, knew full well that we did not intend for the food stamp program to cover one-tenth of our total population. So we have to get a hold of this program and do something about the entitlement provisions. To continue to do like we are doing now, we are going to go right on year after year with these artificial caps. When they run out of money they must come in here, whether it is this President or the next President, asking for more money. That is the only thing they can do.

This Congress has not stepped up to correcting the basic flaw in the legislation, and that is, it gives food stamps to too many people. When we have a family of four with a $14,000 income eligible for food stamps, plus all of the other benefits that they get from the taxpayers of this country, the taxpayers are saying, "That's enough, that's too much; now let us do something about the eligibility under the program."

But they are not doing it. In this legislation coming before us from the Agriculture Committee in the reconciliation bill, nothing is done but another cap. Now they will say we have another agriculture bill coming to the floor shortly. We are going to have it and it will have something in it dealing with food stamps.

The committee is also going to have something dealing with dairy price supports in that bill. Right now we have a problem with all of the dairy surpluses we have accumulated. As the gentlemen from the committee knows, we have about $400 million worth of surplus cheese. We do not know what to do with it. We have $400 million worth of surplus butter. We do not know what to do with it. They are going to have the dairy program in the agricultural bill and it is way above the budget total and the President is not about to sign it.

So what they are saying is we are going to correct a bill which is not going to become law. That just is not going to happen.

As I say, we have a problem that needs correcting. These artificial caps ought to cease on the food stamp program before we have 25 percent of the American people on food stamps rather than the present 10 percent.

Mr. COLEMAN. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am happy to yield to the gentleman from Missouri (Mr. COLEMAN).

Mr. COLEMAN. Let us say in general I agree with what the gentleman has said. As the gentleman knows, being the ranking Republican on the subcommittee dealing with food stamps, through our combined efforts the Republicans on the Agriculture Committee have been able to put forward $1.4 billion worth of savings for 1982. The gentleman is absolutely right, we need to put forward more reforms for 1983 and 1984. That is where we fell down in the committee, and I hope that the gentleman and the Rules Committee will provide us a rule so that we can come to the House to make these substantive changes.

But I would caution the gentleman from saying he is totally opposed to caps. The caps were put in place by my amendment, and I think they are a very fine thing because it requires us on the Agriculture Committee, requires the House to come back to at least reevaluate. If we make this an entitlement program, which I do not think the gentleman wants to do——

Mr. LATTA. It is an entitlement program.

Mr. COLEMAN. In essence an entitlement program—the only handle we have now is with the cap. So I would caution the gentleman to throw out the entire cap. I think it is contrary to our political philosophy.

Mr. LATTA. Let me say to my friend the cap is better than nothing, and that is all one can say for it. It is better than nothing.

But I say that the time is now to do something about the entitlement features of this program or we are going to have cap after cap being exceeded in the future.

Mr. COLEMAN. I totally agree with the gentleman.

Mr. LATTA. For example, in what we have coming forth in reconciliation, unless it is amended, next July we are going to have the same problem before this House. But yet they are claiming a savings, a savings in expenditures by saying we are going to have a cap. That is an artificial savings, and we are not about to agree to it.

Mr. COLEMAN. Will the gentleman yield for one additional point?

Mr. LATTA. I am happy to yield to the gentleman.

Mr. COLEMAN. I agree with changing the rules of the game, and that is what these reforms are. That is what my amendments in the committee and my reconciliation amendment will accomplish.

What I am concerned about is we are changing the rules in the middle of the game, and right now I am not sure we want to do that to the elderly and the people who are on food stamps now who have a legitimate right to receive them, with absolutely very little notice and, at the same time, try to address the California issue. It is a timetable situation. It is not a philosophical question because we are in total agreement.

I simply want this to be accomplished with as little divisiveness as possible. I join with the gentleman and I know he is working in trying to get my rule out of committee so I can accomplish this on the floor, to make these billion dollar savings in the future on this program. I am entirely in agreement with him.

I would hope, because of the timetable on this particular issue, the gentleman would join with us in trying to get this accomplished.

Mr. LATTA. Let me say to the gentleman I am not going to object, but I just wanted to reserve my right to object and to get before this House what the problem is. We are going to face these caps in the future just like we are facing right now unless we do what the gentleman is attempting to do.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am happy to yield to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I agree absolutely with everything the gentleman has said. The only way we can stop this is to change the eligibility requirements.

I appreciate the gentleman's position in terms of wanting to make his point. It is a point that the Republicans on the committee have tried to make over and over again and we have lost. Our only opportunity now is perhaps in offering a substitute which provides actual eligibility changes rather than just a cap, because the only people that are going to really suffer unless we vote this are the people out there receiving the food stamps, and the administration when it has to make the decision as to how it cuts back the program without guidance from Congress.

But the legislation we have before us extends only to September 30, 1981, on

the additional food stamp moneys aspects, and it is absolutely critical to California because if we in our objection to the food stamp portion not allow the cash out provisions for California to go into effect, we are not saving the money we should be saving. It would be an unwise decision to base it on the food stamp provision because all we are doing is complying with existing law on the first portion of this measure.

The second portion, there is no objection to by anyone. It is a very real and necessary change that needs to go into effect.

I thank the gentleman for yielding.

□ 1300

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Illinois.

Mr. MICHEL. I thank the gentleman for yielding. I would like to make two points.

No. 1, I think we have to do what the chairman is requesting here and I hope that there will be no objection to the unanimous consent request.

No. 2, I want to commend the gentleman from Ohio (Mr. LATTA) for opening up the subject matter about which we feel so deeply. The gentleman from Illinois feels the same way. Setting a cap is one thing. If I were the administrator of the food stamp program with a cap, and October 1 arrived, my only recourse under current conditions would be to resort to the Lugar amendment in the Food Stamp Act which would make a proportionate cut for everybody currently eligible for food stamps. I do not think that is the right way to go about altering the food stamp program because you have people in the higher income brackets getting the same kind of cut as those in the low-income brackets.

If as an administrator of the food stamp program, you were given the opportunity on October 1 to apportion the program's money over 12 equal months, that is one thing, but you do not have that right as an administrator until you change the law. That is why I feel so strongly about changing the law so that the people who administer it know what we meant when we said we wanted to cut that program back and tailor the package to the level we think is appropriate.

So what the gentleman says is absolutely true. It is just a facade to say you have a cap when you continually increase or remove it.

What you are asking us to do is to formalize that $1.8 billion of increases that came as a result of previous caps that were not worth the paper they were written on. That is the issue we have got to point up today, and I hope you all understand that. What we need is an effective cap on spending and the needed change in eligibility so we can live within the limits of the program's cap.

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding. Let us again understand that this is not a cap that fell out of thin air. The administration came before the Committee on Agriculture and testified that this is where the cap ought to be set. They testified in support of a cap that was recommended by the Agriculture Committee as part of the reconciliation bill. They also recommended reforms. There is no disagreement here that you cannot hold to a cap unless you have reforms in place.

The Committee on Agriculture in effect has recommended those reforms, and they are part of the farm bill to be considered on the floor of the House within the next few weeks.

So it is not a question of whether you are for or against the cap. The adminstration has taken a position for the cap. It is not a question of whether you are for or against reforms. Both the House Committee on Agriculture as well as the Senate Committee on Agriculture have taken positions in support of those reforms. That is not the issue.

The issue is do you encompass the food stamp reforms as part of the farm bill debate which has been the case in the past, or do you isolate them into a separate package? The Agriculture Committee felt that the food stamp reforms should be part of the farm bill and not a part of reconciliation.

Mr. LATTA. If I may reclaim my time, just let me say that the gentleman was alluding to the previous administration. The previous administration set the amount in the food stamp program.

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from California.

Mr. PANETTA. The testimony before the Committee on Agriculture by the head of the food stamp program was that he supported the establishment of the cap at this figure.

Mr. LATTA. Now. Now. That is a different story.

Let me say the administration has no choice but to administer the program and to make the requests they are doing right now. The only thing we are saying is that the Committee on Agriculture and this Congress ought to step up to the problem so that we do not have this cap question before us every year, and it would force this administration or future adminstrations to cut back on all recipients under the Lugar amendment.

We do not think that is fair, and I think my friend thinks the same way.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas (Mr. DE LA GARZA)?

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

NASA AUTHORIZATIONS FOR FISCAL YEAR 1982

Mr. FUQUA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1257) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FUQUA).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1257, with Mr. BARNARD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Florida (Mr. FUQUA) will be recognized for 30 minutes, and the gentleman from New Jersey (Mr. HOLLENBECK) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 1257, the National Aeronautics and Space Administration Act of 1982.

I want to congratulate Mr. FLIPPO, chairman of the Subcommittee on Space Science and Applications and Mr. GLICKMAN, chairman of the Subcommittee on Transportation, Aviation and Materials for their leadership in bringing this legislation to the floor. They have done an outstanding job in perfecting this legislation. I also want to acknowledge the efforts of Mr. WINN, Mr. HOLLENBECK, and Mr. GOLDWATER on the other side of the aisle.

I hope Members of this body shared my excitement and pride on the successful first flight of the Space Shuttle. This near perfect first flight has renewed our Nation's confidence in our own greatness and demonstrated to the world that we are again first in space. At a time when our Nation is

facing still competition on all fronts our space program can play a positive role in exerting world leadership in political, economic, as well as military arenas.

We must exploit our space leadership to advantage. With this successful first flight, the administration and the Congress must establish our future directions and goals in space.

Mr. Chairman, this is a very austere budget. While the Shuttle development and production activities are kept on schedule, all space science and application of new initiatives by the previous administration have been canceled or deferred.

In the aeronautics program, the committee is recommending a total of $276 million for fiscal year 1982. This amount is the same as actually appropriated for this year. So no one can say we are not holding the line on Federal expenditures.

Included in this category are a host of aeronautical research projects that will eventually return many times their initial investment. One need only look at the annual balance of payments to prove this. In 1980, for example, U.S. companies sold over $12 billion in civil aerospace products to foreign customers. This was the largest single, favorable contribution to our balance of payments. This success can be credited, in large part, to past Federal investments in aeronautical research. So, I think the lesson is clear. If we want to continue to enjoy the benefits of leadership in this area, we must continually develop better technology.

There are many reasons why the Space Shuttle is an important and logical step in manned space flight and the U.S. space program:

First, the Shuttle is the only meaningful new manned space program.

Man has worked hard to achieve—and has indeed achieved—the freedom of mobility on land, the freedom of sailing on his oceans, and the freedom of flying in the atmosphere. And he has discovered that he can also have the freedom of space. Man has learned to fly in space, and man will continue to fly in space. Given this fact, the United States cannot forgo its responsibility—to itself and to the free world—to have a part in manned space flight. And the Space Shuttle is clearly the most meaningful and useful manned space program for the coming decade.

Second, the Space Shuttle is needed to make space operations less complex and less costly.

Today we have to mount an enormous effort every time we launch an expendable space vehicle. The reusable Space Shuttle gives us a way to avoid this. This airplane-like spacecraft makes a launch into orbit an almost routine event at a cost much less than the expendable launch vehicles. This is possible by not throwing everything away after we have used it just once—just as we do not throw away an airplane after its first trip from Washington to Los Angeles.

The Shuttle also allows for less cost to payload development. A satellite that will be launched in the Shuttle will no longer have the environmental, structural, weight, and other associated constraints as those launched on an ELV. If an anomaly should occur to the satellite, the Shuttle makes it possible to retrieve or repair, eliminating the need to throw away a costly satellite.

The Shuttle looks like an airplane but has rocket engines instead of jet engines. It is launched vertically, performs a designated mission, glides back into the atmosphere, and lands on a runway. With the Shuttle, space operations will indeed become routine.

Third, the Space Shuttle is needed to do useful things.

Why are routine operations in space so important? There is no single answer to this question as there are many areas—in science, in civilian applications, and in military applications—where we can see now that the Shuttle is needed; and there will be many more by the time routine Shuttle services are actually available.

Take, for example, civilian space applications. We have already seen the great value of communications and weather satellites. The Space Shuttle will make it possible to routinely launch communications and weather satellites with vastly improved capabilities. And perhaps with routine space operations, one could develop a global environmental monitoring system, international in scope, to help control our environment here on Earth.

Fourth, the Shuttle will encourage far greater international participation in space flight.

Since the initiation of the development of the Shuttle program many European nations have been participating in a joint program to develop the Spacelab. The Spacelab program is a cooperative effort between NASA and the European Space Agency (ESA). ESA is designing and developing the flight hardware. The Spacelab will initiate a new era for space experimentation. Considerable international utilization of the Shuttle/Spacelab capability is now underway and future activity is being planned. In their long-range planning, other nations see the transition from the demonstration phase to the operational and commercial application aspects of space exploitation. Within this framework, the trend is toward greater flexibility, larger instruments and instrument groupings, and longer mission durations. The capabilities of the Shuttle/Spacelab offer new opportunities in the exploration and use of space.

The globally televised launch and return of *Columbia*, the first Space Shuttle, on its STS-1 mission April 12-14, 1981, calls to mind the proven significance of the space program in the arena of international relations and understanding and, thus, in the preservation of world peace. Because of the magnitude and ambitious character of NASA's space program, the United States can look back on a long and fruitful history of collaboration with European and other nations. Future opportunities for international cooperation will greatly exceed past joint activities because of the Space Shuttle program.

The initiation of routine space transportation operations in late 1982 will mark the culmination of about 20 years of planning, designing, and development of a reliable, readily accessible and economically superior method to operate in space, for the purpose of expanding Earth-bound man's control over his destiny as an inhabitant of the only known life-supporting body in the solar system.

The Space Shuttle and NASA's future planning toward human permanence in space is the main element of NASA's conformance to the Space Act of 1958. It is currently structured to support a space program that meets the objectives of the past administration's civil space policy. As we move into the eighties and prepare to respond to new challenges that will face us, we should review these policies and plan for the future, particularly with a view toward technology-driver projects that will help to provide the United States with the leadership in technology and its applications that is mandated by the Space Act.

One of these new challenges that appears as an important issue when considering the international aspects of the Space Shuttle is the challenge of international competition in space.

After overcoming the Soviet Union's initial lead in space in the early sixties, the United States has generally maintained overall leadership in exploiting the various advantages that space offers. More recently, however, the United States has begun to lag the U.S.S.R. in some areas, such as long duration manned orbital flight with its opportunities for extensive experimental and empirical data in such areas as life sciences, materials processing, assembly and repair, manned observations, and command and control. Other countries are becoming increasingly competitive. In particular, the current vigor of Soviet manned space program activity indicates continued expansion of capabilities and an increase in military space operations. During 1980, the U.S.S.R. launched six manned flights—more than in any

other year in their history—including a 185-day space station mission, the longest in history and more than double the length of the longest U.S. mission to date—Skylab-3, 84 days.

Increasing competition to U.S. operations in space can also be expected from the European Economic Community which, through the European Space Agency (ESA), is developing its own space transportation system, the expendable Ariane, scheduled to become operational in 1982 after its third and fourth test flight, now planned for this year. Ariane, designed to compete with the U.S. Shuttle and already drawing customers from it, will be able to launch Atlas-class payloads to geosynchronous transfer orbit (1,700 kg) while follow-on versions in development or planning have capabilities beyond that—up to 2,420 kg. Even a fully reusable crew and supply transport vehicle, the Hermes, is being studied for a two-stage version of Ariane V. In Japan, orbital capability will be provided by the Japanese developed "N" launch vehicle, also to compete with the United States in the provision of launch services to geosynchronous orbit.

On the other hand, the emerging user community for the Space Shuttle includes numerous foreign countries whose initial response to the Shuttle program's offer of launch services has been excellent. Among the dozens of spacecraft sponsors that have already reserved space for their payloads are such international missions, as Insat, Arabsat, Telesat, Palapa, Spacelab, MEA/MAUS, and Solar Polar, with the result that the first 60 operational flights of the space transportation system are already almost completely booked.

International involvement has been an important feature of the Space Shuttle program since its inception. Nine member countries of ESA—Belgium, Denmark, France, Germany, Italy, the Netherlands, Spain, Switzerland, and the United Kingdom—entered into an agreement in September 1973 with the United States to undertake, as an ESA special project funded entirely in Europe—possibly in excess of $800 million—to design, develop, manufacture, and deliver to NASA a space laboratory, called Spacelab, for use with the Shuttle. Austria, an ESA observer, is also contributing to the Spacelab development. ESA will deliver the first Spacelab flight unit in 1982, 1 year before the first Spacelab mission to be flown on the Shuttle. NASA will purchase any similar additional required Spacelabs from Europe on agreed terms.

Also, the National Research Council of Canada (NRCC) undertook in June 1975 to design, develop, and manufacture a Space Shuttle-attached remote manipulator system (RMS) at Canadian expense. The RMS will deploy payloads from the Shuttle cargo bay, retrieve them, and perform certain payload servicing operations in space, all under remote control from the Orbiter flight deck.

In summary, while previous international undertakings in space have amply demonstrated that the life styles and general well-being of mankind can be enhanced by reaching out beyond the Earth's atmosphere to exploit the unique properities of space, the Space Shuttle is the first significant quantum leap with the potential to make those operations a routine international activity. With its introduction, the United States, thus, is offering the services of a new, unique and highly useful transportation system to the world, comparable in its significance to the railroad some 100 years ago and the DC-3 aircraft 46 years ago.

I urge the support of my colleagues for H.R. 1257.

Mr. Chairman, at this time I would like to yield such time as he may consume to the chairman of the Subcommittee on Space Science and Applications, the distinguished gentleman from Alabama (Mr. FLIPPO), the first time that he has managed this bill on the floor.

Mr. FLIPPO. I thank the distinguished chairman, the gentleman from Florida.

Mr. Chairman, I rise in strong support for the bill H.R. 1257 which would authorize appropriations to the National Aeronautics and Space Administration for fiscal year 1982.

This bill was reported by the Committee on Science and Technology on April 7, 1981, by a rollcall vote (23-17). The committee recommended changes to 10 research and development budget line items, deleted 7 construction of facility projects, and reduced research and program management line items. The committee adopted five technical amendments and three language amendments. The committee also adopted 12 committee views on various aspects of our Nation's civilian space program.

For the benefit of the committee, I will summarize the bill and the actions taken.

The original NASA fiscal year 1982 budget request was for $6.73 billion. The Reagan administration's revised fiscal year 1982 budget request proposed reductions of $604 million from the original request resulting in a total budget request of $6.122 billion. The actions recommended by the Committee on Science and Technology result in a budget authorization of $6.133 billion which is approximately $11 million more than the revised request.

The differences between the committee action and President Reagan's budget amendment are summarized as follows:

Space Shuttle: $60 million decrease for changes and systems upgrading.

Space flight operations: $20 million reduction in upper stage development and production activities; $8 million increase for solar electric propulsion advanced technology development; $5 million increase in advanced programs for definition studies and advanced technical development for the power extension package, the 25 kw power module, space platforms, and the space operations center.

Physics and astronomy: $15 million increase to continue a U.S. spacecraft for the International Solar Polar Mission. $10 million increase in Shuttle/Spacelab payload development and mission management.

Planetary exploration: $5.1 million reduction in the Galileo program; $5 million increase to maintain an option for a Halley Intercept Mission.

Life sciences: $5.7 million increase which supports at level of original request.

Space applications: $10 million increase for the geological applications program; $10 million increase for upper atmosphere research satellite experiments; $9 million increase for technology transfer activities; $4 million increase for materials processing in space activities; $5 million increase in communications and information systems to restore operational evaluation of the search and rescue program.

Technology utilization: $8 million increase to continue technology utilization activities.

Aeronautical research and technology: $11.2 million increase for aeronautical research and technology.

Space research and technology: $4 million increase for advanced chemical propulsion technology and information systems technology.

Tracking and data acquisition: $15 million reduction in operations activities.

Construction of facilities: $0.68 million reduction to defer four minor construction projects at the National Space Technologies Laboratories.

Research and program management: Adopted revised request.

Language amendments were adopted as follows:

Five technical amendments were made to correct printing errors.

Three other language amendments were adopted.

First. An amendment to section 7 to more closely follow the language in 28 U.S.C. 1498(a). Clarifies the fact that authorization or consent applies to the user or manufacturer of a patented invention incorporated in a space vehicle rather than to the space vehicle or launch thereof itself. The amendment does not alter the intent of the section.

Second. A new section 9 was added restricting the use of funds for a sole

source contract for a new upper stage until NASA had reassessed the requirements of other agencies, reassessed the viability of competitive procurement, and reported the findings to the House and Senate authorizing committees.

Third. A new section 10 was added making the availability of the $5 million authorized for a Halley Intercept Mission contingent on a request from the administration.

Mr. Chairman, in addition to the full committee hearings in January 1981, the Subcommittee on Space Science and Applications held 3 days of hearings in September 1980 and 17 days of hearings in February and March 1981 to review the fiscal year 1980 and fiscal year 1981 budget performance and the fiscal year 1982 authorization request. Testimony was taken from representatives of NASA, the U.S. Air Force, the European Space Agency, the National Oceanic and Atmospheric Administration, and the industrial and scientific community on NASA related programs. The aeronautics programs of NASA have been considered separately by the Subcommittee on Transportation, Aviation, and Materials and will be discussed in more detail by the gentleman from Kansas (Mr. GLICKMAN).

The budget for fiscal year 1982 before you:

Preserves the Space Shuttle research, development, and production schedules leading to an operational fleet of four orbiters supporting civil and military needs from launch sites on both coasts in 1984;

Supports continued development of the Space Telescope;

Schedules the Galileo mission to Jupiter for a 1985 Shuttle launch using a new upper stage;

Continues support for flight missions such as Voyager that have been launched and are returning valuable scientific data;

Provides for continued development of Landsat D for launch in 1982;

Supports preparation for the early years of Shuttle operations at a reduced rate of buildup;

Eliminates or defers all fiscal year 1981 and 1982 new program initiatives in space science and applications;

Authorizes continuation of the International Solar Polar Mission including funds for a U.S. spacecraft;

Makes significant cross-the-broad cuts in space technology development; and

Lowers NASA civil service employment levels by 840 from the previously planned level of 22,713.

Specific reductions and deferrals in the ongoing NASA program are detailed below.

In space science, major changes include:

The Venus Orbiting Imaging Radar, previously proposed for launch in 1986, deferred until 1988; fiscal year 1982 activity will focus on detailed early design efforts;

The overrall Spacelab flight schedule will be revised, with resultant savings in fiscal year 1982;

Launch of the Gamma Ray Observatory is delayed from 1986 to 1988;

The International Solar Polar Mission, twin spacecraft scheduled for launch in 1985, is being restructured; funds for the U.S. spacecraft in fiscal year 1982 were deleted in the revised request but were partially restored by the committee;

Deferral of research and analysis activities; and

Deferral of planning mission operations and data analysis activities.

In space applications, major changes include:

Delaying development of instruments for a proposed Upper Atmospheric Research Satellite; and

Delaying and reducing agricultural application of remote sensing data (AGRISTARS);

As a Member of Congress, I am aware of the hard choices which must be made when there are many worthwhile and important programs to support.

While NASA must take some share of the budget cuts, I am concerned that the space science and applications activities have taken more than their share. All new flight programs initiated by the previous administration are being canceled or deferred.

NASA is one of the few Federal agencies whose spending power has decreased over 15 years. The spending power in the NASA budget is less than one-third of that 15 years ago. While NASA spending represented 4.4 percent of Federal budget outlays in fiscal year 1966, NASA spending represents less than 1 percent of Federal budget outlays in fiscal 1981.

These NASA budget trends do not recognize the positive contributions which the NASA programs can make to national defense, the Nation's economy, monitoring of our natural resources, energy and mineral exploration, and the expansion of scientific knowledge.

Mr. Chairman, this legislation is assessed to have no adverse long-run inflationary effects on prices and costs in the operation of the national economy. NASA expenditures are labor intensive, with approximately 85 percent of spending directly for jobs and the remainder for materials. NASA employs about 23,000 civil servants and supports about 117,000 contractor employees. Assuming a multiplier effect of 2.5, the total, short-run employment effect on the U.S. economy is about 350,000 jobs. This represents less than one-half of 1 percent of the total civilian labor force in the United States—far too small to have a significant national effect, although there could be small industrial and regional employment and price changes influenced by NASA expenditures.

The most significant economic effects of NASA spending are the long-run productivity advances from new technologies developed for the space and aeronautics programs. Many direct advances in communications satellites, improved aircraft—including more energy efficient aircraft—remote sensing satellites, and other innovations have both improved the productive capacity of industry and stimulated the development and growth of many new businesses. Indirectly, through the development and dissemination of advanced technologies to U.S. firms, the spinoffs from the space and aeronautics programs have been applied in virtually every sector of the economy.

Although it is difficult to assess the results of the various macroeconomic studies of the effects of NASA spending on GNP, it is clear from analyses done by the Midwest Research Institute, Chase Econometrics, Inc., and others, that NASA high technology expenditures have returned more to the economy in substantial and long-lasting productivity gains than has been spent. Since these gains are through spinoff commercial advances, there are extra returns above and beyond the primary goal of NASA programs: the successful completion of the various R. & D. mission assignments. Therefore, any gains which show positive returns to GNP in the long-run indicate a noninflationary, significant return to the citizens of the United States.

In developing the bill before us today, I want to thank the gentleman from New Jersey (Mr. HOLLENBECK) for his efforts. I want to recognize the dedicated efforts of the members of the Committee on Science and Technology and in particular my colleagues on the Subcommittee on Space Science and Applications. Each member of the subcommittee on both sides of the aisle has made a significant contribution. As always, we can depend on the gentleman from Florida (Mr. FUQUA), the chairman of the full committee, and the gentleman from Kansas (Mr. WINN), the ranking minority member of the committee, for their knowledge and personal insight into these complex programs. Their diligent effort continues to be of immeasurable help in establishing a sound bill and strong NASA program.

I want to return to a discussion of the Space Shuttle first flight.

The resounding success of the first orbital test flight of the Space Shuttle on April 12–14, 1981, has brought the United States a giant step closer to the moment when the operational deployment of the new space transportation system will, for the first time after the

introduction of the transcontinental railroad over 100 years ago, make a new frontier routinely accessible to this Nation.

In establishing this immensely important new capability, the Space Shuttle and its ancillary systems will meet a wide range of national space requirements in areas of civil research and operations, commercial functions, international payloads, and national security missions. Beginning in late 1982, the Shuttle will provide a wide variety of national and international users with economical round-trip transportation to low Earth orbit as well as with upper stages to extend economical access to and from altitudes above Shuttle operation orbits and lunar and planetary missions.

Mission capabilities of the Shuttle focus on the safe and comfortable transportation to and from space of passengers and cargo. Designed for a baseline mission duration of 7 days with four crew members, which can be extended with add-on kits to 30 days with up to seven crew members, the Shuttle provides its passengers with a normal Earth atmosphere, a controlled environment, hot and cold food, hygiene facilities, and acceleration on launch and reentry not exceeding 3 g's. It also provides for space suit operations external to the cabin environment for payload support operations and rescue.

With these capabilities, hitherto unheard of in the space programs of any country, the Shuttle will be put to use for delivery and placement in Earth orbit of satellites, propulsion stages and other payloads or cargo, retrieval of expensive payloads for reuse, service and refurbishment of satellites in space, transport to orbit, operation and return of space laboratories or short-duration experiments, and safe, comfortable transport of passengers.

These functions, made possible by the reusability and flexibility of the Shuttle and the presence of its crew, will allow the operation of space laboratories for research in medical and health care, materials, manufacturing processes, biological and life science space physics, astronomy, and advanced technology, and of science probes for planetary exploration. With the Space Shuttle, we will conduct Earth resources exploration, inventory and development in geography and cartography, agriculture, forestry and range management hydrology and water pollution, minerals and fuels, oceanography, as well as land use and planning. Shuttle-launched and serviced payloads will introduce new, powerful means of communications and navigation, of meteorology and weather forecasting, of geodetics, and of preserving national security. In future years, the Shuttle will also provide space station logistics and the operational means toward large systems constructed in space for the benefit of mankind.

The launch of STS-1, the first Space Shuttle, thus introduces a new era that will deeply affect our entire socioeconomic fiber and welfare, and the future of people in this Nation and around the world.

With the success of the Space Shuttle we need to increase our emphasis on advanced programs.

This committee considers the advanced programs activities to be extremely important. Important to the Nation by insuring that the vital new concepts of bringing space, with its benefits down to Earth in the service of mankind continue to be explored for timely, efficient and effective implementation; important to NASA by insuring that this agency has adequate "seed corn" resources to identify and define these new ideas and concepts; and important to the Congress by insuring that we have adequate information early enough to make the proper decisions relative to the continuation and growth of our marvelous space achievements.

The current trend toward aggregating several space research or applications payloads onto a single spacecraft can potentially provide a significant cost savings. Studies performed as long ago as 1973 have shown that dramatic cost savings can be achieved by combining compatible payloads on moderate-size space platforms. A more recent study demonstrated that the satellite communications requirements for North America through the year 2000 can be provided this same service with individual satellites of the type that are now orbiting the earth. The Tracking and Data Relay Satellite (TDRSS), the next generation of Intelsat communication satellites, and the Space Telescope all combine several separate payloads or instruments on a single spacecraft and represent the first steps in the direction of space platforms of the future.

Large structures in space will be a fundamental requirement for future space science and applications missions, for NASA/DOD cooperation in space, for joint international space endeavors, and for longer-range growth concepts of permanent manned facilities in orbit. The committee is concerned that the critical program of large space structures capability development may not yield timely proof and demonstration missions when required if NASA's advanced programs funding continues to exclude this area from the higher-priority line items due to lack of adequate funds.

On a broader front, the advanced programs efforts in the near term are emphasizing the definition of solar power systems to be used in the dual mode of either being attached to the Shuttle Orbiter for increased energy and longer duration operations at reduced operational cost, or flying free of the Shuttle in support of instrument-carrying pallets or platforms attached to it.

Another vital area is the capability to accelerate payloads to higher orbits, far beyond the Shuttle's reach. For this we will need upper stages of increasing performance and versatility. For example, the IUS can carry 5,000 pound payloads to geosynchronous orbit and the wide-body Centaur will extend this capability to about 12,000 pounds. But there is a recognized need to transfer still heavier payloads in the 1990's and also to make round trips, both manned and unmanned. Advanced programs must apply adequate funding to the further definition and resolution of these needs.

The Shuttle will carry 65,000 pounds to orbit, and this may grow with time to the 80,000 pound regime. But the need is foreseen, both in NASA and DOD, to lift substantially heavier payloads, especially if it can be done at greater reduced cost per pound. The Shuttle-derived cargo vehicle offers this potential, and its exploration should be accelerated.

As the Shuttle goes into service, its initial use will be essentially as a manned launch vehicle. We must—early on—learn also to use the Shuttle in its second major function as a spacecraft, that is, as an orbiting manned platform and base that allows us to do things in space rather than just going to and from space. With this capability, the promise of space industrialization can become a reality, and the Space Shuttle can evolve its full potential from a near-term applications-oriented transportation system to an integrated orbital support system for permanent facilities that will open the long-term use of space for mankind's growth.

I would now like to discuss a number of program areas that the committee feels are very important.

SOLAR ELECTRIC PROPULSION SYSTEM (SEPS)

Over the past few years, NASA has been demonstrating the readiness of an advanced form of space propulsion which uses electrical energy supplied by the sun rather than chemical energy provided in conventional rocket fuels. Electric propulsion offers performance an order of magnitude better than conventional space propulsion, with resulting high fuel efficiency, and can operate for literally years.

These attributes translate into the ability to perform an entirely new range of space exploratory missions, heretofore beyond our reach: Intensified investigation of the outer planets of our solar system; close-in study of the Sun; and, perhaps most important, detailed reconnaissance of comets and asteroids which our scientists say hold key clues to the origin and evolution of our solar system and this Earth.

NASA has incorporated this new form of propulsion in a concept known as the Solar Electric Propulsion System, or SEPS. SEPS will augment the Space Transportation System for deep space and some Earth missions. SEPS has already been proposed for several science missions of great merit. The development leadtime for SEPS requires that we pursue advanced technical development of critical technologies.

U.S. DEVELOPMENT OF SECOND ISPM SPACECRAFT

Because of the importance attached by the European Space Agency (ESA) to maintaining a two-spacecraft mission for ISPM, they have graciously offered a compromise solution that would provide for their producing the second ISPM spacecraft for the United States. While it is clear that from an economic standpoint this solution represents the least costly one, it is not clear that it is in the best interest of the United States to proceed in that direction. There are many aspects of such a solution which are subject to criticism but I would like to focus on just two.

First, let me say that it has been made clear to NASA, State Department, OMB, and Members of the Congress that ESA has made this proposal as a last ditch attempt to rescue the mission. ESA has stated that they would much prefer the United States to recommit to undertake the development of the second spacecraft even if the spacecraft is less capable than originally planned. The offer which ESA has made insures a fixed price to the United States and will undoubtedly result in our European partners making additional investments. I do not believe that it is in the best interest of U.S. foreign policy to knowingly expect our allies to bear the burden of our own lack of resolve to meet our international commitments.

Second, I believe that in an environment of economic recovery, we must be very careful about solutions which are only apparently economic. The offer by ESA, on the face of it, would save the American taxpayer $50 to $75 million in expenditures over the next 10-year period. While I agree that such an amount is significant, one must inspect both sides of the ledger. The ESA proposal would require that $50 million in U.S. currency be shipped overseas where there will be no revenue return.

That $50 million represents jobs and industry profits in the United States. In an industry that is so closely tied to the reputation for technological excellence which has been developed in the United States, I believe that this is false economy. It is inconsistent with the image of a nation which was the first to land men on the Moon, the first to produce spectacular images of Mars, Jupiter, and Saturn and, most recently, to launch and land a reusable Space Shuttle. When this factor is coupled with the trauma of terminating a contract with a major U.S. aerospace constractor only to pass money across the Atlantic to German industry, I believe that the U.S. space program will suffer in the long run.

Consequently, I believe that we should not only restore the second spacecraft on ISPM, but take the appropriate actions to insure that this spacecraft is developed in the United States.

SUPPORTING A HALLEY INTERCEPT MISSION

The United States is on the verge of missing a unique opportunity in its efforts to explore the solar system. Halley's Comet, which made its last appearance in 1910, will be seen again in the sky at the end of 1985. Once an object surrounded by superstition and myth, Halley's Comet is now a body that will be studied intensively by scientists all over the world and will be the first comet to be explored by a spacecraft. A spacecraft can provide information about the comets that cannot be determined using telescopes and, especially, can tell us about the nature of the icy nucleus that lies buried within the glowing ball of dust and gases at the head of a comet.

The technical difficulty of undertaking spacecraft missions to Halley is impressive because the comet is moving around the solar system in the opposite direction from the Earth and at a significant inclination, so that a spacecraft passes Halley at about 150,000 miles per hour. At such a high encounter speed the dust and gases blowing off Halley as it approaches the Sun present a hazard never previously encountered, and the high relative motion makes imaging of the tiny nucleus—perhaps only a couple of miles in diameter—exceptionally difficult. Moreover, the comet's path is subject to perturbations as a result of the dust boil-off and navigation to encounter Halley accurately will be a challenging task.

Worldwide interest in exploring Halley is so great that, in spite of these difficulties, no less than three spacecraft missions to Halley are under development: Japan's "Planet A," the European Space Agency's "Giotto", and the Soviet Union's Venus-Halley mission. My question is, Why aren't we going to be there, too?

NASA could undertake a highly capable mission to study Halley's Comet. The Agency has studied in considerable detail the means of undertaking such a mission. With NASA's strong technology base, I believe that a U.S. mission would be substantially better than any of the missions that are being undertaken by other nations. It seems likely, for example, that only a U.S. mission, with the capabilities NASA has studied, would actually be able to provide high quality pictures of the nucleus.

In view of this country's past leadership in planetary exploration, it is singularly unfortunate that budgetary pressures have prevented NASA from proposing to actually undertake this exciting mission. The budgetary arguments are shortsighted. The intense public interest elicited by the spectacular Voyager encounters with Jupiter and Saturn has demonstrated not only the great pride that the American people take in their national program of space exploration—also obvious when *Columbia* flew last month—but also has made clear the prestige that accrues to this country in the eyes of the world at such times. A U.S. mission to Comet Halley would provide a wealth of scientific information and, even more importantly, would serve to nourish the Nation's pride in its achievements, a pride which I believe must be restored. There are those who say we cannot afford to go to Comet Halley. I say we cannot afford not to go. I urge you to support a Halley mission.

UPPER ATMOSPHERIC RESEARCH SATELLITE EXPERIMENTS

The fiscal year 1982 budget request, as amended, includes $5 million for the upper atmosphere research satellites experiments (UARSE) within NASA's space and terrestrial applications program. These funds provide for starting the instrument payload and for definition studies of the ground data handling facility and spacecraft for the upper atmosphere research satellites (UARS) program.

NASA has been assigned lead agency responsibility for research on and monitoring of the stratospheric ozone layer and of the factors that control that layer. During the 1970's it became clear that the tenuous ozone layer can be depleted by chemicals released at the ground that diffuse into the stratosphere, interact with ultraviolet solar light, and dissociate into molecules and atoms that catalytically destroy ozone. The resultant decrease in stratospheric ozone can have very serious effects, including a possible increased risk of skin cancer caused by the higher levels of ultraviolet radiation that would reach the ground, and the modification of winds and jet streams if the ozone screen is depleted.

The stratosphere is a very complex place where chemistry, dynamics, and radiation are all strongly interacting. The ozone layer has natural variations that tend to mask predicted long-term trends caused by manmade chemicals, particularly if integrated measurements are made at only a few sites. Cause-and-effect relationships are difficult to establish unless many chemical species and the stratospheric energy inputs are measured along with the ozone.

Although NASA has an extensive effort using balloons, rockets, aircraft,

and laboratory measurements, there are many uncertainties in the ozone depletion theory that can only be resolved by integrated, long-term global measurements of all of the important components of the stratosphere. Such measurements can only be made from a spacecraft platform. Although the measurements are costly, the stakes are large. The chemicals (chlorofluorocarbons) that cause the problem are used as refrigerants, air-conditioner working fluids, propellants, and as components of manufacturing processes. Other chemicals arising from nitrogen fertilization are also suspected of affecting the ozone layer. It is obviously important to avoid both unnecessary regulation of economically important chemicals and the serious ecological consequences of stratospheric ozone depletion. Only additional research can guide the way to resolving the ozone depletion problem by providing a sound data base for decisionmaking.

The UARS program will involve simultaneous measurements of several upper atmospheric parameters by a collection of individual instruments, several of which are state-of-the-art. NASA regards these instruments as the technologically pacing, long lead time components of the UARS program and is requesting budget authority to start them in fiscal year 1982 at an amended funding level of $5 million for fiscal year 1982. The original budget request submitted by former President Carter was for $20 million for this same purpose. By starting the instruments as the upper atmosphere research satellites experiment (UARSE) in fiscal year 1982 at a $20 million level, the first launch in the UARS program would have been in calender year 1986. The amended budget request will slip that earliest date by 2 years.

The instruments being developed in the UARSE line items are the technologically pacing items in the UARS program. By requesting budget authority to start work on them, NASA has made a critical step toward the first integrated global measurements of ozone, the molecules that affect it, energy inputs, and winds in the stratosphere. This is an essential program if we are to understand the stratosphere well enough to assess chemical threats to it and to make the best decisions to prevent stratospheric ozone depletion in the future.

GEOLOGICAL APPLICATIONS PROGRAM (GAP)

NASA's geological applications program has evolved in response to growing national concern over the long term supply of geological resources which are essential for the growth and maintenance of the U.S. economy. Recent fluctuations in the availability of certain geological commodities has underscored the fact that we are becoming increasingly dependent upon foreign supplies of mineral and energy resources at a time when international competition for these resources is growing rapidly. As a Nation, we have reached the point where global information is required to evaluate resource alternatives and to formulate national policy.

The GAP program is designed to determine the utility and optimize the development of space techniques with respect to our national needs for nonrenewable resources information. GAP builds on research in spaceborne geologic mapping techniques that has been conducted by NASA for the past 15 years. GAP expands this research to support the development of geological models which make effective use of space acquired data for global resource assessment exploration, and development. GAP will test the applicability of techniques and models to nonrenewable resources investigations in different geographic environments in cooperation with Government agencies and private industry.

GAP will be closely coordinated with the ongoing research programs of the National Science Foundation, which supports basic geological research, and those of the U.S. Geological Survey (USGS) which is responsible for national resource assessment. Representatives of the USGS and private industry will be involved in a variety of test projects and geological studies to be conducted by GAP. NASA will benefit from industry participation because the talents of a large body of highly skilled exploration geologists will be used to evaluate the utility of experimental remote sensing methods. At the same time, private industry will benefit by obtaining greater insight into advanced technology which could potentially be adapted for use within the resource exploration industry.

It should be emphasized that GAP is not the type of research program that can be profitably conducted within the private sector. The large capital costs, long payoff leadtimes, and uncertain return on investment involved in adapting advanced aerospace technology to routine geological applications preclude large scale involvement of private industry in advanced remote sensing research at the present time. In short, this type of research program will not be conducted by U.S. industry if the Government fails to act. This is the very reason that has compelled other nations to initiate aggressive governmental research programs which seek to exploit satellite technology for resource evaluation and development.

The principal beneficiaries of the GAP program will be the American people. GAP is responsive to concerns expressed in the National Materials and Minerals Policy, Research and Development Act of 1980 regarding the ability of the U.S. Government to formulate policies which insure adequate and stable supplies of geological resources for the U.S. economy. The NASA GAP program will allow our Nation to develop improved methodologies for evaluating the availability of critical resource commodities on an international scale, which, in turn, will contribute to the formulation of national materials policies. GAP will also serve to increase our national productivity through more efficient discovery of critical resources and more efficient evaluation of engineering and environmental factors associated with resource development. Finally, GAP represents a small but important step in combating the long-term inflationary woes that currently beset our economy. GAP research is the kind of effort that opens the door to the use of new types of information and the development of new types of industries. The results of the GAP program will fuel the historical patterns of growth and innovation within our national economy which must be revived to reverse the inflationary trends we have experienced in recent years.

TECHNOLOGY TRANSFER AND AGRICULTURE

In an era of continuing awareness of the wealth and the limitations of our natural resources, the timely successes of Landsat 1, 2, and 3 have provided this Nation with unique types of information needed to exploit these resources in a managed way that speeds current growth and yet maintains a heritage for the future.

Judging by past experience, remote sensing is still a relatively young technology. R. & D. programs are still expanding our capabilities for the future, but the utility of remote sensing for meeting current national needs has been clearly demonstrated—both in the R. & D. programs themselves and particularly through NASA's technology transfer program.

As an example, agriculture remains key to this country's internal well being and our trade with the rest of the world. Research conducted under the AGRISTARS program will vastly expand the usefulness and specificity of agricultural information derived from satellite data for assessing crop inventories, early warning of disease, insect and drought threats to crops and in a number of other priorities of the Department of Agriculture. But even today, the agricultural capabilities demonstrated in the technology transfer program are resulting in public and private sector commitments to remote sensing needed to insure commercial viability of an operational Landsat system—a goal of both this administration and the last.

For example, as our Nation grows, conversion of prime agricultural land to other uses is a challenge to maintaining our productivity. Although reliable, comprehensive inventories by

crop type from satellite data remain a research target, broad discrimination of agricultural land from urban land is a current Landsat capability. In a technology transfer project in Hawaii, mapping of urban growth into farm areas—expansion of the Honolulu suburban area into sugar cane and pineapple lands—has been demonstrated using Landsat in cooperation with the State department of natural resources. In Iowa, growth of the Ankeny urban area and loss of surrounding farmland was traced from 1973 to 1977 in a demonstration program that led to development of a State capability for regular use of Landsat data. In the Florida demonstration project, Landsat data provided a land use base for the Department of Economic Development to assess the impact of proposed industrial expansion in the currently agricultural Snead's quadrangle area of northwestern Florida.

Even where land use is not changing, other factors—such as soil erosion—can have a dramatic impact on long-term national productivity. In the Iowa State project, land cover data from Landsat, in conjunction with soil and topographic data, were used to develop a soil erosion hazard potential map. Such maps can help soil conservation personnel save time and money by focussing inspections and correction programs as cultivation use is rotated; for example, between pasture and row crop. A similar capability was demonstrated in transfer activities in Kansas.

This is strong evidence of the direct benefits from NASA technology, but more importantly, demonstrates the recent effectiveness of the technology transfer program in seeing the potential introduced to the users. This effort should be supported to continue the flow of benefits from NASA research to State and local governments.

TECHNOLOGY UTILIZATION

I would like to take a few moments to discuss a subject which is becoming difficult to comprehend. The NASA technology utilization program has apparently fallen into disfavor and is being phased out. Briefly I will discuss four projects which are typical examples of the technology transfer process. They are: First, a voice speech prosthesis; second, a mechanism to diagnose children gait (walking) problems; third, a device that automatically delivers medication for many medical disorders; and fourth, a concept to help physicians treat cancer.

The first came from the NASA Ames program for advanced cockpit systems where a synthesized cockpit voice system was being developed. This technology was used in a cooperative project with Children's Hospital at Stanford, to develop a wheelchair mounted speech prosthesis for the nonvocal severely handicapped. Testing shows this prosthesis to have greater language capability, flexibility, and speed than other commercially existing devices. It is presently being readied for manufacturing. NASA Ames also worked with individuals from Rancho Los Amigos and L. & M. Electronics, Inc. to apply sensors developed for the medical monitoring of astronauts to children with walking problems. ARC developed the sensors and telemetry systems; the Children's Hospital developed the medical protocol; and L. & M. Electronics, Inc. manufactured the system for handicapped children's gait analysis. The data obtained in these systems are used by medical practitioners to make decisions regarding corrective measures to be applied to patients.

Concerning some newer efforts NASA's Goddard and Marshall Space Flight Center, in cooperation with Pacesetter Systems, Inc., Parker Hannifin, Inc. and Johns Hopkins Applied Physics Laboratory, are developing a programable implantable medication system. This device will have capability of supplying medication in a programed and controlled manner to patients suffering from medical disorders; for example, diabetes. Depending upon the medication, the system will be able to go for several months without refilling. The device will provide for complete compliance with the physician's prescription, an electronic record of useage and a patient warning system should the device malfunction. Animal implantations are expected to occur shortly.

NASA is also beginning formal cooperation with the National Cancer Institute. Our Lyndon B. Johnson and Langley Space Centers are presently examining their technology and will make recommendations regarding the technical feasibility of heating and noninvasively measuring the temperature of tumors within the human body.

There is no doubt in my mind that projects like these advance the pace by which technology stimulates new and creative solutions to present and future problems.

SPACE RESEARCH AND TECHNOLOGY

On the 12th anniversary of the first U.S. suborbital and orbital flights of Alan Shephard and JOHN GLENN, it is appropriate to examine the success of the space program. This country responded admirably to the Soviet challenge to U.S. technological leadership and has provided a continual source of national pride from the world-recognized events of Apollo landings, the orbiters and landers on Mars and Venus, the spectacular science and imagery of Jupiter and Saturn, and more recently the launch, orbit, and airline-like touchdown of the Shuttle Orbiter. The space program has also enabled the less dramatic, though highly beneficial, orbital application systems of communications, weather, and terrestrial observations. U.S. technology has demonstrated the capability to respond to the technical challenges of space and is now ready to deal with the untold potential of beneficial utilization of this capability.

But the step ahead is no longer one of demonstrating spectaculars that are, unfortunately, almost taken for granted by our society. The challenge is now one of economic feasibility or, more specifically, the affordability of space programs in the context of the services rendered. The opportunity to exploit the capabilities demonstrated by space systems technology is clearly at hand if we are willing to make the further investments required. Other nations who have been applauding our accomplishments as observers are now making investments to apply this newfound capability for their own economic advantage. There is clearly a reminiscent pattern emerging that forewarns of U.S. technology being sold back to our citizens who paid heavily for its costly introduction.

It may be hard to perceive spacecraft in the same context as automobiles, stereo systems, television, and aircraft. However, let me remind you that world competition in voice communications satellite services is already of these proportions. U.S. technological stamina in these painful historical reminders was stressed and often strained to the breaking point because we choose to back away from reaping the rewards of our early lead. Must we again pay the price of complacency?

NASA has been rewarded for its success with a constantly shrinking research and development budget. The proposed fiscal year 1982 space R. & T. budget is not adequate to prepare this Nation for the forthcoming competitive battle for, not only international markets, but our own consumer market as well. Unless cost-oriented technology for affordable space systems of the future is adequately funded, this Nation will once again, by inaction, opt for the loser's role in the competitive arena. It seems a small price to expand the NASA space R. & T. budget by 2 percent to purchase an option on the potential economic rewards of space systems as well as the immeasurable value to our national prestige and self-image.

NASA has clearly recognized the affordability challenge and demonstrated a determination to direct its efforts toward cost-oriented goals. We believe that in two specific areas their programs need to be intensified, namely, liquid chemical propulsion and information systems technology.

Propulsion system developments require the order of a 15-year evolution and, as such, must receive long lead-time consideration. An early and more adequate start is, therefore, recom-

mended by this committee. The promised gains for information systems are available almost immediately, if we are willing to apply demonstrated fundamental advances in electronics technology. Advanced sensors and improved data processing techniques can make available more valuable information product returns for fixed mission investments. These critical areas should be given added resources in order to initiate an adequate fiscal year 1982 budget.

Again, I would like to commend all members of the committee who have so diligently worked on bringing this bill to the floor.

I urge adoption of the bill as recommended by your committee.

SUMMARY OF COMMITTEE ACTIONS

The following table I summarizes the budget action taken by the Committee on Science and Technology on the fiscal year 1982 NASA budget request at the full committee markup on April 7, 1981.

TABLE I.—FISCAL YEAR 1982 NASA AUTHORIZATION BILL, SUBCOMMITTEE ON SPACE SCIENCE AND APPLICATIONS; SUBCOMMITTEE RECOMMENDATIONS

[In thousands of dollars]

Line item	Fiscal year 1981 revised estimate	Pending fiscal year 1982 NASA request	Revised fiscal year 1982 NASA request	Committee action
1(a)(1) Space Shuttle	2,003,000	2,230,000	2,194,000	2,134,000
1(a)(2) Space flight operations	676,200	1,043,000	910,900	903,900
1(a)(3) Expendable launch vehicles	54,400	31,200	31,200	31,200
1(a)(4) Physics and astronomy	320,700	451,400	325,400	350,400
1(a)(5) Planetary exploration	175,600	256,100	215,300	215,200
1(a)(6) Life sciences	42,188	49,200	43,500	49,200
1(a)(7) Space applications	331,550	472,900	372,900	410,900
1(a)(8) Technology utilization	6,800	14,600	4,600	12,600
1(a)(9) Aeronautical research and technology	272,150	323,600	264,800	276,000
1(a)(10) Space research and technology	110,700	141,000	125,300	129,300
1(a)(11) Energy technology applications	1,900	4,400	0	2,000
1(a)(12) Tracking and data acquisition	341,100	435,200	415,200	400,200
Subtotal Research and development	4,336,288	5,452,600	4,903,100	4,914,900
Subtotal Construction of facilities	115,000	136,800	104,800	104,120
Subtotal Research and program management	[1] 1,071,400	1,136,300	1,114,300	1,114,300
Total Space Science and Applications Subcommittee	5,522,688	6,725,700	6,122,200	6,133,320

[1] Includes proposed supplemental of $41,400,000 for October 1980 pay raise.

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Mr. HOLLENBECK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 1257, the National Aeronautics and Space Administration authorization for fiscal year 1982. As the committee report pointed out, the minority was not entirely in agreement with this bill as it was reported out. However, on balance, this bill provides for a sound NASA program for the coming year. I am confident we can work out our differences in conference.

At the outset I want to congratulate the gentleman from Alabama (Mr. FLIPPO), the chairman of our Space Science and Applications Subcommittee, for the fine work he has done in bringing this legislation to the floor. Despite some small differences on certain programs he and I have worked in harmony to bring the best possible consensus bill to the floor. I appreciate his cooperation throughout the authorization process, as well as that of the chairman of the full committee Mr. FUQUA and of Mr. WINN the ranking minority member on the full committee.

Mr. Chairman, let me speak for a few moments about some of the highlights of this legislation. We all know that throughout the seventies NASA and its budget came under increasing criticism from the public and toughening scrutiny from the Congress. The glamour of the Moon landings had long since faded, the spotlight of national attention had dimmed. In April of this year all of this changed. I doubt there was a single American who was not filled with pride and awe when the magnificent Space Shuttle *Columbia* roared into the heavens. This was truly NASA's finest hour. As editorial writers across the country noted, the launch of the Shuttle was the beginning of a new era in space. The Space Shuttle is the first reusable space vehicle. It will carry many different types of payloads to and from low Earth orbit. It is without a doubt the technological marvel of our time.

It is precisely because of the success and promise of the Space Shuttle that the minority was most concerned with the reduction of $60 million made by the committee in the Space Shuttle line item and redistribution to other areas of the NASA budget. The administration, and in the past, our own Science Committee, have agreed that the Space Shuttle is the priority program. Therefore, it is the minority's position that it is not in the best interest of the space program of the Nation to make cuts in this area.

The minority also is in disagreement on the Halley mission. Halley's Comet returns every 76 years, with its last return in 1910. The next return is in 1986. H.R. 1257 provides $5 million for a mission to intercept Halley's Comet. However, it is estimated that such a mission, to be effective, would require at least $30 million in fiscal year 1982. The mission must be launched in late July or early August 1985. This allows only 3½ years for design, fabrication, test, and launch of the spacecraft. While we all would like to see such a mission undertaken, the economic realities of the time dictate against it. In addition, a Halley's intercept has never been given high priority on NASA's list of future missions. The $5 million authorization by this bill is an inadequate amount to start a Halley mission.

The minority disagrees with the reduced funding for the Shuttle upper stage. In our view, this reduction limits the options available and we do not concur with this approach.

An additional point of disagreement is in the space applications area. This area is $38 million above the President's budget. The minority does not dispute the fact that these additions are in meritorious areas. However, the President's budget recognized this fact and made wise allocations in these areas in the request. The times demand that we forego this type of addition to the budget and target the money into more fiscally pressed programs. It is possible to maintain the integrity of these programs without these additions.

The final area where the minority has some concern is in the aeronautics research an technology line item. The committee voted to exceed the President's budget here by $11 million. The minority sought to restore the administration request by an unsuccessful amendment to eliminate two programs relating to AST technology. Again, this was another area where the minority felt the additional money was

unnecessary in the present economic climate.

In light of our concerns in these areas, I would like to engage the chairman of the Space Science and Applications Subcommittee, the gentleman from Alabama, in a brief colloquy. Could the gentleman address the minority's concerns on these subjects, particularly the reduction on the Space Shuttle and his expectations for the conference on the matter?

I yield to the gentleman for his response.

Mr. FLIPPO. Mr. Chairman, as the gentleman from New Jersey is aware, the Subcommittee on Space Science and Applications has a long record of support for the Space Shuttle program. No one is a stronger supporter of this program than myself. I would like to review how we arrived at the action with regard to the Space Shuttle program.

In January 1981, the NASA Acting Administrator testified that NASA has requested adequate funding for the Space Shuttle through the end of 1982. However, when the revised budget was submitted in March for fiscal year 1982, NASA announced plans for reprograming $60 million of fiscal year 1981 funds from space science and applications programs into the Space Shuttle changes/systems upgrading activities. This would have provided a total of $360 million for Space Shuttle changes/systems upgrading through the end of fiscal year 1982, which is $60 million more than was termed adequate in January by the Acting Administrator. Recognizing that NASA needed additional funds for Space Shuttle changes/systems upgrading activities in fiscal year 1981 the committee approved the $60 million reprograming in fiscal year 1981 but reduced the fiscal year 1982 funding for Space Shuttle changes/systems upgrading by an identical amount. This $60 million reduction in fiscal year 1982 is only a 2.7-percent decrease in the Space Shuttle budget while the Space Science and Applications budgets are being reduced by 25 percent.

As the gentleman knows, the bill which was passed in the Senate made no reductions in this activity. We have continued to look at the impact of this action and will be prepared to make necessary adjustments in conference.

Mr. HOLLENBECK. Mr. Chairman, I thank the gentleman for his comments. I think it is possible to have a responsible NASA authorization which as in the past, embraces sound fiscal policies and yet provides solid support for the needed programs. I believe that our differences in line item areas of H.R. 1257 will be able to be worked out in conference. The only difference that is not resolved is total budget size. To bring the NASA budget within the Presidential request, I urge support for the amendment that will be offered by Mr. DUNN at the appropriate time.

Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas (Mr. WINN), the ranking minority member.

Mr. WINN. Mr. Chairman, my colleague, Mr. HOLLENBECK, has reviewed in some detail the objections that the minority had with the NASA budget. Let me say that I concur with those objections and will support his position.

Let me take a few moments though to put those objections in perspective. The primary objective of the minority on science and technology has been to support the Reagan economic package. In spite of our objections with the distribution of the budget, the bill comes very close to the Reagan request. As reported, the bill is approximately $11 million over the President's budget. As a consequence, at the appropriate time, Mr. DUNN, a member of the committee, will offer an amendment to reduce this budget back to the original level. With the passage of this amendment I believe this bill will be a positive step toward satisfying the goals and objectives of the administration's economic program.

The distribution problems, which were previously described, are really a problem of priorities within the basic budgetary framework. I personally feel that the highest priority in the NASA budget is the Space Shuttle development. This craft is the backbone of our space transportation system; a system that will open the frontiers of space on a routine and reusable basis.

Therefore, I was concerned with the redistribution of the $60 million from the Space Shuttle into other areas. I wholeheartedly share the desire to maintain the health of all the NASA projects but as I mentioned earlier it is a matter of priorities.

The Senate version of this legislation is consistent with my position. Their bill authorizes the full NASA request for the Space Shuttle. As a consequence, I feel that my concerns for the program priorities will be best addressed in conference with the other body.

Therefore, my recommendation to my colleagues is to support the amendment to reduce the budget to the President's request and then support the final passage.

Mr. FUQUA. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Kansas (Mr. GLICKMAN), who is chairman of the Subcommittee on Transportation, Aviation and Materials, and who played a very vital role in bringing this bill to the floor.

Mr. GLICKMAN. Mr. Chairman, I rise in support of this bill and, in particular, support for the work that our chairman (Mr. FUQUA) and our subcommittee chairman (Mr. FLIPPO) have done. The area of jurisdiction within my subcommittee is the area of aeronautics. Although the dollar amount for R. & D. in aeronautics is small, $276 million, at least in a relative sense, the payoff is very large. This is true because NASA emphasizes the high-risk, long-term research and technology that industry is financially unable or unwilling to accept and undertake. Such efforts provide the foundation for future aircraft and engines which return many times their initial cost to our economy.

□ 1330

In this sense NASA's aeronautical R. & D. is an investment in the truest sense of the word. For example, in 1980 aviation exports in America accounted for $13.3 billion net positive contribution which exceeds the net contribution from any export source. Export aircraft sales alone accounted for 400,000 full-time jobs in America. It is significant that our aircraft exports have grown dramatically during a period in which many other segments of American industry have been largely overtaken by foreign competition.

This industry, aeronautics, is one of our winners in America. Recently I was in Japan on a trip with the Committee on Science and Technology and their Japanese trade people said to me, "You Americans seem to care more about your losers than your winners."

In talking to them about what our winners were, the gentleman said, "I know of two offhand. One is your agricultural capabilities and second is your ability to produce airplanes." We are No. 1 in the world and largely due to the cooperative effort between business and Government and trying to come out with better airplanes. NASA is largely responsible for doing that.

In any event, NASA is working on a lot of good things which in my revised and extended remarks I will indicate, general aviation, fuel efficiency for engines, a lot of things that have been picked up by the private sector that make our aircraft safer and more fuel efficient.

Finally, Mr. Chairman, I might raise a point that the gentleman from Michigan (Mr. DUNN) is going to offer an amendment to reduce the NASA authorization in the aeronautic areas about $11 billion.

We on the majority side will accept the amendment in line with trying to get the NASA budget down to the Reagan figures, the President's figures. I do not think that is a terribly unreasonable request. However, I am terribly disturbed over the continuing declining trend over the last several years, not starting with President Reagan, but starting with President Carter and even earlier before, with

respect to the Government cooperative commitment to help industry remain competitive in the building of airplanes. That commitment seems to be falling. We see the Japanese, the German, and French coming through with more productive aircraft than we ever thought was possible and much of that with government help. But, in an effort to compromise, we will agree to the lower budget figure to come in with the lower Reagan request.

There are many areas that that cut to $11.2 million prepared by the minority could be cut. We expect that NASA would have discretion as to where to make those cuts. I think the gentleman from Michigan (Mr. DUNN) and others have suggested that if we have to choose between priorities perhaps work on the supersonic transport might be one of the areas that could be cut. There may be other choices.

Again, I would hope that NASA would have the discretion of deciding which way to go. I might point out that it is not the committee's intention in any way that NASA should build a SST prototype. That issue is dead. But there is very, very positive work being done in general, supersonic research on engines, on lift-to-drag ratio and related matters. This work has had spinoffs and commercial subsonic aircraft such as the L-1011. It has had improved efficiency and performance on military aircraft and the work involved in titanium structures and weight have had enormous spinoffs in the commercial area.

So I hope we would give NASA the discretion as to where to spend the money within the cuts, but we are agreeable to the minority amendment, the amendment of the gentleman from Michigan (Mr. DUNN), to reduce the figure to the Reagan budget request.

Finally, I would again say, Mr. Chairman, this bill is a good bill. NASA is an important agency and in the area of aeronautics as I said before, America is No. 1, unequaled in the world. It is our hope that the future of NASA's work in aeronautics will keep us that way.

Mr. Chairman, the Subcommittee on Transportation, Aviation, and Materials conducted numerous field inspections and held extensive hearings here in Washington on the aeronautical part of the fiscal year 1982 NASA authorization. Testimony was taken from a variety of witnesses both inside and outside of NASA.

Members of the subcommittee worked long and hard in carefully reviewing the NASA aeronautical program and the 1982 budget request. We found that although the dollar amount for aeronautical R. & D. is small—$276 million this year—the payoff is very large. This is true because NASA emphasizes the high-risk long-term research and technology that industry is financially unable or unwilling to undertake. Such efforts provide the foundation for future aircraft and engines which return many times their initial cost to our economy. In this sense, NASA's aeronautical R. & D. is an investment in the truest meaning of the term.

In 1980, for example, aviation sales resulted in a net positive contribution of $13.3 billion, which exceeds the net contribution from any export sector, including agriculture. Export aircraft sales alone accounted for 400,000 full-time jobs. It is significant that our aircraft exports have grown dramatically during a period in which many other segments of American industry have been largely overtaken by foreign competition. This industry is one of our winners. And we ought to support it.

It is interesting to note that the total sum expended on aeronautical research, facilities and personnel by NASA and NACA over their combined 65 years of existence amounts to less than half the dollar value of U.S. aeronautical exports in 1980 alone.

Because of this, the Committee on Science and Technology has repeatedly urged the administration and the Congress to increase the resources devoted to aeronautical R. & D. We have often pointed to the many long-term benefits of investment in this area, which are reflected in billions of dollars in sales of U.S. aircraft both here and abroad, and in millions of jobs for Americans. It is unfortunate indeed that the administration proposed a reduced level of spending for the second year in a row.

The fiscal year 1981 program in aeronautics represents a continuation of NASA's efforts to advance technology across the board. Specifically, NASA is working in virtually all areas of aircraft technology including materials, structures, propulsion, aerodynamics, and avionics. Of special note this year is a substantial amount for developing the technology needed for a new generation of fuel-efficient subsonic aircraft. This program, the so-called ACEE program, which has carefully worked out with the close involvement of industry, holds great promise for our continued worldwide leadership in aviation.

One example of this is the projected fuel savings from just one element of ACEE, the engine components improvement program. The program is concerned with finding evolutionary improvements to present day jet engines. For example, NASA has developed new seals that permit more efficient operation, there by saving fuel. This and other such advances are projected to save almost 9 billion gallons of jet fuel over the next 25 years.

When the other pieces of ACEE are thown in, the total fuel savings, by the year 2000, will amount to an incredible $45 billion. Now that is a pretty good return on our 10-year, $500 million investment.

Another important area is general aviation. In the United States general aviation comprises 98 percent of all civil aircraft including business, air taxi, commuter, agricultural, training, and personal flying. General aviation is the only air transportation available to the majority of communities in this country, last year transporting over 110 million passengers in intercity travel in contrast to about 300 million for the scheduled airlines. Commuter air transportation is the fastest growing segment of general aviation, today serving more than 700 communities. Approximately 85 percent of all general aviation operations are for business purposes.

While market projections of business aviation and commuter aircraft show continued major growth, perhaps totaling $80 to $90 billion through the end of the century, serious problems threaten the realization of this attractive potential and may limit U.S. industry's ability to develop the aircraft they need to compete in these future markets.

Improvements in fuel efficiency and costs of operation require major advances in efficient, multifuel engine technology, propellers, aerodynamic drag reduction, and lightweight, low-cost composite structures. Improvement in safety and utility will require similar advances in stall/spin alleviation and crash-load limiting structural design, as well as in improved man-machine interactions and avionics. For commuter aircraft, in particular, the achievement of improved dispatch reliability, passenger comfort and acceptance, and increased productivity will also require or benefit from the use of advanced technology in all these areas.

The U.S. general aviation/commuter manufacturing industry is limited by small technical staffs, minimal research facilities and inadequate research resources. By directing continued NASA research in each of the aeronautical disciplines toward the unique problems of general aviation and commuter aircraft, the technical foundation this industry needs to develop superior future aircraft will be available.

Mr. Chairman, I urge adoption of the fiscal year 1982 NASA authorization bill.

Mr. HOLLENBECK. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. GOLDWATER), the ranking minority member on the Subcommittee on Transportation, Aviation and Materials.

Mr. GOLDWATER. I thank the gentleman for yielding.

Mr. Chairman, in 1980, aerospace exports amounted to $14.6 billion. This was more than 10 percent of all our

exports of manufactured goods. The civil aerospace industry exported a total of $12.6 billion. Over 1 million people are employed in the aerospace business.

I think these figures show the extreme importance of the aerospace industry to our country, as the gentleman from Kansas (Mr. GLICKMAN) pointed out. Unfortunately, today we are seeing our leadership in this area being slowly eroded by foreign competition. The challenge is of the same magnitude as the challenge that faced the automobile industry 10 years ago.

Already the European consortium, Airbus Industries, has pushed ahead of Douglas and Lockheed in manufacturing widebody aircraft. We lost those jobs and balance of payments, and the Europeans gained. Already the commuter aircraft market is dominated by imports from foreign countries. The helicopter business is being swept by foreign competition, especially the French and Italians. Now we are seeing the Japanese move into jet engine development.

We in Congress must respond to the needs of our aerospace industry to prevent this erosion from abroad. We must stop any decline into the state of disarray that we find in the automobile business.

As I see it, there are three areas where we need to concentrate together as a government and as an industry.

First, I think we have to get our economy in shape. We must support the efforts of our President and those of us in Congress who are trying to eliminate the diseases of inflation, high taxes, and disincentives to investment into such things as high technology.

In that regard, I am hopeful that, when the Committee on Ways and Means brings forward its final tax package, there will be a recognition of the importance of creating incentives for our industries to invest in research and development. Some kinds of tax credits or incentives need to be developed in order to encourage research in all levels of industrial activity, but particularly in the area of high technology. We must encourage reaching out to discover the unknown. That really is the seed for future growth, properity, and jobs.

Second, I think we in Congress must support a strong NASA aeronautics program. This has been the key to industry's success over the last 50 years. It provides the basic research foundation for exploring the long-term aspects of aeronautics and related technology.

The Europeans and the Japanese have been using our NASA model as a basis for their investment into high technology. They are beating us at our own game. If we let our industries down now, the result will be quite predictable and all bad.

Last, Mr. Chairman, I would suggest that we in Government take a hard look at some of the roadblocks that we placed in front of aerospace exports. We have to meet competition with competition. I happen to think that it is important that we support the financing mechanism of the Export-Import Bank. This allows competitive financing packages for aerospace industries to sell abroad.

In addition to that, I would urge the President of the United States to ask all agencies of Government to explore where they can bring to bear support for our exports at all levels, but particularly in the aerospace and high technology areas. The State Department especially should enter into negotiations to eliminate those barriers that have been placed in front of our products in foreign countries.

So, Mr. Chairman, I support the NASA bill. In my opinion, this Nation has reaped great benefits far and above our original investment in NASA research and development.

The CHAIRMAN. The gentleman from Florida (Mr. FUQUA) has 12 minutes remaining. The gentleman from New Jersey (Mr. HOLLENBECK) has 15 minutes remaining.

Mr. FUQUA. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Tennessee (Mrs. BOUQUARD).

Mrs. BOUQUARD. Mr. Chairman, I rise in support of H.R. 1257, which would authorize funds for NASA in fiscal year 1982 for continuation of the space program. Programs within this authorization provide for continued research and development in space flight, space science, space applications, aeronautical and space research and technology, and necessary supporting construction and administrative effort.

This is an austere budget with no significant new starts in the NASA request. Additionally, NASA is being asked to make cutbacks in manpower to compensate for other agencies when NASA is already below 1977 employment levels.

Before continuing, I would like to take a moment to commend our new chairman of the Subcommittee on Space Science and Applications, the Honorable RONNIE G. FLIPPO, from Alabama for his outstanding work in structuring this bill. I have the pleasure to serve on this subcommittee and I can attest to the many hours that Mr. FLIPPO has expended in the spirit of compromise to bring forth this package. I would say to this body that no one knows this bill better than our chairman of the subcommittee and I truly feel that the Congress is well served in carrying out its legislative responsibilities.

Mr. Chairman, I would be remiss if I did not mention the chairman of the full committee the Honorable DON FUQUA, of Florida, who exhibits a great deal of patience and tenacity in order to achieve the end result which is a bill that not only the Committee on Science and Technology can be proud of but beyond us—the entire Congress. Thank you both for your exemplary leadership in these very trying times.

Mr. Chairman, as you are aware, NASA is a mission-oriented Federal agency. The success or failure of NASA's activities is not measured principally by its positive or negative impacts on the economy, but rather by the degree of success in achieving its various mission goals such as exploring the Moon, the planets, and the far reaches of space, developing the ability to make useful observations of the Earth from satellites, building a national capability for transporting men and materials to and from space, and advancing both military and civilian aeronautics technology. Nevertheless, with an annual expenditure of $5 billion, there are both short-term employment and income impacts and important long-term effects on the productive capacity of the Nation stemming from the technical advance stimulated by space and aeronautics R. & D.

I would like to take a moment, Mr. Chairman, to familiarize my colleagues with some important work NASA is doing in the field of energy research and development both independently and in cooperation with the Department of Energy.

NASA participation in energy research, development and demonstration encompasses a wide range of activities that capitalize on unique NASA capabilities in management and facilities resources developed in our aeronautics and space programs. NASA continues to make major, important contributions toward the resolution of many of the Nation's energy problems. Interest at NASA centers in energy programs is at a high level, and innovative ideas with the potential to resolve these problems are continually surfacing. It is believed that NASA capabilities developed in the past with such care to address a different set of problems can be capitalized upon in this new challenge.

The major reimbursable programs that we are presently conducting for DOE and other agencies include: photovoltaic conversion; wind turbo generators; solar heating and cooling; advanced automotive propulsion; electric and hybrid vehicles; industrial gas turbines; fuel cell systems; and solar power satellites.

Another area I would like to discuss involves NASA's support to our Nation's universities. It is basic NASA policy to encourage colleges and universities to participate in the Nation's space and aeronautics program to the

maximum extent practicable and it is NASA's intention to continue to have a strong academic involvement in the agency's R. & D. program.

Not only is this involvement essential to the progress of current agency efforts, but it contributes directly to continued productivity of academic scientists and engineers, the training of successive new generations of researchers, and the dissemination of results—all of which are required to maintain both national and NASA programs in the years to come. Academic scientists are given the opportunity to help advance the frontiers of science and technology in all disciplines of interest to the Nation in aeronautics and space. NASA's university policies are designed to encourage heavy academic involvements in basic research; promote a growing independent academic research program; and to achieve broad cooperation between university and NASA in house research groups. Thus, NASA encourages centers of excellence in universities and works with educational institutions to strengthen them, as required, in research and education in aerospace science, engineering, and management. The methods used include the selection of university proposals for experiments on their merits, work-study programs, graduate degree programs and seeking the advice of the academic community in planning new programs.

NASA field centers and certain headquarter program offices provide funds for those R. & D. activities in universities which contribute to the responsibility of that particular NASA element.

Research of interest to NASA has been performed in some 469 institutions with close to 2,900 individual projects active at any one time. All types of institutions across the country are represented—public and private, large and small—and in addition, NASA makes a special effort to involve minority schools and researchers in the early stages of their careers. Topics cover a wide range with major emphasis in the physical and environmental sciences, followed by engineering and life sciences. Basic research accounted for some 65 percent of NASA's fiscal year 1978 funding to universities.

Results of this extensive research has contributed significantly to the success of the national aerospace effort, while at the same time allowing universities to pursue their educational goals.

In overview, NASA's policies and practices for university relations are aimed at achieving a stronger and more creative NASA research program in the decades ahead and have the concomitant result of contributing to a combined stronger in-house and academic research establishment.

The sum total of these obligations is collectively referred to as NASA's university program. The effort funded each year is substantial. Thus, $135.3 million was obligated for university efforts in fiscal year 1978, an increase of $10.7 million over fiscal year 1977. About 75 percent of the fiscal year 1978 funding was provided by NASA field installations throughout the country. Obligations for fiscal year 1979, fiscal year 1980, and fiscal year 1981 were approximately $148 million, $177 million, and $188 million respectively. The fiscal year 1982 obligation contained in this bill is approximately $200 million.

Mr. Chairman, having the privilege to serve as chairman of the Energy Research and Production Subcommittee of the Committee on Science and Technology, I deal with the results of university research and development efforts almost on a daily basis. I know the value of keeping our engineering talent strong and I am always impressed by the role NASA plays in helping find new talent and exploiting high technology.

In the energy areas, DOE continues to expand NASA's role in R. & D. and NASA does what it does best and that is solid R. & D. with strong system management planning.

I strongly urge all my colleagues to support this strong bill. Thank you, Mr. Chairman.

Mr. FUQUA. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. DYMALLY), a member of the committee.

Mr. DYMALLY. Mr. Chairman, I rise in support of H.R. 1257, authorizing appropriations for the National Aeronautics and Space Administration for fiscal year 1982, and specifically research on the proposed turbofan engines of the 1980's.

For 6 years NASA has been engaged in a comprehensive aircraft energy efficiency (ACEE) program with the long-range goal of cutting in half the fuel consumption of transport aircraft. The ACEE program responded to a congressional request and demonstrated how Government and industry can bring advanced technologies from the basic laboratory into operational service in an appropriate, cooperative, and timely manner.

The ACEE program includes six major elements—three aimed at evolutionary improvements in propulsion and aerodynamics during this decade, and three aimed at the long-range future, with results expected to be applied in the 1990's.

NASA's role in this activity has been to advance the technologies to the point at which the industry, both manufacturers and operators, will be confident of the performance, cost, safety, and environmental acceptability of future transport aircraft. NASA has tackled many difficult problems, blending their in house research experience and expertise with appropriate technology development by industry under contract. Throughout the process, the users of the technology have been intimately involved, leading to rapid infusion into U.S. aircraft and engine design.

Introduction of improved components into current engines has already begun, as a result of one of the near-term ACEE projects. The new turbofan engines of the 1980's, using technology advances generated in the energy efficient engine project, will be 15 percent more fuel efficient. Later, this core engine technology may be combined with an advanced, high-speed propeller—the propfan of the ACEE advanced turboprop project—to attain a further 15 to 20 percent reduction on fuel consumption in transports of 1990 and beyond. The cumulative savings due to these propulsion advances, when fully realized, will be billions of gallons of precious oil. Increased aircraft sales will yield additional benefits in tax revenues and balance of trade.

Another high payoff area is the application of graphite-epoxy composite structures in new aircraft. Composite structures are typically 22 percent lighter than equivalent metal counterparts, with the potential for important fuel and weight savings as a result. The ACEE program has shown how small- and medium-size composite structures can be designed and built. NASA is now ready to move ahead with research and technology activity on large composite structures as required for composite fuselages and wings, to achieve the full weight savings potential of composites.

Further fuel savings are resulting from evolutionary improvements in aerodynamics and active control technology. In a more revolutionary element of the program, the potential for much greater fuel savings is being investigated in the laminar-flow-control project, in which skin friction is reduced by active smoothing of the airflow over aircraft surfaces. The technical risk is high, but the potential payoff is tremendous.

The benefits to the Nation from these NASA activities are obvious; the airlines—and the paying passengers—are clamoring for relief from staggering fuel bills. Continuation of progress in this area is vitally important, with major opportunities available, especially in large composite primary structures and advanced turboprop technologies.

Mr. FUQUA. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, I rise in support of H.R. 1257, the National Aeronautics and Space Administra-

tion's fiscal authorization for 1982. This authorization of $6.1 billion is probably one of the best investment Americans have to encourage productivity, technological advancements, and profitable exploration of the world around us.

We need only recall that exciting moment 2 months ago when the Space Shuttle *Columbia* touched down on California's Mojave Desert as evidence that America's pioneer spirit is alive and flourishing. Much like Charles Lindbergh, Amelia Earhart, and the Wright Brothers, the men and women at NASA represent our dedication to the goal of maintaining a dynamic, adventuresome America.

The Fifth Congressional District of Maryland is privileged to have the Goddard Space Flight Center within its boundaries. It was Goddard that kept a vigilant eye on *Columbia* as it orbited the Earth. Just this morning at 6:53 a.m., Goddard personnel launched another National Oceanic and Atmospheric Administration weather satellite from California. Before launching that satellite, scores of individuals participated in the research, development, and implementation of the satellite—a satellite that will tell us even more about weather conditions around the world than we have learned in the past.

The Goddard Space Flight Center employs 3,300 men and women who operate the world-wide tracking network, they develop and launch America's weather satellites, manage tracking and data aquisition activities for Earth orbital missions, and coordinate the very successful Delta launch vehicle program. In short, Goddard is responsible for many of this country's technological initiatives—initiatives that have far-reaching effects on our daily lives, our industry, our growth as an informed, progressive society, and probably most important of all, our security as a free nation.

Goddard however, is only part of the National Aeronautics and Space Administration's program. NASA personnel have given us a great deal to be proud of in many areas. They have served the critical role of providing advanced research and development, and as a result, many industries in this country have profited by their special abilities in everything from computer technology to perfection of solar energy use.

There is much disparaging talk today about our Government, about its size, about its ability to respond efficiently to change. That cannot be said about NASA. The programs of NASA and the fine Federal employees who serve it, are exemplary.

They raise this country's vistas to seek more knowledge of the unknown, to harness the far reaches of our galaxies. They have dedicated their education and ambition for the public's good—bringing us advancements in technology, in medicine, in energy efficiency, and in industrial capability. It is NASA that has just begun the development of the space telescope which will provide a view into the challenging universe. That work, again, is being undertaken now at the Goddard Space Flight Center.

Mr. Chairman, on May 25, 1961, John Fitzgerald Kennedy told us that—

> It is time for this Nation to take a clearly leading role in space achievement, which in many ways holds the key to our future on Earth.

NASA has proved President Kennedy correct. We have moved forward as a society both on this planet and beyond. We must not forsake that role. We must continue that commitment. I offer my support to H.R. 1257 and commend the Committee on Science and Technology for their fine work under current fiscal restraints.

Mr. FUQUA. Mr. Chairman, at this time, I yield 5 minutes to the distinguished gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Chairman, at the outset, let me express my sincere appreciation to the distinguished gentleman from Florida (Mr. FUQUA) for his courtesy in yielding me this time.

Mr. Chairman, this may very well be a historic day in this body. The emphasis is on "may be" because we have had what we thought were similar historic days in times past.

I refer to that portion of the legislation, involving the supersonic transport (SST) or the advanced supersonic transport (AST).

As many will remember, in 1971, after some 10 years of effort and about $1 billion in expenditures, this body and the Senate working together decided that both financially and environmentally the SST was so negative a project, such a loser, if you will, that it was not worth any further commitment of the taxpayers' money. During the years of 1971 and 1972, approximately $160 million was expended in closing out that program.

However, unbeknownst to those in this body, indeed to most Americans, almost immediately, through the work of the committee and through NASA's efforts and that of the aeronautics industry, the program began to be resurrected and stealthily funded.

Starting in 1973, no public announcements, annual authorizations and appropriations ranging between $11 million and $23 million a year were included in NASA funding programs. Over the course of these past years, over $100 million have now been expended in reviving the SST, most of it secretly.

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Since 1977, my first year as a Member of the House, when I first discovered that this was being done, I have tried to delete this funding, until this year without success. Of course, so far we have only seen the tip of the iceberg. The validation phase of the program would cost somewhere around $560 million more, and the technological readiness phase would cost as much as $1.7 billion, so we are not talking about nickles and dimes but very large amounts of money.

At the request of the Reagan administration, there is zero budgeting for the SST effort in this bill as regards the variable cycle engine program and the supersonic cruise aerodynamic research program. There will be some generic research going on, but apparently we can now see the beginning of the end of the effort toward civilian supersonic transport development funding by the Congress. This is a critically important milestone because the amount of money that would be required would be unconscionable.

Mr. GLICKMAN. Mr. Chairman, will my colleague yield?

Mr. WEISS. I am happy to yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I know the gentleman has taken an interest on this issue, and I think to a large extent he has acquainted the rest of us with the issue. In the first place, I want to make sure the gentleman knows that as chairman of the subcommittee, I have no intention of authorizing any funds to build a prototype SST or even to validate an SST, and if the amendment the gentleman from Michigan offers is adopted, there will not be any funds on the system's technology base, although there will be some work done on generic and basic research and development, which I think is important.

But I think the decision has been made by NASA and by this Congress. We will not build an SST, and if one is built it will be built by the private sector, period, unequivocally. I agree with the gentleman on that. I think some of the work that has been done, even on the system's technology phase, has had enormous spinoff in subsonic aircraft and materials, titanium research, and even in the military sector, but fundamentally, I do not think there is a disagreement between the gentleman and us on whether this Government is going to validate or build an SST. That is just not in the cards, period.

I think the reason why we have kept the money in over the last 2 or 3 years is because generally we consider this kind of a spinoff on generic and basic research, and we hope some of that work will continue.

Mr. WEISS. I appreciate the gentleman's comments and, indeed, I appreciate them so much that I will take them as superseding the statements which appear on page 25 of the report,

because those comments in that section of the report seem to go somewhat further toward the continuation of research efforts and development efforts of the SST. As I say, I think we may be witnessing an historic event at this time.

I want to compliment and commend the Reagan administration as well as my colleagues on the other side of the aisle who over the course of these past 4 years have debated and strenuously fought my efforts in this area.

Mr. HOLLENBECK. Mr. Chairman, I yield 4 minutes to the gentleman from New York (Mr. McGRATH), a member of the Subcommittee on Space Science and Applications.

Mr. McGRATH. Mr. Chairman, I rise in support of H.R. 1257 recognizing the need to reduce the bill by $11 million to bring it in line with President Reagan's request for fiscal year 1982. I want to congratulate the chairman of the Space Science and Applications Subcommittee, the gentleman from Alabama (Mr. FLIPPO) and our ranking minority member of this subcommittee, the gentleman from New Jersey (Mr. HOLLENBECK), for their fine work in bringing this authorization to the floor.

As my colleague from New Jersey has pointed out, the minority did have some differences with the committee proposal both as to allocation of funds for various programs and as to the final authorization total. However, with minor adjustments here on the floor and in conference I am confident that we will be able to put together a responsible NASA bill that will also reflect the economic necessities of the times.

I share the concerns expressed by my colleagues over the committee reduction of $60 million in the Space Shuttle program the notably successful first flight of the Space Shuttle, *Columbia*, in April was vivid evidence of how far our technology has come since Americans have entered space. However, the first flight of the Shuttle was only the tip of the iceberg. Once the Space Shuttle begins to fly on a regular basis the technological advances will increase rapidly. For example, H.R. 1257 provides $119 million for space telescope development. A viable space telescope would not be possible without the Space Shuttle. With the successful beginnings of the Space Shuttle, the telescope project's chief scientist now thinks that the new instrument may be the most important telescope ever built. It will expand the astronomers universe, increasing its observable volume 350-fold and render whatever it reaches visible in great new detail. It will provide images 10 times sharper than the biggest instruments on the ground including the new 236-inch Soviet telescope in the northern Caucasus. The NASA telescope will also be able to pick up celestial objects 50 times dimmer than the faintest ones now observable by any giant terrestrial telescope. Circling the Earth once every 110 minutes, the space telescope will operate automaticially under radio control from Earth. It can be returned to Earth for major overhauls and this is where the Space Shuttle's importance comes in. It will also be possible for the Space Shuttle to ferry teams of astronauts up for minor servicing and repairs. Thus maintained the telescopes working life is expected to be at least 15 years.

This is just one example of the many benefits that we are going to receive from developing the Space Shuttle system.

Mr. Chairman, I oppose the cut of $60 million in the Shuttle program for fiscal year 1982 and hope that we will be able to work out an agreement in conference that will restore this funding.

Mr. Chairman, I am also concerned in these times of fiscal constraint that this total budget is $11 million over President Reagan's request. The minority was unsuccessful in our attempt in committee to bring this bill out at the administration level. I intend to support the amendment of my committee colleague from Michigan (Mr. DUNN) which will reduce this budget by $11 million. I think it is possible to do this and still maintain strong ongoing NASA programs in all of the crucial areas. I urge my colleagues to support the amendment to reduce the bill by $11 million and then to support the final passage of H.R. 1257.

Mr. HOLLENBECK. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. LOWERY), who is also a member of the subcommittee.

Mr. LOWERY of California. Mr. Chairman, I join my colleague from New Jersey, the ranking minority member on the Space Science and Applications Subcommittee in support of H.R. 1257, the National Aeronautics and Space Administration authorization for fiscal year 1982. However, I share my colleague's concern that this bill is over the budget proposed by President Reagan by some $11 million. I intend to support the amendment offered by our colleague from Michigan to reduce this bill by $11 million and bring it in line with the President's request.

Mr. Chairman, there are two areas where I think the committee made a mistake in shifting moneys around to reflect new priorities. First, I do not believe that $60 million should have been cut from the Space Shuttle program for fiscal year 1982. I am certain that all Members of this body shared America's pride in the tremendously successful launch and flight of the *Columbia* in April. As the Members know, the next flight is scheduled for late September and I am certain that this flight and all future flights will be as successful as the first. I think NASA deserves high praise for the fantastic job they have done in putting together this truly complicated space system. Now is not the time to reduce funding for this program when we are on the brink of entering a new space era.

My second concern is with the Galileo mission. The objective of this program is to conduct a comprehensive exploration of Jupiter, its atmosphere and satellites through a new deep space spacecraft concept which combines both remote sensing and direct measurements by an orbiter and an atmospheric probe. The Galileo mission will utilize a single Space Shuttle launch in 1985 for the Galileo orbiter and probe. The probe will penetrate the atmosphere of Jupiter to conduct scientific investigations down to a depth where the pressure is equivalent to 10 times the pressure exerted by the Earth's atmosphere, and the orbiter will relay information gathered back to Earth. However, the Galileo launch has recently been slipped from 1984 to 1985. The committee reduced the funding for this mission by $5.1 million because of this delay. I am disappointed by this delay and hope that in the future the mission will proceed on schedule.

Mr. Chairman, I want to congratulate the Science and Economy Committee leadership our distinguished chairman DON FUQUA, from Florida, our ranking minority member, the distinguished gentleman from Kansas (Mr. WINN), and the Space Science and Applications Subcommittee leadership our effective chairman from Alabama (Mr. FLIPPO) and the ranking minority member, the gentleman from New Jersey, for their hard work in forging a responsible NASA authorization bill. At both the subcommittee and full committee level, the minority attempted to put together an authorization that would remain within the President's budget and yet provide adequate funding for all of NASA's crucial programs. H.R. 1257 is close to that goal and by accepting the amendment to cut $11 million more from this budget, we will bring it in at the President's request.

I urge my colleagues to support the amendment and then support the bill which will be at the President's level.

Mr. FUQUA. Mr. Chairman, at this time I yield 1 minute to the distinguished gentleman from Ohio (Mr. SHAMANSKY), a member of the committee.

Mr. SHAMANSKY. Mr. Chairman, I rise in support of H.R. 1257, authorizing appropriations for the National Aeronautics and Space Administration for fiscal year 1982.

Seventy percent of the jet aircraft in service with the world's airlines today

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were built in the United States. The benefical effects to the general economy and to increased high technology employment by the American aeronautics industry have been considerable. Other countries are well aware of these benefits and are not planning to allow us to enjoy them exclusively. It is estimated that the world market for civil aircraft during the 1980's will approach $200 billion—and most market projections indicate that worldwide sales in the 1990's will be even greater than in the 1980's. For these large markets of the 1980's and 1990's, U.S. leadership is by no means assured. First, approximately 60 percent of the projected transport aircraft sales will be to non-U.S. airlines. This changing market characteristic strengthens the competitive posture of the non-U.S. manufacturers, especially where a foreign government has control of both its national airline and its aircraft manufacturing industry.

More importantly, however, foreign manufacturers, with major or complete financial backing from their governments, have concentrated effective efforts on the design and production of highly competitive air transports and helicopters. These vehicles display technology which is equal to that of U.S. products in many areas and, in fact, superior in some. The European A-300 Airbus has now been sold to 40 of the world's airlines—28 of which had previously operated only U.S. equipment. Airbus sales to date exceed $16 billion. It has been estimated that each $1 billion of aircraft sales is equivalent to 30,000 jobs.

Foreign manufacturers have been particularly active in the area of small commuter transports. Since airline deregulation, the fastest growing sector of the airline industry has been the commuter airline segment. However, if our new and expanding commuter airlines need an aircraft in the 20- to 60-seat range they may well be forced to buy it from a foreign manufacturer simply because an equally suitable U.S. product does not exist. Inroads into the civil helicopter and general aviation industries by foreign manufacturers have been just as severe and continue at an expanding rate.

One of the principal reasons that foreign manufacturers have been able to penetrate the industry in recent years has been foreign government funded civil aeronautics research and development. As an example, the major European industrial nation's civil aeronautics research and development funding was 125 percent greater than NASA civil aeronautics funding between 1970 and 1976. This much heavier investment in technology made by the Europeans is now paying off and they are planning to increase their efforts in the future. The Japanese and Brazilian Governments have also made national commitments to enter the world aviation market.

If we hope to maintain U.S. aeronautics leadership in the future, which has contributed so heavily to our domestic economy and balance of trade in the past, it is imperative that we strengthen the NASA aeronautical technology program.

Mr. HOLLENBECK. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. CARNEY).

Mr. CARNEY. Mr. Chairman, I rise in support of H.R. 1257, authorizing appropriations for the National Aeronautics and Space Administration for fiscal year 1982.

Since the establishment in 1915 of the National Advisory Committee for Aeronautics (NACA), NASA's predecessor organization, the military services have relied on technology developed by NACA and NASA. Today, with the increased reliance placed on technology by the military to meet its needs, with the swift pace of technology advances, and with the enormous complexity and sophistication of technology, this relationship between NASA and the military is even more important than in the past.

NASA aeronautics efforts provide approximately one-third of the total investment made in the aeronautical technology base. NASA's fundamental research and technology broadens and deepens the base of knowledge in all of the technical disciplines important to the design and operation of superior aeronautical systems. It is from this underpinning technology that both civil and military vehicles grow to development, so it is not surprising that a majority of NASA's aeronautical program is applicable to military aircraft.

The Department of Defense constantly acknowledges the importance of NASA's aeronautical program. G. R. Makepeace, Director of Engineering Technology, Office of the Under Secretary of Defense—Research and Engineering, recently stated:

> DOD does *not* (sic) do all its own aeronautics technology work or even a principal portion of it. We have always relied upon a strong, complementary technology base in NASA. DOD cannot and should not support a complete technology base activity covering all aspects of the application of air power to the DOD mission. . . . NASA should maintain high interest in advanced aeronautics technology and continue to be the leading edge of technology oriented toward military aircraft. The capability to explore and develop advanced technology when no formal "requirement" exists is vital to maintaining superior military aircraft. Examples of this kind of (NASA) work are the HIMAT Research Vehicle to demonstrate highly maneuverable fighter aircraft configurations and the F-16XL, the joint NASA/General Dynamics effort to develop a wing with 50-percent increase in supersonic lift/drag ratio. . . .

Add to this the statement of Gen. Thomas H. McMulle, Vice Commander of the Tactical Air Command:

> The National Aeronautics and Space Administration, or The National Advisory Committee for Aeronautics as it started . . . and Tactical Aviation have had a lifelong alliance. Since that beginning over 60 years ago, nearly every aircraft flown by the United States has been influenced in a fundamental sense by work done at (NASA).

Virtually every U.S. military aircraft has been tested either in model or full size in NASA wind tunnels and they all have drawn on the technical expertise of the NASA civil servants.

In addition to its direct technology contributions to military aviation, the NASA aeronautics program is extremely important to the national defense in that the technological advances it generates enable our aeronautical industry to compete successfully in the world markets—and the continuing strength of this industry is essential to our military preparedness.

Mr. FUQUA. Mr. Chairman, at this time I yield 1 minute to the distinguished gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Chairman, I rise in support of H.R. 1257, authorizing appropriations for the National Aeronautics and Space Administration for fiscal year 1982.

The Aeronautics and Space Act of 1958 assigned NASA the responsibility to develop the technology required to assure U.S. leadership in aeronautics—a field of endeavor vitally important to the Nation's domestic economy, international trade, transportation, and national defense.

The growing importance of aeronautics to the U.S. economy is illustrated by the fact that, during the past 30 years, civil aircraft sales have shown a growth rate more than eight times that of the overall gross national product. The export portion of total aviation sales has become a major favorable component of the country's trade balance. In 1980, for example, aviation sales resulted in a net positive contribution of $13.3 billion. Export aircraft sales alone accounted for 400,000 full-time jobs. It is significant that our aircraft exports have grown dramatically during a period in which many other segments of American industry have been largely overtaken by foreign competition. In the past 20 years, the U.S. share of total exports by the major industrialized nations has dropped by almost one-third.

During this same time, U.S. civil aircraft export sales have increased ninefold, and now account for over 60 percent of the total civil aircraft work force. It is interesting to note that the total sum expended on aeronautical research, facilities, and personnel by NASA and NACA over their combined 65 years of existence amounts to less

than half the dollar value of U.S. aeronautical exports in 1980 alone.

The highly competitive economics of the international airlines lead to dominance of the market by aircraft of superior technology. To maintain its present share of the market, the United States must continue to produce aircraft which are distinctly superior in performance and life cycle cost to those offered by foreign competitors. This requires aggressive application of the latest and best technology.

At a time when many U.S. industries are suffering financially as higher technology markets are being lost to foreign competition, the aeronautics industry stands out as a reassuring example of a healthy relationship between Government and private industry. NASA technology has played an important role in the successful private-sector development of superior American aircraft. Although the aircraft industry itself invests very heavily in R. & D., it is not possible for each company individually to support the research directed at the long-term future. Neither financial resources nor the available pool of talent will permit this. It is the NASA role to develop a base of understanding and technology which the entire industry can share. The combined results of long-lead Government research and private sector nearer term R. & D. have paid off in American preeminence in aeronautics—a position we have lost in other technological industries such as automobiles, ships, and steel.

Examples of the technical advances resulting from NASA research which have made American transport aircraft the world's finest include the swept wings, supercritical aerodynamics, quiet engines, fuel economy gains, more efficient structural designs, high-lift flap systems, and control advances.

The cost of this aeronautics research is a small fraction of the benefits it provides to the Nation.

Mr. FUQUA. Mr. Chairman, at this time, I yield 1 minute to the distinguished gentleman from Florida (Mr. NELSON), a member of the committee and a member of the Subcommittee on Space Science and Applications.

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Mr. NELSON. Mr. Chairman, I rise in support of the bill H.R. 1257, which would authorize funds for NASA in fiscal year 1982.

I want to commend the chairman of the committee, my colleague from Florida (Mr. FUQUA) for his wisdom in the formulation of this bill, a bill that not only the committee can be proud of, but the Congress as well.

I would also like to thank our new chairman of the Subcommittee on Space Science and Applications (Mr. FLIPPO) for the leadership which he exhibited during our many days of hearings on this bill.

Mr. Chairman, I also have the pleasure to serve on the Budget Committee and as a result, I have been afforded a perspective which allows me to support this bill.

I think that this is an appropriate piece of legislation to come out in a time of fiscal austerity. I hope that in the future the Nation will realize that there is only so much austerity that we can afford in this area of science and high technology before we start cutting into our ability to be productive. I am hopeful that we will start rectifying that in future years.

Furthermore, I hope that very shortly, the President of the United States will come down with a firm declaration of national space policy, which will include the goal of establishing a Space Operation Center in low-Earth orbit by 1989.

At this time, I would like to talk about NASA's success and its importance to the Nation and its economy. The resounding success of the first orbital test flight on April 12–14, 1981, has brought the United States a giant step closer to the moment when the operational deployment of the new transportation system will, for the first time after the introduction of the transcontinental railroad over 100 years ago, make a frontier routinely accessible to this Nation. It is now possible for the development of productive space operations based on the economic principles of cost effectiveness, commercial enterprise, and competition.

There are two NASA programs directly related to the Nation's economic well-being on which I would like to comment—the materials processing program and NASA's technology utilization program.

The materials processing program (MPP) supported by this budget will support Shuttle experiments which help establish proof-of-concept of low gravity apparatus design as well as test basic physical models of materials processes affected by gravity. We can expect to see new materials such as improved semiconductor crystals, highly pure glass for optical fiber transmission, improved alloys and higher purity levels, and larger quantitites of pharmaceutical materials such as interferon. These early materials and insights into materials processes will provide a significant return on the Nation's investment in materials processing through generation of new products for the marketplace and enhancements in industrial productivity.

Mr. Chairman, funding for flight hardware in this program was deleted by OMB. The committee feels that the potential benefits of materials processing development to the Nation's economy should not be valued lightly. Therefore this bill authorizes $31,700,000 in this area to fully reinstate this critical program.

During the past 19 years, NASA has established itself as a leader in the process of technology utilization. This program is specifically designed to assist U.S. industry to improve productivity through the transfer of NASA-developed or related technology to industry. NASA Tech Briefs, a journal published quarterly, announces and describes new technological developments within NASA. This journal is well-known and highly valued by industry. Today, there are over 75,000 requestors, ranging from Fortune 500 companies down through the smallest of industrial firms. Within the pages of any issue is the tip of NASA's technological iceberg. It is voraciously sought after by foreign industry. Gentlemen, NASA Tech Briefs is a technological gateway to improved industrial productivity. Its need now is more important than ever before.

To continue, NASA's 10 Industrial Applications Centers (IAC) take the process of technology utilization one step further. These centers assist U.S. industry by identifying specific technology and matching it with a specific industry problem or need. These centers provide services to nearly 10,000 users each year. Unlike most Government assistance programs, U.S. industry pays for a substantial part of total program costs, by paying a fee each time they use IAC services.

Traditionally, more than one-half of Industrial Applications Centers' clients are small business firms. Through an interagency agreement with the Small Business Administration, NASA's technology utilization program provides Industrial Applications Center services to hundreds of SBA-designated small business firms each year; firms which cannot afford to develop their own R. & D. staffs; firms whose vast numbers make up the backbone of our employment and "on the street" economy. An analysis of this cooperative NASA-SBA activity recently conducted by the University of Southern California IAC indicates nearly a $3 return to small business in technological benefit for each dollar invested by the Federal Government. Most of the technological benefits occur in improvements to current products, processes, or services of the small business firms surveyed.

Mr. Chairman, this program was selected to be reduced for phaseout by NASA in their amended budget request. In recognition of the importance of the transfer of NASA-developed technology to the private sector, the committee authorizes $12,600,000 in this bill fully reinstating the technolgy utilization program.

U.S. industry, through such efforts as materials processing and technology utilization continues to derive sub-

stantial technological and economic gains from the adaptation and use of technology spawned by Government-supported research and development. We owe it to the taxpayers to support NASA activities which not only generate national pride and a hope toward the future, as we have experienced in the transition of progress from Apollo to the Shuttle, but also generate a better quality of life.

Mr. Chairman, I strongly support this bill and urge my colleagues to vote for this high-technology agency.

● Mr. BROWN of California. Mr. Chairman, I rise in support of the bill H.R. 1257, which would authorize funds for NASA in fiscal year 1982.

Although I would like to see a more vigorous space program than that embodied in the budget presented here, I do support this bill because I believe Chairman FUQUA and subcommittee Chairmen FLIPPO and GLICKMAN have done a good job of adjusting priorities within a too-tight budget. The details of these adjustments have already been discussed.

In its revised budget the administration requested $6.1 billion, and this bill authorizes $6.1 billion. As actually reported the bill is $0.01 billion over the administration request, or 0.2 percent over. The bill is within the reconciliation targets set for the Committee on Science and Technology by the budget resolution.

Mr. Chairman, I hope this budget authorization represents a low point in the administration's support for our space program. It is a 1-year authorization bill, but of course it implies longer term commitments in that many of the projects authorized run for several years. Nevertheless, the bill does not provide clear statutory, long-term guidance to the agency. Such guidance is important, and for that reason I have introduced a space policy bill, H.R. 3712, which I hope would clearly establish policy and goals for the Nation's space program. We are entering a new era in space based on the capabilities of Shuttle, the growing capabilities of other nations, and the ability to use space for practical peaceful purposes such as managing natural resources and communications. We also have a new administration whose position on space is only dimly seen as through a stringent budget darkly. Therefore, I have tried in H.R. 3712 to articulate a space policy which embodies the findings and conclusions of the report of the Committee on Science and Technology entitled "United States Civilian Space Policy." Upon introducing the bill I made a statement which appears on page H2519 of the RECORD for June 1, 1981. Of course this cannot become a reality until the administration takes a forthright position on U.S. space policy.

Mr. Chairman, I mention this because I think it is important that we move vigorously ahead in our new space era, with clear goals and policies. I hope that we can convince the administration of the importance of a strong space program, and that next year they will reverse their position and request the budget necessary for such a program.

Now let me say a few words about specific items in the bill.

Despite serious cuts made in the NASA space science programs by the administration, H.R. 1257 does preserve and fully funds two very important science programs. I am referring to the Space Telescope and the Galileo mission.

The Space Telescope will revolutionized astronomy. When I spoke earlier of a "new era," I could have mentioned the Space Telescope as well as the Shuttle. Until we could put telescopes in space, all our observations had to be made through the atmosphere, which seriously degrades our ability to see. The Space Telescope will enable us to see so much better, that it will in effect open to observation a volume of space 300 times as large as the volume we can observe now.

THE NASA PHYSICS AND ASTRONOMY PROGRAM

Space Telescope will be the epitome of a series of orbiting observatories which have played a central role in the revolution of our concepts of the universe that has taken place during the last 25 years. Our prespace age picture of a slowly evolving universe of stars and galaxies has been changed to a picture of a violent universe whose dynamics and evolution are governed by explosive processes. The most violent events and the highest energy processes that take place in the universe are only observable at the ultraviolet, X-ray, and gamma ray wavelengths which must be studied from above the atmosphere.

Our view from satellites and space probes has shown us that the Sun is a variable star whose effects reach much further than we had thought. We now know that the Sun's magnetic field stretches throughout interplanetary space to the outer reaches of the solar system. Steady streams and intense bursts of atomic particles blow outward from the Sun, colliding with the atmospheres of the Earth and the other planets. At the Earth, this "solar wind" is the energy source for the aurorae, magnetic storms, and radiation. A wide variety of complex, changing phenomena—lines of magnetic force, atomic particles currents, and a huge envelope of hydrogen atoms surround the Earth. We are only now beginning to study how this invisible complex of forces affects the Earth, its weather, its climate, and our own communications.

All of these new results have been learned from a program which is barely into its third decade of existence. The pace of discovery has been breathtaking. Many of the results have been awe inspiring. Fundamental new insight has been gained about problems ranging from the origin of radio blackouts due to ionospheric disturbances to the origin and evolution of the universe itself. Our country can take legitimate pride at having been and remaining at the forefront of this exciting science.

The committee bill also preserves full funding for the Galileo mission. This mission to the planet Jupiter consists of a probe that will enter the Jovian atmosphere and a separate spacecraft that will orbit the planet in such a way as to swing by several of its moons. This promises to be a very rewarding mission and is now scheduled for launch in 1985.

Galileo represents an extension of NASA's great tradition of successful planetary exploration. During the past 20 years, NASA has carried out a substantial and spectacularly successful program to explore the solar system. This program, which climaxed in the last several years with the *Viking* landings on Mars and the *Voyager* flybys of Jupiter and Saturn, has not only provided scientists with deep insights into age-old questions about how the Earth and other planets originated and evolved, but also has allowed mankind to continue to pursue one of its most basic impulses—to explore the unknown. Such impulses have, in the past, characterized nations with unusual vision and vigor. The leadership of the United States in the exploration of the solar system directly reflects our national vision and vigor, and again the people of this country have taken an obvious pride in these remarkable achievements. These achievements may well rank in importance in tomorrow's history books along with the great exploratory expeditions of the past—the voyages of Marco Polo, Columbus, Magellan, and others.

As the result of the U.S. planetary exploration program, first visits have now been made to all the inner planets (Mercury, Venus, and Mars), and the exploration of the outer solar system has begun with the *Pioneer* and *Voyager* missions to Jupiter and Saturn. Two highly advanced spacecraft have been landed on the surface of Mars. Given this extraordinary beginning, it is remarkable that this Nation's commitment to planetary exploration has dwindled to the point where only one mission—the Galileo mission to Jupiter—is now under development. A second mission to map the cloud shrouded surface of Venus will not take place until near the end of the decade. I believe such erosion of

NASA's programs does not reflect a diminished public interest or support and, if the erosion is allowed to continue, it will surely be viewed as an extraordinarily short-sighted policy. The era of U.S. leadership in planetary exploration cannot be allowed to end.

This Nation's preeminence and global leadership will not be continued by turning our backs on undertakings which so clearly display vision and will. Other nations of the free world, notably the Europeans and the Japanese, are beginning to venture into the arena of solar system exploration and could readily take over our leadership role. Furthermore, the Soviet Union continues its own aggressive program of exploration which, up until now, has been overshadowed by our own. The resources required to maintain a strong program of planetary exploration are modest in comparison to the pride, prestige, and knowledge that are returned. A renewed national commitment to such a program will be a visible demonstration of the revitalization of the United States over the coming years.

We have a great deal to learn from such planetary exploration—indeed such study of other planets can provide much information which will help us understand the history of the Earth, and how it has evolved. Of course, improving that understanding will enable us to better exploit the mineral resources of the Earth.

Another way of increasing our resourcefulness is through use of remote sensing—NASA is developing this capability in a coordinated set of activities called the geological applications program. This effort is related to another program cut by the Reagan administration, the Landsat program, which is in the authorization legislation for the National Oceanic and Atmospheric Administration. The fact that the administration would cut these two which offer so much potential benefit is another argument for a legislatively determined space policy.

NASA's geological applications program (GAP) has evolved in response to growing national concern over the long-term supply of geological resources essential for the growth and maintenance of the U.S. economy. Recent fluctuations in the availability of certain minerals and fuels has underscored the fact that we are becoming increasingly dependent upon foreign supplies of mineral and energy resources at a time when international competition for these resources is growing rapidly. As a nation, we have reached the point where global information is required to evaluate resource alternatives and to formulate national policy.

GAP is designed to determine the utility of and optimize the development of space techniques with respect to our national needs for nonrenewable resources information. GAP builds on research in spaceborne geologic mapping techniques that has been conducted by NASA for the past 15 years, and expand this research to support the development of geological models which make effective use of space-acquired data for global resource assessment, exploration, and development. GAP will test the applicability of techniques and models to nonrenewable resources investigations in different geographic environments in cooperation with Government agencies and private industry.

I am happy to say that this bill would restore the originally requested funding, $10 million, which the revised Reagan budget had proposed to eliminate totally.

Let me now discuss another aspect of NASA's program—the spinoff of benefits into unrelated areas. Over the last several decades research and development associated with the Nation's aerospace program has been a major factor in the creation of new technology. This technology, representing advances in many engineering and science disciplines, has made possible the accomplishment of feats which a few years ago, would have been labeled impossible. The NASA technology utilization program was created to provide a transfer process whereby the evolving advancements in its science and technology would be made available in a timely fashion for the good of all mankind. As a result, NASA is participating in a number of cooperative ventures, involving other Government agencies and industry, to apply aerospace technology to the solution of bioengineering and rehabilitation problems.

That this program is successful can be measured by the fact that it is being copied and emulated by others. In a time when Government programs are considered failures, I want to share with you a few of the accomplishments under this program. In 1970 NASA-Goddard in cooperation with Johns Hopkins Applied Physics Laboratory and Pacesetter Systems, Inc. used improved battery technology combined with control, microcircuitry, and reliability and quality assurance expertise to design a long-life, lightweight, rechargeable heart pacemaker. This pacemaker has been on the market for about 10 years. During this time Pacesetter Systems, Inc. continued to improve their design using aerospace technologies. Today they have the smallest pacer on the market; and it is programable—just like a satellite. As improvements in technology occurred, the above named participants again joined together in the development of an implantable, reprogramable human tissue stimulator. This device is designed to employ electrical currents to overcome pain caused by injury or disease. Animal trials have been completed and presently two humans have been successfully implanted.

Another heart problem often corrected by electrical stimulation is ventricular fibrillation. It has been recognized that many survivors of a first heart attack died as a result of the heart going into fibrillation at a later date. As a result NASA cooperated in the development of an implantable defibrillator. This implanted device is capable of sensing the onset of fibrillation, recording the event and defibrillating the person involved, without discomfort. The physician can later study the heart characteristics during the episode by analyzing the recording. The defibrillator is presently implanted in 22 individuals.

These successes in transferring aerospace technology to directly alleviate the effects of disease and disability provide ample evidence of the need for strong support for the NASA technology utilization program. One reason I support this bill is that it has restored funds that the administration would have cut out of the technology utilization program.

Mr. Chairman, in closing let me say that I wish we were presenting a larger program, but I am happy to support this one. I urge all my colleagues to join me today in supporting H.R. 1257 and a more vigorous space program in the future.●

● Mr. AKAKA. Mr. Chairman, I rise in wholehearted support for the NASA authorization bill, H.R. 1257, as reported out of committee. This bill sets proper levels of spending for NASA by authorizing $6.1 billion for fiscal year 1982. I oppose any amendment to the bill on the grounds that such amendments are either politically motivated, or target for extinction a program of development which both NASA and the House Science and Technology Committee believe should be pursued.

I want to remind my colleagues in the House that we in this country have made remarkable accomplishments in the area of space technology and exploration in the course of the past two decades. We have seen men walk on the Moon. We have sent exploratory missions to Jupiter. We know more about our universe now than ever before. And, most recently, two American astronauts orbited the Earth in the world's first reusable space vehicle. These are great accomplishments. We have made outstanding achievements in this field because, many years ago, we had the foresight to invest in the technologies of the future.

To those who say that development of technology which can be used for the SST should not be funded, I say that this is shortsighted. This technology was wide-ranging applications, which far exceed those of the SST.

Variable cycle engine technology, can, for example, be used for future military purposes as well as civic purposes. It can be used in the perfection of vertical high-speed landings and takeoffs. To eliminate all research in this area simply because we may not approve of the SST is shortsighted.

To those who demand a cut of $11.2 million in NASA's budget for political reasons, I would say that this action is irresponsible. We simply cannot sacrifice the research and development of new technologies on the altar of political expediency.

The House authorizing committee held extensive hearings on the NASA authorization bill. All programs which received the authorization for funding were carefully analyzed. We must not bow before the winds of sophistry and rhetoric as we cast our votes today.

I urge my colleagues to vote against these two amendments and to support the bill as reported out of committee. We should encourage the development of technologies which one day may very well insure the supremacy of American aircraft in the world arena.●

Mr. HOLLENBECK. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. FUQUA. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 1257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1981:

(a) For "Research and development", for the following programs:

(1) Space Shuttle, $2,230,000,000;

(2) Space flight operations, $1,043,000,000;

(3) Expendable launch vehicles, $31,200,000;

(4) Physics and astronomy, $451,400,000;

(5) Planetary exploration, $256,100,000;

(6) Life sciences, $49,200,000;

(7) Space applications, $472,900,000;

(8) Technology utilization, $14,600,000;

(9) Aeronautical research and technology, $323,600,000;

(10) Space research and technology, $141,000,000;

(11) Energy technology, $4,400,000; and

(12) Tracking and data acquisition, $435,200,000.

(b) For "Construction of facilities", including land acquisition, as follows:

(1) Modification of 12-foot pressure wind tunnel, Ames Research Center, $18,500,000;

(2) Rehabilitation and modification of utility systems, Goddard Space Flight Center, $2,500,000;

(3) Modifications to space flight operations facility, Jet Propulsion Laboratory, $9,300,000;

(4) Rehabilitation of utility control system, various buildings, Lyndon B. Johnson Space Center, $680,000;

(5) Construction of waste material incinerator, John F. Kennedy Space Center, $895,000;

(6) Rehabilitation and modification of various buildings, John F. Kennedy Space Center, $840,000;

(7) Repair of operations and checkout building roof, John F. Kennedy Space Center, $825,000;

(8) Modifications for enhanced 20-inch supersonic wind tunnel, Langley Research Center, $2,950,000;

(9) Modifications to Mach 19 nitrogen tunnel, Langley Research Center, $1,760,000;

(10) Modification of transonic dynamics tunnel, Langley Research Center, $8,000,000;

(11) Decommissioning of Plum Brook Station reactor facility, Phase II, Lewis Research Center, $1,100,000;

(12) Modifications for high pressure turbine corrosion and thermal fatigue testing, Lewis Research Center, $1,200,000;

(13) Modifications for small engine component testing, Lewis Research Center, $9,900,000;

(14) Modifications for solar electric propulsion systems thruster testing, George C. Marshall Space Flight Center, $1,400,000;

(15) Modification and relocation of 26-meter antenna, STDN, Goldstone, California, $4,700,000;

(16) Relocation of DSS-44 antenna to Tidbinbilla, Australia, $2,200,000;

(17) Space Shuttle facilities at various locations as follows:

(A) Construction of solid rocket booster processing and segment storage facilities, John F. Kennedy Space Center, $12,400,000;

(B) Modifications to firing rooms, John F. Kennedy Space Center, $3,100,000;

(C) Modification of manufacturing and final assembly facilities for external tanks, Michoud Assembly Facility, $2,785,000;

(D) Modifications to Building 30 for Shuttle operations, Lyndon B. Johnson Space Center, $650,000;

(E) Minor Shuttle-unique projects, various locations, $1,115,000;

(18) Repair of facilities at various locations, not in excess of $500,000 per project, $15,000,000;

(19) Rehabilitation and modification of facilities at various locations, not in excess of $500,000 per project, $20,000,000;

(20) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $250,000 per project, $4,000,000; and

(21) Facility planning and design not otherwise provided for, $11,000,000.

(c) For "Research and program management", $1,136,300,000 and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

(d) Notwithstanding the provisions of subsection 1(g), appropriations hereby authorized for "Research and development" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $250,000, unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost of such facility.

(e) When so specified and to the extent provided in an appropriation act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of 12 months beginning at any time during the fiscal year.

(f) Appropriations made pursuant to subsection 1(c) may be used, but not to exceed $25,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator and his determination shall be final and conclusive upon the accounting officers of the Government.

(g) Of the funds appropriated pursuant to subsections 1(a) and 1(c), not in excess of $75,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities: *Provided,* That, of the funds appropriated pursuant to subsection 1(a), not in excess of $250,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

SEC. 2. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1) through (20), inclusive, of subsection 1(b)—

(1) in the discretion of the Administrator or his designee, may be varied upward 10 percent, or

(2) following a report by the Administrator or his designee to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such action, may be varied upward 25 percent,

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 3. Not to exceed one-half of 1 percent of the funds appropriated pursuant to subsection 1(a) hereof may be transferred to the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of the funds appropriated pursuant to subsection 1(b) hereof (other than funds appropriated pursuant to paragraph (21) of such subsection) shall be available for expenditure to construct, expand, or modify laboratories and other installa-

tions at any location (including locations specified in subsection 1(b)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) he determines that deferral of such action until the enactment of the next authorization act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless (A) a period of 30 days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete statement concerning (1) the nature of such construction, expansion, or modification, (2) the cost thereof including the cost of any real estate action pertaining thereto, and (3) the reason why such construction, expansion, or modification is necessary in the national interest, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 4. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Technology or the Senate Committee on Commerce, Science, and Transportation,

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by subsections 1(a) and 1(c), and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to or requested of either such committee,

unless (A) a period of 30 days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 5. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

SEC. 6. Section 7 of title 18, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(6) Any vehicle used or designed for flight or navigation in space and on the registry of the United States pursuant to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies and the Convention on Registration of Objects Launched into Outer Space, while that vehicle is in flight, which is from the moment when all external doors are closed on Earth following embarkation until the moment when one such door is opened on Earth for disembarkation or in the case of a forced landing, until the competent authorities take over the responsibility for the vehicle and for persons and property aboard.".

SEC. 7. The National Aeronautics and Space Act of 1958, as amended, is amended by inserting at the end of section 305, the following new subsections:

"(k) Any object intended for launch, launched, or assembled in outer space shall be considered a vehicle for the purpose of section 272 of title 35, United States Code.

"(l) The launch by the United States Government of a space vehicle for a person other than the United States shall not be considered to be a use or manufacture by or for the United States within the meaning of section 1498(a) of title 28, United States Code, unless the Administration gives an express authorization or consent to the manufacture or use of such space vehicle.".

SEC. 8. Section 6 of the National Aeronautics and Space Administration Authorization Act, 1970, as amended (42 U.S.C. 2462), is repealed.

SEC. 9. This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1982".

Mr. FUQUA (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

COMMITTEE AMENDMENTS

Mr. CHAIRMAN. The Clerk will report the first committee amendment.

Mr. FUQUA. Mr. Chairman, I ask unanimous consent that the committee amendments be considered as read, considered en bloc, and printed in the RECORD, except for the amendment on line 20 of page 2 of the Union Calendar bill.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. DUNN. Mr. Chairman, reserving the right to object for a point of inquiry, does that include my amendment?

Mr. FUQUA. Mr. Chairman, if the gentleman will yield, in the unanimous consent request I am making, it does preserve the right of the gentleman from Michigan (Mr. DUNN), as we have agreed, to offer his amendment to reduce funding.

Mr. DUNN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The committee amendments, excepting the amendment on line 20, page 2, are as follows:

Committee amendments: Page 2, line 5, strike out "$2,230,000,000" and insert "$2,134,000,000".

Page 2, line 7, strike out "$1,043,000,000" and insert "$903,900,000".

Page 2, line 10, strike out "$451,400,000" and insert "$350,400,000".

Page 2, line 12, strike out "$256,100,000" and insert "$215,200,000".

Page 2, line 15, strike out "$472,900,000" and insert "$410,900,000".

Page 2, line 17, strike out "$14,600,000" and insert "$12,600,000".

Page 2, line 22, strike out "$141,000,000" and insert "$129,300,000".

Page 2, line 23, strike out "$4,400,000" and insert "$2,000,000".

Page 3, line 1, strike out "$435,200,000" and insert "$400,200,000".

Page 3, strike out lines 7 and 8.

Page 3, line 9, strike out "(3)" and insert "(2)".

Page 3, line 11, strike out "(4)" and insert "(3)".

Page 3, line 14, strike out "(5)" and insert "(4)".

Page 3, strike out lines 16 and 17.

Page 3, line 18, strike out "(7)" and insert "(5)".

Page 3, line 20, strike out "(8)" and insert "(6)".

Page 3, strike out line 23 through line 5 on page 4.

Page 4, line 6, strike out "(12)" and insert "(7)".

Page 4, strike lines 9 through 13.

Page 4, line 14, strike out "(15)" and insert "(8)".

Page 4, line 16, strike out "(16)" and insert "(9)".

Page 4, line 18, strike out "(17)" and insert "(10)".

Page 5, line 9, strike out "(18)" and insert "(11)".

Page 5, line 10, strike out "$15,000,000" and insert "$12,800,000".

Page 5, line 12, strike out "(19)" and insert "(12)".

Page 5, line 14, strike out "$20,000,000" and insert "$17,700,000".

Page 5, line 15, strike out "(20)" and insert "(13)".

Page 5, line 17, strike out "$4,000,000" and insert "$2,320,000".

Page 5, line 19, strike out "(21)" and insert "(14)".

Page 5, line 20, strike out "$11,000,000" and insert "$10,000,000".

Page 5, line 22, strike out "$1,136,300,000" and insert "$1,114,300,000".

Page 6, line 4, insert "which" before "may."

Page 6, line 8, strike out "purposes" and insert "purpose".

Page 7, line 4, strike out "when" and insert "When".

Page 8, line 4, strike out "(20)" and insert "(13)".

Page 8, line 22, strike out "(21)" and insert "(14)".

Page 9, line 12, strike out "expanded" and insert "expended".

Page 12, line 4, strike out the comma after "launched".

Page 12, strike out lines 7 through 13 and insert the following:

"(1) The use or manufacture of any patented invention incorporated in a space vehicle launched by the United States Government for a person other than the United States

shall not be considered to be a use or manufacture by or for the United States within the meaning of section 1498(a) of title 28, United States Code, unless the Administration gives an express authorization or consent for such use or manufacture."

Page 12, after line 24, insert the following new sections:

SEC. 9. Appropriations hereby authorized for space transportation system upper stages in section 1(a)(2) shall not be used to initiate sole-source procurement of a new upper stage until NASA in cooperation with other agencies has reviewed alternative systems, assessed competitive procurement of a new upper stage to satisfy national requirements, and reported findings to the authorizing committees of the House of Representatives and the Senate.

SEC. 10. Of the appropriations authorized for planetary exploration in section 1(a)(5) up to $5,000,000 may be used for the purpose of a mission to intercept and observe Halley's Comet, but only to the extent that such funds are formally requested in a written message from the Administrator transmitted to the House of Representatives and the Senate.

Page 13, line 15, strike out "9" and insert "11".

The CHAIRMAN. The question is on the committee amendments offered en bloc.

The committee amendments offered en bloc were agreed to.

The CHAIRMAN. The Clerk will report the remaining committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 20, strike out "$323,600,000" and insert "$276,000,000".

AMENDMENT OFFERED BY MR. DUNN AS A SUBSTITUTE FOR THE COMMITTEE AMENDMENT

Mr. DUNN. Mr. Chairman, I offer an amendment as a substitute for the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. DUNN as a substitute for the committee amendment: On page 2, line 20, strike "$323,600,000" and insert in lieu thereof "$264,800,000".

Mr. DUNN. Mr. Chairman, I offer an amendment to the bill, H.R. 1257, but before I speak on that amendment, let me begin by stating my strong support for approval of the bill itself. I also wish to thank our distinguished chairman, the gentleman from Florida (Mr. FUQUA), my subcommittee chairman, the gentleman from Kansas (Mr. GLICKMAN), and our ranking minority members, the gentleman from Kansas (Mr. WINN) and the gentleman from California (Mr. GOLDWATER) for their support and leadership.

My amendment would cut $11.2 million from aeronautical research and technology. This would bring the bill in line with the President's request. In difficult economic times I feel it is important to cut out all nonessential programs, and I can name $11.2 million worth of nonessential programs. These are in the field of advanced supersonic transport research.

Our subcommittee chairman may have other areas where he feels the money can be cut, but I would suggest the AST for the following reasons:

In difficult economic times, the Government must do only those things which are absolutely necessary. We must pull out all stops to control Government spending and get inflation under control. AST research is not a necessary program at this time.

Second, industry interest in an AST has dwindled to a very low level. They just do not see such a plane in their future for many, many years. The Boeing vice president of engineering told our subcommittee that he supported the AST cut, given the current need to reduce Government spending. So if the aircraft manufacturers do not want or need the research, who does?

Military work on supersonic fighters and bombers will help answer many of the same questions. Recently—March and April 1981—Aviation Week magazine reported that the U.S. Air Force is talking to industry about a new supersonic cruise fighter. McDonnell Douglas, Grumman, Rockwell, Boeing, and General Dynamics are all involved. They are looking at supersonic aerodynamics, a variable cycle engine, and advanced structures. Civil aviation can afford to let military technology blaze this trail.

NASA can, under my amendment, continue to do very basic, generic research on supersonics under their R. & T. base. But I would suggest prohibiting funding for AST which gets too close to specific designs, that is, systems technology programs. That is the $11.2 million I would like to see cut. The R. & T. base work allows the generic progress in aerodynamics to continue without spending money on more specific applications.

My amendment brings these authorization figures within the President's budget. In doing so we must cut programs not shown to be essential and prove Congress seriousness in bringing Federal spending under control.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. DUNN. I yield to the committee chairman.

Mr. FUQUA. Mr. Chairman, I appreciate the gentleman's yielding, and I would like to ask the gentleman if he would also yield to the gentleman from Kansas (Mr. GLICKMAN), the chairman of the subcommittee.

As the gentleman knows, we have agreed to accept the gentleman's amendment that will bring the total authorization level of the bill back in line with the original request of the administration.

We do think that in this area, in times of austerity, this is one item that could be reduced, even though we think the support of aeronautical research, particularly in the supersonic area, is very important, not only for the civilian applications but perhaps even for military applications.

But this is one area that could be deferred until such time as maybe there is more money available and the economy is better.

Mr. Chairman, I do appreciate the gentleman's yielding, and I repeat that we do accept his amendment. I think if the gentleman would yield to the gentleman from Kansas, he might further elaborate and likewise give his support.

Mr. DUNN. Mr. Chairman, I thank the gentleman form Florida (Mr. FUQUA) for his support, and I yield to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Chairman, I appreciate my colleague's yielding.

I might mention what a pleasure it is to have my colleague, the gentleman from Michigan (Mr. DUNN), on the full committee, a member who is not only a pilot but also one well versed in issues of aviation.

It is with mixed feelings that I will go ahead and accept this amendment, primarily because I think that the intent of the amendment is to bring the numbers down to the figures recommended by the President, and that is what this amendment does.

It worries me that we keep diminishing our commitment to aviation on the part of NASA and NASA's work, and I think we could be in some jeopardy some years down the line.

I know there was some discussion about this money in subcommittee. It was felt that work on the AST, advanced aeronautical supersonic technology, was not of the highest priority, that is, the systems technology work, and I think that is where the gentleman intends that the money be cut.

I would not want us to assume, however, that all basic research into supersonic work, into the materials, and into the kind of R. & D. base work would be cut. That is not the gentleman's intention, as I understand it.

Mr. DUNN. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Kansas (Mr. GLICKMAN) and say that it is not my intention at all to prevent basic research in this area of aviation or in any other area of aviation. The subcommittee chairman knows that I am a strong supporter of these efforts.

While I believe that work on a particular aircraft at this particular time is not in our best interests, I wholeheartedly agree with what the gentleman is saying.

Mr. HOLLENBECK. Mr. Chairman, will the gentleman yield?

Mr. DUNN. I yield to the gentleman from New Jersey.

Mr. HOLLENBECK. Mr. Chairman, I want to commend the gentleman from Michigan (Mr. DUNN) for his work on this amendment and for his hard work on the subcommittee. As

expressed before by members of the minority, we also accept the gentleman's amendment

Mr. DUNN. Mr. Chairman, in light of the fact that both sides of the aisle have accepted my amendment, I yield back the balance of my time.

Mr. HARKIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise, I hope not to introduce a discordant note among all of the talk or the so-called debate that has been going on surrounding this amendment. I rise to express my concerns about the thrust of the Reagan administration in general and the Office of Management and Budget in particular in the aeronautics area. I believe this amendment is indicative of that thrust.

I believe that we are going to be burying our heads in the sand with this type of an approach, an approach that says that the Government has no business involving itself in aeronautical development, and research and development beyond the basic phase itself in this country. It has been a longstanding policy of our Government, going back to 1915, with the establishment of the National Advisory Committee on Aeronautics, that the U.S. Government would be heavily involved as a partner with our aircraft industry, not only in the research and development base but through that base and beyond that base to technology assessment and technology validation. We have been involved in that, as I said, since 1915.

That unique partnership between the Federal Government and our aircraft industries has brought us to the point where we really are today or at least where we were up until a couple of years ago, and that is preeminent in the world in aeronautics. But we see ourselves slipping behind today in the world. More and more of our aircraft companies in America are forming joint ventures with our foreign competitors, and they are forming those joint ventures as minority participants

They are forming those joint ventures in a way that will reduce our production base in this country and move that production base abroad. These are joint ventures that give our aircraft companies 25 or 30 percent as their piece of the pie. That, then, translates into our production base of 25 or 30 percent of the total production of that aircraft or that aircraft component. What is happening is that in these other countries those governments have looked at our unique participation with our aircraft industry, and they are doing the same thing that we did almost 70 years ago, to the point today where Aeroespatial, for example, in Europe and Fokker in Holland and other aircraft companies are taking away our production base from this country and moving it to Europe.

I refer to an article in Aviation Week & Space Technology of June 8, 1981. It is entitled "Fokker Begins Propfan Air Transport Studies."

Mr. DUNN. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. If I may just finish my statement, then I will be delighted to yield.

Mr. Chairman, the article states that Fokker has made an agreement with McDonnell Douglas for the production of the so-called 150-seat aircraft.

Aviation Week goes on to point out that:

The two companies are expected to raise the $1 to $1.5 billion needed to develop the new aircraft.

And get this:

with Fokker to get Dutch Government aid to offset its share.

The government aid is expected in the form of a loan to be repaid in royalties on each aircraft sold, with a break-even point of 500 aircraft predicted.

There you go. We are shifting our production base in the United States to Holland. I have nothing against the Dutch, but to think that the Dutch are going to beat us in the aeronautical game strikes me as an alarming development. These are jobs we are talking about, jobs that could be done here in America, and yet what we are telling our aircraft industry is that "we are cutting you off."

The CHAIRMAN. The time of the gentleman from Iowa (Mr. HARKIN) has expired.

(By unanimous consent, Mr. HARKIN was allowed to proceed for 3 additional minutes.)

Mr. HARKIN. Mr. Chairman, at this point in our history, when there is a worldwide demand for new technology and new aircraft, we are saying to our aircraft companies that "this long history, this long partnership that we have had with you, is coming to an end. You are now on your own."

This is at a time of tight money and high interest rates and at a time when we are facing increased competition from abroad, not from the private industry abroad but from the consortium of government and private industry abroad.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. When I finish my statement, I will yield.

So I say, Mr. Chairman, that this kind of an amendment is indicative of an attitude in the present administration, and especially, as I said, in OMB, to pull the rug out from underneath a long history and a long partnership that we have had with our aircraft industry in this country, setting them adrift on their own at a time when they have only one other place to look for their survival, and that is to the Dutch Government, the French Government, the Italian Government, and the Japanese Government. They are stealing our production base away from us and shifting those jobs abroad.

Oh, we can say, "Oh, this is fine that McDonnell Douglas is making that agreement. That means we will get some of the money out of it." Sure, we will get some of the money out of it. We will get 25 to 30 percent, but 70 percent of the money will go abroad and 70 percent of the jobs will go abroad, and that is what bothers me about the thrust of this amendment and the thrust of OMB.

This is the time not to back off. This is the time to continue that strong relationship and to continue to put—yes, I will say it quite frankly—taxpayers' dollars not only in the R. & D. base but into the technology assessment and into technology validation in our aircraft industry.

Mr. DUNN. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I am pleased to yield to the gentleman from Michigan.

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Mr. DUNN. I am sure that the gentleman from Iowa is aware that the example he is talking about is propfan technology for new commuter aircraft. This committee and myself fought very hard to add money to that. We are spending, as the gentleman pointed out, the taxpayers' money. The $11 million deletion is suggested for only in one particular aircraft, one particular program. It is a program that the British Government and the French Government have already given up on. They have already eliminated their funding for it.

This amendment in no way says to our aircraft manufacturers that we are not going to continue to cooperate with you. In fact, we took input from manufacturers who said the AST was their area of least concern.

Mr. HARKIN. Mr. Chairman, I would just hope to correct the gentleman in one remark and that is that the French have not backed off on supersonic development. They are continuing ahead on supersonic cruise development. They have not backed off.

Mr. DUNN. It is my understanding that the French and British consortium who had put it together, have no longer an interest in future technology, they are not developing the Concorde any further.

Mr. HARKIN. No; they are continuing on the technology base for advanced supersonic cruise.

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that the gentleman from Iowa raises some very, very profound questions.

As a matter of fact, I think that it would be worthwhile for this House and this body to devote some very serious attention to the premises underlying some of the gentleman's thinking. The gentleman cites, for example, the situation with the Dutch Government and the fact that they are making certain loans to a consortium which moneys they expect to recapture on the basis of royalties on the sale of each of those planes.

I do not know if the gentleman is suggesting that the American taxpayer recapture Government contributions when the private companies in this country utilize the benefits of NASA research. I think that it is bothersome to a great many people in this country that the Government makes these contributions without any real hope of direct return. Indeed there are serious questions as to why do we single out for this kind of largesse only certain industries. If we are talking about jobs, and I think that is a very real and legitimate concern for all of us, then it seems to me that that should apply as well to other industries. We went through a very agonizing discussion when we decided, for example, to provide some loan guarantees to the Chrysler Corp. There has been such unhappiness about having done that, that there seems to be general consensus now that that should not be done again. The question is why not if, in fact, it is appropriate to make the kind of contributions that the gentleman is suggesting to the aeronautics industry, why should it not also be done for the automobile industry? Why should it not be done for the steel industry? Why should it not be done to any of the other basic industries on which this country depends?

So I do think that the gentleman raises some fundamental questions, but I am not sure if the gentleman has really thought through exactly where it would lead us. Perhaps the gentleman would like to comment on that.

Mr. HARKIN. If the gentleman will yield, I would be glad to comment on that.

Mr. WEISS. I would be pleased to yield.

Mr. HARKIN. Mr. Chairman, I just point out that in my prepared remarks which I have inserted into the RECORD, I pointed out that it is interesting to note that the total sum expended on aeronautical research, facilities, and personnel, by NASA and its predecessor agency going clear back to 1915 amounts to less than half the dollar value of U.S. aeronautical exports in 1980 alone.

There is no way you can compare that to Chrysler and the bailout of Chrysler at all.

Mr. WEISS. Well, if I can recapture my time, I do not know why not. We were talking about literally hundreds of thousands of American workers losing their jobs if that company went under. We were faced with exactly the same situation of foreign competition undermining and undercutting the American role in the international market regarding automobile production; indeed, in the domestic market as well as far as automobile production is concerned. So it seems to me you can make out a very good comparison, at least as to those two industries.

Mr. GLICKMAN. Mr. Chairman, will my colleague yield?

Mr. WEISS. I would be pleased to yield to the gentleman.

Mr. GLICKMAN. First of all, again, my interest in getting this matter resolved is that I made the assumption that we can get to the Reagan numbers without in the amendment itself jeopardizing aviation; but I would like to respond by saying that we are talking about an industry that has survived and thrived substantially because it is one of the few that has a cooperative relationship with Government. In fact, again I will repeat, when I was in Japan those people told me, "Aha, you help your losers, not your winners."

Who are the winners? Aviation, and the thousands of people who work in the aviation industry, and they are beginning to do the same thing over there. I do not know if I like the term "subsidized"; but all I am saying——

Mr. WEISS. If the gentleman will allow me, I think that "subsidized" is exactly the right word.

Mr. GLICKMAN. It may be the right word; but I am just saying here that we can talk about Chrysler and all the other weak industries you want to. We have a very, very dominant position in one industry in this world and it seems as if every other country has taken away that dominance in practically every other industry; but in one industry we are still dominant. We have nearly a half a million workers whose jobs depend on exports in this world.

I suppose my main concern is the fact that that continues.

The CHAIRMAN. The time of the gentleman from New York has expired.

(At the request of Mr. GLICKMAN, and by unanimous consent, Mr. WEISS was allowed to proceed for 3 additional minutes.)

Mr. GLICKMAN. I suppose one could make the same argument, if the gentleman will yield further.

Mr. WEISS. I would be pleased to yield further.

Mr. GLICKMAN. That, maybe our automobile industry would be better off it we had the same kind of cooperative relationship with the Government that the aerospace industry does. Maybe we would be more competitive in the world markets.

Mr. WEISS. The other point that I wanted to make in response to the gentleman from Iowa is that I think the gentleman does raise some very fundamental questions. But I do not think it is sufficient to say that here the aeronautics industry needs our help and other countries are doing it, therefore we ought to just close our eyes to the other considerations and go forward and make that kind of commitment. Perhaps we ought, but I think we ought to think through exactly what we are doing.

I have one other area that I would like to touch on and then I would be pleased to yield again to the gentleman. Although as I said in the course of general debate, I am very impressed by the explanation of the gentleman from Kansas as to what is intended here, I want to call specific attention to some language in the report which I assume that the gentleman's comments have now overridden. This is in relation to the SST. It says:

> Experts now believe that the technology has been identified which will permit industry to develop and produce an economically viable, environmentally acceptable advance supersonic transport. Before this can occur, the technology must be verified to the point where industry can quantify the technical risks and then make a business decision. Achieving this is the main thrust of NASA's program.

I stop right there in the quotation. I simply want to say again that if we are talking about validatation and technological readiness, we are talking about Government commitment in excess of $2¼ billion. I understand the gentleman from Kansas is saying that that is not at all intended and whatever that language I just read means, it does not mean that this committee suggests that the Congress make that kind of contribution in the SST research and development area.

Mr. GLICKMAN. The gentleman is correct.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I would be pleased to yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding.

I would like to make an additional couple comments.

First, I believe that looking at the kind of competition we are facing from abroad in the aircraft industry that we can do one of two things. We can either destroy the kind of relationship we have had with industry in the past and cut them off on their own and force them into the joint ventures in which they are not going, which means that we shift our production base out of this country, which means we lose jobs, which means we have to start importing aircraft into this country; or second, we strengthen and improve that relationship that we have had with them to give them the funding and the financing that they need to meet that foreign competition.

I said those are the two alternatives. We can pick whichever one we want, regardless of our ideology.

Mr. WEISS. If the gentleman will allow me, in 1977 when we first started focusing on this issue——

The CHAIRMAN. The time of the gentleman from New York has again expired.

(At the request of Mr. HARKIN, and by unanimous consent, Mr. WEISS was allowed to proceed for 2 additional minutes.)

Mr. WEISS. The report of the committee which was before this House and thrust of NASA at that time was to go into the area of undertaking marketing studies by NASA to determine whether, in fact, there would be a market, a civilian market, for the supersonic transport which was intended to be developed.

Mr. HARKIN. Mr. Chairman, if the gentleman will yield further, that was done by the Office of Technology Assessment. The gentleman knows that.

Mr. WEISS. If the gentleman will allow me to continue, what I am suggesting is that it is not enough simply to accept the representations of any industry as to what they need and what part of their tab they would like the Federal Government to pick up. I think that especially in a time of stringency that we have an obligation to make sure that Federal participation is, in fact, appropriate and the area in which the amendment of the gentleman from Michigan is addressed, I think seeks to cut back in an area where we have gone beyond legitimate Federal participation.

Mr. HARKIN. Well, of course, if the gentleman will yield further, I disagree with the gentleman. Much of the technology base that we are looking at, the research and development on the advanced supersonic transportation has to do with engine development, which means variable cycle engines, which may be used for other things other than supersonic transport. It means composite materials. It means new structures. It means a lot of things that may spinoff and be used in other areas, other than the supersonic transport.

Mr. WEISS. Well, I appreciate that. If the gentleman will allow me to recapture my time, but since the military are proceeding along this very line, it seems to me we ought not to be duplicating work and having it paid for by both the Defense Department and by NASA.

Mr. HARKIN. If the gentleman will yield further, there is one thing I can assure the gentleman. I can assure the gentleman that there is no duplication in the NASA effort and the military effort. That I can assure the gentleman.

Mr. WEISS. I have heard that before, too.

Mr. THOMAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in support of H.R. 1257, which authorizes funds for activities of the National Aeronautics and Space Administration in fiscal 1982.

This year's authorization—as well as those which came before it and those which will come after—is an investment in America's future, in the future of our economy and our national security. The United States is a world leader in space-based research, development, application, and exploration. Our Nation could lose this lead, however, unless we commit ourselves to the continuous conquering of scientific and technological barriers through our space program.

Why is the space program so important? To get an idea of its importance, we ought to look at what we have already accomplished toward meeting vital national needs:

In the two decades of its existence, the space program has already had a profound impact on each of our daily lives. We have seen a communications explosion made possible by the development of satellites. Weather forecasting has experienced quantum leaps in reliability and range, and the sciences of forestry, agriculture, water management, environmental monitoring, cartography, and geology, to name a few, are more precise because of satellites and computers brought about by space technology. Each new application is a payment on our investment.

The products and processes which we have adapted from the space program are practically limitless. Automobile ignition systems, heat pumps, insulation for the Alaska oil pipeline, heart monitoring equipment, cancer-screening devices, transistor circuitry, all are "spinoffs" of space technology.

NASA deserves our praise for bringing about this worldwide advance in technology. More important, however, it deserves the Nation's unflagging support for the decades ahead, because we stand at the threshold of a new era in space. Having explored nearly to the outer limits of our solar system the United States must now turn toward using space to benefit Earth.

The technological edge we have enjoyed up to now is the direct result of our leadership in space. We have just recently strengthened our claim to that leadership by successfully launching, orbiting, and landing the Space Shuttle.

The Space Shuttle will serve as the multipurpose vehicle which will rapidly accelerate our advances in space technology and therefore in overall research. It will be an orbiting laboratory, a launching platform for space probes, satellites and telescopes to enlarge our knowledge and use of space. The Space Shuttle will be the construction vehicle for far larger space structures to benefit mankind.

The space program has also become indispensable to national security. Space systems form the basis for our worldwide military, strategic, and tactical communications systems. They are the key link from the Commander in Chief down to the smallest unit commander, so it is vitally important to continue improving their capabilities.

Space systems have also revolutionized the accuracy and reliability of our Armed Forces' global positioning system, allowing accuracies within tens of feet anywhere on the globe in any weather.

Our space systems provide early warning of missile launches directed at the United States and allow us, through reconnaissance, to assess our adversaries' strengths and military movements.

It is no coincidence that all of these systems were born in our national space program, and it should be no surprise that the Soviets are working diligently to match and surpass our leadership in space. The Soviet Union condemned our successful Space Shuttle flight because Soviet leaders know quite well that America has returned to space with the same sense of mission and purpose that marked our earlier advances.

Having embarked so successfully upon this new era in space, America must support this voyage just as we supported the Apollo program. Other nations would be only too eager to lead, and therefore, control the use of space. America must have the vision to pursue this frontier, to invest in its own future. Our national well-being decades from now depends upon our commitment today.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DUNN) as a substitute for the committee amendment.

The amendment offered as a substitute for the committee amendment was agreed to.

Mr. CHAIRMAN. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The CHAIRMAN. Are there further amendments to the bill? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MINETA) having assumed the chair, Mr. BARNARD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1257) to authorize appropriations to the National Aeronautics and Space Administration for

research and development, construction of facilities, and research and program management, and for other purposes, pursuant to House Resolution 161, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CARNEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 404, nays 13, not voting 14, as follows:

[Roll No. 93]

YEAS—404

Addabbo	Brown (CO)	Derrick
Akaka	Brown (OH)	Derwinski
Albosta	Broyhill	Dickinson
Alexander	Burgener	Dicks
Anderson	Burton, John	Dingell
Andrews	Burton, Phillip	Dixon
Annunzio	Butler	Dorgan
Anthony	Byron	Dornan
Applegate	Campbell	Dougherty
Archer	Carman	Downey
Ashbrook	Carney	Dreier
Aspin	Chappell	Duncan
Atkinson	Chappie	Dunn
AuCoin	Cheney	Dwyer
Badham	Chisholm	Dymally
Bafalis	Clausen	Dyson
Bailey (MO)	Clay	Early
Bailey (PA)	Clinger	Eckart
Barnard	Coats	Edgar
Barnes	Coelho	Edwards (AL)
Beard	Coleman	Edwards (CA)
Bedell	Collins (IL)	Edwards (OK)
Beilenson	Collins (TX)	Emerson
Benedict	Conable	Emery
Benjamin	Conte	English
Bennett	Corcoran	Erdahl
Bereuter	Coughlin	Erlenborn
Bethune	Courter	Ertel
Bevill	Coyne, James	Evans (DE)
Bingham	Coyne, William	Evans (GA)
Blanchard	Craig	Evans (IA)
Bliley	Crane, Daniel	Fascell
Boggs	Crane, Philip	Fazio
Boland	D'Amours	Fenwick
Boner	Daniel, Dan	Ferraro
Bonior	Daniel, R. W.	Fiedler
Bonker	Dannemeyer	Fields
Bouquard	Daschle	Findley
Bowen	Daub	Fithian
Brinkley	Davis	Flippo
Brodhead	de la Garza	Florio
Brooks	Deckard	Foglietta
Broomfield	DeNardis	Foley
Ford (MI)	Loeffler	Rose
Ford (TN)	Long (LA)	Rosenthal
Forsythe	Long (MD)	Rostenkowski
Fountain	Lott	Roth
Fowler	Lowery	Roukema
Frank	Lowry	Rousselot
Frenzel	Lujan	Roybal
Frost	Luken	Rudd
Fuqua	Lundine	Sabo
Garcia	Lungren	Santini
Gaydos	Madigan	Savage
Gejdenson	Markey	Schneider
Gephardt	Marks	Schroeder
Gibbons	Marlenee	Schulze
Gilman	Marriott	Schumer
Gingrich	Martin (IL)	Seiberling
Glickman	Martin (NC)	Sensenbrenner
Goldwater	Martin (NY)	Shamansky
Gonzalez	Matsui	Shannon
Goodling	Mattox	Sharp
Gore	Mavroules	Shaw
Gradison	Mazzoli	Shelby
Gramm	McClory	Shumway
Gray	McCloskey	Shuster
Green	McCollum	Siljander
Gregg	McCurdy	Simon
Grisham	McDade	Skeen
Guarini	McDonald	Skelton
Gunderson	McEwen	Smith (AL)
Hagedorn	McGrath	Smith (IA)
Hall (OH)	McHugh	Smith (NE)
Hall, Ralph	McKinney	Smith (NJ)
Hall, Sam	Mica	Smith (OR)
Hamilton	Michel	Snowe
Hammerschmidt	Mikulski	Snyder
Hance	Miller (CA)	Solarz
Hansen (ID)	Mineta	Solomon
Hansen (UT)	Minish	Spence
Harkin	Mitchell (NY)	St Germain
Hartnett	Moakley	Stangeland
Hatcher	Moffett	Stanton
Hawkins	Molinari	Stark
Heckler	Montgomery	Staton
Hefner	Moore	Stenholm
Heftel	Moorhead	Stokes
Hendon	Morrison	Stratton
Hertel	Mottl	Studds
Hightower	Murphy	Stump
Hiler	Murtha	Swift
Hillis	Myers	Synar
Holland	Napier	Tauke
Hollenbeck	Natcher	Tauzin
Holt	Neal	Taylor
Hopkins	Nelligan	Thomas
Horton	Nelson	Traxler
Howard	Nichols	Trible
Hoyer	Nowak	Udall
Hubbard	O'Brien	Vander Jagt
Huckaby	Oakar	Vento
Hughes	Oberstar	Volkmer
Hunter	Panetta	Walgren
Hutto	Parris	Walker
Hyde	Pashayan	Wampler
Ireland	Patman	Washington
Jeffords	Patterson	Watkins
Jeffries	Pease	Waxman
Jenkins	Pepper	Weber (MN)
Johnston	Perkins	Weber (OH)
Jones (NC)	Petri	Weiss
Jones (OK)	Peyser	White
Jones (TN)	Pickle	Whitehurst
Kastenmeier	Porter	Whitley
Kazen	Price	Whittaker
Kemp	Pritchard	Whitten
Kildee	Pursell	Williams (MT)
Kindness	Quillen	Williams (OH)
Kogovsek	Rahall	Wilson
Kramer	Railsback	Winn
LaFalce	Rangel	Wirth
Lagomarsino	Ratchford	Wolf
Lantos	Regula	Wolpe
Latta	Rhodes	Wortley
Leach	Richmond	Wright
Leath	Rinaldo	Wyden
LeBoutillier	Ritter	Wylie
Lee	Roberts (KS)	Yatron
Lehman	Roberts (SD)	Young (AK)
Leland	Robinson	Young (FL)
Lent	Rodino	Young (MO)
Levitas	Roe	Zablocki
Lewis	Roemer	Zeferetti
Livingston	Rogers	

NAYS—13

Biaggi	Dellums	Evans (IN)
Jacobs	Ottinger	Weaver
Miller (OH)	Paul	Yates
Mitchell (MD)	Reuss	
Obey	Russo	

NOT VOTING—14

Bolling	Crockett	Ginn
Breaux	Danielson	Mollohan
Brown (CA)	Donnelly	Sawyer
Conyers	Fary	Scheuer
Cotter	Fish	

□ 1445

The Clerk announced the following pairs:

Mr. Mollohan with Mr. Fish.
Mr. Ginn with Mr. Sawyer.
Mr. Gary with Mr. Scheuer.
Mr. Conyers with Mr. Breaux.
Mr. Danielson with Mr. Crockett.
Mr. Donnelly with Mr. Brown of California.

Mr. LELAND changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. FUQUA. Mr. Speaker, pursuant to the provisions of House Resolution 161, I call up from the Speaker's table the Senate bill (S. 1098) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. FUQUA

Mr. FUQUA. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FUQUA moves to strike out all after the enacting clause of the Senate bill, S. 1098, and to insert in lieu thereof the provisions of the bill, H.R. 1257, as passed as follows:

That there is hereby authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1981:

(a) For "Research and development", for the following programs:

(1) Space Shuttle, $2,134,000,000;

(2) Space flight operations, $903,900,000;

(3) Expendable launch vehicles, $31,200,000;

(4) Physics and astronomy, $350,400,000;

(5) Planetary exploration, $215,200,000;

(6) Life sciences, $49,200,000;

(7) Space applications, $410,900,000;

(8) Technology utilization, $12,600,000;

(9) Aeronautical research and technology, $264,800,000;

(10) Space research and technology, $129,300,000;

(11) Energy technology, $2,000,000; and

(12) Tracking and data acquisition, $400,200,000.

(b) For "Construction of facilities", including land acquisition, as follows:

(1) Modification of 12-foot pressure wind tunnel, Ames Research Center, $18,500,000;

(2) Modifications to space flight operations facility, Jet Propulsion Laboratory, $9,300,000;

(3) Rehabilitation of utility control system, various buildings, Lyndon B. Johnson Space Center, $680,000;

(4) Construction of waste material incinerator, John F. Kennedy Space Center, $895,000;

(5) Repair of operations and checkout building roof, John F. Kennedy Space Center, $825,000;

(6) Modifications for enhanced 20-inch supersonic wind tunnel, Langley Research Center, $2,950,000;

(7) Modifications for high pressure turbine corrosion and thermal fatigue testing, Lewis Research Center, $1,200,000;

(8) Modification and relocation of 26-meter antenna, STDN, Goldstone, California, $4,700,000;

(9) Relocation of DSS-44 antenna to Tidbinbilla, Australia, $2,200,000;

(10) Space Shuttle facilities at various locations as follows:

(A) Construction of solid rocket booster processing and segment storage facilities, John F. Kennedy Space Center, $12,400,000;

(B) Modifications to firing rooms, John F. Kennedy Space Center, $3,100,000;

(C) Modification of manufacturing and final assembly facilities for external tanks, Michoud Assembly Facility, $2,785,000;

(D) Modifications to Building 30 for Shuttle operations, Lyndon B. Johnson Space Center, $650,000;

(E) Minor Shuttle-unique projects, various locations, $1,115,000;

(11) Repair of facilities at various locations, not in excess of $500,000 per project, $12,800,000;

(12) Rehabilitation and modification of facilities at various locations, not in excess of $500,000 per project, $17,700,000;

(13) Minor construction of new facilities and additions to existing facilities are various locations, not in excess of $250,000 per project, $2,320,000; and

(14) Facility planning and design not otherwise provided for, $10,000,000.

(c) For "Research and program management", $1,114,300,000 and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

(d) Notwithstanding the provisions of subsection 1(g), appropriations hereby authorized for "Research and development" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $250,000, unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost of such facility.

(e) When so specified and to the extent provided in an appropriation act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of 12 months beginning at any time during the fiscal year.

(f) Appropriations made pursuant to subsection 1(c) may be used, but not to exceed $25,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator and his determination shall be final and conclusive upon the accounting officers of the Government.

(g) Of the funds appropriated pursuant to subsections 1(a) and 1(c), not in excess of $75,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities: *Provided*, That, of the funds appropriated pursuant to subsection 1(a), not in excess of $250,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

SEC. 2. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1) through (13), inclusive, of subsection 1(b)—

(1) in the discretion of the Administrator or his designee, may be varied upward 10 percent, or

(2) following a report by the Administrator or his designee to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such action, may be varied upward 25 percent,

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 3. Not to exceed one-half of 1 percent of the funds appropriated pursuant to subsection 1(a) hereof may be transferred to the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of the funds appropriated pursuant to subsection 1(b) hereof (other than funds appropriated pursuant to paragraph (14) of such subsection) shall be available for expenditure to construct, expand, or modify laboratories and other installations at any location (including locations specified in subsection 1(b)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) he determines that deferral of such action until the enactment of the next authorization act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless (A) a period of 30 days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete statement concerning (1) the nature of such construction, expansion, or modification, (2) the cost thereof including the cost of any real estate action pertaining thereto, and (3) the reason why such construction, expansion, or modification is necessary in the national interest, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 4. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made in either the House Committee on Science and Technology or the Senate Committee on Commerce, Science, and Transportation,

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by subsections 1(a) and 1(c), and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been present to or requested of either such committee,

unless (A) a period of 30 days has passed after the receipt by the Speaker of the House of Representative and the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 5. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

SEC. 6. Section 7 of title 18, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(6) Any vehicle used or designed for flight or navigation in space and on the registry of the United States pursuant to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies and the Convention on Registration of Objects Launched into Outer Space, while that vehicle is in flight, which is from the moment when all external doors are closed on Earth following embarkation until the moment when one such door is opened on Earth for disembarkation or in the case of a forced landing, until the competent authorities take over the respon-

sibility for the vehicle and for persons and property aboard.".

SEC. 7. The National Aeronautics and Space Act of 1958, as amended, is amended by inserting at the end of section 305, the following new subsections:

"(k) Any object intended for launch, launched, or assembled in outer space shall be considered a vehicle for the purpose of section 272 of title 35, United States Code.

"(l) The use or manufacture of any patented invention incorporated in a space vehicle launched by the United States Government for a person other than the United States shall not be considered to be a use or manufacture by or for the United States within the meaning of section 1498(a) of title 28, United States Code, unless the Administration gives an express authorization or consent for such use or manufacture.".

SEC. 8. Section 6 of the National Aeronautics and Space Administration Authorization Act, 1970, as amended (42 U.S.C. 2462), is repealed.

SEC. 9. Appropriations hereby authorized for space transportation system upper stages in section 1(a)(2) shall not be used to initiate sole-source procurement of a new upper stage until NASA in cooperation with other agencies has reviewed alternative systems, assessed competitive procurement of a new upper stage to satisfy national requirements, and reported findings to the authorizing committees of the House of Representatives and the Senate.

SEC. 10. Of the appropriations authorized for planetary exploration in section 1(a)(5) up to $5,000,000 may be used for the purpose of a mission to intercept and observe Halley's Comet, but only to the extent that such funds are formally requested in a written message from the Administrator transmitted to the House of Representatives and the Senate.

SEC. 11. This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1982".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill, H.R. 1257, was laid on the table.

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill just passed, H.R. 1257.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

FOOD STAMP ACT AMENDMENTS OF 1981

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means and the Committee on Agriculture be discharged from further consideration of the bill (H.R. 3991) to amend the Food Stamp Act of 1977 to increase the authorization for appropriations for fiscal year 1981, and to amend Public Law 93-233 to continue, through August 1, 1981, the cash-out of food stamp program benefits of certain recipients of supplemental security income, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so to ask the gentleman from Texas whether or not H.R. 3991 is the new legislation which would change section 2 to make it the effective period from July 1 to August 1 in order that section 2 may be considered under a more orderly legislative process at some point in the upcoming months; am I correct in that?

Mr. DE LA GARZA. If the gentleman will yield, the gentleman is correct.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas (Mr. DE LA GARZA)?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3991

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 18(a)(1) of the Food Stamp Act of 1977 is amended by striking out, before the period at the end of the first sentence thereof, "and not in excess of $9,739,276,000 for the fiscal year ending September 30, 1981" and inserting in lieu thereof "and not in excess of $11,480,000,000 for the fiscal year ending September 30, 1981".

SEC. 2. Effective for the period July 1, 1981, to August 1, 1981, section 8(d) of Public Law 93-233 is amended to read as follows:

"(d) Upon the request of a State, the Secretary shall find for purposes of the provisions specified in subsection (c), that the level of such State's supplementary payments of the type described in 1616(a) of the Social Security Act has been specifically increased for any month after June 1976 so as to include the bonus value of food stamps if: (1) the Secretary has found that such State's supplementary payments in June 1976 were increased to include the bonus value of food stamps; (2) recipients of supplementary payments in such State were ineligible for food stamps for the month of December 1980; and (3) such State continues to meet the requirements of section 1618 of such Act for each month after June 1977 and up to and including the month for which the Secretary is making the determination.".

Mr. DE LA GARZA. Mr. Speaker, I yield 30 minutes to the gentleman from Missouri (Mr. COLEMAN) pending which I yield myself such time as I may consume.

Mr. Speaker, the Committee on Agriculture, in an emergency meeting this morning, directed the chairman to introduce, at the earliest possible time today, a bill to increase the authorization for appropriations for the food stamp program for fiscal year 1981, and to continue in effect, through August 7 of this year, provisions under which recipients of supplemental security income in the State of California will continue tc have their food stamp benefits cashed out. The committee also directed the chairman to seek to have the bill considered today.

I rise in support of H.R. 3991, the bill which I introduced today at the committee's direction. Emergency action on this bill is necessary. If legislation is not enacted by July 1 of this year, actions of two kinds may be necessary. First, the Secretary of Agriculture will have to notify the States that reductions in current food stamp program benefit levels may be required because of impending inadequacy of funds. Second, recipients of supplemental security income in the State of California who receive State supplementary payments will become eligible for food stamps. This would entail the State potentially having to process over 600,000 SSI recipients for the food stamp program, at great cost to the State and the Federal Government.

Let me first address the issue of program funding for the current fiscal year. It has for some time been evident that the level of funds authorized to be appropriated—and appropriated—would not be adequate to fund the program at current benefit levels through fiscal year 1981. This is due to factors such as higher than anticipated participation rates and bonus costs, and increases in the price of food. Measures have been taken to address this situation. Both in H.R. 3603, the 1981 farm bill, and in its reconciliation bill, the Committee on Agriculture included provisions paralleling those in H.R. 3991 to increase the authorization for appropriations for fiscal 1981 from about $9.739 billion to $11,480 billion. Further, the supplemental appropriation bill recently enacted into law increased appropriations for the program to the full level authorized by this bill—but on condition that authorizing legislation be enacted, and that an official amended supplemental request is transmitted to the Congress. It is now apparent that other legislation increasing the fiscal 1981 program authorization will not become law by July 1.

The Secretary of Agriculture has informed the committee that he will delay, until July 1, the latest possible date, the issuance to the States of an order requiring major benefit reductions due to the uncertainty of program funding. The Secretary states that he had delayed issuance of the order in the hope of receiving a timely authorization.

Further, the Speaker has received letters from the President and the Director of the Office of Management

and Budget supporting the full amount authorized by the bill.

In these circumstances, the committee strongly believes that immediate action is necessary to prevent the disruption which would be caused by an order for the reduction of benefit levels, and to permit the program to be carried out through the current fiscal year at the benefit levels now established by law. Meanwhile, legislation such as the committee's 1981 farm bill and reconciliation bill can be considered which addresses the reduction of program costs for the 1982 and subsequent fiscal years.

The bill would also deal with another emergency situation involving the food stamp program. It would amend section 8 of Public Law 93-233, a law related to the Social Security Act which is concerned with procedures for determining the level of the State supplementary payment to supplemental security income recipients in California. A portion of their payment is in lieu of food stamps and, as provided for in section 6(g) of the Food Stamp Act of 1977, such recipients are "cashed-out" of the food stamp program.

The current provisions governing this program expired on June 30, 1981. In the absence of legislation, as of July 1, 1981, all SSI recipients currently prohibited from receiving food stamps as a result of their cash-out status would likely be eligible for the food stamp program, resulting in California potentially having to process over 600,000 SSI recipients for food stamps. Returning these recipients to the food stamp program could substantially increase both the cost of the program in the State and the administrative burden on the State agency. Such increases would be inconsistent with efforts to reduce food stamp expenditures. The increase in administrative burden would be especially hard felt in this instance as the large number of SSI/SSP recipients would potentially have to be assimilated to the food stamp program at the same time on or near July 1, 1981.

The amendment would, however, be effective only during the period from July 1 to August 1, 1981. It would, therefore, avoid a massive and costly program change as of July 1, but would permit the consideration of longer term approaches to the problem, such as those contained in H.R. 3603, the 1981 farm bill, and in the reconciliation bill reported to the Budget Committee by the Committee on Ways and Means. The latter committee shares jurisdiction over this matter since it deals with SSI payment levels which relate to the Social Security Act.

In view of the emergency nature of this bill, the Committee on Ways and Means has waived jurisdiction. I recognize that committee's jurisdictional interest in section 2 of the bill, and I appreciate its cooperation in permitting the bill expeditiously to be brought to the floor.

Because of the urgent need for prompt action, and because the committees involved have previously considered and reported favorably other bills which would have a similar effect, I urge my colleagues to join me in support of H.R. 3991.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. RICHMOND), the chairman of the subcommittee that handles this legislation.

Mr. RICHMOND. Mr. Speaker, I rise in support of H.R. 3991 a bill to increase the authorization for appropriations for the food stamp program for fiscal year 1981, and to continue in effect, through August 1, of this year, provisions under which recipients of supplemental security income in the State of California will continue to have their food stamp benefits cashed out.

The administration has made clear that the additional sum authorized by the bill is needed to maintain operation of the program under present law at full benefit levels for the balance of the current fiscal year. The Supplemental Appropriation Act recently signed into law appropriated the necessary additional sums for the program, contingent upon adoption of authorizing legislation. Both the committee's 1981 farm bill (H.R. 3603) and its reconciliation bill contained the same provision for an increased fiscal 1981 authorization as the bill we are considering. It now is clear that neither of these measures will be enacted by July 1. However, the Secretary of Agriculture has informed the committee that he will delay until July 1, the "latest possible date," a notification to the States that, in view of the uncertainty of program funding for the remainder of the fiscal year, a reduction in food stamp benefits may be required. Prompt adoption of the amendment will obviate the need for benefit reduction. it will implement a decision the committee has already made, as reflected in the provisions of two other pieces of legislation, to keep the program operating at present benefit levels through the current fiscal year.

Section 2 of the bill will continue on a temporary basis through August 1, 1981, the current situation under which recipients of SSI in the State of California receive State supplementary payments in an amount sufficient to "cash out" their food stamp benefits. If legislation continuing the status quo in this regard is not adopted by July 1, all SSI recipients in the State would likely be eligible for stamps. This would result in the State potentially having to process over 600,000 SSI/SSP recipients for the food stamp program, at great expense both to the State and the Federal Government.

The farm bill contains provisions continuing the cash-out status of these persons. So, likewise, does the reconciliation bill sent foward by the Committee on Ways and Means, which also has jurisdiction over this matter. However, these bills will not be enacted before July 1. Therefore, prompt action is necessary to continue present arrangement at the least until longer term solutions may be considered by the Congress.

Mr. Speaker, it is critical that H.R. 3991 be passed by the House in a timely fashion. Congress can and must act swiftly to provide for the health and well-being of millions of low-income Americans.

Mr. COLEMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the two provisions contained in this bill. The first increases the authorization for food stamp appropriation for fiscal year 1981 to $11.480 billion. The second will allow States like California to continue cashing out food stamps to their supplemental security income recipients. This bill will allow such States to continue this process on a temporary basis, through August 1, 1981. If this action is not taken California would potentially have to process over 600,000 SSI/SSP recipients for the food stamp program. I do not believe there is any opposition to this provision.

It is the first provision that I wish to discuss. Once again this year we are raising the cap on the food stamp program.

The food stamp cap was initially established for the program as part of the Food Stamp Act of 1977. This was done because of congressional concern over the magnitude of program costs and a desire to keep the program from being a pure entitlement program. The amendment was offered to give Congress a handle on the cost of the program and to send a signal to the Department that they must exercise control over high error rates and poor administration. In addition, the Congress wanted to insure the prerogative of oversight remained in the authorizing committee so that a check could be kept to guarantee performance of congressional intent.

The caps set by the 1977 act were based on projected food prices, program participation and unemployment rates. Additionally, a figure 8 percent above the costs projected by the Department of Agriculture was established as the cap.

For the past 2 years Congress had to raise the cap. Again this year, a bill to raise the cap is before us. Despite the need to raise the cap on food stamp

expenditures, the retention of a cap is still a sound practice. It prevents a blank check from being given for the program and allows Congress to maintain its oversight responsibility.

The administration supports the lifting of the cap for fiscal year 1981. During markup of the 1981 farm bill, in the Committee on Agriculture, administration representatives stated they supported full funding for 1981; but, that program reform must be instituted to control the growth of the food stamp program in future years. These representatives also stated that the second request for a supplemental appropriation of $538 million was requested with the caveat that this money be offset by additional savings in the outyears.

This bill contains authorization for $1.7 billion for fiscal year 1981. We will be taking action shortly on the reconciliation bill. I urge you to remember that the money authorized today should be offset by savings in the future years. We must put some integrity into the food stamp program, target reforms and eliminate waste, fraud, and abuse. I do not want to see nontargeted reductions in benefits this year to the poor, the elderly, or the disabled. I do want to see reforms in this program beginning in fiscal year 1982. Remember, this program will cost $11.480 billion this year and 1 out of every 10 Americans receive food stamps, while over 10 percent of the money spent goes to people who are ineligible or receive too many benefits.

I support full funding this year but we must reform the food stamp program and offset this $1.7 billion authorization with savings in future years.

Mr. DE LA GARZA. I have no further requests for time, Mr. Speaker, and yield back the balance of my time.

Mr. COLEMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time, and I move the previous question.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1500

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DEPARTMENT OF DEFENSE SUPPLEMENTAL AUTHORIZATION ACT, 1981

Mr. PRICE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2614) to authorize supplemental appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles and for research, development, test, and evaluation for the Armed Forces and to increase the authorized personnel end strengths for military and civilian personnel of the Department of Defense for fiscal year 1981.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. PRICE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of Union for the further consideration of the bill, H.R. 2614, with Mr. SAM B. HALL, JR., in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Monday, June 15, 1981, all time for general debate on the bill had expired.

Pursuant to the rule, the Clerk will now read by titles the substitute committee amendment recommended by the Committee on Armed Services now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 2614

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Supplemental Authorization Act, 1981".

TITLE I—PROCUREMENT

AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS

SEC. 101. In addition to the funds authorized to be appropriated under title I of the Department of Defense Authorization Act, 1981 (Public Law 96-342; 94 Stat. 1077), funds are hereby authorized to be appropriated for fiscal year 1981 for the use of the Armed Forces for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, as authorized by law, in amounts as follows:

Aircraft

For aircraft: for the Army, $128,000,000; for the Navy and Marine Corps, $143,600,000; for the Air Force, $678,825,000.

Missiles

For missiles: for the Army, $27,000,000; for the Navy, $41,200,000; for the Air Force, $205,869,000; for the Marine Corps, $10,700,000.

Naval Vessels

For naval vessels: for the Navy, $139,000,000.

Tracked Combat Vehicles

For tracked combat vehicles: for the Army, $781,000,000; for the Marine Corps, $11,300,000.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS

SEC. 201. In addition to the funds authorized to be appropriated under title II of the Department of Defense Authorization Act, 1981 (94 Stat. 1079), funds are hereby authorized to be appropriated for fiscal year 1981 for the use of the Armed Forces for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Army, $83,963,000.

For the Navy (including the Marine Corps), $96,567,000.

For the Air Force, $211,062,000.

For the Defense Agencies, $16,936,000.

TITLE III—ACTIVE FORCES

INCREASE IN FISCAL YEAR 1981 ACTIVE DUTY END STRENGTHS FOR THE NAVY, MARINE CORPS, AND AIR FORCE

SEC. 301. Section 301 of the Department of Defense Authorization Act, 1981 (94 Stat. 1082), is amended by striking out "537,456", "188,100", and "564,500" and inserting in lieu thereof "540,456", "190,600", and "569,000", respectively.

TITLE IV—RESERVE FORCES

INCREASE IN NUMBER OF MARINE CORPS RESERVISTS AUTHORIZED TO BE ON FULL-TIME ACTIVE DUTY ON SEPTEMBER 30, 1981, IN SUPPORT OF THE MARINE CORPS RESERVE

SEC. 401. Section 401(b)(4) of the Department of Defense Authorization Act, 1981 (94 Stat. 1084), is amended by striking out "67" and inserting in lieu thereof "133".

TITLE V—CIVILIAN PERSONNEL

INCREASE IN NUMBER OF CIVILIAN PERSONNEL AUTHORIZED FOR THE DEPARTMENT OF DEFENSE AS OF SEPTEMBER 30, 1981

SEC. 501. Section 501(a) of the Department of Defense Authorization Act, 1981 (94 Stat. 1085), is amended by striking out "986,000" and inserting in place thereof "1,013,900".

TITLE VI—MILITARY CONSTRUCTION

ARMY

SEC. 601. (a) In addition to the amounts authorized for acquisition and construction by title I of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1749), the following amount is authorized for the location specified:

United States Army, Europe

Various Locations, $1,800,000.

(b) There is authorized to be appropriated for fiscal year 1981 for the purposes of subsection (a) the sum of $1,800,000.

NAVY

SEC. 602. (a) In addition to the amounts authorized for acquisition and construction by title II of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1752), the following amount is authorized for the location specified:

United States Marine Corps

Marine Corps Air Station, El Toro, California $2,000,000.

(b) There is authorized to be appropriated for fiscal year 1981 for the purpose of subsection (a) the sum of $2,000,000.

AIR FORCE

SEC. 603. (a) In addition to the amounts authorized for acquisition and construction

by title III of Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1756), the following amounts are authorized for the locations specified:

Air Training Command

Laughlin Air Force Base, Texas, $4,700,000.

Strategic Air Command

K. I. Sawyer Air Force Base, Michigan, $540,000.

Special Project

Various Locations, Special Project, $50,000,000.

(b) There is authorized to be appropriated for fiscal year 1981 for the purpose of subsection (a) the sum of $55,240,000.

DEFENSE AGENCIES

SEC. 604. (a) In addition to the amount specified for minor construction projects by section 403 of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1761), the Secretary of Defense is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $900,000.

(b) There is authorized to be appropriated for fiscal year 1981 for the purpose of subsection (a) the sum of $900,000.

MILITARY FAMILY HOUSING

SEC. 605. Section 510(a) of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1767), is amended—

(1) by striking out "$216,100,000" in clause (1) and inserting in lieu thereof "$260,078,000"; and

(2) by striking out "$1,880,760,000" in clause (2) and inserting in lieu thereof "$1,896,782,000".

AIR NATIONAL GUARD OF THE UNITED STATES

SEC. 606. In addition to the amount specified in section 701(3)(A) of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1774), the Secretary of Defense may establish or develop facilities for the Air National Guard of the United States in an amount not to exceed $6,500,000.

LIMITATIONS APPLICABLE TO USE OF FUNDS

SEC. 607. (a) Authorizations contained in this title shall be subject to the authorizations and limitations of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1749), in the same manner as if such authorizations had been included in that Act.

(b) For the purposes of the limitations set forth in section 603 of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1768), the amounts authorized to be appropriated for titles I through V of that Act shall be deemed to be increased, respectively, by the amounts authorized to be appropriated by sections 601 through 605.

MODIFICATION OF PRIOR YEAR AUTHORIZATION FOR FAMILY HOUSING UNITS AT TINKER AIR FORCE BASE

SEC. 608. (a) Section 501(c) of the Military Construction Authorization Act, 1980 (Public Law 96-125; 93 Stat. 940), is amemded by striking out "three hundred thirty-two units" in the item relating to Tinker Air Force Base and inserting in lieu thereof, "two hundred units".

(b) The authorization for construction of, or acquisition of sole interest in, family housing units at Tinker Air Force Base, Oklahoma, contained in section 502 of the Military Construction Authorization Act, 1980 (Public Law 96-125; 93 Stat. 940), as amended by subsection (a), is hereby modified to authorize construction of such family housing units on base at Tinker Air Force Base.

Mr. PRICE (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. Are there any amendments?

AMENDMENT OFFERED BY MR. PRICE

Mr. PRICE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PRICE: On page 5, line 9, strike out "$678,825,000" and insert in lieu thereof "$702,825,000".

Mr. PRICE. Mr. Chairman, on March 16, 1981, at Shemya, Alaska, an RC-135 reconnaissance aircraft crashed and was totally destroyed. This aircraft had a vital intelligence collection mission and its replacement has been deemed critical by the Joint Chiefs of Staff and the intelligence community.

On April 7, 1981, the President sent a budget amendment to Congress requesting that $24 million be added to the fiscal year 1981 supplemental budget request to support the modification of a replacement aircraft to an RC-135 configuration.

Unfortunately, the President's request arrived after the committee had marked up and reported out H.R. 2614. The purpose of my amendment is to add the authorization needed to allow the Air Force to replace the RC-135 destroyed in the crash.

Mr. Chairman, this additional amount has already been appropriated by the fiscal year 1981 Supplemental Appropriation Act, and this amendment has the concurrence of the House Select Committee on Intelligence.

Mr. DICKINSON. Mr. Chairman, I rise in support of the amendment offered by our distinguished chairman, the gentleman from Illinois (Mr. PRICE).

The gentleman has stated the case as I understand it to be.

The reconnaissance aircraft that was destroyed was a very valuable asset of the United States and very essential to our defense posture.

This is simply a replacement aircraft, the funds for which have already been appropriated without being authorized, and this is simply to authorize them. We need it and, as has been pointed out, if we had received the request on time it would have been in the bill originally.

I support the amendment, and I would ask favorable consideration.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. PRICE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. NICHOLS

Mr. NICHOLS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. NICHOLS: Page 6, line 14, insert "'775,300'," after "striking out".

Page 6, line 15, insert "'780,000'," after "in lieu thereof".

Mr. NICHOLS. Mr. Chairman, my amendment would increase the Active Army's fiscal year 1981 end strength by 4,700 to a total end strength of 780,000 in fiscal year 1981.

When the fiscal year 1981 defense authorization supplemental legislation was considered in the committee, the Army did not submit a request to increase its end strength as each of the other services had done. At that time, the Army—which is the only service that is subject to a statutory control on the number of high school graduates it must recruit in fiscal year 1981—was not absolutely certain how recruiting would progress during the course of the year. The decision was made to use improved retention results to reduce recruiting goals rather than to increase end strength. However, as the fiscal year has progressed, the Army has continued to meet success in recruiting and retention. I was recently contacted by the Chief of Staff of the Army, General Meyer, seeking this end strength increase to take advantage of these circumstances.

The 4,700 increase will permit the Army to recruit 2,000 more prior service personnel plus 2,000 more non-prior-service personnel, all of whom will be high school graduates, and retain an additional 700 officers—almost all at the rank of lieutenant. The officers in particular will be used to reduce shortages in combat units.

Mr. Chairman, the Army will meet its quality goal of having no less than 65 percent high school graduates in fiscal year 1981. Currently, the Army is recruiting almost 72 percent high school graduates.

It appears to me that in spite of the fact that this change is being requested somewhat late in the process, it is sensible to allow the Army to take advantage of the availability of quality personnel.

For fiscal year 1982, the Army end strength proposed by the President and approved by the committee would increase by almost 11,000. Allowing a part of the proposed increase in fiscal year 1981 will permit the overall increase for fiscal year 1982 to be accomplished in a more orderly manner.

Mr. Chairman, the increase in strength contained in the amendment will only result in a net cost of $13 million in fiscal year 1981 because of off-

setting savings in travel and separation costs. The increased cost will be absorbed within current funding levels for the Army.

Mr. Chairman, I urge the adoption of this amendment.

Mr. MITCHELL of New York. Mr. Chairman, will the gentleman yield?

Mr. NICHOLS. I yield to the gentleman from New York.

Mr. MITCHELL of New York. I thank the gentleman for yielding.

Mr. Chairman, I support the amendment offered by my distinguished colleague, the gentleman from Alabama (Mr. NICHOLS), that would increase the Army's fiscal year 1981 end strength in the same manner that the other services have been increased.

As the Members know, the Congress approved a $5 billion pay and benefits package last year in an attempt to turn around the difficulties in retention and recruiting we were experiencing. That money and other factors are beginning to have the effect we hope for. Things are improving in some categories dramatically.

The Army, the service which has had the most difficulty in recruiting, has found that it can now take advantage of these improvements by retaining and recruiting more quality personnel than was first through likely. Although this evidence was somewhat late in emerging, it should not change the basic thrust strongly spurred by the Congress to attract more quality personnel into the Army.

Mr. Chairman, I urge the Members to support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. NICHOLS).

The amendment was agreed to.

The CHAIRMAN. Are there any other amendments?

AMENDMENT OFFERED BY MR. PEASE

Mr. PEASE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PEASE: Page 7, strike out section 601 (line 10 through line 19) and redesignate the following sections accordingly.

Page 10, line 4, strike out "titles I" and insert in lieu thereof "titles II".

Page 10, line 6, strike out "605" and insert in lieu thereof "604".

(By unanimous consent, Mr. PEASE was allowed to proceed for 3 additional minutes.)

Mr. PEASE. Mr. Chairman, on June 7 the New York Times reported that the rate of increase in West German defense spending this year will fall slightly below that of the budget as a whole. In spite of a NATO commitment by Germany to increase defense spending by 3 percent in real growth per year, the planned budget allows for only 1.4 percent in real terms. At the same time, the United States is averaging 5-percent real growth per year with its plans for 11 percent in the near future.

In February of this year I introduced a resolution which requested that the administration call on our NATO allies and Japan to live up to their defense spending commitments. It received widespread, bipartisan support with over 40 cosponsors. The Congressional Research Service is currently working on an unclassified version of the Department of Defense's report on defense burden sharing by our allies and these countries.

In the U.S. defense budget, many billions of dollars are spent on international defense which could be reassigned to other priorities if our allies' commitments were kept. My amendment deletes the funding request for $1.8 million to provide additional ammunition storage facilities in Vilsek, Germany. The proposed construction is a perfect opportunity for the Germans to provide host nation support. The March 1981 report on allied commitments issued by DOD said that the United States could legitimately expect more host nation support and increased NATO infrastructure from West Germany.

If the Germans find this suggestion unacceptable, I suggest that the funding come from the $300 million already authorized to the Department of Defense for the U.S. share of NATO infrastructure for the fiscal year 1981.

The United States cannot continue to be all things to all nations. The March DOD report on allied commitments highlights the consequences stemming from our allies' failure to meet their defense spending commitments. According to the report, our allied defense efforts or rather, reluctance, has significantly hampered equipment modernization plans and delayed the implementation of the long-term defense program. This is not to say that Germany is alone in their disappointing participation. By applying the evaluation standards established by DOD, Belgium, Italy, and Norway are also included. Japan, although not a NATO member, has proved to be a big disappointment in allied commitments.

But West Germany, in particular, was cited as an ally that we could legitimately expect more host nation support from as well as increased NATO infrastructure payments.

Frank Carlucci, Deputy Secretary of Defense, said:

Like the East-West balance, the relationship between the United States and Europe also has shifted dramatically over 30 years. The United States no longer produces and consumes 50 percent of the world's GNP. Europe is no longer shattered, impoverished and disunited. Indeed, Western Europe's total GNP exceeds that of the United States.

In this situation, the United States cannot be expected to improve and strengthen U.S. forces in Europe, unless other allies increase their own contribution to the combined defense effort. Nor can the United States, unaided, bear the burden of promoting Western interest beyond Europe.

Another consideration is West Germany's status among other European allies. West Germany has traditionally been considered a "bellweather" nation, which makes their commitment to the allied defense even more important.

The concept and implementation of host nation support is essential at this time. Greater host nation support from NATO members in Western Europe could redress the serious lack of logistical support that has been a long-standing problem. It could also make it possible for the United States to divert some of its forces in Europe to Southwest Asia and the Persian Gulf, if needed.

U.S. global military commitments contribute to Western security. The global U.S. naval role, in particular, makes a direct contribution to the security of Western Europe and Japan to the extent that it protects Western maritime trade and access to vital raw materials, oil in particular. Military efforts in the Persian Gulf region are of increasing importance and expense to the United States.

A major U.S. role in the defense of Europe and Japan was warranted when our allies were weak economically with fragile political structures, but the economic and political maturity of the allies now suggests that they should play an increasingly more responsible role in their own defense.

We must work together with our NATO allies. The burden of NATO defense does not rest solely on our shoulders. I urge my colleagues to support this amendment.

□ 1515

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. PEASE. I yield to the distinguished gentleman from Illinois.

Mr. FINDLEY. I thank the gentleman for yielding. I have listened carefully to the gentleman's comments and I want to add a thought or two of my own.

Germany has an enormous stake in Persian Gulf oil, a greater stake proportionately than the United States. The same could be said of Japan. Yet, neither of these nations has taken the first step that I have been able to detect about providing resources of any substantial kind to the task of dealing with the Persian Gulf security problem.

I hope the gentleman will persist in his endeavors to bring about greater levels of participation by both of these countries.

Mr. PEASE. I thank the gentleman for making that very excellent point.

Mr. DICKINSON. Mr. Chairman, I rise to speak in opposition to the amendment. I have to say I am terri-

bly surprised at this amendment for a number of reasons. One, I am on the Subcommittee on Military Construction. I do not remember the author of that amendment coming before us to be heard when we were deliberating for this year's military construction projects. I would have thought if he had such a burning interest in it, he would have made his thoughts known then. But for whatever reason, I might say that I along with the gentleman who preceded me in the well, the gentleman from Illinois (Mr. FINDLEY), have just returned from the meeting of the North Atlantic Assembly where we met with our counterparts of the NATO nations. We discussed the participation of Germany as well as other NATO nations in the common defense, and what proportion of the burden each of the countries should accept.

The author of the amendment did not attend the meeting at which this matter was discussed in some depth.

Additionally, our counterparts in NATO have met with us at least once here this year where we had extensive discussions on participation of various countries. It is not a perfect world and of course everybody is not doing what should be done in terms of level of effort in the eyes of everyone else.

But aside from that, the Committee on Armed Services was just in Stuttgart a couple of weeks ago where we met with the leaders of our military command in Europe, including the Deputy CINCEUR, General Allen. If there was one thing that he impressed on our committee, if there was one plea, if I am using the correct word, from the military leaders of the United States forces in Europe, it was for military construction and particularly for ammunition. We have a very bad situation there, in my opinion, where we are too centralized and where we do not have the facilities for storing ammunition in areas for ready access where it can be easily gotten to in the case of an emergency.

So, I cannot understand any possible basis on which this amendment is offered. It is not going to help the United States. It is going to hurt the United States. It is not, in my opinion, very well reasoned. If there is one area where we need some additional spending, it is in the military construction budget and it is in the area of storage of ammunition.

I can find no rationale to support this. I would certainly hope that the membership of the House would vote this down out of hand.

Mr. PRICE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the Committee on Armed Services believes that our allies should do more in NATO than they are doing. But the way to force that result is not to deny needed ammunition facilities for our own forces. That is what we are talking about here.

On behalf of the committee I ask that this dangerous amendment be defeated.

Mr. BRINKLEY. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment because, Mr. Chairman, it is the wrong amendment at the wrong time.

First of all, the record of the Subcommittee on Military Facilities and Installations has really emphasized the same points that the gentleman from Ohio makes, and that is the fact that our commitment is to fair NATO participation and funding.

If the gentleman would concern himself really with the norms over the years and the averages over the years, he would find that the German contribution exceeds that of the United States.

A brief bit of history: This is the fourth part of the 4-year incremental program. The first one dealt with a vehicle maintenance shop for $2.6 million which has been funded. The second deals with barracks at $5.5 million and the third, a battalion headquarters at $1.1 million, and therefore this is the fourth and final phase of the project at Vilsek, Germany. It is $1.8 million dealing with an Army ammunition construction program there.

A bit of review: The Congress is clearly on record in support of it. On June 4, by a record vote of 311 to 36, the House passed H.R. 3455, the fiscal year 1982 Military Construction Act. That bill contained $1 billion for European construction. The author of the pending amendment, I am glad to say, did vote in favor of the omnibus measure.

Third, discussions have been held and will continue to be held on host nation support for U.S. Forces in Europe. It would really serve no useful purpose to throw down the gauntlet at this time because these talks do need to go forward. If they are not productive, the Congress can take action at the appropriate time which would be afterwards.

Fourth and finally, if we are trying to convince our allies to maintain their commitments to NATO, it does not appear to be prudent for us at the same time to cut back on our efforts.

If the alliance is to mean anything, it must be a joint effort and the United States must continue to provide the leadership.

In closing, Mr. Chairman, I can appreciate the gentleman's sincere desire to guard against unwise expenditures. In this case, however, the $1.8 million is to increase the readiness of U.S. Forces at a very critical location. We would only be hurting our own troops by adopting this amendment.

Therefore, I ask my colleagues to reject the amendment and I wish to offer assurances to the gentleman from Ohio (Mr. PEASE) that we in our subcommittee and we on the full Committee on Armed Services will monitor this very closely to make sure that there is cost sharing which is fair and equitable in the future.

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment and I want to commend the gentleman from Ohio for offering this amendment.

I think that it rings rather hollow when the European allies that participate with us in NATO are not willing to keep their commitments. I thought that the commitments that were made to the Carter administration with regard to the expenditure of funds for defense purposes under NATO were realistic commitments. I thought it was predicated on the fact that the President had an agreement which asked for extraordinary types of commitments from the American people with regard to defense expenditure in order to keep NATO commitments.

As a matter of fact, it was that very leverage that was used on this floor last year to increase the defense budget of this House.

So it is, I think, an interesting twist when I watch and listen to my colleagues talk about the little over $1 million expenditure that would be barred for a munitions facility in Germany with regard to the amendment my colleague is offering.

I think when we do that we are really degradating the purpose of some of the agreed-to increases in NATO which have been the logic for support on this floor for defense expenditure.

So, I am really not here, in other words, to criticize the expenditures we make for NATO. I think they are for the most part worthwhile and necessary, but I think they are predicated on the basis that there are commensurate commitments from other countries in Europe. NATO is a unique example of democracy at work in the international sphere. All members of the alliance have the same voting power in the North Atlantic Council. The United States has no more or no less authority than Luxembourg, a small country. With authority comes responsibility. The right to vote implies the right to pay taxes. NATO, although a democracy, is a military alliance. The taxes of NATO are the military expenditures of its members.

Clearly, I think we are facing a situation in which Germany, because of economic circumstances, is reneging on that commitment. I think this House ought to go on record and recognize that. Here we are going through one of the most severe economic periods in modern history and

yet our expenditures for defense are not just keeping pace with inflation as being requested of our allies through the commitments to NATO, but are far in excess of inflation.

So as Patrick Henry said, we had better hang together in terms of these alliances or surely we will hang separately.

I think the way of SEATO is the way that NATO is going to go. It is going to become a unilateral function of the United States defending Western Europe just as we have our presence in the Southeast now which has very little support from the other nations surrounding it.

This amendment is a modest amendment which gives us a chance to make a very important statement with regard to this issue. I would hope that this House and this committee that is asking for this very extraordinary expenditure for procurement and commitment for these various efforts would go on record at least to ask a minimal sacrifice from our NATO allies which is being rejected today and which they have made a commitment to provide.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

I would like to know if the gentleman can tell us and if he cannot, maybe someone on the committee can, what is the total percentage of the budget that West Germany now provides for military? Does the gentleman have any idea how that compares to ours?

Mr. VENTO. I could not give the gentleman that information, but I would be happy to yield to a member of the committee.

Mr. VOLKMER. I understand it is a lot less than we do and I also understand that it is considerably less as a percentage of their gross national product than what we do. Also in Japan, is it not true recently that the Japanese have said they are not going to increase the amount that they contribute?

Mr. VENTO. That is my understanding from the news accounts. I understand the United States is singularly alone in terms of the percentage of gross national product that it spends on defense prior to the new Reagan administration commitments that we are facing at the current time.

West Germany and France, and other countries have economic problems. I think it would probably be unrealistic to ask them to provide the same type of percentage of gross national product as we provide for defense.

□ 1530

But surely I think when they have made commitments, I think they have a responsibility to try to fulfill them, to at least try and honor those particular commitments. I know that is what the amendment of the gentleman from Ohio (Mr. PEASE) attempts to do. We make a mistake if we treat that type of amendment lightly on this floor.

Mr. PEASE. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I will be happy to yield.

Mr. PEASE. Mr. Chairman, I thank my colleague for yielding and I also would like to thank him for the excellent point he made in his statement. At the same time, I would like to extend my thanks to the gentleman from Georgia (Mr. BRINKLEY) for his assurance that his subcommittee will take these matters more fully into account.

It seems to me clear from the debate on the floor today that the United States has made a much greater commitment to our defense than Germany has.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

(At the request of Mr. PEASE and by unanimous consent, Mr. VENTO was allowed to proceed for 2 additional minutes.)

Mr. PEASE. If the gentleman will yield further, at the same time it is very clear that Germany is at least as able as we are to make that kind of a commitment in terms of its own GNP growth rate, in terms of its unemployment rate, its inflation rate. It is better off than the United States, yet we are asking American taxpayers to make a very, very substantial commitment over the next couple of years to increase our defense spending. The argument here is not whether we ought to have an ammunition storage facility in Germany or not. I grant we need to have one. The question is, cannot Germany provide some local funds for that at a time when we are spending a great deal of money in the Persian Gulf and Southwest Asia protecting interests in terms of oil which are much, much more important to Germany than they are to the United States.

I thank the gentleman for yielding.

Mr. DAN DANIEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to commend the gentleman for bringing this matter to the attention of the House, but I think that he misses the point. As Mr. BRINKLEY of Georgia pointed out a moment ago, this is not a NATO matter. This is a readiness matter and if there is anything we do not need it is to make our troops less ready.

If the gentleman wants to propose an amendment which would require that our allies spend more on national defense, I will support it, because I agree that they are not doing their part. But, in this particular instance I think we are hurting our own readiness if we pass an amendment of this nature.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield?

Mr. DAN DANIEL. I yield to the gentleman from Georgia.

Mr. BRINKLEY. Mr. Chairman, I thank the gentleman for yielding. I just rise to make a couple of points in response to my friend from Ohio.

First, with reference to U.S. contribution to NATO infrastructure, that is about 27 percent of the sum total. Roughly 53 percent of our infrastructure construction is for U.S. Forces, and that is a pretty good balance which would seem to be in our favor.

If one would consider the overall contribution average of the German Government, then it actually exceeds our own, so I think we might not have this entirely in focus.

I would like to say to the gentleman finally that my assurance to him is, we will not give more time to this important subject, but we will give it the same high attention that we have given it in the past, and we will continue that, and we will welcome his participation in making assurances that we would be joint partners in this important defense alliance which we call NATO.

Mr. PEASE. Mr. Chairman, will the gentleman yield?

Mr. DAN DANIEL. Of course.

Mr. PEASE. I do not like to prolong this debate, but I appreciate the comments of the gentleman from Georgia. I just point out that to the extent West Germany provided more infrastructure in NATO than we are on a percentage basis, it is also true, of course, it is their soil that is being defended, not ours.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. PEASE).

The amendment was rejected.

Mr. PEASE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am deeply troubled over the Armed Services Committee report on the Department of Defense Supplemental Authorizations Act and the recommended funding for the Black Hawk helicopter.

The committee has authorized an additional $32 million to cover a funding deficiency in the 1981 appropriation. The $32 million represents the third cost increase for fiscal year 1981 and the second since the Army advised the committee that the program costs had been brought under control. This additional cost translates to a 31-percent increase in less than 1 year and, as the committee points out, at a time—during the fifth year of production—when the cost is supposed to be coming down due to the "learning curve" effect.

In addition, the committee notes that emerging estimates on the fiscal year 1982 program are not encouraging, either. The unit cost is expected to increase another 10 percent despite another year of production experience. In other words, the cost has escalated from $3.8 million per helicopter to $5.5 million in a 2-year period.

While the committee recognizes that inflationary pressures are partially responsible, it also reports that the cost growth on these helicopters appears to be as much the result of poor management as inflation.

There are other examples of mismanagement in this report, Mr. Chairman, substantiated reports of mismanagement and waste continue to flow from the General Accounting Office. These reports must not go unheeded.

The Armed Services Committee says it wishes to make it clear to the Army that it expects future program requests to exclude further cost increases that cannot be fully explained as the result of inflation. We must recognize that such examples of mismanagement are one cause of inflation. We must realize that every dollar wasted is essentially a direct loss for another program.

This is not meant to undermine the importance of U.S. military strength. There is continual discussion about the "mood of the country" which the Congress is conscientiously striving to interpret and be responsive to. Certainly military strength is a concern to many Americans. But so are budgets and Federal spending. No one should get a blank check—including the Department of Defense.

Mr. VENTO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am unable to support this bill as well, and although one can agree that the threat from the Soviet Union is increasing and that the need to take measures to prevent their drive for hegemony is pressing, the substance of this bill does not provide the emergency relief which would be present to validate a supplemental authorization.

This bill does not take steps to immediately upgrade the capabilities of our military forces. It procures many additional aircraft, but current fighter aircraft take up to 41 months from order date to delivery. In other words, the aircraft contained in this authorization will very likely come into service as the American people elect or reelect a successor to the current administration.

We are asked to authorize the commissioning of the battleship *New Jersey*, which will be in commission 2 or 3 years before we have the Tomahawk antiship missiles to give her the intended punch. So, why the emergency?

We also give extra moneys for procurement of the F/A-18, which is an aircraft of immense cost, doubtful utility, and as yet not finally cleared for production. Ironically, at the same time this bill cuts money for research and development of such aircraft.

As the committee notes in another section of its report, the Navy is unable to "delineate the specifics of the problems" of the plane, the F/A-18. Even the Department of Defense is unsure of the plane, seeking alternatives and delaying a final production decision. The contemporary DSARC has become a program review. In other words, we are now slipping over 1 year behind the already slipped date of the final production decision.

The Navy now states that they expect all deficiencies will be corrected by aircraft No. 123. I would remind the committee that this provides that for the production of aircraft Nos. 88 to 94, so we have already got almost 29 aircraft to construct before we find all the deficiencies based on the Navy schedule. Could we not prudently delay so that we have adequate aircraft in the fleet, and also do not have to undertake expensive retrofits which are bound to follow?

In a CBS news special on the F/A-18, Admiral Kinnear asks what sort of aircraft we would want our sons or brothers to fly in combat. I would like to tell Admiral Kinnear that I would want my sons to fly an aircraft which has been fully fixed—not an aircraft which has been rushed into production before it was ready, just to save the careers of those identified as being strong advocates of the program.

So, on and on we go in this bill in spending money. Mr. Chairman, even beyond this the bill accepts an early administration rationale for increased defense spending—increased inflation. However, the March 31 SAR shows a marked drop in the costs of many major weapons system because of a lowering of inflation below that projected by the Carter administration. Either Secretary Weinberger is right or else the SAR is right. They cannot both be right. Either way, the Congress is getting the runaround, and this measure confirms that fact, the fact that we have the supplemental appropriation asking for this money, tells you what the true nature of inflation is, and the true nature of the cost programs that we are facing.

Other aircraft such as the F-15 and the F-16 are increased in total authorization levels because there is a need to bring unit cost down. The Air Force does need more of both aircraft and we certainly should buy them as cheaply as possible but I do not think that this constitutes an emergency. This is especially true when the 1982 authorization bill will only propose 160 F-16 aircraft—a decrease of 20 from this bill.

I do not think that the logic impelling the bill makes sense—it does not pass the test of emergency need for the content of the bill and should not be approved.

It is possible to examine one program and see just what is going on. The committee report states that the procurement problems of the F/A-18 exist "primarily because the appropriated funds did not cover inflation."

This is not accurate. The F/A-18 shows a constant dollar, constant quantity cost increase 40 percent greater than any other tactical aircraft. Why is this? I have here a memorandum on the F/A-18 from the previous program manager of the F/A-18:

TALKING PAPER ON ESTIMATED COST OF NINE AIRCRAFT IN FISCAL YEAR 1979 (JUNE 1, 1978)

(By Capt. G. W. Lenox, U.S. Navy)

One. With the recent markups by the HASC and TACAIR subcommittee on the fiscal year 1979 Budget, it is necessary to prepare an updated cost sheet for nine aircraft. Recognizing that the potential existed for restoration of a nine aircraft procurement, the Project Office formally solicited in January a nine aircraft cost proposal from MCAIR to be prepared concurrently with the proposal for five aircraft in response to OSD/OMB budget decisions in December 1977. The proposal for the nine aircraft procurement was due for submittal on 1 May 1978 and was submitted on schedule.

Two. A preliminary review of the proposal by the PCO, in conjunction with a "fact finding" trip to MCAIR on the five aircraft proposal, indicated a significant variance between the MCAIR proposal ($315 million) and a preliminary cost estimate for the nine aircraft ($200 million) developed several months ago for use in preparation for Congressional hearings. Attachment 1 provides a comparison of key elements of MCAIR's cost proposal with budgeted amounts contained in the aforementioned cost sheet.

Three. Until a thorough review and analysis of the proposal has been conducted, it is pure conjecture as to the reason(s) for the large disparity. The following points, however, are germane:

(a) Conflict exists between cost estimates in the proposal and the contractor's report design-to-cost performance.

(b) Data costs are comparable to those of the FSD contract.

(c) Sustaining engineering hours in the contractor's nine aircraft proposal are greater than previous planning estimates.

(d) Overhead plan 77-1 (November 1977) has been used as a basis of developing costs. Overhead rates in this plan may be overstated.

(e) A revised delivery schedule from that upon which our previous cost sheet was based.

Attachment two contains status on these items.

Four. Attachment 3 includes "possible" offsets/reductions which are currently under review along with current status and assessment of impact likelihood.

ATTACHMENT 1

Comparison of MCAIR cost proposal and PMA 265 budget for nine production aircraft in fiscal year 1979

[In millions of dollars]

MCAIR proposal:	
Flyaway	270
Data	25
Subtotal	295
Reliability demo	[1] 9
Special test equipment	[2] 11
Total proposal	315
PMA budget:	
Flyaway	200
Data	0
Subtotal	200
Reliability demo	[1] 9
Special test equipment	0
Total budget	209
Shortfall	95

[1] Budgeted in another line item.
[2] This is an FSD contractual obligation.

ATTACHMENT 2

COMMENTS ON POSSIBLE ADDED COST AREAS

Point (a)

Conflict exists between cost estimates in the proposal and the Contractor's reported design-to-cost performance.

Status

During a recent MCAIR/NAVAIR review held on 9 May 1978 MCAIR advised that they had changed their DTC allocation in March 1977 and NAD had changed their allocation in February 1978. While the reallocation does not change the cumulative design-to-cost objective, it has the effect of increasing the cost of the initial pilot production aircraft.

Point (b)

Data costs are comparable to those of the FSD contract.

Status

The NAD proposed data costs are considerably higher than the MCAIR proposed data costs. The MCAIR cost appears reasonable, and the NAD cost may be a function of a revised cost allocation system (see comment for item c).

Point (c)

Sustaining engineering hours.

Status

Are now greater in the contractor's nine aircraft program than in previous planning estimates. During a recent NAVAIR review held on 18 May of MCAIR "should cost" analysis, MCAIR advised of a revised cost allocation system being used by NAD. NAVAIR personnel are at NAD this week to review with AFPRO, DCAA, and MCAIR the revised NAD cost allocation system.

Point (d)

Overhead Plan 77-1 (November 1977).

Status

This plan has been used as a basis of developing costs. Overhead rates are estimated to be slightly less now than in 77-1.

Point (e)

Revised Delivery Schedule.

Status

A delivery schedule different from that upon which our previous cost sheet was based has been used in developing costs. It is estimated that these schedule disruption costs amount to approximately $22 million MCAIR/NAVAIR currently looking at delivery schedule alternatives to minimize/eliminate these disruption costs.

ATTACHMENT 3

POSSIBLE OFFSET/REDUCTION AREAS

1. "I" level support for the NAMT and engine depot capability delayed until fiscal year 1980.
2. Advanced procurement of engines for fiscal year 1980 aircraft procured on a termination liability basis.
3. A new delivery scheduled currently under NAVAIR review.
4. Adjustment to MCAIR's overhead plan 77-1.
5. Adjustment to NAD's proposed data cost.
6. First two production lots (39 aircraft) procured on a "flat pricing" basis.
7. Residual assets from reliability demonstration are used to partially satisfy spares and/or WSSF requirements.

ASSESSMENT OF POSSIBLE OFFSETS/REDUCTIONS

1. Should not impact IOC, but does increase outyear costs due to longer contractor augmented support period.
2. This procurement technique requires DON approval which will be difficult to obtain based on previous Congressional guidance regarding use of advance procurement funding for end items vice components.
3. Preliminary review indicates that revised delivery schedule is achievable.
4/5. These items will be subject of fact finding/negotiation process.
6. Preliminary review indicates that this procurement technique creates a contingency or cancellation liability which is fiscally unacceptable without specific DOD/Congressional approval.
7. We believe MCAIR is currently planning to support their production line with these assets. More dialogue is required with MCAIR.

NOTE.—It is estimated that items 2, 6, and 7 do not have a high probability of acceptance. The remaining items could possibly produce offsets amounting to 50M. This would leave a net estimated shortfall of 45M in the fiscal year 1979 APN budget.

At the very beginning of the procurement he privately told his superiors that he didn't know what the program's costs were but until the costs were known they should be kept hidden. Over 1 year ago that same program manager told his superiors that the cost of the F/A-18 would rise to $35.5 billion. The Navy denied this—Congress accepted the denial—surprise. The F/A-18 program cost has risen over $37 billion.

Although we expect forthrightness from our military, it is apparent that we are not getting frankness from the professional Pentagon warriors. I do not believe we should rush into this supplemental authorization until the Armed Services Subcommittee on Investigations and Oversight is able to complete an investigation to say what the costs of these programs really are.

Even when we look at the specifics of the programs recommended by the report, we find a lack of coherence. For example, the committee does not authorize funds for research and development on the JP233 antiairfield munition, indicating that MRASM (medium range air to surface missile) can do the job. The committee forgets that the defense of airfields is a specialized task requiring a specialized munition—they do not however include funds for the main U.S. effort in this field—the cluster airfield defeat munition (CADM). In reference to MRASM, the committee also believes it to be a substitute for Harpoon—ignoring that only one type of Navy aircraft, the F/A-18, was ever planned for MRASM, while Harpoon can be carried by most of our cruisers and destroyers, land-based as well as carrier-based planes; it can even be launched from submarines. Beyond this versatility, research and development in the proven Harpoon is a low-risk enterprise as opposed to the high risks associated with the totally unproven MRASM.

Regarding the F/A-18, the committee ignores the fact that the aricraft has lost two of its original missions—indicating a slower buildup. It also ignores the fact that there will be a shortfall of 59 A-6's by 1987 and that the A-7, which will not begin to be replaced by the F/A-18 until 1985 or 1986, will experience shortages next year, even if we do not take account of the need for extra squadrons with the entry into the fleet of the *Vinson*. In short, the committee does not seem to have tried to place the needs of the country into a coherent whole.

I submit that this bill is not the result of mature consideration of the subject by the committee but rather is a panic response to the hastily constructed Reagan alterations to the Carter 1981 budget. I believe that the House should reject this supplemental authorization and ask the committee to sort out what is essential in order that the essential elements can be added to the 1982 authorization—if this can be done while staying within budget guidelines.

Mr. DOWNEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think one of the questions that we really never ask ourselves when providing money for defense is, what are the treaty obligations and what is the purpose served by this additional expenditure of money?

If we were to examine, for instance, not only as the gentleman pointed out, the increase in the number of F/A-18's, A-6's, A-10's—some of those airplanes that are built in my district—I think we would be hard pressed to find a strategic change in policy that argues for these additional dollars. We have heard the Secretary of the Navy say, for instance, he wants to sail in harm's way and battle the Russians off their own shore, but just the Secretary of the Navy's meanderings do not a policy make. The fact is, there is

no change in policy. We still subscribe to the Carter Persian Gulf doctrine despite the fact that we find that the CIA tells us there is more oil in the Soviet Union than they originally agreed.

We have not really changed. Presidential memorandum 59, which is to give us a flexible nuclear response strike, nothing has changed. All that has changed is the amount of money that we are going to spend—an astronomical sum of money by anyone's standard.

□ 1645

It is my hope, during the argument, not so much during this particular piece of legislation, the supplemental, although I agree with my colleagues, the gentleman from Ohio and the gentleman from Michigan, and I personally cannot support it, that during the defense authorization bill, when it comes up, maybe we can spend a little time and take a hard look at the dollars.

Does the Air Force really believe it can build a B-1 bomber, a Stealth bomber, and an MX missile? Does the Navy really believe that they can afford to build 16 battle carrier groups, 2 more aircraft carriers, a Trident I missile, and refit the *New Jersey* and the *Oriskany?*

I do not think, if we take a look at where the R. & D. money goes, where the programs are down the road, and where the money is, that we will be able: First, to spend all the money that we put in it or, second, that will be able to fully fund and see operational the weapons systems we have in research and development. The cost is mind boggling.

I come back to the last point, and that is that in this supplemental there are weapons systems that have seen astronomical cost growths, and what we are saying to the people who build the M-1 and who build the F-18 is, "The door is open, fellows. If you need more money, come in and get it, because we don't care how much the programs grow. The check is open for another $2 million tomorrow."

We see lightweight version of the Navy air flight system that is supposed to cost $15 million, in units of flyaway strength, costing more than $30 million.

I would ask the members of the committee, who I know labor hard indeed on these matters, to tell the Department of Defense to be realistic with respect to these systems. I say to the Members, "You know in your heart of hearts that they can't build all this stuff. You know how much this will cost the American people in the outyears if you were to fully go ahead with all the programs in R. & D."

I ask that they exercise some foresight and show some restraint. If this committee does not do that, I dare say that the Congress will not. We do not have the same expertise the committee does or the same expertise that I know the Defense Department does.

So we ask those of you who spend so much time on these matters to study these issues and force the Department of Defense to be a little more honest with respect to where the money is going and what it will do.

Mr. MITCHELL of New York. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is difficult to understand the objections of the last two gentlemen who spoke. For each of the past 8 years we have been outspent by the Soviet Union in defense expenditures by about $40 billion. That is creating a problem that is very difficult to cope with.

That $40 billion really shows, Mr. Chairman. To try to bring some meaning into the defense debate, I attempted to quantify the situation to demonstrate that we are indeed falling behind in our preparedness, so I developed 23 categories of factors that would be important in winning a war. I am talking about such factors as ships and tanks and planes and people.

Out of the 23 categories, we are ahead in 2, and the Soviets are ahead in 21. We are ahead in the number of helicopters, although we saw in one of our recent missions in Iran where we did not fare too well. We are also ahead in bombers, the number of bombers. But we have heard the charge that many of these aircraft are older than the pilots who fly them. It is true.

I appreciate that we cannot really develop a comparison through quantification, because our defense needs differ as nations and the quality of weapons systems varies. Our allies are supposed to be more loyal, and we are a wealthier nation. But we can appreciate what has happened in a quantification situation if we realize that we used to be ahead in most of these categories and now we are behind in all but two. The situation has changed markedly over the last 10 years.

The gentlemen have raised some interesting questions, Mr. Chairman, but they do not get to the heart of the issue. The major problem is that the United States is falling behind the Soviets in strength, and the gap is widening. This bill is a small step in the direction of closing that gap.

● Mr. BRINKLEY. Mr. Chairman, title VI of H.R. 2614 contains fiscal year 1981 supplemental authorization for military construction and family housing.

Originally, the Department of Defense requested $83,322,000 in supplemental authority. The committee has recommended $66,440,000. The difference of $16,822,000 between the committee's action and the DOD request is accommodated by the use of existing authority.

In other words, all of the requested projects and programs in the supplemental bill will be authorized through additional or existing authority. Also, it is noted that the recently adopted conference report on the fiscal 1981 supplemental appropriation act included matching funds for all of the items authorized in H.R. 2614.

The committee report identifies all of the projects; therefore, in the interest of time I will not detail them now, but they are included in my full statement.

Army:		
Vilseck, Germany	Ammunition igloos (artillery enhancement program)	$1,800,000
Navy:		
Marine Corps Air Station, El Toro, Calif	Tactical support vari pad ((3) F/A-18 squadrons arrive 1/83 instead of 4/84)	2,000,000
Air Force:		
Laughlin AFB, Tex	Logistics complex	4,700,000
K.I. Sawyer AFB, Mich	Sound suppressor support facility	540,000
Cannon AFB, N. Mex	Sound suppressor support facility ($420,000-use existing minor construction authority)	
Luke AFB, Ariz	Sound suppressor support facility ($440,000-use existing minor construction authority)	
Classified locations-CONUS	Support facilities	50,000,000
Total		55,240,000
Defense agencies:		
Fort Meade, Md	Three minor construction projects—NSA	900,000
Family housing:		
Various locations	Operations and maintenance ($16,022,000-use existing construction authority)	
Air National Guard:		
Barnes Municipal Airport, Mass	Various facilities, A-10 beddown	4,500,000
Dobbins AFB, Ga	Powercheck pads with suppressors	500,000
Ft. Wayne MAP, Ind	Powercheck pads with suppressors	500,000
Hulman Field, Ind	Powercheck pads with suppressors	500,000

Naval Air Station, La	Powercheck pads with suppressors	500,000
Total		6,500,000
Total		66,440,000

In closing, I want to call to my colleagues' attention that the companion Senate bill includes all of these projects. They are urgently needed and according to the Department of Defense all of them will be put under contract in the current fiscal year. I ask my colleagues to support the committee's recommendation for title VI.●

The CHAIRMAN. If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. SAM B. HALL, JR., Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 2614) to authorize supplemental appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles and for research, development, test, and evaluation for the Armed Forces and to increase the authorized personnel end strengths for military and civilian personnel of the Department of Defense for fiscal year 1981; pursuant to House Resolution 154, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. VENTO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 360, nays 50, not voting 21, as follows:

[Roll No. 94]

YEAS—360

Addabbo	Duncan	Jacobs	Patterson	Shamansky	Traxler
Akaka	Dunn	Jeffords	Pepper	Shannon	Trible
Albosta	Dwyer	Jeffries	Perkins	Sharp	Udall
Alexander	Dyson	Jenkins	Petri	Shaw	Vander Jagt
Anderson	Early	Johnston	Peyser	Shelby	Volkmer
Andrews	Eckart	Jones (NC)	Pickle	Shumway	Walgren
Annunzio	Edwards (AL)	Jones (OK)	Porter	Shuster	Walker
Anthony	Edwards (OK)	Jones (TN)	Price	Siljander	Wampler
Applegate	Emerson	Kazen	Pritchard	Simon	Watkins
Archer	Emery	Kemp	Pursell	Skeen	Waxman
Ashbrook	English	Kildee	Quillen	Skelton	Weber (MN)
Aspin	Erdahl	Kindness	Rahall	Smith (AL)	Weber (OH)
Atkinson	Erlenborn	Kogovsek	Railsback	Smith (IA)	White
AuCoin	Ertel	Kramer	Ratchford	Smith (NE)	Whitehurst
Badham	Evans (DE)	LaFalce	Regula	Smith (NJ)	Whitley
Bafalis	Evans (GA)	Lagomarsino	Rhodes	Smith (OR)	Whittaker
Bailey (MO)	Evans (IA)	Lantos	Rinaldo	Snowe	Whitten
Bailey (PA)	Evans (IN)	Latta	Ritter	Snyder	Williams (MT)
Barnard	Fascell	Leach	Roberts (KS)	Solarz	Williams (OH)
Barnes	Fazio	Leath	Roberts (SD)	Solomon	Wilson
Beard	Fenwick	LeBoutillier	Robinson	Spence	Winn
Benedict	Ferraro	Lee	Roe	St Germain	Wirth
Benjamin	Fiedler	Lehman	Roemer	Stangeland	Wolf
Bennett	Fields	Leland	Rogers	Stanton	Wolpe
Bereuter	Findley	Lent	Rose	Staton	Wortley
Bethune	Fithian	Levitas	Rostenkowski	Stenholm	Wright
Bevill	Flippo	Lewis	Roth	Stratton	Wylie
Biaggi	Florio	Livingston	Roukema	Stump	Yatron
Bingham	Foglietta	Loeffler	Rousselot	Swift	Young (AK)
Blanchard	Foley	Long (LA)	Rudd	Synar	Young (FL)
Bliley	Ford (MI)	Long (MD)	Schneider	Tauzin	Young (MO)
Boggs	Ford (TN)	Lott	Schumer	Taylor	Zablocki
Boland	Fountain	Lowery	Sensenbrenner	Thomas	Zeferetti
Boner	Fowler	Lujan			
Bonker	Frenzel	Luken			
Bouquard	Frost	Lungren			
Bowen	Fuqua	Madigan			
Brinkley	Gaydos	Markey			
Brodhead	Gejdenson	Marks			
Broomfield	Gephardt	Marlenee			
Brown (CA)	Gibbons	Marriott			
Brown (CO)	Gilman	Martin (IL)			
Broyhill	Gingrich	Martin (NC)			
Burgener	Glickman	Martin (NY)			
Butler	Goldwater	Matsui			
Byron	Gonzalez	Mattox			
Campbell	Goodling	Mavroules			
Carman	Gore	Mazzoli			
Carney	Gradison	McClory			
Chappell	Gramm	McCloskey			
Chappie	Green	McCollum			
Cheney	Gregg	McCurdy			
Clausen	Grisham	McDade			
Clinger	Guarini	McDonald			
Coats	Gunderson	McEwen			
Coelho	Hagedorn	McGrath			
Coleman	Hall (OH)	McHugh			
Collins (TX)	Hall, Ralph	McKinney			
Conable	Hall, Sam	Mica			
Conte	Hamilton	Michel			
Corcoran	Hammerschmidt	Mikulski			
Coughlin	Hance	Mineta			
Courter	Hansen (ID)	Minish			
Coyne, James	Hansen (UT)	Mitchell (NY)			
Coyne, William	Hartnett	Moakley			
Craig	Hatcher	Molinari			
Crane, Daniel	Hawkins	Montgomery			
Crane, Philip	Heckler	Moore			
D'Amours	Hefner	Moorhead			
Daniel, Dan	Heftel	Morrison			
Daniel, R. W.	Hendon	Mottl			
Dannemeyer	Hightower	Murphy			
Daschle	Hiler	Murtha			
Daub	Hillis	Myers			
de la Garza	Holland	Napier			
Deckard	Hollenbeck	Natcher			
DeNardis	Holt	Neal			
Derrick	Hopkins	Nelligan			
Derwinski	Howard	Nelson			
Dickinson	Hoyer	Nichols			
Dicks	Hubbard	Nowak			
Dingell	Huckaby	Oakar			
Dixon	Hughes	Obey			
Dorgan	Hunter	Panetta			
Dornan	Hutto	Parris			
Dougherty	Hyde	Pashayan			
Dreier	Ireland	Patman			

NAYS—50

Bedell	Harkin	Roybal
Beilenson	Hertel	Russo
Bonior	Kastenmeier	Sabo
Burton, John	Lowry	Savage
Burton, Phillip	Lundine	Schroeder
Chisholm	Miller (CA)	Seiberling
Clay	Miller (OH)	Stark
Collins (IL)	Mitchell (MD)	Stokes
Dellums	Oberstar	Studds
Downey	Ottinger	Tauke
Dymally	Paul	Vento
Edgar	Pease	Washington
Edwards (CA)	Rangel	Weaver
Forsythe	Reuss	Weiss
Frank	Richmond	Wyden
Garcia	Rodino	Yates
Gray	Rosenthal	

NOT VOTING—21

Bolling	Danielson	Moffett
Breaux	Davis	Mollohan
Brooks	Donnelly	O'Brien
Brown (OH)	Fary	Santini
Conyers	Fish	Sawyer
Cotter	Ginn	Scheuer
Crockett	Horton	Schulze

□ 1400

The Clerk announced the following pairs:

On this vote:

Mr. Brooks for, with Mr. Moffett against.
Mr. Ginn for, with Mr. Crockett against.

Until further notice:

Mr. Mollohan with Mr. O'Brien.
Mr. Fary with Mr. Sawyer.
Mr. Danielson with Mr. Schulze.
Mr. Donnelly with Mr. Horton.
Mr. Breaux with Mr. Davis.
Mr. Conyers with Mr. Fish.
Mr. Scheuer with Mr. Santini.

Mr. RODINO changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to authorize supplemental ap-

propriations for fiscal year 1981 for the Armed Forces for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles and for research, development, test, and evaluation, to increase the authorized personnel end strengths for military and civilian personnel of the Department of Defense for such fiscal year, to authorize supplemental appropriations for such fiscal year for construction at certain military installations, and for other purposes."

A motion to reconsider was laid on the table.

Mr. PRICE. Mr. Speaker, pursuant to the provisions of House Resolution 154, I call up from the Speaker's table the Senate bill (S. 694) to authorize supplemental appropriations for fiscal year 1981 for the Armed Forces for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, and for research, development, test, and evaluation, to increase the authorized personnel end strengths for military and civilian personnel of the Department of Defense for such fiscal year, to authorize supplemental appropriations for such fiscal year for construction at certain military installations, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. PRICE

Mr. PRICE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PRICE moves to strike all after the enacting clause of the Senate bill, S. 694, and to insert in lieu thereof the provisions of the bill, H.R. 2614, as passed, as follows:

That this Act may be cited as the "Department of Defense Supplemental Authorization Act, 1981".

TITLE I—PROCUREMENT

AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS

SEC. 101. In addition to the funds authorized to be appropriated under title I of the Department of Defense Authorization Act, 1981 (Public Law 96-342; 94 Stat. 1077), funds are hereby authorized to be appropriated for fiscal year 1981 for the use of the Armed Forces for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, as authorized by law, in amounts as follows:

Aircraft

For aircraft: for the Army, $128,000,000; for the Navy and Marine Corps, $143,600,000; for the Air Force, $702,825,000.

Missiles

For missiles: for the Army, $27,000,000; for the Navy, $41,200,000; for the Air Force, $205,869,000; for the Marine Corps, $10,700,000.

Naval Vessels

For naval vessels: for the Navy, $139,000,000.

Tracked Combat Vehicles

For tracked combat vehicles: for the Army, $781,000,000; for the Marine Corps, $11,300,000.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS

SEC. 201. In addition to the funds authorized to be appropriated under title II of the Department of Defense Authorization Act, 1981 (94 Stat. 1079), funds are hereby authorized to be appropriated for fiscal year 1981 for the use of the Armed Forces for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Army, $83,963,000.

For the Navy (including the Marine Corps), $96,567,000.

For the Air Force, $211,062,000.

For the Defense Agencies, $16,936,000.

TITLES III—ACTIVE FORCES

INCREASE IN FISCAL YEAR 1981 ACTIVE DUTY END STRENGTHS FOR THE ARMY, NAVY, MARINE CORPS, AND AIR FORCE.

SEC. 301. Section 301 of the Department of Defense Authorization Act, 1981 (94 Stat. 1082), is amended by striking out "775,300", "537,456", "188,100", and "564,500" and inserting in lieu thereof "780,000", "540,456", "190,600", and "569,000", respectively.

TITLE IV—RESERVE FORCES

INCREASE IN NUMBER OF MARINE CORPS RESERVISTS AUTHORIZED TO BE ON FULL-TIME ACTIVE DUTY ON SEPTEMBER 30, 1981, IN SUPPORT OF THE MARINE CORPS RESERVE

SEC. 401. Section 401(b)(4) of the Department of Defense Authorization Act, 1981 (94 Stat. 1084), is amended by striking out "67" and inserting in lieu thereof "133".

TITLE V—CIVILIAN PERSONNEL

INCREASE IN NUMBER OF CIVILIAN PERSONNEL AUTHORIZED FOR THE DEPARTMENT OF DEFENSE AS OF SEPTEMBER 30, 1981

SEC. 501. Section 501(a) of the Department of Defense Authorization Act, 1981 (94 Stat. 1085), is amended by striking out "986,000" and inserting in place thereof "1,013,900".

TITLE VI—MILITARY CONSTRUCTION

ARMY

SEC. 601. (a) In addition to the amounts authorized for acquisition and construction by title I of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1749), the following amount is authorized for the location specified:

United States Army, Europe

Various Locations, $1,800,000.

(b) There is authorized to be appropriated for fiscal year 1981 for the purpose of subsection (a) the sum of $1,800,000.

NAVY

SEC. 602. (a) In addition to the amounts authorized for acquisition and construction by title II of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1752), the following amount is authorized for the location specified:

United States Marine Corps

Marine Corps Air Station, El Toro, California, $2,000,000.

(b) There is authorized to be appropriated for fiscal year 1981 for the purpose of subsection (a) the sum of $2,000,000.

AIR FORCE

SEC. 603. (a) In addition to the amounts authorized for acquisition and construction by title III of Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1756), the following amounts are authorized for the locations specified:

Air Training Command

Laughlin Air Force Base, Texas, $4,700,000.

Strategic Air Command

K. I. Sawyer Air Force Base, Michigan, $540,000.

Special Project

Various Locations, Special Project, $50,000,000.

(b) There is authorized to be appropriated for fiscal year 1981 for the purpose of subsection (a) the sum of $55,240,000.

DEFENSE AGENCIES

SEC. 604. (a) In addition to the amount specified for minor construction projects by section 403 of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1761), the Secretary of Defense is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $900,000.

(b) There is authorized to be appropriated for fiscal year 1981 for the purpose of subsection (a) the sum of $900,000.

MILITARY FAMILY HOUSING

SEC. 605. Section 510(a) of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1767), is amended—

(1) by striking out "$276,100,000" in clause (1) and inserting in lieu thereof "$260,078,000"; and

(2) by striking out "$1,880,760,000" in clause (2) and inserting in lieu thereof "$1,896,782,000".

AIR NATIONAL GUARD OF THE UNITED STATES

SEC. 606. In addition to the amount specified in section 701(3)(A) of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1774), the Secretary of Defense may establish or develop facilities for the Air National Guard of the United States in an amount not to exceed $6,500,000.

LIMITATIONS APPLICABLE TO USE OF FUNDS

SEC. 607. (a) Authorizations contained in this title shall be subject to the authorizations and limitations of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1749), in the same manner as if such authorizations had been included in that Act.

(b) For the purposes of the limitation set forth in section 603 of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1768), the amounts authorized to be appropriated for titles I through V of that Act shall be deemed to be increased, respectively, by the amounts authorized to be appropriated by sections 601 through 605.

MODIFICATION OF PRIOR YEAR AUTHORIZATION FOR FAMILY HOUSING UNITS AT TINKER AIR FORCE BASE

SEC. 608. (a) Section 501(c) of the Military Construction Authorization Act, 1980 (Public Law 96-125; 93 Stat. 940), is amended by striking out "three hundred thirty-two units" in the item relating to Tinker Air Force Base and inserting in lieu thereof, "two hundred units".

(b) The authorization for construction of, or acquisition of sole interest in, family housing units at Tinker Air Force Base, Oklahoma, contained in section 501 of the Military Construction Authorization Act, 1980 (Public Law 96-125; 93 Stat. 940), as amended by subsection (a), is hereby modified to authorize construction of such

family housing units on base at Tinker Air Force Base.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to authorize supplemental appropriations for fiscal year 1981 for the Armed Forces for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles and for research, development, test, and evaluation, to increase the authorized personnel end strengths for military and civilian personnel of the Department of Defense for such fiscal year, to authorize supplemental appropriations for such fiscal year for construction at certain military installations, and for other purposes."

A similar House bill, H.R. 2614, was laid on the table.

APPOINTMENT OF CONFEREES

Mr. PRICE. Mr. Speaker, I ask unanimous consent that the House insist on its amendments to the Senate bill, S. 694, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Illinois? The Chair hears none, and appoints the following conferees: Messrs. PRICE, BENNETT, STRATTON, WHITE, NICHOLS, BRINKLEY, MOLLOHAN, DAN DANIEL, DICKINSON, WHITEHURST, SPENCE, BEARD, and MITCHELL of New York, and Mrs. HOLT.

PERSONAL EXPLANATION

Mr. O'BRIEN. Mr. Speaker, I was unable to be present for rollcall 94. Had I been here, I would have voted "aye."

AUTHORIZING CLERK IN ENGROSSMENT OF HOUSE AMENDMENTS TO S. 694 TO MAKE TECHNICAL CORRECTIONS, INCLUDING SECTION NUMBERS, SECTION HEADINGS, PUNCTUATION, AND CROSS REFERENCES

Mr. PRICE. Mr. Speaker, I ask unanimous consent that in the engrossment of the House amendments to the Senate bill, S. 694, the Clerk be authorized to make necessary technical corrections, including section numbers, section headings, punctuation, and cross references, as may be necessary to reflect the actions of the House in amending the bill, H.R. 2614.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

GENERAL LEAVE

Mr. PRICE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 2614, Department of Defense Supplemental Authorization Act, 1981.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 31, CASH DISCOUNT ACT

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill, H.R. 31, the Cash Discount Act.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

CONFERENCE REPORT (H. REPT. No. 97-159)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 31) to amend the Truth in Lending Act to encourage cash discounts, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same.

Solely for consideration of the Senate amendment except section 303:

FERNAND J. ST GERMAIN,
FRANK ANNUNZIO,
HENRY B. GONZALEZ,
JOSEPH G. MINISH,
J. W. STANTON,
TOM EVANS,
CHALMERS WYLIE,
Managers on the Part of the House.

Solely for consideration of the Senate amendment except section 303:

JAKE GARN,
JOHN TOWER,
JOHN. H. CHAFEE,
HARRISON A. WILLIAMS, Jr.,
CHRISTOPHER J. DODD,
Managers on the Part of the Senate.

Solely for consideration of section 303 of the Senate amendment:

JOHN D. DINGELL,
HENRY A. WAXMAN,
JAMES H. SCHEUER,
JIM BROYHILL,
EDWARD R. MADIGAN,
Managers on the Part of the House.

Solely for consideration of section 303 of the Senate amendment:

ORRIN G. HATCH,
DAN QUAYLE,
PAULA HAWKINS,
EDWARD M. KENNEDY,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 31) to amend the Truth in Lending Act to encourage cash discounts, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate and concurs in the full text of the Senate amendment. A brief recapitulation of the Senate amendment that was agreed to in conference is noted below.

TITLE I—CASH DISCOUNTS

The conference reported bill eliminates many of the impediments to the offering of cash discounts. The bill removes the current 5 percent limitation on the discounts that sellers can offer to customers who pay by cash, by declaring that such a discount shall not constitute a finance charge under the Truth in Lending Act, provided it is offered to all prospective buyers and its availability is disclosed clearly and conspicuously.

The bill defines "regular price" in order to provide a benchmark from which discounts for cash can be subtracted. It also abrogates the existing regulations of the Federal Reserve Board regarding cash discounts.

TITLE II—BAN ON CREDIT CARD SURCHARGES

The bill prohibits, until February 27, 1984, sellers from imposing a surcharge on a cardholder who elects to use a credit card in lieu of payment by cash, check or similar means. In addition, it requires the Federal Reserve Board to prepare an analysis of the effect of charge card transactions upon card issuers, merchants, and consumers. The Board must submit its findings to the House and Senate Banking Committees within two years.

TITLE III—MISCELLANEOUS

The bill agreed to in conference clarifies a provision of the Truth in Lending Simplication Act enacted in 1980. It makes it clear that those creditors who elect to comply with the amended Truth in Lending provisions, prior to April 1, 1982 when compliance becomes mandatory, will be subject to the civil lability provisions as amended by the Simplication Act.

The bill also has a section that permits national banks which, on the date of enactment of this act, held title to real estate which was carried on the books at a nominal value on December 31, 1979, to continue to hold such real estate until December 31, 1982, provided the earnings from such property are separately diclosed in the institution's financial statement. The result will be to maintain the status quo of affected banks and to place a moratorium upon any enforcement action by the Office of the Comptroller of the Currency, while the Congress considers the wisdom of existing law and its interpretation by the Comptroller.

AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT

During Senate consideration of H.R. 31, an amendment was added to the bill which would permit the Surgeon General of the United States to be appointed without regard to the existing mandatory retirement age requirement which the Public Health Service Act specifies to be 64. Because this amendment did not relate to banking matters, separate conferees on the House and Senate sides were appointed from the House Energy and Commerce Committee and the Senate Labor and Human Resources Committee, respectively. During this conference, it became clear that the language of the

Senate amendment was technically deficient and if adopted would not allow an individual over the age of 64, who was not a member of the Commissioned Regular Corps, to be appointed Surgeon General. At that point the Senate conferees took the position that the conference should make the necessary changes to effectuate a technically sufficient resolution of the problem.

The House conferees were sympathetic to this idea, particularly as it related to the elimination of any mandatory age retirement provisions of the Public Health Service Act for the Surgeon General and other members of the Commissioned Regular Corps. However, the House conferees pointed out that any such correction would be outside the scope of the conference and thereby subject to a point of order on the House floor which would, they believed, have been sustained by the Speaker.

The House conferees were instructed on May 20, 1981 (Cong. Rec. (Daily Issue) pp. H2344-2250) to accept the Senate amendment. In that debate, the House indicated that such corrections could not be made under the House Rules. Accordingly, the House conferees, pursuant to that instruction, agreed to recede and concur in the Senate language. The result of this action is to add new statutory language which waives the mandatory retirement age for the Surgeon General but which does not, in fact, alter the current situation in which age and membership in the Corps are conditions precedent to an individual who is not a Corps member becoming Surgeon General. The House conferees said that hearings on broader legislation, designed to correct this situation, would begin soon.

Solely for consideration of the Senate amendment except section 303:

FERNAND J. ST GERMAIN,
FRANK ANNUNZIO,
HENRY B. GONZALEZ,
JOSEPH G. MINISH,
J. W. STANTON,
TOM EVANS,
CHALMERS WYLIE,
Managers on the Part of the House.

Solely for consideration of the Senate amendment except section 303:

JAKE GARN,
JOHN TOWER,
JOHN H. CHAFEE,
HARRISON A. WILLIAMS, Jr.,
CHRISTOPHER J. DODD,
Managers on the Part of the Senate.

Solely for consideration of section 303 of the Senate amendment:

JOHN D. DINGELL,
HENRY A. WAXMAN,
JAMES H. SCHEUER,
JIM BROYHILL,
EDWARD MADIGAN,
Managers on the Part of the House.

Solely for consideration of section 303 of the Senate amendment:

ORRIN G. HATCH,
DAN QUAYLE,
PAULA HAWKINS,
EDWARD M. KENNEDY,
Managers on the Part of the Senate.

PUBLIC BROADCASTING AMENDMENTS ACT OF 1981

Mr. WIRTH. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3238) to amend the Communications Act of 1934, to extend certain authorizations of appropriations contained in such act relating to public broadcasting, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Colorado (Mr. WIRTH).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3238, with Mr. SKELTON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Monday, June 22, 1981, all time for general debate on the bill had expired.

Pursuant to the rule, the Clerk will now read the substitute committee amendment recommended by the Committee on Energy and Commerce now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 3238

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Public Broadcasting Amendments Act of 1981".

AUTHORIZATION OF APPROPRIATIONS FOR PUBLIC TELECOMMUNICATIONS FACILITIES

SEC. 2. Section 391 of the Communications Act of 1934 (47 U.S.C. 391) is amended by inserting after "1981," the following: "$25,000,000 for fiscal year 1982, $20,000,000 for fiscal year 1983, and $15,000,000 for fiscal year 1984,".

GRANTS FOR CONSTRUCTION AND PLANNING

SEC. 3. (a) Section 392(a)(4) of the Communications Act of 1934 (47 U.S.C. 392(a)(4)) is amended by striking out "only" and inserting in lieu thereof "primarily", and by inserting before the semicolon at the end thereof the following: ", and that the use of such public telecommunications facilities for purposes other than the provision of public telecommunications services will not interfere with the provision of such public telecommunications services as required in this part".

(b) The first sentence of section 392(c) of the Communications Act of 1934 (47 U.S.C. 392(c)) is amended by inserting before the period at the end thereof the following: ", except that such funds shall not exceed 50 percent of the amount determined by the Secretary to be the reasonable and necessary cost of such planning".

(c) Section 392(g)(2) of the Communications Act of 1934 (47 U.S.C. 392(g)(2)) is amended—

(1) by striking out "only" and inserting in lieu thereof "primarily"; and

(2) by striking out "(unless" and all that follows through "do so)" and inserting in lieu thereof the following: "(or the use of such public telecommunications facilities for purposes other than the provision of public telecommunications services interferes with the provision of such public telecommunications services as required in this part)".

DECLARATION OF POLICY REGARDING CORPORATION

SEC. 4. Section 396(a)(5) of the Communications Act of 1934 (47 U.S.C. 396(a)(5)) is amended by striking out "and", and by inserting before the semicolon at the end thereof the following: ", and which will constitute a source of alternative telecommunications services for all the citizens of the Nation".

BOARD OF DIRECTORS OF CORPORATION

SEC. 5. (a)(1) Section 396(c) of the Communications Act of 1934 (47 U.S.C. 396(c)) is amended by redesignating paragraph (3) through paragraph (5) as paragraph (4) through paragraph (6), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) Of the members of the Board appointed by the President under paragraph (1), two members shall be selected from among individuals who represent the licensees and permittees of public television stations, and two members shall be selected from among individuals who represent the licensees and permittees of public radio stations.".

(2)(A) The amendment made in paragraph (1) shall apply to appointments to the Board of Directors of the Corporation for Public Broadcasting which are made after September 30, 1983.

(B) The first and third vacancies on such Board which occur after such date shall be filled by the President through selections from among individuals who represent the licensees and permittees of public television stations in accordance with section 396(c)(3) of the Communications Act of 1934, as added in paragraph (1). The second and fourth such vacancies shall be filled by the President through selections from among individuals who represent the licensees and permittees of public radio stations in accordance with section 396(c)(3) of the Communications Act of 1934, as added in paragraph (1).

(b)(1) Section 396(c) of the Communications Act of 1934, as amended in subsection (a)(1), is further amended by adding at the end thereof the following new paragraph:

"(7)(A) In each case in which a vacancy occurs in the Board, public television station licensees and permittees, and public radio station licensees and permittees, may submit to the Board the names of qualified individuals to fill such vacancy. The Board then shall compile a list which shall include each name submitted by such licensees and permittees (and which shall not include any other names), and shall submit such list to the President—

"(i) not later than 45 days before the end of the term involved; or

"(ii) in the case of any vacancy which occurs for reasons other than the expiration of a term, as soon as practicable after such vacancy occurs.

"(B) The President shall appoint an individual to fill a vacancy occurring on the Board not later than 45 days after receiving a list from the Board under subparagraph (A), but the President shall not be required to make such appointment from among individuals listed by the Board. If the President fails to make such appointment before the end of such 45-day period, then such appointment shall be made by the Board by and with the advice and consent of the Senate.".

(2) The functions of the Board of Directors of the Corporation for Public Broadcasting established in section 396(c)(7) of

the Communications Act of 1934, as added in paragraph (1), shall apply with respect to vacancies on the Board of Directors of the Corporation for Public Broadcasting which occur after September 30, 1983.

REPORT TO CONGRESS

SEC. 6. Section 396(i)(1) of the Communications Act of 1934 (47 U.S.C. 396(i)(1)) is amended by striking out "February" and inserting in lieu thereof "May".

FINANCING; COMMUNITY ADVISORY BOARDS

SEC. 7. (a) Section 396(k)(1)(C) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)(C)) is amended by striking out "and" the last place it appears therein, and by inserting before the period at the end thereof the following: ", $160,000,000 for fiscal year 1984, $145,000,000 for fiscal year 1985, and $130,000,000 for fiscal year 1986".

(b) Section 396(k)(2)(B) of the Communications Act of 1934 (47 U.S.C. 396(k)(2)(B)) is amended—

(1) by striking out "quarterly" and inserting in lieu thereof "fiscal year"; and

(2) by striking out ", in such amounts" and all that follows through "quarter".

(c)(1) Section 396(k)(3)(A) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)) is amended to read as follows:

"(3)(A)(i) The Corporation shall establish an annual budget for use in allocating amounts from the Fund. Of the amounts appropriated into the Fund available for allocation for any fiscal year—

"(I) not more than 5 percent of such amounts shall be available for the administrative expenses of the Corporation;

"(II) not less than 5 percent of such amounts shall be available for other expenses incurred by the Corporation, including research, training, technical assistance, engineering, instructional support, payment of interest on indebtedness, capital costs relating to telecommunications satellites, and the repayment of programming royalties and other fees, except that the total amount available for obligation for any fiscal year under this subclause and subclause (I) shall not exceed 10 percent of the amounts appropriated into the Fund available for allocation for such fiscal year;

"(III) 75 percent of the remainder (after allocations are made under subclause (I) and subclause (II)) shall be allocated in accordance with clause (ii); and

"(IV) 25 percent of such remainder shall be allocated in accordance with clause (iii).

"(ii) Of the amounts allocated under clause (i)(III) for any fiscal year—

"(I) 80 percent of such amounts shall be available for distribution among the licensees and permittees of public television stations pursuant to paragraph (6)(B); and

"(II) 20 percent of such amounts shall be available for distribution under subparagraph (B)(i) for public television.

"(iii) Of the amounts allocated under clause (i)(IV) for any fiscal year—

"(I) not less than 50 percent of such amounts (as determined under paragraph (6)(A)) shall be available for distribution among the licensees and permittees of public radio stations pursuant to paragraph (6)(B); and

"(II) not more than 50 percent of such amounts (as determined under paragraph (6)(A)) shall be available for distribution under subparagraph (B)(i) for public radio.

"(iv) The licensees and permittees of public television stations and public radio stations shall defray the costs of interconnection facilities and operations through the use of allocations made under clause (iii)(I), as the case may be, and through the use of funds available to such licensees and permittees from any other source.".

(2) Section 396(k)(3)(B)(i) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(B)(i)) is amended to read as follows:

"(B)(i) The Corporation shall utilize the funds allocated pursuant to subparagraph (A)(ii)(II) and subparagraph (A)(iii)(II), and a significant portion of such other funds as may be available to the Corporation, to make grants and contracts for production of public television or radio programs by independent producers and production entities and public telecommunications entities, and for acquisition of such programs by public telecommunications entities. Of the funds utilized pursuant to this clause, a substantial amount shall be reserved for distribution to independent producers and production entities for the production of programs.".

(3) Section 396(k)(3)(B) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(B)) is amended—

(A) in clause (ii) thereof, by striking out "contained in the annual budget established by the Corporation under clause (i)" and inserting in lieu thereof "available for distribution under clause (i)"; and

(B) by striking out clause (iii) and clause (iv) thereof.

(4) The amendments made in this subsection shall apply to fiscal years beginning after September 30, 1983.

(d)(1) Section 396(k)(6)(A) of the Communications Act of 1934 (47 U.S.C. 396(k)(6)(A)) is amended to read as follows:

"(6)(A) The Corporation, in consultation with public radio stations and with National Public Radio (or any successor organization), shall determine the percentage of funds allocated under subclause (I) and subclause (II) of paragraph (3)(A)(iii) for each fiscal year. The Corporation, in consultation with such organizations, also shall conduct an annual review of the criteria and conditions applicable to such allocations.".

(2) Section 396(k)(6)(B) of the Communications Act of 1934 (47 U.S.C. 396(k)(6)(B)) is amended—

(A) by striking out the first sentence thereof;

(B) in the second sentence thereof, by inserting "under paragraph (3)(A)(ii)(I)" after "stations"; and

(C) in the last sentence thereof, by inserting "under paragraph (3)(A)(iii)(I)" after "radio stations".

(3) The amendments made in this subsection shall apply to fiscal years beginning after September 30, 1983.

(e) Section 396(k)(9)(A) of the Communications Act of 1934 (47 U.S.C. 396(k)(9)(A)) is amended—

(1) by inserting after "assure that" the following: "(i) its advisory board meets at regular intervals; (ii) the members of its advisory board regularly attend the meetings of the advisory board; and (iii)"; and

(2) by striking out "reasonably reflects" and inserting in lieu thereof "are reasonably representative of".

EDITORIALIZING AND SUPPORT OF POLITICAL CANDIDATES PROHIBITED

SEC. 8. Section 399 of the Communications Act of 1934 (47 U.S.C. 399) is amended to read as follows:

"EDITORIALIZING AND SUPPORT OF POLITICAL CANDIDATES PROHIBITED

"SEC. 399. No noncommercial educational broadcasting station which receives a grant from the Corporation under subpart C of this part may engage in editorializing. No noncommercial educational broadcasting station may support or oppose any candidate for political office.".

USE OF BUSINESS OR INSTITUTIONAL LOGOGRAMS

SEC. 9. Subpart D of part IV of title III of the Communications Act of 1934 (47 U.S.C. 397 et seq.) is amended by adding at the end thereof the following new section:

"USE OF BUSINESS OR INSTITUTIONAL LOGOGRAMS

"SEC. 399A. (a) For purposes of this section, the term 'business or institutional logogram' means any aural or visual letters or words, or any symbol or sign, which is used for the exclusive purpose of identifying any corporation, company, or other organization, and which is not used for the purpose of promoting the products, services, or facilities of such corporation, company, or other organization.

"(b) Each public television station and each public radio station shall be authorized to broadcast announcements which include the use of any business or institutional logogram and which include a reference to the location of the corporation, company, or other organization involved, except that such announcements may not interrupt regular programming.".

OFFERING OF CERTAIN SERVICES, FACILITIES, OR PRODUCTS BY PUBLIC BROADCAST STATIONS

SEC. 10. Subpart D of part IV of title III of the Communications Act of 1934, as amended in section 9, is further amended by adding at the end thereof the following new section:

"OFFERING OF CERTAIN SERVICES, FACILITIES, OR PRODUCTS BY PUBLIC BROADCAST STATIONS

"SEC. 399B. (a) For purposes of this section, the term 'advertisement' means any message or other programming material which is broadcast or otherwise transmitted in exchange for any remuneration, and which is intended—

"(1) to promote any service, facility, or product offered by any person who is engaged in such offering for profit;

"(2) to express the views of any person with respect to any matter of public importance or interest; or

"(3) to support or oppose any candidate for political office.

"(b)(1) Except as provided in paragraph (2), each public broadcast station shall be authorized to engage in the offering of services, facilities, or products in exchange for remuneration.

"(2) No public broadcast station may make its facilities available to any person for the broadcasting of any advertisement.

"(c) Any public broadcast station which engages in any offering specified in subsection (b)(1) may not use any funds distributed by the Corporation under section 396(k) to defray any costs associated with such offering. Any such offering by a public broadcast station shall not interfere with the provision of public telecommunications services by such station.

"(d)(1) Any remuneration received by a public broadcast station as a result of offerings which are authorized in this section shall not be considered to be non-Federal financial support for purposes of section 396(k)(7).

"(2) For purposes of paragraph (1), the broadcasting of any announcement by a public broadcast station which includes the use of any business or institutional logo-

gram (as defined in section 399A(a)) shall not be considered to be the provision of a service for which remuneration is received.

"(e) Each public broadcast station which engages in the activity specified in subsection (b)(1) shall, in consultation with the Corporation, develop an accounting system which is designed to identify any amounts received as remuneration for, or costs related to, such activities under this section, and to account for such amounts separately from any other amounts received by such station from any source.".

STUDY ON ALTERNATIVE FINANCING FOR PUBLIC TELECOMMUNICATIONS

SEC. 11. (a)(1) A study shall be conducted in accordance with the provisions of this section regarding options which may be available to public telecommunications entities, the Public Broadcasting Service, and National Public Radio with respect to the development of sources of revenue in addition to the sources of revenue available to such entities and organizations on the date of the enactment of this Act. Such study shall be completed not later than July 1, 1982, and a report shall be submitted to the Congress in accordance with subsection (i).

(2) The study required in paragraph (1) shall seek to identify funding options which also will ensure that public telecommunications as a source of alternative and diverse programming will be maintained and enhanced, and that public telecommunications services will continue to expand and be available to increasing numbers of citizens throughout the Nation.

(3) The study required in paragraph (1), in examining funding alternatives, also shall seek to determine appropriate means for ensuring that the use of such funding alternatives does not interfere with the content and quality of programming appearing on public television and radio.

(b)(1) The study required in subsection (a)(1) shall be conducted by a commission to be known as the Temporary Commission on Alternative Financing for Public Telecommunications (hereinafter in this section referred to as the "Commission").

(2) The Commission shall consist of the Chairman of the Federal Communications Commission (or a member of the Commission designated by the Chairman); the Assistant Secretary of Commerce for Communications and Information (or his delegate); the heads of the Corporation for Public Broadcasting, National Public Radio, and the National Association of Public Television Stations (or their delegates); the Chairman and the ranking minority member of the Committee on Commerce, Science, and Transportation of the Senate (or any members of such committee designated by them); and the Chairman and ranking minority member of the Committee on Energy and Commerce of the House of Representatives (or any members of such committee designated by them).

(3) In addition to the members of the Commission specified in paragraph (2), an officer or employee of a public television station and an officer or employee of a public radio station shall serve as members of the Commission. Such members shall be selected by the members of the Commission specified in paragraph (2). Such selection shall be made at the first meeting conducted by the Commission.

(4) For purposes of this subsection, the terms "public television station" and "public radio station" have the same meaning as the term "public broadcast station" in section 397(6) of the Communications Act of 1934 (47 U.S.C. 397(6)).

(c) The members of the Commission shall serve without compensation, but the Federal Communications Commission shall make funds available to reimburse such members for travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Federal Government service are allowed expenses under section 5703 of title 5, United States Code.

(d) The Chairman of the Federal Communications Commission (or the person designated by the Chairman under subsection (b)(2)) shall serve as Chairman of the Commission.

(e) The Commission shall meet at least once each month, and at the call of the Chairman or a majority of the members of the Commission. Six members of the Commission shall constitute a quorum.

(f)(1) Upon request of the Commission, the Federal Communications Commission shall furnish the Commission with such personnel and support services as may be necessary to assist the Commission in carrying out its duties and functions under this section. The Commission shall not be required to pay or reimburse the Federal Communications Commission for such personnel and support services.

(2) The Assistant Secretary of Commerce for Communications and Information, and the heads of the Corporation for Public Broadcasting, the Public Broadcasting Service, National Public Radio, and the National Association of Public Television Stations, each are authorized to furnish the Commission with such personnel and support services as each such organization considers necessary or appropriate to assist the Commission in carrying out its duties and functions under this section.

(g) The Commission shall have authority to hold such hearings, sit and act at such times and places, and take such testimony as the Commission considers advisable. The Commission shall seek to obtain the testimony and advice of business representatives, persons representing public interest groups, and other persons and organizations which have an interest in public broadcasting.

(h) The Commission shall be exempt from section 10(e), section 10(f), and section 14 of the Federal Advisory Committee Act (5 U.S.C. Appendix).

(i) The Commission shall submit a report to the Congress containing the results of the study required in subsection (a)(1) not later than July 1, 1982. Such report shall include an evaluation of each option with respect to the development of additional sources of revenue, and shall include recommendations for such legislative or other action as the Commission considers necessary or appropriate.

(j) The Commission shall terminate at the end of the 90-day period following the date of the submission of the report required in subsection (i).

TECHNICAL AMENDMENTS

SEC. 12. (a) Section 396(g) of the Communications Act of 1934 (47 U.S.C. 396(g)) is amended by striking out paragraph (5) thereof, and by redesignating paragraph (6) as paragraph (5).

(b) Section 397(15) of the Communications Act of 1934 (47 U.S.C. 397(15)) is amended by striking out ", Education, and Welfare" and inserting in lieu thereof "Human Services".

Mr. WIRTH (during the reading.) Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado.

There was no objection.

□ 1615

Mr. WIRTH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, yesterday we concluded general debate on the Communications Act of 1934. There is broad agreement on this piece of legislation.

There will be, I think, three or four amendments offered. What we agreed to do this evening was to consider one amendment which will be offered by the gentleman from Texas (Mr. COLLINS), on the level of authorization.

As background for the bill, I think there is broad agreement among all Members related to the structure of the Corporation as it has been redone in the legislation to the concept of advanced funding. The major issue I believe that remains to be resolved on the floor of the House is the level of authorization for the Corporation in the years 1984 through 1986.

The amendment we will consider tonight will be offered by the gentleman from Texas (Mr. COLLINS). To review very briefly with my colleagues the current level of authorization for the Corporation is $220 million. The legislation which was reported out of the subcommittee and full committee has a sliding scale of decline for the Corporation of $160 million in 1984, $145 million in 1985, and $130 million in 1986. That, we felt, was a very significant cut in the funding for public broadcasting, approximately 40 percent.

The gentleman from Texas will be offering an amendment to cut the authorization in half, down to a level of $110 million. We will consider that amendment tonight and then it is my understanding, and I think the gentleman from Texas (Mr. COLLINS), that we will then rise and come back and consider the remainder of the bill tomorrow morning.

AMENDMENT OFFERED BY MR. COLLINS OF TEXAS

Mr. COLLINS of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLLINS of Texas: Page 6, line 16, strike out "$160,000,000" and insert in lieu thereof "$110,000,000".

Page 6, line 16, strike out "$145,000,000" and insert in lieu thereof "$100,000,000".

Page 6, line 17, strike out "$130,000,000" and insert in lieu thereof "$100,000,000".

Mr. COLLINS of Texas (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be

considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. COLLINS of Texas. Mr. Chairman, as the chairman of our committee, the gentleman from Colorado (Mr. WIRTH) has stated, this is a controversial amendment. We have discussed it at great length in the subcommittee and I want to just review for my colleagues the essence of what this amendment does.

This amendment establishes the Reagan budget. Those of you who voted for the Reagan budget, those of you who said you wanted to have a reduced Federal budget, this is what this amendment does; it brings you down to that level.

I might also add that the other body down at the other end of the Capitol has already voted. The other body voted to adopt this level. But in our committee we have brought to the floor a much higher level of financing than we can justify. So we are asking you to drop the funding down to $110 million.

The first thing I want to emphasize is this: It does not apply for 2½ years. For 2½ years we give them an opportunity to get ready for it.

The second thing I want to say is that it is just reducing it to the level that they had in 1978 when the appropriation was $107 million. In other words, just a couple of years ago they were able to get by on this level, and we think that by 1984 they should get back on it again.

In all America today the one subject that everyone has on their mind is inflation. If my colleagues ask anyone in any district, I do not care what part of the country, they will tell you they are concerned about inflation. And inflation is due to the fact that Congress has been spending too much money. We are calling on people everywhere to cutback, and we are calling on public broadcasting to cutback.

Last year the national debt went up $80 billion and even if we put through all of these cuts we have we will be spending $35 billion more than we did last year. In other words, we are probably going to have a $100 billion increase in the debt this year.

It is not too much to request, but it puts you right up to the lick log. Right now we have to decide are we going to support this budget because about 2 to 1 my colleagues said you wanted to have a hard budget. This is the vote that will determine it.

I earnestly solicit, I earnestly request that my colleagues vote with us and let us put this amendment over.

I offer an amendment to reduce funding authorized for the Corporation for Public Broadcasting to $110 million for fiscal year 1984 and $100 million for fiscal years 1985 and 1986. This is a most important amendment which would bring this authorization bill in line with the Reagan administration's budget and would reduce spending by $125 million over the 3-year period of the bill.

Although opponents of my amendment are portraying it as a drastic cut in public broadcasting funds, the funding levels are not that far from funds provided in recent years. Just 3 years ago, in fiscal year 1978, CPB received an appropriation of $107.2 million. My bill would provide a slightly higher level of $110 million.

It is also important to note that these spending reductions are prospective. They would not take effect until fiscal year 1984. Stations would thus have some lead time to plan for reduced Federal support and to make up for it from other non-Federal sources.

I would like to point out that public broadcasting has been increasingly successful in generating private funding through underwriters of programs and through financial support of the viewing and listening public. To know how much this private financial support has increased, in 1973, support from subscribers, business and industry totaled $55 million. In 1979, this figure had risen to $164 million, an increase of almost 300 percent. This is certainly a significant factor which indicates that reduced Federal support would not harm the total public broadcasting effort.

The bill under consideration also contains a number of provisions, which I support, which provide public broadcasting stations with several new ways to make up for lost Federal revenues. It encourages increased program underwriting from private sources by permitting stations to broadcast logograms identifying underwriters. This is designed to bring in increased private funds to underwrite the costs of program production. Unfortunately, it does not go as far in permitting companies to provide information about their products and services to public broadcasting viewers as the recent FCC decision. However, it should enable stations to generate increased underwriting revenues.

The bill also authorizes public broadcasting stations to offer services, facilities, or products in order to produce income, as long as such activities do not interfere with public broadcasting services and Federal funds are not used to subsidize them. Some stations have been successful in engaging in profitmaking activities to subsidize their nonprofit operations. For example, WETA here in Washington, along with some other major market stations, publishes a program magazine, the Dial, which accepts advertisements. This is the sort of activity we need to encourage, and this bill provides specific authorization for stations to undertake such endeavors. Such new revenue-producing activities go a long way toward allowing stations to make up for reduced Federal funding.

The legislation before us also removes the prohibition in present law that public telecommunications facilities which receive Federal funds through the facilities' grant program must be used exclusively for providing public telecommunications services. This provision would allow the use of excess capacity of such facilities for commercial use, and would thus provide yet another way for public broadcasting stations to bring in revenues from private sources and reduce their dependence on the Federal Government.

The state of our Nation's economy and the continuing high rate of inflation we have been living with for years demand that Federal spending be drastically cut. I feel that the spending cuts provided in my amendment are certainly reasonable. We must keep in mind the very significant increase in private support for public broadcasting which has occurred in recent years, and the authority provided in the bill for stations to engage in a variety of income-producing activities. When these factors are taken into consideration, I truly believe that it cannot be said that my amendment will be detrimental to public broadcasting. I urge its adoption by the House.

AMENDMENT OFFERED BY MR. WAXMAN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. COLLINS OF TEXAS

Mr. WAXMAN. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. WAXMAN as a substitute for the amendment offered by Mr. COLLINS of Texas: On page 6, line 16, strike out "$145,000,000" and insert in lieu thereof "$160,000,000".

On page 6, line 17, strike out "$130,000,000" and insert in lieu thereof "$160,000,000".

Mr. WAXMAN. Mr. Chairman, the amendment I am offering today—which is cosponsored by FRED RICHMOND, chairman of the Congressional Arts Caucus, and ED MARKEY, my colleague on the Telecommunications Subcommittee—is the least we can and should provide public broadcasting.

We are recommending that authorizations for CPB for fiscal years 1984 through 1986 be capped at $160 million annually. This is nothing less than a 28-percent reduction from the current authorization of $220 million—a budget cut that exceeds the administration's general approach of reducing support for social programs by 25 percent.

Under our amendment, therefore, public broadcasting will assume much

more than its fair share of the burden of fiscal restraint.

There is no question among any of us that the funding levels we are providing in H.R. 3238 will test the ability of public broadcasting to survive.

I submit to you that we have a responsibility to insure that it succeeds.

Public broadcasting's mandate is to provide the American people with the very best in television and radio programing—to encourage creative endeavors that are not undertaken by anyone else—to tap the vast reservoir of creative talent all across the country.

It has consistently striven to meet the challenge. And it has been woefully underfunded in its efforts to do so.

The total income for all of public broadcasting—$550 million last year—is but a fraction of the amount of money one of the commercial networks spends on its prime-time schedule.

That so much has been accomplished with so little is truly remarkable.

These achievements are threatened by the funding levels in this bill, and they will be utterly destroyed by the amendment of the gentleman from Texas (Mr. COLLINS).

The funds we provide public broadcasting are seed moneys—an investment—in generating substantial outside support that dwarfs the Federal contribution. This year's $162 million in Federal appropriations has generated an additional $435 million from outside sources.

The only conclusion one can reach is that if our share is reduced, total system income will suffer directly.

This could lead to stations going dark all across the country.

It would lead to the disappearance of exceptional public television and radio programs from the air.

We can meet our commitment to budgetary restraint without sacrificing the viability of public broadcasting.

My amendment strikes this balance, and I urge its adoption.

Mr. RICHMOND. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I am pleased to yield to the gentleman from New York.

Mr. RICHMOND. Mr. Chairman, I am pleased to join the gentleman from California (Mr. WAXMAN) as cosponsor of his amendment and applaud his effort to bring a more positive choice in funding public broadcasting before the House.

My colleague from California (Mr. WAXMAN) understands the need for cutting our budget, balancing our deficit, cutting down to the bone. He has cut 30 percent from the 1983 budget so that in 1984, 1985, and 1986, we are providing $160 million for the Corporation for Public Broadcasting.

The Waxman amendment is sound and reasonable. Taking $60 million from $220 million is a draconian cut but will still allow us to continue the Corporation for Public Broadcasting.

The administration's proposed budget cuts for the arts, including public broadcasting, pose a more severe challenge than the immediate concern of which programs within these agencies will be permitted to survive. They strike at the heart of these endeavors themselves. The administration seeks nothing less than the ultimate termination—altogther—of Federal support for the arts in America. It seeks nothing less than the repudiation of a national commitment to the arts in this country.

The Federal Government's share in public broadcasting is extraordinarily modest—28 percent of the total income that public broadcasting has been able to command from an appreciative public. This is hardly a predominant or controlling interest. But without this support, the income from private sources could never have been generated. Our appropriations have consistently stimulated a much greater commitment from the private sector. And this is a pattern that has been repeated in every other effort to enhance the arts—especially through the National Endowments.

Why should we support public broadcasting? For the simple reason that it provides programing that is unavailable from any other source—limited by the demands of commercial succcess.

In short, public broadcasting supplements the commercial broadcast marketplace. The entertainment and information needs that it meets cannot be replaced from any other source.

Should the Federal Government be involved in funding public broadcasting? The answer is an unqualified yes. There is a hunger for access to and enjoyment of the arts in this country, for the very best in public affairs programing, and for critical examinations of our society. And there is an abundance of creative talent in our country that wants to develop programs in these areas.

But this programing simply cannot be done locally, nor sustained solely with private funds. We have an obligation to the American people to insure public broadcasting's survival and prosperity.

The Reagan administration's budget would strangle public broadcasting just at the moment when it is obtaining more popular support and interest than ever before. In the name of fiscal restraint, the administration's proposals would drive public broadcasting stations off the air, along with the programs that go with them.

The Waxman amendment would provide $160 million annually for fiscal years 1984-86. Although this is the most generous of the proposals before us, it is still a significant cut from the fiscal year 1983 authorization of $220 million, and is $12 million less than the fiscal year 1982 appropriation.

Even though I would like to support the gentleman from Colorado, the authorizations contained in the committee bill still threaten the viability of public broadcasting. At $130 million, the current level of quality programing simply cannot be sustained.

The Waxman amendment is the responsible alternative before us. It provides the greatest possible flexibility for the future. If economic conditions permit, it will enable a decent level of funding for public broadcasting. If the budget will be unable to fully accommodate these authorizations, the Appropriations Committee can easily make the necessary adjustments—even down to the administration's request.

But the Waxman amendment keeps the door open. It is a signal of our faith in public broadcasting and our judgment that we will not abandon this essential broadcast service.

I urge my colleagues to support the Waxman amendment.

Mr. WAXMAN. I thank the gentleman for his very helpful comments. I want to commend the gentleman for his leadership role on this amendment and as chairman of the Congressional Arts Caucus.

Mr. COLLINS of Texas. Mr. Chairman, I rise in opposition to the substitute amendment offered by the gentleman from California (Mr. WAXMAN).

The spending level in the committee bill is already too high, and Mr. WAXMAN proposes to increase spending even more.

The funding level that I proposed in my amendment is identical to what was proposed in the Reagan budget. It is the budget that the House has approved, and my amendment would merely reduce spending to this level.

I ask the House to vote against the Waxman amendment and to support my amendment when it comes up.

Mr. PEYSER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment of the gentleman from California (Mr. WAXMAN) and certainly in strong support of the statement of the gentleman from Michigan (Mr. PURSELL) that was just made on the floor.

I think one of the most critical parts of this legislation was discussed yesterday in debate on the floor where we were talking about priorities and where money should be spent in Government today. I think when we are dealing in the matter of public broadcasting and recognizing the cuts that are really being made in this program to start with, to talk about the Collins amendment, which would basically devastate public broadcasting, and

even the Waxman amendment which we are now considering, which is a very modest amendment, which is still going to create problems, but I think problems the industry can survive, and can handle, we must recognize we are talking about an industry really in public broadcasting that is reaching over 50 million Americans every day. It is providing them with the kind of coverage and the kind of information that they should have, and decent kinds of programing.

One of the things that was being suggested yesterday by the gentleman from Texas (Mr. COLLINS) was that we could find a way of having advertising on public television. I think it was defined as the correct type of advertising. I do not think we ought to be reliant on advertising on public television to keep it going.

□ 1630

It is my hope, as the gentleman from Michigan said, that he might be in the minority on his side. I do not necessarily think so. I think Republicans are just as concerned on this issue in large numbers as are Democrats. It is certainly my hope that the Waxman amendment will pass today and will enable public television, public broadcasting, to carry on in a respectable way. That is all we are asking for at this time.

Mr. WIRTH. Mr. Chairman, it is with immense reluctance that I would be forced to oppose the amendment offered by the gentleman from California (Mr. WAXMAN). I just want to say that I would hope that the Members of the body would oppose both amendments. It is, I think, a very good example of the extremes that we are talking about with a high amendment from the gentlemen from California (Mr. WAXMAN) and an incredibly low amendment from the gentleman from Texas (Mr. COLLINS), and the very good judgment of the subcommittee and the full committee I hope will allow for the defeat of both the Waxman amendment and the Collins amendment.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I would be happy to yield to the gentleman from Iowa.

Mr. TAUKE. I thank the gentleman for yielding.

Mr. Chairman, it occurs to me that the work that has been done by the subcommittee does deserve the careful consideration of the body and should be supported as it was by both Republicans and Democrats in the subcommittee and in the full committee. We need to clarify here that we are talking about fiscal years 1984, 1985, and 1986, not the fiscal years that we will be dealing with immediately in the budget. I believe that by 1984 the Reagan economic program will have turned the country around.

I would hope that my colleagues on this side of the aisle, if not those on the other side of the aisle, would have the same confidence in the President's program. Certainly by that time we should be able to provide this minimal amount of funding for the public broadcasting that is recommended by the subcommittee. I think it is important to note that the subcommittee is trying to wean public broadcasting away from public funds in a gradual sense. We are not able to do it as quickly and as abruptly as the Reagan administration would like but, nevertheless, we achieve a 41 percent reduction in the current authorization level, and that is in addition to cuts that will be made indirectly, cuts in the National Endowment for the Arts and the National Science Foundation, and so on.

I think that we should stick with the position taken by the subcommittee and the full committee. It tries to make cuts in public funds for public broadcasting, but it does it in a reasonable way.

Mr. WIRTH. I thank the gentleman from Iowa. I appreciate his comments.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Massachusetts.

Mr. MARKEY. I thank the gentleman from Colorado for yielding.

Mr. Chairman, I rise in strong support for the amendment offered by my good friend from California (Mr. WAXMAN). Yesterday, we heard the distinguished chairman of the Telecommunications Subcommittee (Mr. WIRTH) describe the very careful scrutiny that this bill has undergone and we were told that the authorization level for fiscal 1984 of $160 million is the barest boned level possible; $160 million is the figure that would provide the very basic level of Federal support for public broadcasting.

I do not stand here today to demand any kind of an increase in funding for public broadcasting. We already are talking about a very signficant cut in funding from fiscal 1983 at a level of $220 million to fiscal 1984 at a level of $160 million. We agreed in the subcommittee, then in the full committee that public broadcasting would not remain exempt from very close budget scrutiny and budget cuts. And we agreed that $160 million for fiscal year 1984 was the very least we could give to what we have all agreed is one of America's unduplicated and most important cultural resources.

Therefore, I most strongly support Mr. WAXMAN's amendment to cap our Federal commitment to public broadcasting at the very lowest basic level of $160 million for not only fiscal year 1984, but fiscal years 1985 and 1986. Further reducing the authorization level will force serve reductions in the community services programs. Let me talk about public broadcasting and my constituents. I am privileged to represent an area that is served by a public broadcasting station which is considered by many to be the finest in the country—WGBH in Boston, WGBH is very much a cultural landmark not only in Boston, but in public broadcasting as an American institution.

WGBH began as a very modest offering of the Lowell Institute along with the area's museums and universities. It has never had enough money and has never wielded much political clout. Yet, in spite of this, WGBH has succeeded in moving into the forefront of offering exceptional and award-winning programing. WGBH, and all other public broadcasting stations nationwide have entertained and enlightened us. They have brought us "All Things Considered," "The MacNeill-Lehrer Report," and "Over Easy"—all award winners. We have been stunned with a dramatization of "Pride and Prejudice," we have witnessed the "Worlds of Jacques Cousteau" and we were shaken by a report on MacNeill-Lehrer on Vietnam veterans. Public broadcasting, indeed, has provided us with the visual counterpart of literature. There is no argument that commercial television, with its lowest common denominator programing, does not come close to these offerings or to this cultural level. In addition, I remind my colleagues that public broadcasting is not just enjoyed by a privileged few. According to a 1980 Nielsen Report, more than 46 percent of all American households tune into public television at least once a week. That includes households of every income, and that includes households of every Member of this House.

I also want to remind my colleagues that there is not a lack of public support for WGBH and other public broadcasting stations. Last March, viewers pledged $27 million to participating stations—a 29-percent increase over 1980.

It seems to me that we have 2 out of the 3 essential working components to make public broadcasting continue to set standards of excellence nationwide and worldwide. We have an assurance from public broadcasters that with this basic level of funding, we will continue to receive an exceptional level of programing quality. We have seen an overwhelming surge in public support from all sectors of our constituencies. It is not up to the Congress to decide if we will come forth with that third essential factor—Federal support. Let us at least hold up our end of the bargain with support for the very basic level of Federal funding for public broadcasting so that WGBH and all stations can continue to flourish.

Again, I urge strong support for the Waxman amendment and I am in adamant opposition to the ill-conceived

amendment of the gentleman from Texas. If we are to seriously consider lowering the level of funding for public broadcasting to $110 million—a 50-percent cut from the fiscal year 1983 funding level, we ought to consider whether to fund CPB at all.

Mr. Chairman, during the entire debate in committee and on the floor, I have heard nothing but praise for public broadcasting and the specialized educational and cultural needs and interests of the people it so ably serves.

Chairman WIRTH and those who join him in strong support of this bill recognize the dilemma that we all face in responding to the public mandate to contain Federal spending. And in keeping with that mandate, we agreed to lower the fiscal year 1984 level to $160 million—the lowest possible level to maintain our Federal commitment to this unduplicated cultural resource.

I ask my colleagues to be keenly aware that the funding level for public broadcasting that we vote on today will chart the course of public broadcasting for the next several years. Historically, that course has been fraught with overwhelming obstacles. Today, we again will deal public broadcasting a blow by significantly lowering the authorization level to $160 million in fiscal year 1984. In the past, public broadcasting has managed not only to survive, but to set standards of excellence in broadcasting. In the context of a very turbulent and uncertain communications climate, the first half of this decade may well prove to be the ultimate survival test for public broadcasting. The authorization level that emerges from the House today will legislate the degree to which public broadcasting will continue to flourish. If the House accepts the Collins amendment today, you will not only deal a devastating blow to public broadcasting—you will effectively attempt to wipe out a medium that has respected the artistry of a wide range of individuals who create programs to serve the needs of everyone's constituents. Public broadcasting has made exceptional accomplishments in the past, let us not allow this resource to be lost.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

I rise in support of the Waxman amendment and in opposition to the Collins amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WAXMAN) as a substitute for the amendment offered by the gentleman from Texas (Mr. COLLINS).

The amendment offered as a substitute for the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. COLLINS).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 31, noes 28.

RECORDED VOTE

Mr. WIRTH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 146, noes 265, not voting 20, as follows:

[Roll No. 95]

AYES—146

Applegate	Frenzel	O'Brien
Archer	Goldwater	Pashayan
Ashbrook	Gramm	Paul
Badham	Gregg	Quillen
Bafalis	Grisham	Regula
Bailey (MO)	Gunderson	Rhodes
Barnard	Hagedorn	Ritter
Beard	Hall, Ralph	Roberts (KS)
Benedict	Hall, Sam	Roberts (SD)
Bennett	Hammerschmidt	Robinson
Bliley	Hance	Roemer
Brinkley	Hansen (ID)	Rogers
Broomfield	Hansen (UT)	Roth
Brown (CO)	Hartnett	Rousselot
Brown (OH)	Hendon	Rudd
Broyhill	Hightower	Schulze
Butler	Hiler	Sensenbrenner
Campbell	Hillis	Shaw
Carman	Holt	Shelby
Carney	Hopkins	Shumway
Chappie	Huckaby	Shuster
Cheney	Hunter	Siljander
Coats	Hyde	Smith (AL)
Collins (TX)	Jeffries	Smith (NE)
Coughlin	Johnston	Smith (OR)
Craig	Kazen	Snowe
Crane, Daniel	Kemp	Snyder
Crane, Philip	Kindness	Solomon
Daniel, Dan	Kramer	Spence
Daniel, R. W.	Lagomarsino	Stanton
Dannemeyer	Latta	Staton
Daub	LeBoutillier	Stenholm
de la Garza	Livingston	Stump
Deckard	Loeffler	Taylor
Derwinski	Lott	Thomas
Dickinson	Lungren	Trible
Dornan	Marlenee	Vander Jagt
Dreier	Marriott	Walker
Duncan	Martin (NC)	Wampler
Edwards (AL)	McClory	Watkins
Edwards (OK)	McCollum	Weber (MN)
Emerson	McDonald	White
Emery	McEwen	Whitehurst
Erlenborn	McKinney	Whitley
Evans (GA)	Michel	Whittaker
Evans (IA)	Moore	Winn
Fiedler	Moorhead	Wylie
Fields	Myers	Young (FL)
Findley	Napier	

NOES—265

Addabbo	Boland	Courter
Akaka	Boner	Coyne, James
Albosta	Bonior	Coyne, William
Alexander	Bonker	D'Amours
Anderson	Bouquard	Daschle
Andrews	Bowen	Davis
Annunzio	Brodhead	Dellums
Anthony	Brooks	DeNardis
Aspin	Burgener	Derrick
Atkinson	Burton, John	Dicks
AuCoin	Burton, Phillip	Dingell
Bailey (PA)	Byron	Dixon
Barnes	Chappell	Dorgan
Bedell	Chisholm	Dougherty
Beilenson	Clausen	Downey
Benjamin	Clay	Dunn
Bereuter	Clinger	Dwyer
Bethune	Coelho	Dymally
Bevill	Coleman	Dyson
Biaggi	Collins (IL)	Early
Bingham	Conable	Eckart
Blanchard	Conte	Edgar
Boggs	Corcoran	Edwards (CA)
English	Lehman	Railsback
Erdahl	Leland	Rangel
Ertel	Lent	Ratchford
Evans (DE)	Levitas	Reuss
Evans (IN)	Lewis	Richmond
Fascell	Long (LA)	Rinaldo
Fazio	Long (MD)	Rodino
Fenwick	Lowery	Roe
Ferraro	Lowry	Rose
Fithian	Lujan	Rosenthal
Flippo	Luken	Rostenkowski
Foglietta	Lundine	Roukema
Foley	Madigan	Roybal
Ford (TN)	Markey	Sabo
Forsythe	Marks	Santini
Fountain	Martin (IL)	Savage
Fowler	Martin (NY)	Schneider
Frank	Matsui	Schroeder
Frost	Mattox	Schumer
Fuqua	Mavroules	Seiberling
Garcia	Mazzoli	Shamansky
Gejdenson	McCloskey	Shannon
Gephardt	McCurdy	Sharp
Gibbons	McDade	Simon
Gilman	McGrath	Skeen
Gingrich	McHugh	Skelton
Glickman	Mica	Smith (IA)
Gonzalez	Mikulski	Smith (NJ)
Goodling	Miller (CA)	Solarz
Gore	Miller (OH)	St Germain
Gradison	Mineta	Stangeland
Gray	Minish	Stark
Green	Mitchell (MD)	Stokes
Guarini	Mitchell (NY)	Stratton
Hall (OH)	Moakley	Studds
Hamilton	Molinari	Swift
Harkin	Montgomery	Synar
Hatcher	Morrison	Tauke
Hawkins	Mottl	Tauzin
Heckler	Murphy	Traxler
Hefner	Murtha	Udall
Heftel	Natcher	Vento
Hertel	Neal	Volkmer
Holland	Nelligan	Walgren
Hollenbeck	Nelson	Washington
Horton	Nichols	Waxman
Howard	Nowak	Weaver
Hoyer	Oakar	Weber (OH)
Hubbard	Oberstar	Weiss
Hughes	Obey	Whitten
Hutto	Ottinger	Williams (MT)
Ireland	Panetta	Williams (OH)
Jacobs	Parris	Wilson
Jeffords	Patman	Wirth
Jenkins	Patterson	Wolf
Jones (NC)	Pease	Wolpe
Jones (OK)	Pepper	Wortley
Jones (TN)	Perkins	Wyden
Kastenmeier	Petri	Yates
Kildee	Peyser	Yatron
Kogovsek	Pickle	Young (AK)
LaFalce	Porter	Young (MO)
Lantos	Price	Zablocki
Leach	Pritchard	Zeferetti
Leath	Pursell	
Lee	Rahall	

NOT VOTING—20

Bolling	Donnelly	Moffett
Breaux	Fary	Mollohan
Brown (CA)	Fish	Russo
Conyers	Florio	Sawyer
Cotter	Ford (MI)	Scheuer
Crockett	Gaydos	Wright
Danielson	Ginn	

□ 1645

Messrs. WEBER of Ohio, LONG of Louisiana, LEWIS, GONZALEZ, and HUGHES changed their votes from "aye" to "no."

Mr. DUNCAN changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

● Mr. GREEN. Mr. Chairman, I rise in support of the Public Broadcasting Amendments Act of 1981, H.R. 3238, as it was reported from the Energy and Commerce Committee. This is a

balanced and fiscally responsible bill, and I urge rejection of all weakening amendments that may be offered.

I recognize the important contributions that public broadcasting has made to our country and am concerned about the future of this industry. I believe that legislation we enact should demonstrate basic support for public television and radio stations across the country and encourage the development of quality national and local programing while simultaneously reducing the level of Federal support.

Because of the need for fiscal restraint and cutbacks in Federal funding, it is essential that public broadcasting become less dependent on Federal dollars, and that it be given the tools to become more self-reliant. Accordingly, H.R. 3238, as reported, provides new opportunities for public television and radio stations to generate revenue from outside sources, such as leasing out their satellites and studios for commercial uses, and by permitting the broadcast of corporate logos to identify the underwriters of programs.

Weakening amendments would further reduce the authorization levels in the bill. These proposals would cripple public broadcasting, and I hope the House will support the bill as reported by the committee and reject any attempt to change the support which has been demonstrated.●

● Mrs. COLLINS of Illinois. Mr. Chairman, today the House begins final consideration of H.R. 3238, Public Broadcasting Act Amendments of 1981. As a cosponsor of this legislation I rise in support of H.R. 3238 and consequently urge my colleagues to vote for the passage of this bill.

The Corporation for Public Broadcasting (CPB) is a private corporation established by law in 1967 to receive and distribute Federal funds to public—noncommercial—broadcast stations and program producers. The CPB appropriation has grown from $5 million in fiscal year 1969 to $162 million in fiscal year 1981. The Subcommittee on Telecommunications, Consumer Protection, and Finance is responsible for authorization of funds and oversight of the Corporation.

In 1975, Congress instituted a system of 5-year authorizations for the Corporation, and the Appropriations Committee agreed to adopt appropriations 2 years in advance. This means that the fiscal year 1979 CPB appropriation was included in the fiscal year 1977 Labor/HEW appropriation bill; the fiscal year 1980 CPB appropriation was in the fiscal year 1978 Labor/HEW appropriation bill, and so on. This plan was intended to minimize Government interference in programing, and to enable the stations and the Corporation to undertake advance program planning with some assurance of the availability of Federal funds.

The 1978 Public Telecommunications Financing Act (Public Law 95-567) authorized funds for CPB for 1981, 1982, and 1983, thereby maintaining the principle of multiyear authorizations. The Appropriations Committee also has continued the practice of advance appropriations. If the practice of forward funding is to continue, a new authorization bill for 1984 and beyond must be enacted this year.

In accordance with this funding scheme, the 1982 appropriation for CPB was approved by the Congress as part of the fiscal year 1980 Labor/HEW appropriation bill; $172 million was appropriated for fiscal year 1982. H.R. 3238 continues multiyear authorizations for CPB and endorses the practice of advanced funding through the appropriations process. A practice begun as a result of the Nixon administration's attempts to dictate programing content. Hence, beginning in 1975, Congress began a system of 5-year advance authorizations for public broadcasting, which included 2-year advance appropriations.

Accordingly, this legislation reauthorizes the activities of CPB for 3 years. Reflecting the public mandate for more austere Government spending, CPB is authorized at $160 million in fiscal year 1984, $145 million in fiscal year 1985, and $130 million in fiscal year 1986. So, while H.R. 3238 adheres to decreasing Federal support, it allows public broadcasters time to better meet the challenge of reduced Federal support.

During subcommittee and full committee markups on this legislation, numerous attempts were made by my colleague, from the other side of the aisle, Representative JIM COLLINS to: First, reduce drastically funds for CPB; and second, eliminate the facilities program. I now call upon my colleagues to soundly defeat these amendments as was done previously during markup sessions.

Representative COLLINS would have us abandon basic support to public television and radio stations across the Nation; thereby discouraging quality programing intended for national distribution. We cannot allow such amendments to be passed which would compromise the principle of forward funding and, cripple the stations' ability to fulfill the mandate for which they were established. Public broadcasting plays a unique role in our Nation's overall telecommunications system. The educational and cultural services provided by public broadcasters for the past three decades have filled important gaps in the programing menu of the commercial sector. This role must be continued.

H.R. 3238 also reauthorizes the public telecommunications facility program (PTFP) in the Department of Commerce's National Telecommunications and Information Administration (NTIA). This program was established by Congress in 1962 to provide matching grants to the facilities of educational television. The Public Broadcasting Act of 1967 expanded this to include educational radio facilities. The 1978 Public Telecommunications Financing Act moved PTFP to NTIA and set three priorities for the expenditure of grants. Those priorities are:

First, extend delivery of public telecommunications services to as many citizens of the United States as possible with at least 75 percent of the program's funds devoted to this purpose;

Second, increase public telecommunications facilities and services available to and owned by minorities and women;

Third, strengthen the capability of existing public television and radio stations to provide educational and cultural services to the public.

Grants are made on a matching basis, with the maximum Federal share 75 percent of the total costs of any one project.

The Collins amendment, if allowed to pass, would serve to gut this program. Possible termination of the PTFP will pose a serious threat to both the growth and maintenance of the Public Broadcasting System. The fact remains that there are significant numbers of American citizens who are underserved by public broadcasting even though their tax dollars are used to support it. Accordingly, PTFP should continue.

In conclusion, I would like to leave my colleagues with the following paragraph taken from the Public Broadcasting Amendments Act of 1981—House Report 97-82:

> It is the recommendation of the committee that new avenues be pursued to finance the system, and that a more direct, concerted effort be made to increase both community accountability, and the role of minorities, women, and handicapped persons in the provision of public telecommunications services and progaming. CPB must do more by providing leadership to encourage these goals and policies, and provide a stronger continuing commitment in implementing policies which encourage better utilization and representation of minorities, women and handicapped persons.

H.R. 3228. Reaffirms the advance funding principle and does not jeopardize the insulation of the public broadcasting system. Accordingly, I call upon my colleagues to soundly defeat any amendments which would infringe upon the insulation of the public broadcasting system by disrupting CBP's funding mechanism.●

● Mr. OBERSTAR. Mr. Chairman, I rise in support of H.R. 3238, as well as the Waxman amendment. I very much hope that Congress will enact H.R. 3238 and reaffirm its commitment to one of our Nation's cultural resources—public broadcasting. I oppose weakening amendments which will se-

riously threaten the ability of public television and radio stations across the country to stay on the air, and will adversely affect the production of quality programing at the local level.

The administration's contention that funding reduction will provide "an opportunity for private and corporate donations to play a greater role in financing local public television" is irrational. Those who are involved in public broadcasting know that without Federal support, such programs would never have gotten started. The 500 public radio and television stations in the public broadcasting system have had to "rattle the cup" continually to raise the money they need to continue their programing.

Public broadcasting is not Federal or governmental broadcasting. The Corporation for Public Broadcasting was established to insulate public radio and television stations from political pressures and the threat of withdrawal of Federal funds. The long-range funding concept for CPB is necessary to insure that independence.

I have long supported public broadcasting because I have seen the excellent public network in my State of Minnesota. Many public stations have, in spite of severe budgetary constraints, managed not only to survive but to set standards of excellence in broadcasting. The Nation cannot afford to allow public broadcasting to fail.

Public broadcasting in this country has always been plagued by financial problems. In the face of rising inflation and increased programing costs, some stations have been forced to streamline, cut back or lay off. Their burden is likely to become heavier. This year, the Federal Government appropriated $172 million for public broadcasting—that represents only about a third of public broadcasting's entire annual budget. Furthermore, H.R. 3238 already contains substantial cuts from the current authorization for public broadcasting. By fiscal year 1986, the bill provides for a 41 percent reduction from current levels. These cuts will be compounded by inflation and by budget reductions in other Government agencies that help support public broadcasting programing, such as the National Endowment and the National Science Foundation.

Now an effort is being made to impose even more drastic reductions—cuts that will affect the ability of public stations to stay on the air. While some reduction of Federal funding for public broadcasting is likely as a result of budget constraints, proposed legislation which will cripple the CPB, as the administration's budget proposal clearly would, must be defeated lest the public interest be undermined.

I support the amendment offered by Representative WAXMAN to set the authorization level for CPB at $160 million in each of fiscal years 1984, 1985, and 1986. Other proposed amendments go much farther than is prudent to restrain the Federal commitment to public broadcasting. They would do great harm to the stations, CPB, and the development of the very best programing.

Furthermore, I oppose any amendment which will terminate the Public Telecommunications Facilities Program (PTFP) in the National Telecommunications and Information Administration (NTIA) of the Department of Commerce. This modest matching-grant program for the purpose of building new public television and radio stations and expanding existing stations has produced tremendous results. In response to the need to hold down Federal expenditures, H.R. 3238 reauthorizes the facilities program for fiscal year 1982 through 1984 at $25 million, $20 million, and $15 million, respectively—down sharply from the current $40 million. Although the program's funding will be cut drastically, the goal of providing public broadcasting service to all the American people, as enunciated in 1967 when this law was first passed, still can be realized. Ten percent of the population still cannot receive public television signals and 35 percent are beyond the reach of public radio. It is unfair that many taxpayers who are helping to support public broadcasting do not have access to it. H.R. 3238 will continue progress toward completing the construction of stations in these underserved areas and improving the capabilities of existing stations.

I urge my colleagues to support the Waxman amendment which, while providing a substantial reduction—consistent with the administration's goals of reduced Federal funding—from the fiscal year 1983 authorization of $220 million, will maintain a basic level of Federal support to this essential, exciting, and important broadcasting service.●

Mr. WIRTH. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. SKELTON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3238) to amend the Communications Act of 1934, to extend certain authorizations of appropriations contained in such act relating to public broadcasting, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. WIRTH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 3238.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

GENERAL ROBERT E. HUYSER RETIRES FROM AIR FORCE

(Mr. PRICE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. PRICE. Mr. Speaker, it is the privilege and the duty of a Member of Congress to attend many ceremonial occasions during his time in office. This Friday, June 26, I will be attending such an occasion, but for me it will be a very special one. On that day, Gen. Robert E. Huyser, Commander of the Military Airlift Command, will retire from active duty with the Air Force, ending a 38-year career in our Nation's service.

It is a career which I will not hesitate to call highly successful and which may indeed be described as brilliant. For Dutch Huyser has shown us all just what can be accomplished by one blessed with that rare combination of talent, determination, humanity, and love of country.

When Dutch leaves the Air Force on Friday, he will not leave it empty-handed, for he takes with him the friendships he has made in his almost four decades of military service. Of course, Dutch made friends wherever he went, and among his greatest admirers are the people of my congressional district which encompasses Scott Air Force Base, the home of MAC headquarters.

I believe that it is his genuine concern and respect for people that makes it so easy for Dutch Huyser to make and keep friends. His concern for the Air Force personnel who work for him is well known and the high morale at Scott shows that General Huyser's personnel appreciate his efforts in their behalf.

That same consideration has marked General Huyser's attitude to the civilian population in the communities surrounding the base. I know of no one in our area who does not feel that General Huyser has "gone the extra mile" to maintain friendly base/community relations. And from the comments I have heard over the last 2 years, he has certainly succeeded.

Mayor Richard Brauer of Belleville, Ill., perhaps best summed up the feelings of all those who have been privileged to know Dutch by calling him "an American patriot in the purest sense of the word."

There is little that I can add to such a statement except my hearty concurrence and best wishes to Dutch and Wanda for the future.●

□ 1700

THE DILEMMA OF ACID RAIN

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. ECKART) is recognized for 60 minutes.

GENERAL LEAVE

Mr. ECKART. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order tonight.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. ECKART. Mr. Speaker, I take the floor today in a special order with my distinguished colleague from New York (Mr. MITCHELL) to discuss the international problem of acid rain.

The gentleman from New York (Mr. MITCHELL) and I recently had the honor of participating in the United States-Canada Inter-Parlimentary Group which met at Halifax, Nova Scotia.

At these meetings we were firmly reminded of the growing concern of the Canadians that should be viewed with equal seriousness in this country and that is what kind of attempts will we make to address the problems of acid rain.

The gentleman from New York (Mr. MITCHELL) and I are taking this unique opportunity to provide a focus on this issue in Congress, an issue which carries serious environmental, economic, social, and political implications on both the national and international levels.

At this time, I would like to yield to my colleague from New York (Mr. MITCHELL).

Mr. MITCHELL of New York. I thank my colleagues for yielding.

Mr. Speaker, I thank my distinguished colleague from Ohio for yielding to me and for joining me in this special order to discuss the dilemma of acid rain. He and I were privileged to be part of the recent Interparliamentary Group visit to Canada. At the meeting of our environment and fisheries panel, the topic of acid rain headed the agenda. I was perhaps most impressed by the intensity of Canadian concern for the issue. Surveys conducted by our colleagues to the north indicate that 70 percent of all Canadians are aware of and concerned about the effect of acid rain, sadly, the comparable figure in our Nation is less than 30 percent—I feel that is optimistic—I hope that this special order will help in some way to raise our citizen's awareness of the threat of acid rain.

In my own district in upstate New York, awareness of the acid rain problem is somewhat higher than the national average. We have been living with its effects for several decades—though even here, the awareness of the severity of the problem is just dawning.

For a little historic perspective—in the 1950's fishermen began to notice a decline in the number of trout in the lakes and streams at higher elevations of the Adirondack Mountains—a 9,000-square-mile area of wilderness protected since 1894 by a provision of the State constitution—so that it receives almost no direct man-made pollution—except from the air. It was first believed that the decline in trout was due to the predator yellow perch. Then, however, the perch also began to disappear. New species were introduced experimentally to replace the native fish. They also died out. For a while beavers were blamed. Then the timber industry was considered the culprit. It was only recently, however, that scientists discovered that the fish, the beavers, and the timber industry are all among the victims of acid rain.

This year, the New York State Bureau of Fisheries reported that 50 percent of the high-altitude lakes in the Adirondacks—or nearly 300 lakes—have reached such high levels of acidity that they cannot support fish life.

But the effects of acid rain extend far beyond the threat to fish in Adirondack lakes. Scientific studies have already presented evidence that it may disrupt the forest food chain, slow timber growth, damage crops, accelerate the leaching of toxic chemicals from soils and drainpipes—contaminating ground water and drinking water supplies and thus affecting human life directly. When the New York State Health Department tested springfed drinking water in the region last summer, it found three times the normal lead level.

Yet, the threat of acid rain is not limited to the Adirondacks. Windborne sulfure dioxide and nitrogen oxides—generated by industries, powerplants, and automobiles—sent into the upper atmosphere return to Earth as acid rain throughout the Northeast and Midwest of the United States. And, of course, the rain does not stop at the national border.

Because of the prevailing winds, large quantities of the 25.7 million tons of sulfur dioxide produced annually by the United States are blown into Canada. There it falls as acid rain on the heartland of Canadian tourism, forestry, and inland commercial fishing—these are three of Canada's largest industries—it is easy to understand their concern although it is difficult to determine exactly how much sulfur crosses the 49th parallel and falls on Canada; it has been estimated that one-half of the sulfur in the atmosphere over Eastern Canada comes from the United States. And it is not a one-way street; Canada is estimated to be responsible for 15 to 25 percent of the acid precipitation falling on the United States.

In February of this year, an interim report was issued by the work group commissioned by the United States-Canada memorandum of intent on transboundary air pollution signed last August. Among the disturbing findings of that document is the report that significant portions of Eastern Canada as well as the Midwest and Northeast of the United States annually receive precipitation that is 40 times more acidic than normal.

Among the effects discussed by the report are dramatic changes in water quality believed to be directly attributable to acid precipitation. In Nova Scotia, the site of the recent meeting with our Canadian colleagues, nine of the Province's rivers have been found too acidic to support salmon and trout reproduction. Another 11 rivers are believed to have an acid level that is causing increased salmon mortality.

The documentation of such damages are only part of the cooperative effort initiated by the memorandum of intent. That agreement recognizes the importance and urgency of confronting the transboundary pollution issues with a special focus on acid precipitation.

Canada, for its part, has acted to reduce its own emissions. The largest single source of acid-causing pollutants in Canada is a huge smelting operation in Sudbury, Ontario. Uncontrolled, that smelter could produce 7,200 tons of sulfur dioxide a day. Recent regulations have required the allowable emissions to be reduced from 3,600 tons a day to 2,500 tons a day this year and 1,950 tons next year. Other regulations are expected to reduce Ontario powerplant emissions by 43 percent in this decade.

As we in the United States prepare to debate the reauthorization of the Clean Air Act, I hope we will recognize the international concerns involved and not simply focus on the State and local aspects of the law. Canadians consider acid rain the major Canada/United States issue. We share with our good Canadian neighbors a responsibility for mutual action to confront the problem of acid rain. Failure to fulfill that commitment would be a betrayal of a longstanding tradition of friendship and cooperative endeavors by our two nations to meet the pressing concerns we share.

I yield the remainder of my time to my colleague from Ohio.

Mr. ECKART. Mr. Speaker, I would like to thank the gentleman for his comments and his leadership in this area.

I would like to recognize the gentleman from Washington (Mr. LOWRY).

Mr. LOWRY of Washington. I thank the gentleman for yielding.

I want to specifically compliment the gentleman in the well and our colleague, the gentleman from New York (Mr. MITCHELL) for their outstanding leadership on this vital environmental and diplomatic problem.

Mr. Speaker, I rise to comment on a severe problem in the relations between the United States and Canada. A problem of any sort between our two countries is unfortunate, since that country has been a consistent good neighbor to us. For example, we can all remember only a few months ago, when they heroically smuggled out the six Americans who had been trapped in the Canadian Embassy in Iran by mob violence.

Now, this administration proposes to thank Canada for this heroism and for years of friendship by a policy of what amounts to throwing our trash into our neighbor's yard: Instead of stopping the air pollution which passes across our borders into Canada, the administration plans to implement policies which will actually make the situation worse. A report in the Wall Street Journal of June 22 indicates that:

1. The Administration may propose to eliminate current requirements that new coal-fired plants install scrubbers to reduce emissions of sulfur, even though this sulfur combines with water and produces acid rain. Recent testimony by NOAA before the Subcommittee on Oceanography indicated that man-made sources of acid rain, such as these power plants, are responsible for as much as 90 percent of all of the acid rain in the northeast. A great deal of the pollution crosses into Canada where it has nearly eliminated life in many of Ontario's lakes. The Administration proposes that the plants be allowed to burn low sulfur coal instead. But low sulfur coal is expensive, and the cost of scrubbers, when designed into the plant, is lower than the installation cost after that plant has been built.

2. The Administration may propose to eliminate all deadlines for compliance in installation of pollution control technology in substandard areas. This strikes at the heart of the act. Without such a provision, the present situation in these areas could drag on indefinitely.

3. The Administration may also propose an end to the existing requirement that any state plan must prevent significant deterioration of present air quality. In other words, all states would be able to share the benefits of being equally polluted. Citizens of the towns of Twisp or Taholah in my home state would be able to enjoy the same air quality as Los Angeles or Brooklyn. They would also be able to share the contaminants with the citizens of British Columbia. I cannot believe that that is what the citizens of my state want; still less is it what our northern neighbors want.

There are other developments which do not bode well for our relations with Canada over this issue. Mr. Barry R. Flamm, Director of the Office of Environmental Quality in the Department of Agriculture, found that his job was abolished last week. In addition to his normal responsibilities at Agriculture, Mr. Flamm headed working group No. 1, which was the interagency and international group set up to monitor compliance with the memorandum of intent signed on August 5, 1980, by the United States and Canada on transboundary air pollution. The Canadian Government may now wonder whether it has any commitment at all from the United States to solve this problem.

Appropriate agencies of Government, industry, and citizens' groups should work with the Canadian Minister of the Environment and citizens' groups such as the Canadian Coalition on Acid Rain, to stop this destruction which crosses our international border so readily.

In Washington State, many of my constituents are aware of one of the oldest cases in international law regarding transboundary pollution. It involved the Trail, British Columbia smelter. Under international law, a tribunal held that Canada was responsible for the pollution from the smelter, which was emitting sulfur dioxide at such levels as to affect farm production in Washington State. The tribunal imposed on Canada, in perpetuity, a program of control over the emissions of sulfur dioxide from that smelter. The statement of the tribunal of the 1930's is relevant to today's controversy:

Under the principle of international law, as well as under the law of the United States, no State has the right to use or permit the use of its territory in such a manner as to cause the injury by fumes, in or to the territory of another, when the cases are of serious consequence, and the injury is established by clear and convincing evidence.

British Columbia has carried out that responsibility for 50 years. The citizens of Washington would like to behave responsibly in turn. But they will find that difficult to do if other States are allowed to lower their pollution standards so much as to create an economic advantage over Washington's industries.

In Washington State, clean air saves money for the taxpayer. The citizens of my State, according to one estimate, save $44 million in annual health benefits, $23 million in property values, $103 million in reduced soiling and wear of materials, and $5 million in reduced crop and vegetation loss because of our clean air—every year. At the same time, the cost to the industries of my State was estimated to be only $65 to $85 million.

The goals of the Clean Air Act are defensible on economic grounds alone. Now, with the concern of our friends in Canada over acid rain, these goals are defensible on diplomatic grounds as well.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. LOWRY of Washington. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

I want to credit the gentleman from New York (Mr. MITCHELL) and especially the gentleman from Ohio (Mr. ECKART), in providing this forum.

Surely in his short tenure in this House the gentleman has shown significant foresight by focusing on this important environmental problem. I am pleased to have the opportunity to join with the others in voicing my concern.

Mr. Speaker, I am sure my colleagues are aware that acid rain has become one of the most damaging and serious environmental problems for the United States and Canada as well as many European countries. Hundreds of lakes are already known to be "acid dead," barren of all living things and many more lakes face the same fate. Even worse is the fact that acid dead lakes will remain in that condition permanently—the damage is irreversible. Acid rain knows no boundaries—our pollution impacts upon Canada, and theirs upon us. Therefore, the United States and Canada must work together to try to find a permanent solution to this ever-growing menace. In 1980, the United States and Canada signed a memorandum of intent in which the two countries agreed to study jointly acid rain and other transboundary pollutants. It is an important step upon which we must build.

The State of Minnesota, the home of the Boundary Waters Canoe Area and thousands of other lakes, is extremely susceptible to acid rain damage. In fact, there is a present study being undertaken to test the lakes of northern Minnesota for acid rain tolerance. The results so far have been alarming. Only 4 percent of the lakes tested have the natural resistance necessary to buffer the effects of acid rain, thus those remaining will, unless we act, be void of all fish and other living things. This, in turn, will have drastic effects on the environment by upsetting the biological food chain, diminishing tourism, and possibly damaging crops. Not only does acid rain prove to be an environmental threat but an economic threat as well. Three important industries in Minnesota—tourism, agriculture, and forestry—are vulnerable to the impacts of acid precipitation.

It is important that we focus on the severity of this problem and how we intend to control it to prevent further damage in the future. I have been in contact with Canadian officials on numerous occasions and at each meeting the acid rain problem was always discussed. In Canada, "acid rain" is a common household term. The awareness does not end at the Government level. The citizens of Canada have taken a profound interest in acid rain, much more so than in the United

States. However, I must commend the citizens of Minnesota for their active interest and enthusiasm in their efforts to save their State from further acid rain damage. Organizations such as Friends of the Boundary Waters Canoe Area keep in constant touch with the acid rain issue and have assembled an excellent slide presentation used to educate schoolchildren on the environmental problems facing our Nation now and in the future. The interest the press has taken in the acid rain issue also plays a significant role and has been extremely helpful in educating the citizens of Minnesota by keeping them apprised of the problems at hand and those which might be expected in the future. The question is, How do we make more Americans and especially Congress more aware of this problem? Congress must take the upper hand in initiating the necessary actions to ameliorate acid rain. However, because we cannot solve this problem alone, it is extremely important that cooperation between the United States and Canada continues so that we can work together and help each other in finding a speedy solution to our environmental problems.

There have been numerous studies on acid rain in the United States and Canada in the past few years. The problem has been studied to death, so much so, that I believe we have come to the place now where we have more than sufficient information to begin action while continuing any necessary research. The United States must take a definite role in implementing this action as soon as possible.

Mr. ECKART. I thank the gentleman for his remarks.

Mr. CARNEY. Mr. Speaker, will the gentleman yield?

Mr. ECKART. I am pleased to yield to the gentleman from New York.

Mr. CARNEY. I would like to commend my colleague, the gentleman from Ohio (Mr. ECKART), as well as my colleague from the great State of New York (Mr. MITCHELL) for taking this special order today.

Mr. Speaker, acid rain has been called everything from a time bomb for the 1980's to an escalating environmental problem of both national and international dimensions. There are also those who say that the problem has been overrated and that the observed damage to plants and wildlife is due, at least in part, to other sources.

Clearly, while a consensus may not exist on the magnitude of the problem or the best way to solve it, there can be little question that a problem exists and that solutions must be found. These solutions will likely include administrative, legislative and judicial actions. Achieving these solutions will be difficult because acid rain is a complex problem that is not fully understood.

What is clear, however, is that the acidity measurements from lakes in the Adirondack Park area of New York have gone from an average pH of about 6.8 in the 1930's to about 4.8 in 1975. This trend appears to be the cause of the disappearance of the entire fish populations from as many as 200 lakes in this area and for declining fish catches as far away as New Hampshire and Wisconsin.

In Ontario, Canada, there are 140 lakes that are considered dead because of acid rain, and it is believed that one-half of the acidity in Eastern Canada originates in the United States. The long distance transport in the atmosphere of industrial pollutants across geographical and political boundaries causes numerous problems and has become a sore point in our international relations. Like the greenhouse effect, acid rain is known to be there, but its source is often difficult to pinpoint.

Among the questions that hopefully will be answered through research programs on this phenomenon are the following:

First. Is the acidity of precipitation changing? Some data gathered in the Eastern United States indicates that there has been an increase, but some scientists dispute the finding.

Second. What is the connection between acid rain and emissions of sulfur oxides and nitrogen oxides? Which of the two is the major contributor, and what are its sources?

Third. What is the cost of damage from acid precipitation? In one State alone, the damage to freshwater fisheries has been estimated at $46 million. On a national basis, considering crop damage, forestry damage, et cetera, the cost easily runs into the hundreds of millions of dollars, if not more.

Fourth. Can acid precipitation damage be reversed? While some signs point to an affirmative answer, too little is known to provide confidence that the phenomenon is reversible.

Fifth. How is human health affected by acid precipitation? Both lung problems and bioaccumulation of heavy metals in the food chain are potential sources of damage.

Sixth. How can acid precipitation be prevented? Although the primary source of sulphur and nitrogen oxides seems to be electric powerplants, this assumption is challenged by the utility industry. Nevertheless, means to reduce the emission of gases appear warranted.

Mr. Speaker, a number of actions are underway in the executive branch to address this problem, and we in the Congress will have another chance as we consider revision of the Clean Air Act. Considering the real and potential costs in health, economic, industrial capacity, agricultural productivity, and international good will at stake on this question, I am hopeful we will have the foresight and courage to adopt the necessary solutions.

□ 1715

Mr. Speaker, before I return the time to the gentleman from Ohio, I would like to say that our Subcommittee on Natural Resources, Agricultural Research, and Environment of the Committee on Science and Technology is having hearings at Lake Placid, N.Y., on July 17 on this question. I would hope that the gentleman and those Members of Congress who have shown their concern by calling for this special order will participate in those hearings. They should bring forth some fruitful result in answering the questions that the gentleman has brought forth today.

Again, I commend the gentleman and thank him very much.

Mr. ECKART. I too would like to thank the gentleman for his enlightening remarks, and I am sure that many of us will want to participate in those important hearings in the month of July.

Mr. FOGLIETTA. Mr. Speaker, will the gentleman yield?

Mr. ECKART. I yield to the gentleman from Pennsylvania.

Mr. FOGLIETTA. Mr. Speaker, first I would like to commend the gentleman from Ohio and the gentleman from New York for their foresight and coverage in tacking the serious problem of acid rain.

Mr. Speaker, acid rain has become a severe danger for the United States, Canada, and many other nations.

The United States annually discharges about 50 million metric tons of sulfur and nitrogen oxides into the atmosphere, which convert into acids and return to the Earth. The effects of acid rain are damage to crops and forests, decreased fertility of soil, contamination of water supplies, erosion of buildings and monuments, and, most notably, damage to aquatic systems in lakes. The high alkalinity in rainfall has caused sterility in hundreds of lakes in the Northeastern United States, in Canada, in Scandinavia, and parts of Europe. It is possible that this process is irreversible and that these lakes will never again be capable of sustaining life in any form.

Two issues in particular concern me. First, I fear the impacts of acid rain in my own Commonwealth of Pennsylvania. It is unfortunate that some of the most acidic rainfalls occur in Pennsylvania, in some of the most beautiful and productive land in the world. Trout and other forms of aquatic life are incapable of sustaining these high amounts of acidity—sometimes in concentrations over 100 times greater than that of pure rain—and, as a result, fishing has become nonexistent in many lakes and streams. My own

city of Philadelphia, which is the seat of some of the greatest historic heritage in our country, is in danger of seeing the erosion of irreplaceable historic buildings and monuments.

Pennsylvania cannot correct its pollution and acid rain problems by itself, because much of our problem comes from regions outside our State. The Pennsylvania Department of Environmental Resources has petitioned the Environmental Protection Agency to set regional, rather than statewide, standards for clean air. This issue is currently being considered and must be addressed as we reauthorize the Clean Air Act this year.

My second concern is that acid rain causes damage not only in our own country, but also in the beautiful land in neighboring Canada. Our good friends to the north take especial and justifiable pride in their natural resources and environment, and have made the elimination of acid rain one of their national priorities. Scientists believe that sulfur emissions from coal-burning plants in the Ohio and Tennessee Valleys are transmitted hundreds of miles, causing highly acidic rainfall in certain parts of Canada and thus destroying aquatic life in hundreds of Canadian lakes. Canada must have our cooperation if it is to be successful with its goals of eliminating acid rain and neutralizing its effects whenever possible. The continued pollution of Canadian lakes by the United States is impairing diplomatic relations between two nations which have long shared a warm friendship.

One of the major sources of acid rain has been the sulfur emissions from coal-burning plants. With our need to increase reliance on coal as an alternative to foreign oil and with the projections of a doubling of coal use in the foreseeable future, the hazards presented by acid rain become all the more severe. It is clear that attention must be addressed to this issue.

The United States has begun to take steps toward combating the problem of acid rain. The Acid Precipitation Act of 1980 authorized $9 million for a comprehensive 10-year program to study the causes and effects of acid rain and to identify actions to limit or ameliorate the effects. In addition, the United States and Canada reached an agreement to impose harsh penalties on some of the worst polluters. Much more research is needed to assess the causes of the problem, the magnitude and the geographical extent of the damage, and, most importantly, the possible solutions.

But research alone is not enough. If we wait for irrefutable evidence before acting, the results could be environmental disaster and the irreversible destruction of our priceless, fragile resources. Unless we take action now, the problem will only intensify.

Mr. ECKART. I want to thank my colleague from Pennsylvania for his remarks.

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. ECKART. I am happy to yield to the gentleman from New York.

Mr. WEISS. Mr. Speaker, I thank the gentleman for yielding, and I want to compliment the distinguished gentleman from Ohio for his leadership in taking this special order and in calling public attention once again to this very, very critical problem. I think that his efforts are especially noteworthy in that he is joined at this time by Members from the other side of the aisle. There has been a tendency, especially from that side of the aisle by other than those Members who are participating in this discussion, to the effect that environmental concerns have really been overstated.

The sad fact is that in some areas, especially this one, the problem of acid rain, we have simply ignored a problem which has very, very dark consequences regarding its potential for devastating our water if something is not done.

I want to thank the gentleman for bringing this matter up.

Mr. ECKART. I, too, would like to thank the gentleman from New York for participating.

● Mr. OBERSTAR. Mr. Speaker, this special order could not be more timely. I commend my colleagues, Mr. ECKART and Mr. MITCHELL for their work and concern about upholding America's commitment to acid rain abatement.

I recently participated in the United States-Canadian Interparliamentary Group meetings in Halifax, Nova Scotia, where I cochaired the Group Committee on Environment and Fisheries. The Halifax meetings reaffirmed acid rain as a predominant issue in United States-Canadian relations.

Acid rain is our most serious transboundary pollution problem. It is a matter of supreme concern to the Canadians and it should be to us.

Since the Boundary Waters Treaty of 1909, the United States has made repeated commitments to prohibiting the pollution of boundary waters. The Stockholm declaration provided that the nations have the responsibility to insure that activities within their jurisdiction or control do not cause damage to the environment of States or other areas beyond the limits of national jurisdiction.

The Congress repeatedly has directed the executive branch to implement policies to alleviate the effects of acid precipitation, and, indeed, to prevent it altogether. One of the most significant developments was the creation of the Interagency Task Force on Acid Rain to establish a program of national research into the causes and effects of acid rain. The task force was created under title VII of the Energy Security Act. Last week the House Subcommittees on Oceanography and Fish and Wildlife held oversight hearings on the progress of the Interagency Task Force. The work of this group is invaluable to the solution of problems of sulfate transport and abatement.

Last summer the United States signed a memorandum of intent with the Canadian Government, declaring that both parties will work to develop a bilateral agreement which will reflect and further the development of effective domestic control programs and other measures to combat transboundary pollution. This memorandum foreshadows the signing of a treaty this summer under which both Governments agree to develop domestic controls and limit emissions.

President Reagan reaffirmed the U.S. commitment to alleviating this problem on his trip to Canada in March, stating that—

> We want to continue to work cooperatively to understand and control the air and water pollution that respects no borders.

In light of that statement and America's longstanding commitment to the abatement of acid rain, I find it deeply disappointing that the Reagan administration has slashed the budget of the Council on Environmental Quality under which the Interagency Task Force on Acid Rain operates. It is unacceptable that the administration is considering the relaxation of emission standards, when the National Commission on Air Quality has recommended that the interstate pollution abatement provisions of the Clean Air Act should be modified to strengthen provisions requiring States to reduce emissions, which affect other States and nations.

This week, the Canadian Embassy formally released a paper expressing its concern that the administration, in its formulation of its position on the Clean Air Act, not impede the ongoing Canada/United States efforts to address transboundary air pollution. Canada urges the United States to adopt such policies that will be capable of supporting effective control measures, and—insuring—Federal capacity to implement the eventual air quality agreement.

At the interparliamentary meetings, I presented a draft resolution to create the North American Air Quality Commission to coordinate enforcement of efforts by the United States and Canada for the reduction of transboundary air pollution. The draft was received well in Halifax by both Canadian Members of Parliament and U.S. Members of Congress. Yesterday I formally introduced House Concurrent Resolution 152 in the House with 29 original cosponsors. It is my hope that this Commission will provide the enforcement and encouragement this

Government needs to put action behind its promises.

From both an environmental and foreign policy standpoint, we can no longer afford merely to pay lipservice to the problem of acid rain. Our Federal, State, and Provincial legislatures, the executive, industry, and governments on an international basis must carefully weigh the long-range implications of each short-term step that we take in dealing with these immediate crises. In short, we have to distinguish the important from the urgent. I ask my colleagues in House to join in support of House Concurrent Resolution 152.

We all must recognize that we have a rare opportunity to protect the environment in the years ahead. There probably has never been a time when we could look ahead and see so clearly a disaster coming. Before the Congress dealt with the problem of water pollution, it was upon us. But in the matter of acid rain, we have a rare chance to save lakes and streams and forests before the disaster happens. Future generations will not care whether the pollution was caused by American stacks or Canadian stacks. They will not care whether the plants and the lakes and the trees were killed by Canadian or American or Mexican smoke. They will care only that we succeeded or that we failed.

I ask that my resolution, with the names of the original cosponsors, and my "Dear Colleague" on this resolution, be printed in the RECORD. Thank you.

H. CON. RES. 152

Concurrent resolution expressing the sense of the Congress concerning the establishment of a North American Air Quality Commission

Whereas acid precipitation has had detrimental effects on water quality, the viability of lake and stream systems, forests, fisheries resources, the chemical balance of soil systems, and the durability of buildings; and

Whereas 55 million metric tons of sulfur dioxide and nitrogen oxides are emitted annually by the United States and Canada; and

Whereas the Environmental Protection Agency, in a July 1980 report concerning studies of the transboundary flow of pollution in eastern North America, indicated that 11 times more oxides of nitrogen and two to four times more sulfur oxides are transferred from the United States to Canada than the reverse; and

Whereas the National Commission on Air Quality reported that, under the present air quality control policy, sulfate transport is expected to increase through the year 2010; and

Whereas the Commission also recommended that the interstate pollution abatement provisions of the Clean Air Act—section 110(a)(2)(E) and section 126—should be modified to strengthen provisions requiring a State to reduce emissions which affect other States and that section 115 should be modified to strengthen the authority of the Administrator to require SIP revisions if pollution crosses international boundaries; and

Whereas an EPA-supported study estimated that, in 1978, acid precipitation reduced economic output in the eastern United States approximately $5 billion, including a $2 billion loss in materials and effects (for example the deterioration of buildings), $1.7 billion in forest eco-systems, $1 billion in direct agriculture, $.25 billion in aquatic eco-systems, and $.1 billion in health and water supplies; and

Whereas the United States has a long-standing commitment with Canada to work toward the solution and abatement of acid rain including:

(1) The Boundary Waters Treaty of 1909, prohibiting the pollution of waters on either side of the boundary "to the injury of health or property on the other";

(2) Principle 21 of the Stockholm Declaration which provides that the States have "the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction";

(3) Title VII of the Energy Security Act (Synfuels bill), known as the Acid Precipitation Act of 1980, created the Interagency Task Force to establish a well-funded, coordinated, purposeful program of national research into the cause and effects of acid rain, funded at a level of $5 million per year for ten years;

(4) The Memorandum of Intent, signed by the United States and the Government of Canada, which declares that both parties will work "to develop a bilateral agreement which will reflect and further the development of effective domestic control programs and other measures to combat transboundary air pollution" and both governments agreed to:

(A) develop domestic air pollution control policies and strategies, and as necessary and appropriate, seek legislative or other support to give effect to them;

(B) promote vigorous enforcement of existing laws and regulations as they require limitation of emissions from new, substantially modified and existing facilities in a way which is responsive to the problems of transboundary air pollution; and

(C) share information and consult on actions being taken pursuant to subparagraphs (A) and (B) above.

(5) The Foreign Relations Authorization Act of 1978 which found that:

"The United States and Canada have subscribed to international conventions; have joined in the environmental work of the United Nations, the Organization for Economic Cooperation and Development, and other international environmental forums; and have entered into and implemented effectively the provisions of the historic Boundary Waters Treaty of 1909; and

"The United States and Canada have a tradition of cooperative resolution of issues of mutual concern which is nowhere more evident than in the environmental area.

"It is the sense of the Congress that the President should make every effort to negotiate a cooperative agreement with the Government of Canada aimed at preserving the mutual airshed of the United States and Canada so as to protect and enhance air resources and insure the attainment and maintenance of air quality protective of public health and welfare.

"It is further the sense of the Congress that the President, through the Secretary of State working in concert with interested Federal agencies and the affected States should take whatever diplomatic actions appear necessary to reduce or eliminate any undesirable impact upon the United States and Canada resulting from air pollution from any source;" and

Whereas President Reagan, in an address to both Houses of the Canadian Parliament in March 1981, affirming the United States commitment to work with Canada toward acid rain abatement, declared: "We have continued our efforts, begun with the Great Lakes Water Quality Agreement of 1972, to protect our joint heritage in the Great Lakes. We want to continue to work cooperatively to understand and control the air and water pollution that respects no borders.": Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That (1) the Governments of Canada and the United States should create by treaty or international agreement the North American Air Quality Commission (hereinafter referred to as the "NAAQC"), consisting of three members from each country and the President of the United States shall appoint the members from the United States with the advice and consent of the United States Senate; (2) the NAAQC be constituted as the primary means for coordination of enforcement efforts by the United States and Canada to reduce acid precipitation pollution; (3) the NAAQC make recommendations to the Governments of Canada and the United States for the implementation of policies and the enactment of legislation to accomplish the goal of reduction of acid precipitation pollution; and (4) the Commission report twice annually to the Parliament of Canada, and to the Congress of the United States on progress by both countries toward the reduction of acid precipitation pollution; and such report include a report on compliance with all treaties, international agreements and laws enacted by the Parliament and Congress relating to that pollution.

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 11, 1981.

DEAR COLLEAGUE: I am inviting you to join me as an original cosponsor of a resolution to reaffirm Congress' serious commitment to the solution of acid rain.

Acid rain is our most serious transboundary problem. It is a cancerous threat to the lakes, forests, soils, and waters of our nation. We can see its irreversible effects on the horizon and must act now to ensure that our natural resources and consequently our industries are not devastated by it.

While American-Canadian technological and scientific research groups are working diligently on sulfate transport and abatement problems, I am concerned that the United States has no effective body which recommends the implementation of policies of these research groups or serves as an informational clearinghouse to government agencies and the public. This concern is heightened in light of the longstanding and recent commitments of the federal government and the President to the nation and to Canada.

Next week I will be introducing legislation to create the North American Air Quality Commission to serve this purpose. This group, whose structure is modeled on the historical, tested and proven International Joint Commission, also will provide a formal exchange of policy recommendations between governments and coordinate all enforcements efforts by the United States and Canada for the deduction of transboundary air pollution. The President would appoint

the U.S. members, subject to state confirmation.

During the Memorial Day weekend, I attended the U.S.-Canadian Interparliamentary Group meetings in Halifax, Nova Scotia, and cochaired the Group Committee on the Environment.

The Halifax meetings reaffirmed the predominance of acid rain as an issue in U.S.-Canadian relations. In 1980, our two countries signed a Memorandum of Intent to negotiate an air quality agreement. The Memorandum stated that the United States and Canada would work together to develop domestic air pollution policies and the necessary legislative support for those policies.

At the Halifax meeting, I presented a draft of a House resolution which would call upon the U.S. and Canada to create the North American Air Quality Commission as part of the bilateral agreement now being negotiated.

In view of the favorable response of our Canadian colleagues, I will introduce the resolution on June 18.

This resolution is important to Members who are concerned about the effects of acid rain for two reasons:

It expresses the concern of Congress about U.S. inaction on a problem which has been recognized by the federal government for many years;

It supports specific actions to remedy the problem and advocates the enforcement of agreements into which the United States has entered and laws which Congress has enacted.

This resolution will assure Americans, Canadians and those creating federal departmental policy that Congress considers acid rain a high priority.

If you are interested in cosponsoring, or would like a copy of the resolution, please call Nancy in my office at 56211.

Sincerely,

JAMES L. OBERSTAR,
Member of Congress.●

● Mr. BONKER. Mr. Speaker, I wish to commend my distinguished colleagues, DENNIS ECKART and DON MITCHELL, for requesting this special order to enhance awareness of the problem of acid rain.

As a participant in several United States-Canadian Interparliamentary Conferences and as chairman of the House Foreign Affairs Subcommittee that oversees international environmental policy, I am very much concerned about the potential threat acid precipitation poses to our good relations with Canada and to the environment we share. An increasing trend in levels of acid rain has not been substantiated, but the prognosis of our Government scientists is that concentrations of sulfur and nitrogen oxides will continue and possibly increase as we enter the 21st century.

Likewise, outside of controlled testing situations, no concrete evidence exists to demonstrate the exact impact of acid precipitation on the manmade or natural environment. Ongoing research by EPA, and the Departments of Agriculture and Interior does indicate acid rain has a serious effect on aquatic life, with some effect on materials and an uncertain impact on crops, forests, and soils. I am especially concerned, however, by reports that show the soil in the western part of my own State of Washington to be highly sensitive to acid rain.

In closing, Mr. Speaker, it is my hope that this problem will take a much higher priority in our relationship with Canada, and I look forward to working closely with my distinguished colleagues on this important issue.●

● Mr. SCHEUER. Mr. Speaker, acid deposition—which includes acidic dry particles as well as acid precipitation—is a problem of major national and international proportions.

Acid deposition has been shown to cause: The death of all acquatic organisms in hundreds of lakes and streams. This problem has been particularly evident in Northeast United States and parts of Canada. The Adirondack region of New York represents one of the largest sensitive lake districts and it is the most heavily damaged by acid precipitation. Almost 10 percent of the lakes and ponds in this region are in a critical state, with another 9 percent endangered. The high acidity has been associated with failure of fish to reproduce, or at least to maintain populations in the youngest age classes. Approximately 200 lakes in the Adirondack region are devoid of fish. Entire fish communities consisting of brook trout, lake trout, white sucker, prawn bullhead, and others have been eliminated over the period of years as the level of acidity has increased. In addition, damage estimated at $1 billion annually, has been documented, to buildings, monuments, paints, and other construction materials. Acid deposition causes metals to corrode and tarnish, building stone and paint to erode and become discolored, and textiles to loose tensile strength and become soiled. Acid precipitation is also linked to major damage to various agricultural crops with a nationwide loss of productivity at approximately 2 percent. While agricultural researchers have had a longstanding interest in the influence of soil acidity on crop production, acid deposition is a more complicated phenomenon. A recent study estimates that the losses in the Ohio Valley for corn, soybeans, and wheat from sulfur dioxide airborne residuals between now and the year 2000 will be over $75 million. The possibilities that acid rain may cause forest growth reductions in the long run are also very real. One study showed an 18-percent decrease in volume growth and productivity in hardwood forests in New Hampshire due to acid rain. Finally, direct and indirect effects on human health are caused by acid deposition. The direct effects result from inhalation of particulate and acidic components of acid deposition alone or in combination with other air pollutants. The impact is particularly harmful to the elderly, the very young, and to those who suffer from respiratory ailments. Indirect effects result from the corrosibility of high-acidity precipitation which may dissolve toxic metals—aluminum, cadimum, copper, lead, and mercury—from soils and rocks and from plumbing in drinking water distribution systems. Once dissolved, these metals may be ingested with drinking water or be biologically accumulated in the food chain and then ingested by eating fish. The importance of high concentrations varies from disruption of kidney function and nerve damage to unknown effects.

The magnitude of losses to public health and to the environment from acid rain are just now beginning to be understood. Many conservative estimates place the damage at some $5 billion per year, with destruction increasing daily. This estimate does not include the millions of dollars lost in tourist trade in New York.

I call on my colleagues in Congress to support effective legislation that will provide solutions to the problem of acid deposition.●

● Mr. EDGAR. Mr. Speaker, I would like to thank Representatives DENNIS ECKART and DON MITCHELL for reserving time to address this critical issue.

As chairman of the Northeast-Midwest Congressional Coalition, I have become increasingly aware of the acid rain problem and the difficulty in addressing this controversial issue. Many argue that our region has the unique distinction of being both the source and the repository of acidic pollutants. The New York Times reported on June 8 that "Pollutants borne by rain, wind and snow and traced to factory emissions from heavily industrialized parts of the Middle West have left more than 200 acid-pickled, Adirondack lakes devoid of fish and are disrupting the life chain in ways that scientists are striving to understand." The Midwest with its preponderance of coal-fired plants, it is argued, generates the sulfur dioxide and nitrogen oxide that falls upon the uppermost parts of our region and in Canada. The difficulty in addressing this issue, however, became evident during the coalition's recent energy-agenda-setting hearing in Pittsburgh, Pa., where industry spokesmen countered that there is no credible data that acid rain jeopardizes health and one coalition member disputed the assumption that acid rain originates in Ohio.

Unfortunately, the Northeast-Midwest Congressional Coalition is far from reaching any unified position on how best to deal with the acid rain dilemma. It is clear, however, that precipitation laden with highly acidic pollutants is falling throughout the northern parts of our region and in Canada. Whatever the exact cause and wherever the pollutants originate, we

owe it to our Canadian neighbors and the U.S. citizens who live in the affected areas to reach a solution to this problem.

The coalition's leadership realizes that due to our geographic spread, we are in a unique position to assist in the resolution of the problem. As a result of our recent energy-agenda-setting process, we have nearly completed an energy agenda that may assist in this effort. While we will strongly support the use of coal, we can only do so with adequate environmental safeguards. It was pointed out at our Pittsburgh hearing that unchecked conversion to coal may destroy the very thing we are trying to enhance and preserve. We cannot maintain a healthy industrial base in the Northeast and Midwest without a healthy environment.

We stand ready to confront the difficulties associated with the acid rain issue and will assist all those concerned with this most important effort.●

● Mr. HOLLENBECK. Mr. Speaker, I would like to take this opportunity to rise and join my colleagues in recognizing the devastating long-term environmental and health effects posed by acid rain. As a member of the Environmental and Energy Study Conference Executive Committee, I have long appreciated the detrimental impact which the existence of acid rain poses to the health of all the world's citizens. The President's Council on Environmental Quality reported last year that in the Eastern half of the United States, the acidity of rainfall appears to have increased about fiftyfold during the past 25 years. Being a cosponsor of legislation that encourages international cooperation between the United States and Canada, I do not think that this is a circumstance that we can afford to regard lightly.

Produced primarily by the combustion of fossil fuels such as coal, oil, and gas, acid rain should continue to be a concern in the future given a heavier reliance on conventional energy sources in order to ease our Nation's dependence on foreign fuel. Even before we begin to turn our resources toward the generation of energy through conventional techniques, we are already at the point where a large number of lakes in the United States and Canada are so acidified that they can no longer support fish and related forms of life. In addition, acid rain levels detrimentally affect timberlands and crops, not to mention the damage caused to buildings and monuments through accelerated erosion.

With the advent of the Clean Air Act reauthorization, I believe it is high time that we paused and made a concerted effort to bring all interested parties together to take a serious look at possible solutions to this problem. Clearly, the present situation cannot correct itself, and it is up to all of us to recognize the scope of this problem and accept the responsibility of formulating a workable resolution.●

● Mr. MARTIN of New York. Mr. Speaker, my constituents in New York's 30th Congressional District particularly those who live within the boundaries of the Adirondack Park, take great interest in the national and international debate on the subject of acid rain. Whenever our scientists and other interested parties discuss this difficult subject, our Adirondack Mountain region plays a prominent part in those discussions, as one part of the world to which evidence of the acid rain problem is most frequently attributed.

Thus, whenever we consider the possible effects of acid precipitation upon crops, forests, soils, lakes and fish populations, and manmade materials, my constituents listen most intently, because to consider those questions is to consider the beauty of our region, the health of our people and their livelihoods, from agriculture to tourism.

That is not to say, Mr. Speaker, that our people are not sensitive to the many sides of this complex issue and to the extreme care we in Congress must take as we prepare to reamend the Clean Air Act in such a way as to balance protection of the environment, promotion of a healthy national economy, and reduction of our Nation's dependence upon foreign sources of energy.

The acid rain issue is, without question, a controversial one. While some scientists claim that the acidity of precipitation has increased manyfold in recent decades, others dispute that allegation and challenge their colleagues to produce a credible body of data to the contrary. There are wide differences of opinion, too, on the sources of the acid rain precipitation in a given area. While some argue that acid rain in our Adirondacks, for example, comes in substantial amounts from the coal-fired powerplants in the Midwest, others counter that the problem originates far more locally at the smaller oil-powered plants of the Northeast and in the internal combustion engines of our automobiles.

The most frequently mentioned evidence of our acid rain problem, of course, is the death of hundreds of our Adirondack lakes at higher elevations, which no longer can sustain fish populations. And yet, even here, there is wide difference of opinion as to whether these lakes are valid evidence of an acid precipitation problem. Some scientists ask, for example, how we can explain nearby lakes with substantially lower acid levels, or acidic lakes in Samoa or Alaska, where we find the most pristine air.

These many disparate opinions, Mr. Speaker, lead us all to one significant agreement: This Nation must pursue a vigorous program of research and development in atmospheric chemistry until we have produced the answers to our questions.

In this regard, I am particularly pleased that the present Administration squarely supports such a program and the funding for it.

I sincerely hope the same kind of sensitivity to the acid rain question—and, hence, to the Adirondack Mountain region—will be in evidence as we undertake the critical task of amending the Clean Air Act.●

● Mr. D'AMOURS. Mr. Speaker, I wish to join with my colleagues in expressing my deep concern regarding the problem of acid precipitation, which is rapidly becoming one of the more significant environmental problems of the decade.

Many believe that acid precipitation is a regional problem. This is not the case. The impacts of acid rain are not just realized in the Northeastern United States. They can be found across the United States in the Northwest, Midwest, east coast, west coast, Rocky Mountains and across Canada. Recently, even in the Southwestern United States, which was previously thought to have a high buffering capacity, is now showing signs of increased acidity levels, due to the recent growth and industrialization of the region.

Acid rain has been linked by some studies to such problems as contaminated water systems, crop damage, premature deterioration of man-made structures and declines in forest productivity. But the most severe impact has been on the aquatic ecosystems. Hundreds of lakes in the Northeastern United States and Canada can no longer support fish life. In a 1980 survey in my own State of New Hampshire it was found that trout populations had disappeared from lakes that have been stocked with trout since 1939. More then 180 lakes in the Adirondack Mountains of New York are reported to be fishless because acidic conditions have released toxic metals from surrounding soils into the water. The lakes of northern Wisconsin, upper Michigan and the boundary waters canoe area of Minnesota are all falling victim to the same environmental nightmare. Surveys in Nova Scotia have reported 9 rivers which no longer support salmon or trout reproduction and 11 rivers exhibiting juvenile salmon mortality.

Last Friday, June 19, the Subcommittee on Oceanography, which I chair, and the Subcommittee on Fisheries and Wildlife Conservation and the Environment conducted a joint hearing to hear testimony on the progress of the interagency task force on acid precipitation. Representatives of the task force conducting research for the Environmental Protection

Agency and the National Oceanic and Atmospheric Administration testified that they believe the problem of acid precipitation is of critical importance. Both agencies are hopeful that the necessary monitoring and assessment of the problem will be concluded well before the 10-year period allotted to the task force has expired, so that we may get on with the process of managing acid precipitation.

I was of course pleased to hear this. However, given the scope of the problem, I believe that even delays of 1 or 2 years are too much. There are those who argue that there is not enough known about acid rain to warrant immediate action to curb this growing problem. I strongly disagree. We are faced with the prospect of irreversible damage to our lakes and streams, and to those of our neighbor Canada, a prospect we should not and cannot tolerate. This is a classic conflict between our need for energy, in this case electric generation, and the critical importance of a clean environment. There is no easy solution, but one must be found.●

● Mr. BLANCHARD. Mr. Speaker, the most serious immediate environmental threat to continued good relations between this Nation and Canada is the problem of acid rain.

Two of Canada's most important national industries, forestry and tourism, are being choked by the effects of acid rain. The overall damage caused to the Canadian environment and economy is of front-page proportions in that country. It has been estimated that at least one-half—and in some places as much as 70 percent—of the acid rain falling on Canada originates from emissions released in the United States.

The Canadians cannot be expected to stand idly by and do nothing while their vital resources are being damaged and destroyed by a problem that originates to a large extent from its neighbors to the south. Some of the Canadians' impatience showed through during the President's trip to Ottawa last March when thousands of demonstrators shouted their dissatisfaction with U.S. inaction on the acid rain problem. On a more formal level, the Canadians have officially questioned administration proposals to relax regulations on sulphur dioxide emissions, the main component of acid rain.

The development of a comprehensive and effective acid rain policy would not only help heal this sore spot in United States-Canadian relations, but would also serve our national interest as well. Thousands of our Nation's most picturesque lakes are threatened by the effects of acid rain. The irreversible nature of this damage makes swift action mandatory.

Mr. Speaker, a policy which relaxes essential emissions regulations and which relegates an urgent problem to further research will only antagonize the Canadians. As the administration formulates its approach to the acid rain problem, it must begin to consider the seriously adverse diplomatic as well as environmental impact of U.S. policy in this area.●

● Mr. BOLAND. Mr. Speaker, in the last few years we have become increasingly aware of the threat posed by acid rain, a significant environmental problem with international ramifications.

While the impact of acid rain was first studied in Northern Europe and Canada, both the Northeast and Midwest sections of our country have documented its effects for more than a decade. Increasing levels of acidity in precipitation have already caused considerable damage to the environment. Levels of fish and other acquatic life have been substantially reduced in a number of lakes, crop yield has decreased on land that had historically produced bountiful harvest, growth in forests has been stunted and manmade structures have deteriorated. There are many things which are unknown about acid rain, but we do know that it is produced by the chemical conversion of airborne sulfur and nitrogen oxides into acids, which return to earth as part of rain or snow. These oxides are emitted from coal-fired utility and industrial boilers and from cars and trucks. Prevailing winds may carry the emissions hundreds or even thousands of miles from their source. As a greater use is made of coal as a fuel source, the quantity of sulfur oxide in the air will increase.

Mr. Speaker, because the damage caused by acid rain is often felt a great distance from the source of its components, a policy for dealing with it must transcend State or regional boundaries. It may have to transcend national boundaries. As a member of the United States-Canada Interparliamentary Group Conference, I can attest to the concern with which the people of Canada view the problem of acid rain. They view it as our most unwelcome export and are most anxious that we develop a program to deal with it. Until we do, our relations with our Canadian neighbors will be unnecessarily strained. The reauthorization of the Clean Air Act provides us with an excellent opportunity to come to grips with the problem of acid rain. I hope that the reauthorization legislation this Congress ultimately approves will meet this challenge.●

● Mr. MOFFETT. Mr. Speaker, our colleagues who traveled to Canada to attend the Inter-Parliamentary Union meeting last month were greeted with unanimous expression of concern regarding this Nation's environmental policy. The citizens of Ontario, who rely on their lakes for recreation and spiritual refreshment, are seeing those pristine bodies of water become still, lifeless pools due to transboundary pollution. They are looking for a strong, pro-environmental stance from our Government to insure that our policy reflects their concern about acid rain.

The Canadians will be very disappointed by the Reagan Administration. The Clean Air Act draft proposals, as released by Health Subcommittee Chairman HENRY WAXMAN, indicate that the administration will be proposing measures which will aggravate, instead of contain, the acid rain problem. The administration advocates repeal of the National Ambient Air Quality Secondary Standards, designed to protect agriculture from environmental damage. Their proposal permits States to relax national standards to protect industry. The technology-based standards—which have been responsible for innovation and significant pollution control—are eviscerated by the administration's draft bill. Taken together, these proposals will contribute to additional environmental loading of pollutants—the precursor for acid rain activity.

The administration should not be relaxing the Clean Air Act's controls. And, they certainly should not be laying the groundwork for an alienation of our relations with the Canadian Government. Nevertheless, both conditions seem inevitable given the draft bill's recommendations.

I spoke before the House Foreign Affairs Committee regarding the acid rain issue recently. My remarks are printed below:

ACID RAIN: THE POLITICAL AND ENVIRONMENTAL COMPLEXITIES FACING THE INTER-PARLIAMENTARY GROUP

Thank you Mr. Chairman and members of the subcommittee for permitting me to participate in this hearing on the trans-boundary pollution issue. I am deeply involved in the acid rain debate as a Member of the House Subcommittee on Health and the Environment. Our Subcommittee is charged with the duty of reauthorizing the Clean Air Act this year. I chair the Environment, Energy and Natural Resources Subcommittee which has oversight jurisdiction over EPA and the Interior Federal Lands Manager's program. Finally, I represent the State of Connecticut which is an acid rain receptor. My State has been forced to abandon the production of certain varieties of wrapper tobacco because of acid rain damage. I appreciate the opportunity to testify regarding some of the key issues facing the U.S. delegates to the 22nd meeting of the Inter-Parlimentary Group in Halifax later this month.

The delegates at Halifax are going to be challenged by an immensely difficult political problem. As guests of Canada, the delegates will want to appear cooperative with their hosts. But as I read the Administration; as I read the game plan which features Secretary Watt as the grand strategist in the Clean Air debate; as I read the subordinant position accorded EPA in the Administration's planning; as I read my Commerce Committee colleagues and their agenda to revise downward the environmental protec-

tions in the Act; and as I read the literature published by groups like the Edison Electric Institute and the Business Roundtable which suggests that affirmative action on acid rain is premature, the conclusion I reach is inescapable. The political climate in the United States makes it impossible for the delegation to promise its Canadian hosts that a strong and effective acid rain policy will be forthcoming from Congress during the Clean Air Act rewrite this year.

The delegation is faced with a complex situation. Current research indicates that Canada may be facing a sweeping environmental emergency caused in no small part by emissions originating in the United States. The U.S. regulatory system, as presently constituted, cannot contend with the acid rain transport problems affecting Canada. While the majority of the Western nations are already underway in the areas of research and policymaking with respect to acid rain, the Congress appears poised to whack away at the Clean Air Act, taking one giant step backward in terms of pollution control.

I cannot offer concrete advice for coping with the political dilemma I've described which is facing the delegates. But I do believe sincerely that we have at our disposal an ample number of policy alternatives to reduce our emissions in an economically efficient manner. If implemented, these proposals could begin to mitigate the environmental damage which we are inflicting on ourselves and on our neighbors.

As you know, acid rain is a short-hand phenomenon which apparently results from the long-range transport of sulfur and nitrogen oxides. These oxides come from coal-burning and other sources and are converted in the atmosphere so that acid rain compounds fall to the earth in the forms of rain, snow and dry particles. The term acid rain was coined by the English chemist Robert Angus Smith in 1872 in his book titled Air and Rain: The Beginnings of Chemical Climatology. It is significant to note that acid rain research has been ongoing in Europe for over one hundred years, for in the United States we are treating it as if it was a relatively recent discovery.

In Sweden, for example, research began formally in 1948 when a soils scientist, Hans Egner, studied atmospheric deposition. The Swedish government, in 1956, assumed responsibility for the expanded European Air Chemistry Network. In 1972, Sweden presented its case history, "Air Pollution Across National Boundaries," at the United Nations Conference on the Human Environment.

In Norway, awareness was peaked when a survey revealed that of over 1,500 lakes in Southwestern Norway, 70 percent of the lakes with a pH below 4.3 contained no fish.

And in the most extreme case with which I am familiar, in a storm in Scotland in 1974, the rain was the acidic equivalent of vinegar, measuring a pH of 2.4.

At home, in our Adirondack Mountains, where rain has an average pH of between 4 and 4.5, all of the fish in some 100 lakes over 610 meters above sea level have been lost due to acidification.

The Canadians feel that they are facing an unprecedented environmental emergency. The acidity of precipitation in Eastern Canada has increased dramatically over the last two decades. Lakes in sensitive areas like the Laurentian shield have shown a significant drop in the number of fish species as the acidity of water increases. A report by the Canadian National Research Council, using data now ten years old, stated that sulfur compounds were causing $200 million in damage per year to building materials and other properties. As a result, Canada is taking action.

One example involves a smelter owned by the International Nickel Company at Sudbury, Ontario. This plant was responsible for fully 1 percent of all of the SO_2 emitted in the world each day. The provincial government has placed a lid on the plant's emissions at a level of 1,100 tons a day which is below current emissions and is mandating an additional 25 percent reduction over two years.

But Canada can be expected to continue its intensive campaign to convince the United States to reduce our emissions as a key to containing the Canadian environmental crisis. Why? The Bilateral Research Consultation Group studied the transboundary flow of pollution in eastern North America. The results indicate that 11 times more oxides of nitrogen and 2 to 4 times more sulfur oxides—the components of acid rain—are transported from the United States to Canada than the reverse. And, a study for the National Commission on Air Quality reports that even under present air quality control policy, sulfate transport is expected to increase through the year 2010. And that's regardless of whether the United States emphasizes a coal-generated, oil-generated or high conservation electricity scenario.

If we are going to head off a collision between Canada and the United States over environmental policy, our clean air laws will have to be strengthened to deal with transboundary pollution. The Clean Air Act is not written to cope with this problem. Under the Act, ambient concentrations of pollutants within areas called Air Quality Control Regions are to be brought within national standards. The law prescribes controls on the sources of pollution to bring those sources into conformity with national standards within each AQCR. In other words, the controls are localized. Utilities and industrial users, to reduce local effects from their operations, are relying on increasingly large, tall stacks which emit gases rising high into the atmosphere.

To quote the Council on Environmental Quality, "(t)he practice of permitting pollutant dispersal through tall stacks to avoid ground level concentrations has resulted in the air mailing of pollutants from some AQCR's to other areas where they are difficult to control."

Since 1970, an estimated 429 stacks taller than 200 feet have been built. A half dozen of these stacks are taller than 1,000 feet. A third of the stacks exceeding 800 feet are located in Midwestern States. They have erected tall stacks to enable local utilities to burn local, high sulfur coal. In sum, current regulations and local self-interests have combined to make transboundary pollution a problem which requires a new series of solutions.

While the winds of political change are blowing in the wrong direction, this Subcommittee and the delegates to the Halifax conference must understand the environmental and foreign policy imperatives of controlling transboundary pollution by strengthening the Clean Air Act. As the National Clean Air Coalition asserts, "If we do not act, Canada may be tempted to apply pressure on the United States by increasing prices or restricting exports of energy and other vital natural resources which we import from Canada."

In the appendix to my testimony, I briefly describe five policy alternatives which taken together would bring us closer to the goal of containing these emissions than we are today. They include changes in tax policy, least emissions dispatching, coal washing, the implementation of a regional cap on pollutants, and a strengthening of the EPA Administrator's powers to revise State S.I.P.'s to contain transboundary pollution. These changes would be consistent with our commitment to Canada, embodied in the Memorandum of Intent to "further the development of domestic control programs and other measures to combat transboundary pollution."

As recommended by groups such as the Business Roundtable and N.E.D.A.-C.A.A.P., additional research on acid rain should be undertaken. Appropriate questions like: why some lakes acidify more quickly than others; why toxic heavy metals seem to be released with increasing acidity at different rates, need to be answered. But as Immanuel Kant once observed, "It is often necessary to make a decision on the basis of knowledge sufficient for action, but insufficient to satisfy the intellect." Delay is dangerous at this time, and research is not an acceptable substitution for the kinds of action we need to implement now to begin to get at this problem.

It is good foreign policy for the United States to commence a determined acid rain strategy. We are learning daily that the world is connected by fragile bonds. We will be protecting U.S./Canada relations and the chain of life itself by acting in good faith, this year, to control acid rain.

Thank you.

APPENDIX

PROPOSED STRATEGIES FOR CONTAINING TRANSBOUNDARY POLLUTION

1. *Strengthening existing sections.*—The National Commission on Air Quality has recommended that the interstate pollution abatement provisions of the Clean Air Act—Section 110 (a)(2)(E) and Section 126—should be modified to strengthen provisions requiring a state to reduce emissions which affect other states. I would add that the same holds true for Section 115, the sole authority within the Act empowering the Administrator to require SIP revisions if pollution crosses international boundaries. Under the current regulatory scheme, none of these sections can be relied upon to do the job.

2. *Regional Emissions Cap.*—The New England Congressional Institute recommended at its Clean Air Act Symposium in December 1980, a strategy with a great deal of merit. The regulations as currently written place the political burden on EPA if the Agency must force an individual state to revise its SIP to control transboundary pollution. By setting a national percentage reduction goal of perhaps 10 percent or 15 percent of total sulfur dioxide emissions, control could be obtained nationally instead of relying on EPA to fight political pressures when state-specific measures need to be imposed.

Studies cited by the National Commission on Air Quality indicate that the cost of reducing sulfur dioxide emissions by 5.4 million tons per year would raise average eastern electricity rates by less than 2 percent through such a strategy.

3. *Coal Washing.*—EPA found in its study titled Coal Cleaning for Sulfur Oxide Emission Control that if all existing coal burning

in the east were subject to a 30 percent coal cleaning requirement, that SO_2 emissions would drop by 5.2 million pounds annually; that the resultant reduced ash content of the coal would yield decreased maintenance requirements for utilities; that the plan would reduce the need for stack gas scrubbers; and in some cases that the savings would pay for themselves. Coal washing is not universally appropriate because some coal has unique organic bonding which makes washing ineffective. The option of coal washing, however, must be emphasized as a control strategy.

4. *Tax Credits.*—Plants built prior to the 1971 New Source Performance Standards have inferior pollution control capabilities; have estimated operating lives of at least 35 years, and are extremely expensive to retrofit with effective control technology. U.S. policymakers may wish to consider incentives for the early retirement of plants or extra-rapid depreciation schedules to ease the financial burden of investment in controls.

Internal Revenue Service rulings prohibit washing facilities from qualifying for investment tax credits. Another positive strategy would involve an amendment to the Code to remedy this problem.

5. *Least Emissions Dispatching.*—State Public Utility regulations require utilities to perform least cost dispatching. That is, utilities must emphasize the generation of power from stations in their grid to obtain the least possible costs for consumers. Amendments to the Federal Power Act should be contemplated to override local least cost dispatching requirements in favor of least emissions dispatching. Least emissions dispatching emphasizes the cleaner plants for the generation of power. Least emissions dispatching, according to the Ohio River Basin Energy Study, could reduce substantially SO_2 emissions without significant cost impacts. The study concluded that such a policy would reduce SO_2 by 45 percent at a 2 percent cost increase.●

● Mr. SEIBERLING. Mr. Speaker, I rise to join my colleagues, DENNIS ECKART and DON MITCHELL of New York, in this special order to discuss the problem of acid rain as it affects our relations with Canada.

Since the phenomenon of acid rain became a subject of public debate a few years ago, the focus of the debate has been whether the evidence linking emissions from electric powerplants with acidic precipitation met scientific standards to the extent that controls on such sources should be mandated by the Congress to protect against environmental damage. Current emissions limitations are designed to protect the public health, and although the Clean Air Act contains provisions controlling interstate and international pollution, these provisions have never been clarified for enforcement. The result is that, while the Nation has made significant strides in cleaning the air to meet health standards, the atmospheric loading of sulfates has continued, with measurable effects on the acidity of waters in the lakes and streams of the Northeast.

Last February, the United States-Canadian research group created under the Carter administration issued an interim report linking industrial pollution from sources within the United States to the increased acidity of land and water in eastern Canada. The report provides the most current observations of the effects of acid deposits on soil, water, human health, visibility, and buildings. While the report has been discredited by utility representatives and downplayed by the administration, the fact remains that transboundary migration of atmospheric pollution is an international issue which we should take seriously as do our Canadian neighbors.

Mr. Speaker, on Saturday it was reported that the administration's proposed amendments to the Clean Air Act, which must be reauthorized this year, would propose to seriously weaken enforcement of present national ambient air quality standards and would completely ignore the secondary effects of air pollution—acid precipitation. The frightening aspect of acid rain is that it destroys, according to preliminary studies, the most elemental of life forms, and the damage to the environment, and to the chain of life, may be irreversible. For Congress to follow the administration's example and ignore the profound and long-term effects of acid rain when we're only beginnning to understand the problem would hamper progress in controlling man-made environmental damage and probably delay achievement of health standards as well.

And, as our colleagues have pointed out, ignoring the problem will affect our relations with Canada. Canada readily concedes the need to control sulfur emissions from their sources, but if the United States fails to assume a similar responsibility, we will lose what reputation we have for responsible and orderly development of our resources, and for assuming a leadership role among the world's nations as a protector of natural resources.

Rather than discredit the results of studies like the recent interim report on transboundary pollution between the United States and Canada, the Congress should permit the studies of acid rain to continue, and in the meantime, provide incentives for industry and utilities to meet the existing emissions limitations required by the Clean Air Act. For example, Congress could enact legislation to provide tax incentives to industries for nonproductive investments in certified pollution control equipment, and could provide similar treatment for coal-washing technology. I have sponsored such a proposal because, with the lower-than-expected rates of increase in electricity consumption, utilities need incentives to invest in pollution control technology so that they can stay in the business of providing electricity and still meet the requirements of Federal law. Enactment of such proposals would also send a message to our Canadian neighbors that we will not backtrack on our national commitment to achieve clean air standards, and will continue to work with them in good faith to negotiate an agreement to control transboundary air pollution.●

● Mr. FASCELL. Mr. Speaker, I am pleased to join my colleagues in this special order. The problem of acid precipitation needs a great deal more attention than it has received, both from the Government and the private sector. For this reason, I have joined the gentleman from Minnesota (Mr. OBERSTAR) in cosponsoring House Concurrent Resolution 152, which would express the sense of the Congress concerning the establishment of a North American Air Quality Commission with Canada to coordinate efforts to develop and implement solutions to the problem.

As many of my colleagues know, acid precipitation results from reactions in the atmosphere between sulphur and nitrogen oxides and water vapor. These pollutants are produced primarily by fossil fuel combustion in powerplants, automobiles, and smelting processes. With greater use of coal, acid rain will become an even greater problem than it is today.

During the recent meeting of the Canada-United States Interparliamentary Group, the international problem of acid rain was discussed, and proved to be one of the major concerns which surfaced among the members. The effects of acid precipitation in Canada are already serious. Canadian officials believe that between 2,000 and 4,000 lakes in Ontario are already "dead"—devoid of fish life—and that tens of thousands more are at risk. In the Adirondack Mountain region of the United States 100 to 200 lakes are already dead, with no prospects for natural recovery. Because sulfur and nitrogen oxide pollutants rise into the atmosphere and travel with prevailing winds, often for thousands of miles, this problem affects not only those areas close to local sources of pollution (such as power plants), but also affects areas as far away as Florida. Aside from causing sterility of lakes, acid rain damages crops and forests, decreases soil fertility, and corrodes man-made materials. There is also evidence that, under conditions of increased acidity, certain elements normally locked into minerals in soil and lake bottom sediments, are released. Among these elements are mercury and aluminum, thereby creating a serious potential for contamination of drinking water and health hazards to human populations.

In addition, damage to man-made materials can be serious and extensive. We have all heard of the accelerating corrosion and erosion of some of the

world's buildings and monuments, most particularly the Lincoln Memorial in Washington, and the Acropolis and the Parthenon in Greece. These, and other treasures from antiquity, have deteriorated more in the past 50 years than they have in the preceding 2,000. At least part of this deterioration is believed to be due to acidic air pollution.

The fallout effects of acid rain include financial costs to individual Americans—that is, damage to automobile paint—and the economic costs of declining tourism, decreased crop production, reduced forest growth, and the resulting unemployment in the tourism, timber, and agriculture sectors. We cannot afford to ignore this issue much longer, because the effect on freshwater lakes around the world will eventually be irreversible.

This issue is not just a domestic concern. It now noticeably affects United States bilateral relations with Canada and Sweden, and is being recognized by other industrialized nations. Acid rain respects no international boundaries and is not limited in its effects to the industrialized world.

As a step toward increased public awareness and education, I urge my colleagues to join in cosponsoring Congressman OBERSTAR's resolution. Only when the U.S. Government coordinates an effective response to this problem will we be able to encourage other nations to join in fighting this problem vigorously.●

● Mr. PHILLIP BURTON. Mr. Speaker, the acid rain issue may prove to be the acid test for two self-proclaimed goals of the Reagan administration: to be good stewards of our national parks and to be good neighbors of our Canadian allies. Acid rain is not only one of the most serious environmental threats to national parks and wildernesses but also a major threat to our diplomatic relations with our chief ally. It is a top economic issue that the Canadian Government has identified as its highest priority in current negotiations toward a bilateral air quality agreement.

If the administration proposes revisions to the Clean Air Act along the lines of the drafts now circulating, however, it cannot be serious about either stewardship or diplomacy. Our national parks could be turned into national sacrifice areas and Canada into a dumping ground for our acid wastes.

Mr. Speaker, further evidence of the widespread threat to park ecosystems posed by acid rain was supplied by the 1980 "State of the Parks" report, prepared by the National Park Service at the request of myself and former Representative Keith Sebelius. The report revealed that air quality resources are endangered in more than 45 percent of the units of the National Park System; 83 reports specifically mention acid rain.

Unfortunately, many of the prime public parks, wildernesses, and tourist attractions are found in the very types of mountainous and forested terrain where lakes and streams are particularly sensitive to acid rain. For example, in addition to the well-known fish dieoffs in the Adirondacks, studies of lake chemistry in the Boundary Waters Canoe Area indicate that a third of the lakes there are nearing the dangerous acidity threshold. Acid rain fallout is threatening fish populations in a number of areas from Sequoia National Park in the West to the Great Smoky Mountains, Shenandoah, and other national parks in the East.

Canada has even more at stake—an estimated 48,000 resort lakes in the nation could be irreparably acidified within the next two decades if present trends continue.

In a March address in Boston, Canadian Minister of the Environment John Roberts bluntly described the frustration of an entire nation over this issue:

> We know how dangerous acid rain is. We know that the technology exists to stop the emissions that cause acid rain. Still, thousands of tons of acid-causing chemicals are being exported to Canada by the United States every day. The impatience of Canadians showed through when President Reagan visited Ottawa earlier this month. Thousands of demonstrators protested on Parliament Hill while the President was conferring with Prime Minister Trudeau. They were there to make the point that the United States should move, and move quickly, to prevent emissions of sulfur dioxide and oxides of nitrogen which produce acid rain in my country.

Yet legislative proposals now under consideration by the administration would allow substantial increases rather than reductions in industrial emissions of sulfur oxides, provoking Canadian Ambassador Peter Towe to send a stern diplomatic note to the State Department.

These proposals also would weaken the prevention of significant deterioration (PSD) program under the Clean Air Act, substantially eliminating protection for class II and class III clean-air areas and scaling back the degree of protection for class I national parks and wildernesses. Moreover, the administration is apparently reexamining the visibility regulations issued for parks under the act.

Under the current PSD program, Federal land managers such as the National Park Service have "an affirmative responsibility to protect the air-quality-related values" of class I areas.

Mr. Speaker, this responsibility is an example of what true stewardship of parks implies. If we are to protect our prime natural areas in the United States and Canada, we must insure that the Clean Air Act provides for significant control of SO_2 emissions for existing as well as new industrial sources and includes a strong PSD and visibility program.●

● Mr. MARKEY. Mr. Speaker, as the time approaches for reauthorization of the Clean Air Act, we must be prepared to deal with the change in circumstances, both environmental and economic, since the 1977 amendments to the 1970 act. Although some forces now call for a reduction in present standards, this reauthorization presents us with an opportunity to address a problem bypassed under the original legislation—that of acid deposition, or acid rain.

Numerous studies have shown that acid precipitation has increased markedly in the last three decades. Ever growing amounts of sulfates and nitrates are carried from the Midwest and South into the Northeast and Canada, causing grave increases in the acidity levels of rain and snow. The Government's Interagency Task Force on Acid Precipitation reported in January that average rainfall in this region is now 10 times more acidic than normal. The harmful consequences of this increase have been well documented.

Proof of acid rain's danger lies in the fact that in New York State's Adirondack region, one half of the lakes above the 200-foot elevation level are acid dead—all living plants and animals killed by overwhelming acidity. Those lakes not dead are in danger of becoming so. Acid deposition has been linked to the killing of fish, contamination of water supplies, damage to crops, and declines in forest productivity. This relentless acid precipitation reigns more than 30 million tons of sulfates and nitrates annually upon the northeastern United States.

Mr. Speaker, the problem of acid rain is not concentrated in one State, or even one region—it is a problem that affects the entire Nation. Acid deposition is causing growing concern in the Rocky Mountain region and in the desert Southwest. And the transport of these acid particles in the atmosphere knows no State boundaries. Only a serious Federal effort can be adequate to address this burgeoning dilemma.

Acid deposition is also more than a U.S. problem. Emissions from American industry dump heavy acid rain into Canada as well. Acid rain has left 140 lakes dead in the Killarney region of Ontario, with more than 48,000 lakes suffering adverse effects from the acidity. This has presented serious threats to Ontario's fishing, tourism, and forestry industries, the lifeblood of the region's economy. Clearly, the confrontation of the acid rain dilemma will demand more than unilateral action. The widespread severity of this

problem demands joint United States-Canada action.

Mr. Speaker, the acid rain threat highlights the need to solidify the Government's commitment to protect Americans from the dangers of all air pollutants. It has been disclosed that the administration may be recommending a fundamental weakening of the entire Clean Air Act. One administration proposal is to end current requirements that new coal-fired powerplants install scrubbers. This proposal would insure a growth in sulfur dioxide emissions and a perpetuation of the acid rain problem. The administration may also seek to eliminate specific goals and deadlines for cleaning up dirty air, and may propose that the Federal Government be given less authority to determine clean air standards. These provisions would render the Clean Air Act a powerless symbol of an essential commitment.

Mr. Speaker, the Congress must not allow this travesty to occur and we must reaffirm our support for the basic human right to live in a safe environment. I urge my colleagues to oppose any sweeping action to gut the Clean Air Act of its effectiveness in combating pollution.●

● Mr. JEFFORDS. Mr. Speaker, the problem of acid rain is becoming of increasing concern to many Members of Congress. It is an issue that must be taken seriously by the United States because of its consequences both in our Nation and in Canada.

Although a great deal more study is needed, the best available data indicates that acid rain results when sulfur dioxide and nitrogen oxide are combined with air and cloud moisture to produce mild solutions of sulfuric and nitric acids. The smokestacks of utility plants and smelters are major producers of sulfur dioxide, and nitrogen oxides are emitted from smokestacks and automobile exhaust. In recent years, smokestacks have been built taller to comply with local pollution standards. This has resulted in the dispersal of emissions over a wide area, and much of the sulfur pollution produced in the Midwest travels eastward and falls to the ground as acid rain.

There is a great deal of evidence of increased acidity in the lakes and soils of the Northeast. Many Adirondack lakes can no longer support fish. The problem also can have long-term effects on timberlands and crops as well a buildings.

But acid rain is also an international issue. Pollutants disregard both State and national boundaries. It is estimated that 6 million tons of sulfur dioxide and its derivatives orignating in the United States fall on Canada each year. This is one-half to two-thirds of Canada's acid rain problem.

Nevertheless, the Canadians are far ahead of us in efforts to control these emissions. While many in this country call for further study to put off action, Canada's Government is taking steps to install sulfur dioxide scrubbers in many of its nation's smokestacks. Clearly, the problem is more one of political will than lack of information.

As the Canadian Minister of the Environment, Hon. John Roberts, has recently stated:

> There can be few relationships between countries which better demonstrate the rule of law than that between Canada and the United States. That is why I am optimistic that, together, we will control acid rain, we will accept that we cannot damage one another for our own profit.

More study may be needed. However, action is certainly needed immediately. We have a unique opportunity to deal with this issue in the reauthorization of the Clean Air Act. We must also join with our Canadian friends to explore a variety of solutions.●

● Mr. FISH. Mr. Speaker, much has been said about the serious impacts of acid rain. Substantial evidence indicates that acid rain is affecting the aquatic life, forests, and other valuable natural resources in many parts of our country. Acid rain can interfere with the natural recycling of nutrients and disrupt our basic biological food chains, seriously affecting our future production of previous food resources.

As many of my colleagues are aware, acid rain has certainly had a destructive effect on the lakes of the Adirondack region in New York State. Much effort has been spent on developing the Adirondacks into a park—not an ordinary park, but a unique and exciting park that protects and serves man as well as nature. Because of its vastness and diversity, the Adirondack park serves many needs of the people of New York State, besides containing the homes and communities of some 111,000 permanent and 90,000 seasonal residents.

In spite of the dedicated efforts devoted to protect the Adirondacks and other nearly natural areas, it is distressing to see the damaging effects of acid rain in the region. According to recent estimates, 228 lakes in the Adirondack Mountains are already dead and hundreds more are threatened. The dead Adirondack lakes represent 3.9 percent of all the lakes in the region, and fully 25 percent more are already categorized as critical, which means that they are rapidly losing their capacity to buffer the acid rain flow.

By all accounts, acid rain has now also become a problem of international discussion. Many thousands of Canadian lakes are now threatened by acid rain pollution. Recent evidence suggests that this pollution may have a detrimental effect on sensitive Canadian soils, jeopardizing the country's forest industry.

Action must be taken now to solve this pressing environmental problem. If left unchecked, acid rain could cause severe and irreversible damage to our lakes and streams and destroy recreational and tourist resources. During recent hearings before the Subcommittee on Energy Development and Applications, it was made evidently clear that Canadians must have our cooperation in order to solve the acid rain problem. I would encourage my colleagues to recognize the strong concerns on acid rain voiced by the Canadian Government and work together with our northern neighbor to solve this most serious problem.●

● Mr. ERDAHL. Mr. Speaker, I thank my colleagues for the opportunity to reiterate my support for an investigation into the causes and effects of acid rain on our global environment, and particularly on our North American Continent.

Sharing a border with Canada, we in Minnesota are very conscious that the fortunes of our two nations are interwoven and interacting on a daily basis. The air above our "imaginary line" blows in both directions, and deposits what it carries without regard to national or State boundaries.

As of a few months ago, our Canadian friends have expressed some concern that the United States is not pursuing as vigorously as it might the questions of the causes and effects of acid rain on our environment.

The phenomenon causing the concern is the combination of sulfur dioxide and nitrogen oxides with cloud moisture, forming solutions of sulfuric and nitric acids and resulting in precipitation more acidic than normal rainfall. Acid deposition is not always in the form of a wet substance, however. It can return to Earth in dry form, and as such, is much more difficult to measure.

The effects of this deposition include damage to the food chain in our lakes—not only those within our State or Provincial borders, but those magnificent bodies of inland waters so simply and aptly named the Great Lakes, which we share with Canada. We have witnessed corrosion of historic buildings and statues attributed to acid deposition. Corrosion of metals is another costly effect. And the Minnesota Department of Natural Resources testified at recent public hearings that Minnesota's potential economic loss due to acid rain is $65 million per year in forest industries and $78 million per year in the tourism and fishing industries. The possible long-term effects on sensitive soils and plant life are inestimable, according to Forest Service scientists.

Several actions, communications, and meetings within the past few months have, I think, served to reassure the concerned Canadians that we are indeed serious about efforts to deal with acid rain.

I was pleased to hear last week from a spokesman for the Interagency Task Force on Acid Precipitation which we established by law in the last Congress that their 10-year national acid precipitation assessment plan will be an "evolutionary document." I joined with some of my colleagues early in this session in urging the task force to make ongoing recommendations based on their findings, and I am happy to have this assurance from the task force.

The memorandum of intent to negotiate an air quality agreement between the United States and Canada should be followed by the continued support of the Congress and by the most intense effort possible by the task force, as well as the establishment of a North American Air Quality Commission as a vehicle for informational exchange and policy dialog between our countries.

This has to be a cooperative effort, worthy of the mutual friendship and concord exhibited where the Maple Leaf and the Stars and Stripes fly side by side.●

● Mr. OTTINGER. Mr. Speaker, I would like to join my good friend from Ohio, Mr. ECKART, in calling attention to the continuing problem of acid rain and its potential impact on our relations with our friends to the north—Canada.

Acid rain, produced by American heavy industry, is threatening the survival of Canadian lakes, rivers, trees, and wildlife. It occurs when sulfur and nitrogen oxides, commonly emitted industrial pollutants, are converted in the atmosphere to a blend which falls to earth in precipitation or as dry particles. The problem is not only one for Canada, but also for America. In New York's Adirondack Mountains, more than 170 lakes and ponds can no longer support fish because of acid rain. It is also no longer a problem parochial to the Northeast. EPA data indicate that many Western States are also in the midst of acid rainstorms.

As our need to become energy independent increases, Congress must pay close attention to environmental safeguards. New technology provides hope that we can achieve both our energy and environmental objectives without sacrificing economic viability.

Even as we speak, however, the current administration is contemplating weakening the Clean Air Act. I would suggest to those who would gut the Clean Air Act that the destruction of even more of our environment is an entirely unnecessary price to pay for the reindustrialization of our country.

So I encourage my colleagues to speak out on the Clean Air Act. Speak for the safety of our environment and for the future enjoyment of it by subsequent generations.●

● Mr. COLEMAN. Mr. Speaker, I want to take this opportunity to thank my colleagues, the gentleman from Ohio (DENNIS ECKART), and the gentleman from New York (DONALD MITCHELL), for arranging this special order today to discuss the important issue of acid rain.

As we all know, pollution problems are not limited to the United States. Our Canadian friends in particular are very concerned that the United States exports some of its pollution, aggravating Canada's own difficulties. I chair the House Republican Research Committee's task force on foreign policy. Last Thursday the task force met with the Canadian Ambassador, His Excellency Peter M. Towe, to discuss issues affecting United States-Canadian relations. Because of the Ambassador's particular concern over the issue of acid rain, I offered to include a letter from him today on this issue. In the letter Ambassador Towe sent, he states that this issue could "create a political issue of major proportion between Canada and the United States." He also expresses his view that "in light of what is already known, and the damage that has already been documented, major emission reductions must be instituted on a mutually agreed basis as quickly as possible." Clearly our Canadian friends view this issue with particular concern, and I appreciate the opportunity today to convey their message to you.

CANADIAN EMBASSY,
Washington, D.C., June 22, 1981.

MR. E. THOMAS COLEMAN,
Chairman, Task Force on Foreign Policy, U.S. House of Representatives, Washington, D.C.

DEAR MR. COLEMAN: It was a pleasure to meet with you and your colleagues of the Republican Foreign Policy Task Force. I was gratified to learn of your interest in the bilateral dimension of the Clean Air Act Review. As you suggested, I am setting down the essence of our concerns in this letter. I also attach the text of a talk I gave at a Duke University seminar held recently in Washington.

Because currents of air move both north and south across our border, it is inevitable and legitimate that we both maintain an interest in one another's clean air laws. To the extent that they do or do not deal effectively with transboundary pollution, they have a direct impact on the citizens of the other country. You will be interested to know in this connection that the Canadian Parliament recently amended our law to give the federal government unquestioned authority to control emissions causing significant transboundary pollution. That action was one of a series of steps aimed at helping to set the stage for an air pollution agreement with your country, an agreement originally called for by the U.S. Congress.

We have been given assurances that the United States wishes to proceed with us in developing an agreement. But such a bilateral accord can have little meaning unless each country possesses both the will and the legislative tools to give it effect.

This is why I am so concerned about the current review of your Clean Air Act. As the National Commission on Air Quality has stated, the law is not able to deal adequately with the long range transport of pollutants. Moreover, suggestions are being made for changes in the law that would seem to encourage the export of pollution across political boundaries.

On the basis of recent scientific studies, it is beyond reasonable doubt that air pollutants can travel long distances and that they cause serious economic and environmental harm to neighbouring political jurisdictions. It is our contention that this form of "negative interstate commerce"—including its international component—must be brought under control. To fail to do so would legitimize and perpetuate the social and economic inequities, and the needless environmental degradation, that result when production costs are not fully internalized but instead are exported as pollution. It would also create a political issue of major proportion between Canada and the U.S. of special concern to Canada in that regard is that form of long range air pollution known as acid rain.

I believe therefore that the federal governments of both Canada and the United States must develop and exercise the responsibility to deal effectively with this problem. This means, first, ensuring that the necessary federal authority exists and, second, that any weakening or decentralization of other parts of the law are balanced by a concomitant strengthening of sections dealing with transboundary pollution.

I recognize that it will take time to significantly reduce emissions which are the principal contributors to transboundary air pollution. Both countries must continue their joint assessment and review in order to sharpen our understanding of the problem and our ability to fashion solutions. However, in light of what is already known, and the damage that has been documented, major emission reductions must be instituted on a mutually agreed basis as quickly as possible. Implementation of an agreement to bring about such reductions will require strong and effective legislation.

Yours sincerely,

PETER M. TOWE,
Ambassador.●

● Mr. LAFALCE. Mr. Speaker, I want to thank my colleagues Mr. ECKART and Mr. MITCHELL of New York for reserving this special order on the problem of acid rain and its potential impact on our continued good relations with Canada. I share their belief that this is an issue that must be kept on the congressional agenda, and one problem for which solutions must be found.

As my colleagues know, I have had the opportunity to work with our friends to the north on many environmental issues affecting both the United States and Canada. My district borders Lake Ontario and the Niagara River, waterways that both we and the Canadians rely on for drinking water and recreation. We have achieved a remarkable degree of consensus on what must be done to keep these resources clean, and, more importantly, we have achieved a remarkable degree of success in cleaning up our shared waterways. The Great Lakes Water Quality Agreement of 1972 continues to serve as the model of both international co-

operation and international accomplishment.

Unfortunately, the same cannot be said about the international problem of acid rain. In fact, the acidity of precipitation in the Northeastern and Midwestern United States and Eastern Canada have, if anything, increased in the past decade. Mr. Speaker, if we are to reverse this trend, we must act in the spirit of cooperation and mutual sacrifice. The prevailing winds dictate that neither the United States nor Canada can solve its acid rain problem alone. It is estimated that sulfur dioxide emissions from United States sources account for 50 percent of the acid rain in Canada, and, conversely, that up to 25 percent of the acid rain falling in the United States originates at Canadian sources. We are each contributing to the death of our lakes and the damage that is being done to buildings and basic life support systems. We must each contribute to the reduction in sulfur dioxide and nitrogen oxide emissions that have polluted our skies.

At a recent conference at the State University of New York at Buffalo, Keith C. Norton, Ontario's Environment Minister, declared that all Canadians were united in an "all-out war on acid rain." In the Minister's Province of Ontario alone, 140 lakes have been rendered incapable of supporting fish and water flora and fauna due to their increased acidity, and several thousand lakes are threatened. The Canadian National Research Council has estimated that acid rain was responsible for $200 million of damage per year to buildings and other properties.

These symptoms are no different from those that we see in this country. In New York alone, a recent study of 849 ponds and lakes in the Adirondack Mountains region revealed that 468, 55 percent, were in a critical or endangered condition. There are 2,877 lakes in the Adirondacks, Mr. Speaker. I hope that a simple extrapolation from the sample studied does not paint the picture of the region's future. The Adirondack Park Agency has estimated that the State's thriving sport fishing industry loses, at a minimum, $1.5 million per year because of acid rain. Our colleagues from the States of Maine, Wisconsin, Minnesota, Michigan and the entire Northeast-Midwest section of our country know all too well the consequences of acid rain.

We have made some progress toward creating an environment of international cooperation and good will. Since 1978, when we in the Congress passed a resolution urging negotiation of an agreement to reduce and eliminate the international impact of air pollution, the Governments of the United States and Canada have, on several occasions, reaffirmed their mutual commitment to this goal. Just this month, several working groups were established to begin negotiation on a transboundary agreement to control acid rain.

Mr. Speaker, to date, the Canadians have gone the extra mile in their efforts to ameliorate the problem. They have taken several actions that will significantly reduce the annual tonnage of sulfur dioxide that is spewed into the air from several of their major facilities. In September 1980, the International Nickel Plant at Sudbury, Ontario, the major point source of sulfur dioxide in Canada, was ordered to reduce its daily loading of sulfur dioxide emissions by 1,100 tons. In addition, the plant has been put on notice that it must reduce its emissions an additional 25 percent over the next 2 years. Ontario Hydro has also announced that it would reduce emissions by 15 percent in 1985 and by 43 percent in 1990. These efforts by the Canadians will have immediate and lasting effects on the acid rain problem both in Canada and the United States.

It is time, I believe, for the United States to match these Canadian actions in kind. And I believe further that we can do so within the context of existing law and without placing an undue burden on our utilities and industry. Several strategies can be implemented to reduce emissions today. Mr. Speaker, a policy of national washing, one that has been advocated by several States in the Northeast, would eliminate approximately 20 percent of the sulfur from some coals. Least emissions plant scheduling, during which a utility would start up and burn longer its most efficient units, would reduce emissions significantly. In addition, more rapid implementation of the Environmental Protection Agency's bubble policy, would, our early experiences indicate, not only reduce emissions, but give utilities and industry the opportunity to reduce compliance costs.

Mr. Speaker, our friends to the north have taken the necessary first steps to reduce acid rain. We must join them in this commitment to action. During his recent trip to Ottawa, President Reagan reaffirmed our Nation's commitment to the joint United States/Canadian effort to ameliorate the acid rain problem. It is time we give life to that commitment by reducing the poisonous emissions that respect no State or international boundaries, and by protecting and preserving for future generations the splendor of mountain lakes and streams, and the life that flourishes within them.●

Mr. ECKART. Mr. Speaker, if I could reclaim my time, I would like to remind my colleagues that the issue of acid rain has been one which has received tremendous international attention, not only in our relationships with Canada, but in Europe as well. The Scandanavian countries currently are experiencing very severe environmental problems as a result of emissions that occur in continental Europe.

The issue of acid rain, which is going to be under consideration very soon in discussion between the United States and Canada as a result of a memorandum of intent signed by our country and Canada several years ago, is going to be what I hope will be the first step in international discussion which has international ramifications.

It is my strong hope that, as a result of the bipartisan effort which was demonstrated here on the floor today, that the administration will honor its written commitment of seeking bilateral solutions to an environmental problem which plagues not only the countries of Canada and the United States, but is also felt throughout Europe and Africa as well.

Mr. Speaker, I would like to thank those colleagues who have appeared on the floor today. I would also like to take note of the several dozen other statements which have also been submitted in support of the discussion of acid rain. I hope that this is only the first time that we are able to focus important attention on an issue which has such significant ramifications for all of us.

PROPOSAL FOR IMPACT AID

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. DAUB) is recognized for 5 minutes.

● Mr. DAUB. Mr. Speaker, today I am having printed in the RECORD a copy of a proposal for impact aid which Congressman GOODLING and I have developed over the past few weeks. This proposal has now been accepted as one of the Gramm-Latta amendments being offered to the omnibus reconciliation package assuming an adequate rule is granted today by the rules committee.

Two weeks ago, I stood before this body urging my distinguished colleague from Kentucky, the respected chairman of the House Education and Labor Committee, to reconsider the committee's decision to zero-fund the impact aid program. What I forgot was that in Washington, when you ask for a dollar, they give you 10. The committee now recommends busting the budget on this program, spending $13 million more than the original Reagan budget allowed for. Not only does the committee recommend busting the budget, but they distribute the dollars in a totally unacceptable manner.

The plan Congressman GOODLING and I offer is fair and less costly. We make substantial reductions, while at the same time prevent undue hardship on those districts most reliant on those moneys. When the reconciliation package comes to the floor, I urge

my colleagues to support this amendment.

AMENDMENT OFFERED BY MR. DAUB TO THE JONES AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 3982

Page 50, beginning on line 11, strike out sections 5104 and 5105 through page 51, line 24, and insert in lieu thereof the following:

ACT OF SEPTEMBER 23, 1950 (IMPACT AID)

SEC. 5104. The total amount of appropriations to carry out the Act of September 23, 1950 (Public Law 815, 81st Congress) shall not exceed $20,000,000 for each of the fiscal years 1982, 1983, or 1984.

ACT OF SEPTEMBER 30, 1950 (IMPACT AID)

SEC. 5105. (a)(1) The total amount of appropriations to make payments on the basis of entitlements established under section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) shall not exceed $371,000,000 for each of the fiscal years 1982, 1983, and 1984.

(2) None of the funds appropriated for such fiscal years to make such payments shall be paid to any local educational agency unless—

(A)(i) the local educational agency is an agency with respect to which the sum of the number of children determined for such fiscal year under subsections (a) and (b) of section 3 of such Act is equal to or exceeds 50 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education; or

(ii) the local educational agency is an agency with respect to which the sum of the number of children determined for such fiscal year under subsection (a) of section 3 of such Act is equal to or exceeds 20 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education;

(B) the local educational agency is an agency with respect to which the sum of—

(i) the number of children determined for such fiscal year under subsection (a) of section 3 of such Act;

(ii) the number of children determined for such fiscal year under subsection (b)(3) of section 3 of such Act; and

(iii) one-half of the number of children determined for such fiscal year under subsection (b) of section 3 of such Act;

is equal to or exceeds 25 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education; or

(C) the local educational agency is an agency not otherwise described in subparagraphs (A) and (B) of this paragraph and such agency received a payment for fiscal year 1981 on the basis of the number of children determined for such fiscal year under subsection (a) of section 3 of such Act.

(3) Any provision of such Act to the contrary notwithstanding, any funds appropriated for fiscal year 1982 for the purpose of making payments on the basis of entitlements established under section 3 of such Act shall be allocated as follows:

(A) The Secretary shall first allocate to each local educational agency which is described in subparagraph (A) or (B) of paragraph (2) of this subsection an amount equal to (i) the number of children determined with respect to such agency for such fiscal year under subsection (a) of section 3 of such Act, multiplied by (ii) 100 percent of the amount paid to such agency for each of such children for fiscal year 1981.

(B) The Secretary shall next allocate to each local educational agency which is described in subparagraph (A) or (B) of paragraph (2) of this subsection an amount equal to (i) the number of children determined with respect to such agency for such fiscal year under subsection (b) of section 3 of such Act, multiplied by (ii) 80 percent of the amount paid to such agency for each of such children for fiscal year 1981.

(C) Any sums remaining after allocations are made pursuant to subparagraphs (A) and (B) of this paragraph shall be allocated to local educational agencies which are described in subparagraph (C) of paragraph (2) of this subsection. Subject to subparagraph (D) of this paragraph, each such agency shall be allocated an amount which bears the same ratio to the sums remaining for allocation as the number of children determined with respect to such agency for such fiscal year under subsection (a) of section 3 of such Act bears to the sum of the number of children determined under subsection (a) of section 3 of such Act for such fiscal year with respect to all the local educational agencies described in such subparagraph (C), except that no payment shall be made under this subparagraph at a rate in excess of the rate described in subparagraph (D)(ii).

(D)(i) If the amount appropriated for making such payments for fiscal year 1982 is not sufficient to pay in full the allocations required by subparagraphs (A) and (B) of this paragraph, then the amount of each such allocation shall be ratably reduced. If, after such a reduction is required, additional amounts are made available for making such payments, then such allocations shall be increased on the same basis as they were reduced.

(ii) If the amount appropriated for making such payments for fiscal year 1982 exceeds the amount necessary to pay in full the allocations required by such subparagraphs plus the amount necessary to make payments under subparagraph (C) at a rate, for each child determined under subsection (a) of section 3, equal to the rate paid for such children for fiscal year 1981, then the amount of each allocation under subparagraphs (A), (B), and (C) shall be ratably increased.

(4) Any provision of such Act to the contrary notwithstanding, any funds appropriated for fiscal year 1983 for the purpose of making payments on the basis of entitlements established under section 3 of such Act shall be allocated as follows:

(A) The Secretary shall first allocate to each local educational agency which is described in subparagraph (A) or (B) of paragraph (2) of this subsection an amount equal to (i) the number of children determined with respect to such agency for such fiscal year under subsection (a) of section 3 of such Act, multiplied by (ii) 100 percent of the amount paid to such agency for each of such children for fiscal year 1981.

(B) The Secretary shall next allocate to each local educational agency which is described in subparagraph (A) or (B) of paragraph (2) of this subsection an amount equal to (i) the number of children determined with respect to such agency for such fiscal year under subsection (b)(3) of section 3 of such Act, multiplied by (ii) 70 percent of the amount paid to such agency for each of such children for fiscal year 1981.

(C) Any sums remaining after allocations are made pursuant to subparagraphs (A) and (B) of this paragraph shall be allocated to local educational agencies which are described in subparagraph (C) of paragraph (2) of this subsection. Subject to subparagraph (D) of this paragraph, each such agency shall be allocated an amount which bears the same ratio to the sums remaining for allocation as the number of children determined with respect to such agency for such fiscal year under subsection (a) of section 3 of such Act, bears to the sum of the number of children determined under subsection (a) of section 3 of such Act for such fiscal year with respect to all the local educational agencies described in such subparagraph (C), except that no payment shall be made under this subparagraph at a rate in excess of the rate described in subparagraph (D)(ii).

(D)(i) If the amount appropriated for making such payments for fiscal year 1983 is not sufficient to pay in full the allocations required by subparagraphs (A) and (B) of this paragraph, then the amount of each such allocation shall be ratably reduced. If, after such a reduction is required, additional amounts are made available for making such payments, then such allocations shall be increased on the same basis as they were reduced.

(ii) If the amount appropriated for making such payments for fiscal year 1983 exceeds the amount necessary to pay in full the allocations required by such subparagraphs plus the amount necessary to make payments under subparagraph (C) at a rate, for each child determined under subsection (a) of section 3, equal to the rate paid for such children for fiscal year 1981, then the amount of each allocation under subparagraphs (A), (B), and (C) shall be ratably increased.

(5) Any provision of such Act to the contrary notwithstanding, any funds appropriated for fiscal year 1984 for the purpose of making payments on the basis of entitlements established under section 3 of such Act shall be allocated as follows:

(A) The Secretary shall first allocate to each local educational agency which is described in subparagraph (A) or (B) of paragraph (2) of this subsection an amount equal to (i) the number of children determined with respect to such agency for such fiscal year under subsection (a) of section 3 of such Act, multiplied by (ii) 100 percent of the amount paid to such agency for each of such children for fiscal year 1981.

(B) The Secretary shall next allocate to each local educational agency which is described in subparagraph (A) or (B) of paragraph (2) of this subsection an amount equal to (i) the number of children determined with respect to such agency for such fiscal year under subsection (b)(3) of section 3 of such Act, multiplied by (ii) 50 percent of the amount paid to such agency for each of such children for fiscal year 1981.

(C) Any sums remaining after allocations are made pursuant to subparagraphs (A) and (B) of this paragraph shall be allocated to local educational agencies which are described in subparagraph (C) of paragraph (2) of this subsection. Subject to subparagraph (D) of this paragraph, each such agency shall be allocated an amount which bears the same ratio to the sums remaining for allocation as the number of children determined with respect to such agency for such fiscal year under subsection (a) of section 3 of such Act, bears to the sum of the number of children determined under sub-

section (a) of section 3 of such Act for such fiscal year with respect to all the local educational agencies described in such subparagraph (C), except that no payment shall be made under this subparagraph at a rate in excess of the rate described in subparagraph (D)(ii).

(D) If the amount appropriated for making such payments for fiscal year 1984 is not sufficient to pay in full the allocations required by subparagraphs (A) and (B) of this paragraph, then the amount of each such allocation shall be ratably reduced. If, after such a reduction is required, additional amounts are made available for making such payments, then such allocations shall be increased on the same basis as they were reduced. If the amount appropriated for making such payments for fiscal year 1984 exceeds the amount necessary to pay in full the allocations required by such subparagraphs plus the amount necessary to make payments under subparagraph (C) at a rate, for each child determined under subsection (a) of section 3, equal to the rate paid for such children for fiscal year 1981, then the amount of each allocation under subparagraphs (A), (B), and (C) shall be ratably increased.

(6) For any fiscal year beginning on or after October 1, 1984, no funds available under such Act shall be paid to local educational agencies with respect to children determined under subsection (b) of section 3 of such Act.

(b)(1) The total amount of appropriations authorized to be appropriated to make payments on the basis of entitlements established under section 2 of the Act of September 30, 1950 (Public Law 874, 81st Congress) shall not exceed $10,000,000 for each of the fiscal years 1982, 1983, and 1984.

(2) If the amount appropriated for making such payments for fiscal year 1982, 1983, or 1984 is not sufficient to pay in full the sum of the entitlements established under section 2 of such Act, then the amount of each such entitlement shall be ratably reduced. If, for any fiscal year in which such a reduction is required, additional amounts are made available for making such payments, then such entitlements shall be increased on the same basis as they were reduced.

(c) No funds are authorized to be appropriated for fiscal year 1982, 1983, or 1984 for the purpose of making payments—

(1) on the basis of entitlements determined under section 3(e) or 4 of such Act; or

(2) under sections 4A, 6, or 7 of such Act.

(d) Subsection (d) of section 402 of the Act of September 30, 1950 (Public Law 874, 81st Congress) shall not apply during fiscal year 1982, 1983, or 1984.●

FORTIETH ANNIVERSARY OF BALTIC HOLOCAUST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. DENARDIS) is recognized for 5 minutes.

● Mr. DENARDIS. Mr. Speaker, the month of June marks the 40th anniversary of the Baltic holocaust after the military occupation and forcible annexation of Estonia, Latvia, and Lithuania into the Soviet Union. The Molotov-Ribbentrop Pact between Soviet Russia and the German Reich divided Eastern Europe into spheres of influence and denied independence to the nations of this region. The Molotov-Ribbentrop Pact was a conspiracy of two of the greatest tyrants in the history of the world and humanity.

Following the forced annexation of the Baltic States which we, the United States of America, have not recognized, the Soviets began a mass deportation of those members of the Baltic society who would oppose the forced Sovietization of the three countries, a category which encompassed the majority of the population. These deportations to Siberia began June 14, 1941. Soon, more than 850,000 people—10 percent of the population—had died from exposure and outright execution.

Today the Soviets continue this policy of oppression by subjugating the brave Baltic citizens who struggle to obtain their liberty and to preserve their culture. Despite 40 years of cultural, religious, educational, and political repression, the Baltic peoples have not lost their identity through assimilation.

As we commemorate this tragic anniversary, we must recognize that it is the duty of the United States of America to support freedom all over the world. We must join with the Baltic peoples in their hope that some day national sovereignty will be restored to the nations of Latvia, Lithuania, and Estonia.●

THE GOLDEN AGE OF BIOSCIENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. SHAMANSKY) is recognized for 15 minutes.

● Mr. SHAMANSKY. Mr. Speaker, recently Senator ALAN CRANSTON gave a speech before the Tissue Collection Association on the need to encourage innovation and creativity in biomedical research.

As a member of the Investigations and Oversight Subcommittee of the House Science and Technology Committee which is currently holding hearings on the subject of biomedical research, I found the Senator's speech timely and enlightening. I felt it warranted its reprinting here for my colleagues to read and benefit as I have:

THE NEXT GOLDEN AGE OF BIOSCIENCE

(Speech by U.S. Senator ALAN CRANSTON to the Tissue Collection Association, June 9, 1981, Washington, D.C.)

I am very happy to be here tonight with members and officers of the Tissue Collection Association and your guests.

In Jacob Bronowski's essays on "The Ascent of Man," he describes the essence of science: "Ask the impertinent question, and you are on the way to the pertinent answer."

Let me begin by saying, I admire your collective impertinence and thank you for your bounty of pertinent answers.

Society is increasingly dependent on those answers for its survival and prosperity. The scientific and technological progress of modern man has been the most significant factor in alleviating the burdens of bare existence and in making life easier, healthier and happier.

It is both awesome and comforting to contemplate that of all the scientists who have ever lived in the history of the world, ninety percent are alive today.

We need all of you and more.

Tonight seems to me an occasion for sharing some thoughts rather than for discussing specific programs or budget proposals.

It has been a great privilege in the course of my career as a United States Senator to meet with and to learn from those of you who are pushing forward the frontiers of biomedical research.

Before I was first elected to the Senate, I had no idea I would learn so much about health and medical matters. As a freshman Senator I was assigned to the Health and Scientific Research Subcommittee and to chair what would later become the Senate Committee on Veterans' Affairs. That is the committee that oversees the largest public hospital system on the face of the earth—the Veterans' Administration hospital system, which engages in a good deal of medical research.

In the Senate I am able to listen to and quiz health experts who testify before the committees I serve on.

On several occasions I have invited small groups of research scientists, encompassing different disciplines, to meet informally in my office in the Capitol to discuss their work. These after-hours meetings have afforded me a window on the world of biomedical research that often is not easily available to persons in elected public office.

What I have heard in these sessions is truly astonishing to a layman. I suspect even many scientists would be surprised to learn how quickly we are assembling the pieces of a very fundamental life puzzle.

With a speed that surprised just about everyone, frontline biomedical investigations have moved from the level of the whole organ, down to the cellular level, to the molecular and even submolecular levels to pierce the mysteries of basic life processes.

It is apparent to me that science is embarking upon a biological revolution comparable to the world-changing advances that swept through the study of physics a few decades ago.

Biologists around the world are unravelling some of nature's deepest, most artfully-hidden secrets. The details about how life itself is controlled are beginning to emerge.

Nor am I the only optimist:

Lewis Thomas, chancellor of the Memorial Sloan-Kettering Cancer Center, believes it is time we begin to think seriously about a society relatively free of disease.

Dr. David Baltimore, of M.I.T., recipient of the 1975 Nobel Prize in physiology and medicine, declares we soon will learn to solve cancer and genetic diseases, and that eventually we will begin to control the human aging process and to understand the functioning of the human nervous system.

Yet in the midst of this feast of optimism and great promise I sometimes detect a discordant note. It is sounded mournfully by many who proclaim the passing of a "Golden Age" of government support for biomedical research.

For more than two decades following World War II, federal budgets for health and disease research grew dramatically. Constituencies were mobilized to finance cures for specific diseases. New institutes were added to the National Institutes of Health, and for the most part the new insti-

tutes were generously funded as were the older institutes.

The Congressional leadership of Senators Lister Hill and Warren Magnuson, and of Congressman John E. Fogarty, supported by citizen activists like Mary Lasker and Florence Mahoney and many more, made it seem that there were nearly limitless resources for medical research.

Then, in the 1970's the Golden Age began to wane. Curtailed growth of federal research and development budgets, combined with inflation, threatened seriously to dampen scientific enterprise in the U.S.

Today there is deep concern that budget cuts will undermine research and squelch innovation. Some fear the federal government is about to let slip its long commitment to basic research.

Around the country universities report an overall pattern of declining federal support, a downturn in graduate enrollment, deteriorating laboratory equipment and a shortage of capital investment for research facilities.

Academicians also report that—by way of adding insult to injury—government granting agencies continue a barrage of accounting and other paperwork requirements that drain off funds, destroy morale and hinder progress of research.

The experience of one professor at the University of California, no doubt is familiar to many. He writes:

"When I began research in 1965, our research group often received more than the minimum support necessary for our projects, and the excess money was used to seed new ideas. Only a small fraction of these ideas led to a formal proposal. If the proposal was funded, it could provide seed money for the next idea. By 1972 our proposals were scrutinized to ensure that we received no more than the necessary minimum. By 1976 few of our proposals received enough money even to sustain a project, and we had to obtain support from more than one agency. Much of the time we had devoted to thinking about new projects was now spent writing and polishing proposals. Tight funding, increasing overhead, and additional constraints on spending have made it more and more difficult to begin new projects."

The foregoing would seem to be proof that the Golden Age is indeed a thing of the past. Certainly the rapid growth of government grant support is over. It is unrealistic to expect that the surge in federal R&D spending will come again soon in the health sciences.

The question of how much is enough for science is no different from the question of how much is enough for housing, transportation, defense and so forth.

There is no precise answer, and the best way to go about getting any answer at all is through the traditional process of study, negotiation and politicking.

This year even Budget Director David Stockman was relatively solicitous of the National Institutes of Health. However, I am very concerned about proposed cutbacks in research training grants. These grants have been very effective in the past in promoting the careers of the talented young scientists we will need in the years to come. And I am very distressed by cutbacks in basic research at the National Science Foundation.

Nevertheless, it is fair to say, despite the austere nature of our times, that we are some safe distance from a descent into darkness.

Continuing financial limitations, however, will mean that innovation now must be by substitution rather than expansion. In an attempt to prevail over tight budgets, we must find policies that free the creative abilities of our scientists through other means.

I have some general thoughts I would like to share with you on how to get maximum benefit from the dollars we spend on biomedical research.

First, it is absolutely crucial that we continue adequate support for basic, undirected research. The tremendous investment in basic research during the late Golden Age is bearing fruit today in the burgeoning fields of cell biology and molecular biology. If we do not tend to the basic research roots of science, we risk leaving ourselves and our children in the future with a disappointing harvest from stunted vines.

Secondly, we must take steps to remove some of the bureaucratic burdens pressing down on basic research. I believe federal funds designated for basic research should be exempted as much as possible from unrelated regulations and paperwork requirements.

Thomas Edison said innovation is one percent inspiration and 99 percent perspiration. But the perspiration need not be the result of filling out government-inspired forms and reports.

It is estimated that the nearly 50,000 research proposals submitted this year to major federal granting agencies will represent more than 3,000 man-years of writing and reviewing the documents. This is a serious drain on time from productive research.

Twenty years ago, Leo Szilard, the famed nuclear scientist, wrote a satirical story about a plot to bring research progress to a standstill. It could be done, he suggested, by establishing a competitive grant system under which all researchers would be required to prepare written proposals describing what they wished to work on. The commitment of time in writing, reviewing and supervising such a universal grant system would effectively halt research progress.

It is now appropriate to ask whether Szilard's fanciful story is not turning into a serious matter.

For his own part, Szilard worked out a neat system for obtaining support for prospective work. To insure his own freedom from restrictions, Szilard decided to apply for funds only for research already completed. Then he could use the money on new projects of his own choosing. The system worked well until an application was refused on the grounds that the experiment was impossible!

That brings me to my third recommendation. Peer review is the centerpiece of the grant award mechanism, and will perhaps remain so—but some flexibility is absolutely essential.

There is a leveling effect in peer review. Caution is rewarded and the performance of creative work degraded. Peer review tends to favor those proposals where a slight incremental gain in knowledge is likely. But researchers who propose a truly new or novel experiment—often carrying a higher risk of failure but a measurably greater overall benefit if successful—are not likely to survive peer review.

As one of the participants in a meeting in my office reported:

"Truly creative ideas do not look good in peer review because the researchers cannot say for certain where his experiment will lead. The proposal that looks best in peer review is the proposal that was done last year."

An innovative proposal is unlikely to get uniformly good reviews, because such uniformity is possible only in well-established areas of research in which a consensus has developed.

If we are to capitalize on the gathering momentum in science we must be willing to enter the uncharted areas, where consensus is absent. We must have the wisdom and flexibility to back talented people even when they cannot state in advance the solutions to all the research problems they may encounter along the way.

The process of solving such problems is often the substance of research.

A proper and effective peer review panel can recognize a good idea without a mass of detail. The past track record of an investigator can be a useful guide. His or her merit should be a measurement based on accomplishments. And peer reviewers must be imaginative enough to recognize that certain new ideas may be significant even though their sponsors don't have proven track records.

Also, a funding agency should not be criticized for its mistakes if it has a good record of taking risks that bear fruit. In fact, we should regard with suspicion a funding agency whose projects always succeed, since constant success may indicate an overly cautious, low-benefit approach.

Opening up the system in this way will no doubt increase some opportunity for abuse. But Congress should make it clear to federal agencies that the goal of research is not primarily to minimize abuse, but most of all to support innovation. Abuses should be dealt with on a case-by-case basis—not by writing new regulations.

A fourth policy I wish to discuss is to encourage greater integration of the findings of research across the lines of various disciplines. Compartmentalization, like excessive caution, can wither scientific innovation.

Integrating new findings across several disciplines intensifies the search for knowledge. It encourages broader perspectives that lead to earlier applications for public benefit.

One of the most exciting things I have witnessed during meetings with scientists in my office is the exchange of ideas between researchers. It is a wonderful thing to see the flash of recognition and new insight between scientists when they happen upon unifying themes in their parallel and complementary investigations.

We must ease the transition in funding that scientists undergo when they change fields. Mechanisms must be developed to encourage the transfer of knowledge from one field to another at just the right time. Peer review monitors should be encouraged to allocate a fraction of funds specifically for promising work that falls outside their own particular specialty areas, and to research proposals that call on insights from more than one discipline.

Lastly, I suggest that there be a much greater effort to bring private sector financial support to bear in biomedical research. Much more will be required from industry and private philanthropy if we are to keep the research fires burning brightly during years of fairly constant federal budgets and even budget cuts.

I am working very hard to interest private citizens and philanthropic groups, as well as business and industry, to help us make good on the promise of the biomedical revolution.

I have proposed various changes in tax law and in patent law that should make pri-

vate sector investment in research more attractive than at present.

I also have gone outside government to start a private foundation to stimulate scientific advances in studies of the aging process in humans.

This group is called the Fund for Integrative Biomedical Research—also known by the acronym, FIBER.

FIBER operates on a modest budget, but it has made substantial progress in developing knowledge in the field of aging since it was stated less than two years ago. FIBER is working to hasten beneficial interventions in the aging process by following some of the steps I have outlined here: by integrating new information across scientific disciplines, by encouraging high-risk, high benefit innovative research, and by finding private sources of support for promising work in both basic and directed research.

I believe that these are approaches that will allow us to take full advantage of a new and different Golden Age that looms before us.

The sheer mass of talented people, new research models and sophisticated instrumentation in the life sciences continues to push the frontiers forward.

Some of our most promising areas of study are just beginning to bloom. In the 1940's we did not even know what the genetic material of life was. In the 1950's we still didn't how it is translated or turned into proteins. In the 1960's we had no idea that there are mechanisms to repair genetic damage and to maintain the fidelity of genetic messages.

Just within the past 10 years we have begun to understand how these mechanisms may play a role in various degenerative diseases—including both cancer and aging.

We are now gaining powerful new methods for selecting, purifying, amplifying, and characterizing in minute detail the genes from any living creature.

We are making rapid progress in making valuable medicinal products—hormones and vaccines, for example—by introducing the appropriate genes from higher organisms or their viruses into bacteria.

It is likely that the emphasis of the next Golden Age will be marked by a wealth of applications from basic research laid down in the past two decades.

Congress' Office of Technology Assessment recently took a look at the science of applied genetics and the new technologies to which it is giving rise and called it "the most rapidly progressing area of human knowledge in the world today."

Today's scientific community is one that has grown up used to the priorities of basic research. But already a new breed of molecular biologist is emerging which concerns itself not so much with understanding basic mechanisms as with manipulating them to reach desired goals.

The joys of mission-oriented research are totally different from those of simple inquiry, and slowly they will sort out a different kind of biologist, and eventually a different career structure, with new and diverse opportunities and relationships.

It was in just this way that the devices engineers became separated from the solid state physicists, and the nuclear power specialists from the physicists who play with quarks.

The same thing is now happening in biology.

Throughout our history we have seen the coming and going of great surges in scientific endeavor. The American Revolution paralleled a great revolution in intellectual and scientific inquiry. Benjamin Franklin and Thomas Jefferson were two among many who were patrons and shapers of both revolutions.

The 19th century was the great age of tinkerers. Inventors like Alexander Graham Bell, Thomas Edison, Eli Whitney, and later, Wilbur Wright, could capitalize on science even while lacking a serious understanding of their technology.

In the 1930's medical research came into its great surge forward and led to the conquest of polio and most life-threatening infectious diseases.

The Golden Age of the recent past saw the building of a great structure in the federal government—and a smaller parallel structure in the private sector—for the support of biomedical research.

The challenge of the coming Golden Age is this: to protect and enhance our store of basic research information, and to encourage and leverage financial support wherever it can be found to carry our frontiers forward.

On the other hand, if we do not deliver on the promise of the new biology, if we renege, we invite disillusionment amongst our people.

For the present, the new mass of knowledge in biomedicine is to some extent still formless, incomplete, lacking essential threads of connection.

There are fascinating new concepts everywhere, irresistable experiments beyond numbering, countless new ways through the maze of problems to the heart of the solution.

Every next correct move is unpredictable, every outcome uncertain. But all avenues hold the possibility of discovery.

To say we are overburdened by scientific information is to say we haven't discovered enough. It is to say we haven't found that which ties it all together.

Henri Poincare once said:

"Science is built up with facts as a house is with stones. But a collection of facts is no more a science than a heap of stones is a house."

In the coming Golden Age of science, we must work with greater determination to piece together the stones, and one day we will stand back and admire the magnificent edifice we have built.●

RESOLUTION INTRODUCED AUTHORIZING A BUST OR STATUE OF MARTIN LUTHER KING, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 15 minutes.

● Mr. BINGHAM. Mr. Speaker, I am today introducing a resolution to authorize a bust or statue of Dr. Martin Luther King, Jr., to be placed in the U.S. Capitol Building at the cost of not more than $25,000.

I first introduced this resolution in the 92d Congress with 61 cosponsors. Before introducing it again in the 93d Congress, I consulted the Congressional Black Caucus. After extensive consideration the caucus agreed that Dr. King was the most appropriate black American so to honor. I again introduced this resolution in the 94th Congress with 161 cosponsors. It passed in the House and a similar version passed in the Senate. However, Congress recessed before the minor differences could be resolved in conference. I introduced this resolution once more in the 95th Congress with 160 cosponsors. It too passed the House but ran into difficulty in the Senate Committee on Rules, In the last Congress this resolution passed the House by a vote of 408 to 11. While it was not considered by the full Senate, the Senate Committee on Rules did report it favorably.

Today I am introducing this resolution with 144 cosponsors, including again the support of the entire Black Caucus. It is altogether fitting that we so honor Dr. King. He was a man who might have lived out a worthwhile but obscure life as a minister. Instead, he was beckoned by the challenge to win equality for all the people of this country.

On December 1, 1955, Mrs. Rosa Parks, a seamstress with tired feet, was arrested in Montgomery, Ala., for refusing to give up her seat on a local bus to a white man. Her arrest triggered the first great civil rights test of power, and launched Dr. King's quest for equality. Dr. King, then an unknown minister in Alabama, led the Montgomery black community that year. Mrs. Park's arrest ended 382 days later with the capitulation of the Montgomery busline to the doctrine of racial equality. Dr. King had begun his march.

In the years that followed, Dr. King's influence grew. He set out to correct specific injustices, but also to educate our country and win the hearts and minds of our people. His marches awakened our country and aroused our sympathy.

Who shall never forget that horrible spectacle in 1963 when Dr. King and his marchers, dressed in their Sunday clothes, met fire hoses, truncheons, and police dogs in Birmingham. A few months later, in his famous "I have a dream" speech, Dr. King addressed thousands of people gathered at the Lincoln Memorial, and said:

When we let freedom ring, we will speed the day when all God's children, black and white men, Jews and Gentiles, Protestants and Catholics, will be able to join hands and sing the words of the old Negro spiritual: "Free at last/Free at last/Thank God Almighty, we're free at last."

In 1964 Dr. King became the 14th American and the youngest person ever to win the Nobel Peace Prize.

A firm believer in Christian ideals and Gandhi's principle of peaceful nonviolent protest, Dr. King set out to fulfill a dream to give life to this country's highest ideals. He spoke for the present and the future, of "getting to the mountaintop" and "reaching the Promised Land." He was indeed one of

the truly great figures of our American history.

But there are other reasons why this memorial should be authorized for placement in the U.S. Capitol Building.

Do you know that of all the black Americans who have contributed to our country's greatness, not one is featured among the 681 works of art in the halls of the Capitol? Is it any wonder that, in the absence of any such recognition, so few black families are to be seen among the millions of tourists who flock to our Capitol Building each year? Is it not distressing that a nation, striving to set right the wrongs of the past, has blotted out, here at the very seat of Government, any recognition of the role of black people in building this great country?

This memorial to Dr. King would present a perfect opportunity to begin to correct this injustice. This civil rights leader deserves to receive this official recognition and appreciation.

Although Dr. King's violent death is a tragic blot on our recent history, his life was a shining example for us all. He had the courage of his convictions, and for over a decade his hopes and his dreams guided the Nation in the struggle for equal justice, equal opportunity, and basic rights. He carried that struggle as far as any man or woman in this century.

A permanent memorial to Dr. King in the U.S. Capitol Building would remind America and the rest of the world, over the years to come, of the inspiring leadership of this great man.

I want to stress that this bill is in no way a substitute for H.R. 800, introduced by the gentleman from Michigan (Mr. CONYERS), which would designate January 15, the birthday of Dr. King, as a national holiday. I strongly support Mr. CONYERS' bill and I urge my colleagues to do so. Certainly the accomplishments and contributions of Dr. King are worthy of commemoration by the passage of both pieces of legislation.

I hope the distinguished House Administration Committee will see fit to take prompt action on this resolution, as it has three times before.

I am honored to have as cosponsors of this resolution the following Members:

COSPONSORS OF MARTIN LUTHER KING STATUE BILL

Mr. Addabbo, Mr. Akaka, Mr. Barnes, Mr. Bedell, Mr. Beilenson, Mr. Benjamin, Mrs. Boggs, Mr. Boland, Mr. Bolling, Mr. Bonior, Mrs. Bouquard, Mr. Brodhead, Mr. Brown of Ohio, Mr. Brown of California, Mr. Phillip Burton, Mrs. Chisholm, Mr. Clay, Mr. Coelho.

Mrs. Collins of Illinois, Mr. Conte, Mr. Conyers, Mr. Corrada, Mr. Cotter, Mr. Courter, Mr. James Coyne of Pennsylvania, Mr. Crockett, Mr. Daub, Mr. Dellums, Mr. de Lugo, Mr. DeNardis, Mr. Derwinski, Mr. Dixon, Mr. Downey, Mr. Duncan, Mr. Dwyer, Mr. Dymally.

Mr. Edgar, Mr. Edwards of California, Mr. Ertel, Mr. Fascell, Mr. Fauntroy, Mr. Fazio, Mrs. Fenwick, Mr. Findley, Mr. Fish, Mr. Ford of Tennessee, Mr. Forsythe, Mr. Fowler, Mr. Frank, Mr. Frenzel, Mr. Frost, Mr. Gejdenson, Mr. Gibbons, Mr. Gilman.

Mr. Gingrich, Mr. Ginn, Mr. Gore, Mr. Gradison, Mr. Gray, Mr. Green, Mr. Guarini, Mr. Hall of Ohio, Mr. Hawkins, Mrs. Holt, Mr. Howard, Mr. Hughes, Mr. Jacobs, Mr. Kastenmeier, Mr. Kemp, Mr. Kildee, Mr. Kogovsek, Mr. LaFalce, Mr. Lederer, Mr. Leland, Mr. Long of Maryland, Mr. Lowry of Washington, Mr. Luken, Mr. Markey.

Mr. Marks, Mr. Mattox, Mr. Mavroules, Mr. Mazzoli, Mr. McCloskey, Mr. McHugh, Mr. McKinney, Ms. Mikulski, Mr. Miller of California, Mr. Mineta, Mr. Mitchell of Maryland, Mr. Moffett, Mr. Mollohan, Mr. Neal, Mr. Nowak, Mr. Oberstar, Mr. O'Brien, Mr. Ottinger, Mr. Panetta, Mr. Patterson, Mr. Pepper, Mr. Peyser, Mr. Price, Mr. Pritchard, Mr. Rahall, Mr. Rangel, Mr. Ratchford, Mr. Reuss, Mr. Richmond, Mr. Rodino.

Mr. Roe, Mr. Roemer, Mr. Rosenthal, Mr. Roybal, Mr. Sabo, Mr. Savage, Mr. Scheuer, Mrs. Schroeder, Mr. Schumer, Mr. Seiberling, Mr. Shamansky, Mr. Shannon, Mr. Simon, Mr. Solarz, Mr. Stark, Mr. Stokes, Mr. Studds, Mr. Sunia, Mr. Swift.

Mr. Tauke, Mr. Traxler, Mr. Udall, Mr. Vento, Mr. Walgren, Mr. Washington, Mr. Waxman, Mr. Weaver, Mr. Weiss, Mr. Whitehurst, Mr. Williams of Montana, Mr. Wilson, Mr. Wirth, Mr. Wolpe, Mr. Won Pat, Mr. Wyden, Mr. Yates.

Following is the text of the resolution:

H. CON RES. 153

Concurrent resolution authorizing a bust or statue of Dr. Martin Luther King, Jr., to be placed in the Capitol

Resolved by the House of Representatives (the Senate concurring), That the Joint Committee on the Library is authorized and directed to procure a bust or statue of Dr. Martin Luther King, Junior, and to cause such sculpture to be placed in a suitable location in the Capitol as determined by the Joint Committee on the Library.

SEC. 2. Expenses incurred by the Joint Committee on the Library in carrying out this concurrent resolution, which shall not exceed $25,000, shall be paid out of the contingent fund of the House on vouchers approved by the chairman of the joint committee.●

LABOR'S CENTENNIAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 10 minutes.

● Mr. LAFALCE. Mr. Speaker, it is with a great deal of pleasure that I take note of the fact that 1981 is the centennial year of the American labor movement. The celebrations commemorating this important milestone in the history of the labor movement, and, indeed, the Nation, will be continuing throughout this year and will culminate at the AFL-CIO's 14th constitutional convention in November.

I would ask my colleagues and the American people to consider the great accomplishments of labor and the contributions which it has made to the strength and prominence of our Nation and to the quality of life for millions of Americans.

It was 107 individuals who met in Pittsburgh on November 15, 1881, to form the Federation of Organized Trades and Labor Unions, the forerunner of the American Federation of Labor. Union membership has grown by leaps and bounds since then and well over 23,000,000 American workers are now unionized. Once the only hope for blue-collar workers to obtain social justice and better working conditions, unions now include members who span all jobs, occupations, and walks of life. It is therefore logical that professionals and white-collar workers have also unionized upon recognizing the benefits of strength through union membership. Strength in numbers has always been a creed of the labor movement. So it is not surprising that the United Auto Workers are reaffiliating with the AFL-CIO in order for both to better work together on issues of importance to our country.

Sheer numbers do not tell the whole story, though, because labor has always been at the forefront of positive social change and the improvement of life for all Americans. Since its inception, labor has not limited itself to goals which only could be of benefit to workers. Rather, the vision of labor has been broader in its scope. In 1881, the declaration of principles of the fledgling Federation of Organized Trades and Labor Unions did not just address the obvious and worthy worker goals such as ending abusive child labor practices and promoting the 8-hour workday. In addition, it took the lead in calling for compulsory education of children and the need for full voter participation in our elective process. The declaration of principles recommended that all trade and labor organizations: "Secure proper representation in all lawmaking bodies by means of the ballot."

The commitment of the labor movement to the legislative process, then, is something which has benefited our democratic system. In fact, the labor movement history itself can be seen as a representative sample of American democracy. In the AFL-CIO, unions were historically organized along craft and industrial lines. Each union was autonomous, handling its own internal affairs, but joined together in a united front on matters of importance beyond their own internal needs. It is not unlikely that the founders of the labor movement looked to our own system of federalism, and the relationship of the States to the Federal Government as a model of organization and of strength.

To schoolchildren of all generations of this century the names: Samuel Gompers, John L. Lewis, Walter Reuther, and George Meany are legend-

ary. This is as it should be. For these giants of American labor are American heroes in the truest sense of the word. They not only risked imprisonment and their personal safety in order to put an end to sweatshops and unfair lockouts, they and the rank-and-file membership of our country's unions took the lead in bringing to our judicial system cases which defined the meaning of freedom of speech. So, too, labor has stood at the forefront of women's rights and equity and justice for minorities. And surely our relations with foreign countries have been cemented by the common bonds which have been fostered by our unions with their counterparts in other lands.

In times of national peril, whether we have been threatened by the forces of fascism or communism, the working men and women of this country have delayed the battles of their own worthy domestic goals and have joined the united effort to insure national security. Indeed, in honoring those who have fallen in the service of their country, we should recognize that it has been working men and women in disproportionate numbers who have put down their tools and picked up arms in the defense of freedom and liberty.

And it is the cause of liberty to which labor has always addressed itself. At the 1938 convention of the Congress of Industrial Organizations, John L. Lewis proclaimed,

> The liberty we seek is different. It is liberty for common people—freedom from economic bondage, freedom from the oppression of the vast bureaucracies of great corporations, freedom to regain again some human initiative, freedom that arises from economic security and human self-respect.

Mr. Speaker, the theme of labor's centennial is, "A Century of Achievement, A Challenge for the Future." This is appropriate for a movement which has always been committed to the need to make positive change while remaining loyal to the ideals of the Nation, and the foundations upon which it was built. As our Nation faces difficult decisions, and as we in Congress approach legislative challenges, we can count on the insight and assistance of labor and on the inner-strength, dedication, and wisdom of the American worker.●

DR. VIKTOR BRAILOVSKY: A VICTIM OF REPREHENSIBLE SOVIET ACTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. GLICKMAN) is recognized for 45 minutes.

Mr. GLICKMAN. Mr. Speaker, I rise today to participate in the congressional vigil for Soviet Jewry by calling attention to the reprehensible treatment of refusenik scientist, Dr. Viktor Brailovsky, at the hands of the Soviet authorities. Dr. Brailovsky, who has worked tirelessly for almost a decade to gain permission for himself and his family to emigrate to Israel, was last week found guilty of defamation of the Soviet State and sentenced to 39 months of internal exile.

Dr. Brailovsky had been arrested and imprisoned last November in connection with his editorship of an unofficial publication called Jews in the U.S.S.R. Prior to his arrest, Dr. Brailovsky had been the guiding force in organizing and sustaining the Moscow Sunday Seminars on Cooperative Phenomena, which enabled dissenting scientists to keep up their professional work despite their exclusion from most regular scientific activities. But even before the seminars, Soviet authorities were familiar with Dr. Brailovsky because of his outspoken efforts to secure emigration papers and his charges that the repeated denials demonstrated discrimination on religious grounds.

Now, for these so-called crimes, Dr. Brailovsky has been sentenced to exile, most likely in Siberia. This sentence, according to one news report, was less severe than expected. But I contend that banishment to Siberia, for someone in Dr. Brailovsky's poor state of health, would be tantamount to a death sentence. Last December, Brailovsky's wife Irina wrote:

> He has not been very healthy, this autumn especially. Now he needs a special diet and daily treatment with special medicines. A special diet is, of course, impossible, but they are even refusing him medicine, even though this is forbidden by Soviet law. I keep trying to appeal to different authorities about this, but in vain.

Certainly the possibility of proper medical care, if Dr. Brailovsky is indeed sent to Siberia, is virtually nonexistent.

The fact that the Soviet Union has denied the Brailovskys exit permits for so long is cause enough for concern and condemnation, and during the last several years, several of my colleagues and I have written the Soviet authorities on Dr. Brailovsky's behalf. But this most recent flagrant violation of the respect for human rights, as embodied in the Helsinki accords which the Soviets have signed, must not be tolerated. I urge President Reagan and other members of his administration to use every possible avenue to seek a reversal of the Brailvosky sentence and permission for Dr. Brailovsky and his wife and children to emigrate to Israel. To do less will amount to ignoring the important rights protected by the Helsinki accords.

● Mr. ANDERSON. Mr. Speaker, the sentencing last week of Viktor Brailovsky marks an alltime low in Soviet compliance with the Helsinki accords. Dr. Brailovsky, a Soviet refusenik scientist, and his family have been seeking permission from Soviet authorities to emigrate to Israel where his brother lives. The fact that the Brailovsky family requests for exit permits have been denied for 9 years is in blatant violation of the Helsinki accords.

Now, the Soviets have taken that violation one step further in sentencing him to internal exile, probably in Siberia, for speaking out in support of the rights protected by the Helsinki accords. And what is the specific offense alleged by the Soviets? In April of this year, after being held for 5 months in Moscow's Buturki Prison without charges, Dr. Brailovsky was told that he would be charged with disseminating false information about the Soviet Union in his tabloid, Jews in the U.S.S.R. It is my understanding that this periodical is narrowly circulated and is a cultural publication of little political significance—until now.

Dr. Brailovsky, a 45-year-old expert in cybernetics, is a very talented scientist and protecting his human rights is important. We must also remember the many less talented Soviet Jews who are also denied exit visas as provided by the Helsinki accords.

I join my colleagues participating in this special order in deploring the violation of human rights by the Soviet Union and I implore the Soviets to release Dr. Brailovsky.●

● Mr. HOLLENBECK. Mr. Speaker, I rise to join my colleagues in expressing my outrage to Soviet authorities over the gross injustice recently perpetrated against Dr. Viktor Brailovsky. As a cosponsor of House Concurrent Resolution 50 expressing congressional concern for Dr. Brailovsky, I would have hoped that the Soviets could have taken into consideration the international appeals being made on behalf of this noted scholar and allowed him to emigrate to Israel with his family. Instead, they have decided to pursue a course that places them in direct violation of the final act of the Conference on Security and Cooperation in Europe, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights. Once again, I am reminded of the Soviets failure to honor international obligations which they voluntarily signed.

I am saddened to note that Dr. Brailovsky was convicted of "fabrications that defamed the Soviet State and social system" and sentenced to 5 years in exile. I know that Viktor Brailovsky is not deserving of such inhumane treatment and am convinced that his only crime revolved around his role as editor of the unofficial journal Jews in the U.S.S.R. and as a leading Jewish emigration activist.

While I realize that the Soviets detest interference in what they consider their own internal affairs, they must be made to realize that certain truths transcend territorial boundaries and demands an international outcry. I know that I will not ease in my ef-

forts to ease the plight of those, like Dr. Brailovsky and his family, who have been denied their fundamental rights as human beings, and I am sure that a majority of my colleagues in this distinguished Chamber share this same commitment.●

GOVERNOR THOMPSON PROCLAIMS JULY 18-22, 1981, AS STATEWIDE SHOE SERVICE WEEK IN ILLINOIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois, (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, I rise to bring the attention of my colleagues to the proclamation issued by Gov. James R. Thompson making July 18-22, 1981, Statewide Shoe Service Week in Illinois.

The Shoe Service Institute of America is holding its annual convention, exposition, and conference on July 18-22 in my own city of Chicago, where the national offices of this fine organization are located. The Institute's monthly publication is distributed to some 18,000 shoe repair shops across the country.

The Shoe Service Institute of America is dedicated to promoting the shoe repair industry, and I commend our outstanding Governor for issuing his proclamation, especially in view of the fact that during this time of disastrous inflation in our country, the expert repair of shoes lengthens their wearing time, making it possible for consumers to save considerable amounts of money on this essential item.

A copy of Governor Thompson's proclamation follows:

PROCLAMATION

Let firm, well-hammered soles protect thy feet through freezing snows, and rains and soaking sleet.—JOHN GAY.

Throughout the countless years that shoe repairers have mended the soles of people's shoes, the theory has remained that it's more economical to maintain a shoe than it is to replace it. Now, more than ever, consumers look to the shoe service industry to extend the usefulness of their shoes and the value of their dollars.

This association of wholesalers and manufacturers is holding its 77th Annual National Convention and Exposition in Chicago July 18 thru 22. Formed in 1904, the Shoe Service Institute of America is one of the oldest associations in the United States.

Therefore, In recognition of the comfort and safety which are by-products of the valuable trade of shoe repairers, I, James R. Thompson, Governor of the State of Illinois, proclaim July 18-22, 1981 as Statewide Shoe Service Week in Illinois.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. MAZZOLI) is recognized for 5 minutes.

● Mr. MAZZOLI. Mr. Speaker, I was unavoidably absent on Thursday, June 18, 1981.

Had I been present, I would have voted "nay" on rollcall No. 90, a motion to recommit the Legal Services Corporation authorization bill jointly to the Education and Labor Committee and the Ways and Means Committee; and "yea" on rollcall No. 91, final passage of H.R. 3480, the Legal Services Corporation authorization bill.●

AGENCIES PERFORM BETTER WITH CONGRESSIONAL OVERSIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DINGELL) is recognized for 5 minutes.

● Mr. DINGELL. Mr. Speaker, I would like to bring to your attention and the attention of the Members, an article recently published in the June 1981 edition of FDA Consumer, a publication of the Food and Drug Administration. I bring this matter to the attention of the House for several important reasons:

First, the article describes congressional oversight activities, particularly as they affect the Food and Drug Administration.

Second, the author of the article is Donald Kennedy, currently the president of Stanford University and a former Commissioner of FDA, hence his stature and ability to evaluate this process is of significance. Thus, when Dr. Kennedy suggests that the congressional oversight of FDA produced more good effects than bad, one would have to consider that an endorsement of particular note.

Third, former Commissioner Kennedy goes to great lengths to describe my dear friend and former colleague, John Moss, as an individual who understood the importance of oversight and was deeply dedicated to its principles. I not only agree with Dr. Kennedy's assessment of the man who helped perfect oversight techniques but as the current chairman of the Oversight and Investigations Subcommittee, I hope that I may be able to emulate the kind of work done by John Moss.

Finally, I would like to point out that in the last few weeks our subcommittee has had oversight hearings on the manner in which the Food and Drug Administration regulated soft contact lenses. If ever there was a need to have oversight and provide a rationale for the need to look in depth at some agencies' decisions this was an example. I am including the statement of Dr. Kennedy for those of you who would like to read his remarks in their entirety:

FDA AND THE CONGRESS

(By Donald Kennedy)

The memento of my Government service that attracts most attention from visitors to my office at Stanford is a chart prepared for me by the Office of Legislative Affairs when I left FDA in 1979. It consists of two horizontal rows of outline boxes, each with labels; it looks vaguely like an organization chart, except that in the top row the boxes contain the names of various House and Senate committees and subcommittees, and in the bottom row they identify senior officials of FDA. Connecting the two rows is an indescribably complex welter of colored lines, each representing an appearance by FDA before a Congressional hearing. For the period 1977-79—the portions of the 95th and 96th Congresses during which I was at FDA—43 colored lines leave the box labeled Commissioner and lead to the various Congressional boxes. The experiences they represent include some of the more painful ones I had in Government.

Surprisingly, they also include some of the most stimulating, thoughtful, and encouraging. Some have argued that the burden of responding to Congressional oversight is so crushing that it detracts from executive performance and deflects useful energies from more important matters. I do not agree. Accountability to Congress is, or can be, an important and positive aspect of agency management. Moreover, by no means all of the lines of my chart represented hearings aimed at the oversight of agency performance. Some were more general inquiries into some emerging problem of broad significance, like regulatory reform. Others related to the development of new legislation.

In this last area, I think our recent experience yields several lessons about the importance of interplay between the executive and legislative branches. From a purely descriptive standpoint, our efforts at legislation could fairly be called a failure. We produced, during 1977 and the early part of 1978, a comprehensive revision of the sections of the Food, Drug, and Cosmetic Act dealing with drug regulation, and President Carter submitted it to the Congress with strong bipartisan support. But despite the labor invested in its preparation, and despite extraordinary efforts with members and staffs of the relevant House and Senate subcommittees, the legislation did not pass either house of Congress—though it did serve as the basis for an array of amendments that passed the Senate in the following year.

Nevertheless, I consider these efforts at statutory reform to have been successful. Deep and thorough consideration was given to the Agency's recommendations by the appropriate committees. Through it, the Congress recalibrated its understanding of FDA's problems, and reacquainted itself with the views of the Agency and its various constituencies. As a result of the debate, I found understanding and receptivity increased markedly where it counted most. On several points, a consensus developed that allowed the Agency to make administrative changes short of modifying the legislation, and these changes improved the Agency's performance. We can thus hope that the debate, and the resolutions to which it has already led, will improve the climate for later change.

What about oversight? It is something about which every agency complains, and sometimes it does indeed seem as if one's

Congressional overseers are more intent on making the six o'clock news than on making the agency better. But, on the whole, I found that Congressional oversight of FDA produced more good effects than bad. On some occasions it exposed authentic defects in our programs, which we were later able to rectify. On others it allowed the Commissioner and his staff to perceive inadequacies and correct them in the course of preparation for hearings.

Of course, not all subcommittees and not all chairmen were equally adept overseers. During most of my time at FDA, the chairman of our House oversight committee was Representative John Moss (D-Calif.). He was much feared for his frosty demeanor and his testy assaults on agency heads, but—unlike many members—he understood the importance of oversight and was deeply dedicated to its principles. His resignation brought a mixture of joy and relief to many people who had testified before him, but I cannot doubt that on balance his scrutiny of FDA made it stronger and better than it would otherwise have been.

There are serious defects in the general practice of oversight, but they are not irremediable. The first is that too many members of Congress prefer the making of laws to the measurement of performance. Prestige, prized on Capitol Hill as much as it is elsewhere, depends more upon getting one's name on a bill than on being a good overseer. As a consequence, many members fail to learn the draft because they never practice it in a serious or sustained way. And part of the reason it is hard to be a good Congressional overseer is that unbiased information about agency performance is hard to come by. Large investigative staffs attached to committees are often pursuing an agenda of their own, and find it hard to be objective. The General Accounting Office was in my experience quite disappointing in its capacity to provide objective analyses. All too often, they supplied what they thought the customer wanted, or failed to bring adequate background to the task.

FDA's operations, like those of an increasing number of Government agencies, involve complex scientific and technical issues. To exercise its oversight responsibilities properly, the Congress badly needs information from technologically sophisticated people who are willing to "speak truth to power." Perhaps the still-developing Office of Technology Assessment can fulfill this role, until it is filled, good Congressional oversight will continue to depend on the individual dedication of exceptional members.●

AN OUTSTANDING U.S. MARSHAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WILLIAM J. COYNE) is recognized for 10 minutes.

● Mr. WILLIAM J. COYNE. Mr. Speaker, 2 years after the shooting death of a Member of this body, Congressman Leo Ryan of California, in Guyana, the U.S. Justice Department sought the return from Guyana of Laurence Layton who was charged in that murder by the Federal court in Ryan's home district outside San Francisco.

To lead this sensitive and delicate mission to pick up Layton, an associate of former cult leader Jim Jones, the U.S. Marshals Service chose Howard Turner of Pittsburgh.

Previous missions had failed to win Layton's release from Guyana. One of Turner's main difficulties was to arrive at this small South American country, via a circuitous route through the Caribbean, without publicity. Because Turner and his two assistants, Paul Pongrace and Stan Holland, were armed, getting in and out of various airports was no simple matter.

The American Embassy in Guyana handled the secret release of Layton to the marshals just before their plane took off for Trinidad. By the time they arrived in New York City, the word of the arrest had leaked out. Escorting Layton to his arraignment there, flying him to San Francisco and delivering him safely to the county jail from the airport were made difficult by hordes of newsmen.

The account of this complicated but successful assignment is featured in the Pentacle, the bimonthly magazine of the U.S. Marshals Service. Marshal Turner and the extradited prisoner, Larry Layton, are pictured on the cover. I want to share the article so the public can take pride in the ability and professionalism of this arm of the Justice Department and of the particular officers who carried out the mission.

[From the Pentacle]

THE EXTRADITION OF LAURENCE JOHN LAYTON

On October 9, 1980, a Federal grand jury in the Northern District of California indicted Laurence "Larry" Layton for conspiring with former cult leader Jim Jones in the murder of U.S. Congressman Leo Ryan in Guyana. The Federal Court jurisdiction that issued the charges and the bench warrant for Layton's arrest includes Ryan's home district outside San Francisco.

Since no witnesses were available, the Guyanese earlier acquitted Layton of the airstrip slayings, but had planned to hold him on other charges until the United States intervened. Charging that Layton also attempted to murder Richard Dwyer, Deputy Chief of the United States mission in Guyana, the grand jury based its indictment on a statute that makes it a crime to kill a congressman or an "internationally protected person."

What follows is U.S. Marshal Howard Turner's personal account of subsequent events, which he obligingly reconstructed at our request:

"Little did I know that the events on the West Coast and in South America would affect my life in distant Pittsburgh and turn my already harried schedule into 27 days of mad rush and constant tension.

On October 27, at approximately 1100 hours, I received a phone call from Howard Safir, Assistant Director for Operations. During the conversation, Safir said the Director had selected me to lead the mission to pick up Layton, who was then being held by Guyanese authorities in that nation's capital, Georgetown.

Safir told me that Thomas Kupferer, Chief of Enforcement Operations for the Service, and Carole Shaffer, Administrative Assistant, would coordinate details of the mission from Washington, D.C. Safir added that I should pick two of my assistants to accompany me; I chose Inspector Paul Pongrace and Deputy Stan Holland.

Due to international complications, there were false starts and at least three plan changes, causing physical and emotional stress that cannot be measured. Finally, Headquarters gave us the green light, and on November 19, we left the Greater Pittsburgh International Airport on a 9:40 a.m. flight bound for Miami.

Pre-arranged communications and coordination with State Department officials along our preplanned route through the Caribbean facilitated our movements through Customs and Immigration.

Despite the complexity of the planning and the many stops on our route to Guyana, we had to keep our mission secret. We feared that if word leaked out about our purpose, then the Guyanese might be reluctant to release Layton to us. No one wanted to take any chances, because previous missions had failed for similar reasons.

Replete with details of the gruesome mass murders and suicides, newspaper and TV reports were noting the second anniversary of the Jonestown deaths. Since this coincided with our trip, keeping it quiet became particularly difficult. Meanwhile, a Congressional Committee's intent to hold hearings on Ryan's murder was also making headlines.

Therefore, we intended to keep a low profile when we arrived at the Miami airport at 12:15 p.m. Inspector Jim Simmons of the U.S. Marshal's office met us and presented us with a copy of the indictment against Layton, two photographs of him, and an FBI rundown on his personal history.

When problems came up with our next flight, Headquarters officials intervened, and we managed to get tickets on an Antillean Airlines flight, which took us on a circuitous route to Guyana. Our scheduled arrival time in Georgetown changed from 8:55 p.m. to 4:15 a.m.

When we got off the plane in Port-of-Spain, Trinidad, we noticed three lines—one for citizens, one for visitors, and one for passengers changing planes. Since uniformed officers manned all three lines, we immediately realized we might have problems explaining our guns.

We decided we had better seek out the chief immigration official at the airport. When we found him, we told him our problem, explained our duties, and went over our arms and ammunition with him. Finally, he gave us a security clearance and escorted us to the next flight bound for Guyana at 2:49 a.m.

At 4:23 a.m., we were met at the Guyana Airport by the U.S. Counsel, who took care of problems with the Immigration and Customs officials and introduced us to the Chief of Police. The American diplomats had taken care of everything, so we did not have to reveal our identities or reasons for traveling to Georgetown.

After a meeting with airport officials, we set off at 5:30 a.m. on a 45-minute hair-raising ride to the Deputy Ambassador's home. In the darkness of predawn, we drove at a high speed on the left hand side of the road over rickety bridges that only one vehicle could cross at a time. We learned that the houses along the road were brightly lit inside and out to ward off the many burglars in the city.

When we arrived at the house, uniformed security men let us onto the grounds. We then met Deputy Ambassador Dennis Good-

man, who showed us to our rooms and told me that Ambassador Roberts would meet with us after we had rested.

I slept fitfully for two hours until a driver came to pick up Pongrace and me and take us to the American Embassy. There we met with Ambassador Roberts and his staff, who updated us on the mission. American diplomats spent the rest of the day helping us to obtain necessary papers and photographs to show to Guyanese officials on our departure. That evening, we enjoyed a formal dinner at the Goodman's residence.

The next day, November 21, Guyanese authorities agreed to release Layton to our custody. That morning, we met with Ambassador Roberts and later went to the airport to wait for the Guyanese authorities to bring Layton.

They arrived fifteen minutes before our scheduled 3 p.m. flight was to leave for Port-of-Spain. After our flight arrived in Trinidad's capital city, we received a very cordial greeting from the Customs officials with whom we had made friends on the way to Guyana. They escorted us to and preboarded us on the flight to New York.

Prior to landing, we learned that the media had been informed of our arrival, which only made me apprehensive, because it further complicated security measures. Indeed, as I left the plane, I was momentarily blinded by the photographers' lights. But, when I recovered my sight, I was relieved to see we were surrounded by our brothers in blue. I greatly appreciated the professionalism displayed by the combined police agencies; they provided us with a security blanket that completely shielded us from the mobs who had turned out to get a glimpse of Layton. Deputy Marshals, FBI agents, and Customs officials assisted New York City police and airport security officers.

We dropped Layton off at the Federal MCC facility in New York, where one man was detailed to be with him at all times. The next day, after Layton had been arraigned before a U.S. Magistrate, we left for our ultimate destination, San Francisco.

U.S. Marshal Glen Robinson and staff members from the Northern District of California met us on our arrival. Robinson had personally made arrangements with the various police agencies, so we left the airport under security via a ramp away from the usual exit. We drove away from the airport surrounded by police vehicles. The moment we made a turn and got out of sight of the media, we quickly got out of the car and climbed into a closed van with the prisoner, while the same number of men took our places in the car and proceeded without a perceivable stop to the county jail.

Meanwhile, surrounded by unmarked cars, we continued in the van by another route to the jail and arrived safely with the prisoner. We executed the switch quickly and professionally, and I gladly turned Layton over to U.S. Marshal Robinson there. As I was leaving to return to Pittsburgh with my men, Layton called me over and said, "Thank you for the way you've treated me."●

TIMBER INDUSTRY WILDERNESS RELEASE BILL DISCARDS NEGOTIATED COMPROMISE

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, recently the Senate Energy and Natural Resources Committee began hearings on S. 842, the so-called RARE II Review Act of 1981. A similar bill is currently being circulated for cosponsors in the House. The title of S. 842 is very misleading in that it leads one to believe that it represents a balanced approach to congressional action on the RARE II roadless area recommendations. In fact, S. 842 is completely one-sided in that it rubberstamps and endorses all the roadless area review and evaluation II (RARE II) recommendations for land development—so-called nonwilderness areas—whereas it places in wilderness not 1 acre of the land RARE II recommended for wilderness. It would also amend the National Forest Management Act of 1976—and hence the Forest and Rangeland Renewable Resources Planning Act—to prohibit the Forest Service from ever again considering wilderness as a possible land management option when future national forest management plans are prepared. In short, the bill is designed to force development in all national forest areas not already congressionally designated as wilderness or wilderness study areas, even where sound forest management would indicate that an area should not be developed. No concessions whatsoever are made to conservation groups or others interested in wilderness protection.

In my opinion, legislation such as S. 842 is not only unfair but unnecessary. Two years ago, at the end of the RARE II process, the Congress was faced with a national forest backlog of some 12.4 million acres of recommended national forest wilderness in the lower 48 States. By the end of last year, the backlog had been reduced to some 7.9 million acres—a reduction of 36 percent. If Alaskan National Forest lands are factored in, some 54 percent of the backlog was eliminated.

With the exception of relatively small amounts of further planning and wilderness study lands, the wilderness issue was completely resolved in the States of Alaska, Colorado, Louisiana, Missouri, New Mexico, South Dakota and in central Idaho and eastern South Carolina. This was done using a balanced "State-by-State" approach to Congress consideration of the RARE II recommendations. House-passed bills would further have settled matters in California, Florida, Mississippi, West Virginia, and eastern North Carolina, but these bills unfortunately failed to clear the Senate in the last days of the 96th Congress.

The State-by-State (or multi-State package) approach has been a very effective method of processing both the wilderness and nonwilderness recommendations. Moreover, it is a balanced approach which, in contrast to the one-sided national release concept of the Helms-Hayakawa bill (S. 842), enables Congress to settle the wilderness question in an evenhanded fashion by legislating both wilderness and nonwilderness in the same bill. I believe such a balance is essential to achieving the kind of consensus among conservation and industry groups that will avoid future disputes, lawsuits and protracted delays in the scheduling of timber sales.

I would also like to comment briefly on the so-called release/sufficiency issue. Over the past 2 years, I have repeatedly heard the argument that statutory release language is necessary to enable the Forest Service to proceed with the development of non-wilderness-recommended lands. Indeed recent publications by the National Forest Products Association allege that a development paralysis exists on these lands, and that congressional action is needed to avoid, and I quote:

> Shattering the home-owning dreams of millions of Americans, the employment security of thousands of workers, and the stability, even existence of numerous communities.

The facts belie these totally alarmist allegations, and indicate quite the opposite. In a recent letter to the Society of American Foresters, Associate Forest Service Chief Douglas R. Leisz, one of the Forest Service's foremost timber experts, stated and I quote:

> The (SAF) RARE II task force . . . assumes that the RARE II effort was unsuccessful in its attempt to resolve the wilderness/nonwilderness allocation issue of over 62 million roadless acres of land. Such is not the case, for decisions were made, wilderness recommendations were transmitted to Congress, and well over half (36 million acres) were then immediately available for nonwilderness uses.

Mr. Leisz goes on to point out Congress has made good progress on the RARE II wilderness proposals and concludes that the result is that almost 40 million of the 62 million RARE II acres "are available now for entry and resource use."

Even in major timber producing States where legislative action resolving the RARE II issue has not yet occurred, the National Forest Service has carried out extensive timber sales. Based on data received from the Forest Service, I can report that in Washington State, for example, since the completion of RARE II in April 1979, there have been 38 timber sales totaling 125 million board feet on national forest RARE II nonwilderness lands. For the remainder of fiscal year 1981, an additional 91 million board feet of sales on such lands are planned. In Oregon, the figures are 78 sales totaling 196 million board feet since 1979. This data indicates that, in the key timber producing States of Oregon and Washington at least, the Forest Service is anything but para-

lyzed in opening up roadless areas to development.

Thus, as far as I am aware, the only State where a real problem exists is in California where a court injunction has tied up some 1 million acres of nonwilderness recommended lands. Last year's House-passed California wilderness bill (H.R. 7702) would have lifted the injunction and freed up some two-thirds of the timber volume under injunction, but the bill unfortunately was never considered in the Senate—the victim of the lobbying of some of the very same groups who maintain that a paralysis exists on nonwilderness lands.

There is another reason why such legislation as S. 842 is not necessary. In an effort to satisfy the concerns of the timber industry, last year I sat down with minority members of the Public Lands Subcommittee, representatives of the timber industry, the Forest Service and conservation groups and in a series of three meetings we worked out a so-called sufficiency/release formula for use in States where RARE II wilderness packages are legislated. Under that compromise formula:

First, the RARE II process is insulated from judicial challenges under the National Environmental Policy Act or other laws;

Second, lands not designated by Congress for wilderness or wilderness study may not have their wilderness potential reconsidered until approximately 1993-95 when revised forest management plans are prepared by the Forest Service as required by the National Forest Management Act;

Third, lands not designated by Congress for wilderness need not be managed to protect any wilderness character as they may possess; and

Fourth, any further nationwide, regional or statewide wilderness reviews, that is RARE III, are prohibited. Henceforth, wilderness review or study of such national forest lands as may qualify for wilderness will occur only in the context of forest land management plan development under the National Forest Management Act.

Mr. Speaker, I believed at the completion of our negotiations last year, and still believe, that this formula and underlying principles had the basic endorsement of all concerned. Its broad acceptance is demonstrated by the fact that it was immediately inserted by the Senate in the Alaska lands legislation and the Colorado RARE II wilderness bill, and was also incorporated in the New Mexico wilderness bill. All three of these measures became law. All parties concerned accepted the compromise provision.

Now, however, certain timber industry groups claim that the compromise formula was never acceptable and have submitted an entirely new proposal to Congress. S. 842 embodies this proposal. It would amend the National Forest Management Act to prevent the Forest Service from ever again considering wilderness as a possible value on National Forest roadless lands. I cannot agree to preempting the Forest Service's professional judgment and planning prerogatives in this manner, especially when doing so would disrupt the finely balanced planning process established by the National Forest Management Act in 1976.

In summary, therefore, I am hopeful that Congress will reject the one-sided approach of S. 842 and continue to support the approach used so successfully in the 96th Congress, so that we can get on with the business of settling the RARE II issue in a manner that is fair to both conservationists and industry. As chairman of the Subcommittee on Public Lands and National Parks, I intend to proceed on that premise.

Mr. Speaker, following these remarks I offer four articles from representative newspapers in different parts of the country, which frame the issues squarely and well. I commend them to my colleagues.

WILDERNESS FIGHT STILL GOES ON

(By Steve Forrester)

WASHINGTON.—If it is possible to talk an issue to death, 33 witnesses almost succeeded last week during two days of hearings on a bill that the forest products industry says is vital to timber supply and that environmentalists say would spell disaster for the option to consider wilderness in forest planning

All of the talking, however, did not reveal much about the real game being played between industry and environmentalists in their disagreement over the RARE II Review Act of 1981, proposed by Sen. James McClure, R-Idaho, and Sen. S. I. Hayakawa, R-Calif.

Industry spokesmen sensed that their day had dawned—looking for the first time at the Republican-controlled Senate Energy and Natural Resources Committee and knowing that they had a friend in the White House. But in reaching for more than they would have dared hope for two years ago, industry seems to be overestimating its tactical advantage and unaware of where this new game might lead.

Until McClure and Hayakawa introduced this bill on April 7, there was a truce, or at least a compromise, among industry, environmentalists and organized labor on the issue of release language in wilderness legislation. Release language is designed to free lands not designated as wilderness for timber harvest or other uses.

The compromise had been worked out toward the end of the 96th Congress by Rep. Phil Burton, D-Calif., and was part of the California Wilderness Bill, which passed the House. Among those supporting the compromise was House Majority Whip Tom Foley, D-Wash., who had introduced a release language bill that was bitterly attacked by environmentalists.

Once the Republican tide advanced in the November election, a dissident faction within the National Forest Products Association, which had not liked the California compromise, was able to get its way. Meeting here in March, the NFPA's Land Withdrawals Committee reversed its stand on wilderness.

Explaining the turnabout, John Davis of Willamette Industries, chairman of the committee, said, "We're much more single-minded than we have been."

The McClure-Hayakawa bill is tougher than Burton's in that it would set 1985 as the deadline for proposed wilderness areas either to be enacted by Congress or returned to the forest system for multiple use. It would also prohibit lawsuits contesting the legal or factual sufficiency of the RARE II final environmental impact statement prepared by the Forest Service.

Finally, the bill would preclude the Forest Service from considering wilderness as a management option under the planning process established by the National Forest Management Act.

The most interesting revelation in last week's hearings is that a relatively small amount of timberland is at stake in this argument.

The Forest Service testified that of the 62 million acres originally studied in the Roadless Area Review and Evaluation, 40 million acres are already available for entry, or timber harvest. Forest Service analysis also indicates that the timber growing capacity of the disputed lands is not great.

One professional forester who watched the hearings commented, "We are talking about lands that remained unroaded for 80 years. They are low site (harvest potential) lands. Therefore this hearing is more of an ideological wrestling match, rather than an argument over substance."

Said another professional forester who had reviewed the Forest Service's analysis of the roadless lands: "There is not a lot of commerical timber on this land. The real issue is that industry wants the maximum acreage in the base which is used to compute the allowable cut."

Concerning what effect the bill's ban on lawsuits would have, the latter forester commented, "Now that the balance of power in the Senate and the White House has shifted, industry thinks it can welch on its agreement in the California Wilderness Bill. But I don't think the timber industry has thought through the strategic aspect of its turnabout.

"Even if we were to enact McClure's bill, the environmentalists might be so angry they would turn around and sue on some other basis. Foresters make mistakes, and it's not hard to imagine lots of timber sales being vulnerable to lawsuit."

Meanwhile, victims of industry's new bullish attitute on release language include Washington state's wilderness legislation and any attempt to get more wilderness for Oregon.

Senator Mark Hatfield, R-Ore., ranking Republican of the Senate Energy and National Resources Committee, sponsored an Oregon wilderness bill during the 96th Congress that contained release language. It passed the Senate, but was never taken up or sponsored by Oregon House members.

Hatfield describes the McClure bill as "a perspective of people who don't want another acre of wilderness under any circumstance. It's just the other side of the coin of those who said, 'if we can't have everything wilderness or all that we have decided, we'll not have any.' It's out of the same cloth.

"Frankly, I don't think they are going to get another acre of wilderness in the state.

"I'll support this bill, because I feel strongly about release language and stabiliz-

ing this whole picture—this RARE II program. I'll vote for it, without the expectation that it will become law. We might get the Senate, but I don't know where various key people are on the House side."

On the House side, Majority Whip Foley says he sticks by the Burton compromise, but will watch with interest what happens in the Senate.

[From the Idaho Statesman, Apr. 28, 1981]

NO WILDERNESS DEADLINES

The Reagan administration's plan to set deadlines on the fate of the country's roadless areas is ill-founded.

Environmental groups correctly have pointed out that deadlines could be used by wilderness foes to achieve their ends by stalling the decision-making process. What's more, there's no need to ram a decision through. The lumber market is poor, but that's because housing sales are down, not because of restrictions on harvesting federal timber in wilderness areas.

The administration is using specious reasoning when it insists that a deadline must be set. It was just two years ago that the U.S. Forest Service made its recommendations on which lands should be managed for multiple-use and which should be designated for wilderness protection. In those two years, Congress, which would have to approve any deadlines, has taken action on the disposition of 47 million acres of the country's 62 million acres of roadless national forest lands. That is remarkable speed for a national deliberative body.

The administration, of course, is committed to development of the federal lands, and its campaign for deadlines is ideologically consistent with its pro-business philosophy. Nonetheless, poor decisions could be made if action on fragile roadless areas is taken in haste.

[From the Salt Lake City Deseret News, Apr. 29, 1981]

THIS ROADLESS LAND OUGHT TO BE SAVED

(By Joseph Bauman)

Conservationists are outraged over a bill proposed by Sen. S. I. Hayakawa, R-Calif., and James A. McClure, R-Idaho, that would end protection of land passed over by the U.S. Forest Service in its most recent wilderness survey.

Nationally, 38 million acres of roadless land were not recommended by the Forest Service for wilderness status during the RARE II review.

Many of these areas are of prime importance and should be preserved. Conservationists have filed protests on a number of areas, including several in Utah, and for the time being, the wilderness values of the land are being preserved.

But if the bill passes, all these disputed areas would be opened up to development, including uses that would destroy the land's wilderness potential.

Dick Carter, coordinator of the Utah Wilderness Association, said the act would open up the following areas in the state, which were rejected by the Forest Service but are supported for wilderness status by a coalition of local environmental groups:

In Wasatch National Forest: the Important North Slope of the High Uintas, Mollens Hollow, The Lakes Roadless Area.

In Uinta National Forest: Golden Bridge.

In Manti-LaSal National Forest: Price River, Muddy Creek, South Mountain and Mt. Peale (both in the LaSal Mountains), Arch Canyon, Hammond Notch Canyon.

In Fishlake National Forest: Tushar Mountains, Thousand Lake Mountains, Wayne Wonderland.

In Dixie National Forest: Table Cliff, Casto Bluff.

In all, 575,000 disputed acres would be vulnerable to immediate development. The half million acres aren't much, since 2.4 million acres of Utah's roadless lands were rejected.

RARE II is the second time the agency has taken a stab at protecting its priceless and vanishing wilderness. The first time, the national survey was so inadequate that a second review was ordered.

Isn't it reasonable to assume that some of the many millions of acres rejected this time around might also be worthy of protection? The country has gobbled up almost an entire continent of irreplaceable wild land in the last century or so. To be in a rush to complete the destruction is absolute folly.

Yet this foolish bill goes even further. It would release any recommended wilderness area from protection if it is not authorized as wilderness by Congress before Jan., 1, 1985.

If a congressman from any state is able to stall wilderness consideration for his state—and there is strong evidence that Congress defers to the wishes of the representatives of the states involved in such debates—he only has to delay for four years. On Jan. 1, 1985, the timber or mining interests will win it all.

Section 7 of the bill provides that the Forest Service shall not review any more forest land for wilderness "unless expressly authorized by joint resolution of Congress . . . and no such lands shall be managed for protecting their suitability for possible wilderness designation unless authorized to be reviewed pursuant to this section."

To merely review any potential new wilderness area, or to get some area back into consideration after the Jan. 1, 1985, deadline, would take a joint resolution of Congress. It would literally be harder to review the North Slope of the Uintas than to sell sophisticated weapons overseas.

Carter said, "The bill poses a real, significant threat and radical departure from National Forest land use planning."

The measure is an attempt to gut the wilderness protection system. If our representatives are conservative in the best Teddy Roosevelt sense of the word, they will fight hard against it.

The planners should take a careful, leasurely look at the land. Once a wilderness area is developed, there's no going back.

At this late date in the history of land abuse, with so little land left untouched, use decisions should be weighted toward protection, not exploitation.

[From the Louisville Times, Apr. 28, 1981]

WILDERNESS UNDER ATTACK: HAYAKAWA BILL WOULD CARVE UP OUR FORESTS

While Interior Secretary James Watt seems to be pulling back from his most extreme schemes for selling off public lands, conservatives in Congress are trying to unleash timber and mining industries on the nation's remaining wild places.

Senator S. I. Hayakawa of California is sponsoring a bill that would purportedly bring to a prompt and orderly end the long process of evaluation national forest land for wilderness.

The arguments for the bill sound sensible—on the surface. Its supporters contend that government should decide which land is to be protected from development and which will revert to multiple-use management. Industry can then get on with its long-term planning.

However, the instant "release" of 36 million acres to non-wilderness management, as proposed by Senator Hayakawa, would deny Congress, and the public, a voice in deciding the fate of land owned by us all. And by setting deadlines for congressional action on another 15 million acres, the bill would effectively prevent the establishment of new wilderness areas, a result that would delight the wood products companies.

Yet another pernicious provision forbids consideration of national forest acreage for wilderness in the future.

The Hayakawa bill would severely hurt Kentucky, Indiana and other Eastern states, which have relatively large populations and little protected wilderness. Congress would be required to make up its mind about proposed wilderness areas in the East by January 1983. Since action might easily be delayed beyond that date, the region could end up with no additions to its already skimpy wilderness system.

Nor does the deadline offer much advantage to industry, since very little land is involved and most commercial forests in the East are private.

In Kentucky, three areas with a total of 20,000 acres were examined during the Forest Service's wilderness study (known as RARE II). That's less than 2 percent of Daniel Boone National Forest. While prompt decisions are preferable, there's no good reason why these wild places, or those in any state, should be abandoned with so little justification.

The fact is that Congress has made reasonable progress in assigning RARE II lands to wilderness or other categories. What's needed now is not precipitate action based more on ideology than on economic or environmental considerations, but rather more careful judgments about the best use of public resources.●

HEALTH SERVICE ACT INTRODUCED

(Mr. DELLUMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. DELLUMS. Mr. Speaker, today I am introducing the Health Service Act. Nine Members of Congress have joined me as original cosponsors of this legislation. They are Mr. CONYERS, Mr. FORD, Mr. MITCHELL, Mr. RICHMOND, Mr. ROSENTHAL, Mr. ADDABBO, Mr. WEISS, Mr. SAVAGE, and Mr. WASHINGTON.

The health programs which were started in the last 20 years are only the beginning of what is needed if the health care needs of the American people are to be met in a comprehensive, efficient, and equitable way. The health centers, the targeted prevention programs, the insurance programs for the poor, and the elderly, are only band-aids on a sick medical system. They meet the most immediate needs of those who are most persistently ignored by the privately controlled health system of this country or who can least afford to buy the services of

this system which serves the needs of profit, not of people.

Only a comprehensive, community based, publicly funded National Health Service can fully respond to the health needs of all the American people. Only such a system can hold down the escalating costs of medical care, insure easy access to health services in every community, and address the increasingly severe occupational and environmental health problems facing the American people. In addition, since such a program would serve the needs of all the people, not simply the poor, the minorities, and the powerless in our society, it would not be vulnerable to the kind of attack now being launched against public sector health services.

Organizations and groups that have either endorsed the legislation or the principles of the bill include, but or not limited to, the following: the American Public Health Association, the National Association of Social Workers, the Gray Panthers, the National Medical Student Association, the American Medical Student Association, Rural America, California Congress of Senior Citizens, National Women's Health Network, and SEIU, Local No. 535 (statewide).

The Reagan administration is proposing to turn the clock back to the days of the Great Depression when millions had to depend on charity or do without necessary health care. The private sector which created the problems of discrimination, maldistribution, and excessive cost will again be placed in control of our medical care system. If we do not act now, health care as a right will be replaced by health care as a privilege.

At this time I would like to insert into the RECORD a summary of this legislation and other related materials:

QUESTIONS AND ANSWERS ON THE HEALTH SERVICE ACT

While high quality health care is a right of all people, this is not the current reality in the United States. Unequal access to care, excessive costs, geographical inabalances, and the deterioration of social, environmental, and occupational conditions beset Americans today. This Act creates a United States Health Service to overcome these deficiencies and implements the right to quality health care.

The United States Health Service will provide to all individuals, without charge and without discrimination of any kind, comprehensive health care and supplementary services delivery by salaried health workers and emphasizing the maintenance of health as well as the treatment of illness. Representative and democratic governance will be established through community boards mandated to provide primary health care services and chosen in community wide elections. District boards will oversee general hospitals and be selected by the community boards. Regional boards will oversee specialized care facilities and health team schools and be selected by district boards. Lastly, the National Health Board will provide overall planning and guidance and be selected by the regional boards, with approval by the President.

Health workers will have fair compensation, secure employment, and opportunities for career advancement and for full and equal participation in governance. There will be local, regional and national planning and funding to establish health care facilities so as to overcome shortages, especially for inner-city and rural populations. The Service will be financed through progressive taxation of individuals and payroll taxes on the employers, with these funds distributed on a capitation basis, supplemented by allocations for special health care needs.

WHY A HEALTH SERVICE?

Growing numbers of Americans realize that the present health care system, based on the private delivery of health care and financed on a fee-for-service basis, is unable to meet the health care needs of this country. One response has been to propose some form of national health insurance. However, no insurance plan will guarantee that health care services are available to everyone, improve the quality of current services, or hold down costs.

Instead of propping up an inadequate system with complex payment mechanisms and ineffective quality reviews, the Health Service Act will establish a health care delivery system that provides comprehensive health services to all Americans and is accountable to those it serves. This will be a publicly-controlled and operated health service employing health workers who will directly serve the public. Any scheme short of this can, at best, only ameliorate the ailments of the present health care system.

WHAT IS THE UNITED STATES HEALTH SERVICE?

The United States Health Service is an independent federal agency that is democratically-controlled to deliver health care in communities throughout the United States.

WHO CAN USE THE HEALTH SERVICE?

Any individual, while within the territory of the United States, will be able to receive services.

WHAT SERVICES WILL BE PROVIDED?

The United States Health Service will provide, without charge, a full range of medical, dental, and mental health services, as well as occupational, home health, and health education services. Drugs and medical equipment will be furnished without charge. Environmental inspections and monitoring services will also be conducted.

These services will be provided through facilities established and maintained by the Service. Except in emergencies, it will not pay for services provided elsewhere. Three years after it begins full operation, it will not be possible for private practitioners (who charge their patients a fee) to use the facilities of the United States Health Service.

WILL PHYSICIANS AND OTHER HEALTH WORKERS BE COMPENSATED?

All health workers will receive salaries commensurate with their job requirements and experience. Workers can receive increases in salary and be certified for job advancement through recognition of successful performance and through enhancement of their skills.

WHAT WILL BE THE STRUCTURE OF THE UNITED STATES HEALTH SERVICES?

The Health Service will be set up as a four-tier system—the community, district, region, and national level. The base of the system is the "community," a geographic area with a population of between 25,000 and 50,000 (less in rural areas or in other special circumstances). In each community, primary health care services—general outpatient medical care, emergency services, mental health services—will be provided through community health centers, physicians' offices, laboratories, pharmacies, and other facilities. Nursing homes, multiservice centers for the handicapped, and mental health facilities, also will be established and operated so as to promote the integration of persons using these facilities into the community.

Several communities will be joined together to form a "district" with a population of between 100,000 and 500,000. Each district will have a general hospital.

Several districts will be joined to form a "region" with a population of between 500,000 and 3,000,000 (more if necessary to enclose an entire metropolitan area). Each region will have a medical center providing highly specialized medical services and a health team school where all health workers will receive their education.

HOW WILL THOSE WHO USE THE SERVICES OF THE UNITED STATES HEALTH SERVICE, AND THOSE WHO WORK FOR IT, RUN IT?

Community health boards chosen in community wide elections by residents and health workers will plan the delivery of primary and preventive health services, hire community health workers, and assume overall responsibility for all community health services. District health boards, appointed by the community health boards in the district (with each community appointing three members) will oversee the district general hospital. Regional health boards, appointed by the district health boards in the region, will oversee the regional medical center and health team schools, and assist community and district boards in performing their duties. Lastly, the National Health Board, appointed by the regional health boards with the approval of the President, will carry out overall planning and budgeting and establish guidelines for the provision of health services by all health boards.

Two-thirds of the members of each board will be representatives of the users of the Service; one-third will be representatives of those who work in the health facilities operated by the Service.

All health facilities will be managed by the workers in them on a democratic basis. Each health board, in consultation with the workers, will develop a plan for democratic decisionmaking within each facility, including the equal participation of health workers at all skill levels. Health workers can also bargain collectively with the health boards on wages, benefits, and working conditions.

WHAT SPECIAL RIGHTS AND GUARANTEES WILL HEALTH SERVICE USERS HAVE?

A Bill of Health Rights incorporated into the legislation guarantees users of the United States Health Service access to all its services, to their choice of health workers and facility, to information and explanations in their primary language about their health status and any treatment or procedure, and to advocacy and legal assistance. Specific protections are included for women and residents of health care institutions to ensure rights associated with their special situations and health needs.

HOW WILL THE QUALITY OF HEALTH CARE BE ASSURED?

In contrast to the present medical licensing system, this Act calls for continuing review and assessment of the competency of health care providers, with oversight by representatives who use those services as well as those who provide them. The National Health Board will establish national guidelines for area health boards in training, hiring, and certifying health workers.

The ultimate safeguard of quality is the control of service delivery by health boards accountable to those who use the Service and those who work in it, able to draw for advice and technical support upon all the professional expertise employed by the United States Health Service.

WILL THIS BILL PROVIDE OCCUPATIONAL HEALTH SERVICES?

Unlike any of the current health insurance proposals, this bill will provide extensive occupational health services. Screening diagnosis, treatment, and education for the detection and prevention of occupational hazards and diseases will be provided in community health facilities. Workers will participate in the occupational health programs in their community and workplaces through elected community occupational safety and health action councils, which will perform monitoring and other functions to protect the safety and health of workers. Workers in each workplace will have the right to establish workplace occupational safety and health committees which will perform monitoring and other functions to protect the safety and health of workers.

HOW WILL THIS BILL ADDRESS THE PRESENT MALDISTRIBUTION OF HEALTH WORKERS AND FUNDS?

Operating funds will be allocated to regions, districts, and communities on a per capita basis, so that all areas will have funds proportionate to their populations. This will allow presently underserved areas especially those where low income and minority persons live, and many rural areas, to overcome their present serious shortages of physicians, other health workers, and health facilities. Special funds, amounting to 2% of all operating funds, will be allocated to communities where low income persons live, to help them alleviate their special burden of health problems.

The present maldistribution of health workers will be dealt with by requiring that graduates of health team schools serve in underserved areas for at least a period equal to the duration of their education but not to exceed two years, and by requiring that health boards not hire particular type of health workers if they have substantially greater number of them while other areas have substantially less.

HOW WILL USERS OF THE SERVICE BE PROTECTED FROM FAILURE OF HEALTH BOARDS TO PERFORM THEIR DUTIES?

Members of health boards will be accountable to the people who chose them. If they fail to meet the health needs of their areas, or neglect their duties, members of community health boards can be removed from office through a recall election. Members of other boards can be removed from office by two-thirds vote of the body that appointed them.

Regional boards will be empowered to investigate complaints regarding the actions of the community or district boards. In the event they determine that there has been mismanagement of funds or other failure or misconduct, they can suspend or restrict the board, appoint a trustee to take over its affairs, and hold a new election for a community board or see that a new district board is appointed. The National Health Board will perform similar oversight of regional boards.

HOW WILL THE EDUCATION OF HEALTH WORKERS BE CONDUCTED UNDER THIS BILL?

Health workers will receive their education from the Service in health team schools organized by regional health boards. They will begin their education by sharing classroom and clinical experiences in a restructured educational process. Curriculum design will maximize the studies undertaken in common by students preparing for the various types of health work and will emphasize the social basis of health. As students progress, their studies will branch out and extend into the various categories of health-related skills and knowledge.

Admission policies will emphasize previous health-related work experience and encourage the entrance of students who reflect the composition of the region's population. No tuition will be charged, and there will be stipends for living and educational expenses. (Outstanding health education loans will be paid by the Service for those accepting employment under the Service.) Each health team school will be governed by representatives of the region's residents and the staff and students of the school.

HOW WILL HEALTH RESEARCH BE CONDUCTED UNDER THIS BILL?

The Service will be mandated to conduct an extensive program of health and health care research. The first priority will be on the prevention and correction of the leading causes of illness and death, including environmental, occupational, and social factors. Research will be performed, to the maximum extent possible, under the auspices of community and district health boards, to ensure it is responsive to the health needs of people in their communities and workplaces.

HOW WILL THE SERVICE BE FINANCED?

In spite of the expansion of services, the cost of operating the Service will be less than the cost of the present health care system. The elimination of administrative costs associated with the insurance industry and its complex billing procedures, the expected decrease in unnecessary hospitalization and treatment from the elimination of fee-for-service medical practice, and the elimination of excessive fees and profits are estimated to reduce the total cost by at least 20 percent.

Funds to run the Service will come from a Health Service Trust Fund containing receipts from a special health service tax on individual and corporations and from general Federal revenues. The individual health service tax will rise with increasing income. Low and middle income individuals having not over $6,000 taxable income will pay only 1 percent (equivalent to the Medicare payroll tax now in force, but repealed when the Service begins providing health services.) Higher income individuals and corporations will pay substantially higher taxes, and general revenues will contribute the amount now spent by Federal, State, and local governments on health services. (Federal payment of these will be a form of additional revenue sharing to States and localities.)

Funds will be distributed to regions, districts, and communities on a uniform per capita basis, with special funds allocated to communities and districts for the care of persons over 65 years of age, persons confined to full-time residential institutions, low income persons, rural areas, and to meet special environmental, occupational, and other health needs of particular regions.

The division of funds between the district and community levels will be determined by the district boards, but with the consent of a majority of the community boards in each district. Similar procedures will be followed in dividing funds between the regional and district levels and the National and regional levels. Thus all health boards will have an equal role in determining the allocation of funds.

HOW WILL THE TRANSITION FROM THE PRESENT SYSTEM TO THE NEW HEALTH SERVICE BE MADE?

Immediately after this law is enacted, the President will appoint an Interim National Health Board broadly representative of the American people, to oversee the start of the transition process. It will draw the regional boundary lines and appoint an interim regional health board for each region. These boards in turn will draw boundaries for districts and communities and will then conduct elections for the members of community health boards. The boundaries drawn by these interim boards can be modified by the permanent boards once they are established, using a procedure in which residents of the affected areas will participate.

Once community health boards are elected, they will begin identifying sites for health facilities, acquiring buildings, and hiring health workers, and they will appoint the members of district health boards. Each board in turn, as it is appointed, will begin preparing to carry out its assigned responsibilities.

Two years after the bill is enacted, the National Health Board will begin functioning, and the delivery of health services will start two years later. All the health-care-related functions now carried out under the direction of the Secretary of Health, Education, and Welfare will then be transferred to the Service. Every two years thereafter, there will be elections for members of community health boards and subsequent appointments of new members of the district, regional and national boards.

In cases where particular boards are not ready, at the end of the four-year start-up period, to assume responsibility for the full delivery of services, these will be provided in neighboring areas or through private practitioners reimbursed under current Medicare arrangements. These temporary measures will remain in effect for up to three additional years.

The educational programs will be fully operating four years after the start-up of services.

SECTION-BY-SECTION SUMMARY

TITLE I—ESTABLISHMENT AND OPERATION OF THE UNITED STATES HEALTH SERVICE

Initial operation

Sec. 101—Establishment of the Service. There is established an independent establishment of the executive branch to be known as the United States Health Service. The authority of the Service shall be exercised by the health boards set up under this Act.

Sec. 102—Appointment of Interim National Health Board. No later than 30 days after the enactment of this Act, the President shall appoint 21 individuals over 18 years of age, broadly representative of the Nation's population, and no more than 7 of whom have been health workers within the pre-

ceding 2 years, to serve as members of the Interim National Health Board.

Sec. 103—Powers and duties of the Interim National Health Board. Members of the Interim National Health Board shall take whatever steps are necessary to establish the Service. They shall serve as the National Health Board of the Service until the National Health Board holds its first meeting, establish boundaries of health care delivery regions, select and provide assistance to interim regional health boards, and coordinate the initial election of community health boards.

Sec. 104—Authorization. There are authorized to be appropriated to the Service $4 billion to establish the Service.

Organization of area health boards

Sec. 111—Establishment of health care delivery regions. No later than six months after the appointment of members of the Interim National Health Board, the Board shall establish health care delivery regions throughout the United States. Each health care delivery region shall be a contiguous geographic area having a population of not less than 500,000 and not more than 3 million, except that the population may be less than 500,000 if it would facilitate the delivery of health care services or the effective governance of the program, and it may be greater than 3 million if the region includes a standard metropolitan statistical area. The boundaries of such regions shall consider economic and geographic barriers to the receipt of health care in nonmetropolitan areas. At least 60 days prior to the establishment of a boundary, the Interim National Health Board shall provide for a public hearing regarding such boundary.

Sec. 112—Appointment of interim regional health boards. No later than 60 days after the establishment of health care delivery regions, the Interim National Health Board shall appoint an interim regional health board for each region. Each interim regional health board shall be composed of 9 members over 18 years of age, broadly representative of the region's population, and no more than 3 of whom have been health workers within the preceding 2 years. Each interim regional health board shall establish the boundaries of health care delivery districts and communities in its region and conduct elections for voting members of community health boards in its region.

Sec. 113—Establishment of health care delivery districts and health care delivery communities. No later than six months after its appointment, each interim regional health board shall establish health care delivery districts and communities throughout its region. Each region shall be divided into three or more districts, each of which shall be a contiguous geographic area having a population of not less than 100,000 or more than 500,000, except that a district may have a population of less than 100,000 if this would facilitate the delivery of health care of the effective governance of the program.

Each district shall be divided into three or more communities, each of which shall be a contiguous geographic area whose residents have a commonality of interest, language, and ethnic and racial composition and whose population is not less than 25,000 or more than 50,000 except that a community may have a population of less than 25,000 if this would facilitate the delivery of health care or the effective governance of the program.

At least 60 days prior to the establishment of a boundary, the interim regional health board shall provide for a public hearing regarding such boundary.

Sec. 114—Election of community health boards. The Interim National Health Board shall arrange with State and local governments for the initial election of user members to be held on a date not later than 9 months after the appointment of the interim regional health boards. For each board there shall be 6 user members, plus one user member for each 5,000 residents in the community in excess of 30,000. For each board there shall be 3 worker members, plus one for each 10,000 residents in the community in excess of 30,000. The Interim National Health Board shall establish procedures for nomination and election of these health board members following the criteria outlined in this Act. The interim regional health boards shall conduct and supervise the nominations and elections of community health board members.

The initial meeting of each community health board shall be held not later than 30 days after the election.

Sec. 115—Appointment of district health boards. Not later than 60 days after its initial meeting, each community health board shall appoint two users residing in the community to serve as user members of its respective district board. The worker members of each board shall appoint a community health worker to serve as a worker member of its respective district board. The district health workers shall appoint a district health worker to serve on the district health board, following procedures outlined in the legislation. The initial meeting of the district health board shall be not later than 30 days after such appointment.

Sec. 116—Appointment of regional health boards. Not later than 60 days after its initial meeting, the user members of the district health board shall appoint two users to serve as user members of its respective regional health board. The worker members of the district health board shall appoint a district health worker as a worker member of its respective regional health board. The regional health workers shall elect a regional health worker to serve on the regional health board. The initial meeting of the regional health board shall be not later than 30 days after such appointment.

Sec. 117—Appointment of the National Health Board. Each region shall be assigned to one of three groupings of regions, each having (to the extent possible) an equal number and balanced geographic distribution. Each board for a region in the first two groups shall appoint a user to serve as a user member and the National Health Board; the others shall appoint a worker member. These names shall be submitted to the President who shall have 10 days in which to approve or disapprove the nominations.

Sec. 118—Subsequent election and appointment of members of health boards. The next election for members of the community health boards shall be held in conjunction with each election of Members of the U.S. House of Representatives that occurs after the effective date of health services. The term of service (of all members of health boards) will be four years with staggered terms, half of the members being elected every two years. Such elections, and subsequent appointments of members of district and regional boards and the National Health Board shall conform to the requirements of sections 114, 115, 116, and 117, respectively.

Sec. 119—Modification of the boundaries of health care delivery areas. No later than 2 years after each decennial national census, and at any other time it deems necessary, the National Health Board shall review the appropriateness of the boundaries of each region and may modify the boundaries if there has been a substantial population shift and if the modification is approved by a referendum of the residents whose regional identification would be changed. At least 60 days before the modification, a public hearing shall be held.

No later than 2 years after each decennial national census, upon receipt of a petition signed by not less than 15 percent of the registered voters in an area, and at other appropriate times, each regional board shall review the boundaries of the districts and communities in its region. A regional board may, after review and public hearings, modify a boundary if there has been a substantial population shift or the change would better carry out the purposes of this Act, and if the changes is approved by a referendum of those affected by it.

General provisions regarding health boards

Sec. 122—Membership of health boards. Each health board shall be composed of (1) members elected or appointed in accordance with the preceding sections, (2) one member appointed, in the case of a community board, by the community occupational safety and health action council established in section 412 and, in the case of a regional board, by the regional occupational safety and health action council established in section 413, (3) such voting user members as are necessary to ensure that the user members of the board approximate the population of the area by race, sex, income level and language and segments of the population having special health needs, and (4) such nonvoting associate members as the members determine to be necessary to provide representation of State, territorial, and local government, of segments having special health needs of the population and, in the case of the Interim National Health Board and the National Health Board, to help carry out this Act.

A recall election shall be held for any member of a community health board no later than 60 days after presentation to the regional health board of a petition signed by at least 15 percent of the registered voters (or health workers as appropriate) in the community requesting recall of the member. Members of district, regional, and the interim regional boards, and the National Board, may be recalled from office by the vote of two-thirds of the health board which appointed such members.

No individual may serve as a member of any board for more than 4 consecutive years, exclusive of any time that may be served to fill a vacancy. A vacancy caused by the death, resignation, or removal of a member shall be filled within 60 days by the same process which placed the original member on the board.

Sec. 123—Meeting and records of health boards. The members of each health board shall elect a chairperson and vice chairperson from among their members. The chairperson shall be responsible for convening meetings, including upon written request of any two members, and for carrying out other duties as the board may assign. Minutes of meetings of the board and its committees shall be available to the public, and all such meetings shall be open to the public.

Each health board may establish committees and advisory groups, and appoint to

them such individuals as they find necessary to carry out their duties. Members of health boards shall receive per diem or salary payments plus reimbursement for necessary expenses.

Sec. 124—Procedures for establishment of national guidelines and standards. The National Health Board shall establish such guidelines and standards as will facilitate implementation of this Act. It encourages innovation and experimentation in achieving its objectives. At least 90 days before establishing a guideline or standard, it shall submit such guidelines or standards to all regional health boards for their review and comment. The National Health Board shall assist members of area health boards in using and implementing such guidelines and standards.

Sec. 125—Assistance to area health board members. Each regional board shall provide orientation, education, and technical assistance to district and community boards to insure that they are prepared to perform their duties.

TITLE II—DELIVERY OF HEALTH CARE AND SUPPLEMENTAL SERVICES

This title specifies the health care and supplemental services, and the administrative arrangements for delivering such services.

Patients' rights in health care delivery

Sec. 201—Basic health rights. The Service, in delivering health care services, shall ensure that every individual is given basic health rights. These include the right to receive high quality health care and supplemental services without charge and without discrimination; to be treated with dignity and respect; to choose health workers and to be responsible for facilities in which to receive service, to have access to one's health records; to have information translated into the individual's primary language; to receive a full explanation of all questions related to health care; to refuse any health care service, when the refusal does not directly endanger the health of others; to have counseling and assistance on health matters; to be accompanied and visited at any time by a friend or relative of the individual in the event of terminal illness, to die with dignity and to be allowed to die at home; and to have access to a complaint system and to legal assistance to enforce these rights.

Sec. 202—Right to paid leave to receive health care services. Each employee is entitled to one hour per 35-hour work week of paid leave to receive health care services.

Eligibility for, nature of, and scope of services provided by the service

Sec. 211—Eligibility for services. All individuals while within the United States are eligible to receive health care and supplemental services under this Act.

Sec. 212—Entitlement to services. On or after the effective date of health services, the Service shall provide users with all health care and supplemental services described in section 213 which are necessary for the promotion and enhancement of health, the prevention of disease, the treatment of illness, and rehabilitation following injury, disability or disease. These services do not include personal comfort or cosmetic services, unless the health board providing the services determines they are needed for health-related reasons.

Sec. 213—Provision of health care and supplemental services. The Service shall provide the following health care services in or through facilities established by the Service: promotion of health and well-being through health education programs; prevention of illness, injury, and death through education and advocacy addressed to the social, occupational and environmental causes of ill health through preventive services; diagnosis and treatment of illness and injury, including inpatient and outpatient service, mental health, occupational health, dental care, long-term care, and home health services; rehabilitation of the sick and disabled; and provision of drugs and therapeutic devices, appliances and equipment. The Service shall provide supplemental services of transportation and ambulance service to health facilities, child care facilities, homemaking and home health services, and counseling and social service assistance. The Service shall conduct environmental and preventive functions now performed by State and local health departments. The Service shall provide reimbursement for the cost of emergency health care services provided in facilities or by persons outside the Service, when immediate medical attention is required and it is impractical for the individual to receive care from the Service.

Health care facilities and delivery of health care services

Sec. 221—Establishment of health care facilities and distribution of delivery of health care and other services. Each community board shall establish facilities in its community to deliver (1) comprehensive primary medical and dental care immunization, nutrition and screening services; children's health services; obstetrical and gynecological services; family planning and contraceptive services; pregnancy and abortion counseling and services; vision and hearing testing; provision of eyeglasses and other visual aids and hearing aids; 24-hour emergency medical services, provision of pharmaceuticals and medical equipment, mental health services, home health services, and occupational safety and health services; (2) specialized inpatient and outpatient health care services when these can be most effectively provided in a community setting; (3) supportive services and facilities for the physically or mentally handicapped, mentally ill, infirm and chronically ill to promote their integration and functioning within the community, and (4) community oriented health measures to focus community activities on the promotion of health and prevention of illness and injury and to make all residents aware of their ability to use the health services.

Each district board shall establish in its district a general hospital to provide inpatient health care services, as well as such other facilities as will promote the effective delivery of health care in its district.

Each regional board shall (1) establish a regional medical facility providing highly specialized health care services, and (2) provide health care services for individuals whose health care needs cannot be met by community or district boards because of occupational or other factors including migratory agricultural workers and those confined to correctional institutions.

Each area health board shall also provide health education, the maintenance of personal health records, referral services to facilities outside the area, assistance to individuals with language or cultural differences or educational handicaps in utilizing the services, information on health rights, guidelines, and standards, information on grievance mechanisms and legal services, and environmental health inspection and monitoring services.

Each area health board shall hire appropriate health workers (including administrative personnel) to ensure that its facilities provide the services mandated for the board. Each area health board shall utilize, wherever possible, existing health facilities including health centers, clinics, hospitals, nursing homes, and medical laboratories.

If a community district board fails to provide the necessary health care and supplemental services on the effective date of health services, its respective regional board shall take whatever steps are necessary to ensure that such services are available to individuals, in the area. This may include appointment of a trustee or trustee committee under section 402, requiring the community or district board in an adjacent area to provide such services on a temporary basis, or (until three years after the effective date of health services) providing reimbursement provision of specified services using procedures in effect just before the effective date of health services under title XVIII of the Social Security Act (Medicare).

Sec. 222—Operation and inspection of health care facilities. Each health board shall establish policies and organizational plans for each facility it has established. In establishing, implementing, and modifying such policies and plans, it shall seek the fullest possible participation of health workers in the facility and individuals using the facility by the workers in the facility. These policies and plans shall provide for (1) the management of the facility through decisionmaking mechanisms which provide full and equal participation of all health workers employed in the facility, (2) the elimination of domination by health professionals, and (3) regular accountability of the health workers to the board which established the facility.

On and after three years after the effective date of health services, a health board may not permit a health facility it has established to be used for the private delivery of inpatient or outpatient services. No individual employed by a health board may engage in the private delivery of health care. ("Private delivery" means the delivery of the services for which there is remuneration from any source other than the Health Service Trust Fund established in section 511.)

Each health board shall ensure that any facility which provides substantial inpatient service for individuals who are within it for continuous periods of 30 days or longer is cleared and well-heated, cooled and ventilated, adequately staffed, provides, comfortable quarters for inpatients, provides opportunities for creative activity and recreation, establishes a review committee, informs an inpatient of all decisions involving the inpatient's health, and permits participation in such decisions. It shall not censor or harass communication of an inpatient, confiscate personal property, deny social and sexual life, require that the inpatient work, pay an inpatient less than the minimum wage, physically restrain an inpatient, other than one convicted of a crime, involuntarily for more than 72 hours without determination by the facility's review committee that such restraint is necessary, or take punitive or discriminatory action without approval of the facility's review committee. Annually, the inpatients of each such facility shall elect, from among themselves and any representatives of an interested user associa-

tion, a review committee of at least 3 members.

Quality care shall be assured by regular inspections of the health care facilities. The results will be reported to the public.

Sec. 223—Provision of health services relating to reproduction and childbearing. Area health boards shall provide the following services: complete information on contraception and provision birth control materials or medication of the individual's choosing; complete and effective evaluation and treatment of veneral diseases and diseases of the reproductive organs; complete information and counseling with respect to pregnancy childbearing and possible outcomes involving genetically induced anomalies; complete and effective pregnancy testing; prenatal services; safe, comfortable and convenient abortion services; counseling by women in conjunction with the provision of all gynecologic, female contraceptive and abortion services and the counseling by men for male fertility-related services.

The services will be delivered without coercion or harassment, with complete confidentiality and without prior approval by anyone other than the individual receiving the services. An individual may be accompanied by a person of the individual's choice during the provision of the services described above to the extent this would not significantly increase the medical risk to the individual.

No area health board may perform a treatment or procedure (other than to preserve the patient's life) which could reasonably be expected to affect the individual's capacity to reproduce children unless the individual has again given voluntary consent to the treatment or procedure after being given full information on the effect of the treatment or procedure and on possible alternative treatments at least 30 days before beginning the treatment; and the individual, after the 30 day waiting period, has given written consent. Exceptions to this are the voluntary sterilization following the delivery of a child written consent has been given 30 days prior to the anticipated delivery date, or during emergency surgery within the 30 day waiting period.

Before a mastectomy or other breast cancer treatment is performed, an area health board shall provide the woman with complete information on the range of medical options available and the side effects of each option and she shall give voluntary written consent to such procedures.

An area health board shall provide that a woman may deliver her infant in her home, be accompanied during labor and delivery by whomever she chooses, use the position she chooses, care for her infant at her bedside, and feed her infant according to the method she desires, and be provided with information on the benefits, risks and side effects of each option.

TITLE III—HEALTH LABOR FORCE

Job categories and certification

Sec. 301—Effect of State Law. Notwithstanding any law of a State or political subdivision to the contrary, the service shall be the sole judge of the qualifications of its employees.

Sec. 302—Qualifications of Health Workers.—Each area health board shall establish procedures which ensure that work classified under a job category is performed by a health worker who is certified as competent to perform the work and authorized to perform the work by the area health board which employs the worker. Each area health board shall provide for the periodic review and assessment of the competency of its employees, and shall provide opportunities for health workers to be certified for more advanced job categories, each regional board shall provide periodic review and assessment of the performance of health workers in their region. The National Health Board shall provide the same for regional health workers.

Sec. 303—Establishment of Job Categories and Certification Standards.—The National Health Board shall establish guidelines for the classification, certification, and employment of health workers by job category that will ensure that health workers have demonstrated the necessary competency, expand the roles of health workers by enabling them to participate in health care delivery to the maximum extent consistent with their skills and permit alternative approaches to healing. In establishing these guidelines, the National Health Board shall provide for sufficient flexibility to permit regional boards most effectively to meet the health needs of their regions, and for sufficient uniformity to permit mobility of health workers among the regions as well as require exchange of health workers between districts. The National Health Board shall periodically evaluate the job categories and certification practices and make whatever modifications it deems necessary.

For job categories not requiring advanced specialty training, each regional board shall establish certification standards for its region which specify the functions performed by a health worker employed in a job category, the skills required to perform this work, the initial and continuing training, experience, and performance required, and the curriculum which a health worker must follow in a health team school. Each area health board within the region shall apply such standards to all health workers it employs.

The National Health Board shall establish standards for job categories involving highly specialized skills and requiring advanced specialty training. Area health boards shall apply such standards to all health workers employed by them in such job categories.

All such standards shall periodically be reviewed and modified as appropriate.

Education of health workers

Sec. 311—Health team schools. Each regional board shall establish a health team school to provide initial and continuing education in health care delivery for all health workers. Each school shall be functioning not later than four years after the effective date of health services, unless the National Health Board approves an alternate plan. A regional board, in consultation with its district and community boards, may decide that conducting particular educational programs in its school would be inefficient or inappropriate, and it may collaborate with one or more adjacent regional boards in conducting joint programs.

Schools shall be funded exclusively by the Service, shall not charge tuition, and shall provide students with allowances for living expenses. The National Health Board shall establish guidelines for operating health team schools such that the activities of each school shall be designed to meet the health needs of the region it serves, the number of students enrolled in each educational program shall be based on the needs of the region, and education for different job categories shall be integrated so as to permit health workers to receive successively higher levels of education. Each school's admissions, curriculum, faculty hiring, and governance policies shall be established with the fullest possible participation of community boards, health workers, staff, and students. Schools may not use low-income or minority individuals, women, or those in mental or penal institutions for experiments and demonstrations in numbers that are disproportionate to their population in the region.

Each regional board shall establish admissions policies for its school which emphasize previous health-related work experience, minimize the use of academic criteria other than those that are significantly related to future work performance, give preference to segments of the population now underrepresented among health workers, seek a student body that approximates the region's population by race, sex, family income, and language, and require the applicant to agree to perform health care service in accordance with Sec. 312.

Each regional board shall establish curriculum policies for its schools that give priority in study and field work to the leading causes of illness and death in the region (including especially environmental and social factors), provide all students with a common initial sequence of courses and then offer progressively more specialized studies, emphasize work-study experience in all types of health care facilities in the region, and facilitate the development of skills in decisionmaking and problem assessment by all health workers.

Each regional board shall establish faculty hiring procedures that seek a faculty that approximates the population of the region, and shall establish a government plan for the school which gives significant decisionmaking powers to staff and students.

Sec. 312—Service requirement. No individual may be enrolled in a health team school unless the individual agrees to perform service as an employee of the Service after graduation, for a period of time equal to the period of enrollment but not to exceed two years and for an area health board with the highest priority. For graduates of a health team school in a particular job category, the priority ranking for hiring is as follows: (1) the region, or a district or a community in the region, in which the school is located, if there is a health worker shortage in that job category; (2) any other region, district or community having such a shortage; and (3) any other area. A health worker shortage is defined to exist if an area has a ratio of the number of health workers in that job category to the number of residents which is less than two-thirds of the average of that ratio in the Nation, and the area health board has plans and a budget which call for hiring such an individual. The National Health board shall assist in matching the locational preferences of graduates with the needs of the area health boards in the area. Any individual who refuses to fulfill his service obligation shall be required to repay to the Service an amount determined in accordance with a formula stated in this Act.

Sec. 313—Payment for certain educational loans. For individuals who have incurred educational loans prior to the enactment of this legislation and who agree to work for the U.S. Health Service, the Service agrees to assume payment of their educational loans in accordance with this section.

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Employment and labor-management relations within the service

Sec. 321—Employment, transfer, promotion, and receipt of fees. Health boards shall hire, classify and fix the compensation and benefits of their employees, in accordance with this Act and guidelines established by the National Health Board. There shall be employment and promotion in the Service in the same manner as is provided under the Federal civil service system, opportunities for career advancement, encouragement of health workers to use up to ten percent of their work time for continuing education without loss of pay, and full protection of employees' rights to a fair hearing on adverse actions.

Health boards shall give preference in hiring to those employed, or self-employed, as health workers before enactment of this Act. The National Health Board shall ensure that all such individuals may find employment within the Service Employees of the Service shall be eligible for promotion or transfer to any position in the Service for which they are qualified. Each regional health board shall have a job placement service to assist health workers in its region in attaining the maximum degree of career promotion opportunities and to insure continued improvement of health care services.

A district or community board may not hire an individual to fill a position in a job category if the ratio of health workers in that category to residents in the district or community is greater than four-thirds of such ratio for the region, and if there is a district or community within the region which is a health worker shortage area.

An employee of the Service may not receive a fee or prerequisite from anyone other than the Service for duties performed by virtue of such employment.

Sec. 322—Applicability of laws relating to Federal employees. The provisions of chapter 75 of title 5, United States Code (relating to adverse actions against employees), subchapter I of chapter 81 of title 5, United States Code (relating to compensation for work injuries), and chapter 83 of title 5, United States Code (relating to civil service retirement) shall apply to employees of the Service (except in some cases for the personal staff of health board members), unless these are inconsistent with provisions of negotiated collective bargaining agreements or with procedures established by the Service and approved by the Office of Personnel Management.

Compensation, benefits, and other terms and conditions of employment in effect before the effective date of health services for health workers employed by the Federal Government shall apply to employees of the Service until changed by the Service in accordance with this Act. No variation of fringe benefits shall result in benefits which are less favorable to employees of the Service than benefits in effect for employees of the Federal Government on the effective date of health services.

Sec. 323—Applicability of Federal labor-management relations law. The provisions of the National Labor Relations Act shall apply to the Service and its employees, except that (1) supervisory employees shall be included, (2) professional and unprofessional employees shall not be treated separately and (3) emergency provisions shall apply to regions.

Sec. 324—Defense of certain malpractice and negligence suits. No malpractice suit may be brought against an employee of the Service while acting within the scope of the employee's employment. The remedy in such cases shall be in civil action brought against the United States.

TITLE IV—OTHER FUNCTIONS OF HEALTH BOARDS

Advocacy, grievance procedures, and trusteeships

Sec. 401—Advocacy and legal services program. Each area health board shall establish a program of health advocacy to ensure the full realization of patients' rights. Such program shall include the employment of health advocates in health care facilities and measures to correct any infraction of such rights.

The National Health Board shall establish a health rights legal service program to ensure that patients and health workers receive, free of charge, high quality legal services for problems related to health care. The health rights program shall include the establishment of a legal services office in each region, and the establishment of such offices in communities and districts that have inadequate legal services. This program may be carried out directly or, in each instance, by contract with the National Legal Services Corporation or members of the private bar.

Sec. 402—Grievance procedures and trusteeships. Any user, health worker, or user association having an interest in health care may commence a grievance proceeding before a regional board, and a regional board may commence such a proceeding before itself, because of an alleged violation of this Act by a district or community board. Any user, health worker, or user association may commence a grievance proceeding before the National Health Board because of an alleged violation of this Act by a regional board, and the National Health Board may commence such a proceeding before itself.

The National Health Board shall review by appeal, by any party or on its own initiative, an adverse decision by a regional board.

Whenever a grievance proceeding is commenced there shall be a public hearing if the grievance is supported by a suitable petition or before setting aside an election or transferring any function of a board. If a grievance concerns the conduct of a election of a community board, and it is determined that the election was not conducted in compliance with this Act, or that there had been systematic failure of the user members of such community board to approximate the population of the community, by race, sex, language, of income level, the election shall be set aside and a new one held within 60 days after the date of the determination. If a new election is held because of a determination that portions of the population have not been represented, the election shall be conducted in a way that will facilitate such representation.

For grievances having to do with other matters, if it is determined that a health board has failed to comply with this Act, a new election or appointment within 60 days may be required. If it is determined that a community or district board has failed to comply with this Act, functions of such board may be transferred to the respective regional board until a new election or appointment is carried out. If a regional board has failed to comply with this Act, functions of this board may be transferred to the National Health Board until a new regional board is appointed.

Any party to a grievance proceeding may bring suit in the United States district court for the judicial district in which such proceeding was brought.

Occupational safety and health programs

Sec. 411—Functions of the National Health Board. On and after the effective date of health services, the National Health Board shall oversee an occupational safety and health program conducted at the regional level and shall participate in establishing and administering occupational safety and health standards under the Occupational Safety and Health Act of 1970, which is amended to transfer this area of authority from the Secretary of Health, Education, and Welfare to the National Health Board.

Sec. 412—Community occupational safety and health activities. A community occupational safety and health action council shall be established in each community as follows: With the assistance of the community board, employees of each workplace in the community having 500 or more employees shall elect one member for each 500 employees; employees of workplaces having less than 500 employees shall vote in communitywide elections for a number of members equal to the number of such employees divided by 500 (rounded to the next highest whole number). Each such council shall appoint one individual to serve as a member of its community board; appoint one individual to serve as a member of the regional occupational safety and health action council for its region; advise the community board on, and oversee occupational safety and health programs in the community; facilitate the establishment and operation of workplace safety and health committees; and assist employees with respect to inspections of their workplaces.

Sec. 413—Regional occupational safety and health programs. Each regional board shall establish an occupational safety and health program for its region using to the maximum extent feasible, facilities and resources of the community boards in its region. This program should include increasing the ability of employees to monitor safety and health conditions in, and assist in inspections of, their workplaces; facilitating communication among workers employed in similar industries in the region and unions regarding occupational hazards; conducting biologic screening of employees; monitoring the environment to identify hazards; and analyzing employment-related injuries and illnesses in the region.

Each regional occupational safety and health action council shall appoint one individual to serve as a member of its regional board, and shall advise its regional board and the National Health Board on occupational safety and health matters.

Sec. 414—Workplace health facilities. The employer in each workplace having 25 or more employees shall maintain a health facility in or near the workplace for occupational and emergency health care for employees. These facilities shall be organized according to National Health Board guidelines to provide services that meet the needs of the employees. They will be operated by the community board or the employer, with the cost in either case borne by the employer.

Sec. 415—Employee rights relating to occupational safety and health. Employees in each workplace having 25 or more employees shall have the right to establish workplace occupational safety and health committees. Members of these committees (not to exceed one for every 100 employees or fraction thereof) may, without loss of pay, spend 8 hours of each month on occupation-

al safety and health matters and may accompany inspectors during inspections of their workplaces. Employees have the right, without loss of pay, to monitor safety and health conditions in their workplaces and to remove themselves from the site of any hazard until it has been eliminated. Employers shall furnish their employees with safety equipment and clothing. Employees or their representatives shall have the right to inspect all medical records kept by their employer on the condition of their health. Employers shall provide their employees with copies of reports and data on conditions affecting their health and safety and with timely notification of the presence of any dangerous materials or conditions.

Health and health care delivery research

Sec. 421—Principles and guidelines for research. On and after the effective date of health services, the Service shall conduct a program of research on health and health care delivery. Within two years thereafter, the research program shall conform to these principles: (1) to the maximum extent possible, research shall be performed under the direction of, and in association with community, district and regional boards; (2) area health boards must review and approve any research conducted in their facilities; (3) priority in health research shall be given to the prevention and correction of the leading causes of illness and death; (4) priority in health care delivery research shall be given to the improvement of ambulatory and primary health care; (5) no research shall be conducted using human subjects until all useful animal research has been undertaken; and (6) no research shall be conducted on humans without written consent of the individual or while involuntarily confined.

Sec. 422—Establishment of institutes. The National Health Board shall establish a National Institute of Epidemiology, a National Institute of Evaluative Clinical Research, a National Institute of Health Care Services, a National Institute of Pharmacy and Medical Supply, and a National Institute of Sociology of Health and Health Care, each with specified functions.

HEALTH PLANNING, DISTRIBUTION OF DRUGS AND OTHER MEDICAL SUPPLIES, AND MISCELLANEOUS FUNCTIONS

Sec. 431—Health planning and budgeting. Each area health board shall collect data on the delivery of health care in its area and shall transmit this data and their evaluation of it to the respective regional board, in the case of a district or community board, or to the National Health Board, in the case of a regional board and to residents of the area. Each regional board shall coordinate the planning and administration of health care service, health worker education, and research in its region. The National Health Board shall formulate a national health plan and budget, in consultation with the regional boards, to provide guidance to area health boards.

Sec. 432—Distribution of drugs and other medical supplies. The National Health Board shall prepare and disseminate to area health boards a National Pharmacy and Medical Supply Formulary which will list drugs and medical supplies and give, for each item, standards of quality, medical conditions for which it is certified effective, and other appropriate information. At regular intervals the Board shall update the Formulary and publish a pricelist for items in the Formulary.

Each regional board shall establish a program for the purchase and distribution of drugs and other medical supplies for use by the health facilities in its region. This program will provide for the purchase of each item by competitive bidding or based on the price listed by the National Health Board, and it will provide for the distribution of drugs under their generic names.

Sec. 433—Miscellaneous functions of the National Health Board. The National Board shall, at the end of each calendar year, publish a report describing the operations of the Service during the preceding fiscal year and surveying the future health needs of the Nation and plans the Board has to meet these needs.

The National Health Board shall publish and disseminate to area health boards, for use by users, a comprehensive dictionary of terms used in health care records and services.

TITLE V—FINANCING OF THE SERVICE

Health service taxes

Sec. 501—Individual income and employer taxes. The Internal Revenue Code of 1954 is amended by adding a new part on health service taxes. These taxes are imposed on the taxable income of every individual, estate, and trust, increasing their tax liability in accordance with a table included in the Act, and on employers an excise tax of 4.5% of the wages paid by him. These taxes apply to taxable years including and after the effective date of health services.

Sec. 502—Other changes in the Internal Revenue Code of 1954. The Internal Revenue Code of 1954 is amended to delete any income exclusion for contributions to health plans providing health care and supplemental services that are provided under this Act; to deny deductions of payments for health care services provided under this Act; to deny deductions for contributions to medical and hospital facilities; and to repeal medicare taxes. These amendments apply to taxable years including and after the effective date of health services.

Sec. 503—Existing employer-employee health benefit plans. No contractual or other nonstatutory obligation of an employer to pay or provide health services to his employees or others shall apply after the effective date of health services, to the extent such services are provided under this Act.

Sec. 504—Workers compensation program. No worker's compensation program shall pay for or provide health services after the effective date of health services, to the extent such services are available under this act.

Health Service Trust Fund

Sec. 511—Establishment of Health Service Trust Fund. There is created on the books of the United States Treasury a trust fund to be known as the Health Service Trust Fund. Funds received from health services taxes shall be appropriated to the Trust Fund.

Sec. 512—Transfer of funds to the Health Service Trust Fund. On the effective date of health services, all of the assets and liabilities of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Insurance Trust Fund are transferred to the Health Service Trust Fund. In addition to the funds received from health service taxes, there is also appropriated to the Trust Fund a contribution from general revenues equal to 40 percent of the funds received from health service taxes.

Sec. 513—Administration of Health Service Trust Fund. The Trust Fund shall be administered by a Board of Trustees, composed of the Secretary of the Treasury, the Secretary of Health, Education, and Welfare, and the chairperson of the National Health Board, according to the accepted standards for such federal trust funds. The Secretary of the Treasury shall pay from time to time from the Trust Fund such amounts as the National Health Board certifies are necessary to provide health care and supplemental services under this Act.

Preparation of plans and budgets

Sec. 521—Determination of fund availability. The National Health Board shall, not later than January 1 of each year, initially fix the maximum amount of funds which may be obligated during the fiscal year beginning on October 1 of such year. Such amount may not exceed the lesser of 140 percent of the expected net receipts from health services taxes, or the amount spent during the previous year adjusted to reflect changes in the cost of living and scope and cost of services. The National Health Board may obligate less funds, if it determines that the cost of providing services has lessened, or additional funds if necessary because of an epidemic or other unexpected occurrence.

Sec. 522—Preparation of area plans and budgets. Each community board shall, by January 1 of each year, submit to its respective district board a plan and budget for the fiscal year beginning October 1. Each district board, in consultation with its community boards, shall, by February 1, submit to its respective regional board a plan and budget for the fiscal year beginning October 1. Each regional board, in consultation with its district boards, shall, by March 1, submit to the National Board, a plan and budget for the fiscal year beginning October 1. In preparing these budgets, each area health board shall specify its operating, prevention, capital, and research expenses for the coming fiscal year and for the five-year period beginning with that fiscal year.

Allocation and distribution of funds

Sec. 531—National budget. The National Health Board shall, as soon after April 1 as practical, transmit to the regional boards a national health budget for the fiscal year beginning October 1. It shall divide the total funds available into funds for ordinary operating, preventive health, capital, and research expenses, all divided into funds for use by the National Health Board and funds for the regions, and funds for special operating expenses as described in section 534. Funds for ordinary operating preventive health measures and research expenses are allocated to regions in proportion to their populations. During the first ten fiscal years, priority in capital funds shall be given to areas lacking adequate health care facilities. The budget shall be adopted upon approval by a majority of the regional boards.

Sec. 532—Regional budgets. Each regional board shall, as soon as practicable after adoption of the national health budget, transmit a regional budget to each district board in its region. This budget shall be adopted upon approval by a majority of the district boards. Funds for ordinary operating, prevention and research expenses shall be allocated to each district in proportion to population.

Sec. 533—District budgets. Each district board shall, as soon as practicable after adoption of the respective regional health budget, transmit a district budget to each community board in its district. This budget shall be adopted upon approval by a majority of the community boards. Funds for ordi-

nary operating, prevention and research expenses shall be allocated to each community in proportion to population.

Sec. 534—Special operating expense fund. A fund for special operating expenses shall be incorporated into each budget prepared by the National Health Board. Special operating expenses include the costs of care and treatment of users 65 years of age and over, care and treatment of persons confined to full-time residential care institutions, special health needs of low-income individuals, special health needs of residents of rural areas, special health needs arising from environmental or occupational health problems, special needs from unexpected occurrences, and the conduct of environmental inspection and monitoring services.

The special operating expenses fund is allocated as follows: Funds for the additional expenses associated with senior citizens, and with persons confined to residential care institutions, are allocated to districts and communities and consist of basic capitation amounts multiplied, respectively, by the number of senior citizens and number of residents in such institutions, in the respective areas. The National Health Board shall determine the basic capitation amounts.

Funds for the needs of low-income residents are allocated to communities in proportion to the number of residents having incomes below the poverty level. (The total of these funds shall be no less than 2 percent of the ordinary operating expenses.) Funds for special environmental and occupational health needs are allocated by the National Board to regional boards in accordance with its determination of such needs. (The total of these funds shall be no greater than one-half percent of the ordinary operating expenses.) Funds for unexpected occurrences shall be retained by the National Board and allocated by them. (These funds shall be no greater than one-half percent of the ordinary operating expenses.) Funds for environmental inspection and monitoring services shall be allocated to the area health boards performing such services.

Sec. 535—Distribution of funds. Funds shall be distributed by the National Health Board from the Trust Fund. No health board may request or receive funds from any other source. Area health boards may retain funds received from the National Health Board for two years after receipt of funds; after this period, unexpended funds must be returned to the National Health Board for deposit in the Trust Fund.

Sec. 536—Annual statement, records, and audits. Each area health board shall prepare annually and transmit to the National Health Board a statement that accurately shows the financial operations of the board and its facilities. The National Health Board and the Comptroller General of the United States shall, for auditing purposes, have access to all records and documents of the Service.

General provisions

Sec. 541—Issuance of obligations. The National Health Board is authorized to borrow money and to issue and sell such obligations as it determines are necessary to carry out this Act, but only in such amounts as are specified in appropriation Acts. The aggregate amounts of obligations at one time shall not exceed $10 billion. The National Health Board may pledge the assets of the Trust Fund and pledge and use its revenues to pay principal and interest on obligations. The service shall abide by the general rules and procedures for the issuance of obligations followed by agencies of the Federal Government. Obligations issued by the Service shall be obligations of the United States Government and payment is fully guaranteed by the Government.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601—Effective date of health services. The effective date of health services under this Act is January 1 of the fourth calendar year after the year in which this Act is enacted.

Sec. 602—Repeal of provisions. Effective on the date of health services, portions of the Public Health Service Act, the Social Security Act, and other acts relating to the provision of health care services and the conduct of health and health care research are repealed. Portions of the Public Health Service Act relating to health worker education remain in effect until four years after the effective date of health services.

Not later than 3 years after the date of enactment of this Act, the President shall prepare, in consultation with the National Health Board, and transmit to Congress legislation to repeal or amend additional provisions of law that are inconsistent with the purposes of this Act. Such legislation shall include transfers of such authority of the Secretary of Health, Education, and Welfare, relating to standard-setting, regulation, and licensing, as the President determines, after consultation with the National Health Board to be appropriate.

Not later than one year after the effective date of health services, the National Health Board shall report to the President and to the Congress on how the Service is carrying out the purposes of the programs which have been repealed.●

A TRIBUTE TO BRUCE MIDDLETON

(Mr. O'NEILL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. O'NEILL. Mr. Speaker, I am pleased to observe that my page, Bruce Middleton, was selected as the valedictorian of the graduating class from the Capitol Page School. Bruce is one of the brightest young persons that I have ever known. He combines a sharp intellect with a courteous demeanor that is rare among persons of his age and experience. If other youth will follow his example, our country would truly be a wonderful place for all.

I take this opportunity to insert at this point in the RECORD, Bruce's provocative valedictory address delivered at the Page School commencement ceremonies held on June 15, 1981:

CAPITOL PAGE SCHOOL VALEDICTORY ADDRESS

This night marks both an end and a beginning, preparing this speech has made me think a lot about my experiences in Washington, about going home, college, and about finding a place in our society. For now this thinking leaves me with many more questions and fears, than answers and certainties.

I would like to say something about the experience of being a congressional page. I don't want to try to offer any general descriptions about this group, either the graduating seniors or those juniors, sophmores and freshmen scattered throughout the room—because there is no general description of a page that would fit all, or even two of us. Each of us came from different parts of the country for different reasons. We came with different social and political backgrounds. Some of us have lived in tourist homes, some in apartments, some at the "Y." Some have worked on the House floor, others on the Senate floor, some in the cloakrooms and others in the offices of individual members. Each of us will take home special memories of friends and experiences. Each of us will leave here a different person than the one who came.

But as different as we are, our common experiences here have made us much closer as a group than most high school students, we have lived on our own, collected paychecks, paid the rent and learned to budget our expenses—some better than others.

I hesitate to describe Washington as the real world, but by living here we have been forced to become more aware of life's many complexities—learning to cook and to eat what we've cooked, deciding how to spend our last ten dollars, doing laundry, getting ourselves up for school on time, learning to get around in a strange city, and cleaning our rooms when the floor is no longer visible. From time to time some of us probably could have used a psychologist—to help us figure out why we came, and why we stayed—but there was none, so we turned to ourselves and to each other for help. At one time or another, either at school, at work, or in our personal lives, we have dealt with loneliness, disappointment, frustration and success; and because of this I think that both as individuals and as a group we have become more sensitive, open and tolerant of ourselves and others. We have struggled with much more responsibility than most of our friends at home, many of whom have had to worry about little else other than making their beds, cutting the grass, being at the dinner table on time and being in before curfew.

Living on our own in a city like Washington, we have been able to get an idea of how many choices and options there are in life. Each of us has been faced with many decisions. We have become more aware of the importance of having choices, but we have also become aware of how difficult, though necessary, it is to make decisions.

As the complexity of society and the number of decisions which face us each day grow, I wonder if we will become freethinking individuals, able to make thoughtful independent judgments, in full control of our decisionmaking, and thereby responsible for defining ourselves as individuals? Or will we allow our thoughts and lives to be shaped by the opinions of others? There is always the danger of not having thought for ourselves, of remaining passive and apathetic while others think for us or circumstance manipulates us.

This year went by so fast that it made me realize that life is too short, too precious and has too much to offer to allow anyone else to control it. There are many pressures upon us to do just that. Fear of a mistake or of being criticized prompts us to shirk the responsibility of making decisions. It is much easier—and seems more painless—to ask and blindly follow somebody else's advice or opinion, or to procrastinate and then throw our arms in the air when the time comes that a decison must be made.

On our own for the first time, we have been exposed to many new situations with ample opportunity to sink and few people around to teach us how to swim. We have

made many mistakes and taken criticism. But we are young and the roof hasn't fallen in—yet. And so we will all probably leave with much more confidence in ourselves, than we had when we came.

While working in Congress, we have had the opportunity to observe many decision-makers and many decisions being made. Some of these decisions have seemed conscientious, while others have appeared arbitrary. Some Members of Congress vote a strict party line or look up at the voting board and simply follow their buddies but there are also many Members of Congress who every day speak up for their beliefs, despite criticism. And each of us has his or her favorite Members of Congress whom we admire and respect, and who keep us from becoming too cynical about this place. By watching them and by making decisions we have hopefully learned more about ourselves. We have come to understand that it is important not to be afraid to express ideas and thoughts which might be different from those of others. For in the long run it is easier to live with thoughtful decisions—right or wrong—than to live with decisions not our own. With each decision we make we further define ourselves as individuals.

In emphasizing the importance of thinking through and making one's own decisions, I don't want to neglect the importance of seeking advice. Naturally, we seek and appreciate advice from parents and others whom we respect. Our parents have had the greatest influence on how we think and act—on who we are. Although as children we must always remain open to our parents' ideals and thoughts, it is also true that our parents have wanted us to grow up as strong and independent thinkers or they would not have encouraged us to come and stay in Washington. Our independence from them is in this sense a measure of their own success, and as we leave Washington we can hope to face each other with understanding and mutual respect.

We must decide for ourselves when to seek advice, and from whom, and how much to rely on the advice we receive. Many of those I respect the most hesitate to offer their opinions; rather they help me by offering more information: a different perspective; or by asking questions which I may not have asked myself, leaving me to sort things out and make my own decisions.

As we take the responsibility for more of our own decisions, it becomes increasingly important to learn to establish priorities. Since it is easy to become bogged down in trivialities, we must determine the effect and importance of the outcome of a decision—we must realize that some things deserve more thought than others. Being in control of making decisions is not something that happens automatically one day. It cannot occur passively, but requires active thought and will, and most of all a certain sense of confidence. We must want to be in control of making our own decisions, of shaping ourselves as individuals. We must try our best to think through our decisions, and knowing that we have done our best, we must then have enough confidence in our decisions so that we may assert them.

I think that if we don't accept responsibility for our own actions and decisions, then there is a danger that we may end up somewhere without knowing how or why we got there and not being able to get out, and that we may become set on a track that we cannot get off or in a pattern that we cannot break. That is why I think that it is so critical always to exercise independent judgment so that we may succeed at living lives we have consciously chosen for ourselves.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CARNEY) to revise and extend their remarks and include extraneous material:)

Mr. DAUB, for 5 minutes, today.

Mr. DENARDIS, for 5 minutes, today.

(The following Members (at the request of Mr. DYSON) to revise and extend their remarks and include extraneous material:)

Mr. SHAMANSKY, for 15 minutes, today.

Mr. BINGHAM, for 15 minutes, today.

Mr. LAFALCE, for 10 minutes, today.

Mr. GLICKMAN, for 45 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MAZZOLI, for 5 minutes, today.

Mr. ST GERMAIN, for 5 minutes, today.

Mr. DINGELL, for 5 minutes, today.

Mr. O'NEILL, for 30 minutes, June 24, 1981.

Mrs. BOGGS, for 30 minutes, June 24, 1981, in tribute to the services of Gary Hymel to the House of Representatives.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SEIBERLING, to extend his remarks at this point in the RECORD, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,200.

Mr. VENTO, and to include extraneous material, on H.R. 2614, Department of Defense Supplemental Authorization Act, 1981, in the Committee of the Whole today.

Mr. DELLUMS, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,760.

Mr. O'NEILL, at the request of Mr. ECKART, to extend his remarks in body of the RECORD and to include extraneous material.

(The following Members (at the request of Mr. CARNEY), and to include extraneous matter:)

Mr. DANNEMEYER.

Mr. PETRI.

Mr. FORSYTHE.

Mr. BROOMFIELD in two instances.

Mr. WORTLEY.

Mr. MICHEL.

Mr. BROWN of Ohio.

Mr. LAGOMARSINO.

Mr. RUDD in two instances.

Mr. HYDE in three instances.

Mr. WOLF in two instances.

Mr. DERWINSKI in two instances.

Mr. GOODLING.

Mr. MILLER of Ohio in three instances.

Mr. YOUNG of Florida.

Mr. GUNDERSON.

Mr. GREEN.

Mr. BETHUNE.

Mr. DORNAN of California.

Mr. FIELDS.

Mr. MOLINARI.

Mr. WINN.

(The following Members (at the request of Mr. DYSON), and to include extraneous matter:)

Mr. MOFFETT.

Mr. MINISH in two instances.

Mr. EDWARDS of California.

Mr. ROE in two instances.

Mr. SCHEUER.

Mr. STOKES in three instances.

Mr. DE LUGO.

Mr. DINGELL in two instances.

Mr. BAILEY of Pennsylvania.

Mr. MAZZOLI.

Mr. VENTO.

Mr. GEJDENSON in two instances.

Mr. WEAVER.

Mr. SKELTON in two instances.

Mr. SANTINI.

Mr. MILLER of California in two instances.

Mr. DOWNEY.

Mr. HAMILTON.

Mr. BEDELL.

Mr. DYSON.

Mr. HUBBARD.

Mr. LONG of Maryland.

Mr. MCDONALD in two instances.

Mr. ZEFERETTI.

Mr. EDGAR.

Mr. SOLARZ.

Mr. MIKULSKI.

Mr. HARKIN.

Mr. MONTGOMERY.

Mr. GUARINI.

Mr. LEHMAN.

Mr. STUDDS.

Mr. MCDONALD.

Mr. MURPHY of Pennsylvania.

ADJOURNMENT

Mr. ECKART. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 25 minutes p.m.) the House adjourned until tomorrow, Wednesday, June 24, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1667. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice of the Army's intention to study the conversion from in-house operation to commercial contract of various functions at sundry locations, pursuant to section 502(a) of Public Law 96-342; to the Committee on Armed Services.

1668. A letter from the Assistant Secretary of Defense (Comptoller), transmitting an amendment to the list of contract award dates previously submitted for the period May 15 through August 15, 1981, pursuant to 10 U.S.C. 139(b); to the Committee on Armed Services.

1669. A letter from the Director, National Institute of Corrections, Department of Justice, transmitting the fifth annual report of the Institute, covering fiscal year 1980, pursuant to 18 U.S.C. 4352(b); to the Committee on Education and Labor.

1670. A letter from the Acting Administrator, Energy Information Administration, Department of Energy, transmitting reports covering the month of March 1981, on changes in market shares for refined petroleum products and retail gasoline, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Energy and Commerce.

1671. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

1672. A letter from the Secretary of Transportation, transmitting the sixth progress report on railroad-highway demonstration projects, pursuant to section 163(o) of Public Law 93-87; to the Committee on Public Works and Transportation.

1673. A letter from the Acting Comptroller General of the United States, transmitting a report on the food for development program (ID-81-32, June 23, 1981); jointly, to the Committee on Government Operations and Foreign Affairs.

1674. A letter from the Acting Comptroller General of the United States, transmitting a report on Federal agencies; use of contractors to do work involving basic management decisions (FPCD-81-43, June 19, 1981); jointly, to the Committee on Government Operations and Post Office and Civil Service.

1675. A letter from the Secretary of Health and Human Services, transmitting annual reports covering fiscal year 1980 on actions taken to recruit and train Indians to qualify for positions subject to preference under Indian preference laws, and on actions taken to place non-Indian employees of the Indian Health Service in other Federal positions, pursuant to section 2(d) and (e)(2), respectively, of Public Law 96-135; jointly, to the Committee on Interior and insular Affairs and Post Office and Civil Service.

1676. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to terminate certain functions of the Civil Aeronautics Board, to transfer other functions of the Board to the Secretary of Transportation, and for other purposes; jointly to the Committees on Public Works and Transportation and Post Office and Civil Service.

1677. A letter from the Secretary of Health and Human Services, transmitting the annual report of the Indian Health Care Improvement, pursuant to section 701 of Public Law 94-437; jointly, to the Committees on Energy and Commerce, Interior and Insular Affairs, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of the rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ST GERMAIN: Committee of conference. Conference report on H.R. 31 (Rept No. 97-159). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DE LA GARZA (for himself, Mr. FOLEY, Mr. BROWN of California, Mr. COELHO, Mr. PANETTA, Mr. RICHMOND, Mr. ROSE, Mr. CHAPPIE, and Mr. THOMAS):

H.R. 3990. A bill to amend the Food Stamp Act of 1977 to increase the authorization for appropriations for fiscal year 1981, and to amend Public Law 93-233 to continue, through September 30, 1981, the cash-out of food stamp program benefits of certain recipients of Supplemental Security Income; jointly, to the Committees on Agriculture and Ways and Means.

H.R. 3991. A bill to amend the Food Stamp Act of 1977 to increase the authorization for appropriations for fiscal year 1981, and to amend Public Law 93-233 to continue through August 1, 1981, the cash-out of food stamp program benefits of certain recipients of Supplemental Security Income; jointly, to the Committees on Agriculture and Ways and Means.

By Mr. PHILIP M. CRANE:

H.R. 3992. A bill to provide that in civil actions where the United States is a party a prevailing defendant or plantiff may recover a reasonable attorney's fee and other reasonable litigation costs; to the Committee on the Judiciary.

By Mr. GOODLING:

H.R. 3993. A bill to amend chapter 44 (relating to firearms) of title 18 of the United States Code to provide a 21-day waiting period for the purchase of handguns; to the Committee on the Judiciary.

H.R. 3994. A bill to amend title 18 of the United States Code to prohibit the importation of parts of firearms if the importation of such firearms is currently prohibited; to the Committee on the Judiciary.

By Mr. SAM B. HALL, JR. (for himself, Mr. WYLIE, Mr. MONTGOMERY, Mr. HAMMERSCHMIDT, Mr. DANIELSON, Mr. BRINKLEY, Mr. APPLEGATE, Mr. MURPHY, Mr. SMITH of Alabama, Mr. SMITH of Oregon, Mr. SILJANDER, Mr. EDWARDS of California, Mr. MOTTL, Mr. EDGAR, Mr. LEATH of Texas, Mr. BONER of Tennessee, Mr. SHELBY, Mr. MICA, Mr. DASCHLE, Mr. GRAMM, Mr. DORGAN of North Dakota, Mr. WON PAT, Mrs. HECKLER, Mr. HILLIS, Mr. SAWYER, Mr. MCEWEN, Mr. DUNN, Mr. SMITH of New Jersey, and Mr. HEFNER):

H.R. 3995. A bill to amend title 38, United States Code, to provide a cost-of-living increase in the rates of disability compensation for disabled veterans and in the rates of dependency and indemnity compensation for survivors of disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. KAZEN:

H.R. 3996. A bill to clarify the circumstances under which territorial provisions in licenses to distribute and sell trademarked malt beverage products are lawful under the antitrust laws; to the Committee on the Judiciary.

By Mr. MONTGOMERY:

H.R. 3997. A bill to amend title 10, United States Code, to revise and expand the educational assistance program for members of the Selected Reserve; to the Committee on Armed Services.

By Mr. PETRI:

H.R. 3998. A bill to repeal Federal provisions of law establishing agricultural programs concerning the marketing of and price support for tobacco; to prohibit compacts among States for regulating tobacco production and commerce; to amend the Tobacco Inspection Act and the U.S. Warehouse Act to provide for the assessment of certain fees to cover the costs of inspection, licensing, and other activities carried out under those acts; and to amend the Internal Revenue Code of 1954 to increase the tax on cigars and cigarettes; jointly, to the Committees on Agriculture and Ways and Means.

By Mr. PRICE (for himself and Mr. DICKINSON) (by request):

H.R. 3999. A bill to amend title 10, United States Code, to eliminate the requirement that nominations of persons for appointment to the U.S. Naval Academy must be made not later than March 4 of each year; to the Committee on Armed Services.

By Mr. RAHALL (for himself, Mr. UDALL, Mr. CAMPBELL, Mr. SANTINI, Mr. APPLEGATE, and Mr. MURPHY):

H.R. 4000. A bill to amend the Surface Mining Control and Reclamation Act of 1977 relating to maps and plans of lands to be mined; to the Committee on Interior and Insular Affairs.

By Mr. SKEEN:

H.R. 4001. A bill to authorize the exchange of certain land held in trust by the United States for the Navajo Tribe, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. STUDDS (for himself, Mr. SHANNON, Mr. JONES of North Carolina, Mr. BONIOR of Michigan, Mr. FORSYTHE, Mr. FOGLIETTA, Mr. MOAKLEY, Mr. EMERY, Mr. FLORIO, Mr. CONYERS, Mr. FAUNTROY, Mr. LOWRY of Washington, Mr. SUNIA, Mr. FRENZEL, Mr. YOUNG of Alaska, and Mr. PRITCHARD):

H.R. 4002. A bill to amend the tariff schedules of the United States to provide for a lower rate of duty for certain fish netting and fish nets; to the Committee on Ways and Means.

By Mr. FORD of Tennessee:

H.J. Res. 296. Joint resolution to provide for the designation of January 8, 1982, as "National Elvis Presley Day"; to the Committee on Post Office and Civil Service.

By Mr. LAFALCE (for himself, Mr. EDGAR, Mr. ADDABBO, Mr. ANTHONY, Mr. BENJAMIN, Mr. BEVILL, Mr. BONIOR of Michigan, Mr. CARMAN, Mr. CLAY, Mr. CLINGER, Mr. COELHO, Mr. CORRADA, Mr. COURTER, Mr. DERWINSKI, Mr. DWYER, Mr. ERTEL, Mr. EVANS of Delaware, Mr. FAZIO, Mr.

FOGLIETTA, Mr. FRENZEL, Mr. GEJDENSON, Mr. GREGG, Mr. HATCHER, Mr. HOLLENBECK, Mrs. HOLT, Mr. HORTON, Mr. KILDEE, Mr. LAGOMARSINO, Mr. LEBOUTILLIER, Mr. LEE, Mr. LENT, Mr. LONG of Maryland, Mr. LUJAN, Mr. MADIGAN, Mr. MARKS, Mr. MARTIN of New York, Mr. MCGRATH, Ms. MIKULSKI, Mr. MITCHELL of New York, Mr. MURPHY, Mr. NAPIER, Mr. NEAL, Mr. NELLIGAN, Mr. RAHALL, Mr. REGULA, Mr. RODINO, Mr. ROE, Mr. RUDD, Mr. SCHEUER, Mr. SOLOMON, Mr. SMITH of New Jersey, Mr. SUNIA, Mr. VENTO, Mr. WEBER of Minnesota, Mr. WHITEHURST, Mr. WILLIAMS of Ohio, Mr. WILSON, Mr. WOLF, Mr. WYDEN, Mr. YATRON, and Mr. ZEFERETTI):

H.J. Res. 297. Joint resolution to establish "National Volunteer Firefighters' Day" on the second Saturday of August 1981; to the Committee on Post Office and Civil Service.

By Mr. BINGHAM (for himself, Mr. ADDABBO, Mr. AKAKA, Mr. BARNES, Mr. BEDELL, Mr. BEILENSON, Mr. BENJAMIN, Mrs. BOGGS, Mr. BOLAND, Mr. BOLLING, Mr. BONIOR of Michigan, Mrs. BOUQUARD, Mr. BRODHEAD, Mr. BROWN of Ohio, Mr. BROWN of California, Mr. PHILLIP BURTON, Mrs. CHISHOLM, Mr. CLAY, Mr. COELHO, Mrs. COLLINS of Illinois, Mr. CONTE, Mr. CONYERS, Mr. CORRADA, Mr. COTTER, Mr. COURTER, Mr. JAMES K. COYNE, Mr. CROCKETT, Mr. DAUB, Mr. DELLUMS, Mr. DE LUGO, Mr. DENARDIS, Mr. DERWINSKI, Mr. DIXON, Mr. DOWNEY, Mr. DUNCAN, Mr. DWYER, Mr. DYMALLY, Mr. EDGAR, Mr. EDWARDS of California, Mr. ERTEL, Mr. FASCELL, Mr. FAUNTROY, Mr. FAZIO, Mrs. FENWICK, Mr. FINDLEY, Mr. FISH, Mr. FORD of Tennessee, Mr. FORSYTHE, Mr. FOWLER, Mr. FRANK, Mr. FRENZEL, Mr. FROST, Mr. GEJDENSON, Mr. GIBBONS, Mr. GILMAN, Mr. GINGRICH, Mr. GINN, Mr. GORE, Mr. GRADISON, Mr. GRAY, Mr. GREEN, Mr. GUARINI, Mr. HALL of Ohio, Mr. HAWKINS, Mrs. HOLT, Mr. HOWARD, Mr. HUGHES, Mr. JACOBS, Mr. KASTENMEIER, Mr. KEMP, Mr. KILDEE, Mr. KOGOVSEK, Mr. LAFALCE, Mr. LELAND, Mr. LONG of Maryland, Mr. LOWRY of Washington, Mr. LUKEN, Mr. MARKEY, Mr. MARKS, Mr. MATTOX, Mr. MAVROULES, Mr. MAZZOLI, Mr. MCCLOSKEY, Mr. MCHUGH, Mr. MCKINNEY, Ms. MIKULSKI, Mr. MILLER of California, Mr. MINETA, Mr. MITCHELL of Maryland, Mr. MOFFETT, Mr. MOLLOHAN, Mr. NEAL, Mr. NOWAK, Mr. OBERSTAR, Mr. O'BRIEN, Mr. OTTINGER, Mr. PANETTA, Mr. PATTERSON, Mr. PEPPER, Mr. PEYSER, Mr. PRICE, Mr. PRITCHARD, Mr. RAHALL, Mr. RANGEL, Mr. RATCHFORD, Mr. REUSS, Mr. RICHMOND, Mr. RODINO, Mr. ROE, Mr. ROEMER, Mr. ROSENTHAL, Mr. ROYBAL, Mr. SABO, Mr. SAVAGE, Mr. SCHEUER, Mrs. SCHROEDER, Mr. SCHUMER, Mr. SEIBERLING, Mr. SHAMANSKY, Mr. SHANNON, Mr. SIMON, Mr. SOLARZ, Mr. STARK, Mr. STOKES, Mr. STUDDS, Mr. SUNIA, Mr. SWIFT, Mr. TAUKE, Mr. TRAXLER, Mr. UDALL, Mr. VENTO, Mr. WALGREN, Mr. WASHINGTON, Mr. WAXMAN, Mr. WEAVER, Mr. WEISS, Mr. WHITEHURST, Mr. WILLIAMS of Montana, Mr. WILSON, Mr. WIRTH, Mr. WOLPE, Mr. WON PAT, Mr. WYDEN, and Mr. YATES):

H. Con. Res. 153. Concurrent resolution authorizing a bust or statue of Dr. Martin Luther King, Jr. to be placed in the Capitol; to the Committee on House Administration.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 27: Mr. COATS, Mr. EMERY, Mr. MARKS, Mr. MCGRATH, Mr. NOWAK, Mr. OTTINGER, Mr. ROBERTS of South Dakota, Mr. ROE, Mrs. ROUKEMA, Mrs. SCHROEDER, Mr. SCHUMER, Mr. SMITH of Iowa, Mr. WALGREN, Mr. WEBER of Ohio, Mr. JONES of North Carolina, Mr. REGULA, and Mr. BEREUTER.

H.R. 450: Mr. NAPIER.

H.R. 560: Mr. PATTERSON.

H.R. 1005: Mr. BAILEY of Missouri, Mr. PASHAYAN, Mr. DERRICK, and Mr. ALBOSTA.

H.R. 1303: Mr. DANIEL B. CRANE.

H.R. 1308: Mr. LAGOMARSINO, Mr. MCDONALD, Mr. WHITEHURST, Mr. BEARD, Mr. O'BRIEN, Mr. PAUL, and Mr. WEBER of Minnesota.

H.R. 1605: Mr. LEHMAN.

H.R. 1648: Mr. DERWINSKI, Mr. GINGRICH, Mr. IRELAND, Mr. LEBOUTILLIER, Mr. LENT, Mr. MCCOLLUM, Mr. MURPHY, Mr. PETRI, Mr. RAILSBACK, Mr. STOKES, Mr. TAUKE, and Mr. WEBER of Minnesota.

H.R. 1704: Mr. STANGELAND.

H.R. 1937: Mr. EDWARDS of California, Mr. MCCLOSKEY, Mr. COUGHLIN, and Mr. DANIELSON.

H.R. 1964: Mr. EVANS of Georgia and Mr. BROYHILL.

H.R. 2036: Mr. STOKES, Mr. TAUKE, Mr. YOUNG of Alaska, Mrs. SNOWE, Mr. BROWN of Ohio, Mr. NAPIER, Mr. DOWNEY, Mr. SMITH of Alabama, Mr. DANNEMEYER, Mr. SAWYER, Mr. EMERY, Mr. SHAW, and Mr. SYNAR.

H.R. 2037: Mr. JAMES K. COYNE.

H.R. 2103: Mr. TRIBLE.

H.R. 2290: Mr. LEE and Mr. ROTH.

H.R. 2319: Mr. PATTERSON, Mr. DAUB, Mr. GOODLING, Mr. FAZIO, and Mr. DANIEL B. CRANE.

H.R. 2326: Mr. MATSUI.

H.R. 2347: Mr. SMITH of Alabama, Mr. CARNEY, Mr. DANIEL B. CRANE, Mr. JOHNSTON, and Mr. SILJANDER.

H.R. 2396: Mr. EVANS of Georgia, Mr. CORCORAN, Mr. WEBER of Minnesota, Mr. GOODLING, and Mr. CAMPBELL.

H.R. 2440: Mr. PATTERSON.

H.R. 2828: Mr. ANDERSON, Mr. BAILEY of Pennsylvania, Mr. BEARD, Mr. BENJAMIN, Mr. BREAUX, Mr. CLAUSEN, Mr. CORCORAN, Mr. DANNEMEYER, Mr. DOUGHERTY, Mr. DYSON, Mr. ENGLISH, Mr. EVANS of Georgia, Mr. GEJDENSON, Mr. GIBBONS, Mr. GINN, Mr. GORE, Mr. HARKIN, Mr. JONES of Tennessee, Mr. LANTOS, Mr. LEATH of Texas, Mr. LOEFFLER, Mr. MADIGAN, Mr. MARTIN of New York, Mr. MATSUI, Mr. NAPIER, Mr. PATTERSON, Mr. RAHALL, Mr. RHODES, Mr. ROEMER, Mr. SMITH of New Jersey, Mr. SOLARZ, Mr. SPENCE, Mr. STUMP, Mr. WALGREN, Mr. WATKINS, Mr. WHITTEN, Mr. WORTLEY, and Mr. FOWLER.

H.R. 2837: Mr. BAILEY of Missouri.

H.R. 2926: Mr. ERDAHL, Mr. SIMON, Mr. WHITTAKER, Mr. HILER, Mr. HUCKABY, Mrs. SMITH of Nebraska, Mr. SKELTON, and Mr. WOLPE.

H.R. 2990: Mr. BETHUNE. Mr. KRAMER, Mr. MARLENEE, Mr. CLINGER, Mr. SHUMWAY, Mr. ANTHONY, Mr. EDWARDS of Oklahoma, Mr. ROEMER, Mr. ALEXANDER, Mr. MCCURDY, Mr. MCCOLLUM, Mr. WHITE, Mr. RALPH M. HALL, Mr. LOTT, Mr. CHENEY, Mr. BURGENER, Mr. FIELDS, Mr. YOUNG of Alaska, Mr. TAUZIN, Mr. BOWEN, Mr. CHAPPIE, Mr. LIVINGSTON, and Mr. DORNAN of California.

H.R. 3091: Mr. BEDELL.

H.R. 3110: Mr. BIAGGI, Mrs. CHISHOLM, Mr. DELLUMS, Mr. FAUNTROY, Ms. FERRARO, Mr. FORD of Tennessee, Mr. LEHMAN, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. MURPHY, Mr. NEAL, Mr. OTTINGER, Mr. PEPPER, Mr. RODINO, Mr. ROSENTHAL Mr. SIMON, Mr. SOLARZ, Mr. STOKES, Mr. WAXMAN, Mr. WILLIAMS of Montana, and Mr. ZEFERETTI.

H.R. 3138: Mr. DUNCAN, Mr. LAGOMARSINO, Mr. BROWN of Ohio, and Mr. NEAL.

H.R. 3139: Mr. DUNCAN, Mr. FISH, Mr. IRELAND, Mr. WALKER, Mr. LOWERY of California, and Mr. NEAL.

H.R. 3218: Mr. BAILEY of Pennsylvania and Mr. OTTINGER.

H.R. 3327: Mr. SCHULZE, Mr. FORD of Michigan, Mr. FOGLIETTA, Mr. BEDELL, Mr. WOLPE, and Mr. CONYERS.

H.R. 3456: Mr. JONES of Oklahoma, Mr. FOWLER, Mr. EVANS of Georgia, Mr. HATCHER, Mr. BURGENER, Mrs. FENWICK, Mr. MCCOLLUM, Mr. ALBOSTA, Mr. ECKART, Mr. LAGOMARSINO, Mr. BARNES, Mr. FOLEY, Mr. TRAXLER, Mr. AUCOIN, Ms. OAKAR, Mr. MCGRATH, Mr. TRIBLE, Mr. MCKINNEY, Mr. HUGHES, Mr. BAILEY of Missouri, Mr. DENARDIS, Mr. STANTON of Ohio, Mr. DERRICK, Mr. BONER of Tennessee, Mr. MOLINARI, Mr. WEBER of Ohio, Mr. MCDONALD, Mr. MICA, Mr. BEARD, Mr. D'AMOURS, and Mr. WYLIE.

H.R. 3465: Mr. STOKES, Mr. RAHALL, Mr. PEPPER, and Mr. BURGENER.

H.R. 3650: Mr. LONG of Maryland.

H.R. 3950: Mr. LEWIS.

H.J. Res. 65: Mr. DANNEMEYER, Mr. LAGOMARSINO, Mr. LEATH of Texas, Mr. MCCOLLUM, Mr. NAPIER, and Mr. WON PAT.

H.J. Res. 82: Mr. EVANS of Georgia.

H.J. Res. 141: Mr. YATRON, Mr. GREGG, Mr. JONES of Tennessee, Mr. WEAVER, and Mr. SMITH of New Jersey.

H.J. Res. 200: Mr. HAMILTON.

H.J. Res. 254: Mr. SMITH of New Jersey, Mr. CORRADA, Mr. DE LA GARZA, Mr. FIELDS, Mr. MAZZOLI, Mr. MARRIOTT, Mr. WEBER of Minnesota, Mr. DOUGHERTY, and Mr. SIMON.

H.J. Res. 291: Mr. LAFALCE.

H. Con. Res. 124: Mr. AUCOIN, Mr. EDWARDS of California, Mr. BARNARD, Ms. MIKULSKI, Mr. BONER of Tennessee, Mr. FARY, Mr. SUNIA, Mr. WYDEN, and Mr. BEILENSON.

H. Con. Res. 139: Mr. LUKEN.

H. Res. 157: Mr. BOWEN, Mr. ROBERTS of Kansas, Mr. MARLENEE, Mr. BEREUTER, Mr. MOLLOHAN, Mr. GORE, Mr. CORRADA, Mr. RAHALL, Mr. MADIGAN, Mr. LAFALCE, and Mr. DASCHLE.

H. Res. 158: Mr. CLAY, Mr. WON PAT, Mr. WOLPE, Mr. HAWKINS, Mr. VENTO, Mr. HUTTO, Mr. BONIOR of Michigan, Mr. STRATTON, and Mr. LUKEN.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3238

By Mr. COLLINS of Texas:

—Page 2, strike out line 4 and all that follows through page 3, line 13, insert in lieu thereof the following new section, and redesignate the subsequent sections, and any references to such sections, accordingly:

REPEAL OF PUBLIC TELECOMMUNICATIONS FACILITIES PROGRAM

SEC. 2. (a) Part IV of title III of the Communications Act of 1934 (47 U.S.C. 390 et seq.) is amended—

(1) by striking out subpart A thereof;

(2) by redesignating subpart B through subpart D as subpart A through subpart C, respectively; and

(3) by redesignating section 395 as section 391.

(b)(1) Section 396(k)(3)(B) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(B)) is amended by striking out clause (iv) thereof.

(2) Section 397(2) of the Communications Act of 1934 (47 U.S.C. 397(2)) is amended by striking out "subpart C" and inserting in lieu thereof "subpart B".

(3) Section 397(15) of the Communications Act of 1934 (47 U.S.C. 397(15)) is amended to read as follows:

"(15) The term 'Secretary' means the Secretary of Health and Human Services.".

(4) Section 398(b) of the Communications Act of 1934 (47 U.S.C. 398(b)) is amended by striking out "subpart C" each place it appears therein and inserting in lieu thereof "subpart B".

H.R. 3519

By Mr. VENTO:

—Page 60, after line 17, add the following new section:

F/A-18 FIGHTER/ATTACK AIRCRAFT

SEC. 912. None of the funds appropriated under any authorization contained in this Act may be used for research, development, test, evaluation, or procurement of any F/A-18 fighter/attack aircraft (commonly referred to as the "Hornet").

H.R. 3964

By Mrs. BOUQUARD:

—In title XII, subtitle A:

Delete section 12005 and section 12006 in their entirety and renumber the succeeding sections accordingly; and

In section 12002, subsection (b), paragraph (8) delete "85 percent ($700,701,000)", and insert in lieu thereof "96 percent ($795,201,000)".

—In title XII, subtitle A:

Delete section 12005 and section 12006 in their entirety and renumber the succeeding sections accordingly; and

In section 12002, subsection (b), paragraph (8) delete "85 percent ($700,701,000)", and insert in lieu thereof "99 percent ($832,951,000)".

By Mr. JONES of Oklahoma:

—Page 321, strike out line 33 and insert in lieu thereof the following:

SEC. 6609. (a) Section 15(b) of the Railroad Retirement Act of 1974 is amended by inserting "(1)" after "(b)" and by inserting at the end thereof the following new subdivision:

"(2) In any month when the Board finds that the balance in the Railroad Retirement Account is insufficient to pay annuity amounts due to be paid during the following month, the Board shall report to the Secretary of the Treasury the additional amount of money necessary in order to make such annuity payments, and the Secretary shall transfer to the Credit of the Railroad Retirement Account such additional amount upon receiving such report from the Board. The total amount of money outstanding to the Railroad Retirement Account from the general fund during any fiscal year shall not exceed the total amount of money the Board estimates will be transferred to the Railroad Retirement Account pursuant to section 7(c)(2) of this Act with respect to such fiscal year. Whenever the Board determines that the sums in the Railroad Retirement Account are sufficient to pay annuity amounts, the Board shall request the Secretary of the Treasury to retransfer to the general fund from the Railroad Retirement Account all or any part of the amount outstanding, and the Secretary of the Treasury shall make such retransfer of the amount requested. Not later than 10 days after a transfer to the Railroad Retirement Account under section 7(c)(2) of this Act, any amount of money outstanding to the Railroad Retirement Account from the general fund under this subdivision shall be retransferred in accordance with this subdivision. Any amount retransferred shall include an amount of interest computed at a rate determined in accordance with the following two sentences: The rate of interest payable with respect to an amount outstanding for any month shall be computed in accordance with the fifth sentence of section 15(e) of this Act, deeming any amount outstanding at the beginning of a month to have been borrowed at the beginning of such month. For this purpose the amount of interest computed in accordance with the preceding sentence but not repaid by the end of such month shall be added to the amount outstanding at the beginning of the next month.".

Page 322, line 17, strike out "(b)" and insert in lieu thereof "(c)".

Page 322, line 20, strike out "(c)" and insert in lieu thereof "(d)".

By Mr. PASHAYAN:

—Page 497, insert after line 8 the following:

TITLE XVI—BLOCK GRANTS

DISTRIBUTION OF BLOCK GRANT FUNDS

SEC. 1601. (a) Notwithstanding any other provision of this Act, a State which receives funds under this Act or any other Federal law—

(1) which provides for the distribution of funds to States only; and

(2) which prescribes the amount to be distributed to a State on the basis of the amount the State or political subdivisions or other entities in the State received under Federal programs—

(A) which are repealed by this Act or other Federal law, and

(B) which provided funds to political subdivisions of States and to other entities in the States,

shall establish a method and formula for the distribution of such funds on a equitable basis in accordance with subsection (b) and shall make the report prescribed by subsection (c).

(b) In distributing funds described in subsection (a), the State shall—

(1) assure the continuation of funding of effective programs which are servicing demonstrated needs and which were funded under programs described in subsection (a)(2),

(2) assure parity for rural areas and small cities of funds available for distribution, and

(3) assure fairness of competition in the application and bidding for funds available for distribution.

REPORTING

SEC. 1602. (a) Prior to expenditures by a State of funds described in subsection (a) of section 1601, the chief executive officer of the State shall prepare a public report on the intended use of the funds, including information on the types of activities to be supported, the geographic areas to be served, the categories or characteristics of individuals to receive the services, and the method and formula established under section 1601 for distribution of funds.

(b) The report shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the report and after its completion. The report shall describe a process (as developed by the State) to allow for public review, appeal of program selection, and appeal of the selection of entities to deliver program services. The report shall be revised throughout the year as may be necessary to reflect substantial changes in the activities assisted with such funds, and any revision shall be subject to the requirements of this subsection.

(c) The report shall contain sufficient documentation to substantiate (1) the funding of recommended programs and that the amount provided the programs is adequate to carry out their purposes, (2) the selection of entities to receive funds, (3) if the State discontinues funding or reduces by more than one-half the amount of funds provided a program which received financial assistance under a provision of law referred to in subsection (a)(2) of section 1601, that the program has not proven effective, and (4) if the State discontinues funding an existing entity which has been carrying out a program which received financial assistance under a provision of law referred to in subsection (a)(2) of section 1601, that the entity has not proven effective in carrying out such program.

EXTENSIONS OF REMARKS

SENIOR EXECUTIVE SERVICE

HON. FRANK R. WOLF
OF VIRGINIA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. WOLF. Mr. Speaker, I again rise to express my concern about the adverse effects of the executive pay ceiling on the quality of our Senior Executive Service. As many are aware, we are in the midst of a major exodus of top managerial and technical talent from our senior ranks.

Why? These employees have had a single 5½-percent pay raise since 1977 while the cost of living has increased by over 47 percent during the same period. Because of the pay cap, we now have some 33,000 top executives and lesser management employees all at the pay ceiling. As a result, in many cases, there are four to seven tiers of management being paid the same salary. With the upcoming October 1 increase, GS-14's will be paid the same salary as our top ES-6 senior executives; an intolerable and inexcusable situation.

Within the last 3 years, retirement of the highest ranking Federal employees aged to 55 to 59 have risen from 18.2 percent to 95 percent, and there is no question that pay is the cause of their unprecedented and alarming increase. And who is benefiting from this exodus? The private sector. As indicated in June 1, 1981, Newsweek article entitled "The Federal Brain Drain," the private sector is reaping the benefits of these unexpected retirements. Now that the first Space Shuttle has been successfully completed, for instance, NASA expects to lose much of its team to private industry where salaries are sometimes triple what NASA pays. "We're losing the best people because there are jobs in industry for these people," says Dr. Robert Wiseman, who hires scientists and engineers for the Department of the Army. The Newsweek article goes on the cite similar problems at the National Institutes of Health which has been rebuffed by five outside candidates for the top jobs in the Cancer Cause and Preventive Division because the capped $50,112 salary is far from competitive.

Mr. Speaker, I request that the above mentioned Newsweek article be inserted in the RECORD, and, again, beseech my colleagues in the Congress and the administration to focus their attention and efforts on resolving this very serious problem.

In addition, Mr. Speaker, I ask unanimous consent to have printed at this point in the RECORD a very timely article which appeared in the June 18, 1981, edition of the Wall Street Journal entitled "Uncle Sam's Hemorrhage of Senior Managers."

[From Newsweek, June 1, 1981]

THE FEDERAL BRAIN DRAIN

Roy McKinnon liked his job. In over 26 years as an FBI official, he headed the investigation into the 1969 murders of United Mine Workers leader Joseph Yablonski and his family, helped negotiate an end to the Indian uprising at Wounded Knee and last year he was promoted to an assistant director of the bureau. But his $50,112-a-year salary had been frozen by a pay cap ordered by President Carter and a change in government benefits threatened to cut his monthly pension by $250 a month. So last January, at 50, McKinnon took early retirement. It wasn't just the money. "My career was built on the credibility of the agents working for me," he says. "Under the circumstances people might have thought, 'This guy's a damn fool to stay on'."

McKinnon is not a statistic—one of hundreds of top Federal employees who have left government recently. The resulting "brain drain" is becoming so great that many agencies can't find good managers or technical experts to run billions of dollars worth of programs. Within the last three years, retirement of the highest-ranking Federal employees aged 55 to 59 has risen from 18.2 percent to 95 percent. Many younger civil servants are quitting too, taking private-sector jobs that pay up to triple their government salaries. They include some of the best and the brightest in government, including Dr. Robert Levy, who ran the heart, lung, and blood program for the National Institutes of Health, and Donald K. (Deke) Slayton, who was flight test manager for NASA's space shuttle. "If you really want a bloated bureaucracy populated by incompetents who can't make it in the private sector, the surest way is to stay with the [pay] policies we're following now," warns Rep. William Ford of Michigan.

Many say the problem began when Jimmy Carter tried to reform the civil service. In an effort to improve incentives, a Senior Executive Service was created for about 8,000 top employees. They gave up some civil-service job security in return for financial incentives that included promises of hefty pay increases and sizable bonuses for jobs well done. But, strapped for funds, Carter soon scaled down the bonuses and, except for one small pay raise in 1979, decided not to remove a pay ceiling imposed in 1977. With their pay frozen, many employees began to leave. In addition, the pay ceiling produced a phenomenon called "pay compression." Executives in the top seven civil-service categories ended up with the same $50,112 maximum salary. A promotion no longer meant a pay increase and an employee who managed 2,000 people often earned no more than his subordinates. "It's not a matter of a living wage," insists Paul Lorentzen of the Federal Executive Institute Alumni Association. "It's a matter of getting talented people to run the Federal government at the highest levels."

The private sector is reaping the benefits of the government brain drain. Now that the first space shuttle has been successfully completed, for instance, NASA expects to lose much of its team to private industry where salaries are sometimes triple what NASA pays. "We're losing the best people because there are jobs in industry for those people," says Dr. Robert Wiseman, who hires scientists and engineers for the Department of the Army. The National Institutes of Health has been rebuffed by five outside candidates for the top job in the Cancer Cause and Prevention Division because the minimum salary of $50,112 is far from competitive.

The drain is likely to continue. President Reagan has abandoned for now a campaign promise to raise executive salaries, and Congress is prohibited by law from increasing the pay of the Senior Executive Service without raising its own. And that, in the midst of budget cuts, is unlikely. Congress could change the law and grant increases to the bureaucratic elite, but it probably won't.

"There's a kind of professional jealousy on the Hill that if we can't get a raise, the bureaucrats aren't going to get one either," says one Congressional aide. In an age of budget cuts and government-as-villain politics, the senior bureaucrats are not likely to win much public sympathy. But if the drain continues, the Federal bureaucracy will end up even less efficient than it is now.

[From the Wall Street Journal, June 18, 1981]

UNCLE SAM'S HEMORRHAGE OF SENIOR MANAGERS

(By Joann S. Lublin)

WASHINGTON.—The U.S. government is suffering a serious "brain drain" of its most experienced top managers and Congress could hardly care less.

Thus a promising experiment in improving government efficiency may be in danger of extinction.

The experiment involves the Senior Executive Service, created by the Civil Service Reform Act of 1978. A cadre of top civil servants gave up certain job protections in return for the right to win bonuses for superior performance. These officials oversee 1.7 million workers and a nearly $700 billion budget, so any boost in their productivity could have a vast ripple effect on government efficiency, a much-stated goal of the Reagan administration.

But the lack of any recent pay raises for the 6,700 senior federal executives and the setting of limits on expected bonuses are hurting morale and contributing to an unprecedented wave of resignations and early retirements. More than 45 percent of nearly 1,000 senior executives polled recently said they may leave the government within the next two years. Many agencies also face increasing difficulty in recruiting qualified replacements from the private sector.

A report released yesterday by the President's Advisory Committee on Federal Pay criticized the widening gap between federal

and private-sector salaries. "We're losing a serious investment in people" from the resulting "alarming" executive brain drain, committee Chairman Jerome Rosow told a news conference. "You can always get a warm body" to replace federal managers, he went on. "But what's the long-term impact?"

"The government is losing and the country is losing" from the inevitable employment of inexperienced top managers, says Robert Wiseman, 57, a retiring SES member who has had trouble recruiting top engineering scientists for the Army.

The Reagan administration recognizes that "the loss of key individuals is going to (have an) impact on the effectiveness of implementing its program," admits George Nesterczuk, an associate director of the Office of Personnel Management, who oversees the SES. He adds a note of hope, however: "It may just be a matter of time before we can turn that whole thing around."

"The whole pay thing" affects not only the Senior Executive Service but also 26,300 middle managers in the government. Despite big differences in their duties, all these officials' salaries remain frozen at $50,112 because of Congress's refusal in March to grant raises to them and to itself, the judiciary, the Cabinet and sub-Cabinet. This so-called "pay compression" is "very galling, especially when people who have a great deal of responsibility running an organization bigger than many corporations are getting the same thing as minor functionaries," says Sally Greenberg, Mr. Nesterczuk's predecessor.

Congressional reluctance to invite public outcry over big pay boosts is nothing new. But federal executives' salaries rose only about 35 percent during the 1970s, compared with an 84 percent increase for other white-collar federal workers and a 125 percent rise for private-sector executives, reports the General Accounting Office. The GAO says inflation during the decade eliminated 31 percent of the federal executives' purchasing power.

Senior U.S. officials would feel less unhappy about their compensation if Congress hadn't also curtailed bonuses. Under the 1978 law, up to half of an agency's SES positions could receive awards of up to $20,000 a year. But last summer Congress cut those eligible to 25 percent and the OPM knocked down that share to 20 percent after hearing reports of favoritism and use of the bonuses to sidestep the pay ceiling rather than reward performance.

Now the Reagan administration is fighting renewed congressional support for eliminating the senior executives' bonuses altogether—which the House voted to do last year. "This isn't the kind of cut that's really going to hurt people, like cutting back on food stamps or low-income housing," says Aubrey "Tex" Gunnells, a House Appropriations Subcommittee staffer. "You go out to Podunk and see if you can convince them to give someone in government making $50,000 a $10,000 or $20,000 bonus for doing his job."

Nonetheless, poor prospects for pay raises and bonuses have doubled the usual employee turnover rate to 18 percent or 20 percent among SES members at NASA, the Air Force and other agencies. NASA expects to soon lose 30 senior officials who played important technical roles in the recent space shuttle project. "That can have an adverse impact on the continued development of the shuttle," says Carl Grant, NASA personnel director.

Many bonus-winners leaving the government land much better-paying jobs in the private sector. Dr. Robert Levy, 44, is quitting as head of the National Heart, Lung and Blood Institute to become Tufts University's health sciences vice president for twice his $60,000 government salary. After getting a $5,000 bonus last year, he saw little chance of winning another this year because of the restrictions. "But I wasn't so much frustrated with the SES," Dr. Levy says, "as with the fact that I work seven days a week . . . and I'm rapidly moving into debt." Three of his children will attend Ivy League colleges next fall.

Filling Dr. Levy's job and other SES vacancies can't be done easily. The pay ceiling means "you take second best" for top research posts, a National Institutes of Health official says. Five "well-qualified" outside candidates recently rejected offers for one such position.

The Army wanted to consider promoting a middle manager to be a command, personnel director. The man, who had been in an executive training program for two years, decided that a move from San Antonio to Atlanta without a pay raise would be too costly. The Army's civilian personnel director, Fred Newman, says, "We're going to have to go for the less knowledgeable person with less expertise. It's like bringing up someone from a farm team like the Alexandria Dukes to play for the New York Yankees."

These problems are not lost on the Reagan administration. Though the President is committed to reducing the bureaucracy, "We want effective people in there," says Donald Devine, director of the Office of Personnel Management. Without a first-rate civil service, he adds, "You're going to be wasting billions of dollars."●

COLORADO MAY JOIN REBELLION

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. SANTINI. Mr. Speaker, the enclosed Associated Press wire story with a Denver dateline indicates that the mood in Western States is still strong to transfer Federal unappropriated lands to States for control. My bill, H.R. 3655, would allow for the orderly transfer of Federal lands to States to control and manage in a sound "multiple use" manner.

Support for the Sagebrush Rebellion is evidenced by the Colorado State Senate's recent 21 to 9 vote to support transferring millions of acres of public lands to the States.

I urge my House colleagues to read the article. The Sagebrush Rebellion is a viable and lively issue which Congress must consider seriously.

COLORADO MAY JOIN REBELLION

DENVER.—The Colorado Legislature gave final approval Tuesday to a bill that would place the state in the thick of the Sagebrush Rebellion, leaving Gov. Richard Lamm to decide whether to veto the proposed state takeover of federal land.

The bill, which seeks to transfer 22 million acres of federal land to state ownership, was readopted Tuesday by the Senate on a 21-9 vote after senators accepted several House amendments.

Lamm has voiced opposition to many aspects of the Sagebrush Rebellion, particularly the possibility of wilderness land being opened up for development, but he has not stated specifically whether he would veto the bill.

If signed into law by Lamm, the bill would establish a commission to plan and oversee the transfer of 14 million acres of Forest Service land and 8 million acres of Bureau of Land Management land. None of the property could be sold to private interests without approval of two-thirds of the Legislature.●

THE TOBACCO DEREGULATION ACT OF 1981

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. PETRI. Mr. Speaker, today I have introduced the Tobacco Deregulation Act of 1981, which would get the Government out of the tobacco business. My legislation would eliminate the tobacco allotment system, repeal the loan-price support system, charge user fees for tobacco services, and increase the tax on a pack of cigarettes by 2 cents without increasing its sales price.

I have introduced this legislation because I feel that this industry needs to be deregulated. Significant economic benefits will accrue through passage of this bill. A free enterprise environment for tobacco will benefit both the actual tobacco farmers, and tobacco product manufacturers, and will encourage tobacco exports. This legislation will generate an extra $700 million in revenue without increasing the retail price of tobacco products. In addition, elimination of the support program would save over $100 million yearly in administrative costs and loan subsidies.

What follows is a brief description of the tobacco industry, the mechanics of the current Government price support program and its problems, and an analysis of my bill and its benefits. Throughout my research in this area I have tried to obtain the most accurate statistics available. However, as people in the industry are aware, many times different sources of information do not compare precisely with each other, figure for figure. In preparing my remarks I have tried to use those figures which have the largest acceptance.

During my review of this industry I sought information from many different Government agencies and private groups. These organizations include: Department of Agriculture/ASCS, Tobacco Institute, Tobacco Tax Council, Congressional Research Service, Flue-Cured Tobacco Cooperative Stabiliza-

tion Corporation, General Accounting Office, Congressional Budget Office, USDA/ESS, USDA/Tobacco Group, International Trade Commission, American Medical Association, Health and Human Services/Office of Smoking and Health, Tobacco Merchants Association of the U.S., Tobacco Associates Inc., National Association of Tobacco Distributers, and others.

BACKGROUND

There are almost 1 million acres of tobacco grown in the United States each year. The 1980 tobacco crop produced about 1.8 billion pounds of leaf. 975 million pounds were used domestically while 815 million pounds were exported. While over 275,000 farmers grow tobacco, for most of them it is not their principal crop. There are about 95,000 commercial tobacco farmers. A commercial farmer is one who has an agricultural income of over $2,500, of which at least one half must be from tobacco products. The average commercial farmer has a farm of about 130 acres of which only 7 acres are planted in tobacco.

There are many types of tobacco, some of which are not under the Government's allotment system which restricts the amount of acreage that can be planted. Flue-cured and burley tobacco make up over 90 percent of the tobacco crop and both of these are under the acreage or acreage/poundage allotment system.

Each acre of tobacco produces about 2,000 pounds of leaf. While prices vary significantly, the average price per pound is about $1.50. Simple arithmetic shows that an average acre of tobacco has a value of about $3,000. Under the allotment system if a farmer does not own all of the allotments he needs, and only 16 percent of the flue-cured tobacco farmers do, he must rent allotments which cost a great amount of money—$1,000 per acre per year. The same land without an allotment, used to plant corn or soybeans for example, would cost an average of only $60 to rent. Therefore the "monoply rent" for tobacco is in excess of $900 per acre, or an approximate value of at least $900 million per year nationwide.

Predictably, our tobacco exports have run into trouble in recent years. In the last 15 years the U.S. share of the world market has declined from 60 percent to less than 30 percent. Imports of tobacco have greatly increased over the same period—by about 300 percent. Most experts agree that one of the major causes of this import/export problem is the artificially high fixed price of tobacco.

The taxes on tobacco products are very significant. There is an 8-cents-a-pack Federal tax on cigarettes, which accounts for about 98 percent of the Federal taxes on tobacco. Each year between $2.4 and $2.8 billion is generated in revenue for the Federal Government. States and municipalities also have cigarette taxes, generating additional billions of dollars.

GOVERNMENT TOBACCO SUPPORT SYSTEM

The allotment system, which I briefly described before, limits the planting of tobacco on the basis of acres or pounds depending on the type of tobacco. To own an allotment the person must also own the land to which it has been assigned. An allotment owner can rent out his allotment and have it apply to another area of land. There are over 500,000 assigned allotments.

The loan program, which buys tobacco that is not sold at commercial auctions, offers interest rates at about 14 percent for 1981. Payments are not made on a monthly basis; instead the entire loan, including interest, becomes due when the tobacco is sold. If the tobacco under loan is sold for less than the loan amount, the Government absorbs the loss. The Government finances the program through the Commodity Credit Corporation, which in turn transfers most of the administration to the tobacco associations. About $270 million in loans will be made in fiscal year 1981.

One very serious problem with the tobacco support program is the large volume of surplus tobacco leaf which is accumulating. The Government now has over 600 million pounds of tobacco worth about $981 million. No one is quite sure what to do with the tobacco surplus.

The Government grades tobacco, issues permits for warehouse operations, and inspects them to insure they meet proper standards.

The cost of the Government's tobacco support system is frequently disputed. Tobacco interests claim that the program only costs $57 million over the past 40 years. However this figure only represents the amount of loans lost in the past. There are other costs associated with the program. Administration costs about $15 million a year. The inspection and grading service has a price tag of about $7 million a year. There is also another $8 million in miscellaneous costs. The largest area of disagreement among various groups is how much of a loan subsidy there is. The tobacco farmers are saving about $100 million each year having the Government finance the loan program at reduced rates compared to a commercial rate of 20 percent. However if the subsidy is defined in terms of the difference between the actual loan rate and what it cost the Government to borrow the money, the answer is less clear. Since some of the tobacco loans were made in earlier years with interest rates of less than 10 percent, it can be contended that there is some subsidy. This may amount to between $10 to $20 million. Recent administrative action by the USDA has adjusted the loan interest rate terms to move toward a "cost to the Government" rate on all future loans. Another cost to the Government, which has loan program officials concerned, is the potential loss of all or part of the surplus. Tobacco spoils after some years of storage. If the Government cannot sell the tobacco surplus, the loss could be in the hundreds of millions of dollars.

TOBACCO DEREGULATION ACT OF 1981

My bill affects the tobacco industry in the following four ways: Repeal Allotment System—this action would reduce the costs of production by about one-third—by eliminating the "monopoly rent"—and allow farmers to plant tobacco freely. While owners of land with allotments would lose their allotment designation, they would still have their land and still be able to plant tobacco. A USDA study indicated that the impact of this repeal would cause fewer acres of tobacco to be planted in the first year or so of deregulation, with the number of total acres planted increasing slightly every year thereafter.

Repeal of the loan program—Under provisions of the bill the Government would no longer buy tobacco that wasn't sold at commercial tobacco auctions. The price of tobacco would decrease, encouraging exports and putting the brakes on imports. Repeal would also act as an incentive to grow only high grade tobacco. Farmers who now grow lower quality tobacco crops, which often ends up under loan and in the Government inventory, would have a hard time selling them on the commercial market. Under these provisions the Government would no longer continue to accumulate tobacco, halting the growing problem of tobacco surpluses.

Inspection and grading—The inspection, licensing and grading services now performed by the Government will continue to be operated by the Government under the bill's provisions, but user fees will be assessed to cover the costs. Congressman WAMPLER has introduced legislation for the administration which does the same thing.

Federal excise tax—This legislation calls for a 2-cents-per-pack increase in the Federal excise tax on cigarettes. The tax increase would generate about $700 million in revenue, absorbing most of the $900 million production cost decrease resulting from elimination of the allotment system's monopoly rents. The rest of the production cost decrease could be realized by the tobacco farmers and the manufacturers as extra profits.

Since this extra profit would amount to less than 1 cent a pack, it would be unlikely that the manufacturers would lower the price of a pack of cigarettes. While it can be argued that in most cases any cost reductions in the manufacture of a product should

be passed on to the consumer, it is clearly not desirable in the case of tobacco, which is harmful to health. It is essential that the benefits of tobacco deregulation be passed on to all of the people as taxpayers through increased Government revenue.

Additional points—The tobacco crops will continue to be covered by the Federal crop insurance program. The research and extension service for tobacco will not be affected by this legislation. Among other things, this program researches ways to eliminate the harmful effects of smoking. Also, the tobacco statistics gathering program will not be affected. The tobacco surplus would, hopefully, be sold as quickly as possible at the best price, mainly to export markets.

SUMMARY

This legislation would get the Government out of the tobacco business. Only allotment holders would be adversely affected by this legislation. In many cases the allotment holder does not do the farming. This bill would transfer the approximate value of these unjustified monopoly rents to all of the people by way of excise tax to the Treasury. This legislation would help tobacco farmers by lowering the cost of production, be of some financial benefit to the tobacco manufacturers, reduce Government regulation and bureaucracy, save the Government about $100 million in loan subsidies and administrative costs, generate an extra $700 million in Government revenue, and increase tobacco exports, while not affecting the price of a pack of cigarettes. It is time to return this industry to the free market and get the Government out of the tobacco business.●

CERCEMAGGIORE ORGANIZATION OF GREENSBURG HONORS SPECIAL GUESTS

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. BAILEY of Pennsylvania. Mr. Speaker, in July a very special parish in the 21st Congressional District will honor all of its members 80 years of age and older during its celebration of La Madonna Della Libera. The Cercemaggiore Organization of Our Lady of Grace Church is composed of a group of very proud and very sensitive people. They strive to preserve their heritage and the history of the small town in Italy on the side of an Appenine Mountain, Cercemaggiore.

La Madonna Della Libera is a church about 3 miles out of Cercemaggiore which houses a statue of "La Madonna." Our Lady of Grace Church has a similar modernized version of the statue created by Father Albanese.

The story of La Madonna Della Libera dates back to 663 in the city of Benevento. Constantine, the Emperor of Constantinople, invaded Italy to try and regain his empire. The attack was vicious and the people of Benevento prayed to La Madonna (Blessed Mother) for protection. They drove Constantine back to Sicily and had a statue of La Madonna carved. They venerated her as the "Libera" the one who saved them. This devotion spread throughout the area and many statues were created for the various villages. Many of these statues were destroyed during the time of the Iconoclasts and the Satacens. In 1415 a statue of La Madonna Della Libera was found in Cercemaggiore and the town's people appealed to the bishop to build a chapel on the spot where it was discovered. An earthquake in 1456 destroyed the chapel but did not destroy the deep running strength and devotion of the people. A larger and more appropriate shrine for the Madonna was constructed.

The Cercemaggiore Organization of Greensburg is to be commended for its efforts to commemorate its heritage. Those to be honored during the July festivities include: Mary DeVone, Mary Basile, Libera Rose, Angelina Spino, John Spino, Michael Sabatine, Patsy Salvatore, Antonio Cepullio, Michael Pietraroia, Mary Comptella, Dom Masto, Mary LaFuria, Mateo Felice, Mike Petroy, Nancy DeFloira, Mateo Felice, Biasa Rose, Anthony Sabitino, Marion Cassette, Elizabeth Pedicono, Lucy Colonna, Theresa Salvatore, John Cassette, Nicolina Pietraroia, Joe Salvatore, Mildred Roy, Mary Basile, Josephine Testa, Lucy Uliaino, and Florence Daversa.●

DENNI HLASATEL CELEBRATES 90TH ANNIVERSARY

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. HYDE. Mr. Speaker, I am very pleased to announce to my colleagues in Congress that this year marks the 90th anniversary of the only Czechoslovak daily newspaper in the free world, Denni Hlasatel, which is headquartered in Cicero, Ill., in my district.

Founded on Chicago's West Side in 1891, Denni Hlasatel remained there until March 1979, when it moved to Cicero, which is currently the heart of the Czechoslovak community.

The aim of Denni Hlasatel is not only to present the news, but also in propagating a rich Czechoslovak heritage and culture, and assisting in the struggle for freedom in Communist-ruled Czechoslovakia, a once prosperous and progressive Eastern European nation with a proud history.

I know my colleagues in the House join me in congratulating all those associated with the publishing of Denni Hlasatel, whose contributions of time and talent have made this publication such a success.

Members of the board of directors include: Josef Kučera Jr., Karel Samal, František Hrala, Ella Tollefson, officers, Antonin Slovacek, Josef Kučera Sr., and Josef Krninsky, board members.

Recent past presidents include: František Bulin, Vaclav Zolman, Karel Sămal, Anton Jurcik, Milo Tuma, Vladimir Spatny, Jaroslav Rezabek.

Current staff members include: Frantisek Hrala, circulation manager, Martin Podhrazsky, assistant circulation manager, Rose Kučera, advertising manager, Erich Jaksch, managing editor and expedition staff, Vladimir Lasky, expedition manager, Dagmar Meixner, Dana Hoffmann, Marie Cermak, graphical department.

Members of the editorial staff include, Josef Svačina, Dr. Libor Bram, Josef Vasak, Josef Markvart, Věra Cousin, Dr. Stanislav Hofírek, Tomáš Jílek, Dr. Josef Kalvoda, Dr. Leopold Rozbořil, Rudolf Kopecky, Antonín Paleček, Dr. Jiří Veselý, Dr. Karel Hujer, Dr. Mikuláš Ferjenčík, Jaroslav Meců, Dr. Svatopluk Ježek, Dr. Oldrich Duchač, Dr. Míloš Šebor, Dr. Rudolf Kreml, Alexander Koren, Anton Dusek, Bohuslav Kobliha, M. J. Broucek, Florian Skácel, Josef Herman, Jan Reban, Zdenek Pražák, Přemek Kocian, Václav Vostresz, Aloís Hovorka, Antonin Dolejs, Zdenek Slavik, Dr. Hrubecký, Ema Jarošová, Vlasta Matelová, Dr. Alois Rozehnal, Eduard Fusek, Bohumil Tobyska, Josef Tomanek, Josef Hanak, Karel Rehka, Dr. František Hradil, Msgr. Ludvik Nemec, Msgr. F. B. Vanek, Václav Ženíšek, S. Pokormy, Dr. Frank Maresh, Jaroslav Fajkus, Ota Hora, Dr. Jaroslav Kratochvíl, Jiří Spanek, Dr. Jan Dočkalek, L. Janacková, Dr. Professor Vilimsky, M. Špírková, Bohuslav Lastuvka, Professor Tabák, E. H. Moldrik, Josef Malecek, B. Vobliza, Jaroslav Navrátil, Robert Mach, and countless others who have devoted their time and energy for the Hlasatel.

On May 21, the Illinois House of Representatives adopted a resolution offered by Representative Judy Topinka, honoring the Denni Hlasatel on the commemoration of its 90th anniversary. In recognition of this auspicious occasion, and because of our high regard for our Czechoslovakian-American citizens who have contributed so much to the fabric of American life through their patriotism, and their love of freedom, I am pleased to offer this resolution for reprinting in the CONGRESSIONAL RECORD.

STATE OF ILLINOIS, 82D GENERAL ASSEMBLY, HOUSE OF REPRESENTATIVES—HOUSE RESOLUTION No. 326

(Offered by Representative Topinka)

Whereas, May 1, 1981 marked the 90th anniversary of the founding of the Denni Hlasatel (Czechoslovak Daily Herald), the only Czechoslovak daily newspaper in the free world; and

Whereas, Ever since its founding in 1891 as a result of a printers strike which caused the folding of another Czechoslovak newspaper, the Denni Hlasatel, which presently operates out of Cicero, Illinois in the heart of the Czechoslovak community, has been a Chicago institution and a dependable source of information as well as a forum for discussion of issues important to the Czechoslovakia community; and

Whereas, The original founders of the newspaper included Dr. Edwin Hare, Frank Sirovatka, Frank Stejskal and Vladimir Spatny, whose relatives are still actively involved with the newspaper; and

Whereas, Although the Denni Hlasatel had a modest beginning, its circulation rose to over 100,000 during the period between the two World Wars and by the late 1960's could be proclaimed the largest foreign language daily newspaper in the United States; and

Whereas, Over the years its contributors and subscribers have included such noted citizens as Governor Otto Kerner, Chicago Mayor Antonin Cermak, Cook County Treasurer John Toman, Cook County House of Corrections Director Edward Denemark, Dr. Andrew Toman and Congressman Adolf Sabath; and

Whereas, Besides fulfilling the function of presenting the news, the Denni Hlasatel has been a highly effective instrument for propagating the rich Czechoslovak heritage and culture as well as assisting in the struggle for freedom in the Communist-ruled Czechoslovakia; and

Whereas, Its reputation for excellence and outstanding service to the Czechoslovak community is being continued today by the dedication and energy of the Circulation Manager Frantisek Hrala, Assistant Circulation Manager Martin Podhrazsky, Advertising Manager Rose Kucera, Managing Editor Erich Jaksch, Expedition Manager Vladimir Lasky and the many dedicated members of the staff as well as the members of the board of directors; therefore, be it

Resolved, By the House of Representatives of the Eighty-Second General Assembly of the State of Illinois, That we join the friends and supporters of the Denni Hlasatel in celebrating its 90th anniversary; that we congratulate all those who had a role in making this celebration a reality; that we commend the newspaper for 90 years of outstanding service to the Czechoslovak community as well as to the general public; and, be it further

Resolved, That a suitable copy of this preamble and resolution be presented to Denni Hlasatel, with the best wishes of the people of Illinois and the members of the House.

Adopted by the House of Representatives on May 21, 1981.

GEORGE H. RYAN,
Speaker of the House.
ANTHONY J. LEONE, JR.,
Clerk of the House.●

CONGRATULATIONS TO HARRY McCONVILLE

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. APPLEGATE. Mr. Speaker, it is a pleasure for me to take this opportunity to congratulate Mr. Harry McConville, of East Liverpool, Ohio, for recently receiving the Distinguished Service Award from Kent State University for 16 years of outstanding service to the university.

This award is the highest honor the university can bestow upon nonacademic personnel. From the beginning, Mr. McConville was active in the founding of the East Liverpool campus of Kent State University 16 years ago. He has served as a member of the advisory board ever since and is currently chairman of the advisory board.

Mr. McConville's leadership and interest in education and community service is evident in his numerous other civic activities. After his return from active military duty during World War II, he organized the first youth booster sports program for East Liverpool High School athletes. For many years, he served as a member of the East Liverpool Board of Education. Frequently, he has been chairman of the board for the cancer fundraising drives.

Throughout his life, Harry McConville has given freely of his time, his talent, and his knowledge to community service. He is highly regarded, and well liked by all who know him. Harry is a model for all of us and I extend to him my heartiest congratulations.●

CONGRESSIONAL SALUTE TO HON. JOHN MURRAY, JR., OF NEW JERSEY, CHAMPION OF OUR VETERANS, COMMUNITY LEADER, AND GREAT AMERICAN

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. ROE. Mr. Speaker, on Saturday, June 27 the residents of my congressional district and State of New Jersey will join with the Bernard Armitage Post No. 360, American Legion of Paterson to honor one of American Legion's most illustrious past post commanders, distinguished citizen, community leader and good friend, the Honorable John Murray, Jr., whose standards of excellence throughout his lifetime have truly enriched our community, State and Nation. I know that you and our colleagues here in the Congress will want to join with me in appreciation of all of his good works and share great pride in the success of his achievements with his good wife Agnes Eleanor, sons James and John, daughter Bonnie (Mrs. Gregory Puzio) and granddaughter Kristin Marie Puzio.

John Murray has indeed earned the highest respect and esteem of all of us for the quality of his leadership, compassion, and benevolence in distinguished service to our country and our people.

Mr. Speaker, John Murray was born in Kilmarnock, Scotland, February 25, 1922. He arrived in the United States when he was 5 years old and settled with his family in the city of Paterson. He was educated in the Paterson school system attending Public School No. 20 and graduated from the Paterson Vocational School in 1940.

John moved to Hawthorne, N.J., in early 1942, and was inducted into the U.S. Army the following year, on January 28, 1943, to do battle in World War II. He was assigned to the European theater of combat as a ground aircraft observer with the rank of corporal in Headquarters Battery 792 AAA AW BN. He was among those brave and valiant soldiers who were decorated for their valor and courage in distinguished service to our Nation receiving five major battle stars for service in air defense of England and Wales, Normandy, Northern France, Belgium, and Germany.

Mr. Speaker, our great country and all of our people can be justly proud of John Murray's outstanding contributions in service to our country. He received his honorable discharge from the Army on February 10, 1946, and has continued to serve in civilian life as an esteemed member of the American Legion as post commander, vice commander, adjutant, service officer and hospital chairman.

In Passaic County John served under 10 commanders as veterans service officer and was elevated to vice commander and county commander in 1970. He is presently serving his third 3-year term as executive committeeman of the New Jersey State Department, American Legion.

At the department level he has served as a vice commander, Re-Hab Hospital Committee member, Civil Service Committee and was the first New Jersey American Legion hospital representative at the East Orange VA Restoration Center organizing off station trips for many groups of patients to big league baseball and NFL games throughout our Nation.

For the past 5 years John has been the Department of New Jersey legislative chairman where he has diligently sought benefits through State and Federal legislation for the veterans and their families. As the American Legion delegate on the New Jersey Allied Council of Veterans Organiza-

tions, he holds the same prestigious position. He is a member of both the American Legion Legislative Council and the National Security Council.

Mr. Speaker, throughout his lifetime John Murray has forged ahead with dedication, devotion and sincerity of purpose in seeking equity and justice for our people. We applaud his knowledge, training, hard work and personal commitment that has enabled him to achieve the fullest confidence and strongest support of the people of our community. In his career pursuits he currently serves as a court officer with the Passaic County Sheriff's Department.

John Murray has been a staunch and active participant in many civic and community improvement programs and we applaud his leadership endeavors in the vanguard of the veterans of America. It is indeed appropriate that we reflect on the deeds and achievements of our people who have contributed to the quality of our way of life here in America and I appreciate the opportunity to call your attention to his lifetime of outstanding public service. I particularly commend to you his unselfish and untiring devotion and dedication in seeking justice and fair play for all of our veterans and their families.

Mr. Speaker, we do indeed salute a champion of our veterans, community leader and great American—the Honorable John Murray, Jr. of New Jersey.●

ROGER WILKINS ON THE BLACK CAUCUS

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. DYMALLY. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

Almost 30 years ago, my first political hero, Adlai Stevenson, promised to talk sense to the American people. That is an admirable goal, but if you are a certain kind of person it is hard to get an audience no matter how much good sense you have to dispense.

Take the Congressional Black Caucus, for example. When President Reagan unveiled the outlines of his economic program, he invited anybody who disagreed with his analysis to suggest an alternative program. Well, the Black Caucus picked up his challenge. The Caucus did not just put out a paper opposing this cut or that or supporting this program or that. It put out an entire budget document and an analysis of the Nation's condition to support it. "We did not just say they are taking away from the poor and giving to the rich and so we are mad, we may riot," District of Columbia Delegate and Caucus Chairman Walter Fauntroy said. "We said we see the Nation differently. Here is what we think and here are our conclusions."

Unfortunately, according to Fauntroy, most of the Nation's press did not hear what it was the Caucus was trying to say. When the expected words about riots did not come, most papers either ignored the story or gave it short shrift, as the New York Times did, covering it with a short wire service story that ran deep inside the paper.

Essentially, the Caucus disagreed with the President that our inflation results from Government spending and regulations. Instead, it looks to terrible balance-of-payments deficits, the high costs of energy, housing, food and health. These, the Caucus says, are the main sources of our inflation and they must be attacked head on.

In looking at the balance-of-trade problem, for example, Mr. Fauntroy argues that American industry has to start paying a great deal more attention to those areas where it can still compete effectively in world markets, invest more in promising new fields and stop propping up industries that cannot or will not buckle down to efficient, cost-competitive products. And though it does not dispute the Nation's need for a strong defense, the Caucus thinks the administration's program puts too little emphasis on the social, political, and economic problems that concern other nations as much as Soviet expansionism concerns us. Thus, political and cultural exchanges are beefed up in the caucus program and economic aid is strengthened. There are no battleships in the caucus document.

One problem the country has had since January is that nobody has challenged the administration's assumptions effectively. The Caucus tried. Too bad nobody could hear it.

This is Roger Wilkins for Spectrum.●

SHIFT FROM FEDERAL TO PRIVATE DOLLARS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. LAGOMARSINO. Mr. Speaker, with the growing realization that the Federal Government cannot afford to be all things to all people has come a corresponding recognition that we need to do more as individuals and as private citizens to deal with our problems.

Americans have a deserved reputation for generosity and caring. The long tradition of charitable and philanthropic work and voluntarism in this country is one in which we can all take pride and which we can draw upon as an example in renewing the private network of assistance.

The need to intensify private efforts in this field was recently the subject of an editorial published in my district by the Oxnard (Calif.) Press-Courier. As the Press-Courier points out, the result of such a shift in emphasis from Federal dollars to private dollars could well mean stronger and more effective programs. The inevitable weight of overhead and regulations attending Federal programs can be eased and money directed to the areas of most need by people on the scene.

One way to assist this revitalization effort would be for this House to pass one of the half dozen or more bills which have been introduced in this session to allow the use of the charitable deduction by all taxpayers, whether or not they itemize or use the long or short income tax form.

This legislation, which has been introduced by many Members, including Messrs. ASHBROOK, HORTON, ROE, HINSON, and myself in the general membership, and Messrs. GEPHARDT and ROUSSELOT on the Ways and Means Committee, would provide a needed incentive for charitable giving and a shot in the arm to private organizations engaged in this work.

The logic of this approach is testified to by the fact that Mr. GEPHARDT's bill has attracted over 284 cosponsors—many more than half the Members of this House.

I hope we will not delay any longer in taking the steps needed to have a functioning, viable, and strong network of private assistance in place as these programs are phased over from the public to the private sector, and would ask that the Press-Courier editorial be printed in the RECORD. We can give a helping hand in this situation.

HELPING HAND NEEDED

The drive for austerity in the federal budget is posing a problem for private social agencies and other non-profit organizations which have grown to rely on federal funds to cover part of their expenses. In the future, there will be less money from Washington to go around.

This should not mean that the country is entering an era of neglect of the needy, or the starvation of those endeavors in the arts and humanities which have enjoyed federal subsidies in recent years.

What it does mean is a shift back toward local responsibility for many charitable activities, and a renewed reliance on private, voluntary contributions.

The net result could be stronger and more effective programs. A longstanding criticism of the disbursement of federal grants is that too much money was eaten up in bureaucratic overhead, and funds were going into programs that did not justify their cost. A greater reliance on local, private financing can produce social services that are better aimed at true needs, and more accountable to those providing the funds.

The big question, however, is whether private foundations, community fund-raising organizations, and other philanthropies will have the resources to do what should be done.

The Independent Sector, an umbrella group of philanthropic organizations, recently warned that it will be caught short unless there is a greater flow of money into its coffers.

Contributions to private charitable organizations, said the Independent Sector, have been growing at the rate of about 9 percent a year—well behind the inflationary curve.

As a result, non-government funding is having trouble meeting present commitments, not to mention the wave of new requests expected in the next few years.

If the slimmed-down federal budget means fewer federal dollars flowing into community agencies, the tax cut now taking shape in Congress promises to leave more dollars in private hands.

It is to be hoped that taxpayers will recognize their obligations to respond more generously to fund appeals from private organizations now relying all the more on their voluntary support.●

FAIRFAX SYMPHONY ORCHESTRA

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. WOLF. Mr. Speaker, the mandate of the 1980 election has set the Congress and the administration to the task of redirecting the role of the Federal Government. Many of the responsibilities previously assumed by the Government will now be assumed by the people. One such example is the country's arts and humanities programs.

It is commonly recognized that Government will always need to subsidize more elaborate and expensive forms in order to preserve our American culture for future generations. It will become increasingly important, however, for programs to succeed because the people want them to continue. This is not difficult when programs are sensitive to the needs of the community. One of the best examples of this success is the Fairfax Symphony Orchestra, a northern Virginia organization which has grown steadily for almost 25 years.

The Fairfax Symphony is a 116-member orchestra that has a stated purpose "to bring to Fairfax County and environs an outstanding season of symphony concerts featuring international artists as well as local performers." The orchestra's members include professional musicians, music teachers, and students plus part-time musicians who represent a variety of professions and interests. The symphony also sponsors a variety of other activities including, "Hello, Symphony" and the chamber orchestra—for elementary children, concert previews, open rehearsals, workshops, and masterclasses by noted artists. The year-round program emphasizes the involvement of the community in the arts with particular emphasis on the opportunities for the entire family.

A highlight of the symphony's program is the seven-program concert series for the summer, held in conjunction with the Shenandoah Valley Music Festival. The Fairfax Symphony is the orchestra-in-residence for the festival which is held on the grounds of the Orkney Springs Hotel the evenings of July 25, 26, 28-31, and August 1. The summer series provides an opportunity to enjoy the magic of the symphony's music in a relaxed mountain setting.

The Fairfax Symphony's service has been rewarded by overwhelming success in the community it serves. The orchestra should be commended for its excellence and merits increased support from northern Virginia as a model for the rest of the country.●

DR. KOOP ANSWERS QUESTIONS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. MICHEL. Mr. Speaker, one of the most puzzling actions undertaken by the Congress in recent years is the failure to agree to the President's nomination of Dr. C. Everett Koop to be Surgeon General. There have been any number of myths, half-truths, and downright lies told about Dr. Koop. Recently he had the chance to set the record straight.

At this point I wish to include in the RECORD "Choice for Surgeon General Says He's Suited for Post, Defends Stand Against Abortion", from the Wall Street Journal, June 19, 1981:

CHOICE FOR SURGEON GENERAL SAYS HE'S SUITED FOR POST, DEFENDS STAND AGAINST ABORTION

(By Burt Schorr)

WASHINGTON.—President Reagan wants to appoint Dr. C. Everett Koop, a 64-year-old pediatric surgeon, as U.S. Surgeon General.

Although Dr. Koop has many medical accomplishments to his credit (including successful separations of Siamese twins), his strong views on abortion and other issues have raised questions about his ability to perform objectively in a top federal health-policy job. Among other duties, the Surgeon General commands such agencies as the Public Health Service, the National Institutes of Health and the Food and Drug Administration.

Congress is considering legislation to remove an age ceiling that now makes Dr. Koop ineligible for the job. Meanwhile, he is working in the Department of Health and Human Services as a deputy assistant secretary. In his first public interview about the Surgeon General job, Dr. Koop talks about his qualifications and his views on national health problems and issues.

Q. An American Public Health Association official has stated that, while you may be a highly skilled physician, your background for Surgeon General is "wholly inadequate." How do you respond?

A. I think of public health as anything that aids the health of the public, and I believe there have been things in my career which contributed to the public health.

I was as instrumental as anybody in making anesthesia safe for children. And I went on the road and tried to point out the public health concern that one should have about cancer in children—that all lumps are malignant until proven otherwise. I have spent a lot of time working in other countries—33 to be exact.

Q. How do you answer the charge that, because of your strong views on abortion, you would have a harmful influence on federal health policy? For example, you have called amniocentesis, a test for determining whether a fetus has genetic defects, "a search-and-destroy mission" because it often leads to abortion.

A. Amniocentesis is a search-and-destroy mission. Only 3% to 5% of the people who have amniocentesis keep their babies if a congenital defect is found.

And many of the congenital defects are things that I have spent my entire life correcting. I know from 35 years' experience that the children I have operated upon are loved and loving, innovative and creative people.

My position on abortion is that of the President, the Secretary of Health, the assistant secretary and the Republican platform. But I am a law-abiding citizen. As a government official I can do nothing that is not the law of the land, and it is not my intent to disrupt anything that is considered legal and proper.

Q. Some of your opponents quote your 1979 statement that most of the mainline Protestant denominations "have made pro-abortion statements illustrating their superficial theology, lack of morality and an insensitivity to the eventual reward for their depravity." Do you consider that an extremist statement?

A. That statement was made to some of the mainline Protestant denominations, and the term "depravity" describes their understanding of the nature of man. To lift it out of the theological context is very misleading.

Q. Legislation under consideration by Congress would declare that human life begins at conception. With such a federal law, states could bar abortions for almost any reason. If the human life bill becomes law, how might it affect public health?

A. If such a law is enacted, the public health problem would be to find alternatives to abortion for American women who were pregnant and didn't want to be. It would mean, I think, a much larger stake in adoption procedures on the part of the Public Health Service.

On the question of when life begins, a biologist referring to an earthworm, a dove or a baboon will tell you that it begins at conception and ends with the death of the organism. It's only when men get to talk about the highest form of life—man—that they begin to say, "Well, we're not sure when life begins."

Q. Getting back to the public health questions of banning abortions, what about the victims of rape and incest who become pregnant?

A. Fewer than 3% of the abortions done in this country are for true life-of-the-mother reasons, for genetic defects of the child, or for incest and rape. So, it seems logical and predictable that the states will make accommodations for those causes.

Q. What about the potential problem of illegal abortions?

A. If there are illegal abortions, they'll be done by the same clean, sterile, efficient techniques now used for legal abortions. So I don't think you have to face a lot of things that took place when illegal abortion was being practiced in back alleys.

Q. What national health problems would concern you most as Surgeon General? Would you be as opposed to cigaret smoking, for example, as were your immediate predecessors?

A. The evidence of cigaret smoking in reference to lung cancer is absolutely unassailable. But other major health issues that the

public has to face are the manner in which we deal with two segments of the population; the disabled and the aging.

Those two segments are interrelated, because a disabled person is really handicapped only if you and I haven't provided for his disability. He frequently will develop another disability because of the first, and sometimes a third because of the second. An example is scoliosis, or curvature of the spine, which can lead to diminution of pulmonary functions. And if that is uncorrected, it leads to a disorder of a cardiovascular nature.

Q. Many physicians and nearly all pharmaceutical companies are down on the FDA these days for its slow pace of new drug approvals. Do you believe the FDA has been overly cautious?

A. When you see something like the FDA's action in preventing . . . the problems that came to Europe with Thalidomide, you say: "Isn't it marvelous we have such a protective agency?" but there has been legitimate criticism that some drugs which have been used abroad and have proven not to have detrimental side effects have been very slow to get approval here.

Our new FDA director, Dr. Arthur Hayes, feels this situation keenly, and I believe you're going to see some very remarkable changes.

Q. Recently the U.S. was the only nation to vote against the World Health Organization code for the regulation of infant-feeding formulas. The WHO guidelines would ban direct advertising of breast-milk substitutes and would prohibit distribution of free product samples. They also would prevent companies from paying staff commissions and bonuses on sales of infant formula. How do you feel about this issue?

A. I don't disagree with the administration's position. Even though mothers in the Third World breast feed in the beginning—and we thoroughly endorse that all the way along the line—there comes a time when they have to have something else. It's far better in the community to use an infant formula than it is to use coconut milk or some other non-nutritious thing, which they have to use because they haven't got cow's milk.

We are totally in favor of the impact of the code, but the way the code was worded went against what we consider the hallmark of our existence, namely our Constitution and our free enterprise system.●

TRIBUTE TO WOODY

HON. GEORGE C. WORTLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. WORTLEY. Mr. Speaker, I would like to take a minute of this Congress time to reflect upon the accomplishments of Henry Swayze of Preble, N.Y. Henry "Woody" Swayze, was a county legislator in Cortland County. He served for 14 years as a county and town representative. Woody was elected chairman of the Cortland County Legislature in 1979 and continued to serve in that capacity until his death.

Woody, not content to be just a legislator, was involved in many community activities, serving in the police and the Preble Fire Department. He was also a member of the Preble Recreation Committee and the Preble Child Development Committee. A tireless worker for the Republican Party, he was elected the 1980 Outstanding Republican for Cortland County.

In addition to his numerous civic contributions, Woody, a victim of lung cancer, actively campaigned against cigarette smoking, speaking to elementary school children in the area.

Woody was proud to be a Republican. An outstanding legislator, he always worked hard for his district, his party and the people of Cortland County. He will be missed.●

VISTA MONEY DOES NOT HELP THE POOR

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. DANNEMEYER. Mr. Speaker, it is time to end VISTA (Volunteers in Service to America). For years, a wide range of VISTA projects have promoted left-wing political activity, but have done little or nothing to help the poor—the ostensible purpose of the VISTA program. VISTA workers have harassed private businesses, antagonized local communities, and lobbied State legislators—despite a prohibition on such political activity. VISTA's "advocacy" programs are, in the words of nationally syndicated columnist Donald Lambro, "a million light-years away from the grim day to day problems of the poor."

It is only appropriate, as we get ready to consider how we should reconcile current law with the spending reductions mandated in the first budget resolution, that we carefully examine each and every possibility for additional spending cuts. Mr. Lambro cites, in his article, a number of instances where political or social organizing activity has supplanted direct assistance efforts and he makes reference to a report, issued in 1978 on VISTA program abuses, by the House Appropriations Committee. I commend the attention of my colleagues to both the article and the report, and ask unanimous consent that a copy of Mr. Lambro's column be inserted in the RECORD at this time:

VISTA MONEY DOESN'T GO TO POOR

(By Donald Lambro)

WASHINGTON.—VISTA, the government's corps of poverty workers, has for years been deeply engaged in legislative lobbying, grassroots political action, social engineering, and sometimes even union organizing.

An eye-opening 113-page investigative report issued by the House Appropriations Committee in 1978 accused VISTA of all these things and more, but Congress chose to ignore them.

More recently, Reagan administration investigators have been digging through the agency's files, uncovering endless examples of a broad range of so-called "advocacy" activities and causes that are a million light-years away from the grim, day-to-day problems of the poor.

When VISTA (Volunteers In Service To America) was first created in 1964 as part of Lyndon Johnson's war on poverty, its purpose was simple and direct: Finance a group of volunteers to go out among the poor to help them to help themselves. The focus was to be on encouraging the poor to reach out to available opportunities that would help them escape poverty, not become institutionalized within it.

Tragically, VISTA became a tool for leftist ideologues bent on combating big business, engaging in social and political issues, lobbying state legislatures, and generally working to overturn, in their words, "the system." Instead of working in the ghettoes among the poor, government investigators found VISTA volunteers working for a cadre of political and social activists among working class constituencies.

Here, taken from VISTA's own files, are a few of the organizations to which VISTA workers have been assigned, along with a brief description of their activities:

Dane County Welfare Rights, Alliance, Madison, Wis.: Fundraising; disseminating information on legislation developing advocacy programs; training leaders.

Cleveland Women Working, Cleveland: "Upgrading the pay and status of low-income women office workers through education, advocacy and organizing task forces of working women."

Louisiana ACORN (Association of Community Organizations for Reform Now), New Orleans: Community organizing and involvement in state tax reform, energy issues, and property tax reform.

Arkansas Consumer Research, Little Rock: "Consumer ecology advocacy; research issues; assist community groups and disseminate information pertinent to prevent consumer injustices."

Arkansas American Civil Liberties Union Women's Rights Project, Little Rock: "To establish methods to bring information and deal with the multi-issues and needs of women to the communities."

Harford County Commission for Women, Bel Air, Md.: "To promote the economic, social and political equality of women in Harford County and recommend legislation; compile a women's resource directory; organize county women's groups."

National Coalition, Washington, D.C.: Develop an expanded clearinghouse "on state and federal legislation by updating to include newly enacted and proposed legislation."

Susquehanna Legal Services, Philadelphia: "To organize, train and develop self-sustaining community welfare advocacy groups in seven counties."

New York Public Interest Research Group Citizens' Alliance, Albany: "To organize five new chapters of Citizens' Alliance in New York."

Community Action for Legal Service, Inc., New York: "Work on class action litigation."

New England Small Farm Institute, Inc., Amherst, Mass.: "To organize small farmers in Rhode Island."

Not only do many of these advocacy and special-interest organizations have nothing to do with the truly poor, but they involve political and lobbying activities far afield from VISTA's original purposes.

In many cases, instead of helping the poor to become self-sufficient, they are helping

the poor to become increasingly dependent upon government demanding that social welfare programs be expanded.

"Volunteers my foot," said an administration official who has been pouring through hundreds of VISTA files. "The federal government is paying young people to go out into the states and localities to change laws, influence legislation and organize special interest groups."●

EXTENDING VOTING RIGHTS, OR STALLING?

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. EDWARDS of California. Mr. Speaker, an editorial in the New York Times points out that the House Judiciary Subcommittee on Civil and Constitutional Rights is not moving too fast in its consideration of the legislation to extend the Voting Rights Act.

Key portions of the Nation's most effective civil rights law expires in August 1982. The time to move toward extension is now.

Mr. Speaker, I ask unanimous consent that the June 23, 1981, editorial be printed in the record.

[From the New York Times, June 23, 1981]

EXTENDING VOTING RIGHTS, OR STALLING?

President Reagan's open call to Attorney General Smith for a study of the Voting Rights Act was strange yet understandable. Mr. Reagan need hardly remind Mr. Smith, his old friend and counselor, that the Justice Department has heavy responsibility under that law and a big stake in whether Congress renews it next year. And given the department's 16 years of experience in enforcing it, Justice doesn't need to start an investigation from scratch.

Yet the President takes pains to point out, to Mr. Smith and the public, that the act has been both effective and controversial. He wants a report—by October—on whether the law, for all its accomplishments, "continues to be the most appropriate means" of guaranteeing voting rights. The Administration, under pressure from all sides to take a stand on extending the act, wants to buy time.

The time is at once too short and too long.

Too short, if the quest is for a remedy to voting discrimination that is remotely comparable in effect to the Voting Rights Act. This most important of all civil rights laws was a century in the making. Hundreds of lawsuits showed how Southern states used literacy tests, racial gerrymanders and other tricks to steal the ballot from blacks.

Only the 1965 act, with its requirement that any proposed voting law changes first be cleared with the Justice Department, could give minority members a real chance to vote, win elective office and redeem the promise of political power.

But in legislative terms, October is too far off. Granted, the act's key provisions don't expire until August 1982. But there will be endless, bitter lobbying in the Senate, where hostility is strongest and the delaying power greatest. That's why House supporters prudently started early and the Judiciary subcommittee has nearly completed its hearings, amassing an impressive case for renewal.

Significantly, Representative Henry Hyde, Republican of Illinois, who has attended all the hearings, now says that the burden is on Southern jurisdictions to prove that the pre-clearance requirement for voting law changes is no longer needed.

Congress can't wait while the Administration gets its act together. Nor should it be asked to. Mr. Smith doesn't need much time to gather evidence, especially not if he is willing to listen to these words from his client: "I am sensitive to the controversy which has attached itself to some of the act's provisions. . . . But I am sensitive also to the fact that the spirit of the act marks this nation's commitment to full equality for all Americans, regardless of race, color or national orgin."

The Administration can demonstrate its own commitment by taking President Reagan at his word, literally and promptly.●

THE TACTICAL NUKE TEMPEST IN A TEAPOT

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. DOWNEY. Mr. Speaker, one of the most perceptive military minds in the world is that of retired Adm. Noel Gayler. Every time I hear him I am struck by his ability to look behind the conventional wisdom and zero in on the heart of the underlying national security problem.

He has now addressed the question of tactical nuclear weapons in typically cogent fashion. While my view of the neutron weapon is somewhat different from his, he makes a far more important fundamental point, which seems to elude the sheeplike apostles of the conventional who supply most of our military commentary.

Admiral Gayler's fundamental point is that long-range theater nuclear weapons are of no military significance. They do not do anything that cannot be done by existing strategic forces. If they are used to attack a target on Soviet soil, there is no way this will be less escalatory or provocative than if a strategic weapon were used against the same target; similarly, if London is attacked and destroyed by a Russian missile, the retaliatory policy of the West will be not one whit different if the missile is a strategic SS-19 or a tactical SS-20.

If I may extend Admiral Gayler's reasoning one step further, a corollary to his proposition is that the current emphasis on arms limitation of theater nuclear forces is a sham. If we want to insure the survival of our Nation, strategic arms limitation is the key, beginning with the SALT II Treaty already signed but not ratified.

I now insert Admiral Gayler's article, from the Washington Post of June 17, into the RECORD.

STICKING BY OUR GUNS

(By Noel Gayler)

(This is the first of three articles on defense by Admiral Gayler, who has participated in strategic nuclear planning, and who served as director of the National Security Agency and, before his retirement, as commander of all U.S. forces in the Pacific.)

Chancellor Helmut Schmidt came to see us at a time when the NATO West was troubled over nuclear weapons based in Europe. He has had to tell his own party, the Social Democrats, to shape up on this issue, or find a new leader.

With full American support, he's taken a firm line. So have other NATO governments. But their electorates are not necessarily on board. And if there's one clear lesson of the Vietnam War, it is that military policy, without supporting political consensus, is a loser. The baisc issue is that most Europeans don't want to fall under Russian military conquest of domination, with all the odious apparatus of Communist totalitarian rule. But they also don't wish to take a serious or unnecessary risk of being eradicated by nuclear weapons. Most people will think these are reasonable concerns.

In the past some Europeans have made a choice, under the slogan of "Better Red than Dead." More robust characters have reacted in the spirit of our own Patrick Henry: "Give us liberty or give us death." But these are not the only alternatives. Both security and freedom for Europe are possible. They require that as allies we see clearly what the military needs are, and that we act on that knowledge.

The first nuclear proposal now before the allies is that NATO must "match" the Soviet medium-range ballistic missiles targeted on Europe (SS20) with medium-range ballistic missiles of our own (Pershing II or cruise missiles) based in Europe. This may or may not be a good idea. We have made it a touchstone of the unity of NATO, and Chancellor Schmidt's loyal support to that ideal should command admiration and respect. The deployment plan is seen also as a necessary, if paradoxical, step to the negotiation of balanced nuclear force reduction. Let's hope the negotiating strategy works.

But there are a few things we should understand about it:

Europe is under no special or unusual danger from SS20s. There are plenty—very many more than plenty—of Russian intercontinental-range missiles, which can strike any target in Europe, simply by shortening the trajectory. It makes no real difference to the target where a missile comes from—only where it lands.

You don't have to "match" any weapons with an equal and opposite weapon of your own. Late in the 19th century, battle cruisers were built to rule the seas. They had 11-inch guns to sink other battle cruisers, 8-inch guns for cruisers, 6-inch guns for light cruisers, 4-inch guns for destroyers, 3-inch guns for torpedo boats and (I guess) small arms to repel boarders. Then British Admiral "Jackey" Fisher had a remarkable insight: 11-inch guns that could sink a battle cruiser could also sink any smaller ship! The all-big-gun Dreadnought was built, and all other big warships were obsolete. Our intercontinental weapons are our big guns.

European-based NATO missiles impart no special freedom of action or autonomy to the European allies. It is inconceivable they could be used without American consent.

The basis on which to judge the proposals is the extent to which they contribute to or

lessen the nuclear threat to Europe and to the unity of NATO.

The second nuclear issue before NATO is the so-called neutron bomb. President Carter first supported this notion, then snatched it back. Secretary Weinberger recently floated the idea. Secretary Haig slapped it down, for reasons not central to its merits. No one doubts the idea will surface again. It has powerful supporters. What about it?

The "neutron" weapon is one of a class called "tactical" nuclear weapons. These are weapons smaller (but still enormous) in yield, designed to be used by military forces against military forces. Some examples are artillery shells, short-range missiles and aircraft bombs. They have great destructive power and their use entails grave risks. What are those risks?

The enemy will certainly retaliate in kind, and he will up the ante. Rapid escalation to total nuclear war is a strong possibility, once the nuclear firebreak has been crossed.

Russian incursion will be fought on allied soil. Noncombatants will be killed in the hundreds and thousands, and these will be our friends and allies. Since our friends may well object to this outcome, the alliance may be fractured at the outset.

Even if we enjoy two miracles in series—there is no escalation and the alliance holds together—we will be far worse off militarily after a tactical nuclear exchange than before. That is because we have the more critical and vulnerable targets: ports, airfields and lines of communication central to our defense.

The so-called neutron weapons (also called enhanced radiation weapons) are designed to meet some of these objections. Most, but not all, of the energy comes out as radiation that kills or injures living creatures but does little damage to material. There is, however, an irreducible minimum of heat and blast, which is still very large by ordinary standards. Are they very different from "conventional" nuclear weapons in practical effect? No. Are they more dangerous? Perhaps, if they serve to lower the threshold to nuclear war. Are they really necessary to defeat tanks? No. There are better alternatives.

There is another difficulty, of a different kind. Rightly, no president with all his marbles is likely to release nuclear weapons for use, except in the most extreme circumstances, if even then. The risks are simply to high to make the game worth the candle. The Commander in the field therefore has an uncertain weapon on which he can never rely. Much better that he have effective means to victory that he can be confident will be available to him. We can have such means, if we will.

What are some of these alternatives? Weapons that effectively kill tanks, by finding them and hitting them. Weapons that ensure our aircraft are superior to the enemy's. Means to find and kill submarines and protect our ships at sea against aircraft and missiles. Weapons to stop infantry on the ground. Most important means to control information, the key to tactics and to battle. All of this, without resort to nuclear weapons. All of this, fundamentally, by technology well suited to the American and European genius and far ahead of the adversary.

Given political will and economic support NATO can field the forces necessary to defend ourselves. We have no need to resort to the unmeasured hazard of nuclear weapons. We need be neither Red nor dead.●

NATIONAL FIREFIGHTERS' DAY

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. GEJDENSON. Mr. Speaker, I would like to urge my colleagues' support of a joint resolution that would designate the second Saturday in August as National Firefighters' Day.

As you know, thousands of small towns and communities across the country depend upon the services of volunteer fire companies. We in the Second District of Connecticut, for instance, rely almost entirely on volunteers to protect our lives and property from fire. These dedicated men and women freely sacrifice their time and often risk their lives to provide their neighbors with prompt, effective fire protection. Through the efforts of these brave individuals, thousands of lives and millions of dollars worth of property have been saved.

In many small towns in my district, volunteer firefighters provide many other vital services as well. They drive emergency medical vehicles, perform first aid, coordinate rescue operations, and help make our communities safe places in which to live.

The job of a volunteer firefighter is not easy. In many communities, members of volunteer fire departments must make do with older, less sophisticated equipment than that of their paid counterparts in large cities. These individuals, however, take great pride in their work and their equipment, and often they help raise the funds to pay for their units' expenses.

I think we all appreciate and admire the efforts of these men and women. We realize how much our communities depend upon volunteer fire departments. These organizations perform tasks that our villages and towns cannot pay for, but cannot afford to do without.

Summer is traditionally the time when volunteer fire departments sponsor fundraising drives, hold conferences, and organize local activities to recruit new volunteers. Designating one day in August as Volunteer Firefighters' Day would provide a focal point for these activities and would help attract local and national attention.

Volunteer firefighters are ready and willing to help their communities all year long. I think that the least we can do in return is set aside one day a year to honor them.●

FEDERAL FIREARMS OFFENSE BILL

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. GOODLING. Mr. Speaker, last February, in this very Chamber, I joined several of my colleagues in introducing the Federal firearms offense bill, which if adopted would require mandatory sentencing of criminals for felonies committed with firearms. At that time I believed, as I do now more than ever, that such a measure would correct what I and many others consider to be a wretched situation—the growing number of handgun crimes in this Nation.

History since has intensified my concern. Everyone in this Chamber, in this country, remembers where he was on that fateful afternoon of March 30. We are beginning to look back on that day with some ease, secure in the knowledge that President Ronald Reagan, Press Secretary James Brady, Secret Serviceman Tim McCarthy, and D.C. Policeman Thomas K. Delahanty are well on their way to recovery. But have all our wounds healed? On the same day that President Reagan was shot, 60 to 70 Americans were killed by handgun fire, according to statistical averages. Can a Nation, which rightfully professes to offer its citizens the opportunity to achieve man's highest ideals, and which welcomes others to its shores with the knowledge that here, the dignity of man is held supreme—can a Nation such as ours afford not to reevaluate its traditional approach to handgun violence?

I ask you: can America continue to avoid the fact that more than 24 million households—almost a third of the households in this country—were touched by crime in 1980? Can we neglect the fact that 95 percent of the policemen killed in the line of duty between 1961 and 1970 were felled by handguns? Can we overlook the fact that gun dealers today sell to the mentally ill, criminals, dope addicts, convicted felons, juveniles, as well as good citizens. Can we not pay attention to FBI uniform crime reports, which indicate that there were 21,456 reported murders in 1979; that 50 percent of these were committed with handguns; or that a violent crime occurs every 27 seconds, a murder every 24 minutes, a robbery every 68 minutes, an aggravated assault every 51 seconds, and a forcible rape every 7 minutes?

I argue vehemently that we cannot, and in support of this, I will today introduce two additional bills which I believe complement H.R. 2127. The first would prohibit the importation of parts of firearms if the importation of such firearms is currently prohibited.

For, although the import of the "Saturday night special"—the gun used to shoot President Reagan—is technically illegal, the import of parts for these guns is not. And so, consequently, parts are shipped into the United States and assembled here. My second bill would require a 21-day waiting period between the time one purchases a handgun and the time one can obtain it. Such a law would provide a cooling-off period for those individuals who could be purchasing a firearm in an irrational state of mind. Pennsylvania has paved the way for legislation of this type with its own statute providing for a 2-day waiting period.

My original bill, H.R. 2127, would impose a 5-year mandatory prison sentence with no parole option for those individuals convicted in a U.S. court of a felony in which he or she used or carried a firearm, an 8-year sentence for second-time or subsequent offenders. That proposal, together with these additional bills, comprise what I believe to be an effective three-prong approach at the Federal level to a growing problem. The three methods would provide a uniform deterrent to handgun crime.

In February, I pointed out that, of the three major pieces of firearm legislation passed in the United States in this century, all were instigated by public outrage to violence involving the use of guns. Gangster-type violence of the "tommy-gun era" prompted the National Firearms Act of 1934 and the Federal Firearms Act of 1938. The assassinations of Dr. Martin Luther King and Robert Kennedy 5 years after the assassination of President John F. Kennedy prompted the passage of the Omnibus Crime Control and Safe Streets Act and the Gun Control Act. At that time, I mentioned the tragic deaths of John Lennon and Dr. Michael Halberstam. Today, we have come through the attempted assassinations of yet another American President and of a world religious leader, Pope John Paul II. Since January 1 of this year, more than 2,600 Americans have been reported dead as a result of handgun violence. Can a nation that seeks the elimination of international terrorism as a major foreign policy goal continue to ignore the subject of firearms controls while the frequency of gun use in assaults at home continues to rise?

Once more we are reminded, in letters from constituents, and in editorials across the country, that the United States is the only leading Western nation without sufficient curbs to firearms violence. In my mind, mandatory sentencing, a 21-day waiting period, and prohibition of the importation of certain handgun parts is a way to begin deterring more stringently the gun crimes which plague our citizens.

If my firearms package is not the cure for this illness, at the very least it constitutes a viable treatment.

Thank you.●

TRIBUTE TO THE REVEREND WILLIAM CLARK

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. HYDE. Mr. Speaker, my former pastor and friend, Father William Clark of Park Ridge, Ill., recently announced his retirement after 13 years as pastor of Mary, Seat of Wisdom Parish. Father Clark is a most gifted priest, and I know his services will be sorely missed at Mary, Seat of Wisdom, but I am pleased that he will be continuing in his ministry as a part-time pastoral care staffer at Lutheran General Hospital. Undoubtedly, his great understanding, kindness, and compassion will be a special blessing to the patients he will come in contact with.

I know my colleagues join me in congratulating Father Clark on his retirement, and wishing him many, many more years of success in his priesthood.

I am pleased to share the following newspaper article from the Park Ridge Herald concerning Father Clark's retirement and new duties:

RETIRING PASTOR TO JOIN LUTHERAN GENERAL STAFF

The Rev. William Clark will join the pastoral care staff of Lutheran General Hospital in early July.

Fr. Clark will retire after 13 years as pastor of Mary, Seat of Wisdom Parish, but will continue to serve the community as a chaplain at Lutheran General. His ministry will be directed primarily to the sacramental needs of Catholic patients.

Fr. Clark will blend his particular denominational-sacramental ministry into the comprehensive personal ministry available to every patient through staff chaplains of all faiths. His presence will enhance the opportunities for Catholic patients to have greater access to the resources of their faith.

Fr. Clark holds a master's of education degree from Loyola University and a master's of theology degree from St. Mary of the Lake Seminary, Mundelein. He taught education at St. Mary of the Lake Seminary from 1940 to 1948 and served as associate pastor of Our Lady, Help of Christians from 1948 to 1955. From 1955 to 1965 he taught courses in theology and marriage at Mundelein College. He served as pastor of Our Lady, Gate of Heaven parish from 1965 to 1968. In 1968 he succeeded Fr. Ed Dowling as pastor of Mary, Seat of Wisdom Parish.

"We're excited that Fr. Clark, after 44 years of active parish ministry, is joining our staff part time," said the Rev. Lawrence Holst, chair of the division of pastoral care. "His pastoral experience will be a blessing to patients and the staff of the pastoral care division."●

THE CLINCH RIVER BREEDER REACTOR: ITS TIME HAS PASSED

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. BROWN of California. Mr. Speaker, as a former member of the Joint Commission on Atomic Energy, a member of the Science and Technology Committee and as one concerned with the energy future and security of our Nation, I feel compelled to speak in opposition to the construction of the Clinch River breeder reactor in Tennessee. I have been deeply involved in this debate for over 4 years now, and the time has come to finally lay this project to rest.

For those who claim that this is a test vote on nuclear power; it clearly is not. For those who claim uranium shortages; uranium prices have dipped to an unprecedented low due to slack demand and enhanced recovery techniques. For those who claim increased electrical demand requires the premature commercialization of breeders; electricity demand growth rate has slowed significantly from previous expectations. And finally, some of the supporters themselves claim that the technology will not make economic sense before 2020 at the earliest.

In these times of fiscal restraint, Clinch River breeder reactor proponents want an exemption for their project which will allow them to spend upward of $3 billion Federal dollars on elusive benefits. I have no sympathy for special pleas such as this one.

The following Los Angeles Times editorial appearing during the debate on Clinch River in the Science and Technology Committee clearly expresses my concern with the project and the intellectual dishonesty of supporting its construction if one is truly interested in solving this country's energy problems in a responsible fashion.

The article follows:

[From the Los Angeles Times, May 10, 1981]

THE BREEDING OF A BAD BARGAIN

For reasons that remain obscure, one of the programs that most deserve the Reagan Administration's budget ax didn't get the chop: the controversial breeder reactor proposed for construction at Clinch River, Tenn. Fortunately, a bipartisan majority of the House Science and Technology Committee has moved to kill the project anyway.

The Clinch River project, which has been in the works for 10 years, involves the construction of a $3 billion nuclear power plant that in theory could produce more fuel than it burned.

One problem is that the breeder reactor would both produce and consume plutonium, a nuclear material that can be used to produce atomic weapons. Another is that if the breeder ever makes economic sense it will not be until well into the next century.

The project was essentially held in limbo during the Carter Administration, which rightly felt that its construction would destroy the credibility of the U.S. effort to persuade other nations to forgo the use of plutonium as a power reactor fuel. The anti-plutonium campaign was part of a strategy aimed at preventing the spread of nuclear weapons.

In a move that was perhaps intended to please Senate Majority Leader Howard H. Baker Jr. of Tennessee, a strong backer of Clinch River, the Reagan Administration requested authorization for $230 million to begin construction of the Clinch River project in 1982.

The House Committee, considering that proposal as part of a $3.6 billion energy research budget, voted instead to kill the project.

Interestingly enough, opposition to the Clinch River breeder was spearheaded by a group of economy-minded Republicans, led by Rep. Claudine Schneider of Rhode Island, who were convinced that the project would be a bad bargain for the taxpayers.

The case for the breeder reactor has leaned heavily on claims that the nuclear power industry faced a potentially serious shortage of uranium fuel, and that breeders would be needed to meet a high rate of growth in demand for electricity and to reduce the need for imported oil.

In fact, known reserves of uranium have dramatically increased. Estimates of growth in electric power demand have been scaled back. And breeders would not have had more than a marginal effect on oil imports anyway.

The House committee action is not final. Efforts will be made to restore the authorization on the House floor and in the Senate. The Reagan Administration should think about its position again. By withdrawing his support for Clinch River, the President could save the taxpayers at least $2 billion without damage to the national interest.●

THE 20TH ANNIVERSARY CONFERENCE OF RETURNED PEACE CORPS VOLUNTEERS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. BROOMFIELD. Mr. Speaker, 20 years ago President John Kennedy captured America's spirit of idealism in a speech at the University of Michigan that led to the creation of the Peace Corps.

Last Friday, the Peace Corps' new Director, Loret M. Ruppe, a distinguished and accomplished lady who is coincidentally also from the State of Michigan, challenged former Peace Corps volunteers to help rekindle that spirit of idealism in America.

In a speech at Howard University, the wife of our former colleague, Phil Ruppe, said that the future of this important arm of American foreign policy depends to a great extent on our willingness as a nation to reach out to the less fortunate in the world.

In a world of conflicting values, the Peace Corps remains a beacon of sanity and an expression of the best that is in us as a nation, she said.

Quoting from President Kennedy's speech 20 years ago, Mrs. Ruppe reminded us that the answer to whether a free society can compete depends upon the willingness of its citizens to contribute part of their lives to their country.

Those words are no less true today than in 1961.

Mr. Speaker, I commend Mrs. Ruppe's remarks to my colleagues.

ADDRESS BY LORET MILLER RUPPE BEFORE THE 20TH ANNIVERSARY CONFERENCE OF RETURNED PEACE CORPS VOLUNTEERS

I very humbly approach this podium to stand before you who have been and continue to be the lifeblood of the peace corps. You, assembled here, have served your time in service to your country and to the peoples of another land—presenting the "Best That Is In US"—the best that is in America—the caring, sharing—the idealism of the "1960's" and "1970's." I salute you and this administration salutes you.

I only wish it had been within my power, particularly my budgetary power, to bring in from those 61 countries where they currently work—to make this world a more peaceful place—our 5,400 peace corps volunteers, your brothers and sisters in the field, who right at this very moment are laboring in the schools, farms, villages and barrios to show the real heart of America to a skeptical world—a world made a little less skeptical by your 20 years of work.

I wish they could join us here as we meet to celebrate the 20th anniversary of the peace corps and to examine and discuss, through speeches, seminars and workshops where we, as people touched by peace corps, are to go in the "1980's."

I wish they could queue up, form a long line and come up one by one to this microphone and tell us just what they are doing today. Some would undoubtedly be from the very village, school, agricultural project or health center where one or many of you out there also worked to make life a little better, a little easier, or even a little more possible for people of other lands—creating a climate of peace and understanding. Some could be involved right now in the very projects you started when you were a volunteer/carrying on the mission. . . .

Let us imagine that they are here; let us keep their spirit here; let us have the idealism of the "1980's" present in this room also. For the same idealism and dedication that propelled you forward to volunteer to be a member of the peace corps propels our young people, our young-at-heart people, our mature people, throughout our land. Reporters are constantly asking me, "Is idealism dead? Is it gone?" That vast reservoir of hope and sustenance—sustenance that makes our short stay here on earth truly worth something.

That spirit was real, and John Kennedy touched it in a glorious burst of enthusiasm in that late night speech on the University of Michigan campus, October 14, 1961. That spirit was real when Sargent Shriver so capably transformed Kennedy's ideals into an operating agency in a scant six months. Is that spirit dead today? The answer is no, no, no, a thousand times no, for without that hope and spirit, America would become a desert of forlornness, a mass of mechanization, a material mound with no heart and no soul surrounded by a world of craving for not just food, pure water, education and health, but rather like all of us, craving for a life of substance, rather than a clawing for existence.

I must observe, however, that perhaps we are closer than we would like to be to this frozen wasteland.

Perhaps? Statistics that show alcoholism and drug abuse among our teenagers are at a record high, while many of them wallow in a surplus of goods, or in another extreme, feel they wallow in a well of loneliness with no hope of securing that which America has so glibly promised them via their TV's, stereos, and magazines or their lack of same perhaps. Statistics show suicide as the second highest cause of death among our young people. A widespread urge to wipe one's footprints completely off this planet would indicate that young Americans, maybe Americans of all ages, no longer hope—no longer see the goals and ideals that sent you in this audience to volunteer for service in a foreign land to help in the cause of world peace.

But what is that long line of volunteers which right now stretches from Guatemala down to Paraguay, from Jamaica to Santa Lucia, Tunisia, and Niger to Botswana, and Nepal, Thailand, the Philippines to Samoa? That line remains unbroken and idealism survives.

There are American volunteers right this very moment, Americans of all ages responding to their Nation's call and to their own inner beckoning, the call of the needs of the developing world. A call which is greater now and more our duty to answer than even in 1960. The global 2000 report, The Brandt Report, the daily and nightly news all attest to this great need. The Peace Corps is alive and well and this present Administration and this Director intend to keep it that way.

Where is peace in this world today? Well, I know and this Administration knows one place where peace truly is and that is in the person-to-person approach of the Peace Corps. We still give peace a chance . . .

We take the time to know the language of a people so that our volunteers can truly communicate, and in this Administration we hope to. Our volunteers live with the people to better understand their pride in cultural history, their feelings, their goals. Our volunteers motivate the people they live and work with to take that first step upwards—whether it be schooling, health care, a latrine, fish ponds, a community well—the blessing of pure water so that their children can have a better life. It's an inch at a time but every inch counts and every inch brings our world just that fraction of space closer to being more at peace, more at rest.

I pledge in the "1980's" we will continue that inch-by-inch approach which truly meets the development needs of the world that calls to us.

How will we do that? What will be our agenda for the "1980's"? First and foremost we will continue to improve on the selection process of volunteers and the training of both language and skills.

On my trip to Guatemala, Honduras and Ecuador, I asked our volunteers and staff, "what is the key to the best volunteer? How can we ensure that, out of those we select from many who apply, we are selecting the one who will truly perform up to the host country standards and our standards?" The universal answer was—motivation. If the person has proper motivation, he will succeed as a volunteer. In this time of budget constraints it is even more imperative that

we learn now to attract this elusive quality—a thing money cannot buy.

I feel we should follow the trail all the way back to recruitment. Our recruiters must be highly qualified and extremely well trained. We are going to see that they are. I feel there should be more care given to the interviewing. I recently talked to an outstanding volunteer couple from North Carolina. He is designing and helping build a model farm project in Ecuador for the subsistance farmer. He told me his original recruiter said he did not see where he fit into the Peace Corps at all. If it had not been for this volunteer's determination to be in the Peace Corps, we would have lost his important talent. Again, we must keep looking for motivation, and we will continue to succeed.

Now, since my arrival in February, after my nomination was announced, I have been impressed by the dedication and commitment of the people who work at Peace Corps/Washington. In line with the President's economic recovery program, our agency experienced budget cuts. Peace Corps immediately went to work on outlining ways we would meet this challenge. They informed me that Peace Corps is used to doing the best with whatever it is given. . . . My first priority was to take as much of the cut as possible here in Washington.

You see, on my agenda for the "80's" there is a pyramid. And on the top of that pyramid, or chart, or graph, or whatever you want to call it. But at the top is the volunteer. Just below is overseas staff; then returned Peace Corps volunteers. And at the base, or if some of you want to say "the bottom," is Peace Corps/Washington. I feel we are a service organization. We were created to support the volunteers who are doing the real work of the Peace Corps overseas and to help former volunteers when they return.

Now I know none of this is new. I know that Peace Corps is famous for reinventing the wheel, but for the Peace Corps, the wheel is already right. We intend to make it travel the highway—and it is a"high way"—the way it was manufactured, crafted, to hug the road. That road will lead to the continuing success of America's finest graduate school in international understanding—The Peace Corps.

We are busy—in our agenda for the "1980's"—laying the base for our budget in FY 1983. We feel if we can show Congress, OMB, the state department a well run, smoothly functioning, cost-effective agency, we have come part of the way. That is only one step, however. . . .

The real challenge is to let more people know—in Congress, here in Washington, and all across the country, particularly the American taxpayer—that this has been and continues to be a success story. The Peace Corps has not only been a beacon of sanity in a world of conflicting values—"a true expression of the best that is in US"—a small response of America to the heavy responsibility it bears as the wealthiest nation in the history of the world. But it has truly helped the countries it has been in and is in now, and it has promoted world peace and friendship for America in a world with more needs and more new friends that ever. Forty percent of our exports now go to the developing world. That means more jobs for America.

Here is where you become the agenda of the "1980's." We need you. We need you to recommit yourselves. You are still Peace Corps volunteers. You might have thought your time of service was over, but I think by being here—by taking the time—a precious commodity in this too busy world of ours—by sacrificing money and energy to come here this hot summer weekend, you know you are still in the Peace Corps. And I tell you, as director of the Peace Corps—and I know from Sargent Shriver down the line of directors, they will back me up—Peace Corps needs you in the "1980's" now more than ever.

We need you to continue the job of educating your fellow American citizens to the reality of that world out there. That world is steadily, shrinking, increasingly becoming more and more interdependent.

You must let America know that:

When a child dies of dysentery or measles . . . .

When a woman has to walk two miles to a stream for water and then search for several hours for wood to cook with . . . .

When a farmer or villager has no source of income . . . .

When its youth and men flee to the cities which have no jobs for them . . . .

When rain forests are stripped and no new planting done . . . .

When infant mortality hovers at 50 percent and malnutrition between 50 and 70 percent . . . .

When a million refugees languish in Somalia, Sudan and Bangladesh . . . .

. . . . Then let's face it America—the world is not at peace.

You, in this audience, must convince the public that foreign aid—the type of aid we're involved in—is a necessary and sound investment for the future of America for unless we convince them in the "1980's", unless we build a constituency for our kind of development work, our budget will continue to be—it has been—a series of continuing resolutions—uncertainty of funding—shrinkage or little, if any, growth.

So for the "1980's" our work is cut out for us. We at Peace Corps/Washington must build and sustain a network of support in Congress, at OMB and in the state department. It is there but it must be nurtured. We must build toward our fiscal year 1983 budget. I must tell you at least 15 American ambassadors have visited me at Peace Corps headquarters and said they feel that our volunteers working in their countries are the most positive presence of America in that country.

I have let the President, Members of Congress and many reporters know that the president of Guatemala, the minister of agriculture and the peoples of the camps unanimously praised Peace Corps. That in Honduras, President and Mrs. Paz, the minister of natural resources, of education: The whole village of Sabana Larga gathered in their dirt-floored, open-window (no glass) school, and the village mayor stood with tears in his eyes and said, "Thank you, America, for sending us these helpers. We know we are poor, but you are helping us and our children."

Or the man who showed us his Peace Corps-inspired latrine out in his backyard. A young volunteer from Oregon had shown him how to construct it; his initials were in the cement floor. He stood erect and said, "America has helped me make a better life for my family." That's ever one story: the outhouse . . . so beautiful—much better than his home. He only shows it to company!

Everett Alvarez recently toured Tunisia. He found the same reception—friendship, regard and the constant request for more well trained volunteers.

When I meet volunteers I like to ask, "How did you get interested in the Peace Corps?" So very many answer back, "Oh, I was always interested in it. I wanted to be a volunteer since I was thirteen or fourteen."

It is obvious to me that they knew about the work of the volunteers from an early age, junior high or before . . .

But what do I hear now. I was in west Texas in February. People there said, "Oh, is Peace Corps still around?"

I was at an embassy here in Washington this week. The wife of a noted columnist when I was introduced as the new Director of the Peace Corps—showed great surprise and said, "Does Peace Corps still exist?"

We have a serious problem of identity, and my challenge to you is in that agenda for the "1980's."

We must reinvigorate and resurrect the whole spectrum of the public's knowledge of our organization. Otherwise, in the "1980's", we will be unable to have the wide pool of talent and skills we need so desperately.

So I am counting on you—your presence—your influence at the school level—in the media—with the public—your help in recruiting—and your ideas for reaching out for scarce skills.

How can we attract more foresters? Biologists? Agronomists? How can we reach out to early retirees? How can we motivate middle management? In summary, what can we do to make these people want to share with the Peace Corps?

This is our challenge, it is the challenge I give to you this morning, for you to take with you through your experiences over the next two days and in the coming months. It is a new and important time, for old and tried ideas. We need you at the Peace Corps, just as we always did.

In the words of John Kennedy, at the beginning of this enterprise, at 2 a.m. from the steps of the Michigan union twenty some years ago:

"On your willingness to do that, not merely to serve one year or two years in the service, but on your willingness to contribute part of your life to this country . . . I think will depend the answer to whether a free society can compete. . . . Unless you comprehend the nature of what is being asked of you, this country can't possibly move through the next ten years in a period of relative strength . . ."

I know you in this audience comprehend what is being asked of you, because a free society continues to compete. There is a greater purpose for us all, in the pursuit of Peace, relentlessly, and with care, until it truly exists around the World.

Thank you for being here.●

MY BELOVED VIRGIN

HON. RON de LUGO

OF VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. DE LUGO. Mr. Speaker, Guy Henry Benjamin is a man from the Virgin Islands of whom we are very proud! He grew up in St. John and became the first St. Johnian to graduate from the Charlotte Amalie High School in St. Thomas. After graduation, Benjamin began teaching immediately while continuing his own studies during the summer. He earned a

B.A. from Howard University and a master's degree from New York University and returned to the Virgin Islands to continue his career in education. In recognition of his tremendous contributions in the area of education, the legislature of the Virgin Islands changed the name of the Benjamin Franklin School to the Guy H. Benjamin School.

Mr. Benjamin's latest success is a book entitled "Me and My Beloved Virgin—St. John, U.S.A." This book is a collection of anecdotes and reminiscences of the author's childhood on St. John. It is a beautiful collage of island folklore interwoven with personal experience and feeling. The book details the closeness and importance of the family; describes the beauty and bounty of St. John's natural environment; illuminates many portions of the islands culture and heritage; and notes—with sadness and hope—the changes taking place in his beloved homeland and the opportunity such changes offer. This accounting is a view of a way of life which may have disappeared forever.

No doubt, Guy Benjamin has a great love and respect for the land of his birth. It is evident that this deep affection for St. John is shared by many of its current residents—all copies of the book were sold within 2 days of its release. Needless to say, the people of St. John have shown their appreciation and unspoken understanding of the author's deep-rooted sentiments.

I was fortunate enough to receive a copy of this wonderful publication. If one would like to get a "flavor of the islands", I would highly recommend "Me and My Beloved Virgin." It is a sensitive and entertaining look at life in St. John.

Certainly, every resident of the Virgin Islands is grateful for the contributions of Guy H. Benjamin. I, along with the people that I represent, thank him for a job well done and wish Mr. Benjamin the very best as he undertakes future literary endeavors.●

SUPREME COURT DECISION ON OSHA COTTON DUST STANDARD

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. MILLER of California. Mr. Speaker, the U.S. Supreme Court handed down its long-awaited decision upholding the OSHA cotton dust standard last week. The Court's unequivocal decision is of the greatest significance, not only to tens of thousands of textile workers but to all working people whose health and safety is jeopardized on the job.

This victory marks the end of a decade-long battle for safe working conditions by the men and women who labor in our mills. In 1970, when the Occupational Safety and Health Act was debated by the Congress, the proven health effects of cotton dust—specifically byssinosis, or "brown lung"—were a prominent part of the debate. For years following enactment of that law, the textile workers of this country had to wait for promulgation of a decent cotton dust standard while two administrations distorted the goal of the OSHA law and generated unwarranted opposition to its goals.

Finally, the Amalgamated Clothing and Textile Workers Union was forced to sue the Secretary of Labor in order to secure a standard, and the courts ordered the Secretary to develop one.

And still the years dragged by, as thousands of mill workers endured unsafe conditions and suffered terrible disabilities. When a standard finally was proposed, it was subjected to some of the most rigorous reviews of any recent Federal regulation, including 14 days of public hearings which produced 105,000 pages of testimony.

No sooner was the standard finally promulgated than textile manufacturers challenged it in court and in the Congress. Only concerted action by the House of Representatives prevented adoption of a Senate rider prohibiting enforcement of the standard while the courts had the issue under review.

The major issue in this case, as in other OSHA cases which have arisen is the question of whether a standard must meet a "benefit-cost" test. The Reagan administration believes that OSHA standards should be subjected to such a test, although the courts have repeatedly concluded, as the Supreme Court did last week, that the law makes no provision for rejecting a health standard solely because of costs to an industry.

We would do well to recall the words of Senator Ralph Yarborough of Texas during the Senate debates on OSHA. "We are talking about people's lives," Senator Yarborough reminded his colleagues, "not the indifference of some cost accounts." The issue remains the same today.

If the question were squarely presented: Choose between an industry's profit margin or the health and safety of your constituents, who in this House would knowingly and publicly sentence his own constituents to disability or death from dangerous working conditions? Why are we more inclined to consider such a result in the abstract, or for someone else's constituents?

I would think that an administration as concerned about costs to Government and taxpayers' burdens as this one would recognize the enormous public expense of unsafe working conditions. Relaxation of the worker safety laws would certainly produce both benefits and cost. But the benefits would be enjoyed by industry in the form of higher profits, and the costs would be borne by injured and disabled workers, and by the taxpayers who are compelled to care for them.

The Subcommittee on Labor Standards, of which I am chairman, held hearings on this subject—the public costs of hazardous working conditions—soon after the Reagan administration unwisely asked the Supreme Court to permit a reconsideration of the prior administration's argument on the cotton dust case. According to witnesses who appeared before the subcommittee, 48,300 people who would be protected by the standard would be left unprotected under the industry's alternative. At an estimated cost per victim of $100,893, the cost of the industry alternative to the cotton dust standard would be about $5 billion.

Much of that cost would come from public sources, as do most of the benefits to victims of occupational disease from all sources today. Rarely does the responsible industry or the workers' compensation system pay for occupational disease costs. Instead, the bill is passed along to the taxpayer through social security, medicaid, welfare, veterans' benefits, and a host of other taxpayer-supported programs, most of which this administration also wants to cut.

The public bill for occupational disease exceeds $3 billion a year, while the private, responsible employer pays a small fraction of that amount. So when the Government makes a decision to expose workers to preventable occupational hazards, it is not only deciding to injure workers, but to hand the taxpayers a multibillion dollar bill, and we cannot ignore that fact.

The textile workers of this country, and all American workers, won a major victory in the Supreme Court's decision on the cotton dust standard. But the significance of this victory goes far beyond the issue of cotton dust, because the Court reaffirmed the original, sound intent of the OSHA law: We will not place one person's profit ahead of another person's health. In fact, the Court ruled, the OSHA law does not require that OSHA standards be the most cost-effective and does not require OSHA to make a benefit-cost evaluation of its proposed standards.

The law requires that the agency take action to safeguard the health and safety of American working men and women, and that goal is as sound today as when it was overwhelmingly supported by Congress in 1970.

The OSHA law requires that health standards be "feasible" which, according to the Supreme Court, means "capable of being done". Congress itself

set this standard, the Court reminded us:

Congress itself defined the basic relationship between costs and benefits by placing the "benefit" of worker health above all other considerations save those making the attainment of this "benefit" achievable. (American Textile Manufacturers Inst. v. Donovan, slip op. at p. 17, emphasis added).

The Court continued:

Any standard based on a balancing of costs and benefits by the Secretary that strikes a different balance than that struck by Congress would be inconsistent with the command set forth in § 6(b)(5). Thus, cost-benefit analysis by OSHA is not required by the statute. (Ibid.)

Despite this clear congressional intent, virtually every standard promulgated by OSHA to protect workers from toxic substances and harmful physical agents has been challenged by the affected industry on the grounds that OSHA had not selected the most "cost-efficient" approach. OSHA officials have long argued that, based on the law, it cannot make its decisions on such cost-benefit criteria, and the Court's decision upholds that ruling.

There is little doubt that protecting workers from cancer on the job, and from other terrible conditions like asbestosis, silicosis, and byssinosis, can be more costly to industry than ignoring safety. "Congress understood that the act would create substantial costs for employers," the Court recently noted, "yet intended to impose such costs when necessary to create a safe and healthful working environment." (Ibid., at p. 27) Let us recall Senator Yarborough's words: "We are talking about people's lives."

With this issue behind us, hopefully for good, I expect that OSHA can get on with the job of protecting workers from the many hazards that still endanger the health and safety of tens of millions of Americans. I do not mean the picky, insignificant kinds of standards which were rightly criticized and which have been removed from the books. Instead, I mean the severe dangers, the carcinogens and those which cause genetic and birth disorders which were too long ignored while attention and effort was diverted to less significant problems.

I believe that all American workers and our other citizens as well want a reinvigorated and rebuilding American economy to be one in which the health and safety of the working man and woman are not sacrificed, but instead where they are protected to the maximum extent of our capability. The decision of the Supreme Court in the cotton dust case sets us properly on that road again, and I believe we are long overdue in fulfilling that commitment to the people of the United States.●

A TRIBUTE TO TOM COCHRAN

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. SKELTON. Mr. Speaker, it was with great sadness that I recently learned of the death of Tom Cochran, a widely respected attorney, civic leader and churchman, of Independence, Mo.

Throughout his life, and even during his last months, he inspired those around him with his love of life.

He first acquired prominence as an attorney, serving as president of the Missouri Bar Association in 1976. He had also been chairman of the American Bar Association's Young Lawyers Section and of the ABA Family Law Section. Mr. Cochran was a high priest of the RLDS Church and was pastor of the Walnut Park congregation from 1966–68. He cofounded the Sports, Leadership, and Arts Spectacular, an event which now draws over a thousand young men and women annually. He was also vice president of the Kansas City chapter of the American Diabetes Association.

In 1980, even though his health was failing, he became president of the Independence Neighborhood Councils. Tom Cochran was concerned with giving to society, making the world a better place to live. I was proud to call him my friend.

Mr. Speaker, I commend the memory of Tom Cochran for his courage in the face of adversity, his tremendous civic conscience, his devotion to his church, and most important, for his unfaltering love of life. All who knew him are richer because of his example.●

AIR TRAFFIC CONTROLLERS STRIKE BLACKMAIL

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. RUDD. Mr. Speaker, a settlement may have been reached by the professional air traffic controllers organization, but the unsettled events of the last few days were enough to anger Americans everywhere. Arizona Lions Club members, city, county, and State officials worked 5 years arranging for the International Lions Club convention to have this year's annual meeting in Phoenix, rather than the French Riviera, which had also been considered.

Due to this threat of strike blackmail, an estimated 25,000 of the 26,000 Lions Club visitors who were in Phoenix this last weekend left town early. This mass exodus cost the city many millions of dollars and many more millions that would have flowed into Arizona's economy had there been no strike threat.

As public employees, the controllers have an obligation of special duty to the public. The threat of an illegal strike was a gross malfeasance in view of the special bond that exists between the taxpayer-employer and public service employees.

It is one thing to bargain in good faith and with respect for the law. But it will be hard for Americans to forget the insensitivity and unconscionable actions of the air traffic controllers union.

Mr. Speaker, I would like to share the following article from the Arizona Republic with my colleagues by inserting it in the RECORD.

[From the Arizona Republic, June 21, 1981]

STRIKE THREAT FORCES LIONS TO TRIM PHOENIX VISITS

The threat of an air-traffic-controllers strike Monday has caused many Lions-Clubs International members to cut short their visits to Phoenix and Lions officials to cancel a board-of-directors meeting scheduled for today.

One Lion said he had planned to fly home to California on Monday after spending an extra day in Arizona but couldn't risk additional time or money in case his flight were cancelled and he were forced to remain here for several days.

Lions spokeman Pat Cannon said an informal board meeting scheduled for today was cancelled so board members who wanted to be assured of a flight home could leave.

The Lions wrapped up their four-day international convention Saturday.

If the walkouts of controllers were widespread, leaving a reduced work force of supervisory personnel, flights would be curtailed severely.

Short-haul trips would be most affected by the strike because priority would be given to routes of more than 500 miles, airline officials say.

Matthew Dudish of Pottsville, Pa., said Saturday be planned to fly home Monday. If his flight were cancelled, he said, he would "just extend" his vacation.

"I'll just call work and tell them I'll be home later," he said.

Bill Swartz, of Clewiston, Fla. said he, too, planned to fly home Monday.

"But I still have three weeks of vacation," he said.

If unable to fly home, Swartz said he "would probably rent a car and go to the Grand Canyon" and wait for a flight.

Alernate transportation, such as train or bus, would be too boring to take all the way to Florida, he said.

Lief Bylund of Sundsvall, Sweden, said he planned to drive to San Diego and to fly up the California coast from there. He would find alternate transportation if unable to fly, he said.

Phyllis Bargelt of Bellingham, Wash., said she and several others from her group planned to stay until Wednesday.

"If there is a strike, we'll just have to decide then," she said. "We're not worried."

Dene and Brian Speirs of Strathroy, Ontario, Canada, said they were scheduled to fly home Monday.

But Mrs. Speirs said they wouldn't mind if their flight were cancelled.

Sam and Shirlee Milliken, of Waynesburg, Pa., said they are booked to fly home June 30 and hadn't changed their vacation plans in anticipation of a strike.

Asked what they would do if there were a strike, Mrs. Milliken said they would still plan to fly home the 30th.●

MR. WATT'S UNSEEMLY REGULATORY STRIP

HON. JAMES WEAVER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. WEAVER. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

MR. WATT'S UNSEEMLY REGULATORY STRIP

Interior Secretary James Watt, thumbing his nose at Congress, is plunging ahead to reorganize the Federal agency that regulates strip mining. The merits of the reorganization are debatable, but Mr. Watt's tactics are not. By developing the plan without wide consultation and rushing to stay ahead of Congressional doubters, he displays a deplorable arrogance.

Secretary Watt wants to dismantle Federal regulation of strip mining. As a private attorney, he filed a brief supporting state and industry contentions that the Federal strip-mining act was unconstitutional. But the Supreme Court rejected that argument and unanimously upheld the act the other day. Now Mr. Watt aims to use his reorganization scheme to give states the major regulatory role.

The Watt plan would abolish five regional offices of the Federal Office of Surface Mining and substitute lesser state liaison offices and technical centers. The Federal staff would be cut by almost 40 percent, on the assumption that the states would increase their regulatory activities.

That would be all well and good if regulation remains as effective as Congress intended and if there is an orderly transition. But the transition is turning rough. Mr. Watt developed the plan without consulting key state, industry or Federal officials and then proposed it abruptly.

That prompted Representative Patricia Schroeder, Democrat of Colorado, to conduct a hearing that made plain that major coal states rely for support on the threatened Denver regional office. The testimony also suggested that the reorganization, contrary to declarations, would be costly and drive competent employees from Government service.

Believing that these are legitimate questions deserving more discussion, a House appropriations subcommittee barred Mr. Watt from using any money in the fiscal 1982 budget, which starts October 1, to close the Denver office. It wasn't clear that the full committee or the full House and Senate would go along, but Mr. Watt took no chances. Abandoning his promise of an "orderly phase-in," he ordered the Denver and Kansas City offices closed by August 31, before the budgetary restraint could take effect.

Such conduct makes Mr. Watt what he and his President profess to deplore: a Washington princeling who ignores Congress and the public and simply does as he likes.●

TENN-TOM BOONDOGGLE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. DINGELL. Mr. Speaker, as Congress becomes more entwined in the budget thicket, we should be mindful of some of those Federal spending programs earmarked to continue with funding, but which seem to be perpetuated by the smallest of constituencies to benefit only a few. Meanwhile, important social programs with vast constituencies—such as social security, trade adjustment assistance, unemployment compensation, and the student loan program—are sent to the dock facing possible execution.

Take the Tennessee-Tombigbee Waterway, for example.

Ever since its authorization in 1946 and the start of its construction in 1971, the Tenn-Tom has been eating our tax dollars, devouring its share of the budget pit.

Now we are asked to sacrifice large sums of money for legitimate human resource programs while the Tenn-Tom awaits even more taxpayer money. But for whom, how many, and for what reason?

I insert for the RECORD an editorial by James J. Kilpatrick, who has earned a reputation for his eloquent defense of the conservative cause. His insightful critique regarding the questionable value of continuing to fund the Tenn-Tom is worth review by all Members of Congress, regardless of their ideology.

BILLIONS SINK IN TENN-TOM WATERWAY

(By James J. Kilpatrick)

WASHINGTON.—Of all the political ailments that afflict the Congress, none is more irritating than the condition known as Macbeth's syndrome. We are seeing it today in the matter of the Tennessee-Tombigbee Waterway. Those who oppose this costly project may as well concede defeat. My brothers, we have been bamboozled.

For those unfamiliar with the aches and pains of congressional exercises, let it be said that the syndrome develops from this quandary: Shall we throw good money after bad? Is it better to go ahead with a doubtful project or to end the venture and absorb the losses?

This was the problem that troubled the late Lord Macbeth. He and his lady had embarked upon an enterprise that he couldn't get out of. "I am in blood stepp'd in so far," quoth he, "that should I wade no more, returning were as tedious as go o'er." Macbeth kept going; and he came, as they say, to a bad end.

So it goes with the Tenn-Tom. This is the 232-mile waterway—the largest project currently under construction by the Corps of Engineers—intended to connect the Tennessee River with the existing Black Warrior-Tombigbee Waterway down in Alabama.

From the beginning, the justification for this project has been doubtful. Strong opposition developed when the Tenn-Tom was authorized in 1946. More opposition mobilized before construction began in 1971. Two or three times since then, the project has barely survived attempts to kill it.

But we are now in this intractable situation: The waterway is 53 to 55 percent complete. More than $1 billion has been spent on this colossal ditch. If construction were stopped dead in its tracks tomorrow, perhaps $600 million in further outlays might be prevented—but the billion dollars already invested would be lost. What to do?

Such a question is not unknown on Capitol Hill. A few years back, Macbeth's syndrome affected a plan to subsidize construction of a prototype supersonic transport plane. There the decision was to stop the loss and get out. The situation rose again in the matter of another palatial Senate office building; in this case the decision was to plunge ahead. Opposing forces still are battling over the proposed breeder reactor at Clinch River: Do we kiss that investment goodby, or do we keep going?

My own view, for whatever it may be worth, is that the Tenn-Tom never should have been started. The principal justification was that vast amounts of money could be saved in shipping costs if mid-America could be linked to the Deep South by a waterway winding up in Mobile and the Gulf. The Tenn-Tom, it was said, would provide an alternate water route for use at times of low waters in the Mississippi. Other justifications were thrown in as makeweights—recreational opportunities, increased employment, social uplift, picnic tables, waterskiing, you name it.

A new study from the General Accounting Office, just released, once again casts doubts upon the rosy visions of the Tenn-Tom sponsors. The projected savings in freight costs are still ephemeral. Whatever is gained by the barge operators will be lost by the railways. If the Tenn-Tom ever is to pay its way, in terms, of a benefit-to-cost ratio, still more money must be spent between Demopolis and Mobile—perhaps as much as another $960 million over the next 16 years. Before the turn of the century, the taxpayers could be dragged step by step into a $3 billion venture.

Things have gone too far to quit now. The waterway will have to be completed at least to Demopolis, and a sinking feeling tells me that, three or four years hence, Congress will have to yield to irresistible arguments that the Demopolis-Mobile improvements be undertaken also.

Under the circumstances, we may as well accept the situation. Perhaps coal experts will justify the heavy investment by Alabama in new port facilities at Mobile. Other navigational improvements of doubtful justification have turned out well. The Tenn-Tom may yet prove its critics wrong. I've been wrong lots of times before.●

DRUG ABUSE

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. MURPHY. Mr. Speaker, in one of his early press conferences, President Reagan called drug abuse, "one of the gravest problems facing us internally in the United States." He went on to say, "Whatever we can do at the national level to try and launch

a campaign * * * we should do * * * because I think we are running a risk of losing a great part of a whole generation if we don't." However, in spite of this rhetoric, the administration has proposed that the alcohol and drug abuse education program be reduced by 25 percent and that the program should be included in a block grant. The administration must realize that they cannot have it both ways.

I submit that we have an effective nationwide campaign already functioning—the alcohol and drug abuse education program. Rather than prescribing a specific solution or implementing a model program, the alcohol and drug abuse education program offers training and technical assistance to States and local school districts to help them design and implement programs to meet their unique needs. While local school personnel have identified the widespread use of drugs as one of the most severe and complicated problems that schools face today, this is the only Federal prevention program that addresses this problem in schools on a nationwide basis.

To respond to this crisis there is clear justification for a primary role at the Federal level in leadership training, technical assistance, research and development, evaluation dissemination, and development of local capacity. This program is not, like the standard discretionary program, a grants program. It provides training and technical assistance to local school districts across the Nation to design and implement local programs, to build local training capacity, and to develop State and regional support networks.

The alcohol and drug abuse education program is highly cost effective. Currently, it is working with 450 school programs in 36 States, Guam, and Puerto Rico, with an appropriation of $3 million. This program is funded at a level slightly above metric education and slightly below consumer education. Although we may be inconvenienced at times by forgetting the conversion from gallons to liters, I have yet to hear of a student dying from such a lack of knowledge. However, in every region of our country within this school year, students have committed suicide, students have been assaulted, and a few have been murdered in alcohol and drug related incidents.

It would not be cost effective or feasible to divide $3 million between 50 States and territories. Such a scattering of resources dissipates and wastes funds resulting in duplication of mistakes, a piecemeal approach to the problems and no opportunity for sharing successes across the Nation.

Probably most crucial is the fact that there is no assurance that consolidated funds would be used at the State level to address the critical problems of alcohol and drug abuse and associated destructive behaviors in our schools. Consolidation would kill a national school program that has been operating since 1974 and is overwhelmingly popular with school and community personnel across the Nation. In many areas of the country this program is beginning to train State Department personnel and involve the private sector in the financing of alcohol and drug abuse education training. Given a few more years to develop these concepts, the Federal program may have provided the States with the capacity to administer an effective alcohol and drug abuse education program at the State level.

During reauthorization hearing held by the Subcommittee on Select Education in April of this year Gary Wappes, National Association of Prevention Professionals, stated:

The block grant approach to service funding is, in general, consistent with our position on local control and responsibility for program design and service delivery. We don't, however, feel that a blanket approach to this issue is a responsible one * * * those local efforts should be supplemented by cost-effective support systems that provide training and technical assistance on a regional, multi-State basis. This service * * * must remain a federal responsibility and function the act is consistent with * * * local programming supported by Federal support for technical assistance and training.

If we are truly concerned about the future of our country, we must not allow programs that are working well and are cost effective to be included in a block grant. The alcohol and drug abuse education program provides much needed services to those who are our future—our Nation's children. Failure to adequately address their needs will undoubtedly produce much greater costs to the Federal Government in the future.●

ITALIAN EARTHQUAKE RELIEF EFFORTS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues correspondence I have had with the Agency for International Development (AID) regarding the use of earthquake assistance funds for the victims of the earthquake which occurred in southern Italy in November 1980.

As you know, the U.S. Government is providing $50 million in assistance. In addition, numerous private organizations have raised additional amounts to help the victims.

I wrote to AID subsequent to a report which appeared in the New York Times of May 31, 1981, which alleged that delays had occurred in providing aid. In its reply, AID says that implementation of the $50 million program of official U.S. assistance is proceeding according to schedule. That assistance will be used to construct 12 schools in the devastated area. AID, in addition, has no evidence that there have been specific bureaucratic problems affecting the disbursement of private funds.

The article and the correspondence as well as a status report on the AID Southern Italy Earthquake Assistance Program follow:

CONGRESS OF THE
UNITED STATES,
COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 3, 1981.

Hon. M. PETER MCPHERSON,
Administrator, Agency for International Development, Washington, D.C.

DEAR MR. MCPHERSON: I am writing requesting your comments on a story published in the New York Times of May 31, 1981 regarding disaster relief funds to assist the victims of the earthquake which occurred in southern Italy in November, 1980.

Specifically, I would like to know whether bureaucratic delays on the part of the Italian authorities have slowed the provision of aid; and, if so why; what is being done to remedy those delays and to speed up the utilization of funds available from both public and private American sources; what is being done to ensure the effective use of funds collected by voluntary agencies here who do not have staff there to distribute funds in Italy; whether there is any evidence the Rome government is deliberately blocking or limiting the disbursement of funds in the region for political reasons; and finally, what the status of the U.S. official aid effort is at the present time.

As you know, there is great interest in Congress in seeing the rapid reconstruction of the devastated area and prompt utilization of all funds collected and available for this purpose. I would appreciate a prompt response to this letter.

With best regards,

Sincerely,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

U.S. EARTHQUAKE AID FOR ITALY IS SLOWED

Last November's earthquake in southern Italy, which killed 3,000 people and demolished 365 villages, has generated $85 million in relief aid from the United States. But the money is beginning to arrive only after extensive bureaucratic delays.

Congress appropriated $50 million in December for Italian quake relief but so far has spent only $4.2 million, most of it for the immediate needs of the eight million victims. The emergency is still far from over; about 250,000 people remain homeless.

The Agency for International Development, an arm of the State Department, still holds $45 million that "will be provided in projects decided upon jointly with the Italian Government," according to James Phippard, an A.I.D. director.

But expecting a coherent plan from Rome may be unrealistic, suggests Mario Cuomo, Lieutenant Governor of New York, who founded a committee to oversee funds flow-

ing from the United States to Italy. His committee, Italian Disaster Earthquake Assistance, has been frustrated, he says, by governmental bureaucracy.

OFFICIAL GUIDELINES LACKING

Italy has yet to issue official policy guidelines on such fundamental questions as whether and to what extent Italy should rebuild an area that is geologically unstable and economically underdeveloped, Mr. Cuomo said.

The region, south and west of Naples, is one of Italy's poorest, and lack of industry has led to a seasonal exodus of men to jobs in Switzerland and West Germany.

When the remaining $45 million in Congressional funds is finally spent, it will probably be used to build schools, Mr. Phippard said, since "Italians don't want to lose young families from an area already known for its high emigration."

Mr. Cuomo said that aside from the Italian Government's reluctance to pour money into a depressed area, Rome also holds a longstanding bias against developing the south. But he added that if his committee cannot work with Rome's approval, "we will simply go ahead with the help of the local mayors."

Complicating efforts is the fact that there are two types of relief groups handling American contributions: operating agencies that do their own field work and voluntary agencies that lack overseas personnel and must hand over their funds to the operating agencies. Two international operating agencies, the Red Cross and Catholic Relief Services, have each collected $10 million on this side of the Atlantic and have been distributing it in various forms in Italy. The Salvation Army is also dispensing $9 million that it collected.

Voluntary agencies, with no staff to distribute funds, have been "shopping around" for worthwhile projects, a spokesman for the American Council of Voluntary Agencies said. Some Italian-American civic leaders argue that huge capital investments require patience, while others complain about months of what seems like indecision.

The Sons of Italy, for example, raised $2 million and spent half of it for vaccines, but it is having difficulty using the remainder. Dozens of smaller civic groups, including Save the Children, which raised $187,000, and the American Jewish Joint Distribution Committee, which raised $145,000, have collected $4 million that still awaits distribution.

"All roads lead to Rome," says Keith Drake, director of Adottare, or Adopt, which circumvents the Italian bureaucracy by asking American towns to send funds directly to sister cities. Adottare was developed by Alfred DelBello, the Westchester County Executive, and has already given a quarter of a million dollars in direct aid.

POTENTIAL FOR INVESTORS SEEN

Using this individualized strategy, American companies can provide long-range support by establishing industrial links with southern Italy. Richard N. Gardner, the former Ambassador to Italy, who visited the stricken area, stresses the potential for "American investors in joint ventures to stimulate growth of industry, agriculture and tourism in the south." Relief projects are expected to produce business for American drug and housing companies.

Mr. Gardner also advises that United States Government money finance "projects visible to the average Italian, such as community facilities."

Congressman Mario Biaggi, the Bronx Democrat who spearheaded the legislation for the $50 million relief package, says he is "monitoring very closely the dispensation of funds for sensible projects such as schools and health facilities."

While United States officials plan to restore public structures to help entire villages, the passage of time undercuts the impact of the aid. Most of the earthquake victims now live at best in prefabricated shelters, called containers, and at worst in trailers, tents and railway cars. They fear ending up like those victims of an earthquake near Agrigento in Sicily who, nearly a decade later, still live in tents.

SUCCESS IN FRIULI CITED

Many officials praise A.I.D.'s recent success in rehabilitating Friuli, in northeastern Italy, where an earthquake in 1976 killed 1,000 people. "Friuli had a poor economy, but with careful planning after its earthquake, it has been booming," Mr. Biaggi said.

The Italian Government appropriated $600 million outright for the area of the November quake. Yet A.I.D.'s estimates set the total cost of recovery at $13 billion.

Certain towns may be redesigned, according to Mr. Biaggi, "possibly with satellite communities, as in Friuli, to provide an alternative industrial economy" to the traditionally insufficient agricultural one.

The Italian Government is expected to relocate some villages to avoid future quake vulnerability, though this program may be delayed because of its unpopularity among the victims.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY, AGENCY FOR INTERNATIONAL DEVELOPMENT,
Washington, D.C., June 18, 1981.

DEAR MR. CHAIRMAN: This is in response to your letter of June 3, 1981, in which you asked about the New York Times story of May 31, 1981, regarding earthquake assistance activities in Southern Italy.

In stating that bureaucratic delays laid to Rome have blocked use of much of the funds raised in the U.S. for earthquake relief, the article seemed to lump together both the U.S. Government program and those of private U.S. groups. However, the discussion of delays in the text of the article seemed only to relate to private assistance—not to the $50 million program appropriated by Congress.

The U.S. Government reconstruction assistance to Italy is proceeding on schedule and has not been subjected to any bureaucratic delays by the Government of Italy. To the contrary, all levels of government have been cooperative and helpful. When the A.I.D. reconstruction survey team went to Italy immediately after the earthquake, the Italian Government's Special Commissioner for the Earthquake, Giuseppi Zamberletti, provided transportation assistance, including a helicopter, as well as access to those on his staff who could provide necessary information and contacts and otherwise facilitate the team's effort. In the immediate aftermath of the earthquake when the overriding concern was the relief effort, the team was nevertheless able to consult extensively with Italian officials throughout the earthquake zone. Based on these consultations, A.I.D. recommended a program of reconstruction of destroyed schools. The team returned to Italy in February with this proposal, which received enthusiastic concurrence from Commissioner Zamberletti and local officials. Again, the team's effort to travel extensively throughout the affected area and to consult with Mayors and Regional and Provincial officials received full government support.

In March a resident A.I.D. Representative went to Italy to begin selecting the sites for the twelve planned schools. This effort has been undertaken in conjunction with all levels of government in Italy, and the sites were announced in a joint press release on June 10. To reiterate, the program is on schedule and has not been subjected to any delays by the Italian Government.

We are in close contact with U.S. private organizations through our participation in the Italian Disaster Earthquake Assistance organization (I.D.E.A.). We are not aware of any specific bureaucratic problems which may be affecting their activities.

With respect to ensuring the effective use of funds collected by fundraising groups with no operating capacity or with no on-site staff, we have urged—particularly through the I.D.E.A. Forum—that these funds be funneled through those private voluntary agencies who do have operating staff in Italy. Given our experience with these operating agencies over the years, we believe this is an appropriate way to proceed.

We have no evidence that the Government of Italy is blocking or limiting the disbursement of funds for political (or any other) reasons. In May, the Government passed a measure providing for $7.5 billion of assistance to the affected area.

In brief, the status of our program to reconstruct destroyed schools is that design contractors have been selected and sites for 12 schools have been selected and were announced on June 10. The design contractors will now begin the school design process, upon completion of which construction will begin under a competitive bidding process. We expect that construction will begin on the first school by August 1982 and be completed by February 1984. Construction of all schools is expected to be completed by April 1985. I am attaching a briefing paper which will provide you with additional information on our program.

If I can be of further assistance, please let me know.

Sincerely,

M. PETER MCPHERSON.

Attachment: Briefing paper.

A.I.D. SOUTHERN ITALY EARTHQUAKE ASSISTANCE PROGRAM

On November 23, 1980, at 7:30 p.m., a severe earthquake struck southern Italy. The quake with its epicenter at Eboli, registered 6.8 on the Richter Scale. It was considered the most devastating disaster to strike Western Europe since World War II. The affected area (approximately 10,000 square miles—an area the size of Maryland) covered an area north and south of a line running east from the city of Naples to Potenza. This includes the Provinces of Naples, Salerno, Avellino, Benevento, Potenza and Caserta in the two Regions of Campania and Basilicata. The city of Naples and the provincial cities of Salerno, Potenza and Avellino were damaged, and outside these urban centers over 350 towns and villages, out of a total of 570, were damaged by the initial shock and its numerous aftershocks. Some towns and villages, in whole or in part, were simply flattened. The total population of the affected area is estimated at 4.5 million (or about 10% of the country's population) including the 1.3 million inhab-

itants of Naples. Major damage, however, was centered in Avellino, Salerno and Potenza Provinces, and it is in these provinces that A.I.D. plans to have its reconstruction assistance program. The Government of Italy considers these Provinces to be the ones most in need of assistance—the operational centers of the Government's relief and post-relief program were limited to these Provinces.

The quake killed approximately 2,700 people and injured 7,700. It is estimated that living quarters for 250-300,000 people were also destroyed. Surveys indicate that roughly 100,000 structures such as schools, houses and public buildings were damaged or demolished. By the end of January 1981, the Italian Government estimated the cost of recovery (repair and reconstruction) would run to some $18.5 billion.

While there was criticism of the Italian relief effort immediately following the earthquake, when A.I.D. personnel arrived they found a very dedicated and effective effort. Food and medical care were being provided to those who needed it, numerous types of temporary shelter were being sent from all over Italy and elsewhere, utilities were being rapidly restored, roads were opened, and rubble clearing and demolition of dangerous buildings was well underway. The Government appointed a Special Commissioner, Giuseppi Zamberletti, to direct the relief and immediate post-relief efforts He divided his organization into three Provincial Operations Centers (COP) in the towns of Avellino, Potenza and Salerno. Each COP had representatives from the military, the national firefighting organization, various police organizations, the utilities, the Automobile Club of Italy (responsible for caravans) and trade union representatives. Each COP was divided into several Sector Operations Centers (COS) with similar representation.

The U.S. Government's relief assistance to Southern Italy directly following the November 23, 1980, earthquake consisted of:

Airlift of 2,000 tents and 20,000 blankets.

Use of six helicopters for survey and relief operations.

Provision of portable communications sets in remote villages.

Assistance of a three-member team of electrical power generation technicians and a water supply expert to help assess needs in those areas.

The total cost of this emergency relief assistance was $4,235,000. U.S. relief efforts were directed by A.I.D.'s Office of U.S. Foreign Disaster Assistance. With respect to the U.S. servicemen who participated in disaster relief the U.S. Ambassador reported "Few things have been so uplifting in the midst of the tragic disaster which struck Italy than the splendid assistance which so many members of the U.S. armed forces gave to the U.S. relief operations and gave in aid to the survivors. . . . They have been deeply appreciated by the Italian people and by the Government of Italy."

Immediately after the earthquake the Congress appropriated $50 million for relief and reconstruction for the victims of the earthquake. A Presidential Delegation consisting of Mr. Jeno F. Paulucci, Chairman, and Congressmen Silvio O. Conte and Mario Biaggi, Congresswoman Geraldine A. Ferraro, Mario M. Cuomo, Lt. Governor, New York State, and persons from the private sector, visited the Italian earthquake area December 13-17. The delegation recommended that the funds available for reconstruction be invested in permanent visible structures such as were built by the U.S. after the 1976 earthquake in the Friuli area of Italy. The delegation also urged the coordination of the very substantial U.S. private relief efforts. Subsequently there was formed a coordinating organization called "IDEA" (Italian Disaster Earthquake Assistance) with Mr. Paulucci, International Chairman and Liaison, Gov. John Volpe, National Chairman, Lt. Gov. Cuomo, Executive Coordinator and Vice President George Bush and former Vice President Walter Mondale, Honorary Chairmen.

In early December A.I.D. appointed a Coordinator for the Southern Italy reconstruction program, James R. Phippard, who led a team to Italy at that time and again in February to survey reconstruction needs. The team visited the earthquake zone and had intensive discussions with GOI officials on the scene, including Commissioner Zamberletti, Regional and Provincial officials and a number of mayors. The team observed that, of various types of social infrastructure, school buildings had received the most damage. They also found considerable concern in the area that lack of school facilities would stimulate emigration, further weakening the economic base of the area. Because schools would have an impact on a large portion of the affected population and would also be a permanent and visible symbol of American friendship for the Italian people, A.I.D. decided to focus U.S. assistance on this reconstruction need, subject to consultations in Italy. When A.I.D.'s proposal to concentrate U.S. funds on a school reconstruction program was conveyed to Italian officials all expressed concurrence with it.

On April 2, 1981 the Italian Government signed an "umbrella agreement" providing overall approval for the program. Since March 21 the A.I.D. Representative in the earthquake area, Blaine Richardson, has been working on site identification, and the site locations are expected to be announced by mid-June. Approximately twelve medium to large sized schools are planned.

After specific project locations have been confirmed, individual project agreements will be signed with provincial and municipal authorities (as was done in the Friuli) which will be obligating documents. An amount for contingencies will be estimated for each project, but will not be obligated until actually required, thereby providing the flexibility to use contingency funds when and where they are most needed. A.I.D. has selected two firms, Blue Rock Partnership and Pasantino/JRB/Castore Associates, to negotiate contracts for the design of the schools. Design will begin immediately after the sites have been selected in mid-June, with construction of the first project beginning about 13 months later. Construction of the first school should be completed by February 1984 and all schools are expected to be finished by April 1985.●

CONGRESSIONAL ACTIONS ON THE CHURCH

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. YOUNG of Florida. Mr. Speaker, I would like to bring to your attention a most eloquent statement by Mr. Norman Bie of Largo, Fla., regarding the impact of congressional actions on the church.

I have known Norman Bie personally for a number of years. I consider him to be a close friend and I have always been impressed with the thoughtfulness of his words. In this instance, I believe his words on a divided church bear consideration by all of our colleagues. Therefore, it is an honor for me to insert Norman Bie's statement in the RECORD at this point:

A DIVIDED CHURCH

At a time when the whole church is striving to come together, a legal move has been taken which threatens to split Christianity apart. This is the result of a law which treats religion as something which takes place within the four walls of a building or at a place of religious assembly and which treats any religious communication beyond the course of services at the place of assembly as a business.

This is precisely the result of the copyright law of the United States which became effective January 1, 1978—Public Law 94-553 of the 94th Congress. The change in the law is subtle and passed without wide knowledge in the Christian community.

Those of us who have provided the media by which ministers of the gospel reach their congregations in their homes each day, in distant as well as nearby communities, can see the destructive effect of a law which declares that religion is something that is practiced at a "place of assembly."

Many Christians throughout the World cannot go to a place of religious assembly out of fear for their lives or their livelihood, yet they practice their faith each day, sometimes in a closet or in an attic, with only a radio receiver to bring them instruction on the Gospel of Jesus Christ. If that practice can be defined as something other than the practice of religion because it does not take place in a place of religious assembly, then it can be regulated, limited, circumscribed or prohibited.

The Committee which reported this proposed law to the Congress, recommending its passage, stated that this law "removed the old exemption" dealing with non-profit activities and "substituted in its place certain specific exemptions. Those "specific exemptions" divide religion into two categories and grant full religious exemption only to that part which is practiced in a place of religious assembly.

The "non-profit" label has been used as a convenient means to distinguish between business activities which government could regulate and non-business activities which government could not regulate. If the law may now make a distinction between religion practiced at a place of assembly and religion practiced elsewhere, or by other means, it will necessarily follow that the part which is not deemed "religion" may be regulated. If this distinction is valid for the copyright law so that religion practiced through the use of this media is not religion but "business," it will also be valid for other laws relating to "business" including taxation, licensing, administrative and other reporting requirements (such as the proposed HR-41) and any other regulation which can lawfully be applied to business.

While we have initiated steps to defend religious freedom against this latest threat, it is our duty to bring this danger to the attention of the entire religious community. I

am confident that once informed, the religious community will unite in support of our efforts. I am equally confident that with the support of the religious community, the practice of religion can be restored to the full freedom it possessed as an inalienable right prior to January 1, 1978.

Very truly yours,

NORMAN BIE, JR.

Mr. Speaker, I have sponsored legislation to correct this problem. My bill, H.R. 3392, provides copyright exemption to nonprofit religious broadcasters from certain performances and displays of copyrighted works. Many nonprofit religious radio and television stations are chartered for worship purposes and are devoted strictly to the exercise of religion—not for their own commercial advantage. H.R. 3392 proposes to allow them to exercise religious beliefs without subjecting themselves to Federal prosecution. I hope my colleagues will heed the advice of Norman Bie and join me in cosponsoring H.R. 3392.●

TRIBUTE TO SYLVIA MIEDEMA

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. HYDE. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

Mr. Speaker, my good friend, Sylvia Miedema, was recently the subject of a short profile piece in the West Cook County Suburban Trib.

I have known Mrs. Miedema for a number of years and I think I can attest to the fact that she is one of the most successful businesswomen in the Chicagoland area because of her honesty, integrity and high regard for the savings and loan industry and the customers she serves.

I am very pleased to share the following article about Mrs. Miedema with my colleagues, whom I know join me in wishing her 60 more years of great success.

[From the Suburban Trib, Cook County, Ill., May 27, 1981]

IN CHARGE—AT 77, SHE HOLDS THE REINS ON HER BUSINESS, POLITICS, LIFE

(By Carol Jouzaitis)

In her 60 years at Clyde Federal Savings & Loan Association, the last 30 as president, Sylvia Miedema has been a fighter, an innovator, and, most of all, an example for others in her industry.

It isn't just that in 1951, an era when women executives at financial institutions were as scarce as men wearing ruffled aprons, she took over the reins of Clyde Federal from her father-in-law.

Nor is it simply that in a time when banking and S&L leaders were mute in the political arena Miedema actively supported candidates sympathetic to her industry and urged others to do the same.

At age 77, in addition to her duties as president and chairman of Clyde Federal, she sits on the boards of the West Suburban Bank of Darien and the Bank for Savings & Loan Associations in Chicago [both of which she helped found], and travels to Springfield and Washington, D.C., several times a year to speak out for legislative changes on behalf of two S&L groups.

"Sylvia is not a shrinking violet," says her longtime friend, Arnold Rauen, chairman and chief executive of the Bank for Savings & Loans.

Miedema, of Hinsdale, who has overseen Clyde Federal's growth in assets to $310 million from $8.4 million over the last 30 years, is sweetly evasive when asked when she will take the retirement she is long past due.

Her desk at Clyde Federal's home office, 7222 W. Cermak Rd., North Riverside, is still out front in the center of the busy office, where she can talk with longtime customers and friends.

The only evidence that she is slowing down is that her winter vacations of several weeks, which she combines with professional conferences and lobbying trips, are getting longer, say those who know her.

Her retirement isn't far off, Miedema says, but she won't say when. The only other family member involved in the business is her son-in-law, Thomas J. Martin, Clyde's executive vice president.

Her addiction to her job began in the 1920s, when she joined Clyde Federal as assistant to its president and founder, Charles Klima, her father-in-law. As his helper, her duties "became everything," she said.

"He [Klima] was a sweetheart. He had such confidence in me. It was nice he did trust me," she says. When Klima retired "he felt I was the one to replace him." So Miedema, who had two children, "got myself a housekeeper, and went on by myself."

Competition in the area was stiff at the time, Miedema remembers. "There were 28 savings and loans on 22d Street at one time."

Miedema applied a philosophy of hiring the best staff she could find and training them herself, not just in their duties but in the principles she believes are vital to her institution. "Honesty, integrity counts for everything in this business," she said. "I hired a good staff. They say what they mean and we back up our word."

Still a small S&L in the early 1950s, Clyde Federal began growing quickly after Miedema took over, and she found herself hiring new employees faster than she could keep track. [Today Clyde Federal, ranking about 80th in the Chicago area in assets, has 150 employees, including three supervisors who have been there 30 years, to offices in North Riverside, and one in La Grange Park.]

She also saw a need for an institution other than the Federal Home Loan Bank of Chicago to service S&Ls, and was one of a group who convinced Congress to pass a bill enabling them in 1968 to charter the Bank for Savings and Loan Associations in Chicago.

"She was forceful and aggressive in her positions, and very active in the political domain," Rauen says.

When it came to getting S&L leaders involved in the political process, "she was the one who led the way. She felt people didn't do enough, and she hit them over the head with it until they noticed," says Warren Pursell, executive vice president of the Illinois Savings and Loan League. "She's also very charming."

Miedema has been an active supporter of U.S. Rep. Henry Hyde [R-6th, Oak Park], and on her desk she keeps a framed snapshot of her and President Reagan, for whom she campaigned.

In addition to a long list of civic activities, Miedema heads the political liaison committee for the Illinois league and the legislative committee of the U.S. League of Savings Associations.

Miedema is outspoken on the government regulations affecting her business. "It's boondoggling. There are so many rules and regulations and useless paperwork that no one ever looks at. We just have to rely on our own good business sense."

Like other S&Ls, Clyde Federal's earnings have declined because of high interest rates. When its 1980 fiscal year ended in September, Clyde Federal reported a 4 percent increase in assets, but a $197,000 loss in net income.

The S&L's reserve position has always been strong, Miedema said. The institution has been attractive to smaller S&Ls looking for a merger, and Clyde Federal has moved toward becoming a metropolitan institution.

"You have to have size to operate these days," Miedema says. Within 10 years, she believes Clyde Federal will reach $500 million in assets.

Suburban Savings & Loan Association in Berwyn, with assets of about $7 million, merged with Clyde Federal in the spring and now operates as a division of the larger S&L.

Clyde Federal is currently seeking federal approval, expected shortly, to merge with Public Savings & Loan Association, a one-office S&L on Chicago's Southwest Side with about $45 million in assets. Other mergers are being considered, but she declined to elaborate on them.

Besides the mergers, Clyde Federal's future expansion will include new branches in the western suburbs. A 2,000-square-foot office will open at the end of June in a shopping center storefront at Barrington and Irving Park roads in Hanover Park.

Clyde Federal also owns sites in Naperville and Wheaton, but Miedema said she doesn't foresee any building projects there until at least 1982 because of the economy.●

NEW JERSEY INITIATES SISTER STATE-PROVINCE RELATIONSHIP WITH ZHEJIANG PROVINCE OF PEOPLE'S REPUBLIC OF CHINA

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. MINISH. Mr. Speaker, I have the privilege of announcing that the Province of Zhejiang in mainland China has entered into a "sister state-province" relationship with my home State of New Jersey.

Perhaps better known in this country as "Chekiang," Zhejiang is an apt partner for the Garden State, for although it is one of the smaller provinces of China geographically, it is a crossroads for trade which boasts large and still-growing industrial plants. Its farms account for large proportions of China's agricultural production, particularly in tea, rice, and fish. Many

ports and harbors serve the coastal areas, and energy production is of major importance in its economy.

New Jersey has been a leader in pursuing the new commercial contracts which have opened with the People's Republic of China in recent years. Last year, Gov. Brendan Byrne led a highly productive trade mission to that country which discovered many new economic opportunities for New Jersey industry. The Chinese have reciprocated our attention in many ways, and during his recent tour of New Jersey, Governor Li of Zhejiang Province met with Governor Byrne to conclude a historic cultural and economic exchange. Through the good offices of Governor Byrnes' adviser in these matters, Winston L. Y. Yang, director of the Chinese Studies program at Seton Hall University, an ambitious agenda for cooperation between Zhejiang and New Jersey has been undertaken.

Mr. Speaker, I am highly pleased and honored to have had an opportunity to meet with the Honorable Li Fungping in connection with promising relationship between our States. Governor Li has been so gracious as to extend to me the hope that I might visit New Jersey's "Chinese Sister" soon, and I certainly hope that some day I shall be able to do so.

Allow me to insert into the RECORD here the agreement which these two great sister States have concluded:

AGREEMENT FOR THE ESTABLISHMENT OF PROVINCE-STATE RELATIONS OF FRIENDSHIP BETWEEN THE PROVINCE OF ZHEJIANG OF THE PEOPLE'S REPUBLIC OF CHINA AND THE STATE OF NEW JERSEY OF THE UNITED STATES OF AMERICA

Whereas, In accordance with the basic principles laid down by the Sino-U.S. Communique on the Establishment of Diplomatic Relations and with a view to enhancing the understanding and friendship between the people of the Province of Zhejiang and the people of the State of New Jersey and between the Chinese and American peoples, the Province of Zhejiang of the People's Republic of China and the State of New Jersey of the United States of America have decided to establish Province-State relations of friendship; and,

Whereas, On the basis of the principles of equality and mutual benefit, the two parties will develop friendly cooperation and exchanges in order to promote the prosperity of the Province of Zhejiang and the State of New Jersey. Through friendly consultations, the two parties have reached agreement on the following:

1. The two parties agree to develop exchanges in the fields of culture, education, health, sports, science, and technology.

2. The two parties agree to encourage and promote trade between the Province of Zhejiang and the State of New Jersey.

3. Acting on the principle of mutual benefit, the State Government of New Jersey shall, at the desire of the Province of Zhejiang, encourage and urge industrial and business companies and firms of New Jersey to help develop the economy and natural resources of the Province of Zhejiang with the newest technology, and encourage them to make capital investment in certain projects wherever possible. The Government of the Province of Zhejiang shall welcome companies and firms from the State of New Jersey to engage in joint venture enterprises in the Province of Zhejiang together with Chinese economic institutions in accordance with the law of the People's Republic of China on Joint Ventures Using Chinese and Foreign Investment and with the approval of appropriate Chinese government authorities, and shall protect, according to law, the investments, reasonable profits, and other legitimate rights and interests of such foreign partners.

4. The items of exchanges and cooperation carried out according to the present Agreement shall be subject to the applicable laws and decrees of the People's Republic of China and the United States of America, as well as those of the Province of Zhejiang and the State of New Jersey.

5. The leaders of the Province of Zhejiang and the State of New Jersey shall according to the needs of the work keep in touch with each other through appropriate methods agreed upon by the two parties in order to carry on consultations on the exchanges and cooperation between the Province of Zhejiang and the State of New Jersey.

6. The establishment and strengthening of the friendly relations between the Province of Zhejiang and the State of New Jersey shall not prejudice either party's trade, cultural, scientific and technological exchanges with other countries or with other regions of the other party.

The present Agreement is signed in the Township of South Orange Village of the State of New Jersey, on May 11, 1981, and shall come into effect on the day of signature. It is done in duplicate in the Chinese and English languages, both texts being equally authentic.

LI FUNGPING,
Governor of the Province of Zhejiang.
BRENDAN T. BYRNE,
Governor of the State of New Jersey.●

THE 97TH CONGRESS SCOUTING SURVEY

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. BROWN of Ohio. Mr. Speaker, during each of the past seven Congresses, I have surveyed the Members of the House and Senate for the Boy Scouts of America to determine the participation of Members of Congress in Scouting, either as Scouts during their youth or as leaders.

The survey for the current Congress is now complete. I thank my colleagues for their participation and cooperation.

As I have done in the past, I am placing the results of the survey in the RECORD so that they will be available to Members and others with an interest in Scouting.

I am happy to report that the percentage of Members who have participated in Scouting has increased by 4 percent since the 96th Congress, continuing a welcome increasing trend.

The percentage of Members who have participated in Scouting stands at 65 percent for the 97th Congress. The 348 Members who have participated is an increase over the 326 Members of the 96th Congress. Totals include 276 Members of the House and 72 Members of the Senate.

There are eight more Eagle Scouts in the 97th Congress than in the 96th. The House lost four Eagle Scouts from the 96th Congress—one of whom went to the Senate—but gained 12 new Eagle Scouts. The Senate lost two Eagle Scouts from the 96th Congress, but gained two new Eagle Scouts, including the former House Member.

A summary of the results and a list of the participating Members follow:

SUMMARY—Breakdown of the 97th Congress scouting survey

	Representatives	Senators	Total
Scout	202	51	253
Scout and leader	63	16	79
Leader (only)	11	5	16
Total	276	72	348

Total who were Leaders: 96.

Percentage of Members who participated in Scouting: 65 percent.

EAGLE SCOUTS

SENATORS

Mark Andrews, N. Dak. (R), Lloyd Bentsen, Tex. (D), Bill Bradley, N.J. (D), Thad Cochran, Miss. (R), Richard Lugar, Ind. (R), Sam Nunn, Ga. (D), and Warren Rudman, N.H. (R).

REPRESENTATIVES

Bill Alexander, Ark. (D), Ike Andrews, N.C. (D), Doug Barnard, Jr., Ga. (D), Charles Bennett, Fla. (D), Jack Brinkley, Ga. (D), Clarence J. Brown, Ohio (R), M. Caldwell Butler, Va. (R), Barber Conable, Jr., N.Y. (R), William Dannemeyer, Calif. (R), Hal Daub, Nebr. (R), Charles Dougherty, Pa. (R), John Duncan, Tenn. (R), Don Fuqua, Fla. (D), Richard Gephardt, Mo. (D), and Dennis Hertel, Mich. (D).

Dan Marriott, Utah (R), John Murtha, Pa. (D), Charles Pashayan, Jr., Calif. (R), William Patman, Tex. (D), Donald Pease, Ohio (D), Claude Pepper, Fla. (D), J. J. (Jake) Pickle, Tex. (D), Henry Reuss, Wisc. (D), Eldon Rudd, Ariz. (R), Richard Schulze, Pa. (R), Philip Sharp. Ind. (D), Bob Shamansky, Ohio (D), Ike Skelton, Mo. (D), Christopher Smith, N.J. (R), J. William Stanton, Ohio (R), Larry Winn, Jr., Kans. (R), and Gus Yatron, Pa. (D).

SILVER BUFFALO

Senators William Cohen, Maine (R), John Glenn, Ohio (D), Sam Nunn, Ga. (D), and Malcolm Wallop, Wyo. (R).

SILVER BEAVER

Senators Mark Hatfield, Ore. (R), Sam Nunn, Ga. (D), and Malcolm Wallop, Wyo. (R).

Representatives Clarence J. Brown, Ohio (R), Ed Weber, Ohio (R), Larry Winn, Jr., Kans. (R), and George Wortley, N.Y. (R).

SILVER ANTELOPE

Senators Wendell Ford, Ky. (D), Mark Hatfield, Ore. (R), Sam Nunn, Ga. (D), and Malcolm Wallop, Wyo. (R).

Representative Duncan Hunter, Calif. (R).

MEMBERS' SCOUTING PARTICIPATION BY STATE

(Scout Denoted by "S"; Leader or Adult Volunteer by "L"; Scout and Leader Denoted by S & L)

ALABAMA

Sen. Howell T. Heflin (D) S, Rep. William Dickinson (R) S, Rep. Ronnie Flippo (D) S & L, Rep. Richard Shelby (D) S, Rep. Albert Smith, Jr. (R) S.

ALASKA

Sen. Frank Murkowski (R) S and Sen. Theodore Stevens (R) S & L.

ARIZONA

Sen. Barry Goldwater (R) S, Rep. John Rhodes (R) S, Rep. Eldon Rudd (R) S, and Rep. Morris Udall (D) S & L.

ARKANSAS

Sen. Dale Bumpers (D) S, Sen. David Pryor (D) S, Rep. Bill Alexander (D) S, Rep. Beryl Anthony, Jr. (D) S, Rep. Ed Bethune (R) S, and Rep. John Hammerschmidt (R) S & L.

CALIFORNIA

Sen. Alan Cranston (D) S, Sen. S. I. Hayakawa (R) S, Rep. Robert Badham (R) S & L, Rep. Anthony Beilenson (D) S, Rep. Clair Burgener (R) S, Rep. John Burton (D) S, Rep. George Danielson (D) S, Rep. William Dannemeyer (R) S & L, Rep. Ronald Dellums (D) S, Rep. Robert Dornan (R) S, Rep. Dave Dreier (R) S, Rep. Don Edwards (D) S, Rep. Vic Fazio (D) S, Rep. Barry Goldwater, Jr. (R) S, and Rep. Duncan Hunter (R) S.

Rep. Robert Lagomarsino (R) S, Rep. Tom Lantos (D) S, Rep. Jerry Lewis (R) S, Rep. Daniel Lungren (R) S, Rep. Paul McCloskey, Jr. (R) L, Rep. Robert Matsui (D) S, Rep. Norman Mineta (D) S & L, Rep. George Miller (D) S, Rep. Leon Panetta (D) S, Rep. Charles Pashayan, Jr. (R) S, Rep. Jerry Patterson (D) S, Rep. John Rousselot (R) S & L, Rep. Edward Roybal (D) S, Rep. Norman Shumway (R) S & L, Rep. Fortney (Pete) Stark (D) S, and Rep. William Thomas (R) S.

COLORADO

Sen. William Armstrong (R) S, Rep. Hank Brown (R) S, Rep. Raymond Kogovsek (D) S, Rep. Kenneth Kramer (R) S, Rep. Patricia Schroeder (D) S, and Rep. Timothy Wirth (D) S.

CONNECTICUT

Sen. Christopher Dodd (D) S, Sen. Lowell Weicker, Jr. (R) S, Rep. William Cotter (D) S, Rep. Lawrence DeNardis (R) S, Rep. Stewart McKinney (R) S, and Rep. Toby Moffett (D) S.

DELAWARE

Sen. Joseph Biden, Jr. (D) S & L, Sen. William Roth, Jr. (R) L, and Rep. Thomas Evans, Jr. (R) S & L.

FLORIDA

Sen. Lawton Chiles (D) S & L, Rep. L. A. (Skip) Bafalis (R) S, Rep. Charles Bennett (D) S & L, Rep. Bill Chappell, Jr. (D) S, Rep. Dante Fascell (D) S, Rep. Don Fuqua (D) S & L, Rep. Sam Gibbons (D) S, Rep. Earl Hutto (D) L, Rep. Andy Ireland (D) S, Rep. Claude Pepper (D) S & L, Rep. Clay Shaw (R) S, and Rep. C. W. Bill Young (R) S.

GEORGIA

Sen. Sam Nunn (D) S, Sen. Mack Mattingly (R) L, Rep. Jack Brinkley (D) S, Rep. Douglas Barnard, Jr. (D) S, Rep. Newt Gingrich (R) S, Rep. Bo Ginn (D) S, Rep. Charles Hatcher (D) S, Rep. Edgard Jenkins (D) S, Rep. Elliott Levitas (D) S, and Rep. Larry McDonald (D) S.

HAWAII

Sen. Spark Matsunaga (D) S and Rep. Cecil Heftel (D) S.

IDAHO

Sen. James McClure (R) S and Rep. George Hansen (R) S & L.

ILLINOIS

Sen. Alan Dixon (D) S, Sen. Charles Percy (R) S, Rep. Frank Annunzio (D) L, Rep. Daniel Crane (R) S, Rep. Philip Crane (R) S, Rep. Edward Derwinski (R) S & L, Rep. John Erlenborn (R) S, Rep. Robert McClory (R) S, Rep. Edward Madigan (R) S, Rep. Lynn Martin (R) S, Rep. John Porter (R) S, Rep. Paul Simon (D) S, and Rep. Sidney Yates (D) S.

INDIANA

Sen. Richard Lugar (R) S, Sen. Dan Quayle (R) S, Rep. Dan Coats (R) S, Rep. Joel Deckard (R) S, Rep. Elwood Hillis (R) S, Rep. Lee Hamilton (D) S, Rep. Andrew Jacobs, Jr. (D) S & L, and Rep. Philip Sharp (D) S.

IOWA

Sen. Charles Grassley (R) S, Rep. Berkley Bedell (D) S, Rep. Cooper Evans (R) S, Rep. James Leach (R) S, and Rep. Neal Smith (D) L.

KANSAS

Sen. Bob Dole (R) S, Rep. Daniel Glickman (D) S, Rep. James Jeffries (R) S, Rep. Pat Roberts (R) S, Rep. Robert Whittaker (R) S & L, and Rep. Larry Winn, Jr. (R) S & L.

KENTUCKY

Sen. Wendell Ford (D) L, Sen. Walter (Dee) Huddleston (D) S, Rep. William Natcher (D) S, Rep. Harold (Hal) Rogers (R) S & L, Rep. M. G. (Gene) Snyder (R) S.

LOUISIANA

Sen. J. Bennett Johnston (D) S, Rep. Corrine (Lindy) Boggs (D) S, Rep. John Breaux (D) S, Rep. Thomas Huckaby (D) S & L, Rep. Robert Livingston (R) S & L, and Rep. W. Henson Moore (R) S & L.

MAINE

Sen. William Cohen (R) S and, Rep. David Emery (R) S.

MARYLAND

Sen. Charles McC. Mathias, Jr. (R) S, Sen. Paul Sarbanes (D) S, Rep. Michael Barnes (D) S, Rep. Marjorie Holt (R) S & L, and Rep. Clarence Long (D) S.

MASSACHUSETTS

Sen. Paul Tsongas (D) S, Rep. Brian Donnelly (D) S, Rep. Barney Frank (D) S, Rep. Edward Markey (D) S, Rep. John Moakley (D) S, Rep. Thomas O'Neill, Jr. (D) S & L, and Rep. James Shannon (D) S.

MICHIGAN

Sen. Donald Riegle, Jr. (D) S & L, Rep. James Blanchard (D) S, Rep. David Bonior (D) S, Rep. William Broomfield (R) S & L, Rep. Robert Davis (R) S, Rep. John Dingell (D) S & L, Rep. William Ford (D) S, Rep. Dennis Hertel (D) S, Rep. Carl Pursell (R) S & L, Rep. Harold Sawyer (R) S, Rep. Mark Siljander (R) S, and Rep. Howard Wolpe (D) S.

MINNESOTA

Sen. Rudy Boschwitz (R) S, Sen. David Durenberger (R) S & L, Rep. Arlen Erdahl (R) L, Rep. Bill Frenzel (R) S, Rep. James Oberstar (D) S, Rep. Bruce Vento (D) L, and Rep. Vin Weber (R) S.

MISSISSIPPI

Sen. Thad Cochran (R) S & L, Rep. David Bowen (D) S, Rep. Trent Lott (R) S., and Rep. G. V. (Sonny) Montgomery (D) S.

MISSOURI

Rep. William Clay (D) S., Rep. Richard Gephardt (D) S & L, Rep. Ike Skelton (D) S & L, Rep. Harold Volkmer (D) S & L, and Rep. Robert Young (D) S.

MONTANA

Sen. Max Baucus (D) S and Rep. Pat Williams (D) S.

NEBRASKA

Sen. J. James Exon (D) S & L, Rep. Douglas Bereuter (R) S, and Rep. Hal Daub (R) S & L.

NEVADA

Sen. Howard Cannon (D) S, Sen. Paul Lazalt (R) S, and Rep. Jim Santini (D) S.

NEW HAMPSHIRE

Sen. Gordon Humphrey (R) S, Sen. Warren Rudman (R) S, Rep. Norman D'Amours (D) S & L, and Rep. Judd Gregg (R) S.

NEW JERSEY

Sen. Bill Bradley (D) S, Rep. James Courter (R) S, Rep. Millicent Fenwick (R) S, Rep. James Florio (D) S, Rep. Frank Guarini (D) S, Rep. Harold Hollenbeck (R) S, Rep. James Howard (D) S, Rep. William Hughes (D) S & L, and Rep. Christopher Smith (R) S.

NEW MEXICO

Sen. Harrison Schmidt (R) S, Rep. Manuel Lujan, Jr. (R) S & L, and Rep. Joe Skeen (R) S.

NEW YORK

Sen. Daniel Moynihan (D) S, Rep. Gregory Carman (R) S & L, Rep. William Carney (R) S & L, Rep. Barber Conable, Jr. (R) S & L, Rep. Thomas Downey (D) S, Rep. Hamilton Fish, Jr. (R) L, Rep. Geraldine Ferraro (D) S, Rep. Benjamin Gilman (R) S, Rep. Frank Horton (R) S & L, Rep. Frank Horton (R) S & L, Rep. Jack Kemp (R) S, Rep. Gary Lee (R) S & L, Rep. Matthew McHugh (D) S, Rep. Donald Mitchell (R) S, Rep. Peter Peyser (D) S, Rep. Frederick Richmond (D) S, Rep. Charles Schumer (D) S, Rep. Gerald Soloman (R) L, Rep. Samuel Stratton (D) S, Rep. Theodore Weiss (D) S, and Rep. George Wortley (R) S & L.

NORTH CAROLINA

Sen. John East (R) S, Sen. Jesse Helms (R) S, Rep. Ike Andrews (D) L, Rep. William Hendon (R) S, Rep. L. H. Fountain (D) S, Rep. James Broyhill (R) S, Rep. Eugene Johnston (R) S, Rep. James Martin (R) S, and Rep. Stephen Neal (D) S.

NORTH DAKOTA

Sen. Mark Andrews (R) S, Sen. Quentin Burdick (D) S & L, and Rep. Byron Dorgan (D) S.

OHIO

Sen. John Glenn (D) L, Rep. John Ashbrook (R) L, Rep. Clarence J. Brown (R) S & L, Rep. Tony Hall (D) S, Rep. Thomas Kindness (R) L, Rep. Delbert Latta (R) S, Rep. Bob McEwen (R) S, Rep. Clarence Miller (R) S, Rep. Ronald Mottl (D) S, Rep. Donald Pease (D) S, Rep. J. William Stanton (R) S, Rep. Bob Shamansky (D) S, Rep. Louis Stokes (D) S & L, Rep. Ed Weber (R) S & L, Rep. Lyle Williams (R) S, and Rep. Chalmers Wylie (R) S & L.

OKLAHOMA

Sen. David Boren (D) S, Sen. Don Nickles (R) S, Rep. Mickey Edwards (R) S, and Rep. Wesley Watkins (D) S.

OREGON

Sen. Mark Hatfield (R) S & L, Sen. Bob Packwood (R) S, Rep. Les AuCoin (D) S, and Rep. Denny Smith (R) S.

PENNSYLVANIA

Rep. Eugene Atkinson (D) S, Rep. James Coyne (R) S, Rep. William Clinger, Jr. (R) S, Rep. Lawrence Coughlin (R) S, Rep. Allen Ertel (D) S, Rep. Charles Dougherty (R) S, Rep. William Goodling (R) S & L, Rep. Joseph McDade (R) S, Rep. Marc Marks (R) S, Rep. Austin Murphy (D) S & L, Rep. John Murtha (D) S & L, Rep. Donald Ritter (R) S, Rep. Richard Schulze (R) S & L, Rep. E. G. (Bud) Shuster (R) S, Rep. Doug Walgren (D) S, Rep. Doug Walgren (D) S, Rep. Robert Walker (R) S, and Rep. Gus Yatron (D) S.

RHODE ISLAND

Sen. Claiborne Pell (D) S, Sen. John Chafee (R) S & L, and Rep. Claudine Schneider (R) S.

SOUTH CAROLINA

Sen. Ernest Hollings (D) S, Sen. Strom Thurmond (R) S & L, Rep. Carroll Campbell, Jr. (R) S, Rep. Butler Derrick (D) S & L, Rep. Kenneth Holland (D) S & L, Rep. Thomas Hartnett (R) S & L, Rep. John Napier (R) S & L, and Rep. Floyd Spence (R) S & L.

SOUTH DAKOTA

Sen. James Abnor (R) S, Rep. Thomas Daschle (D) S, and Rep. Clint Roberts (R) S.

TENNESSEE

Sen. Howard Baker, Jr. (R) S., Rep. Robin Beard (R) S & L, Rep. William Boner (D) S, Rep. Marilyn Lloyd Bouquard (D) S, Rep. John Duncan (R) S & L, Rep. Harold Ford (D) S, and Rep. Ed Jones (D) S.

TEXAS

Sen. Lloyd Bentsen (D) S & L, Sen. John Tower (R) S, Rep. W. R. Archer (R) S, Rep. James Collins (R) S, Rep. E. de la Garza (D) S & L, Rep. Henry Gonzalez (D) S & L, Rep. Phil Gramm (D) S, Rep. Kent Hance (D) S, Rep. Jack Hightower (D) S & L, Rep. Abraham Kazen, Jr. (D) S, Rep. Martin Frost (D) S, Rep. J. Martin Leath (D) S, Rep. Mickey Leland (D) S, Rep. Thomas Loeffler (R) S, Rep. James Mattox (D) S, Rep. Ronald Paul (R) S, Rep. J. J. (Jake) Pickle (D) S, Rep. William Patman (D) S, Rep. Charles Stenholm (D) S, Rep. Richard White (D) S, Rep. Charles Wilson (D) S, and Rep. James Wright, Jr. (D) S & L.

UTAH

Sen. Jake Garn (R) S & L, Sen. Orrin Hatch (R) S & L, Rep. James Hansen (R) S & L, and Rep. Dan Marriott (R) S & L.

VERMONT

Sen. Patrick Leahy (D) S & L, Sen. Robert Stafford (R) S, and Rep. James Jeffords (R) S.

VIRGINIA

Sen. James Warner (R) S, Rep. Thomas Bliley, Jr. (R) S, Rep. M. Caldwell Butler (R) S, Rep. Stan Parris (R) S, Rep. J. Kenneth Robinson (R) S & L, Rep. Paul Trible, Jr. (R) S, and Rep. William Wampler (R) S & L.

WASHINGTON

Sen. Harry Jackson (D) S, Sen. Slade Gorton (R) S, Rep. Norman Dicks (D) S, Rep. Thomas Foley (D) S, Rep. Mike Lowry (D) S, Rep. Don Bonker (D) S, and Rep. Al Swift (D) S.

WEST VIRGINIA

Sen. Robert Byrd (D) S, Sen. Jennings Randolph (D) S & L, Rep. Robert Mollohan (D) S, Rep. Nick Rahall 2d (D) S, and Rep. Mick Staton (R) S & L.

WISCONSIN

Sen. William Proxmire (D) S, Rep. Robert Kastenmeier (D) S, Rep. Thomas Petri (R) S, and Rep. Henry Reuss (D) S & L.

WYOMING

Sen. Malcolm Wallop (R) S, Sen. Alan Simpson (R) L, and Rep. Richard Cheney (R) S.●

NAVAL RESERVE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. SKELTON. Mr. Speaker, the Navy's Selected Reserve, 87,000 strong, provides approximately 12 percent of the Navy's trained military manpower. In the event of mobilization, the Navy must rely heavily upon its Selected Reserve in a number of mission areas. For example, the Naval Reserve provides the following:

	Percent
Of naval U.S. based logistic airlift (VR)	100
Of light attack helicopter squadrons (HAL)	100
Of Navy combat SAR capability (HC-9)	100
Of naval mobile inshore undersea warfare units	100
Of naval control of shipping organization	99
Of naval ocean minesweepers	88
Of Navy cargo handling battalions	84
Of Navy mobile construction battalions	68
Of naval special boat forces	66
Of Military Sealift Command military personnel	60
Of naval intelligence personnel	32

Despite the important role of the Selected Reserve in the total Navy, the Office of the Secretary of Defense has made repeated efforts in recent years to decimate the ranks of the Naval Reserve. Congress has wisely intervened on each occasion to prevent ill-advised reductions.

As a result of the ongoing battle with Defense, the Navy in 1979 established the Navy Manpower Mobilization System (NAMMOS) to validate and document mobilization requirements. NAMMOS begins at the operations level where requirements are developed, and builds from the ground up. It sets the Navy's total manpower needs—active, reserve, and civilian. Since the inception of NAMMOS, the Navy has undertaken the process of revitalizing the entire Naval Selected Reserve structure. The final iteration of this revitalization, encompassing 30,000 to 40,000 billets, is underway, and results and analysis should be available in approximately 6 months. Although the budget request for the Naval Reserve strength for fiscal year 1982 is 87,600, NAMMOS indicates a requirement in excess of 110,000.

The active Navy is plagued by personnel shortages in certain grades and critical specialties, particularly mid-career petty officers. Similar skill shortages beset the Selected Reserve. Thus, while the Naval Reserve has no difficulty in meeting its overall manning requirements, its readiness is impaired by the skill and grade mismatch.

In addition to manpower uncertainties, the Naval Reserve has encountered substantial difficulty in providing training for all drilling Reservists. Training—at least meaningful training with a discernible purpose—is essential to both maintaining unit readiness and to personnel job satisfaction. Unfortunately, congressional restrictions on travel moneys have proven counterproductive to this goal. In fiscal year 1980, funds were insufficient for active duty for training and weekend-away training for the Naval Reserve. As a result, the Navy canceled regular paid drills during June or July for all members of the Naval Reserve in order to provide funds for transportation and per diem for the remainder of the year. The net effect on the Naval Reserve was detrimental to training and readiness and severely impacted morale.

The Naval Air Reserve TACAIR test conducted in fiscal year 1977 demonstrated an exceptionally high degree of combat readiness. Naval Reserve Tactical Air Wings are successfully completing transition into some of the more complex aircraft, the F-4N, E-2B, and EA-6A; they have done quite well with equipment comparable to that used by fleet frontline fighter, attack, airborne early warning, photographic reconnaissance, aerial refueling, and tactical electronic warfare squadrons. Nonetheless, current planning does not envision such newer fleet models as the A-7E, A-6E, and the F/A-18. Further, as the degree of specialization in aircraft carrier maintenance grows, the lack of aircraft compatible to carrier crew capabilities and spare parts inventories will pose an increasing dilemma. The prospects for the surface forces are even less promising. Naval reserve ships and helicopter squadrons are programed for retirement, with few replacements in the pipeline.

Even with its difficulties in equipping, training, and manning its forces, the Naval Reserve has performed admirably when called upon. Recently, for example, VAW-78 and VAW-88, the two Naval Reserve Carrier Airborne Early Warning Squadrons, completed their annual active-duty-for-training at Keflavik, Iceland. The combined effort covered a 30-day period and provided realistic mobilization training in the airborne-early-warning mission, while filling an essential operational requirement by re-

lieving U.S. Air Force AWACS aircraft that had been forward-deployed in Germany. Without the necessary money for equipment and training and the skilled personnel for manning, however, readiness will continue to be adversely impacted.●

AIRCRAFT SALES TO FOREIGN COUNTRIES

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. MILLER of California. Mr. Speaker, the administration's recent decision to sell high technology arms to Pakistan and Venezuela should cause serious concern to all Americans who worry about the state of our national defense.

The proposed sale of advanced F-16 fighter aircraft to these countries will mean a delay in deliveries of the plane to our own Air Force which are awaiting F-16's.

In addition, this proposed sale will encourage the further drain of highly skilled maintenance personnel from our own Armed Forces.

The New York Times recently reported that an internal Defense Department document warned that additional sales of F-16's abroad will severely jeopardize our own aircraft support capability.

Aerospace companies which sell and service these planes abroad will continue to raid our own military of the trained service and support personnel needed to maintain these planes in other countries.

The chief policymakers in this administration have been telling the American people that our Armed Forces are short of sophisticated weapons and depleted of skilled personnel.

Yet here they are endorsing the sale of a sophisticated fighter plane which will exacerbate both of these problems.

Congress has demonstrated its concern about the loss of trained men and women, the people we have spent 6 to 10 years and millions of dollars to train. We passed legislation to provide substantial pay raises and other incentives to encourage these people to stay in the military because we thought it necessary for our national defense.

Now, it appears, we are more interested in upgrading the Air Forces of Pakistan and Venezuela than in improving the combat readiness and support capabilities of the U.S. Air Force. I think the Congress ought to recognize that, along with the billions of dollars these sales bring into the United States, there is a very substantial loss to our own military program.

I would hope that the Armed Services Committee would give its immediate attention to the impact of these announced sales on the readiness and manpower problems in our Armed Forces.

These issues are well addressed in two articles, one by Judith Miller of the New York Times, and another by Walter S. Mossberg in the Wall Street Journal, which I would like to share with my colleagues.

THE HARDWARE STORE IS OPEN AND CUSTOMERS COME RUNNING

(By Judith Miller)

WASHINGTON.—The Reagan Administration has still not announced a policy on weapons sales, but last week it demonstrated that deeds can speak louder than words. Laying aside the policy of restraint preached by President Carter, within 24 hours it announced new arms-supply arrangements with China and Pakistan. A week before, plans were disclosed to sell F-16 jet fighters to Venezuela.

Under Secretary of State James L. Buckley, providing an advance glimpse of the new policy, told aerospace company representatives last month that sales of American weapons abroad "complement and supplement our own defense efforts and serve as a vital and constructive instrument of American foreign policy." In contrast to the Carter Administration's putdown of arms sales as "inherently evil or morally reprehensible," Mr. Buckley said, the new Administration would use arms transfers as an instrument of "facing up to the realities of Soviet aggrandizement." He said the goals of the new policy included enhancing the "state of preparedness of our friends and allies," revitalizing American alliances, fashioning "more coherent" policies affecting East-West relations and "buttressing our own defense production capabilities."

ADMINISTRATION GOALS MAY CONFLICT

The Buckley speech, though short on detail, outlined general standards for evaluating foreign requests for weapons. In assessing such requests, Mr. Buckley said, the Administration would consider the military threat facing the recipient, how the weapons would affect stability in tense regions and how effectively the recipient could use the arms.

Critics of the Carter policy, which ultimately came to be honored in the breach as much as in the observance, praised the new approach. But the sales of F-16's to Venezuela and Pakistan stirred concern and debate in foreign policy circles. Some analysts argued that the sales were questionable precisely because they appeared inconsistent with the Administration's goals as stated by Mr. Buckley. Pakistan and Venezuela had not previously had jet aircraft as advanced as the F-16's; officials privately wondered whether the planes could be quickly or effectively absorbed by either nation's military forces. Moreover, the officials added, the sales risked fueling regional tensions, in direct conflict with another of the Administration's stated goals.

The Air Force, in particular, objected that the F-16's were not an appropriate response to the military threats facing Pakistan, and certainly were not appropriate for Venezuela, which had sought 16 to 24 planes. The sales, the Air Force and the Office of Management and Budget also argued might increase the cost of the planes and delay deliveries to American forces. Concern about the impact of the sales were expressed in an internal document prepared in April by the Defense Department's Office of Program Analysis and Evaluation. According to the memorandum, foreign sales of F-16's were having "an adverse effect on the readiness of U.S.A.F. [Air Force] units." Aerospace companies, the document said, were raiding United States military forces "for officers able to provide the training and support commitments that accompany such sales."

"This may be very good for G.D.," the document stated, referring to General Dynamics, builder of the planes, "but it seriously threatens U.S.A.F. F-16 support ability." The Pentagon memo also warned that the sale of the F-16's to Venezuela—Peace Delta, as the project is called—might "generate demands from other countries in the region that they also must have F-16's as a symbol of U.S. esteem and trust.

As the document had forecast, proponents of the sale of F-16's to Pakistan argued that the Administration could not offer smaller, less costly F-5 fighters, although many officials believed they were better suited to Pakistan's military requirements, because it had just approved the sale of F-16's to Venezuela.

Even more serious concerns were generated by President Reagan's decision to supply "lethal" arms to China. Senior officials argued privately that the announcement would "confirm the worst fears" of hardliners in the Kremlin, thereby intensifying the chill in Soviet-American relations and possibly reducing the Administration's ability to deter Soviet military intervention in Poland.

PEKING OPPOSES JETS FOR TAIWAN

Other controversial arms sales under consideration include proposals to sell advanced jets to South Korea, Taiwan and Austria. Resistance in Congress to at least some of the sales is expected. Last week, for example, the entire House Foreign Affairs Subcommittee on East Asia, headed by Representative Stephen J. Solarz, Democrat of New York, signed a letter to President Reagan urging him, "in the light of our national interest," not to sell the FX fighter plane to Taiwan. Peking has adamantly opposed the deal. The Administration also faces stiff opposition to plans to sell to Saudi Arabia AWACS electronic surveillance planes and equipment that would expand the capabilities of its American-supplied F-15 fighter planes. Many Congressmen fear that the Saudi sales would damage Israel's security.

Administration officials respond that many of these sales were initiated by the Carter Administration, which they argue was ultimately forced to abandon the substance, if not the rhetoric, of restraint. The Carter policy, which portrayed arms sales as an "exceptional" foreign policy instrument, was widely criticized. Opponents on the left complained that the policy was hypocritical. The Administration countered that some sales were required to support allies and friends as well as to reduce trade deficits and to pay for oil imports. Conservative critics saw the restraints as naive and detrimental to American weapons producers.

Indeed, when the Carter Administration at first exercised restraint, other countries did not follow its lead. Negotiations to make the restraints multilateral stalled in 1978 and weapons sales to the third world by the Europeans and the Soviet Union soared. In a 1980 report, the Senate Foreign Relations Committee concluded that, while the Carter Administration had effected modest reductions in United States arms exports, the

policy had been "oversold." The committee advocated a "balanced policy," which would combine "elements of restraint with an understanding that prudent arms transfers can serve important foreign policy and national security functions." Administration actions last week left some officials asking whether the pendulum had swung too far.

ADMINISTRATION SPLIT OVER WHO GETS F-16 FIRST

(By Walter S. Mossberg)

The Reagan administration is having trouble reconciling two of its goals: improving American military readiness and arming U.S. allies.

An argument has been touched off by administration plans to sell Pakistan and Venezuela one of the most advanced American fighter planes, the F-16. Delivery normally would take about 42 months, a timetable assuring that their production doesn't interfere with Pentagon requirements.

But State and Defense Department officials say U.S. foreign-policy interests require that the F-16s, particularly the one for Pakistan, be delivered in 24 to 30 months.

Publicly, the Air Force hasn't taken a position on the debate. But privately, it has warned that a production speedup would divert jet engines and spare parts badly needed to improve its own combat readiness.

An administration official concedes, "We're in a bind. We're trying to juggle several balls at once. We need better readiness. But on the other hand, in some ways allies like Pakistan are our first line of defense."

But this official and others, all of whom insist on anonymity, support the quick sales, especially to Pakistan, which they say faces the threat of Soviet invasion from Afghanistan.

Pentagon and State Department aides say top Air Force officials don't oppose the fighter sales if the timing can be worked out, and they insist a compromise will be reached before the deals are set. "In the end, there will be some strain on the Air Force," says one of these aides. "You can't avoid it. But I think it wouldn't be substantial."

Though both countries are expected to urge quick delivery of the planes, formal agreements haven't been worked out. Last week's announcement of the proposed sale to Pakistan specifically says that "terms, timing and numbers" are yet to be set.

TWO-YEAR SCHEDULE

A two-year delivery schedule has been proposed by General Dynamics Corp., the F-16's builder, for a limited number of planes and countries. But in the sales to Pakistan and Venezuela, the Air Force will press for the standard 42-month lead time.

According to an internal Air Force document, the aircraft bodies can be built in 24 to 30 months. But it says the General Dynamics schedule doesn't give "sufficient lead time to acquire (certain) equipment for the production lines, or to identify, order, and produce spare parts and support equipment."

The Air Force estimates minimum lead times for the plane's engine at 37 to 42 months; for ejection seats, 42 months; for engine accessories, 30 months; and for special runway equipment needed to service the planes, 37 to 42 months.

SPARE-PARTS SHORTAGE?

The Air Force says its own spare parts would have to be diverted to replace those that can't be obtained quickly enough. Any such diversion, its internal paper argues, "will have a particularly dramatic impact on our F-16 support posture," because low funding for spare parts in recent years "has left us critically short of spare parts to support our own peacetime and wartime commitments."

Company and civilian government officials argue that the process can be speeded up. For instance, Air Force logistics experts are given 12 to 15 months to work out details of the sale and let contracts; advocates of rapid sales believe this period can be shortened.

But the Air Force fears a repetition of the problems it faced when Egypt got F-16s in less than two years. The Egyptian sale meant 30 new planes, seven spare engines and a computerized repair shop were diverted from the U.S. Air Force. Those items are due to be "paid back" from Egyptian-ordered gear, but not until 1983 and 1984.

More such delays, the Air Force argues, can't be sustained in a period when most U.S. squadrons designated to fly the F-16s have yet to be equipped with them, when parts inventories are low, and when the Reagan defense policy places heavy emphasis on readiness.

Even if Air Force fears can be eased in the case of the sales to Pakistan and Venezuela, the problems already raised are likely to recur as similar deals multiply.

American arms makers already are straining to keep up with current and projected U.S. demands for sophisticated weapons. Some officials fear that increased sales to foreign forces, including the 4.5-million-member Chinese military, could impede the U.S. buildup.

Yet, with the blessing of the administration, top U.S. aircraft makers are seeking more overseas customers. General Dynamics already sells F-16s to Belgium, Denmark, the Netherlands, Norway, Egypt and Israel. (Israel recently used the planes to bomb Iraq's nuclear reactor.)

McDonnell Douglas Corp. has sold its even more costly and sophisticated F-15 fighter to Japan, Israel and Saudi Arabia. It hopes for more sales to each of the three nations, and to others as well.●

PERSONAL EXPLANATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. McDONALD. Mr. Speaker, on June 18, 1981, I unavoidably missed the last two votes to the Legal Services Corporation Act Amendments of 1981—H.R. 3480. If I had been present, I would have voted as follows:

"Yes" on rollcall No. 90, an amendment to recommit the bill jointly to the Committee on Education and Labor and the Committee on Ways and Means with instructions to consider said bill in relation to the President's Legal Services proposals and to promptly hold hearings thereon.

"No" on rollcall No. 91, passage of the Legal Services Corporation Act Amendments of 1981.

A live pair was received on both votes.●

SAVINGS AND LOANS' PROBLEMS

HON. ED BETHUNE

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. BETHUNE. Mr. Speaker, I wish to discuss a problem which is very much on my mind—the plight of the savings and loan industry. Although no immediate liquidity crisis is foreseen, the industry continues to encounter severe earnings problems. Roughly 90 percent are losing money, and the reserves of the industry are being eaten into at a record rate. The principal cause of the savings and loans problems is sustained inflation resulting in high interest rates. No doubt, cumulative irresponsible monetary, fiscal, and regulatory Federal policies underpin the situation today.

These conditions make it difficult for savings and loans to borrow funds in the short- and intermediate-term money markets to invest in long-term mortgages. Put simply, most thrifts are paying more for their money than they are earning. One expert says they are losing $6 to $7 billion a year under present interest rate conditions.

In the last few months my colleagues and I on the Banking Committee have discussed and examined the issue at length. A wide variety of proposals to improve the ability of the industry to compete and to bring in the considerable resources of the regulatory agencies have been pondered. Inasmuch as we continue to deal with these approaches, and particularly since hearings in the Domestic Monetary Policy Subcommittee will resume shortly, there is a message that I believe needs to be expressed. That is, that we must not lose sight of the fundamental relationship between the condition of the thrift industry and high interest rates caused by inflation.

A 1-percent decline in the interest rate can bring about a $3 to $4 billion increase in the profit margin of the industry. According to Federal Home Loan Bank Board Chairman Richard Pratt, a 2-percent reduction in interest rates could bring the industry back into the black.

The success of the industry, like the success of any ameliorative proposals this Congress might dream for the short term, depends on a real decline in interest rates and inflation. All of us in this body are painfully aware of the insidious effects of inflation, but we rarely see the challenge expressed in hard figures. Knowing that a 2-percent drop in interest rates may mean the crucial difference to the savings and loan industry, to homebuilders, and many others gives added meaning to the many small, but necessary, actions we simply must take each day.

A drop of 2 percent is only the beginning. However, once that goal is achieved, I believe it will be possible for the natural momentum in the market to continue a downward trend in interest rates and restore a healthy faith in our economy at home and abroad.●

NEW YORK CITY'S FIFTH PRECINCT POLICE STATIONHOUSE CELEBRATES 100 YEARS OF COMMUNITY SERVICE

HON. GUY V. MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. MOLINARI. Mr. Speaker, today the oldest police stationhouse in the city of New York celebrates its 100th anniversary of service to the citizens of Little Italy and Chinatown.

The fifth precinct stationhouse has played an important role in serving the many tens of thousands of immigrants arriving in this country since the 1880's. Over the years, a strong and active community council has developed whose members live and work within the boundaries of the fifth precinct.

In a great "melting-pot" city like New York, the fifth has been able to respond to problems within the community in a personal way. It is the only precinct in New York which has a Chinese-speaking police officer. The service provided by this stationhouse over the past 100 years to the citizens of Little Italy and Chinatown is truly unique. This community-oriented service has done much to foster and preserve the strong feelings that we all have for this wonderful part of the city of New York.

I salute all those who are a part of this historic celebration and want to extend my best wishes as the fifth precinct enters its second century of community service.●

CLINCH RIVER BREEDER REACTOR CRUCIAL RECONCILIATION VOTE TO REINSTATE

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. ROE. Mr. Speaker, the Congress will soon decide the future of the Clinch River Breeder Reactor project (CRBR) and, consequently, the future of nuclear power in this country. For the last 4 years the Congress has supported the continued development of breeder technology and CRBRP in particular in spite of extensive efforts by the previous administration to cancel it.

In its wisdom, the Congress has seen CRBR as a key to long-term fuel availability for nuclear energy and as a symbol of its intent to support the development of nuclear power as an essential element of U.S. energy security. We now have an administration which openly supports nuclear power and the completion of CRBR. Unfortunately, CRBR was narrowly defeated in committee by a coalition which is not representative of the energy views of the Congress. The support for CRBR is broadly based and I believe the dissenting view of 17 members of the Committee on Science and Technology fairly characterized this support.

The arguments against the CRBR have been addressed and it is now clear that the primary motive for attacking the project is founded in antinuclear bias and not on the merits or true economics of the program. Some past supporters of CRBR are under the false impression that the project was only a symbol and now, under a pronuclear administration it is not needed. Nothing could be further from the truth.

Each Member of the House has been provided with a wealth of information which clearly demonstrates the need to move ahead now with a breeder demonstration in order to be in a position to commercially deploy breeders by the end of this century. If a commercial deployment decision is made at that time, operating breeder reactors will begin to influence the availability of nuclear fuels by the 2020 to 2030 time frame. We cannot afford to wait any longer. The CRBR is the right plant at the right time, and its design is the most advanced in the world (See Mr. EVANS of Iowa in the CONGRESSIONAL RECORD, June 18, 1981, page 13026).

These points on timing of the project are supported by the previously mentioned committee dissenting view, which I have included for the benefit of my colleagues. This view reemphasizes the importance of your vote in support of restoring CRBR through amendment to the reconciliation bill H.R. 3982.

DISSENTING VIEW ON CLINCH RIVER BREEDER REACTOR PLANT PROJECT

These views are presented to underscore our strong support of the Clinch River Breeder Reactor Plant Project as a key element in our nation's breeder reactor development program.

The action of the Committee on Science and Technology to terminate the Clinch River Breeder Reactor Plant (CRBRP) is in direct opposition to the will of Congress as expressed over the last four years and to the intent of the new Administration. This action comes just at the time when we can move ahead with construction of CRBR and revitalize our national and international commitment to the development of nuclear energy. Our support for this project is based on a broad consensus in the scientific and technical community as well as the federal governments of the U.S. and the major developed countries that breeder technology is important to future energy security. In pursuing this goal, we believe, for a number of reasons, that CRBRP is the next step that the U.S. should take in its breeder development program.

Clinch River is the best plant to accomplish the goals of the U.S breeder program. No alternative can offer more than this plant without greater cost or a serious loss of time. The design has been favorably reviewed at least 20 times by independent government and industry organizations with the objective of insuring that it was sound and at the forefront of technology. The Clinch River Breeder Reactor is the most advanced design in the world today in all aspects except size, and the size of CRBR was properly selected so that it would not be too large a scale-up from the predecessor plant, the Fast Flux Test facility.

CRBRP is ready to go now. Project design is about 86 percent complete and engineering research and development is about 96 percent complete. By the end of fiscal year 1981, about $218 million worth of completed hardware will have been delivered and more than $540 million worth will be in fabrication. We could complete the plant about seven years after receiving regulatory consent to begin construction.

Every other major industrialized nation in the world is building breeder reactors. The Soviet Union, France, the United Kingdom, Japan, Italy, and West Germany are actively developing breeder reactors with four fast breeder reactors larger than 250 MWe already operating and nine under construction or planned. All these nations realize that without breeder reactors to assure long-term fuel supplies, nuclear power will be a relatively short-term energy resource.

The U.S. must have a high-confidence energy strategy. We must assure ourselves and future generations of a secure supply of energy. The prudent course is to preserve the breeder option by proceeding with CRBRP. The General Accounting Office in its 1979 report, "The Clinch River Breeder Reactor—Should the Congress Continue to Fund It?", said flatly that if this nation wants a strong breeder program the Clinch River Breeder Reactor should be built. The GAO said further that a decision not to develop breeders implies the phasing-out of nuclear fission as an energy source. GAO support of CRBRP has been consistent and is included in subsequent GAO reports dated July 10, 1979 and September 22, 1980.

The proper stewardship of our indigenous resources requires that we utilize the breeder reactor to assure adequate supplies of nuclear fuel for centuries to come. The breeder promises to use uranium at least 50 times more efficiently than today's light water reactors. The prestigious National Academy of Sciences in its report, "Energy in Transition", came to the conclusion that we need all our resources—but we especially need coal and nuclear. The Academy said that the breeder would essentially make uranium a potential source of energy for hundreds of thousands of years. While current nuclear fuel resource projections indicate that breeders may not be needed until after the year 2020, significant uncertainties surround the long-term production capacity for this fuel.

The United States last year sent an estimated $100 billion overseas for oil. We are exporting our money and jobs for a resource that we burn rendering it unavailable for satisfying a wide range of human needs

such as plastics, medicine, and fertilizer. Nuclear power cannot replace all that oil or its substitute fuel—natural gas—but it can make a substantial contribution in modifying the energy mix so as to lessen our dangerous dependence on a foreign and depletable oil resource. A typical 1000 megawatt nuclear plant can replace 10 million barrels of oil per year if it is used to displace some of the more than 420 million barrels of oil consumed each year for generating electricity.

Those who say we could abandon our development effort and buy foreign breeder technology are wrong because of the licensing and economic aspects attendant to such an action. The U.S. has been a leader in technology, especially nuclear technology, until the present. Whether we retain this lead and build our own advanced fission plants according to our own safety standards and economics will be decided this year. The delays encountered in adopting foreign technology to our needs as well as the direct costs of design modifications would significantly add to the cost of breeder reactors in the U.S. On the other hand developing the breeder for the U.S. market will assure us the safest and most efficient machine possible.

Nuclear power is needed to meet our growing electric energy demand. Even doubling our present coal consumption for electric energy production—a prodigious task—we still will not be able to meet our projected electricity needs in the year 2000 without significantly expanding our nuclear generating capacity even assuming an electricity growth rate that's only one-half our historical growth rate during healthy economic times. Furthermore, nuclear is economical! For example, the Commonwealth Edison Company uses coal, oil and nuclear fuel to generate electricity. Because of its heavy reliance on nuclear power, its ratepayers save $460 million in 1980 alone over what costs would have been if these nuclear plants had been constructed as coal-fired units. Projections for their system indicate that electricity from new nuclear plants will continue to be about 20 percent cheaper than from new coal plants.

Opponents of CRBR have argued that it is uneconomic and too expensive. A first-of-a-kind technology demonstration is never judged on economically competitive grounds. Arguments about the costs of breeder reactors 20 or 30 years into the future have to be based on assumptions that cannot be verified. The market conditions of the future will dictate the rate of breeder deployment. Futhermore, the return on the Federal dollar for developing CRBRP includes more than that gained from the advancement of breeder technology. The economic arguments against CRBRP ignore the tremendous revenues from the sale of generated electricity that will be realized over the plant lifetime. These net revenues are estimated at $3.2[1] billion at today's wholesale cost of electricity for TVA (almost $20 billion at projected costs). The present value of this future revenue is $854[1] million.

The Clinch River Plant will cost less, can achieve critical program objectives sooner, and will entail less technical risk than any alternative yet proposed. Any other plant would add at least eight to ten years more to the demonstration project schedule and increase costs by several billion dollars. Additionally, to increase the plant size would also increase the risk of failure. In order for breeder reactors to have any impact on nuclear fuel supplies before the year 2030, we must move ahead now with a demonstration plant. That plant can only be the CRBR.

Some support for CRBR has been lost because of a desire to shift the financial burden for costly demonstration projects to the private sector. While we support this approach in concept, it cannot be implemented independent of the realities of the marketplace. Private industry has previously demonstrated its willingness to take risks in the development of nuclear power as shown by the utility contribution to CRBR as well as other private nuclear ventures such as the Barnwell nuclear facility. Current conditions, however, make it nearly impossible for the highly regulated utility industry to purchase new generating capacity needed to displace oil-fired units, much less finance expensive R&D plants. If nuclear energy is to continue to provide power for America in the 21st century, the government must make a comparatively minor investment now.

A severe critic of the CRBR in the past is Mr. David Stockman. He recently sent to the Committee, through the Ranking Republican Larry Winn, a letter dated May 11, 1981. Mr. Stockman noted that "republicans over the years have seen the development of the breeder reactor as . . . a logical part of a complete and efficient total nuclear fuel cycle. The Clinch River Breeder Reactor is the first material evidence that the United States is willing to move toward such a goal." In addition, he stated that "The Reagan Administration favors the economical and safe development of nuclear energy. And, in particular, this Administration supports construction and operation of the Clinch River Breeder Reactor. This Administration intends to reinvigorate the effort on this project by joining the long struggle by the Congress to complete this project."

The CRBR project is important in the near term to the future of nuclear power. If Congress acts to terminate CRBR, this will be one more in a series of policy reversals (including closing the enrichment order books, prohibition against domestic and foreign reprocessing, and the Carter Administration's identification of nuclear power as an energy source of last resort) which, in conjunction with regulatory uncertainty and private financing constraints, make additional investment in nuclear power difficult at best. If we are to meet our growing electric energy needs, these uncertainties must be removed. The focus of attention today is on the government's willingness to continue with the CRBR project.

We strongly support the completion of the Clinch River Breeder Reactor Plant and believe it is one of the most important energy technology development decisions facing the Congress this session. Moving ahead with CRBR will not only move us once again toward world leadership and influence in breeder technology but permit the much needed domestic development of nuclear power.

Robert A. Roe, Marilyn L. Bouquard, Ronnie G. Flippo, Albert Gore, Jr., Robert A. Young, Richard C. White, Harold L. Volkmer, Ralph M. Hall, Larry Winn, Jr., Barry M. Goldwater, Jr., Manuel Lujan, Jr., Harold C. Hollenbeck, Robert S. Walker, Edwin B. Forsythe, William Carney, Joe Skeen, Bill Lowery.●

[1] Figures revised based on more recent and detailed analysis.

EDUCATION BENEFITS FOR MEMBERS OF THE SELECTED RESERVE AND NATIONAL GUARD

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. MONTGOMERY. Mr. Speaker, today I am introducing a bill that would establish an educational program for members of the Selected Reserve and National Guard who agree to serve at least 6 years in such programs. My bill would become effective October 1, 1981. On May 19, 1981, the Committee on Veterans' Affairs reported H.R. 1400, an education program for the All Volunteer Force. The bill was ordered reported by the committee by voice vote and now has 120 cosponsors. Since the bill was jointly referred to the Armed Services Committee, Hon. BILL NICHOLS, chairman of the Subcommittee on Military Personnel and Compensation of the Committee on Armed Services, has graciously consented to hold hearings on this bill and they begin tomorrow at 10:30 a.m.

Mr. Speaker, I want to commend the gentleman from Alabama for the prompt action he has taken to begin hearings on this major education bill. Following these hearings should the committee meet to markup H.R. 1400, as amended, I plan to offer an amendment that would encompass the provisions of the bill I am introducing today, because I feel we must do everything possible to strengthen our Selected Reserve program. This bill will do the job and I am hopeful we can enact this legislation before the beginning of the new fiscal year.●

INFLATION-PROOF SAVINGS CERTIFICATE ACT

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. HARKIN. Mr. Speaker, I recently introduced the Inflation-Proof Savings Certificate Act, H.R. 3960, which I believe will significantly promote long-term savings.

The United States now has one of the lowest rates of saving of any industrialized country. There are many reasons for this low level of saving. However, the one which stands out most clearly is the belief that those who save end up with less than they started with in real dollars. Inflation and taxes ordinarily take away considerably more than the interest earned.

Even with the new instruments which have become available recently,

such as the $10,000 6-month certificate and the money market funds, the after-tax reality is often a loss of value in real spending power.

At the same time, savings and loans and, to a lesser extent, banks have been having considerable difficulty making ends meet because of the high level of interest they are paying. Savings and loans which hold long-term mortgages in the 7 to 11 percent range are quickly becoming endangered. Many are already being merged because they have lost all of their net worth. If the present situation continues, the next year is likely to see the liquidation of major savings and loans.

The lack of savings in local banks and savings and loans and the very high interest rates being paid are causing stagnation in the housing industry and one of the worst periods for small businesses in general. How can a person start or expand a small business while paying 20 percent for the needed capital?

Clearly, we cannot reestablish the "Q" rule, tightly controlling interest rates. However, we can provide a financial instrument which will provide a savings incentive for the moderate- and middle-income family. That incentive must, at a minimum, include a return which insures that the principal is maintained in real after-tax dollars. At the same time, the note must be affordable to banks and savings and loans.

This bill establishes an exemption from income taxes of up to $2,000 in the case of a joint return ($1,500 for a single filing) for interest income acquired from an "inflation-proof savings certificate." The certificates could be issued by banks, savings and loans, or credit unions and would have to be held for at least 3 years to acquire the tax exemption. The interest rate would be equal to the increase in the Consumer Price Index plus, perhaps, a small bonus.

Since the savings certificates would be tied to the Consumer Price Index and would not be taxable, the saver would know that the value of his or her funds would be preserved. The certificate would be tax deductible only if issued by a depository institution. We would therefore see all of the savings stimulated by this bill deposited in banks, savings and loans, or credit unions where they would generally be available to assist consumers and local business needs.

The bill further provides that the exemption would double if the note became due after the holder was over 65 years of age. Thus, a 55-year-old could acquire a 10-year certificate to qualify for the longer exemption. This will allow substantial savings for retirement.

The exemption provided would be in addition to other interest income exemptions and would itself be indexed to inflation.

I believe that an exemption of this type would substantially increase the amount of savings and would place those funds where they would do the greatest good for the economy.●

JAPANESE-MADE PRODUCTS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. HUBBARD. Mr. Speaker, Mr. Carl H. Hendrickson, of Route 6, Murray, Ky., a constituent that I represent in Congress, has written a very thoughtful letter on the fact that the influx of Japanese-made products coming into the United States goes far beyond automobiles. I feel that Mr. Hendrickson's letter is one which should be shared with my colleagues and I wish to do so at this time. The letter follows:

CARROLL HUBBARD: At a meeting the other day, I heard a man say, "Me and my cousin just got laid off; company don't have any orders."

So I looked around. Everyone was drinking import beer. The man next to me wore a Japanese watch. The color TV in the room was Japanese, also the FM receiver. Looking in the parking lot, seven out of ten cars were imports. An ad on the building across the street urged everyone to buy a Japanese camera.

This could be anywhere in the USA. How can we sell America by pushing imports? Sell America and put people back to work.

Sears, Wards, K Mart, and most large stores, sell nothing but imports. Get them to sell made in USA goods.

CARL H. HENDRICKSON,
Murray, Ky.●

TELEPHONES FOR HEARING-IMPAIRED PEOPLE: THE 1-PENNY BARGAIN

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. LONG of Maryland. Mr. Speaker, once again I have introduced my bill, H.R. 375, to eliminate the discrimination that hearing-impaired people suffer in the delivery of telephone services.

The critical need for this legislation is cogently expressed by my constitutent, David Saks, who first brought this problem to my attention.

I would like to share Mr. Saks' plea with my colleagues:

TELEPHONES FOR HEARING-IMPAIRED PEOPLE: THE 1-PENNY BARGAIN

In 1876, no one could communicate by telephone; 105 years later, more than 2,000,000 Americans still cannot communicate by all telephones.

An 1877 newspaper ad announcing the new invention urged readers to "examine . . . instantaneous communication by direct sound"; 104 years later, television viewers are urged to "reach out and touch someone."

More than 2,000,000 Americans still cannot use over 40,000,000 telephones in their country. They cannot "reach out and touch someone" with the "direct sound" of their voices. These hearing-impaired Americans rely upon hearing aids with built-in telephone pickups in order to hear over telephones.

The forty million "silent" telephones are manufactured without means to create the magnetic field required by hearing aids.

Most of our 170,000,000 telephones work with hearing aids by radiating a magnetic field sufficient to activate the hearing aid telephone pickup. The bulk of these hearing aid-compatible telephones are in service areas of A.T. & T., the Bell System.

The bulk of the "silent" forty million are in service areas of Independent (non-Bell) telephone companies and in the privately-owned systems installed by the Interconnect telephone industry.

The hearing aid industry provides the pickup coil—its share of the telephone hearing aid compatibility equation.

The telephone industry does not provide the magnetic radiation in all phones—its share of the compatibility equation.

Some hearing impairment is sufficiently mild to permit use of telephones in the customary manner of non-impaired people.

For some hearing-impaired people, the increased sound-volume of amplifier handsets is adequate to make telephones usable.

For some profoundly hearing-impaired (deaf) people, communication by voice telephone is not possible at all.

Telephone/hearing aid compatibility involves the severely and profoundly hearing-imparied people who can communicate by voice telephone if there is functional compatibility between their telephones and hearing aids—the two communications devices that set the pattern of their lives.

With compatible (usable) telephones these hearing-impaired people merge into the mainstream of society. They hold jobs, practice professions, operate businesses, gain education, live normal family and social lives, enjoy the mobility of the mainstream.

With incompatible (unusable) telephones they are "phone deaf"—unable to hold many jobs, inhibited in professions, businesses, etc., and they are isolated socially.

This deprivation is unnecessary. Approximately 75 percent of our telephones are made so that they deliver sound to all hearing aids. It is vitally necessary that the remaining 25 percent utilize this same beneficial technology. This can be done now, it does not depend on the development of new technology, nor should it be delayed pending new developments.

All telephones must work with all hearing aids—everywhere, and they must work by direct coupling to hearing aids, without the use of external coupling devices.

While traveling through a GTE service area in Florida, Donnie Schmidt needed to place an emergency phone call. The nearest hearing aid-compatible phone was twenty miles away. She was deprived of full access to the national telephone network.

While traveling from Pennsylvania to Texas, Gibson Gray passed through areas using compatible phones and areas using incompatible phones. In the former, he was a

functionally "normal" telephone user. In the latter he was "phone deaf." He was deprived of full access to the national telephone network.

Traveling salespersons, tourists, conventioneers, foreign visitors—as well as employees and others at home and business—all attest to the impracticality of such wide variation in the delivery of telephone service. This situation is intolerable in a public utility industry with exclusive, government-protected monopoly territories. All telephones must be accessible to assure equality of service from the national telephone network.

Industry estimates indicate a 50¢ cost differential between magnetic and non-magnetic telephone receivers. If this estimate is accurate, or nearly so, and if all extra cost is borne by subscribers, then the extra cost to equip all new telephones with magnetic capability will be slightly over one cent per year per telephone. No cost to Government—no cost to industry or stockholders—one penny annually per phone to subscribers. If I have one telephone in my home or business, my share of the additional cost will be slightly over one cent each year. For my penny, I will receive the benefit of adding two million people to my pool of potential "communicators"—I will be able to place calls to, or receive calls from, anyone in the United States who is capable of using a voice phone, including those who are "phone deaf."

Organizations of hearing-impaired people, particularly the Organization for Use of the Telephone, have struggled for years to bring about telephone/hearing aid compatibility. Some expansion in the number and proportion of hearing aid-compatible telephones has been made, largely in coin-operated public phones.

The entire telephone industry is aware of the urgent need for hearing aid compatibility. Federal, State and local government agencies have been made aware of the issue. A bill was sponsored by Congressman Clarence D. Long in the 96th Congress to require that all new telephones be manufactured with magnetic capability. This proposed legislation received an extensive pro and con airing before the Subcommittee on Communications.

The problem still is with us. The "phone deaf" still are among us. Industry has not solved the problem. Government has not solved the problem. Consumers as a group are inhibited by the huge size and power of the telephone industry. Consumers as individuals lack the knowledge of telephone/hearing aid coupling technology to deal with local telephone company officials. The fate of "phone deaf" people is in the hands of Congress.●

SOVIET OCCUPATION OF LITHUANIA

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. MINISH. Mr. Speaker, we cannot pass in silence the anniversary of the forcible occupation of Lithuania by Stalin's Soviet armies. This invasion, which the Soviet dictator was enabled to do as a result of his infamous understanding with Adolf Hitler, continues to have repercussions in the world to this day, particularly for the people of Lithuania and her sister states. Although those two notorious dictators are dead, their brutal legacy is very alive in the Baltic region, where the basic liberties of proud people continue to be denied today.

Mr. Speaker, the international concern for human rights which has grown in recent years has produced some positive benefits in some parts of the world, but this grim anniversary of the invasion, persecution, and deportation of thousands upon thousands of Lithuanians testifies what a long way we have to go.

In America, where liberties unknown in many places can be taken for granted, we must not break faith with the Lithuanians and the other captive peoples of the Soviet Union by allowing ourselves to forget what they are undergoing. The anniversary of the Soviet occupation of Lithuania should make us reflect on our own good fortune, even as it reminds us of our bonds with those less fortunate.●

NORTHERN IRELAND AND THE HUNGER STRIKES

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. BIAGGI. Mr. Speaker, as chairman of the bipartisan Ad Hoc Congressional Committee for Irish Affairs I remain deeply concerned about the ongoing hunger strikes being waged by Irish Republican prisoners in the Long Kesh Prison. These hunger strikes have already claimed the lives of four Irishmen. A fifth, Joe McDonnell is approaching death. His sister Maura has been visiting the United States to drum up American media attention which she hopes will save her brother's life.

I, along with some 53 of my colleagues have introduced House Resolution 158 calling on Great Britain to exercise "greater urgency and flexibility in trying to reach a humanitarian resolution to the hunger strikes." I wish to renew that plea today. The situation is again reaching crisis proportions. I hope the House will see fit to pass my resolution as a demonstration of our concern for the ultimate human right—the right to live.

At this point in the RECORD, I wish to insert an article from the New York Daily News of June 19 entitled "On Living (Grimly) as Your Brother Starves in an Irish Cell." The author of the article is Beth Fallon.

ON LIVING (GRIMLY) AS YOUR BROTHER STARVES IN AN IRISH CELL

Maura McDonnell had lunch in a real New York restaurant yesterday, and it is possible that today she will actually go shopping—as any woman of 28 would like to do in the world capital of stuff. Maura McDonnell does not have much time to worry about stuff, or any of the other delights of life. Unless Margaret Thatcher compromises, Maura's brother Joe will be the next to die on hunger strike in Long Kesh Prison. There are others behind him.

Today is his 42d day without food. He succeeded Bobby Sands on hunger strike after Sands died. He was arrested with Sands in 1976 on a weapons violation. "They got 14 years for one unloaded pistol," Maura McDonnell said.

When she leaves for Belfast this weekend, she will have been in America three weeks and seen no monuments. She will have seen only "the likes of yourself and cameras" to talk about her brother. Maura McDonnell is from a Republican family and does not deny that her people fight for an end to British rule in the North. But she denies, dry of throat and calm of manner, her dark head bobbing, that they are criminals for doing it.

"My brother is not a criminal," she said Wednesday night. "No criminal gives up his life this way. My brother is 30 years old and has two small children. He took a visit for the first time in three years and nine months, five days (into) his hunger strike. His two little children hugged and kissed him, but it didn't matter. We felt he was giving up his life so the same thing won't happen to them."

What keeps Maura McDonnell standing by flatbed trucks talking to reporters while demonstrators shriek "murderers" at the admirers of Prince Charles is, she said, only one thing. "Maybe we will be able to save his life. My fiance is also in H-Block. He got no medical treatment for nine months because he would not wear prison clothes. But there was pressure from the United States, and then they gave him medical treatment. We want to show Mrs. Thatcher a sign. It's Mrs. Thatcher who holds the key."

If Maura McDonnell feels the pull for a more ordinary life on the streets of Manhattan, the ordinary joy of a new dress or a trifle for her mother, it is even more schizophrenic at home. "I work with Protestants, and the Protestants don't really talk very much about what is happening. I think they may know that I'm Joe McDonnell's sister, but they don't say. We don't talk very much about the troubles at home," she explained.

To anyone who has not lived in the conspiracy of silence that is an Irish family, this will sound insane. To anyone who has so lived, no explanation is needed. Maura McDonnell works as a secretary with people who know her brother is starving himself to death as a political protest, and nobody talks about it. It is a common defense against the unbearable, and there is, Maura said, very little antagonism in it.

"I don't think anyone thought Margaret Thatcher would let Bobby Sands die. Now there are four dead, and my brother is next. We do not know how many more must die before Mrs. Thatcher gives in. I feel four men have died, and that is enough. The men know that in the end they'll win."

Win or lose, the price will be high.

Another reporter came up to question Maura McDonnell. Was she married? She shot a quick glance at the questioner, and a small smile which was just as quick. But the smile fled somewhere faraway, perhaps to the night when IRA sympathizers say Terry Kirby was caught raiding a Protestant house for weapons and the British charged him with kidnaping the owner.

"My fiance's doin' 26 years," said Maura McDonnell.●

BROOKLYN'S OLDEST RESTAURANT CELEBRATES ITS 75TH ANNIVERSARY

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. ZEFERETTI. Mr. Speaker, on July 5, a number of my constituents in Brooklyn will join together in celebration of the 75th anniversary of Brooklyn's oldest restaurant—Monte's Venetian Room. I would like to congratulate the owner of the Venetian Room, Nick Monte, whose family rose from humble origins to a well deserved success that exemplifies the American work ethic.

It was July 2, 1906, that Angelo and Filomena Monte first opened their famous restaurant, where they work and lived in a small apartment upstairs with their seven sons. For 75 years Monte's Venetian Room has been serving some of the best Italian cuisine on this side of the Atlantic and I can personally attest to its excellence.

Mr. Monte has been a longtime champion of the rehabilitation of the Gowanus Canal around the corner from the Venetian Room. It is Mr. Monte's goal to stop the 25-year deterioration of the Gowanus and make it an asset to downtown Brooklyn. As an active member of the Brooklyn Chamber of Commerce, the Brooklyn Tavern Owners Association, and the Build a Better Brooklyn Association, Mr. Monte celebrated the Venetian Room's 74th anniversary last year by leading a neighborhood volunteer work force in a comprehensive cleanup of Carroll Street.

Mr. Speaker, today the Monte success story extends to Montauk, N.Y., where Nick Monte is the owner of the famous Gurney's Inn and Conference Center and the resort's new international health and beauty spa. As a member of the New York State Board of Tourism, I salute Nick Monte's efforts to utilize to the best possible advantage millions of dollars in State funds for advertising and promotion of Long Island's east end. The spa as well as Gurney's itself provide a year round transfusion to that part of Long Island's tourist industry.

Mr. Speaker, I am proud to honor Monte's Venetian Room and Nick Monte, whose dedication, contributions and outstanding record of achievement on behalf of Brooklyn and Long Island's east end are most deserving and worthwhile. We have been extremely fortunate that the Monte family chose to settle in Brooklyn, and I again congratulate Monte's Venetian Room on its 75th anniversary.●

CIVIL DEFENSE

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. DYSON. Mr. Speaker, I want to share with my colleagues a very timely and provocative letter which appeared in the June 18 edition of the Washington Star by Dr. B. Wayne Blanchard.

Dr. Blanchard's main point is that survivability is a possibility and not a fiction as so many Civil Defense critics have maintained.

I think that during these very crucial times of awakened interest in the Soviet threat, we as legislators, must carefully take Dr. Blanchards considerations to heart and reexamine the value of preserving the American dream in the wake of a nuclear holocaust, no matter how remote the possibility.

The letter follows:

PREPARING FOR SOME TO SURVIVE.

In his "Casual About the Bomb" column (June 1) Daniel S. Greenberg asserts that survivability in the event of a nuclear attack upon the United States is a "fantasy." Moreover, he implies that this would still be true "even assuming extensive civil defense protection and success in dispersing people to surrounding countryside."

As the basis for his assertion, Mr. Greenberg cites the vulnerability of the Air Force's hardened NORAD headquarters in Cheyene Mountain, Colo. ("If the Air Force doesn't feel secure in its reinforced mountain den, how can anyone argue that civilization would survive a nuclear war?") as well as the claim that the medical community would not be up to the task of helping the injured and dying (he cites how difficult it is to save just one severe burn case).

Several points need to be made. First, while it is true that any target that sustains a direct hit by a large nuclear weapon can be destroyed, it is also true that the potential risk areas in the United States comprise only about 2 to 3 percent of the nation's land area. Unfortunately, about two-thirds of our population resides in this 2 to 3 percent area.

It is self-evident that if most people stay in our larger cities and seek best-available protection in existing buildings there, survival will be low—in fact, about 40 percent. If, however, most people are moved to surrounding "host areas" by crisis relocation (evacuation) over a period of several days during an acute crisis, survival will be substantially higher—about 80 percent.

Mr. Greenberg states that if, for example, Detroit were hit by a million-ton blast, some 250,000 people would be killed and another 500,000 injured. Most probably this would be true if all that these people did was just stand around and do nothing—no doubt believing that survival was a "fantasy."

If, however, these people were to leave Detroit during an intense international crisis—say after the Soviets are observed evacuating their cities—and then followed instructions to protect themselves against the possibility of radioactive fallout, then most would survive. In addition, the percentage of injured survivors (including physicians) would be decreased significantly and thus the demand upon medical resources. The prospects for eventual national recovery would be substantially improved.

In fact, it is entirely conceivable that civil defense measures could spell the difference between destruction of the nation on the one hand and survival and eventual recovery on the other. Make no mistake that civil defense programs are needed. While nuclear warfare is still improbable, no amount of good intentions, diplomacy or arms control can make nuclear war impossible.

History teaches two very important lessons: (1) there have always been wars, and (2) preparedness has always been safer and cheaper than unpreparedness. As President Kennedy said in May 1961:

". . . the history of this planet, and particularly the history of the 20th century, is sufficient to remind us of the possibilities of an irrational attack, a miscalculation, an accidental war or a war of escalation in which the stakes by each side gradually increase to the point of maximum danger which cannot be either foreseen or deterred. It is on this basis that civil defense can be readily justifiable—as insurance for the civilian population in case of and enemy miscalculation. It is insurance we trust will never be needed—but insurance which we could never forgive ourselves for foregoing in the event of catastrophe."●

RECOGNITION OF MR. ALBERT KOHN

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. EDGAR. Mr. Speaker, I would like to take this opportunity to recognize and express appreciation for the good work of Mr. Albert Kohn, director of clinical laboratories at Haverford Community Hospital.

Words do not adequately express the admiration, esteem, and respect held for Mr. Kohn by the employees of Haverford Community Hospital. He has been at Haverford for 23 years. It is said that he "came with the building" since he was recruited before the hospital was built. Through his efforts the hospital lab and the institution itself has grown. Mr. Kohn's advice has often been sought by the hospital administration, and he has acted as administrator on numerous occasions.

Al Kohn's contributions go beyond just Haverford Community Hospital. He has helped more than one Delaware County physician in his or her education and treatment of patients. It has been known throughout our community that if you need help for anything from headaches to poisoning, "Dr. Kohn" is the person to call.

For his 23 years of dedicated service to his institution and the community at large I recently presented Mr. Kohn with a certificate of appreciation. I am grateful for this chance to call Mr. Kohn's service and achievements to

the attention of the House of Representatives.●

ALABAMA'S GIPPER

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. DORNAN of California. Mr. Speaker, one thought occurs to me after reading a Time magazine article about Senator JEREMIAH DENTON * * * sometimes the people in a State do win. And what a boon for the Nation. For 6 long years. Praise the Lord.

The article follows:

[From Time, June 8, 1981]

AN ADMIRAL FROM ALABAMA—OLD-FASHION CONVICTIONS DRIVE THE P.O.W. SENATOR

[By William A. Henery III)

Most men come to the Senate to build a career. In the manner of his biblical namesake, Jeremiah Denton came to sound an alarm. A retired admiral who spent more than seven years as a prisoner of war in North Viet Nam, Denton believes that America is being destroyed by sexual immorality and Soviet-sponsored political "disinformation"—and that both are being promoted by dupes, or worse, in the media. By the mid-1980s, he warns, "we will have less national security than we had proportionately when George Washington's troops were walking around barefoot at Valley Forge."

Such apocalyptic talk sometimes puzzles when it does not alarm his colleagues on the Hill. But it goes down just fine with the people of Alabama, who last fall chose Denton, 56, as the first Republican to represent them in the Senate since Reconstruction days. "He's the most popular man in the state right now," says Bobby Davis, a top aid to Democratic Governor Fob James Jr.

Denton has an ideal plinth from which to proclaim his strident anti-Soviet views. He is chairman of a new Judiciary Subcommittee on Security and Terrorism. At recent hearings, Denton depicted a pervasive, secret Soviet influence within the U.S. and suggested that Moscow had stopped short of using terrorism in this country only to leave America "a sleeping giant" until too late. Liberals and civil libertarians are worried about groups that Denton may try to investigate as part of the "disinformation" conspiracy, such as antinuclear organizations and a Washington-based liberal think tank, the Institute for Policy Studies. Some critics have begun to compare Denton to that ultimate American witchhunter, the late Joe McCarthy.

That is unfair. Denton does not use McCarthy's ambush tactics, and unlike McCarthy, he is plainly sincere. He spent more than four of his years as a Vietnamese prisoner in solitary, his feet manacled to the floor for months at a time. Nonetheless, he maintained a chain of command in the P.O.W. camps and endured savage beatings for it. When forced to video-tape a confession, he blinked his eyes in Morse code to send the world a message, "Torture."

In some ways Denton represents the highest ideals of the New Righteousness. After leaving the Navy in 1977, he helped found the Coalition for Decency, which tried to clean up television by urging boycotts of sponsors. When elected to the Senate last fall, he was relatively unschooled in politics. Denton ran in order to speak his deepest beliefs as a patriot, a Roman Catholic and a father of seven, and he refuses to compromise them now.

He insists, for example, that "sexual jealousy" causes most teen-age suicides and much violent crime, including "90%" of murders and attempted killings. He has deviated from a Reaganesque budget-cutting fervor on just one social issue: a proposed $30 million program for the Government to advocate teen-age chastity. Like Ronald Reagan, Denton strongly defends the validity of the U.S. effort in Viet Nam. He contends that the war could have been won but the U.S. failed to see and press its advantage. He adds that America must recognize the Viet Nam fighting as "morally just" if it is to regain national spirit. Denton also admires Richard Nixon for understanding "the use of force" and the depth of Communist hostility. Nixon reciprocated with a $1,000 contribution to Denton's campaign.

Yet Denton is not a predictable, doctrinaire conservative or a prude. He gambles, takes a social drink now and then, and can swear like the sailor he was. He is an intimate of Baptist Preacher Jerry Falwell, and his campaign was backed by Falwell's Moral Majority. A month after the election he complained to Falwell that the group had no blacks or jews on its board. Said Denton: "I don't see the Moral Majority supporting the commandment 'Love thy neighbor.' " He challenges fellow Southerners who support a vast network of all-white "Christian academies" that rival public school systems to "prove these schools aren't shelters for segregation. Prove it!"

Denton sometimes seems like a man from an earlier era, when people commonly lived by principles. One of his own, since youth: "To believe in the heroic makes heroes." He thought of becoming a journalist, he once said, because they seemed to be "messianic people." Then he was moved to join the Navy—he entered in Jimmy Carter's class at Annapolis, graduating in 1946—by seeing a Lionel Barrymore movie, Navy Blue and Gold.

Denton's youth was rootless. He attended at least 13 grammar schools and lived in hotels where his father was a desk clerk. He came to know a settled family life only when his parents separated. His mother, a devout Roman Catholic, kept the children with her. Denton's father was a womanizer, a real estate speculator, a onetime bookie. Four decades later, Denton acknowledges that he is still preoccupied enough by his father to campaign for family life.

Before he went to war in 1965, he is fond of telling visitors, the raciest thing in the media was Clark Gable telling Vivien Leigh; "Frankly, my dear, I don't give a damn." Returning to America from the P.O.W. camps, he had to ask his wife what a massage parlor was. He still sees explicit sex as an "alien element" in our heritage. He passionately wants "to restore patriotism, especially among opinion formers, the people in the media and education." And he is unfazed by opposition, even mockery of his convictions for being naively overwrought. "I'm going to stand up and take it," he says. "By the time I'm finished, the press will take the lead rather than question my McCarthyite characteristics."●

SESQUICENTENNIAL OF MILFORD, MICH.

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. BROOMFIELD. Mr. Speaker, next week on June 29, the Township of Milford, Mich., which I am honored to represent, will begin a year-long observance of its sesquicentennial. I wish to congratulate the people of Milford on this joyous occasion.

Milford was first settled in 1832 by Elizur and Stanley Ruggles who built their homes and set up a sawmill on the banks of the Huron River. Within 8 years all the surrounding lands had been taken by settlers, and by 1872, Milford could say that it was a permanent, established community with an end to its pioneer period.

Since then, the township and the village of Milford have continued to grow to its present size of about 11,000 people.

But while Milford is celebrating its 150-year history, I believe it could also celebrate the traditions and lifestyle that the area has offered its people over those years.

Milford has superb summer and winter recreational facilities with 25 percent of its area designated for public recreation. It has struck a fine balance in its residential and commercial areas, and it provides its people with a fine school system, library, and many other public facilities.

The village's own description of itself as a "quaint, little, tree-lined village" conjurs up the images that could describe the whole township. It is a place of history and tradition, a solid, friendly community that is a great place to raise a family.

While Milford is only 30 miles from Detroit, its population is stable with its young people moving back into the area because of the lifestyle the area offers.

To kick off its sesquicentennial celebration, arrangements have been made to have the Milford Post Office be the only outlet in the country offering the "First Day Issue" of the commemorative "International Year of the Disabled Person" stamp.

Receiving a special honor for the day will be Mr. David Augustine. Mr. Augustine is a Milford police dispatcher who has been confined to a wheelchair for the past 25 years. He is a lifetime resident of the community, and so it is particularly fitting for him to be honored that day.

Mr. Speaker, I wish to again congratulate Milford and her people. They have helped to provide our area of Michigan with a history and a lifestyle that takes a backseat to no other area.●

PROTECTION OF THE UNBORN

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. FIELDS. Mr. Speaker, as the debate on the beginning of human life continue unabated, I would like to submit for the record a recent article by the renowned columnist, George Will. Mr. Will presents some very poignant criticisms of the continued denial of rights to the unborn child. The Supreme Court in the Roe against Wade decision of 1973 deemed abortion to be legal under any virtual circumstance. This decision was made with the deliberate disregard of recent medical breakthroughs confirming the existence of life at conception. Further, not only did the Supreme Court strike down the rights of the unborn but did so on a note of feigned humility. By reverting back to a state of ignorance, the Court claimed the question of when life begins too complex for man to comprehend. Hence the Court threw up its hands in ignorant despair, and in so doing condemned the unborn to a premature death.

Mr. Speaker, I venture to say we are not as ignorant as the Supreme Court would have us. Many of us have heeded the reconfirmation of modern medicine that life begins at conception and continue to advocate the protection of the unborn.

Mr. Speaker, it is unconscionable to disregard the existence of life. Rather we must take steps to insure life, liberty, and the pursuit of happiness to the unborn.

I commend Mr. Will for his articulation and submit the following for the RECORD:

[From Newsweek, June 22, 1981]

THE CASE OF THE UNBORN PATIENT

(By George F. Will)

A character in a John Updike novel says,"Life, that's what we seek in one another, even with the DNA molecule cracked and our vitality arrayed before us as a tiny Tinkertoy." But as science explicates the chemistry of life, many people flinch from some facts. They seek not life but reasons to deny that some life exists. They sense, I think, the moral incompatibility between some facts of modern science and some practices of modern society.

Recently a boy underwent brain surgery six times in the nine weeks before he was born. An ultrasound scan in the 24th week of gestation revealed hydrocephalus, a damaging concentration of fluid in the brain. A hollow needle was inserted through the womb, into the fetal skull to the fluid. Nearly a quart of fluid was drained in six operations.

Prenatal medicine can detect and treat various forms of fetal distress and genetic problems, with the help of ultrasound pictures that can show all fingers and heart chambers at eighteen weeks. A fetus's inability to assimilate an essential vitamin has been detected and treated by giving large vitamin doses to the mother. Babies likely to be born prematurely can receive drugs that hasten maturation of the lungs, thereby combating hyaline membrane disease, a killer of premature babies. Drugs such as digitalis can be delivered to a fetus through the mother's bloodstream to correct irregular heart rhythms. Excess fluids have been drained from the chests and abdomens of fetuses, and blood transfusions have been given to fetuses.

Rights: Prenatal medicine should raise troubling thoughts in a nation in which abortion is the most frequently performed operation, a nation in which last year 1.5 million abortions ended about one-third of all pregnancies. Science and society are out of sync. The most humane of sciences, medicine, can now treat as patients those who the law says lack an essential human attribute: rights. Mothers can kill any fetus that medicine can treat.

This is not widely understood. Some defenders of the Supreme Court's 1973 abortion decision may have been so busy applauding it that they have not read it. The New Republic recently praised the decision as "fair," explaining it this way: "Abortions are freely available in the first trimester, subject to medical determination in the second trimester, and banned in the third, when the fetus is viable." But the Court actually decreed that there can be no serious impediment to even third-trimester abortions. It said that even in the third trimester states cannot prevent any abortion deemed necessary to protest a mother's health from harm, and that harm can include "distress."

There is, effectively, abortion on demand at every point. So just as prenatal medicine was beginning to produce marvelous life-saving and life enhancing achievements, Supreme Court Justices made it the law of the land that patients for such medicine have no right to life.

Not surprisingly, some pro-abortion forces are increasingly anti-scientific, in the name of "humility." They say: let's all be properly humble and admit that the matter of when human life begins is a mystery beyond our poor power of understanding, so the answer "birth" is no more arbitrary than any other. This argument is too anti-scientific, and too convenient to the pro-abortion position, even to seem ingenuous. It has aroused Walker Percy, an M.D. and a novelist of distinction. He notes that it is a commonplace of modern biology that the life of an organism begins "when the chromosomes of the sperm fuse with the chromosomes of the ovum to form a new DNA complex that thenceforth directs the ontogenesis of the organism," producing the undeniable "continuum that exists in the life of every individual from the moment of fertilization of a single cell." Percy adds:

"The onset of individual life is not a dogma of the church but a fact of science. How much more convenient if we lived in the thirteenth century, when no one knew anything about microbiology and arguments about the onset of life were legitimate. . . . Nowadays it is not some misguided ecclesiastics who are trying to suppress an embarrassing scientific fact. It is the secular juridical-journalistic establishment."

Stephen and Amanda, Australian twins, were conceived in vitro. Two eggs were fertilized in a laboratory and implanted in the mother, who wanted twins. Perhaps the status of life begun in vitro is unclear prior to the implantation that is necessary for the continuum. (Necessary today but perhaps not tomorrow, when there may be artificial wombs.) But little Louise Brown in England is famous because she is the first child whose *life* began in vitro.

Agenda: In 1947, before Planned Parenthood became a pro-abortion lobby, an officer referred to the being produced by fertilization of an ovum as "the new baby which is created at this exact moment." In 1964 a Planned Parenthood pamphlet said, "Abortion kills the life of a baby, once it has begun." What has changed is not biology but Planned Parenthood's agenda.

In 1973 the Supreme Court, feigning humility as it arrogantly legislated, said it could not "resolve the difficult question of when life begins." Actually, the Court knew what every high-school biology student knows. So it quickly inserted the telltale adjective "meaningful." It defined viability as the point at which the baby can have "meaningful" life outside the womb. Speaking of such life recently at a Phoenix abortion center, a woman in her second trimester was injected with a saline solution and sent home. Three nights later she went into labor and was told to go to the hospital to "deliver the fetus"—dead, of course. Instead, she delivered a live girl.

The argument about abortion cannot be about when human life begins. It must be about the status of life at various early stages—a matter about which decent people can disagree. But denial of elementary biology is the way some pro-abortionists duck the difficult issue of gradation. However, whatever one thinks should be the status of the life that exists at conception, surely any civilized sensibility should be troubled by the status of life later in pregnancy. Then a mother need not treat as human a being that prenatal medicine can treat as a patient, a being that can become, if the attempt to kill it fails, a pediatrician's patient.●

SAME OLD SCENARIO

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. GUNDERSON. Mr. Speaker, in the last 5 months the dairy price support program has undergone significant criticism from a number of different sources. They have proposed reducing the level of support for this perishable commodity despite the fact that the dairy farmer is facing ever-increasing costs of production.

These critics have universally overlooked the fact that dairy price supports benefit the producer and the consumer alike. If anyone doubts that simple fact, they need only look back to what happened to the supply and price of milk products the last time the dairy price support program was severely curtailed in 1973–74.

Such tampering with the program unleashes a vicious circle that injures both the consumer and the producer. The most succinct and straightforward description of this vicious circle I have ever seen was done by Ira Rutherford in this month's Dairyman's Digest. I

certainly commend it to the attention of my colleagues:

SAME OLD SCENARIO

(By Ira Rutherford)

If milk prices lag behind costs, dairymen will be forced to milk more cows in order to meet cash flow requirements, which then . . .

. . . adds to our surplus, making the supply/demand imbalance even worse, and then . . .

. . . as the on-farm financial squeeze continues, voluntary and even involuntary sell-outs and auctions begin, which brings . . .

. . . precipitous drops in U.S. milk production, which causes . . .

. . . government stocks to be sold back to the trade in an effort to keep the lid on prices, but . . .

. . . even the currently "high" level of stocks will be depleted in a relatively short time, and so . . .

. . . prices will "boom" dramatically—well over 100% of parity, which causes . . .

. . . consumers to shy away from dairy products because of the alarming price increases, and . . .

. . . emergency imports to be authorized to try to moderate the prices, which then causes . . .

. . . farm prices to "bust" back to the inadequate support level, which . . .

. . . drives more farmers out of business, and . . .

. . . causes the cycle to start over again, until . . .

. . . reasonable support levels are again established in order to stabilize the entire system.●

McNAMARA CALLS FOR FULL FUNDING OF FOREIGN AID PROGRAMS

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. MOFFETT. Mr. Speaker, at the end of this month, Robert S. McNamara will retire after 13 years as President of the World Bank. I would like to take this opportunity to applaud Mr. McNamara's distinguished service to the cause of alleviating world poverty, and to call to the attention of my colleagues his warning about the dangers of reneging on our commitments to the world's poor.

As the Congress considers legislation regarding the U.S. contribution to the World Bank, I hope that the ideas espoused by Mr. McNamara during his tenure at the Bank will not be forgotten. The following article describes Mr. McNamara's contentions that foreign aid promotes our own security objectives, as well as economic growth and development abroad. I hope that Mr. McNamara's articulate defense of U.S. assistance to those peoples less fortunate than ourselves will not fall upon deaf ears.

[From the New York Times, June 21, 1981]

McNAMARA WARNS UNITED STATES OF PERILS IN REDUCING AID TO WORLD'S POOR

(By Leonard Silk)

Robert S. McNamara, who will retire this month after 13 years as president of the World Bank, believes the economic and political interests of the United States will be seriously injured if it retreats further from commitments to aid the poor people of the third world.

In an interview in his office in Washington, Mr. McNamara said Congress was "on the verge of repudiating" agreements made by the Carter Administration, and endorsed by the Reagan Administration, to contribute $658.3 million toward a general increase for the World Bank and $3.2 billion over three years to the sixth replenishment of the International Development Association, the bank's affiliate, which lends to the poorest countries.

WE ARE BANKRUPT TODAY

"With respect to I.D.A.," he said, "essentially we are bankrupt today. At the end of next week, the end of our fiscal year, we will have about $1 billion of I.D.A. credits approved by our board, but for which we have no commitment authority, and hence no authority to sign."

And, he added, "those are for projects that are to deal with these very basic problems," of poverty and financial crisis, "the solution to which will benefit not only the developing countries but the United States."

If the United States fails to support the development affiliate, Mr. McNamara said in the interview last week, other countries, acting under a trigger clause tied to the United States contribution will withhold their support, and the affiliate will collapse.

While the Republican-dominated Senate, following the White House endorsement, has voted the full authorization of $3.2 billion for the development affiliate, the Democratic-led House Banking and Currency Committee has cut the authorization to $1.9 billion.

But since there is actually little support for even the truncated bill among Republicans or Democrats in either the House of Representatives or the Senate, it may be excluded from the huge reconciliation bill that ultimately emerges from Congress.

Thus, with just over a week to go in his present job, Mr. McNamara is worrying and working down to the wire. At 65, he looks thin and fit; his eyes are bright and restless behind silver-rimmed spectacles. He is deeply tanned, both from his wanderings in the hot countries of the third world and from the tennis courts of Washington; last week, however, he was wearing a surgical harness on his right arm, having just broken his wrist playing tennis.

He still works in shirt-sleeves, donning a jacket only for picture-taking. He seems as passionately involved in his job as he did when President Lyndon B. Johnson accepted his resignation as Secretary of Defense in 1968 during the Vietnam War and backed him for the presidency of the World Bank. This post has always been held by an American, and Mr. McNamara's successor will be A. W. Clausen, former chairman of the Bank of America, with headquarters in San Francisco, which was also Mr. McNamara's hometown.

It was President Carter who named Mr. Clausen to the post, with Mr. Reagan's concurrence, although the extent of the Reagan Administration's commitment to the World Bank's aid program remains in doubt.

ROLLCALL VOTE SHUNNED

So unpopular is foreign aid with voters, at a time when even domestic food stamp and welfare programs are being slashed, that the Democrats in Congress are loath to support foreign aid on a roll-call vote, lest they be attacked by their Republican rivals as "big foreign aid spenders."

The crucial factor that will determine whether the authorization of aid for the World Bank Group dies in Congress or passes is likely to be the pressure exerted by President Reagan and his lobbyists on Capitol Hill on behalf of the bill.

But the White House appears reluctant to fight hard for foreign aid, hoarding its capital for what it regards as more urgent causes. Some high Administration officials, such as David A. Stockman, the director of the Office of Management and Budget, are on record as favoring deep cuts in foreign aid, including funds for the World Bank.

WIDE-RANGING TALK

In last week's interview, Mr. McNamara talked extensively on a wide range of economic, political and technical subjects, rarely consulting notes for data. But the McNamara personality is not computerlike but a blend of precision and emotion. He himself speaks of the need to combine "a soft heart and a hard head."

His uppermost immediate concern is to rescue and strengthen United States support for the World Bank. He said he believed American economic and political interests would be seriously injured if this country retreated further from its earlier commitments to aid the poor people of the third world, which appears likely as Congress wrangles over economic legislation.

"The United States contribution to development assistance," he said, "is disgracefully low; it has declined in relation to national income 90 percent since the Eisenhower Administration at a time when national income in real terms per capita has more than doubled. It is today the 15th lowest among the major industrial nations. There is no other large industrial nation providing as low a proportion of its national income to development assistance; it is disgraceful."

A HARD-HEADED LOOK

Mr. McNamara declined to criticize the Reagan Administration for not lending the bank stronger support. "The Administration," he said, "is a reflection of the views of the American people." But he said: "I think our people have failed to recognize in the last 10 or 20 years what has happened to the world they live in. They do not understand how our nation should respond to these changes in ways that address its national interest. I am not talking about 'do-goodism' now. I am talking about taking a hard-headed look at where the nation's interest lie."

Mr. McNamara said that if the United States slashed its support for poor countries, the country would be penalized in the following areas:

Inflation, because the World Bank finances production of essential commodities, the scarcity of which could raise world prices—foodstuffs and energy, for example.

Economic growth, because third world countries absorb roughly a third of United States exports. If lack of financial support erodes this market, domestic production and employment could be badly hurt.

Strategic interest, because lower rates of economic and social advance in the developing countries are almost certain to bring po-

litical instability damaging to the United States, adding to its military costs and adversely affecting its national security.

Mr. McNamara, who will leave the World Bank on July 1, is in a sense the last of the generation of post-World War II crusaders for a better world order to hold high public office. It was this group who combined a militant anti-Communism with a concern for world economic development.

COMMISSIONED PENTAGON PAPERS

Although Vietnam was for a time called "McNamara's War"—it was he who commissioned the Pentagon Papers, which explored the origins of the war—he declined in the interview to give his present views on the American involvement in Vietnam, saying: "I have not talked about my period in Vietnam, and I am not going to start today. I may some time, but not while I am in this institution. It is inappropriate for an international civil servant to do that."

With both the cold war and the drive for social and economic reform at home and abroad in their background, Mr. McNamara and others like him have been attacked from the left as self-interested capitalists pretending to be socially responsible and from the right as socialists undermining the free-enterprise system.

Mr. McNamara considers such charges to be baseless and ignorant as applied to himself and the institution he has headed. When asked about the assertion made by some on both the right and the left that the World Bank is supported by American commercial bankers as a kind of bailout operation for banks that lent too heavily to the developing countries, Mr. McNamara responded:

"On the contrary, it's supported by individuals in this country who understand that our own economy will suffer, not the banks. The banks are intelligently managed; their loans to developing countries are a relatively small percentage of their total loans outstanding; they have appropriate reserves in relation to them; they are concentrated in some of the stronger developing countries. Brazil, for example, is a very rich country, even if it does at times have liquidity problems. Over the long run the banks aren't going to lose a lot of money on Brazil.

"So the charge that this bank is moving in ways that are designed to bail out U.S. commercial banks is absurd. This bank is, however, moving in ways that are consistent with the broad economic interests of the U.S. And if this bank is prevented from continuing to move in those ways, not only will the developing countries be hurt, and particularly the poorest people in those countries, but the U.S. economy will be hurt, and the American people will be hurt."

CRITICISM REJECTED HARSHLY

Mr. McNamara rejects harshly the criticism, offered by a host of conservatives, including some within the Administration, that the World Bank is undermining private enterprise and promoting socialism. He called the accusation an extreme hindrance to the bank's operation, especially in the United States.

"They are ignorant," Mr. McNamara said of the conservative critics. "They are ignorant of what the bank is doing. The bank in a very real sense is the largest single source of financing of private enterprise in the developing world, without qualification."

Mr. McNamara noted, for instance, that more than 30 percent of the bank's financing went to agriculture, almost all of it for financing individual, private farmers. He said the bank urges developing countries to increase their efficiency by relying on the price system to direct resources and to stop subsidizing the urban centers at the expenses of the poor rural people. "We consistently urge real interest rates," he added, "that is, avoidance of interest subsidies, in order to stimulate savings and assure a directing of capital investment to situations where there will be a real rate of return. We consistently advise against, and as a matter of fact we'll refuse to loan for investment in utilities, public utilities, electric companies, water companies, railroads where the tariffs, the prices, are not set to yield profits, real rates of return so that they are self-sustaining investments."

He feels that the bank has made great strides in its attack on absolute poverty. The most obvious accomplishment of the bank under his administration, he said, had been to increase is annual commitments of loans from $1 billion in 1968 to $13 billion in the fiscal year ending June 30, which has meant, after allowing for inflation, quadrupling or quintupling its real lending. But the most important accomplishment, he feels, was learning to focus resources and technical assistance on the poor, raising their productivity and hence their output and real income.

With the statistical exactness for which he has has long been noted, first as a Harvard Business School professor, then as a statistical controller in the United States Air Force during World War II and as president of the Ford Motor Company, Mr. McNamara reeled off the rates of return from investments in antipoverty programs in Bangladesh, Pakistan, Burundi and other poor countries. These rates of return ranged as high as 50 percent and averaged 19 to 20 percent on invested capital.

GREATEST ACCOMPLISHMENT

This, he feels, was his greatest accomplishment: the discovery that the bank could help the poor and society simultaneously.

It is with some regret that Mr. McNamara will leave his post at the World Bank. "I don't want to quit yet, either," Mr. McNamara said. To that end he has already accepted a number of appointments to the boards of nonprofit institutions, including the Brookings Institution, the Ford Foundation, the Urban Institute and the California Institute of Technology, as well as to the boards of such corporations as Royal Dutch/Shell, Corning Glass and The Washington Post.

"I am going to divide my time roughly 50-50 between the public and the private sectors," he added. "I hope to be active in continuing to advise both our own Government and other governments in fields that I may have some competence in. I am not wealthy, but I don't have to choose my activities on the basis of compensation, and I don't care about status or prestige. I am willing to do anything that will be of assistance to either our Government or other governments. I do believe in public service, I am interested in it, excited about it. Foreign governments have asked me to provide advice and I will be doing so. And I am not going to accept compensation. I'm just going to do it when I feel like it, and when it will be helpful."

Has he any disappointments as he looks back over his performance as president of the World Bank?

He said he had, among them "the deferral of certain actions that I had hoped to initiate." One of them would have been a ratio change—a higher proportion of lending relative to the bank's capital. An other, he added, "would have been an expansion of our research program, a very substantial expansion, because I think that through that we would increase the world's understanding of the development program and how to accelerate it, with advantage to all parties."

He said his greatest disappointment was that "we and others have failed to inform the people of the industrial countries of the nature and magnitude of the changes in the relationships among nations, economically and politically, over the last decade"—especially their greater interdependence.

"For that reason," he said, "we have failed to show them where their own narrow interests lie. We have failed to convince them that there is a plus-sum game as part of which they can move to assist the developing countries to achieve economic and social advance with benefits to both the developing and industrialized countries."

"Now that is my strong belief," he added "It is a belief I think is shared by most of my associates, and by many others outside the institution, and it is that failure which I think is leading to less than rational action by many of the nations, particularly the United States."●

"OHIO," NATION'S FIRST TRIDENT SUBMARINE COMPLETES SUCCESSFUL SEA TRIAL

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. GEJDENSON. Mr. Speaker, during this session of Congress the Electric Boat Division of General Dynamics has received a great deal of attention. It is time that they be recognized once again—this time for a major accomplishment.

The *Ohio*, the Nation's first Trident submarine, successfully completed its first round of sea trials on Saturday, June 20.

With Adm. Hyman G. Rickover, the father of the nuclear Navy coordinating the trials, the *Ohio* went through its paces in the North Atlantic, successfully completing test dives and extensive testing of its propulsion system.

The submarine, longer than the Washington Monument, is the largest submarine ever built in this country. Its construction is a major technological achievement, a testimony to the talents and skills of the men and women of Electric Boat and the U.S. Navy.

With its 90,000 horsepower engine, the Trident is the quietest and among the fastest submarines in the world today. As the most modern leg of our strategic triad, it will be an important addition to our nuclear deterent forces.

I would like at this time to submit for the RECORD a letter I received on the sea trials from Admiral Hayward, Chief of Naval Operations:

DEAR MR. GEJDENSON. I want to personally report to you that our first Trident submarine, the OHIO (SSBN 726) has successfully completed her maiden sea trials on 20 June.

We in the Navy are proud of this highly successful milestone which is a major step in upgrading this important and most survivable leg of our nation's strategic TRIAD.

It is fitting that as OHIO went to sea, one of our original 41 ballistic missile submarines, USS *James K. Polk* (SSBN 645), was completing the 2,000th Strategic Deterrent Patrol with over 100,000 submerged days of patrol logged since 1960.

The Secretary of the Navy and I appreciate your continued support for the Navy's Strategic Program and are most pleased to be able to report *Ohio* is on her way to joining the fleet.

Sincerely,

T. B. HAYWARD,
Admiral, U.S. Navy.●

FREEDOM IS WHAT IT'S ALL ABOUT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. DERWINSKI. Mr. Speaker, Illinois State Representative Diana Nelson has been an active civic leader as well as an outstanding member of the Illinois General Assembly. I am especially proud that Diana Nelson is a constituent of mine and a fellow public official.

I wish to insert the following address, which Representative Nelson delivered at a Memorial Day ceremony in Western Springs, Ill. It was carried by the Suburban Life Citizen of May 30, which serves the west suburban communities of Chicago.

[From Suburban Life Citizen, May 30, 1980]

FREEDOM IS WHAT IT'S ALL ABOUT

(By Diana Nelson)

Memorial Day means memories, means "to remember."

On a spring day like this one, would you want to die? I don't want to, and you don't want to, but some of your aunts and uncles did.

I have seen a military cemetery on the island of Oahu in Hawaii called the Punchbowl which is the inside of an extinct volcano. It is as large as Western Springs' Spring Rock Park from the water tower to the corner of 47th and Central, and as you look across the crater, for as far as you can see, every ten feet is a white cross or Star of David marking a grave.

A famous war correspondent, Ernie Pyle, is buried there. Everybody knew who he was. But for each cross and each star, a family had a funeral and grieved.

That is why we have Memorial Day, to keep the memory of those who died safe in our minds and in our hearts. Why? Why did they die if they did not want to die?

Today is a beautiful sunny spring day. We appreciate spring days like this because we can remember and contrast a day like today with one in January when the wind howled in the dark at five o'clock and snow drifted onto the front stoop.

Compare America to other countries on our earth like Russia or Cuba or Poland, and you will appreciate the freedom we enjoy. Freedom is being able to choose. Freedom is indivisible.

If I deny you the right to speak or read because your ideas are different from mine, freedom would no longer exist in America.

Mikhail Baryshnikov, the ballet star who defected from Russia, reports in an interview with a journalist that the hardest thing for him was learning not to lie.

If one is denied the most basic freedoms, to say what you think about legislators who cannot agree on a transportation solution, or if you cannot worship in your church or synagogue, or if you cannot travel from a job to a better job, or if you live in a two-room apartment with another family and the TV set only carries one doctrinaire station of propaganda, then that is the dead of winter that Solzhenitsyn writes about, and that is what the spring and sunshine of freedom in America is in contrast to.

None of the young people who died wanted to die. They died because we as a nation said this idea, this notion of being able to choose our leaders, to choose our place of worship, and to choose our news sources, is more important than living in a dark winter of "know-nothingness."

Right now, you have choices to make. My children have some difficult choices about whether to join the swim team, or play softball or go to basketball camp. Be glad for those choices. When you become an adult, the choices will be much more difficult.

Sometimes I have to vote in Springfield, and I have a hard time choosing. Should I vote my conscience, should I vote my party, or should I vote my constituency? I would not have that choice if a million fellow Americans had not died so that we enjoy the rights of a free people.

Very briefly, to those of us of voting age, don't let your children forget.

Memorial Day is a sad American holiday. It is a day when we slow the normal pace of American life to pay tribute to the men and women who gave their lives that we might live free.

We need to be reminded for it is only human to forget as quickly as possible those things which are unpleasant—and war is not a pleasant experience. The photos from Vietnam are gone from the nightly newscasts.

Remember Gen. John Logan's order issued as commander-in-chief of the Grand Army of the Republic in 1868: "Let no ravages of time testify to coming generations that we have forgotten as a people the cost of a free and undivided republic."

Let us with pride in our heritage resolve, to keep faith with the spirit of Gen. Logan's order.

Tell your children about a family member who served our country. In our family it's Uncle Melvin Walker, shot down over New Guinea in World War II, whose body was never recovered. Or tell your children about a neighbor who served in Vietnam.

Talk to each other. Talk about choices. Talk about freedom.

Please don't forget.●

IMPACT AID

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. DYSON. Mr. Speaker, on Tuesday, June 16, I joined 34 Members of Congress in testifying before Chairman Natcher's subcommittee on Labor, Health, Education and Welfare in response to the recent proposals regarding impact aid.

Under the administration's proposal which would eliminate all funds for category B students and restructure the funding formula for category A, the State of Maryland would stand to lose all of the $20.6 million it received in fiscal year 1981. The elimination of this money would impose a severe hardship on many school districts throughout the country.

As the Representative from Maryland's First District, which would lose more than $3.8 million in impact aid in fiscal year 1982 under the administration's proposal, I am naturally concerned about the adverse effect that such drastic reductions would have on the local school boards within my district—especially in the heavily impacted areas where military installations are located. One of the most severely impacted school districts is in Harford County, where the Aberdeen Proving Ground is located. This county would lose more than $1.8 million in impact aid payments in 1982.

To this end, it was encouraging that the House Education and Labor Committee, on June 17, reconsidered its initial proposal to completely eliminate the impact aid program and restored $414 million of those funds. They have proposed to fund category A students at 65 percent of their 1981 entitlement and category B students at 55 percent of theirs. While this still means a reduction in impact aid payments, more than $2.5 million would be restored to this program in Maryland's First District. In Harford County, where impact aid payments totaled more than $1.8 million in fiscal year 1981, funds would be restored at approximately $1.2 million.

I would hope that my colleagues in the House will act favorably upon this recommendation and that when this measure is considered in the House-Senate conference in July, it will also pass in order to allow local governments to get on with the urgent work of planning their fiscal priorities.

In this manner, I would like to share with my colleagues a very timely article which appeared in the June 18 edition of the Aegis in Harford County:

TUITION PLAN EYED FOR APG DEPENDENTS

The county government is considering a tuition charge for military dependents who wish to attend public schools here.

Facing the probable elimination of all Federal Impact Aid, funds which have helped pay for the education of military dependents, the County law department, at the request of the County Executive, has begun research into a tuition system.

Assistant County Attorney Richard Herbig last week began "exploratory" research into the possibility of local enabling legislation which would allow the County to

assess a tuition on the 1213 "A" students currently attending Hartford public schools.

"A" students are defined as children whose parents both live and work on a military installation.

Executive Staff Director Rosemary Logan is apparently responsible for initiating the research into the tuition possibility.

"Other areas have moved in that direction," Mrs. Logan told The Aegis Tuesday. "Fairfax County, Va. has talked about $3,000 per student. We don't know where we stand on it (tuition). That's why we've asked our law department to look into it.

"I can tell you this, the County Executive would look favorably on such a system if Impact Aid is cut," Mrs. Logan added.

A bill introduced by Anne Arundel Delegate Elizabeth S. Smith (wife of that County's school superintendent), which would have had the State going to a tuition system for military dependents, died in the House Ways and Means Committee of the State Legislature during the recently completed session.

Anne Arundel has also explored the possibility of going it alone on a tuition plan, but has reportedly put those moves on a back burner pending State action.

"What we want to determine is does a Charter County, such as Harford, have the authority to initiate such a (tuition) system," Mr. Herbig told The Aegis Tuesday. "These are basic, preliminary investigations, and, of course, the whole thing would become moot if Impact Aid comes through."

Mr. Herbig said he could not predict a time frame for either his opinion or County action on the tuition plan.

Meanwhile, Harford School Superintendent A. A. Roberty said he knew nothing of the possible tuition system and would be opposed to it "philosophically."

"They (County) haven't told us anything about it," Dr. Roberty told The Aegis Tuesday. "Of course that's nothing new.

"I'd have serious misgivings about it," continued the Superintendent. "I'll take money from anybody if it will help the school system, but I'm not sure that such a system would be fair to the military and especially to the individual parents. APG adds a great deal to this area economically. You might get into a situation where you collect a million or two but chase away 40 (million)."

Dr. Roberty said that putting the County in a collection situation with the individual military families might also create problems.

But, Mrs. Logan asserted that, since the Federal reservations were not technically within the County jurisdiction, and since those families who reside on the military installations pay no local property tax, it would be well within the County's rights to expect some payment for school services rendered, if Impact Aid is eliminated.

Reportedly, a Maryland Attorney General's opinion has said that such a tuition system "may be constitutional," but that it probably could not be implemented without a State Constitutional amendment due to the provision in that document calling for a "free public education" for all Maryland children.●

DEDICATION OF SAVACAN OF MIAMI, INC.

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. LEHMAN. Mr. Speaker, when a new business that has environmental and energy saving benefits, and also provides jobs and money for a community, is officially dedicated, that is an event worth noting. Such an event took place in Miami's Liberty City area recently, when Savacan of Miami, Inc., a recycling center, was dedicated. It was the occasion for some inspiring and encouraging remarks by Mr. William B. Renner, president of the Aluminum Company of America. I am introducing here his brief speech, since I believe it will provide encouragement for others seeking to begin small businesses.

The speech follows:

REMARKS BY W. B. RENNER, PRESIDENT, ALUMINUM COMPANY OF AMERICA

Thank you, George (Greene).

I know how tough it is to create a new business . . . to turn an idea into bricks and machines and jobs. It takes nerve. It takes effort. It takes money. It takes vision.

You face tremendous problems, most of them not of your own making. You start with one building in an inner city neighborhood. A handful of employees. Perhaps an anxious banker for a partner. You hire people completely unfamiliar with your business and you train them to do jobs that neither of you know much about. At first, everything goes wrong. Equipment breaks down. Suppliers don't deliver materials on time. Cash flow isn't what you estimated. You have problems with zoning or utilities. Somehow, God willing, you manage. You make decisions. Things begin to work out. And then something truly miraculous happens.

You succeed. You prosper. You grow. Pretty soon you're buying another building, hiring more people, contributing to your community's well-being. No, I'm not talking about Savacan of Miami, although they probably recognize the situation I'm describing.

I'm talking about Alcoa, because that's what happened to us when we got started in Pittsburgh in 1888. Our aluminum smelters and rolling mills with their thousands of employees didn't spring out of the ground overnight. When we opened our doors in a building not much bigger than a two-car garage, all of Alcoa's employees could have ridden to work in one of the newly-invented automobiles.

The company's only salesman—a fellow who went on to become president—used to say that with a little maneuvering, the sales force, research, corporate planning, accounting, personnel and advertising departments, production line staff and plant management could all go through the front door at the same time.

That's how it was with Alcoa. It's how any business begins.

Savacan of Miami is the newest of more than 1000 recycling centers in our national recycling program, most of them locally owned and operated * * * businesses that made it by grabbing their own bootstraps and pulling with particular local vigor.

Savacan pays consumers 26 cents a pound for used aluminum cans, about a penny a can. That may not seem like much. But last year, centers in our recycling activity paid $90 million to can collectors. They recovered 7.6 billion cans—about 31 cans for every American. The energy saved by recycling the cans was equivalent to 3.3 million barrels of oil.

I believe the recycling activity dedicated here today can point the way to other communities in demonstrating the civic and economic benefits possible through vision, determination, hard work, and perhaps a helping hand here and there.

Alcoa is delighted to have had a part in helping this very worthwhile recycling activity get under way. It's been personally encouraging for me to have seen this community—and the people of Savacan of Miami—pull together to make this business a reality.

Good luck!●

SISTER DAMIAN YOUNG HONORED BY TORRANCE AREA CHAMBER OF COMMERCE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. ANDERSON. Mr. Speaker, on June 26 the Torrance Area Chamber of Commerce will present Sister M. Damian Young with the 1981 Torrance Distinguished Citizen Award at its annual banquet. I am inclined to think that they have made an excellent choice this year, and I think you will agree after you hear a little about what kind of a person Sister Damian is.

As president and chairman of the board of Little Company of Mary, Sister Damian is responsible for overall management of the hospital, with direct responsibility for all administrative and volunteer personnel. Although she has held this demanding position for 9 years, she has also found time to hold several positions in a number of community activities, including chairman for the Boy Scouts of America Medical Explorers Post No. 1041, chairman and treasurer of the Hospital/Home Health Care Agency of California, member of the advisory board of the Torrance Salvation Army, and hospital representative to the Torrance Unified School District. A member of the Roman Catholic Archdiocese of Los Angeles, Sister Damian is serving on the liaison advisory board of the department of health and hospitals, the Medico-Moral Committee, and Area Parish Council No. 20.

My wife, Lee, and I both think it is wonderful that the chamber is honoring Sister Damian, and we would like to add our thanks and congratulations.●

NATIONAL RIGHT TO WORK LAW

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. WINN. Mr. Speaker, today being the 34th anniversary of section 14b of the Taft-Hartley Act, this seems an appropriate time to comment on the issue of compulsory versus voluntary unionism.

There is a proper balance in all things. In the sphere of labor-management relations, this century has witnessed a tremendous growth in the power of labor vis-a-vis management. The collective bargaining process has produced fundamental gains for the American worker. But in this search toward equity, there must also be concern for the rights of the individual employee.

More than 70 percent of the American people, represented by a large and growing coalition of legislators in both the House and Senate, are calling into question the validity of compulsory unionism. Section 14b of the Taft-Hartley Act empowers individual States to outlaw all forms of compulsory unionism. The wording is clear:

Nothing in this act shall be construed as authorizing the execution or application of agreements requiring membership in a labor organization as a condition of employment in any State or Territory in which such execution or application is prohibited by State or Territorial law.

To date, 20 States have enacted right-to-work laws—giving every worker the freedom to choose whether or not to join a labor union.

But in 30 States this is not the case, and more is at stake than a denial of freedom of choice. Between 1969 and 1979, according to the Bureau of Labor Statistics, compulsory unionism States suffered a net loss of 271,000 manufacturing jobs. Over the same 10-year period, the 20 right-to-work States gained a net total of 1,087,600 manufacturing jobs. In fact, every one of those 20 States enjoyed a net increase in manufacturing jobs.

Currently before the House are two bills containing clear-cut prohibitions against compulsory unionism, H.R. 2301 and H.R. 2300, sponsored by Congressman MICKEY EDWARDS of Oklahoma. H.R. 2301 will extend right-to-work protection nationwide. H.R. 2300 grants this protection to students.

I have advised Congressman EDWARDS of Oklahoma that I wish to be a cosponsor to H.R. 2301 and H.R. 2300. I urge your active support for these bills. Last November, Americans cast an overwhelming vote for freedom in the marketplace. Enactment of national right-to-work legislation is a logical step in responding to this mandate.●

REMARKS ON SOCIAL SECURITY CUTS

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Ms. MIKULSKI. Mr. Speaker, I would like to bring to the attention of my colleagues a letter I received from one of my constituents. This man is a steelworker who like many other laborers has spent a lifetime working under difficult and often dangerous circumstances. Now after all these years of hard work and contributions to the social security system, his much-needed and well-deserved retirement is being threatened by a callous administration that appears to have no regard for the people who are manual laborers in this society—the people for whom early retirement and reduced benefits are a life and death issue, not a luxury. I offer this letter as a reminder to all of us of our contract with the American worker.

NATIONAL AD HOC COMMITTEE,
CONCERNED STEELWORKERS, INC.,
Baltimore, Md., May 12, 1981.

MS. BARBARA MIKULSKI,
Baltimore, Md.

DEAR CONGRESSWOMAN MIKULSKI, One need only contemplate the proposed social security cuts for a minute in order to see the far reaching and devastating effect they will have on millions of American workers.

In the steel industry alone there are many thousands who will be adversely affected by the proposed cutting of benefits received at age 62 years (early retirement) from the present 80 percent to a low 55 percent. Not only will it impose hardship on those workers whose health deteriorated after long years in the mills; those around 58, 59 or 60 years of age, it'll penalize them for living until age 62 when they seek retirement. Many of those who are now struggling to get to age 62, presently plagued by various health problems, hoping to retire with some semblance of dignity are about to be sacrificed into that awful maw of bad business management.

I'm in the mills . . . see the many coworkers with legs gone bad, encased in Jobst supports, some ulcerated or varicose or phlebitic. Then you see the many different kinds of braces supporting bad backs, shoulders and other unmentionable areas, hearing loss brought on by long years in the mills, standing on hard, cold concrete floors. One doesn't have to be a doctor to appreciate what's happening to me and so many of my co-workers. So many have become grist-for-the-mills . . . now what's left? Not even the early retirement so eagerly looked forward to by so many of us! We are all being sacrificed!

Up in the morning—off to the job, but not before pulling on the full length support stockings with belt, on with the back brace (herniated disc), on with the elbow brace (osteo arthritis), swallow the medication (two kinds). Then the hour by hour struggle through the day to the end of the shift. Now it's home to the heat pad, propped-up legs and feet (it helps the swelling) a backrub and one day closer to age 62. Well, my struggle to survive and get-out at 62, with a degree of independence, is about to go up in smoke. At age 59, with multihealth problems 62 was the survival goal. With the already reduced rates (80 percent) my wife and I could make it. However there's no way we can make it with 55 percent social security benefits. What do I and the many others like me, in many industries across the country, do now? Die-in-the-mills?

The things discussed in my letter are by no means isolated cases. There should be a complete investigation concerning the plight of so many American workers now caught-up in the deadly game being fostered upon us. The amazing thing is that there's no attempt to try something else, rather than taking the easy way out by sacrificing so many American workers!

We need help and hope that you will find it possible to use the power of your high office to help the cause of so many of us out here, who are about to be ripped-off again!

Please let us hear from you and remember we are willing to help out in any way we can.

Thanking you for your cooperation and consideration I remain

Yours truly,

CHARLES R. BROWN, Sr.

P.S.—One needs only read statistics on the average life expectancy of retired steelworkers to fully realize how unconscionable it is to condemn us to extra years of servitude. There must be millions out there, in the unsafe, unhealthy workplaces across America, who face similar bleak futures due to the callous attitude of the present administration concerning the social security problems.

We beseech you and your colleagues to publicly speak-out about the present situation. Thank you.●

IMPORT TARIFFS UNFAIR TO FISHERMEN

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. STUDDS. Mr. Speaker, today I am introducing a bill designed to help American fishermen compete with those from foreign countries and to alleviate our $2.6 billion fisheries trade deficit. My bill would accelerate an already scheduled tariff reduction on imported synthetic fiber fish nets and netting, providing almost immediate relief for our domestic fishing industry.

This is not a new issue but one which I attempted to remedy in the 94th and 95th Congresses through legislation similar to the bill I am introducing today. Earlier attempts to reduce the tariff on imported synthetic nets were cooly received by previous administrations because, we were told, while it was generally agreed that the tariffs were unduly protective, the United States wanted certain concessions from other nations before lowering them. In short, our negotiators did not want their position hurt by a premature lowering of the tariffs. These multilateral trade negotiations have

since been concluded and the United States has agreed to a gradual reduction in the tariffs. Unfortunately, this reduction is far too slow to make any significant difference, particularly in view of escalating fuel prices.

It is worth noting that the tariffs on imported cotton or on vegetable fiber nets have already been reduced. In fact, the tariff on cotton nets was established at 40 percent ad valorem by the Trade Act of 1930 and subsequently reduced to its present 17.5 percent. Since 1963, however, our fishermen have been burdened with an import tariff on synthetic fish nets and netting of 32.5 percent ad valorem plus 25 cents per pound. My bill simply brings the tariff on synthetic nets into parity with those made of cotton while at the same time maintaining adequate protection for our own net manufacturers.

Because the United States does not manufacture the quality or variety of nets required by the industry, our commercial fishermen depend on a wide variety of imported fish nets. Today we are importing over one-third of the nets used by our commercial fishing industry. Synthetic nets alone account for over 95 percent of these imports. A typical fisherman from New Bedford, Mass., which lies in my own district, spends almost $15,000 a year on his nets, meaning that he must pay over $5,000 in duties. The duty on a single purse seine net used by our commercial tuna industry can cost over $77,000. I believe these costs are more than the commercial fisherman should be expected to pay.

Mr. Speaker, there are approximately 185,000 commercial fishermen in this country who need our help. Recent figures from the Bureau of Labor Statistics indicate that since 1975, diesel fuel prices paid by our fishermen have increased almost 864 percent. While fuel prices skyrocket we continue to increase our imports of edible fishery products. Ironically, while our fishermen are expected to compete with foreign fishermen heavily subsidized by their own governments—and whose catch generally enters this country duty free—they are also expected to pay a high tariff on the nets they use. Our fishermen are not looking for handouts or subsidies. They simply want to earn a decent living through honest hard work.

Mr. Speaker, I ask my colleagues to join with me and support this legislation to reduce the unnecessary and extremely burdensome costs borne by our commercial fishermen. Reducing the tariff will help alleviate our national trade deficit in fisheries products while helping all segments of our fishing industry, including salmon gillnetters in the Pacific Northwest, tuna purse seiners in the Pacific, Great Lakes gillnetters, Gulf shrimpers, and North Atlantic trawlers.●

SECRETARY OF INTERIOR JAMES WATT'S POLICY

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. VENTO. Mr. Speaker, as a member of the House Committee on Interior and Insular Affairs, I have been actively involved in seeking the answers to the many environmental questions that my committee has had to deal with in the last 5 years.

I, like others, was aware that with the coming of a new administration, there would likely be some changes in the direction of Interior Department environmental policy. I can assure you though, that I never expected these changes to be personified in the form of James Watt. As Secretary of the Interior, Mr. Watt has made it a policy of shocking people with his actions. It seems that rarely does a day go by without Members of Congress hearing about another outrageous proposal coming from the Interior Department. California offshore oil leasing and the realinement of the Office of Surface Mining are apparently only a small sample of the actions we can expect from Secretary Watt.

The Interior Committee held many hearings and the members and staff worked long hours in passing legislation that reflects America's conservation ethic. There was much give and take, insuring that balanced legislation was signed into law. I consider these laws much too important to allow them to be gutted by administrative rulemaking. In the upcoming months, the committees, and certainly I, will be watching to insure that congressional intent remains the guiding force behind the Interior Department's interpretation of the law.

I seriously question whether James Watt, as Secretary of the Interior, will provide a balanced administration of national resources or will continue to give way to extreme and tortured interpretations of the law which are resulting in significant degradation of our natural environment.

When Mr. Watt first appeared before the House Interior Committee, I questioned his background and its conflict with his new role as Secretary of the Interior.

Today, only 5 months later, his reassurances of neutrality and impartiality ring hollow, as he has fulfilled the worst expectations in running roughshod over Congress and the carefully crafted policy that serves as the background for orderly use of our most precious resources.

I believe it would do well for my colleagues to read the following first excerpt of the June 29, 1981, Newsweek cover story. The second part of this story will appear in tomorrow's CONGRESSIONAL RECORD.

JAMES WATT'S LAND RUSH

The land was there before James Watt, and it will survive him, but it may never be the same. That is one view of the new Secretary of the Interior, whose strong convictions are making him the most controversial man in the Reagan Cabinet. Watt has deep feelings for the land, but as his environmental critics see it, he also knows what a nuisance it can be when it stands between man and mineral, and he has more than a few ideas about how it can be improved. That is why he is preparing to reverse the government's opposition to mountaintop mining, a procedure in which the top of a mountain is sheared off to get at the coal and dumped into the adjacent valley. In the eyes of the critics, that creates a building site out of nature's unruly topography—a level bed of earth, ready to receive man's improvements; the perfect monument, they would call it, to this public servant of practicality.

In his sense of mission, Watt is as zealous and sincere as any environmentalist who opposes him. One of his first acts as Interior Secretary was to reopen the question of oil drilling near four of northern California's most beautiful beaches—provoking a howl of protest from California Democrats and Republicans alike. He has portrayed himself as the man who will protect his native West from rampaging preservationists, and who believes the national parks should be repaired before they are expanded. His predecessors painstakingly drew up a 575-page book of strip-mining regulations, having to do mostly with restoring the land to its original contours; Watt intends to rewrite many of the rules and cut the Federal regulatory force by 40 per cent. Many of these decisions are popular with some Western governors, who have been agitating for years for more control over the Federal lands in their states, but no one has been as touched by Watt as Carl Bagge, president of the National Coal Association. "He's made my job a pleasure to do again," Bagge says. "I can look myself in the mirror and no longer see myself as evil incarnate."

Watt, too, has often felt like a lone voice in the wilderness, crying out for some of it to be used before all of it was preserved. Now, as Secretary of the Interior, he says he has the opportunity to "swing the pendulum back to center" from what he calls the extreme environmentalist position. Environmentalists fear that Watt, by temperament and conviction, will push it to the other extreme. The Secretary of the Interior is responsible by law for balancing demands that are sometimes irreconcilable. He is not only the nation's chief environmental officer, but also its game warden, dam builder, miner and Indian chief; he is charged with promoting "multiple uses" of public land, although there is no way that a strip mine can coexist with a recreation area. Watt has been called the "fox guarding the chicken coop" so often that he has installed a photograph of a fox over the fireplace in his office. Former Sen. Gaylord Nelson, chairman of the Wilderness Society, calls Watt "unfit to hold public office," one of the milder epithets in what Watt has called a "hysterical" campaign against him, and the Sierra Club is trying to collect a million

signatures on a petition to drive him out of office.

THE PRICE

The pendulum of public opinion has swung somewhat in Watt's direction, but there is certainly no broad mandate for the Administration to do away with environmental protection. A Newsweek poll conducted last week shows that a solid majority of Americans are willing to pay the added price of environmental safeguards—although the percentage expressing that opinion dropped from 69 to 58 over the last year and a half. An overwhelming majority agrees that it is possible to have strong economic growth and still maintain high environmental standards. But there are large majorities for most of the steps Watt has proposed to increase energy production: by a 70-to-22 margin, Americans approve of expanded offshore oil drilling and, by 76 to 19, they favor increasing oil exploration on Federal lands. A plurality would ease strip-mining regulations to allow more coal to be mined and a majority would relax air-pollution standards to permit more coal to be burned.

A Secretary of the Interior holds what is usually viewed as one of the more humdrum posts in Washington, and Easterners find it hard to comprehend the enormous power the Interior Department wields over the West. What monetary policy is to Wall Street, what agriculture policy is to the Chicago Board of Trade, land and water policy are to the West. The Interior Secretary administers about one-third of all the land in the United States. He runs all the National Parks, wildlife refuges, and wilderness areas; he runs the Bureau of Reclamation, which builds the dams and aqueducts that water the West. He enforces the strip-mining law, leases oil fields on the outer continental shelf and controls the mineral rights on hundreds of millions of acres of national forest.

And Watt has an influence on national environmental policy that far exceeds his nominal role. He is one of the most forceful Cabinet officers, is held in high regard by the White House and frequently boasts of how closely his views match President Reagan's. His role has become magnified because he is chairman of a Cabinet subcommittee, the Council on Natural Resources and Environment, which gives him some authority over Energy Secretary James Edwards and Environmental Protection Administrator Anne Gorsuch. As a result, Watt is playing a dominant role in writing the amendments to the Clean Air Act. A draft version leaked last week indicates that the Administration plans to weaken key enforcement provisions of the law and allow the states to control pollution at their own pace.

Watt's other strength is his ability to make his department carry out his views. A sign on his office wall serves as his motto: "Nothing in the world can take the place of persistence." Into the thicket of bureaucracy he charged, clear-cutting every appointed official except the National Park Service director, and replacing them with conservatives who share his pro-development values. Those he couldn't uproot he beat back: he described the process of taking charge of Interior as making the bureaucrats "yield to my blows." The conservationists who had romped happily for years fled like rabbits. "People in the department are scared to death," claims Dr. John Grandy IV, vice president of Defenders of Wildlife. "They don't even want to have a conservationist's phone number on their desk. I call people who've been friends for years and their voices get low and I have a different name."

PRINCIPLES

What environmentalists find so infuriating about Watt is not just that he disagrees with them, but that he challenges their most deeply held convictions. They are used to dealing with people who oppose them out of economic self-interest—miners, developers, oilmen—rather than as a matter of principle. But Watt has never had a financial stake in the exploitation of the outdoors; in fact, he is one of the least prosperous of Reagan's Cabinet members, with a declared net worth of only $65,000. He opposes them on their own terms, matching his idealism with theirs. He undercuts their basic claim to legitimacy, which is that they alone are disinterested champions of the commonwealth. It is self-evident to them that they have nothing to gain by championing the right of an obscure threatened fish over the need for a dam; it is not so clear to Watt. In his public statements and speeches, he refers to environmental "pursuits" as a "narrow special-interest group" that deserves no special consideration. "I listen to the miners and timber cutters and drillers as well as the preservationists," he boasts. "They realize they've lost the keys to the front door. I opened up the door to everyone."

Both Watt and his opponents talk frequently of the sacred responsibility of "stewardship" over the lands, but they mean two different things. To environmentalists, this means saving what shreds of wilderness they can from the encroaching bulldozers, to set aside as a perpetual reminder of the natural world in which man lived for all but the last few centuries of his existence on earth. Watt calls this "a greedy land-grab by the preservationists." He sees his responsibility as maintaining the land for people to use. One way to use it is recreation, of course; and it is simply false to suggest, as some of his critics have, that Watt would favor mining or timbering in the national parks. Parks are inviolate, by decree of Congress, and he has no quarrel with that.

FIXER

He does believe in making them more accessible. "My concept of stewardship is to invest in it," he says. "Build a road, build a latrine, pump in running water so you can wash dishes. Most people think that if you can drive in, walk 20 yards and pitch a tent by a stream you've had a wilderness experience. Do we have to buy enough land so that you can go backpacking and never see anyone else?" For that reason, and because the parks are deteriorating, he is trying to delay buying any more park land; he believes it's more important to maintain facilities in the existing parks. "I won't mind being remembered as the guy who fixed the plumbing," he says.

It is that side of Watt that his opponents find so provocative; he seems to regard the outdoors as a kind of wide-screen nature documentary with insects. A few hours of it is enough. Addressing a meeting of national park concessionaires last spring, he described a recent raft trip down the Grand Canyon, which he found thrilling the first day, but increasingly tedious for the next three, until he was helicoptered out. Watt opposes environmentalists who would ban motorized rafts in the Grand Canyon on noise-pollution grounds. He wants people to be able to get down the river in four or five days, instead of ten, which he believes will make the Grand Canyon more accessible to middle-income people. Responding to a question about horseback riding in parks, he made what he now calls an ill-advised joke, assuring the audience that he favored it: "I don't like to paddle and I don't like to walk."

Statements like that convince environmentalists that Watt is hostile to ecological values—that he sees man's role as taming the natural world, rather than living in harmony with it. Watt's view is decidedly anthropomorphic, and he seems to suspect his critics of a skulking bias against humanity; informed of a thunderous denunciation of his policies by nature photographer Ansel Adams, Watt replied with a shrug: "Ansel Adams never took a picture with a human being in it in his life."

DISORDER

Watt also takes seriously his role as the steward of that huge portion of the nation's resources he controls—half the coal, virtually all the oil shale—and he believes in managing them "so the public realizes the multiple benefits that can come from them." He is increasing offshore oil drilling, making more coal available for leasing, and offering the first onshore Alaskan oil and gas leases since the mid-1960s. Some of this development would have occurred anyway because environmental disputes that had delayed oil and coal leasing have been settled. But Watt is moving so quickly on all these fronts that even some oilmen privately fear that development could become disorderly. Watt agrees that a careful plan is needed, but he insists that development start now. If not, he predicts "the Eastern industrial states will turn on the West and say 'We shouldn't have to pay these high OPEC prices, we shouldn't have to lose our jobs to the Sun Belt . . . when in fact this energy is available.' Then our way of life in the West will be destroyed by a crash program."

The most controversial action Watt has taken is to suggest adding four Pacific Ocean basins to a California offshore-lease sale—tracts that had been deleted by President Carter's Interior Secretary Cecil Andrus a week before the 1980 election. The basins lie in valuable fishing areas and not far from some of California's most treasured beaches—and they contain, according to U.S. Geologic Survey estimates, less than twelve days' worth of oil. Although Watt often talks of the West's justifiable resentment of heavy-handed Washington bureaucrats, he failed to consult Gov. Edmund G. Brown, Jr., before proposing the leases. Watt's move is so unpopular that the California State Republican chairman has warned it could hurt his party's chances of taking back the governorship next year. Even Alaska's development-minded Gov. Jay Hammond was upset. "It appears industry is playing a more influential role than it should when it is in conflict with a state's position," Hammond complained. He added that Watt was "a very straight arrow . . . with the mission of a zealot in the exploitation of resources." Watt says the final decision on the lease sale will be made in the White House "on political grounds" and he will support whatever Reagan decides: "I told them I can preach it round or I can preach it flat."

EARTHLY TIME

There is one other area in which Watt's concept of stewardship departs from that of most environmentalists: he believes it will

end with the Second Coming. As he testified to the House Interior Committee shortly after taking office, he believes in setting aside some resources for future generations, but "I do not know how many future generations we can count on before the Lord returns." That quote has been unfairly interpreted as a justification for using up our resources willy-nilly; Watt says it means nothing of the sort. Says his former minister, the Rev. Howard Cummings: "As Christians we have a duty to see that the quality of life is better on earth for our having been here. We are not escapists."

But some environmentalists are uncomfortable with the idea that earthly time is limited; they are fighting to save the world for all time. Watt is deeply offended by suggestions that his religion could somehow interfere with his judgment on his job, and he refuses to discuss his beliefs in detail. He is, however, a fundamentalist Christian who attends an Assembly of God church; Rev. Cummings, who was his pastor in Denver, where Watt lived until January, calls him "a deeply Christian man" who has experienced the "gifts of the Holy Spirit," including talking in tongues. When Watt took office, he called Cummings, and the two men prayed together over the phone for guidance in Watt's new job.

Among environmentalists, stories circulate that Watt got into an argument with a geologist over the age of rocks in the Grand Canyon; Watt denies it. "If you believe as Watt does," one environmental activist said, "then there's never a resource problem because the Creator can replenish what he created." Asked how old he thinks the Grand Canyon is, Watt replies, "zillions of years." Asked if he believes in evolution, he refuses to give a direct answer: "you can speculate. I'm a fundamentalist."●

WILLIAM FRANCIS PIKE HONORED BY SAN PEDRO CHAMBER OF COMMERCE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. ANDERSON. Mr. Speaker, one of my constituents, William Francis "Bill" Pike, is retiring as president of the San Pedro Chamber of Community Development and Commerce. He will be honored at the chamber's annual installation banquet at the end of this month, but I would like to take a few moments now to discuss his remarkable career.

Born in Gloucester City, N.J., in 1915, Bill encountered tragedy early in life, when his mother, brother, and three sisters died in the terrible 1917 influenza epidemic. He spent a couple of years in an orphanage while his father recovered from a shipyard accident, and then the two of them moved to Phoenix, Ariz. Bill's father passed away 10 years later, and Bill went to live with friends in Inglewood, Calif.

Bill has had a varied career history: He began working for Northrop Aircraft's electrical maintenance department in 1941, and worked his way up to supervisor of purchasing industrial supplies and equipment. Working at Northrop provided Bill with valuable professional experience, and also much personal happiness as his secretary of 3½ years, Jacqueline La Mere, became his wife in 1954.

The two of them moved to San Pedro in 1958 and opened a stationery store a year later. In 1963, Bill and Jackie opened Pike's Stationery in Ports O' Call, and Bill helped organize the Merchants Association. In 1966, they opened a gift and card shop on the Princess Louise, and, in 1971, yet another shop in Dana Point. Bill had studied real estate in the 1960's—obtaining his salesman's license in 1965 and his broker's license in 1967—and applied this training in 1976 by opening Century 21-Bill Pike Realty.

Besides an obviously successful professional life, Bill has been an active participant in community affairs over the years. From 1967 until 1973, he was a member of Mayor Yorty's Citizen Advisory Committee, for which he received a Meritorious Community Service to City of Los Angeles Resolution. He has been a member of the Ports O' Call Merchants Association for 16 years, serving twice as president, 2 years as secretary, and 4 years as treasurer. He has been on the board of directors of the San Pedro Chamber of Commerce since 1976, and a member of the San Pedro Elks since 1967.

My wife Lee and I congratulate Bill and Jackie for their success and wish them the best in the years ahead.●

MOUNT HOLLY AMERICAN LEGION COMMEMORATION OF CARRANZA FLIGHT

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. FORSYTHE. Mr. Speaker, July 12, 1981, will mark the 53d anniversary of the death of Emilio Carranza, a young captain in the Air Corps of the Army of Mexico, whose plane crashed in New Jersey while the aviator was on a goodwill tour of the United States.

Each year since that tragedy, American Legion Post No. 11 of Mount Holly, N.J., has conducted a memorial service at the crash site, now designated as Carranza Memorial Park.

This display of intercontinental friendship and goodwill has served to draw our respective nations and peoples closer together.

I am pleased to submit for the RECORD a copy of an official resolution approved by the General Assembly of the State of New Jersey, recognizing the Carranza Memorial and honoring the tradition begun and maintained by American Legion Post No. 11 of Mount Holly.

The resolution follows:

RESOLUTION OF THE NEW JERSEY GENERAL ASSEMBLY

(Introduced by Assemblyman H. James Saxton)

Whereas Emilio Carranza, Captain in the Air Corps of the Army of Mexico, did in 1928 upon the commission of his government undertake a goodwill tour of various cities in the United States, in all of which he met with enthusiastic expressions of friendship from the thousands of Americans to whom he directly carried his embassy; and,

Whereas shortly after commencing his solo return flight to Mexico City, the gallant aviator encountered a violent storm which, downing his craft, hurled him to a fiery death in the deepest solitude of the pine barrens; and,

Whereas the members of American Legion Post No. 11, of the township of Mount Holly in the County of Burlington, learning of the disappearance of the brave captain, dispatched a search party which, after making its way 25 miles through trackless wilds, sighted the wreckage of the airplane, extricated the body of the young airman and returned it to the Post, there establishing a Guard of Honor about it; and,

Whereas on July 12, 1929, one year after the Mexican flier's untimely death, the members of Post No. 11 conducted a memorial service at the site of the catastrophe, thenceforward designated as Carranza Memorial Park, at which service they pledged themselves as one man to conduct each year a like observance, and did moreover resolve to promote at large the ends of peace, goodwill and improved understanding between the United Mexican States and the United States of America; and,

Whereas the ceremonies since held have each year enjoyed the participation of representatives from the Mexican Embassy, placing the indelible stamp of international amity upon the event and thereby uniting the hearts of the peoples of two great neighboring republics; and,

Whereas this year, the 53rd anniversary of that lamentable tragedy the standing pledge of Post No. 11 of the American Legion is redeemed this July 11, 1981, which is a fitting occasion on which, not only to memorialize that tragedy and mourn again the loss of Captain Carranza, but also to celebrate the profound sentiment of affinity which flourishes between the two countries; now, therefore, be it

Resolved by the General Assembly of the State of New Jersey, That this House hereby honors the memory of the emissary from the south, commends the Mount Holly Post of the American legion for its half-century of devotion to perpetuating the cause of international cordiality in the service of which he perished, and joins with Post No. 11 in urging the citizens of this State and this Nation to rededicate themselves to that cause as it may figure in their own lives.●

CONGRATULATIONS TO REVERE JOURNAL ON 100TH ANNIVERSARY

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. MARKEY. Mr. Speaker, it is my sincere pleasure to offer my congratulations to the Revere Journal of Revere, Mass., on the occasion of its 100th anniversary.

For the past century, the Journal has remained an important part of this city. More than simply a newspaper, the Journal has proven to be an illustrated diary of the lives of Revere residents. It has captured all the milestones—the tragedies and the triumphs—of this seaside community.

When the Journal was first published on February 5, 1881, it was only four pages long; a small paper, but large enough to serve Revere's 2,500 residents. Over the 100 years, the Journal has mirrored this city's growth and development.

Mr. Speaker, the Journal can be proud of the important part it has played in Revere's history. The need for an informed and enlightened people cannot be overstated, and the Journal has consistently provided this vital service for 100 years. I am certain that in the future, it will continue its tradition of excellence.●

SENATOR SYMMS VINDICATED ON VMI STAND

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. McDONALD. Mr. Speaker, only recently President Reagan awarded his first Congressional Medal Of Honor to Green Beret M. Sgt. Roy P. Benavidez. Part of President Reagan's remarks on that occasion over at the Pentagon are in keeping with the true meaning of the Vietnam veteran:

> They came home without a victory, not because they'd been defeated but because they'd been denied permission to win. They were greeted by no parades, no bands, no waving of the flag they had so nobly served. There's been no effort to honor and, thus, give pride to the families of more than 57,000 young men who gave their lives in that faraway war.

President Reagan spoke highly of those Vietnam veterans who did not shirk their duty and served as well in combat as Americans had in all its wars. It was Senator STEVE SYMMS who recently took the lead in the Senate to oppose one of those "other" Vietnam veterans who stood an excellent chance to head Virginia Military Institute (VMI). That individual was Josiah Bunting, and Senator SYMMS led the fight in the Senate by placing the full background of Josiah Bunting in the CONGRESSIONAL RECORD on March 24, 1981 (S2618).

One of the most degrading books of dishonor to the Vietnam veteran was "Self-Destruction: The Disintegration and Decay of the United States Army during the Vietnam Era," authored by "Cincinnatus," heralded by the media as a much decorated Vietnam veteran. The book was extended more credibility by the endorsement of Josiah Bunting.

Finally, on May 2, 1981, the true identity of "Cincinnatus" was published in the Washington Post. I would like to share the full story of "Cincinnatus" with my colleagues. After reading this exposé, one cannot help but admire Senator SYMMS for his stand on Josiah Bunting when the ebb and flow of the tide was in favor of Bunting. To some it was intestinal fortitude, to others it was just plain guts; that was the true Vietnam veteran who did the job, came home, and did not degrade his military service. It is this kind of individual we need more of today. We should salute Senator SYMMS for taking the stand needed—when it was needed. He too had guts. The Washington Post article of May 2, 1981 follows:

ARMY CRITIC UNMASKED

(By Michael Getler)

A major new book sharply critical of Army leadership in Vietnam and supposedly written by a "senior field-grade officer . . . currently assigned to the Pentagon" using the pen-name "Cincinnatus" was actually written by a professor who was never in Vietnam and whose affiliation with the military since 1965 has been as a chaplain in the National Guard.

In a lengthy telephone interview yesterday, Dr. Cecil B. Currey, 48, a history professor at the University of South Florida in Tampa, acknowledged that he is "Cincinnatus," author of "Self-Destruction: The Disintegration and Decay of the United States Army During the Vietnam Era, published by W. W. Norton & Co. in New York early this year.

The book has received widespread national attention. It has been reviewed by major newspapers around this country and abroad. Numerous anonymous telephone interviews were arranged by the publisher in which reporters did not know the identity of the author. "Cincinnatus" also appeared on the NBC-TV "Today" show with his face hidden by shadow and his voice electronically disguised.

Despite this author's anonymity, the book has received widespread acclaim in most reviews.

But in many cases the reviewers or interviewers apparently assumed too much about the author's credentials or possibly were misled by the way the publisher described "Cincinnatus" on the book jacket or by other factors, including previous interviews.

"Today" show reporter Jessica Savitch, for example, introduced him on Feb. 2 as a "career military man . . . a Vietnam veteran . . . right now assigned to the Pentagon." There was no attempt by "Cincinnatus" to refine that description on the air.

Herbert Mitgang, a New York Times reporter who covers publishing, wrote Dec. 30 about the book's impending appearance. he had a telephone interview with "Cincinnatus."

The author, Mitgang reported, said he had served as a private and corporal in Korea, was commissioned in 1962, graduated from the Command and General Staff School and Army War College, and served as a captain during the 1968 Tet offensive.

His editor at Norton, Eric P. Swenson, told Mitgang at the time that he had checked the colonel's credentials, had spoken to him many times but had never seen him in person.

The book jacket describes "Cincinnatus" as "the pen name of a military man who entered service as a private in Korea and rose through the ranks to become a senior field-grade officer. A graduate of Command and General Staff College, he is the author of one book on military history as well as papers and monographs. He holds A.B., M.A., and Ph. D. degrees. He is currently assigned to the Pentagon."

According to Army records and yesterday's interview with Currey, the professor joined the Army as a private June 30, 1953, just days before the Korean War cease-fire. He did not serve in Korea. He left the Army in 1955, staying in the inactive reserves, then completed a master's degree and entered the ministry.

He left the ministry in 1962, got a doctorate in history at the University of Kansas, then joined the Nebraska National Guard in 1965 and applied for a commission as a first lieutenant in the chaplain corps in an effort to retain links to his twin interests; the ministry and the military.

Currey transferred to the Florida National Guard, where he stayed from 1967 to 1978, doing weekend and two-week-a-year stints of active duty as a chaplain while teaching at the University of South Florida.

In 1975, he spent a term as a resident student for the Army's Command and General Staff College, which he says was an unusual compliment for a reserve officer, and eventually became a faculty consultant. In 1978, as a major, he transferred from the guard to become a lieutenant colonel in the Army reserves to qualify for a reserve post in the Chief of Chaplains Office in the Pentagon.

Currey, who still lives in Florida and teaches at the university, acknowledges that his duties in the Pentagon are like those of reserve or guardsmen elsewhere, namely two weeks a year of active duty, though he has taken on some special projects which have kept him at the Pentagon a few weeks longer on occasion.

In the event of a full reserve mobilization, he would be assigned to the Pentagon. This may account for the "currently assigned to the Pentagon" line on the book jacket.

Currey did not go to the Army War College, and while he was a captain during the Tet offensive in Vietnam in 1968, he was in Florida at the time.

Currey says those items in The New York Times interview caused him great personal grief, and he said he thinks they were basically a misunderstanding because he and the reporter were talking about Tet and the reporter asked what his rank was at the time. Currey claims he has tried to be as careful as possible in interviews.

Currey's book received considerable praise in the lead review in The Washington Post's Feb. 15 "Book World." The review was written by Josiah Bunting III, a former Army

officer in Vietnam, college president and author of The Lionheads.

In that same edition, a separate interview with "Cincinnatus" by reporter Marc Leepson and arranged by the publisher referred to the anonymous officer as an Army colonel stationed at the Pentagon who had served a tour of duty in Vietnam.

The book is an April selection of "The Military Book Club," and the brochure that went out to thousands of members carried the headline: "Why We Lost in Vietnam" and talked about "a scathing critique of the U.S. military by an officer who was there."

It said the book was "written by a career office who served in Vietnam and is now assigned to the Pentagon" and is based on "his own 30 years of military experience."

Currey said he and Swenson were very upset by this and wrote a letter to book club officials asking where they got their facts and referring them to the book jacket as the only authorized description. Nowhere in the book, Currey said yesterday, is the claim made that the author was in Vietnam.

The central theme of Currey's book is very blunt: "The old, old refrain that the Army failed because of political and social unrest at home is still the theme song of the upper ranks. The fact is that the military disaster in Vietnam grew out of ineptitude at the top.

"Stated simply," Currey wrote, "the Army made too many mistakes in its years in Vietnam. If those same errors are not to be repeated in some future conflict, their sources must be identified, understood and corrected. At some point, for reasons then believed good, America's Army will once again be sent into battle. It will be unfortunate if it has closed its eyes to the lessons of Vietnam and again faces a debacle."

The reviewer for The Philadelphia Inquirer, echoing a feeling that was evident in a number of media reviews, said: "This book should be urgently and widely studied in Washington with immediate steps taken to eliminate the weaknesses it reveals. The author deserves a medal for what he has written."

Military reviewers were far more skeptical. While admitting that there were many lessons to be learned, they challenged the book's tone, scholarship, authenticity and the idea that the Army rather than the political leaders, deserved all of the blame.

Col. Harry G. Summers, Jr., an infantry colonel on the staff of the Army War College, wrote in "Army" magazine that it was the ultimate in "chutzpah" for "a self-proclaimed Army officer who supposedly rose from the ranks" to condemn officers for not resigning over their disagreement on Vietnam policy and then publish his attack on the Army anonymously.

In his book, "Cincinnatus" wrote "In certain churches, ministers wear dark clerical garb to obscure as much as possible of themselves in order to allow their listeners to concentrate exclusively upon what is being said rather than upon who is saying it. That is my hope here as well."

In the interview, Currey said the dilemma he and his editor faced was how to get an important message across to an institution, meaning the Army, that is by its nature suspicious of criticism whether it comes from within or without.

If he were identified as a civilian, he said, the question would be asked what he knows about the Army. If his military credentials were used, he would be dismissed also because critics would focus on his rank, his lack of Vietnam service and, most of all, on being a chaplain.

"No matter how we presented the biography," Currey explained, it was felt that the authority of the credentials, "would stand in the way of getting a serious hearing for an important message." So a pseudonym was used in the hopes that readers would not get hung up on who wrote it, he said.

Cincinnatus, according to legend, was the 5th Century Roman citizen-soldier-patriot who left his farm, was made dictator long enough to save Rome, and then renounced his title and returned to the farm.

Currey says he, in person or as the fictional "Cincinnatus," is also "dedicated to this Army" of today.

Initial information concerning the identity of "Cincinnatus" came from Army officers who had received anonymous letters alleging that Currey was the author. This information was passed on to The Washington Post.

Additional inquires in many other places, including the University of South Florida, made it clear that Currey was the author. Attempts to reach Currey for several days were unsuccessful, but were finally arranged by the publishers.●

TORRANCE CHAMBER OF COMMERCE HONORS GERALD L. REYNOLDS, A NEWSPAPERMAN'S NEWSPAPERMAN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. ANDERSON. Mr. Speaker, this month marks the end of Gerald "Jerry" Reynolds' term as president of the Torrance Chamber of Commerce. The chamber will honor him at its annual installation and awards banquet later this month, but I would like to say a few things about Jerry today.

Jerry is a member of that fascinating profession, journalism. He has been a newspaperman since his days as a student at Torrance's North High School when he worked part time at the Torrance (California) Press-Herald. After graduating from high school in 1959, Jerry continued to work part time for the paper while studying history at the University of California at Berkeley. He graduated with honors in 1963 and began work as a full-time reporter at the Press-Herald, a position he held until 1966 when he was promoted to city editor. Three years later Jerry changed newspapers to become a general assignment reporter on the staff of the South Bay (California) Daily Breeze. Once again he advanced rapidly, becoming city editor of the Breeze in 1971, and managing editor in 1974.

Without question, Jerry Reynolds is a very capable writer and editor, but, besides displaying a strong dedication toward his job, he also exhibits a concern for the entire field of journalism. He is currently serving as chairman of the California Newspaper Publishers Association Editors Conference, and has served two terms as chairman of the California/Nevada United Press International Editors. He also is a member of both the Associated Press Managing Editors Association and the Superintendent's Advisory Committee for the Southern California Regional Occupational Center.

Mr. Speaker, the South Bay Daily Breeze may not be the Washington Post, and Jerry Reynolds may not be Benjamin Bradlee; but he is one of the best examples I have come across of the talented, hard-working, and conscientious group of newspapermen who do so much for communities all across the United States. My wife, Lee, and I offer a heartfelt thanks for his good work on both the professional and the private level.●

INHERENT SAFETY OF BREEDER REACTORS

HON. MARILYN LLOYD BOUQUARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mrs. BOUQUARD. Mr. Speaker, I recently received a letter, which was sent to the Honorable DON FUQUA (D-Fla.), from the Department of Energy reporting on the completion of a milestone test at the Fast Flux Test Facility located in Hanford, Wash. As you know, this facility is a liquid metal fast breeder test reactor which is being operated for the purposes of providing engineering data on potential breeder reactor materials and components.

Recently, a deliberate and very severe test was applied to this reactor. The reactor was shut down from full power and simultaneously the main pumps circulating coolant through the reactor were turned off. Mr. Speaker, the result of this test showed that by natural circulation alone, the reactor could maintain itself in a completely safe manner. This is another instance where the inherent safety of breeder reactors is demonstrated.

Because I know many of my colleagues and their constituents are interested in more of the details of the test at the Fast Flux Test Facility, I would like to share the Department's letter with you by inserting it in the RECORD as part of these remarks.

DEPARTMENT OF ENERGY,
Washington, D.C., June 12, 1981.

HON. DON FUQUA,
Chairman, Committee on Science and Technology, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed for your information is a report summarizing the status, progress, and expenditures for the Fast Flux Test Facility for the quarter ending March 31, 1981.

A major project milestone was achieved this quarter with the successful completion of the natural circulation decay heat removal verification testing. Following tests at

lower power levels, the reactor was scrammed from the full power design rating of 400 megawatts-thermal with electric power to the main heat transport system pumps purposely interrupted. Loss of electrical power to the pumps in a real event would require failure of two electrical transmission lines from independent sources and failure of two onsite backup emergency power diesel generators. Peak temperatures measured from instrumented fuel assemblies were within 1 percent of pretest predictions. These natural circulation test results demonstrate the inherent safety feature of a properly designed sodium-cooled reactor and assure emergency core cooling capability in the Fast Flux Test Facility without any electrical power or means of forced pumping. In addition, verification of the analytical models provides a substantial technical basis for designing similar decay heat removal characteristics in subsequent breeder reactor plants.

Work progressed this quarter in preparation for the second integrated leak rate test of the reactor containment building. The initial test was performed at the completion of construction with the results well within acceptable design limits. Now that all equipment and building penetrations are in place, the second test is being performed to again verify that containment integrity is within design limits.

Good progress also continued this quarter in preparing for initiation of fuels and materials irradiation tests. Specially designed test assemblies were received at the site and are ready for placement in selected locations of the core.

With the successful completion of the full power demonstration test last December and the natural circulation tests this March, all required preoperational tests to permit routine reactor operations have been completed. Test results agreed closely with predictions, operating procedures have been verified, and plant performance has been demonstrated within the specified operating envelope.

Current cost and status data continues to assure that the project will be completed within the present $647 million authorization.

Sincerely,

JOHN W. CRAWFORD, Jr.,
Acting Assistant Secretary
for Nuclear Energy.

Enclosure.

REPORT ON THE FAST FLUX TEST FACILITY FOR QUARTER ENDING MAR. 31, 1981

[In millions of dollars]

	Congressional authorization total estimated cost	Costs spent to Dec. 31, 1980	Costs spent second quarter fiscal year 1981	Costs through Mar. 31, 1981	Cost and commitment through Mar. 31, 1981
Construction	540.0	532.6	1.1	533.7	535.3
Expense-funded components	107.0	99.4	.0	99.4	99.4
Total	647.0	632.0	1.1	633.1	634.7

Significant progress during the second quarter fiscal year 1981 included the following:

Mar. 9, 1981, commence reactor startup, performed startup physics tests.

Mar. 12, 1981, reactor power at 75 percent scram to natural circulation

Mar. 13, 1981, reactor critical, performed startup physics test.

Mar. 14, 1981, 35 percent power physics test.

Mar. 16, 1981, reactor at 100 percent power.

Mar. 18, 1981, 100 percent scram to natural circulation.●

RESULTS OF BLOCK GRANTS ON THE NEEDY

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. SOLARZ. Mr. Speaker, I would like to call to your attention the devastating consequences that the administration's proposed block grant program will have, should it be enacted. Standards previously upheld by the Federal Government will disintegrate as the States are given Federal funds carte blanche. There are no requirements that these funds supplement, and not supplant, the States' own funds, which are targeted for purposes different from Federal funds.

The new system would only require that the States submit a request to the Federal Government for funding, and then another explaining how the money was spent. There is no evaluation performed by the State legislature and the money received by the States will be almost impossible to trace. This delegation of responsibility to the States is an abandonment of Federal responsibility to the Union. In fact, by relinquishing the protection of Federal standards, we are steering ourselves toward an organization resembling that under the Articles of Confederation; and away from the cohesive Union which we have worked so hard to achieve.

Programs which were established to fill a specific need and received targeted funds from the Federal Government will be severely hurt by the 25 percent cuts proposed by the administration. Other programs were rescued by the Federal Government after neglect and abuse at the State level. Programs which were established for the sole purpose of filling an existing void were not established only to meet a typewritten list of "needs" but to aid human beings who have serious problems which many of us can scarcely comprehend.

Retarded people will find that education and special services, which are important to help them grow, function, and contribute to society, have been reduced.

Many elderly who rely on senior citizens centers as their only link with friends and outside contact will be forced to remain in tenement homes, alone and lonely. Those wholly on low-income energy assistance and already spend up to 30 percent of their fixed incomes to pay for oil will literally die of exposure to the cold because of escalating oil costs and the 25-percent cut. The cuts will also affect the elderly who are able to remain at home because homemaker services are provided for them. Without help from visiting aides, these elderly people will be institutionalized, where they will lose much of their remaining dignity.

The more than half million homeless children in this country will be set adrift if funding to States is decreased and decontrolled. Without incentives to develop programs to reunite families, and without case review systems performed by the Federal Government, the States will continue to spend funds on costly out-of-home care, which does not benefit our country's most vulnerable children, who have already suffered through an assembly line of foster homes and institutions.

The handicapped will find themselves virtual prisoners in their own homes because simple services and organizations established to help them function as normal members of society have been denied sufficient funds.

Not only will services and organizations be weakened by a lack of funds; the groups of underprivileged people who they serve will be weakened in political strength. Currently, activists in these groups can coalesce to fight for funds. The new regulations will cause these groups to form factions against each other. Instead of banding together to fight for the aid of all, groups will be pitted against each other in an attempt to gain as large a share of the block grant as possible.

A large number of these underprivileged members of our society live in urban areas. Historically, States have not been generous in helping their cities meet the severe financial needs of these citizens. The very structure of the block grant system almost insures abuse and mishandling. I would like to bring to your attention a paper prepared by the ad hoc coalition on block grants.

As a part of the block grant process, the administration proposes to repeal the Child Welfare Act, the Child Abuse and Neglect Act, the Right to an Education for all Handicapped Children Act, major portions of the Equal Opportunity Act, and dozens of other major laws. Those bipartisan and hard fought laws provide for more than money for programs, they establish standards and models for States and local government. Far more is at stake in this battle than budget cuts.

Many of these programs were established after documented neglect and abuse at the State level. In many cases, States have been unwilling or unable to meet the needs of the disadvantaged * * * It is unlikely that their needs will be met by turning over less money to States with no accountability, priorities, or direction. There is a growing discussion over the ability of States to take on the administrative responsibilities for these services, given to lack of time for planning and start up. Some fear that much of the block grants could be eaten up in new and duplicative administrative structures.

Giving aid to States in the form of unstructured, untargeted block grants will not serve to accomplish the administrations purpose of saving the taxpayers money. They have argued that the Federal Government will greatly reduce its spending, but they have not taken into account the fact that 50 new State bureaucracies will have to be established in order to apportion the block grants. This, of course, will be at the same taxpayers expense.

Mr. Speaker, for the benefit of underprivileged humans who desperately require special help, I urge my colleagues to consider the loss of control and standards which will occur if the Federal Government abandons its responsibility to the people by implementing this block grant program.●

ANNA CANTU, AN EXCEPTIONAL WOMAN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1981

● Mr. ANDERSON. Mr. Speaker, on the 26th of this month the San Pedro Chamber of Community Development and Commerce will hold a banquet to honor, among others, Anna Cantu, the outgoing president of their women's division. Anna is an exceptional woman, and I'd like to share with my colleagues some of her achievements.

Anna was born in Mexico, and lived in Arizona until she was 12 when she moved to San Pedro, Calif., her home ever since. In 1946 she married Caesar Cantu, and kept herself busy in succeeding years raising six children. Mr. Speaker, I think most of us know from personal experience the work required to raise children, especially when there are six of them, but Anna has a long list of additional activities to her credit. In 1980–81 she served on Councilman Gibson's 15th District Citizens Advisory Council. She was president of the Holy Trinity Altar Society in 1977–78 and 1978–79. She has, of course, been very involved in the chamber, serving two terms as president of the women's division, and as director of the southern region of the California Women in Chambers of Commerce. She has also been a member of the harbor area police-community council, the precinct election board, Mayor Bradley's volunteer corps for city government, the San Pedro Bay historical society, the Holy Trinity Choir, and the St. Peter's Choir. Her dedication to these organizations has won her several well-deserved honors including the Women's Division Certificate of Achievement Award, the Holy Trinity Altar Society Honorary President Award, and the Certificate of Award for Outstanding Community Contributions from Women's Division of San Pedro Chamber.

Anna is truly a person to admire. My wife, Lee, and I, on behalf of the whole San Pedro area, thank Anna and wish her along with her husband, Caesar, and their children, Gloria, John, Nancy, Michael, Steve, and Jean, the best in the years ahead.●

SENATE — *Wednesday, June 24, 1981*

(Legislative day of Monday, June 1, 1981)

The Senate met at 8 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

Mighty God: The Earth is yours and nations are your people. Take away our pride and bring to mind your goodness, so that, living together in this land, we may enjoy your gifts and be thankful.

For clouded mountains, fields and woodland; for shoreline and running streams; for all that makes our Nation good and lovely; we thank Thee God.

For farms and villages where food is gathered to feed our people; for cities where people talk and work together in factories, shops, or schools to shape those things we need for living; we thank Thee God.

For explorers, planners, statesmen; for prophets who speak out, and for silent faithful people; for all who love our land and guard freedom; for vision to see your purpose hidden in our Nation's history, and courage to seek it in brother-love exchange; we thank Thee God.

In Jesus' name. Amen.

RECOGNITION OF THE ASSISTANT MAJORITY LEADER

The PRESIDENT pro tempore. The assistant majority leader is recognized.

THE JOURNAL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, what is the order for this morning?

The PRESIDENT pro tempore. The two leaders are to be recognized for 2 minutes each, after which there are four special orders for 15 minutes each for Senator BOREN, Senator ROBERT C. BYRD, Senator BUMPERS, and Senator CHILES, with the time allocated to those Senators under the control of Senator BOREN.

Mr. STEVENS. Are there any other special orders, Mr. President?

The PRESIDENT pro tempore. There are no other special orders.

THE NEED TO LIFT THE PAY CAP FOR FEDERAL EMPLOYEES

Mr. STEVENS. Mr. President, an article appeared recently in the Wall Street Journal of June 18 which accurately describes the loss of top level managers in the executive branch of Government.

The issue of pay increases for Federal employees has surfaced as an issue numerous times over the past few years. The surfacing of this issue indicates that the status quo is not working. There is a chronic problem with respect to the pay cap on Federal employees in the executive branch.

This problem must be corrected if the Government desires to retain its top managers. The Federal Government is blamed for low productivity, inefficiency, and insensitivity, however, these conditions are a direct result of the brain drain that the Government is presently experiencing. There is little incentive to stay in Government service when one's civilian counterpart is more fully compensated.

As the chairman of the subcommittee that oversees the civil service, I intend to continue exploring the possibility of lifting the pay cap for employees in the executive branch. We must do something to curb the velocity of transfer of highly trained personnel from the public to the private sector.

Mr. President, I commend this article to the Senate and I ask unanimous consent that the text be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 18, 1981]

UNCLE SAM'S HEMORRHAGE OF SENIOR MANAGERS

(By Joann S. Lublin)

WASHINGTON.—The U.S. government is suffering a serious "brain drain" of its most experienced top managers and Congress could hardly care less.

Thus a promising experiment in improving government efficiency may be in danger of extinction.

The experiment involves the Senior Executive Service, created by the Civil Service Reform Act of 1978. A cadre of top civil servants gave up certain job protections in return for the right to win bonuses for superior performance. These officials oversee 1.7 million workers and a nearly $700 billion budget, so any boost in their productivity could have a vast ripple effect on government efficiency, a much-stated goal of the Reagan administration.

But the lack of any recent pay raises for the 6,700 senior federal executives and the setting of limits on expected bonuses are hurting morale and contributing to an unprecedented wave of resignations and early retirement. More than 45 percent of nearly 1,000 senior executives polled recently said they may leave the government within the next two years. Many agencies also face increasing difficulty in recruiting qualified replacements from the private sector.

A report released yesterday by the President's Advisory Committee on Federal Pay criticized the widening gap between federal and private sector salaries. "We're losing a serious investment in people," from the resulting "alarming" executive brain drain, committee Chairman Jerome Rosow told a news conference. "You can always get a warm body" to replace federal managers, he went on. "But what's the long-term impact?

"The government is losing and the country is losing" from the inevitable employment of inexperienced top managers, says Robert Wiseman, 57, a retiring SES member who has had trouble recruiting top engineering scientists for the Army.

The Reagan administration recognizes that "the loss of key individuals is going to (have an) impact on the effectiveness of implementing its program," admits George Nesterczuk, an associate director of the Office of Personnel Management, who oversees the SES. He adds a note of hope, however: "It may just be a matter of time before we can turn that whole pay thing around."

"The whole pay thing" affects not only the Senior Executive Service but also 26,300 middle managers in the government. Despite big differences in their duties, all these officials' salaries remain frozen at $50,112 because of Congress' refusal in March to grant raises to them and to itself, the judiciary, the Cabinet and sub-Cabinet. This so-called "pay compression" is "very galling, especially when people who have a great deal of responsibility running an organization bigger than many corporations are getting the same thing as minor functionaries," says Sally Greenberg, Mr. Nesterczuk's predecessor.

Congressional reluctance to invite public outcry over big pay boosts is nothing new. But federal executives' salaries rose only about 35 percent during the 1970s, compared with an 84 percent increase for other white-collar federal workers and a 125 percent rise for private sector executives, reports the General Accounting Office. The GAO says inflation during the decade eliminated 31 percent of the federal executives' purchasing power.

Senior U.S. officials would feel less unhappy about their compensation if Congress hadn't also curtailed bonuses. Under the 1978 law, up to half of an agency's SES positions could receive awards of up to $20,000 a year. But last summer Congress cut those eligible to 25 percent and the OPM knocked down that share to 20 percent after hearing reports of favoritism and use of the bonuses to sidestep the pay ceiling rather than reward performance.

Now the Reagan administration is fighting renewed congressional support for eliminating the senior executives' bonuses altogether—which the House voted to do last year. "This isn't the kind of cut that's really going to hurt people, like cutting back on food stamps or low-income housing," says Aubrey "Tex" Gunnels, a House Appropriations Subcommittee staffer. "You go out to Podunk and see if you can convince them to give someone in government making $50,000 a $10,000 or $20,000 bonus for doing his job."

Nonetheless, poor prospects for pay raises and bonuses have doubled the usual employee turnover rate to 18 or 20 percent among SES members at NASA, the Air Force and other agencies. NASA expects to soon lose 30 senior officials who played important technical roles in the recent space shuttle project. "That can have an adverse impact on the continued development of the shuttle," says Carl Grant, NASA personnel director.

Many bonus winners leaving the government land much better paying jobs in the

private sector. Dr. Robert Levy, 44, is quitting as head of the National Heart, Lung and Blood Institute to become Tufts University's health sciences vice president for twice his $60,000 government salary. After getting a $5,000 bonus last year, he saw little chance of winning another this year because of the restrictions. "But I wasn't so much frustrated with the SES," Dr. Levy says, "as with the fact that I work seven days a week . . . and I'm rapidly moving into debt." Three of his children will attend Ivy League colleges next fall.

Filling Dr. Levy's job and other SES vacancies can't be done easily. The pay ceiling means "you take second best" for top research posts, a National Institutes of Health official says. Five "well-qualified" outside candidates recently rejected offers for one such position.

The Army wanted to consider promoting a middle manager to be a command personnel director. The man, who had been in an executive training program for two years, decided that a move from San Antonio to Atlanta without a pay raise would be too costly. The Army's civilian personnel director, Fred Newman, says, "We're going to have to go for the less knowledgeable person with less expertise. It's like bringing up someone from a farm team like the Alexandria Dukes to play for the New York Yankees."

These problems are not lost on the Reagan administration. Though the President is committed to reducing the bureaucracy, "We want effective people in there," says Donald Devine, director of the Office of Personnel Management. Without a first rate civil service, he adds, "You're going to be wasting billions of dollars."

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The acting minority leader is recognized.

Mr. BOREN. Mr. President, at this time I reserve the leader's time on this side.

Mr. STEVENS. Mr. President, if the Senator does not wish to use the time, we will yield back the remainder of the time on this side.

The PRESIDING OFFICER (Mr. GOLDWATER). Do both Senators yield back the time?

Mr. BOREN. Mr. President, I yield back the leadership time on this side.

RECOGNITION OF SENATOR BOREN

The PRESIDING OFFICER. Under the previous order, the Senator from Oklahoma is recognized.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. BOREN. Yes.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, in the event the Senator does not utilize the full hour, I ask unanimous consent that there be a brief period for the transaction of routine morning business in which Senators may speak therein not to exceed 2 minutes each for the remainder of the time that the Senator does not use in that hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma.

HIGH INTEREST RATES

Mr. BOREN. Mr. President, this morning a number of my colleagues have joined me in a continuing discussion of the problems posed by high interest rates and the danger which high interest rates bring to the general health of our economy.

This morning I am very pleased to recognize for his contribution to this discussion, a senior Member of this body who certainly brings an informed perspective to this whole problem, the senior Senator from West Virginia, Senator RANDOLPH. I yield to him 5 minutes at this time.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I thank the Senator from Oklahoma (Mr. BOREN) not only for his work in the Senate on general subject matters and the representation of a high caliber that he gives to his constituents, but also for the breadth of knowledge and the depth of his understanding of the plague of high interest rates which spread across this country like a shadow which is difficult to lift.

Mr. President, I wish to underscore my feelings that when I talk on this matter it is not a partisan or a political issue with me.

I think that high interest rates impact citizens in all walks of American life, from the small businessman in my home county high in the hills of West Virginia or across the broad prairies or in the northern area of our country; to the farmer, wherever that farmer plants and cultivates and hopefully will harvest; to the teacher who with children in a class, perhaps a one-room class, or in a great university of thousands of students and many of them studying business administration and economics that they will address perhaps this subject; to the factory worker, wherever that factory worker is, man or woman, in the tremendously large industrial plants or in those smaller units of industry across America; and to the retiree, man or woman, who does not want to feel that he or she is a charge upon the Government of which they are a part. They hopefully believe that the leadership of this country, both within the White House and on Capitol Hill and in all political subdivisions, will try to alleviate the problems, and the problem today that plagues them is high interest rates.

This is not the first time that I have stood in the Senate to address this tragedy, as I see it, of continuing high interest rates. I remember that last November in this Chamber, I outlined how the actions of the Federal Reserve are injurious to the American consumer.

At that time, we will recall, the prime lending rate was 17 percent. Today, 7 months later, the rate, as we know, is even higher.

Inflation is a grave concern in this country; perhaps to some people—by the millions—the most serious.

I believe that these higher rates that I discuss continue to fuel inflation in the United States. We are being battered to the economic extreme.

The short-term interest rates, as I have indicated, are having a devastating effect on a broad spectrum of our society. Current rates have caused one of the most severe housing and industrial collapses since the 1930's.

Homebuilders are experiencing the highest rate of bankruptcies since the days of the depression, which I remember well as a then Member of the House of Representatives. The high cost of borrowing has led to unemployment—I believe my figures are correct, Mr. President—of over 1 million American workers in related industries in this country.

It is not just real estate, it is not just homebuilding, it is not just the automotive industries that are being strangled, by high interest rates. The problems of these industries across America cause a ripple effect in other related industries, and so it goes.

I remind Senators that over 5,000 companies in this country supply one great corporate structure alone, General Motors. General Motors is in West Virginia. General Motors is across this country.

Mr. President, that first-time home buyer can expect to pay the high interest rates plus two points on top of that. The median value for a new home is approximately $70,000.

The national mortgage rate is approximately 16 percent. Less than one family in five can hope to purchase that average home. To qualify to buy the median value home, a family would have to have an income of approximately $36,000. Builders are having to pay rates that are even higher when they seek construction loans.

Mr. President, as a result of these interest rates and the impact upon our country and our people, new housing starts have fallen dramatically and drastically. New starts were down 14 percent last month.

For the small businessman it is particularly difficult. He cannot make much profit when he must finance his inventory by borrowing. He just cannot receive a long-term loan. He must keep returning to the lender and keep paying the higher interest rates.

Mr. President, it is time to stop high interest rates in this country. It is time for leadership from within the White House and on Capitol Hill in our constant battle, a drum beating battle, on high interest rates. One of the main culprits of high interest rates, I am sorry to say as I am not angry at someone, is the Federal Reserve, which seems not to give leadership in its autonomy, which is necessary in its relationship with other branches of Government and the American people.

The Federal Reserve may feel that its activities will eventually stop this rise of which I speak. But that, to me, is like using starvation as the solution for the rise in the world population growth. Population growth would slow, but think what would happen.

The Federal Reserve may be strong in its will, and I am sure it is, but it is not helping, in fact, it is a hinderance. It is helping to destroy a lot of Americans along the way, Americans that are attempting to just eke out a living.

The Federal Reserve must recognize the power it wields, and it is time—no,

far past time—for the Reserve to be made, through its own thinking processes, more responsive to the fluctuations of the cycles of economic changes.

Of course, we need short-term relief. We need the President and the administration to help us create this short-term solution to correct the immediate problem. We cannot wait for more and more businesses and citizens to file bankruptcy before determining a cure.

The present economic program the President and the Congress are pursuing is more of a long-term solution to high rate inflation. Lower taxes and less Federal spending will show up on our Nation's balance sheet at a later time. We need relief from the high rates today.

Economics is not an exact science, but we have to have faith that we can correct the problem. If we do this job now we will find the catalyst within good people, thinking people, in reaching our goal of lowering these interest rates.

I came to the Congress in 1933 in the depths of the depression. I will not cite what happened in those days, but we had to act.

On the night of March 19, with President Franklin Roosevelt, on the second floor of the White House, a cold and dreary evening, a wood fire burning, the President was discussing with new Members of the House what he felt must take place. He had met with several groups during the day. I remember one member of our group saying to the President:

> Mr. President, I agree with what you are saying and what you want to do. But you are trying to do too much. You cannot find the American people digesting it.

The President said nothing then but just a little later he took off his glasses and laid them on the desk, looking at the seven of us there. And he said:

> But, gentlemen, do you realize we must act now. By acting now we will assuredly make mistakes, but if we do not act now, perhaps a little later we shall not have even the chance to make the mistakes.

It is my feeling we can no longer wait. The American people expect us to act for them and for our country.

Mr. President, I submit to my colleagues that with the same type of Presidential leadership that President Roosevelt gave, and with similar congressional cooperation we can create a short-term program that will put a halt to the unfair interest rates that plague us today.

Mr. BOREN. Mr. President, I thank the Senator from West Virginia for his remarks and especially for his concluding call to action. I think all of us realize that we cannot postpone action any further. We had $28 billion of withdrawals from our thrift institutions last year, the largest number of withdrawals in the history of the country. We have the highest bankruptcy rate in the construction industry, and an escalating bankruptcy rate for small businesses.

Many other sectors of the economy are also in trouble. It is certainly time to act. That is why all of us have been coming to the floor to speak, not in any partisan way but to urge the President to take note of the situation personally, to come forward and work with us on a plan, one on which he would certainly have cooperation in the Congress.

I thank the Senator from West Virginia for his contribution this morning.

Mr. President, we have also been joined this morning by the distinguished ranking minority member of the Armed Services Committee. It is my pleasure to call upon this very able Senator at this time, the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, how much time will the Senator yield?

Mr. BOREN. I yield such time as the Senator requires.

Mr. STENNIS. I would like to have 5 minutes.

Mr. BOREN. I yield 5 minutes.

Mr. STENNIS. Mr. President, I welcome the opportunity to discuss this highly important matter of high interest rates. While I did not get to hear him I read the speech of the Senator from Texas (Mr. BENTSEN), who has spent considerable time on this problem, I feel he is very knowledgeable. I have also read the remarks of the Senator from Oklahoma (Mr. BOREN), and others. We are indebted to all of them for their interest in this matter.

Mr. President, I do not feel close to big business or high financing. I have lived closer to the little man who has to make a living by physical labor in or around small business activities of various kinds.

I know from personal contact with them that this country is in a very serious situation.

The immediate thing which is pressing us are the excessive interest rates which do not fit into our system at all and which will finally trip us up and, I think, really stagnate our system unless something is done soon.

I want to talk for a few minutes about the idea of reducing taxes. Everyone would like to have reduced taxes. Who would not? People like to get tax reductions. But I think the need goes far beyond the mere reduction of taxes. We have reached the stage in our economy when we are going to have to have a new system of taxation.

I know the emphasis now is and has been on collecting money for the Treasury. We have these obligations and we spent this money, so we have to get so many billions of dollars for the Treasury. Then we go out and forage for it.

We have surrounded the taxpayer with so much, with so many demands, that he has had to run for cover, almost, and particularly in the savings and investment fields.

There are many wage earners in America. If given a chance, they will continue to save systematically, and that is the key to a lot of our economy. We have to shift gears, as I see it now, and give that couple or individual an opportunity, a special invitation, a motive, an incentive, to save money and guarantee them that if they do, they will get a reward for it at the end of the year—not sometime off in the future, but now.

That is what one of these proposals does, provide a special inducement for the saving of money by the individual, and then guarantees that it will not be taken away from him at the end of the year in the form of taxation. Simply put, that is what it is.

Mr. President, that money can be fed into the channels of production. That is where we have to have a lot more money than I had realized—production. Or it can be channeled into a particular phase of production. But I hope that we can get that general provision of law and I shall support it up to several thousand dollars if it is written in and becomes a part of our taxation system and a guarantee to the saver.

Mr. President, I am going to follow this debate and additional hearings. We have been talking about it before, but the most immediate thing, as I have said, is bearable interest rates, interest rates that we can live with, that our people can live with, that will give them a chance, at least, to get a start, to get a home, to get appliances for their homes, to get an automobile—second hand, say—to go to and from work every day. Our economy is built in large part on activities of that kind. Now they are buffeted, they are stranded, they are choked with interest rates of 15 or 16 percent, and in some areas 18 or 20 percent.

Mr. President, this is not news to any of us. We have a chance here to do something about it. Maybe we cannot make far-reaching changes now, but we can lay the groundwork for a new system of taxation, a new system to avoid this intolerable stagnating interest rate. Our financial people throughout the country, our bankers, our industrialists tied to finance, are experts in this field. They know more about it than the Members of the Senate and Congress. I wish that, with the President, they would have a plan worked out that they think will be effective and that can be given a trial run, anyway, shortly, with reference to interest rates. Mr. President, I thank the Senator and I yield the floor.

Mr. BOREN. Mr. President, I think my distinguished colleague from Mississippi for his remarks this morning. In my brief period in the Senate, I have found him to be one of the wisest Members of this body. I have learned a great deal from him, as I did again this morning. I hope that his words will help alert the people of this country and alert the members of the administration, as well as all Members of Congress, who share in this responsibility, to the dangers of a short-term policy of high interest rates, a policy which simply must be changed if we are to avoid serious economic problems in our country.

Mr. STENNIS. Mr. President, I thank the Senator.

Mr. BOREN. Mr. President, I yield to the Senator from Maryland.

Mr. SARBANES. Mr. President, I am pleased to join my colleagues, particularly the distinguished Senator from Oklahoma, who has taken such strong leadership in this matter, in this very critical analysis of the high-interest-rate policy, which I think has the poten-

tial to bring economic catastrophe to the country.

HIGH INTEREST RATES HURT AMERICA'S PRODUCTIVE SECTORS

Mr. President, during the past few days, the Senate has been conducting a colloquy on the damaging effect of high interest rates on the American economy. While interest rates play an important part in the ability of the economy to generate new savings and affect the size of the Federal budget and the Federal deficit, the place where high interest rates have caused the most damage in recent years is on vital productive sectors of our economy—on farmers, small businesses, and homebuilding.

Let me begin with farmers. In a recent report entitled "1980: A Difficult Year for Farmers," the Federal Reserve Bank of Richmond found that high interest rates were a major factor in making 1980 a year that farmers in the Fifth District—which includes Maryland—would like to forget. During 1980, the study found that the average interest rate on bank loans to farmers came to 16.6 percent. This was 5.6 percentage points above the 1979 level and the highest rate that farmers in Maryland have ever had to pay for bank loans.

To make matters worse, many banks have begun pricing their farm loans at variable rates, with many farmers now having to pay the prime rate plus an additional 1 or 2 percentage points. With the prime currently at 20 percent, this means that many farmers are now borrowing money at an interest rate of 21 or 22 percent.

This surge in interest rates has occured at a time when farmers have become increasingly reliant on debt to finance their business operations. Farm debt today amounts to almost 20 percent of the total value of farm assets, a ratio that has more than doubled during the past 30 years.

As a result, the Nation's 6.1 million farmers have been putting off productive investments and other business activities that are needed by this Nation if we wish to continue having an abundance of relatively inexpensive food. As the Federal Reserve Bank of Richmond pointed out:

Many farmers who would have had to obtain loan funds to purchase "big ticket" items, such as machinery and equipment, decided against buying in 1980. Some had to make the decision to reduce the purchase of fertilizer an item usually bought on time.

Furthermore—

Because of the extremely high interest rates and the high and rising costs of production, the demand for farm loans remained weak throughout the year, particularly so at commercial banks. Farmers apparently stayed away from loan windows in large numbers, since loan demand each quarter was reported to be well below year-earlier levels.

With interest rates even higher today than they were during most of 1980, it is highly likely that farmers are even more reluctant to take on debt. In fact, the Federal Reserve Bank of Richmond reports that many farmers have become so burdened by debt that selling out has become the only solution.

For small businesses, the high interest rate burden has also become a source of financial disaster.

According to a recent study of "Small Business Capital Formation" by the Board of Governors of the Federal Reserve, the primary financing need of small businesses is for short- and intermediate-term credit for the support of inventories and receivables. For firms with less than $10 million in assets—97 percent of all business concerns—these two items account for two-thirds of total company assets, compared to less than half for larger firms. Small businesses obtain the credit to finance inventories and receivables from two major sources. According to the Federal Reserve study, commercial banks and finance companies are the most important sources of short- and intermediate-term credit for small businesses, while trade credit provided by suppliers of merchandise, materials, and equipment is the other important source.

Although a recent report by the House Banking Committee indicates that many large borrowers can obtain bank loans at interest rates that are well below prime, most small businesses have to pay 1 or 2 percentage points above prime. This puts small businesses at a competitive disadvantage.

In addition, according to two presidents of smaller corporations who recently testified before the Joint Economic Committee, rising interest rates squeeze smaller businesses from two sides. First, high-interest rates discourage small businesses from borrowing to make productive capital investments. Rather than being locked into today's record interest rates for a period of years, businessmen will put off investing until rates decline. Second, high-interest rates discourage customers from buying the output of small businesses, particularly those in capital goods industries. As one corporate president put it,

Your markets disappear or shrink terrifically because your customers do not want to buy when their cost of capital is as high as it has been recently.

As a result, the failure rate for small businesses rises precipitously when interest rates go up. During the fourth quarter of 1980, for example, the business failure rate hit 47.6 per 10,000 business concerns, almost double the 1978 rate of 23.9 per 10,000, when interest rates were only half their current level. During 1980, almost 12,000 businesses failed, the highest figure in more than a decade and almost double the number of failures in 1978.

The situation is particularly critical within the homebuilding industry. Housing starts last month stood at an annual adjusted rate of 1.1 million, a decline of 14 percent from the previous month, below last year's total of 1.3 million and well below the estimated 2 million annual starts necessary to meet nationwide demand. Our homebuilders met that 2-million-start target in 1979; since that time, however, starts have declined nearly 50 percent. Unemployment in the construction industry stands at 16.3 percent—1 in every 6 workers.

Construction declines when homebuilders cannot afford to borrow at today's unprecedented high-interest rates; by the same token, demand for homes declines because prospective purchasers can no longer afford home mortgages. The median price of a new home in the national capital area, where many Marylanders live, has reached $97,200. With mortgage rates now at approximately 16 percent, purchase of such a home would require an annual income of approximately $50,000—more than double the average national income of $21,000 and well beyond the reach of most Americans.

Mr. President, ours is a nation where homeownership has been not an impossible dream at all but an achievable goal. Homeownership has been an anchor of stability in our communities and neighborhoods, and an incomparable resource to American families; and our thrift institutions have made homeownership feasible on a broad scale. Yet despite the unique contribution which the thrifts have made to strengthening the social fabric of the Nation, it is precisely these institutions which are most critically affected by the current interest rate crisis.

Caught in the squeeze between the older mortgages they hold at lower rates and the much higher rates which they must pay today in their efforts to attract new deposits, their grave and urgent situation is well documented: An April loss, industrywide, of $4.6 billion, an expected 500-percent increase in mergers in 1979–81, with the size of the industry reduced within 5 years from 4,500 to 3,000 institutions. If the current situation is not remedied, we will face a total transformation of the thrift industry, and the result will be a grievous loss that is both social and economic in nature.

I wish to emphasis that point, and apply it broadly: The consequences of permitting the present policy to continue—and there is no assurance that today's high-interest rates will not move even higher—will be social as well as economic. Certain established sectors of our economy, even where productivity has been conclusively demonstrated, will not be able to survive if credit is not available at reasonable cost. In today's markets, small businesses and farms, younger and less affluent families are at the greatest disadvantage.

To to the extent that they attempt to fulfill their traditional responsibility for financing housing, thrift institutions will be more heavily penalized; and speculative investment, with its prospect for greater immediate monetary returns, will too often squeeze out the less spectacular but steadier, longer-term productive enterprise.

As John Winthrop Wright of Wright Investors' Services observed recently in a thoughtful column in the New York Times:

High interest rates diminish the producers and expands the lenders.

They inhibit and diminish long-term capi-

tal investment, productivity, research and development, producton and development of new sources and efficient applications of energy.

They do not encourage capital formation and its productive applications.

They bankrupt small businesses, increasing the concentration of economic productive power, drastically reducing effective, competitive price cuttings.

If current conditions continue, the loss to our society will be incalculable.

Mr. BOREN. Mr. President, I thank the Senator from Maryland for his remarks. I appreciate his contribution to the discussion this morning.

At this time, Mr. President, I yield to the ranking minority member of the Committee on Small Business, a person who has made a real contribution to economic policy discussions and economic plans as a Member of the Senate. He is recognized as a Senator with a sound perspective on fiscal and monetary policy, the Senator from Georgia (Mr. NUNN). I yield such time as he requires.

Mr. NUNN. Mr. President, I thank the Senator from Oklahoma. I join in the comments made by the Senator from West Virginia and the Senator from Mississippi in praising the Senator from Oklahoma for taking this lead in a subject which I think is the most important economic matter facing our Nation.

Mr President, high seemingly chronic, and accelerating inflation is having a devastating effect on our Nation's economic performance. It is a principal cause of the exceedingly high interest rates dealing punitive blows to both consumers and industry, especially the savings and loan and homebuilding industries. Taken together, the triple evils of high interest rates, high inflation, and high taxes have radically changed the economic reality within which investment, savings, and purchasing decisions are made. As a result, they have caused the economy to operate at far below its maximum potential and optimum level of efficiency.

There is no simple solution to these problems. They feed upon one another to such a degree that we will not overnight find some economic elixir. It is clear they will have to be defeated, not one by one but in tandem.

Of the three, hundreds of Georgia farmers and small business owners and, for that matter, others throughout the Nation, have told me that high interest rates are their most immediate problem for they threaten their very survival. Through lowering interest rates, we can dampen inflation by reducing business costs, increasing investment, and promoting productivity growth. Delay in reducing interest rates only means more business bankruptcies, more dollar outflows for savings and loans. tighter mortgage money, more difficulties for home buyers, and more idle construction workers. Quick action is essential, but it must also be sound action.

Savings and loan institutions, squeezed by low savings, high interest rates, and mortgages yielding less than the current interest being paid out by them, are being drained by massive outflows of money. They cannot wait months for corrective action to be taken.

In March and April alone, the savings and loan industry lost more than $6.7 billion in deposits. Their liquidity crisis has become critical. Already this year, the Federal Savings and Loan Insurance Corporation has had to supervise 7 mergers of troubled S. & L.'s compared with 11 mergers in all of 1980. On May 19, for the first time in 10 years, the FSLIC had to pay off depositors of a savings and loan that failed.

Mr. President, the liquidity crisis does not just affect thrift institutions; it has touched the lives of hundreds of thousands of families by decimating the housing industry. Lenders cannot lend, builders cannot build, and consumers cannot buy with mortgage interest rates exceeding 17 percent.

Ninety-five percent of all potential home buyers have been priced out of the housing market by high interest rates.

It now takes an income approaching $40,000 to $50,000 to be able to afford to buy a typical home.

Just last month, housing starts slid 14 percent and now stand at slightly more than 1.1 million, the lowest point in a year.

Because of high mortgage interest rates, owning a single-family home has become a fading dream. We are in the process of losing the legacy of the affordable single-family home unless interest rates are reduced.

As Herman Smith, president of the National Association of Homebuilders has said:

Now, however, that dream of owning a home is fading fast for millions of young Americans just starting out, beginning careers and families of their own. Unless current trends are reversed soon, a housing cost crisis of unknown proportions could engulf this nation, pitting our generation of Americans against another and further pushing from the mainstream of American society those who are being denied decent, affordable shelter—the young. the elderly, and the poor.

Although many factors have contributed to the crisis facing the homebuilding and savings and loan industries, two are most predominant: Inadequate savings and heavy Government borrowing crowding the private sector out of credit markets and eating up what little savings there are.

Balancing the Federal budget and getting the Federal Government to borrow less is a key to reducing interest rates. The Senate's action to reduce Federal spending nearly $40 billion is clearly a step in the right direction. It represents a significant and necessary effort to shift the sources of economic growth from Government to the private sector. Without taking the affirmative action of slashing the growth of Federal spending and reducing the deficit, we will have no real chance of bringing high interest rates and inflation under control. But that is not enough. More must be done.

We need to enact specific tax incentives to encourage Americans to increase their savings. I support a multiyear tax cut but believe that giving people an incentive to save must be a priority item in that bill. In fact, I believe it must be the priority.

The administration's initial 30-percent tax cut proposal had no specific provision in it to stimulate savings by middle-income Americans. It represented a shotgun approach to the problem and it was hoped that it would increase savings. In my mind, that proposal was not good enough.

The administration has now submitted a compromise package which moves in the right direction and incorporates several proposals which a group of moderate-to-conservative Senators and I endorsed several months ago, under the leadership of the Senator from Oklahoma. The administration has agreed to expand and strengthen individual retirement accounts, as we suggested. The Senator from Rhode Island (Mr. CHAFEE) has done a great deal of work in this area, and I believe that the IRA expansion is something that can really help promote saving. Work done by the Urban Institute indicates that expanding IRA's will "increase the savings rate modestly and the flows of funds through S. & L.'s to mortgages by approximately 4 to 10 percent." As such, it will help provide the S. & L.'s and the housing industry with needed relief, but I believe even more can be done.

Mr. President, I am pleased that the Senate Committee on Finance is moving in this general direction. They have incorporated several provisions in their bill which should encourage saving. I believe we need to look at this carefully, however. By adding provisions to the tax bill creating 1-year savings certificates and expanding individual retirement accounts we have again moved in the right direction. But I do not believe we have gone far enough to promote sustained long-term saving.

We cannot restore the housing industry if we do not provide incentives for long-term savings. Short-term savings are important; but if we do not get people to save money for the long term, we are going to have a hard time finding any lenders who are going to lend money for periods of 25 to 30 years when they may again suffer from an inadequate savings base in 6 months or a year.

So we have a real challenge. The administration and the Senate Finance Committee are beginning to move in the right direction. The administration is still being somewhat reluctant, feeling that automatic savings will take place if people simply receive an individual tax cut. I believe that is wishful thinking. I think the tax structure today is not conducive to increased savings, even with tax cuts.

We have to find a way in the tax bill to give maximum incentives to the Amer-

ican people to save money, to give them the incentive to save money for longer periods of time, thereby helping restore the housing industry, the thrift institutions, and the American dream of owning a home. This is the top priority of the tax bill, and I believe that the tax bill is the top priority economically that we face.

I have among my constituents many small business people and farmers who tell me that a tax cut of 5 or 10 or 15 percent is going to be totally irrelevant to their future; because, with a prime rate of 20 percent, they will not be paying any taxes, no matter what the tax rate is. We have farmers and small businessmen all over this country who are not going to be paying taxes with a prime rate of 20 percent. For them, a tax cut is illusory.

The Federal Reserve Board, Congress, and the administration have to work together to reduce interest rates. I am not one of those who believe that the Federal Reserve can simply wave a magic wand and get interest rates down. We have passed that point. But I do believe that the Federal Reserve, Congress, and the administration have a duty to work together to try to send the right signals to the financial community and the public, that we are going to restrain Government borrowing and greatly increase the incentive for the American people to save money.

Those two things together can change the psychology of buy now, save later. When that psychology is changed, we can begin to change the devastating interest rates that I believe are in danger of wrecking large segments of our economy.

I again thank the Senator from Oklahoma for his leadership in this area.

Mr. BOREN. Mr. President, I thank the Senator from Georgia for his remarks, and I thank him for the leadership he has shown in the area of encouraging savings in this country.

He has recognized for many years—not just this year, but virtually for all the years he has served in this body—the importance of getting the saving ratio up so that we can get the investment ratio up in this country. He has been a leader in that effort, and I commend him for it. I appreciate the leadership he has given to that cause.

As the Senator from Georgia has pointed out, the action of the Finance Committee, while it is a modest step in the right direction, and while it remains to be endorsed by the administration, is not enough. What the Finance Committee acted on was a 1-year bill to provide for savings certificates of up to $1,000 per individual, to be tax exempt for only 1 year. That is insufficient to generate the kind of savings necessary in this country, and it is insufficient to generate the availability of credit—certainly long-term credit—at reasonable rates.

The financial institutions, if they know that they only have a 1-year program, cannot, on the basis of a short-term program, make long-term loans on autos or homes. Therefore, we must do more.

The signs of danger are all around us. We have heard about what has happened to the thrift institutions.

The Savings and Loan Insurance Corporation has in its reserve fund at this time approximately $5 billion—$5 billion to insure $510 billion worth of deposits. That fund was drawn upon to the tune of $1.2 billion last year, and just in the first 5 months of this year, the number of troubled institutions has more than doubled. There are now more than 260 certified as troubled institutions. At the beginning of this year, there were only 120 in that situation.

The problem grows in the homebuilding industry. Homebuilders are experiencing the highest rate of bankruptcies in 45 years. One and a half million workers in construction-related industries have been laid off their jobs, resulting in the loss of $24 billion in annual wages and annual tax revenue losses of $6.4 billion. New housing starts declined from 2.02 million in 1978 to 1.7 million in 1979 and to a devastatingly low 1.2 million in 1980. Reflecting this decline is an estimate that 20 percent to 30 percent of the people who were in the building industry in 1979 are out of business today, and about 757,000 construction workers are out of jobs and are now on the unemployment rolls.

The effects on every segment of our economy are clear. In agriculture, for example, the total interest costs have doubled in the past 4 years, reaching an alltime high of $14 billion. At the same time, the prices received by the farmers have not increased.

I do not need to point out the devastating effect on the agricultural economy. It is clear for all to see. Interest charges on a $400 heifer calf bought today would be $178 for 2 years. There is no way that a rancher can come out ahead on the sale of calves with that kind of interest charge involved.

The number of small business bankruptcies last year more than doubled. It was closely related to the high rate of interest and financing of inventories.

In the steel industry it is estimated that we now have between 400,000 and 500,000 workers out of jobs—again partially related to the high interest rate situation. The industry simply cannot modernize at the current high interest rates.

It is estimated that for the U.S. steel industry to remain competitive and to modernize their plants will cost some $7 billion per year. The industry is only able to move at approximately half that rate in its modernization program.

Mr. President, we have been joined on the floor by the distinguished Senator from Michigan. He, of course, represents a State that has many great industries located in it, one of those being the automobile industry. The automobile industry as much as any other has been critically injured by the high interest rate policy. Auto dealers report that it now costs them $500 per month for each unsold car that stays on their lots. This is practically the entire profit margin of an auto dealer for an average price, $7,500 car. The result is that 1,600 auto dealers were forced out of business in 1980.

I know that the Senator from Michigan knows firsthand about the suffering that has been caused in that industry and others in his State by high interest rates.

Mr. President, I recognize the Senator from Michigan for 7 minutes at this time.

THE ADVERSE EFFECTS OF HIGH INTEREST RATES ON THRIFT INSTITUTIONS

Mr. RIEGLE. Mr. President, I appreciate this opportunity to make a few remarks regarding the effects of high interest rates on thrift institutions and I welcome the chance to join my colleagues in discussing this issue.

Several years ago I became very deeply involved in a continuing effort to help solve the problems of the automobile industry as a member of the Banking Committee, as chairman of the Subcommittee on Economic Stabilization, and as a member of the Commerce Committee.

Today, another urgent situation calls for the immediate attention and action of Congress. I refer to the serious difficulties confronting our Nation's savings and loan industry, and I shall concentrate my remarks in that area.

Traditionally, when interest rates are high a number of predictable sectors of the economy bear a disproportionate share of the resulting dislocation. Small businesses, public utilities, State and local governments, and consumers are typically adversely and seriously affected.

For small businesses, which operate on limited profit margins, the cost of borrowing cuts so heavily into profits that they can no longer afford to borrow. For consumers, who typically borrow money to purchase durable goods such as a car or household appliance, high interest rates force them to postpone purchase of these items, in turn adversely affecting heavier industries. The ripple effect is felt throughout the entire national economy.

But hardest hit and the most predictably affected of all sectors of the economy by expensive credit are the participants in the mortgage market and construction industry, including borrowers and lenders of mortgage credit, construction companies, and construction workers.

Interest rates are such a large proportion of monthly mortgage payments that even relatively modest interest rate increases price large segments of would-be home buyers and builders out of the market. With today's interest rates, it is estimated that less than 20 percent of American families can afford an average-priced house.

The Democratic conference resolution on high interest rates and thrift institutions states that "there is an immediate threat posed to the health of key segments of our economy caused by the effects of high interest rates." I absolutely agree.

Let no one underestimate this threat as it relates to the survival of our savings and loan associations. As almost everyone knows savings and loan associations were created to encourage personal and family thrift and to facilitate mortgage-type financing of home-purchase loans, and also loans to finance the construction and purchase of apartment buildings, loans on business structures, and loans on other residential real estate.

For over 100 years—since the first savings association in the United States was created in 1831 in Frankford, Pa.—thrifts have helped meet the home financing needs of the growing number of people who desired a home but did not have the capital or could not obtain the credit to acquire one. Savings and loan associations thus deserve a large portion of the credit for the fact that the level of homeownership in America is higher than anywhere else in the world.

The twin problems that plague this crucial $800 billion industry are widely recognized. Deposits—the lifeblood of these institutions—are being drawn away in record amounts by money market mutual funds and other entities which are able to pay higher rates of interest for them. At the same time, savings and loan associations are suffering substantial continuous losses, resulting from the necessity of funding long-term, low-rate mortgage assets with short-term, market-rate deposit liabilities. The grim statistics illustrate this twofold dilemma. As to deposit outflow:

In April, savings and loan institutions had a record $4.6 billion net savings outflow eclipsing the previous mark of $2.1 billion in March.

Less than 2 years ago, money market funds stood at $35 billion. Since that time, these funds have tripled in size reaching total assets of $122 billion last week. This growth of the virtually unregulated money market funds has come, in large part, at the expense of the heavily regulated thrift institutions.

The earnings data is equally staggering:

Currently, more than 60 percent of savings association liabilities are at market rates of interest while two-thirds of savings association mortgage holdings are at fixed rates below 10 percent. The typical thrift these days earns about 9 percent on its outstanding loan portfolio but it has to pay out over 15 percent interest on 6-month money market certificates and 12 percent on 30-month certificates.

During 1980, savings and loan associations had their poorest earnings experience since the 1930's. The industry had its worst quarterly earnings record ever in the January–March quarter of 1981 when aggregate losses totaled $688 million.

Final figures for the first quarter of 1981 show that in only four States—Minnesota, New Mexico, Nevada, and Oklahoma—were savings and loans showing any earnings at all.

In New York alone, three big S. & L.'s with a total of $4.5 billion in assets are likely to lose their net worth, the excess of assets over liabilities, in 3 or 4 months.

According to Alan Greenspan 9 out of 10 savings and loan institutions are now in the red on income account.

From its founding during the depression until last year, the Federal Savings and Loan Insurance Corporation (FSLIC), the main insurer of deposits at savings and loan associations, had to deal with an average of about one thrift institution failure a year. Already this year the Federal Savings and Loan Insurance Corporation has had to liquidate one major savings and loan association, the Economy Savings and Loan Association of Chicago.

It is estimated that savings and loan associations will lose a total of $8 billion in 1981.

In March alone, the FSLIC added 114 S. & L.'s to its problem list, increasing the total of troubled thrifts to 263. The agency concedes that 120 may be left with little or no net worth by year-end and that another 100 could be in the same fix in 1982.

It does not take a financial wizard to realize that any depository institution cannot survive indefinitely if that institution's profit is dependent upon the difference between low-yielding, long-term fixed rate mortgage assets, and high interest rate savings deposits. Nor, of course, have savings and loan associations been the only victims of these circumstances. The effects on all aspects of the housing and construction industry have been devastating. People have been put out of work, individuals and families have been left unable to buy homes, industries involved in the infrastructure of housing and construction have been stagnating and that portion of our financial network whose primary responsibility it is to make housing available and affordable to all Americans has been left fighting for survival and in a crisis need of assistance.

While a minimum of 2 million new housing units per year are needed throughout the 1980's the annual rate as of April 1981, was a mere 1,343,000. This shortfall represents untold deprivation of jobs—not only in the construction and related industries, but also in businesses which draw their customers in part from these industries—and pose the threat of a serious housing shortage in the near future.

Unless interest rates come down sharply—and stay down—in the coming year, and regulations are changed to allow depository institutions to compete more fairly with nondepository institutions, hundreds of savings and loan associations will either have to be rescued by the Federal Government or driven into bankruptcy.

Another alternative is for the Congress to recognize the full extent of the problem and act now to address and help solve it.

Last week I joined a number of my colleagues in signing a letter to the distinguished chairman and ranking minority member of the Senate Finance Committee—Senators ROBERT DOLE and RUSSELL LONG, respectively—urging them to meet the problem by adopting savings incentive legislation as part of this year's tax cut bill. Specifically, we proposed permitting depository institutions—savings and loan associations, commercial and savings banks, and credit unions—to issue special 1-year savings certificates yielding tax-exempt interest rates up to 70 percent of the 1-year Treasury bill rate. Institutions would be allowed to offer such certificates only for a 1-year period. Individuals investing in such certificates would be able to exclude from income tax up to $1,000 of the interest earned—$2,000 in the case of a joint return.

Although not directly targeted to housing, the legislation would both increase deposit flows at mortgage-oriented financial institutions, such as savings banks and savings and loans; and, facilitate the profitable use of such deposit flows, thus strengthening the earnings position of the thrifts. In short, our proposal directly attacks both elements of the problem currently facing savings and loan associations. Moreover, such a certificate program would have a smaller budgetary impact than would the failure of many thrifts with its resultant activation of Government deposit insurance programs.

In a major and important step forward, the Senate Finance Committee has just voted to create this new kind of tax savings certificate. Now the entire Congress must act to insure that this legislation becomes law before the August recess begins.

Also, Congress should take the following steps to assist savings and loan associations:

First, provide the following additional asset powers for savings and loan associations: Direct equity ownership of real estate; construction loans on commercial property; investment in other savings and loan associations to engage in correspondent banking activities and investment in nondeposit obligations of other FDIC- and FSLIC-insured institutions; and acquisition and development loans on commercial and industrial real estate (for example, loans to develop industrial parks).

Second, increase the exemption for investment retirement accounts.

Third, broaden the representation of the Depository Institutions Deregulation Committee to more adequately represent housing considerations.

Fourth, eliminate the duplicative reg-

ulatory burden imposed by the fact that real estate lenders are required to comply with both the Real Estate Settlements Procedures Act and the truth-in-lending law.

Fifth, correct the Internal Revenue Service ruling which reduced the tax benefits of loss carrybacks for savings associations.

Last year Congress passed historic legislation which will, in due course, substantially equalize the powers of financial institutions. Even when the "level playing field" becomes a reality, however, there will be a serious need for institutions to provide mortgage and other specialized real estate related credit. I have no doubt that savings and loan associations—with their expertise gained in over 100 years of real estate financing, their deep roots in communities of every size throughout this Nation, and their sincere dedication to make the American dream of homeownership a reality—will continue to be in the forefront of this effort.

What I urge today are solutions to problems caused not by any fault on the part of thrifts, but rather by economic circumstances beyond their control, coupled with their exemplary success in fulfilling the mission assigned them. By assuring the vitality of the thrifts, we pass on to future generations a heritage we have received—namely an industry willing, ready and able to bring homeownership to a large and ever-increasing segment of our citizens. I pledge my efforts to support this industry in every responsible way that I can and I am delighted to join as a sponsor of the Democratic Resolution on High Interest Rates and Thrift Institutions.

I thank the Senator for yielding.

Mr. BOREN. I thank the Senator from Michigan for his remarks. I hope the words he has spoken this morning will again help to alert the American people, the Congress and the administration of the need for action and the importance of not further delaying action. We simply must not let the situation become so critical that it shakes the basic confidence of our people in our economic health and future growth of our economy. Once that confidence is lost it is very hard to restore it, and I appreciate the comments which have been made by my colleague from Michigan this morning.

Mr. President, I shall ask unanimous consent to have printed in the RECORD a resolution passed yesterday by unanimous vote by the Democratic conference, and to call the attention of my colleagues to that resolution.

The resolution addresses itself to the immediate threat posed to the health of key segments of our economy by the effects of high interest rates.

This resolution was not offered in any partisan spirit but rather out of a sincere concern by those who supported it that while we may be on the right track in terms of addressing the long-range economic problems of this country in terms of revitalizing our economy, in terms of getting Federal spending under control to relieve pressure on interest rates, in terms of increasing private sector investment in our country, if we do not act in the short run to deal with the problem of high interest rates we could snap the economy before we have time to take care of the long-range cure.

It does not do any good, Mr. President, to have the right formula for a long-range cure if the patient dies in the emergency room for want of immediate attention. That is what we are trying to say, Mr. President. We hope we will be joined by those from the other side of the aisle. This is not a partisan matter and it should not be a partisan matter. It should be a matter of concern for every American citizen. All of us are in the same boat together, all of us are working to try to revitalize our economy.

It is my hope that these conversations which we have been having on the floor will help to alert all of the Members of this body, as I have said before, and will help to draw the President's personal attention to this matter so that a short-term and emergency program can be devised.

Mr. President, I ask unanimous consent that the Democratic conference resolution adopted yesterday be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

DEMOCRATIC CONFERENCE RESOLUTION ON HIGH INTEREST RATES AND THRIFT INSTITUTIONS

Whereas there is an immediate threat posed to the health of key segments of our economy caused by the effects of high interest rates; and

Whereas the administration has thus far failed to heed the signs of trouble by devising a program to prevent a critical situation from developing; and

Whereas it is far better to prevent a serious situation from developing rather than trying to deal with it after it has become critical; and

Whereas the serious and immediate nature of the problem is clear for all to see from the following set of facts:

(1) The withdrawal of depository reserves in the Nation's thrift institutions amounted to $28 billion in 1980 and have continued at the same pace through the first quarter of 1981. This constitutes the greatest reduction of monetary reserves in the history of this country,

(2) High interest rates have deprived all but a tiny percentage of all the people of the Nation of the opportunity to buy a home or conduct personal and business financial planning,

(3) On an annualized rate basis, housing starts have declined almost 2 million this year, pushing the unemployment rate in the construction industry to twice the national average,

(4) High interest rates have already eliminated one million jobs, and have placed farmers and small business people who must finance inventories on credit in desperate circumstances: Now, therefore, be it

Resolved, That the Senate Democratic Conference urges the President and the Administration to take notice of the serious and immediate nature of the threat to our national economy and further urges that a program be devised to keep the situation from becoming more critical through the use of some or all of the following actions:

(1) Increase the national pool of funds available for savings and investment through the use of appropriate tax exemptions on interest earned in an effort to assist hard-hit financial institutions and to reduce the cost of home mortgages through lower interest rates, helping to stimulate the construction industry and to restore the dream of home ownership for all Americans,

(2) Take appropriate regulatory action to assure equal competitive opportunity for all financial institutions,

(3) Take appropriate action on existing regulatory statutes to improve the regulatory agency's ability to address financial institution difficulties and,

(4) Urge the administration to take such steps as are possible to lower the current high rate of interest which is severely damaging personal and corporate savings and investment planning.

Mr. BOREN. Mr. President, at this time it is my pleasure to yield to the distinguished junior Senator from Michigan who, like his colleague who has just spoken, has seen first hand in his own State the devastating effects of the high-interest rate policy.

Perhaps no single State in the country has been so hard hit by the effects of a high-interest rate policy in terms of unemployment, in terms of slowdown in the economy.

The Senator from Michigan has certainly made a great contribution to the national debate on economic policy, and I am pleased to call upon him and to yield to him at this time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank the Chair and I thank my friend from Oklahoma.

Before I begin with my brief remarks I wish to commend him for the leadership he has taken in an area that is absolutely critical to our economy, the problem of our high interest rates. These record high interest rates, Mr. President, have spelled disaster for many credit-sensitive sectors of the economy, autos and housing construction among them. Housing construction has come to a near standstill in my State of Michigan and high interest rates on consumer loans have been a major factor in the slack in domestic car sales.

There is, perhaps, no economic factor more damaging to the economy than high interest rates. Economic recovery will become an academic point in the debate over supply-side economics if interest rates remain at current levels. If the administration does not act to modify its abstract doctrinaire view of the economy and affirmatively counter these high interest rates, the economy will fall far short of the administration's rosy predictions and, more specifically, we can witness the demise of thrift institutions.

The thrift industry has caught the full force of high interest rates. The industry, once the symbol of hard-earned savings and financial security, is a time bomb ticking away.

The Federal Government, with a meager $5 billion in insurance against default, is hardly in a position to cover over $500 billion in deposits in the event of substantial default. In the first 3 months of this year alone, the insurance corporation has already paid out $375 million in assistance to the savings and loan industry.

Inflation and record high interest rates have drastically limited the ability of thrifts to provide an adequate flow of mortgage funds at a price most potential homebuyers can afford. Traditional sources of funds have dried up as savers have become more sophisticated and sought competitive rates to compensate for the high rate of inflation.

Because of thrifts' high cost of funds, which is now estimated to average 10 percent and is continuing to rise further, the thrift industry is facing operating losses during the first half of this year. This is because their average mortgage portfolio yield is highly inflexible since the majority of mortgages held by Savings and Loans are of a long term, fixed rate nature with interest rates that reflect the much lower rates prevalent in the past.

Inflation and the slow down in savings and loans deposits mean expensive mortgages. For the most part, only affluent or two income households can afford a first time home purchase. Builders have also felt the effect of the squeeze in housing finance. There were only about 1.3 million housing starts last year, off sharply from the 1.75 million units recorded in 1979. Monthly housing starts this year indicate a seasonally adjusted rate of 1.15 million units, a further devastating downward trend.

In the face of this downturn the need for housing is greater than in any previous period. Demographic pressures are dramatically increasing the demand for additional housing during the current decade. The coming of age of the baby boom generation will generate a need for about 22 million new dwelling units during the eighties, compared with 17.5 million units during the past decade. Some 43 million Americans will be reaching the age of 30 during the eighties, compared with 32 million during the seventies. The demand for housing, owner occupied and rental, will be unprecedented. Unfortunately, the financial structure that has traditionally met this challenge is in dire straits.

Because of the affordability problem, the growing demand for housing is unanswered and the competition for funds, as great as it is now, will only increase in the future as the Nation tries to reindustrialize, modernize its industrial plant and equipment, and invest in new technologies. For example, efforts to increase the Nation's energy independence will be very capital intensive. Financing all these various endeavors will severely strain our Nation's extraordinary housing needs. The adverse impact on housing is already a stark reality. Last year, the total amount of mortgage loans made by thrifts fell to $71.3 billion, 28 percent below 1979, and mortgage lending has continued to fall sharply in the early months of this year.

Major structural changes will be necessary to meet the housing challenge of the eighties. Whether these efforts include the creation of tax-exempt interest bearing accounts in thrift institutions tied to housing finance, the purchase and the rediscount of the low-yield, long-term mortgages held by thrifts, the creation of new mortgage instruments, or any other major revision that promises to restore vitality and affordability to the mortgage market, we must act now.

In the first quarter of this year, single family and multifamily housing permits in Michigan have totaled 3,450. This contrasts with almost 6,000 single and multifamily housing starts registered in the first quarter of 1979.

I note the action the Finance Committee took Monday in approving a $1,000 tax-exempt savings certificate to be offered by banks, credit unions, and savings and loan institutions. I believe, however, that we also need better targeted provisions if the savings and loans and the housing industry are to receive a real boost.

Mr. BOREN. Mr. President, I thank the Senator from Michigan for his remarks, especially for his comments about the nature of the ticking time bomb that we face in terms of high interest rates, and the effect on the economy.

Mr. President, I would sum up by simply saying I hope our discussions of the last 2 days in which some 20 Members of the Senate have participated, and others will be adding their comments later today and tomorrow, have served the purpose of calling the attention of all of those who participate in policymaking to the serious nature of this problem. One of the tragedies is that we often wait too long to deal with a problem, and because we wait too long and because we wait until the problem becomes critical, we end up expending far more of our precious resources to solve the problem that would have been unnecessary if we had dealt with it in advance.

Very soon, Mr. President, the next quarter figures for our thrift institutions will be published. By the time we return from the Fourth of July recess those figures will be becoming public.

I am convinced, Mr. President, although I am sorry to say this, that those next quarter reports will demonstrate again the very serious nature of this situation. We do not have a matter of months, Mr. President. We are dealing with a situation that demands action now, not 6 months from now, not a year from now, but now.

It should already have been dealt with. We should have already recognized the danger in the $28 billion worth of withdrawals from the reserves of the thrift institutions. We should have already recognized that we were going to have serious problems in this country when only 3 or 4 percent of the families of America can qualify for a loan on the average now; when we have added a quarter of a million dollars to a 30-year loan to the cost of the average new American house by high interest rates; when almost half of the total cost to the rancher in a calf which that rancher sells includes the interest cost; when in 1 month the entire profit which an auto dealer can earn on a car is wiped out by 1 month's interest payment on an unsold car on the lot; when the number of bankruptcies has escalated as it has in the small business area, particularly among the younger small business people who are trying to get started; when we have the highest number of bankruptcies in the history of the construction and homebuilding field, the highest number since the Great Depression; and when we observe the fact that the insurance corporation, the Federal Savings and Loan Insurance Corporation, has only $5 billion in its reserves to cover $510 billion of deposits in the thrift institutions of this country, Mr. President, if we do not heed those danger signs, we operate at a great risk.

I, for one, think the President is trying to move us in the right direction in terms of long-range policy. I think he is right to try to bring Federal spending under control, to take the Federal Government out of the credit markets and relieve the pressure on interest rates in the long run through that method. I think he is right in trying to reduce taxes so that we can stimulate private savings and private investment.

But, Mr. President, all of those plans will falter and fail if we allow the economy to snap and break in the short run because of high interest rates.

So I would again conclude this morning by urging my colleagues on both sides of the aisles: Let us not allow this to become a partisan matter. Let us each and every one take the time to sit down and look at what is happening in our economy and ask ourselves this question: If I were a small farmer, if I were a small businessman, if I were an auto dealer, if I were trying to manage a thrift institution, if I were a homebuilder or a realtor, how much longer could I stay in business with interest rates where they are now?

Mr. President, I am convinced that if each and every one of us would sincerely pose that question to ourselves, we would no longer wait—we would no longer wait to act in the Congress, we would no longer wait in sending an urgent message to the President join with us in devising an emergency and urgent short-term program to deal with this immediate problem while we work on the long-range cure, while we work to correct the underlying factors that have caused the high interest rates and the other economic problems which we face.

The answer, as Senator Nunn said this morning, will not be easy. We cannot solve this problem with the Government continuing to spend more than it takes in. We cannot continue at the present high rates of taxation and solve the problem We not only move toward a long-range solution, we must have an immediate short-range plan.

● Mr. HEFLIN. Mr. President, I rise in support of Senator BOREN's efforts to bring about a return to stable and reasonable interest rates and to encourage savings through tax incentives.

Never before has our Nation's savings and loan industry faced so serious a crisis. Wildly fluctuating interest rates have plagued the economy and this bellwether industry for over 2 years. Depository reserves in the Nation's thrift institutions declined by a record $28 billion in 1980 and are continuing at the same pace this year. Housing starts have been well below normal with the first-time home buyers being hardest hit. Moreover, our savings rate as a nation has declined to an all-time low, posing even greater threat to the survival of this country's thrift institutions.

At the very eye of this storm lie the savings and loan institutions. In terms of the availability of, the cost of, and the demand for mortgage loans, there has been crisis after crisis. High interest rates have deprived all but 5 percent of all households of the ability to qualify for a mortgage on a home. The number of mortgage loans to first-time home buyers has declined half just between 1977 and 1979, with even fewer homes being bought by new families today. There can be no more stabilizing an element in a healthy economy than owning a home, but if present trends continue, only a small portion of only the wealthiest can afford today's high mortgage interest rates.

The housing industry is intimately tied to the health of our thrift institutions. A sneeze in one yields a cold in the other. The uncertainty of the mortgage interest market has led to an annualized decline of nearly 2 million fewer housing starts. In our second largest industry, construction, the unemployment rate is twice the national average.

The construction industry cannot venture forth because of the uncertainty of the cost of borrowing money. When in doubt about interest rates, prudent contractors do not build houses, and unbuilt houses throw thousands of building trades workers out of work. The human toll is a progression from high interest rates to scarcity of mortgage money to the idle contractors to unemployed carpenters, roofers, and electricians.

Not only are savings and loan institutions facing the uncertainty of the cost of money, they are faced with an even more acute problem of the unavailability of mortgage money. Availability is dependent upon the thrift of the American wage earner. But savings as a percentage of disposable income has declined to the lowest rate in the industrialized world. Americans are not saving because there is no incentive to save. Our tax system encourages consumption, especially in an inflationary economy, by taxing both the paycheck saved and the interest on that saving.

The savings and loan industry, saddled with home-interest mortgages from previous years, cannot offer the incentives necessary to encourage savings by paying high interest on demand accounts. As a result, more savings dollars have been withdrawn from thrift institutions in the past 2 years than ever before. The typical savings and loan in Alabama, and in the country as a whole, is operating at a deficit and faced with a decline in its supply of savings, a decline in the demand for its mortgage loans, and a rise in its cost of doing business.

Mr. President, the policy of high interest rates now being followed by the Federal Reserve Board has resulted in large part in the crisis in the thrift industry. A continued policy of high interest rates will surely bankrupt the savings and loan industry necessitating a bailout undreamed of by either Lockheed or Chrysler. Our economy cannot afford such a bailout. We cannot afford a bankrupt thrift industry and a depressed construction industry either.

The tools available to the administration and to the Federal Reserve Board on one hand, and to the Congress on the other, are several, but they must be used soon and in a coordinated fashion.

First, as this Senator and several of my colleagues have urged, the President should publicly recognize the gravity of this threat to our Nation's economy and should study what should be done to urge the Fed to moderate its high interest rate policy. The Fed should not be condemned in its policy, it should be assisted by administration and Congress alike in seeking equitable remedies to fighting inflation.

Second, savings must be encouraged through a positive program of increased tax incentives to savers. In general, we must raise and make permanent the interest and dividend exclusion from income taxes from the present $200 for individual returns and $400 for joint returns to a more realistic $1,000 exclusion for individual returns and $2,000 for joint returns. At the same time, we should directly encourage savings at savings and loans, banks, and credit unions by encouraging instruments like the proposed All Savers Certificate which would enable savers to exclude from Federal taxation $1,000—$2,000 on a joint return—of interest earned on a 1-year savings certificate between July 1, 1981, and June 30, 1982. At the same time, such a certificate of deposit would be authorized to pay a rate of return not to exceed 70 percent of the average yield on 1-year Treasury certificates. By allowing the average saver to earn what his saved dollar is worth and allow him a tax break, as well, we will stimulate savings quickly and effectively.

Lastly, we must make it our Nation's policy by constitutionally mandating a balanced Federal budget. In no small part, the real cause of high interest rates lies in the fact that the Federal Government is by far the greatest borrower in our Nation's money markets. Huge budget deficits require massive governmental borrowing at high interest, driving the private sector from the money markets. The overwhelming demand by the public sector has forced the private sector out with a telling effect on productivity and industrial expansion. Now more than ever before in our free market economy, Government is a competitor to credit and the thrift industry is its most obvious victim.

I am confident that through a multifaceted policy of regulatory reform and targeted tax reductions, we can lower interest rates and encourage savings thereby lessening the inflationary spiral and achieving real growth, real productivity, and a healthy economy.●

Mr. CRANSTON. Mr. President, in October, 1979, the Federal Reserve Board announced that it would no longer exercise control of monetary policy by the setting of interest rates paid on Federal funds, but instead would directly control the growth of the monetary aggregates, letting the Federal funds rate (and thereby other interest rates), move freely with the marketplace. The results are an unfortunate history—wide swings in interest rates, a prime moving up to over 20 percent, in the winter of 1980, back to 11 percent in the summer, and then returning to well over 20 percent early in 1981.

This inability of the Federal Reserve to reduce the money supply gradually indicates a failure to exert a consistent policy that is having tragic side effects upon the thrift and housing industries, jobs and small business people.

How many businessmen will buy new machinery and equipment while interest rates are so high?

How many young Americans will be able to purchase their own home with mortgage rates at 16 percent?

How many people will remain unemployed because the construction industry is at a standstill due to construction interest costs which have gone thru the roof?

Chairman VOLKER's insistence on high interest rates as the only way to combat inflation will also add billions of dollars to the deficits and Federal borrowing. Additionally, those high interest rates will fuel inflation and imperil whatever prospects of success the Congress and the President may have in implementing a national economic policy.

Mr. President, I express these views for three purposes.

First, to State my very grave concern over this unfortunate and dangerous situation;

Second, to make plain my intent to join in any carefully thought out legislative measures that can help remedy situation;

Third, to implore that the administration take such steps as are within its power to lower the current high rate of interest which is severely damaging our country, the economy, and our national goal of a suitable living environment for every American.

I ask unanimous consent to have printed in the RECORD an article from the New York Times on June 22, that is quite informative on how the American public is suffering under the burden of high interest rates.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FED OFFICIALS BOOED IN CHICAGO ON RATES

(By Winston Williams)

CHICAGO.—Officials of the Federal Reserve Board got a hostile reception yesterday when they made an extraordinary appearance here before 100 local citizens. The five bankers, three from the local office and two from Washington, were booed repeatedly and criticized about the high level of interest rates.

Such "town hall" exposure by the central bankers is rare. Since its creation in 1913 the Federal Reserve System has vigorously guarded its independence as the supplier of money and credit to the nation's economy. The Fed is accountable to no one, but the chairman on occasion gives testimony before Congressional committees.

Often its monetary policies have collided with the fiscal policies of the executive branch. And many Congressmen have through the years expressed frustration over the bank's insular ways. Most voters and taxpayers regard it as a remote bureaucracy with little influence on their lives.

But the Fed's role in the economy is becoming more a matter of public debate since the advent of persistently high interest rates—the prime rate, for example, is now at about 20 percent—and the collapse of the housing and auto markets. The prime, considered a bellwether rate, is what banks say they charge on loans to their most creditworthy customers.

VARIOUS ECONOMIC ILLS ADDRESSED

Consumers, business executives, local officials and home builders took the central bankers to task yesterday over economic ills ranging from the inability of home buyers to get fixed-rate mortgages to the small-business man's cost of carrying inventory.

"We're seriously concerned about the impact of our policy on people and neighborhoods," said a weary James Kichline. As director of research for the Fed and an economist for its Open Market Committee, the bank's policy-implementation arm, he was explaining why the Fed has come to the heartland. "It's my first experience in a meeting like this," he said. "It'll give us a better feel for how interest rates are affecting people around the country."

Inside the meeting hall, the cafeteria of a parochial school, the Fed officials heard that the people there cared little for their policies. One sign said: "High interest rates: a banker's opium."

William Spathies, president of the Associated Builders of Illinois, complained that his cost of carrying three model homes nearby is $17,000 a month and that he has not built a house there since October 1979. After predicting an impending avalanche of bankruptcies among builders in the Middle West and Northeast, he warned: "The first full year of recovery builders will try to recover costs they've been absorbing and we'll see inflation in the building industry in excess of 20 percent. You're not defeating inflation with these rates, you're postponing it."

"WORST I'VE EVER SEEN"

Elmer Henning, a carpenter who says he works two days a week, added, "I've been at this for 35 years and it's worse now than I've ever seen it."

The meeting yesterday was the second sponsored by National Peoples Action, a coalition of over 300 neighborhood and community groups. The first was held recently in Indianapolis. Last spring the group demonstrated with 3,000 people in Washington and was granted a meeting with Paul A. Volcker, the Fed's chairman. Yesterday's gathering and 10 more planned around the country grew out of that meeting.

The group presented an agenda to the Fed representatives yesterday, demanding, among other things, a more rapid increase in the money supply and special protection for the housing industry and for small business. Most were rejected by the bankers as being illegal or impractical, prompting Jean Cincotta, chairman of the coalition, to say: "Next time you come up with a strategy to lower interest rates and tell us about it, rather than saying 'No' to all our suggestions."

In addition to Mr. Kichline, the other Fed officials at the meeting were James Morrison and Roby Sloan, senior vice presidents of the Federal Reserve Bank in Chicago; Nancy Goodman, community affairs officer of the Chicago Fed, and Janet Hart, director of consumer and community affairs for the Fed in Washington.

Mr. DECONCINI. Mr. President, the new administration's ambitious goal of reducing inflation to just under 5 percent by 1986 is laudable. However, it is also seeking to reconcile in the hard world of economic reality the easy inconsistencies of political rhetoric. Thus, the administration is embarked upon two different—indeed, diametrically opposed—courses of action. The loser will be the American public which has placed its faith in President Reagan's ability to right a badly wounded economy.

To accomplish the goal of reducing inflation to acceptable levels, the administration has stressed monetary policy. The Chairman of the Federal Reserve has been asked to halve the anticipated growth of the money supply over the next 5 years. This is bitter medicine, indeed, because it means consistently high interest rates, a subject to which I will turn in a moment. However, the administration is simultaneously pursuing policies destined to result in ever more inflation.

President Reagan and his advisers have set up a fundamental contradiction in overall economic policy. Monetary policy is designed to decrease inflation by decreasing the availability of money. Fiscal policy—that is, tax policy—will have the opposite effect. In other words, tax policies will be pushing inflation up while monetary policy is trying to pull it down. If the monetary policy ultimately succeeds, it will only be after inflicting far greater economic pain on the American people and the American economy than would be necessary if rational tax policies were adopted.

During the campaign, President Reagan became an advocate of the so-called Kemp-Roth tax proposal. Everyone loves to hear about tax cuts, and so began the lame efforts to blend in a 30 percent across-the-board cut with the fight on inflation—which truly is our Nation's No. 1 priority. Unfortunately, it has been like trying to mix vinegar and oil; they look mixed while being shaken with vigorous political rhetoric, but they separate quickly as soon as all the shaking and yelling stops.

The across-the-board tax cut is designed to stimulate the economy on the theory that individuals will save, not spend, and investment in plant and equipment will rise. There is no doubt in anyone's mind that a dramatic expansion in productive investment is essential if productivity is to increase. What is highly questionable is the method—a 30 percent across-the-board cut. Congressman KEMP and our own distinguished colleague, Senator ROTH were undoubtedly looking at the now famous Kennedy tax cut of 1964, a cut which really did stimulate a sluggish economy without any deleterious effects. The crucial difference, of course, is the simple fact that the economy during the early 1960's was experiencing only the slightest price increases. The economy of 1981 has an inflation rate of about 12 percent.

If and when an across-the-board tax cut of any significant magnitude is enacted, it will cause spending to increase which will, in turn, escalate the level of inflation—perhaps to the point where it may become uncontrollable. In the meantime, the American people will be suffering under the cruel hardship of tight money that will push interest rates toward the 20-percent mark. They will be under the impression that the sacrifice is being made to get inflation under control. In fact, however, the sacrifice will be greatly exacerbated by the administration's own magic tax formula which is brewed especially to win elections but aggravate inflation.

If the administration is serious about upgrading the productivity of our economy, they should resort to direct measures of the type proposed by myself and my Democratic colleagues. The across-the-board tax cut is snake oil. The serious proposals involve direct tax and other benefits to business to invest and to individuals to save.

That brings us back to the subject of interest rates. It goes without saying that tight money and high interest rates inflict great hardship on all of us. Especially hard hit is the housing industry. Reports released yesterday indicate that new housing starts in the District of Columbia metropolitan area are at a 5-year low. Construction companies are going bankrupt and men and women in the construction industry are being forced onto the unemployment rolls.

Of equal importance is the change in the American way of life being caused by such high interest rates. Since our Nation began, we have stressed the value and importance of homeownership. To own a home is the goal of the vast majority of American families. However, these unconscionably high rates have dashed those hopes for all but a special few. Not only have mortgage interest rates soared to outrageous and unsupportable levels, but in many instances long-term mortgage money is simply not available.

The lack of investment capital reflects two things. First, high interest rates have shifted much of the available capital away from thrift and similar institutions into short-term money markets. And as one analyst recently stated, the United States was not built on 60-day credit. Second, Americans are not saving as they once did. Where savings averaged about 8 percent, it is barely 5 percent today.

I applaud the Senate Finance Committee for establishing tax-free savings certificates. These instruments should address both the problem of the individual saver and the problem of the short- versus long-term investment. It is my

understanding that the proposal will make the effective yield on these certificates for most families about 15 percent, and somewhat higher for individuals in the top marginal tax brackets.

I am disappointed, however, that the committee did not adopt Senator BENTSEN's proposal to limit the applicability of the certificates to long-term lending institutions. Present estimates are that only about half of the newly stimulated savings will go into thrift and savings and loan institutions. The other half will go into commercial banks which are already experiencing high rates of return and high profits.

Clearly, the President and his administration deserve praise for their willingness to pursue the goal of reducing inflation vigorously. I will, in all likelihood, support the final tax package, although I will work with my colleagues to remove what I believe are its counterproductive features. It should be skewed more toward business and investment to alleviate the danger of it causing a new round of inflation. And by providing more incentives to save and invest—as the newly added certificates do—it will actually accomplish the goal of increased productivity, not increased inflation.

In sum, Mr. President, I am glad we are moving. I am sorry that so much emphasis is being placed on monetary policy which is causing—and will cause—great hardship to the American people. At the very least, the administration should modify the tax proposals to insure that they do not become counterproductive, inducing more inflation. I would have preferred a more balanced approach, one that was somewhat more lenient toward interest rates and which avoided the dangers of an across-the-board tax cut in favor of targeted cuts to stimulate new investment.

I do have faith, however, in the legislative process. I believe that the views of myself and my colleagues will be heard, and that the President's program will be modified and improved as it wends its way through the two Houses.

● Mr. PRYOR. Mr. President, earlier speakers have described the discouraging state of our economy: High interest rates, an unabated inflation spiral and a moribund housing industry. Wall Street's reaction to President Reagan's economic program has been unexpectedly negative. Many savings and loan associations are fearful that they will have to close their doors before long. And very few people can afford to buy a home.

Along with these manifestations we have seen an unusual amount of confusion among our economic experts. Somehow things are not responding the way they usually do in the face of similar conditions.

What we should all remember is that our economy is undergoing a massive transformation in monetary policy, fiscal policy and the structure of its financial system. The purpose of these changes in policy is to bring about a long-term drop in the inflation rate, lower interest rates and increasing productivity. We cannot count on immediate relief, however.

The Federal Reserve Board under Chairman Paul Volcker has been playing a forceful role in our economic fortunes. In a shift toward monetarist policy, the Fed has shown less interest in manipulating the Federal funds rate than in controlling the money supply through changes in reserve requirements. Determined to get a grip on the money supply, the Fed has set its target money growth range for 1981 at 3.5 to 6 percent. So far, so good.

I believe that this country needs a steady, predictable growth in the money supply to allow financial managers to make long-term plans. Unfortunately, achieving that steady growth rate has been surprisingly difficult. The money supply went way up in early 1980, followed by a record drop in April, a huge rise in early summer, and another drop at the end of the year.

In his determination to attack the long-range problem of inflation through the money supply, Chairman Volcker has given fair warning that he will consistently lean toward tight money in his decisions as chairman. In other words, anyone looking for short-term relief from high interest rates is wasting his time with the Fed, which, early in May, raised the discount rate to an alltime high of 14 percent.

In the area of fiscal policy we have already seen a dramatic attempt by the Reagan administration and the Congress to cut back the growth in Federal spending and achieve a balanced budget. President Reagan deserves the highest praise for holding our feet to the fire and forcing us to make the tough but necessary decisions to cut spending. In the long run this course of action cannot help but reduce the rate of inflation and the level of interest rates. Unfortunately, the beneficial effects of this policy will not be felt for some time to come.

A third area in which our economy is undergoing a transformation is in the structure of our banking system. Among other changes, the Depository Institutions Deregulation and Monetary Control Act of 1980 will allow financial institutions to pay higher rates to their depositors on checking and savings accounts. Banks and S. & L.'s will be competing for investment dollars, and by 1986 there will be no ceilings on the rates they may pay.

The new environment will have a dramatic effect on housing. No longer will cheap money be channeled to savings and loans for the sole purpose of making home loans. Already S. & L.'s are paying more for their deposits, forced to compete with the popular money market mutual funds. As in all periods of high interest rates, money is flowing out of S. & L.'s into more profitable investments. As a result, the supply of mortgage money has declined, and rates have soared.

For many years the Federal Government considered that homeownership was socially desirable and should be encouraged through tax breaks and specialized financial institutions—savings and loans associations—whose sole purpose was to accumulate a pool of funds for long-term, reasonably-priced home mortgages. To this end ceilings were placed on the interest which financial institutions could pay their depositors on savings accounts, and S. & L.'s were allowed to pay 0.25 percent more than banks in order to attract housing funds.

Well, the 0.25-percent differential is on its way out, and S. & L.'s are now paying an average of roughly 11 percent for their deposits. To compound the problem, these institutions are earning only 8, 9, 10 percent or less on their outstanding mortgage loans. You do not need higher math to know that if a business is lending money out at a higher rate than it is taking money in, it is not going to stay in business for very long. The only solution for the S. & L.'s is to put their money in consumer loans, Eurodollars or whatever instrument will give them a higher return—and housing suffers.

I am not saying that depositors do not deserve a higher rate of return than they have been getting. But where will the money for housing come from, and what will it cost?

These may be the most important questions now before the Congress. At this moment there is practically no homebuilding going on in this country, and the homebuilding industry—along with the auto industry—is the most vital in our economy. Vital because of the many other industries it supports. Think of all the people it takes to build and furnish a house: carpenters, bricklayers, electricians, landscapers, painters, roofers, furniture, and appliance dealers and installers, and many, many others. Think of the millions of these citizens who are not working or who are working only sporadically. Think of the tax revenues which we are not now collecting from these workers.

We must commit ourselves to getting the homebuilding industry back in motion. We must find a way to provide reasonably priced mortgage money for Americans who want to buy a house.

With the rise in mortgage rates has appeared a vast array of adjustable mortgage loans. Since the cost of mortgage money to lending institutions has risen and will continue to be responsive to market conditions, adjustable rate mortgages are necessary to cover costs to the institutions. But as long as interest rates remain so high; all the creative financing in the world will not enable the average couple to own a home.

What we need to do is increase the amount of money available for mortgage lending, thus lowering its cost to the borrower. There has been some talk of using pension funds for mortgages. This approach might be helpful, but it is not enough.

We need an attractive and simple tax incentive for saving. Citizens of the United States save far less than the citizens of any other industrialized nation. We save at about one-fifth the rate of the Japanese, in fact. Unfortunately, the inflation psychology seems to have become ingrained in American behavior. Americans will continue to spend rather than save until convinced that it is no longer profitable to speculate on inflation—or until an attractive tax break induces them to put their money into a savings account or certificate.

Last year the Congress accepted for the first time the concept of a tax incen-

tive for saving, and taxpayers may now deduct $200 for interest earned from a savings account, or $400 if filing jointly.

My own preference is for a tax incenwe need to encourage saving for a vageted to housing. While it is true that we need to encourage saving for a variety of purposes, I feel strongly that housing is a special need with a special importance to the economy and that it should receive special consideration. Senator BENTSEN—who is the guiding light of the tax incentive for saving movement in the Senate—introduced S. 701 earlier this year in an innovative attempt to tie a tax break directly to the accumulation of housing funds. Unfortunately, this bill has not received the support we had hoped for, but it is an approach which should be investigated further by the Senate.

Proving to be far more popular is the All Savers Act, S. 1279, which Senator DANFORTH and I introduced on May 21. This legislation would establish a 1-year certificate with interest pegged at 70 percent of the current Treasury bill rate. The first $1,000 (or $2,000 for a joint return) would be tax exempt. This is the proposal adopted Monday in the Finance Committee.

As we work toward a balanced budget, we should, of course, take pains to minimize the revenue loss associated with any such plan. If the induced savings do indeed lead to an increase in building activity, however, dollars will soon begin pouring into the Treasury as taxes from employees and businesses which had been idle.

Mr. President, while I have the attention of my colleagues, I would like to put in a plug for another piece of legislation. That is S. 1348, which would make a few technical changes in the housing bond legislation passed last year as part of the reconciliation bill. The housing bond program, Mr. President, has been abused in the past. Left unchecked, it could cost the Treasury many billions of dollars while subsidizing the purchase of luxurious vacation homes for the wealthy. That is why Congress acted quite properly in imposing some restrictions. Those restrictions went a little too far, however. Meant to tighten up eligibility requirements and limit the overall level of such issues, the restrictions have instead put a complete stop to the housing bond program across the country.

S. 1348 merely removes several technical requirements which have proved to be unrealistic and obstructive. It does not relax eligibility requirements or increase the revenue loss to the Treasury. But it would help get a limited amount of housing built this year. The homebuilders, construction workers, realtors, and would-be-first-time home buyers in any Senator's State could tell him how important such activity would be to the local economy.

Mr. President, we are looking today at an economy in flux. New monetary and fiscal policies have been designed to reduce the level of inflation over the long run. But in the meantime we are faced with the prospect of high interest rates. Reducing inflation will lessen the pressure on those rates, but we must begin now to increase our national propensity to save and try to channel savings into those uses which will most benefit our national economy. There are bills pending in the Senate to start us in that new direction, and I hope that my colleagues will realize their importance and give them the highest priority.●

(The following proceedings occurred later and are printed at this point by unanimous consent.)

Mr. GOLDWATER. Mr. President, it has been my pleasure to have spent the last hour in the chair and to have had the opportunity of listening to the remarks made on high interest rates, all of which I agree with.

But I would like to remark, as one who ran a business through the last Great Depression, that high interest rates are not caused by any Federal policy. High interest rates have stemmed, frankly, from the abuse that the Federal Government has heaped upon our economic system over the last 4 years through both Democrat and Republican administrations.

I do not see any program that we can adopt, other than cutting down on Federal spending, and I mean cutting down on it to the point that people can enjoy lower taxes. That is the answer to savings. If people have more money than they need, which they do not have today, they will put that money in savings, both savings and loan and banks or in their own personal investments.

Today, frankly, the best investment I see laying around are the short-term Government bonds, yielding 15 and 16 percent. And I hold that that is not good for business.

I admire the Senator from Oklahoma, who is a businessman, for having taken this on as sort of a personal challenge. It is something that bothers every single person in this country, I know, because I have had the occasion to borrow money myself. I remember building my home under a 3-percent mortgage and now if my grandchildren want to build a home, they are looking at 20 percent for the full amount.

So I would urge my friend from Oklahoma to continue this effort. I assure the Senator that the people on this side of the aisle will respond in a like vein, a nonpolitical way, by directing our efforts, together with the Democratic efforts, at getting our spending down, down, down, and I mean down.

We sit here and pass a billion dollar appropriation. I remember what Senator Dirksen said. "A billion dollars," he said, "you think about it long enough and it gets to be big money." And it is getting so that a billion dollars mentioned in this body is sort of like mentioning $5 20 or 30 years ago.

I would like to see this Government cut the expenditures down to the very core. Then, and only then, are you going to see interest rates coming down, and I mean tumbling down. Because when these banks and lending institutions have more money than they know what to do with, you have a surplus of a commodity that we are all interested in and interest rates will come down.

I thank my friend from Oklahoma and I assure him that the Republicans will join in.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. I want to thank the Senator from Arizona for his remarks. Of course, he knows I agree with what he has said. I certainly have to agree that in the long range the only way to bring interest rates down is to get Government spending under control.

If we consider, back in the days when the Senator from Arizona was obtaining that 3-percent mortgage to build a home, that our Government was only borrowing 1 or 2 percent of the money being borrowed in the country every week, and we consider now that our Government is borrowing about 35 percent of all the funds being borrowed in the country every day, we can clearly see what has happened; that we have gone so deeply into debt that the Government now has to go into the credit markets to get money to finance their own operations and in doing so they are bidding against that young couple trying to buy a home.

I would certainly agree that in the long range the only solution is to get our Government spending under control. That is the only way we can bring down interest rates in the long run. And in terms of the short-term kinds of programs that I have been talking about, I clearly recognize that those are only patchwork, temporary kinds of programs that do not get at the heart of the long range cause and that we simply all have to work together in a bipartisan manner for fiscal discipline if we are ever going to get the problem solved.

I thank the Senator for his remarks.

Mr. GOLDWATER. I might remind my friend from Oklahoma that some of this money our Government borrows at these high interest rates we loan to other countries at 2-percent interest rates and they do not have to start paying on the principal for 10 years. Now what kind of jackass stupidity is that?

The PRESIDING OFFICER. The galleries will be in order.

Mr. BOREN. I would only say to the Senator that I agree and no one has a logical answer to that question.

HIGH INTEREST RATES—TIME FOR ACTION

Mr. ROBERT C. BYRD. Mr. President, high interest rates are stifling economic activity in all parts of the country. Something must be done about these unbearable interest rates. Otherwise, our economy could be headed for an extended era of sluggish growth.

It appears that the administration fails to appreciate the very critical situation which derives from sustained high interest rates.

They affect every sector of our economy. They choke off the very investment which is so vital to increased efficiency and productivity.

I continue to be astounded by the economic theory underlying the administration's recovery program. On the one hand, the administration urges significant fiscal stimulus with large, consumption-oriented personal tax cuts, and

the most significant buildup in defense spending since World War II.

On the other hand, the administration expects the Federal Reserve to apply firmly the monetary brakes.

This administration must come to understand that the economy cannot withstand the contrary pressures of fiscal stimulus and monetary restraint.

Most objective observers will agree that the level of interest rates is determined by two things: The relation between the supply of money, the demand for that money, the speed with which it changes hands; and the anticipated level of inflation. The level of inflation tends to create a floor under which interest rates rarely fall.

But with oil prices plummeting and good fortune on the argicultural front, inflation has abated significantly over the last several months. This positive news should be reflected in the level of interest rates unless supply and demand factors are having the predominant influence over rates. The fact that the Federal funds rate—the cost of money which banks lend among themselves at the end of the day—has been in excess of 20 percent for some time indicates that the current level of interest rates has much more to do with a tight money policy than it does with short-term inflationary expectations.

High interest rates are not an accident of fate. They are the result of a conscious, restrictive monetary policy. They also stem from a fear among investors that the President's fiscal policy could spur a new wave of inflation, wiping out the progress we now see as a result of falling oil prices.

On October 19, 1979, I stood on the floor of the Senate and warned that the new monetary policy recently launched by the Federal Reserve could spell real trouble for the housing and construction industry, and for small business. I said that, "Prolonged artificially high interest rates may be of short-term benefit to the dollar and a boon to holders of capital, but they will not result in significantly cheaper energy, housing, medical care, or food."

I believe that those predictions made 1½ years ago have proved disappointingly accurate.

I said at that time that, "Before any conclusive judgments can be reached—on the new tight monetary policy—we will have to determine whether an adequate flow of credit remains available to those engaged in productive business enterprises."

A review of housing, construction, and thrift institutions offers ample evidence that the supply of credit has been choked off.

Today, the inventory of unsold homes is at record levels. Housing starts for the first quarter of 1981 are expected to be 60 percent behind last year's level. We have now doubled the rate of unemployment in the construction industry. It is estimated that high interest rates have already led to the unemployment of almost 1 million Americans in the construction industry.

Savings and loan and other thrift institutions are the bedrock of the housing industry. Not long ago, Republican economist Alan Greenspan said that the U.S. Government may have to rescue the thrift institutions of this country.

In the first quarter of this year, we saw the largest withdrawal of thrift reserves in our Nation's history: the net outflow of savings from these institutions was $1 billion. Also in the first quarter alone, the earnings of insured savings and loan associations fell by $671 million, and their net worth fell by 2.1 percent.

All of us want to prevent a serious situation from getting worse. But unless thrift institutions are able to attract new deposits, their future appears troubled.

Thrift industry leaders tell us that, as a rule of thumb, annual earnings rise by about $3 billion for every percentage point drop in short-term interest rates. But it appears that, once again, interest rates are rising, with the prime rate returning to 20 percent and Treasury bills increasing almost 1 point on Monday.

It is my hope that the administration will heed the concerns being expressed by Senators on the floor today and yesterday. During the campaign, President Reagan indicated that interest rates would be one benchmark test of his economic recovery program. He predicted that inflation would abate and interest rates would naturally fall. This was to occur over the long term.

Ironically, now that it seems certain the Congress will pass large portions of his economic recovery program, interest rates are rising again. Last week, when it became clear that interest rates were once more on the upswing, the stock market took a sharp drop. Bond prices showed substantial losses.

High and volatile interest rates are undermining the Reagan economic recovery program because they are wiping out the ability of businesses to make sound, long-range capital financing plans. Without such investment, our future productivity will drop. According to Henry Kaufman, a leading Wall Street economist, American corporations are earmarking 45 percent of their pre-tax profits for interest costs.

The reality of our present situation should make us all pause to reconsider the fiscal radicalism of a 3-year, consumption-oriented tax reduction. We cannot let the Federal Reserve Board play the only anti-inflation game in town.

The President's multiyear tax cut could keep interest rates from falling to an acceptable level. Therefore, I am considering an amendment to the tax bill that would provide that the third year of the tax cut will only become effective if interest rates have fallen to, or near, the level predicted by the administration's economists.

Recent increases in interest rates signal a lack of confidence in current monetary and fiscal policies to reduce inflation quickly and permanently. Without a credible statement of Federal economic policy, investors will not invest in the productive capacity of our Nation, upon which future noninflationary growth depends. Not long ago, Henry Kaufman said that the administration's fiscal policy was "exceedingly expansionary, does not pursue a course that fights inflation vigorously along the way, and will place all the anti-inflationary effort squarely on monetary policy."

The reality is that the casualty list of high interest rates has already grown too long. It includes American dreams of buying a new car, a home, of operating a small business or family farm.

The time for a new interest rate policy is now.

The time for a program to help the thrift industry is now. Before it is too late.

Mr. BOREN. If there is any remaining time, I yield it back and yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. MURKOWSKI). Under the previous order there will now be a period for the transaction of routine morning business.

The time for morning business has expired.

The majority leader is recognized.

EXTENSION OF MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for morning business be extended by 5 minutes without any time charged against the time allocated for debate under the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. SPECTER at this point in connection with the introduction of legislation are printed under Statements on Introduced Bills and Joint Resolutions.)

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

OMNIBUS RECONCILIATION ACT OF 1981

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1377, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1377) to provide for reconciliation pursuant to title III of the first concurrent resolution on the budget for fiscal year 1982 (H. Con. Res. 115, 97th Cong.).

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, by what has been said in this Chamber yesterday, it is becoming clear that this process called reconciliation is what the name itself implies. We are here to settle legislative differences, to adjust conflicting budgetary targets and to restore order to seeming chaos. The President of the United States and the majority leader of the Senate among others, ask that we do so quickly. They do so not, as some have suggested, to favor undue haste or to cut off debate. Rather, President Reagan and Senator BAKER recognize

that the delay some are urging endangers both the capacity of our Government to govern and the recuperative capacity of our economy.

Were this economy a ship, we would say that she has lost her moorings; that the Ship of State has been adrift at sea, burdened by a huge cargo of conflicting and inefficient Federal programs. This economic situation more often than not plays well to highly organized constituencies, but it can scarcely do much for the great unorganized constitutency of the public-at-large; for the poor, and for the needy who are first to suffer in times of economic weakness. They have suffered as our economy has faltered. Our economy has faltered as an increasing percentage of our gross national product is devoured by the Federal expenditures, due to the increasing portion of personal and corporate income consumed by Federal income taxes.

If there are any of my colleagues who are not already aware of this, they should know that the word is getting around. The first clue in anyone's discovery of the American people's determination that the Federal Government be put on the fiscal fitness program President Reagan recommends, is the overwhelming character of what took place last November 4. The spirit of this new fiscal austerity and economic responsibility is reflected in the reconciliation package reported by the Senate Labor and Human Resources Committee.

Specifically, our committee proposes to reduce spending by 5.6 percent below the base line in fiscal year 1981, by $11.1 billion in budget authority or 21.2 percent in fiscal year 1982, by $14 billion in budget authority or 24.7 percent in fiscal year 1983, and by $16.1 billion in budget authority or 26 percent in fiscal 1984. These unprecedented savings amount to one-fifth of what the committee would otherwise have spent if business were continued as usual in fiscal 1982 and to fully one-quarter of what the committee might otherwise have spent if business were continued as usual in fiscal years 1983 and 1984. Of the total $189 billion in budget authority that reconciliation requires all Senate committees to save over the 4-year period, the Labor and Human Resources Committee's reductions alone amount to $44 billion in budget authority or one-quarter of the total for the whole Senate. I might add, for the whole Congress. And of the total $141.6 billion in outlays that reconciliation requires all Senate committees to cut over the 4 years, $37.9 billion or 26.8 percent is achieved by the Senate Labor and Human Resources Committee alone.

These substantial savings enjoyed strong bipartisan support within the committee. The vote to report out reconciliation from the committee was 15 to 1.

Five block grants are included in the Labor and Human Resources Committee's reconciliation package: elementary and secondary education, preventive health, health services, community services, and energy assistance. These grants have been designed to lessen any adverse impact of budget cuts upon important services and programs. The block grants will reduce bureaucratic overhead. They will give the States greater flexibility for efficient management and for the setting of priorities. Scarce dollars must be used for the most pressing needs in the most practical way. The huge and remote Federal bureaucracy is not suited to these purposes. The States are better situated to do the job.

Our block grants are the products of compromise within the Labor and Human Resources Committee and with the cooperation of the administration. Consequently, the committee's proposals slightly differ from President Reagan's initial proposals. They entail the major revisions of current law requested by the President. Each side has had to give on this issue, but each side has achieved its main aims. This result was possible because the primary goals of each side are not mutually exclusive. President Reagan wants to reduce the size and the power of the Federal bureaucracy and to give to the States flexibility in the administration of health, education, and social programs. The opponents of the block grants want the Federal Government to insure the continuation of important services and functions. They also worry about access and accountability.

Our education proposal addresses this combination of concerns by maintaining—in modified form—the programs that directly serve disadvantaged children and handicapped children, while consolidating those programs that are administered by the States. The other four block grants address all the primary concerns by way of a "contractual" approach.

The committee's four contractual block grant proposals require the Federal Government to contract with the States to administer the block grants. This contractual relationship allows certain program protections, while removing the Federal bureaucracy from interference with State operations. The States agree to maintain some services and functions, and in some instances, to abide by simplified program designs. But, the States are free to interpret the law and administer the programs, a radical and drastic change from what it has been in the past. There will be no interpretive Federal regulations. The block grants will be far simplier laws with far fewer provisions than the laws they replace. Access and accountability are assured by State legislative hearings, and State plans will be available for public review and comment. The plans, which the States can revise at any time without the advice of the Federal Government, will not require Federal approval. The block grant applications will require only the Governor's signature.

The Secretary is given some authority to withhold funds, but only if a State blatantly ignores a contract. States will no longer be harassed by the Federal bureaucracy. If a Federal investigation is warranted, the Secretary will send a small team to the Senate and all hearings will be held within the State. State officials will not be compelled to come to Washington to answer accusations, and will not have to justify their actions with stacks of documents.

Overlapping committee jurisdictions precluded consolidation of energy assistance and community services into larger block grants. But, our two health block grants represent substantial consolidations. There are no set-asides in the preventive health block which closely approximately the President's bill. The set-asides in the health services block phase down over 4 years. Even where there are set-asides, the States will determine how much money each grant recipient receives.

Transition language is included in both the health block grants. Since the States might not be prepared to administer all of the included health programs on October 1, the States will be allowed to phase in their control over the programs during the first year. At a State's behest, the Secretary will continue to administer specified programs, funding these from the State's block grant allotment. A State can assume control of any of the block grant programs during any quarter of the next fiscal year.

The Labor and Human Resources Committee's block grants are well conceived proposals. They are not the precipitous products some people would have us believe them to be. The committee and its subcommittees have conducted hearings on the issues involved. The committee has been working for months on the block grants. The changes involved are monumental, radical, and very interesting changes, but they are manageable. We deliberately refrained from including in this reconciliation package block grant proposals for title I of the Elementary and Secondary Education Act or for any of our handicapped programs, because the issues involved here are especially delicate and require more consideration. We did only what we thought we could do well at this time.

Our proposals are more modest than President Reagan's. Our block grants do not compel the Nation to arrive at the new federalism on October 1. But, they most definitely set us along President Reagan's road. Our block grant proposals mark the beginning of a fundamental change in the Federal/State partnership. The Federal bureaucracy will cease to be manipulative, and will assume a supportive, advisory role. That is a drastic change. The States will tailor national programs to State and local needs.

Confusion over terminology has clouded the debate over categorical grants and block grants. A categorical grant program is usually thought to be a Federal program that is focused on a specific purpose. This is not always true. For example, the goals of the Equal Opportunity Act are quite broad. What truly characterizes a categorical grant is that it is administered by the Federal bureaucracy, and it is this aspect of categorical programs that President Reagan finds most objectionable.

Some have suggested that the President has suffered a political defeat because we in the Senate have turned from his original block grant proposals. They are wrong, and they miss the point. The essential question is not whether we support these proposals, but whether we support the President's ends. Obviously, we do. It is wrong to think that block grants can only be major consolidations

of numerous categorical programs. In fact, what distinguishes a block grant is that it is directed at a broad purpose, and is administered by the grant recipient. All our block grants are directed at relatively broad purposes, and all allow the States administrative flexibility.

The protections that we include in our bills are meant to serve as an umbrella for important interests while their advocates educate their fellow citizens within the States and themselves learn State politics. For democracy to work properly, the public must be informed, and there must be a free flow of ideas. In some instances, this development may take several years, since some groups have been preoccupied with Washington.

We are devolving administrative responsibility to the States. This is what the President desires. President Reagan never intended to cease or disrupt important programs and services. Thus, because our committee block grants ease the transition to grassroots controls, they also serve the President's purposes, and the national interest.

I would have preferred somewhat simpler block grant proposals, but I stand by our committee compromises, because they are good proposals. They are supported by the Senate leadership and by the administration. They have broad bipartisan support within the Labor and Human Resources Committee, after what really was a monumental fight to have full categorization of all of these programs. The compromise has ended that fight, and I believe, although we have directions to categorize within the block grants, we have achieved the new federalism in the sense of the States controlling, the States having discretion, the right to withhold funds being limited, the contractual approach allowing the States more control, the reduction in the health block grants, and phase down over the next 3 years; and, of course, a whole reduction in the overregulatory language that has just about ruined some of these programs to begin with.

Mr. President, these are major, radical, but important, honest, decent, and effective changes. I am very pleased that Members of both parties agreed to compromise and, of course, I feel better about what has been done than had either side totally won one way or the other.

Mr. President, I urge my colleagues to support these block grants and support the work that our committee has done.

Mr. QUAYLE. Mr. President, I wish to take this time to address the reconciliation package and more specifically address the Labor Human Resources Committee's work.

As chairman of the Subcommittee on Employment and Productivity and a member of the Budget Committee, I am pleased to present the reconciliation proposal for employment and training programs. The proposal provides all the savings contemplated in the reconciliation instruction.

This subcommittee was charged with the task of making savings totaling $5.8 billion, over half of the total savings allocated to the committee.

At the same time, I have been holding hearings on employment and training programs and have heard dozens of witnesses endorse the need for a training program that will attack the problems or unemployment, underemployment and productivity of the work force; that will reduce welfare dependency, increase economic development and provide employers with a skilled labor force.

This is a tremendous mandate, and in spite of funding limitations the package presented to you today provides for a multibillion dollar training program for this Nation in fiscal year 1982

Major savings came from elimination of further funding for the public service employment program, phase out of the Young Adult Conservation Corps, and reduction of funds for national contracts under CETA. All the above mentioned savings were contemplated in the reconciliation instructions and are in accordance with the President's recommendations.

Additional savings will be experienced by a reduction in the Governor's allocation under title II ABC of CETA but allow for greater flexibility by the Governor in the use of these funds.

This bill leaves room for a viable youth program under title IV A while achieving all the reductions contemplated by the budget process. The bill also provides for greater flexibility in the use of the youth program grants.

Although there is no specific funding stipulated for title V which authorizes the National Commission for Employment Policy, the bill allows the U.S. Department of Labor to continue to fund the Commission, as it has in the past, from CETA title III funds.

By amending the Wagner-Peyser Act to limit the amounts that the Secretary of Labor may certify to the Secretary of the Treasury for payment to the States for administration of the State employment services savings will be experienced in fiscal years 1982, 1983, and 1984. Again this is consistent with the President's proposed budget.

I believe the package presented here today can be endorsed by all as a proposal that applies the mandated reductions where they can best be tolerated but does not compromise our immediate and earnest concerns for an effective training component to aid the unemployed and underemployed of our country to experience a productive worklife.

Mr. KENNEDY. Mr. President, the reconciliation package adopted by the Committee on Labor and Human Resources is the product of a long and difficult process. Our committee, more than any other committee of the Senate, is the people's committee.

It helps parents and communities educate children.

It assists elderly in heating their homes.

It provides assistance to our Nation's handicapped.

It provides essential community and preventive health programs.

It protects the health and safety of America's workers.

It provides a wide range of needed human services for the poor, the elderly, the disadvantaged.

From the beginning the Democrats drew a bottom line beyond which they would not support this package. In part because of the work of Senators WEICKER and STAFFORD, this package does not cross that line.

First, the Legal Services Corporation is continued and funded.

Second, the low income energy assistance program is not part of a larger, social services block grant. Instead, it remains targeted on low-income families—particularly the elderly—to cover higher energy costs. The funding level does not fall below $1.8 billion.

Third, the administration's proposals for all-inclusive, no-strings block grants in education, health care, and handicapped assistance were rejected.

Fourth, the title I, handicapped education, adult education, and bilingual education programs—representing most of the education moneys—were not relegated to block grants. The most drastic cutbacks in student aid to low- and middle-income families were rejected.

Fifth, the program identity and separate funding of community health centers, migrant health centers, and community mental health centers were maintained.

Sixth, childhood immunization will remain a categorical program with no cut in funding.

Seventh, the nutrition program will continue as a separate, identifiable part of the Older Americans Act. Legal services for the elderly are continued.

These are significant victories that make our reconciliation package a major improvement over the administration's original proposals. They have been achieved with bipartisan support on the committee. They have been accepted by the administration, the majority leader, and the chairman of the Budget Committee.

In the opinion of the minority members of the Committee on Labor and Human Resources, the reconciliation package retains a number of serious flaws, that we discussed in our additional views that are included in the Budget Committee's report.

But perhaps the most significant flaw is the process by which far-ranging changes in law have been made. Our committee has been forced to rewrite a generation's worth of carefully designed legislation in the space of a few weeks.

In most key areas, we have been without the benefit of hearings, or indeed of any public input by experts in the field and by those who will be affected by the changes. Much of the legislation has been written in haste, with limited or no opportunity for bipartisan consideration.

The Budget Act was never designed to deprive the American people their right to an open, orderly, and considered legislative process.

I hope that in the weeks and months ahead we will give careful thought to assuring that the Budget Act is confined to its appropriate purpose.

Mr. QUAYLE. Mr. President, I wish now to address the issue of block grants very briefly.

Mr. President, I certainly commend the distinguished chairman of the committee and those other members, the Senator from Vermont, the Senator from Connecticut, and others, who worked in the compromise that emerged from the Labor and Human Resources Committee. They spent many hours and worked on a very substantive piece of legislation, and they are certainly to be commended for their work, although I certainly do not agree with the outcome of the compromise.

Mr. President, basically what we have, in my opinion, is the worst of both worlds. We are saying that we now have block grants and that we are going to give the States and local communities the responsibility but in effect they are not block grants at all. As a matter of fact, during the discussion in the committee itself it was agreed to that these really were not block grants, that they were categorical grants, and I just say that either we should have block grants or we should have categorical grants, and to try to make a mixture and a compromise such as emerged is really going to do a disservice to the concept of block grants. It is going to do a disservice to the Governors of the State who are going to have the responsibility to operate these block grants, and most of all, it is going to be a disservice to the people who are recipients of these programs.

By having this mixture of block-categorical, not either-or, there is going to be confusion, there is going to be additional bureaucracy, there is going to be additional controls, and I think we are going to get additional redtape, we are going to get additional rulemaking authority that was certainly not contemplated by this administration and certainly not contemplated in the scope of the concept of block grants.

Mr. President, President Reagan has indicated that he wants to move from categorical to block grants. This is compatible with the Reagan philosophy of decentralizing the Federal Government; returning the power of the decisionmaking apparatus to the States and the local communities.

The so-called compromise worked out in the Committee on Labor and Human Resources does not meet the test of a true block grant. The compromise is the worst of all possible worlds. It turns over the responsibility for solving the problems to the States, but keeps the standards for operating the programs tucked safely away in the Washington bureaucracies.

The true block grant approach will cut down on the redtape, the number of regulations, and the number of Federal bureaucrats in Washington.

The people who favor the categorical grant concept simply do not trust local officials to make the proper decision. They do not want to see a competition of ideas. They do not want to see a competition for funds at the local level. They would rather be out here in Washington where they feel a little bit immune from the pressure of the people.

This is an attitude of contempt and a lack of understanding of the political process.

If we will transfer the decisionmaking process to the State level I feel we will not only be able to eliminate a great deal of the bureaucracy here in Washington, we will be able to eliminate a great deal of the regionalism that has been established around the country. We can send the money directly to the State capitals.

A very strong case has been made that we can reduce the funding in many of these programs by 25 percent, but by transferring the responsibility to the States, we can eliminate more than a quarter of the bureaucracy making the net result no loss in funds or services to the people who are supposed to be receiving them.

I have talked to several midwestern Governors. They all say the same thing: "Either give us block grants, or give us categorical grants, but don't give us this combination."

What we would be doing by accepting this so-called compromise, is passing on all the problems and all the restrictions to the Governors without giving them the freedom and the flexibility to solve those problems.

Mr. President, one of the major problems we face today is the problem of a loss of confidence in our Government, our businesses, and our labor unions. There is a pervasive feeling in our Nation that these institutions have gotten too big, too distant, too cold.

Let us return some of the responsibility for the well-being of our citizens to the levels of Government that exist where they live—in the States, counties, cities, and towns of our Nation.

UP AMENDMENT NO. 179

(Purpose: To make technical corrections in the provisions reported by the Committee on Labor and Human Resources)

Mr. HATCH. Mr. President, in regard to the work of the Committee on Labor and Human Resources there are a few technical changes which must be made. So I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 179.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 285, line 18, strike out "$259,560,000" and insert "$178,560,000".

On page 295, between lines 27 and 28, insert the following:

"(j)(1) If, with respect to any State, the Secretary—

"(A) receives a request from the governing body of an Indian tribe or tribal organization within the State that assistance under this subpart be provided directly to such tribe or organization, and

"(B) determines that the members of such tribe or tribal organization would be better served by means of grants made directly to provide services and activities under this subpart,

the Secretary shall reserve from amounts which would otherwise be allotted to such State under this subpart for the fiscal year the amount determined under paragraph (2).

(2) The Secretary shall reserve for the purpose of paragraph (1) from amounts that would otherwise be allotted to such State under subsection (a) an amount equal to the amount which bears the same ratio to the State's allotment for the fiscal year involved as the total amount provided or allotted for fiscal year 1981 by the Secretary to such tribe or tribal organization under the provisions of law referred to in subsection (a) bore to the total amount provided or allotted for such fiscal year by the Secretary to the State and entities in the State under such provisions of law.

"(3) The amount reserved by the Secretary on the basis of a determination under this subsection shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

"(4) In order for an Indian tribe or tribal organization to be eligible for an award for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe.

"(5) The terms 'Indian tribe' and 'tribal organization' have the same meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act.

On page 295, line 32, insert "(other than any amounts reserved under section 329(j))" before "from".

On page 304, between lines 27 and 28, insert the following:

"(1)(1) If, with respect to any State, the Secretary—

"(A) receives a request from the governing body of an Indian tribe or tribal organization within the State that assistance under this subpart be provided directly to such tribe or organization, and

"(B) determines that the members of such tribe or tribal organization would be better served by means of grants made directly to provide services and activities under this subpart,

the Secretary shall reserve from amounts which would otherwise be allotted to such State under this subpart for the fiscal year the amount determined under paragraph (2).

"(2) The Secretary shall reserve for the purpose of paragraph (1) from amounts that would otherwise be allotted to such State under subsection (a) an amount equal to the amount which bears the same ratio to the State's allotment for the fiscal year involved as the total amount provided or allotted for fiscal year 1981 by the Secretary to such tribe or tribal organization under the provisions of law referred to in subsection (a) bore to the total amount provided or allotted for such fiscal year by the Secretary to the State and entities in the State under such provisions of law.

"(3) The amount reserved by the Secretary on the basis of a determination under this subsection shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

"(4) In order for an Indian tribe or tribal organization to be eligible for an award for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe.

"(5) The terms 'Indian tribe' and 'tribal organization' have the same meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act.

On page 304, line 32, insert "(other than any amounts reserved under section 315(i))" before "from".

On page 310, between lines 10 and 11, insert the following:

Subpart 4—Alcoholism and Drug Abuse

AMENDMENTS TO THE COMPREHENSIVE ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION ACT

SEC. 1110–1. (3) The first sentence of section 312(a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended—

(1) by striking out "and" after "1978,";

(2) by striking out "and" after "1980,"; and

(3) by inserting before the period a comma and "and $15,000,000 for the fiscal year ending September 30, 1982".

(b) Section 503 of such Act is amended by adding at the end thereof the following new sentence: "There are authorized to be appropriated for carrying out the purposes of sections 501, 502, and 504 $25,000,000 for the fiscal year ending September 30, 1982.".

AMENDMENTS TO THE DRUG ABUSE PREVENTION, TREATMENT, AND REHABILITATION ACT

SEC. 1110–2. (a) Section 410(b) of the Drug Abuse Prevention, Treatment, and Rehabilitation Act is amended by adding at the end thereof the following new sentence: "For carrying out the purposes of this section, there are authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1982.".

(b) Section 503 of such Act is amended—

(1) by inserting "(a)" before "The"; and

(2) by adding at the end thereof the following new subsection:

"(b) For purposes of carrying out subsection (a) of this section, there are authorized to be appropriated $50,000,000 for the fiscal year ending September 30, 1982.".

On page 310, insert after line 10 the following: "subpart 4."

Mr. HATCH. Mr. President, the amendment I have sent to the desk allows Indian tribes to apply for health block grant moneys and allows the subcommittee recommendations which were left out inadvertently in the Budget Committee draft of the reconciliation bill.

The PRESIDING OFFICER (Mr. DURENBERGER). Is all time yielded back?

Mr. HATCH. I yield back the remainder of my time.

Mr. KENNEDY. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment (UP No. 179) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 180

Mr. HATCH. Mr. President. I send to the desk another amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 180.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 405, on line 2, after the word "section", insert ",".

On page 405, on line 31, strike the word "eight" and insert in lieu thereof "eighty".

On page 382, on line 20, strike the number "1996" and insert "2996".

On page 307, on line 20, strike the words "Sec. 4." and insert in lieu thereof "Sec. 1107–4".

Page 384, line 26, delete "Section 202(a)(1)(A)" and substitute in lieu thereof "Section 202(a)(2)(A)".

Mr. HATCH. Mr. President, this amendment corrects typographical errors in the Labor and Human Resources title. This amendment will make the language of the bill conform to the submissions to the Labor and Human Resources Committee.

I yield back the remainder of my time.

Mr. KENNEDY. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment (UP No. 180) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I yield to the distinguished Senator from Vermont.

Mr. STAFFORD. Mr. President, I welcome the opportunity to speak briefly today in support of the recommendations of the Subcommittee on Education, Arts, and Humanities in order to comply with the budget reconciliation requirements of S. 1377, the Omnibus Reconciliation Act.

As I have said before, I would rather be making recommendations which would increase our Federal education effort rather than decrease it. Since it is the will of both Houses of Congress that most Federal programs be reduced in funding, I believe that our committee has made the best recommendations possible in terms of distributing the limited Federal education dollar.

I particularly thank the distinguished ranking minority member of the subcommittee, Senator PELL, who has continued to work so closely with me during this difficult time. I would also like to thank my full committee chairman who has worked very hard to protect the interests of the members of his committee while negotiating compromises with the administration on issues which have been of the highest priority to the President.

Mr. President, there are two areas of great interest which I would like to discuss briefly. First, as part of the committee's recommendations for funding reductions for our elementary and secondary education programs, we have also proposed a significant streamlining and consolidation of Federal education law and programs. Reduction in paperwork requirements and bureaucratic redtape has not been accomplished at the expense of the protections in Federal education law which assure that the educational needs of handicapped, economically disadvantaged, and educationally deprived children are met.

Second, the committee has achieved substantial savings in the guaranteed student loan program while still maintaining a viable system of student loans through the private capital market. This is not to say that our modifications of the GSL program are not going to cause hardship for some families. However, the proposals we have made will eliminate the so-called convenience borrowing which many critics have said occurs frequently today, while at the same time making sure that those who need subsidized loans can still receive them.

Mr. Chairman, I urge my colleagues in the Senate to adopt these proposals today as the best methods for making very difficult reductions in funding for our education programs.

UP AMENDMENT NO. 181

Mr. STAFFORD. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont (Mr. STAFFORD) for himself and Mr. HATCH proposes an unprinted amendment numbered 181.

Mr. STAFFORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 310, line 17, strike everything through page 332, line 13, and insert in lieu thereof,

"SEC. 1112(a). No sums may be authorized to be appropriated for the fiscal year 1981, for the fiscal year 1982, or for the fiscal year 1983 to carry out any activity of the Department of Education (or predecessor agency), the National Endowment for the Arts, or the National Endowment for the Humanities unless (1) there was an appropriation for the activity in fiscal year 1980, or (2) there is a specific authorization of appropriations for the activity in this part or in an amendment made by this part.

(b) No sums may be authorized to be appropriated for the fiscal year 1981, for the fiscal year 1982, or for the fiscal year 1983 to pay for the expenses of any advisory counsel which provides advice to a program for which there are no authorization of appropriations made under this part or made by an amendment made by this part.

ELEMENTARY AND SECONDARY EDUCATION

SEC. 1113. (a)(1) Title I of the Elementary and Secondary Education Act of 1965 (hereafter in this section referred to as the "Act") is amended—

(A) by inserting "(a)" after "SEC. 102"; and

(B) by adding at the end thereof the following new subsection (b):

"(b) Notwithstanding any other provision of this title there are authorized to be appropriated not to exceed $3,104,317,000 for the fiscal year 1981, $3,348,000,000 for the fiscal year 1982, and $3,348,000,000 for the fiscal year 1983. The Secretary of Education shall assure that the amount available for each separate program authorized by this title has the same ratio to the amount appropriated in each such fiscal year as the amount available to each such program in

fiscal year 1980 had to the total amount appropriated for this title in the fiscal year 1980.".

(2) The section heading of section 102 of the Act is amended to read as follows:

"DURATION AND AMOUNT OF ASSISTANCE"

(b) Section 241 of the Act is amended—

(1) by striking out "There" and inserting in lieu thereof "(a) Subject to subsection (b), there", and

(2) by adding at the end thereof the following new subsection:

"(b) No sums may be authorized to be appropriated in excess of $31,500,000 for the fiscal year 1981 to carry out the provisions of this title. Notwithstanding the provisions of section 242 the Secretary shall assure that amounts available for fiscal year 1981 for the program known as Reading is Fundamental under part B of this title are not less than the amounts available for such program in fiscal year 1980.".

(c)(1) Part A of title III is amended by adding at the end thereof the following new section:

"LIMITATIONS ON AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 304. (a)(1) Notwithstanding any other provision of this title no funds shall be authorized to be available for any program that is not authorized specifically by the provisions of this title including the authorization for discretionary projects under section 303 of this title.

"(2)(A) Not to exceed $8,750,000 shall be available for fiscal year 1981 for the National Diffusion program conducted under this part.

"(B) Not to exceed $2,745,000 shall be available for fiscal year 1981 for the Cities in Schools program conducted under this part.

"(b) Notwithstanding any other provision of this title, no funds shall be authorized to be available for fiscal years 1981, 1982, and 1983 for programs described in part D, part F, part G, part H, part I, part J, and part K of this title.".

(2) Section 314 of the Act is amended—

(A) by striking out "and for each of the four succeeding fiscal years" and inserting in lieu thereof "and for the fiscal year 1980", and

(B) by adding at the end thereof the following new sentence: "There are authorized to be appropriated $1,380,000 for the fiscal year 1981 to carry out the provisions of this part.".

(3) Section 323 of the Act is amended—

(A) by striking out "and for each of the four succeeding fiscal years" and inserting in lieu thereof "and for the fiscal year 1980", and

(B) by adding at the end thereof the following new sentence: "There are authorized to be appropriated $3,150,000 for the fiscal year 1981 to carry out the provisions of this part.".

(4) Section 336 of the Act is amended—

(A) by striking out "not less than" and inserting in lieu thereof "not more than", and

(B) by striking out "for each fiscal year" and inserting in lieu thereof "for each of the fiscal years 1979 and 1980, not more than $1,356,000 shall be available for the fiscal year 1981.".

(5) Section 387(a) of the Act is amended—

(A) by striking out "each of the four succeeding fiscal years" and inserting in lieu thereof "and the fiscal year 1980"; and

(B) by adding at the end thereof the following new sentence: "There are authorized to be appropriated $3,000,000 for the fiscal year 1981, to carry out the provisions of this part.".

(d)(1) Section 402(a)(1) of the Act is amended by inserting after "paragraph (2)" the following: "and subsection (e)".

(2) Section 402(b)(1) of the Act is amended by inserting after "paragraph (2)" the following: "and subsection (e)".

(3) Section 402(c)(1) of the Act is amended by inserting after "paragraph (2)" the following: "and subsection (e)".

(4) Section 402(d) of the Act is amended by striking out "There" and inserting in lieu thereof "Subject to subsection (e), there".

(5) Section 402 of the Act is amended by adding at the end thereof the following new subsection:

"(e)(1) Notwithstanding any other provision of this title, there are authorized to be appropriated for obligation by the Secretary under part B not to exceed $161,000,000 for the fiscal year 1981.

"(2) Notwithstanding any other provision of this title, there are authorized to be appropriated to carry out part C of this title not to exceed $66,130,000 for the fiscal year 1981.

"(3) If the amount available for part B of this title in fiscal year 1981 is less than the amount available for fiscal year 1980 no funds may be expended on any other program except the library resources authorized under the provisions of such part B.".

(e)(1)(A) Section 510(b)(1) of the Act is amended by striking out "and for each succeeding fiscal year ending prior to October 1, 1983" and inserting in lieu thereof "and for the fiscal year 1980."

(B) Section 510(c)(2) of the Act is amended by striking out "and for each succeeding fiscal year ending prior to October 1, 1983" and inserting in lieu thereof "and for the fiscal year 1980".

(2)(A) Section 523(a) of the Act is amended by striking out "There" and inserting in lieu thereof "Except as provided in subsection (d), there".

(B) Section 523 of the Act is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision appropriated not to exceed $42,075,000 for the fiscal year 1981 to carry out the provisions of this part.".

(3) Section 531(c) of the Act is amended by striking out "(1)" and by inserting after "fiscal year" the following: "ending prior to October 1, 1980".

(f)(1)(A) Section 604(b)(1) of the Act is amended by striking out "There" and inserting in lieu thereof "Except as provided in subsection (d), there".

(B) Section 604(b)(2) of the Act is amended by striking out "There" and inserting in lieu thereof "Except as provided in subsection (d), there".

(C) Section 604(b)(3) of the Act is amended by striking out "There" and inserting in lieu thereof "Except as provided in subsection (d), there".

(2) Section 604(c) of the Act is amended by striking out "There" and inserting in lieu thereof "Except as provided in subsection (d), there".

(3) Section 604 of the Act is amended by adding at the end thereof the following new subsection:

"(d)(1) Notwithstanding any other provision of this title, there are authorized to be appropriated to carry out the provisions of this title and the provisions of title IV of the Civil Rights Act of 1964 not to exceed $186,312,000 for the fiscal year 1981.

"(2) Notwithstanding any other provision of this title, none of the funds available for fiscal year 1981, 1982, or 1983, to carry out the provisions of this part, may be expended for grants from apportionments under section 605.".

(g)(1)(A) Section 702(b)(1) of the Act is amended by striking out "For" and inserting in lieu thereof "Except as provided in subsection (c), for".

(B) Section 702(b)(2) of the Act is amended by striking out "There" and inserting in lieu thereof "Except as provided in subsection (c), there".

(2) Section 702 of the Act is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of this title, there are authorized to be appropriated to carry out the provisions of this title not to exceed $157,467,000 for fiscal year 1981, not to exceed $163,000,000 for fiscal year 1982, and not to exceed $163,000,000 for fiscal year 1983.".

(h) Section 804(b) of the Act is amended by striking out "$60,000,000 for the fiscal year 1981, $50,000,000 for the fiscal year 1982, and $40,000,000 for the fiscal year 1983" and inserting in lieu thereof "$3,174,000 for the fiscal year 1981".

(i)(1) Section 903(a) of the Act is amended by striking out ", $35,000,000 for the fiscal year 1981, $40,000,000 for the fiscal year 1982, and $50,000,000 for the fiscal year 1983" and inserting in lieu thereof "$6,280,000 for the fiscal year 1981".

(2)(A) Section 922(c) of the Act is amended by striking out ", and for each of the three succeeding fiscal years".

(B) Section 922(c) of the Act is further amended by adding at the end thereof the following new sentence: "No sums may be authorized to be appropriated for fiscal year 1981, for fiscal year 1982, or for fiscal year 1983, to carry out the provisions of this part.".

(3)(A) Section 938 of the Act is amended by striking out ", and each of the three succeeding fiscal years".

(B) Section 938 of the Act is further amended by adding at the end thereof the following new sentence: "For the purpose of carrying out this part there are authorized to be appropriated $8,125,000 for the fiscal year 1981.".

(4)(A) Section 942 of the Act is amended by striking out "four succeeding fiscal years" and inserting in lieu thereof "the succeeding fiscal year".

(B) Section 942 of the Act is further amended by adding at the end thereof the following new sentence: "No sums may be authorized to be appropriated for fiscal year 1981.".

(5) Section 957 of the Act is amended by striking out "1983" and inserting in lieu thereof "1980, and $2,250,000 for the fiscal year 1981".

HIGHER EDUCATION

SEC. 1114. (a)(1)(A) Section 105 of the Higher Education Act of 1965 (hereafter in this section referred to as the "Act") is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of this part, no sums may be authorized to be appropriated for fiscal year 1981, for fiscal year 1982, for fiscal year 1983, or fiscal year 1984 to carry out the provisions of this part.".

(B) The heading of section 105 of the Act is amended to read as follows:

"AUTHORIZATION: LIMITATION ON AUTHORIZATION"

(2)(A) Section 119 of the Act is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of this part, there are authorized to be appropriated $2,200,000 for the fiscal year 1981, and no sums may be authorized to be appropriated for fiscal year 1982, for fiscal year 1983, or for fiscal year 1984 to carry out the provisions of this part.".

(B) The heading of section 119 is amended to read as follows:

"APPROPRIATIONS; LIMITATIONS AND PAYMENTS"

(b) Section 201 of the Act is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of this title—

"(1) there are authorized to be appropriated to carry out part A not to exceed $2,998,000 for the fiscal year 1981, not to exceed $5,000,000 for the fiscal year 1982, not to exceed $5,000,000 for the fiscal year 1983, and not to exceed $5,000,000 for the fiscal year 1984.

"(2) there are authorized to be appropriated to carry out part B not to exceed $917,000 for the fiscal year 1981, not to exceed $1,200,000 for the fiscal year 1982, not to exceed $1,200,000 for the fiscal year 1983, and not to exceed $1,200,000 for the fiscal year 1984.

"(3) there are authorized to be appropriated to carry out part C not to exceed $6.000.000 for the fiscal year 1981, not to exceed $8,000,000 for the fiscal year 1982, not to exceed $8,000,000 for the fiscal year 1983, and not to exceed $8,000,000 for the fiscal year 1984.".

(c)(1) Section 347 of the Act is amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding any other provision of this title, there are authorized to be appropriated to carry out parts A, B, and C not to exceed $120,000,000 for the fiscal year 1981, not to exceed $129,600,000 for the fiscal year 1982, not to exceed $129,600,000 for the fiscal year 1983, and not to exceed $129,6000,000 in the fiscal year 1984."

(2) The section heading of section 347 of the Act is amended to read as follows:

"AUTHORIZATIONS; LIMITATIONS"

(d)(1)(A) Section 411 of the Act is amended by adding at the end thereof the following new subsection:

"(d)(1) Notwithstanding any other provision of this subpart, no sums may be authorized to be appropriated in excess of $2,604,000,000 for the fiscal year 1981, $2,820,000,000 for the fiscal year 1982, $3,000,000,000 for the fiscal year 1983, and $3,300,000,000 for the fiscal year 1984, for making payments on the basis of entitlements established under this subpart.

"(2) If the Secretary determines that it is necessary to waive any provision of this subpart to meet the authorizations specified in paragraph (1) of this subsection, the Secretary shall notify the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives. The notification shall contain a description of each provision of this subpart that the Secretary proposes to waive and the reasons for the waiver. The Secretary may waive each provision contained in the notification submitted under this paragraph if the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives within 30 days after the receipt approve of the waiver of that provision. Before the Secretary may act under this subparagraph, each such committee must approve of the waiver of each provision requested in the notification.".

(B)(1) Section 413A of the Act is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of this subpart, there are authorized to be appropriated not to exceed $370,000,000 for the fiscal year 1981, not to exceed $400,000,000 for the fiscal year 1982, not to exceed $400,000,000 for the fiscal year 1983, and not to exceed $400,000,000 in the fiscal year 1984.".

(ii) The heading of such section is amended to read as follows:

"PURPOSE; APPROPRIATIONS AUTHORIZED; LIMITATIONS".

(C)(i) Section 415A of the Act is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of the title, there are authorized to be appropriated not to exceed $76,750,000 for the fiscal year 1981, not to exceed $76,750,000 for the fiscal year 1982, not to exceed $76,750,000 for the fiscal year 1983, and not to exceed $76,750,000 for the fiscal year 1984 for payments to States under this subpart.".

(ii) The heading of such section is amended to read as follows:

"PURPOSE; APPROPRIATIONS AUTHORIZED; LIMITATIONS".

(D)(i) Section 417A of the Act is amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding any other provision of this title, there are authorized to be appropriated not to exceed $156,500,000 for the fiscal year 1981, not to exceed $169,500,000 for the fiscal year 1982, not to exceed $186,000,000 for the fiscal year 1983 and not to exceed $186,000,000 for the fiscal year 1984, for the purpose of making grants and contracts under this subpart.".

(ii) The heading of such section is amended to read as follows:

"PROGRAM AUTHORITY; AUTHORIZATION OF APPROPRIATION; LIMITATIONS".

(E) Section 418A of the Act is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of this title, there are authorized to be appropriated $7,303,000 for the fiscal year 1981, $7,553,000 for the fiscal year 1982, $7,553,000 for the fiscal year 1983, and $7,553,000 for the fiscal year 1984 to carry out the provisions of this subpart.".

(F) Section 420 of the Act is amended by adding at the end thereof the following new subsection:

"(h) Notwithstanding any other provision of this section, there are authorized to be appropriated $6,019,000 for the fiscal year 1981, and no sums may be authorized to be appropriated for the fiscal year 1982, the fiscal year 1983, and the fiscal year 1984 to carry out the provisions of this section.".

(2)(A) Section 441 of the Act is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of this title, there are authorized to be appropriated $550,000,000 for the fiscal year 1981, $550,000,000 for the fiscal year 1982, $550,000,000 for the fiscal year 1983, and $550,000,000 for the fiscal year 1984 to carry out this part.".

(B) The section heading of such section is amended to read as follows:

"PURPOSE; APPROPRIATIONS AUTHORIZED; LIMITATIONS".

(e)(1)(A) Section 511 of the Act is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of this title, there are authorized to be appropriated $22,500,000 for the fiscal year 1981 to carry out the provisions of this part.".

(B) The section heading of such section is amended to read as follows:

"STATEMENT OF PURPOSE; AUTHORIZATION OF APPROPRIATIONS; LIMITATIONS".

(2)(A) Section 531 of the Act is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of this title, there are authorized to be appropriated $9,100,000 for the fiscal year 1981 to carry out the provisions of this part.".

(B) The section heading of such section is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS; LIMITATIONS".

(3) Section 546 of the Act is amended—

(A) by striking out "There" and inserting in lieu thereof "Subject to the second sentence of this section, there", and

(B) by adding at the end thereof the following new sentence: "No sums may be authorized to be appropriated for fiscal year 1981, for fiscal year 1982, for fiscal year 1983 or for the fiscal year 1984 to carry out the provisions of this part.".

(f)(1) Section 607 of the Act is amended by striking out "There" and inserting in lieu thereof "Subject to section 623, there".

(2) Section 613 of the Act is amended by striking out "There" and inserting in lieu thereof "Except as provided in section 623, there".

(3) Part C of title VI is amended by adding after section 622 the following new section:

"LIMITATIONS ON AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 623. Notwithstanding any other provision of this title, there are authorized to be appropriated $28,000,000 for the fiscal year 1981, $22,000,000 for the fiscal year 1982, $22,000,000 for the fiscal year 1983, and $28,000,000 for the fiscal year 1984, to carry out the provisions of this title.".

(g)(1) Section 702 of the Act is amended by inserting "(a)" after the section designation and by inserting at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of this title, there are authorized to be appropriated $26,000,000 for the fiscal year 1981, $25,000,000 for the fiscal year 1982, $25,000,000 for the fiscal year 1983, and $25,000,000 for the fiscal year 1984, to carry out the provisions of this title."

(2) The section heading of such section is amended to read as follows:

"APPROPRIATIONS AUTHORIZED; LIMITATIONS".

(3) Section 733 of the Act is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of this title—

"(1) no sums may be authorized to be appropriated for the revolving loan and insurance fund for fiscal year 1981 under this section; and

"(2) there are authorized to be appropriated $18,300,000 for the fiscal year 1982, $1,800,000 for the fiscal year 1983, and $1,800,000 for the fiscal year 1984 for the revolving loan and insurance fund authorized by this section.".

(h)(1) Section 801 of the Act is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of this title, there are authorized to be appropriated $23,000,000 for the fiscal year 1981, $18,400,000 for the fiscal year 1982, $20,000,000 for the fiscal year 1983 and $20,000,000 for the fiscal year 1984, to carry out the provisions of this title.".

(2) The section heading of such section is amended to read as follows:

"APPROPRIATIONS AUTHORIZED; LIMITATIONS".

(i)(1) Section 901(c) of the Act is amended by striking out "There" and inserting in lieu thereof "Except as provided in section 900, there".

(2) Section 924 of the Act is amended by striking out "There" and inserting in lieu thereof "Except as provided in section 900, there".

(3) Section 931(c) of the Act is amended by striking out "There" and inserting in lieu thereof "Except as provided in section 900, there".

(4) Section 942 of the Act is amended by striking out "There" and inserting in lieu thereof "Except as provided in section 900, there".

(5) Section 953 of the Act is amended by striking out "There and inserting in lieu thereof "Except as provided in section 900, there".

(6) Title IX of the Act is amended by inserting before the section heading for part A the following new section:

"LIMITATIONS ON AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 900. Notwithstanding any other provision of this title, there are authorized to be appropriated not to exceed $20,000,000 for the fiscal year 1981, not to exceed $20,000,000 for the fiscal year 1982, not to exceed $20,000,000 for the fiscal year 1983, and not to exceed $20,000,000 for the fiscal year 1984, to carry out the provisions of this part, of which $15,000,000 shall be available for part A, $4,000,000 shall be available for part D, and $1,000,000 shall be available for part E for the fiscal year 1981, and $19,000,000 shall be available for part A and $1,000,000 shall be available for part E for each of the fiscal years 1982, 1983, and 1984.".

(j)(1) Section 1005 of the Act is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of this title, there are authorized to be appropriated not to exceed $13,500,000 for the fiscal year 1981, not to exceed $15,000,000 for the fiscal year 1982, not to exceed $15,000,000 for the fiscal year 1983, and not to exceed $15,000,000 for the fiscal year 1984 to carry out this title.".

(2) The section heading of such section is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS; LIMITATIONS".

(k) Section 331(a)(1) of the Higher Education Act of 1965 is amended by striking out the period at the end of clause (B) and by inserting in lieu thereof a semicolon and the word "or", and by adding at the end thereof the following new clause:

"(C) which is an institution of higher education which includes a substantial number of minority and educationally disadvantaged students, which provides a medical education program which leads to a doctor of medicine degree or which is not less than a two year program fully acceptable toward such a degree, and which in fiscal year 1980 received a grant as a two year medical school under section 788(a) of the Health Professions Educational Assistance Act of 1976.".

FEDERAL IMPACT AID PROGRAM

SEC. 1115. Section 5 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by adding at the end thereof the following new subsection:

"LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 1981, 1982, AND 1983

"(h)(1) Subject to the provisions of paragraph (2), notwithstanding any other provision of this Act, there are authorized to be appropriated for the purpose of making payments to local educational agencies under sections 2, 3, and 4 not to exceed $631,750,000 for the fiscal year 1981, not to exceed $200,000,000 for the fiscal year 1982, and not to exceed $200,000,000 for the fiscal year 1983.

"(2) In carrying the reductions required by paragraph (1) of this subsection, the Secretary shall pro rata reduce the entitlements of local educational agencies under section 2, section 3(a), section 3(b) but only with respect to children who reside on, or who reside with a parent employed on, property which is described in section 403(1)(c), and section 4. No allocation or payment may be made to any such agency for each such year with respect to the number of children who are described in subsection (b) of section 3 unless such children are described in the first sentence of this paragraph.".

VOCATIONAL, ADULT, AND CAREER EDUCATION

SEC. 1116. (a)(1) Section 102(a) of the Vocational Education Act of 1963 (hereafter in this subsection referred to as the "Act") is amended—

(A) by striking out "$1,325,000,000 for fiscal year 1981, and $1,485,000,000 for fiscal year 1982,";

(B) by inserting "(1)" after the subsection designation (a); and

(C) by adding at the end thereof the following:

"(2)(A) There are authorized to be appropriated $518,139,000 for the fiscal year 1981, $490,000,000 for the fiscal year 1982, and $490,000,000 for the fiscal year 1983, to carry out subpart 2 of this part.

"(B) There are authorized to be appropriated $93,323,000 for the fiscal year 1981, $163,000,000 for the fiscal year 1982, and $163,000,000 for the fiscal year 1983, for the purpose of carrying out subpart 3 of this part.".

(2) Section 103(a)(1)(A) of the Act is amended—

(A) by inserting "(i)" after the subparagraph designation (A);

(B) by inserting after "subsection (d) of this section" a comma and the following: "and division (ii) of this subparagraph"; and

(C) by inserting at the end thereof the following new division:

"(ii) The amount reserved under division (i) for subpart 2 of part B, shall not exceed $7,477,000 for the fiscal year 1981, $9,500,000 for the fiscal year 1982, and $9,500,000 for the fiscal year 1983.".

(3) Section 102(b) of the Act is amended by striking out "$50,000,000 for the fiscal year 1981, and $50,000,000 for the fiscal year 1982" and inserting in lieu thereof "$14,954,000 for the fiscal year 1981, $23,600,000 for the fiscal year 1982, and $23,600,000 for the fiscal year 1983".

(4) Section 102(c) of the Act is amended by striking out $80,000,000 for the fiscal year 1981, and $80,000,000 for the fiscal year 1982" and inserting in lieu thereof the following: $30,347,000 for the fiscal year 1981, and $30,000,000 for each of the fiscal years 1982 and 1983".

(5) Section 102(d) is amended by striking out "1982" and inserting in lieu thereof the following: "1980, and $3,738,000 for the fiscal year 1981, $4,000,000 for the fiscal year 1982, and $4,000,000 for the fiscal year 1983".

(6) Section 105(f)(1) of the Act is amended by striking out "$10,000,000 for the fiscal year 1981, and $10,000,000 for the fiscal year 1982" and inserting in lieu thereof "$6,500,000 for the fiscal year 1981, and $4,400,000 for each of the fiscal years 1982 and 1983".

(7) Section 183 of the Act is amended by striking out "$90,000,000 for the fiscal year ending September 30, 1981, and $80,000,000 for the fiscal year ending September 30, 1982" and inserting in lieu thereof "$3,960,000 for the fiscal year 1981, and $3,000,000 for each of the fiscal years 1982 and 1983".

(8) The first sentence of the Act of February 23, 1917 (Public Law 347, Sixty-fourth Congress), commonly known as the Smith-Hughes Act, is amended by adding "(a)" after "That" and by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of this Act, there are authorized to be appropriated not to exceed $7,200,000 for the fiscal year 1981, not to exceed $7,200,000 for the fiscal year 1982, and not to exceed $7,200,000 for the fiscal year 1983.".

(b)(1) Section 315 of the Adult Education Act is amended by striking out "$250,000,000 for the fiscal years 1981; $270,000,000 for the fiscal year 1982; and $290,000,000 for the fiscal year 1983" and inserting in lieu thereof the following: "$100,000,000 for the fiscal year 1981; $122,000,000 for the fiscal year 1982; and $122,000,000 for the fiscal year 1983".

(2) Section 315(a) of the Adult Education Act is further amended by inserting "(1)" after the subsection designation (a) and by adding at the end thereof the following new paragraph:

"(2) Funds appropriated in the fiscal years 1981, 1982, and 1983, shall only be available for grants to States pursuant to section 304 of this Act.".

(3) Section 315(b) of the Adult Education Act is amended by inserting "(1)" after the subsection designation (b) and by adding at the end thereof the following new paragraph:

"(2) No sums may be authorized to be appropriated for fiscal year 1981, for fiscal year 1982 or for fiscal year 1983, for carrying out paragraph (1) of this subsection.".

(c)(1) Section 4 of the Career Education Incentive Act is amended by striking out "$100,000,000 for the fiscal year 1981, $50,000,000 for the fiscal year 1982, and $25,000,000 for the fiscal year 1983".

(2) Section 4(a) of the Career Education Incentive Act is amended by inserting "(1)" after the subsection designation (a) and by adding at the end thereof the following new paragraph:

"(2) There are authorized to be appropriated $10,000,000 for the fiscal year 1981, and no sums may be authorized to be appropriated for fiscal year 1982 or for fiscal year 1983, to carry out the provisions of this Act.".

(3) Section 11(c) of the Career Education Incentive Act is amended by striking out "1983" and inserting in lieu thereof "1981".

MISCELLANEOUS EDUCATION PROGRAMS

SEC. 1117. (a) Section 405(j)(1) of the General Education Provisions Act, relating to the National Institute of Education is amended—

(1) by striking out "There" and inserting in lieu thereof "Except as provided in paragraph (3) there"; and

(2) by adding at the end thereof the following new paragraph:

"(3) There are authorized to be appropriated $65,614,000 for the fiscal year 1981, $59,000,000 for the fiscal year 1982, and $59,000,000 for the fiscal year 1983.".

(b) Section 406(g) of the General Education Provisions Act relating to the National Center for Education Statistics is amended to read as follows:

"(g) The amount available for salaries and expenses of the Center and for grants and contracts under subsection (e) of this section shall not exceed, in the aggregate, $8,947,000 for the fiscal year 1981, $8,900,000 for the fiscal year 1982, and $8,900,000 for the fiscal year 1983.".

(c) Section 209(a) of the Museum Services Act is amended by striking out "$25,000,000 for the fiscal year 1981, $30,000,000 for the fiscal year 1982, $35,000,000 for the fiscal year 1983" and inserting in lieu thereof the following: "$12,900,000 for the fiscal year 1981, $9,600,000 for the fiscal year 1982, $9,600,000 for the fiscal year 1983".

(d) There are authorized to be appropriated to Howard University not to exceed $133,983,000 for the fiscal year 1981, $133,983,000 for the fiscal year 1982, $133,983,000 for the fiscal year 1983, and $140,000,000 for the fiscal year 1984.

(e) There are authorized to be appropriated for the purpose of providing assistance to land-grant colleges under the Act of August 30, 1980 (26 Stat. 317, 7 U.S.C. 322; commonly referred to as the "Second Morrill Act") or any other similar provision of Federal law providing assistance to land-grant colleges, not to exceed $2,800,000 for the fiscal year 1981, not to exceed $2,800,000 for the fiscal year 1982, and not to exceed $2,800,000 for the fiscal year 1983.

(f) Section 4 of the Library Services and Construction Act is amended—

(1) by striking out "For" in subsection (a) and inserting in lieu thereof "Except as provided in subsection (c), for"; and

(2) by adding at the end thereof the following new subsection:

"(c) There are authorized to be appropriated not to exceed $74,500,000 for the fiscal year 1981, not to exceed $84,500,000 for the fiscal year 1982, and not to exceed $84,500,000 for the fiscal year 1983.".

(g) Section 552(a) of the Economic Opportunity Act of 1964 is amended by striking out "$100,000,000 for the fiscal year 1981" and inserting in lieu thereof "$26,250,000 for the fiscal year 1981".

(h) Section 1524 of the Education Amendments of 1978, relating to general assistance for the Virgin Islands, is amended—

(1) by striking out "each of the four succeeding fiscal years" and inserting in lieu thereof "the succeeding fiscal years"; and

(2) by adding at the end thereof the following new sentence: "There are authorized to be appropriated $2,700,000 for the fiscal year 1981, and no sums may be appropriated for fiscal year 1982, or for fiscal year 1983, to carry out the provisions of this section.".

(i) Section 5 of the Joint Resolution entitled "A Joint Resolution to provide grants for Allen J. Ellender for fellowships to disadvantaged secondary school students and their teachers to participate in a Washington public affairs program", approved October 19, 1972, is amended by striking out "1982" and inserting in lieu thereof "1983".

(j) Section 1527 of the Education Amendments of 1978, relating to television program assistance, is amended by inserting at the end thereof the following new subsection:

"(c) There are authorized to be appropriated not to exceed $6,000,000 for the fiscal year 1981, not to exceed $6,000,000 for the fiscal year 1982, and not to exceed $8,000,000 for the fiscal year 1983, to carry out the provisions of this section.".

(k) Section 406A of the General Education Provisions Act relating to science education programs is amended by striking out "$2,500,000" in clause (1) and inserting in lieu thereof "$1,875,000".

ENDOWMENTS

SEC. 1118. (a)(1) The first sentence of section 11(a)(1)(A) of the National Foundation of the Arts and Humanities Act of 1965 (hereafter in this section referred to as the "Act") is amended by striking out "For" and inserting in lieu thereof "Except as provided in subsection (e), for".

(2) The first sentence of section 11(a)(1)(B) of the Act is amended by striking out "For" and inserting in lieu thereof "Except as provided in subsection (e), for".

(3) Section 11(a)(2)(A) of the Act is amended by striking out "There" and inserting in lieu thereof "Except as provided in subsection (e), there".

(4) Section 11(a)(2)(B) of the Act is amended by striking out "There" and inserting in lieu thereof "Except as provided in subsection (e), there".

(5) Section 11(a)(3)(A) of the Act is amended by striking out "There" and inserting in lieu thereof "Except as provided in subsection (e), there".

(6) Section 11(a)(3)(B) of the Act is amended by striking out "There" and inserting in lieu thereof "Except as provided in subsection (e), there".

(7) Section 11(c)(1) of the Act is amended by striking out "There" and inserting in lieu thereof "Except as provided in subsection (e), there".

(8) Section 11(c)(2) of the Act is amended by striking out "There" and inserting in lieu thereof "Except as provided in subsection (e), there".

(b)(1) Section 11 of the Act is amended by adding at the end thereof the following new subsection:

"(e)(1) There are authorized to be appropriated to the National Endowment for the Arts not to exceed $159,100,000 for the fiscal year 1981, not to exceed $119,300,000 for the fiscal year 1982, and not to exceed $119,300,000 for the fiscal year 1983.

"(2) There are authorized to be appropriated to the National Endowment for the Humanities $151,700,000 for the fiscal year 1981, $113,700,000 for the fiscal year 1982, and $113,700,000 for the fiscal year 1983.".

(2) The heading of section 11 of the Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS; LIMITATIONS".

DEPARTMENTAL MANAGEMENT AND OTHER ACTIVITIES

SEC. 1119. Notwithstanding any other provision of law there are authorized to be appropriated—

(1) for the management of the Department of Education not to exceed $243,137,000 for fiscal year 1981, not to exceed $210,882,000 for fiscal year 1982, and not to exceed $210,882,000 for the fiscal year 1983;

(2) for the office of the Inspector General, the Department of Education, $11,464,000 for fiscal year 1981, $10,967,000 for fiscal year 1982, and $10,967,000 for fiscal year 1983;

(3) for overseas education research and training $3,000,000 for fiscal year 1981, $1,000,000 for fiscal year 1982, and $1,000,000 for fiscal year 1983;

(4) for the Office of Civil Rights, the Department of Education, $51,902,000 for fiscal year 1981, $48,028,000 for fiscal year 1982, and $48,028,000 for fiscal year 1983;

(5) for Cuban-Haitian reception activities $157,100,000 for fiscal year 1981 and $20,000,000 for fiscal year 1982;

(6) for Cuban and Haitian domestic activities $96,000,000 for fiscal year 1981, $40,000,000 for fiscal year 1982, and $30,000,000 for fiscal year 1983;

(7) for Indochinese refugee assistance $596,525,000 for fiscal year 1981, $360,600,000 for fiscal year 1982, and $200,000,000 for fiscal year 1983; and

(8) for the sea grant college program $[illegible]000,000 for the fiscal year 1981, $35,000,000 for fiscal year 1982, and $35,000,000 for fiscal year 1983.

No sums may be authorized to be appropriated for Cuban and Haitian reception activities for fiscal year 1983.

STUDENT LOAN AMENDMENTS FOR RECONCILIATION

SEC. 1120. (a)(1) Section 428(a)(2) of the Higher Education Act of 1965 (hereafter in this section referred to as the "Act") is amended to read as follows:

"(2)(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall—

"(i) have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which the student is in attendance, which—

"(I) sets forth such student's estimated cost of attendance; and

"(II) sets forth such student's estimated financial assistance; and

"(ii) meet the requirements of subparagraph (B).

"(B) For the purpose of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if such student's adjusted family income—

"(i) is less than or equal to $25,000; or

"(ii) is greater than $25,000, and the eligible institution has provided the lender with a statement evidencing a determination of need and recommending a loan in the amount of such need.

"(C) For the purpose of paragraph (1) and this paragraph—

"(i) a student's estimated cost of attendance means, for the period for which the loan is sought, the tuition and fees applicable to such student together with the institution's estimate of other expenses reasonably related to attendance at such institution, including, but not limited to, the cost of room and board, reasonable transportation costs, and costs for books and supplies;

"(ii) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under subparts 1 and 2 of part A, and parts C and E of this title, any amount paid under the Social Security Act to, on the account of the student which would not be paid if he were not a student, and any amount paid the student under chapters 32, 34, and 35 of title 38, United States Code, plus other scholarship, grant, or loan assistance; and

"(iii) the determination of need and the amount of a loan recommended by an eligible institution under subparagraph (B)(ii) with respect to a student shall be determined by subtracting from the estimated cost of attendance at the eligible institution the total of the expected family contribution with respect to such student plus any other resources or student financial assistance reasonably available to such student.

"(D) The Secretary shall submit a separate schedule of expected family contributions to the President of the Senate and the Speaker of the House of Representatives not later than the submission of, and in accordance with the procedures for, the proposed schedule of expected family contributions under section 482.".

(2) Section 428(b)(1)(A)(i) of the Act is amended by striking out "section 428(a)(2)(B)i" and inserting in lieu thereof "section 428a(2)(C)(i)".

(b)(1) The matter following section 428(b)(1)(M)(viii) of the Act is amended by striking out ", and that no repayment of principal of any loan for any period of study, training, service, or unemployment described in this clause or any combination thereof shall begin until six months after the completion of such period or combination thereof".

(2) Section 427(a)(2)(C) of the Act is amended by striking out ", and that no repayment of principal of any loan for a period of study, training, service, or unemployment described in this clause or any combination thereof shall begin until six months after the completion of such periods or combinations thereof".

(c)(1)(A) Section 425(a)(1) of the Act is amended by striking out clause (A), and by redesignating clauses (B), (C), and (D) of such paragraph as clauses (A), (B), and (C), respectively.

(B) Section 425(a)(2) of the Act is amended—

(i) by striking out "(other than an independent student)", and

(ii) by striking out "$15,000 in the case of any independent student who has not successfully completed a program of undergraduate education,".

(2)(A) Section 428(b)(1) of the Act is amended—

(i) by striking out "(other than an indipendent student)", and

(ii) by striking out "or not more than $3,000 in the case of an independent student (defined in accordance with section 482(c)(2)) who has not successfully completed a program of undergraduate education,'.

(B) Section 428(b)(1)(B) of the Act is amended—

(i) by striking out "(other than an independent student)", and

(ii) by striking out "$15,000 in the case of any independent student who has not successfully completed a program of undergraduate education,".

(3) Section 428A(a)(1)(A) of the Act is amended—

(A) by striking out ", other than an independent student,",

(B) by striking out "$3,000 (in the case of an independent student (as defined in section 482(c)(2)) who has not successfully completed a program of undergraduate education),",

(C) by striking out "(other than an independent student)", and

(D) by striking out "$15,000 in the case of any independent student who has not successfully completed a program of undergraduate education,".

(d)(1) The Act is amended by inserting after section 427A the following new section:

"INTEREST RATE ON PARENTAL LOANS

"SEC. 427B. (a) With respect to any loan made under section 428B to cover the cost of instruction for any period of instruction beginning on or after July 1, 1981, the rate of interest applicable to any borrower shall—

"(1) not exceed 9 per centum per annum on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has an outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, other than a loan for which the interest rate is determined under paragraph (2) or (3) of this subsection;

"(2) except as provided in paragraph (3), be 14 per centum per annum on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, or who has such an outstanding balance on a loan for which the interest rate is determined under this paragraph; or

"(3) be 12 percentum per annum on the unpaid principal balance of the loan in the case of any borrower not subject to paragraph (1) or (2) for any loan to cover the cost of education for any period of enrollment beginning on or after a date which is three months after a determination made under subsection (b).

"(b) If for any twelve-month period beginning on or after July 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of ninety-one-day Treasury bills auctioned for such twelve-month period is equal to or less than 14 per centum, the interest rate for loans under this part shall be the rate prescribed in subsection (a)(3) for borrowers described in such subsection.

"(c) Nothing in this section shall be construed to prohibit a lender from charging a borrower interest at a rate less than the rate which is applicable under this part."

(2) The matter preceding clause (1) of section 427A of the Act is amended by striking out "With" and inserting in lieu thereof "Except as provided in section 427B, with".

(3) Section 428B(c)(3) of the Act is amended—

(A) by striking out "Interest" and inserting in lieu thereof "Except as provided in paragraph (4), interest)";

(B) by striking out ", except that, if the loan is to cover the cost of education for a period of enrollment which begins on or after a date which is three months after the date on which the Secretary has made a determination under section 427A(b) and that borrower, on the date of entering into the note or other written evidence of the loan, has no obligation to repay any amount of principal or interest on any other loan made under this section with respect to the same student, then the interest shall be at the rate of 8 per centum per annum on the unpaid principal balance of the loan"; and

(C) by adding at the end thereof the following new paragraph:

"(4) Interest on loans after July 1, 1981, made pursuant to this section shall be at the rate of 14 per centum per annum on the unpaid principal balance of the loan, except that, if the loan is to cover the cost of education for a period of enrollment which begins on or after a date which is three months after the date on which the Secretary has made a determination under section 472B(b) and that borrower, on the date of entering into the note or other written evidence of the loan, has no obligation to repay any amount of principal or interest on any other loan made under this section with respect to the same student, then the interest shall be at the rate of 12 per centum per annum on the unpaid principal balance of the loan.".

(e)(1) Section 428(c)(2)(D) of the Act is amended by striking out ", but shall not otherwise provide for subrogation of the United States to rights of any insurance beneficiary".

(2) Section 428(c) of the Act is amended by adding at the end thereof the following new paragraph:

"(8) Whenever the Secretary has made a determination that the protection of the Federal fiscal interest so requires, a guaranty agency shall assign to the Secretary any loan for which the Secretary has made payment under a guaranty agreement pursuant to paragraph (1) of this subsection.".

(f) Section 428(c) of the Act is repealed.

(g)(1) Section 438(b)(2) of the Act is amended—

(A) by redesignating subparagraph (D) as subparagraph (F);

(B) by striking out "(D)" in subparagraph (A) and inserting in lieu thereof "(F)";

(C) by striking out "(D)" in subparagraph (B) and inserting in lieu thereof "(F)";

(D) by striking out "(D)" in subparagraph (C) and inserting in lieu thereof "(F)"; and

(E) by inserting after subparagraph (C) the following new subparagraphs:

"(D) Subject to subparagraph (F) and paragraph (4), the special allowance paid pursuant to this subsection on loans for which the applicable interest rate is 12 per centum per annum shall be computed (i) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (ii) by subtracting 8.5 per centum from such average, and (iii) dividing the resultant per centum by four.

"(E) Subject to subparagraph (F) and paragraph (4), the special allowance paid pursuant to this subsection on loans for which the applicable interest rate is 14 per centum per annum shall be computed (i) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (ii) by subtracting 10.5 per centum from such average, and (iii) dividing the resultant per centum by four.".

(2)(A) Section 438(b)(2)(A) of the Act is amended by striking out clause (iii) and by redesignating clause (iv) as clause (iii).

(B) Section 438(b)(2)(B) of the Act is amended by striking out clause (iii) and by redesignating clause (iv) as clause (iii).

(C) Section 438(b)(2)(C) of the Act is amended by striking out clause (iii) and by redesignating clause (iv) as clause (iii).

(3) Section 438 of the Act is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c)(1) Notwithstanding subsection (b), the amount of the special allowance which shall be paid under subsection (b)(1) to any holder with respect to loans (other than loans made under section 428B and section 439(o)) made on or after July 1, 1981, shall be reduced by an amount equal to—

"(A) the maximum amount which the lender was authorized to charge as an origination fee with respect to such loans in accordance with paragraph (2) of this subsection,

minus

"(B) the sum of the amounts by which preceding payments of the special allowance with respect to such loans under this section were reduced in accordance with this paragraph.

"(2) With respect to any loan made on or after July 1, 1981, each eligible lender under this part is authorized to charge the borrower an origination fee in an amount not to exceed 5 per centum of the principal amount of the loan.".

(4) No eligible lender, no institution of higher education, and no loan officer of an eligible lender will be subject to the Truth in Lending Act or other disclosure requirements as a result of the amendment made by paragraph (3) of this subsection.

(5) Section 438(b)(5) of the Act is amended to read as follows:

"(5) As used in this section, the term 'eligible loan' means a loan—

"(A) on which a portion of the interest is paid on behalf of the student and for his account to the holder of the loan under section 428(a); and

"(B) which is insured under this part, or made under a program covered by an agreement under section 428(b) of this Act.".

(h)(1) Section 439(a) of the Act is amended—

(A) by striking out "insured" wherever it appears in such section; and

(B) by inserting after "student loans," the first time it appears "including loans which are insured".

(2) Section 439(a) of the Act is further amended by striking out "and" at the end of clause (1), and by inserting before the period at the end of clause (2) a semicolon and the following: "and (3) to assure nationwide the establishment of adequate loan insurance programs for students, to provide for an additional program of loan insurance for student loans covered by agreements under section 428(b) with the Secretary".

(3) Section 439(d)(1) of the Act is amended—

(A) by inserting "(A)" after the paragraph designation; and

(B) by adding at the end thereof the following:

"(B) The Association is further authorized, subject to the provisions of this section—

"(i) to undertake any activity with regard to student loans which are not insured or guaranteed as provided for in this subsection as it may undertake with regard to insured or guaranteed student loans. Any warehousing advance made on the security of such loans shall be subject to the provisions of paragraph (2) of this subsection to the same extent as a warehousing advance made on the security of insured loans;

"(ii) to buy, sell, hold, underwrite, and otherwise deal in obligations, which obligations are issued for the purpose of making or purchasing insured loans by a state or nonprofit private institution or organization which has an agreement with the Secretary under Section 428(b) of the Act or an eligible lender in a State described in section 435(g)(1)(D) or (F) of the Act;

"(iii) to undertake a program of loan insurance pursuant to agreements with the Secretary under sections 428 and 428A; and except with respect to loans under section 439(o), prior to entering into any agreement with the Association, the Secretary must determine that eligible borrowers are seeking and unable to obtain loans under this part and that no state agency or nonprofit private institution or organization having an agreement with the Secretary for a program of loan insurance under this part

is capable of or willing to provide a program of loan insurance for such borrowers; and

"(iv) to undertake any other activity which the Board of Directors of the Association determines to be in furtherance of the programs of insured student loans authorized under this part or will otherwise support the credit needs of students.".

(4) Section 439(l) of the Act is amended by adding at the end thereof the following: "The obligations of the Association shall be deemed to be obligations of the United States for purposes of section 742 of title 31 of the United States Code. For the purpose of the distribution of its property pursuant to section 726 of the Bankruptcy Act, the Association shall be deemed a person within the meaning of that Act.".

(l)(1) Section 428P(a) of the Act is amended by inserting "(1)" after "(a)" and by adding at the end thereof the following new paragraph:

"(2) Graduate students (as defined by regulations of the Secretary) and the spouses of graduate students shall be eligible to borrow funds under this part in amounts specified in subsection (b), and unless otherwise specified in subsections (c) and (d), such loans shall have the terms, conditions, and benefits as all other loans made under this part. Whenever necessary to carry out the provisions of this section, the terms "student" and "student borrower" used in this part shall include the spouse of a graduate student who is a borrower under this section.".

(2) Section 428B(b) of this Act is amended by adding at the end thereof the following new paragraph:

"(4) For the purpose of this subsection, a spouse of a graduate student shall be considered a parent. In any case in which both the graduate student and the spouse of a graduate student are eligible to receive loans guaranteed or insured under this part, the student and the spouse shall select which one will be the spouse for the purpose of this section.".

(3) The section heading of section 428B is amended to read as follows:

"LOANS TO PARENTS OF DEPENDENT UNDERGRADUATE STUDENTS AND TO GRADUATE STUDENTS AND THEIR SPOUSES".

(j)(1) Section 482(a)(1) of the Act is amended by striking out everything after the comma following the words "family income, which," and inserting in lieu thereof the following: "together with any amendments published in the Federal Register, no later than August 15, 1981, May 15, 1982, and May 15 of each succeeding year, shall become effective July 1 of the calendar year which succeeds such calendar year, except as is otherwise provided in paragraph (2). During the thirty-day period following publication of a schedule and any amendment to a schedule, the Secretary shall provide interested parties with an opportunity to present their views and make recommendations with respect to such schedule or amendment. Such schedule shall be adjusted annually.".

(2) Section 482(a)(2) of the Act is amended to read as follows:

"(2) The schedule of expected family contributions required for each academic year, including any amendments thereto published pursuant to paragraph (1), shall be transmitted to the President of the Senate and the Speaker of the House of Representatives not later than the time of its publication in the Federal Register. If either the Senate or House of Representatives adopts, prior to October 1, 1981, July 1, 1982, or July 1 of any succeeding year following the submission of such schedule and any amendments thereto as required by this paragraph, a resolution of disapproval of such schedule or amendments, in whole or in part, the Secretary shall publish a new schedule of expected family contributions in the Federal Register not later than fifteen days after the adoption of such resolution of disapproval. Such new schedule shall take into consideration such recommendations as may be made in either House in connection with such resolution. If within fifteen days following the submission of the revised schedule, either the Senate or the House of Representatives again adopts a resolution of disapproval, in whole or in part, of such revised schedule, the Secretary shall publish a new schedule of expected family contributions in the Federal Register not later than fifteen days after the adoption of such resolution of disapproval. This procedure shall be repeated until neither the Senate nor the House of Representatives adopts a resolution of disapproval. The Secretary shall publish together with each new schedule a statement identifying the recommendations made in either House in connection with such resolution of disapproval and explaining his reasons for the new schedule.".

(3) The first sentence of section 431(d)(1) of the General Education Provisions Act is amended by inserting after "final regulation" the first time it appears the following: "(except expected family contribution schedules and any amendments thereto promulgated pursuant to section 1089(a)(1) and (2) of this title)".

(k) Section 464(c)(1)(D) of the Act is amended by inserting after "1980," the following: "or 7 per centum in the case of any loan made on or after July 1,

Mr. STAFFORD. Mr. President, as chairman of the Senate Subcommittee on Education, Arts and Humanities, I address the Senate today to describe the work of the subcommittee in complying with the spending reductions authorized by S. 1377. These past 6 months have been very difficult for those of us who believe that Federal education programs should be of the highest funding priority. I would much rather be addressing the Senate today, for the first time I might add as chairman of the Senate Education Subcommittee, to recommend funding increases rather than the substantial decreases contained in S. 1377. However, given the constraints under which the subcommittee and the full committee were forced to operate, I feel that we have included in S. 1377 the best possible recommendations for Federal education programs.

My additional amendment which I offer today, is the final step necessary to bring the Education Subcommittee into compliance on authorizations. Previously, the subcommittee had been informed that it need not recommend new authorization levels for fiscal year 1984. Last week we were contacted by the Senate Budget Committee saying that, since our higher education programs were authorized last year through 1985, we needed new numbers for fiscal year 1984.

My recommendation is level funding for all the higher education programs with the exception of three programs—Pell grants would be increased from $3 billion to $3.3 billion, international education would be increased from $22 million to $28 million, and Howard University would be increased from $133 million to $140 million.

My amendment also includes a provision to strike language which would seriously hamper the efforts of the Secretary of Education to combat fraud and abuse in the guaranteed student loan program. This language has no place in the reconciliation resolution, and should be deleted at this time.

Mr. President, I urge my colleagues to accept the amendment I offer today which will bring the recommendations of the Education Subcommittee into compliance with the budget reconciliation resolution for fiscal year 1984.

Mr. HATCH. Mr. President, I stand in support of the amendment of the distinguished Senator from Vermont. I believe that what he is trying to do is meet the reconciliation figures that we must meet in this reconciliation package.

Of course, by doing so he is keeping funding level for both 1983 and 1984.

Although these particular figures can be changed in the outyears as we reach those years and as we go through the budget processes at that time, and although they are not binding, nevertheless, there is an important message that must be sent, and that is that we are going to start getting this country's spending practices under control.

So I commend my colleague from Vermont for his efforts in this area and for his efforts in the whole area of education which is dear to him and all of us on the committee and in which he does an excellent job.

I ask that all of our colleagues consider supporting the distinguished Senator from Vermont as chairman of the Subcommittee on Education because of the efforts and the long contribution he has given to this particular problem.

Mr. PELL. Mr. President, I rise to oppose this amendment. I do so reluctantly because my chairman and I are close friends, and we rarely disagree.

However, we do disagree on this amendment. First, I cannot agree with further cuts in authorizations for education programs. We have cut these programs tremendously. Now we are being asked to reduce them by another $812 million for fiscal year 1984. One day the public will realize what we are actually doing with these cuts. When that day comes, and when we have seriously damaged the educational future of this Nation and our citizens, I want to have been one of the few voices who spoke out against these cuts, and who would not agree to take one more "pound of flesh" from the educational body of our country.

I must further oppose this amendment because it seeks to strike several guaranteed student loan provisions which I consider to be extremely important. I introduced these provisions because the Department of Education was unfairly and illegally withholding payments to lenders because the Department claimed that the lender should have known that the school for which these loans were made was a questionable one. Yet the Department had itself approved the accreditation of this school, and in reviewing the loan documents stamped the loans as insurable. For the Department to come back now, in some cases 8 years after loans were made, and then claim that these loans should not have been made, strikes me as incredible, particularly after the Department by its own actions lead lenders

to believe that they had made legitimate loans.

However. I recognize that the Department can sometimes cloud an issue, and I believe it is doing this in this case. Although I will oppose this amendment, I am not confident that my position will prevail. Yet I think the questions that have recently surfaced concerning these provisions, and some of the allegations that people within the Department have raised to my staff and Senator STAFFORD's staff, require that we look into this matter with more detail. Because of some of these allegations, particularly ones which called into question some of the practices of the involved lenders, it is imperative that our subcommittee hold a hearing to explore this situation in depth, and to determine at that time what kind of legislative remedy might be advisable. Would such a hearing be acceptable to the chairman?

I believe that such a hearing might be acceptable to the chairman, and I would like to ask him his thoughts on that matter at this time, if I may.

Mr. STAFFORD. Mr. President, I will assure my distinguished friend and colleague from Rhode Island that we will cooperate to schedule hearings at an early date in July to examine this matter further and in trying to dispose of it properly.

Mr. PELL. I thank the Senator from Vermont very much for his assurance.

I recognize this is a rather particular problem in a broad bill, and I shall look forward to that hearing which, I hope, will take place as soon as possible. I have made my position known and I now yield the floor.

Mr. KENNEDY. Mr. President, I rise in opposition to the amendment offered by my friend and colleague from Vermont. The last few weeks have been difficult ones for those of us on the Labor and Human Resources Committee. The depth of the cuts we had to consider forced us to make some very hard choices.

Senator STAFFORD graciously agreed to accept the near impossible job of mediating the significant differences that exist among members of our committee. He did so with grace, never losing sight of the critical needs of the elderly, handicapped, minority, and other disadvantaged citizens who are helped by the programs in our committee.

Thus, it is with regret that I find myself opposing Senator STAFFORD on this amendment.

We are being asked to cut another $800 million in authorizations from the higher education programs in 1984. Senator STAFFORD has chosen the least painful way to make these cuts; nevertheless, the effect will be devastating.

The authorizations for college libraries is reduced 84 percent; library training is cut 96 percent; support for graduate schools is reduced by 40 percent; college work study is cut 30 percent; and migrant education is cut in half.

I applaud the proposed increase for Pell grants.

This essential program enables millions of needy students to have the benefits of a college education their parents only dreamed about. But I cannot accept this increase when the price is draconian cuts in other programs.

These cuts ignore the administration's own economic forecasts. Even their optimistic estimates predict that inflation will increase the cost of living by 20 percent over the next 3 years.

Yet we are asking all colleges and universities to hold the costs of their programs constant. It cannot be done. The effect will be a drastic reduction in services and a very real decline in the quality of higher education in this country. This is too high a price to pay, and I urge my colleagues to vote against this particular amendment.

Mr. DOMENICI. Mr. President, I rise in support of the amendment proposed by Senators STAFFORD and HATCH. This amendment brings the Labor and Human Resources Committee into compliance with the Senate's reconciliation instruction to the Committee for Authorized Programs in fiscal year 1984. This committee is already in compliance with the Senate's reconciliation instruction for fiscal years 1981, 1982, and 1983 for authorized programs—having cut more than $2.5 billion in 1981, $10.6 billion in 1982, and $12.9 billion in 1983. Passage of this amendment will result in reductions of $15 billion in authorized programs in fiscal year 1984—a tremendous effort toward reducing growth in Federal expenditures and the size of the deficit.

Mr. President, I would like to compliment Senators STAFFORD and HATCH—not only for their effort to comply with the Senate's instruction—but for the care and concern which they exhibit for the programs and legislation under the jurisdiction of their committee. The Labor and Human Resources Committee has included five block grants in this bill, carefully constructed to provide States and localities with the flexibility necessary to adjust to the budget reductions that we are voting on today. One of these block grants, for elementary and secondary education, is a particular concern of mine.

In the past two Congresses I have sponsored legislation to consolidate elementary and secondary education programs. The education block grant that the committee proposes today streamlines the Federal role in education and reduces the number of regulations and categorical requirements with which school districts must comply. While this block grant does not reduce the categorical nature of Federal education programs as perhaps I, personally, might prefer, it is a long step in the right direction and I compliment the Senators on their effort.

Mr. BURDICK. I would like to engage in a short discussion with him about the revisions his Education Subcommittee made in the guaranteed student loan program.

First, I compliment the Senator and his staff on a job well done here. I am sorry we are forced to cut the program to the extent this act requires, but given that reality, I think the subcommittee did a masterful job. The administration's original proposal was, to my mind, devastating. I think you have come up with a much more responsible alternative, and one that will assure continued availability of loans to those most in need.

Mr. STAFFORD. I thank the Senator. Let me add that the Senator made a significant contribution to this effort. Without your work on the problems the family contribution schedule created for students from farm and ranch families, these students could well have been excluded from virtually all Federal student aid programs by next year.

Mr. BURDICK. The changes you incorporated into this bill are critical for them, and I appreciate your remarks about my efforts relating to this. The North Dakota Student Aid Officers' Association played a significant role, and your staff was very helpful as well.

It is the family contribution schedule I would like to discuss with you today.

Because so many students from farm and small business families have family assets that make them ineligible for the traditional needs-based programs, the GSL has become a kind of "safety net" for them. The discretionary income of these students' families bears little relation to their assets. In fact, they often are in the hole at the end of the year. But their net worth is overstated by the inflated value of farmland, and when this fixed, nonliquid asset is plugged into a needs analysis, it renders them ineligible for needs-based aid.

This will be an even greater problem next year when the congressional methodology goes into effect. It will render practically every student in North Dakota from a farm, ranch, or small business family ineligible for a Pell grant—and that group makes up 40 percent of the total number of students who now get aid in North Dakota. I noted that your subcommittee has authorized the Education Secretary to waive existing law to stay within the cap on Pell grants, and I will be working with the Department to try to assure some flexibility for these students if this opportunity arises.

Mr. STAFFORD. I share the Senator's concern about this and hope the Department will be able to make some adjustments to see that farm and small business families are treated more equitably.

Mr. BURDICK. You have done a great deal to alleviate this problem in the GSL program by requiring a separate family contribution schedule.

Mr. STAFFORD. Yes; we want to make sure that the students you have described continue to be eligible for GSL's.

Mr. BURDICK. I understand that was your intent. I also understand that it will be up to the Department of Education to devise a family contribution schedule for the GSL's that reflects this intent.

Mr. STAFFORD. Yes, our report directs them to insure this.

Mr. BURDICK. Good; that is a big step in the right direction. It would be ideal if their proposal had no assets limitation. If this proves too costly, I hope they will consider a progressive allowance and taxation system for farm and business assets similar to the method employed by the uniform methodology.

Such a system would require less from a small operation and progressively require more as the assets get larger.

Mr. STAFFORD. It will be up to the Department to devise their own family contribution schedule, but that is the kind of schedule we had in mind.

Mr. BURDICK. The Senator has answered my questions. Thank you.

● Mr. JACKSON. Mr. President, section 1121–7(a)(3) of title I of the Elementary and Secondary Education Program Consolidations and Improvement Act contained in the Omnibus Reconciliation bill provides that—

> The State Education Agency may waive, for one fiscal year only, the requirements of this subsection if the State Education Agency determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local education agency.

I would ask the chairman if in those States which provide substantial portions of their operating budget from levy funding and in which States a double levy failure prevents the school district from holding another levy during that year, if such circumstances would not, in fact, constitute "exceptional and unforeseen circumstances" which come under the provisions of the act.

Mr. HATCH. Mr. President, the purpose of our maintenance-of-effort provision is to provide greater discretion in its application. In many States, taxpayer referenda have led to declines in State and local effort. In other States, adverse economic conditions have caused declining revenue. It is the committee's intent that we not encourage erosion of maintenance-of-effort, but if that occurs, we want to provide some operating flexibility for States and localities.

It is the committee's view that a double-levy rejection could very well be a circumstance where our waiver provisions could be applied.●

Mr. RANDOLPH. Mr. President, I will reluctantly vote against the Stafford amendment to reconcile education funding levels in fiscal year 1984.

Although I understand this amendment was supposed to have been part of the committee's reported reconciliation bill, neither Members nor staff were aware of it until the Monday following the July 12 reporting date.

The Budget Committee has instructed the able chairman of our Education Subcommittee (Mr. STAFFORD) to cut an additional $812 million from education in fiscal year 1984. I am confident Senator STAFFORD would himself have preferred not to make further budget cuts in fiscal year 1984.

I will vote against further cuts in education in fiscal year 1984.

Mr. KENNEDY. Will the Senator ask for the yeas and nays?

Mr. PELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STAFFORD. Mr. President, I simply want to say that I have offered this amendment purely to bring the committee in compliance with the orders of the Budget Committee. It brings no personal joy to me in having to do so, but that is the purpose for which the amendment has been offered.

I am prepared, Mr. President, to yield back my time on the amendment if my colleagues on the other side are ready to yield back their time.

Mr. KENNEDY. We yield back the remaining time.

Mr. STAFFORD. I yield back our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Carolina (Mr. EAST) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON) and the Senator from Massachusetts (Mr. TSONGAS) are necessarily absent.

The PRESIDING OFFICER (Mr. COCHRAN). Are there any other Senators wishing to vote?

The result was announced—yeas 60, nays 37, as follows:

[Rollcall Vote No. 163 Leg.]

YEAS—60

Abdnor	Gorton	Nunn
Andrews	Grassley	Packwood
Armstrong	Hatch	Percy
Baker	Hatfield	Pressler
Bentsen	Hawkins	Proxmire
Boren	Hayakawa	Quayle
Boschwitz	Heinz	Roth
Byrd, Harry F., Jr.	Helms	Rudman
Chiles	Hollings	Schmitt
Cochran	Humphrey	Simpson
Cohen	Jepsen	Specter
D'Amato	Johnston	Stafford
Danforth	Kassebaum	Stevens
Denton	Kasten	Symms
Dole	Laxalt	Thurmond
Domenici	Long	Tower
Durenberger	Lugar	Wallop
Eagleton	Mattingly	Warner
Garn	McClure	Weicker
Goldwater	Murkowski	
	Nickles	

NAYS—37

Baucus	Glenn	Mitchell
Biden	Hart	Moynihan
Bradley	Heflin	Pell
Bumpers	Huddleston	Pryor
Burdick	Inouye	Randolph
Byrd, Robert C.	Jackson	Riegle
Chafee	Kennedy	Sarbanes
Cranston	Leahy	Sasser
DeConcini	Levin	Stennis
Dixon	Mathias	Williams
Dodd	Matsunaga	Zorinsky
Eagleton	Melcher	
Ford	Metzenbaum	

NOT VOTING—3

Cannon	East	Tsongas

So Mr. STAFFORD's amendment (UP No. 181) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Senate will please be in order.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield to the Senator from Vermont (Mr. STAFFORD) for a technical amendment and then, for the information of the Senate, we will proceed to an EDA amendment by the distinguished Senator from Maine.

UP AMENDMENT NO. 182

(Purpose: To make certain technical corrections in title XI and for other purposes)

Mr. STAFFORD. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Vermont (Mr. STAFFORD) proposes an unprinted amendment numbered 182.

Mr. STAFFORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 339, line 40, strike out "(1)".

On page 340, line 2, strike out "Drug and Alcohol" and insert in lieu thereof "Alcohol and Drug".

On page 340, line 15, strike out "(2)" and insert in lieu thereof "(B)".

On page 343, line 30, strike out "personnel of the State educational agency" and insert in lieu thereof "State boards of education".

On page 345, line 1, strike out "1122–5" and insert in lieu thereof "1122–6".

On page 345, line 15, strike out "takes" and insert in lieu thereof "take".

On page 346, line 23, strike out "1122–5" and insert in lieu thereof "1122–6".

On page 348, line 13 strike out "(1)".

On page 354, after line 41, insert the following:

EFFECTIVE DATE

SEC. 1123–7. The provisions of this part shall take effect October 1, 1981.

On page 365, line 14, before the semicolon insert a comma and the following: "or to seasonal farm worker organizations".

On page 369, line 18, strike out "subpart" and insert in lieu thereof "Act".

On page 380, line 25, insert "213" in the blank.

On page 381, in the matter following line 5, insert "213" in the blank.

On page 383, line 3, strike out "Sec. 1143" and insert in lieu thereof "Sec. 1142".

Mr. STAFFORD. Mr. President, this amendment corrects typographical errors in the Labor and Human Resources title. This amendment will make the language of the bill conform to the submission of the Labor and Human Resources Committee.

Mr. President, if no one rises in opposition to this and wishes to speak, I am prepared to yield back my time.

Mr. DOMENICI. Mr. President, we have no objection to the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. STAFFORD. Mr. President, I wonder if the Senator from South Carolina would yield back his time on the other side. This is merely a technical amendment.

Mr. HOLLINGS. Certainly, Mr. President. We have no objection. I yield back my time.

Mr. STAFFORD. I yield back my time, Mr. President.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (UP 182) was agreed to.

Mr. STAFFORD. Mr. President, a parliamentary inquiry: Was a motion to table the vote by which the Stafford-Hatch amendment was agreed to made and disposed of?

The PRESIDING OFFICER. The motion was made and moved to table and the motion to table was agreed to.

Mr. STAFFORD. I thank the Chair. I yield the floor.

UP AMENDMENT NO. 183

(Purpose: To provide budget authority for fiscal year 1982 for the Economic Development Administration)

Mr. MITCHELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. MITCHELL) proposes an unprinted amendment numbered 183.

Mr. MITCHELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 187, line 10, immediately before the first period insert a comma and the following: "and $100,000,000 for the fiscal year ending September 30, 1982".

On page 187, line 13, strike out "and" the second place it appears.

On page 187, line 14, immediately before the first period insert a comma and the following: "and $55,000,000 for the fiscal year ending September 30, 1982".

On page 187, strike out lines 15 through 20.

On page 187, line 21, strike out "(4)" and insert in lieu thereof "(3)".

On page 187, line 24, strike out "(5)" and insert in lieu thereof "(4)".

On page 187, line 26, strike out "and" the second place it appears.

On page 187, line 27, immediately before the first period insert a comma and the following: "and $15,000,000 for the fiscal year ending September 30, 1982".

On page 187, strike out lines 28 through 30.

On page 187, line 31, strike out "(7)" and insert in lieu thereof "(5)".

On page 187, line 34, strike out "(8)" and insert in lieu thereof "(6)".

On page 187, line 37, strike out "(9)" and insert in lieu thereof "(7)".

On page 187, line 40, strike out "(10)" and insert in lieu thereof "(8)".

On page 187, line 41, strike out "(11)" and insert in lieu thereof "(9)".

On page 188, line 2, strike out "$18,000,000" and insert in lieu thereof "$28,000,000".

On page 188, line 5, strike out "(12)" and insert in lieu thereof "(10)".

On page 188, line 6, strike out "(13)" and insert in lieu thereof "(11)".

On page 188, line 8, strike out "and" the second place it appears.

On page 188, line 9, insert immediately before the first period a comma and the following: "and $20,000,000 for the fiscal year ending September 30, 1982".

On page 188, line 10, strike out "(14)" and insert in lieu thereof "(12)".

On page 188, strike out lines 11 through 14.

On page 188, line 15, strike out "(c)" and insert in lieu thereof "(b)".

On page 188, line 23, strike out "(a)" the first place it appears.

On page 188, strike out lines 26 through 29.

Cosponsors of Mr. Mitchell's amendment (UP No. 183) are: Mr. Tsongas, Mr. Randolph, Mr. Burdick, Mr. Cohen, Mr. Moynihan, and Mr. Robert C. Byrd.

Mr. DOMENICI. Mr. President, will the Senator yield for an inquiry before he proceeds?

Mr. MITCHELL. Yes, Mr. President.

Mr. DOMENICI. Does the Senator intend to use all the time allowed?

Mr. MITCHELL. I do not personally, Mr. President. I do not know whether Senators on this side may wish to speak.

Mr. DOMENICI. I just make the point, Mr. President, regarding the time in opposition, we do not intend to use our time. Whatever the Senator can save, we shall do that or better. That will expedite matters and I would appreciate it if the Senator can do that.

Mr. MITCHELL. I shall be happy to accommodate the Senator, Mr. President.

Mr. President, this amendment calls for an additional $20 million in outlays in fiscal year 1982 for the Economic Development Administration. Without these additional funds, EDA will receive no funding in fiscal year 1982 to continue its programs.

This is not a full restoration of funding for the Economic Development Administration. Full funding, as proposed in the Carter budget, would require budget authority of $674 million.

I am proposing to retain a much-reduced program. My amendment represents a cut of over 60 percent in EDA's budget from the proposed Carter budget for fiscal year 1982.

Our economic problems demand that we restrain Federal spending and make serious cuts in programs. This amendment does just that. It makes a substantial reduction in the Economic Development Administration but it does not eliminate the program. This additional funding for EDA will not breach the total spending cuts instructed by the Budget Committee. Because committees exceeded their reconciliation instructions, the reconciliation bill represents savings of $4.4 billion over the cuts instructed by the Budget Committee. This represents an even greater savings of $6.6 billion over the figure requested by the administration.

The President has said that because of the magnitude of the program cuts he is requesting, they must be equitable and rational to merit public support. He has said they must not take from those who cannot afford it; they must be borne equally by all sectors of society; and they must be fair to every region of the country.

I agree with those criteria. They are realistic standards by which to choose among the many demands on Federal funds. I have used those standards to judge the program cuts. It is in that spirit that I have reviewed the proposal to terminate the Economic Development Administration.

The EDA was created to promote the long-range economic development of areas with severe and persistent unemployment and with low per capita income. EDA aids in the development of public facilities and private enterprise to create new, permanent jobs and to preserve existing jobs which might otherwise be lost by the shutdown of an industry in such an area.

The act is grounded in the reality that no matter how successful national economic policies may be in stimulating overall economic growth and reducing inflation and unemployment, important structural problems will remain. Many of our Nation's urban and rural communities and multi-State regions will still be experiencing unemployment, lagging economic growth, industrial decline and underutilized production facilities and resources.

Beneath the national statistics, there are always economic disparities. National economic growth and health is never distributed evenly across the regions, communities, people, and businesses of the country.

In 1980, when the national unemployment rate was 7.2 percent, State unemployment rates ranged from a low of 3.9 percent to a high of 12.6 percent.

Unemployment among black youths in cities hovers around 37 percent.

From 1960 to 1978, employment growth rates in the South and West were two to three times those of the older industrial regions of the country.

Rural poverty and underdevelopment are problems throughout the country.

EDA represents an effort to correct those disparities. It has created some 1.4 million jobs in its lifetime: Jobs that would not have been created if there had been no incentive for industries to relocate, and no money to save businesses that need time to regain their competitive ability. And it has done so at a modest cost.

The Government Accounting Office found that EDA loan value per job created is only $6,700—without taking into account loan repayments, which run at 90 percent for EDA programs. The net cost of EDA jobs is actually therefore less than $1,000—the most recent study claims a per-job cost of $662. The per-job cost offsets the unemployment insurance, welfare benefits, food stamp costs and all the other income-support costs that government incurs when people are unemployed. The cost of that income support is substantially higher than $1,000 per year.

EDA creates permanent jobs. State and local governments today receive some $6.4 billion in additional tax revenues each year as a result of the continuing economic revitalization caused by EDA projects.

The proposal to terminate EDA is unfortunate in two respects: On the merits and in the abrupt manner suggested. The fact is that we cannot suddenly end a program like EDA without having some unintended and unfortunate effects.

The revenues cities and States have already received from EDA-caused economic revitalization may be safe for the future. But there are many communities around the country which have begun

projects, which have committed their own funds, and which have raised public and private funds for projects, all of which will now, at best, be thrust into limbo, at worst, terminated.

If we abruptly kill EDA we may be forcing localities to waste money they have raised for a specific purpose.

Maine is embarking on a major program of constructing fish piers to help develop one of our oldest and most important industries. The city of Portland, Maine, has raised some $6.5 million for a major improvement in the commercial fishing pier system in our State. It has already received the first $2 million installment of funds from EDA. But under the OMB criteria, Portland will receive no further money or loan assistance on what is a $15 million investment. Portland may be able to proceed without EDA funds, although that is far from certain. But several other Maine communities, like Kennebunk, Stonington, and Searsport will almost certainly not be able to.

The business development loan guarantees that EDA has authorized for the current fiscal year would let businesses create almost 16,000 new jobs this year. The direct loans would create almost 4,000 more.

These would be private-sector jobs, not short-lived public works construction jobs. They would save and improve businesses that can survive if they get the help they need. And they would save and improve the cities and towns where they are located, reducing dependence on Federal welfare funds.

EDA is directly responsible for creating and saving thousands of jobs in Maine. In a State with chronic unemployment problems and an economy aggravated by high energy costs, this is a substantial contribution. Many Maine communities do not have the indigenous resources to attract substantial private investment. EDA has provided that seed money.

Maine's fishing industry must have modern facilities to take full advantage of the 200-mile fishing zone. That is why the State is embarking on the pier construction project. Maine fishermen are small and independent operators. The costs of financing modern fish piers without Government aid are beyond their economic ability—so Government help is needed to construct piers, to speed the transport of a perishable product and to increase the proportion of the catch that can be profitably marketed—to raise the productivity of this industry.

In northern Maine, in the Saint John Valley, the potato farming industry has undergone a 20-year economic decline. Maine was once the Nation's principal potato producer; it is now fourth in the Nation. Maine once supported 4,000 farmers; today 900 remain. The recent development of a new kind of potato that can be grown in the State and is suitable for modern processing methods has given this depressed region a chance to rebuild its economic base. To take advantage of that chance, improved grading, packing, and marketing are essential. What is needed is a modest Government investment—$600,000—for a central packingplant. The township of Fort Kent and local farmers will raise the rest of the money. Without that help, the region will be unable to climb back to economic health. That does not strengthen the national economy.

Economic expansion and job creation in distressed areas will undoubtedly be somewhat stimulated by a general economic upturn. But the 20-year decline of the Maine potato industry was not arrested, even though our national economy has not been in a continuous decline since 1961.

The 15-percent unemployment rate in Waldo County, Maine—once one of the Nation's largest poultry producers—has not eased, even when the national economy has taken a turn for the better. The factors that have eroded its economy will continue to impose a harsh cost on the area. Waldo County is a victim of the massive energy price inflation of recent years, and there is no sign that this inflation is easing.

Regional and local economic dislocations and hardships do not vanish in a national economic upturn.

The fact is that our national economy contains regions where incomes remain low, where unemployment remains stubbornly high, and where energy price inflation is felt more harshly than elsewhere—and where help is needed to stimulate local economic growth.

Mr. President, it is these truly needy areas that have benefited from EDA programs and it is these areas that will suffer without economic development assistance.

EDA has been validly criticized for its diffuse nature. Right now, over 80 percent of the country is eligible for EDA assistance. That is a legitimate criticism. I think the program should be more narrowly targeted; it should be limited to areas that are truly suffering chronic high unemployment and low per capita income.

I intend to propose legislation that will direct the Secretary of Commerce to reduce eligibility to no more than 45 percent of the country. My legislation will also reduce the 11 ways in which eligibility can be demonstrated to the 4 criteria that measure most accurately the need for long-term economic development assistance. The criteria to be used will be the following:

An unemployment rate that has been 50 percent above the national average for the previous 2 years;

Per capita income 50 percent below the national average;

The existence of pockets of poverty within an otherwise eligible area; or

Sudden and severe economic dislocation in an area.

Surely, these measures reflect economic distress that is deeply rooted and intractable.

My legislation would also remove the prohibition against removing an area's eligibility once it is declared eligible for aid. That congressional decision was made 10 years ago. I believe it ought to be reversed this year.

Mr. President, I ask unanimous consent that the text of my legislation be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

Mr. MITCHELL. I am committed to pursuing the enactment of these amendments this year. They will produce a targeted economic development program that reflects its original goals.

Mr. President, the poor regions of the country that are afflicted with chronically high unemployment have been dealt out of the Administration's budget.

I asked the administration how it plans to deal with economic development in areas of chronically high unemployment and low per capita income. The written response I received said:

"The Administration intends to deal with economic development at the sub-national level by improving the national economy."

So the administration's plans rest on the hope that by improving the nation's economic performance, every region of the country will share in that improvement.

That assumption has no historic basis in fact. It has not been true for Maine over the last 20 years. And, for over a century, it has not been our national economic policy.

In 1850, when it became apparent that the success of the Eastern States in building their rail networks promised an increase in wealth for the entire eastern seaboard, Congress enacted the Railroad Land Grant Act—truly landmark legislation—to encourage, by Federal subsidy, the expansion of the rail network in the South and West. And for 21 years thereafter, long after the transcontinental line met at Ogden in 1864, Congress continued to grant rail land rights. 131 million acres of land were granted for that purpose—a Federal subsidy for western and southern economic development whose worth cannot be calculated at today's prices.

Beginning in the 1880's hydroelectric power was aggressively developed with Federal aid. The first major alternating power project was constructed on the Willamette River, in the State of Oregon. The first three-phase project was constructed at Mill Creek, in California. Ironically, the justification for concentrating development in that part of the Nation was a familiar one: The high cost of energy. In those days, it was the cost of transporting coal, but the problem of energy costs and their effects on economic growth was recognized then, and the Federal Government acted to offset it, to the immense benefit of the West.

By 1902, 30 years of homesteading acts had not been enough to encourage the settlement of the arid parts of the West, so Congress enacted the Reclamation Lands Act of 1902, a regional economic program which has changed the face of the country. Under the Reclamation Act, water projects were built in 17 Western States to irrigate arid land. Some of our great cities—Phoenix, Denver, Los Angeles—could not exist without that water. The Imperial Valley in California, the most productive farmland in the Nation, could not produce without it. Thousands of acres throughout the West

today would be barren and arid without the lifegiving aid of the water brought to them by Federal financing. And, as one result, western lands with less than 9 inches of rainfall each year now produce an agricultural product worth $4.4 billion.

In the 1930's, when the Great Depression was at its worst, Federal funds were poured into regional efforts to help provide employment and economic growth in the West and South. The massive Bonneville hydro project on the Columbia River was built to provide employment in the Pacific Northwest. Today, a potato-processing plant in Washington State pays one-fifth the rate of electricity that a similar plant pays in Maine, because of Bonneville power and the other Federal hydro projects in Washington.

The greatest of the regional development programs, the Tennessee Valley Authority, is still benefiting its seven-State area. Its series of dams, reforestation projects, powerplants, and fertilizer plants have lifted a region which was in the depths of poverty in 1933—its people then earned 45 percent of the national average income—to a thriving and economically productive region today. In 5 years, from 1933 to 1938, the Federal Government spent $190 million on the TVA—a sum whose present-day counterpart would run into many billions. As a result of that Federal financing, the people of Tennessee today pay for their electricity half what the people of Maine pay for theirs. The TVA project permanently increased the level of employment in the region. It created the economic base that has enabled the entire Tennessee Valley area to grow and prosper.

This massive Federal assistance to the South and the West over the past century has given those areas a basis from which today's rapid rate of economic development flows. It was grounded in the recognition that not all regions of the country have identical needs, that they do not move forward in lockstep, and that help is needed at different times by different parts of the country.

Today, as we observe the prosperity of the Sun Belt we should recall that the present economic boom owes its existence to many decades of generous Federal aid.

That Federal aid was paid for by the tax dollars of the people in the East and North. It was not paid grudgingly. It was paid in recognition of the reality that we are one Nation and what helps one region helps all Americans.

Today, we have a modest program which extends assistance to areas of chronic unemployment and low per capita income, the Economic Development Administration. And because of the forces of history and the actions of the Federal Government, the region that needs help now is the East and the North. Today, this is the region of high unemployment and low per capita income.

EDA is a small effort to redress the balance, to recognize that our Nation's older regions incur higher costs to maintain the investment in cities and industries that were built in earlier decades.

I can think of no action more destructive and less in keeping with the President's own standards of fairness than its termination.

It effectively says that those who have already benefited from Federal programs, those who have reaped the benefit of Federal assistance on a massive scale, those whose economies are advancing, are to be the final beneficiaries of Federal concern. The proposal to terminate EDA simply says to the regions whose tax dollars built that prosperity, "We've gotten ours. Now you fend for yourselves."

That is a narrow, shortsighted attitude, contrary to our national experience and, in the long run, counterproductive. It will be a tragic error to end one of the very few programs that is designed to and does, in fact, redress the imbalance that exists in economic growth rates.

The States of the East and North today receive 84 cents back for every Federal tax dollar they contribute. The States in the West and South receive $1.09 for each of their tax dollars, so the imbalance in Federal aid is continuing to grow, notwithstanding the different levels of economic growth.

The State of Maine has a per capita income that is 20 percent lower than the national average. When the cost of energy is counted in, Maine ranks 50th in income, behind all the other States. Manufacturing jobs in the State have grown by 3.6 percent in the last decade, compared with an average growth rate of 26 percent in the West and 18 percent in the South.

The importance of EDA to Maine is demonstrated by the joint resolution passed unanimously by the Maine Senate, a body with a Republican majority, and the Maine House of Representatives, a body with a Democratic majority. I ask unanimous consent that the text of th's resolution be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. MITCHELL. Mr. President, New England has lost 35 percent of its defense jobs in the past decade. The older regions of the Nation receive just 38 percent of Federal procurement dollars, compared with 62 percent for the South and the West.

In our national economy, such regional differences abound. Areas of economic blight remain and communities experience decline, even when the national economy is healthy.

Mr. President, EDA has been a successful program. Without the passage of my amendment today we will be discarding the best of a program because it has some shortcomings. That makes neither fiscal sense nor long-term economic sense. It is not fiscally responsible to terminate a program that creates jobs, saves welfare costs, generates State and local tax returns, and raises the level of national economic output.

We should not destroy a useful program, one which has shown an ability to reach and really help many depressed communities at minimal cost, simply because it needs improvement. Let us, rather, commit ourselves to making that improvement, reduce the overall spending, and let it continue to perform its purpose: to create needed jobs for working people.

That would be the effect of my amendment. I believe it deserves the support of the most fiscally conservative among us. This is not a program whose costs are a drain on the economy. It is not a program that simply transfers income from one sector of the population to another, with no gain. It is a program that raises the level of economic activity and spurs private economic growth.

We all agree that the national economy will not grow and prosper without an infusion of funds for investment. How then can we believe that chronically depressed areas can prosper without assistance?

If the booming economies of the South and West need the stimulation of additional tax breaks and investment dollars, then surely the economically depressed regions need help, too.

The changes in our Nation's economic structure reflect the passage of decades. They are not all due to the National Government. But just as the National Government has historically recognized and responded to its responsibility to aid the South and West, so today we should recognize our responsibility to the distressed regions in the older parts of the country. That, too, is a legitimate responsibility of a national government.

I urge the Senate to adopt my amendment.

EXHIBIT 1

MITCHELL EDA AMENDMENT ON ELIGIBILITY

( ) Notwithstanding section 2 of Public Law 91-304, as amended, assistance under the Public Works and Economic Development Act of 1965 shall be provided only in redevelopment areas designated under section 401 of such Act which (1) the Secretary of Commerce shall identify as most clearly entitled to eligibility for assistance under the criteria set forth in this subsection, (2) contain no more than 45 per centum of the population of the United States, and (3) meet one of the following criteria:

(A) an annual average unemployment rate which has been at least 50 per centum above the national average unemployment rate for the preceding twenty four month period:

(B) per capita income is not in excess of 50 per centum of national per capita income;

(C) the loss, removal, curtailment, or closing of a major source of employment has caused (within three years prior to designation) or threatens to cause (within three years after designation) an unusual and abrupt rise in unemployment to a level 50 per centum greater than the national average; or

(D) are those communities or neighborhoods (defined without regard to political or other subdivisions or boundaries) which the Secretary determines have one of the following conditions:

(i) a large concentration of low-income persons;

(ii) rural areas having substantial outmigration;

(iii) substantial unemployment; or

(iv) an actual or threatened abrupt rise of unemployment due to the closing or curtailment of a major source of employment.

EXHIBIT 2

JOINT RESOLUTION

We, your Memorialists, the Senate and House of Representatives of the State of

Maine in the One Hundred and Tenth Legislature, now assembled, most respectfully present and petition the Honorable Ronald W. Reagan, President of the United States, as follows:

Whereas, this body commends the efforts of the Administration and Congress to reduce inflationary pressures in the economy by recommending budget cuts as well as tax incentives for private capital investments; and

Whereas, this body supports reductions of the various federal programs to achieve these objectives; however, there is great concern over the proposed elimination of future funding for the Economic Development Administration and the rescission of the remaining appropriations of fiscal year 1981 of the agency; and

Whereas, the Public Works and Economic Development Act of 1965, by which the Economic Development Administration was established, has resulted in $131,684,993 being spent in Maine, amounting to 429 grants and loans; and

Whereas, a large proportion of the EDA investment in Maine has been to those industries that have their basis in the state's natural resources—food processing facilities and forest product manufacturing or to assist declining industries such as textiles and shoes in some of the state's smaller towns and more isolated regions; and

Whereas, investments in the private sector have created 8,571 permanent jobs and countless temporary jobs involved in the construction or expansion of industry in the State and local public works' projects have created over 25,000 temporary jobs and 17,050 permanent positions in the State; and

Whereas, it has been our experience in Maine that the benefits from this program far outweigh the public cost whenever the increased economic activities resulting from investments have been thoroughly examined; and

Whereas, over $25,000,000 worth of projects in Maine are pending funding at this time, $10,400,000 was being counted on for the development of 2 cargo ports and over $2,000,000 was anticipated for planning and technical assistance and for development of a statewide Revolving Loan Fund; and

Whereas, included in the $25,000,000 are the fish piers for which the citizens of Maine have already approved a bond issue and only $2,000,000 of the anticipated $7,500,000 was received before the funding cut; and

Whereas, projects with applications pending were notified by EDA that they should not expect to receive EDA assistance since fiscal year 1981 funds were sufficient to cover only those projects for which full approval had been given prior to the Administration's rescission proposal; now, therefore be it

Resolved: That we, your Memorialists, express our strong support for the Public Works Program of the Economic Development Administration and respectfully urge the Congress and the Honorable Ronald W. Reagan, President of the United States, to continue the funding of this program so as to permit the continued development of job-generating projects so necessary to the future well-being of this State and Nation; and be it further

Resolved: That duly authenticated copies of this resolution be transmitted forthwith by the Secretary of State to the Honorable Ronald W. Reagan, President of the United States, the President of the Senate and Speaker of the House of Representatives of the United States Congress and to each member of the Maine Congressional Delegation.

The PRESIDING OFFICER. Who yields time?

Mr. STAFFORD. Mr. President, with a great deal of reluctance, I must oppose the amendment offered by my very able and distinguished friend, the Senator from Maine (Mr. MITCHELL).

I think it only fair to point out that in the view of this Senator some of the problems which EDA has encountered with this administration and with the public are the result of what the Senator from Vermont considered to be empire building by the last assistant secretary who administered the program. As the Senator from Maine said the program which started as a program to work for economic development in the rural areas of America, gradually expanded until it covered about, I think, 85 percent of America as eligible parts of the Nation for EDA programs, and as the money got bigger and bigger, it was sure to turn out, in the judgment of this Senator, to be a lightning rod.

I think our colleagues in the Senate should also have in mind that the amendment offered by Senator MITCHELL, which increases the budget authority in fiscal year 1982 under the Environment and Public Works Committee by $200 million, increases outlays as follows: $20 million in fiscal year 1982, $70 million in fiscal year 1983, and $60 million in fiscal year 1984. The amendment results in the Environment and Public Works Committee's failure to meet the budget authority instruction in fiscal year 1982 by $34 million.

An identical amendment to the one now in front of the Senate was offered and defeated in the Committee on Environment and Public Works during markup on reconciliation, and a similar amendment was offered by the distinguished Senator from Maine (Mr. MITCHELL) on the floor of the Senate during debate on the budget resolution March 21 and at that time was defeated 37 to 59.

This amendment, Mr. President, is strongly opposed by the Reagan administration, and Secretary of Commerce Malcolm Baldrige has sent a letter to the chairman of the Budget Committee, Senator DOMENICI, dated June 23, 1981, which I ask unanimous consent to have printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JUNE 23, 1981.

Hon. PETE V. DOMENICI,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOMENICI: The President has proposed termination of the Economic Development Administration (EDA) in fiscal year 1982 with a budget recommendation of $50 million for closeout activities. Reconciliation recommendations approved by the Senate Environment and Public Works Committee as part of S. 1377, the Omnibus Reconciliation Act, support the $50 million authorization.

I understand that an amendment will be offered to restore an additional $200 million to EDA for FY 1982. I strongly urge that you reject this amendment and authorize only the $50 million requested by the President.

The President's comprehensive economic plan for spending and tax reductions and actions to remove unnecessary regulatory burdens will spur economic expansion and job creation far beyond what categorical programs like EDA could do. The original purpose of EDA was to provide special financial assistance to those few economically distressed areas in the country which were bypassed by the general prosperity.

The program has now evolved to the point where 80 percent of the nation qualifies as a distressed area. Economic aid spread so thinly simply does not have any significant development effect nationwide and only serves to hinder the progress of the general economic recovery plan. Aid to urban areas and small cities will continue to be provided from a restructured and more flexible development program.

The development program will combine the Community Development Block Grant and Urban Development Action Grant programs, while the Farmers Home Administration provides specialized development assistance to the neediest rural areas. Those programs will meet legitimate assistance needs and eliminate the necessity of retaining a separate EDA program delivery system.

There is no compelling evidence that EDA has been effective in creating new jobs or capital investment, or that it is actually needed to promote local or regional economic development. I encourage your support for the Administration's proposal to equitably phase out funding for EDA in fiscal year 1932 by supporting the Senate Committee recommendation, and opposing any amendment to increase the authorization beyond $50 million.

Sincerely,

MALCOLM BALDRIGE,
Secretary of Commerce.

Mr. STAFFORD. Mr. President, the first and short two paragraphs of the letter read as follows:

The President has proposed termination of the Economic Development Administration (EDA) in fiscal year 1982 with a budget recommendation of $50 million for closeout activities. Reconciliation recommendations approved by the Senate Environment and Public Works Committee as part of S. 1377, the Omnibus Reconciliation Act, support the $50 million authorization.

I understand that an amendment will be offered to restore an additional $200 million to EDA for fiscal year 1982. I strongly urge that you reject this amendment and authorize only the $50 million requested by the President.

So much for the letter from Secretary Baldridge to Senator DOMENICI.

As we view the Mitchell amendment, which proposes to restore $200 million to EDA in fiscal year 1982, the rebuttal is that the President's comprehensive economic plan for spending reductions, tax reductions, and actions to remove unnecessary regulatory burdens will spur economic expansion and job creation far beyond what categorical programs like EDA could do.

Then it is argued that under the amendment unemployment and structural problems remain for many urban and rural communities no matter how successful the national economic policies may be in stimulating the overall economy. EDA represents an effort to correct those disparities.

The administration position is that the Administration will still recognize special needs in rural and urban areas through:

The Farmers Home Administration which will continue to provide some specialized development assistance to the neediest rural areas;

Community development block grant funds totaling $4.2 billion for 1982, of which, $1.1 billion will go to rural areas;

An urban development action grant program, which will be part of the com-

munity development block grant program in fiscal year 1982;

These programs will meet legitimate assistance needs and eliminate the necessity of retaining a separate EDA program delivery system.

In addition, we support the enterprise zone concept and are studying ways of establishing enterprise zones in distressed areas—both rural and urban.

It is argued for the amendment the only valid criticism of EDA is that it is not targeted to truly needy areas. Otherwise it has created jobs, saved businesses and provided loans to stimulate local economic growth.

The position of the administration and the committee is that jobs are created by the private sector; EDA does not create jobs per se. EDA influences where jobs are created. As the economy improves, activity in the private sector can be expected to increase dramatically, and job creation will occur naturally as it should through a healthy private economy.

AMENDMENT

The Mitchell amendment will correct problems by reducing areas eligible for EDA assistance by more than one-half.

REBUTTAL

Politically it is extremely difficult to limit the areas eligible for EDA assistance. Through community development block grants, the State and local governments can decide how it is best to allocate funds.

AMENDMENT

Other Federal programs that might provide stimuli to local economic growth have also been drastically cut or eliminated in the President's budget.

REBUTTAL

In an improved economic environment, private capital markets will operate in a manner which will make resources available to small businesses without government involvement. Less funds may be available but less strings will be attached. The States will have more flexibility to set priorities and spend available funds as needed.

Mr. President, I am pleased to yield at this point to the chairman of the Budget Committee, the most able Senator from New Mexico, Senator DOMENICI.

Mr. DOMENICI. I thank my good friend, the chairman of the authorizing committee for this program.

Mr. President, what has really happened here is that a program called economic development, which had as its original basis goals and objectives go'ng into those parts of America that were economically depressed and to assist those areas with grants, categorical in nature, for infrastructure, buildings and the like, has really ceased being that.

Who could deny that a program with that kind of an original concept, which has been grafted upon year after year, in this Senator's opinion, so as to keep support in the institutions of the House and Senate what is now available to 80 percent of the counties or parishes, or their counterparts whatever they might be called in America, who can deny that it is no longer a program for the needy areas to assist them in economic development when we could give examples of prospering areas with no problems in terms of jobs or exceptionally high unemployment because they are part of this ever-expanded definition which is now 80 percent of America, who could deny that it stopped being what it was originally intended?

There are those who think it is just a small, little program that helps build a bridge across a river, or perhaps it creates an industrial park somewhere. Incidentally, Mr. President, there is some indication that across America the highest level of failures of industrial parks are those that were funded by EDA. Just as an aside, it is estimated by some that the vacancy in industrial parks could be as high as 75 percent in those where EDA participated. I think that it is rather logical when we go in and make such a broad-based Economic Development Administration program we get everyone participating. Who would not like to have this kind of money to help them create an industrial park with a goal—jobs?

But it has not. It is not just a little program. Since 1976 I have looked at what we have spent in the name of the original concept, zeroing in on depressed areas, and with now 80 percent of the country covered, and it is only $2 billion that we have spent in the name of economic development for depressed areas.

The truth of the matter is if we need something to help, and if we are smart enough to figure out a way to help needy areas with economic development, then certainly this is not the way any longer, regrettably. It started out right but it is no longer economic development for depressed areas when 80 percent of the country is covered by its definition.

In addition, there are studies that would indicate that this particular program, if its goal is the creation of jobs, has had attendant to it in recent years the highest per-job cost of any program America ever invented. I regret to say that.

There are those who would dispute it because they would like to take all kinds of peripheral job credit for the money spent. But there is a good study that says it may be costing us $60,000 to $70,000 per new job created.

I submit, aside from and apart from what we are trying to do now, that is, to stimulate broad growth in America through economic revitalization so that there will be more jobs to attract to areas so that you will not be swimming uphill in your effort to attract them, which EDA has been trying to do in these rather difficult economic times, where you have 18 months of growth and then 2½ years of negative growth, what we are trying to create is a steady climate of growth, and I am convinced if that works with tax reform, with fiscal reform, and with regulatory reform, that those areas that truly want to bring new jobs will bring more jobs in this decade without this tool than we have been able to bring forcing the issue as we are with EDA. It is with regret that I say that.

I am on the committee, I have served on it since I came to the Senate. The chairman has just spoken for the full committee, the committee with jurisdiction over this program, which has voted to go along with the President and begin the gradual termination of this program I have just described.

I truly believe that what we did in Congress, after the Appalachia experience, was to say to keep Appalachia alive we had better have something like it, so we had EDA. Then to keep EDA alive, which was a focused program, we continued to expand it because it has very great public relations value. It is right in a district, right in a State, and you can announce that a vocational school obtained an add-on. From where? EDA.

Soon it will cover the whole country so that everyone will be part of announcing that we have got $100 million or $50 million there to add something of a physical and tangible nature to an area. This Senator is one who says "Build things." I am one who is upbeat and who says "Let us grow." But I am convinced that the $2 billion more or less we have spent since 1976 did not do the job intended.

There is no reason, as I see it, to suspect it will do the job in the future. There is no reason to believe it will turn out to be what it was intended to be.

But if this committee of jurisdiction finds there are some infrastructure needs that are required as part of America's new growth in this decade they certainly have the jurisdiction to once again attempt to design a program that will do that.

This one has not done it. Granted the good Senator from Maine is saying "I am not putting in as much as we did in the past, just $200 million to keep it alive beyond 1982."

But I think what we are really saying is, "We do not want to face up to stopping a program that is not doing what it was originally intended to do. We want to kind of string it along in the hope that perhaps it will once again get funding and grow as it has in the past."

So I urge the Senate to do what it has already done before in the reconciliation vote on the instructions. There could not have been a more specifically framed amendment. There was this exact amendment to add to the instructions, which was defeated by a significant margin in the Senate.

It seems to me that all we have to ask of those Senators who voted then is whether they really now have the courage to do what that instruction told Senator STAFFORD's committee to do, which they did, and incorporate it in this bill before us.

Have they now lost the courage in 5 weeks to carry out what they ordered the committee to do and what it did so admirably even for a program that originated there years ago that is within their jurisdiction?

In closing, let me say that I, too, as Senator STAFFORD, regret that this is what we have come to, but I do not regret saying we can find a much better way to use the American tax dollars and resources of our people for job creation than this shotgun approach I have just described which now covers 80 percent

of America as being economically depressed.

So I hope the Senate will vote as it did in the past and give the President his wishes to phase this program out.

I yield the floor.

Mr. STAFFORD. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. STAFFORD. Mr. President, I ask unanimous consent that Jacqueline Schafer, Jeann Schrag, and Bailey Guard be granted privileges of the floor during the consideration in the Senate of matters affecting the Environment and Public Works Committee and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. I thank the distinguished Senator for yielding.

Mr. HOLLINGS. Mr. President, I yield to the Senator from West Virginia.

The PRESIDING OFFICER. Is the time yielded to the Senator from West Virginia on the bill or is it on the amendment?

Mr. HOLLINGS. On the amendment.

The PRESIDING OFFICER. The time under the amendment is controlled by the Senator from Maine.

Mr. MITCHELL. Mr. President, I yield 10 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I trust that my dear friend, the chairman of the Budget Committee, will remain for just 1 minute so that I will have an opportunity to disagree with him, not abrasively but to speak what is factual.

I wish the Senate was filled with Senators—I wish they might have been here to listen to the words of Senator MITCHELL, a speech of realism and fact. But I am the only member of the Environment and Public Works Committee who was on that committee at the time we drafted this legislation. I know what was the intention and I know what has been done.

I want to say also I am the only Member in the Senate who was here when we drafted the legislation to create the Tennessee Valley Authority. Forgive me, I was in the House. Who would say there have not been changes in the Tennessee Valley Authority program? Mistakes have been made in it, errors committed in it. But are we cutting out the Tennessee Valley Authority? No, indeed, we are not. I am supporting the Tennessee Valley Authority as a Member of the Senate, as I have in the past, and that authority, of course, rests within the committee chaired by the able Senator from Vermont (Mr. STAFFORD).

So I do not believe a valid argument can be made that because mistakes have been made in a program it should be abolished. But EDA mistakes now seem to be of such a nature that we cannot correct them with a realistic amendment and carry on this program which is so vital to the people and the communities all over the United States.

I am sorry if I asked the chairman of the Budget Committee and a member of our committee to be on the floor when I made these statements. But I do always support TVA, even though it made mistakes, and I support EDA now even though it has made mistakes. I only hope that is the spirit in which we can address this amendment.

I say this very strongly because I was a part of the drafting of this legislation which came from our committee in 1965.

We were well intentioned then, and even in the changes that we have made with the legislation since, we have been well intentioned.

I have very serious concerns that the elimination of EDA will have an adverse effect on economic growth and development, particularly in the rural areas of this country. We have not forgotten them. The record is replete with what has been done.

This program has developed, of course; changed, of course; but it was to assist communities which could not sustain economic growth just on their own, I say to the Senator from South Carolina (Mr. HOLLINGS).

No matter how successful national economic policy might be in stimulating overall economic growth and reducing inflation, important structural problems are still with us.

Many of our communities and multi-State regions are experiencing structural unemployment, lagging economic growth, industrial decline, and related distress in the business sector.

Beneath the national statistics, there are always the peaks and the valleys in our economy. Economic growth is never distributed evenly. I have helped the programs in the Southwest and the Northwest. I voted for the Hanford project, very frankly, when the coal interests of West Virginia, miners and operators, were against it. I believe in a nation, one people—with problems, yes—and we attract our interest to them not on a regional basis.

In 1980, national unemployment was 7.1 percent, but individual State unemployment figures ranged rom 3.9 percent to 12.6 percent. But the individual State employment figures, as I have said, changed. In the last two decades growth rates in the so-called Sunbelt have been two to three times that of the older industrial regions like in Maine and New England.

Our country cannot sustain economic activity and attract new businesses to these smaller needed communities without the ability to fund public works which provide the infrastructure on which our economy, in the final analysis, must be based.

I share the belief that fiscal restraint is necessary, and we will consider and approve reasonable reductions in spending levels. I have voted for them.

I do not believe that these reductions should be arbitrary, nor should they be so extensive as to impair the operation of Federal programs like EDA, each of which was developed by the Congress of the United States for specific needs. And EDA has met those specific needs since 1965.

Mr. President, EDA's primary focus has been in helping those local economies to cope with problems. EDA helps localities—the record shows it—to work out their own strategies, carry out locally developed projects.

I know plant after plant that would be closed today—a thousand workers in one plant alone—had it not been for EDA with its catalyst money which came in and gave the opportunity for private banking and local community efforts and others to help. But EDA has been the catalyst and no one can deny it because the record shows that to be a fact.

Through effective targeting to the most needy areas of the country, unemployed resources—labor, plant, and equipment—are at work. What has this program done since 1965? Nearly $5 billion has been expended for projects to assist communities and businesses, providing jobs by the thousands and the thousands and has stabilized the economy.

EDA programs have assisted small firms and needy local governments by contributing to their economic viability.

EDA has taken the lead in providing planning and technical assistance to build the capacity of State and local governments, and regional organizations to plan and implement economic development programs and coordinate the investment of Federal, State, local, and private funds in distressed areas.

EDA's programs can and have addressed a variety of types of regional and local distress including rural underdevelopment and outmigration, economic decline, sudden economic crises caused by major plant or military base closure, and adjustment problems faced by regions and communities confronted with major structural changes brought about by the national economic growth and international trade policy.

Mr. President, every State in this country has benefited by a project assisted with Economic Development Administration funds. States have received both development grants and business loans. Perhaps one of the most effective programs, though, has been the direct loan and loan guarantee program of EDA. According to the Small Business Administration, a small business is defined as a firm with 500 or less employees. During the period 1976–80 the overwhelming majority of EDA loans and guarantees went to small firms. Ninety percent of the direct loans and 84 percent of the loan guarantees were made to small businesses. It is generally accepted today that the best and most effective way to create new jobs is to assist the small firm. Statistics indicate that over 75 percent of new jobs created each year come in the sector of our economy defined as the small business.

Senator MITCHELL has accurately presented the case for the continuation of EDA. I fully concur with his assessment and of the necessity for continuing this important program which is ideally suited to meet some of the objectives of the new administration. There are estimates that current EDA investments will create or preserve more than 216,800 jobs and approximately $2.5 billion in private investment. This is a capability which we should retain during a time of emphasis on the creation of employment opportunities, particularly by small- and medium-size businesses such as have received most of EDA's attention.

Mr. President, in conclusion, in these

remaining seconds, someone might say, "Well, the Senator from West Virginia is too wrought up about this situation." I am not angry at anyone. I really am not upset with anyone, except I do feel very, very keenly that the Members of this Senate, when they speak against continuance under such an amendment as been offered, a realistic amendment, how can you fail to support the appeal which is made by Senator MITCHELL and myself?

This is an amendment of realism. I wish that every seat could have been occupied as Senator MITCHELL spoke.

In my career in the House and Senate, frankly, I have helped by my votes every section of this country. I have never blocked out any part of this country. And I believe that it is necessary now to continue EDA, not because it is to help one section as against the other, but its organizational purpose of 1965 is still its purpose in 1981.

The PRESIDING OFFICER (Mr. JEPSEN). The time of the Senator from West Virginia has expired.

EDA PROVIDES HELP TO DISTRESSED AREAS

Mr. ROBERT C. BYRD. Mr. President, I am pleased to rise in strong support of the amendment offered by Senator MITCHELL, of which I am a cosponsor. The amendment prevents the total elimination of the Economic Development Administration in fiscal year 1982 by providing for $200 million in budget authority and $20 million in outlays for the upcoming fiscal year.

Basic economic stimulus programs are administered by EDA. Economic development is not smoothly and evenly distributed across all of the regions of our country. The Economic Development Administration was created in response to that fact.

Private sector development is the key ingredient of EDA's programs. Three fundamental tools that EDA uses to promote economic growth are technical planning assistance, basic infrastructure support, and job-creating developmental finance.

EDA fills the gap between temporary, stopgap government programs and private sector initiatives. The assistance provided to localities by EDA is based on sound, long-term planning that stimulates the private sector without stifling it.

Areas of high unemployment often lack the basic financial resources to maintain the economic well-being so necessary to the people there. EDA provides grants to struggling areas like these for water and sewer systems, access roads, and industrial parks.

In my own State of West Virginia, EDA has been a valuable and irreplaceable source of financial and technical assistance. Whether it is a grant to help complete construction on improvements to the water system in Fayette County, or a loan guarantee to help keep Wheeling-Pittsburgh Steel Corp. employees from losing their jobs, EDA has spurred private sector employment.

The amendment offered by the Senator from Maine represents survival for the Economic Development Administration. Critics of the program have argued that EDA's reach is too broad, and that aid was easy to obtain in areas that did not really require it. This amendment addresses the concerns of those who view EDA as bloated or out of control. Approximately 37 percent of the funding available to EDA in fiscal year 1981 would be retained by the Mitchell amendment for fiscal year 1982. What agency or department, after absorbing a cut of 63 percent, could proceed to spend wildly out of control? I would venture to say that a cut of two-thirds would severely diminish the activities of any agency.

Therefore, I believe that the Mitchell amendment is not unreasonable. The Senate should not risk further degrading the economic condition of distressed areas in the hope that national economy recovery will trickle down and take care of everyone.

Under the Mitchell amendment, EDA's activities would be sharply reduced, and perforce targeted to the regions most in need of assistance. That is much more fair and equitable than abolishing the agency. If those who would kill EDA think that too much of the country is eligible for assistance, what will they do with the areas of deep suffering and hardship when EDA is abolished? I fear that they will tell the people who live in such places "Don't worry, help is on the way! The National economy will trickle down and help you out."

That is cold comfort, and no substitute for the targeted assistance and incentive that the Economic Development Administration provides. In order to promote jobs in areas where the private sector finds the going tough, I urge the Senate to adopt this amendment.

● Mr. RIEGLE. Mr. President, I strongly support this amendment to restore $200 million in budget authority to retain the most essential services of the Economic Development Administration (EDA).

This amendment can easily be accommodated within the budget. If the amendment is adopted, this reconciliation bill would still cut budget authority by $3.8 billion deeper than President Reagan requested, and it would still reduce budget authority by $3.8 billion more than required by the reconciliation instructions.

This amendment is badly needed by many economically distressed areas of the country. This modest restoration of funds would permit State and local governments to make an orderly adjustment to the loss of EDA support. The amendment would give them time to develop new approaches to regional economic development. If Congress is to go along with the administration and transfer the responsibility for economic development activities to State and local governments, then Congress must not destroy the State and local agencies that must bear those new burdens.

Therefore, Mr. President, the Senator from Maine offers an amendment that is responsible from both a budgetary and a programmatic point of view.

In contrast, the administration's proposal to shut down EDA abruptly is not responsible. It would unnecessarily damage many ongoing local efforts to create new jobs and strengthen regional economies. The administration offers no practical plan for making the EDA programs more efficient or for limiting resources to those EDA programs that are most effective. It is clear that the administration rigidly opposes Government efforts to target economic assistance on the most distressed areas.

Mr. President, Commerce Secretary Baldridge today sent to all Senators a letter that reflects the administration's flawed reasons for abruptly terminating EDA.

First, the administration wants to rely solely on policies to spur national economic expansion in the hope that this will help all regions. However, many distressed areas in the country have learned from bitter experience that they will continue to suffer from deep structural problems no matter how rapidly the national economy might expand. Many cities and rural communities do not participate in national economic recovery, but are repeatedly left behind with high unemployment, poverty, and severe fiscal distress. In 1980, the national unemployment rate was 7.1 percent, but State unemployment rates ranged from a low of 3.9 percent to a high of 12.6 percent. My own State of Michigan even today has an unemployment rate of 11.3 percent while some States are experiencing an economic boom. The long-term economic, social and budgetary costs of this growth lag are enormous.

Second, the administration criticizes EDA because current law makes 80 percent of the Nation eligible for EDA assistance. However, the law does not require the administration to spread EDA resources thinly over 80 percent of the Nation. The administration is free to target the loans, loan guarantees, public facilities aid, and other assistance very carefully on the most distressed areas.

Third, the administration claims that economic development assistance can be provided by other programs, such as community development block grants, UDAG and farmers home. However, many promising local projects will die because they cannot be restructured quickly enough to make use of those other programs. In fact, the administration's claim has a hollow ring to it, coming as it does only hours after OMB has asked Congress to rescind an additional $180 million in CD block grant and UDAG funds. That rescission would be in addition to cuts required by the Reagan budget or the congressional reconciliation instructions. OMB has already disrupted the current round of UDAG grants and jeopardized numerous badly needed economic development projects.

Finally, the administration says that there is no compelling evidence that EDA programs are effective. However, that ignores the evidence of successful projects across my State of Michigan and, I suspect, every other State. EDA assistance has stimulated important cooperation among private industry, banks, and State and local governments. It has helped communities adjust to the loss of a major military base so that economic catastrophe was turned into new opportunity. It has helped strengthen numerous other local economies.

The administration's freeze on EDA grants has already jeopardized 40 separate projects across my State.

The administration's approach also threatens to destroy the ability of Michigan universities to help private business and local communities with concrete problems. Between September 1978 and July 1980, the EDA University Center helped create 1,141 jobs and retain 1,235 additional jobs. A major EDA study has also investigated ways to make older multilevel factories more efficient and thus lengthen their useful life and retain jobs in areas that would otherwise be abandoned.

Since the State of Michigan is suffering an unprecedented fiscal crisis, the State cannot pick up the slack that would be left by a sudden shutdown of EDA. The loss of these activities would do further damage to a severely weakened State economy.

Mr. President, because I know at first hand how the termination of EDA will affect local efforts in my State, I support this prudent amendment to soften the blow.●

Mr. MITCHELL. Mr. President, I would like to use the remaining time to briefly comment on some of the arguments made in opposition to this amendment.

First, the administration persists in saying that if the national economy improved, the economy of all areas will improve. That is not true. There is not one single fact, not one shred of evidence, not one substantial argument that supports that contention. It is wrong, it is untrue, and there is nothing to support it.

Second, the argument continues to focus on the fact that 80 percent of the country's areas are eligible for assistance. That, of course, was done by Congress and that can be corrected. It is not necessary to terminate the program to reduce the eligibility. And I have already indicated that I will propose a specific amendment to do just that.

Finally, the administration suggests that the rural parts of this country do not need EDA because they have got the Farmers Home Administration rural development program.

What a sham, what a fraud, what a phony argument, because the same administration has taken even the farmers home rural development program and cut that 70 percent. It is an insult to the intelligence of the American people living in rural areas to virtually eliminate one program and when you get up to talk about a second program to say "Well, you have got the other one to rely on." That absolutely has no merit.

They have virtually eliminated the farmers home rural development program, cutting it by 70 percent. It will provide no assistance to those areas which will lose the assistance in EDA.

There may be valid arguments to oppose this amendment, but there has not been one uttered on the floor of the Senate this morning. It is a program that has provided assistance to areas that need it. It can do so in targeted fashion and the deficiency that will be created when this program is terminated will not be picked up by the rural development program as the figures I have indicated demonstrate very, very clearly.

If we believe that we are one country, that what helps one region of the country helps all regions, that what helps one American helps all Americans, we will support this program. It is consistent with national economic policy since this Nation was founded.

I urge adoption of my amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. Mr. President, I want to very briefly respond to the arguments by my good friend, the most able Senator from Maine, in which he said there was no evidence to indicate that an improved economy would help all areas of the country. The other side of the coin is that there is no evidence to indicate that an improved economy will not help all parts of the country, either. It is the conviction of the Senator from Vermont that an improved economy under the Reagan proposals will be of assistance to all parts of the country.

Finally, I would simply offer the comment that in the last Congress, for 2 years on the Senate side, we did attempt to reduce the overall jurisdiction of EDA from about 85 percent of the country down to 65 percent of the country. But we were unable to effectuate this, as this Senator recalls, because we were not able to get the cooperation of the other body in trying to do so.

Having said those two things, Mr. President, I understand that the time of the proponents has expired and we are ready to yield back the remainder of our time and let the matter go to a vote. Therefore, I do yield back any remaining time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment of the Senator from Maine. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Texas (Mr. TOWER), is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 45, nays 53, as follows:

[Rollcall Vote No. 164 Leg.]

YEAS—45

Baucus	Cranston	Hart
Biden	DeConcini	Heflin
Boren	Dixon	Heinz
Bradley	Dodd	Hollings
Bumpers	Durenberger	Huddleston
Burdick	Eagleton	Inouye
Byrd, Robert C.	Ford	Jackson
Cohen	Glenn	Johnston
Kennedy	Mitchell	Sarbanes
Leahy	Moynihan	Sasser
Levin	Nunn	Specter
Long	Pell	Stennis
Mathias	Pryor	Tsongas
Matsunaga	Randolph	Weicker
Metzenbaum	Riegle	Williams

NAYS—53

Abdnor	Garn	Murkowski
Andrews	Goldwater	Nickles
Armstrong	Gorton	Packwood
Baker	Grassley	Percy
Bentsen	Hatch	Pressler
Boschwitz	Hatfield	Proxmire
Byrd, Harry F., Jr.	Hawkins	Quayle
Chafee	Hayakawa	Roth
Chiles	Helms	Rudman
Cochran	Humphrey	Schmitt
D'Amato	Jepsen	Simpson
Danforth	Kassebaum	Stafford
Denton	Kasten	Stevens
Dole	Laxalt	Symms
Domenici	Lugar	Thurmond
East	Mattingly	Wallop
Exon	McClure	Warner
	Melcher	Zorinsky

NOT VOTING—2

Cannon	Tower

So Mr. MITCHELL's amendment (UP No. 183) was rejected.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee.

Mr. BAKER. May we have order in the Senate, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

UNANIMOUS-CONSENT AGREEMENT

Mr. BAKER. Mr. President, the distinguished minority leader is in the Chamber, and I should like now to propound a unanimous-consent request on which he and I have had previous conversation.

I ask unanimous consent that the time for debate on all amendments to this bill, except one which I will identify in a moment, be reduced from 1 hour to 40 minutes, equally divided; that on one amendment to be offered by the distinguished minority leader, dealing with striking certain material from the reconciliation bill, the time remain at 1 hour, equally divided.

Mr. PERCY. Mr. President, reserving the right to object, I could not agree to that at this time.

The time on the one amendment I have was reduced from 2 hours to 1 hour. It is complicated. I will do the very best I can.

Mr. BAKER. Mr. President, I include the amendment to be offered by both Senators from Illinois as an exception. There will be two amendments on which there will be 1 hour, equally divided. All other amendments will be 40 minutes, equally divided.

The PRESIDING OFFICER (Mr. RUDMAN). Is there objection? The Chair hears none, and it is so ordered.

Mr. DOMENICI. Mr. President, while the two leaders are in the Chamber, I ask if this meets with their satisfaction:

As I understand it, Senator GORTON will proceed now with his amendment. In an informal manner, we have agreed that Senator BUMPERS will be next. If that

is satisfactory, I ask that we agree that Senator DURENBERGER follow that with his ZIP code amendment.

If that is all right, the Senate would know that that would be the order, with the 40-minute limitation that has been agreed upon. Senator GORTON will be next, then Senator BUMPERS, and then Senator DURENBERGER.

Mr. DECONCINI. Will the leadership agree that I may offer my amendment after that?

Mr. DOMENICI. What we have been doing is that we get an hour and a half or so and we discuss the matter. Senator HOLLINGS and I will talk with the Senator from Arizona now and try to make that accommodation.

Mr. ROBERT C. BYRD. It may be that I will be ready to offer my amendment, to which Senator BAKER referred, by that time. At that time, the three amendments referred to will have been disposed of.

Mr. DOMENICI. I assume that in making any informal arrangements, we would make them subject to the right of the Senator from West Virginia to proceed, if he is ready at that point, so that we would have an intervening time before we agree on the next one.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. DOMENICI. We will talk with Senator DECONCINI and others for a schedule beyond that.

Mr. BAKER. Mr. President, while there is a brief interruption in the consideration of this bill, I state to the Senate that it is the intention of the leadership to ask the Senate to continue in session until approximately 6:30 p.m. and to resume consideration of this measure at 9 o'clock tomorrow, with the expectation that, if necessary, tomorrow would be a late session.

Mr. DOMENICI. Mr. President, I understand that, under the arrangements, the distinguished Senator from Washington is next, and I wonder whether he is ready to proceed.

UP AMENDMENT NO. 184

(Purpose: To eliminate the elimination of cargo preference under titles I and II of the Agricultural Trade Development and Assistance Act of 1954)

Mr. GORTON. Mr. President, I send an amendment to the desk on behalf of myself and the following 27 Senators: Senators PACKWOOD, INOUYE, LONG, CANNON, BAUCUS, FORD, MURKOWSKI, HOLLINGS, JOHNSTON, JACKSON, KASTEN, BURDICK, CRANSTON, GOLDWATER, STEVENS, WILLIAMS, MATSUNAGA, HUDDLESTON, LEVIN, D'AMATO, WARNER, SASSER, MITCHELL, RIEGLE, MELCHER, BENTSEN, and SARBANES.

The PRESIDING OFFICER. The amendment will be stated.

Mr. DOMENICI. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The legislative clerk read as follows:

The Senator from Washington (Mr. GORTON), for himself and others, proposes an unprinted amendment numbered 184:

On page 13, strike lines 6 through 12.

Mr. GORTON. Mr. President, the amendment I am offering to S. 1377 deletes language in section 134 that would exempt federally-generated agricultural exports from the cargo preference laws embodied in section 901 of the Merchant Marine Act of 1936.

The Merchant Marine Act, as amended in 1954 by the Cargo Preference Act (Public Law 83–664), requires at least 50 percent of all Government generated cargo subject to the law to be shipped on privately-owned U.S.-flag commercial vessels to the extent that such vessels are available at fair and reasonable rates. The agricultural and food products programs, title I and II of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), are subject to the cargo preference statute.

In its deliberations on reconciliation of the fiscal year 1982 Department of Agriculture budget with the totals in the first concurrent budget resolution, the Agriculture Committee has proposed that the Public Law 480 title I and II programs be exempted from cargo preference. The Agriculture Committee tells us in their report that:

The use of U.S. flags will no longer be required for Public Law 480 commodity shipments and thus relieves the Commodity Credit Corporation of the obligation to finance ocean freight charges to cover the differential between U.S. flag rates and foreign flag rates and will otherwise allow the use of lower cost ocean carriers in connection with these programs.

Mr. President, not only does this program serve the needs of the poor and help develop markets for U.S. agricultural products, but it has the equally important political goal of fostering goodwill for the United States. U.S.-flag participation is a key element in achieving that goal.

Furthermore, the Agriculture Committee actions, if permitted to stand, would be contrary to our national policy to assure a U.S. role in the transfer of U.S. owned commodities in foreign commerce. Section 101 of the Merchant Marine Act of 1936 states that it is the policy of the United States to possess a merchant marine capable of serving as a naval auxiliary in time of war or national emergency. The cargo preference provision, section 901(b)(1), provides critical support for this objective.

During the brief debate on the measure, the sponsors sought to provide assurances to the Agriculture Committee that their efforts were not intended to show disapproval of the cargo preference statutes but rather a statement that funds from the Agriculture Committee should be spent on goods and not services. The costs of transportation, they feel, should be borne by the appropriate Senate committee.

While I wholeheartedly support the general goals of trimming Federal spending and achieving the greatest impact from the dollars spent, this proposed change in the law requires close scrutiny.

This action would mark a major departure from longstanding U.S. maritime policy. Public Law 480 cargoes represent roughly 25 percent of all preference cargo in value to merchant ship operators. This action should not, therefore, be taken without extensive hearings to determine its impact on the U.S. merchant fleet. Such a review can only take place with the active and full participation of the Senate Commerce Committee, charged with oversight of the Merchant Marine Act and the U.S.-flag fleet.

The U.S. merchant marine is at a critical juncture. After a period of drastic decline from its preeminent position in the late 1940's, the U.S.-flag fleet now ranks only 11th in size among world fleets. It carries a meager 5 percent of the total cargo in our foreign trades.

The situation is even more critical when U.S. participation in the dry-bulk trades is considered: Cargoes moving in this trade include imports of manganese, cobalt and many other strategic materials that keep the U.S. industrial machine functioning smoothly—less than 3 percent of these cargoes are transported on U.S.-flag vessels. The national security implications of this fact are staggering.

I have here a letter from the Assistant Secretary for Maritime Affairs to the Honorable MILLICENT FENWICK. The Assistant Secretary indicates the probable effects of exempting Public Law 480 from the cargo preference laws, and I quote:

Where Public Law 480 exempted from cargo preference requirements, we estimate that virtually every dry bulk vessel would be eliminated from the industry. In addition, in the liner vessel category, most of the U.S.-flag companies would suffer severe revenue losses which could place at risk approximately $800 million in U.S. Government guarantees.

Mr. President, I ask unanimous consent to have printed in the RECORD, letters in this regard.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., April 9, 1981.

Mr. RUSSELL STRYKER
Assistant Administrator for Policy and Administration, U.S. Department of Commerce, Washington, D.C.

DEAR MR. STRYKER: Recently, you discussed with my staff the cost to the Public Law 480 program of Cargo Preference requirements (section 901 (b) of the Merchant Marine Act of 1936, as amended) which require that at least fifty percent of the gross tonnage of Public Law 480 commodities shipped abroad be transported on privately owned U.S.-flag vessels.

As you know, I am interested in the Commerce Department's estimate of the cost of this requirement to the program and to the U.S. taxpayer. I know that the U.S. Government currently pays the ocean freight differential for Public Law 480 Title I shipments, and that, in fiscal year 1979, this differential was reported to be $72,526,000.

The U.S. Government pays all ocean freight costs for P.L. 480 Title II shipments, however, and separate estimates of the cost of the cargo preference requirements seem to be more difficult to obtain. I would be most interested to know the Department's estimate of the ocean freight differential for Title II.

In addition, I would like to know your estimate of how much additional grain the U.S. would be able to ship abroad under P.L. 480 in the absence of the requirements of Section 901(b).

Finally, you indicated to my staff that elimination of cargo preference requirements for P.L. 480 might result in additional

costs being incurred by the Government because of the probable effects of removal of the requirements on the merchant marine. I would be especially interested in your estimate of these costs, and in any related information which you might be able to provide concerning U.S. Government subsidies and obligations to American shipping firms.

Many thanks for your attention in this matter. With all good wishes,

Yours sincerely,

MILLICENT FENWICK,
Member of Congress.

U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., April 30, 1981.

Hon. MILLICENT FENWICK,
House of Representatives,
Washington, D.C.

DEAR MRS. FENWICK: This is in regard to your letter dated April 9, 1981, to Mr. Russell Stryker of my staff regarding the application of the Cargo Preference Act (Act) (46 U.S.C. 1241(b)) to the P.L. 480 program.

In fiscal year 1979, the ocean differential in Title I of the P.L. 480 program amounted to $72,526,000 or 8.6 percent of the budgeted program of $840.3 million. Since the program recipients can choose between grains of wheat, corn, soybeans, oats, barley, and rice; and oils of soybean, cottonseed, palm and tallow, we cannot estimate the amount of additional tonnage this differential would represent. These cargoes typically move on unsubsidized U.S.-flag tankers or bulkers.

The P.L. 480 Title II program, from both a commodity and transportation function, is completely different from the Title I program. In Title II more than 95 percent of the program consists of processed, packaged type commodities shipped in small parcel lots. Subsidized and other U.S.-flag liner carriers generally charge the same or approximately the same freight rates as the foreign-flag operators for these cargoes. In view of this, the U.S. Department of Agriculture does not calculate any differential and there is no budgetary impact of any significance created by the application of the Cargo Preference Act to this program. Removal of the Act's application to Title II would not generate additional exports of any consequence.

You have also asked for our estimate of the costs which would be incurred by the Government, because of the effect on the U.S. merchant marine of the removal of the application of the cargo preference requirements from the P.L. 480 program. The cost issue is, in fact, quite complicated.

Were P.L. 480 exempted from cargo preference requirements, we estimate that virtually every dry bulk vessel would be eliminated from the industry. In addition, in the liner vessel category, most of the U.S.-flag companies would suffer severe revenue losses which could place at risk approximately $800 million in U.S. Government guarantees.

If I can be of any further assistance to you in this area, please let me know.

Sincerely,

SAMUEL B. NEMIROW,
Assistant Secretary
for Maritime Affairs.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. GORTON. I yield.

Mr. JOHNSTON. I thank the Senator.

Is it not a fact that if we fail to pass the Senator's amendment, it will have a devastating effect on merchant marine companies and on their capability to participate in foreign trade?

Mr. GORTON. The Senator is entirely correct and in fact, as I have already stated, from the point of view of our bulk carriers they might well be wiped out entirely. We might have none left at all and then, of course, the cost of covering any federally guaranteed loans might greatly exceed the amount of money which is invloved in this amendment.

Mr. JOHNSTON. Is it not also a fact that we are well within the limits for the Agriculture Committee without having this elimination of cargo preference?

Mr. GORTON. It is vital for every Member here to understand that this amendment has no fiscal impact on the budget whatsoever. The same amount of money for Public Law 480 will be available during the course of the next 3 years with or without the amendment. It simply provides for a much fairer distribution of that money, not only among the producers of the commodities but also with a very sick merchant marine as well. Its share of Public Law 480 moneys will be much less than 10 percent of the entire authorization for that purpose.

Mr. JOHNSTON. There is no budgetary impact of this amendment?

Mr. GORTON. None whatsoever.

Mr. JOHNSTON. If we pass this amendment, we are still well within the targets?

Mr. GORTON. We are.

Mr. JOHNSTON. I thank the distinguished Senator.

Mr. GORTON. Mr. President, this legislative change should not be approved without an understanding of its serious adverse impact. The most serious impact of loss of Public Law 480 preference cargoes would be felt by about 15 U.S.-flag bulk ship participants, whose business depends entirely on this trade and who could be expected to go out of business if the trade were eliminated.

The liner operators would also be severely affected. Carriage of Public Law 480 cargoes generated about 5 percent, $181 million, of those operators' revenues, whereas their net profit from shopping operations amounted to 4 percent of total revenues. Loss of the Public Law 480 revenue would thus change the industry profit picture from positive to negative.

The damage that could result to the U.S. merchant marine could overshadow the relatively minor savings anticipated. In fact, I have a letter from the Congressional Budget Office which indicates that the amendment I am submitting would not change the total budget costs. The Agriculture Committee has simply made a policy decision to terminate a long standing mechanism for support of the U.S.-flag merchant fleet. The Agriculture Committee's limit on appropriations for the whole Public Law 480 program exceeds the President's request by $200 million.

Instead of cutting the program across the board in an equitable fashion, sharing the burden among all program participants, the U.S. merchant marine must bear the entire brunt of the only budget cut in the program for fiscal year 1982. This is unfair and patently unwise.

The administration does not support the Agriculture Committee measure to exempt Public Law 480 from the cargo preference laws. The Secretary of Transportation, Drew Lewis, indicated to me in a public hearing last week that the administration would support a floor amendment to remove the Public Law 480 exemption from the reconciliation bill.

I have a letter from Mr. Lewis emphatically stating the administration's opposition to this exemption. Mr. Lewis also states that David Stockman, Director of OMB, takes the same position.

Mr. President, Mr. Lewis indicates that it is premature to eliminate a major portion of the cargo preference program upon which our merchant marine has depended. After the Maritime Administration is transferred to DOT, the Department will be working closely with Congress and those in industry to develop a viable national maritime policy. This abrupt action would preclude the Commerce Committee from a full review of the effectiveness of our present promotional programs relative to alternatives before it.

The United States should not risk the loss of domestic participation in this international transportation marketplace. Our balance of payments, our national security, and our merchant mariner labor force require a healthy and growing U.S. merchant fleet.

From a strictly jurisdictional standpoint, I am also concerned. The language which the Agriculture Committee has inserted in the reconciliation bill amends the Merchant Marine Act of 1936, a law which is historically and correctly a matter within the sole jurisdiction of the Commerce Committee.

Specifically section 901 of that act requires that appropriate agencies of the Federal Government take "such steps as may be necessary and practicable to assure that at least 50 percent" of the equipment and commodities are carried on U.S.-flag commercial vessels. Senator HELMS has abolished not only the funding that supports the requirements of this law, but he has further abolished the 50-percent U.S.-flag carriage requirement.

If this drastic step is to be taken it should be done by the committee of the Senate which is most familiar with the problems facing our merchant marine. The Agriculture Committee has neither the experience nor the time to grapple with these issues.

The Agriculture Committee also argued in its report that:

> If the cargo preference laws are in the best interest of this Nation, the costs incurred as a result of such laws should be borne by defense or transportation functions and not by the Commodity Credit Corporation.

First of all, a 1978 OMB study on cargo preference concluded that funding of the U.S.-flag carriage premiums ought to remain with the agency shipping the cargo. Second, the Agriculture Committee communicated to no one before this action that they believed another committee instead should be responsible for considering this funding. Third, as I have just pointed out, the Committee has not merely reduced funding for carriage of this preference cargo, they have gone so far as to change the effect of the Merchant Marine Act in the form of a complete exemption from cargo preference requirements.

I reiterate, the administration is with me in opposing this abrupt action.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter from the Congressional Budget Office and the letter from the Secretary of Transportation.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 22, 1981.

Hon. SLADE GORTON,
Chairman, Subcommittee on Merchant Marine, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 202 of the Congressional Budget Act of 1974, I am pleased to submit the following estimate of your proposed amendment to section 134 of S. 1377, the Omnibus Reconciliation Act of 1981.

The amendment would strike section 134, Elimination of Cargo Preference, but would not alter the limitation on appropriation for the Public Law 480 program contained in section 133. The amendment would continue the requirement that the Public Law 480 program pay the ocean freight differential between U.S. flag rates and foreign flag rates. This would shift approximately $75 million from the purchase of commodities in fiscal year 1982, $61 million in fiscal year 1983, and $66 million in 1984 to payment of ocean freight. The amount of agricultural commodities shipped would be reduced by 0.35 million metric tons in fiscal year 1982 and 0.27 million metric tons in fiscal years 1983 and 1984. Total budget costs would not change.

The Congressional Budget Office will be happy to provide additional information on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., June 23, 1981.

Hon. SLADE GORTON,
Chairman, Subcommittee on Merchant Marine and Tourism, Senate Commerce Committee, Washington, D.C.

DEAR SLADE: As you know, on June 5, 1981, the Senate Agriculture Committee adopted an amendment during consideration of its reconciliation package which eliminates the application of cargo preference laws to government cargoes generated under Titles I and II of Public Law 480.

Last Friday during my appearance before your Subcommittee to discuss the transfer of the Maritime Administration to the Department of Transportation, you asked for my position on that amendment. At that time I stated that we would like very much, and that the Administration would support, an amendment on the floor to have the Agriculture Committee's amendment removed. I am writing to reiterate that position.

It is my opinion that the Reconciliation Bill is not the proper vehicle for making the type of policy changes which this amendment calls for. After the Maritime Administration is transferred to DOT, we will be working with the Congress and those in the maritime industry to develop a viable national maritime policy. That process will provide a more appropriate forum for examining the issue of cargo preference.

I understand that you have agreed to introduce an amendment to eliminate the Agriculture Committee's amendment from the Reconciliation Bill, and that such amendment is gathering widespread bi-partisan support. Moreover, I understand that the Congressional Budget Office has provided a letter indicating that such an action would not impact upon the budget. I want you to know that I support your amendment, as David Stockman, Director of OMB, with whom I have spoken about this issue. If I can be of assistance to you in your efforts, please do not hesitate to call.

Sincerely,

DREW.

Mr. GORTON. Mr. President, I ask for the acceptance of this amendment.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes and 37 seconds remaining.

Mr. GORTON. I yield 5 minutes to the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, as the international power which is the guardian of the free world, the United States cannot be dependent upon ocean transportation owing allegiance to alien flags. To do so is to threaten not only our own national security, but that of freedom loving peoples everywhere.

As we all know, in World War II, U.S. shipping was a major factor in turning the tide of victory against the Axis powers. Our merchant fleet ranked No. 1 then, and remained so after World War II. But today, as my distinguished colleague from Washington has indicated, we rank 11th.

Today, in the event of a NATO wartime contingency, the United States would have to depend on the shipping resources of our NATO allies. How quickly those resources would be available, and whether they are sufficient is, however, open to question.

In the event of other threats to our national security which do not involve our NATO allies, however, it is doubtful whether their resources would be available to us.

For example, during the October 1973 Middle East war, our NATO allies did not give us landing rights for military aircraft, let alone shipping support because such cooperation would have offended the Arab nations upon whom they were depending for energy supplies.

The Vietnam war was another conflict in which the United States could not reply on NATO shipping for support. In fact, many of these allies denounced our military operations in that country, and the U.S. Merchant Marine provided the sealift nearly singlehandedly.

Former Secretary of the Navy, W. Graham Claytor, summed up the state of our merchant marine and its capibility to serve as our Nation's fourth arm of defense as follows:

> The U.S. merchant marine is, by any measure, stagnating. There is absolutely no doubt that continued erosion of our mechant fleet is going to weaken our national defense.

To illustrate how serious this threat to our national security has become, shortly before the Soviet invasion of Afghanistan the U.S.S.R. even offered to spot charter one of its tankers to haul U.S. military fuel. The military sealift command said "no thanks."

Mr. President, there are many reasons for this alarming state of affairs, and this is not the appropriate time to discuss them all.

It is, however, relevant to discuss one aspect. It seems that we almost go out of our way to impede the U.S. merchant marine, and help the Soviets.

A few years ago, for example, the Department of Transportation purchased 392 German-made buses for delivery in Texas. Even though U.S. law required that at least 50 percent of those buses be shipped on U.S. vessels, over 70 percent of them were carried by the Soviets.

Shortly after we enacted the legislation to control the predatory activities of Soviet vessels in our trades, the Federal Maritime Commission took the Soviets into court to enforce that law. The Department of State and the Department of Justice promptly intervened—on behalf of the Soviets.

Mr. President, almost every maritime trading nation by law gives preference to its vessels for cargo moving in its trades. In fact, the latest statistics I have seen list 54 such countries. The results, I believe, bear out the wisdom of what these nations are doing.

Whereas the United States carries less than 5 percent of its foreign trade, the Soviets carry about 50 percent; the Greeks about 45 percent; Norway and Spain about 37 percent; Great Britain about 34 percent; and West Germany and France, about 30 percent.

Mr. President, it is inconceivable to me that the Senate would threaten our national security by further weakening our merchant marine.

And yet, this is precisely what will happen if we agree to the provision in S. 1377, which would deny a preference to U.S.-flag vessels to carry Public Law 480 cargo.

Mr. President, the cargo involved in title I and title II of Public Law 480, is cargo that will be sent to developing countries, and countries suffering from famine, from floods, and from devastation. Imagine a vessel flying a red flag with the hammer and sickle carrying our grain. Do you think the stevedores would know that this grain is coming from the warmhearted Americans? They will see that red flag there. This may sound like demagoguery, Mr. President, but that is what will happen if this amendment is not adopted by the Senate.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I have been designated to control the time on this side on this amendment, and I yield myself such time as I may require.

Mr. President, I think it is essential that in my capacity as chairman of the Committee on Agriculture that I make a few comments on this amendment. I am not insensitive to the concerns of the sponsor of the amendment and those who support it, but the fact remains that we had a confrontation with reality in the Committee on Agriculture when this judgment was made. The legislation we produced is very fine tuned, and anything done on one side affects something else.

I would call the Chair's attention to the fact that on March 27 Senator DOLE and I gave assurances on this floor that funds from Public Law 480 would be

shifted to child nutrition. In keeping with that pledge the Committee on Agriculture reported language eliminating cargo preference requirements for Public Law 480 title I and title II shipments.

I understand the concern of the maritime industry and the Senators who are specifically interested in that aspect, and I do not quarrel with anything that has been said.

But I do feel obliged to say for the record that the intention of the Committee on Agriculture is made completely clear in the report on this reconciliation package. Let me quote:

The committee does not oppose cargo preference laws to protect America's maritime industry. However, the committee is of the opinion that if the cargo preference laws are in the best interest of this Nation, the costs incurred as a result of such laws should be borne by defense or transportation functions and not by the Commodity Credit Corporation.

Mr. President, this Senator, speaking for the Committee on Agriculture, is fully aware of the need for a strong maritime industry in this country. I want to assure my dear friend from Louisiana of that.

But what the committee has said is the payment of direct subsidies to that industry should not be the responsibility of the Department of Agriculture.

Furthermore, the committee has reported a new bill, S. 884, and in that legislation specific payment limitations on the size of nondisaster Government payments a farmer can receive were limited to $50,000. However, in calendar year 1980, one large shipping company received almost $10 million in title I subsidies; two companies together received over 40 percent of the subsidies, and the subsidization of these companies, in the judgment of the Committee on Agriculture, should not be the responsibility of the Department of Agriculture.

Let us know what we are doing here, and this Senator is willing to abide by the will of the Senate.

If cargo preference requirements are reinstituted, it is inescapable that agriculture exports will be adversely affected, Public Law 480 programs will be reduced, and on another day and on another occasion I suppose we will hear arguments that the hungry of the world will suffer. If cargo preference requirements are reinstituted, the maritime subsidy will continue, but at the direct expense of somebody else.

So, Mr. President, I just want the Senate to know the choice that we are making. I reiterate to my friends from Washington, Hawaii, and Louisiana that this Senator shares their concern about the maritime industry. But I believe it should be noted that we are talking about $75 million that is going to come out of the Public Law 480 program because of a commitment that has already been made on this floor by Senator DOLE and me. I say that respectfully to my colleagues.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I greatly appreciate the very fair comments of the distinguished acting floor manager of this bill.

Mr. President, the administration is not always right, Mr. Stockman and the Secretary are not always right, but they are right in this instance in urging the acceptance of this amendment.

On this side of the aisle, we are prepared to accept the amendment on a voice vote. So if my distinguished friend is ready to yield back his time, I will yield back the remainder of my time.

Mr. HELMS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Washington yield back his time?

Mr. STEVENS. Mr. President, will the Senator from Washington yield me 1 minute?

Mr. GORTON. I yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, I am delighted to hear that there is support for this amendment from the other side of the aisle. In my opinion, we ought to have some hearings on this matter to determine whether there is substance to the claims made by the Agriculture Committee. They believe the cargo preference subsidy is no longer necessary. From our point of view there is a need to take a closer look at this matter and such action to eliminate the cargo preference subsidy is ill-advised without proper consideration. This amendment restores the status quo and maintains a long-standing Federal policy without an adverse impact on the budgetary ceiling or the budget process.

I do support the amendment and I understand we are ready for a voice vote.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I believe the Senator from Illinois does have a question or comment which he wishes to add.

SEVERAL SENATORS. Vote!

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I would like to reclaim my time to accommodate the distinguished Senator from Illinois and yield to him such time as I may have.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, how much time does the Senator from North Carolina have remaining?

The PRESIDING OFFICER. Fourteen minutes and 20 seconds.

Mr. PERCY. Mr. President, I thank my distinguished colleague very much, indeed.

Mr. President, I do have a substitute to the amendment offered by my distinguished colleague from Washington. Before offering that substitute, I wish to discuss the matter with the Senator from Washington and I do so in cooperation with and the cosponsorship of my distinguished colleague from Illinois, Senator ALAN DIXON, and other Senators from Midwestern States who are most interested in this amendment.

The amendment would strike the same language which the pending amendment deletes. In place of such language, I would offer the full body of the existing provision of the reconciliation package and language which in effect restricts the existing provision to only the Great Lakes coastal area. Mr. President, the effect of this motion would be to maintain the status quo with respect to cargo preference law and simply withdraw the Great Lakes Coastal Region from the present program.

Mr. President, I ask unanimous consent to have printed in the RECORD my proposed amendment.

There being no objection, the text of the amendment was ordered to be printed in the RECORD, as follows:

In lieu of the matter proposed to be stricken insert the following:

Elimination of Cargo Preference.

Sec. 134. The Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 169) is amended by adding at the end thereof the following:

"SEC. 414. Notwithstanding any other provision of law, the provisions of the cargo preference laws shall not apply to transportation of commodities financed under authority of title I or made available under title II of this Act with regard to the Great Lakes Coastal Region, only in cases where a United States flag carrier is unavailable."

Mr. PERCY. Mr. President, the Great Lakes participation in the preference cargo program is minimal and we prefer to withdraw from the program. In doing so, we do not intend to obstruct the other coastal regions from enjoying the benefits of the program.

The Great Lakes presently only receives the slightest amount of Public Law 480 (food for peace) preference cargo. Under title I of Public Law 480 shipments, the Great Lakes moved about 2 percent of all shipments. Under title II of the program (a program the size of less than one-third of title I), we received about 12 to 14 percent of shipments. I should also note that the lakes presently receive a minor amount of the several hundred million dollars in maritime operation and construction subsidies. Only a single American carrier receives the subsidies.

Under my provision, Federal agencies would face two options in shipping preference cargo. First, through the Great Lakes, if American bottoms are unavailable on the Lakes, in which case the cargo may move in foreign bottoms and outside the purview of cargo preference law. Second, shipments could pass through the Atlantic, Gulf, or Pacific coastal regions, in which case, preference cargo authority would apply. Under present law, as much as 50 percent of all Federal cargo must pass on U.S. flag carriers. With this substitute, 50 percent of all cargo and all Great Lakes cargo could pass on foreign flags.

Finally, I wish to note the language to "grandfather" or "hold-harmless" the present U.S. flag carriers on the Lakes to continue operations. We guarantee these carriers the right to U.S. flag shipments. Thus, during the single year authorization, present U.S. bottoms will be protected.

Other coastal regions—the Atlantic, Gulf, and Pacific coastal regions—should find no objection to the effort of the Great Lakes.

Indeed my amendment has the support of National Maritime interests. I ask unanimous consent that a letter from one such interested group appear at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

INTERNATIONAL LONGSHOREMEN'S ASSOCIATION,
New York, N.Y., June 24, 1981.

Re: Cargo preference amendment.
Hon. CHARLES PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: This is to advise you of the complete support of the International Longshoremen's Association, AFL–CIO, for your motion to the Budget Reconciliation Bill.

The effect of the motion would be to maintain the status quo of cargo preference law for Atlantic, Gulf and Pacific Coasts and withdraw the Great Lakes from cargo preference restrictions.

We are concerned about the minimal participation of the Great Lakes under Public Law 480 cargo preference shipments and would prefer to withdraw the Great Lakes from the Cargo Preference Program.

I understand that nothing in your amendment would prohibit present U.S. Flag carriers from carrying preferenced cargo.

Again, the International Longshoremen's Association fully endorses the Percy motion to the Budget Reconciliation Bill.

Sincerely,

THOMAS W. GLEASON,
President, International Longshoremen's Association, AFL–CIO, and Vice-President, AFL–CIO.

Mr. PERCY. Mr. President, under my motion, the status quo would be maintained for these coastal regions. I wish to make clear, however, that within this substitute amendment, we are not denying Great Lakes carriers the opportunity to carry preference cargo. Rather, we permit normal preference cargo to move through the Lakes without the attendant restrictions. If American bottoms are unavailable on the Lakes, foreign flags could be utilized and still carry normal preference cargo. Great Lakes cargo will be released from existing cargo preference law. Nothing in this measure should be construed to deny Great Lakes carriers from the opportunity to move preference cargo. I wish to assure the representatives of the Atlantic, Gulf, and Pacific coastal regions that nothing in this amendment would deny carriers from competing for preference cargo.

I would like to ask a question of my distinguished colleague and I know my colleague is familiar with the objective and purpose of Senators from the Great Lakes who have an obligation and duty to protect their interests just as my distinguished colleague has the duty and obligation to protect his interests. Can any assurance be given to the two Senators from Illinois and other Great Lakes Senators as to whether or not we should take into account that a reconciliation bill is not the proper place to make changes in legislation that should be studied very, very carefully.

If there is any procedure that can be developed, hearings that could be held, and legislation that could be introduced that would take fully into account the concerns that I have expressed, can we look forward, if the Gorton amendment is accepted, to resolve this problem? Can we give a thorough study of the whole situation and bring forward legislation that has been duly considered by the respective committees, responsible committees in the Senate and then can be considered for debate on the floor of the Senate?

Mr. GORTON. Mr. President, as the Senator from Illinois understands it and has so eloquently stated, one of the principal reasons for the amendment which I have just presented is the fact that the reconciliation process is the inappropriate vehicle for making policy decisions and policy changes of the nature of which the Agriculture Committee came up with. The same thing, obviously, holds true for the very important proposal which the Senator from Illinois has put forward.

One of the reasons that the administration has supported my amendment, as the letter from Secretary Lewis indicates, is the fact that the administration is in a process of coming up with a coherent maritime policy to be presented to the Congress and to the Merchant Marine Subcommittee, which I chair. We are planning to have hearings on the Merchant Marine Act of 1936 in the immediate future. This kind of proposal would be appropriate for consideration in connection with any such bill which is proposed.

I would strongly suggest to the Senator from Illinois that he put this idea into bill form. I can assure him that he and the other distinguished Senator from Illinois will be given every opportunity to testify at the time of general hearings on the Merchant Marine Act of 1936. To the best of my ability to make that assurance, the committee intends to report a bill amending the Merchant Marine Act to the floor of the Senate for debate as soon as possible.

Mr. PERCY. Mr. President, other Senators have indicated a desire to be supportive of the substitute amendment I have proposed offering. Senator DURENBERGER, for example, is deeply interested in it and has asked to be a cosponsor.

Can I be assured that my distinguished colleague from Illinois, working side by side with me to protect the interests of agriculture in Illinois—after all, Illinois is the largest exporter of agricultural products in the Nation—and Senator DURENBERGER, and other Senators, would be protected in our right and in our desire to present to the committee our viewpoint on this and our considered judgment at the appropriate time in those hearings?

Perhaps my distinguished colleague would like to comment at this time as to how he feels about this issue. I would be happy to yield.

Mr. GORTON. The Senator certainly has that assurance.

Mr. PERCY. Mr. President, in view of that, I will not offer the substitute amendment. With the assurance that we have, we hope that the Senate, in its wisdom, will accept the amendment of the distinguished Senator from Washington. We can work together as the administration shapes up its policy. We have the opportunity to have our input to the administration. Certainly, the Governors of all our States in the Midwest with many of the States under tremendous economic pressure want to see that their economic interests are protected. This is in the best interests of the country. We will then alert our Governors of this assurance that we have received.

I thank my distinguished colleague very much indeed.

Mr. GORTON. Mr. President, I thank both Senators from Illinois. I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Washington yield back the remainder of his time?

Mr. GORTON. Yes.

Mr. JOHNSTON. Mr. President, I have already yielded back the remainder of my time.

The PRESIDING OFFICER. There is no time remaining.

The question is on agreeing to the amendment of the Senator from Washington.

Without objection, the amendment is agreed to.

The amendment (UP No. 184) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GORTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 185

(Purpose: To amend the cotton classing and related services user fee provisions)

Mr. HELMS. Mr. President, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 185.

On page 3, line 23, insert "and under section 3d of this Act" immediately after "under this section".

Mr. HELMS. Mr. President, this amendment has been agreed to on both sides.

Mr. President, this is simply a technical amendment to section 111(b) of the Agriculture Committee's title of S. 1377. That section requires the collection of user fees by the Secretary of Agriculture for cotton classification services under the Smith-Doxey amendment to the Cotton Statistics and Estimates Act. The section also provides that the fees collected are to be deposited in the current appropriation account that incurs the cost for use in paying the Secretary's expenses in providing the services.

It was the committee's intent that certain other fees, already provided for in current law, should also be deposited in the same account. However, the necessary reference to accomplish this was inadvertently omitted from the recommended language. This amendment corrects that omission. Since this is just a technical matter that has no bearing whatsoever on the savings under the bill, it is my understanding that the Budget Committee has no objection to the amendment.

Mr. President, I ask that the amendment be adopted.

The PRESIDING OFFICER. Do Senators yield back their time on the amendment?

Mr. HOLLINGS. Mr. President, I yield back our time.

Mr. HELMS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from North Carolina.

Without objection, the amendment is agreed to.

The amendment (UP No. 185) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 186

(Purpose: To revise certain authorizations relating to the Department of Energy)

Mr. BUMPERS. Mr. President, I call up an amendment by the Senator from Colorado (Mr. HART), myself, and others and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS), for himself and Mr. HART, proposes an unprinted amendment numbered 186.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 172, beginning on line 27 strike out through line 40, on page 181 and substitute the following:

FISCAL YEARS 1982, 1983, AND 1984

SEC. 532. Funds are hereby authorized to be appropriated to the Secretary of Energy for programs of the Department of Energy, other than atomic energy defense activities, not to exceed $6,280,615,000 for the fiscal year ending on September 30, 1982, not to exceed $5,684,111,000 for the fiscal year ending on September 30, 1983, and not to exceed $5,767,767,000 for the fiscal year ending on September 30, 1984: Provided, however, That such funds include funds authorized pursuant to part 2 of subtitle.

CONFORMING AMENDMENTS

SEC. 533. Biomass Energy and Alcohol Fuels.—Amend section 204(a) of the Energy Security Act (Public Law 96–294) by—

(a) striking out paragraphs (2) and (3) and inserting in lieu thereof the following: "and (2) $5,000,000 shall be available to the Secretary of Energy to carry out activities under subtitle A."; and

(b) striking out "$1,450,000,000" and inserting in lieu thereof "$25,000,000".

PART 2—AUTHORIZATION FOR FISCAL YEARS 1982, 1983, AND 1984

SHORT TITLE

SEC. 534–1. This part may be cited as the "Department of Energy Authorization Act for Fiscal Year 1982—Civilian Applications".

Subpart A—Fiscal Year 1982 Authorizations

OPERATING EXPENSES

SEC. 534–11. (a) Funds are hereby authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the civilian programs of the Department of Energy for the following appropriations accounts:

(1) Energy and Water Development:

(A) General science and research activities, $439,160,000.

(B) Energy supply, research and development activities, $2,376,322,000.

(C) Uranium supply and enrichment activities, $89,992,000, in addition to revenues received from the enrichment of uranium as authorized by section 111(h) of Public Law 95–91.

(D) Departmental administration, $223,968,000.

(E) Power marketing administration:

(i) Alaska Power Administration operation and maintenance, $3,538,000 of which $50,000 shall be reserved for an emergency fund to assure continuous operations during unusual or emergency conditions.

(ii) Southeastern Power Administration operation and maintenance, $7,237,000.

(iii) Southwestern Power Administration operation and maintenance, $20,239,000.

(iv) Western Area Power Administration construction rehabilitation, operation and maintenance, $210,774,000.

(v) Western Area Power Administration emergency fund, $500,000.

(F) Federal Energy Regulatory Commission salaries and expenses, $82,173,000.

(G) Geothermal resources development fund: geothermal loan guarantee and interest assistance program, $200,000.

(2) Department of the Interior and Related Agencies:

(A) Fossil energy research and development, $497,340,000.

(B) Energy production, demonstration, and distribution, $230,963,000.

(C) Energy conservation, $745,000,000: *Provided, however,* That there is not to exceed $536,000,000 for State and local programs including any authorization of appropriations pursuant to S. 1166, the "National Home Weatherization Act," or such comparable legislation.

(D) Economic regulation, $54,500,000.

(E) Strategic Petroleum Reserve, $314,908,000.

(F) Energy Information Administration, $81,700,000.

(b) The anticipated revenues from uranium enrichment activities for fiscal year 1932 and each subsequent fiscal year and authorized to be retained by Public Law 93–438 are authorized to be appropriated to the Department for purposes of section 665 of title 31, United States Code.

PLANT AND CAPITAL EQUIPMENT

SEC. 534–12. (a) Funds are hereby authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for construction, including planning, construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction of the Department of Energy for the following appropriations:

(1) Energy and Water Development:

(A) General science and research activities, $128,300,000.

(B) Energy supply, research and development activities, $350,007,000: *Provided, however,* That not to exceed $60,800,000 of the amount specified in section 534–11(a)(1)(B) may be appropriated instead for energy supply research and development activities pertaining to capital equipment not related to construction and plant and capital equipment projects which have been initiated prior to fiscal year 1982 and have not been submitted to Congress in budget documents in support of the fiscal year 1982 budget.

(C) Uranium supply and enrichment activities, $74,450,000, in addition to revenues received from the enrichment of uranium as authorized by section 111(h) of Public Law 95–91.

(D) Department administration, $49,063,000.

(2) Department of the Interior and Related Agencies: Fossil energy construction, $18,000,000.

(b) The anticipated revenues from uranium enrichment activities for fiscal year 1982 and each subsequent fiscal year and authorized to be obtained by Public Law 93–438 are authorized to be appropriated to the Department for purposes of section 665 of title 31, United States Code.

(c) There are hereby authorized to be appropriated for plant and capital equipment activities for the civilian programs of the Department of Energy which have been initiated prior to fiscal year 1982 amounts not to exceed the Federal share of the total estimated cost set forth for each such project in budget documents submitted to Congress in support of the fiscal year 1982 budget. The annual amounts authorized to be appropriated for fiscal year 1982 for said projects shall be deemed to be encompassed within the total amounts authorized to be appropriated by subsections (a) and (b) of this section.

(d) For the purpose of this Part the term "budget documents" shall mean the Department of Energy Revised Congressional Request, Fiscal Year 1982, dated February 1981 (DOE/CR–0011/3).

NEW CONSTRUCTION

SEC. 534–13. Within the amounts appropriated in fiscal year 1982 purusant to the authorization provided in section 534–12, funds may be expended for new plant and capital equipment activities, including planning, construction, acquisition, or modification of facilities, including land acquisition. The following new plant and capital equipment activities are hereby authorized in an amount not to exceed the Federal share of the total estimated cost set forth for each project in budget documents submitted to the Congress in support of the fiscal year 1982 budget. Within such amounts the authorizations for the new plant and capital equipment activities for fiscal year 1982 are limited as follows:

(a) For fossil energy activities:

(1) Project 82–F–506, Surface Water Containment and Waste Water Treatment Facility, Pittsburgh Energy Technology Center, Bruceton, Pennsylvania, $1,000,000; and

(2) Project 82–F–505, General plant projects for technology centers, six locations. $6,000,000;

(b) For nuclear fission activities:

(1) Project 82–N–315, General plant projects, Richland, Washington, and other sites, $1,100,000;

(2) Project 82–N–310, Modification to reactors, various locations $2,000,000; and

(3) Project 82–N–312, General plant projects, $11,000,000;

(c) For magnetic fusion activities:

(1) Project GPP–82, General plant projects, two locations, $5,700,000;

(d) For supporting research and technical analysis activities:

(1) Project 82–E–322, High Temperature Materials Laboratory, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $3,500,000;

(2) Project 82–E–321, Accelerator Improvements and Modifications, various locations, $300,000;

(3) Project 82–E–320, General plant projects, various locations, $300,000;

(4) Project 82–E–301, 300 area critical utilities upgrading, Richland, Washington, $1,000,000;

(5) Project 82–E–302, Security Facility, Argonne National Laboratory, Argonne, Illinois, $1,500,000;

(6) Project 82–E–305, Traffic safety improvements, Richland, Washington, $3,800,000; and

(7) Project 82-E-306, Railroad modifications, Idaho National Engineering Laboratory, Idaho, $2,000,000;

(e) For high energy physics activities:

(1) Project 82-E-206, Tevatron II, Fermi National Accelerator Laboratory, Batavia, Illinois, $6,000,000;

(2) Project 82-E-205, Accelerator improvements and modifications, various locations, $7,000,000; and

(3) Project 82-E-204, General plant projects, various locations, $6,000,000;

(f) For nuclear physics activities:

(1) Project 82-E-223, Argonne Tandem-Linac Accelerator System (ATLAS), Argonne National Laboratory, Argonne, Illinois, $4,000,000;

(2) Project 82-E-221, Accelerator improvements and modifications, various locations, $2,000,000; and

(3) Project 82-E-222, General plant projects, various locations, $2,800,000;

(g) For uranium enrichment process development activities:

(1) Project 82-R-418, Advanced Centrifuge Test Facilities, Oak Ridge, Tennessee, $6,000,000;

(h) For uranium enrichment advanced isotope separation technology activities:

(1) Project 82-N-402, General plant projects, various locations, $650,000;

(i) For environmental research and development activities:

(1) Project 82-GPP-1, General plant projects, $3,000,000; and

(2) Project 82-V-305, Modifications and additions to biomedical and environmental research facilities, various locations, $1,000,000;

(j) For uranium resource assessment programs:

(1) Project 82-R-410, General plant projects, Grand Junction, Colorado, $100,000;

(k) For uranium enrichment activities:

(1) Project 82-R-410, General plant projects, various locations, $17,500,000;

(2) Project 82-R-411, UF_6 cylinders and storage yards, gaseous diffusion plants, $11,000,000;

(3) Project 82-R-412, Cooling tower modifications, Oak Ridge, Tennessee and Portsmouth, Ohio, gaseous diffusion plants, $8,000,000;

(4) Project 82-R-413, Improved UF_6 containment and gaseous diffusion plants, $7,100,000;

(5) Project 82-R-414, Purge and cascade withdrawal modifications, gaseous diffusion plant; Paducah, Kentucky, $9,000,000;

(6) Project 82-R-415, Fire alarm system replacement gaseous diffusion plants, $4,700,000;

(7) Project 82-R-416, Environmental protection and safety modifications, phase II, gaseous diffusion plants, $2,000,000; and

(8) Project 82-R-417, Air distribution system upgrading, gaseous diffusion plant, Paducah, Kentucky, $2,700,000; and

(l) For departmental administration activities:

(1) Project 82-A-601, Modifications for energy management, various locations, $22,200,000;

(2) Project 82-A-602, Advanced Test Reactor (ATR) waste heat recovery, Idaho National Engineering Laboratory, Idaho, $4,900,000;

(3) Project 82-A-603, High temperature water distribution system, Los Alamos Scientific Laboratory, New Mexico, $5,000,000; and

(4) Project 82-C-601, Plant engineering and design, various locations, $2,000,000.

Subpart B—Out-Year Authorizations

AUTHORIZATIONS FOR FISCAL YEARS BEYOND 1982

SEC. 534-21. (a) Subject to the limitation set forth in subsection (b), for each fiscal year beyond 1982, except as provided in sections 534-12 and 534-13, funds are hereby authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act as follows:

(1) For operating expenses for the civilian programs of the Department of Energy, in the amount appropriated for each appropriation account for the previous fiscal year, plus 10 per centum;

(2) For (A) general plant projects; and (B) acquisition and fabrication of capital equipment not related to construction for the civilian programs of the Department of Energy, in the amount appropriated for each appropriation account for the previous fiscal year, plus 10 per centum.

(b) Notwithstanding subsection (a) or any other provision of law, in the aggregate there shall not be appropriated for programs of the Department of Energy, authorized by subpart A in excess of $5,832,694,000 for the fiscal year ending on September 30, 1983, and of $5,728,582,000 for the fiscal year ending on September 30, 1984.

(c) For each fiscal year beyond 1982, any request for an appropriation for operating expenses for the civilian programs of the Department of Energy which is not within the amount authorized pursuant to section 535-11(a) for an appropriation account shall require separate authorization.

NEW PLANT AND CAPITAL EQUIPMENT PROJECTS

SEC. 534-22. For each fiscal year beyond 1982, new plant and capital equipment projects shall be specifically authorized on a line item basis.

Subpart C—General Provisions

AUTHORIZED ADJUSTMENTS

SEC. 534-31. For purposes of this Act, the sums referred to as "the amount appropriated for each appropriation account for the previous year" in section 535-11 of this Part shall be adjusted to include—

(a) estimated yearly receipts of the Department during the current fiscal year, excluding receipts because of overcharges by persons under the jurisdiction of the Secretary of Energy or the Federal Energy Regulatory Commission;

(b) allowances for pay cost made during the current fiscal year;

(c) unobligated balances carried over from a previous fiscal year used to reduce the current year program requirements in an appropriation as directed by the appropriations committees of the House and Senate; and

(d) adjustments to reflect the current year impact of the transfer, as shown in the Department's budget year request documents, of an entire program from one appropriation to another.

Subpart D—United States Energy Targets

SEC. 534-41. United States energy targets:

ENERGY TARGETS

[Quadrillion Btu's per year]

	1985	1990	1995	2000
Domestic production:				
Oil and NGL	18.0	17.0	18.0	18.0
Natural gas	18.0	18.0	16.0	15.0
Coal	21.0	27.0	32.0	41.0
Nuclear	5.0	7.0	8.0	9.0
Hydro/geothermal	3.0	4.0	4.0	4.0
Renewables	2.0	3.0	5.0	6.0
Subtotal	67.0	76.0	83.0	93.0
Imports:				
Oil	18.0	14.0	11.0	7.0
Natural gas	2.0	3.0	3.0	2.0
Coal	−1.8	−2.1	−2.2	−2.4
Subtotal	18.0	15.0	11.0	7.0
Total supply	85.0	90.0	94.0	100.0
End-use consumption:				
Petroleum liquids	32.0	29.0	28.0	27.0
Gas	17.0	18.0	18.0	18.0
Direct coal	5.0	6.0	6.0	7.0
Electricity	9.0	10.0	11.0	12.0
Decentralized solar	2.0	3.0	4.0	5.0
Subtotal	64.0	66.0	67.0	68.0
Conversion losses	21.0	25.0	28.0	32.0
Stock increase				
Total consumption	85.0	91.0	94.0	100.0

PART 3—STRATEGIC PETROLEUM RESERVE

SHORT TITLE

SEC. 535-1. This Part may be cited as the "Strategic Petroleum Reserve Amendments Act of 1981."

FINDINGS

SEC. 535-2. The Congress finds that—

(a) the Strategic Petroleum Reserve should be regarded as a national security asset of paramount importance; and

(b) plans for enlarging the capacity of and filling the Strategic Petroleum Reserve should be accelerated (to the extent technically and economically practicable) in accordance with the provisions of the Energy Policy and Conservation Act to take advantage of any increased availability of crude oil in the world market from time to time.

RATE OF FILLING THE STRATEGIC PETROLEUM RESERVE

SEC. 535-3. (a) Paragraph (c)(1) of section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240) is amended by inserting a period after the phrase "fiscal year 1981" and deleting the rest of such paragraph.

(b) Paragraph (c)(2) of such section is amended by deleting everything after "(2)" and inserting in lieu thereof the following: "The President shall immediately seek to undertake, and thereafter continue (subject to paragraph (3)), crude oil acquisition, transportation, and injection activities at a level sufficient to assure that crude oil in storage in the Strategic Petroleum Reserve will be increased at an average annual rate of at least 300,000 barrels per day for fiscal year 1982 and for each fiscal year thereafter.".

(c) Such section is further amended by inserting a new paragraph (3) to read as follows:

"(3) The requirements in paragraphs (1) and (2) shall cease to apply when the quantity of petroleum products stored within the Strategic Petroleum Reserve is at least 750,000,000 barrels.".

FINANCING OF THE STRATEGIC PETROLEUM RESERVE

SEC. 535-4. The Energy Policy and Conservation Act is amended by inserting new sections as follows:

"STRATEGIC PETROLEUM RESERVE ACCOUNT

"SEC. 167. (a) The Secretary of the Treasury shall establish in the Treasury of the United States a special account which shall be known as the 'Strategic Petroleum Reserve Account' and into such account shall be deposited:

"(1) the funds provided under section 168, and

"(2) the receipts from the sale of petroleum products in any drawdown and distribution of the Strategic Petroleum Reserve under section 161.

"(b) The Secretary of Energy may obligate funds from such account to implement (with the exception of the acquisition or construction of facilities) his authorities under the provisions of this part or of title VIII of the Energy Security Act, but in no event may the aggregate amount obligated from the account exceed $21,932,000,000 plus any proceeds deposited under paragraph (a)(2).

"PROVISION OF FUNDS

"SEC. 168. (a) The Secretary of the Treasury is directed to provide funds to the Strategic Petroleum Reserve Account as are necessary to meet the obligations created under subsection 167(b).

"(b) Notwithstanding any other provision of law, the transactions under this section and section 167 and the receipts, obligations, and outlays created by such transactions shall be presented annually in the Budget of the United States Government, but shall not be included in the totals of the budget and shall be exempt from any general limitation imposed by statute on expenditures (budget outlays) of the United States.

"(c) Unexpended balances of appropriations made available and obligated for the

Strategic Petroleum Reserve (other than for the acquisition or construction of facilities) at the end of fiscal year 1981, shall be credited to the Strategic Petroleum Reserve Account established by section 167 and orders or contracts which provide documentation for the obligation of those appropriations pursuant to 68 Stat. 830, as amended (31 U.S.C. 200), shall be liquidated from the Strategic Petroleum Reserve Account. This transfer shall be a transaction under section 167 for the purposes of subsection 168(b).".

EFFECT ON OTHER LAW

SEC. 535–5. The requirements and authorities contained in this Part, except as may be explicitly provided otherwise in this Part, shall be in addition to and not in lieu of any requirements or authorities contained in other law.

STORAGE OF STATE ROYALTY OIL

SEC. 535–6. Section 160 of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new subsection:

"(f) In addition to other authority made available by law, the President is authorized to contract, upon such terms and conditions necessary to protect the interests of the United States and without regard to any procurement law or regulation, with any State of the United States to store petroleum products in the Strategic Petroleum Reserve.".

QUARTERLY REPORTING REQUIREMENTS

SEC. 535–7. (a) On or before the fifteenth day of the calendar quarter which begins after the date of the enactment of this section and every ninety days thereafter the Secretary of Energy shall report to Congress on activities undertaken with respect to the Strategic Petroleum Reserve under this Part, including—

(1) the amounts of petroleum stored in the Reserve, under contract and in transit at the end of the previous calendar quarter;

(2) the projected fill rate for the Strategic Petroleum Reserve for such calendar quarter;

(3) the average price of the petroleum acquired during the previous calendar quarter;

(4) existing and projected Strategic Petroleum Reserve storage capacity and plans to accelerate the acquisition or construction of such capacity;

(5) an analysis of any existing or anticipated problems associated with acquisition, transportation, and storage of petroleum in the Reserve and with the expansion of storage capacity for the Reserve;

(6) the amount of funds transferred to the Secretary of Energy from the Strategic Petroleum Reserve Account during the previous calendar quarter and in total under this Part.

(b) The first report submitted under subsection (a) shall include a description of the current Strategic Petroleum Reserve Plan, including any proposed or anticipated amendments to the Plan.

Subtitle E—Department of Housing and Urban Development

FISCAL YEAR 1981

SEC. 541. Nothwithstanding any other provision of law, there is not authorized to be appropriated to the Secretary of Housing and Urban Development, during the fiscal year ending on September 30, 1981, nor may there be obligated budget authority nor shall budget outlays be in excess of $250,000 for programs of the Solar Energy and Energy Conservation Bank pursuant to title V of the Energy Security Act (Public Law 96–294).

FISCAL YEAR 1982

SEC. 542. Notwithstanding any other provision of law, the Secretary of Housing and Urban Development during the fiscal year ending September 30, 1982, may not obligate budget authority in excess of $100,000,000 for programs of the Solar Energy and Energy Conservation Bank pursuant to title V of the Energy Security Act.

Cosponsors of the amendment (UP No. 186), proposed by Mr. BUMPERS, for himself and Mr. HART, are Mr. DODD, Mr. INOUYE, Mr. LEVIN, and Mr. DECONCINI.

Mr. BUMPERS. Mr. President, this amendment deals with three budget items, solar research and development, the solar bank, and conservation.

Senator HART and I will divide our arguments. I will discuss the conservation programs. He will talk about the solar programs.

The amendment provides an increase of $200 million for solar research and development, an increase of $200 million for conservation of all kinds, including weatherization of homes and other conservation measures, and an increase of $50,000,000 for the solar bank.

The figures that were proposed in the original budget were $1,592,000,000 for the first two items. In solar research and development, there was $670 million, and this administration proposed to cut that to $241 million, a cut of about 65 to 75 percent.

In conservation, the original budget recommended $922 million, and this administration has chosen to cut that to $195 million.

Mr. President, let me preface my remarks by saying that before I got into politics, one of the ventures I was involved in was a cemetery, and I sold it because I found out selling cemetery lots to healthy people was a lot tougher than convincing people to vote for me. So I chose to change professions. Right now, trying to convince the American people that energy is still a priority item is just about like selling cemetery lots.

There is what is commonly referred to as an oil glut in the world. Gasoline prices, which is the common measure of energy prices, are now down slightly from their peak of 60 days ago.

It is estimated that there is excess production of oil of 3 million barrels a day.

Yet, I want to put that in perspective, because that 3 million barrel a day glut of oil can and may disappear any moment.

The Saudis have made a geopolitical decision that they consider to be in their best interest to produce 10.5 million barrels of oil per day. At any time they can reverse that decision and reduce that production to, for example, 7 million barrels a day. They would still have more money than they can spend. Then the whole ball game would change again, and you will see those same lines at gasoline stations that you saw two summers ago.

Energy is on the back burner, and this administration has shoved it even further back.

The only program in the Energy Department that is boosted not only spared from the ax, is nuclear. I am not here to discuss the nuclear program, but I want to point out that the most valued programs in solar energy and conservation are being literally torpedoed while nuclear programs are increased by $300 million. The Department of Energy now estimates that nuclear displaces 4 million barrels of oil a year, which is less than 1 day's imports. Conservation, with existing programs, would displace at least 20 days of imports.

The purpose of our energy policy ought to be simply to end our dependence on foreign sources of energy. However, we are putting $1.6 billion into the program that will do least to accomplish that and we are devastating the programs that are calculated to give this country energy independence.

Mr. President, you can approach energy independence from two directions, by greater production and by greater conservation.

Assuredly, in the short term, between now and 1990, we are not going to produce our way out of this mess. Even with the massive sums of money we planned to devote to synthetic fuels, we were shooting for 500,000 barrels of synthetic fuels in 1987. Now even the synthetic fuel program has been curtailed.

Mr. President, who here believes that the oil industry, which is spending $75 billion this year to drill holes in the ground, is going to develop a synthetic fuel industry to compete with themselves and drive down the price of their own reserves in the ground? I am not kicking the oil companies, Mr. President. If I were president of Exxon, I would realize that, if we produced synthetic oil for $20 a barrel and we were getting $35 a barrel for the oil we have in the ground, we were driving the price of our oil from $35 down to $20.

Mr. President, you do not have to be brilliant to understand that. The president of Exxon would need a saliva test if he felt differently.

I am not criticizing, Mr. President. I am merely saying that the most cost effective, short-term, absolutely necessary program for the United States, if we are serious about breaking our dependence on foreign oil, is conservation.

Consider the good State of Oregon. Oregon is a very progressive State, and with some Federal help, it has demonstrated the union of the great benefits of federalism. Oregon now has a conservation program that will displace 500 to 700 megawatts of power. Between 1979 and 1983, the cost of this program, including Federal funds, will be $37.9 million, but it is estimated that that investment will save between $1 billion and $2 billion for the consumers of Oregon. And they estimate that if they spent $700 million on conservation and renewable energy sources, they could displace all future energy growth needs.

Mr. President, if that is not impressive, what is? If that is not conclusive proof of the value of conservation programs, what does it take to convince people?

The Department of Energy is sitting on a study right now done by SERI, a 2-year study which says that with a massive conservation effort in this country, we can save 5.9 million barrels of oil a day by the year 2000. Mr. President, in April of this year, our imports of crude oil ran 5.2 million barrels a day. In short, if we made a real commitment to conservation, we could become energy independent.

Mr. President, when I cannot get people's attention any other way when talking about conservation, which, admittedly, is not a very exotic subject, I couch it in terms of national security. The day before yesterday, I went up and toured the Blytheville Air Force Base in northeast Arkansas. They showed me the B–52 bombers that are ready to take off in 12 minutes. There is one tanker for each bomber scheduled to go off that runway. All I could think of is, here we continue to waste the most precious fuel we have because we are not willing to commit ourselves to changing our lifestyle—not our quality of life, but our lifestyle—ever so little, in order that those bombers will be able to take off.

Mr. President, the President of the United States has proposed the transfer of the weatherization program to HUD. There is no delivery system in HUD to weatherize rural homes. Also, there is not one dime recommended for the program after it has been transferred. The Department of Energy says that at the end of fiscal year 1980, it had weatherized 860,000 homes in America at a cost of $495 million. They estimate that for an average of $1,000 per home, we can save 27 percent of the energy of any home in the country. It is a good demonstration. When people see what happens when you weatherize and insulate, it makes them want to do likewise.

Normal homebuilding starts in this country are 1½ million homes each year. DOE says that if we economically weatherized or insulated every new home that is going to be built in the United States in the coming years, we could save 5 barrels of oil per home or an annual saving of $4.17 billion after 15 years.

Mr. President, I am not going to belabor this any further. Let me close by giving the statistics; then I shall yield to the other side or to Senator HART. I want to point out that here are the programs this administration has voted to virtually eliminate.

Consider photovoltaics. DOE now says the capital cost of 1 watt of power for photovoltaics is $2.75 a watt. A nuclear powerplant that is going to be completed on Long Island in 1983 at a cost of $3 billion will produce a watt of power for $3.80, or $1 per watt more than photovoltaic power costs. Yet this administration has cut photovoltaic research from $160 million to $63 million.

Consider biomass, cut from $56 million to $21 million.

Consider ocean thermal exchange, so important to coastal States. particularly Hawaii, cut from $37 million to zero.

Consider active solar heating and cooling research, cut from $33 million to $12 million.

Consider passive solar, cut from $23 million to $10 million, or solar thermal, cut from $85 million to $44 million.

I have used my 10 minutes, maybe a little more. We can continue to treat energy policy in a cavalier fashion, and we can depend on the whim and the caprice of the free marketplace to solve this problem. Yet, that is not going to happen. It is the most critical problem facing this country today. Are we going to face up to it or are we not?

I ask you, Mr. President, if President Jack Kennedy had gone on national television and said, "We are going to beat the Russians to the Moon, but we are going to let the free marketplace decide when we go," would we be on the Moon right now? I can tell you the analogy may not be perfect, but it is there.

The PRESIDING OFFICER (Mrs. KASSEBAUM). Who yields time?

Mr. BUMPERS. Mr. President, I yield such time as the Senator from Colorado may need.

Mr. HART. Madam President, may I inquire as to how much time remains for proponents?

The PRESIDING OFFICER. Six minutes remain.

Mr. HART. Madam President, the Senator from Arkansas has very ably set out the case for this amendment. It is a twofold amendment seeking to restablish this country's commitment, which we have had for the last 6 or 7 years, to energy conservation and to the use of renewable sources of energy. It is the feeling of the Senator from Arkansas, totally shared by the Senator from Colorado, that this country cannot become independent of unstable supplies of oil without promoting both sides of this coin. That has been the judgment of three or four previous Congresses. That has been the consensus of both political parties and three Presidents of the United States. Yet this administration alters that course 180 degrees.

There is no single solution to this country's energy problems—not nuclear energy, not conservation, not solar energy, not increased oil and gas production. The solution is a combination of all of those things.

Like the Senator from Arkansas, Madam President, I wish the free market would solve this country's energy problems, and if we had unlimited lengths of time, I am sure it would. But there is one ingredient the free market lacks, and that is a sense of urgency. It is not the responsibility of the free market to protect this country's national security. That is the responsibility of the U.S. Government.

This is not solely an economic issue. This is not solely an issue of whether to let the major energy producers of this country decide where to put their investments, hoping that the country will be secure both economically and in terms of our national security as the result of those investment decisions. This administration certainly does not believe that, or it would not be increasing the subsidization of one source of energy—namely, nuclear power.

Madam President, this country can decide that we have a serious problem, as it has had for the past 7 or 8 years since the OPEC oil embargo, and that it is dangerous to rely on other people's oil, from the most politically unstable region of the world. Or we can decide, as this administration's budget proposes, that we will proceed as if no sense of urgency existed; that we will leave these decisions as to future energy supplies totally to the marketplace; and that, if necessary, we will engage in war in the Persian Gulf, in the Middle East, for somebody else's oil, and trade American blood for that oil. That is the choice.

This amendment is not going to solve that problem, but it goes a long way to reestablishing the policy that Congress, for the past 7 or 8 years, and three previous administrations have supported. This policy will provide a degree of energy independence to liberate us from having to engage in that kind of military action.

I wonder whether the marketplace is going to include the cost of the rapid deployment force which is being designed to intervene militarily to secure those supplies of oil. Will the market equation include the cost to the taxpayers of fighting for that oil? I doubt it. But if you include those additional costs into the equation, they substantially drive up the total cost of that oil.

Do the American people want to fight for Arab oil, or do they want to develop all the energy supplies and energy conservation technologies which this country possesses? That is the issue.

This amendment is not a solar amendment, nor is it a conservation amendment. It is a priorities amendment. This Congress has established, for the last 8 years, that the priorities of this country dictate that we shall develop all our energy supplies, even those that are not presently economically competitive. The administration has come in overnight, through the budget process, without an energy statement by the President of the United States, and reversed that course.

This amendment attempts, in a small way, to reestablish the path and the policy that this Government has had for the last 8 years.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Madam President, how much time do the proponents have?

The PRESIDING OFFICER. One and a half minutes.

Mr. BUMPERS. I yield 1 minute to the Senator from Connecticut.

Mr. DODD. I thank the Senator from Arkansas.

Madam President, I associate myself with the remarks of the Senator from Arkansas and the Senator from Colorado. I believe they have adequately framed the issues that surround this vitally important amendment.

As a cosponsor of the pending amendment I believe there are few issues of greater importance to this Nation, and in particular to the New England States, than those of energy conservation and alternative energy sources. This amendment would add back to the budget modest but critically important funds for energy conservation, for solar energy research and development, and for the solar and conservation bank. These increases can be accommodated within the budget totals proposed by the administration and, in conjunction with other cuts that have been proposed, fall well within the limits established by the first concurrent budget resolution.

It would be tragic indeed if the current glut of oil in world markets lulls this Nation into a false complacency about its true energy outlook. In New England, oil accounts for more than 70 percent of our total energy and 80 per-

cent of that oil is imported. As a Nation we remain dependent on foreign suppliers for near 35 percent of our crude oil. Any significant disruption in oil supplies from the volatile Middle East or other oil exporting regions would still have extremely serious consequences for the entire Nation.

Since 1978, New England and the Nation as a whole have reduced both their demand for oil and their total energy consumption. The progress toward more efficient use of energy has far exceeded expectations of 2 or 3 years ago. New England's 6.5-percent reduction in total energy consumption and the Nation's 2.3-percent reduction have both been accompanied by increases in real per capital income.

We have demonstrated that energy conservation is, in essence, more productive use of energy.

I hope we will not forget that the application or our knowledge about conservation remains beyond the financial reach of millions of low- and fixed-income elderly Americans without continued assistance from Government. Our failure to provide adequate energy conservation assistance to these individuals will not only lead to increasing personal hardship for those millions, it will deprive the Nation of a major shortrun opportunity to further reduce its dependence on insecure foreign oil supplies.

The low-income weatherization program has assisted more than 41,000 low-income families in the six New England States alone and 500,000 nationwide. Weatherization of the homes of the remaining 9.5 million families like these offers even greater potential energy savings. Those savings will not be realized if we fail to provide adequate funding for the energy conservation programs upon which they depend for assistance. The increases proposed in the current amendment are reasonable under current budget constraints. They are consistent with our goal of continued progress toward energy independence and they are essential if we intend to reach that goal by a path that does not abandon millions of low-income members of our society.

In addition, everyone agrees that new sources of energy are essential both to aid in reducing our dependence on foreign oil and to assure adequate supplies as nonrenewable sources are depleted. Our search for a rational energy policy in recent years has shown that there are many alternatives to conventional sources of energy that are economically feasible and which in many cases, also offer greater energy security than conventional sources.

The whole complex of solar energy sources: Passive and active solar systems, wind, alcohol, biomass, and wood burning technologies, offer tremendous potential as alternative sources of energy. Yet, this potential will not be realized if the Federal Government withdraws its support from the research and development efforts now underway to bring these alternative technologies to the stage of widespread commercialization.

This Government has invested, and continues to invest, billions of dollars in nuclear energy research and development. I have consistently supported most of these investments.

We have invested billions of dollars in massive hydroelectric projects, and today the people of the Pacific Northwest and those in the Tennessee Valley are reaping the benefits of these investments.

The Nation as a whole is more secure today as a result of the foresight exercised by previous Congresses in making public funds available for these purposes. The Nation will be more secure tomorrow only if we continue to pursue the broad range of solar energy investments that have already been demonstrated to have the potential to economically replace our dwindling supplies of nonrenewable energy sources.

Finally, the solar and conservation bank is a vital link in translating our technological capability into actual widespread application of that technology. Many commercial banks are still reluctant to make loans for nonconventional energy investments even when those investments are demonstrated to be economically viable. The administration's proposed elimination of the bank was and is irresponsible. The $50 million for the bank contained in the reconciliation act is sadly inadequate to provide a fair test of the bank's potential.

While I consider our proposed amendment's increase in initial bank funding to $100 million inadequate to meet the need, it will at least allow this new concept in energy financing a chance to prove its worth. I am confident that once tested, the solar and conservation bank will prove to be among the most effective and most efficient means of promoting alternative energy production and energy conservation.

I strongly urge my colleagues to support this amendment. The investments it will stimulate will provide the Nation a return many times these increased outlays. The investments in conservation and alternative energy sources it will stimulate are of critical importance to the economic and personal security of the people of Connecticut, the people of the Northeast and of many other regions of our country.

Mr. GORTON. Madam President, I yield to the Senator from Idaho such time as he desires.

Mr. McCLURE. Madam President, I oppose the amendment.

The amendment, as I understand it, proposes to add budget authority in fiscal year 1982 of $200 million for energy conservation and $200 million for solar energy research and development programs of the Department of Energy and $50 million for the solar energy and energy conservation bank.

I must add that because it does raise the Department of Energy cap by $400 million without offsetting reductions, it is a total increaesd, or add-on, of $450 million.

This is not the first time we have dealt with an amendment of this nature this year.

During the consideration of budget reconciliation matters earlier this year, the Senate rejected a similar amendment by a vote of 32 to 65. It was argued at that time that increases in these areas would provide greater flexibility for the Energy Committee. We argued that the amendments would, to the contrary, reduce our flexibility, and the Senate agreed.

If anyone has any doubts about whether that prediction was true, I can report to the Senate that the the Committee on Energy and Natural Resources raised DOE energy supply R. & D. programs by $60.8 million and energy conservation by $350 million, and added for the solar energy and energy conservation bank, $50 million, and allocated $336 million for DOE State and local programs—all this was done by the committee without violating the instructions of the Senate to reduce authorizations of budget authority. These committee changes in authority surpass those proposed in the earlier amendment.

The amendment now before the Senate would simply add more to the committee's changes and, I might add, without any offsetting reductions.

I agree with the Senator from Colorado (Mr. HART) that there is no single answer to our energy problem or dilemma. I agree totally. But we have to try to do everything we know how to do—solar, conservation, and all the rest of the mix we have been talking about.

The question is, how much in each area? That is where we run into trouble; because, while the Senator from Arkansas was making budgetary comparisons, he was not making the right comparisons. He is not comparing the figures in the amendment to the figures before us in the bill (S. 1377).

We have already made changes; we have already added to the massive amounts of money for the precise programs the Senator identifies, and for exactly the same reasons the Senator identifies.

So the argument he presents is not against where we stand now in the bill; rather it is against the budget that was submitted to the Congress, which we have already revised substantially.

I should like to quote from the reconciliation report before us, because it contains some detail that was transmitted to the Budget Committee by the Committee on Energy and Natural Resources:

> The intent of the Committee was to indicate support for certain categories of programs that had been excised or drastically reduced in the proposed budget. For example, the Committee increased Energy Supply and Research Development by $60.8 million for potential allocation by the Senate Appropriations Committee in program categories such as Ocean Sciences, including OTEC and undersea cable; Geothermal, including Raft River and capital expenditures for the Herber Binary project; Electrical Energy Systems; Fusion; Solar, including advanced concepts. Also the Committee increased operating expenses for Fossil Energy Research and Development by $80 million for distribution in program categories such as MHD, H-coal, Oil Shale, Enhanced Gas Recovery and fuel cells. In addition, the Committee increased

operating expenses for Energy Conservation by $350 million for such program categories as Building Sciences, including residential/commercial retrofit and urban waste; Industrial; Transportation; State and Local, including the weatherization program. The Committee also increased funds for the Energy Information Administration by $1.7 million for such programs as the Financial Reporting System as required by section 205(h) of the Department of Energy Organization Act. The Committee also increased Energy Regulation by $26 million for such programs as compliance, including the Office of Enforcement and Office of Special Counsel.

In addition the Committee allocated $50 million of the savings resulting from part 3 to the Solar Energy and Energy Conservation Bank; however, this action is reflected separately in the Committee's recommendation on reconciliation to the Senate Budget Committee.

The Committee provided within the Energy Conservation account up to $336 million for state and local programs. Within this $336 million there are authorized to be appropriated such funds as are necessary to implement S. 1166, the "National Home Weatherization Act" or comparable legislation. The Committee assumes the $336 million figure is a ceiling and expects that if not all the $336 million are appropriated for state and local programs, including S. 1166, then the funds will be available to other programs in the Energy Conservation account.

Madam President, I went through this list, which appears on pages 358 and 359 of the report on the pending legislation, to illustrate that what the Senator is requesting by the amendment has already been done. In fact, all it seeks to do is to add further to what we have already done in trying to strike the right kind of a balance between appropriations accounts.

I might also point out that there is another problem; but I think it is perhaps a peripheral problem. Because the amendment is drafted as a substitute to provision of the measure before us, the amendment would kill the SPR amendment of yesterday. I am not sure that the sponsors intend that result, but that is kind of a sidelight.

I hope that the Senate will reject the amendment as presented to us and allow us to go ahead and strike those balances both in authorization and appropriations that have already been reflected in the reconciliation.

I thank the Senator from Washington for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. GORTON. I yield myself 5 minutes.

Madam President, this amendment, as some other amendments proposed during the course of the debate over the budget, is taken in isolation and, viewing only its goals, one of considerable attraction. If for $400 million we could purchase energy independence for the United States it is obvious that every Member in this body would do exactly that.

But as the Senator from Colorado so accurately pointed out, the priorities of administations for roughly the last 8 years have been to put increasing amounts of money into forms of energy development which would not otherwise be supported or would not be supported to such a great extent by the private market itself without particular effect. It is also true that during the course of the last 8 years or so and most particularly in the last 2 or 3 there have been gratifying improvements in energy supplies in the United States of America. There has been much more consciousness paid to energy conservation and to new energy development.

The most important reason for this change is not, however, the various Federal programs for alternative energy development. The reason has been the impetus provided for us by OPEC, by rapidly escalating prices of foreign oil, and to a very significant extent by price deregulation here in the United States which has caused an infinite increase in the amount of money invested by the private sector in energy development both in the traditional sense and through various nontraditional forms.

In fact, there is no indication that we will get anything from this $400 million amendment except a gradual and small effect on inflation. And it is, of course, simply because it was absolutely necessary for this administration and this Congress to begin to bring inflation under control and to provide for an increasingly vital private sector in our economy that this and every other cut in the budget was proposed by the Reagan administration earlier this year.

We see this morning that for the first time since early 1979 the rate of inflation for an entire 12-month period is less than 10 percent, that we may well have double-digit inflation a part of the past.

The only significant reason for that is a different set of fiscal priorities set by this administration and by this Congress.

In fact, the Energy Committee, as the chairman has pointed out, has already increased this function by some half billion dollars. This proposal is not matched by cuts in any other place. It will not have nearly the effect that the private market will have in decreasing our dependence on foreign oil and increasing the prospects of energy independence. Had we deregulated the price of petroleum 4 or 5 years ago, we would already be that much closer to energy independence, and it is by independence on the private market that we will reach that independence most quickly in a noninflationary economy.

The amendment should be defeated.

I yield such time as the Senator from New Mexico wishes.

Mr. DOMENICI. Madam President, I commend the distinguished chairman of the committee, Senator MCCLURE, for his position in opposition to this amendment and in addition for his genuine concern, as chairman of this very important Energy and Natural Resources Committee, and for the leadership he has already provided in the areas under discussion.

It is very technical to say that the Bumpers amendment will cause us to exceed the targets set because as a matter of technical argument it will not. But that is only technical in that there were matters within the committee's jurisdiction that were not subject to reconciliation that they basically adjusted in order to make room for $500 million-plus that they added back into programs that the President had not supported in an affirmative way and programs that were assumed in the resolution would be cut. But they did that, and they did it right, they did it fairly, so they came in within the target, within the mandate, and yet added money in some of the same areas that Senator BUMPERS seeks to add.

My recollection is they provided the flexibility that is sought in these areas by authorizing about $563 million; is that correct?

Mr. MCCLURE. Yes.

Mr. DOMENICI. And that is really the basic argument before us, that we have to have the flexibility in these programs so that the appropriators will decide among these and other programs whether they will continue to fund programs in conservation and the like that are included in the Bumpers-Hart amendment.

We have already included those out of the Energy Committee, so the flexibility is there. In fact, that is $563 million that was not contemplated by the President's budget and not contemplated by the assumptions in the resolution, and that is clearly what the committee's prerogative was. But there no longer is an argument that there will be no funding in those areas. Conversely, there is no assurance that they will be funded. It is up to appropriators within the full gamut of programs that they have and the target that they have whether they will fund them or not.

So I hope that the Senate, while technically we cannot say on the vote here that this will breach the reconciliation. understands that within the spirit of reconciliation this will breach it, because these programs were contemplated at zero. There is $563 million in the bill that is before us. The Senator would add $400 million more. It appears that the committee did a good job within their broad jurisdiction of picking and choosing and providing the flexibility, and they really do not need $400 million more in the bill. If they did, the committee would have voted for it. They found critical programs to provide the flexibility, and I hope that the Senate will defeat the amendment and thus give its affirmation to the excellent work that the Energy and Natural Resources Committee did in these particular areas but providing latitude for them to be funded if the appropriators see fit.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Madam President, I am prepared to yield back the remainder of my time. I think I have 30 seconds remaining and I am magnanimously offering to yield it back.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOMENICI. How much time do we have remaining?

The PRESIDING OFFICER. There remains 5½ minutes.

Mr. DOMENICI. We yield the remainder of our time.

Mr. BUMPERS. Madam President, I

ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Alaska (Mr. MURKOWSKI) is necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. MURKOWSKI) would vote "nay."

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 35, nays 63, as follows:

[Rollcall Vote No. 165 Leg.]

YEAS—35

Baucus	Eagleton	Melcher
Biden	Ford	Metzenbaum
Bradley	Glenn	Mitchell
Bumpers	Hart	Moynihan
Burdick	Huddleston	Pell
Byrd, Robert C.	Inouye	Pryor
Chiles	Jackson	Randolph
Cohen	Kennedy	Riegle
Cranston	Leahy	Sarbanes
DeConcini	Levin	Tsongas
Dixon	Mathias	Williams
Dodd	Matsunaga	

NAYS—63

Abdnor	Grassley	Percy
Andrews	Hatch	Pressler
Armstrong	Hatfield	Proxmire
Baker	Hawkins	Quayle
Bentsen	Hayakawa	Roth
Boren	Heflin	Rudman
Boschwitz	Heinz	Sasser
Byrd, Harry F., Jr.	Helms	Schmitt
	Hollings	Simpson
Chafee	Humphrey	Specter
Cochran	Jepsen	Stafford
D'Amato	Johnston	Stennis
Danforth	Kassebaum	Stevens
Denton	Kasten	Symms
Dole	Laxalt	Thurmond
Domenici	Long	Tower
Durenberger	Lugar	Wallop
East	Mattingly	Warner
Exon	McClure	Weicker
Garn	Nickles	Zorinsky
Goldwater	Nunn	
Gorton	Packwood	

NOT VOTING—2

Cannon	Murkowski

So Mr. BUMPERS' amendment (UP No. 186) was rejected.

Mr. McCLURE. Madam President, I move to reconsider the vote by which the amendment was rejected.

Mr. DOMENICI. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Madam President, we have agreed that the next amendment will be the Durenberger amendment. I wonder if the Senator would permit me to introduce a technical amendment at this point.

Mr. DURENBERGER. Certainly.

UP AMENDMENT NO. 187

Mr. DOMENICI. Madam President, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 187:

Strike section 1117(1).

Mr. DOMENICI. Madam President, this is a technical amendment. In the Stafford amendment of this morning, which the Senate agreed to, somehow in the haste of adopting it a couple of pages of material that was not relevant to that amendment were affixed.

Senator HOLLINGS and I have reviewed it. It does not belong there. This amendment very simply strikes that. I think Senator HOLLINGS agrees that we ought to do this.

Mr. HOLLINGS. It was an inadvertence. It included extraneous matter that should not be there. In fact, the Senate has already struck it under the leadership amendment. I am glad to agree to the amendment and yield back any remaining time.

Mr. DOMENICI. I yield back any remaining time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment, without objection, is agreed to.

The amendment (UP No. 187) was agreed to.

Mr. DOMENICI. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 188

(Purpose: To prohibit use of the funds authorized to implement the 9-digit ZIP code)

Mr. DURENBERGER. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Minnesota (Mr. DURENBERGER), for himself, Mr. JEPSEN, Mr. MATTINGLY, Mr. HEFLIN, Mr. BAUCUS, Mr. DECONCINI, and Mr. NICKLES, proposes an unprinted amendment numbered 188.

Mr. DURENBERGER. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 280, before line 26, insert the following:

SEC. 904. (a) None of the funds authorized by this Act shall be expended by the Postal Service to implement any ZIP Code system using more than 5 digits.

(b) None of the funds authorized by this act shall be used by any executive agency for the purpose of conforming to any ZIP Code system using more than 5 digits. For the purposes of this section, the term 'executive agency' shall have the same meaning as that given to such terms by section 105 of title 5 of the United States Code, and renumber the succeeding sections of title IX accordingly.

Mr. DURENBERGER. Madam President, I yield myself such time as my remarks may require.

The purpose of this amendment is to prohibit the U.S. Postal Service from using any funds authorized by this act to implement the 9-digit ZIP code. It will also prohibit other Federal agencies from using authorized funds to conform to any 9-digit ZIP code. By doing so, it will accomplish significant savings in 1982 and 1983. The first issue that I will address in my brief remarks——

Mr. DOMENICI. Will the Senator yield for a moment to the Senator from New Mexico?

Mr. DURENBERGER. I will.

Mr. DOMENICI. Madam President, I designate the distinguished majority whip to control the time in opposition, as required.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the Senator.

Mr. DURENBERGER. Madam President, I do not intend to cover all the arguments in my brief remarks, though I want to talk first about why the amendment is part of the reconciliation process. Other Senators may suggest that this issue is perhaps better returned to the Governmental Affairs Committee for additional consideration.

I want to begin by demonstrating the necessity of prohibiting the 9-digit ZIP code by an amendment to the reconciliation bill.

The first reason that we are on this bill today is that the House of Representatives will compel us to deal with this issue as part of reconciliation. The House Post Office and Civil Service Committee has included language prohibiting the 9-digit ZIP code in its reconciliation report. That language will move to the floor of the House through its Budget Committee. No amendment to strike this language is contemplated at this time. There is a possibility also of a Republican substitute on the House side, but one of the cosponsors of this bill, Senator JEPSEN, has received a letter from BOB MICHEL, the Republican leader, indicating that any such substitute will also contain the 9-digit ZIP code prohibition language.

So, Madam President, we are virtually assured that a prohibition will come over from the House that the 9-digit ZIP code will be an issue in the conference committee. This amendment is the only means available to this Senate to express its view on the issue before the conference begins.

As for the issue of returning to the Governmental Affairs Committee, I am a member of that committee. I respect and admire its chairman and its subcommittee chairmen, and I do my best to assist in all of its work. But even for the promise of a markup tomorrow, Friday, or the week after we return from the Fourth of July recess, I will not defer a vote on this amendment.

The Governmental Affairs Committee held its first hearing on this issue last November. Hearings were held again in February and in April. A month ago, a markup was scheduled but canceled at the last moment. Umpteen hearings on this issue have been held in the House of Representatives.

Two House committees have reported language to prohibit or delay the expansion. There are 59 Senators sponsoring a bill to prohibit the 9-digit ZIP code.

On May 22 the Office of Management and Budget precluded publication of the final ZIP code rule by the Postal Service without a new and for the first time adequate analysis of the cost itself and benefits thereof.

OMB asked the U.S. Postal Service to measure the total social costs and benefits, not just the internal return to the USPS.

What are the kinds of costs that the Postal Service was required to measure? I will give some examples: The cost to small business in this country in converting manual lists to the 9-digit lists; the cost to nonprofits; the cost to the individual person in this country of learning and using the new 4-digits; the cost to health and human services; the cost to a whole variety of local, State, and Federal agencies; the cost to other large mailers in this country, those who might be most inclined to use it, of converting to the 9-digits.

Essentially, what OMB asks is that the Postal Service add up all the small pieces of time and expense that go into the ZIP code and into the 4-digit add-on. The Postal Service has not accomplished that in the 4 years that the proposal has been under consideration.

But this morning, I find on my desk a letter from Mr. James C. Miller III, Administrator for Information and Regulatory Affairs at OMB, saying that the Postmaster General stopped by his office yesterday afternoon and apparently resolved all of OMB's procedural objections in a relatively short period of time.

Madam President, there is no way between May 22 and June 23 that the kinds of issues that were supposed to be raised and resolved could possibly have been answered in that period of time.

What it says to me is that procedures have now been cleared somehow and it is time to decide on the merits of that issue. That is what I think we need to do here today.

The U.S. Postal Service is going ahead with the 9-digit ZIP code regardless of OMB, regardless of the U.S. Senate, regardless of whatever may be thrown in its way, because it started this process in 1965. It added four numbers to the process in 1976 and, come heck or high water, it is not going to be stopped. It is moving right ahead. They have completed a $6 million process to assign 4-digit numbers to 20 million block faces. On Monday of this week, the Postal Service made computer tapes—tapes which one House committee believes will violate the privacy rights of American citizens, tapes containing 20 million 9-digit numbers. Our Postal Service has handed those tapes over to a few of the biggest mailers in this country.

They are seeking right now a $30 million contract for a toll-free telephone service. They have proposed a discount incentive to those big mailers which will cost the American public $39 million in 1982 without a dollar of offsetting benefit. If you look at the Herblock cartoon in the Post this morning, I think you will get a pretty good idea of what they are up to.

So, Madam President, quite apart from the reconciliation process, those Senators who see a need to put an end to this folly must be concerned by any request for further delay in congressional action.

The General Services Administration has made one of the only cost analyses that I am aware of as far as the cost of Federal agencies to implement this process. Their cost figures are about $100 million to convert Federal agency mailing lists to the 9-digit ZIP code. There is a 15-year-old Executive order used to get the 5-digit ZIP code off the ground which requires Federal agencies to conform. Prohibiting the ZIP expansion is the only way to save that money.

The House Post Office Committee estimates that fiscal 1982 savings are $20 million.

Madam President, this amendment will also prohibit the Postal Service from spending $30 million to buy the toll-free phone system. It would prevent USPS from offering any incentive discount before automation is available. They have already proposed such a discount.

The curious thing about the Postal Service plan is that they intend to offer the incentive before they have acquired the computer. The incentive would go into effect next January; the computers will not be available for at least 18 months, and the full procurement schedule takes several years. So if USPS projections are correct, this scheme of 9 digits now, computers later, will actually lose money for several years. The House Government Operations Committee projects the 1982 loss to be $39 million. The vote on this amendment would save that kind of money.

Finally, Madam President, this amendment will save hundreds of millions of dollars that would otherwise be spent by individuals and businesses all over this Nation.

I conclude my remarks by saying I realize that this is not the perfect amendment or the perfect vehicle to put an end to the folley of the 9-digit ZIP, but our conferees will have to face this issue in a few days, regardless. The Postal Service pushes ahead with implementation while the evidence to reject the ZIP expansion mounts. So I urge my colleagues to resist the pressure of the Postmaster General, to resist the pressure of those who, for 35 years, have been trying to build the Postal Service incrementally at a time of an information revolution in this country, and vote to kill the 9-digit ZIP code by supporting this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. I am opposed to the amendment, Madam President, but I yield to the distinguished Senator from Alaska such time as he needs. We are limited on the amendment.

Mr. STEVENS. Madam President, if the budget reconciliation device is to succeed as a useful tool in the legislative process, we must show the good sense to limit its role to what the name implies—a method for accomplishing the goals set in the budget resolution. If the Senate permits this tool to be used for other purposes for which it was not intended—as the Senator's amendment would do—the reconciliation process will not withstand the test of time. The broad support needed to carry the budget program through from year to year will be lost if this reconciliation package is used to supplant the authority of the legislative committees on purely legislative issues not related to the budget resolution.

And that is exactly what the amendment of the Senator from Minnesota seeks to do. The Governmental Affairs Subcommittee on Civil Service, Post Office, and General Services has held two hearings on the gentleman's bill, S. 539, and other bills relating to the 9-digit ZIP code. The subcommittee has reported out S. 678. The full committee already has a markup session scheduled for Thursday of this very week to consider my bill, S. 678, to require any expanded ZIP code to be voluntary with a discount rate. Amendments will be in order and the committee will have the opportunity to work its will.

This amendment would completely preempt our committee's deliberations on the subject. It would not even extend us the courtesy which the budget resolution itself provided, of voting in the legislative committee on the reconciliation measures to be proposed. No amendment like this was offered before the committee in its deliberations on budget reconciliation. This floor amendment simply proposes to bypass our committee's jurisdiction and our pending deliberations on this important subject.

At the same time, this amendment has absolutely no standing as a budget reconciliation matter. Its approval or defeat will not alter the budget resolution or the Federal budget totals one dollar. Not one agency has requested any money to implement the 9-digit ZIP code. No appropriation cuts would be made possible upon approval of this amendment.

Over the long haul, the budget effect of this amendment could be quite the opposite. Pending now before the Postal Rate Commission is a rate discount of one-half cent per piece for volume first-class mailings using the longer ZIP code voluntarily. Government agencies include some of the biggest volume mailers. Some of them should be able to save some money with the proposed rate reduction in the years ahead if they use the longer code. Not one agency will have to, or should incur one dollar of expense to start using the 9-digit ZIP code unless the net effect with the discount rate will be a reduction in mailing expenses. Next year and in future years, the appropriations committees should not approve any agency requests for such expenditures unless the net budget effect is favorable.

This is exactly the kind of situation which agencies face now with the Postal Service's presort rate discount programs. Agencies do not spend the money required for presorting unless they know that the discounts will be larger than the costs. Many agencies have found that the savings are larger, and lower mailing expense appropriations are the payoff.

When the 5-digit ZIP code was introduced in the 1960's, a Presidential

memorandum required all Federal agencies to use it. The requirement remains in effect today as a Government economy and service measure. There will not be such requirement, however, that agencies add the four extra digits to the code. But the potential for savings which the ZIP code affords makes it wasteful and shortsighted for the Government to rule out prudent use of the longer code. We will have to pay with higher than necessary mailing expense appropriations in future years if this amendment is adopted.

Within the Postal Service, capital investments of almost $900 million are proposed for automated equipment in connection with this program. All of the optical character reader machines will be needed just to do the initial reading and bar coding, whether the ZIP code is 5 or 9 digits. None of this is on-budget money affected by the budget resolution. Virtually all of this investment will still be required even for just 5 digit ZIP code mail. But the Postal Service will not get automated sorting anyway from the expenditure for 5-digit mail as the other side of this debate is claiming. It will only get halfway automation. The sorting at the delivery office to the mail carrier will have to incur virtually the same expenditure to get only halfway results.

Madam President, the 9-digit ZIP code issue is not a budget or appropriation issue, but it is an important issue with which the Committee on Governmental Affairs is scheduled to deal this week. The Postal Service has been working with the Office of Management and Budget in order to provide information which the administration has said it requires in order to evaluate the program.

The reconciliation bill is not a substitute for the rest of the first session of the 97th Congress. We are proceeding in an orderly fashion to deal with the ZIP code issue under normal procedures, with the full and careful consideration it requires. It is not a budget reconciliation issue and this amendment does not belong in a budget reconciliation bill. The amendment should be defeated.

Madam President, I want to make sure that the Senate understands the problem here. As the chairman of the Subcommittee on Civil Service, Postal Service and General Services of the Committee on Governmental Affairs, I have conducted two hearings, as the Senator from Minnesota stated, on the subject of the ZIP code.

We have learned that ZIP-plus-4 proposal extension of zoning program first started in 1943. Extending ZIP code logical step in taking advantage of technology. New machinery will allow postal employee to process 10,000 letters per hour, compared to 1,800 today under 5-digit ZIP.

Only area where Postal Service can reduce costs significantly is in utilizing improved technology in order to reduce labor costs. By 1987, Postal Service expects to save $600 million annually. That amount will rise to $1.3 billion by 1993. This program is essential if we are going to keep rates down.

The President has asked and Congress has agreed to reduce Postal Service appropriations by over $600 million this year; if we use Postal Service figures. In addition we are scheduled to reduce another $300 million over the next 2 years.

Let me emphasize that ZIP-plus-4 is a voluntary system. I have a bill, S. 678, which, if enacted into law, would guarantee that it would always remain voluntary. S. 678 prohibits the Postal Service from requiring anyone to use ZIP-plus-4 unless given a discount. But, allows Postal Service to continue with their program and bring about savings.

Machinery that is scheduled to be purchased by Postal Service is basically improved 5-digit ZIP sorting machinery—optical character readers (OCR). These machines can be adapted for ZIP-plus-4 by the use of bar code readers (BCR). Even if only 9 percent of the mail contains ZIP-plus-4, the Postal Service will break even on their expenses. If only 50 percent of the large mailers use ZIP-plus-4, they will have a return on their investment of 39 percent. If 90 percent of large mailers use ZIP-plus-4 the Postal Service will have a 48-percent return on their investment. Currently, all mail (not just large mailers) use ZIP Codes 97 percent of the time.

Let me state again that the program is geared to large mailers—of which close to 100 percent use ZIP codes.

This is a very controversial matter. We have a bill that will come out of Governmental Affairs that will assure that the implementation of ZIP-plus-4 will be purely voluntary, that no one can be forced to use any additional numbers.

The problem that I have is this, Madam President: We responded to the request of the Budget Committee to cut postal subsidies. In the bill that is before us, if the Senators will look at page 82, we have agreed to reduce the Postal Service by $956 million in 1982 and $1.77 billion in 1983. That reduction is possible because of the projected productivity increases and savings that will be brought about by the adoption of ZIP-plus-4.

This amendment ought to be subject to a point of order and when the Budget Act is revised, I intend to make certain this cannot happen again.

The Senator's amendment says none of the funds in this bill can be used to implement ZIP-plus-4. Yet ZIP-plus-4 is the mechanism by which we have brought about the reduction of almost a billion dollars—this is possible because of productivity. The Postal Service has agreed to absorb that cut.

The Governmental Affairs Committee went completely along with the President's recommendations with regard to cuts in postal subsidies.

Madam President, I cannot understand my friend when he leaves the impression that, somehow or other, this is impinging upon individuals. The 5-digit ZIP code is voluntary. When it was adopted, there were people on this floor and the House floor who sounded like my friend from Minnesota. "Isn't it terrible? We are all going to become ciphers. We are all going to have to have numbers."

Ninety-seven percent of the people who use the Postal Service today use the 5-digit ZIP code, although it is voluntary. This is going beyond that. This is going into the area of using the new generation of technology, the scanners and the readers, that will eliminate some of the work force of the Postal Service. I can understand some people who want to prevent that, but I cannot understand an amendment which says that none of the funds in this bill can be used to implement ZIP-plus-4 when the only way we are able to cut out the money that we have taken out to meet the Budget Committee's recommendation was through the implementation of the ZIP-plus-4.

Let me tell you this, Madam President. Those people who vote to stop ZIP-plus-4 are going to have to explain the 25-cent stamp in 1982, because we are not going to go back on cutting the subsidies. The only place that money can come from is increasing the price of stamps. If someone wants to get around here and see what has happened to people in the past who have supported increases in postage stamp prices, then I advise them to look at the vacant chairs, because it is not something the public wants.

We are trying to stop the increasing spiral of postal rates. The only way to do it is to increase productivity. Productivity means using the technology that the world has developed to mechanize the postal system.

I want to serve notice, Madam President, that I am going to move to table this amendment. The Senator from Minnesota knows, I have committed to him, that we would have hearings. This matter should not be on the floor in connection with reconciliation. It is totally extraneous, it has nothing to do with the process except to compel us to decide whether to raise the price of the postage stamp—and believe me, it will go up to something like 25 cents—or to increase the subsidies contrary to the spirit of this bill. So I am going to move to table this bill.

I inform the Senate the ZIP-plus-4 will be on the floor. I committed to the Senator from Minnesota that ZIP-plus-4 will come out of the committee. He can offer his amendment at this time, and we will see what the Senate wants to do.

But this is not proper, to use the reconciliation process to try to deal with a legislative matter that ought to be decided in the regular way. We are not dragging. our feet. If the Senator could say we have not held a hearing and refused to consider his point, that would be another matter. But this is really using the reconciliation process to disrupt the committee schedule and to disrupt the legislative schedule. That is why extraneous measures here in the form of amendments ought to be tabled. So I serve notice that, at the appropriate time, I shall move to table this amendment.

(Mr. GOLDWATER assumed the chair.)

Mr. STEVENS. Mr. President, I ask unanimous consent that a series of editorials and comments be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ZIP+4 ADDS UP

(By Rubin Handelman)

NAPS has recently submitted testimony in support of legislation introduced by Senator Ted Stevens, S. 678, which would allow the U.S. Postal Service to implement the

ZIP+4 as long as the system remains voluntary.

What is very difficult to comprehend is why many people in both Houses on Capitol Hill are expressing opposition to the implementation of ZIP+4.

When I assume to be knowledgeable on what is happening and have interpreted everything properly, I am amazed to realize I am wrong and everything is more complicated than previously imagined.

I refer specifically to those who always speak of progress, efficiency, innovative ideas to increase productivity through research and development, actually coming forth and contradicting themselves by seeking to stop the USPS from using the new expanded code.

THE BEST WE CAN OFFER

The Postal Service is a service to the American public and the public deserves the best we can offer. Could you imagine our service performance if we had remained with the Pony Express, the trains, the two-digit code which went to the five-digit ZIP or strictly distributing mail manually from primary to secondary, etc? The Postal Service takes the brunt of bad jokes from the news media, cartoonists, and TV entertainers. But when a system is developed that will move the mail more expeditiously and result in fewer and lower rate increases, how can USPS possibly be prohibited from implementing that program? Is this progress?

The ZIP+4 program has been developed were made on Capitol Hill that the USPS budget more funds for research and development. Progress is to move forward, to develop to a higher or more advanced stage for the betterment of the human race or society.

The ZIP+4 program has been developed and is almost ready for implementation—and would you believe—Capitol Hill is expressing opposition.

The ZIP+4 is geared toward business and volume mailers and will be strictly on a voluntary basis. If mailers utilize the 4 digit add on they can obtain a discount. In the years ahead, this discount will be so large that businesses generating any quantity of mail cannot afford to miss ZIP+4. It will definitely add-up, and will be voluntary.

FROM THE PRESS . . .

NATIONAL

The Christian Science Monitor—"The new ZIP Code is certainly no longer than the the ever-dependable nine-digit social security number or even the nine-digit drivers license Massachusetts and other states hand out. In fact, next to the 11-digit phone number in most large cities or the 15-digit computerized banking card found in many a wallet, remembering the ZIP Code promises to be a breeze. . . . Although businesses will incur some initial change-over expenses, their savings in mail costs should be passed along to consumers in the form of lower prices. Most letter-writers will no doubt give the added digits their stamp of approval—and keep hoping that nine is enough."

COLORADO

The Boulder Daily Camera—"Four more numbers to remember won't make the process of paying the bills or writing home to Mom any zippier for most of us. But the switch to 9-digit ZIP Codes will make sorting mail easier."

CONNECTICUT

The New Haven Register—". . . Remember the opposition and the resistance to the new all-digit phone numbers when the Bell System dropped all those familiar exchange names? Except for the romantics, no one seems to miss those colorful names anymore. Anyway, all we'll need to learn is four new digits, which will be a hyphenated addition to our present ZIP numbers. So there won't be much of a mental strain. . . . So if the nine-digit code will help the Postal Service save money, it should be worth the extra effort to memorize four more numbers."

GEORGIA

The Clarkesville Tri-County Advertiser—"The use of the four additional ZIP Codes will allow the Postal Service to keep costs of operations down by increasing use of mechanized sorting of mail . . . One of the main reasons postal rates go up is because so much mail sorting must be done manually. When machines can be used instead, it keeps the cost of handling within bounds and keeps postal rates from jumping."

HAWAII

Honolulu Star Bulletin—"One ray of hope for future moderation in (postal) rate increases comes from the nine-digit ZIP Code, which is now due to take effect June 1. It will enable the Postal Service to make use of automation and computerization and thereby cut costs . . . It is not an unreasonable price to pay for making the Postal Service more efficient—and less costly."

ILLINOIS

Arlington Heights Herald—"When more people are told about the advantages of the longer codes, perhaps there will be less opposition to the Postal Service's plan . . . Although the longer code may have certain drawbacks, they are far outweighed by its advantages, chief of which is the money that it will save the Postal Service and, ultimately, consumers . . . Those senators, who are trying to thwart the longer ZIP Code ought to ask themselves whether they want the postal price spiral to continue: We know their constituents don't."

IOWA

The Clinton Herald—"Back in 1963 there was quite a fuss when the Postal Service inaugurated the five-digit ZIP Code to speed the sorting and delivery of mail. Those outraged by the system predicted the ZIP Code was another step in dehumanizing mankind . . . It didn't work out that way. The use of the coded numbers is as common as the licking of a stamp. But now the Postal Service wants to take another step. It wants to add another four digits . . . Postal officials insist the nine-digit ZIP Code will save time and money . . . If it would save tax dollars we feel quite sure the public could go along with the idea."

KANSAS

Kansas City Wyandotte West—"We have examined the new expanded program and it is sound. There will be, no doubt, problems at first, but that is typical of anything that is new. It will allow automated equipment to sort mail quicker, thus helping to stabilize increasing postal rates."

MISSISSIPPI

Biloxi-Gulfport Daily Herald—"The 63 senators who are supporting a bill to zap the U.S. Postal Service's proposed nine-digit ZIP Code need to reassess their position in the light of hard realities . . . It is not reasonable to pressure the Postal Service to manage its business efficiently on the one hand, and simultaneously to deny the agency the benefits technology offers to achieve higher efficiency, shortly after denying USPS's request for a five-cent First-Class Mail increase and approving a lower hike instead . . . We don't like the idea of a nine-digit ZIP Code anymore than do the 63 senators who want to halt it, but we agree with Mr. Bolger that it is necessary if we expect the Postal Service to operate as efficiently as possible."

MISSOURI

Kansas City Star—"If some members of Congress would climb down off their huffs long enough to find out just what the Postal Service's proposed nine-digit ZIP Code is and how it would work, this money-saving efficiency device might get the support it merits . . . The nine-digit ZIP Code represents more numbers in our already much-numbered lives, but modern civilization cannot operate without them. It can give us a Postal Service which runs better with lower losses, and any individual who chooses not to use it doesn't have to. So what's the big problem?"

NEW JERSEY

The New Brunswick Home News—"The nine-digit program is a logical extension of the existing and proven ZIP Code system which promises to do what the Postal Service is, by law, required to do: search out more efficient and cost-effective ways to move the mails."

The Trenton Trentonian—". . . Let's bear with the Postal Service a moment on this one. First and foremost, the extra four digits are going to be entirely voluntary, the Postmaster General has assured. And he insists that significant cost and service advantages for the Postal Service are involved, which will lengthen the time between rate increases. On that basis, the public should want to at least consider the proposal a little more carefully . . . It doesn't look like we have anything to lose, so let's keep an open mind."

NEW YORK

Syracuse Herald-Journal—"The present five digits direct mail to 40,000 post offices. With the addition of four new digits, machines will scan and sort the mail down to a particular block or building. That will cover 80 percent of the country's mail, saving close to $1 billion a year because eight or nine workers will do the work of 20. Members of Congress are fussing about the system, questioning its feasibility. They're fussing about the recent increase in the First-Class rate to 18 cents, too. Are they ready to pay 25 cents an ounce to mail a letter? Are we ready? Instead, be ready for the nine-number code."

The Jamestown Post Journal—"We are convicted that the end justifies the means in this case . . . This new expanded ZIP Code system is aimed at those firms generating the bulk of mail that now floods the postal system. Certainly the new ZIP Code system will require some additional expenditures on the part of these businesses to convert their mailing lists to accommodate it, but we think they will find the expense justified, especially when considering the economic incentives the Postal Service will offer in return."

Albany Times Union—"Statistics produced by the Postal Service on its record of the last ten years deserve consideration, and applause. One deals with the sheer volume of mail in this country, enough to bury any lesser system . . . Use of the new codes, while voluntary, will be and should be encouraged. We should remember that the ZIP system began with single or double numbers, that this new extension is but a logical one—the final one, we are assured—as the postal system strives to do the job we want it to. We suggest to all that we give it a chance."

NORTH CAROLINA

The Charlotte Observer—"Large mail users in the Charlotte area getting ready to play the nine-digit ZIP Code numbers game expect problems, but they also expect to save enough money to pay for their trouble."

OREGON

The Eugene Register-Guard—". . . It does make basic sense to replace with modern technology a human-based sorting technique that hasn't essentially changed in 200 years . . . Adjusting to the system will be a small pain in the mail pouch for all of us. But if it ultimately keeps the price of send-

ing a letter a nickel, dime or quarter cheaper than it would otherwise be, it will definitely be the lesser of two pains."

The Salem Statesman-Journal—"It appears that the nine-digit-number ZIP is on its way, at a cost of $887 million over the next seven years. But it is designed to save $600 million a year when fully operational . . . Labor costs dictate the shift to the longer ZIP, regardless of public opinion. The option now is to make the system as people-compatible as possible.

PENNSYLVANIA

The Philadelphia Inquirer—"Far from being 'another Washington monument to stupidity,' the plan may turn out to be a monument to efficiency. . . . The digitalization of society is a pain, but it has to be admitted that there are gains."

TEXAS

The Houston Post—"In an era of Social Security numbers, bank account numbers and 11-digit telephone numbers, we should be willing to do almost anything to speed mail processing, reduce sorting errors and improve reliability of mail delivery."

VIRGINIA

Richmond Times-Dispatch—"The nine-digit proposal appears to have some good features and some bad. There's been a tendency to dismiss the idea out of hand, but, perhaps it ought to be given a full hearing by the American people. Perhaps Postmaster General Bolger has a point when he says that the Postal Service should be given the opportunity to increase productivity through automation."

The Norfolk Virginian-Pilot—"Before introduction of letter-sorting machines, the response to growing mail volume was to add personnel. The Postal Service now handles 20 billion more pieces of mail annually (105 billion pieces in the 1980 fiscal year) than it did a decade ago—and does so with 74,000 fewer workers. Nine-digit ZIP Codes fed into optical character and bar-code readers are expected to boost mail-handling productivity sharply . . . Two cheers, therefore, for automation, if it works. Here it comes, ready or not."

WASHINGTON

Everett Herald—"Computer improvements and the new nine-digit Z P Code should go a long way in boosting efficiency."

Tacoma News Tribune—"What the critics seem to be overlooking is the simple fact that the nine-digit ZIP Code makes good sense. . . Certainly the five-digit Z P Code has proved its worth. Why wouldn't the addition of four more numbers to make delivery of a letter even more specific work as well? The critics should back off from their knee-jerk negative reaction to the nine-digit ZIP Code. If there's a way to improve mail service and reduce costs, then let us accept it and get on with it."

WISCONSIN

Wausau-Merrill Daily Herald—"The U.S. Postal Service's desire to move into a nine-digit ZIP Code sounds just interesting enough to be worth a try . . . If the Postal Service can use the longer ZIPs to indeed improve efficiency, we're willing to go along with it."

The Oshkosh Northwestern—"Simply put, the nine-digit code is designed to improve the Postal Service's ability to deliver the mail with less delay and at less cost. Four more numbers, if they can do that, are worth the little extra effort."

NEW YORK

New York Times—"Three things Americans like to ridicule are (1) the increasing number of numbers in modern life, (2) the length of time it takes a letter to arrive, and (3) the cost of Government. All are involved in the bargain proposed by the Postal Service that a Senate subcommittee will examine tomorrow. The Service believes that, in exchange for making 1 a little worse, it can make 2 and 3 a good deal better. Despite some Congressional mockery, there's nothing at all ridiculous about that; "ZIP + 4" is well worth a try."

IOWA

Cherokee Daily Times—"If the Postal Service is to be efficient and is to hold down costs, it must modernize. The nine-digit zip code offers that possibility. Its use should be promoted, not protested."

TENNESSEE

Commercial Appeal—"The question of conversion to nine-digit zip codes for heavy volume Memphis mailers will be decided not by esthetics or degree of difficulty in keeping up with the nine-digit numbers, but by the bottom line."

[From the Houston Post, Nov. 1, 1980]

MORE ZIP IN THE MAIL

Telephones used to stand tall on the hall table. You asked Operator to ring 4673. When dial phones came in, you dialed 4673. But cities grew. During and after World War II, New Yorkers dialed RH4 for Rhinelander 4–7700 and Houstonians dialed JA2 to get Jackson 2–9999. Now we casually dial friends and relations at 1–212–588–9703 or 1–205–876–1046. Just as jugglers start with three balls and work their way up to many, so did we work our way up to 11-digit phone numbers.

Now we must do it on ZIP Codes. At first, a Houston address was followed by a ZIP Code number of 5 or 6 or 19. In 1963, they began to add 770 in front—77005 or 77006 or 77019. Soon, the Postal Service now tells us, it will add four more digits. Bother!

Each household will be told what its new 9-digit ZIP Code will be. The Postal Service intends to be helpful. You can send in your list of friends and relatives and get it back ZIP-Coded. The service will supply computer tapes to businesses, and anyone will be able to call in to get ZIP Code information.

Use of the ZIP Code is what the Postal Service likes to think of as voluntary. But the ZIP Code is your letter's ticket to stay on the train. Any envelope with one moves smoothly through the sorting process. The letter without one has to be thrown out into a special basket to be attended to later. The toss may cost the letter one or two days in delivery. The writer who cannot bother to look up or ask for a ZIP Code is only slowing his own mail. American business has largely cooperated with the Postal Service. Ninety-seven percent of all business mail is coded. But the remaining 3 percent amounts to 3 billion pieces a year.

The Postal Service is convinced that this move from mechanization to automation will speed mail processing, reduce sorting errors and improve reliability of mail delivery. In an era of Social Security numbers, bank account numbers, credit card numbers and 11-digit telephone numbers, we should be willing to do almost anything to speed mail processing, reduce sorting errors and improve reliability of mail delivery.

[From the Cedar Rapids (Iowa) Gazette, May 20, 1981]

It's hard to spoilsport the fun some senators and congressmen are having as they scoff and josh about the nine-digit ZIP the Postal Service has been trying to hatch now for most of a year. One more set of governmental numbers to be messing with is one more set than anybody needs.

Still, if saving governmental money has the virtue it has lately been invested with, promoters' claims that four more ZIP code digits could save $600 million a year can hardly be snickered away as a joke. Especially considering that even if this cleared the Congress, mailers' use of it would be completely voluntary, not imposed.

According to postal officials, four more numbers after normal ZIPs would enable sorting machines to steer mail straight to single blocks or single buildings. If widely used, they contend, by 1987 this could displace 60,000 clerks. The estimated $900 million start-up costs would then be more than offset by annual savings of $600 million.

Large-volume mailers have raised much of the fuss so far against changing, mainly because conversion would cost two cents a name for those who agree to do it. But the Postal Service would grant these mailers a half-cent subsidy for each first-class letter. The calculation is that they would thus, recoup investments after just four mailings.

The key to whether all this works, of course, is whether businesses would use it. They originate some 84 percent of all the mail. Potentials for their benefit in speed and cost of service indicate that nine-digit ZIP use voluntarily would be worth their while.

For other users, under no compulsion to cope with stretched coding if they find that repugnant, rewards of delivery-efficiency and a deferral of future rate increases are what the Postal Service offers. A Congress minded to reduce expenses would do better clearing this for action than contemptuously milking it for laughs.

[From the Appleton (Wis.) Post Crescent, Sept. 22, 1980]

NINE DIGIT ZIP WILL HELP BIG MAILERS

The new nine-digit Zip code is expected to simplify mailing procedures at Aid Association for Lutherans as well as other companies which handle large volumes of mail on a daily basis.

It was July 1, 1963, when the five-digit Zip Code system was introduced.

Gib Melchert, manager of supply and mailing services at AAL said the new, nine-digit system will be introduced in February 1981, and many businesses are expected to start using it.

"The system will be voluntary at this point," Melchert said, "but at AAL, it could help simplify our mailing system and also could provide a financial savings."

Businesses and organizations using the new system may get an additional discount per item as a bonus for adopting the nine-digit code. Melchert said all postal customers will eventually be using the nine-digit system.

AAL is Appleton's largest post office client and handles approximately 15,000 pieces of mail each day at its home office and more than six million first- and third-class mailings each year.

The new nine-digit system could help code or classify the mail for easier distribution.

Under the new system, AAL would maintain its current 54919 ZIP Code with the addition of 0001, 0002, etc., when the need arises. Each number would refer to a separate corporate function on incoming mail, such as premium payments, underwriting, fraternal programs and local branch information.

"We've been working on the development of this system since November 1978, so it isn't like we're being taken by surprise," said Melchert.

Another new postal regulation, adopted a year ago regarding envelope size was incorporated into AAL's mailing system with ease.

"AAL had gradually conformed to the new standards before these regulations went into effect. We replaced envelopes and reply cards with the new regulation sizes as our old supplies ran out," Melchert explained. "We experienced very few problems conforming to the new regulations."

Melchert keeps a close watch on new postal developments. He attends the National Postal Forum annually, and was involved with other Fox Valley area mailers in forming a mail users council in this area. This is important because much of AAL's service to its 1.2 million members nationwide is provided through the mail. There are 12 employees in the AAL mailing area who sort mail for AAL's 1,350 field representatives in all 50 states.

AAL helps make its mailing system more efficient and economical with pre-sorting which means mail need be handled one less time by the Appleton Post Office.

It saves two cents on each piece of mail when it is bundled by Zip Code before being mailed—a $40,000 savings in 1979 and $60,000 savings in 1980. The total cost of postage for AAL in 1979 was $1,038,000.

"People in our home office in Appleton, those in our field staff and post office employees all have to work closely to get the job done," Melchert said. "The post office has given us a lot of help, and we try to lend them a hand wherever possible. I think most volume mailers understand the problems of the post office and think the changes will be good in the long run," he added.

[From the Biloxi-Gulfport (Miss.) Daily Herald, Feb. 25, 1981]

ZAPPING THE ZIP NOT A WISE MOVE

The 63 Senators who are supporting a bill to zap the U.S. Postal Service's proposed nine-digit ZIP Code need to reassess their position in the light of hard realities.

Postmaster General William F. Bolger is having more difficulty getting Congressional approval of the nine-digit ZIP system than he has had getting postal rate increases.

Last week, the Postal Service won the Postal Rate Commission's approval to increase the charge for first-class mail from 15 cents to 18 cents. USPS wanted the hike to 20 cents, but the agency accepted the 18-cent compromise, along with a 12-cent charge for post cards—a penny less than USPS wanted. Undoubtedly, if inflation continues, the compromise means only that the USPS will advance the date on which it will seek another increase.

As we noted last November, we agree with those Senators who feel the longer numbers contribute to the depersonalization of everyone who sends or receives mail. Given our choice, free of other constraints, we prefer mail to be communications between individuals or companies with names, to address of houses or businesses on named streets, located in cities with their individual characteristics, rather than exchanges between strings of digits that have meaning only to computers and other automated machinery.

395317053 may contribute greatly to the efficiency of mail delivery and help to reduce costs, but is it as colorful, as meaningful, as Biloxi, Mississippi?

And calling the new system ZIP plus four, as Bolger has done consistently in trying to sell the program, fails to make it more palatable.

But the choice is not that simple. There are other constraints, important ones.

One area in which President Ronald Reagan hopes to reduce government spending is the Postal Service. We support his cost reduction efforts. Bolger has testified the nine-digit ZIP is necesary for the Postal Service to extract the maximum benefits of available technology; following his advice would slow down future increases in mail rates. We support Mr. Bolger's cost reduction efforts also.

It is not reasonable to pressure the Postal Service to manage its business efficiently on the one hand, and simultaneously to deny the agency the benefits technology offers to achieve higher efficiency, shortly after denying USPS's request for a five-cent first class mail increase and approving a lower hike instead.

The Postal Service is scheduled to begin negotiations in April on a new national labor agreement covering 570,000 employees. The result could easily offset some, or all, of the gains the increased postal rates will bring, and could possibly diminish the savings promised by more automation with the nine-digit ZIP.

We don't like the idea of a nine-digit ZIP code any more than do the 63 Senators who want to halt it, but we agree with Mr. Bolger that it is necessary if we expect the Postal Service to operate as efficiently as possible.

[From the Milwaukee Journal, May 25, 1981]

NEW ZIP BETTER THAN NEW ZAP

If you already feel engulfed by numbers, you're doubtless dreading the nine-digit ZIP. Take heart, the ordinary citizen will not have to memorize or use the extra four numbers. So, don't join the zap-the-ZIP movement and destroy this chance for everyone to save money on future postage.

The super-ZIP will enable the Postal Service to use high-tech mail processing equipment to sort mail by carrier, as designated by the final four digits. (The five-digit ZIP can route letters only as far as the local post office, where clerks must manually direct mail to carriers.) Postal officials believe that the super-ZIP can save $500 million a year on labor costs, which now consume 85 cents of every postal dollar.

However, the ordinary letter-writer need feel no obligation to participate. That is because the new equipment cannot read handwriting or fancy script. Indeed, envelopes going through these high-tech sorters must be addressed in standard type-face and the address must be centered exactly on the envelope.

The super-ZIP is aimed primarily at bulk mailers and the Postal Service has properly devised some incentives, such as discounts for pre-sorted mail, to convert bulk-mailers to the super-ZIP. However, the Postal Service needs to better inform ordinary letter-writers that, without the super-ZIP, they may be zapped even more in the pocketbook every time they mail a letter.

[From the Worthington (Minn.) Daily Globe, May 4, 1981]

NOBODY EVER 'SPLAINED IT BEFORE

Senator Ted Stevens of Alaska is being credited with (one news writer says) a "wise and constructive compromise" in the ongoing battle with regard to nine-digit ZIP codes.

The Postal Service figures it got a bum rap from the news media. The word went out, "Nine-digit ZIP code proposed, nine-digit ZIP code proposed," and Postmaster General Bolger says no one ever got to hear the details and the reason why the proposal was made. They saw the headlines and heard the radio disc jocks say, "Guess what the post office has cooked up now!"

Minnesota's Sen. Dave Durenberger, in response to popular outcry, led a "ZAP the ZIP" campaign which nearly succeeded. Postal authorities believe that with the help of Sen. Stevens something substantial now will be accomplished.

The Postal Service began with the fact (which it knows, but which others can't appreciate) that 84 percent of all of its mail is business mail. The concern was not with the 16 percent of the mail which is most important to most persons—personal mail.

Postal officials wanted four more digits (56187–6789) which would make it possible for computerized postal machines to direct the mass of business mail to specific blocks and even to specific plants, factories and corporate headquarters. The nine-digit system is essentially a business system.

Along the way—the thing nobody bothered to 'splain in most news stories before—the post people could not care less if Sycamore continued to send a birthday card to mom with five digits scrawled in ballpoint across the front of the envelope.

The original estimate was that by adding four more digits to ZIPs there would be (ultimately) a saving of 60,000 clerks. The Postal Service estimates that by 1987 there could be a saving of $600 million a year. This is why the postal people (and David Stockman) did not want to give up on the nine-digit proposal.

Some mass mailers went along with the Postal Service but most of them resisted it. They fanned the flame of misunderstanding and encouraged the ZAP the ZIP crusade. It appeared the scheme—they called it ZIP-plus-4—would be sunk to the bottom of the suggestion box.

Enter Alaska's Stevens.

Let ZIP-plus-4 begin as scheduled on June 1, Stevens proposed. Require that its use be voluntary; use it or forget it, which ever you like. But grant a discount to mailers who went along with the nine-digit ZIPs. If you're sending out a mailing of 340,000 pieces, and if you include a nine-digit ZIP printed on the label, you get a more favorable rate than the guy who uses the five-digit ZIP.

It appears now that the Stevens compromise is on its way. Business has an incentive to use the nine-digit ZIPs, which is what the Postal Service wants, and the rest of us can go on our way with the five-digit habit.

That makes us happy. That makes the guy with the mass mailing who uses nine digits happy. And the Postal Service estimates it still will realize savings of $600 million by the end of six years.

Who does that make happy?

[From the Princeton (Minn.) Union Eagle, June 10, 1981]

FROM . . . LUTHER'S DOOR STEP

Remember back in 1963 when the ZIP code program was started by the U.S. Postal Service? I remember everyone saying that there would be too many numbers to remember and they also wondered why they needed to remember more numbers to further complicate their lives.

Since then I think most people have come to accept ZIP codes, even though the program is, and always has been, voluntary. The fact that 97 percent of all first class mail now contains a ZIP code, according to the Postal Service, is proof enough that the program has been accepted. The Postal Service says the program not only helps achieve accuracy in sorting but also allows it to become more efficient.

Now the Postal Service is gearing up for a new program called ZIP + 4 and I'm sure there'll be some of the same comments there were 18 years ago. It's not certain when the new program will start but the target date is July 1, according to Princeton's assistant postmaster, Greg Lonsky. He said it has already been postponed six months and that another delay is possible.

What's ZIP + 4? It's a new ZIP code program that uses nine digits—and it's voluntary, too. It's intended primarily for business mail since business originates 84 percent of the volume and another 10 percent comes from individuals to businesses, usually in preprinted reply envelopes.

The Postal Service says a cost reduction for it, and less frequent rate increases will be the big benefits of the new system. Mail is sorted mechanically now but at the destination office it must still be sorted to a route by clerks who have memorized every address and carrier route in the area.

Under the new system, we're told, optical scanners will automatically sort the mail to proper carrier routes, eliminating the slower

and more costly manual and mechanical sorting.

The Postal Service will offer a half-cent discount per first class letter to qualifying volume mailers who convert to the new ZIP code program. The rate reduction will be allowed for 500 or more first class letters mailed at one time bearing the nine-digit ZIP code.

The Postal Service says it expects a saving of $600 million a year by 1987 when the program is fully operational and said last year it handled more than 20 billion pieces of mail, with 74,000 fewer employees, than it did 10 years ago.

Remember, the new system will be voluntary and you won't be expected to memorize a whole bunch of new numbers. The Postal Service promises to help with the numbers and a toll-free national telephone system will help give out ZIP + 4 information.

[From the Memphis Press Scimitar, Memphis, (Tenn.), Dec. 29, 1980]

ONE VOTE CAST IN FAVOR OF NINE-DIGIT ZIP CODE

(By Richard Powelson)

WASHINGTON.—There has been much criticism of the U.S. Postal Service recently, much of it undeserved, because of the decision to implement a four-year-old plan to add four extra digits to our ZIP codes.

Like Sen. Jim Sasser, D-Tenn., I have to agree that the Postal Service has done a poor job to date in its early marketing of the idea. There has been plenty of erroneous information circulating about the plan for a nine-digit ZIP code, and many citizens are understandably upset about whether the inconvenience of a four-digit addition is justified.

However, after spending several hours reading written statements and hearing testimony from officials on both sides of the issue, I have to agree with Sen. John Glenn, D-Ohio, that the question is not how much is going to be saved by using the nine-digit system, but how much more is it going to cost everyone if the Postal Service is not allowed to further automate its mail processing and move beyond the five-digit system which is 17 years old.

Currently, 85 cents of every Postal Service dollar has to be spent on labor—salaries and fringe benefits. Every time Postal Service labor gets a raise, management has to find some extra money to pay it. So, either postage rates go up, or Congress is asked to increase its $730-million annual subsidy. The chief way for the Postal Service to keep its expenses down is to keep its labor costs down—meaning more automation, fewer employees.

Citizens have complained loudly about the prospect of more numbers in their lives, but their handwritten, personal mail represents only 6 percent of the Postal Service's volume. Eighty percent of the mail originates from businesses, and 14 percent of the volume is in response to the business mailings.

Consumers checking their monthly mailings probably will find that most of their mailings are for bills, and that payment usually is sent in a pre-addressed envelope or in a window-type envelope with a pre-addressed payment-due notice.

The nine-digit system will be just as voluntary as the five-digit system is now. But there are several incentives to adding on the extra four digits once the system starts to become operational probably sometime next fall.

Postmaster General William F. Bolger says that an extensive automated system of bar code readers and optical character readers for the current 105 billion pieces of mail annually could reduce distributing costs per 1,000 pieces of mail from $25 now to $17.

Much of the mail now with only five digits has to be run through processing centers where employees punch keys to further sort the mail to its destination. New machines to be purchased could read the five-digit codes, but they also could do much more sorting of mail faster under the nine-digit system.

The new OCR sorting machines could sort almost 10 times faster than the current system.

Business mailers probably will be offered a half cent to a cent per piece of mail if they use the nine-digit code, which will be the same current five digits followed by a hyphen and four new digits.

Many people complain and joke about the Postal Service's operations, but most of them have not taken a close look at the first major change in the ZIP code in 17 years. As the postal officials say, they're damned if they do try to improve, and damned if they don't.

People complain that they will not be able to remember a nine-digit code. Well, many remember their nine-digit Social Security number, and the 10-digit phone numbers of some of their out-of-town friends. Many credit card numbers are longer than nine digits. The nine-digit ZIP code will be just another number, like friends' addresses, that will have to be written down in an address book for periodic reference.

Citizens should at least watch and listen next year when the Postal Service begins marketing the idea, explaining the benefits of adding four extra digits to letters. If their arguments don't make sense, the plan could be delayed or canceled.

[From the Kansas City (Mo.) Star, Mar. 9, 1981]

REALLY ONLY FOUR MORE TO RECALL

If some members of Congress would climb down off their huffs long enough to find out just what the Postal Service's proposed nine-digit zip code is and how it would work, this money-saving efficiency device might get the support it merits. The honorable members are disturbed by visions of already-over-regimented Americans being forced by the postal colossus to memorize their nine-digit code or risk losing their mail forever in the sorting bins.

First of all the use of the nine digits is entirely voluntary. No one is required to use the longer guide number, although it will probably speed delivery. The "zip-plus-four," as the Postal Service prefers to call it in positive-thinking terms, is aimed primarily at high-volume business mailers who make up 80 percent of the mail load. Once the nine-digit designations have been entered on the addresses in their computerized mailing systems, no individual is going to have to sit around fretting his memory over numbers.

By directing mail automatically to a letter carrier's route instead of just a particular post office, this new plan will not only have the capacity to speed service but could save $571 million a year when fully operational in 1987 through reduced labor costs, the service's heaviest financial burden. The alternative to nine digits, needless to add, will be higher rates sooner or more postal subsidy out of the Treasury.

Already the Reagan budget cutters are trying to chop the postal subsidy from $1.44 billion to $644 million in fiscal 1982. This money compensates for uneconomical services such as Saturday delivery and operation of small post offices, and covers the cost of free and reduced rates charged nonprofit organizations in the name of public service. The House Post Office Committee has initially rejected the cuts.

The nine-digit zip code represents more numbers in our already much-numbered lives, but modern civilization cannot operate without them. It can give us a Postal Service which runs better with lower losses, and any individual who chooses not to use it doesn't have to. So what's the big problem?

[From the Spokane (Wash.) Review, Dec. 6, 1981]

DON'T SNEER AT THOSE ZIP CODES

The U.S. Postal Service very shortly will be coming out with its plan to add four more numbers to its five-number zip code. It hopes to have the 9-number zips in effect by next fall. This has been greeted by much tongue-in-cheek shock, as well as by some reaction that five numbers are hard enough to remember, let alone nine.

But there are some who regard the whole thing as an invidious plot to reduce everyone to a number. Iowa's Sen. Roger Jepsen complained that there are far too many numbers, that we are identified by IRS numbers, Social Security numbers, a 9- or 10-digit phone number and longer if a credit card is used, etc., etc., and now an extra four numbers to our zip codes. The complaint is that very soon we shall become completely dehumanized.

There is such a thing as dehumanizing the citizenry, as practiced in Iron Curtain countries and during the Nazi regime. But long zip codes are not how it's done. To infer that a 9-number zip code will reduce us all to a series of numbers as they do in the penitentiary is absolutely absurd.

Have we been dehumanized because we have a phone number? Or a street address? The four new numbers are designed to locate the addressee on a given residential street, in a certain apartment building, or particular floor in an office building. When fully operational, the plan is expected to save 60,000 jobs, and bring a 48 percent return on the $300 million investment required for the equipment.

Man's progress has been identified with his various tools, the Stone Age, the Bronze Age, and later the Industrial Revolution. We are now embarked on what unquestionably will be named the computer age. Computers happen to operate on the basis of numbers, and in the future we will be seeing more and more numbers. In fact, our lives will be greatly simplified by the increased efficiency. The Japanese and German economies have surpassed our own largely because of increased automation. We were early leaders in that direction, but have recently been slowing down.

Some folks may regret the passing of the era when each railroad sleeping car was named, and intercity travel was on the Twentieth Century Limited rather than Flight 902. It may have been more picturesque to refer to the site of our falls as Where the Rolling Thunder is Produced by Swift Descending Waters, but if you have 100 billion pieces of mail to deliver it works out a little better to identify it as something like 99201–1111.

Summary: Numbers are tools that can help us all. They need not be dehumanizing at all.

[From the Everett (Wash.) Herald, Mar. 5, 1981]

SOME POSTAL PROPOSALS

Postal rates are going up. Two federal agencies, the Postal Service and Postal Rate Commission are still haggling over the details. But before they're finished, the rate commission should reconsider its proposals issued last month.

A new charge for prompt delivery of news-related publications is particularly galling. A 3.4-cent charge for expedited service would come on top of rate increases for all publications mailed second class.

So the commission wants to create two types of second class service, the slow second class—as it's always been—and the fast, higher-priced second class. Those not in the new "high priority" class would receive slower service. Unofficially, we're told, the Postal Service already has the two types of second

class service—although we wouldn't swear by it. Witness the lethargic delivery of newspapers and magazines.

Prompt delivery should be included in the standard second class rate structure for all materials that qualify for it. Second class should be just that—second class. That's part of the service the nation's post offices must provide, though they often fail. Service varies widely in different communities. It's not uniformly dependable.

As a matter of long-standing federal policy, newspapers and magazines receive second-class postal privileges to encourage the widespread dissemination of information necessary to conduct a democratic society. That's not to say print media should receive a federal postal subsidy. Newspapers should pay the real cost of second class service, and so should everyone else using second class.

First-class letter mail does have the highest delivery priority. Fine. But other mail, including publications, shouldn't have to languish in the post office for days at a time, regardless of the class of service. Instead of the surcharge, the commission should increase the second class rate for all mail more than the 9 percent that it has proposed. The proposed surcharge, which is on top of the proposed 9 percent rise, amounts to a 27 percent hike over the current second class rate.

The rate commission ordered the absurd new surcharge. Next time around, it could add a charge for quick and efficient delivery of first class mail. That's a dubious way to improve the postal service.

In addition to raising the standard second class rate to eliminate the surcharge, the commission should reconsider its rejection of the postal service's first-class rate request. Postal officials content that a 20-cent letter rate is necessary to operate for three years without another increase. But the politically sensitive commission has approved only a three-cent increase, from 15 cents to 18 cents. In doing so, it reduced the postal service's increased annual take by more than $1 billion, from $3.7 billion to $2.7 billion.

The Reagan administration, meanwhile, plans to cut more than $600 million from the $17 billion annual postal subsidy next year. That means postal services will either have to be reduced or become much more efficient. In any case, rates will have to be increased to compensate for inflation.

Computer improvements and the new nine-digit zip code should go a long way in boosting efficiency. But forcing the service to earn a bigger share of its own costs could do even more. If 20-cent letters and a higher second class rate would do that, they'd certainly be worth the price.

[From the Tacoma (Wash.) News Tribune, Oct. 18, 1981]

WHY NOT ACCEPT NEW ZIP CODES?

The Postal Service has been taking a lot of heat for its plan to switch from the present five-digit ZIP codes to a new system using nine numerals.

Critics have been having a field day disparaging the nine-digit ZIP code. They've described it as bureaucracy run amok. They see it as yet more evidence of governmental efforts to assign everyone a number. And they have succeeded in their criticism in convincing Congress to hold hearings on the proposal.

What the critics seem to be overlooking is the simple fact that the nine-digit ZIP code makes good sense.

By adding the extra numbers and utilizing special equipment, mail bearing a nine-digit ZIP code can be directed to the very block in which the recipient resides. Even individual apartment houses can be singled out via the nine numerals affixed to a letter.

With the continuing growth of huge housing complexes, including apartments and condominiums, delivery of the mail will become more difficult. The nine-digit ZIP code would serve to expedite the flow of mailed material to these new, larger housing areas.

Certainly the five-digit ZIP code has proved its worth. Why shouldn't the addition of four more numbers to make delivery of a letter even more specific work as well?

The critics should back off from their knee-jerk negative reaction to the nine-digit ZIP code. If there's a way to improve mail service and reduce costs, then let us accept it and get on with it.

[From the Bellevue, (Wash.) Journal American, Dec. 23, 1980]

LONGER ZIP CODES IN THE WORKS

The temptation to mock the U.S. Postal Service for its proposal to add four digits to ZIP codes is almost irresistible. There is something so impersonal, so forbidding about numbers; they speak of computers and dehumanization and mechanization and rigidity.

Even the shape of numbers is ominous. Where letters of the alphabet are round and curling and loving and embracing, digits are prickly and protruding, stiff and straight, unyielding things given to convicts when they go to prison.

Opposing the longer ZIP codes gives a warm, glowing feeling, too, as though in so doing a person has courageously thumbed one's nose at The Establishment. Take that, you fat bureaucrats.

Alas, were opposition to The Establishment so simple.

The Postal Service spends 86 cents of each dollar on labor costs. Its only hope of efficiently handling the 105 billion pieces (105 billion!) of mail this year is through mechanization. Addition of four digits to today's five-digit ZIP codes will enable the Postal Service to automatically sort mail down to individual carrier routes—even pinpointing individual streets and floors in office buildings.

We remember the hue and cry when the five-digit ZIP codes were started in 1964. Despite the vows of resistance, codes are widely accepted now and there's little doubt their use speeds the mail through snow and sleet and dark of night.

The cries of protest probably were therapeutic, but admit it: We cannot expect the Postal Service to run an efficient operation, on the one hand, and deny it the tools to be efficient, on the other.

Putting the machinery into operation will cost users a great deal of money; changing address plates alone may cost business $40 million to $80 million. It also will cost the Postal Service a lot—the projected cost of computerized equipment (what else?) is $887 million.

But we'll bet our forefathers thought it was expensive to start using digital street addresses, too.

[From the Elgin (Ill.) Daily Courier News, Sept. 27, 1982]

FIND THE WINNING NUMBER

There was a fuss in 1963 when the Postal Service inaugurated the five-digit ZIP code to speed the sorting and delivery of mail. Those outraged by the system predicted the ZIP code was another step in dehumanizing mankind.

It didn't work out that way. Now the Postal Service wants to take another step. It wants to add another four digits. The extra numbers will make it possible to send mail directly to specific businesses or postal routes in downtown or residential areas.

The nine-digit ZIP code will save time and money. Postal Service employees, whose pay represents 80 percent of the service's budget, will be added by mail sorting machines able to direct mail to the very block the recipient lives on.

Congress is holding hearings on the elongated ZIP code. It is concerned that the public can't stand additional digits. Congress should pull in its horns. The new system is not mandatory. Mail still will be delivered without ZIP numbers.

And if the use of such numbers can reduce postal costs, let's get on with it.

[From the Arlinton Heights (Ill.) Herald, Feb. 26, 1981]

NINE-DIGIT ZIP CODE AIMS TO HOLD DOWN POSTAGE RATES

When the Postal Service announced it would add four digits to ZIP codes, a lot of people wondered whether the plan was a joke. Well, the nine-digit ZIP code is no longer considered a laughing matter—epecially among a group of senators determined to prevent what they call "a numerical nightmare." Legislation is being introduced to cancel the program, which is scheduled to start in June. The senators' efforts are ill-conceived.

"People simply do not want the nine-digit ZIP code," the senators say. Maybe so. But that's probably because the Postal Service hasn't done much yet to sell the program to the public. When more people are told about the advantages of the longer codes, perhaps there will be less opposition to the Postal Service's plan. This is not to suggest that anyone will hug his mail carrier, only that a majority of people may come to accept the nine-digit code as one of life's little annoyances that nevertheless serves a useful purpose—just as they accept a 10-digit long-distance phone number.

The complaint that most people have about the proposed ZIP code is that nine digits are just too many to remember. Considering all the other numbers that have to be recalled from day to day, a lot of people just don't want to tolerate another set—or so the argument goes.

Actually, the longer code won't be all that difficult to learn, since it will be made up of the present five digits followed by a dash and four new numbers. More importantly, no one will be required to use the code if he finds it too unwieldly. His mail will be delivered even if the nine digits are missing.

A more substantive complaint comes from business. Estimates are that millions of dollars will be spent by buisnesses to update addresses. Whereas there are 40,000 postal zones today, there will be 20 million after June. Each neighborhood will have its own ZIP code.

The Postal Service is not blind to this concern, however. Indeed, the cooperation of businesses is essential to the plan's success, since 80 percent of all mail is generated by them. To ease the financial burden, the Postal Service will offer discounts in postage rates to users of the nine-digit code.

Although the longer code may have certain drawbacks, they are far outweighed by its advantages, chief of which is the money that it will save the Postal Service and, ultimately, consumers.

During the past 10 years postal rates have risen from 6 cents for a first-class letter to 15 cents. Next month, it'll cost 18 cents to mail a letter. And there's talk of another increase by year's end. While part of this inflation is due to factors beyond the Postal Service's control, such as rising gasoline prices, much can be attributed to the Postal Service's slowness to exploit new technology. The nine-digit ZIP code will allow the Postal Service to make great strides in automation—a matter of no small importance to an enterprise that handles more than 100 billion pieces of mail each year, about half of the world's letters and packages. By 1986,

when the new system is fully deployed, the Postal Service expects to see a $600 million annual savings on first-class business mail alone. This will be passed on to consumers in the form of fewer and lower rate increases.

Those senators who are trying to thwart the longer ZIP code ought to ask themselves whether they want the postal price spiral to continue. We know their constituents don't.

[From the Jacksonville, Fla. Times Union—Wed., April 30, 1981]

NINE-DIGIT ZIP CODE PLAN IS NOW A FIRST-CLASS IDEA

Postmaster General William Bolger has arrived at a sensible compromise on the newest bureaucratic monstrosity—the nine-digit ZIP code.

The plan he now espouses would make the nine-digit code voluntary and offer discounts as incentives for those who want to use the code.

At first the Postal Service flirted with the idea of forcing the letter writers of the United States to change their habits to suit the computerized brains of mail sorting machines.

The widow in Maxville, the small farmer in Hastings, the teacher in Green Cove Springs, the occupant of one of Jacksonville's high rises for the elderly, do not have machines or staff to keep track of nine-digit codes for people on their mailing lists.

However, bulk mailers could adjust their machines to synchronize with those of the Postal Service. Incentives would ease the relatively slight financial pain of making the necessary adjustments.

Under the voluntary arrangement, those who have the ability and inclination to compile and use the nine-digit code would be free to do so with the Postal Service's blessing. Those who can't or won't will escape being penalized.

U.S. Sen. David Durenberger, R-Minn., in a moment of perceptive alliteration, dubbed the mandatory nine-digit proposal a "numerical nightmare."

Bolger replied that the purpose is to hold down costs. He says the nine-digit plan—when fully implemented and after the Postal Service pays for the expensive equipment needed to put it into effect—will save $600 million a year.

The need to hold down postal costs becomes more painfully apparent with each increase in the cost of a stamp.

Instead of trying to cram Americans into a mold a la 1984, the plan is now being tailored to their individual circumstances. That is the way it should be.

Along with the nine-digit code, the Postal Service wants to expand the number of codes from the present 40,000 to 20 million. The numerical nightmare intensifies.

However, business accounts for 80 percent of mail volume. The larger mailers have computers that talk the Postal Service's language. Heavy voluntary compliance, spurred by economic incentives in the form of cost savings, would enable the Postal Service to realize the lion's share of the savings without driving the average American to distraction, or worse.

The bill under consideration now in the Senate contains safeguards to prevent the Postal Service from making the nine-digit mandatory at any time.

The nine-digit idea has progressed, through evolution, from junk status to first class. It should be implemented on a voluntary basis.

[From the Lawrenceville, (Ga.) Gwinnet Daily News, Dec. 15, 1980]

BUM RAP FOR MAIL

(By Elliott Brack)

A bum rap. That's what's been given to the Post Office.

Or perhaps the Post Office has given it to itself.

The nine-digit Zip Code is the subject.

Time the Postal Service came out with the idea of adding four more numbers to everyone's Zip Code, the wolves were at the door, howling for the sake of most people's lack of confidence with numbers.

"Nine digits! What's this? Five's enough. Who could remember nine anyway?" they say, those same people who can quote you people's 10 digit telephone numbers in Portland, Oregon.

The pundits made a field day out of the nine digits.

Said one in Indianapolis: "The proposed nine-digit Zip Code will take all the zip out of letter writing."

Out in San Francisco, Arthur Hoppe even suggested that the Postal Service go one step further: instead of identifying each street block in the country with the nine-digit Zip Code, try for another situation. He wanted every single one of us "220,000,000 Americans alive today" to have their very own, individual, personalized Zip Code! He even suggested it would allow us to get rid of all of those plastic identification cards. "Henceforth, all you'd need to do when those in authority demand your number is roll up your sleeve and show them the nine digits tattooed on your forearm."

Yet back to the premise: the Post Office has a bum rap.

Here's why: It's our understanding that what is being proposed won't affect the average person writing a letter. Those nine-digit codes are for the mass mailers, those magazine publishers, or those catalog senders, who account for so much mail in this country.

By requiring them to break down the mail not to merely five Zip Codes, but to nine, it would mean less handling on the part of the Postal Service. Instead of each individual post office having to break down the mail within its own Zip Code, under the nine-digit Zip Codes, each mailman would get a block of mail for his particular route. It would cut handling of the most-mailed magazine, "junk mail" and other such heavy users of the mail up to 33 percent, according to estimates.

Individuals, meanwhile, could utilize the present five-digit Zip Code when writing to their parents at their home, or to the son at school, or when sending the bill to Georgia Power. (Of course, major users of the mails, like the utilities, might address their return envelopes with the nine-digit code, thereby helping themselves get mail quicker. But the individual mailer wouldn't be involved with remembering that longer Zip Code.)

Perhaps the Postal Service goofed in not extending its lobbying enough to convince people that the nine-digit Zip Code would work.

Perhaps you have bureaucrats who have taken on the Postal Service and torpedoed the idea.

Maybe you have a few senators or congressmen who want to show the Postal Service who's boss. No matter that the Postal Service is supposed to be independent from the Congress. Those congressmen like to throw their weight around.

Yet the attempt to block the nine-digit system is a lesson in futility. Modern technology has demonstrated that the Postal Service can (1) speed mail and (2) save money with the expanded Zip Code. It's only a matter of time before we use it. The Post Office has a bum rap!

[From the Griffin (Ga.) Griffin Daily News, Mar. 24, 1981]

MAIL CHANGES

The price of a postage stamp is up again—from 15 to 18 cents. Postal officials, who had sought a five-cent addition, already are talking about another boost in the near future. But rate increases are far from being the biggest news about the U.S. Postal Service these days.

There has been a lot of popular grumbling about how much it costs to send Aunt Tessie a letter—and how long it takes the letter to arrive. The mail man, collectively speaking, is a perennial whipping boy.

In light of experience with the mails this is understandable. But fairness demands two things of us: recognizing the magnitude of the task of handling a large, populous, affluent nation's mail, and giving the Postal Service the credit due to it for certain noteworthy accomplishments during the first decade of quasi-independent status.

There have been conspicuous gains in efficiency, thanks in large part to increased mechanization. Contrary to critics' invidious comparisons with postal performance elsewhere, the United States now is superior to Western European countries, as well as Canada and Japan, in the number of pieces of mail handled per employee. That is a basic measure of efficiency.

While this has been going on, the federal subsidy has declined to about 5 percent of the Postal Service budget as compared with 25 percent at the time of reorganization 10 years ago. Less subsidy tends to mean higher postal rates. Yet our first-class letter rate is below that in all comparable countries except Canada, which has a proportionately much higher subsidy.

Even more dramatic changes are on the way. Computers, automation and sophisticated electronics developments will figure in getting mail from sender to receiver at maximum speed. Plenty of gripes about the mails are justified. But causes for complaint should decline if the Postal Service is encouraged to modernize further and make optimum use of the most advanced technology.

[From the Plaistow (N.H.) News, Apr. 16, 1981]

ZIP NO MONSTER

The middle-digit ZIP code which will be implemented on a voluntary basis is no monster as a previous editorial implied . . . that's the opinion of Plaistow Postmaster John Fitzgerald.

Postmaster Fitzgerald said automation is a must and numbers enhance automation. Fitzgerald took issue with an editorial published in this paper.

The editorial, in essence, tried to point out that some people have trouble remembering the five digit zip code for mail, let alone trying to remember nine digits. (There are some persons who do not know their telephone number either, but that's another story.)

Fitzgerald said that the postal service is now publicizing a much easier to understand system for John Q. Citizen. The system is known as "Zip + 4" and will speed up the postal handling on many fronts, especially the sorting of mail.

The Postal Agency reduced its reliance on a federal subsidy of $92 million last year and now gets only four percent of its total budget from the federal government compared to 25 percent just 10 years ago.

The Postal Service employees increased productivity, 5.5 percent in 1980, exceeded their goal of three percent. U.S. Postal Service men and women on an average handle 156,752 pieces of mail each year.

Although it will take some time for the "Zip + 4" to go into effect, proponents say it is just what the doctor ordered and we certainly hope so!

[From the Muskegon (Mich.) Chronicle, June 2, 1981]

USPC GETS ITS ZIP ACT TOGETHER

As our readers are aware—and their number demonstrably includes postal officials here and in Washington—The Chronicle has opposed the U.S. Postal Service plan to ex-

pand the present five-digit ZIP code to a nine-number ZIP. And we didn't stand alone. The super-ZIP, as initially proposed, was roundly opposed in the public press and in Congress.

Well, while we still have reservations, we've changed our mind. Not that we've lost the distaste for digits we share with all citizens who resent the increasing number of numbers in modern life, but because what now is proposed, and is at long last being clearly explained, is much different from the initial plan in terms of its potential impact on the ordinary letter-writing citizen.

. . . Something so different that it raises serious questions as to whether federal postal officials had thoroughly thought through—indeed, whether they really understood—what is was they were proposing.

The immediate reaction of a numbers-badgered public to the threat of a nine-digit ZIP was, as should have been expected, hot and negative. It had taken 17 years to get most letter-writers to routinely use the five-letter ZIP. And the prospect of having to memorize, or even to look up, nine-digit ZIPs was just too much—especially since it was, and in some degree remains unclear whether the service improvements promised justify the enormous equipment costs involved.

So what happened? NOW we are told, with the appropriate emphasis, that ordinary citizens will not have to memorize or scribble down any more digits than they do now; that they won't have to remember or use the four extra numbers.

Why? Because what the Postal Service now calls ZIP + 4 is essentially a business system, created to more efficiently handle the 84 percent of all mail that originates with business firms. Ordinary letter-writers now are told they need feel no obligation to participate. That, indeed, most couldn't even if they wanted to, because the expensive processing equipment used can't read handwriting or fancy script. Moreover, envelopes going through the high-tech sorters must be addressed in standard typeface and centered exactly on the envelope.

Again—now they tell us!

Will the new system work? Is it worth the expense? The Postal Service swears by it and, although we've been badly disappointed in the past, we're disposed to say let 'em try. The Service estimates a saving of $500 million a year in labor costs, and that's impressive, considering that labor costs now consume 85 percent of the postal dollar.

The new sorters are expected to process 10,000 letters per man-hour as opposed to 1,800 on the current machines, eliminating the need for some 60,000 clerks. Reducing the work force by that number, when postal workers have what amount to no-cut contracts, won't be easy. And job-attrition by retirement will take time. But if the mass-mailers, given incentives, will go to the extra trouble and expense, there's a potential for saving as much as $600 million a year by 1987.

We think that's worth the risk. Nothing else has worked, and there may be substance to the Postal Service's contention that without super-ZIP, ordinary letter-writers can only look forward to having their wallets zapped harder every time they mail a letter.

Mr. STEVENS. I call the attention of the Senate to the fact that the press comments throughout the country reflect the public sentiment that ZIP plus four, if it results in a saving, is desired by the American public. We have proved that it will result in a saving because we deducted the money already. There is no way they can absorb that cut in subsidy except through doing exactly what the Senator says—moving next month to implement this new system.

It is a good system. It is one that will continue the whole concept of increasing productivity of the Postal Service.

I yield to the Senator.

Mr. HOLLINGS. Mr. President, on this side, controlling the time for those in opposition, I join in opposition with the distinguished Senator from Alaska, the chairman of the subcommittee.

The main point that should be emphasized here is that it is clearly extraneous. The Governmental Affairs Committee has scheduled a markup for S. 678, the Stevens bill, to make the nine-digit code a voluntary system. Markup is scheduled for June 22. The House Committee on Government Operations has reported H.R. 2590, to impose restrictions on the maintenance and disclosure of mailing lists by Government agencies.

I point out those two things only to emphasize that those things do not come to the Budget Committee. The proper committee on the Senate side, which has jurisdiction over postal matters, is the Committee on Governmental Affairs.

What we would be doing here is not cutting funds through the reconciliation process but setting a policy, through the restriction of the use of funds. These two approaches are entirely different and the latter is certainly purely and clearly within the authority of the Committee on Governmental Affairs, as an authorizing committee. It does not belong in the reconciliation process.

Those Senators who are interested in protecting the authorizing committees and the processes of the United States Senate should realize that, as a policy matter, the policy issue should be debated by the full Senate, after full hearings, and should not be bobtailed onto a reconciliation bill, with the plea that this policy can save money. It does not save any money.

We cannot discipline both the Senate and the House or police both bodies. But we can, and definitely should, on the Senate side. In essence, if we set this kind of precedent, we are going to be restricting the procedures of the Senate. Rule XXII regarding unlimited debate and discussion would go out the window, and we would have a controlled time situation on fundamental or policy matters before this body.

So I hope that the motion to table will be supported.

I yield to the distinguished Senator from Ohio, the ranking minority member of the authorizing committee with jurisdiction over this policy matter.

Mr. GLENN. Mr. President, I oppose this amendment.

I have been on this committee and headed the Subcommittee on Governmental Affairs that dealt with this matter last year. I believe that the appropriate place to deal with this matter is in the Committee on Governmental Affairs, where we have a markup scheduled for tomorrow.

It is not as though this is not going to be dealt with. I understand that we have a markup scheduled for tomorrow on the bill by Senator STEVENS, S. 678. I have cosponsored that measure, as has Senator MATHIAS.

That bill would require that the use of the extended ZIP code remain voluntary, and I believe that is important. This is not going to be something that will be forced upon anyone who does not wish to use it. I believe the original press reports on this 9-digit ZIP led everyone to believe that they were going to have to learn a new series of ZIP codes or they would not be able to send their mail. It is my understanding that these would be added figures to existing ZIP codes, and anyone who wished to continue using existing ZIP codes could do so.

The administration, in a letter dated yesterday, informed the Postmaster General that they have reviewed the revised regulatory impact analysis submitted by USPS and that they have concluded that the program and proposed rule "is in accord with the President's regulatory principles."

I have a copy of the letter, and I ask unanimous consent to have it printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., June 23, 1981.

Hon. WILLIAM F. BOLGER,
Postmaster General,
Washington, D.C.

DEAR BILL: As Dave Stockman indicated to you during our meeting earlier today, we have reviewed your revised Regulatory Impact Analysis and on that basis have concluded that your ZIP Code + 4 rule is in accord with the President's regulatory principles as set forth in Section 2 of Executive Order 12291.

We do, however, have two concerns that we ask you to address as time goes on. The first is the cost and efficiency of the new equipment: in short, will it work and will the costs be as predicted. The second is the quality differential among non-ZIP, 5-ZIP and ZIP + 4 mail; your staff has assured us that any service differentials that do obtain will not reflect a deterioration in the service provided to existing mail categories. We trust you will monitor the situation and report to us any problems that may develop.

Again, I wish to thank you and your staff for your cooperation and hard work.

Sincerely yours,

JAMES C. MILLER III,
Administrator for Information and Regulatory Affairs.

Mr. GLENN. Mr. President, if there is one thing we need, it is for the U.S. Postal Service to get into greater productivity. If the Senator has any way of getting better productivity, other than what is being proposed here, I should like to hear it, because maybe we can vote that in as part of this proposal.

About 86 percent of the U.S. Postal Service total costs are personnel related. In other words, they are labor costs. It is a very labor-intensive industry. What the Postmaster General is trying his best to do is to introduce some current technology into this area, and this is one way of doing it.

The public service appropriations cuts already targeted by the Senate for the Postal Service are $344 million. So we are cutting the budget for the Postal Service, saying, in effect, that we demand greater productivity of them to keep the Postal Service operating, At the same time we are doing that, we are saying, "You can't go to a new ZIP code

that will increase your productivity." So we are tying their hands on one side and telling them that they have to do something on the other.

The USPS is facing a loss in this fiscal year of about $380 million. We are cutting their budget by $344 million. So we are cutting by about that amount. In the next fiscal year, they face a loss of about $1.6 billion, under the present rate structure.

The Senator talks about impinging on people, impinging on what they will have to do to send a letter, by forcing them to put on additional numbers. They will not be forced to do that.

However, I would rather see some efficiency in the postal service by automation and by going to the 9-digit ZIP than I would impinge on people to pay 25 cents or 30 cents, or whatever the rate will be, if we do not make some productivity increases in the postal service.

The expanded ZIP is intended basically for use by mass mailers, who will get the benefit of work-sharing discounts for using it. They will be free to make that change when their own economic readings—not those of the Government—indicate they should. A man running a business will be able to make his own decision as to whether he wishes to put his mailing lists onto a 9-digit ZIP. Passage of the bill scheduled for markup tomorrow would insure that.

With mail volumes increasing—more than 106 billion pieces last year and an estimated 110 billion this year—use of the associated optical character and bar code readers becomes more essential, as does the finer sorting made possible, in order to avoid expensive handlings of individual mail pieces. That is the impingement we are going to avoid by going to better automation in this 86-percent labor-oriented industry.

When we talk about impinging, what about the impinging that is going to come from increased postal rates if we do not do this?

The House reconciliation provisions contain a similar proposal—one that would prohibit Federal agencies, including USPS, from revising mailing procedures to accommodate a ZIP code of more than five digits. CBO reported that:

> It was not possible to achieve any reduction in the baseline since no costs were included for this purpose.

Also, it noted that:

> Any savings to the USPS would be realized in its off-budget activities, and would have no direct impact upon the Federal budget.

Mr. President, I summarize by saying that if we expect the postal service to hold down rates and if we are cutting their budget back, we are automatically saying that we will have to go to higher postal rates unless they have better productivity. According to the Postmaster General and all the studies, this is the best way we can get better productivity in the postal service.

So I think to prohibit going this route they outline as the major way of getting improved productivity will be ill-advised, and I urge my colleagues to vote against this amendment.

Mr. HOLLINGS. Mr. President, we yield back our time.

The PRESIDING OFFICER. To the Senator from Alaska I will say that the Senator from South Carolina had the time to yield to the Senator from Ohio. It is up to the Senator from Alaska to control the time.

Mr. HOLLINGS. Does the Chair mean the majority controls both the opposition and support of the bill? Where do we get that kind of precedent?

Mr. STEVENS. From the minority, my friend. Welcome to the minority.

The PRESIDING OFFICER. When the manager is opposed to the bill, that is true.

Mr. HOLLINGS. When the manager is opposed to the bill; therefore, I control the opposition time on his side.

The PRESIDING OFFICER. It already happened, so let us go on.

Mr. HOLLINGS. Right.

Still as manager of the bill, I yield such time on the bill to the distinguished Senator from Alaska.

Does he wish to speak further?

Mr. STEVENS. I thank my friend.

Mr. President, I intend to listen to my good friends who are proposing this amendment, but I hope they will answer two things.

One is, using this new machinery will mean that a single employee can process 10,000 letters per hour as opposed to 1,800 today; and, second, the Post Office Committee in the House of Representatives, as it took the course that the Senator from Minnesota suggests also in order to close the gap and meet the budget process, recommended closing 10,000 post offices.

Is the Senator from Minnesota going to support closing 10,000 post offices as opposed to using a voluntary ZIP plus 4 concept of bringing about the increased productivity in the savings required by the budget process?

Mr. DURENBERGER. Mr. President, I inquire as to the amount of time remaining to the proponents of the amendment.

The PRESIDING OFFICER. Eleven minutes and 7 seconds.

Mr. DURENBERGER. Mr. President, I yield 3 minutes to the Senator from Georgia.

Mr. MATTINGLY. I thank the Senator from Minnesota.

Mr. President, I wish to make a few remarks on the merits of the 9-digit ZIP code and particularly on the presumed relationship between 9 digits, automation, and future growth in postal service productivity.

The Postal Service analysis of costs and benefits combines several issues into one presentation. Paraphrased, Postmaster General Bolger says:

> The postal service intends to purchase $900 million of equipment to automate mail sorting. If the public uses the 9-digit ZIP code, this investment may save $597 million in sorting cost by 1986. It is not necessary to consider the cost to the public of conforming because the 9 digits are voluntary. Informal discussions with some mailers indicate that the cost to conform will not be substantial.

As I say that is the argument of the postal service—the argument rejected by OMB on May 22 when it precluded publication of the final rule for the 9-digit program.

Considering these issues, individually, one should begin by separating the decision to automate from the decision to proceed with the 9-digit ZIP. It is possible to apply automation to 5-digit letters and realize a substantial savings. In fact, USPS projects a 22 percent rate of return on its investment without any 9-digit mail. If these projections are reliable, USPS can automate without any 4-digit add-on. No additional costs would be imposed on the public.

If the public were to conform to the 9-digit system, USPS projects a return of 48 percent on its investment. The 4-digit add-on would save USPS about $350 million more than simple automation of 5-digit mail. $150 million of this amount would be spent to support the proposed one-half cent discount to large mailers.

The rest of the public would bear the cost of learning and using their 9-digit ZIP codes to save the postal service $200 million a year. That is about 1 percent of the USPS budget. The numbers do not suggest that the future of the postal service hangs in the balance. For instance, this reconciliation act reduces the congressional appropriation to USPS by 3 times $200 million.

Disposing of the argued link between 9 digits and automation, we can also conclude from the evidence gathered by Congress that the proposed automation is not the only route to higher productivity. In fact, two witnesses—former Postmaster General J. Edward Day testifying for the Associated Third Class Mail Users and Ed Burnett, speaking for the Mail Advertising Service Association—argued that programs in other areas, including expansion of presort options and discounts, hold more promise for improving postal service productivity than the proposed automation.

It is difficult for this Senator to believe that the future of the postal service depends on a 4-digit add-on to a 5-digit ZIP code created 17 years ago for an entirely different technology. In fact, the postal service will freely acknowledge that the technology they intend to employ—the Optical Character Reader—is developing so rapidly that machines which can read the whole address—not just 9 digits—but the name, street address, city and state, will be available in 3 or 4 years. USPS already has one such reader operating in the Dallas post office. In the age of a communications revolution, that technology—technology which will make 5-digit, 7-digit, 9-digit ZIP codes obsolete—is where the postal service should be placing its emphasis and not on this incremental, bureaucratic, regulatory add-on that will cost the American public billions of dollars to learn and use.

Thank you, Mr. President.

Mr. DURENBERGER. Mr. President, I yield 5 minutes to the Senator from Iowa.

(By request of Mr. JEPSEN, the following statement was ordered to be printed in the RECORD:)

● Mr. HEFLIN. Mr. President, I rise to give my wholehearted support to the Durenberger-Jepsen-Heflin amendment which is before this Senate at this time.

Mr. President, in its report on reconciliation, the House Post Office and Civil Service Committee included language that prohibits implementation of the 9-digit ZIP code before October 1983. The amendment which is now before the Senate would put the Senate on record as favoring the prohibition against implementing the 9-digit ZIP code and would result in a substantial savings. It is estimated that Federal agencies would be required to spend up to $100 million in conforming various mailing lists to the new 9-digit ZIP system.

Despite congressional concern and continued public skepticism and criticism, the postal service appears to be pushing ahead with its plan to implement the 9-digit ZIP code. The postal service has delivered a mailing to every American promoting the new 9-digit ZIP system.

Moreover, they are seeking a contract for a toll-free telephone system to handle 100,000 inquiries a day.

In addition, they are preparing to make a tape containing address-specific ZIPS for distribution to large mailers. It seems clear that the Post Office is moving ahead and will implement the ZIP code unless Congress acts and acts decisively.

Mr. President, I am strongly opposed to implementation of the 9-digit ZIP code at this time. I firmly believe that its implementation should be delayed until Congress can study the effectiveness of the plan and make a decision, by law, whether to approve or disapprove its implementation. It was for this reason, that on January 6, 1981, I introduced my bill to prevent the ZIP code implementation, Senate Joint Resolution 11.

The U.S. Congress owes a duty to each and every American taxpayer to protect him or her from irresponsible Federal spending. Until we, the members of the U.S. Congress, can put a cap on inflation and balance the Federal budget, we have a duty to scrutinize very closely each and every new Federal undertaking which calls for the spending of the American taxpayers' money.

Mr. President, I am not opposed to a postal service attempt to improve service. However, I am not convinced that the postal service has thought this proposal through or that most Members of Congress are aware of the enormous costs of the 9-digit ZIP.

It has been estimated that the initial cost to the Government alone of buying all the equipment to handle the 9-digit ZIP code would be more than $1 billion. But, the costs do not stop there.

It has also been estimated that the cost to American business and nonprofit and charitable organizations to convert their mailing lists to the newly expanded ZIP would exceed another billion dollars. These costs would be passed directly on to the American public and would result in a hidden tax on the American people.

Mr. President, I think that I ought to point out here that the recently approved 3-cent increase in the cost of first-class mail by the U.S. Postal Service Commission would not—I repeat, would not—be used to implement the 9-digit ZIP code. This means that the American people would have to pay a 3-cent increase in the cost of first-class mail, a 2-cent increase in the cost of mailing a postcard, other future similar mail increases, plus more than an additional $2 billion between now and the time the 9-digit ZIP code would be fully implemented. And even when all this money is spent, there is no guarantee that delivery will be improved or speeded up.

No one in Congress is opposing the postal service's attempt to improve mail delivery; however, there must be other more effcient ways to do this besides initiating the 9-digit ZIP code. I understand that the postal service does need new and sophisticated ZIP code reading equipment called optical Character Readers. But these machines can be made to work with the existing 5-digit ZIP without the expense of shifting to the 9-digit ZIP.

I am convinced that the postal service can improve and speed up mail delivery service by means other than adding four more numbers to the ZIP code. The American people have proven that they are willing to use the present 5-digit ZIP code, but the public reaction to the 9-digit ZIP proposal has been almost universally negative.

Even the postal service has conceded that, for the 9-digit ZIP to be effective, it must have the support and the patience of the American people. If that is the case, then the 9-digit ZIP code is doomed to failure from the very beginning.

Not only have the people of Alabama told me loudly and clearly that they do not want a 9-digit ZIP code, but also citizens of other States from all across the country—including some postal employees themselves

The 9-digit ZIP is one bureaucratic idea that was bad from the start, is doomed to fail without public support, and should be stopped before it costs the American people billions of dollars.●

Mr. JEPSEN. Mr. President, I am pleased to join my distinguished colleague from Minnesota (Mr. DURENBERGER) in offering this amendment. I am sure I speak for him when I say that I hope this is the last time we have to deal with this issue on the Senate floor.

In answer to several of the comments and statements that have been made here about automation, voluntary, and saving money, let me just say this: No one has at any point in time suggested that we should not encourage automation of the postal department. Anything they can do to improve their service will be a big plus and will be certainly promoted by everyone whom I know who is opposing the nine-digit ZIP code.

The problem is that this is not a voluntary situation, and you just cannot fool the public. The public will not be fooled any longer on the fact that anyone says it is voluntary.

Our former Postmaster General Edward Day was Postmaster General when this five-digit ZIP was put in, and I quote from his statement where he said:

> When we started back in the Kennedy administration, the original ZIP code was being formulated in depth, consideration was given by the best experts available from along the coast, different coasts, and we developed a 5-digit code.
>
> We announced to people it would be purely voluntary and in just 2 years one of my successors decreed the 5-digit ZIP code would be mandatory for users of bulk third class mail, and in 1967 the 5-digit ZIP code was also made a requirement for other subclasses of mail and an executive order required all Federal Government agencies to use the 5-digit ZIP.

If that is not mandatory coercion, twisting of arms, or whatever you want to call it, look at your letters. Everyone's letters always use the ZIP code.

Of course, it is mandatory. Anyone who would try to mail a letter to a loved one and not put a ZIP code on will be sitting there wondering if it would ever get there.

I say to the Post Office when I was younger we could mail a letter across town and get it there in a day or overnight, at least, for 3 cents, and things have not changed much. Today we can mail that same letter and it gets there in 6 days for 18 cents. That is still 3 cents a day.

So to that extent nothing has changed, but it is becoming increasingly apparent by the action of the Postal Service that there is no effective oversight of this agency.

Mr. President, I have served in Government at all levels, and during all the time I have served I have never ever run across an issue that stirred public opinion at such a high pitch. That is something that those of us up here on the Potomac have to think about. We listen to the bureaucrats here talk about all the things they have to do. We listen to them talk about streamlining the Post Office which has gone on for all kinds of years.

We used to have, as I say, one day across-town delivery. Then they regionalized and when they regionalized now they get a letter from Davenport to another part of Davenport, Iowa, and it has to go through Moline, Ill., and sometimes it slips up and goes on through Omaha and down through Denver and comes back through Moline and then gets on the other side of Davenport, Iowa. We can carry it. We can use carrier pigeons and do all kinds of things.

But it seems the Postal Service does not care what people think. The feeling on their part is they do not even have to consider public opinion.

According to the testimony of Postmaster Bolger it is clear the postal service has not been concerned about what the American people think about the 9-digit ZIP.

All polls, all surveys, everything I have seen, including our mail, show that the overwhelming majority of the people do not like it.

Now, we have a Susan B. Anthony dollar, a tremendous idea, a fantastic idea, it will save money. You save silver dol-

lars, they do not wear out as fast as paper money.

Why did it not work? We spend hudreds of millions of dollars putting it into effect.

Has anybody reached into his pocket and found a silver dollar, a Susan B. Anthony dollar? I will tell you why you do not find one, because the people do not like it, that is why, and you are not going to get a 9-digit ZIP code saving because the people do not like it and they are not going to use it and, frankly, small business across the country is going to go bankrupt by the thousands if this 9-digit ZIP is put into force.

Four or five major large mail order companies want the 9-digit ZIP code because on a pure marketing basis you can just about, with those numbers, nail down to the floor and to the room level what somebody, consumers may use, what kind of bath soap he uses, how many times he washes himself every day.

So, for marketing purposes, they are all for it, and for competition purposes they are really pressing it because they see this as a way in one fell swoop to wipe out 90 percent of all their competition.

All the businesses that use the mail for doing normal business, and small mail order businesses have written and told me that is the end. "If we had to create and turn over our software program again, if we have to renew our system of doing things, and do things by new computers, we are done, we are dead, that is the last straw."

In conclusion, Mr. President, I think my colleagues have had sufficient opportunity to examine the facts and the issues. We voted on this thing one time 90 to nothing, I think; another time 96 to nothing. I venture to say most of my colleagues have made up their minds on how they are going to vote, and I assure you those who have read the polls which show anywhere from 83 percent up of the people are opposed without reservation to the 9-digit ZIP code, if they do this and represent their constituencies they are going to support this amendment.

I yield back the time to the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, how much time remains on each side of the amendment?

The PRESIDING OFFICER. The Senator has 1 minute and 9 seconds, and the proponents have 3 minutes and 35 seconds.

Mr. DURENBERGER. Mr. President, I will attempt to answer the arguments made by the opposition very quickly and in hopes of getting Senator STEVENS' vote and Senator GLENN's and Senator HOLLINGS'.

On the issue of voluntary, the Senator from Alaska said 90 percent of the people use ZIP, and he is right. That converts a voluntary to involuntary. Why would the Postal Service produce a 30,000-page directory, why would it spend $30 million on a telephone system to handle 100,000 calls a day unless it expected all these people to use the system?

On the issue of productivity, there is no argument. The argument is whether or not the Postal Service automates or whether it adds a 9-digit ZIP to the automation, and there is no question in my mind the answer to your question is you are going to get 10,000 letters per person per day if you automate. You are not going to improve it by adding four numbers to the ZIP code. It has nothing to do with it.

With regard to the 10,000 Post Office closings or whatever on the House side, it is not in the Republican amendment and it was used to offset the COLA.

Mr. GLENN. I yield myself such time on the bill as I may require.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I would like to ask the Senator from Iowa just how it is that these businesses are going to be bankrupted by the thousands when they are not required to go on this?

Mr. JEPSEN. Mr. President, do I have time to answer that? Of course, it is not voluntary. It was not voluntary when they put in the 5-digit ZIP, and the record speaks for itself.

If there is going to be so much voluntary why put it in? How are you going to make any assumption or projection on how much money to save if they are not going to use it? We are just blowing smoke when we say it is voluntary because it is not. It is another bureaucratic——

Mr. STEVENS. Mr. President, will the Senator yield to me?

Mr. GLENN. I yield.

Mr. STEVENS. The Senator from Iowa seems to believe small business people are involved in these projections. The projections are based upon large users. The Senator is actually talking about third-class users who are not even affected by the ZIP-plus-4 proposal.

I do not know if you know it, but former Postmaster General Ed Day represents the third-class users who will not even use the ZIP-plus-4 code, and I do not understand the comments about small businessmen failing. The legislation we are going to mark up in our committee guarantees them that if they use it they will get a discount anyway. Rather than having it cost them, they are going to have savings if they use it.

Mr. JEPSEN. Mr. President, may I quote from the U.S. Postal Service mailers guide as follows:

> When you fail to use a ZIP code, your letter is sorted to a special bin where it must be manually resorted. As a result, your letter may miss an important dispatch.
>
> Second-class, controlled circulation mail, third-class mail, and all fourth-class mail, except parcel post, must contain the proper ZIP code.

Mr. STEVENS. But not this kind of ZIP-plus-4 is for reading of first class mail to speed it up.

Mr. JEPSEN. When you require ZIP-plus-4, which is not even in existence, of course not.

Mr. STEVENS. The program is not meant for third-class or second-class mail; it involves first-class mail which will increase productivity and actually speed up the mail to the people my friend is talking about.

I thank my friend.

Mr. GLENN. I agree completely with the Senator from Alaska. I think there is a lot of misinformation going around here. I disagree with the Senator from Iowa.

The Senator was talking about carrier pigeons. There is a lot of stuff that is being said here on the floor that is for the birds. I do not believe carrier pigeons are too far out of line.

Businesses will not go bankrupt by the thousands, and there is no way, just for the reason the Senator said. There is no requirement for ZIP-plus-4. It is a voluntary system. The fact you go back and say that, because something happened 20 or 25 years ago, whenever we went to that system, that automatically we are going to say that any additional system put in will be treated the same way in the future just does not hold water.

Mr. JEPSEN. You are automated, and you have five digits, and if you have to add four digits, that does away with the software.

Mr. GLENN. Whether you as a businessman go to that is up to you, and whether you save money is up to you. It will help the small businesman.

Mr. STEVENS. Mr. President, will the Senator yield again? If the small businessman is mailing in any volume and he seeks a discount, he can use third-class rate or get a mailing permit. But you are not dealing with that here. You are talking about first-class mail, ZIP-plus-4 first-class mail that is aimed at mass mailings. We are not talking about everyday use by most people—this is basically the magazines and large mailers that actually use first-class mail which will expedite their delivery. But you are not going to get involved in this. It is basically going to be the people who print their return envelopes so that when you mail your check to pay a bill you put it in an envelope that is already printed, the 9-digit ZIP already has been printed.

Mr. GLENN. Tomorrow what we have is a markup on the bill. The way we planned that is that language in there would make it voluntary. The only way a businessman would be required to go on it would be when he, in his own decisionmaking process, in his own business, decides that it is in his own interests in obtaining savings——

Mr. DURENBERGER addressed the Chair.

Mr. GLENN. Mr. President, I have the floor—if it is in a businessman's own best interest to go to this ZIP-plus-4, that is the only time he would be required to go to it, and that would be a business requirement only, not one imposed by Government. It helps through automation; it will help save money and will help us from going to higher postal rates later on.

Mr. President, I reserve the remainder of my time.

Mr. STEVENS. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Alaska has 3 minutes and 35 seconds, and the Senator from Ohio has 5 hours.

Mr. GLENN. I thank the Chair.

Mr. DURENBERGER. Mr. President, may I inquire of the Senator from Alaska as manager of the bill whether he would give me 15 minutes, not to answer the arguments but to add——

Mr. STEVENS. Mr. President, I might say to my good friend that I was not yielded time on the bill. I was only yielded time in opposition to the amendment, so I have no authority to yield time on the bill.

Mr. DURENBERGER. Is there a manager of the bill present on the floor?

Mr. GLENN. I am acting floor manager on this side, but I do not want to yield additional time on the bill.

Mr. STEVENS. Mr. President, do I have the power as assistant leader to yield time on the bill?

The PRESIDING OFFICER. The Senator is acting for the Senator from New Mexico, and the Senator is correct.

Mr. STEVENS. How much time has the Senator from Ohio used on the bill?

The PRESIDING OFFICER. He has used 7 minutes of the 5 hours.

Mr. STEVENS. I yield to the Senator from Minnesota 7 minutes. That is equality, 7 minutes on the bill.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 7 minutes.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that Senators JEPSEN, MATTINGLY, HEFLIN, DOLE, BAUCUS, DECONCINI, NICKLES, GARN, GOLDWATER, GRASSLEY, and MITCHELL be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, we have heard a lot of arguments and a great deal of characterization about efforts that have been ongoing now for about 8 months to try to set the record straight on what nine digits or four additional numbers on a ZIP code will do for the U.S. Postal Service and the people of this country.

And I want to summarize the results of those efforts, as I may tomorrow morning if there were such a thing as a markup, and I want to set the record straight. First, June 1 was a deadline for the Postal Service on the implementation of the nine-digit ZIP code and that deadline came and went and they continued the process of implementation. May 21 was to be a hearing date in the Governmental Affairs Committee, and that date came and went. And so far as any rationale for those of us who are members of the Governmental Affairs Committee who are involved in this issue being here today, it is because this is the only forum available to us to make the case against the arguments that have been put forward by the U.S. Postal Service.

The system the Postal Service needs is an automated system. It has exhausted the mechanization of the process. It has increased its productivity by 3 percent a year and the costs are still rising. It needs to move to automation. I have no argument with automation.

As the Senator from Alaska said, we ought to use the technology available to the world today to modernize the U.S. Postal Service. I could not agree more with the Senator from Alaska. But more numbers and nine digits on a ZIP code is not the technology of today. It is the thinking of yesterday.

The technology of today is available to automate this system to do all the reading and scanning and processing that you need. We do not object to the automation of the U.S. Postal Service. We do not object to its productivity. We only object to using nine numbers in the process of accomplishing it.

By their own studies, they can make a return on investment of 22 percent by simply automating. So we cannot be blamed for increasing the cost of the Postal Service. We should be credited with saving them the cost.

The voluntary nature we have all talked about—and that is an issue, I guess, on which we will never agree. Logic, to me, says that nobody who is going to have a voluntary system, which will only be used by a few large mailers to send first-class mail into all of the homes in America, would go to the trouble of spending $30 million out of that postal stamp that we all buy to handle 100,000 calls from Americans trying to figure out what their new 9-digit ZIP code is, or go to the cost of building a directory that is 10 times as large as the Washington, D.C., telephone directory to determine what their voluntary ZIP code is, unless every one of those people believe that the Postal Service would let them down if they did not put the nine numbers on their letters.

Mr. STEVENS. Fair is fair and I did yield you the time. Would you yield for a question?

Mr. DURENBERGER. I yield for a question.

Mr. STEVENS. Just who do you expect is going to write out nine digits? I have said and the Postal Service has said the nine digits are for business mail. It is when a business person or a firm mails out a letter with a return envelope. That will come back through the system just like that, because it will go directly to that particular location without any interference at all, almost totally handled on an automated basis.

Now, where do you get the point of saying to the Senate that anyone will use nine digits personally? Nine digits personally will not help me. Five digits gets it to my town. That is all you need for a personal letter.

But for a business, for bulk mail, we can move the bulk mail through faster and let the individual people in the post office read the individual letters and get them delivered faster. Again, we are only talking about first-class mail.

Now, where does one get that an individual will be using nine digits? I do not ever intend to use nine digits and neither do you and you do not have to. It will not affect your mail at all if you are writing a letter to mamma. Now, why is there continual insistence on talking about persons, individuals, using nine digits?

Mr. DURENBERGER. I would say to my dear colleague that I used the same sort of logic I would suggest that he uses. Why do the proponents of a 9-digit ZIP code spend $30 million to invest in a toll-free telephone system that has the capacity of handling 100,000 calls a day from ma and pa and you and me? That is the only conclusion I can draw.

Mr. STEVENS. Does the Senator want to let me answer that? Personal mail is only about 6 percent. Only about 6 percent of the total Postal Service is personal mail and the bulk of that is in the 3 weeks at Christmastime.

Now, people should stop talking about this affecting individuals.

Mr. DURENBERGER. Answer my question.

Mr. STEVENS. They have to answer questions over the telephone because of campaigns that are misleading small businessmen to make them believe they have got to use nine digits. No one has to even use the five digits today.

Mr. DURENBERGER. And 98 percent of the people do.

Mr. STEVENS. And they use it because it has proven to be an efficient way and they know that today, despite everything else we have, we still have the best and least expensive postal service in the world.

Mr. DURENBERGER. They use it because the Postal Service tells them there is no other way to get their mail delivered other than using numbers.

Mr. STEVENS. With one exception, the Canadian system, but with their subsidy, it appears cheaper but it is actually more because 28 percent of their budget comes from the Federal Treasury. However, we will reduce our subsidies in 3 years. In 3 years the taxpayers are going to be out of the Postal Service entirely. Yet you say, despite the fact that we reduce the budget, the postal subsidies, this year by $956 million and next year by $1.77 billion, your amendment says, "Do not use any of the funds in this bill to implement that ZIP-plus-4." The only way we were able to take that money out was because of ZIP-plus-4. And if the Senate agrees with the amendment, it will be approving a 25-cent postage stamp by the end of 1982. And if you doubt those figures, I will give them to you. I thank you for your fairness.

But this ought to stop. The reason we have to pay for that unlimited telephone number is answering questions resulting from misinformation. I guaranteed that we would have hearings in the committee. We did have two hearings in the committee. This bill will be out on the floor when we come back from the recess. We will have ZIP-plus-4 in a legislative mode. It has nothing whatsoever to do with the reconciliation process.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The 7 minutes have expired.

Mr. STEVENS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator has yielded back his time. The question is on the amendment.

● Mr. DODD. Mr. President, I must reluctantly vote against the amendment offered by the Senator from Minnesota. I agree with its purpose and substance: to prohibit the implementation of a 9-digit ZIP code. But to include such a pro-

vision on this bill seems to me highly inappropriate and very dangerous to the legislative process. Whatever its merits, to attach it to the budget reconciliation bill does more harm than good.

The arguments against the 9-digit ZIP code are persuasive. It undoubtedly requires major short-run expenditure increases. The requisite conversion cost to Federal agencies alone is $100 million, according to the General Services Administration. Its projected long-term savings are uncertain and subject to serious dispute.

In addition, most of the Connecticut citizens I have heard from entertain real reservations about its equity and its practicality. Their commonsense leads them to question whether moving from a system of 40,000 ZIP codes to one of 20,000,000 ZIP code can foster efficiency. They have understandable fears that this change leads effectively to average citizens subsidizing large commercial users and to their personal first-class mail receiving second-class treatment.

Unless someone can provide convincing evidence that these concerns are ill-founded, I will work to preclude action toward putting into force the nine-digit ZIP code.

But the large issue here, Mr. President, is whether it is proper for budget reconciliation to serve as the vehicle for matters—however virtuous—whose relationship to the budget is, at best, dubious.

In order to permit Congress to meet the necessarily tight deadlines of the budget process, the rules governing reconciliation prescribe strict timetables and short-cut many of the procedural protections customarily provided substantive legislative proposals. Because those protections are not available, we have a responsibility as Senators not to exploit budget reconciliation for immediate tactical gains. Because the overall time limit is compressed, we have a responsibility as Senators not to approve measures whose merits cannot be adequately assessed.

What is wrong with the bill before us, Mr. President, is that it contains not just one such extraneous rider but numerous ones. Some of these, including the prohibition on the nine-digit ZIP, appear to me laudable. Some others, such as the prohibition of Federal housing assistance to localities employing rent control, I find inconsistent with sound public policy. But all such extraneous items, those which are beneficial to the public interest and those offensive to it, deserve the full measure of consideration due to all important substantive proposals before the Senate.

In short, at the proper time and place I would vote to do what the Senator from Minnesota proposes. But to use this bill for that purpose is unwise, and at cross-purposes with our responsibility as legislators.●

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. How much time is remaining on the bill?

The PRESIDING OFFICER. Five hours and 11 minutes for the Senator from New Mexico and 5 hours and 31 minutes for the Senator from South Carolina.

Mr. DOMENICI. Mr. President, a parliamentary inquiry. What is the pending business before the Senate?

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. In answer to the parliamentary inquiry, the amendment of the Senator from Minnesota, UP amendment No. 188.

Mr. DOMENICI. Have the yeas and nays been ordered?

Mr. STEVENS. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The motion is not debatable. The question is on agreeing to the motion of the Senator from Alaska (Mr. STEVENS) to table the amendment of the Senator from Minnesota (Mr. DURENBERGER). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), is necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 41, nays 58, as follows:

[Rollcall Vote No. 166 Leg.]

YEAS—41

Abdnor	Ford	Moynihan
Bentsen	Glenn	Murkowski
Biden	Goldwater	Nunn
Byrd, Harry F., Jr.	Gorton	Percy
	Hollings	Proxmire
Byrd, Robert C.	Huddleston	Randolph
Chafee	Inouye	Riegle
Chiles	Jackson	Roth
Cranston	Johnston	Rudman
Dodd	Levin	Stennis
Domenici	Long	Stevens
Eagleton	Mathias	Symms
East	McClure	Thurmond
Exon	Metzenbaum	Weicker

NAYS—58

Andrews	Hart	Nickles
Armstrong	Hatch	Packwood
Baker	Hatfield	Pell
Baucus	Hawkins	Pressler
Boren	Hayakawa	Pryor
Boschwitz	Heflin	Quayle
Bradley	Heinz	Sarbanes
Bumpers	Helms	Sasser
Burdick	Humphrey	Schmitt
Cochran	Jepsen	Simpson
Cohen	Kassebaum	Specter
D'Amato	Kasten	Stafford
Danforth	Kennedy	Tower
DeConcini	Lavalt	Tsongas
Denton	Leahy	Wallop
Dixon	Lugar	Warner
Dole	Matsunaga	Williams
Durenberger	Mattingly	Zorinsky
Garn	Melcher	
Grassley	Mitchell	

NOT VOTING—1

Cannon

So the motion to lay on the table Mr. DURENBERGER's amendment (UP No. 188) was rejected.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. JEPSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I yield myself 3 minutes from the bill.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized. Does the Senator wish to have the vote on the amendment?

Mr. ROBERT C. BYRD. No, I wish to yield myself 3 minutes from the bill.

Mr. DURENBERGER. Mr. President, a point of order.

The PRESIDING OFFICER. Does the Senator yield for a point of order?

Mr. DURENBERGER. Will we be voting on the amendment? What is the nature——

Mr. ROBERT C. BYRD. I have yielded myself 3 minutes from the bill, to say a few words.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I should like to call to the attention of Senators who voted against the motion to table that this amendment constitutes legislation, and it has no place on this particular bill.

The reconciliation bill was not meant to be the horse on which all kinds of legislation, controversial or otherwise, could ride. If we proceed here to do this, I am going to offer an amendment a little later—whether we proceed to do this or not—to strike from this reconciliation measure all the extraneous matter in it that has no budgetary impact, and I will save my argument for that later.

I merely want to say to my friends that I am very sympathetic to the substance of this amendment. If this amendment were offered to another bill, I probably would vote to support the amendment, unless there is something I do not know about the amendment.

There is a principle involved here, and we should not attach this kind of amendment to this reconciliation bill. That was never the intent of the authors, nor was it the intent of Congress in enacting the Budget Reform Act.

So, as a Senator who supports this amendment otherwise, and who will vote against it momentarily, I urge my colleagues to respect the intent of the budget process and not begin to erode it little by little by little by little, as we are about to do here. Inasmuch as the tabling motion failed, and I voted for the tabling motion, I urge my colleagues that we look down the road, rather than at the immediate item, and try to protect the budget process and reject this amendment.

Mr. METZENBAUM and Mr. JEPSEN addressed the Chair.

The PRESIDING OFFICER. There is no time on the amendment. Who yields time?

Mr. METZENBAUM. I am not asking for time.

The PRESIDING OFFICER. Does the Senator from South Carolina yield?

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of

the Senator from Minnesota (Mr. DURENBERGER). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON) is necessarily absent.

I further announce that if present and voting, the Senator from Nevada (Mr. CANNON) would vote "yea."

The PRESIDING OFFICER. Are there other Senators in the Chamber who have not voted who care to vote?

The result was announced—yeas 47, nays 52, as follows:

[Rollcall Vote No. 167 Leg.]

YEAS—47

Andrews	Hatfield	Nickles
Armstrong	Hawkins	Pressler
Baucus	Hayakawa	Quayle
Boschwitz	Heflin	Rudman
Burdick	Heinz	Sarbanes
Cochran	Helms	Sasser
Cohen	Humphrey	Schmitt
D'Amato	Jackson	Simpson
Danforth	Jepsen	Specter
DeConcini	Kassebaum	Stafford
Denton	Kasten	Tower
Durenberger	Laxalt	Wallop
East	Lugar	Warner
Garn	Mattingly	Williams
Grassley	Melcher	Zorinsky
Hatch	Mitchell	

NAYS—52

Abdnor	Exon	Moynihan
Baker	Ford	Murkowski
Bentsen	Glenn	Nunn
Biden	Goldwater	Packwood
Boren	Gorton	Pell
Bradley	Hart	Percy
Bumpers	Hollings	Proxmire
Byrd, Harry F., Jr.	Huddleston	Pryor
	Inouye	Randolph
Byrd, Robert C.	Johnston	Riegle
Chafee	Kennedy	Roth
Chiles	Leahy	Stennis
Cranston	Levin	Stevens
Dixon	Long	Symms
Dodd	Mathias	Thurmond
Dole	Matsunaga	Tsongas
Domenici	McClure	Weicker
Eagleton	Metzenbaum	

NOT VOTING—1

Cannon

So Mr. DURENBERGER's amendment (UP No. 188) was rejected.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia.

UP AMENDMENT NO. 189

(Subsequently numbered Amendment No. 103.)

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia (ROBERT C. BYRD) proposes an unprinted amendment numbered 189.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning with page 43, line 3, strike out all through page 165, line 22, and insert in lieu thereof the following:

SEC. 321–1. Section 143 of the Housing and Community Development Act of 1974 is amended to read as follows:

"AUTHORIZATIONS

"SEC. 103. The Secretary is authorized to make grants to States, units of general local government, and Indian tribes to carry out activities in accordance with the provisions of this title. There are authorized to be appropriated for these purposes not to exceed $4,166,000,000 for each of the fiscal years 1982 and 1983. Sums appropriated pursuant to this section shall remain available until expended.".

URBAN DEVELOPMENT ACTION GRANTS

SEC. 321–2. (b) Section 119(a) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following "Of the total amount approved in appropriation Acts under section 103 for each of the fiscal years 1982 and 1983, not more than $570,000,000 shall be available for each of the fiscal years 1982 and 1983 for grants under this section.".

REHABILITATION LOANS

SEC. 321–3. (a) Section 312 of the Housing Act of 1954 is amended by adding at the end thereof the following:

"(1) On or after October 1, 1981, loans may be made under this section only in connection with urban homesteading programs or "multifamily properties.".

(b) Subsection (a)(1)(D) of such section is amended by striking out "approved".

(c) The first sentence of subsection (d) of such section is amended—

(1) by inserting "and" after "1979,"; and

(2) by striking out all after "1980" and inserting in lieu thereof a period.

(d) The last sentence of subsection (d) of such section is repealed.

(e) Subsection (h) of such section is amended by striking out "1982" each place it appears and inserting in lieu thereof "1983".

(f) Subsection (j)(1) of such section is amended by striking out the second sentence.

URBAN HOMESTEADING

SEC. 321–4. The first sentence of section 810(h) of the Housing and Community Development Act of 1974 is amended by striking out "and not to exceed $26,000,000 for the fiscal year 1979" and inserting in lieu thereof "not to exceed $26,000,000 for the fiscal year 1979, and not to exceed $13,467,000 for the fiscal year 1983".

REPEALERS

SEC. 321–5. (a) Title VII of the Housing and Community Development Amendments of 1978 is hereby repealed.

(b) Section 701 of the Housing Act of 1954 is hereby repealed.

Subpart 2—Housing Assistance Programs

HOUSING AUTHORIZATIONS

SEC. 322–1. (a) The first sentence of section 5(c)(1) of the United States Housing Act of 1937 is amended by inserting immediately after "1980" the following: ", by $891,500,000 on October 1, 1981, and by $399,800,000 on October 1, 1982".

(b) The second sentence of section 5(c)(1) of such Act is amended by striking out "Acts;" and all that follows through the period and inserting in lieu thereof the following: "Acts. In addition, the aggregate amount which may be obligated over the duration of the contracts may not exceed $31,200,000,000 with respect to the additional authority provided on October 1, 1980, $17,815,100,000 with respect to the additional authority provided on October 1, 1981, and $17,810,600,000 with respect to the additional authority provided on October 1, 1982.".

(c) Section 5(c) of such Act is amended by—

(1) redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(2) inserting immediately after paragraph (2) the following:

"(3)(A) Of the additional authority approved in appropriation Acts and made available on October 1, 1981, and October 1, 1982, the Secretary shall make available at least $75,000,000 each fiscal year for assistance to projects under section 14.

"(B) Of the balance of the additional authority referred to in the preceding subparagraph which remains for each fiscal year after deducting the amount to be provided for assistance to projects under section 14, the Secretary shall allocate funds for use in different areas and communities in accordance with section 213(d) of the Housing and Community Development Act of 1974, except that on a national basis the Secretary may not enter into contracts aggregating—

"(i) more than 45 per centum of such balance for existing units assisted under this Act; and

"(ii) more than 55 per centum of such balance for newly constructed and substantially rehabilitated units assisted under this Act.

"(C) Notwithstanding subparagraph (B), after making the allocations referred to in such subparagraph, the Secretary shall accommodate the desires of States and units of local government regarding the mix between newly constructed or substantially rehabilitated and existing or moderately rehabilitated housing if the contract and budget authority allocated is sufficient to provide assistance with respect to such mix. Any contract or budget authority which remains after assistance is set aside for such mix shall be reallocated in accordance with section 213(d) of the Housing and Community Development Act of 1974. In any case where a State or unit of local government determines that funds allocated under this paragraph would be more effectively used for the modernization of existing public housing, the Secretary may approve the use of all or a part of such funds in accordance with the provisions of section 14.

"(D) The Secretary may not make reservations from the total amount of budget authority provided to carry out this Act in any fiscal year in a manner which would cause the amount reserved to exceed 30 per centum of the total amount for the last quarter of any fiscal year or 15 per centum of the total amount for any month of the last quarter of any fiscal year.".

(d) Section 9(c) of such Act is amended by—

(1) striking out "and" immediately after "on or after October 1, 1969,";

(2) striking out "$826,000,000" and inserting in lieu thereof "$970,800,000"; and

(3) inserting immediately before the period at the end thereof the following: ", not to exceed $1,204,600,000 on or after October 1, 1981, and not to exceed $1,350,400,000 on or after October 1, 1982".

(e) Section 213(d) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof a new paragraph to read as follows:

"(4) With respect to fiscal years beginning after September 30, 1981, the Secretary of Housing and Urban Development is authorized to retain a portion of the contract authority available during any fiscal year under the authorities cited in paragraph (1) of subsection (a) of this section, not to exceed 10 per centum of the available contract authority on an aggregate basis. Such contract authority shall be available for subsequent allocation to specific areas and communities, and may be used for—

"(A) unforseeable housing needs, espe-

cially those brought on by natural disasters or special relocation requirements;

"(B) support for the needs of the handicapped or for minority enterprise;

"(C) applications for assistance with respect to housing in new communities;

"(D) providing for assisted housing as a result of the settlement of litigation;

"(E) small research and demonstration projects;

"(F) lower-income housing needs described in housing assistance plans, including activities carried out under areawide housing opportunity plans; and

"(G) innovative housing programs or alternative methods for meeting lower-income housing needs approved by the Secretary.".

(f)(1) The first sentence of section 201(h) of the Housing and Community Development Amendments of 1978 is amended—

(A) by striking out "and" after "the fiscal year 1980,";

(B) by inserting before the period at the end thereof the following: ", not to exceed $50,176,000 for the fiscal year 1982, and $50,176,000 for the fiscal year 1983"; and

(C) by striking out the comma immediately following "Act" and inserting in lieu thereof a closed parenthesis.

(2) The third sentence of section 236(f)(3) of the National Housing Act, as redesignated by section 322–2(f)(7) of this subpart, is amended by striking out "September 30, 1981 and inserting in lieu thereof "September 30, 1983".

(g) Section 305(c) of the National Housing Act is amended—

(1) by striking out "and" immediately after "October 1, 1978,"; and

(2) by inserting before the period at the end thereof the following: ", and by $2,300,000,000 on October 1, 1981, except that not more than $942,800,000 of such amount shall be available for the purchase of or commitments to purchase mortgages secured by projects which do not contain units assisted under section 8 of the United States Housing Act of 1937".

(h) Section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended by striking out "and to $5,752,500,000 on October 1, 1981" and inserting in lieu thereof "to $5,752,500,000 on October 1, 1981, and to $6,102,500,000 on October 1, 1982".

TENANT RENTAL PAYMENTS

SEC. 322–2. (B) Section 3 of the United States Housing Act of 1937 is amended to read as follows:

"RENTAL PAYMENTS; DEFINITIONS

"SEC. 3. (a) Dwelling units assisted under this Act shall be rented only to families who are lower income families at the time of their initial occupancy of such units. A family shall pay as rent for a dwelling unit assisted under this Act the highest of the following amounts, rounded to the nearest dollar:

"(1) 30 per centum of the family's monthly adjusted income;

"(2) 10 per centum of the family's monthly income (15 per centum for the purpose of section 8); or

"(3) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

"(b) When used in this Act:

"(1) The term 'lower income housing' means decent, safe, and sanitary dwellings assisted under this Act. The term 'public housing' means lower income housing, and all necessary appurtenances thereto, assisted under this Act other than under section 8. When used in reference to public housing, the term 'lower income housing project' or 'project' means (A) housing developed, acquired, or assisted by a public housing agency under this Act, and (B) the improvement of any such housing.

"(2) The term 'lower income families' means those families whose incomes do not exceed 50 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or other factors.

"(3) The term 'families' includes families consisting of a single person in the case of (A) a person who is at least sixty-two years of age or is under a disability as defined in section 223 of the Social Security Act or in section 102 of the Developmental Disabilities Services and Facilities Construction Amendments of 1970, or is handicapped, (B) a displaced person, (C) the remaining member of a tenant family, and (D) other single persons in circumstances described in regulations of the Secretary. In no event shall more than 15 per centum of the units under the jurisdiction of any public housing agency be occupied by single persons under clause (D). In determining priority for admission to housing under this Act, the Secretary shall give preference to those single persons who are elderly, handicapped, or displaced before those eligible under clause (D). The term 'elderly families' means families whose heads (or their spouses), or whose sole members, are persons described in clause (A). A person shall be considered handicapped if such person is determined, pursuant to regulations issued by the Secretary, to have an impairment which is expected to be of long-continued and indefinite duration, substantially impedes such person's ability to live independently, and is of such a nature that such ability could be improved by more suitable housing conditions. The term 'displaced person' means a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws. Notwithstanding the preceding provisions of this subsection, the term 'elderly families' includes two or more elderly, disabled, or handicapped individuals living together, or one or more such individuals living with one or more persons determined under regulations of the Secretary to be essential to their care or well being.

"(4) The term 'income' means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary. Such term includes the amount of income which a member of the household would have received with respect to any resource (or interest therein) owned by such member within the preceding 24 months if such member gave away or sold such resource or interest at less than the fair market value of such resource or interest for the purpose of establishing eligibility for assistance under this section, as determined pursuant to regulations of the Secretary. Household income shall be determined on the basis of actual income received over a representative prior period, with appropriate provision for sudden loss of income.

"(5) The term 'adjusted income' means the income which remains after excluding such amounts or types of income as the Secretary may prescribe. In determining amounts to be excluded from income, the Secretary may, in the Secretary's discretion, take into account the number of minor children in the household and such other factors as the Secretary may determine are appropriate.

"(6) The term 'public housing agency' means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of lower income housing.

"(7) The term 'State' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, the Trust Territory of the Pacific Islands, and Indian tribes, bands, groups, and Nations, including Alaska Indians, Aleuts, and Eskimos, of the United States.

"(8) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(C) When used in reference to public housing:

"(1) The term 'development' means any or all undertakings necessary for planning, land acquisition, demolition, construction, or equipment, in connection with a lower income housing project. The term 'development cost' comprises the costs incurred by a public housing agency in such undertakings and their necessary financing (including the payment of carrying charges), and in otherwise carrying out the development of such project. Construction activity in connection with a lower income housing project may be confined to the reconstruction, remodeling, or repair of existing buildings.

"(2) The term 'operation' means any or all undertakings appropriate for management, operation, services, maintenance, security (including the cost of security personnel), or financing in connection with a lower income housing project. The term also means the financing of tenant programs and services for families residing in lower income housing projects, particularly where there is maximum feasible participation of the tenants in the development and operation of such tenant programs and services. As used in this paragraph, the term 'tenant programs and services' includes the development and maintenance of tenant organizations which participate in the management of lower income housing projects; the training of tenants to manage and operate such projects and the utilization of their services in project management and operation; counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and placement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies in the community when necessary for the provision of such services. To the maximum extent available and appropriate, existing public and private agencies in the community shall be used for the provision of such services.

"(2) The term 'acquisition cost' means the amount prudently required to be expended by a public housing agency in acquiring property for a lower income housing project.".

(b) Sections 4, 5, 9, and 11 of such Act are amended by striking out "low income" where it appears in the caption accompanying each such section and by inserting in lieu thereof "lower income".

(c) Sections 2, 4, 5, 6, 9, 11, 12, 13, and 14 of such Act are amended by striking out "low-income" wherever it appears and inserting in lieu thereof "lower income".

(d) Section 6(c)(2) of such Act is amended by striking out the phrase "at intervals of two years (or at shorter intervals where the Secretary deems it desirable)" and inserting in lieu thereof "no less frequently than annually".

(e) Section 8 of such Act is amended—

(1) by striking out paragraph (3) of subsection (c) and inserting in lieu thereof the following:

"(3) The amount of the monthly assistance payment with respect to any dwelling unit shall be the difference between the maximum monthly rent which the contract provides that the owner is to receive for the unit and the rent the family is required to pay under section 3(a) of this Act. Reviews of family income shall be made no less frequently than annually.";

(2) by striking out paragraph (7) of subsection (c) and redesignating paragraph (8) of such subsection as paragraph (7);

(3) by striking out paragraphs (1), (2), and (3) of subsection (f) and redesignating paragraphs (4), (5), and (6) of such subsection as paragraphs (1), (2), and (3), respectively;

(4) by striking out "The provisions of section 3(1), 5(e), and 6" in subsection (h) and inserting in lieu thereof "Sections 5(e) and 6";

(5) by striking out the comma after the word "Act" in subsection (h); and

(6) by striking out "25 per centum of one-twelfth of the annual income of such family" in paragraph (3) of subsection (j) and inserting in lieu thereof "the rent the family is required to pay under section 3(a) of this Act".

(f) Section 236 of the National Housing Act is amended—

(1) by striking out "two years" in subsection (e) and inserting in lieu thereof "one year";

(2) by striking out "25 per centum of the tenant's income" in the second sentence of subsection (f) and inserting in lieu thereof "30 per centum of the tenant's adjusted income";

(3) by striking out clause (ii) in the third sentence of subsection (f) and inserting in lieu thereof the following:

"(ii) to permit the charging of a rental for such dwelling units at such an amount less than 30 per centum of a tenant's adjusted income as the Secretary determines represents a proportionate decrease for the utility charges to be paid by such tenants, but in no case shall such rental be lower than 25 per centum of a tenant's adjusted income.";

(4) by striking out "25 per centum of their income" in paragraph (2) of subsection (f) and inserting in lieu thereof "30 per centum of their adjusted income";

(5) by striking out "25 per centum of the tenant's income" in paragraph (2) of subsection (f) and inserting in lieu thereof "the highest of the following amounts, rounded to the nearest dollar:

"(A) 30 per centum of the tenant's monthly adjusted income;

"(B) 10 per centum of the tnant's monthly income; or

"(C) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated";

(6) by striking out the third sentence in paragraph (2) of subsection (f);

(7) by striking out subparagraph (A) of subsection (f)(3) and redesignating subsection (f)(3)(B) as subsection (f)(3); and

(8) by striking out subsection (m) and inserting in lieu thereof the following:

"(m) For the purpose of this section the term 'income' means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary. Such term includes the amount of income which a member of the household would have received with respect to any resource (or interest therein) owned by such member within the preceding twenty-four months if such member gave away or sold such resource or interest at less than the fair market value of such resource or interest for the purpose of establishing eligibility for assistance under this section, as determined pursuant to regulations of the Secretary. The term 'adjusted income' means the income which remains after excluding such amounts or types of income as the Secretary may prescribe. In determining amounts to be excluded from income, the Secretary may, in the Secretary's discretion, take into account the number of minor children in the household and such other factors as the Secretary may determine are appropriate. Household income shall be determined on the basis of actual income received over a representative prior period, with appropriate provision for sudden loss of income.".

(g) Section 101 of the Housing and Urban Development Act of 1965 is amended—

(1) by striking out paragraph (2) in subsection (c) and inserting in lieu thereof the following:

"(2) 'income' means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary. Such term includes the amount of income which a member of the household would have received with respect to any resource (or interest therein) owned by such member within the preceding twenty-four months if such member gave away or sold such resource or interest at less than the fair market value of such resource or interest for the purpose of establishing eligibility for assistance under this section, as determined pursuant to regulations of the Secretary. The term 'adjusted income' means the income which remains after excluding such amounts or types of income as the Secretary may prescribe. In determining amounts to be excluded from income, the Secretary may, in the Secretary's discretion, take into account the number of minor children in the household and such other factors as the Secretary may determine are appropriate. Household income shall be determined on the basis of actual income received over a representative prior period, with appropriate provision for sudden loss of income.";

(2) by striking out the first sentence of subsection (d) and inserting in lieu thereof the following: "The amount of the annual payment with respect to any dwelling unit shall be the lesser of (1) 70 per centum of the fair market rent, or (2) the amount by which the fair market rental for such unit exceeds 30 per centum of the tenant's adjusted income."; and

(3) by striking out ", except the elderly, at intervals of two years (or at shorter intervals in cases where the Secretary may deem it desirable)" in paragraph (2) of subsection (e), and by inserting in lieu thereof "no less frequently than annually".

(h) Title II of the Housing and Community Development Amendments of 1979 is amended—

(1) by striking out subsection (c) in section 202; and

(2) by striking out subsection (c) in section 203.

(i)(1) In determining the rent to be paid by tenants who are occupying housing assisted under the authorities amended by this section on the effective date of this Act, the Secretary, notwithstanding any other provision of this section, may provide for delayed applicability, or for staged implementation, of the procedures for determining rent required by the provisions of subsections (a) through (h) of this section if the Secretary determines that immediate application of such procedures would be impracticable, would violate the terms of existing leases, or would result in extraordinary hardship for any class of tenants. The Secretary shall prohibit any increase in rents required by the amendments made by this section (other than any part of those increases attributed to increases in family income) in excess of 10 per centum for a family during any twelve-month period. Notwithstanding any other provision of this section, application of the procedures for determining rent contained in this section shall not result in a reduction in the amount of rent paid by any tenant below the amount paid by such tenant immediately preceding the effective date of this Act.

(2) Tenants of housing assisted under the provisions of law amended by this section whose occupancy begins after the effective date of this Act shall be subject to immediate rent payment determinations in accordance with the amendments contained in subsections (a) through (h), except that the Secretary may provide for delayed applicability, or for staged implementation, of these requirements for such tenants if the Secretary determines that immediate application of the requirements of this section would be impracticable, or that uniform procedures for assessing rents would significantly decrease administrative costs and burdens.

(3) The Secretary's actions and determinations and the procedures for making determinations pursuant to this subsection shall not be reviewable in any court. The provisions of subsections (a) through (h) shall be implemented and fully applicable to all affected tenants no later than five years following the date of enactment of this Act, except that the Secretary may extend the time for implementation if the Secretary determines that full implementation would result in extraordinary hardship for any class of tenants.

Subpart 3—Program Amendments and Extensions

RESEARCH AUTHORIZATIONS

SEC. 323–1. The second sentence of section 501 of the Housing and Urban Development Act of 1970 is amended by striking out "and not to exceed $51,000,000 for the fiscal year 1981" and inserting in lieu thereof "not to exceed $51,000,000 for the fiscal year 1981, not to exceed $35,000,000 for the fiscal year 1982, and not to exceed $35,000,000 for the fiscal year 1983".

NEIGHBORHOOD REINVESTMENT CORPORATION

SEC. 323–2. Section 608(a) of the Housing and Community Development Amendments of 1978 is amended by striking out "and not to exceed $13,426,000 for fiscal year 1981" and inserting in lieu thereof "not to exceed $13,426,000 for fiscal year 1981, not to exceed $14,950,000 for fiscal year 1982, and not to exceed $14,950,000 for fiscal year 1983".

NATIONAL CONSUMER COOPERATIVE BANK

SEC. 323–3. (a) Section 108 of the National Consumer Cooperative Bank Act is amended by adding at the end thereof the following:

"(f)(1) Effective on and after the date of enactment of the Housing and Community Development Amendments of 1981—

"(A) the Bank may not make any new commitment for a loan or guarantee; and

"(B) the Bank may not issue any obligations pursuant to section 107.

"(2) All amounts received by the Bank as repayments of principal and payments of interest or other charges or fees in connection with loans or guarantees shall be paid into the Treasury of the United States as miscellaneous receipts not later than thirty days after receipt by the Bank, except that the Bank may pay out of such amounts its operating expenses in an amount each year not to exceed that amount determined by the Comptroller General of the United States to be necessary for that year, but the total amount of such expenses shall not exceed the cost which would have been incurred if

the Bank were terminated during fiscal year 1981 and its functions transferred to the Secretary of the Treasury.".

(b) Section 105(a)(5) of such Act is amended to read as follows:

"(5) in the case of a primary cooperative organization—

"(A) restricts its voting control to members or voting stockholders on a one vote per person basis, except that this requirement shall not apply to any housing cooperative existing on March 21, 1980, which did not meet such requirement on that date; and

"(B) takes positive steps to insure economic democracy and maximum participation by members of the cooperative including the holding of annual meetings and, in the case of organizations owned by groups of cooperatives, provides positive protections to insure economic democracy;".

REDUCTION OF 1981 AUTHORIZATION

SEC. 323–4. Notwithstanding any other provision of law, the authorizations for appropriations for programs and activities administered by the Secretary of Housing and Urban Development in fiscal year 1981 are reduced by $5,552,000,000.

Subpart 5—Rural Housing

AUTHORIZATIONS

SEC. 325–1. (a) Section 513 of the Housing Act of 1949 is amended—

(1) by striking out "not to exceed $3,797,600,000 with respect to the fiscal year ending September 30, 1981" in subsection (a) and inserting in lieu thereof "not to exceed $3,700,600,000 with respect to the fiscal year ending September 30, 1980";

(2) by striking out "not less than $3,100,000,000" in subsection (a)(1) and inserting in lieu thereof "not less than $3,170,000,000";

(3) by striking out subsection (b)(2) and inserting in lieu thereof the following:

"(2) not to exceed $49,000,000 for loans and grants pursuant to section 504 for the fiscal year ending September 30, 1982, of which not more than $25,000,000 shall be available for grants;";

(4) by striking out subsection (b)(3) and inserting in lieu thereof the following:

"(3) not to exceed $24,000,000 for financial assistance pursuant to section 516 for the fiscal year ending September 30, 1983;"; and

(5) by striking out "and" at the end of subsection (b)(4), by striking out the period at the end of subsection (b)(5) and inserting in lieu thereof "; and", and by adding at the end thereof the following:

"(6) not to exceed $2,000,000 for the purposes of section 329(c) for the fiscal year ending September 30, 1982.".

(b) Section 515(b)(5) of such Act is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1982".

(c) Section 517(a)(1) of such Act is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1982".

(d) Section 521(a)(2)(D) of such Act is amended—

(1) by striking "$493,000,000" and inserting in lieu thereof "$398,000,000"; and

(2) by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1982".

(e) Section 523 of such Act is amended—

(1) by striking out "September 30, 1981" each place it appears in subsection (f) and inserting in lieu thereof "September 30, 1982";

(2) by adding at the end of subsection (f) the following: "None of the funds appropriated under this subsection shall be available for the purposes of subsection (b)(1)(B)."; and

(3) by striking out "not to exceed $2,500,000 for fiscal year 1981" in the first sentence of subsection (g) and inserting in lieu thereof "not to exceed $1,000,000 for fiscal year 1982".

TITLE IV—COMMERCE, SCIENCE, AND TRANSPORTATION

PART A—AMTRAK

SHORT TITLE

SEC. 401–1. This part may be cited as the "Amtrak Improvement Act of 1981".

FINDINGS

SEC. 401–2. Section 101 of the Rail Passenger Service Act (45 U.S.C. 501) is amended to read as follows:

"SEC. 101. CONGRESSIONAL FINDINGS

"(a) The Congress finds that the public convenience and necessity require that the National Railroad Passenger Corporation provide, to the extent that the Corporation's budget allows, modern, cost-efficient, and energy-efficient intercity railroad passenger service between crowded urban areas and in other parts of the country; that rail passenger service can help in alleviating the overcrowding of airways, airports, and highways; and that to the maximum extent feasible travelers in America should have the freedom to choose the mode of transportation most convenient to their needs.

"(b) The Congress further finds that a greater degree of cooperation is necessary among railroads, the Corporation, State, regional, and local governments and the private sector, labor organizations, and suppliers of services and equipment to the Corporation in order to achieve the level of performance sufficient to justify expenditure of public funds.".

GOALS

SEC. 401–3. Section 102 of such Act (45 U.S.C. 501a) is amended to read as follows:

"SEC. 102. GOALS.

"The Congress hereby establishes the following goals for Amtrak:

"(1) Exercise of the Corporation's best business judgment in taking actions to minimize Federal subsidies, including increasing fares, increasing revenues from the carriage of mail and express, reducing losses on food service, improving its contracts with operating railroads, reducing management costs, and increasing employee productivity.

"(2) Maintenance of a fare policy for each route which will minimize Federal subsidies.

"(3) Encouragement of State, regional, and local Governments and the private sector to share the costs of operating rail passenger service, including the costs of operating stations and other facilities, in order to minimize Federal subsidies.

"(4) Improvement of on-time performance so that, to the maximum extent feasible, all Amtrak trains arrive at all station stops within 15 minutes of the time established in public timetables for such operation.

"(5) Implementation of schedules which provide a systemwide average speed of at least 55 miles per hour, and which can be adhered to with a degree of reliability and passenger comfort.

"(6) Encouragement of rail carriers to assist in improving intercity rail passenger service.

"(7) General improvement of Amtrak's performance through comprehensive, systematic operational programs and employee incentives.".

DEFINITION

SEC. 401–4. Section 103 of such Act (45 U.S.C. 502) is amended—

(1) in paragraph (4), by inserting before the period at the end thereof "or pursuant to section 407 of this Act";

(2) by adding a new paragraph (8) as follows:

"(8) 'Deprived of employment' refers to the inability of an employee of the Corporation to obtain a position through the exercise of seniority, as a result of a discontinuance of intercity rail passenger service that occurs before or after the date of enactment of the Amtrak Improvement Act of 1981 despite the exercise of any seniority rights, or—in the case of a nonagreement employee--despite direct application for employment.";

(3) by redesignating paragraphs (8) through (14) as paragraph (9) through (15), respectively; and

(4) by adding a new subsection (16) as follows:

"(16) 'Year of completed service' means each 12 months of employment with the Corporation or a predecessor rail carrier during which compensation was credited for purposes of the Railroad Retirement Act, as amended (45 U.S.C. 231 et seq.).".

BASIC RAIL PASSENGER SYSTEM

SEC. 401–5. Title II of such Act (45 U.S.C. 201 and 202) is repealed.

DIRECTORS AND OFFICERS

SEC. 401–6. Section 303(a)(4) of such Act (45 U.S.C. 543(a)(4)) is amended by adding at the end thereof the following: "At the time of their appointment, of those members appointed by the President, one member shall be designated to serve as a State representative and one member shall be designated to serve as a commuter representative.".

FINANCING OF THE CORPORATION

SEC. 401–7. Section 304 of such Act (45 U.S.C. 544) is amended—

(1) in subsection (a), by striking the second sentence;

(2) by amending subsection (c) to read as follows:

"(c)(1) Not later than February 1, 1982, and in consideration of receiving further Federal financial assistance, the Corporation shall issue to the Secretary a sufficient number of shares of preferred stock to equal, to the nearest whole share, the amount of funds appropriated by Congress for capital acquisitions or improvements under the authority of subsections (a)(2), (b)(1)(B), and (b)(1)(C) of section 601 of this Act between October 30, 1970, and September 30, 1981.

"(2) Commencing on October 1, 1981, and in consideration of receiving further Federal financial assistance, the Corporation shall issue to the Secretary within 30 days after the close of each quarter of the fiscal year of the United States Government additional preferred stock equal, to nearest whole share, to the amount of grants paid to the Corporation under section 601 of this Act during such quarter.";

(3) by striking subsections (d) through (f) and inserting in lieu thereof the following:

"(d) The Corporation is authorized to issue, in addition to the stock authorized by subsection (a) of this section, nonvoting securities, bonds, debentures, notes, and other certificates of indebtedness as it may determine: *Provided*, That no obligation with a liquidation interest superior to the preferred stock issued to the Secretary or secured by a lien on property of the Corporation shall be incurred without the consent of the Secretary so long as any of the preferred stock issued to the Secretary is outstanding.

"(e)(1) The requirement of section 45(b) of the District of Columbia Business Corporation Act (D.C. Code, sec. 29–920(b)) as to the percentage of stock a stockholder is required to hold in order to have the rights of inspection and copying set forth in such section shall not be applicable in the case of holders of the stock of the Corporation, and they may exercise such rights without regard to the percentage of stock they hold.

"(2) Preferred stock authorized or issued under the authority of this section shall be subject to the annual fee prescribed under

section 29-936(e) of the District of Columbia Code, or to any other form of taxation unless otherwise specifically prescribed by Congress.".

APPLICABILITY

SEC. 401-8. Section 306 of such Act (45 U.S.C. 546) is amended—

(1) by striking subsection (k);

(2) by redesignating susbections (l) and (m) as subsections (k) and (l), respectively; and

(3) by adding at the end thereof the following:

"(m) The Corporation shall not be required to pay any additional taxes as a consequence of its expenditure of funds to acquire or improve real property, equipment, facilities, or right-of-way materials or structures used directly or indirectly in the provision of rail passenger service. For purposes of this subsection, additional taxes shall be deemed to be taxes or fees (1) on the acquisition, improvement, or ownership of personal property by the Corporation; and (2) on real property other than taxes or fees on the acquisition of real property or on the value of real property which is not attributable to improvements made by the Corporation.

"(n) The operation of trains by or for the Corporation shall not be subject to the requirement of any State or local law which specifies the minimum number of crewmembers who must be employed in connection with the operation of a passenger train.".

SANCTIONS

SEC. 401-9. Section 307(a) of such Act (45 U.S.C. 547(a)) is amended by adding at the end thereof the following: "Any discontinuance of routes, trains, or services, or reduction in frequency of service, which is made by the Corporation shall not be reviewable in any court except on petition of the Attorney General of the United States.".

REPORTS TO CONGRESS

SEC. 401-10. Section 308 of such Act (45 U.S.C. 548) is amended—

(1) in subsection (a), by striking paragraph (1)(C); and

(2) in subsection (c)—

(A) by striking "and the Commission"; and

(B) by striking "reports (or, in their discretion, a joint report)", and inserting in lieu thereof "a report".

FACILITY AND SERVICE AGREEMENTS

SEC. 401-11. (a) Section 401(c) of such Act (45 U.S.C. 561(c)) is repealed.

(b) Section 402 of such Act (45 U.S.C. 562) is amended—

(1) by striking subsection (g); and

(2) by redesignating subsection (h) as subsection (g).

STATE-SUPPORTED SERVICES

SEC. 401-12. (a)(1) Section 403 of such Act (45 U.S.C. 563) is amended by adding at the end thereof the following:

"(e) The provisions of this section apply to any agreement entered into pursuant to subsection (b) which is in existence on the day prior to the date of enactment of the Amtrak Improvement Act of 1981.".

(2) Effective October 1, 1981, subsection (d) of section 403 of such Act (45 U.S.C. 563(d)) is repealed.

(b) Title IV of such Act (45 U.S.C. 561 et seq.) is amended by inserting immediately after section 403 the following:

"SEC. 403a. NEW SERVICE.

"(a) Except as otherwise provided in this Act, after the date of enactment of the Amtrak Improvement Act of 1981, all route additions shall be in accordance with the route and service criteria.

"(b)(1)(A) Any State or group of States, any regional or local agency, or any other person may submit an application to the Corporation requesting the institution of rail passenger service or the retention of a route, train, or service, or some portion of such route, train, or service, which the Corporation intends to discontinue under section 407 of this Act.

"(B) Each application by a State, agency or person for rail passenger service under this subsection shall contain—

"(i) adequate assurances by such State, agency or person that it has sufficient resources to meet its share of the cost of such service for the period such service is to be provided;

"(ii) a market analysis acceptable to the Corporation to ensure that there is adequate demand to warrant such service; and

"(iii) a statement by such State, agency or person that it agrees to pay in each year of operation of such service at least—

"(I) 20 percent in the first year of operation after the date of enactment of the Amtrak Improvement Act of 1981;

"(II) 35 percent, in the second year of operation after the date of enactment of the Amtrak Improvement Act of 1981; and

"(III) 50 percent, in the third year of operation after the date of enactment of the Amtrak Improvement Act of 1981, and each year thereafter;

of the avoidable losses of operating such service and 50 percent of the associated capital costs.

"(2)(A) The Corporation shall review each application submitted by a State, agency, or person for the institution or retention of service under this subsection to determine whether—

"(i) the application complies with the requirements of paragraph (1)(B) of this subsection; and

"(ii) there is a reasonable probability that the service requested can be provided with the resources available to the Corporation.

"(B) Any application submitted by a group of States shall be considered in the same manner as an application submitted by a single State, and not on the basis of whether each State that is a party to such application meets the requirements of paragraph (1)(B) of this subsection.

"(3)(A) The Corporation may enter into an agreement with such State, agency, or person for the institution or retention of such service, in accordance with the funding formula set forth in paragraph (1)(B) of this subsection, if the Corporation determines that such service can be provided with resources available to the Corporation.

"(B) An agreement entered into pursuant to this subsection may by mutual agreement be renewed for one or more additional terms of not more than 2 years.

"(C) If more than one application is made for service and all applications are consistent with the requirements of this subsection, but all the services applied for cannot be provided with the available resources of the Corporation, the board of directors shall decide in its discretion which application or applications best serve the public interest and can be provided with the available resources of the Corporation.

"(4)(A) Any funds provided by the Corporation under an agreement with a State, an agency or a person pursuant to this subsection which are allocated for associated capital costs and which are not expended during the fiscal year for which they are provided shall remain available until expended.

"(B) The board of directors shall establish the basis for determining the avoidable losses and associated capital costs of service operated under this subsection, and the total revenue from such service.

"(5) Not more than 5 percent of all revenues generated by each particular route operated under the authority of this subsection shall be dedicated to advertising and promotion of such service on a local level.

"(c) The Corporation is authorized to continue to operate commuter rail passenger service under an agreement with a State, local, or regional transportation agency if the board of directors determines that the Corporation will be reimbursed by the State, local, or regional transportation agency for 100 percent of the avoidable losses of operating such service, and that provision of the service by the Corporation will generate funds which can be used in the provision of intercity rail passenger service. An agreement made pursuant to this section may by mutual agreement be renewed for one or more additional terms of not more than two years. For purposes of this subsection, the term 'commuter rail passenger service' means shorthaul rail passenger service operated in metropolitan and suburban areas, whether within or across the geographical boundaries of a State usually characterized by reduced-fare, multiple-ride, and commutation-tickets and by morning and evening peak period operations.".

SERVICE CHANGES

SEC. 401-13. Section 404 of such Act (45 U.S.C. 564) is amended—

(1) in subsection (a), by striking the first sentence;

(2) in subsection (b), by inserting immediately before the period at the end thereof the following: ", except for discontinuances pursuant to the provisions of section 407 of this Act";

(3) in subsection (c), by striking paragraph (4); by redesignating paragraph (5) as paragraph (4); and by adding at the end thereof the following:

"(5) If the Corporation determines that an amendment or amendments to the Route and Service Criteria are warranted, the Corporation is authorized to make such changes as it determines necessary and desirable to achieve the purposes of this Act."; and

(4) by striking subsections (d) through (g).

EMPLOYEE PROTECTION

SEC. 401-14. Section 405 of the Rail Passenger Service Act (45 U.S.C. 565) is amended—

(1) by striking subsection (e);

(2) by redesignating subsection (f) as subsection (e);

(3) in the third sentence of subsection (e), as redesignated by paragraph (2) of this section, by striking ", during the 2-year period beginning on the effective date of the Amtrak Reorganization Act of 1978,"; and

(4) by adding at the end thereof the following:

"(f) The board of directors of the Corporation shall, within 60 days after the date of enactment of the Amtrak Improvement Act of 1981, determine (and make public notice of its determination) whether it shall use the protective arrangements specified in subsection (c) of this section, or the protective arrangements specified in subsection (h) of this section.

"(g) If the Corporation determines that it will use the protective arrangements specified in subsection (h), the protective arrangements specified in subsection (c) shall not continue in effect.

"(h)(1) Notwithstanding any other provision of this section, if the Corporation determines to use the protective arrangements established by this subsection, effective on the date of its public notice of such determination, the provisions of this subsection shall be the exclusive protection for employees of the Corporation adversely affected by a discontinuance of intercity rail passenger service, and shall supersede all other employee protection provisions of Federal or State law, or any contract or agreement. All disputes involving the benefits authorized by this section shall be resolved through arbitration procedures established through agreement by the Corporation and recognized employee representatives.

"(2) Any employee of the Corporation deprived of employment by a discontinuance of service shall be entitled to receive from the Corporation—

"(A) a separation allowance which shall be determined as follows:

Years of completed service		
At least	But less than	Amount of allowances
0	6	$0
6	16	$1,000 for each year of completed service over 5.
16	25	$10,000 plus $2,000 for each year of completed service over 15.
25	----------	$30,000.

The Corporation shall pay 50 percent of the separation allowance not later than 30 days after the employee's separation, and the remaining 50 percent not later than 90 days after separation. Notwithstanding any other provision of law, a separation allowance payable under this subsection within 24 months after the date of enactment of the Amtrak Improvement Act of 1981 shall be considered taxable earnings for the purposes of the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.) on the same basis as if the employee's last daily straight time rate of compensation had been paid for the number of regular pay periods successive to the date of separation necessary to aggregate earnings equal to the amount of the allowance. The Corporation shall be liable for railroad unemployment taxes, and the employee shall be eligible for subsequent benefits under the Railroad Unemployment Insurance Act, as if the allowance had been so paid;

"(B) a moving expense benefit not to exceed $5,000 if required to make a change in residence, prior to the expiration of 3 years from the date of the discontinuance of service, in order to retain employment with the Corporation or to obtain employment with another rail carrier. The following expenses shall be eligible for reimbursement:

"(i) the actual expenses of moving the employee's household and personal effects;

"(ii) the actual, necessary traveling expenses of the employee and immediate family;

"(iii) the closing costs involved in disposing of the employee's residence and acquiring a new residence, including (I) a realtor's fee of not more than $3,000 and (II) any loss in the sale of the employee's home for less than its fair market value; and

"(iv) if the employee holds an unexpired lease on a dwelling used as the employee's residence, reimbursement for any loss in securing the cancellation of the lease not to exceed loss attributable to that portion of the term of the lease extending 2 years from the date of cancellation. The moving expense benefit to which an employee may be entitled under this section shall be reduced by the amount of any new career training assistance paid to the employee under this section;

"(C) reasonable expenses for training in qualified institutions for new career opportunities if begun within 2 years of the discontinuance and after first exhausting any Federal educational benefits available to such employee under any existing program. The term 'expenses' means actual, reasonable expenses paid for room, board, tuition, fees, or educational material in an amount not to exceed $5,000; and the term 'qualified institution' means an educational institution accredited for payment by the Veterans' Administration under chapter 36 of title 38, United States Code, or a State-accredited institution which has been in existence for not less than 2 years. The new career training assistance to which an employee may be entitled under this section shall be reduced by the amount of any moving expense benefit paid to the employee under this section; and

"(D) a continuation of medical insurance coverage for a period of not more than 6 months from the date of separation, unless the employee is engaged in full-time employment with respect to which group medical insurance is available.

"(3) Any employee who is deprived of employment by a discontinuance of service shall have the first right of hire by any other rail carrier for a vacancy in a class or craft in which he was employed by the Corporation or a predecessor carrier for not less than 1 year, except where such vacancy is covered by (A) an affirmative action plan, or a hiring plan designed to eliminate discrimination, that is required by Federal or State statute, regulation, or executive order, or by the order of a Federal court or agency; or (B) a permissible voluntary affirmative action plan. For the purposes of this section, a rail carrier shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.

"(4) The rights afforded to employees under this section shall be coequal to the rights afforded under section 8 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 907) and section 105 of the Rock Island Transition and Employee Assistance Act (45 U.S.C. 1004).".

OPERATION WITHIN AVAILABLE RESOURCES

SEC. 401–15. Title IV of such Act (45 U.S.C. 561 et seq.) is amended by adding at the end thereof the following:

"SEC. 407. OPERATION WITHIN AVAILABLE RESOURCES.

"(a) The Corporation's annual total costs shall not exceed the funds, including grants made under section 601 of this Act, contributions provided by States, regional and local agencies and other persons, and revenues available to the Corporation within the then-current fiscal year. Commencing in fiscal year 1982, the Corporation shall recover an amount sufficient that the ratio of its revenues, including contributions from States, agencies, and other persons, to total costs, excluding capital costs, shall be at least 50 percent.

"(b) Without regard to the requirements of section 404 of this Act, the Corporation shall discontinue routes, trains, and services or reduce frequency of service, as necessary to comply with the requirements of this section. Upon the date of enactment of the Amtrak Improvement Act of 1981, the Corporation shall, prior to discontinuing a route, train, or service under this subsection, give notice of its intention to discontinue a route, train, or service. Such notice shall be given in such a manner as the Corporation determines will afford an opportunity for any State or group of States, or any regional or local agency or other person, to agree to share the cost of such route, train, or service, or some portion of such route, train, or service.

"(c) The Corporation shall, prior to October 1, 1983, reduce the costs of management of the Corporation by not less than 10 percent of the administrative costs incurred by the Corporation during the period of twelve calendar months prior to June 1, 1981.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 401–16. Section 601(b)(1) of such Act (45 U.S.C. 601(b)(1)) is amended—

(1) in subparagraph (B), by striking all after "1981," through "1982";

(2) in subparagraph (C), by striking all after "1981," through "1982";

(3) in subparagraph (D)—

(A) by striking ", and not to exceed $20,000,000 for the fiscal year ending September 30, 1982"; and

(B) by striking "and" at the end thereof;

(4) in subparagraph (E), by striking all after "1981" and inserting in lieu thereof "; and"; and

(5) by adding at the end thereof the following:

"(F) For payment of the expenses of the Corporation, including operating expenses, costs of capital acquisition or improvement, operating and capital expenses of service provided pursuant to section 403(b) and section 403a of this Act, payment of principal and interest on obligations guaranteed by the Secretary pursuant to section 602 of this Act, and labor protection, not to exceed $735,000,000 for the fiscal years ending September 30, 1982, and September 30, 1983, and $640,000,000 for the fiscal year ending September 30, 1984.".

PRIVATE SECTOR RAIL SERVICE

SEC. 401–17. Title VIII of such Act (45 U.S.C. 641 et seq.) is amended by adding at the end therof the following:

"SEC. 812. PRIVATE SECTOR RAIL SERVICE.

"(a) It is declared to be the intent of the Congress in this section to provide incentives to encourage any person to undertake rail passenger service.

"(b) Any service affected by this section shall be exempt from regulation by the Federal Government, with the exception of safety regulations administered by the Federal Railroad Administration.

"(c) The provisions of this section apply to any passenger rail service and to any mail, express, auto ferry or other service offered in conjunction with such rail passenger service which is undertaken after the date of enactment of the Amtrak Improvement Act of 1981.".

AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 401–18. Section 504(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(f) is amended—

(1) in paragraph (1)—

(A) by striking "completion of the transaction required by section 206(c) of this Act," and inserting in lieu thereof "enactment of the Amtrak Improvement Act of 1981,"; and

(B) by striking "(which shall also be a date which is at least 90 days after the transaction contemplated by section 601(d) of this Act)"; and

(2) in paragraph (2), by striking the second sentence.

(b) Section 505(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(d)(2)) is amended by striking the last sentence.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 401–19. (a) Section 103(4) of the Rail Passenger Service Act (45 U.S.C. 502(4)) is amended by striking "title II and" and "under sections 404(d) and 404(e) of this Act and".

(b) Section 304 of such Act (45 U.S.C. 544) is amended—

(1) in subsection (a) by striking "section 1(3)(b) of the Interstate Commerce Act" and inserting in lieu thereof "section 10102(b) of title 49, United States Code"; and

(2) in subsection (b), by striking "section 1(3)(b) of the Interstate Commerce Act", and "section 1(3)(b) of the Interstate Commerce Act (49 U.S.C. 1(3)(b))" and inserting in lieu thereof "section 10102(b) of title 49, United States Code" in each such place.

(c) Section 305(d)(1)(B) of such Act (45 U.S.C. 545(d)(1)(B)) is amended by inserting "for" after "required".

(d) Section 306(a) of such Act (45 U.S.C. 546(a)) is amended—

(1) by striking "section 1(3) of the Interstate Commerce Act" and inserting in lieu thereof "section 10102 of title 49, United States Code"; and

(2) by striking "section 22(1), of the Interstate Commerce Act," and inserting in lieu thereof "sections 10103, 10721, 10722, 10723, and 10724 of title 49, United States Code,".

(e) Section 401(a)(1) of such Act (45 U.S.C. 561(a)(1)) is amended by striking "section 13a(1) of the Interstate Commerce

Act" and inserting in lieu thereof "section 10908 of title 49, United States Code".

(f) Section 404 of such Act (45 U.S.C. 564) is amended—

(1) in subsection (a), by striking "section 13a of the Interstate Commerce Act" and inserting in lieu thereof "sections 10908 and 10909 of title 49, United States Code"; and

(2) in subsection (c)(3)—

(A) by striking "section 13a of the Interstate Commerce Act" and inserting in lieu thereof "sections 10908 and 10909 of title 49, United States Code";

(B) by striking "section 404(b)(3) of this Act" and inserting in lieu thereof "subsection (b) of this section"; and

(C) by striking the fourth sentence.

(g) Section 405(b) of such Act (45 U.S.C. 565(b)) is amended by striking "section 5(2)(f) of the Interstate Commerce Act" and inserting in lieu thereof "section 11347 of title 49, United States Code".

(h) Section 1001(d) of such Act is amended by striking "Interstate and Foreign Commerce" and inserting in lieu thereof "Energy and Commerce".

(i) Section 1002(c)(2) of such Act is amended by striking "or" and inserting in lieu thereof "of".

(j) Section 1003(a) of such Act is amended by striking "Interstate and Foreign Commerce" and inserting in lieu thereof "Energy and Commerce".

LABOR-MANAGEMENT STUDY

SEC. 401–20. The National Railroad Passenger Corporation, representatives of labor, and the American Association of Railroads shall, within 6 months after the date of enactment of this part, conduct a study and submit a joint report to the Congress regarding their efforts to achieve greater efficiencies in management and labor practices. Such report shall include a description of efforts by the Corporation toward efficiencies in the management of the Corporation, recommendations for further efficiencies, and any other appropriate legislative recommendations.

MARKETING AND PROMOTION

SEC. 401–21. Section 403(b)(8) of the Rail Passenger Service (45 U.S.C. 563(b)(8)) is amended by striking "Not more than five" and inserting in lieu thereof "At least four".

PERSONNEL STUDY

SEC. 401–22. Within 3 months after the date of enactment of this part, the National Railroad Passenger Corporation shall submit to the Congress a report on actual and potential problems for the Corporation in entering into agreements regarding direct employment of rail passenger operating personnel. Such report shall include legislative recommendations, if the Corporation determines that such recommendations are appropriate.

TRANSFER OF NORTHEAST CORRIDOR INTERCITY PASSENGER SERVICES TO AMTRAK

SEC. 401–23. (a)(1) With respect to intercity rail passenger services within the Northeast corridor, Amtrak may initiate negotiations with Conrail for the transfer of such services operated by Conrail.

(2) A transfer agreement between Amtrak and Conrail shall specify at least—

(A) the service responsibilities to be transferred;

(B) the rail properties to be conveyed; and

(C) a transfer date not later than 1 year after the date of enactment of this part.

(3) Any transfer agreement under this subsection shall be entered into not later than 180 days after the date of enactment of this part.

(b)(1) Within 180 days after the date of enactment of this part, Conrail and Amtrak shall agree on terms and conditions for the transfer to Amtrak of all of Conrail's intercity rail passenger services in the Northeast corridor and the rail properties used or useful for the operation of those services. Such services and properties shall be transferred to Amtrak not later than 1 year after the date of enactment of this part.

(2) If, within 180 days after the date of enactment of this part, Conrail and Amtrak have not signed an agreement pursuant to this section, the Secretary of Transportation shall within 30 days determine which rail properties will be transferred to Amtrak and the terms and conditions under which such rail properties and the Northeast corridor rail passenger services of Conrail will be transferred to Amtrak. The transfer shall occur not later than 1 year after the date of enactment of this part.

TRANSFER OF NORTHEAST CORRIDOR INTERCITY PASSENGER EMPLOYEES TO AMTRAK

SEC. 401–24. (a) On the date Northeast corridor intercity passenger operations are transferred to Amtrak under this part, Amtrak shall establish new positions not fewer in number than the equivalent number of full-time Conrail positions devoted to the Northeast corridor intercity passenger operations in each class and craft, based on the average number of such equivalent positions in the 12 months prior to the date of enactment of this part. The determination of equivalent full-time positions shall be made by agreement between Conrail and Amtrak, in consultation with recognized employee representatives, not later than 60 days prior to the transfer date. Failing agreement, the Secretary shall determine the number of positions, and Conrail shall make available necessary data to make such determination.

(b)(1) On the transfer date, Conrail shall transfer to Amtrak a sufficient number of employees in each class and craft to fill the positions created under subsection (a) of this section.

(2) Such employees shall be selected solely from among—

(A) all Conrail employees engaged on April 1, 1981, in functions directly and primarily related to the provision of Northeast corridor passenger service, including any employee who would have been so engaged for illness, personal leave, or similar reasons;

(B) in the event the requisite number of positions cannot be filled from the ranks of employees identified under subparagraph (A), other Conrail employees available and willing on a voluntary basis (and without prejudice based on refusal) to fill such positions without change in residence in order of seniority (from most senior to most junior); and

(C) in the event the requisite number of positions cannot be filled from the ranks of employees identified under subpargraphs (A) and (B), other Conrail employees available to fill such positions without change of residence in reverse order of seniority.

(c) Upon transfer of employees under this section, Conrail shall be relieved of any responsibility to provide personnel for the operation of Amtrak intercity passenger trains in the Northeast corridor operating over properties owned or leased by Amtrak.

(d) An employee transferred to Amtrak under this section, including any employee who declines to accept an employment relationship with Amtrak under subsection (b)(2)(A) or (C) of this section, shall be finally separated from employment with Conrail on the date of transfer to Amtrak and shall not by virtue of the transfer be deemed to be "deprived of employment" as that phrase is used in subpart 3 of the Northeast Rail Service Act of 1981.

DEFINITIONS RELATING TO NORTHEAST CORRIDOR PROVISIONS

SEC. 401–25. As used in sections 401–23 and 401–24 of this part, the term—

(1) "Amtrak" means the National Railroad Passenger Corporation, created by title III of the Rail Passenger Service Act; and

(2) "Conrail" means the Consolidated Rail Corporation, established by title III of the Regional Rail Reorganization Act of 1973.

PENALTY FOR UNTIMELY PERFORMANCE

SEC. 401–26. Section 402(e) of the Rail Passenger Service Act (49 U.S.C. 562(e)) is amended by adding at the end thereof the following:

"(4) If any intercity passenger train operated by or on behalf of the Corporation fails to arrive at station stops within 15 minutes of the time established in public timetables for such operation, because of a failure to be accorded a preference over freight trains as required by paragraph (1) of this subsection, the responsible railroad shall pay to the Corporation a penalty to be determined by the Commission.".

EFFECTIVE DATE

SEC. 401–27. Except as may otherwise be provided in this part, the provisions of this part shall take effect on the date of enactment of this part.

PART B—CONRAIL

SHORT TITLE

SEC. 411. This part may be cited as the "Northeast Rail Service Act of 1981".

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Subpart 1—General Provisions

FINDINGS

SEC. 411–1. The Congress finds and declares that—

(1) the processes set in motion by the Regional Rail Reorganization Act of 1973 have failed to create a self-sustaining railroad system in the Northeast region of the United States and have cost United States taxpayers many billions of dollars over original estimates;

(2) current arrangements for the mix of freight and commuter services in the region are inadequate to meet the transportation needs of the public;

(3) there is little likelihood that Conrail can become self-sufficient in the foreseeable future;

(4) the provisions for protection of employees of bankrupt railroads contained in the Regional Rail Reorganization Act of 1973 have resulted in the payment of benefits far in excess of levels anticipated at the time of enactment, have imposed an excessive fiscal burden on the Federal taxpayer, and are now an obstacle to the establishment of improved rail service and continued rail employment in the Northeast region of the United States;

(5) the orderly integration of Conrail's freight service into the Nation's private rail system can be successful only if adequate and equitable protections are provided for railroad employees directly affected and if acquiring railroads are not required to assume Conrail's commuter operations; and

(6) the operation of commuter rail services by States, or political subdivisions or instrumentalities thereof, in the absence of significant alternative privately operated commuter services, is an integral governmental function of the States, which should be assisted, but not superseded, in such activities by the Federal Government.

PURPOSE

SEC. 411–2. (a) It is therefore declared to be the purpose of the Congress in this part to provide for reduction by Conrail of its operating costs by realizing the following goals:

(1) NONAGREEMENT PERSONNEL.—(A) Employees who are not subject to collective-bargaining agreements (hereinafter in this section referred to as "nonagreement personnel") shall forego wage increases and benefits in an amount proportionately equivalent to the amount foregone by agreement employees pursuant to paragraph 4 of this subsection, adjusted annually to reflect inflation.

(B) The number of nonagreement personnel shall be reduced proportionately to any reduction in agreement employees (excluding reductions pursuant to the termination program under section 416–1 of this part). Any reduction in nonagreement personnel or agreement employees which occurs after May 1, 1981, shall be included for purposes of this subparagraph.

(2) SUPPLIERS.—To facilitate the orderly movement of goods in interstate commerce, materials and services shall continue to be available to Conrail, under normal business practices, which shall include the provision of credit and normal financing arrangements.

(3) SHIPPERS.—Conrail shall maximize its opportunities to generate revenues under the provisions of this part, the Staggers Rail Act of 1980, and subtitle IV of title 49, United States Code.

(4) AGREEMENT EMPLOYEES.—(A) (i) Conrail shall enter into collective-bargaining agreements with its employees which shall provide Conrail benefits equal to $200,000,000 a year, beginning April 1, 1981, adjusted annually to reflect inflation.

(ii) Agreements under this subparagraph may provide for reductions in wage increase and for changes in fringe benefits common to agreement employees, including vacations and holidays.

(iii) The benefits required under this subparagraph in the first year of the agreement may be deferred, but the aggregate benefits should be no less than an average of $200,000,000 per year for each of the first three 1-year periods beginning April 1, 1981.

(iv) The amount of benefits provided under this paragraph shall be calculated by subtracting the cost of an agreement entered into under this paragraph from (I) the cost that would otherwise result from the application of the national agreement reached by railroad industry and its employees, or (II) until such national agreement is reached, the cost which the Conrail Advisory Board estimates would result from the application of such a national agreement.

(B) (i) Conrail shall enter into collective-bargaining agreements with its employees which provide for the establishment of one or more advisory factfinding panels, chaired by a neutral expert in industrial relations, for purposes of recommending changes in operating practices and procedures which result in greater productivity to the maximum extent practicable.

(ii) The National Mediation Board shall appoint public members to any panel established under this subparagraph, and shall perform such functions contained in the agreement as are consistent with the duties of such Board under the Railway Labor Act.

(iii) The factfinding panel may, before making its report to the parties, provide mediation, conciliation, and other assistance to the parties.

(C) Any savings resulting from the provisions of paragraphs (1) through (4) shall be in addition to any savings resulting from the following:

(i) The implementation of any crew consist agreement or fireman manning agreement in effect on the date of enactment of this part.

(ii) The separation of employees under any other provision of law or agreement.

(iii) Any collective-bargaining agreement signed or any procedures agreed to prior to January 1, 1981.

(5) SUBSIDIARIES.—Conrail, by January 1, 1982, shall identify those subsidiaries (other than the Conrail Equity Corporation) which did not operate at a profit during the preceding 12-month period, and shall not later than 12 months after the date of enactment of this part, seek to sell any subsidiary identified as not profitable unless Conrail determines that the benefits of maintaining ownership of such subsidiary outweigh the financial loss resulting from such ownership.

(6) WORKER PARTICIPATION AND SELF-MANAGEMENT DEMONSTRATION PROGRAM.—(A) Conrail shall, within 180 days after the date of enactment of this part, enter into agreements with representatives of the various classes and crafts of employees for the establishment, on a demonstration basis, of worker participation and self-management programs at one or more facilities or locations, for purposes of fostering employee job satisfaction, job flexibility, and quality assurance. Such agreements may provide for separate or combined programs for major groups of crafts or classes such as train and engine service, shopcraft, clerical, and maintenance of way.

(B) If the agreements under this subsection so provide, collective-bargaining agreements then in force at the facility or location involved (other than any dues checkoff provision of such an agreement), shall be suspended for the duration of the demonstration program and employees covered by the program shall be represented in accordance with the worker participation agreement, notwithstanding any provision of the Railway Labor Act.

(C) Agreements under this subsection may include provisions relating to (i) the resolution of disputes under section 3 of the Railway Labor Act, (ii) the election of agreement personnel to serve in supervisory jobs, (iii) the election of agreement personnel to negotiate performance goals, and (iv) such other matters as may be agreed upon by Conrail and its agreement employees.

(D) Nothing in this subsection shall be construed to interfere with the application of rates of pay provided for in the agreements required by paragraph (4)(A) of this subsection or with the implementation of the negotiation and factfinding procedures required by paragraph (4)(B).

(7) STATES AND LOCALITIES.—States and localities shall make contributions to Conrail, which may take the form of exemptions from liability for any State or local tax for the period of three years from the date of enactment of this part.

(8) MODIFICATION OF GOALS.—The Board may increase the goals on a proportionate basis to the maximum extent practicable, if it determines that Conrail needs additional benefits in order to become profitable, and may establish productivity goals if it determines that such goals are necessary to enable Conrail to become profitable.

(b) It is further declared to be the purpose of the Congress in this part to provide for—

(1) a transfer of Conrail passenger service responsibilities, without consideration, to one or more entities whose principal purpose is the provision of such service;

(2) establishment of a program to reduce Conrail's train and engine work force to permit Conrail to realize the benefits of existing crew consist and fireman manning agreements;

(3) a determination on December 1, 1982, whether Conrail has been profitable during the 6-month period from June 1, 1982, to November 30, 1982;

(4) disposition of the Federal ownership interest in Conrail through sale of Conrail's stock or the sale of Conrail's assets for reasonable compensation; and

(5) provision of adequate and equitable labor protection for employees deprived of employment by service transfers or Conrail workforce reductions.

DEFINITIONS

SEC. 411–3. As used in this part, unless the context otherwise requires, the term—

(1) "acquiring railroad" means any rail carrier or other entity that acquires property for rail use or assumes responsibility for rail freight or commuter service under subpart 2 of this part, including a neutral terminal company and a commuter authority;

(2) "Amtrak" means the National Railroad Passenger Corporation created under title III of the Rail Passenger Service Act (45 U.S.C. 541 et seq.);

(3) "Amtrak Commuter" means the Amtrak Commuter Services Corporation created in subpart 2 of this part;

(4) "Board" means the Railroad Retirement Board;

(5) "change in residence" means change of place of residence occasioned by a change in work location to a place that is more than 30 normal highway route miles from the residence and also no less than 10 miles farther from the residence than was the former work location;

(6) "Commission" means the Interstate Commerce Commission;

(7) "commuter authority" means any political subdivision, agency, authority, corporation, or instrumentality of one or more States authorized to provide commuter services in the Northeast, including the Metropolitan Transportation Authority, the Connecticut Department of Transportation, the Maryland Department of Transportation, the Southeastern Pennsylvania Transportation Authority, the New Jersey Transit Corporation, the Massachusetts Bay Transportation Authority, the Port Authority Trans-Hudson Corporation, any successor agencies, and any entity created by one or more such agencies for the purpose of operating, or contracting for the operation of, commuter rail services;

(8) "commuter services" means short-haul rail passenger service in metropolitan and suburban areas, whether within or across the geographical boundaries of a State, usually characterized by reduced fare, multiple-ride and commutation tickets, and by morning and evening peak period operations;

(9) "Conrail" means the Consolidated Rail Corporation created under title III of the Regional Rail Reorganization Act of 1973 (445 U.S.C. 741 et seq.);

(10) "deprived of employment" means—

(A) with respect to a service transfer under this part, involuntary final separation from employment with Conrail after September 30, 1981, and failure to receive a firm offer of employment from an acquiring railroad (as that term is defined in section 414–9 of this part), Amtrak Commuter, or a commuter authority under subpart 4 of this part, despite the exercise of seniority (or, in the case of a nonagreement employee, by written application); or

(B) the inability of an employee after September 30, 1981, to obtain a position with Conrail through exercise of seniority (or, in the case of a nonagreement employee, by written application), other than as a result of a seasonal furlough and the resignation of such employee from Conrail with relinquishment of all seniority rights:

Provided, That an employee who receives a termination allowance under section 413–1 of this part shall not be deemed to have been deprived of employment;

(11) "employee", used without a modifier, means any person having an employment relationship with Conrail on April 1, 1981, who has maintained that relationship through the first day of the month in which this part is enacted, including any person necessarily absent due to illness, but does not include any person who (A) was employed as a temporary employee for the purpose of completing a specific project or projects; (B) resigns, retires on full disability or otherwise, or is discharged for cause prior to the date of service transfer; or (C) has served, within the 24-month period immediately prior to being deprived of employment, as chairman or chief executive officer, president and chief operating officer, a vice president, secretary or treasurer, or member of a board of directors of Conrail;

(12) "includes" and variants thereof should be read as if the phrase "but is not limited to" were also set forth;

(13) "intercity rail passenger service" means rail passenger service other than commuter service;

(14) "Northeast corridor" means the States of Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and the District of Columbia;

(15) "rail carrier" means a common carrier engaged in interstate or foreign commerce by rail subject to subtitle IV of title 49, United States Code;

(16) "rail properties" means assets or rights owned, leased, or otherwise controlled by a railroad which are used or useful in rail transportation service;

(17) "Secretary" means the Secretary of Transportation or the representative authorized by the Secretary to carry out the responsibilities of the Secretary under this part;

(18) "special court" means the judicial panel established under section 209 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719);

(19) "transfer date" means the relevant date on which rail properties and service obligations of Conrail or (in the case of commuter service) its successor are transferred to an acquiring railroad, including a commuter authority, under the authority of subpart 2 of this part;

(20) "transferred employee" means an employee of Conrail who obtains employment with an acquiring railroad under subpart 4 of this part; and

(21) "year of completed service" means each 12 months of employment with Conrail or a predecessor rail carrier during which compensation was credited for purposes of the Railroad Retirement Act, as amended (45 U.S.C. 231 et seq.).

Subpart 2—Transfer of Rail Service Responsibilities

CHAPTER I—TRANSFER OF CONRAIL COMMUTER SERVICES

END OF CONRAIL OBLIGATION

SEC. 412–1. Notwithstanding any other provision of law or contract, Conrail shall be relieved of any legal obligation to operate commuter service 1 year after the date of enactment of this part.

ESTABLISHMENT OF AMTRAK COMMUTER

SEC. 412–2. (a) There shall be established within 120 days after the date of enactment of this part a wholly owned subsidiary of Amtrak to be known as the Amtrak Commuter Services Corporation.

(b)(1) Amtrak Commuter shall not be an agency or instrumentality of the Federal Government. Amtrak Commuter shall be subject to the provisions of this subtitle, and to the extent not inconsistent with this subtitle, to the District of Columbia Business Corporation Act.

(2) Amtrak Commuter shall be deemed to be a contract operator of commuter service on behalf of the commuter authorities that contract with Amtrak Commuter for the operations of commuter service under this part. Amtrak Commuter shall have no common carrier obligation to operate either passenger or freight service.

(c)(1) Amtrak Commuter shall be deemed, with respect to its rail commuter service functions, a rail carrier subject to those Federal laws governing the rights of employees in the railroad industry, including the Railway Labor Act, the Federal Employers Liability Act, the Railroad Retirement Act, the Railroad Unemployment Insurance Act, and the Federal railroad safety laws.

(2) Amtrak Commuter shall not be subject to any State or other law relating to the transportation of passengers by railroad insofar as such laws related to rates, routes, or service, including any modification or discontinuance thereof.

(3) Amtrak Commuter shall be exempt from the payment of taxes to the same extent as Amtrak is exempt under section 306 (n) of the Rail Passenger Service Act.

(4) The provisions of section 10 of the Clayton Act (15 U.S.C. 20) shall not apply to transactions between Amtrak Commuter and Amtrak.

(5) The Board of Directors of Amtrak shall be the incorporators of Amtrak Commuter and shall take whatever steps are necessary to establish Amtrak Commuter, including filing articles of incorporation.

DIRECTORS AND OFFICERS

SEC. 412–3. (a)(1) Amtrak Commuter shall have a Board of Directors consisting of seven individuals, as follows:

(A) The President of Amtrak Commuter, selected in accordance with the provisions of paragraph (2)(B) of this subsection.

(B) One member who is selected by commuter authorities to serve on the Board of Directors of Amtrak in accordance with section 303(a)(1) of the Rail Passenger Service Act.

(C) Two members from commuter authorities (in addition to that member described in subparagraph (B)) selected by commuter authorities for which Amtrak Commuter operates commuter service pursuant to this subpart.

(D) Three members selected by the Board of Directors of Amtrak.

(2)(A) Except as provided in subparagraph (B) of this paragraph, members of the Board of Directors of Amtrak Commuter shall serve terms of two years, and any vacancy in the membership of the Board shall be filled in the same manner as in the case of the original selection.

(B)(i) The first President of Amtrak Commuter shall be appointed by the Secretary, and thereafter the President shall be selected by the outgoing President, and the other members of the Board.

(ii) The term of office of the President of Amtrak Commuter shall be three years, and no individual may serve more than two terms.

(C) The Board shall elect one of its members annually to serve as Chairman.

(D) Each member of the Board shall receive a compensation and reimbursement in accordance with section 303(a)(5) of the Rail Passenger Service Act.

(b) The provisions of section 303 (b) and (d) of the Rail Passenger Service Act shall apply to Amtrak Commuter.

OPERATION OF COMMUTER SERVICE; GENERAL POWERS

SEC. 412–4. (a)(1) If requested by a commuter authority, Amtrak Commuter shall operate commuter service for such commuter authority upon such terms and conditions as Amtrak Commuter and the commuter authority may agree, including terms and conditions with respect to an appropriate costing methodology for compensation to Amtrak Commuter for the costs of operating commuter service.

(2)(A) If Amtrak Commuter and the commuter authority are unable to agree upon terms and conditions for the operation of services, either party may petition the Commission to establish just and reasonable terms and conditions, and the Commission may order that commuter service be operated on the terms and conditions it establishes.

(B) In establishing a costing methodology under this paragraph for compensation to Amtrak Commuter for the costs of operating commuter service, the Commission (i) shall consider all relevant factors which apply to compensation for costs on fair and equitable basis, including section 402(a) of the Rail Planning Service Act and the standards promulgated by the Rail Services Planning Office under section 205(d)(6) of the Regional Rail Reorganization Act of 1973, and (ii) shall not permit cross subsidization between intercity and commuter rail services.

(3) Any determination by the Commission under paragraph (2) of this subsection shall be effective on the date of such determination, and any agreement of the parties under this section shall be effective on the date specified in such agreement. Any such determination or agreement shall not apply to any compensation paid to Amtrak prior to the date of such determination or the date so specified, as the case may be, for the costs described in paragraph (2) of this subsection.

(4) Nothing in this section shall preclude Conrail, Amtrak Commuter, and commuter authority from entering into an agreement, after the determination of the Commission or their initial agreement under this section, with respect to the costs described in paragraph (2) of this subsection.

(5) Any determination by the Commission under this section shall be final and shall not be reviewable in any court.

(6) If a commuter authority fails to pay Amtrak Commuter within 90 days of the rendering of service for operating commuter service, Amtrak Commuter may cease operating such service.

(7) The Commission shall have the same powers to implement this subsection as are available to the Commission under subtitle IV of title 49, United States Code.

(b)(1) Amtrak Commuter is authorized to own, manage, operate, or contract for the operation of commuter service; to conduct research and development related to its mission; and to acquire by construction, purchase, or gift, or to contract for the use of, physical facilities, equipment, and devices necessary to commuter service operations.

(2) Amtrak Commuter shall, to the extent consistent with this part and the agreements with the commuter authorities, directly operate and control all aspects of its commuter service.

(c) To carry out its functions and purposes, Amtrak Commuter shall have the usual powers conferred upon a stock corporation by the District of Columbia Business Corporation Act.

(d) Amtrak Commuter is authorized to issue common stock to Amtrak.

NORTHEAST CORRIDOR COORDINATION

SEC. 412–5. (a) The Board of Directors of Amtrak Commuter shall develop and recommend to Amtrak—

(1) policies which ensure equitable access to the Northeast corridor, taking into account the need for equitable access by commuter and intercity services and the requirements of section 402(e) of the Rail Passenger Service Act; and

(2) equitable policies for the Northeast Corridor with respect to dispatching, public information, maintenance of equipment and facilities, major capital facility investments, and harmonization of equipment acquisitions, fares, tariffs, and schedules.

(b) The Board of Directors of Amtrak Commuter may recommend to the President and Board of Directors of Amtrak such actions as are necessary to resolve differences of opinions regarding operations (among or between Amtrak, Amtrak Commuter, other railroads, commuter authorities, and other State, local and regional agencies responsible for the provision of commuter rail, rapid rail, or rail freight services), with respect to all matters except those conferred on the Commission in section 402(a) of the Rail Passenger Service Act.

CONCERTED ECONOMIC ACTION

SEC. 412–6. (a) Any person engaging in concerted economic action over disputes with Amtrak Commuter or any commuter authority shall not be entitled to engage in any strike against, or otherwise to induce any employee of Conrail, where an effect thereof is to interfere with rail freight services provided by Conrail.

(b) Any person engaging in concerted economic action over disputes arising out of freight operations provided by Conrail shall not be entitled to engage in any strike against, or otherwise to induce any employee of Amtrak Commuter or any commuter authority, where an effect thereof is to interfere with rail passenger services.

NOTIFICATION

SEC. 412–7. Not later than 90 days after the date of enactment of this part, each commuter authority shall notify the Secretary and Conrail whether it intends to operate its own commuter service or to contract with Amtrak Commuter for the operation of such service.

TRANSFER

SEC. 412–8. (a)(1) A commuter authority or, with respect to commuter service operated outside the Northeast Corridor, a State, local, or regional transportation authority, may initiate negotiations with Conrail for the transfer of commuter service operated by Conrail.

(2) A transfer agreement between such an authority and Conrail shall specify at least—

(A) the service responsibilities to be transferred;

(B) the rail properties to be conveyed; and

(C) a transfer date not later than 1 year after the date of enactment of this part.

(3) Any transfer agreement under this subsection shall be entered into not later than 180 days after the date of enactment of this part.

(b) Within 180 days after the date of enactment of this part, Conrail and Amtrak Commuter shall agree on terms and conditions for the transfer to Amtrak Commuter of all of Conrail's commuter services in the Northeast Corridor, except for commuter service to be transferred directly to a commuter authority under subsection (a) of this section, and the rail properties used or useful for the operation of those commuter services. Such services and properties shall be transferred to Amtrak Commuter not later than 1 year after the date of enactment of this part.

(c) If, within 180 days after the date of enactment of this part, Conrail and Amtrak Commuter have not signed an agreement pursuant to subsection (b) of this section, the Secretary shall within 30 days determine which rail properties will be transferred to Amtrak Commuter and the terms and conditions under which such rail properties and the Northeast Corridor commuter services of Conrail will be transferred to Amtrak Commuter. The transfer shall occur not later than 1 year after the date of enactment of this part.

(d) Following the transfer of commuter services and properties to Amtrak Commuter, and upon the request of the commuter authority for which the service is provided by Amtrak Commuter, Amtrak Commuter and the commuter authority shall agree upon terms and conditions for the transfer to the commuter authority of the commuter service operated for such commuter authority and the rail properties used or useful in the operation of such commuter service.

(e) If Amtrak Commuter and a commuter authority do not sign an agreement pursuant to subsection (d) of this section, Amtrak Commuter or the commuter authority may appeal to the Secretary. Upon appeal under this subsection by Amtrak Commuter or a commuter authority, the Secretary shall determine which rail properties are to be transferred and the terms and conditions of such transfer.

(f) A commuter authority assuming commuter service responsibilities under this subpart shall be subject to the Federal Employers Liability Act, the Railroad Retirement Act, the Railroad Unemployment Insurance Act, and the Federal railroad safety laws.

REGULATORY APPROVAL

SEC. 412–9. (a) Transfers of properties and assumptions of service responsibilities pursuant to agreements negotiated under section 412–8 of this chapter, or pursuant to a determination made by the Secretary under section 412–8 (c) or (e) of this chapter, shall not be subject to the provisions of subtitle IV of title 49, United States Code.

(b) Transfers of properties and assumptions of service responsibilities pursuant to any agreement under section 412–8(b) of this chapter, or pursuant to a determination of the Secretary under section 412–8(c) of this chapter, if effected within 4 years of the date of enactment of this part, shall not be subject to subtitle IV of title 49, United States Code.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 412–10. There are authorized to be appropriated to the Secretary in the fiscal year beginning October 1, 1981, not to exceed $50,000,000, to facilitate the transfer of rail commuter services from Conrail to other operators. The Secretary shall by regulation prescribe standards for the obligation of such funds, and shall ensure that distribution of such funds is equitably made among Amtrak Commuter and the commuter authorities or other entities that contract with Amtrak Commuter for the operation of commuter service under this subpart. Amounts appropriated under this section are authorized to remain available until October 1, 1986.

Chapter II—TRANSFER OF FREIGHT SERVICE RESPONSIBILITIES

TRANSFER AGREEMENTS

SEC. 412–11. (a) The Secretary, in consultation with Conrail, shall initiate discussions and negotiations under section 5 of the Department of Transportation Act (49 U.S.C. 1654) for the transfer of Conrail freight rail properties and service responsibilities, specifically including freight terminal operations in the Northeast corridor, to financially responsible persons, including financially responsible rail carriers, hereafter referred to as "acquiring railroads" as defined in section 411–3 of this part.

(b) As a part of the process set forth in subsection (a), the Secretary shall consult with rail carriers, representatives of employees of Conrail and other rail carriers that may be affected, appropriate State and local government officials, shippers, consumer representatives, and potential purchasers or operators other than rail carriers. The Secretary shall hold conferences in developing plans for the sale of Conrail and persons attending or represented at such conferences shall not be liable under the antitrust laws of the United States with respect to any discussion at such conference, or with respect to any agreements reached at such conferences.

(c) Any agreement for the transfer of Conrail rail properties and service responsibilities (hereinafter "freight transfer agreements") shall specify the rail properties and the service responsibilities to be transferred to the acquiring railroad, the price to be paid for rail properties transferred, and shall include such other terms as the Secretary, consulting with Conrail, and the acquiring railroad consider appropriate.

(d) Not later than 1 year after the transfer

agreements are implemented pursuant to section 412–14 of this chapter, the Secretary shall provide for the formation by rail carriers of one or more terminal companies, to be operated as private corporations without Federal operating subsidy to provide switching and terminal services in the Northeast Corridor without preference to the traffic of any rail carrier. Notwithstanding the provisions of the preceding sentence, the Secretary shall not be required to provide for the formation of such terminal companies if he certifies in writing to the Congress that, in his judgment, individual acquiring railroads are capable of assuring adequate freight terminal operations in the Northeast Corridor.

PROFITABILITY DETERMINATION

SEC. 412–12. (a) It is the intent of the Congress that the Secretary shall, to the extent practicable in light of Conrail's financial performance, make every effort to transfer the Conrail rail system to responsible private sector ownership as a single entity.

(b) Except as provided in section 412–17 of this chapter, the Secretary may propose the sale of Conrail as an entity after June 1, 1982. The Secretary may not propose the transfer of individual Conrail lines to separate purchasers until August 1, 1983, if the Conrail Advisory Board has made an affirmative finding under subsection (e)(1) of this section. If a negative finding is made under subsection (e)(2) of this section, such transfers may take place on or after December 1, 1982.

(c) Prior to December 1, 1982, the Conrail Advisory Board shall periodically review the performance of Conrail to determine whether Conrail is meeting the goals set forth in section 411–2 of this part and report its findings to the Congress.

(d)(1) As soon as possible after financial results are available for the period June 1, 1982 through November 30, 1982, the Conrail Advisory Board shall determine whether Conrail has become profitable and requires no further Federal financial assistance beyond amounts authorized by this part and available for obligation under appropriations acts enacted prior to the date such determination is made.

(2) As used in this section "profitable" refers to the generation of net income in accordance with ICC accounting principles: *Provided, however,* That there shall be excluded from any determination of whether Conrail is profitable the following:

(A) Payments made by Conrail for any labor protection obligations to the extent Conrail has not received full reimbursement therefor from the United States;

(B) The cost of any labor severance program;

(C) Any payments made by Conrail with respect to its 7.5 percent Convertible Debentures due January 1, 2011, and Series A Preferred Stock; and

(D) Net costs to Conrail attributable to passenger operations:

And provided further, That in any such determination of profitability there shall be included all amounts received by Conrail from any States, counties, municipalities or political subdivisions thereof.

(e)(1) If the Conrail Advisory Board determines that Conrail has become profitable, then any proposal for the transfer of Conrail lines that is proposed by the Secretary shall provide for the transfer of the Conrail system as a whole until August 1, 1983.

(2) If the Conrail Advisory Board determines that Conrail has not become profitable, then the Secretary shall provide for the transfer of Conrail properties and service responsibilities, under one or more transfer agreements, subject to the procedures and requirements set forth in this subpart.

(f) The Conrail Advisory Board shall be composed of the—

(1) Secretary of the Treasury;

(2) Comptroller General of the United States;

(3) Secretary of Transportation;

(4) Chairman of the United States Railway Association; and

(5) Chairman of the Board of Directors of Conrail.

The action of a majority of the Conrail Advisory Board shall constitute the action of the Board.

(g) As used in this section—

(1) "net income" refers to net income as determined under the Commission's uniform system of accounts for rail carriers, subject to the adjustments provided under this section; and

(2) "transfer of the Conrail system as an entity" refers to—

(A) sale of Conrail stock; or

(B) sale of substantially all Conrail rail properties in a single transaction.

CREDITS FOR TRANSFER EXPENSES

SEC. 412–13. (a) All reasonable expenses which are incurred in negotiations for the purchase of a rail line by a rail carrier who subsequently purchases such line in accordance with the provisions of this chapter shall be credited against the total purchase price for such line, if such purchaser entered into such negotiations in good faith within 6 months after the date of enactment of this part.

(b) Expenses for labor protection for a maximum of a 12-month period incurred by a purchaser of a rail line in accordance with the provisions of this chapter as a result of protective conditions imposed by the Secretary pursuant to section 414–7 of this part, shall be credited against the total purchase price for such line, if such purchaser entered into such negotiations in good faith within 6 months after the date of enactment of this part.

CONSOLIDATION OF AGREEMENTS

SEC. 412–14. (a) The Secretary shall ensure that freight transfer agreements entered into under the authority of this chapter provide for the continuation of the optimum level of self-sustaining rail service, consistent with the needs of the service area, the long-term viability of acquiring railroads operating in the private sector and the preservation and enhancement of transportation competition.

(b) The freight transfer agreements entered into under this chapter shall include as a common term a transfer date not later than 36 months after the date of enactment of this part.

(c) The Secretary shall consolidate, for purposes of approval and review, all freight transfer agreements. If the Secretary acts to grant preliminary or final approval to the freight transfer agreements, the Secretary shall include in his determination a listing of those rail properties not specified in such agreements for transfer, with respect to which rail services are to be discontinued on the transfer date.

PUBLIC COMMENT AND CONGRESSIONAL NOTIFICATION

SEC. 412–15. (a) Subject to the limitations of section 412–12 of this chapter, if the Secretary grants preliminary approval to the transfer agreements, the Secretary shall publish a summary of the agreements, together with a proposed determination of approval, in the Federal Register, requesting public comment. The period for comment shall be not less than 60 days. The Secretary shall then transmit the transfer agreements and any proposed modifications of the transfer agreements to the Attorney General. The Attorney General shall, within 10 days of receipt of such transmittal, advise the Secretary as to whether any transfer agreement or combination of agreements would create or maintain a situation inconsistent with the antitrust laws, and the Secretary shall give due consideration to any such advice that may be rendered. The transmittal to the Attorney General shall contain such information as the Attorney General may require in order to advise the Secretary as to whether the transfer agreements under consideration would create or maintain a situation inconsistent with the antitrust laws.

(b) The Secretary shall also transmit the transfer agreements and any proposed modifications of the transfer agreements to the Commission on the same date that the Secretary transmits them to the Attorney General. The Commission shall, within 10 days of receipt of such transmittal, advise the Secretary as to the effect of any transfer agreement or combination of agreements on the adequacy of transportation to the public and whether any transfer agreement or combination of agreements would have an adverse effect on other rail carriers or competition among rail carriers.

(c) After consideration of comments received, and any advice rendered by the Attorney General and the Commission, but no later than 90 days after the close of public comment, the Secretary may grant final approval to the transfer agreements. With the consent of the acquiring railroad, the Secretary may modify a transfer agreement prior to granting such final approval. Final approval of a transfer agreement by the Secretary and the implementation of such agreement shall not be subject to judicial review.

(d) If the Secretary grants final approval to the freight transfer agreements, the Secretary shall, within 10 days of such approval, transmit a copy of the agreement to each House of Congress, together with the Secretary's determination of final approval. The Secretary shall deliver the transfer agreements to both Houses of Congress and to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. The transfer agreements shall be deemed approved at the end of 120 calendar days unless both the House of Representatives and the Senate pass a resolution during such period stating that they do not favor the transfer agreements.

(e) On the same date that the Secretary submits a copy of the transfer agreements to each House of Congress, the Secretary shall also submit a copy of such agreement to the Attorney General and the Commission. Within 30 days after the date of receipt of such agreement, the Attorney General and the Commission shall submit reports to the Congress setting forth their views on the matters outlined in subsections (a) and (b) of this section.

PERFORMANCE UNDER AGREEMENTS; EFFECT

SEC. 412–16. (a) If both Houses of Congress have not acted to disapprove the transfer agreements within the period specified by section 412–15(d) of this chapter, rail properties shall be conveyed and service responsibilities of Conrail shall be transferred in accordance with the transfer agreements. Such transfers shall not be subject to the provisions of subtitle IV of title 49, United States Code, or, with respect to the issuance and sale of securities to the United States or Conrail for the purpose of financing such transfers, to the registration and prospectus delivery requirements of the Securities Act of 1933, or to the provisions of the laws of any State with respect to the issuance and sale of securities.

(b) Notwithstanding any other provision of law, but subject to section 412–17 of this chapter, on the date rail properties and service responsibilities are transferred under the transfer agreements—

(1) the acquiring railroad shall be deemed a rail carrier subject to subtitle IV of title 49, United States Code, and shall be deemed

qualified thereunder to provide the service responsibilities assumed; and

(2) Conrail shall be deemed to have discontinued rail service over any line of railroad conveyed under the agreements and all other Conrail rail properties; and, notwithstanding any provision of Federal or State law, shall be relieved of any contractual or other obligation to provide such service.

LIGHT DENSITY RAIL SERVICE

SEC. 412–17. (a) As a part of each transfer negotiation authorized and directed by section 412–11 of this chapter, the Secretary shall promote the inclusion of those additional Conrail lines that connect with, and only with, the line or lines that are the subject of particular transfer negotiations (hereafter "associated branch lines"), and which are financially viable.

(b) The Secretary may, at any time after the date of enactment of this part, request Conrail to determine whether any particular branch line is necessary to achieve profitability by Conrail, as such term is defined in section 412–12 of this chapter. Within 30 days after the date of which such request is made, Conrail shall make and submit such determination to the Secretary.

(c) At any time after the date of enactment of this part, the Secretary may enter negotiations for the transfer of—

(1) any rail lines which are the subject of an abandonment proceeding pending before the Commission;

(2) rail properties which are located in the States of Rhode Island and Connecticut; and

(3) branch lines which carried less than 3,000,000 gross ton miles of traffic per mile in the preceding calendar year and which have been identified by Conrail as not necessary for the achievement of profitability, pursuant to the provisions of subsection (b) of this section.

The Secretary may transfer any such lines in accordance with the terms of an agreement entered into by the Secretary under this subsection, except that no branch line identified in paragraph (3) of this subsection may be transferred before the expiration of the time period specified in subsection (b). Any transfer in accordance with this subsection shall not be subject to congressional review, but shall take effect on the date of such transfer by the Secretary.

(d) In the event that a transfer agreement granted final approval by the Secretary under section 412–15 of this chapter does not provide for the continuation of rail service on an associated branch line, or other Conrail line not designated for transfer, that an affected State or shipper concludes is essential, that State or shipper, or any combination of such States and shippers, may immediately enter negotiations with the Secretary for the transfer of identified associated branch lines or other Conrail line not designated for transfer without rail-common carrier status under the requirements of subtitle IV of title 49, United States Code, to an entity designated by the State, shipper, or combinaton thereof, for continued operation free of the common carrier obligations and other requirements of subtitle IV of title 49, United States Code. Conrail shall convey an associated branch line or other Conrail line not designated for transfer in accordance with the terms of an agreement entered into by the Secretary under this subsection.

(e)(1) The Secretary may transfer lines in accordance with the provisons of this section for nominal consideration, if justified by the public benefit associated with continued rail service.

(2) The provision, by an entity other than a rail carrier, of rail service resulting from a transfer completed under the authority of this section shall not be subject to regulation under subtitle IV of title 49, United States Code.

ABANDONMENTS AND DISPOSITION OF PROPERTY

SEC. 412–18. (a) Any agreement authorized under this section or sections 412–11 of this chapter shall provide that net proceeds of liquidation (the net of costs of disposition and labor protection, if any) for transferred or leased property which is abandoned within 5 years after the transfer date shall be paid to Conrail or its successors in interest.

(b) With respect to all transfers and sales of rail properties pursuant to the provisions of this part, application for abandonment of service over the lines associated with such transfers and sales shall not be commenced for at least 1 year after the date of any such transfer or sale.

OTHER TRANSACTIONS

SEC. 412–19. (a)(1) The Secretary shall, by regulation, prescribe standards and procedures for the disposition of Conrail rail properties with respect to which service has been discontinued under this chapter. Such regulations shall accord preference to financially responsible persons, including a financially responsible class III rail carrier (but not a class I or II rail carrier), who seek to acquire such rail properties for continued rail use within Federal operating subsidy.

(2) For purposes of State law governing the reverter of interests in real property and any deeds or other instrument conveying such interests, rail properties with respect to which service has been discontinued by Conrail under this chapter shall be deemed to have been in continuous rail use if, within 2 years after the transfer date, such properties are again devoted to a use qualifying for the continuation of the interest claimed.

(b) Following the expiration of 2 years after the transfer date, and consistent with its obligations to provide for the satisfaction of valid claims, Conrail may, without further approval by any person (other than its Board of Directors), dispose of its remaining assets and seek dissolution under the laws of the State in which it is incorporated.

AUTHORIZATION FOR APPROPRIATION

SEC. 412–20. There are authorized to be appropriated for the purchase of series A preferred stock under section 216 of the Regional Rail Reorganization Act of 1973 in order to maintain essential rail services during the transfer process provided for by this chapter $1,000,000 for fiscal year 1982. Such sums may remain available until expended.

Subpart 3—Protection For Conrail Employees

WORKFORCE REDUCTION PROGRAM

SEC. 413–1. (a) Conrail may terminate the employment of certain employees, in accordance with this section, upon the payment of an allowance of $200 for each month of active service with Conrail or with a railroad in reorganization, but in no event may any such termination allowance exceed $25,000.

(b) Within 90 days after the date of enactment of this part, Conrail shall determine, for each location, the number of employees that Conrail needs to separate under subsection (a) of this section.

(c)(1) Within 90 days after the date of enactment of this part, Conrail shall notify its employees of their rights and responsibilities under this section.

(2) Within 90 days after the date of enactment of this part, Conrail shall notify each train and engine service employee eligible to be sparated under paragraph (3) of this subsection that such employee may be entitled to receive a separation payment under this section if such employee files a written request to be separated. Such notice may be revised from time to time.

(3) If the number of employees who request to be separated pursuant to paragraph (2) of this subsection is greater, in engine service at any location, than the number of excess firemen at the location, and in train service at the location than the number of excess second and third brakemen, as determined by Conrail, Conrail shall separate the employees described in paragraph (2) of this subsection in order of seniority beginning with the most senior employee, until the excess firemen and second and third brakemen positions at the location, as determined by Conrail, have been eliminated.

(d) If the number of employers who are separated pursuant to subsection (c)(3) is less at any location than the number of excess firemen and second and third brakemen in freight service at such location, as determined by Conrail, Conrail may, after 210 days after the date of enactment of this part, designate for separation employees in engine service or train service respectively in inverse order or seniority, beginning with the most junior employee in active service at such location until the excess firemen, and second and third brakemen in freight service, at that location have been eliminated. An employee designated under this paragraph may choose (1) to furlough himsif voluntarily, in which case the junior employee protected under the firemen manning or crew consist agreements or any other agreement or law, in the same craft or class at such location, may be separated instead and receive the separation allowance; or (2) to exercise his seniority to another location, in which case Conrail may separate, under the provisions of this paragraph, the junior protected employee in active service at the location to which seniority ultimately is exercised.

(e)(1) Conrail shall refrain from filling one fireman (helper) position for each employee in engine service separated in accordance with this section.

(2) Conrail shall have the right to refrain from filling one brakeman position in excess of one conductor and one brakeman on one crew in freight service for each employee in train service who is separated in accordance with this section.

(3) Positions permitted not to be filled under this subsection shall not be filled in different types of freight service actually operated at or from the location in a sequence to be agreed upon between Conrail and the general chairman representing classes or crafts of employees having jurisdiction over the positions to be not filled. If no such agreement is reached, Conrail may designate the position to be not filled.

(4) Notwithstanding paragraphs (1) and (2) of this subsection, Conrail shall retain all rights it has under any provision of law or agreement to refrain from filling any position of employment.

(f) Conrail and representatives of the various classes and crafts of employees to be separated may agree on procedures to implement this section, but the absence of such agreement shall not interfere with implementation of the separations authorized by this section.

(g) Conrail shall have the right to assign, allocate, reassign, reallocate, and consolidate work formerly performed on the rail properties acquired pursuant to the povisions of this part from a railroad in reorganization to any location, facility, or position on its system if it does not remove such work from coverage of a collective-bargaining agreement and does not infringe upon the existing classification of work rights of any craft or class of employees at the location or facility to which such work is assigned, allocated, reassigned, reallocated, or consolidated.

SEPARATION ALLOWANCE

SEC. 413–2. (a) Any employee who is deprived of employment shall be eligible for a separation allowance in addition to any wages or vacation pay otherwise due to the employee as a result of services rendered.

(b) The amount of the separation allowance shall be determined as follows:

Years of completed service		
At least	But less than	Amount of allowance
0	6	$0.
6	16	$1,000 for each year of completed service over 5.
16	25	$10,000 plus $2,000 for each year of completed service over 15.
25		$30,000.

(c) Conrail shall pay 50 percent of the separation allowance not later than 30 days after the employee's separation, and the remaining 50 percent not later than 90 days after separation.

(d) Notwithstanding any other provision of law, the separation allowance provided by this section shall be considered taxable earnings for purposes of the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.) on the same basis as if the employee's last daily compensation had been paid for the number of regular pay periods successive to the date of separation necessary to aggregate earnings equal to the amount of the allowance. Conrail shall be liable for railroad unemployment taxes, and the employee shall be eligible for subsequent benefits under the Railroad Unemployment Insurance Act, as if the allowance had been so paid.

PREFERENTIAL HIRING

SEC. 413–3. (a) Any employee who is deprived of employment shall have the first right of hire by any other rail carrier for a vacancy in a class or craft, or for a nonagreement employee a nonagreement vacancy for which he is qualified, in which he was employed by Conrail or a predecessor carrier for not less than 1 year, except where such a vacancy is covered by (1) an affirmative action plan, or a hiring plan designed to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency; or (2) a permissible voluntary affirmative action plan. For purposes of this section, a rail carrier shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.

(b) The rights afforded to employees under this section shall be no less than to the rights afforded under section S of the Milwaukee Railroad Restructuring Act (45 U.S.C. 907) and section 105 of the Rock Island Transition and Employee Assistance Act (45 U.S.C. 1004).

CENTRAL REGISTER OF RAILROAD EMPLOYMENT

SEC. 413–4. (a) The Board shall prepare and maintain a register of persons separated from railroad employment after at least 1 year of completed service with a rail carrier who have declared their current availability for employment in the railroad industry. The register shall be subdivided by class and craft or job position of prior employment and shall be updated periodically to reflect current availability.

(b) Each entry in the register shall include, or provide access to, basic information concerning the individual's experience and qualifications.

(c) The Board shall place at the top of the register those former railroad employees entitled to priority under applicable provisions of law, including this part.

(d) As soon as is practicable, but not later than 60 days after the transfer date, Conrail shall provide to the Board the names of its former employees who elect to appear on the register and who have not been offered employment with acquiring railroads.

(e) Each rail carrier shall timely file with the Board a notice of vacancy with respect to any position for which the railroad intends to accept applications from persons other than current employees of that carrier.

(f) The Board shall, through distribution of copies of the central register (or portions thereof) to rail carriers and employee representatives and through publication of employment information derived from vacancy notices filed with the Board, promote the placement of former railroad employees possessing requisite skills and experience in appropriate positions with other rail carriers.

(g) In addition to its responsibilities under subsections (a)–(f) of this section, the Board shall facilitate the filing of employment applications with respect to current vacancies in the industry by former railroad employees entitled to priority under applicable provisions of law, including this part.

(h) The provisions of this section shall cease to be effective on the expiration of 5 years from the date of enactment of this part.

MOVING EXPENSES

SEC. 413–5. (a) Any employee who is deprived of employment and is required to make a change of residence, prior to the expiration of 3 years from the transfer date, in order to obtain employment with another rail carrier, shall be eligible for a moving expense benefit under this section. The Board is authorized to pay or reimburse verifiable expenses. Application for the benefit shall be made within 60 days after the date on which the employee vacates the former residence.

(b) The following expenses are eligible for reimbursement:

(1) the actual expenses of moving the employee's household and personal effects;

(2) the actual, necessary traveling expenses of the employee and immediate family;

(3) the closing costs involved in disposing of the employee's residence and acquiring a new residence, including (A) a realtor's fee of not more than $3,000; and (B) any loss in the sale of the employee's home for less than its fair market value; and

(4) if the employee holds an unexpired lease on a dwelling used as the employee's residence, reimbursement for any loss in securing the cancellation of the lease, not to exceed loss attributable to that portion of the term of the lease extending 2 years from the date of cancellation.

(c) In no event shall the total moving expense benefit paid to any employee exceed $5,000.

(d) The moving expense benefit for which an employee may be eligible under this section shall be reduced by the amount of any new career training assistance paid by the Board to the employee under section 413–6 of this subpart.

NEW CAREER TRAINING ASSISTANCE

SEC. 413–6. (a) An employee who is deprived of employment may receive from the Board reasonable expenses for training in qualified institutions for new career opportunities.

(b) To be eligible for assistance under this section, an employee—

(1) must first exhaust any Federal educational benefits available to such employee under any existing program; and

(2) must begin the course of training within 2 years following the date of separation from Conrail.

(c) Reasonable expenses for assistance under this section are to be determined by the Board on the basis of an application therefor filed by an employee with the Board.

(d) No assistance may be provided under this section after the expiration of 4 years from the transfer date.

(e) As used in this section—

(1) the term "expenses" means actual, reasonable expenses paid for room, board, tuition, fees, or educational material in an amount not to exceed $5,000; and

(2) the term "qualified institution" means an educational institution accredited for payment by the Veterans' Administration under chapter 36 of title 38, United States Code, or a State-accredited institution which has been in existence for not less than 2 years.

(f) The new career training assistance for which an employee may be eligible under this section shall be reduced by the amount of any moving expense benefit paid by the Board to the employee under section 413–5 of this subpart.

MEDICAL INSURANCE

SEC. 413–17. (a) Any employee deprived of employment shall be entitled to continuation of medical insurance coverage for a period of not more than 6 months from the date of separation. The Board shall fund the premium amount of such coverage.

(b) Medical insurance coverage under this section shall not be available to an employee during any period the employee is engaged in full-time employment with respect to which group medical insurance coverage is available. For purposes of administering this provision, the Board may require the employee periodically to provide a certificate of employment status and eligibility for coverage under this section.

COMMUTER EMPLOYEES

SEC. 413–8. (a) An employee of Conrail who is transferred to Amtrak Commuter under subpart 4 of this part who, within 3 years of the date of such transfer, is unable through the exercise of seniority to obtain a position as a result of a reduction in force occasioned by a transfer of commuter service responsibility to a commuter authority under subpart 2 of this part, and who has not received a firm offer of employment from the commuter authority on the transfer date from Amtrak Commuter, shall be considered an "employee deprived of employment" eligible for benefits under this subpart.

(b) The separation allowance to which an employee is entitled under subsection (a) of this section (incorporating section 413–2 of this subpart) shall be paid from funds authorized and appropriated under section 413–11 of this subpart. For purposes of determining the "years of completed service" of an employee described in subsection (a) of this section, there shall be included any period of employment with Amtrak Commuter during which compensation was credited for purposes of the Railroad Retirement Act, as amended (45 U.S.C. 231 et seq.).

(c) Any Conrail employee who is transferred to Amtrak Commuter or a commuter authority and who is separated because of a collective-bargaining agreement under section 414–2 of this part shall be considered an "employee deprived of employment" eligible for benefits under this subpart.

(d) The separation allowance to which any employee is entitled under subsection (c) of this section (incorporating section 413–2 of this subpart) shall be paid from funds authorized and appropriated under section 413–11 of this subpart.

AUTHORITY OF THE BOARD AND THE SECRETARY

SEC. 413–9. (a) The Board may prescribe such regulations as may be necessary to carry out its duties under this part, including appropriate requirements to effect the hiring of persons entitled to priority under law.

(b) In carrying out its duties under this part, the Board may exercise such powers, duties, and remedies provided in subsections (a), (b), and (d) of section 12 of the Railroad Unemployment Insurance Act (45 U.S.C. 362 (a),(b), and (d)) as are not inconsistent with the provisions of this part.

(c) The Secretary shall transfer to the Board, and the Board is authorized to allocate to Conrail and Amtrak, as required, funds appropriated to carry out this part.

(d) The Secretary is authorized to assist

the Board in carrying out its responsibilities under this part.

RELATIONSHIP TO OTHER LAWS; REPEALS

SEC. 413–10. (a)(1) Sections 504(a), 504 (b), 505, 506, 507, 508, and 509 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771 et seq.), are repealed effective October 1, 1981: *Provided*, That benefits accrued as of October 1, 1981, as a result of events that occurred wholly prior to October 1, 1981, shall be disbursed, and any dispute or controversy regarding those benefits shall be determined under the terms of the law in effect on September 30, 1981, and the authorization contained in section 509 of such Act shall remain available for these purposes.

(2) Effective October 1, 1981, the items in the section analysis of the Regional Rail Reorganization Act of 1973 relating to sections 505, 506, 507, 508, and 509 are repealed.

(b)(1) The provisions for employee protection contained in subpart 4 of this part, and, in the case of Conrail employees, in this subpart and subpart 4 of this part, shall be the exclusive protections for employees adversely affected by transfer agreements authorized by this part, superseding on October 1, 1981, any other employee protection provisions of Federal or State law, or any applicable contract or agreement: *Provided*, That nothing in this section shall be construed to affect the applicability of the Railroad Retirement Act (45 U.S.C. 231 et seq.) or the Railroad Unemployment Insurance Act, as amended (45 U.S.C. 351 et seq.).

(2) Any employee who accepts assistance or claims any right or benefit under this subpart or subpart 4 of this part shall be deemed to have waived any employee protection otherwise available to such employee with respect to an employment relationship with Conrail or any transfer of properties or service obligations under this part under any Federal or State law, or any applicable contract or agreement.

(c) Section 11 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 910) and section 107 of the Rock Island Transition and Employee Assistance Act (45 U.S.C. 1006) (relating to maintenance of certain employee lists) are repealed.

(d) Section 216(b)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)(3)) and section 509(b)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)(1)) are repealed.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 413–11. (a) There are authorized to be appropriated to the Secretary to carry out this subpart not to exceed $1,000,000.

(b) There are authorized to be appropriated to the Board for administrative expenses incurred as a result of responsibilities under this part not to exceed $1,500,000.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, nothing in this section shall be construed to authorize the appropriation of funds for use in any fiscal year prior to fiscal year 1982.

(d) Amounts appropriated under this section are authorized to remain available until expended.

Subpart 4—Terms of Labor Assumption

Chapter 1—PASSENGER EMPLOYEES

IMPLEMENTING AGREEMENTS

SEC. 414–1. (a) Within 210 days after the date of enactment of this part, Conrail, commuter authorities that intend to operate commuter service, and representatives of the various crafts or classes or employees of Conrail to be transferred to the commuter authorities shall enter into an implementing agreement in accordance with subsection (c) of this section.

(b) Within 210 days after the date of enactment of this part, Conrail, Amtrak Commuter, and representatives of the various crafts or classes or employees of Conrail to be transferred to Amtrak Commuter shall enter into an implementing agreement in accordance with subsection (c) of this section.

(c) The implementing agreements required by subsections (a) and (b) of this section shall—

(1) determine the number of employees to be transferred to Amtrak Commuter or the commuter authority, as applicable;

(2) identify the specific employees of Conrail to whom Amtrak Commuter or the commuter authority offers employment;

(3) determine the procedure by which such employees may elect to accept employment with Amtrak Commuter or the commuter authority;

(4) determine the procedure for acceptance of such employees into the employment of Amtrak Commuter or the commuter authority;

(5) determine the procedure for determining the seniority of such employees in their respective crafts or classes in the system of Amtrak Commuter or the commuter authority, which shall, to the extent possible, preserve their prior passenger seniority rights; and

(6) ensure that all such employees are transferred to Amtrak Commuter or the commuter authority not later than 1 year after the date of enactment of this part.

(d)(1) If no agreement with respect to the matters described in subsection (c) is reached within 210 days after the date of enactment of this part, the parties to the negotiations shall, within an additional 10 days, select a neutral referee. If the parties are unable to agree upon the selection of such a referee, the National Mediation Board shall immediately appoint a referee.

(2) The referee shall commence hearings on the matters described in subsection (c) not later than 10 days after the date he is selected or appointed, and shall render a decision within 30 days after the date of commencement of such hearings. All parties may participate in the hearings, but the referee shall have the only vote.

(3) The referee shall resolve and decide all matters in dispute with respect to the negotiation of the implementing agreement or agreements. The referee's decision shall be final and binding on the parties, and shall constitute the implementing agreement or agreements between the parties.

(e) If Amtrak Commuter transfers commuter services and properties to a commuter authority pursuant to section 412–8(d) of this part, Amtrak Commuter, the commuter authority, and representatives of the various crafts or classes of employees to be transferred to the commuter authority shall enter into an implementing agreement in accordance with subsection (c) of this section. If no agreement is reached by the date services and properties are transferred, the dispute shall be resolved by a neutral referee in accordance with subsection (d) of this section.

COMMUTER SERVICE COLLECTIVE-BARGAINING AGREEMENTS

SEC. 414–2. (a) Prior to the date Amtrak Commuter or a commuter authority commences operation of commuter service previously operated by Conrail, Amtrak Commuter or a commuter authority, as applicable, and the representatives of the various classes or crafts of employees to be transferred to Amtrak Commuter or a commuter authority pursuant to the provisions of this part shall enter into new collective-bargaining agreements with respect to rates of pay, rules, and working conditions. The collective-bargaining agreements between Conrail and the representatives of the various classes and crafts of employees to be transferred shall apply until the new agreements are entered into.

(b) If new collective-bargaining agreements are not entered into by the date specified in subsection (a), any party to the negotiations relating to such agreements or a Governor of any State through which the service that is the subject of the dispute is operated may request the President to establish an emergency board to investigate and report on such dispute in accordance with this section. Upon such a request, the President shall immediately establish an emergency board.

(c) The emergency board shall conduct a public hearing on the dispute at which parties to the dispute may appear and provide testimony setting forth the reasons for their failure to enter into a new collective-bargaining agreement. The hearings shall be concluded within 40 days after the date the emergency board is established, and the parties to the dispute shall, within 20 days after the conclusion of the hearing, submit to the emergency board final offers for settlement of the dispute.

(d) Within 30 days after it has received all final offers for settlement of the dispute, the emergency board shall recommend to the President the offer which it considers most reasonable.

(e) During the period beginning on the date the emergency board is established under this section and ending 30 days after the board makes its recommendation to the President, no change, except by agreement, shall be made by the parties in the conditions out of which the dispute arose.

(f) If the emergency board selects a final offer submitted by a carrier and the employees of such carrier engage in any work stoppage arising out of the disptue, such employees shall not be eligible during the period of such work stoppage for benefits under the Railroad Unemployment Insurance Act.

(g) If the emergency board selects a final offer submitted by the employees and the carrier refuses to accept the final offer submitted by the employees and the employees of such carrier engage in any work stoppage arising out of the dispute, the carrier shall not participate in any benefits of any agreement between carriers which is designed to provide benefits to such carriers during a work stoppage.

(h) For purposes of this section, "representatives of various crafts or classes of employees" shall be limited to a council of three representatives selected by crafts or classes of Conrail employees. In the event that such crafts or classes are unable to agree on such representatives, the National Mediation Board shall appoint a council of three representatives within 10 days of being requested to make such determination.

(i) If Amtrak Commuter transfers commuter services and properties to a commuter authority pursuant to section 412–8(d) of this part, the commuter authority and representatives of the various classes of crafts of employees to be transferred shall enter into new collective-bargaining agreements prior to the date services and properties are transferred. If no agreement is reached by such date, the emergency board procedures set forth in this section shall apply. The collective-bargaining agreement between Amtrak Commuter and the representatives of the various classes of crafts of employees to be transferred shall apply until the new collective-bargaining agreement is entered into.

CHAPTER II—FREIGHT EMPLOYEES

LABOR TRANSFER AGREEMENTS

SEC. 414–3. (a) An acquiring railroad and recognized employee representatives shall enter into an agreement for the purpose of facilitating the orderly transfer of employees on terms fair and equitable to affected employees of Conrail and employees of acquiring railroads.

(b) In the event a labor transfer agreement has not been executed at least 30 days prior to the transfer date, then sections 414–4, 414–5, 414–6, and 414–7 of this chapter shall govern the rights and responsibilities of affected employees and the acquiring railroad incident to the service transfer.

(c) The mandatory provisions of sections 414–4, 414–5, 414–6, and 414–7 of this chapter shall not apply to any acquiring railroad, or to any employee, whose rights and responsibilities are defined in an agreement entered into pursuant to subsection (a) of this section.

(d) This section shall not be construed to prohibit acquiring railroads and recognized employee representatives from (1) entering into agreements covering two or more acquiring railroads; or (2) modifying the terms of an agreement following a particular transfer date through the collective-bargaining process of the Railway Labor Act; nor shall the failure to reach agreement under this section be deemed an event authorizing any strike or job action.

SELECTION OF EMPLOYEES

SEC. 414–4. (a)(1) In preparation for assumption of rail service responsibilities under this part, an acquiring railroad shall determine the probable number of positions by class and craft, necessary to provide service over each line segment selected for transfer under this part. The acquiring railroad shall further determine the probable number of its own existing positions in each class or craft, if any, that would be eliminated as a result of consolidation or coordination of service incident to a transaction under this part. The acquiring railroad shall then determine the number of new positions to be created in connection with assumption of rail service responsibility on a line segment by subtracting from the probable number of positions necessary to provide service, the probable number of existing positions to be abolished that are currently occupied by employees of the acquiring railroad who are available to fill positions on the transferred line segment without being required to make a change in residence.

(2) The acquiring railroad shall provide notification of the determinations required by this subsection to recognized employee representatives as soon as practicable, but not later than 60 days prior to the transfer date.

(b)(1) With respect to each line segment selected for transfer under this part, the acquiring railroad shall make preliminary inquiry concerning availability for employment of all Conrail employees involved in the provision of service on the line segment. The acquiring railroad shall make final offers of employment to a sufficient number of such employees selected in order of seniority in each relevant class and craft, as may be required to fill the new positions determined to be necessary under subsection (a) of this section. If requested, Conrail shall assist an acquiring railroad in making the preliminary inquiries and offers of employment required by this section.

(2) In the event the acquiring railroad is unable to fill the necessary number of new positions related to the provision of service on a particular line segment from the ranks of Conrail employees who are available for service on the line segment without change of residence, the acquiring railroad shall make offers of employment:

(A) first, to Conrail employees whose present reporting points are not more than 30 miles from the new reporting point; and

(B) second, to Conrail employees whose current reporting points are more than 30 miles distant, exhausting the rolls of potential offerees at closer existing points before offers are made at more remote points.

Offers made under subparagraphs (A) and (B) of this paragraph shall be made in order of seniority by class and craft to employees who have not theretofor received offers of employment from an acquiring railroad.

(3) Any Conrail employee who is offered and accepts employment under paragraph (2) that necessitates a change in residence shall be entitled to a moving expense benefit under section 413–5 of this part, but shall not be deemed to have been deprived of employment in any other respect.

COLLECTIVE-BARGAINING AGREEMENTS

SEC. 414–5. (a) A Conrail employee accepting employment with an acquiring railroad shall be subject to the coverage of all contracts, schedules and agreements negotiated under the Railway Labor Act and in effect between the acquiring railroad and its employees concerning rates of pay, rules, working conditions, and fringe benefits, and shall be bound by, and entitled to benefits under, provisions of such contract, schedules, and agreements in the same manner and to the same extent as other employees of the acquiring railroad working in the same class and craft. Where the acquiring railroad has no such contracts, schedules and agreements, the rates of pay, rules, working conditions and fringe benefits shall be prescribed by the acquiring railroad pending negotiations under the Railway Labor Act.

(b) An acquiring railroad shall not be required to take over or assume any contract, schedule or agreement in effect between Conrail and its employees.

(c) This section shall not be construed to prohibit an acquiring railroad and recognized employee representatives from entering into such implementing agreements as may be necessary and appropriate to facilitate an orderly transfer of rail service responsibilities under this part.

SENIORITY RIGHTS

SEC. 414–6. A Conrail employee who is offered and accepts employment with an acquiring railroad shall have the same date of seniority on the acquiring railroad as the employee enjoyed with Conrail, in the class and craft employed by the acquiring railroad unless, by agreement between the acquiring railroad and recognized employee representatives, it is determined that a particular line segment including the transferred employee's former seniority district shall be included in (1) an existing seniority district of the acquiring railroad; or (2) a newly defined seniority district including both new and existing positions. In the event such an agreement is entered into, the agreement shall define the seniority rights of transferred employees.

LABOR PROTECTION OBLIGATIONS OF ACQUIRING RAILROADS

SEC. 414–7. In the event recognized employee representatives and an acquiring railroad are unable to reach agreement under section 414–3 of this chapter, the Secretary shall, after consultation with the parties, impose protective conditions for transferred employees, and employees of the acquiring railroad who may be significantly affected by a service transfer under this part, that are substantially equivalent to those imposed by the agreement of March 4, 1980, between parties involved in Midwest rail restructuring (the "Miami accords") notwithstanding the provisions of section 414–5 of this chapter. The determination of the Secretary under this section shall not be subject to chapters 5 and 7 of title 49, United States Code, and shall be subject to judicial review only as provided in section 416–1 of this part.

ARBITRATION OF DISPUTES

SEC. 414–8. Any dispute or claim arising from the application to any employee, other than a nonagreement employee, of (1) sections 414–4, 414–5, or 414–6 of this chapter; or (2) protective conditions imposed under section 414–7 of this chapter, shall be subject to adjustment under section 3 of the Railway Labor Act (45 U.S.C. 153): *Provided*, That nothing in this subpart shall be construed to prohibit an acquiring railroad and recognized employee representatives from entering into agreements interpreting or providing for the application of any provision of this subpart.

DEFINITION

SEC. 414–9. As used in this subpart, "acquiring railroad" means (1) any class I or class II rail carrier (including any entity that attains such status on the transfer date) that acquires property for rail use or assumes responsibility for service under subpart 2 of this part; and (2) any terminal company established under the authority of subsection 412–11(c) of this part, regardless of its classification.

Subpart 5—Transfer of Functions of the United States Railway Association

DEFINITIONS

SEC. 415–1. Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended by striking "and" after paragraph (18), by redesignating paragraph (19) as paragraph (20), and by inserting a new paragraph (19) to read as follows:

"(19) 'successor authority' means the Secretary with respect to certain functions of the Association and its Finance Committee, other than the conduct of litigation under sections 303(c) and 306 and the duties under section 308 of this Act, as such functions are assumed and carried out by the Secretary in accordance with section 201(1) of this Act; and".

FORMATION AND STRUCTURE

SEC. 415–2. Section 201 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711) is amended by adding at the end thereof the following:

"(l)(1) No later than January 1, 1982—

"(A) the Secretary shall assume and carry out as successor authority to the Association all functions, powers, and duties that are assigned to the Association and to its Finance Committee under this Act and any appropriations Acts: *Provided, however,* That the transfer of authority shall not limit the authority of the Association to carry out the litigation functions under sections 303(c) and 306 of this Act, including related administrative functions, and the functions under section 308 of this Act. Any litigation associated with the functions, powers, and duties assumed by the Secretary under this subsection shall be the responsibility of the Attorney General; and

"(B) the Association shall transfer to the Secretary, or as otherwise designated by the Secretary, the Conrail securities held by the Association and property, including intellectual property such as computer programs of the Association or its rights to property subsequently owed to the Association by contractors or others, which are primarily related to and support the conduct of the functions which the Association transfers to the Secretary. To the extent that property is needed to support both the Association's functions and the functions transferred to the Secretary, the Secretary and the Board of Directors of the Association shall reach agreement on joint use of such property.

"(2) Pursuant to agreement between the Board of Directors of the Association and the Secretary, specific functions, powers, and duties may be transferred to the Secretary from time to time to prior to the mandatory transfer date. Upon the assumption of specific functions, powers, and duties by the Secretary, the Association shall transfer to the Secretary all property, authorizations, and unobligated balances of appropriations, allocations, reimbursables, and funds which support the conduct of such functions, as identified by agreement between the Secretary, and the Board of Directors of the Association.

"(3) The Secretary shall adopt, until repromulgation under the authority of the Department of Transportation, those regulations of the Association which the Secretary designates by notice in the Federal Register as necessary for the assumption of the Secretary's new responsibilities under this subsection.

"(4) The Secretary shall, upon assumption of all functions, powers and duties referred to in paragraph (1), assume the financial obligations of the Association issued under sections 210, 211, and 306 of this Act.

"(5) All contracts (other than employment contracts) and loans of the Association associated with the functions being transferred to the Secretary which are in effect at the time of the transfer of authority shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the Secretary or any other authorized official pursuant to the power granted by this subsection, by the terms of the document, a court of competent jurisdiction, or by operation of law.

"(6) The Secretary is authorized, subject to the civil service appointment and classification laws, to select, appoint, employ, and fix the compensation of such officers and employees as are necessary to carry out the Secretary's functions, powers, and duties under this subsection.".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 415–3. Section 214 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724) is amended—

(1) in subsection (a), by inserting immediately after the first sentence the following: "In addition, there are authorized to be appropriated, in fiscal year 1982 and thereafter, to the Secretary for purposes of preparing the reports and exercising other functions to be performed by him under this Act such sums as are necessary, not to exceed $2,500,000, to remain available until expended."; and

(2) in subsection (c), by inserting immediately after the first sentence the following: "There are authorized to be appropriated to the Association for purposes of carrying out its administrative expenses under this Act such sums as are necessary, not to exceed $15,000,000 for the fiscal year ending September 30, 1982, and not to exceed $4,000,000 for the fiscal year ending September 30, 1983.".

SUCCESSOR AUTHORITY TO THE UNITED STATES RAILWAY ASSOCIATION

SEC. 415–4. Sections 202 (except paragraphs (4) and (5) of subsection (a), and subsections (c), (d), (f), and (g) of section 202), 210, 212, and 216, sections 301 through 307, section 504, and section 601 of the Regional Rail Reorganization Act of 1973 are amended by inserting—

(1) "or successor authority" immediately after "the Association" or "Finance Committee", wherever either appears; and

(2) "or successor authority's" immediately after "Association's" wherever it appears.

TECHNICAL AMENDMENTS

SEC. 415–5. The heading of title II of the Regional Rail Reorganization Act of 1973 and the item in the section analysis relating to title II of such Act are each amended to read as follows:

"TITLE II—UNITED STATES RAILWAY ASSOCIATION AND SUCCESSOR AUTHORITY"

DEPARTMENT OF TRANSPORTATION ACT

SEC. 415–6. Section 4 of the Department of Transportation Act (49 U.S.C. 1653) is amended by adding at the end thereof the following:

"(j) The Secretary shall, no later than January 1, 1982, assume and carry out, as successor authority to the United States Railway Association, all functions, powers, and duties except the litigation activities and the duties under section 308 assigned to the Association under the Regional Rail Reorganization Act of 1973 and any appropriation Acts. The Secretary's assumption of such functions, powers, and duties shall be carried out in accordance with section 201(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711(1)).".

UNITED STATES RAILWAY ASSOCIATION REPORTS

SEC. 415–7. (a) Title III of the Regional Rail Reorganization Act of 1973 is amended by adding at the end thereof the following:

"UNITED STATES RAILWAY ASSOCIATION REPORTS

"SEC. 308. (a)(1) The Association shall prepare and submit to Congress periodic reports on the progress of the Secretary in carrying out the provisions of titles II, III, and IV of this Act.

"(2) This report shall also include an evaluation of the performance of the Corporation in order to keep the Congress informed as to matters which may affect the quality of rail services in the Northeast and which may affect the security of Federal funds invested in the Corporation.

"(b)(1) The Association shall prepare and submit to Congress a final report on the transfer agreements which the Secretary is required to transmit to Congress under section 412–15(d) of the Northeast Rail Service Act of 1981. The report shall be submitted on the same date as the Secretary's transmittal of such agreements to Congress.

"(2) The report shall include an evaluation of the effect of the transfer agreements on rail service in the Northeast, railroad employees, the economy of the region, other rail carriers in the Northeast and elsewhere, and any other matter which the Association considers appropriate. The report shall also include recommendations with respect to approval, disapproval, or modification of the transfer agreements.".

Subpart 6—Miscellaneous Provisions

JUDICIAL REVIEW

SEC. 416–1. (a) Notwithstanding any other provision of law, the special court shall have original and exclusive jurisdiction over any civil action—

(1) for injunctive, declaratory, or other relief relating to the enforcement, operation, execution, or interpretation of the provisions of this part,

"(8) 'restructuring' means (A) any activity (including a consolidation, coordination, merger or abandonment) which (i) involves rehabilitation, or improvement of a facility or the transfer of a facility, and (ii) improves the long-term profitability of any railroad freight system through the achievement of higher average traffic densities or improved asset utilization; or (B) the transfer from the Corporation to any railroad or financially responsible person (as defined in section 10910(a)(1) of title 49, United States Code) for common carrier rail service of ownership or operating rights on any rail line owned or operated by the Corporation where the Secretary determines that such acquisition will provide needed transportation benefits, and that such line will not require further Federal subsidy;".

(b) Section 505(a)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(a)(1)) is amended by inserting immediately after "railroad" the following: "(or any financially responsible person, as defined in section 10910(a)(1) of title 49, United States Code, who acquires from the Corporation for common carrier rail service any rail line owned by the Corporation on the date of enactment of the Northeast Rail Service Act of 1981)".

(c) Section 505(b)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(b)(2)) is amended by amending clause (C) to read as follows: "(C) the public benefits, including any significant railroad restructuring, to be realized from the project to be financed in relation to the public costs of such financing and whether the proposed project will return public benefits sufficient to justify such public costs or, where the application relates to a rail line owned or operated by the Corporation immediately prior to its acquisition by a railroad or financially responsible person (as defined in section 10910(a)(1) of title 49, United States Code) for common carrier rail service, whether the financial assistance applied for under this section will further the public interest in transferring rail lines from the Corporation to the private sector, and avoid the need for any further Federal subsidy.".

(d) Section 509(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following:

"(3) Not more than 50 percent of the funds received by the Secretary from amounts appropriated under subsection (a) of this section shall be reserved to provide rehabilitation and improvement assistance for facilities transferred from the Corporation after the date of enactment of the Northeast Rail Service Act of 1981.".

(e) Section 509(b)(4) of the Railroad Revitalization and Regulatory Reform Act of 1976, as redesignated by subsection (4) of this section, is amended by striking "and (2)" and inserting in lieu thereof ", (2) and (3)".

TRANSFER TAXES AND FEES; RECORDATION

SEC. 416–4. (a)(1) All transfers or conveyances of any interest in rail property (whether real, personal, or mixed) which are made under this part shall be exempt from any taxes, imposts, or levies now or hereby imposed, by the United States or by any State or any political subdivision of a State, on or in connection with such transfers or conveyances or on the recording of deeds, bills of sale, liens, encumbrances, easements, or other instruments evidencing, effectuating, or incident to any such transfers or conveyances, whether imposed on the transferor or on the transferee. Such transferors and transferees shall be entitled to record any such deeds, bills of sale, liens, encumbrances, easements, or other instruments and to record the release or removal of any preexisting liens or encumbrances of record with respect to properties so transferred or conveyed, upon payment of any appropriate and generally applicable charges to compensate for the cost of the service performed.

(2) This section shall not apply to Federal income tax laws.

(b) Transfer of designated real property (including any interest in real property) authorized by subpart 2 of this part shall have the same effect for purposes of rights and priorities with respect to such property as recordation on the transfer date of appropriate deeds, or other appropriate instruments, in offices appointed under State law for such recordation: *Provided, however,* That acquiring railroads shall proffer such deeds or other instruments for recordation within 36 months after the transfer date as a condition of preserving such rights and priorities beyond the expiration of that period. Conrail shall cooperate in effecting the timely preparation, execution, and proffering for recordation of such deeds and other instruments.

APPLICABILITY OF OTHER LAWS

SEC. 416–5. The provisions of the Administrative Procedure Act (including the Government in the Sunshine Act, the Federal Advisory Committee Act, and the Freedom of Information Act), section 102(2)(C) of the National Environmental Policy Act of 1969, the National Historic Preservation Act of 1966, and section 4(f) of the Department of Transportation Act of 1966 are inapplicable to actions taken in negotiating, approving, or implementing service transfers under subpart 2 of this part.

TRANSFER OF SECURITIES

SEC. 416–6. (a) The clerk of the special court shall convey to the Secretary within 10 days after the date of enactment of this part the series B preferred stock and the common stock of Conrail which are then on deposit with the special court pursuant to section 303 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743).

(b) The Secretary is authorized to hold and to exercise all rights that pertain to the

Conrail securities conveyed under subsection (a) of this section, and any other securities of Conrail that have been or may be conveyed to the Secretary under any agreement or pursuant to the terms of subpart 5 of this part or the terms of any other law.

SATISFACTION OF CLAIMS

SEC. 416–7. No distribution of the assets of Conrail shall be made with respect to any claims of the United States, including the securities issued pursuant to section 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726), until all other valid claims against Conrail have been satisfied, or provision has been made for satisfying such claims.

REGULATIONS

SEC. 416–8. The Secretary may issue such regulations as may be necessary to implement the provisions of this part.

REHABILITATION AND IMPROVEMENT FINANCING

SEC. 416–9. Section 505(b)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(b)(2)) is amended—

(1) in the third sentence, by striking "When making" and all that follows to "(C)" and inserting in lieu thereof the following: "When making such a determination, the Secretary shall evaluate and consider in the following order of priority (A) the availability of funds from other sources at a cost which is reasonable under principles of prudent railroad financial management in light of the railroad's projected rate of return for the project to be financed and the railroad's rate of return on total capital (represented by the ratio which such carrier's net income, including interest on a long-term debt, bore to the sum of average shareholder's equity, long-term debt, and accumulated deferred income tax for fiscal year 1975) as determined in accordance with the uniform system of accounts promulgated by the Commission, (B) the interest of the public in supplementing such other funds as may be available in order to increase the total amount of funds available for railroad financing, and"; and

(2) by adding at the end thereof the following: "Finally, the Secretary shall assign the highest priority to those meritorious applications of carriers operating under section 77 of the Bankruptcy Act unable to generate such funds in the private sector.".

NORTHEAST CORRIDOR FREIGHT COSTS

SEC. 416–10. (a) Within 120 days after the date of enactment of this part, the Commission shall determine an appropriate costing methodology for compensation to Amtrak with respect to the provision of freight services over Amtrak's tracks, rights-of-ways, and other facilities, unless Conrail and Amtrak have agreed on such a methdology by such date.

(b) Any determination by the Commission under subsection (a) of this section shall be effective on the date of such determination, and any agreement of parties under this section shall be effective on the dates specified in such agreement.

(c) Any such determination or agreement shall not apply to any compensation paid to Amtrak prior to the date of such determination or date so specified, as the case may be, for related costs described in subsection (a) of this section.

(d) Nothing in this section shall preclude Conrail or other railroads and Amtrak from entering into agreements, after the determination of the Commission or their initial agreement under this section, with respect to costs described in subsection (a) of this section.

(e) Any determination by the Commission under this section shall be final and shall not be reviewable in any court.

(f) The Commission shall have the same powers to implement this section as are available to the Commission under subtitle IV of title 49, United States Code.

RECAPITALIZATION

SEC. 416–11. If the Secretary determines that recapitalization of Conrail would advance the purposes of this part, he is authorized to prepare a plan of recapitalization of Conrail and to direct Conrail to effect the recapitalization according to the plan. Conrail shall, notwthstanding any other provision of law, effect such a recapitalization within 90 days. A plan of recapitalization under this section shall not adversely affect any financial interest of any creditor of Conrail other than the United States.

ORGANIZATION AND STRUCTURE OF CONRAIL

SEC. 416–12. (a) Section 301(j) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(j)) is amended to read as follows:

"(j) SIGNAL SYSTEMS.—If, within 2 years after the date of enactment of the Northeast Rail Service Act of 1981, the Corporation applies for the permission of the Secretary to substitute manual block signal systems for automatic block signal systems on lines on which less than 20,000,000 gross tons of freight are carried annually, such application shall be acted upon by the Secretary within the 90-day period beginning on the date it is submitted to the Secretary."

(b) Trackage rights granted under the fiscal system plan to a profitable railroad in the region (as that term is defined in section 102(15) of the Regional Rail Reorganization Act of 1973) that received a loan under section 211(a) of such Act shall be transferred to any successor carrier to that railroad.

SEPARABILITY

SEC. 416–13. If any provision of this part or the application thereof to any person or circumstances is held invalid, the remainder of this part and the application of such provision to other persons or circumstances shall not be affected thereby.

PART C—OTHER TRANSPORTATION PROGRAMS

NORTHEAST CORRIDOR IMPROVEMENT PROJECT

SEC. 421. Of the funds authorized to be appropriated pursuant to section 704(a)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976, not more than $215,000,000 is authorized to be appropriated for fiscal year 1982 and not more than $185,000,000 is authorized to be appropriated for fiscal year 1983.

RAIL SERVICE ASSISTANCE

SEC. 422. (a) Notwithstanding any other provision of law, the total amount authorized to be appropriated to the Department of Transportation for necessary expenses for rail service assistance authorized by section 5 of the Department of Transportation Act, as amended, shall not exceed $40,000,000 for the fiscal year ending September 30, 1982; $44,000,000 for the fiscal year ending September 30, 1983; and $48,000,000 for the fiscal year ending September 30, 1984.

(b) Notwithstanding any other provision of law, the total amount authorized to be appropriated to the Department of Transportation for the Minority Business Resource Center as authorized by title IX of Public Law 94–210, as amended, shall not exceed $5,000,000 for the fiscal year ending September 30, 1982; $5,500,000 for the fiscal year ending September 30, 1983; and $6,000,000 for the fiscal year ending September 30, 1984.

RAILROAD RESEARCH AND DEVELOPMENT

SEC. 423. Notwithstanding any other provision of law, the total amount authorized to be appropriated to the Department of Transportation for railroad research and development shall not exceed $40,000,000 for the fiscal year ending September 30, 1982; $44,000,000 for the fiscal year ending September 30, 1983; and $48,000,000 for the fiscal year ending September 30, 1984.

INTERSTATE COMMERCE COMMISSION

SEC. 424. Notwithstanding any other provision of law, the total amount authorized to be appropriated for necessary expenses of the Interstate Commerce Commission shall not exceed $77,900,000 for the fiscal year ending September 30, 1982; $80,400,000 for the fiscal year ending September 30, 1983; and $80,400,000 for the fiscal year ending September 30, 1984.

AIRPORT AND AIRWAY DEVELOPMENT

SEC. 425. Notwithstanding any other provision of law, the total amount of grants which the Department of Transportation is authorized to make from the Airport and Airway Trust Fund for airport development and airport planning and for grants under section 104(e) of the Airport Safety and Noise Abatement Act of 1979, shall not exceed an aggregate amount of $450,000,000 for the fiscal year 1981; $900,000,000 for the fiscal years 1981 and 1982; $1,350,000,000 for the fiscal years 1981, 1982, and 1983; and $1,800,00,000 for fiscal years 1981, 1982, 1983, and 1984.

MARITIME ADMINISTRATION

SEC. 426. (a) There are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Commerce for the fiscal year 1982, as follows:

(1) For payment of obligations incurred for operating-differential subsidy, not to exceed $417,148,000;

(2) For expenses necessary for research and development activities, not to exceed $12,910,000;

(3) For expenses necessary for operations and training activities, not to exceed $72,479,000, including not to exceed—

(A) $8,055,000 for reserve fleet expenses;

(B) $31,265,000 for maritime education and training expenses, including not to exceed $19,205,000 for maritime training at the Merchant Marine Academy maintained under section 1303 of the Merchant Marine Act, 1936, as amended, $10,180,000 for financial assistance to State maritime academies assisted under section 1304 of such Act, and $1,880,000 for expenses necessary for additional training provided under section 1305 of such Act; and

(C) $33,209,000 for other operations and training expenses.

(b) There are authorized to be appropriated for fiscal year 1982, in addition to the amounts authorized by subsection (a) of this section, such additional supplemental amounts for activities for which appropriations are authorized under subsection (a) of this section, as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

TRANSPORTATION RESEARCH AND SPECIAL PROGRAMS

SEC. 427. Notwithstanding any other provision of law, the total amount authorized to be appropriated to the Department of Transportation for expenses necessary to discharge the functions of the Research and Special Programs Administration shall not exceed $30,047,000 for the fiscal year ending September 30, 1982; $32,300,000 for the fiscal year ending September 30, 1983; and $32,300,000 for the fiscal year ending September 30, 1984.

PART D—HIGHWAY SAFETY PROGRAM

SHORT TITLE

SEC. 431. This part may be cited as the "Highway Safety Act of 1981".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 432. (a) The authorization contained in paragraphs (1), (2), (4), (5), (9), and (10)

of section 202 of the Highway Safety Act of 1978 for the fiscal year ending September 30, 1982, are hereby repealed. The following sums are hereby authorized to be appropriated.

(1) For carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, $77,000,000 per fiscal year for each of the fiscal years ending September 30, 1983, and September 30, 1984.

(2) For carrying out section 403 of title 23, United States Code (relating to highway safety research and development), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, $31,000,000 per fiscal year for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984.

(3) For carrying out sections 307(a) and 403 of title 23, United States Code (relating to highway safety research and development), by the Federal Highway Administration, out of the Highway Trust Fund, $10,000,000 for the fiscal year ending September 30, 1982, and $13,000,000 per fiscal year for each of the fiscal years ending September 30, 1983, and September 30, 1984.

(b) The unobligated balance of contract authority established in paragraphs (1) and (10) of section 202 of the Highway Safety Act of 1978 shall lapse September 30, 1981.

HIGHWAY SAFETY PROGRAMS

SEC. 433. (a) Section 402(a) of title 23, United States Code, is amended to read as follows:

"(a) Each State shall have a highway safety program designed to reduce traffic deaths and injuries by identifying its highway safety problems, by adopting measures to reduce its highway safety problems, and by evaluating the effectiveness of such measures. As part of its highway safety program, each State shall achieve uniformity in the collection of traffic accident and other data related to highway safety, and uniformity in laws and practices that affect interstate motorists. In its highway safety program, each State shall include programs which the Secretary determines to be effective in reducing deaths and injuries, such as alcohol safety, emergency medical services, police traffic services, the collection of traffic accident data, bicycle safety, and pedestrian safety. Each State shall conduct its program in accordance with guidelines developed by the Secretary in cooperation with the States, their political subdivisions, appropriate Federal departments and agencies, and such other public and private organizations as the Secretary deems appropriate. The Secretary shall limit the use of sums authorized to be appropriated under this section to the purposes specified in this subsection.".

(b) Section 402(b)(1) of title 23, United States Code, is amended—

(1) in subparagraph (A), by inserting ", or a State agency designated by law," immediately after "Governor of the State";

(2) in subparagraph (B), by inserting ", or the State agency designated by law," immediately after "Governor", and by striking "uniform standards" and inserting in lieu thereof "guidelines"; and

(3) by striking subparagraphs (D) through (G).

HIGHWAY SAFETY PROGRAM REQUIREMENTS

SEC. 434. Subsections (h) and (j) of section 402 of title 23, United States Code, are hereby repealed.

SCHOOL BUS DRIVER TRAINING

SEC. 435. (a) Section 406 of title 23, United States Code, is hereby repealed.

(b) The analysis of chapter 4 of title 23, United States Code, is amended by deleting

"406. School bus driver training."

and inserting in lieu thereof

"406. Repealed.".

INNOVATIVE PROJECT GRANTS

SEC. 436. (a) Section 407 of title 23, United States Code, is hereby repealed.

(b) The analysis of chapter 4 of title 23, United States Code, is amended by deleting

"407. Innovative project grants."

and inserting in lieu thereof

"407. Repealed.".

NATIONAL MAXIMUM SPEED LIMIT

SEC. 437. (a) Sertion 154 of title 23, United States Code, is amended—

(1) by amending subsestion (f) to read as follows:

"(f) If the data submitted by a State pursuant to subsection (e) of this section show that the percentage of motor vehicles exceeding 55 miles per hour is greater than 50 percent, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 percent of the amount to the apportioned for the following fiscal year."; and

(2) by striking subsection (i).

PART E—COMMUNICATIONS

Subpart 1—Federal Communications Commission

AUTHORIZATION OF APPROPRIATIONS

SEC. 441–1. (a) Section 4 of the Communications Act of 1934 is amended by adding at the end thereof the following new subsection:

"(p) There are authorized to be appropriated, to carry out the functions of the Commission, $76,900,000 for the fiscal year ending September 30, 1982, $76,900,000 for the fiscal year ending September 30, 1983, and $76,900,000 for the fiscal year ending September 30, 1984, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs for each fiscal year.".

(b) The Communications Act of 1934 is further amended by inserting after section 5 a new section.

"CHARGES

"SEC. 6. (a) The Commission shall assess charges for the services listed in this subsection at the rates listed or at such modified rates as it shall establish pursuant to the provisions of subsection (b) of this section.

"Schedule of Charges:	
Private radio services:	
Marine coast stations—new, modifications, renewals.	$50.
Operational fixed microwave stations—new, modifications, renewals.	$50.
Aviation (ground stations)—new, modifications, renewals.	$25.
Land (mobile radio)—new, modifications, renewals.	$25.
Equipment approval services:	Type certification:
Receivers (except TV receivers)	$150.
All others (including TV receivers).	$500.
Type acceptance:	
Approval of subscription TV systems.	$1,500.
All others	$250.
Type approval:	
Ship (radio telegraph) automatic alarm systems.	$5,000.
Broadcast equipment required to be approved under FCC rules.	$2,500.
Ship and lifeboat transmitters	$2,500.
All others	$1,000.
Cable television services:	Cable television relay service:
Construction permit	$250.
Renewals	$50.
Petitions for special relief—waivers.	$500.
Broadcast services:	Commercial TV stations (new and major change) construction permit:
Application fee	$1,000.
Hearing charge	$5,000.
Grant fee	3½ annual fee.
Commercial radio stations—new and major change construction permits:	
Application fee	$500.
Hearing charge	$5,000.
Grant fee	3½ annual fee.
Directional antenna license fee	300.
Translators and low power TV stations—new and major change construction permits:	Application fee:
Top 150 markets	$200.
Remaining markets	$100.
Hearing charge	$1,000.
Grant fee	$100.
Annual fee—commercial TV stations:	
Top 20 markets	$7,500.
21–40 market	$6,750.
41–60 market	$6,000.
61–80 market	$5,250.
81–100 market	$4,500.
101–120 market	$3,750.
121–140 market	$3,000.
141–160 market	$2,250.
161–180 market	$1,500.
181–balance	$750.
Annual fee—commercial radio stations:	
Class B and C—FM, greater than 5000W—AM.	$1,000.
Class A—FM, 1000W to 5000W—AM.	$500.
Less than 1000W—AM	$150.
Annual fee—low power TV stations.	$100.
Subscription TV stations—application fee	$2,500.
Station assignment and transfer fees:	
Application fee—TV stations	$1,000.
Application fee—radio stations	$500.
Hearing charges	$5,000.
Common carrier services:	Domestic public land base, dispatch, control, and repeater stations):
Initial construction permits, assignments, transfers	$250.
Renewals and modifications	$25.
Air-ground station initial construction permits, renewals, and modifications.	$25.
Cellular systems:	
Initial construction permits, assignments, transfers.	$1,000.
Annual fee per mobile unit	$3.
Rural radio service (central office, interoffice or relay facilities):	
Initial construction permits, assignments, transfers.	$100.
Renewals and modifications	$25.
Local television or point-to-point microwave radio service—initial construction permits, renewals (assignments, transfers, and modifications).	$150.
International fixed public radio service—public and control stations:	
Initial construction permits, assignments, transfers.	$500.
Renewals and modifications	$350.
Satellite services:	Commercial transmit/receive Earth stations:
Initial construction permit, assignments, transfers.	$1,500.
Renewals and modifications	$500.
Receive-only Earth stations:	
License	$250.
Renewals	$50.
Application for authority to construct and launch satellites.	$2,000.
Application for a satellite license	$20,000.
Multipoint distribution service:	
Initial construction permits, assignments, transfers.	$1,500.
Renewals	$100.
Sec. 214 applications—	
Applications for overseas cable construction.	5 per nautical route mile.
All other formal filings	$1,500.
Tariff filings:	
Filing charge	$300.
Special permission filing	$250.
Telephone equipment registration	$150.
Digital termination service	$150.

The Schedule of Charges established under this subsection shall be implemented not later than 180 days after the date of enactment of this subsection.

"(b)(1) The Commission may on an annual basis increase or decrease the amounts of the charges established in subsection (a). Increases or decreases shall apply on a pro rata basis to all categories of charges and shall be in the same proportion as the cumulative charges in the Commission's total budget appropriations for the preceding 2 fiscal years.

"(2) Increases or decreases made pursuant

to this subsection shall be adopted as a part of the Commission's rules and regulations.

"(3) Increases or decreases made pursuant to this subsection shall not be subject to judicial review.

"(c) The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section.

"(d) The Commission is authorized to prescribe by regulation an additional charge which may be assessed as a penalty for late payment of charges required by subsection (a). Such penalty shall not exceed 25 percent of the amount of the charge which was late.

"(e)(1) The charges established in this section shall not be applicable to any governmental body.

"(2) The Commission is authorized to waive or delay payment of any fee established in this section if it determines that the public interest would be served by such action.

"(f) Moneys received from charges established pursuant to this section shall be placed in the general fund of the Treasury to reimburse the United States for amounts appropriated for use by the Commission in carrying out its functions under this Act.

"(g) The authority to collect the charges established under this section shall be concurrent with the authorization of appropriations under subsection (p) of section 4.

"(h) The total amount of fees collected under this subsection in any fiscal year shall not exceed 50 percent of the sums appropriated pursuant to the authorization of appropriations contained in section 4(p).".

Subpart 2—National Telecommunications and Information Administration

AUTHORIZATIONS

SEC. 442–1. There is authorized to be appropriated for the administration of the National Telecommunications and Information Administration $16,500,000, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for fiscal year 1982.

Subpart 3—Public Telecommunications

SHORT TITLE

SEC. 443–1. This subpart may be cited as the "Public Telecommunications Act of 1981".

CORPORATION FOR PUBLIC BROADCASTING

SEC. 443–2. (a) Section 396(a) of the Communications Act of 1934 is amended to read as follows:

"Subpart C—Corporation for Public Broadcasting

"DECLARATION OF POLICY

"SEC. 396. (a) The Congress hereby finds and declares that—

"(1) it is in the public interest to encourage the growth and development of public audio and video programs, however delivered. Such programs may include those that may promote instructional, educational, informational, and cultural ends;

"(2) expansion and development of diversified audio and video programs depend on freedom, imagination, and initiative on both local and national levels;

"(3) the encouragement and support of public audio and video programs, while matters of importance for private and local development, are also of appropriate and important concern to the Federal Government;

"(4) it furthers the general welfare to encourage public audio and video program services which will be responsive to the interests of people both in particular localities and throughout the United States, and which will constitute an expression of diversity and excellence;

"(5) it is necessary and appropriate for the Federal Government to complement, assist, and support a national policy that will most effectively make public audio and video programs available to all citizens of the United States; and

"(6) the Corporation for Public Broadcasting created pursuant to the Public Broadcasting Act of 1967, as amended, is the appropriate entity to facilitate the development of public audio and video programs, and to afford maximum protection from extraneous interference and control of public telecommunications entities and systems.".

(b) Subsection (c) of section 396 of such Act is amended to read as follows:

"BOARD OF DIRECTORS

"(c)(1) The Corporation for Public Broadcasting shall have a Board of Directors (hereinafter in this section referred to as the 'Board'), consisting of the President of the Corporation and eight members appointed by the President, by and with the advice and consent of the Senate. No more than five members of the Board appointed by the President may be members of the same political party. The President of the Corporation shall serve as the Chairman of the Board.

"(2) The eight members of the Board appointed by the President (A) shall be selected from among citizens of the United States (not regular full-time employees of the United States) who are eminent in such fields as education, cultural and civic affairs, or the arts, including radio and television; and (B) shall be selected so as to provide as nearly as practicable a broad representation of various regions of the country, various professions and occupations, and various kinds of talent and experience appropriate to the functions and responsibilities of the Corporation.

"(3) The members of the initial Board of Directors shall serve as incorporators and shall take whatever actions are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act.

"(4) The term of office of each member of the Board appointed by the President shall be five years; except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

"(5) Any vacancy in the Board shall not affect its power, but shall be filled in the manner consistent with this Act.

"(6) Members of the Board shall attend not less than 50 percent of all duly convened meetings of the Board in any one calendar year. A member who fails to meet the requirement of the preceding sentence shall forfeit membership and the President shall appoint a new member to fill such vacancy not later than thirty days after such vacancy is determined by the Chairman of the Board.

"(7) Meetings of the Board shall be held in Washington, District of Columbia.".

(c) Subsection (d) of section 396 of such Act is amended to read as follows:

"Election of the Vice Chairman; Compensation

"(d)(1) Members of the Board shall annually elect one or more of their members as a Vice Chairman or Vice Chairmen.

"(2) The members of the Board shall not, by reason of such membership, be deemed to be officers or employees of the United States. They shall, while attending meetings of the Board or while engaged in duties related to such meetings or other activities of the Board pursuant to this subpart, be entitled to receive compensation at the rate of $150 per day including traveltime. Such compensation shall be paid only when such meetings or activities of the Board take place outside the Board member's State of residence. No Board member shall receive compensation of more than $10,000 in any one fiscal year. While away from their homes or regular places of business, Board members shall be allowed travel and actual, reasonable, and necessary expenses.".

(d) Subsection (e)(1) of section 396 of such Act is amended by—

(1) striking "the Chairman and any" and substituting "a"; and

(2) inserting "for services rendered" after "Corporation" the sixth time such word appears.

(e) Subsection (g) of section 396 of such Act is amended to read as follows:

"Purposes and Activities of Corporation

"(g)(1) In order to achieve the objectives and to carry out the purposes of this subpart, as set out in subsection (a), the Corporation is authorized to—

"(A) facilitate by the most cost-effective and efficient means possible the availability to all the people of the United States of public audio and video programs of high quality, diversity, creativity, excellence, and innovation, which are obtained from diverse sources, and made available through public telecommunications entities or through other entities on a noncommercial, nonprofit, or sustaining basis. The Corporation shall carry out the objectives of this subpart with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature; and

"(B) carry out its purposes and functions and engage in its activities in ways that will most effectively assure the maximum freedom of the public telecommunications entities and systems from interference with, or control of, program content or other activities.

"(2) In order to carry out the purposes set forth in subsection (a), the Corporation is authorized to—

"(A) obtain grants from and make contracts with individuals and with private, State, and Federal agencies, organizations, and institutions;

"(B) contract with or make grants to public telecommunications entities, and independent producers and production entities, for the production or acquisition of public audio and video programs to be made available for use by public telecommunications entities or other entities on a noncommercial, nonprofit, or sustaining basis;

"(C) establish and maintain, or contribute to, a library and archives of public audio and video programs and related materials and develop public awareness of, and disseminate information about, public audio and video programs by various means, including the publication of a journal;

"(D) hire or accept the voluntary services of consultants, experts, advisory boards, and panels to aid the Corporation in carrying out the purposes of this subpart, and the purposes set forth in subsection (a);

"(E) conduct (directly or through grants or contracts) research, demonstrations, or training in matters related to public television or radio broadcasting and the use of nonbroadcast communications technologies for the dissemination of noncommercial educational and cultural television or radio programs; and

"(F) take such other actions as may be necessary to accomplish the purposes of this subpart and the purposes set forth in subsection (a).

Nothing contained in this paragraph shall be construed to commit the Federal Government to provide any sums for the payment of any obligation of the Corporation which exceeds amounts provided in advance in appropriation Acts.

"(3) To carry out the foregoing purposes and engage in the foregoing activities, the Corporation shall have the usual powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code sec. 29–1001), except that the Corporation is prohibited form—

"(A) owning or operating any television

or radio broadcast station, system, or network, community antenna television system, interconnection system or facility, program production facility, or any public telecommunications entity, system, or network; and

"(B) producing audio and video programs or scheduling their electronic dissemination to the public via broadcast or cable technologies.

"(4) All meetings of the Board of Directors of the Corporation, including any committee of the Board, shall be open to the public under such terms, conditions, and exceptions as are set forth in subsection (k)(4).".

(f) Paragraph (2) of subsection (h) of section 396 of such Act is amended to read as follows:

"(2) Subject to such terms and conditions as may be established by public telecommunications entities receiving space satellite interconnection facilities or services purchased or arranged for in whole or in part with funds made available pursuant to this Act, other public telecommunications entities shall have reasonable access to such facilities or services for the distribution of public audio and video programs to public telecommunications entities. Any remaining capacity shall be made available to other persons for the transmission of public audio and video programs at a charge or charges comparable to the charge or charges, if any, imposed upon a public telecommunications entity for the distribution of public audio and video programs to public telecommunications entities. No such person shall be denied such access whenever sufficient capacity is available.".

(g) Subsection (k) of section 396 of such Act is amended to read as follows:

"Financing Open Meetings and Financial Records

"(k)(1)(A) There are authorized to be appropriated for operations of the Corporation pursuant to this subpart $110,000,000 for the fiscal year 1984, $100,000,000 for the fiscal year 1985, and $100,000,000 for the fiscal year 1986.

"(B) Funds appropriated under this subsection shall remain available until expended.

"(2)(A) The funds authorized to be appropriated by this subsection shall be used by the Corporation, in a prudent and financially responsible manner, solely for its grants, contracts, and administrative costs, except that the Corporation may not use any funds appropriated under this subpart for purposes of conducting any reception, or providing any other entertainment, for any officer or employee of the Federal Government or any State or local government.

"(B) Funds appropriated and made available under this subsection shall be disbursed by the Secretary of the Treasury on a quarterly basis, in such amounts as the Corporation certifies to the Secretary will be necessary to meet its financial obligations in the succeeding quarter. The Secretary may disburse such funds in any fiscal year only to the extent that the total amount of non-Federal financial support received by public broadcasting entities during the preceding fiscal year is equal to two times the amount to be disbursed by the Secretary.

"(3)(A) The Corporation shall reserve for distribution among the licensees and permittees of public television and radio stations not less than 60 percent of such funds in each fiscal year.

"(B)(i) The Corporation shall establish an annual budget of its Federal appropriations according to which it shall make grants and contracts for production of public audio and video programs by independent producers and production entities and public telecommunications entities, for acquisition of such programs by public telecommunications entities, for distribution of funds among public telecommunications entities, for engineering and program-related research, and for promotion of training and other projects designed to increase and enhance the role of minorities and women in public telecommunications.

"(ii) All funds contained in the annual budget of the Federal appropriations established by the Corporation under clause (i) shall be distributed to entities outside the Corporation and shall not be used for the general administrative costs of the Corporation, the salaries or related expenses of Corporation personnel and members of the Board, or for expenses of consultants and advisers to the Corporation.

"(iii) During each of the fiscal years 1981, 1982, 1983, 1984, 1985, and 1986 the annual budget established by the Corporation under clause (i) shall consist of not less than 95 percent of the funds made available by the Secretary of the Treasury to the Corporation pursuant to paragraph (2)(A).

"(C) In fiscal years 1981, 1982, 1983, 1984, 1985, and 1986, the Corporation may expand an amount equal to not more than 5 percent of the funds made available by the Secretary of the Treasury during such fiscal year pursuant to paragraph (2)(A) for those activities authorized under subsection (g)(2) which are not among those grant activities described in subparagraph (b).

"(4) Funds may not be distributed pursuant to this subsection to the Public Broadcasting Service or National Public Radio (or any successor organization), or to the licensee or permittee of any public broadcast station, unless the governing body of any such organization, any committee of such governing body, or any advisory body of any such organization, holds open meetings preceded by reasonable notice to the public. All persons shall be permitted to attend any meeting of the Board, or of any such committee or body, and no person shall be required, as a condition to attendance at any such meeting, to register such person's name or to provide any other information. Nothing contained in this paragraph shall be construed to prevent any such board, committee, or body from holding closed sessions to consider matters relating to individual employees, proprietary information, litigation, and other matters requiring the confidential advice of counsel, commercial or financial information obtained from a person on a privileged or confidential basis, or the purchase of property or services whenever the premature exposure of such purchase would compromise the business interests of any such organization. If any such meeting is closed pursuant to the provisions of this paragraph, the organization involved shall thereafter (within a reasonable period of time) make available to the public a written statement containing an explanation of the reasons for closing the meeting.

"(5) Funds may not be distributed pursuant to this subsection to any public telecommunications entity that does not maintain for public examination copies of the annual financial and audit reports, or other information regarding finances, submitted to the Corporation pursuant to subsection (l)(3)(B).

"(6)(A) The Corporation, in consultation with public television and radio licensees, shall review annually the percentage of funds reserved pursuant to paragraph (3)(A), and the criteria and conditions regarding the division and distribution of such funds among public television and radio stations.

"(B) The funds reserved for public broadcast stations pursuant to paragraph (3)(A) shall be divided into two portions, one to be distributed among radio stations and one to be distributed among television stations. Except as provided in paragraph (8), the Corporation shall make a basic program grant from the portion reserved for television stations to each licensee and permittee of a public television station that is on the air. The balance of the portion reserved for television stations and the total portion reserved for radio stations shall be distributed to licensees and permittees of such stations in accordance with eligibility criteria that promote the public interest in public audio and video programs, and on the basis of a formula designed to—

"(i) provide for the programing needs and requirements of stations in relation to the communities and audiences such stations undertake to serve;

"(ii) except as provided in paragraph (8), assure that each eligible licensee and permittee of a public radio station receives a basic program grant; and

"(iii) maintain existing and stimulate new sources of financial support for stations providing incentives for increases in such support.

"(7) The funds distributed pursuant to paragraph (3)(A) may be used at the discretion of the recipient for purposes related primarily to the production or acquisition of public audio or vido programs.

"(8) Funds distributed pursuant to this subpart to any public telecommunications entity which during any fiscal year has filed or was required to file a return with the Internal Revenue Service declaring unrelated business income related to station operations under sections 501, 511, and 512 of the Internal Revenue Code, shall refund to the Corporation an amount equal to the amount of unrelated business income tax paid as stated in such filed return.".

(h) Subparagraph (A) of subsection (l)(1) is amended by inserting "except that such requirement shall not preclude shared auditing arrangements between any public telecommunications entity and its licensee where that licensee is a public or private institution" after "United States".

(i) Subparagraph (B) of subsection (l)(3) of section 369 of such Act is amended by—

(1) striking "an annual" and substituting "a biannual" in clause (ii); and

(2) striking "annually" and substituting "biannually" in clause (iii).

DEFINITION

SEC. 443–3. Section 397 of the Communication Act of 1934 is amended by—

(1) striking paragraph (9);

(2) redesignating paragraph (10) as paragraph (9);

(3) inserting after paragraph (9) (as redesignated by paragraph (2) of this subsection) the following:

"(10) The term 'public audio and video programs' means programs licensed, distributed, and disseminated on a noncommercial, nonprofit, or sustaining basis.";

(4)(A) inserting ", a public broadcasting entity" after "station" in subparagraph (A) of paragraph (12); and

(B) inserting "directly or indirectly" after "services" in subparagraph (A) of paragraph (12), and

(5) striking "Health, Education, and Welfare" and substituting "Health and Human Services" in paragraph (15).

INFORMATION REQUIREMENT

SEC. 443–4. Section 398(b)(3) of the Communications Act of 1934 is amended by—

(1) striking "any information which the Corporation may require to satisfy itself that such" and substituting "such information as will demonstrate that the" in subparagraph (A);

(2) striking "requirements" and substituting "provisions" in subparagraph (A);

(3) striking the last sentence in subparagraph (A) and substituting: "The Secretary shall instruct the Corporation as to the type of information that the Corporation shall require that is probative of the issue of compliance with equal opportunity standards.";

(4) striking "is not satisfied that any such person is" and substituting "has reason to

believe that any such person is not" in subparagraph (B);

(5) striking "in employment" the first time it appears in subparagraph (B); and

(6) striking the last sentence of subparagraph (B).

PROHIBITION

SEC. 443–5. Section 399 of the Communications Act of 1934 is amended by—

(1) striking "; RECORDINGS OF CERTAIN PROGRAMS" in the heading thereof; and

(2) inserting "that receives a basic grant pursuant to this Act" after "station" in subsection (a).

REPEAL

SEC. 443–6. Section 399(b) of the Communications Act of 1934 is repealed.

AUTHORIZATIONS FOR APPROPRIATIONS

SEC. 443–7. Section 391 of the Communications Act of 1934 is amended by inserting "and $16,000,000 for the fiscal year 1982, $11,000,000 for the fiscal year 1983, and $7,000,000 for the fiscal year 1984," after "1981,".

EFFECTIVE DATE

SEC. 443–8. (a) Except as provided in subsection (b) the amendments made by this subpart shall take effect October 1, 1983.

(b) The amendments made by paragraph (4) of section 444–3, and sections 444–4, 444–5, 444–6, 444–7, and 444–9 shall take effect on the date of enactment of this subpart.

(c) any term of a member of the Board of Directors of the Corporation for Public Broadcasting that shall be expired on the effective date of subsections (a), (c) and (d) of section 444–2 of this subpart shall not be filled, and all other such expired terms occurring subsequent to enactment shall not be filled until the number of members of the Board appointed by the President has been reduced to less than eight. No member shall be eligible to serve in excess of two consecutive terms of five years each.

STUDY

SEC. 443–9. The Federal Communications Commission shall conduct a study of existing rules and regulations regarding on-air sponsorship identification by public television and radio licensees. The purpose of such study shall be to enable the Federal Communications Commission to allow such licensees to engage in activities that will not unduly restrict the ability of such licensees to give on-air credit to supporters of station programs and operations.

The cosponsors of Mr. Robert C. Byrd's amendment (UP No. 189) are: Mr. Hollings, Mr. Cranston, and Mr. Tsongas.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Will the Senator suspend. Let us have order in this Chamber, please. Will the Senate be in order.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator makes a point. The Senate is not in order. Senators wanting to talk please go to the cloakrooms. There will be order on the floor.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I think we know that the traditions of the Senate are not just casual traditions. We know that its procedures have not been developed accidentally, and this understanding knows no party lines. It is shared by Republicans and Democrats, without regard to the partisan control of the Senate.

I have offered an amendment which goes to the heart of the traditions and procedures of the Senate of the United States.

Although this amendment enjoys the almost unanimous support, if not the unanimous support, of the Members on my side of the aisle, it is not a partisan amendment. It is an amendment which I hope will enjoy the support of every Senator, Republican and Democrat, be he a freshman or be he the President pro tempore of the Senate.

This amendment would eliminate from the reconciliation bill all provisions that are not related to the process of cutting the budget. I support some of the provisions that would be eliminated by the adoption of this amendment, and I am sure that many other Members on this side of the aisle would probably do likewise.

My argument is not with the substance of these provisions but with the procedure which seeks to bring them before the Senate by including them in this reconciliation bill.

By the inclusion thereof in this bill we eliminate the hope of adequate debate, adequate opportunity to amend, and judicious consideration.

The reconciliation process was crafted by the authors of the 1974 Budget Act as a procedurally ironclad mechanism to roll back spending measures, and to keep spending levels within the limits set by the second concurrent budget resolution.

This mechanism was intentionally designed to foreclose some of the Senate traditions or procedures which allow for free and extensive debate.

Specifically, the motion to proceed to the consideration of this bill is not debatable, so it is a very privileged bill. Total debate on the bill is limited to 20 hours, thereby eliminating the need to invoke cloture on any amendment to the bill, or on the bill.

Amendments to the bill are limited to 2 hours in the first degree and 1 hour in the second degree. Any amendment to the bill is subject to a severe test of germaneness.

These very significant procedural changes were made because Congress recognized the need to provide an ironclad mechanism to control Federal spending. But they were not so crafted with the intent to open the door to bring before the Senate nonbudget-related items shielded from debate, protected from adequate consideration of amendments, and subject to the brute force of a tyrannical majority.

Some items which I wish to strike from this bill are controversial, some are probably not. The majority in this body today under the very able leadership of Senator HOWARD BAKER could hardly be characterized as dictatorial or tyrannical. I could not ask—as the leader of the Democrats—the leader of the minority for more consideration, more courtesy, more deference than the distinguished majority leader has consistently from the beginning shown to me and to my colleagues on this side of the aisle. But times change and majorities change in the Senate.

My amendment addresses a principle. I do not offer it with any partisan intent. I do not offer it in any partisan spirit. I do not charge the majority with any plot or any design. I feel that the problem I am addressing my remarks to here today has, to some extent, been promoted with good motives on a bipartisan basis and with the support of Senators on both sides of the aisle.

So again I say there is no plot, there is no sinister design, to so utilize this vehicle as to undermine the budget process or the integrity of the Senate or to take advantage of an ironclad time limitation to put something over on the minority.

I do not have the slightest thought that that is the case.

But this amendment addresses a principle that is important both to the majority and to the minority. It is important to Democrats and to Republicans, now and in the future. It is important to any single Senator in this body who may at some future time wish to stand on his feet as long as his physical and mental endurance will allow him to stand here and plead for his State, his region, his cause, and his people. This is a central and basic principle of the Senate for the entirety of its 192 years—free, full, unfettered debate.

This principle does not protect only the Senators on my side of the aisle because we are now in the minority. It protects every Senator in this Chamber no matter how small his State, no matter how sparse the population of his State, no matter how large his State.

Not only will the majority control of this body change—we have heard many times that history repeats itself; the majority has changed from one party to another throughout the history of the Senate—but Members of the majority party themselves will, also, on occasion, find themselves to be in the minority when the votes are counted.

So I appeal to every Senator on both sides of the aisle to look beyond today. I urge every Senator to look back at the history of the traditions and customs and the rules of this great body. I ask every Senator to look forward to the day when, if this amendment fails, the reconciliation procedure will become a mechanism to ram through this body legislation without adequate debate but which deserves full and free and unfettered debate.

This procedure can be utilized by a tyrannical majority, and that tyrannical majority could be on this side of the aisle on a future day and it can cross party lines. There could be a tyrannical majority in this body even now, not a Republican majority, not a Democratic majority but a tyrannical majority that cuts across party lines. That majority could, if it so wished, use this vehicle for its purposes. It could include any legislation one might wish to think of, other than a constitutional amendment. It could use this vehicle to include such legislation. The legislation would be under an ironclad time agreement, and free and unfettered debate would be avoided and judicial consideration would be avoided.

This legislation that is in the measure today, as I say, the extraneous legislation, is not legislation that I particularly oppose, as far as I know. I may support it. But where do we draw the line? If this procedure is not challenged now, where do we draw the line in the future?

Will we in some future day include legislation to abolish the court system in this country, except for the Supreme Court? Congress established the Federal court system and it has the authority to do that under the Constitution. And what Congress gives, it can take away. And such legislation, may I add, would be under a time limit of 20 hours.

Would we want to include legislation under such strict time limit imposing the death penalty for certain Federal crimes committed? I am supportive of such legislation if adequate due process is provided for. But would this be the appropriate vehicle to include such legislation? Labor reform. Obey-Railsback, campaign financing, Davis-Bacon, gas deregulation, civil rights—you name it. Any legislation at some future time could be included under this type of closed rule.

The Senate would have 20 hours in which to debate. And a tyrannical majority could further reduce that time under the provisions of the act to any number of hours that the majority wished to impose on the Senate, because such a motion to further reduce the time is not debatable and the 20 hours could be reduced to 5 hours or 3 hours or 2 hours or 1 hour. Whatever the majority has the votes to provide, the majority could impose as its will on the Senate.

At the present time, two-thirds of the Members voting are required to invoke cloture on a change in the Senate rules. But if this procedure is allowed to go unchallenged, at some future day a majority of the Senate can change the rules of the Senate by majority cloture. A motion to take up a proposed rules change is now debatable. It is the one thing that is debatable regardless of what time during the legislative day the motion to proceed is made. It is debatable. It can be filibustered. And it requires a two-thirds vote to cut off that filibuster on a change in the rules.

But the motion to proceed to this reconciliation measure is not debatable. Once it is before the Senate, 20 hours of debate are the maximum, and a majority vote is all that is necessary to pass the measure or enact an amendment.

So I say to you, this is a real Pandora's box if I ever saw one. It was never the intention of the drafters of the Congressional Budget and Impoundment Control Act to provide an avenue to circumvent the basic underpinnings of this great institution.

The committee system of authorizing programs after careful review, in-depth hearings, and informed drafting is a basic element in responsible legislation.

Including these extraneous authorizations in this measure, in most instances—and in any other reconciliation bill that will subsequently come before the Senate, in most instances with little review by the committee—jeopardizes the credibility and the effectiveness of the committee system. And as anyone who has observed Congress for any time knows, the committee system is one of the integral strengths of the Congress.

This reconciliation procedure has already been stretched well beyond the considerable role originally intended for it by the framers of the 1974 Budget Act.

The reconciliation process was to have begun after the appropriations process was completed, and after the second budget resolution is adopted.

For 2 straight years we have considered reconciliation as part of the first budget resolution.

The framers of the Budget Act envisioned reconciliation addressing the fiscal year which is about to end and the fiscal year about to begin on October 1 for which appropriations bills had just been enacted—not 3 years into the future, as this bill directs.

The framers of the Budget Act envisioned reconciliation as treating spending authority, basically appropriations and entitlements, borrowing, and contract authority. The bulk of this bill contains changes in authorization legislation, or at least a great portion of the bill contains changes in authorization legislation, which was never envisioned by the Budget Act.

While many Senators have raised concerns over the abrogations of the Budget Act, they have gone along in the name of fiscal restraint.

But when the budget process is stretched to the point where it no longer involves saving money, the line has to be drawn.

I draw that line with my amendment.

I know that the majority leader and many Senators from the other side of the aisle share the concerns that I have expressed. The distinguished majority leader worked very hard with me on Monday to develop an amendment which eliminated many extraneous matters from the bill. I know that he is concerned about the principle involved here.

I say again that this amendment deals with the principle, not the merits of the items being stricken by this amendment.

Mr. President, I served three terms in the House of Representatives. The House of Representatives fills an extremely important role under our constitutional system. But if there was one stroke of genius—and there was more—that came from the minds of those constitutional forbears, it was the Senate, because it is here where men will stand against the storms of political frenzy and in many instances throw the light of public scrutiny upon legislation which would otherwise be detrimental to the Republic.

I do not want to see the Senate become a second House of Representatives.

In the other body, they have what is known as a closed rule. Mr. President, this is a closed rule that governs the debate on the reconciliation bill. In many ways it is a closed rule. Perhaps, it is not the kind of closed rule that we generally talk about in the other body, where the Rules Committee allows a rule that will allow only one amendment or two amendments or three amendments—or none—to be offered, and may even designate the authors of those amendments, and limiting the time for debate. But it is a closed rule to the extent that there are only 20 hours—which can be further reduced by nondebatable motion if the majority of the Senate so wishes to further reduce the time. Debate on an amendment is also limited, and there is a strict rule of germaneness.

I would hope that we would understand that if we vote to uphold this procedure, we are going in the direction of a closed rule. There was never any intent in the minds of those who drafted this Budget Reform Act that it would be used to undermine the committee system, to undermine rule XXII, and undermine the integrity and uniqueness of the Senate as an institution.

I say to my friends that if the Senate upholds this bill against the amendment that I am offering today, every Senator in this body is going to rue this day and this vote, because it may be someone else's ox that is getting gored today. Or perhaps nobody's ox is getting gored except the Senate's ox. But one day it will be my ox, it will be my State, and the same prospect confronts every other Senator as we approach our decision on this particular amendment.

The amendment which I am offering will strike a number of sections as reported by the Commerce and Banking Committees. The Commerce Committee reported seven substantive legislative initiatives to the Budget Committee as part of their reconciliation instructions. Three of those issues were eliminated by the bipartisan amendment offered by Senator BAKER and me on Monday evening. The other four, however, still remain in the bill. My amendment would strike the following major sections:

Section 443, subsections 1–7, which establish an international telecommunications and information task force;

Section 441, subsection 2, which mandates a managing director and annual report on the Federal Communications Commission;

Section 445, subsection 1–4, which include the radio deregulation provisions; and

Section 446, subsections 1–3, which includes the television licensing provisions.

The most extensive list of nonbudget-related authorizations included in this bill were reported by the Banking, Housing, and Urban Affairs Committee. Those provisions include large portions of the Housing bill which recently passed the Senate. The major items which do not relate to the budget, but are included in this bill, which my amendment would strike are—

Section 321, subsection 1(b), which conditions authorizations for appropriations on enactment of policy changes contained in section 321–2 through 13.

Section 321, subsections 2 through 13 (except subsections 8(a), 9, 10, and 11) which change community development block grant (CDBG) program application and approval procedures; modify grant formulas; and change urban development action grant (URAG) program criteria.

Section 322, subsections 1(i) and 3 through 13, which modify assisted housing programs. Prohibit cities and States

with rent control or stabilization policies from receiving new construction funds.

Section 323, subsections 2 through 5, 7 through 10, and 13, which include miscellaneous amendments to housing programs and achieve no savings.

Section 324, subsections 1 through 18, which establish uniform nonjudicial procedures for foreclosure of HUD-owned mortgages.

Section 325, subsections 2 through 4, which allow the Secretary of Agriculture discretion in establishing income eligibility and interest subsidies for rural assisted housing and requires a report on rural housing.

Section 326, subsection 1, which exempts Hawaiian savings and loans from reserve requirements on checking accounts.

One of the most obvious examples of extraneous legislation left in this bill is the material on radio and television deregulation reported from the Commerce Committee. Section 445 incorporates the entire Radio Deregulation Act of 1981. The legislation, of minimal consequence to the budget of the Federal Communications Commission, accomplishes the deregulation of the radio industry, including, among other things, new procedures for selecting radio licensees and the termination of long standing program content requirements. Section 446 is identical to S. 601, the Television Licensing and Renewal Act of 1981. This legislation significantly revamps television licensing procedures, with important consequences to the future of commercial television. Again, there are no significant budgetary consequences, and therefore no overriding reason why this legislation ought to be included in the reconciliation bill.

These two issues would normally attract far more intense scrutiny from the public, the radio and television industries, and other Members of the Senate who are interested in communications matters. Yet despite the far-reaching importance of this legislation, only five pages of information are provided by the report on the reconciliation bill. No report of any substance has ever been provided. This is not the way the Senate should go about legislating, especially with regard to issues of such major consequence.

An argument has been made by some who support the inclusion of these nonbudget related housing measures in the reconciliation bill, that since the Senate already passed the housing bill, their inclusion does not damage the budget process nor Senate rules and traditions.

If this argument were to hold, should we not then attach to the reconciliation bill every measure which the Senate has passed? Either the reconciliation bill is a specially crafted, single-purposed, budget-cutting measure—or it is not.

If it is not, if it is to be a freight train on to which every major piece of authorizing legislation which has passed the Senate should be added, then it should not enjoy the procedural safeguards of limited debate, strict germaneness, and automatic cloture, which were built into the narrowly conceived budget-cutting devise known as reconciliation.

But this reconciliation bill does not include the housing bill as it passed the Senate. The Banking Committee, in a straight party line vote, selected among the provisions of the housing bill which passed the Senate. For example, FHA insurance provisions were in the housing bill as it passed the Senate. Yet, they are not in the reconciliation bill. The same applies to increased manufactured home loan limits and terms; reauthorization of the national flood insurance program; extension of the National Institute of Building Sciences authorization; Federal riot reinsurance program reauthorization; and repeal of the crime insurance program authorization.

I know that there are others who wish to speak and I will not further detain them long, perhaps a couple of minutes.

An argument has been made by some who support the inclusion of this nonbudget-related housing measure in the reconciliation bill that since the Senate already passed the housing bill, inclusion thereof here does not damage the budget process or Senate rules.

Mr. President, I understand there is a strong feeling of Senators, and I sympathize with their concerns. But that is entirely unrelated to the principle that is involved here today.

If that argument would hold, should we not attach to the reconciliation bill every measure the Senate has already passed? While it may be housing today, it could very well last year have been the surface mining amendments which I very much wanted and which were passed twice by the Senate and twice derailed in the other body.

It could be any other measure.

So I say, let us not yield to that argument, but I do not question the sincerity of purpose of those who take that position. I must utter a word of caution that this is a fundamental principle about which we are talking. It is not Democratic; it is not Republican.

Again I hasten to say as far as the leadership of the majority is concerned we could never think, much less say, that the Republican leadership has been tyrannical or dictatorial to date toward any of us on this side of the aisle. Actually, it has bent over backward to be considerate, fair, and understanding of our needs.

But, as I say, majorities do change.

I say either the reconciliation bill is a specially crafted, single-purpose, budget-cutting measure or it is not.

If it is not, if it is to be a horse or a freight train on which every major piece of authorizing legislation which has passed the Senate should be added, then why stop there? Why stop at legislation that has already been passed by the Senate? Why not just include all of the rest of the legislative calendar, send the authorizing committees home—abolish them—and put it all on this measure? We only have 20 hours of debate. We could get out on the 1st of July and spend the rest of the time back in the mountains of West Virginia and not have to stay around here.

But if it is going to be that kind of horse, Mr. President, then it should not enjoy the procedural safeguards of limited debate, strict germaneness, and automatic cloture—automatic cloture—which were built into the narrowly conceived budget-cutting device known as reconciliation.

Mr. President, I understand that there were some authorizing committees which were not so instructed by the Senate in the reconciliation instruction resolution that approached the Budget Committee to include in this reconciliation package legislation which those committees wanted to attach. But the Committee on the Budget said, "No, we don't have the authority to include your legislation."

At some future day, a majority in the Senate could instruct all committees, could issue instructions to all committees, and if this procedure is allowed to go unchallenged here, all authorizing committees at some future date—including the Committee on Rules of the Senate—could include legislation that has no budgetary impact, extraneous matter, in this reconciliation bill and Senators would not have the opportunity for free and full and unfettered debate.

This reconciliation bill, let me say, too, I want to make it eminently, preeminently, absolutely crystal clear——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BAKER. I yield 1 minute of my time, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, I need more than 1 minute.

Mr. HOLLINGS. Mr. President, I yield off the bill.

Mr. ROBERT C. BYRD. I thank the distinguished majority leader. I have been yielded 5 minutes off the bill.

Mr. President, I want to make it clear beyond any semblance of doubt that this amendment is not offered to block the consideration of the reconciliation measure; it is not offered as an obstacle to the reconciliation measure. I think that we can say on our side of the aisle that while we have differed with the majority on some of the details in this measure and on previous budget measures, most of us have agreed with the overall goals and dimensions and the scope, and the desire to restrain Federal spending, to be more prudent, and to balance the budget, if we can. And we have lent our assistance and our cooperation.

I said long ago that we would not delay the President's program for the sake of delay on this side of the aisle, we would cooperate. I have lived up to that statement. So, Mr. President, my amendment does not affect one thin dime insofar as the instructions ordered by the Senate some time ago are concerned or insofar as the budgetary requirements in those instructions are concerned. But I am fighting to uphold a principle that has been adhered to, and zealously defended, for 192 years in this body.

I do not think that the people of this country want to see the Senate legislate in this way because a very reasonable majority today can become a tyrannical majority tomorrow that will run roughshod over a minority and over the best interests of the people. The issue here is not whether a bill which has already passed the Senate can be included in the reconciliation bill. The issue is simply, do the provisions reported by the stand-

ing committees to the Budget Committee save money or not? If they do not, they do not belong in this bill.

A question was posed in our conference yesterday, "Do the people beyond the beltway really care? If we oppose extraneous legislation in this measure vigorously, will we be seen as obstructing the President's program."

I say, no, this is not an effort to obstruct the President's program. I say that people do not want far-reaching nonbudgetary legislation to be herded under a simple, single big tent and approved under an ironclad time agreement that prevents adequate debate on the measure, adequate debate on amendments, and judicious consideration. That is not the way the people want us to conduct our business. We all know that. We who support my amendment are trying to protect the people, the democratic process, and the Senate. I am not opposed to the reconciliation resolution. But I am opposed to the subversion of the budget process, and, indeed, the legislative process as we have known it heretofore in the Senate.

Today, I am asking all who cherish this institution and who regard the legislative process with esteem to reject this form of shortcut lawmaking.

Finally, Mr. President, I offer my apologies to the distinguished majority leader for keeping him waiting. I have perhaps spoken too long. I hope that I have not said anything that offends any Senator or that leaves the impression that what I am seeking to do here has any partisan objective. Rather, it has only the objective of protecting the principle of free debate, the budget process, the integrity of the institution, and the rights of a minority at all times in this great body which we all love.

I yield the floor.

The PRESIDING OFFICER. The Chair has a question of the Senator from Tennessee, the majority leader; Who is controlling the time in opposition?

Mr. BAKER. Mr. President, the order that was entered previously under designation made by me, I believe, and the minority leader as well, is that we yielded time for the time being to the distinguished chairman of the Budget Committee and the ranking member. The meaning of that designation in my view is that when necessary, both the minority leader and I may reclaim control for the purpose of speaking.

The PRESIDING OFFICER. The Senator's statement seems to be in conflict with the rule. If the Senator from New Mexico favors the amendment, then we have a question under the rule.

Mr. BAKER. Mr. President, I do not believe that is the case. Mr. President, I believe the Senator from New Mexico should speak for himself but I do not believe that is so.

In any case, under the act, I claim time temporarily for debate on this issue.

The PRESIDING OFFICER. Under the bill?

Mr. BAKER. On this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BAKER. I yield time.

Mr. HOLLINGS. The majority leader and the minority leader, under the Budget Act.

Mr. DOMENICI. Mr. President, I am in opposition to this amendment at this time. I am in control of the time, and I yield it to the majority leader. I do not have to do that.

Mr. BAKER. Mr. President, let us clarify this. I make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Under the situation I just described, under the act, the majority leader and the minority leader have control of time for debate on a reconciliation bill. Is that not correct?

The PRESIDING OFFICER. That is correct, but the Chair is not certain as to the position of the Senator from New Mexico. If he is in opposition to the amendment, it does present a problem that is covered by the rules. If he is opposing it or is in favor of it temporarily, that solves the problem.

Mr. BAKER. I do not mean to take a lot of time, Mr. President, but it is my position that either the majority leader or the minority leader, under the act, may reclaim control of the time on the bill or on any amendment to the bill, notwithstanding a prior designation of other Senators on their behalf. I now reclaim time in control and in opposition to this amendment, for the time being.

The PRESIDING OFFICER. The Senator does have time from the bill.

The Chair recognizes the majority leader, and he has time under the bill. The Senator may proceed, under the bill.

Mr. BAKER. I thank the Chair. It does not make any practical difference, and I will bring this matter up a little later. However, I say for the record at this point that it is my contention that, under the act, the majority leader and the minority leader have charge of the time for debate on the bill.

Mr. HOLLINGS. And on the amendment.

The PRESIDING OFFICER. The Chair does not wish to prolong this, but there is a question. The Chair reads from section 305(b)(2) of the Budget Control Act of 1974:

> Except, that in the event the manager of the concurrent resolution is in favor of any such amendment, motion, or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.

Mr. BAKER. My only point is that I do not want this time charged against the bill. I wish it charged against the amendment.

The PRESIDING OFFICER. If the Senator from New Mexico yields time——

Mr. BAKER. Mr. President, I accept it on that basis, and I will discuss this with the distinguished occupant of the chair and the Parliamentarian at a later time. At the moment, I accept the yielding by the distinguished chairman of the Budget Committee. Pursuant to that, I yield myself 10 minutes of the 30 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. BAKER. Mr. President, I appreciate the remarks made by the minority leader. They are kind and generous, in this acknowledgement of our efforts to jealously guard the prerogatives not only of the majority but also of the minority in this and every other matter that comes before the Senate.

I could not wish to have a more amicable and practical working relationship than that which I enjoy with the minority leader on every matter, or virtually every matter, that has been presented in this session of the Senate. I believe that inures to the benefit of the Senate as a whole.

With every day that goes by, however, I understand the burden of the leadership for the majority in the Senate, and I have a greater admiration and respect for the responsibilities that have been so well discharged by my colleague, who until recently was the majority leader on the Democratic side.

One of the things that occurred to me during the course of his presentation in support of his amendment was that the responsibility of the majority leader extends far beyond just the protection of the rights of the minority and, indeed, extends to the protection of the prerogatives, rights, and opportunities of the Senate as a whole, as one of the coordinate branches of the people's Government, the Congress of the United States.

That, Mr. President, is in preparation for saying that I conceive my duty, as I am sure the minority leader conceived his duty during his tenure, to extend to every Senator on both sides of the aisle—not only on this bill but also on the presentation of the work product of this body to the other body in a conference committee, if such is constituted, to iron out differences between the two versions.

It is my responsibility, as well, to see that the position of the Senate is sustained in conference with the House to the extent that it is possible to do so.

Mr. President, we did not start this fight. I point out, as I am sure virtually every Member of the Senate knows, that the first statement made on the matters which are the subject of the minority leader's amendment, in respect to housing at least, were made not in the Senate but by the House of Representatives. The first statement that was made was a housing bill or authorizations pertaining to a housing bill and funding levels in respect thereto on the reconciliation bill reported to the House of Representatives.

That was the first action taken, and it was not until that action was taken that the distinguished chairman of the Committee on Banking, Housing, and Urban Affairs, the Senator from Utah—very properly, in my judgment—asked his committee to report a housing bill and the Senate version to this reconciliation bill, so that the Senate could meet the House of Representatives on equal terms; so that there would be an opportunity to go to conference on the disagreeing votes of the two houses; and so that we were not caught without any defense or opportunity to assert the Senate position; but, rather, only to respond to what the House had already done.

That is the problem, Mr. President—trying to protect the prerogative of the

Senate of the United States; and I believe we have attempted to do that.

I have told the minority leader yesterday and today—and a number of other Senators, some of whom are now in the Chamber—that, so far as I am concerned, with the concurrence of those Senators who are involved, if the House of Representatives will drop the housing bill on their side, I will urge Members on this side to drop it from the reconciliation bill in this Chamber.

The minority leader is right. We should construe this act carefully, so that we do not turn it into something that was not intended, so that we do not legislate on some giant, omnibus authorization bill the entire legislative agenda for Congress, in 20 hours. I do not wish for that, any more than the minority leader does, and I believe he knows that.

However, Mr. President, my responsibility is not just this act. It is not just to a point of view and a position on this issue. My responsibility, as well, is to see that the voice of the Senate is heard in its conflict and consultation with the House of Representatives.

There is nothing I can do about what the House does with its reconciliation bill. All I can do is try to see that the Senate is in the most favorable position in that context.

Mr. President, I suggest that there is still time, and I hope the House of Representatives will take advantage of that opportunity and time to eliminate this issue. I would like to do that. We are not doing violence to this act, in my judgment.

I practiced law for a long time and was always intrigued with the difference between what was intended and what resulted in the law. I believe the minority leader is right: It was never intended that this reconciliation section of the Budget Act would be so broad in scope. But that is the way it ended up.

I have not heard anyone say, so far, that it violated the letter of the statute law—only that it was not a very good idea, and I agree with that.

An interesting thing developed. In looking back at the record of the only other reconciliation bill we ever did of any consequence, last year, I discovered, to my amazement, that in that reconciliation bill there were certain extraneous matters—not one, but several.

For example, there was the whole, new Higher Education Act, in its entirety, which was added to that reconciliation bill. I do not recall even one person—it may have been that someone did—saying that that violated the act or even the spirit of the act.

Two new student loan programs were done in the Education Act and several hundred basic opportunity grants were provided for in that reconciliation bill. There were two new advisory councils, and so the list goes.

Mr. President, the point is that there are often disparities and differences between what was intended by the authors of the bill and what actually results. But my point here is we are not dealing with the matter for the first time. We are dealing with something that has been dealt with by both Houses of Congress previously, and no one has contended that we were doing something that was contrary to what was authorized by that Budget Act.

Mr. President, maybe, just maybe, at some point Congress in its wisdom will decide to change the Budget Act. Maybe we will do that. Who knows? But we should not change it by establishing a precedent here that is at variance with what we have done in the past and contrary to the letter of the law.

If we are going to change the Budget Act, we should do it intentionally, deliberately, and carefully. We should not do it here by alleging that this is an improper act and including the material that has now been included in this reconciliation bill.

Finally, Mr. President, let me say once again that I wish to guard, and I will jealously guard, the prerogatives of every Senator, the integrity of every statute, and the position of the Senate on every issue. But in order to do that, I think it is essential that we defeat the amendment that has been offered by the minority leader. If we cannot do that, then I think we have changed the Budget Act. We have varied from procedures and precedent of the past and we have stripped the Senate of its ability to compete on an even basis with the other House in conference.

Beyond that, Mr. President, I pledge that if there is a way out of this dilemma, either by the House of Representatives receding from its inclusion of this material in their reconciliation bill which they did in the first instance, or some variation of that, I will be glad to support the efforts of the distinguished chairman of the Budget Committee to find a way to deliver us from the necessity of resolving this conflict at this time.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me first with the time taken off our side on the bill?

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. It will be just for 1 minute.

Mr. President, the distinguished majority leader says he is amazed to have found that there was nonbudgetary legislation on the reconciliation bill last year. I, too, was amazed because when I got into this act and I was alerted to the extraneous matter in this bill, I was amazed upon talking with the Parliamentarian to find that there was indeed some extraneous matter in the reconciliation bill last year as alluded to by the majority leader, and he is correct.

I was amazed. But let me say this. Had I known at that time that such extraneous matter was included and that the budget reconciliation measure was being used for that purpose, I would have—I think I would have; I like to think I would have; I feel that I know I would have—taken the same stand then that I am taking today. Of course, that may appear easy for me to say. But I say it in all sincerity.

But that does not excuse our doing it again. The old saying, two wrongs do not make a right, is valid.

Finally, may I say, Mr. President, that we should not condition our dedication to, and our protection of, the fundamental principles of this body upon what the other body may do. I think we have to fight for the principles by which we feel that this body lives and breathes and has its being and then take our stand with the other body on that firm base.

I thank the majority leader.

Several Senators addressed the Chair.

Mr. BAKER. Mr. President, I yield to the chairman of the Budget Committee.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I see that the chairmen of the two authorizing committees have included as part of their deliberations matters that are the subject of this motion to strike, and I want them both to know that regardless of how much time we use right now, there is plenty of time on the bill, and I want them to have plenty of time to explain their version, their ideas and what caused them to do what they are obviously certain is propitious and in the best interest of reconciliation and of the institution. But I hope they will permit me to just have a few words of explanation and comments.

First, I think that it would be absolutely a great error on my part if I did not commend the minority leader, the distinguished Senator BYRD, for his observation. Second, I would be very remiss if I did not compliment him and the distinguished Senator from South Carolina for seeing the value of reconciliation in terms of effecting savings that we could not otherwise accomplish in this institution.

I know that is precisely why he, speaking to the minority leader, and others worked so hard to put the process in the budget because we wish and we wish and we hope and we hope but for years and years it gets difficult to cut the budget. So I know why he put it in and why we all helped to support it and I commend all for supporting the very, very difficult reconciliation process that is before us and, as I understand the Senator from West Virginia, the distinguished minority leader, it is not the process, nor even the majority content of this bill that he is talking about today. I would say for the Senate, any way that I can look at this bill, I commend the committee chairmen and the ranking minority members and the Senators on these authorizing committees because a significant proportion of this bill is money saving. In fact, I challenge anyone to say that even 2 or 3 percent of this bill is even questionably extraneous and the remainder is money saving.

I say based upon the articulations here in the chamber as to what the committees could have done we should be proud of them because they did very little of that kind of legislating that one might call extraneous or mischievous or an effort to get something through this institution by usurping the excellent traditions of the Senate, and I say to our leader I would be remiss if I did not compliment each chairman for that because the case is that about 2 or 3 percent could be extraneous.

Second, I hope everyone understands,

and I know our leaders do, that the Budget Committee in that Budget Act has its hands tied. They cannot say to the authorizing committees, and I am sure my good friend, the ranking minority leader, will agree, when they send us these measures once they have been instructed our hands are tied and we have only a ministerial function, to bind that bill and bring it to the floor with a report. I will say, however, that the minority leader is right. Two committees that were not even instructed came and asked if they could save money. I say to my good friend that it was not that they wanted to pass extraneous material. They wanted to save money. We were told they were not instructed so they could not save money. One was the Rules Committee, I say to my good friend, the minority leader. They wanted to save money by putting something in this bill they were not instructed to do. We could tell them, no, they cannot do that. I will say for myself I argued in my committee that I serve on that we should not have material that we could consider later that was obviously a policy decision outside of the saving of money, and I prevailed in two of my committees in preventing that.

I supported the leadership. I was not here, as the Senator knows, in his omnibus cleanup amendment where he found material that everyone could agree was clearly extraneous and took it out.

In fact, I started that process at the suggestion of the distinguished Senator from South Carolina and put in report language that we wanted to work with him to attempt to do that. Having said that, I hope everyone knows that it is not very easy to decide what is clearly extraneous and what is not.

That is why we have an institution, and that is why we vote.

There were some matters that were clearly extraneous, and everyone agreed, and they have been stricken.

I am not going to make Senator GARN's argument, but let me tell you that a goodly portion of the housing bill is clearly within reconciliation. There may be some that one might argue taken all by themselves as one little item in a bill are extraneous. But I will tell you that in order to effect the savings that his committee, Senator GARN's committee, recommends and takes credit for much of that reform must pass.

Also I say to you all that is not an easy question. Is that really extraneous? Is that, to borrow what our distinguished minority leader says is that, something that does not save money ? I am not sure. Some of it one would construe as saving money.

I see the distinguished chairman of the Commerce Committee. He included some measures that are the subject of this motion to strike. I am not going to make his arguments, but some would say that we must add to that money saving, significantly saving money; that may be the test and it may not, but obviously he will argue that money is saved by some of his provisions that are now being called extraneous, and he may or may not want to agree that it must save a lot of money or else it is extraneous. He might make that argument himself later today.

Let me close by saying this: I believe we have indeed brought to the Senate a superb bill that will start the process of saving money for the United States and a change in the fiscal policy of this land dramatically. I do not want to be part of abusing our traditions.

On the other hand, I believe that anything that is as good a product as this bill is something we ought to be proud of, and we ought to find some way before we leave here today, and maybe before we vote on this issue, to resolve the dispute that is before us, at least as to the housing bill, because, as Senator GARN will explain, it presents a very difficult problem when the House of Representatives literally defies his committee, thumbs their noses at him, and says, "You don't have to put it in yours, we will put in ours," and then he has to call an emergency meeting to go to conference with a meaningful housing bill. That is a rather exceptional situation, and we ought to deal with it.

I submit if there is a way to deal with that, speaking now of the housing bill, to leave the parts in that are clearly reconciliation, the saving of money, and to find some way to include in this measure which we send to the House those which we might agree are questionable, clearly telling the institution, the Senate, that it is not part of reconciliation but we want to vote for it because we already have in the past, and we want to send it over there, making good precedent that we are doing that as an extraneous amendment, and we understand it, yet we want to vote for it, and we might even find some way to instruct our committee in that regard.

I believe that would be a good way to establish a clear precedent that we understand that the institution is clearly capable of handling the kinds of issues that have been raised by the distinguished minority leader.

I do not want to close without saying that I am for this institution's establishing as best we can before we leave this issue some institutional premise with reference to clearly extraneous matters, because I am worried about it. I have not been here as long as many of you, but I understand the significance of the rules. I understand the significance of the protection of the minority.

Again I laud the committees because, for the most part, they were very protective of minority members, and not including a lot of extraneous matters in this bill.

I hope that today we are making the record on the floor. The chairmen will discuss their reasoning. Our distinguished leader, Senator BAKER, has expressed his views. He has to be concerned about Senator GARN's committee, a very important committee, going to conference denuded, with the House having a housing bill of their choosing and our having none. I understand that, and think we ought to try to resolve those things sometime today.

I want to say to the leadership on the minority side, Senator ROBERT C. BYRD and Senator HOLLINGS, once again I commend them for their basic support of this major reconciliation effort.

It is an onerous effort. It could take months for the committees to do the work that is done in reconciliation. It could take years to effect $36 billion in savings, and neither of them is here opposing that basic premise. They are here for institutional reasons that go beyond that.

So I am hopeful we might find a way, after we have exposed the variety of reasons and justifications here, to resolve this issue and clearly establish a precedent.

Mr. President, how much time do we have in opposition to the amendment?

The PRESIDING OFFICER. The Senator has 5 minutes and 15 seconds.

Mr. PACKWOOD addressed the Chair.

Mr. DOMENICI. Senator GARN had asked me previously, and I will yield to him the remainder of the time I have and then I will yield time from the bill to the Senator.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I will not take long because the distinguished majority leader and the distinguished chairman of the Budget Committee have already explained much of my position. But I do think it is important, and I want the distinguished Democratic leader to understand exactly what my position is and the fact that I do not take issue with his statement.

He is right. I agree with most of what he said. This is a lousy way to do business. It was not my choice to do so.

I have been one who, during the entire time I have been here, with all the legislation on appropriation bills, as a member of the Appropriations Committee, who would like to see the processes cleaned up and see them cleaner. It is a bad precedent, so I do not take issue with the distinguished minority leader on that issue at all. He is right, and we should not be doing it.

So then I guess the obvious question is, "Why are you then standing up here opposing the amendment?" Because everything that the minority leader has said should be transmitted to the House of Representatives. I think more than anybody else, the distinguished Senator from West Virginia knows how this Senator operates, direct to the point, on top of the table, no games.

It started back in 1975, my first year here, when I filibustered the Clean Air Act. I discussed with Senator ROBERT C. BYRD exactly what I was going to do every day. When it came to the extension of ERA, no games. This was how I was going to proceed. So I think he well knows that that has been my reputation in this body, always right up front, straight out, no games, no hidden agendas.

So I pushed the committee to act fast, not just on reconciliation but to do our authorization. On June 3 we passed the 1982 housing authorization bill after extensive hearings conducted by the distinguished Senator from Indiana, Senator

LUGAR. So we had extensive debate and extensive testimony.

We came to the floor on June 3, and the only remarks I would disagree with the minority leader on were that at least on this issue we had free and extensive debate. It was unfettered. We had proper consideration. It passed this body 65-to-24.

So my reconciliation markup was scheduled for a particular day. It never would have occurred to me, it would not have even entered my mind, to include this in reconciliation.

Then I deferred for one day, for 24 hours, the markup in the Senate Banking Committee for the purpose of letting the House Banking Committee meet to see if it was just threat or bluff. Unfortunately, it was not. They met, they did not meet the May 15 deadline on an authorization bill. They have not reported one to the floor of the House, and they put a few things they wanted, FHA limit, flood insurance, and so on, in the reconciliation process.

So I sit there as chairman of a committee, protecting the Senate's position, 65 to 24, and say, "Hey, we have just been gutted," to put it bluntly. Now there is no authorization bill. We all go on with current law, and all this work is for nothing. There has got to be some way to protect the Senate's position. It was not a close vote on the Senate floor.

So I checked with the Parliamentarian and maybe I found out, Senator, about the Education Act last year before you did because he said, "Yes, that can be done." This was not an original idea with me or one that I would have ever thought of in a wild dream at night.

So this was the way to say, "OK, House, if this is the way you want to play you are going to have to come to conference with me."

So I put everything in except the things they put in so they would have to bargain. That is all I want out of this is a conference. We have debated those housing bills in conferences for 6 years. Sometimes they have lasted 4 months. The chairman of the House Banking Committee knows that I cannot hold my bill in its entirety any more than he can his.

But the subversion of this process started over there. My response is not a good response, but it is the only response I had to protect the Senate's position and not be naked to anything the House of Representatives wanted.

The distinguished minority leader has often talked about "Let the Senate work its will." Well, in this case, it did work its will 65 to 24.

So I will repeat what I said last week to the distinguished minority leader and to the distinguished ranking minority member of the Budget Committee, Senator HOLLINGS, that if we can tell the House, "Take it out," you do not even have to have this amendment. As far as my committee is concerned, I will withdraw it. And then FREDDIE ST GERMAIN and I can go to conference and argue whatever he wants to do and he knows he will have to give some and I will have to give some. That is the proper procedure.

We are being so pure and so self-righteous about the process over here in saying we will let the House subvert the Senate's position. That is the only thing I wanted to explain very clearly where this whole thing started. It certainly did not originate with the Senate Banking Committee. It started over there. It is not a partisan issue at all, unless it is in the House. It certainly is not in this body.

When Senator CRANSTON tried to delete this in committee, I told him the same thing, that I could not, in good conscience, dispute or take issue with his arguments of why it should not be in this bill and encouraged the members of the Senate Banking Committee on the minority side to say that to the House of Representatives.

I want my day in court for the Senate's position. I am willing to go to that conference and argue and give and take and produce legislation the way we are supposed to between the two Houses.

So I would ask the minority to use whatever influence you have with the Democrats in the House of Representatives so that the Senate, not just the chairman of the Banking Committee on this particular bill, but the Senate will have its day in court with that 65 to 24 margin so that we can handle it in the normal process. That is the only reason I oppose the amendment of the Senator from West Virginia, simply to attempt to get in a position where we have an equal and fair footing to work out the differences between the House and the Senate on this particular measure.

Before I yield the floor, may I just say further that I do have an extensive list of provisions of the housing bill. Even though I would be willing, if the House would pull theirs out, I want to state very clearly that a majority of the bill does have budget implications because if we do not make substantive law changes the authorization levels could not possibly be reached, particularly in future years.

I will not take the time of the Senate, but I will ask unanimous consent that the justifications of a majority of this bill as being not extraneous be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REASONS BANKING COMMITTEE PROVISIONS ARE NOT EXTRANEOUS

Subpart I of Part C of Title III of the Reconciliation bill is a major cost reduction measure. Not only does it set reduced authorization levels for community development block grants, UDAG and the Secretary's discretionary fund in comparison to fiscal year 1981, but it also deregulates and changes important administrative aspects of the community development and UDAG programs thus making the programs more efficient by reducing administrative costs and permitting use of these dollars for direct program expenditures.

In community development, there are three major cost savings changes. First, the bill eliminates the requirement that entitlement cities submit complex, often very lengthy applications. The whole notion of an application subject to an approval process is inconsistent with the administration of an entitlement program. This bill contains a provision which substitutes a straightforward statement of intended use of funds from the city for the application.

Inherent in the current application process is countless person-hours of application review by HUD area and regional office personnel, more hours of negotiations with the cities and still more review until final release of funds. In addition, one must count time spent in writing and reviewing complex regulations and interpretative notices, individual interpretations of rules by main office personnel, preparations and updatings of guidelines for cities and handbooks for HUD field personnel, training for field personnel and, of course, supervision and review of staff work. Elimination of much or most of this administrative layer at HUD will result in a substantial savings in salaries and travel and miscellaneous expense categories.

In addition, the relief offered to the applicant cities and counties from the burden of preparation of lengthy applications will benefit them and permit diversion of program dollars from administrative to programmatic use. Thus, from both the Federal and local governments' viewpoint, efficiency is increased.

This subsection also simplifies, considerably, existing citizen participation requirements imposed on cities and counties as they develop community development programs. In this bill, we require the basics of a citizen participation process rather than prescribe the details of procedure. The existing procedural requirements result in all the regulations, reviews, guidelines and so forth inherent in the current application process without particular contributions to the quality of the process itself. Moreover, in too many instances, these requirements at the local level have benefited "professional citizens" without making it easier for the average citizen to be involved. Thus, cities have gone to additional time and expense to reach their uninvolved citizens with the result additional delay and cost.

The state block grant program for small cities would specifically transfer responsibility for administration, review and audit of the small cities program to the state governments eliminating the need for significant staff requirements in HUD. The bill also requires that the states bear the cost of program administration and that they match Federal funds on a $1 of state money for every $10 of Federal money basis. Thus Federal dollars are actually supplemented and therefore effectiveness of the Federal program is increased without increasing the number of Federal dollars required.

In the UDAG program, while there are fewer changes, they fall heaviest in the area of application simplification. For the same reasons cited in the community development block grant program therefore, this section lowers administrative costs and increases effective programmatic use of existing Federal funds, this provision should be retained.

Section 323–1 limits research authorizations to $35 million in 1982. This is $26 million less than authorized in 1981.

Section 323–2 adjusts loan limits for property improvement loans and energy efficiency improvement loans. This provision will reduce pressure on the new home market by providing financing for additions and repairs and will reduce the use of foreign oil by improving the energy efficiency of older homes.

Section 323–3 will avoid foreclosures on federal financed mobile home parks by allowing individual lots to be sold to the individual owners as condominiums.

Section 323–4 provides homeowner counseling which will reduce the number of delinquencies and defaults with federally insured financing programs.

Section 323–6 limits authorizations for

the Neighborhood Reinvestment Corporation to $14,950,000 for 1982 and 1983. This provision will contain the budgetary growth of this organization.

Section 323–7 directs the development of model manufactured housing code. By expanding the use of lower cost manufactured housing the federal government will reduce the level of federally insured or assisted financing as well as expanding homeownership opportunities.

Section 323–8 establishes a demonstration program using lower cost housing technologies on vacant inner city land. By using vacant land that generates little or no local taxes local governments will be able to improve their tax bases and reduce their reliance on federal funds. Moreover, more lower cost housing may decrease the pressure on rents and thus decrease the cost of rent subsidy programs.

Section 323–10 expands the ability of homeowners to sell their homes by providing owner-financing and thus reduces the level of outstanding federally financed home loans and the cost of servicing such loans.

Section 323–11 limits the authorizations for the Co-Op Bank to $8 million for two years. This provision will save $445 million dollars in budget authority.

Section 323–12 rescinds $5.552 million for 1981 as required by the budget reconciliation instructions.

Section 323–13 amends the mortgage insurance program for hospitals which will reduce the cost of federal medical subsidies by reducing hospital operating costs.

Subpart IV of Part C deals with multifamily mortgage foreclosure procedures. All parts of Subpart IV are relevant to reconciliation. Cost savings are involved. CBO notes in its cost estimate of S. 1197: "The budget impact of this provision cannot be estimated at this time. However, to the extent that the new procedures prove more expeditious, federal expenditures associated with holding and managing the portfolio of HUD-owned mortgages would be reduced."

REASONS PART C HOUSING & COMMUNITY DEVELOPMENT PROVISIONS ARE NOT EXTRANEOUS

1. Subpart 2 passed the Senate on June 3, 1981.

2. The changes to housing programs are designed to reduce the rapidly escalating costs in subsidized housing. The changes will reduce the budget costs for each housing unit. Thus improving program efficiency even though total budget cost of programs may not be affected. Reductions of over $12 billion BA for housing subsidies from FY 81 are required by reconciliation instructions. With this substantial reduction it is essential to make dollars stretch farther to help more families.

3. Section 322–1 (i) mandates enactment of program changes before any funds can be appropriated under the authorizations in the bill.

4. Brief arguments for each subsection follow:

322–1. Contains reductions in authorizations required under the reconciliation instructions, a provision allowing localities to change mix between different housing programs thus making best use of allocated funds, additional authorization for GNMA mortgage purchases at a level below the 1st Concurrent Resolution but technically above the reconciliation baseline and Section 322–1 (i) which requires the program changes before further appropriations as indicated above in #3.

322–2. Increases tenant rent payments as proposed by the Administration. The resulting cost savings are assumed in reconciliation instructions.

322–3(a). Includes numerous provisions to cut costs of each assisted housing unit. (e.g. projects must be of modest design, reduces Section 8 payments for vacant units to only 30 days, requires greater weight on cost factors in project selection, encourages use of lower cost single room occupancy housing and efficiency units.

322–4. Redirects economic mix policy to ensure that higher income or ineligible tenants aren't given indirect subsidies (GNMA tandem mortgage or tax preferences) which are associated with Section 8 housing.

322–5. Miscellaneous Housing Assistance Amendments:

Prohibits Section 8 new construction subsidies in communities with rent control. Rent control discourages private new construction subsidies which are much more expensive than existing housing units.

Requires survey of Section 8 owners that will not renew their assistance contract and report on ways to recapture Federal front-end subsidy costs.

Encourages local housing authorities to pursue cases of program fraud to reduce fraud losses.

Allows landlords to handle Section 8 evictions thus reducing costs of local housing authorities which now administer evictions.

322–6. Deletes requirement that rent supplement projects be converted to the Section 8 program thus reducing long-term subsidy obligations.

322–7. Encourages sale of HUD-owned apartments to tenant co-ops which will avoid tenant displacement at lower program cost.

322–8. Amends recapture provision of the Section 235 program thus avoiding administratively costly early trigger.

322–9. Bars illegal aliens from receiving housing assistance increasing ability of programs to serve needy citizens.

322–10. Requires a revised fee schedule for public housing development managers so program can more effectively serve rural areas.

322–11. Requires studies of ways to increase the efficiency of the public housing operating subsidy funding system and explore the feasibility of more cost effective computer reporting system.

322–12. Encourages more attention to energy efficiency in HUD approval of rent increases.

322–13. Allows the Kansas Department of Economic Development to run public housing programs making the program available to areas of Kansas now unserved.

Mr. GARN. I thank the distinguished chairman of the Budget Committee.

Mr. DOMENICI. Mr. President, I yield 5 minutes off the bill to the distinguished Senator from Oregon.

Mr. PACKWOOD. Mr. President, the argument I will make is slightly different than that of the Senator from Utah. We have no quarrel at the moment with the House.

Let me tell you the situation as we saw it in the Commerce Committee. The Commerce Committee is not, comparatively speaking, a big-dollar committee. We do not have the money like the Finance Committee does or the Labor and Public Welfare Committee. What might be a little savings to those committees in relation to their budget is a relatively large savings to our committee. We all try to do what we can to help the process.

We, admittedly, put into this bill, not with malice aforethought, some things that are not germane to the budget process—amateur radio, allowing Western Union to compete overseas and, in the spirit of cooperation and comity, we agreed to take them out. We did not want to cause any fuss and we certainly did not mean to change any precedent. We even agreed to take out the international telecommunications task force, although the minority disagreed. We do not think it is a budget item, but they disagreed and would not take it out so it is still in the bill.

But we had to make some savings in the bill. We increased the Amtrak budget $122 million. And in order to come within the mark that we were directed to meet, we had to make other savings. We turned our attention toward the communication area. We said to ourselves: If we could reduce the paperwork that the Federal Communications Commission had to do, we could reduce their budget. We succeeded in reducing the paperwork that the Federal Communications Commission had to do by relieving radio and television stations of a number of regulations which the Federal Communications Commission was required to monitor.

As the radio stations and television stations no longer had to meet certain regulations, like keeping logs and keeping time of how many commercials they ran in an hour and a variety of other things, it was less work for the Federal Communications Commission. So we reduced their budget in this reconciliation and it is a genuine reduction. I hope nobody is arguing we did not reduce the amount of money. We did.

As a quid pro quo with the radio and television stations, we said to them, "Now, you should be treated like many other regulated businesses and you should pay for part of the cost of your regulation." They agreed. They said, "If you will take off those onerous regulations, we will agree to pay for the remaining part of the cost of the remaining legitimate regulations." So we have imposed fees upon the radio and television stations for part of the regulations. Those fees come to about $33 million a year.

Again, in the Federal budget that is hundreds of billions of dollars, I agree that $33 million is not much. But it is something and it is all part of the package. We will reduce the burden on the radio and television stations and reduce the paperwork of the Federal Communications Commission as a package.

Well, first, in the amendment of the minority leader, he wants to take out the reductions we have made, genuine reductions, for the Federal Communications Commission. I do not know how he says they are not reductions. They are. They are reconciliations. But he leaves in the bill the fees we have imposed upon the radio and television stations, leaves in the fees. We do not get rid of the regulations, keep all the regulations and impose these on the radio stations. Well, first, it is unfair because it was part of a package.

Second, I say again, in closing, these are genuine budget reductions. Not much in relation to the Armed Services Committee, not much in relation to the Finance Committee, on which I serve, but genuine dollar reductions.

If we are going to start to get into a battle about "You did not save enough," the so-called de minimus rule, then we are in difficult shape, because then we are going to say, "Well, your reduction is all right, meets a certain standard of a dollar amount, and yours isn't." And the committees that have the biggest budget, surely they can save more money than the committees that have little budgets. And I think that would be an unfair and unwise rule to impose upon the Senate, to impose upon the committees, and certainly to impose upon the reconciliation process when we did save money.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I yield back to Mr. HOLLINGS to control the time on the bill.

Mr. HOLLINGS. Mr. President, I would like to address the point of my distinguished chairman, Senator PACKWOOD, because the Presiding Officer is the distinguished chairman of our Communications Subcommittee and I think he was, at the particular time these provisions were agreed to, representing the President on an assignment. I know I was not there.

I am confident that the distinguished Senator from Oregon, our chairman who has been an outstanding chairman, would agree that these deregulation matters have been in dispute since 1934 and certainly need more than a half an hour debate. These provisions were not included in this bill to constitute the savings directed of the Commerce Committee. The fact of the matter is if you support this amendment and knock the extraneous provisions out, it would save $4 million. And the Commerce Committee, in conforming to the instructions, saved over $173 million in excess of their reconciliation instruction.

In fact, as we both know, from being involved with this legislation and as I am now the ranking member on the Communications Subcommittee, the FCC user fees are so worded and prescribed within the legislation as to not constitute revenue. They are intended only to offset costs. So even these provisions are clearly extraneous in the sense of reconciliation. Establishing an international telecommunications information task force was clearly extraneous; the mandating of a managing director for an annual report to the FCC is also extraneous.

Let us get to the letter of the law. I hope the distinguished majority leader has not left the floor, because there have been quite a few statements made and a few misunderstandings on this point.

For one, our distinguished majority leader says no one has been able to point to the letter of the law. Now, let us talk about the letter of the law.

The letter of the law appears in Public Law 93–344, the Congressional Budget and Impoundment Control Act of 1974, under section 310, which is entitled "Second Required Concurrent Resolution and Reconciliation Process":

> The Committee on the Budget of each House shall report to its House a concurrent resolution on the budget which reaffirms or revises the concurrent resolution on the budget most recently agreed to with respect to the fiscal year beginning on October 1 of such year.

The reconciliation process is part of this particular provision relating to the second budget resolution.

Any such concurrent resolution on the budget, which is reconciliation, shall also specify the total amount by which budget and spending authority is to be changed and direct committees to determine and recommend changes to accomplish a change of such total amount.

It is through this process that we achieve savings. It is through this process that we achieve reductions in the budget. It is by this process that we will be able to begin "reconciling," which means to reconcile the appropriate spending limits on entitlement bills from authorizing committees with the second concurrent resolution.

That is how we have to achieve reconcilation. Reconcile in fact and in law means savings or reductions in the budget.

Many changes that could pertain to budget level changes do not constitute a saving, but, rather, an increase in revenue, and are not allowed. We would not ask the Finance Committee to save $2 billion and accept from that committee a new tax on desks, chairs, and carpets that would raise an additional $2 billion. That is not reconciliation.

What happened last year? Well, Mr. President, we on the Budget Committee are guilty. We were very concerned about uncontrollables last year. So, if you will remember, Mr. President, a historic thing. The President of the United States was inaugurated on January 20 and gave his "austere" budget message in the state of the Union message. But we found by February that austerity was about to break the country. The bond market had fallen significantly. So, we corralled around like freightened mice in a storm and went to room 211 of the Russell Building. The leadership of the House and Senate, Charlie Schultze of CEA, and Jim McIntyre from the Office of Management and Budget, all met. And around 11 o'clock on Sunday night, what did we decide? We asked the President of the United States to resubmit the state of the Union message. Then we listened to our own consciences.

Our consciences reminded us about the double COLA, and how the retiree in Florida was now making more than the worker. This meeting was one of the best educational processes I have seen engaged in by Senators and Congressmen in my 15 years with the Senate.

But everyone pointed out what was wrong and Senators from various committees were saying, "I have been trying to get rid of" this or that budget problem. After that, we started reconciliation and we included it not in the second concurrent resolution but in the first concurrent resolution.

How did we justify this? Someone could have come in and said, "Point of order, Mr. President. Under the law, this is not a reconciliation bill." I could make that point now. The Budget Act contemplated reconciliation coming after the second budget resolution. How can you reconcile until you get your appropriations and other spending bills?

We agreed last year though, that the budget situation was so critical as to call for extraordinary procedures. So we used authority granted in section 301, subsection 7, relating to matters which can be contained in the first concurrent resolution:

> Such other matters relating to the budget as may be appropriate to carry out the purposes of this Act.

Under the authority of this language we had the first reconciliation bill. I served as cochairman of the conference on that bill along with the distinguished Congressman from Connecticut (Mr. Robert Giaimo).

That is how we began including reconciliation in the first resolution. That was our precedent. We do not follow that precedent when we put provisions in the reconciliation bill that do not constitute savings. We cleaned the reconciliation bill up and put several of those "clearly extraneous items" out on Monday with the leadership amendment.

However, it was a different matter with REA. The reconciliation resolution stated the Senate's position and therefore, the REA language reported from the Agriculture Committee was not clearly extraneous but rather was clearly conforming to the policy specified by that reconciliation bill.

Last year's reconciliation bill contained provisions conforming to the policy specified by the reconciliation instruction.

Take the case of student loans. There was a mistake made here today, and I think it should be cleared up. We did not include the whole higher education reauthorization last year, as it was asserted. The Parliamentarian should not be surprised nor should our distinguished majority leader.

In last year's reconciliation we said, "Reform student loans."

We were trying to reform it. In fact, the saving provisions in student loans were in the reconciliation bill. On the Senate side, we proposed major savings. But the House did not want to cut these programs. Then, as now, we found that we cannot control the House. The Senator from Utah (Mr. GARN) is right. The Senator from Utah is frustrated now just as I was last year. But we did end up with some savings.

Have you ever had the experience to work on reconciliation with CARL PERKINS and Herman Talmadge? They reauthorized nutrition programs at higher levels and we did not want to raise a point of order. We asked the leadership on both sides not to raise a point of order—not to set that precedent.

So what we are trying to do on this side is to at least maintain the integrity of the process.

I intend at some time to make absolutely certain that we do not leave the Senate in a lurch. I understand the majority leader's responsibility to represent the Senate. We are trying to protect the principle with respect to rule XXII and

unlimited debate. We are also trying to protect the rights of the committees.

The majority leader has very properly pointed this out and I agree. But I think we should be absolutely clear on the issue of extraneous matter. Therefore, at an appropriate time, I will amend this amendment by adding to section 44–10:

It is essential to the Senate that conferees of the Senate on titles 3 and 4

That is commerce and housing——

on S. 1377 are instructed to sustain the Senate position that clearly extraneous matter shall not be included in the reconciliation bill.

I say this for the Senator from Utah (Mr. GARN), the chairman of our Committee on Banking and Housing, House and Senate conferees need to be instructed to strike all extraneous matter. I want my good friend, FREDDY ST GERMAIN and his House colleagues, to know that when we go to conference, this point is nonnegotiable.

Before I yield to the Senator from Louisiana and the Senator from California, I want to say that what we are trying to do is preserve the integrity of the Senate and its authorizing committees. If we can preserve the integrity of the authorizing committees, we can preserve what little credibility Senator DOMENICI and I—and the Budget Committee and the budget process—have.

One of the most difficult experiences I have ever been engaged in—but delightful in a way—has been serving on the Budget Committee. We are constantly challenged by the authorizing committees—"You are not a line-item committee." "You are trying to handle what we are supposed to be handling." "Get out of our authority, our jurisdiction; the Budget Committee is not supposed to handle that."

I agree, Mr. President. That is why the Budget Committee proposed that once the authorizing committees conform to their instructions, we have no jurisdiction. The reconciliation bill has to be an accumulation of the work of 13 committees and not just the Budget Committee. The Budget Committee merely assembles the bills from the other committees—just a mechanical act—and reports that back to the floor. And I think this is proper.

My concern is that we may be setting a precedent that we are all going to suffer from. We do not want a system where, as budgeteers, we can write any kind of authorizing legislation. If this is the direction we are headed, then we shall have a breakdown of the entire system and no one will want to go along with any kind of budget legislation—including reconciliation and first and second concurrent resolutions—you break down the entire system.

In this one instance it may make sense to exceed our powers. But it reminds me of what George Washington said in his farewell address. He was talking about amending the Constitution. I say to the Senate majority leader that we should not amend the Budget Act. My contention is that when we allow extraneous matter to be added to the reconciliation bill, we have in effect amended the Budget Act to allow authorizing legislation that does not constitute budget savings in the reconciliation bill. The very act of the inclusion of extraneous matter in effect amends the Budget Act.

George Washington, in his farewell address, talked about amending the Constitution. He said if, in the opinion of the people, the distribution or modification of the powers under the Constitution is wrong, then let it be changed in the way in which the instrument designates. For though the change—or usurpation, he called it—may in the one instance be the instrument of good—which is intended by the Banking Committee—it is a customary weapon by which we governments destroy.

That is the core and that is our constitutional precedent. If we want to save the Senate and the authorizing committees, we must be careful in our actions today. If the committees in the House have engaged in a bad practice, the way to correct them is not to join in the offense with them, but to oppose it. Direct us to oppose it; instruct the conferees to not allow extraneous matter in the reconciliation bill.

Do not say that since the House committees are abusing the process, let us also engage in the same offense. That will be the weapon by which the authorizing committees, the integrity of the Senate and the credibility of the budget process will be destroyed.

I am glad to yield 5 minutes to the distinguished Senator from Louisiana, Mr. President.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 5 minutes.

Mr. LONG. Mr. President, this type of debate should be conducted under the rules of free debate. The reason I say that is what is involved here is potentially momentous and it should not be decided with sparse attendance, even though I am very pleased at the caliber of statesmanship represented on the floor at this moment. These arguments ought to be something that Senators will hear in a second or third speech, even if they do not hear it in a first speech, lest they make a mistake.

I am satisfied that the issue we are debating is something that could be a very bad precedent, and could in fact strike at the very foundation of this Government. When I was in law school, my law professor used to say repeatedly that the road to hell is paved with good intentions, that all sorts of personal injuries occur where no one really had any mischievous intent to begin with.

I can just picture in my mind a scenario of this sort. Let us take the facts that existed back in the 1930's, when a popular American President had a very ambitious program. He sent it up to the Congress with tremendous national support and found his program frustrated by the Supreme Court of the United States repeatedly declaring some of these bills unconstitutional. This happened with the National Recovery Act and various acts passed at that time.

Out of frustration, a President with a very large majority to support his cause in both Houses proceeded to recommend that we should pack the Supreme Court of the United States so that Court would rule as the President would like for it to rule.

I recall that when that happened, there was a very popular presentation and it sailed through the House with very little difficulty. It failed to become law because of the rules of free debate and the Rules of the Senate guaranteed a more careful consideration of a potentially dangerous measure.

Mr. President, the rights that the people of the country hold in this land are no firmer than the willingness of the Supreme Court across the square to uphold those rights; otherwise, the U.S. Constitution confers no more rights than the Russian constitution.

One wonders how such a thing could come to pass. It could not happen if it had to meet the test of free debate in the U.S. Senate. But such a thing could conceivably happen, Mr. President, if a willful majority, having made up its mind in advance to do such a thing, were willing to seize upon that procedure which was available to bring it about.

Let us picture such a measure coming to the Senate as an amendment to a reconciliation bill which is subject to only 20 hours of debate. Let us assume that that group has made up its mind sufficiently in advance that they are willing not only to cut the time in half, but surrender back half of that time, so the matter could be decided with a single day of debate in the U.S. Senate. You say such a thing could not happen. Let us assume it did. Then we say, how could all of this have happened?

It all started with the good intentions of Congress in trying to balance the budget. We never balanced it, you understand; we just talked about balancing the budget. But in the course of it, we adopted a procedure which could be used to absolutely destroy the foundations of this Government.

One would say, "Oh, come, come. You know that could not happen." What worries me is that that is just exactly what could happen. Books have been written about it, such as the book "It Can't Happen Here." It pointed out that something could not happen, but it did.

How did it happen? Well, somebody with the best of intentions started out trying to balance the budget. We never did balance the budget. All we did was destroy the Government in the effort to do so.

One would say, "Surely, that could not be the result."

Well, let us just look at this. Here we start out with this reconciliation proposal. I recall that, last year, we said, "We made a mistake in passing the windfall profit tax. We should have done something about the little royalty owners and let us give them $1,000 credit. We are raising a little money but let's take a little back with the $1,000 thing for the royalty owners."

I thought we should have discussed this with members on the Budget Committee and we said, "We would raise it up a little and make that the target. So we did."

We knew we might be fudging on the

game by doing that. But if you thought we were fudging, you should have seen what we ran into when we met the House on the other side. They had first one proposal and then another which would gain perhaps a dollar or two or maybe nothing in the first fiscal year. But in the outyears, it would cost billions of dollars, perhaps bankrupt the whole Government in the outyears, in the name of balancing the budget.

Here were their welfare plans, all the things they had been trying to get through for months and months and were unable to get them agreed to. They sent us a bill which was guaranteeing income for doing nothing, in the welfare reform proposal; and because we were taking more time to consider it than they were willing to take, they put all those things in the health plan, and various other things along that line—not necessarily all of them—on that bill. Fortunately, it did not survive the conference, but it could have survived the conference. If we had enough things in there that we wanted badly enough——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HOLLINGS. I yield the Senator 5 additional minutes.

Mr. LONG. If we had enough things in there that we wanted badly enough and if we had gone along with that mischief, we could have brought back from that conference billions of dollars of spending in the outyears, which was contrary to the purpose of the reconciliation measure.

Even so, I am more concerned about the threat to things that we hold dear in this country, by permitting those things to become law, under a resolution whereby cloture is built in, where the free debate process is bypassed.

That is why I say to the chairman of the Banking Committee that if he wants to settle his difference with the House in a conference, beyond the purview of the Banking Committee, why not do it on some bill that is subject to free debate? We are not asking for it on a tax bill, but he could put it on a tax bill, including the big one that is coming up soon. We do not want it and are not asking for it on a debt limit bill, but it could be put on that bill that is going to the President's desk. Put it on an appropriation bill. I know the Appropriations Committee does not want to have a housing authorization bill, but I suppose, if worst comes to worst, you at least have preserved the principle of free debate when you put it on something of an emergency nature.

Something that must become law, such as an appropriation bill. Put it on something such as that, and at least you will have the opportunity to obtain the judgment of the House and the Senate. They would have to take notice of it. Someone would have to add it to some other bill.

This action should not be done with a bill that requires only 20 hours of debate, where you simply do not have the opportunity to do justice to the issue. That is what I am concerned about.

Where do we go from here? We have started a bad precedent. Everybody here agrees that it is a bad precedent. It could destroy the budget process by undermining confidence in that process; but, worse than that, it could threaten this Government if that practice continued to grow, as I fear it would.

The point is made here, and it has a lot of logic to support it—and I should like the majority leader to hear this—that the House started this mischief, this quarrel, in this case, so the House should recede. But let me make this point: It is the Senate that is the citadel of free debate; it is not the House.

As long as I have been a Member of this body, the House has never had any right of free debate. The House was always limited by a rule, whereby a matter could be brought up, no matter how important it may be, no matter how far-reaching, and it could be limited to a few hours, 4 or 5 hours, and decided in a single day, although it was a very important issue.

That type of thing should not happen. We have seen a logical sequence of an error that should have been avoided, and we have seen it get worse and worse. I hope it will be stopped at this point.

I hope very much the majority leader of the Senate, for whom I have the highest admiration, will give us the benefit of his statesmanship and his leadership in helping us to correct this situation. I hope a scenario with great potential danger to this country would be reversed and would be contained in such a fashion that the legislative objectives of these committees could be met, particularly the legislative objectives of the chairmen of the two committees involved. I hope at the same time we would make this budget process what it was intended to be and prevent it from becoming that which it should never be.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. BAKER. Mr. President, if the Senator from Mississippi will permit me a brief moment to respond to the Senator from Louisiana, I state that I appreciate the remarks of the Senator from Louisiana and his suggestion that we try to find a way to accomplish the legislative purpose of the Senate and avoid a precedent we may regret in years to come. I agree with every word of that. I really want to do that.

The Senator knows that we have had that conversation privately on this floor, as I have had with the Senator from Mississippi, the Senator from North Carolina, and a number of others.

If it is agreeable on both sides, I say that at sometime after the debate is concluded, I am perfectly willing to sit down and see if we can find a way to accomplish their respective purposes.

I, too, want to preserve the Budget Act in the formulation we believe it should follow and to preserve the position of the Senate, protect the position of the committees.

I believe that the senior Senator from South Carolina (Mr. THURMOND) wishes to speak on another matter for a brief time. I hope we may provide for that and then perhaps have a brief recess, and we can talk about these matters informally.

Mr. NUNN. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. NUNN. Mr. President, I congratulate the majority leader for making that suggestion. It is precisely what I was going to suggest. I believe that what we need now is a reconciliation between Senators, because I see a donnybrook coming down the road if we vote on the measure that is now pending, and I am going to vote for it.

I agree with everything Senator LONG and Senator HOLLINGS said, as well as what the majority leader said. I am going to vote for it.

However, the Senate rules are going to lose or the budget process is going to lose when this vote is taken. One or the other is going to lose.

When I was in the majority party, I spent a great deal of time with other Senators on rule XXII, making sure that it was not diluted.

What we are really doing, make no mistake about it—we may have had some inadvertent measures in there last year—but what we are really deciding today is whether rule XXII is going to be changed on the floor. I do not believe that the Senator from Utah and the Senator from Oregon intend that, but that is what they are talking about.

We are talking about a choice between the budget process and rule XXII, and one is going to lose; therefore, this institution is going to lose.

I suggest that the majority leader speak with the minority leader. This is not a partisan situation; it should not be; because I know that people on the other side of the aisle feel as strongly about rule XXII as some of us on this side. We should sit down and reconcile this matter before the reconciliation process poses a paradox that all of us will regret for years to come.

I congratulate the majority leader on his statement.

Mr. STENNIS. Mr. President, I yield to the Senator from New Mexico.

Mr. HOLLINGS. I yield time to the Senator from Mississippi.

Mr. STENNIS. Mr. President, the Senator from New Mexico is chairman of the committee.

Mr. BAKER. Mr. President, in case I have not done it, I redesignate the Senator from New Mexico to control the time under the bill, under the act.

Mr. DOMENICI. I yield myself 1 minute.

Mr. President, I merely want to say a few words to Senator LONG. He knows that when we started this process, the whole Budget Act and reconciliation, it was a very difficult concept. I recall many conversations with him in the infancy of this process.

I say to him, personally, that I am going to try to reconcile this difficulty. I have been talking with our leader about it, and we are going to try.

We have all seen the process mature; and as we have seen our fiscal policies become more and more difficult, we have seen people such as the Senator from Louisiana, who used to chair the Finance Committee, have difficulty with this process. We have seen him accept it and work with us. We have given him en-

titlement instructions, and he has accomplished them.

So I do not want to see all that we have developed in a spirit of trying to get the budget under control go because we have come a long way. So I also wish the Senator to know that I understand the very serious issue and I want to try to be part of resolving it.

Mr. HOLLINGS. Mr. President, will the distinguished Senator from Mississippi yield just 1 second?

Mr. STENNIS. I yield.

Mr. HOLLINGS. If the Senator from Georgia will give his attention, the point was made either the Budget Act or the Senate rules are going to suffer. I think it should be clearly understood how serious this is because both will suffer. We will have amended the Budget Act indirectly by achieving savings now rather than achieving savings and reductions which are truly reconciliation. We will find that we have passed authorizing legislation having no relation to reconciliation or savings. We will find that we have amended the Budget Act and, second, we have amended the rules of the Senate.

Mr. STENNIS. Mr. President, I thank the Senator for yielding.

Mr. President, I shall be quite brief. We have had here in the last 2 hours and 5 minutes one of the very best presentations I have ever heard and the best that has been heard in a good long while.

I salute, highly commend, and thank the Members here who have presented this matter, the Senators from Tennessee, West Virginia, New Mexico, South Carolina, Utah, and Oregon, and Senator LONG added his remarks.

It is showing the Senate at its best, and even though there were not many here, the attention of those present was splendid. We had a Presiding Officer who performed his duties with dignity. The great volume of review of the work that is done by these committees has been one of the most valuable things that we have learned here.

It is certainly worth the membership pursuing this matter, reading it in the RECORD, and discussing it with each other.

I believe that this presentation led now to a solution to what I think is a highly critical situation we are in, more far reaching and dangerous in many ways than any of the debates I have heard on rule XXII and the long debates we went through.

I was going to add that point that it had not been emphasized that this procedure, as I understand it, will totally circumvent, bypass, annul, and hold for naught rule XXII which is the right of freedom of debate with certain controls that has become a highly valuable instrumentality to every single Member here and is so recognized by Senators, whether they are called liberal or in the middle of the road or conservative, or whatsoever nature.

I shudder to think that we would bypass that rule and change this body and also make the Budget Committee a total failure. It will destroy itself, I think, if we vote to give it such far-reaching power that at heart they do not want.

I do not believe there would have been five votes for this Budget Act if there had not been assurances over and over and over that this was not going to invade the authority of the authorizing committees, which are the heart, soul, and the workhorses of this body. Otherwise, we would have to collect 100 people. Here with authority given the rules we work under we are a powerful body.

I think I see quite clearly here what is at stake, and I believe those who engaged in debate see that, and I was delighted when the majority leader with his outstanding work said during the debate that he was hopeful to have this conference.

Otherwise, I frankly would have liked to ask to be heard in some extension on some of these points.

But I am content, indeed, to thank these men again and the leader for his plans here to have some kind of a special meeting.

I thank the Senator for yielding to me. I yield the floor.

Mr. HOLLINGS. I thank the distinguished Senator from Mississippi. He really has been the even keel on this ship of state and has been counseling with us on both sides, and we are all inspired with his observation and leadership.

I yield now such time as necessary to the Senator from California.

Mr. CRANSTON. I thank the Senator very, very much.

Mr. President, I have been involved in this issue since it arose. I faced it first in the Banking Committee. I have been involved in the negotiations and deliberations on the floor.

I missed some of the debate because I had to leave after seeking recognition earlier; however, I do want to say that I am a very strong supporter of the position taken by the minority leader.

Mr. President, I am pleased to cosponsor the amendment offered by the distinguished Democratic leader, ROBERT C. BYRD. I agree with him that the inclusion of nonbudgetary matters in the Omnibus Reconciliation Act of 1981 is a most ill-advised abuse of the budget process.

Some of us who voted to table the Durenberger amendment regarding the 9-digit ZIP code support the substance of his proposal, but differed with him over the advisability of legislating on the reconciliation bill. We should vote on these issues considering Senate traditions, rules, and procedures, designed to protect the rights of Senate minorities—those that are in the minority now, and those that will be minorities in the near or distant future. The issue is very similar to that pertaining to legislating on an appropriations bill.

The Committee on Banking, Housing, and Urban Affairs voted to include substantive legislation altering this Nation's housing programs and policies that should not be associated with the reconciliation process. I offered a motion at the Banking Committee's markup of the reconciliation provisions that would have allowed the transmittal to the Budget Committee of only those provisions associated with Federal budget authority and outlay savings. The amendment, unfortunately, failed by a 7-to-8 vote. I think we face a very important issue.

In summary, the inclusion of nonbudgetary legislation in this Omnibus Act will create an adverse precedent which would, first, shortcut the legislative timetable by including substantive legislation in privileged bills; second, circumvent the right of Senators to discuss thoroughly a substantive provision on the Senate floor, and undermining of rule XXII of the Senate rules; third, limit the right under the Senate rules to offer appropriate amendments; fourth, dilute, and hence endanger, the primary purpose of the budget reconciliation process which is to control Federal spending; fifth, risk ceding to the Budget Committee much or a portion of the Banking Committee's and other committees' control over the outcome of the substantive legislation; sixth, risk ceding the powers and prerogatives of the legislative branch of our Government vis-a-vis the executive branch.

To my mind the latter matter surpasses in importance the matter of maintaining our rights and prerogatives vis-a-vis the other body in the Congress, important as that matter is.

I think that we should recognize that what we are really considering here is protection of Senate traditions, rules, and procedures, and Senate minorities, those who are presently in the minority, those that in the near or distant future will be in the minority.

I am concerned about the scope of the substantive matters that are placed on this vehicle.

Senator BYRD'S amendment is very similar to the measure that I offered at the Banking Committee. It would delete from the proposed Omnibus Act all nonbudgetary matters that are extraneous to the reconciliation process. This is an extremely important amendment, one whose impact will be far reaching and may determine how this body considers proposals in the future.

The budget reconciliation process requires authorizing committees to transmit to the Budget Committee legislation to effect budget savings in those programs that are under the particular authorizing committee's jurisdiction. Yet, many of the provisions that are included in S. 1377 have nothing to do with the savings of Federal outlays or budget authority and should be deleted from the bill.

There is much reason to be apprehensive about the precedent we may set here today if these proposals are not deleted. To my mind, we would be redefining the process called reconciliation in a way that poses grave threats to the legislative process.

We are mixing legislative, budget, and appropriation matters—about which both Houses and numerous committees in both Houses have strong and differing views—and putting ourselves in the awesome position of deciding complex legislative issues under the whip of the reconciliation process, making long-range decisions under the most severe time constraints imaginable.

If we proceed down this perilous path, we will not only be setting the bench-

mark figures for Federal spending, we will be bargaining away some of the Nation's most important laws under the guise of budget discipline and reconciliation.

An amendment was offered by Senators BYRD, BAKER, and HOLLINGS that deleted certain matters contained in S. 1377 that are unrelated to the reconciliation process. It passed Monday night by voice vote. However, that amendment omitted several equally extraneous matters in the Commerce Committee's title of the bill and all of the extraneous matters transmitted by the Banking Committee.

I am encouraged by the bipartisan effort to exclude extraneous matters from the proposed Reconciliation Act; however, I believe that all of the extraneous matters were not included in the agreement. I am absolutely convinced that we must remain pure to the process—meaning that the only provisions that should be included in S. 1377 should be those associated with Federal budget authority and outlay savings.

It is for these reasons that I cosponsor this amendment to delete the nonbudgetary provisions.

As a member of the Senate Banking Committee, I am very familiar with the action that the Banking Committee took and would like to outline those actions for my colleagues.

The Banking Committee, over the objections of all the Democratic members, sent part of the Senate-passed bill, S. 1197, to the Budget Committee as a part of its reconciliation transmittal. It struck out the following provisions that the Senate had approved 65 to 24 on June 3, 1981:

First, the extension of the FHA mortgage insurance authority;

Second, the increase in the manufactured housing loan and maturity limits;

Third, the flood insurance and crime and riot insurance authorizations: and

Fourth, the extension of the National Institute of Building Sciences authorization.

In addition, the committee inserted provisions never considered by the Senate that provide that funds cannot be appropriated for community development and assisted housing after September 30, 1981, unless the provisions of title I, community development, and title II, assisted housing, of S. 1197 are enacted; and, exempt federally chartered Hawaiian savings and loans from reserve requirements.

Provisions of the housing bill, S. 1197, included in title III of the bill before us contain many extraneous matters to the reconciliation process that substantially alter this Nation's housing policy. These provisions have no place in a reconciliation measure. Among these provisions are measures which:

Eliminate the current requirements for community development block grant applications;

Diminish the effectiveness of the citizen participation plan that makes citizens part of the local community development process;

Sever the link between community development activities and housing assistance by removing any requirement that small cities submit a housing assistance plan and make progress toward implementing that plan as a condition of receiving block grant funds:

Prohibit certain Federal housing assistance to communities with rent controls;

Clarify the procedural and substantive rights of section 8 tenants in an eviction procedure;

Bar illegal aliens from receiving Federal housing assistance; and

Authorize various housing studies and reports.

Mr. President, there are many provisions in this year's housing bill that I support and would like to see enacted; however, I do not believe that the reconciliation process should be abused in order to insure the enactment of these provisions.

Mr. President, I understand the reason behind the Banking Committee's decision to use the reconciliation bill as the vehicle to discuss housing legislation with the House. The chairman of the committee (Mr. GARN) outlined those reasons most cogently during the committee markup of our reconciliation recommendations and agreed that the precedent was a very dangerous one. He agreed with all the arguments I made against the action but declared he felt it necessary nonetheless to proceed to use the reconciliation bill for what amounted to legislative action because of actions taken in the House of Representatives.

This precedent will come back to haunt all of us. Maintaining the integrity of the reconciliation process is more important than forcing the consideration of any particular legislative measure—no matter how meritorious it may be.

By including the substantive legislation contained in the Senate-passed housing bill, we may be jeopardizing the whole budget process. If the nonbudgetary provisions are allowed to remain, then the entire bill could be greatly delayed as conferees spend long hours of debate on matters that have nothing to do with achieving budget savings, which is the sole purpose of reconciliation.

Insofar as the extraneous matters transmitted to the Budget Committee by the Commerce Committee, obvious examples of provisions not associated with budget authority or outlays savings, are such very important matters such as: establishing international telecommunications task force; requiring a managing director and report for the FCC; accomplishing radio deregulation by terminating program requirements, and revamping television licensing procedures.

These are classic examples of far-reaching policy decisions which should go through the full deliberative process of the Senate.

I remind my colleagues on the other side of the aisle that today's majority may well be tomorrow's minority. I urge them to take a longer view—a view beyond the vicissitudes of the moment—toward the implications of what we are doing. Keeping the budget process intact is vital to all of us.

Mr. President, I urge that this amendment be adopted.

For these reasons, which I consider very compelling, I support Senator ROBERT C. BYRD's amendment, and I hope very much that in conference between the majority and the minority we can work out these very, very significant problems.

Mr. GARN. Mr. President, will the Senator from California yield for a question?

Mr. CRANSTON. Certainly.

Mr. GARN. I mentioned in my previous remarks that the Senator's amendment was defeated. My response is the same here as on the floor that day. At that time the Democratic majority and minority of the Banking Committee were sympathetic to the problems that we faced on the House side.

I wondered if the Senator or any members of the minority or minority member of the Banking Committee have been in contact with Chairman ST GERMAIN or the Democratic majority in the House to get them to withdraw their efforts to subvert the provisions we put in our bill, which are the substantive items put into the reconciliation bill on the House side, the flood insurance limits, and the ones the Senator mentioned?

Mr. CRANSTON. Yes. Senator PROXMIRE has been in touch with Congressman ST GERMAIN. I do not know what were the results of that conversation.

Mr. GARN. Apparently the House insists on subverting the reconciliation process, I guess is your answer.

Mr. CRANSTON. As of this moment, yes.

I would respond by saying that because they do it I do not think we should do it, and I know the Senator from Utah shares the concerns I expressed when I expressed them in the committee. He agreed with the fundamental principles.

Mr. GARN. Yes, I agree. The minute we can make the House pull back, I would be happy to pull back the entire amendment.

Mr. CRANSTON. I appreciate that, although we differ on the present procedures.

I yield the floor.

Mr. BAKER. Mr. President, might I inquire would it be the desire of the Senate now to recess briefly in order to pursue these negotiations or to turn to the consideration of another amendment? I am perfectly willing to do it either way.

May I ask the chairman of the committee and the ranking member and, of course, the minority leader, what their preference might be in that respect?

Mr. ROBERT C. BYRD. Mr. President, as the chief author of the amendment, I have no objection to setting the amendment temporarily aside and letting the Senate pursue other amendments while we have our discussions outside the Chamber.

Mr. BAKER. I thank the minority leader. If that arrangement is satisfactory.

Mr. HOLLINGS. We can yield to the Senator from Arizona, let him have the floor, or the Senator from California has an amendment and he would like to

bring it up today, and we are running out of time.

Mr. CRANSTON. I will bring it up right now.

Mr. GOLDWATER. Mr. President, will the Senator yield for a brief statement?

Mr. HOLLINGS. I yield.

The PRESIDING OFFICER (Mr. ABDNOR). The Senator from Arizona.

Mr. GOLDWATER. Mr. President, I have had the privilege of sitting in the chair and listening to this debate which, I think, is one of the best I have heard in my years I have been here.

I would vote, if we vote, with Senator ROBERT C. BYRD of West Virginia.

I was first made aware of this procedure someplace out near the middle of the Atlantic Ocean when I was called by radio to see if I would support putting the Commerce parts of the bill on this bill. These parts from the Commerce Committee are very, very close to my heart. I have worked on them all my life, and I would like to see action on them. But I felt at the time, I agreed I was wrong, and I feel more strongly about it now.

I do not think we should use this vehicle to put extraneous passengers on it even though the passengers are very friendly to me and I to them.

I would like to see the distinguished majority leader and distinguished minority leader meet and work out something that we can all agree with.

I do not like to vote against my leader. I do not think I have ever done it, but I think the principle involved here is far more important than what we accomplish in the way of legislation that might be important to us or to our constituents, because I can see the continued use of the budget rules as the way to get around the committee rules, the rules of the Senate, and I would vote particularly with the Senate rules. The Senate knows how strongly I feel about the changes we made in rule XXII, and I do not want to see us get around that rule by using the budget approach.

So, Mr. President, I merely wanted the opportunity to stand on the floor and congratulate those people who have spoken here in a way that I think will do the Senate more long-range good than anything we could accomplish by passing legislation in this manner that I do not think we should do.

I repeat if we have to come to a vote I have to stand against my leader, against my will, but I think the Senator from West Virginia's points are well taken. I pray they can meet now and work something out of this we can live with. I thank the Chair.

Mr. DOMENICI. Mr. Leader, I think Senator SCHMITT is ready with an amendment, and it would be our turn, and I would like for him to go next.

Mr. BAKER. All right. Mr. President, I ask that the Senator from New Mexico (Mr. SCHMITT) be next recognized to call up an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, Senator SCHMITT was to be recognized.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SCHMITT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WARNER). Without objection, it is so ordered.

UP AMENDMENT NO. 190

(Subsequently numbered amendment No. 104.)

(Purpose: To revise provisions relating to interconnection of public radio and television)

Mr. SCHMITT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New MEXICO (Mr. SCHMITT), for himself, Mr. STEVENS, Mr. SPECTER, Mr. PRESSLER, and Mr. ANDREWS, proposes an unprinted amendment numbered 190.

Mr. SCHMITT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 159, between line 3 and 4, insert the following:

Of the remaining funds which are available to the Corporation, moneys sufficient to pay for 50 percent of the costs of facilities and operations of interconnection to facilitate the availability of public audio and video programs among public broadcast stations shall be reserved and made available to the licensees and permittees of public radio and television stations, and shall be used for no other purpose.

On page 159, line 4, strike "(B)" and substitute "(C)".

On Page 159, line 22, strike "(C)" and substitute "(D)".

Mr. SCHMITT. I am pleased to offer an amendment on behalf of myself and Senators STEVENS, SPECTER, PRESSLER, and ANDREWS. This amendment will more equitably balance the burdens of the necessary cuts in Public Broadcasting as recommended by the Senate Commerce Committee. This amendment will require the Corporation for Public Broadcasting to pay 50 percent of the costs of satellite interconnection among public radio and television stations.

For the reference of Senators at this point, the estimated cost of such interconnections in fiscal 1984, to which this would apply, would be approximately $12 million for television interconnection and approximately $2 million for radio interconnection, and with the 50 percent payment, the net cost to CPB will be about $7 million. I would emphasize that this is merely a requirement within the total funds and does not add or subtract funds from the bill.

As presently constituted, S. 1377 in the opinion of myself and the cosponsors, does not fairly allocate the budget cuts between the Corporation and the local individual stations that the Corporation was created to serve.

From 1968 through 1979 the Corporation provided funding for the full cost of the public television and radio interconnections. This amendment will again require the Corporation to pay as a portion of these costs that same portion paid in the last fiscal year. For small stations and for those stations most distant from the major population centers, interconnection allows economic access to national, regional, and statewide programs. If CPB was to discontinue its support for interconnection, it is precisely these small and remote stations that will suffer the most harm. Until now, interconnection has been financed directly by the Corporation as a basic, central system responsibility on behalf of all public television and radio stations and the viewing public.

This amendment addresses the relationship of the Corporation to its constituents; it balances the cuts that must be borne.

I think it is important, Mr. President, to recognize that this additional requirement on CPB will have to be done at the sacrifice of some program funding.

Expenditures for CPB's program production are of little consolation or benefit to a station and its viewing community if the program delivery is absent. Without this amendment, most stations will face severe hardships and many will face extinction. We should take this opportunity to balance the hardships and allow the important individual stations a fair portion.

At this 50-percent level of payment, such costs will be adequately borne. This amendment will also provide adequate funding for public radio. It is my intention and the intention of the cosponsors that the Corporation will continue to provide sufficient and significant support for the national programing of public radio.

Mr. President, I should add here that, in consultation with my colleagues, the original proposed amendment that CPB pay 100 percent of the interconnection costs was altered to take into account this concern that paying 100 percent of the interconnection cost for public radio and public television would significantly hurt the programing activities for public radio. It is generally concluded that the modification of the amendment as it is currently submitted to the Senate will take those concerns into account.

In 1967, the Carnegie Commission on Educational Television recognized the establishment of a modern public television interconnection system as crucial to the development of the service, and to its extension beyond the highly populated centers on the east and west coasts:

We recommend that the Corporation provide the educational television system as expeditiously as possible with facilities for live interconnection by conventional means, and that it be enabled to benefit from advances in technology as domestic communications satellites are brought into being. The Commission further recommends that Congress act to permit the granting of preferential rates for educational television for the use of interconnection facilities, or to per-

mit their free use, to the extent that this may not be possible under existing law.

The Corporation has the responsibility for the distribution of programs. Public Television can never be a national enterprise until effective interconnection has been provided both in order to distribute programs to educational television stations promptly and economically and to provide for live regional or national broadcasts when the occasion demands. The interconnection of stations should make the best of each community available to all communities.

The Carnegie report formed the basis for much of the original Public Broadcasting Act of 1967, which cited interconnection (along with station support and program grants) as one of the three fundamental purposes of CPB, and permitted the granting of preferential rates as the Commission had recommended.

Contracting for an interconnection system was the first major priority of the new Corporation. By 1970, negotiations with A.T. & T. had concluded, and construction of facilities was completed to interconnect 110 public television stations. The impact was dramatic.

From 1968 through 1979, CPB provided funding for the full cost of the public television and radio interconnections, based on annual budgetary review and agreement.

In 1980–81, CPB concluded that it could not at the same time continue to fund the television interconnection fully and also achieve its objective of allocating 25 percent of its appropriation to its central program fund. The Corporation asked that the television licensees contribute 50 percent of the cost, and the proposition was agreed to. This "split funding" arrangement was regarded by both parties as no more than an interim expedient, however, and discussions are now underway seeking restoration of integral funding for the interconnection. It is our understanding that CPB does continue to provide full support for the radio interconnection, by the provision of supplementary support to the radio stations' community service grants.

Interconnection is the link through which, as the Carnegie Commission stated, "the best of each community can be made available to all communities." For small stations and for those most distant from the major population centers, interconnection allows economic access to national, regional and statewide programs.

If CPB was to discontinue its support for interconnection, it is precisely these small and remote stations that will suffer the most harm. Until now, interconnection has been financed directly by the Corporation as a basic, central, system responsibility on behalf of all public television stations and their audiences everywhere.

If the burden of this responsibility were shifted in whole or in part to the stations, without a commensurate increase in their capacity to assume it, the inescapable result will be that substantial reductions in our present interconnection service will be required.

Public broadcasting is not and should not be immune from budget cuts. The Commerce Committee has produced a bill that meets the administration's targets and for the most part is a thoughtful analysis. However, with the cuts in this area particularly, the relationship of the CPB to its constituents should be corrected, by this amendment, to allow a more equitable division of responsibility.

Expenditures for program production are of little consolation or benefit to a station and its community if the program delivery is absent—if the station lacks timely access to the nationwide interconnection system: The crucial "life support system" without which they cannot receive and benefit from the programs which CPB and others have financed.

In the extreme, if there were no interconnection system at all, the best financed stations in the most populated and geographically concentrated regions would suffer, but they would survive; they could afford, out of necessity, to interconnect themselves. The small stations could not, and many would likely go out of existence. That is essentially the condition that prevailed before the Corporation was created and before Federal support was provided for interconnection, when there were reasonably prosperous stations in Boston, New York, Chicago, Los Angeles, and a few other major markets, but only two stations in Missouri, Virginia, Oregon, and Tennessee; only one struggling station in New Mexico, Colorado, Kansas, Louisiana, Kentucky, North Dakota, South Dakota Iowa, and Idaho; and none in Alaska, Arkansas, Maryland, West Virginia, or Nevada.

Mr. HATCH. Mr. President, I compliment the distinguished Senator from New Mexico for his efforts in this regard. I, as he does, agree that public broadcasting is very important to this country and very important to many people throughout the country. I personally believe that he has worked long and hard, as have many of us on this committee, to try to solve this dilemma. It is my understanding that the Committee on the Budget is prepared to accept this amendment, if there is no objection from the other side.

Mr. STENNIS. Mr. President, if the Senator will yield to me, I am just here at the request of the Senator from South Carolina. He did not make any indication to me about his position on any amendment. I am sorry. What they planned was for us to go ahead with debate on so-called small amendments.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, there is a meeting going on now which involves both the chairman and the ranking minority member of the Budget Committee, and it would be very difficult for them to reach the floor at this time to speak to this amendment.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BAKER. Mr. President, I ask unanimous consent—I have cleared this with the minority leader and with the two managers of the bill—that the Senate now stand in recess, subject to the call of the Chair.

There being no objection, the Senate, at 5:33 p.m. recessed, subject to the call of the Chair.

The Senate reassembled at 6:29 p.m., when called to order by the Presiding Officer (Mr. HUMPHREY).

OMNIBUS RECONCILIATION ACT OF 1981

The Senate continued with the consideration of S. 1377.

Mr. BAKER. Mr. President, I ask unanimous consent that I may proceed for not more than 5 minutes without the time being charged against the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, we have just concluded extensive conversations in my office with the distinguished minority leader, with the chairman and ranking minority member of the Budget Committee, and others. While there are still difficult problems to be considered and addressed, and substantial disagreements still exist, I have to report that I believe progress has been made and that we will resume our conversations in the morning, on the way to final solution to the problem before the Senate.

BUDGET RECONCILIATION—AGRICULTURE COMMITTEE

● Mr. HELMS. Mr. President, the Senate Committee on Agriculture, Nutrition, and Forestry has met its reconciliation instructions. The committee recommendations are quite specific as to both the dollar amount and the programs that should receive reductions. This package was agreed on by the committee after 3 days of markup, and represents a fair degree of compromise among Senators on the committee in order to achieve a balanced mix of recommendations that will reduce spending and still serve those who depend on these programs.

Senators who have been through the reconciliation process in other committees know that there is some degree of subjectivity in what can and cannot be done to meet reconcilation instructions. Two basic options have emerged from this process with regards to just how reductions in programs can be made.

The first is to set a cap on authorizations and defer the actual program cuts to the Appropriations Committee. The second is for the authorizing committee to make specific legislative changes in the authorizing legislation for programs. This latter course was chosen by the Committee on Agriculture, Nutrition, and Forestry. Committee members recognized that they might receive targeted criticism from specific groups for reducing certain programs. However, members chose this more difficult course because they wanted to exercise responsibility in the direction of programs under committee jurisdiction.

Our committee had one of the largest assignments in terms of reducing overall spending under our jurisdiction. I believe we have carefully crafted recommendations which will both reduce Federal expenditures and greatly improve the operation of these programs.

The bulk of the reductions come in the two largest areas of the U.S. Department of Agriculture's budget—food stamps and child nutrition programs. While I personally believe that additional reductions could be made in the food stamp area, the bill encompasses those cost-saving reforms which were adopted by the Senate on June 10 in S. 1007.

These are all reasonable reductions which I would urge my colleagues to support.

Mr. President, I ask unanimous consent that a summary of our committee's recommendations be printed at the conclusion of my remarks.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF RECONCILIATION RECOMMENDATIONS OF THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

PART A—GRAIN RESERVES

The Committee recommendations provide discretionary authority for the Secretary to make farm storage facility loans and eliminate the mandatory interest waiver on 1980 and 1981 crops of wheat and feed grains in the farmer-held grain reserve. These provisions also require the waiver of interest during any export embargo on wheat or feed grains if the United States otherwise continues commercial trade with the embargoed country.

PART B—COMMODITY INSPECTION FEES

The Committee recommendations require the collection of fees for cotton classing, establishment of standards, and related services provided under authority of the Cotton Statistics and Estimates Act, the United States Cotton Standards Act, and the United States Cotton Futures Act. The fees should cover, as nearly as practicable, the entire cost of the services provided and are to be used to pay the expenses of the Secretary incurred in providing the services and standards. These provisions also require the Secretary to meet with cotton industry representatives on an annual basis.

With regard to tobacco, these provisions require the collection of fees for inspection, grading, and standardization services furnished under authority of the Tobacco Inspection Act. For such services provided at designated auction markets, the provisions provide for the warehouseman to collect the fees from tobacco sellers, however, the fees are actually assessed by the Secretary against the warehouseman. In addition, an advisory committee of tobacco producers is established to advise the Secretary regarding the fees and implementation of services.

The Naval Stores Act would be amended to provide for the collection of fees to cover the cost of establishing standards and for providing inspection and related services.

The recommendations require collection of reasonable fees to cover the cost of inspection, examination and licensing of warehouses under the United States Warehouse Act, except that such fees for cotton warehouse inspections may not exceed $400,000 in fiscal year 1982, $415,000 in fiscal year 1983, and $430,000 in fiscal year 1984.

The recommendations also require collection of fees to cover the costs incurred by the Federal Grain Inspection Service in providing official inspection and weighing of grain, including supervision of inspection and weighing activities performed by designated official agencies and delegated State agencies. The amount of administrative and supervisory costs incurred by FGIS cannot exceed 30 percent of the total costs of providing the services. An advisory committee is established to advise the Administrator regarding the efficient and economical implementation of inspection and weighing service.

PART C—FARM AND RURAL DEVELOPMENT PROGRAMS

The Committee recommendations authorize insured community facility loans of $130 million and insured water and waste disposal loans of $300 million, for fiscal year 1982, and increase the current 5 percent interest rate for these loans to an interest rate 3 points below the interest rate on comparable municipal bonds. In addition, grants for rural water and waste disposal are limited to $100 million per year beginning in fiscal year 1982.

The recommendations also continue the Secretary's discretionary authority to make emergency (disaster) loans to credit-worthy borrowers but authorize interest rates on such loans at the prevailing market rate for similar loans. Emergency loans, however, may be made or insured only to the extent that funds are provided in advance in appropriation acts. In addition, the 5 percent ceiling on interest rates on emergency loans for actual loss to borrowers who cannot obtain credit elsewhere is eliminated and a new interest rate based on the cost of money to the Government is established.

For fiscal year 1982, insured farm operating loans are authorized at $1.325 billion and insured farm ownership loans at $700 million. At least 15 percent of the total amount of these loans must go to limited resource borrowers at a rate of interest 3 points below the regular interest rate for such loans.

With respect to establishing the interest rate for insured electric and telephone loans under the Rural Electrification Act, the Committee recommendations establish the interest rate at 5 percent, but provide authority for loans to be made at a lower rate, not less than 2 percent, when the borrower is experiencing extreme financial hardship or cannot provide service consistent with the objectives of the Act. These provisions also require the Federal Financing Bank, on the request of a Rural Electrification Administration (REA) borrower, to make any loan which is to be guaranteed by the Administrator of the REA. The interest on such loans is to be comparable to similar loans being made or purchased by the Bank.

PART D—PUBLIC LAW 480

Except in the case of commodities sold pursuant to a food for development program under title III, the Committee recommendations increase interest rates on commodities financed under title I from 2 percent and 3 percent for the grace period and repayment period to 4 percent and 6 percent, respectively. In addition, a ceiling on the amount of appropriations to carry out Public Law 480 is established at $1,362,000,000 for fiscal year 1982, $1,193,000,000 for fiscal year 1983, and $1,252,000,000 for fiscal year 1984. The provisions also exempt the transportation of commodities financed or made available under Public Law 480 from the application of the cargo preference laws.

PART E—MISCELLANEOUS

The Committee recommendations provide that the total fulltime equivalent staff year personnel ceiling for the United States Department of Agriculture shall not exceed 118,360 staff years for each of the fiscal years 1982, 1983, and 1984. This provision effectively establishes a cap on the number of USDA personnel at the 1981 level. The Committee also recommended that the authorization for the alcohol fuels program in the Department of Agriculture be reduced by $140 million in fiscal year 1981.

PART F—FOOD STAMPS

The Committee recommendations in this Part—

(1) prevent artificial splitting of households by requiring nonelderly parents and their children to apply as one food stamp household and making "informal" boarders ineligible as separate households;

(2) terminate eligibility for food stamps of drug addicts and alcoholics residing in treatment programs;

(3) delay and change the timing of the annual adjustments in the cost of the thrifty food plan and the standard deduction and the ceiling on dependent care/excess shelter expense deductions;

(4) establish gross income eligibility limits at 130 percent of the applicable Federal poverty guideline;

(5) reduce the earned income deduction from 20 to 15 percent of earnings;

(6) require retrospective accounting and periodic reporting in the determination of eligibility and benefit determinations by all States by October 1, 1983;

(7) deny eligibility for food stamps to households with a member on strike unless the member is exempt from work registration or the household was eligible prior to the strike;

(8) prorate the amount of a household's initial allotment based on the days remaining in the month of application;

(9) prohibit Federal funding of food stamp outreach activities;

(10) extend the penalty of disqualification to include misrepresentation as well as fraud and lengthen disqualification periods;

(11) provide improved procedures for collection of overpayments and allow States to retain 25 percent of certain overissuances;

(12) effective October 1, 1981, set the income standards of eligibility for Puerto Rico at 55 percent of those in the 48 contiguous States;

(13) effective April 1, 1982, remove references to Puerto Rico in the present law and provide a block grant for food assistance to Puerto Rico of up to $825 million per year; and

(14) repeal provisions scheduled to take effect in fiscal year 1982 creating a separate deduction for dependent care expenses of up to $90 per month and lowering the threshold above which medical expenses are deductible from $35 to $25 per month.

PART G—SCHOOL LUNCH AND CHILD NUTRITION PROGRAMS

The Committee recommendations—

(1) reduce the cash reimbursement rate in the school lunch program as follows: for free lunches to 97.95 cents, adjusted annually for inflation beginning July 1, 1981, except that in schools in which more than 60 percent of the lunches were served free or at a reduced price during the second preceding school year the cash reimbursement rate for free lunches would be 99.95 cents; for reduced-price lunches to 40 cents less than that for free lunches; and for paid lunches to 8.83 cents, adjusted annually for inflation beginning July 1, 1981, except that in schools in which 60 percent or more of the lunches were served free or at reduced price during the second preceding school year, the cash reimbursement rate for paid meals would be 2 cents higher. In addition, the commodity reimbursement rate for all lunches (free, reduced-price, and paid) is reduced to 11.29 cents, adjusted annually on July 1;

(2) reduce the reimbursement rate for paid breakfasts by one-half, and limit "severe need" breakfast funding to those schools serving 40 percent or more of their lunches free or at a reduced price during the second preceding school year and in

which the rate per meal is insufficient to cover the costs;

(3) instruct the Secretary to prescribe changes in nutritional and other program requirements, within 90 days of enactment of the bill, in order to achieve local cost savings without endangering the nutritional integrity of the meals;

(4) establish income guidelines for determining eligibility for free lunches at 130 percent of the OMB income poverty guidelines until June 30, 1983. Beginning July 1, 1983, the income guidelines for determining eligibility for free lunches would be the same as the food stamp gross income eligibility limits. Eligibility for reduced-price meals would be lowered to 185 percent of poverty. In both cases, eligibility would be based only on current income;

(5) require that application forms for free and reduced-price meals contain only the family size income eligibility levels for reduced-price meals. In addition, the Secretary, States and local school authorities are authorized to seek verification of data submitted on applications for free and reduced-price meals and States and local school authorities are required to undertake any other verification that the Secretary may prescribe by regulation and to make appropriate changes in the eligibility determinations based on such verification. The Secretary is also required to conduct a pilot study verifying data on a sample of applications;

(6) require that appropriate documentation of income or of participation in the food stamp program be submitted to school authorities before a member of a household may be provided free or reduced price lunches. Additionally, social security numbers of all adult household members must be provided by the household member who executes the application;

(7) require that State matching revenues equal at least 30 percent of all general cash reimbursement funds for the school lunch program made available in the school year beginning July 1, 1980;

(8) terminate the food service equipment assistance program, and the summer food service program. The special milk program is also eliminated except in schools and institutions which do not participate in any other meal program;

(9) reduce the authorization for nutritional education and training to $10 million;

(10) exclude from the definition of "school" those private schools with annual tuitions above $1,500;

(11) limit participation in the child care food program to children 12 years of age or younger, except for the handicapped, and require that meal reimbursements under this program be based solely on each individual's income eligibility. In addition, "for-profit" child care institutions are made ineligible to participate in the child care food program;

(12) reduce the reimbursement factor for family day care home meals by 10 percent, as well as the reimbursement for day care home providers' administrative expenses. No reimbursement would be provided to children of providers with incomes above 185 percent of poverty;

(13) provide for reimbursement of no more than two meals and one snack per child per day in the child care food program;

(14) prohibit the Secretary from directly administering any child nutrition program that the Secretary has not administered continuously since October 1, 1980;

(15) extend to children in elementary schools, when approved by the local school district or nonprofit private schools, the option not to accept foods they do not intend to consume;

(16) eliminate the requirement for a State plan of child nutrition operations except for those plans required for State administrative expense funding, nutrition education and training, and WIC;

(17) exclude residential child care institutions from the definition of "school" beginning in fiscal year 1984;

(18) make "commodity only" schools eligible to receive donated commodities equal in value to the total of the general lunch cash reimbursement rate and the national average commodity assistance rate. Such schools would be required to serve meals meeting the nutritional standards set forth for the school lunch program, including fluid milk and components of each of the four basic food groups, and would be eligible to receive special assistance cash payments for free and reduced-price lunches; and

(19) authorize appropriations for the special supplemental food program (WIC) of $998 million for fiscal year 1982, $1,060 million for fiscal year 1983, and $1,126 million for fiscal year 1984.●

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to exceed 15 minutes, in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

A MORAL CODE ONE AND INDIVISIBLE

Mr. PROXMIRE. Mr. President, most of us know the story of Jacobo Timerman, Argentina's best-known and most controversial journalist. In his 2-year ordeal as a nonperson following his arrest by Argentinian security forces, Mr. Timerman went through five different prisons, experiencing a mock execution, torture, humiliation, and the constant fear of death.

It is not to tell this story that I speak at this time. It is all too vividly recounted in Mr. Timerman's book, "Prisoner Without a Name, Cell Without a Number." Most troubling of all, however, is Timerman's argument that Jewishness is an important part of the guilt of many of Argentina's political prisoners, and that echoes of the holocaust run through Argentina's campaign of persecution.

One brief quotation from that book makes the case for a truly international genocide treaty far more eloquent than can I. While Mr. Timerman was being tortured, one of his interrogators told him: "Only God gives and takes life. But God is busy elsewhere, and we're the ones who undertake this task in Argentina."

Is God busy elsewhere, Mr. President? Is the spirit of mankind busy elsewhere? Can we disregard the Ugandas, Cambodias, and Argentinas of the world as others disregarded the atrocities of Nazi Germany?

We clearly cannot. We bear a moral responsibility to condemn genocide wherever we see it. But to ring true, our charges must be based on an indivisible moral code—no different at home or abroad, no different for Argentina than for Russia. International law—law among nations—transcends borders as the world community joins together to focus its attention on the crimes of mankind. Only universal agreements can translate our individual sentiments into the authority of an international consensus acknowledged by all mankind Only to such a world consensus, expressed in documents like the Genocide Convention, can prisoners like Jacobo Timerman look for hope and solace.

Mr. President, I ask this country to add its voice to that consensus. I ask my colleagues to ratify the Genocide Convention.

THE PRECLEARANCE PROVISIONS OF THE VOTING RIGHTS ACT OF 1965

Mr. THURMOND. Mr. President, questions concerning voting rights and the Federal Voting Rights Act, whether matters of merit or merely of perception, have become much a part of our public dialog in recent times. In particular, my position on the Voting Rights Act of 1965 has been the subject of considerable coverage in the media, has sometimes been misrepresented, and has been widely misapprehended. Before recapitulating my views on the act, however, a brief description of this important, controversial, and often misunderstood law, is warranted.

At the outset, it should be clearly understood that the Voting Rights Act itself, with all its protections for every citizen, is not scheduled to expire next year. However, in the absence of further congressional action, what would happen after August 6 of next year, is that six States and a number of political subdivisions would then be eligible to petition the U.S. District Court in Washington, seeking to be relieved from having the Justice Department "preclear" all changes in State laws and local ordinances affecting elections. The point is that the bulk of the Voting Rights Act is a permanent law, most of the basic provisions of which apply uniformly throughout the United States, and I do not favor repealing it.

It is the preclearance provision, which many persons, including myself, feel is faulty and unfair, because its limited application to selected areas of the country grossly violates the basic guarantee under the U.S. Constitution of equal protection under the law for all citizens. Nevertheless, because the right of every qualified citizen to vote is absolutely essential to the preservation of our free society, I am prepared to support extension of this provision, on the condition that it be applied uniformly in all States.

Additionally, I strongly support the right of each State to show that it has acted in good faith. Each State that is subject to the preclearance requirements would have equal access to the Federal courts and, in fairness, would have the opportunity to establish to the court's satisfaction that preclearance was no longer necessary. This procedure, which is now provided for under the Voting Rights Act, would not remove the State from the coverage of the act, but would assure a judicially sound method of eliminating the preclearance feature when found by the courts to be no longer necessary.

Every citizen and, just as importantly, every State, should have equal access to the courts of this land. Every law and, most especially, one insuring so basic a

right as voting, must always be rooted in the principle of equality before our judicial system.

The very purpose of a voting rights act should be to insure equity and fairness among the citizens of this country and the States in which they reside. The limited application of the current act makes it inherently discriminatory, because it singles out only certain States and political subdivisions for coverage, using a predetermined formula originally based on voter participation in the 1964 general election. Later, the 1965 act was twice amended and extended to additional political jurisdictions based on voter data from the 1968 and 1972 general elections, but it remains seriously defective in that it does not apply uniformly throughout the land. While we in Congress must guarantee that all citizens have the right to vote, we must not perpetuate one injustice as a means of eliminating the possibility of another.

In the deliberations and debate that will develop in Congress over this issue, I hope that the act can be streamlined and made less cumbersome. Its purpose should be to assure every citizen in every State the right to vote—no more, no less—and I shall support this concept. I have always believed in and worked for the right to vote for all people. I shall continue to do my part to protect this right. My goal is to insure unhindered voting rights for all people and fair and equal treatment to the States as contemplated by the Constitution.

I am particularly pleased that the Governor of my State, the Honorable Richard W. Riley—who, incidentally, is not a member of my party—has recently announced that he has similar views on streamlining the act and making it applicable in all its provisions to people throughout the country. I am glad to have the support of Governor Riley and any others who want to assure the equitable application of this act.

FEDERAL-AID HIGHWAY LEGISLATION AND CENTURY FREEWAY

Mr. SYMMS. Mr. President, on April 29 I introduced S. 1024, the Federal-Aid Highway Improvement Act of 1981. A major provision of that legislation would redefine completion of the interstate system. The 1981 interstate cost estimate shows that it will cost $53.8 billion to complete the remaining interstate work. This will buy us 6 percent of the system. We have come to the place where that last 6 percent will cost more than the initial 94 percent. At the same time, the existing interstate system is deteriorating and in need of major rehabilitation.

Mr. President, section 102(b) of S. 1024 would limit the obligation of interstate construction funds to the amount necessary to provide the minimum level of acceptable service on the interstate system. Those items no longer eligible for interstate construction funds would be eligible for interstate 4R money.

I am very concerned that language has been included in H.R. 3210, recently reported by the House Committee on Public Works and Transportation, which proposes that certain projects, in which the Government has entered into consent decrees, be excluded from any redefinition of interstate completion. I do not believe that any projects should be exempted from reevaluation at this point, given the economic situation in this country. Times have changed and it is obvious the Federal Government can no longer provide an unlimited amount of money.

On June 10 the Subcommittee on Transportation, which I chair, held a hearing on the Federal-aid highway program and one of the issues discussed was the impact of section 102(b) on Century Freeway, I-105 in Los Angeles. It is my understanding that the consent decree entered into on this project provides expenditures for housing and other features far in excess of those that would normally be incurred on a project of this length. It is not my intention to make any determination as to the merits of the project, or whether or not this highway should be built. I am very concerned, however that money from the Highway Trust Fund, a dedicated user fee fund, would be used for projects that are unrelated to highway construction.

The passage of section 102(b), or any other similar redefinition of interstate completion, would enable the parties to this consent decree to renegotiate their agreement to provide for a scaled down facility that could be constructed within presently anticipated financial resources, and consistent with policies applicable to the rest of the Nation.

STRUGGLES FACED BY THE NATIVE ALASKA PEOPLE

Mr. STEVENS. Mr. President, I would like to bring to the attention of my colleagues an article that appeared recently in the Alaska magazine entitled, "Native Gains and Losses—A Time for Reflection," which was written by a very talented Alaskan writer, my good friend, Lael Morgan.

This article illustrates some of the difficult struggles the Alaska Native people are faced with every day. For example, within the last decade they have the choice for the first time of dogsleds or snow machines, subsistence hunting or food stamps, native dances or television. All these changes are putting great pressure on the very existence of their native culture.

Because the native people are conditioned to living in a harsh climate they are capable of responding well in the face of great change. However, I wanted to share this article with my colleagues so that they might have better insight into the daily cultural confrontations which are faced by the Alaskan Natives.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NATIVE GAINS AND LOSSES—A TIME FOR REFLECTION

(By Lael Morgan)

Recent passage of the Alaska lands bill (December 1980) brought with it a flurry of self-congratulations from Alaska Native leaders. Through it they will receive land rights and privileges almost as important as those won through the congressional Alaska Native Claims Settlement Act (ANCSA) of 1971 which made these financially impoverished people the largest body of landholders in the state and a major economic force.

Yet, paradoxically, the triumph has caused reflection on the progress of the Native movement, and a growing number of Eskimos, Aleuts, and Indians are voicing fear that they may have won all the major battles only to lose the war—that political and economic gains may well be paving the way to cultural extinction.

Clear warning came during the Alaska Federation of Natives (AFN) convention last October from Eskimo Willie Hensley, who played a leading part in obtaining state and federal legislation favorable to the AFN.

"We've come a long way since 1966," Hensley reflected, "but as I view the situation, there has been a great deal of confusion as to what's happened to us. We were able to make significant advances, simply because we put aside our cultural and historical differences and were able to move together in unity.

"Although we've had a major influence on Alaska—on how it is now and how it's going to be in the future—there's a great deal of confusion as to what we have created. I think there are many people—many of our own people—who do not understand why we fought so hard for the land.

"Basically, we did not fight for the land because it represented capital, or because it represented money, or because it represented business opportunities. We fought for the land because it represents the spirit of our people.

"What happened in the Land Claims Settlement Act should be understood if our main objective of survival is to be achieved. What I mean by survival is not just political survival or economic survival. I'm talking about survival of our tribal spirit, of our languages, of our culture, of our self-respect. We should not be confused. The Settlement Act must be analyzed in light of 200 years of American history—the end product of an effort to de-Indianize the Native population. The land which represents our tribal homeland now rests in the corporation—a soul-less entity that is designed for commercial purposes.

"We cannot look to corporate life or politics to fill the void of a century of psychological repression. Business and politics are not an end. They are simply a means to the primary task of tribal renewal and survival. Our people have been misled to believe that to be an Inupiat, or Yup'ik, or Indian, or Aleut is incompatible with successful survival in the modern world, and this is a fallacy."

Painfully, Hensley traced the massive changes through which his people have passed since the Russian invasion in 1742; the coming of whalers and miners, with the destructive introduction of alcohol; the impacts of two world wars, and highway and road construction; and the influx of newcomers and, with them, the pressure for conformity to the standards of others.

"The fact is, Alaska's Native people—just as the Indian people in the Lower '48—have fought the same tide of assimilation, acculturation, individualization, and atomization," Hensley said. "This process has taken a toll on our spirit, on our identity, on our language, and on our culture. We have alcoholism and drugs, drop-outs, family break ups, and crime in our communities because of the pressures we've had on us. We've almost lost the will power to reassert our tribal identity and reconstitute our languages, which are the expression of our spirit and who we are inside."

Hensley called upon the delegates to help rebuild their societies, and focused on education as the place to start.

"Education has been viewed as the panacea—as a cure-all for Native people—but it also has been used by the government, in conjunction with religious groups, as the means of deculturizing our people," he charged.

"Our misled missionaries of education have been drumming into all our people the idea that you could not remain an Eskimo or Indian and still be educated. It is not true, and we should put to rest the thought that Native people are inherently ignorant. . . . I'm not saying that we should not be educated. Education is essential. . . . But we cannot continue to educate our children at the expense of their identity as Inupiat or Yup'ik or Indian people."

Optimistically, Hensley pointed out that Native people have all the elements for successful future survival: a land base, capital, and some fairly experienced managers and politicians. But, he suggested, each group should develop a regional program to revive the language and spirit of its people. Among Stateside Indians, these were the concerns of tribal councils, he explained. But Alaskans have no counterpart.

"Unfortunately, our leadership has been confronted and had to deal almost entirely with only one aspect of the problem, and that is the economic aspect. The language of the Settlement Act which our leadership negotiated is dominated by economic considerations. It would be easy to be deceived and think that's what the act is all about. We have to realize that economics is only the surface, and that the hope for many other aspects of our culture and our identity are also in the Settlement Act."

This legislation, which is a monument to capitalistic thinking, directed Native groups to form 13 profit-making corporations with tribal members as stockholders. Land and money from the settlement (roughly $1 billion and 40 million acres) were vested in these business entities, and profits from them are to go to stockholders, just as would be the case with any other major company such as Coca-Cola or IBM.

And, as with other corporations, these businesses are not allowed to spend money on cultural functions or social services. If they do so they are open to stockholder suits for unwise investment of capital.

Yet, while the majority of Native corporations have had trouble enough organizing to get a toehold in the business world, some have managed to concern themselves with social and cultural problems their stockholders and still keep within the bounds of sound business practice.

Hensley's Native corporation, NANA (based in Kotzebue), has been among the foremost for, luckily, the majority of its members once lived traditionally and recognize the value of their roots. Early on, NANA's board of directors passed a resolution stating priority for matters of cultural heritage. It has invested heavily in ventures that will hire stockholders on home ground and often schedules board meetings to coincide with cultural events so the travel budget can cover both economic and cultural concerns at the same time.

Nonetheless, NANA has had to make some tough decisions. Recently, with other regionals (Sealaska, Cook Inlet, and Koniag) joint-ventured with a major oil company and successfully bid to lease an offshore oil drilling site in the Beaufort Sea. Their lease has been challenged by other Eskimos as environmentally unsafe and a threat to the subsistence lifestyle. While NANA declined to side with the participating oil company against northern Eskimos in the court suit, it still holds a piece of the action and is also joint-venturing with two Eskimo villages to build rigs that may be used offshore in the controversial region.

NANA's own coast will soon go for exploitation by oil companies, and it will be interesting to see what approach the corporation takes to protect home hunting grounds. In addition, this regional firm has rich mining ground, the development of which may have to be made at the expense of subsistence lifestyles.

The problems faced by tradition bound Natives in all regions are monumental. Paramount is adaptation to change. At the time of the Settlement Act roughly 75 percent of Alaska's Native people lived by subsistence hunting and fishing, and the transition to a money economy has not come easily. Many did not speak English. Most had no real chance at education or training. And the problems that have come with increased opportunities and affluence are all Hensley alluded to and more.

The majority, who moved from dog team to snow machine, from wood stove to oil, found themselves with increasingly expensive dependence on petroleum products.

The cost of living—already high in Alaska as compared with other states—is even farther out of line in the bush. A University of Alaska food cost survey made at the end of 1980 showed it cost $88.44 a week to feed the average family of four in Anchorage, $151.08 in Fort Yukon, and $163.61 in Point Hope.

Government housing projects (generally referred to in the bush as "free" houses) require monthly rent or mortgage payments—a burden seldom encountered in the past. New sewer, water, and electrification programs mean additional payments, and many of these operations, powered by diesel generators, are becoming too expensive to operate. Light bills of $100–$200 are not uncommon in rural areas, and in some villages like Ambler, for example, pumping stations for sewer and running water cost so much to run there has been talk of shutting them down.

Television, almost statewide by satellite these days, also requires monthly payment in some areas. TV has increased the desire for consumer goods and further heightened expectations. Ten years ago you could live well in the bush by budgeting income from a trapline or fire-fighting money to cover staples: gas, ammunition, traps, and maybe a trip or two to town. But today the cash required for basic survival, even by good subsistence hunters, has increased to the point that occasional work for wages will not cover.

While paying jobs are increasing, they are small in number compared to the number of able-bodied residents seeking them, and much of the work in remote sites is highly seasonal.

The Alaska Native Claims Settlement Act moneys, divided by the number of recipients, would average perhaps $12,000. However, this money was not distributed as direct payment but to regional corporations to invest in the name of Native stockholders. The largest dividend yet paid was by Kasaan's Kavilco, Inc., which issued $27,164 to each stockholder in 1980 and plans a $10,000 per capita dividend in 1981 from proceeds of a timber sale. But the average payment runs from $100 to $1,000 per stockholder, and some corporations, on the verge of bankruptcy, have paid no money at all.

For these reasons, Natives have become increasingly dependent on welfare, food stamps, and government-subsidized programs, all of which face cutbacks in the face of the recent change of national administration.

Also up for review is free health care now provided under the Snyder Act of 1921, which authorizes the Secretary of the Interior to "expend funds for relief of distress and conservation of health of Indians." The Settlement Act specified that Native service programs would be reviewed by the Interior Secretary in 1974, and, although he declined to pass judgment on the controversial issue at that time, the topic will come up for review again in 1985.

Richard Zitzou, executive director of the Public Health Service for Alaska, points out that President Nixon's Self-Determination Act recognized Indian health care as a "birthright" and that it is PHS policy to provide the best possible health care to Native people. But free service could conceivably be terminated, or at least modified.

Since the introduction of unfamiliar diseases by outsiders, Native health standards have been far below those of white Americans—infant mortality shockingly high, life expectancy low. Within the last two decades, public health services have brought these up to par, but care was always free, and even the minority who could afford to pay have come to depend on it.

Although PHS and the state have brought longstanding health problems like tuberculosis under control, conditions in the bush are such that disease could easily come back should readily accessible health care not be provided.

To compound this problem, introduction of such conveniences as snow machines and running water have changed the lifestyle in many rural areas from one of great physical activity to a relatively sedentary existence. The number of young men who can easily pass the Bureau of Land Management firefighter's physical fitness test seems to be diminishing, and obesity and hypertension have become serious medical problems in the bush.

Dr. Brian McMahon, who moved to Bethel with the PHS in 1972, recalls seeing only one heart attack during two years of service there. But today, based at the Native hospital in Anchorage, he sees about one a week. The PHS is planning a preventive health care program, since the national mania for physical fitness and jogging has yet to make any considerable inroad in the bush.

Of even greater concern, however, is what Hensley refers to as the matter of "spirit." Dr. Bob Fraser, chief of communicable disease for the state health service, who first came to the bush in 1956, reports depression is one of the major health problems his staff encounters these days.

"I think we've got sort of an entrapment syndrome," he says. "There are many millions of dollars going into these communities, building houses, other programs; many highly paid, talented people; but there's been no basic change made in the economy of most villages. People are trapped and basically depressed.

"Their culture was predominantly one of survival. You worked and hunted to survive, and in a survival economy people are obliged to look after one another. I think the necessity of that has been removed now and you can't go back to that. That's gone and I don't think you can bring it back."

The effect on young people can perhaps best be studied through the education system which, by law, should be running according to Native dictates.

In 1973 the state legislature passed a bill mandating that if 15 or more children in a school spoke a language other than English, at least one bilingual teacher had to be on the staff. Bilingual workshops around the state started producing fine teaching materials in Native tongues, and cultural heritage programs also flourished. It was a real renaissance. New pride in being Native gripped the population. Old songs, ceremonies and dances, and other trappings of various cultures were revived.

Then, the Molly Hootch court decision required the state to build high schools in remote villages which previously had to send youngsters hundreds or thousands of miles away from home to attend government boarding schools. In addition, the state required formation of local school districts

with locally elected school boards having the power to hire staff and to make policy.

The meshing of old lifestyles with new is a difficult job without the full cooperation of the families and communities involved. The percentage of youngsters who speak their native tongues today is less than it was 10 years ago, not because school bilingual programs have failed, but because there is no practical application for their use when parents and others in the community speak only English.

Hunting and fishing skills are on the wane, too, along with old values of conservation, sharing, and appreciation of elders. If the thinking and teaching of grandparents seem obsolete, there is little reason to revere them.

Today's parents, busy working for wages, have much less chance to pass on traditional skills than in the old days when children were required to help with subsistence efforts to sustain the family. In some cases the cost of gasoline and ammunition is higher than the value of the game brought home. Food stamps have become—of necessity, or because they are easier—a way of life, and honing subsistence skills seems pointless. Even when old ways are valued, mandatory school attendance and elective school activities, such as ball games and socials, cut into prime subsistence time.

Even more alarming are the problems of delinquency. Traditionally, most Alaska Natives did not formally discipline children, nor was there need for it when youngsters worked long, hard hours with their families hunting and gathering to support themselves. Today, with much less parental supervision and considerably more spare time, the problems of delinquency are growing.

Many villages suffer vandalism to homes and public property and, more surprisingly, to the palatial new schools with their fine gymnasiums and recreational facilities. In one case, contractors in the Arctic had to hire armed guards to keep glass in the windows of a high school they were building (complete with swimming pool and gym) long enough to deliver it to the contracting school district. At least two other schools were temporarily shut down because students physically assaulted teachers.

Some believe the problem stems from the fact that most Alaska Natives have never had to raise teen-age children. Traditionally, youngsters were on their own by the time they reached their teens, and in more recent years they were sent away from home to attend boarding school. Now, parents not only have the burden of raising adolescents with no examples to draw from, but they also must face the new problems of easy access to alcohol and drugs.

Some blame the influence of television. They note a growing resentment among the young people who are "forced" to stay in the backwater to attend small schools, whereas their older brothers and sisters had a chance to travel to urban areas to attend large, well-equipped schools and get a look at the world this generation can only visit occasionally or covet on their color TVs.

Others point out that expanded job and educational opportunities are a double-edged sword, for they require sacrifice of traditional lifestyle and increased chances of failure. There is a lack of direction, a lack of spirit and sense of identity, not only in this younger generation but in their parents and the oldsters as well.

The incidence of crime, alcoholism, drug abuse, child and wife abuse are definitely on the rise among Native people, although statistics are hard to come by. Jim Percelle, who heads the Alaska Native Commission on Alcohol and Drug Abuse, says state figures are not reflective of bush incidence and other figures are not available. However, one regional health corporation that his agency currently contracts to, presently devotes 70 percent of its total budget to alcohol- and drug-related problems.

A 1979 report of the Judicial Council noted 77.9 percent of felonies in a rural setting are associated with alcohol and, according to the Fairbanks Daily News-Miner, which has been devoting a page a week to bush problems, the murder rate in rural areas is nearly three times greater than the statewide figure; rape is double; and just about every other category of major crime is higher in our rural areas.

According to a city count, half of the chronic alcoholics on Anchorage's Fourth Avenue are Native, although Natives make up only one-fifth of our population.

One remote village recently asked for state and federal attention to its drinking problems when drunken residents threatened teachers and forced educators to flee their own homes and the village itself for safety. And a 1979 report by the University of Alaska's Criminal Justice Center found that many villages throughout the state wanted much stiffer penalties for chronic offenders.

Suicide figures are likewise hard to come by. Dr. Bill Redlands, chief mental health coordinator for the PHS in Anchorage, says their figures show a considerable rise but are compiled only through 1974 and there is indication they may be dropping in some areas.

But Redlands, too, speaks reflectively of the need for a spiritual experience of Native people with their land and their culture.

"I think it is partly that they have lost touch with what was built into their culture. People are now suffering anger, greed, and confusion."

Of course, statistics are up nationally for suicide, crime, alcoholism, and drug abuse, but previously bush villages withstood national trends of this type because their unique societies had inner strength and remarkable stability, perhaps born of isolation.

It should also be noted that Alaska Natives are among the world's most watched and studied people. The bush is mecca for anthropologists and social scientists, experimenting educators, and concerned observers of all sorts. And for every unnerving example cited here, there are many more cases of families that are doing well; of people who wouldn't accept welfare if they were on their uppers; of intact, well-directed school boards and schools; of villages that show spirit and style, a dedication to the past, and a sense of purpose for the future.

Yet Native people are increasingly voicing concern for the preservation of their unique heritage and worrying publicly about the growing pressure of acculturation.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 1:58 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 31) to amend the Truth in Lending Act to encourage cash discounts, and for other purposes.

The message also announced that the House has passed the following bills, without amendment:

S. 1123. An act to permit certain funds allocated for official expenses of Senators to be utilized to procure additional office equipment; and

S. 1124. An act to authorize the Sergeant at Arms and Doorkeeper of the Senate, subject to the approval of the Committee on Rules and Administration, to enter into contracts which provide for the making of advance payments for computer programing services.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-224. A resolution adopted by the Napa, Calif., Chamber of Commerce, favoring the construction of nuclear fast attack submarines at the Mare Island Naval Shipyard; to the Committee on Armed Services.

POM-225. Joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Banking, Housing, and Urban Affairs:

"ASSEMBLY JOINT RESOLUTION

"Whereas, The United States Housing Act of 1937, as amended (42 U.S.C. §§ 1437 et seq.), provides for the financing of housing for certain families at low interest; and

"Whereas, The Act creates several categories of housing, including conventional construction, prefabricated housing and mobile homes; and

"Whereas, Mobile homes are treated in the same way as prefabricated houses for certain purposes, but they are not treated in the same way for the purpose of determining eligibility for loans at low interest; and

"Whereas, The distinction between a prefabricated house which is delivered to its site on its own chassis and a prefabricated house which is delivered to the site on a trailer is an artificial and unnecessary distinction which hinders the efforts of state agencies, including the housing division of the department of commerce of the State of Nevada, to provide safe, sanitary and decent housing for families with low incomes; now, therefore, be it

Resolved by the Assembly and Senate of the State of Nevada, jointly, That the legislature calls upon the Congress of the United States to eliminate the artificial distinction among types of housing which denies families with low incomes decent, safe and sanitary housing by making mobile homes ineligible for loans under the United States Housing Act of 1937, as amended; and be it further

"Resolved, That copies of this resolution be transmitted forthwith to the Vice President of the United States as President of the Senate, to the Speaker of the United States House of Representatives, and to each member of the delegation of the State of Nevada to the Congress of the United States; and be it further

"Resolved, That this resolution shall become effective upon passage and approval."

POM-226. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on the Budget:

"ASSEMBLY JOINT RESOLUTION No. 42

"Whereas, Proper economic planning, fiscal prudence and common sense require that the federal budget include all federal spending and be in balance; and

"Whereas, The annual federal budgets continually reflect the unwillingness or inability of the legislative and executive branches of the Federal Government to balance the budget; and

"Whereas, The national debt now amounts to hundreds of billions of dollars and is increasing enormously each year as federal expenditures exceed federal revenues; now, therefore, be it

"Resolved by the Assembly and Senate of the State of Nevada, jointly, That the Nevada legislature hereby calls upon the Congress of the United States to develop a fiscal program to balance the federal budget and gradually reduce the national debt; and be it further

"Resolved, That a copy of this resolution be immediately transmitted by the legislative counsel to the Vice President of the United States as President of the Senate and the Speaker of the House of Representatives and to each member of the Nevada congressional delegation; and be it further

"Resolved, That this resolution shall become effective upon passage and approval."

POM–227. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Commerce, Science, and Transportation:

"JOINT RESOLUTION

"We, your Memorialists, the Senate and House of Representatives of the State of Maine in the One Hundred and Tenth Legislative Session, now assembled, most respectfully present and petition your Honorable Body as follows:

"Whereas, Maine has the longest coastline of any continental state, with an extensive maritime heritage, and its social and economic well-being is dependent on its 3,000 miles of coastline; and

"Whereas, many activities take Maine citizens onto coastal waters, including fishing, coastal commerce and trade, recreational boating and airline traffic; and commercial fishing is the State's 3rd leading industry; and

"Whereas, the recent enactment of the 200-mile limit, and promotion and investment by the State and private industry have expanded the fishing industry, with more vessels going further off shore for longer trips; and

"Whereas, the waters of the North Atlantic are notoriously treacherous, with frequent fog, gales and dangerously cold waters, particularly in wintertime; and

Whereas, each year there are many incidents of ships, boats and planes in distress or lost at sea, imperiling many lives and because of the cold, harsh waters, making quick rescue vitally important; and

"Whereas, while the Coast Guard has provided search and rescue services to the best of its ability, it takes more than 1½ hours for a Coast Guard helicopter to reach our mid-coast region from the nearest base at Cape Cod, Massachusetts, and it takes even longer to reach areas further Down East; and

"Whereas, many lives might be saved and the peace and security of Maine citizens increased if helicopter assistance were available within the State of Maine; now, therefore, be it

"Resolved, That We, your Memorialists, respectfully recommend and urge the Congress of the United States to establish a Coast Guard Helicopter Rescue Unit in Maine, and take any other actions that may help safeguard the safety and security of our fishermen; and be it further

"Resolved, That a duly authenticated copy of this Memorial be immediately submitted by the Secretary of State to the President of the Senate and the Speaker of the House of the Congress of the United States and to each Member of the Senate and House of Representatives in the Congress of the United States from this State."

POM–228. A resolution adopted by the House of Representatives of the State of Michigan; to the Committee on Energy and Natural Resources:

"HOUSE RESOLUTION No. 176

"Whereas, The Natural Gas Policy Act of 1978 calls for the gradual decontrol of natural gas prices through 1985; and

"Whereas, The President of the United States has repeatedly pledged an attempt to decontrol natural gas prices completely and immediately; and

"Whereas, Immediate decontrol of natural gas prices will cost the State of Michigan billions of dollars more than gradual decontrol through 1985; and

"Whereas, Immediate decontrol will cause commerce and industry to pay considerably more for natural gas for heat and process uses, resulting in decreased revenues and investment in the State. Moreover, it will also result in higher consumer prices for food, clothing, housing, and other necessities of life; now, therefore, be it

"Resolved by the House of Representatives, That the members of this legislative body oppose the immediate decontrol of natural gas prices as proposed by the President of the United States; and be it further

"Resolved, That copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan Congressional delegation."

POM–229. A petition from the board of directors of the South San Francisco Chamber of Commerce, urging the repeal of section 301 of the Powerplant and Industrial Fuel Use Act of 1978; to the Committee on Energy and Natural Resources.

POM–230. A resolution adopted by the City Council of San Bruno, Calif., urging the repeal of section 301 of the Powerplant and Industrial Fuel Use Act of 1978; to the Committee on Energy and Natural Resources.

POM–231. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Energy and Natural Resources:

"SENATE JOINT RESOLUTION No. 18

"Whereas, The Federal Government possesses 61.6 million acres or 87 percent of the land in the State of Nevada; and

"Whereas, A single federal agency, the Bureau of Land Management, administers 49.1 million acres of public domain, comprising 69 percent of the land in Nevada; and

"Whereas, Of all the lands possessed by the Federal Government, over 93 percent is located in just 12 western states, including 64 percent of the land in Utah, 63 percent in Idaho, 52 percent in Oregon, 48 percent in Wyoming, 45 percent in California, and 43 percent in Arizona, and the Federal Government will ultimately retain approximately two-thirds of the land in Alaska; and

"Whereas, Since the enactment of the Northwest Ordinance in 1787 the public domain has been impressed with a trust requiring the Federal Government to pursue an orderly program of disposal of the public domain in each new state so that the new states will be on an equal footing with the original states in the Union; and

"Whereas, The Federal Government, based on initial interpretations of the Constitution of the United States and the Northwest Ordinance, and longstanding practice thereafter, did dispose of virtually all of the public domain as far west as the 100th meridian; and

"Whereas, A blue ribbon committee appointed by President Hoover to review the conservation and administration of the public domain recommended to Congress in 1931 that "Congress should pass an act granting to the respective public land states all the unreserved, unappropriated public domain within their respective boundaries"; and

"Whereas, In the last 116 years only 2.1 percent of the land in Nevada has passed from feedral control to private ownership under the general land laws; and

"Whereas, The Federal Government's infrequent disposals of land in Navada have virtually ceased, and the amount of federally controlled land in this state has, in fact, increased from 86.21 percent in June 1964, to 87.9 percent in September 1978, an increase of .88 percent (as if 86.21 percent were not enough); and

"Whereas, The Federal Government's failure to dispose of the public domain is a breach of the trust under which it obtained those lands and impairs Nevada's expectancy with respect to land disposals; and

"Whereas, The Federal Government's land policy of retaining the public domain presently impairs the State of Nevada's ability to function in a sovereign capacity and denies Nevada an equal footing with the other states in the Union; and

"Whereas, The Federal Government's land policy has similarly impaired the expectations and sovereignty of the other western states and has denied them an equal footing with the other states in the Union; now therefore, be it

"Resolved by the Senate and Assembly of the State of Nevada, jointly, That this legislature strongly urges Congress and the President of the United States to provide for the transfer of the unreserved, unappropriated public domain to the states in which those lands are located, by enacting and approving legislation similar to S. 1680 of the 96th Congress, introduced by Senator Hatch of Utah, or H.R. 7837 of the 96th Congress, introduced by Congressman Santini of Nevada; and be it further

"Resolved, That the legislative counsel shall forthwith transmit copies of this resolution to the President of the United States, the Vice President as President of the Senate, the Speaker of the House of Representatives and each member of the congressional delegations from the states of Nevada and Alaska, Arizona, California, Colorado, Idaho, Montana, New Mexico, Oregon, Utah, Washington and Wyoming; and be it further

"Resolved, That this resolution shall become effective upon passage and approval."

POM–232. A resolution adopted by the Russian River Action Council, Santa Rosa, Calif., urging repeal of section 301 of the Powerplant and Industrial Fuel Use Act of 1978; to the Committee on Energy and Natural Resources.

POM–233. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Environment and Public Works:

"House Concurrent Resolution No. 32

"Whereas, Despite the apparent push for coal to be used in increasing amounts as an effort to meet future energy needs and the popularity of this abundant domestic fuel, the use of coal is not without very serious and very real risks. Critically important ecological concerns have been raised which make clear the need to take all possible steps to safeguard the people of this country and other nations; and

"Whereas, Millions of tons of sulfur and nitrogen oxides are produced and enter our environment. These oxides, most of which result from burning coal, combine with oxygen and water in the air to form sulfuric and nitric acid to produce an "acid rain". This

greatly increased acidity in rainwater, snow and other forms of precipitation has already had a significant detrimental effects on lakes and streams, not only in the eastern United States, but in Europe; and

"Whereas, Thus, there is a great concern over this serious issue which could become even more critical with any increase in coal burning; now, therefore, be it

"Resolved by the House of Representatives (the Senate concurring). That the United States Congress and the President be hereby memorialized to require that the best available technology be used to reduce the emissions of oxides of sulfur and nitrogen in all existing and new coal burning facilities; and be it further

"Resolved, That copies of this resolution be transmitted to the President of the President of the United States, the President of the U.S. Senate, the Speaker of the U.S. House of Representatives, and the members of the Michigan Delegation to the Congress."

POM-234. A resolution adopted by the Senate of the State of California; to the Committee on Finance:

"Senate Resolution No. 19

"Whereas, Continental Airlines has served California communities for more than 25 years and has been an integral part of this state since that time; and

"Whereas, Continental Airlines currently employs nearly 5500 people in California with an annual payroll exceeding $158 million and provides an additional contribution to the California economy with average annual expenditures of over $200 million; and

"Whereas, Continental Airlines provides direct and convenient service for business people and tourists between six California communities and other cities in the Continental United States, Mexico, Hawaii, and the Central and South Pacific; and

"Whereas, California and its citizens clearly have a strong interest in the future of Continental Airlines because its employees live here and their jobs and other jobs depend upon the financial health of this airline; and

"Whereas, The employees of Continental Airlines have proposed that an Employee Stock Ownership Trust (ESOT) be created in order that the employees of Continental Airlines may acquire controlling interest in their own airline and prevent a takeover by outside interests; and

"Whereas, Studies have shown that companies that are employee-owned are more productive and more profitable than their conventionally-owned competitors, and with adoption of the ESOT plan Continental's employees will be more than employees, they will be the owners of the company with an interest in its future; and

"Whereas, There is renewed awakening nationally to the importance of employee interest in their jobs in order to gain productivity, and also of the importance of creation of capital for industry, both of which would be accomplished through the Continental employees' ESOT plan; now, therefore, be it

"Resolved by the Senate of the State of California, That the Senate of the State of California expresses its support for the employees of Continental Airlines in their efforts to acquire control of Continental Airlines by creation of an Employee Stock Ownership Trust (ESOT); and be it further

"Resolved, That the Senate of the State of California hereby commends Continental's employees for their efforts to make Continental Airlines an even more valuable asset to this state through greater productivity and service to the citizens of California; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Labor, to the Securities and Exchange Commission, to the Commissioner of the Internal Revenue Service, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Governor of California, to the California Corporations Commissioner, to the Secretary of Business, Transportation and Commerce, to the New York Stock Exchange, and to the Civil Aeronautics Board."

POM-235. A petition from a citizen of Wilkes Barre, Pa., relating to the repeal of PSRO; to the Committee on Finance.

POM-236. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"Assembly Joint Resolution No. 34

"Whereas, It is a matter of utmost importance to revitalize the American economy; and

"Whereas, Stronger incentives for the accumulation of capital through greater productivity and hard work would promote increased investment in our economy; and

"Whereas, The federal taxes on estates and gifts weaken the incentive to accumulate the capital necessary for investment by taxing the right to transfer property and constitute a restraint on the exercise of this right which is unrelated to any important national policy; now, therefore, be it

"Resolved by the Assembly and Senate of the State of Nevada, jointly, That the Nevada legislature memorializes the Congress of the United States to repeal the provisions of law which provide for federal taxation of estates and gifts; and be it further

"Resolved, That copies of this resolution be immediately transmitted by the legislative counsel to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and to all members of the Nevada congressional delegation; and be it further

"Resolved, That this resolution shall become effective upon passage and approval."

POM-237. A petition from a citizen of Wilkes Barre, Pa., relating to the repeal of PSRO; to the Committee on Finance.

POM-238. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Foreign Relations:

House Concurrent Resolution No. 72

"Whereas, In the aftermath of the Vietnam conflict, our country has undertaken efforts to normalize relations with the government of Vietnam; and

"Whereas, One of the greatest roadblocks in achieving this goal has been the fact that over 2,000 of our citizens remain unaccounted for in Indochina and seven hundred are listed as "missing in action"; and

"Whereas, The uncertainty over the fate of these Americans, both armed forces personnel and civilians, has caused immeasurable grief for their loved ones and, indeed, for all Americans;

"Resolved by the House of Representatives (the Senate concurring), That the members of this legislative body hereby memorialize the President and the Congress of the United States to do everything possible to obtain an accurate accounting of Americans listed as "missing in action" or unaccounted for as a result of military participation in Indochina; and be it further

"Resolved, That copies of this resolution be transmitted to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the Michigan Congressional Delegation."

POM-239. A resolution adopted by the United Methodist Church of Minnesota, favoring talks to halt the nuclear arms race; to the Committee on Foreign Relations.

POM-240. A resolution adopted by Central Texas Conference of the United Methodist Church, opposing the World Health Organization's action opposing the sale of infant formula to third world countries; to the Committee on Foreign Relations.

POM-241. A resolution adopted by the City Council of San Diego, Calif., favoring the administration's program to restore economic growth and return powers to local entities; to the Committee on Governmental Affairs.

POM-242. A resolution adopted by the City Council of Live Oak, Calif., express-support of efforts by the Federal administration to return power to local entities and urging a careful implementation of those efforts in ways that will enhance, not further impede, home rules; to the Committee on Governmental Affairs.

POM-243. A resolution adopted by the City Council of Sunnyvale, Calif., expressing its support of efforts by the Federal administration to return powers to local entities and urging a careful implementation of those efforts in ways that will enhance, not further impede, home rule; to the Committee on Governmental Affairs.

POM-244. A resolution adopted by the City Council of Hawaiian Gardens, Calif., expressing its support of efforts by the Federal administration to return powers to local entities and urging a careful implementation of those efforts in ways that will enhance, not further impede, home rule; to the Committee on Governmental Affairs.

POM-245. A resolution adopted by the City Council of Pacifica, Calif., regarding the Federal administration's current fiscal and regulatory policy which de-emphasizes categorical grants to local agencies and enhances the block grant program; to the Committee on Governmental Affairs.

POM-246. A resolution adopted by the Board of Aldermen of St. Louis, Mo., relating to the Voting Rights Act; to the Committee on the Judiciary.

POM-247. A resolution adopted by the City Council of Sanger, Calif., supporting the Voting Rights Act of 1965; to the Committee on the Judiciary.

POM-248. A petition from a citizen of Jeffersonville, Ind., praying for a redress of grievances; to the Committee on the Judiciary.

POM-249. A petition from the Republican Club of Indian River County, Vero Beach, Fla., supporting the imposition of high bonds for drug defendents and opposing the reduction of those bonds prior to arraignment; to the Committee on the Judiciary.

POM-250. A resolution adopted by the Leach Lake Tribal Council, Cass Lake, Minn., supporting the continued funding and operation of the Community Service Administration; to the Committee on Labor and Human Resources.

POM-251. A resolution adopted by the Senate of the State of Michigan; to the Committee on Labor and Human Resources:

Senate Resolution No. 124

"Whereas, How much is a human life worth, in terms of dollars and cents, or an arm, or lung or an eye? This may be what the Reagan Administration is attempting to determine in its cost-benefit analysis approach to evaluating federal Occupational Safety and Health Administration (OSHA) standards. Presidential budget advisers and federal officials are currently involved in a process which will attempt to determine whether the costs to comply with OSHA regulations are greater than the benefits achieved. While we support the President's efforts to cut regulation, at stake may be the

health, safety, and lives of American workers; and

"Whereas, In 1980, 15,000 American workers suffered on-the-job deaths, with another 2.5 million suffering disabling injuries. This amounts to one worker killed every forty minutes and one worker injured every fourteen seconds. While working conditions for the American labor force have come a long way from the days of sweat shops and archaic, hazardous job sites, we cannot afford to give way to those who would undo the great progress that has been made; and

"Whereas, Here in Michigan, great strides have been made in increasing the safety of working men and women. The 1972 incident rate for industrial illness and injury in Michigan was 12.5 percent, while the national rate was 10.9 percent. By 1979, four years after the Michigan Occupational Safety and Health Act went into effect, the Michigan rate of industrial illness and injury declined to 7.9 percent, while the national rate declined to 9.5 percent. The reduction of the rate in Michigan thus fell by 36.8 percent as compared with the national reduction of only 12.8 percent. The Michigan rate of 7.9 percent is the fourth lowest in the entire country, and the closest industrial state, Pennsylvania, is seventeenth. Statistics pertaining to work-related fatalities also reflect the impact of MIOSHA, with a steady decline over the past three years of from 112 fatalities in 1978 to ninety in 1979 and to seventy-three in 1980; and

"Whereas, These impressive results in the level of safety in Michigan's workplace are attributable to the impact of Michigan's Occupational Safety and Health Act, Act No. 154 of the Public Acts of 1954, as amended. One can only conjecture as to the number of healthy, able-bodied men and women in our state today who may have escaped injury, or worse, because of this program; and

"Whereas, Reduction in federal expenditures through the Occupational Safety and Health Administration could seriously jeopardize Michigan's highly effective program, a program which is proof of the legitimate need for and worth of this program; and

"Whereas, Currently underway is a thirty-six-city national protest organized by the Amalgamated Clothing and Textile Workers Union against federal action to withdraw the cotton dust standard. Supporters of the protest say that more than 500,000 textile workers run the risk of contracting brown lung disease if this standard is withdrawn by the Reagan Administration. This is but one example of a host of federal standards, administered by OSHA, which protect the labor force from hazardous working conditions. Our society has always placed a premium on human life. Any change to the overall ability and effectiveness of OSHA to ensure the health and safety of Americans while on the job, puts that noble philosophy in jeopardy; now, therefore, be it

"Resolved by the Senate, That, by all present, we memorialize the Congress of the United States to oppose any federal spending cutbacks in the Occupational Safety and Health Administration; and be it further

"Resolved, That copies of this resolution be transmitted to President Reagan, the President of the United States Senate, the Speaker of the United States House of Representatives, members of the Michigan Congressional Delegation, the Secretary of the United States Department of Labor, United Auto Workers President Douglas Frazier, AFL–CIO President Lane Kirkland, and Franklin Mirer, head of the occupational safety and health unit of the United Auto Workers."

POM–252. A resolution adopted by the United Neighborhood Centers of America, Inc., favoring the reauthorization of the Legal Services Corporation; to the Committee on Labor and Human Resources.

POM–253. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Veterans' Affairs:

"JOINT RESOLUTION

"Whereas, as early as 1946, Aroostook County veterans have felt the need for the establishment of a specific Veterans Medical Care Facility centrally located in Aroostook County, but in spite of numerous efforts and proposals such a facility has not yet come to pass; and

"Whereas, utilization of the Veterans Administration Medical Facility at Togus by Aroostook County Veterans is ⅓ that of veterans throughout the remainder of the State; and

"Whereas, the cost and personal hardship of driving 600 or more miles, many times in dangerous weather conditions, from Aroostook County to Togus for outpatient work, postoperative work, physical examinations, prehospital physicals, physical therapy, or other outpatient services, is most substantial; and

"Whereas, a satellite facility located within an existing medical facility in central Aroostook County would show a substantial savings in travel expenses paid to veterans, while at the same time making the services more available to the veteran; and

"Whereas, hospitals in Aroostook County, such as Cary Medical Center, are equipped with adequate medical technology, physician specialists and medical equipment to provide quality medical care on an outpatient basis for the veterans; now, therefore, be it

"Resolved: That We, your Memorialists, respectfully recommend and urge the Congress of the United States to consider and approve provisions for health care services to veterans in a central facility in Aroostook County, State of Maine, under the auspices of the Veterans Administration Center, Togus, Maine; and be it further

"Resolved: That a duly authenticated copy of this Memorial be immediately submitted by the Secretary of State to the President of the Senate and Speaker of the House of the Congress of the United States and to each member of Congress from this State."

POM–254. A petition from citizens of Addison, Mich., relating to the recall of the Governor of Michigan; ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, without amendment, and with a preamble:

S.J. Res. 64. Joint resolution designating August 13, 1981, as "National Blinded Veterans Recognition Day"; and

S.J. Res. 91. Joint resolution to designate July 1981 as "National Peach Month."

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment, and an amendment to the title:

S.J. Res. 12. Joint resolution to authorize and request the President to designate November 14 of each year as "Operating Room Nurses Day."

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment, an amendment to the title, and an amendment to the preamble:

S.J. Res. 73. Joint resolution to designate the week beginning June 1, 1981, and ending June 7, 1981, as "Management Week in America."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

O. Evans Denney, of Delaware, to be United States marshall for the district of Delaware for the term of 4 years;

Gerald J. Mossinghoff, of Virginia, to be Commissioner of Patents and Trademarks; and

Loren A. Smith, of Delaware, to be Chairman of the Administrative Conference of the United States for a term of 5 years.

By Mr. PERCY, from the Committee on Foreign Relations:

Eugene Victor Rostow, of Connecticut, to be Director of the U.S. Arms Control and Disarmament Agency;

James T. Hackett, of Virginia, to be an Associate Director of the International Communication Agency;

James B. Conkling, of California, to be an Associate Director of the International Communication Agency;

Charles W. Bray III, of Maryland, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States to Senegal.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Charles W. Bray, III.

Post: Senegal.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse: Eleanor M., none.

3. Children and spouses names: Charles W., David C., Katherine M. (no spouses). None.

4. Parents names: Charles W. and Katherine O. Bray:

Parents: Charles W. Bray, $100, 1980, Anderson for President Committee. $50, 1980, National Unity Campaign.

Katherine O. Bray, $25, 1980, Re-elect Packwood Committee, $25, 1980, Re-elect Holtzman Committee.

5. Grandparents names, deceased.

6. Brothers and spouses, Names: Richard O. and Tara Bray, Thomas J. and Dale Bray, none.

7. Sisters and spouses names, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Jane Abell Coon, of New Hampshire, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States to the People's Republic of Bangladesh:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Coon, Jane A.

Post: Ambassador to Bangladesh.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names, none.

4. Parents names, deceased.

5. Grandparents names, deceased.

6. Brothers and spouses names: Richard Abell, $20, 1978, Marion Barry; Paul Abell, $25, 1980, John Anderson; Joyce Abell, $70, 1980, John Anderson.

7. Sisters and spouses names, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Jose S. Sorzano, of Virginia, to be the Representative of the United States on the Economic and Social Council of the United Nations, with the rank of Ambassador:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Jose S. Sorzano.

Post: U.S. Representative to the United Nations Economic and Social Council, rank of Ambassador.

Contributions, amount, date and donee:

1. Self: $20.00 summer 1980, Frank Wolf; $300.00 summer 1980, James McConkie.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, none.
5. Grandparents names, none.
6. Brothers and spouses names, none.
7. Sisters and spouses names: Dr. William Hernandez, brother in law, $150, 1976–1980, Republican National Committee.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Arthur F. Burns, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Federal Republic of Germany:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Arthur Frank Burns.

Post: Ambassador, Federal Republic of Germany.

Contributions, amount, date, donee:

1. Self: Dr. Arthur F. Burns, $25 to Richard Cheney, October 23, 1978; $50 to George Bush, August 24, 1979; $25 to James Buckley, April 14, 1980; and $100 to Jacob Javits, May 12, 1980.
2. Spouse: Helen Bernstein Burns, $25 to Joseph Fisher in 1978 (date uncertain).
3. Children and spouses names: David S. Burns, none; Joseph M. Burns, none.
4. Parents names, deceased.
5. Grandparents names, deceased.
6. Brothers and spouses names, none.
7. Sisters and spouses names: Jean Rubin, none; Pearl Schwartz and M. Herbert, $10 to Robin Ficker, January 15, 1980.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

(The above nominations were reported from the Committee on Foreign Relations with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation:

James Montgomery Beggs, of Missouri, to be Administrator of the National Aeronautics and Space Administration.

(The above nomination was reported from the Committee on Commerce, Science, and Transportation with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HATCH, from the Committee on Labor and Human Resources:

Dwight A. Ink, of Maryland, to be Director of the Community Services Administration;

Clarence Thomas, of Maryland, to be Assistant Secretary for Civil Rights, Department of Education;

John H. Rodriguez, of Virginia, to be Deputy Under Secretary for Intergovernmental and Interagency Affairs, Department of Education; and

K. William O'Connor, of Virginia, to be Inspector General, Community Services Administration.

(The above nominations were reported from the Committee on Labor and Human Resources with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SPECTER (for himself, Mr. THURMOND, Mr. LAXALT and Mr. BIDEN):

S. 1417. A bill to establish a Presidential Protection Commission to advise the President and the Congress on reducing the risk of assassination at public appearances and otherwise to increase efforts to prevent criminal assaults against the President and to recommend amendments to title 18 of the United States Code and other provisions of Federal law relating to safeguarding the President; to the Committee on Governmental Affairs.

By Mr. ROBERT C. BYRD:

S. 1418. A bill for the relief of Luis P. Adongay, doctor of medicine, and his wife, Thelma; to the Committee on the Judiciary.

S. 1419. A bill for the relief of Rex Brimbuela Kare, doctor of medicine, his wife, and his three children; to the Committee on the Judiciary.

By Mr. D'AMATO:

S. 1420. A bill to amend the Internal Revenue Code of 1954 to increase the limitation on the interest deduction for interest paid or accrued on investment indebtedness from $10,000 to $25,000 for individuals with earned income; to the Committee on Finance.

By Mr. EAGLETON (for himself and Mr. MATHIAS):

S. 1421. A bill entitled the "National Archives and Records Administration Act of 1981"; to the Committee on Governmental Affairs.

By Mr. GRASSLEY:

S. 1422. A bill to authorize the donation of surplus property to any State for the construction and modernization of criminal justice facilities; to the Committee on Government Affairs.

By Mr. HATCH:

S. 1423. A bill to revise provisions of the Federal Mine Safety and Health Act of 1977, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CHAFEE (for himself, Mr. GARN, Mr. PROXMIRE and Mr. HAYAKAWA):

S. 1424. A bill to amend the Investment Company Act of 1940; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. KASSEBAUM (by request):

S. 1425. A bill to terminate certain functions of the Civil Aeronautics Board, to transfer other functions of the Board to the Secretary of Transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1426. A bill to terminate certain functions of the Civil Aeronautics Board and to transfer certain functions of the Board to the Secretary of Transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER (for himself, Mr. THURMOND, Mr. LAXALT, and Mr. BIDEN):

S. 1417. A bill to establish a Presidential Protection Commission to advise the President and the Congress on reducing the risk of assassination at public appearances and otherwise to increase efforts to prevent criminal assaults against the President and to recommend amendments to title 18 of the United States Code and other provisions of Federal law relating to safeguarding the President; to the Committee on Governmental Affairs.

PRESIDENTIAL PROTECTION COMMISSION

Mr. SPECTER. Mr. President, I send to the desk for appropriate reference a bill proposing the establishment of a Presidential Protection Commission which I believe will provide the best means for averting another assassination of a President or another attempted assassination.

Our Nation cannot afford another assassination and this time we must act to heed the warnings so that it will not happen again.

Our national experience—from the day of President Kennedy's death to an assassin's bullet, through two shootings at President Ford and to the wounding last March 30 of President Reagan—provides proof positive of three truths:

First. Our Presidents can never be protected from armed assault so long as they are exposed to unidentified persons, close at hand, who may be criminals, terrorists, or disturbed individuals.

Second. Our Presidents are under enormous political and press pressure to remain immediately accessible to anyone present at public appearances, and this pressure must be counterbalanced by authoratitative advice to avoid unnecessary risks in the best interests of our Nation.

Third. Our Presidents must be persuaded to ignore the pressure and put aside personal preferences and to take proper precautions, for the Presidency is not the possession of its temporary occupant, but of all the people, and, therefore, decisions on what constitutes due care should not be made by the President alone, although his views must ultimately prevail, but by the best qualified

representatives of the people themselves.

That is what this Commission represents. That is why we cannot do without it.

Mr. President, I ask unanimous consent to have the text of the bill printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1417

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is established the Presidential Protection Commission (hereinafter referred to as the "Commission").

MEMBERSHIP OF COMMISSION

SEC. 2. (a) The Commission shall be composed of—

(1) the two major former Presidents of the United States, one of each party, of most recent service, who shall serve as cochairman;

(2) the Majority Leader of the United States Senate.

(3) the designee of the Speaker of the United States House of Representatives;

(4) the Chairman of the Committee on the Judiciary of the United States House of Representatives;

(5) the designee of the Chairman of the Committee on the Judiciary of the United States Senate; and

(6) the Secretary of the Treasury.

(b) Three members of the Commission shall constitute a quorum for the transaction of its business, but the Commission may provide for the taking of testimony and the receipt of evidence at meetings at which there is present one member.

DUTIES OF THE COMMISSION

SEC. 3. (a) It shall be the duty of the Commission—

(1) to recommend policies and standards to reduce the risk of and increase efforts for the prevention of criminal assaults against the President and other Secret Service protectees during public appearances and otherwise, including whether and to what extent—

(A) the schedule of the President's appearances outside of the White House and the routes he will follow should be publicly disclosed in advance;

(B) unidentified persons should be allowed access to the President or to areas which the President is to traverse;

(C) additional measures should be employed to assure that persons in proximity to the President are not armed;

(D) the President should ride in open vehicles;

(E) the President should mingle with the general public at airports, parades, ceremonies, celebrations, or other events, particularly in public or outdoor places;

(F) the President should wear protective equipment, such as a bullet-proof vest; and

(G) public access to the White House, the Capitol, and other places frequented by the President, should be restricted when he is present;

(2) to review the criminal laws and other laws relating to the safety of the President and to recommend changes that would help protect the President from being criminally assaulted, including whether and to what extent—

(A) section 1752 of title 18, United States Code should be changed to clarify or enlarge the Federal Bureau of Investigation and Secret Service powers relating to the detention, questioning, frisk, search, and arrest of persons in proximity to the President, who may pose a danger;

(B) unlawful possession of a concealed weapon within a security zone established under section 1752 of title 18, United States Code, should be a Federal crime;

(C) criteria and procedures by which protective information is provided to the Secret Service by the Federal Bureau of Investigation and by other agencies, can be improved and what changes in current law would facilitate detection and apprehension of international terrorists and others who may pose a threat to the President's safety; and

(D) the Federal Bureau of Investigation and other agencies should be authorized and directed to investigate persons or groups on the basis of a substantiated request of the Secret Service; and

(E) the Federal Bureau of Investigation and the United States Secret Service should be given administrative subpena power to secure necessary records or information relating to persons who pose a threat to the President, including medical or psychiatric files.

(b) The Commission may make recommendations to improve the personal safety of candidates or other Secret Service protectees.

REPORTS OF COMMISSION AND TERMINATION

SEC. 4. (a) The Commission shall expeditiously review the matters identified in section 3 and shall issue an interim report within one hundred and twenty days after the date of enactment of this Act. The report shall be made simultaneously to the President of the United States and to the Congress. The report shall be exempt from the Freedom of Information Act, but may be made public in whole or in part in the discretion of the Commission.

(b) The Commission shall issue a final report within one year after the date of enactment of this Act. The report shall be as provided in subsection (a).

(c) The Commission shall cease to exist ninety days after submitting its final report.

STAFF OF COMMISSION

SEC. 5. (a) The members of the Commission shall serve without pay or other compensation, except that (1) while away from their homes or regular places of business in the performance of their duties for the Commission, they shall be allowed travel expenses, including a per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code, and (2) they may be reimbursed by the Commission for other necessary expenses incurred by them in the performance of their duties for the Commission.

(b) The Commission is authorized to appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions without regard to the civil service laws, rules, and regulations. Any Federal employee subject to those laws, rules, and regulations may be detailed to the Commission, and such detail shall be without interruption or loss of civil service status or privilege.

(c) The Commission may procure the temporary and intermittent services of experts and consultants to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.

POWERS OF COMMISSION

SEC. 6. (a) The Commission may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes and materials as the Commission may find advisable.

(b) The Commission may secure directly from any official or instrumentality of the executive branch of the Federal Government such information, documents, materials, or assistance as the Commission deems necessary to carry out its functions under this Act.

(c)(1) Subpenas shall be issued under the signature of either of the co-chairmen or any member of the Commission designated by them and shall be served by any person or class of persons designated by the chairmen. Any member of the Commission may administer oaths or affirmation to witnesses appearing before the Commission.

(2) The provisions of section 1821 of title 28, United States Code, shall apply to witnesses summoned to appear at any such hearing. The per diem and mileage allowances to witnesses summoned under authority conferred by this section shall be paid from funds appropriated to the Commission.

RECORDS OF COMMISSION

SEC. 7. (a) Except as otherwise provided by the Commission by majority vote, meetings and proceedings of the Commission shall be private and the contents thereof shall not be publicly disclosed by the Commission.

(b) The records and files of the Commission shall in their entirety be exempt from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552), and the Privacy Act of 1974 (5 U.S.C. 552a), or any other statute and shall not be discoverable in connection with court proceedings or otherwise subject to compulsory process except upon a showing of compelling need, after a hearing in camera, and after the records have been altered to protect the sources, methods, techniques, and tactics utilized by the United States Secret Service or any other agency or the protection of the President.

Mr. BAKER. Mr. President, I would like to take just a moment of the Senate's time this morning to commend and congratulate my distinguished colleague from Pennsylvania (Mr. SPECTER) on the concern and initiative he has shown with regards to the protection of the American President and the American Presidency.

I make that distinction, Mr. President, because the two—the President and the Presidency—are separate but interwoven entities. Surely, any assault on a President is an assault on the institution of the Presidency.

In the lifetimes of those of us in this Senate, there have been all too many such assaults, each seeming more senseless than the previous one. We have been most fortunate in that most of these attacks have failed; failed in irreparably harming either the President or the Presidency. But this most recent assault on President Reagan, in which so many truly decent men were so grievously wounded, should serve to remind all of us of the vulnerability of the President and the need to be ever mindful of methods to enhance and improve the security and protection of the President.

To that end, my friend and colleague from Pennsylvania has offered the Senate a most intriguing suggestion for reviewing and strengthening that security.

I have consulted with the Senator from Pennsylvania more than once on this subject and I have encouraged him to pursue this subject as he is doing.

I am certain the legislation he has introduced in the Senate this morning will

receive the careful and deliberate consideration it deserves.

I might add, Mr. President, that the thoughtful and dedicated manner in which Senator SPECTER has pursued this matter bodes well indeed for those of us in the Senate, his constituency in Pennsylvania, and all Americans. In only a few short months, he has become a remarkable Senator. And I am certain the imprint he will leave on this Senate in the many years to come will be one of outstanding accomplishment.

Mr. President, I applaud and congratulate our new colleague from Pennsylvania for undertaking a serious and important assignment. I express my appreciation for his willingness to do it and to take the encouragement and meager suggestions I have offered him. I encourage him to continue with these efforts in the future and I pledge to him my support in that effort to find a solution to this issue.

Mr. SPECTER. Mr. President, I thank the majority leader, the distinguished Senator from Tennessee, for those very gracious comments and for the encouragement, support, and advice he has given to me in the course of this effort. It is greatly appreciated.

By Mr. D'AMATO:

S. 1420. A bill to amend the Internal Revenue Code of 1954 to increase the limitation on the interest deduction for interest paid or accrued on investment indebtedness from $10,000 to $25,000 for individuals with earned income; to the Committee on Finance.

INTEREST DEDUCTION EQUITY ACT OF 1981

● Mr. D'AMATO. Mr. President, I am introducing a bill today titled the "Interest Deduction Equity Act of 1981." This bill is designed to complement President Reagan's tax proposals currently being marked up by committee in both the Senate and the House. Consistent with the President's desire to stimulate investment through accelerated depreciation should be the elimination of the current unjustified, and unevenly applied, limitation on net lease investments contained in section 163(d) of the Internal Revenue Code.

Section 163(d) as amended in 1976 limits the interest deduction a taxpayer can take to $10,000 more than his or her net investment income. Prior to 1976 this limitation was $25,000 more than net investment income. My bill restores the previous limit.

The reasons for this restoration of the earlier limit are twofold. First, the higher limit will allow increased investment in net leases. This is precisely the type of incentive for increased capital formation which should attract broad bipartisan support. It allows taxpayers who are willing to accept the risk to invest more than they would be permitted to do under current law.

The second reason for passage of this bill is equity. Under current law wealthy individuals who have already amassed their fortunes, or, more likely, who have inherited hefty portfolios, can deduct much more in interest than can taxpayers who must work for a living. Since section 163(d) limits the interest deduction to a set dollar figure beyond a taxpayer's net investment income, wealthy individuals whose income is primarily unearned are restrained very little by this provision. Individuals who work for a living, however, and rely primarily upon earned income are unfairly restrained.

Complete equity would require complete elimination of any limitation on the allowable interest deduction. I am, however, proposing only a small step in that direction. I am asking for the restoration of the limit which existed until 1976. There is no doubt that this legislation will increase investment. There is no doubt that the economy as a whole will benefit from this increase. There is no doubt that the feedback effects from taxes paid on the profits from this increased investment will more than repay the Federal Treasury from any short-term revenue loss resulting from passage of this bill. There is no doubt that this legislation takes a step toward restoring equity in the Internal Revenue Code.

Mr. President, I urge that this bill be passed without delay. I also ask unanimous consent that it be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1420

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Interest Deduction Equity Act of 1981."

SEC. 2. INCREASE OF THE LIMITATION ON THE INTEREST DEDUCTION FROM $10,000 TO $25,000 FOR INDIVIDUALS WITH EARNED INCOME.

(a) IN GENERAL.—Subsection (d) of section 163 of the Internal Revenue Code of 1954 (relating to limitation of interest on investment indebtedness) is modified to raise the limitation from $10,000 to $25,000 by striking in subsection (d)(1)(A) "$10,000 ($5,000" and inserting in lieu thereof "$25,000 ($12,500".

(b) In subsection (d)(1)(B) strike "In the case of a trust, the $10,000" and insert in lieu thereof "In the case of a trust, the $25,000".

(c) In subsection (d)(7)(A) strike "$10,000" and insert in lieu thereof "$25,000".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after December 31, 1980.●

By Mr. EAGLETON (for himself and Mr. MATHIAS):

S. 1421. A bill entitled the "National Archives and Records Administration Act of 1981"; to the Committee on Governmental Affairs.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION ACT OF 1981

● Mr. EAGLETON. Mr. President, I am today introducing, along with Senator MATHIAS, legislation which would separate the National Archives and Records Service (NARS) from the General Services Administration (GSA) and establish NARS as an independent agency in the executive branch. In order to enhance the independent operation of NARS, the bill also proposes to first, provide for the appointment of the Archivist by the President, with Senate confirmation, and second, return statutory authority for the Nation's archival programs to the Archivist of the United States.

This legislation was introduced by Senator Morgan during the last Congress. Senator Morgan deserves great credit for bringing this problem to the attention of Congress through this legislation and several excellent speeches on the issue. I am gratified to be able to continue his work on this issue.

The problem addressed by this legislation is not new. NARS was created as an independent agency in 1934. Fifteen years later, however, it was incorporated into the newly created General Services Administration as part of the general effort at the time, inspired by the first Hoover Commission, to increase government efficiency by reducing the number of separate independent agencies.

Historians and archivists have attacked the wisdom of placing NARS within GSA almost from the day the transfer was effected. As long ago as 1963, Senator MATHIAS expressed strong reservations about "the concept that GSA should become the guardian of history as well as the custodian of washrooms, storerooms, and workrooms." Mounting evidence suggests that my colleague hit the nail on the head, and that the historians and archivists were right from the start. In my view, the present situation of NARS, as a part of GSA, demands congressional attention and substantial revision.

In the National Archives: America's Ministry of Documents, 1934–1968, Donald R. McCoy attributes the original change in NARS' status to a wave of beliefs prevalent during the post-war period: First, governmental efficiency was hampered by the excessive number of separate Federal agencies; second, the scattered housekeeping functions of the Federal Government should be combined into one agency; and third, the management of Federal records needed to be improved. As a result, McCoy adds:

> The National Archives was inextricably caught in the swiftly moving currents of the time. Congress wanted to act as soon as possible in response to the Hoover Commission's recommendations, and the Truman administration was equally interested in gaining reorganization powers. Since the idea of a general services agency was among the most acceptable of the commission's reorganization proposals, congressional and administration leaders quickly compromised their few differences on it.

In response, Congress incorporated the National Archives into the new General Services Administration by passing the Federal Property and Administrative Services Act. This legislation also placed several other previously independent agencies under GSA, including the Bureau of Federal Supply, the Federal Works Agency, the Office of Contract Settlement, and the War Assets Administration.

However sound the concept or compelling the politics, the arrangement has been troubled for at least two decades. A brief history of the relationship of NARS and GSA presents a picture of perennial, nagging problems related to the low priority status of NARS within GSA, and the lack of independence.

For example, when Bernard Boutin was appointed by President Kennedy to head GSA, he quickly mounted a management program of setting goals and objectives for his agency's operations. Unfortunately, many of the management concepts implemented by Boutin did not comport with the functions of NARS. Most of the Archives' cultural activities simply did not lend themselves to measurable goals. Principles of profit and loss are difficult to apply to the work of archivists and records managers, who deal with people and materials of intangible value. As a result, NARS' budget has suffered over the years, even while GSA's demands of the agency have increased substantially.

In 1965, the third Archivist of the United States Wayne C. Grover announced his retirement after 17 years of service. Because of his distress with the demands and restrictions imposed on NARS by GSA, Grover used the occasion of his retirement to speak out in favor of the independent establishment of NARS. Despite his efforts, the Johnson administration failed to move on his recommendation.

Picking up the fallen mantle left by Grover, three archival and historical organizations formed the Joint Committee on the Status of the National Archives in 1967. A year later, the committee issued a report recommending that first, NARS' cultural and educational programs must be better funded to meet the overall mission of the agency and second, NARS should be restored to independent status and administered by an Archivist appointed by the President. Both the New York Times and the Washington Post supported the committee's recommendation for an independent archives.

Because of the controversy generated by the report, the Bureau of the Budget and GSA elected to compromise. In lieu of establishing NARS as an independent organization, additional funding was given to support archival services. NARS' budget rose from $18 million to almost $21 million between fiscal years 1968 and 1969. The number of employees also grew from 1,808 to 2,316.

Although this compromise represented a major victory for NARS, it was a matter of getting "too little, too late." In 1979, the General Accounting Office reported findings similar to those of the 1967 Joint Committee concerning the inadequate funding of archival activities. In January 1980 former Archivist James B. Rhoads assailed the continuing failure of OMB, GSA, and NARS to provide adequate funds for basic archival functions. Given the critical nature of preserving the Nation's documentary heritage, Rhoads cautioned that $2 million "is simply not enough to make any significant headway against the 150-year backlog of neglect . . ." Despite the seriousness of NARS' lack of funding, Rhoads attacked the current organizational placement of NARS as the agency's most egregious problem:

> . . . I firmly believe . . . that as long as NARS is part of GSA, the OMB examiners assigned to GSA are going to be preoccupied by and oriented toward the big dollar issues involving Federal procurement, building construction and management, and Government-wide ADP and computer management. NARS' importance as a national cultural agency is ignored and buried by OMB simply because it is a part of GSA, an agency with a basically different kind of mission . . . If for some reason independence cannot be secured, surely somewhere in the great Federal bureaucracy there must be an agency where the National Archives and Records Service could be received with the support and understanding that it so desperately needs . . .

Against this backdrop of chronic difficulties, crises have flared periodically when the dangers inherent in the untenable nature of the relationship between NARS and GSA have become painfully evident.

The most celebrated and disturbing incidents occurred during the Nixon administration. For example, in 1973, the White House legal staff, together with GSA lawyers, issued a questionable deed of gift for the Vice Presidential papers of former President Nixon. NARS was unaware of this matter. When the Washington Post undertook an investigation of the deed—which gave a tax deduction to Nixon of $482,018 for less than 1,300 cubic feet of materials—direct intervention from the White House counsel became necessary in order to make the full story known. NARS officials later admitted to direct pressure from GSA to stall the investigation.

All the dangers of a politicized Archives, without the necessary independence, became evident when President Nixon resigned. Shortly after Nixon's resignation, he entered into agreement with GSA Administrator Arthur Sampson in which the Ford administration acknowledged Mr. Nixon to be the owner of the tapes and papers of his administration and gave him great license concerning the disposition and control of 42 million pages of documents and 880 tape recordings created during his White House years. Under the agreement, Mr. Nixon could have ordered the destruction of these vital historical materials.

Although NARS drafted the original document regarding Nixon's proposed donation of materials, the final agreement was drawn up exclusively by White House staff. It contained many provisions which departed radically from the terms which recent Presidents had used in donating their papers. Nevertheless, Sampson signed the agreement without consulting NARS on either its content or propriety.

Two months later, U.S. District Court Judge Charles R. Richey enjoined GSA from disposing of and disclosing any of the Presidential materials. This decision precipitated unusual action by GSA. First, the agency usurped the materials in question from NARS' Office of Presidential Papers, which had had custody up to this time. Sampson later attempted to circumvent the National Archives by setting up his own "Office of Presidential Materials" and by creating a position accountable to him entitled "Special Archivist of the United States." Both efforts eventually—and fortunately—failed.

Congress subsequently intervened by passing the Presidential Recordings and Materials Preservation Act of 1974, taking custody of the Nixon tapes and papers and setting forth procedures to govern access to them while protecting Nixon's privacy rights.

Of course, the experiences of the Nixon years were extreme cases, unlikely to recur. But trouble can arise regularly from depriving the Archivist of independence, and placing issues that require expert archival judgments in the hands of political appointees. For example, in January 1980, General Services Administrator Rowland Freeman expressed his interest in dispersing historical materials at a volume far in excess of normal requirements. Against the strong advice of many experts, Freeman ordered that the dispersion of records be based on, among other factors, the extent to which they had been used. Use is not recognized by most archivists and historians as a valid criterion.

Historic materials of considerable import have been known to sit unused for decades (for example, the records of the Freeman's Bureau dating back to the Civil War era have only recently been used, yet they have enormous intrinsic value). In response to Freeman's decision, Senator Morgan expressed his strong objections in a letter to the Administrator:

> . . . I believe that records of the National Government should be stored in Washington. Scholars come to this area not only from the various states but also from all over the world. It is a disservice to the scholarly community to scatter records all over the country. These records are not simply masses of paper . . . they are the history of our country.

Other distinguished individuals also spoke out against the decentralization of records. Pulitzer prize winner John W. Toland described the effort as "the beginning of the end for the National Archives." Former Archivist of the United States James B. Rhoads voiced his fear that Freeman might "undo the work of three generations of professional archivists." Fortunately, John Hope Franklin, president of the American Historian Association, appealed to the White House for help—and won. Immediately following the suspension of Freeman's order, Marvin Stone proclaimed, in a recent Newsweek editorial entitled, "The Scholars Win One":

> Good sense has scored a rare victory against the bureaucracy, in a confrontation over the American heritage . . . But the only way to avoid more fights will be to free [NARS] legally from interference with decisions on the use and life and death of documents—or divorce it altogether from the GSA . . .

The case for an independent Archives, where crucial decisions are made by expert professionals, is stronger now than ever before. No price tag can be placed on preserving our historical records, but the Archivist's work assumes importance only over a long period of time. The relatively small budget of the Archives could be an enticing target for today's shortsighted budget cutters. The Archives needs to be liberated from its current

position mired in GSA, and given the visibility and independence to compete for a share of scarce Federal budget resources. Within GSA, NARS will always be, in the words of one scholar, "a stepchild in a conglomerate business-oriented agency that has never understood [its] professional role or [its] program requirements." (Walter Robertson, Jr., "NARS: The Politics of Placement," The American Archivist.)

Defenders of the status quo will undoubtedly argue that the issue of moving NARS out of the shadow of GSA should be carefully studied. In fact, this is one issue that has been studied and studied and studied.

In 1965, Harvard Prof. Richard Neustadt studied the organizational placement of the Archives and recommended independence for NARS.

In 1967, the Joint Committee of the Society of American Archivists, the American Historical Association, and the Organization of American Historians concluded that much more needed to be done to protect the integrity of archival programs and to support the cultural and educational functions of NARS. That report strongly called for an independent NARS.

In 1977, the blue ribbon National Study Commission on Records and Documents of Federal Officials, better known as the Public Documents Commission, noted in its final report that the events surrounding the Nixon case "demonstrated how vulnerable the National Archives is to political pressure," and recommended that "NARS should be independent of GSA and insulated from partisan, political influence."

In 1978, the Archives and Records task force of the Carter administration reorganization project examined the relationship of NARS and GSA indepth. After more than a year of intensive study, the task force concluded in its final report that "there are basic problems with the location of NARS in GSA" and that "GSA/NARS relationship is impeding NARS' efforts to carry out its Government-wide responsibilities." The task force requested that "consideration be given by OMB to recommending to the President that NARS become an independent agency."

In sum, while Congress should not act precipitously to reorganize executive agencies, we should also not leave serious problems to fester year after year, decade after decade, until some crisis captures our attention.

We should also act to give the position of Archivist of the United States the status and prestige commensurate with the responsibilities of the position. In late 1979, when James Rhoades stepped down after 11 years as Archivist, it became evident that many first-rate professionals were simply not interested in the position of Archivist of the United States. The agency's low status, the demoralization which resulted from Admiral Freeman's decentralization order, and the fact that the Archivist was to be appointed by the GSA Administrator—all combined to leave the position comparatively unattractive. Fortunately after extensive search spurred by interested professional groups, with involvement of the White House, a professional with excellent qualifications, Dr. Robert Warner, who had been associated with the Ford Library, was named Archivist.

Dr. Warner put the importance of the work above the trappings and prestige of office, which are conspicuously lacking. He followed in the tradition of five extremely qualified, nonpartisan men who had held the position during the Archives' 46-year history. But status and prestige of office are important. They furnish the best guarantee that eminently qualified people will be willing to assume positions in Government, particularly at a time when the salaries of high-level Government officials are being frozen. This legislation would make the Archivist a Presidential appointee, confirmed by the Senate, who would be appointed for a term of 10 years.

It also specified that the Archivist be appointed without regard to political affiliation and solely on the basis of professional qualifications required to perform the duties and responsibilities of the office. These changes would guarantee the attractiveness of the position when it becomes open. It would help to insulate the Archivist, once appointed, from political pressures.

Recently, there have been rumors that the Reagan administration is considering replacing Dr. Warner with a new Archivist. I cannot say whether these rumors are well-founded. However, I believe strongly that a change in archivists at this time would not be in the best of the Archives. As I noted above, Dr. Warner has been in office only a year; he has impeccable credentials for the position he holds; and his selection resulted from an exhaustive search and screening process. Traditionally, the position of Archivist of the United States has not changed with the change of administrations in Washington; that valuable tradition should continue.

My colleagues in the Congress are very much aware of the problems that have plagued the General Services Administration almost since its creation. The agency's sad legacy of inefficiency and corruption needs no recounting here. The new General Services Administrator, Gerald Carmen, has an important and challenging job ahead of him. Like his predecessors, he will have plenty to do without worrying about the Archives. We should legislate to end the anomolous relationship between the Archives and GSA; both agencies would benefit from the separation.

Mr. President, this effort to strengthen the Archives may seem inconsequential when compared to the legislative agenda which preoccupies us. The magnitude of the changes proposed by President Reagan, which we consider in the reconciliation bill this week, marks 1981 as one of the truly extraordinary political years in recent history. And yet, we should not allow the present rush of business to blind us to the keen national interest in preserving the documents of this period to allow future historians to look back and try to better understand what took place. In a very real sense, the more momentous the business of the moment seems, the more conscious we should be of the interest that future historians and future Americans will have in understanding it. A strong, independent Archives would demonstrate our deep commitment to capturing and preserving our priceless heritage.

Mr. President, I ask unanimous consent that the text of the bill be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1421

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Archives and Records Administration Act of 1981".

AMENDMENTS TO TITLE 44, UNITED STATES CODE

SEC. 2. (a) Sections 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, and 2114 of title 44, United States Code, are redesignated as sections 2102, 2103, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, and 2119, respectively.

(b) Title 44, United States Code, is amended by inserting before section 2102 (as redesignated by subsection (a)) the following new section:

"§ 2101. Purpose

"The purpose of this chapter is to establish an independent National Archives and Record Administration due to the unique importance of the tasks of creating, identifying and preserving the records of the Nation which have permanent value and making such records available to the public, to Federal agencies, and to the Congress for historical and other research purposes.".

(c) Section 2102 of title 44, United States Code (as redesignated by subsection (a)), is amended—

(1) by striking out "sections 2103–2113 of";

(2) by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

" 'executive agency' means any executive department or independent establishment in the executive branch of the Government, including any wholly owned Government corporation;

" 'Federal agency' means any executive department, military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency;

" 'Archivist' means the Archivist of the United States appointed under section 2104; and

" 'Administration' means the National Archives and Records Administration establishment under section 2103.".

(d) Section 2103 of such title is amended to read as follows:

"§ 2103. Establishment

"There is established an independent establishment in the executive branch of the Government to be known as the National Archives and Records Administration. The Administration shall be administered under the supervision and direction of the Archivist.".

(e) Title 44, United States Code, is

further amended by inserting before section 2108 (as redesignated by subsection (a)) the following new sections:

"§ 2104. Officers

"(a) The Administration shall be headed by the Archivist of the United States, who shall be appointed by the President by and with the advice and consent of the Senate. The Archivist shall be appointed for a term of ten years, but may continue to serve until his successor is appointed and confirmed. The Archivist shall be appointed without regard to political affiliations and solely on the basis of the professional qualifications required to perform the duties and responsibilities of the Office of Archivist.

"(b) The Archivist shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5.

"(c) There shall be in the Administration a Deputy Archivist of the United States, who shall be appointed by and who shall serve at the pleasure of the Archivist. The Deputy Archivist shall be established as a career reserved position in the senior Executive Service within the meaning of section 3132 (a)(8) of title 5. The Deputy Archivist shall perform such functions as the Archivist shall designate. During any absence or disability of the Archivist, the Deputy Archivist shall act as Archivist. In the event of a vacancy in the office of the Archivist, the Deputy Archivist shall act as Archivist until an Archivist is appointed under subsection (a).

"§ 2105. Administrative provisions

"(a) The Archivist shall prescribe such policies, standards, criteria, procedures, rules, and regulations as he finds necessary or appropriate to carry out his functions. The head of each Federal agency shall issue such orders and directives as may be necessary to conform the activities of the agency with the policies, standards, criteria, procedures, rules, and regulations prescribed by the Archivist.

"(b) Except as otherwise expressly provided by law, the Archivist may delegate any of his functions to such officers and employees of the Administration as he may designate, and may authorize such successive redelegations of such functions as he may deem to be necessary or appropriate. A delegation of functions by the Archivist shall not relieve the Archivist of responsibility for the administration of such functions.

"(c) The Archivist may organize the Service as he finds necessary or appropriate.

"(d) The Archivist is authorized to establish, maintain, alter, or discontinue such State, regional, district, local, or other field offices as he finds necessary or appropriate to perform the functions of the Archivist or the Administration.

"(e) The Archivist shall cause a seal of office to be made for the Administration of such design as he shall approve. Judicial notice shall be taken of such seal.

"(f) Each Federal agency is authorized to furnish to the Archivist, upon his request, any information or other data which the Archivist finds necessary to carry out his duties.

"(g) The Archivist may establish advisory committees to advise him with respect to any function of the Archivist or the Administration. Members of any such committee shall serve without compensation but shall be entitled to transportation expenses and per diem in lieu of subsistence in accordance with section 5703 of title 5.

"(h) The Archivist shall advise and consult with interested Federal agencies with a view to obtaining their advice and assistance in carrying out the purposes of this chapter.

"(i) If authorized by the Archivist, officers and employees of the National Archives and Records Administration having investigatory functions are empowered, while engaged in the performance of their duties in conducting investigations, to administer oaths.

"§ 2106. Personnel and services

"(a) The Archivist is authorized to select, appoint, employ, and fix the compensation of such officers and employees, pursuant to part III of title 5 as are necessary to perform the functions of the Archivist and the Administration.

"(b) The Archivist is authorized to obtain the services of experts and consultants under section 3109 of title 5.

"(c) Notwithstanding the provisions of section 973 of ttile 10 or any other provision of law, the Archivist, in carrying out the functions of the Archivist or the Administration, is authorized to utilize in the Administration the services of officials, officers, and other personnel in other executive agencies, including personnel of the armed services, with the consent of the head of the agency concerned.

"§ 2107. Reports to Congress

"The Archivist shall submit to the Congress, in January of each year and at such other times as he finds appropriate, a report concerning the administration of functions of the Archivist and the Administration. The report shall include such recommendations for legislation as he may find appropriate as the result of the administration of such functions and a citation of any law which has become obsolete by reason of the enactment or administration of the provisions of this title.".

(f)(1) The table of sections for chapter 21 of title 44, United States Code, is amended to read as follows:

"Chapter 21—NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

"Sec.
"2101. Purpose.
"2102. Definitions.
"2103. Establishment.
"2104. Officers.
"2105. Administrative provisions.
"2106. Personnel and services.
"2107. Reports to Congress.
"2108. Acceptance of records for historical preservation.
"2109. Responsibility for custody, use and withdrawal of records.
"2110. Preservation, arrangement, duplication, exhibition of records.
"2111. Servicing records.
"2112. Material accepted for deposit.
"2113. Presidential archival depository.
"2114. Depository for agreements between States.
"2115. Preservation of motion-picture films, still pictures, and sound recordings.
"2116. Reports; correction of violations.
"2117. Legal status of reproductions; official seal, fees for copies and reproductions.
"2118. Limitation on liability.
"2119. Records of Congress.".

(2) The item relating to chapter 21 in the table of chapters for title 44, United States Code, is amended to read as follows: "21. National Archives and Records Administration. . . . 2102.".

(g)(1) Section 2103(4) of such title is amended by striking out "section 2107" and inserting in lieu thereof "section 2112".

(2) Section 2108 of such title is amended by striking out "section 2107" each place it appears and inserting in lieu thereof "section 2112".

(h) Chapters 7, 15, 17, 21 (as amended by this section), 22, 23, 25, 29, 31, and 33 of title 44, United States Code, are amended by striking out "Administrator of General Services" and "General Services Administration" wherever they appear and inserting in lieu thereof "Archivist of the United States" and "National Archives and Records Administration", respectively.

(i)(1) Section 101 of the Presidential Recordings and Materials Preservation Act is amended—

(A) by striking out "section 2107" each place it appears and inserting in lieu thereof "section 2112";

(B) by striking out "section 2102" and inserting in lieu thereof "section 2102";

(C) by striking out "Administrator of General Services" and inserting in lieu thereof "Archivist of the United States"; and

(D) by striking out "Administrator" each place it appears and inserting in lieu thereof "Archivist".

(2) Section 102 of such Act is amended—

(A) by striking out "section 2107" and inserting in lieu thereof "section 2112", and

(B) by striking out "Administrator" each place it appears and inserting in lieu thereof "Archivist".

(3) Section 103 of such Act is amended by striking out "Administrator" and inserting in lieu thereof "Archivist".

(4) Section 104 of such Act is amended by striking out "Administrator" each place it appears and inserting in lieu thereof "Archivist".

(j) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"( ) Archivist, of the United States.".

DEFINITIONS

SEC. 3. For purposes of sections 3 through 8—

(1) the term "Archivist" means the Archivist of the United States appointed under section 2104 of title 44, United States Code, as added by section 2 of this Act; and

(2) the term "Administration" means the National Archives and Records Administration established under section 2103 of such title (as amended by section 3 of this Act).

TRANSFER OF FUNCTIONS

SEC. 4. (a) All functions of the Administrator of the General Services being administered through the individual holding the office of Archivist of the United States on the day before the effective date of this Act are transferred to the Archivist of the United States appointed under section 2104 of title 44, United States Code.

(b) The National Archives and Records Service of the General Services Administration is transferred to the National Archives and Records Administration.

(c) In the exercise of the functions transferred under this Act, the Archivist shall have the same authority as had the Administrator of General Services, the individual holding office of Archivist of the United States on the day before the effective date of this Act, or the National Archives and Records Service of the General Services Administration or any part thereof immediately preceding the transfer of such functions, and the actions of the Archivist in exercising such functions shall have the same force and effect as when exercised by such Administrator, individual, or Administration or part thereof.

(d) Prior to the appointment and confirmation of an individual to serve as Archivist of the United States under section 2104 of title 44, United States Code, the individual holding the office of Archivist of the United State on the day before the effective date of this Act may serve as Archivist under such section, and while so serving shall be compensated at the rate provided under subsection (b) of such section.

TRANSFER OF PERSONNEL

SEC. 5. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions

and agencies transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, are transferred to the Archivist for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) The transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employees to be separated or reduced in grade or compensation for one year after such transfer or after the effective date of this Act, whichever is later.

SAVINGS PROVISIONS

SEC. 6. (a) All orders, determinations, rules, regulations, grants, contracts, agreements, permits, licenses, privileges, and other actions which have been issued, granted, made, undertaken, or entered into in the performance of any function transferred under this Act shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by any authorized official, a court of competent jurisdiction, or by operation of law.

(b)(1) The transfer of functions under this Act shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate or financial assistance pending on the effective date of this Act before the General Services Administration; but such proceedings and applications, to the extent that they relate to functions transferred under this Act, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Archivist, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Archivist is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) from the General Services Administration to the Administration.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect actions commenced prior to the effective date of this Act, and

(2) in all such actions, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No action or other proceeding lawfully commenced by or against any officer of the United States acting in his official capacity shall abate by reason of any transfer under this Act. No cause of action by or against the General Services Administration or by or against any officer thereof in the official capacity of such officer shall abate by reason of any transfer of functions under this Act.

(e) If, before the date on which this Act takes effect, the General Services Administration or any officer thereof in the official capacity of such officer, is a party to an action, and under this Act any function in connection with such action is transferred to the Archivist or any other official of the Administration, then such action shall be continued with the Archivist or other appropriate official of the Administration substituted or added as a party.

(f) Orders and actions of the Archivist in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the individual holding the office of Archivist of the United States on the day before the effective date of this Act or the Administrator of General Services in the exercise of such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Archivist.

REFERENCE

SEC. 7. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to the office of the Archivist of the United States as in existence on the day before the effective date of this Act or the National Archives and Records Service of the General Services Administration or any office or officer thereof shall be deemed to refer to the Archivist or the Administration.

EFFECTIVE DATE

SEC. 8. The provisions of this Act shall take effect sixty days after enactment.●

By Mr. GRASSLEY:

S. 1422. A bill to authorize the donation of surplus property to any State for the construction and modernization of criminal justice facilities; to the Committee on Governmental Affairs.

DONATION OF SURPLUS FEDERAL PROPERTY FOR PRISON CONSTRUCTION AND MODERNIZATION

● Mr. GRASSLEY. Mr. President, I am pleased to note the Supreme Court's ruling in the case of Rhodes against Chapman, a case that was decided just last week. The question presented in this case was whether the housing of two inmates in a single cell is cruel and unusual punishment prohibited by the 8th and 14th amendments. In what I see as a particularly enlightened view, the Court commented on the limitations imposed on the judicial branch in its role as overseer of the constitutional mandate that prison conditions be in line with the 8th and 14th amendments to the Constitution. The Court concluded that:

In discharging this oversight responsibility, however, Courts cannot assume that state legislatures and prison officials are insensitive to the requirements of the constitution or to the perplexing sociological problems of how best to achieve the goals of the penal function in the criminal justice system; to punish justly, to deter future crime, and to return imprisoned persons to society with an improved chance of being useful, law abiding citizens. *Rhodes* v. *Chapman*, (No. 80-332) June 15, 1981, p. 14.

This decision, in effect, acknowledges that States should have some leeway in deciding how to eliminate overcrowding in prisons and more importantly, that States are capable of fashioning programs that rise to constitutionally acceptable levels of legality and humanity. Currently, States are experimenting with a variety of different solutions to ease pressure on the prison system. Indeed, I believe that the situation which gave rise to the events occurring in the Rhodes against Chapman case, is symptomatic of a national emergency. Society cannot permit crime to go unpunished for want of prison space, and for the present, prison is the only sanction available for violent crime. A revolutionary breakthrough in the range of available criminal sanctions is not on the horizon.

We have begun to run out of options. The need to create new usable prison space is acutely real to all of us. A recent study conducted for the National Institute of Justice indicates that as of 1978, 300,000 people were incarcerated in Federal and State prisons, a 50-percent increase over 1972. In the same period, State prisons increased their capacity by only 23,000 units, barely one-fourth of the 98,000-person increase in prison population. A national rate of incarceration at all levels of government increased from 164 to 207 persons per 100,000 people, an increase of 26 percent. These statistics simply put into numbers what we already know: If there is to be an increase in the apprehension, conviction, and incarceration of greater numbers of law violators, then the entire system must progress to meet the increased pressures of increased inmate populations on correctional institutions.

Mr. President, I am introducing a bill that I hope might prove to lessen the burden that States currently face as the crime rate spirals upward. This bill would authorize the donation of surplus Federal property to any State for the construction and modernization of criminal justice facilities. It may come across as a small step toward finding a solution to this most serious problem, but I think that it is the first step in coming up with an alternative. Specifically, this bill would authorize the Administrator of the General Services Administration, upon the recommendation of the Attorney General, to donate the property after the State had submitted its drawings and specifications for criminal justice facilities. This would of course include the extension or improvement of an existing facility. It is my hope that my colleagues will support such a measure in light of this Nation's current prison space emergency.●

By Mr. HATCH:

S. 1423. A bill to revise provisions of the Federal Mine Safety and Health Act of 1977, and for other purposes; to the Committee on Labor and Human Resources.

MINE SAFETY AND HEALTH REFORM ACT OF 1981

● Mr. HATCH. Mr. President, I am introducing today the Mine Safety and Health Reform Act of 1981, a comprehensive bill to revamp critical portions of the Federal Mine Safety and Health Act of 1977. The 1977 act, which in effect merged the Federal Coal Mine Health and Safety Act of 1969 and the Federal Metal and Nonmetal Act of 1966, was heralded as going a long way toward improving the safety and health conditions in this Nation's mines. To achieve this goal, the act embraced several key concepts: First, it presumed that a single comprehensive act covering all varieties of mines, enforced by a single agency, was the best administrative model. Second, it adopted an expeditious standards-setting procedure that reduced the accountability of regulatory to promulgate fair an balanced health and safety standards. Third, and perhaps most significantly, it placed great faith in a punitive enforcement scheme,

with mandatory citations and penalties, to maximize health and safety in the workplace. Fourth, rather than embrace, it largely turned its back on the concept of federalism, which recognizes the key role which States can and should play in the realization of health and safety in the workplace.

Almost immediately after enactment in 1977, it became apparent that these central tenets of the act were impeding the maximum realization of its ultimate goals. With its emphasis on punitive enforcement, the act has fostered an adversarial relationship between Government and industry. This has engendered not only hostility but also outright resentment among mine operators, thus diminishing if not closing the opportunity for cooperative efforts, between Government and industry and between industry and labor, to realize a safe workplace. The situation has been aggravated by the imposition of burdensome and inefficacious standards and rules by regulators who, under summary procedures, could conveniently ignore the legitimate objections of industry.

S. 1423 is designed to redress this imbalance in the Federal Mine Safety and Health Act. It is predicated on the belief—perhaps not adequately shared by regulators—that the American mining industry is committed to improving the health and safety of its most precious resource—the miners. That commitment can be realized where the legislation encourages rather than discourages cooperative efforts among all concerned. I think that this bill can help achieve that result by amending the current law in the following respects.

DEFINITIONS

Section 2 of the bill changes the definitional section—section 3—in several respects, reflecting key policy changes.

First. The bill defines the terms "significant and substantial violation" and "unwarrantable failure."

The former means a violation of either this act or any mandatory safety or health standard that, based upon the surrounding facts and circumstances of the particular coal or other mine, constitutes a hazardous condition or practice which could reasonably be expected to cause death or serious physical harm.

The latter means an act of commission or omission that is inexcusable and in reckless disregard for the safety or health of a miner.

These are not new concepts. Section 104 of the act, in which these terms will appear, now provides for the issuance of citations and withdrawal orders where violations of mandatory health and safety standards are found. Withdrawal orders are issued in varying circumstances depending upon the seriousness of the violation—its significance and substantiality—and upon degree of carelessness of intent of the operator—whether his action or inaction was unwarranted.

The problem under current law is that the Mine Safety and Health Administration (MSHA) has not given proper regard for the seriousness of violations or the degree of operator fault. MSHA has instructed its inspectors to cite all violations except technical ones as "significant and substantial." Thus, citations for significant and substantial violations have been issued in the past for small cracks in windshields, missing light bulb guards, and poor housekeeping in a lunchroom. Likewise, MSHA has interpreted "unwarrantable failure" to mean ordinary negligence. This warped interpretation has had serious consequences: Under the enforcement provisions of section 104, mine operators have faced withdrawal orders—in other words, a shutdown of portions, if not all of a mining operation—predicated on the most trivial of violations.

The purpose of the amendments is to restore a proper regard both for the seriousness to which a violation poses a danger to health and safety and for the intent animating a mine operator's conduct. The effect of these amendments will be to redirect the act's more drastic remedies more appropriately toward the recalcitrant operator who inexcusably and recklessly commits health and safety violations.

Second. The bill defines "construction contractor" and "vocational or professional service contractor" and in addition excludes such contractors from the definition of "operator." The purpose of these changes is to place these types of independent contractors under the jurisdiction of OSHA. Such contractors, particularly those in construction, now face the problem of dual jurisdiction: Construction businesses typically work many projects, at a variety of locations, for many employers. Thus, a contractor who has simultaneous projects at a mine site and elsewhere, with overlapping of machinery and employees, faces two entirely distinct Federal health and safety laws—MSHA and OSHA. This is unsatisfactory to the contractor because he may face disparate, if not conflicting, standards and inconsistent enforcement.

The amendment seeks to eliminate this problem for the independent contractor. The amendment is crafted, however, not to exclude from MSHA those construction operations that are integrally related to mining or extraction operations. This admits that there is associated with such construction activity hazards that are unique in quality and degree to mining activities.

Third. By definitional change, the bill incorporates the significant policy change of transferring to OSHA's jurisdiction the surface mining of sand, gravel, stone, clay, and colloidal phosphate. This of course is not a new issue and in a sense is the unfinished business carried over from the 96th Congress. Last year, both the Senate and the House passed, on separate bills, amendments effectuating this change; agreement however was not reached on a common measure. This issue remains very viable, as shown by the renewed support for it in both Houses. Thus, any comprehensive reform bill should necessarily incorporate this provision if for no other reason than to continue the dialog and debate on the issue.

COVERAGE

Section 3 amends the coverage section (Sec. 4) in two respects. The act presently covers practically all the Nation's mines. The bill exempts mines owned or operated by the States and their political subdivisions. Also excluded are mines in which the only employees are the owners themselves. The intent is to exempt the small, family-owned mines and those mines operated by three or four persons who own the mine as partners. Typically these mines do not have egregious injury and fatality statistics but do face enormous financial burdens in complying with MSHA.

MANDATORY SAFETY AND STANDARDS

Section 4 makes three changes in the standards-setting procedures (section 101 of the act).

First. The bill adopts essentially the formal rulemaking procedure prescribed by the Administrative Procedure Act. The 1977 act opted for a fairly informal procedure, aimed at expediting the promulgation of safety and health standards. An overriding concern was that the industry would abuse more formal procedures by dilatory tactics, such as protracted cross-examination at the hearings. The evidence presented at oversight hearings since 1977, however, has shown that the informal procedures, with their fixed time limits for each stage of the rulemaking process, have not had the desired result.

Indeed, significant standards have not been promulgated within the statutory time limits. And MSHA on occasion has not heeded the concerns voiced by industry on the necessity or appropriateness of certain proposed regulations. Following the more formal procedures of the APA will require MSHA to be more sensitive to the legitimate competing interests involved in regulating highly technical matters. Moreover, new rules will receive closer scrutiny by the courts, thus affording the interested parties additional due process.

Second. In light of the administration's policy of justifying regulations on the basis of their costs and their benefits, the bill proposes to reaffirm this policy in the area of mine safety and health.

Third. The bill changes the law to allow variances with respect to health standards. The intent is not to diminish the degree of protection afforded to miners. Rather the aim is to allow for alternative means of compliance with health standards. This provides added flexibility, enabling the industry to achieve compliance through the most cost-effective means.

INSPECTIONS AND INVESTIGATIONS

Section 5 of the bill amends the provisions of section 103 of the act, governing mandatory inspections. Current law requires that all underground mines and all surface mines be inspected in their entirety four times and two times a year respectively. This rule has had a certain straitjacketing effect on MSHA. The agency, with its finite resources, must necessarily give priority to fulfilling this statutory goal, even if it means expending time and manpower on mines with proven safety records. This leaves fewer resources available to concentrate on the demonstrably hazardous mines. Accordingly the bill sets the minimum number

of mandatory inspections for underground mines to twice per year and for surface mines to once per year.

In addition, the amendment clarifies the intent of the 1977 act to require walkaround pay for representative employees only where they accompany the inspector on the regularly mandated inspection.

CITATIONS AND ORDERS

Section 6 is intended to restore a balanced, fairer, and more flexible approach to the enforcement rules of section 104. The amendment would do the following: First, it would require an MSHA inspector to "find" a violation rather than rely upon hearsay to issue a citation; second, it would give MSHA wider discretion in issuing citations and orders; third, it would provide for the issuance of penalty-free violation notices for nonserious violations which are timely abated; fourth, it would allow for the issuance of "unwarrantable failure" closure orders only upon successive findings of substantial and significant (that is, serious) violations or upon deliberate failures to abate nonserious violations; fifth, it would conform the "pattern of violations" sanctions to the congressional intent of the 1977 act.

The combined thrust of these amendments is to give the MSHA greater discretion in issuing citations and in short make the "punishment fit the crime." The use of mandatory citations, together with mandatory penalties and the withdrawal order, especially by an inspector who can make no meaningful distinction between serious and nonserious violations under current law, can become weapons of oppression. And indeed the oversight hearings have pointed to such instances. The amendments are intended to minimize that abuse and to eliminate what has become a significant source of unproductive antagonism between the industry and the Government.

PROCEDURE FOR ENFORCEMENT

Section 7 of the bill amends section 105 of the act to further minimize the potential for agency abuse. It provides that the Commission may grant temporary relief from agency action where the moving party makes the necessary showing. In addition, the amendment prevents the newly authorized notices for nonserious violations from being a factor in the assessment of penalties.

POSTING ORDERS AND DECISIONS

Section 8 of the bill, by amending section 109 of the act, further implements the transfer of jurisdiction over construction contractors to OSHA. To facilitate OSHA enforcement, an independent construction contractor will be required to notify OSHA of its presence at a mine site.

PENALTIES

Section 9 of the bill amends the penalty provisions of section 110 of the act.

First. The bill provides the operator with an affirmative defense against penalties where he demonstrates that a violation was the fault of a miner who, because of training, should have known not to commit the violation. Experience has shown numerous instances of operators being cited and penalized for the failure of individual miners to wear personal protective equipment such as safety belts and glasses. In such circumstances it is not fair for operators to be held exclusively accountable for the knowing misconduct of its employees. After all, the act's findings and purpose recognize that the miners themselves share a responsibility to prevent unsafe and unhealthy conditions and practices in the mines.

MANDATORY HEALTH AND SAFETY TRAINING

Section 10 alters the training requirements of section 115. It reduces the required number of hours of "new miner" training for new miners; a distinction is recognized for underground coal mines, other underground mines, and surface mines. It also permits a portion of the training requirements to be satisfied by practical training. In addition, the amendment recognizes the need to afford only hazard training to certain categories of persons.

COMPLIANCE ASSISTANCE VISITS

Section 11 adds a significant new section to the act. Drawing upon the positive experience of an MSHA program, the bill authorizes inspectors to respond to requests from mine operators for consultative services (compliance assistance visits, or CAV's). This provision creates an incentive for the operator to invite inspectors to the mine: During a CAV, an inspector will be able to point out violations to the operator, thus giving him an opportunity to abate the violation; no notices or citations may be issued. An exception is made for imminent dangers, for which the inspector may act under section 107 of the act. In a recent report to the committee, MSHA noted that the existing program, which is fairly narrow in scope, has proved quite successful in the discovery and timely correction of violations. Moreover, it has been well received and highly praised by the industry. It stands as a positive example of how industry and the Government can work cooperatively, in a nonadversarial relationship, to improve the health and safety of the workplace.

ASSISTANCE TO STATES

Section 12 of the bill authorizes MSHA to make available to States and political subdivisions safety and health training resources. While the bill exempts mines owned or operated by States or political subdivisions, it is not my intention to deprive such entities Federal assistance in connection with their own safety and health training programs.

STATE JURISDICTION AND STATE PLANS

Section 13 of the bill incorporates the State plan enforcement scheme authorized under OSHA. Current law does not adequately encourage States to assume active responsibility in this area. In keeping with the renewed emphasis on federalism, which recognizes the legitimate role of the State in matters of governance, it is appropriate that the Congress examine how that role may be fulfilled in the mine safety and health area.●

By Mr. CHAFEE (for himself, Mr. GARN, Mr. PROXMIRE, and Mr. HAYAKAWA):

S. 1424. A bill to amend the Investment Company Act of 1940; to the Committee on Banking, Housing, and Urban Affairs.

AMENDMENT OF INVESTMENT COMPANY ACT

● Mr. CHAFEE. Mr. President, I am introducing legislation today which will allow banks, savings and loan associations, mutual savings banks, and credit unions to provide collective fund services to their customers. I am delighted to be joined on this bill by my distinguished colleagues, Senators GARN, PROXMIRE, and HAYAKAWA, who have all done considerable work on this bill.

Perhaps most important among the services this bill would allow depository institutions to provide is in the area of money market mutual funds.

This bill will allow depository institutions to establish their own money market mutual funds and to sell shares to their customers. Those institutions which prefer not to set up their own funds will be allowed to sell shares of money market mutual funds of any other institutions.

Investment companies would be organized and operated in compliance with the Investment Company Act, and their shares registered under the Securities Act. The actual operation of the fund will be regulated by the Securities and Exchange Commission. To promote uniform training, experience, and sales practice standards, the bill provides for the Federal Financial Institutions Examination Council to develop appropriate regulations. It is expected such sales-related standards will be adopted by the regulatory agencies, and the standards are to be implemented by the Federal authority with primary regulatory responsibility. Where there is no such Federal regulation, the Securities and Exchange Commission will have enforcement responsibility.

This bill would benefit the small investor by making available from depository institutions, investment services that were previously available only to the wealthy. Money market mutual funds will become more widely and conveniently available. My bill would benefit depository institutions by removing arbitrary restraints which have prohibited them from competing. Many banks and savings and loan associations have expressed strong support for legislation allowing them to offer this service to their customers. I appreciate the efforts of my distinguished colleague from California, Senator HAYAKAWA, who brought to my attention the interest of credit unions offering mutual funds as well.

Money market mutual funds have been a blessing for the small savers of this country. While the funds' current high yields and liquidity make them attractive to persons of all income levels, their low minimum investment requirements make them the only real opportunity for the small saver to keep abreast of inflation.

Depository institutions maintain that the loss of funds they have suffered in part as a result of the attraction of money market funds threatens their survival. Some would seek to shield the depository institutions from the competition for depositors' funds by imposing onerous and unnecessary regulations on the money market mutual funds.

But at a time when we are seeking to eliminate unnecessary anticompetitive regulation of our financial institutions,

it is illogical to slap restrictions on money market funds for the sole purpose of making them less attractive. Such restrictions would not result in a significant return of money to low-yield passbook accounts. It would, however, hurt the small saver substantially. Only the little fellow, who did not have the minimum required to take advantage of higher yield opportunities would be forced back to the passbook accounts.

Rather, if the banks and thrifts are hurt because they are prevented from competing, I say let them compete. I see no theoretical basis not to. The legal barriers that have separated the securities and banking industries have already been eroded by dramatic changes taking place in the financial world, and customers' demand for diversity of services is only growing. Nor do I see a practical reason not to allow this activity. Many depository institutions have developed substantial expertise in the field, as they currently provide a variety of investment services for their trust and agency accounts.

Money market mutual fund management does not differ in substance from the services these institutions already provide. In short, there is no more reason to shield the securities industry MMMF's from the competition depository institutions would now present than there is reason to shield depository institutions from the competition the securities industry MMMF's present.

Congressional efforts to eliminate unnecessary regulation in this area should not be viewed as a one-way street. It is my hope that we will consider the broad range of legislation affecting financial institutions so that we can truly "level the playing field" and promote competition, innovation, and greater choice for the consumer.

I view this legislation as an important first step in this process, and urge my colleagues to act favorably and expeditiously on it.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1424

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 22 of the Investment Company Act of 1940 is amended by adding at the end thereof the following:

"(h)(1) Notwithstanding paragraph 'Seventh' of section 5136 of the Revised Statutes (12 U.S.C. 24), the twentieth paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 335), section 20, 21, or 32 of the Banking Act of 1933 (12 U.S.C. 377, 378, or 78), or the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), a bank, a bank holding company or a subsidiary thereof, a savings and loan association, a sayings bank, or a credit union—

"(A) may organize, sponsor, operate, control, or render investment advice to an investment company (including a company which would be an investment company except for the provisions of section 3(c)(1) of this title); or

"(B) may underwrite, distribute, sell, or issue securities of any investment company if the officers and employees of the banks, savings banks, savings and loan associations, or credit unions who sell or issue such securities meet such standards with respect to training, experience, and sales practices as the agencies referred to in paragraphs (2) and (3), in consultation with the Federal Financial Institutions Examination Council, shall prescribe by regulations.

"(2) Compliance with the standards established under paragraph (1)(B) shall be enforced under—

"(A) section 8 of the Federal Deposit Insurance Act, in the case of—

"(i) national banks, by the Comptroller of the Currency;

"(ii) member banks of the Federal Reserve System (other than national banks), by the Board of Governors of the Federal Reserve System;

"(iii) banks and savings banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation;

"(B) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and section 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions; and

"(C) the Federal Credit Union Act, by the National Credit Union Administration Board with respect to any federally insured credit union.

"(3) For the purpose of the exercise by any agency referred to in paragraph (2) of its powers under any Act referred to in that subsection, a failure to meet any standard prescribed under paragraph (1)(A) of this subsection shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in paragraph (2), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any such standard, any other authority conferred on it by law. Except to the extent that enforcement of such standards is specifically committed to some other Government agency under paragraph (2), the Securities and Exchange Commission shall enforce such standards.

"(4) A savings and loan association, savings bank, or credit union shall not be deemed to be a 'broker' or 'dealer', as those terms are used in the Securities Exchange Act of 1934, by reason of its engaging in any of the functions described in this subsection.

"(5) As used in this subsection, the terms 'bank holding company' and 'subsidiary' with respect to a bank holding company have the meanings given them in section 2 of the Bank Holding Company Act of 1956.".●

● Mr. HAYAKAWA. Mr. President, I am delighted to join with my colleagues, Senators CHAFEE, GARN and PROXMIRE, in introducing this bill. It will allow banks, savings and loans, and credit unions to offer high yield mutual funds, most importantly, money market mutual funds. Currently, depository institutions are at a competitive disadvantage because they are unable to offer these funds to their customers.

Savers, who have become very sophisticated, know that in periods of such high inflation, placing their money in a normal passbook savings account will not keep them abreast of inflation. Instead it will cause them to lose about 7 percent a year. By investing their money in money market mutual funds, savers, whether large or small, are able to receive a return on their money equal to or greater than inflation. Since depository institutions are not able to offer mutual funds they are losing their customers to those institutions which do offer these funds. Authorizing banks, savings, and loans and credit unions to off a broader range of services will enable them to meet the needs of and keep their customers or members rather than lose them to other institutions.

The proposal to place reserve requirements on the money market mutual funds now being offered would only harm savers, especially those who cannot afford the high minimum investment requirements on other high yield instruments. I believe it is important to allow the American people to keep abreast of inflation. At the same time, however, we must aid our depository institutions by allowing them to compete in this area.

Past Government policy of regulation is the reason depository institutions are not competitive. Further Government regulation is not the solution for it would harm the small savers. We must deregulate, and quickly. This bill is the best solution to the problems the banks, savings and loans and credit unions are experiencing.

I commend Senator CHAFEE for recognizing the importance of including credit unions in this legislation. Their exclusion would have placed them at a distinct and unfair disadvantage with all other financial institutions. They have suffered from the same competitive pressures as banks and savings and loans and should receive the same aid. If they were the only financial institution unable to offer mutual funds they would lose their members to banks or savings and loans offering higher yield instruments at a low initial minimum investment.

Authorizing depository institutions to offer mutual funds would open up competition thereby aiding our ailing financial institutions and the American public in dealing with the current high inflation. I believe this is a very important piece of legislation and look forward to hearings on it in the near future.●

By Mrs. KASSEBAUM (by request):

S. 1425. A bill to terminate certain functions of the Civil Aeronautics Board, to transfer other functions of the Board to the Secretary of Transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1426. A bill to terminate functions of the Civil Aeronautics Board and to transfer certain functions of the Board to the Secretary of Transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

CIVIL AERONAUTICS BOARD SUNSET ACT OF 1981 AND CIVIL AERONAUTICS BOARD SUNSET AMENDMENTS

● Mrs. KASSEBAUM. Mr. President, I am today introducing, by request, two proposals for the early sunset of the Civil Aeronautics Board and the elimination of the section 406 subsidy to air carriers. One proposal comes from the Department of Transportation, the other from the Civil Aeronautics Board.

The Aviation Subcommittee has scheduled 3 days of hearings to be conducted after the Fourth of July recess on July 7, 8, and 9, to consider these proposals and other issues related thereto.

While there seems to be general agree-

ment that early sunset of the Civil Aeronautics Board is appropriate and workable, there is considerable divergence on how sunset should be accomplished.

We hope, in these hearings, to focus on the issue of which authorities of the Civil Aeronautics Board should be continued, and if they are continued, with which agency they should reside. While sunset provisions already contained in the Airline Deregulation Act dealt with several of the Board's functions, it was generally recognized in 1978 when the act was passed that more detailed decisions would have to be made in future legislation. The Board's proposal and the administration's proposal both address these issues. In many respects the proposals are quite similar, and I am certain that, during the course of our hearings and subsequent committee consideration, we will get suggestions for further refinements.

With regard to the elimination of the 406 subsidy, again the two proposals are quite similar. However, I am well aware that there are communities in this country which are quite concerned about the discontinuation of this program. We anticipate that alternative proposals will be presented at the hearings. While all parties seem to agree that some savings through a restructuring of our subsidy programs can be effected, there is disparity in the way that this restructuring should take place.

We plan to carefully review these recommendations keeping in mind their relationship to the goals of airline deregulation, community concerns over service, and budgetary impact.

Mr. President, I approach these issues with an open mind. I am anxious to receive the testimony of the various interested parties that we have invited to comment at our hearings. I am confident that through this process and with the able assistance of my colleagues on the Commerce Committee we can fashion rational legislative proposals to adequately address the concerns which have been expressed regarding these proposals.

I want to commend both the Civil Aeronautics Board and the Department of Transportation for their long hours of hard work in drafting these proposals. I know they have consulted leading experts in the aviation industry and have sought a broad spectrum of opinion in their deliberations. Their diligence and support will make our task much easier.

Mr. President, this legislation has historic importance. We are about to write the final chapter in the deregulation of an industry that has been bound by some of the most comprehensive and far-ranging economic regulations ever to burden an industry. To do so, we are closing down a major Federal agency. What we do here will undoubtedly be looked upon as a test of deregulation efforts in other areas. We must work diligently, yet prudently. If we do, I am confident that we can fashion a legislature end to regulation in the aviation industry that will prove to be a positive example for other deregulation projects.

Mr. President, I ask that the proposal of the Civil Aeronautics Board along with the section-by-section analysis, the appendix thereto, the statement of purpose and justification, and the statement of Marvin S. Cohen and Elizabeth Bailey be printed in full following my remarks. I further ask that the proposal of the Department of Transportation regarding the sunset of the Civil Aeronautics Board and the elimination of the section 406 subsidy program and materials appurtenant thereto also be printed in full following my remarks in the RECORD.

The material follows:

S. 1425

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Civil Aeronautics Board Sunset Amendments".

TITLE I—AMENDMENTS TO THE FEDERAL AVIATION ACT

REFERENCES TO THE FEDERAL AVIATION ACT

SEC. 101. In this title, except as otherwise specifically provided, all references to sections and titles refer to sections and titles of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 *et seq.*), and references to "the Act" shall be deemed to refer to said Act.

REFERENCES TO THE SECRETARY OF TRANSPORTATION

SEC. 102. (a) The Act is amended by striking the word "Board" each time such word appears (and refers to the Civil Aeronautics Board) and the words "Civil Aeronautics Board", in titles I (other than in section 101 (13)), II, IV, VIII, IX, X, XI, and XIII, each time they appear, and inserting in lieu thereof the word "Secretary".

(b) Section 101 (49 U.S.C. 1301) is amended by:

(1) redesignating paragraphs (37) to (41) as (38) to (42) and inserting the following new paragraph (37):

"(37) Secretary means the Secretary of Transportation."; and

(2) striking "Civil Aeronautics Board" in paragraph (13) and inserting in lieu thereof "National Transportation Safety Board, except that in titles XIV, XV, and XVI it shall mean Civil Aeronautics Board."

AIR CARRIER CERTIFICATES

SEC. 103. Section 401 (49 U.S.C. 1371) is amended—

(a) by striking all provisions of such section (to the extent such provisions relate to interstate and overseas air transportation) except subsection (q);

(b) in paragraph (q)(2), by striking the word "certificated"; and

(c) by striking subsections (l) and (m).

MAIL CARRIAGE

SEC. 104. (a) Section 405 (49 U.S.C. 1375) is repealed.

(b) Section 406 (49 U.S.C. 1376) is amended—

(1)(A)(i) by striking subsections (c) and (d); and

(ii) in subsection (b) by inserting "and" immediately before clause (2) of the second sentence and by striking the semicolon after the word "law" at the end of clause (2) of the second sentence and inserting in lieu thereof a period, and by deleting all after the period;

(B) the amendments made by (1)(A), above, shall take effect on October 1, 1981; and

(2) by striking the remainder of the section. (c) Section 419 (49 U.S.C. 1389(a)) is amended—

(1) in paragraph (a)(7)—

(A) by striking the phrase "or under section 406 of this title" from the first clause of subparagraph (A);

(B) by striking the words "or section 406 of this title" in subparagraphs (B) and (C); and

(C) by adding a new subparagraph (D) at the end thereof to read as follows:

"(D) If, as of September 30, 1981, an air carrier (i) was receiving compensation under section 406 of this title for providing air transportation to an eligible point, and (ii) was required by the Board to continue service to that point beyond the date on which the air carrier could, but for paragraph (6) of this subsection, suspend, terminate, or reduce service to that point below the level of essential air transportation, the Board shall compensate the air carrier for any losses incurred after September 30, 1981, in continuing to provide essential air transportation to that point until the Board finds another air carrier to provide such essential air transportation.";

(2) in paragraph (a)(11), by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as (A) and (B), respectively; and

(3) in subparagraph (b)(2)(C)—

(A) by striking the phrase "and section 406 of this title"; and

(B) by striking the phrase "such section 406" and inserting in lieu thereof the phrase "section 406 of this title".

(d) Subparagraph 1601(b)(1)(A) (49 U.S.C. 155(b)(1)(A)) is amended by striking the phrase "under sections 406(b)(3) and (c) of this Act to provide compensation for air transportation to small communities and".

(e) The amendments made by subsections (c) and (d) of this section shall take effect on October 1, 1981.

(f) That portion of the Table of Contents contained in the first section of the Act that appears under the side headings:

"Sec. 405. Transportation of Mail." and
"Sec. 406. Rates for Transportation of Mail."
is amended to read as follows:
Opec. 405. Repealed."
"Sec. 406. Repealed."

(g) Section 901 (49 U.S.C. 1471) is amended—

(1) in paragraph (a)(1) by striking "or (B) any rule or regulation issued by the Postmaster General under this chapter,";

(2) in paragraph (a)(2) by striking ", or by the Postmaster General in the case of regulations issued by him"; and

(3) in subsection (b) by striking the colon and "*Provided*, That this subsection shall not apply to a violation of a rule or regulation of the Postmaster General".

REDUCTION OF REPORTING BURDEN

SEC. 105. Section 407 (49 U.S.C. 1377) is amended by

(a) adding the following sentence at the end of subsection (a): "The Secretary shall reduce reporting requirements imposed on air carriers under this section to the minimum necessary to accomplish the purposes of this Act and the Airport and Airway Improvement Act of 1981.";

(b) striking "annually, and" and "other" in subsection (b) the first time those words appear; and

(c) striking "annually and" and "other" in subsection (c) the first time those words appear.

REPEAL OF SPECIAL TREATMENT FOR MERGERS, ACQUISITIONS AND INTERLOCKING RELATIONSHIPS

SEC. 106. (a) The Act is amended by repealing—

(1) Section 408 (49 U.S.C. 1378); and

(2) Section 409 (49 U.S.C. 1379).

(b) Section 1601(a) (49 U.S.C. 1551(a)) is amended by striking paragraph (3) and redesignating paragraph (4) as (3).

(c) Section 414 is amended by striking "408, 409, or".

(d) That portion of the Table of Contents contained in the first section of the Act that appears under the center heading "Title IV—Air Carrier Economic Regulation" is amended by striking:

"Sec. 408. Consolidation, merger, and acquisition of control."; and

"Sec. 409. Interlocking relationships."

and the subsection headings under those side headings and inserting in lieu thereof:

"Sec. 408. Repealed."; and

"Sec. 409. Repealed."

UNFAIR PRACTICES

SEC. 107. (a) Section 411 (49 U.S.C. 1381) is repealed.

(b) That portion of the Table of Contents contained in the first section of the Act that appears under the center heading "Title IV—Air Carrier Economic Regulation" is amended by striking:

"Sec. 411. Methods of competition."

and inserting in lieu thereof:

"Sec. 411. Repealed."

ESSENTIAL AIR SERVICE

SEC. 108. Section 419 (49 U.S.C. 1389) is amended—

(a) In subsection (a), by adding a new paragraph (12) at the end thereof to read as follows:

"(12) Any air carrier holding on September 30, 1982 a certificate issued under section 401 of this title shall, for purposes of this section, be deemed an air carrier holding a certificate under section 401 of this title.";

(b) In subsection (c)—

(1) by striking paragraphs (1) and (3);

(2) be redesignating paragraphs (2) as (c);

(3) by redesignating subparagraphs (2) (A) and (2) (B) as (1) and (2), respectively;

(4) by striking the word "commuter" each time it appears;

(5) by adding the words "for which a determination under section 419(a)(2)(A) has been made" after the words "eligible point", the first time such words appear;

(6) by adding the word "such" before the word "eligible", the second time such word appears; and

(7) in redesignated paragraph (2), by striking the words "under paragraph (3) of this subsection".

TRANSFER OF AGREEMENTS AUTHORITY TO THE DEPARTMENT OF TRANSPORTATION

SEC. 109. Section 1601(b)(1)(C) (49 U.S.C. 1551(b)(1)(C)) is amended to read as follows: "(C) The authority of the Board under section 412 of this Act and the authority of the Board under section 414 of this Act (relating to such section 412) is transferred to the Secretary. This authority (to the extent such authority relates to interstate and overseas air transportation) shall cease to be in effect at the close of September 30, 1983."

REPEAL OF DOMESTIC CARGO AND DOMESTIC RATE AUTHORITY

SEC. 110. The Act is amended—

(a) by striking section 418;

(b) in subsection 1601(a),

(1) by striking the words "of persons" in the first sentence of paragraph (1);

(2) by striking the words "of persons" in paragraph (1)(A);

(3) by striking the words "of persons" in paragraph (2); and

(4) by striking "(1) and (d)(2)" in paragraph (2)(D) and inserting in lieu thereof "1002(d)"; and

(c) in subsections 1002 (d) and (h), by striking the words "air transportation of property within the State of Alaska, air transportation of property within the State of Hawaii".

FEDERAL PREEMPTION

SEC. 111. (a) Subsection 105(a) (49 U.S.C. 1305(a)) is amended—

(1) In subsection (a)(1), by striking the words "Title IV of";

(2) In subsection (a)(2), by amending (a)(2) to read as follows:

"The provisions of paragraph (1) of this subsection shall not be applicable to the following transportation by air of persons or property which is conducted wholly within the State of Alaska:

(A) charter transportation by air including part charter transportation; and

(B) transportation by air other than that specified in (a) of this subparagraph unless conducted by an air carrier which:

(i) performs flights, other than charter flights, between a place in Alaska and a place outside of Alaska (other than Canada) or

(ii) holds, on the date of enactment of this section, a certificate issued under section 401 of this Act that authorizes air transportation within the State of Alaska."

(3) by striking subsection (c) and redesignating subsection (d) as (c).

(b) That portion of the Table of Contents contained in the first section of the Act that appears under the side heading,

"SEC. 105. Federal preemption."

is amended to read as follows:

"(a) Preemption.

"(b) Proprietary powers and rights.

"(c) Definition."

SUPPLEMENTAL AIR CARRIERS

SEC. 112. Section 1601 (49 U.S.C. 1551) is amended, in subsection (a)(2), by redesignating (D) as (E) and inserting a new subparagraph (D) to read as follows:

"(D) Section 417 of this Act.".

ACCELERATED SUNSET OF THE CAB

SEC. 113. (a) Section 1601 (49 U.S.C. 1551), is amended as follows:

(1) in paragraph (a)(2) by striking "on January 1, 1983" and inserting in lieu thereof "at the close of September 30, 1982";

(2) in redesignated paragraph (a)(3), in paragraph (b)(2), and in subsection (d) by striking "on January 1, 1985" and inserting in lieu thereof "at the close of September 30, 1982"; and

(3) in subsection (c) by striking "January 1, 1984" and inserting in lieu thereof "January 1, 1982" and by striking "October 1, 1983" and inserting in lieu thereof "October 1, 1981".

(b) The amendments made by this section shall take effect upon enactment.

TRANSFER OF OTHER AUTHORITY TO THE SECRETARY

SEC. 114. Subparagraph 1601(b)(1)(D) (49 U.S.C. 1551(b)(1)(D)), is amended to read as follows:

"(D) The authority of the Board under this Act with respect to interstate or overseas air transportation not otherwise transferred or repealed, or which has not ceased to have effect under this section or any other statute, is transferred to the Secretary."

CONFORMING CHANGES TO THE FEDERAL AVIATION ACT

SEC. 115. The Act is amended—

(a) In section 311 (49 U.S.C. 1352) by striking the words "by the Board under titles IV and" and inserting in lieu thereof the words "under title".

(b) In section 313(c) (49 U.S.C. 1354(c)): (1) by striking the word "same"; and (2) by striking the words "as are vested in members of the Board and duly designated examiners by" and inserting in lieu thereof the words "as provided in".

(c) In section 315(b) (49 U.S.C. 1356(b)): (1) by striking all after the words "those" and inserting in lieu thereof "operations where the Administrator finds the requirement necessary to assure security against acts of criminal violence and aircraft piracy in air transportation and intrastate air transportation."

(d) In section 316(b) (49 U.S.C. 1357(b)) by striking the words "regularly serving air carriers certificated by the Civil Aeronautics Board to establish air transportation security programs providing a law enforcement presence and capability at" and inserting in lieu thereof "subject to those regulations to establish air transportation security programs to provide law enforcement support for".

(e) By repealing section 317 (49 U.S.C. 1358).

(f) In section 601(d)(2)(B) (49 U.S.C. 1421(d)(2)(B)) by striking the words "certificated by the Board" and inserting in lieu thereof the words "utilizing a dispatch system, including flight following, approved by the Administrator."

(g) In section 610(a)(8) (49 U.S.C. 1430(a)(8)) by revising the paragraph to read as follows:

"(8) For any person to operate an airport without an airport operating certificate required by the Administrator pursuant to section 612, or in violation of the terms of any such certificate; and".

(h) In section 612(a) (49 U.S.C. 1432(a)) by revising the subsection to read as follows:

"(a) The Administrator is empowered to issue airport operating certificates to, and establish minimum safety standards for, the operation of airports that—

"(1) Enplane 2,500 or more revenue paying passengers annually; or

"(2) Serve any scheduled or unscheduled passenger operation of air carrier aircraft designed for 20 or more passenger seats."

(i) In section 612(b) (49 U.S.C. 1432(b)) by striking "serving air carriers certificated by the Civil Aeronautics Board" in the first sentence and inserting in lieu thereof "described in subsection (a) and which is required by the Administrator, by rule or regulation, to be certificated".

(j) In section 612(c) (49 U.S.C. 1432(c)) by striking "air carrier airport enplaning annually less than one-quarter of 1 percent of the total number of passengers enplaned at all air carrier airports" and inserting in lieu thereof "airport described in paragraph (a)(1) enplaning annually less than one-quarter of 1 percent of the total number of passengers enplaned at all airports described in paragraph (a)(1)".

(k) In section 1004(a) (49 U.S.C. 1484(a)) by

(1) Deleting the words "Any member or examiner of the Board when duly designated by the Board" and inserting in lieu thereof "The Secretary or any person when duly designated by the Secretary";

(2) Striking the word "Board" at the end of the first sentence and inserting in lieu thereof "Secretary"; and

(3) Striking the last sentence.

(l) In section 415 (49 U.S.C. 1385), by redesignating section 415 as section 318.

(m) In section 802 (49 U.S.C. 1462) by striking all before the words "as appropriate" and inserting in lieu thereof:

"The Secretary of State shall advise the Secretary and the Secretary of Commerce, and consult with the Secretary or Secretary of Commerce,".

TITLE II—AMENDMENTS TO OTHER LAWS

TRADE PRACTICES STATUTES

SEC. 201. (a) Section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) is amended by striking from paragraph (2) the words "air carriers and foreign air carriers subject to the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.),".

(b) Section 7 of the Clayton Act (15 U.S.C. 18) is amended by striking the words "Civil Aeronautics Board,".

(c) Section 11(a) of the Clayton Act (15 U.S.C. 21(a)) is amended by striking the words "in the Civil Aeronautics Board where applicable to air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938;".

(d) The Consumer Credit Protection Act, as amended (15 U.S.C. 1601 *et seq.*) is amended by—

(1) striking paragraph (4) in section 108(a) (15 U.S.C. 1607(a)(4)) and by redesignating paragraphs (5) and (6) as (4) and (5), respectively;

(2) striking paragraph (5) in section 621 (b) (15 U.S.C. 1681s(b)) and by redesignating paragraph (6) as (5);

(3) striking paragraph (5) in section 704 (a) (15 U.S.C. 1691c(a)) and by redesignating paragraphs (6) through (9) as (5) through (8), respectively; and

(4) striking paragraph (5) in section 814 (a) (15 U.S.C. 1691(a)) and by redesignating paragraph (6) as (5).

OTHER CHANGES

SEC. 202. (a) Subchapter II of Chapter 53 of Title V of the United States Code is amended by striking the words:

(1) "Chairman, Civil Aeronautics Board" in section 5314; and

(2) "Members, Civil Aeronautics Board" in section 5315.

(b)(1) Chapter 54 of title 39, United States Code, is amended to read as follows:

"Chapter 54.—TRANSPORTATION OF MAIL BY AIR

"Sec.
"5401. Authorization.
"5402. Contracts for transportation of mail by air.
"5403. Foreign air carriers.

"5401. Authorization.

"(a) The Postal Service is authorized to provide for the safe and expeditious transportation of mail by aircraft.

"(b) The Postal Service may make such rules, regulations, and orders as may be necessary for the purposes of this chapter.

"5402. Contracts for transportation of mail by air.

"The Postal Service may contract for the transportation of mail by aircraft, with or without advertising for bids.

"5403. Foreign air carriers.

"(a) The Postal Service may, in any case where service may be necessary by a person not a citizen of the United States, make arrangements with such person, without advertising, for transporting mail by aircraft to, from, or within any foreign country. For purposes of this subsection, "citizen of the United States" is defined as set forth in section 101 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301), on October 1, 1982.

"(b) In any case where air transportation is performed between the United States and any foreign country, both by aircraft owned or operated by one or more air carriers and by aircraft owned or operated by one or more foreign air carriers, the Postal Service shall not pay to or for the account of any such foreign air carrier a rate of compensation for transporting mail by aircraft between the United States and such foreign country which, in its opinion, will result (over such reasonable period as it may determine, taking account of exchange fluctuations and other factors) in such foreign air carrier receiving a higher rate of compensation for transporting such mail than such foreign country pays to air carriers for transporting its mail by aircraft between such foreign country and the United States, or receiving a higher rate of compensation for transporting such mail than a rate determined by the Postal Service to be comparable to the rate such foreign country pays to air carriers for transporting its mail by aircraft between such foreign country and intermediate countries on the route of such air carrier between such foreign country and the United States. For the purposes of this subsection, "air carrier" and "foreign air carrier" are defined as set forth in section 101 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301), on October 1, 1982.

"(c) The Secretary of State and the Postal Service each shall take all necessary and appropriate actions to assure that the rates paid for the transportation of mail pursuant to the Universal Postal Union Convention shall not be higher than fair and reasonable rates for such services. The Secretary of State and the Postal Service shall oppose any present or proposed Universal Postal Union rates which are higher than such fair and reasonable rates.".

(2) The first sentence of section 101(f) of title 39, United States Code, is amended to read as follows: "In selecting modes of transportation, the Postal Service shall give highest consideration to the prompt and economical delivery of all mail.".

(3)(A) Sections 3401 (d) and (c) of title 39, United States Code, are amended by striking the words "on scheduled United States air carriers at rates fixed and determined by the Civil Aeronautics Board in accordance with section 1376 of title 49," each time they appear.

(B) The last sentence of section 3401(b) of title 39, United States Code, is amended to read as follows: "Whenever adequate service is not available to provide transportation of mail matter by air in accordance with this subsection, the transportation of such mail may be authorized by other means.".

(C) Section 3401(c) of title 39, United States Code, is further amended by striking out the last sentence thereof.

(4) Section 5005(b)(3) of title 39, United States Code, is amended by striking out "either the Interstate Commerce Commission or the Civil Aeronautics Board, as appropriate," and by inserting in lieu thereof the words "in the case of contracts under chapter 52 of this title to the Interstate Commerce Commission,".

(5) The amendment to section 5402 of title 39, United States Code, made by paragraph (1) of this subsection shall take effect October 1, 1981.

(c) Section 11 of the International Aviation Facilities Act (49 U.S.C. 1151–1160) is amended by striking the words "and the Civil Aeronautics Board" in the first clause of the second sentence.

(d) Section 2 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1159b) is amended by—

(1) striking the words "the Civil Aeronautics Board," in subsection (a);

(2) striking the words "Civil Aeronautics Board" and "Board" each time they appear in subsections (b) and (d) and inserting in lieu thereof the words "Secretary of Transportation" and "Secretary", respectively;

(3) striking the words "and the Department of Transportation" in subsection (b)(2); and

(4) striking the last sentence in subsection (d) and inserting in lieu thereof:

"The Secretaries of State and Treasury shall furnish to the Secretary of Transportation such information as may be necessary to prepare the report required by this section."

(5) striking the word "its" each time it appears and refers to the Civil Aeronautics Board and inserting in lieu thereof the words "the Secretary's", and by striking the word "it" each time it appears and refers to the Civil Aeronautics Board and inserting in lieu thereof the words "the Secretary".

(e) Section 2(a) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3502) is amended by striking the words "Civil Aeronautics Board" in the paragraph 10 (44 U.S.C. 3502(10)).

TRANSFER OF POWERS AND DUTIES TO THE SECRETARY

SEC. 203. Except as otherwise specifically provided in this Act, in Federal statutes other than the Federal Aviation Act and this Act:

(a) all references to the Civil Aeronautics Board shall be deemed to refer to the Secretary of Transportation; and

(b) all functions, powers and duties of the Civil Aeronautics Board, to the extent such functions, powers and duties remain after enactment of this Act, are transferred to the Secretary of Transporation.

LABOR

SEC. 204. (a) Section 43 of the Airline Deregulation Act of 1978 (49 U.S.C. 1552) is repealed.

(b) This section shall take effect upon enactment.

TITLE III—GENERAL PROVISIONS

EFFECTIVE DATE

SEC. 301. Except as otherwise provided, the amendments made by this Act shall take effect at the close of September 30, 1982.

SAVINGS PROVISION—ASSETS

SEC. 302. So much of the positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available in connection with the functions, powers, and duties transferred to the Secretary of Transportation from the Civil Aeronautics Board by this Act, as the Director of the Office of Management and Budget shall determine, shall be transferred to the Secretary of Transportation. Unexpended funds transferred pursuant to this section shall be used for the purpose for which the funds were originally authorized and appropriated. Personnel employed in connection with functions transferred by this Act shall be transferred in accordance with any applicable laws and regulations relating to transfer of functions.

SAVINGS PROVISION—RULES AND PROCEEDINGS

SEC. 303. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of duties, powers, or functions which are transferred to the Secretary of Transportation under this Act, by (A) the Civil Aeronautics Board, or (B) any court of competent jurisdiction, and

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary of Transportation, by any court of competent jurisdiction, or by operation of law.

(b) Any proceedings pending before the Board at the time this section takes effect shall be terminated, unless the proceeding is being conducted pursuant to a section which is transferred to the Secretary of Transportation by this Act, in which case such proceeding shall continue before the Secretary, and the Secretary, in continuing such proceedings, may exercise powers which are transferred, but not any powers which have been repealed; and orders issued in any transferred proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Secretary, by a court of

competent jurisdiction, or by operation of law.

(c) Except as limited by this Act—

(1) its provisions shall not affect suits commenced prior to the date this section takes effect and, in all suits, proceedings shall be had, appeals taken and judgment rendered, in the same manner and effect as if this Act had not been enacted; and

(2) no suit, action, or other proceedings commenced by or against any officer in his official capacity as an officer of the Board, and no cause of action by or against the Board or by or against any officer thereof in his official capacity shall abate; and

(3) causes of action, suits, actions, or other proceedings may be asserted by or against the United States or, in connection with functions transferred to the Secretary of Transportation, such official of the Department as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(d) With respect to any function, power, or duty transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any Board officer or office so transferred or functions of which are so transferred shall be deemed to mean the officer or office in which this Act vests function after such transfer.

REDUNDANT REFERENCES

SEC. 304. To the extent that changes made by this Act create or result in redundant references to the Secretary of Transportation, each such set of redundant references shall be construed as a single reference to the Secretary of Transportation.

[Section-by-Section Analysis]

CIVIL AERONAUTICS BOARD SUNSET ACT OF 1981

INTRODUCTION

The bill would amend the Federal Aviation Act of 1958, as amended, and other statutes to accelerate the dates in present law on which certain regulatory functions of the Civil Aeronautics Board (CAB) will either be sunset, transferred to other Federal agencies, or repealed. In addition to advancing the date for final CAB sunset by more than two years, from January 1, 1985 to September 30, 1982, the bill would also make changes in certain of the transfers of CAB authority to other Federal agencies that were made by the Airline Deregulation Act of 1978. It would also clarify the disposition of several CAB functions which the Airline Deregulation Act did not specifically sunset or transfer elsewhere.

Title I—Amendments to the Federal Aviation Act

References to the Federal Aviation Act

Section 101 would provide that, except as otherwise specifically provided, references to sections, titles, paragraphs, subparagraphs, etc. throughout title I of this Act shall be considered to refer to sections of the Federal Aviation Act of 1958, as amended (the FAAct).

References to the Secretary of Transportation

Section 102. Throughout title I (other than in section 101(13)), II, IV, VIII, IX, X, XI, and XIII of the FAAct, the word "Secretary" would be substituted for the word "Board" (when the word refers to the Civil Aeronautics Board and not the National Transportation Safety Board). In conjunction with sections 114 and 203 (transfer of other authority to the Secretary) subsection 102 (a) would effectively transfer to the Secretary of Transportation all CAB functions not sunset, repealed or transferred elsewhere. Succeeding provisions of the bill address specific Board functions to clarify (where the Airline Deregulation Act did not) whether they are to be sunset altogether or transferred to another agency—in some cases with certain conditions attached.

Subsection (b) would amend the definitions section of the FAAct, adding a new paragraph (37) which defines the word "Secretary" to mean the Secretary of Transportation. The section would also make clear that, following sunset, the word "Board", as used in the Act other than in titles XIV, XV, and XVI, would refer to the National Transportation Safety Board. In those titles, which concern transfer of functions, the word "Board" would continue to refer to the CAB.

Air Carrier Certificates

Section 103. Pursuant to the Airline Deregulation Act of 1978, the authority of the CAB to determine whether an application for a certificate authorizing air transportation is "consistent with the public convenience and necessity" (i.e. its power to award specific routes) terminates on December 31, 1981. While the Airline Deregulation Act did not sunset the Board's concomitant responsibility for determining whether an applicant is "fit, willing, and able" (i.e., whether the applicant can responsibly fulfill its service and financial obligations), it also failed to transfer that responsibility to any other agency.

This section would eliminate the general economic regulatory requirement that carriers obtain certificates of public convenience and necessity and that they demonstrate that they are fit, willing and able to operate in interstate and overseas air commerce. The section would not detract, in any respect, from DOT's safety responsibility under the Federal Aviation Act as a whole. Paragraph 108(b)(4) of this bill, moreover, would continue the fit, willing, and able requirement of present subparagraph 419(c)(2)(A) regarding service to eligible points, where essential service determinations have been made. The bill would retain authority under subsection 401(q) for the Secretary to require that direct and indirect air carriers be insured and bonded, but would make a conforming amendment to paragraph (q)(2) to reflect the fact that section 401 certificates would no longer be issued for interstate and overseas air commerce. Also, subsections 401 (1) and (m), which relate to mail transportation, would be repealed as the bill contemplates repeal of all mail related provisions in the Federal Aviation Act with conforming changes, as appropriate, to postal statutes (see analysis of section 104).

Mail Carriage

Section 104. Under the Airline Deregulation Act, the Board's present authority to set rates for interstate and overseas air transportation of mail is to be transferred to the United States Postal Service (USPS) on January 1, 1985. The authority of the Board with respect to foreign mail air transportation is to be transferred to the Department of Transportation at that time. Moreover, while the Act as presently written makes no change in the Department of Transportation's ability to continue to exercise the full scope of the Board's authority over foreign mail transportation, it directs the Postal Service to set domestic mail rates through "negotiation or competitive bidding" (subparagraph 1601(b)(1)(D)).

Section 104 would repeal the CAB's regulatory authority for all categories of mail transportation, both foreign and domestic. The requirement that carriers holding section 401 certificates authorizing mail transportation carry mail whenever tendered by USPS in accordance with postal regulations, together with all other provisions of current sections 405 and 406 and the Postmaster General's fining authority under section 901, would also be repealed. Subsections 401 (1) and (m), which also relate to mail, would be repealed by subsection 103(c). These changes would be made in order to permit the service and prices for mail transportation by air to be determined through direct negotiations or bidding and not by a Federal regulatory apparatus. Conforming changes to title 39 of the U.S. Code, which are required to eliminate regulatory restrictions on USPS air transportation contracting authority and to permit the marketplace to regulate mail transportation by air, are proposed in subsection 202(b) of the bill.

The repeal of the section 406 mail subsidy program for payments to air carriers recognizes that this program is more costly and less efficient than the program established by section 419 of the Airline Deregulation Act, which ensures that communities are provided with essential air service. The repeal of the 406 subsidy program (paragraph 104(b)(1), of the bill), and conforming changes to sections 419 and 1601 (subsections 104 (c) and (d), of the bill) would take effect on October 1, 1981, while repeals of other parts of sections 405 and 406 would, by virtue of section 301, take effect upon the close of September 30, 1982.

An analysis of the disposition of each of the subsections of sections 405 and 406 of the Federal Aviation Act follows:

Section 405. Transportation of mail:

(a) Postal rules and regulations. This provision would be repealed as unnecessary in light of the termination of the regulatory scheme for mail under the Federal Aviation Act. Authority for regulations needed for Postal Service administration would be provided under 39 U.S.C. 5401(b) (see subsection 202(b) of the bill).

(b) Mail schedules. This regulatory provision concerning notice of schedules and designation of schedules for transporting mail would be repealed in order to leave these subjects to contractual arrangements between the Postal Service and air carriers.

(c) Maximum mail load. This provision would be repealed as unnecessary once regulated service is replaced by contracting.

(d) Tender of mail. The carrier's duty to transport mail when tendered would be repealed in light of the intended reliance on contracting.

(e) Foreign postal arrangement. The disclaimer in paragraph (1) would be repealed as unnecessary in view of the repeal of the rest of the regulatory scheme for mail. The authorization in paragraph (2) for the use of foreign air carriers would be transferred to 39 U.S.C. 5403(a) (see subsection 202(b)).

(f) Transportation of foreign mail. This provision would be repealed as substantially obsolete and unnecessary. The Postal Service's role as middleman between U.S. carriers and foreign countries has diminished as carriers increasingly have come to deal with foreign administrations directly.

(g) Evidence of performance of mail service. This requirement would be deleted as unnecessary once regulated service is replaced by contracting.

(h) Emergency mail service. This provision would be repealed as duplicative in light of the emergency authority available to the Postal Service under 39 U.S.C. 5001 as well as the general contracting authority that would be provided under 39 U.S.C. 5402 (see subsection 202(b)).

(i) Experimental airmail service. This provision, which has already been superseded by amendments to title 39, would be repealed as obsolete.

(j) Free travel for employees. This provision would be repealed as it duplicates authority provided under 39 U.S.C. 5007.

Section 406. Rates for transportation of mail:

(a) Authorization to fix rates;

(b) (1) and (2) Ratemaking elements.

These provisions are repealed in preference for market determination of prices for air transportation of mail through contracting or negotiated bids.

(b)(3) Ratemaking elements;

(c) Payments for transportation of mail;

(d) Treatment of disposition of certain property. These provisions, which relate to the section 406 subsidy program, are repealed as undesirable in light of the essential air transportation program of section 419. Repeal of these provisions would be effective October 1, 1981.

(e) Statements of Postmaster General and carrier. This provision concerning mail transportation ratemaking proceedings would be repealed as obsolete.

(f) Weighing of mail. This provision would be repealed so that weighing of mail can be treated solely as a contractual matter.

(g) Availability of appropriations. This provision would be repealed as obsolete in view of previous changes in Postal Service appropriation statutes.

(h)(1) Payments to foreign air carriers. This provision would be transferred to 39 U.S.C. 5403(b) (see subsection 202(b)).

(h)(2) Rates pursuant to Universal Postal Union Convention. This provision would be transferred to 39 U.S.C. 5403(c) (see subsection 202(b)).

(h)(3) Criteria for changes in rates by Civil Aeronautics Board. This provision would be repealed along with the repeal of CAB regulation of rates.

Reduction of Reporting Burden

Section 105. The Airline Deregulation Act terminates, as of January 1, 1983, the Board's authority under subsections 407 (b) and (c) to require carriers to disclose stock ownership, to the extent those provisions relate to interstate and overseas air transportation. The Act failed to transfer explicitly, however, the remaining provisions of the Federal Aviation Act granting the Board authority to collect information. These include the Board's authority to require reports from carriers, to prescribe the forms of accounts, records and memoranda to be kept by carriers, to make on-site inspection of accounts and property, and its authority (under section 415 of the Act) to inquire into carrier management. Other provisions of the bill would transfer to DOT the authority to collect information necessary to perform its functions.

In recognition of the diminished governmental need for data and information submissions from carriers following deregulation, the section directs the Secretary to reduce reporting requirements. However, a reference to the "Airport and Airway Improvement Act of 1981" has been added to ensure the ability of the Secretary to collect enplanement data necessary to administer airport programs. The section would also give the Secretary flexibility to reduce reporting requirements pursuant to sections 407 (b) and (c).

Mergers, Acquisitions and Interlocking Relationships

Section 106. This section would repeal (as of the close of September 30, 1982) the special provisions in the FAAct governing mergers, acquisitions and interlocking relationships (sections 408 and 409), placing these activities within the ambit of general antitrust laws. Under the Airline Deregulation Act, this authority, as it relates to domestic aviation, is scheduled for transfer to the Department of Justice on January 1, 1983; authority with respect to foreign air transportation is scheduled for transfer to DOJ on January 1, 1985.

Repeal of sections 408 and 409 would eliminate the special treatment of air carriers which now enables the CAB to authorize mergers, acquisitions, and interlocking relationships which would otherwise be anticompetitive under the antitrust laws. Subsection 201(b) of the bill would amend the Clayton Act to eliminate the exemption from the application of that Act to merger transactions authorized by the CAB.

Unfair Practices

Section 107. This section would repeal section 411 of the Federal Aviation Act, which enables the Board to investigate and enjoin unfair and deceptive competitive practices or unfair methods of competition engaged in by air carriers and foreign air carriers. Subsection 201(a) would remove the current prohibition in the Federal Trade Commission Act which precludes FTC involvement in the prevention of such practices by airlines.

Essential Air Service

Section 108. This section of the bill would transfer to the Secretary of Transportation the essential air service program (section 419) without substantive change. The section would, however, make certain technical adjustments in the statutory language to reflect that 401 certificates would no longer be issued. This is accomplished by adding a new paragraph (12) at the end of existing subsection (a) which would state that an air carrier holding a 401 certificate on the date of sunset shall be treated as an air carrier holding a certificate under section 401 of the Federal Aviation Act for purposes of the essential air service program. The amendment is intended to ensure that the trigger for making an essential air service determination is unchanged. The section would also retain the requirement of present subparagraph 419(c)(2)(A) that carriers providing subsidized service under section 419 be found "fit, willing and able" to perform such service.

Transfer of Agreements Authority to the Department of Transportation

Section 109. Under the Airline Deregulation Act, the Board's present authority to approve intercarrier agreements and to extend antitrust immunity to participating carriers is to be transferred to the Department of Justice. The bill would make two changes in this proposed transfer of authority. First, the authority of the Board to approve agreements affecting interstate and overseas air transportation would be transferred, upon sunset of the Board, to the Department of Transportation until September 30, 1983, at which time it would expire. Second, upon sunset, the authority to approve agreements affecting foreign air transportation would be transferred to the Secretary of Transportation indefinitely.

Repeal of Domestic Cargo and Domestic Rate Authority

Section 110. This section would repeal section 418 of the Federal Aviation Act, a special provision enacted by the Air Cargo Deregulation Act of 1977 (P.L. 95–163), which eased entry for domestic all-cargo carriers. The provision is rendered unnecessary by other changes proposed by the bill. The section would also sunset the authority of the Board over domestic carriage of property by amending subsection 1601(a) to remove the limitation on its applicability to transportation of passengers only.

The section would also end the domestic fare flexibility authority of the CAB as redundant upon sunset of general domestic fare authority. Finally, the section would amend subsection 1002 (d) and (h) to terminate the Board's ratemaking authority over intrastate air transportation rates in Alaska and Hawaii.

Federal Preemption

Section 111. The bill would continue Federal preemption of aviation regulation; that is, it would continue to prevent states from asserting economic jurisdiction even after federal jurisdiction is withdrawn through the process of deregulation. Under present law, states are precluded from regulating air carriers holding authority under title IV of the FAAct. The amendment would delete the reference to title IV, so that preemption would continue for carriers authorized under the entire Act to provide interstate air transportation. Thus, after sunset, air carriers authorized under the Act to provide interstate air transportation will not be subject to regulation by state aeronautical agencies, except as provided in paragraph 105(a)(2).

Paragraph 105(a)(2) has been rewritten to take account of the elimination of Section 401 certificates following sunset. It is intended to continue as nearly as possible the current regulatory relationship in Alaska. Thus, charter air transportation within Alaska, and other air transportation, unless performed by a carrier previously holding a 401 certificate or actually performing (not on an interline basis) interstate, overseas, or foreign (except to or from Canada) air transportation, will continue to be subject to regulation by the State of Alaska aeronautical authorities.

Supplemental Air Carriers

Section 112. This section would repeal section 417, the authority of the Board to issue special operating authorization to supplemental air carriers, which is now unnecessary. The Airline Deregulation Act eliminates CAB entry restrictions by the end of 1981 (except for essential air service). In light of the fact that any carrier will be free to enter any domestic aviation market, the provision is unnecessary.

Accelerated Sunset of the CAB

Section 113. This section would accelerate the sunset of the Civil Aeronautics Board from January 1, 1985 to the close of September 30, 1982. The section would also accelerate interim dates which phase out of the CAB's authority and transfer certain of the Board's powers to other agencies so that these dates would coincide with the general termination of the Board at the close of September 30, 1982.

Transfer of Other Authority to the Secretary

Section 114. Proposed subparagraph 1601(b)(1)(D) would make clear that all authority of the CAB under the FAAct over domestic aviation which is not sunset, repealed, or specifically transferred to DOT would be transferred to DOT. Present subparagraph 1001(b)(1)(D), which concerns mail transportation, would not be retained in light of the other provisions of the bill regarding mail transportation.

Conforming Changes

Section 115. This section includes conforming changes to the Federal Aviation Act. Conforming changes have been proposed to ensure that sunset legislation would not affect present FAA safety authority. To the extent that, after sunset, certificates would no longer be issued, as contemplated by section 103, FAA safety authority which is framed in reference to certificates would be amended.

Subsection 115(a) would amend section 311 to reflect the fact that the CAB will no longer collect information under title IV. The Secretary would be granted authority to collect information needed by the Department, including the FAA.

Subsection 115(b) would amend subsection 313(c) to reflect the change to section 1004 which would explicitly give the Secretary those powers contained in section 1004.

Subsection 115(c) would amend subsection 315(b) to allow the Administrator to exempt air transportation operations from passenger screening requirements except in those cases where the Administrator finds the requirement necessary to ensure an adequate level of security against acts of criminal violence and air piracy. Where the current Act makes the ability of the Administrator to exempt dependent upon a non-

security-related decision by the CAB to certificate an air carrier, the new language would base the Administrator's ability to exempt upon security-related criteria.

Subsection 115(d) would amend subsection 316(b) to require those airports subject to regulations under 316(a) to establish security programs to provide law enforcement support adequate to ensure the safety of persons traveling in air transportation or intrastate air transportation from acts of criminal violence and aircraft piracy. With this change, the requirement for such a program would not be dependent upon whether air carriers landing at the airport held a CAB certificate issued for non-security related reasons. Rather, the requirement for law enforcement support would be dependent upon a determination by the FAA of the security needs of the airport.

Subsection 115(e) would repeal section 317 because the Administrator would already have the power to exempt such airports under sections 315 and 316, as proposed by subsections 115(c) and (d) of this bill.

Subsection 115(f) would amend subparagraph 601(d)(2)(B) to exempt those scheduled air carrier flights which utilize a dispatch system, including flight following, approved by the Administrator from the requirement of having an emergency locator transmitter. The proposed language would specifically exempt those flights for which a transmitter would not be useful—i.e. those which are tracked throughout the flight. The language in the present law, which related to the CAB, was an approximation of this intent.

Subsections 115(g), (h), (i) and (j) would amend the Federal Aviation Act of 1958 to provide for the continued safety certification of airports after the sunset of the Civil Aeronautics Board (CAB). The present statute describes airports subject to safety certification with respect to CAB regulatory labels. To ensure the continuation of the FAA's safety authority following CAB sunset, the amendment would delete all references to the CAB and terms dependent upon CAB action.

Subsection 115(k) is a conforming change to subsection 1004(a) deleting language made inappropriate by the substitution of the word "Secretary" for the word "Board", called for by section 101 and 102 of this bill.

Subsection 115(l) would redesignate section 415 as section 318, continuing the authority under the Act to consider the qualifications of the management responsible for the safety of an air carrier's operations.

Subsection 115(m) would reword section 802 so that a reference to "Secretary" which is intended to refer to the Secretary of Commerce would not, as a result of the proposed definition of "Secretary" as meaning the Secretary of Transportation (see subsection 102(b)), be inadvertently transformed into a reference to the Secretary of Transportation.

Trade practice statutes

Section 201. The FTC is generally precluded from exercising its jurisdiction over unfair and deceptive trade practices in industries which are directly regulated by other Federal economic regulatory agencies. Subsection (a) of this section would remove the current prohibition against FTC involvement in the regulation of unfair and deceptive trade practices on the part of air carriers and foreign air carriers. In combination with repeal of section 411 of the FAAct (section 107 of the bill), this section would result in the aviation industry, like most other industries, being subject to the FTCAct as regards unfair and deceptive trade practices.

Similarly, subsections (b) and (c) would eliminate the exemption in present law to the application of the Clayton Act to air carriers and foreign air carriers. Subsection (d) would eliminate special provisions regarding CAB enforcement of the Consumer Credit Protection Act and commit enforcement of that Act to the Federal Trade Commission.

Other Conforming Changes

Section 202. This section includes specific conforming changes to several statutes, primarily to delete references to the CAB which would become obsolete as a result of enactment of this bill.

The subsection (b) would make a number of conforming changes to title 39 postal statutes (summarized below), consistent with the changes in Federal economic regulation of mail air carriage proposed in section 104.

Paragraph (b)(1). Revision of Chapter 54, Transportation of Mail by Air.

Section 5401. Authorization. This section would be revised to eliminate references to CAB regulation.

Section 5402. Contracts for transportation of mail by air. This section is revised to eliminate restrictions and references to CAB regulation, consistent with the intent to replace that regulation with contractual negotiations or bidding.

Section 5403. Foreign air carriers. Existing provisions of this section concerning Postal Service fining authority would be repealed in light of the substitution of contracting for regulation. Subsection (a) would limit arrangements with foreign air carriers to transport U.S. mail to situations where the Postal Service makes a finding that this is necessary. It is expected that the Postal Service and the respective U.S. carriers will be able to reach satisfactory arrangements for those carriers to continue to fill most of the Postal Service's needs, even with the repeal of the carriers' present duty to carry mail when tendered. Subsection (b) would preserve present paragraph 406(h)(1) of the Federal Aviation Act, which seeks to assure that foreign carriers will not charge this country more for air transportation of mail than foreign countries are charged. Subsection (c) would preserve present paragraph 406(h)(2) of the Federal Aviation Act, which requires the Secretary of State and the Postal Service to oppose the establishment of unfair or unreasonable Universal Postal Union rates for the transportation of mail.

Paragraph (b)(2). Distribution of Business. This amendment to subsection 101(f) to title 39 repeals language concerning the division of transportation business, since contracting will enable the market to allocate the business.

Paragraph (b)(3). Space Available Mail. This amendment to section 3401 of title 39 would strike references to CAB regulation and to scheduled carriers in view of the elimination of regulation and of the duty of carriers to carry mail. It is assumed that the respective carriers and the Postal Service will be able to continue to arrange to satisfy these transportation needs, pursuant to amended chapter 54 of title 39.

Paragraph (b)(4). Filing of Contracts. This amendment would strike the requirement to file contracts with the CAB, in view of the sunset of that agency.

Paragraph (b)(5). One-year Transition Period. This amendment would provide for the contracting authority under 39 U.S.C. 5402 to take effect on October 1, 1981, one year before the termination of service regulated by the CAB. It seems unreasonable to expect the entire mail transportation system to switch from regulation to contracting on a single day. Introduction of a contracting option a year earlier would enable the carriers and the Postal Service to work toward a smoother transition. The state of the law during that period would be essentially the same as in the surface and water transportation areas. In both of these areas, the use of contracting options has completely eclipsed the use of regulatory options which remain on the books.

Transfer of Powers and Duties to the Secretary

Section 203. This section would provide that, except as otherwise specifically provided (i.e. sections 201 and 202), references in all Federal statutes (other than the Federal Aviation Act and this Act) to the Civil Aeronautics Board shall be deemed to refer to the Secretary of Transportation, and that all functions, powers and duties of the CAB, to the extent such functions, powers and duties remain after enactment of this Act, are transferred to the Secretary of Transportation. Among the duties transferred by this section are those under the International Air Transportation Fair Competitive Practices Act of 1974, as amended (49 U.S.C. 1559b), the Animal Welfare Act (7 U.S.C. 2121 et seq.), and the Federal Election Campaign Act of 1971 (2 U.S.C. 451).

Labor

Section 204 would, upon enactment, repeal section 43 of the Airline Deregulation Act of 1978, regarding labor protection. The provisions of section 43 establish financial assistance, relocation, and hiring preference programs for airline employees in addition to benefits available to such employees under general labor laws. Such special consideration is inappropriate. Further, the provisions of subsection 43(d), regarding the right of certain furloughed airline employees to first hire by other airlines, would require continuous collection of considerable data, resulting in an increased paperwork burden on industry and a significant administrative burden for the government at a time when the revitalization of the economy requires the reduction of paperwork.

Effective Date

Section 301. Except as specifically provided, the provisions of this bill would become effective upon the close of September 30, 1982.

Savings Provision—Assets

Section 302 would transfer to the Secretary from the Board the positions, assets, liabilities, contracts, property, records, and funds relating to the functions being transferred. The Board has incurred a number of obligations, particularly in the section 419 subsidy area which will be transferred to DOT. For the sake of continuity it is necessary to provide that those obligations now become the obligations of the Department of Tranportation. The provision would establish an orderly process for transferring functions to DOT.

Savings Provision—Rules and Proceedings

Section 303. Subsection (a) would provide for continued effectiveness of Board orders, regulations, permits, contracts, certificates, and licenses. Effectivenes is limited to those functional areas which have been transferred to the Secretary. They will remain effective until terminated or changed by the Secretary or according to law.

To the extent allowed by substantive law, subsection (b) would continue proceedings pending before the Board related to transferred functions. Such proceedings would become proceedings before DOT. Examples would be proceedings under Section 419 (subsidy) and Section 402 (foreign carrier permits).

Except to the extent that substantive changes to the law are effected by this Act, subsection (c) would leave unaffected by this Act those lawsuits commenced by or against the Board.

Subsections (b) and (c) make clear, however, that substantive changes in the law

will affect pending proceedings. For example, section 106 of the bill would repeal sections 408 and 409 of the Act, regarding approval of mergers and acquisitions; the authority of the Board in this area will terminate, not transfer, upon sunset. As a consequence, pending proceedings regarding 408 and 409 applications would not transfer and, upon sunset, would become null and void, so that the transactions which are the subject of these pending applications would be subject to the general antitrust laws.

Subsection (d) would provide that references in Federal laws to Board functions which have been transferred to DOT will now be to functions of DOT.

Redundant References

Section 304. In a number of places, present law established reporting requirements, consultation rquirements, etc. with respect to both the Secretary of Transportation and the Civil Aeronautics Board. Consequently, the general drafting approach of the bill, which would substitute references to the Secretary of Transportation for present references to the CAB, would result in redundant references to the Secretary of Transportation. This section would make clear that such redundant references should be construed as a single reference to the Secretary of Transportation.

S. 1426

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Civil Aeronautics Board Sunset Act of 1981."

FEDERAL PREEMPTION

SEC. 2. (a) Section 105(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1305(a)) is amended by—

(1) striking the words "having authority under Title IV of this Act to provide interstate air transportation." in paragraph (1) and inserting in lieu thereof "except a carrier that—

"(1) operates entirely within one State;

"(2) has entered into no interlining agreements or other arrangements for the carriage of passengers or property in interstate, overseas, or foreign air transportation; and

(3) has not listed its schedules in any airline guide or other publication that regularly lists the schedules of carriers engaging in interstate, overseas, or foreign air transportation.";

(2) striking paragraph (2); and

(3) striking the words "(1) Except as provided in paragraph (2) of this subsection, no" after "sec. 105()a" and inserting in lieu thereof the word "No".

(b) Section 105(b) of such Act (49 U.S.C. 1305(b)) is amended by striking the words "certificated by the Board" in paragraph (1), and by inserting at the end of such paragraph the following: "In the exercise of such proprietory rights and powers, no such owner or operator shall unreasonably withhold or restrict access to an airport by an air carrier if that air carrier assumes obligations substantially similar to those already assumed by the existing tenant air carrier(s). Nothing in this Act shall be construed as conferring upon any State or political subdivision thereof or any interstate agency immunity from the operation of the antitrust laws for actions taken in exercising its proprietory powers and rights as owner or operator of such airport."

(c) Section 105 of such Act (49 U.S.C. 1305) is amended by striking paragraph (c) and redesignating paragraph (d) as (c).

(d) That portion of the table of contents contained in the first section of such Act that appears under the side heading

"Sec. 105. Federal preemption."

is amended to read

"(a) Preemption.

"(b) Proprietary powers and rights.

"(c) Definitions."

REPORT ON SUBSIDY COST-SHARING

SEC. 3. (a) Title IV of the Federal Aviation Act of 1958 (49 U.S.C. title IV) is amended by repealing section 106, Report on Subsidy Cost-Sharing (49 U.S.C. 1306).

(b) That portion of the table of contents contained in the first section of such Act that appears under the center heading—

"TITLE IV—AIR CARRIER ECONOMIC REGULATION"

is amended by striking

"Sec. 106. Report on subsidy cost-sharing."

and inserting in lieu thereof

"Sec. 106. Repealed."

REPORT ON AIR CARRIER MARKETING OF TOURS

SEC. 4. (a) Title IV of the Federal Aviation Act of 1958 (49 U.S.C. title IV) is amended by repealing section 108, Report on Air Carrier Marketing of Tours (49 U.S.C. 1308).

(b) That portion of the table of contents contained in the first section of such Act that appears under the center heading—

"TITLE IV—AIR CARRIER ECONOMIC REGULATIONS"

is amended by striking

"Sec. 108. Report on air carrier marketing of tours."

and inserting in lieu thereof

"Sec. 108. Repealed."

ELIMINATION OF CERTIFICATES AND DUPLICATIVE FINDINGS OF FITNESS FOR DOMESTIC TRANSPORTATION

SEC. 5. Section 401(a) of the Federal Aviation Act of 1958 (48 U.S.C. 1371(a)) is amended by striking the word "any" and inserting in lieu thereof the word "foreign".

(b) Section 401(c)(2) of such Act (49 U.S.C. 1371(c)(2)) is amended by striking the hyphen after the word "period" and inserting in lieu thereof a comma, by striking clause (A), and by striking the designation (B) of the second clause.

(c) Section 401(d) of such Act (49 U.S.C. 1371(d)) is amended by—

(1) striking "(A)" each time it appears in paragraphs (9) (B) and (C);

(2) striking the words "subsection (d) (1), (2), or (3)" in paragraph (8) and inserting in lieu thereof "subsections (d) (1) or (2)"; and

(3) striking paragraphs (3), (4), (5), and (7), and redesignating paragraphs (6), (8), and (9) as paragraphs (3) through (5), respectively.

(d) Section 401(e) of such Act (49 U.S.C. 1371(e)) is amended by—

(1) striking the first clause and the word "and" immediately thereafter in paragraph (1);

(2) striking the word "there" in the second clause of paragraph (1) and inserting in lieu thereof the word "There"; and

(3) striking paragraph (7).

(e) Section 401(o) of such Act (49 U.S.C. 1371(o)) is amended by—

(1) striking the comma after clause (1) in paragraph (1) and all thereafter, and inserting in lieu thereof a period; and

(2) striking "(1)" immediately after "(o)" and by striking paragraph (2).

(f) The center heading for section 401 of such Act is amended by adding "FOR FOREIGN AIR TRANSPORTATION" at the end thereof.

(g) Title IV of such Act (49 U.S.C. Title IV) is amended by repealing section 417, Special Operating Authorizations (49 U.S.C. 1387).

(h) Title IV of such Act is further amended by repealing section 418, Certificate for All-Cargo Air Service (49 U.S.C. 1388).

(i) Section 101 of such Act (49 U.S.C. 1301) is amended by striking paragraph (11) "All-cargo air service" and by redesignating paragraphs (12) through (41) as (11) through (40), respectively.

(j) That portion of the table of contents contained in the first section of such Act under the center heading—

"TITLE IV—AIR CARRIER ECONOMIC REGULATION"

is amended by striking

"Sec. 401. Certificate of public convenience and necessity."

and inserting in lieu thereof

"Sec. 401. Certificate of public convenience and necessity for foreign air transportation."; and

is amended by striking the side headings

"Sec. 417. Special operating authorization.

"Sec. 418. Certificates for all-cargo air service."

and any headings under them, and inserting in lieu thereof

"Sec. 417. Repealed.

"Sec. 418. Repealed."

ELIMINATION OF DUPLICATIVE FITNESS FINDINGS IN FOREIGN AIR TRANSPORTATION

SEC. 6. (a) Section 401(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(d)) is amended by—

(1) striking all after "(1)" and inserting in lieu thereof: "The Board shall issue a certificate authorizing the whole or any part of the transportation covered by the application, if the Board finds that the transportation covered by the application is consistent with the public convenience and necessity; otherwise such application shall be denied."

(2) striking all after the word "necessity" in paragraph (2) and inserting in lieu thereof a period, and

(3) striking subparagraph (A) in paragraph (5), as redesignated by section 5 of this Act, and redesignating subparagraphs (B) and (C) as (A) and (B), respectively.

(c) Section 401 of such Act (49 U.S.C. 1371) is amended by striking subsection (r).

(d) That portion of the table of contents contained in the first section of such Act that appears under the side heading as amended by this Act

"Sec. 401. Certificate of public convenience and necessity for foreign air transportation."

is amended by striking

"(r) Continuing requirement."

(e) Section 402(b) of such Act (49 U.S.C. 1372(b)) is amended by striking all after "(b)" and inserting in lieu thereof: "The Board is empowered to issue such a permit if the Board finds either that the applicant is qualified, and has been designated by its government, to perform such foreign air transportation under the terms of an agreement with the United States, or that such transportation will be in the public interest."

INSURANCE FOR AIR CARRIERS

SEC. 7. (a) Section 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1424) is amended by adding a new subsection (c) at the end thereof to read:

"INSURANCE

"(c) No air carrier operating certificate shall be issued or remain in effect unless the applicant for, or holder of, the certificate complies with all regulations and orders issued by the Administrator with respect to insurance covering the carrier's liability to others for bodily injury, death, or property damage resulting from the operation of aircraft."

(c) That portion of the table of contents contained in the first section of such Act under the side heading

"Sec. 604. Air carrier operating certificates."

is amended by adding at the end thereof

"(c) Insurance."

(c) Section 401 of such Act (49 U.S.C. 1371) is amended by striking subsection (q).

(d) That portion of the table of contents contained in the first section of such Act under the side heading as amended by this Act

"Sec. 401. Certificate of public convenience and necessity for foreign air transportation."

is amended by striking

"(q) Insurance and liability."

REPEAL OF DUTY TO CARRY MAIL

SEC. 8. (a) Section 405 of the Federal Aviation Act of 1958 (49 U.S.C. 1375) is amended by—

(1) striking all after "(a)" in subsection (a) and inserting in lieu thereof: "As used in this section, the term 'Director' means the Director of the United States Postal Service.";

(2) striking the words "Postmaster General" in subsections (e), (f), (g) and (h), and inserting in lieu thereof the word "Director" each time they appear.

(3) striking subsections (b), (c), and (d), and redesignating subsection (e) through (j) as (b) through (g).

(b) The cented heading for section 405(a) of such Act is amended by striking the words "POSTAL RULES AND REGULATIONS" and inserting in lieu thereof the word "DEFINITIONS".

(c) That portion of the table of contents contained in the first section of such Act that appears under the side heading

"Section 405. Transportation of mail."

is amended to read as follows:

"(a) Definitions.
"(b) Foreign postal arrangement.
"(c) Transportation of foreign mail.
"(d) Evidence of performance of mail service.
"(e) Emergency mail service.
"(f) Experimental airmail service.
"(g) Free travel for postal employees.".

(d) Section 401 of such Act (49 U.S.C. 1371) is amended by striking subsections (l) and (m), and by redesignating subsections (n) through (p) as subsections (l) through (n), respectively.

(e) That portion of the table of contents contained in the first section of such Act that appears under the side heading as amended by this Act

"Sec. 401. Certificate of public convenience and necessity for foreign air transportation."

is amended to read—

"(a) Certificate required.
"(b) Application for certificate.
"(c) Route applications.
"(d) Issuance of certificate.
"(e) Terms and conditions of certificate.
"(f) Effective date and duration of certificate.
"(g) Authority to modify, suspend, or revoke.
"(h) Transfer of certificate.
"(i) Certain rights not conferred by certificate.
"(j) Terminations, reductions, and suspensions of service.
"(k) Compliance with labor legislation.
"(l) Additional powers and duties of Secretary with respect to charter air carriers.
"(m) Air transportation of persons or property.
"(n) Procedures for processing applications for certificates."

ELIMINATION OF DUPLICATE SUBSIDY PROGRAM

SEC. 9. (a) Section 406 of the Federal Aviation Act of 1958 (49 U.S.C. 1376(b)) is amended by—

(1) inserting the word "and" immediately before clause (2) of the second sentence of subsection (b);

(2) striking the semicolon after the word "law" at the end of clause (2) of the second sentence of subsection (b) and inserting in lieu thereof a period, and striking all after such period; and

(3) striking subsections (c) and (d).

(b) That portion of the table of contents contained in the first section of such Act under the side heading

"Sec. 406. Rates for transportation of mail."

is amended by striking the subheadings

"(c) Payment.
"(d) Treatment of proceeds of disposition of certain property."

and inserting in lieu thereof

"(c) Repealed.
"(d) Repealed."

(c) Paragraph (7) of section 419(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1389 (a)) is amended by—

(1) striking the words "or under section 406 of this title" from the first clause of subparagraph (A);

(2) striking the words "or section 406 of this title" in subparagraphs (B) and (C); and

(3) by adding a new subparagraph (D) at the end thereof to read:

"(D) If, as of September 30, 1981, an air carrier (i) was receiving compensation under section 406 of this title for providing air transportation to an eligible point, and (ii) was required by the Board to continue service to that point beyond the date on which the air carrier could, but for paragraph (6) of this subsection, suspend, terminate, or reduce service to that point below the level of essential air transportation, the Board shall compensate the air carrier for any losses incurred after September 30, 1981, in continuing to provide essential air transportation to that point until the Board finds another air carrier to provide such essential air transportation."

(d) Paragraph (11) of section 419(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1389 (a)) is amended by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as (a) and (B), respectively.

(e) Section 419(b)(2)(C) of the Federal Aviation Act of 1958 (49 U.S.C. 1389 (b)(2)(C)) is amended by—

(1) striking the words "and section 406 of this title"; and

(2) striking the words "such section 406" and inserting in lieu thereof the phrase "section 406 of this title".

(f) Section 1601(b)(1)(A) of the Federal Aviation Act of 1958 (49 U.S.C. 1551(b)(1)(A)) is amended by striking the words "under sections 406 (b)(3) and (c) of this Act to provide compensation for air transportation to small communities and".

REPEAL OF MAIL RATE AUTHORITY

SEC. 10. (a) Section 406 of the Federal Aviation Act of 1958 (49 U.S.C. 1376) is amended by—

(1) striking subsections (a), (b), and (e) through (g);

(2) striking paragraph (3) in subsection (h);

(3) combining paragraphs (1) and (2) of subsection (h) and striking "(1)" and "(2)" at the start of each paragraph, respectively;

(4) striking "(h)" at the start of subsection (h), and

(5) striking the words "Postmaster General" and inserting in lieu thereof the words "Director of the United States Postal Service" each time they appear.

(b) The center heading of section 406 of such Act is amended by adding the words "By Foreign Air Carriers" at the end thereof.

(c) That portion of the table of contents contained in the first section of such Act under the center heading—

"TITLE IV—AIR CARRIER ECONOMIC REGULATION"

is amended by striking the side heading—

"Sec. 406. Rates for transportation of mail."

and those headings under it, and inserting in lieu thereof

"Sec. 406. Rates for transportation of mail by foreign air carriers."

MERGERS AND INTERLOCKING RELATIONSHIPS

SEC. 11. (a) Section 408 of the Federal Aviation Act of 1958 (49 U.S.C. 1378) is amended by striking all after "Sec. 408." and inserting in lieu thereof:

"INTERVENTION OF BOARD

"(a) The Board shall have the right to intervene and appear in any suit, action, or proceeding under the antitrust laws involving—

"(1) two or more air carriers, or any air carrier and any other common carrier, or any person substantially engaged in the business of aeronautics, that consolidate or merge their properties, or a substantial portion thereof, into one person for the ownership, management, or operation of the properties previously in separate ownerships;

"(2) any air carrier, any person controlling an air carrier, any other common carrier, or any person substantially engaged in the business of aeronautics, that purchases, leases, or contracts to operate all or a substantial portion of the properties of any air carrier;

"(3) any air carrier or person controlling an air carrier that purchases, leases, or contracts to operate all or a substantial portion of the properties of any person substantially engaged in the business of aeronautics otherwise than as an air carrier;

"(4) any foreign air carrier or person controlling a foreign air carrier that acquires control in any manner whatsoever of any citizen of the United States substantially engaged in the business of aeronautics;

"(5) any air carrier or person controlling an air carrier, any other common carrier, or any person substantially engaged in the business of aeronautics that acquires control of any air carrier in any manner whatsoever; or

"(6) any air carrier or person controlling an air carrier that acquires control, in any manner whatsoever, of any person substantially engaged in the business of aeronautics other than as an air carrier.

"CONTROL RELATIONSHIP IN FOREIGN AIR TRANSPORTATION"

"(b) The Board shall be a party in any suit, action, or proceeding listed in subsection (a) that directly or indirectly involves foreign air transportation. The Board shall publish a decision within 30 days of the announcement of any relationship listed in subsection (a) concerning whether and to what extent any route authority in foreign air transportation of any person or carrier in said relationship should be retained by said person or carrier. The decision of the Board shall be based solely on U.S. international aviation policy."

(b) That portion of the table of contents contained in the first section of such Act under the side heading—

"Sec. 408. Consolidation, merger, and acquisition of control."

is amended by striking the subsection headings under that side heading and inserting in lieu thereof

"(a) Intervention of Board.

"(b) Control relationships in foreign air transportation."

(c) Title IV of the Federal Aviation Act of 1958 (49 U.S.C. Title IV) is amended by repealing Section 409, Interlocking Relationships (49 U.S.C. 1379).

(d) Section 160(a) of such Act (49 U.S.C. 1551(a)) is amended by striking paragraph (3).

(e) That portion of the table of contents contained in the first section of such Act that appears under the center heading—

"TITLE IV—AIR CARRIER ECONOMIC REGULATION"

is amended by striking

"Section 409. Interlocking relationships."

and the subsection headings under that side heading, and inserting in lieu thereof

"Sec. 409. Repealed."

(f) Section 407 of such Act is amended by striking subsections (b) and (c) and redesignating subsections (d) and (e) as (b) and (c), respectively.

(g) That portion of the table of contents contained in the first section of such Act that appears under the side heading—

"Sec. 407. Accounts, records, and reports."

is amended to read

"(a) Filing of reports.

"(b) Form of accounts.

"(c) Inspection of accounts and property."

(h) Section 1601(a)(2) of such Act (49 U.S.C. 1551(a)(2)) is amended by striking subparagraph (C) and redesignating (D) as (C).

(i) Section 7 of the Clayton Act (15 U.S.C. 18) is amended by striking the words "Civil Aeronautics Board,".

(j) Section 11(a) of the Clayton Act (15 U.S.C. 21(a)) is amended by striking the words "in the Civil Aeronautics Board where applicable to air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938;".

(k) Section 414 of the Federal Aviation Act of 1958 (49 U.S.C. 1384) is amended by striking "408, 409, or".

REPEAL OF UNFAIR PRACTICES SPECIAL TREATMENT

SEC. 12. (a) Title IV of the Federal Aviation Act of 1958 (49 U.S.C. Title IV) is amended by repealing section 411, Methods of Competition (49 U.S.C. 1381).

(b) That portion of the table of contents contained in the first section of such Act that appears under the center heading—

"TITLE IV—AIR CARRIER ECONOMIC REGULATION"

is amended by striking

"SEC. 411. Methods of competition."

and inserting in lieu thereof

"SEC. 411. Repealed."

(c) Section 5(a)(6) of the Federal Trade Commission Act (5 U.S.C. 45(a)(6)), is amended by striking the words "air carriers and foreign air carriers subject to the Federal Aviation Act of 1958,".

(d) Section 102(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1302(a)) is amended by—

(1) striking the words "or unfair or deceptive practices," and inserting the word "or" immediately after the word "discriminations," in paragraph (3); and

(2) striking the words "unfair, deceptive," and the comma after "predatory" in paragraph (7).

(e) The Consumer Credit Protection Act, as amended (15 U.S.C. 1601 et. seq.) is amended by—

(1) striking pargraph (4) in section 108 (a), relating generally to administrative enforcement (15 U.S.C. 1607(a)(4)), and by redesignating paragraphs (5) and (6) as (4) and (5), respectively;

(2) striking paragraph (5) in section 621 (b), relating generally to administrative enforcement (15 U.S.C. 1681s(b)), and by redesignating paragraph (6) as (5);

(3) striking paragraph (5) in section 704 (a), relating generally to administrative enforcement (15 U.S.C. 1691c(a)), and by redesignating paragraphs (6) through (9) as (5) through (8), respectively; and

(4) striking paragraph (5) in section 814 (a), relating generally to administrative enforcement (15 U.S.C. 1692(a)), and by redesignating paragraph (6) as (5).

ESSENTIAL AIR SERVICE

SEC. 13. (a) Section 419(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1389(a)), as amended by this Act, is amended by—

(1) striking all after "(B)" in paragraph (2)(B) and inserting in lieu thereof: "With respect to any eligible point for which, on the date of enactment of this subparagraph, a level of essential air transportation has not yet been determined, and which is receiving or thereafter receives service by not more than one air carrier that uses large aircraft in its operations at such point, not later than the last day of the six-month period beginning on the date that the Board receives notice that service to such point will be provided by not more than one such air carrier, the Board, after considering the views of any interested community and the State agency of the State in which the community is located, shall determine the level of essential air transportation of such point. For the purpose of this subparagraph, large aircraft means aircraft that have a passenger capacity of more than 30 seats."

(2) striking all after "(3)" in paragraph (3) and inserting in lieu thereof:

"(A) No air carrier that is receiving compensation pursuant to paragraph (5) of this subsection for service to an eligible point, or that is serving such eligible point with large aircraft, shall terminate, suspend, or reduce air transportation to such point below the established level of essential air transportation under paragraph (2) unless that air carrier has given the Board, the appropriate State agency or agencies, and the communities affected at least ninety days' notice prior to such termination, suspension, or reduction. For purposes of this subparagraph, large aircraft means aircraft with a passenger capacity of more than 30 seats.

"(B) No air carrier not subject to subparagraph (A) shall terminate, suspend, or reduce air transportation to any eligible point below the established level of essential level of essential air transportation under paragraph (2) of this subsection unless that air carrier has given the Board, the appropriate State agency or agencies, and the communities affected at least thirty days' notice prior to such termination, suspension, or reduction."

(3) striking the words "which holds a certificate issued under section 401 of this title" in paragraph (7)(B) and inserting in lieu thereof the words "which is serving an eligible point with large aircraft as defined in paragraph (3) of this subsection", striking the word "any" before the words "eligible point" and inserting in lieu thereof the word "that".

(4) striking the word "does not hold a certificate issued under section 401 of this title" in paragraph (7)(C) and inserting in lieu thereof the words "does not serve an eligible point with large aircraft as defined in paragraph (3) of this subsection", by striking the word "any" before the term "eligible point" and inserting in lieu thereof the word "that".

(b) Section 419(b) of such Act, as amended by this Act, is amended by striking the phrases "holds a certificate issued under section 401 of this title" and "does not hold such a certificate" wherever they appear in paragraph (7) and inserting in lieu thereof the words "operates large aircraft as defined in subsection (a)(3) of this section at such point" and "does not operate large aircraft as defined in subsection (a)(3) of this section at such point", respectively.

(c) Section 401(j) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(j)) is amended by striking all after "(j)" and inserting in lieu thereof:

"(1) No air carrier operating aircraft with a passenger capacity of more than 30 seats at an eligible point shall—

"(A) reduce any such air transportation below that which has been determined to be essential for such point unless such air carrier has first given the Board, any community affected, and the State agency of the States in which such community is located, at least 90 days notice of its intent to so terminate, suspend, or reduce such air transportation; or

"(B) terminate, suspend, or reduce such air transportation so as to affect essential air transportation unless such air carrier has complied with any rules that the Board may adopt with respect to notice of such action. Except as set forth in subparagraph (A) of this section, the Board shall not require a notice period of more than 30 days.

"(2) The Board may, by regulation or otherwise, authorize such temporary suspension of service as may be in the public interest.

(d) Section 419 of such Act is further amended by striking paragraph (c).

(e) That portion of the table of contents which appears under the side heading

"Sec. 419. Small community air service."

is amended by striking out

"(c) Level of safety."

and by inserting in lieu thereof

"(c) Repealed."

(f) Section 102(a)(8) of such Act (49 U.S.C. 1302(7)) is amended by inserting the words "safe, reliable, and" immediately after the words "system of".

DEREGULATION OF DOMESTIC CARGO AND MAIL AIR TRANSPORTATION; CLARIFICATION OF DUTY TO PROVIDE SAFE AND ADEQUATE SERVICE

SEC. 14. (a) Section 1601(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1551(a)), is amended by striking the words "of persons" wherever they appear.

(b) Section 1601(a)(2)(C) of such Act (49 U.S.C. 1551(a)(2)(C)), as amended by section 11(h) of this Act, is amended by striking "1002(d) (1) and (2)," and inserting in lieu thereof "1002(d),".

(c) Section 102 of such Act (49 U.S.C. 1302) is amended by striking "(a)" immediately after "Sec. 102.", and by striking subsection (b).

(d) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 that appears under the side heading

"Sec. 102. Declaration of policy: The Board."

is amended by striking

"(a) Factors for interstate, overseas, and foreign air transportation.

"(b) Factors for all-cargo service."

(e) Section 404(a)(1) of such Act (49 U.S.C. 1374(a)(1) is amended by striking all after "(1)" and inserting in lieu thereof:

"To the extent that an air carrier chooses to provide interstate or overseas air transportation, it shall be the air carrier's duty to provide safe and adequate service."

REDUCTION OF REPORTING BURDEN

SEC. 15. (a) Section 407(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1377(a)) is amended by adding at the end thereof:

"The Board shall reduce reporting requirements imposed on air carriers under this section to the minimum necessary to accomplish the purposes of this Act."

(b) Section 415 of such Act (49 U.S.C. 1385) is amended by inserting immediately before the first comma the words "with respect to foreign air transportation".

SUBSTITUTION OF "SECRETARY" FOR "BOARD"

SEC. 16. The Federal Aviation Act of 1958 (49 U.S.C. 1301 *et seq.*) is amended by striking the word "Board" (when it refers to the Civil Aeronautics Board) and the words "Civil Aeronautics Board", in Titles II, IV, IX, X, and XI, each time they appear, and inserting in lieu thereof the words "Secretary" and "Secretary of Transportation", respectively.

DEFINITIONS

SEC. 17. Section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301) is amended by—

(1) striking all after the word "the" in paragraph (13) and inserting in lieu thereof the words "National Transportation Safety Board," and

(2) redesignating paragraphs (36) through (40) as (37) through (41) and inserting after the definition of "Public aircraft," paragraph (34), a new paragraph (35) to read:

"(35) "Secretary" means the Secretary of Transportation."

TERMINATION OF BOARD

SEC. 18. (a) Title II of the Federal Aviation Act of 1958 (49 U.S.C. Title II) is amended by repealing sections 201, Continuation of Existing Board (49 U.S.C. 1321), 202, Miscellaneous (49 U.S.C. 1322), and 203, Authorization of Expenditures and Travel (49 U.S.C. 1323).

(b) That portion of the table of contents contained in the first section of such Act under the center heading as amended by this Act—

TITLE II—SECRETARY OF TRANSPORTATION: GENERAL POWERS OF SECRETARY

is amended by striking the side headings and headings thereunder, and inserting in lieu thereof

"Sec. 201. Repealed.
"Sec. 202. Repealed.
"Sec. 203. Repealed.
"Sec. 204. General powers and duties of the Secretary.
"(a) General powers.
"(b) Cooperation with State aeronautical agencies.
"(c) Exchange of information.
"(d) Publications.
"Sec. 205. Annual report."

(c) Section 1601(a) of such Act (49 U.S.C. 1551(a)) is amended by striking paragraph (4).

TRANSFER OF AUTHORITY

SEC. 19. Section 1601(b)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1551(b)(1)) is amended by striking all after "(b)(1)" and inserting in lieu thereof the following:

"The authority of the Board is transferred as follows:

"(A) The authority of the Board under this Act with respect to the provision of essential air service to small communities is transferred to the Secretary of Transportation.

"(B) The authority of the Board to enforce the duty of air carriers to provide safe and adequate service under section 404(a) of this Act is transferred to the Secretary of Transportation.

"(C) The authority of the Board under this Act with respect to foreign air transportation is transferred to the Secretary of Transportation, who shall exercise such authority in consultation with the Department of State.

"(D) The authority of the Board under sections 408, 412, and 414 of this Act is transferred to the Secretary. The authority under sections 412 and 414 as transferred, with respect to interstate and overseas air transportation, shall cease to be in effect on January 1, 1986. The Secretary shall report to the appropriate committees of Congress by no later than January 1, 1985, listing the types of agreements filed with the Department and those that have received immunity, and recommending whether the authority under sections 412 and 414 should be retained with respect to interstate and overseas air transportation and whether it should be repealed with respect to foreign air transportation.

"(E) The authority of the Board in titles II, IX and X of this Act is transferred to the Secretary.

"(F) The authority of the Board under this Act with respect to rates for the carriage of mail in interstate, overseas, and foreign air transportation shall be exercised by the Postal Service through negotiations or competitive bidding.

"(G) The authority of the Board under this Act with respect to unfair and deceptive practices and methods of competition is transferred to the Federal Trade Commission."

CIVIL PENALTIES

SEC. 20. Section 901(a)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1471(a)(1)) is amended by—

(1) striking the words "thereunder, or under section 1002(i)," in the first sentence of the first paragraph, and inserting in lieu thereof the words "under this Act," and

(2) striking the words "thereunder, or under section 1002(i) of this Act," in the first sentence of the second paragraph, and inserting in lieu thereof the words "under this Act,".

CONFORMING CHANGES TO FEDERAL AVIATION ACT

SEC. 21. (a) Section 107 of the Federal Aviation Act (49 U.S.C. 1307) is amended by striking the words "and the Board" wherever they appear.

(b) Section 311 of such Act (49 U.S.C. 1352) is amended by inserting the words "by the Secretary and" immediately after the word "disseminated".

(c) Section 315(b) of such Act (49 U.S.C. 1356(b)) is amended by striking the words "under a certificate of public convenience and necessity issued by the Civil Aeronautics Board under section 401 of this Act or" and inserting in lieu thereof the words "or by foreign air carriers".

(d) Section 316(b) of such Act (49 U.S.C. 1357(b)) is amended by striking the words "airports regularly serving air carriers certificated by the Civil Aeronautics Board" and inserting in lieu thereof the words "commercial service airports (those airports determined by the Secretary to enplane annually 2,500 or more passengers and receive scheduled passenger service) except those that are not served by air carriers using aircraft with a passenger capacity of more than 30 seats at said airport and are specifically exempted by the Secretary.

(e) Section 317 of such Act (49 U.S.C. 1358) is amended by striking the word "under certificates granted by the Civil Aeronautics Board under section 401 of this Act, which operate".

(f) Section 601 of such Act (49 U.S.C. 1421) is amended by striking the words "certificated by the Board" in paragraph (d)(2)(B);

(g) Section 610(a)(8) of such Act (49 U.S.C. 1430(a)(8)) is amended by striking the words "and airport serving air carriers certified by the Civil Aeronautics Board" and inserting in lieu thereof the words "a commerical service airport (those airports determined by the Secretary to enplane annually 2,500 or more passengers and receive scheduled passenger service)".

(h) Section 612 of such Act (49 U.S.C. 1432) is amended by—

(1) striking the words "airport serving air carriers certificated by the Civil Aeronautics Board" in subsection (a) and inserting in lieu thereof the words "commercial service airports";

(2) adding the following sentence at the end of subsection (a) to read:

"For purposes of this section, commercial service airport means an airport determined by the Secretary to enplane annually 2,500 or more passengers and receive scheduled passenger service."; and

(3) striking the words "an airport serving air carriers certificated by the Civil Aeronautics Board" in subsection (b) and inserting in lieu thereof the words "a commercial service airport".

(i) Section 703 of such Act (49 U.S.C. 1443) is amended by striking the words "Civil Aeronautics Board" each time they appear and inserting in lieu thereof the words "National Transportation Safety Board".

(j)(1) Title IV of the Federal Aviation Act (49 U.S.C. Title IV) is amended by repealing section 410, Loans and Financial Aid (49 U.S.C. 1380).

(2) That portion of the table of contents contained in the first section of such Act under the center heading—

"TITLE IV—AIR CARRIER ECONOMIC REGULATION"

is amended by striking

"Sec. 410. Loans and financial aid."

and inserting in lieu thereof

"Sec. 410. Repealed."

(k) Section 1307 of such Act (49 U.S.C. 1537) is amended by striking the words ", after consultation with the Civil Aeronautics Board".

TRANSFER OF POWER AND DUTIES TO THE SECRETARY

SEC. 22. Section 6 of the Department of Transportation Act (49 U.S.C. 1655) is amended by adding at the end thereof the following subsection:

"(j) All functions, powers, and duties of the Civil Aeronautics Board, and of the Chairman, Members, officers, and offices of the Board under the laws and provisions set forth in this section are transferred to and vested in the Secretary.

"(1) The International Air Transportation Fair Competitive Practices Act of 1974 (88 Stat. 2102, as amended; 49 U.S.C. 1559b);

"(2) The International Aviation Facilities Act (49 U.S.C. 1151–1160);

"(3) The Animal Welfare Act (80 Stat. 350, as amended; 7 U.S.C. 2121 *et seq.*);

"(4) Section 43 of the Airline Deregulation Act of 1978, as amended (92 Stat. 1705, 49 U.S.C. 1552);

"(5) Subparagraphs (A) through (E) of section 1601(b)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1551(b)(1)), as amended by the Civil Aeronautics Board Sunset Act of 1981;

"(6) Section 382 of the Energy Policy and Conservation Act (89 Stat. 939, 42 U.S.C. 6362); and

"(7) Section 401 of the Federal Election Campaign Act of 1971 (86 Stat. 19, as amended; 2 U.S.C. 451)."

(b) With respect to any functions transferred by this subsection and exercised after the effective date of the transfer, reference in any other Federal law to the Civil Aeronautics Board for such functions shall be deemed to refer to the Secretary of Transportation.

ADMINISTRATIVE PROVISIONS FOR TRANSFERS TO SECRETARY

SEC. 23. Section 9 of the Department of Transportation Act, as amended (49 U.S.C. 1657), is amended by adding the following at the end thereof to read:

"(r) Except as provided in subsection (s), the personnel (including members of the Senior Executive Service) employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with, the fuctions transferred by section 6(j) of this Act, subject to section 202 of the Budget and Accounting Procedure Act of 1950, are hereby transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall only be used for the purpose for which the funds were originally authorized and appropriated.

"(s) The Director of the Office of Management and Budget is authorized and directed to make such determinations as the Secretary and the Board agree are necessary to effectuate the transfer of the functions, of-

fices, or positions thereof transferred under section 6(j) of this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, as deemed necessary to accomplish the purposes of this Act."

ADMINISTRATIVE AND SAVINGS PROVISIONS FOR TRANSFER TO FEDERAL TRADE COMMISSION AND POSTAL SERVICE

SEC. 24. (a) Except as provided in subsection (b), the personnel (including members of the Senior Executive Service) employed in connection with, and the assets, liabilities, contracts, property, records and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with, the functions transferred by section 1601(b)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1601(b)(1)), as amended by this Act, to the United States Postal Service, and to the Federal Trade Commission, subject to section 202 of the Budget and Accounting Procedure Act of 1950, are hereby transferred to such agencies for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall only be used for the purpose for which the funds were originally authorized and appropriated.

(b) The Director of the Office of Management and Budget, is authorized and directed to make such determinations as the Board, and the Federal Trade Commission or the United States Postal Service, as appropriate, agree are necessary to effectuate the transfers of the functions, offices, or positions thereof so transferred, and to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with the functions so transferred, as deemed necessary to accomplish the purposes of such transfers.

(c) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction in the performance of functions which are transferred to the Federal Trade Commission or United States Postal Service, and

(2) which are in effect at the time such transfer takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Commission or Postal Service, or other authorized officials, a court of competent jurisdiction, or by operation of law.

(d) Except as provided in subsection (f)—

(1) the provisions of such transfers shall not affect suits commenced prior to the date this Act takes effect, and,

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if these transfers had not occurred.

(e) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Board, functions of which are transferred to such agencies, shall abate by reason of these transfers. No cause of action by or against the Board, functions of which are transferred to such agencies, or by or against any officer thereof in his official capacity shall abate by reason of these transfers.

(f) If, before the date on which such transfers take effect, the Board, or officer thereof in his official capacity, is a party to a suit, and any function of the Board, or officer is transferred to the Commission or Postal Service, then such suit shall be continued with the Commission or Postal Service, as the case may be, substituted.

(g) With respect to any functions transferred to the Commission and the Postal Service and exercised after the effective date of such transfer, reference in any other Federal law to the Civil Aeronautics Board, or to any officer or office of the Board, functions of which are so transferred shall be deemed to refer to the United States Postal Service or the Federal Trade Commission, or other official or component of the agency in which such function vests.

EFFECT ON PERSONNEL

SEC. 25. (a) Employees covered by the Merit Pay System under chapter 54, title 5, U.S.C. who are transferred by this Act to another agency shall have their rate of basic pay adjusted in accordance with section 5402 of that chapter. Merit pay determinations shall be based on the factors in section 5402(b)(2) of that chapter as appraised in performance appraisals administered by the Civil Aeronautics Board in accordance with subchapter I of chapter 43 of Title 5, U.S.C.

(b) With the consent of the Board, the Secretary of Transportation, the Federal Trade Commission, and the Director of the U.S. Postal Service are authorized to use the services of such officers, employees, and other personnel of the Board for such period of time as may reasonably be needed to facilitate the orderly transfer of functions that are to be transferred under section 1601(b)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1601(b)(1)).

ORDERLY TERMINATION OF THE BOARD

SEC. 26. (a) The Director of the Office of Management and Budget shall provide for the orderly termination of the affairs of the Board terminated by this Act and for such further measures and dispositions as may be necessary to effectuate the purposes of this Act. Such permanent positions and personnel of the Civil Aeronautics Board, without any change in the tenure of the person's employment, as determined by the Board, after consultation with the Director, are assigned to the Director for a period of not more than ninety days from the date that the Board ceases to exist by statute, as are necessary to accomplish the purposes of this section. The positions and personnel assigned under this section shall be considered as a separate and distinct competitive area within the Office of Management and Budget.

(b) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

CHANGES TO NON-AVIATION LAWS

SEC. 27. (a) Subchapter II (relating to executive schedule pay rates) of Chapter 53 of Title V of the United States Code is amended by striking out the words "Chairman, Civil Aeronautics Board" in section 5314 and the words "Members, Civil Aeronautics Board" in section 5315.

(b) Section 401 of the Federal Election Campaign Act of 1971 (2 U.S.C. 451) is amended by striking the words "Civil Aeronautics Board" and inserting in lieu thereof the words "Secretary of Transportation."

(c) Section 382 of the Energy Policy and Conservation Act (42 U.S.C. 6362) is amended by striking the words "Civil Aeronautics Board" in subsection (a)(1) and inserting in lieu thereof the words "Secretary of Transportation".

(d) Section 2 of the Postal Reorganization Act, as amended (Title 39, U.S.C.), is amended by—

(1) striking the words "at rates fixed and determined by the Civil Aeronautics Board in accordance with section 1376 of title 49," in sections 3401 (b) and (c) each time they appear;

(2) striking the words "either" and "or the Civil Aeronautics Board, as appropriate" in section 5005(b)(3);

(3) striking the words "Civil Aeronautics Board" and inserting in lieu thereof the words "Secretary of Transportation", and striking the words "Except as otherwise provided in section 5402 of this title, the" and inserting in lieu thereof the word "The", in section 5401(b);

(4) repealing section 5402, Contracts for Transportation of Mail by Air.

(e) That portion of the table of contents contained in the Postal Reorganization Act (Title 39, U.S.C.) under the center heading—

"Chapter 54—TRANSPORTATION OF MAIL BY AIR"

is amended by striking the side heading—

"5402. Contracts for transportation of mail by air."

and inserting in lieu thereof

"5402. Repealed."

(f) Section 2(a) of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) is amended by striking the words "the Civil Aeronautics Board," in section 3302(10).

(g) Section 15(a) of the Animal Welfare Act (7 U.S.C. 2145(a)) is amended by striking the words "the Civil Aeronautics Board" and inserting in lieu thereof the words "the Secretary of Transportation".

(h) Section 202 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622) is amended by striking the words "Civil Aeronautics Board" in paragraph (j), and inserting in lieu thereof the words "Secretary of Transportation";

(i) The National Security Act of 1947 (Title 10, U.S.C.) is amended by striking the words "Civil Aeronautics Board" in sections 4746 and 9746 each time they appear, and inserting in lieu thereof the words "Secretary of Transportation";

(j) Section 1110 of the Bankruptcy Reform Act of 1978 (11 U.S.C. 1110) is amended by striking the words "operating under a certificate of convenience and necessity issued by the Civil Aeronautics Board, or";

(k) Section 3 of an Act to Encourage Travel Within the United States (16 U.S.C. 18b) is amended by striking the words "Civil Aeronautics Authority," and inserting in lieu thereof the words "Department of Transportation";

(l) Section 312B of the Revenue Act of 1978 (26 U.S.C. 46) is amended by striking the words "Civil Aeronautics Board" and inserting in lieu thereof the words "the Federal Aviation Act of 1958, as amended";

(m) Subchapter A of Title 26, U.S.C. is amended by striking the words "Civil Aeronautics Board" and inserting in lieu thereof the words, "Secretary of Transportation" in section 47(a)(6)(C);

(n) The Revenue Act of 1964 (26 U.S.C. 7701), is amended by striking the words "Civil Aeronautics Board" in section 234 and inserting in lieu thereof, "the Federal Aviation Act of 1958, as amended"; and

(o) Section 201 of the General Accounting Office Act of 1974 (31 U.S.C. 244) is amended by striking the words "Civil Aeronautics Board," and inserting in lieu thereof the words, "Secretary of Transportation" in paragraph (o).

CHANGES TO AVIATION LAWS

SEC. 28. (a) Section 11 of the International Aviation Facilities Act (49 U.S.C. 1151–1160) is amended by striking the words "and the Civil Aeronautics Board" in the first clause of the second sentence, and by striking the words "Civil Aeronautics Board" the next time they appear and inserting in lieu thereof the words "Secretary of Transportation".

(b) Section 322(a) of the Transportation Act of 1940 (49 U.S.C. 66) is amended by striking the words "Civil Aeronautics Board" and inserting in lieu thereof the words "Secretary of Transportation";

(c) Section 2 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1159b) is amended by—

(1) striking the words "the Civil Aeronautics Board," in subsection (a);

(2) striking the words "Civil Aeronautics Board" and "Board" each time they appear in subsections (b) and (d) and inserting in lieu thereof the words "Secretary of Transportation" and "Secretary", respectively;

(3) striking the words "and the Department of Transportation" in subsection (b)(2); and

(4) striking the last sentence in subsection (d) and inserting in lieu thereof:

"The Secretaries of State and Treasury shall furnish to the Secretary of Transportation such information as may be necessary to prepare the report required by this section."

(d) Section 2 of the Act of October 24, 1978 (92 Stat. 1105, 49 U.S.C. 1324 note), Government Guaranty of Equipment Loans, is amended by—

(1) striking all after the words "air carrier" in clause (2) and inserting in lieu thereof:

"means any air carrier, as defined in the Federal Aviation Act of 1958, directly engaging in air transportation using aircraft with a capacity of more than 60 seats or 18,000 pounds maximum payload capacity."

(2) striking all after the words "charter air carrier" in clause (3) and inserting in lieu thereof the words "means an air carrier directly engaging in charter air transportation;"

(3) striking the words "section 101(15) of" in clause (4);

(4) striking all after the words "commuter air carrier" in clause (5) and inserting in lieu thereof:

"means an air carrier directly engaging in air transportation using aircraft with a capacity of no greater than 60 seats or 18,000 pounds maximum payload capacity and that operates at least five round trip flights per week between one pair of points in accordance with published flight schedules;"

(e) Section 3 of such Act is amended by striking all after "(1)" in clause (1) and inserting in lieu thereof:

"any air carrier that (A) provides local or feeder air service, (B) provides scheduled passenger operations the major portion of which are conducted within the State of Hawaii, (C) provides operations (the major portion of which is conducted either within Alaska or between Alaska and the forty-eight contiguous States), within the State of Alaska (including service between Alaska and adjacent Canadian territory), or (D) provides metropolitan helicopter service";

SUNSET OF CIVIL AERONAUTICS BOARD

SEC. 29. (a) Section 1601(b)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1551(b)(2)) is amended by striking "January 1, 1985" and inserting in lieu thereof "October 1, 1983, except that the transfer set forth in paragraph (1)(F) of this subsection shall take effect January 1, 1983".

(b) Section 1601(c) of such Act (49 U.S.C. 1551(c)) is amended by striking "1984" and inserting in lieu thereof "1983", and by striking "1983" and inserting in lieu thereof "1982".

(c) Section 1601(d) of such Act (49 U.S.C. 1551(d) is amended by striking "January 1, "1985" wherever it appears and inserting in lieu thereof "October 1, 1983".

(d) Section 43(1) of the Airline Deregulation Act of 1978 (49 U.S.C. 1552(1)) is amended by striking "January 1, 1985" and inserting in lieu thereof "October 1, 1983".

(e) Section 16 of the Department of Transportation Act (49 U.S.C. 1651 note), is amended by adding a new subsection (c) to read:

"(c) The provisions of this Act, with respect to the transfer by the Civil Aeronautics Board Sunset Act of 1981 of certain functions, duties, and powers, of the Civil Aeronautics Board to the Secretary, shall take effect on October 1, 1983."

EARLIER SUNSET BY AGREEMENT

SEC. 30. (a) Notwithstanding any other provision of this Act, the Federal Aviation Act of 1958 (49 U.S.C. 1301 *et seq.*) as amended by this Act, or the Department of Transportation Act (49 U.S.C. 1651 *et seq.*) as amended by this Act, the Civil Aeronautics Board and the Secretary of Transportation may agree to an earlier termination or transfer of any functions, powers, or duties of the Board that are scheduled for termination or transfer to the Secretary effective October 1, 1983.

(b) Notwithstanding any other provision of this Act or the Federal Aviation Act of 1958 (49 U.S.C. 1301 *et seq.*) as amended by this Act, the Civil Aeronautics Board and the Federal Trade Commission may agree to an earlier transfer of any functions, powers, or duties of the Board that are scheduled for transfer to the Commission effective October 1, 1983.

(c) Any termination or transfer by agreement pursuant to this section shall be effective on the date set forth in the agreement, which shall not be earlier than January 1, 1983.

(d) If a series of agreements pursuant to this section results in all functions of the Board having been terminated or transferred before October 1, 1983, the Civil Aeronautics Board shall terminate on the effective date of the last such termination or transfer, notwithstanding sections 18 and 32 of this Act.

EFFECTIVE DATE OF ACT

SEC. 31. This Act shall take effect on October 1, 1983, except that—

(1) sections 1, 11 (d) and (h), 14 (a) and (b), 18(c), 19, 22 through 26, 29, and 30 shall take effect upon enactment.

(2) section 9 shall take effect October 1, 1981; and

(3) sections 8, 10, 11 (other than 11(d) and 11(h), 14 (c) through (e), and 27 (d) and (e) shall take effect January 1, 1983.

[Section-by-Section Analysis]

CIVIL AERONAUTICS BOARD SUNSET ACT OF 1981

SHORT TITLE

Sec. 1. This section states the short title of the Act. This title is used to make clear that the main purpose of the Act is to terminate the Civil Aeronautics Board as directed by the Airline Deregulation Act of 1978.

Federal preemption

Sec. 2. So that Federal preemption will continue even with the elimination of air carrier certificates for domestic air transportation, changes are made in the applicability of section 105 of the Federal Aviation Act, which concerns Federal preemption. Preemption at present is now keyed to air carrier certification by the Board. The change would retain within the scope of Federal preemption those carriers that are part of the national air transportation system. A carrier would be removed from State regulation if it flew a route across a State line, entered into an interlining agreement with a carrier flying interstate routes, or listed its schedules in an airline guide used by such carriers. This also eliminates the special provision for State regulation of uncertificated carriers in Alaska. Since there will no longer be any "authority" given to carriers to operate in domestic air transportation under Title IV, subsection (c), concerning incorporation of existing State authority into Federal authority, is eliminated. The reservation of proprietary rights to State and Local government airport owners and operators is amended to insure access to airport facilities by all air carriers. The Board's proposal also makes clear that Congress does not intend that implicit antitrust immunity be granted to the actions of such airport proprietors. This is intended to create a right of action by an air carrier under the Act for unreasonably limiting or precluding access to the use of airport facilities and clarifies the right of air carriers to bring an antitrust suit against an airport operator if the carrier believes that an operator-carrier agreement has resulted in access being unreasonably denied or restricted.

Expired provisions

Secs. 3 and 4. These sections eliminate sections in the Federal Aviation Act requiring reports on subsidy cost-sharing and air carrier marketing of tours. The reports have been completed.

Elimination of certificates and duplicative fitness findings for domestic transportation

Sec. 5. This section eliminates the requirement that air carriers obtain a certificate before engaging in interstate or overseas air transportation under either sections 401, 418, or 417 of the Federal Aviation Act. Section 418, concerning domestic all-cargo air service, is repealed, as is section 417, covering special authorization for charter carriers to serve points within the United States.

The changes to section 401 remove all provisions pertaining to domestic certification. The section thereby eliminates the duplicative requirement that air carriers be found fit, willing, and able to perform domestic air service by the Secretary. The activity of reviewing carrier fitness from a financial and managerial standpoint will pass to the FAA, which has the authority to use this information in judging a carrier's potential and continued safe operation.

The Airline Deregulation Act eliminates the requirement for a finding of public convenience and necessity before issuing such a certificate. Certification of domestic air carriers for reasons other than safety is therefore no longer needed. The applicability of section 401 has been changed so that the remaining sections apply only to foreign air transportation and that authority will be administered by the Secretary of Transportation when this function is transferred.

The authority to issue insurance regulations is transferred to the FAA by section 7 of the Act. The duty of carriers to carry mail is repealed by section 8 of this Act. The authorization for State-regulated operators of large aircraft within a State to carry traffic of Federal carriers and enter into interline agreements with them, which is now not being used by any carriers, is eliminated. This conforms to the change made in Federal preemption by section 2 of this Act.

Fitness of air carriers and foreign air carriers in foreign air transportation

Sec. 6. Section 5 of this Act eliminates the requirement for a duplicative fitness finding for air carriers in domestic transportation. Fitness of air carriers in foreign air transportation and of foreign air carriers is also primarily related to their ability to perform safe operations. Since the FAA is the agency with responsibility for determining and supervising safety in air transportation, the bill for the reasons discussed above eliminates the requirement for such carriers to be found fit by the Board before being given authority to operate and to continue to operate in foreign air transportation, with this activity being absorbed by the FAA.

Transfer of insurance authority to FAA

Sec. 7. The responsibility for issuing regulations with respect to aircraft accident liability insurance is transferred from the Board to the FAA, since it is a matter pri-

marily having to do with safety. This authority is made part of the FAA's power to issue air carrier operating certificates.

Repeal of duty to carry mail

Sec. 8. With deregulation of domestic air transportation and sunset of the Board, there is no longer any need for regulation of air mail transportation outside of the Postal Service, and this regulation should be kept to a minimum. Section 405 of the Federal Aviation Act has been changed accordingly. The duty of air carriers to carry mail is eliminated. The carriage of mail is to be exercised through negotiation and contract by the Postal Service, as directed by the Airline Deregulation Act. Schedules of air carriers will no longer be filed, and be subject to Postal Service control, and loads may no longer be prescribed. Conforming changes have been made in section 401 of the Federal Aviation Act. The Postal Service has power to obtain air transportation and to prescribe rules and practices under the Postal Reorganization Act, so duplicative authority is no longer needed in the Federal Aviation Act. It has therefore been eliminated.

Elimination of 406 subsidy program

Sec. 9. This section eliminates the section 406 subsidy program, as sent to the Congress previously as part of the Administration's budget. The subsidy program under section 406 is duplicative and more costly than the compensation program under section 419. Section 419 will ensure that essential air service is provided to small communities, even where air transportation is vital, as in Hawaii and Alaska. Conforming changes are made in section 419.

Repeal of mail rate authority

Sec. 10. This section repeals the authority of the Board in section 406 of the Federal Aviation Act to set mail rates as part of the transfer of mail rate authority to the Postal Service to be exercised by negotiation and competitive bidding. The authority to prescribe mail rates is inconsistent with a system based on negotiation and competitive bidding.

Sec. 11. This section eliminates the special treatment given to airlines for mergers and acquisitions (section 408) and interlocking relationships (section 409) in the Federal Aviation Act. Airline mergers will now be treated as are horizontal mergers in other industries, instead of being given special treatment by transferring the present provisions to the Justice Department, as directed by the Airline Deregulation Act. Conforming amendments are made in the Clayton Act to eliminate the exception preventing application of that Act to airlines.

Section 409 is repealed. Section 408 is eliminated in its present form and replaced with a section that gives the Board the right to intervene as a matter of right in the same antitrust cases as those over which the Board has jurisdiction.

The new section 408 makes the Board a party in any antitrust cases that involve foreign air transportation. It further requires the Board to announce a decision, within 30 days of the announcement of a merger, on whether international routes of the parties should be retained.

The mandatory reports in sections 407 (b) and (c) of the Federal Aviation Act concerning stock ownership for purposes of showing control and interlocking relationships are eliminated. With respect to carriers in foreign air transportation, the Board will still modify, amend, or transfer certificates to reflect the outcome of any merger, and such certificate changes will still be sent to the President for review under section 801. These changes will be transferred to the Secretary.

Unfair and deceptive practices

Sec. 12. This section eliminates the special treatment given to airlines under laws regulating their trade practices and advertising. Those industries over which a separate agency has jurisdiction are now exempted from authority of the Federal Trade Commission. Since airlines are substantially deregulated, there is no reason to continue such an exemption.

This Act repeals section 411 of the Federal Aviation Act and eliminates the exemption in the FTC Act for airlines, thereby transferring this function of the Board to the FTC. Conforming changes are made in the Declaration of Policy. For the same reasons, carrier trade practices under the Consumer Credit Protection Act have been exempt from FTC authority. This exemption is removed, and the Board's enforcement function for this Act is returned to the FTC.

Essential air services

Sec. 13. This section:

1. Changes the event that triggers the need for an essential air service determination to reflect the elimination of section 401 certificates. Currently, eligible points are entitled to an essential air service determination whenever the next-to-last certificated carrier files a notice that it is terminating all of its service at the eligible point.

This amendment will require the Board to issue such a determination for the eligible point whenever the next-to-last large aircraft operator files a notice that it is terminating all of its service at the point. Large aircraft are defined as aircraft with more than 30 seats.

Section 401(j)(1)(B), as amended by this Act, will permit the Board to issue rules requiring the next-to-last large aircraft operator to file a notice before terminating all of its service at an eligible point. If a point is served by less than two large aircraft operators on the effective date of this Act, the Board will have 6 months to issue an essential air service determination for that point.

2. Changes the notice requirements by deleting the reference to section 401 certificates and replacing it with a reference to large aircraft. Carriers that are being paid a subsidy to serve an eligible point or are using large aircraft to service that point must provide 90 days' notice prior to terminating, suspending, or reducing service below the level of essential air transportation.

Carriers that are not being paid a subsidy for serving the eligible point and are using small aircraft at that point need provide only 30 days' notice.

An amendment to section 401(j) authorizes the Board to issue rules to require carriers to file a notice (not to exceed 30 days) prior to reducing air service in a way that affects essential air transportation at an eligible point.

3. Changes the compensation-for-losses provisions in section 419(a)(7) to reflect the elimination of section 401 certificates, and the changes in the notice provision described above.

4. Strikes subsection (c) from section 419. That section required the Board to find commuter air carriers fit, willing, and able prior to permitting them to serve or receive subsidy for serving an eligible point. This activity will be performed by the FAA.

The Administrator may evaluate the fitness of carriers as part of the obligation to ensure safe operations by air carriers, and collect any needed information from carriers that was previously supplied by the Board. The Secretary will evaluate the reliability of the service of commuters, when this program is transferred, as the Board has done, as part of the obligation to ensure that essential air transportation is provided to eligible points on a continuing basis. The Declaration of Policy of the Federal Aviation Act is amended to state that the Board is to ensure "safe, reliable, and continuous" service to small communities.

Deregulation of domestic cargo and mail transportation; clarification of duty to provide safe and adequate service

Sec. 14. The Airline Deregulation Act only provided for the deregulation of domestic passenger transportation. By amending Title XVI of the Federal Aviation Act, this section eliminates the restriction in the sunset provisions limiting their applicability to passenger transportation. The sunset provisions thereby will apply to all domestic air transportation, including property and mail. Under these changes and the change in Title XVI to sunset all domestic price authority in section 1002, air transportation in Alaska and Hawaii would be treated the same as all other domestic transportation. The Declaration of Policy is amended to eliminate separate policy factors for all-cargo air service. This section also amends section 404(a)(1) to clarify that, upon the sunset of domestic price authority, the duty to provide safe and adequate service applies only to the extent that an air carrier chooses to provide air transportation.

Transfer of reduced reporting authority

Sec. 15. The changes made by this Act to the transfer provisions in Title XVI of the Federal Aviation Act transfer the Board's authority to require reports of air carriers to the Secretary. The Board's report collection authority includes the power to collect any needed reports, to prescribe accounts, and to conduct on-site inspections of carrier records. This section adds a requirement to the report collection authority that reporting and accounting requirements be kept to the minimum necessary to accomplish the purposes of the Act. The authority to inquire into air carrier management under section 415 is eliminated for domestic transportation.

Change of "board" to "secretary"

Sec. 16. All references to the Civil Aeronautics Board in Titles II, IV, IX, X, and XI of the Federal Aviation Act of 1958 are changed to the Secretary of Transportation.

Definitions

Sec. 17. This section makes conforming changes in the Definitions section of the Federal Aviation Act.

Termination of board

Sec. 18. This section amends Title II of the Federal Aviation Act, reflecting the termination of the Board by the Airline Deregulation Act. The Board would cease to exist on October 1, 1983, as specified in section 32 of this Act. It amends Title XVI to remove the provision eliminating Title II in its entirety, since the general rulemaking authority of the Board in Title II is transferred to the Secretary by this Act.

Transfer of authority to the Secretary of Transportation

Sec. 19. This section amends Title XVI so as to give the Secretary general authority under the Act to administer the small community essential air service program under section 419. The Airline Deregulation Act transferred the Board's authority in the section 419 program to the Secretary, but not the other tools of the Act, such as exemption authority or policy guidance, to carry it out.

This section further amends the transfer of authority to the Secretary in Title XVI to state that the Secretary is given authority under the Act to enforce the carriers' duty to provide safe and adequate air service under section 404(a), as amended by section 14(e) of this bill, to provide necessary public protection. This further transfer clarifies an ambiguity in the Airline Deregulation Act about the status of an air carrier's duty to provide "safe and adequate" service under section 404(a). This Act states that it continues and that the Secretary has authority enforce and interpret it consistently with the policy of the Federal Aviation Act. Under

that provision, the Secretary has general authority to issue rules for the protection of the public. The transfer of this authority would carry with it those public protection regulations that are in existence at the time of the transfer.

This section amends the transfer of agreements authority under sections 412 and 414 to transfer such authority to DOT. The Airline Deregulation Act transfers the authority to review domestic agreements between airlines to the Department of Justice in 1983, and the authority to review agreements affecting foreign air transportation in 1985. This section further amends the transfer so that authority to review domestic agreements expires on January 1, 1986. The Act requires, however, that DOT prepare a study for Congress and recommend whether domestic authority should be retained, and whether international authority should be repealed. The study and recommendations are due on January 1, 1985. This will ensure an adequate transition for the carriers. After January 1, 1986, domestic agreements would fall under the general antitrust laws.

This Act further amends Title XVI to direct that the Postal Service exercise its transferred authority concerning mail rates in foreign air transportation, as well as domestic, by negotiation and competitive bidding.

The section adds a new subparagraph to Title XVI to clearly transfer the board's enforcement function over unfair and deceptive practices and methods of competition to the Federal Trade Commission.

The section gives the Secretary the Board's authority under Titles II, IX, and X of the Federal Aviation Act to implement the Act and its policy through rulemaking, and to enforce the Act through civil penalties and investigations.

Civil penalties

Sec. 20. This section broadens the authority of the Board that is transferred to the Secretary in section 901 of the Federal Aviation Act, concerning civil penalties. The Board's authority under section 901 does not now include the assessing of civil penalties for violations of regulations issued under its general rulemaking authority to accomplish the purposes and policy of the Act. This can lead to reduced effectiveness of enforcement of the Act. This section amends section 901 to state that the civil penalty authority transferred to the Secretary extends to violations of regulations issued under the Act.

Conforming changes to Federal Aviation Act

Sec. 21. This section makes conforming changes to the Federal Aviation Act. For example, references to certificate authority of the Board have been removed. Where a section has referred to airports served by certificated carriers, the term "commercial service airport" is substituted. This term is defined as an airport determined by the Secretary to enplane 2,500 or more passengers annually and receive scheduled passenger service.

The limit of 2,500 passenger enplanements annually is an eligibility criterion under existing statutes for a commuter service airport. This level represents about 50 enplanements per week, which could be achieved with two flights per day, 5 days a week, each with 5 enplaned passengers. This section repeals section 410 of the Federal Aviation Act, which gives the Board a role in approving Federal loans and financial aid to the airlines. Under the Airline Deregulation Act, the Secretary is already responsible for administering loans and financial guarantees for airline operations. Section 410 is thus no longer needed.

Transfer of powers and duties to the Secretary

Sec. 22. This section amends the Department of Transportation Act to transfer and vest in the Secretary of Transportation the authority of the Civil Aeronautics Board for functions transferred by the Airline Deregulation Act, and the Board's authority under other Acts because of sunset of the Board. By amending the DOT Act to include these transfers, and by amending the effective date of the DOT Act in section 27 of this Act, all of its administrative and savings clause provisions will apply to proceedings and regulations of the Board in effect at the time of the transfer.

The proceedings and regulations would be transferred to the Secretary intact. This change will thus apply to these transfers the direction to the Secretary in the DOT Act to give full consideration to the need for operational continuity of the functions transferred. It transfers to the Secretary the provision in the Energy and Policy Conservation Act requiring special studies for the fuel impact of regulations affecting air transportation.

It also transfers to the Secretary the provision in the Federal Election Campaign Act requiring special regulations to be adopted for air carriers extending credit to political candidates. It further transfers responsibility of the Board under the Animal Welfare Act to the Secretary, as well as laws relating to the transfer of the foreign air transportation function.

Administrative provisions for transfers to Secretary

Sec. 23. The Department of Transportation Act is amended to transfer to the Department the personnel (including members of the Senior Executive Service), the funds, records, and property needed to exercise its new functions. It gives the Director of OMB the authority, if the Secretary and the Board so agree, to make any other incidental dispositions as are needed.

Administrative provisions for transfers to FTC and Postal Service

Sec. 24. This section transfers the personnel, funds, records, and property needed by the Federal Trade Commission to exercise its transferred authority for the protection against unfair and deceptive practices of airlines, and needed by the Postal Service to exercise its transferred mail rate authority. The Director of OMB is given authority to make such incidental dispositions, if the Board and the Commission or Postal Service so agree, as are needed. The savings provisions of the section ensure that regulations and ongoing proceedings are continued.

Effect on personnel

Sec. 25. This section ensures that Merit Pay determinations are based on appraisals done for work periods at the Board when the transfer occurs immediately after the appraisal period, since the determinations would be done by the successor agency. The section also allows a successor agency, with the consent of the Board, to use Board employees prior to a transfer of function to ensure an orderly transition.

Orderly terminations of the board

Sec. 26. The Director of OMB is assigned some Board personnel in permanent positions for a period not to exceed 90 days. This will provide for the orderly termination of the administrative functions of the Board. The section authorizes such funds as are necessary to be appropriated for this purpose.

Changes to non-aviation laws

Sec. 27. This section makes changes to non-aviation laws caused by the transfer of Board functions and termination of the Board. It also changes the Postal Reorganization Act to reflect the change to negotiation and competitive bidding for air transportation of mail. A summary of these changes is attached as Appendix A.

Changes to aviation laws

Sec. 28. This section makes technical changes in several statutes pertaining to the transfer of functions in foreign air transportation to the Department of Transportation, the elimination of domestic certificates, and the termination of the Board. It changes the Equipment Loan provisions of the Deregulation Act to substitute "large aircraft operations" for "certified operations," and "small aircraft operations" for "commuter carrier operations."

Sunset of the Board

Sec. 29. This section makes effective on January 1, 1983, the provisions statutorily deregulating cargo and mail transportation, transferring the mail rate function to the Postal Service, and repealing the duty to carry mail. This section sunsets the Civil Aeronautics Board on October 1, 1983, rather than January 1, 1985. Deregulation has progressed well with few transition problems.

Although functions scheduled to be transferred on this date, such as foreign air transportation, the small community air service program, review of agreements, the Board's role as a party in merger cases, public protection powers, and unfair practices enforcement authority continue, these can be transferred on an earlier date, as detailed in section 31, as well as the later one. Related nontransferring functions can similarly be terminated early.

The bill will continue the requirement that the Board report to Congress with an evaluation of deregulation. This report will be due on January 1, 1983 rather than January 1, 1984. This section states that the effective date for amendments to the Department of Transportation Act is October 1, 1983. This provision brings in all other provisions of the DOT Act so as to apply them to the transfer of functions of the Board to the Secretary.

For example, the DOT Act contains a saving clause to ensure that rules, regulations, orders, and proceedings of the Board will continue in force under the Secretary until changed, when their underlying authority is transferred. This section further transfers the Board's duties under the employee protection program of the Airline Deregulation Act to the Department of Transportation on October 1, 1983, instead of January 1, 1985.

Earlier Sunset by agreement

Sec. 30. This section provides that the Board and the agency concerned, either the Secretary of Transportation or the Federal Trade Commission, may agree to an earlier termination or transfer of some Board functions. It covers those functions that are otherwise scheduled to be terminated or transferred from the Board effective October 1, 1983. The early termination or transfer would be effective on the date set forth in the agreement, which could not be earlier than January 1, 1983. Upon the termination or transfer of all remaining functions, the Board itself would terminate.

Effective date of the act

Sec. 31. The Act, unless otherwise stated, takes effect on October 1, 1983. The termination of the subsidy program under section 406 of the Federal Aviation Act takes effect October 1, 1981. The termination of special treatment for airline mergers, acquisitions, and interlocking relationships takes effect January 1, 1983, along with the new provision giving the Board party status or intervention rights in antitrust cases.

The statutory deregulation of cargo and mail transportation, the transfer of the Board's mail rate function, and repeal of the duty to carry mail, also takes effect on January 1, 1983. Provisions relating to the sunset of the Board and transfer of functions to the Secretary of Transportation and the Federal Trade Commission take effect October 1, 1983. Some sections take effect immediately, but the underlying changes that those sections make are generally effective at later dates.

APPENDIX

The sunset of the Board and transfer of certain of its functions to other agencies require a number of changes to non-aviation laws, and are amended by section 28 of this Act:

1. Sections 5314 and 5315 of Title 5, U.S.C. list the positions covered by executive pay levels. In these sections, we have deleted references to "Chairman, Civil Aeronautics Board" and "Members, Civil Aeronautics Board". Since there are no comparable executive positions, no new references have been added.

2. The Federal Election Campaign Act (2 U.S.C. 451) requires the Board to promulgate rules concerning the extension of credit without security by air carriers and foreign air carriers to candidates for Federal office. The bill changes the reference to the Board to the Secretary of Transportation, so that the duty to establish rules on this subject continues.

3. The Energy Policy and Conservation Act (42 U.S.C. 6362) requires the Board to study and report on the energy consequences of any major regulatory action. The duty continues under the bill, with the Secretary of Transportation, so that the duty to establish rules on this subject continues.

3. The Energy Policy and Conservation Act (42 U.S.C. 6263) requires the Board to study and report on the energy consequences of any major regulatory action. The duty continues under the bill, with the Secretary being substituted for the present reference to the Board.

4. A number of changes are made in the Postal Reorganization Act (39 U.S.C. 3401, 5005, 5401, 5402). References to Board mail rate fixing are deleted from a provision concerning mailing privileges of members of the armed forces. Certain contracts for transportation of mail by other than the Post Office are now available for inspection at the Board and the Postal Service. The bill deletes the reference to the Board so that they are only available at the Postal Service. References to the Board's rulemaking authority over the transportation of mail by air are deleted and a reference to the Secretary is added. The section permitting the Postal Service to contract for air mail transportation pursuant to Board authorization is repealed by the bill. After sunset, the Postal Service will procure air transportation of mail through negotiation and competitive bidding.

5. The Paperwork Reduction Act (44 U.S.C. Chapter 35) lists the Board as an independent regulatory agency. The reference to the Board is deleted.

6. The Animal Welfare Act (7 U.S.C. 2145(a)) requires the Board to implement standards, in regard to air transportation, established by the Secretary of Agriculture concerning the Welfare of animals used for research, experimentation, or exhibition. The bill removes the reference to the Board and transfers the duty to the Secretary of Transportation.

7. The Agriculture Marketing Act (7 U.S.C. 1622) allows the Secretary of Agriculture to petition the Board to improve transportation facilities and rates for agricultural products and farm supplies. The bill deletes the reference to the Board and replaces it with a reference to the Secretary.

8. Sections 4746 and 9746 of the National Security Act, Title 10, U.S.C. deals with the transportation of civilian personnel in Alaska who are employed by the United States. It provides that these personnel may be carried on military transport planes only if the Board certifies that there are no commercial air carriers that can handle the transportation. The reference to the Board is changed to a reference to the Secretary of Transportation.

9. The Bankruptcy Reform Act includes a section on the rights of secured parties who have a purchase money security interest in aircraft equipment and vessels. The bill removes the part of the definition of a debtor air carrier that refers to operations under a certificate of convenience and necessity issued by the Civil Aeronautics Board. After sunset, certificates will no longer exist.

10. An Act to Encourage Travel Within the United States (16 U.S.C. 18b) gives the Secretary of Commerce authority to create an advisory committee with representatives from the Board for the promotion of tourist travel. The bill replaces the reference to the Board with a reference to the Secretary of Transportation.

11. The Revenue Act of 1978 (26 U.S.C. 46) includes in its definition of airline property "section 38 property used as a common carrier subject to the CAB." The bill removes the reference to the Board and substitutes a reference to the Secretary of Transportation. Another section of Title 26 (26 U.S.C. 47), refers to qualifying leases that comply with Board rules. That reference is removed and replaced with a reference to the Secretary. The definition of regulated public utilities in 26 U.S.C. 7701 includes corporations subject to the Board, and accordingly is changed to include corporations subject to the Federal Aviation Act.

12. The General Accounting Office Act (31 U.S.C. 244) requires that deductions for overcharges be computed from tariffs on file with the Board. Because tariffs are being eliminated only for domestic and not international markets, the reference is changed to tariffs on file with the Secretary of Transportation, rather than being deleted entirely.

[Civil Aeronautics Board Sunset Act of 1981]

STATEMENT OF PURPOSE AND JUSTIFICATION

In the 2½ years since the Airline Deregulation Act, Pub. L. 95–504, was passed, the process of deregulation has moved ahead according to the Congressional plan. Domestic route deregulation is substantially complete. Pricing deregulation, while not scheduled to be complete until the end of 1982, has been at least partially achieved by the Board's creation of broad pricing flexibility zones (PS–80, 44 FR 39522; PS–98, 45 FR 70431), which was necessitated by the sharp escalation in fuel prices that commenced in mid-1979. In ancillary areas such as charter rules and data reporting, the Board has moved administratively, in a process that is still continuing, to reduce existing requirements to the necessary minimum.

Congress also decided in the 1978 Act to bring the CAB to an end, transferring its remaining functions to other agencies. While the sunset provisions of that Act dealt specifically with several Board functions, ending some and transferring others, it was generally recognized that more detailed decisions would have to be made in further legislation to carry out the Board's termination. Several Board activities were designated by the Deregulation Act as continuing in some other arm of the government, notably the oversight of international aviation matters, antitrust supervision, and the administration of the essential air service program for smaller communities. Other issues were not dealt with specifically in the Deregulation Act. While section 1601 of the Federal Aviation Act may imply that activities not specifically transferred were to terminate, many of those Board functions were not even discussed when the Airline Deregulation Act, which added section 1601, was passed. We believe that activities which fall in this category, such as air carrier fitness and the broad area of consumer protection, should be specifically reviewed and resolved at this time. Other more detailed but still important matters must be decided in the course of sunsetting the Board: *e.g.*, how to structure Federal preemption when the Board authority on which the present rule is based comes to an end; whether domestic operating certificates in addition to those issued by the FAA should continue to be issued; to what extent the Department of Transportation, as the chief successor to the Board, should inherit the Board's information-gathering powers; in what form mail service should be regulated. These are some of the issues that are dealt with in the Board's proposed sunset legislation.

The Board has not proposed an administrative structure for the handling of transferred functions. But as the administrator of these programs, the Board believes it is important to make some general recommendations on organization, and in particular to point out critical structural characteristics for the essential air service program. Over the years the Board has established procedures that we believe insure fairness and objectivity in decision-making. In both the essential air service and international programs DOT will be required to select a single carrier from among several applicants to operate particular routes. The Board believes that DOT should explain to Congress its plan for preserving impartiality and objectivity in adjudicative aspects of essential air service or foreign air transportation regulation.

The essential air service program has unique characteristics which require that the organization be capable of making decisions quickly, but after consultation with local communities. For example, the Airline Deregulation Act requires some decisions concerning replacement carriers and subsidy to be made within 30 days, and it is important that the decision-making structure be sufficiently streamlined to do this on a regular basis. It further must be sufficiently flexible and informal to solve numerous small problems at the local community level.

That program also needs a group, at least partly in regional stations, that works with communities to help solve their air service problems and act as a contact point for administering the program. These structural elements have made a favorable impression on community leaders and carriers alike, fostering working relationships of openness and easy access to decision-makers, and an image of responsiveness to both local needs and national interest.

FEDERAL PREEMPTION

The Federal Aviation Act now prohibits States from enforcing any law or regulation relating to rates, routes, or services of any air carrier having authority from the Board (certificate or exemption) to operate in interstate air transportation. With the ending of Federal economic regulation of domestic air transportation, the question arises whether the States will or should be permitted to step in with rules of their own. A State might wish to adopt rules relating to routes, rates, or service of air carriers, or impose rules on subsidiary aspects of air carrier operation such as insurance or liability.

The CAB draft bill retains substantially the same preemption scheme as at present, with the States barred from regulating interstate carriers and operations, but able to regulate intrastate carriers that have only minimal involvement with interstate operations.

The prevailing justification for deregulation of airline activities is not that Federal government involvement, as contrasted with that of other levels of government, is peculiarly bad, but rather that the industry will function most efficiently if market forces are left free to determine the shape of industry activities. This cannot be achieved surely unless the States and lower levels of government are preempted from taking over the functions being vacated by the Board.

Furthermore, it has long been recognized that major airline activities are inherently

national in scope, and cannot efficiently be dealt with by State and local authorities on their own. The Federal government will continue to be deeply involved in regulatory programs in the small community and international areas, and in both of these areas State regulation could seriously interfere with national goals and the methods Congress has chosen to meet them.

At the level of purely intrastate activities, State and local regulatory involvement does not create these problems, and there does not seem to be a good reason to prohibit it. Although almost any transportation activities will inevitably involve interstate travel, and could be regulated by the Federal government under its constitutional commerce powers, the present Board position of allowing State regulation of businesses whose interstate involvement is minimal has not caused major problems, and should be retained by successor agencies.

Thus, the intent of the CAB amendment to section 105 is to include within the scope of Federal preemption the carriers that are part of the national air transportation network. A carrier would be removed from State regulation if it flew a route across a State line, entered into an interlining agreement with an interstate carrier, or listed its schedules in the airline guides used by travel agents in arranging interstate travel. Conversely, a carrier that had none of those characteristics would be relatively isolated from the national system, and there would be little inherent public interest in subjecting it to uniform Federal regulation.

Accelerated sunset, and the conforming amendments to sections 105 and 401 that the Board has recommended, will eliminate the exception now provided to the State of Alaska's Transportation Commission (ATC), which saves it from the express preemption of section 105(a)(1). That provision preempts all other States from regulating the routes, rates, or services of interstate air carriers.

The Alaska saving clause is limited to charter and uncertificated scheduled service; even Alaska is preempted from regulating the scheduled service of certificated carriers. Under the Board's proposed elimination of section 401 domestic certificates at sunset, it will no longer be possible to draw the same distinction between airlines subject to Federal, and those subject to Alaskan, regulation.

In fact, Alaska State regulation of air transportation within its borders has been cooperative with the Board's, despite the concurrent and imprecise statutory authority. Conflicts have been minimal, and the State has been a valuable partner in its role as a consultant to the Board in the essential air service program of section 419. This role is not affected by the change in the preemption provisions of the Act.

However, the change proposed in the preemption provision will end an established system of State regulation of the routes and rates of small aircraft operators in Alaska that do not hold Federal certificates.

The Board's proposal also explicitly imposes upon the State and local governments acting in their proprietary roles as airport operators the duty to provide access to an air carrier seeking to serve an airport on terms substantially similar to those of air carriers already serving the airport. Ease of entry is a cornerstone of economic deregulation. The CAB, FAA, and DOT have been active in urging that airport operators do not deny or unreasonably restrict new carriers seeking access to an airport.

But a number of issues remain, which primarily involve the methods that operators may pursue to control noise, ground congestion or use of the terminal facility under their proprietary rights that may unreasonably restrict or deny access. These problems are difficult to resolve through Federal intervention because they often revolve around State and local environmental programs on land use plans.

This bill would make it clear that the airport operator's proprietary rights must be exercised in a manner consistent with airline deregulation, and that the air carriers may bring a private right of action to insure that airport access remains reasonably available to all air carriers.

The CAB draft also expresses Congress' intent that the State or local government acting under its proprietary rights and powers would not be immune from suit under the antitrust laws. If a government agency, such as the airport authority, is a party to or sanctions various agreements, there might be some claim that activities taken under those agreements that may unduly restrict access are immune from antitrust attack under the State or Noerr-Pennington doctrines. Potential liability under the antitrust laws is an important disciplining mechanism, which insures that contracts among competitors do not unreasonably restrain competition. This amendment would insure that airport operator activities affecting the competitively sensitive area of airport access are not immune from antitrust review in the courts.

LICENSING AND FITNESS OF CARRIERS

The Airline Deregulation Act, after sunset of the Board, does not refer specifically to the requirement for a finding of fitness for domestic carriers. Fitness findings are still required for U.S. carriers in foreign air transportation and for foreign air carriers.

The Board's bill specifies the elimination of the separate requirement for a finding of fitness and continuing fitness for air carriers and the fitness findings for foreign air carriers under Title IV of the Act.

At this time, under the Act, the Board and the FAA impose separate requirements upon applicantts for an initial air carrier authority to operate. The FAA determines whether the applicant meets FAA safety standards. The Board applies a "fitness" test in which the applicant must show that it meets three standards: financial fitness, managerial competence, and a disposition to comply with the Act.

Sections 401 and 402 are amended to eliminate the separate finding for initial and continuing fitness. With the ending of the Board's supervision of carrier fitness from a financial and managerial standpoint, this activity will pass to the FAA, where to a great extent it will complement present FAA authority. Thus, in issuing or renewing air carrier operating certificates, the Secretary or the Administrator should consider, to the extent it is deemed necessary, the carrier's financial and management resources in the The Board applies a "fitness" test in which vide safe and adequate service, equipment, and facilities.

It will be the responsibility of that agency to decide how financial strength and managerial competence bear on a carrier's safety performance, and how best to monitor those qualities in order to ensure that the highest levels of safety are maintained. Thus, any finding of fitness is ultimately based on safety considerations.

The draft also amends sections 401 and 418 to clarify the elimination of certificates for air carriers operating in domestic air transportation, although they will continue for U.S. carriers operating in foreign air transportation. The Airline Deregulation Act provides that after December 30, 1981, the Board is not required to make a determination of consistency with the public convenience and necessity for issuing route licenses in domestic air transportation. There will no longer be route or point designations. If separate non-safety fitness findings are eliminated, there will be no findings to make, and no reason to continue domestic certificates. The FAA would issue air carrier operating certificates under its own authority, and thus keep a record of operating air carriers.

INSURANCE FOR AIR CARRIERS

Section 401(q)(1) (insurance for air carriers) is transferred to the FAA, and section 401(q)(2) (performance bonds) is repealed.

Under section 401(q)(1), air carriers are required to have liability insurance as prescribed by Board regulations. There is no provision in the Airline Deregulation Act transferring this section, but the statutory authority to require insurance should continue beyond sunset as evidence of continuing fitness and to ensure basic protection of the traveling public. Authority is given to the FAA to continue any Board regulations, or to issue regulations of its own, in this area.

Under section 401(q)(2), the Board is authorized, but not required, to require air carriers to post a performance bond to compensate travelers and shippers for failure to provide air transportation services according to the contract. Although such bonds have been used in rare situations, there is no evident need for the general authority in this subsection to continue after sunset.

MAIL SERVICE

The bill removes the Board's authority over mail schedules and rates. The Deregulation Act transferred domestic mail rate authority to the Postal Service to be exercised through negotiation and competitive bidding. The Board's proposal implements this direction.

As part of the transfer of foreign air transportation under the present law, all international rate and fare authority is to go to the Department of Transportation. The present law further directs the domestic rates for the carriage of mail are to be determined through negotiation or competitive bidding by the Postal Service. All postal rates including international rates are to be determined by the Postal Service under this bill through negotiation and competitive bidding. This will increase the effectiveness of mail rate administration and would subject all carriage of mail to competitive bidding.

The carrier's duty to carry mail and the Postal Service's authority to require schedules under section 405(b) is repealed.

Under various sections of the Act, airlines that are authorized to carry mail by their certificates have a duty to carry mail as required by the Postal Service. The Postal Service may also require additional schedules to be filed by airlines to provide mail service. This duty of the carriers and power of the Postal Service is eliminated. The power to require additional schedules has rarely been used and is not essential to Postal Service operations today. This power and the duty to carry mail are inconsistent with the concept of negotiation and competitive bidding that the Deregulation Act has mandated domestically and that we recommend for foreign transportation. The Postal Reorganization Act contains authority for the Postal Service to issue rules and regulations for the carriage of mail, so duplicate authority is no longer needed in the Federal Aviation Act.

ELIMINATION OF 406 SUBSIDY PROGRAM

The Board has proposed elimination of the program in an earlier submission to Congress as part of the Administration's proposed budget for 1982. The draft bill here includes that proposal because aside from the budget implications the Board believes this to be a desirable change in the administration of the essential air service program.

The section 419 program assures air service at all points that were listed on a certificate in 1978. There is therefore no danger that any small communities now being served by a carrier subsidized under section

406 will lose scheduled air service. If a carrier wishes to cut service to one of these points to an extent that would deprive the point of essential air transportation, the carrier must give the Board and the affected communities 90 days' notice of its plans.

The Board then begins a proceeding to select a replacement carrier to provide essential air transportation, with subsidy if necessary. If the proceeding is not completed by the end of the 90-day notice period, the Board orders the incumbent to continue service for 30 days at a time, with compensation for any losses incurred, until a replacement is found. Many of these points will continue to receive service from the same carrier without subsidy because the traffic is sufficient to support profitable service.

Adequate service can be maintained under the 419 compensation program—based on experience up to now—at expenditure levels that are about half the costs of the 406 program. Section 406 subsidies were retained in the Federal Aviation Act mainly out of concern that deregulation would damage the group of smaller carriers receiving this subsidy. Since deregulation, however, most of these carriers have been more successful and profitable than many of the trunk carriers.

To the extent that some of these carriers are losing money, the problems they face are those faced by the industry generally and are not specifically related to their predereguIation status.

Thus, Section 406 is an anachronism in a deregulated environment because it is directed at underwriting some of the losses of a certain class of carriers, not at assuring needed service to a community. Moreover, these benefits are not available to other carriers with whom the subsidized carriers compete.

ANTITRUST

General

The Deregulation Act completes the transfer of the antitrust authority of the Board to the Department of Justice on January 1, 1985. This authority includes sections 408 (consolidation, merger, and acquisition of control), 409 (interlocking relationships), 412 (filing of agreements), and 414 (antitrust immunity).

Under the Deregulation Act, the authority under sections 408 and 409 relating to domestic transportation transfers on January 1, 1983, with the authority under these sections relating to foreign air transportation transferring on January 1, 1985.

If the airlines are to be treated as other industries in most other respects, particularly in domestic transportation, there is no reason to retain the special antitrust features of the Act.

The antitrust standards under the Act are initially the same as those for unregulated industries under the Clayton and Sherman Antitrust Acts. There is, however, a savings clause that allows the Board to approve activities that are otherwise anticompetitive in order to achieve an extraordinary transportation need.

There are some cases both in mergers and with agreements where international policy issues may be raised. For example, a merger that might otherwise have been disapproved by the Board as anticompetitive was approved upon the condition that certain international route authority in a market where entry was restricted by international agreement be surrendered by the merged carrier.

In the agreements area there are many intercarrier arrangements that have international policy and aviation implications. To the extent that such authority is required, the Board believes it should rest at DOT, rather than Justice, in order to prevent unwieldy coordination procedures in mergers or agreements.

Mergers and acquisition of control

The Board's bill eliminates its approval authority in section 408 for both domestic and foreign air transportation, and replaces it with a statutory right of intervention by the Board and eventually DOT in antitrust cases. It also requires the Board to state its position on the international route consequences of proposed mergers. By allowing DOT to intervene as a matter of right, the courts will have the benefit of the Board's and then DOT's special expertise about the airline industry.

The elimination of the provisions in section 408 leaves it to the courts to decide mergers on strictly competitive grounds. Airline mergers would be tested only for their competitive effects under the antitrust laws, and only when challenged under those laws. The special "public interest" factors in the Act and the special savings clause that allows otherwise anticompetitive transactions are thus repealed.

A separate public interest test or mandatory administrative review of airline mergers is not necessary or desirable in the more competitive, deregulated environment. In passing the Deregulation Act, Congress stated that mergers were to be "tested by the antitrust standards traditionally applied by the courts to unregulated industries."

The public interest standard was to be interpreted in light of the intent to "move the airline industry rapidly toward deregulation." The transition has now progressed sufficiently to enable repeal of these provisions so that airline mergers would be judged only by competitive standards, as are unregulated industries.

The Airline Deregulation Act brought the competition standards for airline mergers under the Act into conformity with those applied to mergers in unregulated industries under the Sherman and Clayton Acts.

The Board has not decided any merger applications on the basis of the saving clause. Repeal of the special tests should therefore not significantly alter the way in which mergers have been tested.

The Board has based its assessment of a merger's likely effect on competition on two findings: (1) that concentration ratios alone are not an accurate gauge of competitive performance in city-pair markets, and (2) that potential competition does have a disciplining effect on market performance.

The Board's analysis of the "public interest" test closely follows these principles, and is based on procompetitive policies in both domestic and foreign air transportation.

The air transportation industry does not have features that render it so unique that courts cannot analyze airline mergers with the same competence as those of other industries. The courts would also have several years of Board merger decisions under the amended sections as a frame of reference. Since courts can and do act quickly on preliminary injunctions, there is no reason to preserve these sections because of the Board's statutory duty to act on applications for merger within 6 months.

If the provisons of section 408 are repealed, Congress should indicate its intent that the courts and the Justice Department are encouraged to apply CAB precedent in assessing airline mergers by considering the structure and competitive nature of the airline industry, including potential entry as a major restraint, and not to rely to any great degree on market share statistics. In addition, the Board, and DOT as its successor agency would have a right to intervene in any merger case because its specific knowledge of the industry will assist the court in performing a functional analysis. A statement of the Board's analysis in these cases will be supplied at a later date.

Under the Board's bill, it retains some control over limited entry foreign routes to ensure that competition, foreign policy concerns, and other public interest mandates are not frustrated. Sections 401(h) (transfer of certificates) and 401(g) (modify, suspend, or revoke certificates) are not eliminated. To strike a reasonable balance between the need for a single determination of the permissibility of a merger and the need to retain control over certificate authority in limited-entry foreign markets, the Board and eventually DOT is made a statutory party in any antitrust proceeding regarding a merger between carriers at least one of which serves an international route.

In addition, the Board is required to state, within 30 days of the announcement of a proposed airline merger, its position about whether and to what extent any international route authority should be retained by the merged carrier. In the event that an antitrust action is brought against the merger, the courts would have the benefit of the Board's and then DOT's opinion as to whether the merger should be approved, and whether approval should be conditioned on relinquishment of any international route authority.

If a merger is not found unlawful by the courts, the Board is not given any authority to suspend any routes of the merged carrier except for reasons not connected with the circumstances of the merger (*e.g.*, failure to serve the route).

Section 409 is repealed by the Board's bill rather than transferred to the Department of Justice. Mandatory administrative review of interlocks involving air carriers no longer appears to be necessary. Even during the period of transition to deregulation, the Board has found the need for administrative surveillance of airline interlocks to be minimal.

Agreements

Under section 412 of the Federal Aviation Act, an air carrier has the option to file for CAB approval of agreements, contracts, or requests for authority to discuss possible cooperative working arrangements. Under section 414, the Board may exempt any person from the antitrust laws to enable such person to proceed with such discussion or agreements. If an agreement is found anticompetitive, but nevertheless approved because of transportation needs or public interest benefits, the Board must grant immunity. The advantage of filing, of course, is that if the Board approves and immunizes an agreement, the carriers risk no antitrust liability.

Major agreements that enjoy CAB approval include (1) IATA agreements establishing a traffic conference mechanism under which air carriers coordinate rates and practices in international air transportation; (2) airline scheduling committee agreements establishing a forum in which airlines serving Kennedy, LaGuardia, Washington National, and O'Hare airports discuss and agree upon the hourly allocation of the limited number of landing and take-off slots; and (3) agreements establishing a travel agency program under which persons who operate in accordance with prescribed procedures are designated exclusive agents for the sale of airline tickets.

Under section 412, the Board has a saving clause to approve agreements that would otherwise violate basic antitrust principles. The test is similar to that under section 408 for mergers. The Board may approve such agreements, if public benefits or transportation needs require it, or for international comity or foreign policy reasons, and there are no alternatives available to achieve those benefits that are materially less anticompetitive. The Board has used this clause in the past to save agreements and it may need to be used in the future for a transition period.

The legislative issue is whether a special antitrust test should continue for airline agreements, and if so, whether the Justice

or Transportation Department should apply it.

The Board's bill retains section 412 authority, but transfers it to DOT rather than to the Justice Department. The authority would terminate on January 1, 1986, for domestic transportation, but would continue for foreign air transportation. DOT is required to report to Congress by January 1, 1985, about whether section 412 should be retained for domestic transportation or repealed as well for foreign transportation.

Because domestic air transportation is to be deregulated, domestic agreement filing and approval should ultimately expire, perhaps in 1986. We believe, however, that in the near term there are some complex issues facing the industry that raise antitrust questions. Many of these relate to how the interlining and joint fare system, which provides important benefits to travelers, will be maintained.

The industry is just moving toward full pricing deregulation and it is very difficult to judge what, if any, antitrust issues might be raised as the industry adjusts to this new environment. Continued authority to approve agreements and grant immunity will serve as a precautionary measure enabling the Board and eventually DOT to allow intercarrier discussions to resolve such matters as slot allocations, agency agreements, joint fares, and other interline issues. Foreign agreement authority may also not be needed indefinitely.

There are many industries that compete in the international arena that do not have special antitrust immunity. In recent years the Justice Department has become more sensitive to the competitive complexities of international markets and its Business Review Procedure should be sufficient after the transition to enable carriers to function in international air transportation.

In addition, Title II of the Export Trading Companies Act now pending in Congress, which will permit the formation of export-trade associations and applies to all industries that participate in foreign commerce, may provide further protection. This Act would permit the Department of Commerce to immunize a variety of joint export related activities, as long as domestic competition is not affected and the export activity of competitors is not substantially restrained.

On the other hand, there may be complex and sensitive agreements involving foreign governments and foreign carriers that should continue to be scrutinized carefully for both antitrust and foreign policy reasons. The Board believes that the best course of action is to continue foreign agreements authority, with DOT recommendations to Congress to be made by January 1, 1985, as to whether this authority should be repealed.

There is little connection between the role of the Board under section 412 to approve agreements and to grant them antitrust immunity, and the general role of the Justice Department in implementing the policy of the antitrust laws. Under the present law DOJ would nevertheless inherit this function.

If the Board determines that agreements now under investigation, such as for marketing and airport scheduling, which apply to both domestic and foreign transportation, should continue to be approved or to be given immunity, it will have to make a finding that serious transportation needs or public benefits outweigh competitive considerations, using the saving clause. In the future, therefore, the agency reviewing these agreements should possess special expertise in air transportation.

By transferring this authority to DOT, the final decision will rest with the expert agency. At the same time DOJ will be able to continue in the advocacy role that it has played in Board proceedings.

All authority over foreign air transportation is, under the present law, to be transferred to DOT, except the authority to approve international carrier agreements, which goes to Justice. This split of authority would cause basic administrative problems.

Many of the rates and practices involving foreign air carriers are the result of intercarrier agreements, especially the IATA mechanism. DOT would have jurisdiction over the rates and practices, but Justice would exercise jurisdiction over the agreements by which they are determined. If an agreement filed with Justice were found anticompetitive, any tariffs filed at DOT would presumably be rejected.

If an agreement were not filed at Justice (since filing would be permissive), but tariffs were filed at DOT, their acceptance would extend only to reasonableness, discrimination, and predation. Carriers could then argue, and the courts might or might not agree, that the filing and acceptance of tariffs implied a form of antitrust immunity.

There is a close identity of tariffs and agreements in the international area, and failure to transfer authority over both to a single agency could result in considerable confusion and litigation and seriously disrupt the international system.

ESSENTIAL AIR SERVICE

Section 419 must be amended to conform to the elimination of section 401 certificates for domestic air transportation. The elimination of the certificate authority affects the provisions governing the issuance of additional essential air transportation determinations, notice by carriers seeking to terminate or reduce service, and compensation for the losses of carriers required to continue providing essential air service. Whether a community receives an essential air transportation determination has until now depended on how many certificated carriers are serving the point. Under the Board's bill, it will depend on aircraft size. Those communities that have service by one or no large aircraft operator will be entitled to have their essential air transportation level set by the Secretary. Large aircraft are those with a passenger capacity of more than 30 seats.

The notice and compensation-for-losses provisions will be based on aircraft size rather than certificates. How long in advance of a planned termination or reduction in service a carrier must give notice, and how long that carrier must wait before it may be compensated for losses if it is required to continue that service, will depend on whether the carrier operates larger than 30-seat aircraft at that point. Substitution of aircraft size for certificate status will hew most closely to the prior statutory scheme, because most carriers with larger than 30-seat aircraft held section 401 certificates while those with smaller aircraft typically did not. Indeed, prior to 1978, all carriers with larger than 30-seat aircraft were required to obtain certificates.

A new notice provision is added by the CAB bill to section 401(j) to ensure that the Board and then the Secretary can monitor essential air service levels at eligible points. It permits the Board and then the Secretary to require carriers to file notices when their termination or reduction would affect essential air transportation at eligible points even if it would not reduce service below the level that was determined to be essential air service.

The fitness provision in section 419(c) is eliminated. This provision is no longer necessary because the Federal Aviation Administration already has the power to consider the financial fitness of carriers when evaluating their ability to conduct safe operations. Also, the Board already has the necessary authority to evaluate the reliability of the carrier's operation. This derives from the Board's obligation under section 102(8) as amended by the bill, to ensure safe, reliable, and continuous scheduled airline service for small communities. This obligation and authority would transfer to the Secretary under the Board's proposal.

DEREGULATION OF DOMESTIC CARGO AND MAIL AIR TRANSPORTATION

The Board's bill explicitly applies the sunset provisions in Title XVI of the Federal Aviation Act to all domestic cargo and mail transportation, including intra-Alaska and intra-Hawaii.

When Title XVI of the Act was added by the Airline Deregulation Act, providing for a phased sunset of the Board, it was applied only to domestic passenger transportation. There is no statutory sunset for regulation of domestic cargo and mail transportation under the Act. Although the Board has by exemption generally deregulated domestic transportation of cargo, implementing the cargo deregulation amendments of 1977, Pub. L. 95-163, complete deregulation is dependent on Board regulations. These regulations are not automatically transferred or extended at sunset. Also, the Deregulation Act states that mail rate authority is to be exercised through competitive bidding and negotiation. Explicit deregulation of mail transportation is consistent with that mandate.

If the present statute is not amended, the authority to find domestic cargo rates unjustly discriminatory, preferential, prejudicial, or predatory, and the licensing and exemption authority under which domestic cargo transportation is deregulated by exemption, will not automatically be transferred to DOT.

The cargo deregulation amendments of 1977, which among other things removed the Board's power to find domestic cargo rates unjust or unreasonable, do not apply to intra-Hawaii or intra-Alaska traffic, even if it is part of a continuous movement in air transportation. The rates for this transportation are still subject to that standard. Since the Deregulation Act only applies to passenger transportation, its sunset of the Board's route and rate authority by 1983 does not apply to such intra-Hawaii or intra-Alaska cargo traffic and rates. Nor is the authority transferred.

This authority should be eliminated. The Board has already granted multiple permissive authority for passenger service in Alaska with no discernible detrimental effect. The Deregulation Act eliminates public convenience and necessity findings for passenger service in Alaska and Hawaii in 1983. If entry for passenger service is basically open then in these States, there is little reason to continue fare and rate jurisdiction or to restrict entry for cargo and mail. If entry and price are deregulated for all other domestic air transportation, continued regulation of cargo and mail transportation could work as a disincentive to provide service in these States, instead of acting as protection.

CONSUMER-ORIENTED FUNCTIONS

The issue of what consumer protection powers and duties to transfer to other agencies is one of the most difficult of those raised by the Board's sunset. In part this is due to the fact that consumer protection includes a large group of rules, tariff practices, policies, and activities that are not linked in any cohesive way; and in part it results from the close balance of considerations involved in deciding what functions to transfer and what to terminate, and if not terminated where they should reside and in what form.

The Board performs several types of consumer protection functions. It has authority under section 411 to prohibit unfair or deceptive practices by the airlines; it has authority under other sections to promulgate general consumer protection rules such as denied boarding compensation, smoking, and char-

ter passenger protection; it exercises supervisory authority over airlines' "tariff rules" and policies relating to them; it carries out international agreements (Warsaw Convention and Montreal Protocol) dealing with consumer protections; and it performs general consumer assistance programs. The Airline Deregulation Act does not deal specifically with these functions.

The programs that are being transferred to or would continue in DOT are substantial: they include the small communities air service program, the whole field of international aviation, supervision of agreements, and of charters, along with smaller-scale functions such as data collection. In addition, it is likely that some areas of consumer-oriented rules will be designated to carry over as sunset approaches.

Therefore, the most prudent course appears to be to give the Secretary General power to issue rules and orders to carry out the powers, duties, and goals as entrusted to DOT by the Act.

This is done by transferring section 204 (a), which gave the Board general power to issue and enforce rules and orders necessary "to carry out the provisions of, and to exercise and perform its powers and duties under this Act," and section 416(a), authorizing the issuance of such rules "pursuant to and consistent with the provisions of this title," as are found to be in the public interest.

The substantive provisions that give broadest content to these powers in the consumer area are section 404(a), requiring carriers to provide safe and adequate service, and the amended section 1601(b), which transfers to the Secretary the authority with respect to the provision of safe and adequate service.

In keeping with the interpretation of 404 (a) applied by the Board in *Norfolk-Virginia Beach-Portsmouth-Chesapeake-Suffolk Parties*, Order 79–1–99, January 18, 1979, the Secretary would have no authority under these provisions to issue rules or orders to fix a carrier's frequencies above the essential level. Since the passage of the Deregulation Act, the Board has not had the authority to regulate schedules, equipment or classes of service of any air carrier (except under the essential air service program), and no such authority is intended by this legislation.

Before Sunset, the Board will review all of its consumer-oriented rules and other activities, and continue, modify, or repeal them as it finds appropriate in light of the approaching transition. At sunset, the remaining rules will be transferred to DOT along with the staff necessary to enforce the rules and mediate related consumer complaints. This will ensure that those consumer protection programs that the Board believes should continue will be effectively maintained and enforced through the transition period.

Section 411, which prohibits unfair and deceptive practices by air carriers, is a special case, in that it refers to functions performed, with respect to most areas of the economy, by the FTC. Section 5 of the FTC Act, in deference to the Board, prevents the FTC from taking any action against airlines for unfair or deceptive practices. The Board's bill eliminates this provision of the FTC Act so that the FTC's residual authority extends over the airlines, and repeals section 411. This action places the airlines in the same position as other competitive industries.

The FTC is the natural agency to assume the Board's section 411 authority to prohibit unfair or deceptive practices by the airlines. The Board's authority is patterned after section 5 of the Federal Trade Commission Act, and the Board has often looked to the FTC's interpretation of section 5 in determining whether an airline's practice is unfair or deceptive under section 411.

The Board's bill, for the same reasons, transfers the Board's authority to enforce the Consumer Credit Protection Act in regard to airlines to the FTC. The FTC has far greater expertise in this area than even the Board does now. There is no reason not to subject the airlines to these FTC requirements and guidelines as are other industries.

The investigatory function of the Board includes authority to require special reports from domestic and foreign air carriers, and inspection authority over air carriers, foreign air carriers, and ticket agents (section 407). The Board has the power to conduct investigations and issue orders of compliance, to subpoena anyone in connection with the investigation (sections 1002 and 1004), and to assess civil penalties under section 901.

As long as there is any regulation of air carriers and foreign air carriers, there is a need to continue these powers after sunset to investigate air carrier practices under Title IV of the Act. The authority of DOT under section 313 of the Act does not appear to give it the power to assume automatically the Board's investigatory functions. The authority under this section is limited, being derived from the power originally given to the FAA relating to aviation safety. Legislation would thus be needed to clearly transfer authority from the Board to DOT in this area. The authority transferred is limited to foreign air transportation and to other functions moved to DOT.

The Board's bill transfers enforcement and civil penalty authority to DOT. It further amends section 901 to allow civil penalties for violations of any regulations issued under the Act. At present, the Board's authority to assess civil penalties is limited to, among other things, violations of regulations only issued under Title IV. This is unnecessarily limiting, and does not recognize the wide variety of rulemakings issued by the Board using its general power in Title II in implementing the Act and its policy.

INFORMATION SERVICES

The Airline Deregulation Act is silent on the future of the Board's regulatory information systems and activities, except with respect to foreign air transportation. If the Act is not clarified and other legislation is not provided, all of the basic air transportation industry financial and statistical data systems maintained by the Board might lapse at sunset. The international and small community air service programs that transfer at sunset will continue to require data from many of the Board's information systems.

The Board has extensive authority to collect information from airlines. The filing of reports to meet Board requirements is mandatory. Most report collection authority for Executive Departments is mandatory only if the statute states the specific report to be collected. Otherwise, report collection by these agencies is dependent on voluntary compliance by the public.

Under section 407(a), the Board may require annual, monthly, "periodical" and special reports from any air carrier. It may also require carriers to respond to specific questions asked by the Board. Section 407(b) requires disclosure of the names of stockholders holding more than five percent of the capital stock of an air carrier.

Section 407(c) requires officers and directors of air carriers to disclose their shares of stock or other interests held in any air carrier. Section 407(d) authorizes the CAB to prescribe the forms of air carrier accounts, records and memoranda kept by air carriers.

Section 407(e) gives the Board access to all lands, buildings and equipment of any air carrier or foreign air carrier, and to all accounts, records and memoranda, including all documents, papers and correspondence kept by domestic and foreign carriers and ticket agents. Under section 415, the Board is empowered to "inquire into the management of the business of any air carrier" and to obtain "full and complete reports and other information" necessary for any such inquiry.

The data collection authority transferred to DOT is limited by the Board's proposal to the minimum necessary for it to accomplish the purposes of the Act. Currently, all of the Board's systems are used extensively by DOT and other Federal agencies, aircraft manufacturers, financial institutions, and air carriers. Before sunset, the Board will review these systems to determine which are necessary to carry out governmental programs. The remaining systems will be terminated.

Section 407(a) authority to require reports and to require answers to questions asked air carriers is transferred to DOT. Sections 407 (b) and (c) relating to disclosure of stock ownership are revoked on January 1, 1983, for domestic transportation by the Deregulation Act and should be repealed for foreign transportation if sections 408 and 409 are eliminated as recommended above.

Section 407(d), giving power to prescribe record form and preservation times, and section 407(e), inspection and audit authority, should be transferred. Section 415 gives the Board the power to make an inquiry into airline management and to obtain further reports, and is inconsistent with airline deregulation. Other report collection and enforcement authority to be transferred makes this section unnecessary for domestic air transportation. It is continued for foreign air transportation because of its importance in carrying out U.S. international aviation policy, and to ensure that sufficient authority is given DOT to perform its foreign air transportation functions.

PERSONNEL

As the date for sunset of the Board comes closer, the need to ensure the orderly transfer and termination of Board functions becomes ever more important. Once the exact date of sunset is known, and transfer and termination notices are given to employees, it will become increasingly difficult to retain employees to keep the agency running and to perform the final administrative tasks to close it down. The Board is exploring both statutory and administrative means of encouraging vital employees to stay with the Board during the difficult period.

In addition, we are recommending that some permanent positions at the Board be transferred to the Office of Management and Budget for a period not to exceed 90 days to perform those administrative functions necessary for the orderly termination of the agency. Based on our estimate of the number of persons that may be needed to provide an orderly shutdown of the agency, we estimate that this provision of the bill would cost approximately $170,000.

EFFECTIVE DATES

The Board's bill transfers those functions that are to go to DOT, or the Federal Trade Commission, and abolishes other functions, on October 1, 1983. The transfer of the Board's mail rate function to the Postal Service and termination of related authority, and the statutory deregulation of cargo and mail transportation, takes effect January 1, 1983.

The abolition of special treatment for airline mergers, acquisitions, and interlocks is effective January 1, 1983, along with the new provisions giving the Board party status or intervention rights in antitrust cases. The abolition of the section 406 subsidy program is effective October 1, 1981. This scheme thus continues the principle of a phased transition, established in the Airline Deregulation Act, with the Board's authority over domestic fares terminating on January 1, 1983, and the remaining functions ending or transferred on a slightly later date.

Deregulation has progressed well in the

2⅓ years since passage of the Airline Deregulation Act, and there no longer appears to be a need for the full 2-year period scheduled in that Act for the last phase. On the other hand, some interval is called for.

The termination of domestic tariffs and fare regulation on January 1, 1983, will be a major transition for the Board and the industry. A 9-month interval provided for the final phase will enable the Board to look closely at the results of fare deregulation, and then to work together on a smooth transition with the other agencies scheduled to inherit the Board's remaining functions. This interval will continue the established transition process, providing time to effect an orderly transfer of functions and a continuity of expectations for the Board's staff, who have been anticipating a phased transition to sunset and the resulting ramifications since the passage of the Airline Deregulation Act of 1978.

The bill therefore advances the final sunset date from January 1, 1985, to October 1, 1983. The bill also provides flexibility for the Board and the receiving agencies to agree to earlier transfers and terminations, up to January 1, 1983. Once all of the Board's functions are transferred and its authority terminated, the Board itself will sunset. This approach should allow an orderly and efficient transition without undue delay.

MARVIN S. COHEN—CONCURRING AND DISSENTING

Although I wholeheartedly concur in the substantive provisions of this draft legislation—the abolition of some Board functions, the transfer of the remaining ones, and the sunset of the Board itself—I dissent from the timing of these events as proposed by the Board majority in the draft bill.

The bill would end the domestic rate-setting functions and the administrative supervision of mergers on January 1, 1983, but then would delay the ending of the fitness-finding functions and the transfer of the remaining Board duties until October 1, 1983, unless transferred at an earlier date by agreement of the Board and the Secretary of DOT. I am convinced that the overall public interest would be served best by having all changes take place on the earliest date that is consistent with the purposes of the Airline Deregulation Act and with an orderly transfer of administration. There are no compelling reasons why these changes could not take place on October 1, 1982.

Fixing sunset on that date would not only keep up the momentum of deregulation by ending unnecessary governmental activities as soon as it is reasonably feasible, but it would avoid potentially serious difficulties with the effective administration of transferring functions arising from the dislocation that a drawn-out phased transition creates for Board employees. Important functions are to be transferred to DOT together with the employees who now perform those functions. It is not possible, of course, to forecast precisely what the personnel effects will be, since they depend heavily on the decisions made by individual employees and by the Board over the transition period. But the longer those employees linger at a dying CAB wondering what will happen to them upon transfer, the more demoralizing it will be for them—and the greater the danger that the best qualified of the staff will seek other employment.

The basic elements of domestic deregulation are termination of entry and route certifications and termination of pricing controls. These will be terminated before 1983. There is no public interest reason to continue the Board once these major functions have terminated, and leave CAB employees in a limbo of worry and uncertainty for an unnecessary extra year.

For these reasons I would prefer to see sunset take place on the single date of October 1, 1982.

BAILEY, MEMBER, CONCURRING AND DISSENTING

It is with a sense of accomplishment and satisfaction at the completion of the task I came to Washington to do that I concur with all but one aspect of the Board's proposed legislation for sunset. This one aspect is, not surprisingly, the sunset date which I feel could be moved up to October 1, 1982, without in any respect compromising the sunset process or any of the continuing programs. Indeed, the earlier date makes the transfer of personnel administratively simpler and avoids a build up of personnel in agencies receiving our transferring functions.

In all other respects, I concur with our package. It is a historic document. Our proposal reflects a true stewardship to a new guiding principle in government, one under which regulatory intervention is kept to an absolute minimum. We are showing that sunset can take place with style, with commitment and with an attention to substance.

I am proud to have been a part of the government's first sunset program. I am prouder still of our staff, which has undertaken this program with a leadership, dedication and excellence unequalled in government.●

ADDITIONAL COSPONSORS

S. 395

At the request of Mr. WALLOP, the Senator from Kentucky (Mr. FORD) and the Senator from New York (Mr. D'AMATO) were added as cosponsors of S. 395, a bill to amend the Internal Revenue Code of 1954 to provide estate and gift tax equity for family enterprises, and for other purposes.

S. 569

At the request of Mr. JEPSEN, the Senator from Maine (Mr. MITCHELL) was added as a cosponsor of S. 569, a bill to amend the Internal Revenue Code of 1954 to provide an investment tax credit for certain soil and water conservation expenditures.

S. 811

At the request of Mr. DOLE, the Senator from Texas (Mr. TOWER) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 811, a bill to amend the Powerplant and Industrial Fuel Use Act of 1978 to permit local distribution companies to continue natural gas service to residential customers for outdoor lighting fixtures for which natural gas was provided on the date of enactment of such act, and for other purposes.

S. 1030

At the request of Mr. MCCLURE, the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 1030, a bill to protect firearms owners constitutional rights, civil liberties, and rights to privacy.

S. 1131

At the request of Mr. DANFORTH, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 1131, a bill to require the Federal Government to pay interest on overdue payments and to take early payment discounts only when payment is timely made, and for other purposes.

S. 1215

At the request of Mr. PROXMIRE, the Senator from Maine (Mr. MITCHELL) and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 1215, a bill to clarify the circumstances under which territorial provisions in licenses to distribute and sell trademarked malt beverage products are lawful under the antitrust laws.

S. 1235

At the request of Mr. D'AMATO, the Senator from Idaho (Mr. MCCLURE) was added as a cosponsor of S. 1235, a bill to exempt certain matters relating to the Central Intelligence Agency from the disclosure requirements of title 5, United States Code.

S. 1256

At the request of Mr. EXON, the Senator from Kansas (Mrs. KASSEBAUM) was added as a cosponsor of S. 1256, a bill to regulate interstate commerce by protecting the rights of consumers, dealers, and end-users.

SENATE JOINT RESOLUTION 59

At the request of Mr. ROBERT C. BYRD, the Senator from Tennessee (Mr. SASSER) and the Senator from Kansas (Mr. DOLE) were added as cosponsors of Senate Joint Resolution 59, joint resolution designating the square dance as the national folk dance of the United States.

SENATE JOINT RESOLUTION 64

At the request of Mr. SIMPSON, the Senator from Minnesota (Mr. DURENBERGER), the Senator from Hawaii (Mr. INOUYE), the Senator from Indiana (Mr. LUGAR), the Senator from North Dakota (Mr. BURDICK), the Senator from Florida (Mr. CHILES), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Tennessee (Mr. SASSER), and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of Senate Joint Resolution 64, joint resolution designating August 13, 1981, as "National Blinded Veterans Recognition Day."

SENATE JOINT RESOLUTION 91

At the request of Mr. THURMOND, the Senator from North Carolina (Mr. HELMS), the Senator from Indiana (Mr. QUAYLE), the Senator from Alabama (Mr. DENTON), the Senator from Virginia (Mr. WARNER), the Senator from Utah (Mr. HATCH), the Senator from Idaho (Mr. SYMMS), the Senator from Delaware (Mr. ROTH), the Senator from California (Mr. HAYAKAWA), the Senator from Iowa (Mr. GRASSLEY), the Senator from Kansas (Mr. DOLE), the Senator from Pennsylvania (Mr. SPECTER), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Alabama (Mr. HEFLIN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Arkansas (Mr. PRYOR), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Tennessee (Mr. SASSER), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Maryland

(Mr. SARBANES), the Senator from Illinois (Mr. DIXON), the Senator from Mississippi (Mr. STENNIS), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), and the Senator from North Carolina (Mr. EAST) were added as cosponsors of Senate Joint Resolution 91, joint resolution to designate July 1981 as "National Peach Month."

AMENDMENTS SUBMITTED FOR PRINTING

OMNIBUS RECONCILIATION ACT OF 1981

AMENDMENT NO. 103

(Ordered to be printed.)

Mr. ROBERT C. BYRD (for himself, Mr. HOLLINGS, Mr. CRANSTON, and Mr. TSONGAS) proposed an amendment to the bill (S. 1377) to provide for reconciliation pursuant to title III of the first concurrent resolution on the budget for fiscal year 1982 (H. Con. Res. 115, 97th Congress).

AMENDMENT NO. 104

(Ordered to be printed.)

Mr. SCHMITT (for himself, Mr. STEVENS, Mr. SPECTER, Mr. PRESSLER, and Mr. ANDREWS) proposed an amendment to the bill S. 1377, supra.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION, AND GOVERNMENT PROCESSES

Mr. BAKER, Mr. President, I ask unanimous consent that the Subcommittee on Energy, Nuclear Proliferation, and Government Processes of the Committee on Governmental Affairs be authorized to meet during the session of the Senate today at 9:30 a.m. to review nuclear nonproliferation policy and the Nuclear Nonproliferation Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ADVOCACY AND THE FUTURE OF SMALL BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Advocacy and the Future of Small Business of the Committee on Small Business be authorized to meet during the session of the Senate on Wednesday, June 24, to hold oversight hearings on Government competition with small business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Intergovernmental Relations of the Committee on Governmental Affairs be authorized to meet during the session on Wednesday, June 24, to hold hearings on S. 1042, the Intergovernmental Personnel Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, June 24, at 2:00 p.m., to discuss clean air legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. BAKER. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Wednesday, June 4, at 2:30 p.m., to consider social security cost-of-living adjustments.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO DR. DAVID JEREMIAH

● Mr. QUAYLE. Mr. President, I am pleased to rise today to offer tribute to an outstanding American and a devoted man of God, Dr. David Jeremiah.

Dr. Jeremiah has been pastor for the Blackhawk Baptist Church in Fort Wayne, Ind., for the past 12 years. During this time he has led his congregation with diligence, strengthening their faith in God, and our great country. He has also performed patriotic services for the Fort Wayne community. Each year Dr. Jeremiah organizes the Patriotic Panorama, a musical extravaganza dedicated to God and country. I have had the privilege of participating in this inspirational program on a number of occasions.

Fort Wayne and the Blackhawk Baptist Church will miss Dr. Jeremiah when he departs shortly for San Diego, Calif., to head the Scott Memorial Baptist Church. Two of his parishioners, Shirley and Neva Hirschy, have written a tribute to Dr. Jeremiah, and I ask that their tribute be printed in the RECORD.

The tribute follows:

A TRIBUTE

Dr. David Jeremiah has been pastor of the Blackhawk Baptist Church for the past twelve years. He will soon be leaving to become the senior pastor of Scott Memorial Baptist Church in San Diego, California.

He has been a man of real courage, displaying a great faith in God. He possesses a vision and an ability to accomplish goals and tasks that seem impossible. One of his many goals was implementing an annual event called the Patriotic Panorama. It is held each year around the fourth of July. Each year for the past eight years the Sanctuary Choir under the present director, Don Krueger, along with many talented singers, and a Multi Media production have given two performance to capacity crowds. In 1979 it received the George Washington Honor Medal from the Freedom Foundation of Valley Forge.

This exciting musical extravaganza has meant much to the community of Fort Wayne. It has brought together many prominent political leaders from all phases of our government. The National, State, and Local people were able to hear the resounding Musical extravaganza each year. It always emphasized the Democratic and Christian principles for which our forefathers founded this country.

Anyone who attended these performances have come away with a new determination, pride, and thankfulness that they are an American and live in a land that is free.●

SUCCESS OF IMMUNIZATION PROGRAM

● Mr. BUMPERS. Mr. President, the Center for Disease Control recently released information about the number of cases of communicable childhood diseases that had been reported for the first 5 months of 1981. The results are astounding and demonstrate that success can be achieved in the preventive health area if we channel our resources in the most efficient and effective manner.

In the State of Arkansas, there have not been any cases of measles, mumps, or diphtheria reported this year, with only one case of rubella. These recent statistics testify to the phenomenal success of the immunization program since Arkansas had one of the lowest childhood disease immunization levels in the country before my wife, Betty, initiated the massive immunization program in 1972.

Since that time the Arkansas program has served as a model for the nationwide childhood immunization program initiated by former Secretary of HEW Joe Califano. As he points out in his recent book, Governing America:

Childhood immunization is the flagship of preventive health programs. In addition to the human illness it prevents, dollar for dollar, childhood immunization is a superb health care investment: for every dollar spent on polio vaccine, our society saves $90 in costs, the highest cost-benefit ratio of any public health prorgam. From 1963 to 1978, this nation's investment of $189 in polio immunization has saved almost $2 billion in health care and rehabilitation costs. There is not much controversy about even the most aggressive attempts to immunize children against the childhood diseases. That distinguishes this program from virtually every other preventive health care measure.

During the first 2 years of the nationwide campaign, measle cases declined 78 percent, rubella more than 43 percent, and mumps almost 30 percent. Recent statistics are even more impressive.

In 1975, when we were putting only $6 million into the immunization program, 59,000 cases of mumps were reported nationwide. Last year, we had reduced the number of cases to 8,000, and for the first 5 months in 1981, only 2,218 cases have been reported.

The number of cases of rubella or German measles has also been dramatically reduced. As compared to 16,652 reported cases in 1975, the report of only 3,837 cases in 1980 represents a phenomenal achievement. Thus far in 1981, only 1,227 cases have been reported.

This positive trend continues for measles; 24,374 cases were reported in 1975 and this number was reduced to 13,430 in 1980 with only 1,743 reported for the first 5 months of 1981.

The Reagan administration has proposed a 25-percent cut in the funding for the childhood immunization program for fiscal year 1982. I offered an amendment to the reconciliation resolution earlier this year to continue funding for the childhood immunization program at the current level of $24.1 million. Unfortunately, the amendment was defeated on a partisan vote. Childhood immunization is not a partisan issue.

I am pleased that the reconciliation bill that we are considering today assumes funding for the immunization program at a continuing level of $24 million.

Mr. President, I urge my colleagues to study the chart which is reprinted at the conclusion of my remarks and determine the success of the childhood immunization program in their States. There is an opportunity in this program for success if we will only recognize its potential.

I ask that the recent reported cases of childhood communicable diseases from the Center for Disease Control and the table illustrating the number of cases of childhood diseases as well as appropriations for childhood immunization from 1975 to 1981 be printed in the RECORD.

The material follows:

SUMMARY OF MORBIDITY DUE TO SELECTED VACCINE-PREVENTABLE DISEASES[1]

[Reported cases for the week ending June 6, 1981—(week No. 22)]

Area	Measles (Rubeola)					Rubella					Mumps					Pertussis, cumulative	
	This week		5-yr Mean	Cumulative		This week		5-yr mean	Cumulative		This week		5-yr mean	Cumulative			
	1981	1980		1981	1980	1981	1980		1981	1980	1981	1980		1981	1980	1981	1980
United States (except territories)	247	616	1,287	2,000	9,629	94	233	501	1,336	2,466	111	165	464	2,352	5,826	417	454
United States and territories	255	622	1,323	2,187	9,711	94	233	502	1,340	2,477	113	170	482	2,433	5,950	419	461
DHHS region I		19	36	72	598	2	5	29	99	160	4	11	17	112	492	17	7
Connecticut			6	7	19			10	10	12			6	21	89	1	
Maine			11	5	25	1	3	2	33	66	2	10	6	22	267		3
Massachusetts		4	9	54	41	1	1	8	26	45	2		1	35	101	7	4
New Hampshire		13	5	5	288		1	4	30	29		1	0	13	14	6	
Rhode Island			2		2			2		7			4	17	16	3	
Vermont		2	2	1	223			3		1				4	5		
DHHS region II	17	133	204	471	2,070	8	12	112	150	280	14	14	40	265	319	36	88
New Jersey	3	46	19	49	638		1	32	42	61	5	3	8	78	86	2	1
New York	2	22	125	188	553	4	6	73	64	142	6	2	8	66	75	32	75
Puerto Rico	8	5	30	182	67			1	3	10	2	4	17	72	104	2	7
New York City	4	60	29	48	807	4	5	7	41	67	1	5	6	45	52		5
Virgin Islands			0	4	5			0						4	2		
DHHS region III	125	56	160	326	1,266	1	78	52	28	209	25	25	23	366	814	21	12
Delaware			1		1	1			1	1	3	2	2	8	36		1
District of Columbia			1	1						1				2			
Maryland			1	1	37			1	1	49		16	6	59	210	1	1
Pennsylvania	125	29	56	314	957		65	30	4	106	19	2	5	179	451	13	5
Virginia		27	84	3	264		12	16	5	37		1	4	63	46	2	2
West Virginia			17	7	7		1	6	17	15	3	4	7	57	69	5	3
DHHS region IV	18	67	83	293	1,477	9	1	36	125	210	8	14	63	174	1,099	72	97
Alabama			1		17	1		1	1	3			5	12	11		1
Florida	13	14	28	190	309	1	1	13	48	51	3	5	8	64	106	13	15
Georgia	5	28	6	99	669	6		0	42		3			32	1	26	54
Kentucky			21		42	1		2	13	33	1	4	18	28	649	19	9
Mississippi		15	7		80			0		1		4	20	1	43		6
North Carolina		1	3	4	106			10	4	40	1	1	1	11	74	3	5
South Carolina			5		132			1	7	49			0	7	194	6	4
Tenessee		9	13		122			7	10	33			12	19	21	5	3
DHHS region V		204	489	73	2,338	6	58	182	290	654	35	57	213	702	2,256	94	103
Illinois		41	40	20	249	4	10	30	67	141	5	4	23	127	254	20	53
Indiana		4	55	7	79		37	29	97	258	5	5	22	84	87	26	20
Michigan		8	180	27	192		1	59	31	110	12	11	67	266	684	18	8
Minnesota		47	104	3	881		1	2	6	24		1	1	6	10	6	5
Ohio			20	15	154			40		2	2	27	53	107	983	15	14
Wisconsin		104	90	1	783	2	9	23	89	119	11	9	47	112	238	9	3
DHHS region VI	68	48	31	685	853	15	3	10	114	92	11	7	36	149	199	40	47
Arkansas			0		13				1	3	1	1	1	1	19	1	6
Louisiana		4	4		11			2	9	8				3	57	4	4
New Mexico		2	1	5	11			0	2	5						4	
Oklahoma		40	9	6	711		1	0		2			8			1	9
Texas	68	2	17	674	107	15	2	7	102	74	10	6	27	145	123	30	28
DHHS region VII		2	135	4	224		7	16	65	131	1	8	37	163	214	15	29
Iowa			62	1	20			3	3	3	1	1	12	39	34	2	
Kansas		2	56	1	63		6	12	58	92		6	16	94	77	4	11
Missouri			17	1	61		1	1	3	36		1	8	27	94	8	16
Nebraska				1	80			0	1				1	3	9	1	2
DHHS region VIII		7	55	5	56		2	7	33	62	1	5	7	57	109	19	20
Colorado		5	8	5	14			1	26	7	1	2	5	39	30	11	15
Montana			7		1		2	4	3	31		3	1	5	48	6	3
North Dakota			2					1		5			1		4		1
South Dakota								1						1	1		
Utah		2	37		41			0	3	19				11	26	2	
Wyoming			0						1					1			1
DHHS region IX	27	75	90	253	671	42	55	45	351	560	12	17	30	271	262	65	39
Arizona		30	10	3	163	2	4	7	13	14	2	1	2	14	21	1	4
California	27	40	73	237	486	40	50	36	326	540	5	13	22	227	208	61	35
Guam			0	1	4								0	1	8		
Hawaii			1	2	5			0	5	1	5	1	1	14	6	2	
Nevada		4	2	10	7		1	2	6	4		1	3	11	9	1	
Trust territory		1	5		6				1	1		1	1	4	10		

Footnote at end of table.

SUMMARY OF MORBIDITY DUE TO SELECTED VACCINE-PREVENTABLE DISEASES[1]—Continued

[Reported cases for the week ending June 6, 1981—(week No. 22)]—Continued

Area	Measles (Rubeola)					Rubella					Mumps					Pertussis, cumulative	
	This week		5-yr	Cumulative		This week		5-yr	Cumulative		This week		5-yr	Cumulative			
	1981	1980	Mean	1981	1980	1981	1980	mean	1981	1980	1981	1980	mean	1981	1980	1981	1980
DHHS region X		11	39	5	158	11	12	13	85	119	2	12	17	174	186	40	19
Alaska					5					2			0	4	10		1
Idaho			5	1				2	2	16		1	1	4	14	2	
Oregon			16	3		11	5	7	30	42		5	5	47	48	2	1
Washington		11	18	1	153		7	4	53	59	2	6	11	119	114	36	17

[1] Note: Summarized from the morbidity and mortality weekly reports. 5-yr mean computed for week No. 22, 1976–80 (except trust territory—began reporting 1978).

SUMMARY OF MORBIDITY DUE TO SELECTED VACCINE-PREVENTABLE DISEASES[1]

[Reported cases for the week ending June 6, 1981 (week No. 22)]

Area	Diphtheria					Tetanus					Polio, total					Polio, paralytic, cumulative	
	This week		Cumulative			This week		Cumulative			This week		Cumulative				
	1981	1980	1981	1980	Mean	1981	1980	1981	1980	Mean	1981	1980	1981	1980	Mean	1981	1980
United States (except territories)		3	2	110		1	19	24	22				5	3		4	
United States and territories		3	2	110		3	19	30	30				5	3		4	
DHHS region I						1	1	1						0			
Connecticut						1	1	1						0			
Maine																	
Massachusetts																	
New Hampshire																	
Rhode Island																	
Vermont																	
DHHS region II			1	2		2	1	7	8				1	0			
New Jersey									1				1			1	
New York								1									
Puerto Rico						2		6	6								
New York City			1	2			1		0					0			
Virgin Islands									1								
DHHS region III								3	1								
Delaware																	
District of Columbia																	
Maryland									1								
Pennsylvania								1									
Virginia								1	1								
West Virginia								1									
DHHS region IV		1					3	6	8					0			
Alabama							1	1									
Florida		1					1	1	5								
Georgia																	
Kentucky								1	1								
Mississippi									0								
North Carolina									1								
South Carolina							1	2	0								
Tennessee								1	1					0			
DHHS region V			1	1			5	2	1					1			
Illinois				0					1								
Indiana														0			
Michigan			1	0			3		0					0			
Minnesota							1	1						0			
Ohio						1		1									
Wisconsin									1								
DHHS region VI				2			3	4	5				1			1	
Arkansas							1	1	0								
Lousiana								1	2				1			1	
New Mexico				1													
Oklahoma							1										
Texas				1			1	2	3								
DHHS region VII				1			1	1	1								
Iowa																	
Kansas								1	1								
Missouri				1			1		1								
Nebraska																	
DHHS region VIII		1		5					1				1	0			
Colorado				2									1				
Montana		1															
North Dakota				2					0					0			
South Dakota				1													
Utah																	
Wyoming									0								

Footnote at end of table.

SUMMARY OF MORBIDITY DUE TO SELECTED VACCINE-PREVENTABLE DISEASES[1]—Continued

[Reported cases for the week ending June 6, 1981 (week No. 22)]

Area	Diphtheria					Tetanus					Polio, total					Polio, paralytic, cumulative	
	This week		Cumulative			This week		Cumulative			This week		Cumulative				
	1981	1980	1981	1980	Mean	1981	1980	1981	1980	Mean	1981	1980	1981	1980	Mean	1981	1980
DHHS region IX					6			5	6	3				1	1		1
Arizona					5			1		0					0		
California					1			4	6	2				1	1		1
Guam																	
Hawaii																	
Nevada																	
Trust territory																	
DHHS region X			1		95					1				1			1
Alaska			1		2												
Idaho										0							
Oregon										0				1			1
Washington					93												

[1] Note: summarized from the morbidity and mortality weekly reports. 3-yr mean computed from weeks 1 to 22, 1978–80 (except trust territory—began reporting 1978).

	1975	1976	1977	1978	1979	1980	1981
Number of cases of childhood diseases from 1975 to 1981:							
Rubella	16,652	12,491	20,395	18,269	11,795	3,837	599
Measles	24,374	41,126	57,345	26,871	13,597	13,430	610
Tetanus	102	75	87	86	81	74	10
Mumps	59,647	38,492	21,436	16,817	14,225	8,531	1,168
Pertussis	1,738	1,010	2,177	2,063	1,623	1,651	22
Diphtheria	307	128	84	76	59	5	3
Polio	8	14	18	15	34	9	0
Appropriations for childhood immunization (millions of dollars)	6.2	6.4	17	23	35	24.5	24.1

IS IT TIME TO GET OFF THE BUS?

● Mr. JOHNSTON. Mr. President, on the editorial page of this morning's Washington Post, columnist William Raspberry concisely and eloquently states the points which should be emphasized during the debates on the Helms and the Johnston amendments to the Department of Justice appropriation authorization bill for fiscal year 1982:

Busing for school desegregation has nearly always cost more in political, financial and emotional capital than it was worth in educational gains for black children.

William Raspberry is a nationally syndicated columnist who happens to be black. Because he is black, however, I believe he is uniquely sensitive to the historical treatment of blacks in America. His historical view is particularly illuminating because of its distinction between the goals which were achieved in the seminal Brown decision and current goals which are generally perceived to be those of Federal courts in school desegregation cases:

Ordinary blacks have understood, even if the black leadership has not, the difference between the racial segregation that was outlawed in 1954 and the active integration of school that later came to be the trend. . . . What they wanted then was precisely an end to racially based busing beyond the nearest neighborhood school.

Although I may disagree with Mr. Raspberry's conclusions about the consequences of congressional efforts to limit or abolish busing as a remedy in school desegregation cases, I believe his analysis of the problems generated by forced busing are accurate and merit close scrutiny by the Congress as legislative efforts continue in this area.

I ask that Mr. Raspberry's column be printed in the RECORD.

The article follows:

IS IT TIME TO GET OFF THE BUS?

(By William Raspberry)

It's too soon to know whether the House-passed anti-busing legislation will also clear the Senate. But the fate of that mischievous piece of legislation (which says the Justice Department may not "bring or maintain" any action to require the busing of students beyond the closest neighborhood school) may be more harmful to presidential prerogatives than to the education of black children.

Busing for school desegregation has nearly always cost more in political, financial and emotional capital than it was worth in educational gains for black children. It is an issue that has unified much of white America and justified some of its baser instincts without similarly uniting black America, which never really was that hot for busing. It has torn communities apart for precious little educational gain, and it has nearly bankrupted the NAACP.

An occasional study here and there has found some slight gains in black achievement as a result of busing, but more typically even the optimistic, pro-busing studies can claim little more than that white children aren't hurt by busing.

And for all the hoopla over the question of "forced busing," there has, in fact, been relatively little of it. According to the U.S. Commission on Civil Rights, only 3.6 percent of the children who ride buses to school do so for purposes of integration. For the overwhelming majority, buses are just a way of getting to school.

Most of the impetus for busing has come from white political activists and the civil rights establishment, most notably the NAACP and the NAACP Legal Defense Fund. It has interested rank-and-file blacks primarily on the basis that opposition to busing has been seen as evidence of continuing white racism. In other words, blacks have tended to be less for busing than against anti-busing whites.

Ordinary blacks have understood, even if the black leadership has not, the difference between the racial segregation that was outlawed in 1954 and the active integration of schools that later came to be the trend. Indeed, the anti-busing legislation attached earlier this month to the Justice Department authorization bill would have been greeted with cheers from black America back in the mid-1950s. What they wanted then was precisely an end to racially based busing beyond the nearest neighborhood school.

Not only were the all-black schools to which black children were then bused generally inferior and less well-financed than the white schools they passed every morning, there was also the psychological damage done to black children by a policy that said, in effect, that they weren't good enough to attend the nearby white schools. The psychological damage inflicted in more recent years came from the implication that the problem with black schools was that they were black; that the way to cure what ailed black children was to see to it that they had white schoolmates.

Nobody ever put it quite that way, of course. The favored formulation was that racial isolation was harmful to black children (though, curiously, not for white children) quite apart from the quality of facilities, the financing and the teaching at black schools. Still, the suggestion was that black children needed white schoolmates.

What black children have needed all along is quality education, and that, as the District of Columbia is learning, can be had in black schools as well as in integrated ones. This is not to say that rank-and-file blacks have favored segregation. They haven't. They have merely resisted the implication that schools whose students are black because the school neighborhoods are black are, on that account, inferior.

Perhaps the clearest illustration of this feeling is the attitude of blacks toward historically black colleges and universities. Blacks who would wage bitter war against a

policy of officially segregated colleges have argued with equal fervor against government policies that would eliminate black colleges. It is racist to say that black Virginians may not attend Old Dominion University. But is it right to say that Norfolk State University must be merged out of existence as a black-oriented institution?

The arguments in favor of the traditionally black colleges stand in interesting contrast with those made on behalf of public school integration. In the case of the colleges, the argument is: We have our own traditions and concerns; we understand and care about black students, and we know how to teach them. Just give us the resources and leave us alone. But when it comes to the public schools, the argument is that black children need not just first-class resources and facilities but also white schoolmates and teachers. Some of us never bought it.

There are areas where racial segregation remains a problem, and the anti-busing legislation will harm federal efforts to correct it. But it may well be that the major mischief of the anti-busing rider is that it weakens the authority of the president to enforce the law of the land.

As President Carter said when he vetoed a bill containing a similar rider: "The real issue is whether it is proper for the Congress to prevent the president from carrying out his constitutional responsibility."●

PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is available to the full Senate, I ask to have printed in the RECORD at this point the notifications which have been received. The classified annexes referred to in several of the covering letters are available to Senators in the office of the Foreign Relations Committee, room 4229 Dirksen Building.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., May 26, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 81-55, concerning the Department of the Air Force's proposed Letter of Offer to Venezuela for defense articles and services estimated to cost $40 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERICH F. VON MARBOD,
Acting Director.

[Transmittal No. 81-55]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Venezuela.

(ii) Total estimated value:

	(Million)
Major Defense Equipment *----------	$ 0
Other ----------	40
Total ----------	40

* As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of articles or services offered: Two C-130H-30 aircraft.

(iv) Military department: Air Force (SHA).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: none.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(viii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: May 26, 1981.

POLICY JUSTIFICATION

VENEZUELA—C-130H-30 AIRCRAFT

The Government of Venezuela has requested the purchase of two C-130H-30 transport aircraft at an estimated cost of $40 million.

This sale will contribute to the foreign policy objectives of the United States by improving the defense capabilities of a friendly democratic country which is a continuing force for moderation and progress in Latin America.

It is fully consistent with the foreign policy of the U.S. Government to provide Venezuela with adequate defense items to maintain its security and promote regional stability. Venezuela requires C-130 aircraft to augment its existing fleet of transport aircraft, many of which are obsolescent. No significant operational or maintenance problems are anticipated.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Lockheed-Georgia Company of Marietta, Georgia.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Venezuela.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., June 9, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 81-50 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter of Offer to the Federal Republic of Germany for defense articles and services estimated to cost $27 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 81-50]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Germany.

(ii) Total Estimated Value:

	(Million)
Major defense equipment*----------	$25
Other ----------	2
Total ----------	27

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Thirty-five thousand 155mm projectiles with fuzes.

(iv) Military Department: Army (WAI).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Included in report for quarter ending March 31, 1981.

(viii) Date Report Delivered to Congress: June 9, 1981.

POLICY JUSTIFICATION

FEDERAL REPUBLIC OF GERMANY—155MM AMMUNITION

The Government of the Federal Republic of Germany has requested the purchase of 35,000 155mm projectiles with fuzes at an estimated cost of $27 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Germany; furthering NATO rationalization, standardization, and interoperability; and enhancing the defenses of the Western Alliance.

This purchase represents an ammunition requirement in support of the German inventory of 586 M109G howitzers.

The prime contractors will be the Day and Zimmerman Corporation of Texarkana, Texas, and Parson, Kansas, (projectiles) and Bulova Systems and Instruments Company of Valley Stream, New York, and Hamilton Technology Corporation of Lancaster, Pennsylvania (fuzes).

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Germany.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., June 15, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 85-45 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter of Offer to the Netherlands for defense articles and services estimated to cost $56 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 81-45]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: The Netherlands.

(ii) Total Estimated Value:

	Million
Major Defense Equipment*----------	$47
Other ----------	9
Total ----------	56

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Four hundred sixty-four STINGER Aerial Intercept Guided Missile Systems and 182 STINGER missile rounds complete with ancillary items and support equipment.

(iv) Military Department: Army (VLH).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Included in report for quarter ending 31 March 1981.

(viii) Date Report Delivered to Congress: June 15, 1981.

POLICY JUSTIFICATION

NETHERLANDS—STINGER AERIAL INTERCEPT GUIDED MISSILE SYSTEMS AND STINGER MISSILE ROUNDS

The Government of the Netherlands has requested the purchase of 464 STINGER Aerial Intercept Guided Missile Systems and 182 STINGER missile rounds complete with ancillary items and support equipment at an estimated cost of $65 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of the Netherlands; furthering NATO rationalization, standardization, and interoperability; and enhancing the defenses of the Western Alliance.

The purchase of the STINGER Aerial Intercept Guided Missile Systems and STINGER missile rounds will strongly increase the Netherlands ability to protect critical lines of communication for the vital flow of supplies to NATO's Central Region. The Netherlands will have no difficulty in absorbing these systems. The effect of this sale will be to help improve the relative military capability of the Netherlands and NATO.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the General Dynamics Corporation of Pomona, California.

Implementation of this sale will require the assignment of one U.S. Government representative to the Netherlands in 1982.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., June 16, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 81-54, concerning the Department of the Army's proposed Letter of Offer to Kuwait for defense articles and services estimated to cost $150 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 81-54]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Kuwait.

(ii) Total Estimated Value:

	(*Million*)
Major Defense Equipment*	$17
Other	133
Total	150

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Follow-on support for two years for Improved-HAWK and related air defense equipment, including 60 Improved-HAWK missiles, spares, technical assistance, training, and one AN/TRC-145 radio set.

(iv) Military Department: Army (UGA).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Included in report for quarter ending March 31, 1981.

(viii) Date Report Delivered to Congress: June 16, 1981.

POLICY JUSTIFICATION

KUWAIT—I-HAWK MISSILES, SPARES, AND SUPPORT

The Government of Kuwait has requested follow-on support for two years for Improved-HAWK and related air defense equipment, including 60 Improved-HAWK missiles, spares, technical assistance, training, and one AN/TRC-145 radio set for the Kuwait Air Defense Program at an estimated cost of $150 million.

This sale is consistent with the stated U.S. policy of assisting other nations to provide for their own self-defense by allowing the transfer of reasonable amounts of defense articles and services. It will demonstrate the continuing willingness of the United States to support the Kuwaiti effort to improve the security of the country.

The articles and services being offered are a continuation of support which has been provided to the Government of Kuwait since its acquisition of the HAWK air defense system in 1975. This case provides essential support for the 1982-1983 timeframe and reflects a phase down of contractor and U.S. Government personnel with the goal of reaching a long-term minimal support level by 1984.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractors will be Raytheon Company of Andover, Massachusetts; Science Applications, Incorporated of LaJolla, California; Litton Industries of Van Nuys, California; and ITT Gilfillan of Van Nuys, California.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Kuwait.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., June 16, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 81-56 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter of Offer to Canada for defense articles and services estimated to cost $60 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 81-56]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Canada.

(ii) Total Estimated Value:

	(*Million*)
Major Defense Equipment*	$55
Other	5
Total	60

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Two hundred MK 46 MOD 5 Torpedoes with spare parts.

(iv) Military Department: Navy (AHO).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Included in report for quarter ending March 31, 1981.

(viii) Date Report Delivered to Congress: June 16, 1981.

POLICY JUSTIFICATION

CANADA—MK 46 MOD 5 TORPEDOES

The Government of Canada has requested the purchase of 200 MK 46 MOD 5 Torpedoes with spare parts at an estimated cost of $60 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Canada; furthering NATO rationalization, standardization, and interoperability; and enhancing the defenses of the Western Alliance.

The Government of Canada has a requirement for this weapon system in order to upgrade its anti-submarine warfare (ASW) capabilities in support of NATO and in defense of its own coastal waters. Upgrading of the Canadian capabilities will also relieve some of the ASW burden of the U.S. Navy. Canada will have no difficulty in absorbing this weapon system.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Honeywell Corporation of Hopkins, Minnesota.

Implementation of this sale will not require the assignment of any additional U.S. Governmental or contractor personnel to Canada.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., June 16, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 81-57, concerning the Department of the Air Force's proposed Letter of Offer to the North Atlantic Treaty Organization for defense articles and services estimated to cost in excess of $25 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 81-57]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: North Atlantic Treaty Organization (NATO).

(ii) Total Estimated Value: Over $25 million.

(iii) Description of Articles or Services Offered: Launch, launch services, and on-orbit test and evaluation for the NATO Satellite Communication IV Program.

(iv) Military Department: Air Force (I99).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained

in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: June 16, 1981.

POLICY JUSTIFICATION

NORTH ATLANTIC TREATY ORGANIZATION—SERVICES FOR SATELLITE COMMUNICATION IV PROGRAM

NATO has requested the purchase of launch, launch services, and on-orbit test and evaluation for the NATO Satellite Communication IV Program. Program costs will be determined by the number of satellites NATO wishes to launch. NATO has not yet decided how many or what type of satellites to launch. Nevertheless, if only one satellite is launched, the cost will exceed $25 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of NATO; furthering NATO rationalization, standardization, and interoperability; and enhancing the defenses of the Western Alliance.

This sale will be vitally essential to both NATO and the United States. Without this program NATO's command and control ability will be adversely impacted.

The prime contractor for the satellites will be determined by international competitive bid and selected by NATO in 1982. The launch vehicle and associated services will be procured by the National Aeronautics and Space Administration. On-orbit test and evaluation will be provided by the USAF.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to NATO Headquarters.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 16, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 81-58 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter of Offer to Pakistan for defense articles and services estimated to cost $24 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

ERNEST GRAVES,
Director.

[Transmittal No. 81-58]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Pakistan.

(ii) Total Estimated Value:

	(*Million*)
Major defense equipment*	$23
Other	1
Total	24

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Twenty-four TOW missile launchers and 2,000 I-TOW anti-tank missiles with associated support equipment and services.

(iv) Military Department: Army (UZN).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Included in report for quarter ending March 31, 1981.

(viii) Date Report Delivered to Congress: June 16, 1981.

POLICY JUSTIFICATION

PAKISTAN—TOW LAUNCHERS AND IMPROVED TOW MISSILES

The Government of Pakistan has requested the purchase of 24 TOW missile launchers and 2,000 I-TOW anti-tank missiles with associated support equipment and services at an estimated cost of $24 million.

This proposed sale will contribute to the foreign policy objectives of the United States by enabling Pakistan to increase its capability to provide for its own security and defense.

The Government of Pakistan will use this I-TOW purchase along with previously provided TOW missiles and equipment as part of the overall force modernization and expansion plan to meet the increased threat resulting from the Soviet intervention in Afghanistan.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Hughes Aircraft Corporation of Culver City, California.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Pakistan.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that 17 such notifications have been received. Interested Senators may inquire as to the details of these preliminary notifications at the office of the Committee on Foreign Relations, room 4229, Dirksen Building.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., May 22, 1981.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERICH F. VON MARBOD,
Acting Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., May 22, 1981.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a NATO country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERICH F. VON MARBOD,
Acting Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., May 22, 1981.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a South Asian country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERICH F. VON MARBOD,
Acting Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washingon, D.C., June 8, 1981.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., June 8, 1981.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At

the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES, *Director.*

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., June 8, 1981.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., June 8, 1981.

Dr. HANS BINNENDIJK,
Professional Staff Member,
Committee on Foreign Relations,
Washington, D.C.
Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a North African country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., June 8, 1981.

Dr. HANS BINNENDIJK,
Professional Staff Member,
Committee on Foreign Relations,
Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Northeast Asian country tentatively estimated to cost in excess of $25 million.

Since the proposed transfer involves a manufacturing license agreement, it is the intention of the Department of State to forward a notification to Congress pursuant to Section 36(d) of the Arms Export Control Act once the necessary information is available.

Sincerely,

ERNEST GRAVES,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., June 9, 1981.

Dr. HANS BINNENDIJK,
Professional Staff Member,
Committee on Foreign Relations,
Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a European country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., June 9, 1981.

Dr. HANS BINNENDIJK,
Professional Staff Member,
Committee on Foreign Relations,
Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Director.

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., June 9, 1981.

Dr. HANS BINNENDIJK,
Professional Staff Member,
Committee on Foreign Relations,
Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a European country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Director.

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., June 9, 1981.

Dr. HANS BINNENDIJK,
Professional Staff Member,
Committee on Foreign Relations,
Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Director.

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., June 9, 1981.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Director.

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., June 9, 1981.

Dr. HANS BINNENDIJK,
Professional Staff Member,
Committee on Foreign Relations,
Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., June 23, 1981.

Dr. HANS BINNENDIJK,
Professional Staff Member,
Committee on Foreign Relations,
Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., June 23, 1981.

Dr. HANS BINNENDIJK,
Professional Staff Member,
Committee on Foreign Relations,
Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., June 23, 1981.

Dr. HANS BINNENDIJK,
Professional Staff Member,
Committee on Foreign Relations,
Washington, D.C.

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Sincerely,

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Director.●

REPORT NO. 97-83 ON INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT

● Mr. PERCY. On May 15, the Senate Foreign Relations Committee filed a report (No. 97-83) on the International Security and Development Cooperation Act of 1981. During the printing process, errors were made that need to be corrected. Because of the cost involved in a star print, however, the Senate Foreign Relations Committee will not ask for such a star print. Instead, I attach hereto an errata sheet for the RECORD.

The errata sheet follows:

ERRATA FOR REPORT NO. 97-83 (INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1981)

Page 12, line 1 should read: Repealing prohibitions and covert aid to Angola if the Presi-

Page 15, second line below table should read: SDAF capitalization at a level of about $2.1 billion in six years, or

Page 23, line 5 should read: tivities at $2,950 in 1979 U.S. dollars (more than $3,000 in 1981 U.S.

Page 48, line 15 should read: International and AID are overcoming problems in their initial relations and

Page 67, line 10 should read: *Section 504—Issuing authority, direct investment fund and reserves*

Page 99, second line of paragraph (2) should read: *unless* the President states in the certification submitted pursuant

Page 107, last line of paragraph (9) should read: sale [; and].

Page 115, fourth line from the bottom should read: *(1) $216,000,000 for the fiscal year 1982 to carry out subsection*

Page 121, third line of Sec. 214(c) should read: 1981] *$12,000,000 for the fiscal year 1982,* which are authorized to

Page 123, line 19 should read: lars] *$2,950 in 1979 United States dollars*[.]*; and*

Page 123, Sec. 233(b), lines three and four should read: tors ("the Board") which shall consist of [eleven] *fifteen* Directors, including the Chairman, with [six] *eight* Directors constituting a

Page 125, last two lines of paragraph (b) should read: this subsection] *permitted to have outstanding under section 235(a)(2)* shall be issued to a single investor.

On page 125, sixth line of last undesignated paragraph should read: one year, and the amount of such reinsurance shall not] in the ag-

Page 125, 12th line of last undesignated paragraph should read: whether first loss or otherwise [, and the Corporation shall endeav-

Page 125, last line of last undesignated paragraph should read: ble.]

Page 129, 1st line of Sec. 240A, should read: [SEC. 240A. REPORTS TO THE CONGRESS.—[(a)] After the end of

Page 130, 3d line of Sec. 301(f) should read: *International Food Policy Research Institute* and is authorized to use

Page 136, 1st line of Sec. 504 should read: SEC. 504. AUTHORIZATION.—[(a)(1) There are authorized to be appro-

Page 144, last line of paragraph (p) should read: out this subsection.]

Page 144, 3d line of Sec. 542 should read: [$34,000,0000 for the fiscal year 1981.] $41,700,000 fiscal year

Page 145, Sec. 601(e)(2) should read: [(2) In order to provide the Congress with information to assist it

Page 148, 1st line of last paragraph should read: *Sec. 620E. Assistance to Pakistan.—(a) The Congress recognizes*

Page 156, 2d and 3d lines of Sec. 661 should read: $4,000,000 of the funds made available for the fiscal year 1981 for purposes of this Act] to work

Page 165, last line of Sec. 504(b) should read: the human rights practices of foreign governments.]

Page 165, Sec. 508(b) was inadvertently left out.

ACCELERATED LOAN REPAYMENTS

SEC. 508. (a) * * *

[(b) The annual reports on foreign assistance which are submitted to the Congress in 1980 and 1981 pursuant to section 634 of the Foreign Assistance Act of 1961 shall describe the efforts made to negotiate accelerated loan repayments in accordance with the amendment made by subsection (a) of this section.]●

PAWTUCKET RED SOX

● Mr. CHAFEE. Mr. President, I am proud today to tell you about some world records that were set yesterday in Pawtucket, R.I. Though there is no joy in Mudville because major league baseball players are on strike, there was joy in Pawtucket last night as the longest game in professional baseball's history put that city on the map.

As Catfish Hunter and Fernando Valenzuela walked the baseball picket lines, the Pawtucket Red Sox beat the Rochester Red Wings by 3 to 2 in their minor league game that lasted 33 innings.

The world's longest baseball game began in April, when it was called after 32 innings and 8 hours, 7 minutes of play, at 4:07 a.m. It was continued last night at McCoy Stadium, a Pawtucket landmark, and was over in just 18 minutes.

Dave Koza of the Pawtucket Red Sox played a game that Reggie Jackson would envy, hitting a single with the bases loaded to bring in the winning run. And before it was all over, several records for professional baseball were set, among them the most at bats by two teams, 219; the most strikeouts against one team, 34 on Rochester, and against both teams, 60; and the most assists for both teams, 82.

As the major league players continue their strike, let us recognize where some talent and steadfast endurance lies: In McCoy Stadium, home of the Pawtucket Red Sox.

Today I am truly proud to represent this record-setting baseball club and wish to cheer them on to their next victory and their next bout of record-smashing.●

CZECHOSLOVAKIAN CLAIMS SETTLEMENT BILL

● Mr. DOLE. Mr. President, I call the Senate's attention to S. 754, which the Senate Finance Committee has unanimously ordered reported. It deals with a matter that should have been fairly resolved three decades ago—namely, compensation for over 2,600 American citizens whose property was confiscated by the Communist Government of Czechoslovakia in 1948. S. 754 provides an equitable remedy for this long-standing denial of justice to our fellow citizens.

The State Department has negotiated unsuccessfully with Czechoslovakia since 1948. The most recent round of negotiations, held in mid-June, produced some improvement in the Czech position, but no offer has emerged which could be called just compensation for the Americans, many of whom now are quite elderly.

It is important that the Senate understand several basic facts about the history of this matter and why the Finance Committee considers enactment of S. 754 imperative unless the Government of Czechoslovakia provides fair, just, compensatory settlement under international law without further delay:

In 1948, the Communists seized power in Czechoslovakia and soon expropriated all U.S. citizen properties in that nation.

In 1958, following action by Congress, the U.S. Foreign Claims Settlement Commission conducted an investigation of the U.S. claims, and rendered awards in the amount of $113 million.

Subsequently, and also pursuant to statute, the U.S. seized and sold steel mill equipment belonging to Czechoslovakia, and distributed the proceeds—about $8.5 million—pro rata to the award-holders. This left a balance owing, in 1958, of $105 million.

There is in the United States approximately 8½ tons of gold belonging to Czechoslovakia. This gold, taken by the U.S. Army from Nazi Germany, was awarded to Czechoslovakia by a tripartite international commission following World War II. President Truman blocked this gold in response to the expropriation of American-owned property by the Czechs in 1948. Congress, in 1974, enacted a statute which provided that the United States shall continue to block the gold until an adequate settlement of the U.S. claims is obtained—a settlement which must be approved by Congress. The gold which we control is worth two to three times the value of any settlement proposal tendered by the Czech Government to date.

There the matter stands: A 33-year impasse, denying justice to over 2,600 Americans whose properties have been used throughout that period by Czechoslovakia without any just compensation to the owners as required by international law; gold, in an amount sufficient to pay the U.S. citizens involved, but heretofore denied either to Czechoslovakia or to the U.S. award-holders, blocked in the Federal Reserve Bank in New York; and a desultory series of negotiations, none of which has produced an offer that approached adequate compensation. It is a sorry story.

Mr. President, it is in the interest of all parties involved in this impasse—the U.S. award-holders, the U.S. Government, which represents their interests in

the negotiations, and the Czech Government as well, which faces an insuperable statutory bar to both the return of its gold and to its eligibility for most-favored nation trade status under the Trade Act of 1974 until a settlement of the claims is approved by Congress—that this matter be resolved promptly.

Without getting into specifics, three things should be clear as the final round of negotiations now underway draws to a conclusion at the end of June:

Congress refrained from acting on legislation similar to S. 754 last year, upon the request of the State Department for additional time to negotiate. A year has passed since that time. The patience of the Congress has limits, and in my judgment, those limits have been reached.

Though the Iranian settlement negotiated under the most constraining circumstances illustrates that a fair settlement should provide for full payment of U.S. claims with interest, the United States has, on occasion, settled claims of its citizens against foreign governments for less than their full amount. Two factors have led to such a result: The absence of sufficient foreign-owned assets within American control, which might be used to satisfy the claims; and/or the existence of some overriding political or economic interest in settling the claims and returning to normal relations for the benefit of the United States.

There does not appear to be any overriding national interest that requires us to ask these Americans to settle for less than justice, in order that we might consider granting favorable trade terms to Czechoslovakia.

The remedy proposed by S. 754 is lawful and more than reasonable. Rather than simply liquidating the gold and distributing the proceeds to satisfy American claims (similar to what was done with the Czech steel mill equipment in 1958), S. 754 provides for investment of the gold's proceeds, repayment of American claims from investment interest, and eventual return of the gold's value to Czechoslovakia. Everyone would be made whole under this legislative solution, which a member of the Finance Committee—a former Federal judge—described when our committee approved the bill this past May as "Solomon-like" and as "a perfect solution to an impossible impasse."

Mr. President, it is my belief that if an adequate settlement of this matter is not achieved during this month, the Congress should move swiftly, and with broad bipartisan support, to enact S. 754.●

ORDER FOR RECESS UNTIL 8:30 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. BAKER. Mr. President, I inquire of the Chair whether there are special orders for the recognition of Senators tomorrow.

The PRESIDING OFFICER. There are not.

Mr. BAKER. I ask unanimous consent that the Senator from Michigan (Mr. LEVIN) be recognized tomorrow morning for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I ask unanimous consent that the time for the two leaders under the standing order be reduced to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that there be a special order for the recognition of the distinguished minority leader for not to exceed 15 minutes, to follow the recognition of the Senator from Michigan.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BAKER. Mr. President, shortly we will recess until 8:30 tomorrow morning.

After the recognition of Senators under the special orders and the recognition of the two leaders under the standing order, there will be a brief period tomorrow morning for the transaction of routine morning business.

At 9 o'clock or shortly thereafter, the Senate should resume consideration of the pending measure, the budget reconciliation bill. The amendment pending at that time, I believe, will be the Schmitt amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I inquire of the Chair: After the disposition of the Schmitt amendment, under the order previously granted, will the Cranston amendment then be presented to the Senate?

The PRESIDING OFFICER. The Chair is not aware of an order to that effect.

Mr. BAKER. Mr. President, I ask unanimous consent that it be the order in sequence for the consideration of amendments tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BAKER. I yield to the minority leader.

Mr. ROBERT C. BYRD. Mr. President, so that in the future we know what the procedure would be where we have an amendment pending, amendment A, temporarily laid aside for amendment B, temporarily lay that aside for amendment C, would it not be the normal procedure that when we go back on that measure, as we will tomorrow, amendment B, or Mr. SCHMITT's amendment, is still before the Senate; that when that is disposed of, amendment A, Mr. CRANSTON's amendment, which was temporarily laid aside in order that Mr. SCHMITT's amendment would come up, would normally come back down, after which my amendment, which was temporarily laid aside in order that Mr. CRANSTON's amendment could be called up, would then come back before the Senate?

So that no order really is needed. Am I not correct?

The PRESIDING OFFICER. The amendment of the Senator from West Virginia was the amendment suspended for consideration of the amendment by the Senator from New Mexico. It is that amendment which would automatically recur.

Mr. ROBERT C. BYRD. I beg the Chair's pardon. I am told that Mr. CRANSTON's amendment was never laid before the Senate.

Mr. BAKER. Mr. President, to recite the sequence tomorrow, am I correct that, under the present state of affairs, when the Senate resumes consideration of this bill, the Schmitt amendment will be the pending amendment; that after the disposition of the Schmitt amendment, the Cranston amendment will be the next amendment to be considered?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I thank the Chair.

RECESS UNTIL 8:30 A.M. TOMORROW

Mr. BAKER. Mr. President, I move, in accordance with the order previously entered, that the Senate now stand in recess until 8:30 tomorrow morning.

The motion was agreed to; and at 6:36 p.m. the Senate recessed until tomorrow, Thursday, June 25, 1981, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 24, 1981:

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Robert George Yerks [redacted] (age 52), Army of the United States (major general, U.S. Army).

The following-named officer to be assigned to a position of importance and responsibility designated by the President under the provisions of title 10, United States Code, section 3066(a) in grade as follows:

To be lieutenant general

Maj. Gen. Maxwell Reid Thurman, [redacted] U.S. Army.

IN THE NAVY

The following-named officer, having been designated for command and other duties of great importance and responsibility in the grade of admiral within the contemplation of title 10, United States Code, section 5231, for appointment while so serving as follows:

To be admiral

Vice Adm. John G. Williams, Jr., U.S. Navy.

The following-named officer, having been designated for command and other duties of great importance and responsibility in the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment while so serving as follows:

To be vice admiral

Rear Adm. Eugene A. Grinstead, Jr., Supply Corps, U.S. Navy.

HOUSE OF REPRESENTATIVES—*Wednesday, June 24, 1981*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

The Lord loves those who hate evil; He preserves the lives of His saints; He delivers them from the hand of the wicked.—Psalms 97: 10.

O Lord God, who protects and nurtures your people from generation to generation, grant us true security and comfort from all who would gain advantage by evil means or wicked desires. Teach us again, as by Your prophets of old, that help in our world comes not in the abundance of weapons, nor through the threats or boasts of temporal power, but rather through trust in Your holy word and through deeds of righteousness and justice. Lead us, O Lord, in the paths of peace where the assurance of Your presence brings lasting joy and eternal bliss. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. WALKER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 344, nays 16, answered "present" 1, not voting 70, as follows:

[Roll No. 96]

YEAS—344

Addabbo	Bafalis	Bevill	Breaux	Gibbons	McClory	Siljander	Stump	White
Akaka	Bailey (PA)	Biaggi	Brinkley	Gilman	McCloskey	Simon	Swift	Whitehurst
Albosta	Barnard	Bingham	Brodhead	Gingrich	McCollum	Skelton	Synar	Whittaker
Alexander	Barnes	Blanchard	Brooks	Ginn	McCurdy	Smith (AL)	Tauke	Whitten
Anderson	Beard	Bliley	Broomfield	Glickman	McDade	Smith (IA)	Tauzin	Wilson
Annunzio	Bedell	Boggs	Brown (CA)	Goldwater	McEwen	Smith (NE)	Taylor	Winn
Anthony	Beilenson	Boland	Brown (CO)	Gonzalez	McGrath	Smith (NJ)	Thomas	Wirth
Archer	Benjamin	Boner	Broyhill	Gore	McHugh	Smith (OR)	Traxler	Wolf
Ashbrook	Bennett	Bonior	Burgener	Gradison	McKinney	Snowe	Trible	Wolpe
Atkinson	Bereuter	Bonker	Burton, John	Green	Mica	Snyder	Udall	Wright
AuCoin	Bethune	Bouquard	Burton, Phillip	Gregg	Michel	Solomon	Vento	Wyden
			Butler	Grisham	Miller (CA)	Spence	Volkmer	Wylie
			Campbell	Guarini	Miller (OH)	St Germain	Walgren	Yates
			Carney	Gunderson	Mineta	Stanton	Washington	Yatron
			Chappell	Hagedorn	Minish	Staton	Watkins	Young (FL)
			Cheney	Hall (OH)	Mitchell (NY)	Stenholm	Weaver	Young (MO)
			Clausen	Hall, Sam	Moakley	Stokes	Weber (MN)	Zablocki
			Clinger	Hamilton	Molinari	Stratton	Weber (OH)	Zeferetti
			Coats	Hammerschmidt	Mollohan	Studds	Weiss	
			Coelho	Hansen (ID)	Moore			
			Coleman	Hansen (UT)	Moorhead			
			Collins (IL)	Hartnett	Morrison			
			Collins (TX)	Heckler	Mottl			
			Conable	Hefner	Murphy			
			Conte	Heftel	Murtha			
			Corcoran	Hendon	Myers			
			Coughlin	Hertel	Napier			
			Courter	Hightower	Natcher			
			Coyne, James	Hiler	Nelligan			
			Coyne, William	Hillis	Nelson			
			Craig	Holland	Nichols			
			Crane, Daniel	Hollenbeck	Nowak			
			Daniel, Dan	Hopkins	O'Brien			
			Daniel, R. W.	Horton	Oakar			
			Dannemeyer	Howard	Oberstar			
			Daschle	Hoyer	Obey			
			Daub	Hubbard	Panetta			
			Davis	Huckaby	Parris			
			de la Garza	Hughes	Pashayan			
			Deckard	Hunter	Patman			
			Derrick	Hutto	Patterson			
			Derwinski	Hyde	Paul			
			Dicks	Jeffords	Pease			
			Dorgan	Jeffries	Perkins			
			Dornan	Jenkins	Petri			
			Dougherty	Jones (TN)	Peyser			
			Downey	Kastenmeier	Porter			
			Dreier	Kazen	Price			
			Duncan	Kemp	Quillen			
			Dunn	Kildee	Rahall			
			Dwyer	Kindness	Railsback			
			Dyson	Kogovsek	Rangel			
			Early	Kramer	Ratchford			
			Eckart	LaFalce	Regula			
			Edgar	Lagomarsino	Reuss			
			Edwards (AL)	Latta	Rhodes			
			Edwards (CA)	Leach	Richmond			
			Emerson	Leath	Rinaldo			
			Emery	LeBoutillier	Ritter			
			English	Lee	Roberts (KS)			
			Erdahl	Lehman	Roberts (SD)			
			Erlenborn	Lent	Robinson			
			Ertel	Levitas	Rodino			
			Evans (DE)	Lewis	Roe			
			Evans (GA)	Livingston	Rogers			
			Evans (IN)	Loeffler	Rosenthal			
			Fascell	Long (LA)	Rostenkowski			
			Fazio	Long (MD)	Roth			
			Fenwick	Lott	Roukema			
			Ferraro	Lowery	Rousselot			
			Fiedler	Lujan	Roybal			
			Fields	Luken	Rudd			
			Findley	Lundine	Russo			
			Fish	Lungren	Santini			
			Flippo	Madigan	Schneider			
			Florio	Markey	Schulze			
			Foley	Marks	Seiberling			
			Fowler	Marlenee	Sensenbrenner			
			Frank	Marriott	Shamansky			
			Frenzel	Martin (NC)	Shannon			
			Frost	Martin (NY)	Sharp			
			Fuqua	Matsui	Shaw			
			Gaydos	Mattox	Shelby			
			Gejdenson	Mavroules	Shumway			
			Gephardt	Mazzoli	Shuster			

NAYS—16

Dickinson	Holt	Schroeder
Evans (IA)	Jacobs	Stangeland
Goodling	Johnston	Walker
Gramm	Jones (OK)	Young (AK)
Harkin	Lowry	
Hawkins	Sabo	

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—70

Andrews	Donnelly	Montgomery
Applegate	Dymally	Neal
Aspin	Edwards (OK)	Pepper
Badham	Fary	Pickle
Bailey (MO)	Fithian	Pritchard
Benedict	Foglietta	Pursell
Bolling	Ford (MI)	Roemer
Bowen	Ford (TN)	Rose
Brown (OH)	Forsythe	Savage
Byron	Fountain	Sawyer
Carman	Garcia	Scheuer
Chappie	Gray	Schumer
Chisholm	Hall, Ralph	Skeen
Clay	Hance	Solarz
Conyers	Hatcher	Stark
Cotter	Ireland	Vander Jagt
Crane, Philip	Jones (NC)	Wampler
Crockett	Lantos	Waxman
D'Amours	Leland	Whitley
Danielson	Martin (IL)	Williams (MT)
Dellums	McDonald	Williams (OH)
DeNardis	Mikulski	Wortley
Dingell	Mitchell (MD)	
Dixon	Moffett	

□ 1015

So the Journal was approved.

The result of the vote was announced as above recorded.

ELECTION OF MEMBER TO COMMITTEE ON FOREIGN AFFAIRS

Mr. KEMP. Mr. Speaker, as chairman of the Republican Conference and by direction of the Republican Conference, I call up a privileged resolution (H. Res. 165), and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 165

Resolved, That Henry Hyde, of Illinois, be and hereby is elected to the Committee on Foreign Affairs.

The resolution was agreed to.

A motion to reconsider was laid on the table.

A STACKED DECK FOR "DISTRESSED" INDUSTRIES

(Mr. MOORE asked and was given permission to address the House for 1 minute.)

Mr. MOORE. Mr. Speaker, last Thursday the Committee on Ways and Means witnessed a $3.3 billion sleight-of-hand the likes of which would impress the best riverboat gamblers in Louisiana's history.

The only difference is under the committee's rules written by the Democratic Task Force on Depreciation, if you are in one of six categories of "distressed" industries, you are an odds-on favorite to win, as a matter of fact, the deck is stacked in your favor. If you are an automobile, airline, mining, paper, railroad, or steel industry, here is how you get a crack at the $3.3 billion jackpot. Look back over your tax records. Go all the way back to enactment of the credit in 1962. Tally all unused investment tax credits for each year, paying no attention to present law on their use. These are new rules and old chits are still good. Do not even pay attention to whether your company is thriving now, if you fall under the valued judgment of "distressed," you qualify. Over the next 4 years you can reduce your tax liability by the amount of previously unused investment tax credit. A report I have seen estimates auto manufacturers have $610 million in unused credits, steel companies possess $805 million, airlines list $680 million, railroads discover $780 million, mining gets $350 million, and paper industries can write off $100 million in liability by this means.

To me, this clearly is a version of a select refundable investment tax credit, actually a bailout, and most certainly sets new and dangerous precedents in writing tax policy.

THREATENED CONOCO TAKEOVER MAY STIR CONGRESSIONAL ACTION

(Mr. LUJAN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. LUJAN. Mr. Speaker, again this morning we read on the front page of the Washington Post where a Canadian company, Seagram's, is making an effort to take over Conoco.

I do not really care who owns Conoco or who owns what company, but what I am concerned with is foreign dominance and foreign control over our God-given resources and natural resources in this country. I view that as alarming and as putting us in a very bad position.

So, Mr. Speaker, I am working on some legislation, and I want to advise the House that we need legislation to correct this situation. I will say to any of the Members who would like to join me in this endeavor that I would appreciate their support.

LEADERSHIP CONTINUES ATTACK ON REAGAN PROGRAM

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, I was shocked to read of the Speaker's shrill personal attack on the President of the United States. His contention that the President is seeking to destroy the country goes beyond the bounds of legitimate political criticism.

However, what concerns me most is that his remarks are simply one part of a total drive to dismantle last year's election mandate. The American people want Federal spending cut and taxes cut. Big spending Democrats, and the Speaker has bluntly said he numbers himself among that group, do not want budgets cut and do not want taxes cut. They will go to any lengths to stop the Reagan program. They will use irresponsible attack or even handcuff the rules of this House to see to it that the program the people want does not have a chance of getting a fair hearing or a vote. The Speaker is leading that attack and Americans should know it.

UNFAIR CRITICISM OF REAGAN PROGRAM

(Mr. BETHUNE asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker, I was interested yesterday when I read the paper and saw some comments written about the latest poll on the President that was taken by Gallup, and then one writer said that there is some behind-the-scenes concern that this slippage may hurt. And then here is the line that really got my attention:

It said, "There is also concern that the domestic economy is not responding quickly to the Reagan program." What a laugh that is. What a piece of irresponsible trash that someone could write that.

What Reagan program? It has been 8 months since the election. We have not passed any part of the Reagan economic recovery program.

Mr. Speaker, I would say that due to the emerging optimism about the fact that we are going to pass the program, we have seen a decline in the inflation rate in this country, but that is nothing compared to what we are going to get when we do pass it, and we need to get on to the business of passing it. It has been 8 months since the election.

PERMITTING CERTAIN FUNDS TO BE UTILIZED TO PROCURE ADDITIONAL OFFICE EQUIPMENT

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate bill (S. 1123) to permit certain funds allocated for offical expenses of Senators to be utilized to procure additional office equipment, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. BARNARD). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1123

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 506(a)(9) of the Supplemental Appropriations Act, 1973 (Public Law 92-607) is amended—

(1) by inserting "(including expenses for additional office equipment)" immediately after "for such other official expenses", and

(2) by inserting ", except for additional office equipment," immediately after "(not including official office expenses)".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE TO ENTER INTO CONTRACTS RELATING TO COMPUTER PROGRAMING SERVICES

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate bill (S. 1124) to authorize the Sergeant at Arms and Doorkeeper of the Senate, subject to the approval of the Committee on Rules and Administration, to enter into contracts which provide for the making of advance payments for computer programing services, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. WALKER. Mr. Speaker, reserving the right to object, will the gentleman from California (Mr. HAWKINS) tell me the procedure under which we are going to operate? Are we going to debate these bills, and will the gentleman explain them to the House, or are we going to have the same kind of pro-

cedure we had on the last bill where we passed it by unanimous consent?

Mr. HAWKINS. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Speaker, I appreciate the gentleman's inquiry, and it was my thought that I was going to explain it. However, there was no objection.

May I explain that this bill was unanimously referred from the Committee on House Administration. There was no objection to it, and there was no objection in the Senate.

The bill itself will allow the Senate Sergeant at Arms and the Doorkeeper, who currently do all of the computer contracting for the Senate, to pay for contracted services in advance. Apparently the need for the bill arises out of the fact that numerous small computer maintenance firms, with limited resources, have insisted on advance payment from the Senate, as is the practice in the private sector. Each such contract will be subject hereafter to the approval of the Senate Rules and Administration Committee. As I say, there has been no objection expressed to either this or the previous bill, and, Mr. Speaker, I plan to move the adoption of this bill.

□ 1030

Mr. JAMES K. COYNE. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Under my reservation, I yield to the gentleman from Pennsylvania.

Mr. JAMES K. COYNE. I would just like to relay the input from the minority on this committee. We did, in fact, review these bills very carefully and determined that there would be no tax increase or cost to the taxpayers as the effect of these bills, either Senate bill 1123 or Senate bill 1124.

We also want to point out that the intent of the bill, at least from our point of view, is to allow small businesses to enable themselves to compete more effectively for many of the computer contracting services that are presently undertaken by the Senate. As you know, many small companies find themselves strapped for cash these days and this would allow them to deal with the Senate as they would with any other customer. It gives them at least the opportunity to deal with the U.S. Government to provide contracted computer services to the Senate without having to risk their own capital, especially in the very costly time-consuming activities that are associated with computer software research and development.

We felt without doubt that the Senate, in light of our general practice of recognizing the authority of the Senate to discuss these items independently and because of our interest in comity with the other body, we felt it was in the interest of the House to concur and to allow the expeditious passage of both these bills.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, and I will not object if the gentleman from California would move the adoption of the bill that I would like to get a vote on. Otherwise, I would be constrained to object to the final disposition of the bill. If the gentleman would move it, I see no problem with that.

Mr. HAWKINS. Well, I want to reassure the gentleman that, as is the practice of the Committee on House Administration and the chairman of the committee, we obtain all the clearances which we think are absolutely needed before even presenting these housekeeping functions to the House.

It was my intent in the last bill to move the adoption of the bill, which would have given additional time for debate. But I was caught somewhat unaware by the speed with which it was passed.

I apologize if in any way we disadvantaged anyone on the other side.

Mr. WALKER. Mr. Speaker, further reserving the right to object, I appreciate the gentleman's remarks. I have no problems with the bill at all. I appreciate the fact that the gentleman did get the proper clearance. I have no doubt of that. All I am going to do is ask for a vote on the final adoption.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1124

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provison of law, the Sergeant at Arms and Doorkeeper of the Senate, subject to the approval of the Committee on Rules and Administration, is hereafter authorized to enter into contracts which provide for the making of advance payments for computer programing services.

Mr. HAWKINS. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 375, nays 16, not voting 40, as follows:

[Roll No. 97]

YEAS—375

Addabbo	Dougherty	Holt
Akaka	Downey	Hopkins
Albosta	Dreier	Horton
Alexander	Duncan	Howard
Anderson	Dunn	Hoyer
Andrews	Dwyer	Hubbard
Annunzio	Dymally	Huckaby
Anthony	Dyson	Hughes
Applegate	Early	Hunter
Archer	Eckart	Hutto
Ashbrook	Edgar	Hyde
Atkinson	Edwards (AL)	Ireland
AuCoin	Edwards (CA)	Jeffords
Badham	Edwards (OK)	Jeffries
Bafalis	Emerson	Jenkins
Bailey (MO)	Emery	Jones (NC)
Bailey (PA)	English	Jones (OK)
Barnard	Erdahl	Jones (TN)
Barnes	Erlenborn	Kastenmeier
Beard	Ertel	Kazen
Bedell	Evans (DE)	Kildee
Benedict	Evans (GA)	Kindness
Benjamin	Evans (IA)	Kogovsek
Bennett	Evans (IN)	Kramer
Bereuter	Fascell	LaFalce
Bethune	Fazio	Lagomarsino
Bevill	Ferraro	Latta
Biaggi	Fiedler	Leach
Bingham	Fields	Leath
Blanchard	Findley	LeBoutillier
Bliley	Fish	Lee
Boggs	Fithian	Lehman
Boland	Flippo	Leland
Boner	Florio	Lent
Bonior	Foglietta	Levitas
Bonker	Foley	Lewis
Bouquard	Ford (TN)	Livingston
Breaux	Forsythe	Loeffler
Brinkley	Fountain	Long (LA)
Brodhead	Fowler	Long (MD)
Broomfield	Frank	Lott
Brown (CA)	Frenzel	Lowery
Brown (CO)	Frost	Lujan
Broyhill	Fuqua	Luken
Burgener	Gaydos	Lundine
Burton, John	Gejdenson	Lungren
Burton, Phillip	Gephardt	Madigan
Butler	Gibbons	Markey
Campbell	Gilman	Marks
Carney	Gingrich	Marlenee
Chappell	Ginn	Marriott
Chappie	Glickman	Martin (IL)
Cheney	Goldwater	Martin (NC)
Chisholm	Gonzalez	Martin (NY)
Clausen	Goodling	Matsui
Clay	Gore	Mattox
Clinger	Gradison	Mavroules
Coats	Gramm	Mazzoli
Coelho	Green	McClory
Coleman	Gregg	McCloskey
Collins (IL)	Grisham	McCollum
Conable	Guarini	McCurdy
Conte	Gunderson	McDade
Corcoran	Hagedorn	McEwen
Coughlin	Hall (OH)	McGrath
Courter	Hall, Sam	McHugh
Coyne, James	Hamilton	McKinney
Craig	Hammerschmidt	Mica
Daniel, Dan	Hance	Michel
Daniel, R. W.	Hansen (UT)	Miller (CA)
Dannemeyer	Harkin	Miller (OH)
Daschle	Hartnett	Mineta
Daub	Hawkins	Minish
Davis	Heckler	Mitchell (NY)
de la Garza	Hefner	Moffett
Deckard	Heftel	Molinari
Derrick	Hendon	Mollohan
Dickinson	Hertel	Montgomery
Dicks	Hightower	Moore
Dingell	Hiler	Moorhead
Dixon	Hillis	Morrison
Dorgan	Holland	Mottl
Dornan	Hollenbeck	Murphy

Murtha	Rodino	Stratton
Myers	Roe	Studds
Napier	Roemer	Stump
Natcher	Rogers	Swift
Neal	Rose	Synar
Nelligan	Rosenthal	Tauzin
Nelson	Rostenkowski	Taylor
Nichols	Roth	Thomas
Nowak	Roukema	Traxler
O'Brien	Rousselot	Trible
Oakar	Roybal	Udall
Oberstar	Rudd	Vento
Obey	Russo	Volkmer
Ottinger	Sabo	Walgren
Panetta	Santini	Walker
Parris	Schneider	Washington
Pashayan	Schulze	Watkins
Patman	Seiberling	Waxman
Patterson	Shamansky	Weaver
Pepper	Shannon	Weber (OH)
Perkins	Sharp	Weiss
Petri	Shaw	White
Peyser	Shelby	Whitehurst
Pickle	Shumway	Whitley
Porter	Shuster	Whittaker
Price	Siljander	Whitten
Pritchard	Simon	Wilson
Pursell	Skelton	Winn
Quillen	Smith (AL)	Wirth
Rahall	Smith (IA)	Wolf
Railsback	Smith (NE)	Wolpe
Rangel	Smith (NJ)	Wortley
Ratchford	Smith (OR)	Wright
Regula	Snyder	Wyden
Reuss	Spence	Wylie
Rhodes	St Germain	Yates
Richmond	Stangeland	Yatron
Rinaldo	Stanton	Young (AK)
Ritter	Stark	Young (FL)
Roberts (KS)	Staton	Young (MO)
Roberts (SD)	Stenholm	Zablocki
Robinson	Stokes	Zeferetti

NAYS—16

Collins (TX)	Johnston	Sensenbrenner
Crane, Daniel	Lowry	Solomon
Crane, Philip	McDonald	Tauke
Derwinski	Paul	Weber (MN)
Hansen (ID)	Pease	
Jacobs	Schroeder	

NOT VOTING—40

Aspin	Dellums	Moakley
Beilenson	DeNardis	Savage
Bolling	Donnelly	Sawyer
Bowen	Fary	Scheuer
Brooks	Fenwick	Schumer
Brown (OH)	Ford (MI)	Skeen
Byron	Garcia	Snowe
Carman	Gray	Solarz
Conyers	Hall, Ralph	Vander Jagt
Cotter	Hatcher	Wampler
Coyne, William	Kemp	Williams (MT)
Crockett	Lantos	Williams (OH)
D'Amours	Mikulski	
Danielson	Mitchell (MD)	

□ 1045

The Clerk announced the following pairs:

Mr. Brooks with Mr Kemp.

Mr. Fary with Mr. Williams of Ohio.

Mr. Mitchell of Maryland with Mr. Wampler.

Mr. D'Amours with Mr. Vander Jagt.

Mr. William J. Coyne with Mrs. Snowe.

Mr. Aspin with Mrs. Fenwick.

Mr. Dellums with Mr. Skeen.

Mr. Moakley with Mr. Sawyer.

Mr. Williams of Montana with Mr. Brown of Ohio.

Mr. Solarz with Mr. Carman.

Mr. Crockett with Mr. Ralph M. Hall.

Mr. Conyers with Mr. Savage.

Mrs. Byron with Mr. Donnelly.

Mrs. Scheuer with Mr. Bowen.

Mr. Garcia with Mr. Gray.

Mr. Danielson with Mr. Beilenson.

Mr. Ford of Michigan with Mr. Lantos.

Ms. Mikulski with Mr. Hatcher.

Mr. Schumer with Mr. DeNardis.

Mr. DANIEL B. CRANE changed his vote from "yea" to "nay."

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR SUBCOMMITTEES OF THE COMMITTEE ON ARMED SERVICES TO SIT TODAY DURING 5-MINUTE RULE

Mr. NICHOLS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Military Personnel and Compensation, the Subcommittee on Investigations, and the Subcommittee on Procurement and Military Nuclear Systems of the Committee on Armed Services be permitted to sit today during the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

Mr. WALKER. Mr. Speaker, reserving the right to objection, can the gentleman from Alabama (Mr. NICHOLS) assure me that this has been cleared with the minority and that they are in agreement with the gentleman's request?

Mr. NICHOLS. Will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Alabama (Mr. NICHOLS).

Mr. NICHOLS. I assure the gentleman from Pennsylvania (Mr. WALKER) that I have cleared this with the minority. The gentleman might yield to my colleague from New York (Mr. MITCHELL).

Mr. MITCHELL of New York. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Under my reservation, I am glad to yield to the gentleman from New York (Mr. MITCHELL).

Mr. MITCHELL of New York. I thank the gentleman for yielding. All of the three subcommittee hearings have been cleared by the minority. All are working on highly important topics. We have witnesses from all across the country and we would like to complete our hearings if we could before the July recess. That is what the urgency is all about.

Mr. WALKER. I thank the gentleman from New York and the gentleman from Alabama.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

CONFERENCE REPORT ON H.R. 31, CASH DISCOUNT ACT

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the bill (H.R. 31) to amend the Truth in Lending Act to encourage cash discounts and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. EVANS of Delaware. Mr. Speaker, reserving the right to object, I reserve the right to object for the purposes of asking my distinguished friend from Illinois (Mr. ANNUNZIO), chairman of the Subcommittee on Consumer Affairs, if he might provide the House with a brief explanation of the bill.

Mr. ANNUNZIO. Mr. Speaker, will the gentleman yield?

Mr. EVANS of Delaware. I yield to the gentleman from Illinois (Mr. ANNUNZIO).

Mr. ANNUNZIO. I am delighted to answer the inquiry of the ranking minority member of the subcommittee, the gentleman from Delaware (Mr. EVANS).

The cash discount bill has passed, as the gentleman knows, this House on two different occasions. It has gone to conference, and the gentleman was one of the conferees.

The conferees representing the House Banking, Finance and Urban Affairs Committee agreed with the other body and the Senate version of the conference report on cash discounts and surcharges was unanimously approved.

Mr. EVANS of Delaware. Further reserving the right to object, Mr. Speaker, I wonder if the gentleman from Illinois would assure the House that the banking-related provisions passed in the bill, 296 to 43, on May 4, are in the conference?

Mr. ANNUNZIO. I want to assure the gentleman that they are in the conference report.

Mr. EVANS of Delaware. I thank the gentleman from Illinois.

Mr. ANNUNZIO. I also want to assure the gentleman that all of the banking features have been agreed on. On the one nongermane amendment to the legislation, we have the chairman of the Health Committee from the Interstate and Foreign Commerce Committee here today, the gentleman from California (Mr. WAXMAN), and he will address himself to that particular question. But all of the provisions as far as the Banking Committee of the House and the other body are concerned have been agreed on.

Mr. EVANS of Delaware. Further reserving the right to object, Mr. Speaker, there are two major provisions of the bill as it passed the House. The first is the opportunity it gives commercial operations to offer discounts for cash which is consistent with our free enterprise system, with our free market approach. It may be a small step on the way to reducing the spiral-

ing rate of inflation by reducing some of the costs.

Second, it extends the prohibitions against surcharges for the use of credit cards.

Those were the banking-related provisions and I thank the gentleman from Illinois for his explanation.

Mr. MADIGAN. Mr. Speaker, will the gentleman yield?

Mr. EVANS of Delaware. I now yield to my good friend from Illinois (Mr. MADIGAN).

Mr. MADIGAN. I thank the gentleman for yielding. I rise to speak to the House about the amendment attached to this bill by the other body which was a nongermane amendment dealing with the qualifications for eligibility to be Surgeon General of the United States. That nongermane amendment was attached in the other body and was, for a time, a matter of some controversy in the conference between the House and the other body.

But the House conferees did recede to the other body and agree to the amendment. I would urge the House to support the bill, H.R. 31, and the Senate amendment thereto, as I regard them both as being good and necessary pieces of legislation.

I thank the gentleman for yielding.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. EVANS of Delaware. Further reserving the right to object, Mr. Speaker, I yield to the distinguished gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. I thank the gentleman for yielding under his reservation of objection.

I wanted to see if I could get an assurance from the gentleman from Illinois (Mr. ANNUNZIO) that at the conclusion of this debate, under the reservation, that the gentleman is going to move the adoption of the bill so that the House does have an opportunity to vote under the yeas and nays?

Mr. ANNUNZIO. Will the gentleman yield to me?

Mr. EVANS of Delaware. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. Yes; the gentleman has my complete assurance.

Mr. WALKER. I thank the gentleman for that, and thank the gentleman from Delaware for yielding.

Ms. FIEDLER. Mr. Speaker, will the gentleman yield?

Mr. EVANS of Delaware. Further reserving the right to object, Mr. Speaker, I yield to the gentlewoman from California (Ms. FIEDLER).

Ms. FIEDLER. Mr. Speaker, I would simply like to speak in support of the Cash Discount Act. I think it is a very important asset.

As a former small business owner, I know how important it is to take advantage of every opportunity to compete with some of the larger companies and corporations who get the benefit of cash discounts when they purchase goods and services. I know this will be a good stimulus for competition and help many small businesses who are unable to compete otherwise to survive in this very competitive free enterprise system of ours.

Mr. ANNUNZIO. I thank the gentlewoman from California for that very effective statement.

Mr. EVANS of Delaware. Further reserving the right to object, Mr. Speaker, one more time I would like to congratulate the gentleman from Illinois (Mr. ANNUNZIO) for moving expeditiously with this bill. It will help consumers and help small businesses, and I think it will at least be a step on the road to revitalizing the American economy.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. WAXMAN. Mr. Speaker, reserving the right to object, I rise in support of the conference report and urge its passage.

This bill has passed the House overwhelmingly on two occasions. I am pleased to speak now on the successful conclusion of a very confused and unusual legislative course. Much of the departure from the normal process has been over a nongermane amendment about the Public Health Service Commission Corps added to this bill by the other body.

After two meetings between the House and the Senate conferees on this particular item, it became clear that the amendment added in the other body was so flawed in its language that its legal effects were limited to persons already members of the Corps and did not reach persons not already in the Corps.

The Cash Discount Act, H.R. 31, originated in the House Banking Committee. It passed the House on February 24, 1981. It was amended on the Senate floor with a nongermane amendment to the Public Health Service Act which is within the jurisdiction of the Committee on Energy and Commerce.

When returned to the House, the Speaker referred the nongermane amendment to our committee until April 8. The Health Subcommittee held a hearing, but the Deputy Assistant Secretary of Health and Human Services whose responsibilities include the Service refused to testify. This committee took no further action within the time allotted.

On April 8 the House asked for a conference on H.R. 31 and appointed conferees. The Senate appointed conferees on April 29.

The Senate's amendment to the Health Act makes two related, but permanent, changes in law. The first amends section 204 to authorize appointment of a person as Surgeon General who is 64 or older. The second waives the mandatory retirement provision of the act for the Surgeon General only.

I wish to point out that last February the Department's Assistant General Counsel was asked whether "it would be permissible to make an original appointment in the Regular Corps of a person over age 64." In a memorandum opinion dated February 9, 1981, the answer was an unequivocal "No."

The General Counsel said that section 207(a)(3) of the act—

> Prohibits appointment in the Regular Corps or call to active duty in the Reserve Corps of a person age 44 or over unless he has had the number of years of prior service by which his age exceeds 44 or the Secretary determines that he possesses exceptional qualifications, not readily available in the Corps, for the performance of special duties with the service.

Also, he pointed out that section 211(a) requires mandatory retirement of commissioned officers at age 64. The General Counsel concluded:

> Even though the appointment limitation may be waived in an appropriate case, there is no authority to waive the mandatory retirement provision. The only provision for active duty after age 64 is the provision in Section 211(c) for recall to active duty in a retired status. To appoint an individual who is subject to immediate retirement, on the theory that he could then be recalled under Section 211(c) would be an obvious attempt to circumvent the requirement of the statute and would frustrate the intent of Congress in imposing maximum retirement and appointment ages.
>
> As you know there are comparable provisions in the other uniformed services as well as in the Civil Service, and we are unaware of successful challenge to those provisions.

Another provision of law requires an examination for persons appointed to the Corps above the grade of junior assistant. The President, however, may waive this to appoint with consent of the Senate, a limited number of persons between the grades of senior assistant and director. Dr. Julius Richmond, the former Surgeon General, received such an appointment. However, he was under the retirement age.

I agree with the Department's General Counsel. I also observe that 31 U.S.C. 82c. provides that a certifying officer is held "accountable for and required to make good to the United States" the amount of any illegal payment prohibited by law. Payment of any salary to a person who does not meet the requirements of law, if he were to be appointed Surgeon General with the enactment of H.R. 31 only, would be prohibited by law. Senate confirmation could not correct this.

Because of the House instructions referred to in the conference report, the conferees could make these other changes needed to appoint Dr. Koop because, as Congressman MADIGAN ob-

served at the time of the House instruction, they exceed the scope of conference and violate House rules.

Therefore, even though we were instructed by the House to agree in conference to the Senate language and, in fact, did agree to the Senate language in this conference report, I want to inform the Members of this House that the Senate language did not accomplish what the authors of that proposal sought to accomplish.

It is my intention, as chairman of the Subcommittee on Health and the Environment, which has jurisdiction over this matter, to schedule hearings before our subcommittee on additional legislation that has been proposed by our colleague from Illinois (Mr. HYDE), on this subject soon after we return from the July 4 recess so we can consider further the issues involved.

I want to take this opportunity to compliment our colleague from Illinois (Mr. ANNUNZIO). He has been incredibly patient. His forebearance through this long tangle of nongermane amendments and confused maneuvers has been admirable, and he has my thanks for his cooperation and my support for this conference report. I hope that we are not faced in the future with legislation as important as this being tied up by nongermane amendments added by the other body as a way to circumvent the jurisdiction of the appropriate committees of the House and Senate.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. HYDE. Mr. Speaker, reserving the right to object, I want to commend the gentleman from Illinois for his forebearance and his patience. He has been a most cooperative Member of this body and I want to commend him for that.

I want to assert in the strongest possible terms my total disagreement with the legal conclusions which are, in my judgment, flawed, that the gentleman from California has just asserted. Though not in the form I would have wished, I believe this report accomplishes its purpose.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of June 23, 1981.)

□ 1100

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement of the managers.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ANNUNZIO) will be recognized for 30 minutes, and the gentleman from Delaware (Mr. EVANS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois Mr. ANNUNZIO.

Mr. ANNUNZIO. Mr. Speaker, H.R. 31, the Cash Discount Act, will protect hard-pressed consumers from being penalized for using credit cards, and reduce regulation of the consumer credit industry by deregulating cash discounts.

The bill will protect consumers by reactivating the ban on surcharging credit card customers. The ban which had been in effect since 1976, expired last February 27. Without the ban, consumers who pay by credit card, out of necessity not convenience, could be forced to pay a surcharge each time they pay by credit card. Such surcharges could result in a catastrophe for consumers. This bill would reactivate this important consumer safeguard for 3 more years until February of 1984.

Current law imposes so many restrictions on merchants who wish to offer cash discounts, that it effectively discourages merchants from offering these discounts. One restriction is that the discount cannot exceed 5 percent. This bill eliminates that ceiling.

The regulations issued by the Federal Reserve Board also discouraged merchants because the regulations were extremely burdensome on merchants such as requiring the discount to be disclosed at each and every cash register in a store. The bill repeals those regulations.

With cash discounts encouraged, merchants who offer them will have cost savings. These savings can be passed on to consumers who are able to pay cash. Both merchants and consumers will benefit.

The bill also includes a provision that corrects a technical defect in the Truth in Lending Simplification and Reform Act, and a provision that extends until December 31, 1982, the time that a national bank can hold real estate, if it was acquired before December 31, 1979, and was carried at nominal value on that date.

Prompt adoption will provide benefits to consumers across the country. I strongly urge adoption of the conference report on H.R. 31.

● Mrs. BOGGS. Mr. Speaker, I am pleased to rise in support of the conference report on H.R. 31, especially its section 302, which extends until December 31, 1982, the authority of national banks to hold real estate which was written down on the books of the bank to a nominal amount by December 31, 1979.

For the reasons very well stated by the Senator from Texas, Mr. TOWER, when he introduced this provision in the other body, and by the gentleman from Rhode Island, Chairman ST GERMAIN, the gentleman from Mississippi (Mr. LOTT), and the gentleman from Ohio (Mr. STANTON), when the House considered the same language in its passage of H.R. 3132, this legislation is needed to insure that the Congress has an opportunity to review existing law and enact a remedial measure.

Despite the fact that both the House and Senate have expressed the will of Congress by passing this provision as a part of H.R. 3132 or this bill, H.R. 31, the Comptroller's Office has proceeded with enforcement action against an institution in Louisiana. Surely, it would have seemed more appropriate for the Comptroller's Office to postpone any enforcement proceeding pending enactment of the moratorium provided by this legislation and consideration of permanent remedial legislation during this session of the Congress. If the Comptroller's Office did not deem it necessary to take enforcement action against this institution during the past 50 years when, under its present interpretation, the institution was in violation of the 1864 act, it is extremely difficult to understand why it felt it was essential that action be taken now even though the Congress was in the process of vitiating the impact of the 1864 law at least until December 31, 1982.

The enactment of this conference report should result in suspension by the Comptroller's Office of any further attempt at enforcement action pending consideration by the 97th Congress of remedial legislation.●

Mr. ANNUNZIO. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 398, nays 9, not voting 24, as follows:

[Roll No. 98]

YEAS—398

Addabbo	Dingell	Hoyer
Akaka	Dixon	Hubbard
Albosta	Dorgan	Huckaby
Alexander	Dornan	Hughes
Anderson	Dougherty	Hunter
Andrews	Downey	Hutto
Annunzio	Dreier	Hyde
Anthony	Duncan	Ireland
Applegate	Dunn	Jacobs
Archer	Dwyer	Jeffords
Ashbrook	Dymally	Jeffries
Aspin	Dyson	Jenkins
Atkinson	Early	Johnston
AuCoin	Eckart	Jones (NC)
Badham	Edgar	Jones (OK)
Bafalis	Edwards (AL)	Jones (TN)
Bailey (MO)	Edwards (CA)	Kastenmeier
Bailey (PA)	Edwards (OK)	Kazen
Barnard	Emerson	Kemp
Barnes	Emery	Kildee
Beard	English	Kindness
Bedell	Erdahl	Kogovsek
Bellenson	Erlenborn	Kramer
Benedict	Ertel	Lagomarsino
Benjamin	Evans (DE)	Latta
Bennett	Evans (GA)	Leach
Bereuter	Evans (IA)	Leath
Bethune	Evans (IN)	LeBoutillier
Bevill	Fascell	Lee
Biaggi	Fazio	Lehman
Bingham	Fenwick	Leland
Blanchard	Ferraro	Lent
Bliley	Fiedler	Levitas
Boggs	Fields	Lewis
Boland	Findley	Livingston
Boner	Fish	Loeffler
Bonior	Fithian	Long (LA)
Bonker	Flippo	Long (MD)
Bouquard	Florio	Lott
Bowen	Foglietta	Lowery
Breaux	Foley	Lowry
Brinkley	Ford (TN)	Lujan
Brodhead	Forsythe	Luken
Brooks	Fountain	Lundine
Broomfield	Fowler	Lungren
Brown (CA)	Frenzel	Madigan
Brown (CO)	Frost	Markey
Broyhill	Fuqua	Marks
Burgener	Gaydos	Marlenee
Burton, John	Gejdenson	Marriott
Butler	Gephardt	Martin (IL)
Byron	Gibbons	Martin (NC)
Campbell	Gilman	Martin (NY)
Carman	Gingrich	Matsui
Carney	Ginn	Mattox
Chappell	Glickman	Mavroules
Chappie	Goldwater	Mazzoli
Cheney	Gonzalez	McClory
Chisholm	Goodling	McCloskey
Clausen	Gore	McCollum
Clay	Gradison	McCurdy
Clinger	Gramm	McDade
Coats	Green	McDonald
Coelho	Gregg	McEwen
Coleman	Grisham	McGrath
Collins (IL)	Guarini	McHugh
Collins (TX)	Gunderson	McKinney
Conable	Hagedorn	Mica
Conte	Hall (OH)	Michel
Corcoran	Hall, Ralph	Miller (CA)
Coughlin	Hall, Sam	Miller (OH)
Courter	Hamilton	Mineta
Coyne, James	Hammerschmidt	Minish
Coyne, William	Hance	Mitchell (NY)
Craig	Hansen (ID)	Moakley
Crane, Daniel	Hansen (UT)	Molinari
Crane, Philip	Harkin	Mollohan
Crockett	Hartnett	Montgomery
D'Amours	Hatcher	Moore
Daniel, Dan	Heckler	Moorhead
Daniel, R. W.	Hefner	Morrison
Dannemeyer	Heftel	Mottl
Daschle	Hendon	Murphy
Daub	Hertel	Murtha
Davis	Hightower	Myers
de la Garza	Hiler	Napier
Deckard	Hillis	Natcher
Dellums	Holland	Neal
DeNardis	Hollenbeck	Nelligan
Derrick	Holt	Nelson
Derwinski	Hopkins	Nichols
Dickinson	Horton	Nowak
Dicks	Howard	O'Brien
Oakar	Roukema	Synar
Oberstar	Rousselot	Tauke
Obey	Roybal	Tauzin
Ottinger	Rudd	Taylor
Panetta	Russo	Thomas
Parris	Sabo	Traxler
Pashayan	Santini	Trible
Patman	Scheuer	Udall
Patterson	Schneider	Vento
Paul	Schroeder	Volkmer
Pease	Schulze	Walgren
Pepper	Seiberling	Walker
Perkins	Sensenbrenner	Washington
Petri	Shamansky	Watkins
Peyser	Sharp	Waxman
Pickle	Shaw	Weaver
Porter	Shelby	Weber (MN)
Price	Shumway	Weber (OH)
Pritchard	Shuster	White
Pursell	Siljander	Whitehurst
Quillen	Simon	Whitley
Rahall	Skelton	Whittaker
Railsback	Smith (AL)	Whitten
Ratchford	Smith (IA)	Williams (MT)
Regula	Smith (NE)	Wilson
Reuss	Smith (NJ)	Winn
Rhodes	Smith (OR)	Wirth
Richmond	Snyder	Wolf
Rinaldo	Solomon	Wortley
Ritter	Spence	Wright
Roberts (KS)	St Germain	Wyden
Roberts (SD)	Stangeland	Wylie
Robinson	Stanton	Yates
Rodino	Stark	Yatron
Roe	Staton	Young (AK)
Roemer	Stenholm	Young (FL)
Rogers	Stokes	Young (MO)
Rose	Stratton	Zablocki
Rostenkowski	Stump	Zeferetti
Roth	Swift	

NAYS—9

Burton, Phillip	Moffett	Studds
Frank	Rosenthal	Weiss
LaFalce	Shannon	Wolpe

NOT VOTING—24

Bolling	Garcia	Sawyer
Brown (OH)	Gray	Schumer
Conyers	Hawkins	Skeen
Cotter	Lantos	Snowe
Danielson	Mikulski	Solarz
Donnelly	Mitchell (MD)	Vander Jagt
Fary	Rangel	Wampler
Ford (MI)	Savage	Williams (OH)

□ 1115

The Clerk announced the following pairs:

Mr. Fary with Mr. Vander Jagt.
Mr. Solarz with Mr. Williams of Ohio.
Mr. Conyers with Mr. Skeen.
Mr. Ford of Michigan with Mr. Wampler.
Mr. Rangel with Mrs. Snowe.
Mr. Lantos with Ms. Mikulski.
Mr. Garcia with Mr. Sawyer.
Mr. Hawkins with Mr. Mitchell of Maryland.
Mr. Savage with Mr. Schumer.
Mr. Gray with Mr. Donnelly.
Mr. Danielson with Mr. Brown of Ohio.

Mr. STUDDS and Mr. MOFFETT changed their votes from "yea" to "nay."

Mr. MARKEY changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, I have requested this time in order that I might describe the rules of procedure for the schedule for the remainder of this week.

Mr. Speaker, the program for the remainder of today is that we hope to complete action on the Public Broadcasting Act amendments, and then to take up the Department of Defense authorization bill and get as far as we can on general debate.

There are 7 hours of debate allowed under the rule that later will hopefully be adopted. It is probably not likely that we can conclude general debate today, but we will get as far as we can.

We will expect to rise by approximately 5:30 this evening.

Tomorrow we will convene at 10 o'clock. The first order of business tomorrow will be the adoption of the rule for the consideration of the reconciliation bill. Assuming the adopting of that rule and its contents, I think it altogether possible that the House may be asked to remain in session through tomorrow and to be in session on Friday, in the anticipation of completing action on the reconciliation bill and amendments thereto in order that we can stay on the schedule that we told the President and mutually agreed with one another that we would meet.

Part of that schedule encompasses the pledge to do all within our power to complete action in the House, the Senate, the conference committee, and to get the reconciliation bill finally on the President's desk before the 15th of July.

We have, thus far, met every target that we set in that schedule on March 11. I do not know of another Congress ever in history which has bent over backward so far, which has gone the second and third and fourth mile, as this one has, to accommodate the schedule of the President and to make certain that in a cooperative and conciliatory way we saw that he had ample, full, free, and fair opportunity for every segment of his proposals of a major nature to be considered by this Congress in a timely and expeditious way. I am proud that we have maintained that schedule.

I think that BOB MICHEL, my distinguished colleague, was correct when, on March 11, he, joining me in an-

nouncing that schedule, described it as historic and unprecedented. I think the House will do itself proud if we will stay here and finish this work before we go home for our Fourth of July home district work period.

So Members, then, should be advised that, upon the adoption of the rule tomorrow, they should stay here on Friday and perhaps, if necessary, on Saturday, although we think that may not be likely.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. Of course I yield to my distinguished friend, the minority leader.

Mr. MICHEL. Mr. Speaker, I would have to concur with the gentleman that we want to live up, as best we can, to the schedule we previously had agreed to.

Our problem would seem to lie in the form and nature of the rule that will be under discussion tomorrow and which would either make in order or not make in order our substitute as we would prefer, or a series of amendments supposedly catering to some of the desires of the minority side.

Now, if the preliminary discussions that the majority leader and the Speaker and I have had this morning are borne out, that we on the Republican side would be denied the opportunity for our substitute, which we prefer and which we think would be the cleanest confrontation between the two points of view and the simplest to resolve in the limited time frame, that if the alternative is the choice of a series of amendments, all of which are very critical, key and deserving of adequate discussion, then I am wondering whether or not that time frame would permit the kind of adequate discussion that would ensue on, say, for example, six or seven very, very critical amendments in that limited time frame.

In a sense, what the gentleman is saying is: You either get that done Friday, and take it or lump it, and that is it.

Now, I must confess that in that scenario we have serious problems.

Mr. WRIGHT. I would say to my distinguished friend that he is exactly right, that if these matters on their own merits individually require considerable discussion and understanding on the part of the Members, then how much more would it be required if they put them all together and required the Members to vote up or down on the entire package?

For example, it is my understanding that the amendments which have been compiled together in what has been loosely called Gramm-Latta II encompass recommendations that would reduce social security payments to beneficiaries over the next 3 years by an additional $7 billion.

I think the Members have a right to vote that up or down on its own merits.

Additionally, if the piece of paper that was handed to the chairman of the Budget Committee by Mr. Stockman, who seems to be the principal author of these amendments, is accurate, then they also contemplate reducing medicare and medicaid payments to those beneficiaries by some $8.8 billion cumulatively over the next 3 years.

Now, it seems to me that this is a proposition that needs to be contemplated on its merits and voted up or down on its own merits.

Mr. MICHEL. Mr. Speaker, I would have to say to the distinguished majority leader that when we are taking up those individual items, the gentleman is only referring to some of the items that he may be at odds with us on. But incorporated in that package are also pluses on our side.

If the gentleman wants to mention the social security issue, then mention the COLA issue, too, where we have got a better position than the gentleman has and when we take those individual committee amendments——

Mr. WRIGHT. The gentleman will have his opportunity.

Mr. MICHEL. Well, I have to insist. If the gentleman wants to take the time to begin the debate, we have got to do it now.

Mr. WRIGHT. That is exactly what I am saying. If the gentleman has the better position on COLA, then his position will prevail on COLA, because we propose to offer the gentleman the opportunity.

Mr. MICHEL. That is not the only issue. The issue here is about $20 billion of additional spending.

Mr. WRIGHT. Well, then we offer the gentleman the opportunity to have his vote on COLA and, if he prevails, so much the better, from his point of view.

In other words, we are not going to stand for a gag rule of any sort. We are proposing that the Members shall have their opportunity to work their will on the merits of each of these separate proposals, and we assure the gentleman that the component parts which make up his package will be made in order, and the House will have its opportunity. I should think that the gentleman, feeling as strongly as he does that he has the better side of the argument, would be pleased, particularly if he feels, as he indicated, that he may have the better side of the argument on some of these amendments and may not have the better side of the argument on some other of the amendments, that he would be pleased at least that the membership would have its opportunity to work its individual will.

Members of this House are not cattle to be herded around. Members of this House are individuals who have the privilege and the right to make up their own minds.

Mr. MICHEL. Is the gentleman saying that it is absolutely a foregone conclusion that the House is going to stay in session until we complete action on reconciliation? I think that is a decision we probably have to make.

Mr. WRIGHT. I would say to the gentleman that it is my hope and my intention, and if there are not dilatory tactics employed deliberately to prevent that from happening, there is every reason to believe that we can.

Now, we are quite sincere about maintaining the schedule which we jointly, along with the distinguished gentleman from Illinois, pledged to the Nation and to the administration and the then new President, in an effort to extend ourselves in a cooperative, conciliatory, and friendly way, to see to it that he got an opportunity to be heard and considered on each of the recommendations he sends forward, and that contemplated completion of this entire package on reconciliation through the conference committee by or before the 15th of July.

□ 1130

For that reason, because there has been some hint or suggestion that the House and the House leadership or the House majority might have contemplated footdragging, I want it fully understood that there is no footdragging on our part.

If it means staying here Saturday, and if it means staying here past Sunday, we would like to complete this part of the program.

Mr. MICHEL. If the gentleman will yield further, we want to withhold final judgement on consideration of the Rules Committee's deliberations yet this afternoon.

It is my understanding that a decision will be made probably around 4 o'clock and we never foreclose anything until those deliberations are completed.

But we are not unmindful that the majority still has an 11-to-5 vote in that Committee on Rules and what the gentleman and the Speaker have in mind will be automatically decreed in that committee.

We have to take that as a minority party. We argued about it earlier in the session. We understand that. I just want to make absolutely sure, however, that if we are denied what we think is our legitimate right or even particularly on a motion to recommit, rather traditionally given to the minority, with instructions on a matter as profound and as important as this, that we be given that due deliberation in that Rules Committee before it finally comes to a resolution on this matter and then if sliced up in pieces, that

Members not be foreclosed from at least having their say on what they think are very important matters at issue here.

Mr. WRIGHT. Well, I certainly do understand the point that the gentleman is making. I agree. For example, it is proposed, as I understand it, in the Stockman recommendation that almost $3 billion would be reduced from the student loan program in these next 3 years. That is the kind of proposition that needs to be considered on its own, along with reductions proposed in school lunches.

I think the gentleman really understands and approves what it is that we are trying to do, and that is to give the House the amplest and fullest and the greatest opportunity to work its will.

Mr. MICHEL. I wonder if the gentleman could respond to this question: If we meet this timetable on reconciliation that we would like to very much, does that also then persuade the gentleman to be just as convincing on meeting the timetable for the tax bill?

Mr. WRIGHT. It continues to be my hope that the tax bill may be completed during the month of July, at least through the House. As I recall, and I am reading from the RECORD of March 11, the day and occasion on which the gentleman and I jointly announced this program, I said:

> The House will consider tax reduction following House action on reconciliation and will expect to conclude action prior to the end of July.

Now we contemplated on that occasion that the House would complete action on the tax proposal by the end of July. I still hope that schedule can be met. I have no way of speaking for the other body. I do not know how long it will take them or how long a conference committee will meet.

Mr. MICHEL. The point is they are moving just as fast as we are, if not at a more accelerated rate on the tax bill. I do not know if we could put any blame on the other body of failure to move expeditiously on either front.

Mr. WRIGHT. If I left myself open to that misinterpretation, I am sorry. I did not mean to blame the other body. I am a little amazed that they have begun the tax bill before we did, considering the constitutional requirement that all revenue measures shall originate in the House.

But that is their zeal which overtakes them sometimes and I would not under any circumstances criticize our friends in the other body.

Mr. MICHEL. Well, let us proceed with the day's schedule and hopefully the Rules Committee will be compassionate enough to at least give consideration to what the minority party here has requested in the form of fair treatment.

Mr. LOTT. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

The Chair recognizes the gentleman from Colorado (Mr. WIRTH).

PUBLIC BROADCASTING AMENDMENTS ACT OF 1981

Mr. WIRTH. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3238) to amend the Communications Act of 1934, to extend certain authorizations of appropriations contained in such act relating to public broadcasting, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado (Mr. WIRTH).

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 385, nays 16, answered "present" 1, not voting 29, as follows:

[Roll No. 99]

YEAS—385

Addabbo	Byron	Eckart
Akaka	Campbell	Edgar
Albosta	Carman	Edwards (AL)
Alexander	Carney	Edwards (CA)
Anderson	Chappell	Edwards (OK)
Andrews	Chappie	Emery
Annunzio	Cheney	English
Anthony	Chisholm	Erdahl
Applegate	Clausen	Erlenborn
Archer	Clay	Ertel
Ashbrook	Clinger	Evans (DE)
Aspin	Coats	Evans (GA)
Atkinson	Coelho	Evans (IA)
AuCoin	Coleman	Evans (IN)
Badham	Collins (IL)	Fascell
Bafalis	Collins (TX)	Fazio
Bailey (MO)	Conable	Fenwick
Bailey (PA)	Conte	Ferraro
Barnard	Corcoran	Fiedler
Barnes	Coughlin	Findley
Beard	Courter	Fish
Bedell	Coyne, James	Fithian
Beilenson	Craig	Flippo
Benedict	Crockett	Florio
Benjamin	D'Amours	Foglietta
Bennett	Daniel, Dan	Foley
Bereuter	Daniel, R. W.	Ford (TN)
Bethune	Dannemeyer	Fountain
Bevill	Daschle	Fowler
Biaggi	Daub	Frank
Bingham	Davis	Frenzel
Blanchard	de la Garza	Frost
Bliley	Dellums	Fuqua
Boland	DeNardis	Gaydos
Boner	Derrick	Gejdenson
Bonior	Derwinski	Gibbons
Bonker	Dickinson	Gilman
Bouquard	Dicks	Gingrich
Bowen	Dingell	Ginn
Brinkley	Dixon	Glickman
Brodhead	Dorgan	Gonzalez
Brooks	Dornan	Goodling
Broomfield	Dougherty	Gore
Brown (CA)	Downey	Gradison
Brown (CO)	Duncan	Gramm
Broyhill	Dunn	Green
Burgener	Dwyer	Gregg
Burton, John	Dymally	Grisham
Burton, Phillip	Dyson	Guarini
Butler	Early	Gunderson
Hagedorn	McCollum	Santini
Hall (OH)	McCurdy	Scheuer
Hall, Ralph	McDade	Schneider
Hall, Sam	McEwen	Schroeder
Hamilton	McGrath	Schulze
Hammerschmidt	McHugh	Seiberling
Hance	McKinney	Sensenbrenner
Hansen (ID)	Mica	Shamansky
Hansen (UT)	Michel	Shannon
Harkin	Miller (CA)	Sharp
Hartnett	Miller (OH)	Shaw
Hatcher	Mineta	Shelby
Hawkins	Minish	Shumway
Heckler	Mitchell (NY)	Shuster
Hefner	Moakley	Siljander
Heftel	Moffett	Simon
Hertel	Molinari	Smith (AL)
Hightower	Mollohan	Smith (IA)
Hiler	Montgomery	Smith (NE)
Hillis	Moore	Smith (NJ)
Holland	Moorhead	Smith (OR)
Hollenbeck	Morrison	Snowe
Hopkins	Mottl	Snyder
Horton	Murphy	Solomon
Howard	Murtha	Spence
Hoyer	Myers	St Germain
Hubbard	Napier	Stangeland
Huckaby	Natcher	Stanton
Hughes	Neal	Stark
Hunter	Nelligan	Staton
Hutto	Nelson	Stenholm
Hyde	Nichols	Stokes
Ireland	Nowak	Stratton
Jacobs	O'Brien	Studds
Jeffords	Oakar	Stump
Jeffries	Oberstar	Swift
Jenkins	Obey	Synar
Jones (NC)	Panetta	Tauke
Jones (OK)	Parris	Tauzin
Jones (TN)	Pashayan	Taylor
Kastenmeier	Patman	Thomas
Kazen	Patterson	Traxler
Kemp	Pease	Trible
Kildee	Perkins	Udall
Kogovsek	Petri	Vento
Kramer	Peyser	Volkmer
LaFalce	Pickle	Walgren
Lagomarsino	Porter	Walker
Latta	Price	Washington
Leach	Pritchard	Watkins
Leath	Pursell	Waxman
Lee	Quillen	Weaver
Lehman	Rahall	Weber (MN)
Leland	Railsback	Weber (OH)
Lent	Rangel	Weiss
Levitas	Ratchford	White
Lewis	Regula	Whitehurst
Livingston	Reuss	Whitley
Loeffler	Rhodes	Whittaker
Long (LA)	Richmond	Williams (MT)
Long (MD)	Rinaldo	Williams (OH)
Lott	Ritter	Wilson
Lowery	Roberts (KS)	Winn
Lowry	Roberts (SD)	Wirth
Lujan	Robinson	Wolf
Luken	Rodino	Wolpe
Madigan	Roe	Wortley
Markey	Roemer	Wright
Marks	Rogers	Wyden
Marlenee	Rose	Wylie
Marriott	Rosenthal	Yates
Martin (IL)	Rostenkowski	Yatron
Martin (NY)	Roth	Young (AK)
Matsui	Roukema	Young (FL)
Mattox	Rousselot	Young (MO)
Mavroules	Roybal	Zablocki
Mazzoli	Rudd	Zeferetti
McClory	Russo	
McCloskey	Sabo	

NAYS—16

Crane, Daniel	Hendon	Martin (NC)
Crane, Philip	Holt	McDonald
Dreier	Johnston	Mitchell (MD)
Emerson	Kindness	Paul
Fields	LeBoutillier	
Goldwater	Lungren	

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—29

Boggs	Brown (OH)	Coyne, William
Bolling	Conyers	Danielson
Breaux	Cotter	Deckard

Donnelly	Lantos	Skeen
Fary	Lundine	Skelton
Ford (MI)	Mikulski	Solarz
Forsythe	Pepper	Vander Jagt
Garcia	Savage	Wampler
Gephardt	Sawyer	Whitten
Gray	Schumer	

□ 1145

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3238, with Mr. TRAXLER, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

Mr. LOTT. Mr. Chairman, I move to strike the requisite number of words.

(By unanimous consent, Mr. LOTT was allowed to speak out of order.)

FURTHER LEGISLATIVE PROGRAM

Mr. LOTT. Mr. Chairman, I am greatly distressed at the report we just got from our distinguished majority leader that the leadership over there is planning on obstructing the will of the Congress and of the American people through a procedure which will prevent a vote on the bipartisan Latta-Gramm substitute different from what we voted on earlier in the Gramm-Latta budget resolution. There has been no talk about the fact that we are going to have only one vote on the Jones substitute. We are not even talking now about the Budget Committee bill; we are talking about a Jones substitute.

The Congress voted in May to pass the Latta-Gramm budget, and now fair play demands that the Congress and the American people be given a chance to vote on the Gramm-Latta II proposal in one vote on the bloc amendment. In the Rules Committee, where I sat all day yesterday, Members on the other side of the aisle talked about how they needed time to see what was in these massive pieces of legislation. They needed time to look at the Jones substitute; they needed time to look at the Latta-Gramm II substitute. There are 4,000 pages there, massive things, and they were concerned that we would vote before we had a chance to see what was in the Gramm-Latta substitute.

Now, we are being told that we are going to do this on Thursday and Friday. Now, this is the way we are going to consider it: I have been told that we are going to have an hour of debate on the rule and maybe 15 hours of general debate. After all, there will be 15 titles. One would think there would be at least an hour for the membership to hear what is in these various titles; plus, if it is broken into six pieces, which it should not be, certainly we would have at least an hour on each one of those pieces. Therefore, we are talking about a total of probably 22 to 25 hours.

Now, I want to know, are we going to have an opportunity here for fair play, an opportunity for the Gramm-Latta substitute to be considered en bloc, or break it up into pieces and ask the Members to sit here Friday and Saturday, and perhaps even then not completing it, or perhaps not even then getting time to look at what is in the packages? I just want to object to the procedure that was just outlined by the gentleman from Texas.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, do I understand correctly what the gentleman is saying, is that the only thing to be broken into pieces is the Republican substitute? The substitute being offered by the Democrats is going to come out under a closed rule after we heard the majority leader promise the membership an open rule where everybody would have a chance to decide? That is what he said. Do I understand that what they are really intending to do is put a closed rule on their part and only open up our particular amendment to this whole process of deciding each individual item?

Mr. LOTT. I have to say to the gentleman that it is still a moving target, but it would appear that except for perhaps six specified amendments for the Republicans, that there may not be any other amendments in order. Of course, on the other hand, if they start making those in order, how many would there be? Would there be 10, 12, 15, 20? Again, I want to know, are we going to have an opportunity to know what is in these amendments or in a substitute?

Mr. WALKER. Will the gentleman yield further?

Mr. LOTT. I yield.

Mr. WALKER. Am I not correct, that the majority leader a few minutes ago told us that this was going to be open; all Members were going to have an opportunity to work their will on this bill, and now the gentleman seems to indicate that it is something entirely different from that.

Mr. LOTT. That was my understanding of the discussion that just took place. I would hope that we would not have to go to a completely open rule, open this thing up to perhaps total chaos. I would urge the leadership to give us an opportunity for a clear choice here, make in order the substitute that we have requested on Gramm-Latta II so that we could have a clear choice between the Budget Committee recommendation and the bipartisan substitute that is supported by the President of the United States and the Republican Members of the House.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. LOTT. I would be glad to yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, I am a little confused by the gentleman's colloquy with his friend from Pennsylvania, because I have been under the distinct impression that the wish of our friends on the other side was to see a prompt conclusion of the reconciliation process. What we are proposing is to accommodate that wish; and in doing so, we hope to have the cooperation of our friends in the minority.

Mr. LOTT. Certainly. I will reclaim my time to respond to that. Certainly we would like prompt consideration of it. We would like for it to be fully debated, and then a clear vote, two votes; the committee recommendation as substituted by the Jones language, and the Gramm-Latta substitute. That would be the fair way to do it, and nobody's will would be thwarted under those conditions. If the gentleman wants to talk about an expeditious way of handling it, certainly that would be most expeditious. Instead of having 6 or 8 or 10 or 12 votes, we would have only 2 clear votes between the two positions.

Mr. FOLEY. I am surprised to hear my friend from Mississippi suggest that by allowing Members to make discrete and individual judgments on those portions of the recommendations that have been made by the President, we are somehow being unfair. Quite the contrary.

The CHAIRMAN pro tempore. The time of the gentleman from Mississippi has expired.

(By unanimous consent Mr. FOLEY was allowed to speak out of order for 1 minute).

FURTHER LEGISLATIVE PROGRAM

Mr. FOLEY. I think most Members would clearly prefer to make their judgments discretly on these issues without being forced into an up-or-down vote.

I think the gentleman might be willing to follow what I understand to be the agreement reached by the distinguished Republican leader, Mr. MICHEL, and our majority leader, Mr. WRIGHT, by reserving his judgment on the procedures to be followed until such time as the Rules Committee has acted. Once that has occurred, there will be time to explore this point at length.

Let my just say to the gentleman that we are very conscious of the fact that we have agreed with the minority on a schedule for resolving these budget issues; that that agreement was made in good faith; and we intend to meet that schedule if it is humanly possible. If the gentleman does not believe the sincerity of our commitment will endeavor to convince him by prompt and fair consideration of this resolution.

□ 1200

Mr. LOTT. Mr. Chairman, if the gentleman will yield, certainly we will reserve judgment, but I just want to express concern about the thrust of the discussion that took place just a few minutes ago and to take this opportunity to urge the leadership on that side of the aisle to give us the opportunity to have the substitute considered en bloc.

Mr. WIRTH. Mr. Chairman, I move to strike the last word.

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the distinguished gentleman from Arkansas.

Mr. ALEXANDER. Mr. Chairman, I rise in support of H.R. 3238. Not long ago, public broadcasting was born in the glow of promise of television and radio programing free of advertising and free of the commercial influences that make network programing something less than a provocative and enriching experience.

The idea, of course, was to elevate the level of cultural and informational programing in a way that would make it independent of the sorts of constraints that commercial sponsors often impose on programs that serve as the vehicles for marketing their products.

In the same vein, it was believed that public broadcasting would serve as a medium for intensive public affairs informational programing that could deeply probe the issues of the day without having to account for sponsor objections to controversial subject matter.

In most respects, public broadcasting has served those goals well. Any television viewer who appreciates drama, dance, and the arts cannot help but appreciate "Masterpiece Theater," "Great Performances," and the many locally produced programs that highlight individual community involvement in the arts. Any viewer who appreciates intelligent and articulate presentations of scientific topics cannot help but appreciate "Nova" and the "National Geographic" series. Any viewer who wants to look beyond the 28-second accounts of major news stories appearing in network news programs, cannot help but appreciate "McNeill/Lehrer," "The Lawmakers," "Washington Week in Review" and "Wall Street Week." These programs have no qualitative counterparts on commercial television.

H.R. 3228 will help keep programs like these on the air—not by providing full funding but by recognizing the problems currently facing public broadcasting and proposing realistic solutions which are consistent with the broader need for cutting back on Federal spending.

Public broadcasting is facing problems which can only be lessened, not solved by increased levels of funding. For example, cable television is moving ever more aggressively toward the audience for cultural programing. Because of cable's capacity for closely targeting its programing to its known audiences, there is every reason to believe that over-the-air public television will soon find itself at a competitive disadvantage in commanding the audiences for cultural programing. If the audiences for that kind of programing are sufficiently large and affluent, it is doubtful whether public TV can hold on.

Similarly, there are indications that other technological innovations like the video disc and the trend toward syndication will likewise trouble public TV in the days ahead.

This bill recognizes these problems and establishes reasonable levels of funding to insure that public broadcasting will survive as the market continues to adjust itself. By surviving, public broadcasting will continue to help expand viewer interest and promote greater program diversity and range of quality. It will make needed changes in the formula for allocating scarce funding to insure that the more promising aspects of public broadcasting remain viable. It will remove any lingering doubts about the partisan objectivity of public broadcasting by prohibiting editorial content of a partisan political nature. It will set up a temporary Commission for helping public broadcasting secure new sources of funding to supplant the loss of Federal support.

Mr. Chairman, public broadcasting has proved itself a vital and valuable adjunct to the effort to better inform the public. It ought not to be dismissed because the concept under which it operates does not fit the currently popular notions of allowing the marketplace to determine what Americans are permitted to see or hear.

I urge my colleagues to support this measure.

Mr. WIRTH. Mr. Chairman, I thank the gentleman from Arkansas (Mr. ALEXANDER) for his support of the bill.

Mr. HEFTEL. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Hawaii.

Mr. HEFTEL. Mr. Chairman, I rise to offer my support for an amendment which will be offered by my colleague, the gentleman from Iowa (Mr. TAUKE).

Mr. WIRTH. Mr. Chairman, I thank the gentleman from Hawaii (Mr. HEFTEL).

Mr. Chairman, we have remaining on the Public Broadcasting bill, I believe, three amendments. Last night we had a vote on the most important amendment and the most important issue facing the legislation. That was the level of authorization, and the vote gave an indication of the support of the House for public broadcasting in general. That amendment was overwhelmingly defeated by 120 votes in the House, demonstrating what I believe is a very broad, bipartisan, geographical support of public broadcasting. I hope that the temper of that vote will be reflected in actions today.

The three amendments that we will face today will be, first, an amendment offered by the gentleman from Texas (Mr. COLLINS), which will strike all of the funding for the facilities program for public broadcasting. That will, I believe, be very destructive if it passed, and again we have the same group of Members in opposition to that amendment on both sides of the aisle, of all persuasions, as were opposed to the Collins amendment yesterday. That will be the first amendment offered to public broadcasting.

The second amendment will be offered by the gentleman from Virginia (Mr. BLILEY). That is an amendment which goes to the way in which payments are made to the Corporation for Public Broadcasting. It is our hope as well that that amendment will be defeated. That amendment would be very destructive to the national program effort of the Corporation for Public Broadcasting in offering such distinguished programs as "Wall Street Week," "Washington Week in Review," "McNeill-Lehrer," and many other programs with which we are familiar.

The third amendment that will be offered will be the amendment which was referred to by the gentleman from Hawaii (Mr. HEFTEL)—an amendment to be offered by the gentleman from Iowa (Mr. TAUKE). That amendment, I believe, is broadly agreed to by everybody on the subcommittee. So the Tauke amendment will be the third amendment. We will then move to final passage, and I believe all of us would like to have a vote on final passage of the bill.

With that, Mr. Chairman, I yield back the balance of my time, and I understand the gentleman from Texas (Mr. COLLINS) will now offer his amendment relating to the facilities program, because that is, I think, the procedure we have all agreed to.

AMENDMENT OFFERED BY MR. COLLINS OF TEXAS

Mr. COLLINS of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLLINS of Texas: Page 2, strike out line 4 and all that follows through page 3, line 13, insert in lieu thereof the following new section, and redesignate the subsequent sections, and any references to such sections, accordingly:

REPEAL OF PUBLIC TELECOMMUNICATIONS FACILITIES PROGRAM

SEC. 2. (a) Part IV of title III of the Communications Act of 1934 (47 U.S.C. 390 et seq.) is amended—

(1) by striking out subpart A thereof;

(2) by redesignating subpart B through subpart D as subpart A through subpart C, respectively; and

(3) by redesignating section 395 as section 391.

(b)(1) Section 396(k)(3)(B) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(B)) is amended by striking out clause (iv) thereof.

(2) Section 397(2) of the Communications Act of 1934 (47 U.S.C. 397(2)) is amended by striking out "subpart C" and inserting in lieu thereof "subpart B".

(3) Section 397(15) of the Communication Act of 1934 (47 U.S.C. 397(15)) is amended to read as follows:

"(15) The term 'Secretary' means the Secretary of Health and Human Services.".

(4) Section 398(b) of the Communications Act of 1934 (47 U.S.C. 398(b)) is amended by striking out "subpart C" each place it appears therein and inserting in lieu thereof "subpart B".

Mr. COLLINS of Texas (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. COLLINS of Texas. Mr. Chairman, this amendment is a further move toward balancing the budget of America.

Yesterday, by the will of the House, we voted a full spending program for public broadcasting. The Members of the House voted more than the Reagan budget has asked for and more than the Senate Commerce Committee has agreed to provide to public broadcasting. We have been most generous in what we have provided in funds.

With this amendment I call on the House to eliminate the facilities funding program for public broadcast stations. This is supplementary funding. If the amendment is approved, public broadcast stations could continue to pay for new facilities from other funding sources. The amendment would simply do away with the supplementary funding.

The total savings in taxpayer dollars, if the amendment is approved, is $60 million over the next 3 years.

The need for Federal funding of a facilities program has been reduced by cable television systems, thousands of which today carry at least one public television signal, and by the fact that 90 percent of the country is already served by public television stations and 70 percent of the Nation now receives public radio broadcasts.

The goal of this amendment is to have public broadcasting learn and develop ways in which it can be more and more self-sufficient, because the need in this country is to balance the budget.

Are we going to balance the budget, and are we going to move to end inflation? Let us never forget that last year the national debt went up $80 billion, and if this Congress continues to spend as we are spending right now, the national debt will go up $100 billion this year.

Mr. Chairman, we must have courage, we must take a stand, and one of the best and most effective ways we can move would be to cut out the facilities program contained in this bill.

Mr. Chairman, I have offered an amendment to terminate the public telecommunications facilities program administered by the National Telecommunications and Information Administration in the Department of Commerce. This amendment has the support of the Reagan administration and is in accordance with the administration's budget request.

Since this program was initiated in 1961, it has provided funds for the construction and expansion of public telecommunications facilities. In fact, this program has done such a good job that public broadcasting now reaches more than 90 percent of the U.S. public.

I feel that this program has essentially fulfilled its purposes and that no further Federal funds should be used for facilities. At the present time, approximately 90 percent of the country can receive public television signals, through broadcast cable, or satellite transmission. And the continued growth of the cable industry should expand the reach of public broadcasting even more. This can be accomplished . through private initiative rather than by Federal funding. Most of the Nation's 4,100 private cable systems carry at least one public television signal, and many systems carry multiple signals. Thus, an effective and efficient way to expand the public broadcasting audience is through cable expansion which is already occurring. We do not need the continued Federal money provided in this bill.

In regard to public radio, the maximum coverage possible, considering the limitations of the frequency spectrum, is 81 percent of the country. We are already serving 70 percent of the country, and with additional construction now underway, this will soon increase to 75 percent. In short, we just do not need to continue to spend Federal money for this purpose.

A real problem in increasing the reach of public broadcasting facilities is the cost per viewer or listener of reaching a larger audience. Because most areas not served by public broadcasting are more sparsely populated than those now served, a transmitter will reach fewer people and the cost per person is greatly increased. This is an inefficient use of scarce Federal funds.

In short, it is time to end Federal funding of public telecommunications facilities and let private sources, such as the cable industry, do this job.

Mr. WIRTH. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the arguments made by the gentleman from Texas (Mr. COLLINS) are exactly the arguments that were made yesterday on his amendment that was overwhelmingly defeated.

We have cut very significantly the level of funding for public broadcasting, and we have also cut very significantly the level of funding for the facilities program, which is the target of the gentleman's amendment. The facilities program is currently authorized at the level of $40 million a year. We are bringing that down in this legislation to $25 million for 1982, $20 million for 1983, and $15 million for 1984. Those are the numbers. The support for the facilities program has been agreed to by our colleagues on the Senate side and through the appropriations process.

Why is the facilities program important? Public broadcasting as a whole is supported in part out of taxpayers' funds. Taxpayers, therefore, have a right to have access to public broadcasting. Let us look at the record and see who does have access to public broadcasting. Ninety percent of the population in this country can receive public broadcasting in the form of television, and less than 70 percent in radio.

Where there are great gaps in that, of course, is in the West and in the South, in those areas in particular. Let me turn, for example, to the gentleman's State of Texas. I do not understand really why the gentleman from Texas (Mr. COLLINS) would be opposing facilities in his own State of Texas. Thirty percent of the population of the State of Texas receives no public broadcasting in the way of television, and 30 percent receives no public radio. In other words, 3.7 million citizens of the gentleman's own State of Texas do not have access to public broadcasting.

Cable is not an answer to that. Cable is not wired in, in the far reaches of Texas or in many, many of the urban areas of Texas, and it will not be for some time to come. The alternative to public broadcasting is not available to great numbers of citizens, 30 percent of those in the gentleman's own State of Texas and more than 30 percent across the country in terms of public radio.

I would hope that we would maintain the figure currently in the legislation as adopted by a very large margin in the subcommittee and in the full committee. I hope that we maintain the levels suggested by the subcommittee and the full committee which are cuts—and they are significant cuts—from the current level of authorization, but which maintain the ability of public broadcasting to reach out to all the American public and allow them to have this opportunity.

In closing, Mr. Chairman, again I would point out the very broad coali-

tion of Members who are in support of the numbers in the legislation on the House side. On the majority side, they are Mr. DINGELL, Mr. ALEXANDER, Mr. HEFNER, Mr. LONG, Mr. SMITH, Mr. MOTTL, Mr. TAUZIN, Mr. GEPHARDT, and Mr. SWIFT. On the Republican side, they are Mr. CONABLE, Mr. MARKS, Mr. RAILSBACK, Mr. O'BRIEN, Mr. CONTE, Mr. LEE, Mr. EVANS, Mr. LEACH, and Mrs. FENWICK. This is the group that has sent out a very carefully constructed "Dear Colleague" letter explaining the issues.

Mr. Chairman, I would very much hope that we would defeat the Collins amendment today, as we defeated the amendment the gentleman offered yesterday.

Mr. HIGHTOWER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment offered by my good friend JIM COLLINS. Although I understand his arguments for eliminating the NTIA facilities program, I cannot agree that this would be prudent at this time for a very specific reason.

I represent a good part of that great State of Texas that was referred to a minute ago as not receiving the benefits of public broadcasting.

My district, which encompasses most of the panhandle of Texas, is one of the most severely underserved areas of the Nation in terms of PBS broadcasting. The whole reason for the NTIA facilities program's existence was to help broad areas of the country gain access to the superb PBS programing we have seen in the past few years.

My district is one of the major areas left in the country that both needs and wants access to PBS. Amarillo College has on file an application with NTIA for a grant involving planning and later construction of a PBS station at the college. A great deal of hard work, hopes, and dreams have gone into their application and they have the broad support of not only the Amarillo community but people throughout the whole panhandle.

Mr. Chairman, to destroy the NTIA program at this juncture would probably end Amarillo College's and the panhandle's chances of ever getting off the ground with a station up there to serve the thousands of people who want better television programing for themselves and especially for their children. While I understand the need to retrench in some areas of the NTIA program, I cannot justify to myself or my constituents—or to the people in the other major unserved areas of the country—denying them the chance to develop a station they need.

The NTIA facilities program has proven amazingly effective at helping bring service to isolated areas of the country at a very, very small cost to the taxpayers. I support the idea of weaning public broadcasting away from the Federal dollar; however, to cut the NTIA program out entirely and assume its job is done would be just flat wrong at this point in time—and it would not result in significant savings but would absolutely destroy our chances of moving ahead at low cost in the panhandle and elsewhere in the country.

Mr. Chairman, I think we are headed in the right direction overall in reducing PBS dependence on the Federal dollar. However, I think this amendment is unnecessary at this time, would save very little real money overall, and would do great damage to those people who have already invested time, hard work, and money in an effort to bring the oasis of public television to the desert of the airways in their particular area.

Thank you, Mr. Chairman; I urge defeat of this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. COLLINS).

The question was taken; and on a division (demanded by Mr. COLLINS of Texas) there were—ayes 5, noes 14.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. BLILEY

Mr. BLILEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BLILEY: Page 6, strike out line 18 through line 23, and redesignate the subsequent subsections accordingly.

Mr. BLILEY. Mr. Chairman, I find this entire debate over Federal funding for television and radio puzzling. We in the Congress have rightfully taken alarm at the Nation's economic situation. We have, very properly, begun to follow President Reagan's advice and make the hard decisions to cut food aid, consolidate and reduce funding for health and social service programs, eliminate education loans, close post offices, and to make many other decisions which most of us find painful, but necessary.

So why are we even discussing so-called public broadcasting? There are no votes in it. Nobody even watches it. In many large cities, national public radio affiliates are not even recorded on listening surveys because their listenership is under 1 percent. Public television has an almost equally dismal record.

Public broadcasting is simply not a necessary social service. It does not save lives; it does not feed babies; it does not promote commerce; and, as pursued over the years under the aegis of the CPB, it provides few useful educational services. Most educational programing has come at the State level. CPB serves none of the constitutional functions of the National Government.

In short, public broadcasting is a frill. It exists because it is supported by a wealthy political elite, who could very well pay for this boondoggle themselves. It is not welfare for the middle classes, it is welfare for the upper classes. I do not see how anyone with a real social conscience could support this program and vote to reduce food stamps or medicaid.

But leaving aside the merits of the CPB, there is one provision of this bill which I find particularly objectionable. I find it objectionable because it is fraudulent. I am referring to that part of the bill which changes the current system of quarterly disbursement to CPB to an annual payment up front. The CPB itself makes payments to your local stations on a quarterly basis, and the annual payment scheme is merely a back door method to even larger appropriations for the CPB.

How would annual disbursement work? Well, since the U.S. Treasury cannot keep balances on hand, it would have to go into the private capital markets and compete with the small businesses and homebuyers in your district for limited capital. This is the kind of needless borrowing which drives up interest rates.

The Treasury would give the money to CPB. CPB would then be able to lend out the money and earn interest on it during the course of the year. Since CPB would want a secure investment, it would probably turn around and put its money into Treasury bills. Now, the Treasury would be paying 15 or 20 percent to borrow a $100 or $150 million appropriation, then it would be turning around and offering CPB another 15 or 20 percent to borrow back the money during the year. That is a combined rate of 30 to 40 percent. Thus, under the appropriation contemplated by this bill, the Treasury could end up paying CPB an additional $45 to $60 million above the amount authorized by the Congress. If a private company offered a scheme such as this one, its officers would be jailed.

My colleagues, this amendment is a matter of simple equity and honesty.

High Federal spending is not in line with the mandate given to Congress by the President. At this time of increasing inflation the Federal Government can ill afford for the Treasury to borrow at high interest rates so that CPB can receive annual Government funds which then accrue interest.

It is clear that for the next few years the economy of this country will need substantial reductions in Federal spending. To ask the Government to borrow at high interest rates in order for public broadcasting to be subsidized above the appropriations level is against all of President Reagan's efforts to cut Federal spending.

To achieve more control over Federal spending, I urge a return to the 1978 act's quarterly disbursement method. With the crucial need today to manage Federal funds more effec-

tively, I believe that a quarterly system will allow both the administration and Congress greater accountability on the disbursement of funds.

□ 1215

Mr. SWIFT. Mr. Chairman, I rise in opposition to the amendment.

We have just heard that nobody watches public television. Nobody watches "Sesame Street." Alistair Cooke has been wasting his time all these years on Masterpiece Theater, because nobody watches public television.

The "McNeill-Lehrer Report" has no viewers?

The "Adams Chronicles" play to empty houses all across America? Nobody watches public television?

I do not believe the absurdity of that statement needs any further amplification, but I think that one should suggest that if that is the understanding of the author of this amendment as to the issue that we are debating here in the House of Representatives today, that one ought to then apply the same standard of understanding to his amendment that they would apply to that perception of public broadcasting.

Oh, the gentleman did say somebody does watch it, the elite, the rich only.

In the body of the record of the committee on which the gentleman sits is a detailed breakdown of the demographics of who watches public television, who listens to public radio in America, and if the gentleman will check that record he will find that the answer is virtually everyone does.

Now, not everybody is watching it all the time. Not everybody listens to public television or public radio every minute that they have their radio or television on, but every demographic segment of the American people utilizes public broadcasting, and it is in the record of the committee on which the gentleman serves.

The specific amendment of the gentleman here would virtualy eliminate, it would certainly threaten, such programs that nobody watches as "Bill Moyers Journal," "Live From the Met," "Kennedy Center Tonight," "The Presidency," "Live From Lincoln Center," and so forth.

All in the world that the bill does is to provide the funding mechanism at the beginning of the year for CPB to disperse throughout the year, the same as we did until 1978. It was changed for a very interesting reason. We wanted to send a message to CPB. They got the message. They do not need that message any more. What they do need is the ability to handle their funding in the way that a great many other Federal agencies handle their funding, in a way that they can continue to put lifeblood into the kind of programing that America watches on public radio and television.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. SWIFT. I would be happy to yield to the gentleman from New York.

Mr. PEYSER. I thank the gentleman for yielding. I want to share the gentleman's thoughts completely.

One of the points that the gentleman from Virginia raised really concerned me, because it spoke of the priorities of the Treasury having to borrow money to do this and how the drain on the public Treasury for something like public broadcasting that evidently the gentleman does not feel is very important.

I wonder, conversely, how the gentleman feels when we have a tobacco subsidy program that is causing a far greater drain on the Treasury in procuring money for loans than anything that public broadcasting is about to get. So it is a matter of priorities.

I think that the statement of the gentleman from Washington just now is absolutely correct. This amendment should be defeated. It is merely another endeavor to weaken and destroy the public television and public broadcasting system.

Mr. SCHEUER. Mr. Chairman, I move to strike the last word. I rise to oppose the amendment.

Mr. Chairman, I oppose this amendment because on the one hand it is not necessary. H.R. 3238 simply restores the practice of the annual disbursement of funds that was always employed with respect to public broadcasting until 1978. In that year the annual funding practice was discontinued after it was found that CPB was not passing through its funds to the stations on a timely basis. That problem has now definitely been resolved. Thus, the annual disbursement mechanism provided for in the bill would only restore a practice that was always in effect except for the short aberration of the last few years.

It is very important that funding of CPB by annual disbursement, rather than by quarterly disbursement, be retained as it presently exists in the bill. By the payment to the Corporation for Public Broadcasting of its entire appropriation at the beginning of a fiscal year, CPB will be able to earn a small additional amount of interest income. This additional sum would represent an infinitesimal amount when compared to the entire Federal budget, but it would represent a significant degree of support to all those in the public broadcasting community, and help them to cope with the sharp budget cuts the bill makes.

The Congressional Budget Office in its appraisal of the bill does not attribute any greater cost to the Federal Government when annual disbursement is employed as opposed to quarterly disbursement. Moreover, there is nothing novel about the annual disbursement approach. There is ample precedent for it. The U.S. Postal Service, for example, receives its funds from the Treasury on an annual basis.

Second, it would be destructive of CPB's programing. I hope that somebody listens to CPB. I was on the "McNeill-Lehrer" show last night and I would be very frustrated to believe that nobody was watching and that I was speaking to a blind and empty tube.

The sponsor of the amendment, my distinguished colleague, was right in one respect when he said that the well-to-do, educated, elite in this country have other ways of satisfying their need and desire for high quality programing. He is absolutely correct. They have cable TV. Many of them, if not most of them, live in cities and they have the live performing arts that have had an explosive growth in the last few years in most of our major cities. So this is correct. The wealthy elite in our country do not need this, but there are people who do need this. The poor who listen to "Sesame Street" urgently need the high quality public broadcasting to bring their kids along and supplement the public school education.

The elderly in our society who are not mobile, who cannot afford the price either of transportation to live programing, who do not have the mobility or the wherewithal to buy the tickets and to pay for the transportation, they have an urgent need for high quality programing to fill their needs as senior citizens both for entertainment and for knowledge of how to cope with the problems of age, how to be aware of the many government services at the Federal, State, and local level, that are provided for our elderly people.

The people living in rural areas of whatever income group who do not have access to the cultural dynamics of the big city, the farmers of America, other rural people, can have their lives enormously enriched by CPB; so while it is true that the educated, well-to-do, elite in our country do not need CPB because they have a lot of other options, there are many groups in American society who do rely on CPB for enrichment.

At an age when we have a telecommunications revolution on our hands, when we are taking a quantum jump forward in access, at least theoretical access by all Americans to the best in television and radio programing, it seems to me we would be doing a very hurtful thing to those who cannot afford to plug into the pay television options. We would be doing them a terrible hurt, the poor, the elderly, the people living in rural America, to deny them the benefits of public television.

Again I urge my colleagues to oppose this amendment.

Mr. COLLINS of Texas. Mr. Chairman, I rise in support of the amendment.

The amendment of the gentleman from Virginia is essential if we are to succeed in reducing Federal spending.

The amendment would simply retain the present system of funding the Corporation for Public Broadcasting by providing Federal funds on a quarterly basis. Without the amendment, the bill would provide annual appropriations at the beginning of each year.

Failure to adopt this amendment would require the Federal Government to borrow large amounts of money which the Corporation could then invest at high interest rates until the money was needed.

Therefore the Federal taxpayer comes out on the short end of the stick if this amendment is not approved.

I agree with the gentleman from New York (Mr. SCHEUER) that the McNeill-Lehrer program is possibly the most in-depth, accurate and perhaps the best news program on the air today. In fact, public broadcasting has many, many excellent programs. In my own community, for example, we have a wonderful station which is well managed.

This amendment does not criticize the quality of the programs on public broadcasting stations. What we are talking about here is how we finance public broadcasting. It does not make sense for the Federal Government to borrow money, give it to the stations in advance, and let them make interest on it all year long.

It is absolutely essential that we vote for this amendment.

Mr. WIRTH. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, the bookkeeping arguments made by the advocate of the amendment and made by others who want to support the gentleman from Virginia, who does not support public broadcasting at all, those arguments are specious. The issue is simply the one as outlined by the gentleman from Washington (Mr. SWIFT). Are we concerned about the quality of programing from the Corporation for Public Broadcasting? Do we want to continue McNeill-Lehrer? Do we want to continue the kinds of initiatives that are increasingly popular with, as the gentleman from New York (Mr. SCHEUER) said, all segments of the public? That is the issue at stake here related to this amendment.

I would hope and trust that my colleagues in the House all appreciate the quality programing coming from the Corporation for Public Broadcasting and in appreciation of that quality programing would defeat the amendment of the gentleman from Virginia.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Virginia (Mr. BLILEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BLILEY. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 100]

Addabbo	Collins (IL)	Ford (MI)
Akaka	Collins (TX)	Ford (TN)
Albosta	Conte	Fowler
Alexander	Corcoran	Frank
Anderson	Coughlin	Frenzel
Andrews	Courter	Frost
Annunzio	Coyne, James	Fuqua
Anthony	Coyne, William	Gaydos
Applegate	Craig	Gejdenson
Archer	Crane, Daniel	Gephardt
Ashbrook	Crane, Philip	Gilman
Aspin	Crockett	Gingrich
Atkinson	D'Amours	Ginn
AuCoin	Daniel, Dan	Glickman
Badham	Daniel, R. W.	Goldwater
Bafalis	Dannemeyer	Gonzalez
Bailey (MO)	Daschle	Goodling
Bailey (PA)	Daub	Gore
Barnard	de la Garza	Gradison
Beard	Deckard	Gramm
Bedell	Dellums	Gray
Beilenson	Derrick	Green
Benedict	Dickinson	Gregg
Benjamin	Dicks	Grisham
Bennett	Dingell	Guarini
Bereuter	Dixon	Gunderson
Bethune	Dorgan	Hagedorn
Bevill	Dornan	Hall (OH)
Biaggi	Downey	Hall, Ralph
Bingham	Dreier	Hall, Sam
Blanchard	Duncan	Hamilton
Bliley	Dunn	Hammerschmidt
Boggs	Dwyer	Hance
Boland	Dymally	Hansen (ID)
Boner	Dyson	Hansen (UT)
Bonior	Eckart	Harkin
Bonker	Edgar	Hartnett
Bouquard	Edwards (AL)	Hatcher
Bowen	Edwards (OK)	Hawkins
Brinkley	Emerson	Heckler
Brodhead	Emery	Hefner
Brooks	English	Heftel
Broomfield	Erdahl	Hendon
Brown (CA)	Erlenborn	Hertel
Brown (CO)	Ertel	Hightower
Broyhill	Evans (DE)	Hiler
Burgener	Evans (GA)	Hillis
Burton, Phillip	Evans (IA)	Holland
Butler	Evans (IN)	Holt
Byron	Fascell	Hopkins
Campbell	Fazio	Horton
Carney	Fenwick	Howard
Chappell	Ferraro	Hubbard
Cheney	Fiedler	Huckaby
Chisholm	Fields	Hughes
Clausen	Findley	Hunter
Clinger	Fithian	Hutto
Coats	Flippo	Hyde
Coelho	Florio	Ireland
Coleman	Foglietta	Jacobs
Jeffords	Montgomery	Shannon
Jeffries	Moore	Sharp
Jenkins	Moorhead	Shaw
Johnston	Morrison	Shelby
Jones (NC)	Mottl	Shumway
Jones (OK)	Murphy	Shuster
Jones (TN)	Murtha	Siljander
Kastenmeier	Myers	Simon
Kazen	Napier	Skelton
Kemp	Natcher	Smith (AL)
Kildee	Neal	Smith (IA)
Kindness	Nelligan	Smith (NE)
Kogovsek	Nelson	Smith (NJ)
Kramer	Nichols	Smith (OR)
LaFalce	Nowak	Snowe
Lagomarsino	O'Brien	Snyder
Latta	Oakar	Solomon
Leach	Oberstar	Spence
Leath	Obey	Stangeland
LeBoutillier	Ottinger	Stanton
Lee	Panetta	Staton
Lehman	Parris	Stenholm
Leland	Pashayan	Stokes
Lent	Patman	Stratton
Levitas	Patterson	Studds
Lewis	Paul	Stump
Livingston	Pease	Swift
Loeffler	Perkins	Synar
Long (LA)	Petri	Tauke
Long (MD)	Peyser	Tauzin
Lott	Pickle	Taylor
Lowery	Porter	Thomas
Lowry	Price	Traxler
Lujan	Pursell	Trible
Luken	Quillen	Udall
Lundine	Rahall	Vento
Lungren	Railsback	Volkmer
Madigan	Rangel	Walgren
Markey	Ratchford	Walker
Marks	Regula	Washington
Marlenee	Reuss	Watkins
Marriott	Rhodes	Waxman
Martin (IL)	Richmond	Weaver
Martin (NC)	Rinaldo	Weber (MN)
Matsui	Ritter	Weber (OH)
Mattox	Roberts (KS)	Weiss
Mavroules	Roberts (SD)	White
Mazzoli	Robinson	Whitehurst
McClory	Rodino	Whitley
McCloskey	Roe	Whittaker
McCollum	Roemer	Whitten
McCurdy	Rogers	Williams (MT)
McDade	Rose	Williams (OH)
McEwen	Rosenthal	Wilson
McGrath	Rostenkowski	Winn
McHugh	Roth	Wirth
McKinney	Roukema	Wolf
Mica	Rousselot	Wolpe
Michel	Roybal	Wortley
Mikulski	Rudd	Wright
Miller (OH)	Russo	Wyden
Mineta	Sabo	Wylie
Minish	Savage	Yates
Mitchell (MD)	Scheuer	Yatron
Mitchell (NY)	Schneider	Young (FL)
Moakley	Schroeder	Young (MO)
Moffett	Schulze	Zablocki
Molinari	Sensenbrenner	Zeferetti
Mollohan	Shamansky	

□ 1245

The CHAIRMAN. Three hundred and eighty-six Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Virginia (Mr. BLILEY) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The chair will advise Members that they will have 5 minutes in which to record their votes.

The vote was taken by electronic device, and there were—ayes 171, noes 226, not voting 34, as follows:

[Roll No. 101]

AYES—171

Archer	Goodling	Morrison
Ashbrook	Gradison	Murphy
Badham	Gramm	Myers
Bafalis	Gregg	Napier
Bailey (MO)	Grisham	Nelligan
Barnard	Gunderson	O'Brien
Beard	Hagedorn	Parris
Benedict	Hall, Ralph	Paul
Bereuter	Hall, Sam	Petri
Bethune	Hammerschmidt	Porter
Bliley	Hansen (ID)	Pursell
Broomfield	Hansen (UT)	Quillen
Brown (CO)	Hartnett	Railsback
Broyhill	Heckler	Regula
Burgener	Hendon	Rhodes
Butler	Hiler	Rinaldo
Campbell	Hillis	Roberts (KS)
Carney	Holt	Roberts (SD)
Chappie	Hopkins	Robinson
Cheney	Huckaby	Rogers
Clausen	Hughes	Roth
Clinger	Hunter	Roukema
Coats	Hyde	Rousselot
Coleman	Jeffries	Rudd
Collins (TX)	Johnston	Schneider
Conte	Kemp	Schulze
Corcoran	Kindness	Sensenbrenner
Coughlin	Kramer	Shaw
Courter	Lagomarsino	Shelby
Coyne, James	Latta	Shumway
Craig	Leach	Siljander
Crane, Daniel	LeBoutillier	Skelton
Crane, Philip	Lent	Smith (AL)
D'Amours	Lewis	Smith (NE)
Daniel, Dan	Livingston	Smith (NJ)
Daniel, R. W.	Loeffler	Smith (OR)
Dannemeyer	Long (MD)	Snowe
Daub	Lott	Solomon
de la Garza	Lowery	Spence
Deckard	Lujan	Stangeland
Dornan	Lungren	Stanton
Dreier	Madigan	Staton
Duncan	Marlenee	Stenholm
Dunn	Marriott	Stump
Edwards (OK)	Martin (IL)	Tauke
Emerson	Martin (NC)	Taylor
Emery	McClory	Thomas
Erdahl	McCollum	Trible
Erlenborn	McDade	Volkmer
Evans (DE)	McDonald	Walker
Evans (IA)	McEwen	Weber (MN)
Fields	McGrath	Weber (OH)
Findley	Michel	Whitehurst
Forsythe	Miller (OH)	Winn
Frenzel	Molinari	Wolf
Gingrich	Moore	Wortley
Glickman	Moorhead	Young (FL)

NOES—226

Addabbo	Brown (CA)	Fenwick
Akaka	Burton, John	Ferraro
Albosta	Burton, Phillip	Fiedler
Alexander	Byron	Fish
Anderson	Chappell	Fithian
Andrews	Chisholm	Flippo
Annunzio	Clay	Florio
Anthony	Coelho	Foglietta
Applegate	Collins (IL)	Ford (MI)
Aspin	Coyne, William	Fountain
Atkinson	Crockett	Fowler
AuCoin	Daschle	Frank
Bailey (PA)	Dellums	Frost
Barnes	DeNardis	Fuqua
Bedell	Derrick	Gaydos
Beilenson	Dicks	Gejdenson
Benjamin	Dingell	Gephardt
Bennett	Dixon	Gilman
Bevill	Dorgan	Ginn
Biaggi	Downey	Goldwater
Bingham	Dwyer	Gonzalez
Blanchard	Dymally	Gore
Boggs	Dyson	Gray
Boland	Early	Green
Boner	Eckart	Guarini
Bonior	Edgar	Hall (OH)
Bonker	Edwards (AL)	Hamilton
Bouquard	English	Hance
Bowen	Ertel	Harkin
Breaux	Evans (GA)	Hatcher
Brinkley	Evans (IN)	Hawkins
Brodhead	Fascell	Hefner
Brooks	Fazio	Heftel
Hertel	Mitchell (NY)	Schroeder
Hightower	Moakley	Seiberling
Holland	Moffett	Shamansky
Horton	Mollohan	Shannon
Howard	Montgomery	Sharp
Hubbard	Mottl	Shuster
Hutto	Murtha	Simon
Ireland	Natcher	Smith (IA)
Jacobs	Neal	Snyder
Jeffords	Nelson	Stokes
Jenkins	Nichols	Stratton
Jones (OK)	Nowak	Studds
Jones (TN)	Oakar	Swift
Kastenmeier	Oberstar	Synar
Kazen	Obey	Tauzin
Kildee	Ottinger	Traxler
Kogovsek	Panetta	Udall
LaFalce	Pashayan	Vento
Leath	Patman	Walgren
Lee	Patterson	Washington
Lehman	Pease	Watkins
Leland	Pepper	Waxman
Levitas	Perkins	Weaver
Long (LA)	Peyser	Weiss
Lowry	Pickle	White
Luken	Price	Whitley
Lundine	Pritchard	Whittaker
Markey	Rahall	Whitten
Marks	Rangel	Williams (MT)
Matsui	Ratchford	Williams (OH)
Mattox	Reuss	Wilson
Mavroules	Richmond	Wirth
Mazzoli	Ritter	Wolpe
McCloskey	Rodino	Wright
McCurdy	Roe	Wyden
McHugh	Roemer	Wylie
McKinney	Rose	Yates
Mica	Rosenthal	Yatron
Mikulski	Roybal	Young (MO)
Miller (CA)	Russo	Zablocki
Mineta	Sabo	Zeferetti
Minish	Savage	
Mitchell (MD)	Scheuer	

NOT VOTING—34

Bolling	Edwards (CA)	Santini
Brown (OH)	Fary	Sawyer
Carman	Foley	Schumer
Conable	Ford (TN)	Skeen
Conyers	Garcia	Solarz
Cotter	Gibbons	St Germain
Danielson	Hollenbeck	Stark
Davis	Hoyer	Vander Jagt
Derwinski	Jones (NC)	Wampler
Dickinson	Lantos	Young (AK)
Donnelly	Martin (NY)	
Dougherty	Rostenkowski	

Mr. COLEMAN and Mr. GLICKMAN changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. TAUKE

Mr. TAUKE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAUKE: Page 18, after line 20, insert the following (and redesignate the subsequent section accordingly):

(2) The Commission shall reconvene after the termination of the demonstration program conducted under section 12 for the purpose of carrying out the functions of the Commission specified in section 12(e). The Commission shall terminate at the end of the 90-day period following the date of the submission of the report required in section 12(e).

DEMONSTRATION PROGRAM REGARDING ADVERTISING

SEC. 12. (a) The Temporary Commission on Alternative Financing for Public Telecommunications established in section 11 shall establish a demonstration program in accordance with this section for the purpose of determining the feasibility of permitting public television station licensees and public radio station licensees to broadcast advertising announcements.

(b)(1)(A) The Commission shall establish the demonstration program as soon as practicable after the date of the enactment of this Act. The Commission shall permit public broadcast station licensees to begin the broadcasting of qualifying advertising not later than January 1, 1982, except that such licensees may begin such advertising before such date if the Commission completes the establishment of the demonstration program before such date.

(B) Such broadcasting of qualifying advertising shall be carried out during the 18-month period beginning January 1, 1982 (or beginning on such earlier date as may be authorized by the Commission under subparagraph (A)), except that such broadcasting of qualifying advertising shall terminate not later than June 30, 1983. The demonstration program shall terminate at the end of such period.

(2)(A) The Corporation for Public Broadcasting, in consultation with the Commission, shall select not more than 10 public television station licensees and not more than 10 public radio station licensees to participate in the demonstration program.

(B) Such selection shall be made from among licensees which have expressed to the Corporation a desire to participate in the demonstration program, except that any public television station licensee or public radio station licensee which is represented on the Commission under 11(b)(3) shall not be eligible to participate in the demonstration program.

(C) If a licensee elects not to participate in the demonstration program, after receiving notice of its selection from the Corporation, then the Corporation shall select an alternate licensee.

(D) The exemption from income tax of any public broadcast station licensee under section 501(a) of the Internal Revenue Code of 1954, relating to exemption from taxation, shall not be affected by the participation of such licensee in the demonstration program.

(3) The Corporation shall make selection under paragraph (2), to the extent practicable, in a manner which ensures that—

(A) a representative geographical distribution of public broadcast station licensees will be achieved;

(B) licensees serving audiences and markets of various sizes will participate in the demonstration program;

(C) licensees with operating budgets of various sizes will participate in the demonstration program;

(D) different types of licensees will participate in the demonstration program; and

(E) in the case of public radio station licensees, licensees with different types of programing formats will participate in the demonstration program.

(c) Each public television station licensee or public radio station licensee which is selected by the Corporation for Public Broadcasting under subsection (b) shall be authorized to broadcast qualifying advertising in accordance with subsection (d).

(d)(1)(A) Except as provided in subparagraph (B), any qualifying advertising announcement which is broadcast by any public television station licensee or any public radio station licensee may be broadcast only at the beginning or at the end of regular programs, and may not interrupt regular programs.

(B) In the case of any regular program which is 2 or more hours in duration, any public radio station licensee may broadcast (subject to paragraph (2)) a qualifying advertising announcement during the program, but only (i) during a break in the program scheduled for station identification; or (ii) at other times which will not unduly disrupt the program.

(2) Any qualifying advertising announcements which are broadcast consecutively by any public television station licensee or any public radio station licensee may not exceed 2 minutes in duration. Such licensees may not engage in any such consecutive broadcasts of qualifying advertising announcements more than once during any 30-minute period.

(3)(A) The Commission shall prescribe regulations which specify the types of advertisements which may be broadcast by licensees during the demonstration program. The Commission may authorize licensees participating in the demonstration program to broadcast institutional advertisements and advertisements relating to specific products, services, or facilities. Licensees shall not be authorized or required to broadcast any advertisement which—

(i) is intended to promote any opinion or point-of-view regarding any matter of public importance or interest, any political issue, or any matter relating to religion; or

(ii) is intended to support or oppose any candidate for political office.

(B) The Federal Communications Commission shall have authority to determine in disputed cases whether any advertising announcement shall be considered to be qualifying advertising for purposes of this section.

(4) The Commission shall prescribe regulations which establish requirements relating to the sale of broadcast time for advertisements during the demonstration program. Such regulations may authorize—

(A) the assignment of broadcast time for advertisements through a system of random selection;

(B) the sale of broadcast time for advertisements which will be broadcast at the beginning or at the end of particular programs, or during particular portions of the broadcast day; or

(C) any other method for the sale of broadcast time which the Commission considers appropriate.

(5) The Commission shall have authority to prescribe regulations under paragraph (3) and paragraph (4) which establish different criteria and requirements applicable to the various licensees participating in the demonstration program, to the extent the Commission considers the establishment of such different criteria and requirements to be necessary to assist the Commission in preparing the report, and making the recommendations, required in subsection (e).

(6) Any issue regarding compliance with the provisions of this subsection shall be resolved by the Federal Communications Commission in accordance with its authority under the Communications Act of 1934 (47 U.S.C. 151 et seq.).

(e)(1) The Commission, as soon as practicable after the termination of the demonstration program under subsection (b)(1)(A), shall analyze the results of the demonstration program and shall submit a report to each House of the Congress regarding the demonstration program. Such report shall be submitted not later than October 1, 1983, and shall include—

(A) an examination of whether qualifying advertising had any influence or effect upon programming broadcast by the public broadcast station licensees involved;

(B) an analysis of the reaction of audiences to the broadcasting of such qualifying advertising;

(C) an examination of the extent to which businesses and other organizations engaged in the purchase of broadcast time for the broadcast of qualifying advertising;

(D) an analysis of whether the broadcasting of qualifying advertising had any impact upon the underwriting of programs; and

(E) any other findings or information which the Commission considers appropriate.

(2) Such report also shall include such recommendations for legislative or other action as the Commission considers appropriate, including a recommendation regarding whether public broadcast stations should be permitted to broadcast qualifying advertising on a permanent basis.

(f) For purposes of this section:

(1) The term "Commission" means the Temporary Commission on Alternative Financing for Public Telecommunications established in section 11.

(2) The term "demonstration program" means the demonstration program established by the Commission in accordance with this section.

(3) The terms "public broadcast station", "public television station", and "public radio station" have the same meaning as the term "public broadcast station" in section 397(6) of the Communications Act of 1934 (47 U.S.C. 397(6)).

(4) The term "qualifying advertising" means any type of advertising specified by the Commission under subsection (d)(3)(A).

Page 15, after line 17, insert the following new paragraph (and redesignate the subsequent paragraphs accordingly):

(2) The Commission, in addition to carrying out the functions established in this section, shall carry out the functions assigned to the Commission under section 12.

Page 16, line 8, strike out "paragraph (2)" and insert in lieu thereof "paragraph (3)".

Page 16, line 12, strike out "paragraph (2)" and insert in lieu thereof "paragraph (3)".

Page 17, line 3, strike out "subsection (b)(2)" and insert in lieu thereof "subsection (b)(3)".

Page 18, line 18, strike out "(j) The" and insert in lieu thereof "(j)(1) Except as provided in paragraph (2) the".

Mr. TAUKE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. TAUKE. Mr. Chairman, the amendment that I am offering would provide for an 18-month experimental demonstration program of advertising on public broadcasting stations to determine the impact and effect of advertising on a limited number of public television and radio stations.

The reason that I am offering this amendment is that during the course of the discussion on this legislation and during the course of action here in the House, we have substantially cut funding for public broadcasting. In fact, we have cut funding about 41 percent over the current levels, and that does not take into account inflation. So in fact we are asking public broadcasting to operate on less than half the dollars on which they are operating today.

In view of that, it is essential that we look at other sources of revenue.

The subcommittee considered amendments offered by my good friend, the gentleman from Texas (Mr. COLLINS), the ranking minority member, that would have permitted institutional advertising on all public broadcasting stations. Because of the reluctance of the committee to take that step without having adequate information and data on hand, it seemed appropriate for us to consider some kind of 18-month experimental program which would allow us to take a look at the impact of advertising on programing on public broadcasting, on the audiences that listen to public broadcasting, the impact on private broadcasters in the same market, and other appropriate information that could be made available through this experiment.

I believe that with the excellent work of the distinguished chairman of the full committee, the gentleman from Michigan (Mr. DINGELL); the chairman of the subcommittee, the gentleman from Colorado (Mr. WIRTH); the ranking member, the gentleman from Texas (Mr. COLLINS); and the gentleman from California (Mr. MOORHEAD); we have developed an amendment that has across-the-board support in the subcommittee and committee. Therefore I urge that each of the Members of the House support this amendment to provide for an experiment for advertising on the public broadcasting stations of our country.

Mr. WIRTH. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Iowa. I want to commend Mr. TAUKE on his superb leadership in framing an amendment which will permit a limited experiment to go forward in order to determine the impact of advertising on public broadcasting. I also wish to commend the efforts of Mr. DINGELL, chairman of the Energy and Commerce Committee, and Messrs. WAXMAN and SWIFT, all of whom have identified the need to explore alternative avenues for generating revenue for public broadcasting as we enter a period of reduced Federal support. I believe we have developed an amendment that has wide bipartisan support.

I am personally very concerned with the possible impact on public television and radio that allowing advertising might have. As some have suggested it is almost a contradiction in terms to permit, even on an experimental basis such as this, commercial advertising on a medium which is often de-

fined as noncommercial. However, it is abundantly clear that public broadcasting is facing a crucial turning point, and we must identify and explore new sources of revenue so that the high quality alternative service public broadcasting furnishes to the American public can continue to thrive.

H.R. 3238 establishes a temporary Commission on Alternative Financing for Public Telecommunications. This Commission is directed to develop a report to Congress, after comprehensive study, of possible alternative means of generating revenue for public broadcasting. Since allowing advertising to be aired over public broadcast stations was thought to be one possibility for study, it is felt that providing for this limited experiment would provide the temporary Commission with the empirical data necessary to fully evaluate whether or not it might be advisable for Congress at some later date to authorize some form of advertising on public television and radio.

The amendment offered by the gentleman from Iowa provides for the temporary Commission to reconvene following the termination of the experiment after 18 months, and prepare a report to Congress on its findings that will be submitted well in advance of consideration of the next public broadcasting authorization bill in 1984.

As I stated before, I am quite concerned with some of the possible effects advertising might have on public television. Therefore, I am pleased to see that the temporary Commission is specifically directed to analyze such things as whether permitting advertising has any effect upon the programing broadcast; what audience reaction to such advertising is; and, what the impact on the underwriting of programs might be as a result of advertising.

My biggest concern with respect to what impact advertising might have relates to the methods by which such advertisements might be sold. That is, if public broadcasters engage in the practice of selling advertisements, like their commercial brethren, targeted to specific programs so that the ads are seen adjacent to a broadcast requested by the advertiser, I fear public broadcasting may fall prey to the ratings game which has had such a detrimental effect on commercial television. If a public broadcaster is permitted to sell time adjacent to a particular program, and thereby has the incentive to reach the largest audience possible in order to maximize his revenue, the result may well be that lowest-common-denominator-type programing may infiltrate public broadcasting. Simply put, if the economics of commercial television were to become the economics of public television, it is quite possible that public television might well cease to be the vibrant source of alternative programing as we know it today. If this is to be avoided, advertising must not become to public broadcasting the dominant source of revenue it is to commercial broadcasting. It should never be viewed as more than a means of supplementing funds from other sources for public broadcasting.

I am thus very pleased that the amendment offered by Mr. TAUKE gives the temporary Commission the necessary flexibility to devise an experiment which will allow different stations to engage in different methods of selling advertising time so that this major concern I have can be assessed and addressed.

I again want to commend the laudable efforts of my colleague Mr. TAUKE, and I urge passage of his amendment.

Mr. Chairman, I would like to engage the author of the amendment, Mr. TAUKE, in a colloquy as to what he regards the intent of certain provisions.

Mr. TAUKE. I welcome the opportunity.

Mr. WIRTH. The gentleman has framed a limited experiment which will include up to 10 television licensees and 10 radio licensees. It is my understanding that the intent of the amendment in using the term "licensee" rather than "station" is to permit certain State-run systems which operate more than one station, but which have no local origination capability with respect to each individual station, to participate in the experiment. However, I understand it is the gentleman's intent that no more than a couple of such licensees would be involved in the experiment so that the overall number of stations participating might only slightly exceed 10 of each type. Is my understanding of his intent correct?

Mr. TAUKE. Yes; it is.

Mr. WIRTH. There is a further point with respect to the author's intent I would like to address and that is how the experiment will be structured by the temporary Commission. It is my understanding that at least some stations will be directed to sell advertising time by means of a lottery or random selection process, whereby an advertiser could not direct the time slot in which he desired his advertisement to run. Other stations might be directed to sell advertising on the basis of adjacency to particular programs or by other means the temporary Commission may direct. Is my understanding of the intent correct?

Mr. TAUKE. Yes; it is.

Mr. WIRTH. The final point I would like to address with respect to the intent of this amendment is that it is my understanding that the temporary Commission can permit certain stations to broadcast only institutional advertisements—and other stations to broadcast product and institutional ads, or only product ads if the Commission deems this advisable for purposes of the study. But in no event shall any public broadcast stations be authorized or permitted to air public issue, candidate, or religious advertisements. Is my understanding correct?

Mr. TAUKE. Yes; it is.

□ 1300

Mr. WIRTH. I thank the gentleman.

Mr. Chairman, once again I want to commend the gentleman from Iowa for putting together what I think is going to be a very helpful experiment for the future of public broadcasting, and I urge my colleagues to accept the gentleman's amendment.

Mr. COLLINS of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I join with the chairman of our committee, the gentleman from Colorado (Mr. WIRTH). I appreciate the fact that he has put certain limitations on what we are doing in this advertising test and that this is an experimental program, but the amendment is a most commendable and practical way to find answers for the policy questions that are raised by advertising on public broadcast stations. I urge every Member to join in supporting it.

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Washington.

Mr. SWIFT. Mr. Chairman, I simply want to commend the gentleman from Iowa for the leadership he gave in helping the committee work itself out of a conundrum. One of the real problems that we faced is that some of us have strong feelings that commercials on public television would be very good. And others of us, myself included, have a feeling it would be very bad. But we are all working on gut feelings, without any kind of hard data on which to base those judgments.

The amendment that has been crafted by the gentleman from Iowa gives us a way out of that dilemma, coming up with some hard information so that the Congress can come back and take a look at this situation and make a more long-term policy based upon something hard and concrete rather than just what the back of our necks indicates.

Mr. COLLINS of Texas. Mr. Chairman, I appreciate what the gentleman from Washington said, because it was a very controversial discussion when we had the matter covered before the full committee.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Iowa.

Mr. TAUKE. I thank the gentleman for yielding, and I want to thank him

for his cooperation in the formulation of this amendment, and also emphasize that the gentleman from Washington (Mr. SWIFT), who just spoke, played a major role in the formulating of this amendment, primarily because he has more experience in broadcasting matters than most of us who serve on the Telecommunications Committee. So we certainly appreciate all of the efforts that the members of the subcommittee put into this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Iowa (Mr. TAUKE).

The amendment was agreed to.

Mr. WEISS. Mr. Chairman, I rise in support of the Public Broadcasting Act Amendment of 1981 (H.R. 3238) and would like to take this opportunity to commend the excellent work of the Corporation for Public Broadcasting (CPB) and urge my colleagues' continued support.

One of the most important functions of CPB is the nationwide distribution of community service grants. These grants are used by public radio and television stations to develop, produce, and acquire programs; to hire and train staff; to purchase equipment; and to encourage community support. In fiscal year 1980 the Corporation distributed $88.2 million in community service grants—$75.6 million to television stations and $12.6 million to radio stations.

In recent months this House has questioned the appropriate role of Federal dollars in many areas and has expressed the desire again and again to return an increasing amount of control and responsibilities to the States and localities. The Corporation through its community service grants (CSG's) is an outstanding example of how Federal funds can be used responsively at the community level. CSG's have been used in the past, for instance, by New York City's public broadcasters to develop a daily radio program aimed at New York's 2.5 million senior citizens, to provide special local news and information programs and to produce special shows highlighting some of the city's cultural attractions. One of the characteristics which makes public broadcasting unique is its ability to offer selected programing which directly serves the needs and concerns of local viewers. CSG funds are also necessary in television and radio stations' efforts to reach new audiences. These grants make it possible for stations to expand beyond their regular programing, attracting new viewers and listeners, thus broadening the number of people benefiting from public broadcasting.

From the inception of the Corporation for Public Broadcasting, the primary goal and concern from the Federal standpoint was that high-quality broadcasting be provided to the communities they serve. I believe that CPB and the community services grant program has carried out this intent and deserves our strongest support. I urge my colleagues to approve the Public Broadcasting Act amendments.

The CHAIRMAN pro tempore. Are there any further amendments to the bill? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore. (Mr. SHARP) having assumed the chair, Mr. TRAXLER, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3238) to amend the Communications Act of 1934, to extend certain authorizations of appropriations contained in such act relating to public broadcasting, and for other purposes, pursuant to House Resolution 149, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WIRTH. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—Yeas 323, Nays 86, not voting 22, as follows:

[Roll No. 102]

YEAS—323

Addabbo	Andrews	Atkinson
Akaka	Annunzio	AuCoin
Albosta	Anthony	Bailey (PA)
Alexander	Applegate	Barnard
Anderson	Aspin	Barnes
Bedell	Gaydos	Murphy
Beilenson	Gejdenson	Murtha
Benedict	Gephardt	Natcher
Benjamin	Gilman	Neal
Bennett	Gingrich	Nelligan
Bereuter	Ginn	Nelson
Bethune	Glickman	Nichols
Bevill	Goldwater	Nowak
Biaggi	Gonzalez	O'Brien
Bingham	Goodling	Oakar
Blanchard	Gore	Oberstar
Boggs	Gradison	Obey
Boland	Gray	Ottinger
Boner	Green	Panetta
Bonior	Guarini	Parris
Bonker	Gunderson	Pashayan
Bouquard	Hall (OH)	Patman
Bowen	Hall, Ralph	Patterson
Breaux	Hall, Sam	Pease
Brinkley	Hamilton	Pepper
Brodhead	Hammerschmidt	Perkins
Brooks	Hance	Petri
Broomfield	Harkin	Peyser
Brown (CA)	Hatcher	Pickle
Brown (OH)	Hawkins	Porter
Burton, John	Heckler	Price
Burton, Phillip	Hefner	Pritchard
Byron	Heftel	Pursell
Chappell	Hertel	Rahall
Cheney	Hightower	Railsback
Chisholm	Hillis	Rangel
Clausen	Holland	Ratchford
Clay	Hopkins	Regula
Clinger	Horton	Reuss
Coelho	Howard	Rhodes
Coleman	Hubbard	Richmond
Collins (IL)	Huckaby	Rinaldo
Conte	Hughes	Ritter
Corcoran	Hutto	Roberts (KS)
Coughlin	Hyde	Roberts (SD)
Courter	Ireland	Rodino
Coyne, James	Jacobs	Roe
Coyne, William	Jeffords	Roemer
Crockett	Jenkins	Rogers
D'Amours	Jones (NC)	Rose
Daub	Jones (OK)	Rosenthal
Davis	Jones (TN)	Rostenkowski
de la Garza	Kastenmeier	Roth
Deckard	Kazen	Roukema
Dellums	Kildee	Roybal
DeNardis	Kogovsek	Russo
Derrick	LaFalce	Sabo
Dicks	Leach	Savage
Dingell	Leath	Scheuer
Dixon	Lehman	Schneider
Dorgan	Leland	Schroeder
Dougherty	Lent	Schumer
Downey	Levitas	Seiberling
Duncan	Long (LA)	Shamansky
Dunn	Long (MD)	Shannon
Dwyer	Lowery	Sharp
Dymally	Lowry	Shelby
Dyson	Lujan	Simon
Early	Luken	Skeen
Eckart	Lundine	Skelton
Edgar	Madigan	Smith (IA)
Edwards (AL)	Markey	Smith (NE)
Edwards (CA)	Marks	Smith (NJ)
Edwards (OK)	Marlenee	Snowe
Emery	Marriott	Snyder
English	Martin (IL)	St Germain
Erdahl	Matsui	Stangeland
Erlenborn	Mattox	Stanton
Ertel	Mavroules	Stark
Evans (DE)	Mazzoli	Staton
Evans (GA)	McCloskey	Stokes
Evans (IA)	McDade	Stratton
Evans (IN)	McGrath	Studds
Fascell	McHugh	Swift
Fenwick	McKinney	Synar
Ferraro	Mica	Tauke
Fish	Mikulski	Tauzin
Fithian	Miller (CA)	Thomas
Flippo	Miller (OH)	Traxler
Florio	Mineta	Udall
Foglietta	Minish	Vento
Foley	Mitchell (MD)	Volkmer
Ford (MI)	Mitchell (NY)	Walgren
Ford (TN)	Moakley	Washington
Forsythe	Moffett	Watkins
Fountain	Molinari	Waxman
Fowler	Mollohan	Weaver
Frank	Montgomery	Weber (OH)
Frenzel	Moore	Weiss
Frost	Morrison	White
Fuqua	Motti	Whitley

Whittaker	Wolf	Yatron
Whitten	Wolpe	Young (AK)
Williams (MT)	Wortley	Young (FL)
Williams (OH)	Wright	Young (MO)
Wilson	Wyden	Zablocki
Winn	Wylie	Zeferetti
Wirth	Yates	

NAYS—86

Archer	Findley	McDonald
Ashbrook	Gramm	McEwen
Badham	Gregg	Michel
Bafalis	Grisham	Moorhead
Bailey (MO)	Hagedorn	Myers
Beard	Hansen (ID)	Napier
Bliley	Hansen (UT)	Paul
Brown (CO)	Hartnett	Quillen
Broyhill	Hendon	Robinson
Burgener	Hiler	Rousselot
Butler	Holt	Rudd
Campbell	Hunter	Schulze
Carney	Jeffries	Sensenbrenner
Chappie	Johnston	Shaw
Coats	Kemp	Shumway
Collins (TX)	Kindness	Shuster
Craig	Kramer	Siljander
Crane, Daniel	Lagomarsino	Smith (AL)
Crane, Philip	Latta	Smith (OR)
Daniel, Dan	LeBoutillier	Solomon
Daniel, R. W.	Lee	Spence
Dannemeyer	Lewis	Stenholm
Derwinski	Livingston	Stump
Dickinson	Loeffler	Taylor
Dornan	Lott	Trible
Dreier	Lungren	Walker
Emerson	Martin (NC)	Weber (MN)
Fiedler	McClory	Whitehurst
Fields	McCollum	

NOT VOTING—22

Bolling	Fary	McCurdy
Carman	Fazio	Santini
Conable	Garcia	Sawyer
Conyers	Gibbons	Solarz
Cotter	Hollenbeck	Vander Jagt
Danielson	Hoyer	Wampler
Daschle	Lantos	
Donnelly	Martin (NY)	

□ 1315

The Clerk announced the following pairs:

Mr. Fary with Mr. Carman.
Mr. Lantos with Mr. Sawyer.
Mr. Conyers with Mr. Vander Jagt.
Mr. Garcia with Mr. Wampler.
Mr. Hoyer with Mr. Martin of New York.
Mr. McCurdy with Mr. Hollenbeck.
Mr. Solarz with Mr. Santini.
Mr. Fazio with Mr. Donnelly.
Mr. Danielson with Mr. Daschle.

Messrs. BEARD, BROWN of Colorado, DICKINSON, LIVINGSTON, SPENCE, HUNTER, BUTLER, HAGEDORN, and STENHOLM changed their votes from "yea" to "nay."

Mr. WOLPE and Mr. MOORE changed their votes from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 271. An act to repeal section 222 of the Communications Act of 1934.

PROVIDING FOR CONSIDERATION OF H.R. 3519, DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1982

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 163 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 163

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3519) to authorize appropriations for fiscal year 1982 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed seven hours, four hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, two hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations, and one hour to be equally divided and controlled by chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 3519, it shall be in order to take from the Speaker's table the bill S. 815, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 3519 as passed by the House.

The SPEAKER pro tempore (Mr. MINISH). The gentleman from California (Mr. BEILENSON) is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, I yield the usual 30 minutes for purposes of debate only to the gentleman from Missouri (Mr. TAYLOR), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 163 is the rule providing for consideration of H.R. 3519, the Department of Defense Authorization Act for fiscal year 1982. It is an open rule providing for 7 hours of general debate. Four of these hours are to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services; 1 hour is to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; and 2 hours are to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations. Under the rule, the bill is to be read for amendment by titles instead of by sections. The rule also provides for one motion to recommit. After passage of H.R. 3519, the rule makes it in order to take S. 815 from the Speaker's table, strike out all after its enacting clause, and insert in lieu thereof the text of H.R. 3519 as passed by the House. S. 815 is the companion bill passed by the other body on May 14, 1981.

Mr. Speaker, the 7 hours of general debate recommended by the Committee on Rules accommodates the requests of the three committees which have reported on the bill. The Committee on Armed Services requested 3 hours to discuss the bill generally and, roughly, 1 hour to discuss a section of the bill pertaining to military cooperation with civilian law enforcement officials. The Committee on the Judiciary, which received a sequential referral of the bill, requested 1 hour to discuss its proposed amendment to that section of H.R. 3519. The Committee on Government Operations, which also received a sequential referral of the bill, requested 2 hours to discuss its proposed amendments to several sections of the bill dealing with procurement policy and procedures.

Mr. Speaker, the ample amount of general debate time recommended by the Committee on Rules, to be followed by consideration of the bill under an open rule, will allow full and fair deliberation on H.R. 3519. It is an appropriate rule under which to consider a bill of this magnitude. I am aware of no controversy surrounding the rule, and I yield to the gentleman from Missouri (Mr. TAYLOR).

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 163 is an open rule providing 7 hours of general debate on the Department of Defense authorization bill for 1982.

The 7 hours of debate on H.R. 3519, which is the largest single defense authorization bill ever to be considered by the House, will be allotted to the three committees involved. The Committee on Armed Services will have 4 hours, the Committee on Government Operations will have 2 hours, and the Committee on the Judiciary will have 1 hour.

The bill will be read for amendment under the 5-minute rule by title instead of by sections, and one motion to recommit is provided for.

After passage of the bill, it shall be in order to take from the Speaker's table the Senate companion bill, S. 815, and to consider that bill in the House with a motion to insert the pro-

visions of H.R. 3519 as passed by the House.

Mr. Speaker, H.R. 3519 is very likely the single most important national security measure this House will consider in this session, as it provides over $136 billion for procurement, for research and development, for operation and maintenance, and for the civil defense function of the Department of Defense.

The amount authorized in the bill is $445.2 million less than the amount requested by the Reagan administration; however, it is over $18 billion more than the defense request of the former administration. I think it is sufficient to say that in marked contrast to its disagreements with former President Carter's defense budgets, the Committee on Armed Services has strongly endorsed the Reagan administration's approach to defense.

Mr. Speaker, there are three sections of the Armed Services Committee bill for which the two other committees requested and received sequential referral. This is part of the reason that the rule provides so much general debate time, to give the Committees on Government Operations and on the Judiciary ample time to explain their amendments.

At issue between the Committee on Armed Services and the Committee on the Judiciary is a provision that provides for military cooperation with civilian law enforcement officials and to what degree there will be such cooperation.

At issue between the Committee on Armed Services and the Committee on Government Operations are provisions restricting the use of contracting out by the Department of Defense; the use of multiyear procurement; and application of a general Federal policy of competitive procurement for computer equipment and services for the Defense Department.

Mr. Speaker, there was no controversy about this rule in the Committee on Rules and it contains no waivers on points of order and no restrictions on amendments. The Committee on Rules reported this rule by a voice vote, and I urge its adoption by the House so we may proceed to the consideration of the bill.

□ 1350

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes for the purposes of debate only to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I take this time to report to the Members of the House some very welcome news with respect to one of the weapons systems which is financed through this Department of Defense authorization and through the appropriations bills. I speak of the F-16, our newest all-purpose, most versatile weapons system in our Air Force arsenal.

A team of seven F-16 aircraft and their aircrews from Hill Air Force Base in Utah recently won a joint bombing competition in Scotland held between the Royal Air Force and the U.S. Air Force, with their various weapons systems. Pilots and support personnel from the 388th Tactical Fighter Wing amassed 7,831 out of a possible 8,000 points in the first international bombing competition for this multimission F-16 fighting Falcon.

The second-place finisher, a British Jaguar team, scored 1,430 points less.

These F-16's were the only aircraft in the competition to hit all targets in 2 days of bombing runs against a convoy of vehicles. I thought it would be encouraging and reassuring to all the Members to know of the high degree of excellence which has been achieved in operation by these first truly international aircraft, the one which we now are building in conjunction with our NATO allies.

With regard to these remarks, I would like to include in the RECORD the report on this competition:

A team of seven F-16s and their aircrews from Hill Air Force Base, Utah recently won a joint Royal Air Force-U.S. Air Force bombing competition held at RAF Lossiemouth, Scotland.

Pilots and support personnel from the 388th Tactical Fighter Wing at Hill amassed 7,831 out of a possible 8,000 points in the first international bombing competition for the General Dynamics-built multimission F-16 Fighting Falcon. The second place finisher, a British Jaguar team, scored 1,430 points less.

During the four-day competition ending June 19, the F-16s flew against competing RAF Jaguars from Coltishall, England, and Bruggen, Germany, an RAF Buccaneer team from Honington, England, and U.S. Air Force F-111s based at RAF Lakenheath, England.

In the bombing sorties, the 388th crews demonstrated the precision accuracy of the F-16 weapons delivery system by delivering all ordnance on their assigned targets, airfields and convoys, in realistic wartime scenarios. The F-16s were the only aircraft in the competition to hit all targets in two days of bombing runs against a convoy of vehicles.

In addition to pinpoint bombing accuracy, the competition placed a premium on survivability, low-level navigation and aircraft maintenance effectiveness.

Four sorties were flown daily by the five competing teams with low-level routes flown against both air-to-air and surface-to-air threats. Points were awarded on how well the aircraft survived against the threats and how effectively they destroyed their assigned targets.

The air-to-air threats, RAF F-4s and Lightnings, put constant pressure on the competing aircraft from five minutes after they took off until they landed. During the 16 competition sorties, the F-16 team achieved a total of 86 "kills"—while suffering no "losses"—in engaging the interceptor aircraft.

By contrast, in competing against the same interceptor aircraft, the other four teams received a total of 42 "losses" and collectively made only one "kill."

Clearly, the tactics flown by the F-16 pilots in combination with the Fighting Falcon's radar, excellent maneuverability and range contributed to the success of the F-16s against the intense air-to-air threat.

The F-16 team also demonstrated superior survivability against surface-to-air Rapier missile threats. While there were 83 surface-to-air "kills" against the five teams, the excellent tactics and low altitude maneuvering capability of the F-16 enabled the Fighting Falcon to better survive the missile threats, complete bombing assignments and return safely.

Another important part of the competition was the ability of the maintenance crews to prepare, maintain and turn the aircraft for another sortie. After each competition sortie, the ground crews were graded on their ability to quickly turn the aircraft by refueling and loading six MK-82 500-pound bombs and 515 rounds of 20mm ammunition. The 388th TFW ground crews averaged a 10.5 minute turn time for the F-16s during the competition.

The F-16, in addition to being flown by pilots in the U.S. Air Force, is also being flown by air forces of five other nations in Europe and the Middle East.

Capt. Roger Riggs received the highest individual honor for consistent accuracy during the competition and was awarded the prestigious Sir John Mogg Bombing Trophy. His 388th TFW teammate, Capt. Wayne Edwards, was the runnerup.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes for the purposes of debate only to the distinguished gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I rise in support of the rule which permits me to offer an amendment to this bill.

The defense community has fallen into a vicious circle. In seeking to meet international crises and our defense needs, it has been incorrectly decided that larger and more expensive equals better.

The fascination with supertechnology became predominant during the Nixon administration. At that time, the President made the commitment that while the allies would provide the manpower, our country would contribute the technology.

In response to this commitment, the military establishment has built up momentum and gone overboard. Rather than looking to efficient and cost-effective equipment, the development of supersophisticated systems, with their inherent problems, is the basis of our defense systems. Every time one of these systems experiences a technical problem or a new demand arises, the response is not simplicity but the addition of new, more complicated hardware.

American military policy has changed since the Nixon era. The United States now is committed to providing both adequate manpower in Europe and the Persian Gulf as well as the massive technology needs.

This basic change in our policy necessitates a review of our commitment to supertechnology, high-cost equipment. Such a review should involve the consideration of two criteria—our ability to afford adequate numbers of high-tech systems and the capability of these systems.

In case after case, high-tech equipment fails to meet this test.

The F-15 aircraft at $28 million per copy has a reliability level 50 percent worse than the F-16 which costs less than half as much.

The M-1 tank costs $2.5 million and has engine transmission and tread problems. In addition, there remains the basic question of whether the M-1 can match overwhelming Soviet numbers.

The best example of supertechnology gone mad is the F/A-18 naval aircraft. Originally trumpeted as the low-cost, multipurpose aircraft, the F/A-18 has become an expensive flying Christmas tree—decorated with all sorts of gadgets and ornaments. It is the most expensive tree that anyone has ever seen. Latest estimates show that the American taxpayer is paying close to $40 billion for this monument of uncontrolled defense spending and that that price tag continues to rise almost daily. It seems that each new problem leads to a new fix which only costs a few billion more. Unfortunately, we have already paid more than a few billion for those fixes and there may be more down the road.

At the same time as the problems with the F/A-18 increase, its functions decrease. Originally intended to serve as the Navy and Marine fighter and attack aircraft of the future, the Pentagon has decided to slash these responsibilities. Now the AV-8B is scheduled to fulfill the Marine attack needs and the F-14 is the Navy's fighter. Those other functions reserved for the F/A-18 can clearly be more than adequately served by other existing aircraft.

Mr. Speaker, how much more must the American taxpayer pour into a program that does not enhance and, in fact, detracts from our defense capabilities? The F/A-18 is siphoning off needed Federal dollars for other worthwhile programs, which add to our defense capabilities. Many of these programs have pressing needs: The A-6 aircraft will be short 59 aircraft by the end of 1987; the AV-8B program is already being stretched out; and the F-14 is stretched out beyond what sound policy dictates. The drain of the F/A-18 on our defense budget now, according to news reports, may even threaten the lifeblood of the Navy—ship procurement.

I believe that it is important that we heed the advice of Deputy Secretary of Defense Carlucci. We should stick with present systems that work and not finance some new high-cost, inefficient weapon.

The time has come to sever our commitment to the F/A-18. It serves no purpose other than to sap our defense budget. For this reason, I will offer an amendment to this legislation to prohibit the purchase, research, or development of the F/A-18 aircraft. Under this amendment, these needed Federal funds will then be freed for the purchase of other, more worthwhile aircraft which can play a productive role in our defense posture.

I urge my colleagues to vote for the enhancement of our defense capabilities by supporting this amendment.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1982

Mr. PRICE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3519) to authorize appropriations for fiscal year 1982 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. PRICE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3519, with Mr. SIMON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Illinois (Mr. PRICE) will be recognized for 2 hours, and the gentleman from Alabama (Mr. DICKINSON) will be recognized for 2 hours.

The gentleman from Texas (Mr. BROOKS) will be recognized for 1 hour, and the gentleman from New York (Mr. HORTON) will be recognized for 1 hour.

The gentleman from New Jersey (Mr. HUGHES) will be recognized for 30 minutes, and the gentleman from New York (Mr. FISH) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, for planning purposes it is my intention, following opening remarks, to yield to various members of the committee who, as subcommittee chairmen, have responsibility for major portions of the bill. The ranking minority member of the committee, I understand, will also yield to ranking minority members of the various subcommittees during such discussion.

It is then my intention to yield to other Members who wish to discuss the bill generally. Following that, I shall yield to Mr. BENNETT of Florida such time as required to discuss the issue of posse comitatus, on which the Committee on the Judiciary has reported. It is my intention to reserve the final hour of the committee time for discussion of the issue of multiyear procurement, an important provision included in the committee bill which the Committee on Government Operations has proposed to have largely eliminated.

At that point, it is my intention to yield to Mr. DAN DANIEL of Virginia, the author of section 909, such time as is necessary to explain the committee position on multiyear procurement.

Mr. Chairman, by direction of the Committee on Armed Services, I bring to the floor of the House today H.R. 3519, the Department of Defense Authorization Act for fiscal year 1982. This bill authorizes appropriations for procurement, research, development, test, and evaluation (R.D.T. & E.), operations and maintenance, and civil defense. The bill also prescribes personnel strengths for both Active and Reserve military personnel, and for civilian employees of the Defense Department. However, it does not contain actual dollar authorizations for these personnel categories.

In total, H.R. 3519 would authorize for appropriation $136 billion for fiscal year 1982. This amount is $445.2 million below the total of $136.4 billion requested by the President.

Here is the committee's recommendation by major category:

Procurement: $52.4 billion, $655 million above the amount requested by the President.

Research, development, test, and evaluation (R.D.T. & E.): $20.2 billion, $1.1 billion below the amount requested.

Operations and maintenance (O. & M.): $63.3 billion, $6.9 million below the amount requested.

Civil defense: $174 million, $41.2 million above the amount requested.

The major thrust of the bill is to provide for increased readiness for ex-

isting forces; to replace more rapidly, and at a more economical procurement rate, the weapon systems of our tactical forces; to begin the buildup of our naval forces; to begin modernization of our strategic forces; and provide for a sound technology base.

This bill is the largest authorization bill ever recommended by our committee. The members of our committee are keenly aware that we are recommending a very expensive defense program at a time when the Congress is agonizingly attempting to bring Government spending under tighter control. But we believe the bill is necessary if we are to avoid sliding into a position of military inferiority to the Soviets.

Let me bring some sobering facts about the threat that faces us to your attention:

During the decade of the 1970's it is estimated that the Soviets invested some $240 billion more than the United States in military research and development, weapons acquisition and military facilities.

The Soviets outproduce the United States in virtually every category of military hardware. They outproduce us 11 to 1 in armored vehicles and artillery tubes, 18 to 1 in surface-to-air missiles, 3 to 1 in helicopters, 2 to 1 in submarines, surface ships, and fighter aircraft.

The Soviets have introduced three new types of intercontinental ballistic missiles (ICBM's) since we introduced our last one, the Minuteman III, over 10 years ago. They have deployed over 600 ICBM's since we deployed our last one. They commissioned over 60 new ballistic missile submarines since we commissioned the 41st Polaris submarine 14 years ago. They have built almost 600 bombers since we built our last B-52 nearly 20 years ago. And they are now producing 30 bombers a year.

The threat that faces us is real.

Mr. Chairman, there is no doubt in my mind that the Soviet Union is making a concerted effort to gain military supremacy over the United States. I do not want that to happen. None of us does. I believe that the large increases in defense spending that have been recommended by the President are needed if we are to stay competitive. I believe H.R. 3519 sets a course in the right direction.

A tremendous amount of effort went into the consideration of the administration's request and into the preparation of the legislation we present here today. I want to thank the members of the committee for their many hours of hard work on the bill.

I wish to express my appreciation to the ranking member of the committee, the gentleman from Alabama (Mr. DICKINSON) for his support and cooperation. Our committee has always considered defense to be a nonpartisan issue and with Mr. DICKINSON's support we have maintained that tradition.

I want to particularly thank our subcommittee chairmen and ranking members for their dedication in holding the many hearings, 120 in all, that were necessary to thoroughly consider the various aspects of the request.

H.R. 3519 was reported by a vote of 38 to 1. I will leave the detailed explanation of the various titles to the subcommittee chairmen and ranking members.

Let me simply highlight some special aspects of the bill and address myself to the area of research and development:

NATIONAL GUARD AND RESERVE AIRCRAFT

The committee took important initiatives regarding our Guard and Reserve forces, specifically adding $952.2 million to aircraft procurement. This includes $70 million for 16 AH-1S Cobra/TOW helicopters, $155.1 million for 12 A-7K aircraft, $409.3 million for 40 additional F-16 aircraft, $172.1 million for 12 C-130H aircraft, and $37.5 million for C-9 aircraft.

Again, this was in the framework of numerous changes which still left the bill approximately $400 million below the administration request.

SHIPBUILDING

The committee approved the amount requested, $10.3 billion, for a shipbuilding program of 34 ships, including new ships, acquisitions and conversions. This is a significant increase over shipbuilding programs of past years and, in the committee's view, is necessary to begin providing the number and type of ships required in the future. However, as a result of uncertainties in the Trident submarine program, the committee has reduced the Trident request by $960.8 million, leaving only authorization for long lead procurement. The committee had revised the shipbuilding program to provide an additional nuclear attack submarine, a landing ship dock (LSD-41), long lead procurement authorization toward purchase in fiscal year 1983 of an amphibious assault helicopter (LHA), an additional Aegis cruiser (CG-47), and an additional landing ship dock.

MANNED BOMBER

The committee has included specific authorization of $1.942 billion for procurement of the B-1 bomber and direction for the Secretary of Defense to continue ongoing research and development toward an advanced technology bomber. The committee's recommendation provides a mechanism for transferring the B-1 moneys to an advanced technology bomber if the President so recommends and if the Congress concurs within a 60-day period.

RESEARCH AND DEVELOPMENT

The committee recommends that $20.2 billion be authorized in fiscal year 1982 for the research, development, test and evaluation activities of the Department of Defense. While this amount is $1.1 billion below the amount requested by the President, it is still 23 percent more than the amount provided in fiscal year 1981.

The recommended reduction is not based on a fundamental disagreement over the type of or scope of R. & D. program proposed by the Department of Defense. Rather, it is the committee's belief that significant savings can be realized by streamlining the R. & D. program by reducing the overall number of programs, by selecting out systems that are too expensive for the capability they will provide, and by insisting on more interservice cooperation to reduce duplication of effort.

The committee made numerous changes, over 100 in all, both additions and reductions, to the R. & D. request submitted by the President. While this appears to be a very large number of changes, it should be viewed in the context of a request that is made up of over 3,000 projects. The report provides the rationale for the proposed modifications to various R. & D. projects.

For the MX, the committee has provided that the $2.4 billion requested by the President be made available only for R.D.T. & E. on the MX system in the multiple protective structures (MPS) basing mode as previously directed by the Congress. However, the committee has included language to provide that if the President certifies to the Congress that it is in the national interest to develop an alternative basing mode and the Congress approves such alternative mode, the R. & D. funds for the MX could then be shifted to that alternative system.

Recommendations are expected shortly from the new administration on both the bomber and land-based ICBM legs of the triad. The committee's provisions were designed to allow needed programs to move forward. At such time as the President recommends changes in these programs, the Congress will have to consider and act on such recommendations. It now appears likely that the Presidential recommendations on both the bomber and the MX may be available prior to the time conference action would be completed on the bill.

In the area of strategic airlift, the committee has provided $20 million in the R. & D. account to allow continued investigation of new airlift aircraft designs and has recommended that $150 million of the authorization requested for the CX transport aircraft program be transferred to the procurement account for the procure-

ment of existing, wide-body aircraft to meet near-term airlift requirements. Additionally, the committee has provided authorization in title IX for the enhancement of the Civil Reserve Air Fleet (CRAF) program to insure that more airlift aircraft will be available to the Armed Forces in an emergency.

The committee has recommended termination of the Navstar global prepositioning system, a satellite-based navigational system. The committee believes this system is too costly for the additional military capability it would ultimately provide.

The committee recommends that the Army's standoff target acquisition system (SOTAS) program be terminated because of concern over the very significant cost growth and schedule slip that has recently occurred in the program. SOTAS is an airborne radar system being developed for use as a battlefield surveillance system. Program costs have grown from $900 million to over $2.4 billion during the last year, and it is the committee's belief that the program has become unaffordable.

The committee recommends that the DDG-X ship development program be terminated because of a continuing concern over the "design-to-cost" rather than a "design-to-capability" approach being pursued in the program. The committee believes that money earmarked for developing and procuring this new class of ships would be better utilized in buying additional Aegis cruisers.

OPERATIONS AND MAINTENANCE

This is the first year that prior authorization is required for funding for operations and maintenance (O. & M.), an attempt to bring needed visibility to an activity that, while not glamorous, is the backbone of readiness. While recommending the amount requested, $63.3 billion, the committee has redirected priorities within the O. & M. account to increase depot maintenance capability; to reduce the backlog of real property maintenance; to improve training through increases in flying hours and aviator instructor programs; and to reduce equipment deficiencies in the Reserve and National Guard.

The committee has denied the request for $12.2 million to contract out military medical facilities at three bases and has included language in the bill to prohibit use for that purpose of any funds authorized by the bill.

PERSONNEL

The end strengths recommended for the Active and Reserve Forces and the civilian work force for the Department of Defense are consistent with the recommendations of the administration with relatively few changes. The committee did recommend an increase of 2,700 personnel for the Naval Reserve and Coast Guard Reserve.

The committee recommends a provision that would impose further quality controls on enlistment by barring all non-high-school graduates who score on the entrance examination in the lowest eligibile test category, category IV. The Army would be required to achieve a minimum of 75-percent high school graduates among male recruits in fiscal year 1982. To enhance flexibility in achieving quality recruits, however, the 75-percent threshold could be reduced to a minimum of 65 percent if the Army were able to recruit 10 percent of its non-high-school graduates from those with above-average test scores.

CIVIL DEFENSE

The committee has recommended a $41.2 million increase above the $132.8 million requested by the administration for civil defense and has proposed language to clarify and strengthen the dual use policy for civil defense programs. Dual use refers to the use of civil defense resources for responding to natural disasters as well as for preparing against nuclear attack.

SEQUENTIAL REFERRAL

This year, for the first time, the defense authorization bill has been sequentially referred to other committees. I do not question the prerogatives of the other committees to look into areas within their oversight jurisdiction. I do hope that the sequential referral mechanism will not become a cause for delay of major legislation.

POSSE COMITATUS

Section 908 of the committee bill provides for military cooperation with civilian law enforcement officials. I shall yield additional time to Mr. BENNETT, the author of the provision in our committee, to explain the committee position on this important issue.

The Judiciary Committee has recommended modification of section 908.

CONTRACTING OUT

Under its general oversight concern for procurement matters, the Government Operations Committee asked and received sequential referral of the bill and has made recommendations for changes in a number of provisions.

The Government Operations Committee has recommended striking out section 602 and section 304 related to restrictions on contracting out by the Department of Defense.

Mr. Chairman, restrictions on contracting out are not new. Limitations on contracting out were first placed in the annual authorization bill by the Armed Services Committee and passed by the Congress in 1978. Last year's authorization act made that contracting out restriction a matter of permanent law. This year's bill makes a small addition to that restriction, requiring that, prior to the contracting out of a function, the military commander of a major operating command certify that such would not have a significant adverse effect on mobilization or contingent mission capability.

It is not clear to me why the Government Operations Committee objects to section 602 this year but did not express an interest in such provisions in past years.

I cannot name a subject on which the committee has had more communication from Members of the House than contracting out. Numerous Members, at their request, have testified before our committee on this issue over the years. Administrations of both parties have opposed restrictions on contracting out, but the House has repeatedly, overwhelmingly supported such restrictions. The matter has been thoroughly discussed on the floor of the House each year when the authorization bill is debated.

I am willing for the matter to be debated again by the House. But I believe our legislative language reflects the will of the vast majority of House Members. Mr. NICHOLS and Mr. DAN DANIEL will explain the committee's position on contracting out and I shall yield time to them for that purpose.

RESEARCH GRANTS

Section 910 of the committee bill is an amendment to existing law to provide authority for DOD to engage in research by grant as well as by contract. There has been some doubt as to the authority for these grants under the Federal Grant and Cooperative Agreement Act of 1977. The Government Operations Committee report states that the Deputy Director of OMB testified before that committee that section 901 would undermine the intent and effect of Public Law 95-224.

I am at a loss to understand this testimony since section 901 was requested by the administration. It was in the proposed authorization bill as submitted and that bill, as all bills formally submitted by the executive branch, was cleared by the Office of Management and Budget.

MULTIYEAR PROCUREMENT

One of the committee's most serious concerns, Mr. Chairman, is in the area of procurement policy and, specifically, with regard to section 909 of our bill. The Government Operations Committee proposes substantial change to section 909.

Section 909 addresses problems that go to the heart of the industrial base that supports our Defense Establishment, an industrial base which is in serious trouble. Our recommendation grows out of long hearings begun last year by a special panel that included the present chairman of the Readiness Subcommittee, Mr. DAN DANIEL. That panel spent months studying this issue. It heard from many chief executives of major corporations, as well as a host of military and civilian Government officials. The panel was so con-

cerned with what it found that it set up a special briefing by Gen. Alton Slay, USAF, then Commander of the Air Force Systems Command, since retired, for the Speaker and other leaders of the House on both sides of the aisle. Speaker O'NEILL called the briefing a frightening revelation.

Further study was conducted this year in Mr. DANIEL's subcommittee, and I shall yield additional time to him to explain the committee's position on this crucial issue.

Mr. Chairman, the Armed Services Committee has tried to meet the needs of national security, acting completely within the framework of its historic responsibilities. We cannot begin to provide the defense we need if we do not improve the industrial foundation that supports our National Defense Establishment.

PROPOSED NEW SECTION 908

Mr. Chairman, the bill was sequentially referred to the Government Operations Committee for "consideration of such provisions of said bill" relating to Federal procurement as fall within its jurisdiction.

The Government Operations Committee, however, has proposed adding a whole new provision to the bill, a new section 908. That, it seems to me, goes beyond the scope of the referral. In any case, the proposed section 908 repeats present law and appears, therefore, unnecessary.

SUMMARY

Mr. Chairman, this bill is broad in scope, is complex, and, together with its accompanying appropriation, will ultimately lead to large expenditures. It is, however, a piece of legislation that must be passed if we are to continue to provide for a strong national defense. I believe H.R. 3519 represents a fine balance between needs and resources and I ask the House to support the bill as reported by the Armed Services Committee.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. PRICE. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, I rise in support of the bill.

As we proceed with the debate on this annual defense authorization bill, I should hope that we will keep several things in mind.

First, if the public opinion polls are right, the majority of our constituents want a stronger defense for this country. They will be closely following our votes on this bill, and any amendments that may be offered.

Second, only the appropriations authorized by annual authorizations bills can provide and sustain a stronger national defense.

Military equipment, like all things, becomes obsolete and eventually wears out. Military equipment is also subject to attrition by accidents. Therefore, a sound procurement program must be based on a firm plan to build toward and maintain military force levels necessary to meet our most likely wartime needs. Unfortunately, we have had no such plan for the past several years.

Only last year, the Army Chief of Staff described our Army as a "hollow army."

The Chief of Naval Operations described our Navy as a "one and one-half ocean Navy trying to do a three-ocean job"; and that Navy and Marine Corps aircraft procurement has not even replaced peacetime attrition losses for the past several years. Aircraft losses and retirements have exceeded aircraft deliveries by 556 aircraft in just 4 years—a deficit of 139 aircraft per year.

The Chief of Staff of the Air Force has pointed out that his B-52 pilots are younger than the aircraft that they fly; his tanker and airlift forces are insufficient; and that he is deficient in spare parts.

Last, but not least, the Commandant of the Marine Corps has said that we "have more fight than we can ferry." He cannot get his troops to where he needs to go—or sustain them once they are there.

Our defenses are in this condition for several reasons:

We used up many assets in Vietnam without replacement; and

The procurement policies and plans in the post-Vietnam period, where they existed at all, were subjected to frequent and radical changes.

While the Congress shares in the responsibility for delaying some procurement actions, we can also claim credit for supplying a great deal of the leadership.

Today, our constituents believe that there is a consensus between the executive branch, the Congress, and themselves to restore this country's military power, and I hope that the action of the House on this bill will signal such a consensus. I hasten to point out, however, that a consensus for only a year or two will simply force us to revisit the mistakes of the past.

It is a simple truth that often escapes many members of the public, and of this House, that additional defense capability cannot be created in 1 year, 2 years, 3 years, or in some cases, even 7 years.

It will be from 3 to 4 years before the first aircraft authorized by this bill can be delivered. Ships and submarines will require 5 to 9 years to deliver, while tanks and other Army vehicles will deliver somewhat earlier. I mention this to illustrate the point that procurement must be a continuous process carried out according to a plan tied to real-world assumptions, including real world inflation and the real world Soviet threat.

I am hopeful that the present administration will not repeat the mistakes of the past. Year after year, the Congress and industry were shown one 5-year procurement plan for the year of authorization, only to be shown a radically different plan the next year. This practice has not only been damaging to defense, but it has also damaged the credibility of the executive branch. I might add that these frequent changes have been exceedingly expensive.

The procurement changes recommended by the committee would prevent the repetition of past mistakes, especially with respect to the F-16 and F-18 aircraft programs.

I want to commend the gentlewoman from Maryland (Mrs. HOLT), and all of the members of the subcommittee on Procurement and Military Nuclear Systems, for their very patient review of the many procurement line items that make up H.R. 3519. The subcommittee was charged with making recommendations to the committee on the procurement of aircraft, missiles, tracked combat vehicles, and procurement requested in the category other weapons. We also considered three important revisions to title 10 of the United States Code. These are sections 902, 903, and 912.

Of the $51.8 billion requested for procurement, $40.9 billion fell within the jurisdiction of our subcommittee. The remainder fell within the purview of the Seapower Subcommittee. We held 21 hearing sessions and several days of markup sessions. Each line item request was carefully reviewed, and we had to make some very difficult decisions.

The committee supports what I hope is a commitment to more rapidly fill the inventory requirements for tanks, tactical missiles, and other items for the Rapid Deployment Force. These weapons are crucial to the ability to engage in sustained combat and, thus, are key readiness items.

While H.R. 3519 generally supports the President's budget, the committee is recommending several revisions which improve the bill and reflect the committee's procurement priorities for the coming fiscal year.

The details of the committee's recommendations are set forth and explained in the report on the bill, which has been available for several weeks.

Against the total procurement request of $51.8 billion, the committee is recommending a 1.3-percent increase—or $655.1 million. This modest increase is more than offset by other reductions, so that the total authorizations in the bill are $445.2 million below the request.

Of the $52.4 billion recommended for procurement, $16.3 billion, 31 percent, will purchase readiness items such as spares, modifications, and support for existing weapons. Of the $136 billion recommended in the bill, $79.6 billion, 58.5 percent, will go to oper-

ations and maintenance, spares, modifications, and the support of existing programs—all readiness items.

The bill supports the President's requests for strategic aircraft and missile programs, including $1.9 billion for a new long-range combat aircraft, the Trident missile, cruise missiles, the Minuteman ICBM and airlift augmentation.

Major additions, totaling $952.2 million, are recommended for equipment to modernize the long-neglected Reserve and National Guard forces. This includes provisions for more than 80 modern aircraft.

The committee is recommending support for the Navy and Marine Corps aircraft programs, including initial procurement of the AV-8B Harrier and the procurement of an additional 21 F/A-18 fighter/attack aircraft. The committee found that there is absolutely no reasonable alternative to the solution of Navy and Marine Corps fighter and attack aircraft shortages aside from the F/A-18. In view of this, it would be irresponsible to fail to take advantage of the considerable unit cost reduction available from increased production in fiscal year 1982, and literally billions in cost avoidance over the life of the program.

The committee took a similar action with respect to Air Force F-16 fighter production by increasing procurement to 160 aircraft and providing long-lead authorization to sustain that production rate. This should avoid additional costs of $1 billion to $1.5 billion over the remainder of the program.

Mr. Chairman, the bill as reported by the committee incorporates many improvements. This is to be expected since the new administration had very little time to work out its amendments to the Carter budget. In my opinion, several shortfalls still exist. On balance, however, I believe that this bill represents a reasonable beginning to reverse several dangerous trends on our defense posture.

I urge the passage of H.R. 3519.

□ 1345

Mr. DICKINSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to appear with our distinguished chairman of the Armed Services Committee in support of H.R. 3519 authorizing appropriations for the Department of Defense for fiscal year 1982.

The committee recommends an authorization of $136 billion or $445 million below the total requested by the President.

This committee, over the past few years, has been uniformly consistent in our responses to the executive branch defense efforts: We have considered them, on the whole, too little too late—at least up until this submission for fiscal year 1982. It now is obvious that our President views the disturbing state of readiness of our forces with the same concern that our committee members have been expressing these past years. The President is committing to a long-term across-the-board increase in our military capability that will restore our forces to a position of preeminence. This commitment is evidenced by the fact that the Reagan fiscal year 1982 submittal requiring authorization is $18 billion—or more than 10 percent above that of the Carter fiscal year 1982 submittal. The committee extensively reviewed this increase—painfuly aware that segments of our society were going to see many benefits reduced or eliminated as the President attacked the problem of inflation. The bill was the subject of 28 full committee sessions and an additional 92 sessions by 6 different subcommittees. We spent more than 3 months reviewing this bill and we feel that the taxpayer is getting his money's worth.

This is not to say, however, that the committee is content with the way the Department of Defense conducts its weapons acquisition efforts. As we began hearings in January 1981, the Department reported a 3-month $47 billion cost increase in its major weapons systems. At that time, the committee expressed its concern over the Department's inability to control costs, and specifically its inability to properly budget for inflation. Since January, the committee has been no progress in this area. In fact, DOD's report for the first quarter of calendar year 1982, estimates that these major programs will experience $12 billion less in inflation growth than previously estimated. This is due to a paper exercise that assumes a lower inflation rate in the outyears. I certainly hope the President's program for economic reform works, but we feel it is premature to lower the inflation projection for these programs. The resulting large swings in program costs lend credence to the charges of gross mismanagement and waste in weapons procurement. There is evidence, however, that the administration is attempting to reform the weapons acquisition process by improving cost estimating, long-range planning, achieving more economical rates of production and seeking evolutionary solutions to military requirement rather than applying the highest technology with its attendant risks.

This committee is not unaware that in some cases Congress has contributed to the long delays in developing weapons systems. We have forced the services into uneconomical purchase rates and have laid on legislation and reporting requirements that slow the process. We have attempted to redress some of these actions in this bill. We recommend two initiatives that should simplify the acquisition process. One of these—multiyear procurement—is worthy of special note. In section 909 of our bill, we would give the Department of Defense statutory authority to engage in multiyear procurement. That is, DOD could sign a contract for up to 5 years for procurement of weapons systems whenever it is determined that national security is promoted, total costs would be reduced and there would be a low risk of contract cancellation. The committee will encourage the Defense Department to carry out these provisions to the benefit of not only the large DOD contractors, but to the benefit of the small, subtier vendors and suppliers that are essential to the defense industrial base. We focus on these because the committee heard testimony that indicates the subtier supplier base is shrinking. Multiyear procurement should provide a level of stability to doing business with the Government that will encourage small suppliers to stay in business. It will lower Government costs anywhere from 15 percent to 30 percent, because the contractor will be able to make more economical purchases of raw materials. Under multiyear procurement, a contractor will be encouraged to increase his capital investment because the business will be more stable and he will be more confident of recouping investment costs.

Multiyear procurement is an idea whose time has come, and I am convinced it will contribute to decreasing the weapons development cycle.

Before I begin a detailed description of the contents of the bill, I want to discuss some committee initiatives with regard to the Reserve and the National Guard Forces.

Since 1970, the Reserve and National Guard Forces have been tasked to augment the Active Forces during a military contingency. If the National Guard and Reserve Forces are to play an important role in national defense, it follows that their equipment must be up to the task. This year, the committee took initiatives to improve the combat capability of these forces. We recommended additional authorization for 40 F-16's for the Air National Guard, 12 C-130 cargo aircraft for the Air Reserve and Guard, modification of older Navy Reserve P-3 antisubmarine aircraft to a more modern configuration, and funding for 103 Army Guard and Reserve helicopters to be modified or produced with an antitank capability.

I now want to detail some of the specific provisions of our bill, starting with the long-range combat aircraft (LRCA) or B-1 bomber. The President's request totaled $2.4 billion, including funds for production, initial spares, and research and development. As most of my colleagues are aware, the Carter administration killed the B-1 program in 1977. Since that time,

we have observed continued erosion of the strategic balance to where it is generally accepted today that our strategic forces are at an unacceptable level of risk. After a thorough and penetrating review of our strategic force posture, the committee reiterated its support for the long-range combat aircraft program, and remains convinced that an LRCA is an essential element of the triad. The committee, in the Defense Authorization Act of fiscal year 1981, stipulated that the aircraft should meet an initial operational capability as soon as possible, but not later than 1987. Section 202 of this bill calls for proceeding with the B-1, but does not preclude the President from recommending an alternative aircraft. If the President recommends an advanced-technology bomber, and the consent of Congress is obtained, the funds authorized for procurement could be used for research and development of the advanced-technology bomber.

Turning now to another strategic system, the committee authorized $2.4 billion for research and development of the MX missile and stipulated that those funds could only be used for development of the MX in the multiple-protective-structure (MPS) basing mode. The committee directed that the MX system achieve an initial operational capability by December 1986. As with the B-1, the provisions of our bill provide that if the President recommends a basing mode other than the MPS, and the Congress so agrees, the alternative mode could be pursued.

The committee approved procurement for the first increment of AH-64 helicopters for the Army. The AH-64 is a new twin-engine attack helicopter equipped with antiarmor weapons capable of destroying tanks and other armored vehicles. Since the Soviets have had a similar system (HIND-D) in their inventory for some years, the AH-64 will begin to redress this imbalance. Airborne, antiarmor capability must be strengthened as the Soviets are producing 2,600 tanks a year.

With respect to our tank production, the committee authorized $1.6 billion for procurement of 720 M-1 tanks in 1982. The committee took this action after concluding that the development problems experienced by the M-1 tank were on the way toward solution and performance would continue to improve as the system matured.

In three aircraft programs, the committee took action to assure procurement of needed combat aircraft at a more economical rate. The committee authorized increased procurement of the F/A-18 Navy fighter from 63 contained in the President's request to 84 for 1982. Additionally, we increased long-lead funding to procure an additional 24 aircraft over the President's request for 1983. We increased authorization to maintain an annual production rate of 30 F-14 Navy aircraft and 160 F-16 Air Force aircraft.

The ability of our combat forces to respond to worldwide contingencies has been hampered by a lack of strategic airlift. The Congress has expressed its concern over this situation and in 1981, asked the Defense Department to conduct a strategic-mobility study to describe overall lift requirements and provide justification for a new transport aircraft. The required study was not completed prior to submission of the bill and, consequently, the committee had inadequate information to support the administration's request for $245 million for development of the C-X cargo aircraft. We recommend that $150 million of the authorization requested for C-X be available for the procurement of existing wide-bodied aircraft until C-X requirements are clarified. We also retained $20 million for research and development on the C-X should the Secretary of Defense justify the need for this new aircraft. Also, relating to airlift, the committee amended title 10, United States Code, to authorize the Secretary of Air Force to contract with airline firms for modification of new and existing wide-bodied aircraft. These modifications would be directed toward accommodating military cargo during activation of the Civil Reserve Air Fleet. This approach will make use of existing airlift assets and will cost one-tenth of an Air Force dedicated fleet. The owners of the modified aircraft will be reimbursed for the additional operating costs associated with the weight of the modifications. The Department of Defense informed the committee that up to 100 aircraft have been tentatively offered for modification.

The remainder of my comments will focus on the research and development portion of the bill—title II.

As the ranking member of the Research and Development Subcommittee, I have viewed with considerable concern the R. & D. activities of the Soviet Union. While they outproduce us in quantity, we always felt that we could balance that numerical disadvantage with weapons of greater quality. I no longer hold that view. The Soviets are outspending us in R. & D. by 2 to 1 and, as a result, are developing weapons of great capability. Three examples come to mind: the Typhoon, the world's largest ballistic missile submarine; the Oscar, the world's largest cruise missile submarine; and a new interceptor, with a look-down, shoot-down capability, which could threaten our cruise missile and bomber forces in the years to come. The Soviet commitment to advanced and intensive research and development efforts increases the risk of technological surprise in the coming years.

The Soviet R. & D. base is supported by an impressive academic system. It is estimated that the United States has about 170,000 scientists and engineers in defense-related R. & D., while the Soviets have about 500,000 in that specialty.

The committee is gratified to observe that the Defense Department's request of $21.3 billion for research and development in fiscal 1982, is about 25 percent higher than the amount appropriated by the Congress in fiscal year 1981. We recommended an authorization of $20.1 billion and believe that at this level we can provide an R. & D. program that will reverse the adverse trends that allowed the balance of technology to shift in some areas.

Now for some particulars concerning the R. & D. authorization:

In line with our support for the long-range combat aircraft, we recommend a reduction of $50 million from the Air Force request of $141 million to modernize the B-52. These old aircraft have served well, but we cannot afford to initiate a new bomber development and, at the same time, continue to modernize the B-52 at an intensive rate. The Air Force failed to demonstrate an integrated program which would simultaneously introduce the long-range combat aircraft into the fleet and phase down the B-52.

The committee recommends a reduction of $22 million from the Navy F/A-18 request of $173 million because of continued unsupported cost growth in the F/A-18 test program.

We recommend an additional authorization of $8.5 million to the Army's request of $2 million to develop a self-propelled 155 millimeter artillery system capable of delivering massed and sustained firepower. This system will replace one that is based on 30-year-old technology.

The committee recommends an additional authorization of $10 million to the Defense Advanced Research Project Agency request of $20.2 million for submarine-laser communications. If successful, laser communications will greatly improve the National Command Authority's ability to communicate with a vital element of our strategic forces.

The committee recommends termination of the joint United States/United Kingdom JP-233 program to develop airfield attack munitions. This technology would require overflight of highly defended enemy airfields, with resulting high attrition of the carrier aircraft. Such a mission could be accomplished by an unmanned cruise missile system such as the medium range air-to-surface missile.

The committee recommends increasing the Air Force request for the medium range air-to-surface missile (MRASM) by $30 million and deleting the Navy's entire request of $38 million. In the 1981 Defense Authoriza-

tion Act conference report, the Navy and the Air Force were directed to jointly develop the MRASM. The Navy subsequently notified the committee of its intent to reprogram $14 million from MRASM to another program. The committee action will insure that the Navy and the Air Force develop a missile that is compatible with both services' aircraft.

We recommend termination of the Navstar global positioning system (GPS). This action deletes $238 million of R. & D. funds from all three services and $73 million from the Air Force procurement account. The Navstar system, which would provide position location and navigation information, has been plagued by cost growth and resulting Defense Department restructuring. The total estimated cost now exceeds $8 billion. In light of these problems and unresolved questions concerning survivability, susceptibility to enemy countermeasures, and the marginal utility of the system, we recommend its cancellation.

The committee recommends an additional authorization of $46 million to the Navy's request for the continued development of a surface effects ship. The Navy invested $350 million in this effort before it was terminated in 1980. The goal of this program is to provide a fast—80-knot—deepwater ship for antisubmarine, anti-air and surface-to-surface warfare. A recent DOD mobility study provided to the Congress urged continued R. & D. on the ship as a logistics carrier. The additional funds would complete development of the 3,000-ton prototype.

We recommend deletion of the Navy's request for $12.4 million for the undergraduate jet flight training system. The program to develop a complete new jet-training program for naval aviators is needed, but the total cost of the program has not been completely estimated. The proposed program is 8 years in length—much too long for a system that is well within the state of the art. The committee would support a program that shortens the development cycle by 2 years or more.

I have attempted to summarize some of the key elements of H.R. 3519. Members of the committee have always approached the issues of national defense on a nonpartisan basis and this bill represents the best judgment of the conscientious and experienced members of the committee. We recognized the special responsibilities we had this year. While we were presented with a very chilling threat, we were well aware of the sacrifices the country would be faced with as the administration and the Congress began the turnabout of the economy.

As you have noted, we did not accept all the programs of the administration. We are concerned that some of these efforts will generate large future mortgages. And we are painfully aware that the weapons acquisition process needs major surgery. We will continue to work with the Department of Defense toward improving the process.

However, we believe that this bill will continue the rebuilding of our Nation's defense and, in light of Soviet capabilities, it is absolutely essential we get on with the task.

I request your support of H.R. 3519.

□ 1400

Mrs. HOLT. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I would be very pleased to yield to the gentlewoman from Maryland.

Mrs. HOLT. Mr. Chairman, I thank the gentleman for yielding. I would like to associate myself with the remarks of the gentleman from Alabama.

Mr. Chairman, I rise in support of H.R. 3519, and for the first time since I came to the Congress in 1973, I can say that I do not feel apprehensive about the committee's recommendations. This year, there is a consensus throughout the country that the erosion of our military capabilities must be arrested and that we must begin the process of rebuilding our defenses.

But, I can recall a time not too long ago when it was less fashionable to be so concerned about defense—when, in fact, it was commonplace to stand up in this Chamber and attack the bloated military budget. For all too many years, the question was not whether we would approve the defense budget request, but rather how many billions the Congress would cut from it.

After nearly a decade of trimming the so-called fat, it seems to have come as a surprise to many to discover that a lot of the muscle has disappeared. And I think it is important that the Congress accept a measure of responsibility for what has happened. The military today is the child of our neglect.

If we have lost strategic superiority and now face the prospect of something less than essential equivalence for much of the 1980's, let us accept the responsibility because the Congress could have prevented that reality.

If we have lost theater nuclear superiority in Europe, let us accept the responsibility because the Congress could have prevented that reality. And, if conventional balance—on a global scale—has been steadily shifting in favor of the Soviet Union throughout the decade, let us accept the responsibility because, while the Congress debated weapons systems, the Soviets deployed them.

The impact of our decline relative to the Soviet Union in military capabilities cannot be measured purely by static indicators such as defense expenditures or numbers of weapons systems or men under arms.

Our ability to influence events around the world in directions consistent with our national interest rests, in part, upon our ability to project and sustain the power to protect those interests in the far corners of the globe, and in part upon the perception in foreign capitals that America is the "horse to bet on" in a crisis. Judging from the growing timidity of some of our allies, it is apparent that the prolonged Soviet military buildup is reaping political dividends. The perception of favorable momentum has added leverage to Soviet foreign policy in an unstable world. Clearly, bets in the capitals of the world are being hedged.

The bill before you (H.R. 3519) reflects these unpleasant realities. It represents a downpayment on a delinquent bill. The price tag for a decade of benign and naive neglect; and, it begins to address the most glaring deficiencies in our military capabilities.

I say "begins to address" because the fiscal year 1982 defense budget is not a one-time, get-well budget. It is the start of a long, sustained path to recovery. Without an adequate understanding of where we are today and how we got there, it is impossible to appreciate the urgency of H.R. 3519 and the appropriations bill that will follow it.

At first glance, there is a strong temptation to look at a bill that proposes to increase procurement by 50 percent in a single year and question, not only the necessity for it, but also the practical business sense of it. Even those who wholeheartedly support the programs in H.R. 3519 may find themselves with some reservations as to whether or not the Department of Defense can efficiently absorb an increase from $35.8 billion to $52.4 billion in its weapons procurement accounts. That is a reasonable concern and it is an issue the Procurement and Military Nuclear Systems Subcommittee examined in considerable detail.

When I was a child, my mother used to lecture me not to put more on my plate than I could eat, but I can recall many a time when my eyes where bigger than my stomach. And the end result was waste. Simply put, the Armed Services Committee reviewed the budget request to insure that the Defense Department's eyes were not bigger than its stomach.

After a rather exhaustive schedule of hearings, we concluded that the Department was capable of handling the increased funding and handling it wisely. Essentially, there are two reasons for such a conclusion. In the case of mature programs that have been in procurement for several years, we found that our capacity to produce is far greater than the numbers we have been buying. In fact, we have been

procuring most systems at such an inefficient rate that our investment in facilities and tooling has been largely wasted. We have been adding billions of dollars to the ultimate program costs by deferring purchases.

Second, several programs have completed research and development and are entering procurement after a decade or more of development. We have invested in production capacity and the programs are technically ready for procurement. What we are now confronted with is the so-called bow-wave of procurement that we have been vaguely aware of for several years. Dozens of systems that have been delayed and stretched out in R. & D. are entering procurement and the cumulative price tag of the bow-wave is a bit mind-boggling even to those of us who have been tracking these systems through development. But, the bill has come due and we really have only three choices: pay it, defer parts of it again, or cancel programs and forgo needed capabilities.

As a practical matter, only one of these choices is realistic, given the world we live in. It is vitally important that we continue to challenge and debate the need for individual weapons systems and that we hold the Department's feet to the fire on programs costs. But, we must accept the new level of defense spending as the framework in which to debate.

HIGHLIGHTS OF H.R. 3519

I would like to turn now to some of the procurement highlights of H.R. 3519 and discuss, briefly, the major changes recommended by the committee.

The committee recommendation of $52.4 billion for procurement of major weapons systems is $655 million more than the President's request. The difference is primarily attributable to a major initiative to address the equipment needs of our Reserve and National Guard components. The committee proposes an increase of $952.2 million over the President's request for Reserve forces. This amount includes $70 million for 16 AH-1S Cobra/TOW attack helicopters, $20.9 million for C-12D utility aircraft, $155.1 million for 12 A-7K aircraft, $409.3 million for 40 additional F-16's, $172.1 million for 12 C130-H aircraft, $37.5 million to begin modification of 87 AH-1G attack helicopters to the AH-1S configuration. In addition, 60 A-10's will be assigned to the Reserve and Air National Guard.

These increases are a reflection of the commitment of the Congress to the total force concept and a recognition of the fact that our Reserve components must have the equipment and training that would enable them to operate with the Active Forces during a military contingency.

H.R. 3519 would authorize $1.942 billion for procurement of the B-1 bomber. Because the Secretary of Defense is still considering other options, H.R. 3519 contains a mechanism for transferring B-1 procurement funding to development of an advanced technology bomber if the President recommends such a course of action and the Congress concurs.

The committee's recommendation has been carefully crafted to keep the options open until there is a consensus on which way to go and to insure that, whichever option is finally selected, we will be in position to field a follow-on to the B-52 at the earliest possible date.

For several years the committee has been concerned about the tendency to add, unnecessarily, to the cost of weapons systems by procuring them at far less than an economic rate. In the amended 1982 budget request, the situation has improved significantly, but there were two significant exeptions to the general pattern—the F-16 and F-18 programs—where the recommendation, in fact, proposed heading in the opposite direction, toward inefficient rates of production.

In the case of the F-16, the request would have reduced procurement from 180 to 120 per year. The committee recommends an increase of $409.3 million to procure an additional 40 F-16's in fiscal year 1982 and to provide long lead funds for 160 aircraft in 1983. As I mentioned earlier, these additional aircraft are earmarked for the National Guard.

In the case of the F-18, the Congress has been consistently out in front of DOD on the need and the timing of this program. For nearly a decade, the Navy has failed to procure sufficient fighter aircraft necessary to maintain force levels. The result is that we are now faced with an urgent requirement to replace aging F-4's, A-4's and A-7's with modern, survivable and more maintainable aircraft.

The F/A 18 program was developed as an affordable solution to this requirement, but the request for only 63 F/A 18's in fiscal year 1982 and 1984 in 1983 does not meet prior congressional direction to procure the F-18 at an efficient rate.

Accordingly, the committee recommends authorization of an additional $500.4 million for the F/A 18 program to increase production to 84 in fiscal year 1982 and to 108 next year.

Although, there is not time during general debate to go individual program recommendations on a line-by-line basis, the committee report does this in a comprehensive manner and I commend it to those of you who may have concerns about specific programs.

With the exception of the F-16, F-18, and Reserve programs, the amended request is a step in the right direction. It strikes a balance between near-term readiness and modernization by funding adequate levels of spares and repair parts for fielded systems for the first time in a decade. It initiates procurement of several important new systems, such as the advanced attack helicopter, the AV-8B Harrier, the Pershing II missile, and the division air defense gun. And it continues the production ramp-up for other programs which have been in low rate production.

However, I want to make it clear that the committee did not simply rubberstamp the request except in those cases where additions have been recommended. Within its overall recommendation, the committee is proposing program reductions totaling $1.15 billion where the committee found either that the program justifications were inadequate or that the money could be better spent on other programs.

Mr. Chairman, I believe that H.R. 3519 is a good bill. It is not perfect, but it is a far more realistic assessment of our true military needs than its recent predecessors. The Armed Services Committee has made significant improvements to it while remaining within the guidelines of the first concurrent resolution on the budget, and I urge its adoption.

Mr. DICKINSON. Mr. Chairman, I reserve the balance of my time.

Mr. PRICE. Mr. Chairman, I yield 8 minutes to the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Chairman, I am happy to rise in support of H.R. 3519. This is the first bill in many years to provide what a majority of the committee believes is an adequate level of authorization for national defense. In the area, particularly, of shipbuilding and conversion, which was considered by the Seapower Subcommittee that I have the privilege to chair, the bill provides an authorization of $10.3 billion, the amount requested by the new administration. This is $1.9 billion above the amount authorized last year and $2.6 billion above the amount actually appropriated for ship construction and conversion in fiscal year 1981.

The program approved would add 34 ships to the active Navy, including new construction, conversions, and acquisitions.

The number of ships added to the fleet and the dollar authorization is at the level that the Seapower Subcommittee has been saying for years is absolutely necessary if we are going to build the Navy we need for our global commitments that already exist, a Navy of roughly 600 ships. For quite a few years the shipbuilding program has been inadequate in numbers and in dollars to reach that objective. I applaud the new administration's commitment to a larger building program for the Navy. But I caution that this has to be a sustained program

throughout the decade of the 1980's to be really effective.

While the committee has approved the authorization in the amount requested, it has, in important ways, restructured the program to make optimum use of the funds authorized and to lay the groundwork for a strong building program in the future.

The committee has added some high priority ships that we know can be started without delay in the time period for which the authorizations are provided. And we have provided additional long lead authorization for ships to enter the program next year.

A word about the Trident. The Congress has authorized and funded nine Trident submarines and the committee wishes to make very clear its commitment to continuing support for the Trident program. As most of us know, the *Ohio* has done well in its sea trials and we are all very optimistic about the future of this fine facility. The committee desires to see the tenth Trident authorized and funded just as soon as the Navy has finalized its actions in past shipbuilding functions with the company. The committee could not satisfy itself that the funds requested for the tenth Trident could be wisely utilized in the fiscal year 1982, so we gave long lead items for that.

The committee, therefore, has shifted some authorization to programs of high priority which can be started in fiscal year 1982. The committee, accordingly, deleted $960.8 million from the authorization requested for the Trident but left in the program $330.7 million for long lead items. It should be noted that this long lead money would buy components for the tenth, eleventh and twelfth Trident submarines, again giving evidence of the committee's long-term support for the Trident program, a very, very effective member of our Triad to deter nuclear war from occurring.

The committee, in restructuring the shipbuilding program, has added money for two new ships that are high priority requirements. These are an additional SSN-688 nuclear attack submarine, at a cost of $518.1 million, making a total of three such submarines in the bill; and an LSD-41 (Landing Ship Dock) at a cost of $427.3 million.

The findings of studies in the past indicate that a building rate of three to four SSN-688's per year is required to maintain the planned force level for attack submarines throughout this century.

The budget had called for long lead money only of $34 million toward the construction of an LSD next year. Amphibious lift, however, is seriously short in our Navy today. The present LSD-28-class ships now performing this mission will reach block obsolescence in the mid-1980's. A total of nine new LSD's will be needed in the future for the Marine amphibious forces. The committee recommendation provides a total of $461.3 million for the LSD program.

The committee has also added to the bill an additional $100 million for advance procurement of another CG-47 Aegis cruiser in fiscal year 1983. The bill as submitted contained a request for $2,946.3 million for procurement of three Aegis cruisers. The committee's addition would provide a total authorization of $3,046.3 million for the procurement of the three cruisers, the fifth, sixth and seventh of the class, plus the $100 million for advance procurement for another one next year.

The Aegis is, with the SSN-688, the highest priority item of the Secretary of the Navy and the Chief of Naval Operations. The CG-47, known as the *Ticonderoga*-class, guided missile cruiser, is urgently required by the fleet. The Aegis system provides air defense in a high density, high threat environment. The Aegis is designed to counter antiship missiles, one of the principal threats to the fleet in the 1980's and beyond.

The committee has also added $130 million to the bill for long lead procurement toward the purchase of an amphibious helicopter assault ship (LHA) in fiscal year 1983. No authorization was requested in the budget submission for the LHA, but the committee believes that procurement must begin now to strengthen the amphibious lift capability for our Marine amphibious forces. The Commandant of the Marine Corps, testifying earlier this year, said that the Marine Corps presently has "more fight than ferry." Current resources can only meet about two-thirds of the lift requirements of the Marine Corps. The LHA allows for transport of Marine units to critical areas and landing by helicopters, landing craft or amphibious vehicles.

Let me briefly run through the important ship programs in the bill which were approved as requested and which, in my view, will substantially increase the fighting ability of our Navy:

The bill contains $658 million for procurement of long lead items for another *Nimitz*-class nuclear-powered aircraft carrier (CVN-72) for which full authorization will be requested in fiscal year 1983. The bill also contains $100.8 million for advance procurement for the service life extension program (SLEP) for the U.S.S. *Forrestal* (CV-59). The SLEP program, an extensive modernization which extends the life of the carrier for about 10 to 15 years, will cost a total of about $500 million.

The bill would begin the reactivation of battleships for the U.S. Navy. It includes $158 million for the reactivation of the battleship *New Jersey* (BB-62) and $88 million for long lead items toward the reactivation of the U.S.S. *Iowa* (BB-61). Equipped with modern weapons, sensor and communication systems, and 16-inch guns, the 60,000-ton *New Jersey* will project a powerful naval presence. The cost of the reactivation is about the same as the cost for procuring a single 3,700-ton FFG-7 frigate. The *New Jersey* will carry Tomahawk long-range surface-to-surface missiles, Harpoon medium-range surface-to-surface missiles, close-in support weapons, and the newest electronic warfare equipment. Reactivation is estimated to take about 2 years.

The bill also contains $364 million for reactivation of the aircraft carrier *Oriskany* (CV-34). This, together with the long lead authorization of $139 million provided in the fiscal year 1981 supplemental request, brings the total authorization for the reactivation of this aircraft carrier to $503 million.

The *Oriskany*, and the recalled battleships will provide needed force multipliers during the mid- and late-1980's until a sufficient number of new aircraft carriers are available to man the number of battle groups we need to carry out the present worldwide missions given to the Navy. The *Oriskany* is not a substitute for the *Nimitz*-class carrier. But it can provide additional capability, it can be ready much earlier than the 7 years needed to build another *Nimitz* carrier, and it would provide an additional 15 years of service. The *Oriskany* can be used in a number of roles, as an all-attack aircraft carrier providing firepower for a carrier task force; as support for Marine airlift forces, as a ship to bring airpower to bear in low-threat areas, freeing the large deck carriers for more critical tasks; and as a training carrier for instructing naval aviators.

While there has been some question as to cost estimates for reactivation of the *Oriskany*, the service life extension program (SLEP) currently being done on the *Saratoga* which takes about the same period of time in a shipyard and includes quite similar overhaul and rehabilitation, is estimated to cost $520 million. It is possible the *Oriskany* will cost somewhat more than estimated. But the committee believes it is a worthwhile investment in terms of the additional capability it can provide to the Navy.

The bill also contains funds for three FFG-7 guided missile frigates; two ARS salvage ships which are to replace ships that are over 34 years old; a maritime pre-positioning ship to provide pre-positioned combat unit equipment for Marine amphibious brigades; conversion of two existing U.S. roll on/roll off ships to maritime pre-positioning ships to support the rapid deployment force; a lead ship for a new class of fleet oilers (T-AO); four TAGOS ocean surveillance ships; a new mine countermeasure ship; acqui-

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sition of a lighterage ship which is designed to transport a significant number of barges that are needed for ship-to-shore movement of cargo and equipment in undeveloped areas; and acquisition of two combat stores ships from the United Kingdom. Both of these latter ships will be purchased for a total of $37 million. By contrast, construction of new ships of this class is estimated to cost over $400 million each in fiscal year 1982 dollars.

The committee has also approved the request for acquisition and conversion of SL-7 container ships to provide fast logistic ships to increase our critically short sealift capability. The committee, however, has reduced the request by $203.3 million from the $668.1 million originally requested for conversion of eight such ships. The committee continues to support this program but believes the unit cost can be reduced below the original estimate.

In summary, the committee has presented a good, balanced program of ship construction which allows the Navy to truly turn the corner in building back toward the size Navy that we require for worldwide commitments. I caution that this program has to be the beginning of a 5-year program for sustained growth for the Navy.

I urge all Members to support the bill.

Mr. DICKINSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. ROBERT W. DANIEL, JR.)

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, the comments of the preceding three speakers, the gentleman from Illinois, Chairman PRICE, the ranking minority member of the committee, and Chairman BENNETT, have all touched upon the need for strategic force modernization. It is perhaps the most outstanding need in the things that face us on the committee. I would like to talk briefly with particular reference to modernization of land-based ballistic missiles.

Our strategic deterrence depends on maintaining adequate survivability of our strategic forces. Survivable strategic forces are central to our strategic equivalence with the Soviet Union, to our basic military posture and, indeed, to our foreign policy.

Therefore, the sustained Soviet buildup in strategic forces and its impact on the survivability of our own forces is a matter of grave concern. In particular, the threats—both near and far term—to our triad of strategic forces have been growing. Soviet ICBM's, with many thousands of warheads and improved guidance accuracy, will provide a capability in the early 1980's to destroy the great bulk of our Minuteman force with an expenditure of approximately one-third of their ICBM force.

There is also the potential of a large percentage of our bombers being destroyed with an ICBM barrage attack; for example, even though they got off the ground, they may not escape the area that is barraged. Our air-breathing force must also deal with the growing Soviet air defense threat posed by lookdown-shootdown interceptors and advanced surface-to-air missiles currently under development.

It is estimated that, through the 1980's, our submarine-launched ballistic missiles—SLBM's—will remain sufficiently survivable. But we cannot be sure what anti-submarine-warfare capabilities the Soviets may develop in the 1990's, and thus render our SLBM's vulnerable to an effective attack against them.

For these reasons, it is imperative that we restore the survivability of ICBM's, maintain our SLBM survivability, and enhance our bomber survivability. The longer range of the Trident, C-4, missile will make submarines even less vulnerable by expanding the ocean area which would have to be searched to find them. Our cruise missiles, as they achieve an initial operational capability in 1982, will offset improvements in Soviet air defenses.

The most difficult issue to resolve has been the survivability of the land-based leg of the triad. A solution that will satisfy our military needs and have a cost not out of line with past investments in strategic systems is of paramount importance. In fact, the proposed MX missile system will cost less than our currently deployed Minuteman force.

The problem of ICBM vulnerability has, indeed, been difficult. A Presidential decision on MX must recognize the particularly valuable characteristics of ICBM's: reliable command and control, flexibility, responsiveness, independence from strategic or tactical warning for prelaunch survival, low operating costs, and personnel requirements. But the fundamental consideration is a recognition that we do not want to be dependent on any one system.

Recognition of that fact calls on us to build up the strength of the leg of the triad that is temporarily weak, so that should—at some later time—other parts of our strategic forces become more vulnerable, we will not then be totally vulnerable.

Over the last 10 years, about 30 alternative ICBM basing modes have been investigated in detail. The MX missile system with a multiple horizontal protective structure (MPS) emerged as the most reasonable solution to the ICBM survivability problem.

Over the past year, some have alleged that without the constraints on the Soviets provided by SALT II, the MX/MPS system cannot provide survivability and thus makes no sense. This is simply not the case. The baseline MX configuration of 200 missiles and 4,600 shelters has been sized against the intelligence community's projection of the likely Soviet strategic force posture within the bounds of SALT II. Nevertheless, from the outset it was recognized that providing sufficient resiliency in the system to allow and maintain its survivability against a wide range of increased Soviet threats was of paramount importance. Moreover, in addressing this possibility, one must remember that such Soviet threat expansions would require major adjustments in the aggregate U.S. strategic force posture in order to preserve deterrence and strategic parity.

A series of credible response options have been developed, both to maintain the effectiveness of MX/MPS system should larger Soviet threats materialize and, equally important, to allow us to make clear our readiness to employ these options. Thus, the Soviets would know in advance that they would be denied any advantage by enlarging their force. This should help dissuade the Soviets from undertaking such costly threat expansions in the first place. The options would involve building additional shelters, deploying more missiles, some combination of these two, and, in the case of very large Soviet threat expansions in what would be a clearly uncontrolled arms competition, the possibility of deploying a specially designed, low altitude ballistic missile defense system that would provide excellent defensive leverage when combined with an MPS system.

The implementation of any of these options would obviously result in additional cost above the $33.8 billion, in fiscal year 1980 dollars, required to field the baseline horizontal MPS system. However, the Soviet threat expansions postulated in these cases would be even more costly to them. In any event, should the Soviets elect to greatly expand their ICBM forces we will have to take measures to respond that would necessarily entail additional expense. The MX system offers well-conceived, flexible response options which would help contain these additional costs.

The threat to our Minuteman ICBM's and thus to the Nation's security is real. The strengths of the triad should not be abandoned in the face of the Soviet threat. Regaining the survivability of our ICBM force is of the highest priority and meeting this requirement results in a complex basing arrangement. We must continue to assign the highest priority to the fielding of the MX in a survivable horizontal MPS basing configuration at the fastest reasonable pace if we are to maintain essential equivalence with

the Soviet Union and to maintain confidence in our deterrent as a whole.

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Mr. DICKINSON. Mr Chairman, I yield such time as he may consume to the gentleman from South Carolina (Mr. SPENCE), the ranking minority member on the Seapower Subcommittee.

Mr. SPENCE. Mr. Chairman, I want to compliment the chairman of the Seapower Subcommittee, Mr. BENNETT, for the work that he has done to bring before you a naval shipbuilding program that, for the first time in many years, contains the substance for necessary and meaningful growth in naval force levels. Thirty-four ships are recommended for authorization in fiscal year 1982. The U.S. Navy needs every one of them, and more.

As everyone in this House is aware the Navy has been tasked with increased worldwide responsibilities in support of national policy. It is, for example, most likely that a Navy task force will remain assigned to the Indian Ocean area for the foreseeable future. This added responsibility, tacked on to other varying commitments in the Atlantic and Pacific Oceans and the Mediterranean Sea provides a scenario of too many places for the Navy to be and too few ships to do the job.

Current Navy total force ship levels are deficient. The Navy should have about 600 ships in order to achieve a reasonable distribution of ships relative to the number of ships required for deployment worldwide and ships at home in a training cycle or upkeep, overhaul, and conversion. The goal of 600 ships takes into account ships presently in the pipeline in various stages of construction, those expected to remain in the active fleet and those that will be retired from the Navy inventory. For example, to reach a goal of about 600 ships by the year 2000, the Navy needs to build about 400 new ships, in addition to the approximately 100 ships currently in the pipeline. Four hundred ships in 19-years equate to about 21 ships authorized per year. This rationale includes the fact that during this 19-year period, the Navy will also have retired about 260 old ships.

Cost estimates for 400 ships are a function of the types and complexity of the ships desired. For example, any one ship might be as large as a 90,000-ton nuclear aircraft carrier or as small as a 200-ton mine warfare ship. Therefore, the cost of 21 ships might vary between $10 and $20 billion in any one year.

The budget commitment to the growth of naval sea forces will necessarily be relatively large. However, there are no viable, cheap alternatives to assured maritime supremacy. Without the ability to protect our own interests on the high seas, sea lines of communication would be vulnerable to an act of aggression cutting off access to vital economic resources.

The Soviet Union is expanding its naval forces at a rapid rate. Why? The question deserves special attention. I believe at least one answer is reasonably certain. In their own self-interest, the Soviets have to place credible power at sea to successfully challenge the only other major seapower, if necessary. I have no doubt that they know what they must do.

The Soviets are building large nuclear-powered aircraft carriers. They are building nuclear-powered cruisers twice the size of any in the U.S. inventory. They are building four new classes of destroyers, some bigger than our cruisers. Their Typhoon ballistic missile submarine is bigger than our Trident. Their newest titanium-hulled attack submarines are faster than our attack submarines.

In sum, during the period 1975 to 1979, the Soviets outdelivered the United States 2 to 1 in major surface combatants; 5 to 1 in submarines and 29 to 1 in other naval construction.

The Congress has the responsibility to build a Navy to constrain the Russian challenge. Given that the United States probably will not outbuild the Soviets numerically, we must outbuild them selectively and qualitatively. We must build new ships but we must also upgrade what is now in the inventory.

Here are some things we urgently need to do.

Go for modularity. Take advantage of modular concepts for ships so that weapons systems, sensor systems and hull sections can be readily interchanged, and hence make the ships multimission capable. For example, a modular gun platform of certain circumference could be substituted for a modular missile platform of similar outer dimensions. A ship could thereby be transformed from a gun ship to a missile shooter with minimum time off the line for conversion.

Get on with the Trident ballistic missile submarine program as soon as possible. The Seapower Subcommittee has set in motion a series of efforts to determine how best this might be done.

Add at least two more *Nimitz* class nuclear-powered aircraft carriers to support the Navy's plan for 15 aircraft carrier task forces.

Put the quick reaction, antimissile Aegis system to sea aboard conventional and nuclear-powered ships as a matter of top priority to handle the threat of sea-skimming or steep-diving supersonic missiles.

Revive the nuclear-powered cruiser Navy to support the Navy's concept of at least six all nuclear-powered carrier task forces.

Reengineer and upgrade nuclear attack submarine forces to enhance attack submarine capabilities.

Rebuild and strengthen the Navy's amphibious forces before block obsolescence erodes the force in the late 1980's.

Enhance the Navy's sealift capacity to support rapid deployment and prepositioning force ships.

Immediately increase efforts to improve the capabilities of mine warfare ships and equipment.

Taken together, all of the above is a tall order for the Congress to support and the Navy to achieve. But if the United States is to remain the No. 1 seapower in the world, we must act decisively and now.

In the fiscal year 1982 recommended shipbuilding program, the House Armed Services Committee has presented to the Congress a package that addresses what has to be done on a dedicated and continuing basis in the years ahead to support a revitalized 600-ship Navy. We urgently solicit your support for this and future naval shipbuilding programs.

Mr. PRICE. Mr. Chairman, I yield 8 minutes to the gentleman from Alabama (Mr. NICHOLS).

Mr. NICHOLS. Mr. Chairman, titles IV through VII of H.R. 3519 deal respectively with active duty, Reserve, and civilian personnel strengths in the Department of Defense, as well as military training student loads for fiscal year 1982.

The committee is recommending only minor adjustments in the strengths requested by the administration.

ACTIVE FORCES

In title IV, the committee recommends end strengths for the Active Forces as follows:

	Administration request	Committee recommendation	Difference
Army	786,300	786,368	+68
Navy	554,700	554,900	+200
Marine Corps	192,100	192,100	0
Air Force	586,800	586,832	+32
Total	2,119,900	2,120,200	+300

The strength proposed is 44,800 above that authorized for fiscal year 1981 including the additions provided in the pending supplemental.

The committee recommended only two minor adjustments in the requested strength. The Navy strength was increased by 200 spaces to permit the recall of naval reservists to perform a deployment and relieve pressure on an already overextended Active Force. The Army and Air Force strengths are increased by a total of 100 in order to allow these services to retain research veterinarians at research and development activities in a military status in-

stead of converting these positions to civilian slots.

The committee also approved three separate provisions in title IV. The first would impose further quality controls for enlistment standards by barring the enlistment of all non-high-school graduates who score in the lowest category normally eligible for enlistment—category IV. The committee also proposes establishing a minimum percentage of male high school graduates for the Army in 1982. The Army would be required to have at least 75 percent high school graduates among its male recruits, but this requirement could be lowered to 65 percent if the Army recruits 10 percent of its non-high-school graduates from those who score above average on the entrance tests.

The second provision the committee recommends is repeal of the statutory limitation on dependents overseas. The provision, in effect since September 30, 1980, is having an adverse effect on morale among personnel assigned overseas.

The last recommendation proposed in title IV would be to specifically authorize the Air Force to commission physician assistants. The Air Force is concerned that their physician assistant program, a cost effective approach to providing quality medical care, will fail if they can no longer commission these personnel.

RESERVE FORCES

In title V, the committee has recommended only two changes from the administration request.

Increases of 2,400 for the Naval Reserve and 300 for the Coast Guard Reserve are proposed to bring these components closer to their required strengths.

	Administration request	Committee recommendation	Difference
Army National Guard	392,800	392,800	
Army Reserve	235,300	235,300	
Naval Reserve	87,600	90,000	+2,400
Marine Corps Reserve	37,600	37,600	
Air National Guard	98,600	98,600	
Air Force Reserve	62,800	62,800	
Coast Guard Reserve	11,700	12,000	+300
Total	926,400	929,100	+2,700

Overall, Selected Reserve strength would increase by 67,400 above that authorized for fiscal year 1981. The increase reflects improved recruiting in the Reserve program, but still leaves the Selected Reserve 90,000 below the required strength.

For full-time support personnel for the Reserves, the committee recommends approval of the administration request without change. The strengths recommended are:

Army National Guard	11,439
Army Reserve	6,285
Naval Reserve	208
Marine Corps Reserve	447
Air National Guard	3,312
Air Force Reserve	701

The committee has approved two changes contained in the administration request. The Secretary of Defense would be authorized to exceed the strength for full-time support personnel by 2 percent when he considers it in the national interest. The committee also approved—for Reserve personnel on active duty in support of the Reserve components—a requested increase in the authorized number of individuals in certain grades.

In view of the continuing difficulties in mobilization manpower, the committee recommends bill language directing the Secretary or Defense to submit a plan for solving the shortage in the Individual Ready Reserve and to study the impact on mobilization capability resulting from the increased reliance on civilian personnel in key positions—particularly overseas.

The authorities for a bonus for enlisting or reenlisting in the Individual Ready Reserve, and for affiliating with the Selected Reserve, are extended from September 30, 1981, to September 30, 1985. Funds for these bonuses are in the Department of Defense budget.

CIVILIAN PERSONNEL

In title VI, the committee has recommended an increase of 7,000 in the requested ceiling for civilian personnel.

Administration request	1,024,900
Committee recommendation	1,031,900
Difference	+7,000

The increase recommended will offset reductions in civilian spaces in the budget request in anticipation of proposed contracting out that the committee does not believe could be executed. The budget contains sufficient resources to pay either in-house or contractor employees to perform the functions. However, the necessary spaces to retain functions in-house, if it does not prove feasible to convert them to private contract support, have been withdrawn from the budget as submitted.

The committee has also recommended three language changes in title VI. The first would require a senior military commander to certify that contracting out a function will not hurt mobilization capability before the activity can be considered for contracting out. The second provision would repeal the ceiling on senior grade civilians in the Department of Defense. The repeal was requested by the administration. The last provision would authorize certain research and development laboratories to contract with students at universities for limited supported activities.

MILITARY TRAINING STUDENT LOADS

Title VII contains military training student loads. The committee has recommended no change in the request. The training load strengths are:

Army	75,728
Navy	65,133
Marine Corps	18,311
Air Force	46,389
Army National Guard	14,537
Army Reserve	10,830
Naval Reserve	1,041
Marine Corps Reserve	2,835
Air National Guard	2,157
Air Force Reserve	1,405

GENERAL PROVISIONS

In the general provisions of the bill, three amendments to existing law are proposed. First, the committee recommends amending the Selective Service Act to authorize the President to require registrants to provide their social security numbers. Without this authority, the Director of Selective Service testified that the registration process will be largely unenforceable. The Selective Service Act would also be amended to permit the Director of Selective Service to provide registration lists to the Department of Defense for purposes of recruiting.

A change in the method for computing the fee schedules for purposes of CHAMPUS reimbursement is proposed to improve the operation of the program.

Also recommended is authority to permit the President to delay the effective date of the annual end strengths by 2 months if there is a period of national emergency or a state of war existing on the last day of the fiscal year.

Mr. Chairman, titles IV through VII contain necessary levels of military personnel for the Nation's defense and reflect a careful review of the administration's request.

Mr. MITCHELL of New York. Mr. Chairman, will the gentleman yield?

Mr. NICHOLS. I yield to my colleague, the gentleman from New York.

Mr. MITCHELL of New York. Mr. Chairman, I would like to extend my sincere appreciation to our chairman the gentleman from Illinois (Mr. PRICE), and the ranking minority member, the gentleman from Alabama (Mr. DICKINSON), for their excellent leadership in preparing this important bill.

I would also like to commend the Military Personnel and Compensation Subcommittee chairman the gentleman from Alabama (Mr. NICHOLS), for his fine work in dealing with the many difficult military personnel issues. It has been a pleasure working with him these past several years.

I have long been interested in military manpower issues, and I feel that the bill before us, along with a military compensation bill which the committee has reported, represent an excellent effort to address many of the manpower problems currently confronting our military.

Mr. Chairman, I remain convinced that in our efforts to develop and maintain a responsive and credible military, we should leave no stone unturned. In recent years, actions of our principal adversary—the Soviet Union—have convincingly demonstrated the level of their commitment to a strong military. The Soviets, through direct military interventions and proxies, continue to test our national will and our commitment to a strong and responsive military.

I believe, therefore, that this Nation must be capable of projecting military power to even the most remote corners of the world. However, clearly one's perception of this Nation's ability to project power is largely colored by how one views our state of readiness—including personnel readiness.

Regarding the issue of readiness, we in the Congress cannot waver in our resolve to provide the military with what I feel is the most important part of the defense readiness equation—people. In my judgment, the bill before you is a necessary step in promoting the recruitment and retention of the personnel required to improve readiness.

H.R. 3519 represents a clear effort to address several of the challenging aspects of recruiting and retaining the numbers of quality personnel required to support our national objectives under the All-Volunteer Force concept.

RECRUITING

In the area of recruiting, the Army continues to experience problems, while the other services are having some degree of success in meeting their recruiting objectives.

The Department of Defense has projected that over the next 5 years there could be an increase in the size of our military of between 100,000 to 200,000 people. At the same time, I understand that the supply of young men in the 18-21 age group will decrease by about 13 percent.

The recruiting challenge is obvious, but the solution is not clear. The committee feels, however, that sacrificing quality for quantity is most certainly not the solution. In fact, H.R. 3519 reflects the committee's commitment to encouraging the Department of Defense to recruit more people who have tended to score high—above the 50th percentile level—on the Armed Forces entrance test. In order to accomplish this, the committee placed additional limitations on enlistments for fiscal year 1982.

One of the limitations is the ban on enlisting individuals who score between the 10th and the 30th percentile—category IV recruits—and who are not high school graduates. The other limitation is that during fiscal year 1982, the Army must recruit a minimum of 75 percent high school graduates among its male accessions. However, that minimum percentage may be reduced by a percentage point, to as low as 65 percent, for each percentage increased of male non-high-school graduates with scores above the 50th percentile level—categories I-IIIA recruits—on the entrance tests.

The committee feels that these enlistment limitations are necessary to improve personnel readiness. Because while it has been stated that high school graduates are, on the average, twice as likely as non-high-school graduates to complete their enlistments, evidence suggests that non-high-school graduates who score high on the entrance test, generally, perform better than high school graduates with lower scores.

RETENTION

In the area of retention, I would like to first state that retention problems cannot be attributed to the fact that we have an All-Volunteer Force. In my judgment, it is very likely that the mililtary would have retention problems even with conscription. Clearly, retention depends on the ability of the military to provide a professionally challenging environment, adequate compensation for service, and to some extent, on the state of the economy.

The Congress last year authorized a compensation package which promises to result in better retention of our career force, and, as I mentioned, the committee in a separate piece of legislation has recommended additional compensation improvements for fiscal year 1982.

Each of the services, generally, has unique retention problems. In the case of the Navy, during the past year, they continued to experience significant shortages in petty officer ranks. The Air Force reenlistment rates have increased from the previous year. Although, retention in the Air Force continues to show improvements, there remains, however, some severe shortages in the mid-level-supervisory grades in certain skill categories such as avionics, aircraft system maintenance, and electrical support. The Army retention prospects are good, and for fiscal year 1980 the Army achieved its reenlistment goals. However, the Army is experiencing some difficulty in retaining noncommissioned officers in the combat branches.

ACTIVE FORCES STRENGTH LEVELS

The bill, H.R. 3519, represents minor changes in the personnel authorizations requested by the administration.

In the area of Active Forces the administration requested a strength of 2,119,900, and the committee increased that by 300. The vast majority of the increase is to provide additional authorizations to the Navy for the purpose of recalling reservists to support operational and deployment requirements.

RESERVE FORCES STRENGTH LEVELS

With regard to our Reserve Forces, the authorizations were increased by 2,700 over the administration's request of 976,400. The increases were principally to assist Naval Reserve components.

The committee feels, and I strongly agree, that the major problem facing our Reserve Forces is the significant shortages in the Individual Ready Reserve—IRR. As you know, the IRR is a pool of pretrained military manpower which during a national emergency would be used to replenish battlefield casualties and to bring Active and Reserve units up to full strength. The current estimates of IRR shortages range from as low as 200,000 to as high as 600,000 depending on the nature of the scenario and other factors.

The requirement for a healthy IRR is particularly critical in the case of the Army. Under the total force concept, Army Reserve components would be integrated into combat-and-support elements of the Active Army. As an example, during wartime, the Army Reserves would provide 100 percent of all training brigades, 44 percent of all medical units, 33 percent of all special forces units, and 24 percent of all combat engineer battalions—to list a few.

In order to improve enlistments and retentions in the Reserves, H.R. 3519 would extend authority for several of the Reserve bonus programs from September of this year to September 1985. Because of the critical role the IRR plays in our total force concept, the committee, in its report on H.R. 3519, directs the Secretary of Defense to submit a plan to the Congress which will outline how the Department of Defense will correct the IRR shortages within the next 5 years.

CIVILIAN PERSONNEL

With regard to civilian personnel, the administration requested authorizations for 1,024,900, and the committee increased that by 7,000 spaces for a total of 1,031,900. This represents a net increase over fiscal year 1981 authorizations of 18,000 spaces. These increases will be used to improve depot level maintenance, to assist in supply management and inventory control procedures, and to release military personnel from jobs which could and should be performed by civilians.

CONTRACTING OUT

The other issue I would like to discuss is one which is of increasing concern to my colleagues and me, and it is the use of contracting out practices by the Department of Defense.

As many of you know, the Office of Management and Budget, several years ago, issued a directive encouraging the use of private contracts by agencies of the executive branch to include the Department of Defense. While this practice may be suitable for

nondefense activities, the committee has, for some time, been concerned about the advisability of contracting out activities at our defense installations and its potentially adverse impact on mobilization and readiness. Over the last several years, we have received testimony that contracting out could adversely affect readiness.

Furthermore, it is my judgment that contracting out not only has a potentially debilitating effect on unit readiness, but it also limits the commander's flexibility in utilizing his resources. I have discussed this issue with many military commanders, and it is a clear consensus that contracting out places yet another constraint on their ability to accomplish their missions.

In recognition of the potentially serious adverse impact that contracting out could have on readiness and mobilization, the committee included a provision in this bill which requires a military commander of the major operating command to certify that the contracting out of a particular activity will have no significant impact on mobilization or readiness. It is my belief that this additional reporting requirement will encourage the maximum effective use of contracting out, while minimizing its impact on readiness.

Mr. Chairman, I have tried to highlight the major personnel provisions in the bill before you. However, the bottom line is that by improving personnel readiness we will most certainly increase our credibility as a major world power to both deter aggression and to forcefully respond to acts of aggression when deterrence fails.

Again, it is my firm belief that enactment of this bill will send a strong signal to the world, in particular our adversaries, that this country is serious about its commitment to peace through strength. I urge my colleagues to join with me in supporting this important piece of legislation.

□ 1430

Mr. PRICE. Mr. Chairman, I yield 7 minutes to the gentleman from Georgia (Mr. BRINKLEY).

Mr. BRINKLEY. Mr. Chairman, I rise to speak in support of title VIII of H.R. 3519. This title provides for annual authorization of the U.S. civil defense program.

The Department of Defense requested $132.8 million for fiscal year 1982. After full consideration, the committee has recommended $174 million. This recommendation is based upon the committee's judgment that if the United States is to have a credible civil defense program within a reasonable period of time, additional resources must be made available now. Our hearings revealed that unless more funds are forthcoming the necessary planning activities to put in place a comprehensive population relocation program will be an endless process that will end up costing a great deal of money with nothing to show for the expenditures. This is not a wise course of action to follow. It is more cost effective to make the effort now.

This effort is known as the D prime program. It is a comprehensive upgrade of the civil defense system over a 7-year period. The D prime program is designed to implement the policies of Presidential directive (PD) 41 of September 1978 and title V of the Federal Civil Defense Act. These policies provide for improving population survival in the event of nuclear war, thereby enhancing deterrence and crisis stability.

Let me give you an example of what I mean. The Columbus-Muscogee County, Ga., area has a crisis relocation plan. It was developed through the joint cooperation of the Columbus Department of Civil Defense, the State of Georgia Department of Civil Defense, and the Federal Emergency Management Agency (FEMA). As such, the plan represents the Federal-State-local partnership that is the basis for the U.S. civil defense program.

Because of the plan, which is part of the nationwide comprehensive relocation planning process, the people of the Columbus area have an orderly procedure for relocating to host areas going northerly on highways converted to one-way traffic. Chaos would thereby be reduced and the lifesaving opportunities of the public would be increased.

Without going into great detail about the plan, I would note that because of it, every Government agency is pinpointed and its respective role and responsibilities defined. The planning document provides for a basic plan and contains seven functional components that cover such essential responsibilities as police and fire services, transportation and utility services, and health, shelter, and food care services.

It is a blueprint for answering questions that are certain to arise during such a crisis—whether it is peacetime or wartime. Families would know where to relocate. Health care personnel involved with hospitals and nursing homes would know how their patients will be cared for. Public safety officials would have available continuity of government plans for maintaining public order and safety, handling prisoner populations, and coordinating the movement of traffic.

In summary, a checklist has been developed on how, when, and where the people of Columbus would attempt to meet the awesome challenges of disaster. Such prudence is being repeated throughout the country. The current FEMA work schedule, however, needs to be accelerated and expanded. That schedule is dictated by budgetary decisions. According to information made available to the subcommittee, because of the lower funding level requested initially, it would not be until 1990 that the initial crisis relocation planning effort would be completed. At the higher level recommended by the committee, the initial planning phase would be completed by 1985. Because of this serious timelag, the committee is recommending more funding for the civil defense program.

With the increased funds, in addition to expanding lifesaving planning for both high risk target areas and population centers, additional communications and warning support, improved command and control capabilities, increased radiological defense, greater shelter protection, and expanded personnel training will be realized. Without the increased authority, the program will continue to limp along and minimal progress will be made. Therefore, we have a clear choice. It is our belief that the $174 million can be wisely and effectively spent on increasing the protection of the American public.

Within the $174 million funding total, $44 million is earmarked for the emergency management assistance program. Testimony from State and local civil defense officials indicated that serious funding shortfalls are being experienced at these levels of government. Because civil defense is a Federal-State-local partnership, the committee wants to make certain that sufficient matching funds are available for State and local personnel involved with civil defense efforts.

To further strengthen the civil defense system, the committee initiative on dual use policy is contained in section 803 of the bill. Dual use is the sharing of civil defense resources for both attack preparedness and natural disaster preparedness, response and recovery efforts. As such, it is a cost effective method of testing and exercising the State and local base of the U.S. civil defense program. In effect, we are obtaining two benefits for the cost of one—preparedness for both natural disaster and attack disaster with one system.

At present, dual use policy is permissive and questions may naturally arise about the use of resources authorized in the Civil Defense Act for other than attack purposes. Section 803, therefore, is designed to resolve such ambiguities in the current law. It does so by prescribing dual use as a part of overall civil defense policy, defines the application of dual use in national disasters, directs FEMA to prepare the necessary procedures to implement dual use and places attack and disaster-related efforts on the same footing.

In closing, Mr. Chairman, it is the committee's view that the steps outlined here will strengthen the U.S.

civil defense effort. I respectfully request my colleagues to support these recommendations.

Mr. PRICE. Mr. Chairman, I yield 10 minutes to the gentleman from Virginia (Mr. DAN DANIEL).

Mr. DAN DANIEL. Mr. Chairman, included in the defense authorization bill for 1982 is the section which can, if properly implemented, introduce a new era in the way this Government does business on the issue of major weapons systems acquisition.

This section is identified as section 909 and it deals with multiyear procurement. The gentleman from Texas (Mr. BROOKS), will offer an amendment to eliminate this section.

I would like to take a moment and review the events and the factors which lead to inclusion of this section in our bill.

Back in January of 1980, the committee began to hear grumblings that the defense industrial base was in failing health, that it might not be capable of producing military hardware included in the Defense Department's 5-year defense program.

Do the facts concerning our national industrial base support this conclusion?

Consider the U.S. industrial productivity growth rate has declined significantly, both in relation to foreign competitors and in real terms.

The experience of the United States over the 20-year period beginning in 1960 is disheartening.

During these 20 years, the average annual growth in productivity for Japan was 7.1 percent; Italy, France, and Germany all increased productivity more than 4 percent.

Even the United Kingdom, whose industrial woes are well known, showed an average growth of 2.3 percent.

Sadly, the United States was at the bottom of the pile with an average 1.5 percent increase in productivity.

These figures of course relate to the total economy.

In manufacturing, they are just as bad: Japan, an average 8.3 percent growth; West Germany, 5.4 percent growth; the United States, 2.5 percent growth.

Our dependence on foreign sources for critical materials has increased dramatically.

Right now, the United States is more than 50 percent dependent on foreign sources for over half of the approximately 40 minerals which have been described as most essential to our $2.3 trillion economy.

Many of these essential minerals come exclusively from foreign sources and some of the most critical of them from highly unstable areas of the world.

Skilled manpower shortages exist and are projected to continue in the future.

According to one witness, over the next 20 years, we will need a quarter-million skilled workers in the machine tool trade, with no increase whatsoever in additional defense needs.

Many companies are refusing to accept Government business because of the excessive redtape and regulation and because of the turbulence in Government buys.

There is little surprise, then, in the fact that the cost of weapons systems is rising at an alarming rate.

Defense spending does not operate in a vacuum.

Prompted by this concern, the committee held a series of hearings during the last 3 months of last year on the capability of the U.S. defense industry to produce the military equipment needed to insure the national security.

As the committee's investigation proceeded, a truly shocking picture emerged: The picture of an industrial base crippled by declining productivity growth, aging facilities and equipment, shortages in critical materials, increasing production lead times, skilled labor shortages, inflexible Government contracting procedures, inadequate defense budgets and burdensome Government regulations and paperwork.

On concluding its investigation, the committee published a voluminous record together with a report of its findings and recommendations titled, "The Ailing Defense Industrial Base: Unready for Crisis."

One of the key findings was that present procurement policies and procedures used by the Defense Department are excessively inflexible and many times discourage the use of contract types that would promote stability, encourage capital formation and lead to efficiencies that would result in savings to the taxpayer.

During the committee's hearings, a broad range of witnesses unanimously agreed that an expanded use of multiyear contracting for meeting defense requirements could result in substantial benefits to both the Government and industry, the chief benefit being the potential for reducing the cost of weapon systems while improving the health of the defense industrial base.

Based on the committee's hearings, findings and recommendations, I introduced H.R. 745 on January 6, 1981.

Its basic purpose was to establish a policy for contracting by the Department of Defense that, except for cost-plus-a-percentage-of-cost contracts, any type of contract, including multiyear contracts may be used that will promote the best interests of the United States.

Further, the bill sought to improve procurement procedures, to provide greater program stability and reduced program costs, and to enhance the defense production capability of the United States.

Section 909 of the bill under consideration today is an outgrowth of H.R. 745. Mr. Chairman, many of us have given talks around the country on the decline of our defense industrial capability and, in fact, the committee considered the situation so grave that a private briefing on the committee's findings was arranged for the Speaker and key Members of the House leadership on both sides of the aisle.

Gen. Alton D. Slay, Commander, Air Force Systems Command, participated in the briefing.

General Slay has studied this problem for several years and gave one of the most lucid, hardest-hitting presentations I have ever heard a man in uniform give.

General Slay pointed out that the alarming erosion of our industrial capability, coupled with our mushrooming dependence on foreign sources for critical materials, is severely damaging the very foundation of our defense posture.

At the conclusion of General Slay's briefing, Speaker TIP O'NEILL summarized the situation facing the Nation in one word, "frightening."

The committee has spent a great deal of time looking into the merits of allowing an expanded use of multiyear contracting and I believe we should strongly support section 909.

I would emphasize that section 909 is not a panacea for all the ills of the defense industrial base but it is an important beginning step to improve procurement and contracting procedures.

Are there risks involved?

Of course there are.

No plan devised and implemented by humans is risk free.

But we have thoroughly examined the problem and its potential solution and are convinced that the benefit far outweighs the risk.

Some have proposed that multiyear contracts be initiated as a pilot program approach on a case-by-case basis.

Our committee feels this is not the proper route to follow.

What, after all, is the purpose of a pilot program?

First, it should validate a need.

This has already been done through the defense Industrial Base Panel and the finding of every session of the Defense Science Board we have yet examined.

Second, it should establish a history.

This too has been done, both in the Defense Department's multiyear contracting experience prior to the establishment of the $5 million cancellation ceiling and currently in those multiyear contracts which fall beneath the ceiling.

And the third purpose of a pilot program is to prove effectiveness.

As indicated above, this has been and is being done.

The issue has been raised that reliance on multiyear contracting will result in a lessening of competition.

This too we question.

The Defense Department can be more competitive than it is, although it should be noted it is right now more competitive than has been reported.

In fiscal year 1980, the Department awarded contracts totaling $84 billion.

About $47 billion, or 56 percent, was awarded on a competitive basis, with the remaining 44 percent being of a noncompetitive nature.

For the first half of fiscal year 1981, 69 percent of the total contract dollars were competitive in nature.

This represents an increase of 13 percent over fiscal year 1980 and clearly demonstrates that the DOD is increasing its competitive procurement.

Many of the big dollar contracts are not competitive, the reason being that once the Government has selected, through competition, a contractor to build an F-16, a Trident submarine, an XM-1 tank, a *Nimitz* carrier, and so forth, it does not make sense to go in each year and compete the procurement.

Timely decisionmaking, rational contracting, and buying at the most efficient rate can save billions.

Disabusing the services of the idea that "we always did it that way" will continue to be acceptable will save more.

Still billions more will be saved by Congress restraining its impulse to meddle in the most minuscule areas.

Micromanagement is a job for which we have neither the time nor the talent.

It is a responsibility of this Congress to direct that certain things be done.

It is the responsibility of the agencies, having been given this direction, to take appropriate action in carrying them out.

Responsibility without the tools for execution insures failure.

Now, multiyear contracting as an element of the defense acquisition system will not work because I say so.

And it will not work because Secretary Weinberger says so.

It will work because the taxpayers will demand it. The voters have said they are worried about our ability to defend ourselves, and they are willing to pay for more defense if they have to.

But they will not pay for planes that will not fly, guns that will not shoot, and ships whose costs grow higher and whose delivery dates more farther into the future.

Somebody—a lot of somebodies—worked hard for the dollars we will be spending, and they deserve to know they are receiving the best possible return on their investment.

The overburdened taxpayer will demand the highest possible level of accountability—and they should.

Neither you nor I are recipients of their bounty—we are instead stewards of their treasure.

I respectfully request your approval of section 909 as reported by the Committee on Armed Services.

□ 1445

Mr. DICKINSON. Mr. Chairman, I yield 7 minutes to the gentleman from California (Mr. BADHAM).

Mr. BADHAM. Mr. Chairman, I would like to take this opportunity to express my appreciation and commendation to the chairman, the gentleman from Illinois (Mr. PRICE), and the ranking minority member, the gentleman from Alabama (Mr. DICKINSON), for the superb work that they have done in putting together this package for the authorization bill, H.R. 3519, Department of Defense authorizations for 1982.

I think it represents a great deal of work, careful analysis, and a good job of putting this complex bill together when, for the first time, we have been able to authorize more in line of what this Nation needs for an adequate defense posture.

I would like to address just one of those things that I think is terribly critical to the bill and to the defense of our country, and that is the area of procurement.

Section 909, pertaining to multiyear contracting, is the result of an extensive study done by the committee's Panel on Defense Industrial Base. I, too, would like to commend my colleagues on the committee, the chairman, DAN DANIEL, and the ranking minority member, BILL WHITEHURST, for their superb work in this particular area of this pressing problem having to do with procurement.

A cost effective and efficient defense program is paramount for the well-being of our economy, and especially in times of increased defense spending. Multiyear procurement, procedures, as reported out of the Armed Services Committee, are a step in the direction of more efficient buying practices for our Armed Services and are, therefore, essential.

Basically, the committee bill calls for two changes in the procurement policy: a repeal of section 810 of Public Law 94-106 to delete the statutorily imposed cancellation ceiling of $5 million in multiyear contracts; and a revision of 10 U.S.C. 2306(g) to allow multiyear contracts within the continental United States with annual O. & M. appropriations.

Current policies and procedures used by the Department of Defense for the procurement and development of weapons is at times a further impediment to stable R. & D. expenditures by the U.S. Government. To maintain these procedures, as would be the case if the Government Operations Committee language were accepted, demonstrates to industry that the Government is really not interested in altering its image of being a bad customer. I am continually amazed at the way the Government conducts it business affairs. If the typical businessman in our country conducted his business affairs in a similar manner, it would not be long before he was calling in the various provisions of the 1978 Bankruptcy Reform Act.

When Secretary Weinberger appeared before the committee yesterday, he stessed that the Department of Defense has placed a high priority on multiyear procurement as a stabilizing influence. The object is to encourage contracts that will allow industry to do effective long-range planning R. & D. that will lead to a stable work force and a predictable production rate. Industry cannot presently conduct such planning and, as a result, defense costs have increased substantially.

To quote from Secretary Weinberger's statement before the committee:

> The possible savings through use of multiyear procurement are significant. In recent multi-year contract awards for GAU-8 30mm ammunition used on the A-10 aircraft and for the AN/ALQ-155 Power Management System used on the B-52, the Air Force was able to achieve cost savings of $34.0 million and $10.6 million respectively over single-year acquisitions. These were contracts for three years of requirements and made within existing authority. The Air Force is considering the F-16 aircraft program for multi-year contracting with anticipated savings of $560 million. The Navy is considering the C-2A Carrier On-board Delivery Aircraft for multi-year contracting with anticipated savings of $65 million. But unless the Government Operations Committee's action is rejected on the floor of the House, these savings will be lost.

That is almost $670 million that could be saved in just two or three examples through multiyear procurement—and that is just the tip of the iceberg.

The multiyear language proposed by the Government Operations Committee fails to authorize multiyear procurement. The committee proposes that multiyear procurement be "tested on a selective basis." Those contracts selected would be subject to a review and approval process on a case-by-case basis, and the net result is more red-tape, increased costs, and a multiyear procurement policy that is so combersome as to be self-defeating.

This year the Department of Defense will have about 13 million procurement transactions, obligating in the neighborhood of $90 billion, with contracts extending over several years. If this body is serious about getting the most bang out of each taxpayer's buck, then it is imperative that we reject the Government Operations Committee amendment and press ahead with the improvements recommended in the Armed Services Committee bill. It is not a cure-all, but it is a positive start toward a more efficient

procurement process and practice to aid the defense posture of our Nation.

Mr. DICKINSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Chairman, as a member of the Subcommittee on Readiness, and having participated in both the hearings related to operations and maintenance authorization as well as special oversight topics, I feel that there are several aspects of readiness worthy of consideration by the House.

We are embarked, by common consent, as a nation, on a program to revitalize and rebuild our defense capability. We in the Congress are familiar with the statistics in virtually every category of equipment and effort detailing the trend toward a military imbalance among the major powers, with the attendant peril to the United States which that imbalance implies.

What is little known, and little understood, is the manner in which that imbalance must be addressed in order to insure military readiness.

Perhaps the single, key finding of the Subcommittee on Readiness this year, Mr. Chairman, was the unhappy truth that those moneys which most closely provide for real military readiness are oftentimes the first to be sacrificed in the actual execution of the defense budget.

There is a finite, known cost of doing business in our armed services every day, Mr. Chairman. That cost, to "turn on the lights" every day and operate the physical plant is complex, but quantifiable.

The problem arises when those fixed costs in the operations and maintenance accounts are underfunded, or it is necessary to substantially divert O. & M. funds to cover the expenses of operational emergencies. What then occurs is that the fixed costs get paid, such as a civilian pay raise mandated by law, or an increase in fuel costs or fuel usage.

And the billpayers for those unavoidable, or unplanned costs end up being the only things over which a commander or manager has any discretionary control—training, or scheduled maintenance, or other activities which are unhappily capable of being deferred.

Thus, the downward spiral in readiness begins. When the O. & M. account is underfunded, and cannot pay the basic bills, our Defense Establishment is in the ludicrous position of having to virtually ignore the primary purpose for which it exists—to prepare to defend the Nation, and to be ready to deter aggression.

For these reasons, Mr. Chairman, I urge support for title III of this bill—for the operations and maintenance funding necessary to achieve acceptable readiness.

Should we fail to address the fixed, and unavoidable costs paid for by those accounts, we will force our armed services to shift resources where they can. And that shift is where we as a country can least afford it—from flying hours for our aviators, ship steaming days in the fleet, and exercising our troops in the field.

Thank you, Mr. Chairman.

Mr. PRICE. Mr. Chairman, I yield 7 minutes to the gentleman from Massachusetts (Mr. MAVROULES).

Mr. MAVROULES. Mr. Chairman, I rise as a member of the Armed Services Committee to comment on H.R. 3519, the fiscal year 1982 Department of Defense authorization bill.

In March, after the administration submitted to the Congress their revised defense budget, I took to this floor and urged the Congress to conduct a full and fair debate on our national military needs.

The Armed Services Committee has provided the House with a full record of hearings on our specific requirements for not only the coming year, but our long-range requirements as well.

On both the Carter and Reagan budget submissions, our committee has held 28 full committee sessions, and 92 subcommittee sessions, with each subcommittee examining different aspects of the budget. As a member of the Subcommittee on Procurement, I want to express my thanks to the gentleman from New York (Mr. STRATTON) and the gentlelady from Maryland (Mrs. HOLT) for the comprehensiveness of the hearings conducted by our subcommittee.

However, these hearings must be viewed as only the start of a very necessary debate on the defense requirements of the United States.

For today, the size of the military budget is viewed as the single measurement of our national determination. Rather than measuring our actual effectiveness—our ability to respond to crisis or emergency—we instead allow ourselves the rhetorical comfort of assessing the international balance of power through the comparison of figures on annual appropriations bills.

If our country is to remain secure, and the peace preserved, our policies and debates in this Congress on the defense of the United States must go beyond the number of dollars in the budget.

It is important that we begin debating not just the symbols of defense, but rather, begin focusing in on some of the specifics of how we can get the best value for our defense dollars.

Because in the end, defense dollars are limited. And the administration's 5-year defense plan must serve to form the foundation for our Nation's defense in the coming 21st century.

One area where I believe we can save dollars is a long-needed review of our procurement and defense acquisition regulations. As a member of the Small Business Committee, as well as Armed Services, I must confess that there now exists a procurement process which is a nightmare for small subcontractors doing business with the Defense Department.

After careful study and hearings, the Armed Services Committee included in H.R. 3519, several significant procurement reforms.

One such reform, section 909, gives the Department of Defense the authority to engage in multiyear contracting to provide greater stability in the acquisition process.

This particular section is an outgrowth of the extensive study done by the Armed Services Panel on the Defense Industrial Base. The panel's report, "The Ailing Defense Industrial Base," identified major problems leading to the decline of our industrial capability. One of their most alarming findings was the decreasing level of participation in the defense business by smaller subcontractors, vendors, and supplier companies.

Another section which will strengthen the procurement process through simplification is section 903, which I offered during committee markup. Specifically, section 903 increases the dollar thresholds for certain defense contract regulations. While I will be discussing this section in greater detail when the bill is read by title and section, I would simply like to point out at this time that these modifications will reduce paperwork, provide administrative relief from unnecessary regulation, and provide substantial cost savings.

Another issue which was reviewed in great detail by the Procurement Subcommittee was the Navy's budget request for the F-18 fighter.

On the basis of extensive questioning and testimony, one point became very clear. The F-18 has the unqualified support of both the Navy and Defense Department. There is no comparable alternative available to meet Navy and Marine Corps requirements. And, the effectiveness of naval and Marine Corps aviation through the 1990's are to a very great extent dependent upon the availability of the F-18.

Contrary to certain reports, and to quote the Secretary of the Navy, "there has been no internal Navy review suggesting we should cancel, delay or reduce the program." The Navy is very satisfied with the demonstrated performance of the F-18, and plans to proceed with the program without delay.

Because of the convincing testimony presented on behalf of the F-18 program by the Navy, the committee ap-

proved a fiscal year 1982 production increase from 63 aircraft to 84 aircraft. Our purpose for this increase is very clear. For nearly a decade, the Navy has failed to procure the 180 fighter/attack aircraft necessary to maintain force levels. The Navy has consistently been losing more aircraft to attrition and old age each year than the number of new aircraft delivered or ordered.

Consequently, the committee increased F-18 production to 84 aircraft, a step toward our expectation that weapons systems be procured at economic and efficient rates.

Finally, I want to express my appreciation to my chairman, the gentleman from Illinois, for his openness and availability to the members of the committee, and this Congress.

PROCUREMENT IN THE DEPARTMENT OF DEFENSE

Mr. Chairman, the Nation is currently focused on the necessity to improve the defense capability of this country. Concurrent with that need is the awareness that we must improve our ability to procure military hardware in the most efficient, productive manner.

However, we now discover that the full realization of our technological achievements are inhibited by archaic procurement laws, regulations, and policies. Therefore, we as legislators have a duty to promote reform in the acquisition process in order to improve significantly this Nation's defense posture. We must be able to exploit in a timely manner these technological advances that are necessary to our national security.

To accomplish reform the Secretary of Defense embarked on a comprehensive review of the procurement process within the Department of Defense. His findings and recommendations deserve our considered attention and support. Among them are expanded use of multiyear contracting procedures to achieve the economies associated with these procedures. The Secretary has also supported section 903 of H.R. 3519, which would raise the dollar thresholds for certain defense contract regulations. This section would allow expeditious processing of procurement actions by shortening procurement leadtime and by reducing the administrative workload associated with these procurements.

The procurement process is in urgent need of reform. These initiatives which are in the general provisions of H.R. 3519 as reported by the Armed Services Committee are merely a first step toward such reform.

I believe that restoring the defense industrial base will not be accomplished by a single action. Instead, it will be the product of several minor, but significant changes in certain areas, including procurement reform. The procurement process can be used to promote stability, to encourage investment in capital equipment and facilities, and to lead to efficiencies that would result in savings to the Government. However, improvements must be made to the process to realize these benefits.

It is imperative that we accept the responsibility by acting favorably on the provisions of H.R. 3519 as reported by the Armed Services Committee. Only through diligent consideration and resulting changes to the established system will we be rewarded with improved defense capability.

INCREASES IN DOLLAR THRESHOLDS FOR CERTAIN DEFENSE CONTRACT REGULATIONS

Mr. Chairman, I would like to explain section 903 which increases the dollar thresholds for certain defense contract regulations. Specifically, this section makes three changes to existing laws that will improve the procurement process through administrative relief and cost savings.

Subsection (a) raises the current ceiling for use of the simplified small purchase procedures from $10,000 to $25,000. These simplified procedures result in less paperwork, fewer manhours, and shorter procurement leadtimes. The $10,000 level was established in August 1974 and since that time inflation has caused many more purchases to be awarded under the more complex contracting procedures. This change would relieve these small dollar contracts from the more complex procedures, and thus shorten procurement lead times.

Subsection (b) increases the certification threshold for the Truth in Negotiations Act from $100,000 to $500,000. The current threshold, which requires contractors to certify their cost and pricing data for certain negotiated contracts and subcontracts exceeding $100,000, has been in effect since the inception of the Truth in Negotiations Act in 1962. Increasing this threshold to $500,000 maintains the integrity of the act because it reflects increases due to the impact of inflation. This change will significantly reduce the contractor's paperwork for contracts under $500,000.

Mr. Chairman, this subsection has the administration support as expressed in the June 11, 1981, letter from the General Counsel of the Department of Defense to the Speaker requesting introduction of similar legislation.

The third subsection raises the threshold for research and development determinations and findings from $100,000, which was set in September 1962, to $5 million. The rationale for this increase is to reduce unnecessary administrative requirements.

To provide an understanding of this subsection, I will discuss briefly the awarding of a formally advertised contract and one that is negotiated. Current law states that contracts must be formally advertised, requiring contractors to submit closed written bids that are all opened at a specific time. However, in certain instances the Government is unable to write specifications due to a lack of data. This is especially true for research and development projects. Consequently, there can be no formal advertising.

In such instances the law defines certain exceptions to formal advertising that allow the Government contracting officer to negotiate with a contractor and any contract awarded is called a negotiated contract. Determinations and findings are the supporting documentation which explain the reasons why a contract cannot be formally advertised. For reasearch and development determinations and findings (D. & F.'s) over $100,000, the Secretary of the service must sign the D. & F.'s which only allow a contract negotiation to take place. The D. & F.'s do not support the actual awarding of a contract.

I believe that the $5 million threshold in the amendment is a reasonable alternative to the present $100,000 level. Increasing the threshold to $5 million will reduce paperwork in this category by 88 percent while reducing monetary coverage by only 20 percent.

Furthermore, the review procedures for any proposed negotiated contract award would still be performed. There would be a legal review, an audit by the Defense Contract Audit Agency, a review of the contractor's cost and pricing data, and a cost analysis by a contract review agency.

This amendment simply means that the service Secretary would personally approve only determinations and findings to allow negotiations for actions over $5 million. With the other review procedures in place, I believe that the increase is an acceptable tradeoff for the time and paperwork which will be saved by this amendment.

Mr. Chairman, Secretary of Defense Caspar Weinberger testified before the House Armed Services Committee on June 23 and expressed the full support of the Defense Department for section 903.

I urge the support of the House of Representatives of section 903.

□ 1500

Mr. PRICE. Mr. Chairman, I yield 5 minutes to the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Chairman, I will be brief.

I would like to comment on the National Guard and Reserve programs that are included in this procurement bill. My colleagues should be aware that about 45 percent of all the combat missions for our military forces are assigned to either the Guard or Reserve.

For the past several years we have had problems with the Defense De-

partment, which was unwilling to support incentives and benefits for guardsmen and reservists. For some reason the Defense Department felt that the National Guard and the Reserve did not need incentives. But the House Committee on Armed Services, under the leadership of our strong chairman, was able to provide incentives and benefits for guardsmen and reservists. The strength levels are now up.

We continue to have problems in various types of units from the standpoint of no equipment or very old equipment being provided the Guard and the Reserve. They have been a stepchild and have had to accept hand-me-downs.

But, under the leadership of the gentleman from New York (Mr. STRATTON) and also the gentleman from Georgia (Mr. BRINKLEY) on this side of the aisle and on the other side of the aisle, the gentleman from New York (Mr. MITCHELL) and the gentlewoman from Maryland (Mrs. HOLT), we are getting better equipment for the Guard and Reserve. In fact, under this procurement bill there is a tremendous amount of equipment going to the Reserve Forces such as aircraft, such as helicopters, such as wheeled vehicles, tanks, guns, and other equipment that they need.

Mr. Chairman, I am very pleased with this bill before us. It provides what the Guard and Reserve need.

We cannot get complacent. We continue to need more equipment. We continue to need to give the personnel in the Reserve Forces better opportunities. If we do that, I believe in the future we can turn more missions that the regular forces have over to the Reserve Forces. It will save money for the taxpayers. The Reserve Forces, if you give them the equipment, can accomplish at about half the cost what it takes to keep a regular force doing the same mission or the same operation.

I appreciate the opportunity to speak on behalf of the Reserve and the Guard. We are on the right track in the Committee on Armed Services. I certainly want to commend all the committee members for giving the Reserve components a chance.

Mr. Chairman, this year I am pleased to share with my House colleagues some good news about our Nation's National Guard and Reserve Forces. Due almost entirely to the efforts of the Congress in recent years, we are seeing a number of major improvements in the readiness of the Reserve components. We should not give way to euphoria, however; a great deal remains to be done.

In the lean years of defense spending since the phasedown of the Vietnam war, the Guard and Reserve have been permitted to languish without adequate manpower or equipment. Their stepchild status belies the critical role that the Reserve Forces must play in any future war or national emergency. Total force policy is a reality in 1981 defense planning scenarios, despite the fact that one of its principal life-support systems is in doubt, due to shortages of manpower and equipment in the Reserves. In the event of mobilization, the units of the Selected Reserve and the pretrained individuals in the Individual Ready Reserve would be the initial and primary augmentation of the Active Forces. In many instances, active units would be unable to deploy without the assistance, such as air and sealift support, provided by their Reserve counterparts.

For example, the Guard and Reserve today are expected to provide nearly one-half of the total Army's combat power and two-thirds of its combat support and service structure. Sixty-five percent of the Army's medical units are in the Guard and Reserve. Eighty-three of the Army's 541 units designated for the Rapid Deployment Force are Army Reserve units. And, while I don't want to belabor the issue, let me mention a number of other contributions made by the Reserves that are not well known.

The Army National Guard provides: 72 percent of the Army's separate brigades; 57 percent of its armored cavalry requirements; and 48 percent of its field artillery battalions.

The Army Reserve provides: 33 percent of the Army's Special Forces Group and 30 percent of its combat engineer battalions.

The Naval Reserve provides: 100 percent of Navy U.S. based logistic airlift; 88 percent of its ocean minesweepers; and 86 percent of its cargo handling battalions.

The Air Force Reserve provides: 63 percent of the Air Force's strategic interceptors; 57 percent of its tactical reconnaissance; 61 percent of its tactical airlift; and 81 percent of its medical service squadrons.

We are indeed seeing real progress in improving the readiness of some Reserve and Guard units. In the Air Force Reserve and Air National Guard particularly, the immediate prospects are heartening. Both are in a high state of preparedness, with a capable, combat-ready force. This is due in large part to substantial integration with the active Air Force and its missions and to personnel whose training and experience often far exceed their active duty counterparts.

The Reserve and Guard incentives that Congress instituted, several of which would be extended by the legislation under consideration today, are beginning to bear fruit. Increased interest in Reserve service is also indicative of the growing patriotism and national pride among our young people, a trend which I hope will continue. Nonetheless, serious shortfalls still exist, particularly in the Army National Guard and the Army Reserve. The quality of recruits, as defined by those possessing a high school diploma, has declined dramatically since the end of the draft. The skill and grade mix is often not compatible with combat requirements. Attrition rates are high.

Of equal impact on readiness is equipment—or, more accurately, the lack of equipment. Not surprisingly, higher priority in dividing up shrinking defense resources over the last decade has been given to the active forces. The Reserve components have been in a Cinderella status, with equipment plagued by obsolescence, shortages of repair parts, incompatibility with the Active Forces, growing cost, and simple old age.

Witnesses before the committee have repeatedly raised the specter of fighting a "come as you are" war equipment-wise. The Army National Guard has on hand only 69 percent of its wartime inventory in terms of dollar value; the Army Reserve, only 43 percent. The prospect is indeed frightening.

A direct spinoff of the overall equipment shortfall is seen in the training arena. Some units with early deployment missions upon mobilization do not have available for training purposes the equipment they would be expected to use or support in actual combat operations. Later deploying units are generally in even worse shape, with only a bare survival minimum.

I cannot emphasize the importance of meaningful training too strongly. The Reserve commanders who appeared before the committee earlier this year made abundantly clear that job satisfaction—as evidenced by good training, training with a discernible purpose—was the most important element in attracting and retaining high quality people in the Reserve components.

In H.R. 3519, the House Armed Services Committee has taken additional steps to insure the availability of more equipment to the Guard and Reserve. This legislation highlights procurement for the National Guard and Reserve forces through the addition of $952.2 million to the President's request. Among the items included are the following: $70 million for 16 Cobra-TOW helicopters and $36 million for the modification of 87 helicopters to the TOW configuration for Army Guard and Reserve forces; $30.2 million for modifying older P-3A and B model aircraft and $37.5 million for the purchase of excess C-9 aircraft for the Naval Reserve; $155.1 million for 12 A-7K aircraft and $437 million for 40 F-16 aircraft for the Air Force National Guard; and $172.1 million for 12 C-130H aircraft for the Air Force Reserve and National Guard.

Additionally, next year the committee plans to specifically authorize the budget categories designated "Ammunition" and "Other Procurement," upon which National Guard and Reserve readiness depends to a considerable extent. The committee wants to make certain that we are getting the most for our money in these two areas and that the Reserve components are getting their fair share.

Without the interest of the Congress, our Reserves would be in far more desperate circumstances. I thank my colleagues for their support and want to assure you that our committee will continue its vigilance in this area. These equipment purchases represent the first installment on what I hope will be a long-term Reserve modernization program. The Reserves and the National Guard are the taxpayer's best investment in our Nation's defense: we must continue to enhance their readiness capabilities.

Mr. DICKINSON. Mr. Chairman, after that very forceful and resounding speech, I realize most anything else would be redundant, but at this time I yield 5 minutes to the gentleman from South Carolina (Mr. HARTNETT).

Mr. HARTNETT. Mr. Chairman, I am pleased to state my strong support for H.R. 3519, the Department of Defense Authorization Act of fiscal year 1982.

The Committee on Armed Services, on which I serve under the capable leadership of the gentleman from Illinois (Mr. PRICE), has reported a bill which for the first time in many years provides an increase in our Nation's defense budget that is critically needed.

While it will take several years to rebuild our military strength to sufficient levels, this bill is a step toward correcting the neglect and laxness previously placed on our national security.

During 1970 through 1978 the Soviet Union invested $104 billion more than the United States in military equipment and facilities and $40 billion more in research and development.

According to the CIA, the Soviet Union is still militarily outspending the United States by some 40 percent annually. I say to those who will oppose this bill in the coming hours and days of debate, that they are asking men and women to serve in their armed services with an M-16 that was built in 1971. We pride ourselves on being so strong strategically with our great Air Force. If you ask young Americans to serve in the Air Force, you ask them to fly in a bomber which was built in 1962, our latest built bomber called the B-52. The Soviet Union builds 30 Backfire bombers every year. We have not built a bomber since 1962.

I say to those who are going to oppose this bill that no price is too high to pay for freedom.

Show me a nation that has the finest hospitals, the greatest libraries, the greatest art galleries, the greatest universities and colleges, but if it is not free, I will show you a nation who has nothing. We have argued here before about how much to spend on our military and through this new administration and this new Congress and men like the gentleman from Virginia (Mr. DAN DANIEL) the gentleman from Virginia (Mr. WHITEHURST) and the gentleman from Illinois (Mr. PRICE) and the gentleman from Florida (Mr. BENNETT) we have a committee now that recommended to this Congress enough money to start us back on the road for a strong national defense. And under the capable leadership of the gentleman from Alabama (Mr. DICKINSON) and the gentleman from Mississippi (Mr. MONTGOMERY), the great general back there, the committee is saying to the Soviet Union and the world, the best way America knows how to keep from having to fight a war is to be able to win one.

We are saying to the young men and women who we are putting into uniform, that for the first time in many years, we are going to give our military personnel equipment that is sufficient to adequately do the job that we are calling on them to do.

We are saying to our potential adversaries around this world that no longer is the United States of America, because of her inability to respond, is going to allow people to drag our flag through the dirt and take our American citizens hostages. We are going to have a rapid deployment force that is going to be able to be deployed anywhere in this world on short notice.

So, I say to my colleagues across the aisle, and those who may be laying in wait in the Rayburn and Longworth Buildings across the street in opposition to this bill to tell us what peace-loving people America should be. If we are going to sustain the peace here at home and abroad, we have to be able to respond.

At this time, Mr. Chairman, and my fellow members of the Committee on Armed Services, we know better than most, of our inability to do just that. But if this Congress passes H.R. 3519, we will be taking the first step in the right direction to restoring the military power and preparedness that the American people said they wanted restored last November 4. I am confident under the leadership of the men I see seated at these tables now this bill will pass virtually intact and that the American people and the rest of the world will know that this Congress is dedicated to restoring military superiority, strength, and capability to the greatest country and the greatest armed forces that any nation has ever fielded.

H.R. 3519 authorizes a total of $136 billion for the Department of Defense in fiscal year 1982. This provides $52.4 billion for procurement, $20.2 billion for research, development, test, and evaluation, $63.3 billion for operations and maintenance, and $174 million for civil defense. This authorization level is still $445.2 million less than requested by the administration. Major programs in the bill include $26.4 billion for aircraft procurement, $10.3 billion for Navy shipbuilding, $10 billion for missile procurement, and $1.8 billion for M-1 tanks and related component procurement. The bill also provides $2.4 billion for continued development of the MX multiple protective structure (MPS) basing mode and $2.2 billion for development and procurement of the B-1 bomber.

The bill provides for increased readiness of existing forces, more rapid replacement—at more economical procurement rates—of weapon systems, a more rapid rate of buildup of the Navy, and modernization of strategic forces. The Armed Services Committee included a provision in the bill which would give the Department of Defense authority to engage in multiyear contracting, to make related improvements in procurement procedures, to provide greater stability and reduced programs costs, and to enhance the defense production capability of the United States. I was indeed dismayed when the House Government Operations Committee deleted this provision from the bill. According to the Armed Services Committee's Panel on the Defense Industrial Base, one major problem leading to the decline of the U.S. defense industrial base is the instability and uncertainty in defense contracting and a decreasing level of participation in defense business by subcontractors, vendors, and supplier companies. Multiyear contracting would certainly improve and enhance our defense procurement policy. Weapons costs would be reduced through more stable and efficient production timetables and quantity purchasing of materials by contractors. Multiyear contracting can make an important contribution to more efficient procurement for our Armed Forces and can lead to substantial cost savings in the expensive business of military weapons procurement. I urge my colleagues to carefully consider the importance of retaining this provision.

Mr. PRICE. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma (Mr. MCCURDY).

Mr. MCCURDY. Mr. Chairman, 6 years ago, the total Department of Defense request for major weapons system procurement was $15.8 billion. This year alone the increase over

fiscal year 1981 is almost $18 billion. In the face of dramatic changes in budget priorities and such an unprecedented peacetime growth in defense spending, it is difficult to discuss this bill without the dialog degenerating into a battle of cliches.

Those who are convinced that America's defensive capabilities were allowed to atrophy during the decade of the seventies will describe H.R. 3519 as a watershed bill—a dramatic turning point when the United States threw off the shackles of its post-Vietnam depression and moved boldly to redress a dangerous military imbalance.

Those less inclined to such a gloomy assessment, will see H.R. 3519 as trying to cure all our military deficiencies at once by throwing dollars indiscriminately at them. The argument will be made—and with considerable historical precedent—that the services and the defense industrial base cannot efficiently absorb a 50-percent increase in procurement funds in a single year.

What concerns me as a freshman member of the Armed Services Committee, is that I believe most members find themselves somewhere between these disparate views. I see a danger, however, that the intensity of debate will harden moderate views into mutually exclusive positions. The fact is, however, that most members sympathize with both views.

The committee hearings on H.R. 3519 left me with two distinct and somewhat contradictory impressions: the first, is that we have a lot of catching up to do because we have not been procuring modern weapons systems—either strategic or conventional—in sufficient numbers to maintain an acceptable military balance with the Soviet Union.

The second is that there is a potential for waste in our weapons procurement system. We may have to accept many things on faith this year, but we owe it to the taxpayers to hold the Defense Department's feet to the fire to bring order and discipline to the procurement process.

The present process is so complex that it is virtually impossible to compare cost categories between programs. Overhead rates vary by company anywhere from 90 to 350 percent of direct labor costs. There does not appear to be any standard definition of what constitutes direct versus indirect labor costs; and "inflation" is being used as an excuse to cover a multitude of sins.

Because program costs are not stratified into standard pockets of accountability, the ground rules for evaluating budget requests both in DOD and in the Congress must be improved as we review each program.

Given the confusion generated by a change of administrations, I think the committee has done a commendable job of reviewing the various programs this year. But service submissions and the review process need major reform.

In this regard, Chairman STRATTON appointed a panel of the Procurement and Military Nuclear Systems Subcommittee to review the methodology used by DOD in formulating its budget submissions; its goal is to develop more comprehensive and systematic procedures for evaluating procurement requests.

If we are going to ask the American taxpayers to make the sacrifices necessary to revitalize our national defense, I think we must keep faith with them by insuring that they get the capability they are paying for.

□ 1515

Mr. PRICE. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Chairman, I rise—and at the very outset want it to be known that I am supportive, as I have been in the past throughout my career, of the general recommendations of the Armed Services Committee as they have come out in the last 20 or so years. However, there is one aspect reflected in the committee report to accompany the bill, H.R. 3519, and I notice that the committee report is from the Committee on Government Operations.

I find it a matter of a great deal of concern inasmuch as I have been identified as one of the leading proponents and defenders of the Renegotiation Board, such as it was known; as a matter of fact, before the Committee on Banking, of which I am a member, had jurisdiction of that entity, and used to be under the Ways and Means Committee. Also, the development since then with respect to the victimization through the years of the American taxpayer through war profiteering. The polite word has been excess profits, but the naked truth and the blunt truth is that it is just plain, old-fashioned war profiteering, and with the exponential increase in defense appropriations that we are going to sanction as sure as I am standing here, it is inconceivable to me, and especially in light of the Armed Services report to this very issue, that the Congress would leave unprotected, as it never has even during the Korean conflict, even in the post-Korean conflict, where we have always had a watchdog law or agency to keep track and to at least make an attempt to minimize war profiteering, the national overriding interest.

I predict that with the increase in this procurement money, that the American taxpayer will be gouged by at least 10 percent of this total in excess profits in war profiteering, and that amounts to many, many billions of dollars. In fact, since the demise of the Renegotiation Board to the present day, it is my estimate that we have been gouged over a billion dollars worth through excess profiteering, or war profiteering, as I call it.

I would like to point out the things that have disturbed me very much in this bill, because the committee print reflects great concern in the report. But, I am puzzled by the lack of response to this concern in anything in this bill, because the Renegotiation Board has been allowed to die. The Vinson-Trammel Act, which the advocate of this who wanted to abolish the Board always advances as a substitute, has been mandated out to authority through the Appropriations Committee.

Mr. Chairman, I will at this point be glad to yield to the distinguished gentleman from New York (Mr. STRATTON) because he above all, as a member of the committee, has been a staunch protector of the renegotiation process, or the attempt to ward off profiteering.

Mr. STRATTON. Mr. Chairman, I appreciate the gentleman yielding to me, and I just wanted to respond to the gentleman's remark that while we had expressed concern in the report, he said there had not been any action that illustrated that concern.

I would remind the gentleman that for the last week the subcommittee of which I had the honor to be the chairman has been conducting detailed hearing into the question of war profits, excess profits, some form of profit limitation to replace what is admittedly an anachronistic statute in the Vinson-Trammel Act as it exists at the present time. We have received a good deal of testimony. The testimony has not been uniform. The question of identifying excess profits, and just what extent of the total budget of the Defense Department is involved in those, are still not clear.

But, I can assure the gentleman the committee intends to complete its review and to make a report, and we are hopeful that we will have something that will satisfy the gentleman's needs.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. PRICE. Mr. Chairman, I yield 3 additional minutes to the gentleman from Texas.

Mr. STRATTON. I certainly wanted to say that I think we will come up with something that will fill the gap that the gentleman points out, and I think we will perhaps put into better perspective this whole question of so-called war profiteering than it is at the present time.

So, if the gentleman will yield to me further, let me just say that with the help of the chairman of our distinguished committee we were able to hold off a rather massive assault mounted by the Pentagon to abolish

this law even before we had the chance to hold hearings. We succeeded by the narrow margin of 20 to 20, but that was enough to give us the opportunity to conduct those hearings. As the gentleman knows, the pressure from the White House and the Pentagon can be very substantial, but our little subcommittee held firm.

Mr. GONZALEZ. Well, I thank the distinguished gentleman from New York, and I wish to emphasize my respect for his ability and his steadfastness in this respect, but I must point out also that we have to admit that it is a rear guard action; that we lost the war. I know that despite the efforts made by such people as the distinguished gentleman from New York—I am not in any way faulting him—but what I am saying is that it is amazing to me and quite unpardonable in my book that the Congress should continue to look the other way when, in the meanwhile, the testimony does show—sure, there are contradictions. We always have these arguments. Why, the thief never wants the cop on the corner. That has always been true. George Washington had war profiteering as he was suffering in the cold, and all through our history at all times, during the Civil War, the Spanish-American War, we had war profiteering.

What I am saying is that it does not excuse the Congress for relaxing, and we have. In fact, the Congress has abdicated. It has faulted in its trust, and especially in the last few years, and particularly since the last Congress when the Renegotiation Board was abolished. It was permitted to die an ignominious death, and the so-called Vinson-Trammel Act, which was a vestige from 1951, which had never really been invoked, that is the reason we had the Renegotiation Board.

But the committee print here, on page 17, says:

> Despite the benefits that can be achieved, DOD has successfully resisted using competition in the majority of its procurements. Current statistics show that anywhere from 70–90 percent of the Department's acquisitions are made on a noncompetitive basis.

This is astounding.

For years and years, I fought a lonely battle to keep alive the Renegotiation Board, which as least gave us some form of protection against defense contractors who gained unconscionable profits through military contracts. It is a sad and tragic thing that the Board was finally killed, thanks to persistent and high-powered lobbying by contractor groups. Some members of the committee have called special attention to the vast overruns that have taken place since the demise of the Renegotiation Board—though they do not cite that as the proximate cause. But I believe that if the Renegotiation Board were alive and well today, the overruns would not be so frequent nor would they be so great.

It is possible that the Renegotiation Board cannot be reconstituted—but it should be.

I cannot remember any Congress in recent years that has devoted much attention to profiteering and waste by defense contractors. Let me urge that this is a task that we ignore at our own peril.

Four decades ago, the Truman committee made it the business of Congress to ferret out and correct waste and abuse in military contracting. That committee recognized that it is no sin to ask hard, even harsh questions. The truth was that the highest act of patriotism was to do exactly that—to be sure that what we bought was good, that it worked, and that it was produced at an honest price. The same thing is true today.

We are about to start the biggest military buildup in history—are we ready to try and do what we can to control waste and abuse and excessive profits? Far from it. The only cost control mechanism that we have left, now that the Renegotiation Act is dead, is the Vinson-Trammel Act. Yet that is rendered a dead letter, by laws that suspend its application.

We have only two courses remaining, if we aim to prevent needless waste and abuse, and if we aim to discharge our responsibility. One is to create anew the Renegotiation Board. If that cannot be done, then we can only resort to the device of investigation and oversight, and I urge that this be done. I do not want to embarrass anyone, and I do not question the need for a full and effective defense. But I believe, as Senator Truman did, that the best way to get the defense we want is to use the full power of Congress to oversee what is being done and how it can be done better.

I commend the committee for its concern about waste, and about the need to improve procurement and efficiency. I want to urge the chairman, who well remembers these things, that he join me in finding a way to control excess profits, waste, and abuse. There need be no long struggle over writing a new Renegotiation Act—though that would be my preference. There need only be the creation of a vigorous and determined committee that has no responsibility other than oversight and investigation—similar to the Truman committee, and with the same aim in mind, to be certain that our dollars are buying the best we can get, at the most reasonable price possible.

● Mr. DAN DANIEL. Mr. Chairman, the House Government Operations Committee report states:

> The majority of the $80 billion in Defense contracts in fiscal year 1980 were made on a noncompetitive basis.

I cannot attest to the source of the information contained in the committee report; however, I can say that the figures are inaccurate and completely distort DOD procurement methods.

In fiscal year 1980 the Department awarded contracts totaling $84 billion. About $47 billion or 56 percent was awarded on a competitive basis, with the remaining 44 percent being of a noncompetitive nature.

For the first half of fiscal year 1981, 69 percent of the total contract dollars were competitive in nature. This represents an increase of 13 percent over fiscal year 1980 and clearly demonstrates that the DOD is increasing its competitive procurements.

COMPETITION VERSUS NONCOMPETITION

[Dollar amounts in billions]

	Fiscal year 1980		Fiscal year 1981 [1]	
	Amount	Percent	Amount	Percent
Competitive:				
Price competition	$19.4	28	$14.3	35
Technical/design competition	5.7	8	4.1	10
Follow-on after price competition	1.4	2	.6	2
Follow-on after design competition	13.3	19	7.7	19
Catalog/market price	([2])	([2])	1.2	3
Subtotal	39.8	56	27.9	69
Noncompetitive	30.0	43	12.7	31
Total	69.8	100	40.6	100

[1] First 6 months.
[2] Not collected.●

Mr. DICKINSON. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. WHITEHURST).

Mr. WHITEHURST. Mr. Chairman, I would like to begin by commending the distinguished gentleman from Virginia (Mr. DAN DANIEL) for his leadership as chairman of the Readiness Subcommittee. The fiscal year 1982 Department of Defense operation and maintenance authorization contained in title III of H.R. 3519 bears his imprint and reflects his uncompromising commitment to improving the readiness of our Armed Forces.

The fiscal year 1982 operations and maintenance request is the first to require authorization by this committee pursuant to section 1001 of the fiscal year 1981 Defense Authorization Act. The committee recommendation of $63.3 billion is $6.9 million below that contained in the President's request and represents a 13-percent increase over the previous year's submission.

The provisions of title III essentially do three things: promote better program balance; address existing readiness deficiencies; and provide policy guidance.

In recent years, there has been a growing concern within the committee that preoccupation with procurement and research and development inadvertently contributed to readiness deficiencies. In effect, this emphasis fostered a lack of understanding of the interrelationship between the acquisition of new systems and what was needed to effectively operate and

maintain them. Moreover, as committee actions were not made within this larger context, necessary tradeoffs later in the congressional budget review process frequently came at the expense of the operations and maintenance accounts.

The fiscal year 1982 authorization of operation and maintenance funding is the culmination of a thorough 2-year examination by this committee of the need for greater balance in its review of the defense budget. Hearings by the Special Subcommittee on NATO and Readiness Panel of the Subcommittee on Procurement and Military Nuclear Systems clearly established the need for annual authorization of operation and maintenance funds and the creation of a separate legislative subcommittee to give the operating accounts coequal status with procurement and research and development budget requests.

The existence of the Readiness Subcommittee and its recommendations for fiscal year 1982 now before this body testify to the committee's desire to provide for a more balanced and comprehensive defense posture.

And it is heartening to note that our labors have not been unappreciated by the Department of Defense. In the last 2 years alone, operations and maintenance budget requests have increased by 30 percent to reverse nearly a decade of negative real growth and begin the correction of critical readiness deficiencies stemming from inadequate funding and past neglect.

The second thing that title III does is address specific readiness deficiencies.

Assuming that administration economic projections are correct, the committee's operations and maintenance authorization should eliminate depot maintenance backlogs, dramatically reduce the backlog of real property maintenance, increase the tempo and quality of training, move and store badly needed war reserve materiel and ammunition and substantially alleviate critical shortages in civilian personnel.

In addition, the committee recommendation reflects $350 million in offsetting adjustments. Increases authorization for readiness initiatives through offsetting reductions from programs that were not adequately justified, cannot be executed in fiscal year 1982 or that run counter to committee policy guidance.

For example, the committee recommends adding $58 million in authorization to reduce serious unit equipment deficiencies in the Army Reserve and National Guard. Current Army National Guard equipment shortages amount to $247 million, the most critical involving chemical defense equipment, repair parts and winter clothing for early deploying units. Service efforts to reduce these deficiencies did not survive budget review by the Office of the Secretary of Defense, despite having a higher priority than other items included in the fiscal year 1982 amended request. The committee recommendation will alleviate current equipment shortages by addressing priority requirements and improve the readiness and responsiveness of the Army Reserve and National Guard.

Taken as a whole, committee modifications resulted in program recommendations that are more consistent with service priorities and mission requirements than those contained in the administration's amended budget submission.

Finally, title III provides policy guidance and identifies areas of special interest.

One of the most prevalent areas of concern this year involves contracting out of commercial industrial type activities—CITA. While conversion of in-house civilian activities to commercial contractors is legitimate where cost-effective and appropriate, testimony before the committee indicates that management emphasis upon CITA conversions is overriding good judgment and operational considerations. Consequently, the committee deleted $49 million in authorization associated with 4,400 additional Army CITA conversions whose execution was unlikely. Even if they could be executed, the rationale for such conversions would not be in line with the Army's primary justification for additional civilian end strength—the reduction of borrowed military manpower and troop diversions.

Facing the prospect of the creation of a burgeoning bureaucracy to administer CITA conversions, the committee also reduced the Navy's request for contract administrators from 322 to 200.

Finally, the committee deleted authorization for funds to carry out the contracting out of entire military medical facilities as not being warranted in terms of cost or efficiency. More importantly, contracting out these facilities would deny their use for the training of military health professionals whose skills will be critical in a national emergency.

The committee intends to closely monitor the fiscal year 1982 CITA program to determine whether additional measures are necessary to make it more responsive to military requirements and to the effective management of O. & M. activities.

Another major policy issue involves the management of the Navy ship overhaul program. Following shocking reports about the results of the overhaul of the U.S.S. *Guam*, the Readiness Subcommittee conducted a review of the Navy depot maintenance program and participated in joint hearings with the Subcommittee on Seapower and Strategic and Critical Materials. Regrettably, these hearings did little to allay the committee's qualms about the quality of Navy management of the ship overhaul program. The committee intends to conduct careful oversight of the fiscal year 1982 overhaul program through additional hearings and examination of specific problem areas in greater detail.

In sum, the committee recommendations in title III represent a positive first step toward improved program balance and increased readiness. But I hasten to remind my colleagues, this momentum must be sustained in order to avoid a recurrence of the chronic readiness deficiencies of recent years. And it will depend on the quality of management provided by military leaders and their civilian counterparts. You may rest assured that the committee will exercise aggressive oversight to insure that program execution corresponds with budget justification.

I urge your support for the provisions of title III of H.R. 3519.

□ 1530

Mr. DICKINSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Chairman, I am opposed to this bill for many reasons, not the least of which is the enormous waste of tax money in the development of the MX missile, the B-1 bomber, the M-1 tank, and reactivating World War II battleships.

But a more serious reason is the amendment made by this bill to the Selective Service Act. As you know, last November Federal district court held that the Privacy Act prevented the Selective Service from requiring the furnishing of social security numbers by registrants. This act reverses that decision. The committee report contains the following paragraph justifying the change:

> Without access to social security numbers, the Selective Service registration requirement will be largely unenforceable. . . . For this reason, the committee recommends a provision specifically authorizing the President to require a registrant to submit his social security number, as well as permitting the President to have the Social Security Administration and the Internal Revenue Service provide information in their control relevant to enforcing the registration requirement. . . . Access to social security numbers provides the most efficient and effective program for identifying those who do not register. The most comprehensive list of potential registrants is in the social security file.

I find the implications of this change ominous. I realize that the committee has made an attempt to limit the type of information that the Selective Service can obtain from the IRS and the Social Security Administration, but I am not convinced that those agencies can be trusted to abide by any such limitations.

The IRS, particularly, has become notorious for abuse of its power. It will hardly think twice about taking whatever damaging action it desires. And to use the social security system to create a system of vast insecurity for the young people of this Nation is reprehensible. We force them to obtain a social security number in order to get a job, and then use the number they are forced to obtain to take them out of that job, and perhaps out of this life. I am opposed to the draft and to draft registration on moral and constitutional grounds, and this action to make registration enforceable is also indefensible on moral and constitutional grounds. I urge my colleagues to oppose this change in the Selective Service Act.

Mr. DICKINSON. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I rise to support my committee and in support of our bill, H.R. 3519, and I would like to speak very briefly to the importance of the surface effects ship program, which our committee has funded in the amount of $46 million.

The SES is a high-technology ship design program which has proven to provide a fast—80-knot and above—deep-water surface craft for the post-1980 period. The high speed of the SES, coupled with its ability to carry large mission payloads, gives it a multimission application for antisubmarine, antiair, and surface-to-surface warfare. Later studies have demonstrated the utility of the SES as a cargo or logistics craft.

It should be noted that the Navy requested no funds for fiscal year 1982 to continue the development and construction of a 3,000-ton prototype SES ship. The program was terminated by the Secretary of Defense in fiscal year 1980 over the objection of the Navy.

Mr. Chairman, the following facts about the SES should be closely considered by this body: First, prior to fiscal year 1980 the Navy invested over $350 million in the development of the SES. Second, approximately $300 million was requested to complete the design, development, construction, and test evaluation of a 3,000-ton prototype ship. Third, this committee recommended reconsideration of Secretary of Defense Brown's decision to terminate the SES program, since the SES offered a multipurpose ship as cargo ship and a high-speed logistics craft. And, fourth, the interim report of the current Deputy Secretary of Defense on April 15, 1981, to the Congress recommends continued research and development of the SES as a logistics ship.

Mr. Chairman, the promise of the SES, together with numerous studies which indicated the SES in conjunction with aircraft is needed for improvement of our military posture, is a basis for this committee's recommendation to reinstitute the SES program with an authorization of $46 million for fiscal year 1982.

It is imperative, Mr. Chairman, that we move forward in 1981 with the development of the SES.

Mr. DICKINSON. Mr. Chairman, I yield 6 minutes to the gentleman from Virginia (Mr. TRIBLE).

Mr. TRIBLE. Mr. Chairman, in the 1970's, national defense spending was cut in half in real terms, while nondefense spending increased spectacularly. At the same time, the Soviet Union invested unprecedented sums on military power and the results are now obvious in the world.

America must make up for a decade of neglect by strengthening our national defenses. What must be done? We must rebuild our Navy, modernize our Ground Forces, upgrade our tactical aircraft, and strengthen our strategic forces. Moreover, we have to take better care of our people.

The No. 1 problem is a people problem. The All-Volunteer Military is failing to attract and retain a sufficient number of qualified people. Good people are leaving, not because they dislike military service, but because they cannot afford to stay in.

Congress is now implementing important initiatives that will help. These page initiatives are not embodied in this legislation, but ought to be negative in the context of this debate. Military pay should be increased by 14.3 percent in October 1981. The time has come to compensate our servicemen adequately for the difficult jobs they perform and this pay increase will restore comparability with the private sector. The Congress should also enact a new GI bill for today's serviceman which will provide enhanced educational opportunities.

Our Navy must also be strengthened. Today we are trying to maintain a presence in three oceans of the world with a 1½-ocean Navy and our Navy is stretched to the breaking point. We need more ships and more capable ships.

The Carter administration had requested only 18 ships for the Navy. The committee proposes a shipbuilding program that will add 33 new ships to the Navy, including 3 attack submarines, 3 Aegis cruisers, and long-lead funding for another nuclear aircraft carrier. These ships will add important firepower to our fleet. We also propose that the carrier *Oriskany* and the battleship *New Jersey* be reactivated. These ships will permit us to multiply our forces and add awesome firepower to our fleet in the short term. The committee's shipbuilding proposals deserve the support of this body.

Mr. Chairman, I also want to take time to talk about civil defense.

The need for an effective system of civil defense is surely beyond dispute. It presents itself today in the noblest aspect * * * helping fellow mortals in distress.

These words were spoken in 1955 by Winston Churchill in Parliament in the twilight of his career, as he recalled the close call of the Western World in World War II and looked about him and ahead at the growing power of the Communist world.

Twenty-six years later, the need is no less great. It is my belief that one of the most pressing and unmet needs facing our Nation today is an adequate civil defense program—one which is responsive to existing threats and prepares us for future challenges.

With about 15 nations allegedly ready to break into the 5-member nuclear club, we can no longer ignore the urgency. Civil defense could well be the cheapest, most humane and most effective way to deter nuclear war. Mutually assured survival is one of the best guarantees of a peaceful future.

Failure to take actions to reduce our civilian vulnerability to a nuclear attack makes us an increasingly tempting target in the eyes of a potential adversary whose military and civil defense is growing even stronger.

The Soviet civil defense program is massive and comprehensive. It has been underway for some 30 years and has been repeatedly upgraded. The program includes the massive construction of blast shelters in the cities and in industrial sites, fallout shelters in rural areas, detailed planning of evacuation, and dispersal of the urban population, yearly compulsory instruction of the entire population from schoolchildren to retirees, and a wide range of methods to decrease the vulnerability of industry to attack. The civil defense system permeates the entire administrative, economic, educational, and social structure of the U.S.S.R.

While the Soviet civil defense budget is kept secret, estimates range as high as $35 per person per year—about what the Swiss spend right now on civil defense.

In view of the vital role that civil defense plays in strategic deterrence, U.S. leaders must have the same options as Soviet leaders either to evacuate cities or to shelter the population in place depending on the assessment in the particular crisis situation.

The Congress took an important first step in fiscal year 1981 when it adopted language defining the purposes and guidelines for a national civil defense program.

The fiscal year 1982 authorization of $174 million, contained in title VIII of H.R. 3519 represents first year funding of a 7-year upgrade program known as D-prime aimed at expanding crisis relocation planning, research and development, emergency operating centers, training and education of the population, and management and

coordination between Federal, State, and local civil defense officials.

As my distinguished colleague from Georgia (Mr. BRINKLEY) has already explained, $44 million of this amount is earmarked for the extremely important State and local assistance program. State and local units are the backbone of any effective civil defense program and adequate financial support for the emergency management assistance program is absolutely essential to its success.

In addition, this legislation further strengthens the dual-use concept which has been permissive in the past. Emergencies and disasters whether natural or manmade, whether in wartime or peacetime, demand a unified response and use of all available resources by State and local authorities. We simply cannot afford to maintain separate organizations for different kinds of disasters. Section 803 prescribes dual use as part of the overall civil defense policy and directs the Federal Emergency Management Administration to prepare the necessary regulations to implement it.

Mr. Chairman, this legislation represents vital steps forward. These steps, building on the foundation of past years' civil defense efforts, are still not enough, but they are a good start. We must continue to step up and broaden our thinking and actions so that civil defense can complement America's revitalized defense effort.

I urge my colleagues to support this extremely important civil defense authorization—not only for its strategic deterrence to war, but for its companionship to peace as well.

In closing, Mr. Chairman, let me say there is a lot to be done. The answer is not to simply throw money at our defense problems. Instead, we must wisely invest our resources in those programs most likely to protect our peace and freedom.

Mr. Chairman, notwithstanding the substantial—and much needed—increases in defense spending provided in this bill, there is cause for concern today. Cause for concern because this bill embodies many of the same approaches to defense problems that we have pursued in the past.

Clearly, this administration has not yet come forward with its own national security agenda. We are still taking an incremental approach to men and materiel. We are still moving forward as though our very real national defense needs can be met by simply spending more money to buy more weapons.

Now, Mr. Chairman, I understand that it takes time to develop sound strategies, prudent policies, and comprehensive programs. But in the days ahead, the administration and this Congress must work to shape a defense strategy for the 1980's and beyond. I believe it essential that we look at our needs and the resources available to meet those needs in a number of totally new ways. It is essential, I believe, to concentrate not so much on improving our highly technical weapons for their own sake, but to concentrate on improving our capability to prevail over any enemy—should we ever need to.

It is essential, I believe, to realize that the best technology we can achieve would not do us any good if its still on the drawing board or still undergoing tests when we need it.

It is essential, I believe, to realize that the best weapons in the world would not do us any good if they are so complex that they are broken down more than they are in good working order.

It is essential, I believe, to realize that the best weapons systems in the world are useless without people capable of operating them.

We need to focus carefully on the people in our Armed Forces. For it is people who have won this Nation's wars in the past and they will be called on to keep us free in the days ahead.

We need to think hard about what is needed to motivate our troops. Computer models will not provide answers to that question. We need to reemphasize discipline in the ranks. For no battle was ever won by a military force commanded by committee, and yet we are told that discipline is a serious problem.

Admittedly, Mr. Chairman, we have more questions than answers at this stage in the development of a new defense strategy. But, incremental adds-ons to current programs, revivals of abandoned programs, and quick-fix remedies to improve glaring imbalances vis-a-vis the Soviet Union—although important—can have a staggering cost impact and may not fundamentally change the dangerous military imbalance we face.

We must give thought to bold new initiatives that can constitute a national defense strategy for the future.

Mr. DICKINSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Colorado (Mr. KRAMER).

Mr. KRAMER. Mr. Chairman, I rise in support of H.R. 3519, the Department of Defense authorization for fiscal year 1982, and would like to commend my colleagues on the committee for their effort in bringing this bill before us.

This bill is a good bill, perhaps not what all of us would like in all particulars, but a bill designed to reverse the trend of the past two decades. For the last 20 years, American military force has declined. We have fewer warships today than we did before Pearl Harbor. We have fewer people in uniform than since before World War II.

Even more disturbing, however, has been the failure of past administrations to recognize the importance of technology and the continued improvement and development of new weapons systems. Our only long-range bomber, the B-52, has an average age of more than 21 years, and some are older than the crews that man them. Our latest strategic missile was first deployed more than 10 years ago.

The Soviets recognize the importance of military technology. Their emphasis is obvious to the entire world—from the Backfire bomber, the Oscar-class submarine, to research on particle beam weapons and space stations.

In this light, I was pleased with the increase in research expenditures recommended by the committee, an increase of $3.5 billion over last year. Obviously, not all problems can be solved merely by the application of greater funding, as the committee recognized in reducing the original administration request some 5.3 percent. But we will and do need a greater emphasis on technologies for the future.

As military analysts have pointed out, even with the time allowed us in World War II, no weapons system that was not at least in the design stage when the war started was used on a wide scale by the United States before World War II ended.

H.R. 3519 points the way for a resurgence in our capability to defend ourselves and our ideals. At the same time, we must take care that as we increase our efforts our spending is effective and that we scrutinize programs not only for waste, but for applicability. We should not procure aircraft because it is good for a local economy, but because we need those aircraft.

Our very survival could depend on the decisions we make in the next few years. We must grasp the future and what it holds. We can and must develop the weapons capability necessary to protect ourselves against the tremendous challenge posed by the Soviet military buildup—the largest in the history of our planet.

We have the ability to defend our country, our children, and our future, if we have but the will to do so. No civilization that has ever turned its back on progress to find security has ever found either. No civilization that has ever lowered its defenses and disarmed itself has ever survived.

Our resourcefulness has always been our hope. We can, we must, make that hope reality.

In conclusion, I would like to emphasize my support for the direction represented by this bill and to commend the chairman, Mr. PRICE, and the ranking minority member, Mr. DICKINSON, and all the committee members for their efforts.

Mr. DICKINSON. Mr. Chairman, this is the last request I have for today, and I yield 7 minutes to the gentleman from New York (Mr. MITCHELL).

Mr. MITCHELL of New York. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman from Georgia (Mr. BRINKLEY), the chairman of the Military Construction Subcommittee, and the ranking Republican member of that subcommittee, the gentleman from Virginia (Mr. TRIBLE), for their excellent statements regarding civil defense and for the splendid leadership they provided in drafting and helping to develop an excellent civil defense program. It is seriously needed. It is a highly worthwhile program, and I would like to give it my total support.

The reason we need a strong civil defense program is because the Soviet Union has an excellent system, and we have not had one up to this point.

Every Member of this Congress wants peace as our first priority, I am sure, and we are told by our experts on defense that the best way to maintain peace is to keep a strategic balance. We are also told by our defense leaders that we enjoy something called rough equivalence in weaponry, meaning that both nations, the Soviet Union and the United States, have roughly the same firepower. But if the Soviet Union can protect its people from our weapons and we cannot protect our people from their weapons, it is as if they have more weapons, and in my judgment that makes a mockery of the strategic balance. It gives the Soviet Union a great advantage in any sort of confrontation, whether it be at the bargaining table or in situations like Afghanistan.

We can rebalance the defense scales, Mr. Chairman, with the D-prime defense program that the subcommittee chairman, the gentleman from Georgia (Mr. BRINKLEY), so adequately described.

Mr. SKELTON. Mr. Chairman, will the gentleman yield on that point?

Mr. MITCHELL of New York. I yield to my friend, the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, as one who has long been concerned about our civil defense capabilities, I am heartened by the committee's recommendation of $174 million for the civil defense program. I want to compliment Mr. BRINKLEY, the chairman of the Subcommittee on Military Installations and Facilities, and the gentleman from New York (Mr. MITCHELL), for their leadership in this area. In my view, it means that we can start to implement a viable civil defense program that is designed to protect American lives.

As a Member representing a congressional district that houses part of our Nation's strategic assets and has experienced a number of severe natural disasters over the past few years, I am especially pleased by the action taken on strengthening the dual-use approach to civil defense. The new policy recommended by the committee means that we can prepare to protect our people in the case of either natural disaster or nuclear attack. To me this makes eminent sense.

Obviously, none of us want to contemplate the horrors of nuclear war. None of us want to accept the inevitability of nuclear war. At the same time, I do not believe that any of us want to place the United States in a more vulnerable position than our adversaries. Right now, based upon all the information that I am aware of, it is clear that the Soviet Union has a much stronger civil defense program than we do.

As the author of legislation in the 96th Congress that became law that made civil defense part of our strategic defense policy, it is my firm conviction that we must implement that policy by providing the necessary resources. The committee bill is a step in the right direction.

We must not falter in our responsibilities and obligations to the American people. By approving the committee action we will keep that commitment. I strongly urge my colleagues to support the committee's action on civil defense.

Mr. MITCHELL of New York. Mr. Chairman, I thank the gentleman from Missouri (Mr. SKELTON) for his contribution. Mr. SKELTON has been a tireless fighter for an improved civil defense system. It has been a pleasure working with him in this effort.

Mr. Chairman, I would like to address the remainder of my remarks to the newer Members of Congress who have not had time to thoroughly evaluate our defense picture generally. It is easy to become confused as we look at our defense posture.

We use very large numbers. We are speaking in terms of billions of dollars much of the time. We use many technical terms and many acronyms. We hear charges of waste, excessive expenditures, and poor management, and I am sure we are guilty of some of these charges in our defense effort. We also hear charges that we are taking too much from our social programs and spending it on defense.

This has not been true through the years, Mr. Chairman, if we just look at the overall picture. In 1955 we spent approximately 55 percent of our budget on defense; in 1965 it dropped down to 45 percent; in 1975 it dropped down to 25 percent; and in 1978 it was as low as 22 percent. Now we are pretty much approaching the 25-percent and 26-percent level again. All of these funds that have not gone for defense have gone for social programs.

Another argument that tends to confuse the overall picture is that the Soviets are afraid of us, that we have been too strong through the years and if we would just coast and not continue to rearm ourselves, they would unilaterally cut back also.

Well, we have tried this through the 1970's, and it sure did not work. They did not cut back at all. In fact, the CIA tells us they have been spending about $40 billion more than we have over these last 8 years—eachyear. Instead of cutting back, like some of our people thought they would, they built the most awesome war machine any nation has ever seen.

The bottom line, as I see it, is that if we want peace, we have to maintain this balance of power; we have to be as strong as our potential enemies. So they only valid measurement of expenditures for defense has to be based on a comparison of what our potential adversary, the Soviet Union, is doing, and as I mentioned, they have outspending us by $40 billion each year for the last 8 years.

They are not doing very well in other categories. In other areas they are not 10 feet tall. Their average standard of living is far below our poverty line. They have a huge shortage of consumer goods. They have been unsuccessful in their efforts to produce agricultural crops for the past several years. But they have built the biggest war machine in history.

Let me quantify, if I may, this despairity that we have, this gap that we have in weaponry. I want to say that 10 years ago we were ahead in nearly every category, and now they are ahead in all categories but two.

Let me just for a moment read these comparisons, Mr. Chairman. These are all items that would be important in winning a war.

□ 1545

Military investment, including procurement, military construction; the Soviet Union 1.9, the United States 1.0.

ICBM's 1.3 for the Soviets, 1.0 for Americans.

SLBM's 1.5 to 1.0.

Reentry vehicles, 2 to 1.

ICBM-MIRV's, warheads, 2 to 1 in favor of the Soviets.

Throw weight, 3 to 1, the Soviets.

Equivalent megatonnage, 1.4 to 1.

Tanks, nearly 5 to 1.

Personnel carriers, 4 to 1.

Artillery, 5 to 1.

We are ahead in bombers, 1.0 to 1.8 for our country; but our bombers, as we know, are 25 years old.

Planes other than strategic, 1.7 to 1.

Attack submarines, 4 to 1.

Major combat ships, 1.4 to 1.

Helicopters, we are barely ahead, 1.0 to 1.1.

Strategic spending, 3 to 1.

Research, development, test and evaluation, 2 to 1.

Civil defense, they outspent us 10 to 1.

People involved in civil defense, 11 to 1.

Nuclear war casualties; here is where we have the big numbers. We lose 10 times the people they lose; about 150 million Americans compared to 15 million Russians in an all-out nuclear war, providing they have time to put their civil defense system in place.

Mr. Chairman, the only conclusion that anyone can draw from these figures is that we are way behind. We need this bill to help catch up, to help us balance the defense scales. I urge my colleagues to support this legislation.

Mr. PRICE. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. HUTTO).

Mr. HUTTO. Mr. Chairman, I rise in strong support of H.R. 3519 and to commend the outstanding efforts of my colleagues, the members of the Committee on Armed Services on both sides of the aisle who have worked diligently on this important legislation.

I ask for its passage as it was reported by the Committee on Armed Services.

As a member of this committee, and three of its subcommittees, I can attest to the fact that this legislation is a product of hard work, long hours, and a dedication to duty in support of our Nation. The Members on both sides of the aisle worked closely together to produce a bill which represents the best interest of our Nation while realizing necessary limitation.

This bill was certainly not railroaded through the committee. Extensive debate was undertaken at all levels prior to final consideration. Some, including some members of the Armed Services Committee, had problems with certain provisions or weapons systems. The committee carefully considered these concerns and based final consideration with them in mind.

Mr. Chairman, I urge the Members of the House to support this important legislation as reported by the Armed Services Committee. The time is now to begin rebuilding areas of our Defense Establishment which have been neglected for the past decade.

Thank you.

Mr. PRICE. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Chairman, it is not pleasant to come to the House floor in opposition to one of our great and respected committees. But if there is one point I want to get across right now, it is that we are not here fighting over how much money to spend for defense, or over weapons systems, or even over procurement. The issue that is raised by the amendments of the Committee on Government Operations to H.R. 3519 is simply this: Who is going to be in control of these huge expenditures—these billions of dollars—that we are authorizing for defense: Congress or the Pentagon?

The principal effect of the procurement provisions of H.R. 3519, as reported by the Armed Services Committee, is to give the Defense Department a blank check to commit Congress to the expenditure of untold billions of dollars. Further than that, it even sets up the Defense Department as a separate empire within the executive branch by establishing its own procurement system, separate and apart from that of the rest of the Government.

This separating out of the Defense Department from the rest of the Federal agencies is not just a concern of the Government Operations Committee. The administration itself, through the Deputy Director of the Office of Management and Budget, testified in strong, unequivocal terms that the procurement provisions in H.R. 3519 should not be enacted. The General Accounting Office presented similar testimony to our committee.

Again, it is not just the Government Operations Committee that is calling for a unified, comprehensive approach to Federal procurement. It was the 96th Congress—and that includes most of the Members now serving—that ordered an end to the fragmented, duplicative, overlapping procurement system under which the agencies and the contractors now suffer. We directed the Office of Federal Procurement Policy to present us with a legislative proposal for a comprehensive system—including the Defense Department—by October of this year. And we have been assured by the administration that it will be presented on schedule. So, in less than 4 months we will have before us a unified, comprehensive program in place of the 4,000 separate provisions of law that now govern procurement.

And at this stage, just as we are getting ready to bring sense into this area of wasteful, uncoordinated, unconstrained procurement, here comes the Defense Department and says—"That's OK for everybody else, but leave us out."

I was hardly surprised to learn that just yesterday Secretary of Defense Weinberger went before the Armed Services Committee and said the Defense Department cannot wait for that legislation. That takes time, he said. Congress will consider it, discuss it, vote on it. They will do all those things that make up the legislative process. But the Defense Department cannot abide by that. Just give us the money—give us that $1.65 trillion we are going to get over the next 5 years, and go away. That is the way the Defense Department wants it and that is the way they will get it if our amendments are not adopted.

Now we are hearing a lot during this debate about multiyear contracting. What a great thing it is. How it will save great sums of money. Well, maybe that is true. I hope it is. Because the amendment of the Government Operations Committee authorizes the Defense Department to go ahead with this kind of long-range contracting.

And here is something kind of funny. In his testimony before the Armed Services Committee yesterday, Secretary Weinberger, after saying how terrible our amendment was, outlined the procedure he intended to follow if he was allowed to go ahead with multiyear contracting. He would have a careful cost-benefit analysis of likely projects for such procurement, he said. Then, when he selected a few, he would submit them along with his regular budget proposal for approval by Congress through the authorization and appropriations process. What is funny is that that is precisely the procedure called for in our amendment. But that is not what H.R. 3519 as reported by the Armed Services Committee provides.

There are no limitations on the use of multiyear contracting in there now. It is all left up to the Defense Department. Secretary Weinberger has said he wants to proceed just as our amendment specifies. So let us write that into the bill. Let us make sure that if the Defense Department is going to enter into 5-year contracts that could go sour and leave us liable for hundreds of millions of dollars in contract cancellation costs, that we have done all we could to make sure the investment is a sound one. Because we are paying the bill.

Another reason for Congress to keep some control over the use of multiyear contracting is because it is, in effect, another form of entitlement. We have one Congress making a commitment that binds other Congresses for as long as 5 years. Nobody knows how big that commitment may be, given cost overruns, inflation and interest rate increases. And over those same years we are looking at more cuts in the programs that we are all now learning mean so much to so many people. We are talking about reducing social security benefits. The President is calling for more cuts in other health and welfare programs in each of the coming fiscal years. And here we have a bill that will let the Defense Department spend not only the bountiful sums we are forcing on it, but commit many times that amount in long-range contracts that future Congresses will have to provide the money for. Let us be rational. We all want a strong defense.

We are going to get a strong defense. Nothing in the Government Operations Committee amendments will inhibit in any way the ability of the Defense Department to provide for a strong defense.

But Congress is charged by the Constitution with promoting the general welfare as well as providing for the common defense. That is the balance that our amendments seek to strike. We cannot turn the Defense Department loose to be a law unto itself. Support our amendments. They keep the responsibility for controlling expenditures where it belongs, right here in the Congress of the United States.

Mr. PRICE. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, I rise in strong support of H.R. 3519, the Department of Defense Authorization Act for fiscal year 1982. Passage of this bill will authorize programs that will allow us to substantially improve our defense capability. These programs will provide us with increased readiness, more rapid and more economical procurement rates, a revitalized Navy, and a modernized strategic force.

Although, I support this legislation in its entirety, Mr. Chairman, I want to emphasize a few areas in my remarks today.

Let me say a few brief words about the Naval Reserve. The strength level for the Navy Selected Reserve has been the source of controversy for some time. Currently, the Navy manpower mobilization system indicates a Selected Reserve requirement in excess of 100,000. By increasing the budget request from 87,600 to 90,000, in accordance with an amendment which I offered in subcommittee, the committee has moved Navy Selected Reserve strength closer to actual mobilization requirements. This will allow our Navy Reserve to better augment the active Navy in case of an emergency.

As the Members of the House know, this is the first DOD authorization bill which includes prior authorization of appropriations for operations and maintenance. The amount recommended is 13 percent greater that the amount appropriated for O. & M. in fiscal year 1981. This increase must be supported to allow our forces to address critical readiness problems.

Let me also just say that, despite the large numbers, this is a fiscally conservative defense bill. It will take more than this 1 year of increased defense spending to reverse the current trend in relative military power. We must recognize that since World War II the longest period of peacetime real growth in the defense budget is only 3 years. It will take longer to get us out of our current situation, so we must maintain the broad national consensus which now exists for a stronger defense. It is thus vital that the administration and Congress make sure that the money authorized here is spent wisely, and in a way that strengthens our defense posture.

I would also like to call your attention to provisions of the bill that encourage the Department of Defense to exercise better control over the use of contracting out practices which could be potentially damaging to our national defense.

Although the policy of contracting out commercial or industrial type activities (CITA) at Government agencies to private sector contractors is not new, its expanded use by the Department has called into question the advisability of implementing it across critical defense functions.

The contracting out policy, which requires the Department of Defense to convert CITA functions being performed by DOD personnel to performance by a private contractor, is particularly disturbing to the committee. The policy is articulated in a directive promulgated by the Office of Management and Budget (OMB), OMB circular No. A-76. This circular requires that prior to a decision to contract out a function, the agency must perform a cost analysis comparing the current cost of the function with the contracting out cost for defense-related activities. If the cost analysis reveals that savings could be realized by contracting out, then the function is eligible for contracting out.

It is my belief, however, that cost alone cannot and must not be the primary criterion used to decide on contracting out defense-related activities. Clearly, any decision to contract out defense-related activities must also consider the requirements placed on our defense system as we move from a peacetime environment to a wartime environment. We all understand that during that transition period—between peacetime and a full conflict—there will most likely be an initial surge in defense requirements followed by a relative constant growth, and I would argue that many of these CITA functions will be critical during that period. We must, therefore, be particularly cautious in contracting out these functions because strikes and contract defaults could severely restrict our ability to mobilize and to meet surge requirements. In that regard, as an example, the Air Force has experienced 18 contract defaults on CITA contracts over the past year, and there have been several strike threats and contract defaults at Army bases and installations.

Another example of the inappropriate use of contracting out practices by DOD is the Department's decision to contract out three major military hospitals. Last year the Department decided to test the feasibility and cost effectiveness of contracting out the Army hospital at Redstone Arsenal, the naval medical facility at Memphis, Tenn., and the Air Force hospital at Chanute Air Force Base, Ill. It is important to note that although the decision to conduct the feasibility study made over a year ago, to date, the Department has not developed the facts necessary to request proposals from prospective contractors. In fact, I understand that it may be as long as another year before a contractor is selected. It is also my understanding that a major part of the difficulty is the Department's inability to specify in contract enforceable terms how the contract will provide for many of the critical allied medical functions which are unique to the Department of Defense.

It was the consensus of the committee during hearings on the fiscal year 1982 defense authorization bill that contracting out of major medical facilities could adversely effect readiness. During peacetime, military hospitals serve a multitude of purposes to include providing primary care for military personnel and their dependents, providing facilities for the training of health care professionals—the military is currently experiencing significant shortages in this area—and providing a "warm base" for supporting wartime mobilization requirements. It, therefore, does not seem prudent to contract out the entire hospital facility solely based on cost savings; however, I will admit that there may be specified nonreadiness related hospital activities which could be contracted out.

I might add, that the requirement to maintain this "warm base" is particularly compelling because, as a recent Government Accounting Office report states, the Department has experienced a great deal of difficulty assessing the military hospital capacity necessary to support wartime casualty rates. It is, therefore, not only understandable but commendable that the bill before you disallows the use of funds to support contracting out military hospitals and, as importantly, reflects the committee's increasing concern about the potentially adverse impacts contracting out activities at defense bases and installations may have on readiness and mobility.

Mr. Chairman, I would be the first person to argue for the appropriate use of our private sector by all levels of Government as a means to deliver products and services in the most economically efficient manner. I would, however, also be the first person to speak out in strong opposition of economic savings which potentially could damage our national security. It is my judgment that the current implication of contracting out practices, in many cases, will not only not improve de-

fense readiness, but more importantly, could adversely effect our ability to respond to national emergencies.

Mr. DICKINSON. Mr Chairman, I yield such time as he may consume to the gentleman from New York (Mr. HORTON).

Mr. HORTON. Mr. Chairman, I rise in support of the defense authorization bill (H.R. 3519) as amended by the Committee on Government Operations.

Speaking as ranking minority member of the Government Operations Committee, I can tell you that we carefully considered all portions of the bill which deal with procurement issues. We heard testimony from the General Accounting Office, the Office of Management and Budget, and the Department of Defense. Based on their testimony, the committee developed and adopted several amendments dealing with contracting out, grants and contracts, the raising of dollar thresholds pertaining to certain defense contract procedures, multiyear contracting, and the procurement of automatic data processing equipment.

The underlying theme of these amendments is that the Congress should not make major changes in the procurement system at this time. The Office of Federal Procurement Policy (OFPP) has—at the direction of the Congress—been hard at work on a uniform procurement system (UPS). It is expected to present such a system to the Congress at the end of October—only 4 months away. That system, if implemented, could save the Government and its contractors billions of dollars a year. I believe it is important that the Congress not second-guess or in any way undercut what this office is likely to recommend.

According to the Deputy Director of OMB, Mr. Edwin Harper, OFPP is expected to meet its October deadline. An enormous amount of work has been and is being done within OFPP and the agencies, with the full participation and cooperation of DOD. The Deputy Director testified before the committee that "this is the wrong time to make further patchwork changes in the existing statutes."

I would like now to address each of the amendments offered by the committee.

CONTRACTING OUT

The Government Operations Committee modified two provisions of the armed services proposal regarding contracting for goods and services.

In section 304, the armed services bill prohibits contracting out of an entire medical facility. My committee deleted this section from the bill. We took this action because we oppose legislating exceptions to Government-wide procurement policies—in this case, the Government-wide policy regarding contracting out. That policy is now contained in Office of Management and Budget Circular No. A-76.

Circular A-76 is based on these three principles:

First. Rely on the private sector. The Government's business is not to be in business. Where private sources are available, they should be looked to first to provide the commercial or industrial goods and services needed by the Government to act on the public's behalf.

Second. Retain governmental functions in-house. Certain functions are inherently governmental in nature, being so intimately related to the public interest as to mandate performance by Federal employees.

Third. Aim for economy: cost comparisons. When private performance is feasible and no overriding factors require in-house performance, the American people deserve and expect the most economical performance and, therefore, rigorous comparison of contract costs versus in-house costs should be used, when appropriate, to decide how the work will be done.

These are wise guidelines, and in their applicability to all agencies they are entirely consistent with the goal that the Federal procurement system be standardized.

The OMB circular does contain special provisions relating to national defense contracting. It states:

A government commercial or industrial activity, operated by military personnel, may be justified when:

First. The activity or military personnel assigned are utilized in or subject to deployment in a direct combat support role;

Second. The activity is essential for training in those skills which are exclusively military in nature; or

Third. The activity is needed to provide appropriate work assignments for career progression or a rotation base for overseas assignments.

I think that current policy provides a reasonable basis on which the DOD can consider the economic and military readiness effects of contracting out a particular operation before making a decision on such a matter. The policy, consequently, does not need statutory amendment.

The second provision regarding contracting out is contained in section 602. There the Armed Services Committee proposes general restrictions on DOD's ability to acquire goods and services by contract.

As I stated earlier, my committee believes that Federal procurement policies should be standardized for all agencies, and that the current law governing contracting out is based on good principles and contains reasonable provisions for national defense matters. Those beliefs alone would predispose me to look with disfavor on section 602. But I oppose this section for another reason, too: it would subvert the chain of command within the Department of Defense. By permitting a "military commander of a major operating command" to preclude contracting for a particular good or service, this section prevents any military or civilian official of higher rank from countermanding the decision of his subordinate.

I concur with the Armed Services Committee that the military should not make contracts which would have a "significant adverse effect on the mobilization or emergency contingency missions assigned to a command or on the anticipated requirements of the command in time of war." A recommendation from any commander that a contract could have such an effect should be given utmost consideration by Defense Department decisionmakers, pursuant to OMB Circular No. A-76, in determining whether to enter into a contract. But section 602 is not a beneficial way of implementing those ideas.

Witnesses from both the General Accounting Office and the Office of Management and Budget opposed this section in testimony before the committee. They said that this portion of the bill would—

Be unnecessary because Circular A-76 already permits military operation of a commercial or industrial activity when necessary for combat support;

Carve out a special exemption for the Department of Defense from a Government-wide directive;

Perpetuate and, indeed, worsen a situation in which tens of thousands of DOD employees perform functions which could readily, and more cheaply, be performed by commerical contractors;

Permit a commander to preclude commercial procurement of services which, even if not beneficial for his own command, could be very economical when combined with services for other military bases within a convenient radius;

Permit commanders to build their own in-house empires, at the expense of economical use of Government funds; and

Indicate that Congress is unwilling to follow GAO's recommendation that we endorse a national policy of reliance on private enterprise to the maximum extent consistent with the national interest and with procurement at reasonable prices.

RESEARCH GRANTS

The third amendment offered by the Government Operations Committee strikes section 901, which would permit the Defense Department to procure research by "grants" where "contracts" would be required under current law.

In 1978, my committee reported and the Congress enacted the Federal Grant and Cooperative Agreement Act, which established a Government-wide policy for the definition and use

of contracts, grants, and cooperative agreements by all Federal agencies. Under that act, grants and cooperative agreements are to be used for assisting the private sector, whereas procurement contracts are to be used when we acquire goods and services for the Government's own use. One of the purposes of the act is to minimize the potential for abuse in the use of grants. The Congress had found that grants were being used in lieu of contracts to avoid the laws and regulations governing procurement.

With regard to the Department of Defense, section 901 would undo all the good that Congress did in 1978 when it enacted the Federal Grant and Cooperative Agreement Act. It would permit DOD to return to the former practice of evading procurement laws and regulations. This would clearly be very unwise. Consequently, I urge support for the amendment offered by the Committee on Government Operations that would strike this section.

INCREASES IN DOLLAR THRESHOLDS

In section 903, the Armed Services Committee proposes that three, dollar thresholds be increased. With regard to contracts for less than the amounts stated, certain administrative requirements are waived.

Proponents of raising these thresholds claim that the increases will relieve both the Defense Department and contractors of unnecessary paperwork requirements. As the former chairman of the Commission on Federal Paperwork, I am always receptive to arguments of this sort. But in this case, I think that more wide-ranging paperwork reductions will come from rejection of this provision.

Without getting into the specifics of each threshold increase, let me simply say, echoing testimony given to my committee by both the Office of Management and Budget and the General Accounting Office, that dollar thresholds regarding contracts should be uniform throughout the Government. If the Congress raises the figures here, it will be saying that it does not believe in a uniform procurement system for all agencies. It will thus be injuring chances of enacting recommendations of OMB's Office of Federal Procurement Policy for a uniform system, which will be forthcoming in the fall. Enactment of a uniform, simplified procurement system would mean immense reductions in the paperwork burden on both all agencies and all contractors, not just with regard to these dollar thresholds, but also with regard to other requirements.

In urging a vote for the Government Operations Committee amendment to section 903, then, I am asking my colleagues to take a long-term approach to paperwork reduction. By voting against a small reduction today, we shall be greatly enhancing the prospects of large reductions in the future.

MULTIYEAR CONTRACTING

One of the most universally supported ideas for improvement in the DOD acquisition process to emerge in recent months is the concept of multiyear contracting for weapons systems. It is widely felt that multiyear contracting will provide the necessary incentive for the private sector to invest in new technologies, facilities, and equipment. This, it is felt, will increase productivity, provide stability, and lead to efficiencies and saving to the Government.

The issue of how to plan for and realize the massive savings which appear possible from multiyear contracting for weapon systems is a problem of considerable magnitude. It necessitates program firmness, mission stability, and definiteness of quantitative needs, for both the Government and prospective contractors must be able to make comprehensive analyses of the most efficient investments in plant and tooling to accomplish the long-term production programs—which may run 5 or more years. Multiyear contracting also requires long-range work force planning and identification of the most economic methods of acquiring long leadtime components and materials.

The Committee on Government Operations is not opposed to multiyear contracting. The concern of the committee is that such contracting be done properly. The General Accounting Office made it very clear to us in testimony on this subject that if such contracting is not conducted properly, it could actually cost the Government more money and produce no savings at all. The GAO expressed concern that we should proceed with great care lest multiyear contracting reduce our flexibility in adjusting weapon systems to meet changing threats, and saddle the Government with unnecessary, costly program cancellation charges. I want to stress this point because contrary to an impression that Defense Department officials have given the Armed Services Committee, GAO does not support the Armed Services position on multiyear contracting.

Since the Office of Federal Procurement Policy has studied and is going to recommend to the Congress policies and procedures for implementing multiyear contracting, I think it behooves the Congress not to rush to give the Defense Department blanket authority for multiyear contracting without considering the OFPP recommendations. In testimony before the committee, the Deputy Director of the OMB—Mr. Edwin Harper—took the firm position that "it is a proper function of OFPP to develop Government-wide policies for multiyear procurement and to oversee their implementation in regulations applicable to all Federal agencies."

The amendment proposed by the Government Operations Committee is a compromise between the interest of the Defense Department to contract on a multiyear basis and the interest of the Government Operations Committee that such contracting be done efficiently. The amendment would allow the Defense Department to select any number of projects it feels are ready for multiyear contracting. These projects would be presented to the Congress, which would either approve or disapprove them on a project-by-project basis. Under this approach, the Congress would have the opportunity to selectively implement the concept and learn about pitfalls and problems, as well as measure the benefits. The knowledge gained by this approach could be combined with the work of the OFPP in developing multiyear contracting guidelines for all departments and agencies.

There is only one major difference between the Armed Services and Government Operations versions of the bill dealing with multiyear contracting. Under the Armed Services proposal, the Defense Department would be free to contract on a multiyear basis for whatever it wants—free, that is, of congressional supervision. Under the Government Operations proposal, on the other hand, each multiyear contract would have to be authorized by the Congress as part of the annual defense authorization bill.

I myself cannot understand the logic of claiming, in debate on a bill which itself makes many authorizations for specific defense programs, that multiyear contracts should be free of congressional scrutiny. These are big-money items; they could entail spending hundreds of millions of dollars a year. I just do not think it is responsible for us to increase the defense budget, and then say that we do not need to know how the Defense Department is spending its money. I say to my colleagues, if you think that course makes sense, vote for the Armed Services proposal—but if you want to preserve legislative oversight of defense spending, vote for the Government Operations alternative.

PROCUREMENT OF AUTOMATIC DATA PROCESSING EQUIPMENT

The Government Operations Committee amendment also adds a new section 908 reaffirming existing policy that the procurement of automatic data processing equipment or services by or for the use of the Defense Department be conducted in accordance with a longtime policy of the Congress calling for competition in such procurements. This policy was enacted in 1965 as Public Law 89-306, commonly known as the "Brooks Act".

The reason the committee put this provision in this bill is that the Senate counterpart to this bill contains provisions that would exempt DOD from the Brooks Act. The Senate provision derives from the mistaken notion that the act lengthens the time needed to procure computers and results in technologically and functionally obsolete systems.

There is no indication that this is the case. In testimony before the committee, OMB and GAO indicated that the problems in procuring ADP equipment is not the act itself, but rather failings in the acquisition process, principally the lack of adequate planning within DOD.

The statutory framework established by the Brooks Act appears to be sound. Exempting DOD from this acquisition process would eliminate oversight over defense spending, be contrary to our efforts to impose central management on Government-wide functions, and indicate that Congress is not serious about writing a uniform procurement system for all Federal agencies.

CONCLUSION

In summary, the Committee on Government Operations has the overall responsibility for Government procurement. At the direction of the Congress a uniform procurement system is close to being developed by the Office of Federal Procurement Policy. The amendments proposed by the Government Operations Committee would preserve the integrity of this ongoing work, advance our knowledge of how best to implement such controversial ideas as multiyear contracting, and at the same time protect the Government from any expensive large-scale mistakes in contracting procedures. I believe these amendments substantially improve the legislation and deserve the complete support of the Congress.

● Mr. HOPKINS. Mr. Chairman, I will offer an amendment to the Department of Defense authorization bill for fiscal year 1982 which will prohibit the Pentagon from purchasing foreign-made administrative vehicles when suitable American vehicles are available.

Since 1978, the Pentagon, in the interest of cooperation and standardization with our NATO allies, has been systematically replacing its entire European fleets of buses, vans, forklifts, pickups, and other light, noncombat vehicles with models made by Mercedes-Benz, Volkswagen, British Leyland Ltd., and other non-American companies.

I am for cooperation with our allies, but not at the expense of American workers, and not at a time when the American auto industry is recording record losses, and not at a time when the American taxpayers are being asked to give financal assistance to Chrysler and to pick up the tab for millions of dollars in unemployment and other benefits for laid off autoworkers, and not at a time when we are asking foreign car manufacturers to restrict their exports to this country in the name of protecting our endangered automotive industry.

It just does not make good sense for our own Defense Department to buy foreign-made motor vehicles when similar vehicles are available from American manufacturers.

I believe, if cooperation and standardization are to be achieved, they can be achieved in more essential areas without such a great cost to this country's important, and ailing, automotive industry and its workers.

Continuation of this symbolic cooperation blunts the credibility of our trying to get America and the world to buy American. How can we get foreign or domestic consumers to buy American when even the Pentagon will not buy American?

Our country's economy is struggling to get back on its feet. The best way to build America's economy is by buying American products. My amendment would stop the Government from entering into any new contract during the coming fiscal year to purchase foreign-made vehicles.

There is a possibility another similar amendment may be offered by other Members, which would totally prohibit the purchase of foreign-made administrative vehicles by the Pentagon through a change in the United States Code.

Although the spirit of such an amendment is good, I feel a more flexible approach is appropriate. My amendment puts a 1-year moratorium on these purchases for fiscal year 1982. The next fiscal year, fiscal year 1983, these purchases will come under the authorization process. For the first time, these vehicle purchases will come under Congress oversight responsibility. Then, the Armed Services Committee will have the opportunity to review and recommend to the House what should be done in this matter. And that is how it should be.

We should not totally and forever lock the door on this purchasing process, as the alternative amendment proposes, because none of us can see into the future. We may, in the future, wish to make changes in the process rather than prohibit it entirely; we may want to recommend another 1-year moratorium; we may want to make the purchasing process competitive; or we may, indeed, want to prohibit it entirely.

However, if we enact total prohibition now, we remove the possibility for any of these actions at a later date.

I urge you to support the Hopkins amendment to the fiscal year 1982 defense authorization bill, to place a 1-year moratorium on Pentagon purchases of foreign-made administrative vehicles in fiscal year 1982.●

● Mrs. CHISHOLM. Mr. Chairman, my opposition to H.R. 3519, the fiscal year 1982 Defense Department authorization bill, should not come as a surprise to anyone, but I feel obligated to speak out against yet another dangerous and wasteful escalation of our Nation's military spending.

I have to ask a basic question about what we think we are buying with this authorization of $136 billion. If the answer is national security, I must strongly disagree. National insecurity is the likelier outcome of a militaristic policy to stockpile more nuclear bombs, build more warplanes, launch more fighting ships, or roll out more battle tanks. According to this misguided philosophy, we can never feel truly secure because our adversaries will match us gun-for-gun and missile-for-missile until the use of all this death machinery becomes inevitable, and the human race joins the dinosaurs in extinction.

This bill, this policy of bankrupting the Nation to buy a false sense of security, is the direct opposite of what is needed to achieve real national security. A large percentage of our population expects nuclear annihilation in their lifetime and, therefore, these people have little of the hope and optimism which motivated Americans of earlier times to build a great Nation for themselves and their descendents. Billions of dollars siphoned off to the military machine weakens the structure and strength of America when inadequate funding results for public education, job training, urban revitalization, alternative domestic energy sources, and crime prevention.

In my view, Mr. Chairman, the strength and security of any nation rests in the determination, expectation, and ability of its people to improve their lives. Talking of war, planning for war, building for war, and spending wildly for war will destroy our Nation as surely as an enemy's bombs.●

Mr. PRICE. Mr. Chairman, it is my understanding that the Committee on Government Operations and the Committee on the Judiciary are not going to use the time under the present arrangement for debate.

Therefore, I wish to reserve the balance of our time until the debate is released with all participants involved.

Mr. DICKINSON. Mr. Chairman, I reserve the balance of my time.

Mr. PRICE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. PERKINS) having assumed the chair, Mr. ANDREWS, Chairman pro tempore, of the Committee of the Whole House on the State of the Union, reported

that Committee, having had under consideration the bill (H.R. 3519) to authorize appropriations for fiscal year 1982 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, and for other purposes, had come to no resolution thereon.

RESIGNATION AS MEMBER OF COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Banking, Finance and Urban Affairs:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 24, 1981.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House,
House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER, I hereby resign my position, effective today, on the House Committee on Banking, Finance and Urban Affairs.

Sincerely,

HENRY J. HYDE.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

GENERAL LEAVE

Mr. MAVROULES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks and to include therein extraneous material on the subject of the special orders today by the gentleman from Massachusetts (Mr. O'NEILL) and by the gentlewoman from Louisiana (Mrs. BOGGS).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

THE BANKING COMMITTEE'S EXIMBANK CUT HELPS U.S. NEGOTIATIONS WITH FOREIGN COMPETITORS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

● Mr. ST GERMAIN. Mr. Speaker, each new week finds this Congress under more pressure to submit to the regal dictates of the OMB computers, and their master programer, David Stockman. Attempts will almost certainly be made during consideration of the reconciliation bill to replace cuts made by authorizing committees with cuts made by the OMB computers.

Currently administration criticism singles out action taken by the Banking Committee on the Export-Import Bank and describes the results as "unrealistic and unwarranted." OMB asserts that the committee's 1982 cut of $2.4 billion "would be catastrophic for U.S. exports." But is it really credible that the $2 billion cut suggested by President Reagan is perfectly acceptable, while an additional $400 million taken away is a catastrophe. I suggest that this is not a major policy difference but a prime example of David Stockman's monumental hubris, which turns the slightest deviation from the OMB computer printouts into a disaster for our Nation.

This is not to say that the Banking Committee believed the funding for Eximbank as passed, was acceptable. The Members recognized a need for continued funding of this valuable program, but it was faced with the brick wall of reconciliation targets and had no choice. In our report to the Budget Committee we wrote that our authorization was "inadequate and insufficient, in absolute terms, but quite generous in relative terms, that is, relative to the severe cutbacks it is forced to make in other programs within its jurisdiction."

The Members of this Congress must never forget, as the OMB computers present their heartbreaking story of how Congress asserted its constitutional mandate and made decisions, that, taken individually, most cuts are cruel, unnecessary, and harmful to the national interest. Unfortunately, under administration pressure and Republican guidance, this Congress had to make the specific cuts. The money for these reductions must come out of individual programs, and no one will be pleased with each cut. The committee chose to take a little more money from big business subsidies, to help the low-income and elderly people of this country weatherize their homes against the onslaughts of winter and the administration's oil price decontrols. The Eximbank direct loan level established by Banking Committee action would allow the bank to meet all of its preliminary loan commitments for fiscal year 1982, and was determined by the committee to be minimally sufficient for Eximbank to continue its support of our country's exporting industries and their job production efforts.

Even with all the cuts taken during the committee's meetings, the members recognized that we must assure our exporters of continued access to foreign markets. Thus, the committee, earlier this year, passed H.R. 3228, the "competitive export subsidy fund." This bill would create a fund which would provide interest subsidies for our exports if negotiations with world trading partners do not produce real progress in eliminating their subsidized export promotion programs. These, as we know, create competitive inequalities for our exporters.

The committee has also recommended to the House Committee on Appropriations that the level of guarantees and insurance provided by the Eximbank be increased for fiscal year 1982. This would allow the Bank to leverage its leaner direct loan program by offering packages of assistance to exporters including direct loans and guarantees.

But the OMB criticism does not stop with savings from 1982. The OMB computers allege that the committee provides no new funding for Eximbank in fiscal year 1983 and 1984, and technically this is true. But it is a mere technicality. The committee chose to change the expiration date of the Export-Import Act from September 30, 1983, to September 30, 1982. We did not do this because no new funding for the bank and its job producing activities was desired. We made that change because the committee is determined to realistically assess the direct lending needs of this bank in the international climate prevailing next year, not to lock us in to specific funding through 1984.

If the last year and one-half has taught us anything about world affairs, it should have taught us that crystal ball gazing is an unsatisfactory way to make policy with respect to other nations' actions. Who would have predicted in December 1979 that Poland would have an independent trade union, that France would elect its first socialist government since World War II, or that there would be an oil glut sufficient to make prices edge downward? Yet each of those conditions has had a substantial influence on our financial, political and economic dealings with the rest of the world.

The crystal ball of Eximbank's future role is more clouded by ongoing trade policy negotiations with major exporting countries. While the OMB propogandists argue that Banking Committee action would "completely destroy U.S. efforts to negotiate international export credit restraints," the committee's action actually provides the best atmosphere for such negotiations. If the committee had followed OMB wishes and locked in funding for Eximbank for the next 3 years, until the end of fiscal year 1984, what negotiating position would our Government have? Would our promises to step up export aid be credible if other governments read in the New York Times that we have already set the funding levels for these programs—many years into the future?

The Banking Committee's report to the Budget Committee explicitly rec-

ognizes the need to hold out the carrot as well as the stick to trading competitors in these negotiations, saying that the early expiration of the Eximbank Act was designed to give the committee "an opportunity to examine the need for a higher direct loan limit after fiscal year 1982."

Of course, in taking action in the future that would affect the Eximbank funding levels, the Banking Committee recognizes its responsibilities under Gramm-Latta to keep spending at mandated levels, so that relative adjustments in program levels may have to be made. The Banking Committee will not violate its responsibilities, but we ask the House to allow us to make those decisions when the needs of the Export-Import Bank become clear, and proper adjustments between the requirements of our international trading sector and our domestic responsibilities can be made. We should not force the hands of our negotiators by locking them in to certain funding levels before the negotiations get underway.●

RESOLUTION OF SUPPORT FOR MULTISTATE REGIONAL INTELLIGENCE PROJECTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. ENGLISH) is recognized for 5 minutes.

● Mr. ENGLISH. Mr. Speaker, I am pleased to introduce today a resolution of support for multistate regional intelligence projects, which are relatively new adjuncts to the criminal justice system in this country. Every State in the Union is represented by membership in one of the seven projects which exist today. The services provided by the projects include providing a mechanism for the sharing of criminal intelligence between State and local law enforcement agencies, providing a communications link so that they can talk to each other, and providing investigative equipment on a loan basis to small police departments who otherwise could not afford it.

These innovative initiatives, which have provided the essential component of coordination to what had been thousands of law enforcement agencies working alone, have given a dramatic boost to enforcement productivity. One of the projects is expected to return to the Federal Treasury over 75 times its cost, through exposure of tax fraud schemes and referral of cheaters to the IRS. Other of the projects concentrate on organized crime, narcotics traffickers, and other mobile, professional criminals whose activities exceed normal local and State boundaries.

Hearings held by the Government Operations Subcommittee on Government Information and Individual Rights, which I chair, revealed that, despite the unchallenged success of the projects, their funding was being withdrawn by the Department of Justice. Department witnesses claimed that it was an economy move—that it was time for the States to pick up the cost of the projects. What they did not say was that the projects are providing in many cases what the Federal Government should provide but cannot—coordination of interstate criminal investigations of violations of Federal law. The Department witnesses also glossed over the fact that, unlike most other LEAA-funded projects, the regional intelligence projects are not confined to any one State, but represent a region comprised of up to 15 States. It is unrealistic to expect any single State to provide the funding for such a network.

But the most outrageous, Mr. Speaker, was the contention that elimination of the projects would save the Government money. Since their inception, according to the Department, the seven projects have cost a total of some $16 million. In 1981 alone the project called Leviticus, which is investigating crime in the coal industry, will account for over $85 million in cash being returned to the general fund. This represents one of the best buys in town, and in my district, at least, represents the kind of program that the American people want to see continued. If we are going to eliminate waste and abuse, let's do it by starting with the losers.

Mr. Speaker, 45 Members of the House agree with me and have agreed to cosponsor this resolution. Its support is bipartisan and from every area of the country. I hope the message is clearly received downtown.●

REVISING THE GLASS-STEAGALL ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. BARNARD) is recognized for 5 minutes.

● Mr. BARNARD. Mr. Speaker, today I am introducing legislation to modify the Glass-Steagall Act, so that financial institutions can better serve their customers and the needs of our economy.

My legislation will allow commercial banks to underwrite all types of bonds, including commercial paper, corporate bonds, and municipal revenue bonds, subject to some strict restrictions that will prevent speculation. In addition, it will allow all types of financial institutions to offer mutual funds to their customers. Finally, it will set up a special Presidential study commission to come up with a series of recommendations on the barriers now present between differing types of financial industry corporations, and directs it to report to the Congress 12 months following the enactment of my bill.

Mr. Speaker, since the beginning of this year, we have seen a revolution in the financial industry that may be unparalleled in our history. Many of us in this body have received mail from our constituents who are customers of money market mutual funds, opposing any changes in law that would adversely affect their funds. They have a good case, and I oppose such unnecessary restrictions.

However, on the other side, we have seen investment companies and insurance companies involved in areas of financial services that have been traditionally the exclusive purview of banks and thrift institutions. Since January 1 of this year, we have seen the eighth largest brokerage house in this country purchased by a major insurance company. This merger was followed by the announcement that the insurance company would utilize its agents to supplement the sales force of the brokerage house in the sale of mutual funds, and other financial services.

We have seen another brokerage house purchase a commercial finance corporation, and announce that it would be expanded to offer correspondent banking services. Soon after, we saw the Nation's third largest insurance company announce plans to offer a package of corporate cash management services similar to those offered by banks.

Finally, we have seen the Nation's second largest brokerage firm buy control of a trust company that offers banking services, and even takes deposits, but avoids the legal definition of a bank through a technicality. A few weeks later, this same brokerage was purchased by a diversified corporation that already offered credit cards, traveler's checks, cable television, and publishing, insurance companies, international banks, and a computer services company that offers cash management services to corporate customers.

Faced with such rapid changes in their nonbank competitors, there have been few avenues for traditional deposit institutions to take. They could oppose these mergers, but in the long run, the result would just be more competitors of a different sort. Or, they could take the opposite approach and seek to move into new types of services. Unfortunately, this avenue is blocked by a series of extremely restrictive Federal laws and regulations that will require the actions of this body to change.

Mr. Speaker, my legislation is not a radical departure from the banking practices of the past. Bonds and commercial paper are really nothing more than loans of a set term and amount, which banks have been working with for decades. In fact, even the mechanism used in issuing these securities

have been used by banks in their private placement activities. These placements have been allowed for years, and involve both debt and equity securities. In addition, allowing banks to be involved with commercial paper is no new departure, because many bank customers view the commercial paper market as an alternative to getting a bank loan, and essentially they are the same thing.

This is not a radical departure, but the beginning of a serious effort to allow financial institutions the flexibility to work with new services, and to offer them if they fit with their abilities and desires. A fixed-term loan that is called a bond should not be prohibited to a bank because of a statute designed for another era.●

COUNSELING PROGRAM FOR VIETNAM VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Dakota (Mr. DASCHLE) is recognized for 5 minutes.

● Mr. DASCHLE. Mr. Speaker, one of the major concerns the Committee on Veterans' Affairs has had during this session of Congress is the future of the VA's psychological readjustment counseling program for Vietnam veterans. Both the Carter and Reagan budgets submitted for fiscal year 1982 would not have funded this most effective and essential program. The House passed H.R. 3499 on June 2, 1981, which included a provision to extend this program for an additional 3 years. The Senate also passed a 3-year extension on Tuesday, June 16. With passage of the first concurrent budget resolution, the funding of the program for fiscal year 1982 now seems to be resolved.

The Subcommittee on Hospitals and Health Care recently held two oversight hearings on this subject. One was on June 1, 1981, in Sioux Falls, S. Dak., and the second on June 15, 1981, in Atlanta, Ga.

Mr. Speaker, at the Atlanta hearing we heard four witnesses testify on their experiences with this program. Their testimony was eloquent, and I wish everyone in the House and the Senate could have heard, as I did, how this program has reached into their lives. At least two stated it was life saving, as they would have taken their own lives had it not been for the compassionate reception they received at the local vet center. Over the next several days, I would like to insert the testimony of these four individuals in order that as many Members as possible can be aware of the effectiveness of these vet centers and the great work they do in caring for Vietnam veterans who may be suffering from delayed stress disorder.

The first statement was made by Mrs. Donna W. Stamey, the wife of a Vietnam combat veteran. If you take the time to read her statement, I believe each of you will be as impressed as I was.

STATEMENT OF DONNA W. STAMEY

Mr. Chairman and members of the Committee: I am honored to be here to speak on this issue which is so important to me both personally and as a tax paying citizen of this country. I will leave the overall statistics concerning Vietnam Veteran's Post Traumatic Stress and unemployment, divorce and suicide rates to my more knowledgeable panelists and speak to you today only of my own experiences and opinions.

I am the wife of a Vietnam Combat Veteran. We are approaching our ninth anniversary and have one son. I met my husband in college six months after he returned from Vietnam and just a few weeks after he left his first wife with whom he had one son.

When we met, Alan was socially active and unusually warm and kind. He was full of optimistic, adventurous ideas about his future. He seemed to be incorporating his feelings about his Vietnam experience into his new civilian life rather well.

Our first year and a half together was the happiest time in either of our lives. Then almost overnight the picture started changing. We had some financial problems with a baby on the way—a stressful situation for anyone. But Alan's reaction was far from normal. He began threatening divorce. He totally quit seeing his first son, unable to deal with conflicts with his first wife. He constantly complained about his job and he could never find a career he could tolerate. He went through periods of sleeping ten or twelve hours a day. Sometimes he called out in his sleep and I knew he was in Vietnam. We talked very little and when I encouraged him to confide in me about what was happening to him he reacted with anger and sometimes violence. He blamed me for every problem in his life. Sometimes I feared he was becoming suicidal. I tried to understand, to encourage and be supportive and help him snap out of it. But the harder I tried to get to the root of the problem the more deeply he withdrew. His moods shifted like the wind. One day he loved me—the next day he hated me. It was impossible to be prepared for all the changes. Tension saturated both of us most of the time. I felt I had to censor everything I said to him. Anything could set off an explosion. I could often even see tension in our son when it approached time for Alan to come home from work.

My reactions to all this were sometimes far from what they should have been. I become so insecure, depressed and lonely that my trying to be supportive of him was like the blind leading the blind.

After nearly six years of hurting each other, in September of 1979 we ended up in divorce court and a vicious custody battle. By some miracle, two months later we ended up under the same roof again, but with the divorce battle still fresh on our minds our marriage was worse than ever. I knew that if we were to ever salvage the marriage we were going to need a lot of help.

By this time I had heard about Post Traumatic Stress and it didn't take a genius to realize that that was at the heart of our problems. I began calling every social service agency I could find in the phone book or otherwise be referred to for counseling. The VA offered nothing in the way of family counseling, and that was what we needed most. Other social service programs were totally unequipped to deal with Delayed Stress and the least expensive ones charged $35 per hour. That was out of the question. Finally someone referred me to Dave Lewis, who was to work with the Vietnam Veteran's Outreach Program in Atlanta.

Soon after the Vet Center opened we began going to group counseling sessions for Vets and their wives. We found these to be an invaluable help. After feeling so lonely, confused and frustrated for so many years, being in a group of couples who understood was a real comfort. We came from different races, income levels and educational backgrounds but we all had very similar problems. Quite often a member of the group would start talking about a stressful situation at home, other members would respond and in ten minutes the chain reaction of comments had taken us right to the battlefields of Vietnam. After seeing this happen a few times we began to understand something about what was happening in our family relationships.

For Alan, these sessions slowly defused the time bomb that had been building up pressure within him for almost nine years. I could see the changes in him from the first meeting. Gradually, he could see reasons for the crippling depression and tension he once thought was unique to him. And for the first time in years he could see an end to the pain.

For me, the group provided the emotional support I needed and a clearer understanding of the problems in our lives. All my feelings of resentment for all those unhappy years were replaced with feelings of sympathy and respect. Finally I understood what Alan meant years ago when he said he was more frightened on the plane coming home than he was flying to Vietnam.

The Vietnam Veteran's Outreach Program is, in my opinion, a shining success. In three months time it helped us turn our lives around and continues to be supportive to us today. It is, I think, the first and only thing this government has done for the Vietnam Vet that he can appreciate.

Many depressed, confused Vets are still unwilling to admit that Post Traumatic Stress is at the root of their problems. Many others are still skeptical of any program funded by the government that has turned it's back on them so badly in the past. For every "Alan Stamey" that Outreach Programs have helped, there are still probably 10 more who desperately need it's services. They need to know that there is a place to go where someone understands the unique problems of the Vietnam Era Vet. The Outreach Program's success is slowly gaining their trust. To close the doors of the Vet Centers now would be closing the doors on a chance for these men to put the pieces of their lives back together. There is no other place for the Vietnam Vet and his family to go where they can receive the kind of help and understanding the Outreach Program provides.

This country was so very generous to the man who ran off to Canada or hid underground. Don't the men who trusted their government, obeyed it's laws and fought it's war deserve as much? All they ask is the opportunity to put Vietnam behind them and really come home to us. We owe it to them to leave Vet Centers open and given them that chance!

Thank you for listening.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CHENEY) to revise and extend their remarks and include extraneous material:)

Mr. GINGRICH, for 1 hour, today.

Mr. JOHNSTON, for 15 minutes, June 25, 1981.

(The following Members (at the request of Mr. MAVROULES) to revise and extend their remarks and include extraneous matter:)

Mr. ST GERMAIN, for 5 minutes, today.

Mr. WHITTEN, for 15 minutes, today.

Mr. ENGLISH, for 5 minutes, today.

Mr. BARNARD, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. DASCHLE, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. WEISS, to include statement on H.R. 3238 before vote on final passage.

Mr. DAN DANIEL, to follow remarks of Mr. GONZALEZ during general debate on H.R. 3519 in the Committee of the Whole today.

(The following Members (at the request of Mr. CHENEY) and to include extraneous matter:)

Mr. NAPIER.

Mr. ROUSSELOT.

Mr. ASHBROOK in three instances.

Mr. MCCLOSKEY.

Mr. DORNAN of California in two instances.

Mr. COLLINS of Texas in three instances.

Mr. HOPKINS.

Mr. PAUL.

Mr. FORSYTHE.

(The following Members (at the request of Mr. MAVROULES) and to include extraneous matter:)

Mr. VENTO.

Mr. MAZZOLI.

Mr. KILDEE.

Mr. BAILEY of Pennsylvania.

Mr. RICHMOND.

Mr. GUARINI.

Mr. STOKES in two instances.

Mr. WON PAT.

Mr. CHAPPELL.

Mr. HAMILTON in two instances.

Mr. DE LUGO.

Mr. CONYERS.

Mr. DASCHLE.

Mr. LEHMAN.

Mr. WHITE.

Mr. GARCIA.

ADJOURNMENT

Mr. MAVROULES. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 58 minutes p.m.), the House adjourned until tomorrow, Thursday, June 25, 1981, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1678. A letter from the Acting Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), transmitting a report on Selected Reserve recruiting and retention incentives as of March 31, 1981, pursuant to 10 U.S.C. 2134, 37 U.S.C. 308b, and 37 U.S.C. 308c; to the Committee on Armed Services.

1679. A letter from the Under Secretary of the Navy, transmitting notice of the Navy's intention to study the conversion from in-house operation to commercial contract of various functions at sundry locations, pursuant to section 502(a) of Public Law 96-342; to the Committee on Armed Services.

1680. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act 4-52, "To amend title XIV of the District of Columbia government Comprehensive Merit Personnel Act of 1978 to permit the continuation of the existing performance rating plan," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

1681. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act 4-53, "to authorize the Washington Metropolitan Area Transit Authority to issue permits that allow individuals who hold such a permit to carry bicycles on Metrorail; to amend the act to regulate public conduct on public passenger vehicles; and for other purposes," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

1682. A letter from the Chairman, Council of the District of Columbia, transmitting District of Columbia Act 4-54, "To order the closing of two (2) public alleys abutting lots 824, 825, 15, 826, 827, 828, 36, 829, 18, 830, 30, 31, 32, 33, 834, 40, 805, 806, 807, 808, 809, 810, 811, 812, 43, and 44 in Square 455, bounded by Sixth Street NW., Seventh Street NW., F Street NW., and G Street NW. (S. O. 72-71) (Ward 2)," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

1683. A letter from the Vice President for Government Affairs, National Railway Passenger Corporation, transmitting the financial report of the Corporation for the month of April 1981, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Energy and Commerce.

1684. A letter from the Deputy Assistant Secretary of Interior, transmitting notice of proposed new record systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1685. A letter from the Under Secretary of the Interior, transmitting notice of the bidding systems to be used in Oil and Gas Lease Sale No. A66, Gulf of Mexico, pursuant to section 8(a)(8) of the Outer Continental Shelf Lands Act, as amended; to the Committee on Interior and Insular Affairs.

1686. A letter from the Acting Administrator of General Services, transmitting prospectuses proposing alterations in Federal buildings in various locations; to the Committee on Public Works and Transportation.

1687. A letter from the Acting Comptroller General of the United States, transmitting a report on readiness planning for wartime medical personnel requirements (HRD-81-67, June 24, 1981); jointly, to the Committees on Government Operations, Armed Services, and Energy and Commerce.

1688. A letter from the Acting Comptroller General of the United States, transmitting a report on the financial condition of the Export-Import Bank of the United States (ID-81-48, June 24, 1981); jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BOLLING: Committee on Rules. House Resolution 169. Resolution providing for the consideration of H.R. 3982. A bill to provide for reconciliation pursuant to section 301 of the first concurrent resolution on the budget for the fiscal year 1982 (Rept. No. 97-160). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BIAGGI:

H.R. 4003. A bill to amend title II of the Social Security Act to provide for the establishment of appropriate accounting procedures to deal with social security benefit checks which are not negotiated within 36 months; to the Committee on Ways and Means.

By Mr. DASCHLE (for himself, Mr. HEFTEL, Mr. FITHIAN, Mr. ALBOSTA, Mrs. FENWICK, and Mr. EVANS of Georgia):

H.R. 4004. A bill to amend the Internal Revenue Code of 1954 with respect to the application of the credit for producing fuel from a nonconventional fuel to solid fuel pellets made from biomass, and for other purposes; to the Committee on Ways and Means.

By Mr. REUSS (for himself and Mr. ST GERMAIN):

H.R. 4005. A bill to combat inflation and improve productivity; jointly, to the Committees on Banking, Finance and Urban Affairs and the Judiciary.

By Mr. SMITH of Alabama:

H.R. 4006. A bill to amend the Internal Revenue Code of 1954 to provide an additional personal exemption for the taxpayer, the taxpayer's spouse, or a dependent, who has a disability requiring the use of a wheelchair; to the Committee on Ways and Means.

By Mr. SOLOMON:

H.R. 4007. A bill to amend the Internal Revenue Code of 1954 to increase the limitation of the interest deduction for interest paid or accrued on investment indebtedness from $10,000 to $25,000 for individuals with

earned income; to the Committee on Ways and Means.

By Mr. WON PAT (for himself, Mr. DE LUGO, Mr. COUGHLIN, Mr. LAGOMARSINO, and Mr. BEREUTER):

H.R. 4008. A bill to authorize the appointment of citizens of the Northern Mariana Islands as officers in the Armed Forces of the United States; to the Committee on Armed Services.

By Mr. ENGLISH (for himself, Mr. CONYERS, Mr. WHITTEN, Mr. ADDABBO, Mr. AKAKA, Mr. BEDELL, Mr. BEVILL, Mr. BINGHAM, Mrs. CHISHOLM, Mr. COELHO, Mr. CONTE, Mr. COUGHLIN, Mr. DIXON, Mr. DONNELLY, Mr. DWYER, Mr. EDWARDS of Oklahoma, Mr. FAUNTROY, Mr. FAZIO, Mr. FITHIAN, Mr. FOGLIETTA, Mr. GILMAN, Mr. GINN, Mr. GOODLING, Mr. JACOBS, Mr. LANTOS, Mr. LEHMAN, Mr. MCDADE, Mr. MCHUGH, Mr. MOAKLEY, Mr. MURPHY, Mr. NEAL, Mr. PEPPER, Mr. RATCHFORD, Mr. ROE, Mr. ROSENTHAL, Mr. ROYBAL, Mr. SCHEUER, Mr. STARK, Mr. STENHOLM, Mr. UDALL, Mr. ZEFERETTI, Mr. SOLARZ, Mr. HIGHTOWER, Mr. NATCHER, Mr. WYDEN, and Mr. BENJAMIN):

H. Res. 166. Resolution to express the sense of the House of Representatives with respect to continued funding for certain regional criminal intelligence projects; to the Committee on the Judiciary.

By Mr. LEHMAN (for himself and Mr. FISH):

H. Res. 167. Resolution condemning the unjust trial and sentencing of Dr. Viktor Brailovsky by the Government of the Soviet Union, and expressing the sense of the House of Representatives that such Government should cease its persecution of Dr. Brailovsky and permit him and his family to emigrate from the Soviet Union to Israel; to the Committee on Foreign Affairs.

By Mr. PAUL:

H. Res. 168. Resolution that U.S. District Court Judge William Wayne Justice is impeached of high crimes and misdemeanors; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

142. By the SPEAKER: Memorial of the Legislature of the State of Maine, relative to establishment of a helicopter search and rescue unit in Maine; to the Committee on Merchant Marine and Fisheries.

143. Also, memorial of the Legislature of the State of Maine, relative to establishment of a veterans' health care facility in Aroostook County; to the Committee on Veterans' Affairs.

ADDITIONAL SPONSORS

H.R. 4: Mr. NEAL, Mr. FOUNTAIN, Mr. EVANS of Georgia, Mr. EVANS of Delaware, Mr. WEBER of Minnesota, Mr. PEPPER, Mr. PASHAYAN, Mr. MITCHELL of New York, and Mr. DORNAN of California.

H.R. 72: Mr. MILLER of Ohio.

H.R. 116: Mr. DOUGHERTY, Mr. EMERY, Mr. HEFTEL, Mrs. HOLT, Mr. OBERSTAR, and Mr. THOMAS.

H.R. 248: Mr. BAILEY of Pennsylvania.

H.R. 368: Mr. FISH.

H.R. 371: Mr. ROTH.

H.R. 654: Mr. MCKINNEY.

H.R. 774: Mr. JEFFORDS, Mr. FAUNTROY, Mr. RODINO, Mr. D'AMOURS, Mr. WAXMAN, Mr. PEPPER, Mr. CONYERS, and Mr. FOGLIETTA.

H.R. 1005: Mr. DYSON, Mr. PHILIP M. CRANE, Mr. WHITLEY, Mr. BONER of Tennessee, and Mr. LAGOMARSINO.

H.R. 1180: Mr. MILLER of Ohio, Mr. LOTT, Mr. EDWARDS of Oklahoma, Mr. LUNGREN, Mr. HANCE, Mr. MOLLOHAN, Mr. MOORHEAD, Mr. HANSEN of Idaho, and Mr. BLILEY.

H.R. 1353: Mr. MATSUI.

H.R. 1400: Mr. MCCOLLUM and Mr. SYNAR.

H.R. 1539: Mr. PATTERSON, Mr. PRITCHARD, Mr. JEFFORDS, and Mr. MCGRATH.

H.R. 1918: Mr. LOWRY of Washington, Mr. JONES of North Carolina, and Mr. FOWLER.

H.R. 1955: Mr. SILJANDER and Mr. BEDELL.

H.R. 2431: Mr. CONYERS.

H.R. 2646: Mr. NEAL.

H.R. 2899: Mrs. HOLT.

H.R. 3057: Mr. ANTHONY, Mr. EDGAR, Mr. EVANS of Georgia, Ms. MARTIN of Illinois, Mr. VENTO, and Mr. WOLPE.

H.R. 3150: Mr. DYSON.

H.R. 3314: Mr. ROBERT W. DANIEL, JR., Mr. GINGRICH, Mr. GINN, Mr. SAM HALL, JR., Mrs. HOLT, Mr. ST GERMAIN, and Mr. SKEEN.

H.R. 3442: Mr. FOGLIETTA.

H.R. 3941: Mr. PORTER and Ms. FIEDLER.

H.R. 3791: Mr. HUBBARD, Mr. HAWKINS, Mr. MOAKLEY, Mr. GEPHARDT, Mr. SEIBERLING, Mr. SHAMANSKY, Mr. DWYER, Mr. HOPKINS, Mr. HANCE, Mr. EDGAR, Mr. LAFALCE, Mr. MILLER of California, Mr. ANDERSON, Mr. RICHMOND, Mr. CROCKETT, Mr. MITCHELL of Maryland, Mr. DAN DANIEL, Mr. BEVILL, Mr. KILDEE, Mr. CONYERS, Mr. PATTERSON, Mr. SOLARZ, Mr. GLICKMAN, Mr. MURPHY, Mr. OTTINGER, Mr. WHITEHURST, Mrs. COLLINS of Illinois, Mr. SIMON, Mr. ALBOSTA, Mr. RAHALL, Mr. FASCELL, Mr. EVANS of Georgia, Mr. BUTLER, Mr. LUKEN, and Mr. JENKINS.

H.R. 3908: Mr. MURPHY, Mr. CLAY, Mr. BUTLER, Mr. PRICE, Mr. EVANS of Georgia, and Mr. KINDNESS.

H.R. 3934: Mr. MOLINARI, Mr. LAGOMARSINO, and Mr. EVANS of Georgia.

H.R. 3975: Mr. UDALL, Mr. YOUNG of Alaska, Mr. CHENEY, and Mr. MARTIN of New York.

H.J. Res. 72: Mr. FRENZEL, Mr. BONER of Tennessee, Mr. BARNARD, Mr. SIMON, Mr. GRISHAM, Mr. MOTTL, Mr. BEDELL, Mr. SUNIA, Mr. REGULA, Mr. SOLARZ, Mr. RITTER, Mr. WIRTH, Mr. PATTERSON, Mr. EVANS of Georgia, Mr. SOLOMON, Mr. CARMAN, Mr. PATMAN, Mr. STENHOLM, Mr. HILER, and Mr. ANDREWS.

H.J. Res. 174: Mr. CROCKETT, Mrs. CHISHOLM, Mr. ROYBAL, Mr. CONYERS, Mr. LONG of Maryland, Mr. BLANCHARD, Mrs. SNOWE, Mrs. HECKLER, Mr. SUNIA, Ms. OAKAR, Mr. GRAY, Mr. PASHAYAN, Mr. JAMES K. COYNE, Mr. LANTOS, Mr. MITCHELL of Maryland, Mr. BRODHEAD, Mr. PRITCHARD, Mr. CORRADA, Mr. WAXMAN, Mr. NATCHER, Mr. YATES, Mr. MONTGOMERY, Mr. MCCLOSKEY, Mr. MOAKLEY, Mr. LEBOUTILLIER, Mr. MAVROULES, Mr. GINGRICH, Mr. LOWRY of Washington, Mr. HOPKINS, Mr. HOLLENBECK, Mr. JOHN L. BURTON, Mr. BINGHAM, Mr. ROE, Mr. DASCHLE, Mr. DE LA GARZA, Mr. ADDABBO, Mr. FOGLIETTA, Mr. LOEFFLER, Mr. PATTERSON, and Mr. PORTER.

H.J. Res. 293: Mr. SCHEUER, Mr. ERDAHL, Mr. HORTON, Mr. HOLLENBECK, Mr. WEISS, Mr. LAGOMARSINO, Mr. PEPPER, Mr. FOGLIETTA, Mr. WINN, Mr. CORRADA, Mr. FROST, Mr. FORSYTHE, Mr. CORCORAN, Mr. ROE, and Mr. RICHMOND.

H. Con. Res. 139: Ms. OAKAR.

PETITIONS, ETC.

Under clause 1 of rule XXII,

121. The SPEAKER presented a petition of the Supreme Soviet of the Union of Soviet Socialist Republics, relative to arms control, which was referred to the Committee on Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3519

By Mr. HOPKINS:

—Page 60, after line 17, add the following new section:

RESTRICTION ON PURCHASE OF FOREIGN-MADE MOTOR VEHICLES

SEC. 911. (a) Chapter 141 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 2391. Restriction on purchase of foreign-made administrative motor vehicles

"The Secretary of a military department may not make a contract or agreement during the fiscal year ending on September 30, 1982, for the purchase of any administrative motor vehicle that is manufactured outside the United States or Canada, unless the Secretary of Defense submits to the Armed Services Committees of the Senate and the House of Representatives a written statement that there is not available for such purchase a suitable motor vehicle manufactured in the United States or Canada.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"2391. Restriction on purchase of foreign-made administrative motor vehicles.".

By Mr. WEISS:

—On page 30, strike line 6 and all that follows through page 31, line 25.

H.R. 3964

By Mr. JONES of Oklahoma:

—Strike out title VI and insert in lieu thereof the following:

TITLE I—DIRECT SPENDING REDUCTIONS

PART A—RAILROAD RETIREMENT REDUCTIONS

PART B—MEDICARE AND MEDICAID CHANGES

Subpart I—Medicaid Changes

Sec. 1201. Limitation on Authorization of Appropriations; Allotments to the States.

Sec. 1202. Waivers and Modifications of Federal Requirements.

Sec. 1203. Increased Federal Matching for Automated Eligibility Assessment Systems.

Sec. 1204. Recovery of Disputed Claims.

Subpart II—Medicare Part B Changes

Sec. 1211. Contracts for the Administration of Benefits.

Sec. 1212. Elimination of Requirement for a Railroad Retirement Board Carrier Contract.

Sec. 1213. Withholding of Payments for Certain Medicaid Providers.

Sec. 1214. Annual Limit of Two Hundred Visits for Home Health Services.
Sec. 1215. Elimination of Need for Occupational Therapy as a Basis for Entitlement to Home Health Services.
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TITLE I—DIRECT SPENDING REDUCTIONS

PART A—RAILROAD RETIREMENT REDUCTIONS

SEC. 1001. (a) Section 3(h) of the Railroad Retirement Act of 1974 is amended by adding at the end thereof the following new subdivision:

"(6) No amount shall be payable to an individual under subdivision (3) or (4) of this subsection unless the entitlement of such individual to such amount had been determined prior to the later of June 1, 1981 and the date of the enactment of this subdivision.".

(b) Section 4(e) of the Railroad Retirement Act of 1974 is amended by adding at the end thereof the following new subdivision:

"(5) No amount shall be payable to a person under subdivision (1), (2), or (3) of this subsection unless the entitlement of such person to such amount had been determined prior to the later of June 1, 1981 and the date of the enactment of this subdivision.".

(c) Section 4(h) of the Railroad Retirement Act of 1974 is amended by inserting "(1)" after "(h)" and by adding at the end thereof the following new subdivision:

"(2) No amount shall be payable to a person under subdivision (1) of this subsection unless the entitlement of such person to such amount had been determined prior to the later of June 1, 1981 and the date of the enactment of this subdivision.".

(d) The amendments made by this Act shall take effect on the later of June 1, 1981 and the date of the enactment of this Act.

PART B—MEDICARE AND MEDICAID CHANGES

SHORT TITLE AND REFERENCES IN PART

SEC. 1200. (a) This part may be cited as the "Health Care Financing Amendments of 1981".

(b) Whenever in this part an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act, unless otherwise specifically stated.

Subpart I—Medicaid Changes

LIMITATION ON AUTHORIZATION OF APPROPRIATIONS; ALLOTMENTS TO STATES

SEC. 1201. (a) The heading of section 1901 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS; ALLOTMENTS TO STATES".

(b) Section 1901 is amended—

(1) by striking out "a sum sufficient to carry out the purposes of this title" and inserting in lieu thereof "a sum determined in accordance with this section",

(2) by inserting "(a)" after "SEC. 1901.", and

(3) by adding at the end the following new subsections:

"(b) There are authorized to be appropriated to carry out the purposes of this title—

"(1) for each fiscal year ending before October 1, 1980, a sum sufficient to carry out the purposes of this title;

"(2) for fiscal year 1981, $16,399,914,000;

"(3) for fiscal year 1982, $16,995,308,000; and

"(4) for fiscal year 1983 and each succeeding fiscal year, an amount equal to the amount authorized to be appropriated under this subsection for the preceding fiscal year, increased or decreased, as appropriate, by a percentage equal to percentage increase or decrease in the Gross National Product Implicit Price Deflator for that fiscal year published by the United States Department of Commerce as it appears in the President's budget for that fiscal year.

"(c)(1) From the sums appropriated under subsection (b) for fiscal year 1981, each of the fifty States and the District of Columbia shall be allotted, for purposes of carrying out its program under this title for the fourth quarter of fiscal year 1981, an amount determined as follows:

"(A) The Secretary shall determine for each such State (using the latest version received by the Secretary before the end of December 1980 of the State's estimate of the Federal share of expenditures under this title in fiscal year 1981) the total amount of the State's estimated expenditures which do not represent amounts to which the State would be entitled to reimbursement from sums appropriated under subsection (d) or (f).

"(B) The Secretary shall determine for each such State the amount which bears the same ratio to $16,367,814,000 as the amount determined under subparagraph (A) bears to the total of amounts determined for all such States under subparagraph (A).

"(C) The Secretary shall determine for each such State the total amount paid to the State before July 1, 1981, for the purpose of carrying out its program under this title for the first three quarters of fiscal year 1981, reduced by any amounts for which the State is entitled to reimbursement from sums appropriated under subsections (d) and (f).

"(D) Each such State shall be allotted under this paragraph the amount, if any, by which the amount determined for that State under subparagraph (B) exceeds the amounts determined for that State under subparagraph (C).

"(2) From the sums appropriated under subsection (b) for fiscal year 1982, each of the fifty States and the District of Columbia shall be allotted an amount which bears the same ratio to the total amount appropriated under that subsection (reduced by the sum of the amounts specified in paragraph (3)) as the latest version received by the Secretary before the end of December 1980 of the State's estimate of the Federal share of expenditures under this title in fiscal year 1981 (reduced by the amounts for which the State would be entitled to reimbursement from sums appropriated under subsections (d), (e), and (f)) bears to the sum of all States' estimates of expenditures for such purpose (reduced by all amounts for which the States would be entitled to reimbursement from sums appropriated under subsections (d), (e), and (f)).

"(3) From the sums appropriated under subsection (b) for each of fiscal years 1981 and 1982, Puerto Rico shall be allotted $30,000,000, the Virgin Islands shall be allotted $1,000,000, Guam shall be allotted $900,000, and the Northern Mariana Islands shall be allotted $200,000.

"(4) From the sums appropriated under subsection (b) for fiscal year 1983 and each succeeding fiscal year, each State shall be allotted an amount which bears the same ratio to the total amount appropriated under subsection (b) as the State's allotment for fiscal year 1982 bore to the total appropriation for fiscal year 1982.

"(5) Sums allotted to a State under this subsection for any fiscal year shall remain available until expended.

"(d) In addition to sums authorized to be appropriated under subsection (b), there are authorized to be appropriated, for fiscal year 1981 and each succeeding fiscal year, such sums as are necessary to make payments to States under section 1903(a)(6).

"(e)(1) In addition to sums authorized to be appropriated under subsection (b), there are authorized to be appropriated—

"(A) $210,000,000 for fiscal year 1982, and

"(B) such sums as may be necessary and appropriate for fiscal year 1983 and each succeeding fiscal year,

for payment to States under section 1903(a)(3). The Secretary shall allocate to the States amounts appropriated under this subsection in accordance with the remaining provisions of this subsection.

"(2) At the beginning of each fiscal year the Secretary shall set aside, for payment to States under section 1903(a)(3)(A), an amount equal to the lesser of (A) 25 per centum of the amount appropriated under this subsection, or (B) an amount he determines, in accordance with paragraph (6), on the basis of States' estimates of expenditures under plans approved by the Secretary under section 1903(a)(3)(A), to be sufficient to make payments to States under section 1903(a)(3)(A). The Secretary shall allocate the amount set aside among those States which reasonably expect to perform during the fiscal year the activities specified in section 1903(a)(3)(A). If the amount set aside is less than 100 percent of States' estimates of expenditures under section 1903(a)(3)(A), he shall allocate to each State an amount bearing the same ratio to the total amount set aside as the State's estimate of expenditures under section 1903(a)(3)(A) for that fiscal year bears to the total of all States' estimates of expenditures under section 1903(a)(3)(A) for that fiscal year.

"(3) The Secretary shall allocate the remainder among States which have (or reasonably expect to have before the end of the fiscal year) a system specified under section 1903(a)(3)(B) which is approved by the Secretary, as follows: He shall allot to each such State a share of the remainder equal to the State's share of the total of all such States' estimates of expenditures under section 1903(a)(3)(B), adjusted in accordance with paragraph (6).

"(4) Each State receiving an allotment under paragraph (2) or (3) shall certify to the Secretary, before the end of the second quarter of each fiscal year, the amount (if any) of such allotment which will not be required by the State under section 1903(a)(3) for such fiscal year.

"(5) Amounts which States certify under paragraph (4) that they will not be able to use shall be available for allotment to other States which the Secretary determines, in accordance with paragraph (6), will be able to use such excess amounts during such fiscal year for the purposes specified in section 1903(a)(3). If the amount available for reallotment is less than 100 percent of the additional amounts that the Secretary determines could be used by States under section 1903(a)(3), he shall allocate to each State an amount bearing the same ratio to the total amount available for reallotment as the additional amount which the Secretary determines that the State will be able to use for that fiscal year bears to the total additional amounts which the Secretary determines that all States will be able to use for that fiscal year.

"(6) The Secretary may adjust each State's estimates of expenditures for purpose of allocations under this subsection as necessary to assure that payments to States under section 1903(a)(3) do not exceed amounts adequate to pay the Federal share of reasonable costs of development and of costs of efficient and economical operation of information systems.

"(7) Sums allotted to a State pursuant to subsection (c) shall be available to that State to pay the Federal share of expenditures specified in section 1903(a)(3) to the extent that the State's allotment under this subsection is insufficient to pay the Federal share of such expenditures.

"(f)(1) In addition to the sums authorized to be appropriated under subsection (b), there are authorized to be appropriated such sums as are necessary to pay (subject to paragraph (2)) claims of States for expenditures in carrying out programs under this title before October 1, 1980.

(2) Notwithstanding the provisions of section 1132 or any other provision of law, payment shall not be made under this title to any State with respect to any expenditure made by the State during fiscal year 1980, unless a claim therefor has been filed, in the form and manner prescribed by the Secretary, on or before October 1, 1981 (or, where the Secretary grants a waiver under paragraph (3), on or before January 1, 1982).

"(3) The Secretary shall waive the requirement imposed under paragraph (2) with respect to the filing of any claim if he determines that exceptional circumstances justified the State's failure to file a claim within the period prescribed under paragraph (2).

"(g)(1) In addition to the sums authorized to be appropriated under subsection (b), there are authorized to be appropriated for each fiscal year such sums as are necessary to provide for allotments to States which did not have plans approved under this title as of January 1981 but which have such a plan approved under this title during such fiscal year.

"(2) In the case of States referred to in paragraph (1) and from the amounts appropriated under paragraph (1) for a fiscal year, each such State which has a plan approved under this title in the fiscal year shall be allotted, for purposes of carrying out its program under this title, an amount determined by the Secretary as follows: The Secretary shall estimate the amount that the Federal share of expenditures under the State's plan under this title (other than expenditures for purposes described in section 1903(a)(3) or section 1903(a)(6)) would have been with respect to fiscal year 1981, under the terms of the plan as first in operation, if the plan was in operation during that entire fiscal year. The allotment to the State shall be equal to such amount adjusted to reflect (A) the percentage increase (or decrease) in the amounts of allotments to other States under subsection (c) between fiscal year 1981 and the fiscal year involved, and (B) if the plan is not in operation for the entire fiscal year, the portion of the fiscal year in which it is in operation.

"(3) Sums allotted to a State under this subsection for any fiscal year shall remain available until expended.".

(c) Section 1903(a) is amended by adding at the end the following new sentence: "Notwithstanding any other provision of this section, the total payment to a State under this section for any fiscal year shall not exceed the total amount to which that State is entitled from sums appropriated under section 1901 for that fiscal year.".

(d) Subsection (c) of section 1108 is repealed.

(e) The amendments made by this section shall be effective on July 1, 1981.

WAIVERS AND MODIFICATIONS OF FEDERAL REQUIREMENTS

SEC. 1202. (a) Section 1901(a), as amended by section 1201(b) of this Act, is further amended—

(1) by striking out "and" after "dependent children" and inserting in lieu thereof a comma, and

(2) by inserting "and other individuals," after "disabled individuals,".

(b) Section 1902(a) is amended by striking out "(a) A" and inserting in lieu thereof "(a) Except as provided in subsection (b), a".

(c) Section 1902(a)(10) is amended—

(1) by amending subparagraphs (B) and (C) to read as follows:

"(B) with respect to the items and services specified in paragraph (13)(B), that the medical assistance made available to any individual described in paragraph (A) shall not be less in amount, duration, or scope than the medical assistance made available to any other such individual; and

"(C) if medical assistance is included for any group of individuals who are not described in subparagraph (A), whose income and resources are insufficient to meet the cost of necessary medical services, a description with respect to each such group of the criteria for determining eligibility for and the extent of medical assistance under the State plan;", and

(2) by striking out all that follows subparagraph (C).

(d) Section 1902(a)(14)(A) is amended—

(1) by striking out ", and no deduction, cost sharing, or similar charge with respect to the care and services listed in paragraphs (1) through (5), (7), and (19) of section 1905(a)," in clause (i), and

(2) by striking out "with respect to other care and services" in clause (ii).

(e) Section 1902(a)(13) is amended—

(1) by striking out "(i)" and all that follows through "(ii)" in subparagraph (A),

(2) by striking out ", and" at the end of subparagraph (B) and inserting in lieu thereof a semicolon, and

(3) by striking out subparagraphs (C) through (F).

(f) Section 1902(a)(17) is amended—

(1) by striking out "(which shall be comparable" and all that follows through "in rural areas)",

(2) by striking out "(B)" and all that follows through ", and (D)" and inserting in lieu thereof "(B) provide for reasonable evaluation of any income and resources, and (C)", and

(3) by striking out the first semicolon and all that follows up to the second semicolon.

(g) Paragraph (21) of section 1902(a) is repealed.

(h) Paragraph (23) of section 1902(a) is amended to read as follows:

"(23) provide such methods and standards (including standards for participation of providers) as can reasonably be expected (as

determined by the Secretary) to afford, to individuals eligible for benefits under the plan, health care of adequate quality with respect to those items and services for which they are entitled to medical assistance under the plan;".

(i) Section 1902(a)(25)(C) is amended by inserting ", if the amount of such reimbursement can reasonably be expected to exceed the costs of recovery" before the semicolon.

(j) Section 1902(a)(30) is amended—

(1) by striking out "(including but not limited to utilization review plans as provided for in section 1903(i)(4))", and

(2) by striking out "(including payments for any drugs provided under the plan)" and "not in excess of reasonable charges".

(k) Paragraph (43) of section 1902(a) is repealed.

(l)(1) The second unnumbered paragraph (which begins "For purposes") after the end of paragraph (42) of section 1902(a) is amended by striking out "shall" and inserting in lieu thereof "may".

(2) Section 503 of Public Law 94-566 (relating to preservation of medicaid eligibility for certain individuals subject to Social Security cost-of-living increases) is amended—

(A) by striking out all that precedes "for any month after June 1977" in the first sentence and inserting in lieu thereof "A State plan under title XIX of the Social Security Act may provide medical assistance to any individual,", and

(B) by striking out "shall" in the second sentence and inserting in lieu thereof "may".

(m)(1) Section 1902(b) is amended—

(A) by striking out paragraphs (1) and (2), and redesignating paragraphs (3) and (4) as subparagraphs (A) and (B), respectively.

(B) by inserting "(1)" after "(b)", and

(C) by adding at the end the following new paragraphs:

"(2) In approving a plan under this section, the Secretary may waive any of the requirements specified in subsection (c), in accordance with the provisions of that subsection. The Secretary's decision to grant or deny a waiver under subsection (c) shall not be subject to judicial review under any provision of title 28 of the United States Code.

"(3) Within 90 days after receiving from a State a proposed State plan or plan amendment, or a request for waiver of a State plan requirement, the Secretary shall either approve or disapprove the proposed plan or amendment or waiver request, or shall inform the State agency in writing what additional information is needed to enable him to make a final determination. Within 90 days after receiving such additional information, the Secretary shall either approve or disapprove the proposed plan or plan amendment or waiver request.".

"(2) Subsection (c) of section 1902 is amended to read as follows:

"(c)(1) The Secretary may waive any of the requirements specified in paragraphs (1) and (2) of subsection (a) where the State agency demonstrates to his satisfaction that the purpose for which a waiver is sought is reasonably related to the purposes of this title.

"(2) The Secretary may waive any of the requirements specified in paragraphs (11), (12), (22)(C), (24), (26), (29), and (31) of subsection (a) where the State agency demonstrates to his satisfaction that it has established alternative methods and procedures which can reasonably be expected to achieve more efficiently or effectively the goals of the requirement for which a waiver is sought.

"(3) The Secretary may waive the requirement specified in subsection (a)(14)(A) to permit imposition of a nominal copayment for hospital emergency room services and outpatient hospital services, where the State agency demonstrates to his satisfaction that the copayment requirement for which the waiver is sought can reasonably be expected to promote more cost-effective utilization of health care services covered under the State plan, and that it will not be inconsistent with the requirement of subsection (a)(23).

"(4) The Secretary may waive any requirements of this title with respect to provision of or payment for medical care in order to permit the State agency to share with recipients of medical assistance under the State plan cost savings resulting from use by the recipients of more cost-effective medical care, where the State agency demonstrates to his satisfaction that granting the waiver is not inconsistent with the purposes of this title. Any payment to an individual under a waiver granted under this paragraph shall not be treated as income or resources for purposes of eligibility for cash assistance under any title of this Act.".

(n) Subsection (e) of section 1902 is repealed.

(o) Section 1902(f) is amended—

(1) by striking out "no State" and all that precedes it and inserting in lieu thereof "No State",

(2) by striking out "as determined in accordance with section 1903(f)", and

(3) by striking out all that follows the first sentence and inserting in lieu thereof "An individual who is eligible for medical assistance by reason of the requirements of this section concerning the deduction of incurred medical expenses from income shall be considered an individual eligible for medical assistance under subsection (a)(10)(A).".

(p) Subsection (h) of section 1902 is repealed.

(q) Section 1903(a)(3)(B) is amended by striking out "approved by the Secretary" and all that follows up to the semicolon.

(r)(1) Subsections (f), (g), (h), and (m) of section 1903 are repealed.

(2) Section 1903(a)(1) is amended by striking out "subsections (g), (h), and (j)" and inserting in lieu thereof "subsection (j)".

(3) The repeal of section 1903(g) shall be effective on and after October 30, 1972.

(s)(1) Section 1903(i) is amended—

(A) by striking out "; or" at the end of paragraph (2) and inserting in lieu thereof a period,

(B) by striking out "—" and all that follows through "(2)", and

(C) by striking out paragraphs (3) and (4).

(2) The second sentence after the end of paragraph (42) of section 1902(a) is amended by striking out "(31), and (33), and section 1903(i)(4)," and inserting in lieu thereof "(26), and (33),".

(t)(1)(A) Subparagraph (A) of section 1903(r)(2) is amended to read as follows:

"(A) A State must have its mechanized claims processing and information retrieval systems initially approved by the Secretary in accordance with paragraph (4) in order to receive payments under clause (i) of subsection (a)(3)(B), and must have its mechanized eligibility assessment systems initially approved by the Secretary in accordance with paragraph (4) in order to receive payments under clause (ii) of subsection (a)(3)(B).".

(B) Subparagraph (D) of that section is amended by striking out "the date of the enactment of this subsection" and inserting in lieu thereof "October 7, 1980".

(C) Subparagraphs (B) and (C) of that section are repealed and subparagraph (D) of that section is redesignated as subparagraph (B).

(2) Section 1903(r)(3) is amended—

(A) by striking out "(A)",

(B) by striking out subparagraph (B), and

(C) by striking out all that follows "operational" and inserting in lieu thereof "(but not earlier than October 1, 1982, in the case of eligibility assessment systems).".

(3)(A) Section 1903(r)(4)(A) is amended—

(i) by inserting "mechanized claims processing and information retrieval" in the first sentence after "approved",

(ii) by striking out "paragraph (6)" in the second sentence and inserting in lieu thereof "paragraph (5)", and

(iii) by inserting after the first sentence the following new sentence: "Beginning not later than October 1, 1986, the Secretary shall review all approved mechanized eligibility assessment systems not less often than once each fiscal year, and shall reapprove or disapprove any such systems.".

(B) The first sentence of section 1903(r)(4)(B) is amended—

(i) by striking out "reduce the per centum" and all that follows through "70 per centum" and inserting in lieu thereof "reduce by a factor of not less than 5 percent and not more than 25 percent the amount of the State's allotment pursuant to section 1901(e)(3) which the State may spend for the activities described in section 1903(a)(3)(B)", and

(ii) by striking out "except that such per centum may not be reduced by more than 10 percentage points" and inserting in lieu thereof "except that such reduction may not exceed 10 per centum".

(C) Section 1903(r)(5) is amended—

(i) in subparagraph (A), in the matter preceding clause (i), by striking out "claims processing and information retrieval" and inserting in lieu thereof "information processing",

(ii) by striking out "The" in subparagraph (A)(i) and inserting in lieu thereof "Mechanized claims processing and information retrieval",

(iii) in paragraph (A)(ii)—

(I) by striking out "performance standards and other", and

(II) by striking out "paragraph (6)" and inserting in lieu thereof "paragraph (5)",

(iv) by redesignating clauses (ii) and (iii) of subparagraph (A) as clauses (iii) and (iv), respectively.

(v) by inserting after clause (i) the following new clause:

"(ii) mechanized eligibility assessment systems must be capable of accumulating and assessing information concerning applicants' and beneficiaries' income, resources and other relevant characteristics so as to control and perform eligibility determinations and reviews.", and

(vi) by striking out "claims processing and information retrieval" in subparagraph (B) and inserting in lieu thereof "information processing".

(4) Section 1903(r)(6) is amended—

(A) in subparagraph (A)—

(i) by inserting "(i) in the case of claims processing and information retrieval systems," after "(A)", and

(ii) by inserting before the semicolon at the end the following clause: ", and (ii) in the case of eligibility assessment systems, by not later than October 1, 1982, develop systems requirements and other conditions for approval for use in initially approving such State systems";

(B) by inserting "(in the case of claims processing and information retrieval systems), and October 1, 1986 (in the case of eligibility assessment systems)," in subparagraph (B) after "October 1, 1980,"; and

(C) by inserting "claims processing and information retrieval" after "State" in subparagraph (H) in the matter preceding clause (i).

(5) Section 1903(r)(8) is amended—

(A) by striking out "and on the modification" and all that follows through "subparagraph (C)" in subparagraph (B), and

(B) by striking out subparagraph (C).

(6) Section 1903(r) is further amended by striking out paragraphs (1) and (7), redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively, and redesignating paragraph (8) as paragraph (6).

(u) Section 1905(a) is amended—

(1) by amending the matter preceding paragraph (1) to read as follows:

"(a) The term 'medical assistance' means payment (by reimbursement or by any other reasonable method, including prepayment on a capitation basis) of part or all of the cost of the following care and services for individuals, and, with respect to physicians' or dentists' services, at the option of the State, to individuals eligible under the State plan to payment made for such care and services—",

(2) by striking out the last sentence, and

(3) by adding at the end the following new sentence:

"With respect to physicians' or dentists' services, at the options of the State, the term 'medical assistance' includes payment to individuals eligible for medical assistance under this title, other than—

"(A) individuals described in section 1902(a)(10)(A), and

"(B) individuals with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them a State supplementary payment, and who are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A).".

(v) Section 1905(a) is further amended—

(1) by striking out "and" at the end of paragraph (17),

(2) by redesignating paragraph (18) as paragraph (19), and

(3) by inserting after paragraph (17) the following new paragraph:

"(18) personal care services and any other services (other than room and board) as approved by the Secretary, provided pursuant to a plan of care to an individual who, but for such services, may require institutionalization in a medical institution in which the cost of his care could be reimbursed under the State plan; and".

(w) Subsection (e) of section 1905 is repealed.

(x) Section 1913 is repealed.

INCREASED FEDERAL MATCHING FOR AUTOMATED ELIGIBILITY ASSESSMENT SYSTEMS

SEC. 1203. (a) Clause (ii) of section 1903(a)(3)(A) is amended to read as follows:

"(ii) 90 per centum of so much of the sums expended during such quarter as are attributable to the design, development, or installation of such mechanized eligibility assessment systems as the Secretary determines are likely to provide more efficient, economical, and effective administration of the plan and to be compatible with any such systems in use under State plans under titles I, X, XIV, XVI, and part A of title IV, and under the supplemental security income program under title XVI, and".

(b) Section 1903(a)(3)(B) is amended—

(1) by inserting "(i)" and "(B)",

(2) by striking out "; plus" and inserting in lieu thereof ", and", and

(3) by adding at the end the following new clause:

"(ii) 75 per centum of so much of the sums expended during such quarter as are attributable to the operation of systems (whether such systems are operated directly by the State or by another person under a contract with the State) of the type described in subparagraph (A)(ii) (whether or not designed, developed, or installed with assistance under such subparagraph) which are approved by the Secretary; plus".

RECOVERY OF DISPUTED CLAIMS

SEC. 1204. Section 1903(d)(5)(a) is amended—

(1) by striking out "shall, at the option of the State, be retained by such State or recovered" in the first sentence and inserting in lieu thereof "shall be recovered", and

(2) by striking out the second sentence.

ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIEN

SEC. 1205. Section 1902(a)(17)(C), as amended by section 1202(f)(2) of this Act, is amended by inserting before the semicolon the following: ", or is an alien legally residing in the United States who entered the United States within three years prior to the date of the application for medical assistance and whose entry was sponsored by the individual whose income and resources are attributed to him".

Subpart II—Medicare Part B Changes

CONTRACTS FOR THE ADMINISTRATION OF BENEFITS

SEC. 1211. (a) The heading of section 1842 is amended by striking out "CARRIERS" and inserting in lieu therof "PUBLIC AND PRIVATE ENTITIES".

(b)(1) The matter in subsection (a) of that section preceding paragraph (1) is amended—

(A) by striking out "and with a view to furthering coordination of the administration of the benefits under part A and under this part,",

(B) by striking out "carriers, including carriers with which agreements under section 1816 are in effect," and inserting in lieu thereof "public and private entities", and

(C) by striking out the semicolon and all that follows up to the colon.

(2) Paragraph (1)(A) of that subsection is amended—

(A) by inserting "(subject to the provisions of section 1878 and to such review by the Secretary as may be provided for by the contract)" after "determinations", and

(B) by striking out "or reasonable charge" and inserting in lieu thereof ", reasonable charge, or other".

(3) That subsection is further amended by striking out "part" each place it occurs and inserting in lieu thereof "title".

(4) That subsection is further amended—

(A) by striking out "and" at the end of paragraph (3),

(B) by redesignating paragraph (4) as paragraph (5), and

(C) by inserting after paragraph (3) the following paragraph:

"(4) provide consultative services to entities furnishing health services to enable them to establish and maintain fiscal records necessary for purposes of this title and otherwise to become or remain eligible for payments under this title; and"

(c)(1) Subsection (b) of that section is amended by striking out paragraphs (1) and (4).

(2) Paragraph (3) of that subsection is amended—

(A) by inserting ", as appropriate," in the matter preceding paragraph (A) after "provide";

(B) by striking out "part" in subparagraph (A) and inserting in lieu thereof "title";

(C) by inserting "(if any)" in the matter in subparagraph (B) preceding clause (i) after "subscribers";

(D) by striking out "this part" each place it occurs in subparagraph (C) and inserting in lieu thereof "part B";

(E) by striking out "part" in subparagraph (D) and inserting in lieu thereof "title";

(F) in subparagraph (E)—

(i) by inserting "(and to its claims processing operations)" after "thereto", and

(ii) by striking out "part" and inserting in lieu thereof "title";

(G) in subparagraph (F)—

(i) by striking out "this part" and inserting in lieu thereof "part B", and

(ii) by striking out "this section" and inserting in lieu thereof "this title";

(H) by striking out "for purposes of this paragraph" in the second sentence;

(I) in the third sentence—

(i) by striking out "this part" each place it occurs and inserting in lieu thereof "part B",

(ii) by striking out "(i)" and inserting in lieu thereof "(1)",

(iii) by striking out "the carrier" and inserting in lieu thereof "an entity under section 1868", and

(iv) by striking out "(ii)" and inserting in lieu thereof "(2)";

(J) by striking out "(ii)" each place it occurs in the fourth sentence and inserting in lieu thereof "(2)";

(K) by striking out "fiscal intermediary, carrier" in the seventh sentence and inserting in lieu thereof "entity under this section"; and

(L) by striking out "third and fourth sentences preceding this sentence" in the eighth sentence and inserting in lieu thereof "second and third sentences of this subsection".

(3) The first sentence of paragraph (5) of that subsection is amended by striking out "this part" and inserting in lieu thereof "part B".

(4) Paragraph (6) of that subsection is amended by striking out "this part" each place it occurs and inserting in lieu thereof "part B".

(5) That subsection is amended by striking out "carrier" each place it occurs and inserting in lieu thereof "entity".

(d) Subsection (c) of that section is amended to read as follows:

"(c) Any contract entered into with an entity under this section may provide for advances of funds to the entity for the making of payments by it under this title.".

(e) Subsection (d) of that section is amended—

(1) by striking out "a carrier" and inserting in lieu thereof "an entity".

(2) by striking out "such carrier" and inserting in lieu thereof "the entity", and

(3) by striking out "surety" and inserting in lieu thereof "fidelity".

(f) Subsection (f) of that section is repealed.

(g) Subsection (g) of that section is amended—

(1) by striking out "a carrier or carriers" and inserting in lieu thereof "an entity or entities", and

(2) by inserting "in relation to part B" after "this section".

(h) Subsection (h) of that section is amended by striking out "this part" each place it occurs and inserting in lieu thereof "part B".

(i) The second, third, fourth, fifth, sixth, and eighth sentences of subsection (b)(3) of that section are consolidated into a new subsection, designated as subsection (dd), assigned the heading "Reasonable Charge", and transferred and inserted at the end of section 1861.

(j) The remainder of section 1842 is redesignated as section 1868 and inserted into part C of title XVIII after section 1867.

(k) Section 1816 is repealed.

(l) Sections 1832(a)(2)(F)(i), 1833(a)(1)(B), 1833(a)(1)(F), 1833(b)(2), 1833(i)(3), 1877(d), 1878(a)(1), and 1914(a)(2) are each amended by striking out "section 1842(b)(3)(B)(ii)" and inserting in lieu thereof "section 1868(b)(3)(B)(ii)".

(m) The first sentence of section 1841(i) is amended by striking out "section 1842(g)" and inserting in lieu thereof "section 1868(g)".

(n) Subsection (f) of section 1843 is repealed.

(o) Section 1876(a)(3)(A)(iv) is amended by striking out "organizations described in sections 1816 and 1842" and inserting in lieu thereof "entities described in section 1868".

(p)(1) Subsection (a) of section 1878 is amended—

(A) by striking out "the organization serving as its fiscal intermediary pursuant to section 1816" in paragraph (1)(A) and inserting in lieu thereof "an entity under section 1868",

(B) by striking out "intermediary" in paragraph (1)(B) and inserting in lieu thereof "entity", and

(C) by striking out "intermediary's" in paragraph (3) and inserting in lieu thereof "entity's".

(2) Subsection (d) of that section is amended—

(A) by striking out "intermediary" each place it occurs and inserting in lieu thereof "entity", and

(B) by striking out "fiscal".

(3) Subsection (g) of that section is amended by striking out "a fiscal intermediary" and inserting in lieu thereof "an entity under section 1868".

(q) Section 1879(d) is amended by striking out "section 1842(b)(3)(C)" and inserting in lieu thereof "section 1868(b)(3)(C)".

(r) Section 1124(a)(2)(C) is amended—

(1) by striking out "a carrier or other agency or organization" and inserting in lieu thereof "an entity", and

(2) by striking out "(i) an agreement under section 1816, (ii) a contract under section 1842, or (iii)" and inserting in lieu thereof "(i) a contract under section 1868 or (ii)".

(s) Section 1158(c) is amended by striking out "by agencies and organizations which are parties to agreements entered into by the Secretary pursuant to section 1816, carriers which are parties to contracts entered into by the Secretary pursuant to section 1842," and inserting in lieu thereof "by entities which are parties to contracts entered into by the Secretary pursuant to section 1868".

(t) Section 1165 is amended—

(1) by redesignating paragraph (b) as paragraph (2), and

(2) by redesignating paragraph (a) as paragraph (1) and amending it to read as follows:

"(1)(A) entities which are parties to contracts entered into pursuant to section 1868, and (B) any other entities (other than Professional Standards Review Organizations) having review or control functions, or proved relevant data-gathering procedures and experience, and",

(u) Section 918(a)(3) of the Omnibus Reconciliation Act of 1980 is amended by striking out "section 1842(h)" each place it occurs and inserting in lieu thereof "section 1868(h)".

(v)(1) The amendments made by this section are effective as of the fourth month beginning after the date of the enactment of this Act.

(2) Contracts with entities under section 1868 of the Social Security Act may be entered into during the five year period beginning with the fourth month beginning after the date of the enactment of this Act without regard to section 3709 of the Revised Statues or any other provision of law requiring competitive bidding.

ELIMINATION OF REQUIREMENT FOR A RAILROAD RETIREMENT BOARD CARRIER CONTRACT

SEC. 1212. (a) Subsection (g) of section 1868 (as redesignated by section 1211(j) of this Act) and subsection (i) of section 1841 are repealed.

(b) The amendments made by subsection (a) are effective one year after the date of the enactment of this Act, or at such earlier time as the Secretary of Health and Human Services and the Railroad Retirement Board may agree.

WITHHOLDING OF PAYMENTS FOR CERTAIN MEDICAID PROVIDERS

SEC. 1213. Title XVIII is amended by adding at the end the following new section:

"WITHHOLDING OF PAYMENTS FOR CERTAIN MEDICAID PROVIDERS

"SEC. 1884. (a) The Secretary may adjust, in accordance with this section, payments under parts A and B to any institution which has in effect an agreement with the Secretary under section 1866, and any person who has accepted payment on the basis of an assignment under section 1842(b)(3)(B)(ii), where such institution or person (1) has (or previously had) in effect an agreement with a State agency to furnish medical care and services under title XIX, and (2) from which (or from whom) such State agency (A) has been unable to recover overpayments made under the State plan, or (B) has been unable to collect the information necessary to enable it to determine the amount (if any) of the overpayments made to such institution or person under the State plan.

"(b) The Secretary shall by regulation provide procedures for implementation of this section, which procedures shall—

"(1) assure that the authority under this section is exercised only on behalf of a State agency which demonstrates to the Secretary's satisfaction that it has provided adequate notice of a determination or of a need for information, and an opportunity to appeal such determination or to provide such information,

"(2) determine the amount of the payment to which the institution or person would otherwise be entitled under this title which shall be treated as a setoff against overpayments under title XIX, and

"(3) assure the restoration to the institution or person of amounts withheld under this section which are ultimately determined to be in excess of overpayments under title XIX and to which the institution or person would otherwise be entitled under this title.

"(c) Notwithstanding any other provision of this Act, from the trust funds established under sections 1817 and 1841, as appropriate, the Secretary shall pay to the appropriate State agency amounts recovered under this section to offset the State agency's overpayment under title XIX. Such payment shall be accounted for the State agency as recoveries of overpayments under the State plan.".

ANNUAL LIMIT OF TWO HUNDRED VISITS FOR HOME HEALTH SERVICES

SEC. 1214. (a)(1) Section 1812(a)(3) is amended by inserting "for up to 100 visits during a calendar year" before the period.

(2) Section 1812 is amended by inserting after subsection (c) the following subsection:

"(d) Payment under this part may be made for home health services furnished an individual during a calendar year only for 100 visits during that year. The number of visits to be charged for purposes of the limitation in the preceding sentence, in connection with items and services described in section 1861(m), shall be determined in accordance with regulations.".

(3) Section 1812(e) is amended—

(A) by striking out "(b) and (c)" and inserting in lieu thereof "(b), (c), and (d)", and

(B) by striking out "and post-hospital extended care services" and inserting in lieu thereof ", post-hospital extended care services, and home health services".

(4) Section 1832(a)(2)(A) is amended by inserting "for up to 100 visits during a calendar year" before the semicolon.

(5) Title XVIII is amended by inserting after section 1833 the following section:

"LIMITATION ON HOME HEALTH SERVICES

"SEC. 1834. (a) Payment under this part may be made for home health services furnished an individual during a calendar year only for 100 visits during that year. The number of visits to be charged for purposes of the limitation in the preceding sentence, in connection with items and services described in section 1861(m), shall be determined in accordance with regulations.

"(b) For purposes of subsection (a), home health services shall be taken into account only if payment under this part is or would be, except for this section or the failure to comply with the request and certification requirements of or under section 1835(a), made with respect to such services.".

(b) The amendments made by this section shall apply to services furnished after the third month beginning after the date of the enactment of this Act.

(c) The number of visits to be charged under section 1812(d) of the Social Security Act (as enacted by subsection (a)(2) of this section) or under section 1834 of that Act (as enacted by subsection (a)(5) of this section) during the calendar year in which those sections as enacted are effective include the number of visits made during that calendar year but before the effective date, except that an individual shall be entitled under part A of title XVIII of that Act to at least 100 visits in calendar year 1981 after the beginning of each spell of illness (as defined in section 1861(a) of that Act) that begins in that year, but before July 1, 1981.

ELIMINATION OF NEED FOR OCCUPATIONAL THERAPY AS A BASIS FOR ENTITLEMENT TO HOME HEALTH SERVICES

SEC. 1215. (a) Sections 1814(a)(2)(D) and 1835(a)(2)(A) are each amended by striking out ", occupational,".

(b) The amendments made by this section shall apply to services furnished after the

third month beginning after the date of the enactment of this Act.

ELIMINATION OF PART B COVERAGE OF OUTPATIENT REHABILIATION FACILITY SERVICES

SEC. 1216. (a)(1) Section 1832(a)(2) is amended—

(A) by adding "and" at the end of subparagraph (D),

(B) by striking out subparagraph (E), and

(C) by redesignating subparagraph (F) as subparagraph (E).

(2) Section 1833(i)(1)(A), the first sentence of section 1863, and the first sentence of section 1864(a) are each amended by striking out "1832(a)(2)(F)(i)" and inserting in lieu thereof "1832(a)(2)(E)(i)".

(3) Section 1835(a)(2) is amended—

(A) by striking out the semicolon at the end of subparagraph (D) and inserting in lieu thereof a period, and

(B) by striking out subparagraph (E).

(4) Sections 1861(u) and 1861(z) are each amended by striking out "comprehensive outpatient rehabilitation facility,".

(5) Subsection (cc) of section 1861 is repealed.

(6) The first sentence of section 1863 is amended by striking out "(o)(6), and (cc)(2)(I)" and inserting in lieu thereof "and (o)(6)".

(7) Section 1864(a) is amended—

(A) by striking out "or a comprehensive outpatient rehabilitation facility as defined in section 1861(cc)(2)" in the first sentence, and

(B) by striking out "comprehensive outpatient rehabilitation facility," each place it occurs in the second and fifth sentences.

(8) Section 1833(a) is amended—

(A) by striking out ", (E), and (F)" in the matter in paragraph (2) preceding subparagraph (A) and inserting in lieu thereof "and (E)",

(B) by striking out "subparagraphs (D) and (E)" in paragraph (3) and inserting in lieu thereof "subparagraph (D)", and

(C) by striking out "(F)" in paragraph (4) and inserting in lieu thereof "(E)".

(b) The amendments made by this section shall apply to services furnished after the third month beginning after the date of the enactment of this Act.

REDUCTION IN LIMIT FOR OUTPATIENT PHYSICAL THERAPY SERVICES

SEC. 1217. (a) Section 1833(g) is amended by striking out "$500" and inserting in lieu thereof "$100".

(b) The amendment made by subsection (a) applies to expenses incurred after the calendar year in which this Act is enacted.

ELIMINATION OF ADDITIONAL DENTAL COVERAGE

SEC. 1218. (a)(1) Section 1814(a)(2)(E) is amended by striking out "or because of the severity of the dental procedure".

(2) Clause (2) of the first sentence of section 1861(r) is amended by striking out everything after "such function" and inserting in lieu thereof ", but only with respect to (A) surgery related to the jaw or any structure contiguous to the jaw, (B) the reduction of any fracture of the jaw or any facial bone, or (C) the certification required by section 1814(a)(2)(E),".

(3) Section 1862(a)(12) is amended by striking out "or because of the severity of the dental procedure,".

(b) The amendments made by this section shall apply to services furnished after the third month beginning after the date of the enactment of this Act.

ELIMINATION OF UNLIMITED OPEN ENROLLMENT

SEC. 1219. (a) Subsection (e) of section 1837 is amended to read as follows:

"(e) There shall be a general enrollment period during the period beginning on January 1 and ending on March 31 of each year.".

(b) Section 1837(g)(3) is amended by striking out "the month in which the individual files an application establishing such entitlement" and inserting in lieu thereof "the earlier of the then current or immediately succeeding general enrollment period (as defined in subsection (e) of this section)".

(c) Section 1838(a)(2)(E) is amended by striking out "the first day of the third month" and inserting in lieu thereof "the July 1."

(d) The second sentence of section 1838(d) is amended by striking out "the month after the month in which he reenrolled" and inserting in lieu thereof "the close of the enrollment period in which he reenrolled".

(e) The amendments made by this section shall apply to enrollments occurring after the month of the enactment of this Act.

RESTRICTIONS ON NEW BUY-IN AGREEMENTS

SEC. 1220. (a) Section 1843 is amended by adding at the end the following new subsection:

"(i) Coverage extended to additional groups of individuals under an agreement (or a modification of an agreement) requested by a State during 1981 shall not extend to items and services furnished under this part after the second month beginning after the date of the enactment of the Health Care Financing Amendments of 1981.".

(b) For purposes of section 1843(e) of the Social Security Act, an individual's coverage period that is terminated by subsection (i) of that section shall be treated as terminated under subsection (d)(3) of that section as of the last day of the second month beginning after the date of the enactment of this Act.

REPEAL OF REQUIREMENT FOR END-STAGE RENAL DISEASE NETWORKS

SEC. 1221. (a)(1) Paragraph (1) of section 1881(c) is amended to read as follows:

"(1) For the purposes of assuring effective and efficient administration of the benefits provided under this section, the Secretary shall establish a national end-stage renal disease medical information system.".

(2) Paragraphs (2) through (5) of that section are repealed.

(3) Paragraph (6) of that section is amended—

(A) by striking out "and network" in the second sentence, and

(B) by redesignating that paragraph as paragraph (2).

(b) Section 1881(g) is amended—

(1) by striking out ", nationally and by renal disease network," in paragraph (1),

(2) by adding "and" at the end of paragraph (13),

(3) by striking out paragraph (14), and

(4) by redesignating paragraph (15) as paragraph (14).

(c) The amendments made by this section are effective as of the fourth month beginning after the date of the enactment of this Act.

REPEAL OF UTILIZATION REVIEW REQUIREMENTS

SEC. 1222. (a) Section 1814(a) is amended—

(1) by striking out "paragraphs (6) and (9)" in paragraph (2)(C) and inserting in lieu thereof "paragraph (9)",

(2) by adding "and" at the end of paragraph (4),

(3) by striking out the semicolon at the end of paragraph (5) and inserting in lieu thereof a period, and

(4) by striking out paragraphs (6) and (7).

(b) Section 1815 is amended by striking out subsection (b).

(c) Section 1842(a)(2) is amended—

(1) by striking out "(2)(A)" and all that follows through "(B)" and inserting in lieu thereof "(2)",

(2) by inserting "and" after "improvement,", and

(3) by striking out ", and provide procedures for" and all that follows through "to make reviews of utilization".

(d) Section 1861 is amended—

(1) by striking out paragraph (6) of subsection (e);

(2) by striking out paragraph (8) of subsection (j);

(3) by striking out subsection (k);

(4) by striking out "subsections (k) and (m)" each place it appears in subsection (r)(3) and inserting in lieu thereof "subsection (m)";

(5) by striking out paragraph (2) of subsection (w) and by striking out "(1)" in such subsection; and

(6) in subsection (aa)(2) by striking out subparagraph (I), adding "and" at the end of subparagraph (H), and redesignating subparagraph (J) as subparagraph (I).

(e) Section 1865(a) is amended—

(1) by striking out "(6)" in paragraph (3) and inserting in lieu thereof "(8)",

(2) by striking out "a utilization review plan" and inserting in lieu thereof "an overall plan and budget described in section 1861(z)", and

(3) by striking out "section 1861(e)(6)" and inserting in lieu thereof "section 1861(e)(8)".

(f) Section 1866 is amended by striking out subsection (d).

Subpart III—Other Provisions

CIVIL MONETARY PENALTIES FOR MEDICARE AND MEDICAID FRAUD

SEC. 1231. (a) Section 1107 is amended by adding at the end the following new subsection:

"(c)(1) Any individual who presents or causes to be presented to an officer, employee, or agent of the United States, or of any department or agency thereof, or of any State agency, a claim (as defined in paragraph (10)(B)) that the Secretary determines is for a medical or other item or service—

"(A) that he knows or has reason to know was not provided as claimed, or

"(B) that was provided while he was barred from participation in the program under which such claim was made, pursuant to a determination by the Secretary under this section or section 1128, 1160, 1862(d), or 1866,

shall be subject, in addition to any other penalties that may be prescribed by law, to a civil penalty of not more than $2000 for each item or service. In addition, such a person shall be subject to an assessment of not more than twice the amount claimed for each such item or service in lieu of damages sustained by the United States or a State agency because of such claim.

"(2) The Secretary shall not make a determination adverse to any person under paragraph (1) until such person has been given written notice and an opportunity for a hearing on the record at which he is entitled to be represented by counsel, to present witnesses, and to cross-examine witnesses against him.

"(3) In determining the amount of any penalty assessed pursuant to paragraph (1) of this subsection, the Secretary shall take into account (A) the nature of claims and

the circumstances under which they were presented, (B) the degree of culpability, history of prior offenses, and financial condition of the person presenting the claims, and (C) such other matters as justices may require.

"(4) Any person adversely affected by a determination of the Secretary under this subsection may obtain a review of such determination in the United States court of appeals for the circuit in which the person resides, or in which the claim was presented, by filing in such court within sixty days following notification to the person of the Secretary's final determination a written petition praying that the determination be modified or set aside. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, and thereupon the Secretary shall file in the court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have the power to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, remanding for further consideration, or setting aside, in whole or in part, the determination of the Secretary and enforcing the same to the extent that such order is affirmed or modified. No objection that has not been urged before the Secretary shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Secretary with respect to questions of fact, as supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be made a part of the record. The Secretary may modify his findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and he shall file such modified or new findings, which findings with respect to questions of fact.

TITLE II—REDUCTIONS IN AUTHORIZATIONS

PART A—CONRAIL

SEC. 6401. This part may be cited as the "Rail Service Improvement Act of 1981".

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Subpart 1—General Provisions

FINDINGS

SEC. 2001. The Congress finds and declares that—

(1) current arrangements for the provision of rail freight and commuter services in the northeast and midwest regions of the United States are inadequate to meet the transportation needs of the public and the needs of national security;

(2) the process set in motion by the Regional Rail Reorganization Act of 1973 has failed to create a profitable railroad system in the northeast and midwest regions of the United States and has cost United States taxpayers billions of dollars over original estimates;

(3) although the Federal Government has provided billions of dollars in assistance for Conrail and its employees, the Federal interest in ensuring the flow of interstate commerce through rail service in the private sector has not been achieved, and the protection of interstate commerce requires Federal intervention to preserve essential rail service in the private sector;

(4) the orderly integration of Conrail's freight service into the Nation's private rail system can be successful only if an orderly process is followed and adequate and equitable protections are provided for affected railroad employees and if acquiring railroads are not required to assume Conrail's commuter operations;

(5) the funds originally authorized for the protection of employees adversely affected by the consolidation of the bankrupt rail carriers into Conrail have been exhausted, and the additional funding authorized by the Staggers Rail Act of 1980 will be exhausted in the near future;

(6) since holding the Corporation liable for employee protection payments would destroy its prospects of becoming a profitable carrier and further injure its employees, an alternative employee protection system must be developed and funded;

(7) States, shippers, and consumers in the northeast and midwest must be included in the private sector improvements in rail service that are occurring throughout the national rail system; and

(8) an orderly transfer of the functions of the United States Railway Association to the Secretary of Transportation and the Attorney General of the United States will facilitate the exercise of those functions by the appropriate Federal officials.

PURPOSE

SEC. 2002. It is therefore declared to be the purpose of the Congress in this part to provide for—

(1) the removal by a date certain of the Federal Government's obligation to subsidize the freight operations of Conrail;

(2) transfer of Conrail commuter service responsibilities to one or more entities whose principal purpose is the provision of commuter service;

(3) adequate and equitable labor protection for employees deprived of employment by service transfers;

(4) the mechanism to ensure that Conrail freight service is performed in the private sector; and

(5) transfer of the functions of the United States Railway Association.

DEFINITIONS

SEC. 2203. As used in this part, unless the context otherwise requires, the term:

(1) "Amtrak" means the National Railroad Passenger Corporation created under title III of the Rail Passenger Service Act (45 U.S.C. 541 et seq.).

(2) "Commission" means the Interstate Commerce Commission.

(3) "Commuter authority" means any State, local, or regional authority, corporation, or other entity established for purposes of providing commuter service, and includes the Metropolitan Transportation Authority, the Connecticut Department of Transportation, the Maryland Department of Transportation, the Southeastern Pennsylvania Transportation Authority, the New Jersey Transit Corporation, the Massachusetts Bay Transportation Authority, the Port Authority Trans-Hudson Corporation, any successor agencies, and any entity created by one or more such agencies for the purpose of operating, or contracting for the operation of, commuter services.

(4) "Commuter services" means short-haul rail passenger service operated in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride, and commutation tickets, and by morning and evening peak period operations.

(5) "Conrail" means the Consolidated Rail Corporation created under title III of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741 et seq.).

(6) "Profitable carrier" means a carrier that generates sufficient revenues to meet its expenses, including reasonable maintenance of necessary equipment and facilities, without funding from the Federal Government.

(7) "Rail carrier" means a common carrier engaged in interstate or foreign commerce by rail subject to subtitle IV of title 49, United States Code.

(8) "Secretary" means the Secretary of Transportation or the representative authorized by the Secretary to carry out the

responsibilities of the Secretary under this part.

(9) "Special court" means the judicial panel established under section 209 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719).

Subpart 2—Transfer of Rail Service Responsibilities

Chapter I—TRANSFER OF CONRAIL COMMUTER SERVICES

SEPARATION OF COMMUTER FUNCTIONS

SEC. 2011. (a) Title III of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741 et seq.) is amended by adding at the end thereof the following new section:

"SEPARATION OF COMMUTER FUNCTIONS

"SEC. 308. (a) ESTABLISHMENT OF SUBSIDIARY.—The Corporation shall, within 30 days after the effective date of this section, establish a subsidiary for purposes of operating the commuter services which the Corporation is obligated to operate under this Act (hereinafter referred to as the 'commuter subsidiary').

"(b) STATUS.—(1) The provisions of this Act relating to the operation of commuter service shall apply to the commuter subsidiary as if it were the Corporation.

"(2) The commuter subsidiary shall be deemed to be a contract operator of commuter service on behalf of the commuter authorities for which the Corporation operates commuter service under this Act, and shall have no common carrier obligation to operate either passenger or freight service.

"(3) The provisions of section 10 of the Clayton Act (15 U.S.C. 20) shall not apply to transactions between the Corporation and the commuter subsidiary.

"(4) Financial statements of the commuter subsidiary shall not be consolidated in or included with those of the Corporation.

"(5) The commuter subsidiary shall be exempt from the payment of taxes to the same extent as Amtrak Commuter is exempt under section 501(c)(3) of the Rail Passenger Service Act.

"(c) COLLECTIVE BARGAINING AGREEMENTS.—The commuter subsidiary shall assume and apply the collective bargaining agreements in effect between the Corporation and its employees on the effective date of this section.

"(d) CAPITALIZATION.—The commuter subsidiary is authorized to issue common stock to the Corporation.

"(e) RELIEF FROM OBLIGATIONS.—Effective 540 days after the effective date of this section, the Corporation shall be relieved of all obligations to operate commuter service, whether as a common carrier of passengers or under its subsidy agreements with commuter authorities pursuant to this Act.

"(f) FUTURE COMMUTER SERVICE.—At the time the Corporation is relieved of its obligation to operate commuter service under this Act, the commuter authorities for which such service was operated may contract with any other entity, including Amtrak Commuter, for the operation of such service.

"(g) PROPERTY TRANSFER.—(1) After the Corporation is relieved of its obligation to operate commuter service, the Corporation and its subsidiary shall transfer to Amtrak Commuter, or to any commuter authority or other entity that will operate the commuter service, such rail properties, rights, or interests as may be necessary for Amtrak Commuter or such authority or other entity to operate commuter services.

"(2) The Corporation shall retain appropriate trackage rights for freight operations over any rail properties which are transferred under this subsection.

"(3) Consideration for inventory transferred under this subsection shall be based on book value. The transfer of fixed facilities, rolling stock, and other equipment under this subsection shall be without consideration.

"(h) CONTRACT PROVISIONS.—Notwithstanding any provision of any lease, contract, or other agreement, any transfer, assignment, or other disposition of such lease, contract, or other agreement by the Corporation pursuant to this title shall not be deemed a breach, an event of default, or a violation of any convenant.

"(i) CONCERTED ECONOMIC ACTION.—(1) Any person engaging in concerted economic action over disputes with Amtrak Commuter or any commuter authority shall not be entitled to engage in any strike against, or otherwise to induce any employee of, the Corporation, where an effect thereof is to interfere with rail freight services provided by the Corporation.

"(2) Any person engaging in concerted economic action over disputes arising out of freight operations provided by the Corporation shall not be entitled to engage in any strike against, or otherwise to induce any employee of, Amtrak Commuter or any commuter authority, where an effect therefore is to interfere with rail passenger services.

"(3) Any concerted action in violation of this subsection shall be deemed to be a violation of the Railway Labor Act.

"(j) DEFINITIONS.—As used in this section—

"(1) 'Amtrak Commuter' means the Amtrak Commuter Services Corporation created under title V of the Rail Passenger Service Act;

"(2) 'commuter authority' means any State, local, or regional authority, corporation, or other entity established for purposes of providing commuter service; and

"(3) 'commuter service' means short-haul rail passenger service operated in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride, and commutation tickets and by morning and evening peak period operations.

"(k) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the commuter subsidiary for purposes of establishing a working capital revolving fund not to exceed $50,000,000 for the fiscal year ending September 30, 1982. Such revolving fund shall be used by the commuter subsidiary for purposes of meeting periodic expenses connected with the operation of commuter service until such expenses have been reimbursed by the appropriate commuter authorities.

"(2) After the Corporation is relieved of its obligation to operate commuter services, the working capital revolving fund established under paragraph (1) of this subsection (including any outstanding liabilities of commuter authorities to such fund) shall be transferred to Amtrak Commuter for purposes of carrying out title V of the Rail Passenger Service Act.

"(3) Amounts appropriated under this subsection are authorized to remain available until expended.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 307 the following new item:

"Sec. 308. Separation of commuter functions.".

ESTABLISHMENT OF AMTRAK COMMUTER

SEC. 2012. (a) The Rail Passenger Service Act (45 U.S.C. 507 et seq.) is amended by inserting immediately after title IV thereof the following new title:

"TITLE V—AMTRAK COMMUTER SERVICES

"SEC. 501. ESTABLISHMENT OF AMTRAK COMMUTER.

"(a) There shall be established within 240 days after the effective date of this title a wholly-owned subsidiary of the Corporation to be known as the Amtrak Commuter Services Corporation (hereinafter referred to as "Amtrak Commuter").

"(b)(1) Amtrak Commuter shall not be an agency or instrumentality of the Federal Government. Amtrak Commuter shall be subject to the provisions of this Act and, to the extent not inconsistent with this Act, to the District of Columbia Business Corporation Act.

"(2) Amtrak Commuter shall be deemed to be a contract operator of commuter service on behalf of the commuter authorities that contract with Amtrak Commuter for the operation of commuter service under this title. Amtrak Commuter shall have no common carrier obligation to operate either passenger or freight service.

"(c)(1) Amtrak Commuter shall not be subject to the jurisdiction of the Commission under chapter 105 of title 49, United States Code, but it shall (treated as a separate rail carrier) be subject to the same laws and regulations with respect to safety and with respect to the representation of its employees for purposes of collective bargaining, the handling of disputes between carriers and their employees, employee retirement, annuity, and unemployment systems, and other dealings with its employees as any rail carrier providing transportation subject to the jurisdiction of the Commission under chapter 105 of such title 49.

"(2) Amtrak Commuter shall not be subject to any State or other law relating to the transportation of passengers by railroad insofar as such law relates to rates, routes, or service, including any modification or discontinuance thereof.

"(3) Amtrak Commuter shall be exempt from the payment of taxes to the same extent as the Corporation is exempt under section 306(n) of this Act.

"(4) The provisions of section 10 of the Clayton Act (15 U.S.C. 20) shall not apply to transactions between Amtrak Commuter and the Corporation.

"(d) The Board of Directors of the Corporation shall be the incorporators of Amtrak Commuter and shall take whatever steps are necessary to establish Amtrak Commuter, including filing articles of incorporation.

"SEC. 502. DIRECTORS AND OFFICERS.

"(a)(1) Amtrak Commuter shall have a Board of Directors consisting of six individuals, as follows:

"(A) The President of Amtrak Commuter, ex officio.

"(B) Two members who are selected by commuter authorities to serve on the Board of Directors of the Corporation in accordance with section 303(a)(1) of this Act.

"(C) Two members selected by the Board of Directors of the Corporation (in addition to those members described in subparagraph (B)).

"(D) One member from a commuter authority (in addition to those members described in subparagraph (B)), as follows:

"(i) During the period prior to the commencement of the operation of commuter

service by Amtrak Commuter, such member shall be selected by commuter authorities for which the Consolidated Rail Corporation operates commuter service under the Regional Rail Reorganization Act of 1973.

"(ii) Beginning 540 days after the effective date of this title, such member shall be selected by commuter authorities for which Amtrak Commuter operates commuter service pursuant to this title, but such member shall serve only if Amtrak Commuter enters into contracts with two or more commuter authorities for the operation of commuter service.

"(2)(A) Except as provided in paragraph (1)(D)(i) of this section, members of the Board of Directors of Amtrak Commuter shall serve terms of two years, and any vacancy in the membership of the Board shall be filled in the same manner as in the case of the original selection.

"(B) The Board shall elect one of its members annually to serve as Chairman.

"(C) Each member of the Board shall receive compensation and reimbursement in accordance with section 303(a)(5) of this Act.

"(b) The provisions of section 303 (b) and (d) of this Act shall apply to Amtrak Commuter.

"SEC. 503. GENERAL POWERS OF AMTRAK COMMUTER.

"(a)(1) Amtrak Commuter is authorized to own, manage, operate, or contract for the operation of commuter service; to conduct research and development related to its mission; and to acquire by construction, purchase, or gift, or to contract for the use of, physical facilities, equipment, and devices necessary to commuter service operations.

"(2) Amtrak Commuter shall, to the extent consistent with this Act and the agreements with the commuter authorities, directly operate and control all aspects of its commuter service.

"(b) To carry out its functions and purposes, Amtrak Commuter shall have the usual powers conferred upon a stock corporation by the District of Columbia Business Corporation Act.

"(c) Amtrak Commuter is authorized to issue common stock to the Corporation.

"SEC. 504. COMMUTER SERVICE.

"(a) Amtrak Commuter is authorized to operate commuter service under an agreement with a commuter authority. Effective 540 days after the effective date of this title, any commuter service operated by Amtrak Commuter under an agreement with a commuter authority shall be operated solely pursuant to the provisions of subsections (b) through (i) of this section.

"(b) Amtrak Commuter shall operate commuter service which the Consolidated Rail Corporation was obligated to provide on the effective date of this title under section 303(b)(2) or 304(e) of the Regional Rail Reorganization Act of 1973, and may operate any other commuter service, if the commuter authority for which such service is to be operated agrees to provide—

"(1) a commuter service operating payment which is designed to cover the difference between the revenue attributable to the operation of such service and the avoidable costs of operating such service, including the avoidable cost of any capital improvements necessary to operate such service; or

"(2) a commuter service operating payment which is payable pursuant to a lease or agreement with a commuter authority under which financial support was being provided on January 2, 1974, for the continuation of rail passenger service.

"(c) Any agreement to provide a commuter service operating payment under subsection (b) of this section shall be made in accordance with regulations issued by the Rail Services Planning Office pursuant to section 205(d)(5) of the Regional Rail Reorganization Act of 1973. The Office may revise and update such regulations as may be necessary to carry out the provisions of this section.

"(d)(1) If a commuter authority offers to provide payment for the provision of additional commuter service, Amtrak Commuter may provide such service pursuant to this section if such payment is designed to avoid any additional costs to Amtrak Commuter or the Corporation arising from the construction or modification of capital facilities or from any additional operating delays or costs arising from the absence of such construction or modification. Any additional manpower requirements shall be satisfied through existing seniority arrangements as agreed to in the implementing agreement negotiated pursuant to section 506 of this Act.

"(2) Any commuter authority making an offer under this paragraph shall demonstrate that—

"(A) such commuter authority has acquired, leased, or otherwise obtained access to all rail properties necessary to provide such additional commuter service; and

"(B) such commuter authority has completed, or will complete prior to the inception of such additional commuter service, all capital improvements necessary to avoid significant costs which cannot be avoided by improved scheduling or other means on other existing rail services (including rail freight service) and to assure that the additional commuter service will not significantly detract from the level and quality of existing rail passenger and freight service.

"(e)(1) Amtrak Commuter may discontinue commuter service provided under this section upon 60 days' notice if—

"(A) a commuter authority does not offer a commuter service operating payment in accordance with subsection (b) of this section; or

"(B) an applicable commuter service operating payment is not paid when it is due.

"(2) The notice required under this subsection shall be determined pursuant to regulations issued by the Rail Services Planning Office.

"(f) Notwithstanding any other provision of law, compensation to the Corporation or Amtrak Commuter for right-of-way related costs for service over the Northeast Corridor and other properties owned by the Corporation shall be determined in accordance with the methodology determined by the Commission or agreed upon by the parties pursuant to section 2088 of the Rail Service Improvement Act of 1981.

"(g) If a commuter authority fails to offer a commuter service operating payment pursuant to subsection (b)(2) of this section, then any lease or agreement under which financial support was being provided on January 2, 1974, for the continuation of rail passenger service shall not apply to Amtrak Commuter, but the Corporation and the consolidated Rail Corporation shall retain appropriate trackage rights (for freight and passenger operations respectively) over any rail properties owned or leased by such commuter agency. Compensation for such trackage rights shall be fair and equitable.

"(h) Notwithstanding any other provision of this section, Amtrak Commuter is not obligated to provide commuter service if a commuter authority contracts for the provision of such service by an operator other than Amtrak Commuter. In any such case, Amtrak Commuter shall, where appropriate, provide the operator of such service with access to the rail properties needed to operate such service.

"(i) If the Board of Directors of Amtrak Commuter determines that the amount in the revolving fund transferred to Amtrak Commuter pursuant to section 308(k) of the Regional Rail Reorganization Act of 1973 is in excess of the amount needed as a revolving fund for purposes of this title, the Board shall allocate a proportionate share of such excess amount to any commuter authority that, after being provided commuter service under an agreement with Amtrak Commuter under this title, has elected to operate its own commuter service. The Board shall determine the amount of such proportionate allocation on the basis of the ridership of such commuter authority and the ridership of those commuter authorities remaining under contract with Amtrak Commuter.

"SEC. 505. NORTHEAST CORRIDOR COORDINATION.

"(a) The Board of Directors of Amtrak Commuter shall develop and recommend to the Corporation—

"(1) policies which ensure equitable access to the Northeast Corridor, taking into account the need for equitable access by commuter and intercity services and the requirements of section 402(e) of this Act; and

"(2) equitable policies for the Northeast Corridor with respect to dispatching, public information, maintenance of equipment and facilities, major capital facility investments, and harmonization of equipment acquisitions, fares, tariffs, and schedules.

"(b) The Board of Directors of Amtrak Commuter may recommend to the President and Board of Directors of the Corporation such actions as are necessary to resolve differences of opinions regarding operations (among or between the Corporation, Amtrak Commuter, other railroads, commuter authorities, and other State, local, and regional agencies responsible for the provision of commuter rail, rapid rail, or rail freight services), with respect to all matters except those conferred on the Commission in section 402(a) of this Act.".

PROHIBITION OF CROSS-SUBSIDIZATION

Sec. 2013. Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended by adding at the end thereof the following new subsection:

"(c) None of the funds appropriated under this section for the payment of operating and capital expenses of intercity rail passenger service shall be used for the operation of commuter service by Amtrak Commuter.".

AUTHORIZATION OF APPROPRIATIONS

Sec. 2014. Section 601 of the Rail Passenger Service Act (45 U.S.C. 601), as amended by this part, is further amended by adding at the end thereof the following new subsection:

"(d) There is authorized to be appropriated to the Secretary for the benefit of the Corporation not to exceed $20,000,000 for the fiscal year ending September 30, 1982, to be allocated to any commuter authority that was providing commuter service, operated by a railroad that entered reorganization after calendar year 1974, as of January 1, 1979.".

Chapter II—ADDITIONAL FINANCING OF CONRAIL

ADDITIONAL FINANCING OF CONRAIL

SEC. 2021. (a) Title II of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721 et seq.) is amended by adding at the end thereof the following new section:

"ADDITIONAL PURCHASES OF SERIES A PREFERRED STOCK

"SEC. 217. (a) FEDERAL INVESTMENT.—Notwithstanding any other provision of this Act, any investment by the Federal Government in the securities of the Corporation after October 1, 1981, shall be by the purchase of series A preferred stock in accordance with this section.

"(b) TIMING AND AMOUNT OF PURCHASES.—(1) The Association shall determine, in accordance with this section, whether to purchase the following amounts of series A preferred stock and accounts receivable of the Corporation on the following purchase dates:

"(A) On October 1, 1981, the purchase of $125,000,000 of stock, accounts receivable of the Corporation attributable to the dispute over the right-of-way related costs described in section 2088(a)(1) of the Rail Service Improvement Act of 1981, and accounts receivable of the Corporation attributable to delays in reimbursement from commuter agencies.

"(B) On April 1, 1982, the purchase of $125,000,000 of stock and accounts receivable described in subparagraph (A) of this paragraph.

"(C) On October 1, 1982, the purchase of $100,000,000 of stock.

"(D) On April 1, 1983, the purchase of $75,000,000 of stock.

"(E) On September 30, 1983, the purchase of $50,000,000 of stock.

"(2) Any request by the Corporation for the purchase of stock (or accounts receivable if applicable) under this section shall be filed with the Association not less than 30 days prior to the purchase date, and shall describe how the conditions set forth in subsection (c) have been met.

"(3) Any purchase not requested by the Corporation or approved by the Association on any particular purchase date may be deferred by the Association.

"(4) On each purchase date the Association shall make a determination whether the Corporation will be a profitable carrier. The Association shall immediately notify the Secretary of its determination. For the purpose of making such determination, the Association shall assume that the interest of the United States in any debt or preferred stock of the Corporation is limited as required under section 402 of this Act.

"(c) CONDITIONS.—The Association shall purchase shares of series A preferred stock and accounts receivable on the purchase dates set forth in subsection (b) of this section only if the Corporation demonstrates to the satisfaction of the Association that the following conditions have been met:

"(1) NON-AGREEMENT PERSONNEL.— (A) Employees who are not subject to collective-bargaining agreements (hereinafter in this section referred to as 'non-agreement personnel') are foregoing wage increases and benefits in an amount proportionately equivalent to the amount foregone by agreement employees pursuant to paragraph (5) of this subsection, adjusted annually to reflect inflation.

"(B) The number of non-agreement personnel is reduced proportionately to any reduction in agreement employees (excluding reductions pursuant to the termination program under section 702 of this Act). Any reduction in non-agreement personnel or agreement employees which occurs after May 1, 1981, shall be included for purposes of this subparagraph.

"(2) SUPPLIERS.—Materials and services continue to be available to the Corporation, under normal business practices, which shall include the provision of credit and normal financing arrangements.

"(3) SHIPPERS.—(A) The Corporation, on each purchase date, submits to the Association a projection for the next six-month period and a report for the previous six-month period, which establishes that the Corporation has maximized and will continue to maximize its opportunities to generate revenues under the provisions of this Act, the Staggers Rail Act of 1980, and subtitle IV of title 49, United States Code.

"(B) Shippers of goods transported by the Corporation are not unduly interfering in the maximization of revenues by the Corporation.

"(4) FINANCIAL PLAN.—(A) The Corporation, by October 1, 1981, submits to the Association a financial plan which (i) indicates how the Corporation will become a profitable carrier within the funding limitations and timetable of this Act, and (ii) establishes projected financial needs of the Corporation and sets forth a schedule for reducing its losses.

"(B) The Corporation, on each purchase date, substantially complies with the financial plan filed under subparagraph (A).

"(C) The Corporation may amend its financial plan on any purchase date, but the plan as amended must meet the requirements of subparagraph (A).

"(5) AGREEMENT EMPLOYEES.—(A)(i) The Corporation enters into collective bargaining agreements with its employees which provide the Corporation benefits equal to $200,000,000 a year, beginning April 1, 1981, adjusted annually to reflect inflation.

"(ii) Agreements under this subparagraph may provide for reductions in wage increases and for changes in fringe benefits common to agreement employees, including vacations and holidays.

"(iii) The benefits required under this subparagraph in the first year of the agreement may be deferred until the second year of the agreement, but any benefits so deferred must be provided no later than the end of such second year (in addition to the benefits otherwise required in such year).

"(iv) The amount of benefits provided under this paragraph shall be calculated by subtracting the cost of an agreement entered into under this paragraph from (I) the cost that would otherwise result from the application of the national agreement reached by railroad industry and its employees, or (II) until such national agreement is reached, the cost which the Association estimates would result from the application of such a national agreement.

"(B)(i) The Corporation enters into collective bargaining agreements with its employees which provide for the establishment of one or more advisory fact-finding panels, chaired by a neutral expert in industrial relations, for purposes of recommending changes in operating practices and procedures which result in greater productivity to the maximum extent practicable.

"(ii) The National Mediation Board shall appoint public members to any panel established under this subparagraph, and shall perform such functions contained in the agreement as are consistent with the duties of such Board under the Railway Labor Act.

"(iii) The fact-finding panel may, before making its report to the parties, provide mediation, conciliation, and other assistance to the parties.

"(C) Any savings resulting from any of the following shall not be included as benefits for purposes of this paragraph:

"(i) The implementation of any crew consist agreement or fireman manning agreement in effect on the effective date of this section.

"(ii) The provision of benefits under section 701 or the termination of employees under section 702 of this Act.

"(iii) The separation of employees under any other provision of law or agreement.

"(iv) Any collective bargaining agreement signed or any procedures agreed to prior to January 1, 1981.

"(v) The assignment of work under section 706 or any single collective bargaining agreement entered into under section 708 of this Act.

"(D)(i) Notwithstanding any other provision of this section, if an agreement is not reached under this paragraph by the initial purchase date, the Association shall still purchase additional shares of stock of the Corporation if the Association determines that there is a substantial likelihood that an agreement providing the benefits required by this paragraph will be reached by the end of the six-month period beginning on such initial purchase date.

"(ii) The benefits received by the Corporation during the period beginning on the initial purchase date and ending on the effective date of any agreement subsequently reached which result from the lack of retroactivity of wage increases shall be included as benefits to the Corporation for purposes of this paragraph.

"(6) SUBSIDIARIES.—(A) The Corporation, by January 1, 1982, provides the Association with a list of all subsidiaries of the Corporation (other than the Conrail Equity Corporation and any commuter subsidiary), identifying those subsidiaries which did not operate at a profit during the preceding 12-month period.

"(B) The Association shall, within 12 months after the effective date of this section, order the Corporation to sell any subsidiary identified as not profitable under subparagraph (A) unless the Association determines that the benefits to the Corporation of maintaining ownership of such subsidiary outweigh the financial loss to the Corporation resulting from such ownership.

"(d) MODIFICATION OF CONDITIONS.—(1) The Association may increase the conditions required under subsection (c) of this section, on a proportionate basis to the maximum extent practicable, if it determines that the Corporation needs additional benefits in order to become profitable. The Association may also require the Corporation to demonstrate productivity increase if it determines that such increase are necessary to enable the Corporation to become profitable.

(2) Any modified conditions adopted by the Association under this subsection shall become the conditions which must be met in order for the Association to purchase additional stock of the Corporation under this section.

"(e) DETERMINATIONS AND AMENDED REQUESTS.—(1) If the Association determines that the conditions of subsection (c) have not been met as of any purchase date, it shall notify the Corporation no later than 15 days after such purchase date of the specific conditions that have not been met.

"(2) The Corporation may request the Association to reconsider its determination under this subsection if the Corporation is able to present new evidence that the conditions have been met or is able to present an amended request for a purchase pursuant to this section. If the Association determines, on the basis of such new evidence or such amended request, that the conditions have been met, the Association shall purchase the additional stock (or accounts receivable if applicable) of the Corporation.

"(f) WORKER PARTICIPATION AND SELF-MANAGEMENT DEMONSTRATION PROGRAMS.—(1) The Corporation shall, within 180 days after the effective date of this section, enter into agreements with representatives of the various classes and crafts of employees for the establishment, on a demonstration basis, of worker participation and self-management programs at one or more facilities or locations, for purposes of fostering employee job satisfaction, job flexibility, and quality assurance.

"(2) Agreements under this subsection may provide for separate or combined programs for major groups of crafts or classes such as train and engine service, shopcraft, clerical, and maintenance of way.

"(3) If the agreements under this subsection so provide, collective bargaining agreements then in force at the facility or location involved (other than any dues check-off provision of such an agreement), shall be suspended for the duration of the demonstration program and employees covered by the program shall be represented in accordance with the worker participation agreement, notwithstanding any provision of the Railway Labor Act.

"(4) Agreements under this subsection may include provisions relating to (A) the resolution of disputes under section 3 of the Railway Labor Act, (B) the election of agreement personnel to serve in supervisory jobs, (C) the election of agreement personnel to negotiate performance goals and, (D) such other matters as may be agreed upon by the Corporation and its agreement employees.

"(5) Nothing in this subsection shall be construed to interfere with the application of rates of pay provided for in the agreements required by subsection (c)(5)(A) of this section or with the implementation of the negotiation and fact finding procedures required by subsection (c)(5)(B).

"(g) STATES AND LOCALITIES.—Until such time as the United States sells its interest in the Corporation under section 401 or 403 of this Act, the Corporation shall be exempt from liability for any State or local tax for the period of three years from the effective date of this section.

"(h) PROJECTIONS.—At the time of a request by the Corporation for the purchase of additional stock, the Corporation shall present to the Association (1) its projections of expenditures for the next six-month period for services of individuals or firms not on the payroll of the Corporation, and (2) its expenditures for the preceding six-month period for the services of such individuals or firms.

"(i) WORK STOPPAGES.—In the event of any work stoppage by employees of the Corporation which directly results from the conditions required under subsection (c) of this section and substantially impairs the operation of the Corporation's rail system, the Association shall make no further purchases of stock of the Corporation.

"(j) DEBENTURES.—The Association shall return debentures to the Corporation in an amount equal to the value of the properties conveyed by the Corporation to its commuter subsidiary.

"(k) RIGHTS RETAINED.—The Corporation shall retain the right to collect and shall collect any accounts receivable attributable to delays in reimbursement from commuter agencies that are purchased by the Association under this section.

"(l) DEFINITION.—As used in this section, the term 'profitable carrier' means a carrier that generates sufficient revenues to meet its expenses, including reasonable maintenance of necessary equipment and facilities without funding from the Federal Government.

"(m) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Association for purposes of purchasing securities and accounts receivable of the Corporation under this section not to exceed $150,000,000 for the fiscal year ending September 30, 1982, and not to exceed $225,000,000 for the fiscal year ending September 30, 1983. In addition, any amounts appropriated under section 216(g) of this Act are authorized to be available for the purchase of securities and accounts receivable under this section. All sums received on account of the holding or disposition of any such securities shall be deposited in the general fund of the Treasury.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 216 the following new item:

"Sec. 217. Additional purchases of Series A preferred stock.".

ORGANIZATION AND STRUCTURE OF CONRAIL

SEC. 2022. (a) Section 301(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(d)) is amended—

(1) by striking out "(other than resignations pursuant to this subsection)" in the second sentence; and

(2) by striking out the third, fourth, and fifth sentences.

(b) Section 301(e)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(e)) is amended by striking out "In order to carry out the final system plan, the" and inserting in lieu thereof "The".

(c) Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by striking out subsection (j) and inserting in lieu thereof the following new subsection:

"(j) SIGNAL SYSTEMS.—If, within two years after the effective date of this subsection, the Corporation applies for the permission of the Secretary to substitute manual block signal systems for automatic block signal systems on lines on which less than 20,000,000 gross tons of freight are carried annually, the Secretary shall approve or disapprove such application within 90 days of its submission.".

Chapter III—TRANSFER OF FREIGHT SERVICE RESPONSIBILITIES

RESPONSIBILITIES

TRANSFER OF FREIGHT SERVICE

SEC. 2031. (a) The Regional Rail Reorganization Act of 1973 is amended by inserting immediately after title III the following new title:

"TITLE IV—TRANSFER OF FREIGHT SERVICE

"INTEREST OF UNITED STATES

"SEC. 401. (a) SALE OF COMMON STOCK.—During the period beginning on July 1, 1982, and ending December 31, 1983, if the Association notifies the Secretary that it has made a determination under section 217(b)(4) of this Act that the Corporation will be a profitable carrier, the Secretary shall sell in block or by general offering, the interest of the United States in the common stock of the Corporation. In making such sale the Secretary shall attempt to—

"(1) ensure continued call service;

"(2) promote competitive bidding for such common stock; and

"(3) maximize the return to the United States on its investment.

"(b) CANCELLATION.—In making any sale under subsection (a), the Secretary may cancel some shares of the common stock of the Corporation and sell only the remaining shares.

"(c) REPLACEMENT OF BOARD OF DIRECTORS.—When all common stock of the Corporation held by the United States (or any agent or instrumentality thereof) is sold under subsection (a) or cancelled under subsection (b), the Corporation shall elect a new Board of Directors. Only holders of shares of common stock may vote in such election, and each such share shall entitle its holder to one vote.

"(d) RAILROAD PURCHASERS.—Any railroad which purchases common stock of the Corporation shall vote such stock in the same proportion as all other common stock of the Corporation is voted unless the Commission determines that such railroad has purchased a controlling interest in the Corporation.

"(e) In making any sale under subsection (a), the Secretary shall first offer, to any employees whose wages are reduced pursuant to any agreement entered into under section 217(c)(5) of this Act, stock in amounts equal to the extent of such wage reduction.

"DEBT AND PREFERRED STOCK

"SEC. 402. (a) LIMITATION.— Prior to any sale of the common stock of the Corporation under section 401, the interest of the United States in any debt or preferred stock of the Corporation held by the United States (or any agent or instrumentality thereof, including the Association) shall be limited to any interest which attaches to such debt or preferred stock in the event of bankruptcy, or substantial sale, or liquidation of the assets of the Corporation. The Secretary shall substitute for the evidence of such debt or preferred stock held by the United States (or any such agent or instrumentality) contingency notes conforming to the limited terms set forth in this subsection.

"(b) SUBSEQUENT ISSUE.—If the interest of the United States is limited under subsection (a) the Corporation may issue new debt or preferred stock subsequent to the issuance of the debt or preferred stock described in subsection (a) which shall have higher priority in the event of bankruptcy, liquidation, or abandonment of the assets of the Corporation than the debt or preferred stock described in subsection (a).

"TRANSFER PLAN

"SEC. 403. (1) DEVELOPMENT.—The Secretary shall develop a plan for the sale of the rail properties of the Corporation. Such plan shall—

"(1) ensure that at least 75 percent of the rail service operated by the Corporation as of December 31, 1983, shall be maintained;

"(2) promote competitive bidding for such rail properties; and

"(3) maximize the return to the United States on its investment.

"(b) CONFERENCES.—The Secretary may, in developing a transfer plan under this section, hold conferences with officers and directors of affected rail carriers, representatives of employees of the Corporation and other affected rail carriers, the Commission, suppliers, appropriate State and local officials, shippers and consumer representatives, potential purchasers or operators other than rail carriers, representatives of the Federal Trade Commission, the Attorney General of the United States, or any combination thereof. Persons attending or represented at any such conference shall not be liable under the antitrust laws of the United States with respect to any discussion at such conference or with respect to any agreement reached at such conference.

"(c) APPROVAL OF TRANSFER COMMITTEE.—(1) If there is no sale under section 401(a) of this Act, any plan developed by the Secretary under subsection (a) of this section shall be submitted to the Transfer Committee for approval.

"(2) The Transfer Committee shall be composed of five persons as follows:

"(A) The Secretary of Transportation;

"(B) The Secretary of the Treasury;

"(C) The Chairman of the Commission;

"(D) The Director of the Office of Management and Budget;

"(E) The Chairman of the Board of Directors of the Corporation.

"(d) CONGRESSIONAL REVIEW.—Within 180 days after December 31, 1983, the Secretary shall submit any plan developed under subsection (a) and approved by the Transfer Committee under subsection (c) to the Congress for review in accordance with this section. Any such transfer proposal shall be deemed approved at the end of the first period of 90 calendar days of continuous session of the Congress after the date of such submittal unless one or both of the Houses of the Congress adopts a concurrent resolution during such period stating that they do not approve such transfer proposal. For purposes of this section—

"(1) continuity of session of the Congress is broken only by an adjournment sine die; and

"(2) the days on which either House is not in session because of adjournment of more than 3 days to a day certain are excluded in the computation of the 90-day period.

"(e) TRANSFER.—If any transfer plan developed by the Secretary is approved by the Transfer Committee and the Congress under this section, the Corporation shall enter into agreements for the transfer the rail properties involved in accordance with the terms of such transfer plan.

"(f) TERMINATION.—When all agreements entered into under subsection (e) have been implemented the Corporation shall be relieved of any obligation to provide rail service, either as a common carrier or under any contract. The Corporation shall retain the power to dispose of any rail properties not transferred under subsection (e).

"(g) ASSIGNMENT.—(1) If an interest in rail properties is conveyed pursuant to this section, and if such conveyance is in accordance with the requirements of paragraph (2) of this subsection, the conveyance of such properties shall be deemed an assignment. Any such assignment shall relieve Conrail of liability for any breach which occurs after the date of such conveyance, except that Conrail shall remain liable for any breach, event of default, or violation of convenant which occurred (and any charges or obligations which accrued) prior to the date of such conveyance, regardless of whether the assignee thereof assumes such liabilities, charges, or obligations. If any such liabilities, charges, or obligations (accrued prior to the date of such conveyance) are paid by or on behalf of any person or entity other than Conrail, such person or entity shall have a claim to direct reimbursement from Conrail, together with interest on the amount so paid.

"(2)(A) A conveyance referred to in paragraph (1) of this subsection may be effected only if—

"(i) the assignee to whom such conveyance is made assumes all of the obligations under any applicable conditional sale agreement, equipment trust agreement, or lease with respect to such rail properties (including any obligations which accrued prior to the date on which such rail properties are conveyed),

"(ii) such conveyance is made subject to such obligations, and

"(iii) such conveyance has been approved by any party who is a co-obligor with Conrail on any debt instrument imposing a lien or encumbrance on, or otherwise affecting the title or interest in, the rail supported by substantial evidence on the record considered as a whole, shall be conclusive, and his recommendations, if any, for the modification or setting aside of his original order. Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code.

"(5) Civil penalties and assessments imposed under this subsection may be compromised by the Secretary and may be recovered in a civil action in the name of the United States brought in United States district court for the district where the claim was presented, or where the claimant resides, as determined by the Secretary. Amounts recovered shall be paid to the Secretary, and disposed of as follows: (A) a portion of amounts recovered arising out of a claim under title XIX equal to the amount paid by the State agency for such claim shall be paid to the State agency and shall be accounted for by the State agency as a recovery of an overpayment under the State plan; (B) such portion of amounts recovered as is determined to have been paid out of the trust funds under sections 1817 and 1841 shall be repaid to such trust funds; and (C) the remainder shall be deposited as miscellaneous receipts of the Treasury of the United States. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sum then or later owing by the United States or a State agency to the person against whom the penalty has been assessed.

"(6) A determination by the Secretary to assess a penalty under paragraph (1) of this subsection shall be final upon the expiration of the sixty-day period referred to in paragraph (4) unless the person against whom the penalty has been assessed files an appeal as provided in that paragraph. Matters that were raised or that could have been raised in a hearing before the Secretary or in an appeal pursuant to paragraph (4) may not be raised as a defense to a civil action by the United States to collect a penalty or damages assessed under this subsection.

"(7) The Secretary may refuse to make any further payment under title XVIII of this Act, or order a State agency to deny any further payment under title XIX of this Act, to any person with respect to whom a final determination has been made to assess a penalty under this subsection, for any item or service rendered during such period as the Secretary may deem appropriate. If the Secretary intends to exercise the authority in this subparagraph, he shall give written notice thereof to such person and to the State agency of each State which he has reason to believe does or may use the services of such person in providing medical assistance under title XIX of the Act.

"(8) Whenever the Secretary makes a final determination to impose a penalty under paragraph (1), he shall notify the appropriate State or local medical agency or organization, and appropriate Professional Standards Review Organization, and the appropriate State or local licensing agency or organization (including the agency specified in section 1864(a) and 1902(a)(33)) that such a penalty has been imposed and the reasons therefor.

"(9) The Secretary shall initiate a proceeding to determine whether to impose a civil penalty under paragraph (1) under this subsection only as authorized by the Attorney General pursuant to procedures agreed upon by them.

"(10) For the purposes of this subsection—

"(A) the term 'State agency' means the agency established or designated to administer or supervise the administration of the State plan under title XIX of this Act;

"(B) the term 'claim' means an application submitted by—

"(i) a provider of services or other person, agency, or organization that furnishes services under title XVIII of this Act, or

"(ii) a person, agency, or organization that provides medical assistance under title XIX of this Act,

to the United States or a State agency for payment for health care services under title XVIII or XIX of this Act;

"(C) the term 'item or service' includes (i) any particular item, device, medical supply, or service claims to have been provided to a patient and listed in an itemized claim for payment, and (ii) in the case of a claim based on costs, any entry in the cost report, books of account or other documents supporting such claim; and

"(D) the term 'agency of the United States' includes any contractor acting as a fiscal entity, as defined under section 1868, or any other claims processing agent for a health insurance or medical services program under title XVIII or XIX of this Act.".

(b) The heading of section 1107 is amended to read "PENALTIES".

(c) Section 1903 is amended by adding at the end the following new subsection:

"(t)(1) Notwithstanding the preceding provisions of this section, no payment shall be made to a State (except as provided under this subsection) with respect to expenditures incurred by it for services provided by any person during any period that an order for denial of payment (as authorized by section 1107(c)(7) is effective with respect to such person.

"(2) Any order for denial of payment issued with respect to any person under section 1107(c)(7) shall become effective, in the case of any State plan approved under this title, on the sixtieth day after the date on which the Secretary gives notice of such order to the State agency. Upon the determination of the Secretary that any such order shall cease to be effective, he shall forthwith notify each State agency to which

he has therefore submitted notice under section 1107(c)(7) with respect to such person.

"(3) Whenever any order which has been issued by the Secretary under section 1107(c)(7) ceases to be effective, any payment to which any State would (except for the preceding provisions of this subsection) have been entitled under this section on account of services provided by such person shall be made to such State for the month in which such order ceases to be effective.".

REPEAL OF REQUIREMENT TO NOTIFY FAMILIES WITH DEPENDENT CHILDREN OF AVAILABILITY OF EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT

SEC. 1232. Subsection (g) of section 403 is repealed.

NOTICE, HEARING, AND JUDICIAL REVIEW REQUIREMENTS FOR TERMINATION OF A PROFESSIONAL STANDARDS REVIEW ORGANIZATION AGREEMENT; AGREEMENTS OF LESS THAN A YEAR

SEC. 1233. (a) Section 1152(d)(2) is amended—

(1) by striking out "at such time and upon such reasonable notice to the organization as may be prescribed in regulations" and inserting in lieu there "upon 90 days notice to the organization", and

(2) by striking out "(after providing such organization with an opportunity for a formal hearing on the matter)".

(b) Sections 1152(d) and 1154(d) are each amended by adding at the end the following sentence: "A termination by the Secretary under this subsection shall not be subject to judicial review.".

(c) The matter in section 1152(d) preceding paragraph (1) is amended by inserting "not more than" before "12 months".

ABOLITION OF STATEWIDE PROFESSIONAL STANDARDS REVIEW COUNCILS

SEC. 1234. (a) Section 1157 is amended—

(1) by striking out everything after "report the matter to the" in the first sentence and inserting in lieu thereof "Secretary, together with the recommendations of such Organization as to the action which should be taken with respect to the matter.", and

(2) by striking out the second sentence.

(b)(1) Section 1159(a) is amended by striking out everything after "Professional Standards Review Organization" the second place it occurs and inserting in lieu thereof a period.

(2) The first sentence of section 1159(b) is amended by striking out everything before "by the Secretary" and inserting in lieu thereof "Where the determination of the Professional Standards Review Organization is adverse to the beneficiary or recipient and the amount in controversy is $100 or more, the beneficiary or recipient shall be entitled to a hearing on the matter".

(c)(1) Section 1160(b) is amended by striking out "(which report and recommendations shall be submitted through the Statewide Professional Standards Review Council, if such Council has been established, which shall promptly transmit such report and recommendations together with any additional comments and recommendations thereon as it deems appropriate)".

(2) Section 1160(c) is amended by striking out "and each Statewide Professional Standards Review Council".

(d) Section 1162 is repealed.

(e) Paragraphs (2) and (3) of section 1163(e) are each amended by striking out "Statewide Professional Standards Review Councils and".

(f)(1) Section 1166(d) is amended by striking out ", a Statewide Professional Standards Review Council,".

(2) A patient record that was subject to the provisions of section 1166(d) (as in effect before the date of the enactment of this Act) because the record was in the possession of a Statewide Professional Standards Review Council shall remain subject to those provisions until it is returned to the entity that provided the record to the Council.

(g)(1) Section 1167(a) is amended—

(A) by striking out "or to any Statewide Professional Standards Review Council", and

(B) by striking out "or such Council" in clause (1).

(2) Section 1167(b)(1) is amended—

(A) by striking out "or of any Statewide Professional Standards Review Council",

(B) by striking out "or Council", and

(C) by striking out "or of Statewide Professional Standards Review Councils".

(3) The heading to section 1167 is amended by striking out "AND STATEWIDE PROFESSIONAL STANDARDS REVIEW COUNCILS".

(4) The provisions of section 1167 of the Social Security Act (as in effect before the date of the enactment of this Act) concerning activities related to Statewide Professional Standards Review Councils shall continue to apply with respect to activities carried out before such date.

DISCRETION OF SECRETARY IN FUNDING PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 1235. (a) Section 1155(f)(2) is amended by striking out "shall" and inserting in lieu thereof "may".

(b)(1) The first sentence of section 1168 is amended to read as follows: "Expenses incurred in the administration of this part may be paid from—

"(1) funds in the Federal Hospital Insurance Trust Fund,

"(2) funds in the Federal Supplementary Medical Insurance Trust Fund, and

"(3) funds appropriated to carry out the health care provisions of the several titles of this act,

in such proportion from each of the sources of funds (referred to in paragraphs (1) through (3)) as the Secretary may deem to be fair and equitable after taking into consideration the costs attributable to the administration of this part with respect to each of such plans and programs.".

(2) The second sentence of that section is amended—

(A) by striking out "clauses" each place it occurs and inserting in lieu thereof "paragraphs",

(B) by striking out "clause" and inserting in lieu thereof "paragraph", and

(C) by striking out "(a), (b), and (c)" and inserting in lieu thereof "(1), (2), and (3)".

(3) The third sentence of that section is amended by striking out "shall" and inserting in lieu thereof "may".

VOLUNTARY PARTICIPATION BY STATE MEDICAID PROGRAMS IN PROFESSIONAL STANDARDS REVIEW

SEC. 1236. (a) Section 1158 is amended by adding at the end the following subsection:

"(f) Any State may transmit a written notification to the Secretary that the State no longer wishes professional standards review under this part to affect payments to the State under title XIX. Such review shall not affect payments to that State under title XIX as of the sixtieth day after the date the Secretary receives that written notification.".

(b) Section 1158(a) is amended in the matter preceding paragraph (1) by striking out "title V" and inserting in lieu thereof "under title V, or under title XIX as provided in subsection (f) of this section".

(c) Section 1158(c) is amended—

(1) by inserting "and subsection (f) of this section" after "1171(d)(3)", and

(2) by inserting "(unless professional standards review under this part no longer affects payments to that State as provided in subsection (f) of this section)" before the period.

REPEAL OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 1237. (a) Part B of title XI (relating to professional standards review) is repealed.

(b)(1) Title XI is amended by striking out the heading to part A.

(2) The second sentence of section 1101(a)(1) is amended by striking out "and in part B of this title".

(3) Section 1107(c)(1)(B), added by section 1231 of this subpart, is amended by striking out "1160(b),".

(4) Section 1107(c)(8), added by section 1231 of this subpart, is amended by striking out ", and the appropriate Professional Standards Review Organizations,".

(c)(1) Section 1861(v)(1)(G) is amended by striking out "and a Professional Standards Review Organization" and all that follows through "determines that inpatient" and inserting in lieu thereof "and the Secretary (or an agent designated by the Secretary) determines that inpatient".

(2) Section 1862(d)(1)(C) is amended by striking out "reports transmitted" and all that follows through "the program under this title)" and inserting in lieu thereof "such data as he acquires in the administration of the program under this title".

(d) Section 1902(h) is amended by striking out "and a Professional Standards Review Organization" and all that follows through "determines that inpatient" and inserting in lieu thereof "and the Secretary (or an agent designated by the Secretary) determines that inpatient".

(e)(1) Except as provide in paragraph (2), the repeals and amendments made by this section shall apply beginning with fiscal year 1984 and shall apply to review of services furnished on or after October 1, 1983.

(2) The repeal made by subsection (a) of this section shall not affect—

(A) the denial of payment under section 1158(a) of the Social Security Act for which a notification has been made before October 1, 1983;

(B) the conclusiveness, under section 1158(c) of such Act, of determinations made by a Professional Standards Review Organization (hereinafter in this subsection referred to as a "PSRO") before October 1, 1983;

(C) the right of a beneficiary, recipient, provider, or organization to a hearing under section 1159 of such Act (as in effect before October 1, 1983), except that such a person is entitled, in lieu of any reconsideration of a determination by a PSRO or review by a Statewide Professional Standards Review Council under subsection (a) of such section, where the matter in controversy is $100 of more, to a hearing thereon by the Secretary of Health and Human Services (hereinafter in this subsection referred to as the "Secretary") to the same extent as is provided in section 205(b) of the Social Security Act, and such person is entitled to judicial review of the Secretary's final deci-

sion in accordance with subsection (b) of section 1159 of such Act (as in effect before October 1, 1983), and the second sentence of such subsection and subsection (c) of such section shall apply to reviews and appeals conducted in accordance with this paragraph;

(D) the authority of the Secretary to take actions under section 1160(b)(1) of such Act (as in effect before October 1, 1983) on the basis of reports submitted by PSROs before October 1, 1983, under section 1157 of such Act (as in effect before such date); any such reports which have been submitted to a Statewide Professional Standards Review Council before such date and not transmitted to the Secretary shall be immediately transmitted to the Secretary for action in accordance with this paragraph; and the provisions of paragraphs (2) through (4) of section 1160(b) of such Act (as in effect before such date) shall apply to determinations made by the Secretary under this paragraph;

(E) the confidentiality of data and information acquired before October 1, 1983, under section 1166 of such Act (or any penalties under subsection (c) of such section in the case of improper disclosure of data or information under such section), and the Secretary shall provide by regulation for the appropriate disposition of such data and information;

(F) the limitation on liability under section 1167 of such Act (as in effect before October 1, 1983) for activities undertaken before such date; and

(G) payment under section 1168 of such Act (as in effect before October 1, 1983) for expenses incurred before such date.

REPEAL OF CERTAIN REQUIREMENTS FOR STUDIES AND DEMONSTRATIONS

SEC. 1238. (a) Section 1129 is amended—

(1) by striking out subsection (b), and

(2) by striking "(a)".

(b) Section 919 of the Omnibus Reconciliation Act of 1980 is repealed.

(c)(1) Subsection (f) of section 1154 is repealed.

(2) Section 1155(a) is amended—

(A) by striking out "under section 1154(f)," in the matter in paragraph (1) preceding subparagraph (A),

(B) by striking out ", consistent with section 1154(f)," in paragraph (7)(A), and

(C) by striking out "(consistent with section 1154(f))" in paragraph (7)(B).

(d) Section 929 of the Omnibus Reconciliation Act of 1980 is repealed.

(e) Subsection (f) of section 931 of the Omnibus Reconciliation Act of 1980 is repealed.

(f) Section 958 of the Omnibus Reconciliation Act of 1980 is amended—

(1) by striking out subsection (a) and subsections (c) through (j),

(2) by striking out "(b)" in subsection (b), and

(3) by amending the heading to read: "REPORT ON SURGICAL SECOND OPINIONS DEMONSTRATION."

(g) The matter in section 904(c) of the Omnibus Reconciliation Act of 1980 preceding paragraph (1) is amended by striking out "three" and inserting in lieu thereof "four".

REPEAL OF OBSOLETE AUTHORITY FOR MEDICAL ASSISTANCE

SEC. 1239. (a)(1) The heading of title I is amended by striking out "AND MEDICAL ASSISTANCE".

(2) Section 1 is amended—

(A) by striking out "(a)" the first place it appears in the first sentence,

(B) by striking out ", (b) of enabling" and all that follows through "for self-care" in the first sentence, and

(C) by striking out ", or for medical assistance for the aged, or for old-age assistance and medical assistance for the aged" in the second sentence.

(3) Section 2 is amended—

(A) by striking out "AND MEDICAL ASSISTANCE" in the heading;

(B) by striking out ", or for medical assistance for the aged, or for old-age assistance and medical assistance for the aged" in subsection (a) before paragraph (1);

(C) by striking out "; and" at the end of subsection (a)(10) and inserting in lieu thereof a period; and

(D) by striking out paragraphs (11), (12), and (13) of subsection (a).

(4) Section 3 is amended—

(A) by striking out paragraphs (1) and (3) of subsection (a);

(B) by amending paragraph (2) of subsection (a) to read as follows:

"(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to one-half of the total of the sums expended during such quarter as old-age assistance under the State plan, not counting so much of any expenditure with respect to any month as exceeds $37.50 multiplied by the total number of recipients of old-age assistance for such month; plus"; and

(C) by striking out subsection (d).

(5) Section 6 is amended by striking out subsections (b) and (c).

(b)(1) Section 403 is amended—

(A) by striking out "(including expenditures for premiums" and all that follows through "the cost thereof)" in subsection (a)(1) in the matter before subparagraph (A);

(B) by striking out "plus (ii)" and all that follows through "clause (i) or (ii)" in subsection (a)(1)(A) and inserting in lieu thereof "plus (ii) the number of individuals, not counted under clause (i)"; and

(C) by striking out "(including expenditures" and all that follows through "the cost thereof)" in subsection (a)(2).

(2) Section 406 is amended—

(A) by striking out ", or (if provided" and all that follows through "under State law in behalf of," and "or medical care or any type of remedial care recognized under State law" in subsection (b) in the matter preceding subparagraph (A), and

(B) by inserting "(for which such individual is not entitled to medical assistance under the State plan under title XIX)" in subsection (e)(1)(A) after "recognized under State law".

(c)(1) Sections 1001 and 1401 are each amended by striking out "and of encouraging each State" and all that follows through "self-care".

(2) Sections 1003(a) and 1403(a) are each amended—

(A) by striking out paragraph (1), and

(B) by striking out "(including expenditures for" and all that follows through "the cost thereof)" in paragraph (2).

(3) Sections 1006 and 1405 are each amended by striking out ", or (if provided" and all that follows through "under State law in behalf of," in the matter before paragraph (1).

(e)(1) The amendments made by this subsection are to the title XVI of the Social Security Act which only applies in the case of Puerto Rico, Guam, and the Virgin Islands under section 303(b) of the Social Security Amendments of 1972 (Public Law 92-603).

(2) The heading of such title is amended by striking out "AND MEDICAL ASSISTANCE".

(3) Section 1601 of such title is amended—

(A) by striking out "(a)" the first place it appears in the first sentence,

(B) by striking out ", (b) of enabling" and all that follows through "or self-care" in the first sentence, and

(C) by striking out ", or for aid to the aged, blind, or disabled and medical assistance for the aged" in the second sentence.

(4) Section 1602 of such title is amended—

(A) by striking out ", OR FOR SUCH AID AND MEDICAL ASSISTANCE FOR THE AGED" in the heading;

(B) by striking out ", or for aid to the aged, blind, or disabled and medical assistance for the aged" in subsection (a) in the matter before paragraph (1);

(C) by inserting "and" at the end of paragraph (13) of subsection (a);

(D) by striking out the semicolon at the end of paragraph (14) of subsection (a) and inserting in lieu thereof a period;

(E) by striking out paragraphs (15), (16), and (17) of subsection (a);

(F) by striking out "(or for aid to the aged, blind, or disabled and medical assistance for the aged)" in the second sentence of subsection (a);

(G) by striking out "(A) in the case of applicants for aid to the aged, blind, or disabled" in subsection (b)(2);

(H) by striking out "and (B)" and all that follows through "who resides in the State" in subsection (b)(2); and

(I) by striking out "(or for aid to the aged, blind, or disabled and medical assistance for the aged)" each place it appears in the third sentence of subsection (b).

(5) Section 1603 of such title is amended—

(A) by striking out paragraphs (1) and (3) of subsection (a);

(B) by striking out "(including expenditures for premiums" and all that follows through "cost thereof)" in paragraph (2)(A);

(C) by striking out "the larger of the following amounts: (i)", "(I)", and ", or (II)" and all that follows before the semicolon, in paragraph (2)(B); and

(D) by striking out subsection (d).

(6) Section 1605 of such title is amended—

(A) by striking out ", or (if provided" and all that follows through "under State law in behalf of," in subsection (a) in the matter before paragraph (1), and

(B) by striking out subsection (b).

MISCELLANEOUS PROVISIONS

SEC. 1240. (a) In the case of any experimental, demonstration, or pilot project operating under section 1115 of the Social Security Act as of the date of enactment of part B of this title, such experimental, demonstration, or pilot project shall be granted a waiver by the Secretary of HHS, if he determines that—

(1) such project—

(A) is assisting the development of alternative methods of prospective reimbursement;

(B) is assisting the development of cost containment programs for title XIX;

(C) provides more efficient methods of program management for title XIX; or

(D) provides other innovative concepts which may result in substantial title XIX savings; or

(2) such project is likely to assist the Secretary in developing program alternatives, methods, or devices which will assist the Department of HHS in providing the several States with greater flexibility in managing title XIX programs; and

(3) such project has been undertaken by the sponsoring State so that enactment of part B of this title would result in substantial unanticipated costs to the sponsoring State.

The Secretary shall periodically review such project to determine if such project is continuing to meet the criteria under which it was initially granted a waiver.

(b) The Secretary of Health and Human Services shall conduct an evaluation of the impact of the formula provides under subsection (c) of section 1901 of the Social Security Act (as added by section 1201(b)(1)(C) of part B) for the allotment of funds to States and of the feasibility, desirability and necessity of substituting, for such formula, a formula which takes into account the factors of population growth, extraordinary short-term urban or regional growth, cost of living rates, unemployment rates, and increases in indigent and alien populations. The Secretary shall report to Congress on such evaluation not later than June 30, 1982, and shall include in such report a recommendation as to whether or not any such formula should be substituted for the formula contained in section 1901 (c) of the Social Security Act.

PART C—MERCHANT SEAMEN HEALTH SERVICES REPEAL

SHORT TITLE

SEC. 1301. This part may be cited as the "Merchant Seamen Health Services Repeal Act".

ELIMINATION OF ENTITLEMENT TO HEALTH SERVICES FOR MERCHANT SEAMEN

SEC. 1302. (a)(1) Sections 2(h), 322(a), and 322(b) of the Public Health Service Act are repealed.

(2) Section 322(e) of that Act is amended by striking out "entitled to care and treatment under subsection (a) of this section and persons".

(3) The heading to section 322 of that Act is amended by striking out "SEAMEN" and inserting in lieu thereof "PERSONS UNDER QUARANTINE".

(4) Section 332(a)(2)(C) of that Act is amended by striking out "seamen" and inserting in lieu thereof "persons under quarantine".

(b) The amendments made by this section are effective on October 1, 1981.

ELIMINATION OF REQUIREMENT FOR MAINTAINING PUBLIC HEALTH SERVICE HOSPITALS

SEC. 1303. Subsections (a) and (b) of section 818 of the Department of Defense Appropriation Authorization Act, 1974, are repealed.

TRANSFER FEASIBILITY STUDY

SEC. 1304. (a) The Secretary may before October 15, 1981, enter into contracts with public or private entities to conduct feasibility studies as to the acquisition and continued operation by non-Federal entities of hospitals currently part of the Public Health Service. Contracts authorized by this section may be entered into without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529, 41 U.S.C. 5).

TITLE II—REDUCTIONS IN AUTHORIZATIONS

PART A—CONRAIL

SEC. 6401. This part may be cited as the "Rail Service Improvement Act of 1981".

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Subpart 1—General Provisions

FINDINGS

SEC. 2001. The Congress finds and declares that—

(1) current arrangements for the provision of rail freight and commuter services in the northeast and midwest regions of the United States are inadequate to meet the transportation needs of the public and the needs of national security;

(2) the process set in motion by the Regional Rail Reorganization Act of 1973 has failed to create a profitable railroad system in the northeast and midwest regions of the United States and has cost United States taxpayers billion of dollars over original estimates;

(3) although the Federal Government has provided billions of dollars in assistance for Conrail and its employees, the Federal interest in ensuring the flow of interstate commerce through rail service in the private sector has not been achieved, and the protection of interstate commerce requires Federal intervention to preserve essential rail service in the private sector;

(4) the orderly integration of Conrail's freight service into the Nation's private rail system can be successful only if an orderly process is followed and adequate and equitable protections are provided for affected railroad employees and if acquiring railroads are not required to assume Conrail's commuter operations;

(5) the funds originally authorized for the protection of employees adversely affected by the consolidation of the bankrupt rail carriers into Conrail have been exhausted, and the additional funding authorized by the Staggers Rail Act of 1980 will be exhausted in the near future;

(6) since holding the Corporation liable for employee protection payments would destroy its prospects of becoming a profitable carrier and further injure its employees, an alternative employee protection system must be developed and funded;

(7) States, shippers, and consumers in the northeast and midwest must be included in the private sector improvements in rail service that are occurring throughout the national rail system; and

(8) an orderly transfer of the functions of the United States Railway Association to the Secretary of Transportation and the Attorney General of the United States will facilitate the exercise of those functions by the appropriate Federal officials.

PURPOSE

SEC. 2002. It is therefore declared to be the purpose of the Congress in this part to provide for—

(1) the removal by a date certain of the Federal Government's obligation to subsidize the freight operations of Conrail;

(2) transfer of Conrail commuter service responsibilities to one or more entities whose principal purpose is the provision of commuter service;

(3) adequate and equitable labor protection for employees deprived of employment by service transfers;

(4) the mechanism to ensure that Conrail freight service is performed in the private sector; and

(5) transfer of the functions of the United States Railway Association.

DEFINITIONS

SEC. 2003. As used in this part, unless the context otherwise requires, the term:

(1) "Amtrak" means the National Railroad Passenger Corporation created under title III of the Rail Passenger Service Act (45 U.S.C. 541 et seq.).

(2) "Commission" means the Interstate Commerce Commission.

(3) "Commuter authority" means any State, local, or regional authority, corporation, or other entity established for purposes of providing commuter service, and includes the Metropolitan Transportation Authority, the Connecticut Department of Transportation, the Maryland Department of Transportation, the Southeastern Pennsylvania Transportation Authority, the New Jersey Transit Corporation, the Massachusetts Bay Transportation Authority, the Port Authority Trans-Hudson Corporation, any successor agencies, and any entity created by one or more such agencies for the purpose of operating, or contracting for the operation of, commuter services.

(4) "Commuter services" means short-haul rail passenger service operated in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride, and commutation tickets, and by morning and evening peak period operations.

(5) "Conrail" means the Consolidated Rail Corporation created under title III of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741 et seq.).

(6) "Profitable carrier" means a carrier that generates sufficient revenues to meet its expenses, including reasonable maintenance of necessary equipment and facilities, without funding from the Federal Government.

(7) "Rail carrier" means a common carrier engaged in interstate or foreign commerce by rail subject to subtitle IV of title 49, United States Code.

(8) "Secretary" means the Secretary of Transportation or the representative authorized by the Secretary to carry out the responsibilities of the Secretary under this part.

(9) "Special court" means the judicial panel established under section 209 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719).

Subpart 2—Transfer of Rail Service Responsibilities

Chapter I—TRANSFER OF CONRAIL COMMUTER SERVICES

SEPARATION OF COMMUTER FUNCTIONS

SEC. 2011. (a) Title III of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741 et seq.) is amended by adding at the end thereof the following new section:

"SEPARATION OF COMMUTER FUNCTIONS

"SEC. 308. (a) ESTABLISHMENT OF SUBSIDIARY.—The Corporation shall, within 30 days after the effective date of this section, establish a subsidiary for purposes of operating the commuter services which the Corporation is obligated to operate under this Act (hereinafter referred to as the 'commuter subsidiary').

"(b) STATUS.—(1) The provisions of this Act relating to the operation of commuter service shall apply to the commuter subsidiary as if it were the Corporation.

"(2) The commuter subsidiary shall be deemed to be a contract operator of commuter service on behalf of the commuter authorities for which the Corporation operates commuter service under this Act, and shall have no common carrier obligation to operate either passenger or freight service.

"(3) The provisions of section 10 of the Clayton Act (15 U.S.C. 20) shall not apply to transactions between the Corporation and the commuter subsidiary.

"(4) Financial statements of the commuter subsidiary shall not be consolidated in or included with those of the Corporation.

"(5) The commuter subsidiary shall be exempt from the payment of taxes to the same extent as Amtrak Commuter is exempt under section 501(c)(3) of the Rail Passenger Service Act.

"(c) COLLECTIVE BARGAINING AGREEMENTS.—The commuter subsidiary shall assume and apply the collective bargaining agreements in effect between the Corporation and its employees on the effective date of this section.

"(d) CAPITALIZATION.—The commuter subsidiary is authorized to issue common stock to the Corporation.

"(e) RELIEF FROM OBLIGATIONS.—Effective 540 days after the effective date of this section, the Corporation shall be relieved of all obligations to operate commuter service, whether as a common carrier of passengers or under its subsidy agreements with commuter authorities pursuant to this Act.

"(f) FUTURE COMMUTER SERVICE.—At the time the Corporation is relieved of its obligation to operate commuter service under this Act, the commuter authorities for which such service was operated may contract with any other entity, including Amtrak Commuter, for the operation of such service.

"(g) PROPERTY TRANSFER.—(1) After the Corporation is relieved of its obligation to operate commuter service, the Corporation and its subsidiary shall transfer to Amtrak Commuter, or to any commuter authority or other entity that will operate the commuter service, such rail properties, rights, or interests as may be necessary for Amtrak Commuter or such authority or other entity to operate commuter services.

"(2) The Corporation shall retain appropriate trackage rights for freight operations over any rail properties which are transferred under this subsecton.

"(3) Consideration for inventory transferred under this subsection shall be based on book value. The transfer of fixed facilities, rolling stock, and other equipment under this subsection shall be without consideration.

"(h) CONTRACT PROVISIONS.—Notwithstanding any provision of any lease, contract, or other agreement, any transfer, assignment, or other disposition of such lease, contract, or other agreement by the Corporation pursuant to this title shall not be deemed a breach, an event of default, or a violation of any covenant.

"(i) CONCERTED ECONOMIC ACTION.—(1) Any person engaging in concerted economic action over disputes with Amtrak Commuter or any commuter authority shall not be entitled to engage in any strike against, or otherwise to induce any employee of, the Corporaton, where an effect thereof is to interfere with rail freight services provided by the Corporaton.

"(2) Any person engaging in concerted economic action over disputes arising out of freight operations provided by the Corporation shall not be entitled to engage in any strike against, or otherwise to induce any employee of, Amtrak Commuter of any commuter authority, where an effect thereof is to interfere with rail passenger services.

"(3) Any concerted action in violaton of this subsection shall be deemed to be a violation of the Railway Labor Act.

"(j) DEFINITION.—As used in this section—

"(1) 'Amtrak Commuter' means the Amtrak Commuter Services Corporation created under title V of the Rail Passenger Service Act;

"(2) 'commuter authority' means any State, local, or regional authority, corporation, or other entity established for purposes of providing commuter service; and

"(3) 'commuter service' means short-haul rail passenger service operated in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride, and commutation tickets and by morning and evening peak period operations.

"(k) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the commuter subsidiary for purposes of establishing a working capital revolving fund not to exceed $50,000,000 for the fiscal year ending September 30, 1982. Such revolving fund shall be used by the commuter subsidiary for purposes of meeting periodic expenses connected with the operation of commuter service until such expenses have been reimbursed by the appropriate commuter authorities.

"(2) After the Corporation is relieved of its obligation to operate commuter services, the working capital revolving fund established under paragraph (1) of this subsection (including any outstanding liabilities of commuter authorities to such fund) shall be transferred to Amtrak Commuter for purposes of carrying out title V of the Rail Passenger Service Act.

"(3) Amounts appropriated under this subsection are authorized to remain available until expended.".

"(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 307 the following new item:

"Sec. 308. Separation of commuter functions.".

ESTABLISHMENT OF AMTRAK COMMUTER

SEC. 2012. (a) The Rail Passenger Service Act (45 U.S.C. 507 et seq.) is amended by inserting immediately after title IV thereof the following new title:

"TITLE V—AMTRAK COMMUTER SERVICES

"SEC. 501. ESTABLISHMENT OF AMTRAK COMMUTER.

"(a) There shall be established within 240 days after the effective date of this title a wholly-owned subsidiary of the Corporation to be known as the Amtrak Commuter Services Corporation (hereinafter referred to as "Amtrak Commuter").

"(b)(1) Amtrak Commuter shall not be an agency or instrumentality of the Federal Government. Amtrak Commuter shall be subject to the provisions of this Act and, to the extent not inconsistent with this Act, to the District of Columbia Business Corporation Act.

"(2) Amtrak Commuter shall be deemed to be a contract operator of commuter service on behalf of the commuter authorities that contract with Amtrak Commuter for the operation of commuter service under this title. Amtrak Commuter shall have no common carrier obligation to operate either passenger or freight service.

"(c)(1) Amtrak Commuter shall not be subject to the jurisdiction of the Commission under chapter 105 of title 49, United States Code, but it shall (treated as a separate rail carrier) be subject to the same laws and regulations with respect to safety and with respect to the representation of its employees for purposes of collective bargaining, the handling of disputes between carriers and their employees, employee retirement, annuity, and unemployment systems, and other dealings with its employees as any rail carrier providing transportation subject to the jurisdiction of the Commission under chapter 105 of such title 49.

"(2) Amtrak Commuter shall not be subject to any State or other law relating to the transportation of passengers by railroad insofar as such law relates to rates, routes, or service, including any modification or discontinuance thereof.

"(3) Amtrak Commuter shall be exempt from the payment of taxes to the same extent as the Corporation is exempt under section 306(n) of this Act.

"(4) The provisions of section 10 of the Clayton Act (15 U.S.C. 20) shall not apply to transactions between Amtrak Commuter and the Corporation.

"(d) The Board of Directors of the Corporation shall be the incorporators of Amtrak Commuter and shall take whatever steps are necessary to establish Amtrak Commuter, including filing articles of incorporation.

"SEC. 502. DIRECTORS AND OFFICERS.

"(a)(1) Amtrak Commuter shall have a Board of Directors consisting of six individuals, as follows:

"(A) The President of Amtrak Commuter, ex officio.

"(B) Two members who are selected by commuter authorities to serve on the Board of Directors of the Corporation in accordance with section 303(a)(1) of this Act.

"(C) Two members selected by the Board of Directors of the Corporation (in addition to those members described in subparagraph (B)).

"(D) One member from a commuter authority (in addition to those members described in subparagraph (B)), as follows:

"(i) During the period prior to the commencement of the operation of commuter service by Amtrak Commuter, such member shall be selected by commuter authorities for which the Consolidated Rail Corporation operates commuter service under the Regional Rail Reorganization Act of 1973.

"(ii) Beginning 540 days after the effective date of this title, such member shall be selected by commuter authorities for which Amtrak Commuter operates commuter service pursuant to this title, but such member shall serve only if Amtrak Commuter enters into contracts with two or more commuter authorities for the operation of commuter service.

"(2)(A) Except as provided in paragraph (1)(D)(i) of this section, members of the Board of Directors of Amtrak Commuter shall serve terms of two years, and any vacancy in the membership of the Board shall be filled in the same manner as in the case of the original selection.

"(B) the Board shall elect one of its members annually to serve as Chairman.

"(C) Each member of the Board shall receive compensation and reimbursement in accordance with section 303(a)(5) of this Act.

"(b) The provisions of section 303 (b) and (d) of this Act shall apply to Amtrak Commuter.

"SEC. 503. GENERAL POWERS OF AMTRAK COMMUTER.

"(a)(1) Amtrak Commuter is authorized to own, manage, operate, or contract for the operation of commuter service; to conduct research and development related to its mission; and to acquire by construction, purchase, or gift, or to contract for the use of, physical facilities, equipment, and devices necessary to commuter service operations.

"(2) Amtrak Commuter shall, to the extent consistent with this Act and the agreements with the commuter authorities, directly operate and control all aspects of its commuter service.

"(b) To carry out its functions and purposes, Amtrak Commuter shall have the usual powers conferred upon a stock corporation by the District of Columbia Business Corporation Act.

"(c) Amtrak Commuter is authorized to issue common stock to the Corporation.

"SEC. 504. COMMUTER SERVICE.

"(a) Amtrak Commuter is authorized to operate commuter service under an agreement with a commuter authority. Effective 540 days after the effective date of this title, any commuter service operated by Amtrak Commuter under an agreement with a commuter authority shall be operated solely pursuant to the provisions of subsections (b) through (i) of this section.

"(b) Amtrak Commuter shall operate commuter service which the Consolidated Rail Corporation was obligated to provide on the effective date of this title under section 303(b)(2) or 304(e) of the Regional Rail Reorganization Act of 1973, and may operate any other commuter service, if the commuter authority for which such service is to be operated agrees to provide—

"(1) a commuter service operating payment which is designed to cover the difference between the revenue attributable to the operation of such service and the avoidable costs of operating such service, including the avoidable cost of any capital improvements necessary to operate such service; or

"(2) a commuter service operating payment which is payable pursuant to a lease or agreement with a commuter authority under which financial support was being provided on January 2, 1974, for the continuation of rail passenger service.

"(c) Any agreement to provide a commuter service operating payment under subsection (b) of this section shall be made in accordance with regulations issued by the Rail Services Planning Office pursuant to section 205(d)(5) of the Regional Rail Reorganization Act of 1973. The Office may revise and update such regulations as may be necessary to carry out the provisions of this section.

"(d)(1) If a commuter authority offers to provide payment for the provision of additional commuter service, Amtrak Commuter may provide such service pursuant to this section if such payment is designed to avoid any additional costs to Amtrak Commuter or the Corporation arising from the construction or modification of capital facilities or from any additional operating delays or costs arising from the absence of such construction or modification. Any additional manpower requirements shall be satisfied through existing seniority arrangements as agreed to in the implementing agreement negotiated pursuant to section 506 of this Act.

"(2) Any commuter authority making an offer under this paragraph shall demonstrate that—

"(A) such commuter authority has acquired, leased, or otherwise obtained access to all rail properties necessary to provide such additional commuter service; and

"(B) such commuter authority has completed, or will complete prior to the inception of such additional commuter service, all capital improvements necessary to avoid significant costs which cannot be avoided by improved scheduling or other means on other existing rail services (including rail freight service) and to assure that the additional commuter service will not significantly detract from the level and quality of existing rail passenger and freight service.

"(e)(1) Amtrak Commuter may discontinue commuter service provided under this section upon 60 days' notice if—

"(A) a commuter authority does not offer a commuter service operating payment in accordance with subsection (b) of this section; or

"(B) an applicable commuter service operating payment is not paid when it is due.

"(2) The notice required under this subsection shall be determined pursuant to regulations issued by the Rail Services Planning Office.

"(f) Notwithstanding any other provision of law, compensation to the Corporation or Amtrak Commuter for right-of-way related costs for service over the Northeast Corridor and other properties owned by the Corporation shall be determined in accordance with the methodology determined by the Commission or agreed upon by the parties pursuant to section 2088 of the Rail Service Improvement Act of 1981.

"(g) If a commuter authority fails to offer a commuter service operating payment pursuant to subsection (b)(2) of this section, then any lease or agreement under which financial support was being provided on January 2, 1974, for the continuation of rail passenger service shall not apply to Amtrak Commuter, but the Corporation and the consolidated Rail Corporation shall retain appropriate trackage rights (for freight and passenger operations respectively) over any rail properties owned or leased by such commuter agency. Compensation for such trackage rights shall be fair and equitable.

"(h) Notwithstanding any other provision of this section, Amtrak Commuter is not obligated to provide commuter service if a commuter authority contracts for the provision of such service by an operator other than Amtrak Computer. In any such case, Amtrak Commuter shall, where appropriate, provide the operator of such service with access to the rail properties needed to operate such service.

"(i) If the Board of Directors of Amtrak Commuter determines that the amount in the revolving fund transferred to Amtrak Commuter pursuant to section 308(k) of the Regional Rail Reorganization Act of 1973 is in excess of the amount needed as a revolving fund for purposes of this title, the Board shall allocate a proportionate share of such excess amount to any commuter authority that, after being provided commuter service under an agreement with Amtrak Commuter under this title, has elected to operate its own commuter service. The Board shall determine the amount of such proportionate allocation on the basis of the ridership of such commuter authority and the ridership of those commuter authorities remaining under contract with Amtrak Commuter.

"SEC. 505. NORTHEAST CORRIDOR COORDINATION.

"(a) The Board of Directors of Amtrak Commuter shall develop and recommend to the Corporation—

"(1) policies which ensure equitable access to the Northeast Corridor, taking into account the need for equitable access by commuter and intercity services and the requirements of section 402(e) of this Act; and

"(2) equitable policies for the Northeast Corridor with respect to dispatching, public information, maintenance of equipment and facilities, major capital facility investments, and harmonization of equipment acquisitions, fares, tariffs, and schedules.

"(b) The Board of Directors of Amtrak Commuter may recommend to the President and Board of Directors of the Corporation such actions as are necessary to resolve differences of opinions regarding operations (among or between the Corporation, Amtrak Commuter, other railroads, commuter authorities, and other State, local, and regional agencies responsible for the provision of commuter rail, rapid rail, or rail freight services), with respect to all matters except those conferred on the Commission in section 402(a) of this Act.".

PROHIBITION OF CROSS-SUBSIDIZATION

SEC. 2013. Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended by adding at the end thereof the following new subsection:

"(c) None of the funds appropriated under this section for the payment of operating and capital expenses of intercity rail passenger service shall be used for the operation of commuter service by Amtrak Commuter.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2014. Section 601 of the Rail Passenger Service Act (45 U.S.C. 601), as amended

by this part, is further amended by adding at the end thereof the following new subsection:

"(d) There is authorized to be appropriated to the Secretary for the benefit of the Corporation not to exceed $20,000,000 for the fiscal year ending September 30, 1982, to be allocated to any commuter authority that was providing commuter service, operated by a railroad that entered reorganization after calendar year 1974, as of January 1, 1979.".

Chapter II—ADDITIONAL FINANCING OF CONRAIL

ADDITIONAL FINANCING OF CONRAIL

SEC. 2021. (a) title II of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721 et seq.) is amended by adding at the end thereof the following new section:

"ADDITIONAL PURCHASES OF SERIES A PREFERRED STOCK

"SEC. 217. (a) FEDERAL INVESTMENT.—Notwithstanding any other provision of this Act, any investment by the Federal Government in the securities of the Corporation after October 1, 1981, shall be by the purchase of series A preferred stock in accordance with this section.

"(b) TIMING AND AMOUNT OF PURCHASES.—(1) The Association shall determine, in accordance with this section, whether to purchase the following amounts of series A preferred stock and accounts receivable of the Corporation on the following purchase dates:

"(A) On October 1, 1981, the purchase of $125,000,000 of stock, accounts receivable of the Corporation attributable to the dispute over the right-of-way related costs described in section 2088(a)(1) of the Rail Service Improvement Act of 1981, and accounts receivable of the Corporation attributable to delays in reimbursement from commuter agencies.

"(B) On April 1, 1982, the purchase of $125,000,000 of stock and accounts receivable described in subparagraph (A) of this paragraph.

"(C) On October 1, 1982, the purchase of $100,000,000 of stock.

"(D) On April 1, 1983, the purchase of $75,000,000 of stock.

"(E) On September 30, 1983, the purchase of $50,000,000 of stock.

"(2) Any request by the Corporation for the purchase of stock (or accounts receivable if applicable) under this section shall be filed with the Association not less than 30 days prior to the purchase date, and shall describe how the conditions set forth in subsection (c) have been met.

"(3) Any purchases not requested by the Corporation or approved by the Association on any particular purchase date may be deferred by the Association.

"(4) On each purchase date the Association shall make a determination whether the Corporation will be a profitable carrier. The Association shall immediately notify the Secretary of its determination. For the purpose of making such determination, the Association shall assume that the interest of the United States in any debt or preferred stock of the Corporation is limited as required under section 402 of this Act.

"(c) CONDITIONS.—The Association shall purchase shares of series A preferred stock and accounts receivable on the purchase dates set forth in subsection (b) of this section only if the Corporation demonstrates to the satisfaction of the Association that the following conditions have been met:

"(1) NON-AGREEMENT PERSONNEL.—(A) Employees who are not subject to collective-bargaining agreements (hereinafter in this section referred to as 'non-agreement personnel') are foregoing wage increases and benefits in an amount proportionately equivalent to the amount foregone by agreement employees pursuant to paragraph (5) of this subsection, adjusted annually to reflect inflation.

"(B) The number of non-agreement personnel is reduced proportionately to any reduction in agreement employees (excluding reductions pursuant to the termination program under section 702 of this Act). Any reduction in non-agreement personnel or agreement employees which occurs after May 1, 1981, shall be included for purposes of this subparagraph.

"(2) SUPPLIERS.—Materials and services continue to be available to the Corporation, under normal business practices, which shall include the provision of credit and normal financing arrangements.

"(3) SHIPPERS.—(A) The Corporation, on each purchase date, submits to the Association a projection for the next six-month period and a report for the previous six-month period, which establishes that the Corporation has maximized and will continue to maximize its opportunities to generate revenues under the provisions of this Act, the Staggers Rail Act of 1980, and subtitle IV of title 49, United States Code.

"(B) Shippers of goods transported by the Corporation are not unduly interfering in the maximization of revenues by the Corporation.

"(4) FINANCIAL PLAN.—(A) The Corporation, by October 1, 1981, submits to the Association a financial plan which (i) indicates how the Corporation will become a profitable carrier within the funding limitations and timetable of this Act, and (ii) establishes projected financial needs of the Corporation and sets forth a schedule for reducing its losses.

"(B) The Corporation, on each purchase date, substantially complies with the financial plan filed under subparagraph (A).

"(C) The Corporation may amend its financial plan on any purchase date, but the plan as amended must meet the requirements of subparagraph (A).

"(5) AGREEMENT EMPLOYEES.—(A)(i) The Corporation enters into collective bargaining agreements with its employees which provide the Corporation benefits equal to $200,000,000 a year, beginning April 1, 1981, adjusted annually to reflect inflation.

"(ii) Agreements under this subparagraph may provide for reductions in wage increases and for changes in fringe benefits common to agreement employees, including vacations and holidays.

"(iii) The benefits required under this subparagraph in the first year of the agreement may be deferred until the second year of the agreement, but any benefits so deferred must be provided no later than the end of such second year (in addition to the benefits otherwise required in such year).

"(iv) The amount of benefits provided under this paragraph shall be calculated by subtracting the cost of an agreement entered into under this paragraph from (I) the cost that would otherwise result from the application of the national agreement reached by railroad industry and its employees, or (II) until such national agreement is reached, the cost which the Association estimates would result from the application of such a national agreement.

"(B)(i) The Corporation enters into collective bargaining agreements with its employees which provide for the establishment of one or more advisory factfinding panels, chaired by a neutral expert in industrial relations, for purposes of recommending changes in operating practices and procedures which result in greater productivity to the maximum extent practicable.

"(ii) The National Mediation Board shall appoint public members to any panel established under this subparagraph, and shall perform such functions contained in the agreement as are consistent with the duties of such Board under the Railway Labor Act.

"(iii) The factfinding panel may, before making its report to the parties, provide mediation, conciliation, and other assistance to the parties.

"(C) Any savings resulting from any of the following shall not be included as benefits for purposes of this paragraph:

"(i) The implementation of any crew consist agreement or fireman manning agreement in effect on the effective date of this section.

"(ii) The provision of benefits under section 701 or the termination of employees under section 702 of this Act.

"(iii) The separation of employees under any other provision of law or agreement.

(iv) Any collective bargaining agreement signed or any procedures agreed to prior to January 1, 1981.

"(v) The assignment of work under section 706 or any single collective bargaining agreement entered into under section 708 of this Act.

"(D)(i) Notwithstanding any other provision of this section, if an agreement is not reached under this paragraph by the initial purchase date, the Association shall still purchase additional shares of stock of the Corporation if the Association determines that there is a substantial likelihood that an agreement providing the benefits required by this paragraph will be reached by the end of the six-month period beginning on such initial purchase date.

"(ii) The benefits received by the Corporation during the period beginning on the initial purchase date and ending on the effective date of any agreement subsequently reached which result from the lack of retroactivity of wage increases shall be included as benefits to the Corporation for purposes of this paragraph.

"(6) SUBSIDIARIES.—(A) The Corporation, by January 1, 1982, provides the Association with a list of all subsidiaries of the Corporation (other than the Conrail Equity Corporation and any commuter subsidiary), identifying those subsidiaries which did not operate at a profit during the preceding 12-month period.

"(B) The Association shall, within 12 months after the effective date of this section, order the Corporation to sell any subsidiary identified as not profitable under subparagraph (A) unless the Association determines that the benefits to the Corporation of maintaining ownership of such subsidiary outweigh the financial loss to the Corporation resulting from such ownership.

"(d) MODIFICATION OF CONDITIONS.—(1) The Association may increase the conditions required under subsection (c) of this section, on a proportionate basis to the maximum extent practicable, if it determines that the Corporation needs additional benefits in order to become profitable. The Association may also require the Corporation to demonstrate productivity increase if it determines that such increase are necessary to enable the Corporation to become profitable.

(2) Any modified conditions adopted by the Association under this subsection shall

become the conditions which must be met in order for the Association to purchase additional stock of the Corporation under this section.

"(e) DETERMINATIONS AND AMENDED REQUESTS.—(1) If the Association determines that the conditions of subsection (c) have not been met as of any purchase date, it shall notify the Corporation no later than 15 days after such purchase date of the specific conditions that have not been met.

"(2) The Corporation may request the Association to reconsider its determination under this subsection if the Corporation is able to present new evidence that the conditions have been met or is able to present an amended request for a purchase pursuant to this section. If the Association determines, on the basis of such new evidence or such amended request, that the conditions have been met, the Association shall purchase the additional stock (or accounts receivable if applicable) of the Corporation.

"(f) WORKER PARTICIPATION AND SELF-MANAGEMENT DEMONSTRATION PROGRAMS.—(1) The Corporation shall, within 180 days after the effective date of this section, enter into agreements with representatives of the various classes and crafts of employees for the establishment, on a demonstration basis, of worker participation and self-management programs at one or more facilities or locations, for purposes of fostering employee job satisfaction, job flexibility, and quality assurance.

"(2) Agreements under this subsection may provide for separate or combined programs for major groups of crafts or classes such as train and engine service, shopcraft, clerical, and maintenance of way.

"(3) If the agreements under this subsection so provide, collective bargaining agreements then in force at the facility or location involved (other than any dues checkoff provision of such an agreement), shall be suspended for the duration of the demonstration program and employees covered by the program shall be represented in accordance with the worker participation agreement, notwithstanding any provision of the Railway Labor Act.

"(4) Agreements under this subsection may include provisions relating to (A) the resolution of disputes under section 3 of the Railway Labor Act, (B) the election of agreement personnel to serve in supervisory jobs, (C) the election of agreement personnel to negotiate performance goals and, (D) such other matters as may be agreed upon by the Corporation and its agreement employees.

"(5) Nothing in this subsection shall be construed to interfere with the application of rates of pay provided for in the agreements required by subsection (c)(5)(A) of this section or with the implementation of the negotiation and fact finding procedures required by subsection (c)(5)(B).

"(g) STATES AND LOCALITIES.—Until such time as the United States sells its interest in the Corporation under section 401 or 403 of this Act, the Corporation shall be exempt from liability for any State or local tax for the period of three years from the effective date of this section.

"(h) PROJECTIONS.—At the time of a request by the Corporation for the purchase of additional stock, the Corporation shall present to the Association (1) its projections of expenditures for the next six-month period for services of individuals or firms not on the payroll of the Corporation, and (2) its expenditures for the preceding six-month period for the services of such individuals or firms.

"(i) WORK STOPPAGES.—In the event of any work stoppage by employees of the Corporation which directly results from the conditions required under subsection (c) of this section and substantially impairs the operation of the Corporation's rail system, the Association shall make no further purchases of stock of the Corporation.

"(j) DEBENTURES.—The Association shall return debentures to the Corporation in an amount equal to the value of the properties conveyed by the Corporation to its commuter subsidiary.

"(k) RIGHTS RETAINED.—The Corporation shall retain the right to collect and shall collect any accounts receivable attributable to delays in reimbursement from commuter agencies that are purchased by the Association under this section.

"(l) DEFINITION.—As used in this section, the term 'profitable carrier' means a carrier that generates sufficient revenues to meet its expenses, including reasonable maintenance of necessary equipment and facilities without funding from the Federal Government.

"(m) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Association for purposes of purchasing securities and accounts receivable of the Corporation under this section not to exceed $150,000,000 for the fiscal year ending September 30, 1982, and not to exceed $225,000,000 for the fiscal year ending September 30, 1983. In addition, any amounts appropriated under section 216(g) of this Act are authorized to be available for the purchase of securities and accounts receivable under this section. All sums received on account of the holding or disposition of any such securities shall be deposited in the general fund of the Treasury.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by inserting immediately after the item relating to section 216 the following new item:

"Sec. 217. Additional purchases of Series A preferred stock.".

ORGANIZATION AND STRUCTURE OF CONRAIL

"SEC. 2022. (a) Section 301(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(d)) is amended—

(1) by striking out "(other than resignation pursuant to this subsection)" in the second sentence; and

(2) by striking out the third, fourth, and fifth sentences.

(b) Section 301(e)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(e)) is amended by striking out "In order to carry out the final system plan, the" and inserting in lieu thereof "The".

(c) Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by striking out subsection (j) and inserting in lieu thereof the following new subsection:

"(j) SIGNAL SYSTEMS.—If, within two years after the effective date of this subsection, the Corporation applies for the permission of the Secretary to substitute manual block signal systems for automatic block signal systems on lines on which less than 20,000,000 gross tons of freight are carried annually, the Secretary shall approve or disapprove such application within 90 days of its submission.".

Chapter III—TRANSFER OF FREIGHT SERVICE RESPONSIBILITIES

RESPONSIBILITIES

TRANSFER OF FREIGHT SERVICE

SEC. 2031. (a) The Regional Rail Reorganization Act of 1973 is amended by inserting immediately after title III the following new title:

"TITLE IV—TRANSFER OF FREIGHT SERVICE

"INTEREST OF UNITED STATES

"SEC. 401. (a) SALE OF COMMON STOCK.—During the period beginning on July 1, 1982, and ending December 31, 1983, if the Association notifies the Secretary that it has made a determination under section 217(b)(4) of this Act that the Corporation will be a profitable carrier, the Secretary shall sell in block or by general offering, the interest of the United States in the common stock of the Corporation. In making such sale the Secretary shall attempt to—

"(1) ensure continued rail service;

"(2) promote competitive bidding for such common stock; and

"(3) maximize the return to the United States on its investment.

"(b) CANCELLATION.—In making any sale under subsection (a), the Secretary may cancel some shares of the common stock of the Corporation and sell only the remaining shares.

"(c) REPLACEMENT OF BOARD OF DIRECTORS.—When all common stock of the Corporation held by the United States (or any agent or instrumentality thereof) is sold under subsection (a) or cancelled under subsection (b), the Corporation shall elect a new Board of Directors. Only holders of shares of common stock may vote in such election, and each such share shall entitle its holder to one vote.

"(d) RAILROAD PURCHASERS.—Any railroad which purchases common stock of the Corporation shall vote such stock in the same proportion as all other common stock of the Corporation is voted unless the Commission determines that such railroad has purchased a controlling interest in the Corporation.

"(e) In making any sale under subsection (a), the Secretary shall first offer, to any employees whose wages are reduced pursuant to any agreement entered into under section 217(c)(5) of this Act, stock in amounts equal to the extent of such wage reduction.

DEBT AND PREFERRED STOCK

"SEC. 402. (a) LIMITATION.—Prior to any sale of the common stock of the Corporation under section 401, the interest of the United States in any debt or preferred stock of the Corporation held by the United States (or any agent or instrumentality thereof, including the Association) shall be limited to any interest which attaches to such debt or preferred stock in the event of bankruptcy, or substantial sale, or liquidation of the assets of the Corporation. The Secretary shall substitute for the evidence of such debt or preferred stock held by the United States (or any such agent or instrumentality) contingency notes conforming to the limited terms set forth in this subsection.

"(b) SUBSEQUENT ISSUE.—If the interest of the United States is limited under subsection (a) the Corporation may issue new debt or preferred stock subsequent to the issuance of the debt or preferred stock described in subsection (a) which shall have higher priority in the event of bankruptcy, liquidation, or abandonment of the assets of the Corporation than the debt or preferred stock described in subsection (a).

"TRANSFER PLAN

"SEC. 403. (a) DEVELOPMENT.—The Secretary shall develop a plan for the sale of the

rail properties of the Corporation. Such plan shall—

"(1) ensure that at least 75 percent of the rail service operated by the Corporation as of December 31, 1983, shall be maintained;

"(2) promote competitive bidding for such rail properties; and

"(3) maximize the return to the United States on its investment.

"(b) CONFERENCES.—The Secretary may, in developing a transfer plan under this section, hold conferences with officers and directors of affected rail carriers, representatives of employees of the Corporation and other affected rail carriers, the Commission, suppliers, appropriate State and local officials, shippers and consumer representatives, potential purchasers or operators other than rail carriers, representatives of the Federal Trade Commission, the Attorney General of the United States, or any combination thereof. Persons attending or represented at any such conference shall not be liable under the antitrust laws of the United States with respect to any discussion at such conference or with respect to any agreement reached at such conference.

"(c) APPROVAL OF TRANSFER COMMITTEE.—If there is no sale under section 401(a) of this Act, any plan developed by the Secretary under subsection (a) of this section shall be submitted to the Transfer Committee for approval.

"(2) The Transfer Committee shall be composed of five persons as follows:

"(A) The Secretary of Transportation.

"(B) The Secretary of the Treasury.

"(C) The Chairman of the Commission.

"(D) The Director of the Office of Management and Budget.

"(E) The Chairman of the Board of Directors of the Corporation.

"(d) CONGRESSIONAL REVIEW.—Within 180 days after December 31, 1983, the Secretary shall submit any plan developed under subsection (a) and approved by the Transfer Committee under subsection (c) to the Congress for review in accordance with this section. Any such transfer proposal shall be deemed approved at the end of the first period of 90 calendar days of continuous session of the Congress after the date of such submittal unless one or both of the Houses of the Congress adopts a concurrent resolution during such period stating that they do not approve such transfer proposal. For purposes of this section—

"(1) continuity of session of the Congress is broken only by an adjournment sine die; and

"(2) the days on which either House is not in session because of adjournment of more than 3 days to a day certain are excluded in the computation of the 90-day period.

"(e) TRANSFER.—If any transfer plan developed by the Secretary is approved by the Transfer Committee and the Congress under this section, the Corporation shall enter into agreements for the transfer the rail properties involved in accordance with the terms of such transfer plan.

"(f) TERMINATION.—When all agreements entered into under subsection (e) have been implemented the Corporation shall be relieved of any obligation to provide rail service, either as a common carrier or under any contract. The Corporation shall retain the power to dispose of any rail properties not transferred under subsection (e).

(g) ASSIGNMENT.—If an interest in rail properties is conveyed pursuant to this section, and if such conveyance is in accordance with the requirements of paragraph (2) of this subsection, the conveyence of such properties shall be deemed an assignment. Any such assignment shall relieve Conrail of liability for any breach which occurs after the date of such conveyance, except that Conrail shall remain liable for any breach, event of default, or violation of convenant which occurred (and any charges or obligations which accrued) prior to the date of such conveyance, regardless of whether the assignee thereof assumes such liabilities, charges, or obligations. If any such liabilities, charges, or obligations (accrued prior to the date of such conveyance) are paid by or on behalf of any person or entity other than Conrail, such person or entity shall have a claim to direct reimbursement from Conrail, together with interest on the amount so paid.

"(2)(A) A conveyance referred to in paragraph (1) of this subsection may be effected only if—

"(i) the assignee to whom such conveyance is made assumes all of the obligations under any applicable conditional sale agreement, equipment trust agreement, or lease with respect to such rail properties (including any obligations which accrued prior to the date on which such rail properties are conveyed),

"(ii) such conveyance is made subject to such obligations, and

"(iii) such conveyance has been approved by any party who is a co-obligor with Conrail on any debt instrument imposing a lien or encumbrance on, or otherwise affecting the title or interest in, the rail properties to be conveyed.

As used in this subparagraph, the term "rail properties" means assets or rights owned, leased, or otherwise controlled by Conrail, other than real property, which are used or useful in rail transportation service.

"(B) Subject to the provisions of this paragraph, the provisions of this Act shall not affect the title and interests of any lessor, equipment trust trustee, or conditional sale vendor under any conditional sale agreement, equipment trust agreement, or lease under section 1168 of the Bankruptcy Act (11 U.S.C. 1168). An assignee to whom such a conveyance is made shall assume all liability under such conditional sale agreement, equipment trust agreement, of lease. Such an assignment or conveyance to, and such an assumption of liability by, such an assignee shall not be deemed a breach, an event of default, or a violation of any convenant of any such conditional sale agreement, equipment trust agreement, or lease so assigned or conveyed, notwithstanding any provisions of any such agreement or lease.

"PROHIBITION ON CERTAIN TRANSFERS

"SEC. 424. (a) GENERAL.—Notwithstanding any other provision of this Act, rail properties of the Corporation may not be transferred under this Act to any railroad in reorganization under this Act which transferred property to the Corporation or is the successor in interest to such a railroad in reorganization.

"(b) TRACKAGE RIGHTS.—Trackage rights granted under the final system plan to a profitable railroad in the Region that received a loan under section 211(a) of this Act shall not be transferred.".

Subpart 3—Protection for Conrail Employees

PROTECTION OF CONRAIL EMPLOYEES

SEC. 2041. (a) The Regional Rail Reorganization Act of 1973 is amended by adding at the end thereof the following new title:

"TITLE VII—PROTECTION OF EMPLOYEES

"EMPLOYEE PROTECTION AGREEMENT

"SEC. 701. (a) GENERAL.—The Secretary of Labor and the representatives of the various classes and crafts of employees of the Corporation shall, not later than 90 days after the effective date of this title, enter into an agreement providing protection for (A) employees of the Corporation who were protected by the provisions of title V of this Act prior to such effective date, (B) employees of the Corporation adversely affected by an abandonment under section 309 of this Act, and (C) employees of the Corporation adversely affected by the transfer of rail properties under section 305(f) of this Act.

"(2) If the parties are unable to reach agreement within 90 days, the Secretary of Labor shall, within 30 days, prescribe the benefit schedule.

"(b) USE OF FUNDS.—The agreement entered into under this section may provide for the use of funds made available under section 712 of this Act for the following purposes:

"(1) Allowances to employees deprived of employment.

"(2) Moving expenses for employees who must move to another place of employment.

"(3) Retraining expenses for employees who are seeking employment in new areas.

"(4) Termination allowances for employees.

"(5) Such other purposes as may be agreed upon by the Secretary of Labor and representatives of the various classes and crafts of employees.

"(c) APPLICABILITY.—Any employee of the Corporation who is eligible for benefits under this section and who is transferred to the commuter subsidiary of the Corporation or to the Amtrak Commuter Services Corporation pursuant to title IV of this Act shall remain eligible for such benefits.

"(d) LIMITATION.—The agreement of the parties under this section may not require the expenditure of funds in excess of the amount authorized to be appropriated under section 713 of this Act.

"TERMINATION ALLOWANCE

"SEC. 702. (a) GENERAL.—The Corporation may terminate the employment of certain employees, in accordance with this section, upon the payment of an allowance of $500 for each month of active service with the Corporation or with a railroad in reorganization, but in no event may any such termination allowance exceed $25,000.

"(b) EMPLOYMENT NEEDS.—Within 90 days after the effective date of this title, the Corporation shall determine, for each location, the number of employees that the Corporation needs to separate under subsection (a) of this section.

"(c) NOTIFICATION AND SEPARATION PROCEDURE.—(1) Within 90 days after the effective date of this title, the Corporation shall notify its employees of their rights and responsibilities under this section.

"(2) Within 90 days after the effective date of this title, the Corporation shall notify each train and engine service employee eligible to be separated under paragraph (3) that such employee may be entitled to receive a separation payment under this section if such employee files a written request to be separated. Such notice may be revised from time to time.

"(3) If the number of employees who request to be separated pursuant to paragraph (2) of this subsection is greater, in engine service at any location, than the

number of excess firemen at the location, and in train service at the location than the number of excess second and third brakemen, as determined by the Corporation, the Corporation shall separate the employees described in paragraph (2) of this subsection in order of seniority beginning with the most senior employee, until the excess firemen and second and third brakemen positions at that location, as determined by the Corporation, have been eliminated.

"(d) DESIGNATED SEPARATIONS.—If the number of employees who are separated pursuant to subsection (c)(3) is less at any location than the number of excess firemen and second and third brakemen in freight service at such location, as determined by the Corporation, the Corporation may, within 210 days after the effective date of this title, designate for separation employees in engine service or train service respectively in inverse order of seniority, beginning with the most junior employee in active service at such location until the excess firemen, and second and third brakemen in freight service, at that location have been eliminated. An employee designated under this paragraph may choose (1) to furlough himself voluntarily, in which case the junior employee protected under the firemen manning or crew consist agreements or any other agreement or law, in the same craft or class at such location may be separated instead and receive the separation allowance, or (2) to exercise his seniority to another location, in which case the Corporation may separate, under the provisions of this paragraph, the junior protected employee in active service at the location to which seniority ultimately is exercised.

"(e) EFFECT ON POSITIONS.—The Corporation shall refrain from filling one fireman (helper) position for each employee in engine service separated in accordance with this section.

"(2) The Corporation shall have the right to refrain from filling one brakeman position in excess of one conductor and one brakeman on one crew in freight service for each employee in train service who is separated in accordance with this section.

"(3) Positions permitted to be not filled under this subsection shall be not filled in different types of freight service actually operated at or from the location in a sequence to be agreed upon between the Corporation and the general chairman representative of classes or crafts of employees having jurisdiction over the position to be not filled. If no such agreement is reached, the Corporation may designate the position to be not filled.

"(4) Notwithstanding paragraphs (1) and (2) of this subsection, the Corporation shall retain all rights it has under any provision of law or agreement to refrain from filling any position of employment.

"(f) PROCEDURES.—The Corporation and representatives of the various classes and crafts of employees to be separated may agree on procedures to implement this section, but the absence of such agreement shall not interfere with implementation of the separations authorized by this section.

"(g) PASSENGER EMPLOYEES.—The provisions of this section shall apply to the separation of fireman in commuter service, except that with respect to such employees the Corporation is required to make the separations authorized by this section.

"PREFERENTIAL HIRING

"SEC. 703. (a) GENERAL.—Any employee who is deprived of employment shall have the first right of hire by any other rail carrier for a vacancy in a class or craft (or in the case of a non-agreement employee, for a non-agreement vacancy for which he is qualified) in which such employee was employed by the Corporation or a predecessor carrier for not less than one year, except where such a vacancy is covered by (1) an affirmative action plan, or a hiring plan designed to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this section, a rail carrier shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.

"(b) STATUS.—The rights afforded to employees under this section shall be coequal to the rights afforded under section 8 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 907) and section 105 of the Rock Island Transition and Employee Assistance Act (45 U.S.C. 1004).

"CENTRAL REGISTER OF RAILROAD EMPLOYMENT

"SEC. 704. (a) REGISTER.—(1) The Railroad Retirement Board (hereinafter in this section referred to as the 'Board') shall prepare and maintain a register of persons separated from railroad employment after at least one year of completed service with a rail carrier who have declared their current availability for employment in the railroad industry. The register shall be subdivided by class and craft of prior employment and shall be updated periodically to reflect current availability.

"(2) Each entry in the register shall include, or provide access to, basic information concerning the individual's experience and qualifications.

"(3) The Board shall place at the top of the register those former railroad employees entitled to priority under applicable provisions of law, including this Act.

"(b) CORPORATION EMPLOYEES.—As soon as is practicable after the effective date of this title, the Corporation shall provide to the Board the names of its former employees who elect to appear on the register and who have not been offered employment with acquiring railroads.

"(c) VACANCY NOTICES.—Each rail carrier shall timely file with the Board a notice of vacancy with respect to any position for which the railroad intends to accept applications from persons other than current employees of that carrier.

"(d) PLACEMENT.—The Board shall, through distribution of copies of the central register (or portions thereof) to rail carriers and representatives of classes or crafts of employees and through publication of employment information derived from vacancy notices filed with the Board, promote the placement of former railroad employees possessing requisite skills and experience in appropriate positions with other rail carriers.

"(e) EMPLOYMENT APPLICATIONS.—In addition to its responsibilities under subsections (a) through (d) of this section, the Board shall facilitate the filing of employment applications with respect to current vacancies in the industry by former railroad employees entitled to priority under applicable provisions of law, including this Act.

"(f) EXPIRATION.—The provisions of this section shall cease to be effective on the expiration of the 3-year period beginning on the effective date of this title.

"(g) INJUNCTIVE RELIEF.—Any employee eligible for listing on the central register under this section or eligible for preferential hiring under section 703 may bring an action for injunctive relief in his own name in the United States district court for the district in which he resides or for the District in which the defendant may be found, against the Board or any rail carrier for violation of this section or section 703 of this Act.

"ELECTION AND TREATMENT OF BENEFITS

"SEC. 705. (a) ELECTION.—(1) Any employee who accepts any benefits under an agreement entered into under section 701 of this Act or a termination allowance under section 702 of this Act,

shall, except as provided in paragraph (2) of this subsection, be deemed to waive any employee protection benefits otherwise available under any other provision of law or any contract or agreement in effect on the effective date of this title, and shall be deemed to waive any cause of action for any alleged loss of benefits resulting from the provisions of or the amendments made by the Rail Service Improvement Act of 1981.

"(2) Nothing in paragraph (1) of this subsection shall affect the right of any employee described in such paragraph to benefits under the Railroad Retirement Act of 1974 or the Railroad Unemployment Insurance Act.

"(b) TREATMENT OF BENEFITS.—Any benefits received by an employee under an agreement entered into pursuant to section 701 of this Act and any termination allowance received under section 702 of this Act shall be considered compensation solely for purposes of—

"(1) the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

"(2) determining the compensation received by such employee in any base year under the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.).

"ASSIGNMENT OF WORK

"SEC. 706. (a) GENERAL.—The Corporation shall have the right to assign, allocate, reassign, reallocate, and consolidate work formerly performed on the rail properties acquired pursuant to the provisions of this Act from a railroad in reorganization to any location, facility, or position on its system if it does not remove such work from coverage of a collective-bargaining agreement and does not infringe upon the existing classification of work rights of any craft or class of employees at the location or facility to which such work is assigned, allocated, reassigned, reallocated, or consolidated.

"(b) EXPIRATION.—The authority granted by this section shall apply only for as long as benefits are provided under this title with funds made available under section 713 of this Act.

"CONTRACTING OUT

"SEC. 707. All work in connection with the operation or services provided by the Corporation on the rail lines, properties, equipment, or facilities acquired pursuant to the provisions of this Act and the maintenance, repair, rehabilitation, or modernization of such lines, properties, equipment, or facilities which has been performed by practice or agreement in accordance with provisions of the existing contracts in effect with the representatives of the employees of the classes or crafts involved shall continue to be performed by the Corporation's employees, including employees on furlough. Should the Corporation lack a sufficient number of employees, including employees on furlough, and be unable to hire additional employees, to perform the work required,

it shall be permitted to subcontract that part of such work which cannot be performed by its employees, including those on furlough, except where agreement by the representatives of the employees of the classes or crafts involved is required by applicable collective-bargaining agreements. The term "unable to hire additional employees" as used in this section contemplates esablishment and maintenance by the Corporation of an apprenticeship, training, or recruitment program to provide an adequate number of skilled employees to perform the work.

"NEW COLLECTIVE-BARGAINING AGREEMENTS

"SEC. 708. (a) AGREEMENT.—Not later than 60 days after the effective date of any conveyance pursuant to the provisions of this Act, the representatives of the various classes of crafts of the employees of a railroad in reorganization involved in a conveyance and representatives of the Corporation shall commence negotiation of a new single collective-bargaining agreement for each class and craft of employees covering the rate of pay, rules, and working conditions of employees who are the employees of the Corporation. Such collective-bargaining agreement shall include appropriate provisions concerning rates of pay, rules, and working conditions, but shall not, for as long as benefits are provided under this title with funds made available under section 713 of this Act, include any provisions for job stabilization resulting from any transaction effected pursuant to this Act which may exceed or conflict with those established herein. Negotiations with respect to such single collective-bargaining agreement, and any successor thereto, shall be conducted systemwide.

"(b) PROCEDURE.—(1) Any procedure for finally determining the components of the first single collective-bargaining agreement for any class or craft, agreed upon before the effective date of this title, shall be completed no later than 45 days after such effective date. Such agreed upon procedure shall be deemed to satisfy the requirements of sections 7 and 8 of the Railway Labor Act. The National Mediation Board shall appoint any person as provided for by such agreements.

"(2) Nothing in this section shall be construed to require the parties to enter into a new single collective-bargaining agreement if the agreement between the parties in effect immediately prior to the effective date of this title, complied with section 504(d) of this Act, as in effect immediately prior to such date.

"EMPLOYEE AND PERSONAL INJURY CLAIMS

"SEC. 710. (a) LIABILITY FOR EMPLOYEE CLAIMS.—In all cases of claims by employees, arising under the collective-bargaining agreements of the railroads in reorganization in the region, and subject to section 3 of the Railway Labor Act (45 U.S.C. 153), the Corporation, the National Railroad Passenger Corporation, or an acquiring carrier, as the case may be, shall assume responsibility for the processing of any such claims, and payment of those which are sustained or settled on or subsequent to the date of conveyance, under section 303(b)(1) of this Act, and shall be entitled to direct reimbursement from the Association pursuant to section 211(h) of this Act, to the extent that such claims are determined by the Association to be the obligation of a railroad in reorganization in the region. Any liability of an estate of a railroad in reorganization to its employees which is assumed, processed, and paid, pursuant ot this subsection, by the Corporation, the National Railroad Passenger Corporation, or an acquiring carrier shall remain the preconveyance obligation of the estate of such railroad for purposes of section 211(h)(1) of this Act. The Corporation, the National Railroad Passenger Corporation, an acquiring carrier, or the Association, as the case may be, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act (other than paragraph (4)(A) thereof), for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such obligations are discharged or paid. In those cases in which claims for employees were sustained or settled prior to such date of conveyance, it shall be the obligation of the employees to seek satisfaction against the estate of the railroads in reorganization which were their former employers.

"(b) ASSUMPTION OF PERSONAL INJURY CLAIMS.—All cases or claims by employees or their personal representatives for personal injuries or death against a railroad in reorganization in the region arising prior to the date of conveyance of rail properties, pursuant to section 303 of this Act, shall be assumed by the Corporation or an acquiring railroad, as the case may be. The Corporation or the acquiring railroad shall process and pay any such claims that are sustained or settled, and shall be entitled to direct reimbursement from the Association pursuant to section 211(h) of this Act, to the extent that such claims are determined by the Association or its successor authority to be the obligation of such railroad. Any liability of an estate of a railroad in reorganization which is assumed, processed, and paid, pursuant to this subsection, by the corporation or an acquiring railroad shall remain the preconveyance obligation of the estate of such railroad for purposes of section 211(h)(1) of this Act. The Corporation, an acquiring railroad, or the Association, as the case may be, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act (other than paragraph (4)(A) thereof), for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such obligations were discharged or paid.

"LIMITATIONS ON LIABILITY

"SEC. 711. (a) FEDERAL GOVERNMENT.—The liability of the United States under an agreement entered into under section 701 of this Act or for payment of a termination allowance under section 702 of this Act shall be limited to amounts appropriated under section 713 of this Act.

"(b) THE CORPORATION.—The Corporation shall incur no liability under an agreement entered into under section 701 of this Act or for the payment of a termination allowance under section 702 of this Act.

"PREEMPTION

"SEC. 712. No State may adopt or continue in force any law, rule, regulation, order, or standard requiring the Corporation, its commuter subsidiary, the National Railroad Passenger Corporation, or the Amtrak Commuter Services Corporation to employ any specified number of persons to perform any particular task, function, or operation, or requiring the Corporation to pay protective benefits to employees.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 713. There are authorized to be appropriated to carry out the provisions of this title not to exceed $165,000,000 for the fiscal year ending September 30, 1982, and not to exceed $150,000,000 for the fiscal year ending September 30, 1983. Of the amounts authorized to be appropriated for fiscal year 1982, not more than $115,000,000 shall be available solely for termination allowances under section 702 of this Act. Any amounts not expended for termination allowances under section 702 shall be available for purposes of section 701 of this Act. Any funds appropriated under section 509(b)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 8299(b)(1)) for use under section 216(b)(3) of the Regional Rail Reorganization Act of 1973 shall be available for the purposes of this title. Amounts appropriated under this section are authorized to remain available until expended.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by adding at the end thereof the following new items:

"TITLE VII—PROTECTION OF EMPLOYEES

"Sec. 701. Employee protection agreement.
"Sec. 702. Termination allowance.
"Sec. 703. Preferential hiring.
"Sec. 704. Central register of railroad employment.
"Sec. 705. Election and treatment of benefits.
"Sec. 706. Assignment of work.
"Sec. 707. Contracting out.
"Sec. 708. New collective bargaining agreements.
"Sec. 710. Employee and personal injury claims.
"Sec. 711. Limitations on liability.
"Sec. 712. Preemption.
"Sec. 713. Authorization of appropriations.".

REPEALS

Sec. 2042. (a)(1) Title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771 et seq.), and the items in the table of contents of such Act relating to such title V, are repealed.

(2) Notwithstanding the repeal made by paragraph (1) of this subsection—

(A) benefits accrued as of October 1, 1981, as a result of events that occurred wholly prior to October 1, 1981, shall be disbursed;

(B) any dispute or controversy regarding such benefits shall be determined under the terms of the law in effect on September 30, 1981; and

(C) the authorization contained in section 509 of the Regional Rail Reorganization Act of 1973

shall remain available for such purposes.

(b) Section 11 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 910) and section 107 of the Rock Island Transition and Employee Assistance Act (45 U.S.C. 1006) (relating to maintenance of certain employee lists) are repealed.

Subpart 4—Terms of Labor Assumption

Chapter I—PASSENGER EMPLOYEES

TRANSFER OF PASSENGER SERVICE EMPLOYEES

SEC. 2051. Title V of the Rail Passenger Service Act, as added by this part, is amended by adding at the end thereof the following new sections:

"SEC. 506. TRANSFER OF EMPLOYEES.

"(a) Within 420 days after the effective date of this title, the Consolidated Rail Corporation (hereinafter referred to as 'Conrail'), its commuter subsidiary, Amtrak Commuter, and the representatives of the various crafts or classes of employees of

Conrail's commuter subsidiary shall commence implementing agreement negotiations. Such negotiations shall—

"(1) determine the number of employees to be transferred to Amtrak Commuter, based on the existing contracts between the Corporation and the commuter authorities and the applicable bargaining agreements;

"(2) identify the specific employees of the Corporation and its commuter subsidiary to whom Amtrak commuter offers employment;

"(3) determine the procedure by which such employees may elect to accept employment with Amtrak Commuter;

"(4) determine the procedure for acceptance of such employees into Amtrak Commuter's employment;

"(5) determine the procedure for determining the seniority of such employees in their respective crafts or classes in Amtrak Commuter's system, which shall, to the extent possible, preserve their prior passenger seniority rights;

"(6) ensure that all such employees are transferred to Amtrak Commuter no later than 540 days after the effective date of this title; and

"(7) determine the extent to which employees of Conrail's commuter subsidiary transferred to Amtrak Commuter shall retain freight seniority rights with Conrail. Such determination shall ensure the maximum separation of the freight and passenger work forces and shall (A) provide employees transferred to Amtrak Commuter who are subsequently deprived of employment at least one opportunity to exercise previous freight seniority rights, (B) maximize employment opportunities for employees on furlough, (C) maintain the ability to recall experienced employees, and (D) ensure that under no circumstances are seniority rights exercised in any manner which results in a position being filled which would otherwise not be filled under the terms of any crew consist, fireman manning, or other similar agreement.

"(b)(1) If no agreement with respect to the matters being negotiated pursuant to subsection (a) is reached within 30 days after the date such negotiations are commenced, the parties to the negotiations shall, within an additional 10 days, select a neutral referee. If the parties are unable to agree upon the selection of such a referee, the National Mediation Board shall promptly appoint a referee.

"(2) The referee shall commence hearings on the matters being negotiated pursuant to subsection (a) not later than 10 days after the date he is selected or appointed, and shall render a decision within 30 days after the date of commencement of such hearings. All parties may participate in the hearings, but the referee shall have the only vote.

"(3) The referee shall resolve and decide all matters in dispute with respect to the negotiation of the implementing agreement or agreements. The referee's decision shall be final and binding to the same extent as an award of an adjustment board under section 3 of the Railway Labor Act, and shall constitute the implementing agreement or agreements between the parties. The salary and expenses of the referee shall be paid pursuant to the provision of the Railway Labor Act.

"(c) EMPLOYEE PROTECTION.—Any employee of the Corporation or its commuter subsidiary who is not offered employment with Amtrak Commuter under this section shall be provided employee protection under section 701 of the Regional Rail Reorganization Act of 1973 to the same extent as if such employee had remained in the employ of the Corporation.

"SEC. 507. COLLECTIVE BARGAINING AGREEMENT FOR AMTRAK COMMUTER.

"(a) Prior to the date Amtrak Commuter commences operation of commuter service previously operated by Conrail or its commuter subsidiary, Amtrak Commuter and the representatives of the various classes or crafts of employees to be transferred to Amtrak Commuter pursuant to section 507 of this Act shall enter into new collective bargaining agreements with respect to rates of pay, rules, and working conditions.

"(b)(1) Amtrak Commuter and the representatives of the various classes and crafts of employees to be transferred to Amtrak Commuter shall, within 270 days after the effective date of this title, establish a fact-finding panel, chaired by a neutral expert in industrial relations, for purposes of recommending changes in operating practices and procedures which result in greater productivity to the maximum extent practicable.

"(2) The National Mediation Board shall appoint public members to the panel established under paragraph (1) of this subsection, and shall perform such functions contained in the agreement as are consistent with the duties of such Board under the Railway Labor Act.

"(3) The fact-finding panel shall, within 90 days after the date it is established, submit a report to the parties setting forth its recommendations for changes in operating practices and procedures.

"(4) The fact-finding panel may provide mediation, conciliation, and other assistance to the parties.".

Chapter II—FREIGHT EMPLOYEES

LABOR TRANSFER

SEC. 2061. (a) Title IV of the Regional Rail Reorganization Act of 1973, as added by this part, is amended by adding at the end thereof the following new sections:

"LABOR TRANSFER AGREEMENTS

SEC. 405. (a) IMPLEMENTING AGREEMENT.—Within 30 days after the date any transfer agreement is entered into under this title, the rail carrier or other entity purchasing rail properties and the representatives of the various crafts or classes of employees of the Corporation to be transferred to such rail carrier or other entity shall commence implementing agreement negotiations. Such negotiations shall—

"(1) determine the number of employees to be transferred to such rail carrier or other entity;

"(2) identify the specific employees of the Corporation to whom such rail carrier or other entity offer employment;

"(3) determine the procedure by which such employees may elect to accept employment with such rail carrier or other entity;

"(4) determine the procedure for acceptance of such employees into employment with such rail carrier or other entity;

"(5) determine the procedure for determining the seniority of such employees in their respective crafts or classes in the system of such rail carrier or other entity, which shall, to the extent possible, preserve their prior freight seniority rights; and

"(6) ensure that all such employees are transferred to such rail carrier or other entity no later than 120 days after the date the transfer agreement is entered into under this title.

"(b) DECISION OF REFEREE.—(1) If no agreement with respect to the matters being negotiated pursuant to subsection (a) is reached within 30 days after the date such negotiations are commenced, the parties to the negotiations shall, within an additional 10 days, select a neutral referee. If the parties are unable to agree upon the selection of such a referee, the National Mediation Board shall promptly appoint a referee.

"(2) The referee shall commence hearings on the matters being negotiated pursuant to subsection (a) not later than 10 days after the date he is selected or appointed, and shall render a decision within 30 days after the date of commencement of such hearings. All parties may participate in the hearings, but the referee shall have the only vote.

"(3) The referee shall resolve and decide all matters in dispute with respect to the negotiation of the implementing agreement or agreements. The referee's decision shall be final and binding to the same extent as an award of an adjustment board under section 3 of the Railway Labor Act, and shall constitute the implementing agreement or agreements between the parties. The salary and expenses of the referee shall be paid pursuant to the provision of the Railway Labor Act.

"LABOR CONDITIONS

"SEC. 406. The Commission shall determine the labor conditions to apply to employees affected by any transfer under this title as if such transfer were made under the Interstate Commerce Act.".

(b) The table of contents of the Regional Rail Reorganization Act of 1973 is amended by striking out the items relating to title IV and inserting in lieu thereof the following new items:

"TITLE IV—TRANSFER OF FREIGHT SERVICE

"Sec. 401. Interest of United States.
"Sec. 402. Debt and preferred stock.
"Sec. 403. Transfer plan.
"Sec. 404. Prohibition on certain transfers.
"Sec. 405. Labor transfer agreements.
"Sec. 406. Labor conditions.".

Subpart 5—United States Railway Association

ORGANIZATION OF USRA

SEC. 2071. (a) Section 201 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721) is amended by striking out subsections (d) through (i), by redesignating subsections (j) and (k) as subsections (g) and (h), respectively, and by inserting after subsection (c) the following new subsections:

"(d) BOARD OF DIRECTORS.—(1) The Board of Directors of the Association shall consist of 3 individuals, as follows:

"(A) The Chairman, who shall be selected by the previous Chairman and the other members of the Board.

"(B) The Secretary of Transportation.

"(C) The Comptroller General of the United States.

"(2) No member of the Board of Directors may have any employment or other direct financial relationship with any railroad. The Chairman may receive $300 per diem when engaged in the actual performance of his duties plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

"(e) TERM OF OFFICE.—The term of office of the Chairman of the Board of Directors of the Association shall be 6 years.

"(f) QUORUM.—Three members of the Board of Directors shall constitute a quorum for the transaction of any function of the Association.".

(5) The amendment made by this subsection shall not affect the term of the individual serving as Chairman of the United States Railway Association on the effective date of this part.

FUNCTIONS OF USRA

SEC. 2072. (a) Section 202 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 722) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following new subsections:

"SEC. 202. (a) AUTHORITY.—The Association is authorized to—

"(1) monitor the financial performance of the Corporation;

"(2) determine whether the conditions and requirements of this Act are met;

"(3) purchase or otherwise acquire or receive, and hold and dispose of securities (whether debt or equity) of the Corporation under sections 216 and 217 of this Act and exercise all of the rights, privileges, and powers of a holder of any such securities;

"(4) purchase accounts receivable of the Corporation in accordance with section 217 of this Act; and

"(5) appoint and fix the compensation of such personnel as the Association considers necessary and appropriate.

"(b) STOCK PURCHASE REPORTS.—The Association shall, within 30 days after each purchase date set forth in section 217(b) of this Act, submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report setting forth the amount of additional funds made available to the Corporation, the progress of the Corporation in meeting the requirements and goals of this Act, and the funds remaining available for the purchase of stock of the Corporation.".

(b) Section 202 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 722) is amended by adding at the end thereof the following new subsection:

"(k) TERMINATION.—No later than 30 days after the Association makes its last purchase of series A preferred stock of the Corporation under section 217 of this Act, the Association shall cease to exist, and all assets and liabilities of the Association shall be transferred to the Director of the Office of Management and Budget.".

(c) The section heading of section 202 of the Regional Rail Reorganization Act of 1973 is amended by striking out "GENERAL POWERS AND DUTIES" and inserting in lieu thereof "FUNCTIONS".

(d) The item relating to section 202 in the table of contents of the Regional Rail Reorganization Act of 1973 is amended to read as follows:

"Sec. 202. Functions of the Association.".

ACCESS TO INFORMATION

SEC. 2073. Section 203 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 723) is amended to read as follows:

"ACCESS TO INFORMATION

"SEC. 203. The corporation shall make available to the Association such information as the Association determines necessary for the Association to carry out its functions under this Act. The Association shall request from other parties which are affected by this Act information which will enable the Association to determine if the conditions of this Act are met.".

TRANSFER OF LITIGATION

SEC. 2074. (a) The responsibility for representing the United States in any civil action brought by the estate of a railroad in reorganization against the United States under the Regional Rail Reorganization Act of 1973 shall be transferred from the United States Railway Association to the Attorney General of the United States no later than November 1, 1981.

(b) The Attorney General may establish an independent office within the Department of Justice with responsibility for the civil actions described in subsection (a) of this section. The retention of private legal counsel to conduct any such civil action shall not create a conflict of interest for the Department of Justice or such legal counsel with respect to other cases being handled by such legal counsel.

USRA AUTHORIZATION

SEC. 2075. Section 214(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(c)) is amended to read as follows:

"(c) ASSOCIATION.—There are authorized to be appropriated to the Association for purposes of carrying out its administrative expenses under this Act not to exceed $1,000,000 for the fiscal year ending September 30, 1982, not to exceed $1,100,000 for the fiscal year ending September 30, 1983, and not to exceed $1,200,000 for the fiscal year ending September 30, 1984. Sums appropriated under this subsection are authorized to remain available until expended.".

Subpart 6—Miscellaneous Provisions

JUDICIAL REVIEW

SEC. 2081. (a) Notwithstanding any other provision of law, the special court shall have original and exclusive jurisdiction over any civil action—

(1) for injunctive, declaratory, or other relief relating to the enforcement, operation, execution, or interpretation of any provision of or amendment made by this part, or administrative action taken thereunder to the extent such action is subject to judicial review;

(2) challenging the constitutionality of any provision of or amendment made by this part;

(3) to obtain, inspect, copy, or review any document in the possession or control of the Secretary, Conrail, or Amtrak that would be discoverable in litigation under any provision of or amendment made by this part; or

(4) seeking judgment upon any claim against the United States founded upon the Constitution and resulting from the operation of any provision of or amendment made by this part.

(b) A judgment of the Special Court in any action referred to in this section shall be reviewable only upon petition for a writ of certiorari to the Supreme Court of the United States, except that any order or judgment enjoining the enforcement, or declaring or determining the unconsitutionality or invalidity, of any provision of this part shall be reviewable by direct appeal to the Supreme Court of the United States. Such review is exclusive and any petition or appeal shall be filed not more than 20 days after entry of such order or judgment.

(c) Administrative action under the provisions of or amendments made by this part which is subject to review shall be upheld unless such action is found to be unlawful under standards established for review of informal agency action under paragraphs (2) (A), (B), (C), and (D) of section 706, title 5, United States Code. The requirements of this part shall constitute the exclusive procedures required by law for such administrative action.

(d) If the volume of civil actions under subsection (a) of this section so requires, the United States Railway Association shall apply to the judicial panel on multi-district litigation authorized by section 1407 of title 28, United States Code, for the assignment of additional judges to the special court. Within 30 days after the date of such application, the panel shall assign to the special court such additional judges as may be necessary to exercise the jurisdiction described in subsection (a) of this section.

TRANSFER TAXES AND FEES, RECORDATION

SEC. 2082. (a)(1) All transfers or conveyances of any interest in rail property (whether real, personal, or mixed) which are made under any provision of or amendment made by this part shall be exempt from any taxes, imposts, or levies now or hereby imposed, by the United States or by any State or any political subdivision of a State, on or in connection with such transfers or conveyance or on the recording of deeds, bills of sale, liens, encumbrances, easements, or other instruments evidencing, effectuating, or incident to any such transfers or conveyances, whether imposed on the transferor or on the transferee. Such transferors and transferees shall be entitled to record any such deeds, bills of sale, liens, encumbrances, easements, or other instruments and, to record the release or removal of any pre-existing liens or encumbrances of record with respect to properties so transferred or conveyed, upon payment of any appropriate and generally applicable charges to compensate for the cost of the service performed.

(2) This section shall not apply to Federal income tax laws.

(b) Transfer of designated real property (including any interest in real property) authorized by the amendments made by part II of this part shall have the same effect for purposes of rights and priorities with respect to such property as recordation on the transfer date of appropriate deeds, or other appropriate instruments, in offices appointed under State law for such recordation, except that acquiring rail carriers and other entities shall proffer such deeds or other instruments for recordation within 36 months after the transfer date as a condition of preserving such rights and priorities beyond the expiration of that period. Conrail shall cooperate in effecting the timely preparation, execution, and proffering for recordation of such deeds and other instruments.

SHIPPER NOTIFICATION

SEC. 2083. Within 60 days after the effective date of this part, Conrail shall provide written notice to shippers describing the provisions of and amendments made by this part and the likely impact that such provisions and amendments will have.

SATISFACTION OF CLAIMS

SEC. 2084. No distribution of the assets of Conrail shall be made with respect to any claims of the United States, including the securities issued pursuant to section 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726), until all other valid claims, including loss, damage, and overcharge claims, against Conrail have been satisfied, or provision has been made for satisfying such claims.

ABANDONMENTS

SEC. 2085. (a) Title III of the Regional Rail Reorganization Act of 1973, as amended by this part, is further amended by adding at the end thereof the following new section:

"ABANDONMENTS

"SEC. 309. (a) GENERAL.—The Corporation may, in accordance with this section, file with the Commission an application for a certificate of abandonment for any line which is part of the system of the Corporation. Any such application shall be governed by this section and shall not, except as specifically provided in this section, be subject to the provisions of chapter 109 of title 49, United States Code.

"(b) APPLICATIONS FOR ABANDONMENT.—Any application for abandonment that is filed by the Corporation under this section before November 1, 1981, shall be granted by the Commission within 30 days after the date such application is filed unless, within such 30-day period, an offer of financial assistance is made in accordance with subsection (d) of this section with respect to the line to be abandoned.

"(c) NOTICE OF INSUFFICIENT REVENUES.—(1) The Corporation may, prior to November 1, 1981, file with the Commission a notice of insufficient revenues for any line which is part of the system of the Corporation.

"(2) Any application for abandonment that is filed by the Corporation under this section before October 1, 1983, for a line for which a notice of insufficient revenues was filed under paragraph (1) shall be granted by the Commission within 30 days after the date such application is filed unless, within such 30-day period, an offer of financial assistance is made in accordance with subsection (d) of this section with respect to such line.

"(d) OFFERS OF FINANCIAL ASSISTANCE.—(1) The provisions of section 10905(d)-(f) of title 49, United States Code (including the timing requirements of subsection (d)), shall apply to any offer of financial assistance under subsection (b) or (c) of this section.

"(2) The Corporation shall provide any person that intends to make an offer of financial assistance under subsection (b) or (c) of this section with such information as the Commission may require.

"(e) EMPLOYEE PROTECTION.—The provisions of section 10903(b)(2) of title 49, United States Code, shall not apply to any abandonment granted under this section. Any employee adversely affected by such an abandonment shall be eligible for employee protection under section 701 of this Act.".

(b) The table of contents of Regional Rail Reorganization Act of 1973, as amended by this part, is further amended by inserting immediately after the item relating to section 308 the following new item:

"Sec. 309. Abandonments.".

INSURANCE COVERAGE

SEC. 2086. (a) Section 303(b)(6) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(6)) is amended by adding at the end thereof the following new subparagraphs:

"(C) The Corporation shall be entitled to a loan pursuant to section 211(h) of this Act in an amount required for the cost of the insurance coverage and benefits described in subparagraph (B) of this paragraph. Any successor corporation to a railroad in reorganization (i) which was authorized and directed, by an order of its reorganization court issued prior to the effective date of this subparagraph, to continue life and medical programs for nonagreement employees who retired prior to April 1, 1976, or (ii) which had, prior to the effective date of this subparagraph, entered into an agreement with the Corporation to acknowledge, if necessary, that the obligations then described in section 211(h)(1)(A)(viii) of this Act constituted obligations of such railroad if such acknowledgment would have been necessary under this Act to have permitted the Corporation to have obtained section 211(h) loan funds with which to pay such obligations, shall be deemed to have conclusively acknowledged that the costs of such continued programs or coverage or benefits constitute valid pre-conveyance administration obligations of such railroad in reorganization. The Corporation shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization (or successor corporation) on whose behalf such medical or life insurance was maintained or such benefits were paid. In the case of a railroad in reorganization which is not subject to a bankruptcy proceeding, such amounts shall be deemed to be obligations of such railroad, due and payable as of April 1, 1976, and shall be reimbursable in accordance with the procedures set forth in paragraphs (4), (5), and (6) of such section 211(h).

"(D) As used in subparagraphs (B) and (C) of this paragraph—

"(i) 'railroad in reorganization' includes (I) any railroad which is controlled by a railroad in reorganization but is not itself subject to a bankruptcy proceeding, if such railroad conveyed substantially all of its rail properties to the Corporation pursuant to paragraph (1) of this subsection and conducted operations over such rail properties prior to the date of such conveyance; and (II) any corporation which, pursuant to a plan of reorganization under section 77 of the Bankruptcy Act, is the successor in interest to a railroad in reorganization; and

"(ii) 'employee' does not include a member of a board of directors, a president, vice president, general counsel, treasurer, secretary, comptroller, or any other person who performed functions corresponding to those performed by such officers immediately prior to his retirement.

"(E) Any action or claim for benefits or premium payments related to any medical or life insurance coverage described in subparagraph (B) of this paragraph which is not required to be paid by the Corporation under the provisions of such subparagraph shall not be brought or maintained against the Corporation, the National Railroad Passenger Corporation, the Association, or the United States.".

(b) Section 211(h)(1)(A)(viii) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(h)(1)(A)(viii)) is amended by inserting "through (D)" immediately after "section 303(b)(6)(B)".

(c) Section 2 and section 3 of the Act of November 4, 1978 (Public Law 95-597; 92 Stat. 2548), are hereby repealed.

(d) The amendments made by this section shall be effective as of the date of enactment of Public Law 95-597.

AMENDMENT TO THE RAILWAY LABOR ACT

SEC. 2087. The Railway Labor Act is amended by inserting immediately after section 9 the following new section:

"SPECIAL PROCEDURE FOR COMMUTER SERVICE

"SEC. 9A. (a) The provisions of this section shall apply to any dispute between a publicly funded and publicly operated carrier providing rail commuter service (including the Consolidated Rail Corporation's commuter subsidiary established under section 308 of the Regional Rail Reorganization Act of 1973 and the Amtrak Commuter Services Corporation) and its employees.

"(b) If a dispute between the parties described in subsection (a) is not adjusted under the foregoing provisions of this Act and the President does not, under section 10 of this Act, create an emergency board to investigate and report on such dispute, then any party to the dispute or the Governor of any State through which the service that is the subject of the dispute is operated may request the President to establish such an emergency board.

"(c)(1) Upon the request of a party or a Governor under subsection (b), the President shall create an emergency board to investigate and report on the dispute in accordance with section 10 of this Act. For purposes of this subsection, the period during which no change, except by agreement, shall be made by the parties in the conditions out of which the dispute arose shall be 120 days.

"(2) If the President, in his discretion, creates a board to investigate and report on a dispute between the parties described in subsection (a), the provisions of this section shall apply to the same extent as if such board had been created pursuant to paragraph (1) of this subsection.

"(d) Within 60 days after the creation of the board under this section, the National Mediation Board shall conduct a public hearing on the dispute at which each party shall appear and provide testimony setting forth the reasons it has not accepted the recommendations of the emergency board for settlement of the dispute.

"(e) If no settlement in the dispute is reached at the end of the 120-day period beginning on the date of the creation of the emergency board, any party to the dispute or the Governor of any State through which the service that is the subject of the dispute is operated may request the President to establish another emergency board.

"(f) Within 30 days after creation of the board under subsection (e), the parties to the dispute shall submit to the board final offers for settlement of the dispute.

"(g) Within 30 days after the submission of final offers, the board shall submit a report to the President setting forth its selection of the most reasonable offer.

"(h) For 60 days after the board makes its report under subsection (g), no change, except by agreement, shall be made by the parties in the conditions out of which the dispute arose.

"(i) If the board selects the final offer submitted by the carrier and, after the expiration of the 60-day period described in subsection (h), the employees of such carrier engage in any work stoppage arising out of the dispute, such employees shall not be eligible during the period of such work stoppage for benefits under the Railroad Unemployment Insurance Act.

"(j) If the board selects the final offer submitted by the employees and, after the expiration of the 60-day period described in subsection (h), the carrier refuses to accept the final offer submitted by the employees and the employees of such carrier engage in any work stoppage arising out of the dispute, the carrier shall not participate in any benefits of any agreement between carriers which is designed to provide benefits to such carriers during a work stoppage.".

NORTHEAST CORRIDOR COST DISPUTE

SEC. 2088. (a)(1) Within 120 days after the effective date of this part, the Commission

shall determine an appropriate costing methodology for compensation to Amtrak for the right-of-way related costs for the operation of commuter rail passenger service over the Northeast Corridor and other properties owned by Amtrak, unless Conrail, Amtrak, and affected commuter authorities have otherwise agreed on such a methodology by that date. In making its determination, the Commission shall consider all relevant factors, including the standards of sections 205(d) and 304(c) of the Regional Rail Reorganization Act of 1973, section 701(a)(6) of the Railroad Revitalization and Regulatory Reform Act of 1976, and section 402(a) of the Rail Passenger Service Act.

(2) Within 120 days after the effective date of this part, the Commission shall determine a fair and equitable costing methodology for compensation to Amtrak by Conrail for the right-of-way related costs for the operation of rail freight service over the Northeast Corridor, unless Conrail and Amtrak have otherwise agreed on such a methodology by that date. In making its determination the Commission shall take into consideration the industry-wide average compensation for freight trackage rights and any additional costs associated with high-speed service provided over the Northeast Corridor.

(b) Any determination by the Commission under this section shall be effective on the date of such determination, and any agreement of the parties under this section shall be effective on the date specified in such agreement. Any such determination or agreement shall not apply to any compensation paid to Amtrak prior to the date of such determination or the date so specified, as the case may be, for the right-of-way related costs described in subsection (a) of this section.

(c) Nothing in this section shall preclude parties from entering into an agreement, after the determination of the Commission or their initial agreement under this section, with respect to the right-of-way related costs described in subsection (a) of this section.

(d) Any determination by the Commission under this section shall be final and shall be reviewable in any court.

LOAN MODIFICATIONS

SEC. 2089. (a) Section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(d)) is amended—

(1) in the first sentence, by inserting "(other than a loan to a railroad in the region)" immediately after "this section"; and

(2) by striking out the second and third sentences.

(b) The Secretary may not modify the terms of any loan made under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 to a rail carrier in the Region (as that term is defined in section 102 of the Regional Rail Reorganization Act of 1973) that has also received a loan under section 211(a) of the Regional Rail Reorganization Act of 1973.

UNITED STATES RAILWAY ASSOCIATION FUNDS

SEC. 2090. (a) Section 216(b) of the Regional Rail Reorganization Act of 1973 is amended—

(1) by striking out paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

(b) Section 509(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 8299(b)) is amended—

(1) by striking out paragraph (1);

(2) in paragraph (2) by striking out "(excluding funds transferred under paragraph (1) of this subsection)"; and

(3) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

CONSTRUCTION AND EFFECT OF CERTAIN PROVISIONS

SEC. 2091. (a) Any cost reductions resulting from the provisions of or the amendments made by this part shall not be used to limit the maximum level of any rate charged by Conrail for the provision of rail services, to limit the amount of any increase in any such rate (including rates maintained jointly by Conrail and other rail carriers), or to limit a surcharge or cancellation otherwise lawful under chapter 107 of title 49, United States Code.

(b) Notwithstanding any provision of any contract, lease, or other agreement, any transfer, assignment, or other disposition of such lease, contract, or other agreement by Conrail pursuant to the provisions of or the amendments made by this part shall not be deemed a breach, an event of default, or a violation of any covenant.

EFFECTIVE DATE

SEC. 2092. The provisions of and the amendments made by this part shall take effect on October 1, 1981.

LOAN GUARANTEES

SEC. 2093. Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831) is amended by adding at the end thereof the following new subsection:

"(b) COMMUTER SERVICE.—(1) The Secretary shall, under the authority of this section, guarantee obligations of the commuter subsidiary of the Corporation and obligations of the Amtrak Commuter Services Corporation for the purposes described in paragraph (2) of this subsection.

"(2) The proceeds of obligations guaranteed under this subsection shall be used by the Corporation's commuter subsidiary and Amtrak Commuter to operate commuter services prior to initial reimbursement by the Commuter authorities and to cover any subsequent cash flow problems arising from delays in reimbursement from such authorities.

"(3) The aggregate unpaid principal amount of obligations guaranteed by the Secretary under this subsection shall not exceed $50,000,000.

"(4) Subsection (g) of this section and section 516 of this Act shall not apply to any obligation guaranteed under this section.".

PART B—AMTRAK

SEC. 2101. This chapter may be cited as the "Amtrak Improvement Act of 1981."

FINDINGS

SEC. 2102. Section 101 of the Rail Passenger Service Act (45 U.S.C. 501) is amended by adding at the end thereof the following new subsection:

"(c) The Congress further finds that—

"(1) modern, efficient commuter rail passenger service is essential to the viability and well-being of major urban areas;

"(2) efficient and economical provision of commuter service is essential to national goals of energy conservation and energy self-sufficiency;

"(3) Amtrak, as a passenger service entity, should be available to operate commuter service through its subsidiary Amtrak Commuter under contract with commuter agencies which do not choose to operate such service themselves as a part of the governmental functions of the State;

"(4) the Northeast Corridor is a valuable national resource used by intercity passenger, commuter passenger, and freight services; and

"(5) greater coordination between intercity and commuter passenger services are required.".

ADDITIONAL GOALS FOR AMTRAK

SEC. 2103. Section 102 of the Rail Passenger Service Act (45 U.S.C. 501) is amended—

(1) by striking out paragraph (1) and redesignating paragraphs (2) through (6) as paragraphs (7) through (11), respectively;

(2) by inserting immediately before paragraph (7), as so redesignated, the following new paragraphs:

"(1) Improvement of the number of passenger miles generated systemwide per dollar of Federal investment by at least 30 percent within the two-year period beginning on the effective date of the Amtrak Improvement Act of 1981.

"(2) Reduction of the cost of service on long-distance routes which are less fuel efficient and have lower ridership than short-distance routes connecting major urban areas.

"(3) Elimination of the deficit associated with food and beverage services by September 30, 1982.

"(4) Implementation of strategies to achieve immediately maximum productivity and efficiency consistent with safe and efficient service.

"(5) Operation of Amtrak trains, to the maximum extent feasible, to all station stops within 5 minutes of the time established in public timetables for such operation.

"(6) Development of service on rail corridors, subsidized by States or private parties, or both.";

(3) in paragraph (7), as redesignated, by striking out "55" and inserting in lieu thereof "60";

(4) in paragraph (8), as redesignated, by striking out "44" and inserting in lieu thereof "50" and by striking out "50" and inserting in lieu thereof "55"; and

(5) by adding at the end thereof the following new paragraphs:

"(12) Operation of commuter service, through the Amtrak Commuter Services Corporation, on an equal priority with intercity service.

"(13) Implementation of policies ensuring equitable access to the Northeast Corridor by both intercity and commuter services.

"(14) Coordination among the various users of the Northeast Corridor, particularly intercity and commuter passenger services.".

DEFINITIONS

SEC. 2104. Section 103 of the Rail Passenger Service Act (45 U.S.C. 502) is amended—

(1) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively, and by redesignating paragraphs (7) through (14) as paragraphs (10) through (17), respectively;

(2) by inserting immediately after paragraph (1) the following new paragraph:

"(2) 'Amtrak Commuter' means the Amtrak Commuter Services Corporation created under title V of this Act.".

(3) by inserting immediately after paragraph (7), as redesignated, the following new paragraphs:

"(8) 'Commuter authority' means a State, local, or regional authority, corporation, or other entity established for the purpose of providing commuter service.

"(9) 'Commuter service' means short-haul rail passenger service operated in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride, and commutation tickets and by morning and evening peak period operations."; and

(4) in paragraph (11), as redesignated, by striking out "commuter and other" and all that follows through "operations" and inserting in lieu thereof "commuter service".

CHANGES IN BOARD OF DIRECTORS

SEC. 2105. (a) Section 303(a) of the Rail Passenger Service Act (45 U.S.C. 543(a)) is amended—

(1) by striking out paragraphs (1) through (4) and inserting in lieu thereof the following new paragraphs:

"(a)(1) The Corporation shall have a board of directors consisting of eleven individuals who are citizens of the United States, as follows:

"(A) The Secretary of Transportation, ex officio, and the President of the Corporation, ex officio.

"(B) Seven members appointed by the President, by and with the advice and consent of the Senate, on the following basis:

"(i) One to be selected from a list of three qualified individuals recommended by the American Federation of Labor and Congress of Industrial Organizations or its successor who are representatives of railroad labor.

"(ii) One to be selected from a list of three qualified individuals recommended by the National Governors Association.

"(iii) One to be selected from a list of three individuals qualified by virtue of their advocacy of rail passenger service who are recommended by the business community and who are recognized business leaders.

"(iv) One to be selected from a list of three qualified individuals recommended by the National Association of Railroad Passengers or its successor who are representatives of users of intercity rail passenger service.

"(v) One to be selected from a list of three qualified individuals recommended by organizations representing users of commuter services operated by the Corporation.

"(vi) One to be selected from a list of three qualified individuals recommended by organizations representing the elderly who are recognized leaders of the elderly community.

"(vii) One to be selected from a list of three qualified individuals recommended by the Association of American Railroads or its successor who are recognized leaders of the railroad industry and who are familiar with railroad operations and committed to rail passenger service.

"(C) Two members selected by commuter authorities, on the following basis:

"(i) During the 540-day period beginning on the effective date of the Amtrak Improvement Act of 1981, the two members under this subparagraph shall be selected by the commuter authorities for which the Consolidated Rail Corporation (or its commuter subsidiary) operates commuter service under the Regional Rail Reorganization Act of 1973.

"(ii) Beginning 540 days after the effective date of the Amtrak Improvement Act of 1981, the two members under this subparagraph shall be selected by the commuter authorities for which Amtrak Commuter operates commuter service under title V of this Act, except that—

"(I) if Amtrak Commuter operates commuter service for only one commuter authority, one member shall be selected by that authority and one member shall be selected by other commuter authorities operating service over rail properties owned by Amtrak; and

"(II) if Amtrak Commuter does not operate commuter service for any commuter authority, two members shall be selected by commuter authorities operating service over rail properties owned by Amtrak.

"(2)(A) Members appointed by the President under paragraph (1)(B) shall serve for terms of four years or until their successors have been appointed and qualified, except that any member appointed by the President under such subparagraph to fill a vacancy shall be appointed only for the unexpired term of the member he is appointed to succeed. Not more than four of the members appointed under such subparagraph shall be from the same political party.

"(B) Members selected under paragraph (1)(C) shall serve for terms of two years or until their successors have been appointed and qualified, except that members selected under paragraph (1)(C)(i) shall serve for the 540-day period described in that subparagraph.

"(3) Except as provided in paragraph (2)(A) of this subsection, any vacancy in the membership of the board shall be filled in the same manner as in the case of the original selection.

"(4) The President of the Corporation shall serve as chairman of the board of directors.";

(2) in paragraph (8), by striking out "Pending the election of the four members by the preferred stockholders of the Corporation under paragraph (1)(D) of this subsection, seven" and inserting in lieu thereof "Six"; and

(3) by adding at the end thereof the following new paragraph:

"(10) No one other than the members of the board specified in paragraph (1) of this subsection is authorized to vote at meetings of the board and to exercise the authority and responsibility which is otherwise conveyed on members of the board.".

(b) The term of office of any member of the Amtrak board of directors serving on such board immediately before the date of enactment of this Act pursuant to section 303(a)(1) (B), (C), or (D) of the Rail Passenger Service Act shall be deemed to have expired on such date of enactment, except that—

(1) such members shall continue to serve for a period not to exceed 90 days during which time the President shall appoint members of the board in accordance with section 303(a)(1) of such Act, as amended by this section; and

(2) if any position on such board remains vacant after the expiration of such 90-day period, the President of Amtrak may designate any such member to continue to serve in such position until the President fills such position by appointment in accordance with such section 303(a)(1).

CHARGE FOR CUSTOMS AND IMMIGRATION SERVICE

SEC. 2106. Section 305(i) of the Rail Passenger Service Act (45 U.S.C. 545) is amended by adding at the end thereof the following new sentence: "The Corporation shall not be obligated to pay any amount to any agency of the Federal Government for the cost of customs inspection or immigration procedures in connection with the provision of services by the Corporation.".

FOOD AND BEVERAGE SERVICE

SEC. 2107. (a) Section 305 of the Rail Passenger Service Act (45 U.S.C. 545) is amended by adding at the end thereof the following new subsection:

"(a) The Corporation shall implement policies which will eliminate the deficit in its on-board food and beverage operations no later than September 30, 1982. Beginning October 1, 1982, food and beverage services shall be provided on board Amtrak trains during any fiscal quarter only if, during the preceding fiscal quarter, the revenues from such service were equal to or greater than the total costs of such services.".

(b) Section 405(e) of the Rail Passenger Service Act (45 U.S.C. 565(e)) is amended—

(1) by striking out "The Corporation" and inserting in lieu thereof "(1) Except as provided in paragraph (2) of this subsection, the Corporation"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The provisions of this subsection shall not apply to food and beverage services provided on board Amtrak trains.".

STATE AND LOCAL TAX EXEMPTION

SEC. 2108. Section 306 of the Rail Passenger Service Act (45 U.S.C. 546) is amended by adding at the end thereof the following new subsection:

"(n) The Corporation shall be exempt from the payment of all taxes or other fees imposed by any State, political subdivision of a State, or special taxing authority (including but not limited to property taxes, income and franchise taxes, sales taxes, gross revenue taxes, fuel taxes, licenses, and other fees) to the same extent as the United States is exempt from the payment of such taxes or other fees.".

ELIMINATION OF UNNECESSARY REPORTS

SEC. 2109. (a) Section 308(a)(1) of the Rail Passenger Service Act (45 U.S.C. 548(a)(1)) is amended by striking out subparagraph (c).

(b) Section 308(c) of the Rail Passenger Service Act (45 U.S.C. 548(c)) is amended—

(1) by striking out "and the Commission"; and

(2) by striking out "reports (or, in their discretion, a joint report)" and inserting in lieu thereof "a report".

SECTION 403(B) SERVICE

SEC. 2110. (a) Section 403(b)(1) of the Rail Passenger Service Act (45 U.S.C. 563(b)(1)) is amended—

(1) by striking out subparagraph (B) and redesignating subparagraph (C) as subparagraph (B);

(2) by amending subparagraph (B)(iii), as redesignated, to read as follows:

"(iii) a statement by such State or agency that it agrees to provide 60 percent of the short-term avoidable loss of service operated under this subsection in the first year of operation, and 80 percent of the short-term avoidable loss in each year of operation thereafter (including each year of renewal of an agreement entered into under this subsection); and"; and

(3) by adding at the end thereof the following new subparagraph:

"(C) Any application submitted by a group of States shall be considered in the same manner as an application submitted by a single State, and not on the basis of whether each State that is a party to such application meets the requirements of subparagraph (B) of this paragraph.".

(b) Section 403(b) of the Rail Passenger Service Act (45 U.S.C. 563(b)) is further amended by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following new paragraphs:

"(2)(A) The Corporation shall perform a preliminary evaluation of the market potential and cost of each service proposed under this subsection in order to determine the performance that can reasonably be expected from such service. A proposed rail passenger service shall not be eligible for operation under this subsection unless it is reasonably expected that such service will, when the payment by the State or agency is excluded, achieve on an annual basis 60 percent of the goal set forth in section 102(8) of this Act with respect to the ratio of revenues to operating expenses.

"(B) Notwithstanding subparagraph (A) of this paragraph, the Corporation shall operate service which is projected to fail to meet the standards set forth in such subparagraph if (i) a State or agency agrees to pay 100 percent of the annual loss (including associate capital costs) of such service, and (ii) sufficient equipment is available for such service, after meeting the reasonable equipment requirements of all other services to be provided under this Act.

"(C) If a State or agency provides 100 percent funding for service pursuant to subparagraph (B) of this paragraph and such service then meets the threshold standard of economic performance set forth in subparagraph (A) in its first full year of operation, the Corporation shall pay to the State or agency the difference between the amount such State or agency paid and the amount it would have paid, in accordance with paragraph (1)(B) of this subsection, if the service were being provided pursuant to paragraph (3).

"(3) The Corporation may enter into an agreement with a State or agency for the institution of service requested under this subsection in accordance with the funding formula set forth in paragraph (1)(B) of this subsection if—

"(A) such service is projected to meet the threshold standard of economic performance set forth in paragraph (2)(A) of this subsection; and

"(B) the Corporation determines that such service can be provided with resources available to the Corporation.

"(4) An agreement entered into pursuant to this section may by mutual agreement be renewed for one or more additional terms of not more than 2 years. An agreement shall not be renewed for a train which fails to meet the threshold standard of economic performance set forth in subparagraph (2)(A) for a full year, unless the State or agency agrees to pay 100 percent of the annual loss (including associated capital costs) of the service.".

(c) Section 403(b) of the Rail Passenger Service Act (45 U.S.C. 563(b)) is further amended—

(1) in paragraph (5), by inserting "(A)" immediately after "(5)"; and

(2) by adding at the end of paragraph (5) the following new subparagraph:

"(B)(i) A proposed fare increased described in subparagraph (A) shall take effect 90 days after the date the Corporation first consults with the affected States pursuant to such subparagraph, unless any such State notifies the Corporation, within 30 days after the date of such consultation, that it objects to such proposed fare increase. If any State makes a timely objection, the effective date of the proposed fare increase shall be postponed for an additional 30 days.

"(ii) A State making a timely objection under clause (i) may, prior to the expiration of the additional 30-day period, submit proposals to the Corporation for reducing costs and increasing revenues other than through the proposed fare increase. At the end of such additional 30-day period, the Corporation, after taking into consideration any proposals from a State, shall decide whether to implement the proposed fare increase in whole or in part.";

(3) in paragraph (6)(C), by striking out "paragraph (1)(C)" and all that follows through "existing route" and inserting in lieu thereof "paragraph (1)(B)";

(4) by amending paragraph (7)(C) to read as follows:

"(C) The board of directors shall, after consultation with the appropriate officials of each State that contributes to the operation of service under this subsection, establish the basis for determining the short-term avoidable loss and associated capital costs of service operated under this subsection and the total revenues from such service. In addition, the Corporation shall provide appropriate State officials with the basis for determining such loss, costs, and revenues for each route on which service is operated under this subsection."; and

(5) in paragraph (8), by striking out "Not" and inserting in lieu thereof "At least one but not".

(d) The amendments made by subsection (a) of this section shall apply to any agreement entered into under section 403(b) of the Rail Passenger Service Act after the date of enactment of this Act and to any renewal after such date of enactment of an agreement entered into under such section 403(b) prior to such date.

APPLICATION OF CRITERIA

SEC. 2111. (a) Section 404(c)(3) of the Rail Passenger Service Act (45 U.S.C. 564(c)(3)) is amended—

(1) by inserting "(A)" immediately after "(3)"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) Whenever the Corporation determines that an amendment to the Route and Service Criteria is necessary or appropriate, it shall submit a draft of such amendment to the Congress. Such amendment shall take effect at the end of the first period of 120 calendar days of continuous session of the Congress after the date of its submission, unless either the Senate or the House of Representatives adopts a resolution during such period stating that it does not approve such amendment.".

(b) Section 404(c)(4) of the Rail Passenger Service Act (45 U.S.C. 564(c)(4)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(4)(A) The Corporation shall conduct an annual review of each route in the basic system to determine if such route meets the criteria set forth in paragraph (1) or paragraph (2) of subsection (d), whichever is applicable to such route, as adjusted to reflect constant 1979 dollars. If the Corporation determines, on the basis of such review, that such route fails to meet the criteria set forth in the applicable paragraph, the Corporation shall discontinue the operation of rail passenger service over such route.";

(2) in subparagraph (B), by striking out "long-distance"; and

(3) by adding at the end thereof the following new subparagraphs:

"(C)(i) No later than 30 days after the beginning of each fiscal year, the Corporation shall evaluate the financial requirements for operating the basic system and service under section 403 of this Act during such fiscal year. If the Corporation determines that the funds to be available for such fiscal year are insufficient to meet the projected operating costs, the Corporation shall, in accordance with this subparagraph, take such action as may be necessary to reduce such costs.

"(ii) Any action taken by the Corporation to reduce costs pursuant to this subparagraph shall be designed to continue the maximum level of service practicable, and shall include—

"(I) changes in frequency of service;

"(II) increases in fares;

"(III) elimination of sleeper car service on certain routes;

"(IV) elimination of dining car service on certain routes;

"(V) increases in the passenger capacity of cars used on certain routes; and

"(VI) restructuring of routes.

"(iii) If the Corporation determines that the actions described in clause (ii) of this subparagraph will not result in the necessary cost reductions, it shall reduce or discontinue service on remaining routes, in descending order beginning with that route on which the short-term avoidable loss is closest to the short-term avoidable loss maximum under paragraph (1)(A) or paragraph (2)(A) of subsection (d), whichever is applicable, after taking into consideration the number of passengers served by trains on such route.

"(D)(i) Notice of any discontinuance of service pursuant to this paragraph shall be posted at least 14 days before such discontinuance in all stations served by the train to be discontinued.

"(ii) Notice of any discontinuance of service pursuant to this paragraph shall be given in such a manner as the Corporation determines will afford an opportunity for any State or group of States, or any regional or local agency or other person, to agree to share the cost of such route, train, or service, or some portion of such route, train, or service. Such notice shall be given at least 90 days prior to such discontinuance.".

(c) Section 404(c)(5) of the Rail Passenger Service Act (45 U.S.C. 564(c)(5)) is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new subparagraphs:

"(C) discontinuance of service under paragraph (4)(A) of this subsection; and

"(D) reductions in frequency of service or discontinuance of service necessary to comply with paragraph (4)(C) of this subsection.".

(d) Section 404(e) of the Rail Passenger Service Act (45 U.S.C. 564(e)) is repealed.

(e) Section 404 of the Rail Passenger Service Act (45 U.S.C. 564) is amended by adding at the end thereof the following new subsection:

"(h) Any change in the basic system made by the Corporation shall be subject to review as provided in this section, and shall not be reviewable in any court.".

(f) Section 403(d) of the Rail Passenger Service Act (45 U.S.C. 563(d)) is amended to read as follows:

"(d) Beginning October 1, 1981, the Corporation shall continue to operate high frequency intercity rail passenger service operated under this subsection prior to the effective date of the Amtrak Improvement Act of 1981 if such service meets the criteria set forth in section 404(d)(2)(B) of this Act, after taking into account projected fare in-

creases and any State or local contributions to such service. Any service continued under this subsection shall be funded in accordance with the method of funding in effect on the effective date of the Amtrak Improvement Act of 1981.".

LIMITATION ON PAYMENTS

SEC. 2112. Section 405(c) of the Rail Passenger Service Act (45 U.S.C. 565(c)) is amended by adding at the end thereof the following new sentence: "During fiscal year 1982, the obligation of the Corporation to provide protective arrangements for its employees under this section as a result of action taken pursuant to the amendments made by the Amtrak Improvement Act of 1981 shall not exceed the amount appropriated for such purposes under section 601(b)(1)(C) of this Act.".

EXTENSION OF COMPENSATION FOR PASS RIDERS

SEC. 2113. The third sentence of section 405(f) of the Rail Passenger Service Act (45 U.S.C. 565) is amended by striking out ", during the 2-year period beginning on the effective date of the Amtrak Reorganization Act of 1979,".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2114. (a) Section 601(b) of the Rail Passenger Service Act (45 U.S.C. 601(b)) is amended—

(1) by striking out paragraph (3); and

(2) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2) There are authorized to be appropriated to the Secretary for the benefit of the Corporation—

"(A) not to exceed $625,000,000 for the fiscal year ending September 30, 1982, of which not more than $24,000,000 shall be used for the payment of operating and capital expenses of rail passenger service provided pursuant to section 403(b) of this Act; and

"(B) not to exceed $654,000,000 for the fiscal year ending September 30, 1983; and

"(C) not to exceed $593,000,000 for the fiscal year ending September 30, 1984.";

(3) in paragraph (3), as redesignated, by striking out "(A)" and by striking out ", and (B) guidelines established by the Secretary"; and

(4) by adding at the end thereof the following new paragraph:

"(4) Of the amounts appropriated under this subsection for fiscal year 1982, the Corporation may not spend for onboard food and beverage services an amount greater than 50 percent of the amount by which the costs of such services in fiscal year 1981 exceeded the revenues from such services in such fiscal year.".

(b) Section 601(b)(1) of the Rail Passenger Service Act (45 U.S.C. 601(b)(1)) is amended—

(1) in subparagraph (B), by striking out "$254,000,000" and inserting in lieu thereof "$100,000,000", and by inserting "and" immediately after the semicolon;

(2) by striking out subparagraphs (C) and (E) and redesignating subparagraph (D) as subparagraph (C);

(3) in subparagraph (C), as redesignated, by striking out "$20,000,000" and inserting in lieu thereof "$10,000,000" and by striking out "; and" at the end thereof and inserting in lieu thereof a period.

LOAN GUARANTEES

SEC. 2115. (a) Section 602(d) of the Rail Passenger Service Act (45 U.S.C. 602(d)) is amended—

(1) by striking out "$900,000,000" each place it appears and inserting in lieu thereof "$930,000,000";

(2) by striking out the last sentence.

(b) Section 602 of the Rail Passenger Service Act (45 U.S.C. 602) is amended by adding at the end thereof the following new subsection:

(j) The Corporation may defer interest payments to the Federal Financing Bank during fiscal years 1982, 1983, and 1984 and such deferral shall not constitute a default under any note or other obligation of the Corporation. Notwithstanding the deferral of interest provided for under this subsection, the Federal Financing Bank shall continue to make funds available to the Corporation to meet commitments under previously approved capital programs and to repay existing notes and equipment obligations.".

RAIL CORRIDOR DEVELOPMENT

SEC. 2116. Not later than January 15, 1982, the National Railroad Passenger Corporation shall transmit to the Congress a report containing its recommendations for the development of rail corridors. Such report shall contain—

(1) recommendations for reducing the costs of service in the basic system by not less than $100,000,000 on an annual basis, including recommendations for reducing, discontinuing, and restructuring routes presently operated by the Corporation;

(2) an identification of those rail corridors which the Corporation would propose to develop, taking into consideration factors such as (A) the projected cost-effectiveness, energy efficiency, and ridership of rail corridors recommended for development, (B) the need to preserve regional balance in rail passenger service, (C) the share of intercity passengers that data projects would be attracted by rail corridor service, and (D) the willingness of private sector interests or State and local governments, or both, to contribute to the development of rail corridors;

(3) a timetable for the period beginning January 1, 1982, and ending September 30, 1985, for the development of rail corridors, including schedules for (A) the negotiation of agreements with the rail carriers, private interests, and State and local governments, (B) the acquisition of equipment, (C) the improvement of fixed facilities, and (D) the implementation of service; and

(4) a financial plan for the funding of rail corridor development during the period covered by the timetable described in paragraph (3).

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 2117. (a) Section 301 of the Rail Passenger Service Act (45 U.S.C. 531) is amended by inserting "and commuter" immediately after "intercity" each place it appears.

(b) Section 305(a) of the Rail Passenger Service Act (45 U.S.C. 535(a)) is amended by inserting "and commuter" immediately after "intercity" each place it appears.

(c) Section 402(e)(1) of the Rail Passenger Service Act (45 U.S.C. 562(e)(1)) is amended by inserting "or commuter" immediately after "intercity".

(d) Section 405 of the Rail Passenger Service Act (45 U.S.C. 565) is amended by adding at the end thereof the following new subsection:

"(g) The provisions of subsections (a), (b), and (c) of this section shall not apply to Amtrak commuter.".

(e) Section 702 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 852), and the item relating to such section in the table of contents of such Act, are repealed.

EFFECTIVE DATE

SEC. 2118. The provisions of and amendments made by this chapter shall take effect on October 1, 1981.

PART C—LOCAL RAIL SERVICE ASSISTANCE PROGRAM

SEC. 2201. (a) Section 5(f) of the Department of Transportation Act (49 U.S.C. 1654(f)) is amended by striking out paragraph (1) and redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(b) The first sentence of section 5(g) of the Department of Transportation Act (49 U.S.C. 1654(g)) is amended by striking out "80 per centum, except that" and all that follows in that sentence and inserting in lieu thereof "70 per centum.".

(c) Section 5(h) of the Department of Transportation Act (49 U.S.C. 1654(h)) is amended—

(1) by striking out paragraph (1) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2) and (3), respectively;

(2) in paragraph (1), as redesignated, by striking out "October 1, 1979" and inserting in lieu thereof "October 1, 1981";

(3) in paragraph (1)(B), as redesignated, by striking out "(including" and all that follows through "under this section)" both places it appears; and

(4) by amending paragraph (2), as redesignated, to read as follows:

"(2)(A) The Interstate Commerce Commission shall, no later than July 1 of the year preceding the fiscal year funds are made available under this section, provide the Secretary with the sum of the rail mileage in each State that meets the description set forth in subparagraphs (A) and (B) of paragraph (1). The Secretary shall, no later than the first day of each fiscal year, notify each State of the funds to which such State is entitled under this subsection during such fiscal year.

"(B)(i) entitlement funds shall remain available to a State for the first 6 months after the end of the fiscal year for which funds have been made available for use under this section.

"(ii) Any funds which have not been applied for under this section shall be made available to the Secretary for use during the remainder of the current fiscal year for rail service assistance projects meeting the requirements of this section. The Secretary shall, no later than 30 days after the end of the first six months of a fiscal year, notify each State with respect to any funds still available for rail service assistance projects under this section.

"(C) In considering applications for rail service assistance to be provided with funds described in subparagraph (B)(ii), the Secretary shall consider the following:

"(i) The percentage of lines filed with the Interstate Commerce Commission for abandonment or potential abandonment within a State.

"(ii) The likelihood of future abandonments within a State.

"(iii) The ratio of benefits to costs (which are included in the State rail plan) for a proposed project.

"(iv) The likelihood that the line will continue operating with rail freight assistance.

"(v) The impact of rail bankruptcies, rail restructuring, and rail mergers on the State applying for assistance.".

(d) Section 5(i) of the Department of Transportation Act (49 U.S.C. 1654(i)) is amended to read as follows:

"(i) on the first day of the fiscal year, each State shall be entitled to $100,000 of the funds available for expenditure under subsection (q) of this section during the fiscal year to meet the cost of establishing, implementing, revising, and updating the State rail plan required by subsection (j) of this section. Each State must apply for such funds on or before the first day of the fiscal year. Any funds which have not been applied for under this subsection shall be made available to the Secretary under subsection (h)(3)(B) of this section.".

(e) Section 5(k) of the Department of Transportation Act (49 U.S.C. 1654(k)) is amended—

(1) by striking out paragraph (1) and redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively;

(2) in paragraph (1), as redesignated, by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (1)", by striking out "; or" at the end of subparagraph (B) and inserting in lieu thereof a period, and by striking out subparagraph (C); and

(3) by striking out the period at the end of paragraph (2), as redesignated, and at the end of paragraph (3)(B), as redesignated, and inserting in lieu thereof the following: "unless such a project has been receiving assistance under this subsection but did not receive all the funds to which the State was entitled at the beginning of the fiscal year ending September 30, 1981, in which case such project shall continue to be eligible until September 30, 1982.".

(f) Section 5(l) of the Department of Transportation Act (49 U.S.C. 1654(l)) is amended by adding at the end thereof the following new sentence: "Upon receipt of an application for rail freight assistance, the Secretary shall consider the application and notify the State submitting such an application as to its approval or disapproval within 45 days. If the Secretary fails to consider and notify the State applying for rail freight assistance under subsection (k) within 45 days, then the project shall be considered approved and the State shall receive the Federal share up to the amount to which it is entitled.".

(g) Section 5(n) of the Department of Transportation Act (49 U.S.C. 1654(n)) is amended to read as follows:

"(n) As used in this section, the term 'State' means any State in which a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of title 49, United States Code, maintains any line of railroad.".

(h) Section 5(o) of the Department of Transportation Act (49 U.S.C. 1654(o)) is amended at the end thereof the following new paragraph:

"(5) The State, to the maximum extent possible shall encourage the participation of shippers, railroads, and local communities in providing the State share of rail freight assistance funds.".

SEC. 2202. Section 5(p) of the Department of Transportation Act (49 U.S.C. 1654(p)) is amended—

(1) by striking out ", without fiscal year limitation" in the first sentence; and

(2) by inserting after the second sentence the following new sentence:

"Of the funds authorized to be appropriated under the first sentence of this subsection, not more than $40,000,000 is authorized to be appropriated for the fiscal year ending September 30, 1982; not more than $40,000,000 is authorized to be appropriated for the fiscal year ending September 30, 1983; and not more than $40,000,000 is authorized to be appropriated for the fiscal year ending September 30, 1984.".

PART D—NORTHEAST CORRIDOR

SEC. 2301. (a) Section 703(1)(A)(i) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853(1)(A)(i)) is amended by striking out "3-hour-and-40-minute" and inserting in lieu thereof "3-hour-and-55-minute", and by striking out "2-hour-and-40-minute" and inserting in lieu thereof "2-hour-and-55-minute".

(b) Section 703(7) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853(7)) is amended by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(B) the segment of the corridor project between Washington, District of Columbia, and New York, New York, should be completed before the segment of the corridor project between New York, New York, and Boston, Massachusetts, in order to achieve better service for the largest number of passengers in the shortest period of time.".

SEC. 2302. Section 704(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)) is amended by adding at the end the following new paragraph:

"(5) Of the funds authorized to be appropriated under paragraphs (1) and (2) combined, not more than $200,000,000 are authorized to be appropriated for the fiscal year ending September 30, 1982, not more than $185,000,000 are authorized to be appropriated for the fiscal year ending September 30, 1983, and no funds are authorized to be appropriated for the fiscal year ending September 30, 1984."

PART E—OMNIBUS HEALTH PROGRAMS AMENDMENTS

SHORT TITLE AND REFERENCES IN PART

SEC. 2501. (a) This part may be cited as the "Health Amendments of 1981".

(b) Whenever in this part an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act unless otherwise specifically stated.

TRANSFER OF HEALTH CARE TECHNOLOGY ACTIVITIES TO THE NATIONAL CENTER FOR HEALTH CARE TECHNOLOGY AND HEALTH SERVICES RESEARCH

SEC. 2502. (a) Section 309 is repealed.

(b) Section 305(b) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D),

(2) by inserting the paragraph designation "(1)" after the subsection designation "(b)", and

(3) by adding at the end the following paragraphs:

"(2) The Center shall make recommendations to the Secretary respecting health care technology issues in the administration of the laws under the Secretary's jurisdiction, including recommendations with respect to reimbursement policy.

"(3) In carrying out section 304(a), the Secretary, acting through the Center, may undertake and support research, evaluation, and demonstration projects respecting—

"(A) the factors that affect the use of health care technology in the United States;

"(B) methods for disseminating information on health care technologies; and

"(C) the effectiveness, cost effectiveness, and social, ethical, and economic impacts of particular medical technologies.

"(4)(A) In carrying out paragraph (2), the Center shall consult with appropriate public and private entities.

"(B) In carrying out section 304(a)(2)(E) and paragraph (3) of this subsection, the Secretary shall consult with appropriate public and private entities.

"(5) No activity or project described in section 304(a)(2)(E) or paragraph (3) of this subsection may be conducted, undertaken, or supported unless the Secretary determines that such activity or project is not substantially similar to an activity or project of a Federal entity other than the Center.".

(c)(1) Section 304 is amended by striking out "the National Center for Health Services Research, the National Center for Health Statistics, and the National Center for Health Care Technology" each place it occurs and inserting instead "the National Center for Health Care Technology and Health Services Research and the National Center for Health Statistics".

(2) Section 304(a)(3) is amended by striking out "305, 306, and 309" and inserting instead "305 and 306".

(3) Section 305(a) is amended by inserting "Health Care Technology and" after "National Center for".

(4) The first sentence of section 305(d)(1) is amended by striking out "health services," and inserting instead "health services and health care technology".

(5) The heading to section 305 is amended by inserting "health care technology and" after "national center for".

(6) Section 308(a)(1) is amended by striking out "and section 309".

(7) The matter in section 308(a)(2) preceding subparagraph (A) is amended by inserting "Health Care Technology and" before "Health Services Research".

(8) Section 308(b)(1) is amended by striking out "307, and 309" and inserting instead "and 307".

(9) The first sentence of section 308(b)(2) is amended by inserting "or health care technology" after "health services".

(10) Subsections (d) and (e) of section 308 are each amended by striking out "307, or 309" each place it occurs and inserting instead "or 307".

(11) Section 308(f) is amended by striking out "306, or 309" and inserting instead "or 306".

(12) Section 308(g)(2) is amended by striking out "306, and 309" and inserting instead "and 306".

(13) Section 308(h)(1) is amended by striking out "306, or 309" each place it occurs and inserting instead "or 306".

(14) The second sentence of section 308(i)(1) is amended—

(A) by inserting "and health care technology" after "health services", and

(B) by inserting "Health Care Technology and" after "National Center for".

(15) The heading to section 308 is amended by striking out "307, and 309" and inserting instead "and 307".

(c)(1) Section 307(a) is amended by striking out "and statistical" and inserting instead ", statistical, and health care technology".

(2) Section 307(b) is amended—

(A) in paragraph (5), by striking out "or health statistics" and inserting instead ",

health statistics, or health care technology", and

(B) in paragraph (6), by striking out "and programs of biomedical research, health services research, and health statistical activities" and inserting instead "or programs of biomedical research, health services research, health statistical activities, or health care technology activities".

(d) Section 308(d)(2) is amended by inserting "or health care technology" after "health services".

APPROPRIATION AUTHORIZATIONS FOR HEALTH SERVICES RESEARCH AND HEALTH CARE TECHNOLOGY ACTIVITIES AND AMENDMENTS TO HEALTH SERVICES RESEARCH AUTHORITIES

SEC. 2503. (a) The first sentence of section 308(i)(1) is amended to read as follows: "For health services and health care technology research, demonstration, and evaluation activities undertaken or supported under section 304 or 305, there are authorized to be appropriated $13,449,000 for fiscal year 1982 and such sums as may be necessary for each of the two succeeding fiscal years.".

(b) Section 305(d)(1) is amended—

(1) in the first sentence, by striking out "shall" and inserting instead "may", and

(2) by striking out the second sentence.

(c) Section 308(b)(2) is amended by striking out "$35,000" and inserting instead "$50,000".

APPROPRIATION AUTHORIZATIONS FOR AND AMENDMENTS CONCERNING HEALTH STATISTICS ACTIVITIES

SEC. 2504. (a) Section 308(i)(2) is amended—

(1) by striking out "and" after "1980,", and

(2) by inserting ", $35,532,000 for the fiscal year ending September 30, 1982, and such sums as may be necessary for each of the two succeeding fiscal years" after "1981".

(b) The first sentence of section 304(d)(1) is amended—

(1) by striking out ", with funds appropriated under section 308(i)(2),", and

(2) by striking out "the Council on Wage and Price Stability.".

(c)(1) Section 306(e) is repealed.

(2) Section 306(k)(4)(D) is amended by striking out ", with respect to the Cooperative Health Statistics System established under subsection (e),".

(d)(1) Section 306(l) is repealed.

(2) The matter in section 308(d) preceding clause (1) is amended by striking out "by guidelines in effect under section 306(l)(2) or".

SECRETARIAL DISCRETION IN DETERMINING EXTENT AND MEANS OF TRAINING SUPPORT IN THE AREAS OF HEALTH STATISTICS, HEALTH SERVICES RESEARCH, AND HEALTH CARE TECHNOLOGY

SEC. 2505. Section 304(a)(3) is amended—

(1) by striking out "shall" and inserting instead "may", and

(2) by striking out "and" the first three places it occurs and inserting instead "or".

INCREASED PROTECTION FOR HEALTH SERVICES RESEARCH, HEALTH CARE TECHNOLOGY, AND HEALTH STATISTICS INFORMATION

SEC. 2506. The matter in section 308(d) preceding clause (1) (as amended by section 4(d)(2) of this part) is amended by striking out "unless authorized under regulations of the Secretary".

APPROPRIATION AUTHORIZATIONS FOR AND AMENDMENTS CONCERNING NATIONAL RESEARCH SERVICE AWARDS

SEC. 2507. (a) The first sentence of section 472(d) is amended—

(1) by striking out "and" after "1980,", and

(2) by inserting ", $147,321,000 for the fiscal year ending September 30, 1982, and such sums as may be necessary for each of the two succeeding fiscal years" after "1981".

(b)(1) Section 472(a)(3) is amended to read as follows:

"(3) In awarding National Research Service Awards under this section, the Secretary shall take account of the Nation's overall need for biomedical research personnel by giving special consideration to physicians who agree to undertake a minimum of two years of biomedical research.".

(2) Section 473 is repealed.

(c) The first sentence of section 472(b)(5) is amended by inserting ", tuition, fees," after "stipends".

(d) Section 472(b)(5) is amended by striking out the last two sentences.

(e) Paragraphs (1)(A) and (2) of section 472(c) are each amended by inserting "(other than for undergraduate training)" after "National Research Service Award".

(f)(1) Section 472(c)(1) is amended—

(A) in subparagraph (A)(ii), by striking out "serve as a member of the National Health Service Corps or serve in his specialty" and inserting instead "engage in full-time professional activities for any Federal agency, engage in the full-time clinical practice of his specialty as may be requested by a State or local governmental entity, or provide services in his specialty for a health maintenance organization", and

(B) in subparagraph (B)—

(i) in the matter preceding clause (i), by inserting "as specified" after "authorized",

(ii) by striking out the text of clause (i) and inserting instead "engage in full-time professional activities for any Federal agency, or engage in the full-time practice of his specialty as may be requested by a State or local governmental entity,",

(iii) by adding "or" at the end of clause (ii), and

(iv) by adding after clause (ii) the following clause:

(iii) engage in the full-time private clinical practice (including service as a salaried employee in an entity directly providing health services) of his specialty in a health manpower shortage area designated under section 332 pursuant to a written agreement as specified in section 753(b),".

(2) Section 472(c)(2) is amended—

(A) in the matter preceding subparagraph (A), by striking out "three" and inserting "twelve" instead, and

(B) in subparagraph (A), by striking out "or, if so authorized, serve as a member of the National Health Service Corps,".

(3) The second sentence or section 472(c)(3) is amended—

(A) by striking out "(A)",

(B) by striking out all that follows "he deems necessary" and inserting a period instead, and

(C) by striking out "(i)" and "(ii)" and inserting instead "(A)" and "(B)", respectively.

EMERGENCY AND OTHER PUBLIC HEALTH RESPONSIBILITIES OF THE SECRETARY OF HEALTH AND HUMAN SERVICES

SEC. 2508. (a) Section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended—

(1) in the matter preceding paragraph (1) in the third sentence, by striking out "said Administrator" and inserting instead "the Secretary",

(2) by striking out the last sentence, and

(3) by striking out the first two sentences and inserting instead the following: "The Secretary of Health and Human Services shall provide the Administrator technical assistance and advice as to the health matters involved in effectuating and implementing the provisions of this part.".

(b)(1) The second sentence of section 311(a) is amended—

(A) by striking out "shall" the first place it occurs and inserting instead "may",

(B) by inserting "and other entities" after political subdivisions",

(C) by inserting "and with respect to other public health matters" after "diseases", and

(D) by striking out "and in carrying out the purposes of section 314".

(2) The first sentence of section 311(b) is amended by striking out "the purposes of section 314" and inserting instead "public health activities".

(3) The first sentence of section 311(c)(1) is amended by striking out "or condition referred to in section 317(f)" and "involving or resulting from disasters or any such disease".

(4) The second sentence of section 311(c)(1) is amended by striking out "resulting from disasters or any disease or condition referred to in section 317(f)".

(c) Section 311(c)(2) is amended—

(1) in the first sentence, by striking out "forty-five days" and inserting instead "six months", and

(2) by inserting the following after the first sentence: "The Secretary, in determining the amount of such assistance to be provided, shall take into consideration State, local, and private resources which are (or could have been, with reasonable foresight) available for meeting the emergency.".

APPROPRIATION AUTHORIZATIONS FOR IMMUNIZATION PROGRAMS

SEC. 2509. Section 317(j)(1)(A) is amended—

(1) by striking out "and" after "1980,", and

(2) by inserting ", $26,000,000 for the fiscal year ending Septermber 30, 1982, $29,000,000 for the fiscal year ending September 30, 1983, and $32,000,000 for the fiscal year ending September 30, 1984" after "1981,".

APPROPRIATION AUTHORIZATIONS FOR PREVENTION AND CONTROL OF VENEREAL DISEASE

SEC. 2510. The first sentence of section 318(d)(1) is amended by striking out "and" after "1980," and by inserting before the period a comma and the following: "$40,000,000 for the fiscal year ending September 30, 1982, $40,000,000 for the fiscal year ending September 30, 1983, and $40,000,000 for the fiscal year ending September 30, 1984".

APPROPRIATION AUTHORIZATIONS FOR AND AMENDMENT CONCERNING ASSISTANCE FOR MEDICAL LIBRARIES

SEC. 2511. (a) Section 390(c) is amended—

(1) by striking out "and" after "1980,", and

(2) by inserting ", $8,925,000 for the fiscal year ending September 30, 1982, and such sums as may be necessary for each of the two succeeding fiscal years" after "1981".

(b)(1) Section 393(a) is amended to read as follows:

"SEC. 393. (a) To carry out the purposes of section 390(b)(1), the Secretary shall make grants to individuals or to public or private nonprofit institutions to assist in training

individuals in information sciences related to health.".

(2) The heading to section 393 is amended by striking out "medical library" and inserting instead "information".

(3) Section 390(b)(1) is amended by striking out "medical librarians and other information specialists in the health sciences" and inserting instead "individuals in information sciences as related to health".

(c) Section 394(b) and the first sentence of section 394(a) are each amended by striking out "shall" and inserting instead "may".

LIMITED APPLICABILITY OF CERTAIN ADDITIONAL SPECIAL PAY TO PHYSICIANS IN THE PUBLIC HEALTH SERVICE COMMISSIONED CORPS

SEC. 2512. (a) Section 208(a) is amended—

(1) by inserting the subparagraph designation "(A)" after the paragraph designation "(2)",

(2) by inserting ", except as otherwise provided in subparagraph (B)" before the period, and

(3) by adding at the end the following:

"(B) A commissioned medical officer in the Regular or Reserve Corps may not receive additional special pay under paragraph (4) of 37 U.S.C. 302(a) for any period during which the officer is providing obligated service under section 752 (or under former section 225(e)). Such an officer serving during any other period may be provided additional special pay under that paragraph at the discretion of the Secretary up to the amounts described in that paragraph. The Secretary, in exercising his discretion under the preceding sentence, shall take into consideration the recruitment and retention problems of the Public Health Service, the level of performance of the officer concerned, and provisions of law relating to additional pay for Government physicians not in the uniformed services.".

(b) The amendments made by subsection (a) of this section do not apply to any period of service covered by an agreement, entered into by an officer under 37 U.S.C. 302(c)(1) before the date of enactment of this part.

HANSEN'S DISEASE PROGRAM

SEC. 2513. Section 320 is amended to read as follows:

"HANSEN'S DISEASE PROGRAM

"SEC. 320. (a) The Secretary shall provide for the care and treatment without charge of any person suffering from Hansen's disease who requests care and treatment.

"(b) The Secretary shall make payments to the Board of Health of Hawaii for the care and treatment in its facilities of persons suffering from Hansen's disease at a per diem rate, determined from time to time by the Secretary, which shall, subject to the availability of appropriations, be approximately equal to the per diem operating cost per patient of those facilities, except that the per diem rate shall not be greater than the comparable per diem operating cost per Hansen's disease patient at the Public Health Service hospital in Carville, Louisiana.".

ELIMINATION OR DECREASED FREQUENCY OF CERTAIN REPORTS

SEC. 2514. (a)(1) Sections 227, 316(f), 317(h), 336, 360D, 511, 751(i), 788(g)(4), 1106, 1210, and 1315; section 1200 of the Comprehensive Drug Abuse Prevention and Control Act of 1970; section 302 of the Health Planning and Resources Development Amendments of 1979; and the Marihuana and Health Reporting Act are repealed.

(2) Section 306(k)(4) is amended—

(A) by adding "and" at the end of subparagraph (E),

(B) by striking out "; and" at the end of subparagraph (F) and substituting a period, and

(C) by striking subparagraph (G).

(3) Section 308(a)(1) is amended—

(A) by striking out clause (A), and

(B) by striking out the clause designation "(B)".

(4) Section 329(f)(5) is amended by striking out the last sentence.

(5) Section 27 of the Toxic Substances Control Act is amended—

(A) by striking out paragraph (1),

(B) by striking out the paragraph designation "(2)", and

(C) in the side heading, by striking out "Annual".

(b)(1) The matter preceding subparagraph (A) of section 308(a)(2) is amended—

(A) by striking out "not later than September 1 of each year", and

(B) by inserting "biennially" after "submit".

(2) Section 434(e) is amended—

(A) in the first sentence—

(i) by striking out "each" and inserting instead "every other", and

(ii) by striking out "an annual" and inserting instead "a biennial", and

(B) in the second sentence, by striking out "annual" and inserting instead "biennial".

(3) Section 435(b) is amended—

(A) by striking out "an annual" and inserting instead "a biennial", and

(B) by striking out "each" and inserting instead "every other".

(4) Section 436(c) is amended—

(A) in the matter preceding paragraph (1), by striking out "an annual" and inserting instead "a biennial", and

(B) by striking out the last sentence.

(5) Section 437(j) is amended—

(A) in the matter preceding paragraph (1), by striking out "an annual" and inserting instead "a biennial", and

(B) by striking out "year" each place it occurs and inserting instead "years".

(6) Section 439(e) is amended—

(A) by striking out "an annual" and inserting instead "a biennial", and

(B) by striking out "each" and inserting instead "every other".

(7) Section 5(h) of the International Health Research Act of 1960 is amended by striking out "each" and inserting instead "every other".

(8) Section 8(a) of the Federal Cigarette Labeling and Advertising Act is amended by striking out "annually" and inserting instead "biennially".

(9) Section 305 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act is amended by striking out "each" and inserting instead "every other".

MISCELLANEOUS

SEC. 2515. Section 434(d)(1) is amended by inserting "musculoskeletal and skin diseases," after "arthritis,".

REPEALS OF HEALTH PLANNING AND HEALTH RESOURCES DEVELOPMENT

REPEALS

SEC. 2591. Effective October 1, 1983, titles XV and XVI of the Public Health Service Act are repealed.

CONFORMING PROVISION

SEC. 2592. (a) The repeals made by section 2591 shall not affect (1) the obligations of any entity under a loan made under the Public Health Service Act, or (2) the obligations of the United States under any loan guarantee made under such Act.

(b)(1) If any facility constructed, modernized, or converted with funds provided under title XVI of the Public Health Service Act is, at any time within twenty years after the completion of such construction, modernization, or conversion with such funds, not used as a medical facility, and the Secretary has not determined that there is good cause for termination of such use, the United States shall be entitled to recover from either the transferor or the transferee in the case of a sale or transfer or from the owner in case of termination of use an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of such facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction, modernization, or conversion of such project or projects. Such right of recovery shall not constitute a lien upon such facility prior to judgment.

(2) The Secretary may waive the recovery rights of the United States under subsection (a) with respect to a facility in any State if the Secretary determines, in accordance with regulations, that there is good cause for waiving such requirement with respect to such facility. If the amount which the United States is entitled to recover under subsection (a) exceeds 90 per centum of the total cost of the construction or modernization project for a facility, a waiver under this subsection shall only apply with respect to an amount which is not more than 90 per centum of such total cost.

PART F—NATIONAL HEALTH SERVICE CORPS AND HEALTH PROFESSIONS AND NURSE TRAINING

SHORT TITLE AND REFERENCES IN ACT

SEC. 2520. (a) This part may be cited as the "Health Professions Personnel Amendments of 1981".

(b) Unless otherwise specifically stated, whenever in this part an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

Subpart I—National Health Service Corps Programs

REVISION AND EXTENSION OF NATIONAL HEALTH SERVICE CORPS

SEC. 2521. (a)(1) Section 331(a)(1) (42 U.S.C. 254d(a)(1)) is amended to read as follows: "(1) shall consist of—

"(A) such officers of the Regular and Reserve Corps of the Service as the Secretary may designate,

"(B) such civilian employees of the United States as the Secretary may appoint, and

"(C) such other individuals who are not employees of the United States,

(such officers, employees, and individuals hereinafter in this subpart referred to as 'Corps members'), and".

(2)(A) Section 331(d)(1) is amended by inserting after "each member of the Corps" the following: "(other than a member described in subsection (a)(1)(C))".

(B) Section 331(d) is amended by adding at the end the following:

"(3) A member of the Corps described in subparagraph (C) of subsection (a)(1) shall when assigned to an entity under section 333 be subject to the personnel system of

such entity, except that such member shall receive during the period of assignment the income that the member would receive if the member was a member of the Corps described in subparagraph (B) of such subsection.".

(3) Section 331(h)(1) is amended by striking out ", Education, and Welfare" and inserting in lieu thereof "and Human Services".

(4) Section 331 is amended by redesignating subsections (g) and (h) as subsections (h) and (i), respectively, and by adding after subsection (f) the following new subsection:

"(g)(1) The Secretary shall, by rule, prescribe conversion provisions applicable to any individual who, within a year after completion of service as a member of the Corps described in subsection (a)(1)(C), becomes a commissioned officer in the Regular or Reserve Corps of the Service.

"(2) The rules prescribed under paragraph (1) shall provide that in applying the appropriate provisions of this Act which relate to retirement, any individual who becomes such an officer shall be entitled to have credit for any period of service as a member of the Corps described in subsection (a)(1)(C).".

(b)(1) Section 332(a)(1) (42 U.S.C. 254e(1)) is amended by striking out "which the Secretary determines" each place it occurs and inserting in lieu thereof "which as determined under this section".

(2) Section 332(c) is repealed.

(3) Section 333(c) is amended by adding after paragraph (4) the following: "At least ninety days before approving such an application, the Secretary shall provide the appropriate health professions societies in the area to which an assignment would be made under the application the opportunity to submit comments on the assignment.".

(c) Section 332(h) is amended (1) by inserting "(1)" before "to inform", and (2) by inserting before the period a comma and the following: "and (2) to inform such entities and other individuals and entities who may be interested in the availability of health professions personnel of the provisions of section 753 which allow an individual to satisfy a National Health Service Corps Scholarship Program service obligation through the private practice of the individual's health profession".

(d)(1) Subsection (a) of section 333 (42 U.S.C. 254f) is amended by adding at the end the following:

"(3) In approving applications for assignment of members of the Corps the Secretary shall not discriminate against applications from entities which are not receiving Federal financial assistance under this Act.".

(2) Effective October 1, 1981, section 333 is amended by redesignating subsections (d) through (h) as subsections (e) through (i), respectively, and by adding after subsection (c) the following new subsection:

"(d)(1) The Secretary may not approve an application for the assignment of a member of the Corps described in subparagraph (C) of section 331(a)(1) to an entity unless the application of the entity contains assurances satisfactory to the Secretary that the entity (A) has sufficient financial resources to provide the member of the Corps with an income of not less that the income to which the member would be entitled if the member was a member described in subparagraph (B) of section 331(a)(1), or (B) would have such financial resources if a grant was made to the entity under paragraph (2).

"(2)(A) If in approving an application of an entity for the assignment of a member of the Corps described in subparagraph (C) of section 331(a)(1) the Secretary determines that the entity does not have sufficient financial resources to provide the member of the Corps with an income of not less than the income to which the member would be entitled if the member was a member described in subparagraph (B) of section 331(a)(1), the Secretary may make a grant to the entity to assure that the member of the Corps assigned to it will receive during the period of assignment to the entity such an income.

"(B) The amount of any grant under subparagraph (A) shall be determined by the Secretary. Payments under such a grant may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. No grant may be made unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.".

(e)(1) Section 334(a) (42 U.S.C. 254g(a)) is amended by inserting "for the assignment of a member of the Corps" after "section 333".

(2) Section 334(a)(3)(A) is amended by inserting "from the United States" after "received by such member".

(3) Section 334(a)(3)(C) is amended (A) by inserting "or a grant under section 333(d)(2)" after "section 335(c)", and (B) by inserting "or grant" after "such loan" each time it occurs.

(4) Section 334(b) is amended by adding at the end the following:

"(4) In determining whether to grant a waiver under paragraph (1) or (2), the Secretary shall not discriminate against a public entity.".

(5) Subsection (e) of section 334 is amended to read as follows:

"(e)(1) There is established in the Treasury of the United States a revolving fund to be called the National Health Service Corps Fund (hereinafter in this subsection referred to as the 'Fund') which shall be available to the Secretary, without fiscal year limitation, to carry out this subpart.

"(2) There shall be deposited in the Fund, subject to withdrawal by check by the Secretary—

"(A) funds received by the Secretary after September 30, 1981, under an agreement entered into under subsection (a), and

"(B) interest which may be earned on investments of the Fund.

"(3) If the Secretary determines that the moneys of the Fund are in excess of current needs, the Secretary may request the investment of such amounts as the Secretary deems advisable by the Secretary of the Treasury in obligations of, or obligations guaranteed by, the Government of the United States, and, with the approval of the Secretary of the Treasury, in such other obligations or securities as it deems appropriate.

"(4) With the approval of the Secretary of the Treasury, the Secretary of Health and Human Services may deposit moneys in the Fund in any Federal Reserve bank, any depository for public funds, or in such other places and in such manner as the Secretary of Health and Human Services and the Secretary of the Treasury may mutually agree.

"(5) The Fund and the funds credited to it shall not be subject to apportionment under section 3679 of the Revised Statutes (31 U.S.C. 665).".

(f) Section 338(a) (42 U.S.C. 254k) is amended (1) by striking out "and" after "1979;", and (2) by adding before the period a semicolon and the following: "$85,000,000 for the fiscal year ending September 30, 1982; $85,000,000 for the fiscal year ending September 30, 1983; and $85,000,000 for the fiscal year ending September 30, 1984".

REVISION AND EXTENSION OF NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM

SEC. 2522. (a)(1) Paragraphs (1) through (4) of section 752(b) (42 U.S.C. 294u(b)) are amended to read as follows:

"(b)(1) If an individual is required under subsection (a) to provide service as specified in section 751(f)(1)(B)(iv) (hereinafter in this subsection referred to as 'obligated service'), the Secretary shall, not later than ninety days before the date described in paragraph (5), determine if the individual shall provide such service—

"(A) as a member of the Corps who is a commissioned officer in the Regular or Reserve Corps of the Service or who is a civilian employee of the United States, or

"(B) as a member of the Corps who is not such an officer or employee,

and shall notify such individual of such determination.

"(2) If the Secretary determines that an individual shall provide obligated service as a member of the Corps who is a commissioned officer in the Service or a civilian employee of the United States, the Secretary shall, not later than sixty days before the date described in paragraph (5), provide such individual with sufficient information regarding the advantages and disadvantages of service as such a commissioned officer or civilian employee to enable the individual to make a decision on an informed basis. To be eligible to provide obligated service as a commissioned officer in the Service, an individual shall notify the Secretary, not later than thirty days before the date described in paragraph (5), of the individual's desire to provide such service as such an officer. If an individual qualifies for an appointment as such an officer, the Secretary shall, as soon as possible after the date described in paragraph (5), appoint the individual as a commissioned officer of the Regular or Reserve Corps of the Service and shall designate the individual as a member of the Corps.

"(3) If an individual provided notice by the Secretary under paragraph (2) does not qualify for appointment as a commissioned officer in the Service, the Secretary shall, as soon as possible after the date described in paragraph (5), appoint such individual as a civilian employee of the United States and designate the individual as a member of the Corps.

"(4) If the Secretary determines that an individual shall provide obligated service as a member of the Corps who is not an employee of the United States, the Secretary shall, as soon as possible after the date described in paragraph (5), designate such individual as a member of the Corps to provide such service.".

(2)(A) Subsection (c)(1) of section 752 is amended by striking out "or as a member of the corps" and inserting in lieu thereof "or is designated as a member of the Corps under subsection (b)(3) or (b)(4)".

(B) The second sentence of subsection (d) of section 752 is amended by inserting after "written contract" the following: "and if

such individual is an officer in the Service or a civilian employee of the United States".

(b) Subsection (e) of section 752 is amended to read as follows:

"(e) Notwithstanding any other provision of this title, service of an individual under a National Research Service Award awarded under subparagraph (A) or (B) of section 472(a)(1) shall be counted against the period of obligated service which the individual is required to perform under the scholarship program.".

(c)(1) Section 752 is amended by adding at the end the following:

"(f) The Secretary may permit an individual to satisfy all or part of his service obligation under this subpart by engaging in the clinical practice of his profession in any location (whether or not in a health manpower shortage area as defined in section 332(a))—

"(1) for the Department of Health and Human Services,

"(2) for the Department of Defense,

"(3) for the Veterans' Administration, or

"(4) as may be requested by a State or local governmental entity

for a period of full-time practice equal to (or a longer period of other than full-time practice equivalent to) the remaining period of obligated service. Funds appropriated under this subpart may not be used to pay for services performed under this subsection.

"(g) The Secretary may from time to time release up to a specified number of individuals from their service obligation under this subpart who have reached the date described in section 752(b)(5) but who have not yet begun their period of obligated service. He shall require as a condition for a release that an individual agree to pay to the United States, within such time as the Secretary may specify, the sum of the amounts under this subpart to or on behalf of the individual and the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate as determined by the Secretary of the Treasury. If more eligible individuals apply for such a release than the number specified by the Secretary, the Secretary shall select by lottery those to be released.".

(2) Section 752(a) is amended by inserting "in subsection (e), (f), or (g) or" before "in section 753".

(3) Section 752(b)(4) is amended by striking out "and" and inserting in lieu thereof ", in subsection (e), (f), or (g), or".

(4) Section 754(d) is amended by striking out "of damages" each place it occurs.

(d)(1) Section 753(b)(1)(B) (42 U.S.C. 294v(b)(1)(B)) is amended (A) by inserting "(i)" before "shall not", and (B) by inserting before the semicolon a comma and the following: "and (ii) shall agree to accept an assignment under section 1842(b)(3)(B)(ii) of such Act for all services for which payment may be made under part B of title XVIII of such Act and enter into an appropriate agreement with the State agency which administers the State plan for medical assistance under title XIX of such Act to provide services to individuals entitled to medical assistance under the plan".

(2) Section 753 is amended by adding the following new subsections:

"(c) If an individual breaches the contract entered into under section 751 by failing (for any reason) to begin his service obligation in accordance with an agreement entered into under subsection (a) or to complete such service obligation, the Secretary may permit such individual to perform such service obligation as a member of the Corps.

"(d) The Secretary shall, upon request, provide technical assistance to individuals who are considering entering into an agreement under subsection (a) or have entered into such an agreement to assist them in the establishment of their clinical practice under the agreement.".

(3) Section 751(c)(2) is amended by inserting "information respecting meeting a service obligation through private practice under an agreement under section 753 and" after "(2)".

(4)(A) Subsection (a) of section 753 is amended by inserting "or under section 225 (as in effect on September 30, 1977)" after "section 752(a)".

(B) Section 754(c) (42 U.S.C. 294w(c)) is amended (i) by striking out "(c) If" and inserting in lieu thereof "(c)(1) Except as provided in paragraph (2), if", and (ii) by adding at the end the following:

"(2) If an individual is released under section 753 from a service obligation under section 225 (as in effect on September 30, 1977) and if the individual does not meet the service obligation incurred under section 753, subsection (f) of such section 225 shall apply to such individual in lieu of paragraph (1) of this subsection.".

(C) Section 735(c)(1) (42 U.S.C. 294h(c)(1)) is amended by striking out "clauses (A) and (B) of".

(e)(1) The first sentence of section 756(a) is amended (A) by striking out "and" after "1979," and (B) by inserting before the period a comma and the following: "$38,000,000 for the fiscal year ending September 30, 1982, $38,000,000 for the fiscal year ending September 30, 1983, and $38,000,000 for the fiscal year ending September 30, 1984.

(2) The second sentence of such section is repealed.

(3) Such section is amended by striking out "(a)" after "756." and by striking out subsection (b).

(f) The amendments made by subsection (a) shall apply with respect to contracts entered into under the National Health Service Corps scholarship program under subpart III of part C of title VII of the Public Health Service Act after the date of the enactment of this Act. An individual who before such date has entered into such a contract and who has not begun the period of obligated service required under such contract shall be given the opportunity to revise such contract to permit the individual to serve such period as a member of the National Health Service Corps who is not an employee of the United States.

Subpart II—Health Professions Program

GENERAL PROVISIONS

SEC. 2525. Section 700 (42 U.S.C. 292) (relating to limitation of use of appropriations) is repealed.

REPEAL OF CAPITATION

SEC. 2526. (a)(1) Paragraph (2) of section 770(c) is amended—

(A) in the first sentence, by striking out "For purposes of this section, the" and inserting instead "The", and

(B) in the last sentence, by striking out "and for purposes of section 771, students enrolled in the first of the last four years of such program shall be considered as first-year students".

(2) That paragraph is renumbered as paragraph (11) and is transferred to the end of section 701.

(3) Section 731(a)(1)(A)(ii) is amended by striking out "770(c)(2)" and inserting instead "701(11)".

(b) Part E of title VII is repealed.

(c)(1) Sections 331(g) and 751(j) are repealed.

(2) Section 703 is amended—

(A) by striking out subsection (b), and

(B) by striking out the subsection designation "(a)".

(3) Section 708(c) is amended—

(A) by striking out the first sentence, and

(B) by striking out "additional" in the second sentence.

(4) Section 710(1) is amended by striking out "except for grants under section 770,".

(5) Section 737 is amended—

(A) by striking out paragraph (2), and

(B) by amending paragraph (1) to read as follows:

"(1) The term 'eligible institution' means, with respect to a fiscal year, a school of medicine, osteopathy, dentistry, optometry, pharmacy, podiatry, veterinary medicine, or public health within the United States that is accredited by a recognized body or bodies approved for such purpose by the Secretary of Education, except that a new school which (by reason of no, or an insufficient, period of operation) is not, at the time of application for insurance for a loan under this subpart, eligible for accreditation by such a recognized body or bodies, shall be deemed accredited for purposes of this part if the Secretary of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of the first entering class in such school.".

(6) The first sentence of section 853(6) is amended by striking out clause (B).

REPEAL OF CONSTRUCTION AUTHORITIES

SEC. 2527. (a) Section 722 is amended to read as follows:

"PAYMENTS

"SEC. 722. The Secretary shall reserve, from any appropriation available for a grant for a construction project under this part, the amount of such grant; the amount so reserved may be paid in advance or by way of reimbursement, and in such installments consistent with construction progress, as the Secretary may determine. The Secretary's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.".

(b) Section 803 is amended to read as follows:

"PAYMENTS

"SEC. 803. The Secretary shall reserve, from any appropriation available for a grant for a construction project under this subpart, the amount of such grant; the amount so reserved may be paid in advance or by way of reimbursement, and in such installments consistent with construction progress, as the Secretary may determine. The Secretary's reservation of any amount under this section may be amended by him, either upon approval of an amendment of the application or upon revision of the estimated cost of construction of the facility.".

(c) Section 723 is amended—

(1) by inserting "former" before "section 720(a)(1)" and "section 720(a)(2)",

(2) by striking out "section 722" and inserting instead "former section 722(d)",

(3) in subsection (a)(2), by inserting "(including the lack of further need for the

teaching, research, or other capacity)" after "good cause", and

(4) in subsection (b)(2), by inserting "(including the lack of further need for the training capacity)" after "good cause".

(d) Section 804 is amended by inserting "(including the lack of further need for the training capacity)" after "good cause".

(e) Section 724 is amended to read as follows:

"REGULATIONS

"SEC. 724. The Secretary may make such regulations as he finds necessary to carry out the provisions of this part.".

(f) Sections 720, 721, 725, 801, and 802, subsections (a), (b), (c), and (f) of section 726, and subsections (a), (b), (c), and (f) of section 805 are repealed.

(g)(1) Section 701(3) is amended by striking out "which meets the eligibility conditions set forth in section 721(b)(1)".

(2) The first sentence of section 853(6) is amended by striking out clause (A).

(h)(1) No entity shall be required to continue to implement assurances given under former section 721(c)(2)(D).

(2) The Secretary may waive the enforcement of assurances given by any school under former section 802(b)(2)(D).

REPEAL OF START-UP ASSISTANCE AUTHORITY

SEC. 2528. Section 788(a) is repealed.

FINANCIAL DISTRESS

SEC. 2529. (a) Section 788 (43 U.S.C. 295g-8) is amended as follows:

(1) Subsections (c), (d), (e), (f), and (g) are repealed.

(2) Subsection (b) is amended—

(A) by striking out "(b)(1)" and inserting in lieu thereof "(a)",

(B) by redesignating subparagraphs (A) and (B) of paragraph (1) as paragraphs (1) and (2), respectively, and by redesignating clauses (i) and (ii) of paragraph (1) (as so redesignated) as subparagraphs (A) and (B), respectively,

(C) by striking out paragraph (5) and by redesignating paragraphs (2), (3), and (4) as subsections (b), (c), and (d), respectively,

(D) by redesignating subparagraphs (A), (B), and (C) of subsection (b) (as so redesignated) as paragraphs (1), (2), and (3), respectively, and

(E) by striking out "this subsection" each place it occurs and inserting in lieu thereof "subsection (a)".

(3) The following subsection is inserted after subsection (d) (as so redesignated):

"(e) For purposes of grants under subsection (a), there are authorized to be appropriated such sums as may be necessary for the fiscal year ending September 30, 1982, and the next two fiscal years.".

(4) The heading for the section is amended to read as follows:

"FINANCIAL DISTRESS GRANTS"

(b)(1) Subsection (b) of section 772 is (A) transferred to the end of section 788 and redesignated as subsection (f), and (B) amended by striking out "section 770 or subsection (a) or (b) of section 788" and inserting in lieu thereof "subsection (a)".

(2) Section 788(f) (as so redesignated) is further amended—

(A) by striking out "(1)",

(B) by striking out ", and (2) be" and inserting instead "that is",

(C) by inserting "or a public or other nonprofit school of nursing," after "Commissioner of Education,",

(D) by striking out "requirement of this clause" and inserting instead "accreditation requirements", and

(E) by striking out "(A)" and "(B)" and inserting instead "(1)" and "(2)", respectively.

EXTENSION OF AND AMENDMENTS CONCERNING THE HEALTH EDUCATION ASSISTANCE LOANS PROGRAMS

SEC. 2530. (a)(1) The first sentence of section 728(a) is amended—

(A) by striking out "and" after "1979;", and

(B) by inserting "; and $100,000,000 for the fiscal year ending September 30, 1982, and each of the two succeeding fiscal years" before the period.

(2) The second sentence of section 728(a) is amended by striking out "1982" and inserting instead "1986".

(b)(1) The first sentence of section 701(11) (as amended and redesignated by section 2526(a) of this part) is further amended by inserting ", or to a degree, diploma, or equivalent in nursing, or to a degree in the allied health professions" before the period.

(2) Section 737(1) (as amended by section 2526(c) of this part) is further amended by inserting "or a school of nursing or training center for allied health professions" before ", except".

(c)(1) The first sentence of section 729(a) is amended by striking out "$10,000" and all that follows up to the period and inserting instead the following: "$20,000 in the case of a student enrolled in a school of medicine, osteopathy, or dentistry, or $15,000 in the case of a student enrolled in a school of veterinary medicine, optometry, podiatry, public health, pharmacy, or nursing or a training center for allied health professions".

(2) The second sentence of section 729(a) is amended by striking out "$50,000" and all that follows up to the period and inserting instead the following: "$80,000 in the case of a borrower who is or was a student enrolled in a school of medicine, osteopathy, or dentistry, or $60,000 in the case of a borrower who is or was a student enrolled in a school of veterinary medicine, optometry, podiatry, public health, pharmacy, or nursing or a training center for allied health professions".

(d) Section 735(c)(1) is amended by striking out "which is described in clauses (A) and (B) of section 753(a)(2)" and inserting instead "specified by the Secretary".

(e) Section 739(b) is amended to read as follows:

"(b) The Secretary shall by regulation require an eligible institution to record, and make available to a lender and to the Secretary upon request, the name, address, social security number, postgraduate destination, and other reasonable identifying information for each student of such institution who has a loan insured under this subpart.".

(f) The heading to subpart I of part C of title VII is amended to read as follows:

"Subpart I—Health Education Assistance Loans"

AMENDMENTS TO HEALTH PROFESSIONS SCHOOLS LOAN FUNDS AUTHORITIES

SEC. 2531. (a)(1) Sections 740(a), 835(a), and 841 are repealed.

(2) The first sentence of section 853(6) is amended by striking out ", except" and all that follows up to the period.

(b)(1) The matter in section 743(a) preceding paragraph (1) is amended to read as follows:

"SEC. 743. (a) Upon request of a school with which an agreement was entered into under section 740, there shall be a capital distribution of the balance of the loan fund established under that agreement as follows:".

(2) The matter in section 839(a) preceding paragraph (1) is amended to read as follows:

"SEC. 839. (a) Upon request of a school with which an agreement was entered into under 835, there shall be a capital distribution of the balance of the loan fund established under that agreement as follows:".

(3) Section 743(b) and 839(b) are each amended to read as follows:

"(b) The school shall subsequently pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school after the capital distribution in payment of principal or interest on loans made from the loan fund as was determined for the Secretary under subsection (a).".

(c)(1) Section 741(f)(1)(C) is amended—

(A) by striking out "who enters into an agreement with the Secretary" and inserting instead "with whom the Secretary chooses to enter into an agreement for the individual", and

(B) by striking out "designated under section 332" and inserting instead "(designated under section 332) specified by the Secretary".

(2) Section 741(f)(5) is repealed.

(3) Section 836(h)(1)(C) is amended to read as follows:

"(C) with whom the Secretary chooses to enter into an agreement for the individual to practice his profession (as a member of the National Health Service Corps or otherwise) for a period of at least two years in a health manpower shortage area (designated under section 332) specified by the Secretary);".

(4) Section 836(i) is repealed.

(d) Section 835(b)(4) is amended by striking out ", and that while the agreement remains in effect no such student who has attended such school before October 1, 1980, shall receive a loan from a loan fund established under section 204 of the National Defense Education Act of 1958".

(e)(1) Section 741 is amended by adding at the end the following:

"(m) The Secretary is authorized to attempt to collect any loan which was made under this subpart and which is in default, referred to him by a school with which he has an agreement under this subpart, on behalf of that school under such terms and conditions as the Secretary may prescribe, including reimbursement for expenses he may reasonably incur in attempting collection.".

(2) Section 836 is amended by adding at the end the following:

"(k) The Secretary is authorized to attempt to collect any loan which was made under this part and which is in default, referred to him by a school with which he has an agreement under this part, on behalf of that school under such terms and conditions as the Secretary may prescribe, including reimbursement for expenses he may reasonably incur in attempting collection.".

(g) The second sentence of section 741(j) and the second sentence of section 836(f) are each amended to read as follows: "The amount of any such charge may not exceed any limit prescribed by applicable State law.".

REPEAL OF UNNEEDED SCHOLARSHIP AND TRAINEESHIP PROVISIONS

SEC. 2532. Subpart V of part C of title VII and section 783(c) are repealed.

REPEAL OF UNNEEDED AND OBSOLETE ASSISTANCE AUTHORITIES

SEC. 2533. Section 701(B), part D of title VII, and sections 782, 785, and 789 are repealed.

EXTENSION AND CONSOLIDATION OF PUBLIC HEALTH AND HEALTH ADMINISTRATION AUTHORITIES

SEC. 2534. (a)(1) Section 748(c) is amended by striking out "and" after "1979;" and by inserting before the period a semicolon and the following: "$2,500,000 for the fiscal year ending September 30, 1982; $2,500,000 for the fiscal year ending September 30, 1983; and $2,500,000 for the fiscal year ending September 30, 1984".

(2) Section 749(c) is amended by striking out "and" after "1979;" and by inserting before the period a semicolon and the following: "$2,000,000 for the fiscal year ending September 30, 1982; $2,000,000 for the fiscal year ending September 30, 1983; and $2,000,000 for the fiscal year ending September 30, 1984".

(3) Section 791(d) is amended by striking out "and" after "1979," and by inserting before the period a comma and the following: "$3,000,000 for the fiscal year ending September 30, 1982, $3,000,000 for the fiscal year ending September 30, 1983, and $3,000,000 for the fiscal year ending September 30, 1984. At least one third of the amount appropriated under this subsection for any fiscal year shall be obligated for grants under subsection (a) to support the graduate educational programs in health administration of educational entities other than schools of public health".

(4) Section 792(c) is amended by striking out "and" after "1979;" and by inserting before the period a semicolon and the following: "$500,000 for the fiscal year ending September 30, 1982; $500,000 for the fiscal year ending September 30, 1983; and $500,000 for the fiscal year ending September 30. 1984".

(b)(1) Section 791(a) (42 U.S.C. 295h(a)) is amended by striking out "and excluding accredited schools of public health".

(2) Section 791(c)(2)(B) is amended (A) by striking out "health planning" and inserting in lieu thereof "health planning and evaluation", and (B) by striking out "Commissioner of Education" and inserting in lieu thereof "Secretary of Education".

(c) Subpart I of part G of title VII is amended by adding after section 793 the following new section:

"GRANTS TO DEPARTMENTS OF PREVENTIVE OR COMMUNITY MEDICINE

"SEC. 794. (a) The Secretary may make grants to schools of medicine, osteopathy, and public health for the costs of projects—

"(1) to establish, maintain, and improve academic administrative units in preventive or community medicine;

"(2) to improve predoctoral and postdoctoral instruction in preventive, community, or occupational medicine;

"(3) to plan, develop, and operate joint programs between academic administrative units in preventive or community medicine and such units in other clinical specialties, which programs integrate the teaching of clinical preventive, community, or occupational medicine within clinical programs for other medical disciplines; and

"(4) to plan, develop, and operate special programs to train teachers and researchers in the fields of preventive, community, or occupational medicine.

"(b)(1) The amount of any grant under subsection (a) shall be determined by the Secretary. No grant may be made under subsection (a) unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(2) To be eligible for a grant under subsection (a), an applicant school must have, or demonstrate an intention to establish, an academic administrative unit in preventive or community medicine or an academic or administrative unit which has the primary responsibility, within the school, for teaching the principles of preventive or community medicine.

"(c) For the purpose of grants under subsection (a), there are authorized to be appropriated $3,000,000 for the fiscal year ending September 30, 1982, $3,000,000 for the fiscal year ending September 30, 1983, and $3,000,000 for the fiscal year ending September 30, 1984.".

FAMILY MEDICINE

SEC. 2535. (a) Section 780(c) (45 U.S.C. 295g(c)) is amended by striking out "and" after "1979," and by inserting after "1980," the following: "$10,000,000 for the fiscal year ending September 30, 1982, $10,000,000 for the fiscal year ending September 30, 1983, and $10,000,000 for the fiscal year ending September 30, 1984,".

(b)(1) Section 780(a) is amended by striking out "establish and".

(2) Section 780(b) is amended—

(A) by striking out "will (A) be" and inserting in lieu thereof "(A) is",

(B) by striking out "(B) be" and inserting in lieu thereof "(B) is",

(C) by striking out "(C) have a number of full-time faculty which is determined by the Secretary" and inserting in lieu thereof "(C) has a number of full-time faculty certified",

(D) by striking out "(D) have control over" and inserting in lieu thereof "(D) has control over or a major affiliation with", and

(E) by striking out "twelve interns or" and inserting in lieu thereof "six".

(3) The heading for section 780 is amended by striking out "Establishment of".

(c) Section 786(d) (45 U.S.C. 295g-6(d)) is amended by striking out "and" after "1979," and by inserting after "1980," the following: "$25,000,000 for the fiscal year ending September 30, 1982, $25,000,000 for the fiscal year ending September 30, 1983, and $25,000,000 for the fiscal year ending September 30, 1984,".

SPECIAL PROJECTS

SEC. 2536. (a)(1) Section 781(g) (42 U.S.C. 295g-1(g)) (relating to area health education centers) is amended by striking out "and" after "1979," and by inserting before the period a comma and the following: "$21,000,000 for the fiscal year ending September 30, 1982, $21,000,000 for the fiscal year ending September 30, 1983, and $21,000,000 for the fiscal year ending September 30, 1984".

(2) Section 781(b) is amended to read as follows:

"(b) An area health education center program shall be a cooperative program offered by one or more medical or osteopathic schools or a university medical center operating one or several geographically dispersed education centers, and one or more affiliated or contractually linked community health care agencies.".

(3) Section 781(c)(2) is amended by inserting ", except to the extent that the Secretary, for good cause shown, may modify or waive the requirement of this paragraph" before the semicolon.

(4) Section 781(d)(1) is amended (A) by striking out "such center" and inserting in lieu thereof "the area health education center program", and (B) by striking out "from the main site" and all that follows in that section and inserting in lieu thereof "from the academic headquarters and principal teaching site of the school or schools participating in the program.".

(5) Section 781(d)(2)(E) is amended by inserting "educational" before "support".

(6)(A) Section 781(d)(2)(B) is amended to read as follows:

"(B) assist in the planning and development of training programs to meet the health manpower needs of the area served by the center;".

(B) Section 781(d) is amended by adding at the end the following:

"(3) Each area health education center program shall assist in the assessment of the health manpower needs of the area served by the program.".

(7) Section 781(e) is amended—

(A) by amending paragraph (1) to read as follows:

"(1) at least 75 percent of the total funds provided to any entity under a contract under subsection (a) for an area health education center program shall be expended by the program in the regions served by the program;", and

(B) by amending paragraph (3) to read as follows:

"(3) priority shall be given to entities which have a documented ability to secure at least one half of the funds required for the area health education center program from non-Federal sources.".

(8)(A) The first sentence of section 781(f) is amended by striking out "subsection (d)(2)" and inserting instead "paragraphs (2) and (3) of subsection (d)".

(B) Section 781(f) is amended by adding after the first sentence the following new sentence: "Such term includes a program which received funds under section 802 of the Health Professions Educational Assistance Act of 1976 or section 774 as in effect before October 1, 1977.".

(9) Subsections (a) and (e) of section 781 are each amended by inserting "or cooperative agreements" after "contracts" each place it occurs.

(10) The Secretary may vest title in an entity which before the date of enactment of this Act entered into a contract with the Secretary under section 781 of the Public Health Service Act to any property acquired on behalf of the Government by that entity (or furnished to that entity by the Government) under that contract.

(b) Section 782 (42 U.S.C. 295g-2) (relating to students from foreign medical schools) is repealed.

(c) Section 784(b) (42 U.S.C. 295g-4(b)) (relating to general internal medicine and general pediatrics) is amended by striking out "and" after "1979," and by inserting before the period a comma and the following: "$13,000,000 for the fiscal year ending September 30, 1982, $13,000,000 for the fiscal year ending September 30, 1983, and $13,000,000 for the fiscal year ending September 30, 1984".

(d) Section 787(b) (42 U.S.C. 295g-7(b)) (relating to individuals from disadvantaged backgrounds) is amended by striking out "and" after "1979," and by inserting after "1980," the following: "$14,000,000 for the fiscal year ending September 30, 1982, $14,000,000 for the fiscal year ending Sep-

tember 30, 1983, and $14,000,000 for the fiscal year ending September 30, 1984".

(e)(1) Section 787(a)(1) is amended by adding at the end the following: "The Secretary shall give special consideration to applications for projects to assist in the admission into or retention in health professions schools of such individuals or for projects to assist the recruitment activities for such individuals of entities with formal ties to health professions schools.".

(2) Section 787(a)(2)(D) is amended by striking out "for a period prior to entry of such individuals" and inserting in lieu thereof "for such individuals who have demonstrated an ability to pursue successfully an undergraduate program and who have indicated an intention to pursue a health professions career, for a period prior to their entry".

APPROPRIATION AUTHORIZATIONS FOR PHYSICIAN ASSISTANT TRAINING PROGRAMS

SEC. 2537. Section 783(e) is amended—

(1) by striking out "and" after "1979,", and

(2) by inserting ", $5,000,000 for the fiscal year ending September 30, 1982, and such sums as may be necessary for each of the two succeeding fiscal years" before the period.

ALLIED HEALTH PERSONNEL

SEC. 2538. (a) Section 795(2)(a) (42 U.S.C. 295h-4(2)(A)) is amended (1) by striking out "medical technology, optometric technology, dental hygiene, or in any of such other of", and (2) by striking out "optometric technology, dental hygiene, or such other" and inserting in lieu thereof "such".

(b)(1) Paragraphs (1) through (6) of section 796(a) (42 U.S.C. 295h-5(a)) are amended to read as follows:

"(1) Demonstration of methods for increasing the efficiency of health care delivery through more effective use of allied health personnel.

"(2) Demonstration of educational improvements and cost efficiency from arrangements among training centers for allied health professions for the sharing of educational and administrative responsibilities.

"(3) Development of educational programs which permit individuals to become proficient in more than one specialty.

"(4) Basic research in the scientific and clinical areas in which allied health personnel are involved.

"(5) Demonstration of ways to meet changing needs in health care delivery without creating new allied health occupations or specialties.

"(6) Identifying, recruiting, selecting, facilitating the entry into training centers for allied health professions of, and assisting in the successful completion of the programs of such centers of, individuals who because of socioeconomic factors, are financially or otherwise disadvantaged.".

(2) Section 796(c) is amended—

(A) by inserting "or" at the end of paragraph (1),

(B) by striking out paragraphs (2) and (3), and

(C) by redesignating paragraph (4) as paragraph (2).

(3) Section 796(d)(1) is amended by striking out "and" after "1979;" and by inserting before the period a semicolon and the following: "$4,500,000 for the fiscal year ending September 30, 1982; $4,500,000 for the fiscal year ending September 30, 1983; and $4,500,000 for the fiscal year ending September 30, 1984".

VETERINARY MEDICINE CURRICULUM DEVELOPMENT

SEC. 2539. Title VII is amended by adding after section 789 the following:

"VETERINARY MEDICINE CURRICULUM DEVELOPMENT

"SEC. 789A. (a) The Secretary may make grants to, and enter into contracts with, schools of veterinary medicine for designing and implementing improved clinical curricula relating to the care of food producing or fiber producing animals.

"(b) To carry out this section there are authorized to be appropriated $1,000,000 for fiscal year 1982 and such sums as may be necessary for each of the two succeeding fiscal years.".

SPECIAL HEALTH PROFESSIONS INITIATIVES

SEC. 2540. Section 789 is amended to read as follows:

"SPECIAL HEALTH PROFESSIONS INITIATIVES

"SEC. 789. (a) The Secretary may make grants to schools of medicine, osteopathy, and podiatry to plan and operate centers to evaluate and to demonstrate the effective and efficient application of health care technology.

"(b) The Secretary may make grants to schools of podiatry for innovative projects to increase the number of podiatrists who will practice in medically underserved areas.

"(c) No grant may be made under subsection (a) or (b) unless an application therefor has been submitted to and approved by the Secretary. The application shall be submitted in such form and manner and contain such information as the Secretary may require. An application for a grant under subsection (a) shall contain assurances satisfactory to the Secretary that the center for which the application is submitted will be operated in conjunction with at least one other academic department other than the applicant.

"(d) For grants under subsections (a) and (b) there are authorized to be appropriated $3,500,000 for the fiscal year ending September 30, 1982, $3,500,000 for the fiscal year ending September 30, 1983, and $3,500,000 for the fiscal year ending September 30, 1984.".

CONSOLIDATION OF THE NATIONAL ADVISORY COUNCILS ON HEALTH PROFESSIONS EDUCATION, NURSE TRAINING, AND THE NATIONAL HEALTH SERVICE CORPS

SEC. 2541. (a) Sections 337 and 851 are repealed.

(o)(1) The first sentence of section 702(a) is amended—

(A) by striking out "parts B, C, D, E, F, and G of" and

(B) by inserting ", title VIII, and subpart II of part D of title III" before the period.

(2) The second sentence of section 702(a) is amended—

(A) in clause (1), by (i) inserting "or title VIII" after "this title", (ii) inserting "nursing," after "podiatry,", and (iii) inserting "training centers for allied health professions," before "and entities",

(B) by striking out "and" at the end of clause (2),

(C) in clause (3), by striking out "six" and inserting instead "four", and

(D) by inserting the following before the period: ", and (4) two shall be individuals who are knowledgeable about the National Health Service Corps and the National Health Service Corps Scholarship Program".

(3) Section 702(a) is amended by adding at the end the following: "Each member of the Council, while engaged in the performance of his duties while away from his home or regular place of business, shall be entitled to travel or transportation expenses under subchapter I of chapter 57 of title 5, United States Code. Each member of the Council who is not an employee of the United States shall receive compensation at a daily rate equivalent to the rate specified for grade GS-18 of the General Schedule under 5 U.S.C. 5332 for each day he is engaged in the performance of his duties (including traveltime).".

(4) Subsections (b) and (c) of section 702 are each amended by striking out "(other than subpart II of part G thereof)" and inserting instead ", title VIII, and subpart II of part D of title III".

(5) Subsections (b) and (c) of section 820 and section 856(1) are each amended by striking out "Nurse Training" and inserting instead "Health Professions Education".

REPEAL OF ADVISORY COUNCIL REVIEW REQUIREMENTS

SEC. 2542. (a) Section 790(1) is amended by striking out the last sentence.

(b) Section 820(c) is amended by striking out the second sentence.

REPEAL OF REQUIREMENT FOR ESTABLISHING CRITERIA FOR ALLOWABLE INCREASES IN EDUCATIONAL COSTS

SEC. 2543. Section 711 is repealed.

TECHNICAL ASSISTANCE

SEC. 2544. Title VII is amended by adding after section 710 the following:

"TECHNICAL ASSISTANCE

"SEC. 711. Funds appropriated under this title or title VIII may be used to provide technical assistance in relation to any of the authorities under either of those titles.".

DISCLOSURE OF LOCATION OF BORROWERS WHO HAVE DEFAULTED ON STUDENT LOANS

SEC. 2545. Paragraph (4) of section 6103(m) of the Internal Revenue Code of 1954 is amended—

(1) by inserting "or the Secretary of Health and Human Services" after "Secretary of Education" in the matter in subparagraph (A) preceding clause (i) and in the matter in subparagraph (B) preceding clause (i),

(2) by striking out "or" at the end of clause (i) of subparagraph (A) and of subparagraph (B),

(3) by adding "or" at the end of clause (ii) of subparagraph (A) and of subparagraph (B),

(4) by inserting the following after clause (ii) of subparagraph (A):

"(iii) made under part C of title VII or part B of title VIII of the Public Health Service Act,",

(5) by inserting the following after clause (ii) of subparagraph (B):

"(iii) any lender participating under part C of title VII or part B of title VIII of the Public Health Service Act,", and

(6) by inserting "or the Department of health and Human Services" after "Department of Education" in the matter in subparagraph (A) following clause (iii) (as added by paragraph (4) of this section).

ELIMINATION OF CERTAIN REQUIREMENTS FOR THE PROMULGATION OF REGULATIONS

SEC. 2546. (a) Section 701(7) is amended to read as follows:

"(7) The term 'program for the training of physician assistants' means an educational program which has as its objective the education of individuals who will, upon completion of their studies in the program, be

qualified to provide effectively health care under the supervision of a physician.".

(b) Section 780(b)(2) is amended by striking out "by regulation".

(c) Section 781(f) is amended by striking out "by regulation".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 2547. (a)(1) Section 701 is amended—

(A) by striking out paragraph (9), and

(B) in paragraph (10), by striking out ", Education, and Welfare" and inserting instead "and Human Services".

(2) Section (2)(f) is amended by striking out "701(9),".

(b) The first sentence of section 704 is amended by inserting "nursing," after "podiatry,".

(c) The first sentence of section 735(c)(2) and 754(c) are each amended—

(1) by striking out "maximum legal prevailing rate" and inserting instead "private consumer rates of interest", and

(2) by striking out "Treasurer of the United States" and inserting instead "Secretary of the Treasury".

(d) Section 853 is amended by striking out paragraph (1).

(e)(1) Section 753, 788(f) (as amended and redesignated by section 2529(b) of this part), and 853(6) are each amended by striking out "Commissioner of Education" each place it occurs and inserting instead "Secretary of Education".

(2) Section 788(f) (as amended by Paragraph (1) of this section) is further amended by striking out "Commissioner" each place it occurs and inserting instead "Secretary of Education".

(f) The heading to title VII is amended by striking out "HEALTH RESEARCH AND TEACHING FACILITIES AND".

(g) Section 403(f) of the Health Professions Educational Assistance Act of 1976 is—

(1) amended by striking out "section 741 of the Public Health Service Act" and inserting instead "this section",

(2) redesignated as subsection (m), and

(3) transferred to the end of section 741 of the Public Health Service Act.

(h)(1) Section 331(h) is amended by striking out paragraph (3).

(2) Section 2(f) in amended by striking out "331(h)(3),".

Subpart III—Nursing Training

CAPITATION

SEC. 2550. Subpart II of part A of title VIII is repealed.

SPECIAL PROJECTS

SEC. 2551. (a)(1) Section 820(a) (42 U.S.C. 296k(a)) is amended—

(A) by amending paragraph (1) to read as follows:

"(1) conduct basic research in the scientific and clinical areas in which nurses practice;",

(B) by striking out paragraphs (3), (4), (7), and (8),

(C) in paragraph (5), by inserting "(including licensed vocational and practical nurses)" after "nurses" and by inserting "or" at the end of the paragraph,

(D) by striking out "; or" at the end of paragraph (6) and inserting in lieu thereof a period, and

(E) by redesignating paragraphs (3), (5), and (6) as paragraphs (2), (3), and (4), respectively.

(2) Notwithstanding the amendment made by paragraph (1), an entity which received a grant or contract under section 820(a) of the Public Health Service Act for the fiscal year ending September 30, 1981, for a project described in paragraph (1), (2), (4), (7), or (8) of such section (as in effect when it received the grant or contract) may receive one additional grant or contract under such section for such project.

(b) Section 820(d) is amended—

(1) by striking out "and" after "1978,", and by inserting after "1980" a comma and the following: "$8,000,000 for the fiscal year ending September 30, 1982, $8,000,000 for the fiscal year ending September 30, 1983, and $8,000,000 for the fiscal year ending September 30, 1984"; and

(2) by amending the last sentence to read as follows: "Of the funds appropriated under this subsection for any fiscal year beginning after September 30, 1981, not less than 20 percent of the funds shall be obligated for payments under grants and contracts for special projects described in subsection (a)(2) and not less than 20 percent of the funds shall be obligated for payments under grants and contracts for special projects described in subsection (a)(4).".

ADVANCED NURSE TRAINING

SEC. 2552. (a) Section 821(a)(1) (42 U.S.C. 2961(a)(1)) is amended—

(1) by striking out "(1)",

(2) by inserting "and other public or nonprofit private entities" after "schools of nursing",

(3) by striking out "to each" and inserting in lieu thereof "to teach",

(4) by redesignating subparagraphs (A), (B), and (C), as paragraphs (1), (2), and (3), respectively, and

(5) by inserting "to serve as nurse anesthetists," before "or to serve".

(b) Section 821(b) is amended (1) by striking out "and" after "1978,", and (2) by inserting after "1980" a comma and the following: "$10,000,000 for the fiscal year ending September 30, 1982, $10,000,000 for the fiscal year ending September 30, 1983, and $10,000,000 for the fiscal year ending September 30, 1984".

NURSE PRACTITIONER PROGRAMS

SEC. 2553. (a) Section 822(b)(1) (42 U.S.C. 296m(b)(1)) is amended by striking out "who are residents of a health manpower shortage area (designated under section 332)" and inserting in lieu thereof a period and the following: "In considering applications for a grant or contract under this subsection, the Secretary shall give special consideration to applications for traineeships to train individuals who are residents of health manpower shortage areas designated under section 332.".

(b)(1) Section 822(b)(3) is amended by inserting before the period the following: "for a period equal to one month for each month for which the recipient receives such a traineeship".

(2) Section 822(b) is amended by adding after paragraph (3) the following:

"(4)(A) If, for any reason, an individual who received a traineeship under paragraph (1) fails to complete a service obligation under paragraph (3), such individual shall be liable for the payment of an amount equal to the cost of tuition and other education expenses and other payments paid under the trainseeship, plus interest at the maximum legal prevailing rate.

"(B) When an individual who received a traineeship is academically dismissed or voluntarily terminates academic training, such individual shall be liable for repayment to the Government for an amount equal to the cost of tuition and other educational expenses paid to or for such individual from Federal funds plus any other payments which were received under the traineeship.

"(C) Any amount which the United States is entitled to recover under subparagraph (A) or (B) shall, within the three-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States.

"(D) The Secretary shall by regulation provide for the waiver or suspension of any obligation under subparagraph (A) or (B) applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.".

(3) The amendments made by paragraphs (1) and (2) shall apply with respect to traineeships which are awarded under section 822(b) of the Public Health Service Act after the date of the enactment of this Act.

(c) Section 822(e) is amended (1) by striking out "and" after "1978,", and (2) by inserting after "1980" a comma and the following: "$8,000,000 for the fiscal year ending September 30, 1982, $8,000,000 for the fiscal year ending September 30, 1983, and $8,000,000 for the fiscal year ending September 30, 1984".

TRAINEESHIPS

SEC. 2554. (a)(1) Subparagraph (C) of section 830(a)(1) (42 U.S.C. 297(a)(1)) is amended to read as follows:

"(C) to serve as nurse midwives, or nurse anesthetists, or".

(2) An individual who received a traineeship under section 830(a) of the Public Health Service Act for the fiscal year ending September 30, 1981, to receive training to serve as a nurse practitioner may, notwithstanding the amendment made by paragraph (1), receive additional traineeships under that section to complete the training to be a nurse practitioner.

(b) Section 830(b) is amended—

(1) by striking out "and" after "1978,", and by inserting after "1980" a comma and the following: "$9,000,000 for the fiscal year ending September 30, 1982, $9,000,000 for the fiscal year ending September 30, 1983, and $9,000,000 for the fiscal year ending September 30, 1984"; and

(2) by adding at the end the following: "Not less than 50 percent of the fund appropriated under this subsection for any fiscal year shall be obligated for traineeships described in subsection (a)(1)(A), except that if the obligation of that amount of the funds appropriated under this subsection will prevent the Secretary from continuing a traineeship to an individual who received a traineeship under subsection (a) for the fiscal year ending September 30, 1981, the Secretary shall reduce the amount to be obligated for traineeships described in subsection (a)(1)(A) by such amount as may be necessary for the continuation of traineeships first awarded in such fiscal year.".

SEC. 2254A. Section 815 (42 U.S.C. 296j) is amended by striking out subsection "(c)" and inserting in lieu thereof the following:

"(c) For payments under grants under this section there are authorized to be appropriated $5,000,000 for fiscal year ending September 30, 1982, $5,000,000 for fiscal year ending September 30, 1983, and $5,000,000 for fiscal year ending September 30, 1984".

NURSE ANESTHETISTS

SEC. 2555. Section 831 is repealed.

STUDENT LOANS

SEC. 2556. Section 839 (42 U.S.C. 297e) is amended by striking out "1983" each place

it occurs and inserting in lieu thereof "1987".

TECHNICAL

SEC. 2557. Section 851(a) (42 U.S.C. 298(a)) is amended by striking out "and the Commissioner of Education, both of whom shall be ex officio members" and inserting in lieu thereof "and an ex officio member".

Subpart IV—Effective Date

EFFECTIVE DATE

SEC. 2560. (a) The amendments made by this part shall not apply to appropriation authorizations for any fiscal year before fiscal year 1982.

(b) The amendments made by this part shall not adversely affect the contractual rights of any individual or other entity that has entered into an agreement before the date of enactment of this Act.

PART G—CATEGORICAL PROGRAM BLOCK GRANTS

Subpart I—Health Services Block Grants

SHORT TITLE

SEC. 2565. This subpart may be cited as the "Health Services Block Grant Act."

PURPOSE OF SUBPART

SEC. 2566. The purpose of this subpart is to assist each State in—

(1) assuring its residents (in particular, individuals with limited means or in areas with limited availability of health services) access to quality health services at reasonable cost.

(2) encouraging the use of ambulatory health services,

(3) assuring the most appropriate, effective, and efficient utilization of health care facilities and personnel,

(4) exercising its health responsibilities in flexible manner and with a minimum of Federal requirements, and

(5) providing health services to migratory and seasonal agricultural workers, medically underserved populations, coal miners, and individuals at home, and providing health services related to medical emergencies, mental health, alcoholism and alcohol abuse, and drug abuse, all of which were formerly supported by specific Federal assistance efforts.

HEALTH SERVICES BLOCK GRANT

SEC. 2567. (a) Subpart I of part D of title III of the Public Health Service Act is repealed and a new subpart I is enacted as follows:

"Subpart I—Health Services Block Grant

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 328. For the purpose of carrying out the provisions of this subpart, there are authorized to be appropriated $882,000,000 for fiscal year 1982, and for each of the three succeeding fiscal years.

"INTERIM ALLOTMENTS AND STUDY

"SEC. 329. (a) From the amounts appropriated under section 328 for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the amounts appropriated under section 328 for that fiscal year as the amounts provided or allotted by the Secretary to the State and to entities in the State under section 301 for State mental health services demonstrations and former sections 328, 329, 330, 339, 340, 340A, 1202, 1203, and 1204; former sections 302, 310, and 311 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970; former sections 409 and 410 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act; sections 202, 203, 204, and 211 of the former Community Mental Health Centers Act bore to the amounts provided or allotted by the Secretary under those provisions to all States and to entities in all States from appropriations for fiscal year 1981.

"(b) The Secretary shall conduct a study for the purpose of devising a formula for equitable distribution of funds available for allotment to the States under this subpart. In conducting the study, the Secretary shall take into account—

"(1) the financial resources of the various States,

"(2) the populations of the States, and

"(3) any other factor which the Secretary may consider appropriate.

Prior to January 1, 1983, the Secretary shall submit a report to the Congress regarding the development of such formula and make such recommendations as he may deem appropriate in order to insure the most equitable distribution of such funds to the States.

"PAYMENTS TO STATES

"SEC. 330. The Secretary shall make payments as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213) to each State from its allotment under section 329 from amounts appropriated for any fiscal year.

"USE OF GRANT MONEY

"SEC. 330A. (a) A State may use amounts paid to it under section 330 (and amounts transferred under other provisions of law for use under this subpart) for the provision of health services and related activities, including planning, administration, education, and evaluation (except as limited under subsection (b), (c), or (d) or as provided under subsection (e))—

"(1) for migratory and seasonal agricultural workers, medically underserved populations, coal miners, and individuals at home, and

"(2) related to medical emergencies, mental health, alcoholism and alcohol abuse, and drug abuse.

"(b) Amounts described in subsection (a) may not be used for—

"(1) inpatient services, other than inpatient services prescribed by the Secretary,

"(2) cash payments to intended recipients of health services,

"(3) the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility, or

"(4) satisfying any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

The Secretary may waive the limitation contained in paragraph (3) upon the request of a State if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this support.

"(c)(1) From the amounts paid to it by the Secretary under section 330 for fiscal year 1982, a State shall use an amount for services provided to medically underserved populations through primary health care centers equal to or greater than the product of—

"(A) the sum of the amounts the Secretary provided to the State or entities in the State under former sections 328, 330, and 340 from appropriations for fiscal year 1981, and

"(B) the ratio of the amount appropriated under section 328 for fiscal year 1982 to the amounts provided or allotted by the Secretary under the provisions listed in section 329(a) to all States and to entities in all States from appropriations for fiscal year 1981.

"(2) From the amounts paid to it by the Secretary under section 330 for fiscal year 1983, a State shall use an amount for services provided to medically underserved populations through primary health care centers equal to or greater than two-thirds of the minimum amount required under paragraph (1) of this subsection.

"(3) From the amounts paid to it by the Secretary under section 330 for fiscal year 1984, a State shall use an amount for services provided to medically underserved populations through primary health care centers equal to or greater than one-third of the minimum amount required under paragraph (1) of this subsection.

"(d)(1) From the amounts paid to it by the Secretary under section 330 for fiscal year 1982, a State shall use an amount for services provided to migratory and seasonal agricultural workers through migrant health centers equal to or greater than the product of—

"(A) the amount the Secretary provided to the State or entities in the State under former section 329 from appropriations for fiscal year 1981, and

"(B) the ratio of the amount appropriated under section 328 for fiscal year 1982 to the amounts provided or allotted by the Secretary under the provisions listed in section 329(a) to all States and to entities in all States from appropriations for fiscal year 1981.

"(2) From the amounts paid to it by the Secretary under section 330 for fiscal year 1983, a State shall use an amount for services provided to migrant and seasonal agricultural workers through migrant health centers equal to or greater than two-thirds of the minimum amount required under paragraph (1) of this subsection.

"(3) From the amounts paid to it by the Secretary under section 330 for fiscal year 1984, a State shall use an amount for services provided to migratory and seasonal agricultural workers through migrant health centers equal to or greater than one-third of the minimum amount required under paragraph (1) of this subsection.

"(e)(1) From the amounts paid to it by the Secretary under section 330 for fiscal year 1982, a State shall use an amount for the operation of community mental health centers within the State and for the provision of the mental health services (including services for rape victims) authorized under the Mental Health Systems Act equal to or greater than the product of—

"(A) the amount the Secretary provided to the State or entities in the State under former parts A and B of the Community Mental Health Centers Act and section 602 of the Mental Health Systems Act from appropriations for fiscal year 1981, and

"(B) the ratio of the amount appropriated under section 328 for fiscal year 1982 to the amounts provided or allotted by the Secretary under the provisions listed in section 329(a) to all States and to entities in all States from appropriations for fiscal year 1981.

"(2) From the amounts paid to it by the Secretary under section 330 for fiscal year 1983, a State shall use an amount for the operation of community mental health centers within the State and for the provision of the mental health services (including services for rape victims) authorized under the Mental Health Systems Act equal to or greater than two-thirds of the minimum

amount required under paragraph (1) of this subsection.

"(3) From the amounts paid to it by the Secretary under section 330 for fiscal year 1984, a State shall use an amount for the operation of community mental health centers within the State and for the provision of the mental health services (including services for rape victims) authorized under the Mental Health Systems Act equal to or greater than one-third of the minimum amount required under paragraph (1) of this subsection.

"(f) A State shall use amounts paid to it under section 330 for programs for alcohol abuse and programs for drug abuse in such a manner that the ratio of the amounts made available for alcohol abuse programs to the amounts made available for drug abuse programs is the same as the ratio of the appropriations for alcohol abuse programs for fiscal year 1981 to the appropriations for drug abuse programs for such fiscal year.

"(g) From the amounts paid to it under section 330 from amounts appropriated for a fiscal year, a State may transfer up to ten percent for use under other provisions of Federal law providing for support of health promotion and disease prevention or health or social services, or for meeting home energy and emergency assistance needs. The State shall inform the Secretary of any such transfer of funds.

"(h) A State shall expend amounts described in subsection (a) by the end of the fiscal year following the fiscal year for which they were appropriated.

"(i) A State may use a portion of the amounts described in subsection (a) for the purpose of purchasing technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, and administering programs funded under this subpart.

"REPORT ON INTENDED EXPENDITURES

"SEC. 330B. (a) Prior to expenditure by a State of payments made to it under section 330 for any fiscal year, the State shall prepare a report on the intended use of payments the State is to receive under this subpart, including information on the types of services to be provided, the categories or characteristics of individuals to be served, and the geographical areas within the State in which such services will be provided. The report shall be made public within the State in such manner as to facilitate comment from any person (including any Federal, State, local, or other public agency) during development of the report and after its completion. The report shall be revised throughout the year as may be necessary to reflect substantial changes in the activities assisted under this subpart, and any revision shall be subject to the requirements of the preceding sentence.

"(b) The Secretary shall review each report and revision submitted under subsection (a). If the Secretary finds that the intended use of payments under section 330 by a State is not in accordance with the purposes of this subpart or that the State has not provided for an equitable distribution of funds under such payments or of services within the State, the Secretary shall disapprove such report or revision. If a report or revision is disapproved, the State which submitted it shall, within 30 days of the date of such disapproval, make such revisions in its use of such payments or its distribution of funds or services so that such use is in accordance with the purposes of this subpart or such distribution is equitable and shall report such revisions to the Secretary.

"REPORTS AND AUDITS

"SEC. 330C. (a) Each State shall prepare reports on its activities under this subpart. Reports shall be in such form, contain such information, and be of such frequency (not less often than every two years) as the State finds necessary to secure an accurate description of those activities, to secure a complete record of the purposes for which funds were spent, and to determine the extent to which funds were expended consistently with the reports required by section 330B. The State shall make copies of the reports required by this section available for public inspection within the State. Copies shall also be provided, upon request, to any interested public agency, and each such agency may provide its views on these reports to the Congress.

"(b) Each State shall, not less often than every year, audit its expenditures from amounts received under (or transferred to) this subpart. Such State audits shall be conducted by an entity independent of any agency administering a program funded under this subpart, in accordance with generally accepted accounting principles. Within 30 days following the completion of each audit, a copy of that audit shall be submitted to the legislature of the State and to the Secretary. Each State shall repay to the United States amounts found not to have been expended in accordance with this subpart or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this subpart.

"(c) For other provisions requiring States to account for Federal grants, see section 202 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4212).

"NONDISCRIMINATION PROVISION

"SEC. 330D. (a) No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subpart. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

"(b) Whenever the Secretary determines that there has been a failure to comply with subsection (a) of this section or an applicable regulation, he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted, (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or (3) take such other action as may be provided by law.

"(c) When a matter is referred to the Attorney General pursuant to subsection (b) of this section, or whenever he has reason to believe that there has occurred a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.".

REPEALS AND CONFORMING AMENDMENTS

SEC. 2568. (a) Section 217(g), subparts III and IV of part D of title III, sections 1201, 1202, 1203, 1204, 1205(d), 1206, 1207(a), 1208, 1209, and 1210, and part B of title XII of the Public Health Service Act; section 427(a) of the Federal Mine Safety and Health Act of 1977; section 102 and parts A and B of title III of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970; sections 405, 409, 410, and 411 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act; the Community Mental Health Centers Act; and section 101, part B of title I, titles II and III, and sections 502, 602, 801, and 806 of the Mental Health Systems Act are repealed.

(b)(1) Section 2(f) of the Public Health Service Act is amended by striking out "1201(2),".

(2) Title XII of that Act is amended by striking out "Part A—Assistance for Emergency Medical Services Systems".

(3) The second sentence of section 455(a) of that Act is amended by striking out ", the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (other than part C of title II), and the Mental Health Systems Act".

(4) Section 507 of that Act is amended by striking out "appropriations available under the Community Mental Health Centers Act for construction and staffing of community mental health centers and alcoholism and narcotic addiction, drug abuse, and drug dependence facilities,".

(5) Section 513 of that Act is amended by striking out "the Mental Retardation Facilities Construction Act, the Community Mental Health Centers Act, the Mental Health Systems Act,".

(6) Section 1513(e)(1)(A)(i) of that Act is amended by striking out ", the Community Mental Health Centers, Act, the Mental Health Systems Act, sections 409 and 410 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970".

(7) Section 1521(d)(2)(A) of that Act is amended—

(A) by striking out ", the Community Mental Health Centers Act," and inserting instead "or", and

(B) by striking out ", and the Drug Abuse Office and Treatment Act of 1972".

(8) Section 1524(c)(6)(A) of that Act is amended by striking out "the Community Mental Health Centers Act, section 409 or 410 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970,".

(9) Section 427(c) of the Federal Mine Safety and Health Act of 1977 is amended by striking out the first sentence.

(10) Section 2(b)(1) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended by striking out "and direct Federal assistance to community-based programs to meet the urgent needs of special populations,".

(11) The first sentence of section 101(a) of that Act is amended by striking out "and part C of the Community Mental Health Centers Act".

(12) Section 201(b)(2) of that Act is amended—

(A) by striking out subparagraph (B), and

(B) by striking out the subparagraph designation "(A)".

(13) Section 102 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act is amended—

(A) in paragraph (1), by striking out "and to community-based programs to meet the urgent needs of special populations", and

(B) by striking out paragraph (2).

(14) Section 406(a) of that Act is amended—

(A) by adding "and" at the end of paragraph (2),

(B) by striking out "; and" at the end of paragraph (3) and substituting a period, and

(C) by striking out paragraph (4).

(15) Section 413(b)(2) of that Act is amended—

(A) by striking out subparagraph (B), and

(B) by striking out the subparagraph designation "(A)".

(16) The table of sections of title IV of that Act is amended by striking out the listings for sections 405, 409, 410, and 411.

(17) Title I of the Mental Health Systems Act is amended—

(A) by striking out "Part A—Definitions",

(B) in the heading to section 102, by striking out "other", and

(C) in section 102, by striking out paragraphs (3), (4), (6), and (7).

(18) Section 601(a) of that Act is amended—

(A) in paragraph (5), by striking out "community mental health centers and", and

(B) by striking out paragraph (6).

(19) The table of contents of that Act is amended—

(A) by revising the listing for section 102 to read "SEC. 102. DEFINITIONS.".

(B) by striking out the listings for all parts and sections of title I (except section 102),

(C) by striking out the listings for titles II and III (and for their parts and sections), and

(D) by striking out the listings for sections 502, 602, 801, and 806.

EFFECTIVE DATE

SEC. 2569. The amendments made by sections 2567 and 2568 do not apply to any grant made, or contract entered into, before October 1, 1981.

Subpart II—Preventive Health Block Grants

SHORT TITLE

SEC. 2571. This subpart may be cited as the "Preventive Health Block Grant Act".

PURPOSE OF SUBPART

SEC. 2572. The purpose of this subpart is to assist each State in—

(1) assuring access to preventive health services for its residents (in particular, individuals with limited means),

(2) providing comprehensive public health services, controlling rodents, fluoridating water supplies, undertaking hypertension activities, detecting and treating tuberculosis, providing family planning services, deterring smoking and the use of alcohol among children and adolescents and carrying out adolescent pregnancy activities, all of which were formerly supported by specific Federal assistance efforts, and

(3) otherwise undertaking health promotion and disease prevention efforts to reduce preventable morbidity and mortality to improve the quality of life.

PREVENTIVE HEALTH BLOCK GRANT

SEC. 2573. Part B of title III of the Public Health Service Act is amended—

(1) by inserting the heading "Subpart I—Special Programs" after the heading to that part,

(2) by repealing sections 314 and 315,

(3) by renumbering section 316 as 312, section 317 as 313, section 318 as 314, and section 320 as 315, and

(4) by adding the following after section 315:

"Subpart II—Preventive Health Block Grant

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 316. For the purpose of carrying out the provisions of this subpart, there are authorized to be appropriated $216,000,000 for fiscal year 1982 and for each of the three succeeding fiscal years.

"INTERIM ALLOTMENTS AND STUDY

"SEC. 317. (a) From the amounts appropriated under section 316 for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the amounts appropriated under section 316 for that fiscal year as the amounts provided or allotted by the Secretary to the State and to entities in the State under former sections 314(d) and 317 for comprehensive health services (including the detection and treatment of tuberculosis), rodent control, hypertension and fluoridation activities 1001, 1003, and 1005 of this Act and former sections 401 and 402 and title VI of the Health Services and Centers Amendments of 1978 bore to the amounts provided or allotted by the Secretary under those provisions to all States and to entities in all States from appropriations for fiscal year 1981.

"(b) The Secretary shall conduct a study for the purpose of devising a formula for equitable distribution of funds available or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State. In conducting the study, the Secretary shall take into account—

"(1) the financial resources of the various States,

"(2) the populations of the States, and

"(3) any other factor which the Secretary may consider appropriate.

Prior to January 1, 1983, the Secretary shall report to the Congress regarding the development of such a formula and make such recommendations as he may deem appropriate in order to insure the most equitable distribution of such funds to the States.

"PAYMENTS TO STATES

"SEC. 318. The Secretary shall make payments as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213) to each State from its allotment under section 317 from amounts appropriated for any fiscal year.

"USE OF GRANT MONEY

"SEC. 319. (a) A State may use amounts paid to it by the Secretary under section 318 (and amounts transferred under other provisions of law for use under this subpart) for health promotion and disease prevention activities, including planning, administration, education, and evaluation, except as limited under subsection (b) or (c) or as provided under subsection (d).

"(b) Amounts described in subsection (a) may not be used for—

"(1) cash payments to intended recipients of health services,

"(2) the purchase or improvement of land, or the purchase, construction or permanent improvement (other than minor remodeling) of any building or other facility, or

"(3) satisfying any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

The Secretary may waive the limitation contained in paragraph (2) upon the request of a State if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this subpart.

"(c)(1) From the amounts paid to it by the Secretary under section 318 for fiscal year 1982, a State shall use an amount for family planning services equal to or greater than the product of—

"(A) the amount the Secretary provided to the State or entities in the State under former section 1001 from appropriations for fiscal year 1981, and

"(B) the ratio of the amount appropriated under section 316 for fiscal year 1982 to the amounts provided or allotted by the Secretary under the provisions listed in section 317(a) to all States and to entities in all States from appropriations for fiscal year 1981.

"(2) From the amounts paid to it by the Secretary under section 318 for fiscal year 1983, a State shall use an amount for family planning services equal to or greater than one-third of the minimum amount required under paragraph (1) of this subsection.

"(d) From the amounts paid to it under section 318 from amounts appropriated for a fiscal year, a State may transfer up to ten percent for use under other provisions of Federal law providing for support of health or social services, or for meeting home energy and emergency assistance needs. The State shall inform the Secretary of any such transfer of funds.

"(e) A State shall expend amounts described in subsection (a) by the end of the fiscal year following the fiscal year for which they were appropriated.

"(f) A State may use a portion of the amounts described in subsection (a) for the purpose of purchasing technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, and administering programs funded under this subpart.

"REPORT ON INTENDED EXPENDITURES

"SEC. 320. (a) Prior to expenditures by a State of payments made to it under section 318 for any fiscal year, the State shall prepare a report on the intended use of payments the State is to receive under this subpart, including information on the types of activities to be supported, the categories or characteristics of individuals to be served, and the geographical areas within the State in which such services will be provided. The report shall be made public within the State in such manner as to facilitate comment from any person (including any Federal, State, local, or other public agency) during development of the report and after its completion. The report shall be revised throughout the year as may be necessary to reflect substantial changes in the activities assisted under this subpart, and any revision shall be subject to the requirements of the previous sentence.

"(b) The Secretary shall review each report and revision submitted under subsection (a). If the Secretary finds that the intended use of payments under section 318 by a State is not in accordance with the purposes of this subpart or that the State has not provided for an equitable distribution of funds under such payments or of services within the State, the Secretary shall disapprove such report or revision. If a report or

revision is disapproved, the State which submitted it shall, within 30 days of the date of such disapproval, make such revisions in its use of such payments or its distribution of funds or services so that such use is in accordance with the purposes of this subpart or such distribution is equitable and shall report such revisions to the Secretary.

"REPORTS AND AUDITS

"SEC. 320A. (a) Each State shall prepare reports on its activities under this subpart. Reports shall be in such form, contain such information, and be of such frequency (not less often than every two years) as the State finds necessary to secure an accurate description of those activities, to secure a complete record of the purposes for which funds were spent, and to determine the extent to which funds were expended consistently with the reports required by section 320. The State shall make copies of the reports required by this section available for public inspection within the State. Copies shall also be provided, upon request, to any interested public agency, and each such agency may provide its views on these reports to the Congress.

"(b) Each State shall, not less often than every year, audit its expenditures from amounts received under (or transferred to) this subpart. Such State audits shall be conducted by an entity independent of any agency administering a program funded under this subpart, in accordance with generally accepted accounting principles. Within 30 days following the completion of each audit, a copy of that audit shall be submitted to the legislature of the State and to the Secretary. Each State shall repay to the United States amounts found not to have been expended in accordance with this subpart or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this subpart.

"(c) For other provisions requiring States to account for Federal grants, see section 202 of the Intergovernmental Cooperation act of 1968 (42 U.S.C. 4212).

"NONDISCRIMINATION PROVISION

"SEC. 3208. (a) No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subpart. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

"(b) Whenever the Secretary determines that there has been a failure to comply with subsection (a) of this section or an applicable regulation, he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted, (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or (3) take such other action as may be provided by law.

"(c) When a matter is referred to the Attorney General pursuant to subsection (b) of this section, or whenever he has reason to believe that there has occurred a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriated, including injunctive relief.".

REPEALS AND CONFORMING AMENDMENTS

SEC. 2574. (a) Title X of the Public Health Service Act and sections 401 and 402 and titles VI and VII of the Health Services and Centers Amendments of 1978 are repealed.

(b)(1) Section 2(f) of the Public Health Service Act is amended by striking out "314(g)(4)(B)," and "1002(c),".

(2)(A) The second sentence of section 311(a) of that Act is amended—

(i) by inserting "and with respect to other public health matters" after "diseases", and

(ii) by striking out "and in carrying out the purposes of section 314".

(B) The first sentence of section 311(b) of that Act is amended by striking out "the purposes of section 314" and inserting in lieu thereof "public health activities".

(C) The first sentence of section 311(c)(1) of that Act is amended by striking out "or condition referred to in section 317(f)" and "involving or resulting from disasters or any such disease".

(D) The second sentence of section 311(c)(1) of that Act is amended by striking out "resulting from disasters or any disease or condition referred to in section 317(f)".

(3)(A) Section 313(a) (as renumbered by section 2574(3) of this subpart) is amended to read as follows:

"SEC. 313. (a) The Secretary may make grants to States and, in consultation with State authorities, to political subdivisions of States and to other public entities to assist them in meeting the costs of establishing and maintaining preventive health programs to immunize individuals against immunizable diseases.".

(B) Section 313(b)(3) of that Act is amended by striking out everything after "1524(c)" up to the semicolon.

(C) Section 313(h) of that Act is amended—

(i) by striking out "and conditions" each place it occurs, and

(ii) by striking out "for each of the programs listed in subsection (j)".

(D) Section 313(j) of that Act is amended by striking out paragraphs (2) through (5).

(E) The heading to section 313 of that Act is amended by striking out "Preventive Health Services" and inserting in lieu thereof "Immunizations".

EFFECTIVE DATE

SEC. 2575. The amendments made by sections 2573 and 2574 do not apply to any grant made, or contract entered into, before October 1, 1981.

Subpart III—Maternal and Child Health Block Grants

SHORT TITLE

SEC. 2581. This subpart may be cited as the "Maternal and Child Health Block Grant Act".

PURPOSE OF SUBPART

SEC. 2582. The purpose of this subpart is to assist each State—

(1) assure mothers and children (in particular those living in poverty or with limited availability of health services) access to quality maternal and child health services at a reasonable cost,

(2) provide services for reducing infant mortality and handicapping conditions, reducing the costs of inpatient or long-term care services, and otherwise promoting the health of mothers and children (especially by providing preventive and primary care services for children, and prenatal, delivery, and postpartum care for mothers),

(3) provide services for locating, and for medical, surgical, corrective, and other services, and care for, and facilities for, diagnosis, hospitalization, and aftercare for, children who are crippled or who are suffering from conditions leading to crippling,

(4) provide services related to hemophilia (without regard to age), lead-based paint poisoning prevention, genetic diseases, and sudden infant death syndrome,

(5) provide rehabilitation services for blind and disabled individuals under the age of 16 receiving benefits under title XVI of the Social Security Act, and

(6) provide appropriate services to developmentally disabled individuals and to handicapped infants and handicapped preschool children, in order to increase their capacity for independent living and work, and to lessen their dependence on assistance from their families and private or public services.

MATERNAL AND CHILD HEALTH AND RELATED ACTIVITIES BLOCK GRANT

SEC. 2583. Title V of the Social Security Act is repealed and replaced with the following new title:

"TITLE V—MATERNAL AND CHILD HEALTH AND RELATED ACTIVITIES BLOCK GRANT

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 501. For the purpose of carrying out the provisions of this subpart, there are authorized to be appropriated $393,000,000 for fiscal year 1982 and for each of the three succeeding fiscal years.

"INTERIM ALLOTMENTS AND STUDY

"SEC. 502. (a) From the amounts appropriated under section 501 for any fiscal year, the Secretary shall use 15 percent of such amounts (through grants, contracts, or otherwise)—

"(1) for special projects of regional or national significance which may contribute to the advancement of maternal and child health or the advancement of services for handicapped children,

"(2) for research projects relating to maternal and child health services or handicapped children's services which show promise of substantial contribution to the advancement thereof, and

"(3) for the continuation of funding of—

"(A) grants to public or nonprofit private institutions of higher learning for training personnel for health care and related services for mothers and children (particularly mentally retarded children and children with multiple handicaps) previously funded under section 511 of this title, and

"(B) comprehensive hemophilia diagnostic and treatment centers previously funded under section 1131 of the Public Health Service Act,

as such sections were in effect before the enactment of the Maternal and Child Health Block Grant Act.

The authority of the Secretary to enter into any contracts under this title is effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

"(b) From the remainder of the amounts appropriated under section 501 for any fiscal year, the Secretary shall allot to each

State an amount which bears the same ratio to the amounts appropriated under section 501 for that fiscal year as the amounts provided or allotted by the Secretary to the State and to entities in the State under former title V and former section 1615(e) of this Act; former sections 316, 1101, 1121, and 1131 of the Public Health Service Act; and the former Developmental Disabilities Assistance and Bill of Rights Act bore to the amounts provided or allotted by the Secretary under those provisions to all States and entities in all States from appropriations for fiscal year 1981.

"(c) The Secretary shall conduct a study for the purpose of devising a formula for equitable distribution of funds available for allotment to the States under this title. In conducting the study, the Secretary shall take into account—

"(1) the number of live births in the States,

"(2) the number of handicapped children in the States,

"(3) the number of low-income mothers and children in the States,

"(4) the financial resources of the various States,

"(5) the populations of the States, and

"(6) any other factor which the Secretary may consider appropriate.

Prior to January 1, 1983, the Secretary shall report to the Congress regarding the development of such a formula and make such recommendations as he may deem appropriate in order to insure the most equitable distribution of such funds to the States.

"PAYMENT TO STATES

"SEC. 503. The Secretary shall make payments as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213) to each State from its allotment under section 502 from amounts appropriated for any fiscal year.

"USE OF GRANT MONEY

"SEC. 504. (a) A State may use amounts paid to it under section 503 (and amounts transferred under other provisions of law for use under this title) for the provision of health services (and other services, for individuals specified in paragraph (3) and related activities, including planning, administration, education, and evaluation (except as limited under subsection (b) or as provided under subsection (c))—

"(1) for pregnant women, mothers, and children,

"(2) related to sudden infant death syndrome, hemophilia, genetic diseases, and the prevention of lead-based paint poisoning, and

"(3) for developmentally disabled individuals, handicapped infants, and handicapped pre-school children.

"(b) Amounts described in subsection (a) may not be used for—

"(1) inpatient services, other than inpatient services prescribed by the Secretary,

"(2) cash payments to intended recipients of health services,

"(3) the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility,

"(4) satisfying any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

The Secretary may waive the limitation contained in paragraph (3) upon the request of a State if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this title.

"(c) From the amounts paid to it under section 503 from amounts appropriated for a fiscal year, a State may transfer up to 10 percent for use under other provisions of Federal law providing for support of health promotion and disease prevention or health or social services, or for meeting home energy and emergency assistance needs. The State shall inform the Secretary of any such transfer of funds.

"(d) A State shall expend amounts described in subsection (a) by the end of the fiscal year following the fiscal year for which they were appropriated.

"(e) A State may use a portion of the amounts described in subsection (a) for the purpose of purchasing technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, and administering programs funded under this title.

"REPORT ON INTENDED EXPENDITURES

"SEC. 505. (a) Prior to expenditure by a State of payments made to it under section 503 for any fiscal year, the State shall prepare a report on the intended use of payments the State is to receive under this title, information on the types of services to be provided the categories or characteristics of individuals to be served, and the geographical areas within the State in which such services will be provided. The report shall be made public within the State in such a manner as to facilitate comment from any person (including any Federal, State, local, or other public agency) during development of the report and after its completion. The report shall be revised throughout the year as may be necessary to reflect substantial changes in the activities assisted under this title, and any revision shall be subject to the requirements of the preceding sentence.

"(b) The Secretary shall review each report and revision submitted under subsection (a). If the Secretary finds that the intended use of payments under section 503 by a State is not in accordance with the purposes of this subpart or that the State has not provided for an equitable distribution of funds under such payments or of services within the State, the Secretary shall disapprove such report or revision. If a report or revision is disapproved, the State which submitted it shall, within 30 days of the date of such disapproval, make such revisions in its use of such payments or its distribution of funds or services so that such use is in accordance with the purposes of this subpart or such distribution is equitable and shall report such revisions to the Secretary.

"REPORTS AND AUDITS

"SEC. 506. (a) Each State shall prepare reports on its activities under this title. Reports shall be in such form, contain such information, and be of such frequency (not less often than every two years) as the State finds necessary to secure an accurate description of those activities, to secure a complete record of the purposes for which funds were spent, and to determine the extent to which funds were expended consistently with the report required by section 505. The State shall make copies of the reports required by this section available for public inspection within the State. Copies shall also be provided, upon request, to any interested public agency, and each such agency may provide its views on these reports to the Congress.

"(b) Each State shall, not less often than every year, audit its expenditures from amounts received under (or transferred to) this title. Such State audits shall be conducted by an entity independent of the State agency administering a program funded under this title, in accordance with generally accepted accounting principles. Within 30 days following the completion of each audit, a copy of that audit shall be submitted to the State legislature and to the Secretary. Each State shall repay to the United States amounts found not to have been expended in accordance with this title or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this title.

"(c) For other provisions requiring States to account for Federal grants, see section 202 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4212).

"NONDISCRIMINATION PROVISIONS

"SEC. 509. (a) No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

"(b) Wherever the Secretary determines that there has been a failure to comply with subsection (a) of this section or an applicable regulation, he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted, (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or (3) take such other action as may be provided by law.

"(c) When a matter is referred to the Attorney General pursuant to subsection (b) of this section, or whenever he has reason to believe that there has occurred a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

"DEFINITION

"SEC. 510. As used in this title, the term 'developmental disability' means a severe, chronic disability of an individual which—

"(1) is attributable to a mental or physical impairment or combination of mental and physical impairments.

"(2) is mainfested before the individual attains age twenty-two,

"(3) is likely to continue indefinitely,

"(4) results in substantial functional limitations in three or more of the following areas of major life activity:

"(A) self-care,

"(B) receptive and expressive language,

"(C) learning,

"(D) mobility,

"(E) self-direction,

"(F) capacity for independent living, and

"(G) economic self-sufficiency, and

"(5) reflects the individual's need for a combination and sequence of special interdisciplinary, or generic care, treatment, or other services which are of life-long or extended duration and are individually planned and coordinated.".

REPEALS AND CONFORMING AMENDMENTS

SEC. 2584. (a) Section 316, part A of title XI, section 1121, and part C of title XI of the Public Health Service Act and the Developmental Disabilities Assistance and Bill of Rights Act are repealed.

(b)(1) Title XI of the Public Health Service Act is amended—

(A) by striking out the heading to part B, and

(B) by amending the heading to the title to read as follows:

"TITLE XI—SUDDEN INFANT DEATH SYNDROME RESEARCH AND RESEARCH REPORTS".

(2) Section 471(a)(8) of the Social Security Act is amended by striking out "V,".

(3) Section 1101(a)(9)(D) of that Act is amended by striking out "V, XVIII, and XIX" and inserting instead "XVIII and XIX".

(4) Section 1108(d) of that Act is amended by striking out "Section 502(a) and 512(a) of this Act, and the provisions of sections 421, 503(1), and 504(1)" and inserting instead "section 421".

(5) Section 1122 of that Act is amended—

(A) by striking out "V, XVIII, and XIX" each place it occurs and inserting instead "XVIII and XIX", and

(B) in subsection (d)(2) by striking out "V, XVIII, or X" and inserting instead "XVIII or XIX".

(6) Section 1124(a)(1) of that Act is amended by striking out "V," each place it occurs.

(7) Section 1124(a)(2)(B) of that Act is amended by striking out "pursuant to title V or".

(8) Section 1129(a) of that Act is amended by striking out "V or" each place it occurs.

(9) Section 1129(b)(2) of that Act is amended by striking out "V, XVIII, or" and inserting instead "XVIII or".

(10) Section 1132(a)(1) of that Act is amended by striking out "V,".

(11) Section 1134 of that Act is amended by striking out "V, XVIII," and inserting instead "XVIII".

(12) Section 1172(4) of that Act is amended by striking out "V,".

(13) Section 1615(a) of that Act is amended to read as follows:

"SEC. 1615. (a) In the case of any blind or disabled individual who—

(1) has not attained age 65, and

(2) is receiving benefits (or with respect to whom benefits are paid) under this title, the Secretary shall make provision for referral of such individual (if he is age 16 or over) to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act, and (except in such cases as the Secretary may determine) for a review not less often than quarterly of such individual's blindness or disability and (if he is age 16 or over) his need for and utilization of the services made available to him under such plan".

(14) Section 1861(w)(2) of that Act is amended by striking out "V or".

(15) Section 1902(a)(11) of that Act is amended—

(A) by striking out ", and" at the end of clause (A),

(B) by striking out clause (B), and

(C) by striking out the clause designation "(A)".

(16) Section 222(a)(1) of the Social Security Amendments of 1972 is amended by striking out "titles XIX and V" and inserting instead "title XIX".

(17) The first sentence of section 222(a)(3) of that Act is amended by striking out ", XIX, and V" and inserting instead "and XIX".

(18) Section 222(a)(4) of that Act is amended by striking out "titles V and XIX" each place it occurs and inserting instead "title XIX".

(19) The matter in section 402(a)(1) of the Social Security Amendments of 1967 following paragraph (J) is amended—

(A) by striking out the second comma and inserting instead "and", and

(B) by striking out the third comma and everything following up to the period.

(20) Section 402(a)(2) of that Act is amended by striking out "titles V and XIX" each place it occurs and inserting instead "title XIX".

(21) Section 402(b) of that Act is amended by striking out ", XIX, and V" and inserting instead "and XIX".

(22) Section 914(d) of the Omnibus Reconciliation Act of 1980 is amended by striking out "V, XVIII," and inserting instead "XVIII".

(23) Sections 202(b)(2), 203(b), and 302(2)(K) of the Mental Health Systems Act are each amended by striking out "the Developmental Disabilities Assistance and Bill of Rights Act,".

EFFECTIVE DATE

SEC. 2585. The amendments made by sections 3 and 4 do not apply to any grant made, or contract entered into, before October 1, 1981.

PART H—TOXIC SUBSTANCES CONTROL ACT

AUTHORIZATIONS

SEC. 2621. (a) The first sentence of section 28(d) of the Toxic Substances Control Act is amended to read as follows: "For the purpose of making grants under subsection (a), there are authorized to be appropriated $1,500,000 for each of the fiscal years 1982 and 1983.".

(b) Section 29 of the Toxic Substances Control Act is amended by striking out "$10,000,000" and all that follows through "1979" and inserting in lieu thereof the following: "$62,000,000 for each of the fiscal years 1982 and 1983".

PART I—NOISE CONTROL ACT

PROGRAM REVISION

SEC. 2625. The Noise Control Act of 1972 is amended as follows:

(1) Section 1 is amended to read as follows:

"SHORT TITLE

"SECTION 1. This Act may be cited as the 'Quiet Communities Act'.".

(2) Section 2(a)(3) is amended by striking out "deal with major noise sources" and all that follows down through the period at the end thereof and substituting: "assure uniform treatment of certain carriers engaged in interstate commerce and certain transportation equipment distributed in interstate commerce which are major noise sources.".

(3) Section 2(b) is amended by striking out "for products distributed in commerce," and substituting: "for certain carriers engaged in interstate commerce and certain transportation equipment distributed in interstate commerce.".

(4) Section 3(5) is amended by striking out "or section 8".

(5) Section 5(b) is amended by inserting "are referred to in section 6(a)(1) and which" after "which".

(6)(A) Section 6(a)(1)(C) is amended by striking out clauses (i) and (iv), by redesignating clauses (ii) and (iii) as (i) and (ii) respectively, and by inserting the following before the period at the end of clause (ii), as so redesignated: "designed for use in transportation equipment".

(B) Section 6(a)(1) is amended by adding the following at the end thereof: "Such regulations shall not apply to the products to which subpart F of part 205 of title 40 of the Code of Federal Regulations (as promulgated before the date of the enactment of this sentence) applies."

(C) Except as provided in subparagraph (B), any rule or regulation under section 6 of the Noise Control Act of 1972 which was promulgated in final form before the date of the enactment of this Act and which is applicable to products referred to in section 6(a)(1) of that Act, as amended by this subsection, shall remain in force and effect after the date of the enactment of this Act until such time as the rule or regulation is amended or otherwise modified under such section 6, as amended by this Act. Nothing in this subparagraph shall be construed to validate any otherwise invalid rule or regulation under such section 6 which was promulgated in final form before the date of the enactment of this Act, and nothing in this subparagraph shall be construed to provide that an unlawful aspect of such rule or regulation shall be treated as lawful.

(7) Section 8 is repealed.

(8) Section 10 is amended by striking out paragraphs (3) and (4),

(9) Section 10(b) is amended by striking out "(3)," in paragraph (1) and by striking out "(1), (2), (3), and (4)" in paragraph (2) and substituting "(1) and (2)".

(10) Section 11(a) is amended by striking out "(3)," in each place it appears.

(11) Section 11(a)(2) is amended by inserting the following after "$10,000": "(reduced by the amount of any penalty imposed under subsection (f))".

(12) Section 11 is amended by adding the following at the end thereof:

"(f) The Attorney General of any State may bring a civil action, in the name of such State, in the appropriate district court of the United States to impose a civil penalty against any person who violates any provision of section 10. In any such action the court may impose a civil penalty of not more than $10,000 per day of such violation (reduced by the amount of any penalty imposed under subsection (a)(2)). The provisions of section 12(b) shall apply for purposes of actions brought under this subsection in the same manner as such provisions apply for purposes of section 12.".

(13) Section 12 is amended—

(A) by striking out "(e)" in subsection (a)(1) and substituting "(f)"; and

(B) by striking out "(3), (4)," in subsection (f).

(14) Section 13(a) is amended by striking out "or section 8".

(15) Section 14(b)(2) is amended by striking out "under sections 6, 7, and 8 of this Act" and substituting "under section 6 or 7 of this Act."

(16) Section 16(a) is amended by striking out "or any labeling regulation under section 8 of this Act".

AUTHORIZATIONS

SEC. 2626. Section 19 of the Noise Control Act of 1972 is amended by striking out

"$15,000,000 for the fiscal year ending September 30, 1979" and substituting "$7,300,000 for each of the fiscal years 1982, 1983, and 1984".

PART J—ENERGY SAVINGS

Subpart I—Strategic Petroleum Reserve

SHORT TITLE

SEC. 2701. This chapter may be cited as the "Strategic Petroleum Reserve Amendments Act of 1981".

FINDINGS

SEC. 2702. The Congress finds that—

(1) the Strategic Petroleum Reserve should be regarded as a national security asset of paramount importance; and

(2) plans for enlarging the capacity of and filling the Strategic Petroleum Reserve should be accelerated (to the extent technically and economically practicable) in accordance with the provisions of the Energy Policy and Conservation Act to take advantage of any increased availability of crude oil in the world market from time to time.

RATE OF FILLING THE STRATEGIC PETROLEUM RESERVE

SEC. 2703. (a) Subsection (c)(1) of section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240) is amended by inserting a period after the phrase "fiscal year 1981" and deleting the rest of such paragraph.

(b) Subsection (c)(2) of such section is amended by deleting everything after "(2)" and inserting in lieu thereof the following: "The President shall immediately seek to undertake, and thereafter continue (subject to paragraph (3)), crude oil acquisition transportation, and injection activities at a level sufficient to assure that crude oil in storage in the Strategic Petroleum Reserve will be increased at an average annual rate of at least 300,000 barrels per day for fiscal year 1982 and for each fiscal year thereafter.".

(c) Such section is further amended by inserting at the end thereof the following new paragraph (3):

"(3) The requirements in paragraphs (1) and (2) shall cease to apply when the quantity of petroleum products stored within the Strategic Petroleum Reserve is at least 750,000,000 barrels.".

FINANCING OF THE STRATEGIC PETROLEUM RESERVE

SEC. 2704. (a) The Energy Policy and Conservation Act is amended by inserting after section 166 the following new sections:

"STRATEGIC PETROLEUM RESERVE ACCOUNT

"SEC. 167. (a) The Secretary of the Treasury shall establish in the Treasury of the United States a special account which shall be known as the 'Strategic Petroleum Reserve Account' and into such account shall be deposited:

"(1) the funds provided under section 168, and

"(2) the receipts from the sale of petroleum products in any drawdown and distribution of the Strategic Petroleum Reserve under section 161.

"(b)(1) The Secretary of Energy may obligate funds from such account for the acquisition and delivery of petroleum products for, and drawdown and delivery of petroleum products from, the Strategic Petroleum Reserve, except that—

"(A) the aggregate amount obligated from the account may not exceed $9,000,000,000 plus any proceeds deposited under subsection (a)(2); and

"(B) funds may not be obligated from the account after September 30, 1984.

"(2) The portion of the funds credited to the account as of September 30, 1984, which represent funds unobligated as of that date shall be transferred to the general fund of the Treasury.

"PROVISION OF FUNDS

"SEC. 168. (a) The Secretary of the Treasury is directed to provide such funds to the Strategic Petroleum Reserve Account as are necessary to meet the obligations created under section 167(b).

"(b) Notwithstanding any other provision of law, the transactions under this section and section 167 and the receipts, obligations, and outlays created by such transactions shall be presented annually in the Budget of the United States Government, but shall not be included in the totals of the budget and shall be exempt from any general limitation imposed by statute on expenditures (budget outlays) of the United States.

"(c) Unexpended balances of appropriations made available and obligated for the acquisition and delivery of petroleum products for the Strategic Petroleum Reserve at the end of fiscal year 1981, shall be credited to the Strategic Petroleum Reserve Account established by section 167 and orders or contracts which provide documentation for the obligation of those appropriations pursuant to section 1311 of the Act of August 26, 1954, as amended (31 U.S.C. 200; 68 Stat. 830) shall be liquidated from the Strategic Petroleum Reserve Account. This transfer shall be a transaction under section 167 for the purposes of section 168(b).".

(b) The table of sections for such Act is amended by inserting after the item relating to section 166 the following new items:

"Sec. 167. Strategic Petroleum Reserve Account.
"Sec. 168. Provision of funds.".

STORAGE OF STATE ROYALTY OIL

SEC. 2705. Section 160 of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new subsection:

"(f) In addition to other authority made available by law, the President is authorized to contract, upon such terms and conditions necessary to protect the interests of the United States and without regard to any procurement law or regulation, with any State of the United States to store petroleum products in the Strategic Petroleum Reserve.".

QUARTERLY REPORTING REQUIREMENTS

SEC. 2706. (a) Subject to subsection (c), on or before the fifteenth day of the calendar quarter which begins after the date of the enactment of this section and every ninety days thereafter the Secretary of Energy shall report to Congress on activities undertaken with respect to the Strategic Petroleum Reserve under the amendments made by this Act, including—

(1) the amounts of petroleum stored in the Reserve, under contract and in transit at the end of the previous calendar quarter;

(2) the projected fill rate for the Strategic Petroleum Reserve for such calendar quarter;

(3) the average price of the petroleum acquired during the previous calendar quarter;

(4) existing and projected Strategic Petroleum Reserve storage capacity and plans to accelerate the acquisition or construction of such capacity;

(5) an analysis of any existing or anticipated problems associated with acquisition, transportation, and storage of petroleum in the Reserve and with the expansion of storage capacity for the Reserve; and

(6) the amount of funds transferred to the Secretary of Energy from the Strategic Petroleum Reserve Account during the previous calendar quarter and in total under the amendments made by this Act.

(b) The first report submitted under subsection (a) shall include a description of the current Strategic Petroleum Reserve Plan, including any proposed or anticipated amendments to the Plan.

(c) The report otherwise required under subsection (a) to be submitted in a calendar quarter in which an annual report is required to be submitted to the Congress under section 165 of the Energy Policy and Conservation Act may be combined and submitted with that annual report.

STUDY OF ALTERNATIVE FINANCING

SEC. 2707. Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall review and report to the Congress on alternative methods for financing purchases of petroleum products for the Strategic Petroleum Reserve which are not based on conventional debt financing by the Federal Government.

Subpart II—Other Energy Programs

Chapter A—DEPARTMENT OF ENERGY CIVILIAN PROGRAM SAVINGS

Subchapter 1—Conservation

SEC. 2801. Funds are authorized to be appropriated for fiscal year 1982 and fiscal year 1983 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the following conservation and related activities:

(1) Transportation, $1,000,000 for each fiscal year.

(2) State energy block grant established under chapter B of this subpart, for fiscal year 1982, $172,900,000 plus $22,100,000 of the amount appropriated for buildings and community systems, and $5,000,000 of the amount appropriated for economic regulation, which amounts were deferred until fiscal year 1982 by the Act entitled "An Act making supplemental and further continuing appropriations for the fiscal year ending September 30, 1981", approved June 5, 1981 (Public Law 97-12), and for fiscal year 1983, $200,000,000. Funds appropriated under this paragraph may remain available until expended.

Subchapter 2—Regulatory and Related Functions

SEC. 2802. Funds are authorized to be appropriated for fiscal year 1982 and fiscal year 1983 in accordance with section 660 of the Department of Energy Organization Act for the following regulatory and related functions:

(1) Economic Regulatory Administration, $12,000,000 for fiscal year 1982 and $24,000,000 for fiscal year 1983;

(2) Office of Hearings and Appeals, $4,500,000 for fiscal year 1982 and $4,500,000 for fiscal year 1983;

(3) Federal Energy Regulatory Commission, $82,173,000 for each fiscal year;

(4) Energy Information Administration, $56,523,000 for each fiscal year;

(5) Strategic Petroleum Reserve, $1,100,000,000 for fiscal year 1982 and $719,000,000 for fiscal year 1983; and

(6) Mineral fuels and petroleum and natural gas gathering and analysis programs data, $23,477,000 for each fiscal year.

Subchapter 3—Nuclear Assessment, Interim Spent Nuclear Fuel Management, and Commerical Waste Remedial Action

SEC. 2803. Funds are authorized to be appropriated for fiscal year 1982 and fiscal year 1983 in accordance with section 660 of the Department of Energy Organization Act for the following:

(1) Operating expenses for uranium resource assessment, $9,700,000 for each fiscal year;

(2) Capital equipment not related to construction for uranium resource assessment, $200,000 for each fiscal year;

(3) Plant and capital equipment including planning, construction, acquisition, or modification of facilities, including land acquisition for the uranium resource assessment program, project 82-R-410, General plant projects, Grand Junction, Colorado, $100,000 for fiscal year 1982;

(4) Operating expenses for interim spent nuclear fuel management and remedial action:

(A) Interim spent nuclear fuel management expenses, $6,417,000 for each fiscal year; and

(B) Remedial action program expenses, $55,070,000 for each fiscal year; and

(5) Capital equipment not related to construction for interim spent nuclear fuel management and remedial action, $1,775,000 for fiscal year 1982.

Subchapter 4—Other Renewable Resources and Conservation Activities

SEC. 2804. For the operating expenses for fossil energy program administration, $2,500,000 is authorized to be appropriated for each of the fiscal years 1982 and 1983 in accordance with section 660 of the Department of Energy Organization Act.

Subchapter 5—Uranium Enrichment, Other Commercial Waste Management Activities, West Valley Demonstration Project Activities, and Three Mile Island Activities

SEC. 2805. Funds are authorized to be appropriated for fiscal year 1982 and fiscal year 1983 in accordance with section 660 of the Department of Energy Organization Act for:

(1) Operating expenses for uranium enrichment:

(A) Gaseous diffusion operations and support, $961,825,000 for each fiscal year;

(B) Gas centrifuge operations and support, $5,200,000 for each fiscal year; and

(C) Program administration, $3,100,000 for each fiscal year.

(2) Uranium enrichment activities plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition, for fiscal year 1982, as follows:

(A) Project 82-R-410, General plant projects, various locations, $17,500,000;

(B) Project 82-R-411, UF6 cylinders and storage yards, gaseous diffusion plants, $11,000,000;

(C) Project 82-R-412, Cooling tower modifications, Oak Ridge, Tennessee and Portsmouth, Ohio, gaseous diffusion plants, $8,000,000;

(D) Project 82-R-413, Improved UF6 containment and gaseous diffusion plants, $7,100,000;

(E) Project 82-R-414, Purge and cascade withdrawal modifications, gaseous diffusion plant, Paducah, Kentucky, $9,000,000;

(F) Project 82-R-415, Fire alarm system replacement, gaseous diffusion plants, $4,700,000;

(G) Project 82-R-416, Environmental protection and safety modifications, Phase II, gaseous diffusion plants, $2,000,000;

(H) Project 82-R-417, Air distribution system upgrading, gaseous diffusion plant, Paducah, Kentucky, $2,700,000;

(I) Project 81-R-503, Utilities upgrading, gaseous diffusion plants, as additional sum of $17,000,000 for a total project authorization of $27,000,000;

(J) Project 81-R-504, Supervisory control and date acquisition systems, Paducah, Kentucky and Portsmouth, Ohio, gaseous diffusion plants, an additional sum of $7,000,000 for a total project authorization of $13,000,000;

(K) Project 81-R-506, Environmental protection and safety improvements, Phase I, gaseous diffusion plants, $7,000,000;

(L) Project 80-UE-2, Control of water pollution, gaseous diffusion plants, an additional sum of $4,000,000 for a total project authorization of $17,000,000;

(M) Project 80-UE-3, Plant facilities security improvements, gaseous diffusion plants, an additional sum of $4,000,000 for a total project authorization of $17,000,000;

(N) Project 80-UE-5, Motor and switchgear upgrading, gaseous diffusion plants, an additional sum of $6,600,000 for a total project authorization of $26,500,000; and

(O) Project 76-8-g, Enriched uranium production facilities, Portsmouth, Ohio, an additional sum of $669,000,000 for a total project authorization of $1,620,845,000;

(3) Capital equipment not related to construction for uranium enrichment, $23,100,000 for fiscal year 1982.

SEC. 2806. Funds are authorized to be appropriated for fiscal year 1982 and fiscal year 1983 in accordance with section 660 of the Department of Energy Organization Act for operating expenses for other commercial waste management activities:

(1) Repository licensing activities in the terminal isolation program, $2,000,000 for each fiscal year;

(2) Assistance to States in the waste system evaluation and public interaction program, $1,000,000 for each fiscal year; and

(3) Assistance to States for low-level waste management, $1,000,000 for each fiscal year.

SEC. 2807. Funds are authorized to be appropriated for fiscal year 1982 and fiscal year 1983 in accordance with section 660 of the Department of Energy Organization Act for the following West Valley Demonstration project activities:

(1) Operating expenses for the West Valley Demonstration project, $12,800,000 for each fiscal year; and

(2) Capital equipment not related to construction for the West Valley Demonstration project, $200,000 for fiscal year 1982.

SEC. 2808. Funds are authorized to be appropriated for fiscal year 1982 in accordance with section 660 of the Department of Energy Organization Act for the following:

(1) Operating expenses for Three Mile Island activities, $29,000,000; and

(2) Capital equipment not related to construction for Three Mile Island activities, $8,000,000.

Subchapter 6—Departmental Administration

SEC. 2809. Funds are authorized to be appropriated for fiscal year 1982 and fiscal year 1983 in accordance with section 660 of the Department of Energy Organization Act for:

(1) Operating expenses for departmental administration activities:

(A) Office of the Secretary, $3,616,000 for each fiscal year;

(B) General management, $67,054,000 for each fiscal year;

(C) Program administration, $4,599,000 for each fiscal year, except that no funds authorized to be appropriated under this subparagraph shall be available for the Office of Consumer Affairs or related activities;

(D) Field offices, $58,738,000 for each fiscal year;

(E) Other salary expenses, travel, and services, $143,406,000 for each fiscal year;

(F) Policy analysis and system studies, $9,678,000 for each fiscal year;

(H) Intergovernmental affairs, $9,365,000 for each fiscal year;

(I) Public affairs, $900,000 for each fiscal year;

(J) In-house energy management, $5,400,000 for each fiscal year;

(K) cost of work for others, and changes in inventories, $54,214,000 for each fiscal year; and

(L) Technical information services, $11,830,000 for each fiscal year;

(2) Departmental administration activities plant and capital equipment, including planning, construction, acquisition, or modification of facilities, including land acquisition, for fiscal year 1982, as follows:

(A) Project 82-A-601, Modifications for energy management, various locations, $22,200,000;

(B) Project 82-A-602, Advanced Test Reactor (ATR) waste heat recovery, Idaho National Engineering Laboratory, Idaho, $4,900,000;

(C) Project 82-A-603, High temperature water distribution system, Los Alamos Scientific Laboratory, New Mexico, $5,000,000;

(D) Project 81-A-602, energy monitoring and control system, Y-12 Plant, Oak Ridge, Tennessee, an additional sum of $2,500,000 for a total project authorization of $5,000,000;

(E) Project 81-A-603, Energy monitoring and control system, Oak Ridge National Laboratory, an additional sum of $2,000,000 for a total project authorization of $4,000,000;

(F) Project 81-A-605, Automated energy management system, Argonne National Laboratory, Argonne, Illinois, an additional sum of $1,900,000 for a total project authorization of $3,800,000;

(G) Project 80-DA-06, Alternate energy source, Pantex Plant, Amarillo, Texas, an additional sum of $3,000,000 for a total project authorization of $6,000,000; and

(H) Project 82-C-601, Plant engineering and design, various locations, $2,000,000; and

(3) Capital equipment not related to construction for departmental administration activities, $5,563,000 for fiscal year 1982.

Subchapter 7—Aggregate Authorization of Appropriations for Fiscal Year 1983

SEC. 2810. Notwithstanding any other provision of this chapter, or any other provision of law, there is authorized to be appropriated to the Department of Energy for the civilian programs and activities of the Department for the fiscal year ending September 30, 1983, not to exceed the aggregate amount authorized to be appropriated to the Department for such programs and activities for the fiscal year ending September 30, 1982.

Subchapter 8—United States Energy Projections

SEC. 2811. Pursuant to title III of the Energy Security Act, the following are the United States energy projections:

ENERGY PROJECTIONS

[Quadrillion Btu's per year]

	1985	1990	1995	2000
Domestic production:				
Oil and NGL	18	17	18	18
Natural gas	18	18	16	15
Coal	21	27	32	41
Nuclear	5	7	8	9
Hydro/geothermal	3	4	4	4
Renewables	2	3	5	6
Subtotal	67	76	83	93
Imports:				
Oil	18	14	11	7
Natural gas	2	3	3	2
Coal	−1.8	−2.1	−2.2	−2.4
Subtotal	18	15	11	7
Total supply	85	90	94	100
End-use consumption:				
Petroleum liquids	32	29	28	27
Gas	17	18	18	18
Direct coal	5	6	6	7
Electricity	9	10	11	12
Decentralized solar	2	3	4	5
Subtotal	64	66	67	68
Conversion losses	21	25	28	32
Stock increase				
Total consumption	85	91	94	100

Chapter B—STATE ENERGY BLOCK GRANTS

SHORT TITLE

SEC. 2821. This chapter may be cited as the "State Energy Block Grant Act".

FINDINGS

SEC. 2822. The Congress finds that—

(1) during the last several years the Federal Government has established numerous programs for energy-related assistance for States and local governments,

(2) despite the growth in Federal funding of energy-related activities, State and local governments retain primary responsibility for a significant portion of such activities,

(3) with the growth in the number of Federal assistance programs and in the associated requirements imposed on recipients, Federal decisions have replaced State and local determinations of what energy-related activities should be undertaken through publicly financed programs,

(4) the proliferation of Federal programs has resulted in substantial inefficiencies in the way energy programs are conducted, in burdensome administrative costs, and in spending patterns that frequently do not reflect the priorities and needs of the residents of each State,

(5) the best use of governmental resources in meeting the Nation's energy needs requires that the Federal Government support and not displace the State role in determining which energy conservation or supply development activities to engage in and how best to carry them out, and

(6) allowing the States substantial flexibility in the use of Federal financial assistance through consolidation of related assistance programs into a single grant with minimum requirements will help ensure a proper governmental balance, will permit coordinated planning at the State level, and will help ensure the effective use of the Nation's resources in the energy area.

ALLOCATION OF FUNDS

SEC. 2823. (a) For the purposes of providing the financial assistance authorized by this chapter, the Secretary shall allocate annually the sums available for financial assistance under this chapter among the States in the following manner—

(1) 75 percent shall be allocated on the basis of the resident population of the States; and

(2) 25 percent shall be allocated equally among the States.

(b) Notwithstanding subsection (a), the Secretary may prescribe a maximum allocation for the Virgin Islands, Guam, American Samoa, the Government of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

PAYMENTS TO STATES; STATE SHARE

SEC. 2824. (a) The Secretary shall make payments as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213) to each State from its allotment under section 2823 from amounts appropriated for any fiscal year for its use under section 2825 or for grants to local units of government under section 2827 (to the extent provided in such section).

(b) Any State receiving assistance under this chapter shall provide matching funds from non-Federal sources in an amount equal to—

(1) in the case of awards in fiscal year 1982, 30 percent of the amount awarded to the State under this chapter; and

(2) in the case of awards in fiscal years thereafter, 50 percent of the amount awarded to the State under this chapter.

USE OF GRANT MONEY

SEC. 2825. (a) A State may use amounts paid to it under section 2824 for energy conservation and supply activities, including but not limited (except as limited under subsection (b), or as provided under subsection (c)) to—

(1) energy conservation,

(2) energy conservation measures and weatherization in public or nonprofit institutional buildings, including schools, hospitals, public care institutions, and local governmental buildings,

(3) weatherization for low-income families,

(4) residential weatherization,

(5) residential and commercial energy audits and technical assistance,

(6) energy emergency preparedness,

(7) renewable energy research, development, and demonstration,

(8) energy supply, research and development,

(9) transportation energy efficiency,

(10) coastal and inland energy impact assistance, and

(11) energy conservation and supply development in the agricultural sector.

(b) Amounts described in subsection (a) may not be used for—

(1) planning, data collection, forecasting, policy analysis, and personnel and administrative costs to the extent such costs are in excess of 25 percent of the amount of the grant;

(2) costs of applying for a grant under this chapter;

(3) promoting energy conservation or supply development through the use of television, radio, newspapers, or other mass media; or

(4) satisfying any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

In applying the limitation of paragraph (1), there shall not be taken into account any direct labor costs associated with weatherization activities under the grant involved.

(c) A State shall expend amounts described in subsection (a) by the end of the fiscal year following the fiscal year for which they were appropriated.

ALLOCATION OF FUNDS FOR CATEGORIES OF COMMUNITIES WITHIN A STATE

SEC. 2826. (a) The Secretary shall allocate 20 percent of the funds available to each State under section 2823 to each of the following three categories based on the respective population of each category within that State—

(1) metropolitan cities and urban counties in metropolitan areas;

(2) units of local government within metropolitan areas (other than metropolitan cities and urban counties); and

(3) nonmetropolitan areas.

(b)(1) Metropolitan cities and urban counties in metropolitan areas shall be entitled to annual grants from the portion allocated to them under subsection (a)(1). The Secretary shall determine the amount of the grant to be made by the Governor of the State to each metropolitan city and urban county, and such grants shall be the greater of an amount that bears the same ratio to the total available funding for all metropolitan areas as either—

(A) the average of the ratios between—

(i) the population of that metropolitan city (or urban county) and the population of all metropolitan areas;

(ii) the extent of poverty in that metropolitan city (or urban county) and the extent of poverty in all metropolitan areas; and of

(iii) the extent of housing overcrowding in that metropolitan city (or urban county) and the extent of housing overcrowding in all metropolitan areas; or

(B) the average of the ratios between—

(i) the age of housing in that metropolitan city (or urban county) and the age of housing in all metropolitan areas; and

(ii) the extent of poverty in that metropolitan city (or urban county) and the extent of poverty in all metropolitan areas.

In determining the average of the ratios under subparagraph (A) the ratio involving the population shall be counted once, the ratio involving the extent of poverty shall be counted twice, and the ratio involving housing overcrowding shall be counted once; and in determining the average of the ratios under subparagraph (B) the ratio involving extent of poverty shall be counted one and one-half times, and the ratio involving the age of the housing shall be counted two and one-half times.

(2) The Governor shall make grants to units of local government within metropolitan areas (other than metropolitan cities and urban counties) from the portion of funds allocated to them under subsection (a)(2) and to nonmetropolitan areas from the portion of funds allocated to them under subsection (a)(3) through either an existing or newly developed process acceptable to both the Governor and the statewide organizations representing units of local government. The Governor shall, in consultation with the statewide organizations representing units of local government, develop selection criteria and a system for managing the solicitation, application, and selection process. Grants shall be made based on applications submitted to the Governor.

(3) The Secretary shall in order to compensate for the discrepancy between the total of the amounts to be allocated under paragraph (1) and the total of the amounts available, make a pro rata reduction of each amount allocated for the metropolitan cities (or urban counties) so that the metropolitan city (or urban county) in each State will be allocated an amount which represents the

same percentage of the total amount available under paragraph (1) as the percentage which metropolitan cities (or urban counties) of the same State would have been allocated under such paragraph if the total amount available under this paragraph had equalled the total amount which was allocated under such paragraph.

(4) Any funds under this chapter to which a metropolitan city or urban county in a metropolitan area is entitled, but which are not requested or disbursed, shall be made available to other eligible units of local government within that same metropolitan area. If no such recipients are available, then the funds shall be made available to the other metropolitan areas of the State under paragraph (2). If no such recipients are available in that State then the funds shall be made available to eligible recipients in other States.

(5) Any unit of local government receiving assistance under this chapter from a State shall provide matching funds from Non-Federal sources in an amount equal to—

(A) in the case of awards in fiscal year 1982, 30 percent of the amount awarded to the local government under this chapter; and

(B) in the case of awards in fiscal years thereafter, 50 percent of the amount awarded to the local government under this chapter.

REPORT ON INTENDED EXPENDITURES

SEC. 2827. (a) Prior to expenditure by a State of payments made to it under section 2824, the chief executive officer of the State shall prepare a report on the intended use of payments the State is to receive under this chapter, including—

(2) information on the types of services to be provided and the categories of characteristics of individuals to be served;

(2) the intergovernmental process applicable to the administration of the program; and

(3) a description of any low-income assistance program covered by such payments.

(b) The report shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the report and after its completion. The report shall be revised throughout the year as may be necessary to reflect substantial changes in the activities assisted under this chapter, and any revision shall be subject to the requirements of the preceding sentence.

(c) The Secretary shall review each report and revision submitted under subsection (a). If the Secretary finds that the intended use of payments under section 2825 or 2826 by a State is not in accordance with the purposes of this chapter or that the State has not provided for an equitable distribution of funds or of services within the State, the Secretary shall disapprove such report or revision. Any such disapproval shall not be subject to judicial review. If a report or revision is disapproved the State which submitted it shall, within 30 days of the date of such disapproval, make such revisions in its use of such payments or its distribution of funds or services (consistent with the express provisions of this chapter) so that such use is in accordance with the purposes of this chapter or such distribution is equitable and shall report such revisions to the Secretary within 30 days after disapproval.

REPORTS AND AUDITS

SEC. 2828. (a)(1) Each State shall prepare reports on its activities under this chapter. Reports shall be in such form, contain such information, and be of such frequency as the State finds necessary to secure an accurate description of those activities (including identification of contracts entered into), to secure a complete record of the purposes for which funds were spent, to determine the extent to which funds were expended consistently with the reports required by section 2828, and to obtain an accurate financial statement of the programs funded under this chapter.

(2) The State shall make copies of the reports required by this section available for public inspection within the State. Copies shall also be provided to the Congress, the Department of Energy, the Comptroller General, and, upon request, to any interested public agency which may provide its views on such reports to the Congress.

(b) Each State shall periodically audit its expenditures from amounts received under (or transferred to) this chapter. Such State audits shall be conducted by an entity independent of any agency administering a program funded under this chapter, in accordance with generally accepted accounting principles. Within 30 days following the completion of each audit, the chief executive officer of the State shall submit a copy of that audit to the legislature of the State and to the Secretary. Each State shall repay to the United States amounts found not to have been expended in accordance with this chapter or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this chapter.

(c) The Comptroller General, or any duly authorized representative, shall have access to pertinent books, documents papers, records, and reports of any recipient of funds under this chapter.

TERMINATION

SEC. 2829. On or after October 1, 1984, the preceding provisions of this chapter shall cease to be effective.

Chapter C—OTHER CHANGES TO EXISTING LAW

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 2831. (a) The Energy Security Act is amended—

[(1) by striking out "target" and "targets" each place such terms appear and inserting in lieu thereof "projection" and "projections", respectively, in sections 301 through 304 (42 U.S.C. 7361-7364), relating to energy targets;] and

(2) by striking out sections 401 through 404, 406, and section 409 (42 U.S.C. 7371-7374, 7375) relating to renewable energy initiatives;

(3) in section 408, by adding at the end thereof the following new subsection:

"(f) The Federal Power Act (16 U.S.C. 792 et seq.) is amended by inserting after section 30 the following new section:

" 'SEC. 31. In order to simplify, promote, and expedite the development of a non-Federal hydroelectric power project, and consistent with the public interest and safety, the Commission, by rule or order, may waive any provision of this part, in connection with an application for, or amendment or notice of, a permit, license, or exemption for an existing or proposed water project and appurtenant project works, if the total installed capacity of the project upon completion is equal to or less than 15 megawatts, subject to terms and conditions that the Commission considers appropriate.' "

(4) In Title V, by striking out subtitles B through F, and H, relating to the residential conservation service, residential energy efficiency program, the commercial and apartment conservation service the weatherization assistance program, energy auditor training and certification, and coordination of Federal energy conservation factors and data;

(5) by striking out the items in the table of contents relating to—

(A) sections 401 through 404, 406, and 409; and

(B) subtitles B through F, H of title V.

SEC. 2832. The Public Utility Regulatory Policies Act of 1978 is amended—

(1) by striking out titles I and III, relating to retail regulatory policies for electric utilities and gas utilities;

(2) by striking out section 212, relating to public participation before the Federal Energy Regulatory Commission;

(3) by striking out section 213, relating to conduit hydroelectric facilities, and insert in lieu thereof:

"Sec. 213. Conduit Hyrdroelectric Facilities.

Section 30 of the Federal Power Act, is amended to read as follows:

" 'SEC. 30. Any facility (excluding any dam or other impoundment or facility located on Federal lands) constructed, operated, or maintained for the generation of electric power which utilizes for such generation only the hydroelectric potential of a manmade conduit operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of the electricity is exempt from the requirements of sections 4 through 24 and 26 of this part.' ";

(4) by striking out sections 401 through 404, and 407, relating to Federal loans for small hydroelectric power projects;

(5) by striking out section 603, relating to the utility regulatory institute;

(6) by striking out the items in the table of contents, relating to—

(A) titles I and II;

(B) section 212 of title II;

(C) sections 401 through 404, and 407; and

(D) section 603.

SEC. 2833. The National Energy Conservation Policy Act is amended—

(1) in title II, by striking out parts 1 and 5, and sections 231 and 233, relating to residential energy conservation and weatherization assistance for low-income persons;

(2) by striking out title III, relating to energy conservation programs for schools and hospitals and buildings owned by units of local governments and public care institutions;

(3) by striking out sections 422 and 426, relating to energy efficiency standards for consumer products other than automobiles;

(4) by striking out sections 441 and 461, relating to energy efficiency of industrial equipment an use of recovered materials;

(5) In title VI, by striking out parts 1 through 3 and 5, relating to industrial energy efficiency, and State energy conservation plans;

(6) by striking out the entire title VII, relating to the commercial and apartment conservation service; and

(7) in the table of contents, by striking out the items relating to—

(A) parts 1 and 5 and sections 231 and 233 of part 2 of title II;

(B) titles III and VII;

(C) sections 422 and 426;

(D) sections 441 and 461; and

SEC. 2835. The National Energy Extension Service Act (42 U.S.C. 7001-7011) is hereby repealed.

SEC. 2836. The Energy Research and Development Administration Appropriation Authorization Act of 1977 is amended by striking out section 112 (42 U.S.C. 5907-a), relating to the appropriate technology grants program.

SEC. 2837. The Energy Policy and Conservation Act is amended—

(1)(a) by striking out sections 321(a)(6); 326(b)(3)(A); 325; 327(a)(2), (b), (c); 329; 332(a)(5); 333; 335; 336(a)(2); 337; and 339, relating to energy conservation program for consumer products other than automobiles;

(b) in Section 326(b)(5), strike reference to Section 325; in Section 334, strike reference to Section 325; in Section 336(a), strike reference to sections 325(a) and 327(b); in Section 336(b) (1) and (2), strike reference to Section 325.

(2) by striking out parts C through E, and G through I of title III, relating to certain industrial equipment, State energy conservation programs, industrial energy conservation, energy conservation programs for schools and hospitals and buildings owned by units of local government and public care institutions, and off-highway motor vehicles;

(3) in the table of contents by striking out the items relating to—

(A) sections 325, 329, 333, 335, 337 and 339; and

(B) parts C through E, and G through I of title III.

SEC. 2838. The Energy Conservation and Production Act is amended—

(1) by striking out section 161, relating to amendments to the appliance efficiency program;

(2) by striking out title II, relating to electric utilities rate design initiatives;

(3) by striking out title III, relating to building energy performance standards;

(4) by striking out title IV, relating to weatherization assistance for low-income persons, State energy conservation plans, national energy conservation demonstration, and energy conservation obligation guarantees; and

(5) in the table of contents by striking out the items relating to—

(A) section 161 of title I; and

(B) titles II, III, and IV.

SEC. 2839. For purposes of any provision of law repealed by this chapter which amended other provisions of law, the amendments made by such other provisions shall cease to have effect.

SEC. 2840. (a) Section 301 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8341) is amended by striking out subsections (a), (b), and (c), and by inserting in lieu thereof the following:

"(a) AUTHORITY OF SECRETARY TO PROHIBIT WHERE COAL OR ALTERNATE FUEL CAPABILITY EXISTS.—The Secretary may prohibit the use of petroleum or natural gas as a primary energy source in any existing powerplant, if the owner and operator of that powerplant certifies to the Secretary that—

"(1) such powerplant has or previously had the technical capability to use coal or another alternate fuel as a primary energy source;

"(2) such powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without—

"(A) substantial physical modification of the powerplant, or

"(B) substantial reduction in the rated capacity of the powerplant, and

"(3) it is financially feasible to use coal or another alternate fuel as a primary energy source in such powerplant.

"(b) AUTHORITY OF SECRETARY TO PROHIBIT EXCESSIVE USE IN MIXTURES.—In the case of any existing electric powerplant for which the owner and operator of that powerplant certifies to the Secretary that it is technically and financially feasible to use a mixture of petroleum or natural gas and coal or an alternate fuel as a primary energy source, the Secretary may prohibit, in accordance with section 303(a), the use of petroleum or natural gas, or both, in such powerplant in amounts in excess of the minimum amount necessary to maintain reliability of operation of the unit consistent with maintaining reasonable fuel efficiency of such mixture.".

(c)(1) Section 303(a)(1) of such Act is amended by striking out "section 301(b) or (c)" and inserting in lieu thereof "section 301(a) or (b)".

(2) Section 303(b)(1) of such Act is amended by striking out "section 301(b)" and inserting in lieu thereof "section 301(a)".

APPLICABILITY OF RESTRICTIONS RELATING TO NATURAL GAS OUTDOOR LIGHTING

SEC. 2840A. (a) Section 402(b)(1) of the Powerplant and Industrial Fuel Use Act of 1978 (Public Law 95-620) is amended—

(1) by inserting "(other than any outdoor lighting fixture which was installed before the date of the enactment of this Act for use in connection with a residence and for which natural gas was being provided on such date of enactment)" after "use in outdoor lighting", and

(2) in subparagraph (C), by striking out the dash and all that follows through "residence," and inserting in lieu thereof "any municipal outdoor lighting fixture".

(b) Section 402 of such Act is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f)(1) For the purpose of discouraging the use of natural gas for outdoor lighting, each local distribution company which is subject to subsection (a) or (b) shall, in accordance with rules promulgated by the Secretary—

"(A) establish a reasonable and simple method, as determined by each such company, by which the company shall periodically inform its customers about the amount of natural gas consumed by outdoor lighting and the annual cost of such gas for such lighting; and

"(B) report to the Secretary the method established under subparagraph (A).

A company may establish a method which provides for reporting such information on the basis of estimates where actual information is not readily available.

"(2) The Secretary shall propose the rules referred to in paragraph (1) as promptly as possible after the date of the enactment of this subsection, and such rules shall take effect not later than the ninetieth day after they are proposed. In promulgating such rules, the Secretary shall, to the greatest extent feasible, consult with the appropriate regulatory authority of the States and the local distribution companies who will be subject to the rules.".

Chapter D—NUCLEAR REGULATORY COMMISSION PROGRAM SAVINGS

SEC. 2841. (a) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017) and section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), for the fiscal years 1982 and 1983 to remain available until expended $486,572,600 for fiscal year 1982 and $514,665,400 for fiscal year 1983 to be allocated as follows:

(1) Not more than $74,797,800 for fiscal year 1982 and $78,280,000 for fiscal year 1983, may be used for "Nuclear Regulatory Regulation".

(2) Not more than $61,513,000 for fiscal year 1982 and $62,564,600 for fiscal year 1983, may be used for "Inspection and Enforcement".

(3) Not more than $17,591,000 for fiscal year 1982 and $17,630,000 for fiscal year 1983, may be used for "Standards Development".

(4) Not more than $45,766,000 for fiscal year 1982 and $47,059,600 for fiscal year 1983, may be used for "Nuclear Material Safety and Safeguards".

(5) Not more than $227,301,200 for fiscal year 1982 and $247,136,400 for fiscal year 1983, may be used for "Nuclear Regulatory Research".

(6) Not more than $18,757,200 for fiscal year 1982 and $20,197,800 for fiscal year 1983, may be used for "Program Technical Support".

(7) Not more than $40,846,400 for fiscal year 1982 and $41,797,000 for fiscal year 1983, may be used for "Program Direction and Administration".

(b) The Commission may use not more than 1 per centum of the amounts authorized to be appropriated under paragraph (5) of subsection (a) to exercise its authority under section 31 a. of the Atomic Energy Act of 1954 to enter into grants and cooperative agreements with universities pursuant to that section. Such grants should be made with the Commission paying close attention to opportunities for entering into agreements with appropriate historically predominantly minority universities and research centers. Grants made by the Commission shall be made in accordance with the Federal Grants and Cooperative Agreements Act of 1977 and other applicable law.

(c)(1) Not more than $500,000 of the amount appropriated for a fiscal year to the Nuclear Regulatory Commission under any paragraph of subsection (a) for purposes of the program specified in that paragraph may be used by the Commission in that fiscal year for purposes of a program referred to in any other paragraph of subsection (a), and the amount available for appropriations for a fiscal year for purposes of any program specified in any paragraph of subsection (a) may not be reduced for that fiscal year by more than $500,000.

(2) The limitations on reprogramming contained in paragraph (1) shall not apply where the Commission submits to the Committee on Interior and Insular Affairs and the Committee on Energy and Commerce of the United States House of Representatives and to the Committee on Environment and Public Works of the United States Senate a notification containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied on in support of such proposed action, and if—

(A) each such committee, before the expiration of a 30-day period, transmits to the Commission a written notification that the committee does not object to the proposed action; or

(B) a 30-day period passes during which no such committee transmits to the Commission a written notification that the committee disapproves of the proposed action.

The 30-day period referred to in this paragraph shall commence upon the receipt by each such committee of the notice referred to in the preceding sentence. In computing such period there shall not be taken into account any day in which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain or an adjournment sine die. Each committee referred to in this paragraph may approve or disapprove a proposal of the Commission under this paragraph in such manner as such committee deems appropriate.

SEC. 2842. Moneys received by the Commission for the cooperative nuclear research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended.

SEC. 2843. During the fiscal years 1982 and 1983, transfers of sums from salaries and expenses of the Nuclear Regulatory Commission may be made to other agencies of the United States Government for the performance of work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriation so transferred.

SEC. 2844. Notwithstanding any other provision of this chapter, no authority to make payments hereunder shall be effective except to the extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 2845. (a) Of the amounts authorized to be appropriated pursuant to paragraph (7) of subsection (a) of section 2841, such sums as may be necessary shall be available for interim consolidation of Nuclear Regulatory Commission headquarters staff offices in the District of Columbia and, to the extent necessary, in Bethesda, Maryland.

(b) No amount authorized to be appropriated under this Act may be used, in connection with the interim consolidation of Nuclear Regulatory Commission offices, to relocate the offices of members of the Commission outside of the District of Columbia.

SEC. 2846. Of the amounts authorized to be appropriated under section 2841, the Nuclear Regulatory Commission may use such sums as may be necessary to issue temporary operating licenses for nuclear power reactors as provided in section 192 of the Atomic Energy Act of 1954, as amended, except that such temporary operating licenses may be issued—

(1) in advance of the conduct or completion of any hearing required by section 192 or by section 189 of such Act, and

(2) without regard to subsection (d) of such section 192 and the findings required by subsection (b)(3) of that section.

SEC. 2847. Of the amounts authorized to be appropriated under section 2841, the Nuclear Regulatory Commission may use such sums as may be necessary to issue and make immediately effective amendments to licenses for nuclear power reactors where the Commission determines that an amendment involves no significant hazards consideration. Such an amendment may be issued and made immediately effective—

(1) in advance of the conduct and completion of any required hearing, and

(2) without providing the prior notice and publication in the Federal Register referred to in section 189 of the Atomic Energy Act of 1954.

In all other respects the amendment shall meet the requirements of the Atomic energy Act of 1954.

SEC. 2848. Of the amounts authorized to be appropriated by section 2841, such sums as may be necessary shall be used by the Nuclear Regulatory Commission to recommend legislation and regulations which if taken together would reduce by one-half the time for the filing, review and issuance of construction permits, operating licenses and license amendments for a facility for which an application is filed on or after October 1, 1981, under sections 103, 104(b), or 189 of the Atomic Energy Act of 1954, as amended.

(b) The recommended regulations and legislation shall be transmitted to Congress pursuant to this section on or before December 31, 1981, along with a report on each of the proposed regulations and legislation which describes their expected impact on reducing and stabilizing the time required to issue construction permits, operating licenses, license amendments, safety assurance, judicial review, staff resources, and public participation.

SEC. 2849. Of the amounts authorized to be appropriated under section 2841 for the Office of Nuclear Materials, Safety and Safeguards, such sums as may be necessary shall be used by the Nuclear Regulatory Commission to promptly enter into a memorandum of understanding with the Department of Energy specifying interagency procedures for the disposition of radioactive materials resulting from the cleanup of Three Mile Island Unit 2, except those materials approved for disposition prior to the effective date of this Act.

SEC. 2850. Of the amounts authorized to be appropriated under section 2841, the Nuclear Regulatory Commission may use such sums as may be necessary, in the absence of a State or local emergency preparedness plan which has been approved by the Federal Emergency Management Agency, to issue an operating license for a nuclear power reactor, if it determines that there exists a State, local, or utility plant which provides reasonable assurance that public health and safety is not endangered by operation of the facility concerned.

SEC. 2851. No funds authorized to be appropriated under this chapter may be used by the Commission to promulgate or publish a safety goal for nuclear reactor regulation until public hearings have been conducted by the Commission respecting the establishment of such safety goal. Development of a safety goal for nuclear reactor regulation should be expedited, to the maximum extent practicable, so as to allow for the establishment of a safety goal by the Commission no later than December 31, 1981.

EXTENSIONS OF REMARKS

FUNDING BATTLE FOR THE ARTS

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. YATES. Mr. Speaker, the newest Democratic member of the Appropriations Subcommittee for the Department of the Interior and Related Agencies is the distinguished gentleman from Oregon, Mr. AUCOIN. In a few short months, through diligence and hard work, LES AUCOIN has become expert in the intricacies of the Forest Service and the Departments of Interior and Energy, programs vital to the First District of Oregon and to the Nation. As chairman of the subcommittee, I am especially pleased with the excellent work he has done in every area of our subcommittee activity. I enjoyed reading his recent remarks before the Third Annual Convention, National Assembly of Community Arts Agencies and I believe my colleagues will enjoy them, too:

IT'S A QUESTION OF VALUES

Despite some grim headlines, I want you to know that you're not without friends in Washington. Your friends are there. They're waiting to help you. And when it comes to this funding battle for the arts, they are in the struggle to the end.

You can't fully appreciate this struggle until you move to the appropriations committee, as I did this year after three terms in Congress, and discover this fascinating syndrome the government seems to be in when it comes to military spending. There is a blind compulsion to match the Soviet Union dollar for dollar, regardless of the item. We seem to feel safe not for any intrinsic reason but only if we match the Soviet Union missile for missile, tank for tank, jeep for jeep, pistol for pistol, helmet for helmet, canteen for canteen.

But as ridiculous as this thinking is, I started to think about the advantages. And I was led to the perfect solution to the funding crisis for the arts—make General Haig Chairman of the National Endowment!

Next, we could reveal the fact that over the last several years, the Kremlin has engineered a quiet, steady build-up in the arts. I checked with the CIA. Did you know that the Russians are outspending us in the arts by a margin of 7-to-1? That the Soviet Union is supporting a standing force of a half a million artists? Why, if these trends continue, America could become a "second rate" artistic power. What red-blooded American congressperson would stand still for that?

Seriously, there's nothing magic about a budget. No matter what anyone may try to say, you fund what's important and you cut what's not.

David Stockman justified his savage cuts in the NEA budget by saying the arts "are a low-priority item." Well, I'm in a position to see all the competing claims of worthy programs for limited budget resources and I totally disagree with David Stockman. The arts are not a low-priority item, they're a high-priority item.

Twenty million dollars in military aid to El Salvador—that's a "low-priority" item. Twenty million more that was found for this year's appropriations bill for nerve gas manufacturing—that's a "low-priority" item. Millions more in price supports for agriculture—that's a "low-priority" item. Taken together, the savings from these low priorities would fund the full budget for the Arts Endowment and then some.

As I said, in budgeting, you fund what's important and you cut what's not. It's all a question of values.

And that's the thing to remember as we pursue this fight for funding for the arts. This isn't just an argument over numbers. A budget is more than that. A budget is a dollars and cents statement of national objectives—a dollars and cents definition of who we are and what we care most about.

So what we have here is a philosophical issue that hasn't been clearly seen through the discussion over the arithmetic. But if you think for a second that it isn't philosophical, consider the following words of one of the high priests of this administration, Interior Secretary James Watt.

On March 9, in a speech in Washington, James Watt said: "We (the administration) are going to use the budget process as an excuse to fundamentally redirect American policy."

If one traces where the dollars come from in this budget and where they go, this "redirection" of policy can be seen as fundamental, indeed. Let me plant some numbers in your minds. Our military spending in this fiscal year will be $162 billion. President Carter, as he left office, left behind a budget for fiscal year 1982 that called for an increase from $162 billion to $194 billion. A lot of us thought that was an ample, generous, significant increase. President Reagan, not to be outdone, proposed military spending at the level of $226.3 billion for fiscal 1982.

A budget of $226.3 billion is nearly what it cost to finance ten years of the Vietnam war when this country was on an active, wartime footing. The military costs of those ten years came to $240 billion.

If this trend continues over the next five years, the military will spend something like $1.3 trillion—the most incredible buildup in military expenditure in history.

Is such a budget an adequate statement of our political values? I don't think so. And I don't think the American people will think so when they understand—as they will—the relationships involved here. Or, when they understood—and you and I are going to ensure they understand—that this nation is spending $600 per person on the Pentagon * * * and 70¢ per capita on the arts.

It was this preposterous disparity that prompted a choreographer from New York to deliver some of the best testimony I heard on the arts budget.

He noted that the Navy proposed 37 new, nuclear submarines—300 feet long and $1 million per foot. Sizing this up, he made a modest suggestion: shorten the subs by one foot and give the savings to the arts! He predicted the Navy wouldn't notice that their subs were only 299 feet long. "It's my observation," he said, "that things look larger submerged underwater."

What makes this so funny is how well it shows the distance the arts have fallen as a White House priority. So do these words of President Johnson: "Art is a nation's most precious heritage. It is in our works of art that we reveal to ourselves, and to others, the inner vision which guides us as a nation. And where there is no vision, the people perish."

That expresses why each of us is personally responsible for seeing this fight through, regardless of the difficulty.

I wish I could tell you that, with redoubling of your efforts, the arts budget could be spared. Instead, I must tell you that you will have to work harder than you imagined possible to simply keep the cuts from being crippling. But if we can limit the reductions to the range of 15 to 20 percent we will have kept the NEA budget at a subsistence level and the significance of this is that the basic structure will have been kept alive to thrive in another day. Believe me, another day will arrive.

I'm sure your spirits must be particularly flagging right now, given the confusing twists and turns the battle over dollars is taking. Let me review the bidding; if you understand the process it doesn't seem so fruitless.

First, understand that the administration has committed itself to a budget of no more than $700 billion. If at any point the economy falters and revenues fall short, OMB will automatically propose new reductions—rescissions—in already-appropriated funds. The apparently unflinching nature of the administration's commitment to this policy means that, in effect, this year's budget will remain an open book until the year ends. And this is why, after being told that the arts would not be hit by this year's rescissions, the word now is that they will be affected in yet another, still unannounced package of rescissions in current year funds.

This, in turn, means that we may have the unusual task of fighting over the appropriations for two fiscal years at once—the current year's and next year's. On top of this is a new process called "reconciliation" through which the Budget Committee instructs the program authorization committees to lower ceilings in various functional categories of the budget. This deals with current year funds, too, and it means that you must influence the Labor and Education Committee as well as the Appropriations Committee in order to be sure of funds you had thought were secure for this year.

Finally, there is the tightness of the fiscal 1982 budget resolution the administration pushed through the Congress. It didn't cut a single dollar in and of itself. It did instruct the Appropriations Committee to make cuts in certain functional categories for next fiscal year. This complicates the task of adding dollars because offsetting cuts must come from other accounts which are already severely reduced.

I believe there will be enough flexibility, though limited, to fend off a devastating

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

budget blow. I certainly feel, no matter how bad the situation proves to be, that there is support within my committee to go as gently as possible on the NEA's Program Fund which is so crucial to the states.

That's the lay of the land. It's not pretty but it need not be devastating. What it really means is that the arts community can no longer relax on the political sidelines. It can no longer sit on its hands. It's one thing to write your Congressmen and Senators—but it's infinitely better to send the right people to Washington in the first place.

It also means "going public"—going directly to the people. Congress responds, sometimes to a fault, to what it thinks public opinion is.

Our task now is to work within the halls of Congress, yes, but also to mobilize public opinion to our cause. Only then will we be dealing from a position of strength. So this means in addition to writing to members of Congress, it's important for you to form community speakers bureaus to take the case to the local Rotary Club; it's important to write letters to editors and give detailed, substantive briefings to editors and editorial boards in hopes of editorial page support; it means scheduling articulate spokesmen on radio and TV talk shows; it means these and a hundred other things to create a public climate for the arts that will be irresistable for the Congress.

That's how to deliver the message. Fortunately the message, itself, is compelling. The NEA budget represents 3/100th of 1 percent of the federal budget; decimating this program is not going to bring us closer to economic recovery. The NEA is not a program for the "elite," as Mr. Stockman contends; indeed, the surest way to consign the arts to the "elite" is to slash this budget. I have no doubt that the Metropolitan Opera will survive such a slashing, but it would mean a denial of funds for small communities, rural areas, schools and critical experimental projects. What is more, the work of the NEA stimulates giving in the voluntary, private sector—it doesn't supplant it. Corporate giving, during the lifespan of the Endowment, has increased from $22 million in 1967 to $450 million in 1980.

The arts also mean economic growth. Two cities in my native state are examples. Ashland, Oregon—a small community near the California border—has developed one of the finest Shakespearean theatre programs in the country. Beyond the obvious cultural dividends for the community, this has also created a very positive economic dynamic for the town.

I grant that not every town can be an Ashland, Oregon. But almost any city can follow the example of Eugene, Oregon. Eugene had the vision to launch a performing arts center in the downtown center of the city. The result will be: economic rebirth of a deteriorating urban core. New private business investment has already been triggered within the area by this imaginative project.

Those are the economic arguments and fiscal arguments for the arts. I mentioned earlier that what we're really dealing with is an issue of philosophy.

But, I tell you we can win on that basis too. The case was articulated best by President Franklin Roosevelt, whose words are more critically relevant today than they were in 1939 when he spoke at the dedication of the New York Museum of Art. Listen to his words:

"The conditions for democracy and for art are one and the same. What we call liberty in politics results in freedom in the arts. Nourish the conditions for a free life and you nourish the arts, too. In encouraging the creation and enjoyment of beautiful things we are furthering democracy itself."

That is what this fight is about. Those ideas are what's at stake. That's why the effort has to be made. And if we care about the world that we're defining it's up to you and me to make this effort.●

FUEL FROM BIOMASS PRODUCTION INCENTIVE ACT

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. DASCHLE. Mr. Speaker, along with Representatives HEFTEL, ALBOSTA, FITHIAN, EVANS of Georgia, and FENWICK, I am today introducing legislation to encourage the production of fuel from our Nation's abundant and renewable biomass resources. Two years ago Congress recognized the importance of promoting the production of fuel from alternative sources and extended incentives to encourage the production of several types of fuel including oil from shale, oil from tar sand, gas produced from biomass, and solid fuel from wood and wood waste. This legislation would extend that same incentive to solid fuel produced from biomass resources other than wood and wood wastes such as flax residue, rye grass, peanut hulls, and bagasse.

It remains necessary for us to encourage the production and use of alternative fuels. Our Nation is still critically dependent upon imported energy resources and we are all too frequently reminded of the vulnerability of those supplies. By extending this incentive to our renewable biomass resources, we will be serving the purpose of saving our conventional nonrenewable energy resources and making this Nation more energy independent. We cannot afford to ignore this efficient, renewable, abundant, and domestically produced source of fuel.

I hope this body will join us in support of the legislation we are introducing here today. I am pleased that Senator RUSSELL LONG, chairman of the Senate Finance Committee has introduced similar legislation in the Senate.●

NUCLEAR PROLIFERATION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 24, 1981, into the CONGRESSIONAL RECORD:

NUCLEAR PROLIFERATION

There are several global problems that cannot be solved unless nations act together. One of them, recently highlighted by Israel's air strike against an Iraqi nuclear facility, is the uncontrolled proliferation of nuclear weapons. My contact with constituents in the days since the Israeli raid suggests to me that people have been reawakened to the very real danger of nuclear proliferation. One evening a few weeks ago I heard a speaker discuss the danger at length while a large group of Hoosiers listened with great care. Hoosiers clearly recognize the basic issue: how to establish international mechanisms to contain nuclear proliferation before it engulfs us.

That 15 nations could quickly join the "nuclear club" is a substantive concern of international politics. The club today consists of the United States, the Soviet Union, the People's Republic of China, Great Britain, and France. South Africa and Israel may be "covert" members. Although India has exploded a nuclear device, it has apparently not progressed any further. Pakistan will probably detonate an atomic bomb in the near future. Many countries, such as Canada, Italy, Japan, West Germany, Sweden, Belgium, Switzerland, the Netherlands, and Spain, could become nuclear powers, but apparently they do not have such an ambition. Other countries, such as Argentina, Brazil, South Korea, and Taiwan, bear watching, and many more may try to make nuclear weapons unless there is a new policy to stop proliferation.

Of the nations in the nuclear club, the Soviet Union, China, and Great Britain have had "clean" records in avoiding the spread of nuclear weapons. The United States and France are constantly accused, and constantly accuse one another, of promoting the spread of nuclear weapons. Any attempt to fix the blame for proliferation, however, may be largely beside the point. The clean record of the Soviet Union may soon be in jeopardy because of an agreement to build a nuclear reactor in Libya. Moreover, several countries are thought to be rather careless about how they police their nuclear technology.

The record on nuclear proliferation could be much worse. Thirty-five years have passed since the first atomic bomb was used by the United States in warfare. Despite earlier fears that these devices would spread rapidly, the world has witnessed surprising restraint. Nuclear technology is now in the hands of more than forty nations, but only a few have decided to construct nuclear weapons. An elaborate set of international covenants and institutions has discouraged the proliferation of nuclear weapons.

President Reagan's campaign rhetoric to the effect that nuclear proliferation is "none of our business" was profoundly disturbing to me. I was pleased to hear him say in his latest news conference that the control of atomic weapons should be a dominant interest in world politics. I trust that the President will soon address the problem with the seriousness it deserves. Every Chief Executive since the dawn of the nuclear age has wisely made prevention of the spread of nuclear armaments a fundamental goal of American foreign policy.

Over the years our policy toward nuclear weapons has changed. At first we called for the abolition of nuclear weapons. Then we enforced a code of strict secrecy covering nuclear know-how. Still later we promoted peaceful uses of nuclear energy in return

for safeguards against diversion of nuclear technology or material to military uses. The latter policy was strengthened by the Nuclear Non-Proliferation Treaty, and accord which the United States signed in 1968. The treaty provides that nations not possessing nuclear weapons will agree not to acquire them and will install international safeguards in all civilian nuclear facilities. In return for these concessions, the nations will be given access to nuclear technology for peaceful purposes. Unfortunately, there have been problems with the procedures set up by the treaty. Some nations have not signed, doubts have grown about the adequacy of the safeguards, and increasing amounts of nuclear materials have moved into international trade.

In recent years it has been our policy both to try to delay or block the construction of reprocessing plants (which make one kind of material used in nuclear weapons) and to seek out ways in which nations can cooperate to develop the atom for peaceful ends. The question is whether such a policy can be sustained. Concern about uncontrolled nuclear proliferation is growing because an increasing number of countries have the technological skills and the economic resources to produce nuclear weapons. The challenge of the 1970's was to stop nations from obtaining nuclear weapons. The challenge of the 1980's will be to stop nations from using them.

Faced with a large number of countries that are developing a nuclear capability, the United States must use a broad mix of measures to keep nations from acquiring nuclear weapons and to limit their capacity to build them. These measures would include economic assistance, security commitments, deployment of military forces, transfer of arms, efforts to halt the construction of nuclear facilities, and steps to promote international inspection. We must do our best to prevent a "scramble" for nuclear weapons by working with other countries to maintain the Nuclear Non-Proliferation Treaty. Also, we must discourage nuclear proliferation in particular instances where it seems likely to occur.

We cannot expect total success, but we can hope that the exercise of effective leverage will decrease the rate of nuclear proliferation.●

IMPACT IN MICHIGAN OF ADMINISTRATION'S BLOCK GRANT PROPOSAL

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. CONYERS. Mr. Speaker, the administration's effort to consolidate nearly 100 categorical programs into 7 block grants is an expression, plain and simple, of its determination to eliminate a meaningful Federal role in improving the quality of life of disadvantaged Americans. Along with the substantial reductions in domestic programs, it signifies a major reordering of Federal roles, responsibilities, and priorities that have developed over the past four decades.

The block grant proposal, initially, was justified on the grounds of reducing Federal spending. That turns out to have been a smokescreen. The administration's massive defense buildup and its inflationary impact and the recent statement of the Secretary of the Treasury that eliminating Federal deficits is not the uppermost priority indicates that the assault on Federal human resource programs is based on other considerations—chief among them, the total rejection of Federal responsibility in redressing the inequalities of income, opportunity, and resources that exist in society.

Of all the implications of administration's block grant approach, two are particularly grave. It would eliminate all national standards of program performance and would aggravate further the considerable insecurities and intergroup tensions that already have arisen in the past several years.

Past experience with block grants—LEAA, title XX social services, and the community development block grant program—demonstrates the lack of accountability and the failure to evaluate programs in the light of their legislative mandates. Given the scarcity of resources that exists at all levels of government, there is also no reason in the world to expect that the States will be inclined or in a position to continue these programs, especially since Federal funding levels in virtually all cases would be cut by 25 percent.

The damaging impact of a shift to block grants is well illustrated in an analysis of the effects on child and family programs in the State of Michigan. The reality is driven home in the following letter that I received from Mr. Gerald G. Hicks, executive director of the Michigan Federation of Private Child and Family Agencies. I urge my colleagues to review the following letter and accompanying documents before they decide on the block grant question.

DEAR REPRESENTATIVE CONYERS: A 25-percent cut in social services programs would have a disastrous effect on Michigan's services to children and families. Survey responses from approximately 30 agencies—about one-fourth of Michigan's children and family agencies—reveals a dollar loss of $3,997,736 for Title IV-E, and $356,515 for Title XX programs and projects. These figures do not reflect the potential impact if the states do not have to match the new block grant funds. We urge you to take a careful look at the figures and hope that you will realize that these funds cannot be made up from private sources, and therefore, the programs will in fact be reduced. The serious economic situation in Michigan has greatly increased the need for these programs, and we cannot afford a loss of federal financial participation.

We urge you to take the following action:

A. Retain the existing social services titles and implementing legislation, and reject lumping these programs into a block grant;

B. Accept budgetary cuts that would reflect 1981 fiscal expenditure levels, which is, of course, a substantial cut in overall funding;

C. Urge HHS to simplify the regulations under which these titles are carried out to a level consistent with the actual wording of the existing statutes.

Further, we point out to you that there is already a block program in social services, and that block program is Title XX. We do not believe that this title should be expanded, nor incorporate other substantive legislation such as the Child Welfare Amendments of 1980, or the Juvenile Justice and Delinquency Prevention Act. To allow a consolidation into one social service block grant is to deny the validity of the directions taken by Congress over the past 15 years.

We believe the above is a reasonable approach, and does not thwart the efforts of Congress to move towards a balanced budget.

Thank you for your consideration and your continued support of children and family services in Michigan.

Sincerely,

GERALD G. HICKS,
Executive Director.

ATTACHMENT I

Title XX—Actual case examples of cases served that might be cut:

Whaley Center.—Two state wards, previously abused—failed in several foster homes will remain in institutions or long-term foster family care.

Family and Child services of the Capitol Area.—Mother—two preadolescent sons—first conceived as a result of rape—second the father deserted. Mother on ADC—essentially helpless—socially and economically. Needs counseling to become a productive citizen and parent to the children.

Bethany Christian Services.—Marginally functional families reported to Protective Services on charges of abuse or neglect.

Children's Aid Society, Detroit.—Children serviced by the Special Family Problems Services staff are those children who have traditionally been placed in temporary shelter placements for long periods of time. Early intervention services are necessary to effectively deal with sexual abuse cases. Our experiences have shown us that early contact with the child and family, followed by comprehensive services to the family can safely prevent long-term placements in foster care or residential placements and that this is beneficial to both the child and family. Continuity of services provided by a single agency is both cost effective and results in less emotional damage to the child. Placement outside of the home for extended periods will result in larger numbers of children who are victims of sexual abuse being traumatized, isolated from their families, and perhaps, become emotionally damaged to the extent that they will require years of services to repair the emotional damage.

ATTACHMENT II

Give several case examples of impact on children of the 25 percent cut in ADC—Foster Care Funds.

Lutheran Children's Friend Society of Michigan.—In several instances, we would be unable to maintain intensive family foster care placements.

Family and Child Services of the Capital Area.—We would not be able to serve these kids—all 65 have similar story. These kids won't get served.

The Salvation Army Booth Memorial.—We are the only residential home for pregnant girls serving the city of Detroit. Many girls will have nowhere to go; girls and babies will be in jeopardy with lack of health facilities, housing and nutritional food. Mortality rate of both mother and

child will probably increase. There will be emotional scars and children unprepared to be parents. Child abuse will be a real threat in more cases.

Bethany Christian Services.—In the course of a year, approximately 48 less children needing protection would be placed in foster care through this agency.

Lakeside.—If cuts were implemented by reducing the number of children placed, it would be likely that some children needing care could not be served. For most of the children we serve, this would ultimately result in their entry into the legal/judicial system at a later age with more failures under their belts. Treatment, then, would be longer, more expensive, and probably less effective. It is likely that society would then have to deal with these "older youngsters" in prison settings and state hospitals. If lack of placements reduced our utilization rate, income to maintain program quality would suffer, or the cost per client day would have to be increased.

If cuts were made by reducing rates paid for service, income would probably be inadequate to maintain current program and staffing levels. It is unlikely that private fund raising efforts would generate sufficient income to provide acceptable service levels.

Teen Ranch.—They'll be back on the street, as there is not a suitable home.

Boys Republic.—This kind of financial cut would undoubtedly render our agency inoperable. Current fiscal problems have been discussed with personnel and they are realistically facing the economic conditions of Michigan. Decreasing the budget by one quarter would not allow sufficient staff for the program to control, train and treat appropriately youngsters who have been in trouble with the law.

The Salavation Army Edwin Denby Memorial Children's Home.—96.7 percent of all revenue is from ADC.

A. Would reduce licensed capacity to 25 from 40, or

B. Reduce staff by 60%, or

C. Maintain staff level, and have $16,000 for all non-employee expenses.

Based on 1980 experiences, Denby would be able to accommodate 80 fewer children with a 25 percent reduction in revenue. (Down 19 percent) Shelter beds are not plentiful. 1980 occupancy rate was 92.9 percent. With our almost total dependence on ADC funding, survival is questionable at best.

Children denied shelter beds because none are available would be: A. Left in their homes? B. Kept in the precinct lock up? C. Placed in the youth home?

A 25 percent reduction in funding would return Denby to Pre 1978 funding level. Pre 1978, Denby was licensed for 35 beds; is now 40 beds.

St. Vincent Home for Children.—The major impact of a 25 percent cut in ADC-F Foster Care funds would hit the St. Vincent Home by $103,624.43 on an annual basis. The Home could not absorb a financial loss of that magnitude. I am afraid we would have no choice but to close our doors and stop serving children.

Children's Aid Society, Detroit.—Anna, age 9, was in foster care since birth and a permanent ward since 1975. Developmental lags, especially in language resulted in conflicting or ambiguous diagnoses ranging from retardation to autism, and in spite of repeated exchange referrals and media presentations, Anna, remained in foster care. Early in 1981, an exhaustive effort at understanding Anna's current functioning and potential was undertaken which involved the foster care worker in, at minimum 36 hours in one month to participate with a Developmental Disabilities Specialist in testing and observation of Anna. A videotape was made of Anna performing tasks and in interpersonal interaction. With this information and visual presentation a potential adoptive family was interested in Anna and she is moving quickly satisfactorily through the pre-placement process.

The proposed cuts would increase foster care caseloads to the point that the necessary investment of time and other resources used in this case would not occur and a return to the socially and financially costly "maintenance" model of foster care would be inevitable.

OTHER COMMENTS

Catholic Social Services of Oakland County.—Title III Federal dollars $23,900; Supportive Counseling to the Elderly; Serves 571 people; 25 percent reduction: $17,900; Clients affected: 200.

CETA Programs.—Title IIB Federal dollars $268,000; Senior Work Experience Program; Employs 120 people; 25 percent reduction: $214,400; Number affected: 24.

Title VI Federal dollars $13,500. Funds on position within agency utilized as telephone intake worker.

Child and Family Services of Michigan—Holland Branch.—Substance abuse services.—Outpatient counseling, and prevention education.

	Outpatient	Prevention
Government funds (Federal and State)	$70,800	$47,200
25 percent reduction	$17,700	$11,800
People served (1980)	328	5,547
25 percent reduction	82	1,387

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CALL TO CONSCIENCE CONGRESSIONAL VIGIL

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. MAZZOLI. Mr. Speaker, for a number of years I have been participating in the congressional vigil to improve emigration opportunities for Soviet Jews. I would again like to bring to the attention of my colleagues the continued plight of the Beilin family.

Mr. Yakov Beilin is trained as a forestry technician. He is married and has one son. Since 1974 the family has been repeatedly seeking permission to immigrate to Israel where Mr. Beilin's elderly mother resides.

Unfortunately, Yakov Beilin and his family have been repeatedly denied their request.

Mr. Speaker, I hope the Soviet Union will exhibit respect for basic human rights and privileges, as guaranteed under the Soviet Constitution and the Helsinki accord.

I hope the Soviet Union will grant approval of this request so that the Beilin family may be reunited. And, I request the Soviet Union to look sympathetically upon other Soviet families in similar circumstances.●

A SALUTE TO CLARA E. BELL

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. STOKES. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues in the House the tireless work and achievements of Mrs. Clara E. Bell from my congressional district in Cleveland.

Although most of my colleagues are unfamiliar with Mrs. Bell, I can assure them that her name, and more importantly, her pivotal work on behalf of public housing residents, are common knowledge to persons in the Cleveland metropolitan area. Her commitment to quality housing has provided a sound foundation for great strides by public housing residents. Similarly, her determination to use every method possible to attain quality housing has inspired her neighbors and associates to band together in the struggle for public housing resident rights in Cleveland.

Mr. Speaker, Mrs. Bell is the president of the Cedar Residents Council and director of the Central Advisory Council which is a tenant operated agency. Through these positions, Mrs. Bell has been both the chief advocate and positive catalyst for public housing residents in Cleveland.

Mr. Speaker, she has instilled in them her pride and quest for a quality environment and community. As a result, residents have followed Mrs. Bell's aggressive lead by doing everything from personal home maintenance to standing up for their rights as residents to proposing new courses of action for a better environment.

Adding to her list of accomplishments, under Mrs. Bell's leadership, the Central Advisory Council was awarded Federal funds. She also has worked to eradicate discriminatory and managerial inefficient public housing practices.

Mr. Speaker, the most appropriate tribute to Mrs. Bell and the one that probably means the most to her is the fact that because of her tireless struggle, the quality of the environment for most of Cleveland's 25,000 CMHA residents has improved. Through her work and inspiration to others to organize advisory councils, she has shown us all that the quality of one's environment and the right to fight for it is not bounded by race or economic class. Clara E. Bell has constructed a philosophy and example for public housing residents that will help them weather any storm.

Mr. Speaker, with those thoughts in mind, I enter an article in the RECORD on Mrs. Clara E. Bell which appeared in the Cleveland Plain Dealer:

BELL RINGS TRUE IN MAKING LIFE BETTER FOR THOSE IN CMHA UNITS

(By Richard M. Peery)

Pride has come back to the projects.

Clara E. Bell, 40, who lives with her three children in the Cuyahoga Metropolitan Housing Authority's Cedar Apartments, is convinced that is true.

Bell is in a position to know. She is president of the Cedar Residents Council and director of the larger Central Advisory Council, a tenant-operated agency that represents about 25,000 persons who live in CMHA's 12,000 apartments and town houses.

"If you don't make changes, you will be affected by the changes that others make," Bell said, when asked what motivated a divorced mother with small children and an even smaller income to become involved on behalf of her neighbors.

She wrote the proposal that prompted the federal government to award $36,000 to the advisory council two years ago.

As director, at $14,000 a year, Bell works from an office in a CMHA high-rise at 2203 E. 30th St.

"We have the only funded advisory council office in the state," she said.

As president of the Cedar council, Bell helps tenants resolve problems, involving security and maintenance and such, with the manager of the apartment complex.

If the problems cannot be solved at that level, she dons the advisory council director's hat and takes them to top CMHA management, city councilmen, even to officials of the Department of Housing and Urban Development.

Bell said she has learned since moving into CMHA housing nearly 10 years ago that she can help make changes. At that time, one of the tenant's complaints was that apartments were vacant too long between renters, causing security worries.

That problem has diminished since the tenant organizations were formed, said Bell.

"We pushed management to repair the vacancies and get people in," she said. "We recommended people we knew who needed to be in public housing."

Bell said that although cooperation from management has increased, tenants have sometimes had to employ more than mild persuasion to get their needs met. For instance, she once threatened to file a class action to remove a CMHA rule that she considered sexually discriminatory.

Until her threat was made, families were given apartments with separate bedrooms for boys older than 5, while girls were required to share their mothers' rooms until age 12.

"We got that changed last year," Bell said proudly. "It was a dumb rule."

Tenant leaders have worked just as hard to change the attitude of residents, she said. One of her major efforts has been to persuade people that public housing residents are as good as the rest of the population.

"May I tell you the equation I worked out?" she asked, then continued: "People who feel that your income equals your mentality add up to being stupid individuals."

The councils conduct workshops to teach residents about tenant laws and inform them of social services available in the community. The groups also teach them to be good tenants.

"We get them to assume responsibility and not destroy property," Bell said. "The tenants are beginning to help with cleaning up and reporting vandalism."

Although CMHA housing is not considered ideal, Bell is opposed to a plan being advanced by some county officials to use federal funds to relocate the poor throughout the suburbs.

"Housing is nothing by itself," she explained. "Supportive services are needed—schools, churches, medical facilities. If programs for the poor are cut, they will be stranded. And it will dilute our voting strength."

A natural leader, Bell served a year as chairman of the Council for Economic Opportunities. She was chairman of the CMHA tenants' council for two years, until she was unseated by residents who felt that post conflicted with her serving as the council's paid director.

Bell grew up on E. 37th St., about a half mile from the project where she now lives. After graduating from East Technical High School, she remained at home to help her mother rear six younger brothers and sisters.

Before starting a family of her own, she sang and danced in some of Karamu Theater's best-remembered productions, including "Jamaica" and "Finian's Rainbow."

"I'm a late bloomer," she said. "I didn't start having children until I was 29." She lives with a daughter, Lola, 11, and sons, Robert, 9, and Rashed, 5.

A job in a Social Security office, in which she saw the hardships caused by a late check, made her sensitive to the problems of the poor, she said.

Her own experience as a jobless single parent has not diminished her natural optimism.

"I don't stomach hopelessness," she said. "If I have to retreat, I advance to the rear instead."

Bell has just received an award from CMHA management for work in the tenants' organization. But she is looking ahead, concentrating on what still must be done.

"I want some recreation facilities at Cedar Estate," she said.●

IMMIGRATION BILL FOR MIGRANT WORKERS

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. McCLOSKEY. Mr. Speaker, I have today introduced a comprehensive immigration bill, the primary purpose of which is to legitimize a migrant worker program so that the 2 to 4 million illegal workers which we have cheerfully accepted for agricultural labor do not have to live in fear of prosecution or exploitation.

They should pay taxes, social security, and health insurance like other Americans, and they should be entitled to equal protection of the law like other Americans.

The bill is based on six concepts:

First, legitimization of a migrant worker program, allowing aliens to enter the United States for up to 8 months per year for agricultural or other employment. After 5 years of working for at least 4 months each year, the alien could seek permanent resident status with citizenship attainable 5 years thereafter.

Second, a social security card with an identifiable photograph and counterfeit-resistant identification data. Falsification or misuse of the card would be punishable by heavy fine and/or imprisonment.

Third, employers knowingly hiring illegal aliens would be subject to a $500 civil fine, $1,000 for the second violation and criminal penalties of $5,000 and/or 1 year in jail for subsequent violations.

Fourth, amnesty would be granted, allowing permanent resident alien status for illegal aliens who have been residing continuously in the United States for 2 years prior to the date of enactment, with citizenship attainable 5 years thereafter.

Fifth, the Border Patrol officers force would be increased from 2,200 to 2,800 or more. The fine for smuggling aliens would be increased to $5,000.

Sixth, bilateral consultation would be conducted with Mexico on the migrant worker program, amnesty, bilateral development and trade, and on increasing immigration quotas.●

WAR WITHOUT WINNERS

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. LEHMAN. Mr. Speaker, many of us listening to discussions about nuclear weaponry which concentrate chiefly on cost and effectiveness, have been gravely concerned about that which is unspoken: What nuclear weapons could do to our world? Many are convinced that general nuclear war would almost certainly be suicide for the United States. I would like to bring to the attention of my colleagues this summary of the "Public Interest Report of the Federation of American Scientists" which appeared in the May 1981 issue of the Scientific American.

The article follows:

SCIENCE AND THE CITIZEN

WAR WITHOUT WINNERS

Public discussions of nuclear weaponry tend to center on the cost of various weapons and on their role in military policy. What often goes unsaid is what nuclear weapons could do. In an effort to disseminate the neglected information the Federation of American Scientists has prepared a summary of the consequences of a general nuclear war between the U.S. and the U.S.S.R. The summary is published in the F.A.S. Public Interest Report.

The summary begins with a comparison. By 1985 the U.S.S.R. will have deployed roughly 6,000 nuclear warheads with explosive yields of from .8 megaton to 20 mega-

tons. The U.S. has only some 2,000 cities whose population is 10,000 or more. The 300 largest cities include three-fifths of the U.S. population. Clearly there are more warheads than large cities. Indeed, every city of appreciable size could easily be placed inside a circle in which the pressure generated by a thermonuclear explosion would amount to at least five pounds per square inch. Under that pressure a house would be destroyed. Under twice that pressure a masonry building would collapse. Every large city could therefore be leveled. Fires would be started by the heat from the explosions within a zone somewhat smaller than the one defined by a pressure of five pounds per square inch. In a larger zone, however, fires would be caused by lesser forms of damage, such as broken gas lines. The report observes "there would be so many fires that they would have to be left to burn themselves out."

In order to calculate the number of deaths that would follow a nuclear attack on the U.S., assumptions must be made about such matters as the extent to which Americans are able to avoid a lethal exposure to radiation. The F.A.S. report cites fatality estimates made by various agencies of the executive branch of the U.S. Government that were summarized by the Office of Technology Assessment in 1979. According to the estimates, "between 70 million and 160 million people would die" within 30 days. Millions more would die later. For the most part "the seriously wounded would die [because] those few rural hospitals which would still be functioning with doctors not dead or sick from radiation would have literally millions of clients. The wounded would not have anything so sophisticated as blood plasma or intensive-care units. They would be extraordinarily lucky to find medicine useful for killing pain or stopping infection." Cold weather and a shortage of food would also lead to deaths. Meanwhile the lack of clean water and working sewers together with the weakened health of the people would allow diseases to "spread as they have never . . . spread before in this country."

Urban residents who wished to protect themselves against a nuclear explosion and its immediate after effects would have to hide in elaborate, expensive shelters whose special requirements would include the provision of oxygen. Building shelters of this kind for the U.S. urban population would cost hundreds of billions of dollars. Even shelters such as these would nonetheless collapse in many cases. Shelters of lesser strength might protect against radiation. Among the immediate survivors, however, "only persons with dosimeters would have any idea how sick from radiation sickness they were likely to get or how many days or weeks they should stay in sandbagged basements." They would emerge to find their city and all its life-supporting services destroyed.

Might they leave the urban area during a period of crisis before a war began? Ironically, if they did, it might reduce the chance that the nation would ultimately recover. "It is the ratio of surviving population to [surviving] industry that should determine economic viability" in the aftermath of a nuclear war. "Saving the people without the cities" may therefore be a counterproductive strategy. In any case the Government is unlikely to order that the cities be evacuated during a crisis "lest the popular response undermine its political position by protesting the Government's intention to follow policies with a significant likelihood of nuclear war."

Evacuation and other steps intended to protect the population would encounter further difficulties. "The problems of supplying [large numbers of migrants] with food and necessities . . . would require enormous preparation, which, in itself, no administration is likely to undertake." More generally, a civil-defense program that is designed (or perceived) as an "attempt to shift the strategic balance by withdrawing hostages, so to speak, from the reach of an enemy attack" is bound to "suffer the consequences of all strategic moves in the arms contest: some reciprocating action." One Russian response could be the deployment of still more warheads. Another and more immediate response would be a retargeting of the warheads already in place.

The U.S.S.R. could readily retarget. Since three-fifths of the U.S. population live in 300 cities, the U.S.S.R. could allocate 10 warheads to each such city and still retain half of its warheads (as of 1985) for attacks on purely military targets. The F.A.S. report dismisses the argument that a nuclear war would remain limited to military targets. For one thing, attacks directed solely against U.S. land-based missiles "would produce between five million and 20 million deaths. . . . The likelihood of escalation from such attacks is obvious." The attacks on land-based missiles would in themselves decide nothing, "since each side would be left with strategic bombers and missile-firing submarines adequate to destroy the other."

The F.A.S. report concludes that "general nuclear war is almost surely suicide for America." The report notes that Americans "in their 40's or older remember . . . the Berlin crisis and the open threats of nuclear use in the Cuban missile crisis. But those in their 20's have largely escaped confrontation" with the emergence of "this grim situation of opposing 'deterrents.'" In an accompanying statement the F.A.S. Council announces its "promise to try to find out, on a national level, how many believe that the U.S. might win a nuclear war."●

AMERICAN BASIC INDUSTRIALIZATION NATIONAL DEFENSE ACT

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. BAILEY of Pennsylvania. Mr. Speaker, I submit this statement at the opening of the session today to urge the Senate to act upon the vital issue of relief for our distressed basic industries.

I understand that the Senate Finance Committee members will today or this week be considering investment tax incentives. I urge them to adopt the concept of tax relief for our basic American industries.

The House Ways and Means Committee, under the capable and bold leadership of Chairman DAN ROSTENKOWSKI, voted last week to provide direct tax relief to basic American industries for reindustrialization. The committee adopted the Democratic task force proposal for extended carryback and carryforward of investment tax credits based on H.R. 3753, which I introduced on June 2. The committee package would allow six basic industries—steel, autos, railroads, mining, airlines, and paper—to collect a large portion of the investment tax credits which they have earned but have been unable to use due to marginally profitable years. These industries have made the investments to earn these credits. They have been only marginally profitable in large part due to unfair and discriminatory tax, regulatory, and trade policies which have prevented them from maintaining the capacity to compete in world markets. The investment tax credits thereby go unused and provide no incentive for further investment.

The Ways and Means Committee package provides $2.3 billion in targeted relief through the collection of these unused credits. The administration proposal in response to my original bill was a liberalized leasing concept available through regulation but not statutory definition. This proposal was not targeted to capital intensive industries where the incentive and industrial investment problems are the most critical. It is less efficient because of third party involvement in the leasing process and a myriad of other problems. This proposal alone is much more costly yet would not provide the intended results. The administration has, however, joined me in identifying the problem, for which I commend them.

The House Ways and Means Committee, as the originator of tax legislation under our Constitution, customs, and traditions, has acted. We now look to the Senate Finance Committee. The political implications of their impending action can be helpful. I hope they will incorporate similar provisions in their package.

I want to thank those Senators who have already joined me in recognizing the plight of these industries and the vital need to maintain our national industrial base. Specifically, I want to commend Senator JOHN HEINZ of my own State of Pennsylvania, who has promoted the concepts of my bill in the Senate. I urge the Senate Finance Committee to take a serious and nonpartisan look at the need for reindustrialization of the basic productive capacity of America. Specifically, I urge the Senate Finance Committee to adopt the concepts of my bill, as modified by the House Ways and Means Committee, with or without attachment to the leasing provision proposed by the administration.●

NORTHERN MARIANA ISLANDS RESIDENTS SHOULD BE OFFICERS IN U.S. MILITARY

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. WON PAT. Mr. Speaker, today I am pleased to introduce legislation which will authorize the appointment of citizens of the Northern Mariana Islands as officers in the Armed Forces of the United States.

This legislation will correct an existing quirk in the law which does not presently permit the residents of the Northern Marianas to enroll in Reserve Officer Training Corps in American universities and eventually become officers in our military. I am pleased to note that this measure has bipartisan sponsorship. The four cosponsors are Congressmen DE LUGO, COUGHLIN, LAGOMARSINO, and BEREUTER.

Last year, Congress adopted legislation introduced to permit NMI residents to serve in the military. But the Department of Defense does not interpret that bill to include the right to serve as officers to potential enlistees. I believe that this was not the intent of Congress and call on my colleagues in the House Armed Services to adopt this measure speedily to correct this obvious oversight.

Since the passage last year of my bill, it has been called to my attention that a number of young people from the Northern Marianas are currently in college level Reserve Officer Training Corps (ROTC). For those about to be graduated from college, their military career looks quite bleak unless the legislation before us is approved. It would be a shame for these young people to have gone through 4 years of tough ROTC training only to be told that they cannot serve with their fellow ROTC students as officers because of a loophole in the laws of this Nation.

This Nation certainly has a continuing need for highly motivated and patriotic young people to serve in our military as officers. My bill would provide the military with a new and important source of officer candidates and I hope that my colleagues here in the House and in the Senate will agree and give this measure their support. Thank you.●

CHANGES IN SOCIAL SECURITY NEEDED

HON. JOHN L. NAPIER

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. NAPIER. Mr. Speaker, millions of Americans have faithfully and diligently supported our social security system because they were promised it would provide a stable economic base for their retirement years. We have made a commitment to them to insure that senior citizens will be able to enjoy their retirement years without financial stress.

A concern expressed by many of my constituents in the Sixth District of South Carolina is that many of the administration's proposals will not allow adequate time for retirees to make alternative plans before going into effect. I have stated on numerous occasions that the social security system is in dire need of reform; however, I fear the present approach to reform may be too much too fast.

An astute newspaperman, Marlboro Herald-Advocate editor-publisher William L. Kinney, Jr., of Bennettsville, S.C., has long been an observer, interpreter, and reporter of the mood of the people. He has carefully listened to the citizens of the Sixth District and offers some important suggestions in an editorial dated June 4, 1981. I request that the following article be printed in the RECORD:

[From the Marlboro Herald-Advocate, Bennettsville, S.C., June 4, 1981]

CHANGES IN SS NEEDED

Congressman John Napier is holding a public forum here tomorrow afternoon to discuss proposed changes in the Social Security system with Marlboro County residents.

Napier wants to hear what Marlboro Countians think on the subject in order to know how to represent their feelings in Congress.

He has recently taken a strong stand opposing some of President Reagan's proposed changes in the Social Security system and has publicly stated that he "cannot support the Administration's package on Social Security."

Napier says there are several major problems with the Administration's proposals including the effect the proposals have on early retirees, saying, "you don't change the rules in the middle of the game."

While in no way professing to have any viable solutions to the dilemma this nation finds its Social Security program facing in 1981, there are several points we hope Congressman Napier and his colleagues in the Congress will consider:

1. Indexing of current Social Security increases in benefits seems to us to be a major problem. Why not change the way the increases are computed? The current method of providing automatic increases in benefits based on the Consumer Price Index (CPI) each year has been called extremely inflationary.

2. Why not change the factors used in computing the CPI or change completely to another system of indexing based on wage rates? Then, such a plan could provide increases based on wage rates or CPI, whichever is lower.

3. Any changes that are adopted affecting benefits for retirees should include ample prior notice in order to give those planning for their retirement adequate time in which to change their plans.

4. Napier has authored a bill to place Congress itself under the Social Security system and we think this would help Congressional members understand better the problems those under SS face.

5. Allow people who are working to continue working past normal retirement ages without a reduction in benefits and to give consideration to increasing the age for retirement benefits to age 69, but with sufficient notice to allow those most affected to make changes in their work/retirement planning.

The Brookings Institution in Washington, a large liberal research insitution, has said that Social Security is the largest single federal program with more than 90 percent of the working population participating in its benefits. Currently benefits are paid to more than 95 percent of the people 65 or older and these amount to 21.6 percent of the total outlay of government.

It is not difficult to understand how such a mammoth program has gotten out of hand. Surely, changes in the system must be found if the Social Security program is to survive.

Working Americans will tolerate only so much of their weekly paycheck going to pay retirement benefits of others.

We agree with Napier that while changes are necessary, they must be so phased in as to allow future retirees to plan their retirement well in advance of the time they expect to begin drawing their Social Security retirement benefits.●

WE REMEMBER HIRSH SCHWARTZ—MR. SCHULENBURG

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. PICKLE. Mr. Speaker, one of the finest and most active leaders of the 10th Congressional District recently passed away. Hirsh N. Schwartz of Schulenburg, Tex., left quite a mark on his community. We have lost a respected friend.

Hirsh Schwartz' list of accomplishments would take several pages, single spaced. At the time of his death, Hirsh was the mayor of Schulenburg, a post he held with distinction since 1965. Just last month, he received the Outstanding Senior Citizen Award for Fayette County, which came years after his Outstanding Citizenship Award from the Schulenburg Chamber of Commerce.

Hirsh Schwartz was active and involved in numerous civic pursuits. He was past president of the Colorado Valley Shrine Club. He was chairman of the board of the Shriners Orthopedic Hospital; chamber of commerce president or vice president for 12 years; deputy district governor of the Lions district, as well as local Lions Club president; master of the local Masonic lodge and active statewide in the Masons.

Mr. Schwartz helped organize the local Lions Club, Veterans of Foreign Wars, and Schulenburg Industrial Foundation. He helped secure a grant for a local mental health-mental retar-

dation facility, and he supported the construction of a low-income housing facility for senior citizens.

Hirsh Schwartz' funeral was held at Temple Israel in Schulenburg. On the building's cornerstone was his name—Hirsh was president of the congregation when the temple was built.

Hirsh was a kind and responsible businessman who has time to be a civic workhorse and everybody's friend. He was also a devoted family man, as his widow, Felice, and three daughters can attest.

Hirsh Schwartz demonstrated how a first generation American could adapt to the rules and patterns of a close knit community, while maintaining his religious, ethnic identity—and how a kindhearted man became a pillar of the community who kept the human touch.●

AIR FETE '81 MEANS * * *

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. CHAPPELL. Mr. Speaker, on my recent visit to the USAF's 513 Tactical Airlift Wing, located at RAF Mildenhall, England, I read a letter in the base newspaper which was written by a British lady after her visit to the base's annual air show—Air Fete '81. It was the sixth year that Mildenhall has staged an air show, the first of which celebrated the American Bicentennial in 1976. This year 110,000 people attended the 2-day event which featured 6½ hours of flying each day. Five North Atlantic Treaty Organization (NATO) countries joined the United States in providing 123 aircraft for the flying and static displays, making it one of the largest international events sponsored by the USAF worldwide. I feel the letter sums up the value of these shows in promoting the United States and NATO forces to the civilian populace, and would like to share it with you.

AIR FETE 81 MEANS * * *

EDITOR'S NOTE.—As always, many, many letters have arrived following the air show. To print each one would take a book, but this letter adds them all up nicely.

Dear Sir, I felt I should write on behalf of myself, my teenage son and the rest of our coach party to thank everyone at Mildenhall base for the wonderful day we had there on May 23.

My son and I get few jaunts and jollities and I had looked forward to it with the anticipation I used to reserve for Christmas when I was small.

To wake to that Saturday's weather was a sad blow. Colin and I lurched out of the coach onto the windswept, rainswept tarmac clutching our camera bag of sandwiches—without which no English Day Out is complete—and started to laugh at the sheer insanity of the exercise. It says a very great deal for the organization of the entire Fete that despite the incredibly awful weather we had one of the happiest and most stimulating days we have ever known.

We are both besotted with aircraft (an obsession that drove my teachers to distraction in the war as I simply switched off everytime an aircraft flew over), and the flying was amazing.

The sheer variety of craft in the air and on ground display was a marvel—from the most light weight to the Galaxy, the reality of which my mind still refuses to accept. (Don't forget, I was brought up on the Hampden, the Wellington and the Hudson!) The ear and the eye were bombarded by excitements.

And the nose too! I have never smelled such an air show—spare ribs and hamburgers, sweet corn and baked potatoes, coffee and chicken and tacos.

I've wanted all my life to go to America but though I travelled around on a shoestring when I was young, I never got there and now never will. But that old ache has been massaged! In some ways now I feel I have been there. I think all your visitors must feel the same. It was wonderful to experience American courtesy and good humor first hand.

Your men were incredibly kind and patient. Colin was vastly amused by my asking for burgers, corn and tacos. (I must have been insane to bring cornbeef sandwiches!) Outside Mildenhall I have a middle-of-the-road English accent—but it sounded most odd inside. More likely Lady Penelope! I wonder if the gentlemen serving us knew the effort it needed to ask for a chili dog? And all the travellers' tales are true—your burgers bear no relation to ours at all. They are superb!

I had never spoken to Americans before and was almost unnerved by their courtesy and verve. I scarcely dared approach the "Dallas" counter and was even more shaken by the charm and helpfulness of any young man who seemed to have strayed from M*A*S*H. I was immediately converted to America. Any murmurings about the stalls were, I think, from the invading English saying "Aren't they NICE?"

In all that doleful weather everyone on the base seemed to remain friendly and optimistic. I am a rather large Englishwoman and need to watch what I eat, but I threw all reason to the winds and ate corn and burgers and drank coffee till my head sang. And at the very last moment I found tacos. Colin was aghast and the gentleman on the stall was amazed that I only wanted one—but I fulfilled an ambition and have tried them at last.

We thought seven and a half hours—especially in such weather—would be far too much. But it wasn't. We left in a cloud of euphoria, stuffed with American food to the gills, our skulls reverberating to the noise of engines and our minds full of American phrases and American good will. I hope you all enjoy being here—despite the rain—as much as we enjoyed our first real contact with America. It can do nothing but cement a friendship between the two countries.

The sun had come out and we bowled home not through the grey blur of our morning journey but a blaze of greenery. On the Suffolk border the most marvellous, complete, bright rainbow I have ever seen, even in Ireland, appeared. A huge arc over the luminous green fields and woods. Just the way to complete one of the best days we have ever had. On normal dull days I shall savour it.

Thank you all very much.

Sincerely,

PAM BROWN.

P.S.—Every American we spoke to really was an advertisement for his or her country. If there were any discourteous ones, they weren't in sight. Do you put them in the cells for the day?●

THE U.S. VIRGIN ISLANDS—STRIVING FOR ECONOMIC SELF-SUFFICIENCY

HON. RON de LUGO

OF VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. DE LUGO. Mr. Speaker, in the past few years the U.S. Virgin Islands has—just like the mainland United States—been beset by economic difficulties. Inflation, high interest rates, and a generally stagnant economy have all taken their toll on the people and businesses on the islands of St. Croix, St. John, and St. Thomas. In addition, the Virgin Islands has had to accept a very large share of cuts in Federal assistance.

Instead of sitting back and merely complaining about the situation, however, the people of the Virgin Islands are fighting back. We are striving for economic self-sufficiency, and I predict we will win the fight.

This past week two articles appeared in a local Washington newspaper which describes our efforts and, for your information I have had them reprinted below:

[From the Washington Post]

VIRGIN ISLANDS' STRATEGIES TO COUNTER INFLATION'S TOLL

(By Dorothea S. Michelman)

Charlotte Amalie, U.S. Virgin Islands.—While Jamaica struggles this summer on the long road back to touristic health, the U.S. Virgin Islands are feeling a little pain but still smiling and hoping for the best.

On St. Thomas, St. Croix and St. John, the message is clear: Hotel and restaurant business has dropped by about 40 percent since the close of the Caribbean winter high season in Mid-April, a greater decline than for the same period in recent years.

Even "The American Paradise"—as the Virgins proudly bill themselves on island license plates, signs and posters—must now reckon with the economic realities of inflation, ever-rising costs of goods and services and a shortage of discretionary dollars for vacation spending by more cautious "statesiders."

Viewed from the capital of this U.S. Caribbean outpost, the Virgins would seem to have everything going for them. This year, well over one million travelers are expected to vacation here. Some 85 percent of those visitors will be from the United States, the rest from Europe, Canada and Central and South America, and their stay on the islands can mean as much as an additional $300 million in vitally needed revenues.

Tourism is the islands' leading industry, accounting for an estimated 35 percent of all economic activity. When the Caribbean Tourism Association ranked 20 travel desti-

nations in the area on "attractiveness, friendliness, cleanliness, popularity and safety," the U.S. Virgins placed first in all categories. Political stability has played a major role in making these islands a long-favored tourist attraction, and the occasional outbreaks of crime in the recent past cannot be compared with the violence that shattered Jamaica.

The lack of nonstop flights to the islands, other than from Miami, and the currently inconvenient schedule of interisland commuter flights, combined with a steady rise in air fares, are a major cause of the drop in the number of passengers arriving by air, according to James Pobicki, director of policy planning and research for the Virgin Islands Department of Commerce.

In addition, the cruise ship business, which has been on the upswing here for the past four years, may be sailing into rougher waters. Pobicki foresees a 3 to 4 percent drop in passengers arriving by sea during the winter cruise season.

Hoteliers are "holding down prices through this year and the 1981-82 winter season," says Betty Sperber, of the moderately priced ($30-$45 single, $35-$55 double, summer/fall season) King Christian Hotel at Christiansted, St. Croix. "It's a big problem because fuel prices increase regardless, and we have a minimum wage law, and all other expenses continue to grow at their normal inflationary level. But because we're in the Caribbean, we have to compete with others. Haiti pays $1.80 a day for their help and we pay $3.55 an hour," she pointed out.

Pat Venckus, sales manager for the Virgin Isle Hotel ($48 single, $63 double, summer/fall rates) overlooking Charlotte Amalie harbor, looks at another side of competition: "The only problem that I see right now is our air fare, and I think we got a lot of cooperation in the past six months from the airlines . . . We had one [Capital Airlines] come into San Juan and offer a very low fare for the off season. That started competitive rate-lowering between Eastern and American Airlines. I think the market today is looking for that competitive spirit and travelers will shift their vacation to the area that's happening in.

"Our hotel is going back to the 'mom and pop' operation," Venckus says, "sharing secretaries, cutting labor costs. We're taking a hard look at labor. We can't cut our power or our food costs, but our service won't suffer because management is now taking a more active role."

Other changes are taking place. St. Croix airport is undergoing modernization. And by 1983, St. Thomas should have a new facility capable of handling wide-bodied aircraft.

Then there's Leona Bryant, energetic new director of the U.S. Virgin Islands Division of Tourism. Bryant, the first native-born person to hold the director's position, is currently developing an ambitious Caribbean Cultural Program. Starting with the winter season, 30 to 50 young people, ages 15 to 21, will offer island visitors a program of native dancing and singing; the intent is eventually to publicize the Virgins on tours abroad.

In still another tourism initiative, high school students on St. Thomas and St. Croix will be trained under a comprehensive study program in economics, conservation, architecture and cultural heritage to serve as guides on walking tours. A hotline (809)773-4470 operates 24 hours a day to provide answers to tourists' questions and handle complaints.

These are hopeful signs for visitors and Virgin Islanders alike.

Virgin Islands Unveils Economic Incentives

(By Scott Chase)

Emphasizing the economic stability of the U.S. Virgin Islands, Commissioner for Commerce Amadeo I.D. Francis recently unveiled here the islands' new campaign to attract light industry and new capital investment.

"In the U.S. Virgin Islands, we have developed a package of incentives which, I believe, compare with or top those available anywhere," said Francis, adding that the islands "look forward to a stepped-up industrialization program which will provide us with a wider economic base designed to account for 15 percent of the islands' total employment by the year 2000."

Among the industrial incentives now being offered are 90 percent tax-free subsidies of corporate income taxes, customs duties and other taxes, and 100 percent exemptions from property and gross-receipts taxes and from excise taxes on building materials and construction.

To qualify for the economic incentives, an individual or corporation must invest at least $50,000, not counting inventory, in an eligible business. Eligible businesses include, among others, manufacturers engaged in assembly (such as watches or medical equipment), processing of raw materials or products and manufacturing. Agriculture, transportation, utilities, hotels and certain recreational facilities are also eligible. The business must provide fulltime employment for at least 10 residents of the Virgin Islands.

Amerada Hess, Martin Marietta, Timex, Bulova and Waltham, among others, have already established operations under various incentive plans.●

POLAND'S DEBT IS RESCHEDULED

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. HAMILTON. Mr. Speaker, I wanted to share with my colleagues some statistics I requested and received from the Department of State concerning the budgetary impact on our country of the debt rescheduling we have undertaken for Poland.

The dramatic events in Poland have taken an economic toll on Poland and its people. In recognition of those economic difficulties, our country has taken several steps to provide some useful assistance.

First, Poland received the largest allocation to any country of Commodity Credit Corporation (CCC) agricultural guarantees in fiscal year 1981. That was $670 million. These credits facilitate Polish purchases of American agricultural products and then the credits are repaid to us.

Second, in April, Poland's food supplies were low and our Government authorized the sale of $71 million in surplus dairy products (30,000 tons of dried milk and 30,000 tons of butter) and accepted payment in Polish currency.

Finally, our Government in coordination with other West European governments rescheduled repayments of debts owed us by Poland for the remainder of 1981. The budgetary impact of this for us will be $274 million in fiscal year 1981 and $85.4 million in fiscal year 1982.

A breakdown of the budgetary impact figures follows:

POLISH DEBT RESCHEDULING—BUDGETARY IMPACT FOR FISCAL YEAR 1981-82

[In millions of dollars]

	Fiscal year 1981	Fiscal year 1982
A.I.D.	2.1	0.9
Principal	2.0	0.8
Interest	0.1	0.1
CCC	271.9	84.5
Principal	228.2	74.6
Interest	43.7	9.9
Total	274.0	85.4
Principal	230.2	75.4
Interest	43.8	10.0

Note: EX-IM bank will also reschedule $19 million. This will have no budgetary impact according to an OMB ruling.●

ROY "DOC" JONES—SHOESHINE ARTIST

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. STOKES. Mr. Speaker, it is a great pleasure for me to bring to the attention of my colleagues the shoeshine artist of Cleveland, Mr. Roy "Doc" Jones. At the age of 77, Mr. Roy "Doc" Jones is the dean of the downtown shoeshine specialists.

Because of his established expertise in this craft and his insightful philosophy and advice to his customers, we affectionately call him "Walkie Talkie." For over 70 years, Roy "Doc" Jones has served up what we call mirror shoeshines, delightful wit, and impeccable advice to his customers.

As a result of this, Mr. Speaker, people from all over Cleveland and from out of the country keep coming back to Roy "Doc" Jones. His work is always superb. His personality is effervescent. His positive philosophy about life is infectious. These qualities add up to a memorable experience for every person who sits in Roy "Doc" Jones' shoeshine stand.

Mr. Speaker, Roy "Doc" Jones always preaches that he has never asked for a handout from anyone. This is true. He is a proud man. He has lived comfortably and educated his children without any outside help.

Roy "Doc" Jones has never depended on anyone for help. However, most of his customers, consciously or unconsciously, have depended on him. In response, Roy "Doc" Jones has given them a treat even if it was no more than a friendly smile, a cheery saying, or a good piece of old-fashioned advice. In that respect, Roy "Doc" Jones has made life a lot better for his customers.

In closing, Mr. Speaker, Roy "Doc" Jones is many things. He is a master of his craft. He is as much a fixture in the Hughes & Hatcher store where his shoeshine stand is located as he is in the hearts of many Clevelanders. Indeed, Mr. Speaker, the man I call Walkie Talkie—Roy "Doc" Jones—is a master of his profession, a gentleman and philosopher.

At this juncture, I would like my colleagues to pause and join me in saluting Roy "Doc" Jones of Cleveland. With your permission, I would like to insert in the RECORD, an article on Mr. Jones which appeared in the Cleveland Press.

POLISHED PERFORMERS: THEIR SHINING EXAMPLES ARE ALL AROUND

A growing number of business executives are polishing up in downtown Cleveland.

They're putting their best feet forward with shoe shines.

"It gets better every day," said Roy "Doc" Jones, who has been shining shoes in downtown Cleveland for 56 years. "I've been shining shoes since I was six years old, and I'm 77 now. That's 71 years, right?"

Jones, who operates a two-seat stand in the rear of the Hughes & Hatcher store at 1007 Euclid Ave., said he has worked throughout the downtown area.

"I started at Nunn-Bush, worked Taylor's, French Shriner and a few other class stores," said Jones. "Some of my customers today are grandchildren of my first customers. I have a very loyal following."

No wonder. Jones, who is pictured in top hat and tails on the wall behind his neat stand, has the ability to put a mirror finish on a pair of business shoes. He charges $1.25 for a shine; $1.50 and up for a pair of boots; $2.50 for a refinishing job; and $5.50 and up to dye a pair of shoes.

"I used to charge a nickel," laughed Jones, "but things got tough, and I had to raise the prices.

"I have customers all over the world," he continued. "Ireland, England, Italy, Japan, Africa, all over."

Jones claims his biggest tip was $50 from a "high roller on Short Vincent St. back in the '50's."

"Most of my customers give me anywhere from $1.50 to $2 for a shine. A few pay $5. One man brought in a pair of shoes two months ago, gave me a $20 bill and said he would be back to pick them up. He still hasn't come back, but when he does, his shoes will be shined and ready for him."

Claiming he has never lost a pair of shoes since he was in business, Jones said he has earned enough in his career to help put two of his sons through college.

"Shining shoes is a lost art. Most of the shoes today are man-made leather, and they're more difficult to shine than real leather. Real leather shoes cost from $150 to $200 and even higher, so you don't see that many.

"I love to be near the action, and downtown Cleveland has plenty of that," laughed the dean of downtown shoe shine specialists. "I'm proud of my skill at shining shoes and at entertaining people," he continued. "I've never had to ask anyone for a handout, and I think I've made life a little better for a lot of my customers."

Although he's been shining shoes only six years in the Leader Bldg. Barber Shop at E. Sixth St. and Superior Ave., 39-year-old George Vaughn has earned quite a reputation and following.

"There might be less expensive shoe shines in the downtown area, but there are none better," claims Joe Collier, East Ohio Gas Co. vice president.

A Vaughn shoe shine is priced at $1.25, and boots are shined for a quarter more.

Vaughn's overflow is handled by Hubert Brown, who has been shining shoes in the Leader Barber Shop for three years. The shop also includes a barber and manicurist, as well as original sketches by former Press artist, Lou Darvas.

Quickest and least expensive shoeshine downtown is in the basement of the Union Commerce Bldg. at E. Ninth and Euclid.

Three shoeshine specialists man eight chairs, which are very seldom empty. A large sign leading into the stand advertises shoe shines for ladies and gentlemen at 50 cents.●

40TH ANNIVERSARY OF THE ACT OF JUNE 30, 1941

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. ASHBROOK. Mr. Speaker, June 30, 1941, will mark the 40th anniversary of the historical moment when the restoration of the Ukrainian State was proclaimed in Lvov.

How and why did the proclamation of the act come about? What results and significance derive from this important event?

After centuries of enslavement, the Ukrainian state was restored at the close of World War I by the Universal of January 22, 1918, which was followed by the Act of Union of January 22, 1919. These acts brought the unification of all Ukrainian lands into one sovereign and independent state—the Ukrainian nation. But the armed struggle of the Ukrainian people to sustain these historical acts of January 22, 1918 and 1919, met with defeat. The imperialistic neighbors of the Ukraine again parceled the Ukrainian territory, divided it among themselves, and enslaved the Ukrainian people. Regrettably, world opinion apparently approved these acts of rape and violence upon the Ukraine and considered the status of the country's enslavement as a legitimate expression of the new political and juridical order.

But the Ukrainian people never accepted this status of enslavement and foreign domination. Having no possibility for continuing regular armed struggle, the Ukrainian people resorted to other methods of strife: they adopted a new revolutionary method whereby they continued the struggle against the occupants and for a free and independent state of the Ukrainian people.

The leading body and actual spirit of this dynamic revolutionary and political force became the Ukrainian Military Organization (UVO), which in 1929 was transformed into a powerful political movement, the Organization of Ukrainian Nationalists (OUN). Through its systematic revolutionary struggle and through the sacrifice of some of its best members, and comprising in their ranks representatives of all Ukrainian classes and social strata, the UVO and the OUN acquired a full moral right to be the spokesman and voice of the entire Ukrainian nation.

When World War II moved onto Ukrainian territory, it created there a new situation and a new political status. Communist Russia succeeded in seizing the western Ukrainian ethnographic territories which heretofore were under the domination of other foreign occupants and brazenly announced to the world that these Ukrainian lands, like the central and eastern Ukrainian lands before, had voluntarily joined Communist Russia and were willing to remain permanently as a component part of the Soviet Union.

In June 1941, Nazi Germany attacked the Soviet Union with the purpose of conquering Ukraine and other non-Russian nations and making them the colonies of Hitler. Following the well-known pattern of Moscow's deceit, Hitler's Germany announced that it came to liberate Ukraine from the Russian Communist yoke and to take it under its protection.

These pronouncements of Hitler could not deceive the Ukrainian people who could not wait until the final outcome of the war between Nazi Germany and Communist Russia. To wait helplessly would have been to renounce the liberation struggle of the Ukrainian people and to accept a priori the subjugation by whoever emerged the victor. Moreover, the Ukrainian people could not ally themselves with either occupant of the Ukrainian lands, unless he officially recognized the right of the Ukrainian people to independence and that he would respect such a right. Any collaboration with the enemy would only serve to compromise the good name of the Ukrainian people and tinge it with the stigma of collaboration either with Nazi Germany or Communist Russia.

Under these exceptional circumstances a new declaration of the Ukrainian people about their national objectives and aspirations, and their attitude toward both belligerents who

waged the war on the Ukrainian national territory, became a historical necessity.

The Ukrainian people manifested such a political declaration by the act of June 30, 1941. By proclaiming through this act the restoration of the Ukrainian state, the Ukrainian people officially announced to the world that the ultimate objective of their national aspirations and struggle is a free and independent Ukrainian state, and furthermore, that the Ukrainian people strongly desire to live in peace and harmony with all their neighbors who will respect the will of the Ukrainian people, and that they are determined to wage an uncompromising struggle against anyone who will dare to violate the will of the Ukrainian people.

The proclamation of this act under these circumstances, when a part of Ukraine was under the occupation of Nazi Germany and a larger part under the domination of Communist Russia, was a bold revolutionary move on the part of the entire Ukrainian nation and it could be proclaimed only by a powerful, uncompromising revolutionary force. Such a powerful and dynamic force was the Organization of Ukrainian Nationalists under the leadership of Stepan Bandera, which at that critical turn of Ukrainian history assumed the leadership of the revolutionary forces of the Ukrainian people.

Nazi Germany revealed itself immediately to be an implacable enemy of the restoration of the Ukrainian independent state. Therefore, when after the first month of confusion it became clear that Nazi Germany invaded Ukraine only to make it its colony, the OUN declared an uncompromising war against Nazi Germany and organized its own armed force, the Ukrainian Insurgent Army (UPA).

The creation of the Ukrainian Insurgent Army for the armed struggle in the defense of the Ukrainian statehood restored by the act of June 30, 1941, found powerful support from the Ukrainian people as a whole. The ranks of the UPA were filled with the best sons of the Ukrainian nation, representing all Ukrainian lands and all Ukrainian social strata and political parties. The armed struggle of the UPA against Nazi Germany constituted an all-national plebiscite, through which the Ukrainian people as a whole manifested their wholehearted support of the act of June 30, 1941. By shedding the blood of their best sons who died under the banners of the UPA, the Ukrainian people inscribed in the historical annals of World War II their undying determination not to be slaves of either Nazi Germany or Communist Russia, but to wage unfailingly the struggle for the liberation of the Ukrainian people and the establishment of a free and independent state of Ukraine.

Thanks to the act of June 30, 1941, and armed struggle against Hitler's Germany which it engendered, the Ukrainian people succeeded in preserving the purity of their struggle, both in the eyes of the Ukrainians themselves and the opinion of the world at large. This in turn strengthened the moral fortitude of the Ukrainian people so that they were able to turn their arms against Communist Russia after the defeat of Nazi Germany.

The proclamation of the act of June 30, 1941, and the restoration of the Ukrainian state despite the plans of Nazi Germany, and the subsequent anti-Nazi struggle of the Ukrainian people under the banners of the UPA, constitute undeniable proof for the whole world that the enemy-inspired myth that the Ukrainian liberation struggle was a German intrigue, was sheer propaganda slander, inasmuch as the Ukrainian people, regardless of political setbacks, have always aspired toward their full and unqualified independent state to be led and governed by Ukrainians alone.

I support the resolution commending these valiant patriots and their commemoration of the act of June 30, 1941, which will be offered by my esteemed colleague, the gentleman from New York (Mr. GREEN), we must never forget.●

A TRIBUTE TO JAMES S. WEAR: A TRUE NEWSPAPER PROFESSIONAL

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. GUARINI. Mr. Speaker, on July 1, 1981, James S. Wear, an outstanding newspaperman, will retire after 50 years of dedicated service. James Wear has been associated with the Newhouse organization for the past 32 years and was named publisher of the Jersey Journal in 1967.

He combines the qualities of integrity and a healthy skepticism that mark a true professional in the newspaper field. In addition to his expertise at Hudson County's largest daily newspaper, Jim Wear has been an excellent community leader. He has given his time and talent to many charitable organizations and has assisted in countless fundraising drives conducted by organizations dedicated to providing help and assistance to thousands of individuals throughout our region.

Although he worked part time on a weekly newspaper in Pennsylvania during his junior and senior years in high school, Jim dates his career from 1931 when he started work as an editorial department copyboy at the Harrisburg Telegraph. In 1934 he joined the advertising department of the Patriot and Evening News.

From 1944 to 1946 he served in the U.S. Army Air Corps, becoming public relations officer for Drew Field, Third Air Force in Tampa, Fla.

Jim Wear, prior to being named publisher of the Jersey Journal in 1967, was general manager of the Post Standard in Syracuse, N.Y. He has held other important positions, such as advertising manager for the Newark Star Ledger from 1955 to 1974; advertising manager for the Jersey Journal from 1951 to 1955; and promotion manager for the Patriot and Evening News in Harrisburg, Pa. from 1949 to 1951.

Jim is associated with a number of Hudson County civic and charitable organizations and is also a member of the Board of Directors of the New Jersey Press Association.

He and his wife, Minnie, have three children and during November 1981 celebrated their 47th wedding anniversary. Jim and Minnie Wear, residents of Union City, N.J. since 1967, are members of St. Michael's Monastery Church in Union City.

Mr. Speaker, on Friday evening, June 26, 1981, more than 100 of his coworkers will attend a formal dinner in his honor to be held at Dineen Hall, St. Peter's College in Jersey City. Those people will be representing the millions of people who have been touched by the talent and skills of Jim Wear.

Jim has always been a firm believer in the integrity of the fourth estate, strongly advocating freedom of speech and expression everywhere in the world. He believes every person has the freedom to worship God in his own fashion without direction, without interference. He believes in the strength and freedom of our Nation and he is one who recognizes the major contribution a free press makes to those freedoms. He believes that "America is a tune which must be sung together."

He has performed his tasks over the years with the confidence born of success and the skill born of experience.

Mr. Speaker, I am asking my colleagues to join with me in this tribute to James Wear. He is a man deserving of our tribute, and by his example he has given living meaning to the old proverb that "the reward of a thing well done is to have done it well."

We in New Jersey will miss Jim's active, day-to-day influence on the world of the printed word. But we are richer for having known him and the examples he has set will inspire not only those of us privileged to be his contemporaries, but also all those who first get newsprint on their hands as they embark on the noble profession of journalism.

The newspaper world must give him up, but the community will be looking forward to even more of his time and attention in the years to come.●

IN DEFENSE OF ISRAEL: AIR STRIKE LEGITIMACY UPHELD, F-16 DELIVERY URGED

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. LUKEN. Mr. Speaker, in the wake of the Israeli air strike against the Iraqi nuclear reactor, the United States should not allow itself to slip into a knee-jerk response to the Israeli action. It is not enough to condemn Israel because we abhor violence, just as it is not enough to praise her because she is an ally and a democracy.

Instead, we must consider the action in its context and ask the question: Was the Israeli air strike a justifiable use of force? While that may be difficult to answer objectively, there is little doubt about the answer to a related question: Was the strike an act of self-defense? The answer, in my view, is "yes."

We do not condone violence and we do not condone war, but we recognize that acts of war are sometimes necessary for survival. Israel's strike was nothing less than an act of self-defense, an act of survival. Despite misleading and even hypocritical disavowals by Iraq, the IAEA, and even the U.S. State Department, there is little doubt that Iraq intended targets of these bombs: Israeli cities.

One need only to consider Iraq's insistence on a plant design requiring weapons-grade uranium, and its purchase of "hot cells" use to separate plutonium for use in bombs from this uranium. One need only consider President of Iraq Sadam Hussein's statements last August when he expressed his desire to "destroy Tel Aviv with bombs." Indeed, Iraq has considered itself in a state of war with Israel since 1948.

Mr. Speaker, if the Israelis had not dared to strike the Iraqi facility, it may have been possible for Iraq to make good on its threats, and soon. And if the Israelis had not struck before the reactor was activated, which could have been as early as July, any air strike would have endangered hundreds of thousands of innocent Bagdhad citizens with hazardous radiation fallout.

Given Iraqi threats and its history of support for international terrorism, Israel's aloneness and vulnerability in the Middle East, and the fact that two or three atomic bombs could utterly destroy the tiny State of Israel, it is little wonder that after years of fruitless diplomacy, Menachem Begin's government reluctantly authorized the Israeli strike.

This view of the strike, coupled with the strategic importance of a strong, free and democratic Israel to the United States, provided a compelling case to end the suspension on the delivery of the additional F-16 aircraft to Israel. With several of my colleagues, Mr. Speaker, I have sent a letter to the President urging him to permit the delivery of these aircraft.●

IN HONOR OF HAROLD A. EATON

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. FORSYTHE. Mr. Speaker, today I rise in honor of one of this country's great Americans. His name is not well known outside of New Jersey, but his neighbors and those with whom he has worked readily recognize his contributions. American Legion members know him well, as do those individuals who work with the Boy Scouts of America. But those who know him best are Boys Staters from the past 36 years. His name is Harold A. Eaton, although he is more commonly known as "Chief."

Chief has been the director of the American Legion Jersey Boys State since its inception. I have personally known Chief for many years and can say that I have never met anyone who is as dedicated to making a program work as he is.

Chief exemplifies the ideals of citizenship, patriotism, and participation in government which the Boys State program attempts to instill in the young men of this Nation.

He is loved and respected by his coworkers in the Boys State program and by the American Legion, as well as by the Boys State participants themselves. He always listens before making a decision, and I have never known him to prejudge anyone or anything.

Most importantly, he has faith in his work and in our country's young people. His lifelong dedication to New Jersey's Boys State program has helped insure that our American democratic traditions will be passed from one generation to another.

I am proud to know Chief and pleased, during this 36th session of New Jersey Boys State, to have this opportunity to let all of America know how well he has served our country. Keep up the good work, Chief.●

MORE MONEY, LESS DEFENSE

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. PAUL. Mr. Speaker, I am dismayed to see that the NASA authorization bill, H.R. 1257, actually reduces expenditures for the Space Shuttle by $60 million from the President's request, and for the tracking and data acquisition program by $15 million. Both of these programs are defense related, and deserve our full support, especially since the total NASA budget is being increased from $5.6 billion to $6.1 billion.

At a time when we have indicated our willingness to sell; that is, give weapons to Communist China, and when we are extending credit to Communist Romania at 7¾ percent with no payment due for 8 years, it is unconscionable to try to save money by gutting programs vital to our own defense.

For that reason I oppose H.R. 1257. The administration opposes passage of the bill because it fails to authorize necessary funding of the Space Shuttle program, and I must agree. I think that the Congress has gotten its priorities backward. We are here to represent the American people, not the Chinese or Romanians. I cannot go along with another program that involves more American money, but less U.S. defense.●

THE KATHERINE HUFFMAN WHITE SCHOLARSHIP

HON. RICHARD C. WHITE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. WHITE. Mr. Speaker, for the past 9 years, it has been my great privilege to honor an outstanding high school graduate in El Paso County, Tex., with the Kathy White Achievement Award, an educational scholarship established in memory of my beloved late wife, Katherine Huffman White. After Kathy's death in 1972, many of her friends and I set up an educational trust, and each year since then, a deserving high school graduate has been awarded a sum of cash intended to defray the costs of higher education. Students compete for the award, and an independent judging panel selects the recipient on the basis of academic achievement, extracurricular activities, community service, and a written essay. This year's Kathy White Achievement Award winner, Lisa Aign Rodriguez of Austin High School in El Paso, is the embodiment of the criteria set forth for the award:

"* * * outstanding qualities of character, humanity, personality, and leadership * * * the mutual respect of her parents, teachers, and fellow students." Lisa's excellent essay, "The Message I Want To Send to the President," is one that I would like to share with my colleagues.

THE MESSAGE I WANT TO SEND TO THE PRESIDENT

In recent years, the United States has fallen from her high seat on the throne of power to a position where she is no longer highly admired, feared, and respected. This dilemma is caused by many factors which can be and are being solved at the present.

One of our country's major problems, I feel, lies in the field of national defense. For a long time, up until the recent draft reinstatement, our country relied on volunteers to protect her. Although we did not engage in any wars, we were placed in a position of insecurity—not knowing how our troops would hold up both physically and mentally in battle. It is my opinion that the draft is necessary for the redevelopment of the United States. I feel that the actions taken by the President will not only improve air, naval, and army defense, but the economic status of our country will benefit, too. There is no doubt that a feeling of responsibility concerning our country's affairs will develop in the general public.

From the viewpoint of today's youth, it is vital that we have someone to look up to and admire. At the moment, such a leader would have to regain the confidence and respect of foreign countries. In order to achieve this, the United States must stand firm with the decisions made by the President. We must again be taken seriously by no longer being indecisive and undiplomatic in foreign relations.

I believe that we are headed back to our position as one of the world powers under the guidance of our new President. With the cooperation of the rest of the country, I am ready and willing to support the President in putting the United States where she belongs.

LISA AIGN RODRIGUEZ.●

THE FEDERAL FIREARMS REFORM ACT OF 1981

HON. JOHN L. NAPIER

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. NAPIER. Mr. Speaker, on Monday, March 30, the Nation was shocked and outraged by the senseless attack on President Reagan that left him and three others seriously wounded. The assassination attempt raised a number of questions: Is Presidential security adequate? Is protection of civil liberties a valid issue when the protection of the life of the President is at stake? Should more severe gun control laws be adopted?

It is this last question that I would like to address. As a concerned citizen, I do not believe additional Federal gun control laws are the answer to the problem of violence in the country. I do not see any reason to try to further control people who abide by the law; and it is my belief that more restrictive gun control legislation would do just that. Rather than increasing controls placed on average citizens, I feel that we should reassess our present laws to determine their effectiveness. In consideration of the need to be less stringent on our law-abiding citizens, I have cosponsored H.R. 3300, the Federal Firearms Reform Act of 1981, introduced in this Congress by Congressman VOLKMER of Missouri. This bill will modify those provisions of the 1968 Gun Control Act which allows agents of the Bureau of Alcohol, Tobacco and Firearms to abuse the rights of the public. At present, many law-abiding Americans—gun collectors and gun owners—are being subjected to unnecessary surveillance procedures. I do not feel that gun control laws which primarily affect law-abiding citizens are the solution to our problem of violent crime.

It is time we stopped protecting the criminal at the expense of Americans who obey the law. Our focus should be on the people who use the guns to commit crimes—not necessarily on the weapons.●

AGREEMENT ANNOUNCED ON ITEM PRICING

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. GARCIA. Mr. Speaker, I submit for the RECORD the following article on item pricing by my friend, Assemblyman Jose E. Serrano of the South Bronx, New York, chairman of the Assembly Committee on Consumer Affairs and Protection, which exemplifies the effectiveness of grassroots lobbying. This bill, which will affect virtually all New York citizens, will require food stores to price mark each item offered for sale to better facilitate comparison shopping by the consumer. It pleases me when bills like this one are produced, because they demonstrate that the people we are all here to serve can and do get directly involved in the legislative process.

AGREEMENT ANNOUNCED ON ITEM PRICING

Assemblyman Jose E. Serrano (D-L, S. Bronx) today announced agreement had been reached on a bill to extend item pricing in New York State for another 4 years. Item pricing requires food stores to individually price mark each commodity offered for sale.

Serrano, Chairman of the Assembly Committee on Consumer Affairs and Protection, cited the groundswell of public support as a chief factor in bringing about the compromise. "This issue touches more people in their daily lives than perhaps any other we have dealt with," Serrano said. "The grass roots support for this law shows consumerism is alive and kicking."

According to Serrano and Senator Joseph Bruno, Chairman of the Senate Consumer Protection Committee, the compromise measure would: exempt "Mom and Pop" food stores with less than $3 million a year in gross sales; exempt sale items for a period up to seven days; exempt 3 percent of a store's inventory, but the store would have to maintain a list of those items. The list will be available at the store for consumers and for the Department of Agriculture and Markets for enforcement purposes; exempt items less than 3 cubic inches, 3 ounces, and under 50 cents. All other items sold in food stores would have to be individually priced for the next 4 years.

"Item pricing has become a way of life for shoppers in our state. I am pleased the Senate has at last agreed to continue this protection." Serrano said.

"Without item pricing, consumers would find it difficult to comparison shop. In an era of inflationary food price hikes, we could not afford to let that happen." Serrano concluded.●

THE MOSLEM BOMB

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. MARKEY. Mr. Speaker, yesterday, the President of Iraq, Saddam Hussein, called on all nations of the world to assist him and other Arab countries to obtain atomic bombs, "in one way or another."

Mr. Speaker, this outrageous statement must be publicly rejected by the President of the United States. Iraq, along with Libya and Syria, are on the State Department list of countries which support international terrorism. If these countries obtain nuclear bombs, the world will face international anarchy.

I am writing a letter to President Reagan asking him to impose a worldwide embargo on all nuclear technology sales to Iraq. By their own words, the Iraqis have declared that they do not want nuclear technology for any peaceful or legitimate energy purpose. They want nuclear power in order to make atomic bombs to drop on Tel Aviv. We cannot tolerate an epidemic of nuclear bombs in the Middle East.

Mr. Speaker, I would introduce into the RECORD a copy of excerpts from the speech by Saddam Hussein.

[From the New York Times, June 24, 1981]

EXCERPTS FROM SPEECH BY IRAQI PRESIDENT

Regardless of Iraq's intentions and capabilities at present and in the future, any country in the world which seeks peace and security, respects peoples and does not wish those peoples to fall under the hegemony or the oppression of external foreign forces should assist the Arabs in one way or another to obtain the nuclear bomb in order to confront Israel's existing bombs. This will realize and achieve peace regardless of the Arabs' aims and capabilities.

The Zionist entity and its allies are afraid of the new educational and scientific structure of the individual within a clear political framework and course that will make any

Iraqi proud of his experiment and that will make him protect it and place it in service of the entire Arab nation.

I do not believe that the Americans or the Soviets will now use the bomb against each other. The Americans and the Soviets and also others are always endeavoring to develop their weapons through nuclear technology for military purposes. However, this can be an open discussion with the public. This discussion is not aimed at dealing with the Arabs as those who have created a precedent, because the Arabs do not possess nuclear weapons, but with Israel because Israel does possess nuclear arms. All experts and all those concerned with atomic weapons and the Middle East admit that Israel possesses a number of nuclear bombs.

IRAQ'S DEVELOPMENT

What terrified Begin was our scientific, cultural, human, political, economic, social and educational development and our sound concern with knowledge, since we consider this to be one of the basic assets for building a new society and for achieving development and impregnability, whether this asset is used to ward off threats or to achieve the happiness of the individual. This made Begin spend sleepless nights.

Once again Begin drew connections—not through present intentions but through expected results—between our fighting against the Persians and achieving victory in this battle and his defeat and the defeat of his ambitions in Palestine, by saying that the Iraqis want to occupy Abadan in order to occupy Jerusalem later.

There is no obvious connection between Jerusalem and the occupation of Abadan. However, there is a historical connection and a connection in psychological and practical results between the Iraqi Army's steadfastness on the front and the Arab potential that will confront Begin, if God wills it. Prominent among those who confront Begin will be the Iraqis.

All Arabs must realize that even if all the Arabs were to recognize so-called Israel now with secure borders, including all the occupied Arab territories, and were to respect this state and remain committed to their obligations or capitulate to Israel, the Zionist entity would not accept a state which forbids it to continue expanding at the expense of Arab sovereignty, but would interfere even with roads someplace in Saudi Arabia and ask that their direction be changed under the pretext that they pose a threat to the Zionist entity, that they are a military threat or something which Israel cannot accept. They will ask the Arabs to cancel the study of chemistry, physics, mathematics and astronomy in the curriculums of their colleges and high schools because they give the Arabs knowledge in the military sphere, thus threatening Israel's security. Israel's interference will be such as to ask for the change of Amirs and to replace them with others, to change kings and to replace them with others, to change presidents and to replace them with others, to change ministers and to replace them with others. Israel's demands may even go to the extent of asking that an elementary school principal be replaced because he brings up his students in a national and pan-Arab way. They will even try to make the Arabs rewrite their history or write it in a new direction, including the Prophet's history.

The Zionist enemy was fully aware that the war with Iran would continue for another month. Undoubtedly, some other international quarter had been cooperating with the Zionists. This quarter must have been in the Iranian entity. Iraq, therefore, realizes that the war began to stop Iraq's progress and that is why the war is continuing.●

JAMES WATT'S LAND RUSH CONTINUED

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. VENTO. Mr. Speaker, in yesterday's CONGRESSIONAL RECORD, I shared with my colleagues the first part of the June 29, 1981, Newsweek cover story focusing on Interior Secretary James Watt. In light of the continued controversy surrounding Secretary Watt's actions, I feel that it is important that my colleagues be aware of the man and the policies he is advocating.

During this decade, many important land-use questions will have to be answered. The role that the Secretary of the Interior will play in determining land-use priorities must not be underestimated. The actions that Secretary Watt takes today will leave their mark on our environment for years to come. It is with this thought in mind that I commend to the attention of my colleagues, the conclusion of the Newsweek article on James Watt.

[From Newsweek, June 29, 1981]

(By Jerry Adler With William J. Cook and Mary Hager in Washington and Tony Fuller in Denver)

Watt has lived fifteen of the last eighteen years in Washington—always, he says, in the East but not of it. His heart is in the Great Plains—Lusk, Wyo., near the Nebraska border, where he was born in 1938; Wheatland, where his parents moved when he was in the eighth grade; Chugwater, near the farming town where his wife grew up, and which he likes to claim as a hometown because he can tell a colorful story about the name—supposedly, Indians would herd the buffalo over a bluff and the falling animals would make a "chug" sound when they hit the river bank below. His political values come with the wide-open spaces, Rev. Cummings believes: "It's a difference in atmosphere right away, and he still recalls a slight from an aide to a Democratic senator who tried to win an argument by pointing out that he had gone to Harvard Law School. Watt's big break came in 1969, when he was chosen to brief Alaska Gov. Walter Hickel for his confirmation hearings as Secretary of Interior. The memory of Hickel's hearings stayed with him. "He was so abused, personally attacked—it was vicious," Watt recalls. He also recalled that Hickel had been maneuvered into making a number of promises to his environmentalist opponents and he resolved, when his own nomination came up twelve years later, not to make the same mistake.

Watt's reward was a series of high-level businessmen and taxpayers oppressed by "extreme environmentalists, no-growth advocates, and those who 'seek more government control." Joseph Coors, the wealthy brewer, was a founder of the organization, served as its first chairman, and brought Watt to Denver as its first president.

Grazing Rights: Among Watt's targets in Denver were laws giving elderly consumers reduced utility rates—an unfair burden on everyone else, he successfully argued—and an affirmative-action program at the University of Colorado. But most of his efforts were in natural-resource cases. The foundation went into court repeatedly to open public lands to resource exploration; to expand grazing rights on Federal land, and to open recreation areas to vehicles and powerboats.

Interior Department jobs, including three years as head of the Bureau of Outdoor Recreation. In that post he was responsible for, among other things, the wild and scenic river program, and there were some environmentalists who took that as a sign of hope when Watt was tapped by Reagan. They were to be disappointed; one of Watt's first moves as Secretary was to merge the Heritage Conservation and Recreation Service, the successor to his former bureau, into the National Park Service.

Watt's Washington résumé also includes tours of duty as a lobbyist for the U.S. Chamber of Commerce and a member of the Federal Power Commission. But his most controversial job was in Denver where, from 1977 until his appointment last January, he was president and chief legal officer of the Mountain States Legal Foundation.

One case that Watt recalls as especially significant involved 35 Mexican-American ranchers who grazed their small herds on a patchwork of Federal, state and private lands along the Rio Puerco in New Mexico. The Bureau of Land Management, concerned about erosion due to overgrazing, ordered substantial cuts in the size of the herds, and the foundation successfully challenged the cuts in court. Although foundation attorney Chip Mellor says the issue was fought primarily on the narrow question of how much notice the ranchers were entitled to receive, Watt prefers to invoke the grand issue of the BLM regulating the size of herds on private as well as Federal land. "To tell people how to manage their own land—that's despicable in America," Watt says heatedly. One of the last cases Watt took before leaving Denver was an appeal to the Supreme Court to overturn the 1977 strip-mining act, which Watt now enforces. The appeal was rejected by the Court, unanimously, last week.

Watt's personal life is as conservative as his politics. He does not drink or smoke, and his taste in lunch places runs to McDonald's on the road and the Department cafeteria when he is eating alone at the office. He plays tennis and, when he lived in Denver, he liked to take his van into the mountains and camp with his family although he was never, in the words of one close friend, "someone who wants to get his boots muddy all the time." He has dated one woman in his life, the former Leilani Hombartner, whom he married when they were both sophomores at the University of Wyoming. She says her husband smarts a bit from all the criticism: "It would be macho to say he has a tough hide and it doesn't bother him, but it does." She too is a charismatic Christian and she conducts a weekly prayer group with other Cabinet wives. They have a 20-year-old daughter, Erin, and a 19-year-old son, Eric, both students at Oral Roberts University, which Watt calls "the finest Christian school there is." Eric is planning to enter the ministry, and Erin is married to a divinity student.

Budget Excuse: Watt often describes himself as in the "mainstream of the environmental movement," and he has said that he approves of the environmental laws passed during the 1970s. Except for the Clean Air Act, which expires this year and must be renewed, he has no legislative program. A draft of the clean-air proposals leaked last week indicates that the Reagan Administration intends to scale back many antipollution regulations, including safeguards against acid rain—setting the stage for a tough battle in Congress. Watt also intends to make changes in other regulations by administrative fiat. As he told the park concessionaires, in a speech not intended to be made public, "We will use the budget system to be the excuse to make major policy decisions."

A dramatic example of this tactic was the closing last week of the Denver branch of the Office of Surface Mining, which helps enforce the strip-mining reclamation law. The move is part of Watt's plan to reorganize the entire OSM, cutting the staff from 1,000 to 600. Watt ordered the office closed by Aug. 31, and told staff members to transfer to Casper, Wyo., or be fired. Many will not make the move. Said one top Denver staffer of Watt's order: "It was a vicious piece of paper." Many staffers believe they are being punished for their effectiveness in enforcing the strip-mining law; "There is a feeling," said OSM land specialist Sylvia Sullivan, "that they are trying to gut the law without any actual change in the legislation."

Watt has made it plain that he believes OSM has been overzealous. "Talk about abuse," he told the National Coal Association convention in St. Louis last week, "embodied in this one office we find every abuse of government centered in one agency, directed at one industry. What a shame." Watt says his reorganization will give primary responsibility for enforcement of the law to the states, as Congress intended should happen eventually. But the states rely on the experts in Denver for technical help in this complex area. Closing the office "will cause us some real problems," grumbled Montana's reclamation director, Brace Hayden. Within days of Watt's abrupt order, Newsweek has learned, the reclamation directors of six Western mining states sent a sharply worded letter to Watt objecting that they were not consulted about the closing, and complaining that since Watt took office "communication between OSM and the Western states has been significantly reduced." Said Donald Crane, the head of the Denver office who is leaving in dismay: "It appears the surface-mining program is becoming repoliticized." Which is fine with some of Watt's Western supporters. "Let's abolish OSM and take them to Lower Slobbovia," said Wyoming Gov. Ed Herschler, "they're a pain in the backside."

'Dynamite': Another of Watt's tactics, he says, is to "drive a wedge" into his opposition by courting hunters and fishermen at the expense of environmental purists. The "hook and bullet boys" share a love of the outdoors with the Sierra Club hikers, but they differ on issues such as game management and road access. Watt gave a well-received speech to a group of outdoors writers last week, describing how his love of nature had been nourished by a snowmobile trip in the Wind River mountains. This was—he admitted—a deliberate provocation to environmentalists, who regard snowmobiles as the bastard offspring of a bulldozer and a buzz saw. The National Wildlife Federation, the leading group that speaks for hunters and fishermen, has not yet taken a position on Watt. But its executive director, Jay D. Hair, called him "potentially political dynamite for Mr. Reagan."

Watt's appetite for confrontation has already caused him political problems. His energy-development plans recently suffered a setback when the House Interior Committee voted to prohibit exploration in the Bob Marshall Wilderness Area in Montana—a decision that does not have to be approved by the full House or Senate. Chairman Morris Udall of Arizona said the confrontation could have been avoided if Watt "had come and talked to us. Cecil Andrus would call and ask what we thought. Not Watt. He would rather make loud protestations about how tough he is." Watt attributes many of his communication problems to the fact that he's a plain-spoken Westerner, who doesn't beat around the sagebrush. And some of his allies agree: "There's a gap between what Westerners think and how Easterners are inclined to think about public land and water questions," says Sen. James McClure of Idaho. "Words mean different things to different groups." McClure praises Watt's decisiveness: "He is getting things done."

Liability? That is a view also heard in the White House, where Watt is admired for his energy, knowledge and willingness, in the words of one aide, "to walk the plank for the President." If he remains as controversial as he has, Watt may eventually become a political liability—but advisers don't expect that to happen. "Remember his constituency," said one Reagan aide. "He plays to Westerners. East of the Potomac we forget that. Most of us probably wish he was a little softer at times. There's no question he has a firm agenda, but it happens to be shared by the President of the United States."

Watt prides himself on being a man of decisive action—of avoiding the bureaucratic trap of "paralysis by analysis." But analysis, say his critics, is just what many environmental questions call for. Watt's impatience to exploit the West's vast reserves of energy and minerals is understandable. But while laws change, and Cabinet secretaries come and go, the land endures—bearing the marks forever of the decisions Watt is now taking.●

PROBLEMS WITH THE BROYHILL AMENDMENT ON THE BUDGET RECONCILIATION BILL

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. WAXMAN. Mr. Speaker, this week the House will be voting on the budget reconciliation bill. It is my understanding that Mr. BROYHILL intends to offer a substitute for the provisions in the bill recommended by Mr. DINGELL, myself and other members of the Energy and Commerce Committee.

I am sure that most Members have already heard from the many organizations opposed to the Broyhill substitute. You have probably been visited by individuals representing the ad hoc coalition on block grants, which is composed of over 100 organizations which believe that block grants should not be enacted. I would like to include in the RECORD a letter I received from these 100 organizations explaining why Members should not support the Broyhill substitute.

I believe this letter accurately describes many of the problems with the Broyhill amendment. I urge Members to support the Budget Committee's bill and defeat the Broyhill amendment.

AD HOC COALITION
ON BLOCK GRANTS,
Washington, D.C.

DEAR REPRESENTATIVE: We the undersigned 100 organizations strongly oppose any effort to use the "reconciliation" process to enact the drastic and devastating changes contained in the Administration's block grant proposals. The hasty and superficial consideration of these exceedingly controversial proposals would undermine the legislative process and violate the principles of sound policy development.

We call on Congress to thoroughly examine the troubled history and performance of block grants, the strengths and weaknesses of the categorical programs they would replace and most importantly, evaluate and consider the impact of these proposals in meeting the needs of people. The reconciliation process does not permit the full and fair debate and consideration these proposals require.

These block grants are not a step toward federal-state partnerships to meet human needs, but a step toward abandonment of federal responsibility. These block grant proposals repeal landmark legislation, eliminate essential programs, undermine principles of fiscal accountability and lay the groundwork for confusion, neglect and new bureaucracy at the state level. Without defending every categorical program, we can predict that untargeted, undirected, unmonitored and unexamined block grants will mean far less assistance to those who need these services, despite rhetorical commitments to the "truly needy" and "the social safety net."

Turning less money over to states without clear priorities, direction or strategies will undermine national goals in health, education, social services, housing community development and energy assistance. These proposals will certainly mean two things: less assistance to those in genuine need in these areas and a brutal political struggle at the state level where the most vulnerable and those without clout are almost certain losers.

We urge you to resist the pressure to treat these proposals as simply budget issues. They are far more. They represent a radical transformation in the relationship between citizens and their government. They deserve full, fair and thorough consideration focused on what they would mean for families and individuals in need of these services. We strongly urge you to reject attempts to enact these proposals through the reconciliation process or other "fast-track" mechanisms which do not permit the careful and thorough consideration of the merits and consequences of these controversial proposals.

Sincerely,

Alpha Kappa Alpha Sorority, Inc.; American Association for Retarded Citizens;

American Association of Homes for the Aging; American Association of Retired Persons; American Association of University Women; American Association of Workers for the Blind; American Baptist Churches of the United States; American Council of the Blind; and the American Federation for the Blind.

American Federation of State, County and Municipal Employees; American Public Health Association; Americans for Democratic Action; Arthritis Foundation; Aspira of America, Inc.; Association of Community Organizations for Reform NOW (ACORN); Association for Retarded Citizens; and the Center for Community Change.

Children's Defense Fund; Children's Foundation; Child Welfare League of America; Civic Action Institute; Coalition of 100 Black Women; Communication Workers of America; Community Information Service; Community Nutrition Institute; Congressional Black Caucus; Consumer Coalition for Health; Council for Exceptional Children; D.C. Commission for Women; Displaced Homemakers Network, Inc.; and the Episcopal Urban Caucus.

Federal Education Project of the Lawyer's Committee for Civil Rights Under Law; Food Research and Action Center (FRAC); Friends Committee on National Legislation; Gray Panthers; Housing Assistance Council; Information Center for Handicapped Individuals; Interfaith Coalition on Energy; International Ladies Garment Workers Union; International Union UAW; and Leadership Conference on Civil Rights.

League of Women Voters of the United States; Lutheran Council in the USA, Office for Governmental Affairs; Mental Health Law Project; National Alliance for Optional Parenthood; National Anti-Hunger Coalition; National Association of Community Based Organizations; National Association of Community Cooperatives; and the National Association of Neighborhoods.

National Association of Social Workers; National Center for Urban Ethnic Affairs; National Committee for Citizens in Education; National Conference of Black Mayors, Inc.; National Conference of Catholic Charities; National Congress for Community Economic Development; National Congress of American Indians; National Congress of Neighborhood Women; National Consumer Law Center; National Council of Community Mental Health Centers; National Council of Jewish Women; and the National Council of La Raza.

National Council of Senior Citizens; National Council of State Agencies for the Blind; National Education Association; National Employment Law Project; National Hispanic Housing Coalition; National Low Income Housing Coalition; National Multiple Sclerosis Society; and the National Network of Runaway Youth and Youth Services.

National Office of Jesuit Social Ministries; National Retired Teachers Association; National Rural Housing Coalition; National Society for Autistic Children; National Treasury Employees Union; National Urban Coalition; National Urban League, Inc.; National Women's Political Caucus; Consumer Energy Council of America; Deafpride, Inc.; Friends of Vista; and the Southeast Women's Employment Coalition.

American Federation of Teachers; Coalition of American Public Employees; National Youth Work Alliance; Parents Without Partners, Inc.; Planned Parenthood Federation of America; Project on Equal Education Rights, NOW Legal Defense and Education Fund; Rural America; Rural American Women; Rural Coalition; Service Employees International Union; and the United Church of Christ, Office of Church and Society.

United Cerebral Palsy Association, Inc.; United Food and Commercial Workers International Union, AFL-CIO; United Methodist Church, Department of Human Welfare, Board of Church and Society; Women's Equity Action League; Working Group on Community Development Reform; Wider Opportunities for Women; Family Services Association of America; American Friends Service Committee; United Automobile Workers Union; and The Neighborhood Coalition.●

REAGAN BUDGET CUTS HURT MIDDLE-INCOME FAMILIES

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1981

● Mr. KILDEE. Mr. Speaker, on April 1, I requested that Dr. Alice Rivlin, Director of the Congressional Budget Office, conduct a study of the impact of the Reagan administration's proposed budget cuts on middle income families. I would like to bring the results of that study, which was completed on June 10, to the attention of my colleagues. Even assuming enactment of the administration's original proposal to reduce income taxes by 10 percent for each of the next 3 years, the study shows a significant loss of posttax resources to middle income families. As was continually evident in House Education and Labor Committee hearings on the cuts, the administration consulted with neither those who administer Federal programs nor with the beneficiaries of those programs when developing their budget cuts. As I have repeatedly pointed out during committee hearings, it is clear that the administration, when considering cuts to these programs, was aware of the price of everything, and the value of nothing.

The text of the study by the Congressional Budget Office follows:

EFFECTS OF SOME OF THE ADMINISTRATION'S PROPOSALS ON MIDDLE-INCOME FAMILIES

This memorandum examines the cumulative effects on middle-income families of the March 18 Administration proposals to alter five programs. The effects are estimated by simulating the impact of the proposed changes on example households. Three of the five proposals would reduce benefits in programs under the Education and Labor Committee's jurisdiction—the National School Lunch Program, the Guaranteed Student Loan (GSL) program, and the Pell Grant program. The other two proposals—to reduce Social Security student benefits and to cut federal income taxes—affect programs that are not within the Committee's jurisdiction. Changes in these programs, however, would affect eligibility for benefits in the programs under the Committee's jurisdiction.

To illustrate the effect of the Administration's proposals on middle-income households, two basic households are examined, with a few variations in each case. One basic household is a four-person family with two parents, both of whom are employed, and two children—one in junior high school and one in a public college. The effect of the proposed changes on the households are illustrated by comparing the effects at three income levels: approximately the median level in 1982 is $25,000, a lower-middle income level of $15,000, and an upper-middle income level of $35,000.

We have also examined a three-person household composed of a single parent who is a surviving spouse with one child in junior high school receiving Social Security benefits as a surviving child, and one child in a public college receiving Social Security student benefits. A three-person household was chosen for this example because most student beneficiaries are part of single-parent families. The three earned income level used to compare the households receiving Social Security benefits are: $15,000, which is about the median income for single-parent households; $11,000, which was selected to represent a lower-middle income level; and $20,000, which represents the upper-middle income level for these families.

This analysis examines both the changes in eligibility for each of the individual programs and also the effect on the total amount of post-tax resources available to a family in the form of income and benefits from the programs.

Three caveats should be kept in mind in reviewing the results of this analysis. First, example households do not necessarily represent the "average" impact of proposed changes.[1] Rather, examples are most useful in providing a general perspective on the relative magnitude of effects. Second, we have not included all of the Administration's proposals that would affect some middle-income families in this analysis. Other proposed changes, such as the elimination of some youth employment programs and the reduction in scope of the special milk program, would also affect some middle-income families. As a result, this analysis could understate the potential impact on these families. Third, the examples assume that all eligible families actually participate in the programs we did include. In at least two of the programs (the school lunch program and the Guaranteed Student Loan program), many eligible families do not participate. Consequently, this analysis could overstate the actual impact on families that resemble the households examined here.

CUMULATIVE EFFECTS OF THE POLICY CHANGES

In total, the combination of the four proposed program cuts (in the School Lunch, Pell Grant, Guaranteed Student Loan, and Social Security student benefits programs) and the proposed tax cut would reduce the total post-tax resources available to the hypothetical families by 6 to 8 percent. Of the cases examined, the $25,000 income family would suffer the largest cumulative reduction in benefits, both in absolute dollars and

[1] The following assumptions that are incorporated into this analysis could significantly affect the results: that the families have two wage earners rather than one, that college students attend public rather than private schools, that families have average amounts of assets, that Social Security beneficiaries are survivors rather than dependents of disabled or retired workers, and that college students receiving Social Security student benefits are currently enrolled students.

in the percent that this reduction represents of the family's post-tax resources (see Table 1). This family would lose $2,102 overall, for a decline in the family's post-tax resources of approximately 8 percent. The family with earned income of $15,000 would suffer the lowest total cumulative reduction in benefits ($1,180), representing approximately 7 percent of the family's post-tax resources. The cumulative reduction in benefits for a $35,000 income family ($1,824) would amount to a decline in post-tax resources of approximately 6 percent. If these families had only one wage-earner, the loss in benefits for the families with incomes of $15,000 and $25,000 would be somewhat larger—their post-tax resources would decline by about 10 percent.

TABLE 1.—CUMULATIVE EFFECTS OF THE ADMINISTRATION'S PROPOSALS TO CHANGE SEVERAL PROGRAMS—FAMILIES WITHOUT SOCIAL SECURITY STUDENT BENEFITS—BY EARNED INCOME [1]

[In 1982 dollars]

	$15,000			$25,000			$35,000		
	Current policy	Administration proposal	Change	Current policy	Administration proposal	Change	Current policy	Administration proposal	Change
Cost of school lunches [2]	−32	−97	−65	−178	−227	−49	−178	−227	−49
Pell grants [3]	1,652	1,319	−333	650	0	−650	0	0	0
Guaranteed student loans: [4]									
Loan amount	1,941	974	−967	2,500	772	1,728	2,500	0	−2,500
(Federal subsidy)	(815)	(166)	(−649)	(1,050)	(131)	(−919)	(1,050)	(0)	(−1,050)
Federal income tax [5]	−1,233	−1,048	+185	2,901	2,486	+415	5,065	4,340	+725
Cumulative effect based on:									
GSL amount	0	0	−1,180	0	0	−2,012	0	0	−1,824
GSL Federal subsidy	0	0	−862	0	0	−1,203	0	0	−374

[1] The example household without social security benefits is assumed to contain four persons—two adult wage earners, one child in junior high school, and one child in a public college or university.

[2] Cost of national school lunch program lunch to the student would be about $0.20 for the reduced-price lunch and about $1.10 for the paid lunch in 1980. Under the administration's proposals the reduced-price lunch would cost about $0.60 and the paid lunch about $1.40 to the student.

[3] The administration's proposal to retarget Pell grants on the most needy students would retain the $1,800 maximum award assumed in the current policy estimate, but would require a $750 self-help contribution from every student, rescind the liberalized "cost-of-education" provisions of the Higher Education Amendments of 1980, lower the family living allowance by allowing no adjustment for inflation in 1981, increase the assessment rate on discretionary income from 14 percent to 20 percent, and not allow state and local income taxes to be exempted from consideration in determining the family contribution.

[4] The administration's GSL proposal would eliminate the in-school interest subsidy on student loans and limit borrowing to assessed financial need. Students' loan eligibility, therefore, varies appreciably by cost of education; students' attending institutions costing more than the average public university cost assumed in these examples would be eligible for more in loans. For example, if the college student from any of the families in the example above were to attend an average cost private college, the student's need would remain high enough to qualify for the full $2,500 GSL.

[5] Federal income tax rates would be reduced 15 percent in calendar year 1982 as compared to current law under the administration's proposals. We have assumed an average level of deductions in computing taxes.

For families eligible for Social Security benefits, the reductions in post-tax resources would be larger (see Table 2). A family with earned income of $11,000 would have its post-tax resources, including Social Security benefits, reduced by $2,860 or approximately 14 percent, compared to a reduction of $2,653 or about 12 percent for a $15,000 income family, and $1,887 or about 7 percent for a $20,000 income family.

In almost all cases, the largest single reduction would result from the Administration's proposal to limit GSL borrowing to the amount of assessed need. Only about one-third of all eligible families, however, currently borrow through the GSL program each year. Excluding GSLs from the analysis significantly reduces the cumulative effects. For the example family of four, the cumulative effects of the Administration's proposals in the remaining four areas would be minimal; families with earned incomes of $15,000 and $25,000 would lose slightly more than 1 percent in post-tax resources, and the family with earned income of $35,000 would actually have 2 percent more in post-tax resources as a result of the tax cut. Excluding GSLs from the analysis also reduces the level of cumulative cuts for the 3-person families receiving Social Security benefits, although these families would still receive 3 to 5 percent less in post-tax resources under the Administration's proposals than they would under current policies.

TABLE 2.—CUMULATIVE EFFECTS OF THE ADMINISTRATION'S PROPOSALS TO CHANGE SEVERAL PROGRAMS—FAMILIES WITH SOCIAL SECURITY STUDENT BENEFITS—BY EARNED INCOME [1]

[In 1982 dollars]

	$11,000			$15,000			$20,000		
	Current policy	Administration proposal	Change	Current policy	Administration proposal	Change	Current policy	Administration proposal	Change
Cost of school lunches [2]	−178	−227	−49	−178	−227	−49	−178	−227	−49
Pell grants [3]	715	207	−508	476	0	−476	0	0	0
Guaranteed student loans: [4]									
Loan amount	2,500	974	−1,526	2,500	1,057	−1,443	2,500	1,203	−1,297
Federal subsidy	(1,050)	(166)	(−884)	(1,050)	(180)	(870)	(1,050)	(205)	(−845)
Social security: [5]									
Student benefits	3,600	2,700	−900	3,600	2,700	−900	3,600	2,700	−900
Mother and dependent benefits	4,512	4,512	0	3,600	3,600	0	3,600	3,600	0
Federal income tax [6]	−859	−736	+123	−1,449	−1,284	+215	−2,404	−2,045	+359
Cumulative effect based on:									
GSL amount	0	0	−2,860	0	0	−2,653	0	0	−1,887
GSL Federal subsidy	0	0	−1,318	3,600	3,600	0	3,600	3,600	0

[1] The example household receiving social security benefits is assumed to contain three persons—a single adult wage earner who is the surviving spouse of a deceased worker, one child in junior high school who qualifies the family for survivor's and children's benefits, and one child in a public college or university who receives social security student benefits.

[2] Cost of national school lunch program lunch to the student would be about $0.20 for the reduced-price lunch and about $1.10 for the paid lunch in 1980. Under the administration's proposals the reduced-price lunch would cost about $0.60 and the paid lunch about $1.40 to the student.

[3] The administration's proposal to retarget Pell grants on the most needy students would retain the $1,800 maximum award assumed in the current policy estimate, but would require a $750 self-help contribution from every student, rescind the liberalized "cost-of-education" provisions of the Higher Education Amendments of 1980, lower the family living allowance by allowing no adjustment for inflation in 1981, increase the assessment rate on discretionary income from 14 percent to 20 percent, and not allow State and local income taxes to be exempted from consideration in determining the family contribution.

[4] The administration's GSL proposal would eliminate the in-school interest subsidy on student loans and limit borrowing to assessed financial need. Students' loan eligibility, therefore, varies appreciably by cost of education; students attending institutions costing more than the average public university cost assumed in these examples would be eligible for more in loans. For example, if the college students from the families in the examples above were to attend an average cost private college, the students' need would remain high enough to qualify for the full $2,500.

[5] The current policy amount assumed is the average amount received by social security student beneficiaries. The reduction in benefits shown assumes that the student in question is already enrolled in college, and thus would lose only 25 percent of the benefit in the first year of the proposed change. If the student were an incoming freshman in 1981–82, the full benefit would be eliminated. In addition to the social security student benefit, this family would also receive $3,600 in children's benefits, which would not change under the proposal.

[6] Federal income tax rates would be reduced 13 percent in calendar year 1982 as compared to current law under the administration's proposals. We have assumed an average level of deductions in computing taxes.

SPECIFIC PROGRAMMATIC EFFECTS

The remainder of this memorandum discusses the effects of changes in the five policies for the example households.

National school lunch program

The Administration's proposals would increase the per meal cost of a school lunch prepared under the National School Lunch program for all students except those eligible for the free lunch. None of the example households have incomes low enough to qualify them for the free lunch.

For the four-person household with $15,000 in income, the reduced-price lunch for which the junior high student is eligible would increase in cost from $0.20 to about

$0.60. For the entire school year the increase would total about $65. The other example households would qualify for the "paid" lunch, which would increase in cost from about $1.10 to about $1.40 under the Adminstration's proposals, or an increase of $49 for the school year.

Pell grants

The Administration's proposals would eliminate Pell Grant eligibility for the hypothetical student from a family with earned income of $25,000, thus reducing the resources available through this program to the student by $650. Under the cumulative impact of the Administration's proposals, the Pell Grant for a student from a family with income of $15,000 would decline from $1,652 under current policy to $1,319, a reduction of nearly 20 percent.

Similarly, the example family of three with earned income of $15,000 that also receives Social Security student benefits would no longer be eligible for a Pell Grant under the Administration's proposals—reducing resources by $476—because the total of earnings and Social Security benefits would disqualify the student. Pell Grant eligibility for a student from a family receiving Social Security benefits with $11,000 in earnings would decline by $508, or more than 70 percent.

Guaranteed student loans

In combination with the other proposed changes, the Administration's proposal to limit the loan amount for Guaranteed Student Loans (GSLs) to a student's assessed financial need would reduce the amount that the example student from a family with earned income of $25,000 could borrow from $2,500—the current maximum—to $772, a reduction in potential borrowing of approximately 70 percent. This loss is not directly comparable to an equivalent dollar loss in grant aid, however, because the loans must be repaid in the future. The combination of the Administration's proposals to reduce loan eligibility and to eliminate the in-school interest subsidy would reduce the long-term federal subsidy for this student's loan from $1,050 to $131, a reduction of about 88 percent.[2] This reduction in resources, however, would only occur if the student would have borrowed under the current program; only about one-third of all eligible students currently take out GSLs in any given year.

For a family with earned income of $15,000, the reduction in benefits would be less, but still substantial—a student would remain eligible for a loan of nearly $1,000, approximately half the amount that this student would be eligible to borrow under the current program. The proposed needs requirement for GSLs would almost always eliminate eligibility for the student from a family with income of $35,000. This would reduce the family's available resources in 1982 by $2,500 and the long-term subsidy by $1,050.

For students from families receiving Social Security benefits, the reduced GSL eligibility resulting from the needs-test would be offset to some extent by the reduction in Social Security benefits. The family with earned income of $11,000 would have its GSL eligibility cut the most—by about $1,500—leaving the student eligible to borrow about $1,000. The families with incomes of $15,000 and $20,000 would lose GSL eligibility of about $1,400 and $1,300, respectively.

[2] The long-term subsidies referred to in this memorandum are expressed in 1982 dollars.

Hypothetical examples do not capture the large variation in GSL loan eligibility that would exist for students from families with similar incomes. For example, students attending high cost institutions would remain eligible to borrow much larger amounts than those reflected in the above examples, which are based on the average cost of attending a public college or university.

Social security student benefits

Reducing Social Security student benefits by 25 percent per year, for four years, as proposed by the Administration, would reduce a typical student's benefit by approximately $900 in the first year. Students entering college for the first time in 1981-1982 would no longer be eligible for any benefit under the Administration's proposal. Thus, their available resources would be reduced from current policy, on average, by the full $3,600.

This reduction in Social Security student benefits would affect eligibility for both Pell Grants and GSLs. For the family with income of $11,000, the $900 (25 percent) decline in Social Security benefits would be partially offset by a $180 increase in the student's Pell Grant. For a freshman student, who would lose the entire $3,600 Social Security student benefit, Pell Grant eligibility would increase by $720. This student's GSL eligibility would not be affected by the reduction in Social Security benefits. For students from families with incomes of $15,000 and $20,000, Pell Grant eligibility would not be affected, but they could borrow more through the GSL program. If the student's Social Security benefits were reduced by 25 percent, the student would be eligible for an additional $180 in loans. A student losing the entire $3,600 Social Security student benefit could borrow an additional $720.

Federal income taxes

The Administration has proposed reducing federal income tax rates by 10 percent each year for three years starting July 1, 1981. Because the tax cut would start in July 1981, the reduction in rates from current law would be 5 percent in 1981, 15 percent in 1982, 25 percent in 1983, and 30 percent in 1984. Thus each of the households examined here would receive a 15 percent federal income tax rate cut in 1982 relative to current law. The dollar amount of the tax cut ranges from $185 to $725 for the four-person households with incomes of $15,000 and $35,000, and from $123 to $359 for the three-person households with incomes of $11,000 and $20,000.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, June 25, 1981, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 26

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To hold hearings on miscellaneous tax measures, S. 721, S. 791, S. 532, S. 979, S. 169, and S. 1382
2221 Dirksen Building

Judiciary
Security and Terrorism Subcommittee
To continue hearings on the origin direction, and support tactics of terrorism.
2228 Dirksen Building

1:30 p.m.
Judiciary
Courts Subcommittee
To hold hearings on alternative methods to improve Federal court reporting procedures.
2228 Dirksen Building

JULY 6

9:30 a.m.
Labor and Human Resources
To hold oversight hearings on the activities of the Office of Federal Contract Compliance Programs of the Department of Labor, focusing on Executive Order 11246, regulations relating to affirmative action.
4232 Dirksen Building

JULY 7

9:30 a.m.
Commerce, Science, and Transportation
*Aviation Subcommittee
To hold hearings on proposed legislation to provide for an early phaseout of the Civil Aeronautics Board.
235 Russell Building

Labor and Human Resources
Aging, Family and Human Services Subcommittee.
To hold hearings on the primary intervention in addressing societal problems.
4232 Dirksen Building

Small Business
Innovation and Technology Subcommittee
To resume hearings on S. 881, to stimulate technological innovation and to increase economic productivity by using small businesses more effectively in Federal research and development programs.
424 Russell Building

10:00 a.m.
Environment and Public Works
To resume oversight hearings on the implementation of the Clean Air Act.
4200 Dirksen Building

Finance
Social Security and Income Maintenance Programs Subcommittee
To hold hearings on certain financial issues relating to the social security system.
2221 Dirksen Building

2:00 p.m.
Environment and Public Works
To continue oversight hearings on the implementation of the Clean Air Act.
4200 Dirksen Building

JULY 8

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To continue hearings on proposed legislation to provide for an early phaseout of the Civil Aeronautics Board.
235 Russell Building
Small Business
Innovation and Technology Subcommittee
To continue hearings on S. 881, to stimulate technological innovation and to increase economic productivity by using businesses more effectively in Federal research and development programs.
424 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance and Monetary Policy Subcommittee
To hold joint oversight hearings with Finance's Subcommittee on International Trade on U.S. trade policy.
2221 Dirksen Building
Energy and Natural Resources
*Energy and Mineral Resources Subcommittee
To hold hearings on S. 859, providing for uniform treatment of certain receipts under the Mineral Leasing laws.
3110 Dirksen Building
Finance
International Trade Subcommittee
To hold joint oversight hearings with Banking, Housing, and Urban Affairs Subcommittee on International Finance and Monetary Policy on U.S. trade policy.
2221 Dirksen Building

2:00 p.m.
Environment and Public Works
To continue oversight hearings on the implementation of the Clean Air Act.
4200 Dirksen Building
Finance
Social Security and Income Maintenance Programs Subcommittee
To continue hearings on certain financial issues relating to the social security system.
6226 Dirksen Building

JULY 9

9:00 a.m.
Commerce, Science, and Transportation
To resume oversight hearings on the implementation of the Motor Carrier Reform Act (Public Law 96-296).
235 Russell Building
*Veterans' Affairs
To hold hearings on the prospective nomination of Robert P. Nimmo, of California, to be Administrator of the Veterans' Administration.
412 Russell Building

9:30 a.m.
*Commerce, Science, and Transportation
*Aviation Subcommittee
To continue hearings on proposed legislation to provide for an early phaseout of the Civil Aeronautics Board.
5110 Dirksen Building

10:00 a.m.
Appropriations
To resume hearings on wasteful Federal spending in Government procurement.
1114 Dirksen Building
Veterans' Affairs
To hold hearings on the prospective nomination of Allan B. Clark, Jr., of Texas, to be Deputy Administrator of the Veterans' Administration.
412 Russell Building

11:00 a.m.
Veterans' Affairs
To hold hearings on the nomination of Frank S. Sato, of Virginia, to be Inspector General, Veterans' Administration.
412 Russell Building

2:00 p.m.
Finance
Social Security and Income Maintenance Programs Subcommittee
To continue hearings on certain financial issues relating to the social security system.
6226 Dirksen Building

JULY 10

10:00 a.m.
Environment and Public Works
Business meeting, to consider S. 548 and S. 1192, bills authorizing funds for completion of Union Station, Washington, D.C., and other pending calendar business.
4200 Dirksen Building

JULY 13

10:00 a.m.
Environment and Public Works
To resume oversight hearings on the implementation of the Clean Air Act.
4200 Dirksen Building

JULY 14

9:30 a.m.
Small Business
To hold hearings on small businesses' participation in the production element of the defense sector.
424 Russell Building
Select on Ethics
To hold hearings on matters involving Senator Williams.
6226 Dirksen Building

10:00 a.m.
Labor and Human Resources
Investigations and General Oversight Subcommittee
To hold oversight hearings on the activities of the Occupational Safety and Health Administration.
4232 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 15

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings to review the Federal Trade Commission's regulations of certain professions.
235 Russell Building
Judiciary
Constitution Subcommittee
To hold oversight hearings on the implementation of the Freedom of Information Act, and to hold hearings on S. 1247, S. 1235, and S. 587, bills providing for the protection of certain confidential information from the disclosure requirements of the Freedom of Information Act.
2228 Dirksen Building
*Veterans' Affairs
To hold oversight hearings on procedures for the adjudication of certain claims, and to hold hearings on S. 349, providing for limited judicial review of the administrative action of the Veterans' Administration, and for reasonable fees to attorneys representing legal counsel for veterans.
412 Russell Building
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Energy Conservation and Supply Subcommittee.
To hold hearings on S. 1166, to provide grants to States for low-income weatherization assistance programs.
3110 Dirksen Building
Environment and Public Works
To resume oversight hearings on the implementation of the Clean Air Act.
4200 Dirksen Building

2:00 p.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To hold hearings on State governments' implementation of Federal standards relating to the Clean Air Act.
3302 Dirksen Building
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 16

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To continue hearings to review the Federal Trade Commission's regulations of certain professions.
235 Russell Building
Judiciary
Constitution Subcommittee
To resume hearings on Senate Joint Resolution 41, proposed constitutional amendment prohibiting the United States or any State from making or enforcing any law which makes distinctions on account of race, color, or national origin.
2228 Dirksen Building
*Veterans' Affairs
To continue oversight hearings on procedures for the adjudication of certain claims, and to hold hearings on S. 349, providing for limited judicial review of the administrative action of the Veterans' Administration, and for reasonable fees to attorneys representing legal counsel for veterans.
412 Russell Building
Select on Ethics
To continue hearings on matters involving Senator Williams
6226 Dirksen Building

10:00 a.m.
Environment and Public Works
Water Resources Subcommittee
To resume hearings on S. 809, providing for the recovery of certain expenditures of the U.S. Army Corps of Engineers for operation, maintenance, and

construction of deep draft channels and oceans and Great Lakes ports of the United States, and amendment No. 31 thereto, authorizing a program to expedite the construction of deep-draft harbors; S. 810, prescribing a system of user fees to be levied on commercial transportation on the inland waterway projects, and amendment No. 32 thereto, expediting the construction of inland waterway projects, and assuring that the users of such projects repay a fair percentage of the costs of such works; and related measures, including S. 68, S. 202, S. 576, S. 828, and S. 1094.
4200 Dirksen Building

2:00 p.m.
Environment and Public Works
Regional and Community Development Subcommittee
To hold oversight hearings on the implementation of the Disaster Relief Act, and to hold hearings on proposed legislation authorizing funds for disaster relief programs.
4200 Dirksen Building
Labor and Human Resources
To hold hearings on the scope of preventive health programs.
4232 Dirksen Building
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 17

9:30 a.m.
Labor and Human Resources
To continue hearings on the scope of preventive health programs.
4232 Dirksen Building
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

10:00 a.m.
Environment and Public Works
Business meeting, to resume consideration of S. 548 and S. 1192, bills authorizing funds for completion of Union Station, Washington, D.C., and other pending calendar business.
4200 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 20

9:30 a.m.
Labor and Human Resources
To resume oversight hearings on the activities of the Office of Federal Contract Compliance Programs of the Department of Labor, focusing on Executive Order 11246, regulations relating to affirmative action.
4232 Dirksen Building
Select on Ethics
To resume hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 21

9:30 a.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Environment and Public Works
Regional and Community Development Subcommittee
To resume oversight hearings on the implementation of the Disaster Relief Act, and to resume hearings on proposed legislation authorizing funds for disaster relief programs.
4200 Dirksen Building
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 22

9:30 a.m.
Judiciary
Constitution Subcommittee
To resume oversight hearings on the implementation of the Freedom of Information Act, and to resume hearings on S. 1247, S. 1235, and S. 587, bills providing for the protection of certain confidential information from the disclosure requirements of the Freedom of Information Act.
2228 Dirksen Building
Veterans' Affairs
To hold hearings on S. 5, S. 7, S. 25, S. 26, S. 48, S. 105, S. 248, S. 417, and S. 742, bills providing educational assistance to members of the Armed Forces.
412 Russell Building
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To hold hearings on S. 506, reinstating and validating certain numbered U.S. oil and gas leases.
3110 Dirksen Building
Environment and Public Works
Business meeting, to resume consideration of S. 548 and S. 1192, bills authorizing funds for completion of Union Station, Washington, D.C., and other pending calendar business.
4200 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 23

9:30 a.m.
*Veterans' Affairs
To continue hearings on S. 5, S. 7, S. 25, S. 26, S. 48, S. 105, S. 248, S. 417, and S. 742, bills providing educational assistance to members of the Armed Forces.
412 Russell Building
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 24

9:30 a.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

10:00 a.m.
Environment and Public Works
Water Resources Subcommittee
To resume hearings on S. 809, providing for the recovery of certain expenditures of the U.S. Army Corps of Engineers for operation, maintenance and construction of deep-draft channels and oceans and Great Lakes ports of the U.S., and Amendment No. 31 thereto, authorizing a program to expedite the construction of deep-draft harbors; S. 810, prescribing a system of user fees to be levied on commercial transportation on the inland waterway projects, and Amendment No. 32, thereto, expediting the construction of inland waterway projects, and assuring that the users of such projects repay a fair percentage of the costs of such works; and related measures, including S. 68, S. 202, S. 576, S. 828, and S. 1094.
4200 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6224 Dirksen Building

JULY 27

9:30 a.m.
Labor and Human resources
Alcoholism and Drug Abuse Subcommittee
To hold oversight hearings on research activities of the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse.
4232 Dirksen Building
Select on Ethics
To resume hearings on matters involving Senator Williams.
6226 Dirksen Building

10:00 a.m.
Environment and Public Works
Business meeting, to resume consideration of S. 548 and S. 1192, bills authorizing funds for completion of Union Station, Washington, D.C., and other pending calendar business.
4200 Dirksen Building

2:00 p.m.
Select on Ethics
To resume hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 28

9:30 a.m.
Labor and Human Resources
Aging, Family and Human Services Subcommittee
To hold hearings on adoption services in the United States.
4232 Dirksen Building
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To hold hearings to review alternatives for delivering public services, focusing

on certain private sector involvement in social services.
3302 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 29

9:00 a.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To continue hearings to review alternatives for delivering public services, focusing on certain private sector involvement in social services.
357 Russell Building

9:30 a.m.
Labor and Human Resources
To resume oversight hearings on the activities of the Office of Federal Contract Compliance Programs of the Department of Labor, focusing on Executive Order 11246, regulations relating to affirmative action.
4232 Dirksen Building

*Veterans' Affairs
Business meeting to mark up S. 349, providing for limited judicial review of the administrative action of the Veterans' Administration, and for reasonable fees to attorneys representing legal counsel for veterans.
412 Russell Building

Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

10:00 a.m.
Environment and Public Works
Business meeting, to resume consideration of S. 548 and S. 1192, bills authorizing funds for completion of Union Station, Washington, D.C., and other pending calendar business.
4200 Dirksen Building

2:00 p.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To continue hearings to review alternatives for delivering public services, focusing on certain private sector involvement in social services.
357 Russell Building

Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 30

9:00 a.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To continue hearings to review alternatives for delivering public services, focusing on certain private sector involvement in social services.
3302 Dirksen Building

9:30 a.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

JULY 31

9:30 a.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

2:00 p.m.
Select on Ethics
To continue hearings on matters involving Senator Williams.
6226 Dirksen Building

SEPTEMBER 16

9:30 a.m.
*Veterans' Affairs
Business meeting to mark up S. 5, S. 7, S. 25, S. 26, S. 48, S. 105, S. 248, S. 417, and S. 742, bills providing educational assistance to members of the Armed Forces.
412 Russell Building

SEPTEMBER 22

11:00 a.m.
Veterans' Affairs
To hold hearings on fiscal year 1982 legislative recommendations of the American Legion.
318 Russell Building